

RIVER RIDGE
COMMUNITY DEVELOPMENT DISTRICT

OFFICE OF THE DISTRICT MANAGER
9220 Bonita Beach Road, suite 214
Bonita Springs, FL 34135
(239) 464-7114 (p)

April 27, 2018

Pelican Sound Golf & River Club, Inc.
Attention: Eric Long
4561 Pelican Sound Blvd.
Estero, Florida 33928

Re: Street Trees Within River Ridge Community Development District (District) Easements And/Or Right-of-Way (ROW)

Dear Mr. Long:

As you are aware the District and the Pelican Sound Golf & River Club, Inc. (PSGRC) are parties to that certain Amended and Restated Community Development District Systems And Facilities Operation And Maintenance Agreement dated as of January 1, 2012 ("Amended And Restated Agreement"), as amended by the First Amendment of April, 2015 and the Second Amendment of June 28, 2016. Copies of the original Amended And Restated Agreement and its amendments are included in this correspondence for reference purposes.

As a result of various questions, comments and concerns that arose in the aftermath of Hurricane Irma, the District Board of Supervisors (Board) has discussed with the PSGRC clarification concerning certain operational aspects of the Amended And Restated Agreement as they relate to the removal and/or replacement of "street trees" located within "District ROW" (as "District ROW" is defined in the Amended And Restated Agreement).

At its meetings of December 12, 2017 and January 23, 2018, the Board authorized: 1.) sending a letter to PSGRC advising the PSGRC of the Board's clarification concerning the removal and/or replacement of "street trees" located within District ROW; and, 2.) drafting of an appropriate Resolution of the District in order to properly record the Board's clarification. Enclosed please find a copy of the Board adopted Resolution 2018-03, adopted on April 24, 2018.

This letter is for the purpose of advising the PSGRC of the following clarifying position and policy adopted by the Board of the District to implement the Amended And Restated Agreement as to trees within District ROW (as the District ROW is defined in the Amended And Restated Agreement):

1. with regards to the trees located within a District ROW, PSGRC (or its authorized agent) is authorized to remove, or may authorize a person as defined herein, to remove any tree within a District ROW after providing a courtesy notice to the District at least fifteen (15) calendar days prior to the removal date, unless exigent circumstances exist **SUBJECT TO THE FOLLOWING:** the removal of any tree is allowed by all applicable permits, agreements, development orders, statutes, codes, ordinances, policies, rules, resolutions, and regulations and is performed in strict conformance with all applicable permits, development orders, statutes, codes, ordinances, policies, rules, resolutions and regulations. It is the intention that the courtesy notice is for the limited purpose of allowing the District to be informed of removal plans as the District may possess information as to site conditions or facilities that could be impacted by or impact removal.

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2. If a person within Pelican Sounds desires the removal of a tree located in the District ROW, such person shall submit a request for removal to PSGRC. For purposes of this letter the term "person" shall mean any property owner within Pelican Sound or neighborhood associations (i.e., homeowners association, property owners association, condominium association) within Pelican Sound.

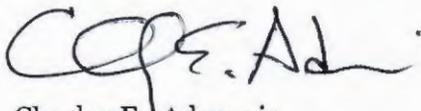
3. Except as otherwise may be required by applicable permits, agreements, development orders, statutes, codes, ordinances, policies, rules, resolutions or regulations, replacement trees need not be installed. If the PSGRC desires the planting of replacement trees in the District ROW, it shall provide a courtesy notice to the District at least fifteen (15) calendar days prior to the planned planting date, SUBJECT TO THE FOLLOWING: the planting of the replacement tree is allowed by all applicable permits, agreements, development orders, statutes, codes, ordinances, policies, rules, resolutions, and regulations and is performed in strict conformance with all applicable permits, development orders, statutes, codes, ordinances, policies, rules, resolutions and regulations. It is the intention that the courtesy notice is for the limited purpose of allowing the District to be informed of replacement planting plans as the District may possess information as to site conditions or facilities that could be impacted by or impact replacement planting.

4. PSGRC (or its authorized agent) is hereby authorized, as agent for and on behalf of the District to apply for or authorize a person to apply for necessary development orders and permits from Lee County and/or the Village of Estero for the purposes of the removal or planting of replacement of trees within the District ROW, provided that the removal or replacement is in conformance with the Amended And Restated Agreement and the terms and conditions of this letter.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

RIVER RIDGE COMMUNITY DEVELOPMENT DISTRICT



Chesley E. Adams jr.
District Manager

Enclosures

RESOLUTION NO. 2018- 03

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE RIVER RIDGE COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT") RELATING TO NOTICE TO BE PROVIDED BY THE PELICAN SOUND GOLF & RIVER CLUB, INC. ("PSGRC"), AS AGENT FOR THE DISTRICT UNDER THE AMENDED AND RESTATED COMMUNITY DEVELOPMENT SERVICES OPERATION AND MAINTENANCE AGREEMENT DATED AS OF JANUARY 1, 2012, AS AMENDED, CONCERNING REMOVAL OF TREES IN "DISTRICT ROW".

WHEREAS, the District is the owner of certain streets, roads and sidewalks within District roads rights of way or the grantee of certain street, road or sidewalk easements (hereinafter the "District ROW") within the Pelican Sound community in Lee County, Florida, within the boundaries of the District; and,

WHEREAS, the District and PSGRC are the parties to that certain Amended And Restated Community Development District Systems and Facilities Operation and Maintenance Agreement dated as of January 1, 2012, as amended (the " Amended And Restated Agreement"); and,

WHEREAS, the District and PSGRC desire to clarify certain authority provided to PSGRC under the Amended and Restated Agreement concerning the removal of trees located within the District ROW; and,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE RIVER RIDGE COMMUNITY DEVELOPMENT DISTRICT AS FOLLOWS:

1. With regards to the trees located within a District ROW, as the District ROW is defined in the Amended And Restated Agreement, PSGRC (or its authorized agent) is authorized to remove, or may authorize a person as defined herein, to remove any tree within a District ROW, as the District ROW is defined in the Amended And Restated Agreement, after providing a courtesy notice to the District at least fifteen (15) calendar days prior to the removal date, unless exigent circumstances exist, **SUBJECT TO THE FOLLOWING:** the removal of any tree is allowed by all applicable permits, agreements, development orders, statutes, codes, ordinances, policies, rules, resolutions, and regulations and is performed in strict conformance with all applicable permits, development orders, statutes, codes, ordinances, policies, rules, resolutions and regulations. It is the intention that the courtesy notice is for the limited purpose of allowing the District to be informed of removal plans as the District may possess information as to site conditions or facilities that could be impacted by or impact removal.
2. If a person within Pelican Sounds desires the removal of a tree located in the District ROW, such person shall submit a request for removal to PSGRC. For purposes of this Resolution, the term "person" shall mean any property owner within Pelican Sound or neighborhood associations (i.e., homeowners association, property owners association, condominium association) within Pelican Sound.

3. PSGRC (or its authorized agent) is hereby authorized, as agent for and on behalf of the District to apply for or authorize a person to apply for necessary development orders and permits from Lee County and/or the Village of Estero for the purposes of the removal of trees within the District ROW, provided that the removal is in conformance with the Amended And Restated Agreement and the terms and conditions of this Resolution. It is the intention that the courtesy notice is for the limited purpose of allowing the District to be informed of removal plans as the District may possess information as to site conditions or facilities that could be impacted by or impact replacement.

4. Except as otherwise may be required by applicable permits, agreements, development orders, statutes, codes, ordinances, policies, rules, resolutions or regulations, replacement trees need not be installed.

5. If the PSGRC desires the planting of replacement trees in the District ROW, it shall provide a courtesy notice to the District at least fifteen (15) calendar days prior to the planned planting date; SUBJECT TO THE FOLLOWING: the planting of the replacement tree is allowed by all applicable permits, agreements, development orders, statutes, codes, ordinances, policies, rules, resolutions, and regulations and is performed in strict conformance with all applicable permits, development orders, statutes, codes, ordinances, policies, rules, resolutions and regulations. It is the intention that the courtesy notice is for the limited purpose of allowing the District to be informed of replacement planting plans as the District may possess information as to site conditions or facilities that could be impacted by or impact replacement planting.

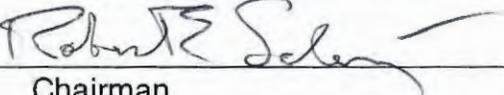
6. This Resolution shall take effect immediately upon adoption.

THIS RESOLUTION ADOPTED after motion, second, and majority vote favoring same this 24th day of April, 2018.

ATTEST:

BOARD OF SUPERVISORS, RIVER RIDGE
COMMUNITY DEVELOPMENT DISTRICT

By: 
Secretary

By: 
Chairman

POLICY BACKGROUND

Hurricane Irma caused substantial damage, including damage to large, mature trees, primarily oak trees, in and along River Ridge CDD roadways in Pelican Sound. As a result, in the aftermath of Hurricane Irma, discussion has taken place at River Ridge CDD Board of Supervisors meetings regarding the removal, maintenance and/or repair obligations, if any, of the River Ridge CDD, of improvements of others located within the River Ridge CDD roadways right-of-way (ROW), most notably "street trees". The discussions included whether there are overlapping maintenance obligations among the River Ridge CDD, the Pelican Sound Golf and River Club (PSGRC) and/or residents and property owners who own property adjacent to a River Ridge CDD ROW, sidewalk and roadway.

When the District owns facilities [whether the interest in the real estate is via a deed, dedication or an easement] the Board has been advised that the District has the responsibility to maintain its facilities, to protect and preserve its facilities and to keep its facilities in a safe condition. The District may enter into and has entered into an agreements or contract with another party, such as the PSGRC for the maintenance and repair of District facilities.

The River Ridge CDD and the PSGRC have a written agreement that spells out various rights, authority and obligations of the PSGRC as to certain River Ridge CDD improvements, including but not limited to the River Ridge CDD ROW. That agreement is the Amended and Restated Community Development District Systems And Facilities Operation And Maintenance Agreement dated as of January 1, 2012 ("Amended And Restated Agreement"), as amended by the First Amendment of April, 2015 and the Second Amendment of June 28, 2016. Copies of the Amended And Restated Agreement, as amended, are available on the River Ridge CDD website. In an effort to clarify the authority and obligations of the PSGRC under the Amended And Restated Agreement, at its meeting of April 24, 2018 the Board adopted a Resolution and approved a letter to the PSGRC clarifying certain operational aspects of the Amended And Restated Agreement.

As part of the post-Hurricane Irma discussion, research was performed and opinions were provided to the Board by District staff, including the District Manager, District Counsel and District Engineer, as to whether the River Ridge CDD owned the various "street trees" located within the River Ridge CDD ROW. The review indicated that generally the Lee County approved development order plans for Pelican Sound required/showed the "street trees" as being located outside the River Ridge CDD ROW. The review indicated that generally those plans formed the basis for the River Ridge CDD

acquisition of the River Ridge CDD ROW. Thus, the Board has been advised that trees located or placed in the River Ridge CDD ROW by others, contrary to the requirements of the issued Lee County development orders, would not be part of River Ridge's acceptance of the River Ridge CDD ROW and that any River Ridge authorization for the installation, placement and continued existence of such trees within the River Ridge CDD ROW is predicated upon the PSGRC maintaining the tree(s) in a safe and sound condition pursuant to the Amended And Restated Agreement.

As outlined in various memorandums to and discussions with the Board at Board meetings, whether or not the River Ridge CDD is determined to be the owner of any street tree(s), under Florida law the River Ridge CDD does not have liability for damage caused by fallen trees, unless the River Ridge CDD knew or should have known that a fallen tree was diseased or defective. In addition, if the River Ridge CDD becomes aware of tree growth that poses safety issues such as sight line issues on River Ridge roads or obstructs traffic control devices on River Ridge roads (eg. blocks the view of a stop sign), the River Ridge CDD has an obligation to warn of the asserted dangerous condition or take steps to correct an asserted dangerous condition.