

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

Re: Petition of Westinghouse Communities )  
of Naples, Inc. to establish a )  
community development district to be ) Case No. 93-1490  
known as Pelican Marsh Community )  
Development District. )  
\_\_\_\_\_ )

HEARING OFFICER'S REPORT AND CONCLUSIONS

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Hearing Officer, William F. Quattlebaum, held a formal public hearing in the above-styled case on June 9, 1993, in Naples, Florida.

APPEARANCES

For Petitioner: Kenza Van Assenderp, Esquire  
Post Office Box 1833  
Tallahassee, Florida 32302-1833

For Collier County: Richard Yovanovich, Esquire  
David Bryant, Esquire  
3301 Tamiami Trail East  
Naples, Florida 33962-4976

STATEMENT OF THE ISSUE

Whether the petition of Westinghouse Communities of Naples, Inc., to establish the Pelican Marsh Community Development District in Collier County, Florida, meets the requirements of Section 190.005(1)(e), Florida Statutes.

PRELIMINARY STATEMENT

This proceeding was initiated when Westinghouse Communities of Naples, Inc., (Westinghouse) filed a Petition with the Secretary of the Florida Land and Water Adjudicatory Commission (FLWAC) on January 15, 1993, seeking establishment by rule of the Pelican Marsh Community Development District (CDD) in an unincorporated area of Collier County, Florida. The Secretary on March 12, 1993, forwarded the Petition to the Division of Administrative Hearings.

On May 3, 1993, Westinghouse filed an Amended Petition with the FLWAC Secretary, which, on May 21, 1993, was forwarded to the Division of Administrative Hearings.

Appropriate notice of the public hearing was published in the Naples Daily News, a daily newspaper in Naples, Florida, and in the May 14, 1993 Florida Administrative Weekly as required by Rule 42-1.010(1)(b), Florida Administrative Code. A copy of such notice was served upon the Department of Community Affairs as required by Rule 42-1.011, Florida Administrative Code.

At the public hearing, Westinghouse presented the testimony of Louis H. Hoegsted, Thomas R. Peek, Dr. Lance deHaven-Smith, David Crawford and Gary Moyer by deposition. Their names and addresses are attached to this Report as Appendix "A" and a summary of their testimony is set forth herein. Thomas Peek, Dr. Lance deHaven-Smith, David Crawford and Gary Moyer were stipulated by the parties to be experts in their respective fields for the purposes of this hearing only.

Westinghouse's Composite Exhibits "A" through "P" and "R" were admitted into the record without objection. A list of the exhibits in evidence is attached to this Report as Appendix "B".

No persons, other than Westinghouse's witnesses, testified in this cause or entered appearances at the hearing. There is no evidence contrary to that presented at the hearing.

Pursuant to Rule 42-1.012(3), Florida Administrative Code, the record was kept open for twenty days after receipt of the transcript, so that any affected or interested persons could submit written statements concerning the Amended Petition. No such statements were filed.

This Report is submitted to the FLWAC pursuant to Sections 190.005(1)(e) and (f), Florida Statutes, and Rule 42-1.013, Florida Administrative Code.

It is noted that the sole purpose of this proceeding is amassing the record for the establishment of the CDD. Any other necessary permits for construction or planning purposes are outside the scope of this proceeding.

#### FINDINGS OF FACT

1. On January 15, 1993, Westinghouse Communities of Naples, Inc., (Westinghouse) filed a Petition with the Secretary of the Florida Land and Water Adjudicatory Commission (FLWAC), seeking establishment by rule of the Pelican Marsh Community Development District (CDD) in an unincorporated area of Collier County, Florida.

2. The Secretary certified that the contents of the Petition were complete and on March 12, 1993, forwarded the Petition to the Division of Administrative Hearings.

3. On May 3, 1993, Westinghouse filed an Amended Petition with the FLWAC Secretary. The Amended Petition revised related provisions contained in Paragraph 10 and Exhibit 7 of the original Petition.

4. The amendments address delivery of water, wastewater and irrigation service within the CDD and set forth the obligations of the proposed CDD and the Collier County Water-Sewer District related to the construction, ownership and operation of interim and permanent facilities for such services.

5. The FLWAC Secretary determined that the contents of the Amended Petition were complete and on May 21, 1993, forwarded the Amended Petition to the Division of Administrative Hearings.

6. Notice of the date and location of the public hearing was published in the Naples Daily News, a daily newspaper in Naples, Florida on May 13, 20, 27 and June 3, 1993.

7. A copy of such notice was served upon the Department of Community Affairs as required by Rule 42-1.011, Florida Administrative Code.

8. Notice of the hearing was published by the FLWAC's Secretary in the Florida Administrative Weekly on May 14, 1993, as required by Rule 42-1.010(1)(b), Florida Administrative Code.

9. Westinghouse submitted a copy of the Petition to the Collier County Board of County Commissioners ("Board") on February 26, 1993 and submitted a copy of the Amended Petition to the Board on April 16, 1993.

10. As required by Section 190.005(1)(b)1, Florida Statutes, Westinghouse paid the \$15,000 filing fee to the Board.

11. A public hearing before the Board was held on May 4, 1993. Such hearing is optional pursuant to Section 190.005(1)(c), Florida Statutes.

12. Upon completion of the hearing, the Board adopted Resolution No. 93-187 through which it determined that the establishment of the CDD was in the best interests of the county and its citizens and that the county was supportive of the establishment of the CDD. A transcript of the county hearing was filed with the FLWAC on May 4, 1993.

13. If approved by the FLWAC, the CDD will be an independent special purpose local government as authorized by Chapter 190, Florida Statutes, with power to plan, finance, construct, operate and maintain the community infrastructure (except as to certain water and sewer services discussed elsewhere herein) within the jurisdiction of the CDD.

14. The CDD will manage and finance basic services for the residential community known as Pelican Marsh.

15. The 2,075 acres of the community development to be serviced by the CDD is located north of the City of Naples within an unincorporated area of Collier County. To the north of the CDD lies unimproved land, residential subdivisions and Immokalee Road (County Road 846). To the east is unimproved land and the site of a proposed extension of Livingston Road. To the south is Vanderbilt Beach Road (County Road 862), the site of a proposed extension of Vanderbilt Beach Road, and Pine Ridge subdivision. To the west is North Tamiami Trail (U.S. Highway 41).

16. The land within the proposed CDD is currently zoned as "Urban Residential", "Activity Center" and "Proposed Activity Center". Westinghouse has entered into the record, as Exhibit "C", an Application for Public Hearing for Rezone and Conditional Use Requests and a draft Planned Unit Development document for a portion of the community consisting of approximately 1086.5 acres. The draft Planned Unit Development document authorizes a mixture of land uses, including single and multi-family housing, limited to 780 dwelling units and a 27-hole golf course with clubhouses.

17. Westinghouse has acknowledged in its Amended Petition that the Collier County Water-Sewer District is the permanent supplier of all water, wastewater and irrigation service in the CDD and that the CDD shall be obligated to convey all water, sewer and irrigation facilities to the County and its Water-Sewer District upon completion.

18. Westinghouse also acknowledges certain rights and obligations of the CDD with respect to the construction and operation of interim water, wastewater and irrigation facilities. The cost of such facilities will be borne by the CDD through various types of financing mechanisms. Only those persons who receive the benefit of the services will pay the costs involved in provision of the facilities.

#### Summarization of Testimony and Evidence

19. Mr. Louis H. Hoegsted is Executive Vice President of Westinghouse Communities of Naples, Inc., the corporation that filed the Petition and Amended Petition in this matter. Mr. Hoegsted has general responsibility for planning the Pelican Marsh community, including the filing of the petitions.

20. Westinghouse, a Florida corporation, has developed the community of Pelican Bay in Collier County, Florida. Mr. Hoegsted was involved as the company representative in the formation and operation of the former Pelican Bay Improvement District, created by special act of the Florida Legislature. Pelican Bay was merged by Collier County into the County Water-Sewer District.

21. Mr. Hoegsted identified Westinghouse's Composite Hearing Exhibits "A" through "R". All of the below-described documents were prepared under the supervision of Mr. Hoegsted. The exhibits identified by Mr. Hoegsted are as follows:

Composite Exhibit "A" includes four exhibits numbered "A-1" through "A-4". Exhibit "A-1" is a General Location Map, which identifies the site of the proposed CDD. Exhibit "A-2" is a Boundary Map of the area to be served by the CDD. Exhibit "A-3" is a Boundary Map of the land area included within the jurisdiction of the CDD. Exhibit "A-4" is a copy of the Collier County Comprehensive Plan Map, as amended June, 1993.

Exhibit "B" is the Preliminary Development Agreement of May 20, 1993 executed between the Florida Department of Community Affairs and Westinghouse.

Exhibit "C" is a copy of a draft Planned Unit Development document which upon adoption would establish the zoning for a portion of the proposed development.

Composite Exhibit "D" is made up of 12 separate exhibits identified as Exhibits "D-1" through "D-9" with subparts. Exhibit "D-1" is the Petition filed with the FLWAC in this case. Exhibit "D-2" is a map showing the location of the land area to be serviced by the CDD. Exhibit "D-3" is a metes and bounds description of the CDD. Exhibit "D-4" is composed of the written consent of Westinghouse Communities of Naples, Inc. and the Manatee Fruit Company, as owners of land within the CDD. (Also filed as Exhibit "R-1" is an additional consent of the remaining land owners within the CDD.) Exhibit "D-5"

(including subparts a-c) is composed of drawings showing the Collier County waste water service system, potable water service system and the drainage outfalls. Exhibit "D-6" is the proposed schedule and cost estimates for construction of CDD infrastructure. Exhibit "D-7a" is a copy of the Collier County Comprehensive Plan Future Land Use Map. Exhibit "D-7b" is a copy of the Department of Community Affairs compliance letter related to the Collier County Comprehensive Plan, as amended. Exhibit "D-8" is an acknowledgment by Westinghouse that Collier County is authorized to regulate the provision of water and sewer facilities within the CDD. Exhibit "D-9" is a Statement of Economic Impact for the CDD by Fishkind & Associates, Inc. Composite Exhibit "E" consists of 12 exhibits identified as "E-1" through "E-9" including subparts. Composite Exhibit "E-1" includes the Amended Petition filed with the FLWAC in this case. Exhibit "E-2" is a map showing the location of the land area to be serviced by the CDD. Exhibit "E-3" is a metes and bounds description of the CDD. Exhibit "E-4" is composed of the written consent of Westinghouse Communities of Naples, Inc. and the Manatee Fruit Company, as owners of land within the CDD. Exhibit "E-5" (including subparts a-c) is composed of drawings showing the Collier County waste water service system, potable water service system and the drainage outfalls. Exhibit "E-6" is the proposed schedule and cost estimates for construction of CDD infrastructure. Exhibit "E-7a" is a copy of the Collier County Comprehensive Plan Future Land Use Map. Exhibit "E-7b" is a copy of the Department of Community Affairs compliance letter related to the Collier County Comprehensive Plan, as amended. Exhibit "E-8" is an acknowledgment by Westinghouse that Collier County is authorized to regulate the provision of water and sewer facilities within the CDD. Exhibit "E-9" is a Statement of Economic Impact for the CDD by Fishkind & Associates, Inc. Composite Exhibit "F" includes four items. Exhibit "F-1" is the prehearing stipulation filed in this case. Exhibit "F-2" is a Memorandum of Agreement between Westinghouse and Collier County related to the provision of water, wastewater and irrigation facilities and services within the proposed CDD. Exhibit "F-2a" is a draft copy of an interlocal agreement related to the provision

of water, wastewater and irrigation facilities and services within the proposed CDD. Exhibit "F-2b" is a copy of Collier County Resolution No. 93-187 indicating that the Board of County Commissioners supports the establishment of the CDD.

Composite Exhibit "G" consists of two items: Exhibit "G-1", a Westinghouse letter dated February 26, 1993 submitting the Petition to Collier County; and Exhibit "G-2", a Westinghouse letter dated April 16, 1993 submitting the Amended Petition to Collier County.

Exhibit "H" is a photocopy of the \$15,000 check from Westinghouse to Collier County constituting the filing and processing fee. Composite Exhibit "I" includes Exhibit "I-1", a letter dated February 26, 1993 transmitting the Petition to David Coburn of the FLWAC, and Exhibit "I-2" a letter dated May 3, 1993, transmitting the Amended Petition to Mr. Coburn.

Composite Exhibit "J" includes four exhibits. Exhibit "J-1" is Mr. Coburn's letter of notification dated March 12, 1993 to the Florida Department of Community Affairs (DCA) transmitting the Petition for DCA review. Exhibit "J-2" is Mr. Coburn's letter of notification dated March 15, 1993 to the Southwest Florida Regional Planning Council (SWFRPC) transmitting the Petition for SWFRPC review. Exhibit "J-3" is Mr. Coburn's letter of notification dated May 5, 1993 to the DCA transmitting the Amended Petition for review. Exhibit "J-4" is Mr. Coburn's letter of notification dated May 5, 1993 to the SWFRPC transmitting the Amended Petition for review.

Composite Exhibit "K" consists of two exhibits, "K-1" and "K-2", both letters from Mr. Coburn to the Florida Division of Administrative Hearings transmitting the Petition and Amended Petition, dated March 12 and May 21, 1993, respectively.

Composite Exhibit "L" includes six exhibits. Exhibit "L-1" is a certified copy of the notice of publication of receipt of Petition and notice of hearing as published in the Florida Administrative Weekly. Exhibits "L-2" through "L-6" are the tear sheets from the Naples Daily News setting forth notice of the hearing held in this case.

Exhibit "M" consists of excerpts from the Collier County Comprehensive Plan. The complete official copy of the Collier County Comprehensive Plan was filed with the Hearing

Officer prior to the hearing and is transmitted with the record established during the hearing.

Exhibit "N" is a letter from the Florida Department of Community Affairs to Collier County stating that the DCA had determined that the relevant Comprehensive Plan Amendment was in compliance with state law.

Exhibit "O" is a copy of the State Comprehensive Plan for the State of Florida appearing in Chapter 187, Florida Statutes. Exhibit "P" consists of a white paper dated March, 1993 and prepared by Dr. Lance deHaven-Smith, a political economist. The report addresses growth management considerations and the proposed establishment of the Pelican Marsh CDD.

Composite Exhibit "R" consists of two parts. Exhibit "R-1" is an additional consent of the remaining land owners within the CDD. (Exhibit D-4 contains the originally filed consent documents.) Exhibit "R-2" is an updated estimate of proposed infrastructure construction costs and deadlines.

22. As Executive Vice President of Westinghouse Communities of Naples, Inc., Mr. Hoegsted directed the planning and preparation of the Petition and Amended Petition filed in this matter. The consultants who reviewed the project on behalf of Westinghouse were directed to assume that the CDD would provide all services and facilities which it was able to provide under Sections 190.011 and 190.012, Florida Statutes, with the exception of the County's provision of water, wastewater and irrigation services and facilities. (As addressed elsewhere herein, the County Water and Sewer District is to be the sole provider of water, wastewater and irrigation water within the Water-Sewer District boundaries in accordance with Collier County Ordinance Nos. 78-10, 79-33, 88-76, 90-86 and 90-87.)

23. The consultants were directed to consider the factors enumerated in Subsection 190.005(1)(e), Florida Statutes. Based upon review of their analysis, Mr. Hoegsted asserts that all statutory criteria have been satisfied. There is no evidence to the contrary.

24. The Statement of Economic Impact prepared for the CDD by Fishkind & Associates, Inc., includes an analysis of economic costs and benefits to all persons directly affected by the Petition, estimates the impact of the CDD on competition in the open market and describes the source of information and methodology used in preparing the statement. According to the statement, the creation of the CDD will not constitute a significant burden to either the State of Florida or Collier County. There is no evidence contrary to that contained within the Fishkind report.

25. Thomas R. Peek is a professional engineer with Wilson, Miller, Barton and Peek, Inc., an engineering consulting firm located in Naples, Florida. Mr. Peek was accepted as an expert in civil engineering related to provision of infrastructure development in Southwest Florida communities.

26. Mr. Peek is familiar with the CDD and with the status of the development approvals and related land development permits and approvals from local and state authorities for the Pelican Marsh community. He is knowledgeable as to the steps involved in engineering basic systems, facilities and services for community developments. He opined that there is a high probability for quality long term infrastructure maintenance by an independent special district government.

27. Mr. Peek testified that he had reviewed the Amended Petition and attachments and that they contained no information inconsistent with engineering considerations raised by the state or the Collier County Comprehensive Plans.

28. It is anticipated that the CDD will be requested to provide water management, utilities, roads, landscaping and street lighting. Mr. Peek is unable to predict whether the CDD will be asked to exercise any additional powers pursuant to Section 190.012(2), Florida Statutes. Such additional powers relate to certain public improvements and community facilities as parks, fire prevention, schools, security, and mosquito control.

29. Mr. Peek opined that the land within the proposed CDD is of sufficient size, compactness and contiguity to be developable as one functionally interrelated community and is amenable for a CDD, that there are no land features or facilities which could make the benefits of the CDD difficult to provide, and that the CDD will not be inconsistent with the Collier County local government comprehensive plan.

30. There is no evidence contrary to that provided by Mr. Peek. His testimony is accepted.

31. Dr. Lance deHaven-Smith is a political science professor and provost of the Broward County campus of Florida Atlantic University. He was accepted as an expert in political science and in alternative ways to provide community infrastructure.

32. Dr. deHaven-Smith reviewed the Petition from a general infrastructure and growth management policy perspective. He further addressed the relevant statutory criteria. Based on his review he prepared a report, "Growth Management Considerations in the Proposed Establishment of the Pelican Marsh Community Development District". The report is identified as Westinghouse Exhibits "D-9" and "E-9".

33. According to Dr. deHaven-Smith, Collier County has experienced substantial growth in recent years, requiring a rapid expansion in infrastructure for transportation, water, waste water treatment, law enforcement, recreation, and many other services. Community development districts play an important role in growth management by facilitating large scale, high quality development and relieving local governments of the burden of paying for and managing many of the services and public works that such developments require.

34. According to Dr. deHaven-Smith, to the extent that there are weaknesses in the state's growth management system, community development districts provide a means of appropriate controlled development. Even though the state has adopted a state comprehensive plan, the need for CDDs exists, especially in areas such as Collier County where growth is at a rate twice that of other Florida communities. Accordingly, Dr. deHaven-Smith opined that the CDD is a good tool in the growth management process.



35. Dr. deHaven-Smith described the manner in which the CDD would operate and carry out the powers prescribed in the development order for Pelican Marsh District. He opined that, relative to the alternatives for providing the infrastructure necessary for the Pelican Marsh community, the CDD mechanism is the most appropriate alternative.

36. He further noted that although the CDD has a range of specific and general powers, it is controlled by substantive and procedural limitations and would be subservient to Collier County.

37. Dr. deHaven-Smith reviewed the statutory factors and related information that must be considered in order to establish a CDD. He opined that all statements within the petitions are true and correct, that the creation and establishment of the CDD is not inconsistent with applicable portions of the state and local comprehensive plans, that the area of land within the CDD is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community, that the CDD is the best alternative for delivering community development services and facilities, that the services and facilities are compatible with the capacity and uses of existing local and regional community development services and facilities, and that the area to be served is amenable to separate special-district services and facilities. There is no evidence contrary to the witness' testimony which is hereby accepted.

38. David Crawford is Director of Planning and Governmental Relations with Westinghouse Bayside Communities, Inc. He has 15 years experience in the planning of infrastructure provision for community development and has been involved in the preparation of comprehensive plans for several Florida counties.

39. He testified as to the permitting and development approval status of the Pelican Marsh community and the physical characteristics and situations to be found within the area of the proposed CDD, including two existing roadways, a drainage canal, an outfall and various utilities which cross the property.

40. Mr. Crawford described the state comprehensive plan and how the establishment of the CDD would be consistent with and facilitate certain enumerated policies in the plan. Mr. Crawford stated that the CDD will not be inconsistent with the Collier County Comprehensive Plan. With respect to state concurrency requirements, Mr. Crawford asserted that the CDD is the best method to provide sustained infrastructure to a community.

41. Mr. Crawford stated that the CDD is a responsive, efficient, timely and economic means of providing services to a community's future population without over-burdening the existing residents. He asserted that the land within the CDD is of sufficient size, compactness and contiguity to be developable as one functionally interrelated community and that the land area in the CDD is amenable to separate special-district government. According to Mr. Crawford, the establishment of the CDD will not create any incompatibility with the existence of any regional systems, services or facilities.

42. In Mr. Crawford's opinion, the establishment of the CDD will not overburden the Collier County government with respect to providing maintenance over the long-term infrastructure to the proposed development nor overburden the taxpayers of Collier County. Furthermore, he opined that the CDD will not be a needless or unacceptable proliferation of local government in view of the six factors required to be considered for its establishment under Chapter 190.

43. Mr. Crawford testified that it is not premature to establish the CDD before issuance of the final development order under Section 380.06, Florida Statutes. Because infrastructure construction activities require construction permitting from the county, it is unlikely that the CDD would construct infrastructure inconsistent with the eventual development order to be issued by the county.

44. There is no evidence contrary to the testimony of Mr. Crawford and it is accepted.

45. Gary L. Moyer serves as district manager for twenty-three community development districts throughout the state. As a district manager, he coordinates the planning, financing, construction, operation, and maintenance of infrastructure provided to new community developments. Mr. Moyer was accepted as an expert in district management and government.

46. Mr. Moyer reviewed the factors used in FLWAC's determination regarding whether the petition should be approved. He concluded that all criteria were satisfied. Within the context of his expertise, Mr. Moyer opined that all statements in the Amended Petition to be true and correct, that the CDD is compatible with all state and local comprehensive plans, that the land area of the CDD is of sufficient size and compactness and is sufficiently contiguous to be developable as one functional interrelated community, that the CDD is the best alternative for delivering the proposed services and facilities to the development, that the CDD is not incompatible with the capacity and uses of existing local and regional community development services and facilities, and that the area to be served is amenable to separate special-district government.

47. Mr. Moyer noted that the CDD will be subject to the same checks, balances and accountability as other general purpose governmental entities. The CDD Board of Supervisors is governed by state ethics laws, "Government in the Sunshine," public records law and statutes related to accountability of public officials. Mr. Moyer noted that, once established, the CDD becomes a "partner" with local government in achieving the goals and objectives of the community.

48. Mr. Moyer stated that the operations of the CDD must be in accordance with local government's comprehensive plan and construction standards. He further noted that the CDD must supply planning documents to the local government to ensure consistency with the local comprehensive plan.

49. There being no evidence to the contrary, Mr. Moyer's testimony is accepted as being credible on these issues.

#### CONCLUSIONS

50. Having considered the entire record in this cause, and without evidence to the contrary, it is concluded that:

51. All statements contained within the Petition have been found to be true and correct. Section 190.005(1)(e)1., Florida Statutes.

52. The creation and establishment of the CDD is consistent with applicable elements or portions of the state comprehensive plan and the Collier County comprehensive plan, as amended. Section 190.005(1)(e)2., Florida Statutes.

53. The area of land within the CDD is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community. Section 190.005(1)(e)3., Florida Statutes.

54. The CDD, in accordance with applicable state and local law and the Memorandum of Agreement executed by Westinghouse and Collier County, is the best alternative available for delivering community development services and facilities to the area that will be served by the CDD. Section 190.005(1)(e)4., Florida Statutes.

55. In accordance with applicable state and local law and the Memorandum of Agreement executed by Westinghouse and Collier County, the community development services and facilities of the CDD will be compatible with the capacity and uses of existing local and regional community development services and facilities. Section 190.005(1)(e)5., Florida Statutes.

56. The 2,075 acre tract of land that will be served by the CDD is amenable to separate special-district government, in accordance with the provisions of Chapter 190, Florida Statutes, and the Memorandum of Agreement between Westinghouse and Collier County. Section 190.005(1)(e)6., Florida Statutes.

DONE and ISSUED this 10th day of September, 1993, in Tallahassee, Florida.

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WILLIAM F. QUATTLEBAUM  
Hearing Officer  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, FL 32399-1550  
(904) 488-9675

Filed with the Clerk of the  
Division of Administrative Hearings  
this 10th day of September, 1993.

APPENDIX TO RECOMMENDED ORDER, CASE NO. 93-1490

APPENDIX "A"

NAMES AND ADDRESSES OF WITNESSES

1. Louis H. Hoegsted  
Westinghouse Communities of Naples, Inc.  
801 Laurel Oak Drive, Suite 500  
Naples, Florida 33963
2. Thomas R. Peek  
Wilson, Miller, Barton & Peek  
3200 Bailey Lane at Airport Road  
Naples, Florida 33942

3. Dr. Lance deHaven-Smith  
5935 North West 96 Drive  
Parkland, Florida 33076
4. David Crawford  
Westinghouse Bayside Communities  
9200-101 Bonita Beach Road, South West  
Bonita Springs, Florida 33923
5. Gary Moyer  
10300 North West 11 Manor  
Coral Springs, Florida 33071

APPENDIX "B"

LIST OF DOCUMENTARY EVIDENCE

Composite Exhibit "A"

Exhibit "A-1" is a large General Location Map, which outlines the general location of the proposed Pelican Marsh community within Collier County.

Exhibit "A-2" is a Boundary Map of the development to be served by the CDD.

Exhibit "A-3" is a Boundary Map of the land area to be included within the jurisdiction of the CDD.

Exhibit "A-4" is a copy of the Collier County Comprehensive Plan Map, as amended June, 1993.

Exhibit "B"

Exhibit "B" is the Preliminary Development Agreement, dated May 20, 1993 between the Florida Department of Community Affairs and Westinghouse.

Exhibit "C"

Exhibit "C" is a draft of Planned Unit Development document which may establish the zoning for a portion of the proposed development.

Composite Exhibit "D"

Exhibit "D- 1" is the Petition filed with the FLWAC.

Exhibit "D-2" is a map showing the location of the land area to be served by the CDD.

Exhibit "D-3" is a metes and bounds description of the CDD.

Exhibit "D-4" is composed of the written consent of Westinghouse Communities of Naples, Inc. and the Manatee Fruit Company, as owners of land within the CDD. (Exhibit "R-1" is the additional consent of the remaining land owners within the CDD.)

Exhibit "D-5" is composed of drawings showing the Collier County waste water service system, potable water service system and the drainage outfalls.

Exhibit "D-6" is a proposed schedule of the deadlines and cost estimates to construct CDD infrastructure.

Exhibit "D-7" is a copy of the Collier County Comprehensive Plan Future Land Use Map.

Exhibit "D-7b" is a copy of the Department of Community Affairs compliance letter related to the Collier County Comprehensive Plan, as amended.

Exhibit "D-8" is an acknowledgment by Westinghouse that Collier County is authorized to regulate the provision of water and sewer facilities within the CDD.

Exhibit "D-9" is a Statement of Economic Impact for the District by Fishkind & Associates, Inc.

Composite Exhibit "E"

Exhibit "E-1" is the Amended Petition.

Exhibits "E-2" through "E-9" are identical to Exhibits "D-2" through "D-9" except for a minor change to the Acknowledgement in Exhibit "E-8".

Composite Exhibit "F"

Exhibit "F-1" is the Prehearing Stipulation signed by Collier County and Westinghouse with attachments and filed in this case.

Exhibit "F-2" is a Memorandum of Agreement between Westinghouse and Collier County related to the provision of water, wastewater and irrigation facilities and services within the proposed CDD.

Exhibit "F-2a" is a draft copy of an interlocal agreement related to the provision of water, wastewater and irrigation facilities and services within the proposed CDD.

Exhibit "F-2b" is Resolution No. 93-187 of Collier County indicating that the Board of County Commissioners supports the establishment of the CDD.

Composite Exhibit "G"

Exhibit "G-1" is a letter from Westinghouse to Collier County, dated February 26, 1993, submitting the Petition to the county.

Exhibit "G-2" is a letter from Westinghouse to Collier County, dated April 16, 1993, submitting the Amended Petition to the county.

Exhibit "H"

Exhibit "H" is a photocopy of the \$15,000 check constituting the filing and processing fee from Westinghouse to Collier County.

Composite Exhibit "I"

Exhibit "I-1" is a transmittal letter from Attorney Kenza van Assenderp to David Coburn of the Florida Land and Water Adjudicatory Commission dated February 26, 1993 which accompanied the Petition.

Exhibit "I-2" is a transmittal letter from Attorney Kenza van Assenderp to David Coburn of the Florida Land and Water Adjudicatory Commission dated May 3, 1993 which accompanied the Amended Petition.

Composite Exhibit "J"

Composite Exhibit "J" consists of four letters of notification from David Coburn, Secretary of the Florida Land and Water Adjudicatory Commission to the Florida Department of Community Affairs and the Southwest Regional Planning Council transmitting the Petition and Amended Petition.

Composite Exhibit "K"

Exhibit "K-1" is a letter dated March 12, 1993 from David Coburn to the Florida Division of Administrative Hearings transmitting the Petition.

Exhibit "K-2" is a letter dated May 21, 1993 from David Coburn to the Florida Division of Administrative Hearings transmitting the Amended Petition.

Composite Exhibit "L"

Exhibit "L-1" is a certified copy of the notice of publication of receipt of Petition and notice of hearing as published in the Florida Administrative Weekly.

Exhibits "L-2" through "L-6" are the tear sheets from the Naples Daily News setting forth notice of the hearing held in this case.

Exhibit "M"

Exhibit "M" consists of excerpts from the Collier County Comprehensive Plan. The complete official copy of the Collier County Comprehensive Plan was in the possession of the Hearing Officer at the time of the hearing and is transmitted with the record established during the hearing.

Exhibit "N"

Exhibit "N" is a letter from the Florida Department of Community Affairs to Collier County wherein notice was given of its determination that the Comprehensive Plan Amendment was in compliance with state law.

Exhibit "O"

Exhibit "O" is a copy of the State Comprehensive Plan for the State of Florida appearing in Chapter 187, Florida Statutes.

Exhibit "P"

Exhibit "P" is a March, 1993 report prepared by Dr. Lance deHaven-Smith regarding growth management considerations and the proposed establishment of the Pelican Marsh Community Development District.

Exhibit "R"

Exhibit "R-1" is an additional consent of the remaining land owners within the CDD. (Exhibit D-4 contains the originally filed consent documents.) Exhibit "R-2" is an updated estimate of proposed infrastructure construction costs and deadlines.

COPIES FURNISHED:

David K. Coburn, Secretary  
Florida Land & Water Adjudicatory Commission  
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