

MANATEE COUNTY ORDINANCE NO. PDMU-91-01 (G) (R²)

GATEWAY NORTH (AKA PROPERTY RESERVE, INC) 8 3 02 PM '97

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE GENERAL DEVELOPMENT PLAN TO ALLOW A MAXIMUM OF 3,426 RESIDENCES, 445,200 SQUARE FEET OF COMMERCIAL SPACE, 397,500 SQUARE FEET OF OFFICE/SERVICE CENTER SPACE, 960,500 SQUARE FEET OF OFFICE SPACE, A 24.3 ACRE PARK, A 15.9 ACRE SCHOOL SITE, AND A 5.3 ACRE RECREATION CENTER; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. FINDINGS OF FACT. The Board of County Commissioners of said County, after considering the testimony, evidence, documentation, application for amendment to the Zoning Ordinance, the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the Public Hearing, hereby makes the following findings of fact:

A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for approval of a revised Zoning Ordinance to allow a maximum of 3,426 residences, 445,200 square feet of commercial space, 397,500 square feet of office/service center, 960,500 square feet of office space, a 24.3 acre park, a 15.9 acre school site, and a 5.3 acre recreation center.

B. The Board of County Commissioners held a public hearing on August 26, 1997 regarding the proposed revised Zoning Ordinance described herein, in accordance with the requirements of Manatee County Ordinance No. 90-01 (the Manatee County Land Development Code) and has further considered the information received at the public hearing.

C. The proposed revised Zoning Ordinance regarding the property described in Section 4 herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01 (the Manatee County Comprehensive Plan).

Section 2. THE GENERAL DEVELOPMENT PLAN is hereby APPROVED to allow a maximum of 3,426 residences, 445,200 square feet of commercial space, 397,500 square feet of office/service center space, 960,500 square feet of office space, a 24.3 acre park, a 15.9 acre school site, and a 5.3 acre recreation center with the following stipulations:

Transportation

- A. (1) Access to and from the site will be in accordance with state and local access regulations and as shown generally on Revised Map H.
- A. (2) The existing I-75 frontage road will be extended through the property at the cost of the Developer and dedicated to the County prior to Development Approval of Phase 2, but in all events prior to development of the office pod located contiguous to the frontage road as extended, which will use the frontage road for ingress and egress.
- A. (3) Provisions will be made for an internal collector road which will connect Moccasin Wallow Road and Buckeye Road in later phases. This road will be constructed at the cost of the Developer prior to Development Approval of Phase 2 or prior to Development Approval for the neighborhood commercial space proposed at the intersection of Gateway Boulevard and Buckeye Road, whichever occurs first. This dedication shall be creditable to the extent required by the Manatee County Land Development Code and applicable law.
- A. (4) Right-of-way along Moccasin Wallow Road will be dedicated to Manatee County by the Developer prior to any Preliminary Site Plan or Preliminary Plat approvals, to ensure a total of 120 feet of right-of-way adjacent to the site. This dedication shall be creditable to the extent required by the Manatee County Land Development Code and applicable law.

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- A. (5) The Developer shall provide bicycle lanes as part of the roadway design for the collector facilities within the Project and as part of the roadway design for the improvement of Moccasin Wallow Road. Inclusion of bicycle lanes as part of the roadway design does not mean the lanes themselves must be part of the roadway. That is, the lanes must be included in design but may be constructed separately or in separation from the roadway itself.
- A. (6) The Developer shall provide adequate sidewalks along all streets and roadways throughout the Project as required by the Manatee County Land Development Code.
- A. (7) As the Project lies within the future Manatee County transit service area, the Developer will work with the County to coordinate the provision of transit service to the area in conjunction with development of Gateway North.
- A. (8) When Certificates of Occupancy have been issued for 280,000 square feet of commercial space (land use 820 of Trip Generation, Fourth Edition, ITE), or the equivalent thereof in terms of trip generation, an annual monitoring program to provide peak hour counts at the Project entrances shall be instituted to verify that the projected number of external trips for Phase 1 of the Project are not exceeded. Counts shall continue on an annual basis through buildout of Phase 1. This information shall be supplied in the required Annual Report. If an Annual Report is not submitted within thirty (30) days of its due date, or if the Annual Report indicates the total trips exceed projected counts, Manatee County shall determine whether to conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and amend the Development Order to change or require additional roadway improvements. The results of the study may also serve as a basis for the Developer or reviewing agencies to request Development Order amendments. If the variance is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes shall be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis.
- A. (9) As part of the amended ADA submitted for Phase 2 approval, the Developer shall prepare a Transportation Systems Management (TSM) program. The plan shall be reviewed by Manatee County, Metropolitan Planning Organization, Florida Department of Transportation (FDOT), and TBRPC.

The TSM program shall include a yearly assessment of the actual achievement of vehicle trips diverted from the peak hour as a result of the TSM measures. This assessment shall also include sufficient and appropriate documentation for all diversions claimed as a result of the TSM measures. Results of the TSM program shall be included in the Annual Report.

If the Annual Report indicates the total peak hour trips are not being diverted reasonably commensurate with those anticipated, Manatee County shall decide whether to conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes for the purpose of determining amendments or other requirements to be added to the Development Order to change TSM objectives or require additional roadway improvements. The results of the TSM study may serve as a basis for the Developer or reviewing agencies to request Development Order amendments. The TSM program shall seek to implement and will be measured by the TSM objectives and policies set forth in the Florida Transportation Plan and shall include, but shall not be limited to:

POLICY: Promote ride sharing by private and public sector employees.

OBJECTIVES:

- Increase urban area peak automobile occupancy rates by 10% by 2000 through expanded ride sharing efforts.
- Increase peak hour occupancy rates for transit and other high-occupancy modes of transportation by 20% by 2000.

A. (10) The improvements listed in Table 3 include a critical link and intersection improvements for the development of the Project. In order to maintain adequate levels of service in the area, several options are available:

1. For approval of all Phase 1 development, funds must be committed by responsible entities for all improvements listed in Table 3 prior to any development of Phase I of the project. Construction and installation of such improvements must be completed within two years of the effective date of this Development Order, OR alternatively;
2. The Developer may elect to proceed with subphases of Phase 1 pursuant to the subphase traffic analysis provided as part of the ADA. Specific approval is granted for the first subphase of development, which generates up to 500 p.m. peak hour inbound external trips or 587 p.m. peak hour outbound external trips, whichever is the lesser. In order to proceed beyond the first subphase, the westbound left turn lane at Moccasin Wallow and U.S. 41 must be under construction or committed for funding in the first year of the Capital Improvement Program or Work Program. When such improvement is under construction, or so committed, specific approval is hereby given for the second subphase, which allows for development which generates up to 617 p.m. peak hour inbound external trips or 671 p.m. peak hour outbound external trips, whichever is the lesser. In order to proceed beyond the second subphase, the improvement of Moccasin Wallow Road to a four lane divided cross section to Ellenton-Gillette Road must be either under construction or committed for funding in the first year of a Capital Improvement Program or work program. Access and intersection signalization improvements will be provided as required by site development and when signal warrants are met.

A. (11) In the event Funding Commitments for transportation improvements are adequate to permit only the development of a portion of a particular phase or subphase described in Table 2, the Developer shall have the option to submit to the County, the State, and TBRPC, pursuant to Section 380.06 Florida Statutes, updated traffic counts on the uncommitted regional roadway, link(s) and intersections listed in Table 3, as may be amended with additional phase approvals, which do not have Funding Commitments for required transportation improvements. The Developer shall further submit projections for traffic volumes that will result from the completion of a currently approved Project construction, plus the volumes to be generated by the next portion of development for which the Developer is seeking approval and future background traffic. Each updated traffic study shall be consistent with the approved traffic methodology for that phase of development and shall either serve to verify the findings of the DRI traffic analysis or shall indicate alternative transportation improvements or mechanisms which, when implemented, will maintain the facilities referenced in Table 3 at or above the peak hour LOS standard. Capacity analysis shall utilize procedures acceptable to Manatee County. Both traffic counts and the projection of traffic volume shall be prepared consistent with generally accepted traffic engineering practices.

TABLE 3

The following roadway link was determined to be a required link improvement for Phase 1 of the Project due to the percentage of Project traffic impacting the roadway and the resulting Level of Service (LOS).

<u>Link</u>	<u>From</u>	<u>To</u>	<u>Improvement</u>
Moccasin-Wallow	Ellenton-Gillette	I-75	2 Lanes Divided to 4LD

The following intersection improvements were determined to be required intersection improvements for the Project due to the percentage of development traffic impacting the intersection and the resulting Level of Service (LOS).

Note: In the table below, WB shall mean westbound, SB shall mean southbound, and EB shall mean eastbound.

<u>Location</u>	<u>Required Improvement</u>
Moccasin Wallow @ U. S. 41	Signalize WB left turn lane
Moccasin Wallow @ Ellenton-Gillette	Signalize
Moccasin Wallow @ Frontage Rd.	Signalize SB left turn lane SB right turn lane WB right turn lane WB through lane EB left turn lane EB through lane
Moccasin Wallow @ Site Access Road A (Gateway Boulevard)	Signalize SB left turn lane SB right turn lane WB right turn lane WB through lane EB left turn lane EB through lane
Moccasin Wallow @ Site Access Road B (Westernmost link to internal loop roadway)	Signalize SB left turn lane SB right turn lane WB right turn lane WB through lane EB left turn lane EB through lane
Moccasin Wallow @ I-75 (west ramps)	Signalize
Moccasin Wallow @ I-75 (east ramps)	Signalize
Moccasin Wallow @ U. S. 301	Signalize

Wetlands

- B.(1) All wetlands defined as "Preservation or Conservation Areas" by TBRPC policy and as depicted on the attached Preservation/Conservation Map shall be preserved and conserved respectively, except as indicated in Condition B.(4). The Developer shall not conduct dredging, filling, or any development activity within those Preservation or Conservation Areas except as indicated in Condition B.(4).
- B.(2) Except for wetland restoration/enhancement and naturally occurring fluctuations, no hydroperiod alteration shall be permitted in Preservation Areas as depicted on the attached Preservation/Conservation Map. Natural annual hydroperiods, normal pool elevations, and seasonal high water elevations shall be

substantially maintained or improved. Hydroperiod monitoring shall be required bi-annually in preserved wetlands and initiated prior to onsite construction activity and continued for three years for herbaceous wetlands or five years for forested wetlands following buildout of the subbasin surrounding each wetland. If it is determined by the County, Environmental Management Department (EMD), the Department of Environmental Protection (DEP), or the Southwest Florida Water Management District (SWFWMD) that Preservation Areas are being stressed due to Project activities, such activities shall cease until remedial measures are implemented.

- B. (3) All wetlands on site, not required to be preserved in accordance with Condition B. (1) above and which are depicted as Conservation Areas on the attached Preservation/Conservation Map, shall be mitigated in accordance with the Manatee County Land Development Code, which requires a mitigation ratio of 4:1 for forested wetlands and a 2:1 ratio for herbaceous wetlands and allows for reductions of these ratios in limited circumstances, but in no instance at a ratio of less than 1.15:1.
- B. (4) Table 16.1 attached hereto with Figure 16.1 (Attachments 1 and 2, respectively) identify wetlands by approximate acreage and the approximate wetland acreage and area to be impacted or preserved. Those wetlands identified in said Table and Figure to be impacted shall be the only wetlands on the Project site which shall be dredged and filled or negatively impacted. The Developer shall reevaluate Table SR16-1 and Figure 16.1 from the Sufficiency Response to reflect the findings of the Jurisdictional Wetland Survey and resubmit the revised table to the County prior to further Development Approval to serve as a basis for the limitation of wetland impact and the requirement of wetland mitigation under B. (3) above.
- B. (5) In addition to a signed and sealed wetland survey, the Developer shall submit a wetland management and mitigation plan to the County and EMD for approval, and to TBRPC, DEP, and SWFWMD for review prior to any wetland alteration. This plan shall address, but not be limited to, identification of wetlands onsite, wetlands to be preserved, proposed wetland alterations, a detailed mitigation plan, control of on and off-site water quality, and methods for hydroperiod maintenance with a detailed narrative and construction plans for mitigated or significantly enhanced (as determined by the County) wetlands.
1. The Developer shall include the following details, at a minimum, in the wetland management and mitigation plan prepared for submittal to the County:
 - a. Identification of existing dry and wet season site conditions;
 - b. Narrative descriptions and evaluations of all wetlands to be disturbed by wetlands type;
 - c. Photographs and 24"X36" plans depicting conditions of the existing wetland creation site and proposed wetland creation plans. (This data shall demonstrate that the appropriate hydrologic requirements shall be provided);
 - d. Narrative descriptions of any proposed wetland restoration activities and related issues;
 - e. Estimated costs of wetland mitigation and restoration schemes; and
 - f. Mitigation plans shall also include:
 - (1) Area and location of plantings;

- (2) Species to be planted and spacing;
 - (3) Elevations for plantings;
 - (4) Source of plants or mulch;
 - (5) Source of wetlands soil and depth proposed; and
 - (6) Monitoring and maintenance plans.
- B.(6) Any allowable wetland losses shall require type-for-type wetland replacement in accordance with the Manatee County Land Development Code. Mitigation for wetland losses shall be implemented prior to, or concurrent with, the wetlands being disturbed. Created wetlands and littoral shelves shall require monitoring and maintenance activities. Percent survival of plant species in the created wetland/littoral shelf shall meet or exceed an eighty-five percent (85%) planting survival rate for at least two (2) years for herbaceous wetland systems and for at least five (5) years for forested wetlands. Yearly replanting and maintenance of the mitigation areas shall be required, if necessary, to ensure compliance with the conditions of the Development Order.
- B.(7) The Developer shall provide natural buffering around all post-development wetlands to provide an upland transition into the wetland areas and to protect natural systems from development impact. All buffers or setbacks shall be in compliance with the Manatee County Land Development Code.

Vegetation and Wildlife

- C.(1) The Developer* shall comply with the provisions of the approved Wildlife Management Plan* (dated December 9, 1993) appended to and made a part of the Development Order (Attachment #5).
- C.(2) The Developer* shall provide wildlife crossings under roadways that may cross preserve areas, and appropriate upland or transitional buffers for all development parcels adjacent to upland and wetland preserve areas, if required by the wildlife management plan referenced in Condition C.(1).
- C.(3) The Developer* shall coordinate with the Florida Department of Agriculture and Consumer Services and EMD for relocation of any listed plant species found on site in addition to the requirements of C.(1) above.
- C.(4) As part of the wildlife management plan referenced in Condition C.(1), the Developer* shall identify and preserve representative tracts of all major natural upland vegetative communities (longleaf pine-xeric oak, pine-mesic oak, xeric oak, and mixed hardwoods) to serve as Conservation Areas* as depicted on the attached preservation/conservation map.
- C.(5) The removal of naturally-occurring vegetation shall be limited in accordance with the Manatee County Comprehensive Plan. This limitation shall not include the removal of diseased trees or vegetation, exotic species, or other species approved by EMD consistent with the provisions of the Manatee County Comprehensive Plan.
- C.(6) Any proposal to change upland preservation areas, as shown approximately on Attachment 3, shall be a substantial deviation, pursuant to Subsection 380.06(19), F.S.

Land

- D.(1) 1. The Developer shall initiate the following procedures to ensure erosion control during development of the Project:

- a. Sod, seed, or plant embankment areas of stormwater detention or retention ponds;
- b. Sod, seed, mulch, or landscape cleared or disturbed areas as soon as possible after clearing and grading;
- c. Limit site work and construction to areas needed for immediate development;
- d. Develop asphalt roads as soon as possible;
- e. Initiate landscaping before development work is completed on a site;
- f. Construct sediment basins at the start of each drainage system phase;
- g. Utilize straw filter barriers or filter fabric at discharge points including, but not limited to, temporary discharge points; and
- h. Install temporary sediment basins and perimeter dike systems as a first step in the grading process and inspect and clean out the temporary sediment basins on a regular basis.

Air Quality

- E.(1) 1. The Developer shall institute the following procedures to ensure dust control during development of the Project:
- a. Implement a watering program during excavation, and dredge and fill operations;
 - b. Apply water or chemical stabilization to dirt roads and heavily traveled primary haul route sections as necessary;
 - c. Treat disturbed areas after clearing, grading, earth moving, or excavation is completed by watering, revegetation, spreading soil binders, or compacting fill material until areas are paved or developed;
 - d. Keep soil stockpiles moist, or treat with soil binders or cover;
 - e. Suspend dust producing activities during gusting or constant wind conditions of 39 mph or more;
 - f. Remove dust producing materials as soon as possible;
 - g. Maintain 15 mph or less vehicle and equipment speeds on temporary roads;
 - h. Clean (sweep) paved roads adjacent to site as necessary;
 - i. Sod, seed, mulch, or landscape cleared or disturbed areas, including embankment areas, of stormwater detention or retention ponds as soon as possible after clearing and grading;
 - j. Limit site work and construction to areas needed for immediate development;
 - k. Develop asphalt roads as soon as possible; and
 - l. Initiate landscaping before development work is completed on site.

- E. (2) Further Section 380.06, Florida Statutes, review will be required for air quality impacts, Phases 2 and 3, and this Development Order must be amended prior to granting specific approval to Phases 2 and 3 to address any air quality impacts and specify any necessary mitigation.

Water Quality and Drainage

- F. (1) Prior to the issuance of any further Development Approvals, the Master Drainage Plan for the Project shall be submitted to DEP, SWFWMD, and TBRPC for review, and to the County for approval. The stormwater management systems shall be designed, constructed, and maintained to meet or exceed Chapter 17-25, Florida Administrative Code, and 40D-4, Rules of SWFWMD, the County and EMD, whichever is more stringent; to provide retention, or detention with filtration /assimilation treatment, for the first one-inch of runoff generated from the site during the 25-year, 24-hour design storm; and such that maximum post-development flow rates do not exceed pre-development flow rated for the same design storm. Nothing in this paragraph shall be construed as a waiver by the Developer of any vested rights, if any, pertaining to approved and constructed stormwater drainage facilities. With the exception of any such vested rights, if any, any valid requirements of general law pertaining to retrofitting which shall apply to landowners in Manatee County, however, shall apply to the Developer.
- F. (2) Best Management Practices (BMP) for reducing water quality impacts, as recommended by the County* and SWFWMD in accordance with adopted regulations of these agencies, shall be implemented and include a street cleaning program for parking and roadway areas within the Project .
- F. (3) The Developer shall be the entity responsible for maintaining the stormwater management system. The maintenance schedule for ensuring proper water quality treatment shall be submitted to TBRPC, SWFWMD, and DEP for review, and to the County for approval, prior to further Development Approvals.
- F. (4) Stormwater management system design shall, to the maximum extent possible, incorporate and utilize isolated wetlands.
- F. (5) Prior to any site alteration, the Developer* shall develop and implement a surface water quality monitoring plan that is approved by the County and the SWFWMD. The approval criteria will be in compliance with applicable requirements of the Environmental Protection Agency (EPA), DEP, the County, and SWFWMD. The plan shall include, at a minimum, monitoring of the quality of water entering the site, as well as the quality of the water exiting the site. Stormwater exiting the site shall not be of any worse quality in regard to applicable federal, state, regional, and local water quality standards as compared to stormwater entering the site. Any violation of Rule 17-3, Florida Administrative Code, determined to be caused by this development, shall require corrective measures, as set forth by the DEP. The surface water quality monitoring plan shall include the following generalized provisions:
1. Pre-construction monitoring:
 - a. Sampling will be initiated at least one year before the start of construction.
 - b. Sampling events will be conducted monthly during the wet season and twice during the dry season, and for rainfall events of one inch or greater, until the start of construction.
 - c. Sampling locations will be at the five sites identified on page SR11/12-19 of the ADA Sufficiency Response.

2. Construction monitoring:

- a. Sampling will be conducted as soon as practicable after each rainfall event of one inch or greater within the drainage basin(s) where construction activities are occurring. The remainder of the Project site will continue to be sampled as described in pre-construction monitoring.
- b. Any violation of water quality standards within a drainage basin under construction will be reported to the County and SWFWMD, and all work which is determined by the County to be contributing to the problem will be halted until the problem is resolved.

3. Post-construction monitoring:

- a. Sampling events will be conducted quarterly (two wet season and two dry season) and as soon as practicable after each rainfall event of one inch or greater for at least two years after construction buildout.
- b. Any violation of water quality standards within a drainage basin under construction will be reported to the County and SWFWMD, and all work which is determined by the County to be contributing to the problem will be halted until the problem is resolved.

4. Monitoring Reports:

- a. Monitoring reports will be submitted to the County on a quarterly basis during pre- and post-construction and monthly during construction.
- b. An official laboratory report shall also be submitted to the County, SWFWMD, and TBRPC as part of the Annual Report.

5. All water quality physical and chemical parameters proposed to be sampled, as well as sampling sites, shall be approved before the commencement of sampling, by the County and SWFWMD. At a minimum, field tests at all sites will include temperature, ph, specific conductance, dissolved oxygen, and flow. Samples will be analyzed by a Florida certified laboratory for at least nutrients (total phosphorus, orthophosphorus, ammonia, nitrate, nitrite, TKN, total nitrogen) pesticides and herbicides, fluoride, oil and grease, metals (lead, cadmium, chromium, copper, zinc), suspended solids, turbidity, and bacteria (total coliform, fecal coliform and fecal strep).

6. Proposed monitoring and official laboratory report formats shall be approved by the County and the SWFWMD.

7. The Developer will incorporate additional water quality treatment or water management methods into the Project's surface water drainage system to correct or mitigate any degradation if the measures implemented by the Developer are found to be ineffective or adversely impact water quality downstream of the Project site.

F.(6) Prior to any site alteration, the Developer shall implement a ground water quality monitoring plan that is approved by the County and SWFWMD. The plan will be designed to determine the predevelopment water quality conditions of the surficial aquifer and Floridan aquifer as required by the ADA. Water quality samples shall be collected and analyzed for at least the parameters containing regulatory limits listed under 40 CFR Parts 141-143, the National Primary Drinking Water Regulations. The water quality

samples shall be collected from at least two surficial aquifer wells and two Floridan aquifer wells. If any of the parameters are above the proposed, current, or final maximum contamination levels (MCL's) or MCL goal, DEP and EMD will be properly notified for further action.

Upon completion of the groundwater program, a monitoring report will be submitted to the County and SWFWMD for review and approval. All water quality physical and chemical parameters proposed to be sampled, as well as sampling sites, shall be approved by the County and SWFWMD prior to commencement. An official laboratory report shall accompany the ground water monitoring report upon submittal. The report shall include recommendations regarding monitoring during construction and post-construction.

- F.(7) All on-site existing underground tanks shall be abandoned pursuant to applicable State and County rules.
- F.(8) Stormwater treatment by biological filtration shall be provided where required and shall be encouraged wherever appropriate and feasible. Percolation treatment and underdrain effluent treatments may be utilized where consistent with applicable law.
- F.(9) To the extent required by applicable law, any shoreline banks created along on site 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, or allowed to be colonized by, native emergent and submergent vegetation. The Developer shall ensure, by supplemental replanting if necessary, at least eighty-five percent (85%) coverage by native aquatic vegetation is established within the littoral zone (to include at a minimum the area between ordinary high water and ordinary low water) for twenty-five years from the date of this approval.
- F.(10) The Developer shall conduct annual inspections of the environmental swale systems on the Project site to ensure the swales are being properly maintained in keeping with their design and are capable of accomplishing the level of stormwater storage/treatment for which they were designed and intended. Verification of such inspection shall be supplied in each annual report.

Historical and Archaeological Sites

- G.(1) Any historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Department of State, Division of Historical Resources, and treatment of such resources shall be determined in cooperation with the Division of Historical Resources, TBRPC, and the County. Archaeological test excavations by a professional archaeologist shall be conducted on each such site to provide sufficient data to make a determination of significance prior to the commencement of ground-disturbing activities at the site. The final determination of significance shall be made in conjunction with the Florida Department of State, Division of Historical Resources, TBRPC, and the County. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Florida Department of State, Division of Historical Resources) must be completed before resource-disturbing activities are allowed to continue.

Water

- H.(1) The Developer shall participate, as required by Manatee County ordinances, in any necessary expansion of potable water service to each phase or subphase of the Project to assure that adequate potable water capacity exists to accommodate the Project.
- H.(2) The Developer shall be responsible for maintenance and operation of any on-site wells. These wells shall be operated in accordance

with SWFWMD rules and regulations. Any existing on site wells not intended for potable or nonpotable uses shall be plugged and abandoned in accordance with Rule 40D-3.041(1), Florida Administrative Code.

- H. (3) The Developer shall require the installation of high efficiency (low volume) plumbing fixtures, appliances, and other water conserving devices, as mandated by the Florida Water Conservation Act (Section 553.14, Florida Statutes). This will include the use of toilets requiring no more than 1.6 gallons per flush in all areas, and installation of self-closing or metered water faucets shall be required in all public and commercial restroom facilities.
- H. (4) The Developer shall maintain all water lines and fire hydrants not dedicated to the County.
- H. (5) The Developer shall, to the extent nonpotable water is available, use only nonpotable water to meet nonpotable water demands. For purposes of this Approval, "nonpotable" water is defined as water emanating from any source other than a public water utility. The Developer shall submit an acceptable plan to the County and TBRPC for the use of nonpotable water on-site. The plan shall be completed prior to the issuance of any further Development Approvals, and shall include an implementation timetable, as well as a determination of the availability and feasibility of using reclaimed wastewater or stormwater retention ponds for irrigation purposes.
- H. (6) Adequate fire flow and water pressure shall be maintained within the Project's water supply system.
- H. (7) The Developer shall conform to and further the applicable rules and adopted guidelines of SWFWMD in regard to protection of the groundwater resources in the Eastern Tampa Bay Water Use Caution Area.
- H. (8) Prior to construction, an economic feasibility study shall be conducted by the applicant and evaluated by the SWFWMD to examine the use of reclaimed water. This study shall be consistent with rules that are in place at the time of its initiation. It shall address the potential of meeting the water needs for residential irrigation, nonresidential irrigation, other uses that do not require potable water, and the installation of reclaimed water distribution lines. Consideration shall be given to meeting the irrigation needs of the Project with the following sources: (1) treated wastewater, (2) treated stormwater, and (3) nonpotable quality groundwater. At a minimum, the Developer shall comply with County ordinances relating to the use of reclaimed water.
- H. (9) For the purpose of potable or reclaimed water conservation, utilization of xeriscape principles is required in 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 purposely irrigated.

Wastewater

- I. (1) The Developer shall participate, as required by Manatee County ordinances, in any necessary expansion of wastewater service to each phase or subphase of the Project to assure that adequate wastewater capacity exists to accommodate the Project
- I. (2) No additional permanent septic system shall be permitted within the Project.
- I. (3) Sewer lift stations shall be designed and equipped in accordance with County regulations.

- I.(4) The Developer shall submit to the County, prior to each Final Site Plan approval, a monitoring plan to identify and correct any leaks or ruptures of the sewer lines which are maintained by the Developer. This plan must be approved by the County and should identify the entity responsible for the monitoring and a time schedule for conducting the inspections. Faulty lines shall be replaced as quickly as possible. A report of inspections, results, and repairs must be included in the Annual Report.
- I.(5) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (Ordinance No. 91-39), which is attached hereto as Attachment 4.
- I.(6) The Developer shall implement a wastewater reuse system when feasible, as discussed in development condition H.(8) herein.

Solid Waste

- J.(1) The Developer, in cooperation with the tenant businesses within the Project, shall seek to obtain survey information which will locate and catalog tenant businesses where hazardous materials and waste are generated, stored, handled, or transported. The results of such a tenant questionnaire shall be included in each Annual Report.
- J.(2) Within one year of the effective date of the Development Order, or prior to issuance of subsequent Development Approvals for any nonresidential land use within the Project, whichever occurs later, the Developer shall prepare a hazardous substances (including bio-hazardous wastes) and a hazardous waste management plan which shall be reviewed and approved by the County, EMD, DEP, and TBRPC, and then distributed by the Developer to nonresidential land users within the Project.
1. At a minimum, the plan shall:
 - a. Advise of applicable statutes and regulations regarding hazardous wastes and substances, including Title III (Community Right-to-Know Law) of the Superfund Amendment and Reauthorization Act (SARA Title III) and the requirement to comply with these rules;
 - b. Indicate the types, sources, and volumes of waste and substances that are considered under the applicable statutes and agency rules to be hazardous and which must be stored or disposed of in specially designed containers;
 - c. Describe generally improper disposal methods;
 - d. Describe generally appropriate disposal methods;
 - e. Provide a list of agencies which can be consulted regarding the proper handling and disposal of hazardous substances;
 - f. Describe a program to inform owners and tenants of the information contained in the plan;
 - g. Describe construction requirements for hazardous waste holding areas;
 - h. Describe typical spill clean up methods; and
 - i. Be updated and distributed to each non-residential land user annually.

- J.(3) All Project tenants that generate hazardous waste shall be encouraged to utilize waste exchanges to the extent feasible. A report of such use shall be included in each Annual Report.
- J.(4) Large quantity hazardous waste generators and industrial/commercial park components which produce hazardous waste which is not suitable for recycling, exchange, or reuse, shall be encouraged to develop permittable temporary on-site hazardous waste treatment capabilities to ensure public safety prior to transport.
- J.(5) The Developer shall participate, as required by Manatee County ordinances, in any necessary expansion of solid waste service to each phase or subphase of the Project to assure that adequate solid waste capacity exists to accommodate the Project.

Recreation and Open Space

- K.(1) The Project shall contain, at a minimum, 332.5 acres of open space (approximately 154.4 acres of wetlands, 26.5 acres of mitigation area, and 151.6 acres of detention) in addition to approximately 102.5 acres of property (24.3 acres of park, a 5.3 acre recreation center, and a 72.9 acre lake) committed to recreation. The property designated for recreation purposes shall include a 24.3 acre public park site to be conveyed with necessary easements or right-of-way to provide access from Buckeye Road prior to any further Development Approvals and which, prior to commencement of Phase 2, shall have a second means of public access from Gateway Boulevard. Also, recreation areas within the Project must be suitable to support active recreation programs, such as sports fields. The proposed private recreation area (5.3 acres with facilities) can be utilized as part of the approximately 102.5 acres of recreation oriented property and shall be available prior to any further Development Approvals for Phase 2.
- K.(2) All recreation and open space areas not deeded to the County or other state agencies shall be owned and maintained as common open space through a property owners association for the Project.
- K.(3) All recreation, park, and wetland sites, as shown on Revised Map H of the ADA, shall not be utilized for other uses inconsistent with their designation on said map. Any proposal to change these uses shall be subject to a Substantial Deviation Determination if required by Subsection 380.06, Florida Statutes.
- K.(4) The Project's parks and recreational facilities shall be accessible to the elderly, the handicapped, and economically disadvantaged.

Education

- L.(1) The Developer shall dedicate to the County School Board usable land for one elementary school site at least 15.9 acres in size. This land shall be available to the School Board at any time during Phase 1 for the Project, however, any necessary access to the site, water or sewer shall be the responsibility of the School Board if development of the school site occurs during Phase 1. At the time of the school site dedication to the School Board, the Developer shall dedicate to the County road right-of-way access to Buckeye Road, as shown on the General Development Plan. If the School Board elects to postpone development of the school site until Phase 2, connections for potable water and sanitary sewer shall be provided by the Developer. The Developer shall provide said connections upon completion of the road right-of-way connection between Moccasin Wallow Road and Buckeye Road, but in all events, prior to commencement of Phase 2. Recreational areas of the school site shall be operated by the School Board as public recreational areas or, prior to construction, the School Board shall enter into an interlocal agreement with the County for joint use of the recreational areas. The Project's Master Stormwater Plan shall provide for the school site's stormwater retention needs.

- L. (2) If the County School Board should decide the school is not required or the location is inappropriate, the Developer shall be permitted to use all or a portion of the applicable parcel for residential development, provided the number of dwelling units approved for the Project is not increased and provided the County determines that all recreational Level of Service standards are met. If additional recreational opportunities are required, the County may require dedication of up to five acres of the designated school site parcel for active recreation.

Health Care, Police and Fire

- M. (1) The Developer shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for emergency medical services. The Developer may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as applicable. An agreement as to pro-rata share, mutually acceptable to the County and the Developer, shall be reached prior to the approval of the first Final Site Plan or Final Plat for Vertical Development for Phase 1 or any subphase thereof. The pro-rata share shall not exceed the total sum of impact fees anticipated from the Project and any pro-rata lump sum payment shall be creditable against the payment of impact fees, in accordance with applicable law.
- M. (2) The Developer shall be responsible for contributing a pro rata share of the cost of land acquisition, construction and equipping of fire protection service facilities for fire protection services. The Developer may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as applicable. An agreement as to pro rata share, mutually acceptable to the County and the Developer, shall be reached prior to the approval of the first Final Site Plan or Final Plat for Vertical Development for Phase 1, or any subphase thereof. The pro rata share shall not exceed the total sum of impact fees anticipated from the Project and any pro rata lump sum payment shall be creditable against the payment of impact fees, in accordance with applicable law.
- M. (3) The Project shall be designed and constructed to meet or exceed specifications of the State Fire Code, Rule 4A-3.012., Florida Administrative Code.
- M. (4) The height of buildings allowed in the Project shall not exceed that appropriate for the available water pressure and fire flows, or exceed the reach of available fire fighting equipment at the time of any Preliminary Site Plan approval for any phase or subphase.
- M. (5) Prior to approval of all Preliminary Site Plans, the Developer shall provide assurance for each increment of development that the site will be supplied to the extent required by applicable code with water lines of adequate size, and functioning fire hydrants in sufficient number and appropriate locations to accommodate fire fighting operations. Additionally, the Developer shall provide calculations by a Florida registered engineer to the County indicating that fire flow and water pressure to the site are adequate for fire protection purposes and written assurance from the North River Fire District that the proposed locations of all fire hydrants and appurtenances are adequate prior to the issuance of any Certificate of Occupancy for the Project by the County.
- M. (6) The Manatee County Sheriff's Office shall provide typical police protection to each phase or subphase of the Project. The Developer shall participate, in accordance with applicable County ordinances,

in any expansion of such services necessary to serve the Project or any phase or subphase thereof.

Economics

- N. (1) Excess infrastructure capacity constructed by the Developer shall be at the Developer's risk and shall not vest later development rights not addressed in this approval.
- N. (2) The Project shall promote entrepreneurship and small and minority owned business start-up, and encourage nondiscriminatory employment opportunities, pursuant to policies 21.2, SCP and 21.5.3, FCRPP, respectively.
- N. (3) The development and promotion of a day care system should be encouraged on site, and any such day care system shall be in compliance with the Manatee County Land Development Code and any other applicable regulations.

Energy

- O. (1) Issuance of Development Approvals for each phase or subphase shall be dependent upon the ability of electrical and gas utilities to meet the energy requirements of the development.
- O. (2) 1. All Project tenants, businesses, residents, etc. shall be notified in writing by the Developer prior to occupancy that the following energy related practices are encouraged:
- a. Use energy alternatives, such as solar energy, resource recovery, waste heat recovery, and co-generation, where economically feasible;
 - b. Obtain energy audits provided by energy companies or other qualified agencies;
 - c. Install water heater timers and set water heaters at 130 degrees Fahrenheit or lower;
 - d. Use landscaping and building orientation to reduce heat gain, where feasible, for all Project construction;
 - e. Promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;
 - f. Reduce levels of operation of all air conditioning, heating, and lighting systems during nonbusiness hours, as appropriate;
 - g. Institute and utilize recycling programs;
 - h. Utilize energy efficient packaging or recyclable materials;
 - i. Install total energy systems on large facilities when cost effective; and
 - j. Elimination of advertising requiring lighting after business hours where feasible.
- O. (3) Incorporation of the energy conservation measures referenced on pages 25-3 and 25-4 of the ADA shall be required. A progress report on the energy conservation measures shall be included as a part of each annual report.

General Conditions

- P. (1) Should the Project significantly depart from the parameters set forth in this Development Order and the ADA, the Project will be

subject to a Substantial Deviation Review, pursuant to Section 380.06, Florida Statutes. Any change to the Project which meets the criteria set forth in Subsection 380.06(19), Florida Statutes shall require a hearing to determine if the change constitutes a Substantial Deviation.

- P.(2) The Developer's commitments set forth in the ADA, and, as summarized therein, shall be honored, except as they may be superseded by specific terms of the Development Order.
- P.(3) Should the Developer divest itself of all interest in the Project prior to the expiration of the Development Order, the Developer shall designate the successor entity to be responsible for preparation of the Annual Report, subject to approval by the County.
- P.(4) All Development Approvals shall be obtained within twenty (20) years from the date of approval of this Development Order. This Development Order shall expire twenty-five (25) years from the date of approval to allow for post-development monitoring. Unless otherwise specified in this Development Order, all conditions herein shall be complied with on or before the expiration date of this Development Order.
- P.(5) In order to ensure that people will find adequate housing opportunities reasonably accessible to their places of employment, the Developer shall, prior to commencement of Phase 2, conduct an analysis for subsequent phases of the housing needs to be created by the Project and determine the availability of adequate housing proximate to or otherwise reasonably accessible to the Project. This analysis and determination shall be accomplished using a methodology approved by Manatee County and shall use actual Project experience. If such analysis indicates that the Project will create substantial need for adequate housing that is not being provided by other residential developments proximate to the Project or if such analysis indicates that the Project would not substantially further the creation of adequate housing opportunities reasonably accessible to places of employment, then the Developer shall prepare a Housing Affordability and Implementation Plan (HAIP) and have the HAIP adopted by Manatee County as an amendment to this development order. The HAIP shall comply with the goals and standards established by TBRPC's Comprehensive Regional Policy Plan and the Manatee County Comprehensive Plan in effect as of this Development Order, and all applicable rules established by the state land planning agency prior to the commencement of Phase 2.

At a minimum, the HAIP shall contain:

- Specific provisions for on-site housing delivery, including housing delivery alternatives;
 - Specific provisions for off-site housing in addition to on-site housing when on-site housing would be impracticable;
 - Specific mechanisms for HAIP implementation;
 - Provisions to ensure continued adequacy of units provided; and
 - Monitoring provisions.
- P.(6) A Master Preliminary Site Plan for each phase shall be required.
- P.(7) The Developer shall make all efforts to coordinate with, and inform the appropriate public authorities of, the feasibility of the proposed school site for hurricane shelter, building closings, security and safety precautions, and evacuation plans.

- P. (8) Except for any existing use or for construction offices and similar temporary uses, or any use on the school site or park site, or other use by a public agency, any proposal to utilize mobile homes on the site shall require a Substantial Deviation Determination, pursuant to Subsection 380.06(19) (a), Florida Statutes.
- P. (9) The Developer, its successors, assigns or transferees, shall submit Annual DRI Reports in accordance with Section 380.06(18), Florida Statutes to the County, TBRPC, the State Land Planning Agency, and other agencies, as may be appropriate, on the anniversary of the execution date of this Development Order and each year thereafter until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of the Manatee County Planning Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Development Order and who may submit an appropriate report to the County Commission should the Planning Director decide further orders and conditions are necessary. The Developer shall be notified of any Board of County Commissioners' hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, modification or change of any conditions, or any terms or conditions of this Development Order. The Annual Report shall contain the following:
- a. Any changes in the plan of development, or in the representation contained in the ADA, or in the phasing or land uses for the reporting year and for the next year;
 - b. A summary comparison of development activity proposed and actually conducted for the year;
 - c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or Developer;
 - d. Identification and intended use of lands purchased, leased, or optioned by the Developer adjacent to the original DRI site since the Development Order was issued;
 - e. An assessment of the Developer's and the local government's compliance with the conditions of approval contained in the DRI Development Order and the commitments that are contained in the Application for Development Approval and which have been identified by the County, TBRPC, or DCA, and being significant;
 - f. Any known incremental DRI Applications for Development Approval or requests for a Substantial Deviation Determination that were filed in the reporting year and to be filed during the next year;
 - g. An indication of a change, if any, in local government jurisdiction for any portion of the Development since the Development Order was issued;
 - h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
 - i. A copy of any recorded notice of the adoption of a Development Order for the subsequent modification of an adopted Development Order that was recorded by the Developer pursuant to Subsection 380.06(14) (d), Florida Statutes;
 - j. A statement that all persons have been sent copies of the Annual Report in conformance with Subsections 380.06(15) and (18), Florida Statutes;

- k. Information on the actual prices and rents of housing units constructed relative to the then current Department of Housing and Urban Development (HUD) affordable housing guidelines;
- l. Reports and/or information pursuant to conditions A.(8), A.(9), F.(5), J.(1), J.(3), O.(3), and F.(10).

Local Design Criteria

Q.(1) The setbacks and heights for land uses shall be as follows:

Minimum Setbacks:	Front	Side	Rear	Height (Maximum)
Single Family Detached	20'	8'	20'	35'
Single Family SemiDetached	20'	8'	20'	35'
Single Family Attached	20'	N/A	20'	35'
Duplex	20'	8'	20'	35'
Multi-Family	25'	10'	20'	4 stories (1)(2)
Commercial	25'	15'	20'	35'
Office	25'	15'	20'	6 stories (1)(2)
Office/Service Center	30'	15'	20'	45' (1)
School, Park, Recreation	25'	15'	15'	35'

- (1) For every foot in excess of 25 feet in height an additional three foot setback shall be required for each required yard.
- (2) Height limitations are inclusive of any parking areas.

Q.(2) The following standards shall apply to all non-residential development in the Project* which is adjacent (within 250 feet) to Interstate 75, Moccasin Wallow or Buckeye Roads:

- a. All building facades visible to referenced roads shall exhibit an aesthetically attractive appearance. Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, glass, stucco, ceramic tile, stone, wood, or similar materials. Painted or exposed concrete block, corrugated metal, or tilt up precast slabs shall not be permitted. Architectural metals in conjunction with other permitted building materials shall be allowed, provided that at least fifty percent (50%) of the building face is constructed from other permitted materials.
- b. All truck loading, service areas, outside storage, and parking of heavy equipment, semi-trucks or trailers, or other vehicles over 1-1/2 tons shall not be located adjacent to referenced roads, unless these features are not visible from a height of five feet at the edge of pavement of the above referenced roads, to be determined at time of Certificate of Occupancy.
- c. Trash and garbage receptacles shall be screened with materials similar to the adjacent building facade and maintain all building setbacks along the above referenced roads.
- d. Rooftop mechanical equipment shall not be visible from the above referenced roads.

Q.(3) Buildings in the Project which are adjacent to Interstate 75, Moccasin Wallow Road, or Buckeye Road shall be designed to position their parking areas in a manner which generally avoids visibility from the said road(s). The Manatee County Planning Director shall have the authority to approve an alternative which is aesthetically equal to or superior to this requirement.

Q.(4) Dumpsters or trash compactors to be used for the temporary storage of solid waste shall not be located in front of any buildings, and these units shall meet all minimum setback requirements. These units shall be screened from view of any collector or arterial

roadway. Specific locational approval for these units is required during Preliminary and Final Site Plan review.

- Q.(5) The Developer shall grant to the appropriate agency or agencies, a negative easement prohibiting vehicular access to and from the development via Moccasin Wallow Road, Buckeye Road, Grass Farm Road, and McGuire Road, except as approved and shown on the Preliminary and Final Site Plans for the development, or any phase or subphase thereof and which shall be consistent with the General Development Plan.
- Q.(6) A pre-design conference between the Developer and county staff shall be held prior to submittal of Construction Drawings for the Project to discuss the points of connection for potable water and wastewater service and the configuration of the potable water and sanitary sewer systems.
- Q.(7) The Developer shall submit a Master Plan for potable water, wastewater, and fire protection prior to construction plan submittal. The Developer shall also be responsible for determining if upgrading of offsite potable water and wastewater facilities is necessary prior to construction plan submittal to provide adequate potable water, sanitary sewer, or fire protection service to the portion of the development for which such service is being requested. Oversizing of potable water and wastewater facilities may be necessary to provide for future development in or adjacent to the Project and the Developer shall participate in such oversizing in accordance with applicable county ordinances or policies.
- Q.(8) The Developer will investigate appropriate recycling efforts both during and after construction.
- Q.(9) It is strongly suggested that the Developer investigate the possibilities associated with the mulching of the trees and brush that will be removed as land clearing operations commence. The mulch could then be retained on site to meet the Developer's needs for landscaping and cover material during construction.
- Q.(10) The commercially designated site adjacent to Buckeye Road shall be directly accessed from at least one roadway designated collector or higher.
- Q.(11) The commercial designated site adjacent to Buckeye Road shall not be developed in excess of a .23 floor area ratio or 150,000 square feet, whichever is less.
- Q.(12) Prior to the development of any commercial land uses on Buckeye Road or the development of any portion of Phase II, the Developer shall dedicate the necessary right-of-way and construct and complete the collector roadway providing a continuous connection between Moccasin Wallow Road and Buckeye Road.
- Q.(13) The minimum size for any dwelling unit within the project shall be six hundred (600) square feet unless this provision is waived by the Board for purposes of affordable housing, at time of preliminary plan approval.
- Q.(14) No adult entertainment establishments shall be permitted within this project.
- Q.(15) Regardless of information contained in the ADA, the rezone application, development conditions contained within the DRI Development Order, or Ordinance PDMU-91-01, the Project shall comply with all regulations of the Land Development Code and the Comprehensive Plan.
- Q.(16) The land uses approved on this site are limited as described on the General Development Plan.

Q. (17) The Development consists of the area and land uses described in Table 1 and the area and land uses by phase as described in Table 2. Phase 1 of the Development is approved subject to the conditions found within this Development Order and Phases 2 and 3 are conceptually approved only. However, further Section 380.06, Florida Statutes, review will be required for transportation and air quality impacts in Phases 2 and 3, and Certificates of Level of Service must be obtained for Phases 2 and 3 for land uses and acreage, but shall be limited to, roadway capacity, mass transit, potable water, sanitary sewer, parks and recreation facilities, drainage, and solid waste, as required by the Manatee County Land Development Code.

TABLE 1
LAND AREA AND USES

<u>Column A</u> <u>Use</u>	<u>Column B</u> <u>Acres</u>	<u>Column C</u> <u>Square</u> <u>Feet</u>	<u>Column D</u> <u>Units</u>	<u>Column E</u> <u>Land Use Exchange</u> <u>Maximum Increase</u>
Office	75.8	960,500		6 acres, or 60,000 sq. ft.
Office/ Service	35.7	397,500		6 acres, or 60,000 sq. ft.
Commercial	30.4	445,200		6 acres, or 50,000 sq. ft.
Residential				
Single	297.3		1,647) Increase of com-) bined resident-) ial dwelling) units of 171 dus,) regardless of) type)
Family				
Townhouse	48.7		431	
Multi- Family	68.4		1,348	
Lake	72.9			
School	15.9			
Park	24.3			
Recreation Center	5.3			
Wetlands	153.4			
Mitigation	26.5			
Detention	151.6			
Open Space	8.8			
R.O.W. Transmission Lines	50.0			
Totals:	1,065.0± =====	1,803,200 =====	3,426 =====	

The amounts of the various uses (Residential, Commercial, Office and Office/Service Center) within the Project can be exchanged, with Board of County Commissioners approval, of a revised General Development Plan to allow flexibility in the exact land use mix shown in columns B, C and, D of Table 1 above, provided that the final Project meets the following conditions:

- a. Exchanges of land uses for the Project may not exceed the maximums denoted in Column E of Table 1 above.
- b. The following uses designated in Table 1 shall remain as shown in the Table except as described elsewhere herein in specific provisions pertaining to those uses: Lake,

school, park, recreation center, wetlands, mitigation, detention, open space, and R.O.W. Transmission Lines.

- c. No exchange of land uses within a phase or phases shall result in a deviation of the overall Project change limits as described in this Section 3A.

TABLE 2
LAND USE AND PHASING SCHEDULE

	<u>Phase 1:</u> <u>1997-2005</u>	<u>Phase 2:</u> <u>2006-2012</u>	<u>Phase 3:</u> <u>2013-2019</u>	<u>Totals</u>
Residential (dus):				
Single Family	550	550	547	1,647
TH	120	155	156	431
Multi-Family	<u>330</u>	<u>515</u>	<u>503</u>	<u>1,348</u>
Totals:	<u>1,000</u>	<u>1,220</u>	<u>1,206</u>	<u>3,426</u>
Commercial (sq.ft.)	160,000	150,000	135,200	445,200
Office (sq.ft.)	260,500	300,000	400,000	960,500
Office/Service Center (sq.ft.)	100,000	150,000	147,500	397,500
School (acres)	15.9			15.9
Park (acres)	24.3			24.3
Recreation Center (acres)		5.3		5.3

The mix of approved land uses within individual phases may vary from that shown in Table 2, provided that the following conditions are met:

- a. The number of residential units within any phase may not be increased or decreased by more than five hundred dwelling units.
- b. The square footage of commercial within any phase may not be increased by more than one-hundred fifty-thousand square feet or decreased by more than one-hundred thousand square feet.
- c. The square footage of office within any phase may not be increased more than seventy-thousand square feet or decreased by more than one-hundred thousand square feet.
- d. The square footage of office/service Center within any phase may not be increased more than ninety-nine thousand square feet or decreased by more than fifty-thousand square feet.
- e. The phasing buildout dates shall be February 20th of the year indicated above.

In seeking approval of a specific Land Use Exchange, the Developer shall prepare a request which demonstrates that the impacts generated by the revised land use mix will not exceed the impacts for transportation, potable water, wastewater treatment, solid waste disposal, mass transit, drainage, and parks and recreation which have been approved and authorized in the Certificate of Level of Service Compliance (CLOS) issued for that phase. The Developer must apply for a modification to the CLOS and if the proposed Land Use Exchange results in impacts in excess of those previously approved, the Developer will be granted approval for that excess only if, and when, capacity is available. However, reapplication

shall not cause the Developer to lose the capacity already approved for the Project. If the request for a Land Use Exchange is approved, a modified CLOS shall be issued to replace the previously approved CLOS. Any modification to the CLOS shall not extend the time for which such capacity is reserved pursuant to the CLOS.

An application for a Land Use Exchange must include a revised General Development Plan which will include a revised Land Use and Phasing Schedule and a reallocation of square footage. Each proposal for a land use exchange and revised General Development Plan shall be reviewed for compliance with the provisions of this Development Order, the Manatee County Land Development Code, and the Manatee County Comprehensive Plan.

A subsequent phase will be deemed to have commenced at the beginning of a calendar year indicated as the beginning of a phase as shown in Table 2 or when the Project has utilized the capacity set aside for the preceding phase in any one of the following: transportation; potable water; wastewater treatment; solid waste disposal; mass transit; drainage and parks and recreation. The Project status will be monitored by the County through the Certificate of Level of Service Compliance process.

The Land Use Exchange request shall contain information sufficient to enable the County to determine that the impacts of the revised land use mix do not exceed the impacts of the land use mix being replaced. The impacts will be measured based upon the relevant factors currently used by the County (e.g., ITE Trip Generation Rates, EDU tables, solid waste generation factors, etc.). The Developer shall verify the appropriate factors with County staff prior to the submittal of any such Land Use Exchange request.

The traffic impacts of the revised land use mix shall be deemed not to exceed the approved traffic impacts of the land use mix being replaced, so long as the change does not increase the peak hour total traffic (based upon the most currently adopted ITE Trip Generation Rates, unless actual studies have been completed establishing to the satisfaction of the County that some modification in the ITE Rates is appropriate based upon sound traffic engineering principles), and the relative proportions of trips produced by attractors and the trips produced by generators remain substantially the same for the phase or subphase. In the event that the attractor or generator proportions are not substantially the same, as determined by the County, additional information may be required to assess intersection performance, trip distribution, or particular roadway segments designated by the County.

Any amendments to the land use mix or proposed phasing schedule (Tables 1 and 2 respectively), other than those described herein, shall be submitted to the County for review and approval, pursuant to a Notice of Proposed Change as required by Subsection 380.06(19), Florida Statutes, which approval shall not be withheld for mere acceleration of phases if otherwise there is compliance with the terms of the Development Order. Any departure in project buildout from the phasing schedule set forth in the Application shall be subject to review to determine if such departure constitutes a substantial deviation pursuant to Subsection 380.06(19), Florida Statutes.

Any specific Land Use Exchange must result in a land use mix which is consistent with the requirements of the Manatee County Comprehensive Plan.

The Land Use Exchange may not be exercised more than once in any calendar year.

The Developer shall notify the Department of Community Affairs and TBRPC of each proposal for a Land Use Exchange and a revised General Development Plan by submitting each proposal for a Land Use Exchange and a revised General Development Plan to the Department of Community Affairs and TBRPC.

- Q.(18) Individual driveways shall not be allowed for individual residences adjacent to the major internal roadway as shown on the General Development Plan and reverse frontage lots shall be required along said roadway.
- Q.(19) The Developer shall improve McGuire Road to County standards from the northernmost access to Moccasin Wallow Road, if the Project takes vehicular access from McGuire road.

Section 4. LEGAL DESCRIPTION.

A parcel of land lying in Sections 9, 16, and 17, Township 33 South, Range 18 East, Manatee County, Florida, said parcel being more particularly described as follows:

Commence at the Southeast corner of said Section 16, Township 33 South, Range 18 East, Manatee County, Florida, run thence N 01°01'40" E, 2085.96 feet along the East boundary of the Southeast 1/4 of said Section 16, to the intersection with the Northerly Limited Access right of way line of State Road No. 93A (I-75), said point being the POINT OF BEGINNING; thence along said Northerly Limited Access right of way line the following four (4) courses; 1) S 40°08'56" W, a distance of 544.94 feet; 2) S 44°08'20" W, a distance of 542.49 feet to a point on a non-tangent curve; 3) Southwesterly, 339.04 feet along the arc of a curve to the right having a radius of 2770.79 feet and a central angle of 07°00'39" (chord bearing and distance S 47°38'19" W, 338.83 feet); (4) S 51°07'07" W, a distance of 498.24 feet to a point on the East boundary of the Southwest 1/4 of the Southeast 1/4 of the aforesaid Section 16; thence N 00°46'26" E, a distance of 193.65 feet along said East boundary of the Southwest 1/4 of the Southeast 1/4 of Section 16, said line also being right of way line for State Road No. 93A (I-75) Access Road; thence along said Northerly right of way line for Access Road as shown on F.D.O.T. Map for State Road No.93A (I-75) the following three (3) courses; 1) S 48°35'25" W, a distance of 1016.87 feet; 2) S 64°50'22" W, a distance of 142.57 feet; 3) S 88°08'11" W, a distance of 266.86 feet; thence N 02°48'55" E, a distance of 128.56 feet along the Easterly Boundary of the property as described in Official Record Book 291, Page 245 of the public records of Manatee County, Florida; thence N 87°06'31" W, a distance of 172.71 feet along the Northerly boundary of said property as described in O. R. Book 291, Page 245, to the intersection with the Easterly right of way line of Gillette Road (56th Avenue); thence N 00°39'28" E, a distance of 779.85 feet along a line being 25 feet East of and parallel with the West boundary of the Southwest 1/4 of the Southeast 1/4 of the aforesaid Section 16; thence S 89°12'14" E, a distance of 174.30 feet along the South boundary of the property as described in Official Record Book 898, Page 872 of the public records of Manatee County, Florida; thence N 04°40'17" E, a distance of 267.28 feet along the Easterly boundary of said property as described in O.R. Book 898, Page 872; thence N 89°17'52" W, a distance of 218.60 feet along the North boundary of the Southwest 1/4 of the Southeast 1/4 of the aforesaid Section 16 to the Northwest corner of said Southwest 1/4 of the Southeast 1/4 of Section 16; thence N 89°45'45" W, a distance of 1382.98 feet along the North boundary of the Southeast 1/4 of the Southwest 1/4 of said Section 16; thence S 00°47'20" W, a distance of 507.73 feet along the West boundary of said Southeast 1/4 of the Southwest 1/4 of Section 16; thence S 89°31'40" E, a distance of 868.64 feet; thence S 21°33'53" E, a distance of 238.50 feet; thence S 31°07'21" W, a distance of 249.86 feet; thence N 58°37'19" W, a distance of 90.10 feet; thence S 52°13'24" W, a distance of 571.20 feet to a point on the Northerly right of way line of Moccasin Wallow Road; thence N 89°35'32" W, a distance of 1096.14 feet along said Northerly right of way line of Moccasin Wallow Road; thence S 01°29'51" W, a distance of 63.18 feet to a point on the Northerly right of way line of said Moccasin Wallow Road

(as maintained); thence N 89°31'37" W, a distance of 606.11 feet along said Northerly maintained right of way line of said Moccasin Wallow Road, said line being 31.00 feet North of and parallel with the South boundary of the Southwest 1/4 of the aforesaid Section 16; thence N 89°33'59" W, a distance of 2601.54 feet along said Northerly maintained right of way line said line also being 31.00 feet North of and parallel with the South boundary of the Southeast 1/4 of Section 17, Township 33 South, Range 18 East, Manatee County, Florida; thence N 00°12'13" W, a distance of 2646.56 feet along the West boundary of said Southeast 1/4 of Section 17 to the Northwest corner of the Southeast 1/4 of said Section 17; thence S 89°18'21" E, a distance of 1326.44 feet along the North boundary of said Southeast 1/4 of Section 17 to the Southwest corner of the East 1/2 of the Northeast 1/4 of said Section 17; thence N 00°50'45" E, a distance of 2660.87 feet along the West boundary of said East 1/2 of the Northeast 1/4 of Section 17 to the Northwest corner of said East 1/2 of the Northeast 1/4 of Section 17; thence S 89°30'06" E, a distance of 1329.46 feet along the North boundary of said East 1/2 of the Northeast 1/4 of Section 17 to the Southwest corner of Section 9, Township 33 South, Range 18 East, Manatee County, Florida; thence S 89°44'27" E, a distance of 1393.11 feet along the South boundary of the Southwest 1/4 of said Section 9 to the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 9; thence N 00°55'22" W, a distance of 1334.16 feet along the West boundary of said Southeast 1/4 of the Southwest 1/4 of Section 9 to the Southwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 9; thence N 00°24'41" W, a distance of 835.46 feet along the West boundary of said Northeast 1/4 of the Southwest 1/4 of Section 9; thence S 89°37'39" E, a distance of 330.00 feet; thence N 00°25'44" W, a distance of 462.00 feet to a point on the Southerly right of way line of Buckeye Road; thence S 89°36'17" E, a distance of 1115.77 feet along said Southerly right of way line of Buckeye Road, said line being 30.00 feet South of and parallel with the North boundary of the Southwest 1/4 of said Section 9; thence continue along said Southerly right of way line, S 89°28'17" E, a distance of 2717.25 feet, said line being 30.00 feet South of and parallel with the North boundary of the Southeast 1/4 of said Section 9, to a point on the West boundary of the parcel described in Official Record Book 1025, Page 3055, as recorded in Manatee County, Florida; thence along said West boundary, S 02°28'25" W, a distance of 2646.27 feet, to a point on the South boundary of the Southeast 1/4 of the aforesaid Section 9, thence N 89°44'33" W, a distance of 29.94 feet to the Northwest corner of the property described in Official Record Book 1030, Page 2797, of the Public Records of Manatee County, Florida; thence along the Westerly boundary of said property, the following four (4) courses; 1) S 00°17'41" E, a distance of 739.10 feet; 2) S 00°19'26" E, a distance of 600.00 feet; 3) S 00°26'20" E, a distance of 539.17 feet; 4) S 00°15'00" E, a distance of 650.17 feet to a point on the East boundary of the Northeast 1/4 of the aforesaid Section 16; thence S 01°00'58" W, a distance of 150.00 feet to the Northeast corner of the Southeast 1/4 of said Section 16; thence S 01°01'40" W, a distance of 587.71 feet along the East boundary of said Southeast 1/4 to the intersection with the aforesaid Northerly Limited Access right of way line of State Road 93A (I-75), said point also being the POINT OF BEGINNING.

Containing 1,065± acres, more or less.

LESS existing rights of way for 40th Avenue, and Grass Farm Road.

Section 5. EFFECTIVE DATE. This ordinance shall take effect upon filing with the Department of State, State of Florida.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida this the 26th day of August, 1997.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: Patricia M. Glass
Chairman

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

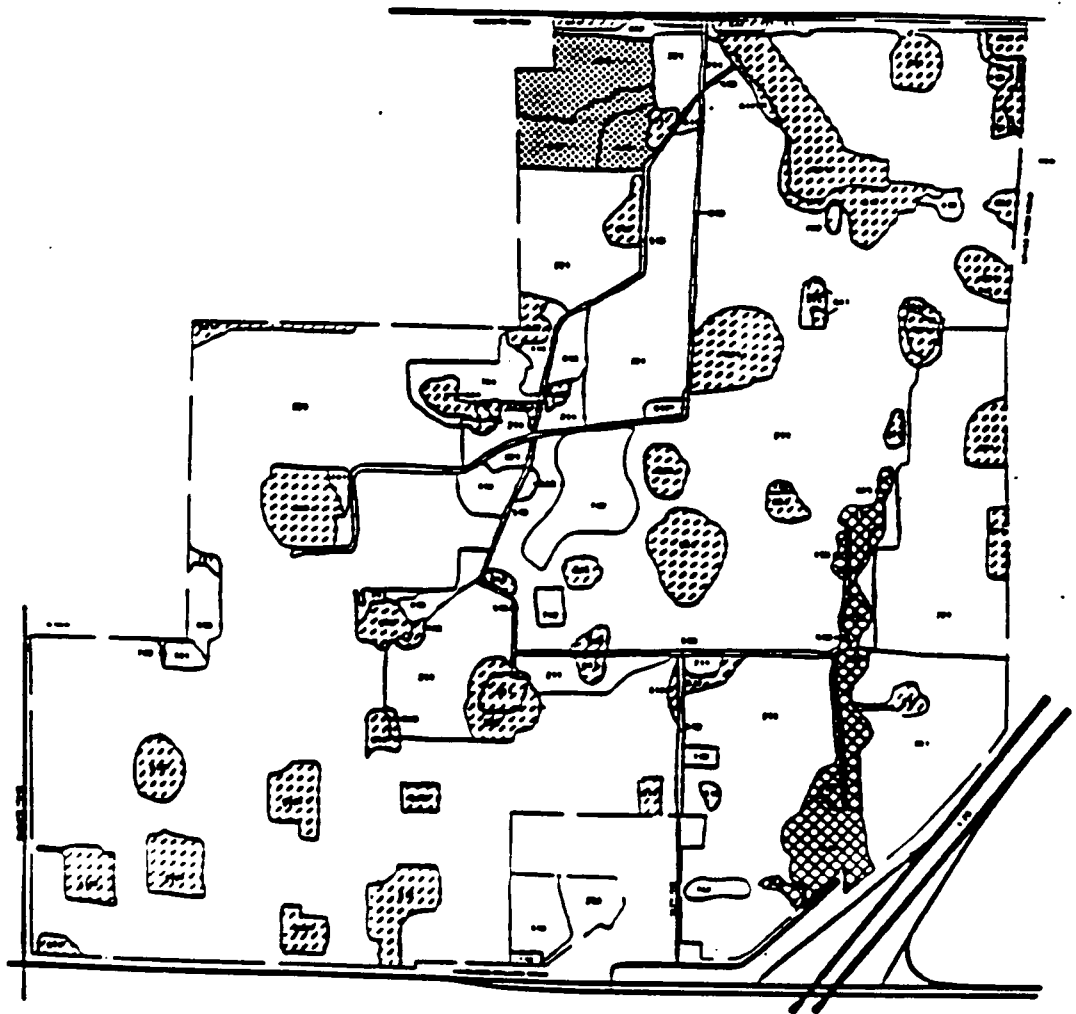
Susan B. Romine

TABLE SR 16-1			
WETLAND #	LAND USE	ACRES	ACRES IMPACT
1	617	9.3	0.7
2	617	1.7	
3	617	0.7	0.7
4	617	1.4	
5	617	0.6	
6	617	1.3	
7	643	1.1	
8	643	1.1	
9	641	2.3	
10	643	5.2	
11	643	0.8	0.8
12	641	1.5	1.5
13	641	8.3	8.3
14	641	1.7	
15	641	2.9	2.9
16	643	0.6	0.6
17	617	2.6	
18	641	2.4	
19	643	0.2	
20	617	0.5	
21	641	0.9	
22	641	4.0	
23	641	1.9	
24	643	2.0	
25	641	3.5	
26	641	1.5	

TABLE SR 16-1			
WETLAND #	LAND USE	ACRES	ACRES IMPACT
53	617*	1.6	
54	617*	1.6	
55	617	6.9	
56	617*	2.8	
57	617*	4.8	
58	617*	4.2	
59	617*	5.1	
60	617*	4.5	
61	617	1.3	




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DEI #218
 GRADY NORTH
 PRESERVATION/CONSERVATION MAP



LEGEND

- 001
- 110 RECREATIONAL LOW BENSITY
- 211 AGRICULTURE IMPROVED PASTURE
- 221 AGRICULTURE CITRUS GROVES
- 230 AGRICULTURE PINE GROVES
- 240 AGRICULTURE PINE PADDLES
- 251 OPEN LAND FLORA
- 417 UPLAND FOREST LOWLAND OF BIRCH OAK
- 418 UPLAND FOREST LOW BIRCH OAK
- 421 UPLAND FOREST OF BIRCH OAK
- 430 UPLAND FOREST BIRCH-PINE
- 510 BIRCH, STEEP AND OPEN
- 617 UPLAND BIRCH-PINE
- 618 UPLAND BIRCH-PINE
- 641 UPLAND PINE-PINE
- 642 UPLAND PINE-PINE
- 643 UPLAND PINE-PINE
- 701 DISTURBED LAND
- 702 DISTURBED LAND

-  Conservation
-  Preservation
-  Upland Preservation

WHEREAS, pursuant to Sections 381.272 and 381.273, Florida Statutes, the State of Florida Department of Health and Rehabilitative Services is responsible for privately owned onsite sewage disposal, including septic system and

WHEREAS, Manatee County has agreed to an EPA and DER grant requirement to enact a sewer use ordinance, the provisions of which must be in accordance with EPA Regulation 40 CFR 35.2103; and

WHEREAS, the Board of County Commissioners gave notice of a public hearing on an ordinance covering the use of the County's wastewater system and duly held said hearing.

In accordance with the foregoing and for the purposes herein stated, NOW THEREFORE, BE IT ORDAINED by the Manatee County Board of County Commissioners, as follows:

- 5.09 Upset Provisions
 - 5.10 Measurements, Tests, Analyses
 - 5.11 Baseline Report
 - 5.12 Compliance Data Report
 - 5.13 Periodic Compliance Reports
 - 5.14 Significant Industrial Users
 - 5.15 Public Notification of Significant Noncompliance
 - 5.16 Industrial User Record Keeping
- VI. Permits
- 6.01 Permit Established
 - 6.02 Lateral Sewer Permits
 - 6.03 Where Required
 - 6.04 Permit Applications
 - 6.05 Permit Contents
 - 6.06 Issuance of Permits
 - 6.07 Duration of Permits
 - 6.08 Modification of Permits
 - 6.09 Permits Not Transferable
 - 6.10 Types of Industrial Users
- VII. Fees and Charges
- VIII. Enforcement and Penalties
- 8.01 Right to Enter
 - 8.02 Rejection of Certain Wastes
 - 8.03 Suspension of Service
 - 8.04 Revocation of Permit
 - 8.05 Discharging Without Permits
 - 8.06 Discharging Toxic Substances
 - 8.07 Discharges Resulting in Corrective Maintenance
 - 8.08 Unlawful Connection or Use of the County System
 - 8.09 Penalties Provided By State Statute
- IX. Waste Haulers and Septage
- 9.01 Waste Hauler
 - 9.02 Waste Hauler Permit
 - 9.03 Waste Hauler Manifest
 - 9.04 Manifest Form
 - 9.05 Septage Unloading Fee
 - 9.06 Contaminated Septage
 - 9.07 Number of Septage Loads
 - 9.08 Septage Discharge
 - 9.09 Septage Samplings
 - 9.10 Modification, Transferability, Revocation, Fines, and Penalties
 - 9.11 Costs of Analyses
 - 9.12 Waste Hauler Truck Permit Fee
 - 9.13 Violation of Waste Hauler Decal
- X. Permits, Fees, and Other Charges
- 10.01 Inspection Fees
 - 10.02 Industrial Discharge Permit Fees

ARTICLE I
STATEMENT OF PURPOSE

The purpose of these regulations is:

- 1.01 To require, wherever service has been provided, mandatory connection to the Manatee County Wastewater System of those residences and facilities generating normal sewage and wastewater.
- 1.02 To prohibit, wherever service has been provided, the use of septic systems and packaged treatment systems.
- 1.03 To prohibit the contribution of wastes of a nature which in any way create poisonous, flammable, hazardous, or noxious conditions for treatment plant personnel or the general public.
- 1.04 To prohibit the contribution of wastes which create operational or maintenance problems in the collection system, in the treatment plant and in effluent disposal facilities.
- 1.05 To prohibit the contribution of wastes which require greater treatment expenditures than are required for equal volumes of normal sewage.
- 1.06 To prohibit discharge of substances which cannot be removed by the normal treatment process and which adversely effect sludge(s), making them unfit for reuse.
- 1.07 To require pretreatment of certain wastewaters before discharge to the County's System.
- 1.08 To prohibit unauthorized use of the County System.
- 1.09 To set forth enforcement and penalties for violations.

- 2.12 **ENVIRONMENTAL PROTECTION AGENCY, EPA, OR USEPA:** Means the United States Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- 2.13 **FDER:** Means Florida Department of Environmental Regulation.
- 2.14 **GARBAGE:** Means solid waste from the domestic and commercial preparation, cooking, and disposing of food, and from the handling, storage, and sale of produce.
- 2.15 **HOLDING TANK WASTE:** Means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- 2.16 **HRS:** Means the State Department of Health and Rehabilitative Services and its Pollution Control Division.
- 2.17 **INDUSTRIAL PROCESS WASTE:** Means waste produced by companies manufacturing a product or providing a service such as: aluminum forming, coil coating, copper forming, electroplating, inorganic chemicals, iron manufacturing, metal finishing, nonferrous metals, organic chemicals and plastics, petroleum refining, film developing, commercial car washes, clothing laundries and dry cleaners, pharmaceuticals, pulp, paper and paperboard, automobile and transmission repair and service, anodizing, chemical etching and milling, printed circuit board, alkaline cleaning, chemical matching, photographic (secondary silver), funeral homes (whole blood from embalming process), and pickling.
- 2.18 **INDUSTRIAL USER:** Means any person or business who introduces pollutants into the Manatee County Public Works Sanitary Sewer Collection System from a non-domestic source which is regulated by Manatee County's Sewer Use Ordinance.
- 2.19 **INTERFERENCE:** Means the inhibition or disruption of the treatment processes or operation which contributes to a violation of any requirement of the County's permits. The term includes prevention of sewage sludge use or disposal in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, The Marine Protection, Research, and Sanctuaries Act, the Toxic Substance Control Act, or more stringent State or local criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of the SWDA) applicable to the method of disposal or use employed by the POTW.

- 2.29 **PERSON:** Means any individual, partnership, or co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives or agents. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.
- 2.30 **pH:** is a symbol for expressing the degree of acidity or alkalinity, meaning the logarithm (base 10) of the concentration of hydrogen ions in gram equivalents per liter of solution.
- 2.31 **POLLUTANT:** Means solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemicals, biological materials, radioactive materials, rock, sand, dirt, industrial materials and agricultural waste discharged into water or any other material capable of degrading local normal environmental conditions upon introduction to the environment.
- 2.32 **PRETREATMENT:** Means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, in wastewater to a less harmful state prior to discharging or otherwise introducing such pollutants into the system. The reduction or alteration can be obtained by physical, chemical or biological processes or by other means, except as prohibited by 40 CFR 5403.6(d).
- 2.33 **PRIVATE SEWAGE DISPOSAL SYSTEM:** Means a collecting, treating, and disposal facility installed, maintained and owned by persons other than the County and not connected to the public system.
- 2.34 **PROPERLY SHREDDED GARBAGE:** Means the wastes from the preparation, cooking, and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
- 2.35 **SEPTAGE:** Means all liquid wastes from any domestic, commercial or industrial source that is carried by any permitted waste hauler, and may be introduced into any Manatee County treatment facility.
- 2.36 **SEWAGE OR WASTEWATER:** Means a combination of the carried wastes from residences, business buildings, institutions and industrial establishments.
- 2.37 **SHALL:** When used means that it is mandatory but the term "may" when used means that it is permissive.

or to the environment or has resulted in Manatee County exercising its emergency authority to halt or prevent such a discharge.

- (e) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- (f) Failure to provide, within 30 days after the due date, required monitoring reports, and reports on compliance with compliance schedules.
- (g) Failure to accurately report noncompliance.

- 2.40 **STANDARD METHODS:** Means the current edition of "Standard Methods for the Examination of Water and Wastewater" as published or republished from time to time by the American Public Health Association or the current USEPA publication "Methods for Chemical Analysis of Water and Wastes." Standard Method procedures encompass the regulations specified in 40 CFR 136 which must be used for compliance testing by an industrial user.
- 2.41 **STATE:** Means the State of Florida.
- 2.42 **STORM DRAIN/STORM SEWER:** Means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- 2.43 **STORM WATER:** Means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- 2.44 **SUSPENDED SOLIDS:** Means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by various filtering and settling techniques.
- 2.45 **TOXIC POLLUTANT:** Means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the USEPA under the provisions of Section 307(a) of the Act, or other acts.
- 2.46 **USER:** Means any person or business who introduces pollutants into the Manatee County Public Works Sanitary Sewer Collection System.

ARTICLE III

USE OF THE PUBLIC WASTEWATER SYSTEM

- 3.01 NECESSITY FOR CONTROL: From a public health, safety and cost of service standpoint, regulation of the use of the public wastewater system is required.
- 3.02 SEPTIC TANKS, PRIVIES, CESSPOOLS:
- (a) Where County service is available the use of septic tanks, privies, cesspools, and private wastewater systems is prohibited.
 - (b) The conditions under which septic systems can be used are administered by the State Department of Health and Rehabilitative Services and its Pollution Control Division.
- 3.03 PRIVATE WASTEWATER SYSTEMS: Any private system that is to be turned over to the County for operation must meet Manatee County Public Works Department (MCPWD) specifications which include color coding of all pipe. Prior to construction, designs must be approved by MCPWD. During construction, the installation will be subject to MCPWD inspection to insure compliance.
- 3.04 MANDATORY CONNECTION: It is mandatory that all residences and all generators of normal wastewater, including private wastewater systems, connect to the County system when service is available.
- 3.05 UNLAWFUL CONNECTION OR USE: No person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance without first obtaining required approval and paying the appropriate fees and charges.
- 3.06 DISCONTINUED USE OF LATERAL SEWER: Should a structure be destroyed or moved the lateral sewer must be capped by the owner at the owner's expense. Should the owner neglect to do so, capping will be done by the County and costs paid by the owner.
- 3.07 REUSE OF LATERALS: Lateral sewers capped under Section 3.06 above shall not be reused unless they meet current County and MCPWD specifications and reuse is approved by the County.
- 3.08 SEPARATE LATERALS REQUIRED: Except by approval of MCPWD, each building must be served by at least one lateral sewer line.

ARTICLE IV
PROHIBITIONS AND LIMITATIONS ON
USE OF THE COUNTY SYSTEM

- 4.01 **APPLICABILITY:** The prohibitions and limitations of this Article apply to all users of the County system, whether or not the user is subject to the national Categorical Pretreatment Standards or any other national, state or local ordinances or requirements.
- 4.02 **WATERS:** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, sub-surface drainage, uncontaminated cooling water, swimming pool drainage, or unpolluted industrial process waters to any portion of the system.
- 4.03 **SUBSTANCES INTERFERING WITH OPERATIONS:** No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or sewage which will interfere with the operation or performance of the Manatee County Wastewater System or any of its treatment plants. A user shall not contribute the following substances to any public sewer:
- (a) Flammable and explosive materials, including any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to the County Wastewater System or to the operation of said system. At no time shall two successive readings on an explosion hazard meter at the point of discharge into said system (or at any point in the system) be more than five percent (5%), nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, fuel oil, naphtha, benzene, toluene, xylene, ethers, alcohols, solvents, ketones, aldehydes and sulfides, and any other substances which the County, the FDER, the USEPA, or any other local, regional, state, or federal agency having jurisdiction has notified the user is a fire hazard or a hazard to the system. At no time shall an industrial user discharge a wastestream with a closed cup flash point of less than 140°F.

effluent or any other sediment product, such as residues, sludges, or scums to be unsuitable for reclamation process. In no case shall a substance discharged cause the County to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

- (g) Any substance which will cause any County treatment facility to violate its NPDES and/or FDER permit or the receiving water quality standards.
- (h) Any sewage or wastewater with objectionable color, not removed in the treatment process, such as but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any waters or wastes containing substances, including nonbiodegradable detergents, which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirement of other agencies having jurisdiction over discharge, or which violates any contract, ordinance, law, rule, regulation, permit, or approval applicable to the industrial, commercial, or agricultural reuse of reclaimed water.
- (j) Any concentrations of inert suspended solids (such as, but not limited to, fullers earth, lime slurry, and lime residues) or of dissolved solids such as, but not limited to, sodium chloride and sodium sulf.

4.04 SUBSTANCES INCREASING COST OF OPERATION: No persons shall discharge or cause to be discharged substances, materials, waters or wastes if it appears likely, in the sole opinion of the Director, that such wastes can harm either the sewers, wastewater treatment process or equipment, have an adverse effect on effluent disposal facilities or systems, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director will

Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this Ordinance or other applicable State or Federal laws.

(f) Fats, waxes, greases and oils, including any water containing fats, wax, grease, or oils, whether emulsified or not, in excess of 140 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred degrees Fahrenheit, which could cause pass-through or interference.

4.05 NOTIFICATION OF CHANGED DISCHARGE. All industrial users shall promptly notify Manatee County in advance of any substantial change in the volume or character of pollutants in their discharge, including the list or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

4.06 NOTIFICATION OF DANGEROUS DISCHARGE: All industrial users shall permanently post a notice in a prominent place advising all employees to call 792-8788, Manatee County Public Works, in the event of a dangerous discharge.

4.07 CARCINOGENS: No person or commercial operation shall discharge or cause to be discharged any known carcinogen in an amount specified hazardous to the operation of the treatment facility, its personnel, the collection system, its personnel, or the receiving waters or the discharge waters of the treatment facilities.

ARTICLE V
PROHIBITIONS AND REQUIREMENTS FOR INDUSTRIAL, COMMERCIAL
AND OTHER THAN RESIDENTIAL USERS

- 5.01 FEDERAL AND STATE PRETREATMENT STANDARDS: Certain industrial users have or will have to comply with Federal and State pretreatment standards, specified quantities, concentrations of pollutants or other conditions of pollutants. All such industrial users shall comply with such National and State standards and shall also comply with the additional or more stringent standards contained in this Ordinance.
- 5.02 CONFIDENTIAL INFORMATION:
- (a) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of Manatee County that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such unless and until a determination is made by Manatee County that such information is not entitled to confidentiality. Effluent data shall be available to the public without restriction.
- (b) When the person furnishing a report satisfies Manatee County that such person has made the demonstration required by the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by the State or EPA for uses related to this Ordinance, the NPDES permit or the pretreatment program. Confidential portions of a report shall be available for use by the State of EPA in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.
- (c) Notwithstanding the provisions of Section 5.02(a) and (b) above, the provisions of Chapter 119, Florida Statutes, may prohibit the County from protecting such information and data.

5.07 BYPASS:

- (a) Bypass not violating Federal or State pretreatment standards or Sewer Use Ordinance 91-39. An industrial user may allow any bypass to occur which does not violate pretreatment standards, but only if it is for essential maintenance to assure efficient operation. These bypasses are subject to:
- (1) Notification of bypass 5 days in advance to the Director of MCPWD.
 - (2) Reason for bypass and duration.
 - (3) Total flow discharged during bypass.
 - (4) Sampling events prior to bypass to ensure compliance during bypass.
- (b) Bypass violating Federal or State pretreatment standards or Sewer Use Ordinance 91-39. An industrial user shall orally notify MCPWD of a unanticipated bypass that exceeds applicable pretreatment standards or requirements within 24 hours of becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of a bypass. The written submission shall contain:
- (1) A description of the bypass and its cause.
 - (2) The duration of the bypass, including times and dates.
 - (3) Notification if the bypass has not been corrected.
 - (4) Steps taken to prevent a recurrence of a bypass.
- (c) Bypass is prohibited and MCPWD may take enforcement action against an individual user for a bypass, unless:
- (1) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage.
 - (2) There was not feasible alternative to bypass, such as use of auxiliary treatment facilities or retention of waste.
 - (3) Maintenance during normal periods of equipment downtime (this condition is not satisfied if adequate back-up equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventative maintenance.)

5.09 UPSET PROVISIONS:

- (a) **Definition.** For the purposes of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) **Effect of an upset.** An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the following requirements are met:
- (1) An upset occurred and the industrial user can identify the causes.
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
 - (3) The industrial user has submitted the following information to MCPWD within 24 hours of becoming aware of the upset:
 - (i) A description of the discharge and cause of noncompliance.
 - (ii) The period of noncompliance, including exact dates, and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) **Burden of proof.** In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) **User responsibility in case of upset.** The industrial user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This

- (3) Brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the County's Collection System from the regulated processes.
- (4) Information showing the measured average daily and maximum daily flow in gallons per day, to the County's Collection System from each of the following:
 - (i) Regulated process streams, and
 - (ii) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.5(a).
- (5) The industrial user shall identify the National Categorical Pretreatment Standards applicable to each regulated process, and shall:
 - (i) Submit the results of sampling and analysis, identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.
 - (ii) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. Manatee County may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
 - (iii) The user shall take a minimum of one representative sample to compile the

(8) The following conditions shall apply to any schedule submitted in response to Section 5.11(d)(7):

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable National Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction.)
- (ii) No increment referred to in Section 5.11(8)(1) shall exceed nine months.
- (iii) Not later than 14 days following each date in the schedule and final date for compliance, the user shall submit a progress report to MCPWD including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to MCPWD.

(9) Such other information as may be reasonably requested by MCPWD.

5.11 COMPLIANCE DATE REPORT: Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a new source, following commencement of the introduction of wastewater into Manatee County's Collection System, any user subject to Categorical Pretreatment Standards shall submit to MCPWD a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such Standard and the average and maximum daily flow for these process units in the user facility which are limited by such Pretreatment Standards or Requirements. Where equivalent mass or concentration limits are established by Manatee County

for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable Pretreatment Standards. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

3.12 PERIODIC COMPLIANCE REPORTS:

- (a) Any user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into Manatee County's Collection System, shall submit to MCPWD during the months of June and December unless required more frequently in the pretreatment standard or by the Industrial Inspection Manager a report indicating the nature and concentration of pollutants in the effluent which are limited such pretreatment standards. In addition, this report shall include a record of all daily flow which during the reporting period exceeded the average daily flow reported in Section 3.11(d). At the discretion of the Director of MCPWD and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director of MCPWD may alter the months during which the above reports are to be submitted.
- (b) Significant noncategorical industrial users shall submit to the MCPWD at least once every six months (on dates specified by the Director of MCPWD) a description of the nature, concentration, and flow of the pollutants required to be reported by MCPWD.

(d) Signatory Requirements for Baseline Monitoring Reports, Compliance Data Reports, and Periodic Compliance Reports: The reports required by this section must be signed by an authorized representative of the industrial user. An authorized representative may be:

- (1) A principal executive of at least the level of vice president, if the industrial user submitting the reports is a corporation.
- (2) A general partner or proprietor if the industrial user submitting the reports is a partnership or sole proprietorship respectively.
- (3) A duly authorized representative of the industrial user if such representative is responsible for the overall operation of facility from which an industrial discharge originates.

All reports signed by the above named authorized representative of industrial users shall contain the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather, evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(e) Significant Noncategorical Industrial User Monitoring Requirements: Significant non-categorical industrial users shall submit to MCPWD at least every six months, a description of the nature, concentration, and flow of the pollutants required to be reported.

ARTICLE VI

PERMITS REQUIRED

- 6.01 PERMIT ESTABLISHED: The County hereby establishes industrial wastewater discharge permit. The Director may include reasonable and necessary terms, and conditions in the permit. A permit will not be issued until all applicable fees and charges are paid and provisions of this Ordinance are otherwise met.
- 6.02 LATERAL SEWER PERMITS: Lateral sewer lines from the sewer main to the property line are installed by applicant shall be the responsibility of MCPWD. The portion of the lateral from the property line to the structure is under the jurisdiction of the Manatee County Planning and Development Department. Specifications for on site laterals are set forth in the Manatee County Plumbing Code. Off site specifications are set forth in Manatee County Public Works uniform sewer specifications.
- 6.03 WHERE REQUIRED: All industrial users who discharge into the Manatee County wastewater system must first obtain a permit. Industrial dischargers connected to the system prior to the effective date of this Ordinance have six (6) months to apply for a permit, but such discharger is subject to all other provisions of this Ordinance.
- 6.04 PERMIT APPLICATION: An application form prescribed by the County must be completed and filed with MCPWD. Where appropriate, the applicant shall submit:
- (a) Name, address, telephone number of applicant, location of the industrial facility, and name and address of the owner of the premises from which wastewater is to be discharged.
 - (b) A description of the operations and processes utilized by the operations, type and amount of raw materials processed and type of products produced.
 - (c) Average daily and peak hourly wastewater flow rates, include daily, monthly and seasonal variations, if any, and estimated time and duration of daily and peak flows.

- (h) Requirements for collecting and retaining plant records relating to an industrial user discharge
- (i) Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the pretreatment system.
- (j) Requirements for notification of spills, release of slug loads, and upsets or violations.
- (k) Requirements for installation, operation and maintenance of pollution control equipment.
- (l) Requirements to implement spill and slug control plans.
- (m) Statement of civil and criminal penalties for violation of Federal laws and this Ordinance.

The above list of permit contents is not to be considered all-inclusive.

6.06 ISSUANCE OF PERMITS: The permit should be issued or denied within 60 calendar days after all required data has been submitted. A permit may contain appropriate restrictions or requirements. Upon denial, an applicant has 30 calendar days in which to modify his application or make whatever processing or other changes necessary. Issuance of a permit does not relieve the discharger from complying with all applicable laws, regulations, and ordinances of local authorities. If pretreatment of a discharge is required to achieve compliance with the limitations in wastewater strength or composition, pretreatment facilities must be in place and approved by the County prior to issuance of a permit.

6.07 DURATION OF PERMITS: Permits shall be issued for a period of three (3) years.

6.08 MODIFICATION OF PERMITS:

- (a) The terms and conditions of any permit may be changed by the County during the life of the permit to accommodate changes in local, state, or federal regulations or in the event that data upon which the permit was issued has changed. Permit holders shall be notified of a change sixty (60) days prior to the effective date of the change.
- (b) Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Industrial Discharge Permit of users subject to such standards shall be revised to require

ARTICLE VII
FEES AND CHARGES

Treatment rates, fees, and other charges related to usage of the County's wastewater system are established under a Rate Resolution adopted by the Board of County Commissioners. The user charge system shall:

- (a) Provide sufficient revenue to fund all operation, maintenance, replacement, and debt service cost of the system;
- (b) Be based on actual quantities and quantities discharged to the system by user;
- (c) Be based on equitable distribution of operation and maintenance costs to each class of customer or user;
- (d) Be based on experience and itemized budgeted costs approved by the Board of County Commissioners;
- (e) Allow for annual or biennial review; and
- (f) Provide for notification of proposal rate changes pursuant to law.

upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the County within 5 calendar days of the date of occurrence. In addition to any other penalties, the violator will pay all tapping and reconnection costs if such apply.

8.04 REVOCATION OF PERMIT: In addition to the revocation condition of 8.03, any user who violates any of the following conditions or applicable Federal and State regulations is subject to having his permit revoked:

- (a) Failure to factually report the wastewater discharge constituents and characteristics.
- (b) Failure to report significant changes in wastewater constituents and characteristics.
- (c) Refusal of reasonable access to the user's premises.
- (d) Obtaining a permit by misrepresentation or failure to fully disclose.
- (e) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (f) Violation of any of the conditions of the permit.

8.05 DISCHARGING WITHOUT PERMITS: Any industry discharge to the County's system without a permit, in addition to all other penalties, will be charged twice the normal permit fee. Normal permit fees are as provided in Ordinance.

8.06 DISCHARGING TOXIC SUBSTANCES: In addition to any other penalties, the full costs to the County of disposal treatment and all other related costs related to the substances in the wastewater will be charged to the discharger.

8.07 DISCHARGES RESULTING IN CORRECTIVE MAINTENANCE, REPAIR OR REPLACEMENT: In addition to any other penalties, discharges that result in damage to any component of the system, or the clogging of lines, will result in repair, maintenance, and replacement costs being charged to the offender.

ARTICLE IX

WASTE HAULERS AND SEPTAGE

- 9.01 **WASTE HAULER:** Waste Hauler is defined as any person, commercial or industrial enterprise, permitted, licensed or otherwise allowed to carry or carrying solid waste, sewage, sewage sludge, chemical wastes or biological materials, which may otherwise be defined as "septage." The waste hauler is subject to all parts of this Ordinance and to any and all parts of 40 CFR 403.
- 9.02 **WASTE HAULER PERMIT:** A waste hauler must, in addition to any other permit, have a valid, current permit to discharge septage at any treatment facility operated by Manatee County. This permit to discharge septage, shall be issued by the Industrial Compliance Office of MCPWD. Permits may be obtained from the Industrial Compliance Office by completing the necessary application form.
- 9.03 **WASTE HAULER MANIFEST:** Any waste hauler discharging into any Manatee County treatment facility shall have a manifest before any discharge will be allowed. This manifest shall include the origin of all septage to be discharged. This means:
- (a) The name and address of the facility from which the waste hauler picked up the septage.
 - (b) A description of the septage as to being:
 - (1) Residential
 - (2) Commercial
 - (3) Industrial
 - (4) Otherwise
 - (c) Detailed description.
 - (d) The date of the pick up.
 - (e) The time of the pick up.
 - (f) Person(s) responsible from which the septage was taken.
- 9.04 **MANIFEST FORMS:** The manifest forms must conform to the example as shown on figure 9.04(A).

- 9.05 SEPTAGE UNLOADING FEE: A septage unloading fee shall be based upon a rate of twenty-eight dollars(\$28.00) per thousand(1000) gallons. The minimum fee shall be twenty-eight dollars(\$28.00).
- 9.06 CONTAMINATED SEPTAGE: Any Waste Hauler and the person who generated the septage being hauled shall be responsible for any introduction of materials that are over burdened with conventional or toxic parameters as described in Article IV of this Ordinance, or that are otherwise harmful to the treatment facility as described in this Ordinance. This means that the Waste Hauler and the person(s) who generated the septage will be subject to all fines and any other charges as stated within this Ordinance.
- 9.07 NUMBER OF SEPTAGE LOADS: If the number of Waste Hauler and the amount of septage poses a hydraulic or other threat to the treatment facility, in the opinion of the treatment facility superintendent, all such loads may be rejected and rescheduled for a different time or a different treatment facility.
- 9.08 SEPTAGE DISCHARGE: Septage may be discharged during normal working hours as designated by the treatment facility superintendent. The superintendent shall reserve the right to deny any and/or all septage discharges for any reason. All trucked and hauled septage waste shall be discharged into Manatee County's Septage Receiving Station located directly west of the Southwest Regional Wastewater Treatment Plant.
- 9.09 SEPTAGE SAMPLING: Septage may be sampled by the treatment facility personnel prior to, during, or after discharge, to insure compliance with this Ordinance. If there is any reason to suspect the septage as being potentially harmful, the septage will be sampled and analyzed prior to discharge, if possible.
- 9.10 MODIFICATION, TRANSFERABILITY, REVOCATION, FINES, AND PENALTIES: The Director of MCPWD reserves the right to modify the Waste Hauler's Permit at any time. The modification of said permit will come from the Director, in writing, with at least five (5) days advance notice. At no time is the transferring of a permit to another vehicle, company, person, industry, or enterprise allowed. Any person, company, industry or enterprise found doing so will be subject to fines and/or revocations of the permit as defined in this Ordinance.

ARTICLE X

PERMIT FEES AND OTHER CHARGES

10.01 INSPECTION FEES:

- (a) Inspection fees are to be charged at the rate of twenty-five dollars (\$25.00) per hour with the fee not to exceed one hundred fifty dollars (\$150.00) for the inspection phase of the permitting process.
- (b) Violation inspection or if an industry or commercial operation is found to be out of compliance, the industry or commercial operation will be charged at the rate of thirty-five dollars (\$35.00) per hour per person per visit until said industry or commercial operation comes into compliance.
- (c) Analytical costs or the costs of performing analyses on a non-compliance operation will be charged at the current analytical rate as charged by the MCPWD laboratory and/or with any charges incurred by the County in conjunction with another outside laboratory performing analyses that are not analyzed by the MCPWD laboratory.
- (d) Any analytical cost not covered or any cost incurred in the analytical field during a non-compliance inspection, will be billed to the violator at the County's cost plus the handling charges incurred by the County.

10.02 INDUSTRIAL DISCHARGE PERMIT FEE:

- (a) Type I.....\$1,800.....3 Year Period
- (b) Type II.....\$900.....3 Year Period
- (c) Type III.....\$250.....3 Year Period

cease and desist order may be used to suspend or permanently revoke an Industrial Discharge Permit. The cease and desist order may order an industrial user to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

11.06 ADMINISTRATIVE SURCHARGES: Notwithstanding any other section of this Ordinance, any industrial user who is found to have violated any provision of this Ordinance, or of permits, or of orders issued hereunder shall be charged an amount not to exceed one thousand dollars (\$1000.00) per day of violation. Such assessments shall be added to the industrial user's next scheduled sewer service charge.

11.07 EMERGENCY SUSPENSION: The Director may suspend an Industrial Discharge Permit if such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of County workers, any treatment plant, or the environment. Any industrial user notified of a suspension shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply with the suspension order, the Director shall take steps as deemed necessary, including immediate severance of the sewer connection. The Director shall allow the user to recommence its discharge when the endangerment has passed. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a written statement describing the cause of the harmful contribution and the measures taken to prevent any future occurrence, to the Director.

11.08 ENFORCEMENT - JUDICIAL REMEDIES: If any person discharges sewage or industrial waste into Manatee County's Sanitary Sewer Collection System contrary to the provisions of this Ordinance, or any order or permit issued hereunder, the County, through the County Attorney, may commence an action for appropriate legal and/or equitable relief in the Courts of Manatee County.

11.09 INJUNCTIVE RELIEF: Whenever an industrial user has violated or continues to violate the provisions of this Ordinance, or of any permit, or of orders issued hereunder, the County, through the County Attorney may petition the court for the issuance of a preliminary or permanent injunction, or both, which restrains or compels the activities of the industrial user.

- (c) The Director or his designated representative shall preside over the administrative hearing and shall entertain testimony and evidence.
- (d) The alleged violating user shall have the opportunity to be represented by counsel and to examine and cross examine witnesses.
- (e) If the alleged violating user is represented at the hearing by counsel, the MCPWD shall likewise be represented by the Office of the County Attorney.
- (f) The Director shall issue written findings as soon after the hearing as is practicable.
- (g) The decision of the Director, if adverse to the alleged violating user, may be appealed to the Board of County Commissioners, in open session, for a final and binding decision. If an appeal is to be taken, written notice of the appeal shall be delivered to MCPWD no later than ten (10) days after the violator's receipt of the Director's written findings.

ORDINANCE NO. 91-39

SEWER USE ORDINANCE

PASSED AND DULY ADOPTED by the Board of County
Commissioners of Manatee County, Florida this 1st
day of October, 1991.

BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA

By: *Patrick M. Glenn*
Chairman

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

By: *R.B. Shore*

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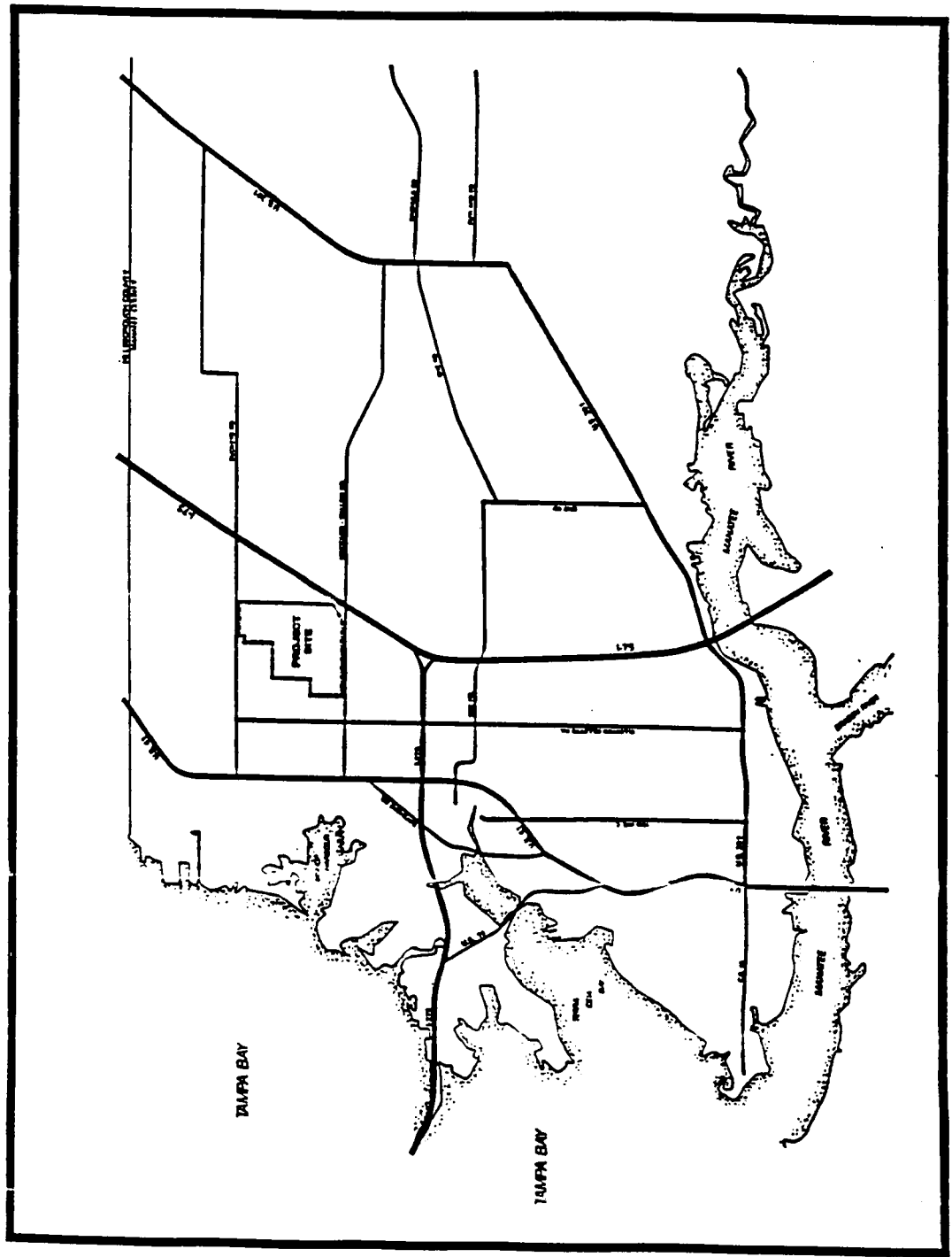


FIGURE 1. GATEWAY NORTH PROJECT LOCATION.

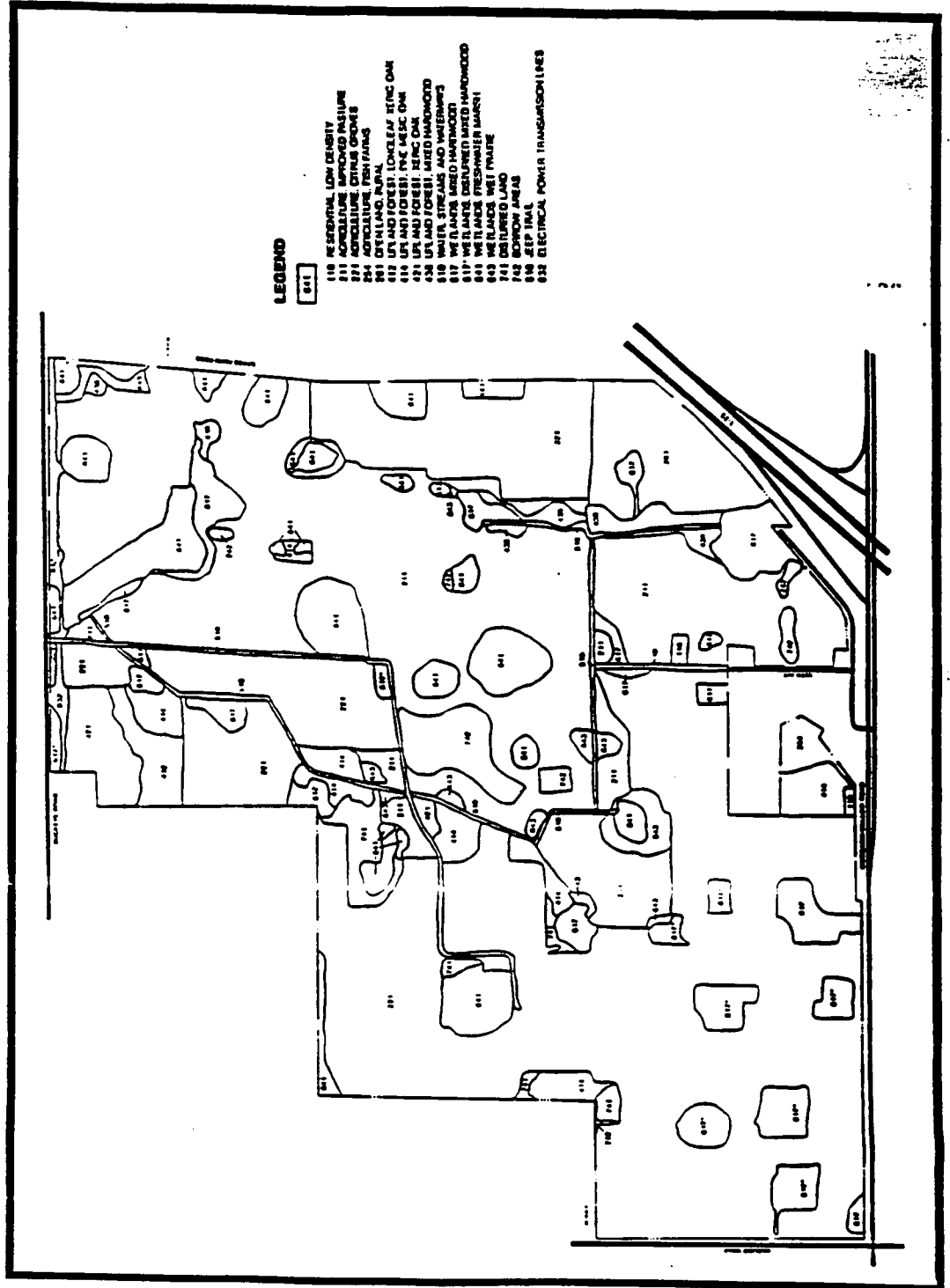


FIGURE 2. GATEWAY NORTH LAND USE AND EXISTING VEGETATIVE ASSOCIATIONS.

sampling program was conducted in general accordance with the Florida Game and Fresh Water Fish Commission's Wildlife Methodology Guidelines (FGFWFC, 1988). As described in the DRI/ADA (Dames and Moore, 1990).

"Surveys were performed to determine existing wildlife usage of the property. The previously discussed vegetative community mapping was reviewed to select representative areas of the various habitats and to concentrate efforts in areas of suitable habitat. In May 1990, approximately 130 man-hours were logged in the field performing the wildlife assessment. The surveys generally consisted of meandering pedestrian transects in all vegetative communities on the property."

3.1 Wetland Surveys

Marshes, wet prairies, mixed wetland hardwoods and borrow areas were included in the wetland surveys. Wetlands were surveyed during the morning and evening hours for four days. Due to recent drought conditions, most of the wetlands were dry. The investigation was concentrated at two sites, a freshwater marsh in the northeast and a borrow area in the central portion of the property. These two areas provided the most suitable forage habitat for wildlife utilizing on-site wetlands at the time of the surveys.

A follow-up survey was conducted in an effort to determine the presence of a reported Florida Sandhill Crane nest. A supplemental pedestrian survey of herbaceous wetland habitats was conducted to seek evidence of on-site nesting by Sandhill Cranes (Dames and Moore, 1991).

3.2 Upland Surveys

The upland wildlife surveys consisted primarily of linear and meandering pedestrian transects through areas of suitable habitat in May 1990. Meandering transects were used to maximize site coverage.

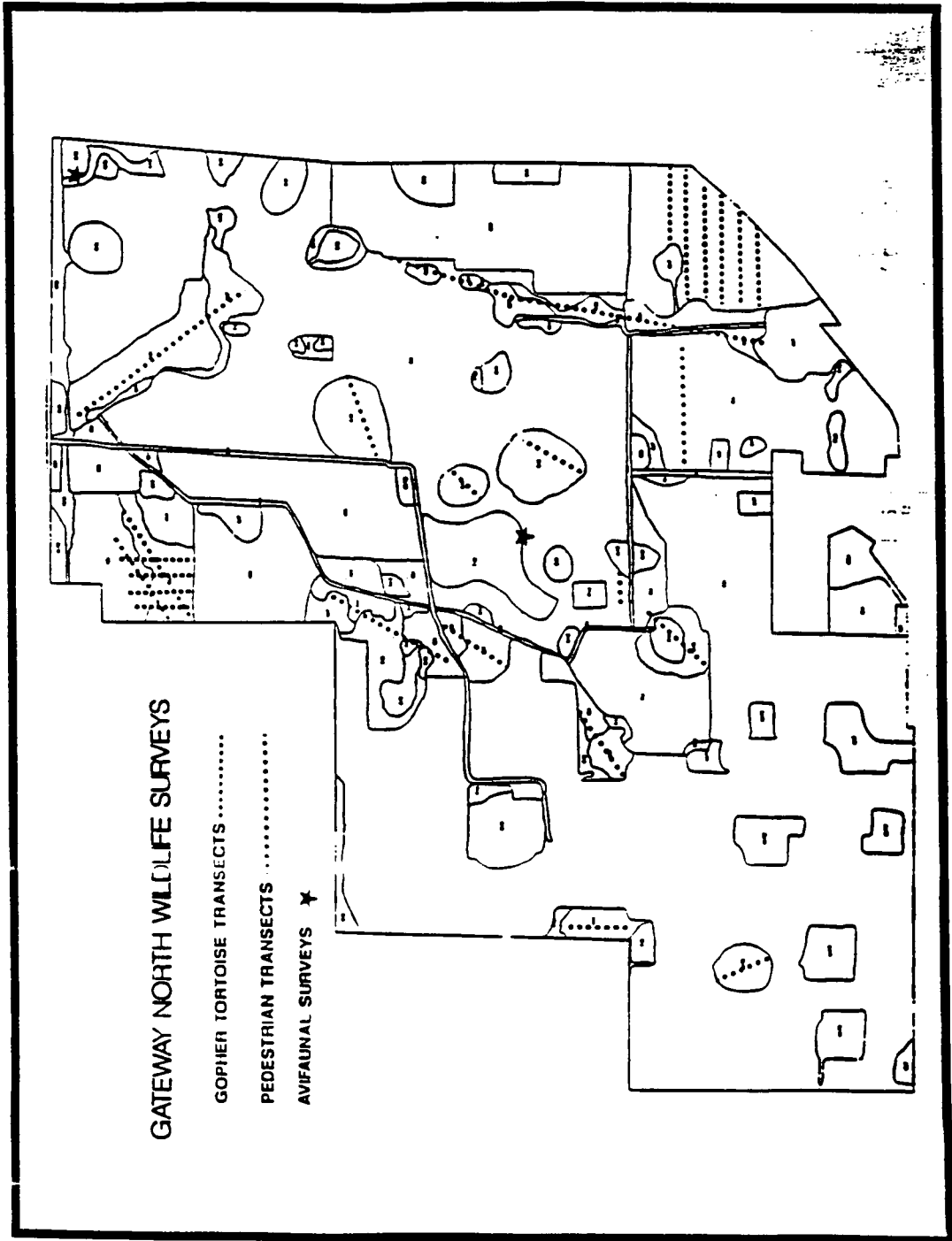


FIGURE 3. GATEWAY NORTH WILDLIFE SURVEYS.

GATEWAY NORTH LISTED SPECIES SIGHTINGS

- #1 SANDHILL CRANE (T)
- #2 WOODSTORK (E)
- #3 LITTLE BLUE HERON (SSC)
- #4 TRICOLORED HERON (SSC)
- #5 SNOWY EGRET (SSC)
- #6 ROSEATE SPOONBILL (SSC)
- #7 GOPHER TORTOISE (SSC)
- #8 SHERMANS FOX SQUIRREL (SSC)

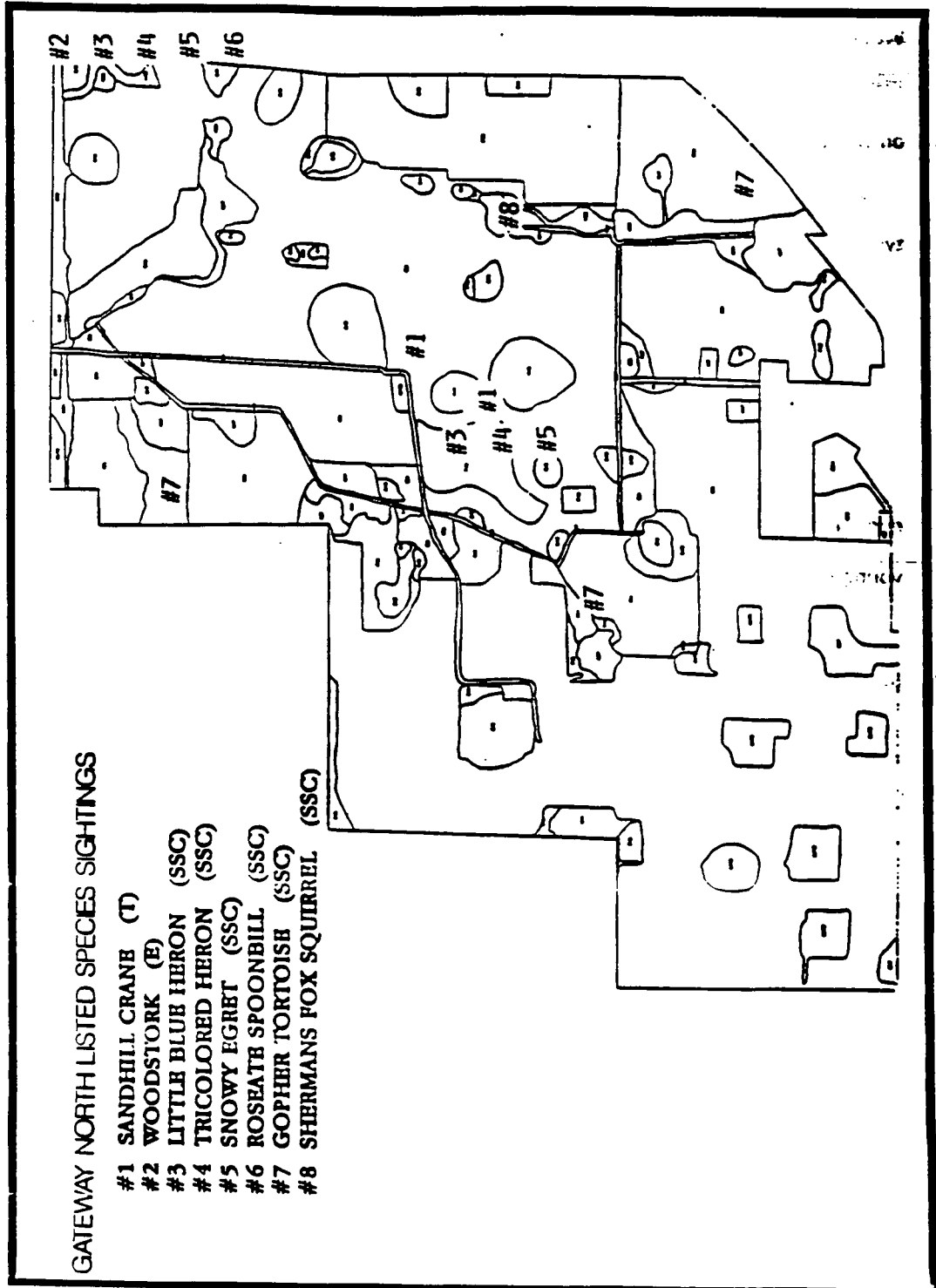


FIGURE 4. GATEWAY NORTH LISTED SPECIES SIGHTINGS.

code 211) comprising 5 acres. The isolated, active burrows were located 900 feet southwest, and 600 feet west-northwest, respectively, of the large borrow pit.

Using a conversion factor of 0.614 (Auffenberg and Franz, 1982), the composite number of active and inactive burrows yields estimated colony sizes of 7 and 6. Assuming each of the isolated burrows has one resident, the estimated total number of Gopher Tortoises on the parcel is 15. The estimated density of tortoises in the two colonies is 1.7 and 1.2 tortoises per acre, respectively.

Sherman's Fox Squirrel (*Sciurus niger shermani*): A single Sherman's Fox Squirrel was observed within a wetland adjacent to an upland mixed forest on the site. Sherman's Fox Squirrels typically prefer sandhills and longleaf pine/turkey oak associations and sand pine scrub. In the absence of these habitats Fox Squirrels prefer open pine/oak woodlands and mixed forests where they can build their tree nests and feed on nuts and seeds.

4.0 HABITAT CONSERVATION AND MANAGEMENT

The Gateway North development plan sets aside over 433 acres of habitat (Table 3). Both upland and wetland habitats will be preserved and additional wetland habitats will be created as compensation for impacts to wetlands and as open water bodies (Figure 5). Specific requirements of the protected species found on site are addressed below.

4.1 Wading Birds

The protected wading birds observed on site, the Wood Stork, Florida Sandhill Crane, Little Blue Heron, Snowy Egret, Tri-colored Heron, and Roseate Spoonbill will be

protected by providing sufficient wetland and open water habitat. Both wetland and open-water habitats will receive net increases in acreage. At least 35% of the wet detention areas will be vegetated as required by the Southwest Florida Water Management District rules outlined in the District's Basis of Review for Surface Water Management Permit Applications within the Southwest Florida Water Management District. Typically this involves the planting of herbaceous wetland species or the maintenance of naturally recruited wetland vegetation within stormwater lakes (detention areas) designed to capture and treat stormwater runoff prior to discharge into the receiving streams. These areas are expected to serve as suitable foraging and possibly nesting habitat for some wading birds.

Wading birds will be accommodated by 155.9 acres of preserved wetland habitat, 26.5 acres of mitigation wetlands, and 224.5 acres of lake and stormwater ponds for foraging. In addition to the wetland acreage, a thirty-foot wide upland buffer will be maintained around preserved and created wetlands. Although there is no documentation that any of these species utilize the site for nesting, one of the proposed mitigation areas has been designed to replace sandhill crane nesting habitat which would be impacted by creation of the 72.9 acre lake. The mitigation area, located on the east end of the lake, was required in the permit for the lake and is expected to exceed the quality of the currently available nesting habitat for Florida Sandhill Cranes. This mitigation area was designed based upon FGFWFC Sandhill Crane Nesting Site Criteria. Specifically, a transitional wetland will be excavated between seasonal high water (SHW) level and two feet below SHW and vegetated with sand cordgrass (*Spartina bakeri*), soft rush (*Juncus effusus*), maidencane (*Panicum hemisomon*), arrowhead (*Sagittaria* spp.), and

The locations of the mixed hardwood wetland and associated upland forest/mixed hardwood habitats for the fox squirrel protection area are indicated on Figure 5.

4.3 Gopher Tortoise

The protection of the Gopher Tortoise on site will be accomplished through preservation, maintenance and management as appropriate, of a 24.3 acre upland park/habitat preserve in the northwest corner of the project. A colony of tortoise currently resides in this area. The park is comprised of three upland land use types: xeric oak forest (421) (~12.7 acres), longleaf pine/xeric oak forest (412) (~8.1 acres), and pine mesic oak forest (414) (~3.5 acres). In accordance with the Development Order requirements, the upland park/habitat preserve will be conveyed to Manatee County prior to future development approval.

The acreage of tortoise habitat and the number of individuals on site does not meet the threshold for habitat protection as discussed in "Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*) Populations Found on Lands Slated for Large-Scale Development in Florida" (Cox, *et al.*, 1987). However, the proposed protection of the entire four (4) acres (44%) of occupied longleaf pine/xeric oak forest on site exceeds the 25% (2.25 acres) protection guideline for the nine acres (4 acres of pine/oak plus 5 acres of improved pasture) of occupied habitat occurring on the property. The proposed park/habitat preserve area, therefore, satisfies the guidelines

4.4.1 Park Site

The features that characterize Gopher Tortoise habitats are: the presence of well drained, sandy soils which allow easy burrowing; an abundance of herbaceous ground cover for food; and an open canopy and sparse shrub cover which allows sunlight to reach the surface of the ground (Cox, *et al.*, 1987). The park site/habitat preserve currently fully satisfies only the soils condition. Because the site is overgrown with saw palmetto (*Serenoa repens*), muscadine grape (*Vitis* spp.), and oak (*Quercus* spp.) seedlings, saplings and runner plants, the herbaceous cover is low to moderate.

Techniques that shall be employed as appropriate to enhance and maintain the park area consist of mechanical treatment alone or in combination with prescribed burning. Because of the existing overgrown vegetative character of the park site and thick leaf litter layer (up to nine inches), an initial mechanical treatment could reduce the fuel load and make possible a prescribed burning plan. Prescribed burning could effectively lower the available fuel quantity, but is recommended only if it can be done in a manner that is safe and does not cause irreparable harm to the canopy. However, if in the future controlled burning is deemed inappropriate because of smoke or fire safety concerns, mechanical treatment should provide satisfactory results for continuance and improvement of the tortoise habitat.

4.4.1.1 Prescribed Burning

Fire plays a major role in native communities such as the xeric oak, longleaf pine/xeric oak, and pine/mesic oak upland forests on the site. Fire is the dominant controlling agent of succession. Controlled burns have been successfully conducted in upland forests to prevent the buildup of ground fuel, which reduces the chance of catastrophic

- fuel moisture
- temperature
- relative humidity
- wind speed
- rainfall three days prior to burn
- stagnation index

Firebreaks along the perimeter of the park will be double plowed where cleared breaks do not already exist to insure fire containment. Existing fire barriers and watering will be utilized where possible. Fire breaks will be established only if the park will be burned that year. The prescribed burn contractor will oversee the placement and construction of any fire breaks.

4.4.1.2 Mechanical Treatment with Burn

Mechanical treatment may include mowing, roller chopping and web plowing. All three mechanical treatment practices will be used to suppress the encroachment of woody perennials and will be conducted only during periods of reduced gopher tortoise mobility, i.e., when daytime temperatures are below 70°F (12°C) and between October and February to minimize disruption of courtship and reproductive activities of Gopher Tortoises.

Since the park site/habitat preserve appears to have been without fire for an extended period of time, mechanical treatment of the habitats will precede the initial burning of the park. Roller chopping of the saw palmetto areas will be conducted in an effort to open the shrub layer and create more sandy or grassy areas. This effort is expected to improve the quality of presently unoccupied areas as tortoise habitat.

4.4.1.3 Management Schedule

Initiation of active management of the park will precede or be concurrent with commencement of the development. The park will be burned (or mechanically

Services guidelines². Any recreational uses not consistent with the referenced guidelines would occur outside of the Gopher tortoise habitat protection area.

5.0 MONITORING

The evaluation of the success of management efforts and the need for management treatment and/or schedule modification will be based upon the results of the following monitoring programs.

5.1 Vegetative Monitoring

Monitoring of the park/habitat preserve parcel will assess the vegetative features characteristic of suitable Gopher Tortoise habitat. Specifically, Gopher tortoises attain their greatest densities where habitats are characterized by an abundance of herbaceous ground cover for food and an open canopy and sparse shrub cover which allows sunlight to reach the surface of the ground (Cox, *et al.*, 1987).

Vegetative monitoring of the park/habitat preserve habitats will include visual estimates of:

- 1) The average height of saw palmettos;
- 2) The cover of canopy (*i.e.*, with a dbh greater than 4") trees;
- 3) The cover of herbaceous vegetation less than six inches tall and bare ground. The cover of wire grass, a preferred species of the gopher tortoise, will be specifically recorded.

²Cox, J., D. Inley, R. Kautz. 1987. Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*) Populations Found on Lands Slated for Large-scale Development in Florida. Nongame Wildlife Program Technical Report No. 4.

7.0 PROVISION AND ACCEPTANCE

7.1 Manatee County/Environmental Action Commission

With issuance of a letter of acceptance, a letter of no objection, or other written instrument, Manatee County and the Environmental Action Commission grant approval of Wildlife Management Plan and acknowledges compliance with Condition C.(1) of the Development Order.

7.2 Florida Game and Fresh Water Fish Commission

With issuance of a letter of acceptance, a letter of no objection, or other written instrument indicating approval of the Gateway North Wildlife Management Plan, the Florida Game and Fresh Water Fish Commission certifies that the park/habitat preserve site identified in this plan provides adequate habitat protection for protected species addressed herein, as required by Ch. 39-27.002(4) F.A.C. and that such approval constitutes "administrative approval by the FGFWFC" pursuant to Development Order Condition C.(1) of the Gateway North Development of Regional Impact Development Approval.

DIVISIONS OF FLORIDA DEPARTMENT OF STATE
Office of the Secretary
Office of International Relations
Division of Administrative Services
Division of Corporations
Division of Cultural Affairs
Division of Elections
Division of Historical Resources
Division of Library and Information Services
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MEMBER OF THE FLORIDA CABINET
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Historic Palm Beach County Preservation Board
Historic Pensacola Preservation Board
Historic St. Augustine Preservation Board
Historic Tallahassee Preservation Board
Historic Tampa/Hillsborough County
Preservation Board
Ringling Museum of Art

FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State
DIVISION OF ELECTIONS

September 2, 1997

Honorable R. B. Shore
Clerk to Board of County Commissioners
Manatee County
Post Office Box 1000
Bradenton, Florida 34206

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letters of August 27, 1997 and certified copy each of Manatee County Ordinance Nos. PDMU-91-01 (G)(R2), 97-62, Z-97-04, and PD0-97-01 (Z)(P), which were filed in this office on September 2, 1997.

The duplicate copy of each showing the filing date is being returned for your records.

Sincerely,

A handwritten signature in black ink that reads "Liz Cloud".

Liz Cloud, Chief
Bureau of Administrative Code

LC/mw

Enclosures