



Civil Engineers • Land Surveyors • Planners • Landscape Architects

November 29, 2016

Jacqueline Toemmes Genson, AICP  
Planning and Zoning Manager  
City of Bonita Springs Community Development  
9220 Bonita Beach Road, Suite 109  
Bonita Springs, FL 34135

**RE: Pelican Landing CPD/RPD Amendment, PD15-23946-BOS  
Review #2 Response**

Dear Ms. Genson:

This correspondence is our response to your sufficiency remand review letter #2, provided to us on November 23, 2016 (via email). Responses to staff comments have been provided in bold. The applicant is under no obligation to do so, but the applicant has provided responses to the comments from the Village of Estero staff. Again, these responses are offered as a courtesy and the applicant expects that City of Bonita staff to only require the applicant to satisfy City of Bonita Springs sufficiency requirements.

Thank you for the opportunity to respond to the recent litigation filed by the City of Bonita Springs, but any response to the litigation will be provided in the appropriate legal forum. The recent litigation filed by the City is not a zoning or a Section 380.06(19)(e)2, F.S. sufficiency matter.

Planning and Zoning

1. Application.
  - a. Part 5A. Please complete.

*The sufficiency response indicated that this was provided; however, the Part 5a remains blank. The property also contains lands designated as Wetlands on the Lee County Future Land Use Map (FLUM).*

**Response:**

**The applicant is not proposing to increase the number of dwelling units currently approved for the Pelican Landing RPD/CPD; therefore, there is no need to provide the calculation of allowable density. The project is located within more than one local government jurisdiction. However, the property in question is subject to the Lee County FLUM and related density and the zoning resolutions adopted by Lee**

**County wherein the density has already been found to be consistent with the Lee Plan. The addition of land to the Pelican Landing RPD/CPD while retaining the existing approved number of units results in a density lower than what has already been determined to be consistent with the Lee County Land Development Code and the Lee Plan.**

- b. Part 7. Please complete in accordance with the Lee County Land Development Code (LDC), Administrative code, and the Lee County Development of Regional Impact (DRI) Development Order for Pelican Landing.

*Please clarify the purpose of the last sentence in the sufficiency response.*

**Response:**

**The statement was made in error and can be disregarded.**

- c. Part 8. Any application material that did not receive a waiver previously is required or another waiver request must be submitted.

*The sufficiency response indicates that a waiver has been submitted for items 8D and 8H; however, the waiver identifies items Part 8H and not 8D. Staff acknowledges that on the revised application, the applicant has marked "N/A" for Part 8D relative to Shoreline Stabilization.*

**Response:**

**Not applicable is the appropriate response to the checklist item regarding shoreline stabilization. The application has been modified to explain that the subject property is not adjacent to navigable waters therefore no shorelines are affected by the proposed amendments to the RPD/CPD.**

- d. Request Statement and Demonstration of Compatibility.
  - i. FDC Analysis.

1. Pages 1-2. It should be clarified that all development in the Pelican Landing Development of Regional Impact (DRI) is required to comply with the Hurricane Preparedness conditions in both the City and County DRI development orders. If this new development is not a part of the Pelican Landing Community Association, then WCI shall be required that this separate Property Owner Association (POA) be advised of these conditions.

*In portions of the sufficiency response the applicant claims they are not bound by the County DRI Development Order (DO), but then in others parts uses it as a justification for others sufficiency items.*

*Florida Statutes 380.16(15)(h). If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new*

*development order that incorporates all previous rights and obligations specified in the prior development order. The City of Bonita Springs has not adopted a new development order for this property; therefore, it is bound by the current County DRI as last amendment in Lee County Resolution No. 13-08-06. This property is also pending an application for an E2 change, which will also bring this property into the City DRI with the applicable and appropriate County DRI conditions.*

**Response:**

The properties that have been annexed into the City during the last two annexations are subject to the County DRI DO at the present time. If and when the City of Bonita Springs includes the property in the City DRI DO the property will be bound by the City DRI DO. The City's question, which the applicant was addressing, suggested that the property is subject to both DRI DOs on the property at the same time. The applicant was attempting to clarify the situation and make it clear that the property is subject to one DRI DO or the other, but not both.

**If a separate Property Owner Association (POA) is required or requested, the POA will develop a separate Hurricane Evacuation Plan and Procedures as well as a Hurricane/ Disaster Preparedness Public Information Program for residents.**

2. Page 4.

- a. Please explain how the occupancy rate and persons/unit calculation.

*The footnote explaining the occupancy rate is not displayed in its entirety. Please revise.*

**Response:**

The original analysis assumed 2.35 persons per unit (ppu) in multi-family units. However, the Lee County Land Development Code (LDC Sec. 2-4.81) recommends 2.09 ppu for the 2020 build-out. The original analysis referenced a July occupancy rate of 50% and November occupancy rate of 64%. The more conservative occupancy rate of 64% was used in the current analysis. The original analysis and the Lee County LDC (Sec. 2-4.81) also assume 1.1 vehicles per unit.

**The footnote has been revised in the report.**

3. Page 5.

- a. Policy 105.1.5. A portion of this statement is inaccurate. The portion of the parcel located in the Kersey Smoot RPD has been designated as a golf course since 1998. The portion of the parcel located within the Pelican Landing CPD/RPD RPD Area E only allowed for multi-family at a maximum height of 75'

above minimum flood elevation with no more than 6 habitable floors, but was rezoned in 2000 for incorporation into the golf course development.

*Lee Plan Policy 105.1.5*

**POLICY 105.1.5:** *Zoning requests located in the coastal high hazard area will be considered for reduced or minimum density assignments, in accordance with their future land use category density range. This evaluation should be done in concert with an evaluation of other individual characteristics such as compatibility with existing uses, desired urban form, and availability of urban services. (Added by Ordinance No. 05-19) While the applicant is not requesting to increase the number of units of the Pelican Landing CPD/RPD or the DRI, the request is to reallocate units to an area of the MCP and DRI that as originally approved and as subsequently amended, is not approved for such uses nor at the requested density. Only Pelican Landing CPD/RPD RPD land development Area E was designated for a variety of residential uses at a maximum height of 75' with no more than 6 habitable floors.*

*The 1994 PD/DRI Hearing Examiner (HEX) report indicated that the applicant originally requested 12 buildings and one hotel in the original deviation request for RPD Areas E, F and CPD Area B. The report indicated that these areas were more appropriate for lower density residential uses and building heights based on consistency with the Lee Plan and the LDC criteria to review deviations. The HEX recommendation was for no more than 240 residential units north of Coconut Road; however, staff understands that the Lee County Board of County Commissioners did not retain that language. Instead they only allowed the deviation to apply to only 8 buildings in RPD Areas F and for one hotel CPD Area B, not this area (RPD Area E).*

*This amendment request is a zoning request, which is located within the CHHA with its primary means of evacuation on Coconut Road. The amendment request reallocates previously approved units to areas that have no current residential density assignment according to the adopted MCPs and Map H's; therefore, the request is an increase in density. Staff acknowledges that planned development density is applied by gross acreage; however, this request is moving from a net density of 0 dwelling units (du)/acre to over 7 du/acre.*

*The City of Bonita Springs Comprehensive Plan does not have*

*a similar policy as Lee Plan Policy 105.1.5. This amendment request was analyzed by staff during the review of the City's Comprehensive Plan, Resolution 03-83, and the Bonita Springs LDC; this remand order was requested to review the request under the Lee Plan and Lee County LDC. Based on the review of the Lee Plan Policy, staff believes this amendment request is inconsistent with this policy.*

*The Annexation Agreement between the City of Bonita Springs and the applicant contemplated a zoning change concurrent with the city's comprehensive plan amendment. Subsequently, the applicant changed the request to review under the Lee Plan and Lee County LDC. The annexation agreement does not address review under the Lee Plan and Lee County LDC regulations.*

*Additionally, a complaint was filed in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida related to the Pelican Landing Golf Resort Ventures Limited Partnership Annexation Agreement. The applicant references the Annexation Agreement as justification and/or a response to staff's July 11, 2016 insufficiency letter. The applicant may care to provide a supplemental justification and/or a response to staff's comments above and separate from the Annexation Agreement.*

**Response:**

**3. a. Policy 105.1.5.**

**The October 4, 2016 letter references the 1994 Hearing Examiner report. The Board of County Commissioners did not accept the Hearing Examiner's 1994 analysis. The Board of County Commissioners has the ability to accept or reject the Hearing Examiner analysis. The Board has the ability to determine that the Hearing Examiner made a mistake of fact or law, which they did. The staff does not need a copy of that rejected recommendation in order to evaluate the application for consistency with the Lee Plan.**

**Furthermore, a portion of the property in question was analyzed by the Hearing Examiner during the Kersey Smoot hearing, not the 1994 Pelican Landing RPD/CPD hearing. The Board of County Commissioners did not have the same level of disagreement with the Hearing Examiner's recommendation for the Kersey Smoot application. The applicant agrees with the statement that the applicant is not requesting an increase in the number of units in the Pelican Landing RPD/CPD.**

**Policy 105.1.5. implements Goal105 which provides that the county is to protect human life and developed property from natural disasters. The property in question has been cleared and is over 800 feet from Estero Bay. The proposed project will include all appropriate mitigation strategies in site design, public notification and preparedness education and construction techniques consistent with federal, state and local regulations. Other high-rise buildings have been constructed in closer proximity to Estero Bay, including buildings within Pelican Landing and Bonita Bay.**

**The request is not inconsistent with this policy because this policy submits that the County will consider reducing density or minimum density assignments consistent with the future land use category density range. The evaluation is to be done in concert with other factors. The county has not used this policy to prevent the shifting of uses. The staff analysis includes no facts or evidence to support the conclusion that this policy precludes the use of approved residential units. The staff analysis could result in no reasonable use of the land and no use of approved and vested dwelling units.**

**The City sought out the property owner and encouraged the property owner to annex into the City of Bonita Springs. The property owner was concerned that the City of Bonita Springs would not recognize the vested status of the units and indicated to the City that no annexation would occur unless the property owners rights were protected. The property was annexed into the City in reliance on the representations of the City Council expressed in the annexation agreements, which include the ability to shift vested approved units and to be able to construct four high rise structures. The City staff and the City Council prior to and during the annexation process never expressed an opinion that the annexation agreements were invalid for any reason.**

**The applicant does not agree with the staff interpretation of the comprehensive plan provisions noted above. It should be noted that the statements provided above do not appear to be a sufficiency item. The City staff and the City Council have not adopted a City Land Use Category for the property located in the City. The City agreed to place the property in the same future land use category as the rest of Pelican Landing DRI located in the City of Bonita Springs. The City was to place the property in the same land use category that applies to almost every property zoned as a planned development prior to incorporation. The city has not articulated a valid reason why the property subject to the last two annexations should be subject to a different future land use category. The City's failure to act and the City's violation of the annexation agreements, per the staff interpretation set forth above, would prevent the applicant from moving forward with any zoning application. The interpretation set forth above would suggest that the City does not want the property owner to have a reasonable use of the land and the City's interpretation of the City regulations and the County regulations and the annexation agreement creates an inordinate burden on the property.**

## 2. Lee Plan Consistency

- a. Future Land Use Element (FLUE) Policy 5.1.2. Public comment at the February 3, 2016 meeting indicated that the Kersey Smoot RPD and Pelican Landing CPD/RPD RPD Area E was historically entitled with lower density and private recreational development. Staff acknowledges that the DRI development order lists conditions relative to Hurricane Preparedness as outlined in the 1994 DRI development order. However, this request would expose far more residents to hurricane hazards north of Coconut Road than what was originally contemplated when the companion DRI and rezonings were first approved (Pelican Landing CPD/RPD in 1994; Kersey Smoot RPD in 1998).

*Please provide a copy of the original Hurricane Preparedness analysis that was submitted with the original DRI, which resulted in the DRI Hurricane Preparedness Conditions. Staff wants to review the analysis as it pertains to areas for residential development and evacuation impacts.*

### **Response:**

**The applicant provided a current DRI Hurricane Preparedness analysis. The original analysis resulted in conditions, which are not being changed by the applicant.**

**It is unclear how the location of the units north of Coconut Road would have a greater impact on the county or regional hurricane evacuation. The expected occupancy rate during hurricane season is no more than 50 – 64%. With an estimated 282 vehicles loaded on the network over 12 hours, the impact would be negligible.**

**Please note that a separate project case history report which presents the original analyses as it evolved and the appropriate mitigation determined is provided in the amended report.**

- b. FLUE Policy 5.1.7. Please explain what community facilities will be available to all dwelling units and if it will be easily accessible via pedestrian and bicycle pathways.

*The sufficiency response letter does not address this comment; however, tab 19 provides the information requested. Please verify if these will be accessible via pedestrian and bicycle pathways.*

### **Response:**

#### **b. Policy 5.1.7.**

**The October 4 letter is based on an incorrect understanding of Policy 5.1.7. The policy provides that the County is going to “maintain development regulations that require that community facilities (such as park, recreational and open space**

areas) in residential developments are functionally related to all dwelling units and easily accessible via pedestrian and bicycle pathways.” The applicant submits that Policy 5.1.7. is implemented at the time of DO based on the adopted regulations. The applicant will comply with the adopted regulations. The policy places the obligation on the government to adopt development regulations. The County has adopted park impact fees that will be paid by the Developer.

The units will be proximate to open space as evidenced by a review of an aerial photograph, which depicts the nearby Raptor Bay golf course, Eco Park and other open space areas within the Pelican Landing DRI. Further, each proposed residential building or group of buildings will provide on-site recreational amenities for the residents such as swimming pools, tennis courts, and terraces. The information on the final amenity packages will be provided at the time of final plan approval.

- c. FLUE Policy 5.1.10(c). Density across more than one future land use classification. This policy was adopted by Lee County in 1990 and amended in 1992, which specified language regarding that the land be under single ownership at the time this policy was adopted and is contiguous. The Kersey Smoot property was acquired in 1998, which is after this policy was adopted. Please explain how this request to shift density from the Pelican Landing CPD/RPD is consistent with this policy.

*The sufficiency response did not address this comment. Density is defined in Subdivision II. - Residential Development of LDC 34. Page 16 of the August 17, 1998 Kersey Smoot RPD staff report provided a Lee Plan analysis for gross density for the RPD in addition to citing the gross density for the DRI.*

*The Annexation Agreement between the City of Bonita Springs and the applicant contemplated a zoning change concurrent with the city’s comprehensive plan amendment. Subsequently, the applicant changed the request to review under the Lee Plan and Lee County LDC. The annexation agreement does not address review under the Lee Plan and Lee County LDC regulations.*

*Additionally, a complaint was filed in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida related to the Pelican Landing Golf Resort Ventures Limited Partnership Annexation Agreement. The applicant references the Annexation Agreement as justification and/or a response to staff’s July 11, 2016 insufficiency letter. The applicant may care to provide a supplemental justification and/or a response to staff’s comments above and separate from the Annexation Agreement.*

**Response:**

**The City staff failed to file the comprehensive plan amendment as required by the annexation agreements and Florida Statutes. The City Council failed to adopt a**

**City of Bonita Springs future land use category consistent with the portion of Pelican Landing that was part of the original incorporation. The City Staff and the City Council has not adopted a future land use category that is consistent with the future land use category that applies to all of the planned developments that were in place at the time of incorporation. The City failed to comply with the annexation agreement. The City cannot fail to act, and violate the annexation agreement and then suggest the applicant is at fault for proceeding with the zoning application under the county plan. The density for the approved Pelican Landing DRI is not changing. The density has already been approved by City Council and the Board of County Commissioners at the adoption and amendment of the Pelican Landing DRI development order, as amended. The City and the County have determined that the density is consistent with the comprehensive plan. The density in the approved Pelican Landing RPD/CPD is not increasing. When the DRI was approved and at the time of adoption of the Pelican Landing RPD/CPD the policy in question applied. Adding land to the Pelican Landing RPD/CPD while maintaining the same number of units does not create an inconsistency with the Lee Plan. The application results in an actual decrease in density for the Pelican Landing project within the City's municipal limits.**

- d. FLUE Objective 19.7. Please submit the public information meeting summary report in accordance with Lee Plan FLUE Policy 19.7.3 and LDC 33-54.

*Concerns of the monitoring and traffic counts conducted off-season was also a concern. Staff acknowledges that the TIS traffic data counts were done in March 2016.*

**Response:**

**d. Objective 19.7.**

**This objective submits that the public is to have appropriate opportunities to participate in and comment on development in and around Estero. The meeting was held and the summary was provided with the last sufficiency response on August 30, 2016. For your information, the County is in the process of eliminating all of the Estero Planning Community Land Development Code provisions and the Lee Plan policies for the Estero Planning Community. (Goal 19 and the related objectives and policies)**

**3. Lee County LDC**

- a. The applicant is requesting to amend Z-94-14, deviation 12 to add area F1 and the ability for up to 4 more towers north of Coconut Road. Please provide a deviation request and justification. Please also provide the staff report and back up relative to the original request in 1994 from Lee County case 94-04-05-DRI-01.

*The sufficiency response did not provide the original 1994 applicant justification for the deviation and staff's recommendation as requested. Please provide.*

*Please provide the deviation request with the written justification per LDC 34-373(a)(9). The justification shall include how deviation meets LDC 34-145(d)(4)a2c).*

*Please explain the objective of showing the property included in Tab 12 for conservation easement purposes. The applicable DRI Map H designation and RPD MCP designation show this area as a part of Canoe Park and as a Wetland Preserve Area. Additionally, this parcel has a Wetlands Future Land Use Category Classification according to the Lee County FLUM. Further this property is located within unincorporated in Lee County; and is outside the jurisdiction of the City of Bonita Springs.*

*According to the HEX Recommendation Report for the 1994 Pelican Landing DRI and Pelican Landing CPD/RPD, the applicant originally requested high rise development in the Parcel E area of the Pelican Landing CPD/RPD. The HEX opined that this concentration of development abutting wetlands of the Estero Bay was inconsistent with Lee Plan. While some of those Goals, Objectives, and Policies have been amended, the general intent of Policy 107.2.10 has not changed.*

**Response:**

**The staff report and the original application from the 1994 approval of the DRI DO and the Pelican Landing RPD/CPD are not sufficiency items. The historical information is available on the County Department of Community Development website.**

**The deviation justification for the additional building height above 75' is the proposed provision of a dedicated conservation easement on the 100-acre parcel identified in Tab 12 of the sufficiency response. The Pelican Landing project spans three local government jurisdictions. It would unfair to limit the open space commitment within one jurisdiction. The City staff noted above that they want open space proximate to the units, and the proposed conservation easement is proximate to the units. The City staff has raised concerns about the protection of the wetlands in question and the commitment to provide a conservation easement ensures that the area will be protected.**

**The applicant noted previously herein that the Hearing Examiner's 1994 recommendation was rejected by the Board of County Commissioners. The staff has no valid basis to rely on a recommendation that was rejected by the governing body that has the final authority. The Board did not agree with the Hearing Examiner's interpretation of Policy 107.2.10. The proposed building locations will be at least 800 feet from Estero Bay and will be farther from the Bay than other buildings within Pelican Landing and Bonita Bay and this pattern of development is consistent in southwest Florida from Naples north to Ft. Myers.**

- b. LDC 34-373(a)(6). Please provide the master concept plan detail consistent with this section. The applicant may request a waiver if they wish to use Z-94-14 Condition 1 relative to the final plan approval process.

*The sufficiency response indicates that a waiver was requested; however, Tab 9 provided a Conceptual Master Plan. Is this document intended to be the Master Concept Plan or is the applicant using this for informational purposes only with the intent to use the final plan approval process as outlined in Z-94-14 Condition 1.*

**Response:**

**The master plan was for informational purposes. It is the applicant's intent to continue to use the final plan approval process, which has been successfully utilized within the Pelican Landing RPD/CPD and the Pelican Landing DRI since its inception.**

- c. LDC 34-378(b). Staff acknowledges that the applicant is requesting to use existing dwelling units that were approved in Z-94-14; however, this request entails new residential dwellings units on property that was developed and has current zoning entitlements as a golf course. Therefore, these residential units from Z-94-14 are not vested as to density or intensity.

*Staff acknowledges the language that exists in both the County and City DRIs relative to item 14 in Part III LEGAL EFFECT AND LIMITATIONS OF THE DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS. While the applicant is not requesting to increase the number of units of the Pelican Landing CPD/RPD or the DRI, the request is to reallocate units to an area of the MCP and DRI that as originally approved and as subsequently amended, is not approved for such uses nor at the requested density. Only Pelican Landing CPD/RPD RPD land development Area E was designated for a variety of residential uses at a maximum height of 75' with no more than 6 habitable floors.*

**Response:**

**3.c. The applicant disagrees with the staff assertion that the previously approved dwelling units are not vested. The units are clearly vested and acknowledged as such in all of the City and County DRI development orders. The City agreed in the annexation agreements that buildings exceeding 75 feet in height were appropriate and of substantial benefit to the City and the applicant annexed into the city in reliance on the City's representations. The City and the County have not evaluated density within the Pelican Landing DRI on a parcel by parcel basis. The density has been evaluated on the overall DRI. The above statement suggests that the City staff wants to change their historic interpretation of the regulations. One of the first actions of the newly incorporated City of Bonita Springs was to ascertain whether or not certain parcels were vested under the entitlements in place and the City Council opined that the development was**

**vested and the entitlements should not be revised or eliminated.**

**Kersey Smoot RPD**

- d. Z-07-031. Staff acknowledges that the Kersey Smoot RPD was approved with 362 units. Please provide the number of units built in Kersey Smoot to date. Please explain if the applicant is proposing to retain all 362 units within this planned development. If so, please demonstrate consistency with the Lee Plan for this reduced area.

*The sufficiency response does not address this comment. Density is defined in Subdivision II. - Residential Development of LDC 34. Page 16 of the August 17, 1998 staff report provides a Lee Plan analysis of the gross density for the RPD in addition to citing the gross density for the DRI. Please provide the updated gross density for the Kersey Smoot RPD based on the reduced land area.*

**Response:**

**The applicant has not submitted a request to reduce the Kersey Smoot RPD number of approved dwelling units. The 362 previously approved units are to remain. Density within the Pelican Landing DRI has never been determined on a parcel by parcel basis as long as the number of units do not exceed the total number of approved and vested units. There is no need provide gross density calculations for the Kersey Smoot RPD. The remaining area of the Kersey Smoot project is within the jurisdiction of unincorporated Lee County and not the City of Bonita Springs. Any adjustment to the County portion of the project is not under the jurisdiction of the City. Further, the Kersey Smoot component of the Pelican Landing DRI was not subject to density calculations based on the Outlying Suburban and Wetland future land use categories as the approved number of dwelling units were simply redistributed from the already approved number of vested dwelling units within the Pelican Landing DRI.**

- e. Z-98-066, explain how this request affects condition k and m.

*If this request is considered for approval conditions relative to pesticide management shall be required based on the proximity to the wetlands and Estero Bay.*

**Response:**

**The applicant awaits the city's draft pesticide condition for consideration and compliance with LDC and comprehensive plan.**

**4. Pelican Landing CPD/RPD**

- a. Z-94-14, Condition 19. Please provide the unit breakdown by development and Lee County Future Land Use Classification to demonstrate consistency. Staff acknowledges in 2002, the City of Bonita Springs portions of the Pelican Landing CPD/RPD (prior to the 2014 annexations) were assigned the Moderate Density Mixed Use Planned Development classification; however, each final plan

approval and/or local development order should have provided the unit breakdown consistent with this condition.

*If available, please provide a list identifying each final plan approval and/or local development order with the unit breakdown consistent with this condition.*

**Response:**

**WCI Communities has prepared a spreadsheet identifying the number of built units for each neighborhood (community) within the Pelican Landing DRI. To date there are 3,458 planned or built dwelling units within the Pelican Landing DRI, not including the 400 multi-family dwelling units proposed for the Raptor Bay area of the project.**

- b. Z-94-14, Condition ~~20~~ 21. Please verify the current golf acreage that exists in this RPD/CPD and what will remain if this amendment is approved.

**Response:**

**The proposed RPD/CPD amendment has no effect on the existing golf course acreage within the RPD/CPD. The golf holes proposed to be impacted for the residential development are currently located in the Kersey Smoot RPD. The Pelican Landing RPD/CPD will continue to meet Condition 21, requiring a minimum of 100± acres of golf course open space.**

*The sufficiency response referenced the incorrect Condition. Environmental Condition 21 required the following:*

*Golf Course Open Space:*

*Golf Course 100.00 +/- acres minimum*

*(To include extra indigenous preservation where possible)*

**Response:**

**The Pelican Landing RPD/CPD fully complies with the condition requiring a minimum of 100+/- acres of golf course open space.**

Transportation Review

1. The Existing Traffic Conditions Table on Page 12 indicates that US 41 is currently operating at LOS C. However, this does not reflect peak season, peak hour, peak direction conditions. Use the data from the FDOT count station 120065 on US 41 north of Old 41. The peak hour/peak direction count taken on 10-20-2015 was 2910 vph. This volume must be converted to peak season for the concurrency evaluation. Use the PSCF for the Bonita Springs Area for 2015 for the week of 10-18-2015 which is 1.29. This results in an existing peak hour/peak direction/peak season volume of 3754 vph. Using this data, existing US 41 is over capacity during the peak season, peak hour, peak direction.

Copies of the FDOT 2015 traffic count for this location and the FDOT 2015 Peak Season Factors for the Bonita Springs Area are attached for reference.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

2. The Project Trip Generation Tables on Pages 16 and 17 are mislabeled. The third row refers to the trip type as "External (Pelican Landing)" but Footnote (3) identifies this row as internal captured trips. Please clarify.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

3. Future Traffic Projections on Page 15: The text indicates that growth rates of between 2% and greater than 10% were applied to the existing traffic volumes. This is not necessarily appropriate for US 41. The Applicant must add all trips from approved and vested developments in Bonita Springs, the Village of Estero and Lee County to the existing traffic volumes and compare the results to applying historical growth rates to existing traffic volumes. Use which ever method results in the highest background traffic volumes. Document the comparison.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

4. Comment 2.a. regarding the TIS Methodology has not been addressed. This comment is restated here: For proposed internal capture, please identify the sites, land uses, locations and proposed capture rate. Please be advised that any proposed internal capture trip exchange between complimentary uses within the Pelican Landing DRI that must use or cross an external roadway, including Coconut Road, will be considered an external trip for this study. All internal capture trips must stay on private property for the entirety of the trip.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

5. The LOS F conditions identified along Coconut Road west of US 41 must be addressed at the time of Development Order.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc.**

**included with this submittal.**

6. Include summary tables in the body of the TIS to demonstrate/support the values stated in Conclusions 4, 5 and 6. Clarify these statements by specifying which segments of Coconut Road are being referred to. It is not intuitive that Pelican Landing DRI traffic only represents 46% of the total future traffic on Coconut Road considering the size of the Pelican Landing DRI compared to all other development trips that utilize Coconut Road.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

7. Explain the statement made in Conclusion No. 8 that “Coconut Road is expected to operate at acceptable level of service without the need for widening.” Future volumes shown for Coconut Road west of US 41 clearly show that this segment will be over capacity. Also, the signalized LOS analysis results for the US 41 intersection indicate that the eastbound approach will be over capacity.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

*Environmental*

1. Lee LDC 10-474 Management Plan

Staff received the Protected Species Survey for the property but we did not see a management plan for the indigenous areas and listed species. Please provide a management plan for the indigenous areas and listed species for this project area. This plan needs to be consistent with the Estero Bay Aquatic Preserve and the Charlotte Harbor National Estuary Programs goals, policies and guidelines.

**Response:**

**A Management Plan has been completed. See attached Plan from Passarella & Associates dated November 2016.**

2. Lee Plan Policy 108.1.2: Development affecting coastal and estuarine water resources must maintain or enhance the biological and economic productivity of these resources.

Please describe how the phyto-regeneration areas will be constructed and operated.

**Response:**

**Policy 108.1.1. provides that Lee County will monitor estuarine water quality and be the primary responsible entity. Policy 108.1.3. provides that Lee County will work in conjunction with SFWMD water quality monitoring efforts. In addition, upon redevelopment of the golf course, the applicant will undertake semiannual water quality monitoring for a period of 3 years. The applicant has over 100 acres of combined uplands and wetlands between the proposed development and Estero Bay that will protect water resources.**

**Redevelopment of the golf course and related lake systems will continue to comply with Audubon International Standards and will include phyto-regeneration principles and infrastructure as required by Audubon International.**

3. Lee Plan Policy 14.1.5 Rezoning adjacent to Aquatic Preserves or Wetlands must create or preserve a minimum of a 50' wide native buffer between the development and the Aquatic Preserve or wetlands.

Please show that a 50' wide native buffer area is existing or will be created between the development and the Aquatic Preserve or wetlands.

**Response:**

**14.1.5. doesn't apply to the subject property it only applies on Pine Island.**

4. Lee Plan Policy 107.2.10 Development Adjacent to Aquatic Preserves. Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

Please show how the scenic values will be preserved for the benefit of future generations.

**Response:**

**The development is not adjacent to the aquatic preserve, the proposed development is 800 +/- feet away. The property owner has provided significant conservation easements along Estero Bay for the benefit of future generations. This was done in reliance on the ability to construct all of the approved units within the Pelican landing DRI.**

**The existing Pelican Landing DRI has over 800 acres which have been identified for preservation. This acreage includes uplands, wetlands, and the eco-park which was established for protection of native habitat. Scenic values will continue to be maintained as they have within the existing developed areas of Pelican Landing, and nearby West Bay Club and Bonita Bay communities.**

5. Lee Plan Policy 87.2.1: Lee County will work with state and federal agencies and other groups to explore the possibility of grants, matching funds, contributions, joint-use agreements, sharing of facilities, leasing of land, and volunteer labor which will further the goal of providing a comprehensive park system that properly meets the needs of the county. These cooperative efforts should also include working with private organizations and corporations to form public/private partnerships to achieve the goal.

Will there be public access to the canoe/kayak launch or any other proposed park or open space?

**Response:**

**The property owner is not a state or federal agency, no grants, matching funds and contributions have been provided to this property owner for the creation of a government owned comprehensive park system. Significant open space, conservation easements and recreational facilities have been provided along with the payment of park impact fees to address the impacts of the development. This policy does not require the construction of recreational facilities over and above what has been provided, and what has been and will be paid for through park impact fees. Open space has been set aside already in reliance on the ability to construct all of the approved residential units.**

**Existing State required conservation easements precludes construction of a canoe/kayak launch for public or private access.**

6. Lee Plan Policy 115.1.4: Developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring data.

If this request is considered for approval the following condition is recommended: Any redevelopment of the Golf Course Area will meet or exceed the existing water quantity and quality treatment and require the replacement of any photo-regeneration areas. Nutrient loading analysis will be required and provided as part of the evaluation of the modified system. Comparisons of nutrient loading analysis from the old and newly configured system will be used to determine if the new system meets or exceeds the old system. The new system shall have six months to establish itself. Should the new system not meet the water quality treatment of the old system, corrective measures shall be taken within 90 days.

**Response:**

**The applicant is not opposed to the inclusion of a responsible condition addressing water quality.**

## Village of Estero Review

### General Comments

The Traffic Impact Statement uses a 20% internal capture rate to Pelican Landing. Please explain how this percentage was determined since Pelican Landing is a gated community and Raptor Bay is outside of these gates.

#### **Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

The Property Development Regulations list (dated August 4, 2016), does not state a maximum height. Please delineate the maximum height requested.

**Response: The property development regulations have been modified to address the maximum building height.**

A "List of Potential Amenities for Future Tower Residents" (dated August 22, 2016) is provided in the August 30, 2016 response. Please identify the location of the amenities on the Master Concept Plan.

**Response: The zoning master concept plan is not the appropriate place to address individual building amenities. Details of the building amenities, including their location, will be provided at the time of final plan approval and Development Order application as has been done historically.**

### Zoning TIS Comments

See attached sufficiency review checklist.

1) Description of Development & ITE Land Use Code. The TIS must contain a general description of each type of use proposed, the units of development (i.e. number of dwelling units, square feet of building floor area, etc.) and the Land Use Code for each type of use utilized in the trip generation (e.g. Single family detached housing (200 lots), Land Use Code 210). [AC-13-17]

1a) The Land Use Codes must be complete and appropriate for each proposed use. [AC-13-17]

Item 1) and 1a) provided as required.

2) Trip End Rates or Equations. The TIS must contain the equations or the average trip end generation rates for each type of use proposed and the name of the document from which this information was obtained (i.e. ITE TRIP GENERATION, current edition). [AC-13-17]

- 2a) Trip generation must be based on the combination of uses shown in the Schedule of Uses on the Master Concept Plan which generates the highest total number of trips during the A.M . and P.M. peak hour of the adjacent street(s). [AC-13-17]
  - 2a1) Trip generation must be based on regression equations, where available. [AC-13-17]
  - 2a2) Trip generation may be based on average generation rates where regression equations are not available or were approved in advance by the Director. [AC-13-17]
  - 2a3) Trip generation rates may be based on a study of one or more similar developments when the study is approved in advance by the Director. [AC-13-17]
- 2b) Trip generation equations or average trip rates must be complete and correct. [AC-13-17]

Item 2)2a)2a1 thru 2a3) provided as required. Trip generation is conservative (i.e. higher), since proposed use is high rise (LUC 232), which has a lower trip generation rate than condo land use code used (LUC 230)

**Response:**  
**Acknowledged.**

- 3) Site Plan. The TIS must contain a drawing showing the proposed project access point(s) & location of all other access points on both sides of all streets being accessed within 660 feet for project entrances on arterial streets, within 330 feet for project entrances on collector streets & within 125 feet for project entrances on local street s. [AC-13-17]
  - 3a) Road Classifications. The roads accessed by the development must be identified including their LCDOT functional classification and their classification on the Official Trafficways Map. [AC-13-17]

Item 3) and 3a) site plan not provided, but conceptual location provided. Item 3a) provided as required.

**Response:**  
**Trip generation would not change.**

- 4) Background Traffic. The TIS must contain 100th highest hour traffic for the current year and for the year following the year in which the project is expected to be completed. [AC-13-17]
  - 4a) For projects which are to be constructed in phases, peak season peak hour traffic must be shown for the year(s) in which each phase of the project is to be completed. [AC-13-17]

Item 4) and 4a) information provided as required.

5) Directional Splits. The TIS must contain a drawing showing the percentage, number of trips, and the direction of travel for trips entering and exiting the project at each proposed access point. [AC-13-17]

5a) The distribution of traffic must be reasonably distributed to the project entrances. A graphical depiction of all turning movements at each of the project entrances/access points must be provided. [AC-13-17]

Item 5) and 5a) Percentage trip information was not provided graphically. Number of trips and direction of trips information provided as required.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

6) Area of Influence. The TIS for projects generating more than 100 trips during the A.M. or P.M. peak hour of the adjacent street must contain a drawing showing the area of influence of the project. [AC-13-17]

6a) Area of influence is defined as the area in which project traffic is 10% or more of the maximum service volume at LOS "C" on roadway links and 10% or more of the total approach volumes at intersections at project buildout. [AC-13-17]

6b) The traffic throughout the area of influence must be reasonably distributed and the distribution must show a reasonable reduction in the number of trips as they move away from the project. [AC-13-17]

Item 6) 6a) and 6b) information provided as required. Internal capture assumption seems high given location within the development. 10% would seem more reasonable. Conservative LUC (i.e. higher trip generation) balances this issue. Current zoned uses office, restaurant, and retail would interact more with residential, thus supporting the internal capture assumption better than replacing those uses with residential.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

7) Level of Service Analysis. The TIS for projects generating more than 100 net new trips during the A.M. or P.M. peak hour of the adjacent street must contain an analysis of the Level of Service for all links within the area of influence. [AC-13-17]

7a) The TIS must contain an analysis of the Level of Service for each of the projects access points and all intersections within one-quarter mile of the project. The analysis must follow the methods established in the most current

edition of the HIGHWAY CAPACITY MANUAL for either signalized or unsignalized intersections. [AC-13-17]

Item 7) information provided as required. Link analysis data should be based on county accepted values for evaluation purposes and not consultant derived values.  
Item 7a) information provided as required.

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

- 8) Arterial Analysis. The TIS for projects generating more than 300 trips during the AM or PM peak hour of the adjacent street must contain analysis of the arterial road accessed or impacted in the area of influence of the project using the methods established in the most current edition of the HIGHWAY CAPACITY MANUAL for an urban or suburban road. [AC-13-17]

Item 8) N/A.

- 9) Necessary Improvements. When the Level of Service analysis for any project shows that the LOS on links or at any intersection fall below the minimums adopted in THE LEE PLAN (e .g. Village of Estero Interim Comprehensive Plan), the TIS must contain recommendation & analysis of the improvements necessary to offset the added traffic impacts to restore/meet/exceed the prescribed LOS standards. [AC-13-17]

Item 9) information provided as required. Improvement recommendations (pg. 33) make sense (signal at US 41/Pelican Colony Blvd when warranted; intersection improvements at US 41/Coconut Rd; and roundabout feasibility study). TIS references to impact fees to pay for mitigation in the amount of \$2.5 million. Is that in fact the case, or were these prepaid, or otherwise vested and no actual funds to be realized by the City of Bonita Springs for applicable recommended improvements? Is a mechanism in place to insure site related improvements are followed through with (pg. 34 of TIS-Signal warrant study and installation if warranted, roundabout feasibility study)?

**Response:**

**Please refer to the Memorandum prepared by David Plummer and Associates, Inc. included with this submittal.**

- 10) Miscellaneous items. Item 10) N/A

Jacqueline Toemmes Genson, AICP

RE: Pelican Landing CPD/RPD Amendment, PD15-23946-BOS, Review #2 Response

November 29, 2016

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Please contact either Neale Montgomery at 336-6235 or me if there are any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Wayne Arnold". The signature is stylized with a large, sweeping "D" and a long, horizontal stroke that ends in a small upward flick.

D. Wayne Arnold, AICP

Enclosures

Cc: Pelican Landing Golf Resort Ventures LP  
Neale Montgomery  
GradyMinor File