

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20070347

- 1. ACTION REQUESTED/PURPOSE:** Amend contract between Lee County and Fisherman's Cove of Fort Myers, LLC, relating to the approval of bonus density pursuant to the Cash Contribution Option.
- 2. FUNDING SOURCE:** No County funds to be expended. Cash contribution has already been received.
- 3. WHAT ACTION ACCOMPLISHES:** Revises the existing agreement to reflect a specific buffer and wall plan between the property and the adjacent single-family home community to the south.
- 4. MANAGEMENT RECOMMENDATION:** Approve amendment to the agreement.

5. Departmental Category: 04		A4A	6. Meeting Date: March 27, 2007		
7. Agenda:		8. Requirement/Purpose: (specify)		9. Request Initiated:	
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute			Commissioner	N/A
<input checked="" type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Ordinance	LDC 34-1511 et seq.	Department		Community Development
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code			Division	Planning
<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Other			By:	Paul O'Connor, Planning Director
<input type="checkbox"/> Walk-On			POC 3/08/07		

10. Background: In 2003, Fisherman's Cove of Fort Myers, LLC, filed an application to utilize bonus density on a property zoned RM-2 and located in the Urban Community Future Land Use Category. The Board of County Commissioners approved the request for 15 bonus density units subject to the terms of a development contract dated May 19, 2003, and a Site Dimension Plan. Fisherman's Cove of Fort Myers, LLC, is requesting to amend the agreement to reflect a revised buffer and wall plan along the south edge of the property. There is a mutual understanding between the developer and the adjacent single-family residential community to the south, known as Hampton Lakes. The residents of Hampton Lakes have consented to a specific buffer and wall plan which will be incorporated into a revised development order for the development of the Fisherman's Cove property. In order to allow for the development of the revised buffer and wall plan, the terms and conditions of the original Cash Option Bonus Density Contract must be amended to acknowledge the revised buffer and wall plan for the south property line between Fisherman's Cove and the adjacent Hampton Lakes Subdivision. If the Board approves the requested amendment to the contract, staff will process an administrative amendment to the Site Dimension Plan.

The amended Site Dimensional Plan reduces the original setback to the wall and increases the amount and size of the landscaping substantially. Staff recommends approval of the amended agreement.

Attachments: Amended Contract; Hampton Lakes Unit 1 Property Owners Map; letters from the adjacent property owners; and, revised plans.

11. Review for Scheduling:

Dept. Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgt.	
Mary Gibbs	N/A	N/A	N/A	JMC	3/8/07	3/8/07	3/8/07	3/8/07	3-9-07

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <i>JD</i>
<i>3/8/07 9:10 AM</i>
COUNTY ADMIN FORWARDED TO: <i>PP</i>
<i>3/8/07 8:00</i>

Rec. by CoAtty
Date: <i>3/8/07</i>
Time: <i>11:30 AM</i>
Forwarded To: <i>ADMIN</i>

**AMENDMENT TO DEVELOPMENT CONTRACT
DATED MAY 19, 2003, BETWEEN
THE BOARD OF COUNTY COMMISSIONERS, LEE COUNTY, FLORIDA
AND
FISHERMAN'S COVE OF FORT MYERS, LLC
RE: The Cash Contribution Option
of the Housing Bonus Density Program**

WHEREAS, this Amendment is to an Agreement dated May 19, 2003, (hereinafter the "Agreement") between Lee County, a political subdivision of the State of Florida (hereinafter "County") and Fisherman's Cove, LLC (hereinafter "Developer") successor in interest to Fisherman's Cove of Fort Myers, LLC and present developer of Fisherman's Cove; and,

WHEREAS, the Parties desire to amend the Agreement to reflect a new mutual understanding between the Developer and the adjacent single-family homeowners to the southwest (hereinafter "Hampton Lakes Owners"); and,

WHEREAS, the Hampton Lakes Owners have agreed to a specific buffer and wall plan that will be incorporated into a revised Development Order, and that will then require an Amendment of the Agreement dated May 19, 2003.

NOW, THEREFORE, in consideration of this Amendment and the various mutual terms, conditions, promises, and covenants herein, County and Developer agree to amend the Agreement as follows:

1. Article IV - Assurances - is amended as follows to add the language shown as **bold/underlined** and delete the language shown as ~~strike-through~~.
 - a. 4.5.1. Development must be consistent with Exhibit B, which is the one-page (Sheet C1, dated July 1, 2001) "Site Dimension Plan" stamped received January 6, 2004, except as modified by the conditions set forth herein **and Exhibit "C" revising the composition and location of the southwest buffer and wall between Fisherman's Cove and the adjacent Hampton Lakes lots.**
 - b. 4.5.8. ~~The Developer must provide an enhanced 30-foot-wide native landscaped buffer adjacent to abutting single family residences. The buffer must contain a minimum 25-foot-wide planting area (maximum 4:1 slope). A solid wall or combination berm and solid wall not less than eight feet in height must be constructed as part of this buffer in accordance with LDC Sec 10-416(d)6. If a wall is used, the wall must be either a concrete block wall, composite wall (foam with stuccoed surface), or a pre-cast concrete wall. The landscaping within the buffer must be a minimum of five trees and 66 shrubs per 100 lineal feet. Trees must be 16 feet in height, with a 5 foot~~

~~canopy spread, and with a 4 inch caliper trunk at 12 inches above the ground at time of installation. Shrubs must be a minimum of 24 inches at time of installation. All trees and shrubs required in the buffer must be placed on the abutting residential side of the wall. The Developer must provide a buffer as depicted in Exhibit C adjacent to abutting single family residences.~~

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Amendment on this _____ day of _____ 2007.

LEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

ATTEST:
Clerk of Circuit Court
Charlie Green, Clerk

By: _____
Robert Janes, Chairman

By: _____
Deputy Clerk

Approved as to Form:

By: _____
Office of the County Attorney

FISHERMAN'S COVE, LLC,
A Florida Limited Liability Company

(Witness)

By: _____
Dennis Roberts, Managing Member

(Witness)

State of _____
County of _____

The foregoing contract was acknowledged before me this ____ day of _____, 2007, by Dennis Roberts, in his capacity as the Managing Member of Fisherman's Cove, LLC. He is personally known to me or has produced _____ as identification.

Print Name: _____

- Exhibits: A. Legal Description (*See Original Contract*)
B. Site Dimension Plan (*See Original Contract*)
C. Fisherman's Cove Paving, Grading and Drainage Details date stamp received March 1, 2007. Sheet C4



PORT MORRIS
TILE + MARBLE
CORP

ANDREW P +
LORI S
MANTIFEL

LORETO +
MAMUYAC

ANGELA E DEPAIVA +
75% + ANA
MARIE BOHNN
TRUST 25%

EDWARD P JR +
ROXANNE
STANLEY

DANIEL P +
CYNTHIA
STREIT

GEORGE +
PATRICIA
CHRISTO

TSIRA
BEKAURI

JOE MAZZOLA

JOHN W III RUMSEY

MORTON E +
ESTELLE J
LASHMAN

VOGEL STANLEY TR +
NAOMI TR LIE
FOR S D + N R VOGEL
TRUST

Hampton Lakes Unit

February 23, 2006

Mr. Pete Eckenrode, Director
Lee County Development Services
1500 Monroe Street
P. O. Box 398
Fort Myers, FL 33901-0398

RE: STRAP# 29-45-24-18-0000A.0040 - STRAP# 29-45-24-18-0000A.0070

Dear Mr. Eckenrode:

I am the president of the homeowners association of the property located at the community of Hampton Lakes, Fort Myers, FL 33908. This property is adjacent to the Fisherman's Cove project. I have been notified by the developer, Dennis Roberts, that as part of the development of the Fisherman's Cove project, the developer wishes to install a landscape buffer and a wall which will be less than the required 25 feet from adjoining properties.

Our homeowners association had a meeting on November 7, 2006 and a vote took place that has allowed me to approve the revised buffer plan. Please let this letter serve as an expression of our support of the developers of Fisherman's Cove's request to building a wall and install a landscape buffer as depicted on the attached exhibit between the properties.

Please feel free to contact me if you have any questions.

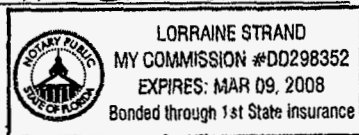
Sincerely,

Jeff Chester PRESIDENT

Jeff Chester
President
Hampton Lakes Homeowners Association

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 27 day of Feb., 2007 by
JEFF CHESTER



(Notary Seal)

L. Strand

Signature of Notary
LORRAINE STRAND

Notary Name Printed, Typed or Stamped

Personally known X or Produced Identification _____, Type of Identification Produced _____

December 6, 2006

Mr. Pete Eckenrode, Director
Lee County Development Services
1500 Monroe Street
P. O. Box 398
Fort Myers, FL 33901-0398

RECEIVED
FEB 06 2007

RE: STRAP #29-45-24-18-0000A.0040

ADD 2007-00020

Dear Mr. Eckenrode:

I am the owner of the property located at 14310 Hampton Lake Court, Fort Myers, Florida 33908. My property is adjacent to the Fishermans Cove project. I have been notified by the project developer, ** Dennis Roberts*, that as part of the development of the Fisherman's Cove project, the developer wishes to install a landscape buffer and a wall which will be less than the required 25 feet from adjoining properties, my property being one of those. The Developer's representative has agreed that:

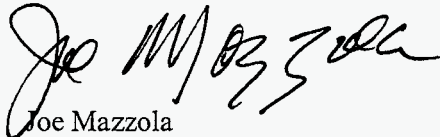
** to include
George Stamos*

1. The Fisherman's Cove Homeowners Association ("Fisherman's Cove") will maintain the wall and the landscaping reflected on the attached Fisherman's Cove Minor Change for Buffer Wall Location Plan ("the Plan").
2. In a joint effort with the Hampton Lakes Homeowners Association ("Hampton Lakes"), and with the approval of Hampton Lakes, under the onsite direction of a representative of the South Florida Water Management District, the Developer will clean out nuisance vegetation in the area between the existing berm (as shown on the Plan) and the Fisherman's Cove landscaping and wall. The berm, along the area shown on the Plan, will be periodically mowed by Fisherman's Cove as long as Hampton Lakes allows it to do so.

Please let this letter serve as an expression of my support of the Fisherman's Cove Developer's request to build a wall and install a landscape buffer between the properties as depicted on the attached Plan.

Please feel free to contact me if you have any questions.

Sincerely,



Joe Mazzola
7751 Bayshore Road
North Fort Myers, FL 33917

Attachment

RECEIVED

DEC 08 2006

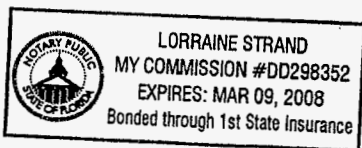
ADD 2006-00237

Mr. Pete Eckenrode
December 6, 2006
Page 2

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 17th day of DECEMBER,
2006, by JOE MAZZOLA who is personally known to me or has produced
_____ as identification.

(Notary Seal)



Lorraine Strand
Signature of Notary Public

LORRAINE STRAND
(Print, type or stamp commissioned name of
Notary Public)

Commission No: DD298352

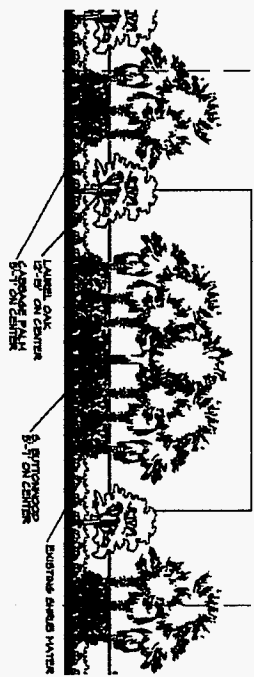
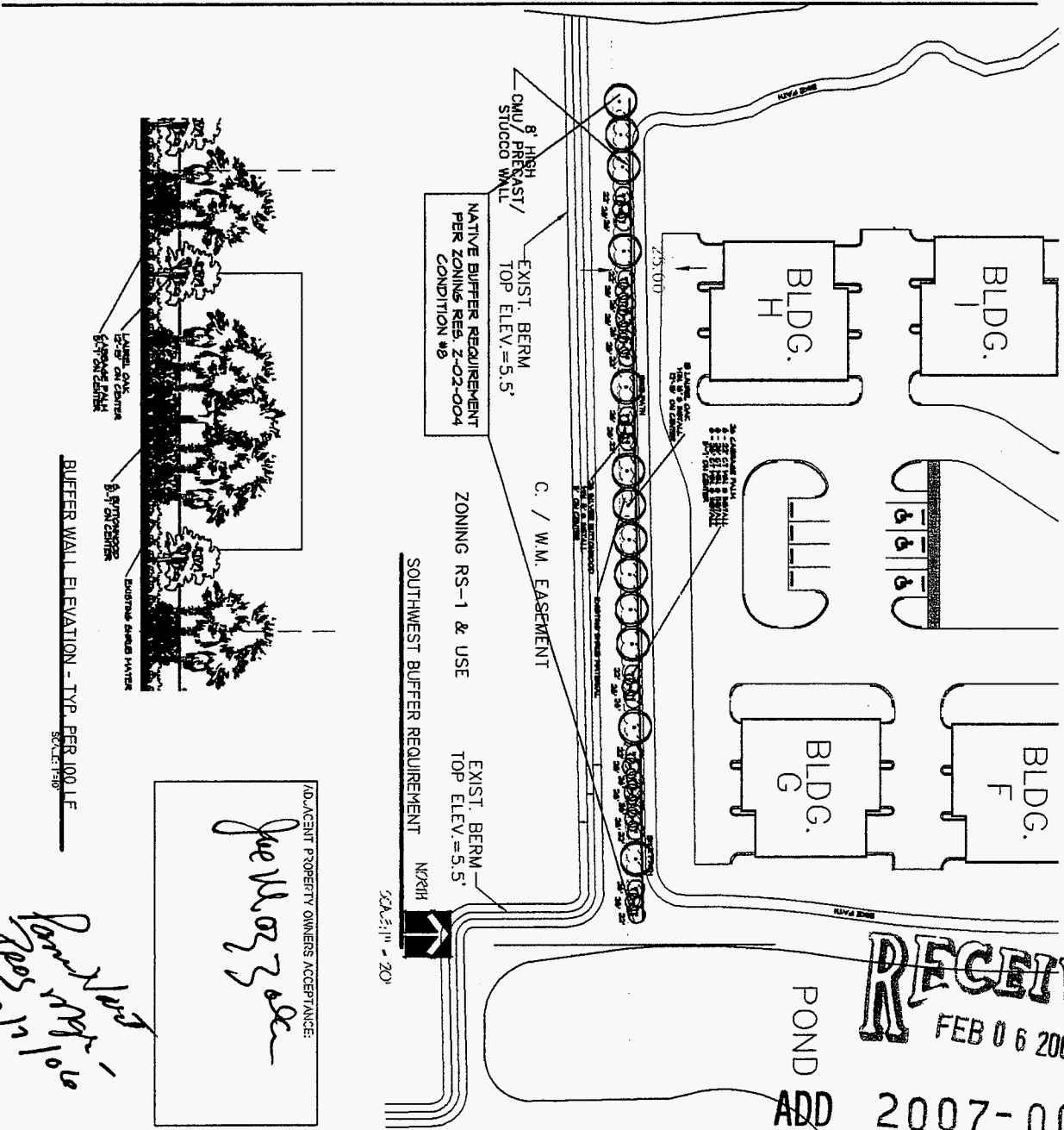
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ADD 2007-00020

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DEC 08 2006

ADD 2006-00237



ADJACENT PROPERTY OWNERS ACCEPTANCE:

Joe M. O'Connell

Donna M. Jones

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FEB 06 2007
ADD 2007-00020

NOTE: PLANTINGS TO BE IRRIGATED

1. THE CLIENT HAS REVIEWED THE LANDSCAPE ARCHITECTURE PLAN AND HAS APPROVED THE PLAN FOR THE PROPOSED PROJECT.
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19. THE CLIENT HAS REVIEWED THE LANDSCAPE ARCHITECTURE PLAN AND HAS APPROVED THE PLAN FOR THE PROPOSED PROJECT.
20. THE CLIENT HAS REVIEWED THE LANDSCAPE ARCHITECTURE PLAN AND HAS APPROVED THE PLAN FOR THE PROPOSED PROJECT.

THIS PLAN IS TO BE PERMITTED UNDER THE FLORIDA LANDSCAPE ARCHITECTURE ACT, CHAPTER 481, F.S. AND THE FLORIDA LANDSCAPE ARCHITECTURE BOARD, 1000 N. GULF BLVD., SUITE 100, FORT MYERS, FL 33901. THE CLIENT HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PROPOSED PROJECT. THE CLIENT HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PROPOSED PROJECT. THE CLIENT HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PROPOSED PROJECT.

PER COUNTY COMMISSIONS
L-2
APPROVED 5/1/06

PER COUNTY COMMISSIONS
L-2
APPROVED 5/1/06

LANDSCAPE ARCHITECTURAL PLANS FOR:
FISHERMAN'S COVE
LEE COUNTY, FLORIDA
MINOR CHANGE FOR BUFFER WALL LOCATION

DAVID M. JONES JR. AND ASSOCIATES, INC.
LANDSCAPE ARCHITECTS AND PLANNERS
221 MAGAZINER BULLYARD FORT MYERS, FLORIDA 33901
(239) 337-5525 FAX (239) 337-4494



October 13, 2006

Mr. Pete Eckenrode, Director
Lee County Development Services
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33901-0398

RE: STRAP# 29-45-24-18-0000A.0060

Dear Mr. Eckenrode:

I am the owner of the property located at 14340 Hampton Lakes Court, Fort Myers, FL 33908. My property is adjacent to the Fisherman's Cove project. I have been notified by the developer, Dennis Roberts, that as part of the development of the Fisherman's Cove project, the developer wishes to install a landscape buffer and a wall which will be less than the required 25 feet from adjoining properties, my property being one of those.

Please let this letter serve as an expression of our support of the developers of Fisherman's Cove's request to building a wall and install a landscape buffer as depicted on the attached exhibit between the properties.

Please feel free to contact me if you have any questions.

Sincerely,



Daniel Streit
14340 Hampton Lakes Court
Fort Myers, FL 33908

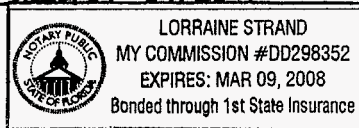


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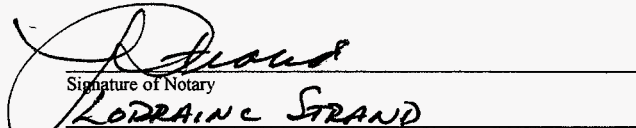
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 7th day of Dec., 2006, by

Daniel Streit



(Notary Seal)



Signature of Notary

LORRAINE STRAND
Notary name Printed, Typed or Stamped

Personally known X or Produced Identification _____, Type of Identification Produced _____

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DEC 08 2006

ADD 2006-00237

October 13, 2006

Mr. Pete Eckenrode, Director
Lee County Development Services
1500 Monroe Street
P. O. Box 398
Fort Myers, FL 33901-0398

RE: STRAP# 29-45-24-18-0000A.0050

Dear Mr. Eckenrode:

I am the owner of the property located at 14320 Hampton Lakes Court, Fort Myers, FL 33908. My property is adjacent to the Fisherman's Cove project. I have been notified by the developer, Dennis Roberts, that as part of the development of the Fisherman's Cove project, the developer wishes to install a landscape buffer and a wall which will be less than the required 25 feet from adjoining properties, my property being one of those.

Please let this letter serve as an expression of our support of the developers of Fisherman's Cove's request to building a wall and install a landscape buffer as depicted on the attached exhibit between the properties.

Please feel free to contact me if you have any questions.

Sincerely,



Tsira Bekauri
14320 Hampton Lakes Court
Fort Myers, FL 33908

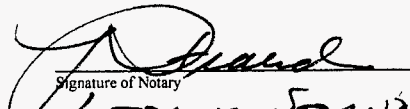
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FEB 06 2007

ADD 2007-00020

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 17th day of Dec, 2006 by
TSIRA BEKAURI





Signature of Notary
LORRAINE STRAND

Notary Name Printed, Typed or Stamped

Personally known X or Produced Identification _____, Type of Identification Produced _____

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ADD 2006-00237

December 6, 2006

Mr. Pete Eckenrode, Director
Lee County Development Services
1500 Monroe Street
P. O. Box 398
Fort Myers, FL 33901-0398

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FEB 06 2007

ADD 2007-00020

RE: STRAP #29-45-24-18-0000A.0060

Dear Mr. Eckenrode:

We are the owners of the property located at 14330 Hampton Lake Court, Fort Myers, Florida 33908. Our property is adjacent to the Fishermans Cove project. We have been notified by the project developer, Dennis Roberts, that as part of the development of the Fisherman's Cove project, the developer wishes to install a landscape buffer and a wall which will be less than the required 25 feet from adjoining properties, our property being one of those. The Developer's representative has agreed that:

** to conclude
George
Stamos
PCL
12/7/06*

1. The Fisherman's Cove Homeowners Association ("Fisherman's Cove") will maintain the wall and the landscaping reflected on the attached Fisherman's Cove Minor Change for Buffer Wall Location Plan ("the Plan").
2. In a joint effort with the Hampton Lakes Homeowners Association ("Hampton Lakes"), and with the approval of Hampton Lakes, under the onsite direction of a representative of the South Florida Water Management District, the Developer will clean out nuisance vegetation in the area between the existing berm (as shown on the Plan) and the Fisherman's Cove landscaping and wall. The berm, along the area shown on the Plan, will be periodically mowed by Fisherman's Cove as long as Hampton Lakes allows it to do so.

Please let this letter serve as an expression of my support of the Fisherman's Cove Developer's request to build a wall and install a landscape buffer between the properties as depicted on the attached Plan.

Please feel free to contact us if you have any questions.

Sincerely,

George Christo
George Christo
Patricia Christo

Patricia Christo
14330 Hampton Lake Court
Fort Myers, FL 33908

Attachment

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DEC 08 2006

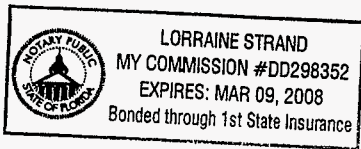
ADD 2006-00237

Mr. Pete Eckenrode
December 6, 2006
Page 2

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 7th day of DECEMBER,
20 06, by PAT & GEORGE CHRISTO who is personally known to me or has produced
_____ as identification.

(Notary Seal)



Lorraine Strand

Signature of Notary Public
LORRAINE STRAND

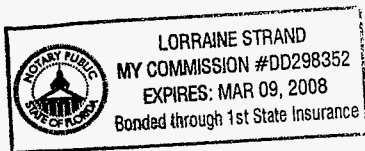
(Print, type or stamp commissioned name of
Notary Public)

Commission No: DD298352

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 7th day of DECEMBER,
20 06, by PAT & GEORGE CHRISTO who is personally known to me or has produced
_____ as identification.

(Notary Seal)



Lorraine Strand

Signature of Notary Public
LORRAINE STRAND

(Print, type or stamp commissioned name of
Notary Public)

Commission No: DD298352

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DEC 08 2006
ADD 2006-00237

October 13, 2006

Mr. Pete Eckenrode, Director
Lee County Development Services
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33901-0398

RE: STRAP# 29-45-24-18-0000A.0060

Dear Mr. Eckenrode:

I am the Community Association Manager of Total Community Management Corp. for Hampton Lakes Lot Owners Association, Inc. of Fort Myers, FL 33908. I have been notified by the developer, Dennis Roberts, that as part of the development of the Fisherman's Cove project, the developer wishes to install a landscape buffer and a wall which will be less than the required 25 feet from adjoining properties of Hampton Lakes.

Please let this letter serve as an expression of our support of the developers of Fisherman's Cove's request to building a wall and install a landscape buffer as depicted on the attached exhibit between the properties.

Please feel free to contact me if you have any questions.

Sincerely,



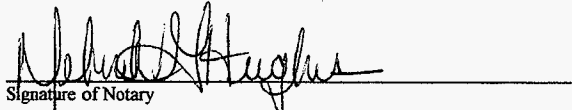
Marie Gottschalk
Total Community Management Corp.
608 SE 30 Lane
Cape Coral, FL 33904

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FEB 06 2007

ADD 2007-00020

STATE OF FLORIDA
COUNTY OF LEE

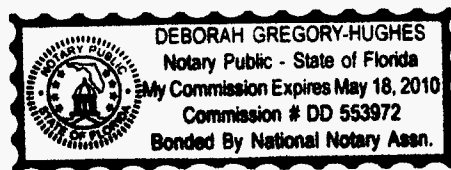
The foregoing instrument was acknowledged before me this 13 day of November 2006 by
Marie Gottschalk.


Signature of Notary

(Notary Seal)

Notary name Printed, Typed or Stamped

Personally known _____ or Produced Identification FL/DL, Type of Identification Produced
Florida Drivers Lic.



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DEC 08 2006

ADD 2006-00237