

3752736

AMENDED GRANT OF EASEMENT

Conservation

THIS AMENDED GRANT OF CONSERVATION EASEMENT is made this 31<sup>st</sup> day of March, 1995, by Pelican Landing Communities, Inc., a Florida corporation, whose address is: 24820 Burnt Pine Drive, Bonita Springs, Florida 33923, ("GRANTOR"), in favor of the Bay Creek Community Development District, a community development district established pursuant to Chapter 190, F.S., whose address is: 10300 N.W. 11 Manor, Coral Springs, Florida 33071, ("GRANTEE")

WHEREAS, GRANTOR is the owner of certain lands situated in Lee County, hereinafter referred to as the "PROPERTY", more specifically described in Exhibits "A-1" and "A-2" (legal descriptions and sketches), attached hereto and incorporated herein by reference; and

WHEREAS, this conservation and drainage easement is being granted by GRANTOR to the GRANTEE pursuant to the terms of a Surface Water Management Permit No.36-02469-S issued to GRANTOR by South Florida Water Management District on May 13, 1993, and as amended thereto.

WHEREAS, GRANTOR has previously caused to be recorded a grant of easement which was recorded in Official Records Book 2586, Pages 3657 through 3666, inclusive, Public Records of Lee County, Florida.

WHEREAS, GRANTOR inadvertently used the word "enjoy" in Paragraph 1.B. instead of the word "enjoy", and GRANTOR wishes to correct this error.

NOW, THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, there is created, declared and established and the GRANTOR does hereby grant, bargain and sell to the GRANTEE pursuant to Section 190.011, F.S. and Section 704.06, F.S., a non-exclusive, perpetual conservation easement upon the property, which shall be subject to the terms and conditions set forth below and which shall run with the land and be binding upon the GRANTOR, GRANTEE, their successors and assigns (including without limitation, any subsequent purchasers of the property, or any portion thereof) and shall remain in full force and effect forever.

GRANTOR and the GRANTEE agree that this Conservation Easement is subject to the following terms and conditions:

Documentary Tax Pd. \$ 10  
\$ \_\_\_\_\_ Intangible Tax Pd  
By Charlie Green Clem J. Clerk  
CHARLIE GREEN CLEM, LEE COUNTY

OR2588 PG0934

RECORDED VERIFIED - CHARLIE GREEN CLEM  
BY: HELEN CARROLL, D.C.

11/22  
5.1.10  
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1. It is the purpose of this Conservation Easement to assure that the Property will be retained forever predominantly in its natural condition and to prevent any use of the Property that will significantly impair or interfere with the natural, scenic and ecological values of the Property. To carry out this purpose, the following rights are conveyed to the GRANTEE by this Conservation Easement:

A. To enter upon the Property at reasonable times to observe and inspect the Property and to enforce the rights granted herein upon prior notice to GRANTOR, its successors and assigns, in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property (and/or adjacent lands owned by GRANTOR), by GRANTOR, its successors and assigns, at the time of such entry; and

B. To enjoin any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

C. In addition, the necessary rights of ingress and egress over and across the Property are hereby granted to GRANTEE, insofar as such rights of ingress and egress are necessary to install and maintain the MARKERS described in Section 4 below and to perform GRANTEE's maintenance, upkeep and repair obligations under Section 5 of this Conservation Easement.

2. Except as otherwise specifically provided in Section 3 below, GRANTOR states the following uses and practices within the Property (though not an exhaustive recital of inconsistent uses and practices) and inconsistent with GRANTOR's intent and the purpose of this Conservation Easement and are, therefore, prohibited by it:

A. Construction or placing of buildings, signs, billboards or advertising, utilities, or other structures and facilities, in, on or above the Property, except for caution signs and education displays as approved by the appropriate State, Federal and/or local regulatory agencies;

B. Dumping or placing of soil or other substance or material as landfill, or dumping or placing trash, waste or unsightly or offensive materials;

C. Removal or destruction of native trees, shrubs, or other vegetation, except for trimming or removal of dead or diseased trees or removal of exotic nuisance vegetation as has been or may be approved by the appropriate State, Federal and/or local regulatory agencies;

D. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance;

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E. Surface use (except for purposes that permit the land or water area to remain predominantly in its natural condition and which are approved in writing by South Florida Water Management District);

F. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish or wildlife habitat preservation;

G. Acts or uses detrimental to the retention of the Property in its natural condition;

3. Notwithstanding anything to the contrary above, GRANTOR reserves to itself, its successors and assigns, the following rights:

A. All rights as owner of the property, including the right of ingress and egress and the right to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement.

B. To engage in other activities on the Property for conservation and/or preservation where required or approved by the requisite regulatory agencies.

4. Notwithstanding anything to the contrary above, GRANTEE, its successors and assigns, shall have the right to install permanent, physical signs designating the preserve status of the Property ("Markers"). These Markers shall be maintained and preserved in perpetuity by the GRANTEE, its successors and assigns.

5. GRANTEE, by acceptance of his Conservation Easement, agrees for itself, its successors and assigns, to maintain and repair the Property, in perpetuity, solely to ensure that the water management operations and functions of the Property are continuously maintained.

6. GRANTEE, by acceptance of this Conservation Easement, agrees for itself, its successors and assigns, that in exercising its rights and obligations hereunder, GRANTEE shall not unreasonably interfere at any time with the rights of GRANTOR, its successors or assigns, or any other party requiring access to any of the Property over which said Easement is granted.

7. In the event it becomes necessary for GRANTOR, GRANTEE or South Florida Water Management District to enforce, judicially or otherwise, the terms and restrictions of this Conservation Easement, including without limitation, costs of suit, attorney's fees, and any cost of restoration necessitated by the violation of the terms of this Conservation Easement, then the prevailing party shall be entitled to reimbursement of all such costs.

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8. Enforcement of the terms and conditions of this Conservation Easement shall be at the discretion of GRANTEE and South Florida Water Management District and any forbearance on behalf of GRANTEE or South Florida Water Management District to exercise their rights hereunder in the event of any breach herein by GRANTOR, its successors or assigns, shall not be deemed or construed to be a waiver of GRANTEE's or South Florida Water Management District's rights hereunder in the event of any subsequent breach.

9. GRANTEE will hold this Conservation Easement exclusively for conservation purposes and will not assign their rights and obligations under this Conservation Easement, except to an organization qualified to hold such interest under the applicable State and Federal laws and committed to holding this Conservation Easement exclusively for conservation purposes and subject to strict compliance with all terms and conditions hereof. Notwithstanding the foregoing, GRANTEE shall have the right, without the consent of any other party, to assign any or all of its rights, duties and obligations under this Conservation Easement to the Bayside Improvement Community Development District, the uniform community development district for Pelican Landing, Lee County, Florida, established pursuant to Chapter 190, F.S. ("Bayside District"). In the event of any assignment to the Bayside District, such assignment documentation shall be recorded in the Public Records of Lee County, Florida.

10. GRANTEE will use care while present on the Property for observation, maintenance or otherwise and in no way interfere with the right of ingress or egress of GRANTOR, its successors and assigns, or any other party requiring access to any of the Property over which said Conservation Easement is granted.

11. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions and the application of such provision to persons or circumstances other than those as to which is found to be invalid, shall not be affected thereby.

12. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party hereto or successor-in-interest.

13. GRANTOR agrees that the terms, conditions, restrictions and purposes of this grant will be inserted by it in any subsequent deed or other legal instrument by which GRANTOR divests itself of any interest in the Property.

14. This Conservation Easement may be amended, altered, released or revoked only by written agreement among all parties hereto.

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TO HAVE AND TO HOLD unto GRANTEE, its successors-in-interest and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this grant shall not only be binding upon GRANTOR but also its agents and assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, GRANTOR has caused its Executive Vice President to set his hand on the day and year first above written.

Signed, sealed and delivered in the presence of:

PELICAN LANDING COMMUNITIES, INC.

WITNESSES:

[Signature]

Print: DEWAS L. SCHWARTZ

[Signature]

Print: LAURA A. SARGEANT

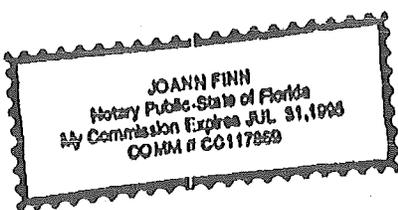
By: [Signature]  
Jerry H. Schmoyer  
Executive Vice President

STATE OF FLORIDA  
COUNTY OF LEE

Before me personally appeared Jerry H. Schmoyer, as Executive Vice President of Pelican Landing Communities, Inc., a Florida corporation, to me well known to be the person who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument in the capacity and for the purposes therein expressed. He is personally known to me.

Witness my hand and official seal this 31 day of March, 1995.

[Signature]  
Notary Public - State of Florida  
Print: Joann Finn  
My Commission expires: 7-31-95  
Commission number: CC117869

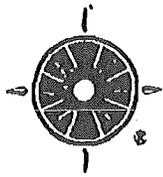


This instrument prepared by:  
Vivien N. Hastings, Esq.  
801 Laurel Oak Drive, Suite 500  
Naples, FL 33963

PLEASE RETURN TO:  
Laura A. Sargeant  
Pelican Landing Communities, Inc.  
24820 Burnt Pine Drive  
Bonita Springs, FL 33923

OR2588 PG0939

/grantee\_amend.bcc



# WILSON, MILLER, BARTON & PEEK, INC.

Engineers, Planners, Surveyors, Landscape Architects & Environmental Consultants  
4371 Colonial Boulevard, Suite 200, Fort Myers, Florida 33912 • (813) 939-1020 Fax (813) 939-7479

## DESCRIPTION CONSERVATION AND DRAINAGE EASEMENT Pelican Landing Unit Fourteen Section 21, Township 47 South, Range 25 East, Lee County, Florida

All that part of Section 21, Township 47 South, Range 25 East, Lee County, Florida and also being a part of Tract "E" of Pelican Landing Unit Fourteen according to the plat thereof as recorded in Plat Book 53, pages 35 through 46, Public Records of Lee County, Florida being more particularly described as follows:

BEGINNING at the southeasterlymost corner of Lot 9 of Pelican Landing Unit Seventeen according to the plat thereof as recorded in Plat Book 53, pages 50 through 53, Public Records of Lee County, Florida;

thence along the rear lot lines of Lots 10, 11 and 12 of said Pelican Landing Unit Seventeen in the following eleven (11) courses;

- 1) N.71°27'09"E. 29.25 feet;
- 2) N.58°51'44"E. 18.87 feet;
- 3) S.72°55'45"E. 45.63 feet;
- 4) S.40°45'39"E. 19.99 feet;
- 5) S.82°56'07"E. 38.38 feet;
- 6) S.89°33'15"E. 24.69 feet;
- 7) N.60°00'40"E. 16.83 feet;
- 8) S.64°08'15"E. 38.34 feet;
- 9) S.59°17'14"E. 36.00 feet;
- 10) S.63°35'29"E. 21.85 feet;
- 11) S.69°04'59"E. 24.08 feet;

thence S.10°43'24"E. 16.00 feet;

thence N.80°11'18"W. 39.88 feet;

thence S.72°56'53"W. 18.54 feet;

thence S.40°49'33"W. 26.82 feet;

thence N.19°16'26"W. 6.89 feet;

thence N.36°50'08"W. 29.68 feet;

thence N.75°44'57"W. 22.13 feet;

thence N.72°10'02"W. 36.30 feet;

thence N.78°01'03"W. 23.21 feet;

thence N.67°40'07"W. 17.68 feet;

thence S.72°13'44"W. 44.56 feet;

thence N.65°45'40"W. 38.67 feet;

thence S.80°40'21"W. 15.03 feet;

thence N.12°53'24"W. 17.24 feet;

thence N.07°00'49"W. 19.20 feet to the Point of Beginning of the parcel herein described.

# EXHIBIT A-1

OK'D I.A.S.  
MAR 24 1995

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Naples  
(813) 649-4040  
Fax (813) 643-5716

Page 1 of 2  
Fort Myers  
(813) 939-1020  
Fax (813) 939-7479

Sarasota  
(813) 371-3690  
Fax (813) 377-9852

OR2588 P60940

Parcel contains 0.27 acres, more or less

Subject to easements, restrictions, reservations and rights-of-way of record.

Bearings shown hereon are based on the rear boundary line of Lot 9 of Pelican Landing Unit Seventeen according to the plat thereof as recorded in Plat Book 53, pages 50 through 53, Public Records of Lee County, Florida being N.71°17'03"W.

Prepared by:

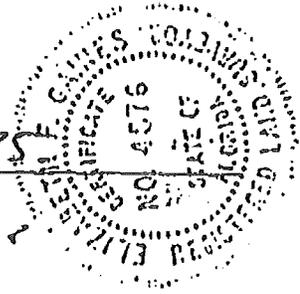
WILSON, MILLER, BARTON & PEEK, INC.

*Elizabeth F. Gaines*

Elizabeth F. Gaines, P.L.S. #4576

3-20-95

Date



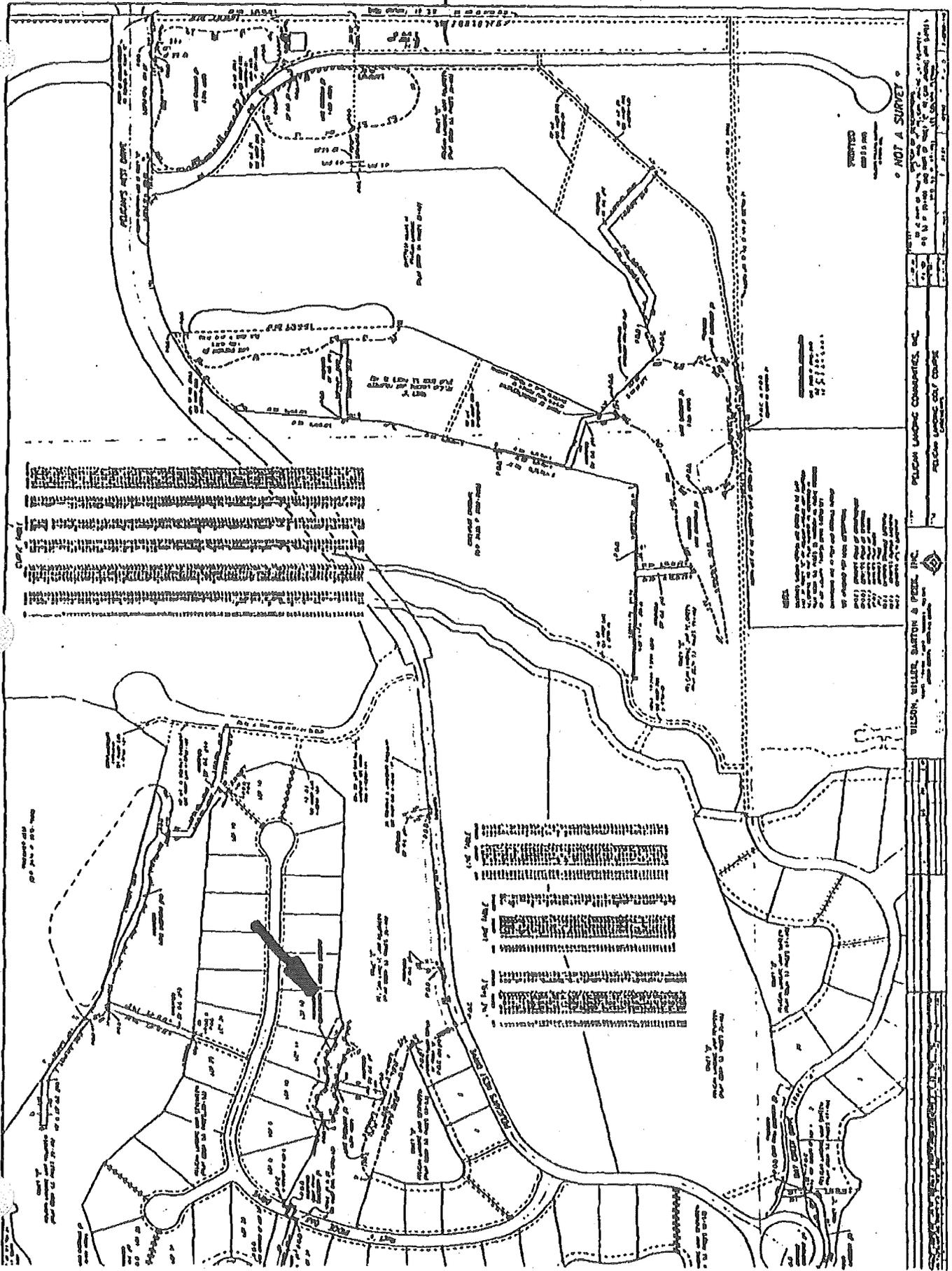
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DATE: March 20, 1995

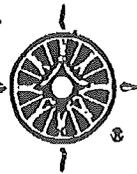
**EXHIBIT A - 1**

OK'D I AS  
MAR 22 95

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# WILSON, MILLER, BARTON & PEEK, INC.

Engineers, Planners, Surveyors, Landscape Architects & Environmental Consultants  
4571 Colonial Boulevard, Suite 200, Fort Myers, Florida 33912 • (813) 939-1020 Fax (813) 939-7479

DR2588 PG0943

## DESCRIPTION

### CONSERVATION EASEMENT #2

Section 21, Township 47 South, Range 25 East,  
Lee County, Florida

All that part of Section 21, Township 47 South, Range 25 East, Lee County, Florida and also being a part of Tract "E" of Pelican Landing Unit Fourteen according to the plat thereof as recorded in Plat Book 53, pages 35 through 46, Public Records of Lee County being more particularly described as follows;

COMMENCING at the northeasterlymost corner of Lot 19, Pelican Landing Unit Seventeen according to the plat thereof as recorded in Plat Book 53, pages 50 through 53, Public Records of Lee County, Florida;

thence N.15°00'20"W. 102.10 feet to the POINT OF BEGINNING of the parcel herein described;

thence N.79°51'39"W. 14.75 feet;

thence N.21°59'18"W. 21.28 feet;

thence N.38°01'03"E. 12.29 feet;

thence N.70°01'29"E. 11.56 feet;

thence S.77°54'37"E. 10.61 feet;

thence S.39°22'49"E. 11.45 feet;

thence S.05°43'10"W. 6.82 feet;

thence S.35°28'52"W. 22.23 feet to the Point of Beginning of the parcel herein described;

Parcel contains 900 square feet, more or less.

Subject to easements, restrictions, reservations and rights of way of record;

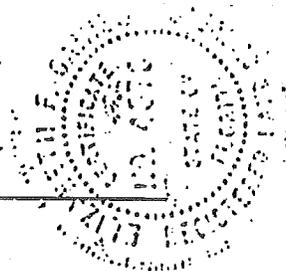
Bearings shown hereon are based on the northeast line of Lot 19 of Pelican Landing Unit Seventeen according to the plat thereof as recorded in Plat Book 53, pages 50 through 53, Public Records of Lee County, Florida being S.46°45'20"E.

Prepared by:

WILSON, MILLER, BARTON & PEEK, INC.

  
Elizabeth F. Gaines, P.L.S. #4576

3-27-95  
Date



W.O.: 4065  
REF.: E-0250-110  
DATE: March 27, 1995

# EXHIBIT A - 2

Naples  
(813) 649-4040  
Fax (813) 643-5716

Fort Myers  
(813) 939-1020  
Fax (813) 939-7479

Sarasota  
(813) 371-3690  
Fax (813) 377-9852

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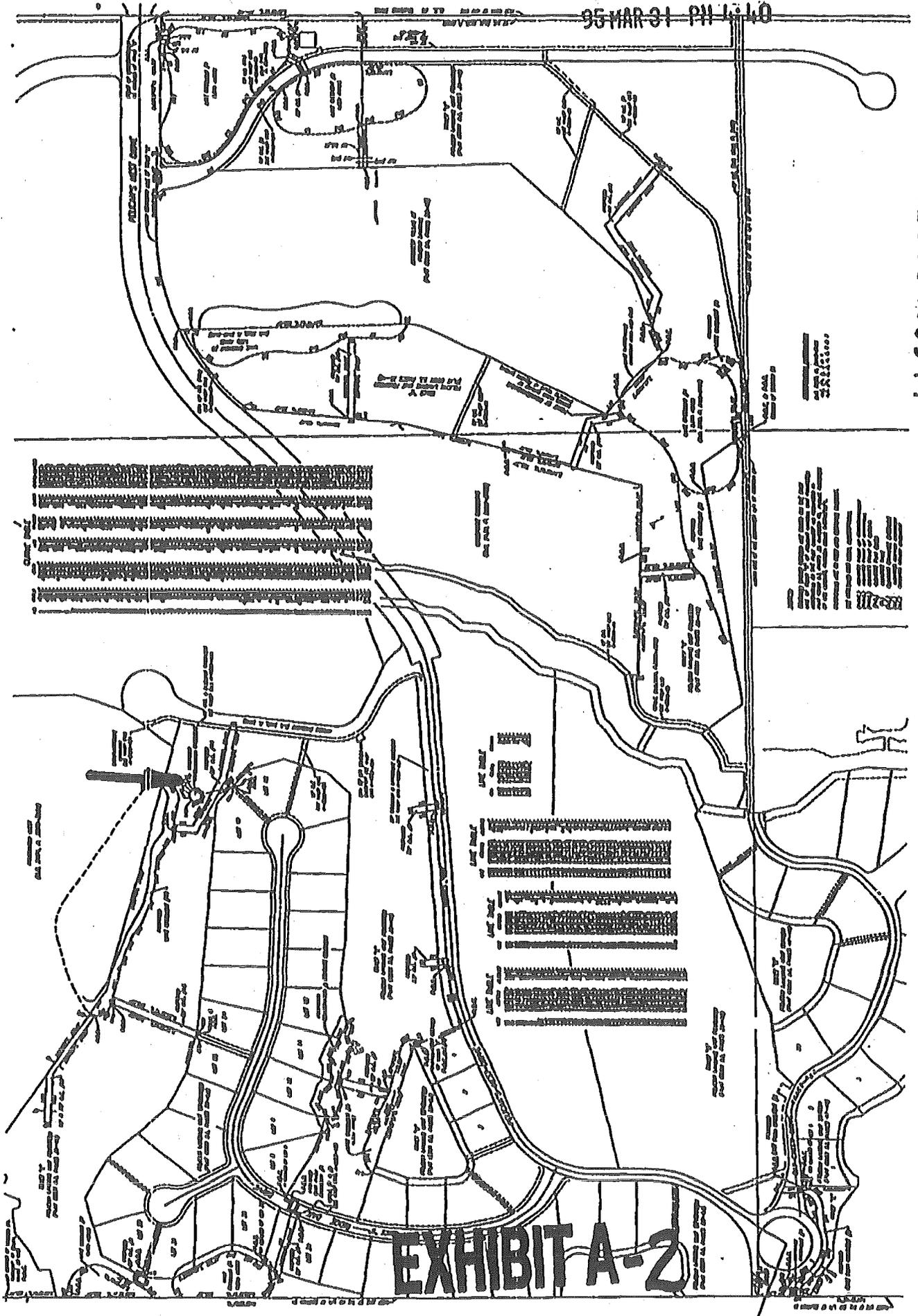


EXHIBIT A-2