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CPA 2000-02
PRIVATELY INITIATED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
January 10th Adoption Hearing

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

November 21, 2001

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-02

✓ **Text Amendment** ✓ **Map Amendment**

	This document contains the following reviews:
✓	**Staff Review**
✓	**Local Planning Agency Review and Recommendation**
✓	**Board of County Commissioners Hearing for Transmittal**
✓	**Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report**
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 21, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

THE BOCA BAY MASTER ASSOCIATION
REPRESENTED BY BEVERLY GRADY, ESQ.
ROETZEL & ANDRESS

2. REQUEST:

To amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

Amend Goal 15 of the Lee Plan by adding the following Objective and Policy:

Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054 such as a tennis club with food service and Consumption On Premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. REVISED RECOMMENDATION:

Planning staff originally recommended adoption of the applicant's request as stated. However, DCA staff has objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. To date, Planning staff has not received a response from the applicant. Therefore, planning staff recommends that the Board of County Commissioners amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting proposed Objective 15.5 and Policy 15.5.1.

2. ORIGINAL RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this plan amendment.

3. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Zoning resolution ZAB-83-352 granted preliminary Planned Unit Development (PUD) approval and a special exception in the PORT district for residential uses. Resolution Z-86-166 granted final approval to both of these measures in 1987. This development was further amended by Resolution Z-93-009 in 1993.

- The Boca Grande Pass Marina use no longer exists. The subject site was approved for conversion from water dependent uses to non-water dependent uses by resolution Z-99-054. This resolution approved the demolition of Boca Grande Pass marina and the subsequent development of 16 multifamily residential units on the site.

- The site has been cleared and as such there are no indigenous plant communities to disturb.

- There are no sites of historic or archeological importance impacted by the proposed change to the Lee Plan.

- The proposed amendment limits the potential traffic generation of the subject site.

- The proposed amendment limits utilities demands of the subject site.

- The proposed amendment limits development intensity of the subject site.

C. BACKGROUND INFORMATION

Boca Bay is a residential community on the south end of Gasparilla Island. In 1981, the Board of Commissioners approved resolution Z-81-258, which rezoned large portions of the Boca Grande area to the PORT district. The owners of the Boca Bay project appealed unsuccessfully and initiated litigation against the County. This legal action was dropped in 1984 when the County approved resolution ZAB-83-352. This granted a change from AG-2 zoning district to preliminary

Planned Unit Development (PUD) approval and created a special exception in the PORT district for residential uses. Approximately 97 acres were affected by this approval. The northern parts of the Boca Bay development, Neighborhoods 1 through 4, were still zoned RM-2 and were not affected by ZAB 83-352 or subsequent resolutions concerning the PUD.

In 1987 final PUD and special exception approval was granted by resolution Z–86-166. 291 units were approved at a density of 3 units per acre to be distributed between three areas. Also permitted were a tennis club with food and beverage service and consumption on premises of alcoholic beverages, model homes in each neighborhood, a sales office, a guard house with gates, and appurtenant signs. At the same time, the portions of Boca Bay outside the PUD were approved for 77 residential units, 19 wet slip docks in the yacht basin, a beach club, guardhouses, Model homes, and a consumption on premises use by resolutions Z -86-170 and Z -86-171. This brought the total number of approved units for the Boca Bay development to 368.

In 1988, the board approved Z-88-151, which created a conservation easement and approved variations in neighborhood #5 in the PUD.

The Water Dependent Overlays were created in 1989 to protect marine-oriented land uses from incompatible or preemptive land uses. The Lee Plan was amended to include two WDOs on the southern end of Gasparilla Island (Attachment 1). The southernmost one is within the parcel owned by Florida Power and Light and consists of a fuel oil storage and transfer facility. The northern one was originally the Boca Grande Pass Marina and abutted the northern edge of the FPL facility. This latter WDO is the subject of this amendment.

In 1993 the PUD was further amended by Resolution Z-93-009. This specifically prohibited an 85-unit wet slip marina and allowed an additional 13 residential units in its place. This raised the total approved units in the PUD to 304 and the total in the Boca Bay development to 381.

In 1999, resolution Z-99-054 approved the conversion of a water-dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the 304 that were already approved for the PUD. Subsequently, the marina was demolished, removing the two dry-storage buildings. The residential units are under construction as of the writing of this report. On March 6, 2001, administrative approval was granted to substitute 2 single family residential units in lieu of 1 four-plex building.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In a resubmittal dated January 24, 2001, (attachment 3) the applicant provides the following comments:

> *"The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for 'Water*

Dependent Overlay South Boca Grande' a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use-non water-dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA 2000-02. The Board of County Commissioners granted:

1. *An amendment to the planned unit development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and*

2. *A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and*

3. *Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone."*

The Boca Bay community is a residential area. The 1984 special exception for residential uses created a de facto residential zoning. The proposed amendment does not change any existing land uses and insures that future land uses will be consistent with existing approvals. Likewise, the conversion to residential use created by resolution Z-99-054 removed all water dependent uses from the portion of the WDO zone lying north of Belcher Road. This has rendered the WDO designation for this parcel unnecessary. The proposed Lee Plan amendment would remove the Boca Grande Pass Marina WDO zone from Map 12 (Attachment 2).

Transportation

The proposed amendment does not create any additional residential units or other uses. The proposed amendment allows only those uses approved by previous resolutions. As such, it precludes more intense uses and the resulting increase in trip generation.

Emergency Services

As this proposed amendment does not create additional infrastructure or residences, it does not increase the demand on EMS or fire protection services. In fact, the proposal limits demand as it precludes more intense uses from the subject area.

Hurricane Evacuation
Since the proposed amendment limits trip generation, it has no effect on hurricane evacuation time.

Utilities
The proposed amendment does not create any additional demand on either water or sewer facilities. In addition, the proposal precludes the more intense uses of the PORT designation from being developed and creating greater demands on utility services.

Environmental Concerns
The proposed change would not destroy or disturb any fragile or preserved plant communities in the WDO zone as the affected area had been previously disturbed when it was the Boca Grande Pass Marina. The proposed amendment creates no environmental concerns.

Soils
A summary report of the Boca Bay PUD lists the following soil types on the property: Canaveral fine sand, Captiva fine sand, Wulfert muck, Kesson fine sand, and St. Augustine sand (Attachment 4).

Development Intensity
The proposed amendment limits developmental intensity by precluding those uses in the PORT designation that are more intense than the uses specifically approved by previous resolutions.

Residential Density
The proposed amendment would not change the residential density of the Boca Bay community as previous resolutions have already determined the number of units in the PUD.

Historic Preservation
There are no known historic or archeological sites within the area of the proposed change. The proposed amendment has no effect on any known archeological or historic sites or areas.

Coastal Issues
Previous resolutions have addressed coastal issues for the subject site. As the proposed amendment limits further development to those uses specifically listed by previous resolutions, it creates no new coastal issues.

Population Accommodation
The proposed amendment will not change the population accommodation of the subject property.

B. CONCLUSIONS

The proposed amendment does not create new land uses or change existing ones. It simply ensures that the Boca Bay community is protected from incompatible land uses in the future. In doing so, the proposal will help maintain the local character of the area. This proposal also limits overall development intensity by precluding uses that might result in additional commercial intensity. Furthermore, by removing the marina WDO from the Lee Plan, this proposal clarifies the true intent of the property owner and reflects the reality of the existing, on-site development.

C. STAFF RECOMMENDATION

1. REVISED RECOMMENDATION:

Planning staff originally recommended adoption of the applicant's request as stated. However, DCA staff has objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. To date, Planning staff has not received a response from the applicant. Therefore, planning staff recommends that the Board of County Commissioners amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting proposed Objective 15.5 and Policy 15.5.1.

2. ORIGINAL RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this plan amendment.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: June 4, 2001

A. LOCAL PLANNING AGENCY REVIEW

One LPA member asked if there were any uses not contemplated in the amendment that may be needed in this planned development or future rezonings that would be a problem in the future. Staff responded that the applicant had been asked this very question and was satisfied with the language. The previous resolutions on the property outlined the exact uses permitted on the subject property.

Another LPA member asked why this amendment had to be initiated privately instead of by the County. Staff responded that the County would only have initiated the removal of the WDO. Staff also said that there was not much time between the applicant's removal of the water dependent uses through the rezoning request and the initiation of this amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:**
   The LPA recommends that the Board of County Commissioners transmit this amendment to add to the Lee Plan Objective 15.5 that removes the Boca Grande Pass Marina Water Dependent Overlay zone and to add Policy 15.5.1 that limits the uses within the PORT district in the Boca Bay PUD to those approved by resolutions Z-86-166, Z-93-009, and Z-99-054.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:**
   The LPA accepted the findings of fact as advanced by the staff

C. VOTE

NOEL ANDRESS	AYE
SUSAN BROOKMAN	AYE
BARRY ERNST	AYE
RONALD INGE	AYE
GORDON REIGELMAN	AYE
VIRGINIA SPLITT	AYE
GREG STUART	AYE

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA

C. VOTE:

JOHN ALBION	**AYE**
ANDREW COY	**AYE**
BOB JANES	**AYE**
RAY JUDAH	**AYE**
DOUG ST. CERNY	**AYE**

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: November 21, 2001

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

The Department of Community Affairs has raised objections to proposed amendment CPA 2000-02. The DCA objections are reproduced below:

> *The proposed policy 15.5.1 defers the identification of the commercial and industrial uses that will locate in the Port District to a separate document outside the comprehensive plan instead of including such guidelines in the plan as required. Chapter 163.3177(2),(6)(a), (d), (9)(b), and Rule 9j-5.005(2)(a)., & (5); F.A.C.*
>
> ***Recommendation:*** *Revise the plan to specify the commercial and industrial uses that are allowed in the Port District.*

B. STAFF RESPONSE

Planning staff originally recommended adoption of the applicant's request as stated. However, DCA staff has objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. To date, Planning staff has not received a response from the applicant. Therefore, planning staff recommends that the Board of County Commissioners amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting proposed Objective 15.5 and Policy 15.5.1.

~~**Objective 15.5:** Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.~~

~~**Policy 15.5.1:** The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054 such as a tennis club with food service and Consumption On Premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.~~

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING: January 10, 2002

A. BOARD REVIEW:

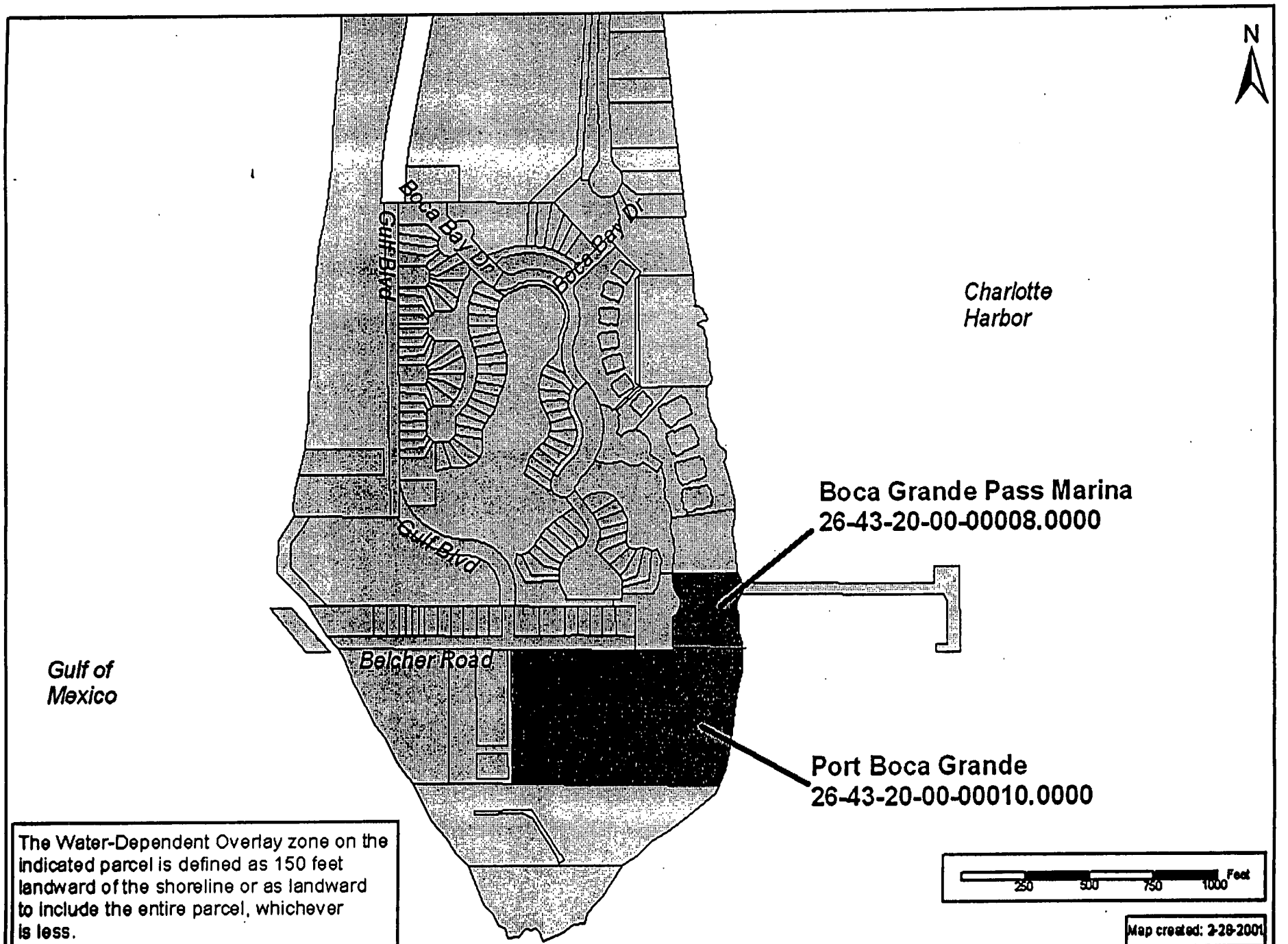
B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

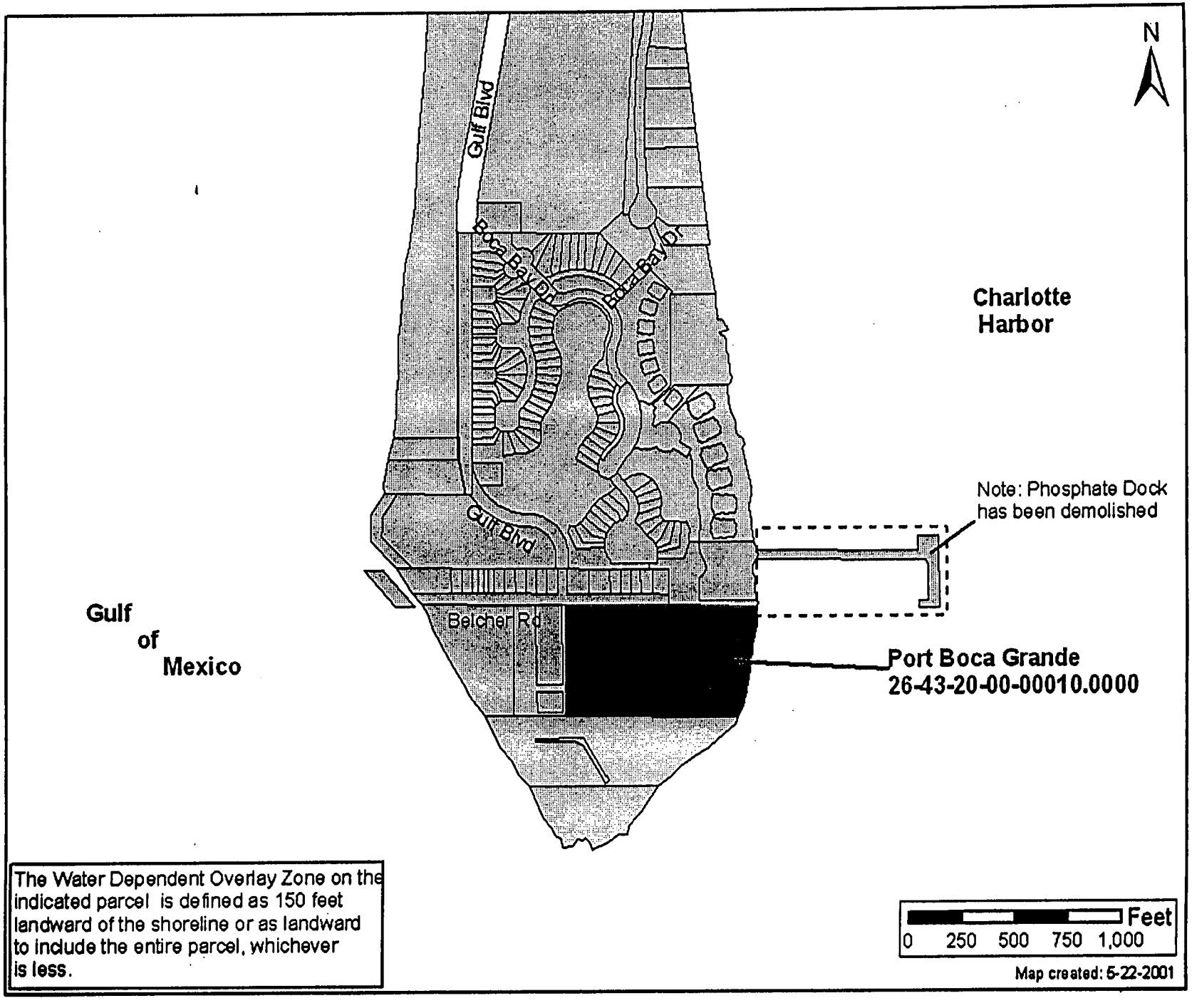
C. VOTE:

	_____
JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____



The Water-Dependent Overlay zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

Attachment 1 Existing WDO Map



Attachment 2. Proposed WDO map

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

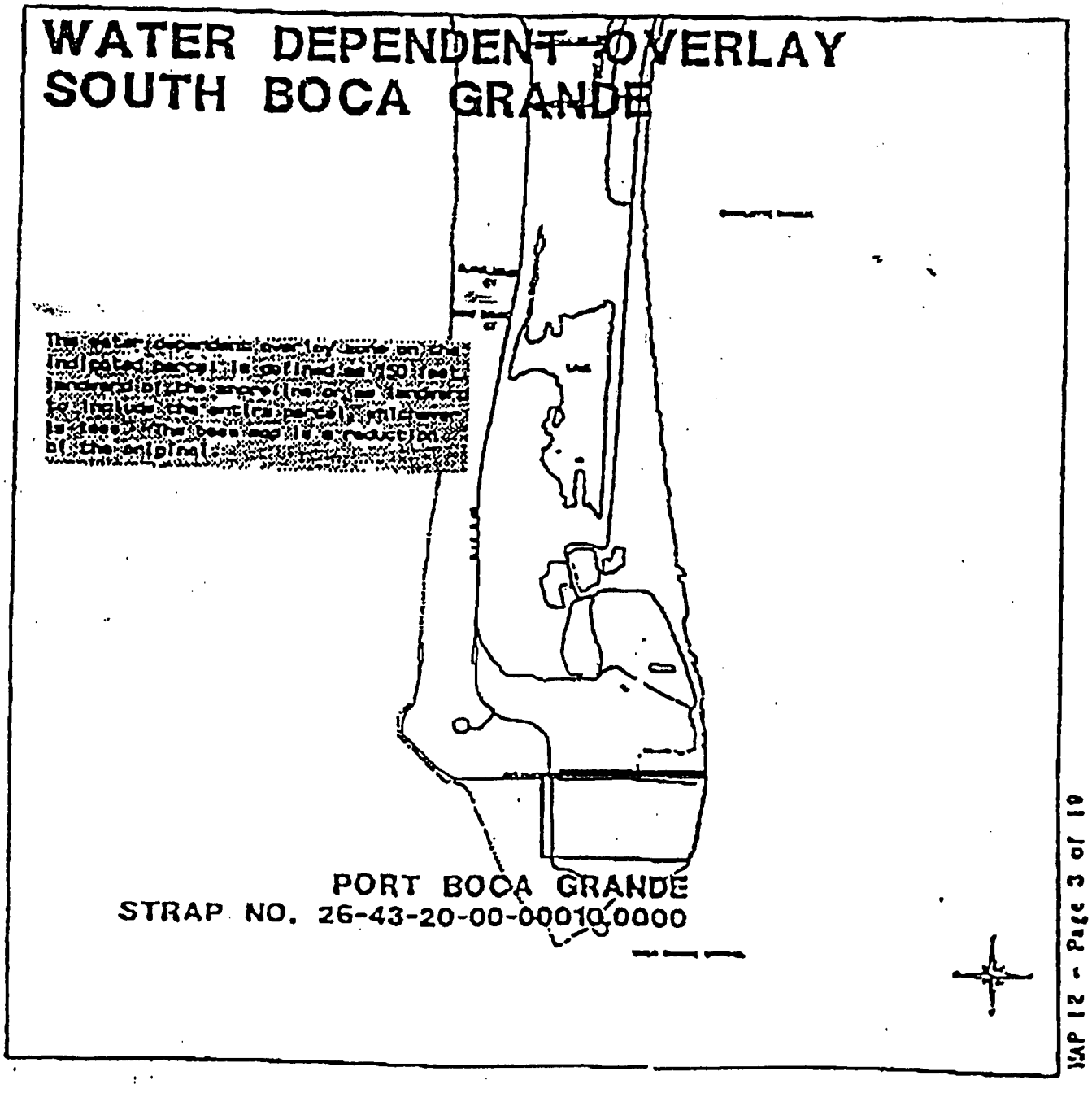
The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1


WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE
PORT BOCA GRANDE
STRAP NO. 26-43-20-00-00010.0000
MAP 12 - Page 3 of 10

PROPOSED

E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

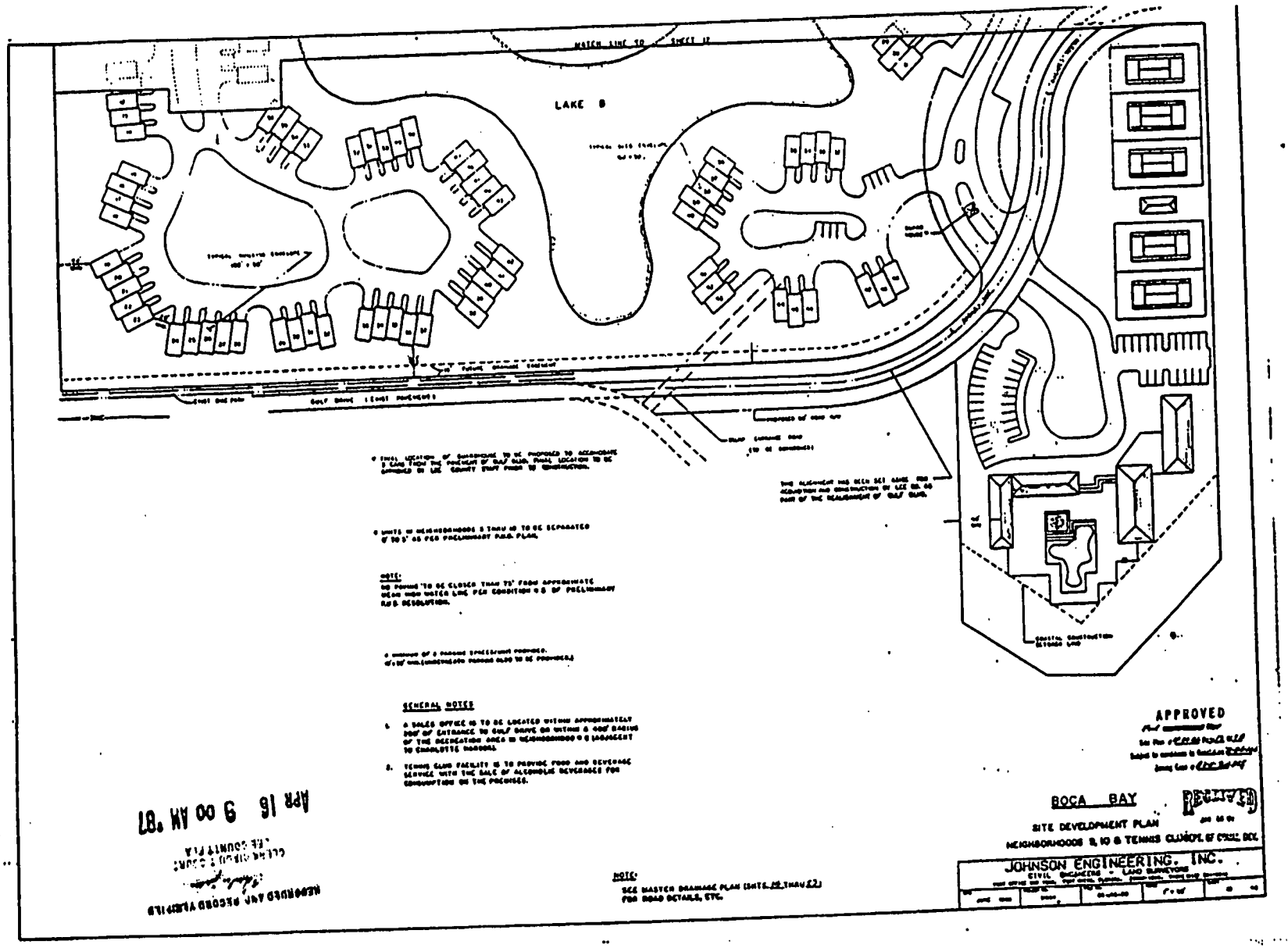
23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.

Attachment 5
Previous Resolutions
Concerning the Boca Bay PUD

OFF REC 19107613-16



GENERAL NOTES

a. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 200' OF ENTRANCE TO GOLF DRIVE OR WITHIN A 600' RADIUS OF THE RECREATION AREA IN NEIGHBORHOOD 9 OR ADJACENT TO CHARLOTTE MEADOWS.

b. TENNIS CLUB FACILITY IS TO PROVIDE FOOD AND BEVERAGE SERVICE WITH THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. 28 THRU 32) FOR ROAD DETAILS, ETC.

61.00 Bellet

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: M. FENSTROM, D.C.

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

1-12-87

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McCowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFF REC 1 c OR61309

PRELIMINARY

ENGINEERING PLANS

FOR

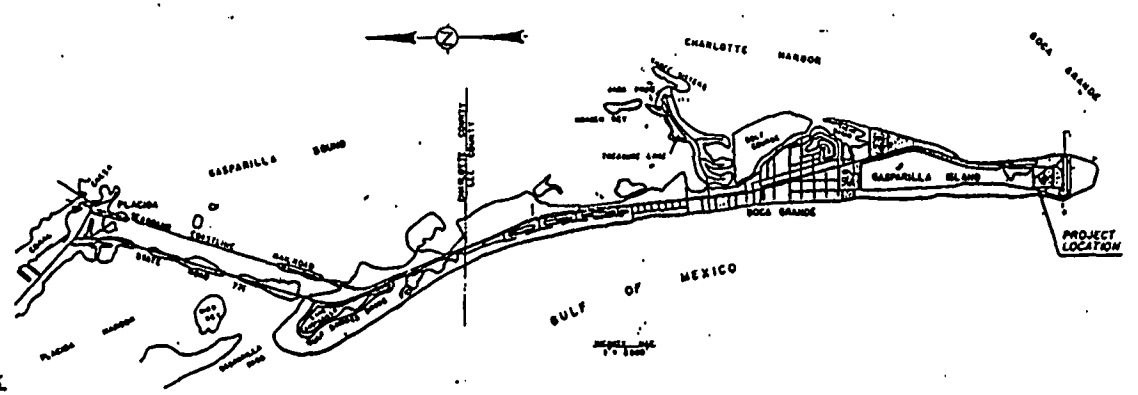
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



APPROVED

INDEX

Sheet No.	Description
1	COVER SHEET
2	INDEX MAP
3 - 4	AERIAL PHOTOS & DEMOLITION PLAN
5 - 10	SITE DEVELOPMENT PLAN
11	LAND USE MODIFICATION PLAN
12 - 20	MASTER DRAINAGE PLAN
21 - 25	PLAN AND PROFILE SHEET
26	ROAD AND DRAINAGE DETAILS
27 - 28	PRELIMINARY WATER AND SEWER SYSTEM
29 - 30	GENERAL WATER / SEWER DETAILS
APPENDIX 1 - 4	LANDSCAPE PLAN

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

A. T. GRANT

Registered Professional Engineer

Florida Certificate No. 13421

RECEIVED

DEPT. OF COMM. DEV.

JUNE 1986

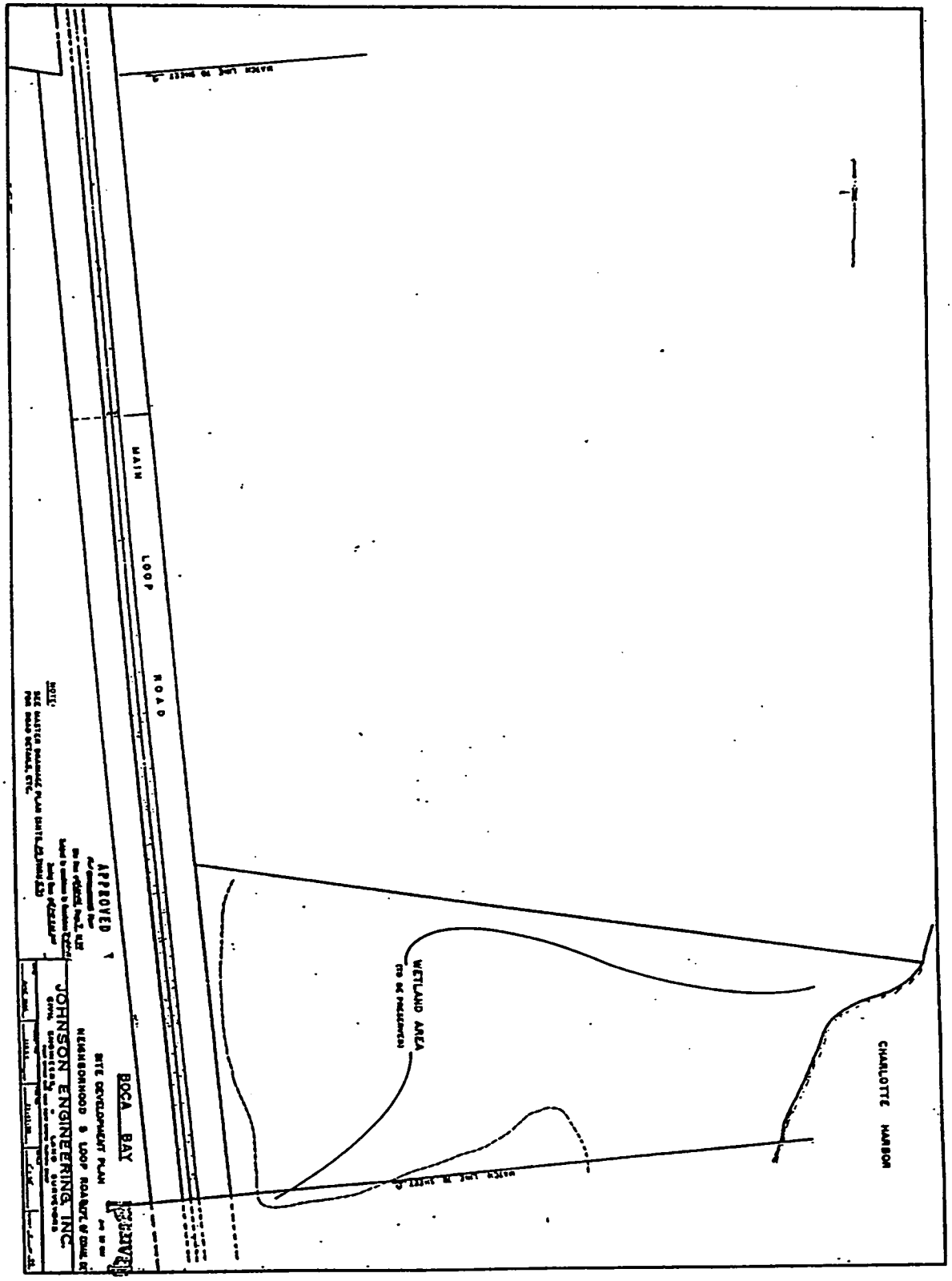
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REVISED DECEMBER 24, 1986

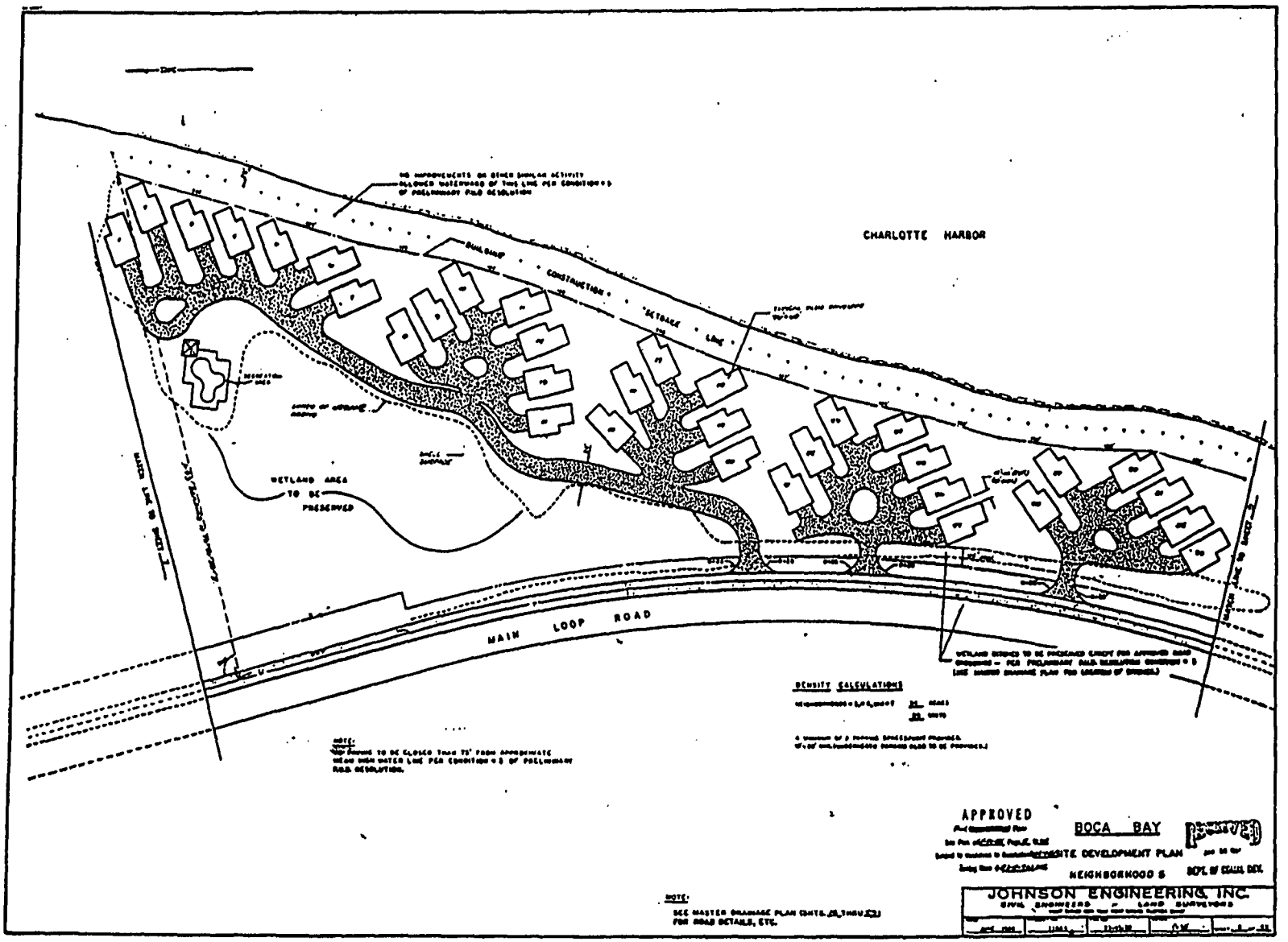
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REVISED NOVEMBER 21, 1986

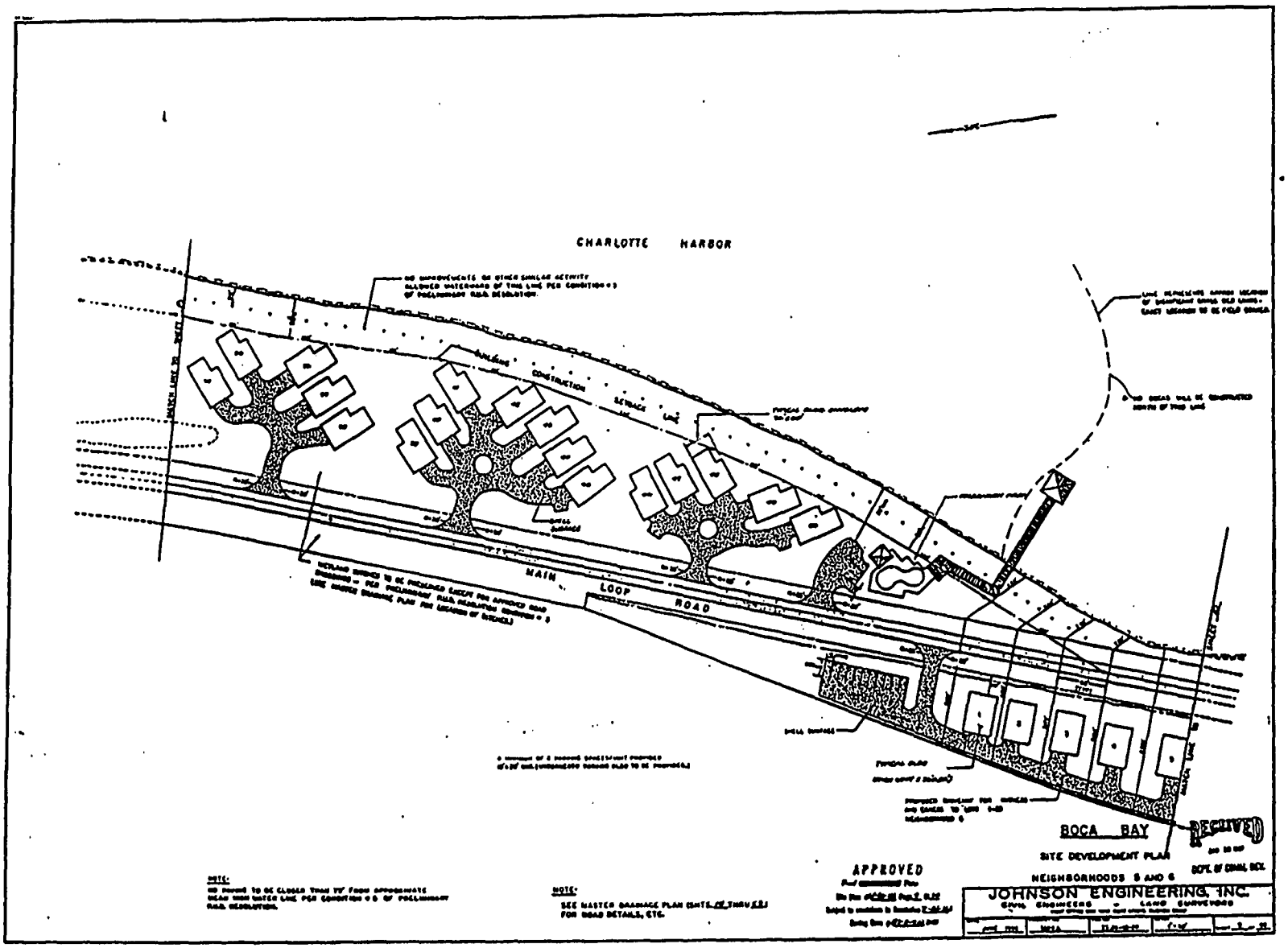
REVISED AUGUST 22, 1986


MAIN
LOOP
ROAD
WETLAND AREA
CHARLOTTE HARBOR
APPROVED
BOCA BAY
JOHNSON ENGINEERING, INC.

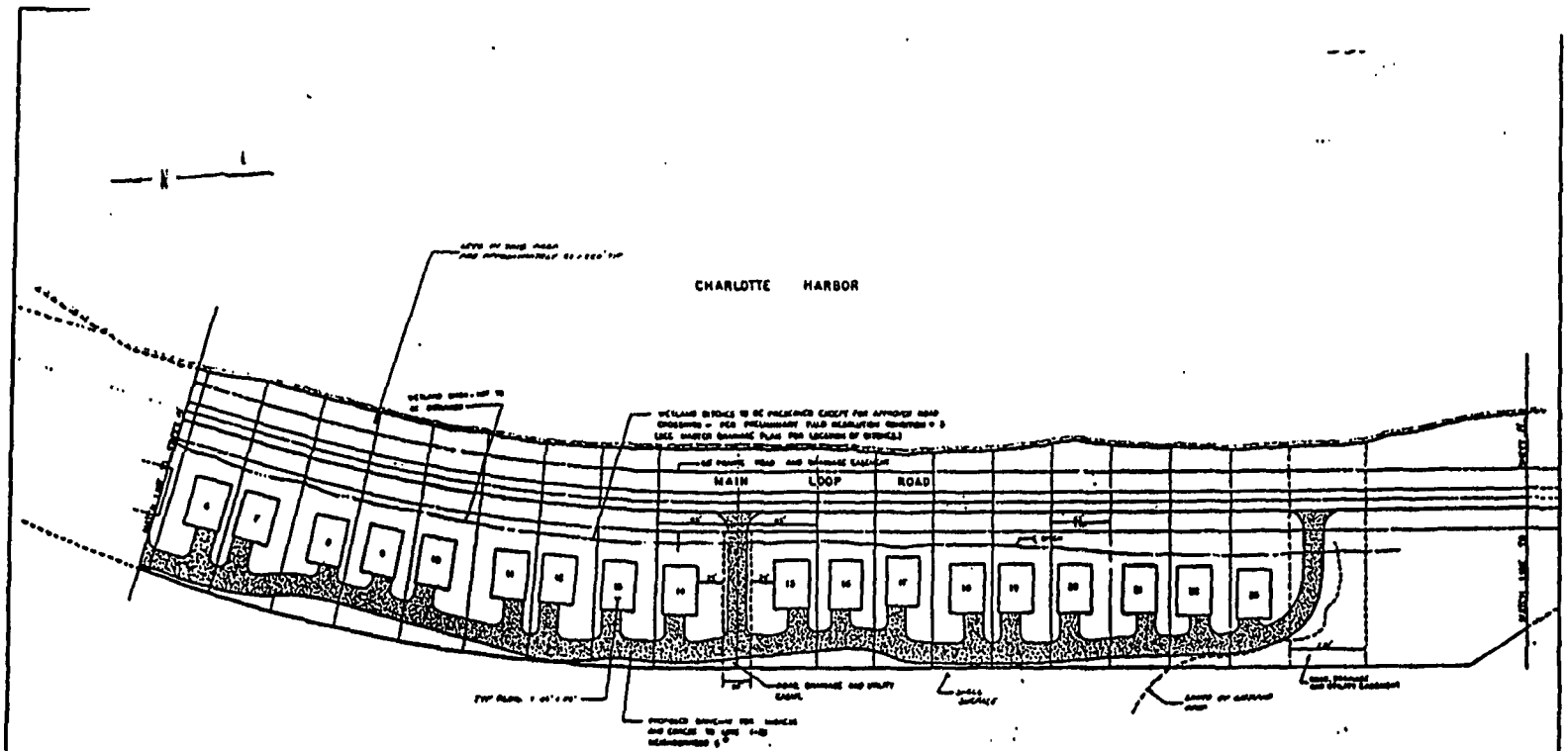
OR 910PG1311



OR REC 910PG1312



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NOTE:
SEE MASTER DRAINAGE PLAN (DATED 10/14/91) FOR ROAD DETAILS, ETC.

APPROVED

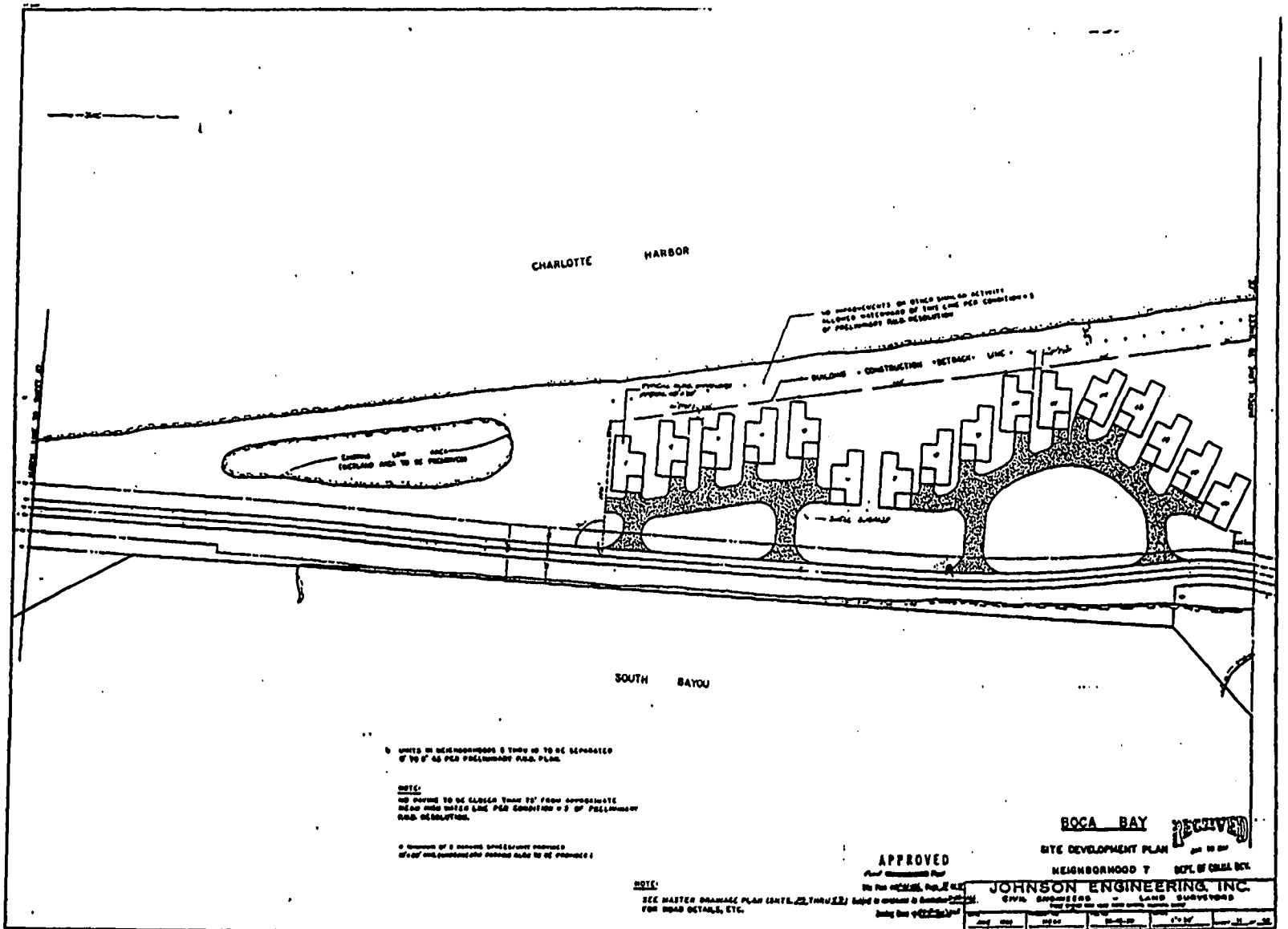
BOCA BAY

SITE DEVELOPMENT PLAN
NEIGHBORHOOD 6

RECEIVED

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS — LAND SURVEYORS

FF 1910 PG 1314



NOTE:
SEE MASTER DRAINAGE PLAN (UNITS 23 THRU 33) FOR ROAD DETAILS, ETC.

APPROVED

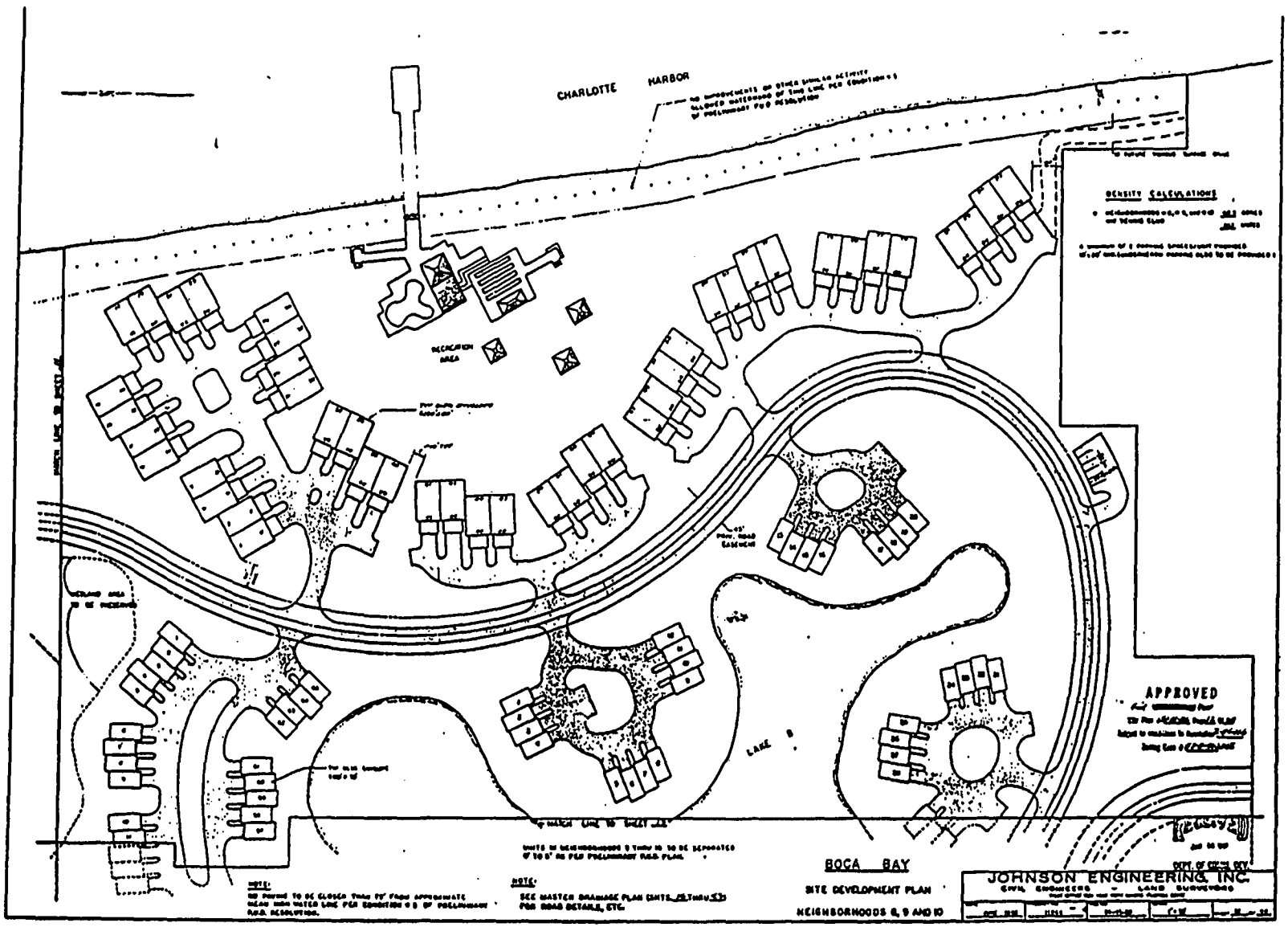
BOCA BAY

SITE DEVELOPMENT PLAN

NEIGHBORHOOD 7

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS — LAND SURVEYORS

OFF REC 1910 PG 1315



RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

1-7-03

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

   <u>Single-Family Detached</u>

   Street: 1/2 (ROW) + 10 feet (see also Deviation 1)
   Side: 5 feet
   Rear: 10 feet
   Water body: 25 feet (15 feet from retention lake)

   <u>Single-Family Attached (Villas)</u>

   Street: 1/2 (ROW) + 10 feet (see also Deviation 1)
   Side: 0 (zero) feet on one side and minimum 10 feet between structures
   Rear: 10 feet
   Water body: 25 feet (15 feet from retention lake)

   <u>Multiple-Family Building (Flats/Town Homes)</u>

   Street: 1/2 (ROW) + 10 feet (see also Deviation 1)
   Separation between structures: 10 feet
   Rear: 10 feet
   Water body: 25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.16.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.F.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.F.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clare E. Cermack
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J. Manning
Chairman

Approved as to form by:

County Attorney's Office

FILED

JUN 17 1993

CLERK CIRCUIT COURT
BY D.C.

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

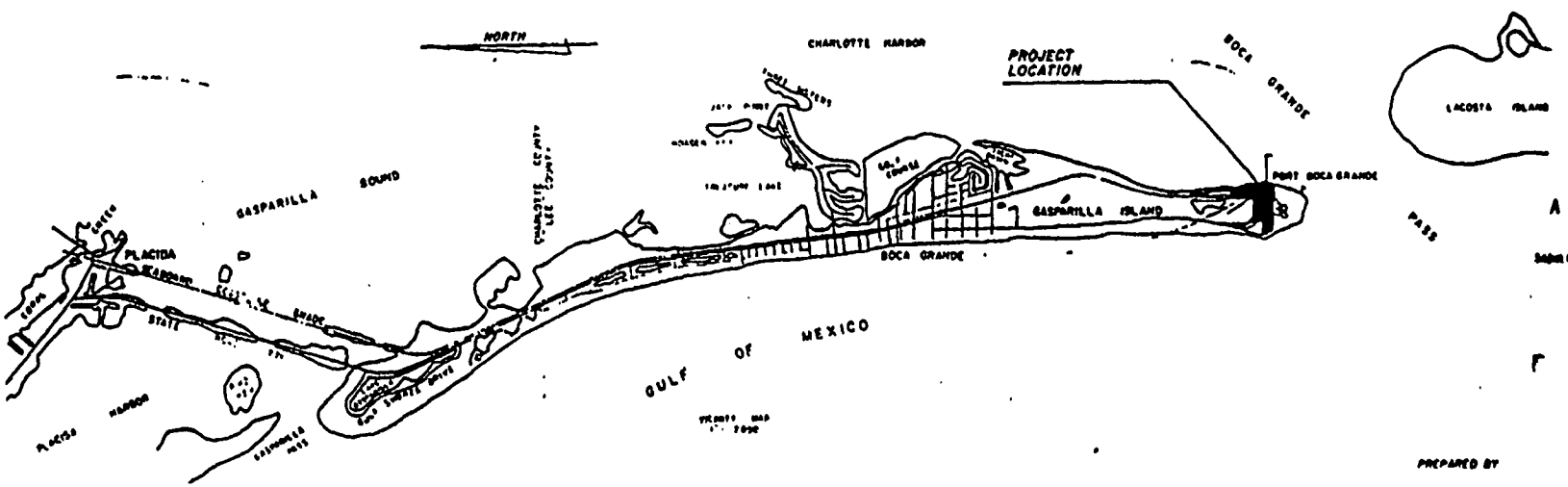
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

Lee County Public Works
Subject to conditions in Resolution Z-91-
Zoning Case # 91-12-
Date 6/25/92

INDEX

1	COVER SHEET	
2	OVERALL BOCA BAY SITE MAP	
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)	
4	DETAILS & NOTES	
5	TYPICAL UNIT LAYOUTS & DETAILS	
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION	

UTILITIES:

WATER AND SEWER

GASPARILLA ISLAND WATER ASSOC INC
P.O. BOX 326
BOCA GRANDE, FLA 33921

ELECTRIC

FLORIDA POWER AND LIGHT CO
P.O. BOX 4236
NAPLES, FLA 33939

TELEPHONE

UNITED TELEPHONE COMPANY OF FLORIDA
140 PINE AVENUE
PUNTA GORDA, FLA

FIRE PROTECTION

BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 28, 1993

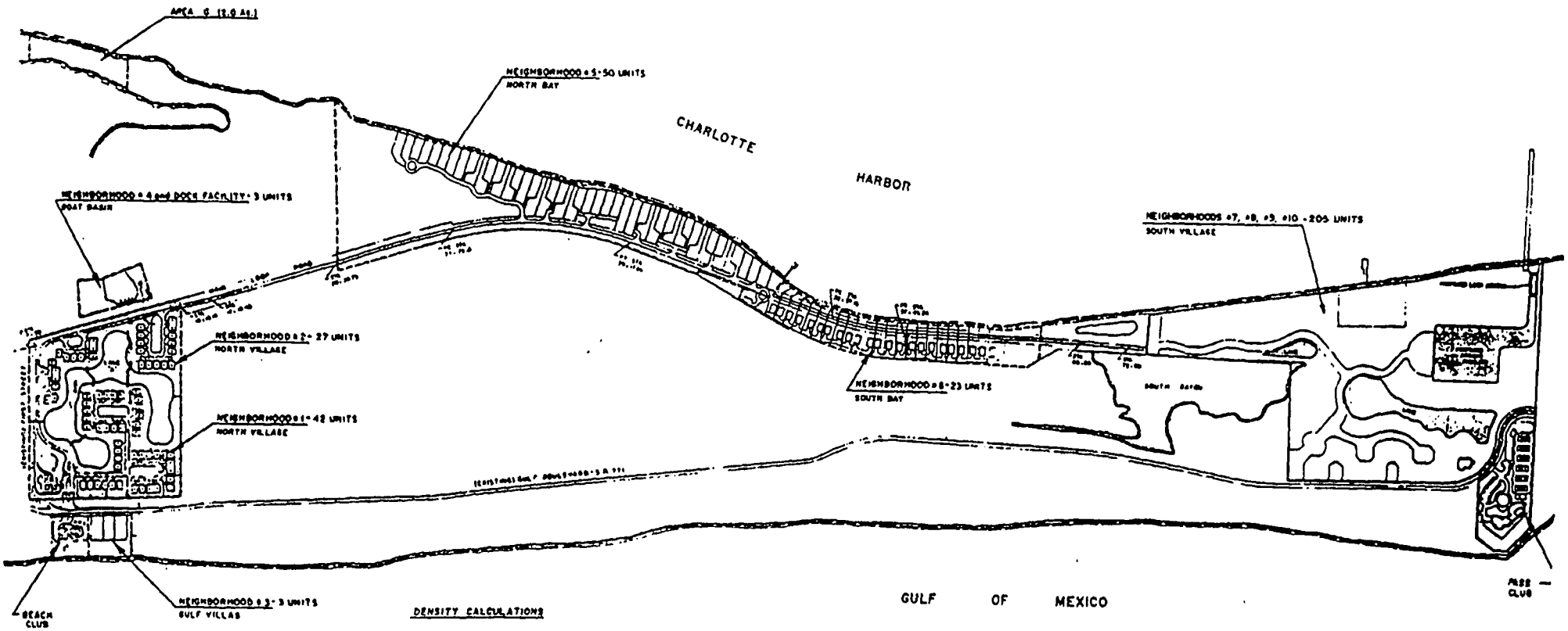
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

RECEIVED
MAY 27 1



DENSITY CALCULATIONS

A.	NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA 6	29.3 ACRES 69 UNITS
B.	NEIGHBORHOOD # 3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES 3 UNITS
C.	NEIGHBORHOOD # 4 (BOAT BASIN) AND DOCKS	2.0 ACRES 3 UNITS
D.	NEIGHBORHOOD # 5 (NORTH VILLAGE)	31.4 ACRES 50 UNITS
E.	NEIGHBORHOOD # 6 (SOUTH BAY)	9.2 ACRES 23 UNITS
F.	NEIGHBORHOOD #7,8,9,10 (SOUTH VILLAGE) AND PLUS CLUB	96.75 ACRES 206 UNITS
	TOTAL AC. (PREVIOUSLY APP'D. PLAN)	181.1 ACRES
	TOTAL UNITS (PREVIOUSLY APP'D. PLAN)	346 UNITS
	TOTAL AC. (PROPOSED PLAN)	173.45 ACRES
	TOTAL UNITS (PROPOSED PLAN)	353 UNITS

REVISED 5/20/93 - ACREAGE

REVISED 4/26/93 - DENSITY CALCS.

REVISED 5/17/93

REVISED 5/20/93 UNITS (DOCK BAY DWG.)

APPROVED

Subject to comments in Planning Board letter dated 5-21-93 Zoning Dept. 5-27-93

Date 5/27/93

BOCA BAY

INDEX MAP

and

NEIGHBORHOOD LAYOUT

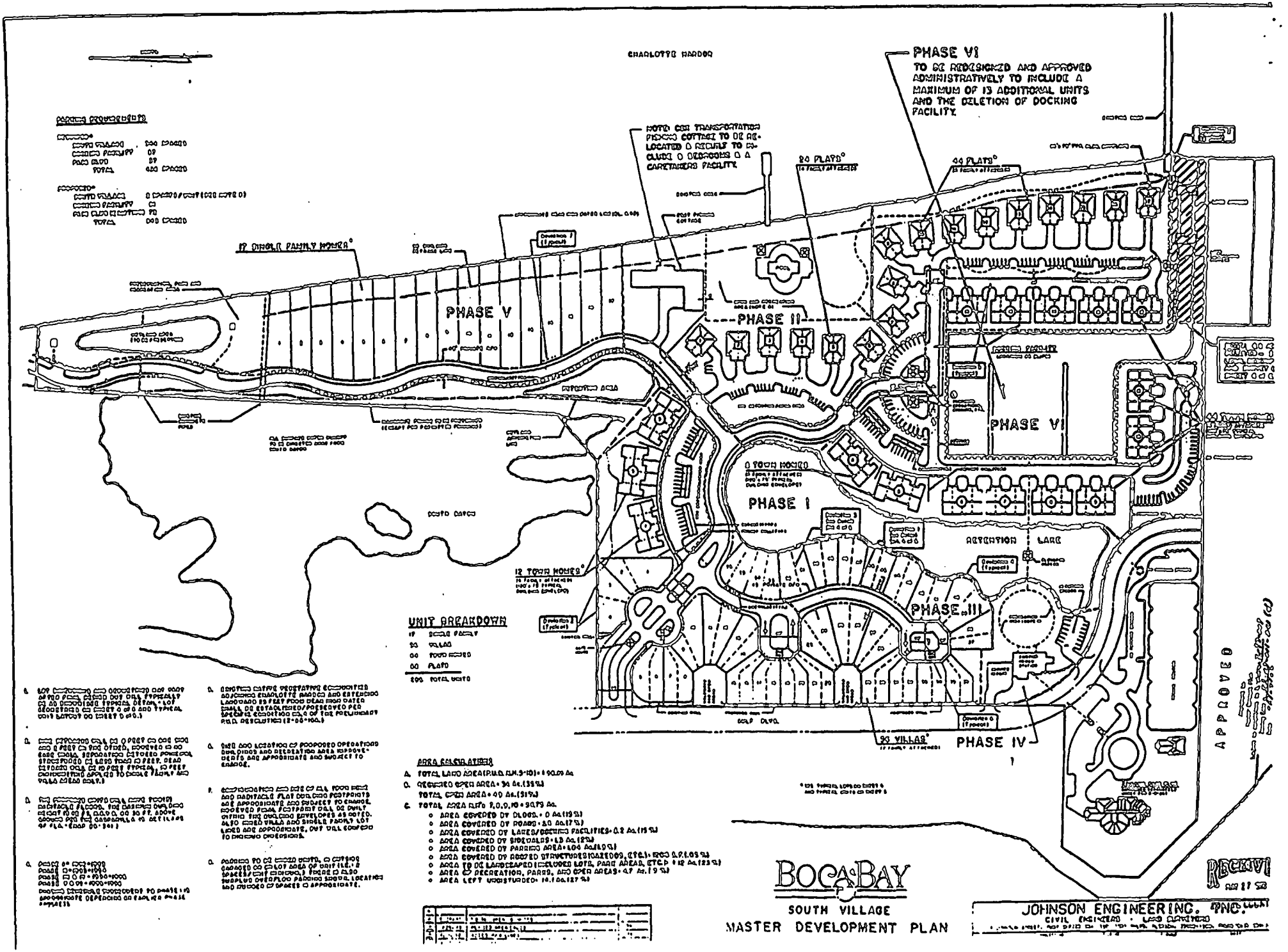
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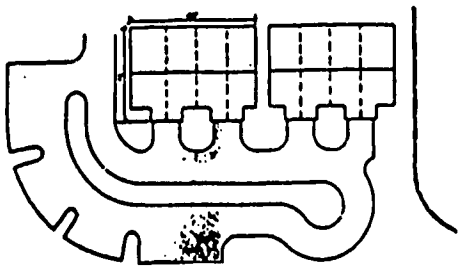
JOHNSON ENGINEERING, INC.

2 EDWARD COURT

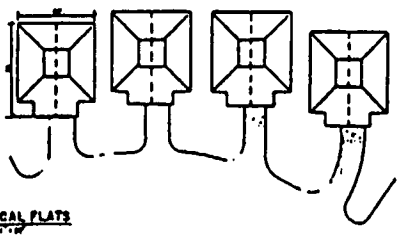
CIVIL ENGINEERS • LAND SURVEYORS

DECEMBER, 1990 | 90332 | 1"=200' | 1 of 1

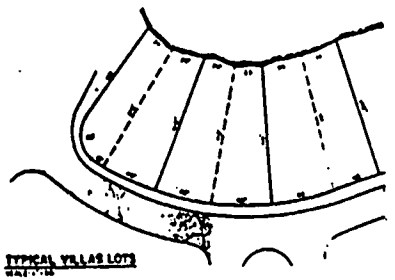

PHASE VI
TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY TO INCLUDE A MAXIMUM OF 13 ADDITIONAL UNITS AND THE DELETION OF DOCKING FACILITY
PHASE V
PHASE II
PHASE I
PHASE III
PHASE IV
PHASE VI
ACTIVATION LAKE
UNIT BREAKDOWN
APPROVED
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS · LAND PLANNERS



TYPICAL TOWN HOMES



TYPICAL FLATS



TYPICAL VILLAS LOTS

SCHEDULE OF DEVIATIONS

1. DEVIATION FROM THE REQUIRED STREET SETBACK FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (ZONING ORDINANCE SECTION 202.10.D.2.a.), TO 1/2 RIGHT-OF-WAY PLUS 10 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN AND ENCLOSING OR STRUCTURE AS THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID ENCLOSING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 5 FEET;

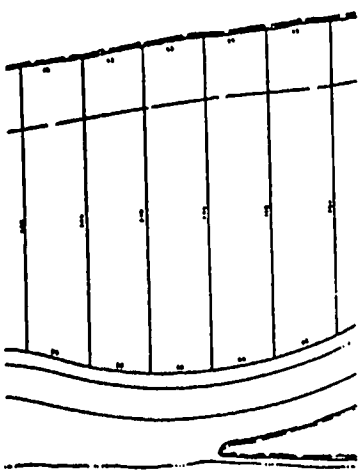
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN AND ENCLOSING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE ENCLOSING OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 10 FEET AS MEASURED FROM THE BUILDING WALLS;

4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 75 FEET (ZONING ORDINANCE SECTION 202.10.D.6.b.), TO 25 FEET FROM THE RETENTION LAKE EDGE;

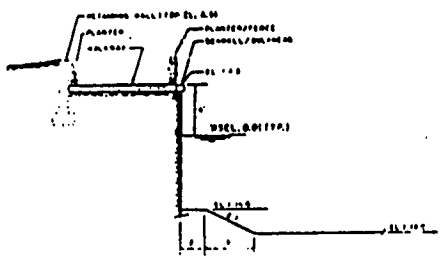
5. DEVIATION FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESSES AND AISLES FROM THE DEDICATION WITHIN RIGHTS-OF-WAY OF 24 FEET (ZONING ORDINANCE SECTION 202.15.F.3. AND DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.11.), TO 20 FEET;

6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE DIAMETERS OF PAVEMENT OF A CUL-DE-SAC BE 90 FEET AND 70 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET DIAMETER (HAVE 20 FEET FOR OPEN SWALE DRAINAGE) (REFERENCE STANDARDS ORDINANCE SECTION 9.F.11.), TO MEET CONSTRUCTION AS SHOWN ON THE PUD PLANS; AND

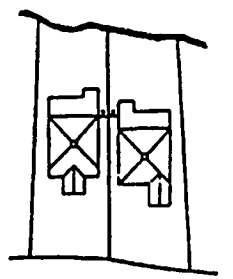
7. DEVIATION FROM THE REQUIREMENT THAT THE 10-FOOT-WIDE UTILITY EASEMENTS SHALL BE PROVIDED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENT (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.I.1.), TO PROVIDE A 5-FOOT-WIDE MINIMUM UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.



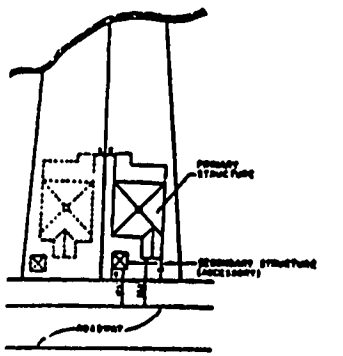
TYPICAL SINGLE FAMILY LOTS



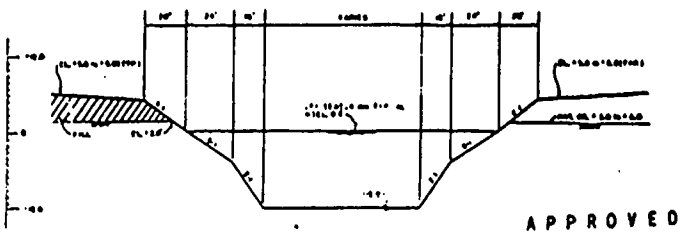
TYPICAL SECTION - DOCKING FACILITY



DEVIATION 3 - Typical Detail



DEVIATION 1 - Typical Detail



TYPICAL LAKE SECTION

APPROVED

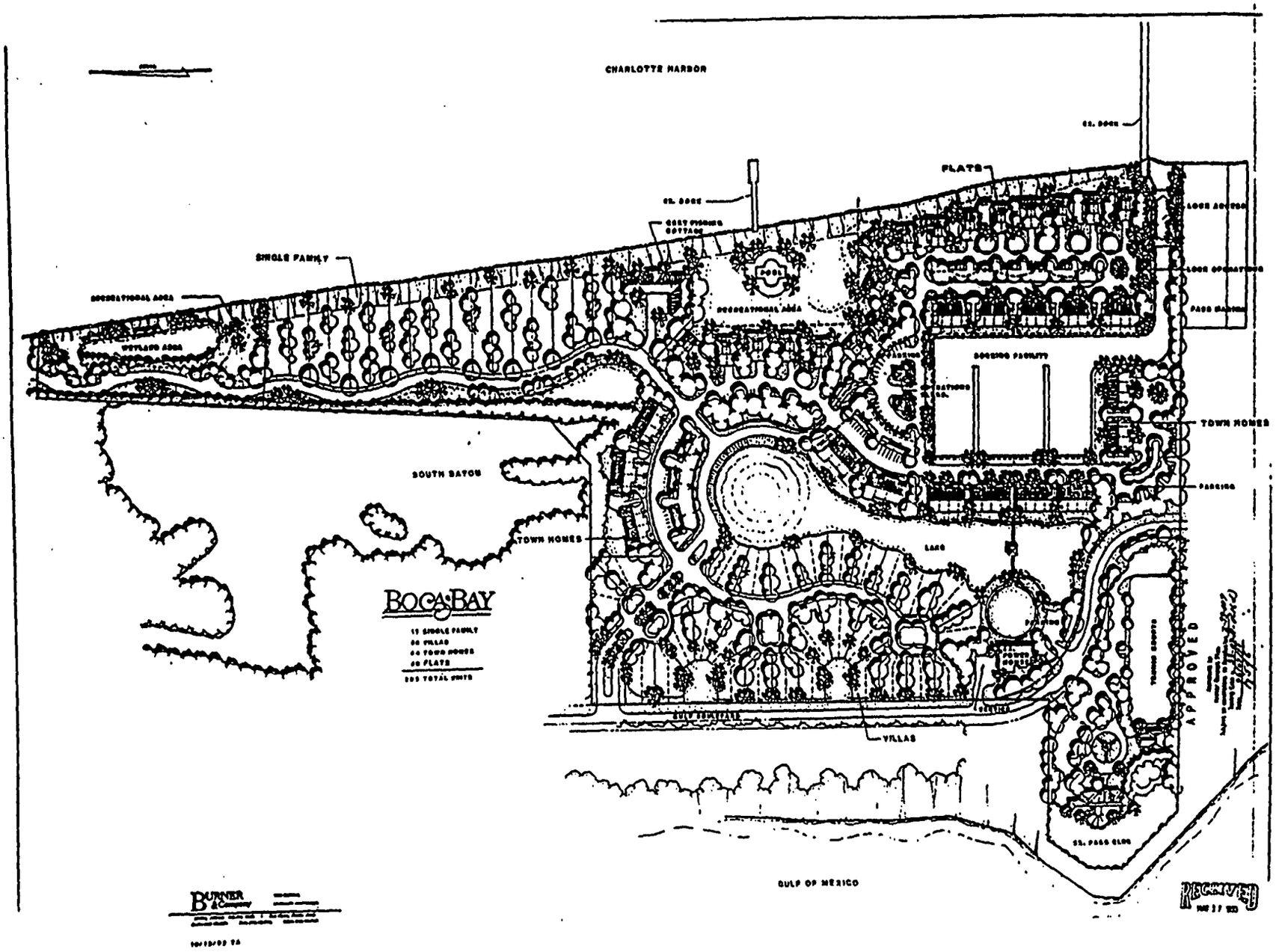
BOCA BAY

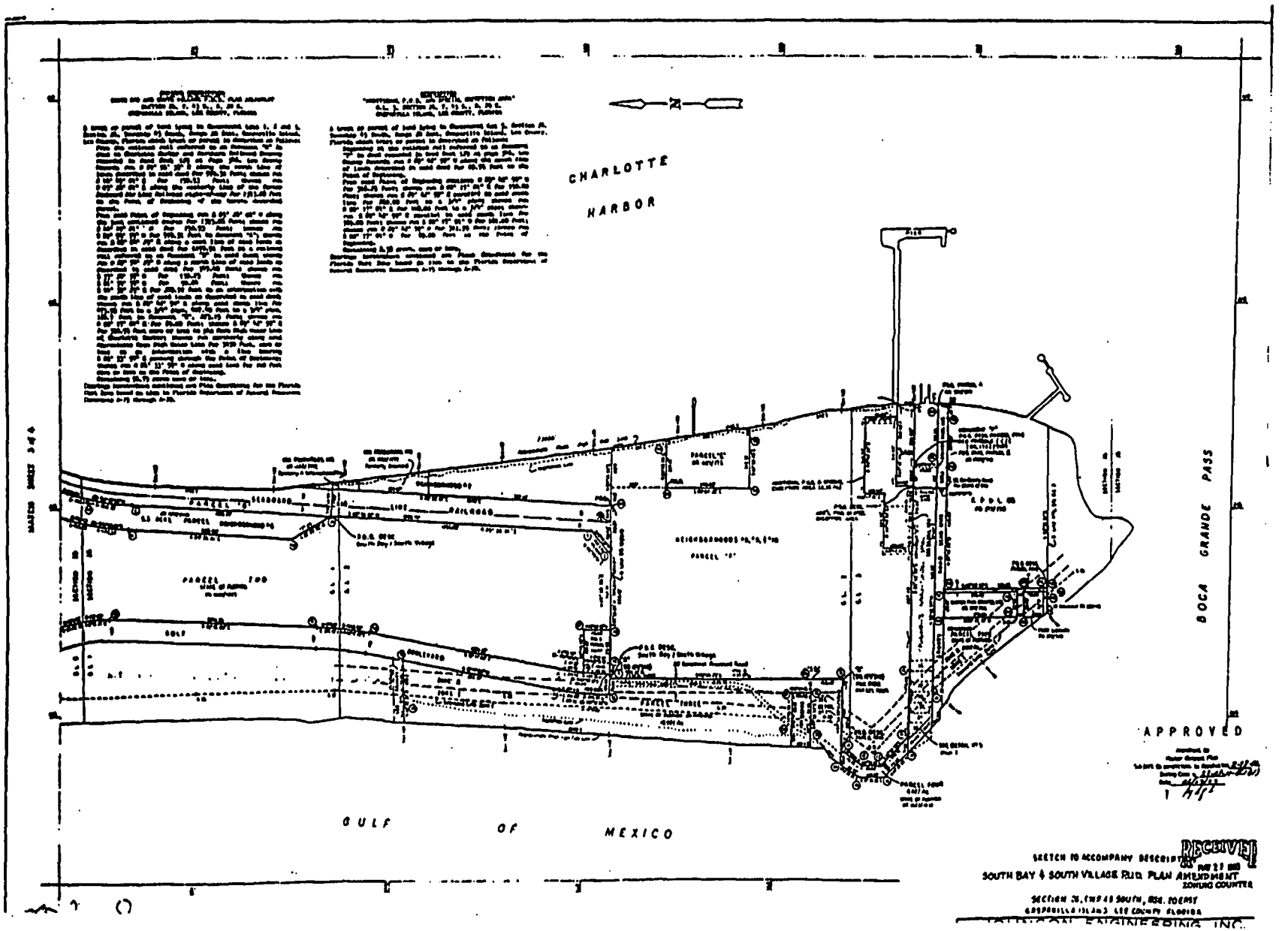
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JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS

AS SHOWN

4 OF 6


CHARLOTTE HARBOR
PLATS
SINGLE FAMILY
RECREATIONAL AREA
SOUTH BAYOU
TOWN HOMES
BOCA BAY
TOWN HOMES
PARKING
VILLAS
APPROVED
GULF OF MEXICO
RECEIVED


CHARLOTTE
HARBOR
BOCA GRANDE PASS
GULF OF MEXICO
APPROVED
RECEIVED
SOUTH BAY & SOUTH VILLAGE PUD PLAN AMENDMENT
ZONING COUNTER

Acc

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

<u>As to the Special Exception for Residential Use in the PORT District:</u>

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Spooner
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

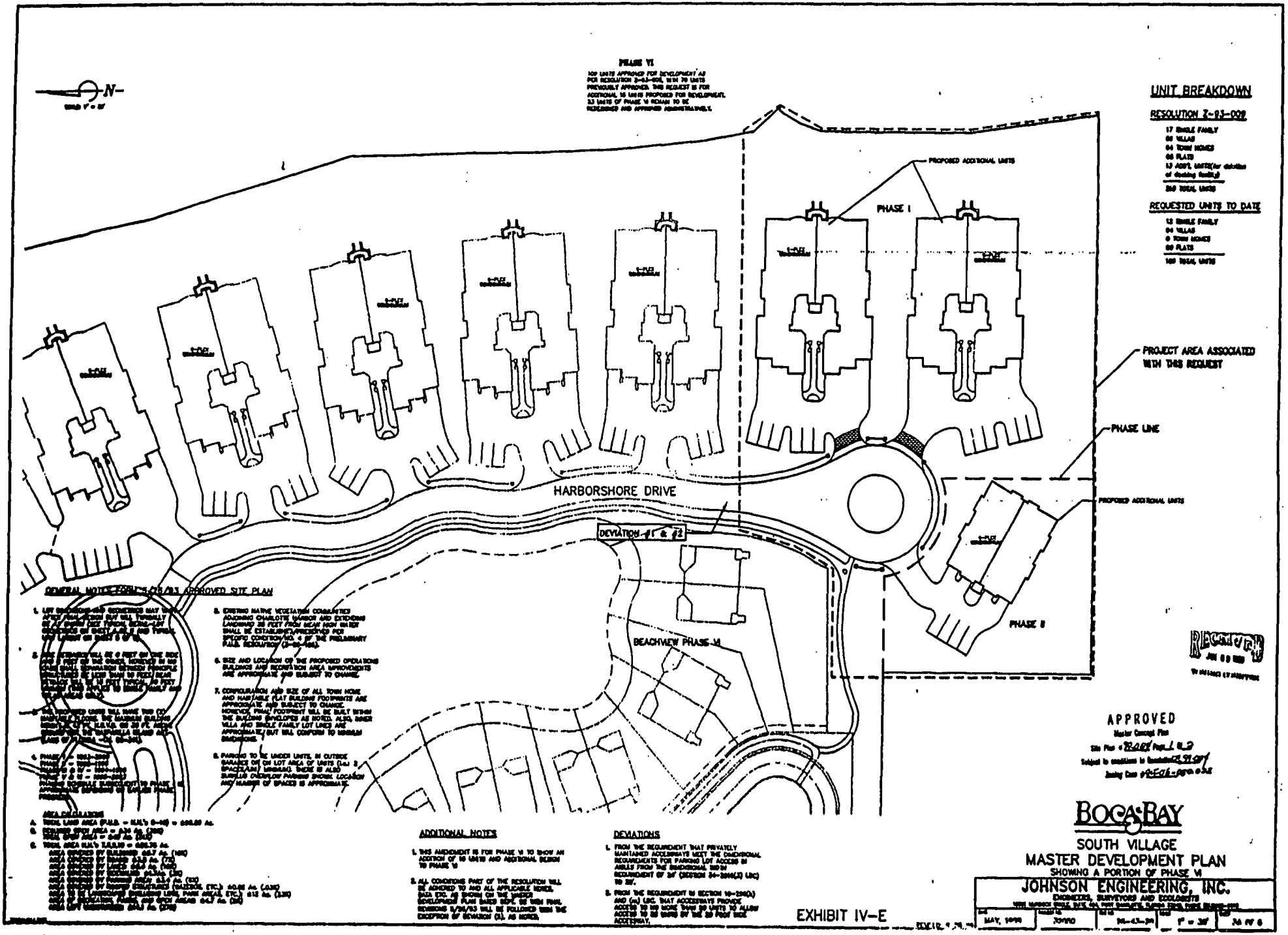
From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾" pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

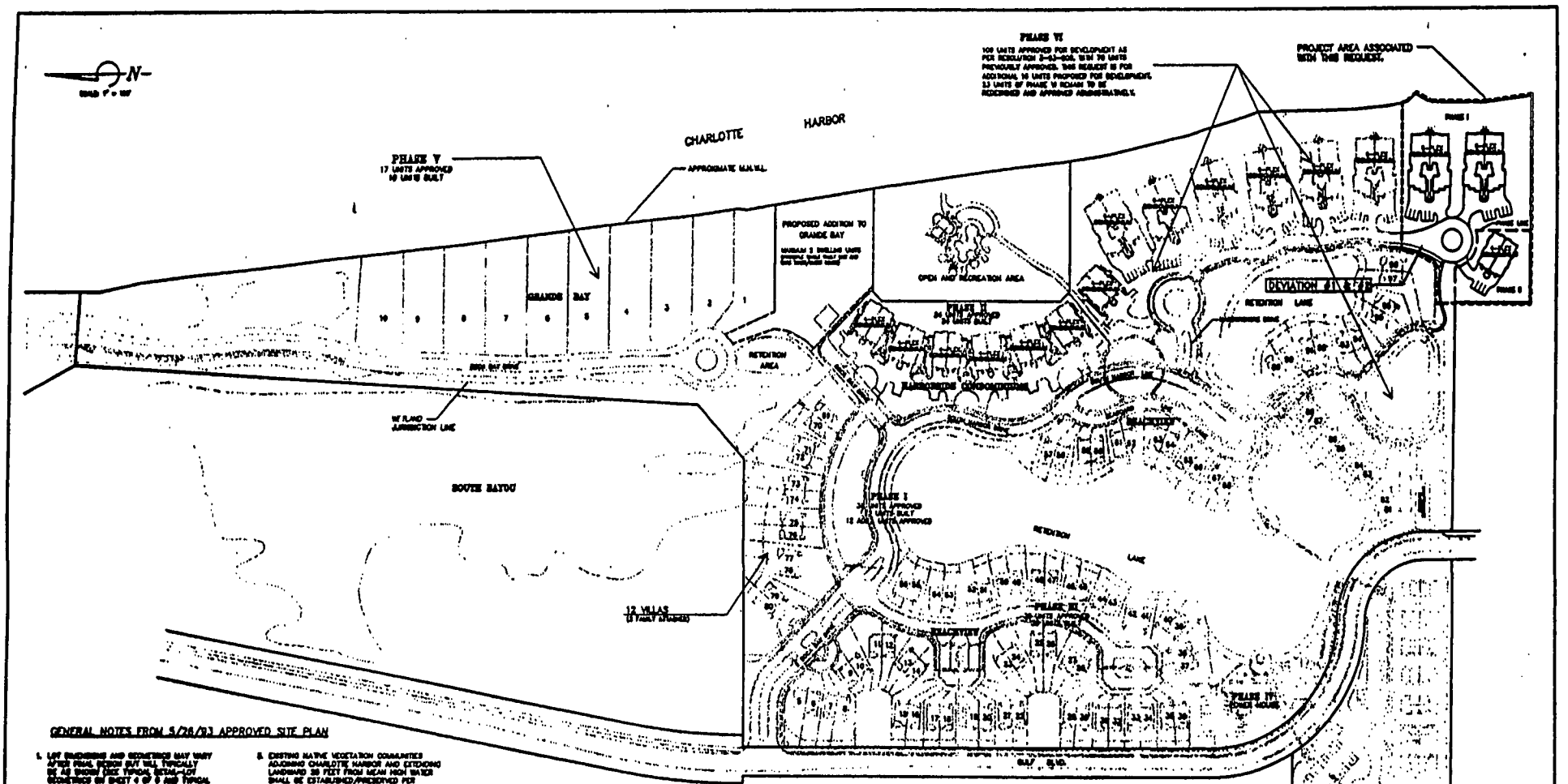
Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.


PHASE VI
109 UNITS APPROVED FOR DEVELOPMENT AS PER RESOLUTION Z-93-009, WITH 79 UNITS PREVIOUSLY APPROVED. THIS REQUEST IS FOR ADDITIONAL 30 UNITS PROPOSED FOR DEVELOPMENT. 33 UNITS OF PHASE VI REMAIN TO BE RESERVED AND APPROVED ADMINISTRATIVELY.
N
UNIT BREAKDOWN
RESOLUTION Z-93-009
17 SINGLE FAMILY
80 VILLAS
64 TOWN HOMES
88 FLATS
12 ADD'L UNITS(w/ deletion of existing facility)
269 TOTAL UNITS
REQUESTED UNITS TO DATE
12 SINGLE FAMILY
84 VILLAS
0 TOWN HOMES
88 FLATS
184 TOTAL UNITS
PROPOSED ADDITIONAL UNITS
PHASE I
PROJECT AREA ASSOCIATED WITH THIS REQUEST
PHASE LINE
PROPOSED ADDITIONAL UNITS
HARBORSHORE DRIVE
DEVIATION #1 & #2
PHASE II
BEACHVIEW PHASE VI
GENERAL NOTES FOR 5/28/93 APPROVED SITE PLAN
ADDITIONAL NOTES
1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 30 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA, ETC. AS SHOWN ON THE UNDERLYING DEVELOPMENT PLAN DATED SEPT. 93 WITH FINAL REVISIONS 5/28/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (1), AS NOTED.
DEVIATIONS
1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL REQUIRED REQUIREMENT OF 24' (SECTION 34-2016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(A) AND (m) LDC THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO 33 UNITS BY THE 20 FOOT WIDE ACCESSWAY.
RECEIVED
APPROVED
Master Concept Plan
Site Plan # 92-089 Page 1 & 2
Subject to conditions in Resolution Z-93-009
Zoning Case # 92-CA-089 & 0.2
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI
JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
MAY, 1993
70910
36-43-29
1" = 30'
EXHIBIT IV-E



GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 4 OF 5 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 6).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 5 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 10 FEET TYPICAL, 10 FEET MINIMUM (TO OFFICE TO SINGLE FAMILY AND VILLAS AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. M.S.L.D. OR 28 FT. ABOVE CROWN OF THE NEAREST ROAD, AS PER (LAWS OF FLORIDA -86-90-344).
4. PHASE I = 2003-2000
PHASE II = 1995-1996
PHASE III & IV = 1994-1995
PHASE V & VI = 1995-2003
PHASING POSSIBLE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON MARKET PHASE PREFERENCE.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 30 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-90-104).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, SINGLE VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e. 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS
A. TOTAL LAND AREA (P.U.D. - M.H.W.) 0-10 = 666.89 Ac.
B. [illegible]
C. TOTAL AREA M.H.W. 2.5.0.10 = 666.79 Ac.
AREA COVERED BY BUILDINGS 66.7 Ac. (10%)
AREA COVERED BY ROADS 53.3 Ac. (7%)
AREA COVERED BY LAKES 66.7 Ac. (10%)
AREA COVERED BY RECREATION 26.3 Ac. (4%)
AREA COVERED BY PARKING AREAS 13.4 Ac. (2%)
AREA COVERED BY OTHER STRUCTURES (GAZEBOS, ETC.) 66.02 Ac. (10%)
AREA TO BE PLANTED (BETWEEN LOTS, PARK AREAS, ETC.) 413 Ac. (62%)
AREA OF UNDISTURBED NATIVE AND OPEN AREAS 66.7 Ac. (10%)

APPROVED
Master Concept Plan
Site Plan # 77-91 Page 2 of 2
Subject to conditions of Resolution Z-93-009
Zoning Case # 85-06-090.02C

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
86 VILLAS	84 VILLAS
84 TOWN HOMES	0 TOWN HOMES
66 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of existing Hotel)	
210 TOTAL UNITS	186 TOTAL UNITS

5-1-95 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-93-042 CASE #86-06-102.13A 06.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 93 WITH FINAL REVISIONS 5/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (A), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(J) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 30 FOOT WIDE ACCESSWAY.

PROJECT # 85-06-090.02
PROJECT TYPE SDP

RECEIVED
JUN 04 1993
ZONING COUNTER

BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

DATE	JOB NO.	SHEET NO.	SCALE	SHEET
SEPT. 1992	32000	36-43-30	1" = 100'	3 OF 6

EXHIBIT IV-E

ZONING MAP

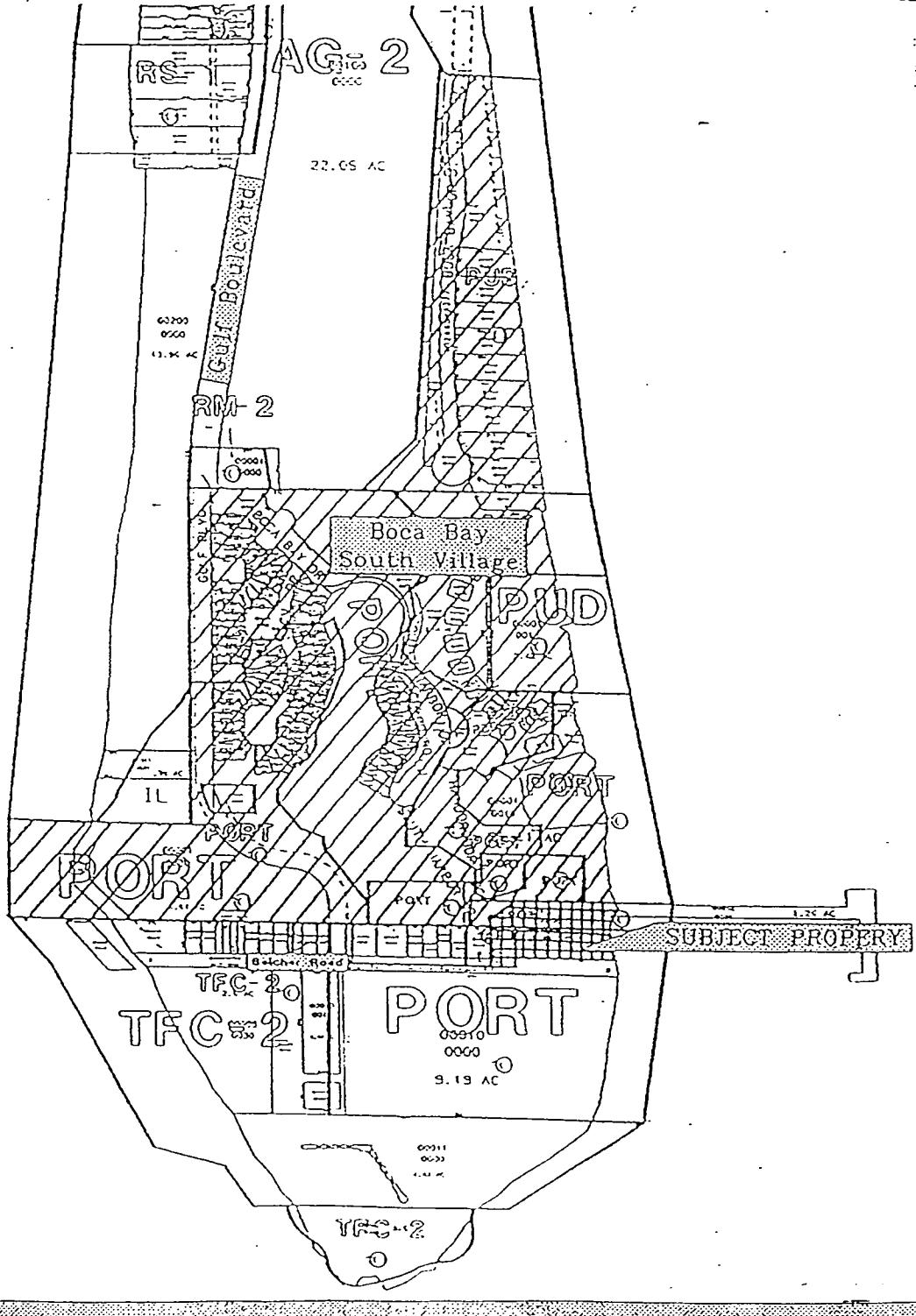


EXHIBIT C

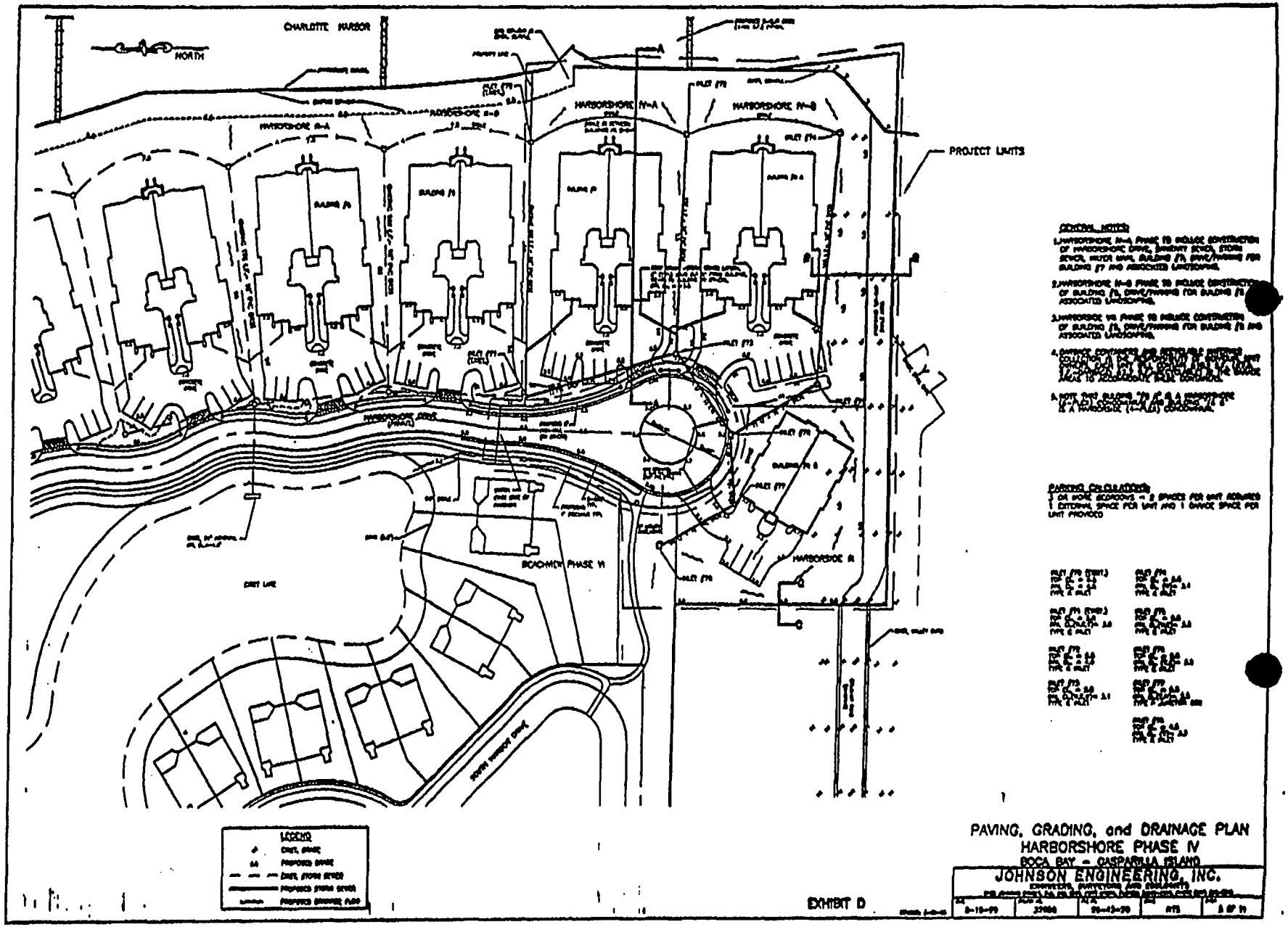
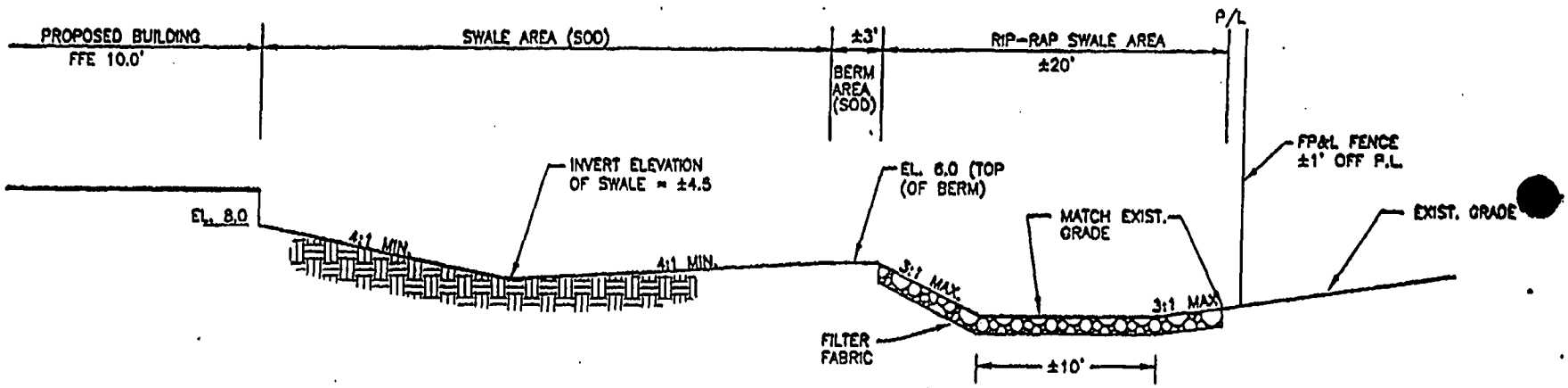

CHARLOTTE HARBOR
NORTH
PROJECT LIMITS
HARBORSHORE IV-A
HARBORSHORE IV-B
HARBORSHORE III-A
HARBORSHORE III-B
HARBORSHORE II
BEACHVIEW PHASE VI
EXHIBIT D
PAVING, GRADING, and DRAINAGE PLAN
HARBORSHORE PHASE IV
BOCA BAY - CASPARILLA ISLAND
JOHNSON ENGINEERING, INC.

EXHIBIT D



SECTION B-B

N.T.S.

EXHIBIT D

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4203 Direct
941.337.3850 Main
941.337.0970 Fax
snoble@ralaw.com

October 9, 2000

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: CSX Application for Comprehensive Plan Amendment
Case No. CPA2000-00002

Dear Mr. Noble:

Pursuant to your telephone conversation with Attorney Robert Pritt, enclosed please find two copies of the Application for Comprehensive Plan Amendment, which was previously filed with your office on September 28, 2000. It is our understanding that the filing of this new form will be retroactive back to the original filing date.

If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,

Sandra E. Noble, CLA
Certified Legal Assistant

SEN/umr
Enclosure

RECEIVED
OCT 09 2000
PERMIT COUNTER

FILE COPY

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate **Roetzel & Andress, a legal professional association,** as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced~~ _____ ~~as identification.~~

Harriett K. Mochel
Signature of Notary Public

(SEAL)

77032_1

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

LEE COUNTY
SOUTHWEST FLORIDA

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D.:_____ REC'D BY:_____

APPLICATION FEE:_____ TIDEMARK NO:_____

THE FOLLOWING VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal: ☐ Small Scale: ☐ DRI ☐ Emergency: ☐

Request No.:_____

APPLICANT PLEASE NOTE:
Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

Robert D. Pritt

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
APPLICANT
699 BOCA BAY DRIVE
ADDRESS
BOCA GRANDE | FLORIDA | 33921-1370
CITY | STATE | ZIP
(941) 964-0800
TELEPHONE NUMBER | FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association
AGENT
2320 FIRST STREET, SUITE 1000
ADDRESS
FORT MYERS | FLORIDA | 33901
CITY | STATE | ZIP
(941) 337-3850 | (941) 337-0970
TELEPHONE NUMBER | FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
OWNER(s) OF RECORD
699 BOCA BAY DRIVE
ADDRESS
BOCA GRANDE | FLORIDA | 33921-1370
CITY | STATE | ZIP
(941) 964-0800
TELEPHONE NUMBER | FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application. (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☐ Text Amendment ☐ Future Land Use Map Series Amendment (Maps 1 thru 19)
List Number(s) of Map(s) to be amended
X Map 12 (South Boca Grande)

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary of Request - Exhibit "A"

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc., 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE / Boca Bay Master Association

B. Property Information:

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay / ± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit "B")

Area of each Existing Future Land Use Category:

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: _____

D. Proposed change for the Subject Property: No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density: No Change

Commercial intensity: Property zoned Port that could permit industrial and commercial uses

Industrial intensity: _____

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density: No Change

Commercial intensity: Property text change would preclude industrial and commercial uses

Industrial intensity: _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.

2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.

4. Map and describe existing zoning of the subject property and surrounding properties.

5. The legal description(s) for the property subject to the requested change.

6. A copy of the deed(s) for the property subject to the requested change.

7. An aerial map showing the subject property and surrounding properties.

8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

   The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range - 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether

network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;

d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range - 5-year CIP horizon:

a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
   Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for: **N/A**
   a. Sanitary Sewer
   b. Potable Water
   c. Surface Water/Drainage Basins
   d. Parks, Recreation, and Open Space.

   Analysis should include (but is not limited to) the following:
   - Franchise Area, Basin, or District in which the property is located;
   - Current LOS, and LOS standard of facilities serving the site;
   - Projected 2020 LOS under existing designation;
   - Projected 2020 LOS under proposed designation;

- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;
   b. Emergency medical service (EMS) provisions;
   c. Law enforcement;
   c. Solid Waste;
   d. Mass Transit; and
   e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).

2. A map and description of the soils found on the property (identify the source of the information).

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources **N/A**

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed

change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.

2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **(See Exhibit "A" attached)**

F. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
   b. Provide data and analysis required by Policy 2.4.4,
   c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.

2. Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon

pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	$500.00 each
Map Amendment > 20 Acres	$500.00 and $20.00 per 10 acres up to a maximum of $2,255.00
Text Amendment Flat Fee	$1,250.00 each

AFFIDAVIT

I, ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Signature of owner or owner-authorized agent Date

ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association
Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 9th day of October, 2000, by ~~ROBERT D. PRITT,~~ on behalf of Roetzel & Andress, A Legal Professional Association, who is personally known to me or who has produced _____ _____ (type of ID) as identification.

(SEAL)

Sandra E. Noble
Commission # CC 928983
Expires April 17, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Signature of notary public

SANDRA E. NOBLE
Printed name of notary public

77496_1

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

77190_1

EXHIBIT "B"

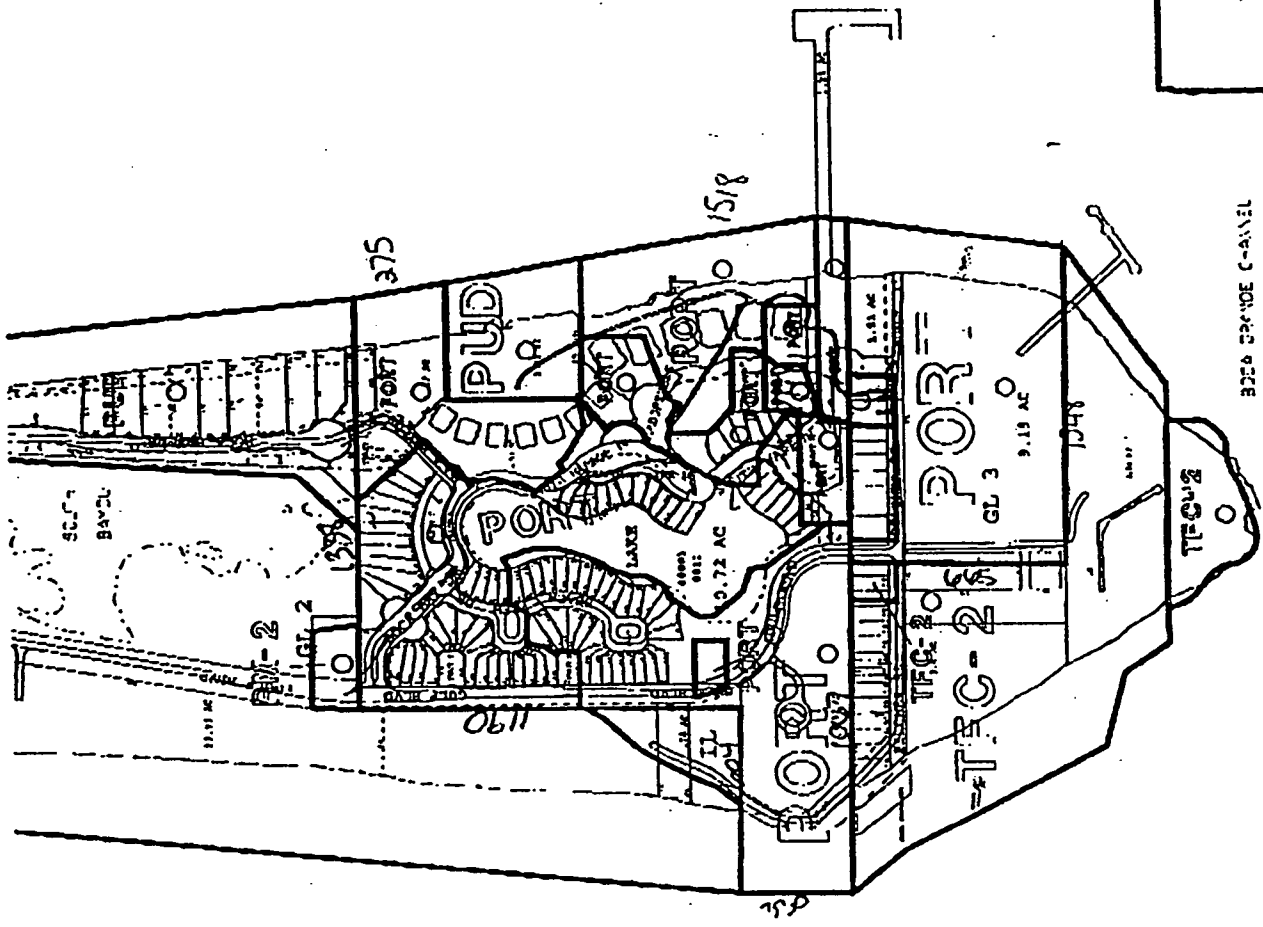
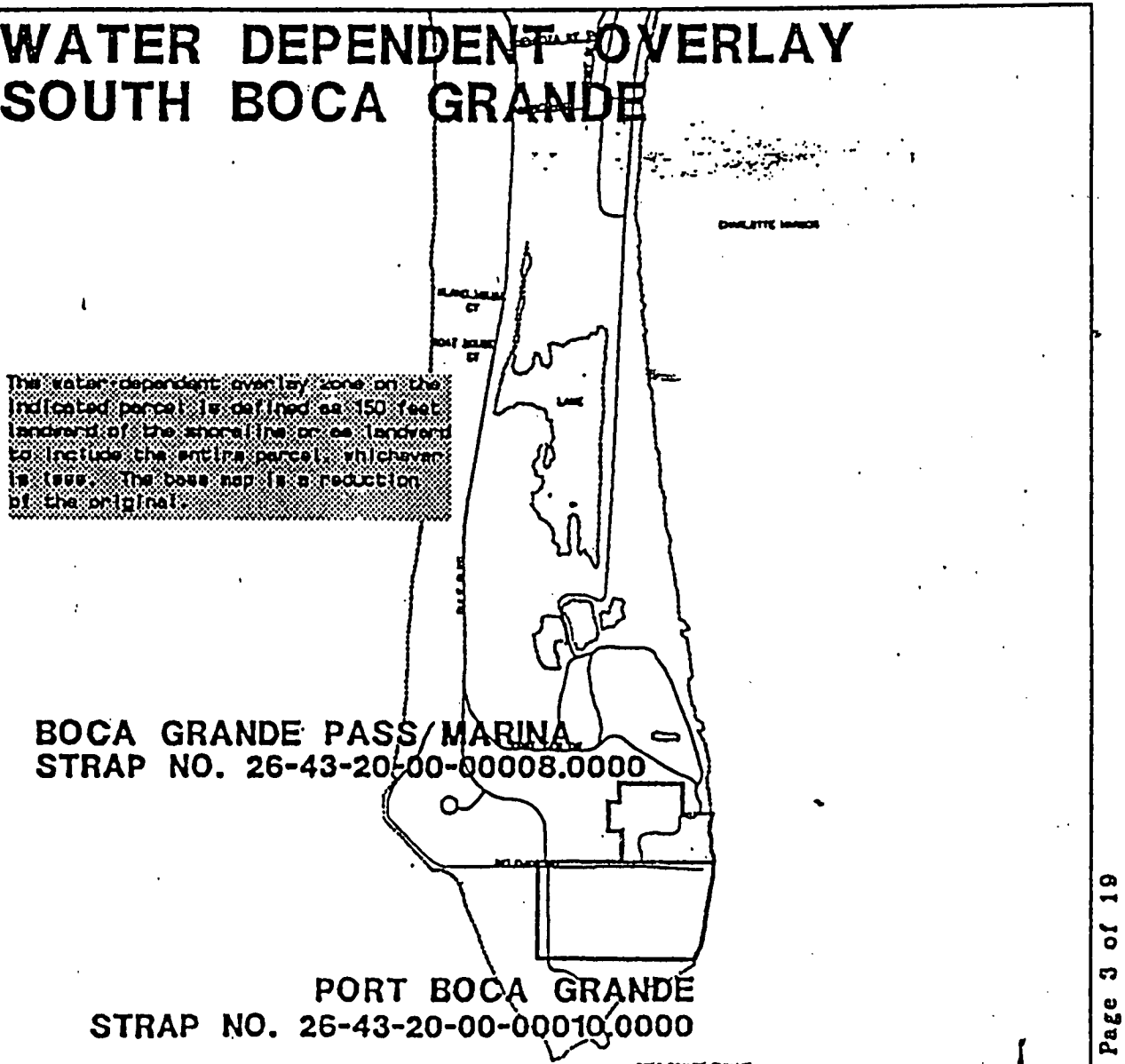


EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

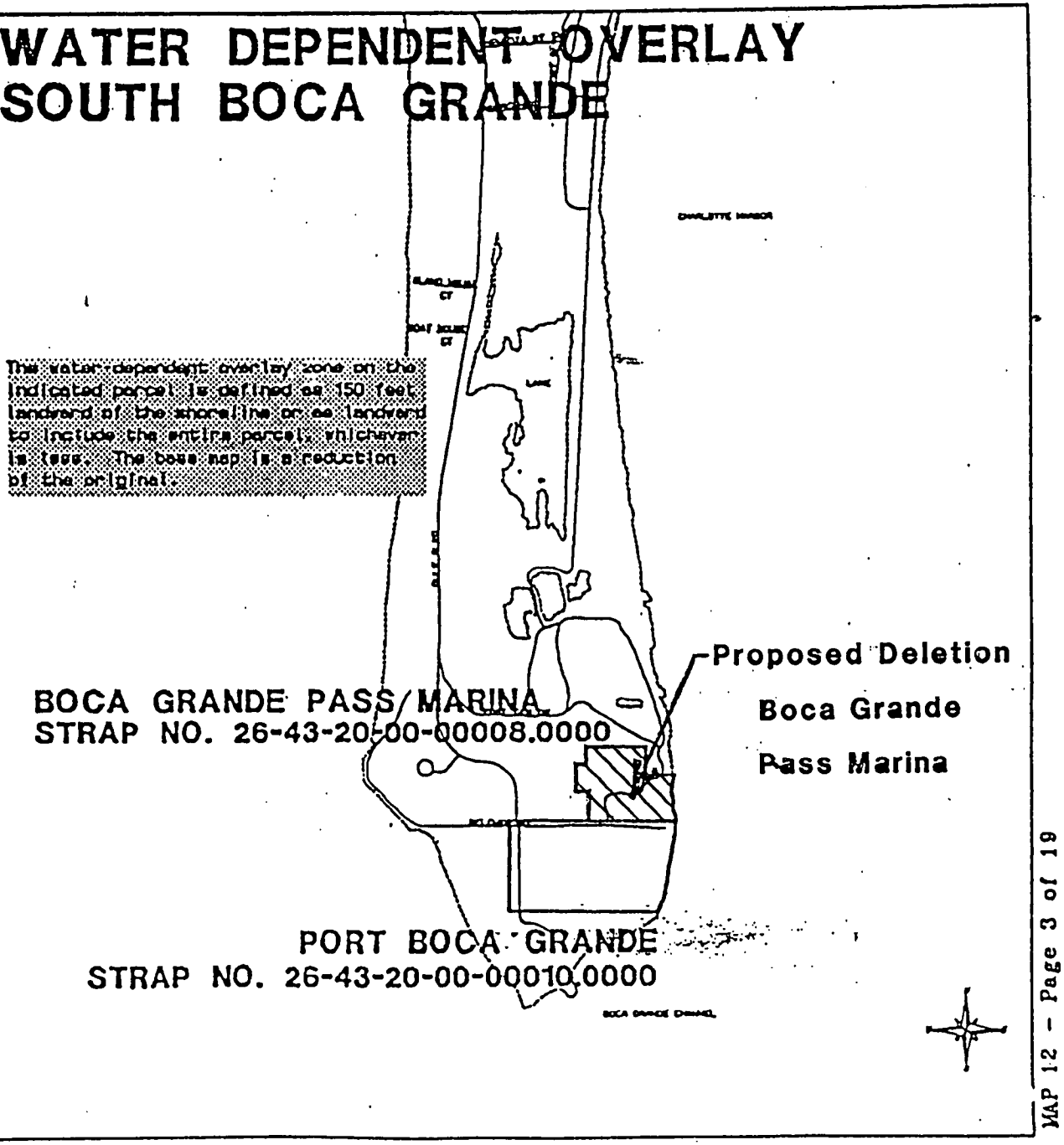
WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



MAP 12 – Page 3 of 19

CURRENT

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



LEE COUNTY ORDINANCE NO. 01-__

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT THAT AMENDMENT KNOWN LOCALLY AS CPA 2000-02 APPROVED IN CONJUNCTION WITH ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO THE ADOPTED TEXT AND MAPS; PROVIDING FOR PURPOSE AND SHORT TITLE; PROVIDING FOR ADOPTION OF THE SPECIFIED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE LEGAL EFFECT OF "THE LEE PLAN"; PROVIDING FOR GEOGRAPHICAL APPLICABILITY; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of Plan Amendments with such frequency as may be permitted by applicable state statutes, in accordance with such administrative procedures as the Board of County Commissioners may adopt; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 further provides an opportunity for individuals to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (hereinafter referred to as the "LPA") held statutorily prescribed public hearings pursuant to Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code AC-13-6 on June 4, 2001; and,

WHEREAS, the Board of County Commissioners, pursuant to Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code AC-13-6, held a statutorily prescribed public hearing for the transmittal of the proposed amendments on August 29, 2001, and at that hearing approved a motion to send, and did later send, the proposed

amendments to the Florida Department of Community Affairs (hereinafter referred to as "DCA") for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and,

WHEREAS, at the August 29, 2001 meeting, pursuant to Chapter 163, Part II, Florida Statutes, the Board of County Commissioners did announce its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report," which were later received on November 21, 2001 by the Chairman of the Lee County Board of County Commissioners; and,

WHEREAS, the Board of County Commissioners during its statutorily prescribed public hearing for the plan amendments on January 10, 2002, moved to adopt the proposed amendments as more particularly set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, has conducted a series of public hearings to review the proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt those amendments to the Lee Plan discussed at those meetings and approved by an absolute majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Plan, as hereby amended, will continue to be the "Lee Plan." This ordinance may be referred to as the "2000/2001 Regular Comprehensive Plan Amendment Cycle CPA 2000-02 Ordinance."

SECTION TWO: ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on January 10, 2002, known as CPA 2000-02, which amend the text of the Lee Plan as well as the Future Land Use Map series of the Lee Plan.

In addition, the above-mentioned Staff Report and Analysis, along with all attachments for this amendment are hereby adopted as "Support Documentation" for the Lee County Comprehensive Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as so amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in any joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the

remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had such unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administration Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner ___ who moved its adoption. The motion was seconded by Commissioner ___ and, when put to a vote, the vote was as follows:

JOHN MANNING	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW COY	_____
JOHN ALBION	_____

DONE AND ADOPTED this 10th day of January, 2002.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Chairman

DATE: _____

Approved as to form by:

_____
County Attorney's Office

CPA 2000-02
PRIVATELY INITIATED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

DCA Transmittal Document

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

August 29, 2001

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-02

☑ **Text Amendment** ☑ **Map Amendment**

	This document contains the following reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 21, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. **APPLICANT:**
   THE BOCA BAY MASTER ASSOCIATION
   REPRESENTED BY BEVERLY GRADY, ESQ.
   ROETZEL & ANDRESS

2. **REQUEST:**
   To amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

   Amend Goal 15 of the Lee Plan by adding the following Objective and Policy:

   Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

   Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning Staff recommends that the Board of County Commissioners transmit this plan amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Zoning resolution ZAB-83-352 granted preliminary Planned Unit Development (PUD) approval and a special exception in the PORT district for residential uses. Resolution Z-86-166 granted final approval to both of these measures in 1987. This development was further amended by Resolution Z-93-009 in 1993.

- The Boca Grande Pass Marina use no longer exists. The subject site was approved for conversion from water dependent uses to non-water dependent uses by resolution Z-99-054. This resolution approved the demolition of Boca Grande Pass marina and the subsequent development of 16 multifamily residential units on the site.

- The site has been cleared and as such there are no indigenous plant communities to disturb.

- There are no sites of historic or archeological importance impacted by the proposed change to the Lee Plan.

- The proposed amendment limits the potential traffic generation of the subject site.

- The proposed amendment limits utilities demands of the subject site.

- The proposed amendment limits development intensity of the subject site.

C. BACKGROUND INFORMATION

Boca Bay is a residential community on the south end of Gasparilla Island. In 1981, the Board of Commissioners approved resolution Z-81-258, which rezoned large portions of the Boca Grande area to the PORT district. The owners of the Boca Bay project appealed unsuccessfully and initiated litigation against the County. This legal action was dropped in 1984 when the County approved resolution ZAB-83-352. This granted a change from AG-2 zoning district to preliminary Planned Unit Development (PUD) approval and created a special exception in the PORT district for residential uses. Approximately 97 acres were affected by this approval. The northern parts of the Boca Bay development, Neighborhoods 1 through 4, were still zoned RM-2 and were not affected by ZAB 83-352 or subsequent resolutions concerning the PUD.

In 1987 final PUD and special exception approval was granted by resolution Z–86-166. 291 units were approved at a density of 3 units per acre to be distributed between three areas. Also permitted were a tennis club with food and beverage service and consumption on premises of alcoholic beverages, model homes in each neighborhood, a sales office, a guard house with gates, and appurtenant signs. At the same time, the portions of Boca Bay outside the PUD were approved for

77 residential units, 19 wet slip docks in the yacht basin, a beach club, guardhouses, Model homes, and a consumption on premises use by resolutions Z -86-170 and Z -86-171. This brought the total number of approved units for the Boca Bay development to 368.

In 1988, the board approved Z-88-151, which created a conservation easement and approved variations in neighborhood #5 in the PUD.

The Water Dependent Overlays were created in 1989 to protect marine-oriented land uses from incompatible or preemptive land uses. The Lee Plan was amended to include two WDOs on the southern end of Gasparilla Island (Attachment 1). The southernmost one is within the parcel owned by Florida Power and Light and consists of a fuel oil storage and transfer facility. The northern one was originally the Boca Grande Pass Marina and abutted the northern edge of the FPL facility. This latter WDO is the subject of this amendment.

In 1993 the PUD was further amended by Resolution Z-93-009. This specifically prohibited an 85-unit wet slip marina and allowed an additional 13 residential units in its place. This raised the total approved units in the PUD to 304 and the total in the Boca Bay development to 381.

In 1999, resolution Z-99-054 approved the conversion of a water-dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the 304 that were already approved for the PUD. Subsequently, the marina was demolished, removing the two dry-storage buildings. The residential units are under construction as of the writing of this report. On March 6, 2001, administrative approval was granted to substitute 2 single family residential units in lieu of 1 four-plex building.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In a resubmittal dated January 24, 2001, (attachment 3) the applicant provides the following comments:

> *"The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for 'Water Dependent Overlay South Boca Grande' a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use-non water-dependent uses.*
>
> *In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.*

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA 2000-02. The Board of County Commissioners granted:

1. *An amendment to the planned unit development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and*

2. *A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and*

3. *Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone."*

The Boca Bay community is a residential area. The 1984 special exception for residential uses created a de facto residential zoning. The proposed amendment does not change any existing land uses and insures that future land uses will be consistent with existing approvals. Likewise, the conversion to residential use created by resolution Z-99-054 removed all water dependent uses from the portion of the WDO zone lying north of Belcher Road. This has rendered the WDO designation for this parcel unnecessary. The proposed Lee Plan amendment would remove the Boca Grande Pass Marina WDO zone from Map 12 (Attachment 2).

Transportation
The proposed amendment does not create any additional residential units or other uses. The proposed amendment allows only those uses approved by previous resolutions. As such, it precludes more intense uses and the resulting increase in trip generation.

Emergency Services
As this proposed amendment does not create additional infrastructure or residences, it does not increase the demand on EMS or fire protection services. In fact, the proposal limits demand as it precludes more intense uses from the subject area.

Hurricane Evacuation
Since the proposed amendment limits trip generation, it has no effect on hurricane evacuation time.

Utilities
The proposed amendment does not create any additional demand on either water or sewer facilities. In addition, the proposal precludes the more intense uses of the PORT designation from being developed and creating greater demands on utility services.

Environmental Concerns
The proposed change would not destroy or disturb any fragile or preserved plant communities in the WDO zone as the affected area had been previously disturbed when it was the Boca Grande Pass Marina. The proposed amendment creates no environmental concerns.

Soils
A summary report of the Boca Bay PUD lists the following soil types on the property: Canaveral fine sand, Captiva fine sand, Wulfert muck, Kesson fine sand, and St. Augustine sand (Attachment 4).

Development Intensity
The proposed amendment limits developmental intensity by precluding those uses in the PORT designation that are more intense than the uses specifically approved by previous resolutions.

Residential Density
The proposed amendment would not change the residential density of the Boca Bay community as previous resolutions have already determined the number of units in the PUD.

Historic Preservation
There are no known historic or archeological sites within the area of the proposed change. The proposed amendment has no effect on any known archeological or historic sites or areas.

Coastal Issues
Previous resolutions have addressed coastal issues for the subject site. As the proposed amendment limits further development to those uses specifically listed by previous resolutions, it creates no new coastal issues.

Population Accommodation
The proposed amendment will not change the population accommodation of the subject property.

B. CONCLUSIONS

The proposed amendment does not create new land uses or change existing ones. It simply ensures that the Boca Bay community is protected from incompatible land uses in the future. In doing so, the proposal will help maintain the local character of the area. This proposal also limits overall development intensity by precluding uses that might result in additional commercial intensity. Furthermore, by removing the marina WDO from the Lee Plan, this proposal clarifies the true intent of the property owner and reflects the reality of the existing, on-site development.

C. STAFF RECOMMENDATION

Planning Staff recommends that the board of County Commissioners transmit this Plan Amendment.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: June 4, 2001

A. LOCAL PLANNING AGENCY REVIEW

One LPA member asked if there were any uses not contemplated in the amendment that may be needed in this planned development or future rezonings that would be a problem in the future. Staff responded that the applicant had been asked this very question and was satisfied with the language. The previous resolutions on the property outlined the exact uses permitted on the subject property.

Another LPA member asked why this amendment had to be initiated privately instead of by the County. Staff responded that the County would only have initiated the removal of the WDO. Staff also said that there was not much time between the applicant's removal of the water dependent uses through the rezoning request and the initiation of this amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Board of County Commissioners transmit this amendment to add to the Lee Plan Objective 15.5 that removes the Boca Grande Pass Marina Water Dependent Overlay zone and to add Policy 15.5.1 that limits the uses within the PORT district in the Boca Bay PUD to those approved by resolutions Z-86-166, Z-93-009, and Z-99-054.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the findings of fact as advanced by the staff

C. VOTE

NOEL ANDRESS	AYE
SUSAN BROOKMAN	AYE
BARRY ERNST	AYE
RONALD INGE	AYE
GORDON REIGELMAN	AYE
VIRGINIA SPLITT	AYE
GREG STUART	AYE

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA

C. VOTE:

JOHN ALBION	**AYE**
ANDREW COY	**AYE**
BOB JANES	**AYE**
RAY JUDAH	**AYE**
DOUG ST. CERNY	**AYE**

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

B. STAFF RESPONSE

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING:_____

A. BOARD REVIEW:

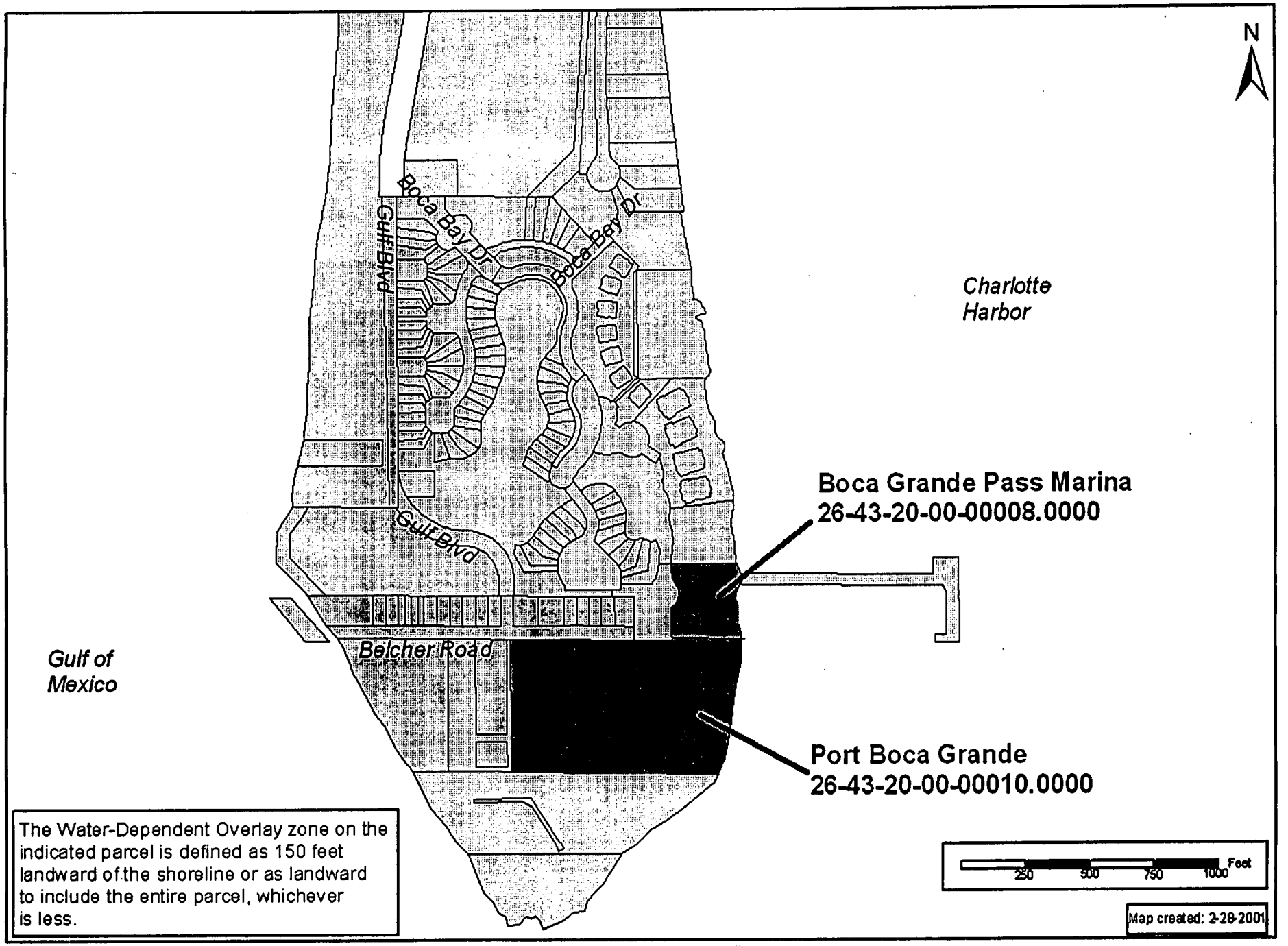
B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

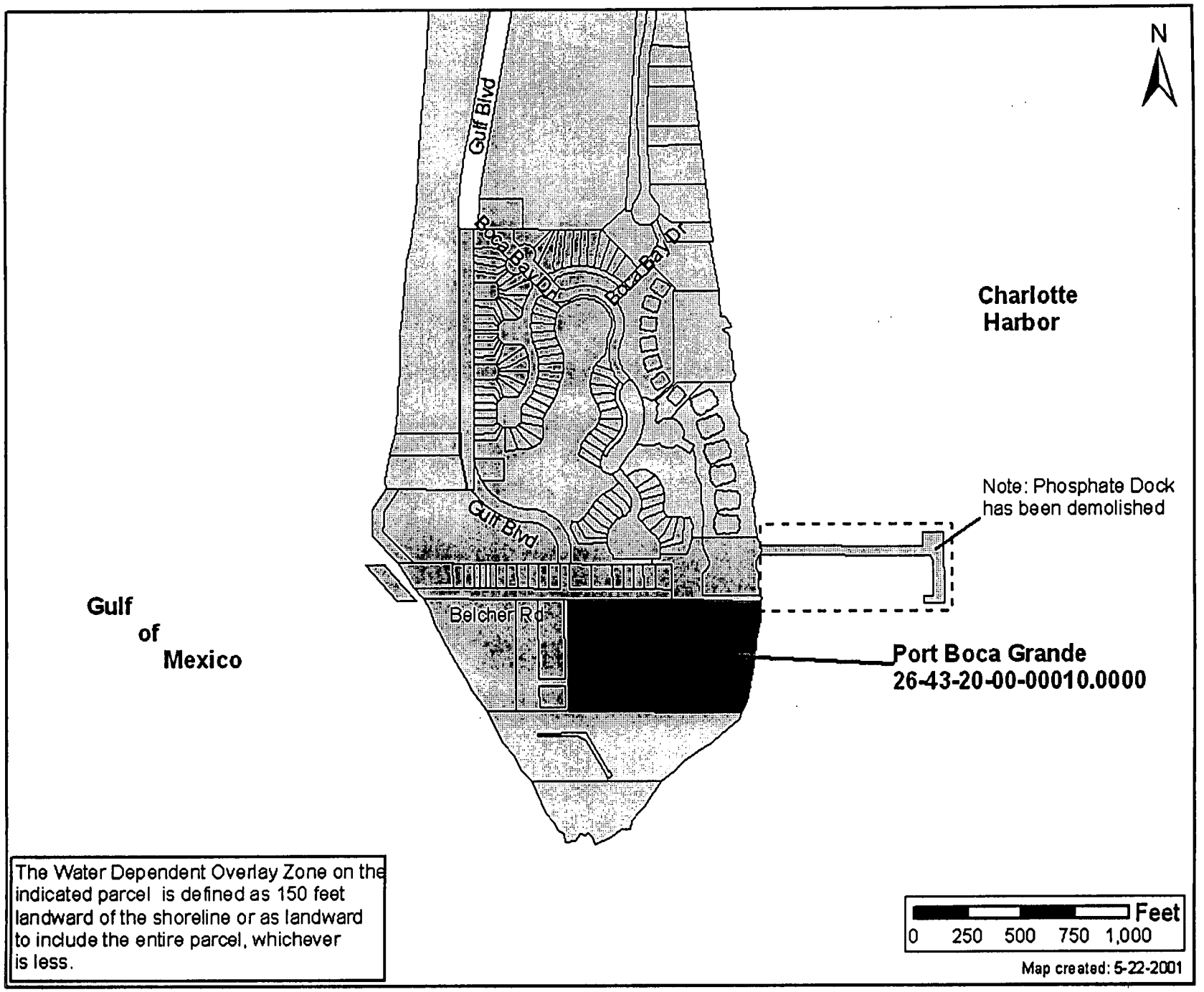
2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

	_____
JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____



Attachment 1 Existing WDO Map



Attachment 2. Proposed WDO map

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1

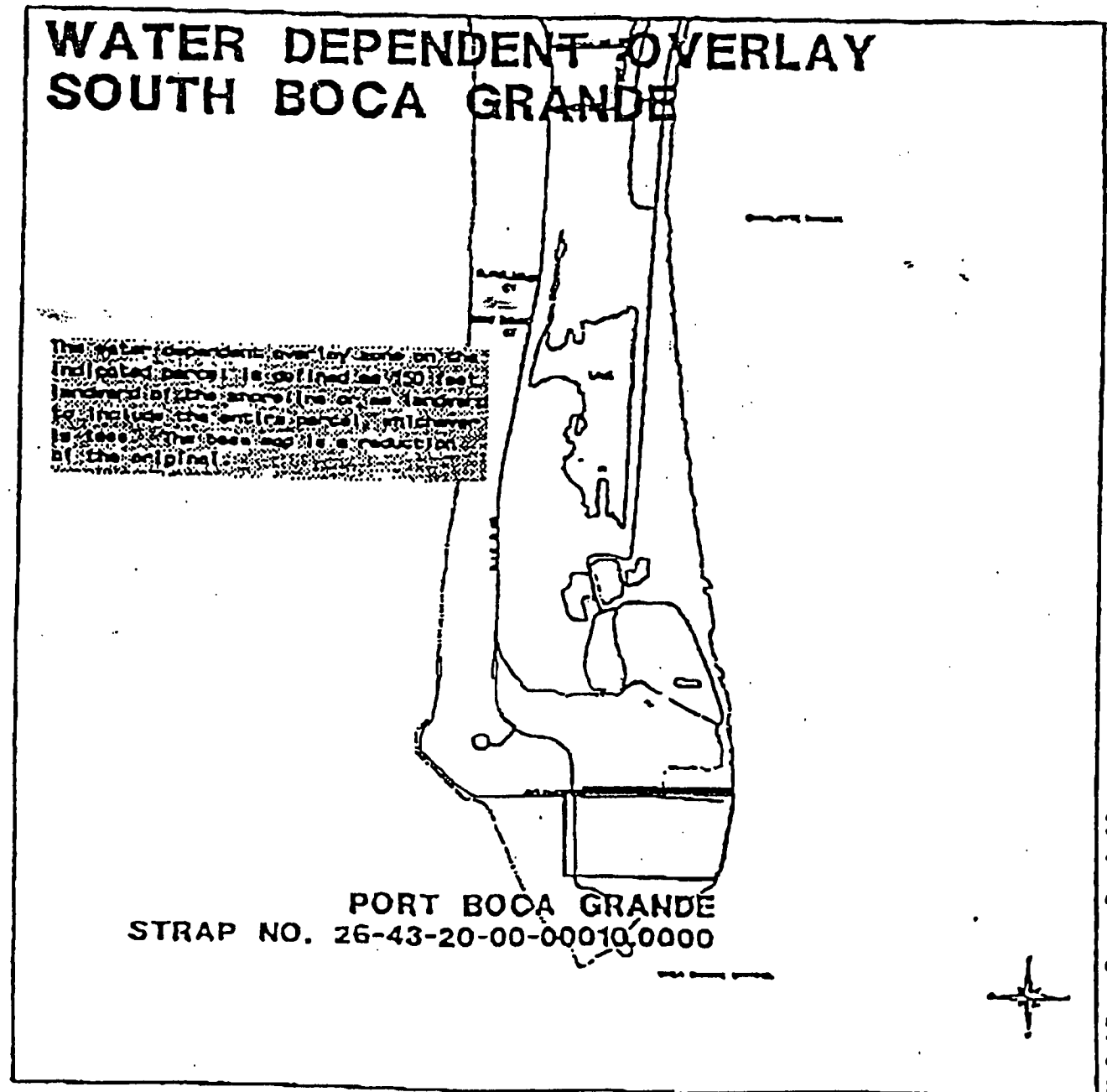
E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

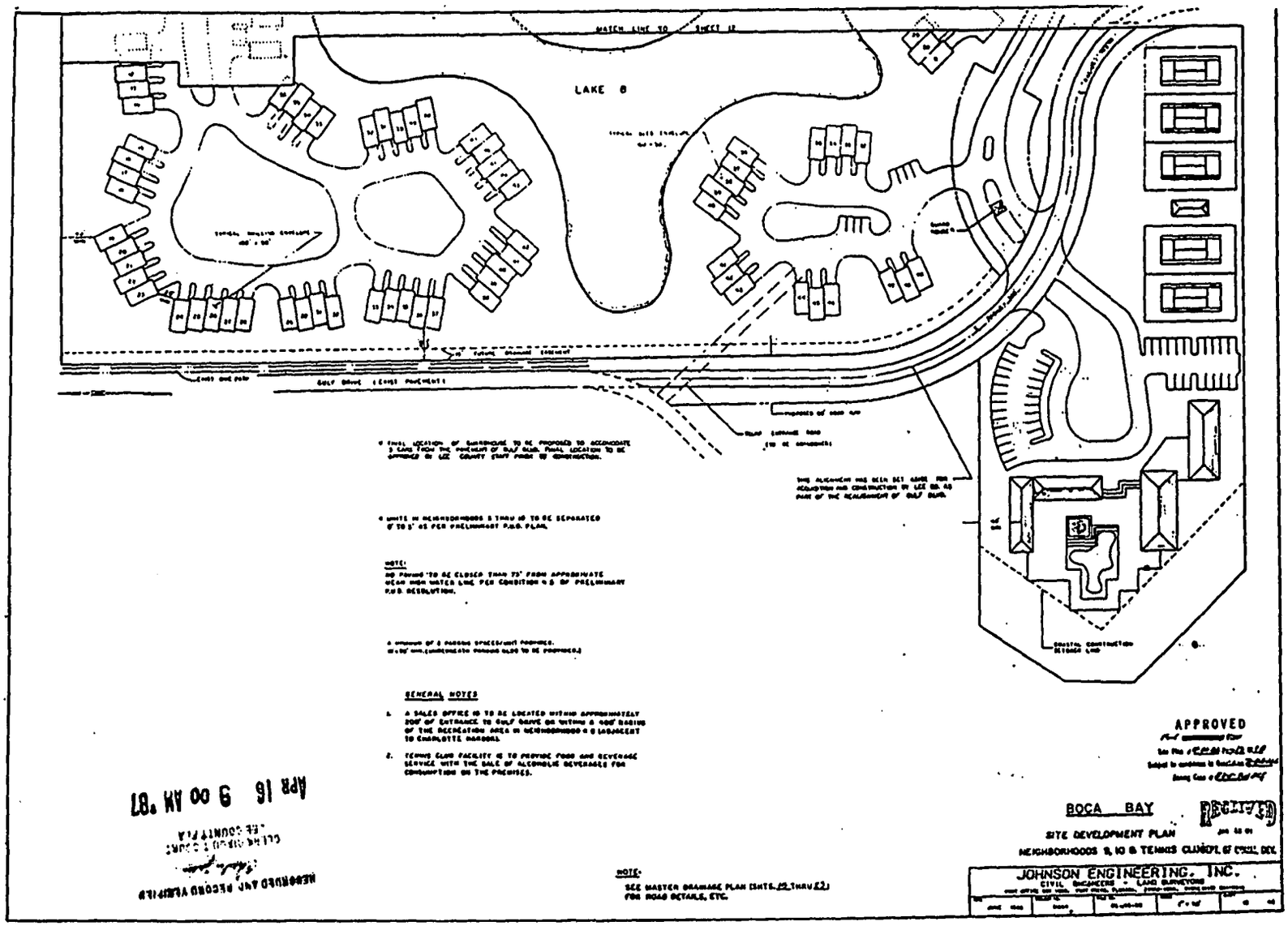
48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.



PROPOSED OVERLAY

Attachment 5
Previous Resolutions
Concerning the Boca Bay PUD

OFF REC 1910 PG 1346



* FINAL LOCATION OF GARDHOUSE TO BE PROPOSED TO ACCOMODATE 3 LANES FROM THE PERIMETER OF GULF CLUB. FINAL LOCATION TO BE APPROVED BY LEE COUNTY STAFF PRIOR TO CONSTRUCTION.

* UNITS IN NEIGHBORHOODS 3 THRU 10 TO BE SEPARATED 0' TO 5' AS PER PRELIMINARY P.U.D. PLAN.

NOTE:
NO PARKING TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION # 5 OF PRELIMINARY P.U.D. RESOLUTION.

* MINIMUM OF 2 PARKING SPACES/UNIT PROVIDED. (ADDITIONAL PARKING ALSO TO BE PROVIDED.)

GENERAL NOTES

1. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 200' OF ENTRANCE TO GULF DRIVE OR WITHIN A 400' RADIUS OF THE RECREATION AREA IN NEIGHBORHOOD # 8 ADJACENT TO CHARLOTTE HARBOR.
2. TENNIS CLUB FACILITY IS TO PROVIDE FOOD AND BEVERAGE SERVICE WITH THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. 22 THRU 23) FOR ROAD DETAILS, ETC.

APPROVED

BOCA BAY

SITE DEVELOPMENT PLAN

NEIGHBORHOODS 9, 10 & TENNIS CLUB/DEL. OF CIVIL DEV.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

RECEIVED
APR 16 9 00 AM '87
CLERK CIRCUIT COURT
LEE COUNTY, FLA

RECORDED AND RECORD VERIFIED

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RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

1-12-87

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McCowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFF REC 1c OPG1309

PRELIMINARY

ENGINEERING PLANS

FOR

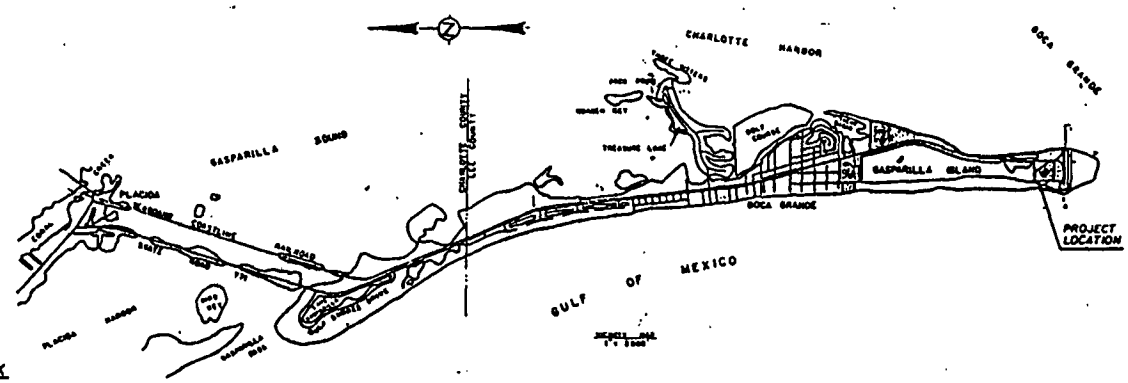
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



APPROVED

INDEX

Sheet No.	Description
1	COVER SHEET
2	INDEX MAP
3 - 4	AERIAL PHOTOS / DEMOLITION PLAN
5 - 12	SITE DEVELOPMENT PLAN
13	LAND USE IDENTIFICATION PLAN
13-23	MASTER DRAINAGE PLAN
24-26	PLAN AND PROFILE SHEET
26	ROAD AND DRAINAGE DETAILS
27-45	PRELIMINARY WATER AND SEWER SYSTEM
46-48	GENERAL WATER / SEWER DETAILS
APPENDIX A-A-1	LANDSCAPE PLAN

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

A. T. GRANT

Registered Professional Engineer

Florida Certificate No. 13421

JUNE 1986

REVISED JANUARY 7, 1987

REVISED DECEMBER 24, 1986

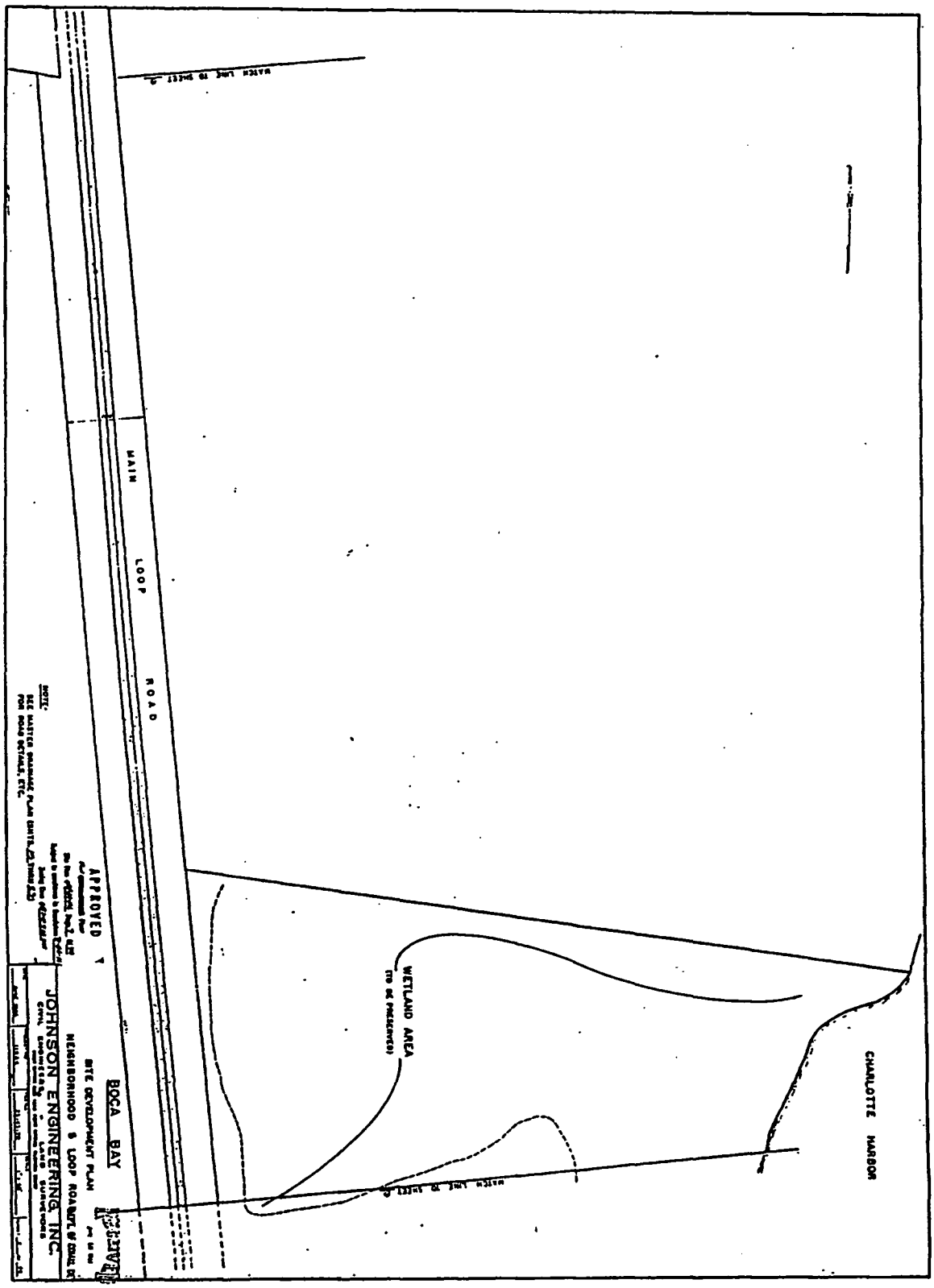
REVISED DECEMBER 15, 1986

REVISED NOVEMBER 12, 1986

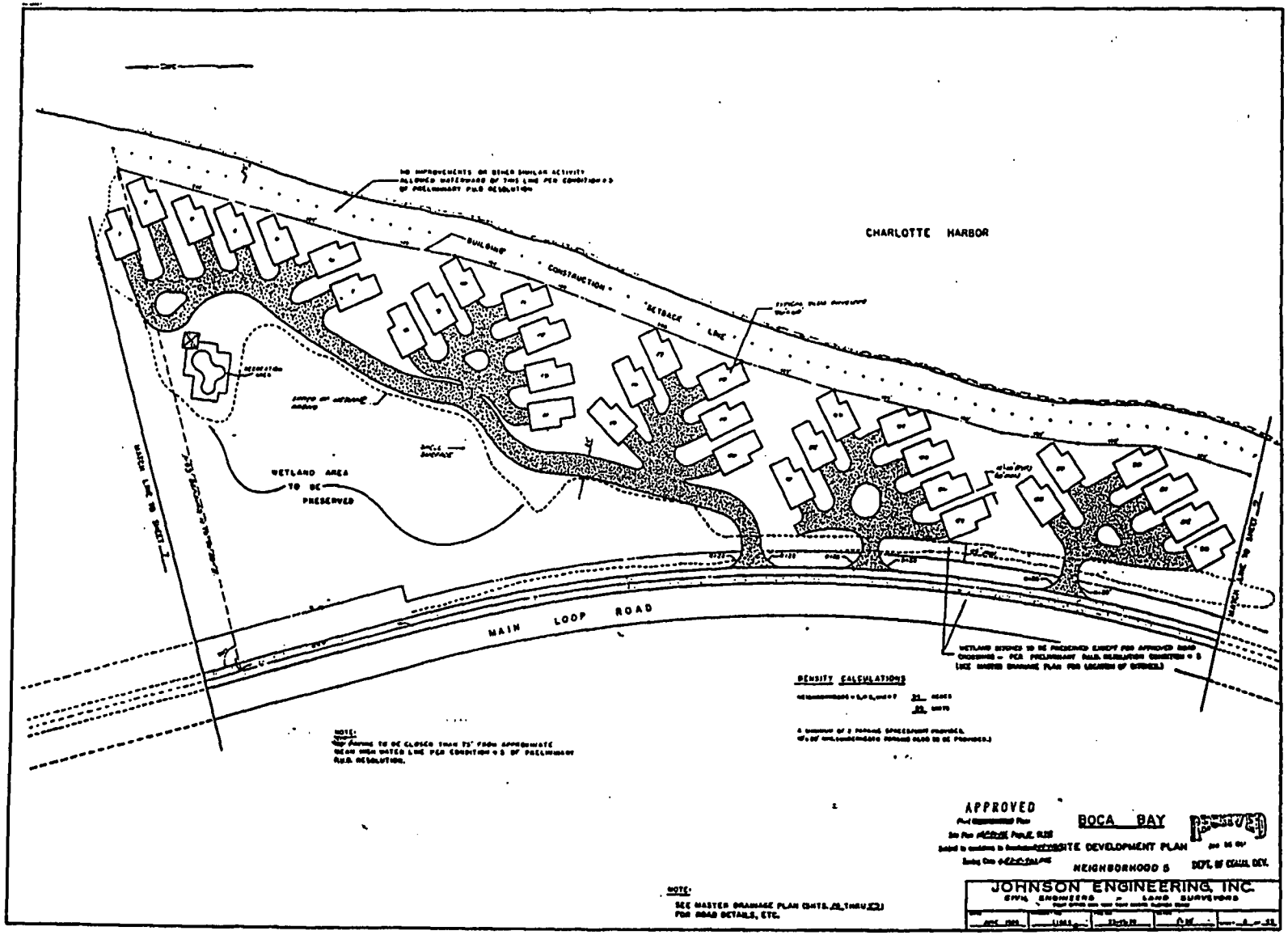
REVISED AUGUST 22, 1986

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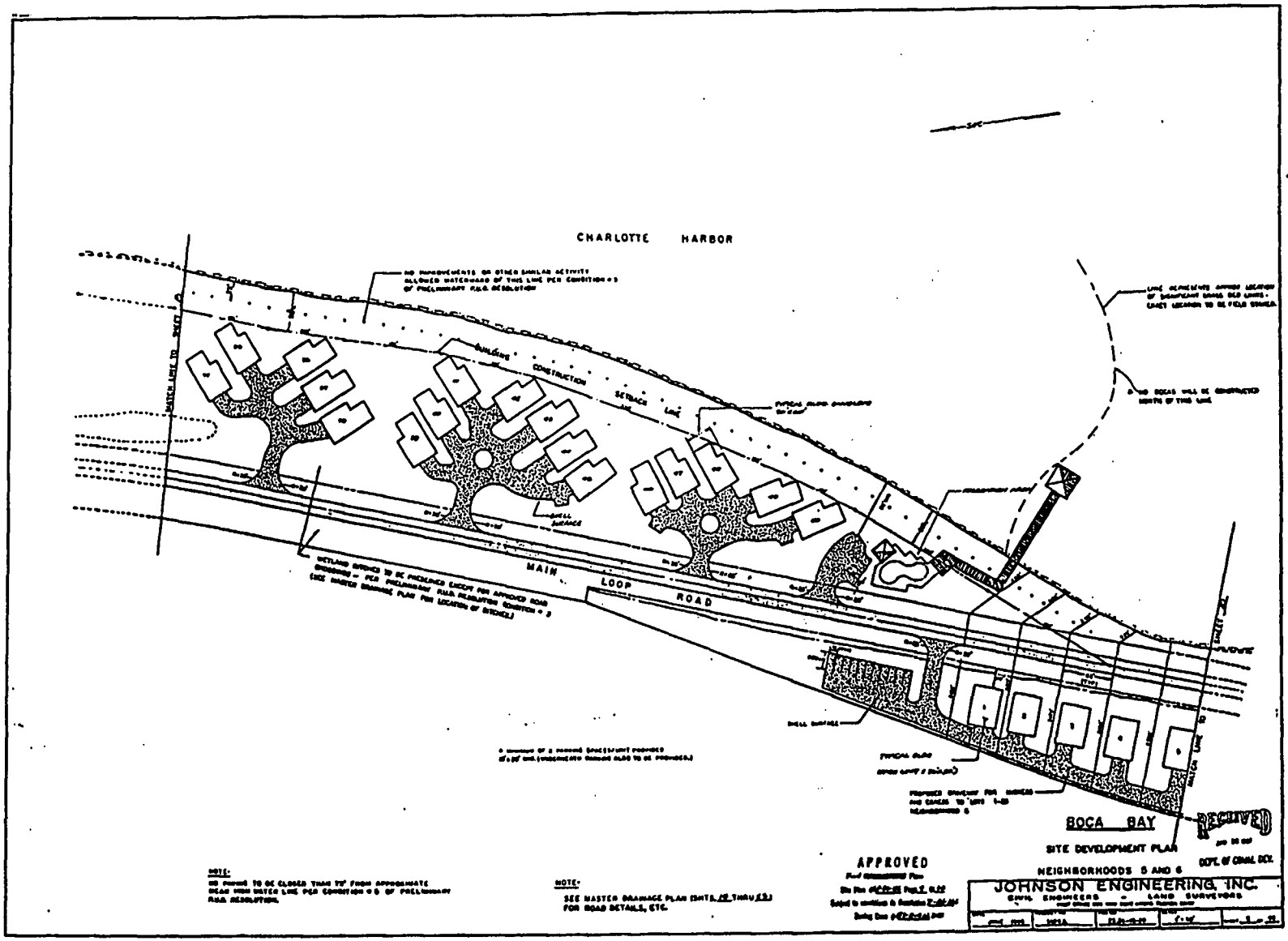
DEPT. OF COMM. DEV.


MAIN LOOP ROAD
WETLAND AREA
CHARLOTTE HARBOR
BOCA BAY
APPROVED
JOHNSON ENGINEERING, INC.

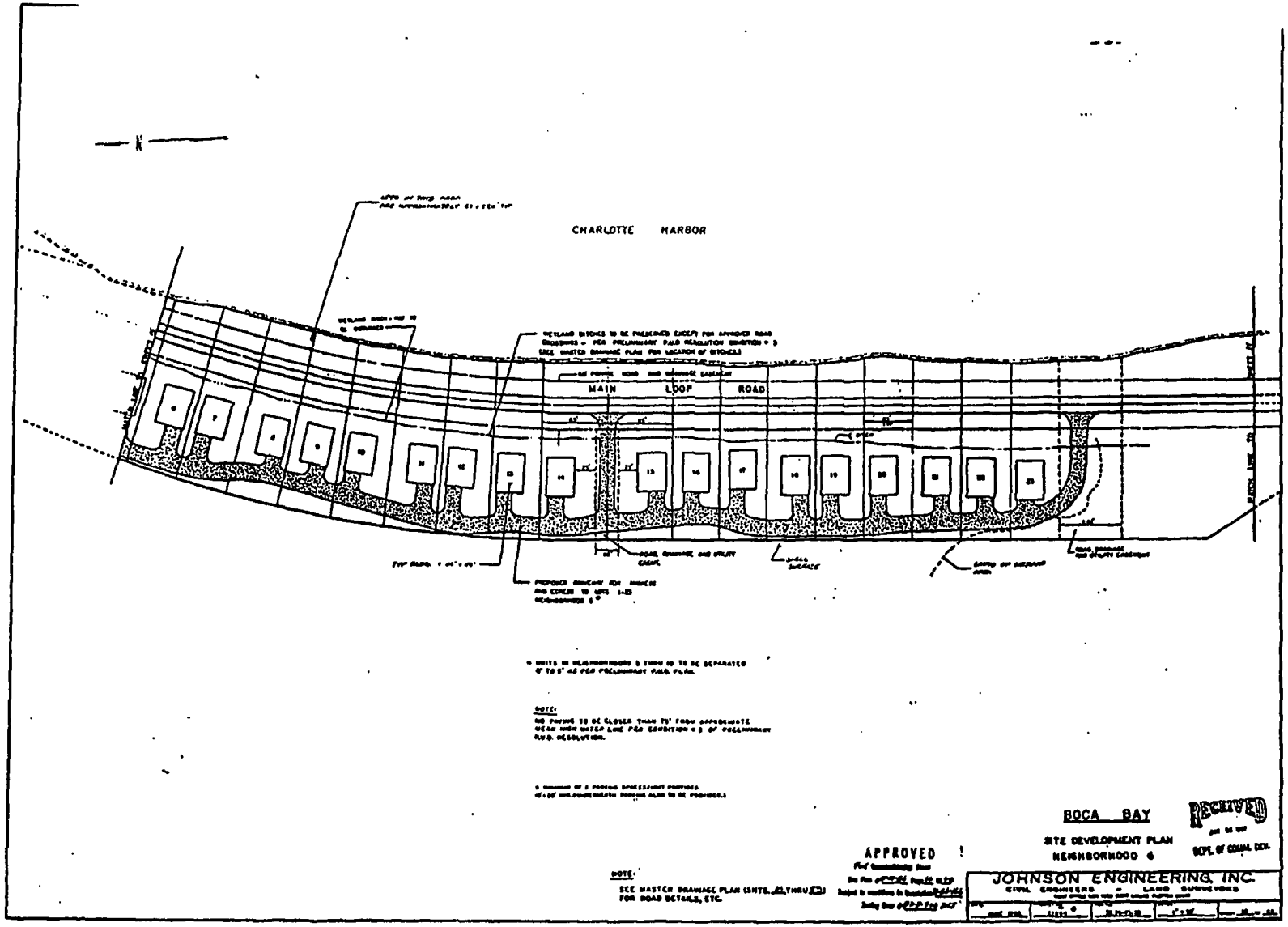
OR 910PG1311



OR REC 910PG1312



O. REC. 91086313



APPROVED

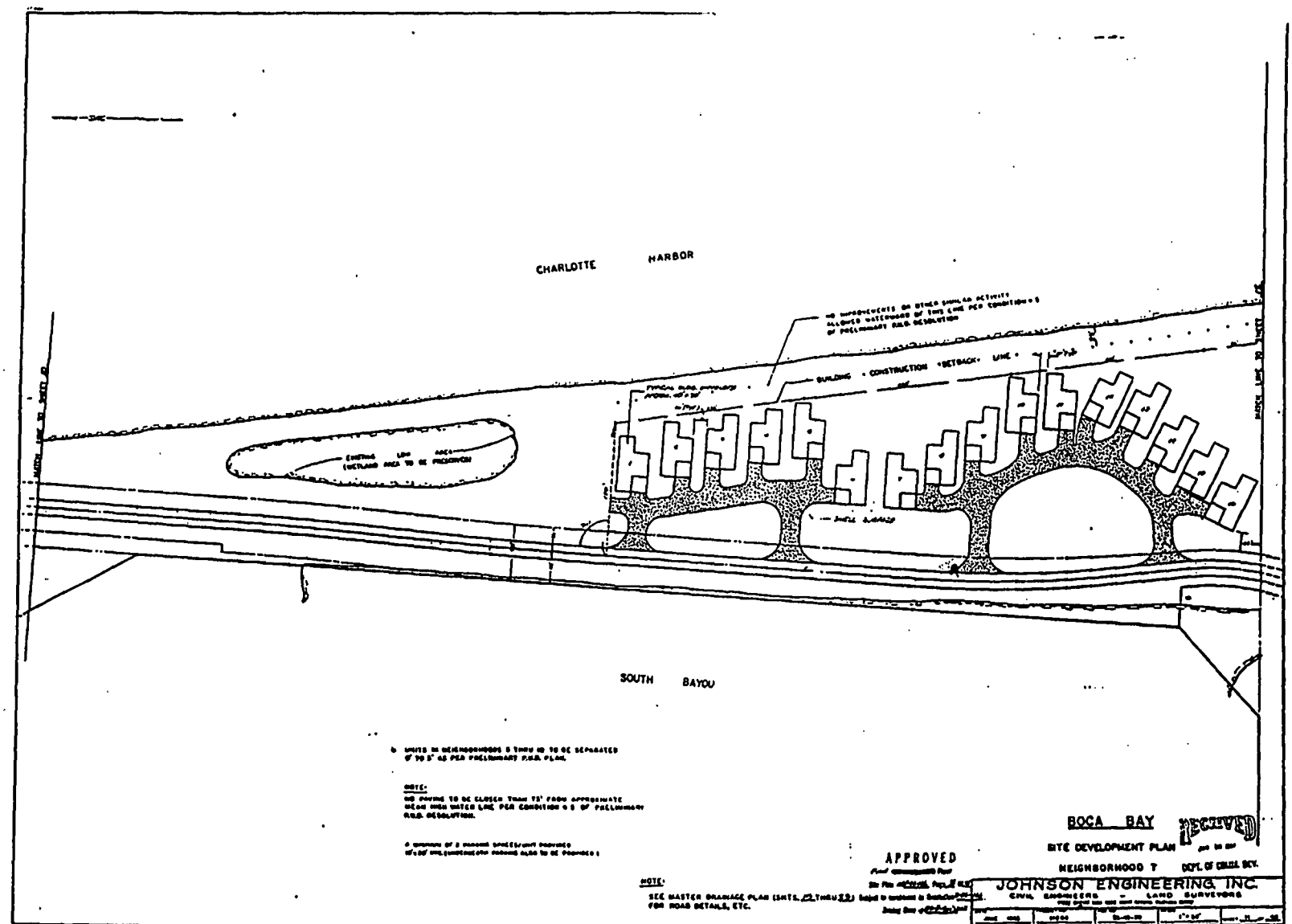
BOCA BAY

SITE DEVELOPMENT PLAN
NEIGHBORHOOD 6

RECEIVED

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS — LAND SURVEYORS

FF 1910PG1316



NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. #2 THRU #3) FOR ROAD DETAILS, ETC.

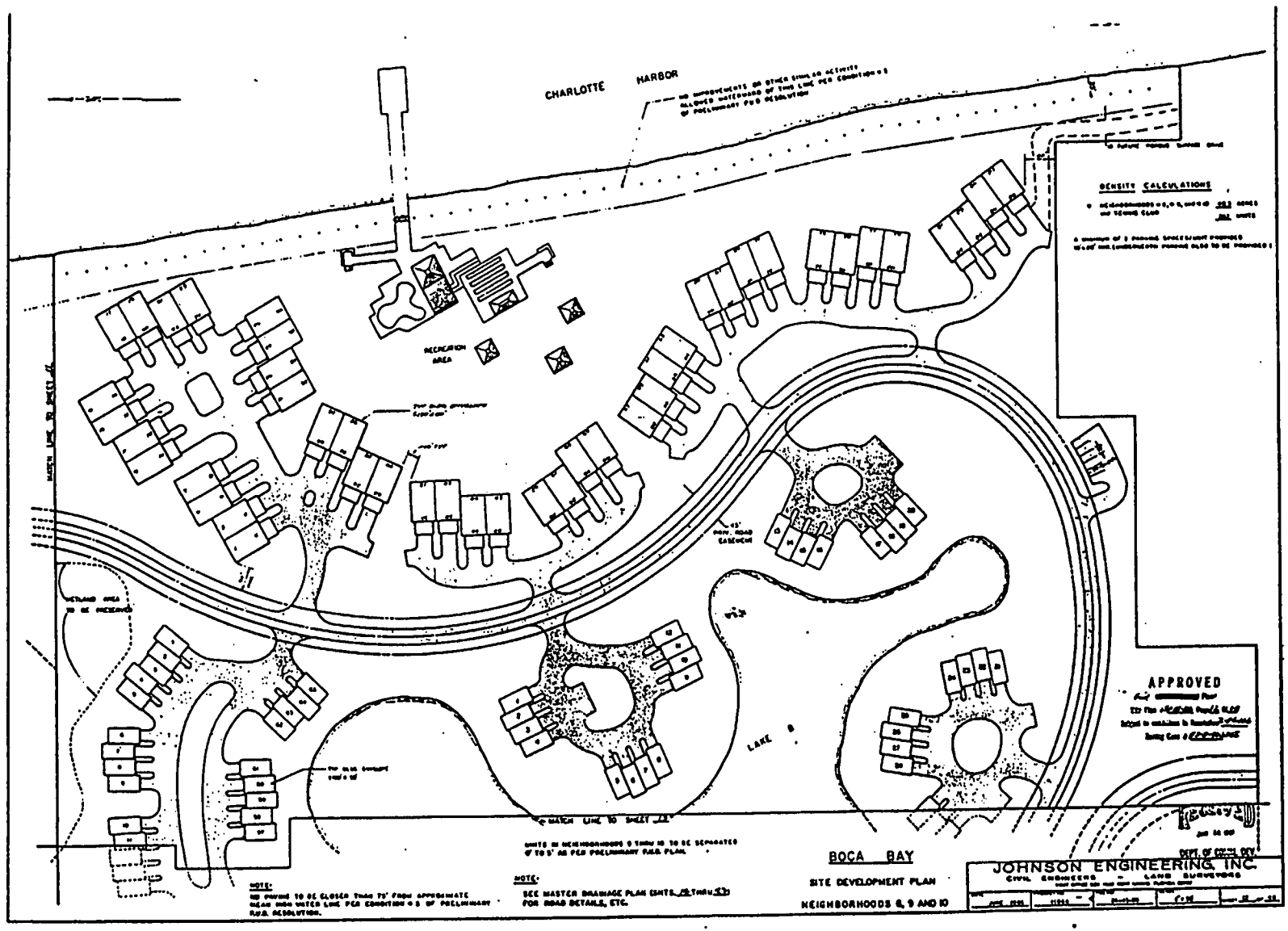
APPROVED

BOCA BAY
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 7

RECEIVED
DEPT. OF COMM. DEV.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

OFF REC 1910 PG 1315



RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

1.7.03

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

<u>Single-Family Detached</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	5 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Single-Family Attached (Villas)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	0 (zero) feet on one side and minimum 10 feet between structures
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Multiple-Family Building (Flats/Town Homes)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Separation between structures:	10 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
County Attorney's Office

FILED
JUN 17 1993
CLERK CIRCUIT COURT
BY _____ D.C.

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

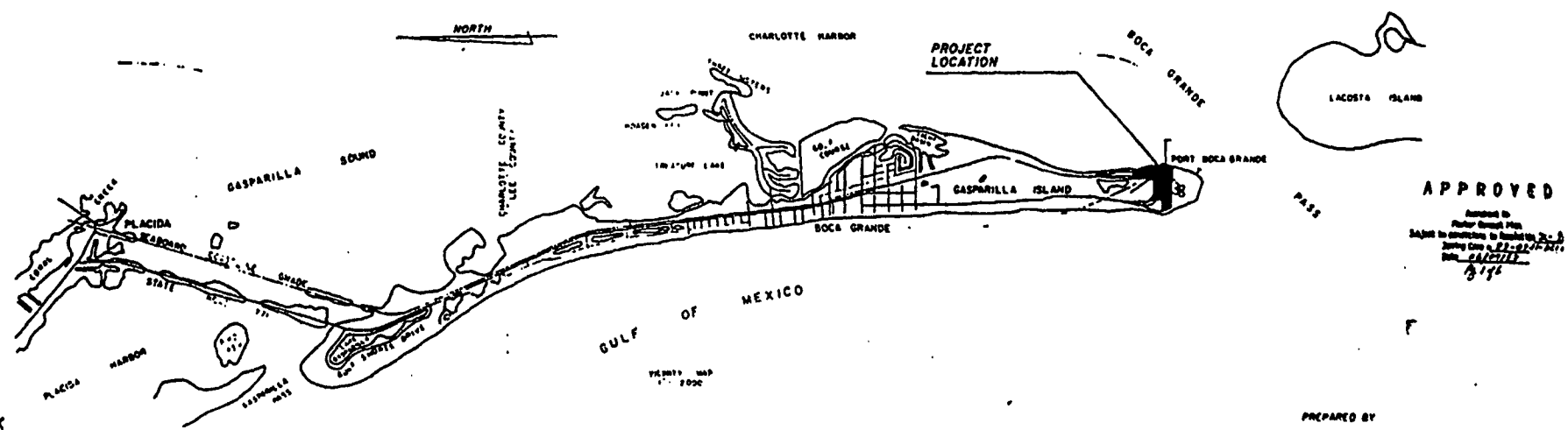
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

Approved to Planned Unit Development Plan
Subject to conditions in Resolution No. Z-91-
Zoning Case # 91-01
Date 6/26/91

INDEX

1	COVER SHEET	
2	OVERALL BOCA BAY SITE MAP	
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)	
4	DETAILS & NOTES	
5	TYPICAL UNIT LAYOUTS & DETAILS	
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION	

UTILITIES:

WATER AND SEWER
GASPARILLA ISLAND WATER ASSOC. INC.
P.O. BOX 370
BOCA GRANDE, FLA. 33921

ELECTRIC
FLORIDA POWER AND LIGHT CO.
P.O. BOX 420
VENICE, FLA. 33595

TELEPHONE
UNITED TELEPHONE COMPANY OF FLORIDA
1426 GOLF BOULEVARD
PUNTA GORDA, FLA.

FIRE PROTECTION
BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 26, 1993

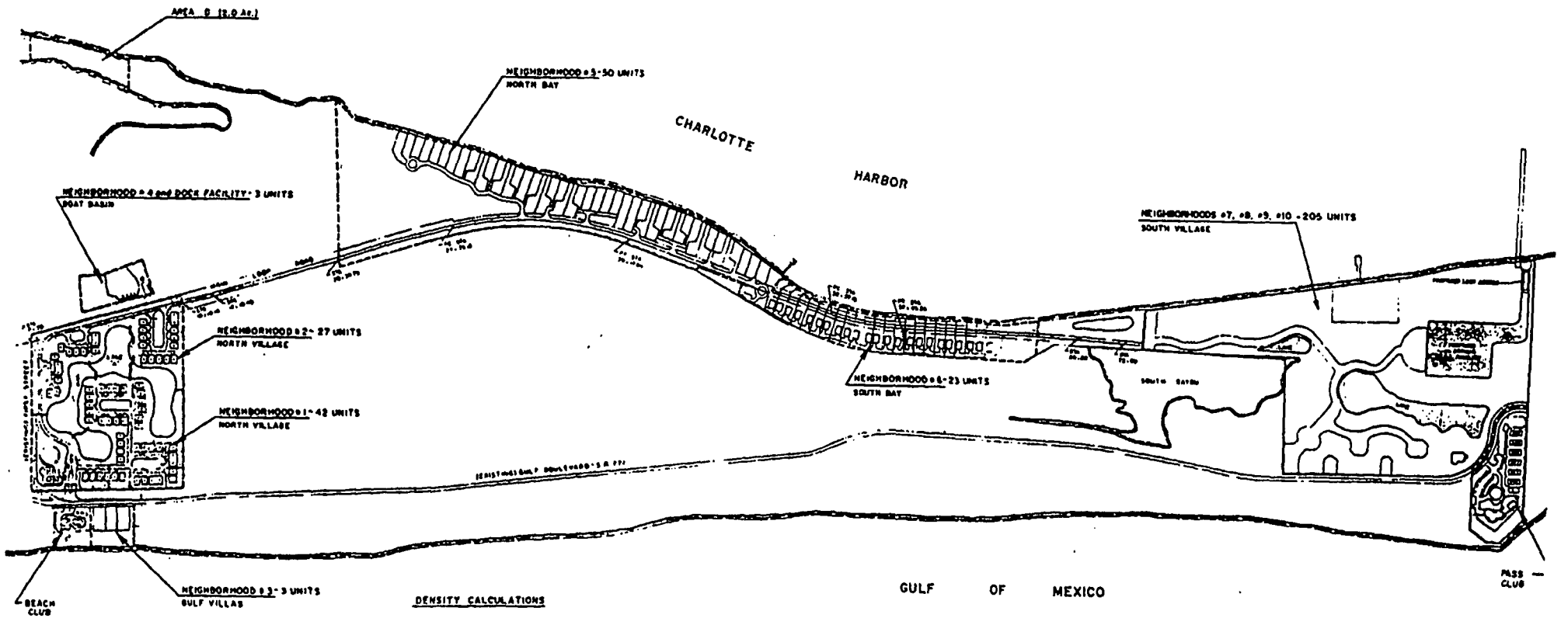
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

RECEIVED
MAY 27 1



DENSITY CALCULATIONS

A. NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA 8	24.5 ACRES	69 UNITS
B. NEIGHBORHOOD # 3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES	3 UNITS
C. NEIGHBORHOOD # 4 (BOAT BASIN) AND DOCKS	2.0 ACRES	3 UNITS
D. NEIGHBORHOOD # 5 (NORTH VILLAGE)	34.4 ACRES	50 UNITS
E. NEIGHBORHOOD # 6 (SOUTH BAY)	9.2 ACRES	23 UNITS
F. NEIGHBORHOOD # 7,8,9,10 (SOUTH VILLAGE) AND PASS CLUB	58.75 ACRES	206 UNITS
TOTAL AC. (PREVIOUSLY APPV'D. PLAN)	127.1 ACRES	
TOTAL UNITS (PREVIOUSLY APPV'D. PLAN)	306 UNITS	
TOTAL AC. (PROPOSED PLAN)	129.65 ACRES	
TOTAL UNITS (PROPOSED PLAN)	353 UNITS	

APPROVED

BOCA BAY

INDEX MAP

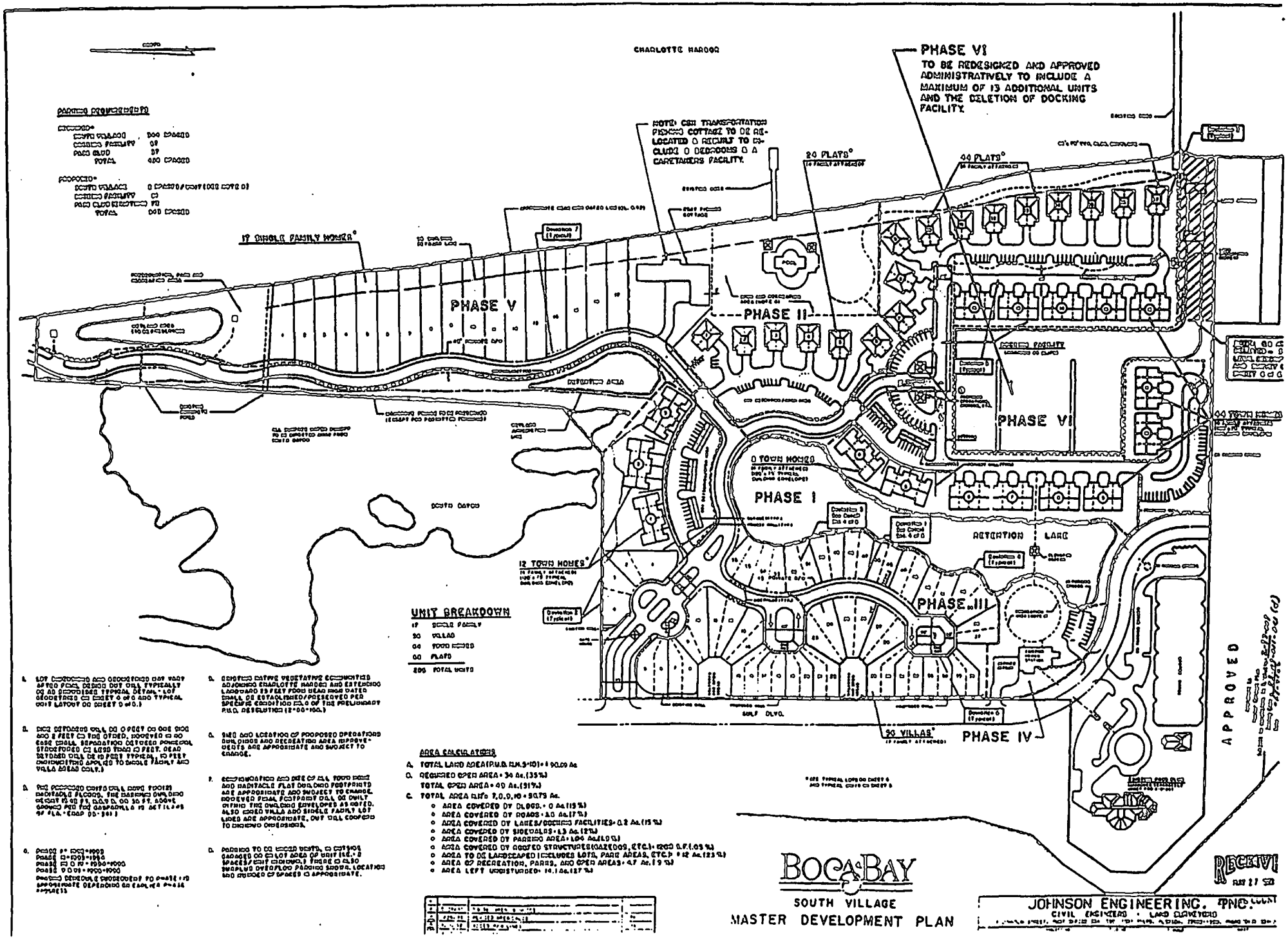
and

NEIGHBORHOOD LAYOUT

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CIVIL ENGINEERS - LAND SURVEYORS



BOCA BAY

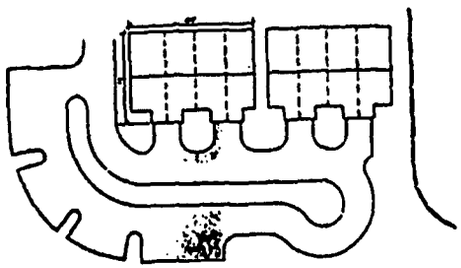
SOUTH VILLAGE

MASTER DEVELOPMENT PLAN

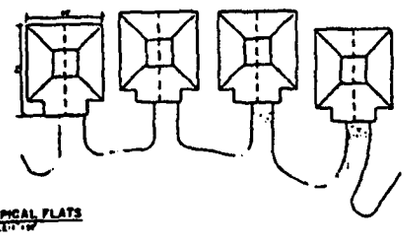
JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS • LAND SURVEYORS

RECEIVED



TYPICAL TOWN HOMES



TYPICAL FLATS

SCHEDULE OF DEVIATIONS
BOCA BAY

1. DEVIATION FROM THE REQUIRED STREET SETBACK AND A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (ZONING ORDINANCE SECTION 202.10.D.2.a.). TO 1/2 RIGHT-OF-WAY PLUS 10 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE ON THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID BUILDING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.2.), TO 5 FEET;

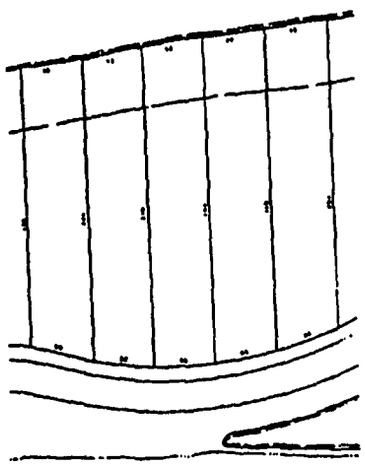
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE BUILDINGS OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 10 FEET AS MEASURED FROM THE BUILDING WALLS;

4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 75 FEET (ZONING ORDINANCE SECTION 202.10.D.4.b.), TO 25 FEET FROM THE RETENTION LAKE EDGE;

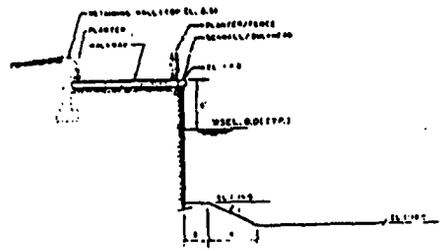
5. DEVIATION FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PUBLICLY DEDICATED RIGHTS-OF-WAY FOR THE PURPOSES OF PROVIDING LOT ACCESS AND AGREES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24 FEET (ZONING ORDINANCE SECTION 202.10.F.3. AND DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.12.), TO 20 FEET;

6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE DIAMETER OF PAVEMENT OF A CUL-DE-SAC BE 90 FEET AND 64 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET DIAMETER (PLUS 20 FEET AND 10FT SIDE WALKS) (DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.11.), TO MEET TOPOGRAPHY AS SHOWN ON THE PUD PLAN; AND

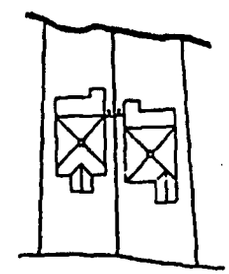
7. DEVIATION FROM THE REQUIREMENT THAT THE 10-FOOT-WIDE UTILITY EASEMENTS SHALL BE PROVIDED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENT (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.E.3.), TO REQUIRE A 5-FOOT-WIDE (MINIMUM) UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.



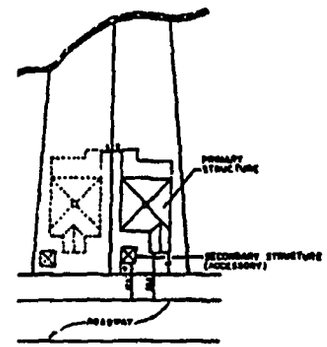
TYPICAL SINGLE FAMILY LOTS



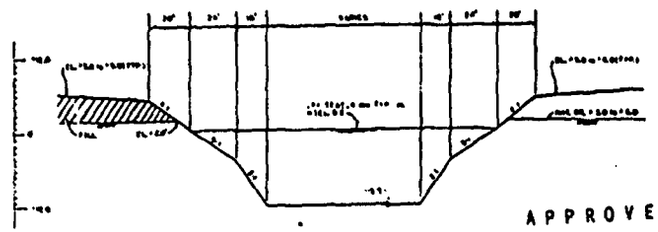
TYPICAL SECTION - DOCKING FACILITY



DEVIATION 3 - Typical Detail



DEVIATION 1 - Typical Detail



TYPICAL LAKE SECTION

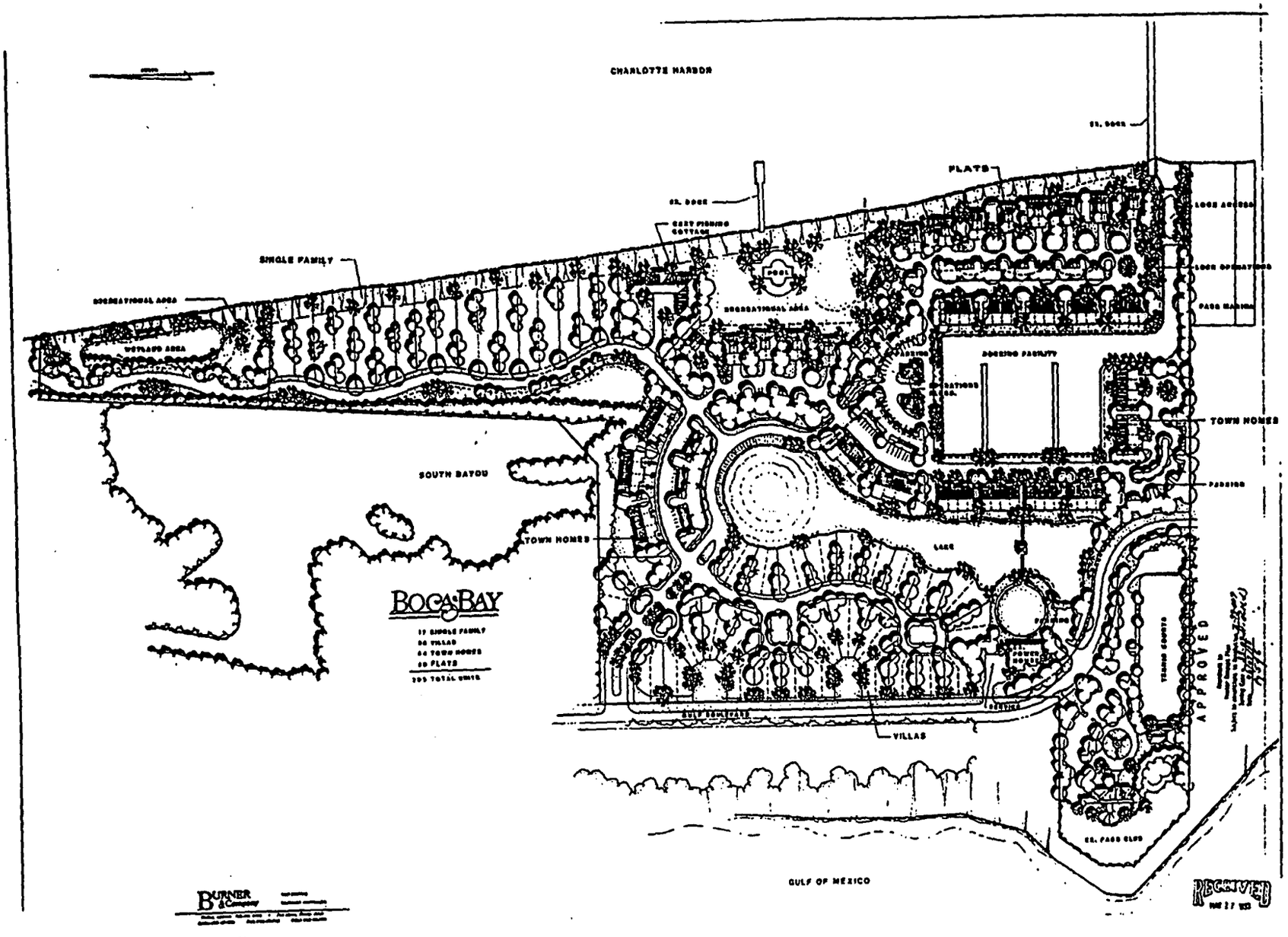
APPROVED

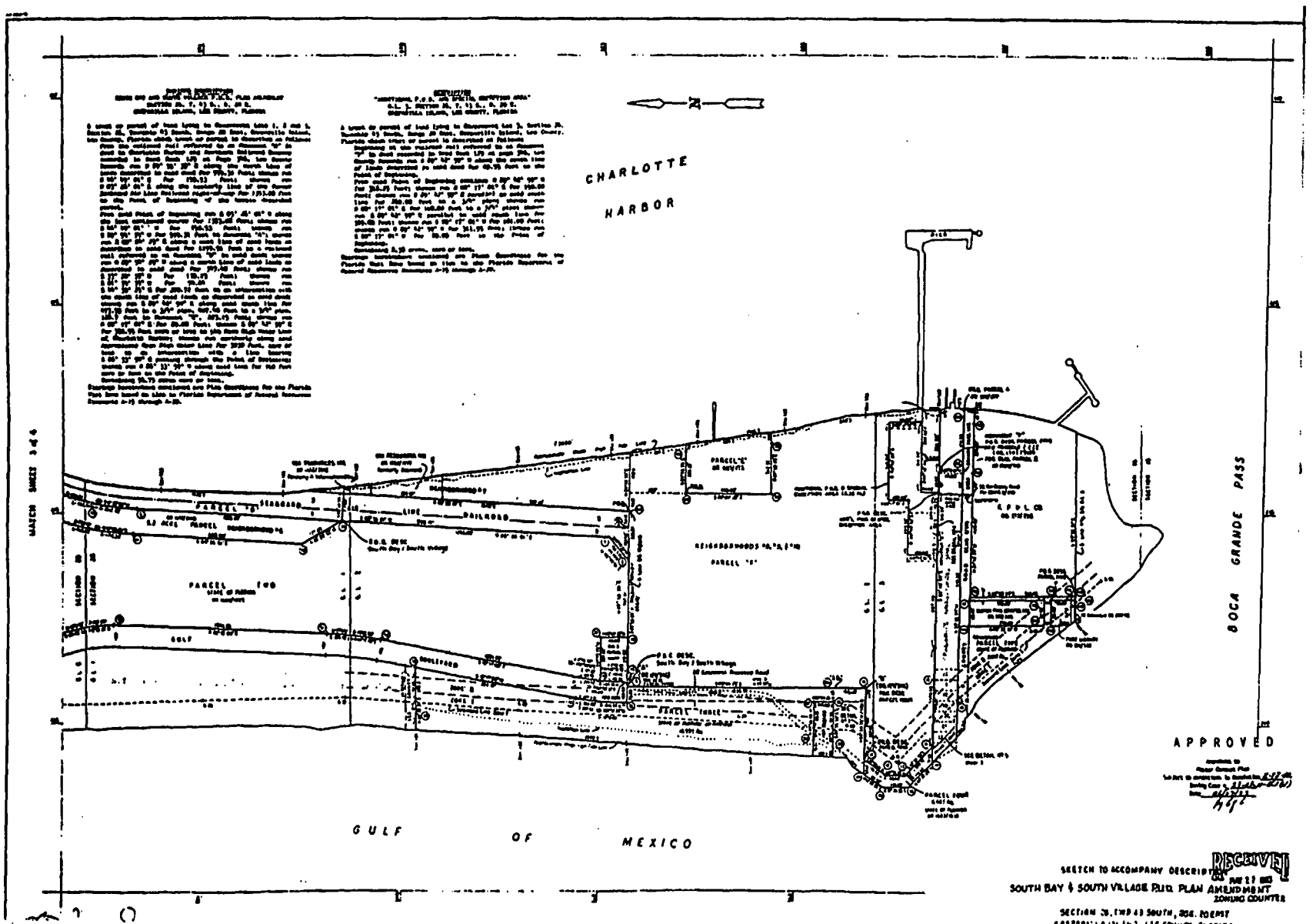
BOCA BAY

RECEIVED
MAY 27 1983

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS

		21-26-43-20	AS SHOWN	4 OF 6


CHARLOTTE HARBOR
FLATS
SINGLE FAMILY
RECREATIONAL AREA
WETLAND AREA
SOUTH BAYOU
TOWN HOMES
BOCA BAY
TOWN HOMES
PARKING
VILLAS
APPROVED
GULF OF MEXICO
RECEIVED


CHARLOTTE
HARBOR
BOCA GRANDE PASS
GULF OF MEXICO
APPROVED
RECEIVED
SOUTH BAY & SOUTH VILLAGE PUD PLAN AMENDMENT
ZONING COUNTER

Acco

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

As to the Special Exception for Residential Use in the PORT District:

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Lydsmer
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert 10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

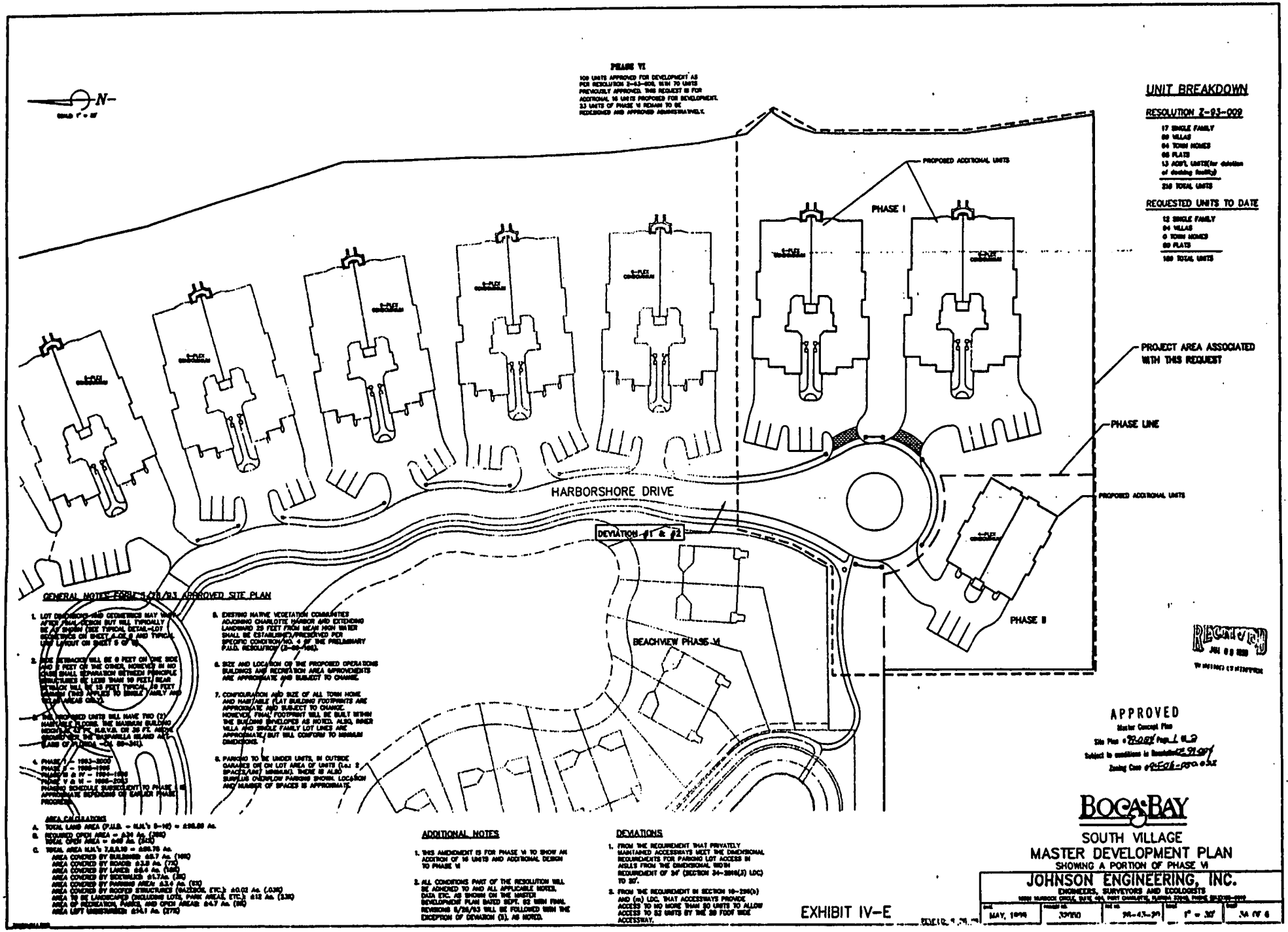
From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾ " pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

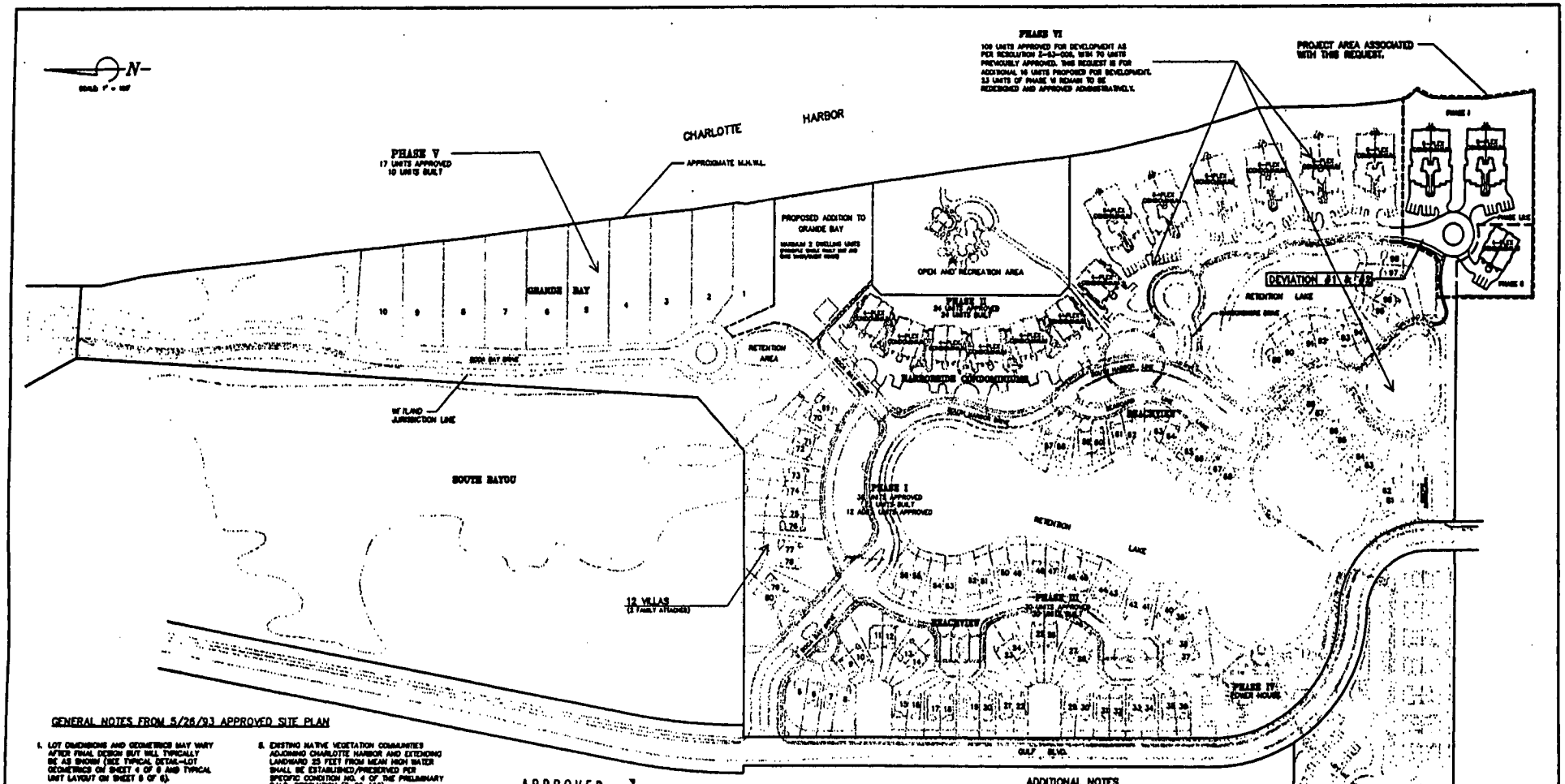
Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.


PHASE VI
109 UNITS APPROVED FOR DEVELOPMENT AS PER RESOLUTION Z-93-009, WITH 70 UNITS PREVIOUSLY APPROVED. THIS REQUEST IS FOR ADDITIONAL 16 UNITS PROPOSED FOR DEVELOPMENT. 23 UNITS OF PHASE VI REMAIN TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY.
N
UNIT BREAKDOWN
RESOLUTION Z-93-009
17 SINGLE FAMILY
89 VILLAS
84 TOWN HOMES
68 FLATS
13 ADD'L UNITS(for deletion of existing facility)
250 TOTAL UNITS
REQUESTED UNITS TO DATE
12 SINGLE FAMILY
84 VILLAS
0 TOWN HOMES
89 FLATS
189 TOTAL UNITS
PROPOSED ADDITIONAL UNITS
PHASE I
PROJECT AREA ASSOCIATED WITH THIS REQUEST
PHASE LINE
PROPOSED ADDITIONAL UNITS
HARBORSHORE DRIVE
DEVIATION #1 & #2
BEACHVIEW PHASE VI
PHASE II
RECEIVED
JUL 08 1998
APPROVED
Master Concept Plan
Site Plan
Subject to conditions in Resolution
Zoning Case
GENERAL NOTES FOR C/O/R/D/I APPROVED SITE PLAN
1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT LOCATIONS ON SHEET A-OS-2 AND TYPICAL LOT LAYOUT ON SHEET 5 OF 10).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 7 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 10 FEET TYPICAL, 20 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND FLAT AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 45 FT. M.S.L.V.D. OR 30 FT. ABOVE CROWN OF THE BARRIER ISLAND ACCORDING TO THE FLORIDA STATUTES (CH. 88-241).
4. PHASE I - 1993-2000
PHASE II - 1998-1999
PHASES III & IV - 1999-2000
PHASE V & VI - 1998-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE II IS APPROXIMATE DEPENDENT ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION/NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-144).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e. 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.
AREA CALCULATIONS
A. TOTAL LAND AREA (P.U.D. - N.A.'s 1-10) = 498.89 Ac.
B. REQUIRED OPEN AREA = 40% Ac. (200)
TOTAL OPEN AREA = 0.00 Ac. (0.0%)
C. TOTAL AREA N.A.'s 1,2,8,9,10 = 498.78 Ac.
AREA COVERED BY BUILDINGS 55.7 Ac. (11%)
AREA COVERED BY ROADS 23.8 Ac. (7%)
AREA COVERED BY LAKES 88.4 Ac. (18%)
AREA COVERED BY SIDEWALKS 21.7 Ac. (4%)
AREA COVERED BY PARKING AREAS 13.4 Ac. (3%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) 10.02 Ac. (.03%)
AREA TO BE LANDSCAPED (EXCLUDING LOTS, PARK AREAS, ETC.) 212 Ac. (33%)
AREA OF RECREATION, PARKS, AND OPEN AREAS 84.7 Ac. (16%)
AREA LEFT UNDISTURBED 134.1 Ac. (27%)
ADDITIONAL NOTES
1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI.
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 6/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (S), AS NOTED.
DEVIATIONS
1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(J) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 20 FOOT WIDE ACCESSWAY.
EXHIBIT IV-E
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI
JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
MAY, 1998
1" = 300'
SHEET 6 OF 6



GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 4 OF 6 AND TYPICAL UNIT LAYOUT ON SHEET 6 OF 6).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 7 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 10 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. M.S.L.D. OR 28 FT. ABOVE GROUND PER THE BARRARELLA ISLAND ACT (LAWS OF FLORIDA -CH. 89-341).
4. PHASE I - 1993-2000
PHASE II - 1995-1998
PHASE III & IV - 1994-1996
PHASE V & VI - 1995-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-164).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, SEMI-VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - N.H.'s 5-10) = ±56.89 Ac.
B. REQUIRED OPEN AREA = 0.34 Ac. (35%)
TOTAL OPEN AREA = ±40 Ac. (70%)
C. TOTAL AREA N.H.'s 7,8,9,10 = ±36.78 Ac.
AREA COVERED BY BUILDINGS ±5.7 Ac. (10%)
AREA COVERED BY ROADS ±3.8 Ac. (7%)
AREA COVERED BY LAKES ±8.7 Ac. (15%)
AREA COVERED BY SIDEWALKS ±1.7Ac. (3%)
AREA COVERED BY PARKING AREAS ±3.0 Ac. (5%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) ±0.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.) ±12 Ac. (33%)
AREA OF RECREATION, PARKS, AND OPEN AREAS ±4.7 Ac. (8%)
AREA LEFT UNDISTURBED ±14.1 Ac. (27%)

APPROVED
Master Concept Plan
Site Plan # 77-05 Page 2 of 2
Subject to conditions in Resolution Z-93-009
Zoning Case # 88-06-090.02C

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
56 VILLAS	84 VILLAS
84 TOWN HOMES	0 TOWN HOMES
68 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of docking facility)	
218 TOTAL UNITS	166 TOTAL UNITS

8-3-99 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-99-042 CASE #88-06-182.13A 06.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 93 WITH FINAL REVISIONS 6/28/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (2), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-3016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 53 UNITS BY THE 30 FOOT WIDE ACCESSWAY.

PROJECT # 92-06-090.02
PROJECT TYPE DP

BOCA BAY

RECEIVED
AUG 01 1993
ZONING COUNTER

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
SEPT., 1992	32050	26-43-20	1" = 100'	3 OF 6

EXHIBIT IV-E

ZONING MAP

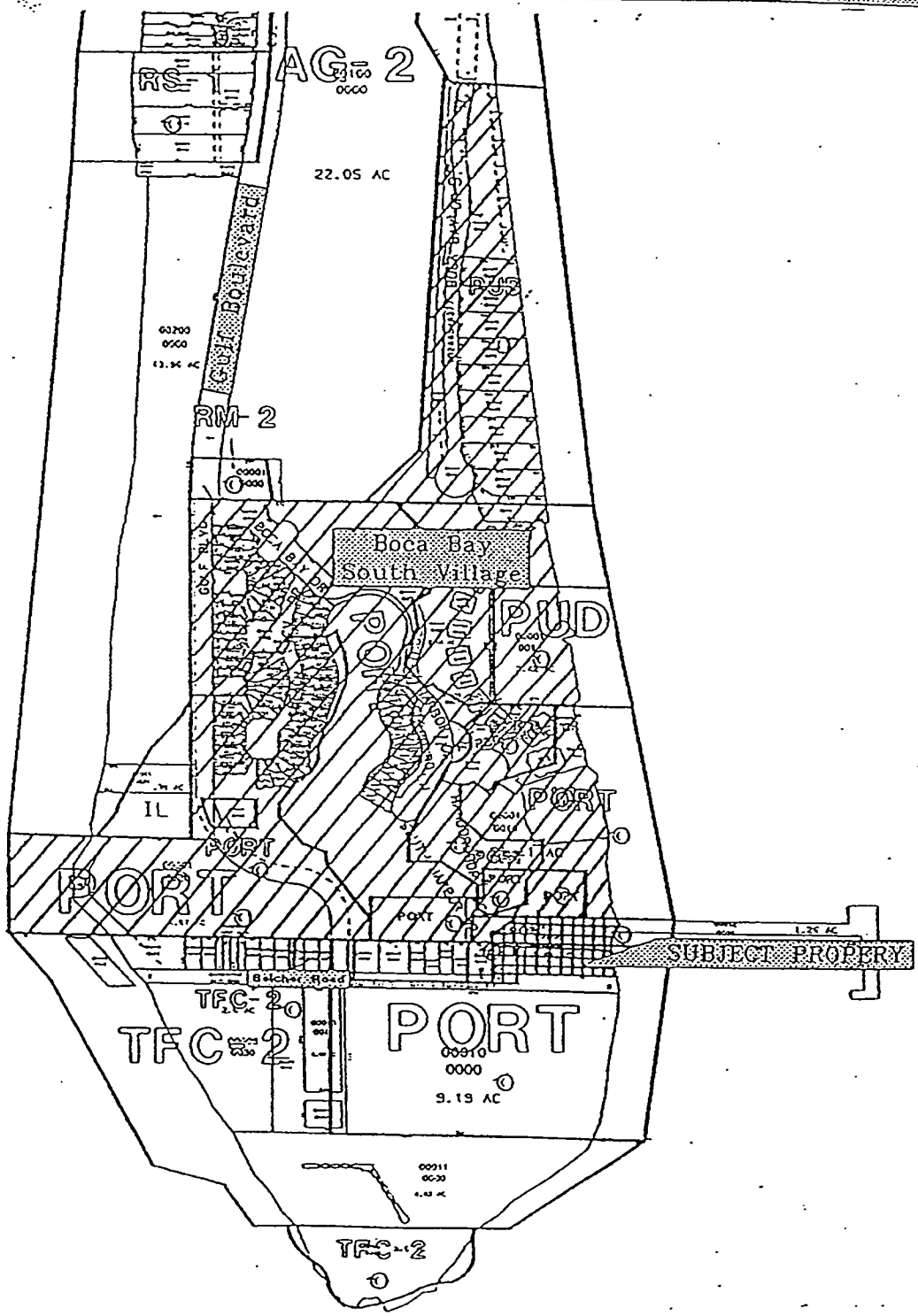


EXHIBIT C

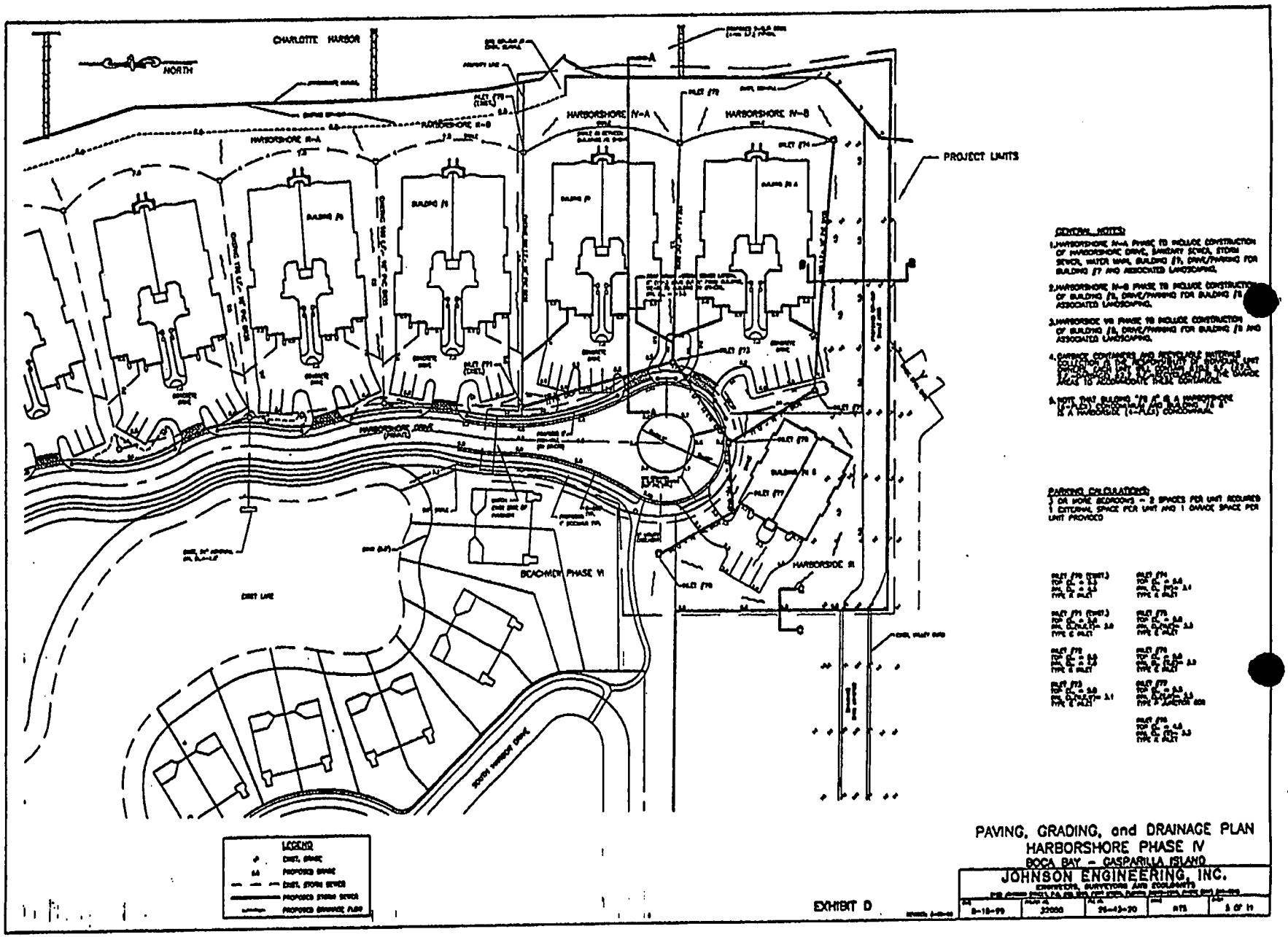
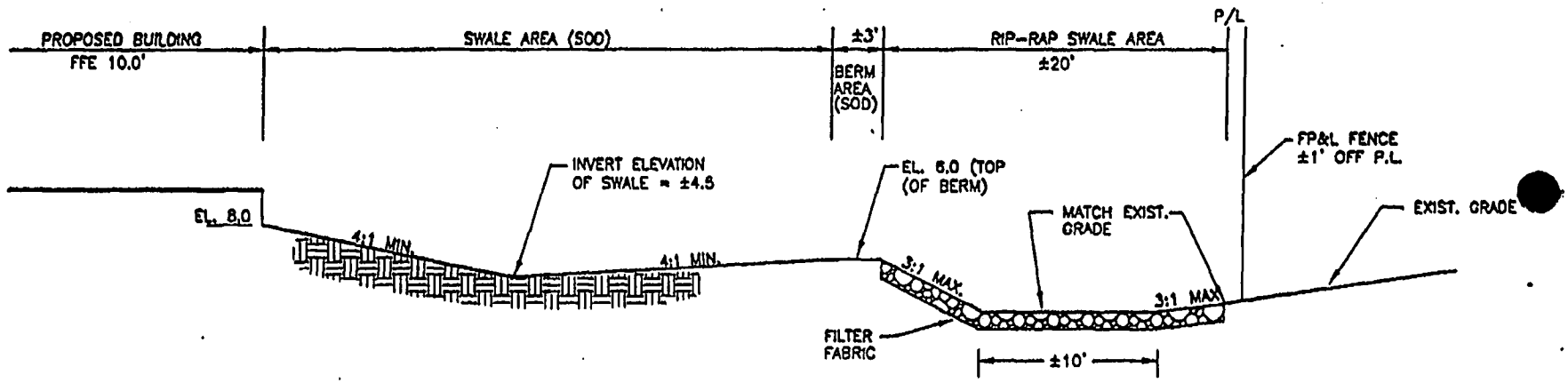

CHARLOTTE HARBOR
NORTH
HARBORSHORE IV-A
HARBORSHORE IV-B
HARBORSHORE III-A
HARBORSHORE II-B
PROJECT LIMITS
BUILDING IV
BUILDING III
BUILDING II
BUILDING I
HARBORSIDE III
BEACHVIEW PHASE VI
DIRT LANE
SOUTH HARBOR DRIVE
GENERAL NOTES:
PARKING CALCULATIONS:
LEGEND
PAVING, GRADING, and DRAINAGE PLAN
HARBORSHORE PHASE IV
BOCA BAY - CASPARILLA ISLAND
JOHNSON ENGINEERING, INC.
EXHIBIT D

EXHIBIT D



SECTION B-B

N.T.S.

EXHIBIT D

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4203 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
snoble@ralaw.com

October 9, 2000

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: CSX Application for Comprehensive Plan Amendment
Case No. CPA2000-00002

Dear Mr. Noble:

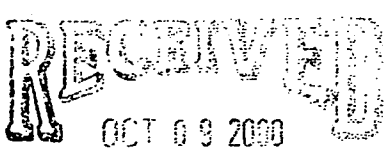
Pursuant to your telephone conversation with Attorney Robert Pritt, enclosed please find two copies of the Application for Comprehensive Plan Amendment, which was previously filed with your office on September 28, 2000. It is our understanding that the filing of this new form will be retroactive back to the original filing date.

If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,

Sandra E. Noble, CLA
Certified Legal Assistant

SEN/umr
Enclosure



PERMIT COUNTER

FILE COPY

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate **Roetzel & Andress, a legal professional association,** as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced~~ _____ ~~as identification.~~

Harriett K. Mochel
Signature of Notary Public

(SEAL)

77032_1

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

LEE COUNTY
SOUTHWEST FLORIDA

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D.:_____ REC'D BY:_____

APPLICATION FEE:_____ TIDEMARK NO:_____

THE FOLLOWING VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal: ☐ Small Scale: ☐ DRI ☐ Emergency: ☐

Request No.:_____

APPLICANT PLEASE NOTE:
Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

Robt D Pritt

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress,
A Legal Professional Association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
APPLICANT

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association
AGENT

2320 FIRST STREET, SUITE 1000
ADDRESS

FORT MYERS	FLORIDA	33901
CITY	STATE	ZIP

(941) 337-3850 (941) 337-0970
TELEPHONE NUMBER FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
OWNER(s) OF RECORD

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application. (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☐ Text Amendment ☐ Future Land Use Map Series Amendment (Maps 1 thru 19)
List Number(s) of Map(s) to be amended
X Map 12 (South Boca Grande)

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary of Request - Exhibit "A"

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc., 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE / Boca Bay Master Association

B. Property Information:

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay / ± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit "B")

Area of each Existing Future Land Use Category:

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: _____

D. Proposed change for the Subject Property: No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property zoned Port that could permit industrial and commercial uses

   Industrial intensity: _____

2. Calculation of maximum allowable development under proposed FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property text change would preclude industrial and commercial uses

   Industrial intensity: _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.

2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.

4. Map and describe existing zoning of the subject property and surrounding properties.

5. The legal description(s) for the property subject to the requested change.

6. A copy of the deed(s) for the property subject to the requested change.

7. An aerial map showing the subject property and surrounding properties.

8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

   The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range - 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether

network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;

d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range - 5-year CIP horizon:

a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
   Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for: **N/A**
   a. Sanitary Sewer
   b. Potable Water
   c. Surface Water/Drainage Basins
   d. Parks, Recreation, and Open Space.

   Analysis should include (but is not limited to) the following:
   - Franchise Area, Basin, or District in which the property is located;
   - Current LOS, and LOS standard of facilities serving the site;
   - Projected 2020 LOS under existing designation;
   - Projected 2020 LOS under proposed designation;

- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;
   b. Emergency medical service (EMS) provisions;
   c. Law enforcement;
   c. Solid Waste;
   d. Mass Transit; and
   e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).

2. A map and description of the soils found on the property (identify the source of the information).

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources **N/A**

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed

change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.

2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **(See Exhibit "A" attached)**

F. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
   b. Provide data and analysis required by Policy 2.4.4,
   c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.

2. Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon

pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	$500.00 each
Map Amendment > 20 Acres	$500.00 and $20.00 per 10 acres up to a maximum of $2,255.00
Text Amendment Flat Fee	$1,250.00 each

AFFIDAVIT

I, **ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association**, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Robert D. Pritt

Signature of owner or owner-authorized agent Date

ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association

Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 9th day of October, 2000, by ~~ROBERT D. PRITT,~~ on behalf of Roetzel & Andress, A Legal Professional Association, who is personally known to me or who has produced _____ _____ (type of ID) as identification.

(SEAL)



Sandra E. Noble
Commission # CC 928983
Expires April 17, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Sandra E. Noble
Signature of notary public

SANDRA E. NOBLE
Printed name of notary public

77496_1

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

77190_1

EXHIBIT "B"

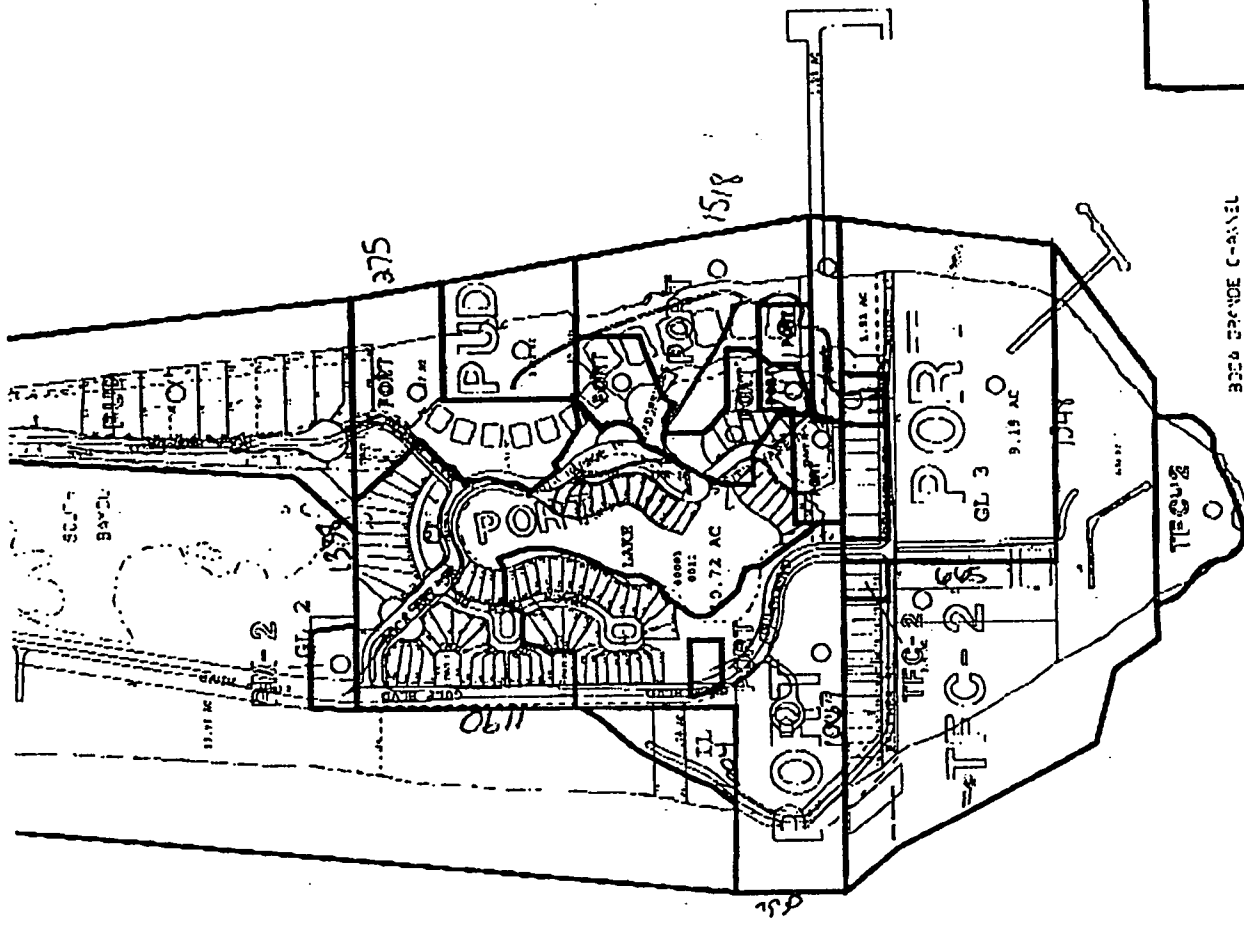
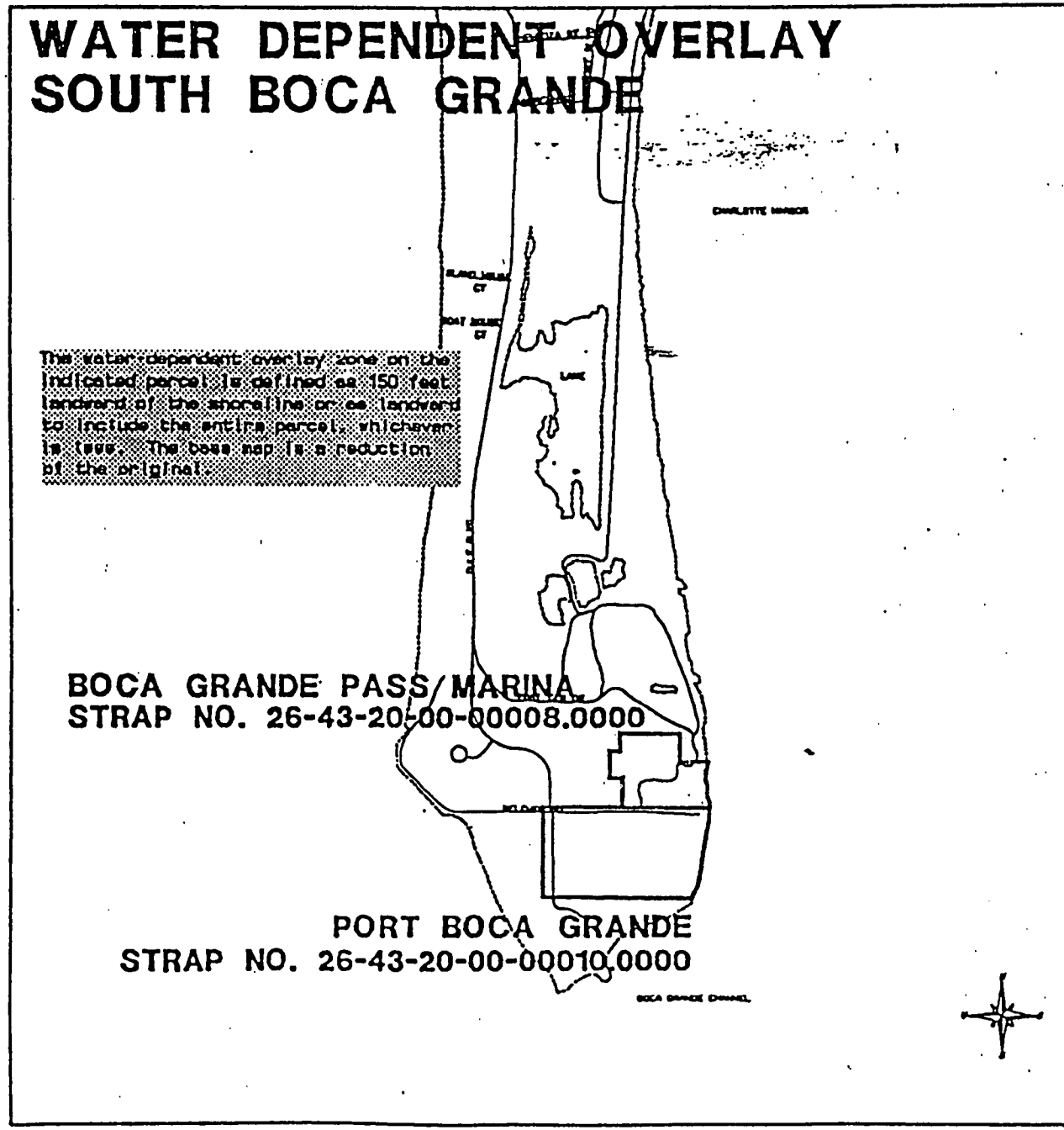


EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

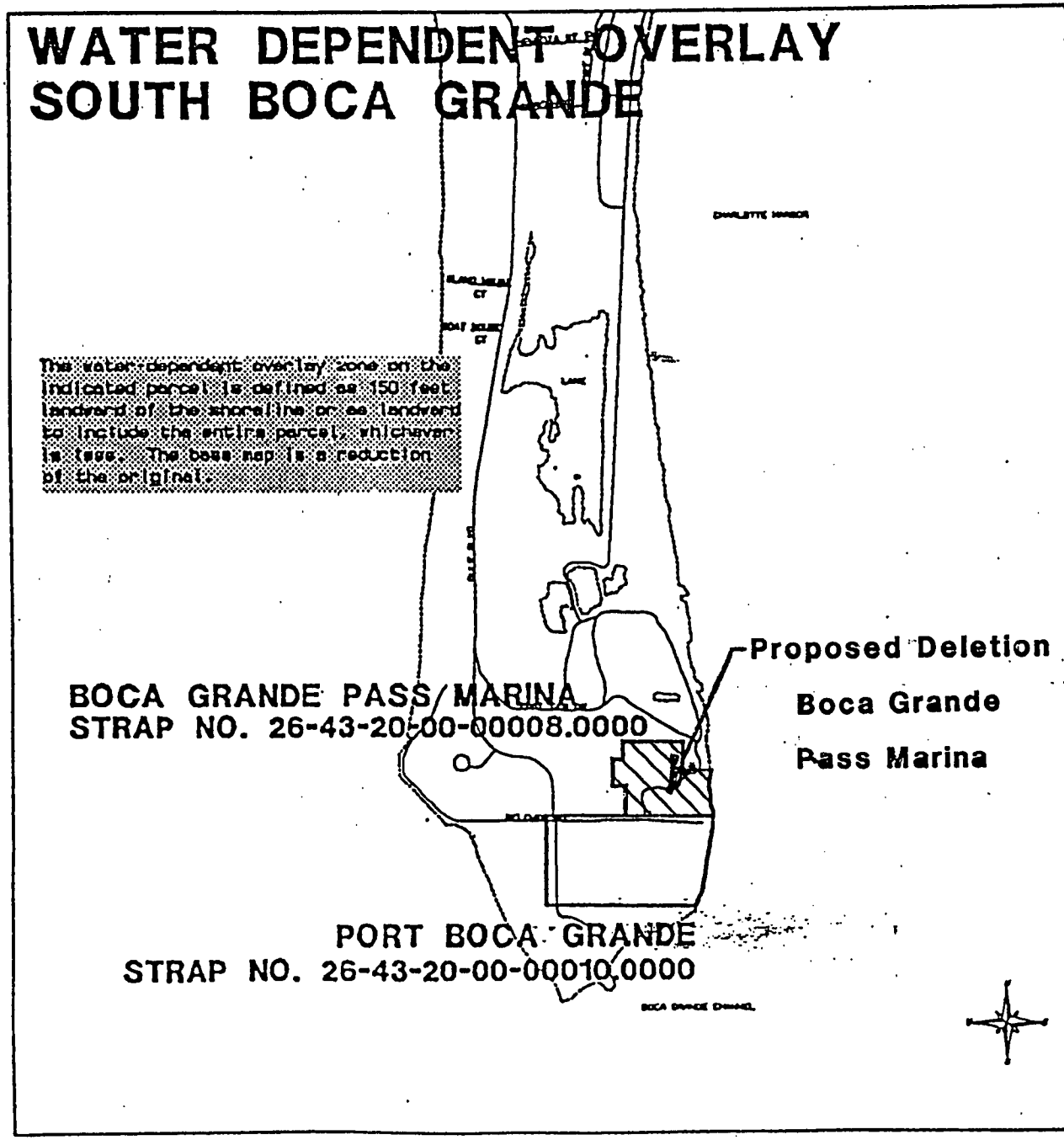
WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



MAP 12 – Page 3 of 19

CURRENT

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



MAP 12 – Page 3 of 19

CPA 2000-02
PRIVATELY INITIATED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
August 29, 2001 Public Hearing

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

August 1, 2001

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-02

☑ **Text Amendment** ☑ **Map Amendment**

	This document contains the following reviews:
✓	**Staff Review**
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 21, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. **APPLICANT:**
   THE BOCA BAY MASTER ASSOCIATION
   REPRESENTED BY BEVERLY GRADY, ESQ.
   ROETZEL & ANDRESS

2. **REQUEST:**
   To amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

   Amend Goal 15 of the Lee Plan by adding the following objective and policy:

   Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

   Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning Staff recommends that the Board of County Commissioners transmit this plan amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Zoning resolution ZAB-83-352 granted preliminary Planned Unit Development (PUD) approval and a special exception in the PORT district for residential uses. Resolution Z-86-166 granted final approval to both of these measures in 1987. This development was further amended by Resolution Z-93-009 in 1993.

- The Boca Grande Pass Marina use no longer exists. The subject site was approved for conversion from water dependent uses to non-water dependent uses by resolution Z-99-054. This resolution approved the demolition of Boca Grande Pass marina and the subsequent development of 16 multifamily residential units on the site.

- The site has been cleared and as such there are no indigenous plant communities to disturb.

- There are no sites of historic or archeological importance impacted by the proposed change to the Lee Plan.

- The proposed amendment limits the potential traffic generation of the subject site.

- The proposed amendment limits utilities demands of the subject site.

- The proposed amendment limits development intensity of the subject site.

C. BACKGROUND INFORMATION

Boca Bay is a residential community on the south end of Gasparilla Island. In 1981, the Board of Commissioners approved resolution Z-81-258, which rezoned large portions of the Boca Grande area to the PORT district. The owners of the Boca Bay project appealed unsuccessfully and initiated litigation against the County. This legal action was dropped in 1984 when the County approved resolution ZAB-83-352. This granted a change from AG-2 zoning district to preliminary Planned Unit Development (PUD) approval and created a special exception in the PORT district for residential uses. Approximately 97 acres were affected by this approval. The northern parts of the Boca Bay development, Neighborhoods 1 through 4, were still zoned RM-2 and were not affected by ZAB 83-352 or subsequent resolutions concerning the PUD.

In 1987 final PUD and special exception approval was granted by resolution Z–86-166. 291 units were approved at a density of 3 units per acre to be distributed between three areas. Also permitted were a tennis club with food and beverage service and consumption on premises of alcoholic beverages, model homes in each neighborhood, a sales office, a guard house with gates, and appurtenant signs. At the same time, the portions of Boca Bay outside the PUD were approved for

77 residential units, 19 wet slip docks in the yacht basin, a beach club, guardhouses, Model homes, and a consumption on premises use by resolutions Z-86-170 and Z-86-171. This brought the total number of approved units for the Boca Bay development to 368.

In 1988, the board approved Z-88-151, which created a conservation easement and approved variations in neighborhood #5 in the PUD.

The Water Dependent Overlays were created in 1989 to protect marine-oriented land uses from incompatible or preemptive land uses. The Lee Plan was amended to include two WDOs on the southern end of Gasparilla Island (Attachment 1). The southernmost one is within the parcel owned by Florida Power and Light and consists of a fuel oil storage and transfer facility. The northern one was originally the Boca Grande Pass Marina and abutted the northern edge of the FPL facility. This latter WDO is the subject of this amendment.

In 1993 the PUD was further amended by Resolution Z-93-009. This specifically prohibited an 85-unit wet slip marina and allowed an additional 13 residential units in its place. This raised the total approved units in the PUD to 304 and the total in the Boca Bay development to 381.

In 1999, resolution Z-99-054 approved the conversion of a water-dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the 304 that were already approved for the PUD. Subsequently, the marina was demolished, removing the two dry-storage buildings. The residential units are under construction as of the writing of this report. On March 6, 2001, administrative approval was granted to substitute 2 single family residential units in lieu of 1 four-plex building.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In a resubmittal dated January 24, 2001, (attachment 3) the applicant provides the following comments:

> *"The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for 'Water Dependent Overlay South Boca Grande' a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use-non water-dependent uses.*
>
> *In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.*

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA 2000-02. The Board of County Commissioners granted:

1. *An amendment to the planned unit development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and*

2. *A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and*

3. *Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone."*

The Boca Bay community is a residential area. The 1984 special exception for residential uses created a de facto residential zoning. The proposed amendment does not change any existing land uses and insures that future land uses will be consistent with existing approvals. Likewise, the conversion to residential use created by resolution Z-99-054 removed all water dependent uses from the portion of the WDO zone lying north of Belcher Road. This has rendered the WDO designation for this parcel unnecessary. The proposed Lee Plan amendment would remove the Boca Grande Pass Marina WDO zone from Map 12 (Attachment 2).

Transportation
The proposed amendment does not create any additional residential units or other uses. The proposed amendment allows only those uses approved by previous resolutions. As such, it precludes more intense uses and the resulting increase in trip generation.

Emergency Services
As this proposed amendment does not create additional infrastructure or residences, it does not increase the demand on EMS or fire protection services. In fact, the proposal limits demand as it precludes more intense uses from the subject area.

Hurricane Evacuation
Since the proposed amendment limits trip generation, it has no effect on hurricane evacuation time.

Utilities
The proposed amendment does not create any additional demand on either water or sewer facilities. In addition, the proposal precludes the more intense uses of the PORT designation from being developed and creating greater demands on utility services.

Environmental Concerns
The proposed change would not destroy or disturb any fragile or preserved plant communities in the WDO zone as the affected area had been previously disturbed when it was the Boca Grande Pass Marina. The proposed amendment creates no environmental concerns.

Soils
A summary report of the Boca Bay PUD lists the following soil types on the property: Canaveral fine sand, Captiva fine sand, Wulfert muck, Kesson fine sand, and St. Augustine sand (Attachment 4).

Development Intensity
The proposed amendment limits developmental intensity by precluding those uses in the PORT designation that are more intense than the uses specifically approved by previous resolutions.

Residential Density
The proposed amendment would not change the residential density of the Boca Bay community as previous resolutions have already determined the number of units in the PUD.

Historic Preservation
There are no known historic or archeological sites within the area of the proposed change. The proposed amendment has no effect on any known archeological or historic sites or areas.

Coastal Issues
Previous resolutions have addressed coastal issues for the subject site. As the proposed amendment limits further development to those uses specifically listed by previous resolutions, it creates no new coastal issues.

Population Accommodation
The proposed amendment will not change the population accommodation of the subject property.

B. CONCLUSIONS

The proposed amendment does not create new land uses or change existing ones. It simply ensures that the Boca Bay community is protected from incompatible land uses in the future. In doing so, the proposal will help maintain the local character of the area. This proposal also limits overall development intensity by precluding uses that might result in additional commercial intensity. Furthermore, by removing the marina WDO from the Lee Plan, this proposal clarifies the true intent of the property owner and reflects the reality of the existing, on-site development.

C. STAFF RECOMMENDATION

Planning Staff recommends that the board of County Commissioners transmit this Plan Amendment.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: June 4, 2001

A. LOCAL PLANNING AGENCY REVIEW

One LPA member asked if there were any uses not contemplated in the amendment that may be needed in this planned development or future rezonings that would be a problem in the future. Staff responded that the applicant had been asked this very question and was satisfied with the language. The previous resolutions on the property outlined the exact uses permitted on the subject property.

Another LPA member asked why this amendment had to be initiated privately instead of by the County. Staff responded that the County would only have initiated the removal of the WDO. Staff also said that there was not much time between the applicant's removal of the water dependent uses through the rezoning request and the initiation of this amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:**
   The LPA recommends that the Board of County Commissioners transmit this amendment to add to the Lee Plan Objective 15.5 that removes the Boca Grande Pass Marina Water Dependent Overlay zone and to add Policy 15.5.1 that limits the uses within the PORT district in the Boca Bay PUD to those approved by resolutions Z-86-166, Z-93-009, and Z-99-054.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:**
   The LPA accepted the findings of fact as advanced by the staff

C. VOTE

NOEL ANDRESS	AYE
SUSAN BROOKMAN	AYE
BARRY ERNST	AYE
RONALD INGE	AYE
GORDON REIGELMAN	AYE
VIRGINIA SPLITT	AYE
GREG STUART	AYE

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

B. STAFF RESPONSE

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING:_____

A. BOARD REVIEW:

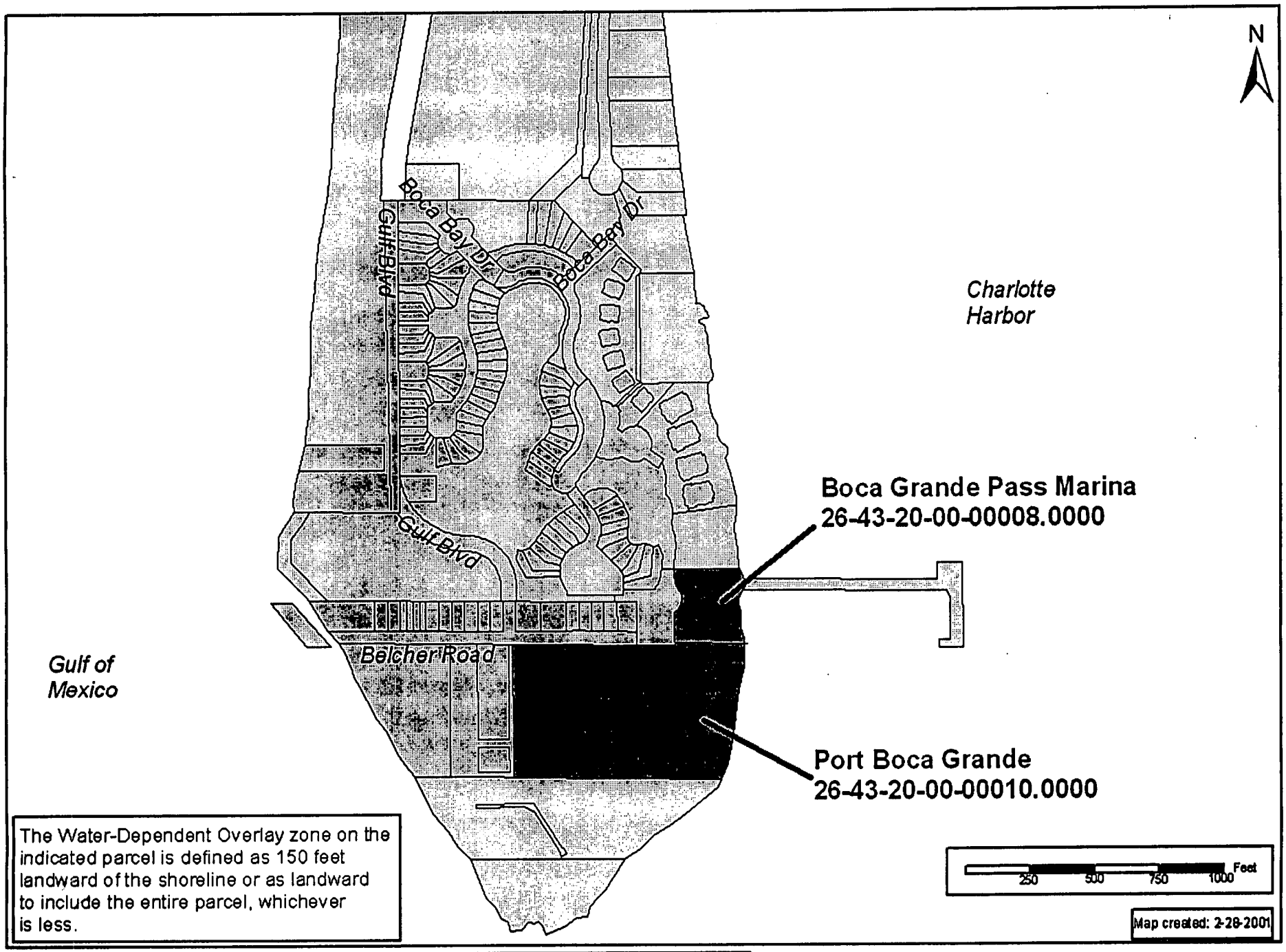
B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

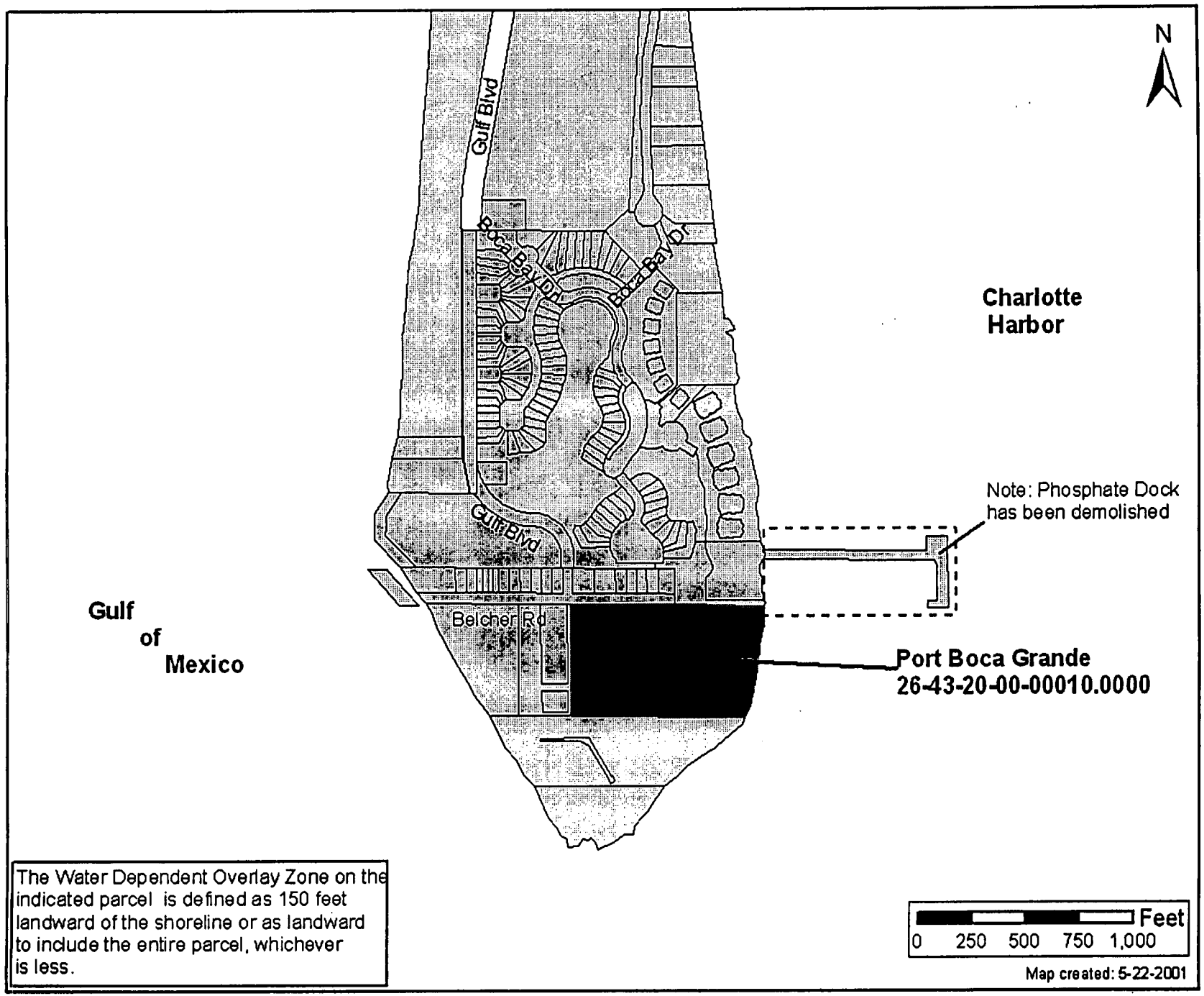
2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

	_____
JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____



Attachment 1 Existing WDO Map



Attachment 2. Proposed WDO map

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

Attachment 3

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1

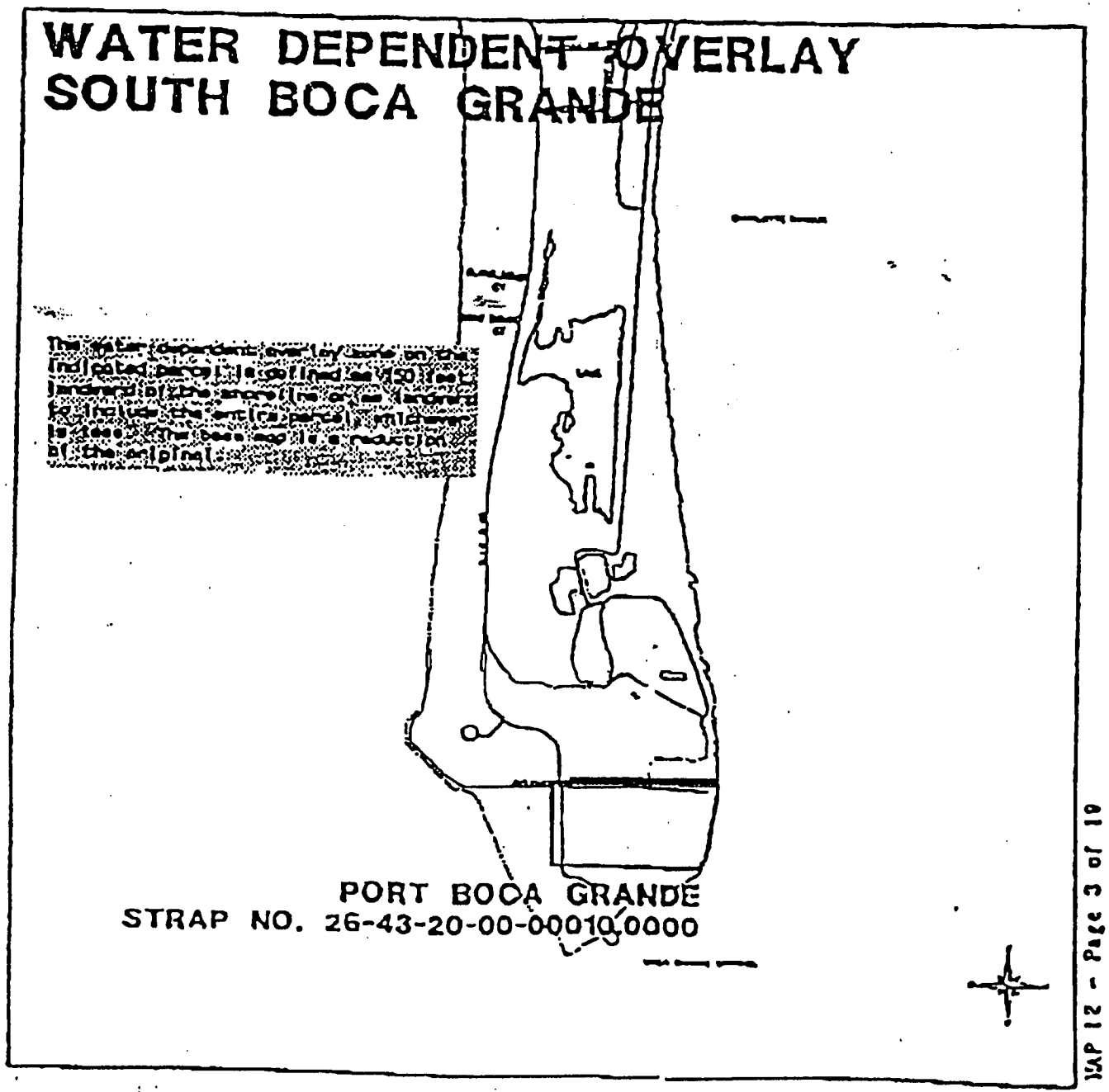
E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

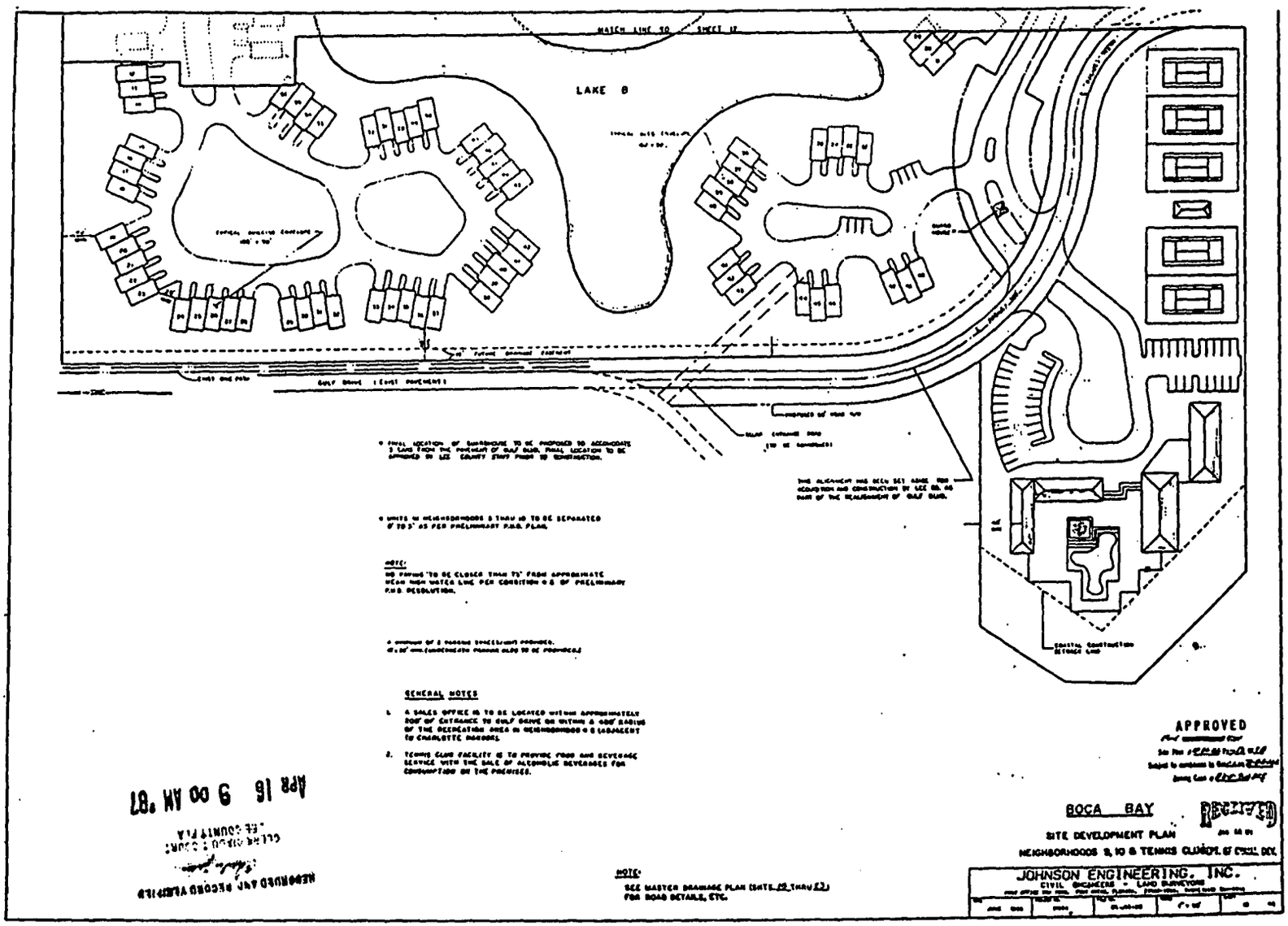
48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.



PROPOSED OVERLAY

Attachment 5
Previous Resolutions
Concerning the Boca Bay PUD

OFF REC 1910 PG 1346



* FINAL LOCATION OF SHUFFLEBOARD TO BE PROPOSED TO ACCOMODATE 5 LANE FROM THE PAVEMENT OF GULF DRIVE. FINAL LOCATION TO BE APPROVED BY LEE COUNTY STAFF PRIOR TO CONSTRUCTION.

* UNITS IN NEIGHBORHOODS 8 THRU 10 TO BE SEPARATED 0' TO 5' AS PER PRELIMINARY P.U.D. PLANS.

NOTE:
NO PARKING TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION # 8 OF PRELIMINARY P.U.D. RESOLUTION.

* MINIMUM OF 2 PARKING SPACES/UNIT PROVIDED. ADDITIONAL PARKING ALSO TO BE PROVIDED.

GENERAL NOTES

1. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 800' OF ENTRANCE TO GULF DRIVE OR WITHIN A 400' RADIUS OF THE RECREATION AREA IN NEIGHBORHOOD # 8 ADJACENT TO CHARLOTTE HARBOR.

2. TENNIS CLUB FACILITY IS TO PROVIDE FOOD AND BEVERAGE SERVICE WITH THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. 22 THRU 27) FOR ROAD DETAILS, ETC.

APPROVED

Site Plan # [illegible] Subject to comments in Resolution [illegible]
Zoning Case # [illegible]

BOCA BAY

SITE DEVELOPMENT PLAN

NEIGHBORHOODS 8, 10 & TENNIS CLUB/POL. OF CIVIL DEV.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS

RECEIVED
APR 16 9 00 AM '87
CLERK CIRCUIT COURT
LEE COUNTY FLA

RECORDED AND RECORD VERIFIED

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McGowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

> CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFFICIAL RECORDS BOOK 1309

PRELIMINARY

ENGINEERING PLANS

FOR

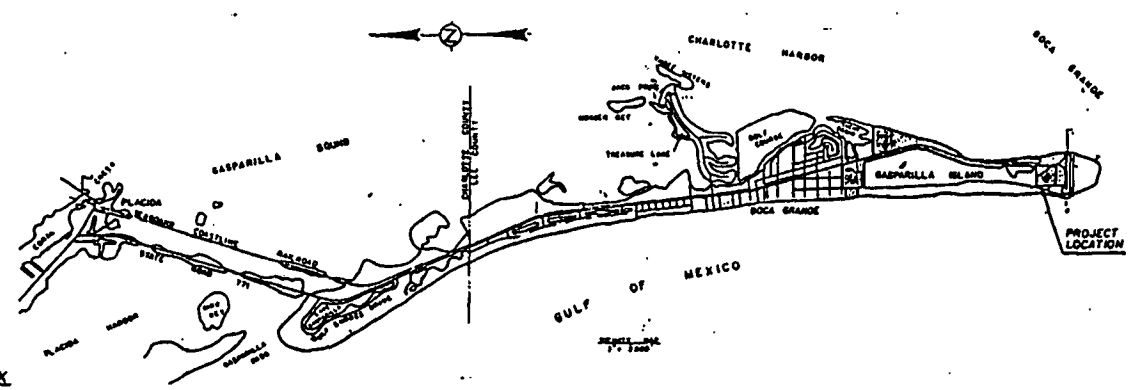
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



APPROVED

INDEX

Sheet No.	Description
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2	INDEX MAP
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11	LAND USE IDENTIFICATION PLAN
12 - 23	MASTER DRAINAGE PLAN
24 - 30	PLAN AND PROFILE SHEET
31	ROAD AND DRAINAGE DETAILS
32 - 43	PRELIMINARY WATER AND SEWER SYSTEM
44 - 48	GENERAL WATER / SEWER DETAILS
APPENDIX 1 - 4	LANDSCAPE PLAN

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

A. T. GRANT

Registered Professional Engineer

Florida Certificate No. 13621

RECEIVED

DEPT. OF COMM. DEV.

JUNE 1986

REVISED JANUARY 7, 1987

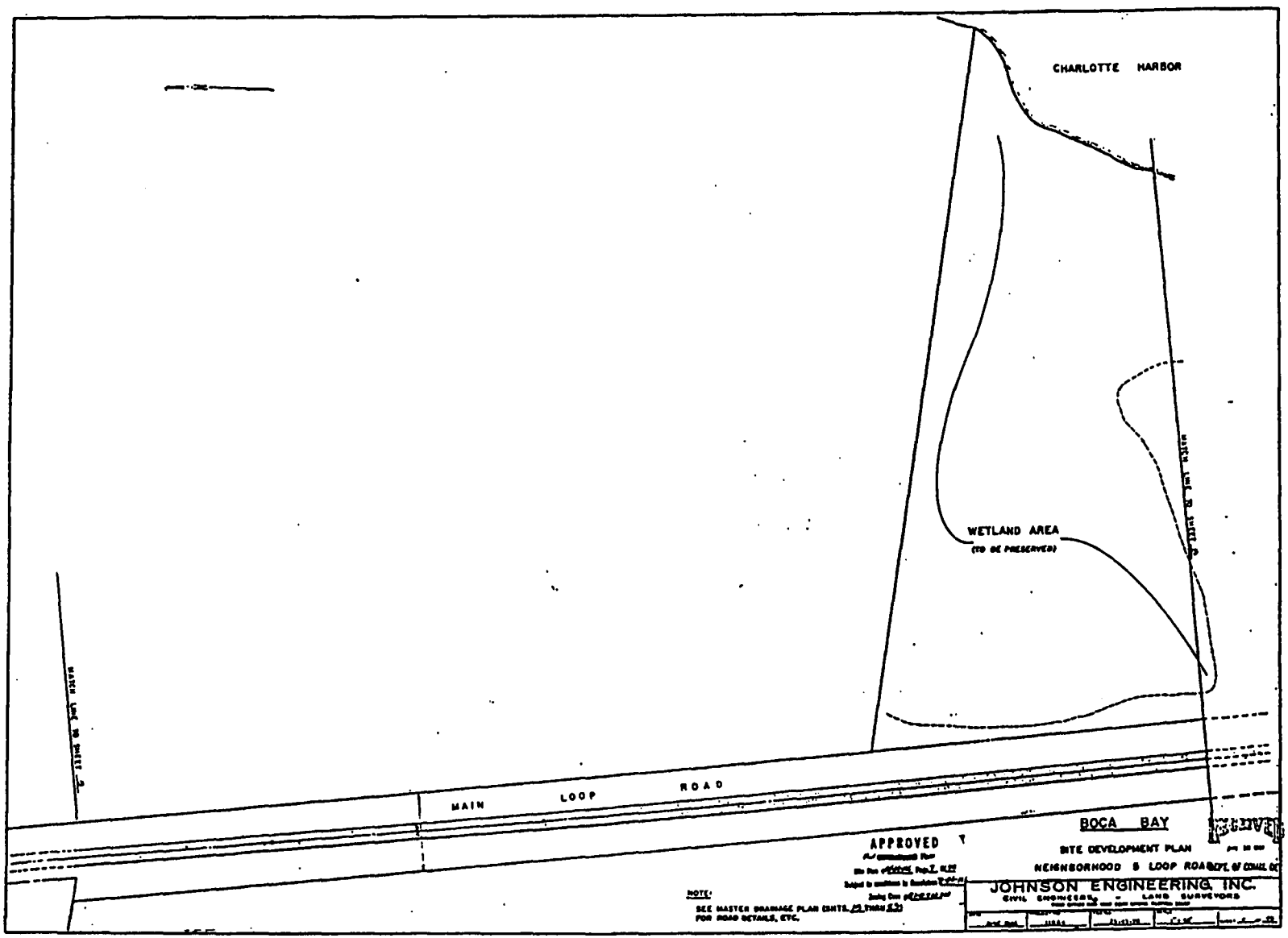
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REVISED DECEMBER 15, 1986

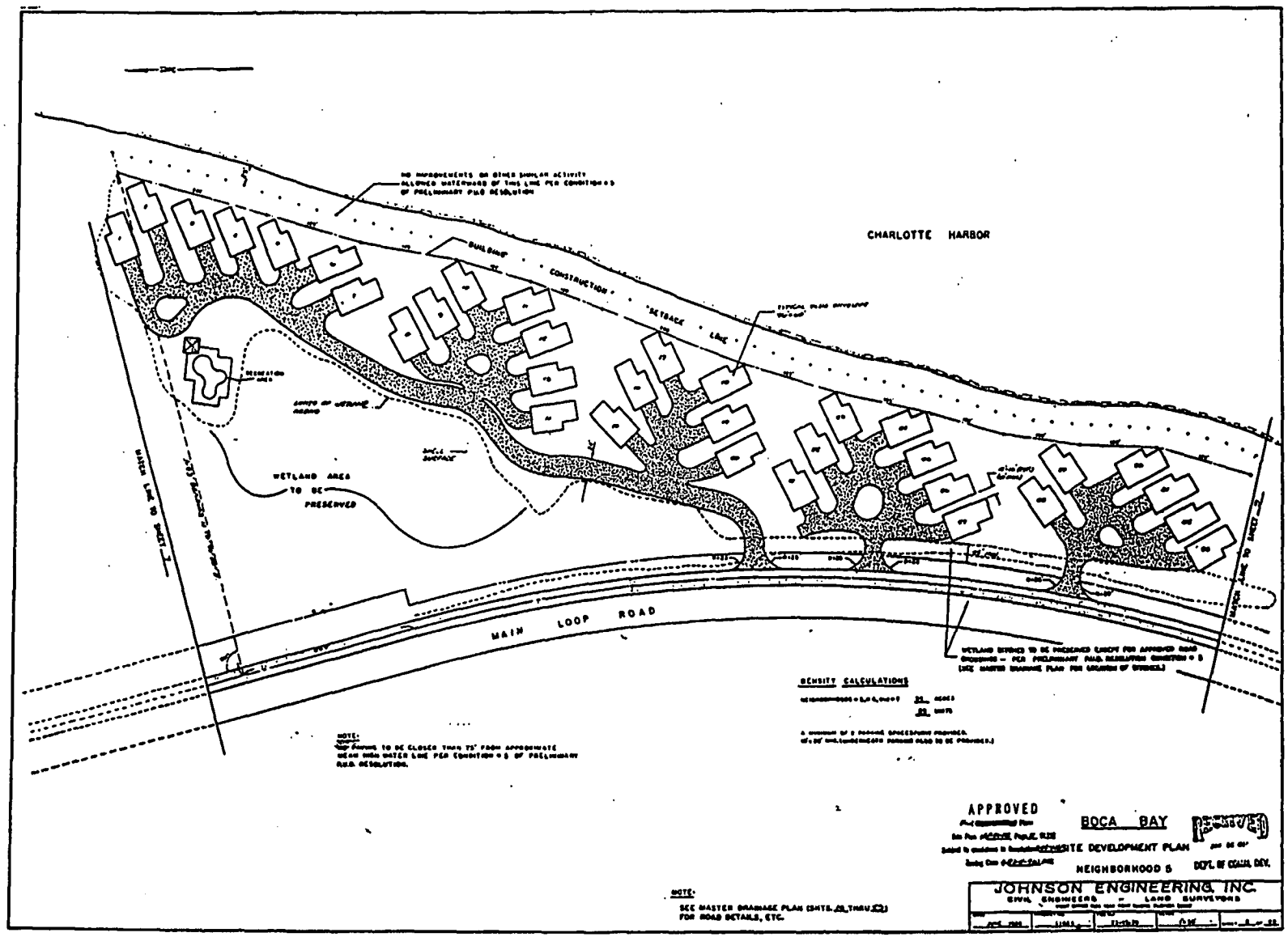
REVISED NOVEMBER 11, 1986

REVISED AUGUST 22, 1986

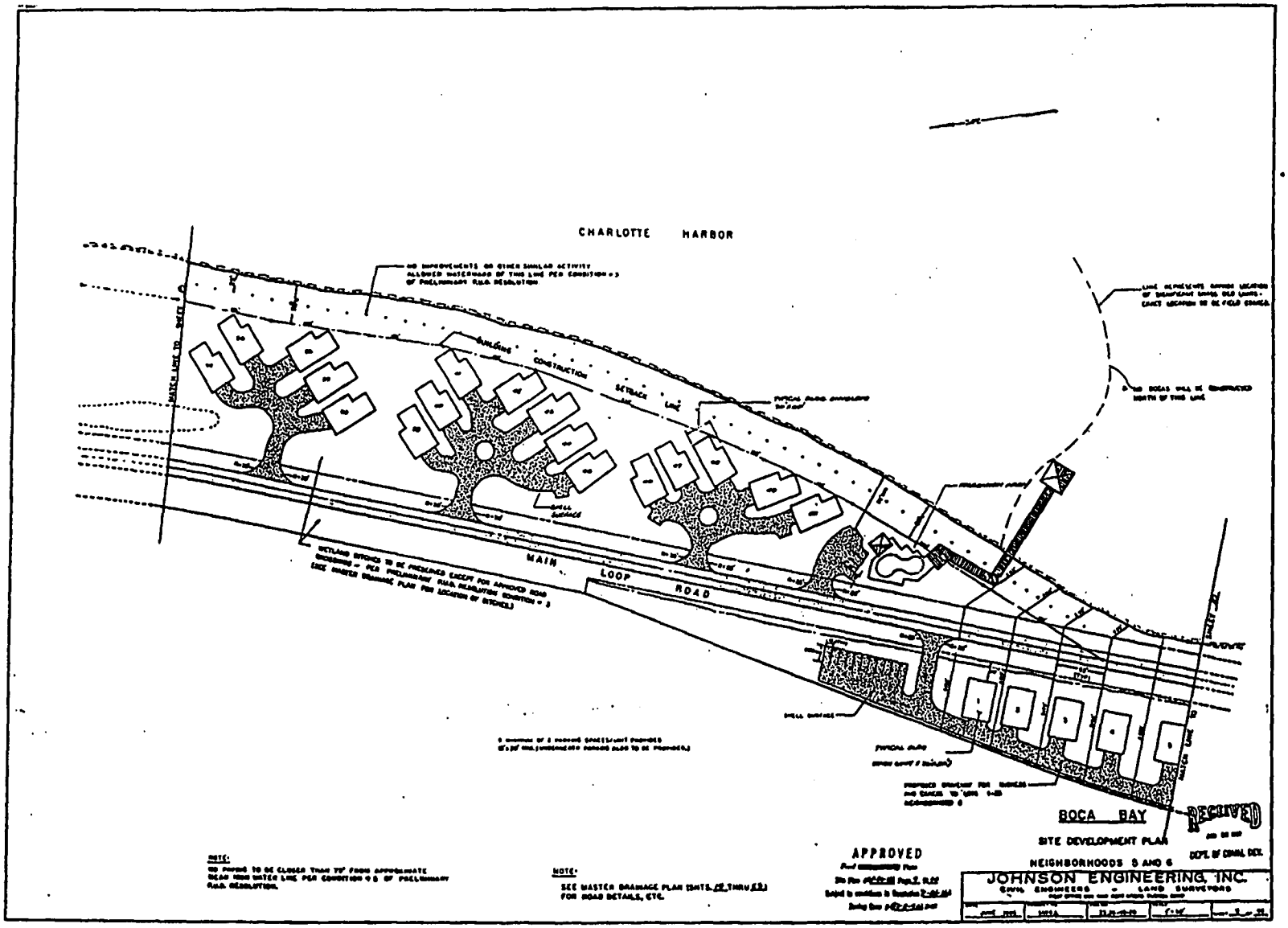
OFF REC 210 PG 1310



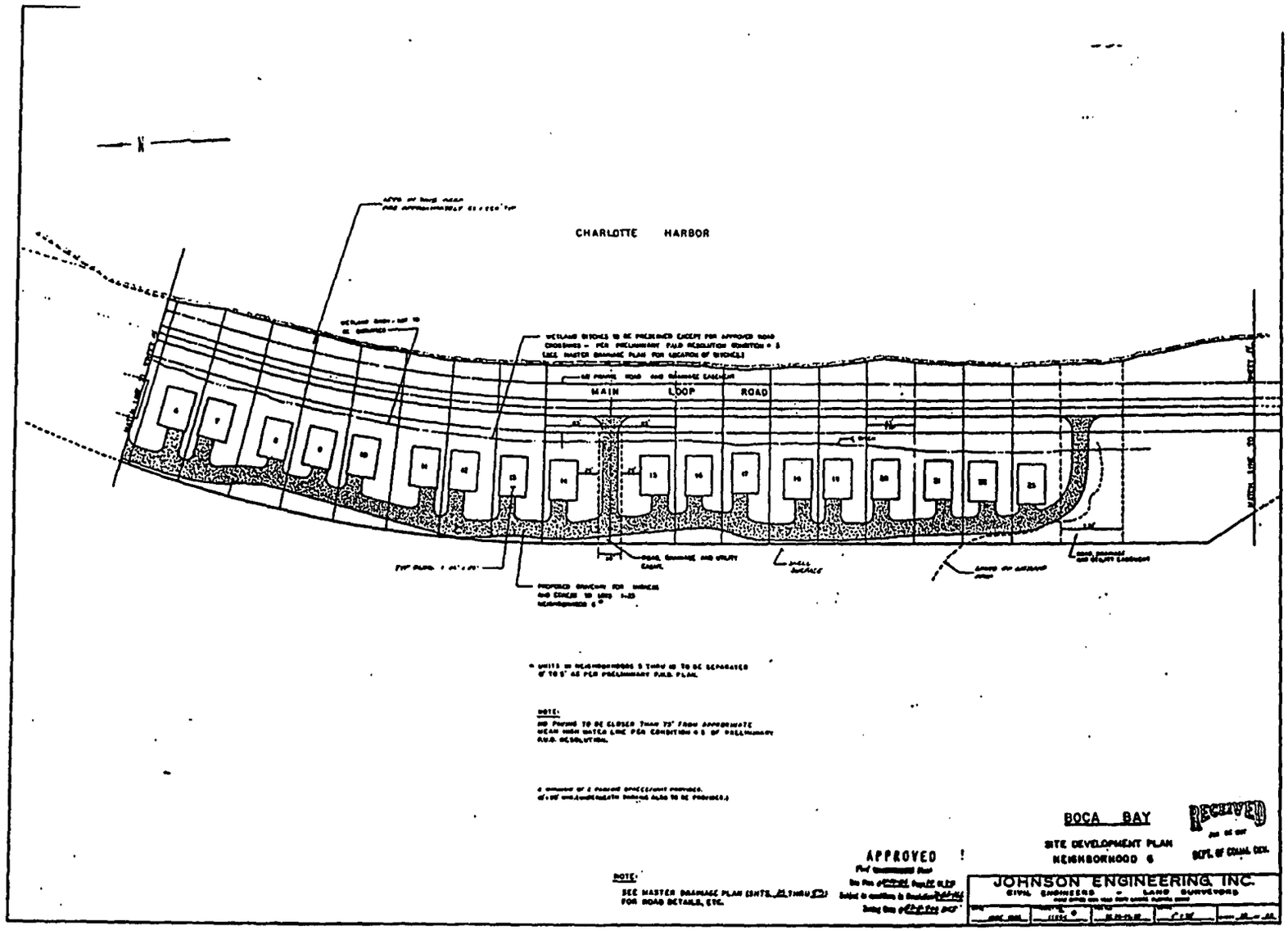
OR 910 PG 1311
REC



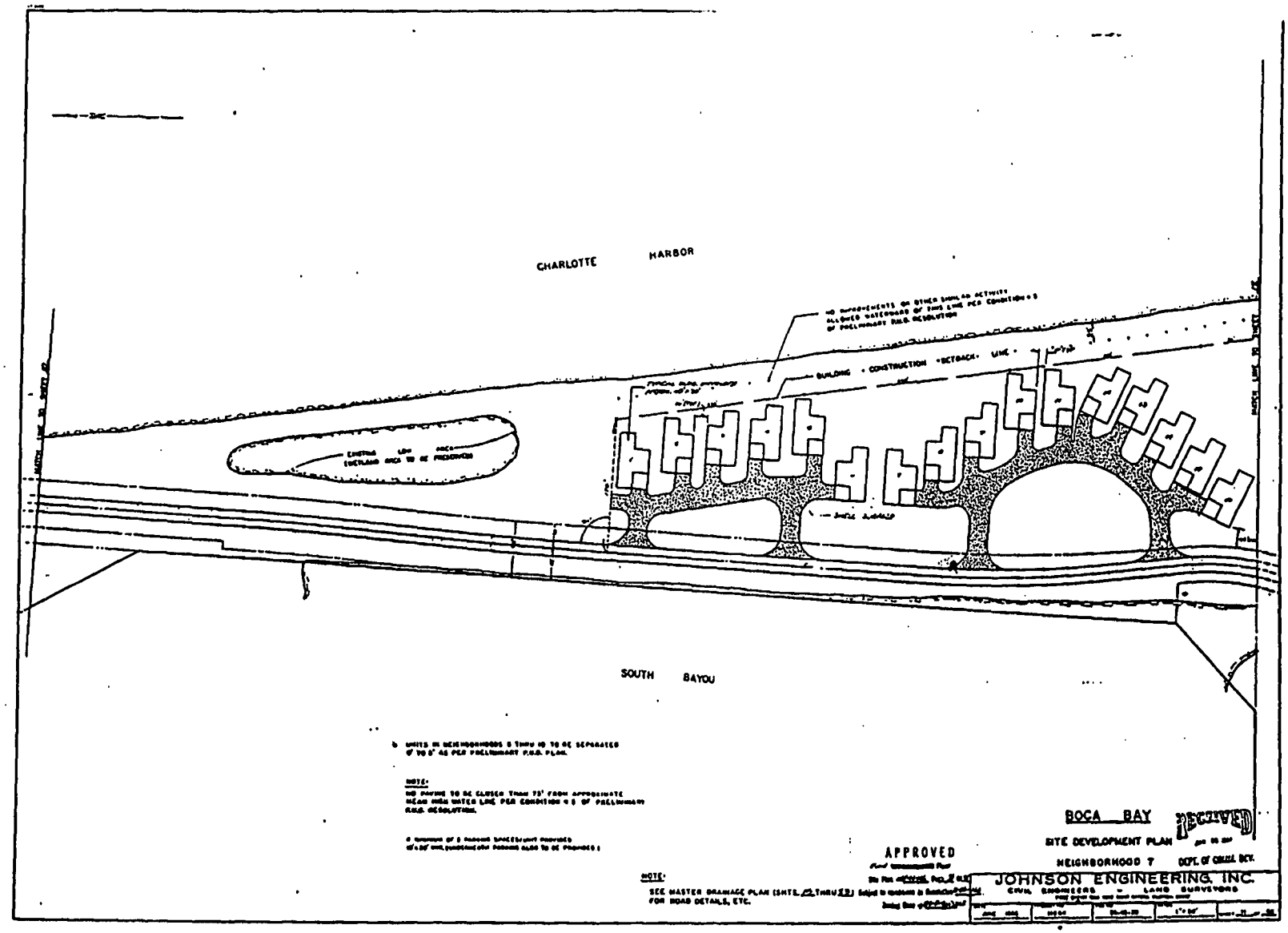
OR REC 910PG1312



O. Rec. 910 PG 1313



FF 1910PG1319



APPROVED

BOCA BAY

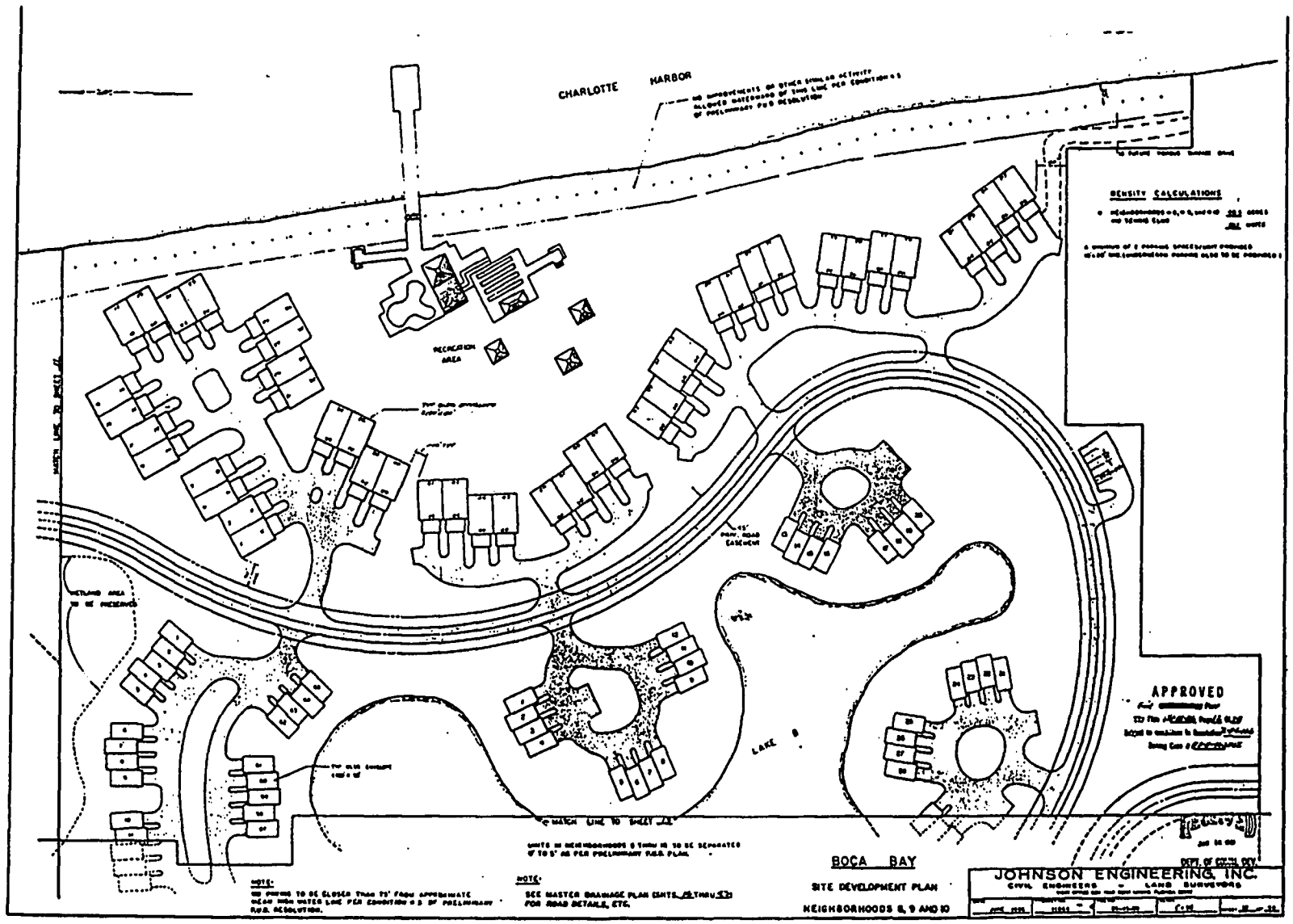
SITE DEVELOPMENT PLAN

NEIGHBORHOOD 7

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS — LAND SURVEYORS

OFF REC 1910 PG 1315



RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

1.7.03

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

<u>Single-Family Detached</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	5 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Single-Family Attached (Villas)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	0 (zero) feet on one side and minimum 10 feet between structures
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Multiple-Family Building (Flats/Town Homes)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Separation between structures:	10 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

FILED
JUN 17 1993
CLERK CIRCUIT COURT
BY _____ D.C.

Approved as to form by:

_____
County Attorney's Office

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

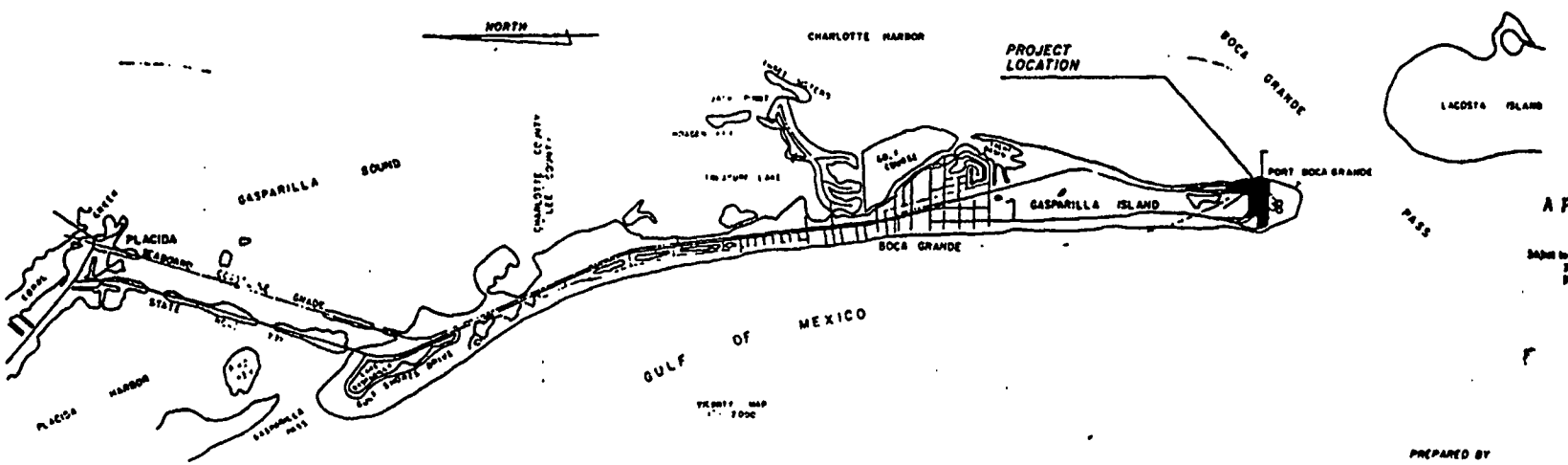
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

Amendment to Master Concept Plan
Subject to conditions in Resolution Z-93-022
Zoning Case 93-022
Date 6/15/93

INDEX

1	COVER SHEET	
2	OVERALL BOCA BAY SITE MAP	
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)	
4	DETAILS & NOTES	
5	TYPICAL UNIT LAYOUTS & DETAILS	
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION	

UTILITIES:

WATER AND SEWER

GASPARILLA ISLAND WATER ASSOC INC
PO BOX 376
BOCA GRANDE, FLA 33921

ELECTRIC

FLORIDA POWER and LIGHT CO
PO BOX 638
VENICE, FLA 33595

TELEPHONE

UNITED TELEPHONE COMPANY OF FLORIDA
100 JONES WALKWAY
PUNTA GORDA, FLA

FIRE PROTECTION

BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 26, 1993

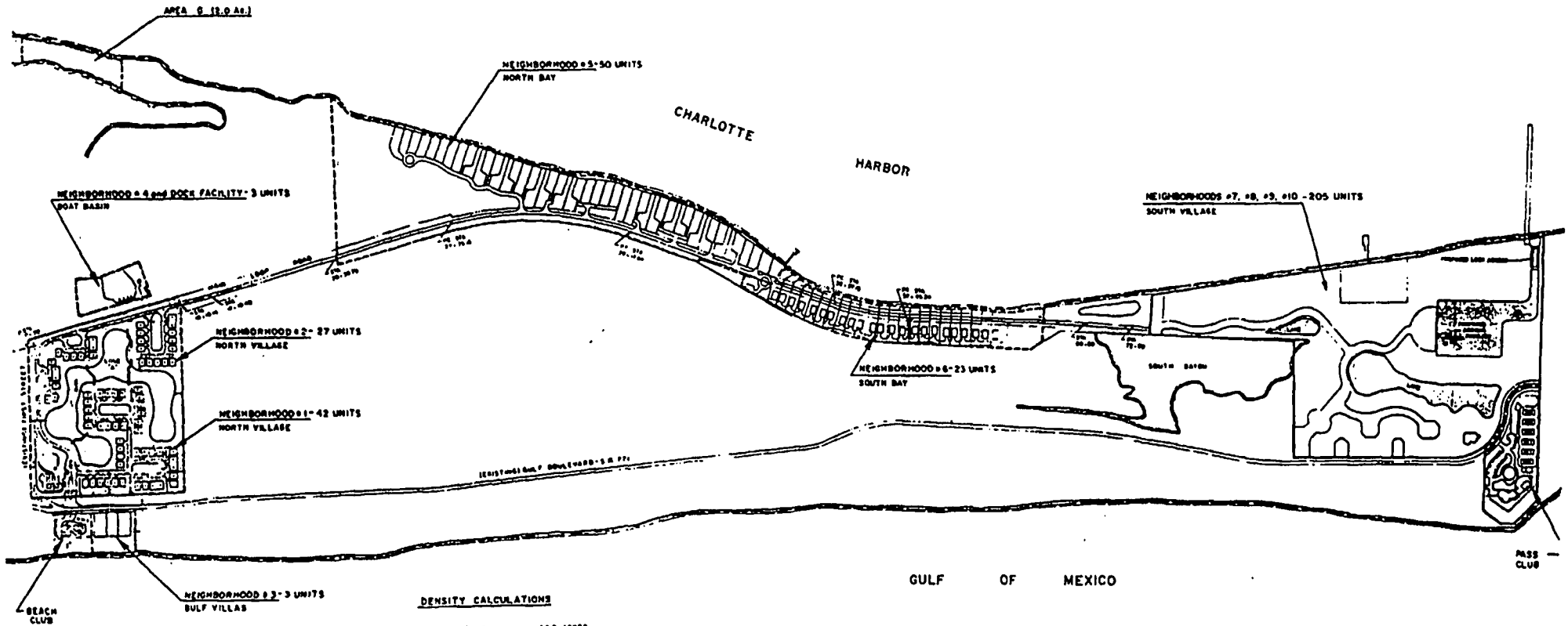
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

RECEIVED
MAY 27 1



DENSITY CALCULATIONS

A.	NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA 6	36.3 ACRES	69 UNITS
B.	NEIGHBORHOOD # 3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES	3 UNITS
C.	NEIGHBORHOOD # 4 (BOAT BASIN) AND DOCKS	2.0 ACRES	3 UNITS
D.	NEIGHBORHOOD # 5 (NORTH VILLAGE)	34.4 ACRES	50 UNITS
E.	NEIGHBORHOOD # 6 (SOUTH BAY)	9.8 ACRES	23 UNITS
F.	NEIGHBORHOOD # 7,8,9,10 (SOUTH VILLAGE) AND PASS CLUB	36.75 ACRES	205 UNITS
	TOTAL AC. (PREVIOUSLY APP'D. PLAN)	121.1 ACRES	
	TOTAL UNITS (PREVIOUSLY APP'D. PLAN)		368 UNITS
	TOTAL AC. (PROPOSED PLAN)	128.46 ACRES	
	TOTAL UNITS (PROPOSED PLAN)		369 UNITS

REVISED 5/20/93 - ACREAGE

REVISED 5/26/93 - DENSITY CALCS.

REVISED 5/17/93

REVISED 6/25/93 UNITS (BOCA BAY DRIVE)

APPROVED

Amendment to Master Concept Plan

Subject to certain terms, as recorded in O.R. 2-93

Zoning Case # 92-2Ma-0411

Date 6/21/93

BOCA BAY

INDEX MAP

and

NEIGHBORHOOD LAYOUT

REGENT

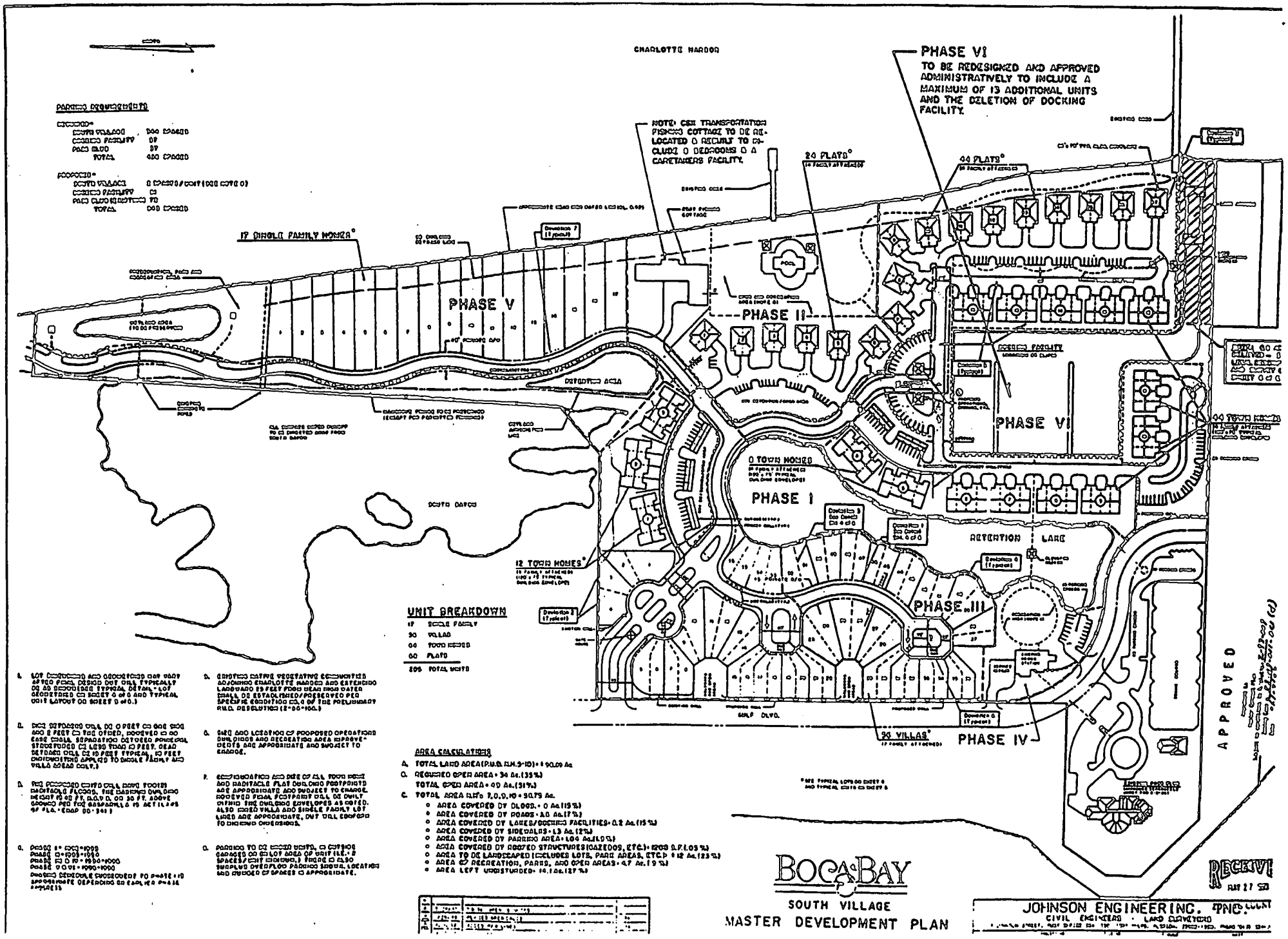
MAY 22 1993

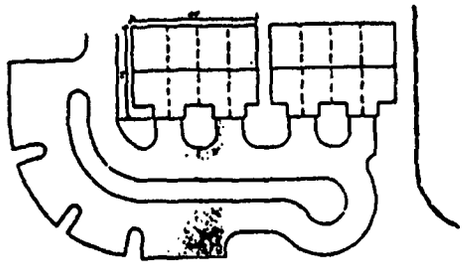
JOHNSON ENGINEERING, INC. BONITA COURT

CIVIL ENGINEERS - LAND SURVEYORS

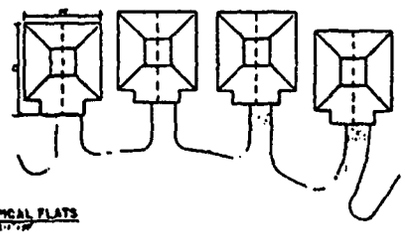
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DECEMBER 1990	14333	33-43-24	1" = 300'	1 OF 1

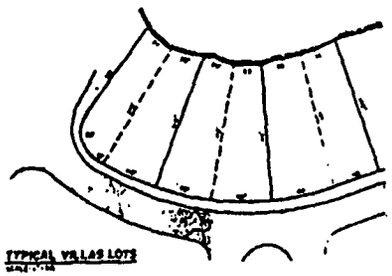

CHARLOTTE HARBOR
PHASE VI
TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY TO INCLUDE A MAXIMUM OF 13 ADDITIONAL UNITS AND THE DELETION OF DOCKING FACILITY.
NOTE: CSX TRANSPORTATION FISHING COTTAGE TO BE RE-LOCATED & RECUILT TO IN-CLUDE 2 BEDROOMS & A CARETAKERS FACILITY.
20 PLATS*
44 PLATS*
17 SINGLE FAMILY HOMES*
PHASE V
PHASE II
PHASE VI
PHASE I
PHASE III
PHASE IV
12 TOWN HOMES*
96 VILLAS*
RETENTION LAKE
GOLF BLVD.
UNIT BREAKDOWN
17 SINGLE FAMILY
96 VILLAS
44 TOWN HOMES
20 PLATS
296 TOTAL UNITS
AREA CALCULATIONS
A. TOTAL LAND AREA (P.U.D. O.M.P-10) = ± 90.09 Ac.
B. REQUIRED OPEN AREA = 36 Ac. (35%)
TOTAL OPEN AREA = 40 Ac. (31%)
C. TOTAL AREA R/W's 2.0, 0.9, 0 = 50.75 Ac.
AREA COVERED BY BLDGS. = 0 Ac. (19%)
AREA COVERED BY ROADS = 3.0 Ac. (7%)
AREA COVERED BY LANES/DOCKING FACILITIES = 0.2 Ac. (15%)
AREA COVERED BY SIDEWALKS = 1.3 Ac. (2%)
AREA COVERED BY PARKING AREA = 1.04 Ac. (1.0%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) = 1203 S.F. (.03%)
AREA TO BE LANDSCAPED (EXCLUDES LOTS, PARK AREAS, ETC.) = ± 12 Ac. (23%)
AREA OF RECREATION, PARKS, AND OPEN AREAS = 4.7 Ac. (9%)
AREA LEFT UNDISTURBED = 16.1 Ac. (27%)
APPROVED
RECEIVED
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
JOHNSON ENGINEERING, INC.
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TYPICAL TOWN HOMES



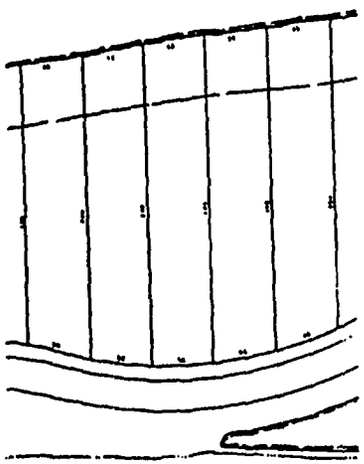
TYPICAL FLATS



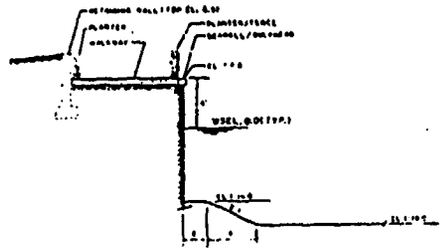
TYPICAL VILLAS LOTS

SCHEDULE OF DEVIATIONS
BOCA BAY

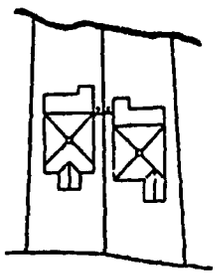
1. DEVIATION FROM THE REQUIRED STREET SETBACK FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (ZONING ORDINANCE SECTION 204.10.B.2.a.), TO 1/2 RIGHT-OF-WAY PLUS 10 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;
2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN AND BUILDING OR STRUCTURE TO THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID BUILDING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 5 FEET;
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE BUILDINGS OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 10 FEET AS MEASURED FROM THE BUILDING WALLS;
4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 75 FEET (ZONING ORDINANCE SECTION 204.10.B.4.b.), TO 25 FEET FROM THE RETENTION LAKE EDGE;
5. DEVIATION FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DESIGN REQUIREMENTS FOR PUBLIC LOT ACCESSES AND ALLEYS FROM THE DEDICATIONS WITHIN PUBLICNESS OF 24 FEET (ZONING ORDINANCE SECTION 204.10.F.3. AND DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.2.b.), TO 20 FEET;
6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE DIAMETER OF PAVEMENT OF A CUL-DE-SAC BE 80 FEET AND 45 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET DIAMETER (PLUS 20 FEET FOR OPEN SWALE DRAINAGE) (DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.11.), TO WHICH CORRESPONDS AS SHOWN ON THE PUD PLAN; AND
7. DEVIATION FROM THE REQUIREMENT THAT THE 10-FOOT-WIDE UTILITY EASEMENTS SHALL BE PROVIDED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENT (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.C.1.), TO REQUIRE A 5-FOOT-WIDE (MINIMUM) UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.



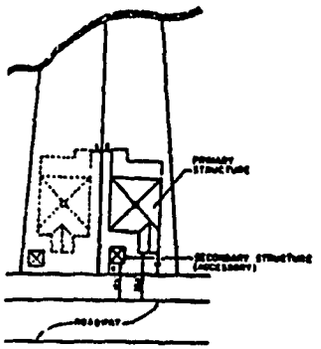
TYPICAL SINGLE FAMILY LOTS



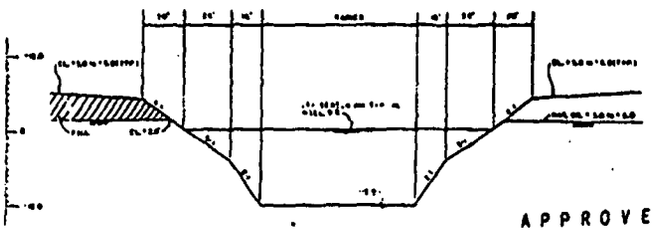
TYPICAL SECTION - DOCKING FACILITY



DEVIATION 3 - Typical Detail



DEVIATION 1 - Typical Detail



TYPICAL LAKE SECTION

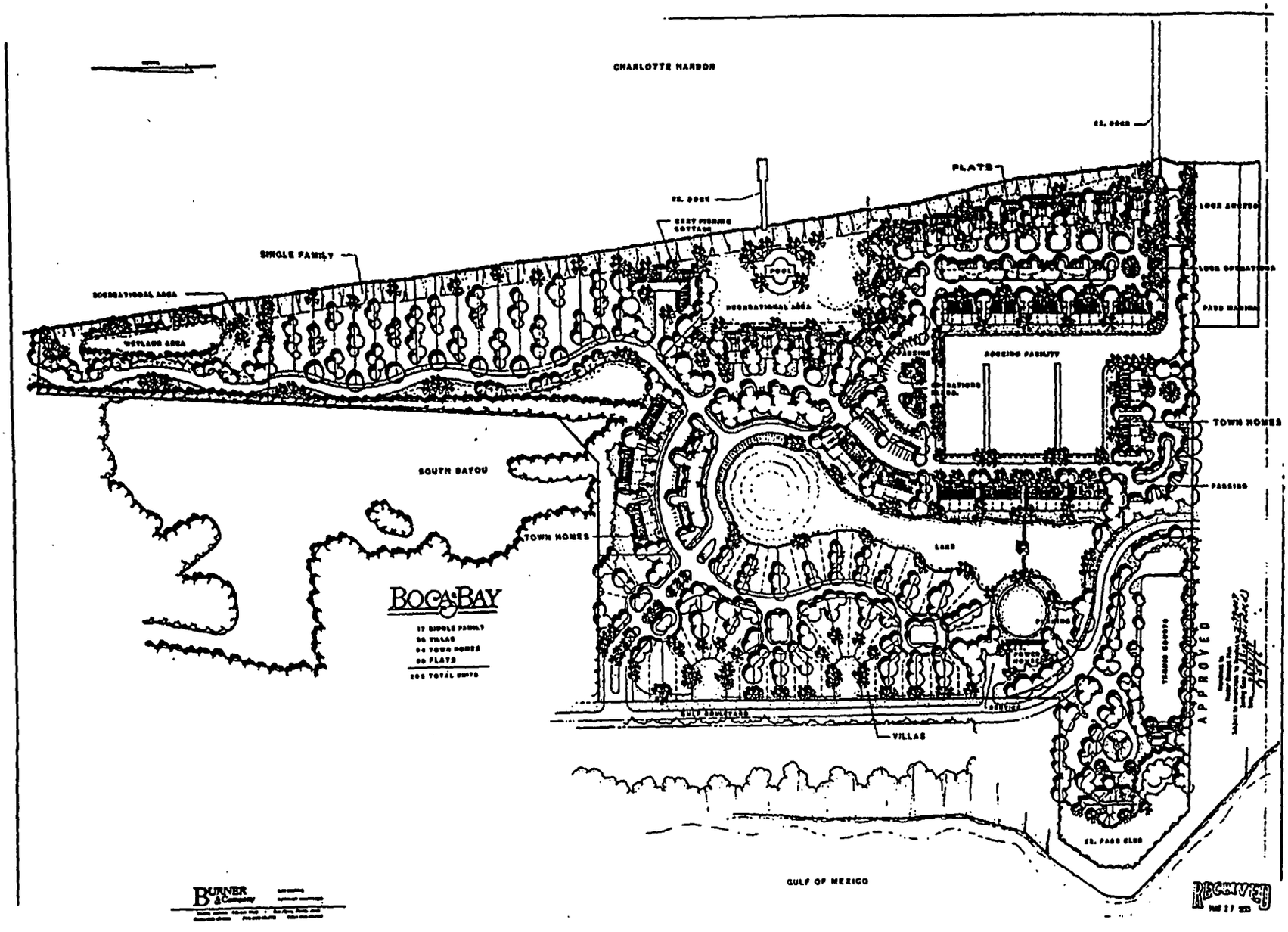
APPROVED

BOCA BAY

RECEIVED
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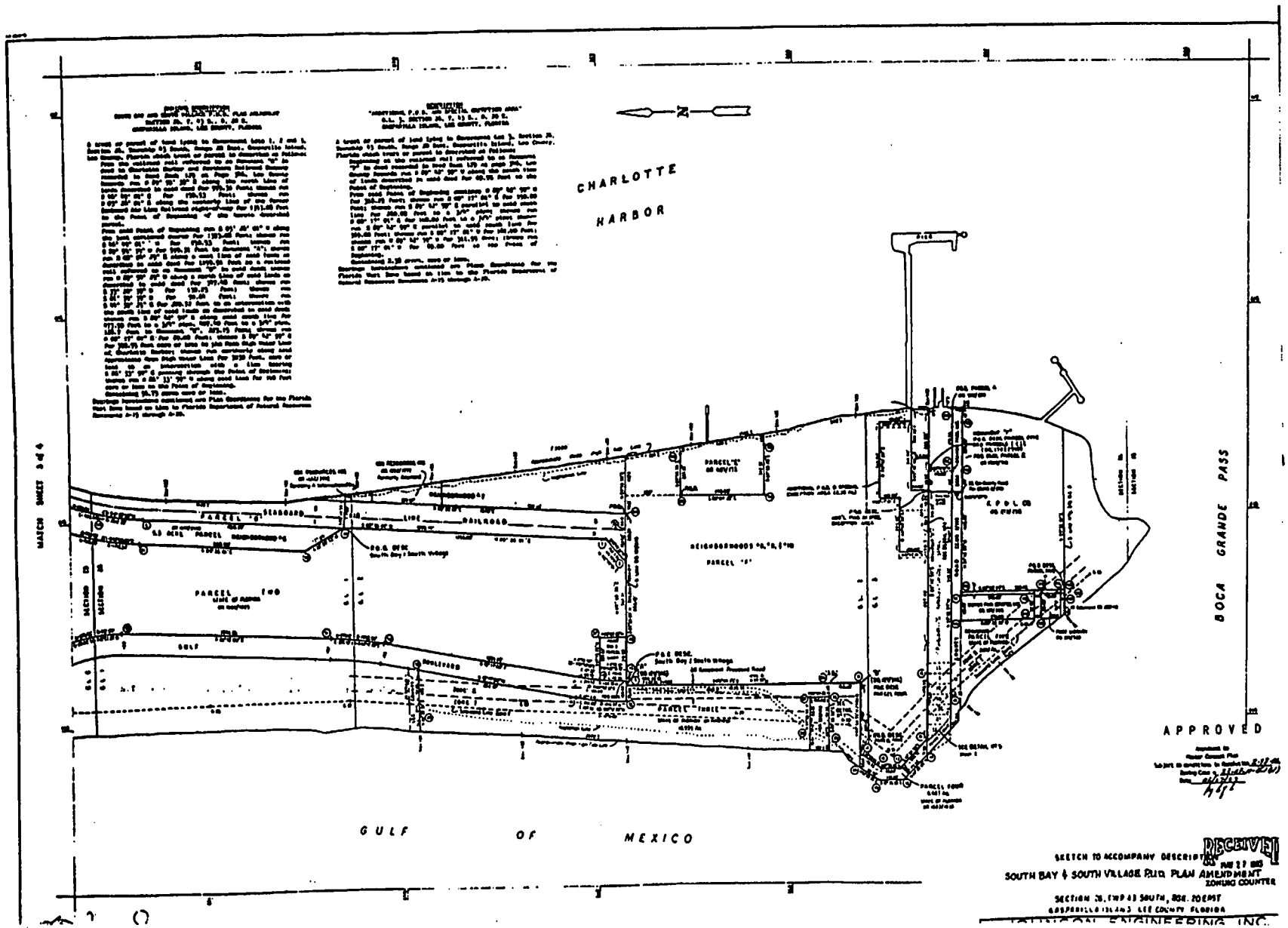
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS

4 OF 6



BURNER & Company

10/15/93 TA



SKETCH TO ACCOMPANY DESCRIPTION

SOUTH BAY & SOUTH VILLAGE PUD PLAN AMENDMENT

ZONING COUNTER

SECTION 28, TWP 43 SOUTH, RGE. 20 EAST

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A Coo

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

As to the Special Exception for Residential Use in the PORT District:

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Spisser
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE
mgp

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert 10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

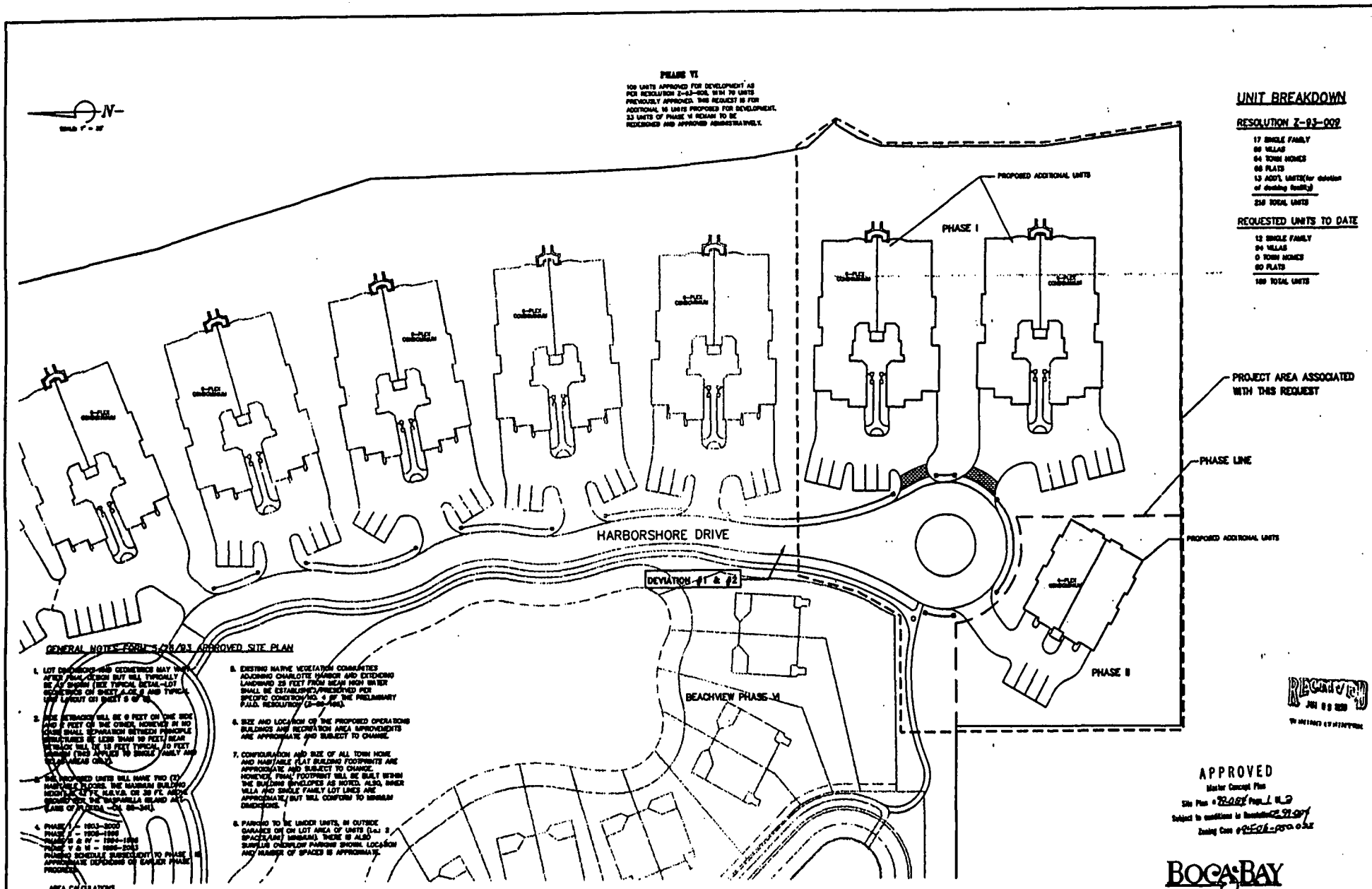
From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾ " pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.



GENERAL NOTES FOR Z-93-09 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT DIMENSIONS ON SHEET A-OS.4 AND TYPICAL UNIT LAYOUT ON SHEET A-OS.5).
2. SIDE SETBACKS WILL BE 8 FEET ON ONE SIDE AND 8 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 16 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLA AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 35 FT. (U.B.C.) OR 30 FT. ABOVE CROWN OF THE ESPLANADA ISLAND ABOVE (CASE OF FLORIDA - CH. 88-341).
4. PHASE I - 1993-2000
PHASE II - 1998-1999
PHASES III & IV - 1994-1996
PHASE V & VI - 1995-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE III APPROXIMATE (DEPENDING ON EARLIER PHASE PROGRESS).
5. EXISTING MARINE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-93-144).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURFACE OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS
A. TOTAL LAND AREA (P.U.D. - M.M.'s 8-10) = 696.89 Ac.
B. REQUIRED OPEN AREA = 434 Ac. (65%)
TOTAL OPEN AREA = 648 Ac. (93%)
C. TOTAL AREA M.M.'s 1,2,3,9,10 = 696.78 Ac.
AREA COVERED BY BUILDINGS 65.7 Ac. (10%)
AREA COVERED BY ROADS 53.5 Ac. (7%)
AREA COVERED BY LAKES 66.4 Ac. (10%)
AREA COVERED BY SIDEWALKS 21.7 Ac. (3%)
AREA COVERED BY PARKING AREAS 43.4 Ac. (6%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) 40.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.) 413 Ac. (33%)
AREA OF RECREATION, PARKS, AND OPEN AREAS 64.7 Ac. (9%)
AREA LEFT UNDISTURBED 374.1 Ac. (27%)

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 30 UNITS AND ADDITIONAL DESIGN TO PHASE VI.
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 93 WITH FINAL REVISIONS 8/30/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (S), AS NOTED.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(J) LDC) TO 22'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 20 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 28 FOOT WIDE ACCESSWAY.

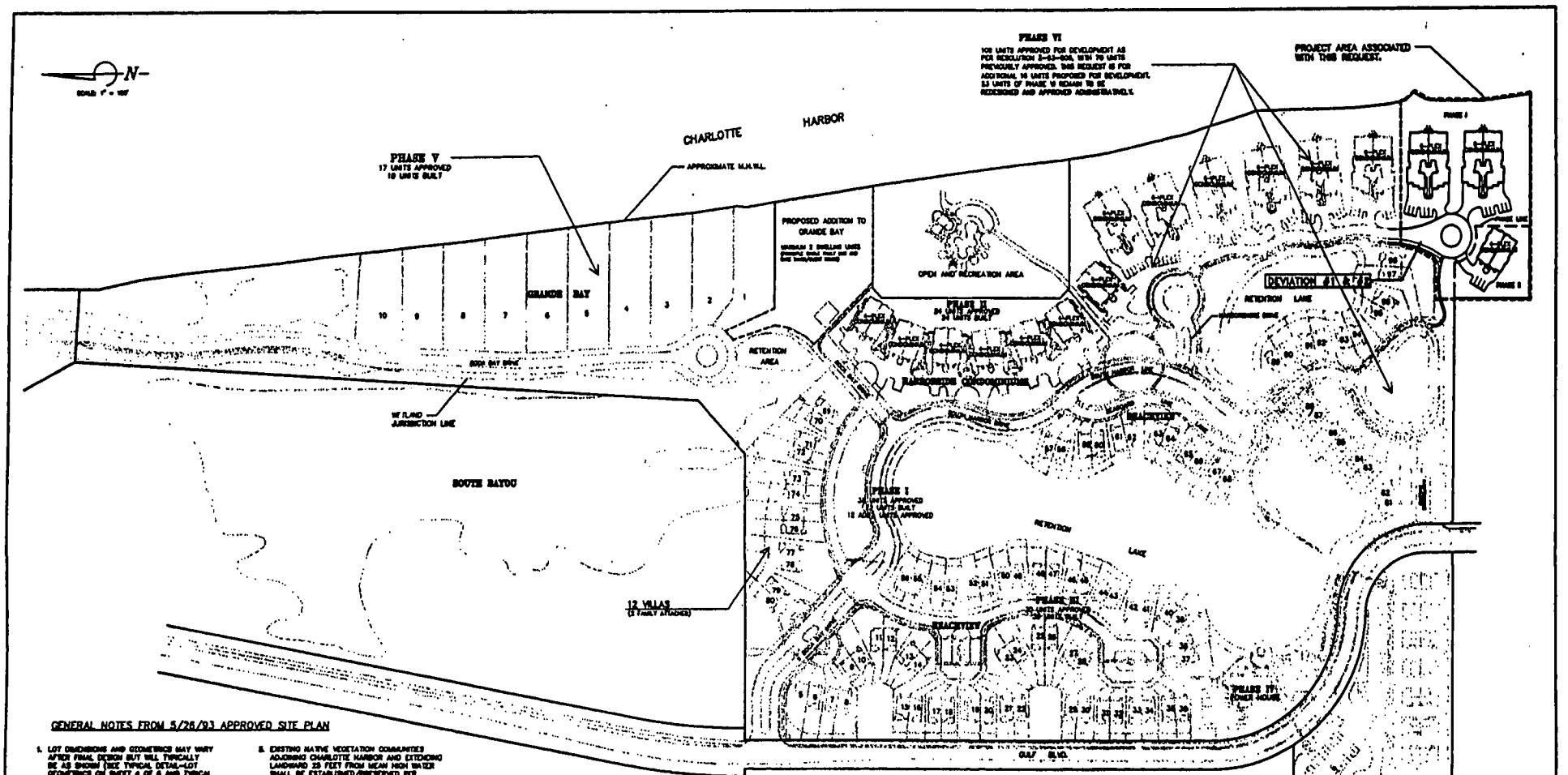
EXHIBIT IV-E

BOCA BAY

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
1600 MANATEE AVENUE, WEST, POST OFFICE DRAWER 2030, BRADENTON, FLORIDA 34206-2031

DATE	PROJECT NO.	SHT. NO.	SCALE	SHEET
MAY, 1993	309210	93-03-09	1" = 300'	SA OF 6



GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 4 OF 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 6).

2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 3 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).

3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. M.S.L.W.D. OR 30 FT. ABOVE GROUND PER THE CASPARILLA ISLAND ACT (LAWS OF FLORIDA -CH. 88-341).

4. PHASE I - 1993-2000
PHASE II - 1995-1998
PHASE III & IV - 1994-1998
PHASE V & VI - 1998-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.

5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-156).

6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.

7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, SINGLE VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.

8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - N.M.L.W. 0-10) = ±96.89 Ac.
B. REQUIRED OPEN AREA = ±34.14 Ac. (35%)
TOTAL OPEN AREA = ±40 Ac. (41%)
C. TOTAL AREA N.M.L.W. 7,8,9,10 = ±96.78 Ac.
AREA COVERED BY BUILDINGS ±5.7 Ac. (10%)
AREA COVERED BY DECKS ±3.9 Ac. (7%)
AREA COVERED BY LANES ±8.4 Ac. (15%)
AREA COVERED BY SIDEWALKS ±1.7Ac. (3%)
AREA COVERED BY PARKING AREA ± 3.4 Ac. (6%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) ±0.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.) ±12 Ac. (33%)
AREA OF RECREATION, PARKS, AND OPEN AREAS ±4.7 Ac. (5%)
AREA LEFT UNDISTURBED ±14.1 Ac. (27%)

APPROVED
Master Concept Plan
Site Plan # 7-93-2 Phase 2 of 2
Subject to conditions of Resolution Z-93-09
Zoning Case # 85-06-090.02Z

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	13 SINGLE FAMILY
56 VILLAS	84 VILLAS
84 TOWN HOMES	0 TOWN HOMES
66 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of docking facility)	
216 TOTAL UNITS	180 TOTAL UNITS

8-3-93 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-93-042 CASE #88-06-152.13A 05.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 93 WITH FINAL REVISIONS 8/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (1), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(2) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(a) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 20 FOOT WIDE ACCESSWAY.

PROJECT # 92-06-152.03Z
PROJECT TYPE

BOCA BAY

RECEIVED
AUG 04 1993
ZONING COUNTER

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
[illegible] CIRCLE, SUITE 104, FORT MYERS, FLORIDA 33919, PHONE (813)936-0913

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
SEPT., 1992	32050	28-43-20	1" = 100'	3 OF 6

EXHIBIT IV-E

ZONING MAP

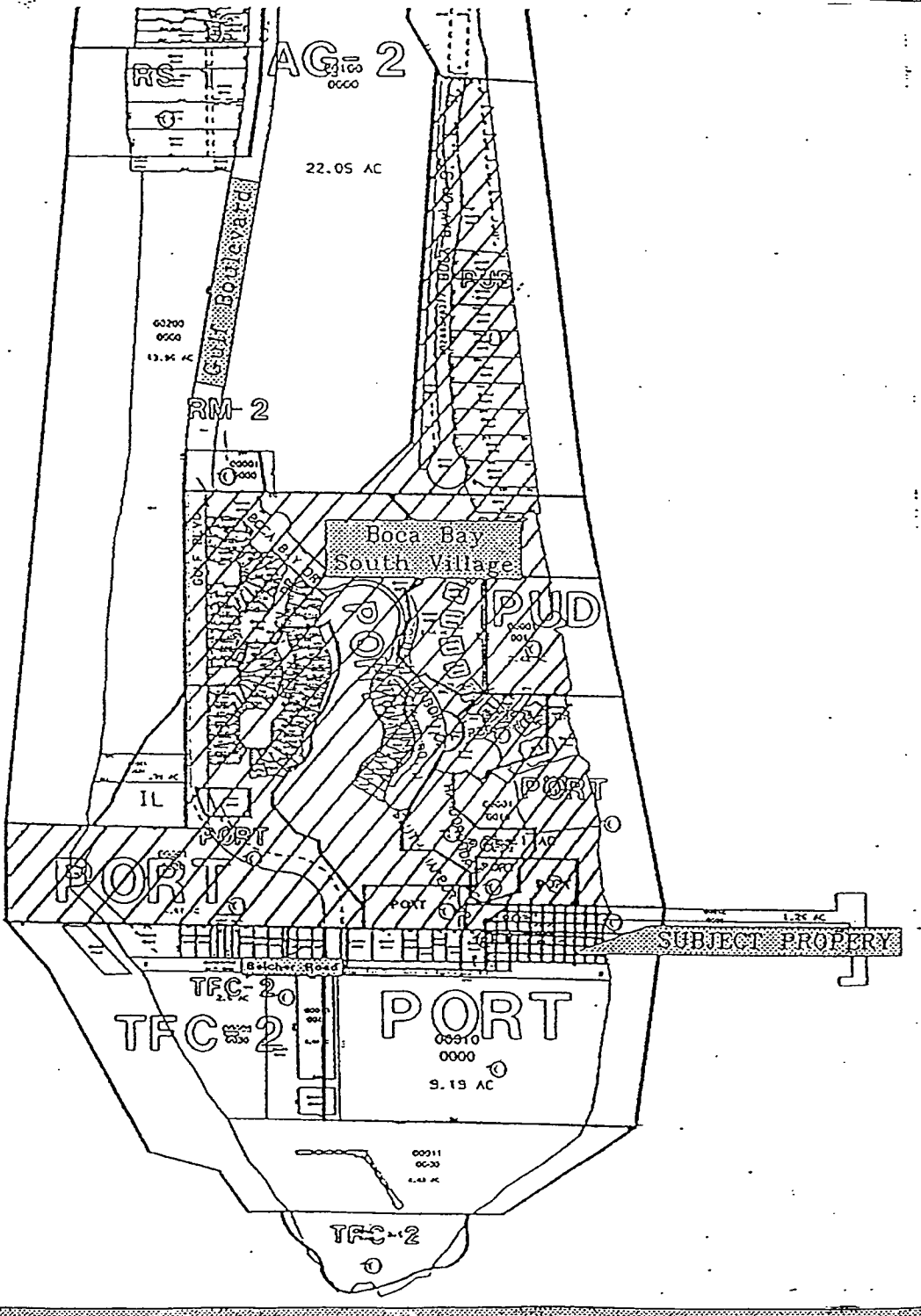


EXHIBIT C

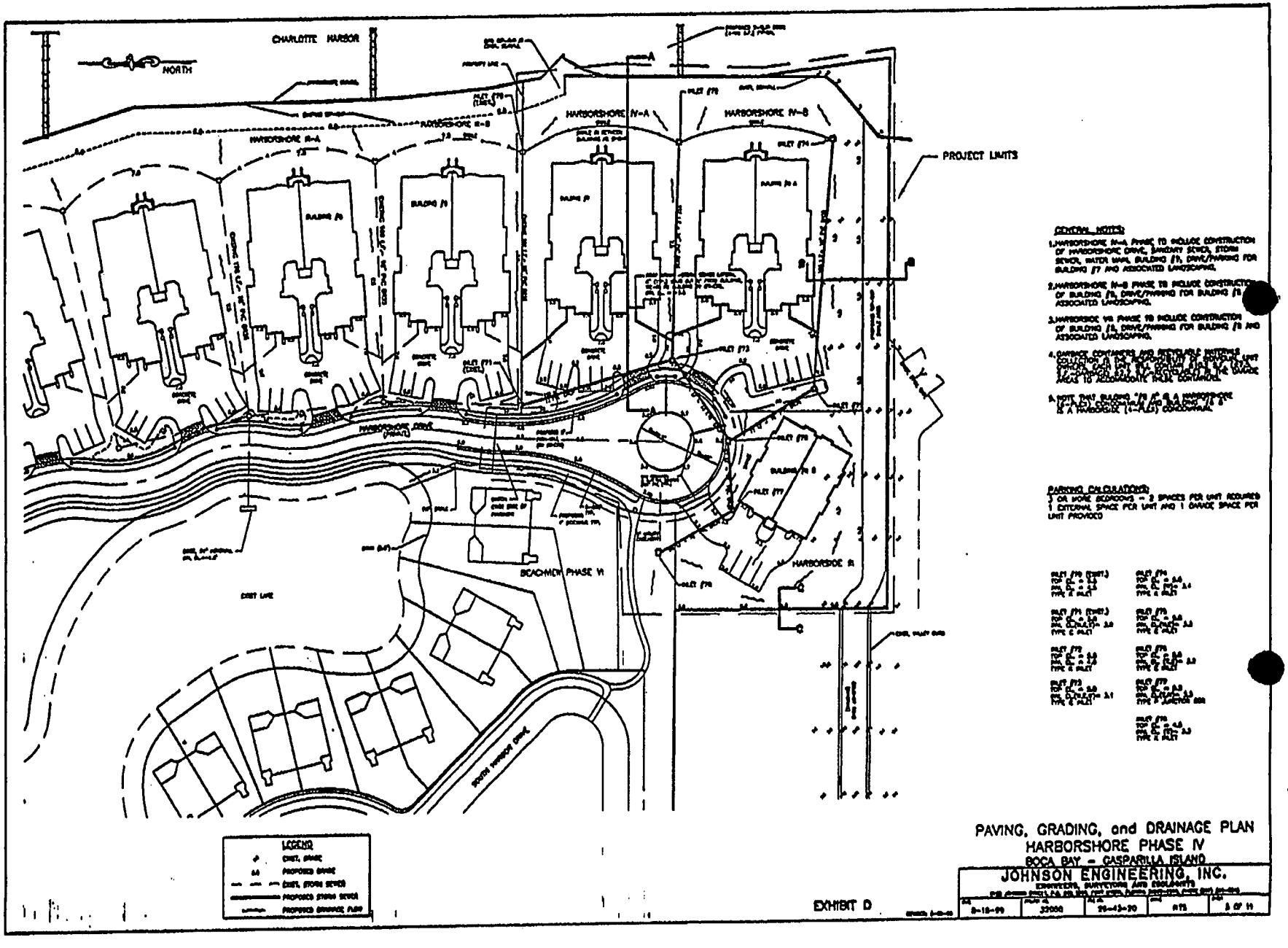
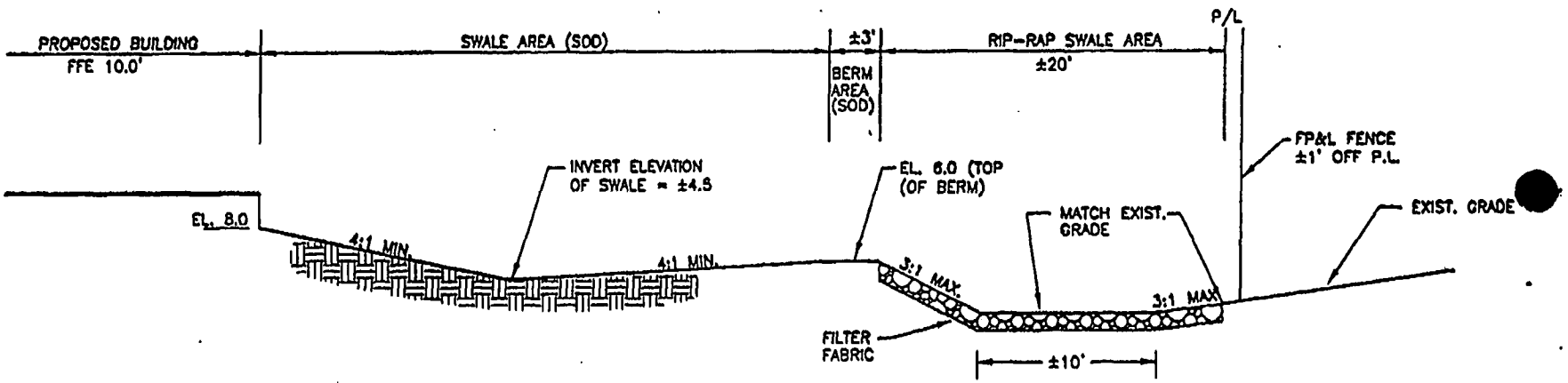

CHARLOTTE HARBOR
NORTH
HARBORSHORE IV-A
HARBORSHORE IV-B
PROJECT LIMITS
BUILDING I
BUILDING II
BUILDING III
BUILDING IV
BUILDING V
BUILDING VI
BUILDING VII
BUILDING VIII
HARBORSIDE DRIVE
BEACHVIEW PHASE VI
HARBORSIDE III
SOUTH HARBOR DRIVE
EAST LINE
LEGEND
EXHIBIT D
PAVING, GRADING, and DRAINAGE PLAN
HARBORSHORE PHASE IV
BOCA BAY - CASPARILLA ISLAND
JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

EXHIBIT D



SECTION B-B

N.T.S.

EXHIBIT D

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4203 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
snoble@ralaw.com

October 9, 2000

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: CSX Application for Comprehensive Plan Amendment
Case No. CPA2000-00002

Dear Mr. Noble:

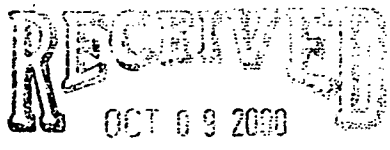
Pursuant to your telephone conversation with Attorney Robert Pritt, enclosed please find two copies of the Application for Comprehensive Plan Amendment, which was previously filed with your office on September 28, 2000. It is our understanding that the filing of this new form will be retroactive back to the original filing date.

If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,

Sandra E. Noble, CLA
Certified Legal Assistant

SEN/umr
Enclosure



FILE COPY

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate **Roetzel & Andress, a legal professional association,** as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced~~ _____ ~~as identification.~~

Harriett K. Mochel
Signature of Notary Public

(SEAL)

77032_1

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

LEE COUNTY
SOUTHWEST FLORIDA

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D.:_____ REC'D BY:_____

APPLICATION FEE:_____ TIDEMARK NO:_____

THE FOLLOWING VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal: ☐ Small Scale: ☐ DRI ☐ Emergency: ☐

Request No.:_____

APPLICANT PLEASE NOTE:
Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

Robert D Pritt

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
APPLICANT

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association
AGENT

2320 FIRST STREET, SUITE 1000
ADDRESS

FORT MYERS	FLORIDA	33901
CITY	STATE	ZIP

(941) 337-3850 (941) 337-0970
TELEPHONE NUMBER FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
OWNER(s) OF RECORD

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application. (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☐ Text Amendment ☐ Future Land Use Map Series Amendment (Maps 1 thru 19)
List Number(s) of Map(s) to be amended
X Map 12 (South Boca Grande)

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary of Request - Exhibit "A"

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc., 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE / Boca Bay Master Association

B. Property Information:

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay / ± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit "B")

Area of each Existing Future Land Use Category:

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: _____

D. Proposed change for the Subject Property: No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property zoned Port that could permit industrial and commercial uses

   Industrial intensity: _____

2. Calculation of maximum allowable development under proposed FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property text change would preclude industrial and commercial uses

   Industrial intensity: _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.

2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.

4. Map and describe existing zoning of the subject property and surrounding properties.

5. The legal description(s) for the property subject to the requested change.

6. A copy of the deed(s) for the property subject to the requested change.

7. An aerial map showing the subject property and surrounding properties.

8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range - 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether

network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;

d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range - 5-year CIP horizon:

a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
   Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for: **N/A**
   a. Sanitary Sewer
   b. Potable Water
   c. Surface Water/Drainage Basins
   d. Parks, Recreation, and Open Space.

   Analysis should include (but is not limited to) the following:
   - Franchise Area, Basin, or District in which the property is located;
   - Current LOS, and LOS standard of facilities serving the site;
   - Projected 2020 LOS under existing designation;
   - Projected 2020 LOS under proposed designation;

- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;
   b. Emergency medical service (EMS) provisions;
   c. Law enforcement;
   c. Solid Waste;
   d. Mass Transit; and
   e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).

2. A map and description of the soils found on the property (identify the source of the information).

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources **N/A**

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed

change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.

2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **(See Exhibit "A" attached)**

F. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
   b. Provide data and analysis required by Policy 2.4.4,
   c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.

2. Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon

pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	$500.00 each
Map Amendment > 20 Acres	$500.00 and $20.00 per 10 acres up to a maximum of $2,255.00
Text Amendment Flat Fee	$1,250.00 each

AFFIDAVIT

I, ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Signature of owner or owner-authorized agent Date

ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association
Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 9th day of October, 2000, by ~~ROBERT D. PRITT,~~ on behalf of Roetzel & Andress, A Legal Professional Association, who is personally known to me or who has produced _____ _____ (type of ID) as identification.

(SEAL)



Sandra E. Noble
Commission # CC 928983
Expires April 17, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Sandra E. Noble
Signature of notary public

SANDRA E. NOBLE
Printed name of notary public

77496_1

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

77190_1

EXHIBIT "B"

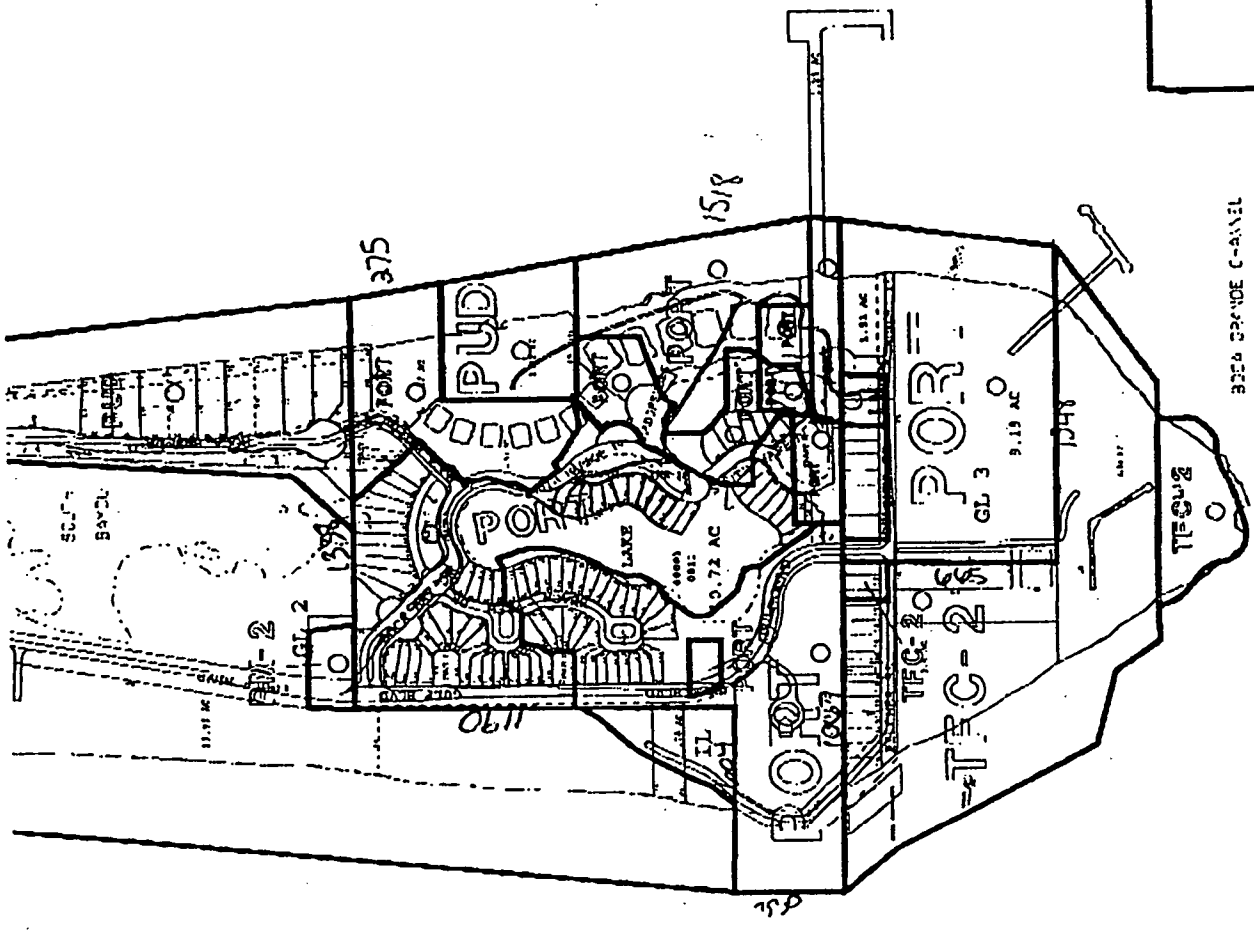
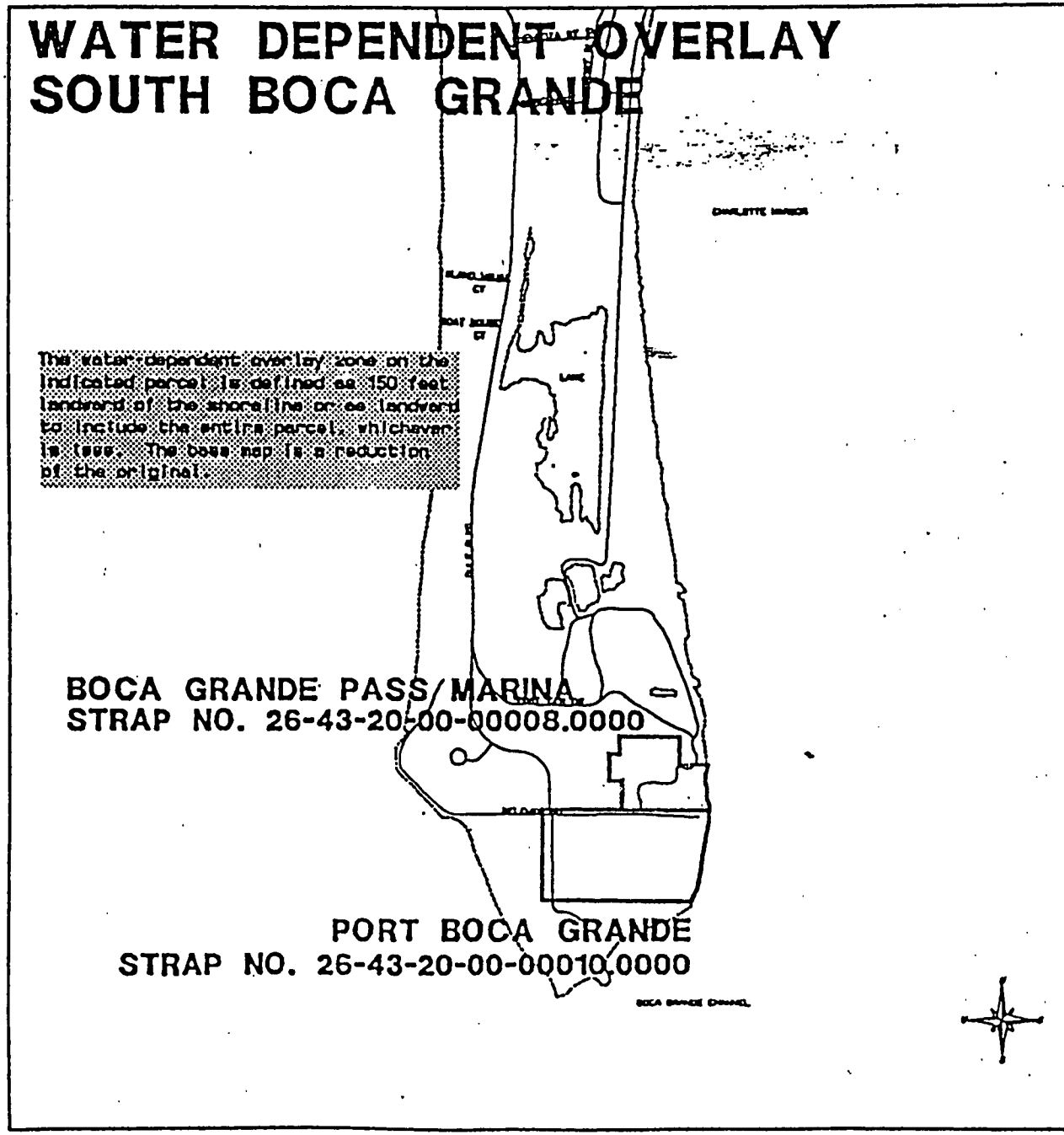


EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE

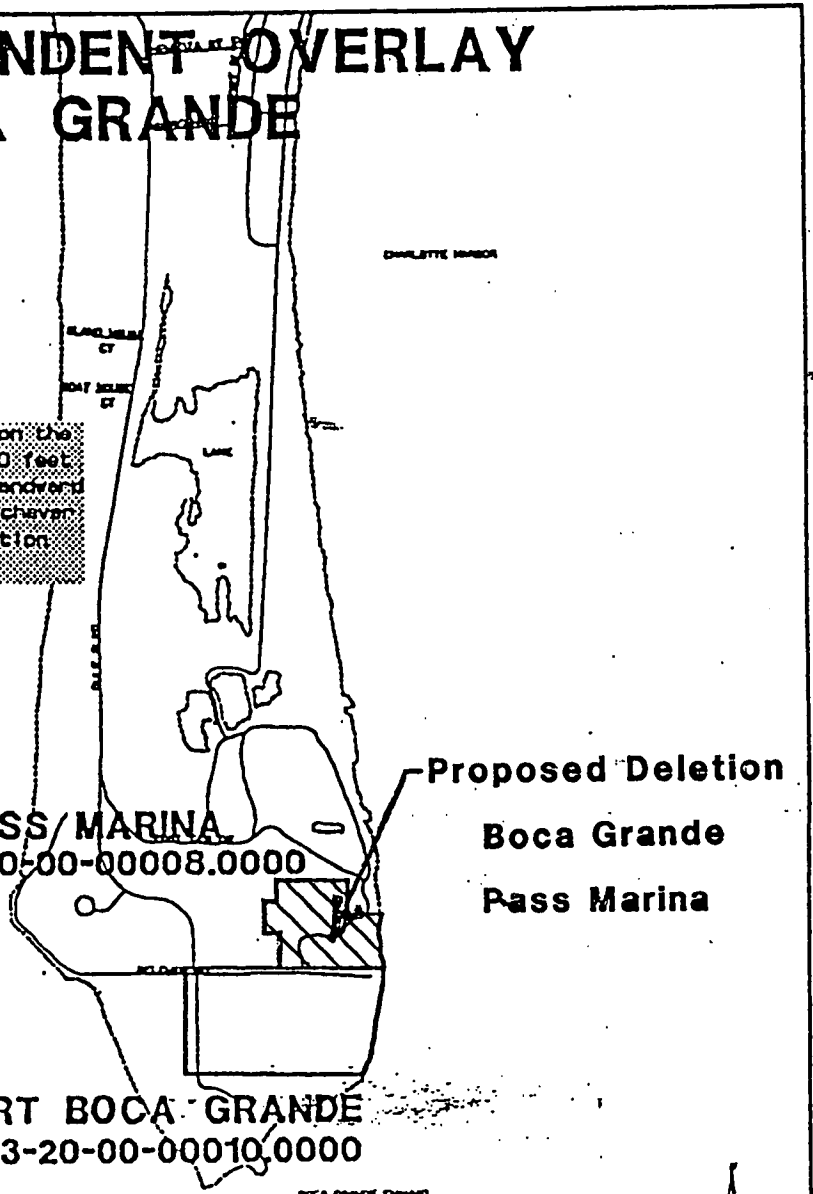


MAP 12 – Page 3 of 19

CURRENT

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE

The water dependent overlay zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward as include the entire parcel, whichever is less. The base map is a reduction of the original.



BOCA GRANDE PASS/MARINA
STRAP NO. 26-43-20-00-00008.0000

PORT BOCA GRANDE
STRAP NO. 26-43-20-00-00010.0000

MAP 12 - Page 3 of 19

CPA 2000-02
PRIVATELY INITIATED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

LPA Public Hearing Document
for the
June 4th, 2001 Public Hearing

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

May 21, 2001

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-02

✓	**Text Amendment**	✓	**Map Amendment**

	This document contains the following reviews:
✓	**Staff Review**
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 21, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. **APPLICANT:**
   THE BOCA BAY MASTER ASSOCIATION
   REPRESENTED BY BEVERLY GRADY, ESQ.
   ROETZEL & ANDRESS

2. **REQUEST:**
   To amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

   Amend Goal 15 of the Lee Plan by adding the following objective and policy:

   Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

   Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning Staff recommends that the Board of County Commissioners transmit this plan amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Zoning resolution ZAB-83-352 granted preliminary Planned Unit Development (PUD) approval and a special exception in the PORT district for residential uses. Resolution Z-86-166 granted final approval to both of these measures in 1987. This development was further amended by Resolution Z-93-009 in 1993.

- The Boca Grande Pass Marina use no longer exists. The subject site was approved for conversion from water dependent uses to non-water dependent uses by resolution Z-99-054. This resolution approved the demolition of Boca Grande Pass marina and the subsequent development of 16 multifamily residential units on the site.

- The site has been cleared and as such there are no indigenous plant communities to disturb.

- There are no sites of historic or archeological importance impacted by the proposed change to the Lee Plan.

- The proposed amendment limits the potential traffic generation of the subject site.

- The proposed amendment limits utilities demands of the subject site.

- The proposed amendment limits development intensity of the subject site.

C. BACKGROUND INFORMATION

Boca Bay is a residential community on the south end of Gasparilla Island. In 1981, the Board of Commissioners approved resolution Z-81-258, which rezoned large portions of the Boca Grande area to the PORT district. The owners of the Boca Bay project appealed unsuccessfully and initiated litigation against the County. This legal action was dropped in 1984 when the County approved resolution ZAB-83-352. This granted a change from AG-2 zoning district to preliminary Planned Unit Development (PUD) approval and created a special exception in the PORT district for residential uses. Approximately 97 acres were affected by this approval. The northern parts of the Boca Bay development, Neighborhoods 1 through 4, were still zoned RM-2 and were not affected by ZAB 83-352 or subsequent resolutions concerning the PUD.

In 1987 final PUD and special exception approval was granted by resolution Z–86-166. 291 units were approved at a density of 3 units per acre to be distributed between three areas. Also permitted were a tennis club with food and beverage service and consumption on premises of alcoholic beverages, model homes in each neighborhood, a sales office, a guard house with gates, and appurtenant signs. At the same time, the portions of Boca Bay outside the PUD were approved for

77 residential units, 19 wet slip docks in the yacht basin, a beach club, guardhouses, Model homes, and a consumption on premises use by resolutions Z -86-170 and Z -86-171. This brought the total number of approved units for the Boca Bay development to 368.

In 1988, the board approved Z-88-151, which created a conservation easement and approved variations in neighborhood #5 in the PUD.

The Water Dependent Overlays were created in 1989 to protect marine-oriented land uses from incompatible or preemptive land uses. The Lee Plan was amended to include two WDOs on the southern end of Gasparilla Island (Attachment 1). The southernmost one is within the parcel owned by Florida Power and Light and consists of a fuel oil storage and transfer facility. The northern one was originally the Boca Grande Pass Marina and abutted the northern edge of the FPL facility. This latter WDO is the subject of this amendment.

In 1993 the PUD was further amended by Resolution Z-93-009. This specifically prohibited an 85-unit wet slip marina and allowed an additional 13 residential units in its place. This raised the total approved units in the PUD to 304 and the total in the Boca Bay development to 381.

In 1999, resolution Z-99-054 approved the conversion of a water-dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the 304 that were already approved for the PUD. Subsequently, the marina was demolished, removing the two dry-storage buildings. The residential units are under construction as of the writing of this report. On March 6, 2001, administrative approval was granted to substitute 2 single family residential units in lieu of 1 four-plex building.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In a resubmittal dated January 24, 2001, (attachment 3) the applicant provides the following comments:

> *"The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for 'Water Dependent Overlay South Boca Grande' a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use-non water-dependent uses.*
>
> *In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.*

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA 2000-02. The Board of County Commissioners granted:

1. *An amendment to the planned unit development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and*

2. *A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and*

3. *Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone."*

The Boca Bay community is a residential area. The 1984 special exception for residential uses created a de facto residential zoning. The proposed amendment does not change any existing land uses and insures that future land uses will be consistent with existing approvals. Likewise, the conversion to residential use created by resolution Z-99-054 removed all water dependent uses from the portion of the WDO zone lying north of Belcher Road. This has rendered the WDO designation for this parcel unnecessary. The proposed Lee Plan amendment would remove the Boca Grande Pass Marina WDO zone from Map 12 (Attachment 2).

Transportation
The proposed amendment does not create any additional residential units or other uses. The proposed amendment allows only those uses approved by previous resolutions. As such, it precludes more intense uses and the resulting increase in trip generation.

Emergency Services
As this proposed amendment does not create additional infrastructure or residences, it does not increase the demand on EMS or fire protection services. In fact, the proposal limits demand as it precludes more intense uses from the subject area.

Hurricane Evacuation
Since the proposed amendment limits trip generation, it has no effect on hurricane evacuation time.

Utilities
The proposed amendment does not create any additional demand on either water or sewer facilities. In addition, the proposal precludes the more intense uses of the PORT designation from being developed and creating greater demands on utility services.

Environmental Concerns
The proposed change would not destroy or disturb any fragile or preserved plant communities in the WDO zone as the affected area had been previously disturbed when it was the Boca Grande Pass Marina. The proposed amendment creates no environmental concerns.

Soils
A summary report of the Boca Bay PUD lists the following soil types on the property: Canaveral fine sand, Captiva fine sand, Wulfert muck, Kesson fine sand, and St. Augustine sand (Attachment 4).

Development Intensity
The proposed amendment limits developmental intensity by precluding those uses in the PORT designation that are more intense than the uses specifically approved by previous resolutions.

Residential Density
The proposed amendment would not change the residential density of the Boca Bay community as previous resolutions have already determined the number of units in the PUD.

Historic Preservation
There are no known historic or archeological sites within the area of the proposed change. The proposed amendment has no effect on any known archeological or historic sites or areas.

Coastal Issues
Previous resolutions have addressed coastal issues for the subject site. As the proposed amendment limits further development to those uses specifically listed by previous resolutions, it creates no new coastal issues.

Population Accommodation
The proposed amendment will not change the population accommodation of the subject property.

B. CONCLUSIONS

The proposed amendment does not create new land uses or change existing ones. It simply ensures that the Boca Bay community is protected from incompatible land uses in the future. In doing so, the proposal will help maintain the local character of the area. This proposal also limits overall development intensity by precluding uses that might result in additional commercial intensity. Furthermore, by removing the marina WDO from the Lee Plan, this proposal clarifies the true intent of the property owner and reflects the reality of the existing, on-site development.

C. STAFF RECOMMENDATION

Planning Staff recommends that the board of County Commissioners transmit this Plan Amendment.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: June 4, 2001

A. LOCAL PLANNING AGENCY REVIEW

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS	_____
SUSAN BROOKMAN	_____
BARRY ERNST	_____
RONALD INGE	_____
GORDON REIGELMAN	_____
VIRGINIA SPLITT	_____
GREG STUART	_____

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

B. STAFF RESPONSE

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING:_____

A. BOARD REVIEW:

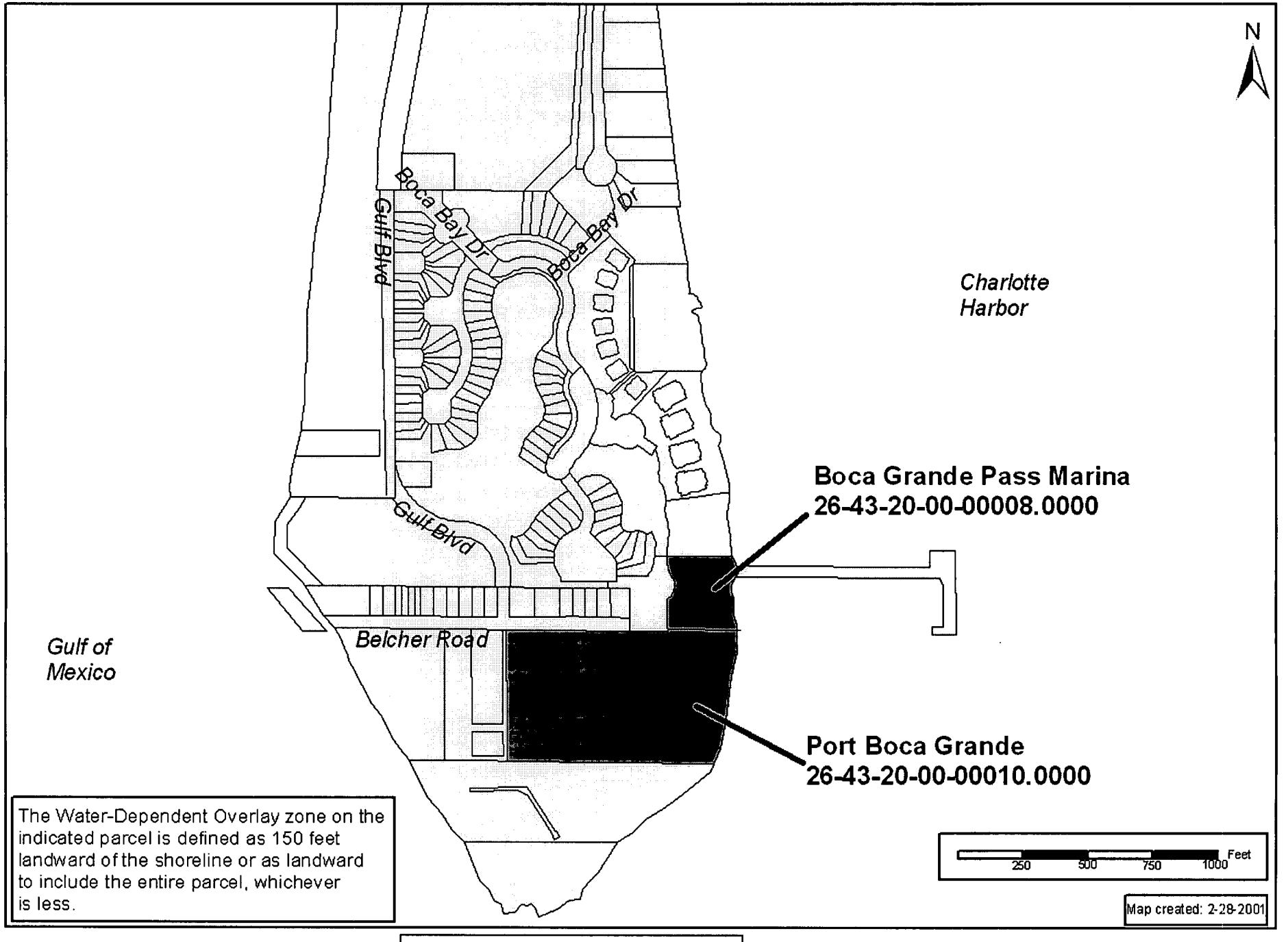
B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

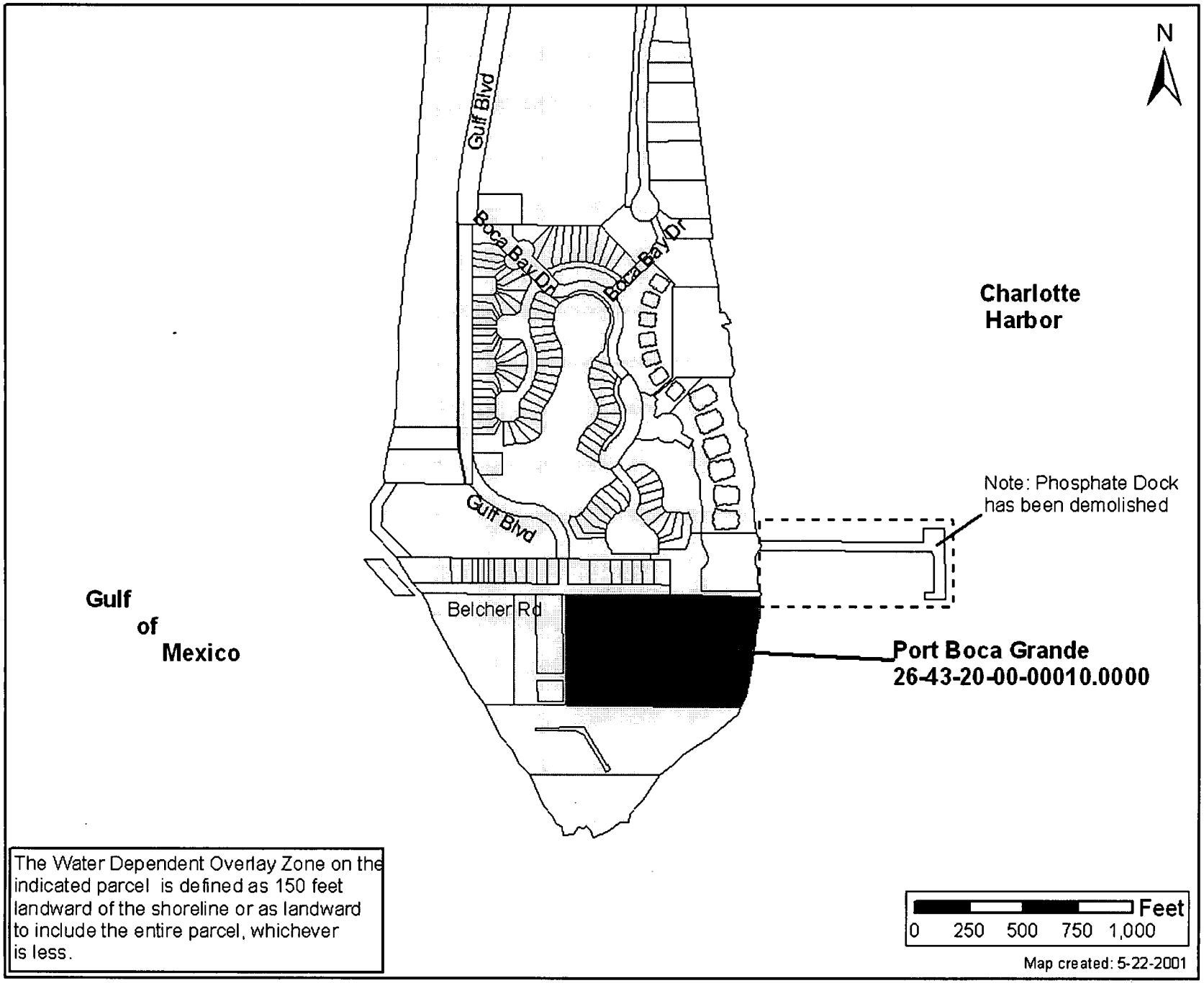
2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

	_____
JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____



Attachment 1 Existing WDO Map



Attachment 2. Proposed WDO map

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1

E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.

Attachment 5
Previous Resolutions
Concerning the Boca Bay PUD

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERSTROM, D.C.

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

1-12-87

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McGowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

> CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFFICIAL RECORDS
PG 1309

PRELIMINARY

ENGINEERING PLANS

FOR

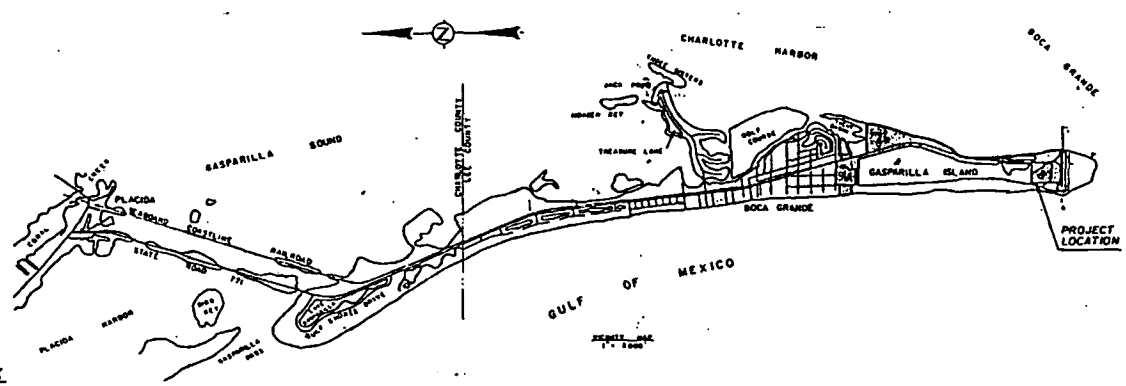
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



APPROVED

INDEX

Sheet No	Description
1	COVER SHEET
2	INDEX MAP
3 - 4	AERIAL PHOTOS / DEMOLITION PLAN
5 - 13	SITE DEVELOPMENT PLAN
14	LAND USE IDENTIFICATION PLAN
15-23	MASTER DRAINAGE PLAN
24-33	PLAN AND PROFILE SHEET
34	ROAD AND DRAINAGE DETAILS
37-45	PRELIMINARY WATER AND SEWER SYSTEM
46-48	GENERAL WATER / SEWER DETAILS
APPENDIX - A-1	LANDSCAPE PLAN

DEVELOPER OF:
CSX RESOURCES, INC.
ONE JAMES CENTER
RICHMOND, VA. 23219

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

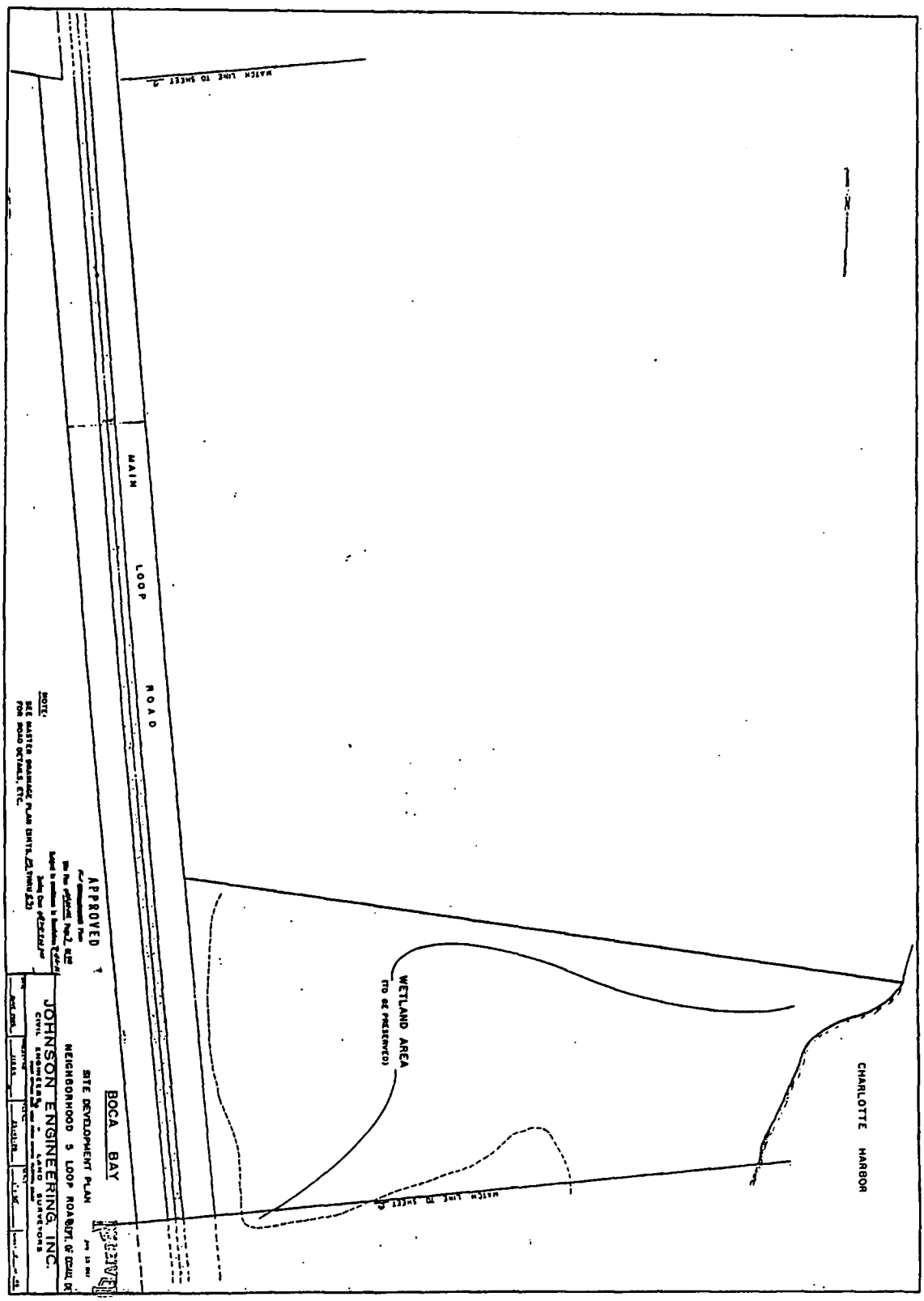
A. T. GRANT
STATE OF FLORIDA
No. 13421
REGISTERED ENGINEER

A.T. GRANT
Registered Professional Engineer
Florida Certificate No. 13421

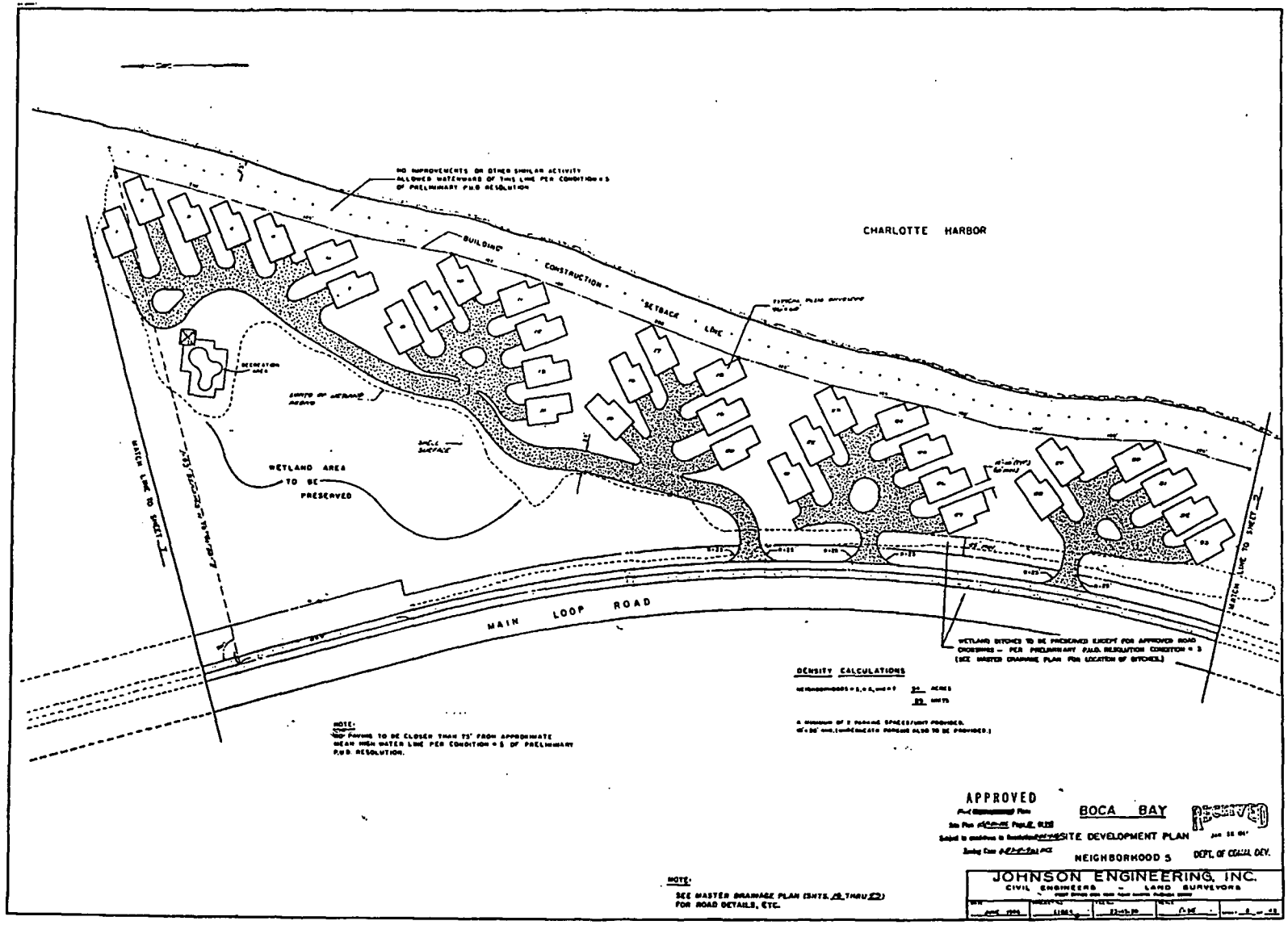
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JUNE 1986

REVISED JANUARY 7, 1987
REVISED DECEMBER 31, 1986
REVISED DECEMBER 15, 1986
REVISED NOVEMBER 11, 1986
REVISED AUGUST 22, 1986


MATCH LINE TO SHEET 3
MAIN
LOOP
ROAD
WETLAND AREA
(TO BE PRESERVED)
CHARLOTTE HARBOR
MATCH LINE TO SHEET 3
APPROVED
BOCA BAY
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 5 LOOP ROAD
JOHNSON ENGINEERING, INC.

OR 910PG1311



APPROVED

BOCA BAY

SITE DEVELOPMENT PLAN

NEIGHBORHOOD 5

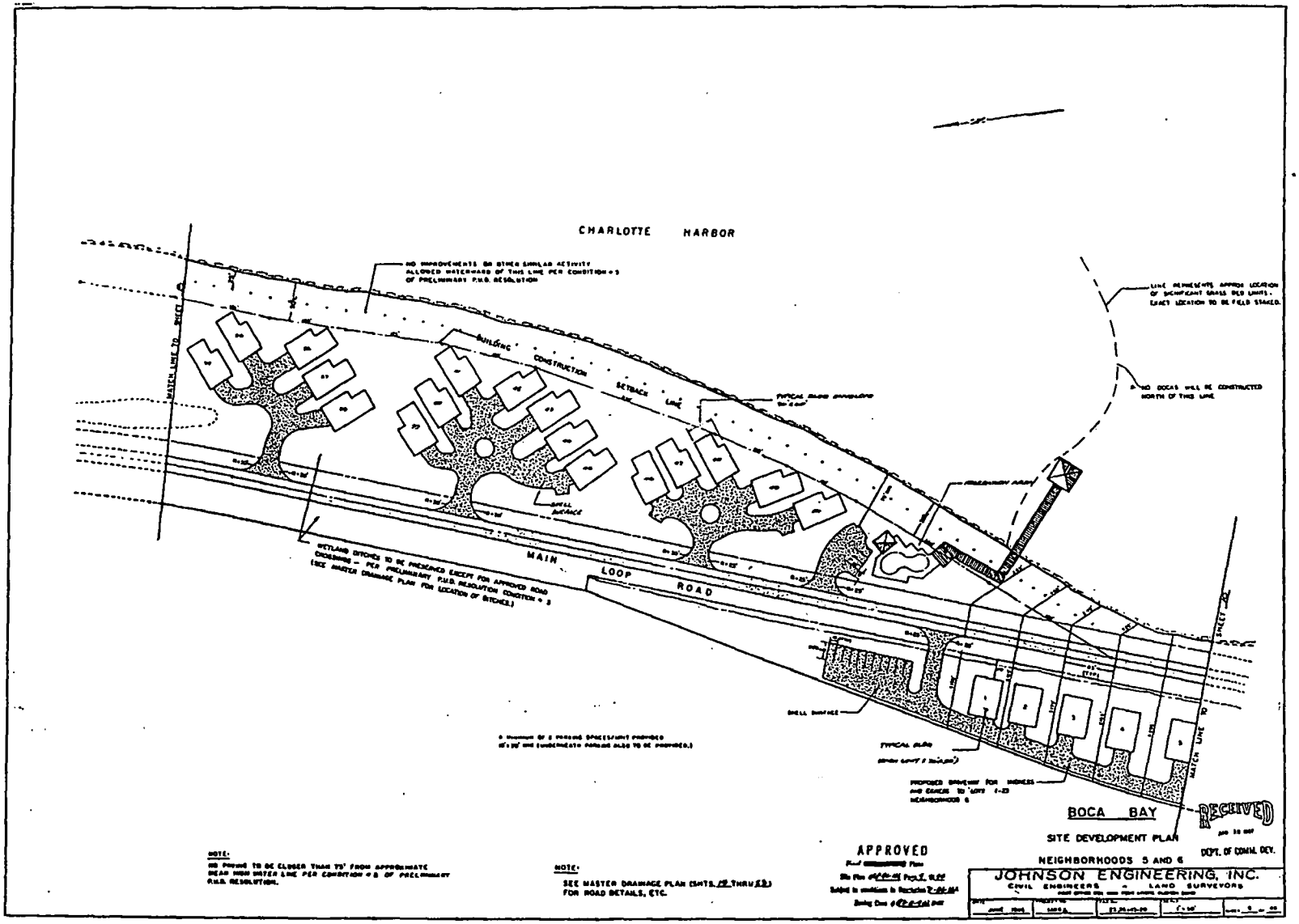
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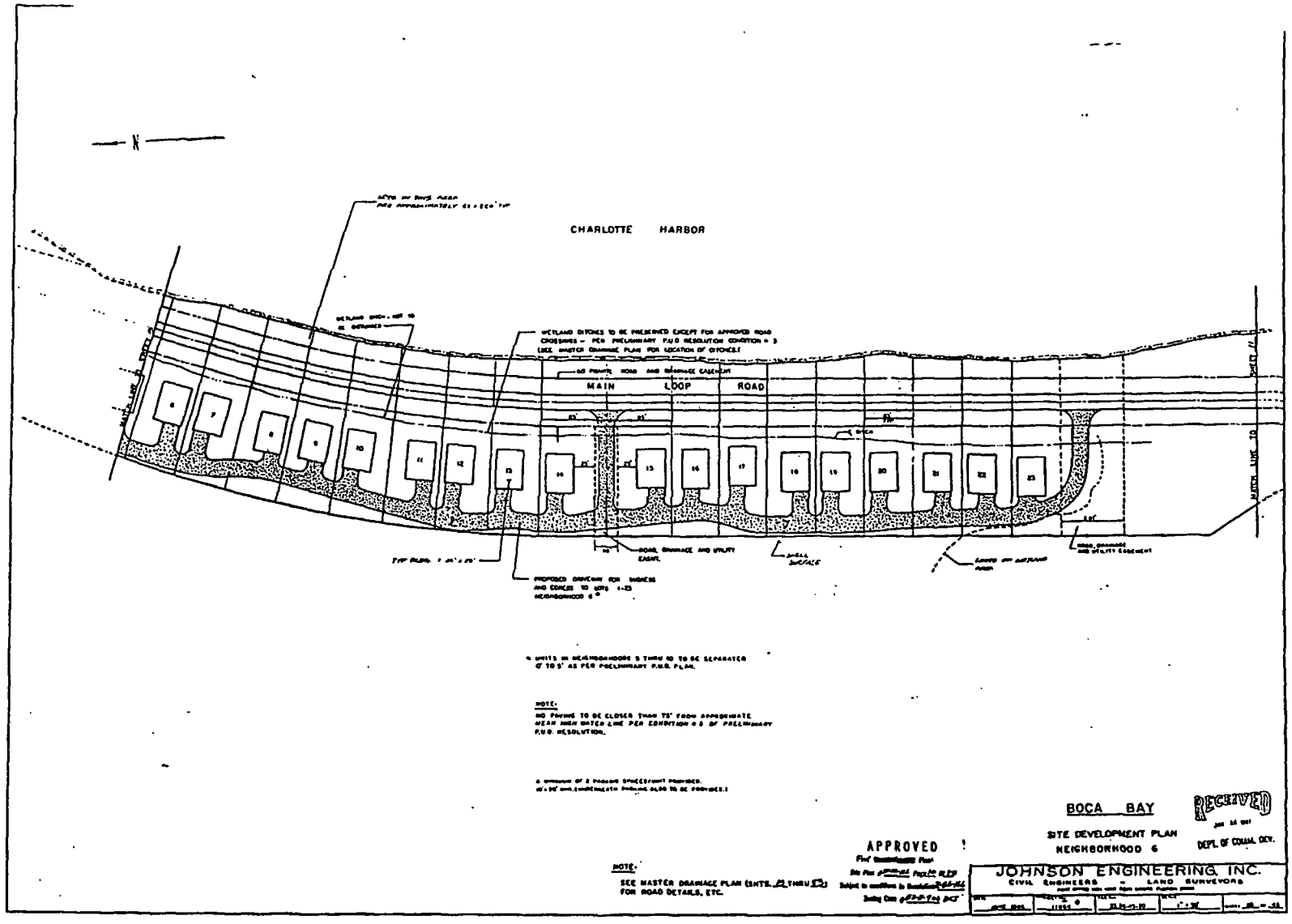
JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS — LAND SURVEYORS

OR REC 910 PG 1312



O. REC. 910 PG 1313



* UNITS IN NEIGHBORHOODS 5 THRU 10 TO BE SEPARATED BY 10 5' AS PER PRELIMINARY P.U.D. PLAN.

NOTE:
NO PHASE TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION # 5 OF PRELIMINARY P.U.D. RESOLUTION.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. 2 THRU 5) FOR ROAD DETAILS, ETC.

APPROVED
Final Development Plan
Site Plan #
Subject to conditions in Resolution #
Zoning Case #

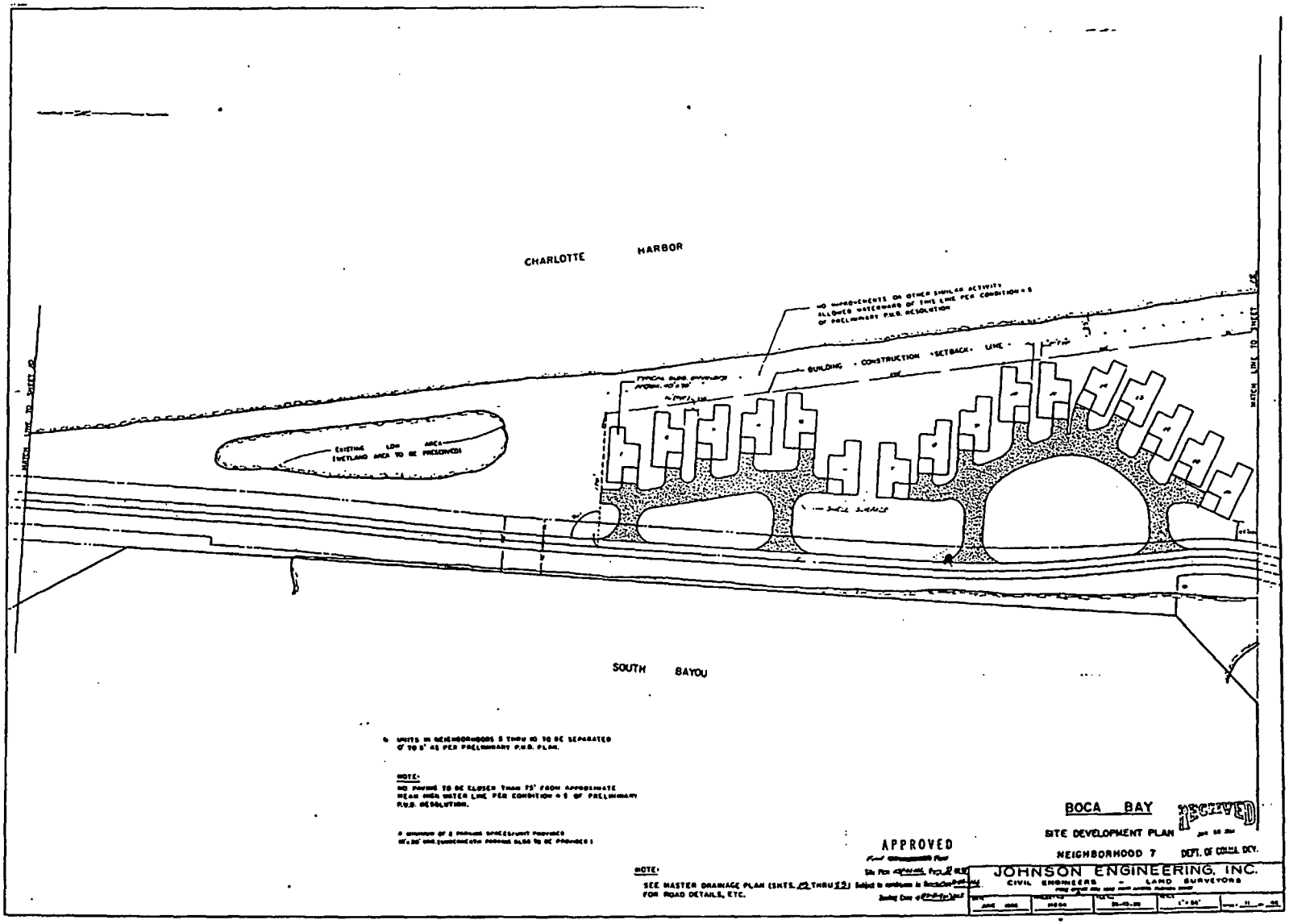
BOCA BAY

SITE DEVELOPMENT PLAN
NEIGHBORHOOD 6

RECEIVED
DEPT. OF COMM. DEV.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

FEE 1910PG1314



6. UNITS IN NEIGHBORHOODS 5 THRU 10 TO BE SEPARATED BY 10' AS PER PRELIMINARY P.U.D. PLAN.

NOTE:
NO PAVING TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION # 5 OF PRELIMINARY P.U.D. RESOLUTION.

A MINIMUM OF 2 PARKING SPACES/UNIT PROVIDED 18'x20' UNENCUMBERED PARKING ALSO TO BE PROVIDED.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. #2 THRU #9) FOR ROAD DETAILS, ETC.

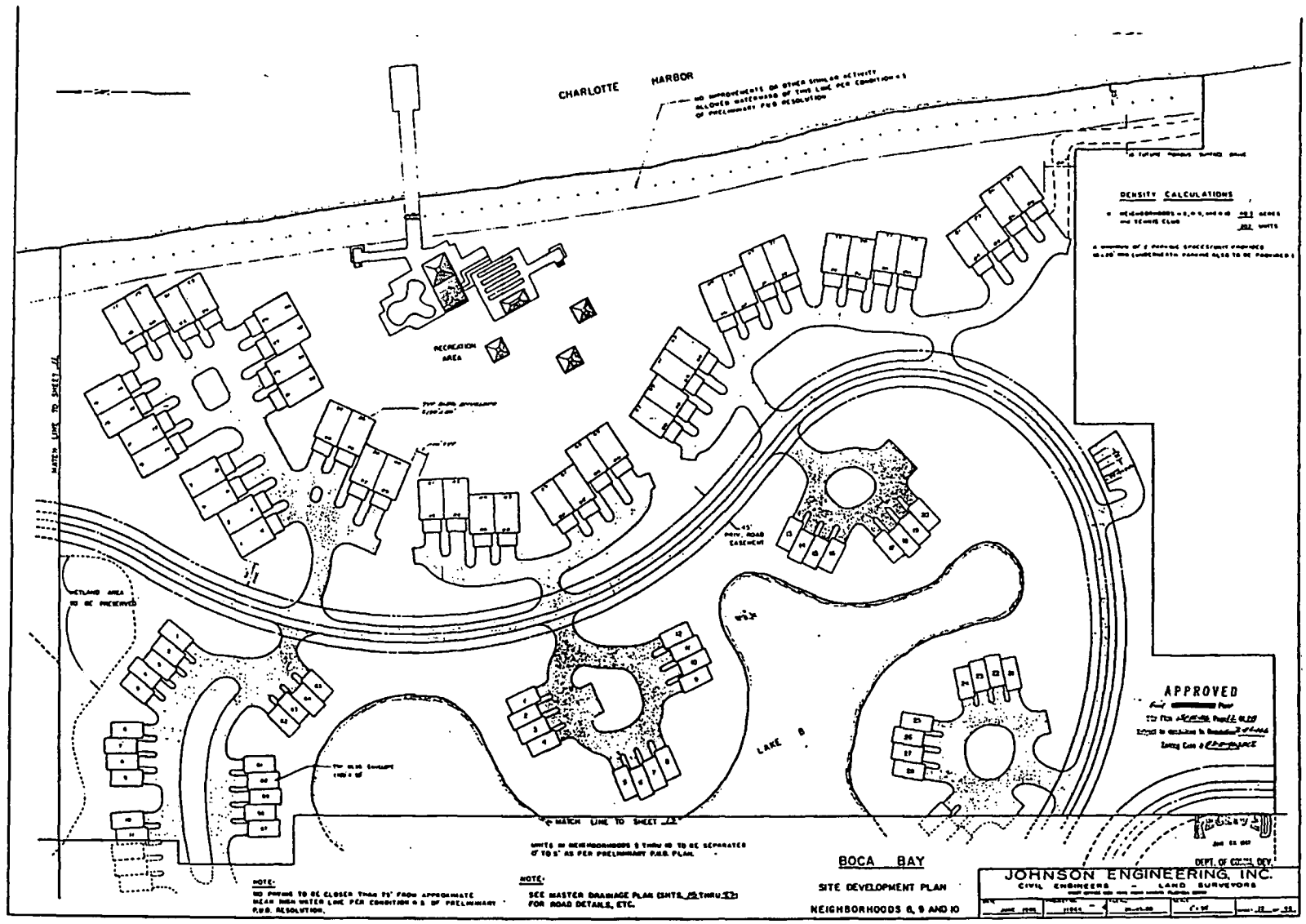
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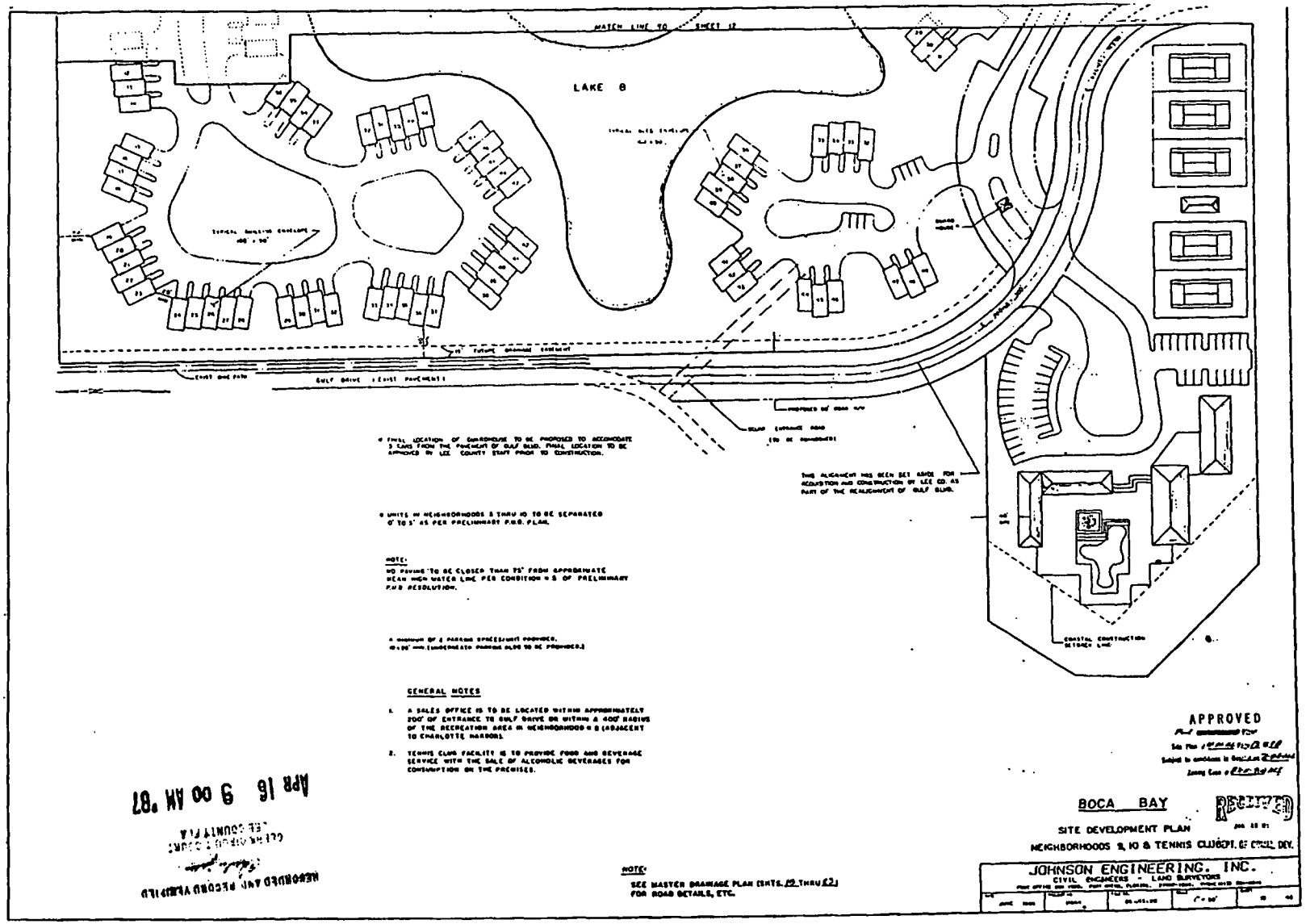
BOCA BAY
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 7

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS — LAND SURVEYORS

OFF REC 1910 PG 1315



OFF REC 1910 PG 1346



* FINAL LOCATION OF DRIVEWAYS TO BE PROPOSED TO ACCOMODATE 3 LANES FROM THE PINCHCUT OF GULF BLVD. FINAL LOCATION TO BE APPROVED BY LEE COUNTY STAFF PRIOR TO CONSTRUCTION.

THIS ALIGNMENT HAS BEEN SET ASIDE FOR ACQUISITION AND CONSTRUCTION BY LEE CO. AS PART OF THE REALIGNMENT OF GULF BLVD.

* UNITS IN NEIGHBORHOODS 8 THRU 10 TO BE SEPARATED 0' TO 5' AS PER PRELIMINARY P.U.D. PLANS.

NOTE:
NO PAVING TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION # 5 OF PRELIMINARY P.U.D. RESOLUTION.

* MAXIMUM OF 2 PARKING SPACES/UNIT PROVIDED. 10'x20' min. (UNDERGROUND PARKING ALSO TO BE PROVIDED.)

GENERAL NOTES

1. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 200' OF ENTRANCE TO GULF DRIVE OR WITHIN A 400' RADIUS OF THE RECREATION AREA IN NEIGHBORHOOD # 8 (ADJACENT TO CHARLOTTE HARBOR).

2. TENNIS CLUB FACILITY IS TO PROVIDE FOOD AND BEVERAGE SERVICE WITH THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. 19 THRU 22) FOR ROAD DETAILS, ETC.

APPROVED

BOCA BAY

SITE DEVELOPMENT PLAN

NEIGHBORHOODS 9, 10 & TENNIS CLUB/DEPT. OF COMM. DEV.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

RECEIVED

RECORDED AND RECORD VERIFIED
CLERK CIRCUIT COURT
LEE COUNTY FLA
APR 16 9 00 AM '87

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

1.7.03

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

<u>Single-Family Detached</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	5 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Single-Family Attached (Villas)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	0 (zero) feet on one side and minimum 10 feet between structures
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Multiple-Family Building (Flats/Town Homes)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Separation between structures:	10 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
County Attorney's Office

FILED

JUN 17 1993

CLERK CIRCUIT COURT
BY _____ D.C.

HEARING NUMBER 83-09-11-DCI(d)
7241

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

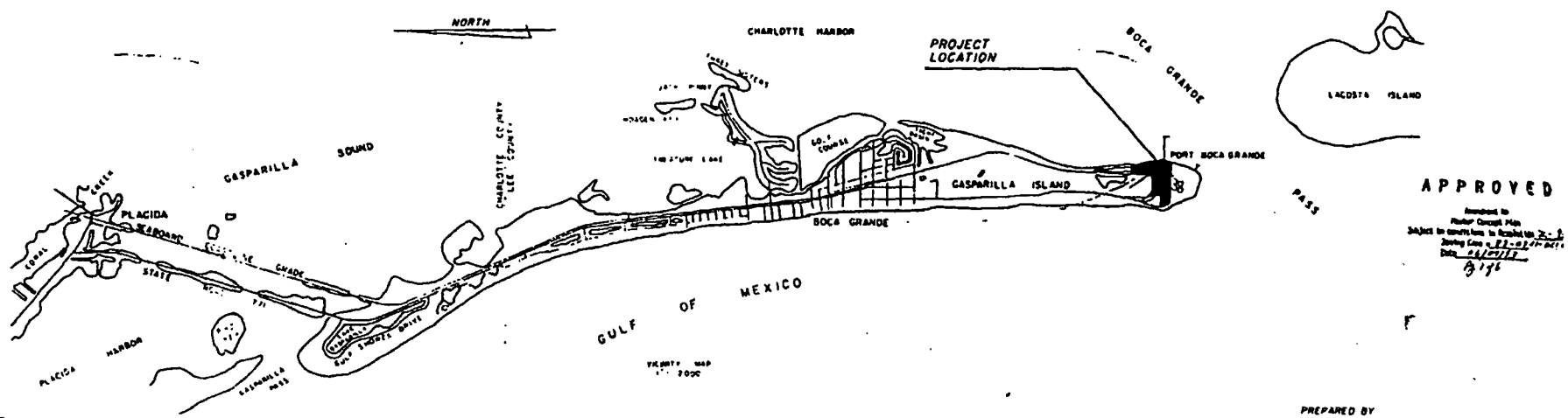
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

Amendment to Planned Development Master Concept Plan
Subject to conditions in Resolution No. Z-91-
Zoning Case No. 91-02.01
Date 10/15/91
By [illegible]

INDEX

1	COVER SHEET	
2	OVERALL BOCA BAY SITE MAP	
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)	
4	DETAILS & NOTES	
5	TYPICAL UNIT LAYOUTS & DETAILS	
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION	

UTILITIES:

WATER AND SEWER
GASPARILLA ISLAND WATER ASSOC INC
PO BOX 126
BOCA GRANDE, FLA 33921

ELECTRIC
FLORIDA POWER and LIGHT CO
PO BOX 1209
VENICE, FLA 33595

TELEPHONE
UNITED TELEPHONE COMPANY OF FLORIDA
140 MARC MARBURY
PUNTA GORDA, FLA

FIRE DISTRICT
BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 26, 1993

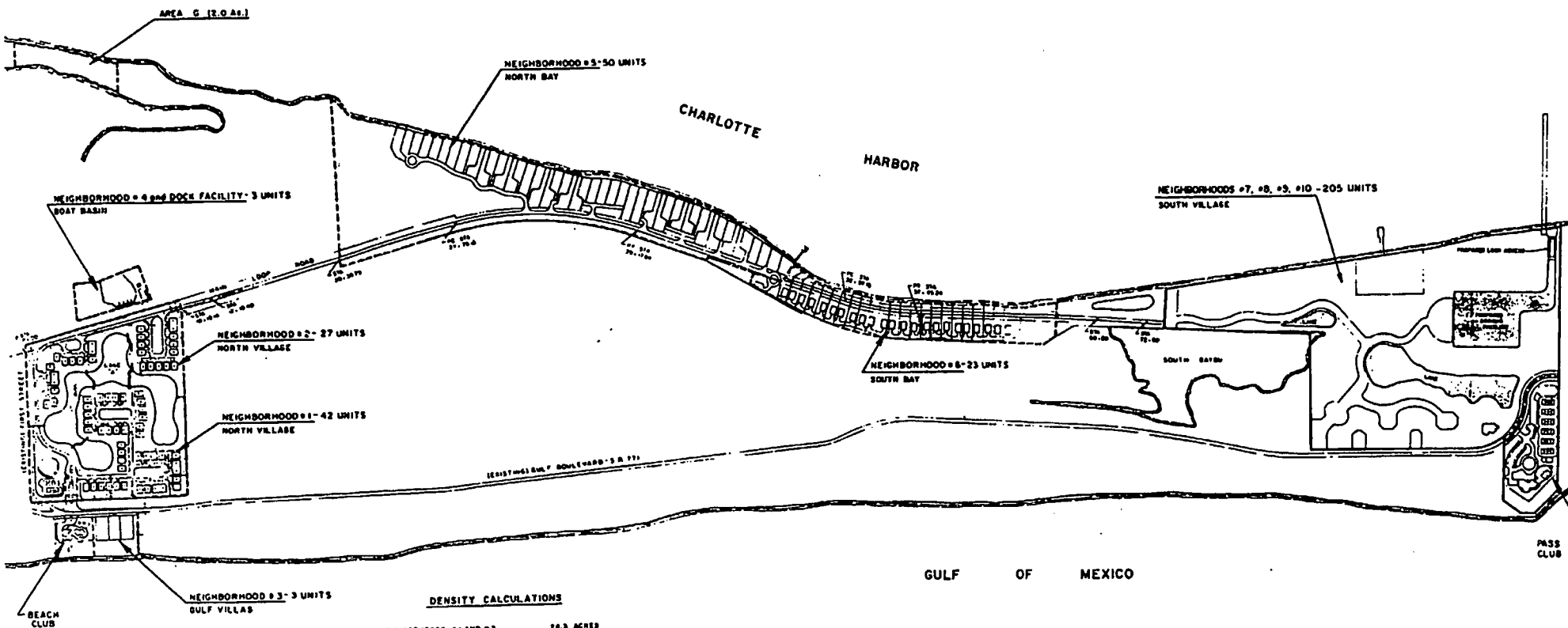
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

RECEIV
MAY 27 1



DENSITY CALCULATIONS

A.	NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA G	14.3 ACRES	69 UNITS
B.	NEIGHBORHOOD #3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES	3 UNITS
C.	NEIGHBORHOOD #4 (BOAT BASIN) AND DOCKS	2.0 ACRES	3 UNITS
D.	NEIGHBORHOOD #5 (NORTH VILLAGE)	34.4 ACRES	50 UNITS
E.	NEIGHBORHOOD #6 (SOUTH BAY)	9.2 ACRES	23 UNITS
F.	NEIGHBORHOOD #7,8,9,10 (SOUTH VILLAGE) AND PASS CLUB	56.73 ACRES	206 UNITS
	TOTAL AC. (PREVIOUSLY APP'D. PLAN)	127.1 ACRES	
	TOTAL UNITS (PREVIOUSLY APP'D. PLAN)		366 UNITS
	TOTAL AC. (PROPOSED PLAN)	120.40 ACRES	
	TOTAL UNITS (PROPOSED PLAN)		303 UNITS

REVISED 5/20/93 - ACREAGE

REVISED 5/26/93 - DENSITY CALCS.

REVISED 5/17/93

REVISED 5/25/93 - UPDATED BOCA BAY DATA

APPROVED

Amendment to Master Concept Plan
Subject to conditions as recorded in 3-93 Zoning Case #93-06-02
Date 6/21/93

BOCA BAY

INDEX MAP

and

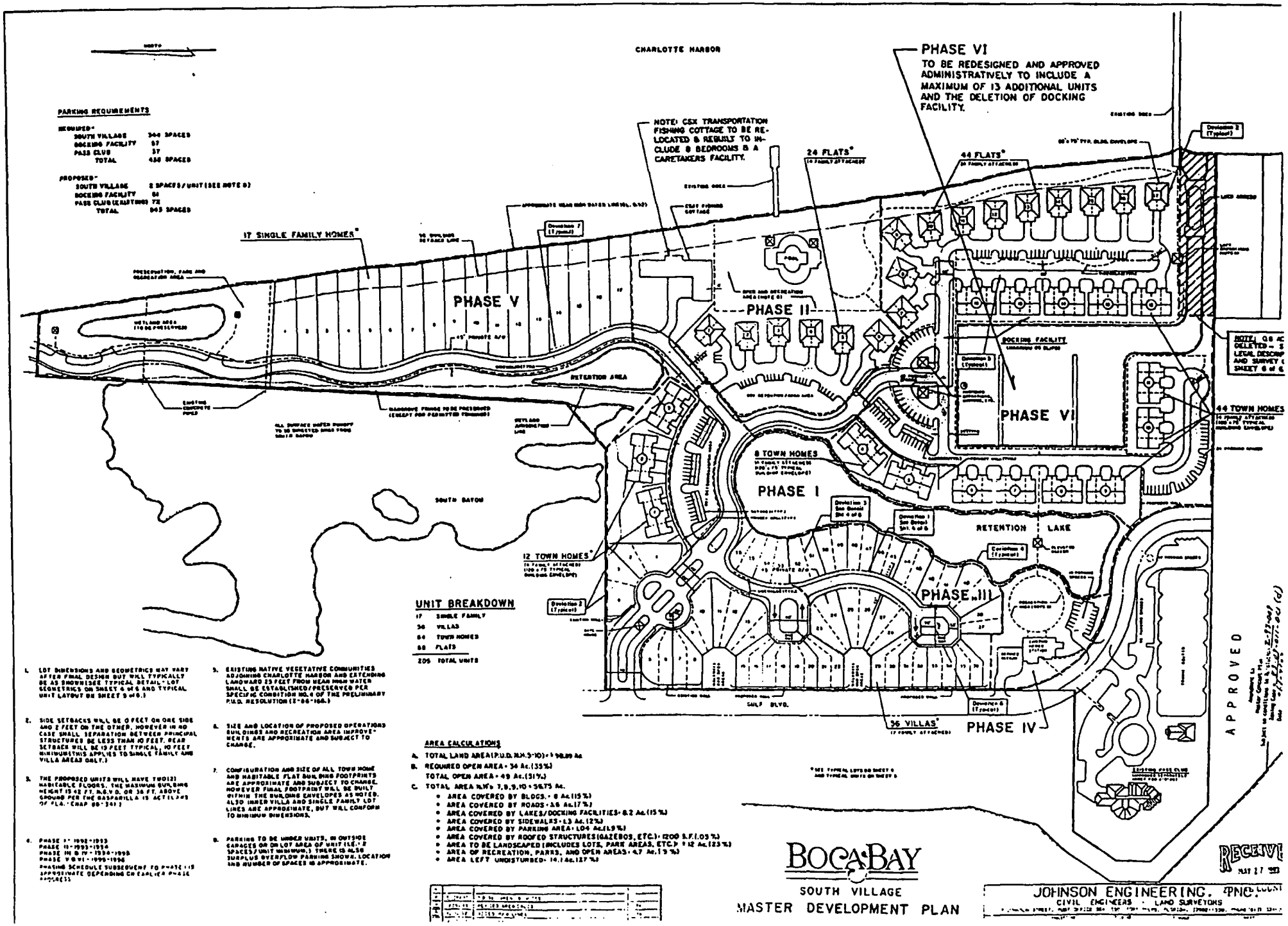
NEIGHBORHOOD LAYOUT

RECEIVED MAY 27 '93 ZONING COUNTER

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS - LAND SURVEYORS

DATE: OCTOBER, 1990	PROJECT NO. 16332	FILE NO. 23,29-43-26	SCALE: 1" = 300'	SHEET 1 OF 1



PARKING REQUIREMENTS

REQUIRED*

SOUTH VILLAGE	344 SPACES
DOCKING FACILITY	57
PASS CLUB	57
TOTAL	458 SPACES

PROPOSED*

SOUTH VILLAGE	2 SPACES/UNIT (SEE NOTE 8)
DOCKING FACILITY	84
PASS CLUB (EXISTING)	72
TOTAL	843 SPACES

UNIT BREAKDOWN

17	SINGLE FAMILY
36	VILLAS
64	TOWN HOMES
88	FLATS
205	TOTAL UNITS

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. N.M.S-10) = ± 98.89 Ac.

B. REQUIRED OPEN AREA = 34 Ac. (35%)
TOTAL OPEN AREA = 49 Ac. (51%)

C. TOTAL AREA N.M's 7, 8, 9, 10 = 56.75 Ac.
- AREA COVERED BY BLDGS. = 8 Ac. (15%)
- AREA COVERED BY ROADS = 3.6 Ac. (7%)
- AREA COVERED BY LAKES/DOCKING FACILITIES = 8.2 Ac. (15%)
- AREA COVERED BY SIDEWALKS = 1.3 Ac. (2%)
- AREA COVERED BY PARKING AREA = 1.04 Ac. (1.9%)
- AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) = 1200 S.F. (.05%)
- AREA TO BE LANDSCAPED (INCLUDES LOTS, PARK AREAS, ETC.) = ± 12 Ac. (23%)
- AREA OF RECREATION, PARKS, AND OPEN AREAS = 4.7 Ac. (9%)
- AREA LEFT UNDISTURBED = 14.1 Ac. (27%)

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN. SEE TYPICAL RETAIL - LOT GEOMETRICS ON SHEET 4 of 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 of 6.)

2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 2 FEET ON THE OTHER. HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPAL STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLA AREAS ONLY.)

3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. M.S.L.D. OR 36 FT. ABOVE GROUND PER THE BARRIER LAW AS ACTUALLY OF FLA. CHAP 88-381)

4. PHASE I - 1992-1993
PHASE II - 1993-1994
PHASE III & IV - 1994-1995
PHASE V & VI - 1995-1996
PHASING SCHEDULE SUBSEQUENT TO PHASE III APPROXIMATE DEPENDING ON EARLIER PHASE ACCURACY

5. EXISTING NATIVE VEGETATIVE COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 6 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-86-166.)

6. SIZE AND LOCATION OF PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.

7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.

8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNIT (I.E. 2 SPACES/UNIT MINIMUM.) THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

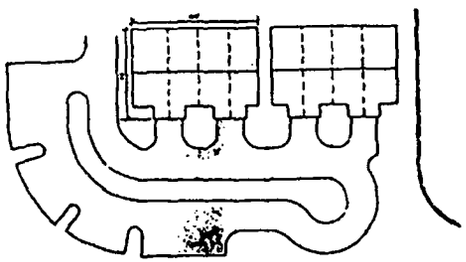
* SEE TYPICAL LOTS ON SHEET 4 AND TYPICAL UNITS ON SHEET 5

BOCA BAY

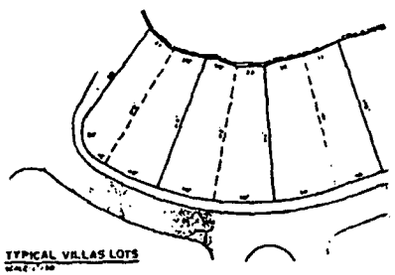
SOUTH VILLAGE MASTER DEVELOPMENT PLAN

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS · LAND SURVEYORS

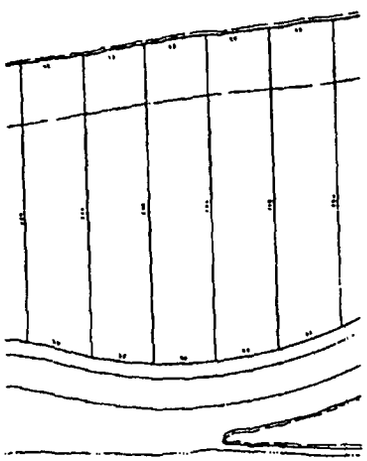
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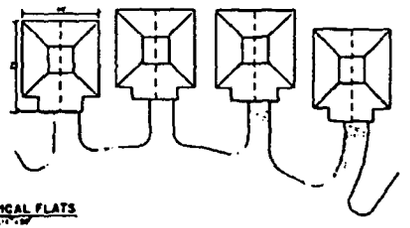
TYPICAL TOWN HOMES



TYPICAL VILLAS LOTS



TYPICAL SINGLE FAMILY LOTS



TYPICAL FLATS

SCHEDULE OF DEVIATIONS
BOCA BAY

1. DEVIATION FROM THE REQUIRED STREET SETBACK FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (ZONING ORDINANCE SECTION 200.10.D.2.a.), TO 1/2 RIGHT-OF-WAY PLUS 15 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE IN THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID BUILDING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 5 FEET;

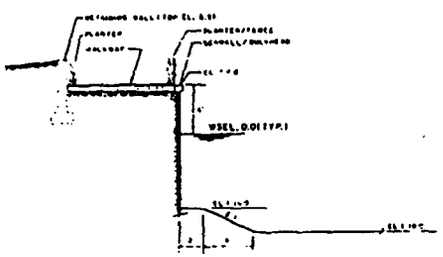
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE BUILDINGS OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 10 FEET AS MEASURED FROM THE BUILDING WALLS;

4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 75 FEET (ZONING ORDINANCE SECTION 200.10.D.4.a.), TO 15 FEET FROM THE RETENTION LAKE BANK;

5. DEVIATION FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE MINIMUM REQUIREMENTS FOR PARKING LOT ACCESSES AND AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24 FEET (ZONING ORDINANCE SECTION 200.10.F.2. AND DEVELOPMENT STANDARDS ORDINANCE SECTION 9.7.(3.), TO 20 FEET;

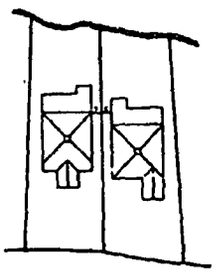
6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE RADIUS OF PAVEMENT OF A CUL-DE-SAC BE 90 FEET AND 75 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET DIAMETER (PLUS 20 FEET FOR UTILITY EASEMENTS) (DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.11.), TO ALLOW IMPROVEMENTS AS SHOWN ON THE PUD PLANS; AND

7. DEVIATION FROM THE REQUIREMENT THAT THE 10-FOOT-WIDE UTILITY EASEMENTS SHALL BE PROVIDED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENTS (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.I.3.), TO REQUIRE A 5-FOOT-WIDE (MINIMUM) UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.



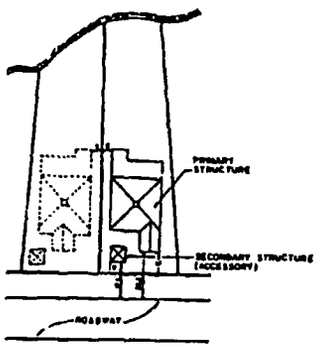
TYPICAL SECTION - DOCKING FACILITY

N.T.S.



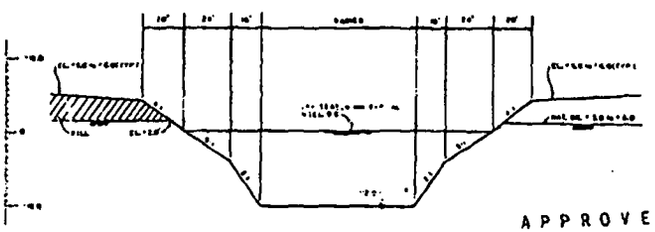
DEVIATION 3 - Typical Detail

SCALE: 1" = 30'



DEVIATION 1 - Typical Detail

SCALE: 1" = 30'



TYPICAL LAKE SECTION

N.T.S.

APPROVED

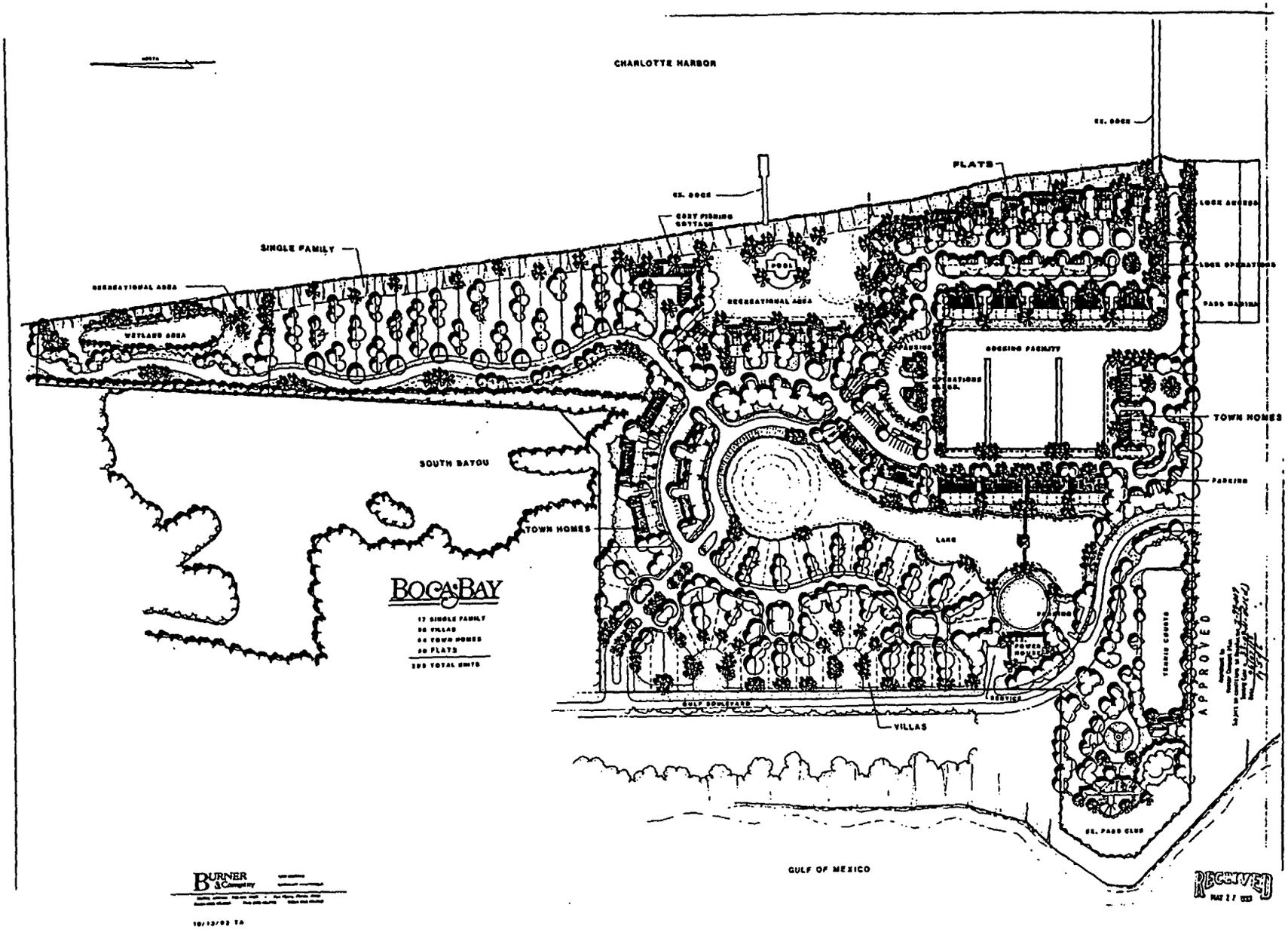
Amendment to
Master Concept Plan
Subject to conditions in Resolution No. 243-89
Zoning Case # 83-65-U-(24)
Date 11/27/89

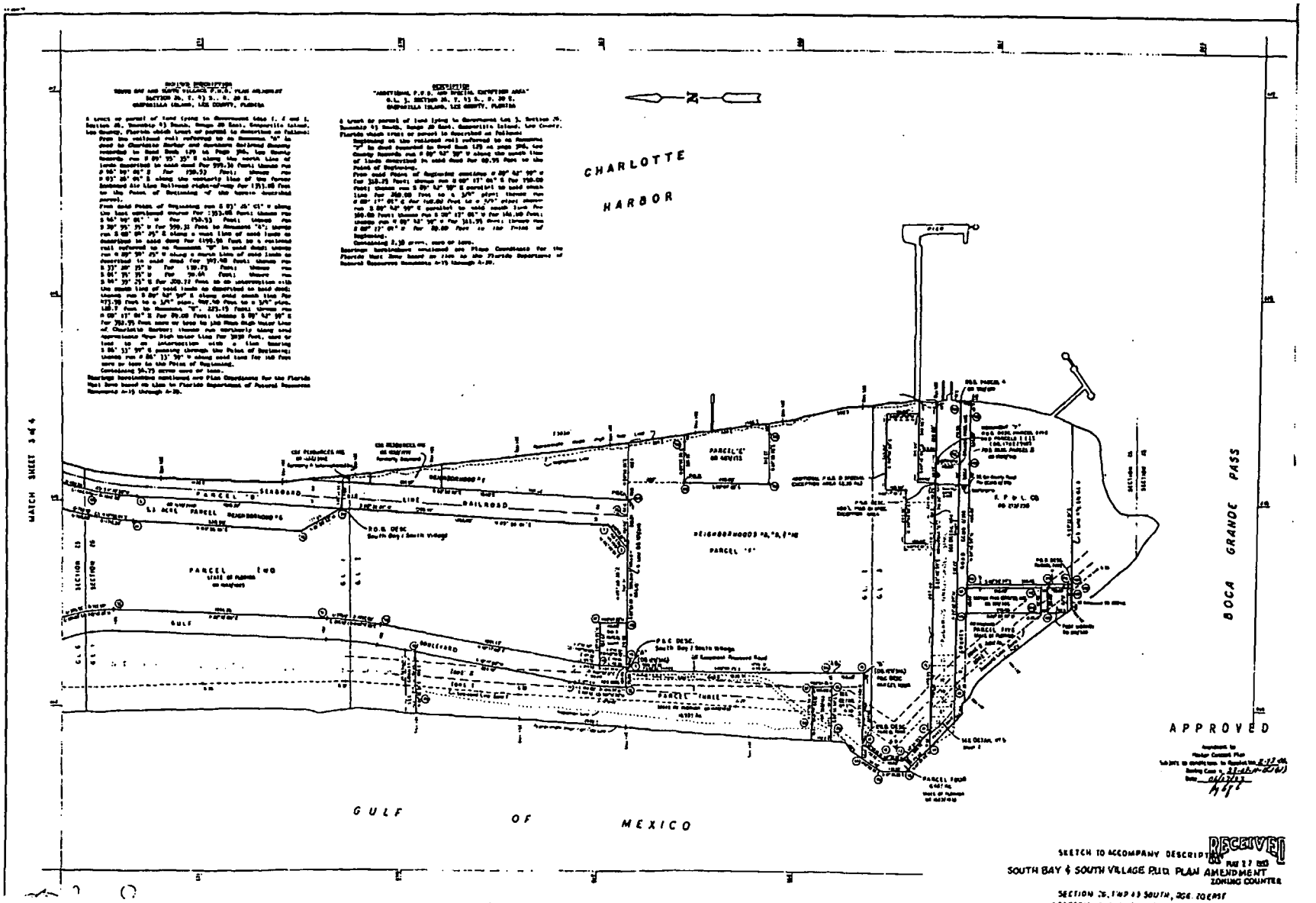
BOCA BAY

RECEIVED
MAY 17 1990

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

DEC. 1989	1198	73 26 43-20	AS SHOWN	4 OF 6


CHARLOTTE HARBOR
FLATS
SINGLE FAMILY
RECREATIONAL AREA
WETLAND AREA
SOUTH BAYOU
TOWN HOMES
BOCA BAY
17 SINGLE FAMILY
96 VILLAS
44 TOWN HOMES
86 FLATS
393 TOTAL UNITS
RECREATIONAL AREA
POOL
PARKING
DOCKING FACILITY
TOWN HOMES
PARKING
LAKE
VILLAS
TENNIS COURTS
EL PASO CLUB
GULF OF MEXICO
APPROVED
RECEIVED



SKETCH TO ACCOMPANY DESCRIPTION

SOUTH BAY & SOUTH VILLAGE PUD PLAN AMENDMENT

SECTION 36, TWP 43 SOUTH, RGE 20EAST

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

RECEIVED
MAR 27 1985
ZONING COUNTER

[illegible] ENGINEERING, INC.

A000

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

As to the Special Exception for Residential Use in the PORT District:

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Lessmer
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE
mgl

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert 10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

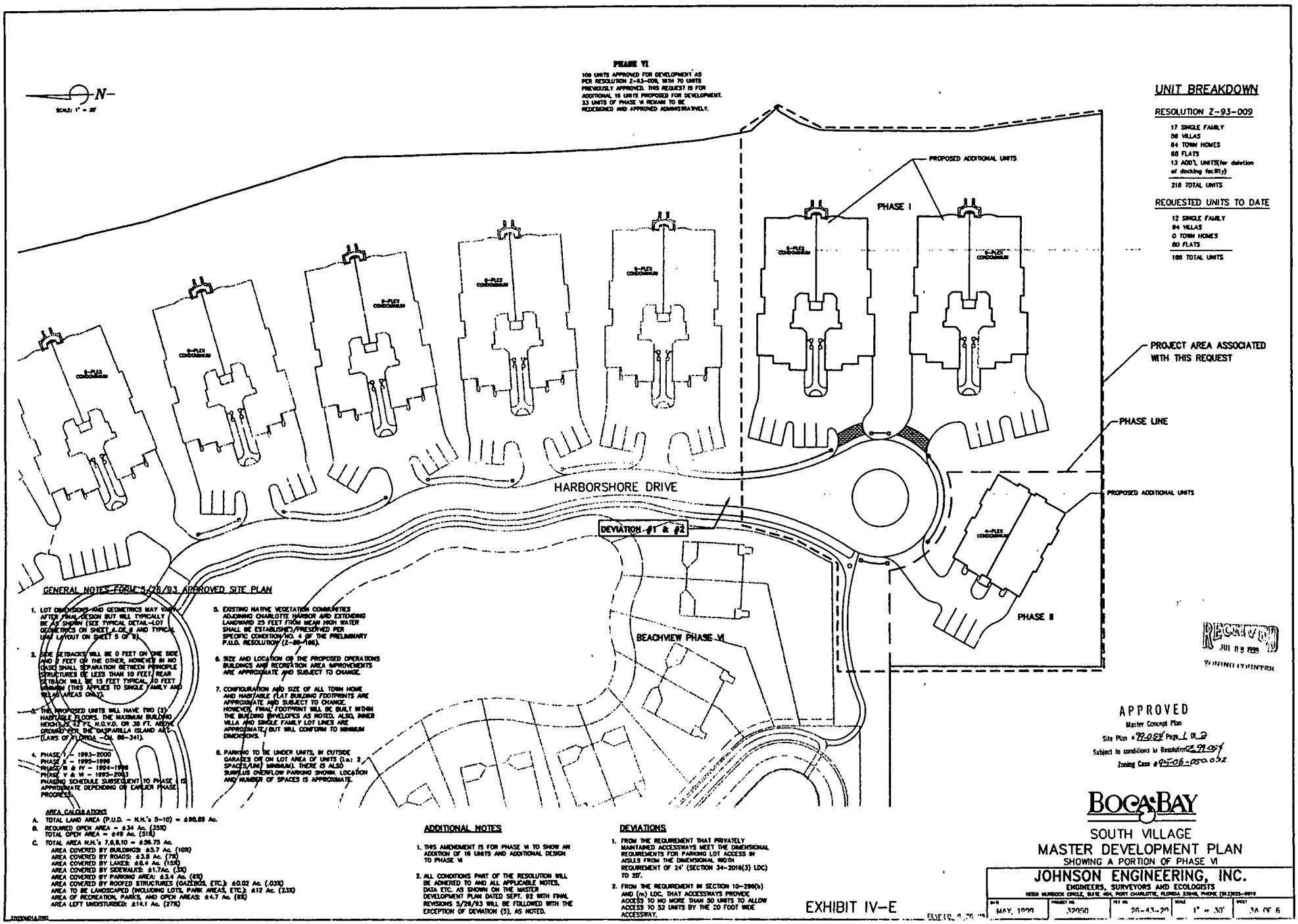
From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾" pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.



GENERAL NOTES FOR 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 6 OF 8 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 8).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 9 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 37 FT. N.G.V.D. OR 30 FT. ABOVE GROUND PER THE CASPARILLA ISLAND ACT (LAWS OF FLORIDA - CH. 88-341).
4. PHASE I - 1993-2000
PHASE II - 1995-1999
PHASE III & IV - 1994-1998
PHASE V & VI - 1995-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION/NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-186).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - N.H.'s 8-10) = ±98.89 Ac.
B. REQUIRED OPEN AREA = ±34 Ac. (35%)
TOTAL OPEN AREA = ±49 Ac. (51%)
C. TOTAL AREA N.H.'s 7,8,9,10 = ±28.75 Ac.
AREA COVERED BY BUILDINGS: ±5.7 Ac. (10%)
AREA COVERED BY ROADS: ±3.8 Ac. (7%)
AREA COVERED BY LAKES: ±8.4 Ac. (15%)
AREA COVERED BY SIDEWALKS: ±1.7Ac. (3%)
AREA COVERED BY PARKING AREA: ±3.4 Ac. (6%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.): ±0.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.): ±12 Ac. (23%)
AREA OF RECREATION, PARKS, AND OPEN AREAS: ±4.7 Ac. (8%)
AREA LEFT UNDISTURBED: ±14.1 Ac. (27%)

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 18 UNITS AND ADDITIONAL DESIGN TO PHASE VI.
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 5/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (5), AS NOTED.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC. THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 20 FOOT WIDE ACCESSWAY.

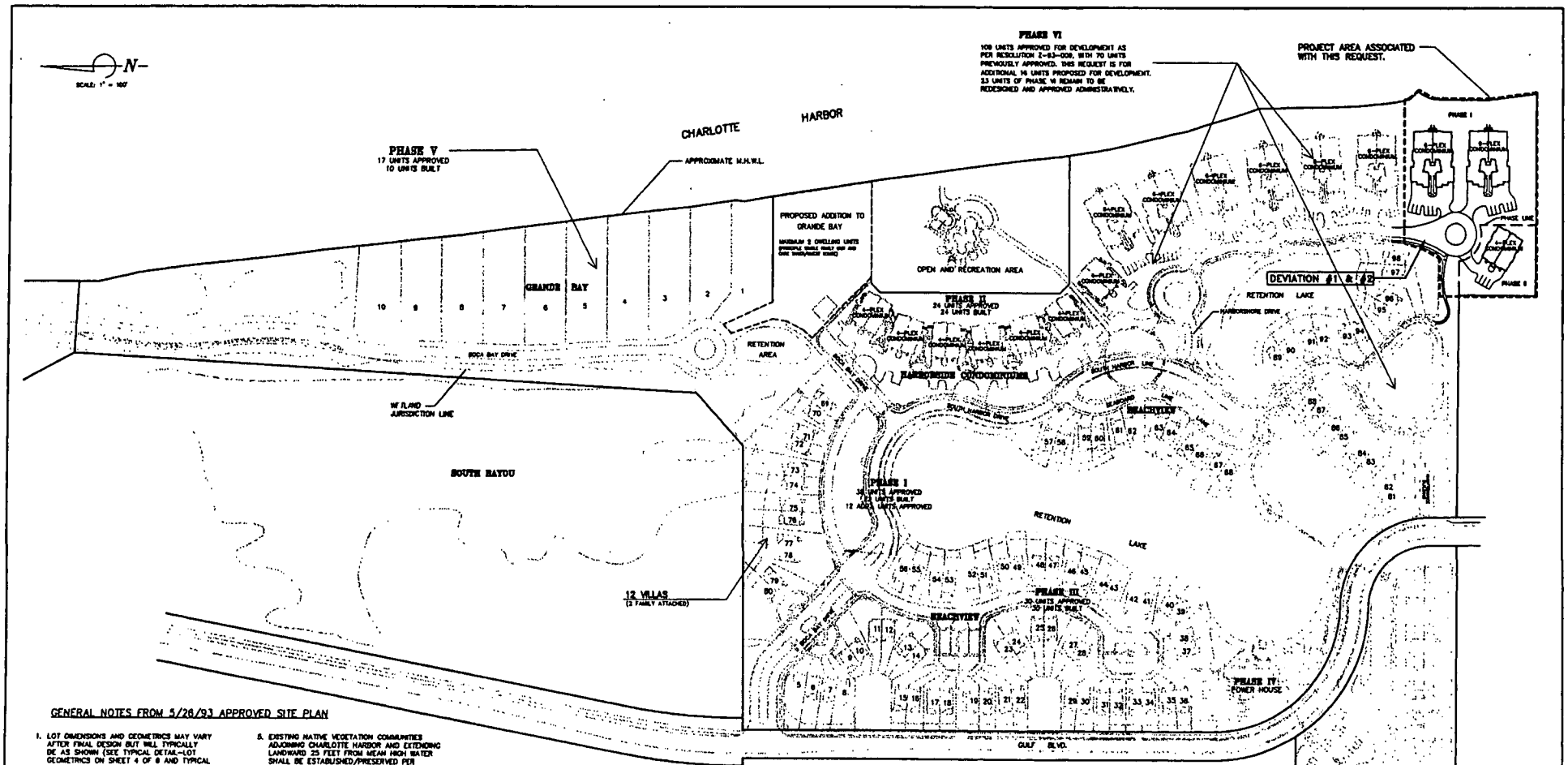
EXHIBIT IV-E

BOCA BAY

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
16501 MURDOCK CIRCLE, SUITE 404, PORT CHARLOTTE, FLORIDA 33948, PHONE (813)625-9919

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
MAY, 1999	32050	20-43-20	1" = 30'	3A OF 6



GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL—LOT GEOMETRICS ON SHEET 4 OF 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 6).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 3 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. N.G.V.D. OR 38 FT. ABOVE GROUND PER THE GASPARILLA ISLAND ACT (LAWS OF FLORIDA -CH. 88-341).
4. PHASE I - 1993-2000
   PHASE II - 1995-1998
   PHASE III & IV - 1994-1996
   PHASE V & VI - 1995-2003
   PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-168).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - N.H.'s 5-10) = ±98.89 Ac.
B. REQUIRED OPEN AREA = ±34 Ac. (35%)
   TOTAL OPEN AREA = ±49 Ac. (51%)
C. TOTAL AREA N.H.'s 7,8,9,10 = ±56.75 Ac.
   AREA COVERED BY BUILDINGS: ±5.7 Ac. (10%)
   AREA COVERED BY ROADS: ±3.8 Ac. (7%)
   AREA COVERED BY LAKES: ±8.4 Ac. (15%)
   AREA COVERED BY SIDEWALKS: ±1.7Ac. (3%)
   AREA COVERED BY PARKING AREA: ±3.4 Ac. (6%)
   AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.): ±0.02 Ac. (.03%)
   AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.): ±12 Ac. (23%)
   AREA OF RECREATION, PARKS, AND OPEN AREAS: ±4.7 Ac. (8%)
   AREA LEFT UNDISTURBED: ±14.1 Ac. (27%)

APPROVED
Master Concept Plan
Site Plan # 7702 Page 2 of 2
Subject to conditions in Resolution Z-93-034
Zoning Case # 93-06-090.03Z

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
36 VILLAS	94 VILLAS
64 TOWN HOMES	0 TOWN HOMES
68 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of docking facility)	188 TOTAL UNITS
218 TOTAL UNITS	

8-3-99 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-99-042 CASE #95-09-182.13A 06.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 5/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (5), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2018(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(a) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 20 FOOT WIDE ACCESSWAY.

PROJECT # 95-06-090.03Z
PROJECT TYPE 19
10/2

BOCA BAY

RECEIVED
AUG 04 1999
ZONING COUNTER

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
18501 MURDOCK CIRCLE, SUITE 404, PORT CHARLOTTE, FLORIDA 33948, PHONE (813)625-0910

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
SEPT., 1992	32050	26-43-20	1" = 100'	3 OF 6

REVISED: 8-3-99 REVISED: 10-5-98
REVISED: 1-28-99 REVISED: 6-1-98
REVISED: 4-19-99 REVISED: 12-15-97
REVISED: 11-30-98 REVISED: 7-11-97
REVISED: 10-23-98 REVISED: 7-3-95

EXHIBIT IV-E

OMD1.DWG

ZONING MAP

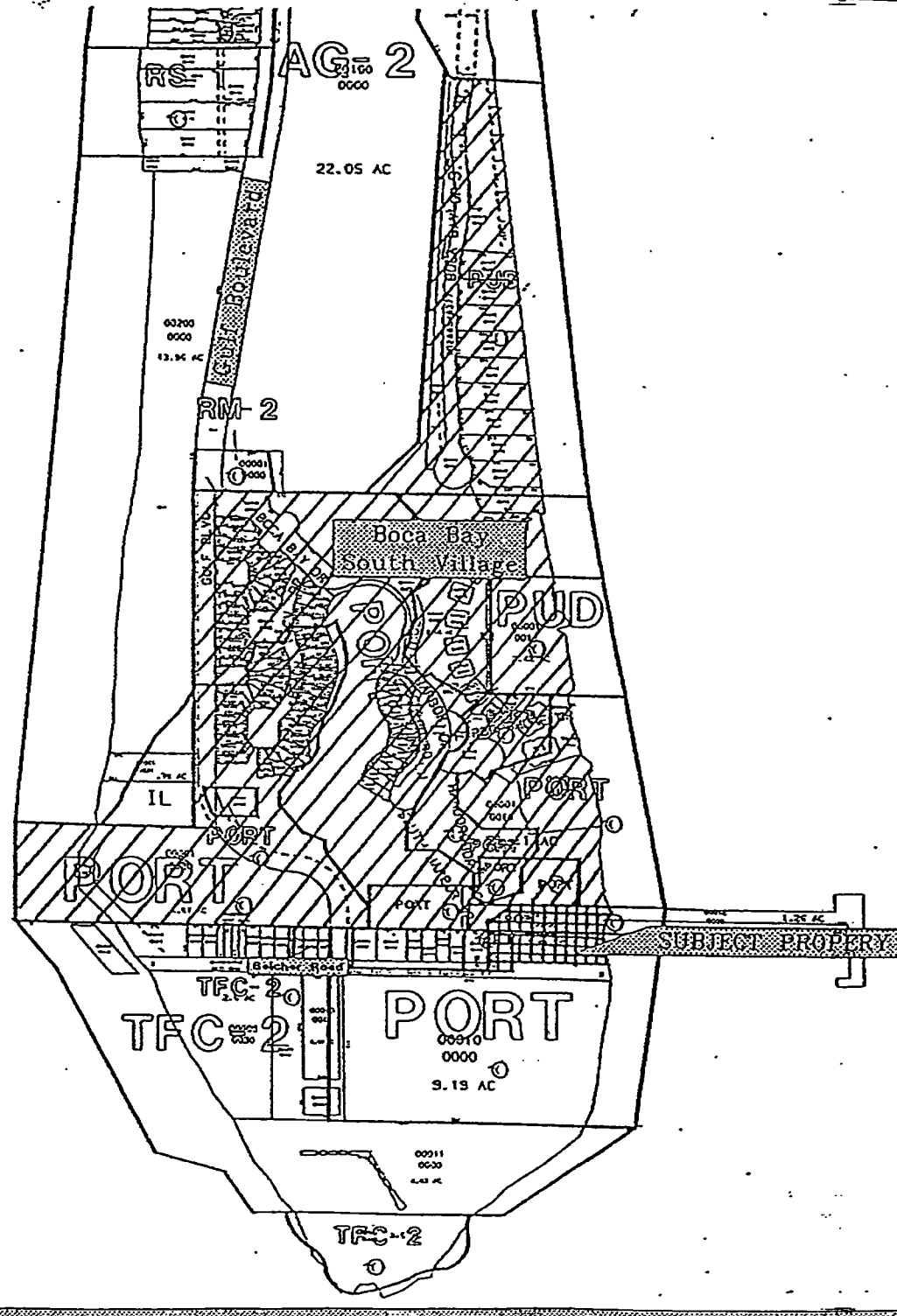


EXHIBIT C

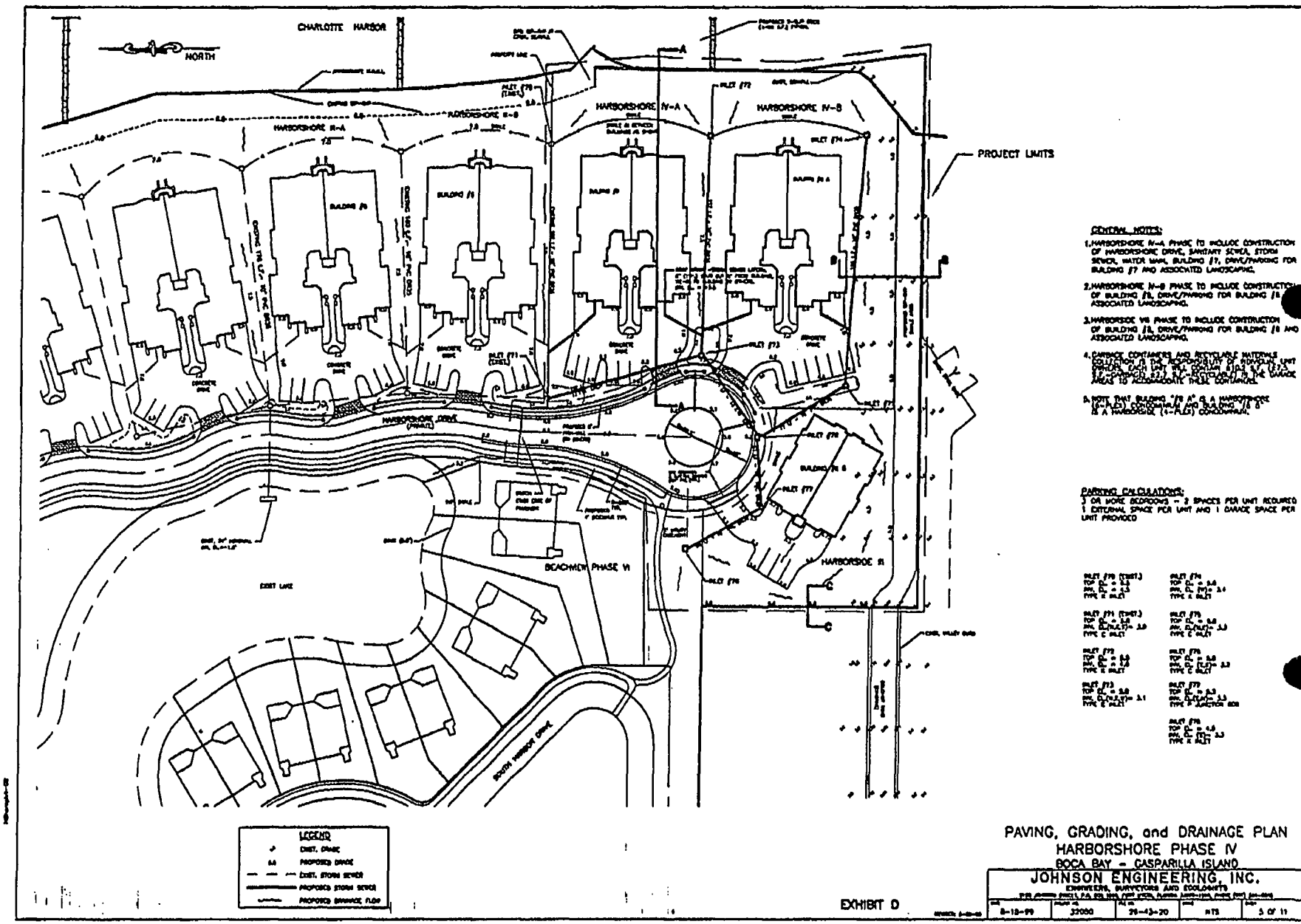
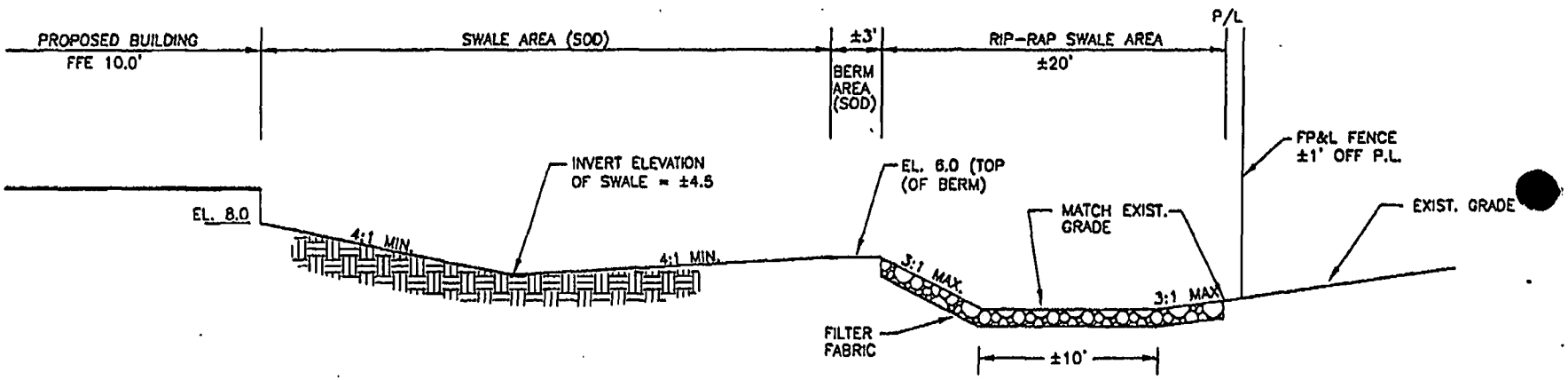

CHARLOTTE HARBOR
NORTH
HARBORSHORE IV-A
HARBORSHORE IV-B
HARBORSHORE II-A
HARBORSHORE II-B
PROJECT LIMITS
BUILDING #6
BUILDING #7
BUILDING #8
BUILDING #9
BUILDING #10
BUILDING #11
HARBORSIDE DRIVE
BEACHSIDE PHASE VI
HARBORSIDE III
SOUTH HARBOR DRIVE
EXIST. LAKE
GENERAL NOTES:
1. HARBORSHORE IV-A PHASE TO INCLUDE CONSTRUCTION OF HARBORSHORE DRIVE, SANITARY SEWER, STORM SEWER, WATER MAIN, BUILDING #7, DRIVE/PARKING FOR BUILDING #7 AND ASSOCIATED LANDSCAPING.
2. HARBORSHORE IV-B PHASE TO INCLUDE CONSTRUCTION OF BUILDING #8, DRIVE/PARKING FOR BUILDING #8 AND ASSOCIATED LANDSCAPING.
3. HARBORSIDE VIB PHASE TO INCLUDE CONSTRUCTION OF BUILDING #9, DRIVE/PARKING FOR BUILDING #9 AND ASSOCIATED LANDSCAPING.
4. DUMPSTER CONTAINERS AND RECYCLABLE MATERIALS COLLECTION IS THE RESPONSIBILITY OF INDIVIDUAL UNIT OWNERS. EACH UNIT WILL CONTAIN A MINIMUM OF [illegible] SQ. FT. OF [illegible] AREAS TO ACCOMODATE THESE CONTAINERS.
5. NOTE THAT BUILDING "7B A" IS A HARBORSIDE (4-PLEX) CONDOMINIUM AND BUILDING "7B B" IS A HARBORSIDE (4-PLEX) CONDOMINIUM.
PARKING CALCULATIONS:
2 OR MORE BEDROOMS - 2 SPACES PER UNIT REQUIRED
1 EXTERNAL SPACE PER UNIT AND 1 GARAGE SPACE PER UNIT PROVIDED
LEGEND
EXIST. DRAIN
PROPOSED GRADE
EXIST. STORM SEWER
PROPOSED STORM SEWER
PROPOSED DRAINAGE FLOW
EXHIBIT D
PAVING, GRADING, and DRAINAGE PLAN
HARBORSHORE PHASE IV
BOCA BAY - CASPARILLA ISLAND
JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
8-18-99
32000
26-43-20
NTS
5 OF 11

EXHIBIT D



SECTION B-B

N.T.S.

EXHIBIT D

From: "Charles Gauthier" <Charles.Gauthier@dca.state.fl.us>
To: <bgrady@ralaw.com>
Date: 1/4/02 9:51AM
Subject: Lee County Amendment CPA 2000-02

Beverly Grady, Esq.
Roetzel & Andress

Dear Beverly,

This is in response to your letter on January 3rd regarding the proposed revisions Lee Plan Policy 15.5.1 regarding commercial and industrial land uses permitted in the Port District Zoning Designation within the Boca Bay community. As you know the Department objected to the amendment on the basis of a vagueness as to which land uses would be allowed. The Department recommended that the amendment be revised to specify the commercial and industrial uses which would be allowed.

You have asked if the Department would accept the original policy as proposed, or in the alternative, the policy as redrafted and provided on December 19th.

Insofar as the December 19th redraft enhances the original proposal by adding a list of potential uses the Department would accept that version.

I appreciate the better understanding you have provided regarding the nature of the amendment and I wish to assure you that the Department has not substantive concerns beyond achieving a greater level of clarity.

Please let me know as we can be of further assistance.

Charles Gauthier, AICP
Chief Bureau of Local Planning

CC: "Bernard Piawah" <Bernard.Piawah@dca.state.fl.us>, <noblema@leegov.com>

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

January 3, 2002

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: Comprehensive Plan Amendment 2000-02 Boca Bay

Dear Mr. Blackwell:

For the record I have reviewed your revised language for Policy 15.5.1 which is as follows:

> "Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-99-054 such as a tennis club with food service and Consumption On Premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District."

submitted by Lee County to the Department of Community Affairs on December 19, 2001. Although I do not see any necessity for a change in language I have no objection to that language based upon the comment of DCA.

It should satisfy DCA because the comment was to articulate the types of uses that would be permitted. I note that DCA never recommended denial, as it did in the other objection, but that the County considered a clarification revision (which I believe the County has made). I interpreted the comment as meaning that the amendment should identify any commercial and industrial uses that are allowed on this property which has a designation of Port District. I agree with you that there is no need to list all the uses currently permitted in the Port Zoning District. Therefore, we support the original language and accept the above revised language included in this correspondence regarding the addition to Policy 15.5.1.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
cc: Charles Gauthier
cc: Bernard Piwah

84360_3

LEE COUNTY
DEPT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
JAN 14 01 9:52

LEE COUNTY
RECEIVED
01 JUN -5 AM 9
COMM. DEV.
PUBLIC WKS. CTR.
FT. MYERS, FLORIDA

125th ANNIVERSARY
ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

May 31, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: Comprehensive Plan Amendment 2000-02 Boca Bay

Dear Mr. Blackwell:

The purpose of this correspondence is to advise you that there needs to be a correction on page 3 of 9 in the last two paragraphs of Part I. In 1993 the PUD was further amended by a Resolution Z-93-009 but there was no change in density.

As an explanation the application filed reduced the approved density by 13 (from 218 units in neighborhoods 7, 8, 9 and 10 to 205 units). When the inland docking facility was denied the Commission directed by resolution to reinstate the 13 units so that the density remained unchanged. Therefore, the approved units in the PUD was 291 units (205 units in neighborhoods 7, 8, 9 and 10 plus the units approved for neighborhoods 5 and 6). In 1993 the total approved density for Boca Bay was 366 units.

In the next paragraph the following correction should be inserted

> "In 1999 resolution Z-99-054 approved the conversion of a water dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the ~~304~~ 291 previously approved in PUD/Port District

Very truly yours,

Beverly Grady
Signed electronically to expedite

Beverly Grady

BG/umr
Enclosure
cc: Peter McKinney

84360_1-CSX

105th ANNIVERSARY
ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION
PROVIDING LEGAL SERVICES STATEWIDE IN OHIO AND FLORIDA

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.337.3850 MAIN
941.337.0970 FAX

FACSIMILE TRANSMISSION COVER SHEET

DATE: May 30, 2001

TO: Peter Blackwell, Planner

NUMBER OF PAGES (including this cover sheet): 2

FROM: Una Richardson, Roetzel & Andress

We are transmitting from facsimile equipment, which will automatically connect transmissions to Roetzel & Andress twenty-four hours a day. If problems arise during transmission, please contact the operator at the office number listed above. Thank you.

NOTE: Unless otherwise indicated, the information contained in this facsimile transmission is confidential information intended for the use of the individual or entity named above. The information contained in this transmission may also be attorney-client privileged and/or protected as attorney work product. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is confidential or otherwise privileged, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service at our expense. Thank you.

FACSIMILE INSTRUCTIONS

FAX NUMBER: 479-8313

CLIENT/MATTER NUMBER: 13325-001 **ID#:** 8086

COMMENTS

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
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FORT MYERS, FL 33901-3419
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

May 30, 2001

LEE COUNTY
RECEIVED
01 MAY 31 AM 10:07
COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: Comprehensive Plan Amendment 2000-02 Boca Bay

Dear Mr. Blackwell:

The purpose of this correspondence is to advise you that there needs to be a correction on page 3 of 9 in the last two paragraphs of Part I. In 1993 the PUD was further amended by a Resolution Z-83-009 but there was no change in density.

As an explanation the application filed reduced the approved density by 13 (from 218 units in neighborhoods 7, 8, 9 and 10 to 205 units). When the inland docking facility was denied the Commission directed by resolution to reinstate the 13 units so that the density remained unchanged. Therefore, the approved units in the PUD was 291 units (205 units in neighborhoods 7, 8, 9 and 10 plus the units approved for neighborhoods 5 and 6). In 1993 the total approved density for Boca Bay was 366 units.

In the next paragraph the following correction should be inserted

> "In 1999 resolution Z-99-054 approved the conversion of a water dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the ~~304~~ 291 previously approved in PUD/Port District

Very truly yours,

Beverly Grady
Signed electronically to expedite

Beverly Grady

BG/umr
Enclosure
cc: Peter McKinney

84360_1-CSX

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

April 24, 2001

RECEIVED
APR 24 2001
COMMUNITY DEVELOPMENT

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

Pursuant to our conversation this date, I have enclosed for your review and information, the legal description and certified sketch of the property designated Port District within Boca Bay.

Very truly yours,

Beverly Grady
Signed electronically to expedite

Beverly Grady
For the Firm

BG/umr
Enclosures
Cc: Peter McKinney
Matt Noble, Planner
82966_2

JOHNSON
ENGINEERING

SINCE 1946

April 18, 2001

RECEIVED
APR 24 2001
COMMUNITY DEVELOPMENT

DESCRIPTION
"PORT" ZONING WITHIN BOCA BAY
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land being that part of Boca Bay that is zoned "port" in Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the railroad rail referred to a Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run S 00°04'25" E along a west line of said lands for 1199.91 feet; thence run N 89°54'25" W along a north line of said lands for 374.48 feet; thence run S 33°20'35" W for 130.23 feet; thence run S 01°35'35" W for 90.64 feet; thence run S 44°39'25" E for 200.72 feet to an intersection with the south line of said lands as described in said deed; thence run S 89°42'59" E along said south line for 1201.39 feet; thence run S 00°17'01" E for 165.00 feet to the southwest corner of Parcel II as described in deed recorded in Official Record Book 1702 at Page 710, said Public Records; thence run S 89°42'59" E along the south line of said Parcel II for 419 feet, more or less, to the Mean High Water Line of Charlotte Harbor; thence run northerly along said Mean High Water Line for 1014 feet, more or less, to an intersection with the south line of lands described in deed recorded in Official Record Book 687 at Page 173, said Public Records; thence run S 89°55'35" W along said south line for 287 feet, more or less, to the southwest corner of said lands; thence run N 00°04'25" W along the west line of said lands for 430.00 feet to the northwest corner of said lands; thence run N 89°55'35" E for 232 feet, more or less, to said Mean High Water Line; thence run northerly along said Mean High Water Line for 283 feet, more or less, to an intersection with the line bearing N 89°55'35" E passing through the Point of Beginning; thence run S 89°55'35" W along said line for 1113 feet, more of less to the Point of Beginning.

Containing 45.60 acres, more or less.

Bearings herein above mentioned are based on the Record Plat of Grande Bay wherein the south line is shown to bear N 89°55'35" E.

Michael L. Harmon (for the Firm) LB 642
Professional Land Surveyor
Florida Certificate No. 2904

MLH:vrg
32050.Port Zoning.lgl

18501 Murdock Circle, Suite 404 ▪ Port Charlotte, Florida 33948
(941) 625-9919 ▪ Fax (941) 625-3269

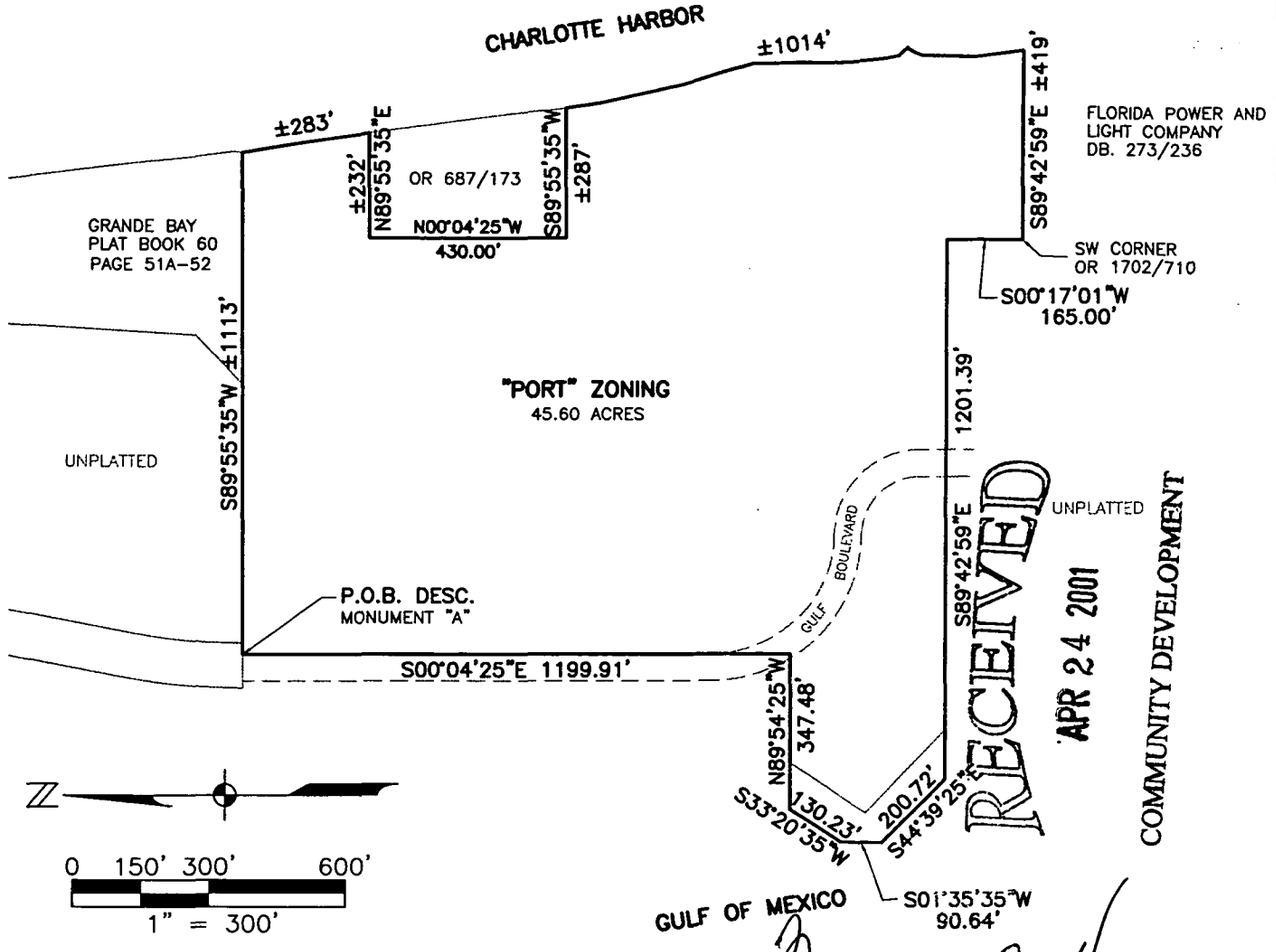
DESCRIPTION
"PORT" ZONING WITHIN BOCA BAY
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND BEING THAT PART OF BOCA BAY THAT IS ZONED "PORT" IN SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST, GASPARILLA ISLAND, LEE COUNTY, FLORIDA WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE RAILROAD RAIL REFERRED TO A MONUMENT "A" IN DEED TO CHARLOTTE HARBOR AND NORTHERN RAILROAD COMPANY RECORDED IN DEED BOOK 129 AT PAGE 346, LEE COUNTY RECORDS RUN S 00°04'25" E ALONG A WEST LINE OF SAID LANDS FOR 1199.91 FEET; THENCE RUN N 89°54'25" W ALONG A NORTH LINE OF SAID LANDS FOR 374.48 FEET; THENCE RUN S 33°20'35" W FOR 130.23 FEET; THENCE RUN S 01°35'35" W FOR 90.64 FEET; THENCE RUN S 44°39'25" E FOR 200.72 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID LANDS AS DESCRIBED IN SAID DEED; THENCE RUN S 89°42'59" E ALONG SAID SOUTH LINE FOR 1201.39 FEET; THENCE RUN S 00°17'01" E FOR 165.00 FEET TO THE SOUTHWEST CORNER OF PARCEL II AS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORD BOOK 1702 AT PAGE 710, SAID PUBLIC RECORDS; THENCE RUN S 89°42'59" E ALONG THE SOUTH LINE OF SAID PARCEL II FOR 419 FEET, MORE OR LESS, TO THE MEAN HIGH WATER LINE OF CHARLOTTE HARBOR; THENCE RUN NORTHERLY ALONG SAID MEAN HIGH WATER LINE FOR 1014 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE SOUTH LINE OF LANDS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORD BOOK 687 AT PAGE 173, SAID PUBLIC RECORDS; THENCE RUN S 89°55'35" W ALONG SAID SOUTH LINE FOR 287 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID LANDS; THENCE RUN N 00°04'25" W ALONG THE WEST LINE OF SAID LANDS FOR 430.00 FEET TO THE NORTHWEST CORNER OF SAID LANDS; THENCE RUN N 89°55'35" E FOR 232 FEET, MORE OR LESS, TO SAID MEAN HIGH WATER LINE; THENCE RUN NORTHERLY ALONG SAID MEAN HIGH WATER LINE FOR 283 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE LINE BEARING N 89°55'35" E PASSING THROUGH THE POINT OF BEGINNING; THENCE RUN S 89°55'35" W ALONG SAID LINE FOR 1113 FEET, MORE OF LESS TO THE POINT OF BEGINNING.

CONTAINING 45.60 ACRES, MORE OR LESS.

BEARINGS HEREIN ABOVE MENTIONED ARE BASED ON THE RECORD PLAT OF GRANDE BAY WHEREIN THE SOUTH LINE IS SHOWN TO BEAR N 89°55'35" E.



RECEIVED
APR 24 2001
COMMUNITY DEVELOPMENT

LEGEND

P.O.B. = POINT OF BEGINNING
DESC. = DESCRIPTION
DB. = DEED BOOK
SEC. = SECTION
TWP = TOWNSHIP
RGE. = RANGE
O.R. = OFFICIAL RECORD BOOK
PG. = PAGE
LB 642 = LICENSED SURVEY BUSINESS FLORIDA CERTIFICATE NO. 642

NOTES:

1. THIS SKETCH DOES NOT MAKE ANY REPRESENTATIONS AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL.
2. DESCRIBED PARCEL CONTAINS 1986314 SQUARE FEET, MORE OR LESS.
3. BEARINGS SHOWN ARE BASED ON THE RECORD PLAT OF GRANDE BAY WHEREIN THE SOUTH LINE IS SHOWN TO BEAR N89°55'35"E.
4. SKETCH IS NOT VALID WITHOUT ACCOMPANYING DESCRIPTION.

MICHAEL L. HARMON (FOR THE FIRM LB 642)
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 2904

DATE SIGNED: 4.18.01

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

IN MY PROFESSIONAL OPINION, AS A LICENSED FLORIDA PROFESSIONAL LAND SURVEYOR, THIS SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A RECENT SURVEY MADE UNDER MY DIRECTION.

REVISIONS		

CSX REALTY DEVELOPMENT CORPORATION

"PORT" ZONING WITHIN BOCA BAY SEC. 26, TWP. 43, RGE. 20 E. GASPARILLA ISLAND, LEE COUNTY FLORIDA

JOHNSON ENGINEERING
18501 MURDOCK CIRCLE, SUITE 404
PORT CHARLOTTE, FL 33948
PHONE (941) 625-9919
FAX (941) 625-3269
E.B #642 & L.B. #642

SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
04-16-01	00032050	26-43-20	1" = 300'	1 of 1

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

March 20, 2001

RECEIVED
MAR 22 2001
ZONING COUNTER

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

You have inquired what is the planning basis for recommending approval of the amendments proposed to the Boca Bay portion on Gasparilla Island, Lee County?

A portion of South Village in Boca Bay is designated Urban Community by the Lee Plan with the zoning of Port District. The uses in the Port District which are permitted as a matter of right include a boatyard, a communication tower of 150 feet, a fire station, freight and cargo handling establishments, a heliport for emergency medical services, a group I restaurant, sale of fuel and lubricants, sanitary facilities including restrooms and showers for transient persons, indoor storage, open storage, transportation and manufacturing Group II and private warehousing. It was my understanding from you that should a person want to obtain a development order and building permit for those uses on a parcel that met the property development regulations of the Port District, Lee County would have no choice but to issue that approval which would be inconsistent with the surrounding uses in South Village. The concern is that these permitted uses which are permitted as a matter of right are now inconsistent with the development that has been approved and encouraged by the County.

The purpose of the Comprehensive Plan Amendment is two-fold. The purpose is to eliminate the commercial and industrial permitted uses as a matter of right in the Port District from Boca Bay except for those existing non-residential uses approved pursuant to the Board of County Commissioners e.g. clubs, consumption on the premises and food and beverage, the power house and its offices and services and recreational facilities.

The second purpose is to correct the Lee Plan. The Lee Plan has designated a number of areas with water dependent overlay zones to include the former Pass Marina. Although Lee County has already approved the process and permitted residential uses in the former location of the Pass

Marina, the Lee Plan Map still limits the Pass Marina parcel as limited to water dependent uses and a protected area. This is not correct. We have requested a revision to the map which would eliminate that portion which was the Pass Marina and leave unchanged the water dependent overlay protection to the property to the South of Boca Bay (the location of the Florida and Light storage tank facility).

Please find enclosed the following documents, which support our application that the Board of County Commissioners amend the Lee Plan to protect the South Village portion of Boca Bay to be a residential community with approved non-residential uses but not to be developed with the permitted uses of the Port District:

1 Resolution ZAB-83-352 granting preliminary PUD and special exception approval in the Port District.
2 Staff Report for Case No. 83-9-11(a)DCI for neighborhoods 5 through 10 and a tennis club for final PUD approval (the Port District is included within neighborhoods 8 through 10).
3 Resolution Z86-166 granting the final site plan approval to the special exception of Port District.
4 Resolution Z-93-009 amending the special exception in the Port District, Case No. 83-09-11 DCI(d)
5 Board of County Commissioners Resolution No. Z-99-054 I previously sent to you with the Staff Report, and the Hearing Examiner's.

Very truly yours,



Beverly Grady
For the Firm

BG/umr
Enclosure

cc: Peter McKinney

84360_1-CSX

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

RECEIVED
FEB 27 2001
PERMIT COUNTER

February 27, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

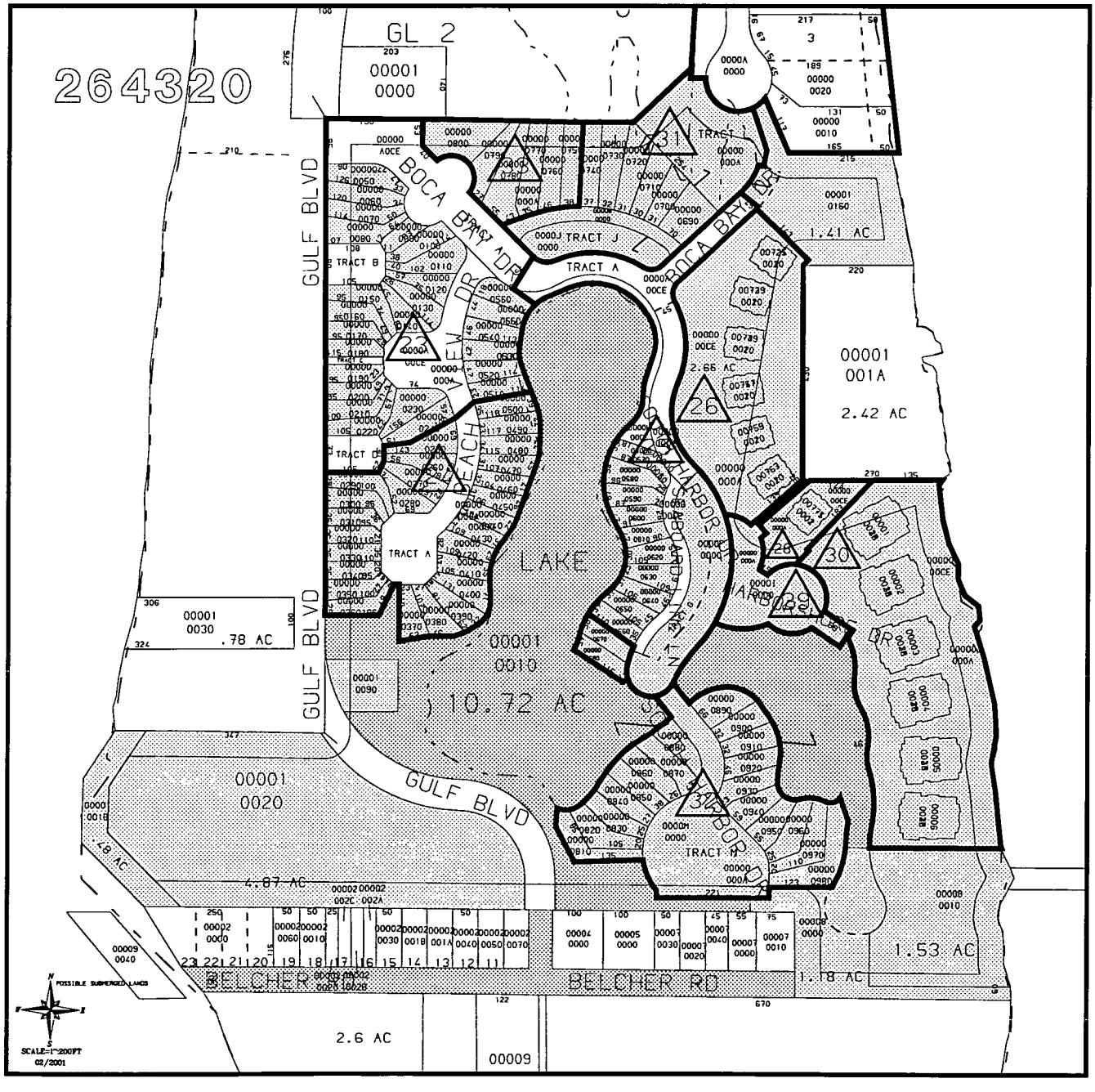
Dear Mr. Blackwell:

I have enclosed for your review and information, the strap numbers and map of the properties located in the area-designated Port District within Boca Bay.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosures
Cc: Peter McKinney
Matt Noble, Planner


264320
GL 2
00001
0000
GULF BLVD
BOCA BAY DR
BOCA BAY DR
BOCA BAY DR

VARIANCE REPORT -- Parcels Found by Scan

SUBJECT PARCEL: AP:264320:00:00001:0010 EXPAND HDR: FALSE TRAP CONDOS: FALSE

--STRAP NUMBER--	DOR
26432000000010010	27
2643200000001001B	82
26432000000010020	77
26432000000010090	77
26432000000010160	1
26432000000080000	10
26432023000000050	1
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264320310000K0000	94
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26432032000000960	1
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26432032000000980	0
264320320000M0000	94
26432033000000750	1
26432033000000760	1
26432033000000770	1
26432033000000780	1
26432033000000790	0
26432033000000800	0

TOTAL PARCELS = 108

STRAP: 26-43-20-00-00008.0010 Mon Feb 19, 2001 12:22 PM
10454889

Lee County Property Appraiser
Property Information Record

Owner: **HARBORSHORE AT BOCA BAY DEVELOPMENT CORPORATION**
P O BOX 1370
637 BOCA BAY DR
BOCA GRANDE, FL 33921

Site: **0 ACCESS UNDETERMINED , FL**

Other:

Legal: **PAR IN GOVT LOT 2**
DESC OR 3212 PG 4631
FUTURE HARBORSHORE IV CONDO

Sales Information

Sale Date	OR Book/Page	Sale Price	Vac/Imp	Transfer Code
01/10/2000	3212 / 4631	2,900,000	Vacant	06 - Good Sale/Fair Market
12/01/1988	2039 / 2455	100	Improved	01 - Invalid Sale (Disqual

Taxing District Information

District: **005 - BOCA GRANDE FIRE/ISLAND SOLID WASTE/LIGHTS**

Solid Waste Information

Solid Waste District: **006 - Service Area 6 - Boca Grande Area**
Solid Waste Bill Type: **M - Multi-Family Category**
Solid Waste Unit Area: Tax Amount:

Codes and Other Information

DOR Code: **04 - CONDOMINIUM**
Year Improved:
First Year Bldg on Roll: Roll Page / Line: /
Year Created: **2000** Last Maintenance: **Sun Jul 30, 2000**
Land Units: **12 UT (0 Front X 0 Deep)**

Valuation

	Current	Prior		Current	Prior
Just Value	2,340,000	2,340,000	Exemptions		
Agr Exempt			Taxable	2,340,000	2,340,000
Assessed	2,340,000	2,340,000	Building		
SOH Assd	2,340,000	2,340,000	Land	2,340,000	2,340,000
E & I			New Const.		

****
*** VARIANCE REPORT ***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-00-00001.0010

PARL IN GL 2 + 3 DESC OR 2014/69 LES OR2608/1157 OR2699/2422 +LESS S/D + O

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

500 WATER STREET 770 GULF BLVD

JACKSONVILLE FL 32202 Boca Grande 33921

26-43-20-00-00001.001B

PARL IN G L 2 + 3 DESC IN EXHIBIT B OR 1683 PG 1033 AKA LAFF A LOT PARL

********** OWNER ********** ********** SITE *********

TIITF STATE OF FLORIDA
C/O DIV OF STATE LANDS
3900 COMMONWEALTH BLVD 0 GULF BLVD
MAIL STATION 115
TALLAHASSEE FL 32399 Boca Grande 33921

26-43-20-00-00001.0020

PARL W OF GULF BLVD DESC OR 2014 PG 69 BOCA BAY PA SS CLUB

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

500 WATER STREET 899 GULF BLVD

JACKSONVILLE FL 32202 Boca Grande 33921

26-43-20-00-00001.0090

FR CONC MON A TH S1025 TH S36 TO POB DESC OR 2608 PG 1157

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC
C/O TAX DEPT J910
PO BOX 1370 800 GULF BLVD

BOCA GRANDE FL 33921 Boca Grande 33921

****
*** VARIANCE REPORT ***
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*** Kenneth M. Wilkinson ***
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VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-00-00001.0160

PARCEL LYING GOVT LT 2
DESC OR 3164 PG 127

********** OWNER ********** ********** SITE *********
KUNISCH ROBERT D+ ALICIA S

P O BOX 1787 701 BOCA BAY DR

BOCA GRANDE FL 33921 BOCA GRANDE
33921

26-43-20-00-00008.0000

PAR IN GOVT LOT LESS SUBD
LESS OR 3212/4631

********** OWNER ********** ********** SITE *********
CSX REALTY DEV LLC

500 WATER STREET 881 BELCHER RD

JACKSONVILLE FL 32202 Boca Grande
33921

26-43-20-23-00000.0050

BEACHVIEW AT BOCA BAY PB
54 PGS 31-34 LOT 5

********** OWNER ********** ********** SITE *********
FOX RICHARD C + JOANNE D

20 N UNION ST 799 BOCA BAY DR

ROCHESTER NY 14607 Boca Grande
33921

26-43-20-23-00000.0060

BEACHVIEW AT BOCA BAY PB
54 PGS 31-34 LOT 6

********** OWNER ********** ********** SITE *********
HORNIG JAMES A + SALLY K

2765 MAPLEWOOD CIR 797 BOCA BAY DR

WAYZATA MN 55391 Boca Grande
33921

****
*** VARIANCE REPORT ***
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*** Prepared By ***
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*** Kenneth M. Wilkinson ***
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DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-23-00000.0070

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 7

********** OWNER ********** ********** SITE *********
LUTZ BARBARA J

7828 MCCURRY RD 795 BOCA BAY DR

ROSCOE IL 61073 Boca Grande 33921

26-43-20-23-00000.0080

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 8

********** OWNER ********** ********** SITE *********
MYERS BERNICE 1/2 +

524 CAYUGA HEIGHTS RD 793 BOCA BAY DR

ITHACA NY 14850 Boca Grande 33921

26-43-20-23-00000.0090

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 9

********** OWNER ********** ********** SITE *********
KEEFE ANN 1/2 INT TR +

1 ROCKPORT LEDGES 791 BOCA BAY DR

ROCKPORT ME 04856 Boca Grande 33921

26-43-20-23-00000.0100

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 10

********** OWNER ********** ********** SITE *********
FRAGER JULIUS Z + SUSAN

13112 PIEDMONT CT 789 BOCA BAY DR

MARYLAND HEIGHTS MO 63043 Boca Grande 33921

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*** VARIANCE REPORT ***
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VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-23-00000.0110

BEACHVIEW AT BOCA BAY PB
54 PGS 31-34 LOT 11

********** OWNER ********** ********** SITE *********
WAHOFF JULIA N TR

2559 TREMONT RD 787 BOCA BAY DR

COLUMBUS OH 43221 Boca Grande
33921

26-43-20-23-00000.0120

BEACHVIEW AT BOCA BAY PB
54 PGS 31-34 LOT 12

********** OWNER ********** ********** SITE *********
NORDSTROM JOAN T TR 1/2 INT +

24200 CHAGRIN BLVD STE 354 746 BEACH VIEW DR

CLEVELAND OH 44122 Boca Grande
33921

26-43-20-23-00000.0130

BEACHVIEW AT BOCA BAY PB
54 PGS 31-34 LOT 13

********** OWNER ********** ********** SITE *********
WHITLATCH JANICE A

10085 GLEN EAGLE LN 748 BEACH VIEW DR

TWINSBURG OH 44087 Boca Grande
33921

26-43-20-23-00000.0140

BEACHVIEW AT BOCA BAY PB
54 PGS 31-34 LOT 14

********** OWNER ********** ********** SITE *********
WALCH VALERIE M TR
C/O THOMPSON COBURN LLP
ONE FIRSTAR PLAZA ST 750 BEACH VIEW DR

ST LOUIS MO 63101 Boca Grande
33921

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*** VARIANCE REPORT ***
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DATE OF REPORT : 19FEB01
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VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-23-00000.0150

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 15

********** OWNER ********** ********** SITE *********

ABBOTT WILLIAM J + TAMARA A

1009 SURREY RD 752 BEACH VIEW DR

MONTICELLO IL 61856 Boca Grande 33921

26-43-20-23-00000.0160

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 16

********** OWNER ********** ********** SITE *********

219 FOURTH ST BOCA GRANDE LLC

219 FOURTH STREET SUITE 400 754 BEACH VIEW DR

MINNEAPOLIS MN 55401 Boca Grande 33921

26-43-20-23-00000.0170

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 17

********** OWNER ********** ********** SITE *********

BALLINGRUD DAVID G CO-TR +

7201 DEMENS DR S 756 BEACH VIEW DR

SAINT PETERSBURG FL 33712 Boca Grande 33921

26-43-20-23-00000.0180

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 18

********** OWNER ********** ********** SITE *********

LEVINSON JAMES R TR

40 ATLANTIC BEACH CT 758 BEACH VIEW DR

KIAWAH ISLAND SC 29455 Boca Grande 33921

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*** VARIANCE REPORT ***
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*** Prepared By ***
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DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-23-00000.0190

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 19

********** OWNER ********** ********** SITE *********
KRAUS SUSAN ELIZABETH

10244 LYLEWOOD DR 760 BEACH VIEW DR

SAINT LOUIS MO 63124 Boca Grande 33921

26-43-20-23-00000.0200

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 20

********** OWNER ********** ********** SITE *********
ELLIS KATHRYN

P O BOX 1676 762 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-23-00000.0210

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 21

********** OWNER ********** ********** SITE *********
NAPOLI LOUIS D + CAROL

5 STAPLEFORD HALL CT 764 BEACH VIEW DR

POTOMAC MD 20854 Boca Grande 33921

26-43-20-23-00000.0220

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 22

********** OWNER ********** ********** SITE *********
LONG RONALD E + MARY O

SCAIFE RD 766 BEACH VIEW DR

SEWICKLEY PA 15143 Boca Grande 33921

****
*** VARIANCE REPORT ***
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*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
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DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-23-00000.0230

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 23

********** OWNER ********** ********** SITE *********
WYOMING ASSOCIATES LLC

25 PRIMROSE ST 768 BEACH VIEW DR

CHEVY CHASE MD 20815 Boca Grande 33921

26-43-20-23-00000.0240

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 24

********** OWNER ********** ********** SITE *********
SIMMONS R RANDOLPH III + LINDA

927 N RIVERHILLS DR 770 BEACH VIEW DR

TEMPLE TERRACE FL 33617 Boca Grande 33921

26-43-20-23-00000.0510

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 51

********** OWNER ********** ********** SITE *********
COLEHOWER WILLIAM S + BARBARA

518 CRESHEIM VALLEY RD 767 BEACH VIEW DR

WYNDMOOR PA 19038 Boca Grande 33921

26-43-20-23-00000.0520

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 52

********** OWNER ********** ********** SITE *********
HANNAH LARRY J + PAMELA C

PO BOX 554 763 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

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VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-23-00000.0530

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 53

********** OWNER ********** ********** SITE *********
REYNOLDS FREDERIC C + ANN D

23 STONE EDGE RD 759 BEACH VIEW DR

BEDMINSTER NJ 07921 Boca Grande 33921

26-43-20-23-00000.0540

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 54

********** OWNER ********** ********** SITE *********
COSTER CHARLES S +

43 WEST RD 749 BEACH VIEW DR

ALFORD MA 01266 Boca Grande 33921

26-43-20-23-00000.0550

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 55

********** OWNER ********** ********** SITE *********
COLLINS RICHARD J JR + LEE G

P O BOX 563 747 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-23-00000.0560

BEACHVIEW AT BOCA BAY PB 54 PGS 31-34 LOT 56

********** OWNER ********** ********** SITE *********
HAAS JAMES E + HELEN A

P O BOX 1817 745 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

****
*** VARIANCE REPORT ***
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*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
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DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-24-00000.0250

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 25

********** OWNER ********** ********** SITE *********

NANCE JAMES C + JUNE E

P O BOX 1147 772 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-24-00000.0260

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 26

********** OWNER ********** ********** SITE *********

VAUGHN C MICHAEL JR + CAROL

13 ROCKY POINT RD 776 BEACH VIEW DR

ROWAYTON CT 06853 Boca Grande 33921

26-43-20-24-00000.0270

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 27

********** OWNER ********** ********** SITE *********

WEYLMAN JACQUELINE MARIE

BOX 436 780 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-24-00000.0280

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 28

********** OWNER ********** ********** SITE *********

ERVIN THOMAS J + DIANE H

ONE HORSESHOE DR 782 BEACH VIEW DR

SCARBOROUGH ME 04074 Boca Grande 33921

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*********************************************
***            VARIANCE REPORT            ***
***                                       ***
***               Prepared By             ***
***     LEE COUNTY PROPERTY APPRAISER     ***
***          Kenneth M. Wilkinson         ***
*********************************************
  DATE OF REPORT    : 19FEB01
  SUBJECT PROPERTY  : 26-43-20-00-00001.0010
  VARIANCE DISTANCE : -50(ft)
  PARCELS AFFECTED  : 108
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26-43-20-24-00000.0290

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 29

********** OWNER **********

KIRTLEY JOHN F

601 N ASHLEY DR #500

TAMPA FL 33602

********** SITE **********

784 BEACH VIEW DR

Boca Grande 33921

26-43-20-24-00000.0300

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 30

********** OWNER **********

LINGEMAN NANCY S

4235 N PENNSYLVANIA ST

INDIANAPOLIS IN 46205

********** SITE **********

786 BEACH VIEW DR

Boca Grande 33921

26-43-20-24-00000.0310

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 31

********** OWNER **********

LESTER MAXWELL III + MARY P

175 CANOE BROOK PKWY

SUMMIT NJ 07901

********** SITE **********

788 BEACH VIEW DR

Boca Grande 33921

26-43-20-24-00000.0320

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 32

********** OWNER **********

J + J BOCA INC
C/O SMG PROP MGMT INC(NEWSOME)
9021 TOWN CENTER PKWY

BRADENTON FL 34202

********** SITE **********

790 BEACH VIEW DR

Boca Grande 33921

****
*** VARIANCE REPORT ***
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*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
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SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-24-00000.0330

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 33

********** OWNER ********** ********** SITE *********
HUNZIKER ROBERT M + JOAN D

130 SKYVIEW LN 792 BEACH VIEW DR

NEW CANAAN CT 06840 Boca Grande 33921

26-43-20-24-00000.0340

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 34

********** OWNER ********** ********** SITE *********
THRUSH GEORGE H + MARY M

2104 N CLEVELAND AVE 794 BEACH VIEW DR

CHICAGO IL 60614 Boca Grande 33921

26-43-20-24-00000.0350

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 35

********** OWNER ********** ********** SITE *********
ECKENROAD JOHN H + MARGARET M

200 S MAPLE 796 BEACH VIEW DR

OAK PARK IL 60302 Boca Grande 33921

26-43-20-24-00000.0360

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 36

********** OWNER ********** ********** SITE *********
SHAPIRO BRIGITTE

22 FALLINGBROOKE CT 798 BEACH VIEW DR

THORNHILL ON L3T 7A1 Boca Grande
CANADA 33921

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*** VARIANCE REPORT ***
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*** Kenneth M. Wilkinson ***
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DATE OF REPORT : 19FEB01
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VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-24-00000.0370

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 37

********** OWNER ********** ********** SITE *********
MIDDLETON HUGH C J/T

1775 RIVERSIDE RD 799 BEACH VIEW DR

ROSWELL GA 30076 Boca Grande
33921

26-43-20-24-00000.0380

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 38

********** OWNER ********** ********** SITE *********
FABIAN JEROME F + CAROL J J/T

265 LANTERN HILL RD 797 BEACH VIEW DR

SHAVERTOWN PA 18708 Boca Grande
33921

26-43-20-24-00000.0390

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 39

********** OWNER ********** ********** SITE *********
CSX REALTY DEV LLC

500 WATER STREET 795 BEACH VIEW DR

JACKSONVILLE FL 32202 Boca Grande
33921

26-43-20-24-00000.0400

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 40

********** OWNER ********** ********** SITE *********
GLEVA PAUL J TR +

480 LEWIS DR 793 BEACH VIEW DR
P O BOX 206
BEAR CREEK PA 18602 Boca Grande
33921

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*** Kenneth M. Wilkinson ***
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DATE OF REPORT : 19FEB01
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VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-24-00000.0410

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 41

********** OWNER ********** ********** SITE *********
FIELD CHARLES F TR +

P O BOX 1728 791 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-24-00000.0420

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 42

********** OWNER ********** ********** SITE *********
CSX REALTY DEV LLC

500 WATER STREET 789 BEACH VIEW DR

JACKSONVILLE FL 32202 Boca Grande 33921

26-43-20-24-00000.0430

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 43

********** OWNER ********** ********** SITE *********
SLOMKOWSKI RICHARD

1075 PIERCE BUTLER RD 783 BEACH VIEW DR

ST PAUL MN 55104 Boca Grande 33921

26-43-20-24-00000.0440

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 44

********** OWNER ********** ********** SITE *********
DANA LOWELL B + ELLEN B

345 MID OAK DR 781 BEACH VIEW DR

NORTH MUSKEGON MI 49445 Boca Grande 33921

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*** VARIANCE REPORT ***
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*** Kenneth M. Wilkinson ***
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26-43-20-24-00000.0450

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 45

********** OWNER ********** ********** SITE *********
HOLYLAND CHRISTINE

36 WINDWARD WAY 779 BEACH VIEW DR

CHAGRIN FALLS OH 44023 Boca Grande 33921

26-43-20-24-00000.0460

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 46

********** OWNER ********** ********** SITE *********
SAYER DON + CONNIE H

1708 DUG GAP RD 777 BEACH VIEW DR

DALTON GA 30720 Boca Grande 33921

26-43-20-24-00000.0470

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 47

********** OWNER ********** ********** SITE *********
LETTERI JOSEPH + MARY

23 PLUM BEACH POINT RD 775 BEACH VIEW DR

SANDS POINT NY 11052 Boca Grande 33921

26-43-20-24-00000.0480

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 48

********** OWNER ********** ********** SITE *********
URBAN PHILIP HUGH + KATHERINE

2200 STRATHSHIRE HALL LN 773 BEACH VIEW DR

POWELL OH 43065 Boca Grande 33921

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26-43-20-24-00000.0490

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 49

********** OWNER ********** ********** SITE *********
SITTENFELD PAUL G

1854 KEYS CRESCENT 771 BEACH VIEW DR

CINCINNATI OH 45206 Boca Grande 33921

26-43-20-24-00000.0500

BEACH VIEW AT BOCA BAY PH II PB 56 PGS 27-28 LT 50

********** OWNER ********** ********** SITE *********
GOODKIND ROBERT TR +

GEN DEL 769 BEACH VIEW DR

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-25-00000.0570

BEACH VIEW AT BOCA BAY PH III A LOT 57 PB 59 PG 17

********** OWNER ********** ********** SITE *********
WHITESIDE NATHANIEL H + MARY H

7001 S GLEN LAKE RD 742 SEABOARD LINE LN

GLEN ARBOR MI 49636 Boca Grande 33921

26-43-20-25-00000.0580

BEACH VIEW AT BOCA BAY PH III A LOT 58 PB 59 PG 17

********** OWNER ********** ********** SITE *********
SCHLOTMANN DR. THOMAS +

GOLDBRINK II 744 SEABOARD LINE LN

46282 DORSTEN Boca Grande
GERMANY 33921

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26-43-20-25-00000.0590

BEACH VIEW AT BOCA BAY PH III A LOT 59 PB 59 PG 17

********** OWNER **********
BERGHS STEVEN J + DEBRA I

187 RIVERVIEW ACRES RD

HUDSON WI 54016

********** SITE *********
748 SEABOARD LINE LN

Boca Grande 33921

26-43-20-25-00000.0600

BEACH VIEW AT BOCA BAY PH III A LOT 60 PB 59 PG 17

********** OWNER **********
CREGER BRUCE E + CECILIA L

1 OLD HUNT RD

NORTHFIELD IL 60093

********** SITE *********
750 SEABOARD LINE LN

Boca Grande 33921

26-43-20-25-00000.0610

BEACH VIEW AT BOCA BAY PH III A LOT 61 PB 59 PG 17

********** OWNER **********
CAPOCCIAMA FRANCIS P + WENDY A

P O BOX 417

BOCA GRANDE FL 33921

********** SITE *********
754 SEABOARD LINE LN

Boca Grande 33921

26-43-20-25-00000.0620

BEACH VIEW AT BOCA BAY PH III A LOT 62 PB 59 PG 17

********** OWNER **********
KERRISON BERNARD E +
C/O KFC LTD
6 BROAD STREET PLACE

LONDON SW4 0RW
UNITED KINGDOM

********** SITE *********
756 SEABOARD LINE LN

Boca Grande 33921

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SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-25-00000.0630

BEACH VIEW AT BOCA BAY PH III A LOT 63 PB 59 PG 17

********** OWNER ********** ********** SITE *********

FEAR PAUL L + LYNN E 1/2 INT +

47 CHASE ST 760 SEABOARD LINE LN

CHATHAM MA 02633 Boca Grande 33921

26-43-20-25-00000.0640

BEACH VIEW AT BOCA BAY PH III A LOT 64 PB 59 PG 17

********** OWNER ********** ********** SITE *********

MAGEE JAMES M + LYNN T

762 SEABOARD LINE LN 762 SEABOARD LINE LN

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-25-00000.0650

BEACH VIEW AT BOCA BAY PH III A LOT 65 PB 59 PG 17

********** OWNER ********** ********** SITE *********

STAPLETON ROBERT J + BONNIE M

39 ORIOLE AV 766 SEABOARD LINE LN

BRONSVILLE NY 10708 Boca Grande 33921

26-43-20-25-00000.0660

BEACH VIEW AT BOCA BAY PH III A LOT 66 PB 59 PG 17

********** OWNER ********** ********** SITE *********

JOHNSON FRED C + LORRI D

P O BOX 1202 768 SEABOARD LINE LN

BOCA GRANDE FL 33921 Boca Grande 33921

****
*** VARIANCE REPORT ***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-25-0000F.0000

BEACH VIEW AT BOCA BAY PH III PART OF TRACTS F AND TRACT G PB 59 PG 9

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

500 WATER STREET 0 reserved

JACKSONVILLE FL 32202 Boca Grande 33921

26-43-20-26-00000.000A

HARBORSIDE AT BOCA BAY DE SC OR 2769 PG 4006 CPB 24 PGS 1 THRU 6

********** OWNER ********** ********** SITE *********

HARBORSIDE AT BOCA BAY CONDO

P O BOX 1239 0 HDR: Harborside @ Bo

BOCA GRANDE FL 33921 Boca Grande 33921

26-43-20-28-00000.000A

HARBORSIDE II AT BOCA BAY CONDO AS DESC IN OR 3042 PG 2421

********** OWNER ********** ********** SITE *********

HARBORSIDE II AT BOCA BAY

P O BOX 1239 HDR: HARBORSIDE II

BOCA GRANDE FL 33921 BOCA GRANDE 33921

26-43-20-29-00000.0670

BEACH VIEW AT BOCA BAY PH IV PB 62 PGS 62-63 LOT 67

********** OWNER ********** ********** SITE *********

BOCK JEAN-MICHEL + VIRGINIA L

PO BOX 1207 772 SEABOARD LINE LN

BOCA GRANDE FL 33921 Boca Grande 33921

****
*** VARIANCE REPORT ***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-29-00000.0680

BEACH VIEW AT BOCA BAY PH IV PB 62 PGS 62-63 LOT 68

********** OWNER **********
BROWN SANDRA A

500 HUNTER PASS

WAYZATA MN 55391

********** SITE **********
774 SEABOARD LINE LN

Boca Grande 33921

26-43-20-29-0000I.0000

BEACH VIEW AT BOCA BAY PH IV PB 62 PGS 62-63 TRACT I

********** OWNER **********
CSX REALTY DEV LLC

500 WATER STREET

JACKSONVILLE FL 32202

********** SITE **********
RESERVED

Boca Grande 33921

26-43-20-30-00000.000A

HARBORSHORE + II + III AT BOCA BAY CONDO AS DESC OR 3047 PG 3137 + OR 3191

********** OWNER **********
HARBORSHORE + II + III AT BOCA

P O BOX 1239

BOCA GRANDE FL 33921

********** SITE **********
HDR: HARBORSHORE AT

Boca Grande 33921

26-43-20-31-00000.0690

BEACH VIEW AT BOCA BAY PH V PB 64 PGS 19-20 LOT 69

********** OWNER **********
GUY RICHARD S + JUDITH A 1/2 +

P O BOX 20268

COLUMBUS OH 43220

********** SITE **********
796 SOUTH BAYOU DR

BOCA GRANDE 33921

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*********************************************
***            VARIANCE REPORT            ***
***                                       ***
***               Prepared By             ***
***     LEE COUNTY PROPERTY APPRAISER     ***
***          Kenneth M. Wilkinson         ***
*********************************************
  DATE OF REPORT     : 19FEB01
  SUBJECT PROPERTY   : 26-43-20-00-00001.0010
  VARIANCE DISTANCE  : -50(ft)
  PARCELS AFFECTED   : 108
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26-43-20-31-00000.0700

BEACH VIEW AT BOCA BAY PH
V PB 64 PGS 19-20
LOT 70

********** OWNER **********
FOLEY ELLEN H TR

4040 MOUNT CARMEL RD

CINCINNATI OH 45244

********** SITE *********
794 SOUTH BAYOU DR

BOCA GRANDE
33921

26-43-20-31-00000.0710

BEACH VIEW AT BOCA BAY PH
V PB 64 PGS 19-20
LOT 71

********** OWNER **********
SWEENY THOMAS M + MARTHA B

P O BOX 125

BOCA GRANDE FL 33921

********** SITE *********
790 SOUTH BAYOU DR

BOCA GRANDE
33921

26-43-20-31-00000.0720

BEACH VIEW AT BOCA BAY PH
V PB 64 PGS 19-20
LOT 72

********** OWNER **********
JUVE JOHN B +

1123 LAKE LOTELA DR

AVON PARK FL 33825

********** SITE *********
788 SOUTH BAYOU DR

BOCA GRANDE
33921

26-43-20-31-00000.0730

BEACH VIEW AT BOCA BAY PH
V PB 64 PGS 19-20
LOT 73

********** OWNER **********
HOYT THOMAS D + FREDERICA F

1019 MICHIGAN

EVANSTON IL 60202

********** SITE *********
784 SOUTH BAYOU DR

BOCA GRANDE
33921

```
**********************************************
***            VARIANCE REPORT             ***
***                                        ***
***               Prepared By              ***
***     LEE COUNTY PROPERTY APPRAISER      ***
***          Kenneth M. Wilkinson          ***
**********************************************
  DATE OF REPORT     : 19FEB01
  SUBJECT PROPERTY   : 26-43-20-00-00001.0010
  VARIANCE DISTANCE  : -50(ft)
  PARCELS AFFECTED   : 108
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26-43-20-31-00000.0740

BEACH VIEW AT BOCA BAY PH V PB 64 PGS 19-20 LOT 74

********** OWNER **********

LARSON RICHARD M + MERIA E

860 CRESCENT LN

GROSSE POINTE WOODS MI 48236

********** SITE **********

782 SOUTH BAYOU DR

BOCA GRANDE 33921

26-43-20-31-0000J.0000

BEACH VIEW AT BOCA BAY PH V PB 64 PGS 19-20 TRACTS J + L

********** OWNER **********

CSX REALTY DEV LLC

500 WATER STREET

JACKSONVILLE FL 32202

********** SITE **********

COMMON ELEMENT

BOCA GRANDE 33921

26-43-20-31-0000K.0000

BEACH VIEW AT BOCA BAY PH V PB 64 PGS 19-20 TRACT K

********** OWNER **********

CSX REALTY DEV LLC

500 WATER STREET

JACKSONVILLE FL 32202

********** SITE **********

COMMON ELEMENT

BOCA GRANDE 33921

26-43-20-32-00000.0810

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 81

********** OWNER **********

BRUST KARL H + SALLY J 1/2 +

5752 MCPHEARSON POINT

LAVONIA NY 14487

********** SITE **********

828 SOUTH HARBOR DR

BOCA GRANDE 33921

****
*** VARIANCE REPORT ***
***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-32-00000.0820

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 82

********** OWNER ********** ********** SITE *********

JOHNSON JEROME D + LINDA L

P O BOX 1381 824 SOUTH HARBOR DR

BOCA GRANDE FL 33921 BOCA GRANDE 33921

26-43-20-32-00000.0830

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 83

********** OWNER ********** ********** SITE *********

PELL CHRISTOPHER T H + JANET A

129 BRENTON RD 820 SOUTH HARBOR DR

NEWPORT RI 02840 BOCA GRANDE 33921

26-43-20-32-00000.0840

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 84

********** OWNER ********** ********** SITE *********

MCFADDEN REGINA TR

2216 FREMONT STREET 816 SOUTH HARBOR DR

CHICAGO IL 60614 BOCA GRANDE 33921

26-43-20-32-00000.0850

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 85

********** OWNER ********** ********** SITE *********

BARKER ROBERT G + CHERYL L

622 EAST 75TH ST 812 SOUTH HARBOR DR

INDIANAPOLIS IN 46240 BOCA GRANDE 33921

****
*** VARIANCE REPORT ***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-32-00000.0860

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 86

********** OWNER **********
DOEPKE JANE B TR

1234 SPRUCE DRIVE

GLENVIEW IL 60025

********** SITE **********
808 SOUTH HARBOR DR

BOCA GRANDE 33921

26-43-20-32-00000.0870

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 87

********** OWNER **********
SALCEDO MARY

23 JUBILEE RD
FORMBY
MERSEYSIDE L372HN
ENGLAND

********** SITE **********
804 SOUTH HARBOR DR

BOCA GRANDE 33921

26-43-20-32-00000.0880

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 88

********** OWNER **********
FORSTMANN PETER A + ERIKA L

3 BUCKINGHAM PL

GREAT NECK NY 11021

********** SITE **********
800 SOUTH HARBOR DR

BOCA GRANDE 33921

26-43-20-32-00000.0890

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 89

********** OWNER **********
GOSSEN JAMES A + SYLVIA A

PO BOX 5
HIGHWAY 46
NORTHOME MN 56661

********** SITE **********
801 SOUTH HARBOR DR

BOCA GRANDE 33921

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*********************************************
***            VARIANCE REPORT            ***
***                                       ***
***               Prepared By             ***
***     LEE COUNTY PROPERTY APPRAISER     ***
***          Kenneth M. Wilkinson         ***
*********************************************
  DATE OF REPORT    : 19FEB01
  SUBJECT PROPERTY  : 26-43-20-00-00001.0010
  VARIANCE DISTANCE : -50(ft)
  PARCELS AFFECTED  : 108
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26-43-20-32-00000.0900

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 90

********** OWNER **********

MILLSAP MARY CAROL TR

1240 LAY RD

ST LOUIS MO 63124

********** SITE *********

805 SOUTH HARBOR DR

BOCA GRANDE 33921

26-43-20-32-00000.0910

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 91

********** OWNER **********

JOHNSON MICHAEL + SUSAN F

1461 BAY RIDGE RD

WAYZATA MN 55391

********** SITE *********

809 SOUTH HARBOR DR

BOCA GRANDE 33921

26-43-20-32-00000.0920

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 92

********** OWNER **********

SULLIVAN JAMES W + SHARON S

P O BOX 1795

BOCA GRANDE FL 33921

********** SITE *********

815 SOUTH HARBOR DR

BOCA GRANDE 33921

26-43-20-32-00000.0930

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 93

********** OWNER **********

HEDLUND REUBEN L + CYNTHIA L

#9
1500 N ASTOR ST
CHICAGO IL 60610

********** SITE *********

819 SOUTH HARBOR DR

BOCA GRANDE 33921

****
*** VARIANCE REPORT ***
***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-32-00000.0940

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 94

********** OWNER ********** ********** SITE *********

ROBERTS JULIET C

8531 TREE TOP DR 823 SOUTH HARBOR DR

INDIANAPOLIS IN 46260 BOCA GRANDE 33921

26-43-20-32-00000.0950

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 95

********** OWNER ********** ********** SITE *********

HORNING JAMES A + SALLY K

2765 MAPLEWOOD CIR E 827 SOUTH HARBOR DR

WAYZATA MN 55391 BOCA GRANDE 33921

26-43-20-32-00000.0960

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 96

********** OWNER ********** ********** SITE *********

HORNIG DAVID A + BARBARA M

8 OVERHOLT PASS 831 SOUTH HARBOR DR

EDINA MN 55439 BOCA GRANDE 33921

26-43-20-32-00000.0970

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 97

********** OWNER ********** ********** SITE *********

HILL STEPHEN G + CAROLINE C

2926 W VILLA ROSA RD 835 SOUTH HARBOR DR

TAMPA FL 33611 BOCA GRANDE 33921

****
*** VARIANCE REPORT ***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-32-00000.0980

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 LOT 98

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

2433 E COUNTRY CLUB DR 839 SOUTH HARBOR DR

FARGO ND 58103 BOCA GRANDE 33921

26-43-20-32-0000M.0000

BEACH VIEW AT BOCA BAY PH VIA PB 65 PGS 1-2 TR ACT M

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

500 WATER STREET COMMON ELEMENT

JACKSONVILLE FL 32202 BOCA GRANDE 33921

26-43-20-33-00000.0750

BEACH VIEW AT BOCA BAY PH VII PB 66 PGS 41-42 LOT 75

********** OWNER ********** ********** SITE *********

KOONS FRED B + BARBARA F

3308 JEAN CIR 778 SOUTH BAYOU DR

TAMPA FL 33629 BOCA GRANDE 33921

26-43-20-33-00000.0760

BEACH VIEW AT BOCA BAY PH VII PB 66 PGS 41-42 LOT 76

********** OWNER ********** ********** SITE *********

MISSIMER FAMILY INVESTMENTS

2721 SCENIC DR 776 SOUTH BAYOU DR

MUSKEGON MI 49445 BOCA GRANDE 33921

****
*** VARIANCE REPORT ***
***
*** Prepared By ***
*** LEE COUNTY PROPERTY APPRAISER ***
*** Kenneth M. Wilkinson ***
****

DATE OF REPORT : 19FEB01
SUBJECT PROPERTY : 26-43-20-00-00001.0010
VARIANCE DISTANCE : -50(ft)
PARCELS AFFECTED : 108

26-43-20-33-00000.0770

BEACH VIEW AT BOCA BAY PH VII PB 66 PGS 41-42 LOT 77

********** OWNER ********** ********** SITE *********

PERRONE RICHARD A + MICHELLE E

219 PALMETTO AV 772 SOUTH BAYOU DR

OSPREY FL 34229 BOCA GRANDE 33921

26-43-20-33-00000.0780

BEACH VIEW AT BOCA BAY PH VII PB 66 PGS 41-42 LOT 78

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

500 WATER STREET 770 SOUTH BAYOU DR

JACKSONVILLE FL 32202 BOCA GRANDE 33921

26-43-20-33-00000.0790

BEACH VIEW AT BOCA BAY PH VII PB 66 PGS 41-42 LOT 79

********** OWNER ********** ********** SITE *********

CSX REALTY DEV LLC

500 WATER STREET 766 BOCA BAY DR

JACKSONVILLE FL 32202 BOCA GRANDE 33921

26-43-20-33-00000.0800

BEACH VIEW AT BOCA BAY PH VII PB 66 PGS 41-42 LOT 80

********** OWNER ********** ********** SITE *********

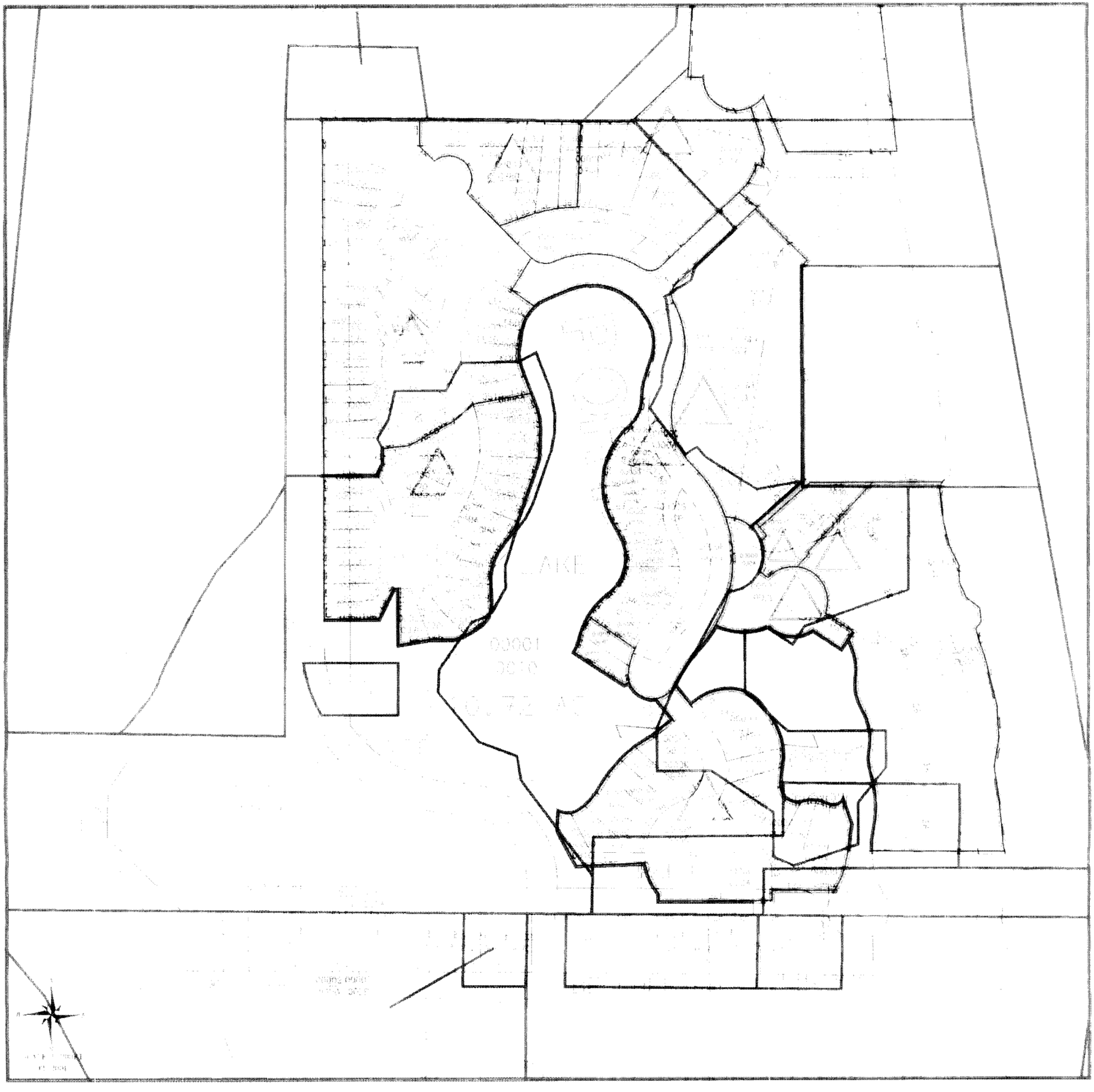
CSX REALTY DEV LLC

500 WATER STREET 764 BOCA BAY DR

JACKSONVILLE FL 32202 BOCA GRANDE 33921

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*********************************************
***            VARIANCE REPORT            ***
***                                       ***
***               Prepared By             ***
***     LEE COUNTY PROPERTY APPRAISER     ***
***          Kenneth M. Wilkinson         ***
*********************************************
  DATE OF REPORT    : 19FEB01
  SUBJECT PROPERTY  : 26-43-20-00-00001.0010
  VARIANCE DISTANCE : -50(ft)
  PARCELS AFFECTED  : 108

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***    END OF REPORT    ***
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ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-3419
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

February 19, 2001

RECEIVED
FEB 19 2001
ZONING COUNTER

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is a follow-up to my letter to you of January 24, 2001. We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, club and recreational amenities, powerhouse, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

Furthermore, I have enclosed for your review and information, the legal description (3 pages), which represents the area-designated Port District within Boca Bay.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosures
Cc: Peter McKinney
Matt Noble, Planner

DESCRIPTION
G.L. 3 S. 26, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at page 346, Lee County Records run N 89° 42' 59" W along the south line of lands described in said deed for 101.00 feet; thence run S 00° 17' 01' W perpendicular to said south line for 165.00 feet to the southwest corner of Parcel II as described in deed recorded in Official Record Book 1702 at page 710, said Lee County Records and the Point of Beginning of the herein described parcel.

From said Point of Beginning run N 00° 17' 01" E along the last mentioned course for 165.00 feet; thence run N 89° 42' 59" W along aid south line for 86.80 feet to the southwest corner of Parcel I as described in said deed recorded in Official Record Book 1702 at page 710; thence run N 00° 17' 01" E for 150.00 feet to a northwest corner of said parcel; thence run S 89° 42' 59" E along a north line of said parcel 60.00 feet; thence run N 00° 17' 01" E along a west line of said parcel 100.00 feet to a northwest corner of said parcel; thence run S 89° 42' 59" E for 344.00 feet to the northeast corner of said parcel; thence run S 00° 17' 01" W along an east line of said parcel for 161.00 feet; thence run S 89° 42' 59" E for 104 feet more or less to the Mean High Water Line of Charlotte Harbor; thence run southerly along said Mean High Water Line for 258 feet more or less to an intersection with a line bearing S 89° 42' 59" E passing through the Point of Beginning; thence run N 89° 42' 59" W along the south line of said Parcel II for 409 feet more or less to the Point of Beginning.
Contains 3.91 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on field survey ties to the Florida Department of Natural Resources (FDNR), Monuments A-15 through A-20.

DESCRIPTION

"ADDITIONAL P.U.D. AND SPECIAL EXCEPTION AREA"
G.L. 3 SECTION 26, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 south, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at page 346, Lee County Records run N 89° 42' 59" W along the south line of lands described in said deed for 69.55 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 42' 59" W for 318.25 feet; thence run N 00° 17' 01" E for 150.00 feet; thence run S 89° 42' 59" E parallel to said south line for 260.00 feet to a ¾" pipe; thence run N 00° 17' 01" E for 100.00 feet to a ¾" pipe; thence run S 89° 42' 59" E parallel to said south line for 369.00 feet; thence run S 00° 17' 01" W for 61.00 feet; thence run N 89° 42' 59" W for 311.55 feet; thence run S 00° 17' 01" W for 89.00 feet to the Point of Beginning
Containing 2.38 acres, more or less.

Bearings hereinabove mentioned are Plan Coordinate for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments A-15 through A-20.

DESCRIPTION

(SPECIAL EXCEPTION IN PORT DISTRICT)
G.L. 3 SECTION 26, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

Bearings hereinabove mentioned are Plane coordinate for the Florida West Zone based on ties to Florida Department of Natural Resources Monument A-15 through A-20.

A tract or parcel of land lying in Government Lots 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

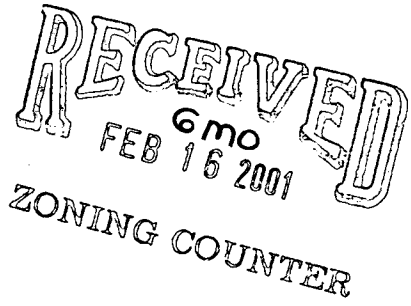
Beginning at the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at page 346, Lee County Records run S 00 degrees 04' 25'' E along a west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B' in said deed; thence deflect 90 degrees 10' to the right and run N 89 degrees 54' 25'' W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33 degrees 20' 35'' W 130.23'; thence run S 01 degree 35' 35" W for 90.64 feet; thence run S 44 degrees 39' 25'' E for 200.72 feet to an intersection with the south line of said lands as described in said deed; thence run S 89 degrees 42' 59'' E along said south line for 473.59 feet to a ¾" pipe; thence continue S 89 degrees 42' 59" E along said south line for 411 feet to a ¾" pipe; thence run N 00 degrees 17' 01" E for 150 feet to a ¾" pipe; thence run S 89 degrees 42' 59" E for 290 feet to ¾" pipe; thence run N 00 degrees 17' 01" E for 100 feet to a ¾" pipe; thence run S 89 degrees 42' 59" E for 344 feet to a ¾" pipe; thence run S 00 degrees 17' 01" W for 161 feet to a ¾" pipe; thence run S 89 degrees 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly along said Line for 759 feet more or less to an intersection with the south line of the so-called Lodge Parcel as described in deed recorded in Official Record Book 687 at page 173 of said Public Records; thence run S 89 degrees 55' 35" W along said south line for 292 feet more or less to a ¾" pipe at the southwest corner of said lands; thence run N 00 degrees 04' 25" W along the west line of said lands for 430 feet to a ¾" pipe at the northwest corner of said lands; thence run N 89 degrees 55' 35" E along the north line of said lands for 236 feet more or less to said approximate Mean High Tide Line to Charlotte Harbor; thence run northerly along said Line for 284 feet more or less to an intersection with a north line of said lands described in said deed recorded in Deed Book 129 at page 346; thence run S 89 degrees 55' 35" E along said north line for 1113 feet more or less to the Point of Beginning.

Containing 40.01 acres more or less.

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

February 15, 2001



Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

Pursuant to our meeting, please find enclosed the following information with regard to authorization. Enclosed is an original authorization from CSX who currently owns portions of Boca Bay with the Port zoning designation. The additional enclosure is the Declaration with amendments for the property submitted by CSX to the jurisdiction of the Master Association. Included with this is the Master Declaration and the recorded amendments and prepared amendments. This should complete your inquiry with regard to authorizations.

Very truly yours,

Beverly Grady
Signed electronically to expedite

Beverly Grady
For the Firm

BG/umr
Enclosure

cc: Matt Noble (without attachments)
Paul O'Connor (without attachments)

81044_2

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATE: January 18, 2001

TO: Distribution **FROM:** Matthew P. Noble

Matt Noble
Principal Planner

RE: Proposed Comprehensive Plan Amendment Applications

Staff is currently evaluating the contents of the applications you have submitted. We will be coordinating with numerous agencies, therefore, please send us 20 additional sets no later than Friday, February 2, 2001.

DISTRIBUTION:

CPA2000-02

Robert Pritt
Roetzel & Andress
2320 First Street, Suite 1000
Fort Myers, FL 33901

CPA2000-03 and CPA2000-04

Mitch Hutchcraft, ASLA, AICP
Vanasse & Daylor, LLP
12730 New Brittany Blvd., Suite 600
Fort Myers, FL 33907

CPA2000-05

Joseph M. Madden, Jr.
Crown Colony Management, Inc.
6100 Mid Metro Drive, Suite 7
Fort Myers, FL 33912

PAM 98-06

D. Wayne Arnold, AICP
Q. Grady Minor & Associates, P.A.
3800 Via Del Rey
Bonita Springs, FL 34134

S:\COMPREHENSIVE\Plan Amendments\00\copyrequ.wpd

LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

(941) 479-8312
Writer's Direct Dial Number:_____

January 17, 2001

Robert Pritt
Roetzel & Andress
2320 First Street, Suite 1000
Fort Myers, Florida 33901

RE: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Pritt:

Planning staff finds the above mentioned submittal is insufficient and further information is needed. Staff needs clarification and additional information in order to review the application and to prepare a staff recommendation. Specific comments by application section are provided below.

The following applies to part II of the application:

B. The following questions refer to exhibit "A."

Objective 15.5. There are a couple of questions about this. The first is that the language the applicant proposes can be construed to obligate the county to initiate action such as a rezoning. Staff has concerns if this is the applicant's intent. Is the applicant going to seek a rezoning on their own? If the applicant's intent is to change the zoning in the subject area, a plan amendment is the wrong venue. A rezoning is the proper course of action.

Reasons 2. The application states that the PORT designation was changed following a lawsuit. There are no details of the lawsuit or the parcels it concerned. Please provide additional information.

Reasons 3. This states that a special exception was granted to a portion of the PORT district for residential development. Please provide complete information about this Special Exception.

Reason 4. The wording is not clear and the intent of this statement is not understood. Please clarify this reason.

Reason 6. The application states that the plan makes no mention of Boca Bay's unique history. You have omitted the relevant parts of this history from your application. Please provide additional information about this "unique history."

The following applies to part III of the application:

A.1. The address given by the applicant is the applicants' own address. This should be the address of the affected property.

A.2. The STRAP number listed in the application is 26-43-20-0000H.00CE. This is a Common element parcel along the north shore of the port area. Staff notes that there is a parcel in the Water Dependent Overlay numbered 26-43-20-00-00008.0000. Is this the parcel that the amendment concerns?

B. There is no listed acreage for the property. In addition, staff was unable to determine how the total acreage of the request was obtained. Please supply the boundaries used to calculate the acreage.

There is no acreage listed for each Existing Future Land Use Category. In addition, the applicant shows the total uplands and wetlands as non-applicable without giving any reason for this designation. Please include these acreages.

The application shows the current Future Land Use Designation as Port District. It is actually Urban Community. Please correct this.

The application shows the Existing Land Use as Urban Community. The actual use of the land (e.g. vacant, commercial, residential, etc...) should be listed here. Please correct this.

C. The application requires that the applicant state whether or not the subject property is in the Lehigh Acres Commercial Overlay or Airport Noise zone 2 or 3. Please provide this information.

The following applies to part IV of the application:

A.1. See comments under Part IIb above.

A.2. Although you have included a map of current zoning designations, there is no map showing current Future Land Uses.

A.3. There is no map or description of current surrounding land uses.

A.4. There is no description of the zoning of the surrounding properties.

A.5. There is no legal description of the subject property

A.6. The most recent Deed of Ownership is required.

A.7. There is no aerial map showing the subject property and surrounding properties.

A.8. Staff does not know which parcel is proposed for removal from the water dependent overlay. Consequently, there is no documentation to show that the Boca Bay Master Development Association has legal control over the subject property.

B. In light of the subject properties' proximity to a large public facility, staff does not understand why the public facilities impacts are listed as non-applicable. Please explain why this section is non-applicable or provide the necessary information.

C. The application requires the following information:

C.1. A map of plant communities as defined by the Florida Land Use Cover and Classification System (FLUCCS).

C.2. A map and description of the soils found on the subject property.

C.3. A topographic map with the property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

C.4. A map delineating wetlands, aquifer recharge areas, and rare and unique uplands.

C.5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by the federal, state, or local agencies as endangered, threatened, or species of special concern. The table must include the listed species by FLUCCS and the species status (same as the FLUCCS map).

None of this information has been supplied. Please provide this information.

D. The Section on historic resources is shown as non-applicable without any justification for this designation. Please explain why this section is non-applicable or provide the necessary information.

E.1. There is no discussion provided about how the proposal affects established Lee County population projections and the total population capacity of the Lee Plan Future Land Use Map. Please provide this information.

E.2. There is no analysis of relevant Lee Plan policies affected by the proposed amendment. Please provide this information.

E.4. There is no listing of State Policy Plan Goals and policies which are relevant to this plan amendment. Please provide this information.

F. The proposed amendment concerns industrial uses on Boca Grande. Therefore, staff does not understand why this section is listed as non-applicable. Please explain why this section is non-applicable or provide the necessary information. Staff's specific concerns are listed below.

F.1.b. There is no data or analysis to indicate the impact of this amendment upon the amount of industrial uses in the subject area as required by Lee Plan Policy 2.4.4.

F.1.c There is nothing to show the affect of the proposed change on the county's industrial employment goal as listed in Lee Plan Policy 7.1.4.

G. Staff finds that the amendment is not justified with adequate data analysis.

If I can be of any assistance or if you have any questions, please do not hesitate to call me at 479-8312.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT

Peter Blackwell
Planner

cc: Planning file: CPA2000-02

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-2904
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

January 9, 2002

HAND DELIVERY

LEE COUNTY
RECEIVED
02 JAN -9 PM 3:24
COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

Mr. Peter Blackwell, Planner
Lee County
1500 Monroe Street
Fort Myers, FL 33902

Mr. Paul O'Connor
Director, Planning Department
Lee County
1500 Monroe Street
Fort Myers, Florida 33901

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: Board of County Commissioners 200/2001 Lee Plan Amendments CPA2000-02
Item 6 Administrative Agenda

Gentlemen:

I wanted to confirm that you have received and reviewed the attached correspondence from Bureau Chief, Charles Gauthier approving Lee County's December 19, 2001 language for policy 15.5.1.

This is to confirm that with DCA's concurrence with Lee County's language that you will be recommending approval of your December 19, 2001 language to the Board of County Commissioners. I note that Mr. Gauthier sent his correspondence directly to Matt Noble simultaneously with our receipt. A copy of that correspondence is enclosed.

Very truly yours,

Beverly Grady
Signed Electronically to Expedite

Beverly Grady
For the Firm

BG/umr
Enclosure

100506_1

Grady, Beverly

From: Charles Gauthier [Charles.Gauthier@dca.state.fl.us]
Sent: Friday, January 04, 2002 9:48 AM
To: bgrady@ralaw.com
Cc: Bernard Piawah; noblema@leegov.com
Subject: Lee County Amendment CPA 2000-02

Beverly Grady, Esq.
Roetzel & Andress

Dear Beverly,

This is in response to your letter on January 3rd regarding the proposed revisions Lee Plan Policy 15.5.1 regarding commercial and industrial land uses permitted in the Port District Zoning Designation within the Boca Bay community. As you know the Department objected to the amendment on the basis of a vagueness as to which land uses would be allowed. The Department recommended that the amendment be revised to specify the commercial and industrial uses which would be allowed.

You have asked if the Department would accept the original policy as proposed, or in the alternative, the policy as redrafted and provided on December 19th.

Insofar as the December 19th redraft enhances the original proposal by adding a list of potential uses the Department would accept that version.

I appreciate the better understanding you have provided regarding the nature of the amendment and I wish to assure you that the Department has not substantive concerns beyond achieving a greater level of clarity.

Please let me know as we can be of further assistance.

Charles Gauthier, AICP
Chief Bureau of Local Planning



A LEGAL PROFESSIONAL ASSOCIATION

PROVIDING LEGAL SERVICES STATEWIDE IN OHIO AND FLORIDA

FACSIMILE TRANSMISSION COVER SHEET

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-2904
941.338.4207 DIRECT
941.337.3850 MAIN
941.337.0970 FAX
bgrady@ralaw.com

DATE: January 9, 2002

To: Peter Blackwell/Paul O'Connor/Matt Noble

NUMBER OF PAGES (including this cover sheet): 3

FROM: Beverly Grady, Roetzel & Andress

We are transmitting from facsimile equipment, which will automatically connect transmissions to Roetzel & Andress twenty-four hours a day. If problems arise during transmission, please contact the operator at the office number listed above. Thank you.

NOTE: Unless otherwise indicated, the information contained in this facsimile transmission is confidential information intended for the use of the individual or entity named above. The information contained in this transmission may also be attorney-client privileged and/or protected as attorney work product. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is confidential or otherwise privileged, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service at our expense. Thank you.

FACSIMILE INSTRUCTIONS

FAX NUMBER: 479-8319

CLIENT/MATTER NUMBER: _____ **ID#:** _____

COMMENTS

Please deliver to each. Thanks you.

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-2904
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 9, 2002

HAND DELIVERY

Mr. Peter Blackwell, Planner
Lee County
1500 Monroe Street
Fort Myers, FL 33902

Mr. Paul O'Connor
Director, Planning Department
Lee County
1500 Monroe Street
Fort Myers, Florida 33901

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: Board of County Commissioners 200/2001 Lee Plan Amendments CPA2000-02
Item 6 Administrative Agenda

Gentlemen:

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Beverly Grady
Signed Electronically to Expedite

Beverly Grady
For the Firm

BG/umr
Enclosure

100506_1

Grady, Beverly

From: Charles Gauthier [Charles.Gauthier@dca.state.fl.us]
Sent: Friday, January 04, 2002 9:48 AM
To: bgrady@ralaw.com
Cc: Bernard Piawah; noblema@leegov.com
Subject: Lee County Amendment CPA 2000-02

Beverly Grady, Esq.
Roetzel & Andress

Dear Beverly,

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Please let me know as we can be of further assistance.

Charles Gauthier, AICP
Chief Bureau of Local Planning

From: "Charles Gauthier" <Charles.Gauthier@dca.state.fl.us>
To: <bgrady@ralaw.com>
Date: 1/4/02 9:51AM
Subject: Lee County Amendment CPA 2000-02

Beverly Grady, Esq.
Roetzel & Andress

Dear Beverly,

This is in response to your letter on January 3rd regarding the proposed revisions Lee Plan Policy 15.5.1 regarding commercial and industrial land uses permitted in the Port District Zoning Designation within the Boca Bay community. As you know the Department objected to the amendment on the basis of a vagueness as to which land uses would be allowed. The Department recommended that the amendment be revised to specify the commercial and industrial uses which would be allowed.

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Please let me know as we can be of further assistance.

Charles Gauthier, AICP
Chief Bureau of Local Planning

CC: "Bernard Piawah" <Bernard.Piawah@dca.state.fl.us>, <noblema@leegov.com>

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4203 Direct
941.337.3850 Main
941.337.0970 Fax
snoble@ralaw.com

October 9, 2000

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: CSX Application for Comprehensive Plan Amendment
Case No. CPA2000-00002

Dear Mr. Noble:

Pursuant to your telephone conversation with Attorney Robert Pritt, enclosed please find two copies of the Application for Comprehensive Plan Amendment, which was previously filed with your office on September 28, 2000. It is our understanding that the filing of this new form will be retroactive back to the original filing date.

If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,

Sandra E. Noble, CLA
Certified Legal Assistant

SEN/umr
Enclosure

RECEIVED
OCT 09 2000
PERMIT COUNTER

FILE COPY

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate **Roetzel & Andress, a legal professional association,** as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced~~ _____ ~~as identification.~~

Harriett K. Mochel
Signature of Notary Public

(SEAL)

77032_1

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

LEE COUNTY
SOUTHWEST FLORIDA

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D.:_____ REC'D BY:_____

APPLICATION FEE:_____ TIDEMARK NO:_____

THE FOLLOWING VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal: ☐ Small Scale: ☐ DRI ☐ Emergency: ☐

Request No.:_____

APPLICANT PLEASE NOTE:
Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

Robert D. Pritt

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
APPLICANT

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association
AGENT

2320 FIRST STREET, SUITE 1000
ADDRESS

FORT MYERS	FLORIDA	33901
CITY	STATE	ZIP

(941) 337-3850 (941) 337-0970
TELEPHONE NUMBER FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
OWNER(s) OF RECORD

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application. (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☐ Text Amendment ☐ Future Land Use Map Series Amendment (Maps 1 thru 19)
List Number(s) of Map(s) to be amended
X Map 12 (South Boca Grande)

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary of Request - Exhibit "A"

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc., 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE / Boca Bay Master Association

B. Property Information:

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay / ± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit "B")

Area of each Existing Future Land Use Category:

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay:_____

Airport Noise Zone 2 or 3:_____

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area:_____

D. Proposed change for the Subject Property: No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property zoned Port that could permit industrial and commercial uses

   Industrial intensity _____

2. Calculation of maximum allowable development under proposed FLUM:

   Residential Units/Density: No Change

   Commercial intensity Property text change would preclude industrial and commercial uses

   Industrial intensity: _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.

2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.

4. Map and describe existing zoning of the subject property and surrounding properties.

5. The legal description(s) for the property subject to the requested change.

6. A copy of the deed(s) for the property subject to the requested change.

7. An aerial map showing the subject property and surrounding properties.

8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis
   The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range - 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether

network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;

d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range - 5-year CIP horizon:

a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
   Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for: **N/A**
   a. Sanitary Sewer
   b. Potable Water
   c. Surface Water/Drainage Basins
   d. Parks, Recreation, and Open Space.

   Analysis should include (but is not limited to) the following:
   - Franchise Area, Basin, or District in which the property is located;
   - Current LOS, and LOS standard of facilities serving the site;
   - Projected 2020 LOS under existing designation;
   - Projected 2020 LOS under proposed designation;

- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;
   b. Emergency medical service (EMS) provisions;
   c. Law enforcement;
   c. Solid Waste;
   d. Mass Transit; and
   e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).

2. A map and description of the soils found on the property (identify the source of the information).

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources **N/A**

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed

change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.

2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **(See Exhibit "A" attached)**

F. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
   b. Provide data and analysis required by Policy 2.4.4,
   c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.

2. Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon

pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	$500.00 each
Map Amendment > 20 Acres	$500.00 and $20.00 per 10 acres up to a maximum of $2,255.00
Text Amendment Flat Fee	$1,250.00 each

AFFIDAVIT

I, **ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association**, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Robt D. Pritt

Signature of owner or owner-authorized agent Date

ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association

Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 9th day of October, 2000, by ~~ROBERT D. PRITT~~, on behalf of Roetzel & Andress, A Legal Professional Association, who is personally known to me or who has produced _____ (type of ID) as identification.

(SEAL)



Sandra E. Noble
Commission # CC 928983
Expires April 17, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Sandra E. Noble
Signature of notary public

SANDRA E. NOBLE
Printed name of notary public

77496_1

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

EXHIBIT "B"

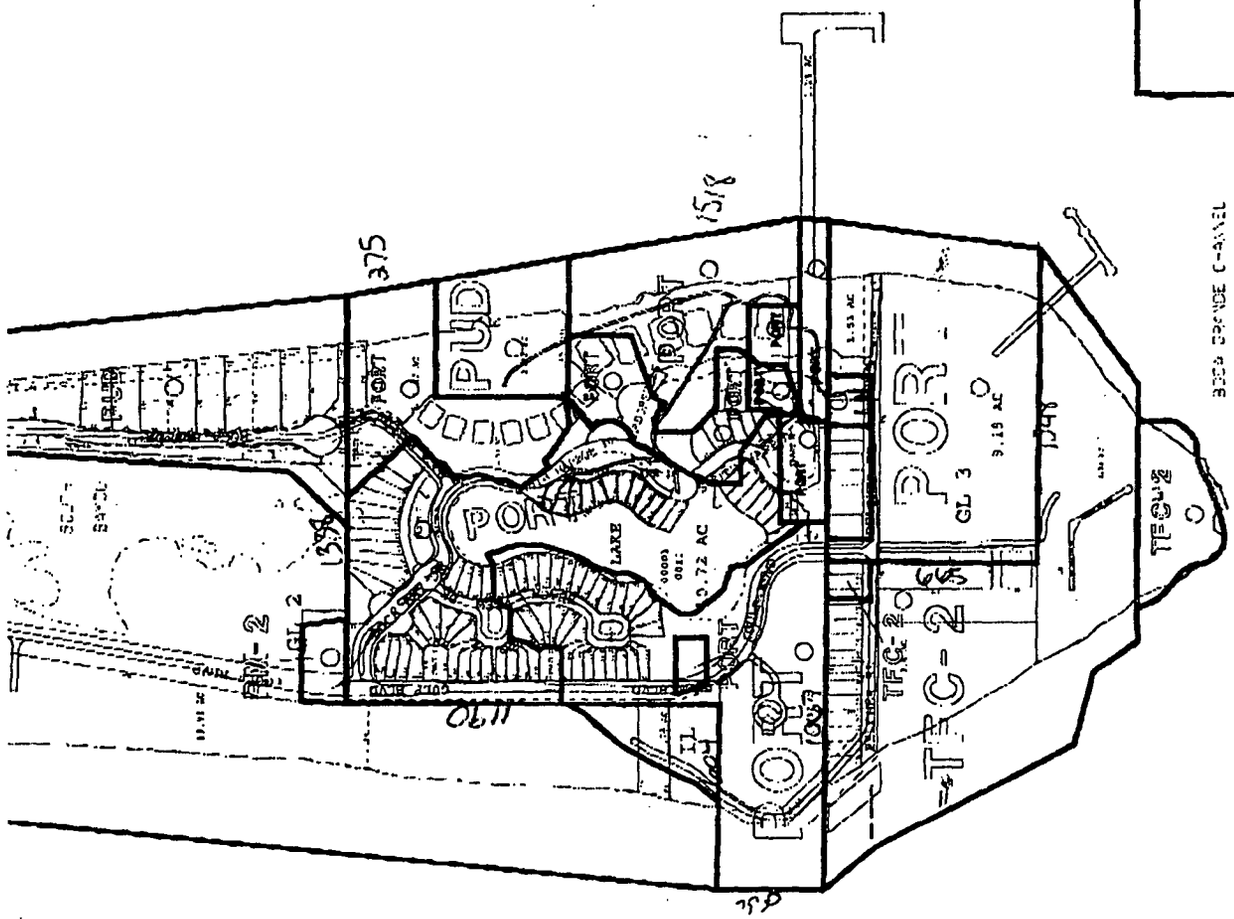
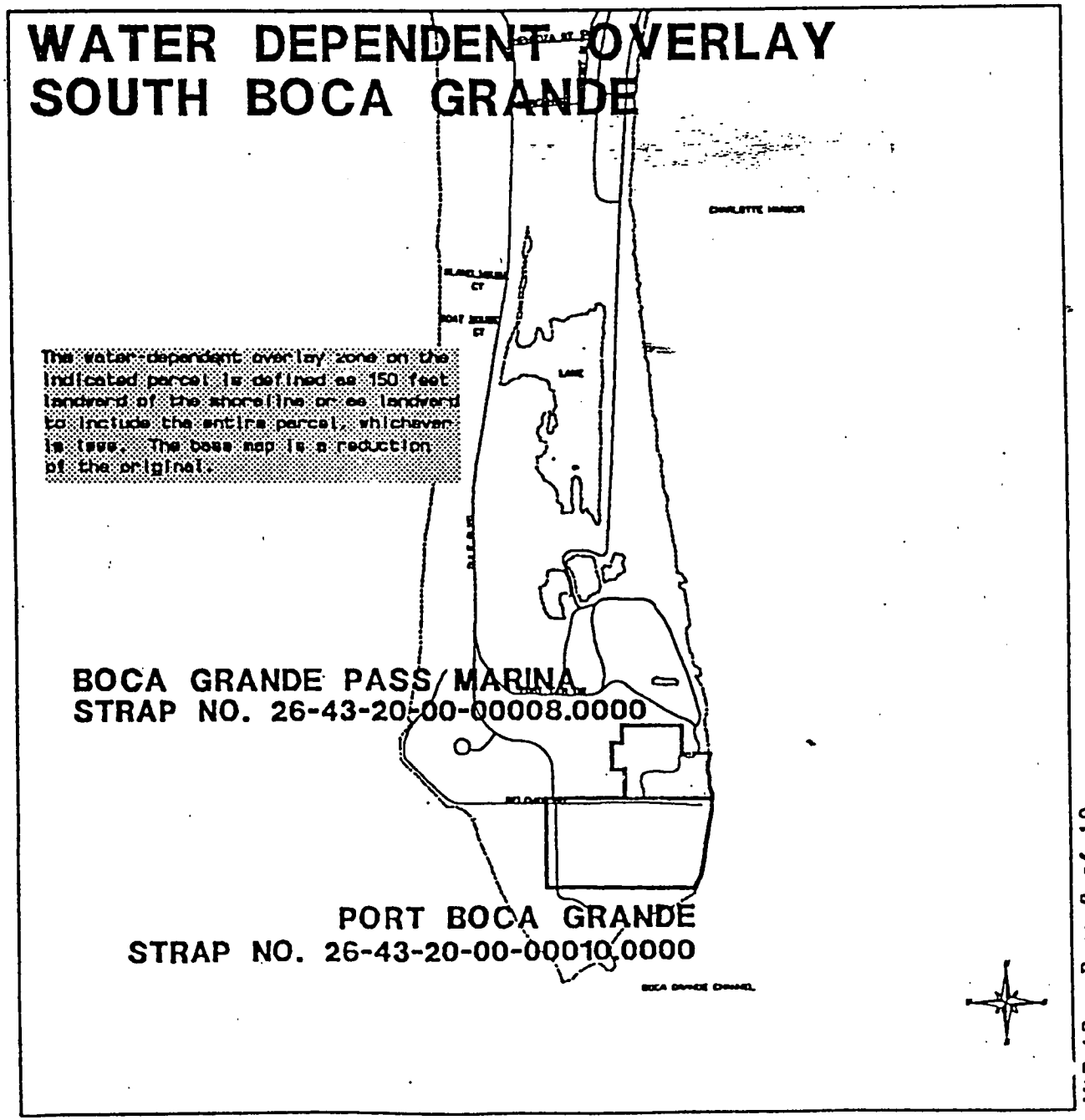

PUD
PORT
LAKE
9.72 AC
TPC-2
TPC-2
PORT
PORT
PORT

EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

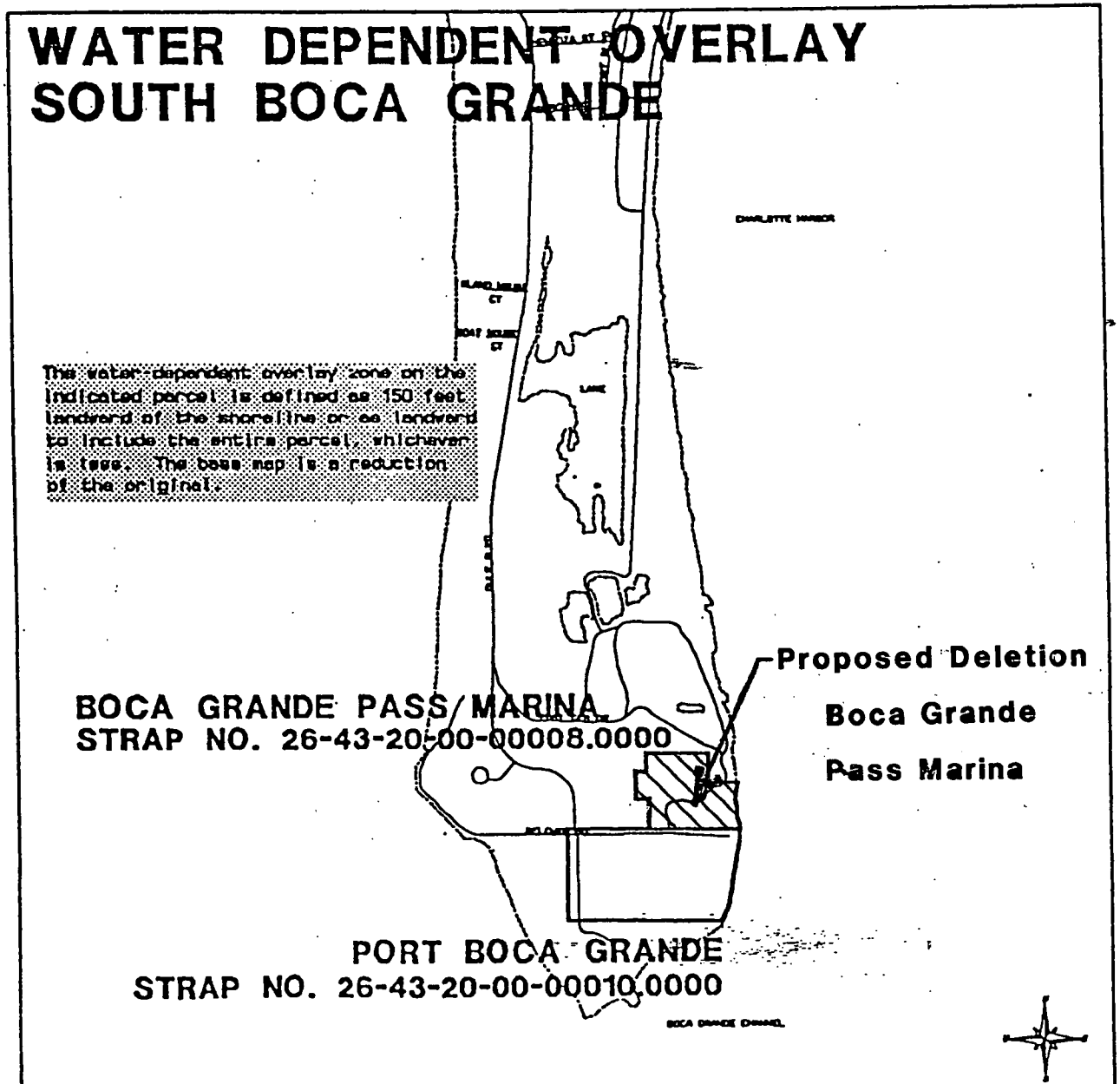
WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE

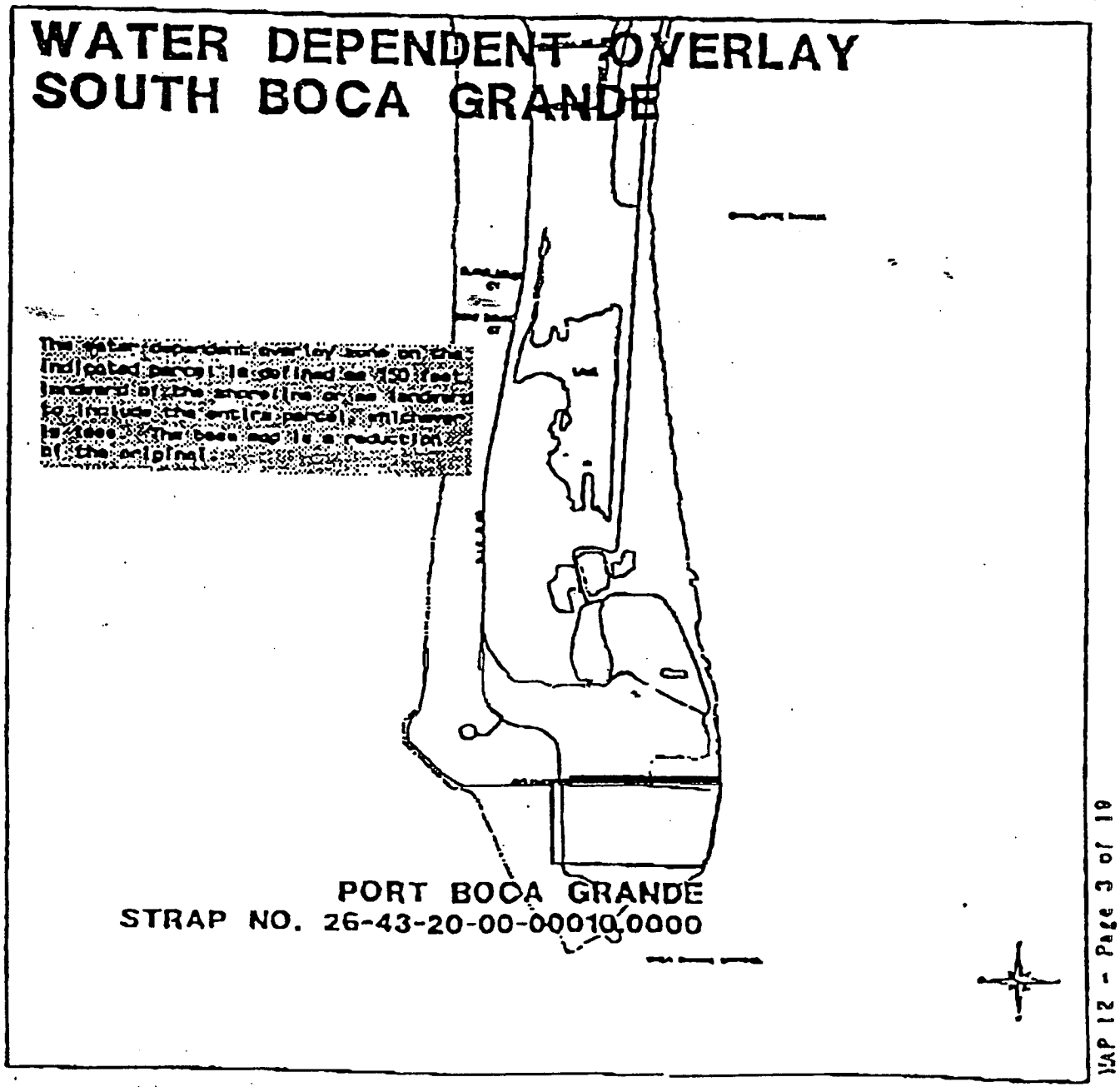


MAP 12 - Page 3 of 19

CURRENT OVERLAY

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE





PROPOSED OVERLAY

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-02

✓ **Text Amendment** ✓ **Map Amendment**

	This document contains the following reviews:
✓	**Staff Review**
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 21, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

THE BOCA BAY MASTER ASSOCIATION
REPRESENTED BY BEVERLY GRADY, ESQ.
ROETZEL & ANDRESS

2. REQUEST:

To amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

Amend Goal 15 of the Lee Plan by adding the following objective and policy:

Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning Staff recommends that the Board of County Commissioners transmit this plan amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Zoning resolution ZAB-83-352 granted preliminary Planned Unit Development (PUD) approval and a special exception in the PORT district for residential uses. Resolution Z-86-166 granted final approval to both of these measures in 1987. This development was further amended by Resolution Z-93-009 in 1993.

- The Boca Grande Pass Marina use no longer exists. The subject site was approved for conversion from water dependent uses to non-water dependent uses by resolution Z-99-054. This resolution approved the demolition of Boca Grande Pass marina and the subsequent development of 16 multifamily residential units on the site.

- The site has been cleared and as such there are no indigenous plant communities to disturb.

- There are no sites of historic or archeological importance impacted by the proposed change to the Lee Plan.

- The proposed amendment limits the potential traffic generation of the subject site.

- The proposed amendment limits utilities demands of the subject site.

- The proposed amendment limits development intensity of the subject site.

C. BACKGROUND INFORMATION

Boca Bay is a residential community on the south end of Gasparilla Island. In 1981, the Board of Commissioners approved resolution Z-81-258, which rezoned large portions of the Boca Grande area to the PORT district. The owners of the Boca Bay project appealed unsuccessfully and initiated litigation against the County. This legal action was dropped in 1984 when the County approved resolution ZAB-83-352. This granted a change from AG-2 zoning district to preliminary Planned Unit Development (PUD) approval and created a special exception in the PORT district for residential uses. Approximately 97 acres were affected by this approval. The northern parts of the Boca Bay development, Neighborhoods 1 through 4, were still zoned RM-2 and were not affected by ZAB 83-352 or subsequent resolutions concerning the PUD.

In 1987 final PUD and special exception approval was granted by resolution Z–86-166. 291 units were approved at a density of 3 units per acre to be distributed between three areas. Also permitted were a tennis club with food and beverage service and consumption on premises of alcoholic beverages, model homes in each neighborhood, a sales office, a guard house with gates, and appurtenant signs. At the same time, the portions of Boca Bay outside the PUD were approved for

77 residential units, 19 wet slip docks in the yacht basin, a beach club, guardhouses, Model homes, and a consumption on premises use by resolutions Z-86-170 and Z-86-171. This brought the total number of approved units for the Boca Bay development to 368.

In 1988, the board approved Z-88-151, which created a conservation easement and approved variations in neighborhood #5 in the PUD.

The Water Dependent Overlays were created in 1989 to protect marine-oriented land uses from incompatible or preemptive land uses. The Lee Plan was amended to include two WDOs on the southern end of Gasparilla Island (Attachment 1). The southernmost one is within the parcel owned by Florida Power and Light and consists of a fuel oil storage and transfer facility. The northern one was originally the Boca Grande Pass Marina and abutted the northern edge of the FPL facility. This latter WDO is the subject of this amendment.

In 1993 the PUD was further amended by Resolution Z-93-009. This specifically prohibited an 85-unit wet slip marina and allowed an additional 13 residential units in its place. This raised the total approved units in the PUD to 304 and the total in the Boca Bay development to 381.

In 1999, resolution Z-99-054 approved the conversion of a water-dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the 304 that were already approved for the PUD. Subsequently, the marina was demolished, removing the two dry-storage buildings. The residential units are under construction as of the writing of this report. On March 6, 2001, administrative approval was granted to substitute 2 single family residential units in lieu of 1 four-plex building.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In a resubmittal dated January 24, 2001, (attachment 3) the applicant provides the following comments:

> *"The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for 'Water Dependent Overlay South Boca Grande' a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use-non water-dependent uses.*
>
> *In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.*

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA 2000-02. The Board of County Commissioners granted:

1. *An amendment to the planned unit development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and*

2. *A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and*

3. *Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone."*

The Boca Bay community is a residential area. The 1984 special exception for residential uses created a de facto residential zoning. The proposed amendment does not change any existing land uses and insures that future land uses will be consistent with existing approvals. Likewise, the conversion to residential use created by resolution Z-99-054 removed all water dependent uses from the portion of the WDO zone lying north of Belcher Road. This has rendered the WDO designation for this parcel unnecessary. The proposed Lee Plan amendment would remove the Boca Grande Pass Marina WDO zone from Map 12 (Attachment 2).

Transportation
The proposed amendment does not create any additional residential units or other uses. The proposed amendment allows only those uses approved by previous resolutions. As such, it precludes more intense uses and the resulting increase in trip generation.

Emergency Services
As this proposed amendment does not create additional infrastructure or residences, it does not increase the demand on EMS or fire protection services. In fact, the proposal limits demand as it precludes more intense uses from the subject area.

Hurricane Evacuation
Since the proposed amendment limits trip generation, it has no effect on hurricane evacuation time.

Utilities
The proposed amendment does not create any additional demand on either water or sewer facilities. In addition, the proposal precludes the more intense uses of the PORT designation from being developed and creating greater demands on utility services.

Environmental Concerns
The proposed change would not destroy or disturb any fragile or preserved plant communities in the WDO zone as the affected area had been previously disturbed when it was the Boca Grande Pass Marina. The proposed amendment creates no environmental concerns.

Soils
A summary report of the Boca Bay PUD lists the following soil types on the property: Canaveral fine sand, Captiva fine sand, Wulfert muck, Kesson fine sand, and St. Augustine sand (Attachment 4).

Development Intensity
The proposed amendment limits developmental intensity by precluding those uses in the PORT designation that are more intense than the uses specifically approved by previous resolutions.

Residential Density
The proposed amendment would not change the residential density of the Boca Bay community as previous resolutions have already determined the number of units in the PUD.

Historic Preservation
There are no known historic or archeological sites within the area of the proposed change. The proposed amendment has no effect on any known archeological or historic sites or areas.

Coastal Issues
Previous resolutions have addressed coastal issues for the subject site. As the proposed amendment limits further development to those uses specifically listed by previous resolutions, it creates no new coastal issues.

Population Accommodation
The proposed amendment will not change the population accommodation of the subject property.

B. CONCLUSIONS

The proposed amendment does not create new land uses or change existing ones. It simply ensures that the Boca Bay community is protected from incompatible land uses in the future. In doing so, the proposal will help maintain the local character of the area. This proposal also limits overall development intensity by precluding uses that might result in additional commercial intensity. Furthermore, by removing the marina WDO from the Lee Plan, this proposal clarifies the true intent of the property owner and reflects the reality of the existing, on-site development.

C. STAFF RECOMMENDATION

Planning Staff recommends that the board of County Commissioners transmit this Plan Amendment.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: June 4, 2001

A. LOCAL PLANNING AGENCY REVIEW

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS	_____
SUSAN BROOKMAN	_____
BARRY ERNST	_____
RONALD INGE	_____
GORDON REIGELMAN	_____
VIRGINIA SPLITT	_____
GREG STUART	_____

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

B. STAFF RESPONSE

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING:_____

A. BOARD REVIEW:

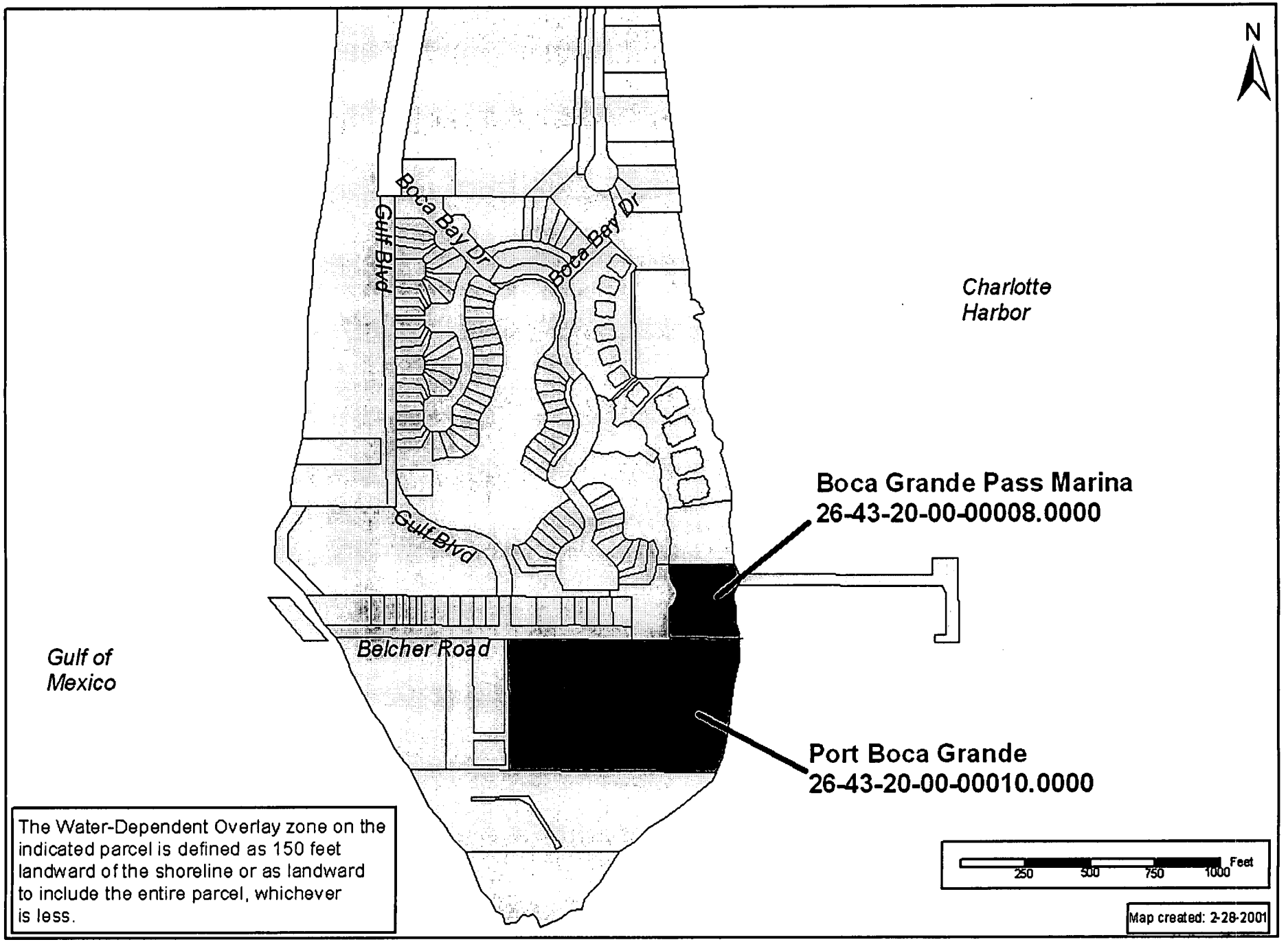
B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

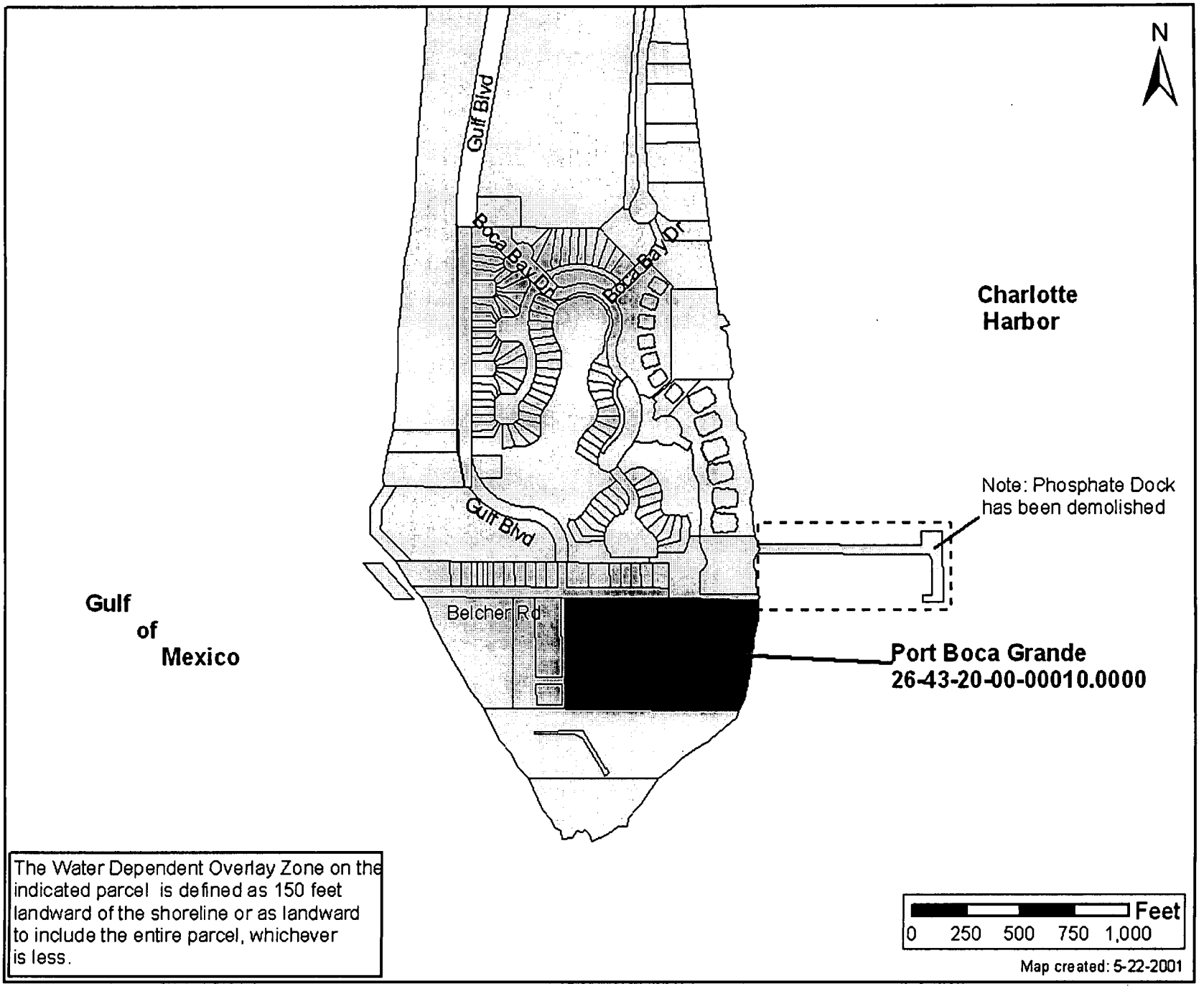
2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

	_____
JOHN ALBION	_____
ANDREW COY	_____
RAY JUDAH	_____
BOB JANES	_____
DOUG ST. CERNY	_____



Attachment 1 Existing WDO Map



Attachment 2. Proposed WDO map

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1

CPA 2000-02
PRIVATELY INITIATED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

LPA Public Hearing Document
for the
June 4th, 2001 Public Hearing

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

May 21, 2001

Boca Bay Resolution Timeline

ZAB 83-352
Preliminary PUD, Special Exception for residential in PORT

Z-86-166
Final PUD, 291 Units in PUD (neighborhoods 5-10), tennis club, C.O.P., 5 models per neighborhood, sales office, guard house & signs

Z-86-170
72 units in neighborhood s 1, 2, &4

Z-86-171
C.O.P., food and beverage for beach club, & 3 model homes in neighborhood #3

BZA-87-242
Real estate office in neighborhood #2

BZA-88-174
Setback and lot size variances in Neighborhoods 1, 2, & 3

Z-93-009
Prohibits 85 wet slip marina, 13 Additional units allowed in its place, (but Bev says that the 13 units replace an attempted reduction of 13 units by Boca Bay, maintaining the original 291 units)

Z-99-054
Converted the Boca Grande Pass Marina to a non-water use in WDO, allows 16 units (taken from the PUD total) in its place

Ron Ingl moved to transmit → approved 7-0

E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.

Attachment 5
Previous Resolutions
Concerning the Boca Bay PUD

610 Pellett

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

1-12-87

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McGowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

> CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFFICIAL RECORDS BOOK 1309

PRELIMINARY

ENGINEERING PLANS

FOR

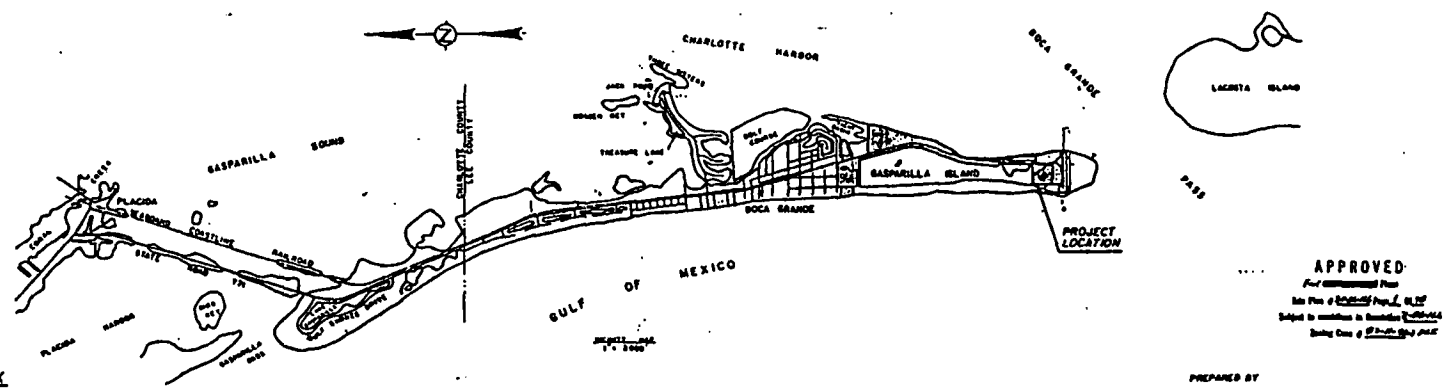
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



INDEX

Sheet No.	Description
1	COVER SHEET
2	INDEX MAP
3 - 4	AERIAL PHOTOS / DEMOLITION PLAN
5 - 12	SITE DEVELOPMENT PLAN
14	LAND USE MODIFICATION PLAN
15-23	MASTER DRAINAGE PLAN
24-35	PLAN AND PROFILE SHEET
36	ROAD AND DRAINAGE DETAILS
37-45	PRELIMINARY WATER AND SEWER SYSTEM
46-48	GENERAL WATER / SEWER DETAILS
APPENDIX I-A-I	LANDSCAPE PLAN

JUNE 1986

REVISED JANUARY 7, 1987
REVISED DECEMBER 31, 1986
REVISED DECEMBER 15, 1986
REVISED NOVEMBER 12, 1986
REVISED AUGUST 22, 1986

APPROVED

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

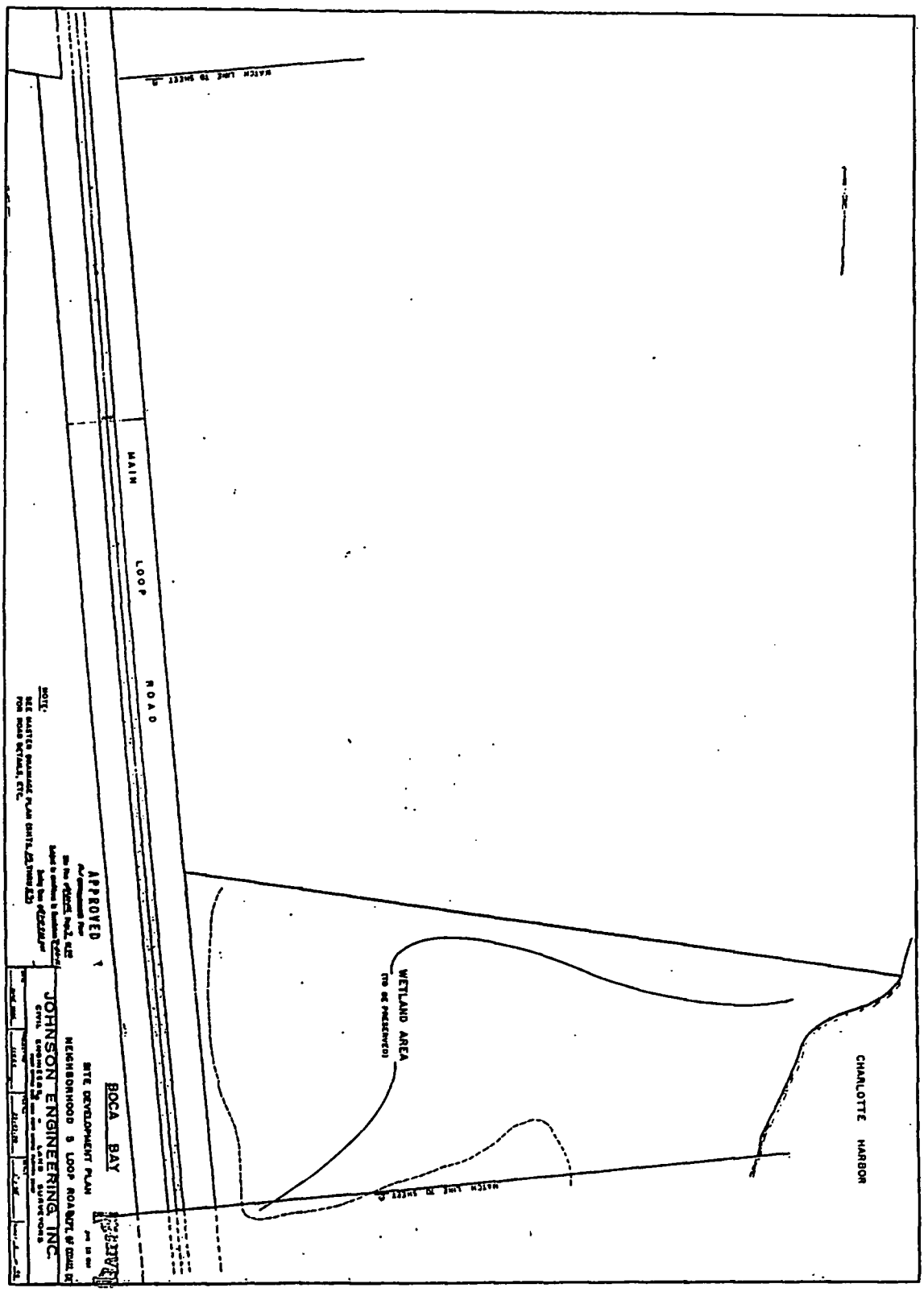
A. T. GRANT

Registered Professional Engineer

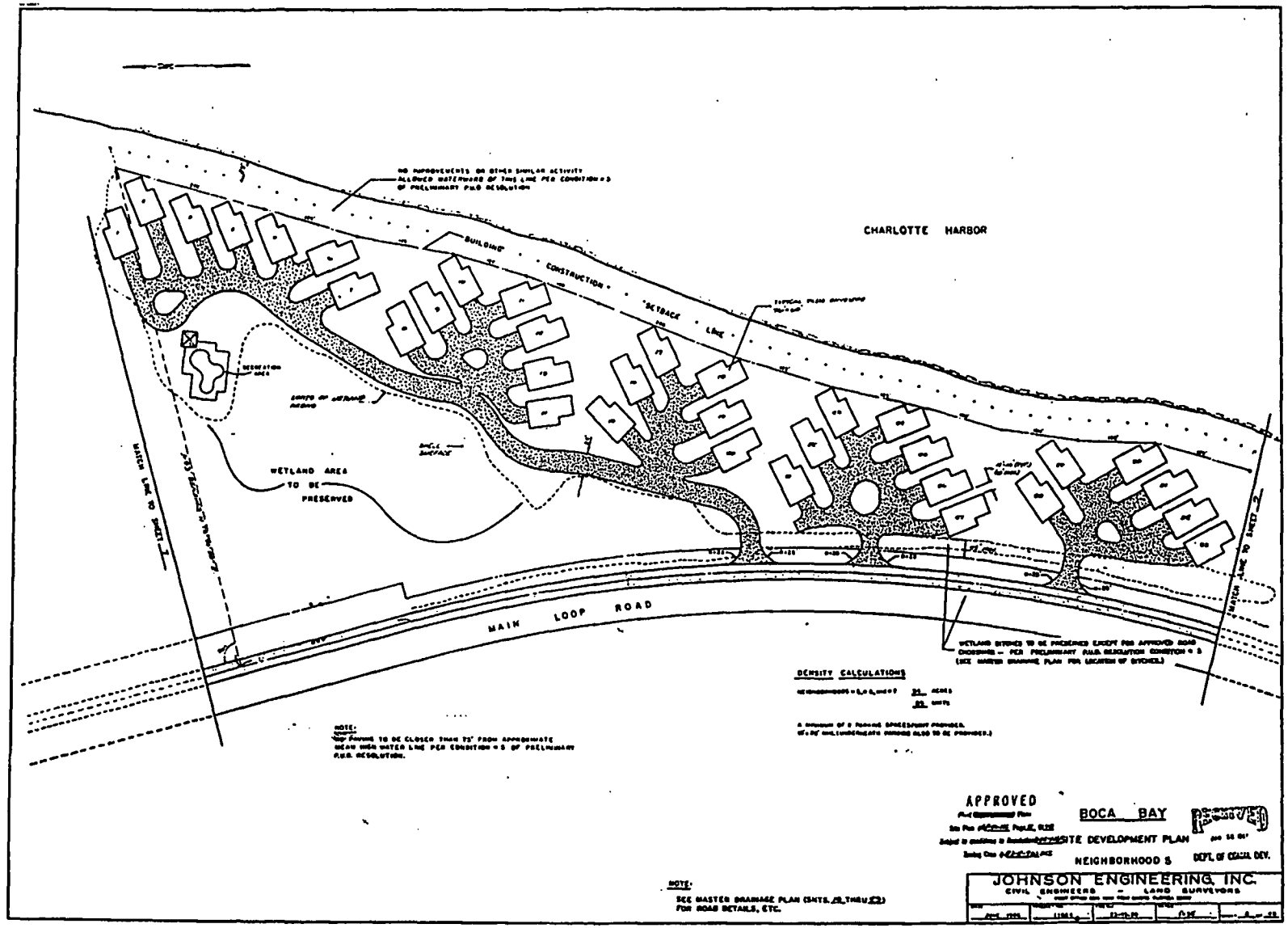
Florida Certificate No. 13651

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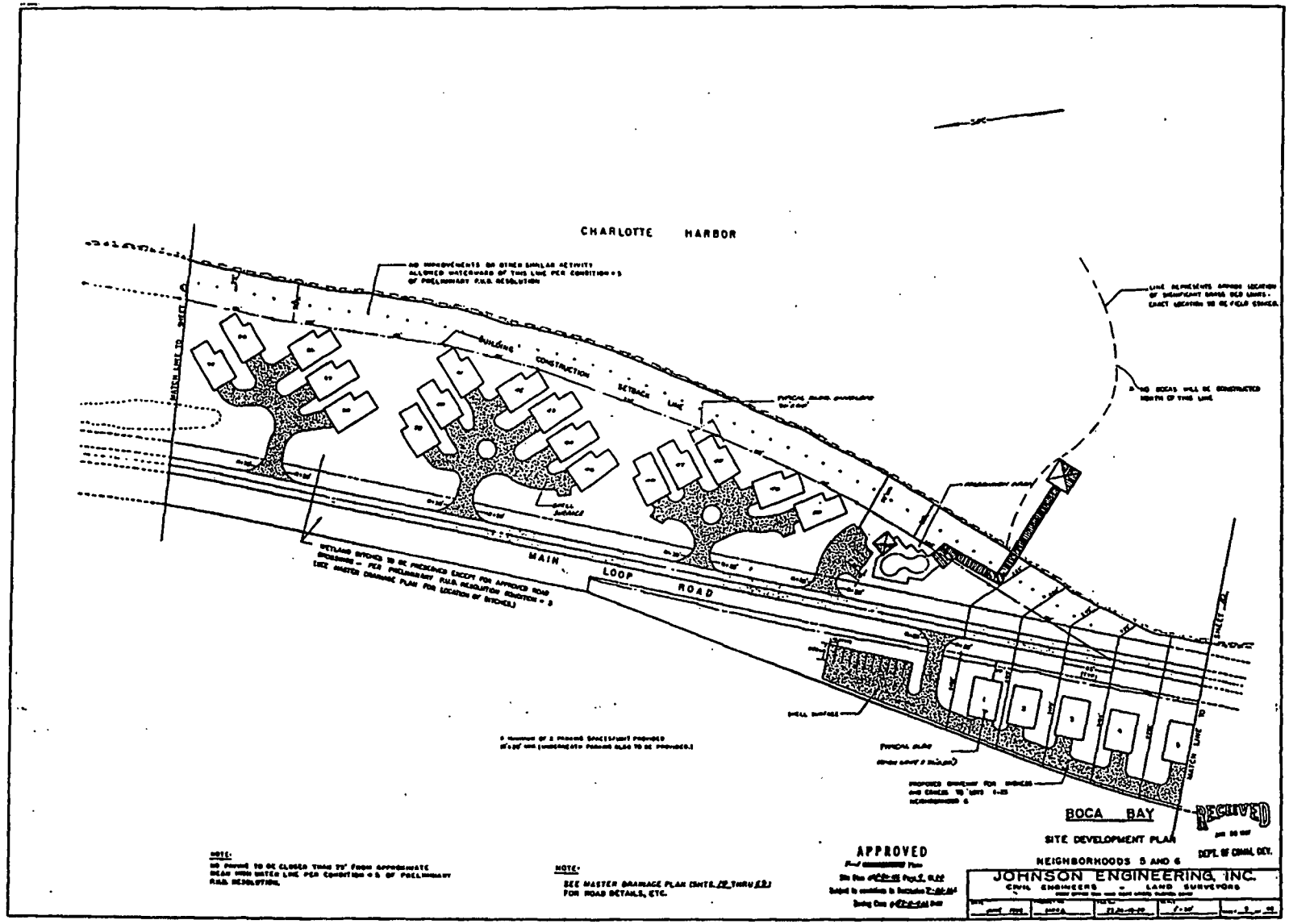
DEPT. OF COMM. DEV.


MAIN
LOOP
ROAD
WETLAND AREA
TO BE PRESERVED
CHARLOTTE HARBOR
APPROVED
BOCA BAY
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 5 LOOP ROAD
JOHNSON ENGINEERING, INC.

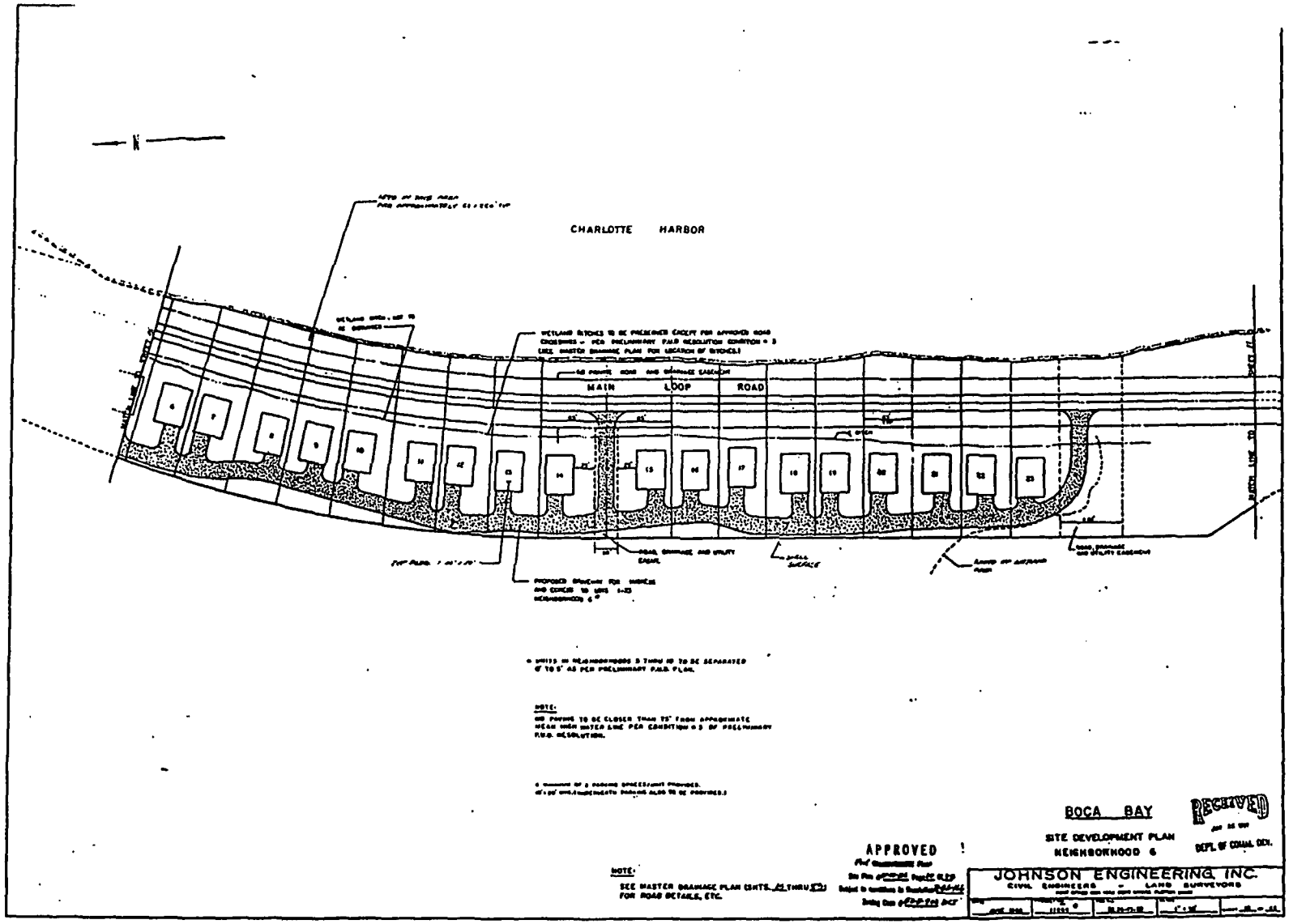
OR. 910 PG 1311



OR REC 910PG1312



O. REC. 910 PG 1313



BOCA BAY

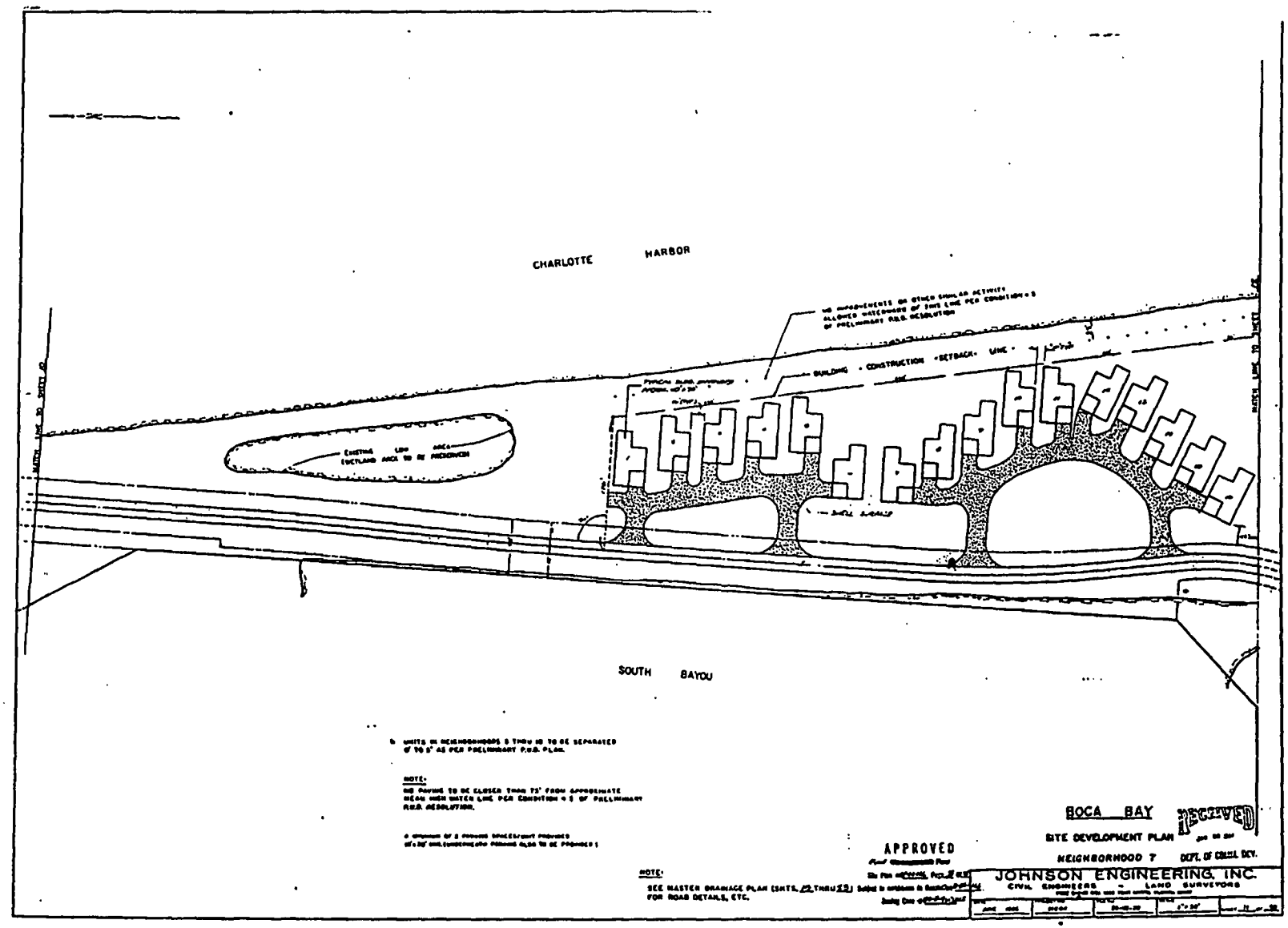
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 6

RECEIVED
DEPT. OF COMM. DEV.

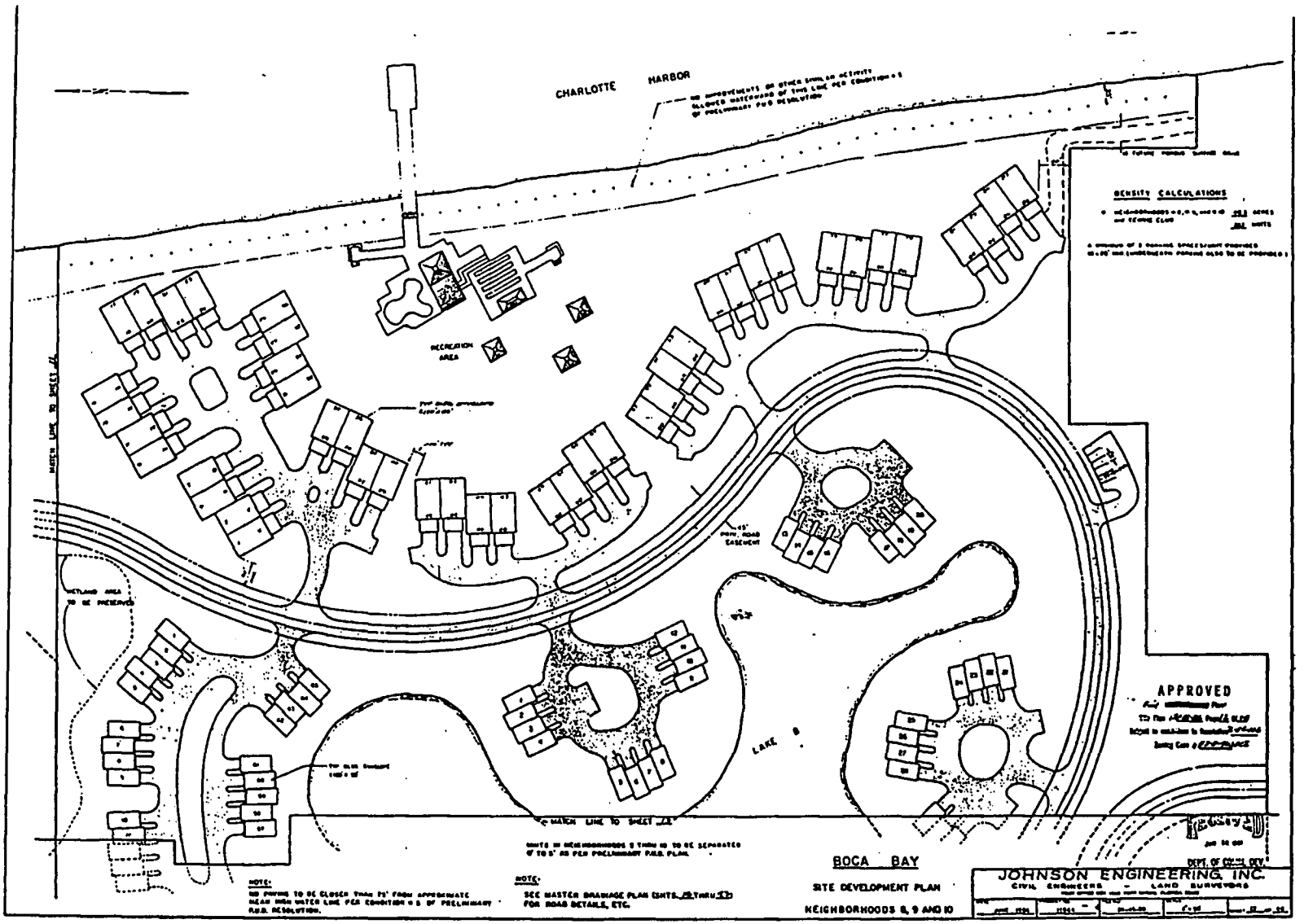
APPROVED

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS — LAND SURVEYORS

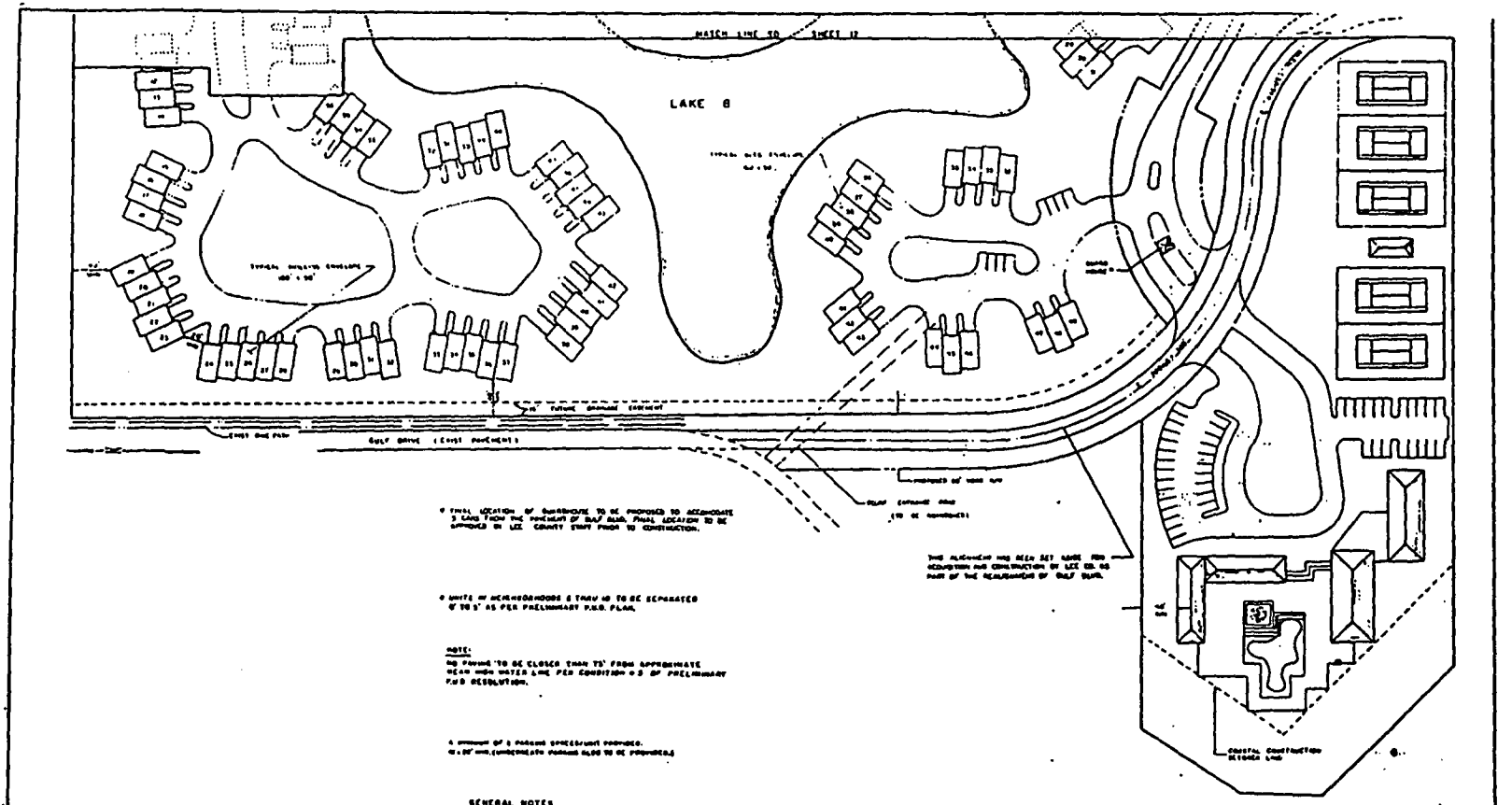
FF 1910PG1314



OFF REC 1910 PG 1315



OFF REC 1910 PG 1346



* FINAL LOCATION OF DRIVEWAYS TO BE PROPOSED TO ACCOMODATE 3 LANE FLARE AT THE INTERSECTION OF GULF ELAN. FINAL LOCATION TO BE APPROVED BY LEE COUNTY STAFF PRIOR TO CONSTRUCTION.

* UNITS IN NEIGHBORHOODS 8 THRU 10 TO BE SEPARATED BY 10'0" AS PER PRELIMINARY P.U.D. PLAN.

NOTE:
NO BUILDING TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION # 3 OF PRELIMINARY P.U.D. RESOLUTION.

* APPROVAL OF A PARKING SPACE VARIANCE REQUIRED.
(UNDERNEATH PARKING ALSO TO BE PROVIDED.)

THIS ALIGNMENT HAS BEEN SET AHEAD FOR ACQUISITION AND CONSTRUCTION BY LEE CO. AS PART OF THE REALIGNMENT OF GULF DRIVE.

COASTAL CONSTRUCTION SETBACK LINE

GENERAL NOTES

1. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 200' OF ENTRANCE TO GULF DRIVE OR WITHIN A 400' RADIUS OF THE RECREATION AREA IN NEIGHBORHOOD # 8 (ADJACENT TO CHARLOTTE HARBOR).

2. TENNIS CLUB FACILITY IS TO PROVIDE FOOD AND BEVERAGE SERVICE WITH THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES.

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. #2 THRU #3) FOR ROAD DETAILS, ETC.

APPROVED
Final recommendation for
Site Plan # 87-09-10.01 R.U.D.
Subject to conditions in Resolution Z-87-044
Zoning Case # 87-09-044

BOCA BAY
SITE DEVELOPMENT PLAN
NEIGHBORHOODS 9, 10 & TENNIS CLUB/PT. OF CIVIL DEV.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS + LAND SURVEYORS

RECEIVED
APR 16 9 00 AM '87
CLERK CIRCUIT COURT
LEE COUNTY FLA

RECORDED AND RECORD VERIFIED

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

1.7.03

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

   <u>Single-Family Detached</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	5 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

   <u>Single-Family Attached (Villas)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	0 (zero) feet on one side and minimum 10 feet between structures
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

   <u>Multiple-Family Building (Flats/Town Homes)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Separation between structures:	10 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clare E. Lewnick
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J. Manning
Chairman

Approved as to form by:

County Attorney's Office

FILED
JUN 17 1993
CLERK CIRCUIT COURT
BY D.C.

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

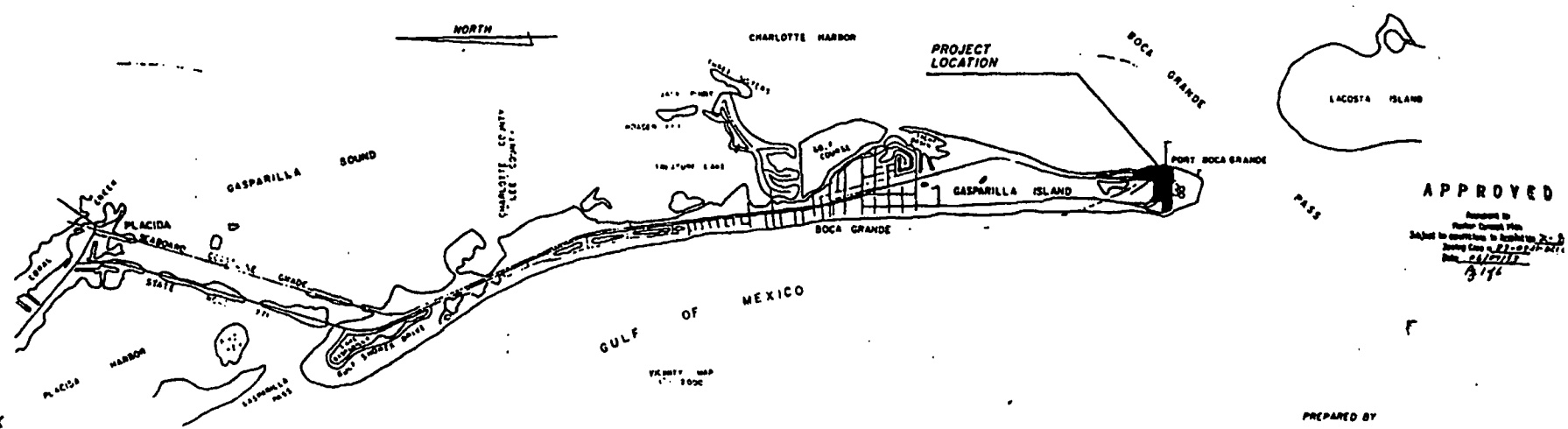
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

Revisions to Master Concept Plan
Subject to conditions in Resolution Z-__-__
Zoning Case # 91-09-__.__PUD
Date 8/19/92
8/96

INDEX

1	COVER SHEET	
2	OVERALL BOCA BAY SITE MAP	
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)	
4	DETAILS & NOTES	
5	TYPICAL UNIT LAYOUTS & DETAILS	
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION	

UTILITIES:

WATER and SEWER
GASPARILLA ISLAND WATER ASSOC INC
PO BOX 326
BOCA GRANDE, FLA 33921

ELECTRIC
FLORIDA POWER and LIGHT CO
PO BOX 4236
VENICE, FLA 33595

TELEPHONE
UNITED TELEPHONE COMPANY of FLORIDA
101 FIRST AVENUE
PUNTA GORDA, FLA

FIRE PROTECTION
BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 26, 1993

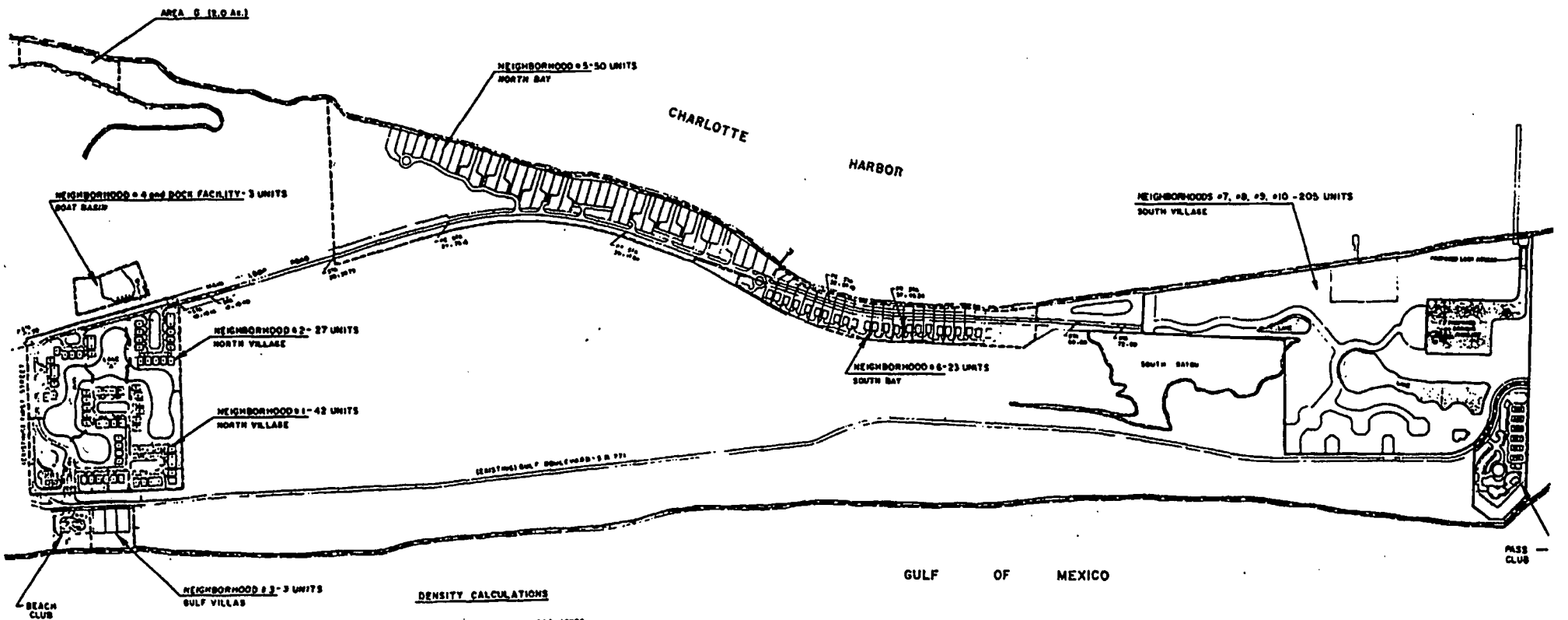
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

RECEIVED
MAY 27 1



DENSITY CALCULATIONS

A.	NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA G	24.3 ACRES 59 UNITS	
B.	NEIGHBORHOOD #3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES 3 UNITS	
C.	NEIGHBORHOOD #4 (BOAT BASIN) AND DOCKS	2.0 ACRES 3 UNITS	
D.	NEIGHBORHOOD #5 (NORTH VILLAGE)	34.4 ACRES 50 UNITS	
E.	NEIGHBORHOOD #6 (SOUTH BAY)	9.2 ACRES 23 UNITS	
F.	NEIGHBORHOOD #7,8,9,10 (SOUTH VILLAGE) AND PASS CLUB	56.73 ACRES 205 UNITS	
	TOTAL AC. (PREVIOUSLY APP'D. PLAN) TOTAL UNITS (PREVIOUSLY APP'D. PLAN)	127.1 ACRES 306 UNITS	
	TOTAL AC. (PROPOSED PLAN) TOTAL UNITS (PROPOSED PLAN)	129.46 ACRES 303 UNITS	

REVISED 5/20/93 - ACREAGE

REVISED 5/26/93 - DENSITY CALCS.

REVISED 5/27/93

REVISED 6/28/93 UTILITY
BOCA BAY DRIVE

APPROVED

According to
Master Concept Plan
Subject to conditions as recorded in 3-92
Zoning Case #11-92A-0611
Date 6/25/93

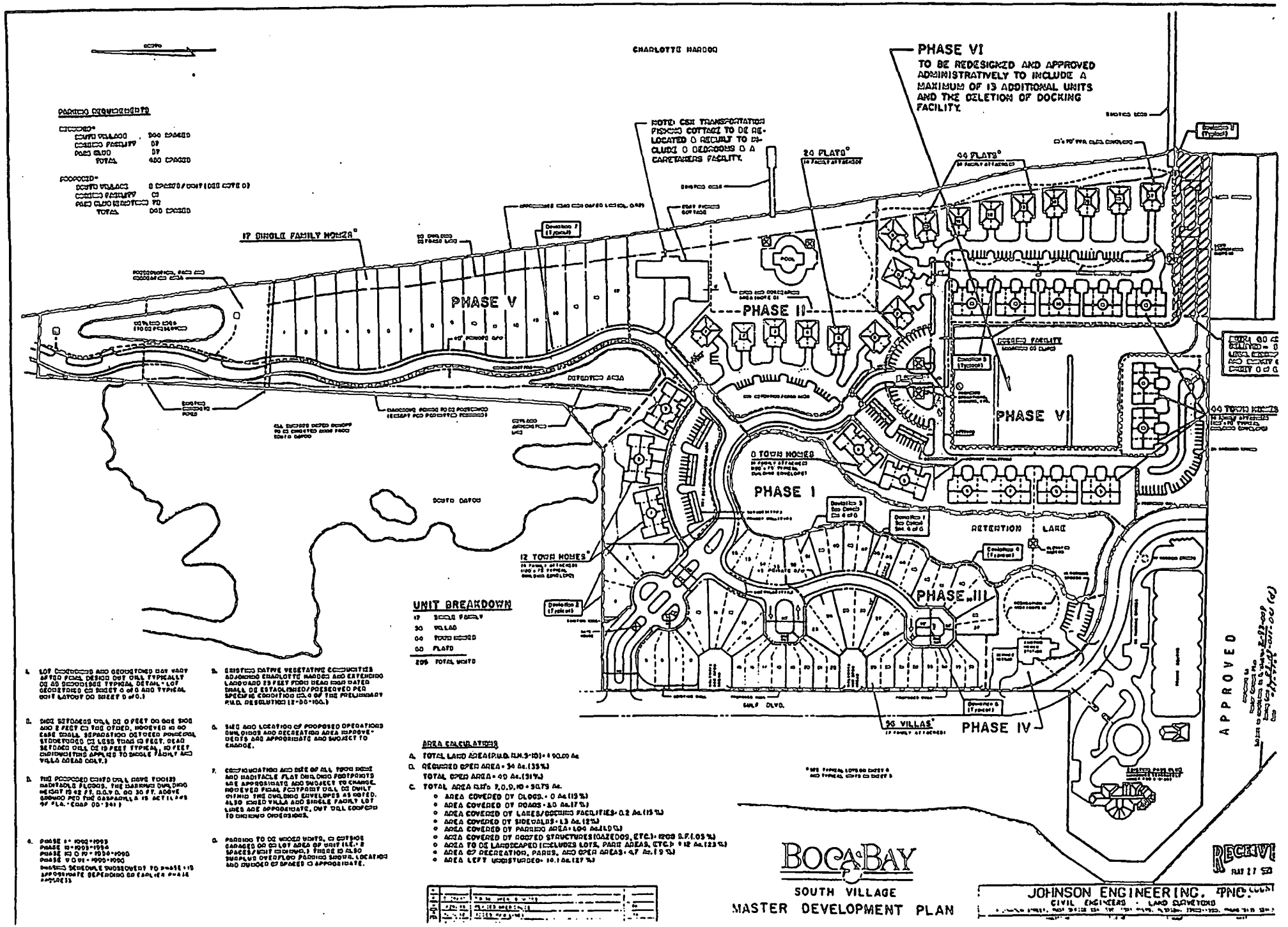
BOCA BAY

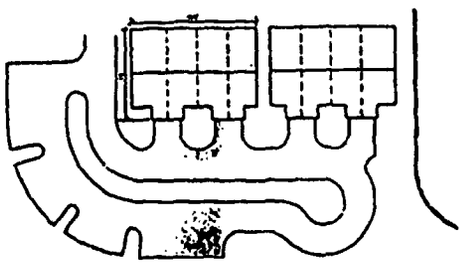
INDEX MAP
and
NEIGHBORHOOD LAYOUT

RECEIVED
MAY 27 '93
ZONING COUN

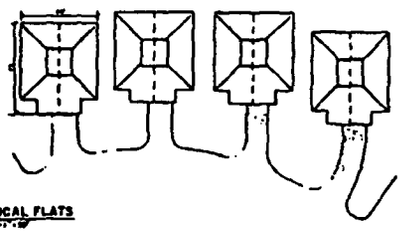
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

DATE OCTOBER, 1990	PROJECT NO. 16332	FILE NO. 33.25-01-20	SCALE 1" = 200'	SHEET 1 OF 1

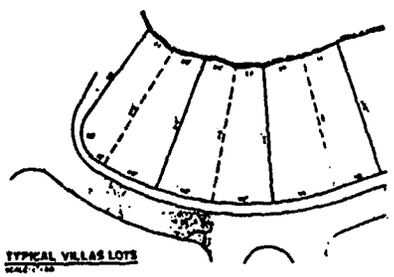

CHARLOTTE HARBOR
PHASE VI
TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY TO INCLUDE A MAXIMUM OF 13 ADDITIONAL UNITS AND THE DELETION OF DOCKING FACILITY.
NOTE: CSX TRANSPORTATION PERMITS COTTAGE TO BE RELOCATED OR RECURLY TO INCLUDE OR DEDICATE OR A CARETAKERS FACILITY.
17 SINGLE FAMILY HOMES
PHASE V
PHASE II
PHASE VI
PHASE I
PHASE III
PHASE IV
RETENTION LAKE
12 TOWN HOMES
96 VILLAS
UNIT BREAKDOWN
APPROVED
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS · LAND SURVEYORS



TYPICAL TOWN HOMES



TYPICAL FLATS



TYPICAL VILLAS LOTS

SCHEDULE OF DEVIATIONS

1. DEVIATION FROM THE REQUIRED STREET SETBACK FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY WIDTH OF 20 FEET (ZONING ORDINANCE SECTION 207.10.D.P.a.), TO 1/2 RIGHT-OF-WAY PLUS 10 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE ON THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID BUILDING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 5 FEET;

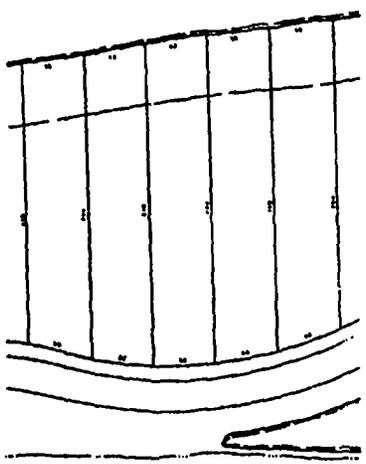
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE BUILDINGS OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 10 FEET AS MEASURED FROM THE BUILDING WALLS;

4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 75 FEET (ZONING ORDINANCE SECTION 207.10.D.6.a.2.), TO 15 FEET FROM THE REVIEWING LAKE EDGE;

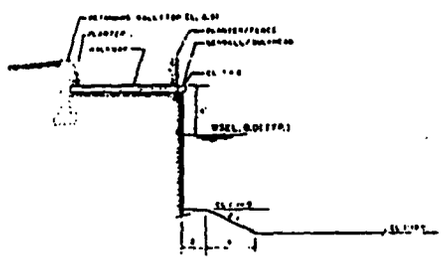
5. DEVIATION FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE GEOMETRIC AND PAVEMENT REQUIREMENTS FOR PUBLIC LOCAL ACCESS AND ALLEYS (FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 20 FEET (ZONING ORDINANCE SECTION 207.10.F.1. AND DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.11.), TO 20 FEET;

6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE DIAMETER OF PAVEMENT OF A CUL-DE-SAC BE 90 FEET AND 70 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET DIAMETER (PLUS 20 FEET FOR OPEN SWALE DRAINAGE) (DEVELOPMENT STANDARDS ORDINANCE SECTION 9.F.11.), TO ALLOW DIMENSIONS AS SHOWN ON THE PUD PLAN; AND

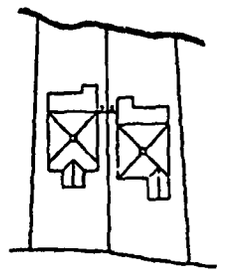
7. DEVIATION FROM THE REQUIREMENT THAT THE 10-FOOT-WIDE UTILITY EASEMENTS SHALL BE PROVIDED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENT (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.E.1.), TO REQUIRE A 5-FOOT-WIDE (MINIMUM) UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.



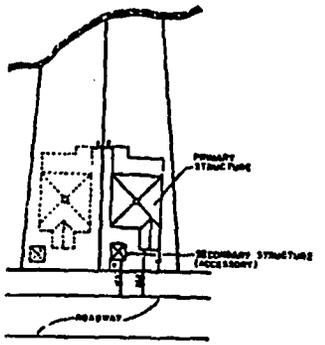
TYPICAL SINGLE FAMILY LOTS



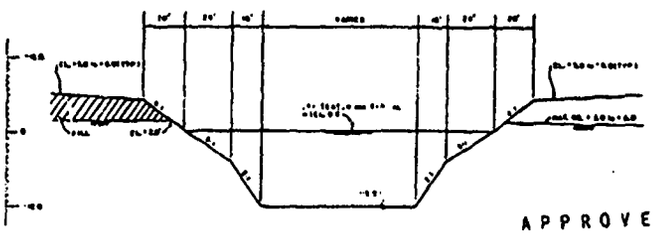
TYPICAL SECTION - DOCKING FACILITY



DEVIATION 3 - Typical Detail



DEVIATION 1 - Typical Detail



TYPICAL LAKE SECTION

APPROVED

BOCA BAY

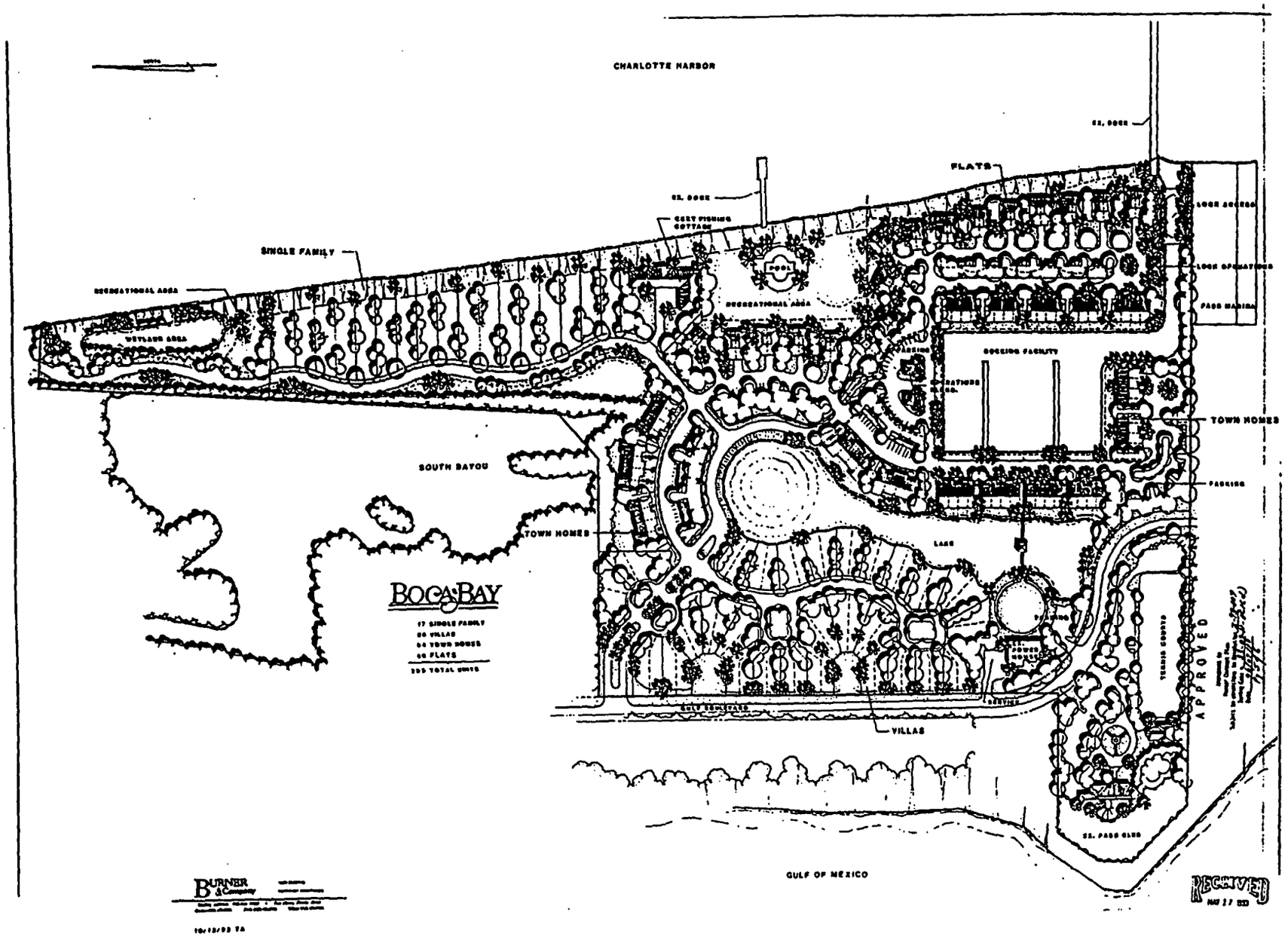
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MAY 17 1993
COUNTER

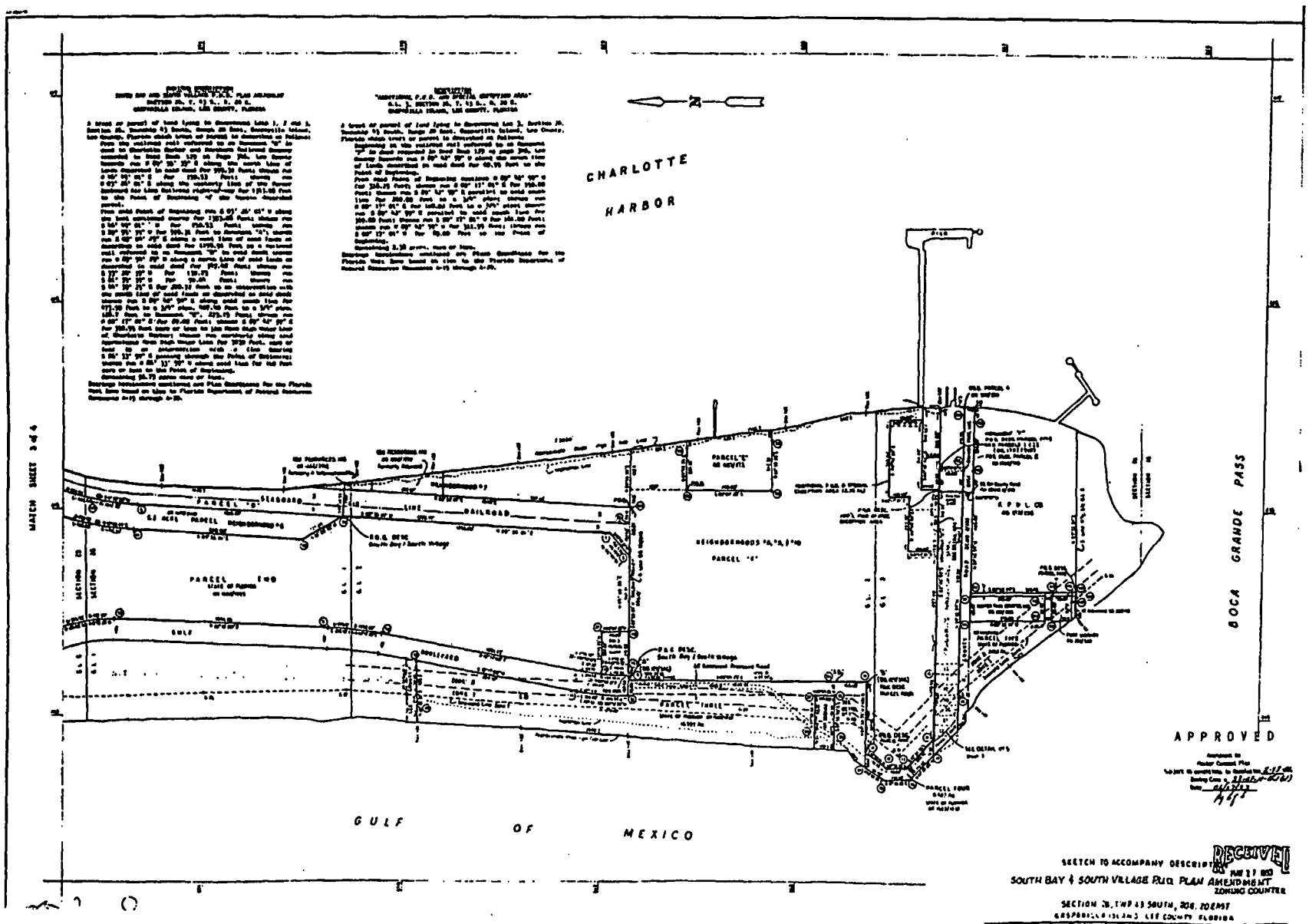
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

DETAILS AND SCHEDULE OF DEVIATIONS
FOR REVISE LOTS

AS SHOWN

4 OF 4


CHARLOTTE HARBOR
FLATS
SINGLE FAMILY
RECREATIONAL AREA
WETLAND AREA
SOUTH BAYOU
TOWN HOMES
BOCA BAY
17 SINGLE FAMILY
80 VILLAS
84 TOWN HOMES
48 FLATS
229 TOTAL UNITS
POOL
RECREATIONAL AREA
PARKING
BOATHOUSE
BOATING FACILITY
TOWN HOMES
PARKING
LAKE
VILLAS
GULF BOULEVARD
TENNIS COURTS
ST. PASS CLUB
GULF OF MEXICO
APPROVED
BURNER & Company
RECEIVED



SKETCH TO ACCOMPANY DESCRIPTION

SOUTH BAY & SOUTH VILLAGE P.U.D. PLAN AMENDMENT

SECTION 35, TWP 43 SOUTH, RGE. 20 EAST

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

RECEIVED
MAR 27 1990
ZONING COUNTER

ENGINEERING INC.

Acco

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

As to the Special Exception for Residential Use in the PORT District:

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Loesmer
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert 10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

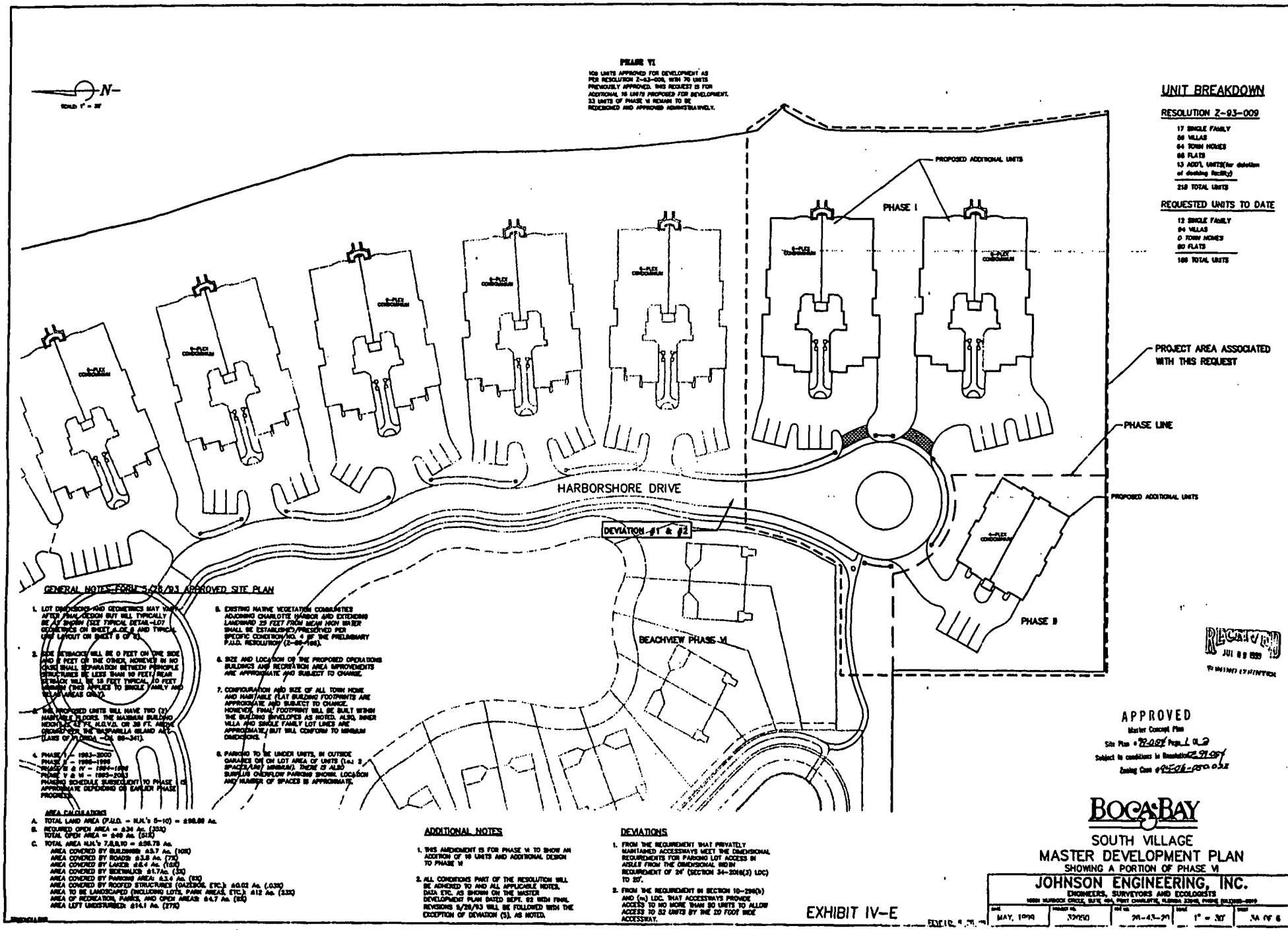
From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾ " pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.



GENERAL NOTES: FORM 5.08/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET A OF 6 AND TYPICAL LOT LAYOUT ON SHEET B OF 6).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 8 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLA AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT WILL BE 45 FT. N.G.V.D. OR 35 FT. ABOVE CROWN OF THE BARRIERA ISLAND ACT (LAWS OF FLORIDA - CH. 88-347).
4. PHASE I - 1993-2000
PHASE II - 1996-1998
PHASES III & IV - 1994-1999
PHASE V & VI - 1993-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE II APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-188).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - N.H.'s 5-10) = ±98.88 Ac.
B. REQUIRED OPEN AREA = ±30 Ac. (30%)
TOTAL OPEN AREA = ±40 Ac. (40%)
C. TOTAL AREA N.H.'s 7,8,9,10 = ±98.78 Ac.
AREA COVERED BY BUILDINGS: ±5.7 Ac. (10%)
AREA COVERED BY ROADS: ±3.8 Ac. (7%)
AREA COVERED BY LANES: ±8.4 Ac. (10%)
AREA COVERED BY SIDEWALKS: ±1.7Ac. (3%)
AREA COVERED BY PARKING AREA: ±3.4 Ac. (6%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.): ±0.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.): ±12 Ac. (23%)
AREA OF RECREATION, PARKS, AND OPEN AREAS: ±4.7 Ac. (8%)
AREA LEFT UNDISTURBED: ±14.1 Ac. (27%)

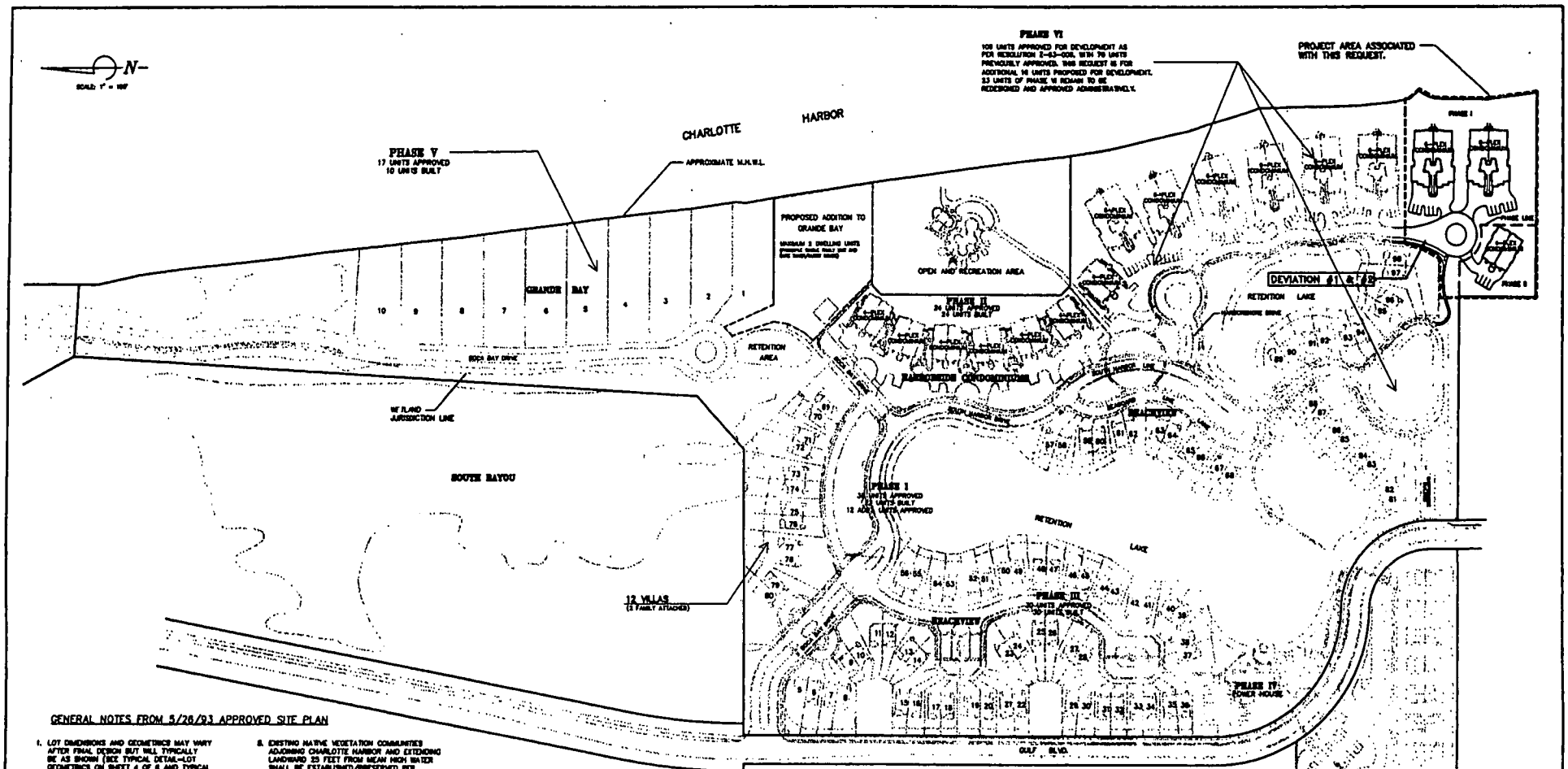
ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 19 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 5/28/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (5), AS NOTED.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO 32 UNITS BY THE 20 FOOT WIDE ACCESSWAY.

EXHIBIT IV-E



GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 4 OF 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 6).

2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 2 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 10 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).

3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. N.G.V.D. OR 38 FT. ABOVE CROWN PER THE GASPARILLA ISLAND ACT (LAWS OF FLORIDA -CH. 88-341).

4. PHASE I - 1993-2000
PHASE II - 1993-1998
PHASE III & IV - 1994-1998
PHASE V & VI - 1995-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.

5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-88-168).

6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.

7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.

8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - H.H.'s 8-10) = ±98.89 Ac.
B. REQUIRED OPEN AREA = ±34 Ac. (35%)
TOTAL OPEN AREA = ±40 Ac. (41%)
C. TOTAL AREA H.H.'s 7,8,9,10 = ±86.75 Ac.
AREA COVERED BY BUILDINGS: ±8.7 Ac. (10%)
AREA COVERED BY ROADS: ±3.8 Ac. (7%)
AREA COVERED BY LAKES: ±6.4 Ac. (7.5%)
AREA COVERED BY SIDEWALKS: ±1.7Ac. (3%)
AREA COVERED BY PARKING AREA: ±3.6 Ac. (6%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.): ±0.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.): ±12 Ac. (33%)
AREA OF RECREATION, PARKS, AND OPEN AREAS: ±4.7 Ac. (6%)
AREA LEFT UNDISTURBED: ±14.1 Ac. (27%)

APPROVED
Master Concept Plan
Site Plan # 77-057 Phase 2 OL2
Subject to conditions of Resolution Z-93-009
Zoning Case # 95-06-090.02Z

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
56 VILLAS	94 VILLAS
64 TOWN HOMES	0 TOWN HOMES
68 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of docking facility)	186 TOTAL UNITS
218 TOTAL UNITS	

8-3-99 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-99-042 CASE #99-08-182.13A 08.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 18 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 6/28/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (5), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2018(3) LDC) TO 22'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 82 UNITS BY THE 20 FOOT WIDE ACCESSWAY.

EXHIBIT IV-E

REVISED 8-3-99
REVISED 12-22-98
REVISED 11-30-98
REVISED 11-13-98
REVISED 10-6-98
REVISED 7-13-98
REVISED 6-15-98
REVISED 12-12-97
REVISED 7-1-97
REVISED 7-3-93

PROJECT # 95-06-090.02
PROJECT TYPE 18

RECEIVED
AUG 04 1999
ZONING COUNTER

BOCA BAY

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
4901 MURDOCK CIRCLE, SUITE 104, PORT CHARLOTTE, FLORIDA 33948, PHONE (941)625-2010

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
SEPT., 1992	32050	26-43-20	1" = 100'	3 OF 6

ZONING MAP

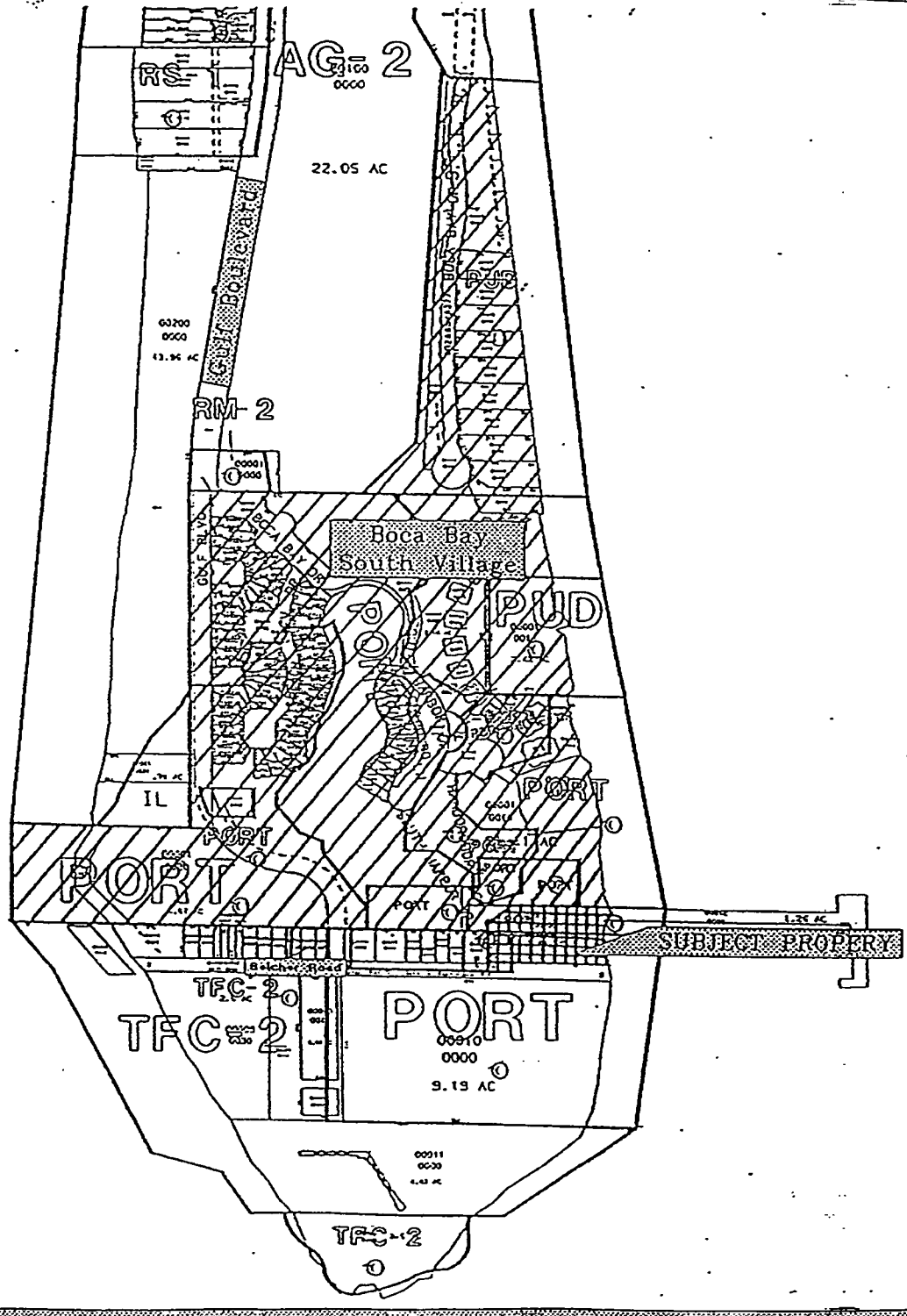


EXHIBIT C

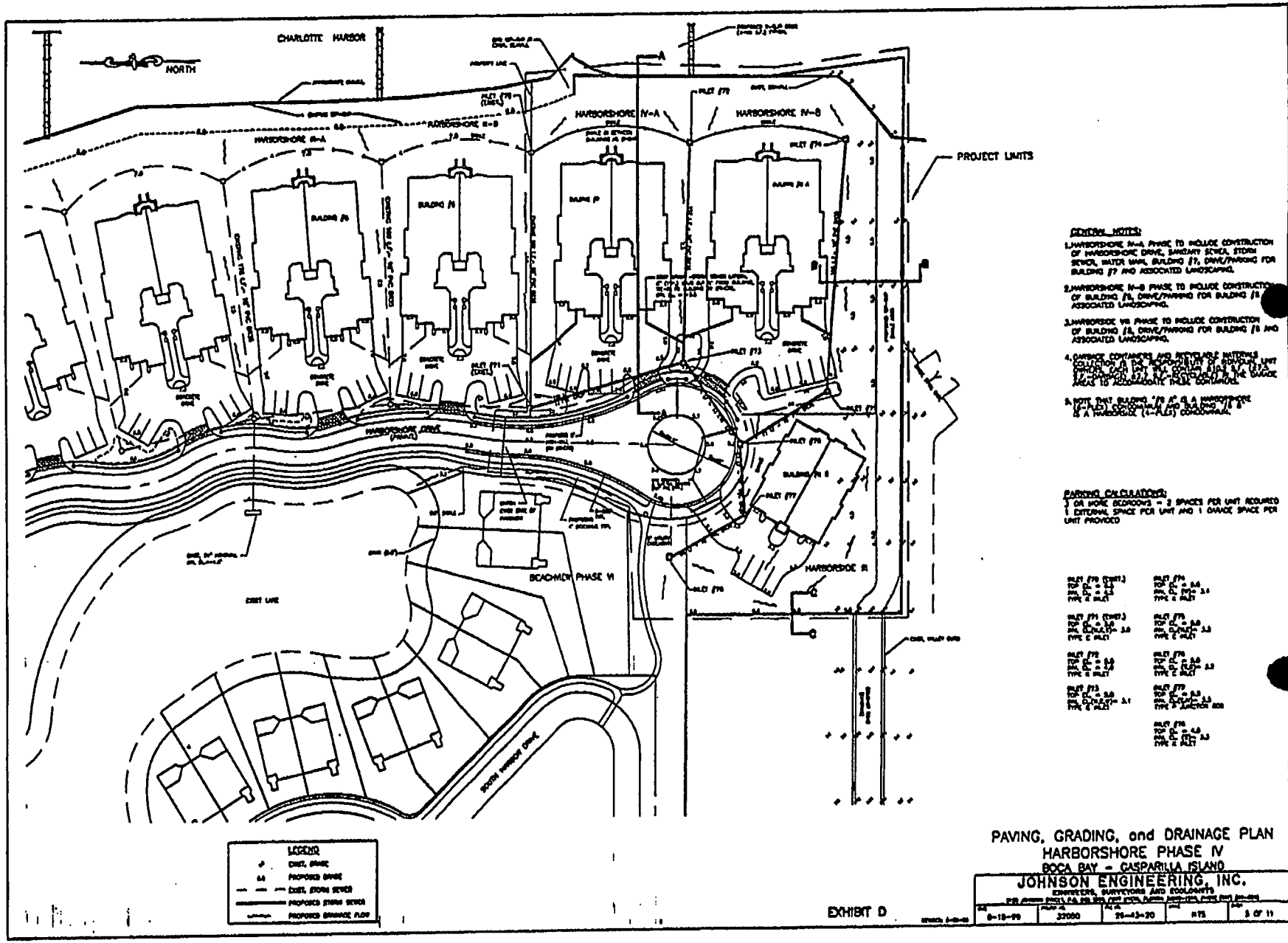
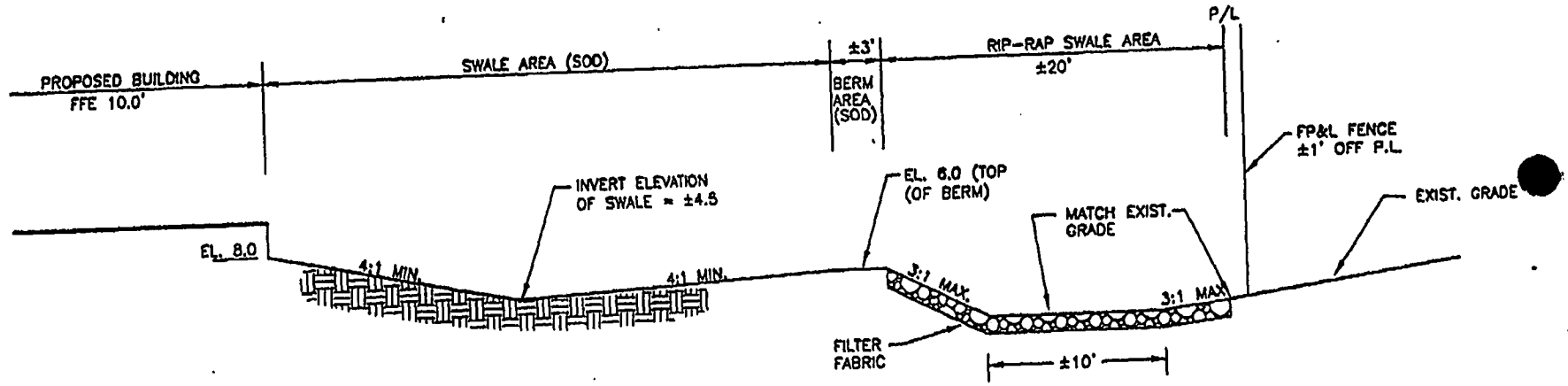

CHARLOTTE HARBOR
NORTH
HARBORSHORE IV-A
HARBORSHORE IV-B
PROJECT LIMITS
BUILDING I5
BUILDING I6
BUILDING I7
BUILDING I8
HARBORSHORE DRIVE
BEACHVIEW PHASE VI
HARBORSIDE III
SOUTH HARBOR DRIVE
LEGEND
EXIST. GRADE
PROPOSED GRADE
EXIST. STORM SEWER
PROPOSED STORM SEWER
PROPOSED DRAINAGE FLOW
GENERAL NOTES:
1.HARBORSHORE IV-A PHASE TO INCLUDE CONSTRUCTION OF HARBORSHORE DRIVE, SANITARY SEWER, STORM SEWER, WATER MAIN, BUILDING I7, DRIVE/PARKING FOR BUILDING I7 AND ASSOCIATED LANDSCAPING.
2.HARBORSHORE IV-B PHASE TO INCLUDE CONSTRUCTION OF BUILDING I8, DRIVE/PARKING FOR BUILDING I8 ASSOCIATED LANDSCAPING.
3.HARBORSIDE VII PHASE TO INCLUDE CONSTRUCTION OF BUILDING I5, DRIVE/PARKING FOR BUILDING I5 AND ASSOCIATED LANDSCAPING.
4.DUMPSTER CONTAINERS AND RECYCLABLE MATERIALS COLLECTION AREA RESPONSIBILITY OF EVERYONE UNIT OWNER/USER WITHIN THE PROJECT. THE DUMPSTER AREA IS LOCATED ON THE SOUTH SIDE OF BUILDING I5 APPROXIMATELY THERE CONTAINERS.
5.NOTE THAT BUILDING I7 IS A HARBORSHORE (I-A,B) CONDOMINIUM AND BUILDING I8 IS A HARBORSIDE (I-A,B) CONDOMINIUM.
PARKING CALCULATIONS:
1 OR MORE BEDROOMS = 2 SPACES PER UNIT REQUIRED
1 EXTERNAL SPACE PER UNIT AND 1 GARAGE SPACE PER UNIT PROVIDED
EXHIBIT D
PAVING, GRADING, and DRAINAGE PLAN
HARBORSHORE PHASE IV
BOCA BAY - GASPARILLA ISLAND
JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
8-13-99
32000
29-43-20
N/A
5 OF 11

EXHIBIT D



SECTION B-B

N.T.S.

EXHIBIT D

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4203 Direct
941.337.3850 Main
941.337.0970 Fax
snoble@ralaw.com

October 9, 2000

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: CSX Application for Comprehensive Plan Amendment
Case No. CPA2000-00002

Dear Mr. Noble:

Pursuant to your telephone conversation with Attorney Robert Pritt, enclosed please find two copies of the Application for Comprehensive Plan Amendment, which was previously filed with your office on September 28, 2000. It is our understanding that the filing of this new form will be retroactive back to the original filing date.

If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,

Sandra E. Noble, CLA
Certified Legal Assistant

SEN/umr
Enclosure

RECEIVED
OCT 09 2000
PERMIT COUNTER

FILE COPY

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate **Roetzel & Andress, a legal professional association,** as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced _____ as identification.~~

Harriett K. Mochel
Signature of Notary Public

(SEAL)

77032_1

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

LEE COUNTY
SOUTHWEST FLORIDA

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D.:_____ REC'D BY:_____

APPLICATION FEE:_____ TIDEMARK NO:_____

THE FOLLOWING VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal: ☐ Small Scale: ☐ DRI ☐ Emergency: ☐

Request No.:_____

APPLICANT PLEASE NOTE:
Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

Robert D Pritt

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
APPLICANT

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association
AGENT

2320 FIRST STREET, SUITE 1000
ADDRESS

FORT MYERS	FLORIDA	33901
CITY	STATE	ZIP

(941) 337-3850 (941) 337-0970
TELEPHONE NUMBER FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
OWNER(s) OF RECORD

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application. (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☐ Text Amendment ☐ Future Land Use Map Series Amendment (Maps 1 thru 19)
List Number(s) of Map(s) to be amended
X Map 12 (South Boca Grande)

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary of Request - Exhibit "A"

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc., 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE / Boca Bay Master Association

B. Property Information:

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay / ± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit "B")

Area of each Existing Future Land Use Category:

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: _____

D. Proposed change for the Subject Property: No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property zoned Port that could permit industrial and commercial uses

   Industrial intensity _____

2. Calculation of maximum allowable development under proposed FLUM:

   Residential Units/Density: No Change

   Commercial intensity Property text change would preclude industrial and commercial uses

   Industrial intensity: _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.

2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.

4. Map and describe existing zoning of the subject property and surrounding properties.

5. The legal description(s) for the property subject to the requested change.

6. A copy of the deed(s) for the property subject to the requested change.

7. An aerial map showing the subject property and surrounding properties.

8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

   The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range - 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether

network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;

d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range - 5-year CIP horizon:

a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
   Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for: **N/A**
   a. Sanitary Sewer
   b. Potable Water
   c. Surface Water/Drainage Basins
   d. Parks, Recreation, and Open Space.

   Analysis should include (but is not limited to) the following:
   - Franchise Area, Basin, or District in which the property is located;
   - Current LOS, and LOS standard of facilities serving the site;
   - Projected 2020 LOS under existing designation;
   - Projected 2020 LOS under proposed designation;

- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;
   b. Emergency medical service (EMS) provisions;
   c. Law enforcement;
   c. Solid Waste;
   d. Mass Transit; and
   e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).

2. A map and description of the soils found on the property (identify the source of the information).

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources **N/A**

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed

change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.

2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **(See Exhibit "A" attached)**

F. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
   b. Provide data and analysis required by Policy 2.4.4,
   c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.

2. Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon

pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	$500.00 each
Map Amendment > 20 Acres	$500.00 and $20.00 per 10 acres up to a maximum of $2,255.00
Text Amendment Flat Fee	$1,250.00 each

AFFIDAVIT

I, ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Robert D. Pritt

Signature of owner or owner-authorized agent Date

ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association
Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 9th day of October, 2000, by ~~ROBERT D. PRITT~~, on behalf of Roetzel & Andress, A Legal Professional Association, who is personally known to me or who has produced _____ _____ (type of ID) as identification.

(SEAL)

Sandra E. Noble
Commission # CC 928983
Expires April 17, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Signature of notary public

SANDRA E. NOBLE
Printed name of notary public

77496_1

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

EXHIBIT "B"

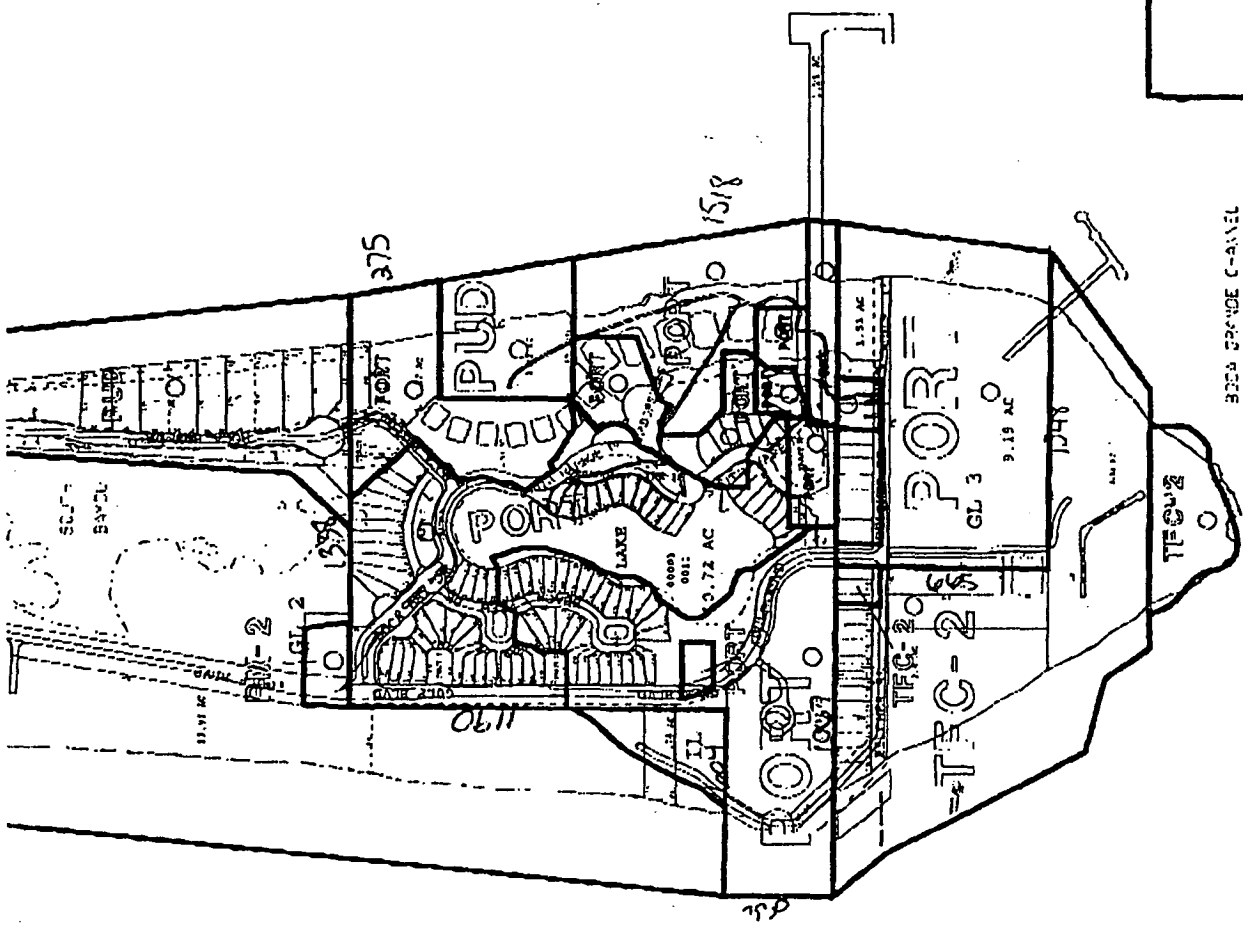
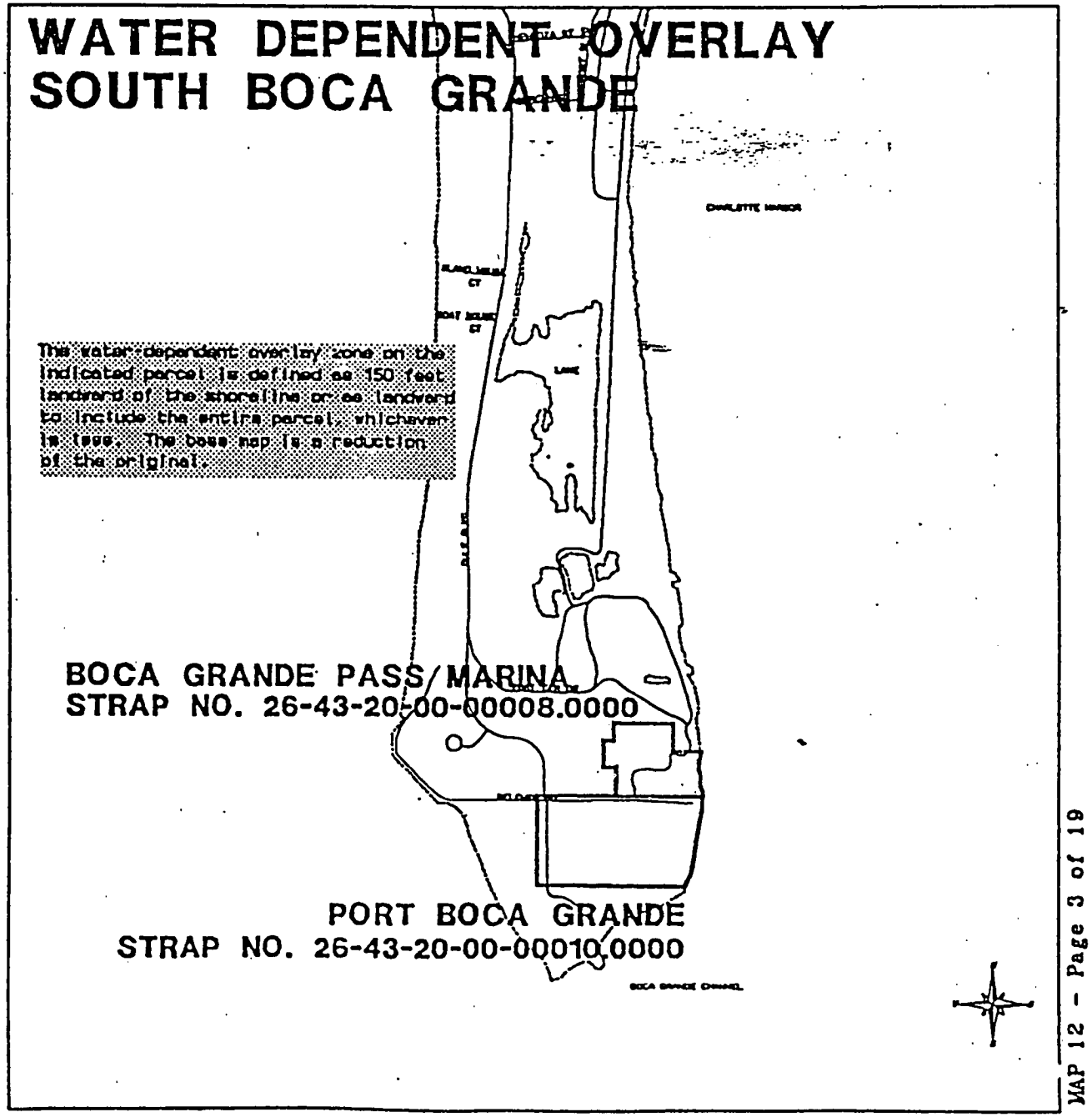

PUD
POND
LAKE
3.72 AC
GL 2
GL 3
9.19 AC
TFC-2
TFC-2
TFC-2
1190
1548
1518
375

EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

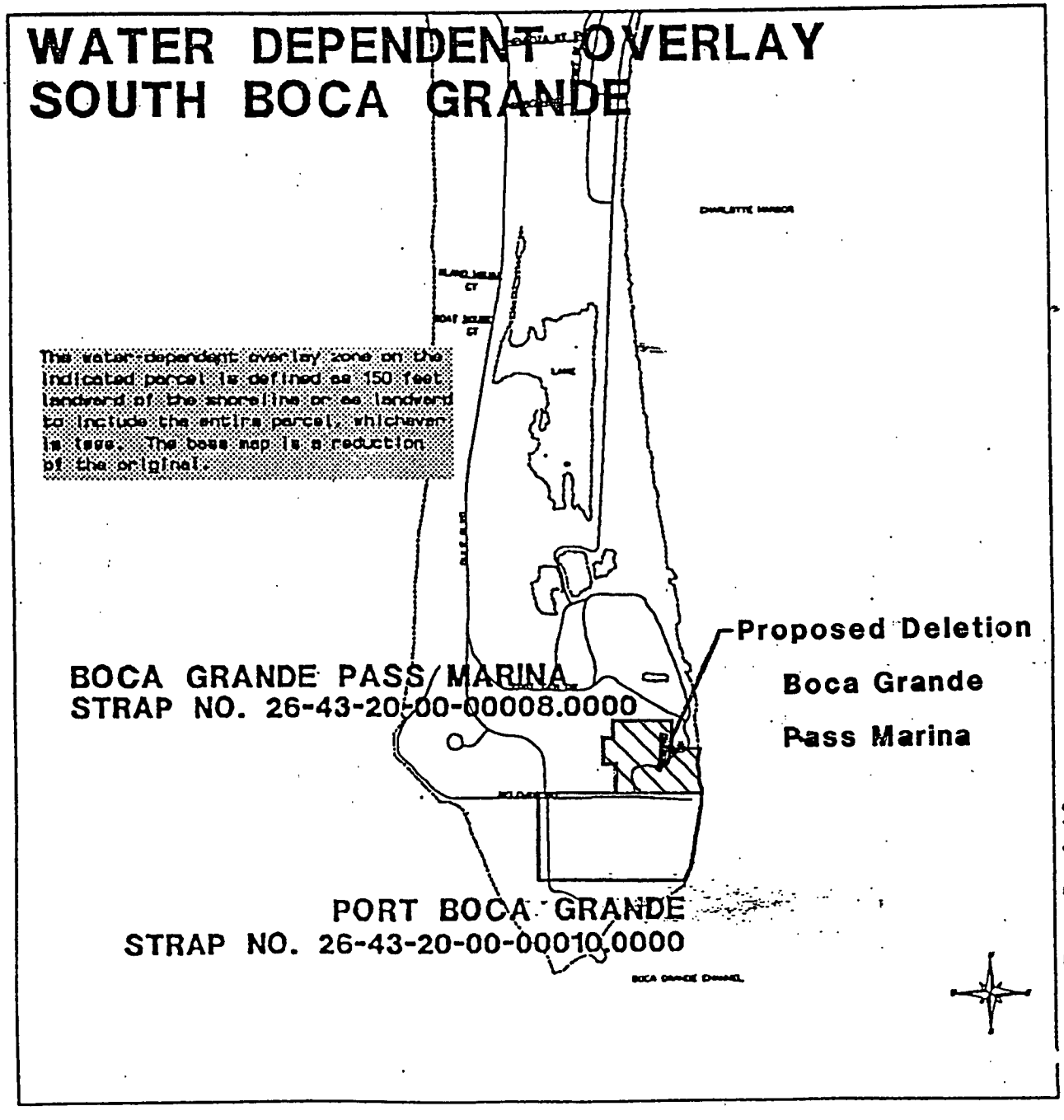
WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



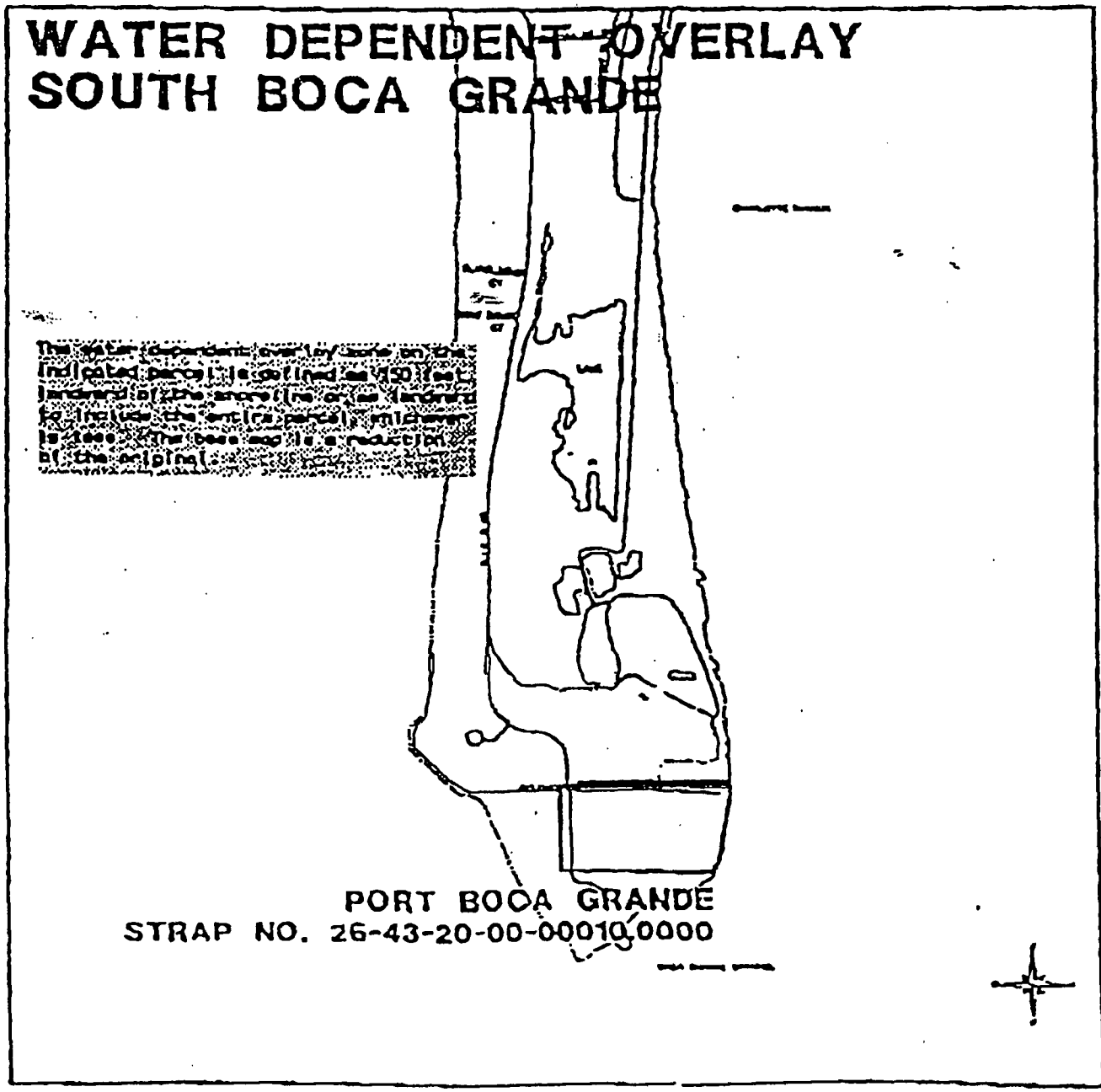
MAP 12 – Page 3 of 19

CURRENT

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



MAP 12 - Page 3 of 19

PROPOSED OVERLAY

CPA 2000-02
PRIVATELY INITIATED AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

January 10, 2002

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-02

✓ **Text Amendment** ✓ **Map Amendment**

✓	**This document contains the following reviews:**
✓	**Staff Review**
✓	**Local Planning Agency Review and Recommendation**
✓	**Board of County Commissioners Hearing for Transmittal**
✓	**Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report**
✓	**Board Of County Commissioners Hearing for Adoption**

STAFF REPORT PREPARATION DATE: May 21, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

THE BOCA BAY MASTER ASSOCIATION
REPRESENTED BY BEVERLY GRADY, ESQ.
ROETZEL & ANDRESS

2. REQUEST:

To amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

Amend Goal 15 of the Lee Plan by adding the following Objective and Policy:

Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054 such as a tennis club with food service and Consumption On Premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. REVISED RECOMMENDATION:

Planning staff originally recommended adoption of the applicant's request as stated. However, DCA staff has objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. To date, Planning staff has not received a response from the applicant. Therefore, planning staff recommends that the Board of County Commissioners amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting proposed Objective 15.5 and Policy 15.5.1.

2. ORIGINAL RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this plan amendment.

3. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Zoning resolution ZAB-83-352 granted preliminary Planned Unit Development (PUD) approval and a special exception in the PORT district for residential uses. Resolution Z-86-166 granted final approval to both of these measures in 1987. This development was further amended by Resolution Z-93-009 in 1993.

- The Boca Grande Pass Marina use no longer exists. The subject site was approved for conversion from water dependent uses to non-water dependent uses by resolution Z-99-054. This resolution approved the demolition of Boca Grande Pass marina and the subsequent development of 16 multifamily residential units on the site.

- The site has been cleared and as such there are no indigenous plant communities to disturb.

- There are no sites of historic or archeological importance impacted by the proposed change to the Lee Plan.

- The proposed amendment limits the potential traffic generation of the subject site.

- The proposed amendment limits utilities demands of the subject site.

- The proposed amendment limits development intensity of the subject site.

C. BACKGROUND INFORMATION

Boca Bay is a residential community on the south end of Gasparilla Island. In 1981, the Board of Commissioners approved resolution Z-81-258, which rezoned large portions of the Boca Grande area to the PORT district. The owners of the Boca Bay project appealed unsuccessfully and initiated litigation against the County. This legal action was dropped in 1984 when the County approved resolution ZAB-83-352. This granted a change from AG-2 zoning district to preliminary Planned Unit Development (PUD) approval and created a special exception in the PORT district for residential uses. Approximately 97 acres were affected by this approval. The northern parts

of the Boca Bay development, Neighborhoods 1 through 4, were still zoned RM-2 and were not affected by ZAB 83-352 or subsequent resolutions concerning the PUD.

In 1987 final PUD and special exception approval was granted by resolution Z–86-166. 291 units were approved at a density of 3 units per acre to be distributed between three areas. Also permitted were a tennis club with food and beverage service and consumption on premises of alcoholic beverages, model homes in each neighborhood, a sales office, a guard house with gates, and appurtenant signs. At the same time, the portions of Boca Bay outside the PUD were approved for 77 residential units, 19 wet slip docks in the yacht basin, a beach club, guardhouses, Model homes, and a consumption on premises use by resolutions Z -86-170 and Z -86-171. These units were part of the approved total of 291.

In 1988, the board approved Z-88-151, which created a conservation easement and approved variations in neighborhood #5 in the PUD.

The Water Dependent Overlays were created in 1989 to protect marine-oriented land uses from incompatible or preemptive land uses. The Lee Plan was amended to include two WDOs on the southern end of Gasparilla Island (Attachment 1). The southernmost one is within the parcel owned by Florida Power and Light and consists of a fuel oil storage and transfer facility. The northern one was originally the Boca Grande Pass Marina and abutted the northern edge of the FPL facility. This latter WDO is the subject of this amendment.

In 1993 the PUD was further amended by Resolution Z-93-009. This specifically prohibited an 85-unit wet slip marina and allowed the development of 13 residential units in its place. These units were also part of the approved total of 291.

In 1999, resolution Z-99-054 approved the conversion of a water-dependent use to a non-water-dependent use for the Boca Grande Pass Marina and approved 16 multifamily units on that site. The 16 units had to be taken from the 304 that were already approved for the PUD. Subsequently, the marina was demolished, removing the two dry-storage buildings. The residential units are under construction as of the writing of this report. On March 6, 2001, administrative approval was granted to substitute 2 single family residential units in lieu of 1 four-plex building.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In a resubmittal dated January 24, 2001, (attachment 3) the applicant provides the following comments:

> *"The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for 'Water Dependent Overlay South Boca Grande' a portion of land which is already been*

determined by the Board of County Commissioners to be appropriate for residential use-non water-dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA 2000-02. The Board of County Commissioners granted:

1. *An amendment to the planned unit development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and*

2. *A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and*

3. *Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone."*

The Boca Bay community is a residential area. The 1984 special exception for residential uses created a de facto residential zoning. The proposed amendment does not change any existing land uses and insures that future land uses will be consistent with existing approvals. Likewise, the conversion to residential use created by resolution Z-99-054 removed all water dependent uses from the portion of the WDO zone lying north of Belcher Road. This has rendered the WDO designation for this parcel unnecessary. The proposed Lee Plan amendment would remove the Boca Grande Pass Marina WDO zone from Map 12 (Attachment 2).

Transportation

The proposed amendment does not create any additional residential units or other uses. The proposed amendment allows only those uses approved by previous resolutions. As such, it precludes more intense uses and the resulting increase in trip generation.

Emergency Services

As this proposed amendment does not create additional infrastructure or residences, it does not increase the demand on EMS or fire protection services. In fact, the proposal limits demand as it precludes more intense uses from the subject area.

Hurricane Evacuation
Since the proposed amendment limits trip generation, it has no effect on hurricane evacuation time.

Utilities
The proposed amendment does not create any additional demand on either water or sewer facilities. In addition, the proposal precludes the more intense uses of the PORT designation from being developed and creating greater demands on utility services.

Environmental Concerns
The proposed change would not destroy or disturb any fragile or preserved plant communities in the WDO zone as the affected area had been previously disturbed when it was the Boca Grande Pass Marina. The proposed amendment creates no environmental concerns.

Soils
A summary report of the Boca Bay PUD lists the following soil types on the property: Canaveral fine sand, Captiva fine sand, Wulfert muck, Kesson fine sand, and St. Augustine sand (Attachment 4).

Development Intensity
The proposed amendment limits developmental intensity by precluding those uses in the PORT designation that are more intense than the uses specifically approved by previous resolutions.

Residential Density
The proposed amendment would not change the residential density of the Boca Bay community as previous resolutions have already determined the number of units in the PUD.

Historic Preservation
There are no known historic or archeological sites within the area of the proposed change. The proposed amendment has no effect on any known archeological or historic sites or areas.

Coastal Issues
Previous resolutions have addressed coastal issues for the subject site. As the proposed amendment limits further development to those uses specifically listed by previous resolutions, it creates no new coastal issues.

Population Accommodation
The proposed amendment will not change the population accommodation of the subject property.

B. CONCLUSIONS

The proposed amendment does not create new land uses or change existing ones. It simply ensures that the Boca Bay community is protected from incompatible land uses in the future. In doing so, the proposal will help maintain the local character of the area. This proposal also limits overall development intensity by precluding uses that might result in additional commercial intensity. Furthermore, by removing the marina WDO from the Lee Plan, this proposal clarifies the true intent of the property owner and reflects the reality of the existing, on-site development.

C. STAFF RECOMMENDATION

1. REVISED RECOMMENDATION:

Planning staff originally recommended adoption of the applicant's request as stated. However, DCA staff has objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. To date, Planning staff has not received a response from the applicant. Therefore, planning staff recommends that the Board of County Commissioners amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting proposed Objective 15.5 and Policy 15.5.1.

~~**Objective 15.5:** Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.~~

~~**Policy 15.5.1:** The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054 such as a tennis club with food service and Consumption On Premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.~~

2. ORIGINAL RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this plan amendment.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: June 4, 2001

A. LOCAL PLANNING AGENCY REVIEW

One LPA member asked if there were any uses not contemplated in the amendment that may be needed in this planned development or future rezonings that would be a problem in the future. Staff responded that the applicant had been asked this very question and was satisfied with the language. The previous resolutions on the property outlined the exact uses permitted on the subject property.

Another LPA member asked why this amendment had to be initiated privately instead of by the County. Staff responded that the County would only have initiated the removal of the WDO. Staff also said that there was not much time between the applicant's removal of the water dependent uses through the rezoning request and the initiation of this amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:**
   The LPA recommends that the Board of County Commissioners transmit this amendment to add to the Lee Plan Objective 15.5 that removes the Boca Grande Pass Marina Water Dependent Overlay zone and to add Policy 15.5.1 that limits the uses within the PORT district in the Boca Bay PUD to those approved by resolutions Z-86-166, Z-93-009, and Z-99-054.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:**
   The LPA accepted the findings of fact as advanced by the staff.

C. VOTE

NOEL ANDRESS	AYE
SUSAN BROOKMAN	AYE
BARRY ERNST	AYE
RONALD INGE	AYE
GORDON REIGELMAN	AYE
VIRGINIA SPLITT	AYE
GREG STUART	AYE

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA

C. VOTE:

JOHN ALBION	**AYE**
ANDREW COY	**AYE**
BOB JANES	**AYE**
RAY JUDAH	**AYE**
DOUG ST. CERNY	**AYE**

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: November 21, 2001

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

The Department of Community Affairs has raised objections to proposed amendment CPA 2000-02. The DCA objections are reproduced below:

The proposed policy 15.5.1 defers the identification of the commercial and industrial uses that will locate in the Port District to a separate document outside the comprehensive plan instead of including such guidelines in the plan as required.
Chapter 163.3177(2),(6)(a), (d), (9)(b), and Rule 9j-5.005(2)(a)., & (5); F.A.C.

Recommendation: *Revise the plan to specify the commercial and industrial uses that are allowed in the Port District.*

B. STAFF RESPONSE

Planning staff originally recommended adoption of the applicant's request as stated. However, DCA staff has objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. To date, Planning staff has not received a response from the applicant. Therefore, planning staff recommends that the Board of County Commissioners amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting proposed Objective 15.5 and Policy 15.5.1.

~~**Objective 15.5:** Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.~~

~~**Policy 15.5.1:** The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054 such as a tennis club with food service and Consumption On Premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.~~

PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING: January 10, 2002

A. **BOARD REVIEW:** Both staff and the applicant gave brief presentations. Planning staff originally recommended adoption of the applicant's proposal as stated. However, DCA staff objected to the proposed new language. Planning staff forwarded DCA's objection to the applicant's representative. As of the date of the staff report, planning staff had not received a response from the applicant. Therefore, staff recommended in the report that the Board amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone but not to amend the Lee Plan by adopting Proposed Objective 15.5 and Policy 15.5.1. Subsequent to the delivery of the report, Staff was contacted by both the applicant and DCA staff. DCA staff stated that they would not object to the language proposed by County staff in a December 19 letter to DCA (Attached). Therefore planning staff recommended to the Board to amend Map 12 to delete the Boca Grande Pass Marina from the WDO zone and to amend the Lee Plan by adopting Objective 15.5 and Policy 15.5.1 as worded in the December 19th letter.

B. **BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

1. **BOARD ACTION:** The Board of County Commissioners voted to adopt the proposed plan amendment. This item was approved on the administrative agenda.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. **VOTE:**

JOHN ALBION	**Aye**
ANDREW COY	**Absent**
RAY JUDAH	**Aye**
BOB JANES	**Aye**
DOUG ST. CERNY	**Aye**

479-8312

December 19, 2001

Bernard Piawah
Florida Department of Community Affairs
2555 Shumard Oak Blvd
Tallahassee, FL 32399-2100

RE: Boca Bay Lee Plan Amendment
Amendment number CPA2000-02

Dear Mr. Piawah,
Per your suggestion, here is the revised language for CPA2000-02 in strikeout/underlined format. We've added some examples of the uses listed in the resolutions concerning Boca Bay. These are not all the uses permitted by the resolutions, but rather some of the more commercial ones.

> **Policy 15.5.1:** The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054 such as a tennis club with food service and consumption on premises, pro shop, maintenance and shop facilities, health clubs, day care centers, etc....) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

Lee County Planning staff would appreciate any comments or recommendations you might have. Feel free to call me at (941) 479-8312.

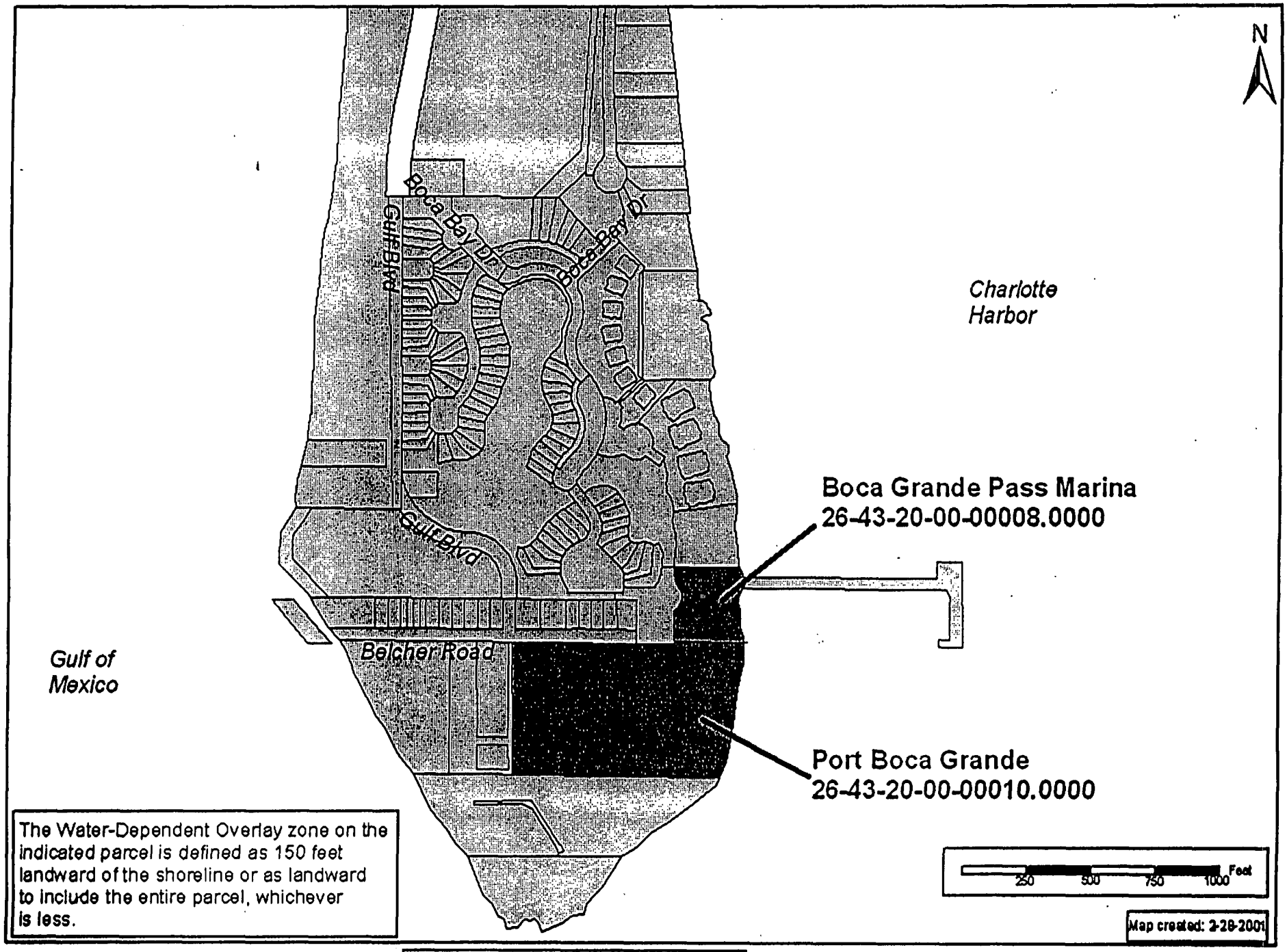
Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Planning Division

Peter Blackwell
Planner

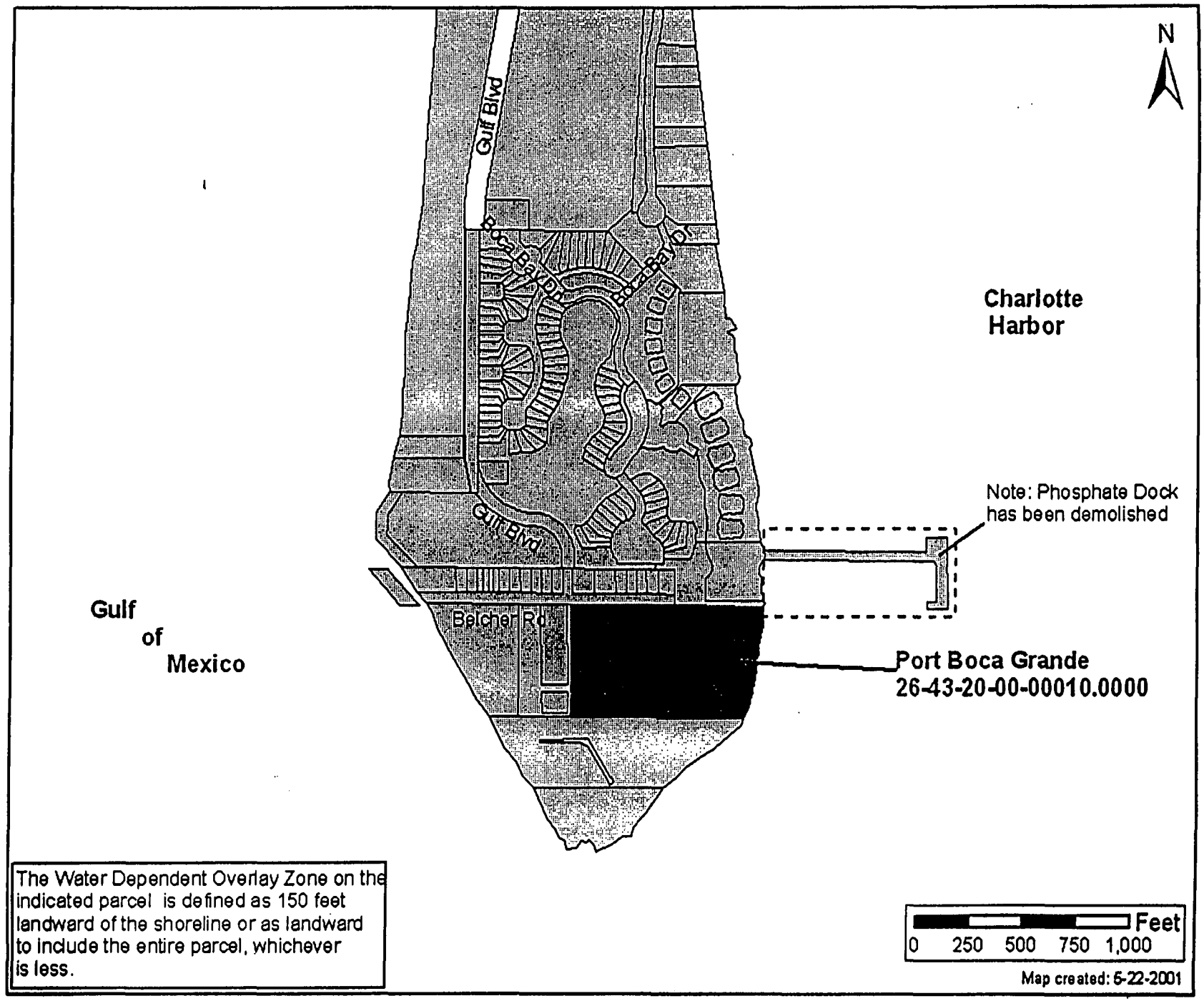
PCB

H:\TEMP\bocaDCA_letter.wpd



The Water-Dependent Overlay zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

Attachment 1 Existing WDO Map



Attachment 2. Proposed WDO map

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4207 Direct
941.337.3850 Main
941.337.0970 Fax
bgrady@ralaw.com

January 24, 2001

Mr. Peter Blackwell, Planner
Lee County
Post Office Box 398
Fort Myers, FL 33902-0398

Re: CPA2000-02 Lee Plan Text and Map Amendment

Dear Mr. Blackwell:

This is in response to your correspondence dated January 17, 2001. The current Lee Plan is misleading. The proposed text and map amendment merely makes the Lee Plan correct and accurately reflect the position of the Board of County Commissioners of Lee County. The current Lee Plan still reflects on Map 12 for "Water Dependent Overlay South Boca Grande" a portion of land which is already been determined by the Board of County Commissioners to be appropriate for residential use - non water dependent uses.

In the same manner as there are special provisions in the Lee Plan for Buckingham, Pine Island and Gasparilla Island, the purpose of this request is to accurately reflect the decisions already made by Lee County.

The LDC current regulations provide for a Port District with intense commercial/industrial permitted uses. A special exception in the Port District which is solely available for the residential community of Boca Bay is residential use.

In Case No. 95-06-050.03Z 01.01 the Board of County Commissioners granted the following relief to the property which is the subject of this comprehensive plan amendment number CPA2000-02. The Board of County Commissioners granted:

1. An amendment to the Planned Unit Development (PUD) portion of Boca Bay to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; and
2. A special exception for residential use in the Port District and an amendment to the Final Plan in the Port District to allow the development of 16 dwelling units and an additional design to Phase VI of South Village in Boca Bay; and

3. Conversion of water dependent uses to non water dependent uses within the Water Dependent Overlay Zone.

To support the requested comprehensive plan amendment and the above statement, please find enclosed the following:

1. Staff report dated August 11, 1999 recommending approval of the above request with
   Exhibit A - Map of surrounding zoning (which illustrates location of subject property)
   Exhibit B - Resolution Z-93-009
   Exhibit C - Applicant's supporting documentation
   Exhibit D - Comments from The School District of Lee County
   Exhibit E - **Comments from Division of Planning and Environmental Sciences**
   Exhibit F - Comments from Emergency Management

Note that this subject property was the location of the former Pass Marina site which provided dry storage facility and marina use. The recommendation on behalf of the Planning Department of Lee County dated July 16, 1999 was to approve the elimination of the existing dry storage facility and marina use and no objection to the proposed amendment of approval of residential use in the Water Dependent Overlay Zone. The marina has been demolished.

2. Hearing Examiner Recommendation of Approval, hearing date August 11, 1999, issuance of Hearing Examiner Report - August 25, 1999.

Note page 3 of the Hearing Examiner's Report which finds as follows:

> The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

Note on page 5 as to conversion of water dependent use to non water dependent use, "the public hearing required by objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing" that was held before the Lee County Hearing Examiner.

4. Resolution Z-99-54 - The Board of County Commissioner approval of the above-referenced request.

We are requesting a revision to the language in our Comprehensive Plan Amendment as follows:

Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

Objective 15.5: - Port Facility The Water Dependent Overlay for South Boca Grande is limited to the Port Facility South of Belcher Road.

Policy 15.5.1 The commercial industrial uses permitted in the Port District (excluding residential, accessory uses and uses approved pursuant to the special exception) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

The most significant reason to approve the text and map to Goal 15 and the Water Dependant Overlay Map 12 is that the amendments are technical only and are designed to clarify and reflect the actual planning and zoning status approved by the Board of County Commissioners in 1999.

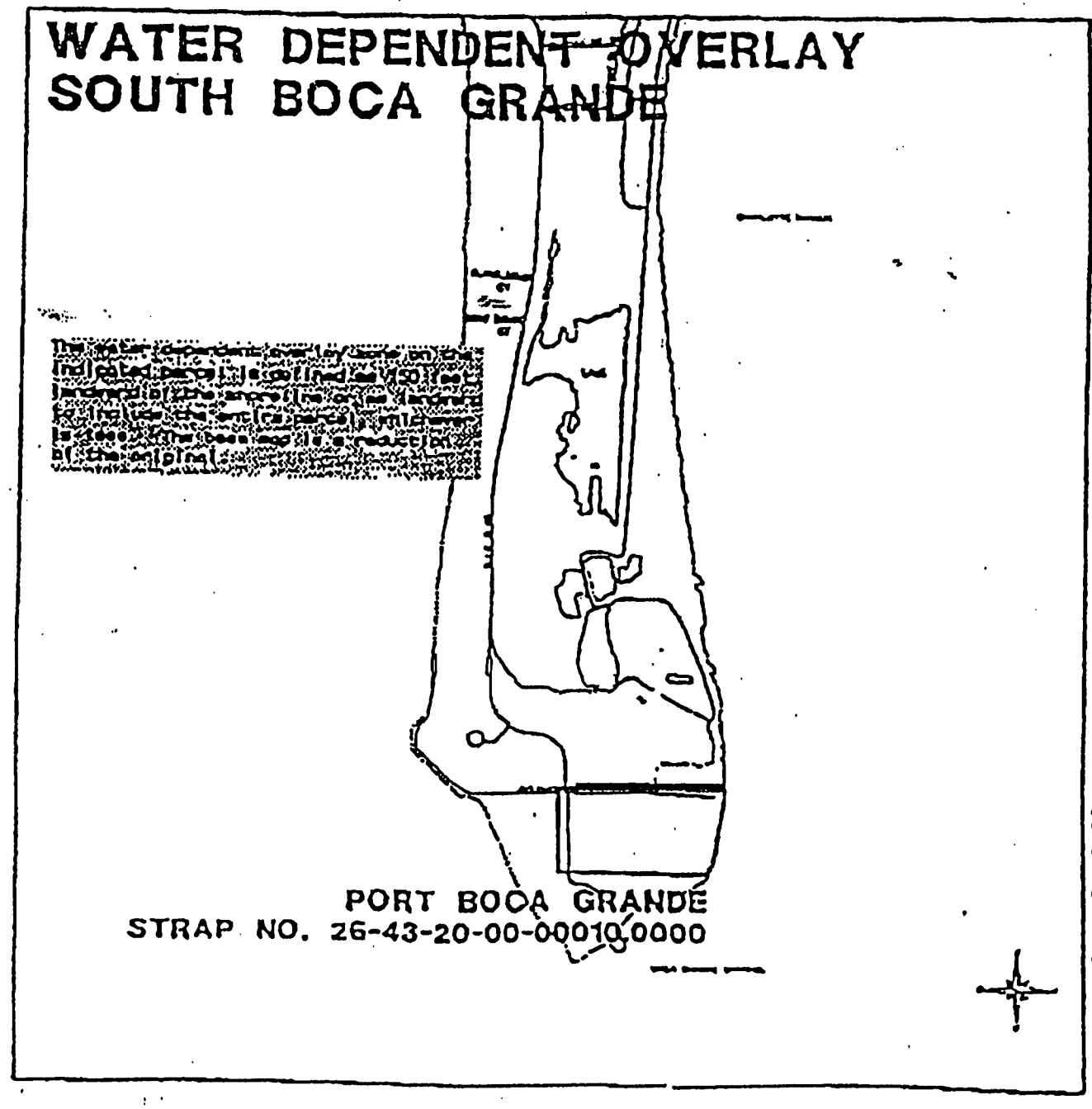
Very truly yours,

Beverly Grady
For the Firm

BG/umr
Enclosure

81044_1

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



PORT BOCA GRANDE
STRAP NO. 26-43-20-00-00010.0000

MAP 12 - Page 3 of 10

PROPOSED

E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

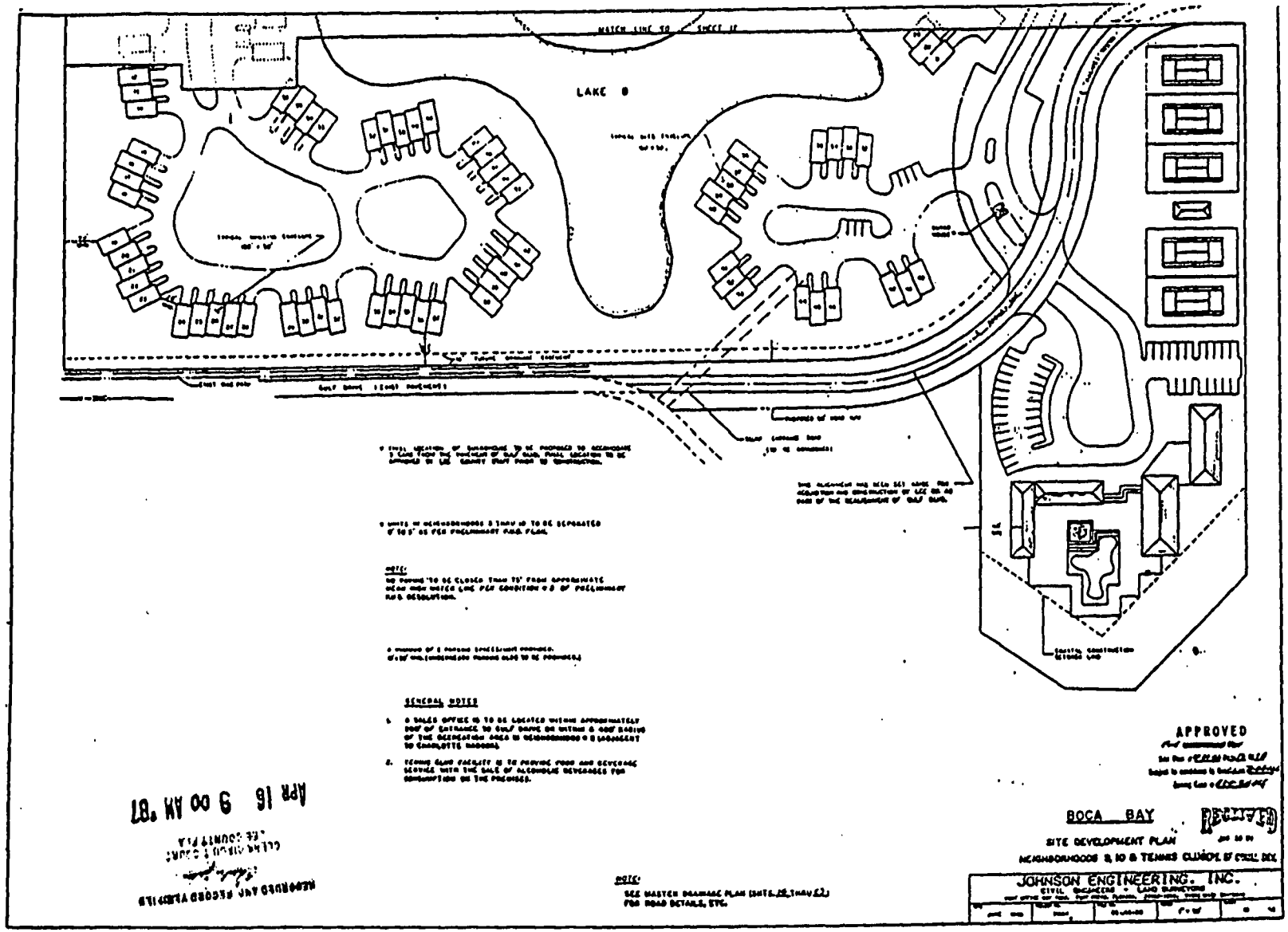
23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.

Attachment 5
Previous Resolutions
Concerning the Boca Bay PUD

OFF REC 6701 PG 0134



61.0 Bullet

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: M. FENSTROM, D.C.

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring EM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

1-12-87

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McGowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Coss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Coss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFF REC 1 c OR 1309

PRELIMINARY

ENGINEERING PLANS

FOR

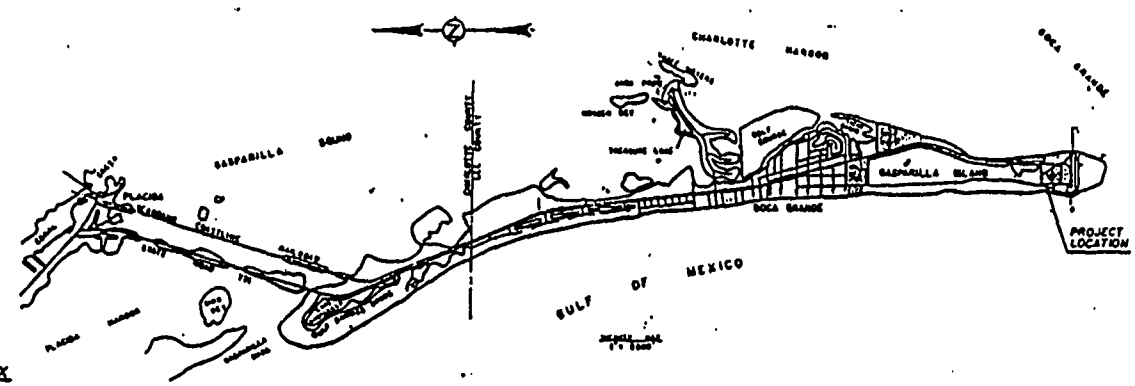
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



INDEX

Sheet No.	Description
1	COVER SHEET
2	INDEX MAP
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5 - 10	SITE DEVELOPMENT PLAN
11	LAND USE MODIFICATION PLAN
12 - 13	MASTER DRAINAGE PLAN
14 - 15	PLAN AND PROFILE SHEET
16	ROAD AND DRAINAGE DETAILS
17 - 18	PRELIMINARY WATER AND SEWER SYSTEM
19 - 20	GENERAL WATER & SEWER DETAILS
APPROVED 21 - 22	LANDSCAPE PLAN

APPROVED

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

A. T. GRANT

Registered Professional Engineer

Florida Certificate No. 12451

RECEIVED

DEPT. OF COMM. DEV.

JUNE 1986

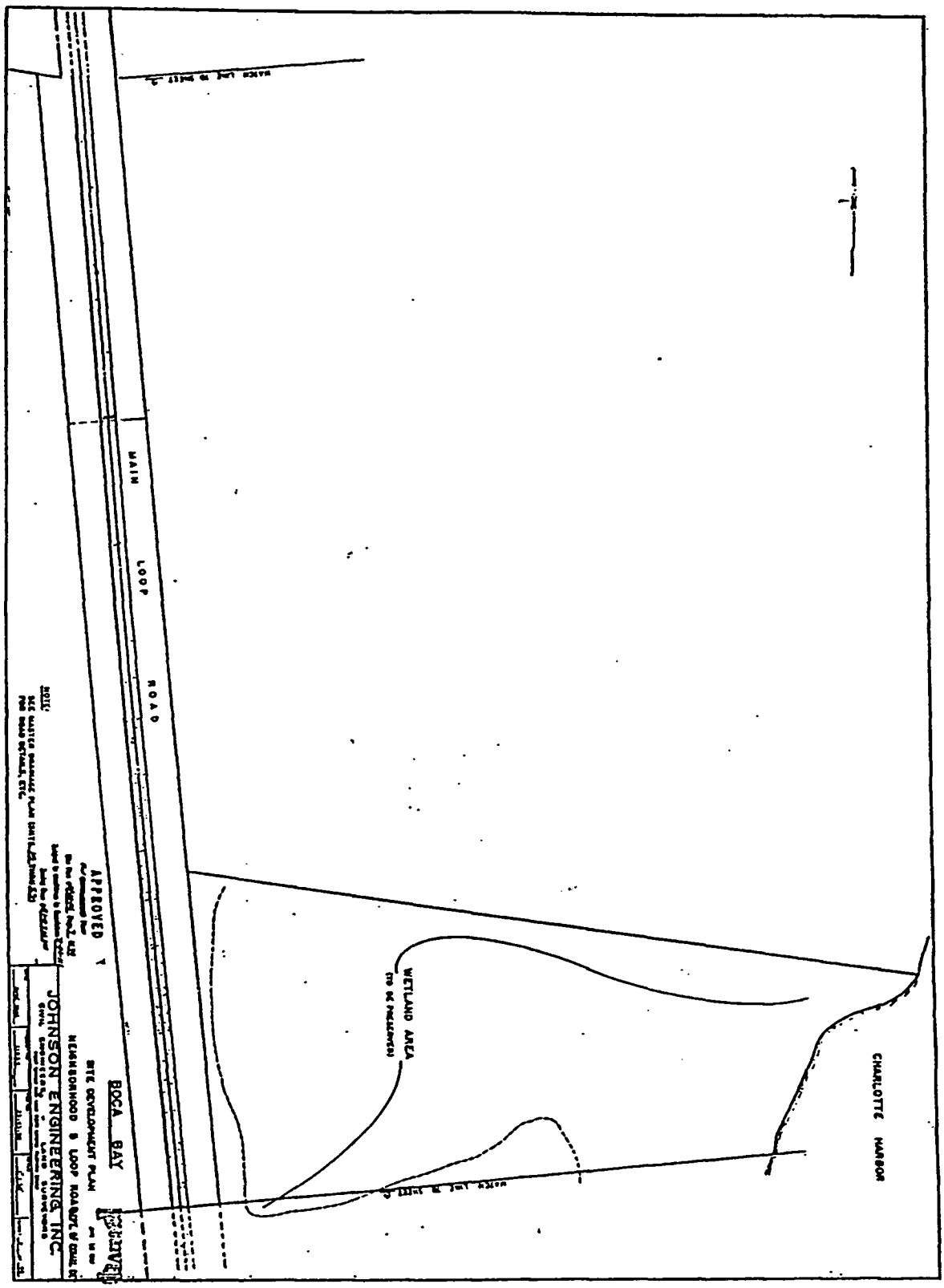
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REVISED DECEMBER 31, 1986

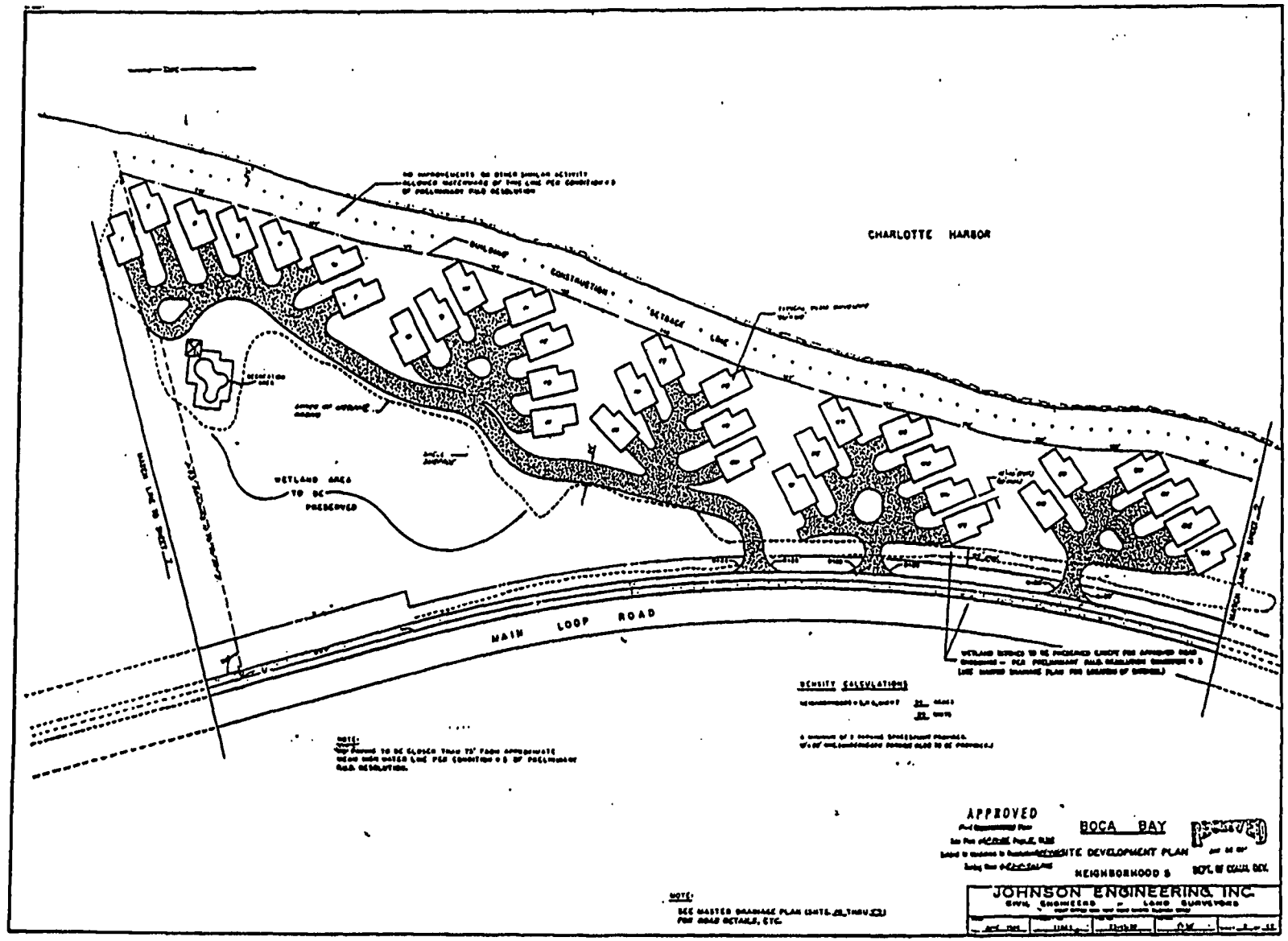
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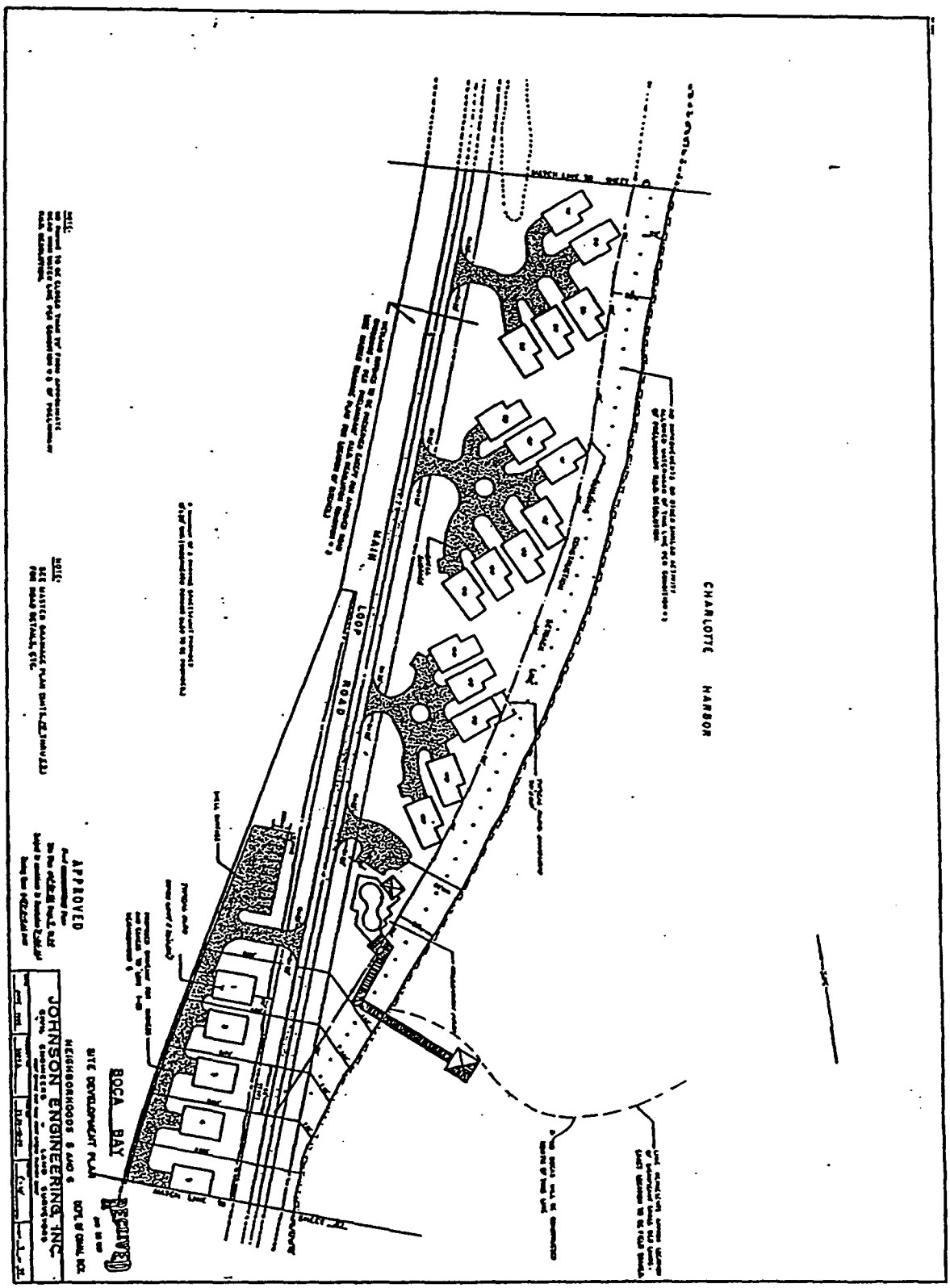
REVISED NOVEMBER 11, 1986

REVISED AUGUST 22, 1986

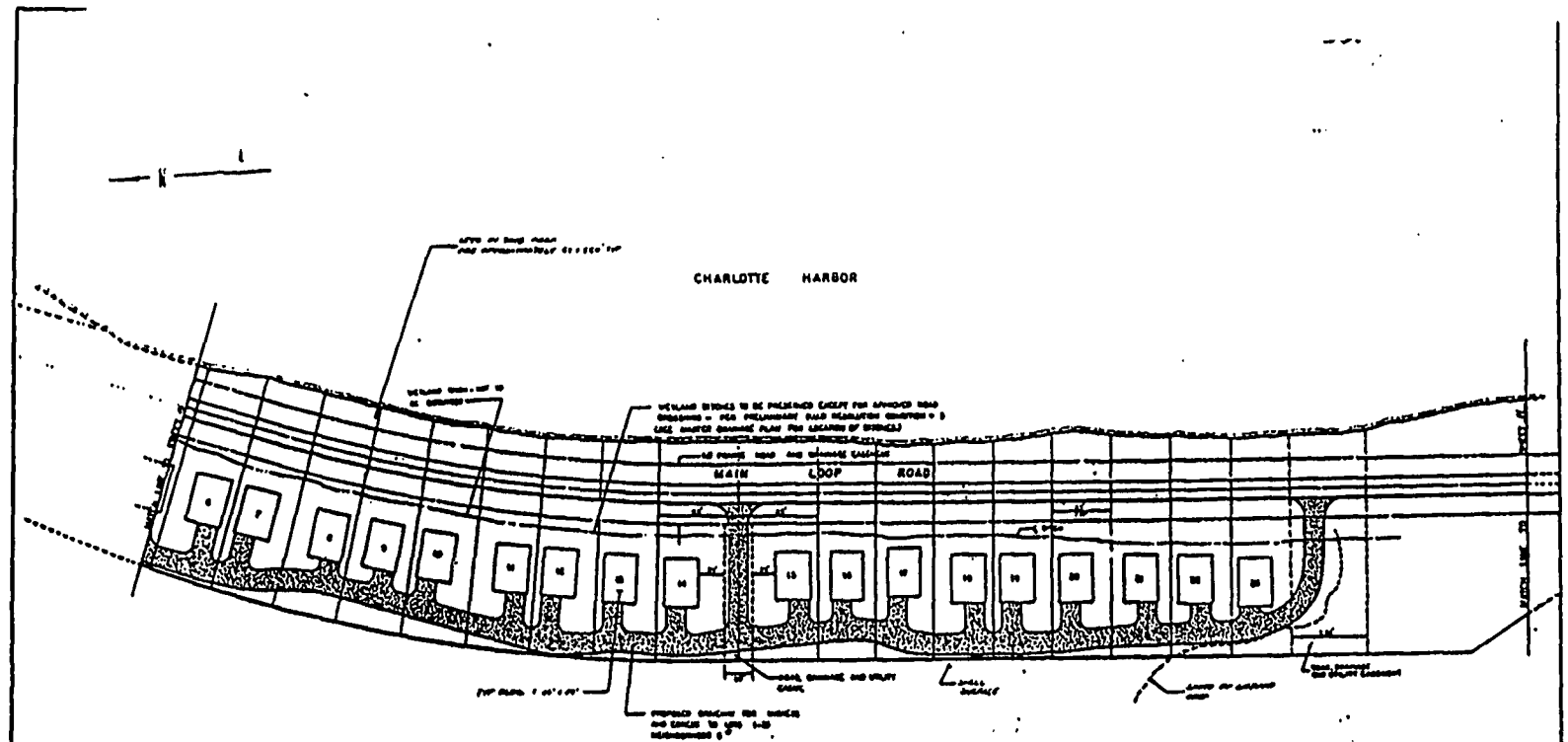

MAIN
LOOP
ROAD
WETLAND AREA
CHARLOTTE HARBOR
BOCA BAY
APPROVED
JOHNSON ENGINEERING INC

OR 910PG1311




CHARLOTTE HARBOR
MAIN
LOOP
ROAD
BOCA BAY
APPROVED
RECEIVED
JOHNSON ENGINEERING, INC.

910961313



BOCA BAY

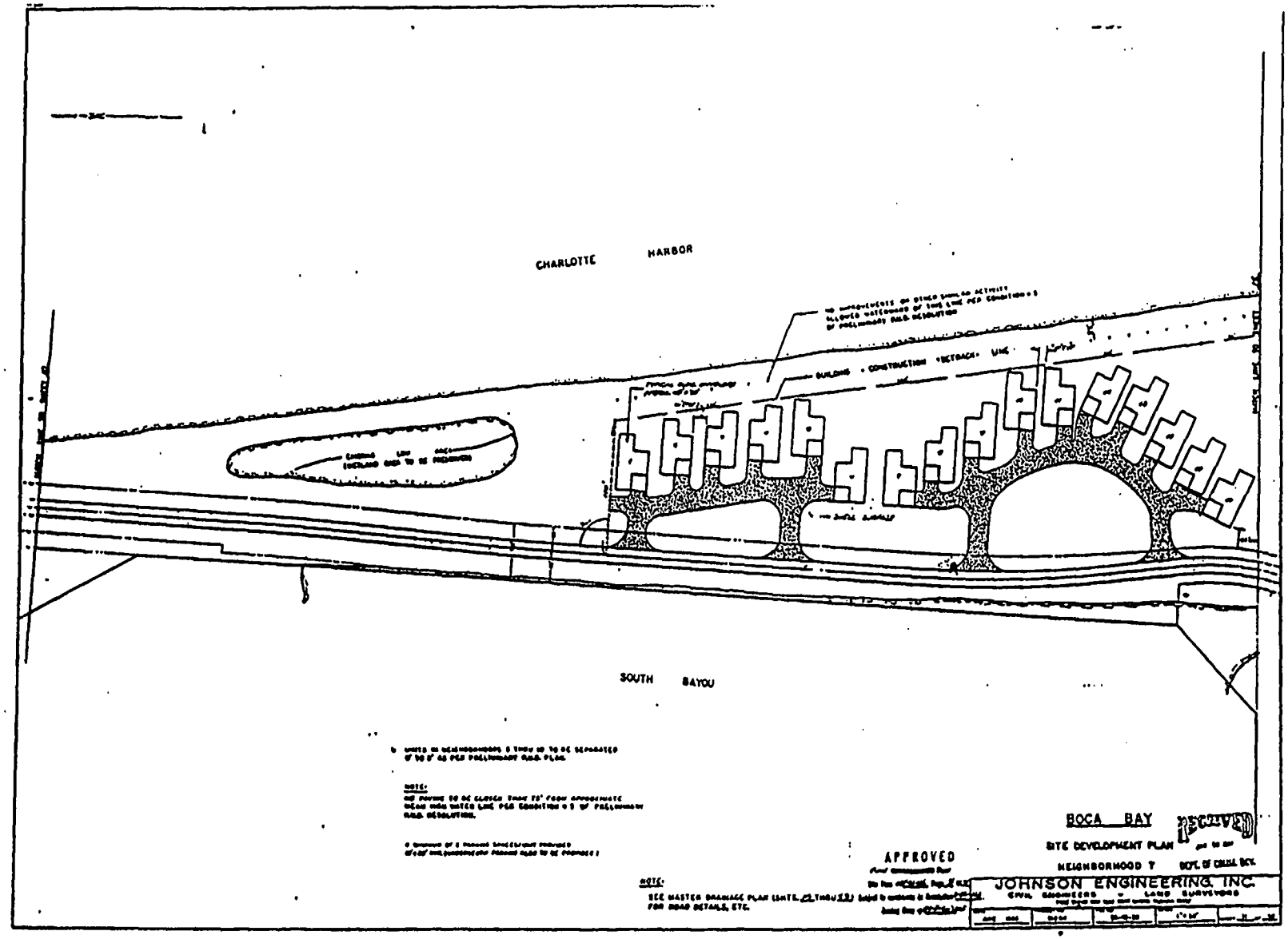
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 6

RECEIVED

APPROVED

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS

FF 1910PG1316



OFF REC 19106 1315

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

1-7-03

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

<u>Single-Family Detached</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	5 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Single-Family Attached (Villas)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	0 (zero) feet on one side and minimum 10 feet between structures
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Multiple-Family Building (Flats/Town Homes)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Separation between structures:	10 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

FILED
JUN 17 1993
CLERK CIRCUIT COURT
BY _____ D.C.

Approved as to form by:

_____
County Attorney's Office

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

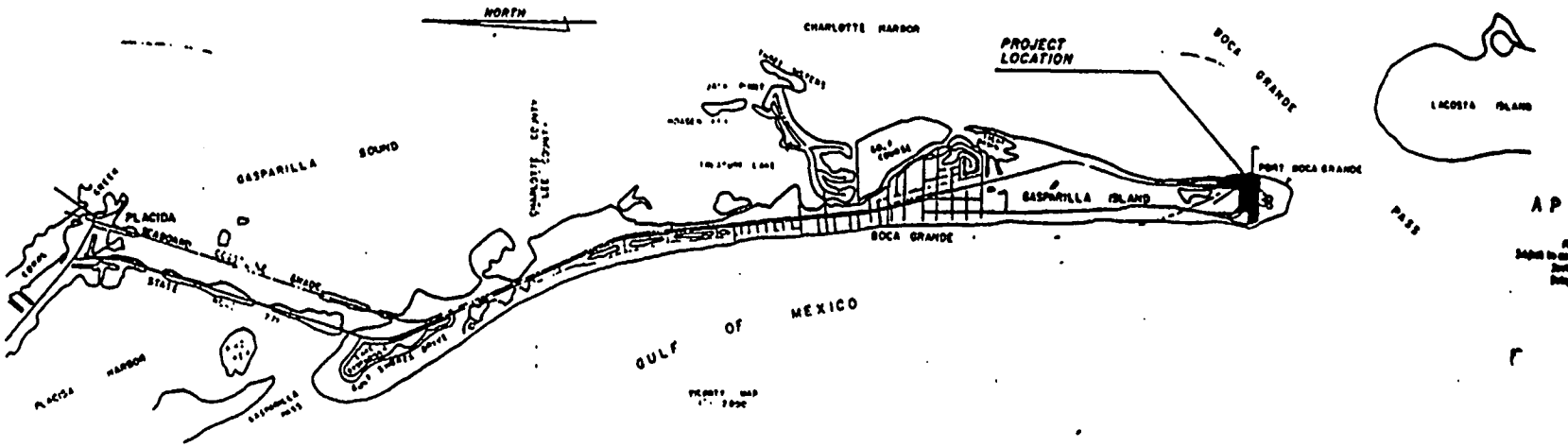
NEIGHBORHOODS 7, 8, 9, 101

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

INDEX

1	COVER SHEET
2	OVERALL BOCA BAY SITE MAP
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)
4	DETAILS & NOTES
5	TYPICAL UNIT LAYOUTS & DETAILS
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION

UTILITIES:

WATER and SEWER

GASPARILLA ISLAND WATER ASSOC INC
P.O. BOX 370
BOCA GRANDE, FLA 33921

ELECTRIC

FLORIDA POWER and LIGHT CO
P.O. BOX 420
ORMOND, FLA 32099

TELEPHONE

UNITED TELEPHONE COMPANY of FLORIDA
100 PINE [illegible]
PUNTA GORDA, FLA

[illegible]

BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 26, 1993

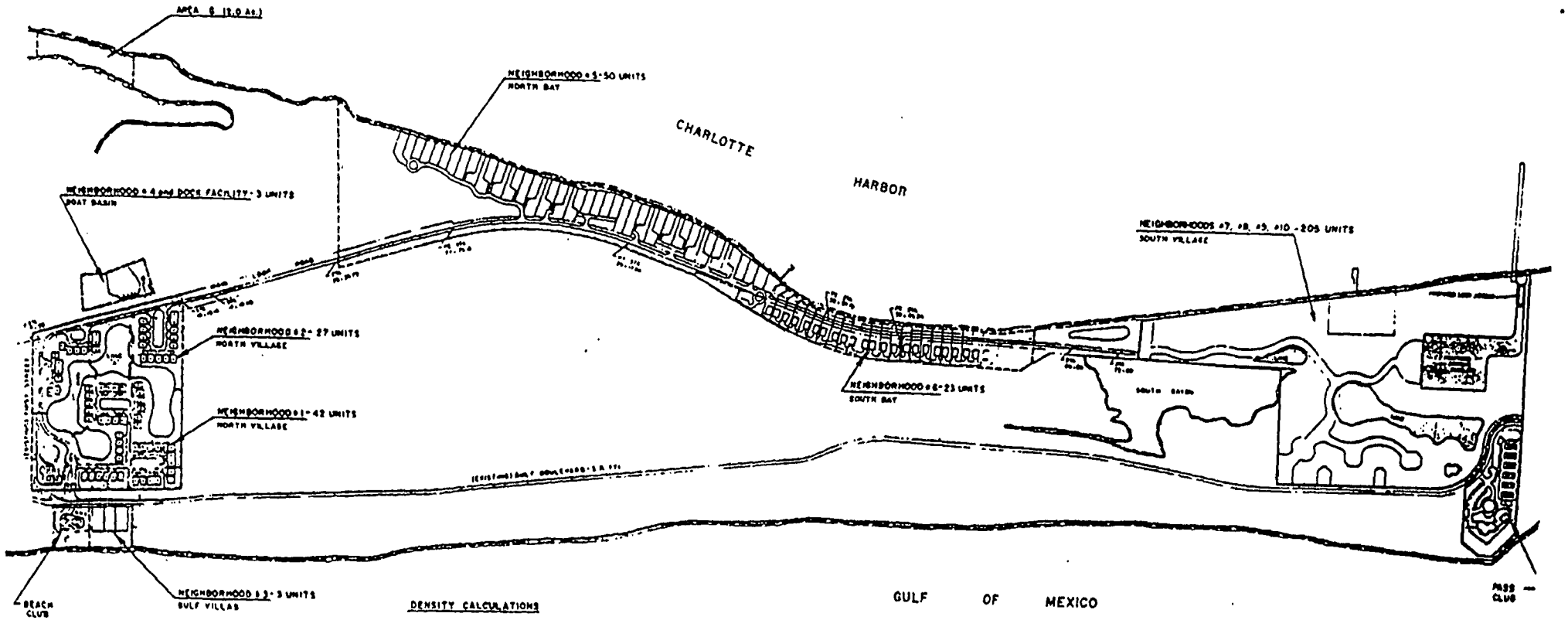
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

RECEIVED
MAY 27 1



DENSITY CALCULATIONS

A.	NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA 6	14.8 ACRES	69 UNITS
B.	NEIGHBORHOOD # 3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES	5 UNITS
C.	NEIGHBORHOOD # 4 (BOAT BASIN) AND DOCKS	2.0 ACRES	3 UNITS
D.	NEIGHBORHOOD # 5 (NORTH VILLAGE)	31.6 ACRES	50 UNITS
E.	NEIGHBORHOOD # 6 (SOUTH BAY)	9.0 ACRES	23 UNITS
F.	NEIGHBORHOODS #7, 8, 9, 10 (SOUTH VILLAGE) AND PASS CLUB	56.75 ACRES	205 UNITS
	TOTAL AC. (PREVIOUSLY APP'D. PLAN)	117.1 ACRES	
	TOTAL UNITS (PREVIOUSLY APP'D. PLAN)		366 UNITS
	TOTAL AC. (PROPOSED PLAN)	118.46 ACRES	
	TOTAL UNITS (PROPOSED PLAN)		393 UNITS

REVISED 5/25/93 - ACREAGE

REVISED 6/28/93 - DENSITY CALCS.

REVISED 8/17/93

REVISED 8/25/93 - UNITS BOCA BAY UNITS

APPROVED

Resolution No. Planned Development Plan
Subject to conditions in Resolution No. 2-93
Zoning Case 92-07-PD-01
Date 2/22/93

BOCA BAY

INDEX MAP

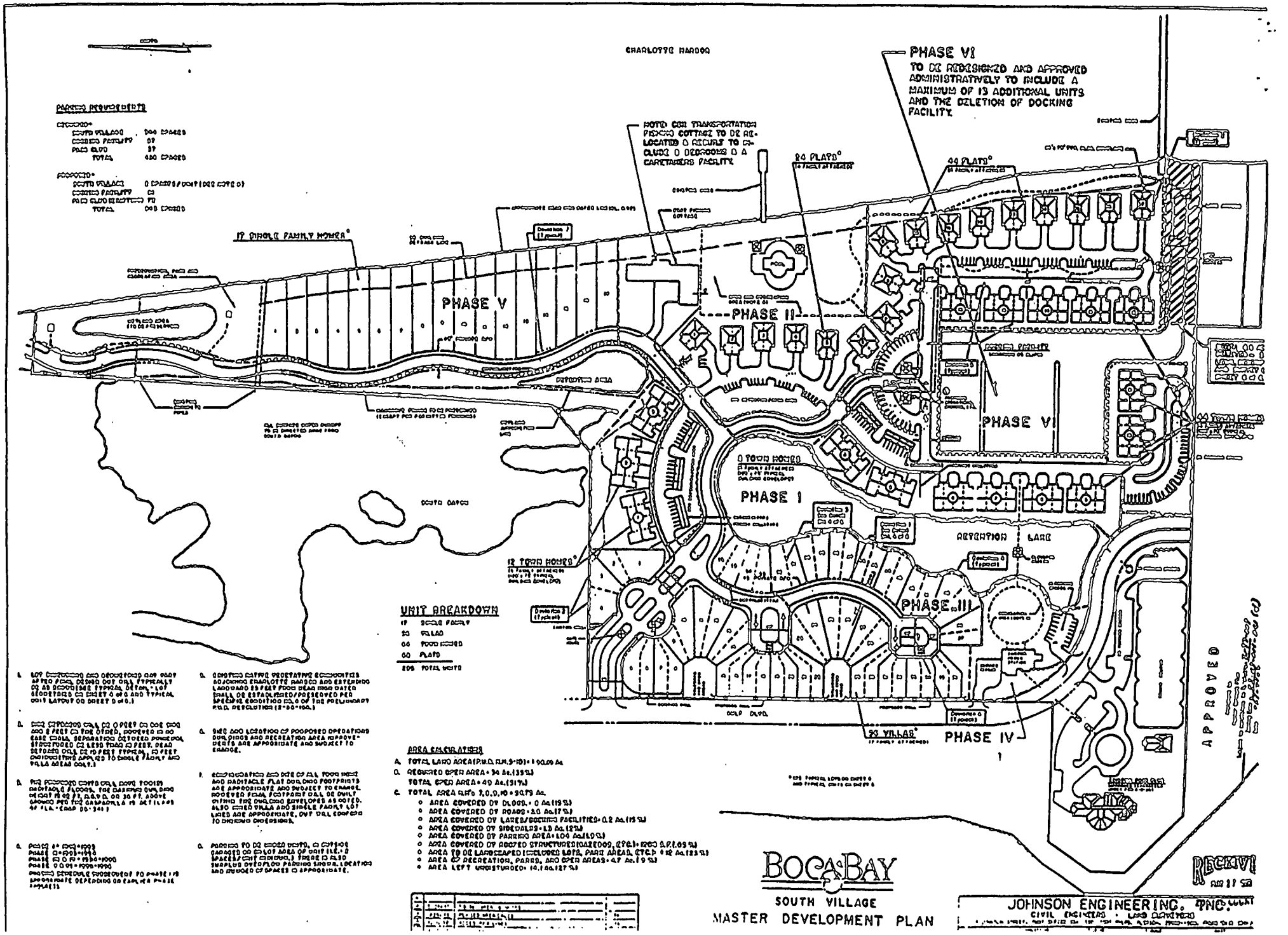
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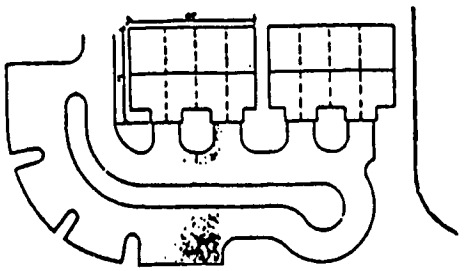
NEIGHBORHOOD LAYOUT

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MAR 22 '93
ZONING COUNTER

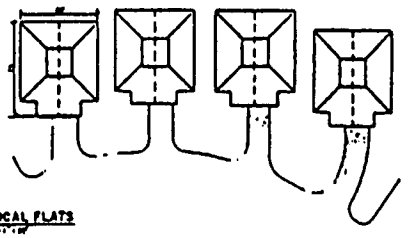
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS
2158 JOHNSON STREET, POST OFFICE BOX 1550, FORT MYERS, FLORIDA 33902-1550, (813) 334-0046

DECEMBER, 1990	13333	33-43-24 E	1" = 200'	1 OF 1

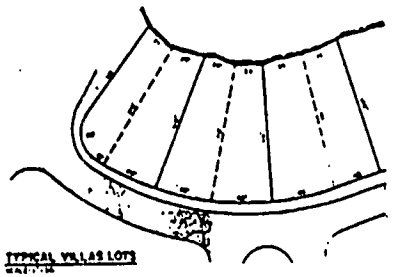

CHARLOTTE HARBOR
PHASE VI
TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY TO INCLUDE A MAXIMUM OF 13 ADDITIONAL UNITS AND THE DELETION OF DOCKING FACILITY
PHASE V
PHASE II
PHASE VI
PHASE I
PHASE III
PHASE IV
ATTENTION LAKE
APPROVED
UNIT BREAKDOWN
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
BOCA BAY
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS · LAND PLANNERS



TYPICAL TOWN HOMES



TYPICAL FLATS



TYPICAL VILLAS LOTS

SCHEDULE OF DEVIATIONS

1. DEVIATION FROM THE REQUIRED STREET SETBACK FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (ZONING ORDINANCE SECTION [illegible]). TO 1/2 RIGHT-OF-WAY PLUS 20 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE ON THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID BUILDING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.2.b.), TO 5 FEET;

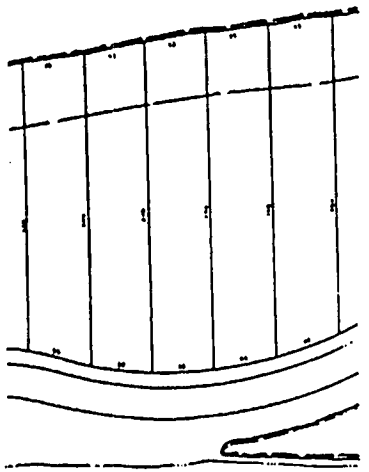
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE BUILDINGS OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.2.), TO 10 FEET AS MEASURED FROM THE OUTSIDE WALLS;

4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 75 FEET (ZONING ORDINANCE SECTION [illegible]), TO 15 FEET FROM THE RETENTION LAKE EDGE;

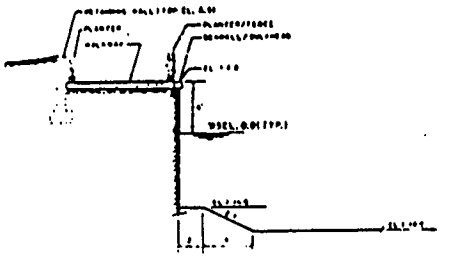
5. DEVIATION FROM THE REQUIREMENT THAT PERMANENT MAINTENANCE ACCESSWAYS MEET THE SETBACK REQUIREMENTS FOR PARKING LOT ACCESSES AND AISLES FROM THE RIGHT-OF-WAY, WITH A REQUIREMENT OF 20 FEET (ZONING ORDINANCE SECTION [illegible], AND DEVELOPMENT STANDARDS ORDINANCE SECTION 5.F.2.b.), TO 10 FEET;

6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE RADIUS OF PAVEMENT OF A CUL-DE-SAC BE 50 FEET AND 35 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET RADIUS (PLUS 20 FEET FOR OPEN SWALE DRAINAGE) (DEVELOPMENT STANDARDS ORDINANCE SECTION 5.F.11.), TO ALLOW [illegible] AS SHOWN ON THE PUD PLANS; AND

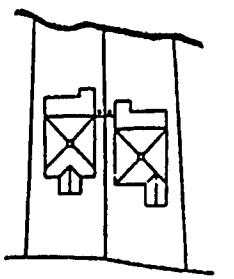
7. DEVIATION FROM THE REQUIREMENT THAT THE 50-FOOT-WIDE UTILITY EASEMENTS SHALL BE CENTERED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENT (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.I.1.), TO REQUIRE A 5-FOOT-WIDE UNDERGROUND UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.



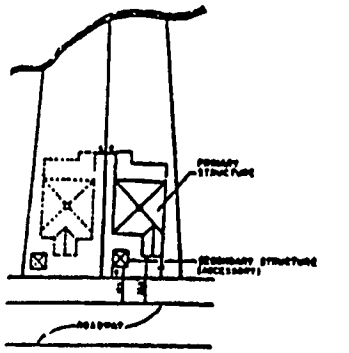
TYPICAL SINGLE FAMILY LOTS



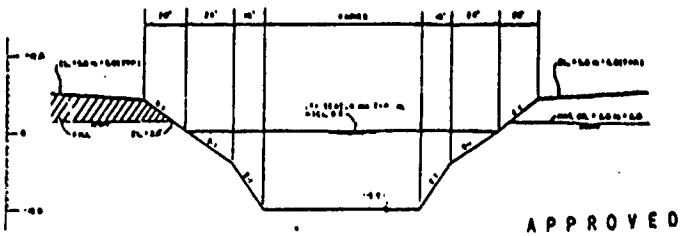
TYPICAL SECTION - DOCKING FACILITY



DEVIATION 3 - Typical Detail



DEVIATION 1 - Typical Detail



TYPICAL LAKE SECTION

APPROVED

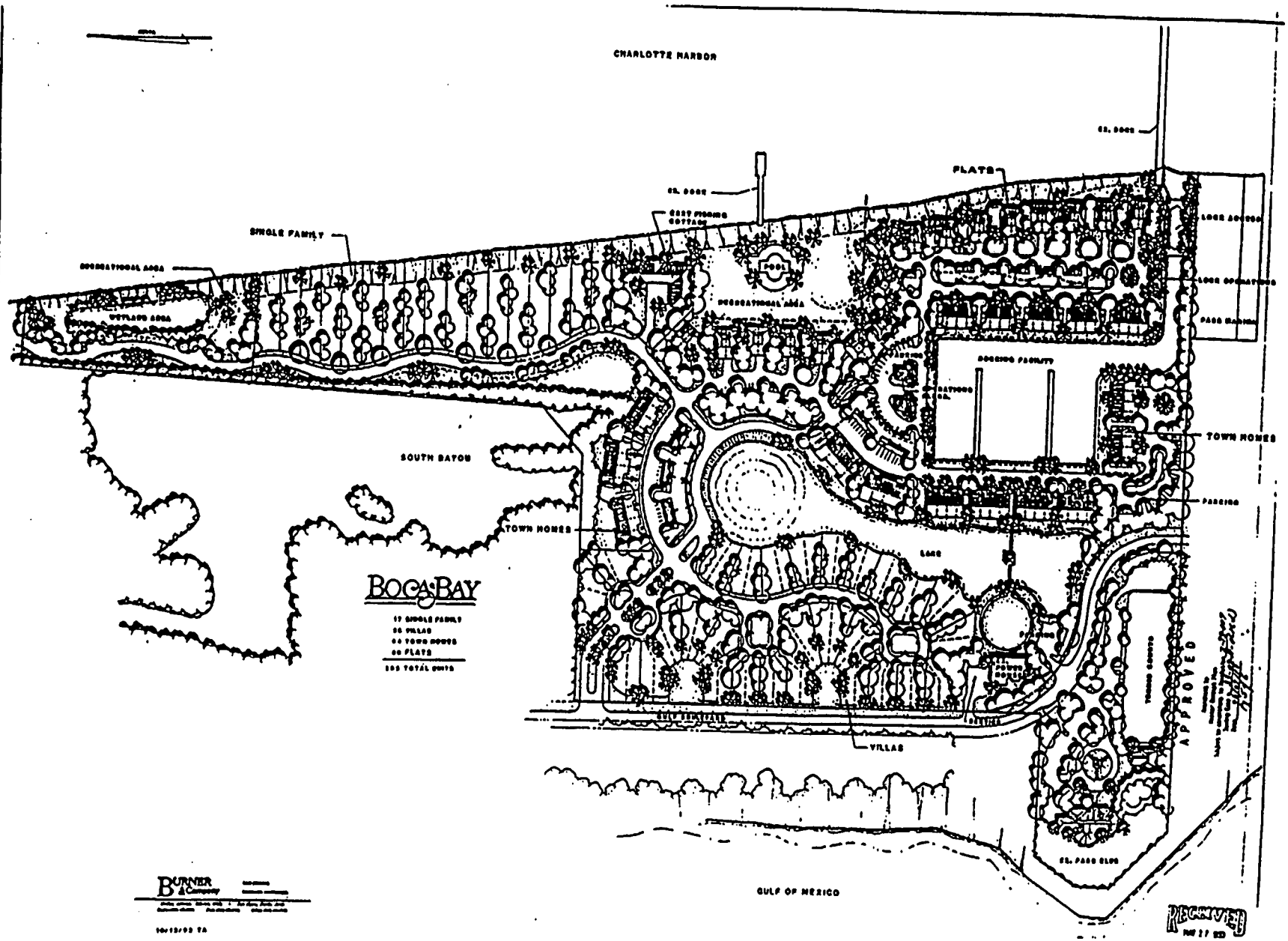
BOCA BAY

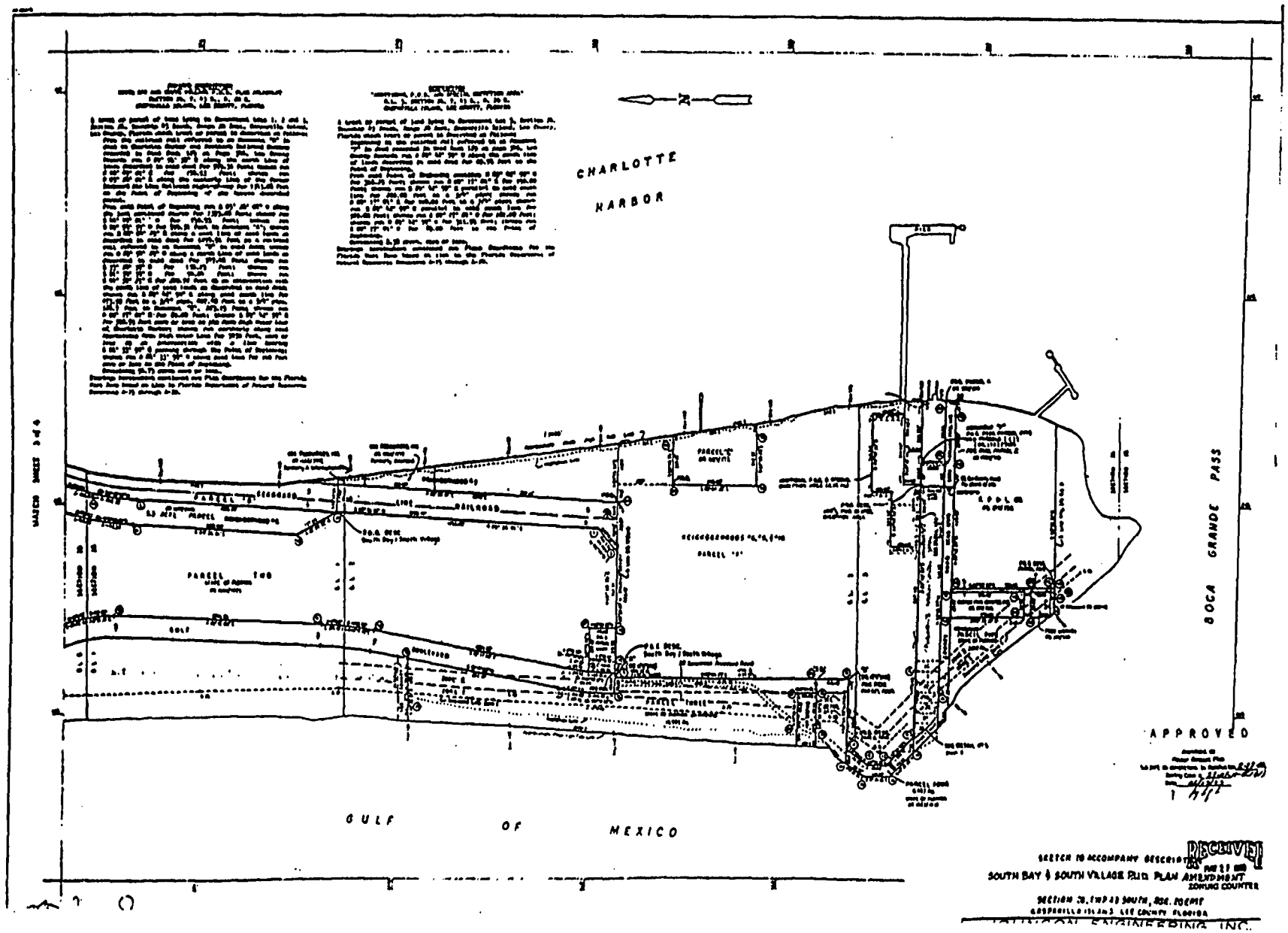
RECEIVED
MAR 27 1990

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS

AS SHOWN

4 OF 6


CHARLOTTE HARBOR
FLATS
SINGLE FAMILY
SOUTH BAYOU
TOWN HOMES
BOCA BAY
VILLAS
TOWN HOMES
PARKING
GULF OF MEXICO
APPROVED
BURNER & Company


CHARLOTTE
HARBOR
BOCA GRANDE PASS
GULF OF MEXICO
APPROVED
RECEIVED
SOUTH BAY & SOUTH VILLAGE PUD PLAN AMENDMENT
ZONING COUNTER

ACOE

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

<u>As to the Special Exception for Residential Use in the PORT District:</u>

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Spooner
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE
mgp

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert 10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

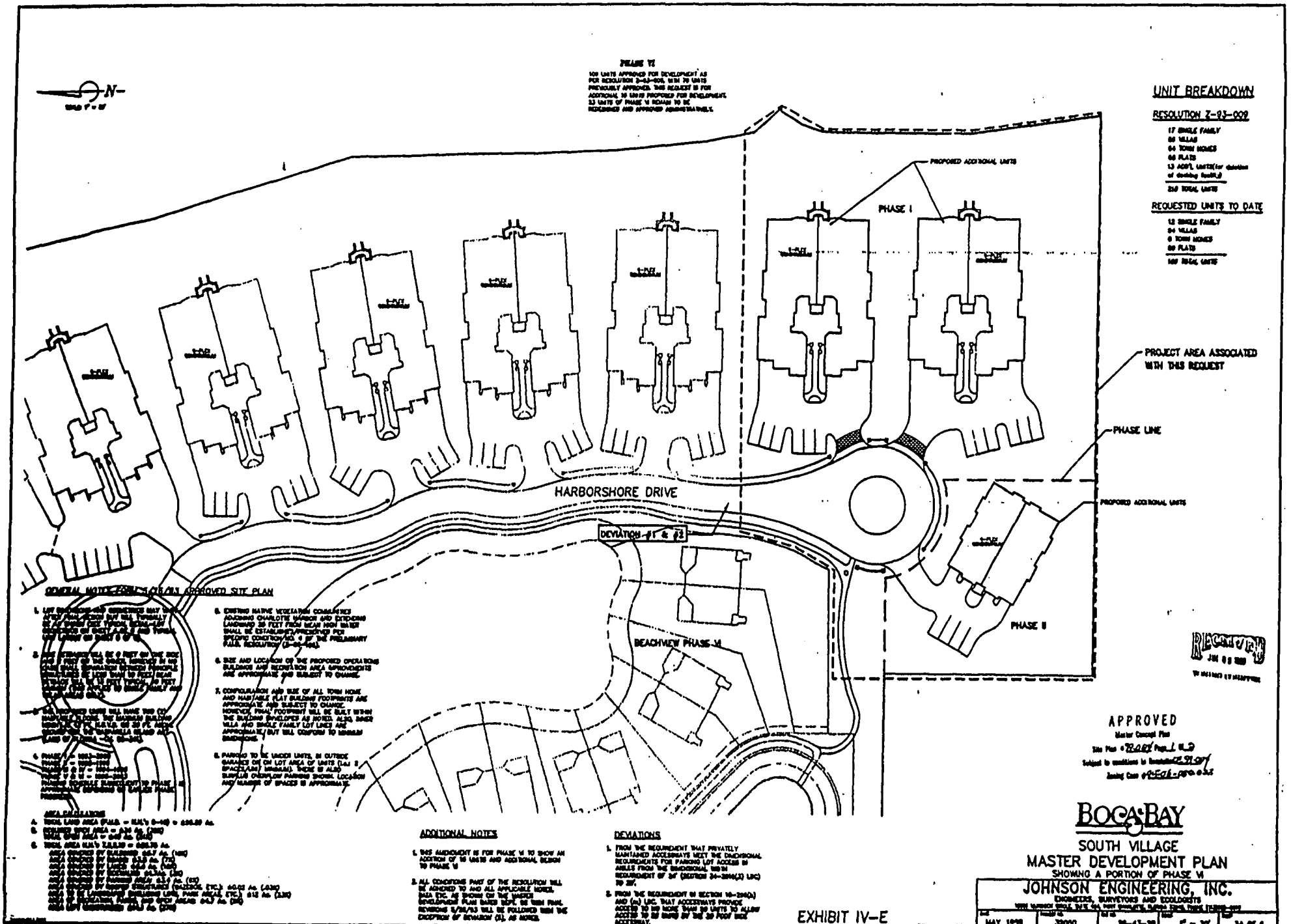
From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾" pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.



GENERAL NOTES FOR PHASE VI APPROVED SITE PLAN

1. LOT DIMENSIONS AND SETBACKS MAY VARY FROM THOSE SHOWN BUT WILL TYPICALLY BE AS SHOWN FOR TYPICAL SETBACKS FOR SINGLE FAMILY (SFD), VILLAS (VILLA), TOWN HOMES (TH) AND FLATS (FLAT).
2. [illegible]
3. ALL PROPOSED UNITS WILL HAVE THEIR OWN HABITABLE STRUCTURE. THE MAXIMUM BUILDING HEIGHT OF THE FLATS WILL BE 35 FT. ABOVE CROWN OF THE HARBORSHORE ROADWAY AND ALL OTHER UNITS WILL BE TWO STORY, 30 FEET ABOVE CROWN OF ROAD.
4. PHASE I = [illegible]
5. EXISTING MARINE VEGETATION CONSISTING ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 30 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 9 OF THE PRELIMINARY PLAT RESOLUTION (Z-86-104).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED ALSO, SINGLE FAMILY AND VILLA LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e. 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

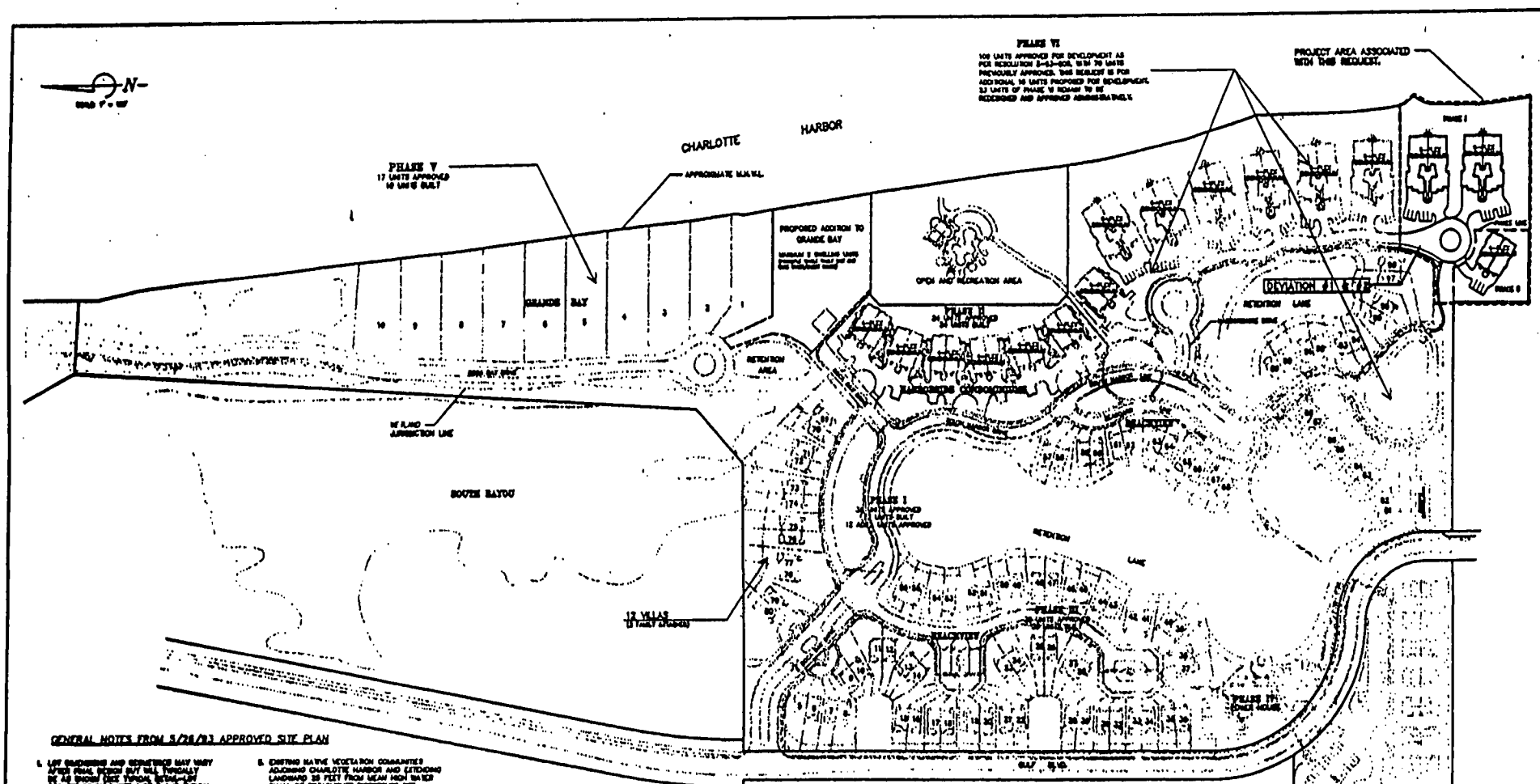
AREA CALCULATIONS
A. TOTAL LAND AREA (PHASE I - VI) = [illegible] = 650.80 Ac.
B. [illegible]
C. TOTAL AREA (I-VI) = 650.80 Ac.
AREA DEVOTED BY BUILDINGS 047 Ac. (10%)
AREA DEVOTED BY VILLAS 0.33 Ac. (7%)
AREA DEVOTED BY FLATS 0.42 Ac. (9%)
AREA DEVOTED BY ROADWAYS 0.[illegible] (8%)
AREA DEVOTED BY PARKING OVERLAYS (GARAGES, ETC.) 40.03 Ac. (6.2%)
AREA OF RECREATIONAL BUILDING USES, PARK AREAS, ETC.) 0.12 Ac. (3.3%)
AREA OF [illegible]
AREA LEFT UNDEVELOPED 0.[illegible] Ac. (2%)

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 30 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 86 WITH FINAL REVISIONS 5/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (1), AS NOTED.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL MATRIX REQUIREMENT OF 24' (SECTION 34-2016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO BE MADE BY THE 20 FOOT WIDE ACCESSWAY.



GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND DIMENSIONS MAY VARY AFTER FINAL SURVEY BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAILS) OR CONFORMED ON SHEET 4 OF 8 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 8.

2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 7 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (ONLY APPLIES TO SINGLE FAMILY AND VILLA AREAS SOLD).

3. THE PROPOSED UNITS WILL MAKE USE OF MAXIMUM BUILDING HEIGHT OF 45 FT. M.S.L.D. OF 30 FT. ABOVE GROUND FOR THE GASPARILLA ISLAND AREA (LAND OF FLORIDA -454 66-342).

4. PHASE I - 1993-2000
PHASE II - 1993-2000
PHASE III & IV - 1995-1998
PHASE V & VI - 1998-2003
PHASING POSSIBLE SUBSEQUENT TO PHASE I IS APPROXIMATE SEQUENCE OF EARLIER PHASE PHASING.

5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 50 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY PUD RESOLUTION (Z-90-144).

6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.

7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE, HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, BAYER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.

8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (ALL 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (PARA. - SEE NOTE 5-10) = 696.80 Ac.
B. [illegible]
C. TOTAL AREA SUBJECT TO PUD = 696.80 Ac.
AREA COVERED BY BUILDINGS 46.7 Ac. (7%)
AREA COVERED BY ROADS 63.4 Ac. (9%)
AREA COVERED BY PARKING 13.6 Ac. (2%)
AREA COVERED BY SWIMMING POOLS 0.6 Ac. (0%)
AREA COVERED BY OTHER STRUCTURES (GARAGES, ETC.) 10.02 Ac. (.03%)
AREA OF LANDSCAPED BUFFERS (OPEN SPACE, ETC.) 313 Ac. (33%)
AREA OF RECREATION, PARKS, AND OPEN AREAS 247 Ac. (36%)
AREA LEFT UNDISTURBED 264.1 Ac. (38%)

APPROVED
Master Concept Plan
Site Plan # Map Page 2 of 2
Subject to conditions of Resolution Z-93-009
Zoning Case # 92-06-090.02C

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
56 VILLAS	84 VILLAS
84 TOWN HOMES	0 TOWN HOMES
50 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of existing flat(s))	
210 TOTAL UNITS	186 TOTAL UNITS

8-3-93 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-93-043 CASE #92-06-152.13A 06.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 10 UNITS AND ADDITIONAL DESIGN TO PHASE VI.
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 93 WITH FINAL REVISIONS 8/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (1), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL TABLE INCLUDED AT 24' (SECTION 34-2014(2) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (a) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 30 FOOT WIDE ACCESSWAY.

PROJECT # 92-06-090.02C
PROJECT TYPE PUD

BOCA BAY

RECEIVED
AUG 04 1993
ZONING COUNTER

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

DATE	PROJECT NO.	SEC-TWP-RGE	SCALE	SHEET
SEPT. 1992	32050	36-43-30	1" = 100'	3 OF 8

EXHIBIT IV-E

ZONING MAP

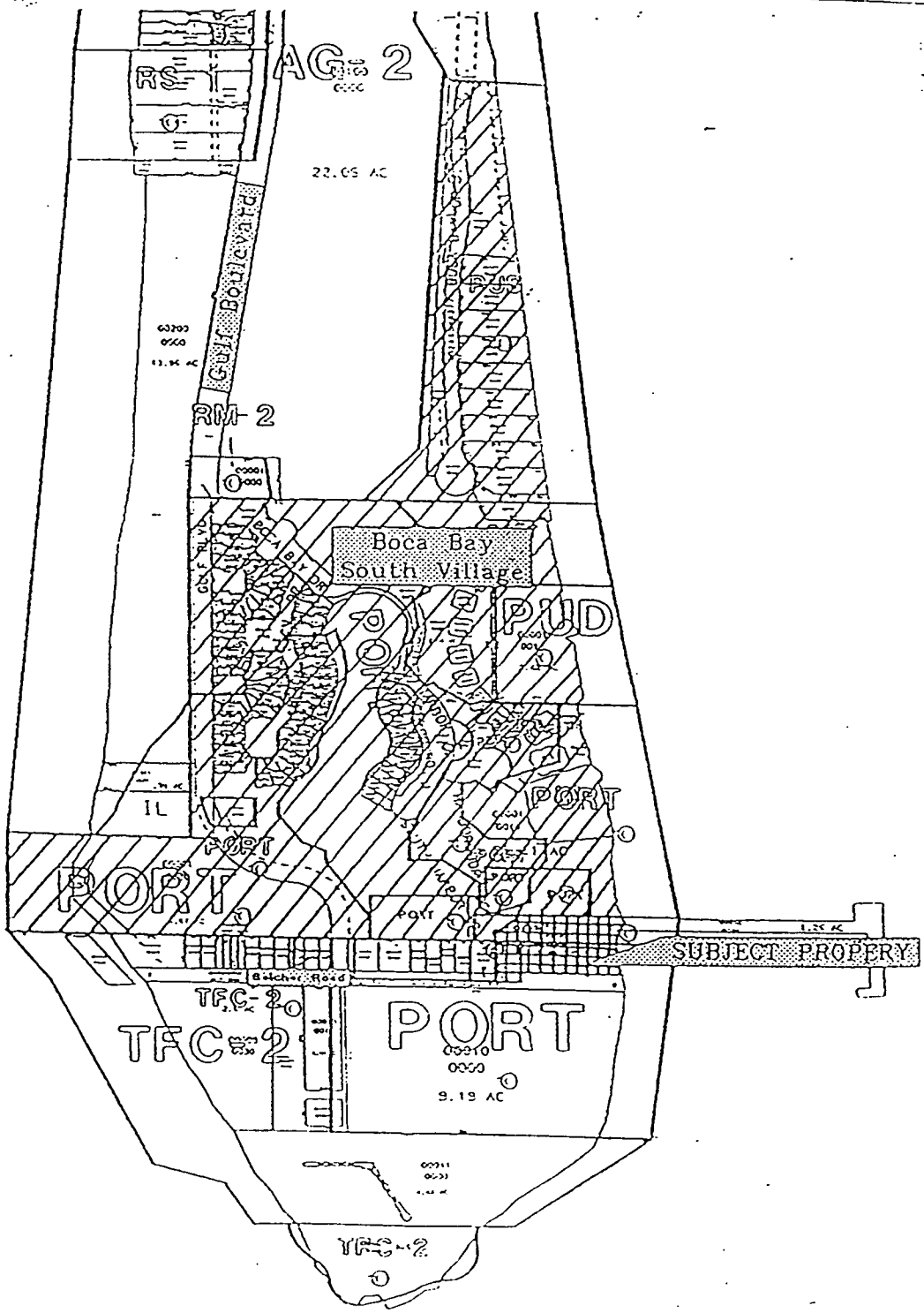
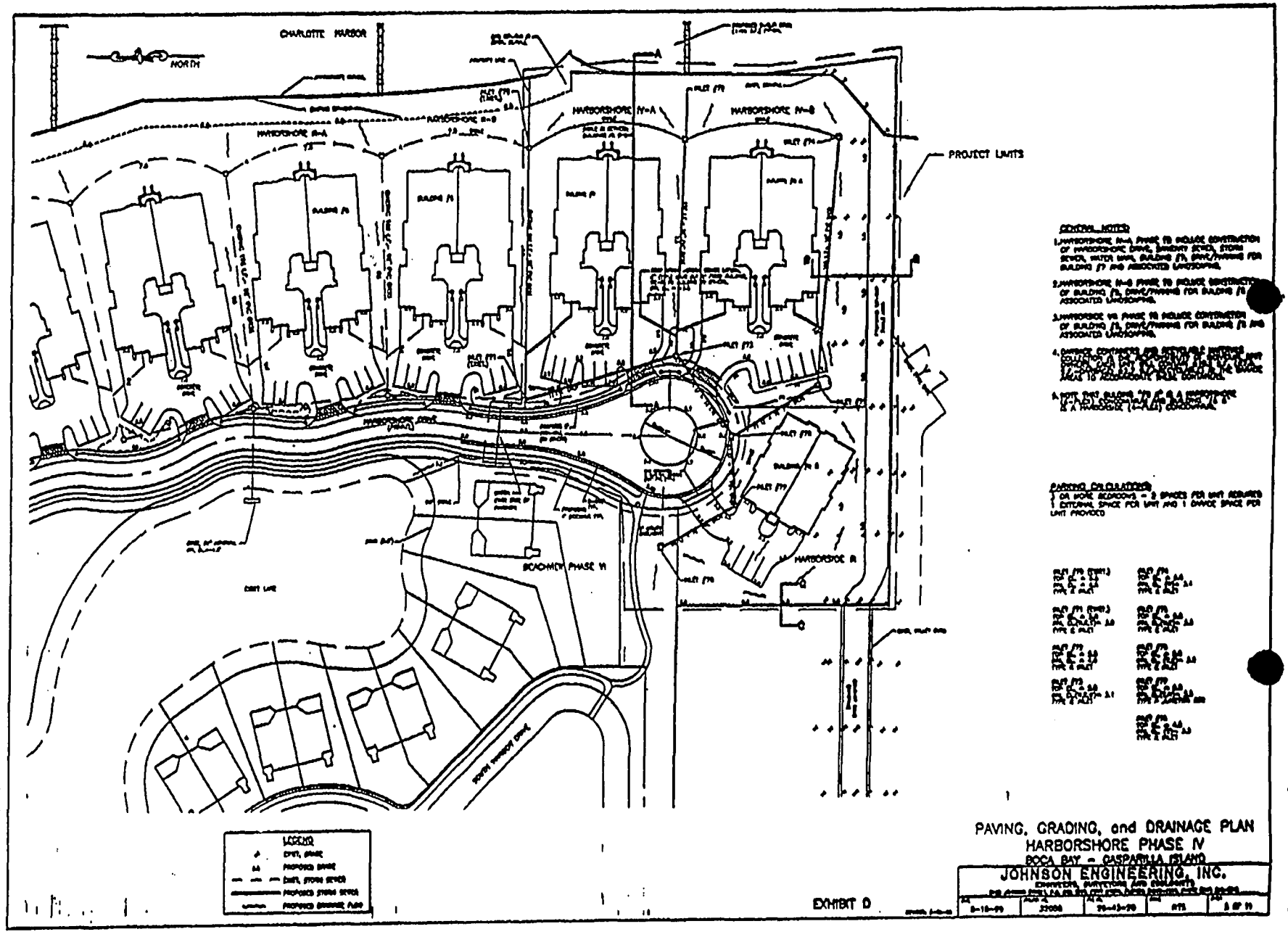
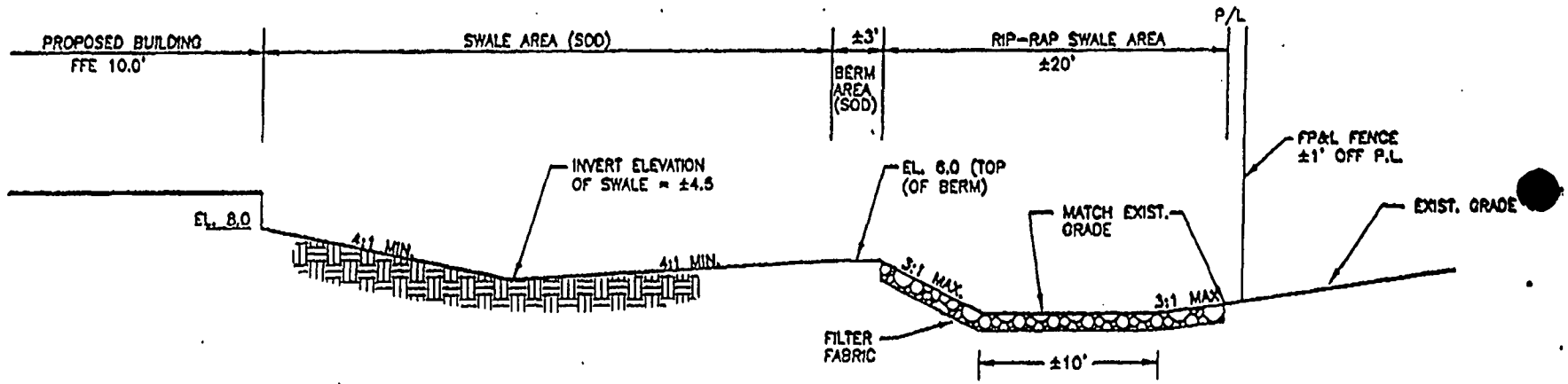


EXHIBIT C


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SECTION B-B

N.T.S.

EXHIBIT D

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

2320 First Street
Suite 1000
Fort Myers, FL 33901-3419
941.338.4203 Direct
941.337.3850 Main
941.337.0970 Fax
snoble@ralaw.com

October 9, 2000

Mr. Matt Noble
Lee County Planning
1500 Monroe Street
Ft. Myers, FL 33901

Re: CSX Application for Comprehensive Plan Amendment
Case No. CPA2000-00002

Dear Mr. Noble:

Pursuant to your telephone conversation with Attorney Robert Pritt, enclosed please find two copies of the Application for Comprehensive Plan Amendment, which was previously filed with your office on September 28, 2000. It is our understanding that the filing of this new form will be retroactive back to the original filing date.

If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,

Sandra E. Noble, CLA
Certified Legal Assistant

SEN/umr
Enclosure

RECEIVED
OCT 09 2000
PERMIT COUNTER

FILE COPY

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate Roetzel & Andress, a legal professional association, as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced~~ _____ ~~as identification.~~

(SEAL)

Harriett K. Mochel
Signature of Notary Public

77033_1

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

LEE COUNTY
SOUTHWEST FLORIDA

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D.:_____ REC'D BY:_____

APPLICATION FEE:_____ TIDEMARK NO:_____

THE FOLLOWING VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal: ☐ Small Scale: ☐ DRI ☐ Emergency: ☐

Request No.:_____

APPLICANT PLEASE NOTE:
Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

R. D. Pritt

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
APPLICANT

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER — FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, A Legal Professional Association
AGENT

2320 FIRST STREET, SUITE 1000
ADDRESS

FORT MYERS	FLORIDA	33901
CITY	STATE	ZIP

(941) 337-3850 — (941) 337-0970
TELEPHONE NUMBER — FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay
OWNER(s) OF RECORD

699 BOCA BAY DRIVE
ADDRESS

BOCA GRANDE	FLORIDA	33921-1370
CITY	STATE	ZIP

(941) 964-0800
TELEPHONE NUMBER — FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application. (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☐ Text Amendment ☐ Future Land Use Map Series Amendment (Maps 1 thru 19)
List Number(s) of Map(s) to be amended
X Map 12 (South Boca Grande)

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary of Request - Exhibit "A"

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc., 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE / Boca Bay Master Association

B. Property Information:

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay / ± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit "B")

Area of each Existing Future Land Use Category:

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: _____

D. Proposed change for the Subject Property: No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property zoned Port that could permit industrial and commercial uses

   Industrial intensity: _____

2. Calculation of maximum allowable development under proposed FLUM:

   Residential Units/Density: No Change

   Commercial intensity: Property text change would preclude industrial and commercial uses

   Industrial intensity: _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.

2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.

4. Map and describe existing zoning of the subject property and surrounding properties.

5. The legal description(s) for the property subject to the requested change.

6. A copy of the deed(s) for the property subject to the requested change.

7. An aerial map showing the subject property and surrounding properties.

8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range - 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether

network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;

d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range - 5-year CIP horizon:

a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for: N/A
   a. Sanitary Sewer
   b. Potable Water
   c. Surface Water/Drainage Basins
   d. Parks, Recreation, and Open Space.

   Analysis should include (but is not limited to) the following:
   - Franchise Area, Basin, or District in which the property is located;
   - Current LOS, and LOS standard of facilities serving the site;
   - Projected 2020 LOS under existing designation;
   - Projected 2020 LOS under proposed designation;

- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;
   b. Emergency medical service (EMS) provisions;
   c. Law enforcement;
   c. Solid Waste;
   d. Mass Transit; and
   e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).

2. A map and description of the soils found on the property (identify the source of the information).

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources **N/A**

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed

change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.

2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **(See Exhibit "A" attached)**

F. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
   b. Provide data and analysis required by Policy 2.4.4,
   c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.

2. Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon

pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	$500.00 each
Map Amendment > 20 Acres	$500.00 and $20.00 per 10 acres up to a maximum of $2,255.00
Text Amendment Flat Fee	$1,250.00 each

AFFIDAVIT

I, ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Robert D. Pritt

Signature of owner or owner-authorized agent Date

ROBERT D. PRITT, on behalf of Roetzel & Andress, A Legal Professional Association
Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 9th day of October, 2000, by ~~ROBERT D. PRITT~~, on behalf of Roetzel & Andress, A Legal Professional Association, who is personally known to me or who has produced _____ _____ (type of ID) as identification.

(SEAL)



Sandra E. Noble
Commission # CC 928983
Expires April 17, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Sandra E. Noble
Signature of notary public

SANDRA E. NOBLE
Printed name of notary public

77496_1

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

EXHIBIT "B"

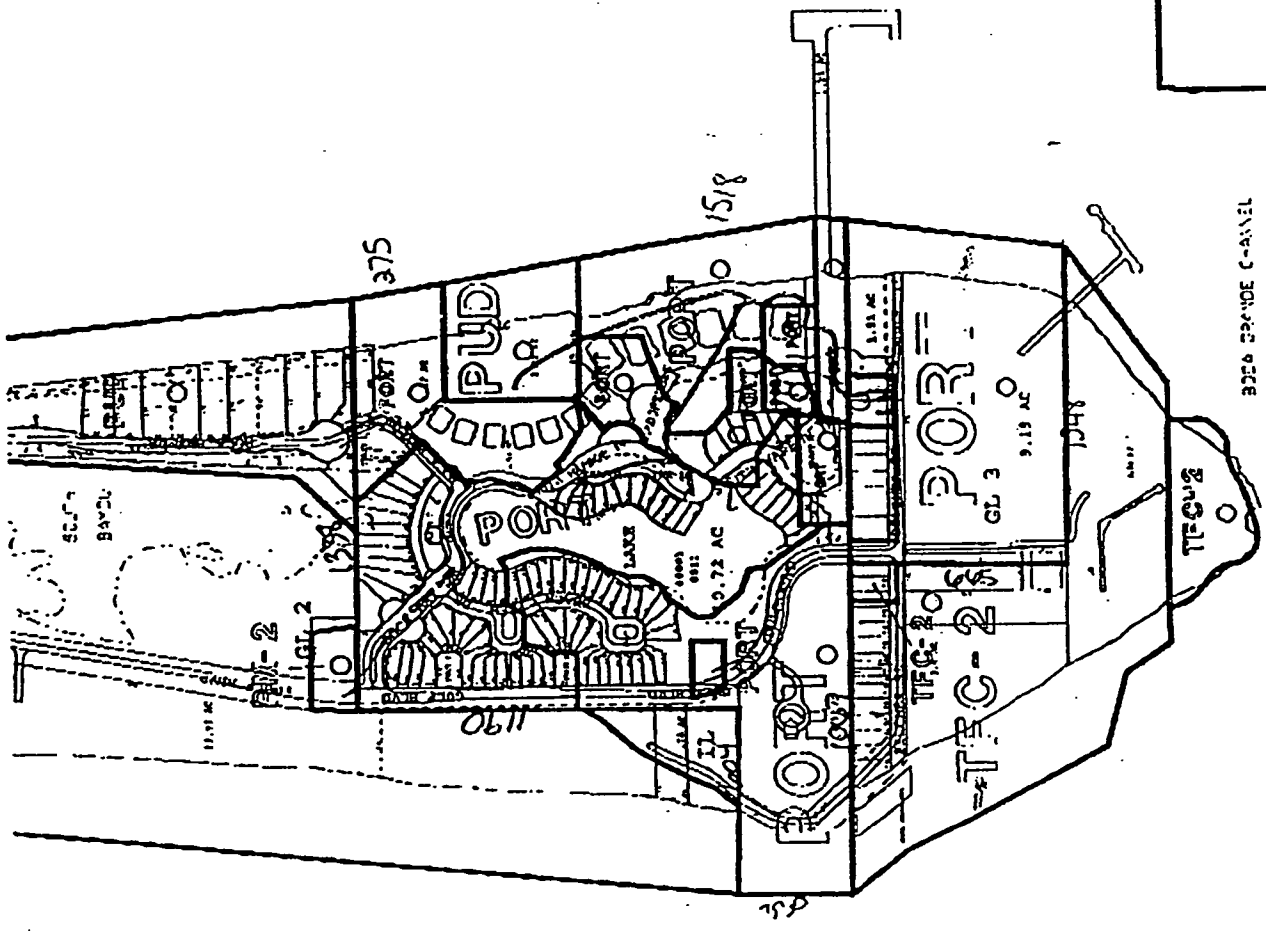
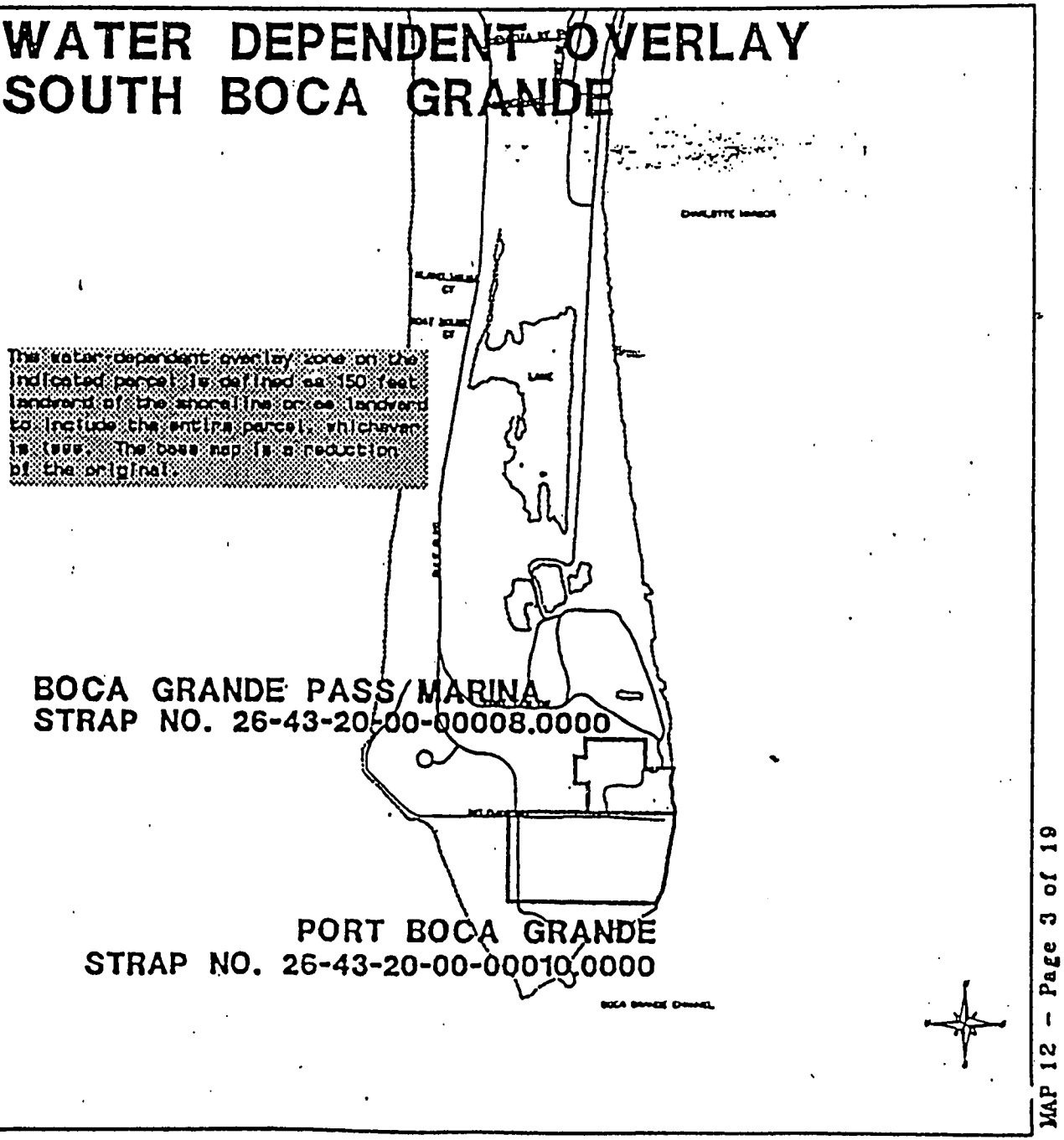

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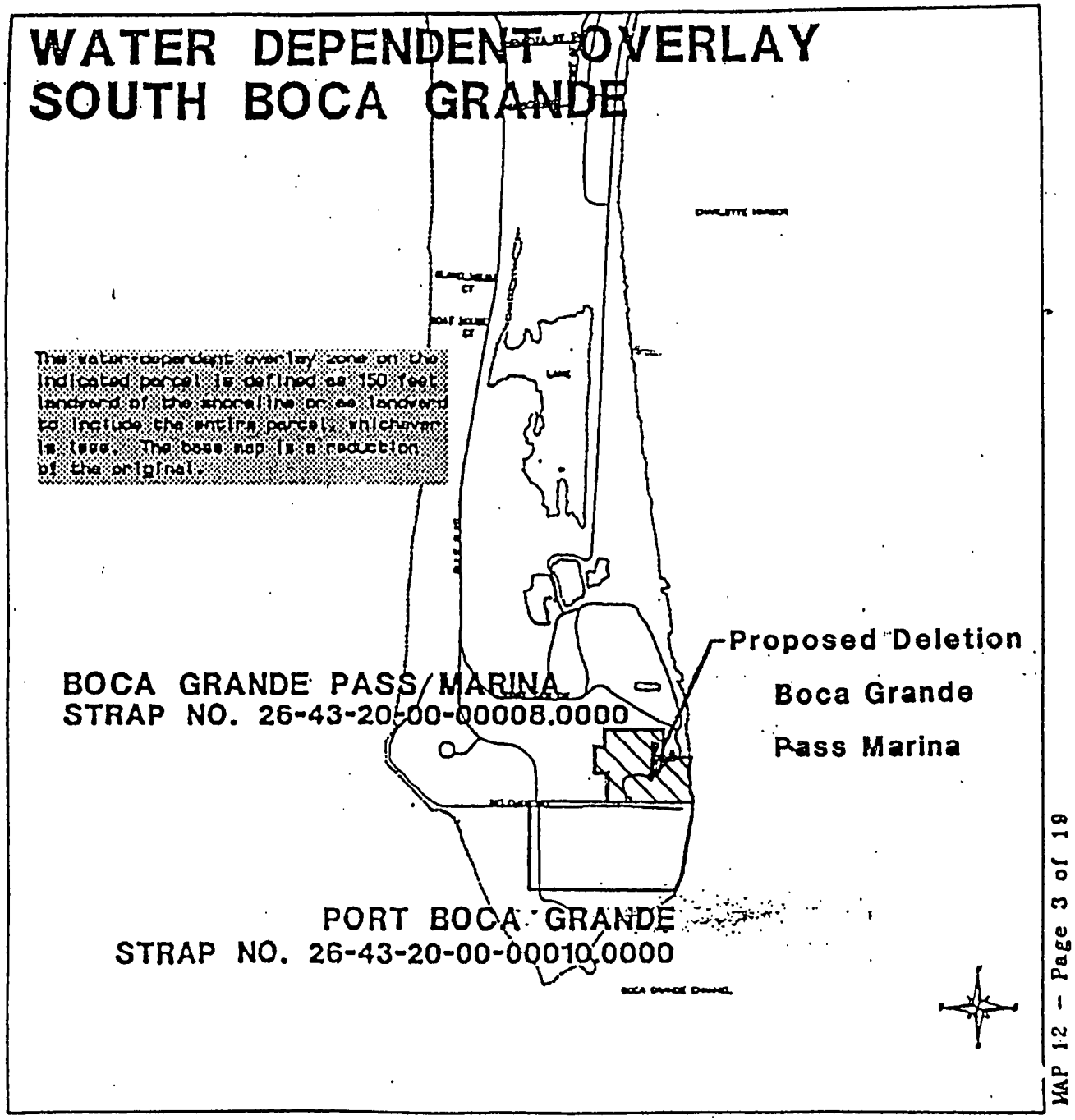
EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



MEMORANDUM

from the

TRANSIT DIVISION

lee tran

Your Ride Is Here.

DATE: February 20, 2003

TO: Paul O'Connor, AICP

FROM: Steve Myers

RE: CPA 2002-02 – Privately Initiated Lee Plan Future Land Use Map Amendment

Lee Tran staff has reviewed the above referenced Lee Plan amendment and has determined that the proposed amendment to the future land use map would have no impacts on existing or planned services Lee Tran provides, nor would it have any impact to the budget of Lee County's transit division.

If you have any further questions regarding this amendment, please call me at 277-5012.

LEE COUNTY
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LOCAL PLANNING AGENCY
AGENDA

Monday, October 22, 2001
Board of County Commission Chambers
The meeting will commence at 8:30 a.m.

AGENDA

1. **Call to Order; Certification of Affidavit of Publication**

2. **Public Forum**

3. **Approval of Minutes from September 24, 2001 LPA Meeting**

4. **Review of Proposed Community Parks and Regional Parks Impact Fees Ordinance – Administrative Code 13-20:**

5. **Review of Proposed Bicycle and Pedestrian Facilities Construction on Major Roadways - Administrative Code 11-9:**

6. **Review of Proposed Communication Tower Interim Ordinance**

   AN ORDINANCE TO ESTABLISH AN INTERIM ORDINANCE TO REGULATE COMMUNICATION TOWERS AND PERSONAL WIRELESS SERVICE FACILITIES (PWSF'S); PROVIDING FOR A TITLE; PURPOSE, INTENT AND SCOPE; DURATION; CONSISTENCY WITH LEE COUNTY LAND DEVELOPMENT CODE; DEFINITIONS; GENERAL PROVISIONS; DETERMINATION OF VESTED RIGHTS OR ESTOPPEL; EXCLUSIONS AND EXCEPTIONS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

7. **Other Business**

8. **Adjournment**

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to all proposed actions. Pursuant to Florida Statutes Section 163.3184(7), persons participating in the Comprehensive Plan Amendment process, who provide their name and address on the record, will receive a courtesy informational statement from the Department of Community Affairs prior to the publication of the Notice of Intent to find a plan amendment in compliance.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
Further information may be obtained by contacting the Lee County Division of Planning at 479-8585.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 479-8585 Extension 5910.

PO# 900565

MINUTES REPORT
LOCAL PLANNING AGENCY
April 23, 2001

MEMBERS PRESENT:

Noel Andress
Susan Brookman
Ron Inge
Gordon Reigelman
Virginia Splitt
Greg Stuart

STAFF PRESENT:

Brandy Ambrose, Planning Division
Peter Blackwell, Planning Division
Rick Burris, Planning Division
Ben Chumley, Planning Division
Tim Jones, Asst. Co. Atty.
Rob Irving, Planning Division
Rick Joyce, Planning Division
Dave Loveland, DOT
Janet Miller, Recording Secretary
Matt Noble, Planning Division
Paul O'Connor, Planning Director
Kim Trebatoski, Planning Division

Agenda Item 1 - Call to Order, Certification of Affidavit of Publication

Mr. Stuart, Chair, called the meeting to order. Donna Marie Collins, Assistant County Attorney, certified the affidavit of publication and submitted same to the record.

Ms. Collins announced there would be another brief ethics seminar being held on Thursday, April 26th at 1:00 p.m. in the Board Chambers for those who did not attend the last seminar. She stated there would be more emphasis on actually filling out the forms to try and remove the mystery of some of those forms.

Agenda Item 2 - Public Forum - None

Agenda Item 3 - Approval of Minutes - March 26, 2001

Ms. Brookman referred to the Page 1 of 16, Under Agenda Item 3, and stated "Mr." should be replaced with "Ms."

Ms. Brookman referred to the second bullet point on Page 5 of 16, and stated the word "we" should be removed.

Ms. Brookman referred to the last sentence under the third bullet on Page 5 of 16, and stated the word "their" should be replaced with "there."

Ms. Brookman referred to Subparagraph d., third line from the bottom of Page 8 of 16, and stated the word "Spring" should be "Springs."

Ms. Brookman referred to the fourth sentence of the first paragraph of Page 13 of 16, and stated the word "ECCO" should be replaced with "eco".

Ms. Brookman referred to Page 16 of 16 and stated she did not understand the last sentence.

Mr. O'Connor stated it should read: "The general consensus was that they would try and find a core group within that massive group to continue on with the planning effort there."

Mr. Inge referred to the third line down on Page 9 of 16, and stated the word "effort" should be replaced with "district."

Mr. Andress referred to the first motion on Page 3 of 16, and stated "Mr." should be replaced with "Ms."

Mr. Inge moved to approve the March 26, 2001 meeting minutes with the above changes, seconded by Ms. Brookman. There being no further discussion, the motion passed 6-0.

Agenda Item 4. - Review and Consideration of Proposed Lee Plan Amendments

Mr. Stuart referred to Mr. O'Connor's cover memorandum and clarified that PAM 99-06 and PAT 99-09 would be continued to the next cycle. In addition, CPA2000-24 would also be continued to the next cycle, however, a general discussion will take place.

Mr. O'Connor explained that with regards to PAT 99-09, staff was awaiting the results of the Greenways Committee, which is the guiding force in this amendment.

Mr. Stuart asked for more information on the Greenways Committee.

Mr. O'Connor explained that the Greenways Committee was an ad hoc committee that was chaired by Commissioner Judah. He stated this Committee met once every two to three weeks.

Mr. Stuart asked if the meetings were advertised.

Ms. Collins stated she would investigate this matter further and coordinate her efforts with Mr. O'Connor.

Mr. Stuart asked if minutes were prepared for these meetings.

Ms. Brookman stated that although she did not attend the Greenways Committee meetings, she received e-mails and occasionally summaries, however, she was uncertain whether these summaries could be considered minutes.

Mr. Stuart expressed an interest in being added to the mailing list for the Greenways Committee.

Ms. Collins felt staff could get Mr. Stuart added to the mailing list.

c. CPA2000-16

Mr. Chumley stated the following:

- This is a proposed amendment to analyze the addition of a new policy to Goal 12 to specifically preserve the use, education and public access on the Matanzas Pass Murphy Oil site.
- This amendment came before the LPA last month and was deferred. Since that time, staff met with the San Carlos Island Community Redevelopment Corporation and addressed some of their concerns.
- The San Carlos Island Community Redevelopment Corporation also expressed some concerns to staff and proposed some language of their own that they wished to add to Goal 12. He referred the Board to this proposed language which was Attachment 4 of the report.

- Staff is still recommending nontransmittal of the amendment. Staff does not want to see the County get locked into specific uses on that property. The people from San Carlos Island will have an opportunity to comment whenever a new use is established on that property because it will require a contract with the Board.

- Staff's rationale for recommending nontransmittal is that the education and public access uses are accommodated under the existing zoning and land use categories.

- Mr. Chumley referred the Board to staff's alternate language. He explained that staff was recommending nontransmittal, however, if the LPA felt language should be added, staff recommends their alternate language.

Mr. Noble explained that staff recognized the language in the two policies, referenced by the San Carlos group, is somewhat obsolete. Staff deferred any action amending that language until such time as the Matanzas Harbor Management Plan was more firmly established by the town. Mr. Noble noted it appeared as if the Town were moving forward on the Harbor Management Plan and were establishing a harbor master building underneath the bridge. He felt staff would need to revisit this language in a year or two because it is not the County's intention to be the lead agency with the Matanzas Harbor Management Plan. The County sat in an advisory capacity in the deliberations, but the Town took the lead.

Mr. Reigelman asked for specifics on the San Carlos group's concerns.

Mr. Chumley stated they did not want to see the property being used as a solid waste transfer station. They also did not want to see derelict vessels pulled out of the water and stored on the property for weeks. In addition, they would like to see the public access maintained on the property.

Mr. Inge noted that staff addressed these concerns as outlined in the staff report.

Mr. Stuart noted the property was zoned CFPD and asked if Lee County would be required to submit a development order pursuant to the Land Development Code.

Mr. Noble stated staff would submit a development order for any additional use on the property. He explained that the Public Works staff would process the development order.

Mr. Stuart expressed concern that since the property is already zoned the County could go in and do anything they wanted based on the current schedule of uses. He asked what mechanism was in place to at least have input from the citizens of San Carlos Island.

Mr. Chumley stated that whenever a new use would be established it would require a contract with the Board, which would give people an opportunity to comment.

Mr. Noble stated there was also the five-year CIP review. If the County proposes, for example, to establish a natural resource building, it would appear in the budget. At that time, people would have the opportunity to comment on the governmental operation aspect of the property.

Mr. Stuart felt there should be some type of safeguard because anything could happen in the future.

Mr. Noble noted this property was very visible. He felt that if a change occurred, everyone would be aware of it.

Ms. Splitt felt that the people in this community who pay the taxes should not be in a position where they must constantly be watching over the property for any new changes. She felt there should be some language in place that would require the County to notify abutting property owners or property owners within the general area of any changes or new uses out of courtesy so that we can be sure they would have an opportunity to comment.

Mr. Andress did not feel the County should be treated any differently than anyone else. Currently, projects that want to put a building on a piece of property do not have to go through public hearings. They merely need to apply for a development order. He felt it would be premature to adopt a policy now for issues that might come up in the future. He felt that if there were other proposed uses that might be outside the scope of the current uses that are now designated for this property, then those issues could be addressed at that time.

Mr. Inge moved to recommend nontransmittal of CPA2000-16, seconded by Mr. Andress. There being no further discussion, the motion passed 5-1. Mr. Stuart was opposed.

Mr. O'Connor requested a motion to recommend tabling items 4.a. PAM 99-06 and 4.b. PAT 99-09.

Mr. Andress moved to recommend tabling items 4.a. PAM 99-06 and 4.b. PAT 99-09, until the next cycle, seconded by Ms. Brookman. There being no further discussion, the motion passed 6-0.

The Chairman suggesting the Board make a motion to continue item 4.e. CPA2000-20 and 4.h. CPA2000-28.

Ms. Brookman moved to continue items 4.e. CPA2000-20 and 4.h. CPA2000-28, until the next cycle, seconded by Mr. Andress. There being no further discussion, the motion passed 6-0.

d. CPA2000-17

Ms. Ambrose stated that plan amendment 2000-17 was a request to amend the Future Land Use Element by evaluating the removal of Goal 13, Bonita Springs. In addition, it is a request to consider relocating policies which should continue to apply to the remaining unincorporated areas of Bonita Springs. She explained staff was proposing removing those noted in the staff report that do not apply and retaining those that should continue. Staff is also proposing adding a new map to the future land use map series designating an irrigation well overlay in conjunction with the relocation of Policy 13.2.2.

Mr. Stuart asked for a briefing on what an irrigation well overlay was.

Ms. Ambrose stated that the irrigation well overlay was all of the unincorporated area of Bonita Springs. The City has incorporated, but the County wanted the policy to continue to apply to South Lee County outside of the incorporated area of Bonita Springs. Ms. Ambrose showed the Board where this area was on the map.

Mr. Noble provided the Board with background information on this item. He stated this amendment was comparing the original area that this regulation applied to and subtracting out the incorporated area. This overlay is basically the balance of that restrictive use area that is remaining in unincorporated Lee County.

Mr. Stuart referred to his April 11, 2001 memorandum and asked if staff considered deliberating it. He distributed copies of his memorandum to the LPA Board.

Mr. Noble stated that he had considered deliberating this memorandum but that staff felt these comments were more appropriate at the plan amendment initiation stage. He explained that staff was not dealing with the roadway issue through this amendment. Staff is looking at the Bonita Springs goal itself and removing policies that no longer pertain because of their incorporation.

Mr. Stuart stated he would still appreciate the LPA Board members and staff's comments on his April 11th memorandum because he felt it was definitely warranted.

Ms. Splitt felt that since the Board members received this information at the last minute, it would be better to discuss it at the next meeting.

Mr. O'Connor stated he could schedule this item for the next LPA meeting to give everyone ample time to review the information.

Mr. Inge stated that he wanted to make sure that Dave Loveland and DOT were given a chance to review the memorandum as well and be able to respond and participate.

Mr. Stuart felt this tied into the Greenways Committee. He hoped his memorandum would be a means to kick off a more thorough discussion because he felt the 951 corridor issue would be the most paramount management issue that is facing the County in the next decade.

The Chairman asked if anyone from the public wished to speak on CPA2000-17.

Mr. Uhle stated the following:

- He stated the irrigation well overlay sounded like a reasonable device.

- He wanted to make a technical objection to the timing of this particular amendment involving the removal of the language from Goal 13. He explained that the City of Bonita Springs accepted the County's plan as it existed as of the date they were created. This language is part of the Comprehensive Plan today. He noted the County did not have the ability to remove this from the City's plan. It seemed to him that the County was attempting to create its own plan and its own document that is distinct from the City's plan. He stated the City had not printed one just for itself. To his knowledge, the County had not ordered that a City version of the Comprehensive Plan be printed separate from the County's plan. He gave examples of the difficulties this would cause.

- He suggested the County either make separate versions of these documents or hold off on removing this kind of language from the plan and the Land Development Code until the new versions are completed by the City of Bonita Springs.

Mr. O'Connor stated he understood Mr. Uhle's concerns and agreed that it did not make life easier when there are various documents with different date stamps on them, however, staff feels this is the appropriate time to make these changes. He noted that when the City of Bonita Springs incorporated, they were bound by the County's rules and regulations for the Comprehensive Plan and Land Development Code. The City is bound to the County's rules and regulations until they adopt their own.

Mr. Uhle asked where he could obtain a copy of the Bonita Springs Plan and Land Development Code.

Mr. O'Connor stated he provided the City with all the copies of the June 1998 Lee Plan that staff had left over, which is the City's Comprehensive Plan.

Ms. Brookman moved to recommend transmittal of CPA2000-17, seconded by Mr. Andress. There being no further discussion, the motion passed 6-0.

f. CPA2000-21

Mr. Loveland stated this was a housecleaning amendment in terms of updating some policies within the transportation element and one goal within the transportation element to update some outdated references and add some clarification where necessary. It is also an update of four of the nine maps that are part of the transportation map series. He noted that two of them were included in the Board's packets. Mr. Noble distributed two others.

Mr. Loveland explained the primary change in Policy 21.1.1 was that it currently referred to the plan as adopted or last amended in June, 1999. Since then there has been an update of the MPO plan. Staff is proposing to change 21.1.1 to refer to the latest MPO plan map, which was adopted December 8, 2000 and that would become the new Map 3-A of the transportation map series. He reviewed all other proposed changes with the Board.

Ms. Splitt referred to Page of 8 in the Staff Report, under "Conclusions" where it states "Because of the State's blind insistence..." She was not sure it would be appropriate to keep the term "blind" in an amendment that is going to be transmitted.

Mr. Loveland stated he would remove the term "blind".

Mr. Stuart referred to the reference of a separate functional classification list that may or may not be incorporated on this map. He asked if that list had been developed and adopted through the administrative code process similar to what was discussed last year.

Mr. Loveland stated it had been developed but had not been adopted through the administrative process. He noted staff would be moving forward with that at some point.

Mr. Stuart stated he would like to see some certainty in terms of what is a major collector, what is a minor collector, and what is an arterial.

Ms. Collins stated the administrative code would be adopted at a board hearing. It will be advertised separately in the newspaper and will be an agenda item. Public comment will be welcome. She noted that this type of administrative code amendment would be presented before the Local Planning Agency for their review before it was scheduled before the Board of County Commissioners.

Ms. Splitt referred to Map 3-H where it shows State Road 867, which is McGregor Boulevard. She thought the City paid to have that redone, however the map shows the road as being State maintained not City maintained.

Mr. Loveland stated this was an oversight and that the portion of McGregor north of Colonial was city maintained.

Ms. Splitt moved to transmit CPA2000-21 to the Lee County Board of County Commissioners with the editorial change suggested as well as the map correction, seconded by Mr. Reigelman. There being no further discussion, the motion passed 6-0.

g. CPA2000-24

Mr. Stuart announced that staff and the LPA would have a general discussion on CPA2000-24, but that it would also be scheduled for next month's LPA meeting. A staff report will be completed and available by the next LPA meeting and a more in depth discussion will take place.

Ms. Trebatoski stated that CPA2000-24 would amend the Community Facilities and Service Element by adding a new objective and policy to Goal 40 encouraging the incorporation of isolated wetlands and wetland systems into the surface water management design of projects. She explained that staff realized this language did not meet everything the County was trying to accomplish. The County wants to have surface water management systems incorporate green infrastructure, which are the best management practices known today. Instead of waiting to fit your surface water management system in after you have other design criteria, applicants will have it at the forefront of their design similar to what is being asked with open space design. The natural features of the site and how applicants are going to best use the site and have it aesthetically pleasing will be brought forward early on in the development process instead of at the end. Ms. Trebatoski noted that staff was coordinating with the Division of Natural Resources in order to receive their technical input. She noted that some people may feel that the South Florida Water Management District already reviews this in their review. Staff contends that the South Florida Water Management District reviews for regional issues, whereas the County reviews a little bit more in depth to local issues.

Mr. Noble explained the difference in how the South Florida Water Management District views projects and gave examples.

Ms. Trebatoski reviewed other aspects staff will encourage with applicants, such as using filtration marshes as part of their system, to think about the design of their littoral zones more so than just placing one plant per linear foot, and possibly using a grass flowway versus piping the water underground.

Mr. Andress asked if there were incentives for developers to move things around their site to preserve these features.

Mr. Noble stated there were some incentives in place, but it was open for discussion.

Mr. Stuart referred to native open space credits and stated applicants receive a 25 to 50 percent boost based on uplands. He noted that if you have isolated wetlands on major commercial corridors it could mean values anywhere from five dollars to fifteen dollars a square foot for an acre of wetlands. This could mean a quarter of a million to a million dollars plus worth of real estate. He suggested the code be changed to allow for isolated wetlands when you have them on commercial corridors and there is such an imbalance between value versus the community value.

Ms. Trebatoski noted that the credits were for uplands because staff was not seeing much upland preservation. She felt it was very important for isolated wetland systems to be fully integrated into the water management system to insure their health.

Mr. Stuart stated that the market was reality and that he would fight for a quarter million to a million dollars worth of real estate on a project, but if the County allows a credit for native open space, it might help rectify this balance.

Ms. Trebatoski noted that Mr. Noble had been attending many community organization meetings. The organizations have relayed their concern with green space and the quality of developments.

The Chairman asked if anyone from the public wished to speak.

Mr. Mitch Hutchcraft stated the following:

- He felt Mr. Stuart's comments were appropriate. He felt it was imperative that whenever you start to encourage the retention of certain wetlands that you need to have the ability to provide some kind of benefit to the landowner.

- However, he also agreed with staff and felt the overall approach was to improve projects aesthetically and integrate wetlands into the water management system.

- He cautioned the LPA that whenever they reviewed this amendment to make sure they do not mandate it so that it is applied to every isolated wetland. He explained there were instances in projects where it was not viable to save isolated wetlands and applicants would need some relief from that requirement.

- He did agree that if there were wetlands on the perimeter they do provide a community aesthetic or can be integrated into a viable water management system. He felt this made sense and he would be supportive of it.

- He reiterated that the LPA should not make these regulations so tight that there is no flexibility given site specific information.

Mr. Matt Uhle noted that it was a few years ago that the Land Development Code was amended to provide flexibility for off-site mitigation and in particular it was noted that there were a lot of commercial projects in intensely urban areas where it would not make sense from an economic perspective or from a planning perspective to require the preservation of postage stamp areas of native vegetation. It was determined that it was better to take the same amount of money and buy off site. He felt it was important that whatever policy gets adopted that it not be inconsistent with that approach.

Ms. Splitt brought up the subject of mitigation banks and asked staff for a status as to whether or not they were working. She stated she had heard conflicting reports. Ms. Splitt asked that this item be discussed at next month's meeting.

Mr. O'Connor stated there were several opinions on this. He personally felt the Pine Island Mitigation Bank was working very well. He also noted there was a large wetland bank called Panther Island and Corkscrew Mitigation Bank. Mr. O'Connor stated there would be a large agenda at the next meeting, but he felt staff could put together a packet of information.

Mr. Andress stated he would not wish to see the County's current plan be on the state level. He felt this plan was working in other areas as well as Lee County. He noted there were many times that it serviced no purpose to preserve a dysfunctional wetland. He stated that if you could mitigate it off site and get something that is in the greater community need, I think it is something that should be encouraged and not be curtailed.

Mr. Inge noted the mitigation aspect had two subcategories. One of them is on-site mitigation before you go off site. Developers try to get credits on site before they go to the next step because the mitigation credits are not cheap.

Agenda Item 5 - Other Business

Staff reviewed items that might be on next months agenda. After discussion, the Board agreed to cancel the May meeting and to have two meetings in June. The first meeting will be held on June 4, 2001 and the second meeting would be held on June 25, 2001 as scheduled. The time and location will be confirmed and all members will be notified.

Ms. Splitt asked for a status on the parking issue for the LPA meetings.

Mr. O'Connor stated he thought there had been a solution, but it seemed we were back to where we started.

Ms. Splitt stated she had gone to every County Commissioners office and was told that the MPO would take care of this issue. She noted that when she tried to park in the designated lot, it was full. She asked the Board to consider holding the meetings at the Community Development/Public Works Center because then all members could park in that lot. Since the meetings begin at 8:30 a.m., she did not feel the members would have difficulty finding a parking spot. She noted it would be more convenient for staff except for the County Attorney's office.

Ms. Collins stated her office did not mind attending the meetings in the Community Development/Public Works Center.

Ms. Collins stated that another solution would be for the members to park in the parking garage and submit their receipts to Mr. O'Connor who would process them for payment. She thought this might prompt administration to devise an alternative.

Ms. Splitt asked if the members would consider relocating the meetings and bring this issue up for discussion at the next meeting.

Agenda Item 6 - Other Business

The meeting adjourned.

_____

CHAIRMAN

_____

DATE

9/29/00
10:22:10 AM

Fees Associated with Case # CPA2000-00002

Fee Type	Case Type	Start Date	End Date	Case No.	Dept.	Description	Trans. Code	Revenue Account No.	Create Date	Created By	Amount	Due
MPAM	CPA	1/1/99	12/31/05	CPA2000-00002		Map Amendment > 20 Acres		LB5150715500.322000.9018	9/28/00	C03	$500.00	$0.00
TEXT	CPA	1/1/99	12/31/05	CPA2000-00002		Text Amendment Flat Fee		LB5150715500.322000.9018	9/28/00	C03	$1,250.00	$0.00
											$1,750.00	**$0.00**

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Development/Planning/Zoning	**CODE NUMBER:** AC-13-20 (Moved from AC-14-9)
TITLE: Community Parks Impact Fee Ordinance and Regional Parks Impact Fee Ordinance Administrative Code	**ADOPTED:** 2/5/86
	AMENDED: 5/6/92 11/9/94 7/1/97 (S:\LU\JJF\LDC AMEND\Administrative Code 13-20 Parks Impact Fees (Draft Two).wpd) [101001/1330]
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this administrative code is to guide staff in the administration of Land Development Code (LDC), Chapter 2, Article VI, Divisions 3 and 4, (Regional Park Impact Fee and Community Park Impact Fee regulations). This code is intended to supplement the provisions of the Ordinances and it specifically supersedes Administrative Code AC-14-9 "General Administrative Guidelines and Procedures for Implementation of the Parks Impact Fee Ordinance" (Lee County Ordinance 85-24; Adopted July 31, 1985; Effective September 16, 1985; most recently amended in Lee County Ordinance 01-13; adopted August 28, 2001; Effective September 5, 2001). If any of the provisions of this code conflict with the provisions of the Ordinances, the provisions of the Ordinances shall control.

POLICY/PROCEDURE:

I. ADMINISTRATIVE ORGANIZATION & RESPONSIBILITY

A. Impact Fee Administrator/Building Officials

The County ~~Administrator~~ Manager, or ~~his~~ designee, ~~shall~~ will carry out the general administration of the Ordinances. The County ~~Administrator~~ Manager ~~is referred to in this Code as~~ may designate another County staff member to serve as the "Impact Fee Administrator".

The Building Official of each participating municipality is hereby designated by the County ~~Administrator~~ Manager to administer the Ordinances within the boundaries of that municipality.

B. County ~~Administrator~~ Manager/~~Planning and Construction Division~~ Public Works Construction and Design Department, and Public Parks and Recreation Division

~~The County Administrator, including the Planning and Construction Division and Public Parks and Recreation Division and/or his designee shall include any successor agency serving the same function and the County Administrator or any successor agency shall be referred to in this Code as the "County Administrator" shall assist the Impact Fee Administrator in the following areas:~~ The Public Works Construction and Design Department and the Public Parks and Recreation Division or successor agencies will assist the Impact Fee Administrator in the following areas:

1. Land Use Determination - When a land use is not listed in the fee schedules, or in the list of previously determined miscellaneous land uses, the ~~County Administrator shall~~ Public Works Construction and Design Department and the Public Parks and

Recreation Division will assist the Impact Fee Administrator in establishing parks impact fees by determining the most nearly comparable type of land use listed in the fee schedules.

2. Independent Fee Calculations - Upon submission of an independent fee calculation, the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division will be invited to attend pre-application meetings; review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings; and make recommendations to the Impact Fee Administrator concerning the appropriate amount of the parks impact fees based on the procedures described in the Ordinances and in this Code.

3. Exemptions, Refunds and Recalculations - The ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division will assist the Impact Fee Administrator in determining whether exemptions from parks impact fees are appropriate, refunds are justified or recalculation of the fees necessary in the event of a change of use, redevelopment, or modification of an existing land use.

4. Fee Adjustments - The ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division will recommend to the Impact Fee Administrator an appropriate parks impact fee in response to any claim to a fee adjustment under LDC Sections ~~Six D~~ 2-306(d) and 2-346(d) ~~of the ordinances~~.

5. Parks Impact Fee Credits - The ~~County Administrator shall~~ Public Works Construction and Design Department and the Public Parks and Recreation Division will recommend whether parks impact fee credits should be issued for the dedication or construction of park facilities and the amount of the credits.

C. The Department of Community Development

The Lee County Department of Community Development (as used herein the "Department of Community Development" ~~shall~~ includes any successor agency serving the same function) will provide advice, information, or other such service upon the request of the Impact Fee Administrator or the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division.

II. DETERMINATION OF PARKS IMPACT FEES

A. Unincorporated Lee County. The amount of the parks impact fees will be determined by the Impact Fee Administrator, with assistance from the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division when necessary and appropriate. The Impact Fee Administrator will determine the amount of the fees, based on the LDC fee schedules, a fee adjustment, or an independent fee calculation study. Entitlement to exemptions and the calculation of refunds and parks impact fee credits will also be the responsibility of the Impact Fee Administrator.

B. Participating Municipalities. Participating municipalities have the authority to assess and collect parks impact fees based on the Impact Fee Schedules in the LDC and the list of Miscellaneous Land Uses described in this Code, and to determine exemptions from the

parks impact fees as provided in the LDC. Participating municipalities have the authority to undertake any other action regarding fee determinations that is granted to the municipality pursuant to interlocal agreement and not in conflict with the LDC.

C. Determination of Fees Based On Fee Schedules

At the option of the feepayer, the amount of the parks impact fees may be determined by the fee schedules contained in LDC Sections 2-306 and 2-346.

D. Administrative Determination of Fee Without an Independent Fee Calculation Study

~~The feepayer may, at his option,~~ At the option of the feepayer, the feepayer may submit a request for a fee adjustment as provided in LDC Sections 2-306 and 2-346 by submitting evidence to the Impact Fee Administrator indicating that the parks impact fees set out in the fee schedules are not applicable to the particular development.

Except for fee adjustments claimed for the provision of on-site recreational facilities, discussed below, the Impact Fee Administrator will determine whether a claim may be adequately assessed through an administrative review of the evidence submitted by the feepayer or if the submission of an independent fee calculation study is necessary. The Impact Fee Administrator may administratively approve a fee adjustment based on the information submitted or require an independent fee calculation study ~~at his sole discretion~~. After appropriate review, the Impact Fee Administrator may adjust the parks impact fees to those appropriate for the particular development.

The Impact Fee Administrator will be guided ~~in his decision~~ by a recommendation from the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division, which ~~who~~ will recommend parks impact fees by considering demographic or other information available from the Department's studies and plans, the Lee County Department of Community Development, the Bureau of Economic and Business Research of the University of Florida, or other applicable agencies or sources.

It is the feepayer's responsibility to furnish, as required by the Impact Fee Administrator, all materials and information necessary to validate a claim to a fee adjustment up to and including deed covenants. Any claim to a fee adjustment must be submitted prior to the payment of the parks impact fee at issue. Otherwise the claimed fee adjustment is waived.

If the feepayer disagrees with the amount of the administratively determined parks impact fees, the feepayer may prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Chapter 2.

E. Community and Regional Parks Impact Fee Adjustments For On-Site Recreational Facilities

~~The feepayer may, at his option,~~ At the option of the feepayer, the feepayer may claim a fee adjustment to the Community or Regional Parks Impact Fee based on the provision of on-site private recreational facilities that serve the same purpose and function as set forth in the Lee Plan for Community or Regional Parks. To claim an adjustment, the feepayer must prepare and submit an independent fee calculation study in accordance with LDC Section 2-306 or 2-346 and this Administrative Code.

F. INDEPENDENT FEE CALCULATION STUDIES

1. General

The feepayer must prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Section 2-306 or 2-346 if:

a. The feepayer opts not to follow the fee schedules in the LDC;

b. The Impact Fee Administrator determines that a feepayer's claim for a fee adjustment cannot be assessed administratively;

c. The feepayer seeks a fee adjustment to the Community Parks Impact Fee based on the provision of private on-site recreational facilities; or

d. The feepayer disagrees with the administrative determination of the parks impact fee under Section II.D. above.

Submission of an independent fee calculation study by the feepayer will not exempt the feepayer from paying the parks impact fees prior to the issuance of any building permit, mobile home move-on permit, or recreational vehicle development order as those terms are defined in the LDC.

2. Notice of Intent by Feepayer

The feepayer must inform the Impact Fee Administrator of his intent to submit an independent fee calculation study before the issuance of the permits described in subsection ~~11~~II.F.1. The ~~County~~ Impact Fee Administrator will then schedule a pre-application meeting with the feepayer.

3. Pre-Application Meeting

Before beginning the independent fee calculation study, the feepayer or his representative will attend a pre-application meeting with the ~~County~~ Impact Fee Administrator. The purpose of the pre-application meeting is to discuss the procedures for preparation of the independent fee calculation study, the methodology to be employed, and the standards to be met.

The ~~County~~ Impact Fee Administrator will prepare a written summary of the results of the pre-application meeting regarding methodology, required forms, documentation or procedures (which may not constitute a waiver of the provision of the Ordinances). The ~~County~~ Impact Fee Administrator will send a copy of this summary to the feepayer and the ~~Impact Fee Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division. The feepayer must provide written confirmation as to receipt and acceptance of the summary to the Impact Fee Administrator.

If the feepayer wishes to waive the pre-application meeting he must do so in writing. Feepayers who waive the pre-application meeting waive the right to raise methodological or procedural issues regarding the study at a subsequent time.

4. Methodology

a. The purpose of the independent fee calculation study is to measure the impact of the development on the Lee County parks system and to determine if the proposed land development activity is designed or located so that the occupants of the development will use the parks system and facilities differently than the use patterns projected in the LDC and the Lee Plan.

If the feepayer requests an adjustment of the assessed community parks impact fee to offset construction of on-site private recreational facilities, the study will determine if the private recreational facilities serve the same purposes and functions as those set forth in the Lee Plan for community parks.

b. The independent fee calculation study must follow the methodologies and formats agreed upon during the pre-application meeting and be in accord with the documentation or methodology required by this Code and the LDC.

c. The methodology used to prepare the independent fee calculation must be appropriate to the independent fee calculation and ~~shall~~ must conform to the following specific requirements:

(1) Park Use

The feepayer must submit evidence to verify that the projected use of the park by the residents of the proposed development is less than the projected use levels used in ~~established as a basis for setting the Minimum Acceptable Level of Service for Regional and Community Parks as set forth in the Lee Plan and~~ establishing the LDC schedules.

(2) On-Site Recreational Facilities

~~The Lee County Community Parks system is planned and developed to satisfy the Minimum Acceptable Level of Service Standards set out in the Lee Plan for Community Parks. The Standard Community Park Standard (as defined in the Lee Plan) is described in terms of acreage committed to Community Parks open for public use per 1,000 population in the unincorporated areas of Lee County. The current community parks standards are:~~

~~.8 acres/1,000 pop. through 9/29/94;~~
~~1.75 acres/1,000 pop. through 12/31/97;~~
~~2 acres/1,000 pop. thereafter.~~

The feepayer must submit evidence that the private on-site recreational facilities serve the same purposes and functions as those set forth in the Lee Plan for community parks. No credit will be given for the value of the land, or for site development costs, but only for the costs of actually purchasing, installing or constructing the recreational facilities. No credit will be given for the provision of recreational facilities that exceeds the county's

actual or adopted level of service, whichever is greater, for the type of facility. (For example, if the county provides one outdoor swimming pool per 20,000 residents in its community park system, and the developer is proposing to provide a swimming pool for the 5,000 residents anticipated to reside in the development, only one-fourth of the cost of the swimming pool would be eligible for credits.)

A feepayer is eligible for an adjustment to the applicable Community Parks Impact Fee for the provision of private on-site recreational facilities ~~to the extent the gross acreage permanently committed by the feepayer to the on-site recreational facility (through conveyance, deed covenants or other appropriate legal mechanism) serves to satisfy the Standard Community Park Standard,~~ up to a maximum fee adjustment of 50% of the fee schedule amount. The 50% figure represents the maximum allowable fee adjustment to the community parks impact fee for the subject land use because the on-site recreational facilities are limited to private use and therefore cannot completely satisfy the Lee Plan goals for the Community Park System.

~~Acreage committed to on-site private recreational facilities that exceeds the current Standard Community Park Standard is not eligible for fee adjustments.~~

d. The independent fee calculation study must be prepared and presented by a qualified professional. The methodology must be consistent with best professional practice and support the central claim of the study. The study must provide all necessary supporting documentation and information. Failure to adhere to best professional practice standards is a basis for rejection of the study.

The feepayer's submission must certify that the study complies with best professional practices.

e. The feepayer must submit the study to the Impact Fee Administrator who will forward the study to the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division.

5. Sufficient Determination

The ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division will review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings. Thereafter, the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division will make recommendations concerning the appropriate amount of the parks impact fees to the Impact Fee Administrator. The Impact Fee Administrator will have 30 days from the date the study is received to provide written notice to the feepayer of any deficiencies or defects in the study, to approve the study and authorize an appropriate fee adjustment or to reject the conclusions of the study and deny the fee adjustment. This notice must be sent certified mail, return receipt requested. In the event this notice is not given within 30 days, the study will be considered sufficient and the fee adjusted as if the study had been approved. If the study is found defective or deficient the 30 day review period will begin again with the submission of a new or modified study. If the

feepayer does not respond to the Impact Fee Administrator regarding a finding of deficiency within 30 days of the date notice of a deficiency is sent, the Impact Fee Administrator will consider the independent fee calculation study withdrawn and all claims to a fee adjustment waived. All permits described in subsection II.F.1. subsequently applied for must be accompanied by the parks impact fees established by the fee schedules.

The 30 day sufficiency review will begin when the Impact Fee Administrator receives and date stamps the independent fee calculation study.

6. Effective Date

Once the Impact Fee Administrator approves the independent fee calculation study and establishes the amount of the impact fee adjustment, the adjusted park impact fee will relate back to the date of the pre-application meeting. Fees paid after the pre-application meeting according to the LDC fee schedule will be adjusted to reflect the fee established by the study. The feepayer will receive a refund for the difference between the LDC fee schedule and the approved fee established by the study. Refunds will be in the form of cash or park impact fee credits, depending on the original method of payment. There will be no refund of fees paid prior to the pre-application meeting.

If the feepayer waives the pre-application meeting, the adjusted park impact fee will relate back to the date the study is found sufficient for review by the Director.

7. Application for Permit or Development Order

It is the feepayer's responsibility to claim a reduction in parks impact fees on the basis of an approved independent fee calculation study, at the time of application for a building permit, mobile home move-on permit or recreational vehicle development order. No claim to a reduced fee will be accepted in advance of the approval of an independent fee study where one is required. In order to assert a claim for a fee reduction, a feepayer must attend a pre-application meeting with the Impact Fee Administrator to discuss the independent fee calculation study prior to paying the parks impact fees or obtaining the building permit, mobile home move-on permit or recreational vehicle development order. The feepayer must present documentation enabling the staff of the ~~Division of Codes and Building Services~~ Lee County Department of Community Development - Development Services Division, or the Building Official of a participating municipality to verify this claim. Where the feepayer waived the pre-application meeting, fees paid according to the parks impact fee schedule after the study is found sufficient for review will be adjusted to reflect the fee established by the study.

8. Development of Regional Impact (DRI)

Applicants may use data, studies, or information prepared as part of a DRI submission for the purposes of an independent fee calculation study.

IV. METHOD OF PAYMENT

A. Payment Due

1. General. All payments ~~shall~~ must be made in the following manner:

   a. Unincorporated Lee County. Payment ~~shall~~ must be made in cash or by personal check, cashier's check, and money orders made payable to the Lee County Board of County Commissioners. All payments ~~shall~~ must be made at the Offices of the Lee County Department of Community Development - Development Services Division ~~of Codes and Building Services~~.

   At the sole discretion of the ~~County~~ Impact Fee Administrator the County may accept payment in escrow of the full amount of parks impact fees attributable to a particular land development activity, or mix of land development activities on a single parcel, by the parks impact fee schedules, in order to allow the issuance of building or other development permits while the County makes a determination on a feepayer's claim to a fee adjustment. The escrow payment ~~shall~~ will be made as set out above and ~~shall~~ must be earmarked as escrowed funds within the appropriate parks impact fee trust fund. No escrowed funds will be accepted which are not accompanied by a signed letter agreement, acceptable to the County Attorney's Office, stating the purpose of the escrow and releasing the County from any claim to the escrowed funds by the feepayer or his successors if the County ultimately denies the feepayer's request for a fee adjustment. The agreement ~~shall~~ must also set forth the feepayer's understanding that the escrowed payment will support issuance of building or other development permits only if all other requirements of the Lee County regulations have been met. If the County subsequently approves the requested fee adjustment the difference between the amount paid into escrow and the adjusted fee ~~shall~~ must be returned to the feepayer. If the fee adjustment is denied, the escrowed funds ~~shall~~ will be released to the County and the feepayer may pursue an appeal of the determination as set out in the ordinances.

   b. Participating Municipality. The feepayer ~~shall~~ must pay the parks impact fees in a manner acceptable to the governmental agency responsible for the issuance of the permit unless an interlocal agreement provides for payment to Lee County. If so, payment ~~shall~~ must be made as in (a) above.

   c. Use of Parks Impact Fee Credits. In lieu of cash, up to ~~97%~~ 100% of the parks impact fees may be paid ~~by the use of~~ with credits. The additional fee of up to 3% of the park impact fees to cover the cost of administering the impact fee system must be paid in cash.

B. Invalid Payment.

1. Deficient Payment.

In the event the payment of required parks impact fees subsequently proves to be invalid due to insufficient funds, improper execution, or for any other reason, then the following action ~~shall~~ will be taken:

a. No building permit, mobile home move-on permit, or recreational vehicle development order ~~shall~~ may be issued until the required parks impact fees are paid.

b. The Impact Fee Administrator or the Building Official in a participating municipality (if the fees were collected by the participating municipality) ~~shall~~ will, within 30 days of detection of such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:

(1) the parks impact fees are due by valid payment immediately upon receipt of said letter.

(2) no permit or Certificate of Occupancy will be issued until the fees are paid in full. If not paid within 15 days of the date the letter is sent, the County/~~City~~ Municipal building department ~~shall have~~ has the authority to stop all construction on the site until payment in full is received.

c. The amount due ~~shall~~ will be the amount of the parks impact fees due plus the amount charged by the bank for the dishonored payment plus, pursuant to Section 68.065, Florida Statutes, a service charge of $20.00, or five percent (5%) of the face amount of the check, whichever is greater.

2. Payment of Fee Based on Error or Misrepresentation. If the parks impact fees have been calculated and paid based on error or misrepresentation, they ~~shall~~ will be recalculated and any difference refunded to the original feepayer or paid to the County or municipality if appropriate by the original feepayer, whichever is applicable. If parks impact fees are owed to the County, no participating municipality or County permits of any type may be issued for the building or structure in question, or for any other part of a development, of which the building or structure in question is a part, while the fees remain unpaid, and the Impact Fee Administrator may bring any action permitted by law or equity to collect the unpaid fees.

If ~~higher~~ parks impact fees ~~should be collected~~ are owed to the County, then the following action ~~shall~~ must be taken:

a. No building or construction permits or Certificate of Occupancy (C.O.) ~~shall~~ may be issued until the required parks impact fees are paid.

b. The Impact Fee Administrator or the designated Administrator in a participating municipality, ~~shall~~ will, within 30 days of detecting such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:

(1) an additional parks impact fee amount is due immediately upon receipt of said letter;

(2) a permit or C.O. will not be issued until the amount is paid and if not paid within 15 days, the County/~~City~~ Municipal building department ~~shall have~~ has the authority to stop all construction on the site of said building permit until the payment is received.

c. Prior to the expiration of one year from the date a final Certificate of Occupancy is issued for which the required parks impact fees have not been paid, or have not been paid in full, the County ~~shall~~ will, where authorized by the applicable County ordinances, ~~have~~ has the authority to file a lien against the real property until the required parks impact fees, together with additional charges allowed by such applicable County ordinances, have been paid.

If the amount of parks impact fees paid exceeded the amount which should have been paid, then the following action ~~shall~~ is to be taken:

(1) the Impact Fee Administrator or the Building Official in a participating municipality ~~shall~~ must, within 30 days of detection of such an overpayment notify the original feepayer by certified mail, return receipt requested, that the feepayer is owed a refund. The appropriate refund form(s) ~~shall~~ must be included with this notice.

(2) The feepayer ~~shall~~ must then submit a written request for refund to the Impact Fee Administrator or Building Official. Upon receipt of the written request, the refund ~~shall~~ must be issued.

V. CREDITS

A. Administrative Responsibility

In all cases, the Impact Fee Administrator ~~shall~~ will make the final determination concerning the issuance of parks impact fee credits based upon the recommendations of the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division.

B. General Conditions

Generally, a feepayer may obtain credit for up to ~~97%~~ 100% of parks impact fees otherwise due or to become due by offering to dedicate land and/or construct improvements for approved parks. Any claim for credit must be made no later than the time of application for a building permit, mobile home move-on permit, or recreational vehicle development order.

The right to determine whether the value of the capital improvement will be approved for credit purposes lies exclusively with Lee County, unless otherwise provided in an

appropriate interlocal agreement, or unless the improvement is required under a participating municipal, state, or County development or zoning approval. In the latter case, credits ~~shall~~ must be given to the extent required by law. In every case, park impact fee credits shall be calculated so as to be consistent with Section 380.06(16) (1987), Florida Statutes.

C. General Documentation and Procedures

The offer to make capital improvements or dedicate land in exchange for the issuance of parks impact fee credits ~~shall~~ must be made in an application to the Impact Fee Administrator identifying the capital improvements and/or land dedications for which credits are requested. The Impact Fee Administrator ~~shall~~ must forward this application to the County Administrator.

1. Documentation. A feepayer requesting the issuance of parks impact fee credits for eligible capital improvements and/or land dedication ~~shall~~ must provide the following information to the Impact Fee Administrator during development review or prior to application for the issuance of building permits:

   a. Construction of Capital Improvements. The feepayer ~~shall~~ must submit a project description in sufficient detail and with complete engineering and construction cost estimates, prepared by qualified professionals, to allow the ~~County~~ Impact Fee Administrator to verify these cost estimates.

   b. Land Dedication. When a person requests credit for land dedication for approved parks, ~~he shall~~ the person must present:

      (1) a specimen of the deed ~~which he proposes to use~~ that will be used to convey title to the appropriate governmental body;

      (2) a survey of the land to be dedicated certified by a Professional Land Surveyor or Registered Land Surveyor, licensed in the State of Florida;

      (3) ~~A~~an ALTA form B title insurance policy, in an amount equal to the approved value of the credits to be issued, from a company satisfactory to the County Attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;

      (4) ~~a certified copy of the most recent assessment of the property for tax purposes~~ a document from the Lee County Tax Collector stating the current status of the property taxes; and

      (5) property appraisals prepared by qualified professionals. In preparing their reports, appraisers ~~shall~~ must value the land in the following manner: (a) if the land in question is subject to a valid agreement, zoning approval, or development order ~~which prescribes~~ prescribing a valuation, the agreement, zoning approval or development order ~~shall~~ will control; (b) if the dedication is made pursuant to a condition of zoning approval, is not a site-related improvement, and the zoning condition does not specifically prescribe otherwise, the

land ~~shall~~ will be ~~valued~~ based upon the zoning of the land as it existed prior to the zoning approval ~~which contains~~ containing the condition of dedication; (c) otherwise, appraisers ~~shall~~ must value the land as its then current zoning and without any enhanced value which could be attributed to improvements on adjacent lands.

2. Sufficiency. The ~~County~~ Impact Fee Administrator ~~shall~~ must review the engineering and cost estimates and make a determination of sufficiency.

The survey and property appraisals ~~shall~~ must be submitted by the ~~County~~ Impact Fee Administrator to the Office of County Lands for review and approval by the County's Review Appraisers. In order to be eligible for credits, improvements or land dedications must meet the following standards in addition to those enumerated in the Ordinances:

a. The proposed dedication or construction must be related to the mitigation of impacts from the development.

b. The same guidelines which apply to the use of parks impact fee funds limit those parks improvements which are eligible for credits.

3. Determination of Credit. The ~~County~~ Impact Fee Administrator and the Public Works Construction and Design Department and the Public Parks and Recreation Division ~~shall~~ will prepare a recommendation of the amount of the parks impact fees credit appropriate for construction and dedications to the Impact Fee Administrator. This recommendation ~~shall~~ may be based upon either the cost estimates provided by the applicant or upon alternative engineering criteria, construction cost estimates, or property appraisals through the use of the methodology described in ~~Section Six. D. of the Ordinances~~ LDC Sections 2-312(b) and 2-352(b), if the ~~County~~ Impact Fee Administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate. The ~~County~~ Impact Fee Administrator ~~shall~~ must provide a written recommendation as to which capital improvements or land dedications are eligible for credits and what the amount of the credit ~~shall~~ will be for each.

The determination of the amount of credit ~~shall~~ will be made by the Impact Fee Administrator, ~~based on~~ taking into consideration the recommendations of the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division ~~who conducted the sufficiency determination, and on his own review of the documentation presented~~. Copies of the written determination ~~shall~~ will be sent to the feepayer and the ~~County Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division.

The written determination ~~shall~~ must include the following: (i) the name of the applicant receiving the credits; (ii) the dollar amount of the credit; (iii) the reason for the credit; and (iv)the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating ~~his~~ agreement to the terms of the letter or certificate and return such signed document to the Impact Fee Administrator before credit will be given. If the applicant fails to sign, date, and return such document within 30 days, the Impact Fee Administrator will consider the

credit application to be inactive. No increase in the amount of approved credit will be authorized unless it is determined during actual construction of the agreed-to park improvements that change orders are to be made incurring additional expense for items that are necessary and are not shown on the approved plans and estimates previously furnished to the County Administrator. It ~~shall~~ will be the feepayer's responsibility to obtain prior approval from the ~~County~~ Impact Fee Administrator before all such change orders are made. All claims for an increase of the approved credit ~~shall~~ must include all documentation required by the Parks Director. The ~~County~~ Impact Fee Administrator ~~shall~~ must immediately forward all approved requests for a change in the amount of credit to the ~~Impact Fee Administrator~~ Public Works Construction and Design Department and the Public Parks and Recreation Division.

4. Credit for Construction. Except as provided in subsection 4.c below, parks impact fee credits may be issued only after:

   a. the construction is completed and accepted by the County, or a participating municipality, whichever is applicable;

   b. a suitable maintenance and warranty bond as may be required by the ~~County~~ Impact Fee Administrator is submitted to and approved by the Clerk of Courts of Lee County; or in the case of 4.c below, upon completion of the agreed-to construction improvements and upon acceptance by the appropriate governmental authority pursuant to 4.a above, the Bond may, as required by the ~~County~~ Impact Fee Administrator, be reduced to a suitable amount and time period to cover a maintenance period for the improvements.

   c. Credit may be provided before completion of specified park improvements if the feepayer posts security as provided above for the costs of such construction. In the event that: (1) the County receives notification from the principal (grantor) that the bond is being canceled before all agreed-to improvements have been completed and accepted by the appropriate governmental body; or (2) the County determines that terms of the agreement for the construction as set forth in the Bond agreement are not being compiled with, then the County ~~shall~~ must, in accordance with the Bond agreement, default the Bond and collect the full amount of the Bond to be used for completion of the agreed-to improvements and other expenses. If the cost incurred by the County to complete said improvements exceeds the amount received from the defaulted Bond, the County ~~shall~~ may seek to recover its loss under the provisions of this Code.

5. Credits for Land Dedication. Park impact fee credits for land dedication may be created when the following procedures have been completed and the title to said land has been accepted by the appropriate governmental body and recorded in the Official Records of the Clerk of Circuit Court in Lee County:

   a. The delivery to the appropriate governmental body of a deed, with sufficient funds to pay all costs of transferring title including recording.

   b. The escrow of taxes for the current year, or the payment of said taxes for the year.

c. The issuance of a title insurance policy subsequent to recording of the deed and escrow of taxes.

6. Transferability. Parks Impact Fee Credits created after October 1, 1989 are transferable in form and may be sold, assigned or otherwise conveyed. Acceptable proof of transfer must be submitted to the Division of Codes and Building Services when the credits are used.

D. Performance Bonds, Letters of Credit, etc. In the event the feepayer has received approval from the Impact Fee Administrator for parks impact fee credits for construction and the credits are provided before completion of the improvements in accordance with this Code, the following requirements ~~shall~~ must be met:

1. The feepayer ~~shall~~ must submit to the Impact Fee Administrator, on appropriate forms, a Surety Performance Bond or an automatically renewable, irrevocable Letter of Credit (Cash Performance Bond) (both hereinafter referred to as a Bond), in an amount equal to 110% of the full cost of the agreed-to improvements (excluding right-of-way dedications), and payable to the Lee County Board of County Commissioners.

2. The bond ~~shall~~ must be reviewed and approved by the Lee County Attorney's Office prior to acceptance of the bond by the Impact Fee Administrator.

3. If the park or facility is to be owned by a participating municipality, the County may assign its rights in such security to the municipality if the municipality requests it and the law permits it.

4. A Letter of Credit, pursuant to subparagraph (1) above, ~~shall~~ must be automatically renewable unless notice of intent to cancel or not to renew is given to the Impact Fee Administrator not later than 60 days prior to the renewal date. In the event a notice to cancel or of intent not to renew is received, the Impact Fee Administrator ~~shall be~~ is entitled to declare a default and collect the full amount of the Bond. In the event any County has assigned its rights in such security to a municipality, then the appropriate Building Official ~~shall be~~ is responsible for this action.

ADMINISTRATIVE CODE BOARD OF COUNTY COMMISSIONERS	
CATEGORY: TRANSPORTATION AND TRAFFIC MANAGEMENT	**CODE NUMBER:** AC-11-9
TITLE: BICYCLE AND PEDESTRIAN FACILITIES CONSTRUCTION ON MAJOR ROADWAYS	**ADOPTED:**
	AMENDED:
	ORIGINATING DEPARTMENT: DEPARTMENT OF TRANSPORTATION

Administrative Code 11-9, as adopted on March 21, 1990 and subsequently amended on January 27, 1993, is hereby repealed in its entirety and replaced as follows:

I. PURPOSE/SCOPE

Bicyclists and pedestrians are permitted to use public highways, except where otherwise prohibited in accordance with federal, state and local regulations. Bicycle and pedestrian facilities along major roadways provide improved safety and encourage alternate modes of utilitarian transportation. They also provide recreational opportunities that generally improve the quality of life and are therefore desirable.

This Policy provides location and design criteria for construction of bicycle and pedestrian facilities along County and State maintained roadways. It also provides a consistent policy/procedure for implementation of facilities and a mechanism for a fee-in-lieu contribution if a waiver is requested.

II. POLICY AND PROCEDURE

Projects submitting an application for a local development order must provide bicycle and pedestrian facilities consistent with the Lee County Land Development Code.

III. DEFINITIONS

Adjacent facilities – Proposed bicycle or pedestrian facilities shown on the Plan along the frontage of a project on a public roadway.

Bicycle lane – A portion of a roadway designated by signing and pavement markings for the preferential or exclusive use by bicyclists. A bicycle lane is designated in each direction.

Bicycle path – A multiuse two-way off-road facility primarily designed for bicyclists that is also used by pedestrians.

Excessively disproportionate cost – An estimated cost of the facility improvement that is more than triple the fee-in-lieu cost per linear foot.

Factors suggest absence of need – A situation where it can be reasonably demonstrated that the facility is not likely connect to an existing or planned facility scheduled for construction in a five year transportation work program.

Lee County Unincorporated Bikeways/Walkways Facilities Plan – Planned future bicycle and pedestrian facilities as adopted by the Board and graphically depicted in Map 3D of the Lee Plan.

Major roadway – A roadway with a functional classification as an arterial or major collector.

Off-road facility – A bicycle path or sidewalk that is within the road right of way but physically separated from the roadway travel lanes.

On-road facility – A bicycle facility that is along or within the roadway travel lanes.

Other available means – An existing parallel bicycle and pedestrian facility on the same side of the road as the project within ¼ mile.

Paved shoulder – The portion of a highway which is contiguous to the traffic lanes that can be used for motor vehicle emergencies, specialized use by pedestrian and bicyclists, and lateral support of base and surface courses.

Planning Community – The designated area on Map 16, Planning Communities, of the Lee Plan that contains the project.

Sidewalk – The portion of a right of way designed for preferential use by pedestrians. A sidewalk may legally be used by a bicyclist consistent with Florida Statute 316.2065(5A-11).

The Plan – Lee County Unincorporated Bikeways/Walkways Facilities Plan.

IV. BIKEWAYS/WALKWAYS FACILITY PLAN

The Plan was developed with input from the public and has been incorporated into the Lee Plan. The Plan will be updated on a regular basis to include changes in the roadway network and address changing land uses. Proposed facilities on the Plan are more specifically defined in attached Exhibit 1.

The Plan includes State Roads in unincorporated areas and County roadways through incorporated areas necessary to develop a comprehensive network. Staff will coordinate with adjacent jurisdictions as appropriate.

IV. DESIGN CRITERIA

Standards, criteria and guidelines for bicycle and pedestrian facilities published by AASHTO and FDOT are incorporated by reference, except where specifically amended in the Land Development Code or herein.

Paved shoulder
It is recommended that paved shoulders be constructed on both sides of the roadway. The geometric design of a paved shoulder should be similar to a bicycle lane.

The minimum paved shoulder widths to accommodate bicycle traffic are as follows:

Posted speed	Closed drainage (urban)	Open drainage (rural)
30 MPH or below	2	2
35-45 MPH	4	6
50 MPH or above	6	6

Bicycle Lanes
The standard width of a bicycle lane is five feet. The width may be reduced by one foot adjacent to a Type E or F curb and gutter.

A paved shoulder may be considered for signing and marking as a bicycle lane when the Department of Transportation Director, in his sole discretion, determines that it is appropriate. A bicycle lane should not be placed between a through lane and a continuous turn lane that serves multiple access points.

Bicycle Path
The standard width of a bicycle path is eight feet. The path width may be increased based on volume of usage. A bicycle path may be reduced to six feet wide at an obstruction.

Sidewalks
The standard width of a sidewalk with a vegetative strip on each side is five feet. The standard width of a sidewalk along a curb, barrier or wall is six feet. The path width may be increased based on volume of usage. A sidewalk may be decreased to three feet wide at an obstruction.

V. EASEMENTS

At the developer's option, the facility may be constructed adjacent to the roadway right of way within the area of an easement donated or otherwise held by the County for the purposes of constructing and maintaining a bikeway and pedestrian facility. The easement grant must include the right to be used as a perpetual non-exclusive right of way easement for bikeway and pedestrian way facilities. The easement width must be the width of the facility plus two feet on each side for a sidewalk and four feet on each side for a bicycle path. However, easements of a lesser dimension may be approved at the discretion of the DOT Director.

The Board of County Commissioners must formally accept the easement grant and the facility after construction is complete. Lee County will maintain the facility when accepted by the Board.

VI. FEE-IN-LIEU

If the Director of Development Services determine that a waiver from the requirement to provide the bikepath/walkway is appropriate, the applicant must submit the appropriate fee-in-lieu contribution prior to issuance of any development order approval for the project. The contribution may be in the form of cash, roads or park impact fee credits.

The fee-in-lieu in the form of cash will be deposited in a subfund of CIP#206002, Countywide Bicycle and Pedestrian Facilities created for expenditure on a bicycle or pedestrian facility within the same planning community the project is located. The controlling fee calculation table is attached as Exhibit _. Unit prices are based on the average unit prices for the last three years of County projects to retrofit bicycle and pedestrian facilities along County roadways.

VII. WAIVER

The waiver criteria requirements of "excessively disproportionate cost", "factors suggest absence of need" and "other available means" in the Land Development Code 10-256(f) are further defined herein.

UNINCORPORATED LEE COUNTY
COUNTY/STATE MAINTAINED FACILITIES
BIKEWAYS/WALKWAYS PLAN PROPOSED OFF-ROAD FACILITIES LIST

PROJECT NAME	FROM	TO	FUNCT CLASS	LENGTH (MILES)	FAC TYPE	SIDE	COMM DIST	IMP FEE DIST	COMMENTS
12TH ST W	SUNSHINE BLVD	GUNNERY RD	COLL	1.8	SW	TBD	5	3	FUTURE PROJECT LIST
ALABAMA RD	PALM BLVD	MILWAUKEE BLVD	ART	2	SW	W	5	3	CURRENT PROJECT LIST
ALEXANDER GRAHAM BELL BLVD	MILWAUKEE BLVD	JOEL BLVD	ART	3.1	SW	E/W	5	3	FUTURE PROJECT LIST
ALICO RD	CORKSCREW RD	THREE OAKS PKWY	COLL	8.1	BP	TBD	5	3	FUTURE PROJECT LIST
ALICO RD	US 41	THREE OAKS PKWY	ART	2.8	SW	N/S	5	4	CIP PROJECT FY 98/99
AUSTIN AVE	JASPER AVE	ALDRIDGE AVE	LOCAL	0.7	SW	TBD	5	4	FUTURE PROJECT LIST
BALLARD RD	KINGSMAN CIR	PALMETTO AVE	COLL	0.3	SW	N	2	1	FUTURE PROJECT LIST
BALLARD RD	ORTIZ AVE	KINGSMAN CIR	COLL	0.5	SW	N/S	2	1	FUTURE PROJECT LIST
BASS RD	HEALTHPARK CIR	GLADIOLUS DR	COLL	0.48	SW	W	3	4	FUTURE PROJECT LIST
BASS RD	SUMMERLIN RD	GLADIOLUS DR	COLL	1	SW	E	3	4	FUTURE PROJECT LIST
BAYSHORE RD (SR 78)	HART RD	I-75	ART	4	SW	N	4	2	FUTURE PROJECT LIST
BRANTLEY RD	650' EAST OF SUMMERLIN RD	US 41	COLL	0.8	SW	S	3	4	FUTURE PROJECT LIST
BRANTLEY RD	SUMMERLIN RD	500' EAST OF SUMMERLIN RD	COLL	0.1	SW	S	3	4	FUTURE PROJECT LIST
BRANTLEY RD	SUMMERLIN RD	FORESTWOOD CIR	COLL	0.2	SW	N	3	4	FUTURE PROJECT LIST
BRANTLEY RD	US 41	CRYSTAL CT	COLL	0.2	SW	N	3	4	FUTURE PROJECT LIST
BROADWAY RD	PALM BEACH BLVD (SR80)	NORTH RIVER RD	COLL	0.5	BP	TBD	5	3	FUTURE PROJECT LIST
BUCKINGHAM RD	CORAL VINE DR	SR 80	ART	0.4	SW	E/W	5	3	FUTURE PROJECT LIST
BURNT STORE RD	PINE ISLAND ROAD	VAN BUREN PARKWAY	ART	9.2	BP	E/W	4	5	FUTURE PROJECT LIST
BUS 41	ARROWHEAD BLVD	US 41	ART	0.5	BP	E	4	2	CIP PROJECT FY 00/01
BUS 41	BAYSHORE RD (SR 78)	POWELL DR	ART	0.2	BP	E	4	2	FUTURE PROJECT LIST
CALOOSA RD	PHLOX DR	USEPPA RD	LOCAL	1.2	SW	TBD	5	4	FUTURE PROJECT LIST
CAPTIVA RD	BLIND PASS	MURMOND LN	COLL	2.5	BP	W	1	6	FUTURE PROJECT LIST
CAPTIVA RD	DICKEY LN	SOUTH SEAS PLANTATION ENT	COLL	0.15	BP	W	1	6	FUTURE PROJECT LIST
CHILDERS ST	MATHESON AVE	OLD 41	LOCAL	0.55	SW	N	3	8	FUTURE PROJECT LIST
COCONUT RD	US 41	ELDORADO BLVD	COLL	1.1	SW	TBD	3	4	FUTURE PROJECT LIST
COLONIAL BLVD (SR 884)	IMMOKALEE RD (SR 82)	SIX MILE CYPRESS PKWY	ART	2.7	BP	S	5	1	FUTURE PROJECT LIST
COLONIAL BLVD (SR 884)	TEN MILE CANAL	SIX MILE CYPRESS PKWY	ART	3.1	BP	N	5	1	FUTURE PROJECT LIST
CORKSCREW RD PHASE 1	US 41	BEN HILL GRIFFIN PKWY	ART	2.5	SW	N/S	5	4	CIP PROJECT FY 98/99
CORKSCREW RD PHASE 2	BEN HILL GRIFFIN PKWY	THREE OAKS PKWY	ART	4.5	BP	N/S	5	3	FUTURE PROJECT LIST
COUNTRY CLUB PKWY	JOEL BLVD	JOEL BLVD	COLL	0.9	BP	TBD	5	3	FUTURE PROJECT LIST
CRYSTAL DR	METRO PKWY	US 41	COLL	1.1	SW	N	3	4	FUTURE PROJECT LIST
CRYSTAL DR	PLANTATION RD	METRO PKWY	COLL	1.1	SW	S	3	4	CIP PROJECT FY 98/99
CYPRESS LAKE DR	CYPRESS LAKE CENTER ENT	US 41	ART	0.15	SW	S	3	4	FUTURE PROJECT LIST
DANIELS PKWY	IMMOKALEE RD (SR 82)	GATEWAY BLVD	ART	3.5	BP	N/S	5	3	CIP PROJECT FY 98/99
DANIELS PKWY	US 41	GATEWAY BLVD	ART	8	BP	S	5	3	FUTURE PROJECT LIST
E BROADWAY	US 41	END	COLL	0.6	SW	TBD	5	4	FUTURE PROJECT LIST
E. TERRY ST	OLD 41	SOUTHERN PINES DRIVE	COLL	1.5	SW	N	3	8	FUTURE PROJECT LIST
ESTERO BLVD	COTTAGE AVE	BIG CARLOS PASS	ART	6	SW	S	3	4	FUTURE PROJECT LIST
EVERGREEN RD	BUSINESS 41	HERRON RD	COLL	1.2	BP	TBD	4	2	FUTURE PROJECT LIST
FIDDLESTICKS BLVD	GLENFINNAN CIR	DANIELS PKWY	COLL	1.5	BP	E/W	5	4	CIP PROJECT FY 00/01
FOWLER ST	HANSON ST	DR MARTIN LUTHER KING JR BLVD	ART	1.5	SW	E/W	2	1	FUTURE PROJECT LIST
GLADIOLUS DR	ALEXANDER CT	W. OF WINKLER RD	ART	1.3	SW	N	3	4	FUTURE PROJECT LIST
GLADIOLUS DR	US 41	PINE RIDGE RD	ART	4	BP	S	3	4	FUTURE PROJECT LIST
GUNNERY RD	IMMOKALEE RD	LEE BLVD	ART	2.1	SW	E/W	5	3	FUTURE PROJECT LIST
GUNNERY RD	LEHIGH HS	12 ST W	ART	1.2	SW	TBD	5	3	FUTURE PROJECT LIST
HANCOCK BRIDGE PKWY	ORANGE GROVE BLVD	MOODY RD	ART	1.4	SW	N/S	4	2	FUTURE PROJECT LIST
HANCOCK BRIDGE PKWY	PALM AVE	MOODY RD	ART	0.6	SW	N	4	2	FUTURE PROJECT LIST

Exhibit 1

PROJECT NAME	FROM	TO	FUNCT CLASS	LENGTH (MILES)	FAC TYPE	SIDE	COMM DIST	IMP FEE DIST	COMMENTS
HART DR	ZOYSIA LN	LAUREL LN	COLL	0.5	SW	E	4	2	CURRENT PROJECT LIST
HART RD	BAYSHORE RD	ZOYSIA LN	COLL	0.8	SW	E	4	2	FUTURE PROJECT LIST
HENDERSON AVE	EDISON AV	CANAL ST	LOCAL	0.5	SW	W	2	1	FUTURE PROJECT LIST
HERRON RD	EVERGREEN RD	PINE ISLAND RD (SR78)	COLL	0.5	BP	TBD	4	2	FUTURE PROJECT LIST
HOMESTEAD RD	MILWAUKEE BLVD	LEELAND HEIGHTS BLVD	ART	3	SW	W	5	3	FUTURE PROJECT LIST
HOMESTEAD RD	MILWAUKEE BLVD	VETERANS PARK	ART	2	SW	E	5	3	FUTURE PROJECT LIST
HORNE AVE	HAMPTON ST	WILSON ST	LOCAL	0.3	SW	W	3	8	FUTURE PROJECT LIST
IMPERIAL ST	COLLIER CO LINE	BONITA BEACH RD	COLL	1	SW	E/W	3	8	CIP PROJECT FY 99/00
INLET DR	HARBOUR LN	ORANGE GROVE BLVD	LOCAL	0.4	SW	N	4	2	CURRENT PROJECT LIST
IONA ROAD	ANCHORAGE WAY	BAIN RD	COLL	0.2	SW	N	3	4	FUTURE PROJECT LIST
IONA ROAD	ANCHORAGE WY	McGREGOR BLVD	COLL	1	SW	S	3	4	FUTURE PROJECT LIST
JOEL BLVD	ALEXANDER GRAHAM BELL BLVD	SR 80	ART	7.8	SW	N/S	5	3	FUTURE PROJECT LIST
JOHN MORRIS ROAD	IONA RD	SUMMERLIN RD	COLL	1.3	SW	E	3	4	FUTURE PROJECT LIST
KELLY RD	CONCOURSE DR	PINE RIDGE RD	LOCAL	0.6	SW	TBD	3	4	PARK ENTRANCE
KORESHAN BLVD	THREE OAKS PKWY	US 41	ART	1.9	SW	N/S	5	4	FUTURE PROJECT LIST
LAKEWOOD BLVD	GLADIOLUS DR	SUMMERLIN RD	LOCAL	0.76	SW	S	3	4	FUTURE PROJECT LIST
LAUREL DR	BREEZE DR	HART RD	COLL	0.4	BP	S	4	2	FUTURE PROJECT LIST
LAUREL DR	GAGE DR	BUSINESS 41	COLL	1.2	SW	N	4	2	FUTURE PROJECT LIST
LEE BLVD	HOMESTEAD RD	LEELAND HEIGHTS BLVD	ART	1.4	SW	N/S	5	3	CIP PROJECT FY 99/00
LEE RD	WINGED FOOT DR	ALICO RD	COLL	0.4	SW	W	5	4	UNDER CONSTRUCTION
LEELAND HEIGHTS BLVD	ALEXANDER GRAHAM BELL BLVD	LEE BLVD	ART	1.5	SW	N/S	5	3	FUTURE PROJECT LIST
LEELAND HEIGHTS BLVD	LEE BLVD	HOMESTEAD RD	ART	0.5	SW	N/S	5	3	CIP PROJECT FY 99/00
LEONARD BLVD	GUNNERY RD	SETH AVE	COLL	2.67	SW	TBD	5	3	FUTURE PROJECT LIST
LITTLETON RD	BUSINESS 41	NICKLAUS BLVD	ART	1.2	SW	S	4	2	FUTURE PROJECT LIST
LITTLETON RD	BUSINESS 41	US 41	ART	0.7	SW	N	4	2	FUTURE PROJECT LIST
LITTLETON RD	HUTTO RD	CORBETT RD	ART	0.3	SW	S	4	2	FUTURE PROJECT LIST
LITTLETON RD	NICKLAUS BLVD	CORBETT RD	ART	0.7	SW	S	4	2	FUTURE PROJECT LIST
LITTLETON RD	OLD 41	US 41	ART	0.6	SW	N	4	2	FUTURE PROJECT LIST
MARSH RD	MICHIGAN AVE	BALLARD RD	COLL	0.2	SW	E/W	2	1	FUTURE PROJECT LIST
MATHESON AVE	DEAN ST	EAST TERRY ST	LOCAL	0.6	SW	TBD	3	8	CURRENT PROJECT LIST
MCGREGOR BLVD (SR 867)	COLLEGE PKWY	EDINBURGH DR	ART	0.2	SW	E	2	4	FUTURE PROJECT LIST
MCGREGOR BLVD (SR 867)	SANIBEL TOLL PLAZA	SAN CARLOS BLVD	ART	4	SW	N	3	4	FUTURE PROJECT LIST
METRO PKWY (SR 739)	SIX MILE CYPRESS PKWY	FT MYERS LINEAR PARK	ART	6	SW	E/W	5	4	FUTURE PROJECT LIST
OLD US 41	ROSEMARY DR	US 41	ART	2	SW	N/S	3	8	FUTURE PROJECT LIST
ORANGE GROVE BLVD	CORAL CIR	SEAFAN CIR	COLL	0.33	SW	W	4	2	FUTURE PROJECT LIST
ORANGE RIVER BLVD	WOODBRIER DR	ORANGE RIVER BLVD	ART	0.9	SW	N/S	5	1	FUTURE PROJECT LIST
ORIOLE RD	MANTANZAS RD	ALICO RD	COLL	1.9	SW	W	5	4	FUTURE PROJECT LIST
ORTIZ AVE	DR M L KING BLVD (SR82)	PALM BEACH BLVD (SR80)	ART	2.56	SW	W	5	1	FUTURE PROJECT LIST
OVERLOOK DR	BRENTWOOD RD	CYPRESS LAKE DR	LOCAL	0.9	SW	TBD	3	4	FUTURE PROJECT LIST
PACIFIC AVE	BAYSHORE RD	STOCKTON ST	LOCAL	0.3	SW	TBD	4	2	FUTURE PROJECT LIST
PEBBLE BEACH DR	WINGED FOOT DR	CONSTITUTION RD	LOCAL	0.7	SW	TBD	5	4	CURRENT PROJECT LIST
PENNSYLVANIA AVE	ARROYAL AVE	OLD 41	COLL	1.5	SW	S	3	8	FUTURE PROJECT LIST
PINE ISLAND RD (SR78)	STRINGFELLOW RD	US 41	ART	15	SW	N/S	4	5	FUTURE PROJECT LIST
PINE RIDGE RD	STEVENS BLVD	MCGREGOR BLVD	COLL	3	SW	TBD	3	4	FUTURE PROJECT LIST
PINEY RD	MARIANA AVE	BAYSHORE RD	LOCAL	0.4	SW	TBD	4	2	FUTURE PROJECT LIST
PINEY RD	PONDELLA RD	MARIANA AVE	LOCAL	0.7	SW	TBD	4	2	FUTURE PROJECT LIST
PLANTATION RD	CRYSTAL DR	IDLEWILD RD	COLL	1.3	SW	E	3	4	FUTURE PROJECT LIST
PLANTATION RD	DANIELS PKWY	PLANTATION PINES BLVD	COLL	1	SW	E	3	4	FUTURE PROJECT LIST
PONDELLA RD	PINE ISLAND RD	HENKEL DR	ART	1	SW	N/S	4	2	CIP PROJECT FY 00/01
RAGSDALE ST	MATHESON AVE	PULLEN AVE	LOCAL	0.3	SW	TBD	3	8	CURRENT PROJECT LIST
RICHMOND AVE	3RD ST	12TH ST	COLL	2.3	SW	E	5	3	FUTURE PROJECT LIST
RIVER RANCH RD	WILLIAMS RD	ESTERO HIGH SCHOOL	COLL	0.3	SW	TBD	5	4	FUTURE PROJECT LIST

PROJECT NAME	FROM	TO	FUNCT CLASS	LENGTH (MILES)	FAC TYPE	SIDE	COMM DIST	IMP FEE DIST	COMMENTS
SAN CARLOS BLVD (SR 865)	GULF POINT DR	PINE RIDGE RD	ART	2	BP	E	3	4	FUTURE PROJECT LIST
SANIBEL BLVD	US 41	LEE RD	COLL	1.3	SW	TBD	5	4	CURRENT PROJECT LIST
SANIBEL CAUSEWAY	MCGREGOR BLVD	PERIWINKLE RD	ART	1.8	SW	N/S	1	6	FUTURE PROJECT LIST
SARA AVE	9TH ST W	12 ST W	LOCAL	0.2	SW	TBD	5	3	FUTURE PROJECT LIST
SIX MI CYPRESS PKWY	DANIELS PKWY	COLONIAL BLVD	ART	5	BP	W	5	1	FUTURE PROJECT LIST
SIX MI CYPRESS PKWY	US 41	SPORTS COMPLEX	ART	1.75	SW	N	5	4	FUTURE PROJECT LIST
SLATER RD	BAYSHORE RD	DEL PRADO EXT	ART	2	SW	E/W	4	2	FUTURE PROJECT LIST
SOUTH POINT BLVD	COLLEGE PKWY	CYPRESS LAKE DR	COLL	1	SW	E	2	4	FUTURE PROJECT LIST
SOUTH RD	DANLEY DR	US 41	COLL	0.3	BP	S	5	4	FUTURE PROJECT LIST
STRINGFELLOW RD	MAX DR	CAPTAINS HARBOR DR	ART	1.25	BP	W	1	5	FUTURE PROJECT LIST
STRINGFELLOW RD	ALCORN ST	BARRANCAS RD	ART	5	SW	E	1	5	FUTURE PROJECT LIST
STRINGFELLOW RD	SUNSET LN	300' S. OF PINE ISLAND RD (SR 78)	ART	0.06	BP	W	1	5	FUTURE PROJECT LIST
STRINGFELLOW RD	YORK RD	8TH AVE	ART	0.7	SW	W	1	5	FUTURE PROJECT LIST
SUMMERLIN RD	GLADIOLUS DR	BOY SCOUT RD	ART	4.6	SW	E	2/3	1/4	FUTURE PROJECT LIST
SUMMERLIN RD	WINKLER RD	McGREGOR BLVD	ART	5.3	BP	N	3	4	FUTURE PROJECT LIST
SUNRISE BLVD (LA)	VICTORIA AVE	ALEXANDER GRAHAM BELL BLVD	COLL	0.5	SW	TBD	5	3	FUTURE PROJECT LIST
SUNRISE BLVD (VILLAS)	FORDHAM ST	AUSTIN AVE	LOCAL	0.9	SW	TBD.	5	4	FUTURE PROJECT LIST
SUNSHINE BLVD	SW 8TH ST	W 25TH ST	ART	1.5	SW	E/W	5	3	FUTURE PROJECT LIST
SW 8TH ST	SUNSHINE BLVD	GUNNERY RD	LOCAL	2.1	SW	TBD	5	3	FUTURE PROJECT LIST
TAYLOR LN	HOMESTEAD RD	LEE BLVD	LOCAL	0.6	SW	TBD	5	3	FUTURE PROJECT LIST
TICE ST	ORTIZ AVE	LYNNEDA AV	COLL	0.4	SW	N	2	1	FUTURE PROJECT LIST
TREELINE AVE	ALICO RD	DANIELS PKWY	COLL	4	BP	E/W	5	3	CIP PROJECT FY 00/01
TREELINE AVE	JETPORT COMMERCE PKWY	AMBERWOOD RD	COLL	1.6	BP	E/W	5	3	FUTURE PROJECT LIST
US 41	VICTORIA AVENUE	CHARLOTTE CO LINE	ART	5	SW	E/W	4	5	FUTURE PROJECT LIST
US 41	COLLIER CO LINE	WILLIAMS RD	ART	7	SW	E/W	3	8	FUTURE PROJECT LIST
US 41	WILLIAMS RD	CORKSCREW RD	ART	6	SW	W	3	4	FUTURE PROJECT LIST
VETERANS PKWY	DEL PRADO BLVD	SANTA BARBARA BLVD	ART	2.03	BP	S	1	5	FUTURE PROJECT LIST
W. TERRY ST	OLD US 41	US 41	ART	2	SW	S	3	8	FUTURE PROJECT LIST
WILLIAMS AVE	6TH ST	W 12TH ST	LOCAL	1.5	SW	TBD	5	3	FUTURE PROJECT LIST
WILLIAMS RD (EST)	HALFWAY CREEK	RIVER RANCH RD	COLL	2.1	SW	N/S	3	4	FUTURE PROJECT LIST
WILLIAMS RD (NFM)	BAYSHORE RD	SAMVILLE RD	LOCAL	0.35	SW	E	4	2	FUTURE PROJECT LIST
WINKLER RD	GLADIOLUS DR	CYPRESS LAKE DR	ART	2	SW	E	3	4	FUTURE PROJECT LIST
WINKLER RD	McGREGOR BLVD	COLLEGE PKWY	ART	1.1	SW	E	2	4	FUTURE PROJECT LIST
WINKLER RD	SUMMERLIN RD	SOUTH END	COLL	2.5	SW	TBD	3	4	FUTURE PROJECT LIST
WOODLAND BLVD	CHATHAM ST	US 41	COLL	0.25	SW	TBD	5	4	CURRENT PROJECT LIST
WOODLAND BLVD	FORDHAM ST	CHATHAM ST	LOCAL	0.75	SW	TBD	5	4	FUTURE PROJECT LIST

UNINCORPORATED LEE COUNTY
COUNTY/STATE MAINTAINED FACILITIES
BIKEWAYS/WALKWAYS PLAN PROPOSED ON-ROAD FACILITIES LIST

PROJECT NAME	FROM	TO	FUNCT CLASS	LENGTH (MILES)	FAC TYPE	SIDE	COMM DIST	IMP FEE DIST	COMMENTS
12TH ST W	SUNSHINE BLVD	GUNNERY RD	COLL	1.8	BL	N/S	5	3	FUTURE PROJECT LIST
21ST ST E	MOORE AVE	JOEL BLVD	COLL	1.5	BL	N/S	5	3	FUTURE PROJECT LIST
A&W BULB RD	GLADIOLUS DR	MCGREGOR BLVD	COLL	1.3	BL	E/W	3	4	FUTURE PROJECT LIST
ARCADIA RD (SR 31)	PALM BEACH BLVD (SR 80)	CHARLOTTE CO LINE	ART	4.7	BL	E/W	4	2	FUTURE PROJECT LIST
BARRETT RD	PONDELLA RD	PINE ISLAND RD (SR 78)	COLL	1	BL	E/W	4	2	FUTURE PROJECT LIST
BRIARCLIFF RD	US 41	TRIPLE CROWN CT	COLL	2.8	BL	TBD	5	4	FUTURE PROJECT LIST
BROADWAY RD	PALM BEACH BLVD (SR80)	NORTH RIVER RD	COLL	0.5	BL	E/W	5	3	FUTURE PROJECT LIST
BUNCH BEACH RD	BUNCH BEACH	SUMMERLIN RD	COLL	1.2	BL	E/W	3	4	FUTURE PROJECT LIST
BURNT STORE RD	VAN BUREN PARKWAY	CHARLOTTE CO LINE	ART	9.2	BL	E/W	4	5	FUTURE PROJECT L
CENTER RD	6TH ST	DANLEY DR	LOCAL	0.6	BL	N/S	5	4	FUTURE PROJECT LIST
COLONIAL BLVD (SR 884)	IMMOKALEE RD (SR 82)	SIX MILE PKWY	ART	2.7	BL	N/S	5	1	FUTURE PROJECT LIST
COLUMBUS BLVD	IMMOKALEE RD (SR 82)	SENTINELA BLVD	COLL	5.4	BL	E/W	5	3	FUTURE PROJECT LIST
CORBETT RD	PINE ISLAND ROAD (SR 78)	LITTLETON RD	COLL	1.3	BL	E/W	4	2	FUTURE PROJECT LIST
DANLEY DR	SOUTH RD	METRO PKWY	COLL	1	BL	E/W	2	4	FUTURE PROJECT LIST
DR MARTIN LUTHER KING JR BLVD (SR 82)	I-75	MICHIGAN LINK	ART	1.4	BL	N/S	2	1	FUTURE PROJECT LIST
FORDHAM ST	WOODLAND BLVD	CRYSTAL DR	LOCAL	0.6	BL	TBD	5	4	FUTURE PROJECT LIST
HANCOCK BRIDGE PKWY	ORANGE GROVE BLVD	MOODY RD	ART	1.4	BL	N/S	4	2	FUTURE PROJECT LIST
HOMESTEAD RD	MILWAUKEE BLVD	LEE BLVD	ART	4	BL	E/W	5	3	FUTURE PROJECT LIST
HUNTERS RIDGE BLVD	COLLIER CO LINE	BONITA BEACH RD	COLL	1	BL	E/W	3	8	FUTURE PROJECT LIST
IDLEWILD ST	RANCHETTE RD	METRO PKWY	COLL	0.7	BL	E/W	5	1	FUTURE PROJECT LIST
IMMOKALEE RD (SR 82)	HENDRY CO LINE	I-75	ART	17.2	BL	N/S	5	3	FUTURE PROJECT LIST
IMPERIAL HARBOUR BLVD	SOUTH END	OLD 41	COLL	0.4	BL	E/W	3	8	FUTURE PROJECT LIST
IMPERIAL ST	COLLIER CO LINE	BONITA BEACH RD	COLL	1	BL	E/W	3	8	CIP PROJECT FY 99/00
ISLAND PARK ROAD	PARK RD	US 41	COLL	1.5	BL	E/W	3	4	FUTURE PROJECT LIST
LEELAND HEIGHTS BLVD	ALEXANDER GRAHAM BELL BLVD	LEE BLVD	ART	1.5	BL	N/S	5	3	FUTURE PROJECT LIST
LEELAND HEIGHTS BLVD	LEE BLVD	HOMESTEAD RD	ART	0.5	BL	N/S	5	3	CIP PROJECT FY 99/00
LUCKETT ROAD	I-75	COUNTRY LAKES DR	COLL	0.5	BL	N/S	5	1	FUTURE PROJECT LIST
LUCKETT ROAD	I-75	ORTIZ AVE	ART	0.8	BL	N/S	2	1	FUTURE PROJECT LIST
MILWAUKEE BLVD	ALEXANDER GRAHAM BELL BLVD	COLUMBUS BLVD	COLL	1.29	BL	N	5	3	FUTURE PROJECT L
MOORE AVE	SENTINELA BLVD	21ST ST E	COLL	5	BL	E/W	5	3	FUTURE PROJECT LIST
NALLE GRADE RD	SLATER RD	NALLE RD	COLL	3	BL	N/S	4	2	FUTURE PROJECT LIST
NALLE RD	BAYSHORE RD (SR78)	NALLE GRADE RD	COLL	2.8	BL	N/S	4	2	FUTURE PROJECT LIST
NEAL RD	BUCKINGHAM RD	ORANGE RIVER RD	COLL	1.3	BL	E/W	5	3	FUTURE PROJECT LIST
NORTH AIRPORT ROAD	FOWLER ST	US 41	COLL	0.3	BL	N/S	5	4	FUTURE PROJECT LIST
NORTH RIVER ROAD	BROADWAY ST	SR 31	ART	10.4	BL	N/S	5	2	FUTURE PROJECT LIST
OLGA RD	SR 80	SR 80	COLL	2.6	BL	N/S	5	3	FUTURE PROJECT LIST
ORANGE RIVER BLVD	BUCKINGHAM RD	ORANGE RIVER BLVD	ART	4.2	BL	N/S	5	1	FUTURE PROJECT LIST
ORTIZ AVE	COLONIAL BLVD	DR M L KING BLVD (SR82)	ART	1.7	BL	E/W	5	1	FUTURE PROJECT LIST
PENZANCE BLVD	RANCHETTE RD	SIX MILE CYPRESS PARKWAY	COLL	0.8	BL	N/S	5	4	FUTURE PROJECT LIST
PLANTATION RD	SIX MILE CYPRESS PKWY	DANIELS PKWY	COLL	1	PS	E/W	3	4	CIP PROJECT FY 98/99
PRITCHETT PKWY	LEETANA RD	SR 78	COLL	1.3	BL	N/S	4	2	FUTURE PROJECT LIST
RANCHETTE RD	PENZANCE BLVD	IDLEWILD RD	COLL	0.9	BL	E/W	5	4	FUTURE PROJECT LIST
RICH RD	LEETANA RD	SLATER RD	COLL	1.3	BL	N/S	4	2	FUTURE PROJECT LIST
SENTINELA BLVD	MOORE AVE	COLUMBUS BLVD	COLL	0.3	BL	N/S	5	3	FUTURE PROJECT LIST
SHELL POINT BLVD	McGREGOR BLVD	DAVID DR	COLL	0.7	BL	E/W	3	4	FUTURE PROJECT LIST
SLATER RD	DEL PRADO EXT	NALLE GRADE RD	ART	2	BL	E/W	4	2	FUTURE PROJECT LIST
STALEY RD	LUCKETT RD	ORANGE RIVER BLVD	COLL	1	BL	E/W	5	3	FUTURE PROJECT LIST

PROJECT NAME	FROM	TO	FUNCT CLASS	LENGTH (MILES)	FAC TYPE	SIDE	COMM DIST	IMP FEE DIST	COMMENTS
SUNNILAND BLVD	LEE BLVD	PARK RD	COLL	2	BL	E/W	5	3	FUTURE PROJECT LIST
SUNRISE BLVD (LA)	ALEXANDER GRAHAM BELL BLVD	NAPLES AVE	COLL	2.6	BL	N/S	5	3	FUTURE PROJECT LIST
SUNRISE BLVD (LA)	VICTORIA AVE	ALEXANDER GRAHAM BELL BLVD	COLL	0.5	BL	E/W	5	3	FUTURE PROJECT LIST
SUNSHINE BLVD	IMMOKALEE RD	SW 8TH ST	ART	4.1	BL	E/W	5	3	FUTURE PROJECT LIST
SUNSHINE BLVD	SW 8TH ST	W 25TH ST	ART	1.5	BL	E/W	5	3	CURRENT PROJECT LIST
TICE ST	STALEY RD	ORTIZ AVE	COLL	2.5	BL	N/S	5	3	FUTURE PROJECT LIST
TREELINE AVE	JETPORT COMMERCE PKWY	AMBERWOOD RD	COLL	1.6	BL	E/W	5	3	FUTURE PROJECT LIST
US 41	VICTORIA AVENUE	CHARLOTTE CO LINE	ART	10	BL	E/W	4	2/5	FUTURE PROJECT LIST

Exhibit 2

Calculation of fee-in-lieu contribution

FY 1997/98 to FY 1999/2000 CIP #206002 work	Sidewalk (5 foot concrete) average cost per linear foot	Bicycle path (8 foot concrete) average cost per linear foot
Startup	$4.11	$5.53
Embankment	$4.06	$4.06
Drainage	$11.11	$11.11
Sidewalk and grading	$9.78	$16.14
Bridge, gravity wall & handrail	$0.73	$0.73
Finish items	$3.15	$3.15
TOTAL	$32.94	$40.72

Notes:

1) Startup costs include mobilization, clearing and grubbing, relocation/adjustment and maintenance of traffic pay items. Drainage costs includes inlets, grates, headwalls, pipes and mitered end sections. Finish items include sod and miscellaneous driveway work.
2) Drainage, Bridge and Finish items costs were averaged over all projects. Startup, embankment, sidewalk and grading costs were averaged specific to the projects.

LEE COUNTY ORDINANCE NO. 01-____

AN ORDINANCE TO ESTABLISH AN INTERIM ORDINANCE TO REGULATE COMMUNICATION TOWERS AND PERSONAL WIRELESS SERVICE FACILITIES (PWSF'S); PROVIDING FOR A TITLE; PURPOSE, INTENT AND SCOPE; DURATION; CONSISTENCY WITH LEE COUNTY LAND DEVELOPMENT CODE; DEFINITIONS; GENERAL PROVISIONS; DETERMINATION OF VESTED RIGHTS OR ESTOPPEL; EXCLUSIONS AND EXCEPTIONS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized, directed and empowered to guide and regulate growth and development of the County pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code, which contains regulations applicable to the development of land in Lee County; and

WHEREAS, communication towers and personal wireless service facilities comprise a rapidly growing segment of the utilities and communications sector and have merit and value for the community as a whole; and

WHEREAS, the U.S. Congress adopted Section 704 as part of the Telecommunications Act that the President of the U.S. signed into law on February 8, 1996, such section defining personal wireless services and personal wireless service facilities and preserving local zoning authority over decisions regarding the placement, construction, and modification of personal wireless service facilities; and

WHEREAS, there is an immediate safety hazard associated with each communication tower, wherein there is a danger of loss of life, personal injury or property damage may result as "towers" can be dangerous; and

WHEREAS, compliance with protocols for hazardous materials storage, use and reporting must be insured. The presences and use of lead acid batteries, propane, diesel fuel or gasoline in personal wireless service facility equipment shelters presents a serious risk of injury to hazardous materials handling and emergency service personnel. More effective regulations requiring disclosure of the presence and quantity of hazardous materials must be developed and implemented; and

WHEREAS, the continued construction of towers at heights greater than the surrounding trees and buildings throughout the County increase the risk to aircraft and helicopter traffic flights by Lee County Emergency Medical Services, the Lee County Sheriff's Department and Lee County Mosquito Control District who must fly to provide invaluable services in an effort to continue to protect the health, safety and general welfare of the County's residents and visiting tourist population; and

WHEREAS, the County desires to study the proliferation and effect of communication towers so as to promote the overall good of the County; and

WHEREAS, an interim ordinance must be enacted with the same formality as an ordinance which rezones property; and

WHEREAS, the County seeks to act in good faith, and not in a manner that is arbitrary, capricious or unreasonable; and

WHEREAS, revision to the County's existing regulation of communication towers is necessary to ensure compliance with required County permits and the assessment and collection of appropriate taxes on the tangible assets the facilities represent; and

WHEREAS, the purpose and intent of this ordinance are to enact an interim regulation during which the County will study and establish standards for the location, siting and design of communication towers and personal wireless service facilities. The goal of this ordinance is to promote the compatibility of personal wireless service facilities with surrounding land uses, and protect the health, safety and general welfare of the citizens of Lee County; and

WHEREAS, the duration of this interim ordinance is limited to 18 months from the effective date herein, unless formally extended by the Lee County Board of County Commissioners

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

Section One: Title

This ordinance will be known as: The Communication Tower Interim Ordinance.

Section Two: Purpose, Intent and Scope.

The purpose of this ordinance is to set forth interim or temporary regulations relating to the siting, placement and erection of communication towers and personal wireless service facilities. This includes communication towers for the purpose of attaching personal wireless communication facilities as defined herein within the limits of unincorporated Lee County, Florida. Adoption of these temporary interim regulations will allow Lee County to study the presence of communication towers within its unincorporated limits and to develop and implement a personal wireless communication facility master plan.

Section Three: Duration.

This ordinance will be in effect for a period of time not to exceed 18 months from the effective date of the adoption of this ordinance, unless extended by formal action of the Lee County Board of County Commissioners.

Section Four: Consistency with Lee County Land Development Code.

The terms and provisions of this interim ordinance are to be read in conjunction with those regulations set forth in the Lee County Land Development Code (LDC), as amended. To the extent that any existing regulation set forth in the LDC is in conflict with this ordinance, the more restrictive regulation will supersede and control.

Section Five: Definitions.

For purposes of this Ordinance, certain terms are defined as follows:

Antenna Array means one or more whips, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antennas (whips), directional antennas (panels) and parabolic antennas (discs).

Carrier means a company licensed by the Federal Communications Commission (FCC) to provide wireless services. A tower builder is not a carrier unless licensed to provide personal wireless services.

Communication Tower means a guyed tower, lattice tower, monopole or any other structure constructed for the primary purpose of supporting antennae and other PWSF components, or similar items.

COW means "cellular on wheels," a mobile communication tower that may be moved onto an approved site for temporary use.

Director means the Director of the Department of Community Development or her designee.

Elevation means the measurement of height above sea level, or AMSL (above mean sea level).

Guyed Tower means a type of mount that is anchored to the ground or to another surface by diagonal cables.

Height or Height AGL (Above Ground Level) means the distance measured from the ground level to the highest point of a communication tower, including any attached antenna array. For the purposes of measuring height under terms of this Ordinance, all antennas, lightning rods or other attachments mounted on a structure will be included in the measurements to determine the overall (i.e., combined) height.

Lattice Tower means a type of mount that consists of multiple legs and cross-bracing of structural steel.

Monopole means a type of self-supporting mount consisting of a single shaft or tube of wood, steel or concrete, and antennas at the top and/or along the shaft.

Mount means the structure or surface to which antennas are attached. A mount is any man-made structure, including, but not limited to, buildings, power poles, light poles, clock towers, bell towers, steeples, water towers and other similar structures suitable for the attachment of antennas.

Personal Wireless Service means any personal wireless service as defined in the Telecommunications Act which includes Federal Communications Commission (FCC) licensed wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), Paging, as well as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

Personal Wireless Service Facilities (PWSF) means facilities for the provision of personal wireless services as defined by Section 74 of the Telecommunications Act of 1996. A PWSF is any facility for the transmission and/or reception of personal wireless services, which may consist of an antenna array, transmission cables, equipment shelter or building, access road, mount and/or a guy system.

Site means the portion of a property where a communication tower is to be placed, and which contains all associated mounts, equipment, equipment buildings and shelters, security fencing, landscaping, access and utility easements, and any guy wires and anchor points.

Section Six: General Provisions.

During the period of time this ordinance is in effect, the following provisions will apply to all communication towers. For all purposes of this ordinance and especially the provisions set forth below, height is to be measured to include any item of any kind that may be attached to the communication tower. See also the definition of height or height AGL set forth in Section Five.

(a) No new communication tower may be constructed in excess of 100 feet in height AGL without an approved Special Exception.

(b) No new communication tower may be constructed in excess of 150 feet in height AGL.

(c) No new communication tower may be constructed in excess of 100 feet in height AGL in any agriculturally (AG) zoned district.

(d) Any new or replacement communication tower must be a monopole, i.e., no guyed or lattice-type towers.

(e) A communication tower may be maintained, but not replaced, reconstructed, increased in height or expanded except in conformity with the provisions of this ordinance. An existing communication tower may be strengthened to allow the installation of an antenna array; rebuilding or replacing a communication tower will not qualify as strengthening.

(f) No variance or deviations may be granted from the limitations set forth herein.

(g) No portion of an existing communication tower may be replaced or increased in height except according to the limitations herein, or in accordance with existing county buildback regulations in the event of a natural disaster.

Section Seven: Determination of Vested Rights or Estoppel.

(a) This interim ordinance applies to all lawfully permitted communication towers unless the County makes a favorable determination of vested rights or estoppel.

1. A claim of vested rights or estoppel will be decided by the Director after consulting with the County Attorney's Office.

2. Such claims must be submitted to and reviewed by the County before any lawsuit may be filed.

3. A decision of the Director is final and appealable only to Circuit Court.

(b) An illegally constructed, located or installed communication tower cannot be replaced, reconstructed, increased in height, expanded or strengthened, nor is it entitled to any vested rights or estoppel.

Section Eight. Exclusions and Exceptions.

(a) This ordinance does not apply to amateur radio antenna/towers and satellite dishes that are currently regulated in LDC §34-1175.

(b) The Director may suspend the provisions of this Ordinance to allow the use of a COW or other similar type of temporary or emergency communication towers to aid during times of post disaster relief.

(c) The Director may approve the use of a COW or other similar type of temporary communication tower, provided,

1. the COW or similar type of temporary communication tower may not exceed the permitted building height of the zoning district in which it is located, and

2. not more than two, three-month periods of use for a COW or similar temporary type of communication tower may be approved at the same site.

(d) The provisions of this ordinance may be waived by the Board of County Commissioners, but only if the Board finds such action necessary to allow the use of a publicly owned communication tower on publicly owned property for a clear public safety purpose, and there will be no private or commercial use of the communication tower.

(e) Existing county buildback regulations applicable in the event of a natural disaster will supersede this ordinance.

Section Nine: Conflicts of Law.

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

Section Ten: Severability.

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

Section Eleven: Codification and Scrivener's Errors.

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section," "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager, or his designee, without the need for a public hearing.

Section Twelve: Effective Date.

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

THE FOREGOING ORDINANCE was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW W. COY	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED THIS ____ day of _____, 2001.

ATTEST:
CHARLIE GREEN, CLERK

By:_____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By:_____
Chairman

APPROVED AS TO FORM:

By:_____
Office of County Attorney

LEE COUNTY ORDINANCE NO. 02-03

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT THAT AMENDMENT KNOWN LOCALLY AS CPA 2000-02 APPROVED IN CONJUNCTION WITH ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO THE ADOPTED TEXT AND MAPS; PROVIDING FOR PURPOSE AND SHORT TITLE; PROVIDING FOR ADOPTION OF THE SPECIFIED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE LEGAL EFFECT OF "THE LEE PLAN"; PROVIDING FOR GEOGRAPHICAL APPLICABILITY; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of Plan Amendments with such frequency as may be permitted by applicable state statutes, in accordance with such administrative procedures as the Board of County Commissioners may adopt; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 further provides an opportunity for individuals to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (hereinafter referred to as the "LPA") held statutorily prescribed public hearings pursuant to Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code AC-13-6 on June 4, 2001; and,

WHEREAS, the Board of County Commissioners, pursuant to Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code AC-13-6, held a statutorily prescribed public hearing for the transmittal of the proposed amendments on August 29, 2001, and at that hearing approved a motion to send, and did later send, the proposed

amendments to the Florida Department of Community Affairs (hereinafter referred to as "DCA") for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and,

WHEREAS, at the August 29, 2001 meeting, pursuant to Chapter 163, Part II, Florida Statutes, the Board of County Commissioners did announce its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report," which were later received on November 21, 2001 by the Chairman of the Lee County Board of County Commissioners; and,

WHEREAS, the Board of County Commissioners during its statutorily prescribed public hearing for the plan amendments on January 10, 2002, moved to adopt the proposed amendments as more particularly set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, has conducted a series of public hearings to review the proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt those amendments to the Lee Plan discussed at those meetings and approved by an absolute majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Plan, as hereby amended, will continue to be the "Lee Plan." This ordinance may be referred to as the "2000/2001 Regular Comprehensive Plan Amendment Cycle CPA 2000-02 Ordinance."

SECTION TWO: ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on January 10, 2002, known as CPA 2000-02, which amend the text of the Lee Plan as well as the Future Land Use Map series of the Lee Plan.

In addition, the above-mentioned Staff Report and Analysis, along with all attachments for this amendment are hereby adopted as "Support Documentation" for the Lee County Comprehensive Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as so amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in any joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the

powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had such unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administration Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution will be sent

to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Judah who moved its adoption. The motion was seconded by Commissioner Albion and, when put to a vote, the vote was as follows:

ROBERT JANES	AYE
DOUGLAS ST. CERNY	AYE
RAY JUDAH	AYE
ANDREW COY	ABSENT
JOHN ALBION	AYE

DONE AND ADOPTED this 10th day of January, 2002.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Chairman

DATE: January 10, 2002

Approved as to form by:

_____
County Attorney's Office

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned , as Vice President of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor by conversion to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation does hereby swear or affirm that they hereby designate **Roetzel & Andress, a legal professional association**, as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

CSX REALTY DEVELOPMENT, LLC

Appd. as to Legal Form

By: Patricia J. Affoora

Print Name: Patricia J. Affoora

Title: Vice President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 31st day of January, 2001, by Patricia J. Affoora as Vice President of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor by conversion to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation. He/She is personally known to me or has produced _____ (type of ID) as identification.

Dorothy A. McDowell
Notary Public

(SEAL)

DOROTHY A. MCDOWELL
MY COMMISSION # CC 887766
EXPIRES: November 22, 2003
Bonded Thru Notary Public Underwriters

81439_1

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned does hereby swear or affirm that the **BOCA BAY MASTER ASSOCIATION, INC., Responsible for the Maintenance of Infrastructure and Unified Control and Development with Boca Bay,** hereby designate **Roetzel & Andress, a legal professional association,** as the legal representative of the property and as such, is authorized to legally bind all owners of the property in the course of seeking the necessary approvals. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain the comprehensive plan amendments. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

BOCA BAY MASTER ASSOCIATION, INC. a Florida Not-for profit corporation

BY: S A Crosby

PRINTED NAME: Stephen A Crosby

TITLE: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of September 2000, by STEPHEN A. CROSBY, as PRESIDENT, of the BOCA BAY MASTER ASSOCIATION, INC., who is personally known to me ~~or who has produced _____ as identification.~~

Harriett K. Mochel
Signature of Notary Public

(SEAL)

HARRIETT K. MOCHEL
Notary Public, State of Florida
My comm. exp. Dec. 2, 2003
Comm. No. CC892047

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RECEIVED
SEP 28 2000
PERMIT COUNTER

RECEIVED
SEP 28 2000
PERMIT COUNTER

CPA 2000-00002

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 339-6200
FAX: (941) 339-6202

RECEIVED
SEP 28 2000
PERMIT COUNTER

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

FOR OFFICE USE ONLY

REQUEST NO: CPA2000-00002 DATE REC'D: 9-28-00

APPLICATION FEE: 1750 00 RECEIPT NO: —

SUFFICIENCY DATE: _____ BY: _____

BoCC TRANSMITTAL HEARING DATE: _____

BoCC ADOPTION HEARING DATE: _____

Plan Amendment Cycle: Normal Small Scale DRI Emergency

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The Total number of sheets is: _____

Submit 2 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency and Board of County Commissioners hearings.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

9-27-00 Robt D. Pritt

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, a legal professional association

I. APPLICANT/AGENT/OWNER INFORMATION

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure unified control and development within Boca Bay.
APPLICANT
699 BOCA BAY DRIVE
ADDRESS
BOCA GRANDE FL 33921-1370
CITY STATE ZIP
(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

ROBERT D. PRITT, ESQ., on behalf of Roetzel & Andress, a legal professional association
AGENT*
2320 First Street, Suite 1000
ADDRESS
Fort Myers, FL 33901
CITY STATE ZIP
(941) 337-3850 (941) 337-0970)
TELEPHONE NUMBER FAX NUMBER

BOCA BAY MASTER ASSOCIATION, INC., Responsible for maintenance of infrastructure, unified control and development within Boca Bay.
APPLICANT
699 BOCA BAY DRIVE
ADDRESS
BOCA GRANDE FL 33921-1370
CITY STATE ZIP
(941) 964-0800
TELEPHONE NUMBER FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application (SEE ATTACHED EXHIBIT II-G PRO. CONSULTANTS LIST)

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE

A. TYPE: (Check appropriate type)

1. Text Amendment — X
2. Future Land Use Map Series Amendment (Maps 1 thru 18) — X Map 12(South Boca Grande)
   List Number(s) of Map(s) to be amended

B. SUMMARY OF REQUEST (Brief explanation and justification):
See attached Summary of Request-Exhibit A

III. PROPERTY SIZE AND LOCATION (for map amendments only)

A. Property Location:

1. Site Address: Boca Bay Master Association, Inc. 699 Boca Bay Drive

2. STRAP(s): 26-43-20-25-0000H.00CE/Boca Bay Master Association

B. Property Information

Total Acreage of Property:

Total Acreage included in Request: ± 2.8 Acres in Overlay/± 42.2 Acres in Port District of Boca Bay Subdivision (See attached Exhibit B)

Area of each Existing Future Land Use Category: _____

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: Port

Current Future Land Use Designation: Port District

Existing Land Use: Urban Community

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

An area of Critical State Concern: No

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

D. Proposed (requested) Future Land Use Map Designation for the Subject Property:
No Change

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density	No Change
Commercial Intensity	Property zoned Port that could permit industrial & commercial uses
Industrial intensity	

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density	No Change
Commercial intensity	Property text change would preclude industrial & commercial uses
Industrial intensity	

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of transmittal documents to the State, the applicant is encouraged to provide all data and analysis on a 3.5" or 5.25" MS-DOS Disk in either ASCII or WordPerfect 5.1/6.1.

A. General Information and Maps

NOTE: for each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

***ONLY pertains to a Future Land Use Map amendment N/A**

1. *Provide any proposed text changes.

2. *Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.

3. *Map and describe existing land uses (not designations) of the subject property and surrounding properties.

4. *Map and describe existing zoning of the subject property and surrounding properties.

5. *Map and describe the soils found on the property and identify the source of the information.

6. *Provide a topographic map with property boundaries indicated and delineate 100-year flood prone areas as identified by FEMA.

7. *Provide a map delineating wetlands and aquifer recharge areas.

8. *Identify whether the site contains properties listed on the Florida Master Site File and locate the historic site on a map.

9. Identify whether the site contains habitat for species listed by federal, state or local agencies as endangered, threatened or species of special concern (e.g. scrub) and locate the habitat on a map.

10. *The legal description(s) for the property subject to the requested change;

11. A copy of the deed(s) for the property subject to the requested change;

12. *An aerial map showing the subject property and surrounding properties.

13. *If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts **N/A**

NOTE: The applicant must calculate public facilities impacts based on the proposed development plan (see Part II.H.). If the applicant has no specific development plans for the property, public facilities impacts must be calculated on worst case scenario.

1. *Provide a Traffic Circulation analysis which includes:

   a. Roadways serving the site (indicate laneage, functional classification and right-of-way width), current LOS, and LOS standard;
   b. LOS
      Standard
      Current

Projected 2020 LOS under existing designation;

Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
Whether the proposed development impacts road links projected to be at or below the LOS standard; and

c. Anticipate improvements/expansions (including right-of-way acquisition, number of lanes, signalization, turn lanes, and/or redesignation of functional classification) needed as a result of the proposed amendment.
d. Planned improvements/expansions in the 5 year CIP, 6-10 year CIP, long range improvements.
e. Evaluated consistency of/impact on adopted MPO plans and FDOT'S 5-year Transportation Plan.
f. Based on a-e, are revisions to the Traffic Circulation and/or Capital Improvements element necessary/included in application.

2. *Provide a Sanitary Sewer analysis which includes: **N/A**
   a. Sewer Franchise Area
   b. Facilities serving the site, current LOS, and LOS standard;
   c. Projected 2020 LOS under existing designation;
   d. Projected 2020 LOS under proposed designation; and
   e. Improvements/expansions already programmed in 5 year CIP, 6-10 year CIP, and long range improvements
   f. Based on a-e, are revisions to the Sanitary Sewer Sub-Element and/or Capital Improvements element necessary/included in the application.

3. *Provide a Potable Water analysis which includes: **N/A**
   a. Potable Water Franchise Area
   b. Facilities serving the site, current LOS, and LOS standard
   c. Projected 2020 LOS under existing designation;
   d. Projected 2020 LOS under proposed designation; and
   e. Improvements/expansions already programmed in 5 year CIP, 6-10 year CIP, and long range improvements
   f. Based on a-e, are revisions to the Potable Water Sub-Element and/or Capital Improvements element necessary/included in the application.

4. *Provide a Drainage/Surface Water Management analysis which includes: **N/A**
   a. Surface Water/Drainage Basin
   b. Facilities serving the site, current LOS, and LOS standard

c. Projected 2020 LOS under existing designation;
d. Projected 2020 LOS under proposed designation; and
e. Improvements/expansions already programmed in 5 year CIP, 6-10 year CIP, and long range improvements
f. Based on a-e, are revisions to the Surface Water Management Sub-Element and/or Capital Improvements element necessary/included in the application.

5. *Provide a Solid Waste analysis which includes: **N/A**
   a. Solid Waste Franchise Area
   b. Facilities serving the site, current LOS, and LOS standard
   c. Projected 2020 LOS under existing designation;
   d. Projected 2020 LOS under proposed designation; and
   e. Improvements/expansions already programmed in 5 year CIP, 6-10 year CIP, and long range improvements
   f. Based on a-e, are revisions to the Solid Waste Sub-Element and/or Capital Improvements element necessary/included in the application.

6. *Provide a Parks, Recreation and Open Space analysis which includes: **N/A**
   a. Park Impact Fee District
   b. Facilities serving the site, current LOS, and LOS standard
   c. Projected 2020 LOS under existing designation;
   d. Projected 2020 LOS under proposed designation; and
   e. Improvements/expansions already programmed in 5 year CIP, 6-10 year CIP, and long range improvements
   f. Based on a-e, are revisions to the Parks, Recreation and Open Space Element and/or Capital Improvements element necessary/included in the application.

7. *Provide a Mass Transit- analysis which includes: **N/A**
   a. Facilities serving the site, current LOS, and LOS standard
   b. Projected LOS (indicate year) under existing designation;
   c. Projected LOS (indicate year) under proposed designation; and
   d. Improvements/expansions already programmed in 5 year CIP, 6-10 year CIP, and long range improvements
   e. Based on a-e, are revisions to the Mass Transit Sub-Element and/or Capital Improvements element necessary/included in the application.

8. *Provide a letter from the appropriate agency determining the adequacy of existing or proposed support facilities, including: **N/A**
   a. Fire protection with adequate response times;

b. Emergency medical service (EMS) provisions;
c. Law enforcement; and
d. Schools

C. *Environmental and Historic Resources Impacts **N/A**

Provide an analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use based on soils, topography, and the presence of wetlands, floodplain, aquifer recharge areas, scrub or other threatened habitat, and historic resources.

D. Relationship to the Comprehensive Plan

1. Discuss how the proposal affects established county-wide population projections/accommodations. **No Change**

2. Discuss how the proposal affects Map 17 "the Year 2010 Overlay" (including an analysis of the existing allocation and existing inventory). **No Change**

3. Describe how the proposal affects adjacent local governments. **No Change**

4. List objectives and policies of the Future Land Use element and other affected elements with which the proposed amendments is compatible. **See attached Exhibit A**

5. List State Policy Plan and Regional Policy Plan goals and policies which are addressed by the plan amendment. **See attached Exhibit A.**

E. Additional Requirements for Specific Future Land Use Amendments **N/A**

1. *Requests involving Industrial Land Use Category (to or from)

   a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals.
   b. If the site is located in a Rural area, describe the nature of the proposed industrial activity that warrants its location in a Rural area.

2. *Requests moving lands from a Non-Urban Area to a Future Urban Area

   a. State whether the proposed change constitute Urban Sprawl.
   b. Justification/need for more land designated for Future Urban Densities/Intensities.

EXHIBIT "A"

II.B. SUMMARY OF REQUEST.
Boca Bay Master Association, Inc.
Proposed Amendment
Lee Plan
Goal 15
It is proposed that The Lee Plan, Goal 15: Gasparilla Island. Be amended to add the following Objective and Policy:

Objective 15.5: Port Facility. The County will limit the water dependent overlay FOR South Boca Grande and the PORT district designation to the Port facility south of Belcher Road.

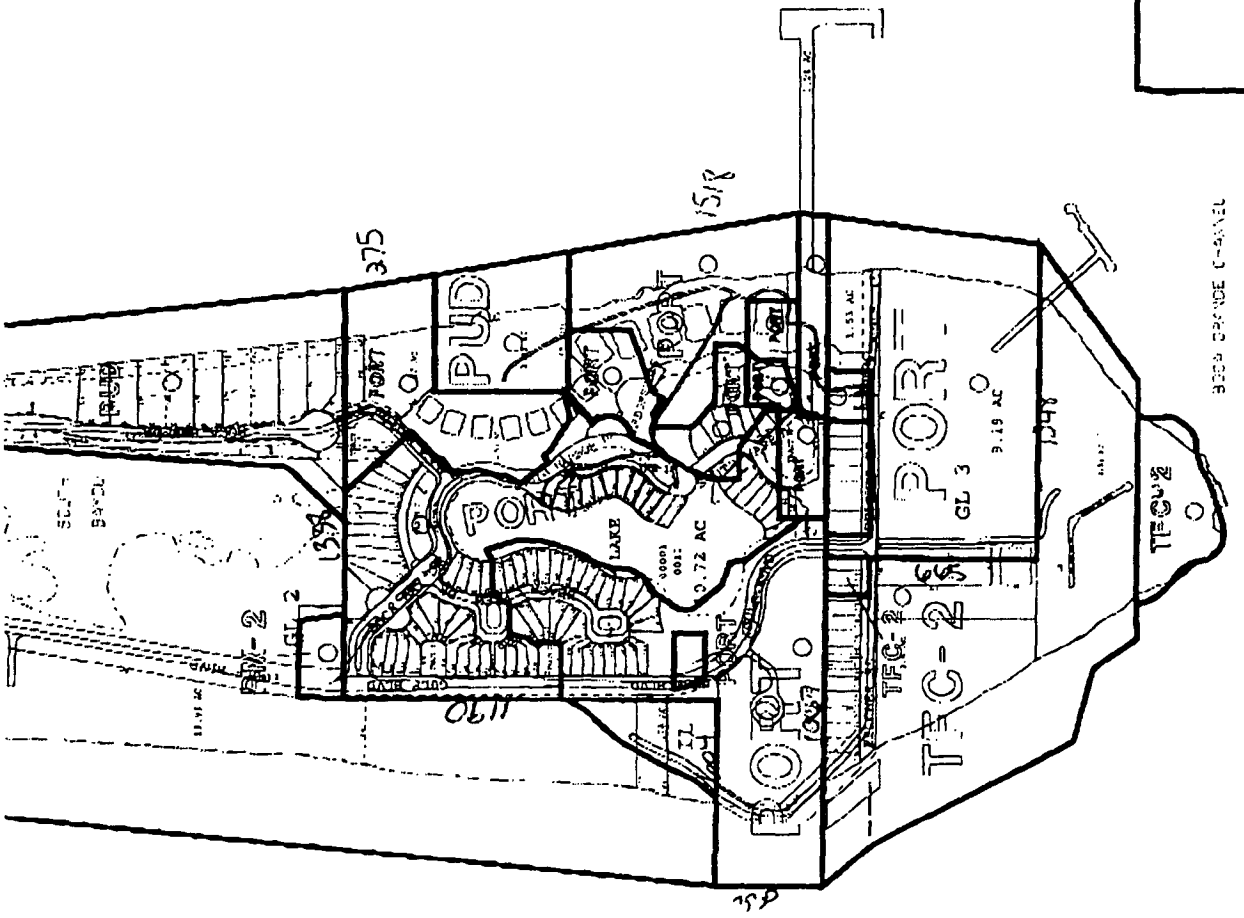
Policy 15.5.1 The commercial and industrial uses permitted in the Port District (excluding residential, accessory and uses approved pursuant to Special Exception) will not be permitted with that portion of the boundaries of Boca Bay Community with the zoning designation of Port District.

Reasons:

1. The PORT District land use designation and the zoning regulations were created to protect the Boca Grande Port from being developed as residential.
2. After settlement of a lawsuit, the PORT District designation was amended to provide for a special exception in the PORT District for residential development.
3. A special exception was granted to that portion of the property developed for residential development.
4. The PORT District has been again amended to reflect that the only property that derives the benefit of residential development.
5. However, the Lee Plan still reflects that the residential development is included in the area depicted on Map 12 as the Water Dependent Overlay for South Boca Grande, and is zoned PORT in the Land Development Code. The Water dependent overlays are for the purpose of protecting from conversion from water dependent uses to non-water dependent uses. (See Water Dependent Overlay South Boca Grande, Map 12 Page 3 of 19-bottom and LDC Sec. 34-871, et seq.)
6. Similarly, there is no mention in Goal 15 of the unique history, and to acknowledge that PORT uses are not to be permitted within Boca Bay.
7. The proposed amendments to Goal 15 and to the Water Dependent Overlay Map 12 are technical only and are designed to clarify and reflect the actual Plan and Zoning status.

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EXHIBIT "B"



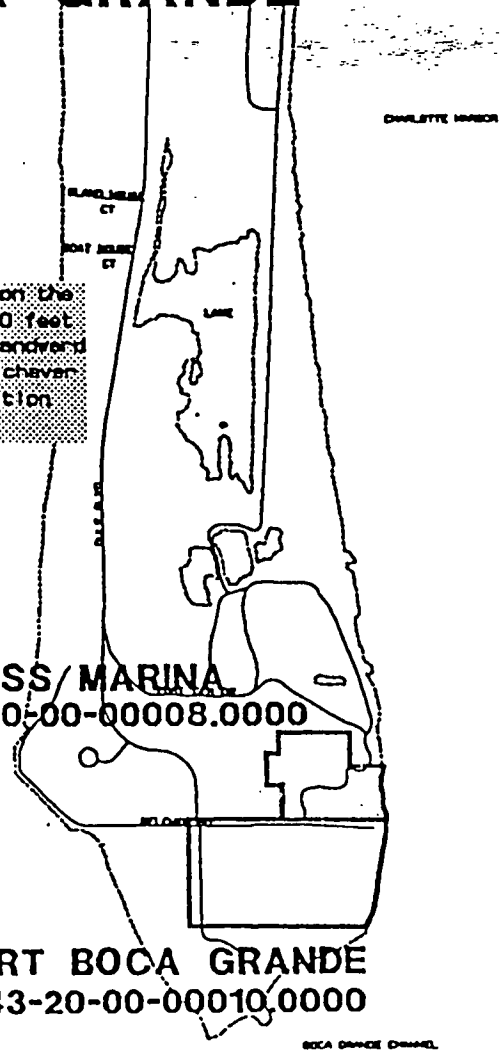
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SEP 28 2000
PERMIT COUNTER

EXHIBIT II-G PRO. CONSULTANTS LIST

Dana L. Hume, E.I.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902-1550
(941) 334-0046

RECEIVED
SEP 28 2000
PERMIT COUNTER

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE



The water-dependent overlay zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less. The base map is a reduction of the original.

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SEP 28 2000
PERMIT COUNTER

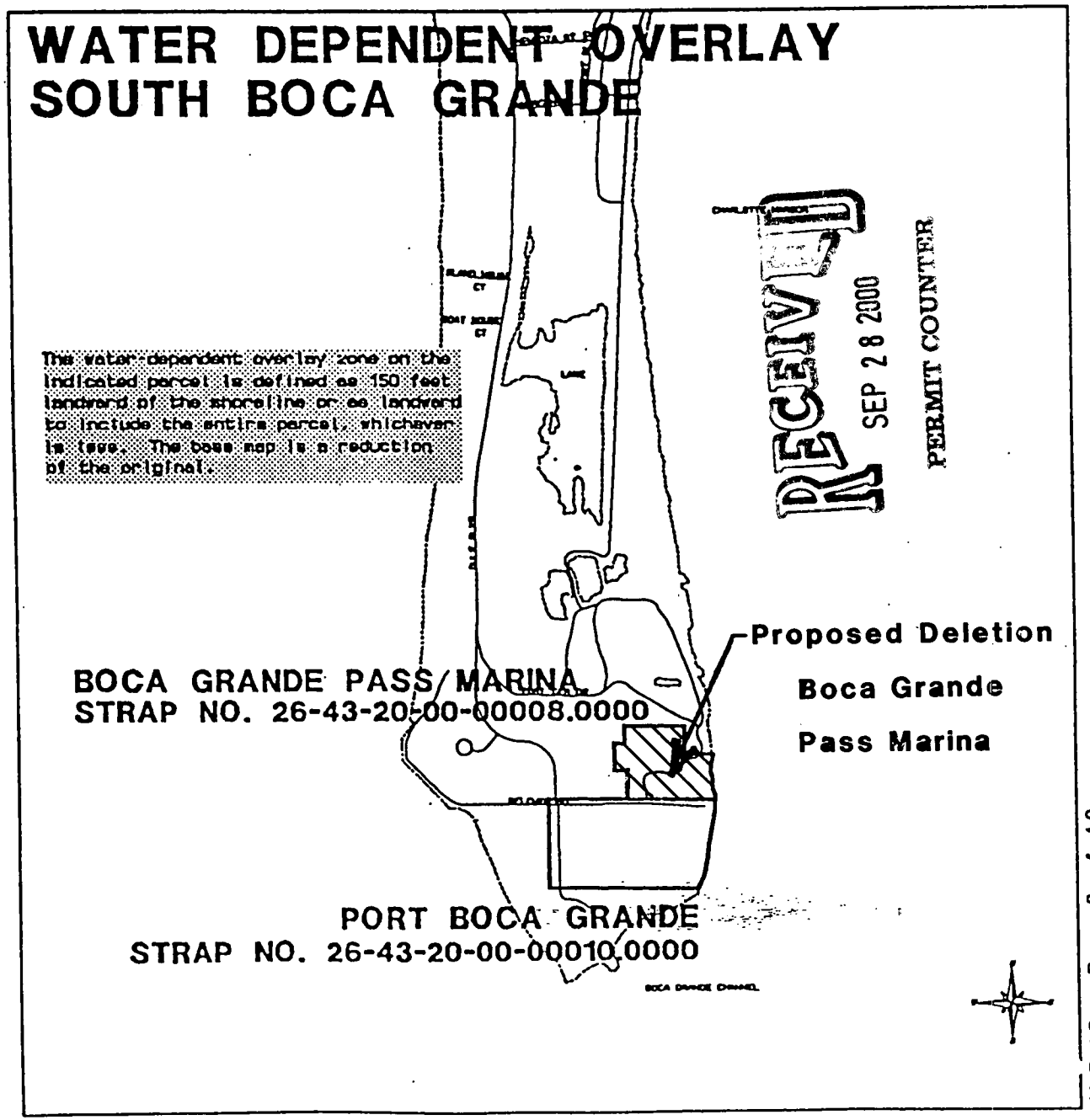
BOCA GRANDE PASS/MARINA
STRAP NO. 26-43-20-00-00008.0000

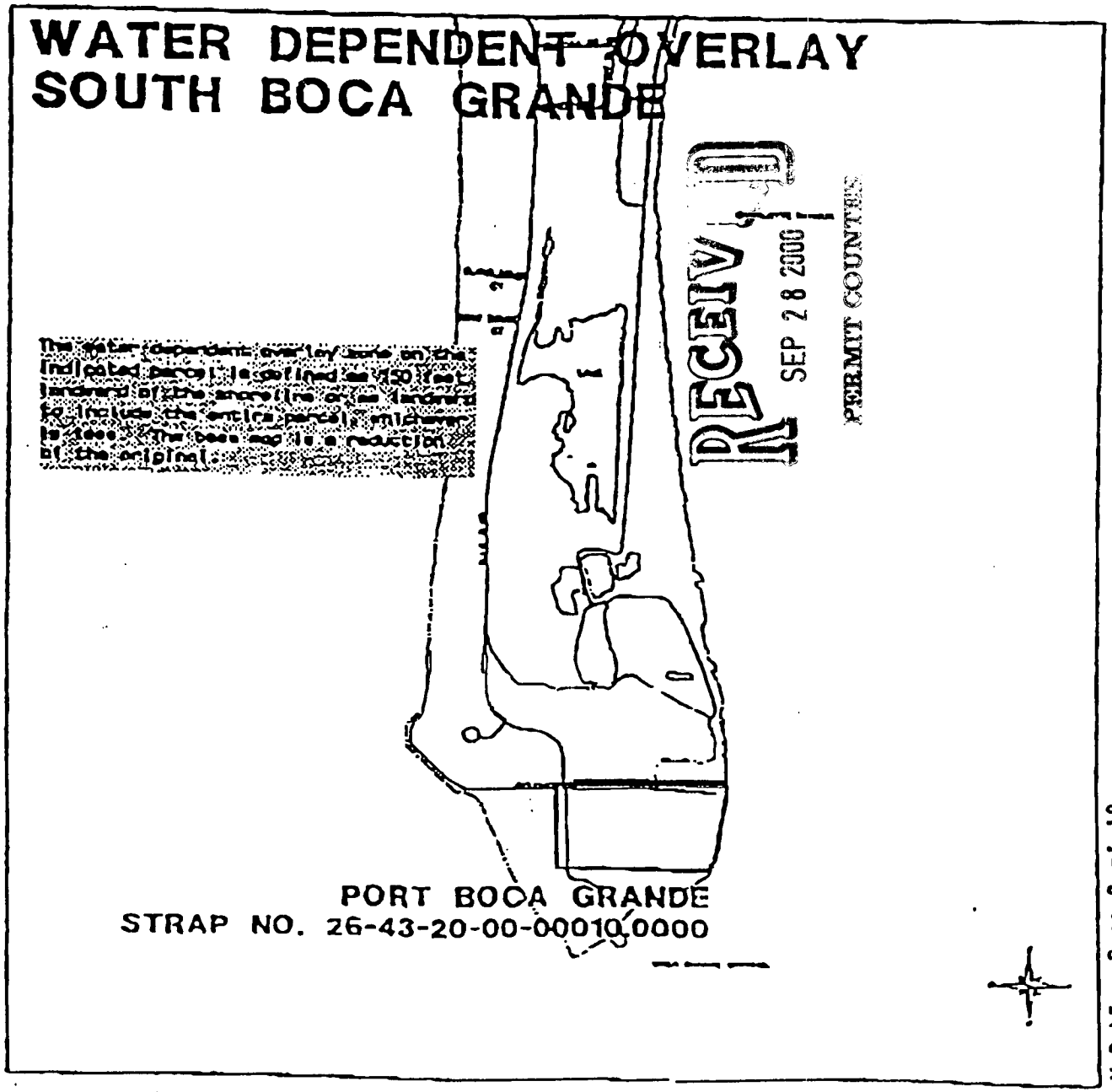
PORT BOCA GRANDE
STRAP NO. 26-43-20-00-00010.0000

MAP 12 – Page 3 of 19

CURRENT
OVERLAY

WATER DEPENDENT OVERLAY
SOUTH BOCA GRANDE





PROPOSED OVERLAY

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

THENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

   <u>Single-Family Detached</u>

   Street: 1/2 (ROW) + 10 feet (see also Deviation 1)
   Side: 5 feet
   Rear: 10 feet
   Water body: 25 feet (15 feet from retention lake)

   <u>Single-Family Attached (Villas)</u>

   Street: 1/2 (ROW) + 10 feet (see also Deviation 1)
   Side: 0 (zero) feet on one side and minimum 10 feet between structures
   Rear: 10 feet
   Water body: 25 feet (15 feet from retention lake)

   <u>Multiple-Family Building (Flats/Town Homes)</u>

   Street: 1/2 (ROW) + 10 feet (see also Deviation 1)
   Separation between structures: 10 feet
   Rear: 10 feet
   Water body: 25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
County Attorney's Office

FILED
JUN 17 1993
CLERK CIRCUIT COURT
BY _____ D.C.

PUD PLAN AMENDMENT PACKAGE

for

BOCA BAY

SOUTH VILLAGE

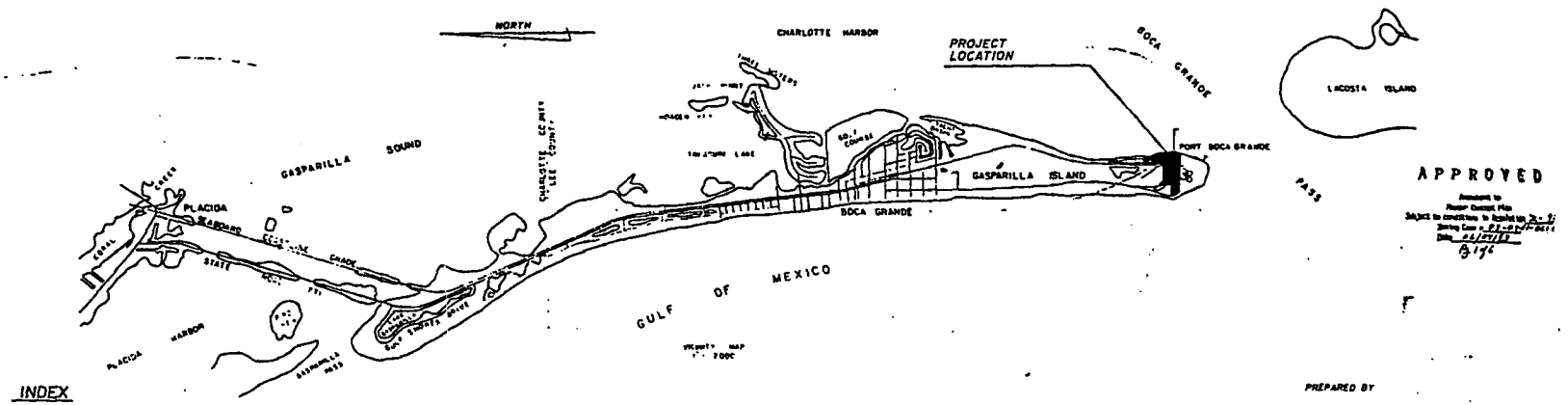
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

Amendment to Master Concept Plan
Subject to conditions in Resolution No. Z-91-
Zoning Case # 83-08-
Date 11/27/91

INDEX

1	COVER SHEET	
2	OVERALL BOCA BAY SITE MAP	
3	PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)	
4	DETAILS & NOTES	
5	TYPICAL UNIT LAYOUTS & DETAILS	
6	SKETCH TO ACCOMPANY LEGAL DESCRIPTION	

UTILITIES:

WATER AND SEWER
GASPARILLA ISLAND WATER ASSOC. INC
P.O. BOX 376
BOCA GRANDE, FLA. 33921

ELECTRIC
FLORIDA POWER and LIGHT CO
P.O. BOX 638
VENICE, FLA 33595

TELEPHONE
UNITED TELEPHONE COMPANY OF FLORIDA
1501 SWIFT HIGHWAY
PUNTA GORDA, FLA

FIRE DISTRICT
BOCA GRANDE FIRE CONTROL DISTRICT

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 26, 1993

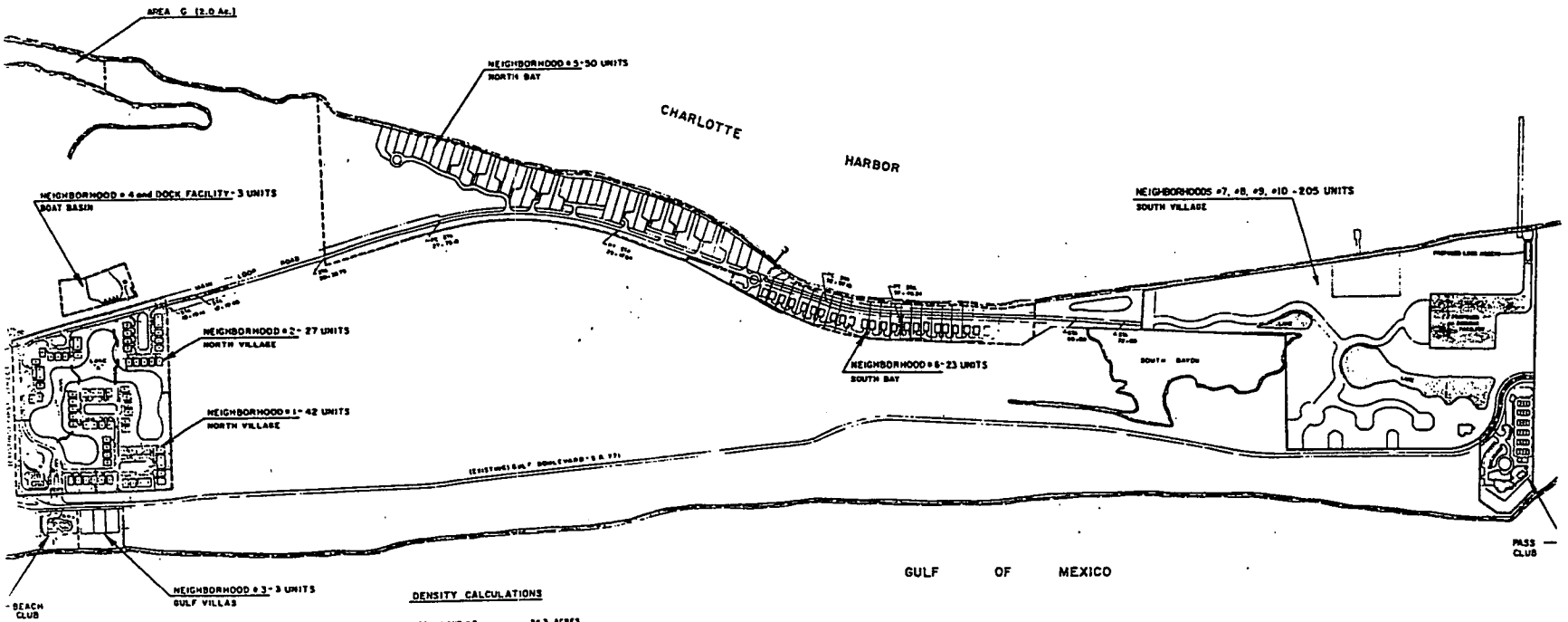
PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

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DENSITY CALCULATIONS

A.	NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA G	24.3 ACRES	69 UNITS
B.	NEIGHBORHOOD # 3 (GULF VILLAS) AND BEACH CLUB	2.7 ACRES	3 UNITS
C.	NEIGHBORHOOD # 4 (BOAT BASIN) AND DOCKS	2.0 ACRES	3 UNITS
D.	NEIGHBORHOOD # 5 (NORTH VILLAGE)	34.4 ACRES	50 UNITS
E.	NEIGHBORHOOD # 6 (SOUTH BAY)	9.2 ACRES	23 UNITS
F.	NEIGHBORHOOD # 7, 8, 9, 10 (SOUTH VILLAGE) AND PASS CLUB	56.75 ACRES	205 UNITS
	TOTAL AC. (PREVIOUSLY APP'D. PLAN)	127.1 ACRES	
	TOTAL UNITS (PREVIOUSLY APP'D. PLAN)	306 UNITS	
	TOTAL AC. (PROPOSED PLAN)	129.66 ACRES	
	TOTAL UNITS (PROPOSED PLAN)	303 UNITS	

REVISED 5/26/93 - ACREAGE
REVISED 5/26/93 - DENSITY CALCS.
REVISED 5/27/93
REVISED 6/29/93 UNITS BOCA BAY DRIVE

APPROVED

Amendment to Master Concept Plan
Subject to specific terms in Resolution Z-93-
Zoning Case # 93-07-A-BOCA
Date 8/25/93
By

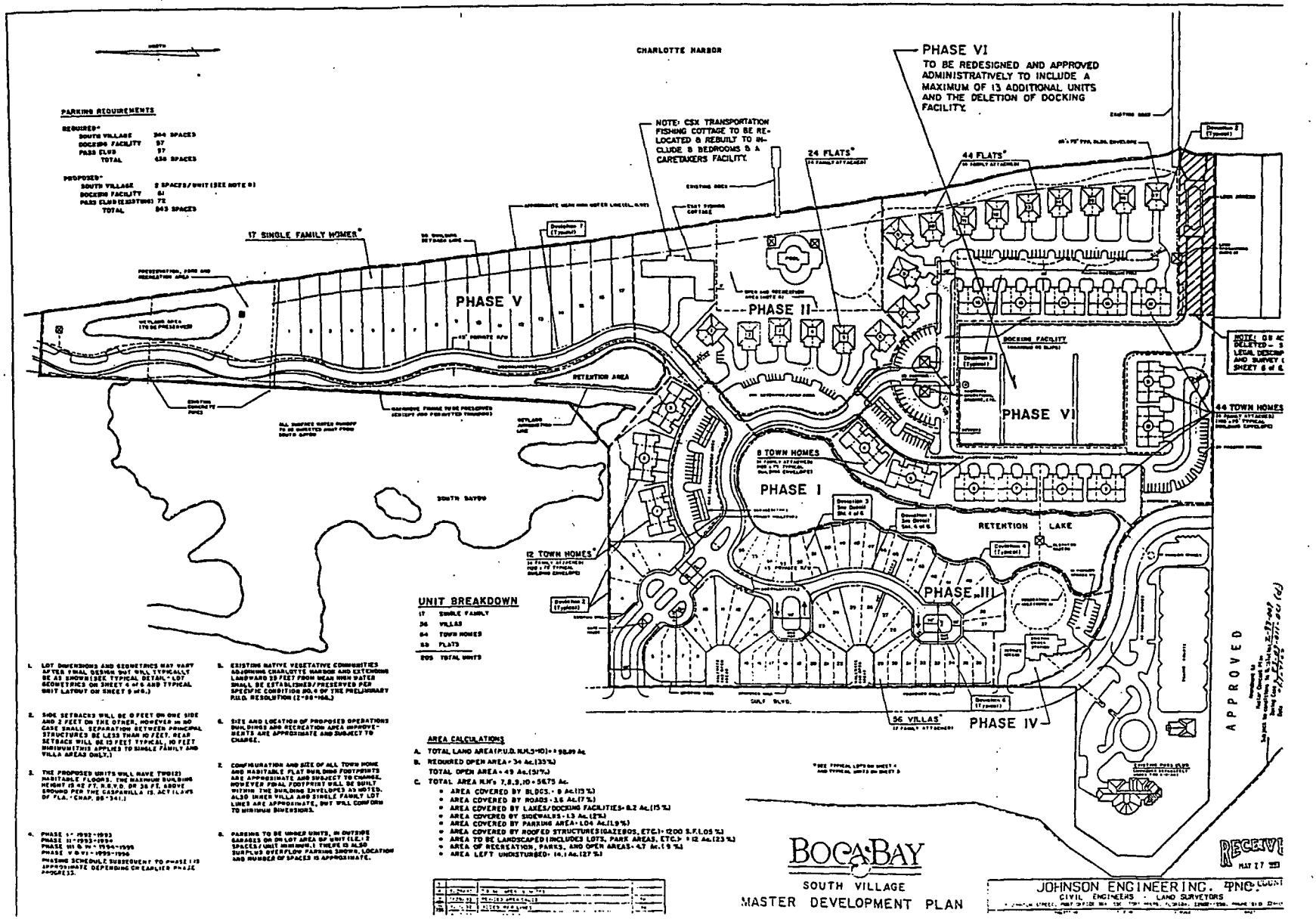
BOCA BAY

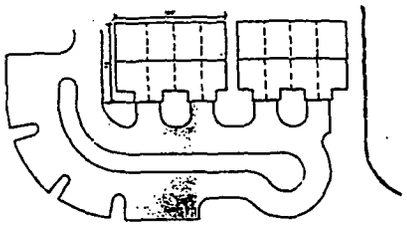
INDEX MAP
and
NEIGHBORHOOD LAYOUT

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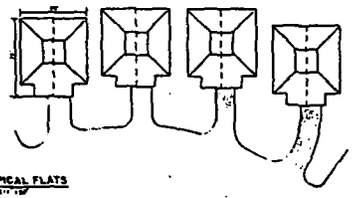
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS
COMING COU

OCTOBER, 1990	10338	23, 28-43-20	1" = 300'	1 OF

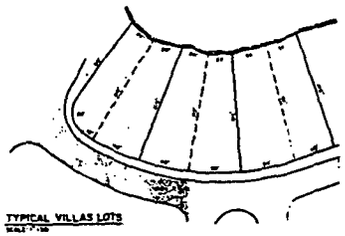

CHARLOTTE HARBOR
PHASE VI
TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY TO INCLUDE A MAXIMUM OF 13 ADDITIONAL UNITS AND THE DELETION OF DOCKING FACILITY.
NOTE: CSX TRANSPORTATION FISHING COTTAGE TO BE RE-LOCATED & REBUILT TO IN-CLUDE 8 BEDROOMS & A CARETAKERS FACILITY.
24 FLATS*
44 FLATS*
17 SINGLE FAMILY HOMES*
PHASE V
PHASE II
PHASE VI
PHASE I
PHASE III
PHASE IV
DOCKING FACILITY
RETENTION AREA
RETENTION LAKE
44 TOWN HOMES*
8 TOWN HOMES
12 TOWN HOMES*
56 VILLAS*
SOUTH BAYOU
GULF BLVD.
APPROVED
PARKING REQUIREMENTS
REQUIRED*
SOUTH VILLAGE 364 SPACES
DOCKING FACILITY 97
PASS CLUB 97
TOTAL 458 SPACES
PROPOSED*
SOUTH VILLAGE 2 SPACES/UNIT (SEE NOTE 8)
DOCKING FACILITY 61
PASS CLUB (EXISTING) 72
TOTAL 843 SPACES
UNIT BREAKDOWN
17 SINGLE FAMILY
36 VILLAS
64 TOWN HOMES
53 FLATS
209 TOTAL UNITS
AREA CALCULATIONS
A. TOTAL LAND AREA (P.U.D. N.M.'s 1-10) = ± 98.89 Ac.
B. REQUIRED OPEN AREA = 34 Ac. (35%)
TOTAL OPEN AREA = 49 Ac. (51%)
C. TOTAL AREA N.M.'s 7, 8, 9, 10 = 56.75 Ac.
AREA COVERED BY BLDGS. = 8 Ac. (13 %)
AREA COVERED BY ROADS = 3.6 Ac. (7 %)
AREA COVERED BY LAKES/DOCKING FACILITIES = 8.2 Ac. (15 %)
AREA COVERED BY SIDEWALKS = 1.3 Ac. (2%)
AREA COVERED BY PARKING AREA = 1.04 Ac. (1.9 %)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.) = 1200 S.F. (.05 %)
AREA TO BE LANDSCAPED (INCLUDES LOTS, PARK AREAS, ETC.) = 12 Ac. (23 %)
AREA OF RECREATION, PARKS, AND OPEN AREAS = 4.7 Ac. (9 %)
AREA LEFT UNDISTURBED = 10.1 Ac. (17 %)
1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL - LOT GEOMETRICS ON SHEET 4 of 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 of 6.)
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 2 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPAL STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 10 FEET TYPICAL, 10 FEET MINIMUM THIS APPLIES TO SINGLE FAMILY AND VILLA AREAS ONLY.)
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. N.G.V.D. OR 36 FT. ABOVE GROUND PER THE CASPARILLA IS. ACT (LAWS OF FLA. CHAP. 88-541.)
4. PHASE I - 1992 - 1993
PHASE II - 1993 - 1994
PHASE III & IV - 1994 - 1995
PHASE V & VI - 1995 - 1996
PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATIVE COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 35 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION (NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (2-88-168.)
6. SIZE AND LOCATION OF PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES ON ON LOT AREA OF UNIT (I.E.: 2 SPACES / UNIT MINIMUM.) THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN, LOCATION AND NUMBER OF SPACES IS APPROXIMATE.
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS
RECEIVED
MAY 27



TYPICAL TOWN HOMES



TYPICAL FLATS



TYPICAL VILLAS LOTS

SCHEDULE OF DEVIATIONS
BOCA BAY

1. DEVIATION FROM THE REQUIRED STREET SETBACK FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (ZONING ORDINANCE SECTION 202.10.D.2.a.), TO 1/2 RIGHT-OF-WAY PLUS 10 FEET FOR PRINCIPAL STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES;

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY BUILDING OR STRUCTURE IN THE PUD AND THE PUD BOUNDARIES OF 1/2 THE HEIGHT OF SAID BUILDING OR STRUCTURE OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.2.), TO 5 FEET;

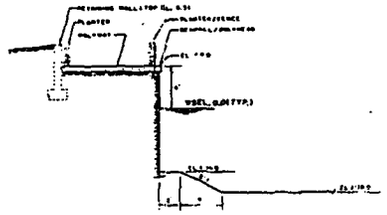
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN ANY ENTERING OR STRUCTURE WITHIN THE PUD OF 1/2 THE SUM OF THE HEIGHTS OF THE BUILDINGS OR A MINIMUM OF 20 FEET (ZONING ORDINANCE SECTION 404.E.3.), TO 10 FEET AS MEASURED FROM THE BUILDING WALLS;

4. DEVIATION FROM THE MINIMUM WATER BODY SETBACK OF 25 FEET (ZONING ORDINANCE SECTION 202.10.D.4.a.), TO 15 FEET FROM THE RECREATION LAKE ONLY;

5. DEVIATION FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESSES AND AISLES (ZONING ORDINANCE SECTION 202.14.J.3. AND DEVELOPMENT STANDARDS ORDINANCE SECTION 8.F.12.), TO 20 FEET;

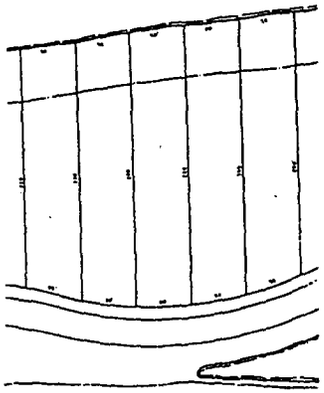
6. DEVIATION FROM THE REQUIREMENT THAT THE OUTSIDE AND INSIDE DIAMETER OF TURNAROUND OF A CUL-DE-SAC BE 90 FEET AND 70 FEET, RESPECTIVELY, AND THE RIGHT-OF-WAY BE 110 FEET DIAMETER (PLUS 20 FEET FOR OPEN SWALE DRAINAGE) (DEVELOPMENT STANDARDS ORDINANCE SECTION 8.F.11.1. TO ALLOW DIMENSIONS AS SHOWN ON THE PUD PLOT; AND

7. DEVIATION FROM THE REQUIREMENT THAT THE 10-FOOT-WIDE UTILITY EASEMENTS SHALL BE PROVIDED ON BOTH SIDES OF STREET RIGHT-OF-WAY OR ROAD EASEMENTS (DEVELOPMENT STANDARDS ORDINANCE SECTION 11.1.1.). TO PROVIDE A 5-FOOT-WIDE (MINIMUM) UTILITY EASEMENT ON BOTH SIDES OF THE STREET RIGHT-OF-WAY OR ROAD EASEMENTS.

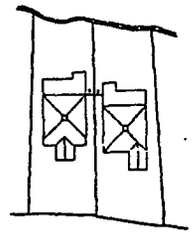


TYPICAL SECTION - DOCKING FACILITY

N.T.S.

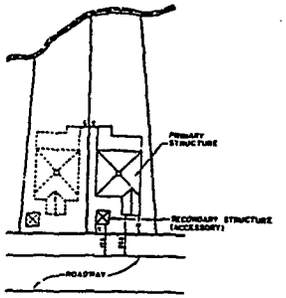


TYPICAL SINGLE FAMILY LOTS



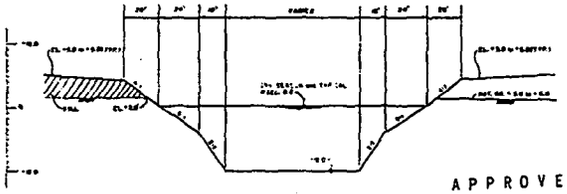
DEVIATION 3 - Typical Detail

SCALE: 1" = 30'



DEVIATION 1 - Typical Detail

SCALE: 1" = 30'



TYPICAL LAKE SECTION

N.T.S.

APPROVED

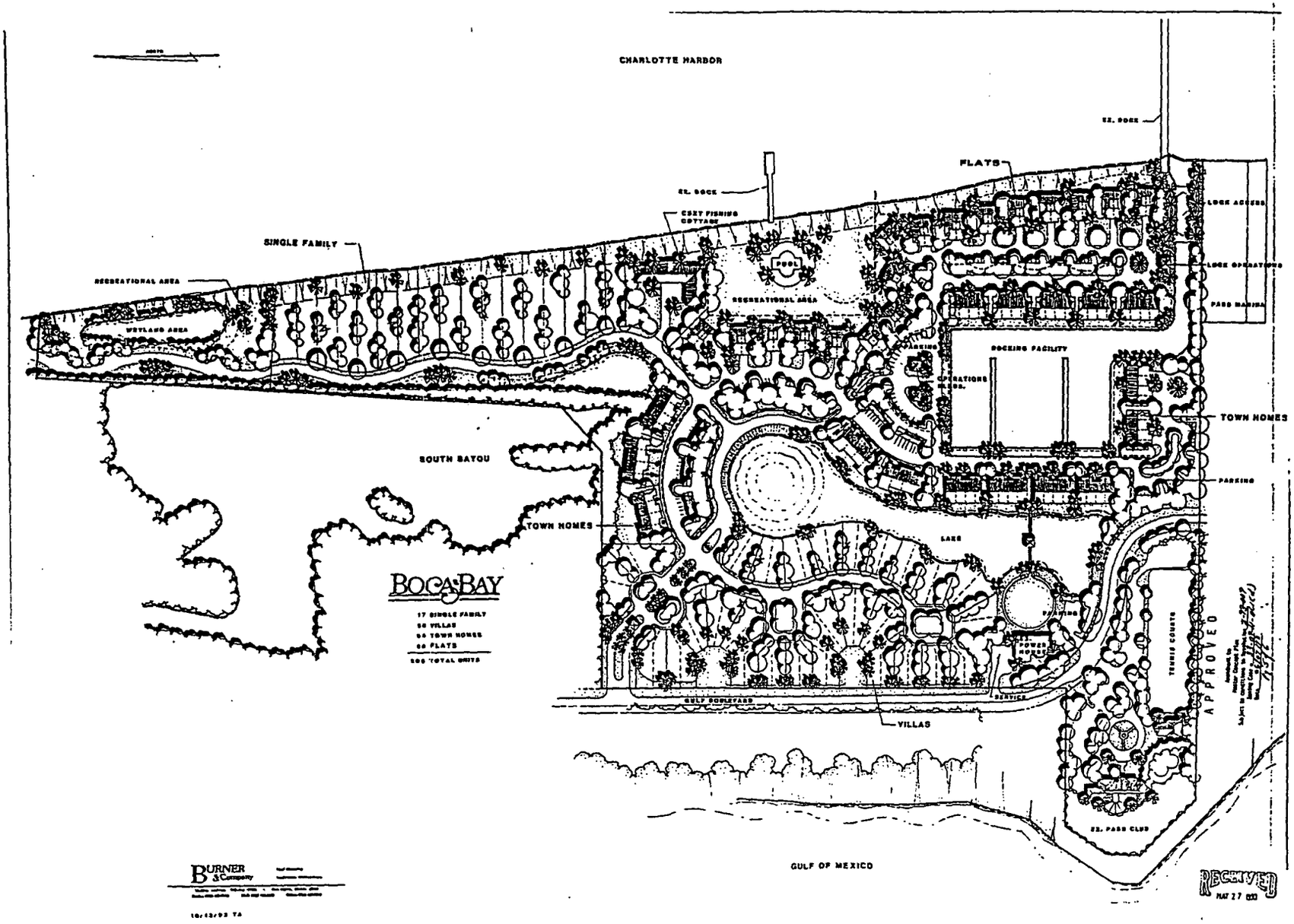
Assigned to
Master Concept Plan
Subject to conditions in Resolution No. 3-91-07
Zoning Case # 87-04(B)-DP-87(A)
Date 4/17/91

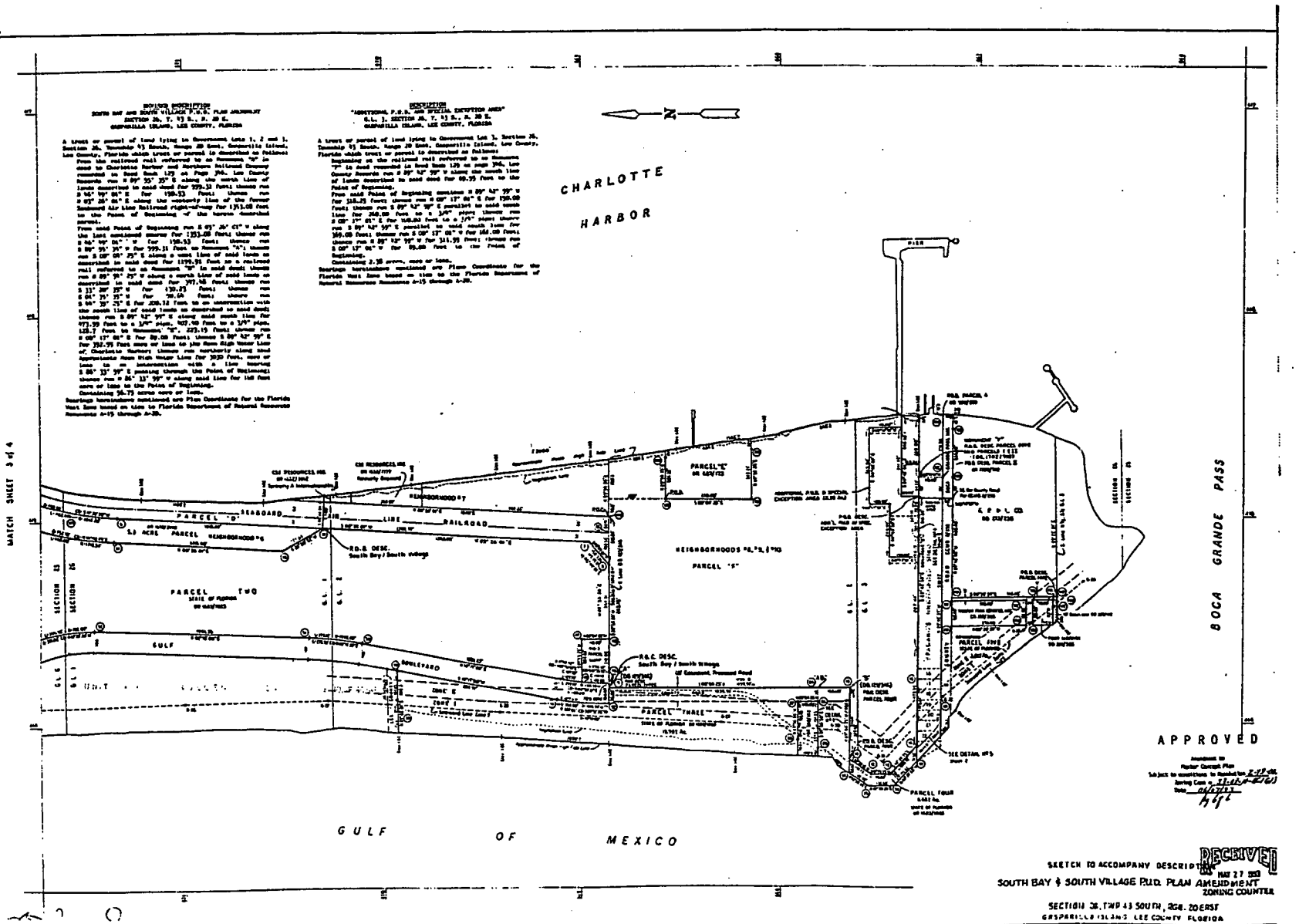
BOCA BAY

RECEIVED
MAY 27 1993
COMMUNITY DEVELOPMENT COUNTER

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS
2101 JOHNSON STREET, P.O. OFFICE BOX 1550, FORT MYERS, FLORIDA, 33902-1550, PHONE (813) 334-0046

		23.29-43-20	AS SHOWN	6 OF 6


CHARLOTTE HARBOR
FLATS
SINGLE FAMILY
RECREATIONAL AREA
WETLAND AREA
SOUTH BAYOU
TOWN HOMES
BOCA BAY
17 SINGLE FAMILY
50 VILLAS
96 TOWN HOMES
86 FLATS
LOCK ACCESS
LOCK OPERATIONS
PASS MARINA
DOCKING FACILITY
TOWN HOMES
PARKING
LAKE
TENNIS COURTS
VILLAS
GULF BOULEVARD
SERVICE
GULF OF MEXICO
APPROVED
RECEIVED
MAY 27 000



SKETCH TO ACCOMPANY DESCRIPTION

SOUTH BAY & SOUTH VILLAGE P.U.D. PLAN AMENDMENT

SECTION 36, TWP 43 SOUTH, RGE. 20 EAST

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

RECEIVED
MAY 27 1993
ZONING COUNTER

[illegible] ENGINEERING INC.

RESOLUTION NUMBER Z-99-054

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Beverly Grady, Esquire, of Roetzel & Andress, P.A., Dana L. Hume of Johnson Engineering, Inc., and Peter McKinney c/o CSX Realty Development, LLC, filed an application on behalf of the owner of the property, CSX Realty Development, LLC, to amend the Planned Unit Development (PUD) for Phase VI of South Village in Boca Bay, request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district, and convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone; and

WHEREAS, a public hearing was advertised and held on August 11, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 95-06-050.03Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to:

1. Amend the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the Development of 16 dwelling units;

2. Request a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3. Convert water-dependent uses to non-water dependent uses within the water-dependent overlay zone.

The subject property is located on Gasparilla Island in the Urban Community Land Use Category. The legal description of the property is set forth in Exhibit A attached to this resolution. The request **IS APPROVED SUBJECT TO** the conditions and deviation set forth in Section B below.

SECTION B. CONDITIONS AND DEVIATION:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village (Page 3 of 6 stamped received August 4, 1999, and Page 3A of 6 stamped received July 9, 1999), prepared by Johnson Engineering, Inc., except as modified by the conditions below. Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This resolution amends Condition 1 of Resolution Z-93-009 as it pertains to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units which is an increase of 2 units.

4. This resolution does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. The developer must preserve the existing drainage on the south 20 feet of the property east of Belcher Road consistent with the plan attached as Exhibit D.

SECTION C. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

Exhibit A. The legal description and STRAP number of the property.
Exhibit B. A reduced copy of the South Village in Boca Bay Master Development Plan.
Exhibit C. A map depicting the subject parcel (shaded) in relation to the surrounding area.
Exhibit D. Paving, Grading, and Drainage Plan, Harborshore Phase IV, Boca Bay - Gasparilla Island.

SECTION D. FINDINGS AND CONCLUSIONS:

As to the Amendment to the PUD:

1. The Applicant has proven entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and other

applicable codes and regulations.

2. The request:

   a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c) is compatible with existing or planned uses in the surrounding area;

   d) will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and

   e) will not adversely affect environmentally critical areas and natural resources.

3. The proposed use or mix of uses is appropriate at the subject location.

4. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

5. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. The requested deviation pertaining to privately maintained accessways enhances the achievement of the objectives of the PUD and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety, and welfare.

7. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.

As to the Special Exception for Residential Use in the PORT District:

1. Changed or changing conditions exist that make approval of the request appropriate.

2. The request:

   a) is consistent with the goals, objectives, policies, and intent of the Lee Plan;

   b) meets or exceeds all performance and locational standards set forth for the proposed use;

   c) will protect, conserve, or preserve environmentally critical areas and natural

resources;

d) will be compatible with existing or planned uses;

e) will not cause damage, hazard, nuisance, or other detriment to persons or property; and

f) will be in compliance with all general zoning provisions and supplemental regulations set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

1. The public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing held before the Lee County Hearing Examiner, as well as the hearing before this Board of County Commissioners.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Ray Judah	Aye
John E. Albion	Aye
Andrew W. Coy	Aye
John E. Manning	Aye
Douglas R. St. Cerny	Aye

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele S Leisner
Deputy Clerk

FILED OCT 08 1999
MINUTES OFFICE
mje

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert 10/6/99
County Attorney's Office

EXHIBIT A

LEGAL DESCRIPTION

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾ " pipe, 128.7 feet to Monument "E", 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

Containing 59.06 aces more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 26-43-20-00-00001.0010 and 26-43-20-00-00008.0000.

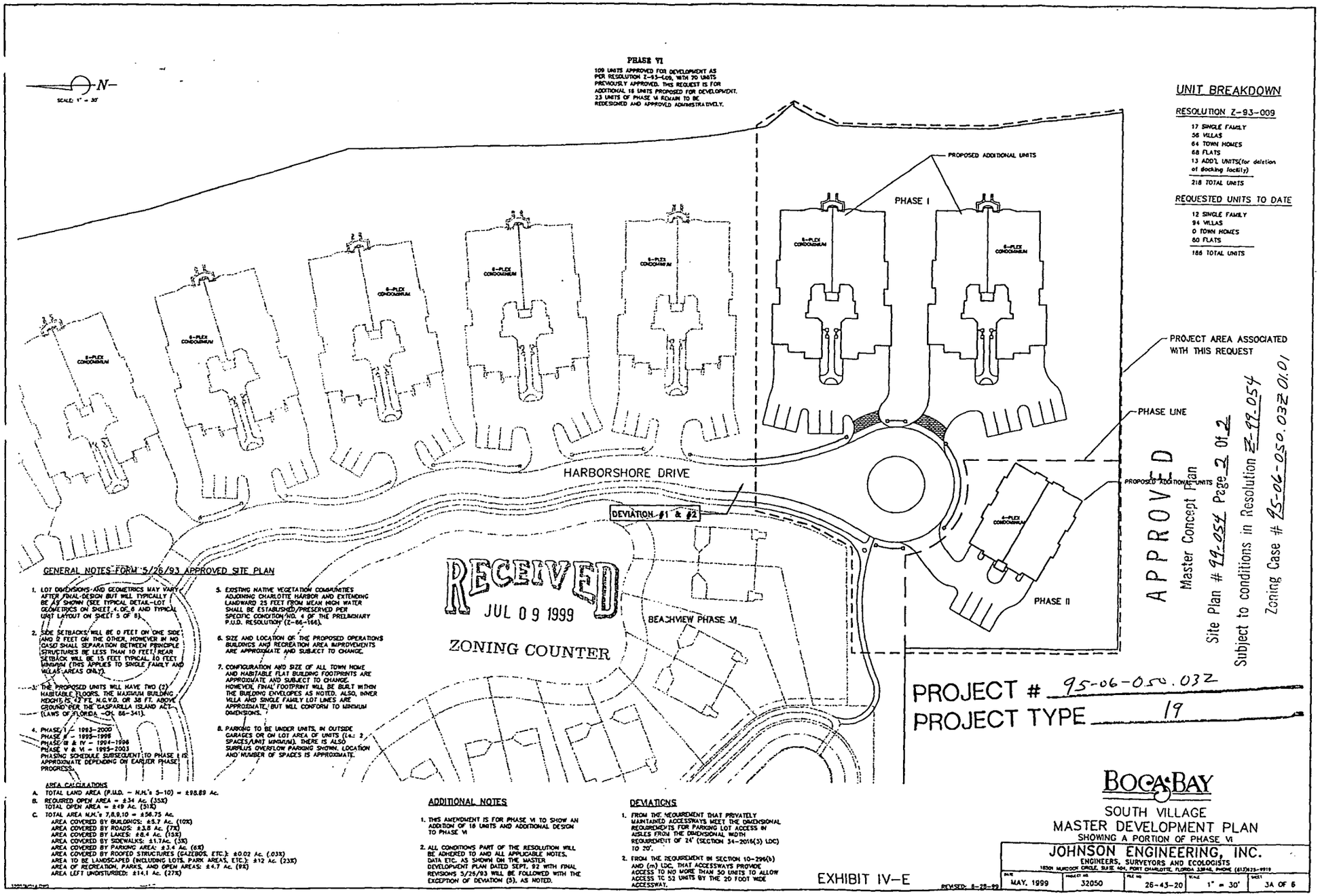
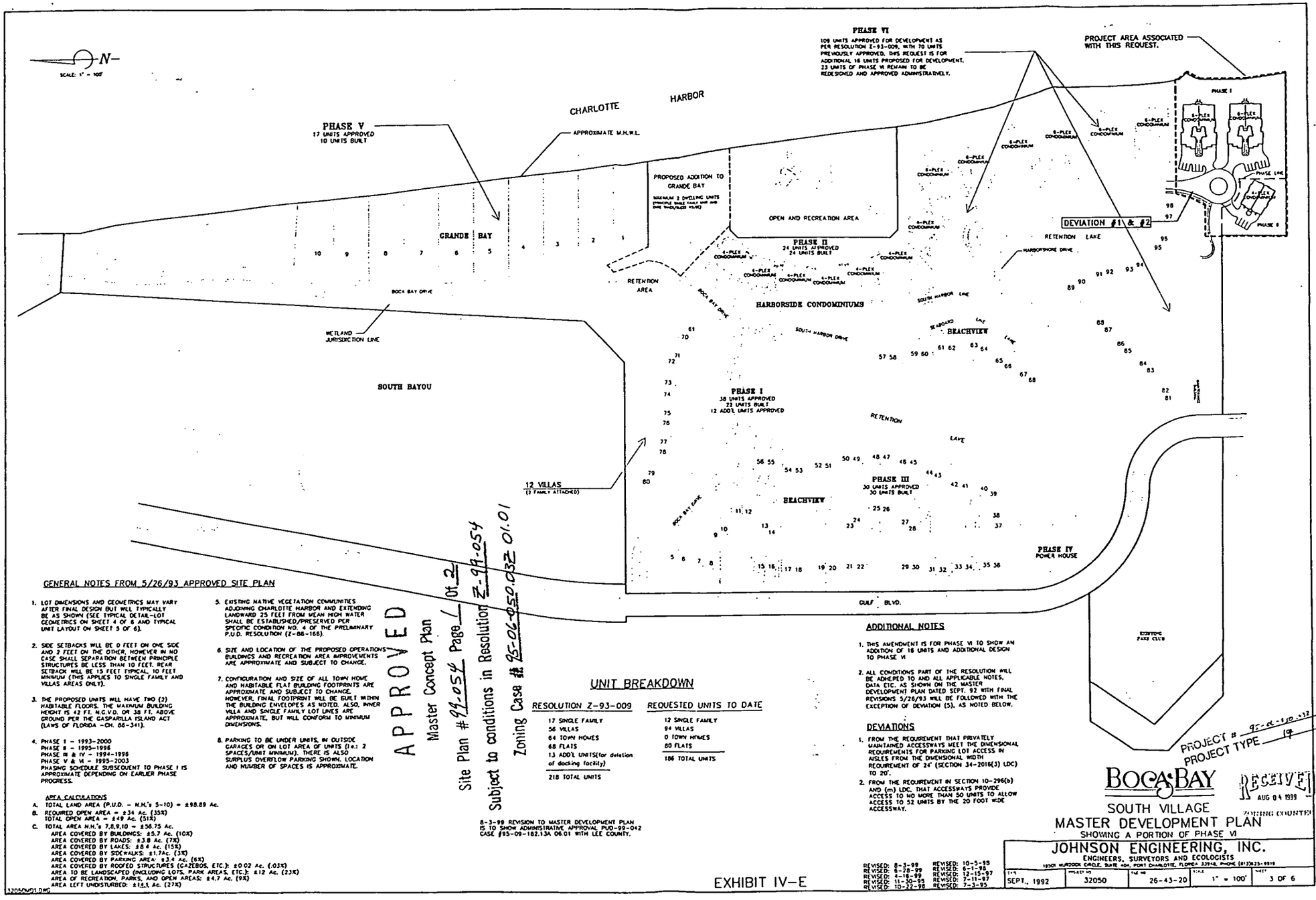

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SCALE: 1" = 30'
PHASE VI
109 UNITS APPROVED FOR DEVELOPMENT AS PER RESOLUTION Z-93-009, WITH 70 UNITS PREVIOUSLY APPROVED. THIS REQUEST IS FOR ADDITIONAL 16 UNITS PROPOSED FOR DEVELOPMENT. 23 UNITS OF PHASE VI REMAIN TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY.
UNIT BREAKDOWN
RESOLUTION Z-93-009
17 SINGLE FAMILY
56 VILLAS
64 TOWN HOMES
68 FLATS
13 ADD'L UNITS(for deletion of docking facility)
218 TOTAL UNITS
REQUESTED UNITS TO DATE
12 SINGLE FAMILY
94 VILLAS
0 TOWN HOMES
80 FLATS
186 TOTAL UNITS
PROPOSED ADDITIONAL UNITS
PHASE I
6-PLEX CONDOMINIUM
PROJECT AREA ASSOCIATED WITH THIS REQUEST
PHASE LINE
PROPOSED ADDITIONAL UNITS
HARBORSHORE DRIVE
DEVIATION #1 & #2
PHASE II
BEACHVIEW PHASE VI
APPROVED
Master Concept Plan
Site Plan # 94-054 Page 2 of 2
Subject to conditions in Resolution Z-93-054
Zoning Case # 95-06-050.032 01.01
RECEIVED
JUL 09 1999
ZONING COUNTER
PROJECT # 95-06-050.032
PROJECT TYPE 19
GENERAL NOTES FORM 5/26/93 APPROVED SITE PLAN
1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 4 OF 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 6).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 2 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. N.G.V.D. OR 38 FT. ABOVE GROUND PER THE CASPARILLA ISLAND ACT (LAWS OF FLORIDA - CH. 86-341).
4. PHASE I - 1993-2000
PHASE II - 1995-1998
PHASE III & IV - 1994-1996
PHASE V & VI - 1995-2003
PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION/NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-86-166).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.
AREA CALCULATIONS
A. TOTAL LAND AREA (P.U.D. - N.H.'s 5-10) = ±98.89 Ac.
B. REQUIRED OPEN AREA = ±34 Ac. (35%)
TOTAL OPEN AREA = ±49 Ac. (51%)
C. TOTAL AREA N.H.'s 7,8,9,10 = ±56.75 Ac.
AREA COVERED BY BUILDINGS: ±5.7 Ac. (10%)
AREA COVERED BY ROADS: ±3.8 Ac. (7%)
AREA COVERED BY LAKES: ±8.4 Ac. (15%)
AREA COVERED BY SIDEWALKS: ±1.7Ac. (3%)
AREA COVERED BY PARKING AREA: ±3.4 Ac. (6%)
AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.): ±0.02 Ac. (.03%)
AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.): ±12 Ac. (23%)
AREA OF RECREATION, PARKS, AND OPEN AREAS: ±4.7 Ac. (8%)
AREA LEFT UNDISTURBED: ±14.1 Ac. (27%)
ADDITIONAL NOTES
1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 5/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (5), AS NOTED.
DEVIATIONS
1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 20 FOOT WIDE ACCESSWAY.
EXHIBIT IV-E
REVISED: 8-25-99
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI
JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
DATE MAY, 1999
PROJECT NO 32050
FILE NO 26-43-20
SCALE 1" = 30'
SHEET 3A OF 6

EXHIBIT B



APPROVED
Site Plan # 99-054 Page 1 of 2
Subject to conditions in Resolution Z-99-054
Zoning Case # 95-06-050.032 01.01

GENERAL NOTES FROM 5/26/93 APPROVED SITE PLAN

1. LOT DIMENSIONS AND GEOMETRICS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN (SEE TYPICAL DETAIL-LOT GEOMETRICS ON SHEET 4 OF 6 AND TYPICAL UNIT LAYOUT ON SHEET 5 OF 6).
2. SIDE SETBACKS WILL BE 0 FEET ON ONE SIDE AND 7 FEET ON THE OTHER, HOWEVER IN NO CASE SHALL SEPARATION BETWEEN PRINCIPLE STRUCTURES BE LESS THAN 10 FEET. REAR SETBACK WILL BE 15 FEET TYPICAL, 10 FEET MINIMUM (THIS APPLIES TO SINGLE FAMILY AND VILLAS AREAS ONLY).
3. THE PROPOSED UNITS WILL HAVE TWO (2) HABITABLE FLOORS. THE MAXIMUM BUILDING HEIGHT IS 42 FT. N.G.V.D. OR 38 FT. ABOVE GROUND PER THE GASPARILLA ISLAND ACT (LAWS OF FLORIDA - CH. 88-341).
4. PHASE I - 1993-2000
   PHASE II - 1995-1996
   PHASE III & IV - 1994-1998
   PHASE V & VI - 1995-2003
   PHASING SCHEDULE SUBSEQUENT TO PHASE I IS APPROXIMATE DEPENDING ON EARLIER PHASE PROGRESS.
5. EXISTING NATIVE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 25 FEET FROM MEAN HIGH WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.U.D. RESOLUTION (Z-86-166).
6. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
7. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE. HOWEVER, FINAL FOOTPRINT WILL BE BUILT WITHIN THE BUILDING ENVELOPES AS NOTED. ALSO, INNER VILLA AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MINIMUM DIMENSIONS.
8. PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (i.e.: 2 SPACES/UNIT MINIMUM). THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

AREA CALCULATIONS

A. TOTAL LAND AREA (P.U.D. - N.H.'s 5-10) = ±98.89 Ac.
B. REQUIRED OPEN AREA = ±34 Ac. (35%)
   TOTAL OPEN AREA = ±49 Ac. (51%)
C. TOTAL AREA N.H.'s 7,8,9,10 = ±56.75 Ac.
   AREA COVERED BY BUILDINGS: ±5.7 Ac. (10%)
   AREA COVERED BY ROADS: ±3.8 Ac. (7%)
   AREA COVERED BY LAKES: ±8.4 Ac. (15%)
   AREA COVERED BY SIDEWALKS: ±1.7Ac. (3%)
   AREA COVERED BY PARKING AREA: ±3.4 Ac. (6%)
   AREA COVERED BY ROOFED STRUCTURES (GAZEBOS, ETC.): ±0.02 Ac. (.03%)
   AREA TO BE LANDSCAPED (INCLUDING LOTS, PARK AREAS, ETC.): ±12 Ac. (23%)
   AREA OF RECREATION, PARKS, AND OPEN AREAS: ±4.7 Ac. (9%)
   AREA LEFT UNDISTURBED: ±15.1 Ac. (27%)

UNIT BREAKDOWN

RESOLUTION Z-93-009	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
56 VILLAS	94 VILLAS
64 TOWN HOMES	0 TOWN HOMES
68 FLATS	80 FLATS
13 ADD'L UNITS(for deletion of docking facility)	
218 TOTAL UNITS	186 TOTAL UNITS

8-3-99 REVISION TO MASTER DEVELOPMENT PLAN IS TO SHOW ADMINISTRATIVE APPROVAL PUD-99-042 CASE #95-09-182.13A 06.01 WITH LEE COUNTY.

ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE VI.
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN DATED SEPT. 92 WITH FINAL REVISIONS 5/26/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (5), AS NOTED BELOW.

DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 24' (SECTION 34-2016(3) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 10-296(b) AND (m) LDC, THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO 52 UNITS BY THE 20 FOOT WIDE ACCESSWAY.

PROJECT # 95-06-050.032
PROJECT TYPE 19

RECEIVED
AUG 04 1999
ZONING COUNTER

BOCA BAY

SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
SHOWING A PORTION OF PHASE VI

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
18501 MURDOCK CIRCLE, SUITE 404, PORT CHARLOTTE, FLORIDA 33948, PHONE (813)625-9910

DATE	PROJECT NO	FILE NO	SCALE	SHEET
SEPT., 1992	32050	26-43-20	1" = 100'	3 OF 6

REVISED: 8-3-99, 6-28-99, 4-16-99, 11-30-98, 10-22-98, 10-5-98, 6-1-98, 12-15-97, 7-11-97, 7-3-97

EXHIBIT IV-E

EXHIBIT B
Page 1 of 2

ZONING MAP

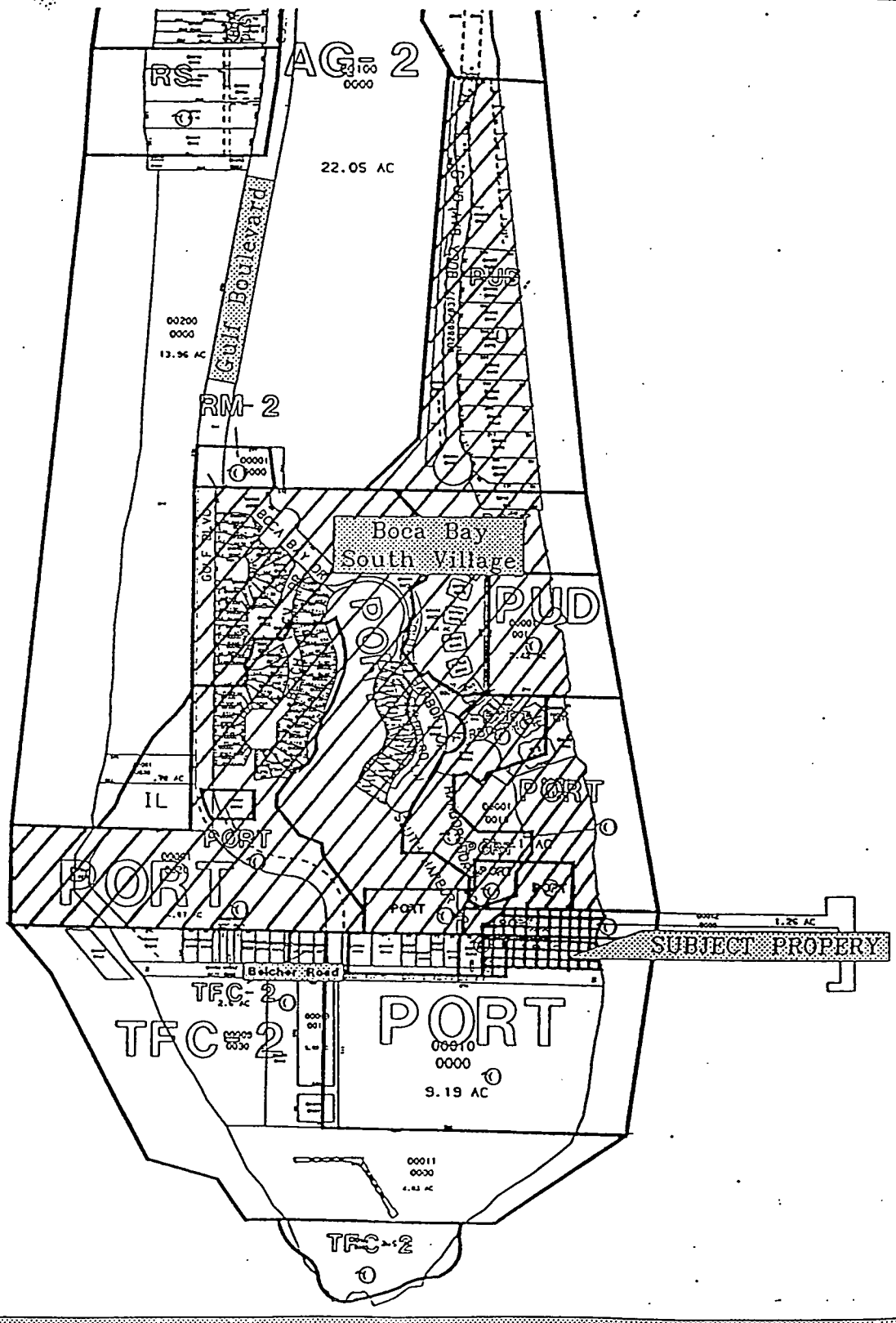


EXHIBIT C

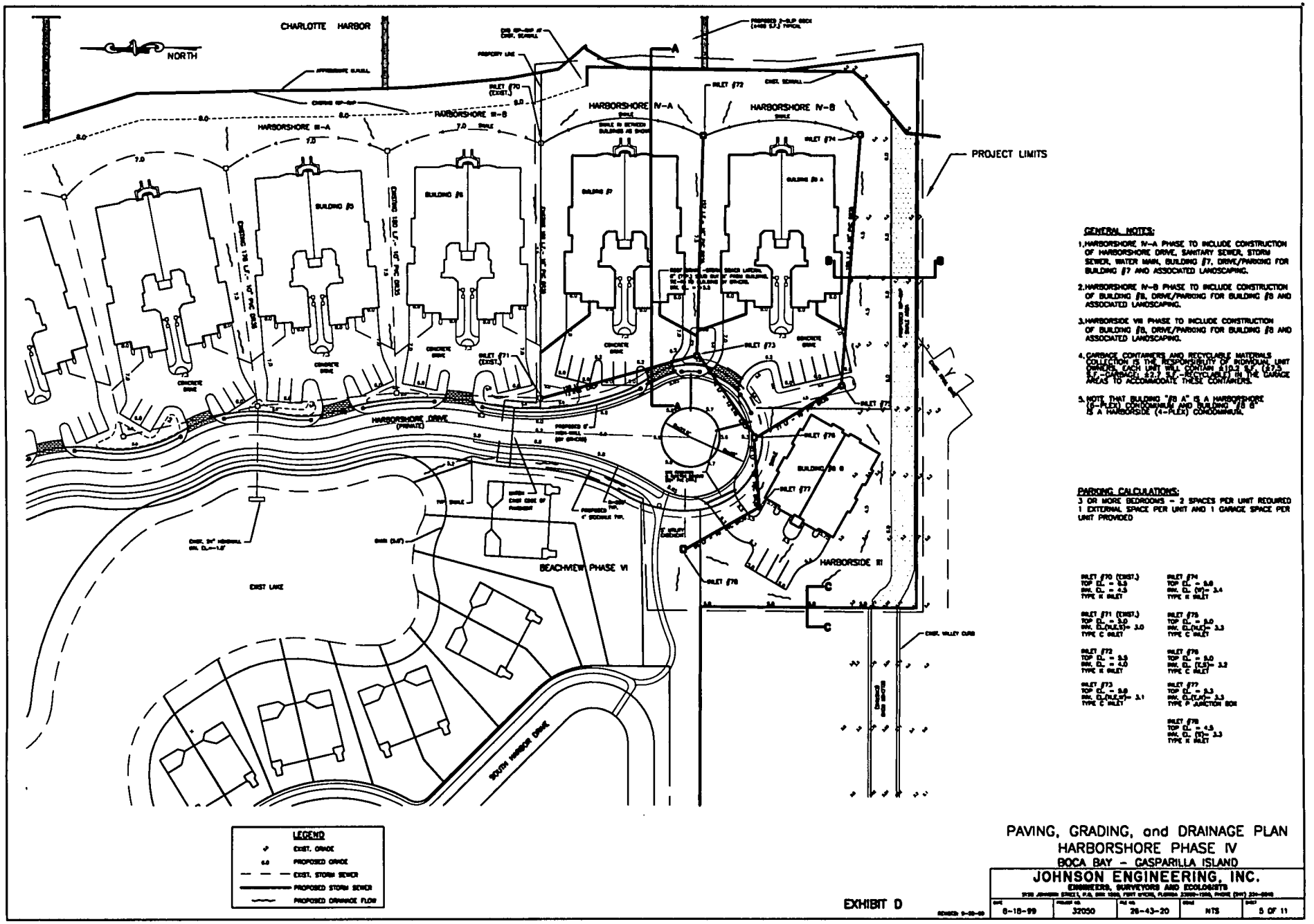


EXHIBIT D

GENERAL NOTES:

1. HARBORSHORE IV-A PHASE TO INCLUDE CONSTRUCTION OF HARBORSHORE DRIVE, SANITARY SEWER, STORM SEWER, WATER MAIN, BUILDING #7, DRIVE/PARKING FOR BUILDING #7 AND ASSOCIATED LANDSCAPING.
2. HARBORSHORE IV-B PHASE TO INCLUDE CONSTRUCTION OF BUILDING #8, DRIVE/PARKING FOR BUILDING #8 AND ASSOCIATED LANDSCAPING.
3. HARBORSIDE VIII PHASE TO INCLUDE CONSTRUCTION OF BUILDING #9, DRIVE/PARKING FOR BUILDING #9 AND ASSOCIATED LANDSCAPING.
4. GARBAGE CONTAINERS AND RECYCLABLE MATERIALS COLLECTION IS THE RESPONSIBILITY OF INDIVIDUAL UNIT OWNERS. EACH UNIT WILL CONTAIN 810.3 S.F. (27.5 S.F./UNIT) 27.7 S.F. RECYCLABLE IN THE GARAGE AREAS TO ACCOMMODATE THESE CONTAINERS.
5. NOTE THAT BUILDING "#8 A" IS A HARBORSHORE (6-PLEX) CONDOMINIUM AND BUILDING "#8 B" IS A HARBORSIDE (4-PLEX) CONDOMINIUM.

PARKING CALCULATIONS:

3 OR MORE BEDROOMS - 2 SPACES PER UNIT REQUIRED
1 EXTERNAL SPACE PER UNIT AND 1 GARAGE SPACE PER UNIT PROVIDED

INLET #70 (EXIST.)
TOP E.P. = 6.5
SUMP E.P. = 4.4
TYPE K INLET

INLET #71 (EXIST.)
TOP E.P. = 5.0
SUMP E.P.(MAX.) = 3.0
TYPE C INLET

INLET #72
TOP E.P. = 5.5
SUMP E.P. = 4.0
TYPE K INLET

INLET #73
TOP E.P. = 5.0
SUMP E.P.(MAX.) = 3.1
TYPE C INLET

INLET #74
TOP E.P. = 5.5
SUMP E.P. = 3.4
TYPE K INLET

INLET #75
TOP E.P. = 5.0
SUMP E.P.(MAX.) = 3.3
TYPE C INLET

INLET #76
TOP E.P. = 5.0
SUMP E.P.(MAX.) = 3.2
TYPE C INLET

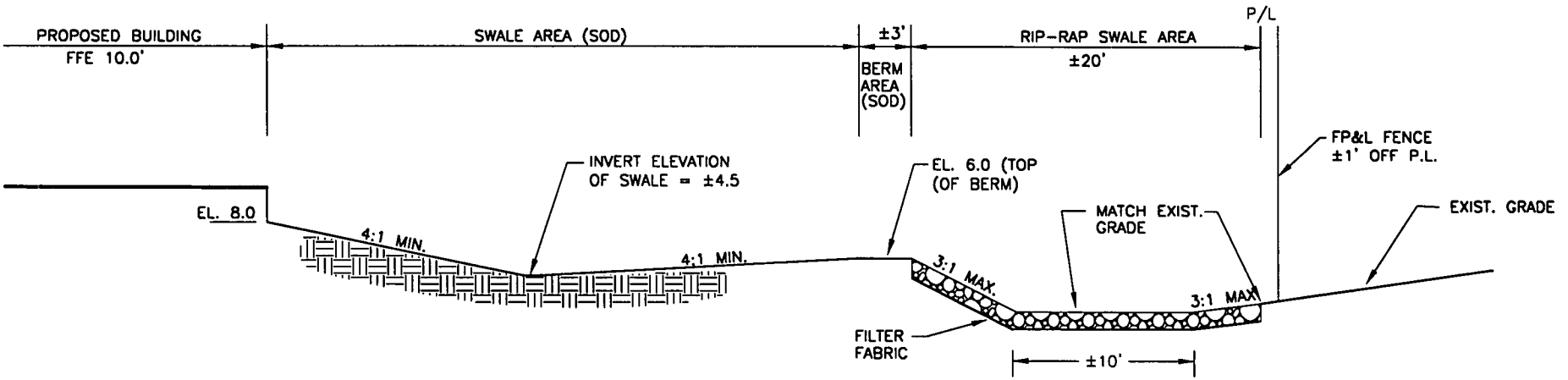
INLET #77
TOP E.P. = 3.3
SUMP E.P.(MAX.) = 3.3
TYPE P JUNCTION BOX

INLET #78
TOP E.P. = 4.5
SUMP E.P. = 3.3
TYPE K INLET

PAVING, GRADING, and DRAINAGE PLAN
HARBORSHORE PHASE IV
BOCA BAY - GASPARILLA ISLAND

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
6-18-99	32050	26-43-20	NTS	5 OF 11



SECTION B-B

N.T.S.

EXHIBIT D

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: CASE 95-06-050.03Z 01.01
APPLICANT: CSX REALTY DEVELOPMENT, LLC, in ref. to SOUTH VILLAGE AT BOCA BAY
HEARING DATE: AUGUST 11, 1999

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for an Amendment to a Planned Unit Development (PUD) pursuant to Lee County Land Development Code (LDC).

Filed by BEVERLY GRADY, ESQUIRE, % ROETZEL & ANDRESS, P.A., 2320 First Street, Suite 1000, Ft. Myers, FL 33901 (Applicant/Agent); CSX REALTY DEVELOPMENT, LLC., % Roetzel & Andress, 2320 First St., Suite 1000, Ft. Myers, FL 33901 (Owner); DANA L. HUME, % JOHNSON ENGINEERING, INC., P. O. Box 1550, Ft. Myers, FL 33902-1550 (Agent); PETER McKINNEY, % CSX REALTY DEVELOPMENT, LLC, P. O. Box 1370, Boca Grande, FL 33921 (Agent).

Requests are for:

1) An amendment of the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units;

2) A Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3) Conversion of water-dependent uses to non-water-dependent uses within the water-dependent overlay zone.

The subject property is located on Gulf Boulevard on Gasparilla Island (turn into Boca Bay entrance to South Village onto Boca Bay Drive; turn right onto South Harbor Drive; turn into Harbor Shores), in S26-T43S-R20E, Lee County, FL. (District #1)

II. STAFF REPORT AND RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Chip Block. The Staff Report is incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners APPROVE the Applicant's requests for 1) an amendment of the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units; 2) a Special Exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; AND 3) convert water-dependent uses to non-water-dependent uses within the water-dependent overlay zone, for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village stamped received August 4, 1999, (Sheets 3 and 3A of 6) as prepared by Johnson Engineering, Inc., except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order Approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

This action amends Condition 1 of Resolution Z-93-009 as it applies to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation (5) of Resolution Z-93-009 is effective within this portion of the development, the net effect of which is to allow a privately-maintained accessway to be 20 feet wide rather than 25 feet wide, and to limit this accessway to serving 52 units.

4. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this zoning approval.

IV. HEARING EXAMINER DISCUSSION:

The Applicant, CSX Realty Development, LLC, in reference to South Village at Boca Bay, is requesting an amendment to a Planned Unit Development (PUD) to allow for the development of 16 dwelling units; a Special Exception for residential use in the PORT

district to amend its final plan to add the 16 units; and the conversion of water-dependent uses to non-water dependent uses within the water dependent overlay zone. The property is located on Gulf Boulevard, on Gasparilla Island, Lee County, Florida.

The Boca Bay Community, within which this change is being requested, is situated on the south end of Boca Grande. The only portion of the overall project to be affected by this requested change is its southern portion. There are two dry storage marina facilities/ structures at that location, and they are no longer needed by the new owners of the project. The area is currently being used for construction storage, storage, and an office area for the construction of residential units within the South Village of Boca Bay. Furthermore, it has been determined that this area of Boca Grande Pass has currents that are too swift to allow for the safe operation of any wet slip storage. Therefore, the Applicant wishes to use this area to develop 16 housing units.

The net effect of this request will be to add two acres of land to South Village of Boca Bay. The 16 units that would be allowed will not add to the density of South Village, because the Applicant is not seeking to increase the number of units in the project, it merely wants to move some of them to the new 2-acre parcel. Once the existing dry storage buildings are removed, the new units will be built.

The Staff has recommended approval of the request and it was noted that Lee Plan Objective 8.1 requires a public hearing before a water-dependent use may be converted to a non-water-dependent use. The hearing that was held before the Hearing Examiner has met that requirement. When the Board of County Commissioners consider this recommendation that will further this Objective as well.

The project has been found to be compatible with the surrounding uses and consistent with the Lee Plan and the Land Development Code several times in the past. Nothing in this current request changes those findings. If anything, it makes the project more compatible and more consistent.

Unless changed by this request, the project will be substantially the same as the previous project. No new deviations have been requested, but existing Deviation (5) (of Resolution Z-93-009) has been maintained. This deviation allows a privately maintained accessway to be 20 feet wide rather than 25 feet as found in the Land Development Code. That deviation would have limited this accessway's use to no more than 50 units; that will be increased to 52 units with this action. The increase will have a negligible impact to the overall project.

For the foregoing reasons, it is recommended that the Lee County Board of County Commissioners approve the Applicant's request to amend the PUD, to approve the Special Exception, and to allow the conversion of a water-dependent use to a non-water-dependent use within the dependent overlay zone.

V. FINDINGS AND CONCLUSIONS:

Based upon the staff report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

As to the Amendment to the PUD:

A. That the Applicant has proved entitlement to the amendment to the PUD by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.

B. That the request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.

C. That the request is consistent with the densities, intensities and general uses set forth in the Lee Plan.

D. That the request is compatible with existing or planned uses in the surrounding area.

E. That approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.

F. That the request will not adversely affect environmentally critical areas and natural resources.

G. That the proposed use or mix of uses is appropriate at the subject location.

H. That the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

I. That the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

J. That the requested deviations enhance the achievement of the objectives of the planned development.

K. That the requested deviations preserve and promote the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.

L. That, where the change proposed is within a future urban area category, urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

As to the Special Exception:

A. That there exist changed or changing conditions that make approval of the request appropriate.

B. That the request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan.

C. That the request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

E. That the request, as conditioned, will be compatible with existing or planned uses.

F. That the request, as conditioned, will not cause damage, hazard, nuisance or other detriment to persons or property.

G. That the requested use, as conditioned, will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in Chapter 34, Land Development Code.

As to the Conversion of Water-Dependent Use to Non-Water-Dependent Use:

A. That the public hearing required by Objective 8.1 of the Lee Plan has been met by the August 11, 1999 hearing that was held before the Lee County Hearing Examiner.

VI. LIST OF EXHIBITS:

Boca Bay South Village Master Development Plan showing a portion of Phase VI (Sheets 3 and 3a of 6) stamped Received Jul 01 1999 Zoning Counter.

STAFF'S EXHIBITS

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

APPLICANT'S EXHIBITS

1 Master Development Plan, dated Sept. 1992, Sheet 3 of 6, last revised 8/03/99 [board exhibit and rolled exhibits]

2 Master Development Plan, dated May 1992, Sheet 3A of 6, last revised 06/28/99 [board exhibit]

3 Aerial Photograph (FDOT blue line), dated Feb. 1996, S26-T43S-R20

4 Aerial Photograph (color photo) (rolled exhibit)

OTHER EXHIBITS

Kaufman

1 Letter from Bernard Kaufman, to Peter McKinney, Project Manager, Boca Bay, dated 05/15/99

2 Letter from Peter McKinney, to Bernard Kaufman, dated 05/19/99

VII. PRESENTATION SUMMARY:

After the Hearing Examiner placed all witnesses under oath, he explained the hearing process. Beverly Grady, Applicant's attorney, introduced Peter McKinney with CSX and Dana Hume with Johnson Engineering, and stated that this was a request to amend the final plan approval for South Village at Boca Bay to allow development of 16 dwelling units, and to request a Special Exception to allow these residential uses in the Port district. Additionally, the Applicant is requesting to convert water-dependent uses to non-water-dependent uses within the water-dependent overlay zone.

The subject parcel is a 2.31-acre parcel that comprises the southernmost portion of Boca Bay. The Applicant is proposing to develop 16 units on this parcel. Mrs. Grady referenced the Applicant's Master Concept Plan (MCP) [Applicant's Exhibit 1], and explained that Boca Bay is a residential community on the southern portion of Gasparilla Island. There are a variety of units within Boca Bay with different unit styles and designs. The different neighborhoods are interrelated.

In 1984, the Board of County Commissioners (BOCC) granted PUD (Planned Unit Development) zoning and a Special Exception in the Port district to allow residential uses in a portion of Boca Bay. In 1987, 10 neighborhoods were designated and the BOCC granted a final plan approval for Neighborhoods [Phases] V through X. South Village is comprised of Neighborhoods VII, VIII, IX, and X, and was approved for 218 units. In 1993, the BOCC granted a Special Exception for residential uses in the Port district to add a small parcel to South Village, and also granted an amendment to the final plan approval for the remaining portion of South Village (i.e., Neighborhoods VII, VIII, IX, and X). All portions of South Village have received final plan approval pursuant to the zoning resolution [Z-93-009] adopted by the BOCC and a development order pursuant to Chapter 10 of the Land Development Code (LDC).

The instant application is asking for approval of the addition of two acres to South Village of Boca Bay. Although 16 units are proposed to be constructed, the total density of South Village will be reduced to 186 units; a reduction of 32 units from that which was approved

by the BOCC in 1993 [i.e., 218 units]. This request adds acreage, and reduces the existing permitted density. Mrs. Grady noted that this zoning resolution [Z-93-009] was an exhibit to the Staff Report [Attachment B].

The Applicant's request is consistent with the Lee Plan, under the same findings made by the BOCC in 1984, 1987, and 1993, that Boca Bay is consistent with the comprehensive plan, based on the addition of acreage and the reduction in density. The site is located in an area designated by the Lee Plan as Urban Community. A portion of the property is located within a water-dependent overlay zone, but Staff has found that the request to develop residential uses in this area should be approved.

The water-dependent overlay zone is defined in Lee Plan Policy 1.7.5, and was done in conjunction with the 1989 Lee Plan. Goal 98, Shoreline Management, sets forth various policies dealing with water-dependent uses, and obligated the County to reclassify commercial and government-operated multi-slip docking facilities, and industrial facilities to commercial or industrial marina categories (on the Future Land Use Map) to prevent their conversion to non-water-dependent uses - *without a public hearing.* She noted that the instant hearing is that "public hearing," in which this request must be determined to be consistent with the Lee Plan in order to eliminate the water-dependent overlay.

Of the 2.31 acres being added to the project, 1.3 acres comprises the area formerly used as a marina. This marina contained two buildings that were used for dry storage, and which were constructed in the 1980's. CSX has now acquired this marina property; however, due to the currents in Boca Grande Pass, which are too swift to allow safe operation of any wet slip storage, such slips are not feasible. Mrs. Grady explained that, without wet slips, customers must return their boats prior to closing time which, for a typical marina, is usually around 5:00 to 5:30 p.m. If this were to happen, there would be no place to leave boats. A typical marina provides wet slips for this purpose. She noted that an in-depth study of these waters had been conducted, and confirmed that wet slips were not feasible. At one time, an application had been filed to provide an inland docking facility. This was also studied in great depth, but eventually rejected by Lee County. Following that, Pass Marina's customer base quickly dwindled, and the marina operation was no longer financially feasible. Also, there are now other marina slips available, both on the mainland (outside of Englewood) and a marina (on the site of the Knight's former operation) on Gasparilla Island. These marinas provide other opportunities for boat owners/operators.

This marina was in existence at the time the water-dependent overlay was created, and this area was included in this overlay. However, as evidenced by the past history of the inland docking application, the County made a determination that it did not want to expand this marina use on a barrier island and at this location and, without the wet slips, the site is not viable as a marina. Staff has concurred with the Applicant in this regard, and have no objection to the elimination of the water-dependent overlay designation. The Applicant would, therefore, request a recommendation of approval in this regard.

Mrs. Grady referenced two deviations which were shown on the MCP, noting that these were the same types of deviations that had been requested for other portions of Boca Bay

and had also been granted by the BOCC in 1993. Staff has noted this in the Staff Report. The specific sections of the LDC, however, from which these deviations were granted, have been redesignated. Referencing the MCP, Mrs. Grady noted the area where these deviations would be effective, explaining that this was to allow extension of the existing road into the new area. They are requesting a reduction in the required width of 24 feet, to 20 feet - which is consistent with the other approved roadways within Boca Bay, and to permit access onto this roadway by 52 units.

The access deviation granted in 1993, permitted access to a roadway of this width from only 50 units. The request is for only two additional units, a negligible impact, and it would be good planning to permit the existing transportation system to serve these 52 units. The only other alternative would be to achieve access onto Belcher Road, and that would then route Boca Bay traffic through a row of existing single-family homes. Staff is supporting the Applicant's request to extend these deviations granted in 1993.

Granting this deviation will reduce impacts on the neighboring residential areas, and the accessway use by two more units will not be significant or noticeable by anyone within Boca Bay.

Mrs. Grady reiterated that the requested amendment would add additional land to the project, but would actually result in fewer residential units than originally approved. This will result in reduced density. Based on the application, and as supported by Staff's recommendation, the request should be found consistent with the Lee Plan and the LDC, and recommended for approval.

The Hearing Examiner noted that Mrs. Grady had mentioned two deviations, and pointed out that Condition 3 referenced "Deviation (5)." He asked what the other deviation was? Mrs. Grady referred to the zoning resolution [Z-93-009] that was also referenced in this Condition, and explained that this was a request to "deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet . . ., to 20 feet." This was approved with the condition that no more than 50 units would be served by this 20-foot-wide parking lot aisles. This reference was to ensure that all issues relating to this were addressed. The Applicant is asking for the same deviation in the new area (i.e., reduce the 24-foot width to 20 feet), but to allow 52 units to access this accessway instead of 50 as allowed by the regulations.

Mrs. Grady noted that the pertinent LDC sections were Section 34-2016(3) for the deviation from the road width, to allow 20 feet, instead of 24 feet, and Sections 10-26(b) and 10-26(m) for the access by 52 units, instead of 50.

Chip Block, Development Services Division, presented the Staff Report, noting that a copy of his resumé is on file with the Hearing Examiner's Office, and that he had previously been accepted as an expert witness in the field of planning and zoning. There were no objections, and the Hearing Examiner accepted Mr. Block as such for purposes of this hearing.

Mr. Block confirmed that the application contained three requests. The first request is to amend the existing PUD zoning approval to allow 16 dwelling units on the newly added parcel. The second request is for a Special Exception in the Port district to allow the residential units where the marina was formerly located. The third request is to convert the water-depended uses [the marina] to non-water-dependent uses [residential] within the water-dependent overlay district designated by the Lee Plan.

County Staff reviewed the request, and recommend approval of all three requests, with conditions. These conditions set out that development should follow the MCP. He noted, however, that a revised MCP has been submitted to address a slight change in the center eastern portion of the site. Mr. Block referenced the site plan and map exhibits, noting that this area previously contained a fishing lodge with eight units and caretaker's residence. Through the administrative amendment process, the County recently approved conversion of this area to allow a single-family residence and caretaker's residence. He asked that Condition 1 be modified to reflect this change, and that the received date for this MCP be noted as "August 4, 1999," rather than "July 9, 1999." It was noted that Applicant's Exhibit 1 was a copy of this revised MCP, but did not have the stamped received date.

The Division of Planning and Environmental Sciences Staff commented on this request as well, and a copy of their report is attached to the Staff Report [Attachment E]. In addition to the environmental review [paragraph 1, Planning Staff concurred with the request [paragraphs 2 & 3]. Planning Staff looked at the rationale for eliminating the dry storage and developing single-family residential, thus changing the uses from water-dependent uses to non-water-dependent uses. They found it would be appropriate in this case, and recommend approval.

Staff finds the request consistent with the Lee Plan, and recommend approval of Requests 1 and 2, with conditions, and approval of the third request to convert the water-dependent uses to non-water-dependent uses.

Mr. Block noted that representatives from the Environmental Sciences section were present and could respond to any questions. They did not have a formal presentation in this case.

The Hearing Examiner asked Mr. Block for the correct Lee Plan citation with regard to public hearings on any changes in the water-dependent overlay zones? Mrs. Grady noted that it was found under Goal 98, Shoreline Management. Betsie Newton Hiatt, Environmental Sciences Division, added that Goal 8, Marine-Oriented Land Uses, specifically Objective 8.1, also refers to the conversion of water-dependent uses to non-water-dependent uses and that a public hearing is required.

Mrs. Grady asked Mr. Block if, in his opinion, the request is consistent with the LDC and the Lee Plan, and Mr. Block replied "yes." With regard to her presentation on the deviations, she asked Mr. Block to confirm whether she had correctly stated Staff's position and provided the correct LDC citations? Mr. Block indicated that Mrs. Grady had correctly stated Staff's position. The Hearing Examiner asked for clarification as to whether it was correct that the Applicant is requesting two deviations - one which would incorporate Deviation (5) [road

width], and a second deviation to go up to 52 units? Mrs. Grady replied "yes," adding that this was how it was stated on the MCP as well. This appeared to be the best way to ensure that the record reflected exactly what the request entailed and what was approved.

At this time public input was taken. Bernard Kaufman was placed under oath and explained that he owned the property at 847 Belcher Road, Boca Grande. He had no objection to the request. He wanted to ensure that his property on Belcher Road was protected. He had discussed his concerns with Mr. McKinney and, although their earlier conversions had not been very favorable, their last discussion was more favorable. He did not, however, have any confirmation in writing and wanted to present his problem on the record. He provided the Hearing Examiner with a copy of his May 15, 1999 correspondence to Mr. McKinney [Kaufman Exhibit 1] and a copy of Mr. McKinney's response, dated May 19, 1999 [Kaufman Exhibit 2].

Mr. Kaufman explained that there have been stormwater problems on Belcher Road for many years. The County tried to mitigate it by installed a berm along the east end and paving the road. An area was left in the middle of the road which can fill up to about 15 inches. He noted, however, that, in a storm even that might drop four inches of rain over a 3-hour period of time, the water will come down Belcher Road, over the berm, and fills up the State park area. It comes further down and floods Belcher Road. They have learned to live with this over the years. The marina was aware of this problem and always kept the south end of the site available for flood drainage into the Bay.

If the subject parcel is filled to the height of the rest of the South Village that is behind his house (noting it was about five feet higher than his property), they would end up with a "lake." Additionally, the oil company property would be impacted. What they need is an unrestricted easement for flood waters. During their last conversion, Mr. McKinney had stated that they were cognizant of this problem and had promised to take care of this. He had nothing in writing, and wanted to place his concern on the record.

Mrs. Grady responded, explaining that Belcher Road terminates at the Pass Marina/CSX property. The paved area extends beyond the end of Belcher Road, forming the Pass Marina driveway, and runs all the way to Charlotte Harbor. What they have discussed is that any applications for permitting for this property will reflect the Pass Marina driveway, which would affect the area approximately 10 to 15 feet from the south boundary of this property. They will maintain the current elevation, subject to permitting. It is their understanding that this water is not just the result of rainstorms. It is when the actual elevation of the Gulf rises so high that it actually flows from the Gulf onto Belcher Road and then on over to Charlotte Harbor. This usually occurs during a real storm event. The Applicant's applications for permitting will maintain that current elevation for approximately 10 to 15 feet, subject to the permitting requirements of the appropriate agencies.

The Hearing Examiner asked if it was correct that, when the Applicant applies for these permits, their post-development run-off could not be any greater than it currently is, and Mrs. Grady replied "absolutely." With regard to this, she noted that the flow from Pass Marina

went to the driveway/Belcher Road area; however, the run-off from the subject 2.31 acres will not. It will be directed into the Boca Bay drainage system; therefore, the actual water run-off will be less. They will maintain the current elevation on the southerly 10 to 15 feet.

Terrence Lenick, an attorney representing the Gasparilla Island Conversation Improvement Association (GICIA), stated that they have had discussions with CSX Realty Development, Inc. and, based on those productive discussions, they have reached and executed an agreement on this application. In reliance on this agreement, and in compliance with the promises GICIA made to CSX and on promises made by CSX to GICIA, the GICIA wishes to express their unequivocal support of the application and ask that the Hearing Examiner recommend approval of the request.

The Hearing Examiner stated that he would look at the site before rendering a recommendation.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL COUNTY STAFF:

1. Betsie NEWTON HIATT, Division of Planning/Environmental Sciences Program, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For:

1. Terrence F. LENICK, Esquire, P. O. Box 430, Bonita Springs, FL 34133 [representing GICIA]

Against: NONE

General:

1. Bernard KAUFMAN, 2136 Gulf Gate Dr., #8, Sarasota, FL 34231

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For: NONE

Against: NONE

IX. LEGAL DESCRIPTION:

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County records, run N89°55'35"E along the North line of lands described in said deed for 599.31 feet; thence run N46°49'01"E for 150.33 feet; thence run N03°26'01"E along the Westerly line of the former Seaboard Airline Railroad Right-of-Way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.

From said POINT OF BEGINNING run S03°26'01" W along the last mentioned course for 1,353.08 feet, thence run S46°49'01"W for 150.53 feet; thence run S89°55'35"W for 599.31 feet to Monument "A"; thence run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet; thence run S33°20'35"W for 130.23 feet; thence run S01°35'35"W for 90.64 feet; thence run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed; thence run S89°42'59"E for along said South line for 473.59 feet to a ¾" pipe, 407.40 feet to a ¾ " pipe, 128.7 feet to Monument "E," 191.70 feet to the Northeast corner of Tract 1, Official Record Book 1408 at Page 2263, of said Public Records, said point being 101.00 feet Westerly from Monument "F"; thence run S00°17'01"W along the West line of said parcel and the West line of Parcel II, Official Record Book 1702 at Page 710 for 165.00 feet to the Southwest corner of said parcel; thence run S89°42'59"E along the South line of said parcel for 409 feet, more or less to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water line for 3,284 feet, more or less, to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING; thence run N86°33'59"W along said line for 160 feet, more or less, to the POINT OF BEGINNING.

Containing 59.06 aces more or less.

Bearings herein above mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in

any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding $500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 25th day of August, 1999. A copy will be forwarded to the offices of the Lee County Board of County Commissioners.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development will send written notice to all hearing participants of the date of this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

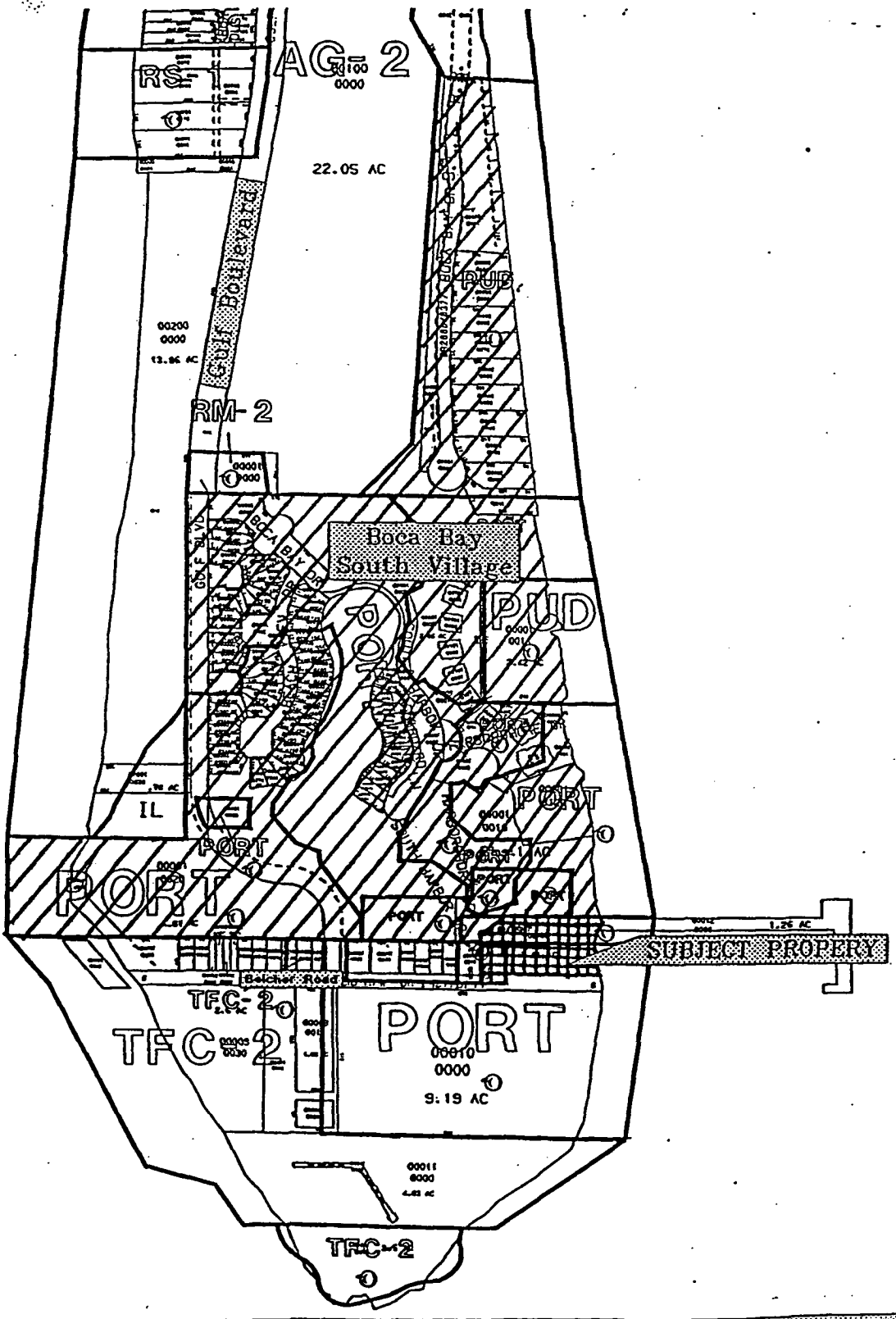
D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.

SALVATORE TERRITO
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106

ZONING MAP


AG-2
RS-1
22.05 AC
Gulf Boulevard
PUD
RM-2
Boca Bay
South Village
PUD
IL
PORT
PORT
PORT
PORT
SUBJECT PROPERY
Belcher Road
TFC-2
TFC-2
PORT
9.19 AC
TFC-2

A

LEE COUNTY, FLORIDA

DEVELOPMENT SERVICES DIVISION

STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: 95-06-050.03Z 01.01

HEARING EXAMINER DATE: August 11, 1999

I. APPLICATION SUMMARY:

A. Applicant: CSX Realty Development, LLC, in ref. to South Village at Boca Bay

B. Request:

1) An amendment of the Planned Unit Development (PUD) to adopt a revision to the plans for Phase VI of South Village in Boca Bay to allow for the development of 16 dwelling units;

2) A special exception for residential use in the PORT district and an amendment to the final plan in the PORT district to allow the development of 16 dwelling units and additional design to Phase VI of South Village in Boca Bay; and

3) Conversion of water-dependent uses to non-water-dependent uses within the water dependent overlay zone.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., Ft. Myers) may deviate from certain Land Development Code (LDC) standards.

C. Location: The subject property is located on Gulf Blvd. on Gasparilla Island (turn into Boca Bay entrance to South Village onto Boca Bay Drive; turn right onto South Harbor Drive; turn into Harbor Shores) in S26-T43S-R20E, Lee County, FL. (District #1)

D. Land Use Plan Designation: Urban Community

E. Surrounding Land Use:

Existing Zoning and Land Use		Future Land Use Map
North:	PUD, part of Boca Bay; and AG-2, vacant land	Urban Community and Public Facilities
East:	Charlotte Harbor	
South:	PORT, fuel Storage tanks	Urban Community
West:	TFC-2, residences and AG-2, vacant land; Gulf of Mexico	Urban Community and Public Facilities

F. Size of Property: 59.06± acres

II. **RECOMMENDATION**:

Staff recommends APPROVAL of all three requests (amending the final PUD and Special Exception and the conversion of water-dependent uses to non-water-dependent uses within the water dependent overlay zone) with the following conditions and deviation filed as part of this application:

Conditions

1. The development of this project must be consistent with the two-page Master Development Plan for Boca Bay, South Village stamped received July 9, 1999, (sheets 3 and 3A of 6) as prepared by Johnson Engineering, Inc., except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local Development Order Approval, except as may be granted by deviation as part of this zoning approval. If changes to the Master Development Plan are subsequently pursued, appropriate approvals will be necessary.

   This action amends Condition 1 of Resolution Z-93-009 as it applies to the specific project area associated with this request.

2. The terms and conditions expressed in Resolution Z-93-009 remain fully binding unless specifically addressed and modified by this action.

3. Deviation 5 of Resolution Z-93-009 is effective within this portion of the development.

4. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

5. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this zoning approval.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of PUD amendment staff offers the following the following findings and conclusions:

1. The applicant has proven entitlement to the PUD amendment by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.

2. The requested amendment, as conditioned:

   a) is consistent with the densities, intensities and general uses set forth in the Lee Plan;

b) is compatible with existing or planned uses in the surrounding area; and

c) is not expected to adversely affect environmentally critical areas or natural resources.

3. Approval of the amendment will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.

4. Urban services, as defined in the Lee Plan, are and adequate to serve the proposed land use.

5. The proposed use of the property is appropriate at the subject location.

6. The recommended conditions to the plan and other applicable regulations provide sufficient safeguards to the public interest.

7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

8. The deviation sought to be used within this portion of the project was previously granted as part of Resolution Z-93-009 and was found to enhance the objectives of the planned development while preserving and promoting the general intent of the LDC to protect the public health, safety and welfare.

Based upon an analysis of the application and the standards for approval of a special exception, staff offers the following findings and conclusions:

The requested special exception, as conditioned:

a) is consistent with the goals, objectives, policies and intent of the Lee Plan;

b) will be compatible with existing or planned uses;

c) will not cause damage, hazard, nuisance or other detriment to persons or property; and

d) is in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code, except as approved by deviation.

III. BACKGROUND INFORMATION AND ANALYSIS:

Introduction/Synopsis

Boca Bay is a residential community situated on the south end of Boca Grande. This project began as a Planned Unit Development (PUD). Over time the project expanded further into the PORT zoning district to the south. This included use of an historic power house in the PORT district for the Pass Club and further development of residential dwelling units. This application includes the overall Boca Bay/South Village project (see Attachment A), but specifically seeks to affect the southeastern portion of this development (noted as subject property on Attachment A). A more detailed description of the project and request may be found in Attachment C.

The Land Development Code (LDC) specifically permits the Boca Bay project (Note 6 of LDC Section 34-340873) to remain as a permitted residential development within the PORT zoning district. Otherwise, the only residential use allowed in the PORT district is a caretaker's residence.

This application seeks through the two requests to be allowed to develop up to 16 dwelling units within the area most recently used as dry storage marina. This marina is no longer in operation and at this time is partly being used as the construction staging, storage, and office area for the construction of residential units within the South Village of Boca Bay. Ultimately, the existing dry storage buildings will be removed and under this application two 6-plex and one 4-plex condominium building would be built. These 16 dwelling units are not additional units but are units previously approved as part of the Boca Bay development but have not yet been developed. The overall density of the Boca Bay development will be less since this application only seeks to add additional land to the project and does not seek any more units than previously approved as part of the overall project.

Historically, this land was part of the zoning application considered in 1993 [Hearing #83-09-11-DCI(d)]. A copy of Resolution Z-93-009 is included in Attachment B.. At that time, the Pass Marina dry storage buildings were to remain and the a lock and wet slip docking facility were also proposed. The Board of County Commissioners denied the wet slip docking facility but allowed for the continued development of either 13 dwelling units or recreational and open space area in place of the marina.

Master Concept Plan

The two-page Master Concept Plan shows the overall South Village development and the land to be developed for residential use. The 1993 approval provided for a maximum of 205 dwelling units within this portion of the project. The current development approvals allow a maximum of 184 dwelling units. Combined with the 16 proposed units within this application, South Village will contain up to 218 units with only 200 units committed at this time for development.

Lee Plan Considerations

South Village in 1993 was found consistent with the Lee Plan. This application seeks to add more land to this project, while maintaining the current density of the project. A total of 16 dwelling units are planned to be constructed on the parcel to be added. Staff recommends that this application be found CONSISTENT with the Lee Plan as conditioned within the recommended zoning actions.

The subject property is located within the Urban Community designation of the Lee County Comprehensive Plan (Lee Plan). This category is described as follows:

> ***POLICY 1.1.4:*** *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are*

urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). (Amended by Ordinance No. 94-30)

The South Village portion of Boca Bay has been previously found consistent with this Policy of the Lee Plan. The residential uses are consistent with those expected within the Urban Community designation. The density of approximately 3.7 dwelling units per acre (218 units on 59.06 acres) is consistent with the allowable density of from 1 to 6 dwelling units within this land use category.

POLICY 5.1.2: *Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.*

The subject property is located on a barrier island and in 1993 when the expansion of Boca Bay was last considered, one condition of the approval required the establishment of a homeowner's association to provide an educational program for hurricane preparedness. Staff's recommended conditioning requiring compliance with the previous condition of the zoning approvals will require that this additional residential area be included in this educational program.

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. If such uses are proposed in the form of a planned development and generally applicable development regulations are deemed to be inadequate, conditions shall be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application shall be denied altogether. Requests for conventional rezonings shall be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. The Land Development Code shall continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30)*

Approval of this request will establish uses and development at a density consistent with the character and integrity of the surrounding residential community.

The project is served by adequate utilities to support the development. Boca Bay is served by both potable water and sanitary sewage by the Gasparilla Island Water Association.

As discussed within the Division of Planning memorandum, Attachment E, the subject property is located within one of the water dependent overlay zones of the Lee Plan. Although within a water-dependent zone, staff notes that this particular location is questionable for a dry storage marina and cannot be used for a wet slip marina. Therefore, they have no objection to the change in use from a water-dependent use to a non-water-dependent use.

Neighborhood Compatibility

This proposal is to allow additional residential condominium buildings, similar to those under construction to the north of the old Pass Marina site. The type of dwelling units and the intensity is consistent with the existing units within South Village. The proposed building height is consistent with the building heights permissible on Gasparilla Island, 42 feet above N.G.V.D (National Geodetic Vertical Datum) or 38 feet above ground elevation. The resulting density is consistent with or less than the current density of South Village, which has previously been found compatible with the surrounding areas.

Environmental Issues

No environmental issues have been identified as part of this application. The site is currently developed with a dry storage marina and is to be re-developed for residential units. Open space and pervious areas are expected to be increased since the marina site is predominantly covered with dry storage buildings, parking, and vehicular circulation areas. The Planning Division does not object to the granting of this request.

Another environmental issue relates to contamination of the soil near one of the dry storage buildings. Fuel associated to the marina operations has leaked into the soil near the eastern building. This contamination is known and will be cleaned up as the property is developed.

Transportation

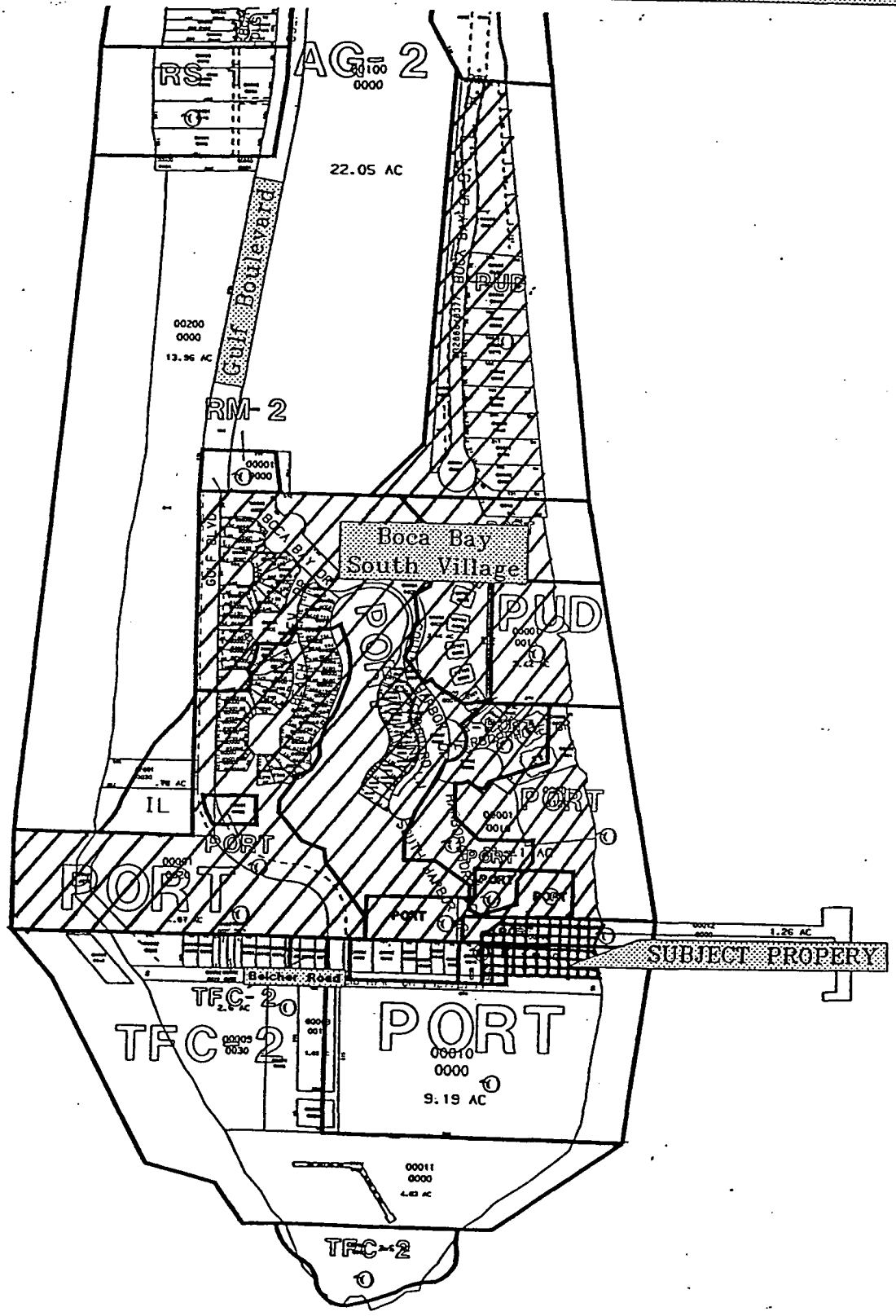
Although the marina has historically been accessed from Belcher Road, this proposal for residential use is planned to be accessed from the internal road network of South Village. No direct access to Belcher Road is planned as part of this application.

IV. **ATTACHMENTS**:

A. Map of surrounding zoning
B. Resolution Z-93-009
C. Applicant's supporting documentation
D. Comments from the School District of Lee County
E. Comments from Division of Planning: Environmental Sciences
F. Comments from Emergency Management

cc: Applicant
County Attorney
Zoning/DCI File

ZONING MAP


AG-2
RS-1
22.05 AC
Gulf Boulevard
PUD
13.96 AC
RM-2
Boca Bay
South Village
PUD
IL
PORT
PORT
PORT
PORT
1.26 AC
SUBJECT PROPERY
Belcher Road
TFC-2
TFC-2
PORT
9.19 AC
TFC-2

A

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Realty, Inc., a Virginia Corporation, in reference to South Bay and South Village, has properly filed an application for a) an amendment to the final plan in the Port District and an amendment to the final Planned Unit Development (PUD) plan in the PUD district; and b) in the Port District, a request for a special exception; and

WHEREAS, the subject property is located at 770 Gulf Boulevard and 799 Port Circle Drive, Boca Grande, described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 43 South, Range 20 East, Lee County, Florida:

Additional PUD and Special Exception Area

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

BEGINNING AT the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N89°42'59"W along the South line of lands described in said deed for 69.55 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N89°42'59"W for 318.25 feet;
THENCE run N00°17'01"E for 150.00 feet;
THENCE run S89°42'59"E parallel to said South line for 260.00 feet to a 3/4" pipe;
THENCE run N00°17'01"E for 100.00 feet to a 3/4" pipe;
THENCE run S89°42'59"E parallel to said South line for 369.00 feet;
THENCE run S00°17'01"W for 161.00 feet;
THENCE run N89°42'59"W for 311.55 feet;
THENCE run S00°17'01"W for 89.00 feet to the POINT OF BEGINNING.

Containing 2.38 acres, more or less.

South Bay and South Village PUD Plan Amendment

A tract or parcel of land lying in Government Lots 1, 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at Page 346, Lee County Records run N89°55'35"E along the North line of lands described in said deed for 599.31 feet;
THENCE run N46°49'01"E for 150.53 feet;
THENCE run N03°26'01"E along the Westerly line of the former Seaboard Air Line Railroad right-of-way for 1,353.08 feet to the POINT OF BEGINNING of the herein described parcel.
From said POINT OF BEGINNING run S03°26'01"W along the last mentioned course for 1,353.08 feet;

continued...

B

ENCE run S46°49'01"W for 150.53 feet;
THENCE run S89°55'35"W for 599.31 feet to Monument "A";
THENCE run S00°04'25"E along a West line of said lands as described in said deed for 1,199.91 feet to a railroad rail referred to as Monument "B" in said deed;
THENCE run N89°54'25"W along a North line of said lands as described in said deed for 347.48 feet;
THENCE run S33°20'35"W for 130.23 feet;
THENCE run S01°35'35"W for 90.64 feet;
THENCE run S44°39'25"E for 200.72 feet to an intersection with the South line of said lands as described in said deed;
THENCE run S89°42'59"E along said South line for 473.59 feet to a 3/4" pipe, 407.40 feet to a 3/4" pipe, 128.70 feet to Monument "E", 223.15 feet;
THENCE run N00°17'01"E for 89.00 feet;
THENCE S89°42'59"E for 392.55 feet more or less to the Mean High Water Line of Charlotte Harbor;
THENCE run Northerly along said Approximate Mean High Water Line for 3,030.00 feet, more or less to an intersection with a line bearing S86°33'59"E passing through the POINT OF BEGINNING;
THENCE run N86°33'59"W along said line for 160.00 feet more or less to the POINT OF BEGINNING.

Containing 56.75 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 26-43-20-00-00001.0010, 26-43-20-00-00001.001A, 26-43-20-00-00001.0060, and 26-43-20-00-00008.0000; and

WHEREAS, proper authorization has been given to Peper, Martin, Jensen, Maichel and Hetlage, by Stephen A. Crosby, Vice President, CSX Realty, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 16, 1993, and subsequently continued to March 5, 1993; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE an amendment to the final plan in the Port District and an amendment to the final Planned Unit development (PUD) Plan in the PUD District and APPROVE a special exception on

2.38 acres in the Port District to permit residential uses on the subject property also known as South Bay and South Village (Zoning Ordinance Section 472.07.b.2.).

The amendment and Master Development Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the six-page plan, entitled "PUD Plan Amendment Package" for Boca Bay, South Village (plan dated October, 1990 with various revision dates on individual sheets, all sheets stamped received May 27, 1993) with sheets 1 through 4 and 6 of 6 prepared by Johnson Engineering and sheet 5 of 6 prepared by Burner & Company. This plan specifically amends the approved Final PUD Plan authorized by Resolutions ZAB-83-352 and Z-86-166. All conditions of those resolutions, except as modified herein, remain in effect. Approval of this plan does not relieve this development from conformance with all applicable federal, state and regional regulations. No deviations from Lee County regulations are granted except as specifically identified in Resolutions ZAB-83-352 and Z-86-166, which are applicable to this portion of the original development and which are approved as part of this zoning action.

2. The 85 wet slip marina is specifically prohibited. In its place on the Master Development Plan, either 13 additional dwelling units in that phase, and/or recreational and open space uses may be permitted. Minor revisions to the Master Development Plan made necessary by denial of the proposed marina may be approved by the Director of the Department of Community Development through an Administrative Amendment.

3. Condition 1 (9) of Resolution Z-86-166 is hereby modified to permit the lot widths as shown on the typical detail drawings shown on Sheet 4 of 6 of the PUD Plan Amendment Package and as may be permitted in Condition 5 of this zoning action.

4. All perimeter lots within this development shall be graded inward to the site so that all stormwater is maintained on the site and directed to the stormwater management system constructed as part of this development.

5. The Property Development Regulations for this portion of the Boca Bay development are as follows:

<u>Single-Family Detached</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	5 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Single-Family Attached (Villas)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Side:	0 (zero) feet on one side and minimum 10 feet between structures
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

<u>Multiple-Family Building (Flats/Town Homes)</u>

Street:	1/2 (ROW) + 10 feet (see also Deviation 1)
Separation between structures:	10 feet
Rear:	10 feet
Water body:	25 feet (15 feet from retention lake)

Lot Coverage

The total lot coverage of buildings and structures shall not exceed forty percent (40%).

6. a. The developer shall establish a homeowner's or resident's association encompassing the entire Boca Bay development before a Development Order may be granted. The association shall provide an annual educational program for hurricane preparedness. In addition, an information distribution location shall be established where guests and part-time residents may obtain brochures, booklets, etc., describing hurricane hazard risks as well as the actions to mitigate the danger to property and life. The information required for distribution may be obtained from the Lee County Division of Emergency Management. The education program is subject to the approval of the Division of Emergency Management.

   b. The developer shall formulate an emergency hurricane preparedness plan. This plan must be approved by the Lee County Division of Emergency Management prior to the issuance of a Development Order.

7. a. The wetlands which are located between the wetland jurisdictional line and South Bayou, as depicted on the Master Development Plan, shall be preserved and identified as a wetland preservation area on the Master Development Plan for Development Order Approval.

   b. The preservation of the wetlands shall be required in the deed for the affected lots. Any activities which would alter or affect the wetlands and mangroves associated with South Bayou shall be subject to approval by the Lee County Division of Natural Resources Management before commencing work. One entity, such as the developer or homeowners' association, shall be given sole authority through an easement to seek approval and permits for proposed activities, such as mangrove trimming, and/or construction of boardwalks, observation decks and fishing piers, and this entity be responsible for supervising any work conducted as authorized by the appropriate permits.

8. The Old Power Station building shall be preserved; however, adaptive reuse may be permitted for uses which are strictly private and ancillary to the Boca Bay community. Permitted uses are limited to:

   Clubhouse
   Storage
   Maintenance and shop facility - limited to equipment and facilities serving only the Boca Bay community
   Sales and rental office - limited to units within the Boca Bay community only
   Administrative office (df)
   Health club
   Day care center (Section 506)
   Classrooms
   Multipurpose room
   Art studio
   Food and beverage service - a cafe or snack bar limited to serving the members of the Boca Bay associations (not open to the general public)
   Pro shop - limited to serving the members of the Boca Bay associations (not open to the general public)

   The developer shall apply for and diligently seek historic designation for the Old Power Station from the State of Florida as well as under Lee County Ordinance 88-62, as amended. In the event that historic designation is denied, then the Old Power Station may be demolished and open space or recreational uses established on the site.

9. Deviation (1) is a request to deviate from the required street setback for a private street of 1/2 right-of-way plus 20 feet (Zoning Ordinance Section 202.18.B.2.a.), to 1/2 right-of-way plus 10 feet for principal

structures and 5 feet for accessory structures. This deviation is APPROVED.

Deviation (2) is a request to deviate from the required minimum distance between any building or structure in the PUD and the PUD boundaries of 1/2 the height of said building or structure or a minimum of 20 feet (Zoning Ordinance Section 484.E.3.), to 5 feet. This deviation is DENIED.

Deviation (3) is a request to deviate from the required minimum distance between any building or structure within the PUD of 1/2 the sum of the heights of the buildings or a minimum of 20 feet (Zoning Ordinance Section 484.E.5.), to 10 feet as measured from the building walls. This deviation is APPROVED.

Deviation (4) is a request to deviate from the minimum water body setback of 25 feet (Zoning Ordinance Section 202.18.B.4.b.), to 15 feet from the retention lake edge. This deviation is APPROVED.

Deviation (5) is a request to deviate from the requirement that privately maintained accessways meet the dimensional requirements for parking lot accesses and aisles from the dimensional width requirement of 24 feet (Zoning Ordinance Section 202.16.F.3. and Development Standards Ordinance Section 9.P.13.), to 20 feet. This deviation is APPROVED with the condition that no more than 50 units are served by these proposed 20 foot wide parking lot aisles.

Deviation (6) is a request to deviate from the requirement that the outside and inside diameter of pavement of a cul-de-sac be 90 feet and 45 feet, respectively, and the right-of-way be 110 feet diameter (plus 20 feet for open swale drainage (Development Standards Ordinance Section 9.P.11.), to allow turnarounds as shown on the PUD plan. This deviation is APPROVED.

Deviation (7) is a request to deviate from the requirement that 10-foot-wide utility easements shall be provided on both sides of street right-of-way or road easements (Development Standards Ordinance Section 11.E.1.), to require a 5-foot-wide (minimum) utility easement on both sides of the street right-of-way or road easements. This deviation is APPROVED with the condition that it is the responsibility of the developer to coordinate all utilities and comply with all other requirements as they may be promulgated.

Site Plan 93-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of the residential plan amendment and special exception:

A. That the residential plan amendment and Special Exception request, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance, but the approval of the inland docking facility would have an adverse impact on the intent of the Zoning Ordinance.

B. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, but that the inland docking facility is not consistent with those provisions.

C. That the residential plan amendment and Special Exception request, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the residential plan amendment and Special Exception request, as conditioned, is consistent with the densities, intensities and general

uses set forth in the Lee Plan.

E. That the residential plan amendment and Special Exception request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

F. That denial of the inland docking facility will protect, conserve or preserve environmentally critical areas and natural resources within the Charlotte Harbor.

G. That the residential plan amendment and Special Exception request, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the location of the proposed project will not place an undue burden upon the surrounding transportation network or other services and facilities.

I. That the proposed residential use will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That each approved deviation enhances the achievement of the objectives of the planned development and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of June, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

FILED
JUN 17 1993
CLERK, CIRCUIT COURT
BY _____ D.C.

Approved as to form by:

_____
County Attorney's Office

for

BOCA BAY

SOUTH VILLAGE

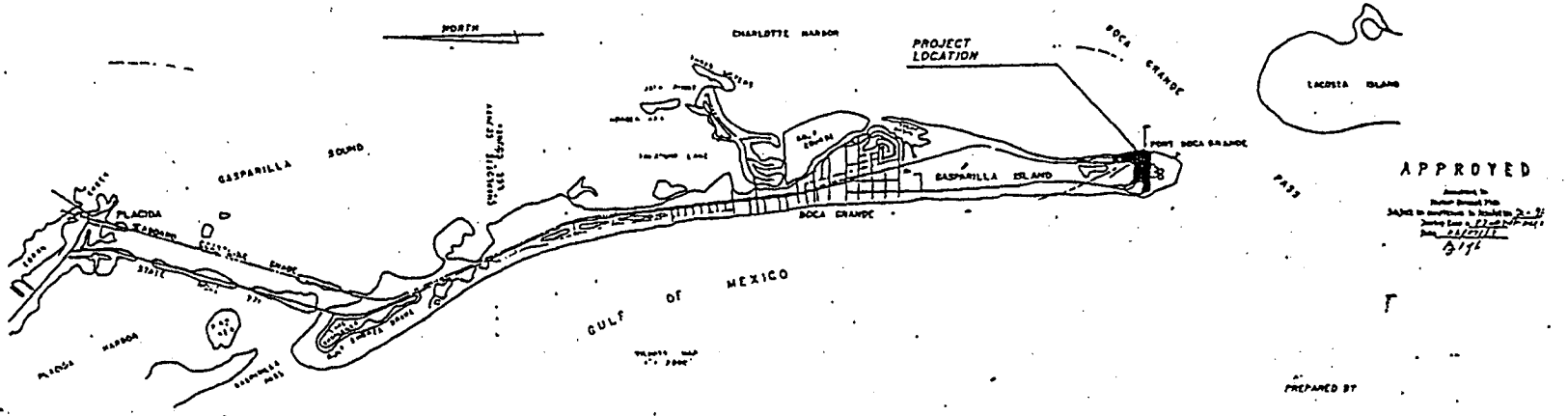
NEIGHBORHOODS 7, 8, 9, 10

SECTION 26 TOWNSHIP 43 S. RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

PREPARED FOR:

CSX REALTY, INC.



APPROVED

INDEX

1 COVER SHEET

2 OVERALL BOCA BAY SITE MAP

3 PUD MASTER SITE PLAN (NEIGHBORHOODS 7-10)

4 DETAILS & NOTES

5 TYPICAL UNIT LAYOUTS & DETAILS

6 SKETCH TO ACCOMPANY LEGAL DESCRIPTION

UTILITIES:

WATER AND SEWER

GASPARILLA ISLAND WATER ASSOC. INC
P.O. BOX 339
BOCA GRANDE, FLA. 33921

ELECTRIC

FLORIDA POWER AND LIGHT CO
P.O. BOX 424
VENICE, FLA. 33595

TELEPHONE

UNITED TELEPHONE COMPANY OF FLORIDA
AND SOUTHERN
PUNTA GORDA, FLA.

GAS SERVICE

NONE AVAILABLE FOR GASPARILLA ISLAND

PROJECT DEVELOPER

CSX REALTY, INC.
CSX CORPORATION
ONE JAMES CENTER
RICHMOND, VA 23219

OCTOBER, 1990
REVISED: MARCH 7, 1991
REVISED: MAY 7, 1991
REVISED: OCTOBER 3, 1991
REVISED: OCTOBER 31, 1991
REVISED: NOVEMBER 11, 1991
REVISED: SEPTEMBER 17, 1992
REVISED: JANUARY 26, 1993
REVISED: MAY 25, 1993

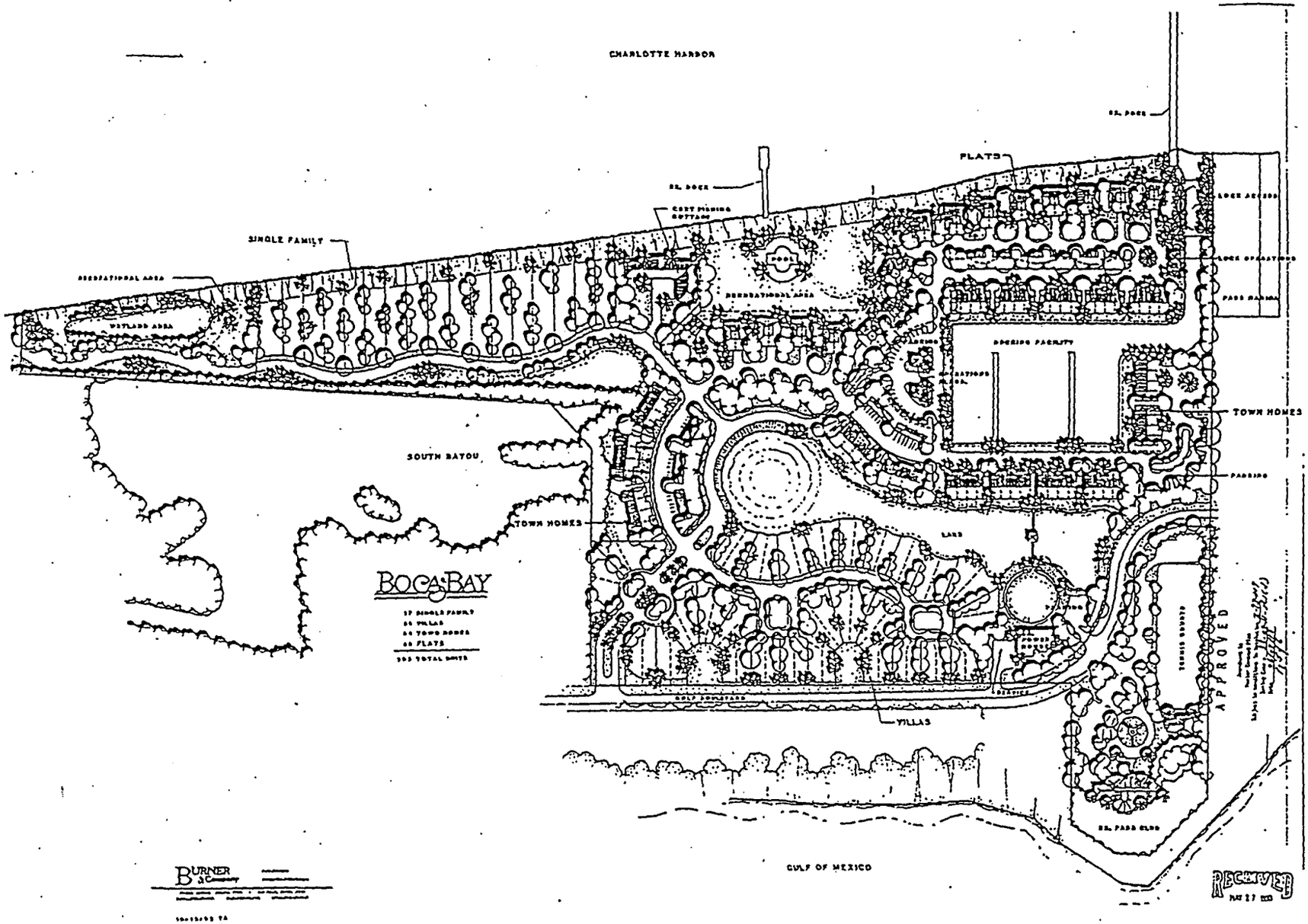
PREPARED BY

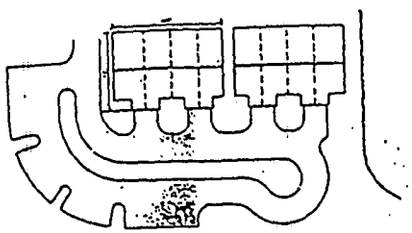
JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

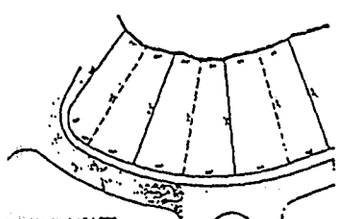
FORT MYERS, FLORIDA

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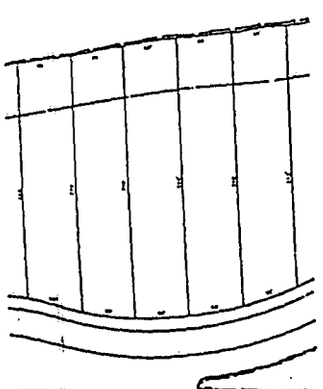

CHARLOTTE HARBOR
SINGLE FAMILY
RECREATIONAL AREA
WETLAND AREA
SOUTH BAYOU
TOWN HOMES
BOCA BAY
FLATS
TOWN HOMES
PARKING
VILLAS
GULF OF MEXICO
APPROVED
RECEIVED



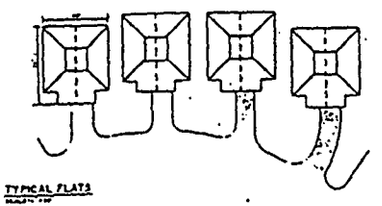
TYPICAL TOWN HOMES



TYPICAL VILLAS LOTS



TYPICAL SINGLE FAMILY LOTS



TYPICAL FLATS

SCHEDULE OF DEVIATIONS

1. DEVIATION FROM THE REQUIRED STREET SETBACKS FOR A PRIVATE STREET OF 1/2 RIGHT-OF-WAY PLUS 20 FEET (TYPICAL DWELLING SECTION [illegible]) TO 1/2 RIGHT-OF-WAY PLUS 10 FEET FOR PORCHES, STRUCTURES AND 5 FEET FOR ACCESSORY STRUCTURES.

2. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN AND EMPLOYING OR STRUCTURES ON ONE SIDE AND THE PAVEMENT EDGE OF 1/2 THE WIDTH OF SAID RIGHT-OF-WAY OR STRUCTURE, OR A MINIMUM OF 20 FEET (TYPICAL DWELLING SECTION [illegible]), TO 5 FEET.

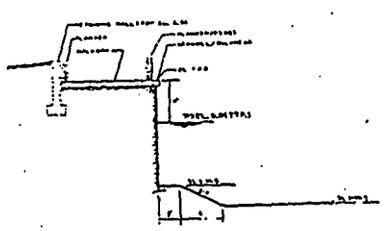
3. DEVIATION FROM THE REQUIRED MINIMUM DISTANCE BETWEEN AND EMPLOYING OR STRUCTURES ON ONE SIDE AND THE PAVEMENT EDGE OF 1/2 THE WIDTH OF THE RIGHT-OF-WAY, OR THE REQUIRED OR A MINIMUM OF 20 FEET (TYPICAL DWELLING SECTION [illegible]), TO 20 FEET AS MEASURED FROM THE EMPLOYING WALLS.

4. DEVIATION FROM THE MINIMUM WIDTH SIDE SETBACK OF 25 FEET (TYPICAL DWELLING SECTION [illegible]), TO 15 FEET FROM THE DESIGNATED LAKE EDGE.

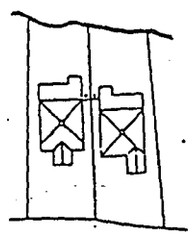
5. DEVIATION FROM THE REQUIREMENTS THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE SPECIFICATIONS REGULATIONS FOR PUBLIC LAKE ACCESSWAYS AND DETAILS FROM THE DEVELOPMENT ORDER REGULATIONS OF 24 FEET (PUBLIC DWELLING SECTION [illegible]), TO [illegible].

6. DEVIATION FROM THE REQUIREMENTS THAT THE RADIUS AND TURNING DIAMETERS OF PAVEMENT OF A CUL-DE-SAC BE 50 FEET AND 40 FEET, RESPECTIVELY, AND THE PAVEMENT OF A CUL-DE-SAC BE 150 FEET DIAMETER (FROM 20 FEET FROM APEX) TYPICAL DEVELOPMENT (PUBLIC DWELLING SECTION [illegible]), TO ALLOW [illegible].

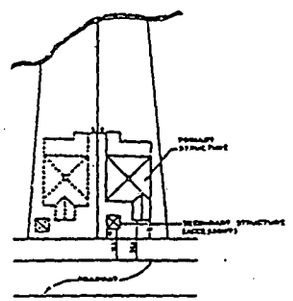
7. DEVIATION FROM THE REQUIREMENTS THAT THE SIDEWALKS BE PLACED ON BOTH SIDES OF ALL STREETS IN ZERO LOT LINE DEVELOPMENT (PUBLIC DWELLING SECTION [illegible]), TO PROVIDE A SIDEWALK ON ONE SIDE OF THE STREET OR NON-STREET PEDESTRIAN WAY.



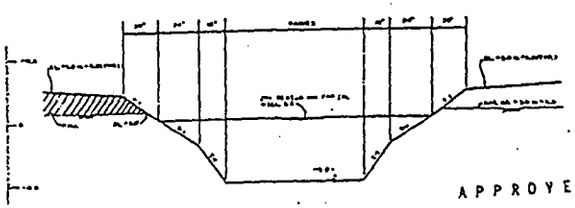
TYPICAL SECTION - DOCKING FACILITY



DEVIATION 3 - Typical Detail



DEVIATION 1 - Typical Detail



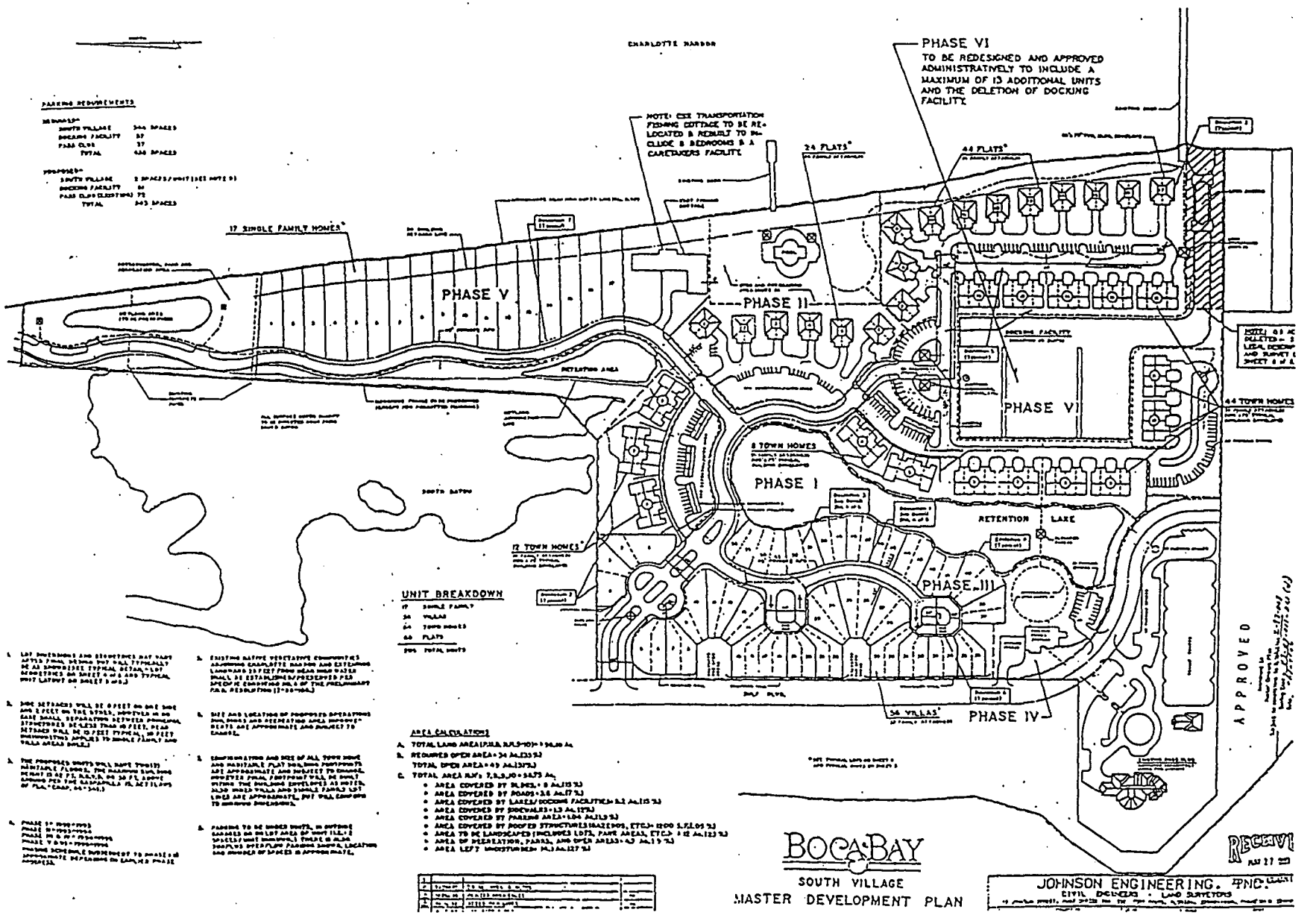
TYPICAL LAKE SECTION

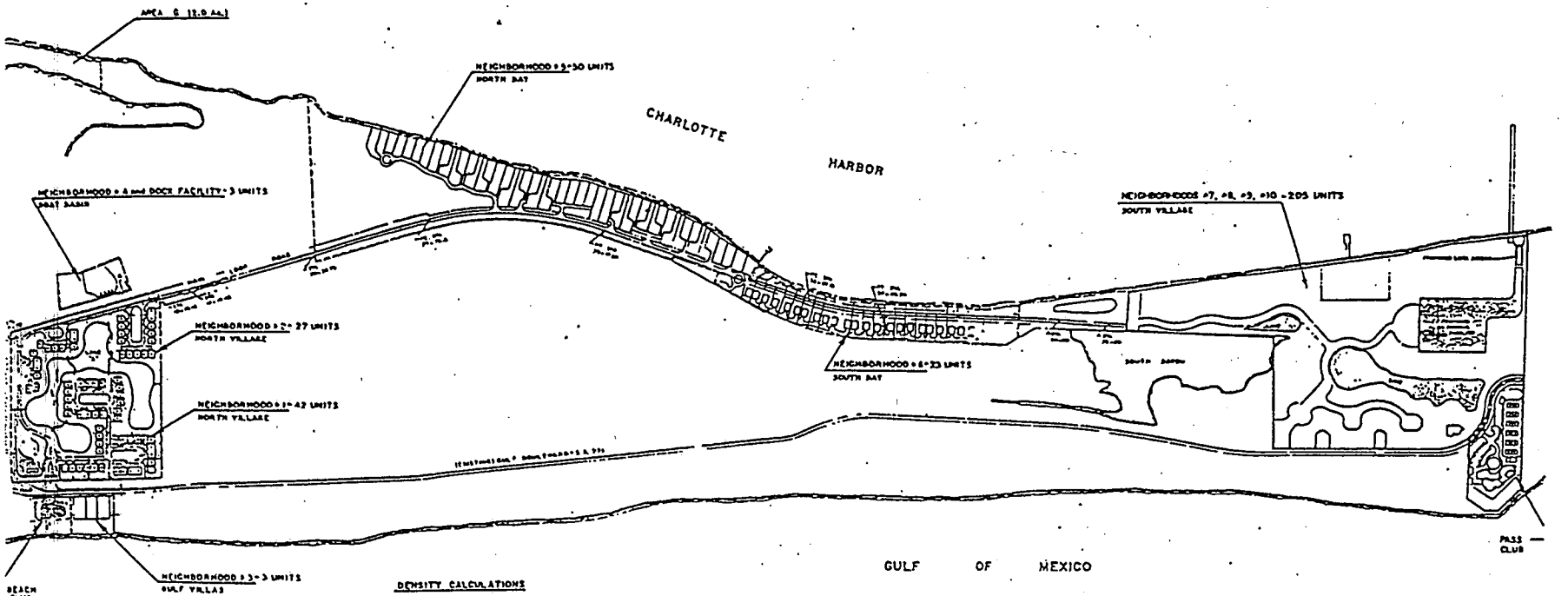
APPROVED

BOCA BAY

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MAY 27 1980

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CIVIL ENGINEERS • LAND SURVEYORS


PHASE VI
TO BE REDESIGNED AND APPROVED ADMINISTRATIVELY TO INCLUDE A MAXIMUM OF 13 ADDITIONAL UNITS AND THE DELETION OF DOCKING FACILITY
PARKING REQUIREMENTS
17 SINGLE FAMILY HOMES
24 FLATS
44 FLATS
PHASE V
PHASE II
PHASE VI
44 TOWN HOMES
8 TOWN HOMES
PHASE I
RETENTION LAKE
12 TOWN HOMES
PHASE III
56 VILLAS
PHASE IV
UNIT BREAKDOWN
APPROVED
BOCA BAY
SOUTH VILLAGE
MASTER DEVELOPMENT PLAN
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS · LAND SURVEYORS



DENSITY CALCULATIONS

A.		ACRES
B.		ACRES
C.		ACRES
D.		ACRES
E.		ACRES
F.		ACRES
		ACRES
		ACRES

APPROVED

BOCA BAY

INDEX MAP

and

NEIGHBORHOOD LAYOUT

RECENT

JOHNSON ENGINEERING, INC.

THE SCHOOL DISTRICT OF LEE COUNTY
2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901-3988 • (941) 334-1102 • FAX (941) 337-8378

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99 JUN 29 AM 8:27
COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

PATRICIA ANN RILEY
CHAIRMAN • DISTRICT 3
KATHERINE BOREN
VICE CHAIRMAN • DISTRICT 4
TERRI K. WAMPLER
DISTRICT 1
LANNY MOORE, SR.
DISTRICT 2
LISA POCKRUS
DISTRICT 5
BRUCE HARTER, PH.D.
SUPERINTENDENT
KEITH B. MARTIN
BOARD ATTORNEY

June 28, 1999

Mr. Chip Block
Lee County Division of Zoning and Development Services
P. O. Box 398
Ft. Myers, FL 33902

Re: Amendment to South Village at Boca Bay, Case #95-06-050.03Z01.01

Dear Chip:

Thank you for the opportunity to review the above referenced DCI for substantive comments with regards to educational impacts. As stated previously, since the proposed development is for 16 additional residential units on Boca Grande and that any students generated from this project will attend schools in Charlotte County, there will be no educational impacts from the project. It is not expected to impact the Lee County School District, since public school students on Boca Grande attend Charlotte County public schools.

Thank you for your attention to this matter. If I may be of further assistance, please don't hesitate to give me a call.

Sincerely,

Stephanie Keyes

Stephanie Keyes, Facilities Planner
Facilities Management and Capital Projects

cc: Frederick Gutknecht, Director, Facilities Management and Capital Projects
Dr. Ande Albert, Assistant Superintendent for Business/Administrative Services
file

ENSURE STUDENT SUCCESS
AFFIRMATIVE ACTION / EQUAL OPPORTUNITY EMPLOYER

n permitted density is consistent with the Lee Plan.

1.31 acres of the 2.31 acre parcel is the site of the Pass Marina.

A portion of this property is located within the Water-Dependent Overlay zone which is defined in Lee Plan Policy 1.7.5. and which was designated in conjunction with the 1989 Lee Plan. Goal 98 Shoreline Management sets forth the policies regarding water-dependent uses. There is an obligation on the county to reclassify commercial and government-operated multi-slip docking facilities and industrial facilities on the Future Land Use Map to commercial or industrial marine categories and to prevent their conversion to non-water-dependent uses without a public hearing. This hearing on the special exception for residential uses will, also serve as the hearing to confirm that it is consistent with the Lee Plan to eliminate the water dependent uses.

The South Village portion of Boca Bay has a unique history because it was the site of Port Boca Grande which operated since the turn of the century. Lee County was concerned by the loss of a port and through a county -initiated application rezoned CSX's property at the south end including this property to a new zoning district created for this issue - Port District. CSX sold this portion of its property for construction of a marina. The marina was constructed as a 2 building dry storage marina. Eventually CSX acquired the marina. Due to the proximity to Boca Grande Pass , the current is too swift to safely operate wetslip storage . Without wetslips the customers must return prior to closing (5:00 or 5:30 like many marinas) because there is no place to leave the boat. The typical marina has wetslips which provide the opportunity for (dry-storage)boaters to return after closing hours where the boat will be placed in dry storage the next day. Wetslips are not feasible at this location and this area was studied in depth as evidenced by the former application to have an inland docking facility. The other marinas on Gasparilla Island and in the immediate Englewood area have the capacity and in fact serve the Boca Grande boaters including the owners at Boca Bay. The Pass Marina had dwindling customers and the operation was not financially feasible and in CSX's opinion could not be financially feasible resulting in the closing of the marina at the end of 1998. The marina was in existence at the time the water dependent overlay zones were created and all existing marinas were automatically included and designated. But as evidenced by the County's position in reviewing the inland docking amenity proposed adjacent to the marina, the County did not want to expand marina use on a barrier island. Without wetslips this is not a viable marina location. We respectfully submit that the County concurs with the applicant and would not support the permitting necessary to obtain wetslips.

RECEIVED
MAY 21 1999
PERMIT COUNTER

EXHIBIT II-E-2 NARRATIVE
EXHIBIT IV-D DESCRIPTION OF PROPOSED DEVELOPMENT
EXHIBIT IV-G SCHEDULE OF USES
EXHIBIT IV-K PHASE DEVELOPMENT

95 06-050 03 Z 01.01
PROJECT # _____
PROJECT TYPE 19

Request

a) A Special Exception for residential use in the Port District; b) An amendment to the final plan in the Port District which received preliminary approval by the Board of County Commissioners on June 11, 1984 and final plan approval in the Port District and the PUD District on January 12, 1987 and amended by the Board of County Commissioners on June 7, 1993 for South Village.

This is the final phase of the Boca Bay community which is a premier residential community located on the south portion of Gasparilla Island, Lee County, Florida. There are a variety of neighborhoods in Boca Bay with a different living unit living style and design. The neighborhoods are interrelated. The neighborhoods include Gulf Villas, North Village, North Bay, South Bay, South Village (within South Village is the Pass Club, the Power House, Grand Bay, the lodge parcel, Beach View villa units, Harborside condominiums and Harbor Shore flats).

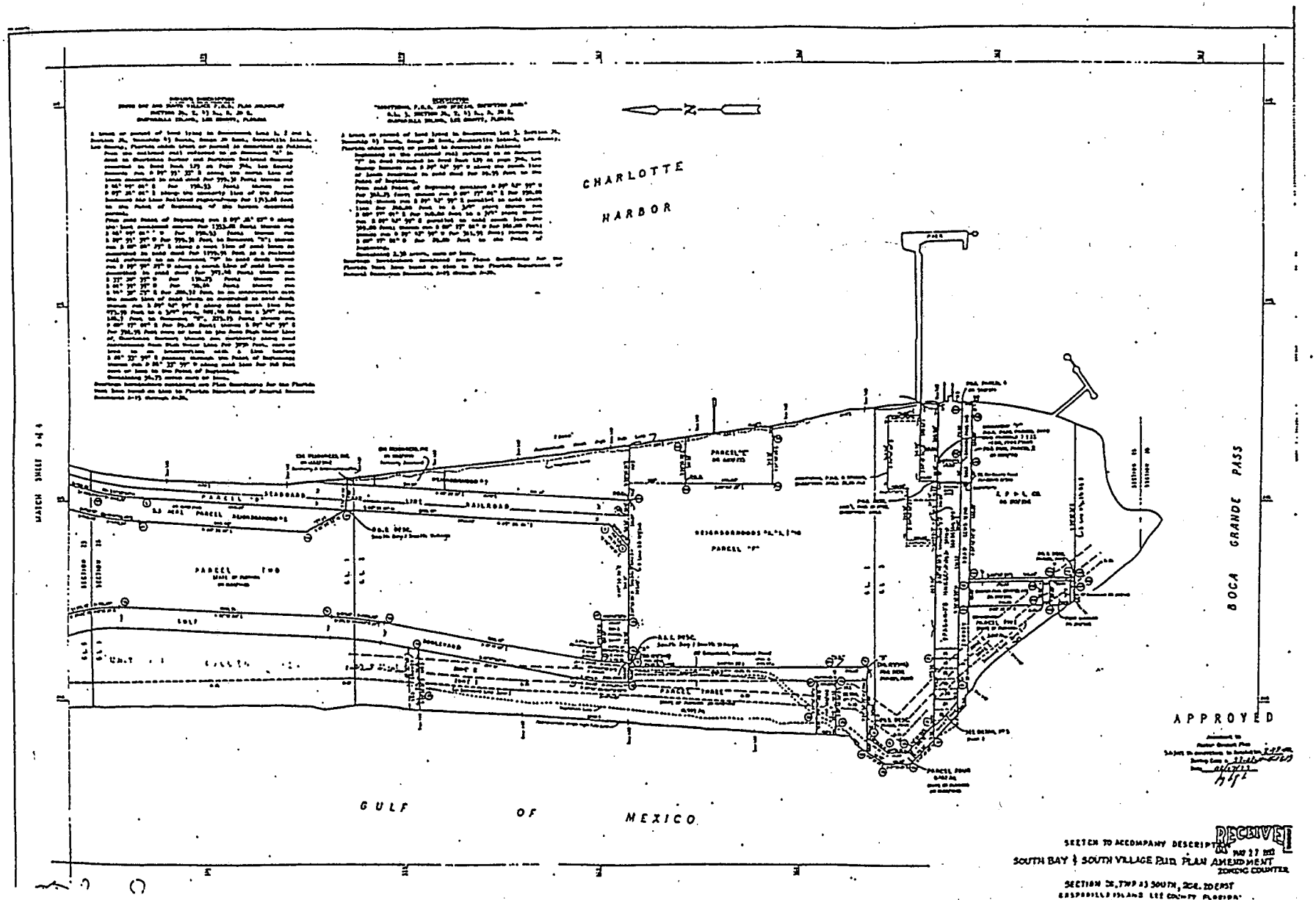
In 1993 the Board of County Commissioners granted a Special Exception for residential use in the Port District to add a small parcel to South Village and granted final plan approval for the remaining portion of South Village. Phase VI of that Board approval granted staff responsibility to review and approve final plan approval by administrative amendment. All portions of existing South Village have received final plan approval pursuant to Zoning Resolution Z-93-009 and a Development Order pursuant to Chapter 10 of the Land Development Code. The Board of County Commissioners approved 218 dwelling units in South Village.

This application requests approval of the addition of 2.31+ acres to South Village at Boca Bay to the Harbor Shore community. 16 units are proposed to be constructed for a total density of 184 units in South Village (a reduction of 34 units from what is approved today on smaller acreage). This request adds acreage and reduces the existing permitted density. The portion of the request to amend the existing final plan in the Port District (which was Staff approved) is to merely note that the location of the northerly most proposed building is located approximately 30 feet into the existing South Village with the remainder of the building on the parcel to be added.

The 16 units will be located in 2 (6-plex) buildings which is Phase I and 1 (4-plex) building which is Phase II.

The uses in this request should be the uses granted by the Board of County Commissioners in South Village pursuant to Resolution Z-93-009 which is attached.

This request is consistent with the Lee Plan. The Board of County Commissioners has found the Boca Bay plan consistent with the Lee Plan in 1984, 1987 and in 1993. The addition of acreage



SKETCH TO ACCOMPANY DESCRIPTION

SOUTH BAY & SOUTH VILLAGE PUD PLAN AMENDMENT

SECTION 36, TWP 43 SOUTH, RGE. 20 EAST
CASPERSEN ISLAND LEE COUNTY FLORIDA

RECEIVED
MAY 27 1982
ZONING COUNTER

JOHNSON ENGINEERING INC

MEMORANDUM
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING: ENVIRONMENTAL SCIENCES

Date: July 16, 1999

To: Chip Block
Senior Planner / Dev. Services

From: George T. Parker
Principal Environmental Planner

Re: Staff Report - Amendment to South Village at Boca Bay
Case # 95-06-050.03Z 01.01
Master Concept Plan - Counter Stamped 5/21/99

The Division of Planning, Environmental Sciences (ES) staff have reviewed the above referenced and recommend that the amendment be approved. The proposed amendment will increase pervious open space and increase landscaping. Any polluted soils associated with the current or past uses will have to be removed prior to establishing the new use.

The Division of Planning staff have reviewed the applicant's rational for eliminating the existing dry storage facility and marina use. Staff concur that the location is of questionable value as a dry storage facility and is not suitable for wet slips. Therefore, planning staff do not object to the proposed amendment.

Since the subject site is situated within a water dependent overlay, a public hearing is required before the use can be changed. This requirement will be part of the public hearing associated with this zoning amendment before the Lee County Hearing Examiner.

RECEIVED
JUL 16 1999
DEVELOPMENT SERVICES

LEE COUNTY
RECEIVED
99 JUL 16 PM 1:05
DEV. SVCS. CNTR.
SECOND FLOOR

Interoffice Memo

~~Date:~~ 7/15/99

To: Chip Block, Senior Planner

From: Gene Hurst, Planning Coordinator GH.

RE: Amendment to South Village at Boca Bay

Staff has reviewed the submittal docment dated June 22, 1999, regarding the above-referenced development and has determined that the sixteen (16) units proposed do not trip the threshold (50) for our full review. Therefore, our office won't be issuing any comments or recommendations in this case.

RESOLUTION NUMBER ZAB-83-352

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, CSX Resources, Inc. (also referred to as Developer or Applicant), has properly filed an application for: Amended request and legal description in the AG and PORT Districts: a) AG to Preliminary PUD Plan approval, and b) a special exception in the PORT district for residential uses (Sec.624.C) on a piece of property located at S. Boca Grande, described more particularly as;

Sec. 23/26 Twp 43S, Rge 20E, Lee County, Florida.

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1 and 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

[P.U.D. Parcel: "Area D" (Proposed Preliminary P.U.D. Plan approval)] From the northeast corner of Government Lot 2 of said Section 23 run S 89 degrees 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.

From said Point of Beginning continue S. 89 degrees 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14 degrees 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89 degrees 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14 degrees 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the right of radius 1860.05 feet (chord bearing S 02 degrees 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19 degrees 51' 38" W for 476.31 feet; thence run S 28 degrees 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16 degrees 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03 degrees 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830 feet; thence run S 28 degrees 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03 degrees 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43 degrees 23' to the right and run S 46 degrees 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run N 89 degrees 55' 35" E along said north line for 233.84 feet to an intersection with a line 80.16 feet easterly from (as measured on a perpendicular) said centerline of said railroad and a point designated "AC"; thence continue N 89 degrees 55' 35" E along said north line of said lands for 280

feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said line for 6383 feet more or less to an intersection with the south line of the North 1980 feet of Government Lot 1 in said Section 23; thence run S 89 degrees 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14 degrees 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.

Containing 53.82 acres more or less.

AND

["Area E" (Proposed Preliminary P.U.D. Plan approval)]
From the hereinabove point designated "AC" run N 89 degrees 55' 35" E for 90 feet; thence deflect 90 degrees to the right and run S 00 degrees 04' 25" E for 280 feet to a 3/4" pipe at the northwest corner of lands described in deed recorded in Official Record Book 687 at page 173 of said Public Records and the Point of Beginning.

From said Point of Beginning continue S 00 degrees 04' 25" E along the west line of said lands as described in said deed for 430 feet to a 3/4" pipe at the southwest corner of said lands; thence run N 89 degrees 55' 35" E along the south line of said lands for 292 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor, passing through a 3/4" pipe at 242.21 feet; thence run northerly along said Line for 434 feet more or less to an intersection with a line bearing N 89 degrees 55' 35" W along said line for 236 feet more or less to the Point of Beginning, passing through a 3/4" pipe at 201.32 feet from said Point of Beginning.

Containing 2.68 acres more or less.

[PORT Parcel: "Area F" (Proposed special exception in PORT District).]
Bearings hereinabove mentioned are Plane coordinate for the Florida West Zone based on ties to Florida Department of Natural Resources Monument A-15 through A-20.

A tract or parcel of land lying in Government Lots 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company recorded in Deed Book 129 at page 346, Lee County Records run S 00 degrees 04' 25" E along a west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect 90 degrees 10' to the right and run N 89 degrees 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33 degrees 20' 35" W for 130.23 feet; thence run S 01 degree 35' 35" W for 90.64 feet; thence run S 44 degrees 39' 25" E for 200.72 feet to an intersection with the south line of said lands as desribed in said deed; thence run S 89 degrees 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89 degrees 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00 degrees 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89 degrees 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00 degrees 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89 degrees 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00 degrees 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89 degrees 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly along said Line for 759 feet more or less to an intersection with the south line of the so-called Lodge Parcel as described in deed recorded in Official Record Book 687 at page 173 of said Public Records;

thence run S 89 degrees 55' 35" W along said south line for 292 feet more or less to a 3/4" pipe at the southwest corner of said lands; thence run N 00 degrees 04' 25" W along the west line of said lands for 430 feet to a 3/4" pipe at the northwest corner of said lands; thence run N 89 degrees 55' 35" E along the north line of said lands for 236 feet more or less to said approximate Mean High Tide Line to Charlotte Harbor; thence run northerly along said Line for 284 feet more or less to an intersection with a north line of said lands described in said deed recorded in Deed Book 129 at page 346; thence run S 89 degrees 55' 35" E along said north line for 1113 feet more or less to the Point of Beginning.

Containing 40.01 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to Florida Department of Natural Resources Monuments A-15 through A-20.

WHEREAS, CSX Resources, Inc., the owner(s) of the subject parcel has given proper authorization to H. Thomas Dunck, General Counsel, to act as their agent, and has given him the authority to pursue this zoning action; and,

WHEREAS, a public hearing was legally and properly held before the Lee County Zoning Board, with full consideration of all the evidence available to the Zoning Board; and,

WHEREAS, the Lee County Zoning Board fully reviewed the matter and recommended denial of the preliminary PUD and special exception; and

WHEREAS, an appeal was timely filed by CSX Resources, Inc.; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, the Board of County Commissioners considered the recommendation of the Staff, the Local Planning Agency (L.P.A.), the Zoning Board, the documents on file with the County and the testimony of all interested persons,

The Board of County Commissioners after full and complete consideration of the matter does hereby make the following findings of fact:

The LPA found that the proposed zoning application is consistent with the Lee County Comprehensive Plan as long as it complies with the Development Standards Regulations provisions on wetlands. The Staff indicated that Charlotte County had expressed some concerns with the impacts this development might have in Charlotte County; however, those concerns were conveyed to the Staff so late that Staff was prevented from formulating any recommendations. The Department of Natural Resources, represented by Will Sheftall, biological scientist supervising the Charlotte Harbor Aquatic Preserve, endorsed the Staff position (outlined below) with regard to wetland preservation, the Charlotte Harbor setbacks, grass bed protection from dock construction, and the estuarine drainage system. D.N.R. expressed belief that this area was a high energy shoreline subject to a great deal of erosion under normal circumstances and especially under storm conditions. D.N.R. recommended that no seawalls be permitted either below or above the mean high water line. The Lee County Disaster Preparedness Agency (L.C.D.P.A.) recommended denial of the request due to the estimated hurricane evacuation times for Gasparilla Island which are

based upon the existing estimated evacuation time plus the impact of future development potentials, including that of the proposed CSX development. The Disaster Preparedness Agency indicated that considering the estimated impact of the proposed development on hurricane evacuation times for Gasparilla Island, the National Hurricane Center's suggested safety threshhold of twelve (12) hours is exceeded by less than one hour for a Category One storm, and is exceeded by over seven (7) hours for a Category Three storm. The Division of Code Enforcement indicated that while the project would increase the response area of the Boca Grande Fire Department, the water supply appeared to be adequate for fire protection and the development would pose no special problems. The Division of Community Services recommended a fee in lieu of parkland dedication of 2.7 acres. The Division of Community Development recommended approval of both requests with the following conditions (as referenced in a memo to the Zoning Board dated April 26, 1984):

A-3 The Developer shall not construct, and through deed restrictions shall prohibit subsequent purchasers from constructing, docks into Charlotte Harbor beginning at the most northerly point along Charlotte Harbor shoreline within the development, and continuing in a southerly direction along the shoreline for a distance of approximately 3,400 feet, the exact distance to be determined with the concurrence of the D.N.R. Aquatic Preserve management personnel.

B-7 The wetland area immediately south of the rip-rap and also the non-jurisdictional wetlands described in consent order case #81-0372 shall be preserved in their entirety.

B-8 The P.U.D. plan shall be modified to route the local street only along the existing rail grade, and to place residential units to the west of this street in the rip-rap area. The existing estuarine ditch may be crossed with culverts but shall otherwise be preserved.

C-7 No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

C-8 Along shoreline areas J and K, an erosion control line shall be established and surveyed 125 feet landward of the existing mean high water line. All buildings and structures shall be set back 25 feet from this erosion control line. All existing ground contours and all native vegetation waterward of the control line shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

C-9 Along shoreline area N, an erosion control line shall be established and surveyed 125 feet landward of the existing mean high water line. All buildings and structures shall be set back 25 feet from this erosion control line. CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to shoreline area K, to extend at least the first 50 feet from mean high water.

D-1 No control structures for the drainage system shall be placed in wetland areas or along existing ditches downstream of points at which their function changes from high groundwater table reservoirs to estuarine channels. Weir placement should not restrict the estuarine flushing that maintains existing estuarine wetlands. South Bayou shall not provide stormwater retention or receive stormwater without permission of D.N.R. Bureau of Environmental Land Management.

E-1 A final site plan for the PORT district will be prepared and submitted for review using the procedures adopted for review of Final P.U.D. plans

E-2 The Boca Bay Resort will be limited to a gross density of 1 unit per acre; actual building layout will be approved in the subsequent final plan review process.

E-3 CSX Resources, Inc. will execute a covenant of unified control satisfactory to the County Attorney's office prior to Final P.U.D. approval.

E-4 All internal roads in this project will be privately maintained, but constructed to Lee County standards.

E-5 Final site plans must be in conformance with all development regulations in effect at that time and must be submitted for Final P.U.D. review concurrently with an application for a preliminary development order.

E-6 CSX will present plans for the preservation or adaptive re-use of the Powerhouse at the time of final plan approval.

E-7 If any archaeological sites are identified during the construction of the project, development activities in the impacted area will cease in order to allow a survey to be completed.

F-1 Prior to final plan approval, the Developer shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer service, including financial arrangements to cover both capital and operating costs.

The applicant, represented by Tom Dunck, indicated that the most appropriate use of this land would be residential, and that this was the use preferred by both the Gasparilla Island Conservation and Improvement Association (GICIA) and by the residents. The applicant stated that L.C.D.P.A.studies had shown that evacuation time would be increased only 10-11 minutes by this development. The applicant responded to the conditions as follows:

E-1 The applicant agrees to the conditions and suggested that the development standards for the RM-5 zoning district be included as part of the condition.

E-2 The applicant suggested that the overall average density for the total 97 acres should be three units per acre, for a total of 291 units for all 97 acres under consideration. He suggested that the developer should be permitted to determine how to distribute the total 291 units between the areas D, E, and F, subject to the conditions placed upon the zoning and also subject to the following maximum densities per area (total not to exceed 291):

Area D not to exceed 162 units,
Area E not to exceed 13 units
Area F not to exceed 202 units

E-3 The condition is acceptable as stated.

E-4 The applicant does not object to keeping the internal roads private and privately maintaining them, but does not want to have to construct them according to County standards.

E-5 The applicant requested that this condition be deleted.

A-3 The applicant wanted only to prevent dockage of motorized boats at the residential docks, and not to prohibit the construction of all residential docks.

B-7 The applicant agreed to the designations as contained on the preliminary site plan concerning the wetland areas south of the riprap and the non-jurisdictional wetlands.

B-8 The applicant suggested that it be given the alternative of either (1) a relocation of approximately 1,400 feet of the roadway adjacent to the riprap area of the shoreline to a location that conforms with a former road bed, or (2) to mitigate the disturbance of the man-

groves located in the drainage ditch by the use of culverts where the road crosses the ditch and the preservation of the ditch along what would then be the easterly side of the road.

C-7 The applicant indicated that Johnson Engineering photos show that this is not a high-energy shoreline, but rather has been stable for over 40 years, due in part to the presence of the grass beds. Since it is not a high-energy shoreline, the applicant does not expect that any bulkheading or seawalls will be necessary in its project. However, the applicant indicated that he could not guarantee that in the future there would never be any necessity for a seawall and requested that that option be left open if it should become necessary. The applicant also noted that if a 150 foot setback from Charlotte Harbor was required, as suggested by Staff, over 70% of area D would not be developable.

D-1 The applicant objected to the condition and suggested that the South Florida Water Management District would be the appropriate agency to impose this type of condition and not Lee County.

E-6 The applicant indicated that the power house was not of any important architectural significance, nor would it be compatible with residential use.

E-7 The applicant agreed that in the event of a discovery of an archaeological find that it would (1) be obligated to notify the appropriate agencies in the event of such a find, (2) cooperate with the appropriate agencies in evaluating the significance of the items discovered, and (3) allow a reasonable opportunity for the discoveries to be removed and/or the site on which the finds are located to be acquired.

The applicant also agreed that Area D must be single family development.

A representative of the GICIA spoke in favor of the requests because it would be a residential development as opposed to a port, and because the overall density would be kept as low as possible. Various individuals spoke out against the requests and among the following were reasons for their opposition:

1. This development is not an appropriate use of this land.
2. It would add about 300 units to a fragile barrier island which is greatly exposed to the elements.
3. Questions exist about the availability of water and sewer service to the area.
4. The site plan violates the Charlotte Harbor Plan.
5. The shoreline is a high-energy beach where erosion is a serious problem.
6. An average overall density of 3 units per acre is still too high.
7. There is a serious evacuation problem that will be compounded by this development.
8. This development is incompatible with the existing amenities of Gasparilla Island.
9. In light of the impacts on both Charlotte and Sarasota Counties, especially with regard to school impacts, this development should have been a DRI despite the binding letter to the contrary.

10. Approval of this development would be contrary to the flood plain management plans and maps.

The general manager of the Gasparilla Island Water Association, which would be the provider of potable and waste water for this development, indicated that at present the Gasparilla Island Water Association could not provide water for an additional 300 units without being provided the financial means to expand its facilities to meet the increased demand. While reiterating some of the problems listed by the opposition, the Board of County Commissioners noted that the number of conditions imposed upon this development was indicative of the fact that there might be problems. It was also noted that the absence of an available port in the future might be an economic loss to Lee County. However, the Board also noted that at this point in time there does not appear to be any real interest by either Lee County or the applicant to use this property for a port, and that in any event such a use might violate the Charlotte Harbor Plan. At the present time, a residential use seems reasonable subject to the imposition of certain conditions as suggested by Staff.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS AS THE ZONING APPEALS BOARD, that the Zoning Appeals Board does hereby grant, pursuant to the amended request and legal description, in the AG and PORT districts:

(A) AG to Preliminary PUD Plan approval, and

(B) A special exception in the PORT District for residential uses (Sec. 624.C),

Both (A) and (B) subject to the following conditions:

CONDITION 1 The Developer shall not construct, and through deed restrictions shall prohibit subsequent purchasers from constructing, docks into Charlotte Harbor beginning at the most northerly point along Charlotte Harbor shoreline within the development, and continuing in a southerly direction along the shoreline for a distance of approximately 3,400 feet, the exact distance to be determined with the concurrence of the D.N.R. Aquatic Preserve management personnel.

CONDITION 2 The wetland area immediately south of the rip-rap and also the non-jurisdictional wetlands described in consent order case # 81-0372 shall be preserved in their entirety.

12

CONDITION 3 The Preliminary P.U.D. plan shall be modified to route the local street along the existing rail grade only, and to place residential units to the west of this street in the rip-rap area. The existing estuarine ditch may be crossed with culverts but shall otherwise be preserved.

CONDITION 4 No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

CONDITION 5 Any paving of roads or cul-de-sacs within the development shall be set back at least 75 feet from mean high water, except that the local street referenced in CONDITION 3 shall be routed only along the existing rail grade despite that it may entail paving within 75 feet from mean high water. All buildings and structures shall be set back at least 50 feet from the mean high water. South of the existing rip-rap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area North of the existing rip-rap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

CONDITION 6 No control structures for the drainage system shall be placed in wetland areas or along existing ditches downstream of points at which their function changes from high groundwater table reservoirs to estuarine channels. Weir placement should not restrict the estuarine flushing that maintains existing estuarine wetlands. South Bayou shall

not provide additional stormwater retention or receive additional stormwater without permission of D.N.R. Bureau of Environmental Land Management.

CONDITION 7 A final site plan for the PORT district will be prepared and submitted for review using the procedures adopted for review of Final P.U.D. plans and subject to the development standards established for the RM-5 Zoning District in Lee County Ordinance 82-47.

CONDTION 8 The applicant shall be limited to an overall average density of 3 units/acre on 97 acres, for a maximum total of 291 units. Such density shall be subject to all of the conditions attached to the Special Exception and Preliminary P.U.D. plan approval as well as being subject to the following limitations:

(a) Area D not to exceed 162 units,

(b) Area E not to exceed 13 units, and

(c) Area F not to exceed 202 units.

Distribution of the 291 unit maximum in accordance with all of the conditions of this preliminary P.U.D. plan approval shall be the responsibility of CSX, and Lee County shall not be responsible if the actual distribution results in fewer than 291 units.

CONDITION 9 CSX Resources, Inc. will execute the following prior to final P.U.D. approval:

(a) A covenant of unified control satisfactory to the County Attorney's office and,

(b) A Declaration of Covenants and Restrictions substantially the same as the attached DRAFT proposed by the applicant, as amended to comply with other conditions imposed on this date.

CONDITION 10 Final site plans must be in conformance with all development regulations in effect at the time of review and must be submitted for Final P.U.D. review concurrently with an application for a preliminary development order.

CONDITION 11 If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

CONDITION 12 Prior to final plan approval, the Developer shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

CONDITION 13 The single-family development in parcels D & E shall be in the form of a P.U.D. with details to be worked out between the applicant and Staff; in the event of no agreement, then the RS-1 standards will apply.

CONDITION 14 The draft resolution will be subject to the review of all five Commissioners to insure accurate transcription.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Eastwood and, upon being put to a vote, was as follows:

Porter J. Goss	Aye
Roland Eastwood	Aye
Roland Roberts	Aye
Bill Fussell	Nay
Melvin Morgan	Nay

DULY PASSED AND ADOPTED this 11th day of June, A.D., 1984.

ATTEST:
SAL GERACI, CLERK

BY: Alice Kurtz
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: R. H. Eastwood
Chairman

Approved as to form by:

Steven C. Saxbe
County Attorney

RESOLUTION NUMBER ZAB-83-352
(0074Z)

HEARING NUMBER 83-9-11 DCI

BOCA BAY RESORT
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION is made this _____ day of _____, 1984 by CSX RESOURCES, INC. (hereinafter called the "Company") and BOCA BAY RESORT COMMUNITY ASSOCIATION (hereinafter called the "Association");

W I T N E S S E T H:

WHEREAS, the Company is the owner of the real property described in Article I of this Declaration and desires to create thereon a residential community with open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, the Company desires to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the real property described in Article I to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, the Company has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which the powers and responsibilities of maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created should be delegated and assigned; and

WHEREAS, the Company has agreed with the Gasparilla Island Conservation and Improvement Association, Inc. (hereinafter called "GICIA"), an organization of residents of Gasparilla Island, that it will be named as a beneficiary of the restrictions herein set forth in Article ___ hereof; and

WHEREAS, the Company has incorporated the Association under the laws of the State of Florida, as a non-profit corporation for the purpose of exercising the functions aforesaid; and

WHEREAS, the Association joins in this deed of dedication for the purpose of accepting the duties and responsibilities imposed upon it by the protective covenants and restrictions herein contained;

NOW, THEREFORE, the Company declares that the real property described in Article I, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (hereinafter referred to as

"Covenants and ... rictions") hereinafte... forth for the primary purpose of ... eating a community which ...s aesthetically pleasing and functionally convenient, and in which the preservation of privately owned property values will be encouraged and the common property rights enjoyed by all owners of property within the lands subject to this Declaration ("Owners") will be enhanced.

ARTICLE ___

ADDITIONAL RESTRICTIONS

The Company, for itself and its successors and assigns, hereby imposes, as covenants running with the land, the following restrictions upon the property described in Article I (the "Subdivision"):

a) Prohibition Against Docks With respect to those lots within the Subdivision which have Charlotte Harbor frontage, beginning at the most northerly point along the Charlotte Harbor shoreline within the Subdivision and continuing in a southerly direction along the shoreline for a distance of approximately 3,400 feet [the exact distance will be determined with the concurrence of DNR], the Company hereby declares a restriction against the construction of any docks, piers or other structures.

b) Estuarine Berm. With respect to the Charlotte Harbor frontage beginning at the most northerly point along the Charlotte Harbor shore line within the Subdivision and continuing in a southerly direction along the shoreline for a distance of approximately ___ feet, and then beginning again at a point approximately ___ feet south thereof and continuing for a distance of approximately ___ feet [the exact distances will be determined with the concurrence of DNR], the Company hereby permanently dedicates an estuarine berm, within which area the natural vegetation shall be preserved and protected so as to promote shoreline stability.

c) Charlotte Harbor Setbacks. Company further establishes a minimum 50 foot setback from mean high water for any buildings or structures constructed upon the property within the Subdivision; and a minimum 75 foot setback from mean high water for any paving of roads or cul-de-sacs constructed within the Subdivision.

d) Private Roads. The Company hereby covenants and agrees that roads constructed within the Subdivision shall be privately and perpetually owned and maintained by the Company and/or a community association of residents within the Subdivision.

e) Certain Uses Prohibited. Company hereby declares a restriction against the use of any of the property within the Subdivision, either directly or indirectly, for loading and/or unloading of cargo vessels, transshipment or transloading of cargo, switching of railroad cars, warehousing of materials awaiting transportation, bulk liquid storage, port facilities maintenance, industrial development, or other similar uses in connection with a commercial port development.

ARTICLE ___

TERM; MISCELLANEOUS

The covenants and restrictions set forth in Article ___ shall be binding upon the site for a term of thirty (30) years after the Deed hereof and shall run with the title to the site; provided, however, that the same are for the sole benefit of the Company, the Association and GICIA, and their respective successors and assigns. Nothing herein contained shall be deemed to create any rights in the general public. This declaration shall be construed under and pursuant to the laws of the State of Florida.

CSX RESOURCES, INC.

By: _____
R. C. McGowan, President

And by: _____
P. W. Kyle, Assistant Secretary

BOCA BAY RESORT COMMUNITY ASSOCIATION

By: _____
President

Any by: _____
Secretary

COMMONWEALTH OF VIRGINIA)
) SS:
CITY OF RICHMOND)

BEFORE ME, a Notary Public in and for said City and State, personally appeared the above-named CSX RESOURCES, INC.,

by R. C. McGowa[illegible] its President, and P. W[illegible]le, its Assistant Secretary, who ac[illegible]owledged that they did s[illegible]gn the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of them personally and as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Richmond, Virginia, this _____ day of _____, 1984.

_____
Notary Public

My Commission Expires: _____.

COMMONWEALTH OF VIRGINIA)
) SS:
CITY OF RICHMOND)

BEFORE ME, a Notary Public in and for said City and State, personally appeared the above-named BOCA BAY RESORT COMMUNITY ASSOCIATION, by _____, its President, and _____, its Secretary, who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of them personally and as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Richmond, Virginia, this _____ day of _____, 1983.

_____
Notary Public

My Commission Expires: _____.

ZONING AND DEVELOPMENT REVIEW DIVISION

SUMMARY REPORT

TYPE OF CASE: ZONING

CASE NUMBER: 83-11-9(a) DCI

REPORT DATE: January 7, 1987

I. APPLICATION SUMMARY:

A. Applicant: Boca Bay/CSX Resources, Inc. (Neighborhoods #5 through #10 and Tennis Club)

B. Request(s): In the preliminary P.U.D. and PORT districts, the following requests are being made as part of the final plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club, pursuant to Resolution ZAB-83-352. This portion of Boca Bay will include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests are as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42 and 86-31), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

(2227Z)

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

C. Location: Subject property is located on Gasparilla Island from Gulf Boulevard on the west to Charlotte Harbor on the east. The property encompasses the former phosphate port and also the shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, in Sections 23 and 26, Township 43 South, Range 20 East (District #1)

D. Property Description:

1. Dimensions: Irregularly shaped parcels; maximum dimensions are 8,000 feet north and south, and 1,750 feet east and west

2. Acreage: 96.51 acres ±

E. Stated Reasons for Request/Proposed Use: CSX Resources is seeking final plan approval of this portion of the Boca Bay residential community. This 10-phase development has an estimated completion date of 1996. A total of 291 dwelling units are proposed on the parcels in this request.

II. BACKGROUND INFORMATION:

A. Existing Conditions: The various parcels are mostly vacant and undeveloped. The historic powerhouse remains in the PORT Area, but will be razed under the current development plan.

B. Zoning History: A change in zoning (including part of this property) from AG, CM-2, IL, RM-2, and RM-1 to PORT was approved in case #81-5-58 DCI (see Attachment C, Resolution Z-81-258). In case #83-9-11 DCI, the Board granted zoning changes from AG to Preliminary PUD, and a special exception in the PORT District for residential uses (see Attachment D, Resolution ZAB-83-352).

C. Land Use Map Designation: Urban Community (limited to 3 units per acre) and Resource Protection Area

D. Infrastructure:

Sewer: Gasparilla Island Water Association

Water: Gasparilla Island Water Association

Fire District: Boca Grande Fire District

Road Access: Gulf Boulevard, a 100-foot-wide county-maintained local roadway

E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches during February through July. Natural vegetation consists of cabbage palm, seagrape, wild coffee, and an understory of vines and weeds. This soil has severe limitations for septic tank absorption fields, dwellings without basements, small commercial buildings, sewage lagoon areas, shallow excavations, and recreational uses. Excessive permeability can cause pollution of ground water in areas of septic tank absorption fields.

5-Captiva fine sand. This is a nearly level, poorly drained soil in sloughs. In most years, under natural conditions, this soil has a water table within a depth of 10 inches for 1 to 2 months. The water table is at a depth of 10 to 40 inches for 10 months during most years. Natural vegetation consists of cabbage palms, sand cordgrass, leatherleaf fern, and waxmyrtle.

23-Wulfert muck. This is a nearly level, very poorly drained soil on broad tidal swamps. The water table fluctuates with the tide. Areas are subject to tidal flooding. Natural vegetation consists of red mangrove, black mangrove, and needlegrass. Saltwater marshes are on level sites where saltwater and brackish water have a significant effect on plant composition. When in good or excellent condition, the saltwater marsh is dominated by smooth cordgrass, marshhay cordgrass, seashore saltgrass, and numerous other grasses and forbs. This soil has severe limitations for urban development and recreational uses. It is not suitable for cultivated crops, pasture grasses, citrus, or woodland. The flood hazard and high salt and sulfur content are limitations to these uses. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

24-Kesson fine sand. This is a nearly level, very poorly drained soil in broad tidal swamps. Areas are subject to tidal flooding. The water table fluctuates with the tide. Natural vegetation consists of black mangrove, batis, oxeye daisy, and red mangrove. This soil has severe limitations for urban development, and it is poorly suited for cultivated crops, pasture grasses, citrus, and woodland because of the flood hazard and high salt and sulfur content. This soil type indicates saltwater wetlands and is classified as a Resource Protection Area when its hydrologic and vegetation characteristics are in their natural state (Lee Plan Policy IX.D.5 and Appendix IX-I).

48-St. Augustine sand. This is a nearly level, somewhat poorly drained soil that was formed by earthmoving operations. Most areas are former sloughs and depressions or other low areas that have been filled with sandy material. Included with this soil in mapping are areas where the fill material is underlain by organic soils and other areas where the fill material is less than 20 inches thick. Also included are areas that contain lenses or pockets of organic material throughout the fill. In addition, there are small scattered areas where the fill material is more than 35 percent shells or shell fragments. The depth to the water table varies with the amount of fill material and the extent of artificial drainage. However, in most years, the water table is 24 to 36 inches below the surface of the fill material for 2 to 4 months. It is below a depth of 60 inches during extended dry periods. Most of the natural vegetation has been removed. The soil is poorly suited to most plants unless topsoil is spread over the surface to make a suitable root zone. This soil has severe limitations for most urban and recreational uses. The sandy nature of the fill material, the high water table, and rapid permeability can cause pollution of ground water in areas with septic tank absorption fields.

F. Adjacent Zoning and Land Use:

North: AG-2, vacant parcel owned by Lee County

East: Charlotte Harbor

South: PORT, office building, storage tanks, and docks; and CM-1, boat storage warehouse; and TFC-1, single-family residences, a duplex, and several vacant lots

West: AG-2, Gulf Boulevard, the Gasparilla Island State Recreation Area, county-owned property, and the Laff-a-Lott restaurant and bar

G. Additional Requirements for Development if Request is Approved: Compliance with all applicable development regulations of Lee County including Ordinance No. 77-5, and the Gasparilla Island Conservation District Act.

III. RECOMMENDATIONS:

A. Staff Recommendation: APPROVE final plans in accordance with Resolution ZAB-83-352, including 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs; APPROVE (with conditions where noted) requests c), g), h), j), k), l), n), p), r), and s); DENY requests a), b), d), and m); and ADOPT the following sheets revised through January 7, 1987, from Johnson Engineering as the final plans: Sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48.

B. Rationale for Staff Recommendation: County review of the Boca Bay project has been complex for numerous reasons including the following:

•Due to the project's location, there are additional regulations in force, including Lee County Ordinance No. 77-5 concerning Gasparilla Island, the Gasparilla Island Conservation District Act (Special Acts 80-473), and the Charlotte Harbor Management Plan; and several other authorities are involved, including the Gasparilla Island Water Association and the Department of Natural Resources.

•In addition, the project is subject to the Lee Plan, which was adopted after this portion of Boca Bay received its preliminary zoning approval in June of 1984; but the project is not being reviewed under either the new Zoning Ordinance or the new Development Standards Ordinance, at the applicant's request. (This option was available to the applicant because both this zoning application and a development order application were filed in June of 1986, prior to the effective date of the new ordinances.)

•Also, additional portions of Boca Bay that were not part of the zoning approval granted in case #83-11-9 DCI are the subject of numerous requests that would normally be heard by the Board of Zoning Adjustments (cases #86-10-8 and #86-10-9), but which will also be heard by the Board of County Commissioners at the applicant's request (an option that is available because those requests were submitted simultaneously with case #83-11-9(a) DCI). Those two cases involve properties not part of this request, and also not contiguous to each other (being separated by Gulf Boulevard); therefore they were required to be filed as separate applications.

•Part of the property is in the PORT zoning district, with an approved special exception for residential uses. As the PORT district does not contain property development regulations for residential uses, the special exception contained Condition 7 requiring final plan review in accordance with P.U.D. procedures.

•Site plan modifications have been on-going, in many cases reflection the withdrawal of previous requests. (See Attachments I, J, and K which summarize changes.)

In addition to these procedural complexities, the preliminary zoning approval was the result of numerous compromises and was very general as to the actual internal layout of the development. Several important conditions are worded as follows:

CONDITION 2 The wetland area immediately south of the rip-rap and also the non-jurisdictional wetlands described in consent order case #81-0372 shall be preserved in their entirety.

CONDITION 7 A final site plan for the PORT district will be prepared and submitted for review using the procedures adopted for review of Final P.U.D. plans and subject to the development standards established for the RM-5 Zoning District in Lee County Ordinance 82-47.

CONDITION 8 The applicant shall be limited to an overall average density of 3 units/acre on 97 acres, for a maximum total of 291 units. Such density shall be subject to all of the conditions attached to the Special Exception and Preliminary P.U.D. plan approval as well as being subject to the following limitations:

(a) Area D not to exceed 162 units,
(b) Area E not to exceed 13 units, and
(c) Area F not to exceed 202 units.

Distribution of 291 unit maximum in accordance with all of the conditions of this preliminary P.U.D. plan approval shall be the responsibility of CSX, and Lee County shall not be responsible if the actual distribution results in fewer than 291 units.

CONDITION 10 Final site plans must be in conformance with all development regulations in effect at the time of review and must be submitted for Final P.U.D. review concurrently with an application for a preliminary development order.

CONDITION 13 The single-family development in parcels D & E shall be in the form of a P.U.D. with details to be worked out between the applicant and Staff; in the event of no agreement, then the RS-1 standards will apply.

Conditions 8 and 13 are particularly problematic. The numbers of allowable units were suggested by the applicant, whose representative also presented numerous photographs of another CSX project which utilized detached dwellings in cluster configurations. Although the staff had recommended a considerably lower density, the applicant persuaded the Board that the type of units proposed could fit on the property at an overall density of 3 units per acre. The Board accepted the applicant's proposed number of units, but added these important caveats:

- "Such density shall be subject to all of the conditions attached to the Special Exception and Preliminary P.U.D. plan approval... Distribution of the 291 unit maximum in accordance with all of the conditions of this preliminary P.U.D. plan approval shall be the responsibility of CSX, and Lee County shall not be responsible if the actual distribution results in fewer than 291 units." (from Condition 8)

- "The single-family development in parcels D & E [the P.U.D. portion] shall be in the form of a P.U.D. with details to be worked out between the applicant and staff; in the event of no agreement, then the RS-1 standards will apply." (Condition 13)

The final plans, which are the subject of this hearing, place 89 units in Area D, and 202 units in Areas E and F, for the maximum total of 291 units overall. Therefore, the problems emerge only when attempting to reconcile the unit totals with the specific caveats mentioned above (which were adopted simultaneously), and with Lee Plan Policy IX.G.7., which was under discussion by the Board at the same time (and which was already in the previous Comprehensive Plan in nearly identical form):

> Policy IX.G.7 Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

The unit totals in the preliminary approval were calculated at 3 units per acre for Area D (now known as Neighborhoods #5, #6, and #7) and 5 units per acre for Areas E and F (now known as Neighborhoods #8, #9 and #10), but with an overall cap of 3 units per acre for the combined parcels. The revised final plans show a density of 1.65 units per acre in Area D and a density of 4.64 units per acre in Areas E and F, with a overall total at 2.98 units per acre. This general plan to place the higher density areas on the PORT property is fully appropriate because that property is basically devoid of environmentally sensitive lands or mature vegetation, while the P.U.D. property is exceptionally difficult to develop due to its wetlands, its mile-long frontage on both Charlotte Harbor and the Gasparilla Island State Recreation Area, and its long narrow configuration which requires an abnormal percentage of land to be used for roadway purposes. The apparent crowding in the PORT property results from a large stormwater detention lake which is now planned there. The original proposal did not include any new detention areas; the application stated that "(t)he percolation rate in this area is very fast, therefore direct outflow will be minimal (if any). Existing lake areas, drainage and borrow ditches will be utilized for retention purposes." Later, an alternate drainage plan was also submitted which anticipated a detention lake.

The proposed lake, a space-consuming land use, has been placed towards the center of the PORT parcel, with higher-density multi-family units then stacked up along the perimeter of the property. Lee County has approved many P.U.D.'s containing both lower and higher density uses, but the perimeter areas have always been required to be consistent with surrounding land uses. Of course, no simple density calculations can be made in this case as the surrounding area is either the Gasparilla Island State Recreation Area, the Gulf of Mexico, or Charlotte Harbor (a state aquatic preserve), but the concept remains of insuring that development proposals do not create excessive off-site impacts, whether the impacts be visual, traffic, utilities, etc.

GENERAL CONDITIONS ON THE P.U.D.: The Board of County Commissioners will ultimately have to resolve the question as to their legislative intent in adopting preliminary approval in this case. The staff recommendations on each individual request are discussed at the end of this section; as to the overall final plans, staff recommends that the following underlined conditions be imposed on approval of the final plans:

(1) In order to compare the preliminary and final P.U.D. plans for the PORT parcel, reduced copies of both have been prepared and included as Attachments N and O. As is typical for preliminary plans, the greatest detail was provided for the perimeter of the parcel. The major discrepancy is in the northwest corner of he PORT parcel, where the final plans include about 14 units which would be located near the state-owned property on both sides of Gulf Boulevard. Although the applicant intends to design and landscape the units in such a way as to reduce their apparent bulk and visual impact on the state park across Gulf Boulevard, such designs have not yet been prepared, although the applicant may present a proposal directly to the Board on January 12th. At this time, staff recommends the following condition: Prior to the issuance of a development order, 10 units must be removed from the northwest corner of the PORT parcel, and may be relocated in the easterly portion of Neighborhood #10.

(2) The preliminary P.U.D. plan included an alternate community dock projecting from what now is Neighborhood #6. The applicant now proposes to supplement this dock with individual docks for 23 lots in Neighborhood #6. There are two problems with this proposal:

- This extremely exposed location on Charlotte Harbor is entirely unsuitable for mooring boats. The applicant has recognized this fact in the project design by providing two large community docks where family members can board their boats after they are removed from the dry storage facility located just to the south.

- In addition to being an unsuitable location for mooring boats, the immediate area has been historically and heavily used for commercial bait-fishiing for the tarpon fishery due to its unusual depth and the habitat provided by the existing riprap.

For these reasons, staff recommends the following condition: The individual docks shown on the final P.U.D. plans will not be permitted.

The following conditions from the preliminary P.U.D. Resolution (Conditions 4, part of 5 and 9, 11, and 12, respectively, and slightly modified as necessary) should also be applied to this final P.U.D. approval:

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

INDIVIDUAL REQUESTS: The following comments relate to the individual requests made by the applicant. These requests include zoning deviations, DSR variances, and P.U.D. modifications, and include proposed conditions (underlined) where necessary:

Requests a) and b) would allow the construction of a shell road through a previously disturbed wetland area to provide a second access point to the Main Loop Road for 20 dwellings in the northernmost portion of the P.U.D. parcel (in Neighborhood #5). A part of this road had been shown on the proposed preliminary P.U.D. plan, but was disapproved by Condition 2 of Resolution ZAB-83-352 which stated in part, "the non-jurisdictional wetlands described in consent order Case #81-0372 shall be preserved in their entirety."

This consent order (see Attachment E) between the Florida Department of Environmental Regulation (DER) and Stephen Shulman (prior property owner) was discussed in considerable detail at the preliminary P.U.D. hearings because CSX Resources, Inc. had purchased this property and planned to integrate it into Boca Bay. Staff had argued that, although the DER had agreed to classify a portion of the wetlands as "non-jurisdictional" as a compromise offer to persuade the landowner to restore part of the damaged wetlands, the area in question still was protected by Lee County's wetland regulations, and would regenerate into a viable wetland system if not further disturbed. Staff recommends that both of these requests again be DENIED for the same reasons as the original denial, which is further supported by the fact that this wetland area has been regenerating through natural processes. Further disturbing this "Resource Protection Area" would be directly contrary to the Lee Plan.

The applicant still wishes to pursue requests a) and b), but has submitted revisions to sheets 7 and 8 of 48 which eliminates the road through this wetland. Sheets 7A and 8A of 48 contains the applicant's original proposal, which would be "more acceptable," according to the applicant, "from a planning point of view and other design criteria."

Request c) would modify Condition 7 of Resolution ZAB-83-352 concerning applicable development standards in the PORT district. As the original intention of allowing residential uses in the PORT district was to provide for the possible construction of employee housing, residential development standards had not been provided. As the preliminary Boca Bay plans were very conceptual, Condition 7 was suggested by the applicant and ultimately adopted, to utilize RM-5 property development regulations. However, Condition 7 also provided that a final site plan for the PORT District would be prepared and submitted for review using the procedures adopted for review of Final P.U.D. plans. As this procedure provides all the safeguards of the P.U.D. process as to deviations from property development regulations, it seems appropriate to modify Condition 7 slightly to provide the flexibility granted to P.U.D.s along with the required additional level of review. Staff

supports this concept, although certain of the specific deviations requested under this process are not appropriate (they will be discussed separately below). Staff recommends that request c) be APPROVED.

Request d) would modify Condition 12 of Resolution ZAB-83-352 which established the time frame in which the developer would have to reach a formal agreement with the Gasparilla Island Water Association (GIWA) to provide potable water and sanitary sewer service, including financial arrangements to cover both capital and operating costs. This condition was necessary because the non-profit GIWA would have to commit to major expansions to serve Boca Bay, whereas county policy is to require new development to pay for such additional costs when they are incurred by the service providers. This policy was clearly reflected in Condition 12.

This issue is complicated by the fact that CSX Resources, Inc. is considering selling much of this property to the State of Florida under the Conservation and Recreational Lands (CARL) program (see Attachment F for a recent Board of County Commissioner's resolution regarding such a saleand Attachment M for the latest information). CSX has offered GIWA a compromise as detailed in their July 18, 1986, letter to Porter Goss (see Attachment G); but this compromise was rejected by GIWA (see Attachment H for a letter and resolution requesting Lee County not to change Condition 12 of Resolution ZAB-83-352). Although the issues and equities are not totally obvious, development-induced risks should be borne by developers and not by non-profit utility companies; staff therefore recommends that the requested modification to Condition 12 be DENIED.

Requests e) and f) have been withdrawn by the applicant and no action by the Board is required.

Request g) would modify the unified control requirements to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents. Attachment L is a draft Covenant of Unified Control prepared by the applicant which contains restrictions similar to the unified control requirements in the new RPD zoning district. Staff recommends APPROVAL of the deviation, subject to the following condition:

> 8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

Request h) has been made to provide assurance to the developer that the required perimeter setback for the P.U.D. district would not be applied to the internal lines on the preliminary P.U.D. plan which separated the land on that plan into Areas D, E, and F. Such assurance can be provided here, as no such interpretation has been intended or would be logical. Staff recommends that request h) be APPROVED.

Request i) has been withdrawn by the applicant and no action by the Board is required.

Request j) is to clarify conflicting notations on the preliminary P.U.D. plan. A chart on the plan specified that the P.U.D. area would be restricted to "single family detached" units. Note 1. at the bottom of the plan states:

> 1. Typical unit layouts are conceptual only and subject to careful design and location change to maximize preservation of open space and utilization of property. Building setbacks vary between (0-5) feet and (60) feet between units (PUD portion) and a minimum of 20 feet from exterior boundary.

The developer had wished to interpret the "(0-5) feet" in Note 1. as overriding the "detached" notation shown on the chart, thus allowing the construction of 32 units in 2-unit buildings in Neighborhood #6. The plans have since been revised to place 23 detached units at this location, with a minimum spacing of 15 feet between units. Staff recommends APPROVAL of this building spacing as shown on the final P.U.D. plans as consistent with both the chart and the note.

There are, however, remaining problems with the Neighborhood #6 site plan if the applicant desires to sell the lots in fee-simple ownership:

- The existing ditch along the rail grade, which serves as an integral part of the development's water management system, constitutes the entire front yard of each lot. The plans have been modified to show the centerline of the ditch; a drainage easement will still be required.

- The lots are to be accessed by a common driveway to the west of the units. No easement is indicated for this driveway; this will be required if lots are to be sold.

Request k) had been made to reduce the required lot width for single-family homes of 75 feet, to 30 feet in Neighborhood #6. Neighborhood #6 has been redesigned to contain 23 detached units rather than the original 32 duplex units. Each detached unit would now be on a separate lot with typical widths of 63 feet, except for lots 14 and 15 which are 85 feet wide to accommodate increased setbacks for a central access driveway which crosses these two lots. Staff recommends ~~PARTIAL APPROVAL~~ of this deviation as shown on the final P.U.D. plans.

Request l) is to reduce the required lot width of 75 feet and lot area of 7,500 square feet, to 40 feet of width and 5,000 square feet of area, to accommodate 36 smaller-than-normal single-family subdivision lots that had been planned for in Neighborhood #10, which is located around a lake in the PORT area. These single-family lots have been deleted from the most recent plans, but this request has not been withdrawn in order to allow the applicant the ability to go back to the original plan if market conditions warrant. Staff recommends ~~APPROVAL~~ of this deviation subject to the following conditions, but notes that some of the homes on these lots would have to be small and/or custom designed to meet setback requirements:

> (9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

Request m) would allow the wall around the project to be placed directly up to the right-of-way line of Gulf Boulevard. The existing right-of-way is 100 feet wide to the north of this parcel, but no formal right-of-way exists along this parcel. The existing pavement is off-center, with its nearest point approximately 40 feet from the edge of this property. A major purpose of the required 5-foot setback is to allow maintenance of the wall and vegetative planting on the public's side of the wall. The developer intends to seek approval of the Department of Transportation and Engineering to use the public right-of-way for landscaping purposes. Staff had previously supported this deviation request if such permission were obtained; however, the bike path along Gulf Boulevard is located within 5 feet of the existing property line at this point. Therefore, inadequate room would be available for landscaping on the roadway, unless both the bike path and road bed were moved; staff now recommends DENIAL of request m).

Request n) has been made to provide assurance to the developer that the required parking area setbacks would not be applied to the internal lines on the preliminary P.U.D. plans, which separated the land on that plan into Areas D, E, and F. Such assurance can be provided here, as no such interpretation has been intended or would be logical. Staff recommends that request n) be APPROVED.

Request o) has been withdrawn by the applicant and no action by the Board is required.

Request p) would reduce the required 150-foot excavation setback from a street right-of-way to 15 feet of the rights-of-way of internal roads. The Zoning and Development Review Division has for several years interpreted Section 500.3.C to require the 150-foot excavation setback to apply to existing street rights-of-way, and not to local streets being constructed to county standards simultaneously with the excavation of the lake. Therefore, although this deviation is not needed, its denial would confuse rather than clarify county standards. Therefore, staff recommends APPROVAL of the request with the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

Request q) has been withdrawn by the applicant and no action by the Board is required.

Request r) would vary the requirement that local roads such as those in this development must have a wearing surface of one-inch asphalt, to allow a shell road for Neighborhoods #5, #6, and #7. Certain local roads in these areas serve as extended driveways for a cluster of residential units. Staff recommends DENIAL of this request. However, Community Development staff does not object to the use of a shell-surfaced road provided that all road maintenance is private, that an excessive number of units not utilize these shell roads, and that pavement be provided for the driveway aprons where turning movements tend to destroy shell surfaces. Such APPROVAL of this request should be subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction specification for the shell driveways are subject to the approval of the County Engineer.

Request s) would vary the requirement that the minimum elevation of local subdivision streets must be 5.5 feet above mean sea level, to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7. The applicant proposes to minimize the use of fill material in this portion of the project bordering Charlotte Harbor. D.O.T. staff recommends DENIAL of this request; however, Community Development staff recommends APPROVAL of this request given the preliminary P.U.D. conditions which require the maintenance of the existing vegetation.

C. D.C.I. (Administrative Review Staff) Recommendation:

1. Department of Transportation and Engineering: The following variances should not be granted:

   q) Minimum cul-de-sac radius. This requirement is established to allow adequate turning room for trucks and emergency vehicles.

   r) Asphaltic concrete wearing surface. This requirement was established to reduce maintenance, dust complaints, and requests for the County to bring streets up to standards. (example: Suncoast Estates).

   s) Minimum street deviation of 5.5 feet above sea level. This requirement minimizes street flooding and allows the street to be usable longer for evacation purposes.

2. Department of Community Services: In general, we find the Final P.U.D. request satisfactory as to private neighborhood park requirements, and somewhat more definitive than the preliminary request. The applicant has provided sufficient area to comply with the provisions of county ordinances and policies. We do however request that the applicant clearly label specific recreational amenities, and where applicable state the number of amenities to be provided (e.g., tennis/shuffleboard courts) in order to avoid future misinterpretation.

3. Division of Lee County Utilities: Written comments not received as of January 7, 1987

4. Department of Public Safety:

   HURRICANE VULNERABILITY

   Please note that an extensive review of hurricane evacuation concerns were addressed by the Lee County Disaster Preparedness Agency when the applicant applied for a rezoning; the report is contained in the official zoning file.

   RECOMMENDATIONS

   The following recommendations are provided in order to mitigate future hurricane disaster potential and to insure comprehensive plan compliance:

Hurricane Mitigation

The applicant shall establish and maintain a homeowners' or residents' association to provide a program of education and information to the residential population describing the risks of environmental hazards, as well as the actions necessary to mitigate the dangers which these hazards present. (Reference Goals III.A.1., VII.AA. and VII.BB., Objectives VII.AA. and VII.BB., Policies III.C.7., VII.AA.1., VII.AA.6. and VIII.AA.8., Lee County Comprehensive Plan - 1984). The applicant, in complying with the above statement, should coordinate with the offices of Disaster Preparedness for the counties of Charlotte and Lee.

Department Recommendation

The Department of Public Safety has no objection to the proposed request.

5. Division of Code Enforcement: The shape of the development parcels and various environmental features do not allow for proper interconnection of water mains. It is requested that the water main on the main loop road be increased in size to 10".

D. Public Input: There are four letters of opposition on file as of January 7, 1987, in addition to considerable public testimony given at the October 6, 1986 Planning and Zoning Commission hearing. The Gasparilla Island Conservation and Improvement Association presented a statement at the December 4th Planning and Zoning Commission hearing, recommending denial of many of the requests.

E. Planning & Zoning Commission Recommendation: (October 6, 1986) A motion was offerred by Brenda Fernandez for a 60-day CONTINUANCE on all three cases (83-11-9(a), 86-10-8, 86-10-9). Leonard Howell seconded the motion. The motion was called and carried 4 to 2. Gateley Daniel and Carron Day dissented. Ruth Kaune-Baucom was absent.

(December 4, 1986) Leonard Howell moved to find the requests CONSISTENT with the Lee Plan in the preliminary P.U.D. and PORT districts as part of the final plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club, pursuant to Resolution ZAB-83-352. Ruth Kaune-Baucom seconded the motion. The motion carried 4 to 1. Truman Morris dissented; Gateley Daniel and Carron Day were absent.

Leonard Howell moved to recommend APPROVAL in the preliminary P.U.D. and PORT districts of the following requests as part of the final plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club, pursuant to Resolution ZAB-83-352. This motion is subject to the previous votes taken by this Commission regarding a) thru s), recognizing that p) and r) have staff conditions.

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland - RECOMMENDED DENIAL;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area" - RECOMMENDED DENIAL;

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below) - RECOMMENDED APPROVAL;

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase" - RECOMMENDED DENIAL;

e) Deviation from the required 40-foot side setback in Neighborhood #9, to 20 feet - WITHDRAWN;

f) Deviation from the required 40-foot side setback for the Tennis Club, to 25 feet - WITHDRAWN;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents - RECOMMENDED APPROVAL, subject to acceptance of the final document;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan - RECOMMENDED APPROVAL;

i) Deviation from that required lake bank slope of 6:1 (500.4), to 4:1 to a depth of 2 feet below control elevation, then a 2:1 slope thereafter - WITHDRAWN;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures - RECOMMENDED APPROVAL of 15-foot building spacing in Neighborhood #6;

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in neighborhood #6 - RECOMMENDED DENIAL, but to recommend authorization of a 15-foot smaller lot (Lots 14 and 15) on each side of the drive that goes through for access to the main road, servicing all of the units;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10 - RECOMMENDED APPROVAL;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard - RECOMMENDED DENIAL;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control - RECOMMENDED APPROVAL;

o) Deviation from the required 50-foot excavation setback from a private property line (500.4.D), to 10 feet - WITHDRAWN;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet - RECOMMENDED APPROVAL, subject to the following condition:

Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

q) Variance from the requirements for cul-de-sacs of a 130-foot diameter right-of-way, and 90-foot outside diameter and 45-foot inside diameter of paving (DSR C.3.b.1), to a 100-foot diameter right-of-way, and 76-foot outside diameter and 32-foot inside diameter of paving -- WITHDRAWN;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7 - RECOMMENDED APPROVAL subject to the following condition:

The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprovs of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

AND

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7 - RECOMMENDED APPROVAL given the preliminary P.U.D. conditions which require the maintenance of existing vegetation.

The following changes must be made to the final P.U.D. plans:

(1) Redesign of Neighborhoods #9 and #10 to place the higher density areas towards the interior of the property;

(2) Reexamine unit layout particularly in Neighborhoods #5, #6, and #7 to maintain additional open space between the units;

(3) Revise the plans to accommodate the realignment of Gulf Boulevard; and

(4) Eliminate the individual T-docks in Neighborhood #6. These docks are in a location that is too exposed for the dockage of private boats, but due to its depth and the existing rip-rap, this area has been historically used for commercial bait-fishing for the important recreational tarpon fishery.

Brenda Fernandez Bayly seconded the motion. The motion was called and carried 4 to 1. Truman Morris dissented; Gateley Daniel and Carron Day were absent.

Case Number: 83-11-9(a) DCI
Report Date: January 7, 1987

IV. ATTACHMENTS:

A. Map of surrounding zoning

B. Land use map designation for surrounding area

C. Copy of Resolution Z-81-258

D. Copy of Resolution ZAB-83-352

E. D.E.R. Consent Order

F. Resolution 86-4-1 (supporting CARL acquisitions in Lee County)

G. Letter from CSX Resources, dated July 18, 1986

H. Letter and resolution from the Gasparilla Island Water Association, dated July 28, 1986

I. Letter from Johnson Engineering, dated November 11, 1986

J Letter from Johnson Engineering, dated November 21, 1986

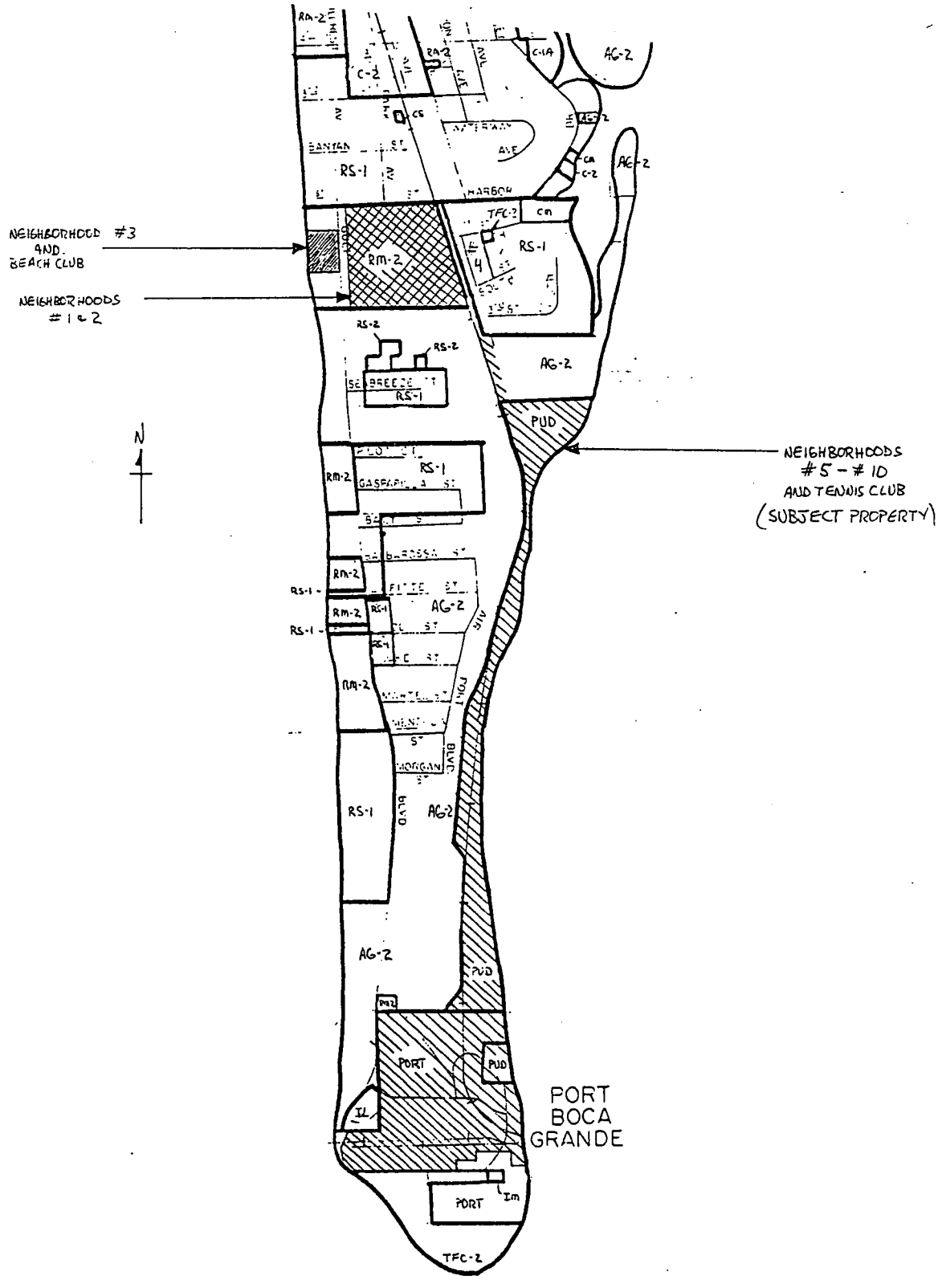
K. Letter from Johnson Engineering, dated December 31, 1986, and January 7, 1987

L. Draft Covenant of Unified Control

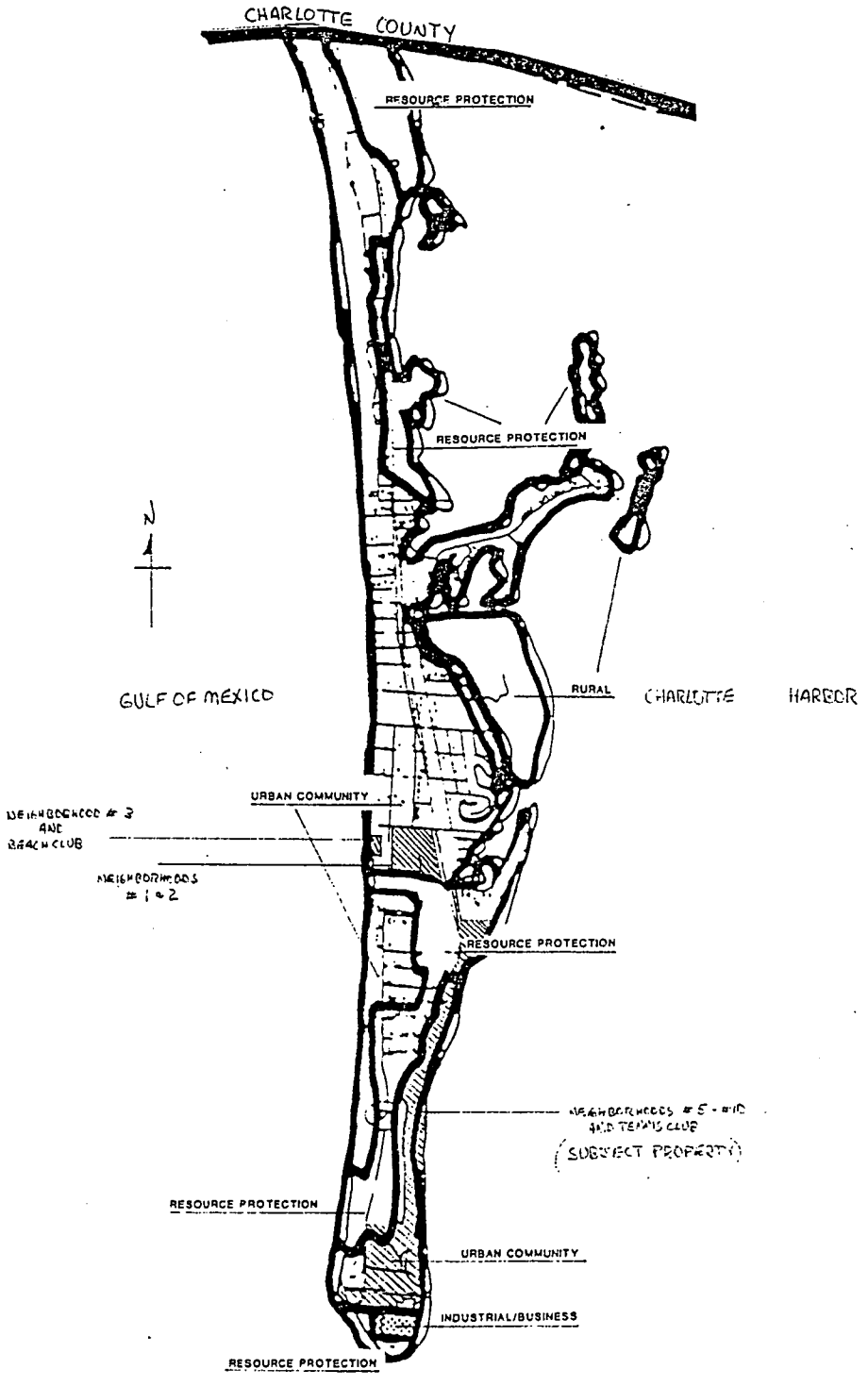
M. Letter from the Department of Natural Resources, dated December 8, 1986

N. Preliminary P.U.D. plan for the PORT parcel

O. Proposed final P.U.D. plan for the PORT parcel


NEIGHBORHOOD #3 AND BEACH CLUB
NEIGHBORHOODS #1 & 2
NEIGHBORHOODS #5 - #10 AND TENNIS CLUB (SUBJECT PROPERTY)
N
RM-2
C-2
C-1A
AG-2
RS-1
CS
CN
TFC-2
PUD
PORT
BOCA GRANDE BLVD
GASPARILLA
HARBOR
BANYAN
BREEZE
MORGAN
PORT BOCA GRANDE

A 83-11-9(A) DCI


CHARLOTTE COUNTY
RESOURCE PROTECTION
RESOURCE PROTECTION
N
GULF OF MEXICO
RURAL
CHARLOTTE HARBOR
URBAN COMMUNITY
NEIGHBORHOOD # 3 AND BEACH CLUB
NEIGHBORHOODS # 1 & 2
RESOURCE PROTECTION
NEIGHBORHOODS # 5 - #10 AND TENNIS CLUB
(SUBJECT PROPERTY)
RESOURCE PROTECTION
URBAN COMMUNITY
INDUSTRIAL/BUSINESS
RESOURCE PROTECTION
BOCA GRANDE PASS

B

83-11-9 (A) DCI

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258567

WHEREAS, an application has been properly filed by CSX Realty, Inc. (formerly known as CSX Resources, Inc.) in the preliminary P.U.D. and PORT districts for the following requests, which were made part of the final P.U.D. plan review process for Boca Bay's Neighborhoods #5 through #10 and Tennis Club (pursuant to Resolution ZAB-83-352). This portion of Boca Bay would include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs. The specific requests were as follows:

a) Modification of Condition 2 in Resolution ZAB-83-352, to allow improvement of a road bed within D.E.R. non-jurisdictional wetland;

b) Variance from the Wetlands Protection Ordinance (No. 85-42, Section 5.02), to allow construction of this road bed within a "Resource Protection Area";

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

d) Modification of Condition 12 in Resolution ZAB-83-352, to change the timing of the utility agreement from "prior to final plan approval" to "prior to issuance of the final development order on each phase";

e) Withdrawn by applicant;

f) Withdrawn by applicant;

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties other than ultimate project residents;

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

i) Withdrawn by applicant;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures;

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6;

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10;

m) Deviation from the required 5-foot setback for a wall from any street right-of-way (500.15.B), to 0 feet along Gulf Boulevard;

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

o) Withdrawn by applicant;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet;

q) Withdrawn by applicant;

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7; and

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

WHEREAS, the subject property is located on Gasparilla Island, from Gulf Boulevard on the west to Charlotte Harbor on the east; the property encompasses the former port and also a shoreline parcel along the former railroad grade. These irregularly shaped parcels are located south of Boca Grande, and are described more particularly as follows:

LEGAL DESCRIPTION: In Section 23 and 26, Township 43 South, Range 20 East, Lee County, Florida:

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:
From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning.
From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.49 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.48 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the

right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43" 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 374.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 200.72 feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are:

23-43-20-00-00008.0030;

23-43-20-00-00008.0040;

23-43-20-00-00101.0000;

26-43-20-00-00001.0050;

26-43-20-00-00001.0040;

26-43-20-00-00001.0060;

26-43-20-00-00001.001A;

26-43-20-00-00001.0010; and

WHEREAS, proper authorization has been given to Humphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunck, General Counsel for CSX Resources, Inc., and Mark S. Hoffmann, Associate Counsel for CSX Resources, Inc., by R. C. McGowan, President of CSX Resources, Inc., the fee simple owner and also agent for Seaboard System

Railroad, Inc., another owner of portions of the subject parcels, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended partial approval with conditions, based on the recommendations of staff in their report dated November 21, 1986, and on the testimony and evidence presented; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

> CSX Resources had applied for final plan approval of that portion of their Boca Bay development that was approved in Resolution ZAB-83-352. That resolution granted preliminary P.U.D. approval and also granted a special exception in the PORT zoning district for residential uses. Under the terms of that resolution, both the P.U.D. and the PORT property were required to get final plan approval using the normal final P.U.D. process. (Other portions of Boca Bay were the subject of simultaneous but separate zoning requests in cases 86-10-8 and 86-10-9.) A complete discussion of the zoning requests can be found in the staff summary reports dated January 7, 1987, on file with the Lee County Department of Community Development. CSX clarified that the legal documents for Neighborhood #6 will provide for use of the driveway for ingress and egress for the units in Neighborhood #6 and that the front setback for the individual units shall be measured from the property line and not from the driveway. Specific requests e), f), i), o), and q) were withdrawn by CSX prior to final action by the Board of County Commissioners, and therefore no action by the Board was required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby DENY requests a), b), d), and m), and does hereby APPROVE the following requests in the Planned Unit Development (P.U.D.) and PORT districts for Boca Bay's Neighborhoods #5 through #10, and does hereby APPROVE final plans in accordance with Resolution ZAB-83-352, for a project to include 291 residential units, a tennis club in the southwest corner of the property with food and beverage service

and consumption-on-premises of alcoholic beverages, 5 model homes in each neighborhood, a sales office, a guardhouse with entrance gates, and appurtenant signs, subject to the following general conditions, and to the additional specific conditions noted under the individual approved requests:

(1) [Proposed condition not adopted.]

(2) [Proposed condition not adopted.]

(3) No new or replacement vertical bulkheading, either above or below mean high water, will be permitted in this development.

(4) South of the existing riprap, CSX shall establish and insure survival of a native vegetative community similar in species diversity and density to the area north of the existing riprap, to extend at least the first 25 feet from mean high water. Throughout the development, all existing ground contours and all native vegetation waterward of 25 feet above mean high water shall remain undisturbed by CSX and remain undisturbed in the future through deed restrictions or other legal mechanisms.

(5) Prior to the issuance of any development order, the applicant shall execute and record a Declaration of Covenants and Restrictions substantially the same as the draft submitted on January 6, 1987.

(6) If any archaeological sites are identified during the construction of the project, development activities in the impacted areas will cease in order to allow a survey to be completed.

(7) Prior to the issuance of any development order, the applicant shall have a formalized agreement with the Gasparilla Island Water Association to provide potable water and sanitary sewer, including financial arrangements to cover both capital and operating costs.

c) Modification of Condition 7 in Resolution ZAB-83-352 requiring RM-5 development standards in the PORT district, to substitute PUD property development regulations as specifically illustrated on the final site plan submitted for the PORT district (and as further described below);

g) Deviation from the requirement that a P.U.D. must be developed under unified control (606.B and 606.C.2), to allow the developer to convey subparcels within the P.U.D. to parties <u>other</u> <u>than</u> ultimate project residents, subject to the following condition:

(8) A covenant of unified control satisfatory to the Lee County Attorney shall be recorded in the public records prior to the issuance of any development order on this property. Such covenant shall include the elements of the draft found in Attachment L of the January 7, 1987, staff report, and also shall include an acknowledgement that the conditions of approval will also be enforced by Lee County regardless of the ownership of the property.

h) Deviation from the required perimeter setback of one-half the building height (484.E.3), to 0 feet on internal lines that had been shown on the preliminary P.U.D. plan;

j) Deviation from the required building separation of one-half the sum of the building heights (but no less than 20 feet) (484.E.5), to 0 feet to clarify conflicting notations on the preliminary P.U.D. plan regarding spacing between structures [approved only as shown on the final P.U.D. plans];

k) Deviation from the required lot width of 75 feet (605.D.3), to 30 feet in Neighborhood #6 [approved only as shown on the final P.U.D. plans];

l) Deviation from the required lot width of 75 feet and area of 7500 square feet (605.D.3), to 40 feet of width and 5000 square feet of area in Neighborhood #10, subject to the following condition:

(9) Approval of lots less than 7500 square feet is subject to the approval of the Community Development Director, who shall attempt to insure that all lots are so configured as to permit the construction of a home, and that adverse impacts are not created on adjoining properties.

n) Deviation from minimum parking area setback (606.D and 500.21), to 0 feet on the internal lines of the property within applicant's ownership or control;

p) Deviation from the required 150-foot excavation setback from a street right-of-way (500.4.D), to 15 feet, subject to the following condition:

(10) Water retention excavation may be as close as 25 feet to internal local streets, measured from the highest level on the excavation bank proposed, designed, or intended to be used for the storage of stormwater, to the edge of the street right-of-way.

r) Variance from the requirement that "Category C" local roads have a wearing surface of one-inch asphaltic concrete (DSR Table D-1-7.c.(2)), to allow a shell road for Neighborhoods #5, #6, and #7, subject to the following condition:

(11) The wearing surface of common driveways may be constructed of compacted shell where the driveways serve 10 or fewer residential units and are to be perpetually maintained by a private entity; however, the aprons of these common driveways must be paved to a distance of 40 feet from the edge of the main loop road, and the construction standards for shell driveways are subject to the approval of the County Engineer.

s) Variance from the minimum elevation of local subdivision streets of 5.5 feet above mean sea level (DSR D.4.a.(3)), to allow parking areas only to be a minimum of 4.5 feet above mean sea level for Neighborhoods #5, #6, and #7.

Reduced copies of sheets 1, 7, 8, 9, 10, 11, 12, and 13, of 48 (revised through January 7, 1987, except for sheet 10 which was further revised on January 12, 1987) from Johnson Engineering [marked as site plan SP-86-166] are attached hereto and incorporated herein by reference, as reduced copies of the approved final plans.

OFF REC 10PG1308

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Slisher and, upon being put to a vote, the result was as follows:

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 12th day of January, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

Charles J Basinait
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT
BY Mary Armentrout D.C.

OFFICIAL RECORDS BOOK 1309 PG 169

PRELIMINARY

ENGINEERING PLANS

FOR

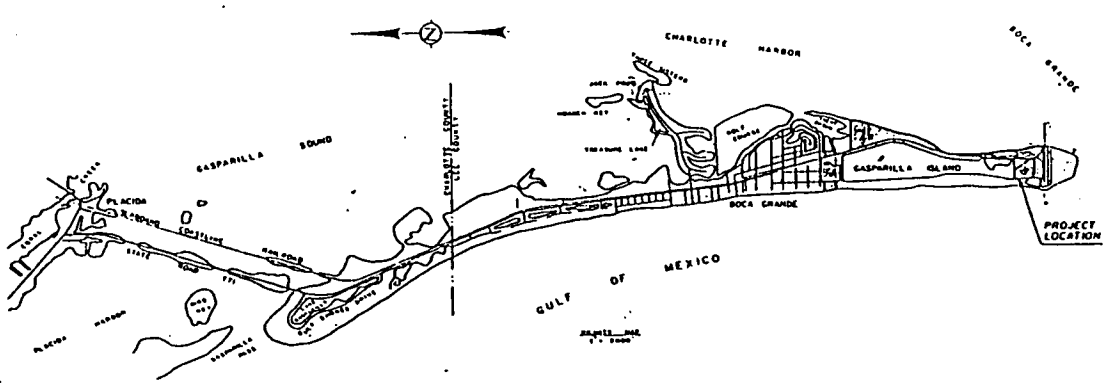
BOCA BAY

SECTIONS 23, 24 & 25 TOWNSHIP 43 S RANGE 20 E

LEE COUNTY, FLORIDA

FOR

CSX RESOURCES, INC.



INDEX

Sheet No	Description
1	COVER SHEET
2	INDEX MAP
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APPENDIX - A - 1	LANDSCAPE PLAN

JUNE 1986

REVISED JANUARY 7, 1987
REVISED DECEMBER 31, 1986
REVISED DECEMBER 15, 1986
REVISED NOVEMBER 14, 1986
REVISED AUGUST 22, 1986

APPROVED

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

FORT MYERS, FLORIDA

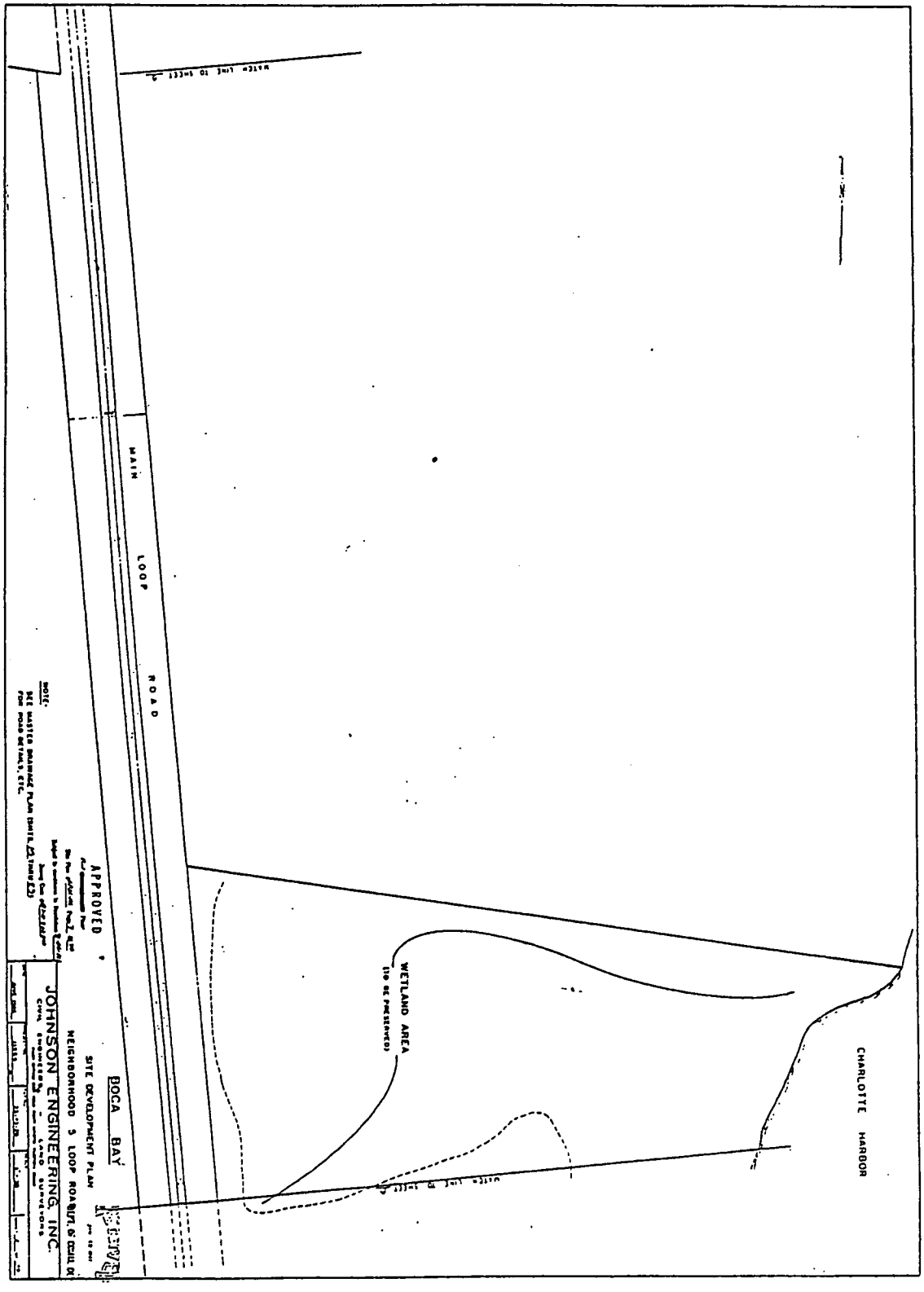
A. T. GRANT

Registered Professional Engineer

Florida Certificate No 13621

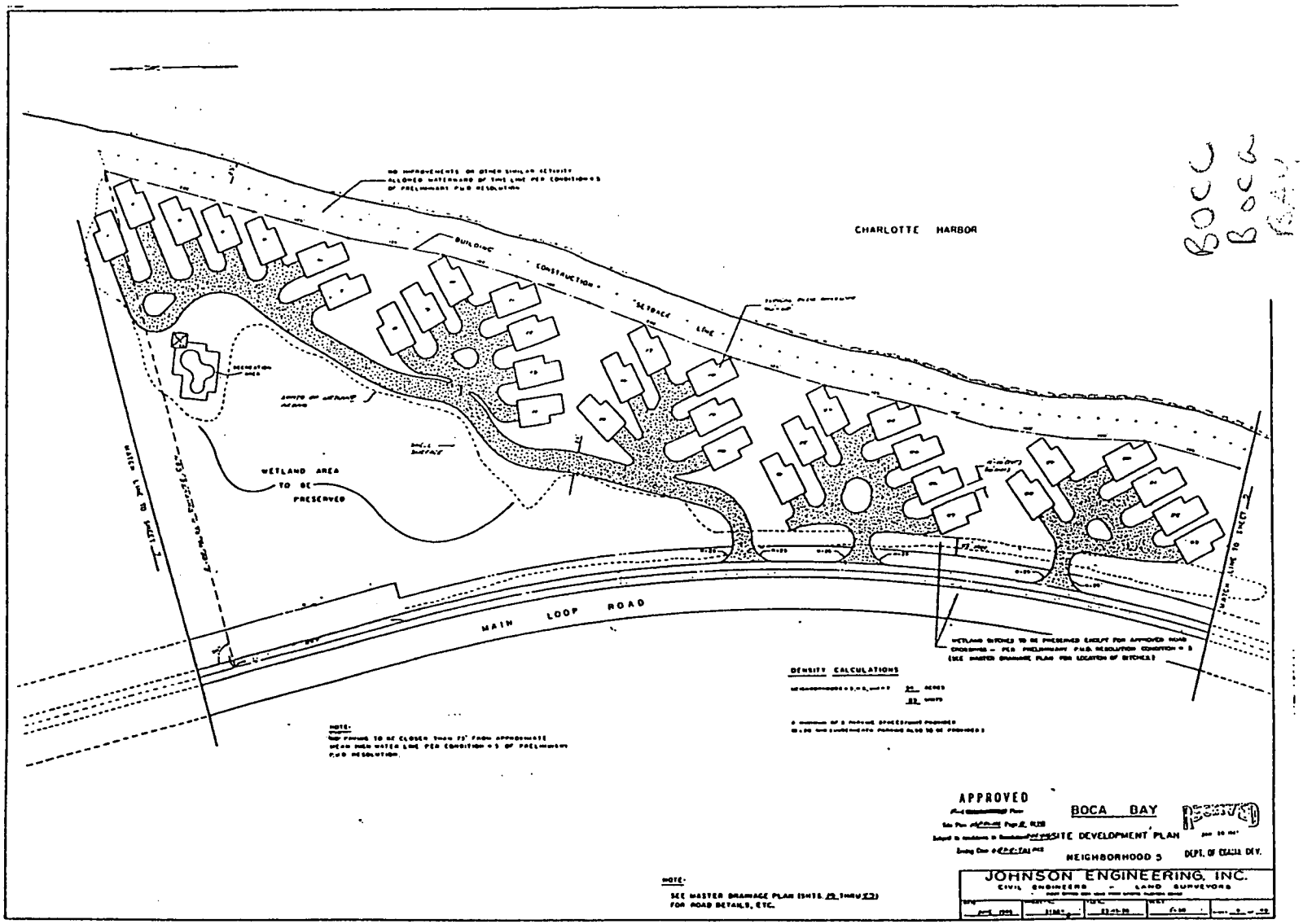
RECEIVED

DEPT. OF COMM. DEV.


MAIN
LOOP
ROAD
WETLAND AREA
(TO BE PRESERVED)
CHARLOTTE HARBOR
APPROVED
BOCA BAY
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 5 LOOP ROAD
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS
LAND SURVEYORS
NOTE:
SEE MASTER DRAINAGE PLAN (WATER, ETC.)
FOR ROAD DETAILS, ETC.

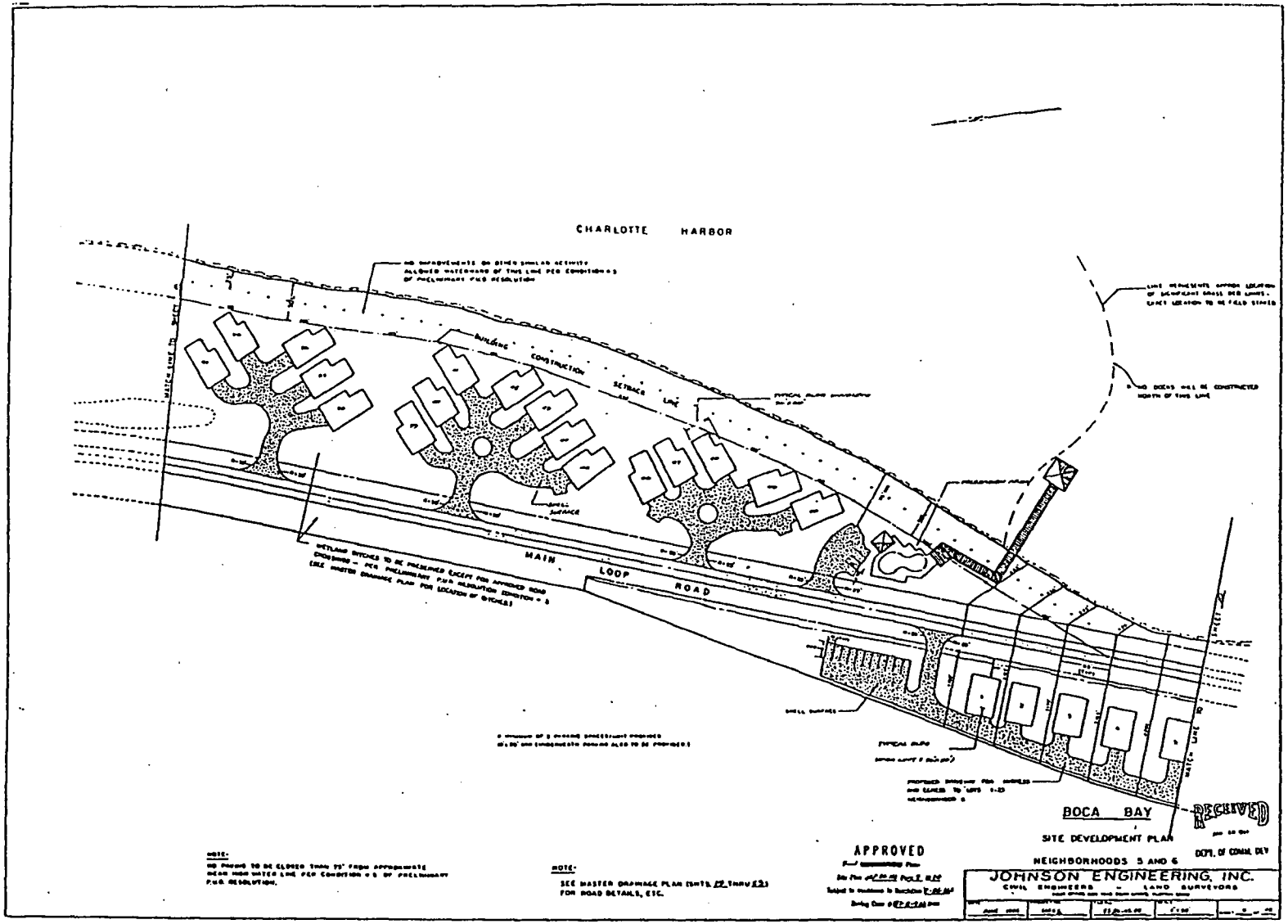
OR 910 PG 1311

171



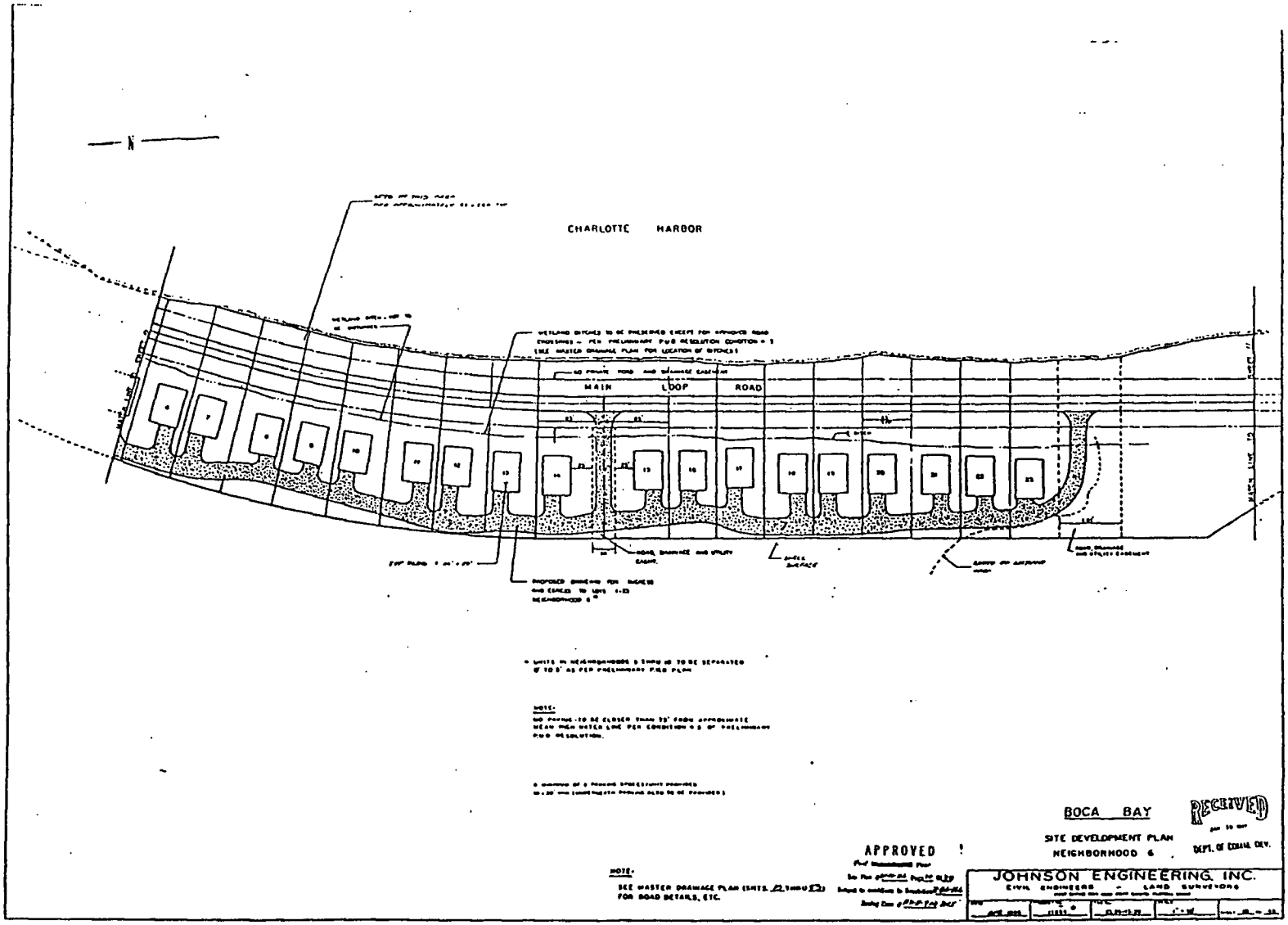
172

OR REC- 710 PG 1312



O. REC. 1910 PG 1313

173



* UNITS IN NEIGHBORHOODS 5 THRU 10 TO BE DEPARTED 8' TO 8' AS PER PRELIMINARY PUD PLAN

NOTE:
NO PAVING TO BE CLOSER THAN 75' FROM APPROXIMATE MEAN HIGH WATER LINE PER CONDITION 4.5 OF PRELIMINARY PUD RESOLUTION.

NOTE:
SEE MASTER DRAINAGE PLAN (UNITS 22 THRU 32) FOR ROAD DETAILS, ETC.

APPROVED

BOCA BAY

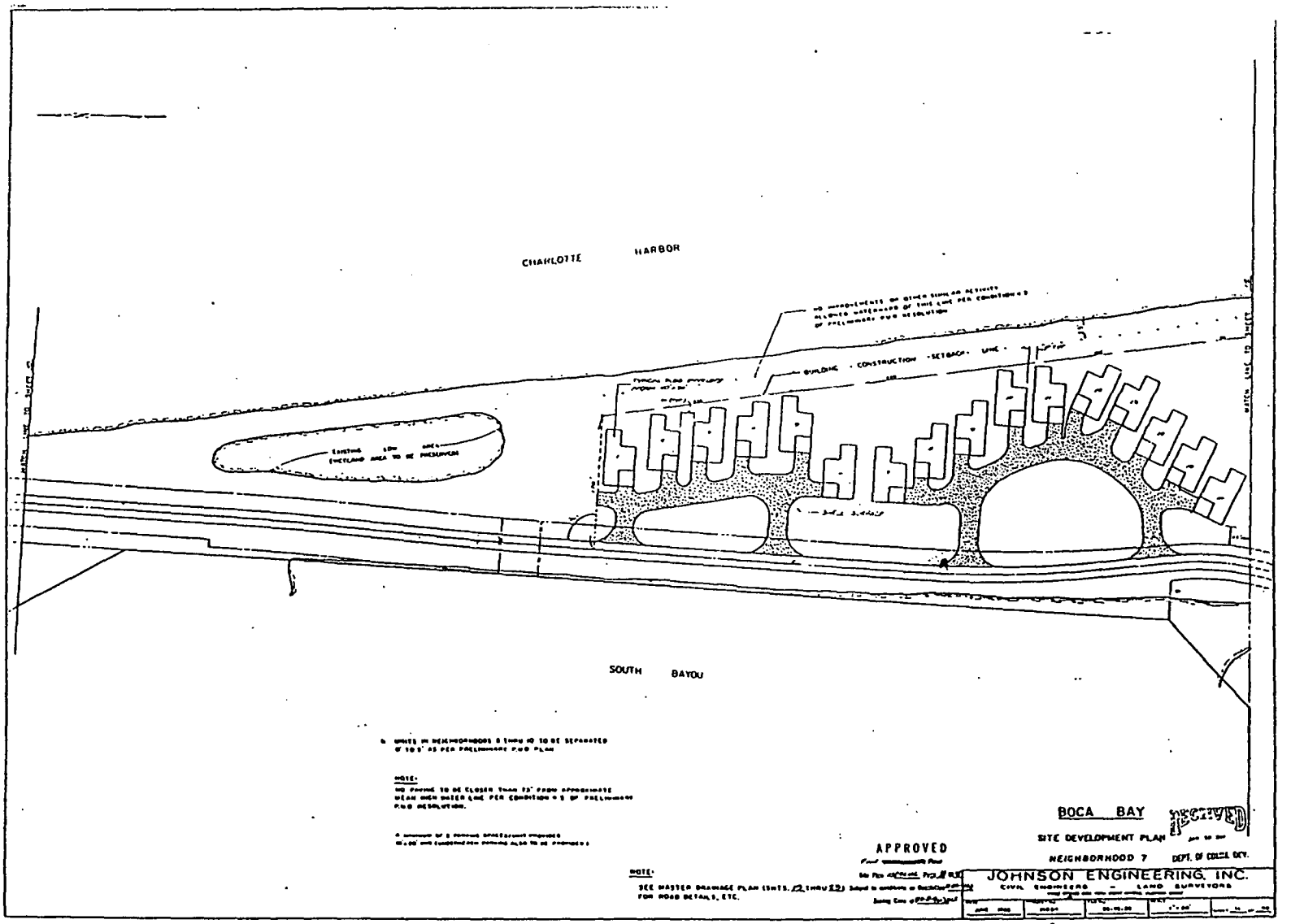
SITE DEVELOPMENT PLAN
NEIGHBORHOOD 6

RECEIVED
DEPT. OF COMM. DEV.

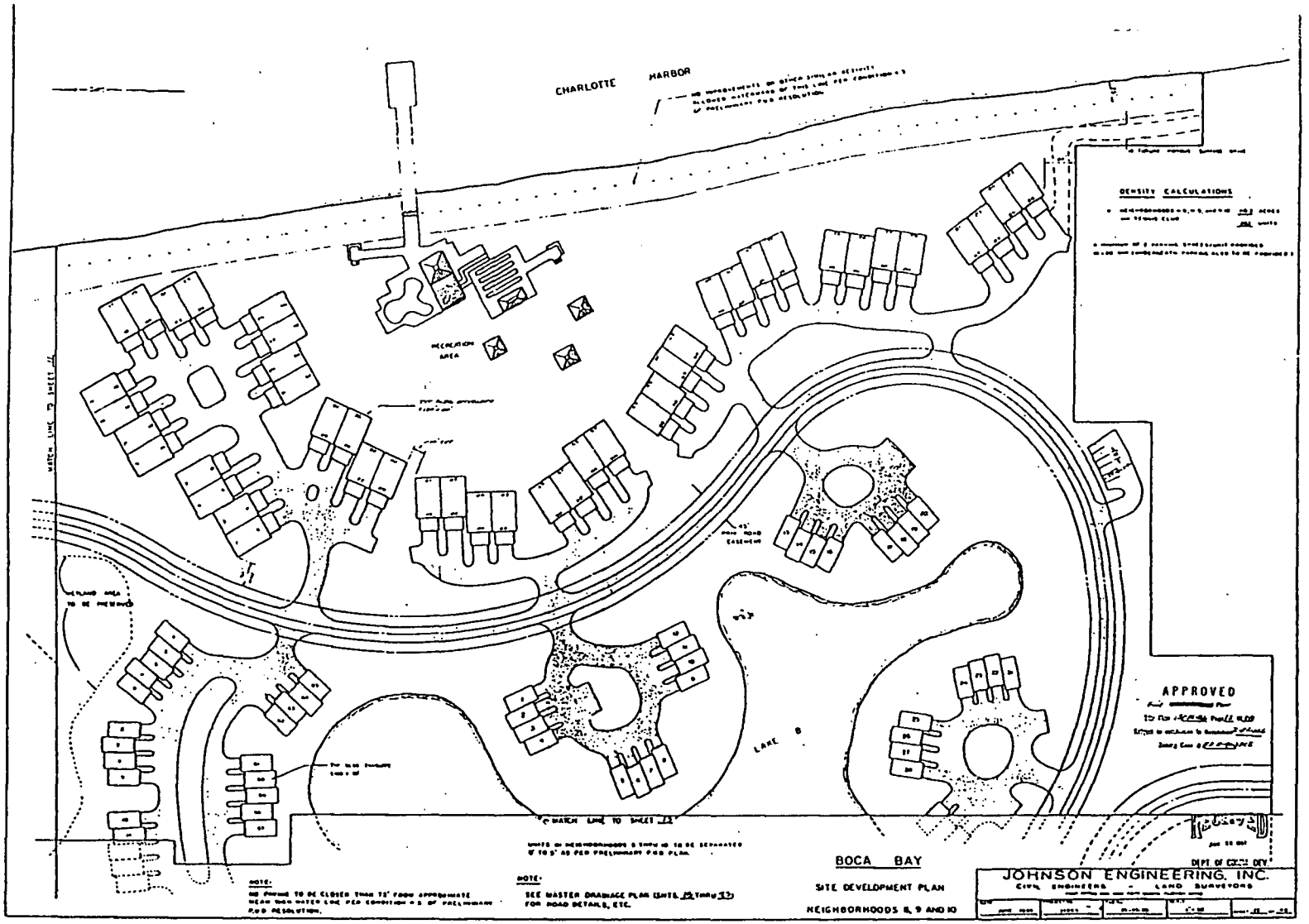
JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS — LAND SURVEYORS

OR 1910 PG 1314

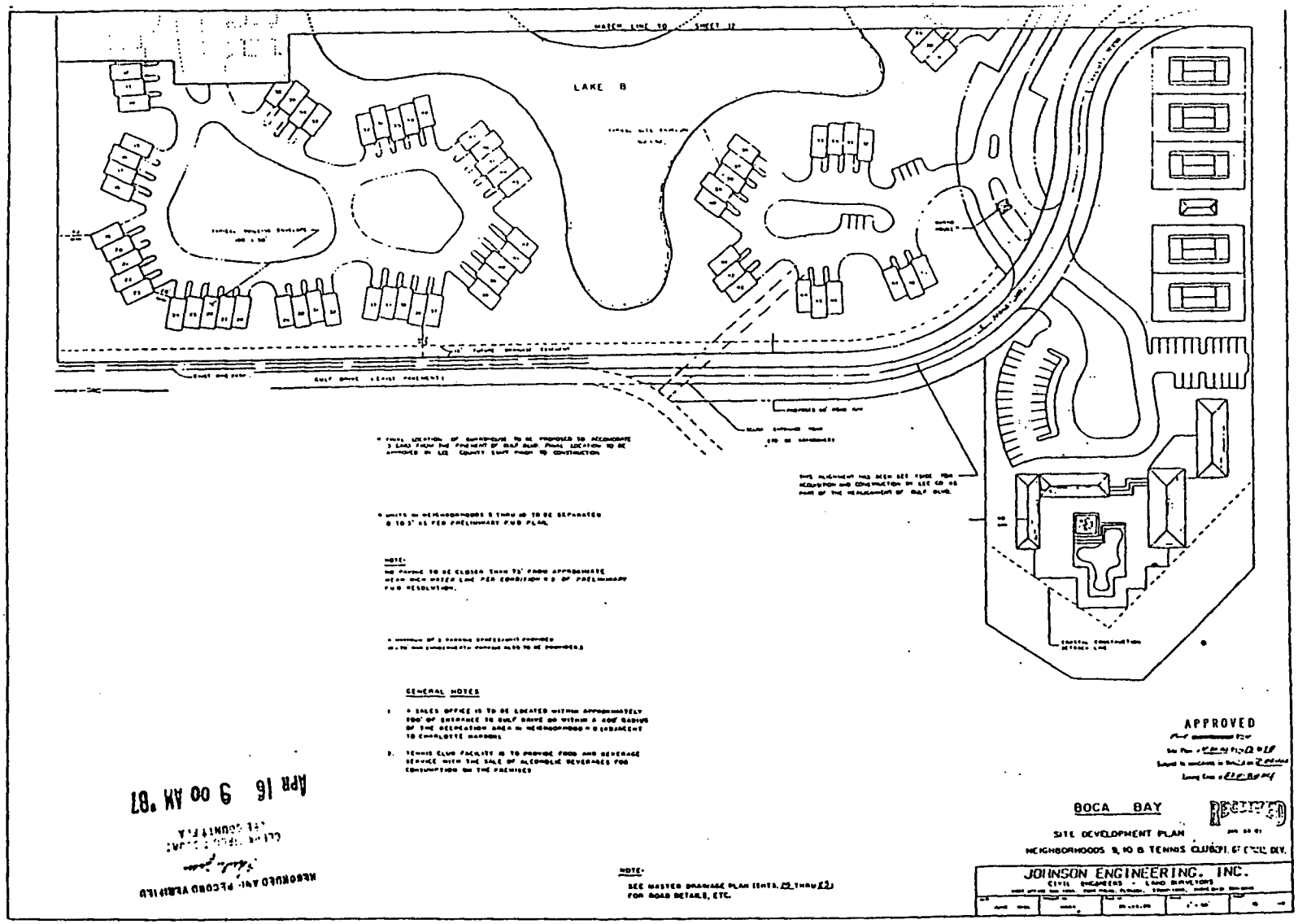
124



OFF. SC 1910 PG 1315



OFF REC 1910 PG 1346



GENERAL NOTES

1. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 500' OF ENTRANCE TO GULF DRIVE AND WITHIN A 400' RADIUS OF THE RECREATION AREA IN NEIGHBORHOOD 9 ADJACENT TO CHARLOTTE HARBOR.
2. TENNIS CLUB FACILITY IS TO PROVIDE FOOD AND BEVERAGE SERVICE WITH THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES

NOTE:
SEE MASTER DRAINAGE PLAN (SHTS. 22 THRU 23) FOR ROAD DETAILS, ETC.

RECORDED AND RECORD VERIFIED
CLERK CIRCUIT COURT
LEE COUNTY, FLA.
Apr 16 9 00 AM '87

2924309

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY ADDING ADDITIONAL LANDS (NORTH BAY)

ORB 2181 PG2356

THIS AMENDMENT to Declaration of Covenants and Restrictions of Boca Bay is made by CSX REALTY, INC., a Virginia corporation ("Developer").

RECITALS

A. The Declaration of Covenants and Restrictions of Boca Bay (MASTER COVENANTS), was recorded on November 3, 1989, in Official Records Book 2107, Page 0001, of the Public Records of Lee County, Florida (COUNTY). In Paragraph 11.02 of the MASTER COVENANTS, Developer reserved the unilateral right to add ADDITIONAL LANDS thereto.

B. Developer now desires to add North Bay, a Boca Bay Neighborhood, to the SUBJECT PROPERTY, to be governed by the MASTER COVENANTS.

THE AMENDMENT

NOW, THEREFORE, Developer hereby amends the MASTER COVENANTS as follows:

1. Subject Property. Attached hereto as Exhibit "A" is the legal description of the land which constitutes North Bay, a Boca Bay Neighborhood. Exhibit "A" of the MASTER COVENANTS is hereby amended by adding thereto Exhibit "A" of this Amendment. The property described in Exhibit "A" of this Amendment is hereby declared to be a part of the SUBJECT PROPERTY, effective on the

This Instrument Prepared By:
K. [illegible]WOOD GAY III
505 North Tamiami Trail

date this Amendment is recorded in the public records of the COUNTY, and thereafter such property shall be governed by the MASTER COVENANTS.

2. Proviso. Except as the MASTER COVENANTS are expressly or impliedly amended as provided herein, all of the terms and provisions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has caused this Amendment to be executed this 15th day of October, 1990.

WITNESSES:

Mark L. Hoffman

Cynthia K. Hoskins

CSX REALTY, INC.

By: Stephen D. Beck
Senior Vice President

STATE OF VIRGINIA)

CITY OF RICHMOND)

The foregoing instrument was acknowledged before me this 15th day of October, 1990, by Stephen D. Beck, Sr. Vice President of CSX REALTY, INC., a Virginia corporation, on behalf of the corporation.

Darlene S. Hamlett
Notary Public

My Commission Expires: 12/31/94

(SEAL)

RECORDERS MEMO:
COLOR OF INK USED TO SIGN/PREPARE
DOCUMENT UNSATISFACTORY FOR REPRODUCTION
FROM FILM

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2158 JOHNSON STREET
TELEPHONE (813) 334-0046
TELECOPIER (813) 334-3661
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902-1550

CARL E JOHNSON
1911 - 1968

September 25, 1990

REVISED DESCRIPTION
NORTH BAY
IN GOVERNMENT LOTS 1, 5 & 6
SECTION 23, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lots 1, 5 and 6, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of said Lot 1 run S 89° 22' 31" W along the north line of said Section 23 for 96.46 feet to an intersection with the easterly line of the Seaboard Airline Railroad right-of-way (formerly Charlotte Harbor and Northern Railway Company) (100 feet wide); thence run S 14° 25' 00" E along said easterly line for 2038.78 feet to the Point of Beginning.

From said Point of Beginning run along the last mentioned course N 14° 25' 00" W along said easterly line for 1019.39 feet; thence run S 89° 22' 31" W for 102.97 feet to the westerly line of said Seaboard Airline Railroad right-of-way; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence run along the arc of a curve to the right of radius 1860.05 feet (chord bearing S 02° 43' 18" W) (chord 1096.26 feet) (delta 34° 16' 39") for 1112.78 feet to a point of tangency; thence run S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 501.86 feet; thence run S 70° 08' 22" E for 124.19 feet; thence run S 25° 08' 22" E for 139 feet more or less to the Mean High Water Line of Charlotte Harbor; thence run northeasterly along said Mean High Water Line for 3100 feet more or less to an intersection with a line bearing N 89° 22' 31" E passing through the Point of Beginning; thence run S 89° 22' 31" W along said line for 914 feet more or less to the Point of Beginning.

Containing 31.6 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on field survey ties to Florida Department of Natural Resources (FDNR) Monuments A-15 through A-20.

OR2181 PG2358
90 OCT 17 PM 4:15
CHARLIE GREEN LEE CTY FL

Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

MLH/pd
16352

CHAIRMAN
ARCHIE T GRANT, JR

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K MORRISON
ANDREW D TILTON
JEFFREY C COONER

DAN W DICKEY
KENTON R KEILING
GEORGE J. KALAL
MICHAEL L HARMON
THOMAS L FENDLEY
W DAVID KEY, JR
W BRITT POMEROY
CARL A BARRACO
GARY R BULL

CONSULTANTS
LESTER L BULSON
ROBERT S O'BRIEN

15.00

This Instrument Prepared By:
R. NORWOOD GAY III
115 U. Tamiami Trail, Suite 10
Nokomis, FL 34275

Return To:

2834156

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY ADDING ADDITIONAL LANDS (GULF VILLAS)

ORI 1 4 4

THIS AMENDMENT to Declaration of Covenants and Restrictions of Boca Bay is made by CSX REALTY, INC., a Virginia corporation ("Developer").

RECITALS

A. The Declaration of Covenants and Restrictions of Boca Bay (MASTER COVENANTS), was recorded on November 3, 1989, in Official Records Book 2107, Page 0001, of the Public Records of Lee County, Florida (COUNTY). In Paragraph 11.02 of the MASTER COVENANTS, Developer reserved the unilateral right to add ADDITIONAL LANDS thereto.

B. Developer now desires to add Gulf Villas, a Boca Bay Neighborhood, to the SUBJECT PROPERTY, to be governed by the MASTER COVENANTS.

THE AMENDMENT

NOW, THEREFORE, Developer hereby amends the MASTER COVENANTS as follows:

1. Subject Property. Attached hereto as Exhibit "A" is the legal description of the land which constitutes Gulf Villas, a Boca Bay Neighborhood. Exhibit "A" of the MASTER COVENANTS is hereby amended by adding thereto Exhibit "A" of this Amendment. The property described in Exhibit "A" of this Amendment is hereby declared to be a part of the SUBJECT PROPERTY, effective on the

date this Amendment is recorded in the public records of the COUNTY, and thereafter such property shall be governed by the MASTER COVENANTS.

2. Proviso. Except as the MASTER COVENANTS are expressly or impliedly amended as provided herein, all of the terms and provisions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has caused this Amendment to be executed this 11th day of April, 1990.

WITNESSES:

CSX REALTY, INC.

By: _____
Stephen A. Crosby
Vice-President

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 11th day of April, 1990, by Stephen A. Crosby, Vice-President of CSX REALTY, INC., a Virginia corporation, on behalf of the corporation.

Notary Public

(SEAL)

My Commission Expires:

Notary Public, State of Florida
My Commission Expires Aug. 3, 1993
Bonded Thru Troy Fain - Insurance Inc.

OR2144 PG3303

90 APR 25 PM 1:04

DESCRIPTION
BOCA BAY
GULF VILLAS

PARCEL IN GOVERNMENT LOT 2
SECTION 23, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of said Lot 2 run S 89° 22' 31" W along the north line of said lot in said section for 1170.66 feet to an intersection with the west line of Gulf Boulevard (100 feet wide) being also the northeast corner of lands described in deed recorded in Official Record Book 1494 at page 163 Lee County records; thence run S 01° 39' 30" E along said west line of said road for 150.00 feet to the southeast corner of lands described in deed to Katherine Hammond recorded in Official Record Book 445 at page 584 Lee County records; thence continue S 01° 39' 30" E along said west line of said road for 228.01 feet to the Point of Beginning.

From said Point of Beginning run S 89° 22' 31" W for 150.25 feet; thence run S 02° 36' 11" E for 262.61 feet; thence run N 89° 22' 31" E for 145.92 feet to the west line of Gulf Boulevard (100 feet wide); thence run N 01° 39' 30" W along said west line of said road for 262.50 feet to the Point of Beginning.

Containing 0.89 acres more or less

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

Exhibit "A"

RETURN TO
FARR REAL ESTATE

3229676

THIRD AMENDMENT
TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
BOCA BAY
ADDING ADDITIONAL LANDS
(NORTH BEACH CLUB)

THIS THIRD AMENDMENT to Declaration of Covenants and Restrictions of Boca Bay is made by CSX REALTY, INC., a Virginia corporation ("Developer").

RECITALS

A. The Declaration of Covenants and Restrictions of Boca Bay ("Master Covenants") affecting certain real property (the "Subject Property") owned by Developer located in Lee County, Florida (the "County"), was recorded on November 3, 1989, in Official Records Book 2107, Page 0001, of the Public Records of the County. In Paragraph 11.02 of the Master Covenants, Developer reserved the unilateral right to add "additional lands", as such term is defined therein, to the Subject Property

B. Developer now desires to add the property known as North Beach Club to the Subject Property, to be governed by the Master Covenants.

THE AMENDMENT

NOW, THEREFORE, Developer hereby amends the Master Covenants as follows:

1. Subject Property. Attached hereto as Exhibit A is the legal description of the land which constitutes North Beach Club. Exhibit A of the Master Covenants is hereby amended by adding thereto Exhibit A of this Amendment. The property described in Exhibit A of this Amendment is hereby declared to be a part of the

OR 2131 PG 3259

Subject Property, effective on the date this Amendment is recorded in the public records of the County, and thereafter such property shall be governed by the Master Covenants.

2. Proviso. Except as the Master Covenants are expressly or impliedly amended as provided herein, all of the terms and provisions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has caused this Amendment to be executed this 1ST day of May, 1992.

OR2311 PG3260

WITNESSES:

CSX REALTY, INC.

By: _____
Stephen D. Beck
President

COMMONWEALTH OF VIRGINIA)
)
CITY OF RICHMOND)

The foregoing instrument was acknowledged before me this 1st day of May, 1992, by Stephen D. Beck, President of CSX REALTY, INC., a Virginia corporation, on behalf of the corporation.

_____
Notary Public

My Commission Expires: 11-30-94 (SEAL)

Notary Public-State of Virginia
Teresa H. Thompson
Commission Expires: November 30, 1994

92962

EXHIBIT A

April 12, 1991

DESCRIPTION
NORTH BEACH CLUB
G.L. 2, SECTION 23, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of Gulf Villas, Plat Book 45 at Page 14, Lee County Records run N 01° 39' 30" W along the west line of Gulf Boulevard as recorded in Official Record Book 263 at Page 148, said Lee County Records for 228.01 feet to the southeasterly corner of lands described in deed recorded in Official Record Book 445 at Page 584, said Lee County Records and the Point of Beginning of the herein described parcel.

From said Point of Beginning run S 01° 39' 30" E along the last mentioned course for 228.01 feet; thence run S 89° 22' 31" W along the north line of said Gulf Villas for 150.25 feet to the northwest corner of said Gulf Villas; thence run S 02° 36' 11" E along the west line of said Gulf Villas for 262.61 feet to the southwest corner of said Gulf Villas; thence run N 89° 22' 31" E along the south line of said Gulf Villas for 145.92 feet to the southeast corner of said Gulf Villas; thence run S 01° 39' 30" E along the west line of said Gulf Boulevard for 35.65 feet to the northeast corner of lands described in deed recorded in Official Record Book 430 at Page 719, said Lee County Records; thence run S 89° 22' 31" W along the north line of said lands for 236 feet, more or less to the Mean High Water Line of the Gulf of Mexico; thence run northerly along said Mean High Water Line for 530 feet, more or less to an intersection with a line bearing S 89° 22' 31" W passing through the Point of Beginning; thence run N 89° 22' 31" E along said line for 238 feet, more or less to the Point of Beginning.

SUBJECT TO an easement 10 feet wide to Florida Power & Light Company.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on field survey ties to Florida Department of Natural Resources (FDNR) Monuments A-15 through A-20.

Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

MLH/pd
16352

OR2311 PG3261

92 JUL -6 AM 9:53

CHARLIE GREEN LEE CTY FL

3313261

FOURTH AMENDMENT
TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
BOCA BAY
ADDING ADDITIONAL LANDS
(SOUTH BAY)

OR2349 PG1451

THIS AMENDMENT to Declaration of Covenants and Restrictions of Boca Bay is made by CSX REALTY, INC., a Virginia corporation ("Developer").

RECITALS

A. The Declaration of Covenants and Restrictions of Boca Bay (MASTER COVENANTS), was recorded on November 3, 1989, in Official Records Book 2107, Page 0001, of the Public Records of Lee County, Florida (COUNTY) having been amended by those amendments recorded in the official records of Lee County at Book 2144, Page 3363 (Gulf Villas) and at Book 2181, Page 2356 (North Bay) and at Book 2311, Page 3259 (North Beach Club). In Paragraph 11.02 of the MASTER COVENANTS, Developer reserved the unilateral right to add ADDITIONAL LANDS thereto.

B. Developer now desires to add SOUTH BAY, a Boca Bay Neighborhood, to the SUBJECT PROPERTY, to be governed by the MASTER COVENANTS.

THE AMENDMENT

NOW, THEREFORE, Developer hereby amends the MASTER COVENANTS as follows:

1. Subject Property. Attached hereto as Exhibit "A" is the legal description of the land which constitutes SOUTH BAY, a Boca

This instrument prepared and return to:
Jack O. Hackett II, Esquire
Farr, Farr, Emerich, Sifrit & Hackett, P.A.
Post Office Drawer 1447
Punta Gorda, Florida 33951

BOCAMSTR.AMD
(11/02/92)

• RECORD VERIFIED - CHARLIE GREEN, CLERK •
• BY: HELEN CARROLL, D.C. •

Bay Neighborhood. Exhibit "A" of the MASTER COVENANTS is hereby amended by adding thereto Exhibit "A" of this Amendment. The property described in Exhibit "A" of this Amendment is hereby declared to be a part of the SUBJECT PROPERTY, effective on the date this Amendment is recorded in the public records of the COUNTY, and thereafter such property shall be governed by the MASTER COVENANTS.

2. Proviso. Except as the MASTER COVENANTS are expressly or impliedly amended as provided herein, all of the terms and provisions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has caused this Amendment to be executed this 16th day of December, 1992.

WITNESSES:

Mary R Brown

Darlene S. Garrett

CSX REALTY, INC.

By: Stephen D. Beck

STATE OF VIRGINIA)

CITY OF RICHMOND)

The foregoing instrument was acknowledged before me this 16th day of December, 1992, by Stephen D. Beck, President of CSX REALTY, INC., a Virginia corporation,

OR2349 PG1452

on behalf of the corporation who is personally known to me ~~or who has produced _____ as identification~~ and who did not take an oath.

Teresa R. Thompson
Notary Public

My Commission Expires: 11-30-94 (SEAL)

Notary Public, State of Virginia
Teresa R. Thompson
Commission Expires: November 30, 1994.

OR2349 PG4453

EXHIBIT "A" TO
AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS
OF
BOCA BAY
ADDING ADDITIONAL LAND
(SOUTH BAY)

All of the Plat of SOUTH BAY, according to the Plat thereof recorded in Plat Book 51, Page 1-3, of the Public Records of Lee County, Florida.

OR2349 PG4454

92 DEC 23 PM 2:57

FIFTH AMENDMENT T DECLARATION OF COVENAN.S D RESTRICTIONS OF BOCA BAY

3553945

This Fifth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 25th day of February, 1994, by CSX REALTY, INC., a Virginia corporation ("Declarant").

PREAMBLE:

Declarant executed and recorded that Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, and December 16, 1992, recorded, respectively, in OR 2144, Pg. 3363, OR 2181, Pg. 2356; OR 2311, Pg. 3259; and OR 2349, Pg. 4451 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Pass Club).

2) By amending Exhibit A thereof, and consequently the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit B attached hereto (Beach View at Boca Bay).

3) By amending Exhibit D thereof, and consequently the definition of ADDITIONAL LANDS therein set forth, to include the property described in Exhibit C attached hereto.

4) By adding paragraph 1.13A hereinbelow set forth immediately following paragraph 1.13:

> 1.13A LOT means any parcel of land located within the SUBJECT PROPERTY as shown and described on a plat recorded among the Public Records of the

RECORD VERIFIED - CHARLIE GREEN CLERK
BY: L FALONE, DC

OR 2474 PG 2113

LOT", which has been or is intended to be conveyed by DECLARANT to an OWNER and which contains or is intended to contain a UNIT, and shall include any UNIT constructed upon the LOT.

5) By deleting paragraph 1.22 thereof and replacing said paragraph in its entirety with the following paragraph:

1.22 UNIT means (i) a residential dwelling, and (ii) the fishing and recreational lodge currently located within the southernmost portions of the ADDITIONAL LANDS along Charlotte Harbor, regardless of whether such lodge remains in its present location or is moved to or newly constructed in a different location, if in either instance such dwelling or lodge is located within the SUBJECT PROPERTY, and for which the controlling governmental authorities have issued a Certificate of Occupancy. Where any building contains more than one residential dwelling, each such residential dwelling shall be a UNIT. A UNIT may include, but is not limited to, a house, apartment, townhouse, patio home, cluster home, or residential condominium parcel. The term UNIT shall include any PROPERTY or interest in PROPERTY owned in conjunction with the UNIT.

6) By deleting paragraph 4.06 thereof and replacing said paragraph in its entirety with the following paragraph:

4.06 Exceptions for DECLARANT.

4.06.1 Prior to January 1, 1991. Notwithstanding the foregoing, until January 1, 1991, until such time as DECLARANT no longer appoints a majority of the Directors of the MASTER ASSOCIATION, or until DECLARANT notifies the MASTER ASSOCIATION in writing that DECLARANT elects to pay ASSESSMENTS for COMMON EXPENSES as in the case of any other OWNER, whichever first occurs, DECLARANT shall not be liable for ASSESSMENTS for COMMON EXPENSES for any LOTS or UNITS owned by DECLARANT, but in lieu thereof, DECLARANT shall be responsible for all COMMON EXPENSES in excess of the ASSESSMENTS for COMMON EXPENSES receivable from the other OWNERS and other income received by the MASTER ASSOCIATION. During such period when DECLARANT is not liable for ASSESSMENTS for COMMON EXPENSES for LOTS or UNITS owned by DECLARANT, the ASSESSMENTS for COMMON EXPENSES may be established by DECLARANT based upon DECLARANT's estimate of what the expenses of the MASTER ASSOCIATION would be if all UNITS contemplated within the SUBJECT PROPERTY were completed, so that ASSESSMENTS for COMMON EXPENSES during such period will be approximately what those

.S SMENTS would be if t e 'evelopment of the SUB. .T PROPERTY as contemplat . by DECLARANT were complete. Notwithstanding the foregoing, if the MASTER ASSOCIATION incurs any expense not ordinarily anticipated in the routine management and operation of the SUBJECT PROPERTY, including but not limited to expenses incurred in connection with lawsuits against the MASTER ASSOCIATION, or incurred in connection with damage to property, or injury or death to any person, and which are not covered by insurance proceeds, the liability of DECLARANT for such COMMON EXPENSES shall not exceed the amount that DECLARANT would be required to pay if it were liable for ASSESSMENTS for COMMON EXPENSES as any other OWNER.

4.06.2 On and After January 1, 1991. Commencing January 1, 991, DECLARANT shall be responsible for and shall pay the periodic ASSESSMENT for COMMON EXPENSES for each LOT it owns within the SUBJECT PROPERTY, at the same time, in the same amount and in the same manner as is herein required of each other OWNER of a LOT; provided, however, that DECLARANT may elect to withhold that portion of each ASSESSMENT applicable to reserves and accrue a liability to the MASTER ASSOCIATION in the amount withheld, together with simple interest in any given calendar year calculated at the prevailing rate paid on January 1 of that year by local federally-insured commercial banking institutions with respect to simple passbook savings accounts, until 1) all or a portion of the reserve is needed by the MASTER ASSOCIATION for its intended purpose, in which case DECLARANT shall pay to the MASTER ASSOCIATION the accrued amount plus interest, if there is a present need by the MASTER ASSOCIATION for its entire reserve, or a proportionate share of the accrued amount and interest if less than the entire reserve is needed by the MASTER ASSOCIATION, or 2) the point in time when DECLARANT no longer has a right to appoint a majority of the Directors of the MASTER ASSOCIATION as provided in Article V, Paragraph 2 of the MASTER ASSOCIATION's Articles of Incorporation, whichever occurs first. The foregoing notwithstanding, and as to portions of the SUBJECT PROPERTY platted after January 1, 1991, the foregoing obligation of DECLARANT with respect to LOTS located within each such portion shall commence on and be prorated based upon the date DECLARANT first conveys a LOT within such portion to an OWNER other than DECLARANT.

7) By deleting paragraph 7.01 thereof and replacing said paragraph in its entirety with the following paragraph:

7.0. Residential Purposes. Except as hereinafter qualified, all PROPERTY shall be used only for residential, related recreational, and home office (provided no pedestrian or vehicular traffic, or other intrusive activities are involved) purposes and not otherwise for the conduct, as opposed to planning or entertainment associated therewith, of commerce, trade or business. Anything in these Master Covenants to the contrary notwithstanding, the fishing and recreational lodge currently located within the ADDITIONAL LANDS along Charlotte Harbor at the southern end of Gasparilla Island, and the uses historically made of that lodge, shall be a permitted use for the purposes of these Master Covenants regardless of whether the lodge remains in its present location or is moved to or newly constructed in a different location, if within the SUBJECT PROPERTY.

8) By deleting paragraph 7.08 thereof and replacing said paragraph in its entirety with the following paragraph:

7.08 Vehicles. Only automobiles, vans, small pick-up trucks, and other vehicles manufactured and used as private passenger vehicles may be parked within the SUBJECT PROPERTY overnight without the prior written consent of the MASTER ASSOCIATION (if the parking location is not within a portion of the SUBJECT PROPERTY subject to the concurrent jurisdiction of a HOMEOWNERS ASSOCIATION) or the pertinent HOMEOWNERS ASSOCIATION (if the parking location is within a portion of the SUBJECT PROPERTY subject to the concurrent jurisdiction of that HOMEOWNERS ASSOCIATION), unless kept within an enclosed garage. In particular and without limitation, no vehicle shall be parked outside of a UNIT overnight without the prior written consent of the MASTER ASSOCIATION or the pertinent HOMEOWNERS ASSOCIATION (as appropriate) if commercial lettering or signs are painted on or affixed to the vehicle, or if commercial equipment is placed upon the vehicle, or if the vehicle is a truck, recreational vehicle, camper, trailer, boat trailer, or other than a private passenger vehicle as specified above. Notwithstanding the foregoing, automobiles owned by governmental law enforcement agencies are expressly permitted. The foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial vehicles while making delivery to or from, or while used in connection with providing services to, the SUBJECT PROPERTY. All vehicles parked within the SUBJECT PROPERTY must be in good condition, and no vehicle which is unlicensed or which cannot operate on its own power shall remain within the SUBJECT PROPERTY

. c re than 24 hours, and ɔ ajor repair of any vehi e shall be made on th SUBJECT PROPERTY. OWNERS are required to register their vehicles with the MASTER ASSOCIATION and to display MASTER ASSOCIATION OWNER identification stickers on their vehicles. Vehicles are to be parked in driveways or garages or in common area parking lots. Parking is allowed on streets during social, civic or charitable events so long as the vehicles do not block the flow of traffic and are not left overnight. Motorcycles are not permitted except with the prior written consent of the ASSOCIATION which may be withdrawn at any time, and any permitted motorcycle must be equipped with appropriate noise muffling equipment so that the operation of same does not create an unreasonable annoyance to the residents of the SUBJECT PROPERTY.

9) By adding paragraph 8.07 as follows:

8.07 Negligence. An OWNER shall be liable and may be assessed by the MASTER ASSOCIATION for the expense of any maintenance, repair or replacement arising from or related to his act, neglect or carelessness, or that of his agents or invitees. Such liability shall include but not be limited to any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a LOT or UNIT, or the COMMON AREAS.

10) By deleting paragraph 13.03 thereof and replacing said paragraph in its entirety with the following paragraph:

13.03 Transfer of Ownership and Control. The DECLARANT may, at its option, retain control of the Board of Directors of the Club Corporation until such time as it, or its successors and assigns, shall have conveyed all of the PROPERTY and the ADDITIONAL LANDS to third parties, notwithstanding any contrary provision regarding transfer of control that may be contained in this or any other document concerning the BOCA BAY Development. DECLARANT shall convey to the MASTER ASSOCIATION or the Club Corporation the lands and improvements constituting the PASS CLUB not later than the date upon which the DECLARANT is obligated to relinquish control of the Board of Directors of the Club Corporation. Nothing contained herein shall preclude the DECLARANT from transferring control of the Board of Directors of the Club Corporation or conveying to the MASTER ASSOCIATION or the Club Corporation the land and improvements constituting the PASS CLUB, prior to the times set forth herein.

11) By deleting paragraph 13.06 thereof and replacing said paragraph in its entirety with the following paragraph:

> 13.06 Collection of Initiation Fees and Dues; Lien. If any OWNER shall fail to pay when due the required initiation fee, annual dues, any minimum spending requirements, or any other fees, charges or other amounts due from that OWNER to the Club Corporation, the Club Corporation shall have the right to seek collection of such sums in any manner available to it, at law or in equity. In addition thereto, and upon certification of such nonpayment to the MASTER ASSOCIATION by the Club Corporation, the MASTER ASSOCIATION may proceed on behalf of the Club Corporation to collect such delinquent amounts from the defaulting OWNER in the manner provided in Article 8, and in such case, it shall specifically have the lien rights described in Section 8.01.04 thereof. Upon receipt of all or any portion of the delinquent amounts, the MASTER ASSOCIATION shall remit such sums to the Club Corporation, less any expenses of collection incurred by the MASTER ASSOCIATION and paid by such delinquent OWNER, or otherwise.

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY, INC., a Virginia corporation, being the Declarant herein, has executed this instrument this 25th day of February, 1994.

CSX REALTY, INC.,
a Virginia corporation

By: _____

Its: President

Appd. as to Legal Form

(First Witness)
RICHARD C. KEENE
SENIOR COUNSEL
Typed/printed name of witness

(Second Witness)
William C. Basney
Typed/printed name of witness

STATE OF FLORIDA)
) SS:
CITY/COUNTY OF DUVAL)

The foregoing Fifth Amendment to Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 25th day of ~~FLORIDA~~ FEBRUARY, 199 4 by STEPHEN D. BECK, as PRESIDENT of CSX Realty, Inc., a Virginia corporation on behalf of the corporation.

Marlene H. Ross Notary Public
My Commission Expires: ~~MARLENE H. ROSS~~
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires Sept. 2, 1995
Commission No. CC140581
Bonded thru Patterson-Bocht Agency

This instrument was prepared by:
Mark S. Hoffmann, Esq.
CSX Transportation, Inc., Law Department
500 Water Street J150
Jacksonville, FL 32202

and upon its being recorded, it should be returned to him at the foregoing address.

COVRESBB.MSH

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS AND LAND SURVEYORS

1
18 JOHNSON STREET
TELEPHONE (813) 334-0046
TELECOPIER (813) 334-3661
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902-1550

CARL E. JOHNSON
1911-1968

February 21, 1989

DESCRIPTION
BOCA BAY
PASS CLUB
PARCEL IN GOVERNMENT LOT 2 & 3
SECTION 26, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lots 2 and 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the railroad rail referred to as Monument "B" in deed recorded in Deed Book 129 at Page 346, Lee County Records run N 89° 54' 25" W along the north line of said lands as described in said Deed Book for 9.71 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 54' 25" W along said north line for 337.77 feet; thence run the following courses: S 33° 20' 35" W for 130.23 feet, S 01° 35' 35" W for 90.64 feet, S 44° 39' 25" E for 200.72 feet to an intersection with the south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 674.33 feet; thence run N 00° 38' 38" W for 59.51 feet to a point of curvature; thence run along the arc of a curve to the left of radius 132.50 feet (chord bearing N 44° 45' 26" W) (chord 184.46 feet) (delta 88° 13' 33") for 204.03 feet to a point of reverse curvature; thence run along the arc of a curve to the right of radius 330.00 feet (chord bearing N 60° 29' 43" W) (chord 313.66 feet) (delta 56° 44' 59") for 326.85 feet to an intersection with the north line of said lands as described in said deed and the Point of Beginning.

Containing 4.87 acres more or less.

SUBJECT TO a temporary construction easement over and across the easterly ten feet thereof.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to Florida Department of Natural Resources Monuments A-15 through A-20.

Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

MLH/pd
16352f

EXHIBIT A

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW O. TILTON
JEFFREY C. COONER

JAN W. DICKEY
BENTON R. KEILING
RONALD D. STOUTEN
GEORGE J. KALAL
MICHAEL L. HARMON
THOMAS L. FENOLEY
W. DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO

CONSULTANTS
LEIF E. JOHNSON
LESTER L. BULSON
ROBERT S. O'BRIEN

AN EQUAL OPPORTUNITY EMPLOYER

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
10501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (813) 625-9919
TELECOPIER (813) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARLE JOHNSON
1911-1968

DESCRIPTION
GOV. LOT 2, SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND
LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company, as recorded in Deed Book 129 at Page 346 of the Public Records of Lee County, run N 89° 55' 35" E, along the north line of the lands described in said deed for 190.00 feet; thence run S 00° 04' 25" E for 54.51 feet; thence run S 45° 04' 25" E for 39.99 feet; thence run northeasterly, easterly, southeasterly, southerly and southwesterly along the arc of a curve to the right of radius 45.00 feet (delta 167° 14' 28")(chord bearing S 45° 04' 25" E)(chord 89.44 feet) for 131.35 feet; thence run S 45° 04' 25" E for 177.66 feet; thence run S 31° 35' 26" W for 74.56 feet; thence run S 54° 46' 24" E for 53.66 feet; thence run southwesterly along the arc of a curve to the left of radius 80.00 feet (delta 39° 22' 51")(chord bearing S 28° 28' 46" W)(chord 53.91 feet) for 54.99 feet to a point of tangency; thence run S 08° 47'20" W for 32.73 feet; thence run southeasterly along the arc of a curve to the left of radius 80.00 feet (delta 29°33' 21")(chord bearing S 05° 59' 21" E)(chord 40.81 feet) for 41.27 feet to a point of tangency; thence run S 20° 46' 01" E for 53.58 feet; thence run S 79° 52' 45" W for 114.10 feet; thence run S 49° 19' 44" W for 49.47 feet; thence run S 61° 26' 24" W for 100.37 feet; thence run S 83° 13' 00" W for 51.35 feet; thence run S 00° 04' 25" E for 30.00 feet; thence run S 23° 53' 20" W for 24.62 feet; thence run S 89° 55' 35" W for 105.00 feet to the east line of Gulf Boulevard; thence run N 00° 04' 25" W along said line for 695.00 feet to the Point of Beginning.

Contains 4.90 acres, more or less.

Bearings hereinabove described are Plan Coordinate for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments A-15 through A-20 and the east line of Gulf Boulevard to bear N 00° 04' 24" W.

Steven L. Ford

STEVEN L. FORD
Professional Land Surveyor No. 4992

3-2-94

32050.lgl
SLF/rac

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER
CARL A. BARRACO
DAN W. DICKEY
KENTON R. KEILING
W. BRITT POMEROY
W. DAVID KEY, JR.
THOMAS L. FENDLEY
KEVIN M. WINTER

ASSOCIATES
GEORGE J. KALAL
MICHAEL L. HARMON
GARY R. BULL
STEPHEN W. ADAMS
PATRICIA H. NEWTON

CONSULTANT
LESTER L. BULSON

EXHIBIT B

OHNSON ENGINEERING, INC.

CIVIL ENGINEERS & LAND SURVEYORS

...DON STREET
...EPHONE (813) 334-0046
...ECOPIER (813) 334-3661
ST OFFICE BOX 1550
RT MYERS, FLORIDA
33902-1550

...LE JOHNSON
...911 1968

DESCRIPTION
"ADDITIONAL P.U.D. AND SPECIAL EXCEPTION AREA"
G.L. 3, SECTION 26, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 3, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the railroad rail referred to as Monument "F" in deed recorded in Deed Book 129 at page 346, Lee County Records run N 89° 42' 59" W along the south line of lands described in said deed for 69.55 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 42' 59" W for 318.25 feet; thence run N 00° 17' 01" E for 150.00 feet; thence run S 89° 42' 59" E parallel to said south line for 260.00 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100.00 feet to a 3/4" pipe; thence run S 89° 42' 59" E parallel to said south line for 369.00 feet; thence run S 00° 17' 01" W for 161.00 feet; thence run N 89° 42' 59" W for 311.55 feet; thence run S 00° 17' 01" W for 89.00 feet to the Point of Beginning.

Containing 2.38 acres, more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments A-15 through A-20.

W. BRITT POMEROY, JR.
Professional Land Surveyor
Florida Certificate No. 4448

WBP/kc
16352a

CHAIRMAN
ARCHIE T. GRANT, JR

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER

DAN W. DICKEY
KENTON R KEILING
GEORGE J. KALAL
MICHAEL L. HARMON
THOMAS L. FENDLEY
W. DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO
GARY R BULL
KEVIN M WINTER
STEPHEN W ADAMS
PATRICIA H. NEWTON

CONSULTANT
...ESTER J. BULLSON

94 MAR 10 PM 1:08

CHARLIE GREEN ...

EXHIBIT C

3678517

24.00RE

SIXTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

3730935

This Sixth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 13th day of October, 1994, by CSX REALTY, INC., a Virginia corporation ("Declarant").

PREAMBLE:

Declarant executed and recorded that Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real Property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992 and February 25, 1994, recorded, respectively, in OR 2144, Pg. 3363, OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451 and OR 2479, Pg. 2713 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently, the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (The Lodge at Boca Bay).

2) By deleting paragraph 12.1 in its entirety and replacing it with the following new paragraph;

12.1 Required Membership. The Declarant has constructed a recreational club facility at the southerly terminus of the Subject Property (see Exhibit "A" of the Fifth Amendment to Declaration of Covenants and Restrictions of Boca Bay), known as the Pass Club. All Members of the Master Association shall be obligated to become members of the Florida non-profit corporation created for the purpose of operating the Pass Club (the Club

THIS IS BEING RE-RECORDED TO ATTACH THE LEGAL DESCRIPTION AS EXHIBIT A AND A SKETCH OF THE PROPERTY.

RECORD VERIFIED - CHARLIE GREEN CLERK
BY: HELEN CARROLL, D.C.

Corporation), upon becoming Members of the Master Association, provided however, that Owners who are already Members of the Club Corporation who purchase a Lot without a residence constructed thereon are not required to become a Member of the Club Corporation for a second time so long as such Lot remains vacant. At such time as construction of a residence on the vacant Lot commences, such Owner will immediately be obligated to become a Member of the Club Corporation for the previously vacant Lot and pay such initiation and other fees required of new Members of the Club Corporation at that time.

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY, INC., a Virginia corporation, being the DECLARANT herein, has executed this instrument this 13th day of October, 1994.

CSX REALTY, INC.,
a Virginia corporation

By: Stephen D. Beck
Stephen D. Beck

Its President

Appd. as
Legal For

Robert L Whealton
(First Witness)

Robert L. Whealton
Typed/printed name of witness

Una M Kern
(Second Witness)

Una M. Kern
Typed/printed name of witness

CHARLIE GREEN LEE CTY, FL

94 NOV -1 PM 3:47

STATE OF FLORIDA)
) SS:
COUNTY OF DUVAL)

OR2548 PG1355

The foregoing Sixth Amendment to the Declaration of Covenants and Restrictions of North Bay was acknowledged before me this 13th day of October, 1994, by Stephen D. Beck, as President of CSX Realty, Inc., a Virginia corporation, on behalf of the corporation. The person aforesaid is personally known to me and did take an oath.

Robert L. Whealton
Notary Public

Commission Expires:

Robert L. Whealto
Notary Public, State of F
Commission No. CC 33
My Commission Expires 1
Bonded Through Fla. Notary Service & Bond

THIS INSTRUMENT was prepared by:
William C. Basney, Esquire
CSX Transportation, Inc.
500 Water Street - J150
Jacksonville, FL 32202
and upon its being recorded, it should be returned to him at the foregoing address.

v:\staff\sgl\boca6amd.wcb

JOHNSON ENGINEERING, INC.
ENGINEERS. SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (813) 625-9919
TELECOPIER (813) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

September 22, 1994

EXHIBIT A

DESCRIPTION
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND
LEE COUNTY, FLORIDA

A tract or parcel of land lying in Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida being more particularly described as follows:

Beginning at the railroad rail referred to as Monument "A" at the northwest corner of Beach View at Boca Bay - Phase I as recorded in Plat Book 54 at Page 31 of the Public Records of Lee County, run N 89°55'35" E for 901.24 feet; thence run S 00°04'25" E for 62.78 feet to the Point of Beginning.

From said Point of Beginning run N 89°55'35" E for 222 feet, more or less, to the waters of Charlotte Harbor; thence run along said waters of said Charlotte Harbor for 220 feet, more or less to a point that is 217.22 feet as measured perpendicularly from the north line of the herein described parcel; thence run S 89°55'35" W for 200 feet, more or less; thence run N 45°04'25" W for 148.62 feet; thence run along the arc of a non-tangent curve to the left of radius 172.50 feet (delta 41°49'19") (chord bearing N 24°20'17" E)(chord 123.14 feet) for 125.91 feet to the Point of Beginning.

Contains 1.2 acres, more or less.

Bearings hereinabove described are Plan Coordinate for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments A-15 through A-20, wherein the east line of Gulf Boulevard was determined to bear N 00°04'24" W.

Steven L. Ford

STEVEN L. FORD (For the Firm)
Professional Land Surveyor No. 4992

9-22-94

32050.lg3
SLF/ras

CHAIRMAN
ARCHIE T. GRANT, JR.

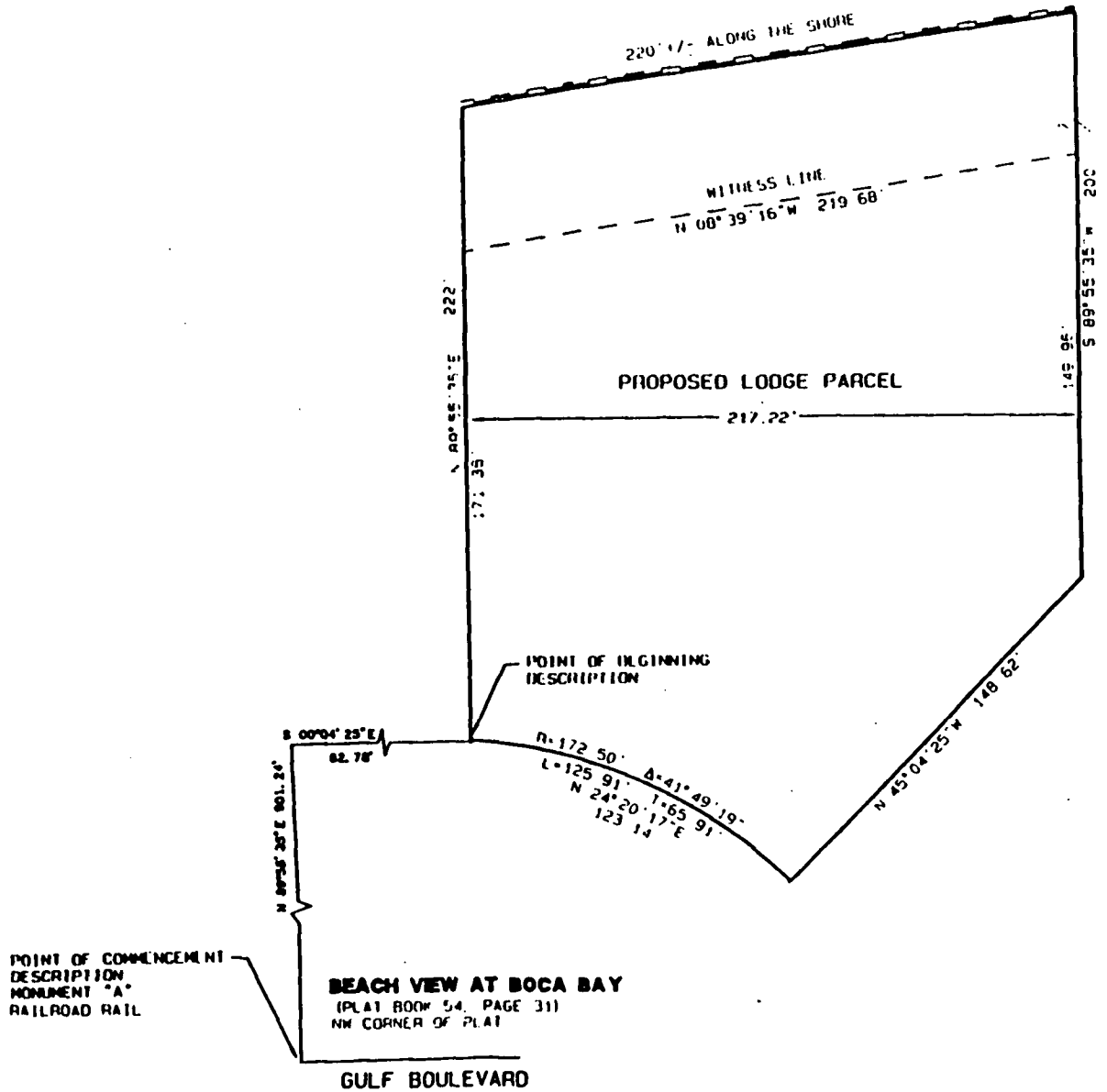
PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER
CARL A. BARRACO
DAN W. DICKEY
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ASSOCIATES
GEORGE J. KALAL
MICHAEL L. HARMON
GARY R. BULL
STEPHEN W. ADAMS
PATRICIA H. NEWTON

CONSULTANT
LESTER L. BULSON

CHARLOTTE HARBOR



THIS IS NOT A SURVEY

STEVEN L. FORD (FOR THE FIRM)
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 4932

NOTES

1. BEARINGS SHOWN ARE BASED ON THE EAST RIGHT-OF-WAY LINE OF GULF BOULEVARD TO BEAR N 00°04'25"W
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATIONS AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL
3. PARCEL CONTAINS 1 2 ACRES MORE OR LESS

DESCRIPTION

A TRACT OF PARCEL OF LAND LYING IN SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST, GASPARILLA ISLAND, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE RAILROAD RAIL REFERRED TO AS MONUMENT "A" AT THE NORTHWEST CORNER OF BEACH VIEW AT BOCA BAY PHASE I AS RECORDED IN PLAT BOOK 54 AT PAGE 31 OF THE PUBLIC RECORDS OF LEE COUNTY, RUN N 89°55'35"E FOR 901 24 FEET, THENCE RUN S 00°04'25"E FOR 62 78 FEET TO THE POINT OF BEGINNING

FROM SAID POINT OF BEGINNING RUN N 89°55'35"E FOR 222 FEET, MORE OR LESS TO THE WATERS OF CHARLOTTE HARBOR, THENCE RUN ALONG SAID WATERS OF SAID CHARLOTTE HARBOR FOR 220 FEET, MORE OR LESS TO A POINT THAT IS 217 22 FEET AS MEASURED PERPENDICULARLY FROM THE NORTH LINE OF THE HEREIN DESCRIBED PARCEL, THENCE RUN S 89°55'35"W FOR 200 FEET MORE OR LESS, THENCE RUN N 45°04'25"W FOR 148 62 FEET; THENCE RUN ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT OF RADIUS 172 50 FEET (DELTA 41°49 19") (CHORD BEARING N 24°20'17"E) (CHORD 123 14 FEET) FOR 125 91 FEET TO THE POINT OF BEGINNING

SKETCH TO ACCOMPANY DESCRIPTION
PARCEL IN
SECTION 26, TOWNSHIP 43 S., RANGE 20 E.
GASPARILLA ISLAND
LEE COUNTY, FLORIDA

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

95 FEB 21 AM 9:09
CLERK LEE CTY. FL

OR 2370 PG 0940

3726837

SEVENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Seventh Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is effective as of the 15th day of November, 1994, by CSX REALTY, INC., a Virginia corporation ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994 and October 13, 1994, recorded, respectively, in OR 2144, Pg. 3363, OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451, OR 2479, Pg. 2713 and OR 2548, Pg. 1353 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently, the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Beach View at Boca Bay - Phase II).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY, INC., a Virginia corporation, being the DECLARANT herein, has executed this instrument this 19th day of January, 1995.

CSX REALTY, INC.,
a Virginia corporation

William C Basney
(First Witness)

By: Stephen D. Beck
Stephen D. Beck

Its President

Appd. as to Legal Form

William C. Basney
Typed/printed name of witness

Shirley P. Lanchester
(Second Witness)

Shirley G. Lanchester
Typed/printed name of witness

STATE OF FLORIDA)
) SS:
COUNTY OF DUVAL)

The foregoing Seventh Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 19th day of January, 1995, by Stephen D. Beck, as President of CSX Realty, Inc., a Virginia corporation, on behalf of the corporation. The person aforesaid is personally known to me and did take an oath.

Kathleen Grollo
Notary Public

Commission Expires: _____

KATHLEEN GROLLO
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires Sept. 3, 1995
Commission No. CC140932
Bonded thru Patterson-Becht Agency

THIS INSTRUMENT was prepared by:
William C. Basney, Esquire
CSX Transportation, Inc.
500 Water Street - J150
Jacksonville, FL 32202
and upon its being recorded, it should be returned to him at the foregoing address.

v:\staff\sgl\boca7amd.wcb

CHARLIE GREEN LEE CTY, FL

95 FEB 10 PM 3:26

OR2574 PG3406

DESCRIPTION
GOVERNMENT LOT 2, SECTION 26,
TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND
LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company, as recorded in Deed Book 129 at Page 346 of the Public Records of Lee County, also being that same Monument "A" as shown on the southeasterly line of Golden Beach - Unit Number 1, as recorded in Plat Book 10 at Pages 60 through 61 of said public records, run S 00°04'25" E along the east right of way (ROW) line of Gulf Boulevard (60' wide) for 695.00 feet to the Point of Beginning.

From said Point of Beginning run N 89°55'35" E along the southerly line of Beach View at Boca Bay as recorded in Plat Book 54 at Page 31 for 105.00 feet; thence run N 23°53'20" E for 24.62 feet; thence run N 00°04'25" W for 30.00 feet; thence run N 83°13'00" E for 51.35 feet; thence run N 61°26'26" E for 100.37 feet; thence run N 49°19'41" E for 49.47 feet; thence run N 79°52'45" E for 114.10 feet; thence run S 20°46'01" E for 27.04 feet to a point of curvature; thence run southerly along an arc of a curve to the right of radius 120.00 feet (delta 21°53'44")(chord bearing S 09°49'09" E)(chord 45.58 feet) for 45.86 feet to a point of tangency; thence run S 01°07'43" W for 36.70 feet to a point of curvature; thence run southerly along an arc of a curve to the right of radius 115.00 feet (delta 18°19'59") (chord bearing S 10°17'43" W)(chord 36.64 feet) for 36.80 feet to a point of tangency; thence run S 19°27'42" W for 109.79 feet to a point of curvature; thence run southwesterly along an arc of a curve to the right of radius 110.00 feet (delta 17°07'59")(chord bearing S 28°01'42" W)(chord 32.77 feet) for 32.89 feet to a point of tangency; thence run S 36°35'41" W for 28.77 feet to a point of curvature; thence run southerly along an arc of a curve to the left of radius 110.00 feet (delta 38°29'28")(chord bearing S 17°20'57" W)(chord 72.52 feet) for 73.90 feet to a point of tangency; thence run S 01°53'47" E for 40.96 feet to a point of curvature; thence run southwesterly along an arc of a curve to the right of radius 55.00 feet (delta 61°24'15")(chord bearing S 28°48'21" W) (chord 56.16 feet) for 58.94 feet to a point of tangency; thence run S 59°30'28" W for 21.47 feet to a point of curvature; thence run southwesterly along an arc of a curve to the right of radius 55.00 feet (delta 15°48'41") (chord bearing S 72°10'36" W) (chord 15.13 feet) for 15.18 feet to a point of reverse curvature; thence run along the arc of a curve to the left of radius 122.50 feet (delta 06°17'06")(chord bearing S 72°10'36" W) (chord 13.43 feet) for 13.44 feet to a point on a non-tangent line; thence run S 89°55'35" W for 45.89 feet; thence run S 80°36'59" W for 61.81 feet; thence run N 00°04'25" W for 110.00 feet; thence run S 89°55'35" W for 10.00 feet; thence run S 25°43'21" W for 66.64 feet; thence run S 89°55'35" W for 106.00 feet to an intersection with the above mentioned east ROW line of said Gulf Boulevard; thence run N 00° 04' 25" W along said right-of-way of Gulf Boulevard for 280.00 feet to the Point of Beginning.

Contains 3.16 acres, more or less.

Bearings hereinabove described are State Plane Coordinates for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments A-15 through A-20 from which the east line of Gulf Boulevard was determined to bear N 00° 04' 25" W.

Steven L. Ford

STEVEN L. FORD (For the Firm)
Professional Land Surveyor No. 4992

32050.lg2
SLF/rac

1/12/95

EXHIBIT A

3735193

EIGHTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Eighth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 17th day of February, 1995, by CSX REALTY, INC., a Virginia corporation ("Declarant").

PREAMBLE:

Declarant executed and recorded that Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real Property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992 and February 25, 1994, recorded, respectively, in OR 2144, Pg. 3363, OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451, OR 2479, Pg. 2713 and OR 2574 Pg. 3403 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

By deleting paragraph 12.1 in its entirety and replacing it with the following new paragraph;

12.1 Required Membership. The Declarant has constructed a recreational club facility at the southerly terminus of the Subject Property (see Exhibit "A" of the Fifth Amendment to Declaration of Covenants and Restrictions of Boca Bay), known as the Pass Club. All Members of the Master Association shall be obligated to become members of the Florida non-profit corporation created for the purpose of operating the Pass Club (the Club Corporation), upon becoming Members of the Master Association, provided however, that Owners who are already Members of the Club Corporation who purchase a Lot without a residence constructed thereon are not required to become a Member of the Club Corporation

• RECORD VERIFIED - CHARLIE GREEN, CLERK •
• BY: SUSAN THOMPSON •

for a second time so long as such Lot remains without a residence. At such time as construction of a residence on the vacant Lot commences, such Owner will immediately be obligated to become a Member of the Club Corporation for the previously vacant Lot and pay such initiation and other fees required of new Members of the Club Corporation at that time. It is intended the Owners may combine two Lots and construct a single residence on the combined Lots without being obligated to become a Member of the Club Corporation for a second time.

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY, INC., a Virginia corporation, being the DECLARANT herein, has executed this instrument this 17th day of February, 1995.

CSX REALTY, INC.,
a Virginia corporation

By: _____
Stephen D. Beck
Its President

Appd. as to Legal Form

_____
(First Witness)

Peter McKinney
Typed/printed name of witness

_____
(Second Witness)

Deirdre Walsh
Typed/printed name of witness

95 FEB 28 PM 3:46

STATE OF FLORIDA)
) SS:
COUNTY OF DUVAL)

The foregoing Eighth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 17th day of February, 1995, by Stephen D. Beck, as President of CSX Realty, Inc., a Virginia corporation, on behalf of the corporation. The person aforesaid is personally known to me and did take an oath.

Ellen Danahy
Notary Public

Commission Expires: _____

ELLEN DANAHY
MY COMMISSION # CC300206 EXPIRES
August 3, 1997
BONDED THRU TROY FAIN INSURANCE, INC.

THIS INSTRUMENT was prepared by:
William C. Basney, Esquire
CSX Transportation, Inc.
500 Water Street - J150
Jacksonville, FL 32202
and upon its being recorded, it should be returned to him at the foregoing address.

v:\staff\sgl\boca8amd.wcb

51.00

THIS INSTRUMENT was prepared by:
William C. Basney, Esquire
CSX Transportation, Inc.
500 Water Street - J150
Jacksonville, FL 32202
and upon its being recorded, it
should be returned to him at the
foregoing address.

4061859

OR2762 PG1900

O NEGRA VERIFIED - CHARLIE GREEN, CLERK O
O BY: C. KELLY, D.C. O

NINTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Ninth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 6th day of December, 1996, by CSX REALTY DEVELOPMENT, CORPORATION, a Georgia corporation, successor by merger to CSX REALTY, INC., a Virginia Corporation ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994 and February 17, 1995 recorded, respectively, in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403 and OR 2579, Pg. 0047 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently, the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto. (Harborside at Boca Bay, a Condominium); and,

2) By amending Exhibit A thereof, and consequently the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit B attached hereto. (Beach View at Boca Bay-Phase III); and,

3) By amending Exhibit A thereof, and consequently the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit C attached hereto. (Boat Basin); and

4) By deleting paragraph 12 in its entirety and replacing it with the following new paragraph;

"12. RIGHTS OF INSTITUTIONAL LENDERS. Upon written notice to the MASTER ASSOCIATION by any INSTITUTIONAL LENDER holding, insuring or guaranteeing a mortgage encumbering any PROPERTY, UNIT OR PLANNED UNIT, identifying the name and address of the INSTITUTIONAL LENDER and the PROPERTY, UNIT OR PLANNED UNIT encumbered by such mortgage, any such INSTITUTIONAL LENDER will be entitled to timely written notice of:

(i) Any condemnation or casualty loss that affects either a material portion of the SUBJECT PROPERTY or the PROPERTY, UNIT or PLANNED UNIT securing its mortgage.

(ii) Any sixty-day delinquency in the payment of ASSESSMENTS or charges owed by the OWNER of the PROPERTY, UNIT or PLANNED UNIT on which it holds the mortgage, or by the HOMEOWNER'S ASSOCIATION MEMBER having jurisdiction over the PROPERTY, UNIT or PLANNED UNIT.

(iii) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the MASTER ASSOCIATION.

(iv) Any proposed action that requires the consent of a specified percentage of mortgage holders."; and,

5) By deleting paragraph 13.01 in its entirety and replacing it with the following new paragraph;

"13.01 REQUIRED MEMBERSHIP. The Declarant has constructed a recreational club facility at the southerly terminus of the Subject Property (see Exhibit "A" of the Fifth Amendment to Declaration of Covenants and Restrictions of Boca Bay), known as the Pass Club. All Members of the Master Association shall be obligated to become members of the Florida non-profit corporation created for the purpose of operating the Pass Club (the Club Corporation), upon becoming Members of the Master Association, provided however, that Owners who are already Members of the Club Corporation who purchase

OR2762 PG1901

a Lot without a residence constructed thereon are not required to become a Member of the Club Corporation for a second time so long as such Lot remains without a residence. At such time as construction of a residence on the vacant Lot commences, such Owner will immediately be obligated to become a Member of the Club Corporation for the previously vacant Lot and pay such initiation and other fees required of new Members of the Club Corporation at that time. It is intended the Owners may combine two Lots and construct a single residence on the combined Lots without being obligated to become a Member of the Club Corporation for a second time."

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, successor by merger to CSX Realty, Inc., a Virginia corporation, being the DECLARANT herein, has executed this instrument this 6th day of November, 1996.

CSX REALTY DEVELOPMENT CORPORATION

William C Basney
(First Witness)
William C. Basney
Print Name

By: Patricia J. Lightsey
Its: Vice President

WCB
Appd. as to
Legal Form

Shirley D Lanchester
(Second Witness)
Shirley G. Lanchester
Print Name

William C Basney
(First Witness)
William C. Basney
Print Name

By: Joyce Ann Wilder
Its: Assistant Secretary

Shirley D Lanchester
(Second Witness)
Shirley G. Lanchester
Print Name

OR2762 PG1902

STATE OF FLORIDA)
) SS:
COUNTY OF DUVAL)

The foregoing Ninth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 6TH day of November, 1996, by Patricia J. Ostrosa, as Vice-President and by Joyce Ann Dolan, as Assistant-Secretary, of CSX Realty Development Corporation, who are personally known to me or have produced ____ _____ as identification.

Howard Michael Lee
Notary Public

Commission Expires: August 2, 1999

(SEAL)

HOWARD MICHAEL LEE
Comm. No. CC 485609
My Comm. Exp. Aug. 2, 1999
Bonded thru Pichard Ins. Agcy.

v:\staff\sgl\boca9am.vcb

OR2762 PG1903

EXHIBIT A

JOHNSON ENGINEERING, INC.

ENGINEERS, SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 629-8919
TELECOPIER (941) 629-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1988

January 24, 1996

DESCRIPTION
GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is more particularly described as follows:

From the railroad rail referred to as Monument "A" in deed to Charlotte Harbor and Northern Railroad Company as recorded in Deed Book 129, at Page 346 of the Public Records of Lee County, Florida also being that same Monument "A" as shown on the southeasterly line of Golden Beach Unit No. 1 as recorded in Plat Book 10, at Pages 60 through 61 of said Public Records, run N 89°55'35" E along the northerly line of Beachview at Boca Bay as recorded in Plat Book 54 at Pages 31 through 34 of said Public Records for 190.00 feet; thence run S 00°04'45" E for 54.51 feet; thence run S 45°04'25" E for 307.09 feet to a point of curvature; thence run along the arc of a curve to the left of radius 40.00 feet (delta 68°55'39")(chord bearing S 79°32'14" E)(chord 45.27 feet) for 48.12 feet to a point of reverse curvature; thence run along the arc of a curve to the right of radius 182.50 feet (delta 137°39'56")(chord bearing S 45°10'06" E)(chord 340.37 feet) for 438.50 feet to a point of cusp and the Point of Beginning.

From said Point of Beginning run along the arc of a curve to right of radius 30.00 feet (delta 75°41'47")(chord bearing N 09°06'16" E)(chord 36.81 feet) for 39.63 feet to a point of tangency; thence run N 46°57'10" E for 211.81 feet; thence run S 45°04'25" E for 142.75 feet; thence run S 44°55'35" W for 3.80 feet; thence run S 44°55'35" W for 28.28 feet; thence run S 00°04'25" E for 390.00 feet; thence run S 45°04'25" E for 24.60 feet; thence run S 48°40'29" W for 139.18 feet; thence run along the arc of a curve to the left of radius 71.50 feet (delta 44°13'07")(chord bearing N 68°14'54" W)(chord 53.82 feet) for 55.18 feet to a point of cusp; thence run along the arc of a curve to the left of radius 257.50 feet (delta 26°32'39")(chord bearing N 32°11'08" W)(chord 118.23 feet) for 119.30 feet to a point of reverse curvature; thence run along the arc of a curve to the right of radius 142.50 feet (delta 69°07'19")(chord bearing N 10°53'47" W)(chord 161.68 feet) for 171.91 feet to a point of reverse curvature; thence run along the arc of a curve to the left of radius 182.50 feet (delta 52°24'30")(chord bearing N 02°32'23" W)(chord 161.17 feet) for 166.93 feet to the Point of Beginning.

Contains 2.66 acres, more or less.

Bearings mentioned hereinabove are State Plane Coordinates from the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments A15 through A20 from which the east line of Gulf Boulevard was determined to bear N 00°04'25" W.

Steven L. Ford

STEVEN L. FORD, For the Firm
Professional Land Surveyor #4992

1-24-96

32650con.lgl
SLF/ek

OR2762 PG1904

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER
CARL A. BARRACO
KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
DAN W. DICKEY
KEVIN M. WINTER
GARY R. BULL

ASSOCIATES
GEORGE J. KALAL
STEPHEN W. ADAMS
PATRICIA M. NEWTON

CONSULTANT
LESTER L. GULSON

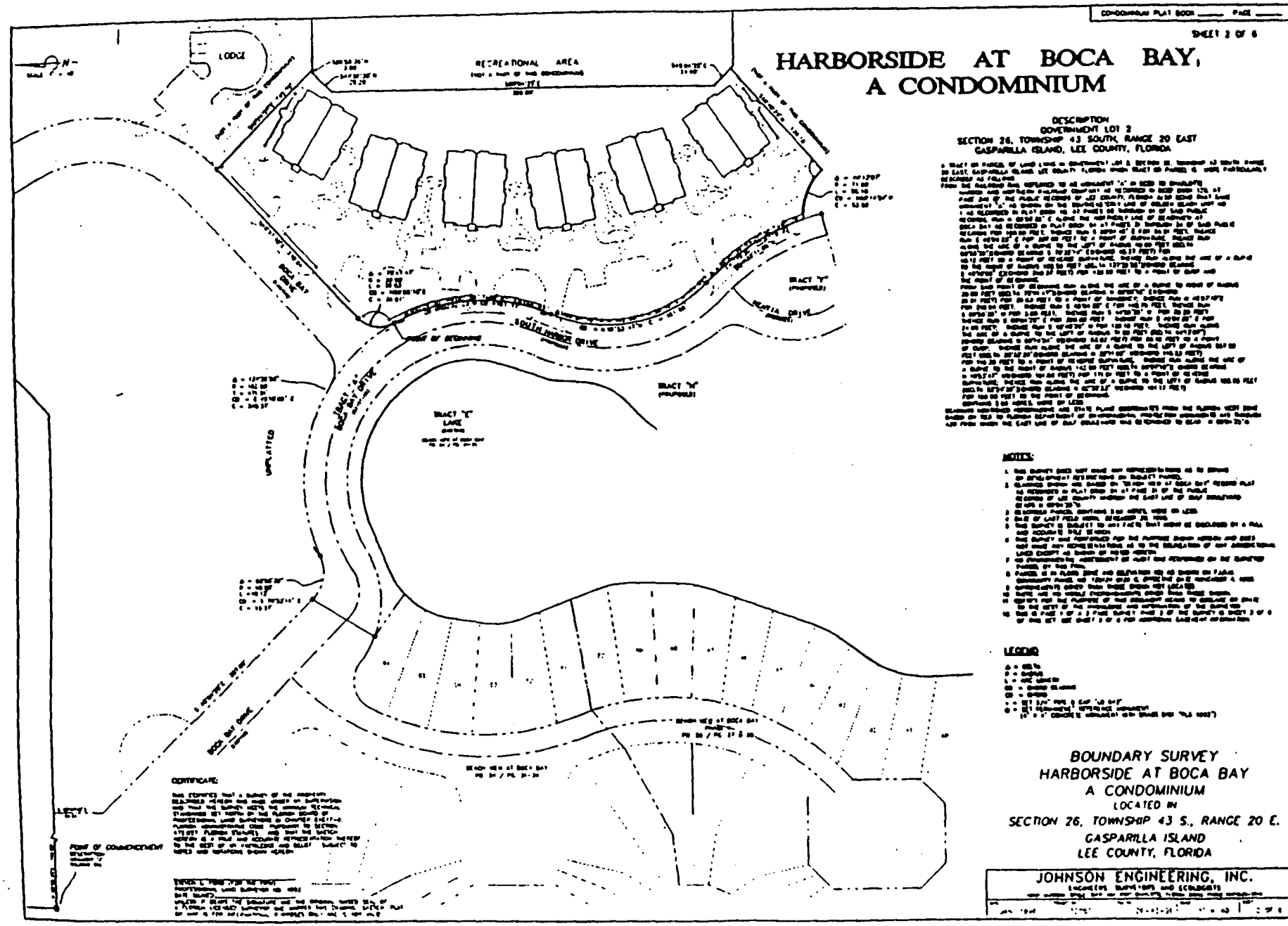

CONDOMINIUM PLAT BOOK ____ PAGE ____
SHEET 3 OF 6
HARBORSIDE AT BOCA BAY,
A CONDOMINIUM
DESCRIPTION
CONDOMINIUM LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA
NOTES:
LEGEND
BOUNDARY SURVEY
HARBORSIDE AT BOCA BAY
A CONDOMINIUM
LOCATED IN
SECTION 26, TOWNSHIP 43 S., RANGE 20 E.
GASPARILLA ISLAND
LEE COUNTY, FLORIDA
JOHNSON ENGINEERING, INC.
LODGE
RECREATIONAL AREA
SOUTH HARBOR DRIVE
BOCA BAY DRIVE
TRACT "C"
LAKE
TRACT "R"
(PRIVATE)
TRACT "S"
(PRIVATE)
SURVEYOR'S CERTIFICATE:
POINT OF COMMENCEMENT
POINT OF BEGINNING

EXHIBIT B

JOHNSON ENGINEERING, INC.

ENGINEERS. SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

DESCRIPTION
GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN GOVERNMENT LOT 2, SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST, GASPARILLA ISLAND, LEE COUNTY, FLORIDA WHICH TRACT OR PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE RAILROAD RAIL REFERRED TO AS MONUMENT "A" IN DEED TO CHARLOTTE HARBOR AND NORTHERN RAILROAD COMPANY AS RECORDED IN DEED BOOK 129 AT PAGE 346 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ALSO BEING THAT SAME MONUMENT "A" AS SHOWN ON THE SOUTHEASTERLY LINE OF GOLDEN BEACH UNIT NO. 1 AS RECORDED IN PLAT BOOK 10 AT PAGES 60 THROUGH 61 OF SAID PUBLIC RECORDS RUN N 89°55'35" E ALONG THE NORTHERLY LINE OF BEACH VIEW AT BOCA BAY AS RECORDED IN PLAT BOOK 54 AT PAGES 31 THROUGH 34 OF SAID PUBLIC RECORDS FOR 190.00 FEET; THENCE RUN S 00°04'25" E FOR 54.51 FEET; THENCE RUN S 45°04'25" E FOR 307.09 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 40.00 FEET(DELTA68°55'39")(CHORD BEARING S 79°32'14" E) (CHORD 45.27 FEET) FOR 48.12 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OFACURVE TO THE RIGHT OF RADIUS 182.50 FEET (DELTA 56°39'01") (CHORD BEARING S 85°40'33" E) (CHORD 173.18 FEET) FOR 180.44 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 30.00 FEET (DELTA 75°41'47")(CHORD BEARING N 84°48'03" E)(CHORD 36.81 FEET) FOR 39.63 FEET TO A POINT OF TANGENCY; THENCE RUN N 46°57'10"E FOR 211.81 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 127.50 FEET (DELTA 28°(50'08")(CHORD BEARING N 32°32'05" E) (CHORD 63.49 FEET) FOR 64.17 FEET; THENCE RUN S 71°52'59" E FOR 45.00 FEET; THENCE RUN ALONG THE ARC OF A CUVRE TO THE RIGHT OF RADIUS 172.50 FEET (DELTA 28°50'08")(CHORD BEARING S 32°32'05"W)(CHORD 85.90 FEET) FOR 86.82 FEET TO A POINT OF TANGENCY; THENCE RUN S 46°57'10"W FOR 211.81 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 30.00 FEET (DELTA 75°41'47")(CHORD BEARING S 09°06'16"W) (CHORD 36.81 FEET) FOR 39.63 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 182.50 FEET (DELTA 52°24'30")(CHORD BEARING S 02°32'23"E)(CHORD 161.17 FEET) FOR 166.93 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 142.50 FEET (DELTA 69°07'19") (CHORD BEARING S 10°53'47" E) (CHORD 161.68 FEET) FOR 171.91 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 257.50 FEET (DELTA 88°53'54") (CHORD BEARING S01°00'30"E) (CHORD 360.64 FEET) FOR 399.53 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 227.50 FEET (DELTA 19°38'30") (CHORD BEARING S33°37'12" W) (CHORD 77.61 FEET) FOR 77.99 FEET. TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 48.00 FEET (DELTA 165°31'26")

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER
CARL A. BARRACO
KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
DAN W. DICKEY
KEVIN M. WINTER
GARY R. BULL

ASSOCIATES
GEORGE J. KALAL
STEPHEN W. ADAMS
PATRICIA H. NEWTON

CONSULTANT
LESTER L. BULLARD

OR2762 PG1906

(CHORD BEARING N 73°26'20" W) (CHORD 95.23 FEET) FOR 138.67 FEET; TO A POINT OF COMPOUND CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 165.00 FEET (DELTA 15°23'50") (CHORD BEARING N 17°01'18" E) (CHORD 44.21 FEET) FOR 44.34 FEET THENCE RUN N 55°02'46" W FOR 109.79 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 150.00 FEET (DELTA 21°57'47") (CHORD BEARING N 42°01'09" E) (CHORD DISTANCE 57.15) FOR 57.50 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 90.00 FEET (DELTA 81°28'15") (CHORD BEARING N 12°15'56" E) (CHORD 117.46 FEET) FOR 127.97 FEET TO A POINT OF TANGENCY; THENCE RUN N 28°28'12" W FOR 33.00 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 150.00 FEET (DELTA 78°18'26") (CHORD BEARING N 10°41'01" E) (CHORD 189.42 FEET) FOR 205.01 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 65.00 FEET (DELTA 45°34'19") (CHORD BEARING N 27°03'05" E) (CHORD 50.35 FEET) FOR 51.70 FEET TO A POINT OF TANGENCY; THENCE RUN N 04°15'55" E FOR 29.46 FEET TO A POINT OF CURVATURE, THENCE RUN ALONG THE ARC OF CURVE TO THE RIGHT 50.00 FEET (DELTA 14°10'07") (CHORD BEARING N 11°20'59" E) (CHORD 12.33 FEET) FOR 12.36 FEET TO A POINT OF TANGENCY; THENCE RUN N 18°26'03" E FOR 49.17 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 90.00 FEET (DELTA 51°44'19") (CHORD BEARING N 07°25'51" W) (CHORD 78.54 FEET) FOR 81.27 FEET TO A POINT OF TANGENCY; THENCE RUN N 33°18'01" W FOR 10.71 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 122.50 FEET (DELTA 79°13'28") (CHORD BEARING N 72°54'45" W) (CHORD 156.21 FEET) FOR 169.38 FEET TO A POINT OF TANGENCY; THENCE RUN S67°28'31"W FOR 48.00 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 80.00 FEET (DELTA 19°18'20") (CHORD BEARING S 57°49'21" W) (CHORD 26.83 FEET) FOR 26.96 FEET TO A CORNER ADJOINING SAID BEACH VIEW AT BOCA BAY; THENCE RUN ALONG THE NORTHERLY LINE OF SAID BEACH VIEW THE FOLLOWING TWO COURSES: N 54°46'24" W FOR 53.66 FEET; THENCE RUN N 31°35'26" E FOR 74.56 FEET TO THE POINT OF BEGINNING.

CONTAINS 3.30 ACRES, MORE OR LESS

BEARINGS HEREINABOVE MENTIONED ARE STATE PLANE COORDINATES FROM THE FLORIDA WEST ZONE BASED ON TIES TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION MONUMENT A15 THROUGH A20 FROM WHICH THE EAST LINE OF GULF BOULEVARD WAS DETERMINED TO BEAR N 00°04'25"W.

STEVEN L. FORD (FOR THE FIRM)
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 4992

32050PH3.LGL
SLF/slf

11-11-96

OR2762 PG1907

BEACH VIEW AT BOCA BAY
PHASE III

A SUBDIVISION IN

SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

MAY 1986

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

PLAT BOOK _____ PAGE _____

SHEET 2 OF 2

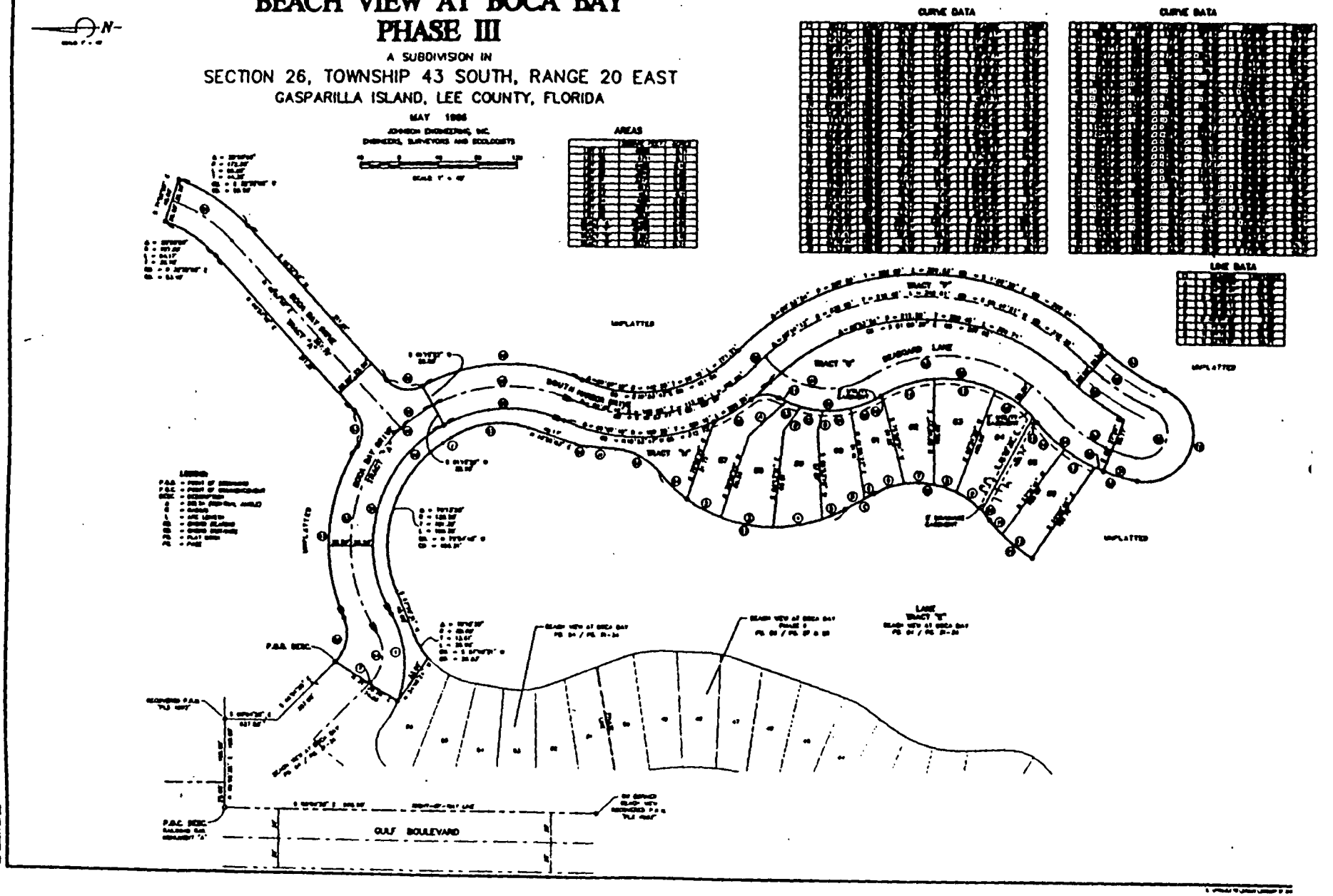


EXHIBIT C

JOHNSON ENGINEERING, INC.

ENGINEERS. SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

November 5, 1996

DESCRIPTION
TRACT A - BOAT BASIN
SECTION 23, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

Tract A of the "Boat Basin", a subdivision, as recorded in Plat Book 56 at Pages 11 and 12 of the Public Records of Lee County lying in Government Lot 1, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida being more particularly described by metes and bounds as follows:

Beginning at the southwest corner of said Tract "A" run N 14°25'00" W along the east right-of-way line of East Avenue (50' right-of-way) for 239.38 feet; thence run N 75°35'00" E for 111.19 feet; thence run S 15°09'01" E for 17.45 feet; thence run N 75°35'00" E for 75.00 feet; thence run S 19°45'00" E for 37.64 feet; thence run S 45°30'02" W for 103.10 feet; thence run S 16°47'00" E for 123.00 feet to the north right-of-way line of Damfino (50' Right-of-Way) as described in Official Record Book 1261 at Page 787 and Official Record Book 2521 at Page 2419 of said Public Records; thence run S 70°15'00" W along said north right-of-way line of Damfino for 106.23 feet to the Point of Beginning.

Contains 29,713 square feet (0.68 acres), more or less.

Bearings hereinabove mentioned are based on the plat of the said "Boat Basin" wherein the east line of East Avenue is shown to bear N 14°25'00" W.

OR2762 PG1909

Steven L. Ford

STEVEN L. FORD (For the Firm)
Professional Surveyor and Mapper No. 4992

11-5-96

SLF/cak
32050.lgl

STATE OF FLORIDA

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

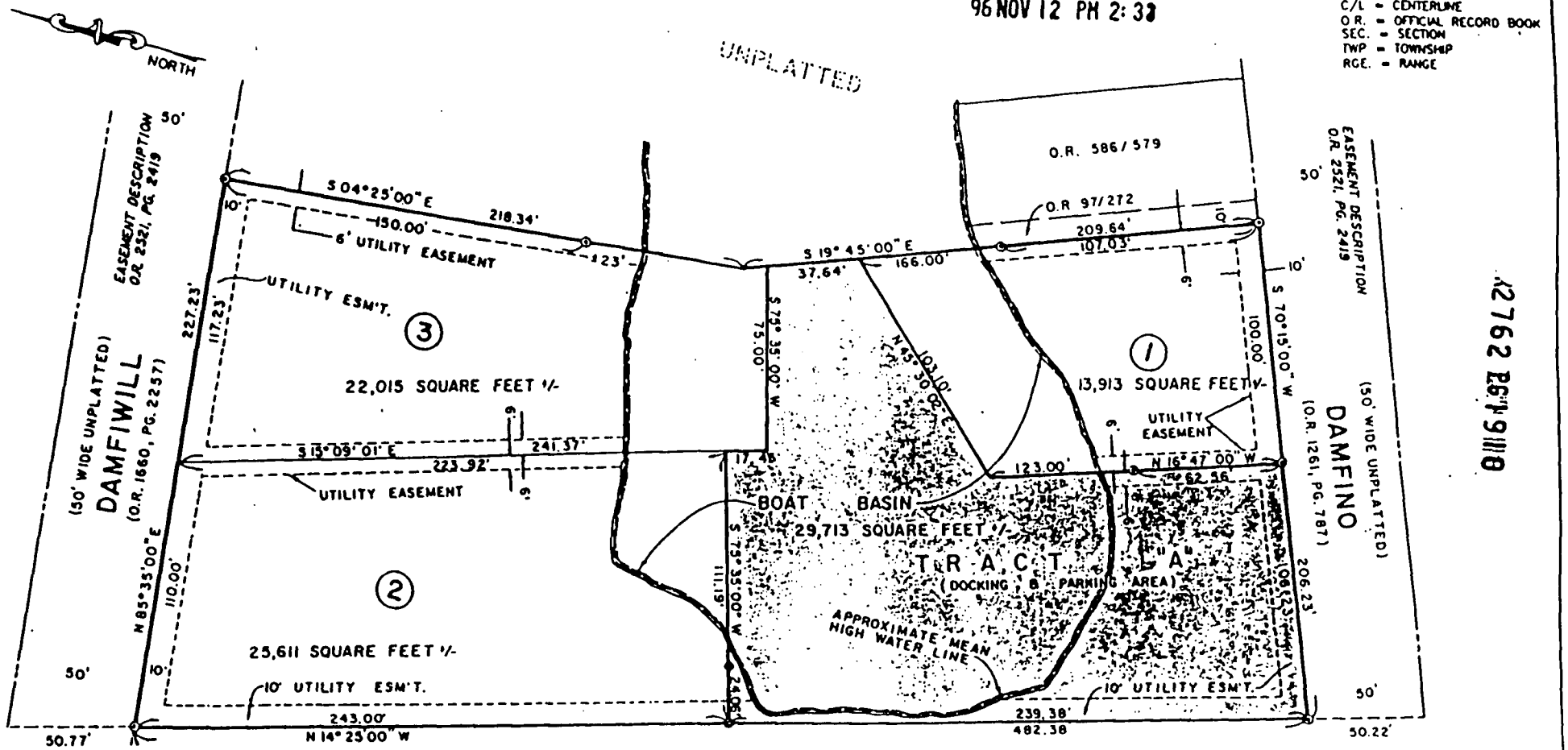
JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER
CARL A. BARRACO
KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
DAN W. DICKEY
KEVIN M. WINTER
GARY R. BULL

ASSOCIATES
GEORGE J. KALAL
STEPHEN W. ADAMS
PATRICIA H. NEWTON

CONSULTANT
LESTER L. BULSON

CHARLIE GREEN LEE CTY FL

96 NOV 12 PM 2:38



THIS IS NOT A SURVEY

50' EAST (50' WIDE) AVENUE 50'

546.09'

SKETCH TO ACCOMPANY DESCRIPTION
TRACT A – BOAT BASIN
(PLAT BOOK 56, PAGE 11)
LOCATED IN
SEC. 23, TWP. 43 S., RGE. 20 E.
GASPARILLA ISLAND
LEE COUNTY, FLORIDA

NOTES:

1. THIS SKETCH DOES NOT MAKE ANY REPRESENTATIONS AS TO ZOING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL.
2. DESCRIBED PARCEL CONTAINS 0.68 ACRES, MORE OR LESS
3. BEARINGS SHOWN ARE BASED ON PLATTED SUBDIVISION AS STATED IN TITLE.

STEVEN L. FORD FOR THE FIRM
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 4981

DATE SIGNED: 11-5-96

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

10-24-96	37050	23-43-20	1" = 40'	1 OF 1

02762 PG 1918

REC

INDEX

THIS INSTRUMENT was prepared by
ROBERT C. SIFRIT, ESQUIRE
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR, P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

4278313

PORT CHARLOTTE OFFICE

•RECORD VERIFIED CHARLIE GREEN, CLERK•
• SUSAN THOMPSON•

TENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Tenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 23rd day of October, 1997, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995 and November 6, 1996 recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047 and OR 2762, Pg. 1900 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By deleting Paragraph 1.17 of the Declaration of Covenants and Restrictions of Boca Bay in its entirety and replacing it with the following new paragraph;

> 1.17 OWNER means the recorded owner(s) of the fee title to any LOT, UNIT or PLANNED UNIT.

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 23rd day of October, 1997.

Peggy K. Wilson
(First Witness)
PEGGY K. WILSON
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

CSX REALTY DEVELOPMENT, LLC

By: Patricia J. Altoona

Its: Vice President

Appd. as to Legal Form

Peggy K. Wilson
(First Witness)
PEGGY K. WILSON
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

By: Joyce A. Dolan

Its: Assistant Secretary

97 NOV 20 PM 3:54

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Tenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 23rd day of October, 1997, by Patricia J. Altoona, as Vice President and by Joyce A. Dolan, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, who are personally known to me or have produced _____ as identification.

Dorothy A. McDowell
Notary Public
My commission expires: 11/22/99

(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

s:\staff\dam\bill\misc\tenth BocaBay

INDEX

THIS INSTRUMENT was Prepared by:
ROBERT C. SIFRIT, ESQUIRE
FARR, FARR, EMERICH, SIFRIT, HACKETT & CARR, P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

PORT CHARLOTTE OFFICE

4278314

•RECORD VERIFIED CHARLIE GREEN, CLERK•
• SUSAN THOMPSON•

ELEVENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Eleventh Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 14th day of [illegible], 1997, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996 and October 23, 1997 recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900 and OR 2890 Pg. 2803 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

Developer now desires to add GRANDE BAY AT BOCA BAY, a Boca Bay Neighborhood, to the Subject Property, to be governed by the Master Covenants.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) Attached hereto as Exhibit "A" is the legal description of the land which constitutes GRANDE BAY AT BOCA BAY, a Boca Bay Neighborhood. Exhibit "A" of the Master Covenants is hereby amended by adding thereto Exhibit "A" of this Amendment. The property described in Exhibit "A" of this Amendment is hereby declared to be a part of the Subject Property, effective on the date this Amendment is recorded in the public records of the County, and thereafter such property shall be governed by the Master Covenants.

2) Except as the Master Covenants are expressly or impliedly amended as provided herein, all of the terms and provisions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 14th day of November, 1997.

CSX REALTY DEVELOPMENT, LLC

Donna W Melton
(First Witness)

By: Patricia J. Aftoora

DONNA W. MELTON
Print Name

Its: Vice President

Shirley E. Armistead
(Second Witness)

Approved as to Legal Form

SHIRLEY E. ARMISTEAD
Print Name

Donna W Melton
(First Witness)

By: Joyce A. Dolan

DONNA W. MELTON
Print Name

Its: AssistantSecretary

Shirley E. Armistead
(Second Witness)

SHIRLEY E. ARMISTEAD
Print Name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Eleventh Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 14th day of November, 1997, by Patricia J. Aftoora, as Vice President and by Joyce A. Dolan, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, who are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/99

Dorothy A. McDowell
Notary Public

(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission #CC490726

PC: 2451

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

September 23, 1997

97 OCT 20 PM 2:20

DESCRIPTION
GRANDE BAY AT BOCA BAY
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lots 1 and 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

Beginning at the permanent referenced monument (P.R.M.) marking the Southwesterly corner of South Bay, Plat Book 51 at Page 1, Lee County Records run S 03°26'01" W for 1,372.08 feet; thence run EAST for 29.57 feet; thence run Southerly, Southeasterly, Easterly and Northeasterly along the arc of a curve to the left of radius 65.00 feet (delta 143°25'35") (chord bearing S 71°42'47" E) (chord 123.43 feet) for 162.71 feet; thence run S 23°24'08" E for 117.37 feet; thence run N 89°55'35" E for 215.32 feet to the Mean High Water Line of Charlotte Harbor; thence run Northerly along said Mean High Water Line for 1,512 feet more or less to an intersection with an Easterly prolongation of the South line of said South Bay; thence run N 86°33'59" W along said prolongation and said South line for 153.46 feet to the Point of Beginning.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.grandbay@bocabay

97 NOV 20 PM 3:54

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
CARL A. BARRACO
GARY R. BULL
DAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
ANDREW D. TILTON
KEVIN M. WINTER

ASSOCIATES
STEVEN L. FORD
PATRICIA H. NEWTON
MARK G. WENTZEL

CONSULTANT
LESTER L. BULSON

EXHIBIT "A"

4295811

THIS INSTRUMENT was Prepared by:
ROBERT C. SIFRIT, ESQUIRE
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR, P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

TWELFTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Twelfth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 8th day of December, 1997, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997 and November 14, 1997 recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900, OR 2890, Pg. 2802 and OR 2890, Pg. 2804 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Paragraph 1.06 of the Declaration of Covenants and Restrictions of Boca Bay by adding the following paragraphs as they relate to Grande Bay at Boca Bay, a subdivision according to the Plat thereof as recorded in Plat Book 60, Pages 51A through 52, of the Public Records of Lee County, Florida ("Grande Bay"):

> COMMON AREAS of Grande Bay shall include Tracts C and D and that portion of the storm water management system on Tract B which shall be owned, operated and maintained by the MASTER ASSOCIATION. The COMMON AREA open space, located in Tracts C and D, may not be developed except for "open space purposes" as defined in the Lee County Land Development Code (1997), including recreational facilities as listed in Section 10-413(2)(e) which permits:

"Active and passive recreation areas such as playgrounds, golf courses, beach frontage, native trails, bikeways, pedestrian ways and other similar open spaces, as long as not more than 25 percent of the total open space area consists of impervious surface."

The Grande Bay COMMON AREA buffer area located in Tracts C and D shall be owned and maintained by the MASTER ASSOCIATION, which shall provide for maintenance and protection as provided in the Lee County Land Development Code (1997), Sections 10-414 and 10-417. The MASTER ASSOCIATION shall operate, control and maintain the storm water management system not maintained by Grande Bay at Boca Bay Homeowners Association, Inc., and any amendment to the DECLARATION of the MASTER ASSOCIATION that affects the storm water management system must receive prior approval from the South Florida Water Management District."

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 5th day of December, 1997.

CSX REALTY DEVELOPMENT, LLC

Lorraine L. Barnes
(First Witness)

By: Patricia A. Watson
Its: Vice President

Roselyn L. Barnes
Print Name

Jane S. Otrich
(Second Witness)

JANE S. OTRICH
Print Name

Lorraine L. Barnes
(First Witness)

By: Joyce A. Dolan
Its: Assistant Secretary

Roselyn L. Barnes
Print Name

Jane S. Otrich
(Second Witness)

JANE S. OTRICH
Print Name

Appd. as t
Legal For

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Eleventh Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 8th day of December, 1997, by Patricia J. Ayscough, as Vice President and by Joyce A. Nolan, as Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, who are personally known to me ~~or have produced~~ _____ ~~as identification~~.

My Commission Expires: 11/22/99

Dorothy A. McDowell
Notary Public

(SEAL)
DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

12/5/97
PC: 3941-1

97 DEC 18 PM 3:35

REC 15.00
DOC
INT
INDEX

4432464

OR 2901 PG 0112

RECORDED BY
CINDY KELLER, D.C.

THIRTEENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Thirteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 8th day of July, 1998, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997 and December 8, 1997 recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804 and OR 2901, Pg. 0656 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Harborside II at Boca Bay, a Condominium).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia

corporation, being the DECLARANT herein, has executed this instrument this 8th day of July, 1998.

CSX REALTY DEVELOPMENT, LLC

By: _____
Its: Vice President

Roselyn L. Barnes
(First Witness)

Roselyn L. Barnes
Print Name

Dorothy A. McDowell
(Second Witness)

Dorothy A. McDowell
Print Name

Roselyn L. Barnes
(First Witness)

Roselyn L. Barnes
Print Name

Dorothy A. McDowell
(Second Witness)

Dorothy A. McDowell
Print Name

Appd. as to Legal Form

By: _____
Its: Assistant Secretary

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Thirteenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 8th day of July, 1998, by _____, as Vice President and by _____, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, who are personally known to me or have produced _____ as identification.

My Commission Expires: 8/2/1999

Howard Michael Lee
Notary Public
(SEAL)

HOWARD MICHAEL LEE
Comm. No CC 485609
My Comm. Exp. Aug. 2, 1999
Bonded thru Pichard Ins. Agcy.

THIS INSTRUMENT was Prepared by:
ROBERT C. SIFRIT, ESQUIRE
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR, P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

OR2987 PG1113

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS

FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

January 26, 1997

OR2987 PG1171G

DESCRIPTION
HARBORSIDE II AT BOCA BAY, A CONDOMINIUM
IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the Southeasterlymost corner of Harborside at Boca Bay, A Condominium, as shown on plat recorded in Condominium Plat Book 24 at Page 1, Lee County Records, run S 45°04'25" E for 3.68 feet; thence run N 89°55'35" E for 12.62 feet; to the Point of Beginning of the herein described parcel.

From said Point of Beginning continue N 89°55'35" E for 122.98 feet; thence run S 43°21'42" W for 187.31 feet; thence run S 46°38'18" E for 4.13 feet; thence run S 43°21'42" W for 36.27 feet; thence run Southwesterly along the arc of a curve to the left of radius 67.50 feet (delta 52°17'26") (chord bearing S 69°44'00" W) (chord 59.49 feet) for 61.60 feet; thence run N 56°28'26" W for 19.15 feet; thence run Northeasterly, Northerly and Northwesterly along the arc of a curve to the right of radius 78.00 feet (delta 46°37'49") (chord bearing N 02°50'43" E) (chord 61.74 feet) for 63.48 feet; thence run N 48°40'29" E for 14.29 feet; thence run N 41°19'31" W for 21.77 feet; thence run N 48°40'29" E for 132.98 feet to the Point of Beginning.

Containing 19640 square feet, more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to the Florida Department of Environmental Protection Monuments "A15" through "A20" from which the EAST line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.harborsideII@bocabay

98 JUL 15 PM 3:00

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
CARL A. BARRACO
GARY R. BULL
DAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
ANDREW D. TILTON
KEVIN M. WINTER

ASSOCIATES
CHRISTOPHER D. HAGAN
PATRICIA H. NEWTON
MARK G. WENTZEL

CONSULTANT
LESTER L. BULSON

EXHIBIT "A"
Thirteenth Amendment

REC 15.00
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INDEX

PORT CHARLOTTE OFFICE

4402465

OR2907 PG1113

FOURTEENTH AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF BOCA BAY

RECORDED BY
CINDY KELLER, D.C.

This Fourteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 8th day of July, 1998, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997 and July 8, 1998 recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656 and OR 2987, Pg. 1172 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Harborshore at Boca Bay, a Condominium).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia

corporation, being the DECLARANT herein, has executed this instrument this 8th day of July, 1998.

CSX REALTY DEVELOPMENT, LLC

By: Patricia A. Hyslop
Its: Vice President

Roselyn L. Barnes
(First Witness)

Roselyn L. Barnes
Print Name

Dorothy C. McDowell
(Second Witness)

Dorothy A. McDowell
Print Name

Roselyn L. Barnes
(First Witness)

Roselyn L. Barnes
Print Name

Dorothy C. McDowell
(Second Witness)

Dorothy A. McDowell
Print Name

Appd. as to Legal Form

By: Joyce A. Dolan
Its: Assistant Secretary

OR2987 PG1176

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Fourteenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 8TH day of July, 1998, by Patricia A. Hyslop as Vice President and by Joyce A. Dolan, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, who are personally known to me or have produced _____ as identification.

My Commission Expires: 8/2/1999

Howard Michael Lee
Notary Public
(SEAL)

HOWARD MICHAEL LEE
Comm No CC 485609
My Comm. Exp Aug. 2, 1999
Pichard Ins. Agcy.

THIS INSTRUMENT was Prepared by:
ROBERT C. SIFRIT, ESQUIRE
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR, P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

JOHNSON ENGINEERING, INC.
ENGINEERS VEYORS AND ECOLOGISTS
FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNBANK CENTER
18501 MURDOCK CIRCLE
SUITE 404 · BOX M
TELEPHONE (941) 625-9910
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

January 8, 1998

OR2987 PG1174

DESCRIPTION
HARBORSHORE AT BOCA BAY, A CONDOMINIUM
IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the Southeasterlymost corner of Harborside at Boca Bay, A Condominium, recorded in Condominium Plat Book 24 at Page 1, Lee County Records run S 45°04'25" E for 3.68 feet; thence run N 89°55'35" E for 133.65 feet to the Point of Beginning of the herein described parcel.

From said Point of Beginning run S 43°21'42" W for 187.31 feet; thence run S 46°38'18" E for 4.13 feet; thence run S 43°21'42" W for 36.27 feet; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 67.50 feet (delta 105°25'22") (chord bearing S 31°24'36" E) (chord 107.41 feet) for 124.20 feet; thence run S 56°28'26" E for 59.41 feet; thence run N 70°41'47" E for 237 feet more or less to the Mean High Water Line of Gasparilla Sound; thence run Northwesterly along said Mean High Water Line for 220 feet more or less to an intersection with a line bearing N 89°55'35" E passing through the Point of Beginning; thence run S 89°55'35" W for 135 feet, more or less, to the Point of Beginning.

Containing 1.39 acres, more or less.

Bearing hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to the Florida Department of Environmental Protection Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.harborshore@bocabay

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
CARL A. BARRACO
GARY R. BULL
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KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
ANDREW D. TILTON
KEVIN M. WINTER

ASSOCIATES
CHRISTOPHER D. HAGAN
PATRICIA H. NEWTON
MARK G. WENTZEL

CONSULTANT
LESTER I. BULSON

98 JUL 15 PM 3:00

LEE COUNTY

EXHIBIT "A"
Fourteenth Amendment

RE
DOC
INT
INI

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

4499652

RECORDED BY
SUSAN THOMPSON, D.C.

FIFTEENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Fifteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 6th day of October, 1998, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997 and two (2) amendments dated July 8, 1998, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172 and OR 2987, Pg. 1175 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Beach View - Phase IV).

All words and phrases used herein which are defined in the Master Covenants shall retain

the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 6th day of October, 1998.

CSX REALTY DEVELOPMENT, LLC

By: Patricia A. Gilmore
Its: Vice President

William C Basney
(First Witness)

William C. Basney
Print Name

Donna W. Melton
(Second Witness)

DONNA W. MELTON
Print Name

By: Joyce A. Nolan
Its: Assistant Secretary

William C Basney
(First Witness)

William C. Basney
Print Name

Donna W. Melton
(Second Witness)

DONNA W. MELTON
Print Name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Fifteenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 6th day of Oct., 1998, by Patricia A. Gilmore as Vice President and by Joyce A. Nolan, Asst. Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/99

Dorothy C. McDowell
Notary Public
(SEAL)

DOROTHY C. McDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

PC 14909-1 / 10/2/98

OR 3030 PG 1132

JOHNSON ENGINEERING, INC.

FORT MYERS
NAPLES
PORT CHARLOTTE

ENGINEERS, SURVEYORS AND ECOLOGISTS

KENTON R KEILING
MANAGING PARTNER

SUNTRUST CENTER
18501 MURDOCK CIRCLE
SUITE 404 · BOX M
TELEPHONE (941) 625-9919
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E JOHNSON
1911-1968

May 16, 1998

OR3030 PG 1[illegible]

DESCRIPTION
BEACH VIEW AT BOCA BAY PHASE IV
PARCELS IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

Two tracts or parcels of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tracts or parcels are described as follows:

Beginning at the most Southerly corner of Lot 66, Beach View at Boca Bay Phase IIIA, Plat Book 59 at Page 17, Lee County Records run Southwesterly along a Northwesterly line of Tract G, said Beach View at Boca Bay, Phase IIIA along the arc of a curve to the left of radius 165.00 feet, (delta 03°10'41") (chord bearing S 23°07'52" W) (chord 9.15 feet) for 9.15 feet to a corner of Tract F; thence run Southwesterly along a Northwesterly line of said Tract F along the arc of a curve to the left of radius 165.00 feet (delta 12°13'09") (chord bearing S 15°25'57" W (chord 35.12 feet) for 35.19 feet to a point of compound curvature; thence run Southerly along a Westerly line of said Tract F along the arc of a curve to the lef of radius 48.00 feet, (delta 27°28'14") (chord bearing S 04°24'44" E) (chord 22.7 feet) for 23.01 feet to a point designated "A"; thence run S 63°12'02" W for 11.5 feet; thence run N 56°53'54" W for 115.15 feet; thence run Northeasterly alon the arc of a curve to the left of radius 90.00 feet (delta 17°39'08") (chord bearin N 21°28'16" E) (chord 27.62 feet) for 27.73 feet; thence run Northeasterly alon the arc of a curve to the right of radius 150.00 feet (delta 18°23'24") (chor bearing N 21°50'29" E) (chord 47.95 feet) for 48.15 feet to the most Westerl corner of said Lot 66; thence run S 55°02'46" E along the Southwesterly line c said Lot 66 for 109.79 feet to the Point of Beginning.

AND

From the hereinabove described Point "A", run Southeasterly, Easterly ar Northeasterly along the lines of said Tract F the following three course Southeasterly, Easterly and Northeasterly along the arc of a curve to the left radius 48.00 (delta 138°03'12") (chord bearing S 87°10'27" E) (chord 88.85 fe for 115.66 feet to a point of reverse curvature; Northeasterly along the arc of curve to the right of radius 227.50 feet (delta 19°38'30") (chord beari N 33°37'12" E) (chord 77.61 feet) for 77.99 feet to a point of curvatu Northeasterly along the arc of a curve to the left of radius 257.50 feet (de 14°24'02") (chord bearing N 36°14'26" E) (chord 64.55 feet) for 64.72 feet to Point of Beginning of the herein described parcel.

From said Point of Beginning continue along the easterly line of Tract F along arc of a curve to the left of radius 257.50 feet (delta 47°57'14") (chord bear N 05°03'48" E) (chord 209.28 feet) for 215.52 feet; thence run Southeaste along the arc of a curve to the right of radius 71.50 feet (delta 44°13'07") (ch bearing S 68°14'54" E) (chord 53.82 feet) for 55.18 feet; thence

CHAIRMAN
FORREST H BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R BULL
DAN W DICKEY
JOSEPH W EBNER
ARCHIE T GRANT, JR.
KENTON R KEILING
W DAVID KEY, JR
W. BRITT POMEROY
ANDREW D TILTON
KEVIN M WINTER

ASSOCIATES
CHRISTOPHER D HAGAN
PATRICK H NEWTON
MARK G WENTZEL

CONSULTANT

EXHIBIT "A"

N 48°40'29" E for 15.93 feet; thence run S 41°19'31" E for 33.77 feet; thence run S 48°40'29" W for 14.29 feet; thence run Southeasterly, Southerly and Southwesterly along the arc of a curve to the right of radius 78.00 feet (delta 46°37'49") (chord bearing S 02°50'43" W) (chord 61.74 feet) for 63.48 feet; thence run S 56°28'26" E for 19.15 feet; thence run Northeasterly, Easterly, Southeasterly and Southerly along the arc of a curve to the right of radius 67.50 feet (delta 157°42'48") (chord bearing S 57°33'19" E) (chord 132.45 feet) for 185.80 feet; thence run S 56°28'26" E for 63.22 feet; thence run S 33°31'34" W for 40.00 feet; thence run N 56°28'26" W for 66.78 feet; thence run Southwesterly, Westerly and Northwesterly along the arc of a curve to the right of radius 67.50 feet (delta 78°20'46") (chord bearing N 84°54'53" W) (chord 85.27 feet) for 92.30 feet; thence run Southwesterly, Westerly and Northwesterly along the arc of a curve to the right of radius 135.00 feet (delta 46°33'36") (chord bearing N 88°27'08" W) (chord 106.71 feet) for 109.70 feet to the Point of Beginning.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.beachviewPHIV

OR3490 PG 1...
98 OCT 30 PM 4:09

EXHIBIT "A"

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

45634-12

OR3073 PG3870

SIXTEENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Sixteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 3 day of February, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997, two (2) amendments dated July 8, 1998, and October 6, 1998, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175 and OR 3030, Pg. 3731 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By supplementing Paragraph 1.06 as originally stated in the Master Covenants, and as amended by the Twelfth Amendment to the Master Covenants, as follows:

"1.06 COMMON AREAS means any property, whether improved or unimproved, or any easement or interest therein, now or hereafter owned by the MASTER ASSOCIATION or which is declared to be a COMMON AREA by the Master

4. Nothing herein shall be deemed to limit the Grande Bay at Boca Bay Homeowners' Association, its members and their guests and invitees use of the roadway on GRANTOR'S Property by motor vehicles.

5. Covenants Binding. The Easement shall run with title to the GRANTOR'S Property and the GRANTEE'S Property and shall be binding upon each of the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Easement as of the day and year first above stated.

Donna W Melton
First Witness

Donna W. Melton
Typed/Printed Name

Jane S. Otrick
Second Witness

Jane S. Otrich
Typed/Printed Name

Donna W Melton
First Witness

Donna W. Melton
Typed/Printed Name

Jane S. Otrick
Second Witness

Jane S. Otrich
Typed/Printed Name

Donna W Melton
First Witness

Donna W. Melton
Typed/Printed Name

Jane S. Otrick
Second Witness

Jane S. Otrich
Typed/Printed Name

CSX Realty Development, LLC, successor to CSX Realty Development Corporation, a Georgia corporation.

By: _____
Patricia J. Aftoora
Vice President & Secretary

Boca Bay Master Association, Inc., a Florida not-for-profit corporation

By: _____
Stephen D. Beck
President

Appd. as to Legal Form

Grande Bay at Boca Bay Homeowners' Association Inc., a Florida not-for- profit corporation

By: _____
Stephen D. Beck
President

OR2888 PG0378

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of October, 1997 by Patricia J. Aftoora as Vice President & Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of the corporation. He is personally known to me.

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
Notary Public

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of October, 1997 by Stephen D. Beck as President of the BOCA BAY MASTER ASSOC[redacted]N INC., a Florida not-for-profit corporation. He is personally known to me.

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
NOTARY PUBLIC

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of October, 1997 by Stephen D. Beck as President of the GRANDE BAY AT BOCA BAY HOMEOWNERS' ASSOCIATION INC., a Florida not-for-profit corporation. He is personally known to me.

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
Notary Public

128.50

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

4578370

OR3082 PG3898

RECORDED BY
JOANNE MILLER, D.C.

SEVENTEENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Seventeenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 26th day of February, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998 and February 3, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731 and OR 3073, Pg. 3870 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By further amending Exhibit B (Articles of Incorporation of Boca Bay Master Association, Inc. f/k/a Boca Bay Community Association, Inc.) in accordance with the attached Second Articles of Amendment to Articles of Incorporation of Boca Bay Master Association, Inc. (f/k/a Boca Bay Community Association, Inc.).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 26th day of February, ~~1998~~ 1999.

Roselyn Barnes
(First Witness)

Roselyn Barnes
Print Name

Shirley D Houchin
(Second Witness)

Shirley G. Houchin
Print Name

CSX REALTY DEVELOPMENT, LLC

By: P M Giftos
Its: Senior Vice President

Appd. as to Legal Form
JWCS

Roselyn Barnes
(First Witness)

Roselyn Barnes
Print Name

Shirley D Houchin
(Second Witness)

Shirley G. Houchin
Print Name

By: Joyce A. Dolan
Its: Assistant Secretary

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Seventeenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 26 day of February 1999, by P. M Giftos as Sr. Vice President and by Joyce A. Dolan, Assistant as Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires:

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
Notary Public
(SEAL)

PC: 24139-1 / 2/16/99

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on February 18, 1999, to Articles of Incorporation for BOCA BAY MASTER ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N21009.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fifth day of February, 1999

Katherine Harris

Katherine Harris
Secretary of State

CR2EO22 (1-99)

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

FILED
99 FEB 18 PM 1:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

OR3082 PG3901

SECOND
ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
BOCA BAY MASTER ASSOCIATION, INC.,
(f/k/a Boca Bay Community Association, Inc.),
a Florida corporation not-for-profit

Pursuant to the provisions of Florida Statute § 617.1006 (1997), the undersigned not-for-profit Florida corporation adopts the following Second Articles of Amendment to its Articles of Incorporation, which were filed with the Department of State on June 5, 1987, as previously amended on January 13, 1989.

FIRST: Article III, Section 3.02 is stricken and the following is substituted in its place:

"ARTICLE III
Purpose

3.02 To administer, enforce and carry out the terms and provisions of the DECLARATION, as same may be amended from time to time, including without limitation the following powers:

A. To own, convey, maintain and operate real and personal property as provided in the DECLARATION.

B. To make, enforce and amend reasonable rules and regulations.

C. To levy, collect and enforce assessments against members as provided in the DECLARATION.

D. To sue or be sued.

E. To employ the personnel necessary to perform the services, or to enter into contracts to perform the services, required by the DECLARATION to include, but not limited to, a contract for services to operate and maintain the storm water management system."

SECOND: Article III, Section 3 is amended to add the following subparagraphs:

"ARTICLE III
Purpose

3.05 To operate, control and main that portion of the storm water management system not maintained by HOMEOWNERS ASSOCIATIONS within or upon the SUBJECT PROJECT, including but not limited to retention areas, culverts and related appurtenances, in accordance with South Florida Water Management District Permit No. 36-00 791S and Lee County Land Development code (1998) Section 10-327 and, in the event the MASTER ASSOCIATION is dissolved, to assign or dedicate the surface water management system and related easements on the SUBJECT PROPERTY to a similar non-profit organization to assure continued maintenance in perpetuity. SUBJECT PROPERTY means the property subject to the DECLARATION.

3.06 To own, convey, maintain and operate real and personal property as provided in the DECLARATION."

THIRD: Article IV is amended to add the following paragraph:

"Article IV
Members

Each OWNER shall be a member of the MASTER ASSOCIATION. Such membership shall be established upon the recording of an instrument of conveyance in the Public Records of COUNTY conveying a UNIT or LOT to an OWNER. MASTER ASSOCIATION membership is comprised of the OWNERS of all LOTS and UNITS."

FOURTH: The date of adoption of these Second Articles of Amendment to Articles of Incorporation of Boca Bay Master Association, Inc., f/k/a/ Boca Bay Community Association, Inc., made by majority vote of the Association's Board of Directors, is February 1, 1999, there being no members entitled to vote on the amendment.

FIFTH: In every other respect, the Articles of Incorporation as filed with the Department of State on the date and year aforesaid are hereby confirmed and republished.

IN WITNESS WHEREOF, the undersigned has made, subscribed and acknowledged these Articles of Amendment to the said Articles of Incorporation of said corporation, this 17th day of February, 1999.

BOCA BAY MASTER ASSOCIATION, INC.,
f/k/a Boca Bay Community Association, Inc., a
Florida corporation not-for-profit

Attest: _____, Secretary

By: _____
PRESIDENT

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 17th day of February, 1999 by S. D. Beck as President of BOCA BAY MASTER ASSOCIATION, INC., f/k/a Boca Bay Community Association, Inc., a Florida not-for-profit corporation, on behalf of said corporation. S/He is personally known to me or has produced _____ as identification.

My commission expires: 8/2/1999

Howard Michael Lee
Notary Public-State of Florida

HOWARD MICHAEL LEE
Comm. No. CC 485609
My Comm. Exp. Aug. 2, 1999
Bonded thru Pichard Ins. Agcy.

PC: 21217-1
01/27/99

OR3082 P63903

CHARLIE GREEN, CLERK
LEE COUNTY, FL
99 MAR -1 PM 1:43

4.00

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

4629806

OR3115 PG2529

EIGHTEENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Eighteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 7th day of May, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

RECORDED BY
BETTY CRUZ, D.C.

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999 and February 26, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870 and OR 3082, Pg. 3898 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Beach View - Phase V).

2) By supplementing Paragraph 1.06, as originally stated in the Master Covenants, and as amended by the Twelfth Amendment and the Sixteenth Amendment to the Master Covenants, as follows:

"(1.06) BEACH VIEW COMMON AREAS which shall be owned, operated and maintained by the MASTER ASSOCIATION, shall **also** include Tracts J and L. Tracts J and L contain public utility easements, landscape areas and open space. The portion of the COMMON AREA open space located within Tracts J and L may not be developed except for open space purposes as set forth in the Lee County Development Code including the uses set forth in Section 10-413(2)(e). Beach View COMMON AREA open space/buffer area shall be specified on the plat or in these Master Covenants and, when dedicated to the MASTER ASSOCIATION, the MASTER ASSOCIATION shall provide maintenance and protection as provided in Lee County Development Code (1998), Section 10-414 and 417. With the exception of lawns, the MASTER ASSOCIATION shall preserve open space so that open space use and enjoyment will not be diminished or destroyed. Preservation and maintenance of open space and buffer areas are COMMON EXPENSES."

OR3115 PG2530

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 7th day of May, 1999.

CSX REALTY DEVELOPMENT, LLC

Shirley E. Armistead
(First Witness)

SHIRLEY E. ARMISTEAD
Print Name

Peggy K. Wilson
(Second Witness)

PEGGY K. WILSON
Print Name

By: Patricia J. Watters
Its: Vice President

Appd: as to Legal Form

Shirley E. Armistead
(First Witness)

SHIRLEY E. ARMISTEAD
Print Name

Peggy K. Wilson
(Second Witness)

PEGGY K. WILSON
Print Name

By: Joyce A. Watters
Its: Asst. Secretary

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Eighteenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 7th day of May, 1999, by Patricia J. Aftoora, as Vice President and by Joyce A. Watters, as Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/99

Dorothy A. McDowell
Notary Public
(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

PC: 25936-1 / 5/6/99

OR3115 PG2531

JOHNSON ENGINEERING, INC.

ENGINEERS, SURVEYORS AND ECOLOGISTS

ORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNTRUST CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
TELECOPIER (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

June 24, 1998

DESCRIPTION
BEACH VIEW AT BOCA BAY PHASE V
PARCELS IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

OR3115 PG2532

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

Beginning at a Southwest corner of Tract B, Grande Bay at Boca Bay, Plat Book 60 at Pages 51, Lee County Records run along the Southerly lines of said Grande Bay at Boca Bay the following three (3) courses: N 90°00'00" E for 29.57 feet; Southerly, Southeasterly, Easterly and Northeasterly along the arc of a curve to the left of radius 65.00 feet (delta 143°25'35") (chord bearing S 71°42'47" E) (chord 123.43 feet) for 162.71 feet; S 23°24'08" E for 117.37 feet to the Southwest corner of Lot 1, said Grand Bay at Boca Bay; thence run Southwesterly along the arc of a curve to the right of radius 172.50 feet (delta 14°41'24") (chord bearing S 10°46'19" W) (chord 44.11 feet) for 44.23 feet to a corner of Tract A, Beach View at Boca Bay Phase IIIA, Plat Book 59 at Page 17, said public records; thence run along Northerly lines of said Tract A the following courses: N 71°52'59" W for 45.00 feet; Southwesterly along the arc of a curve to the right of radius 127.50 feet (delta 28°50'27") (chord bearing S 32°32'15" W) (chord 63.50 feet) for 64.18 feet to a point of tangency; S 46°57'10" W for 211.80 feet to a point of curvature; Southwesterly, Westerly and Northwesterly along the arc of a curve to the right of radius 30.00 feet (delta 75°41'47") (chord bearing S 84°48'03" W) (chord 36.81 feet) for 39.63 feet to a point of reverse curvature; thence run Northwesterly, Westerly and Southwesterly along the arc of a curve to the left of radius 182.50 feet (delta 56°39'01") (chord bearing N 85°40'33" W) (chord 173.18 feet) for 180.63 feet to a point of reverse curvature; Southwesterly, Westerly and Northwesterly along the arc of a curve to the right of radius 40.00 feet (delta 68°55'39") (chord bearing N 79°32'14" W) (chord 45.27 feet) for 48.12 feet to a point of tangency and a corner of Tract A, Beach View at Boca Bay, Plat Book 54 at Page 31, said public records; thence run N 45°04'25" W along a Northeasterly line of said Tract A for 96.88 feet; thence run N 71°01'48" E for 62.59 feet to a point of curvature; thence run Northeasterly along the arc of a curve to the right of radius 298.00 feet, (delta 19°10'16") (chord bearing N 79°47'21" E) (chord 99.24 feet) for 99.71 feet; thence run N 02°46'20" E for 165.62 feet to an intersection with the North line of lands described in deed recorded in Deed Book 129 at Page 346, said public records; thence run N 89°55'35" E along said North line for 95.53 feet; thence run N 46°49'01" E along a Northwesterly line of said lands for 150.53 feet to

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R. BULL
DAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
KENTON R. KEILING
W. DAVID KEY, JR.
W. BRITT POMEROY
ANDREW D. TILTON
KEVIN M. WINTER

ASSOCIATES
CHRISTOPHER D. HAGAN
PATRICIA H. NEWTON
MARK G. WENTZEL

CONSULTANT
LESTER L. BULSON

an intersection with the West line of said Tract B, Grande Bay at Boca Bay; thence run S 03°26'01" W along said West line of Tract B for 18.99 feet to the Point of Beginning.

Containing 2.46 acres, more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.beachviewPHVrevised

OR3115 PG2533

CHARLIE GREEN, CLERK
LEE COUNTY, FL

99 MAY 10 PM 3:38

10.50R

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

4664189

NINETEENTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Nineteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 24 day of June, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

RECORDED BY TRENT VOGES, D.C.

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999 and May 7, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898 and OR 3115, Pg. 2529 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Beach View - Phase VI). The Beach View - Phase VI COMMON AREA shall include Tract "M", which shall be owned, operated and

maintained by the BEACH VIEW AT BOCA BAY HOMEOWNERS ASSOCIATION, INC.

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 24th day of June, ~~1998~~ 1999

CSX REALTY DEVELOPMENT, LLC

Appd. as to Legal Form

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

By: Patricia J. Aftoora
Its: Vice President & Corporate Secretary

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

By: Joyce A. Bolan
Its: Asst. Secretary

1999 JUN 28 AM 10:44

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Nineteenth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 24 day of June, 1999, by Patricia J. Aftoora, as VP & Corp. Secty. and by Joyce A. Bolan, as Asst. Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/99

Dorothy A. McDowell
Notary Public
(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

PC: 28793-1 / 6/23/99

2

County of Lee
State of Florida

I, Charlie Green, Clerk of the Circuit Court in and for said County and State do hereby certify that the foregoing is a true and correct copy of RES as filed in this office JUN 28 1999 at 10:44 and recorded in OR Book 3137, Page 1049 of the Public Records of Lee County, Florida.

Witness my hand and official seal this JUN 28 1999 day

A.D.

CHARLIE GREEN, Clerk

By T. Gillespie D.C.

INSTR # 4724208
OR BK 03171 PG 3869
RECORDED 09/27/99 04:27 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 19.50
DEPUTY CLERK H Robinson

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

TWENTIETH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Twentieth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 23 day of September, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999 and June 24, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529 and OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174) of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies, deletes from, substitutes and amends the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, by deleting the property described in Exhibit A attached to the Eighteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay, as recorded in O.R. Book 3115 at Page 2529, and by

substituting in its place and stead the property described in Exhibit A attached hereto, as amended (Beach View - Phase V).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 23 day of September, 1999.

CSX REALTY DEVELOPMENT, LLC

By: Patricia J. Affoora
Its: Vice President

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

By: Joyce A. Dolan
Its: Assistant Secretary

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twentieth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 23 day of Sept., 1999, by Patricia J. Affoora, as Vice President and by Joyce A. Dolan, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/99

Dorothy A. McDowell
Notary Public
(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission #CC490726

PC: 36111-1 / 9/22/99

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS, PLANNERS AND ECOLOGISTS

BONITA SPRINGS
FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNTRUST CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
FAX (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1988

September 20, 1999

DESCRIPTION
BEACH VIEW AT BOCA BAY PHASE V
PARCELS IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

Beginning at a Southwest corner of Tract B, Grande Bay at Boca Bay, Plat Book 60 at Pages 51A and 52, Lee County Records run along the Southerly lines of said Grande Bay at Boca Bay the following two (2) courses: N 90°00'00" E for 29.57 feet; Southerly, Southeasterly, Easterly and Northeasterly along the arc of a curve to the left of radius 65.00 feet (delta 121°13'29") (chord bearing S 60°36'45" E) (chord 113.27 feet) for 137.53 feet; thence S 18°19'59" E for 95.77; thence run Southwesterly along the arc of a curve to the right of radius 137.58 feet (delta 13°48'00") (chord bearing S 11°13'01" W) (chord 33.06 feet) for 33.14 feet to an intersection with a north line of Tract A, Beach View at Boca Bay Phase IIIA, Plat Book 59 at Page 17, said public records; thence run along Northerly lines of said Tract A the following courses: N 71°52'59" W for 10.08 feet; Southwesterly along the arc of a curve to the right of radius 127.50 feet (delta 28°50'08") (chord bearing S 32°32'05" W) (chord 63.49 feet) for 64.17 feet to a point of tangency; S 46°57'10" W for 211.80 feet to a point of curvature; Southwesterly, Westerly and Northwesterly along the arc of a curve to the right of radius 30.00 feet (delta 75°41'47") (chord bearing S 84°48'03" W) (chord 36.81 feet) for 39.63 feet to a point of reverse curvature; thence run Northwesterly, Westerly and Southwesterly along the arc of a curve to the left of radius 182.50 feet (delta 56°39'01") (chord bearing N 85°40'33" W) (chord 173.18 feet) for 180.44 feet to a point of reverse curvature; Southwesterly, Westerly and Northwesterly along the arc of a curve to the right of radius 40.00 feet (delta 68°55'39") (chord bearing N 79°32'14" W) (chord 45.27 feet) for 48.12 feet to a point of tangency and a corner of Tract A, Beach View at Boca Bay, Plat Book 54 at Page 31, said public records; thence run N 45°04'25" W along a Northeasterly line of said Tract A for 95.88 feet; thence run N 70°12'14" E for 62.16 feet to a point of curvature; thence run Northeasterly along the arc of a curve to the right of radius 298.00 feet, (delta 19°10'14") (chord bearing N 79°47'31" E) (chord 99.24 feet) for 99.71 feet; thence run N 02°46'20" E for 165.62 feet to an intersection with the North line of lands described in deed recorded in Deed Book 129 at Page 346, said public records; thence run N 89°55'35" E along said North line for 95.53 feet; thence run N 46°49'01" E along a Northwesterly line of said lands for 150.53 feet to an intersection with the West line of said Tract B, Grande Bay at Boca Bay; thence run S 03°26'01" W along said West line of Tract B for 18.99 feet to the Point of Beginning.

Containing 2.47 acres, more or less.

OR BK 03171 PG 3871

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R. BULL
DAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
CHRIS D. HAGAN
KENTON R. KEILING
W. BRITT POMEROY
ANDREW D. TILTON
MARK G. WENTZEL
KEVIN M. WINTER

ASSOCIATES
LONNIE V. HOWARD
MICHAEL L. LOHR
PATRICIA H. NEWTON
BARRY E. SYREN

EXHIBIT "A"
Page 1 of 2

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
320501gl.beachviewPHVrevised

EXHIBIT "A"
Page 2 of 2

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

OR BK 03174 PG 2395
RECORDED 10/04/99 04:20 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 19.50
DEPUTY CLERK M Robinson

TWENTY-FIRST AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Twenty-First Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 23 day of September, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999, June 24, 1999 and Sept. 27, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529; OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174) and OR 3171, Page 3869, of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies, deletes from, substitutes and amends the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, by deleting the property described in Exhibit A attached to the Nineteenth Amendment to Declaration of Covenants and Restrictions of Boca Bay, as recorded in O.R. Book 3137 at Page 1049 and as subsequently re-recorded in O.R. Book 3162 at Page 2174, and by substituting in its place and stead the property described in Exhibit A attached hereto, as

amended (Beach View - Phase VI A). The Beach View - Phase VI A COMMON AREA shall include Tract "M", which shall be owned, operated and maintained by the BEACH VIEW AT BOCA BAY HOMEOWNERS ASSOCIATION, INC.

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 23 day of September, 1999.

CSX REALTY DEVELOPMENT, LLC

By: Patricia J. Affora
Its: Vice President

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

By: Joyce A. Dolan
Its: Assistant Secretary

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twenty-First Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 23 day of Sept., 1999, by Patricia J. Affora, as Vice President and by Joyce A. Dolan, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/99

Dorothy A. McDowell
Notary Public
(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

PC: 36122-1 / 9/22/99

BONITA SPRINGS
FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNTRUST CENTER
18501 MURDOCK CIRCLE
SUITE 404 · BOX M
TELEPHONE (941) 625-9919
FAX (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1960

September 21, 1999

DESCRIPTION
BEACH VIEW AT BOCA BAY PHASE VI A
IN SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the Southwest corner of Tract I, Beach View at Boca Bay Phase IV, Plat Book 62 at Page 62, Lee County Records run Southwesterly along a Southeasterly line of Tract F, Beach View at Boca Bay, Phase IIIA, Plat Book 59 at Page 17, said Public Records along the arc of a curve to the right of radius 257.50 feet, (delta 14°24'02") (chord bearing S 36°14'26" W) (chord 64.55 feet) for 64.72 feet to a point of reverse curvature; thence run Southwesterly along a Southeasterly line of said Tract F along the arc of a curve to the left of radius 227.50 feet (delta 19°24'03") (chord bearing S 33°44'26" W) (chord 76.67 feet) for 77.03 feet to the Point of Beginning of the herein described parcel.

From said Point of Beginning run S 38°49'18" E for 50.53 feet; thence run Northeasterly and Easterly along the arc of a curve to the right of radius 104.52 feet (delta 49°34'11") (chord bearing N 69°03'53" E) (chord 87.63 feet) for 90.42 feet to a point of compound curvature; thence run Southeasterly along the arc of a curve to the right of radius 76.00 feet (delta 51°55'42") (chord bearing S 60°11'10" E) (chord 66.55 feet) for 68.88 feet to a point of tangency; thence run S 34°13'19" E for 34.94 feet to a point of curvature; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 116.00 feet (delta 46°01'08") (chord bearing S 11°12'45" E) (chord 90.68 feet) for 93.17 feet to a point reverse curvature; thence run Southerly along the arc of a curve to the left of radius 159.00 feet (delta 13°22'15") (chord bearing S 05°06'41" W) (chord 37.02 feet) for 37.11 feet to a point of compound curvature; thence run Southeasterly and Easterly along the arc of a curve to the left of radius 34.00 feet (delta 105°14'42") (chord bearing S 54°11'47" E) (chord 54.04 feet) for 62.45 feet to a point of reverse curvature; thence run Easterly and Southeasterly along the arc of a curve to the right of radius 66.00 feet (delta 43°58'25") (chord bearing S 84°49'56" E) (chord 49.42 feet) for 50.65 feet to a point of reverse curvature; thence run Southeasterly, Easterly and Northeasterly along the arc of a curve to the left of radius 24.00 feet (delta 78°43'45") (chord bearing N 77°47'24" E) (chord 30.44 feet) for 32.98 feet; thence run S 18°49'53" E for 48.19 feet; thence run Southwesterly along the arc of a curve to the left of radius 237.00 feet (delta 09°42'16") (chord bearing S 06°35'09" W) (chord 40.09 feet) for 40.14 feet to a point of reverse curvature; thence run Southwesterly along the arc of a curve to the right of radius 183.00 feet (delta 19°27'50") (chord bearing S 11°27'56" W) (chord 61.87 feet) for 62.17 feet to a point of compound curvature; thence run Southwesterly along the arc of a curve to the right of radius 90.00 feet (delta

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R. BULL
DAN W. DICKEY
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CHRIS D. HAGAN
KENTON R. KEILING
W. BRITT POMEROY
ANDREW D. TILTON
MARK G. WENTZEL
KEVIN M. WINTER

ASSOCIATES
LONNIE V. HOWARD
MICHAEL L. LOHR
PATRICIA H. NEWTON
BARRY E. SYREN

09°59'39") (chord bearing S 26°11'41" W) (chord 15.68 feet) for 15.70 feet to a point of reverse curvature; thence run Southwesterly along the arc of a curve to the left of radius 90.00 feet (delta 09°59'21") (chord bearing S 26°11'50" W) (chord 15.67 feet) for 15.69 feet; thence run S 90°00'00" W for 123.41 feet; thence run S 00°17'01" W for 20.41 feet; thence run N 90°00'00" W for 220.79; thence run N 00°17'01" E for 14.16 feet; thence run Northwesterly along the arc of a curve to the right of radius 114.65 feet (delta 32°24'12") chord bearing N 23°54'46" W) (chord 63.98 feet) for 64.84 feet; thence run S 88°08'32" W for 134.66 feet; thence run N 27°46'05" W for 77.55 feet; thence run N 03°14'48" E for 36.32 feet; thence run Southeasterly, Easterly and Northeasterly along the arc of a curve to the left of radius 43.00 feet (delta 59°43'33") (chord bearing N 83°31'14" E) (chord 42.82 feet) for 44.82 feet to a point of compound curvature; thence run Northeasterly along the arc of a curve to the left of radius 135.00 feet (delta 23°30'26") (chord bearing N 41°54'15" E) (chord 55.00 feet) for 55.39 feet to a point of reverse curvature; thence run Northeasterly along the arc of a curve to the right of radius 283.26 feet (delta 16°52'49") (chord bearing N 38°35'26" E) (chord 83.15 feet) for 83.45 feet to a point of compound curvature; thence run Northeasterly along the arc of a curve to the right of radius 185.00 feet (delta 13°55'49") (chord bearing N 53°59'45" E) (chord 44.87 feet) for 44.98 feet to a point of reverse curvature; thence run Northeasterly along the arc of a curve to the left of radius 180.00 feet (delta 09°40'42") (chord bearing N 56°07'18" E) (chord 30.37 feet) for 30.41 feet to a point of tangency; thence run N 51°16'57" E for 39.92 feet; thence run N 38°49'18" W for 52.05 feet to a Southerly line of said Tract F; thence run Northeasterly along said Southerly line along the arc of a curve to the left of radius 48.00 feet (delta 54°45'39") (chord bearing N 51°10'47" E) (chord 44.15 feet) for 45.88 feet to a point of reverse curvature; thence run Northeasterly along the arc of a curve to the left of radius 227.50 feet (delta 00°14'27") (chord bearing N 23°55'11" E) (chord 0.96 feet) for 0.96 feet to the Point of Beginning of the herein described parcel.

Containing 3.41 acres, more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to Florida Department of Environmental Protection Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm (LB642)
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.beachviewPHVI-revised

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT & CARR P.A.
2315 Aaron Street
Port Charlotte, Florida 33952

OR BK 03174 PG 2399
RECORDED 10/04/99 04:20 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 15.00
DEPUTY CLERK M Robinson

TWENTY-SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Twenty-Second Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 23 day of September, 1999, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999, June 24, 1999, September 27, 1999 and October 4, 1999, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529; OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174); OR 3171, Page 3869 and OR 3174, Page 2395 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A

attached hereto (Harborshore II).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 23 day of September, 1999.

CSX REALTY DEVELOPMENT, LLC

By: Patricia J. Affoora
Its: Vice President

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

By: Joyce A. Dolan
Its: Assistant Secretary

Shirley E. Armistead
(First Witness)
SHIRLEY E. ARMISTEAD
Print Name
Marlene H. Ross
(Second Witness)
MARLENE H. ROSS
Print Name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twenty-Second Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 23 day of Sept., 1999, by Patricia J. Affoora, as Vice President and by Joyce A. Dolan, as Assistant Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires:

Dorothy A. McDowell
Notary Public
(SEAL)

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

PC: 34425-1 / 9/22/99

BONITA SPRINGS
FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNTRUST CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
FAX (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSTON
1911-1968

December 3, 1998

EXHIBIT A TO THE PURCHASE SALE AGREEMENT BETWEEN CSX REALTY DEVELOPMENT LLC AND HARBORSHORE AT BOCA BAY DEVELOPMENT CORPORATION

DESCRIPTION
HARBORSHORE II AT BOCA BAY, A CONDOMINIUM
IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the Northeasterlymost corner of Harborside II at Boca Bay, A Condominium, as recorded in Condominium Plat Book 26 at Page 11, Lee County Records run S 43°21'42" W along a southeasterly line of said Condominium for 187.31 feet; thence run S 46°38'18" E along a line of said Condominium for 4.13 feet; thence run S 43°21'42" W along a line of said Condominium for 36.27 feet; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 67.50 feet (delta 105°25'22") (chord bearing S 31°24'36" E) (chord 107.41 feet) for 124.20 feet; thence run S 56°28'26" E for 59.41 feet to the Point of Beginning of the herein described parcel.

From said Point of Beginning continue S 56°28'26" E for 3.81 feet; thence run S 33°31'34" W for 16.68 feet; thence run Southeasterly along the arc of a curve to the left of radius 92.00 feet (delta 06°59'04") (chord bearing S 20°24'49" E) (chord 11.21 feet) for 11.21 feet to a point of reverse curvature; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 118.00 feet (delta 32°08'00") (chord bearing S 07°50'21" E) (chord 65.31 feet) for 66.18 feet to a point of reverse curvature; thence run Southerly and Southeasterly along the arc of a curve to the left of radius 92.00 feet (delta 39°33'43") (chord bearing S 11°33'12" E) (chord 62.27 feet) for 63.52 feet to a point of reverse curvature; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 108.00 feet (delta 32°59'23") (chord bearing S 14°50'22" E) (chord 61.33 feet) for 62.18 feet; thence run N 82°27'59" E for 230 feet, more or less to the Mean High Water Line of Gasparilla Sound; thence run Northwesterly along said Mean High Water Line for 260 feet, more or less to an intersection with a line bearing N 70°41'47" E passing through the Point of Beginning; thence run S 70°41'47" W along said line for 218 feet, more or less to the Point of Beginning.

Containing 1.25 acres, more or less.

Bearing hereinabove mentioned are based on plat of Beach View at Boca Bay as recorded in Plat Book 54 at Page 31, Lee County Records wherein the East line of Gulf Boulevard bears N 00°04'25" W.

OR BK 03174 PG 2401

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

MLH/vrb
32050lgl.harborshore112@bocabay

EXHIBIT "A"
Page 1 of 1

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R. BULL
IAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
CHRIS D. HAGAN
KENTON R. KEILING
V. BRITT POMEROY
ANDREW D. TILTON
MARK G. WENTZEL
KEVIN M. WINTER

ASSOCIATES
DONNIE V. HOWARD
MICHAEL L. LOHR
PATRICIA H. NEWTON
LARRY E. SYREN

19.5

INSTR # 4877384
OR BK 03256 PG 0228
RECORDED 05/17/00 03:00 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 19.50
DEPUTY CLERK K Cartwright

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT AND CARR, P.A.
2315 Aaron Street
Port Charlotte, FL 33952

TWENTY-THIRD AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Twenty-Third Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 21st day of March, 2000, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1995, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999, June 24, 1999 and three (3) amendments dated September 23, 1999, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529; OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174); OR 3171, Page 3869; OR 3174, Page 2395 and OR 3174, Page 2399 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Beach View, Phase VII).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 21st day of March, 2000.

Debra A Stewart
First Witness
Debra A. Stewart
Type/Print Name of Witness
Shirley E. Armistead
Second Witness
Shirley E. Armistead
Type/Print Name of Witness

CSX REALTY DEVELOPMENT, LLC
By: Patricia J. Aftoora
Its: Vice-President

Appd. as to Legal Form ...

Debra A Stewart
First Witness
Debra A. Stewart
Type/Print Name of Witness
Shirley E. Armistead
Second Witness
Shirley E. Armistead
Type/Print Name of Witness

By: Nicholas S. Yovanovic
Its: Asst. Secretary

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twenty-Third Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 21st day of March, 2000, by Patricia J. Aftoora as Vice President and by Nicholas S. Yovanovic as Asst. Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires:

DOROTHY A. MCDOWELL
MY COMMISSION # CC 697766
EXPIRES: November 22, 2003
Bonded Thru Notary Public Underwriters

Dorothy A. McDowell
Notary Public
(SEAL)

34907_v11 // 3/21/00

OR BK 03256 PG 0230

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS, PLANNERS AND ECOLOGISTS

BONITA SPRINGS
FORT MYERS
NAPLES
PORT CHARLOTTE

KENTON R. KEILING
MANAGING PARTNER

SUNTRUST CENTER
16501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-0919
FAX (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

August 24, 1999

DESCRIPTION
BEACH VIEW AT BOCA BAY PHASE VII
IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

Beginning at the Northwest corner of Beach View at Boca Bay, Phase V, Plat Book 64 at Page 19, Lee County Records run S 02°46'20" W along the West line of said Phase V for 165.62 feet to a corner of said Phase V; thence run Southwesterly along the Northerly line of Tract "K", said Phase V, along the arc of a curve to the left of radius 298.00 feet (delta 19°10'24") (chord bearing S 79°47'26" W) (chord 99.26 feet) for 99.72 feet to a point of tangency; thence continue along said North line S 70°12'14" W for 62.16 feet to the Westerlymost corner of said Tract "K"; thence run along Northeasterly lines of Tract "A", Beach View at Boca Bay, Plat Book 54 at Page 31, said Public Records the following four (4) courses: N 45°04'25" W for 81.77 feet; Northeasterly, Northerly, Northwesterly, Westerly and Southwesterly along the arc of a curve to the left of radius 45.00 feet (delta 167°15'28") (chord bearing N 45°03'55" W) (chord 89.44 feet) for 131.36 feet; N 45°04'25" W for 39.99 feet and N 00°04'25" W for 54.51 feet; thence run N 89°55'35" E for 313.78 feet to the Point of Beginning.

Containing 1.04 acres, more or less.

Bearings hereinabove mentioned are based on the Record Plat of Beach View at Boca Bay, Plat Book 54 at Page 31, Lee County Records from which the East line of Gulf Boulevard was determined to bear N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

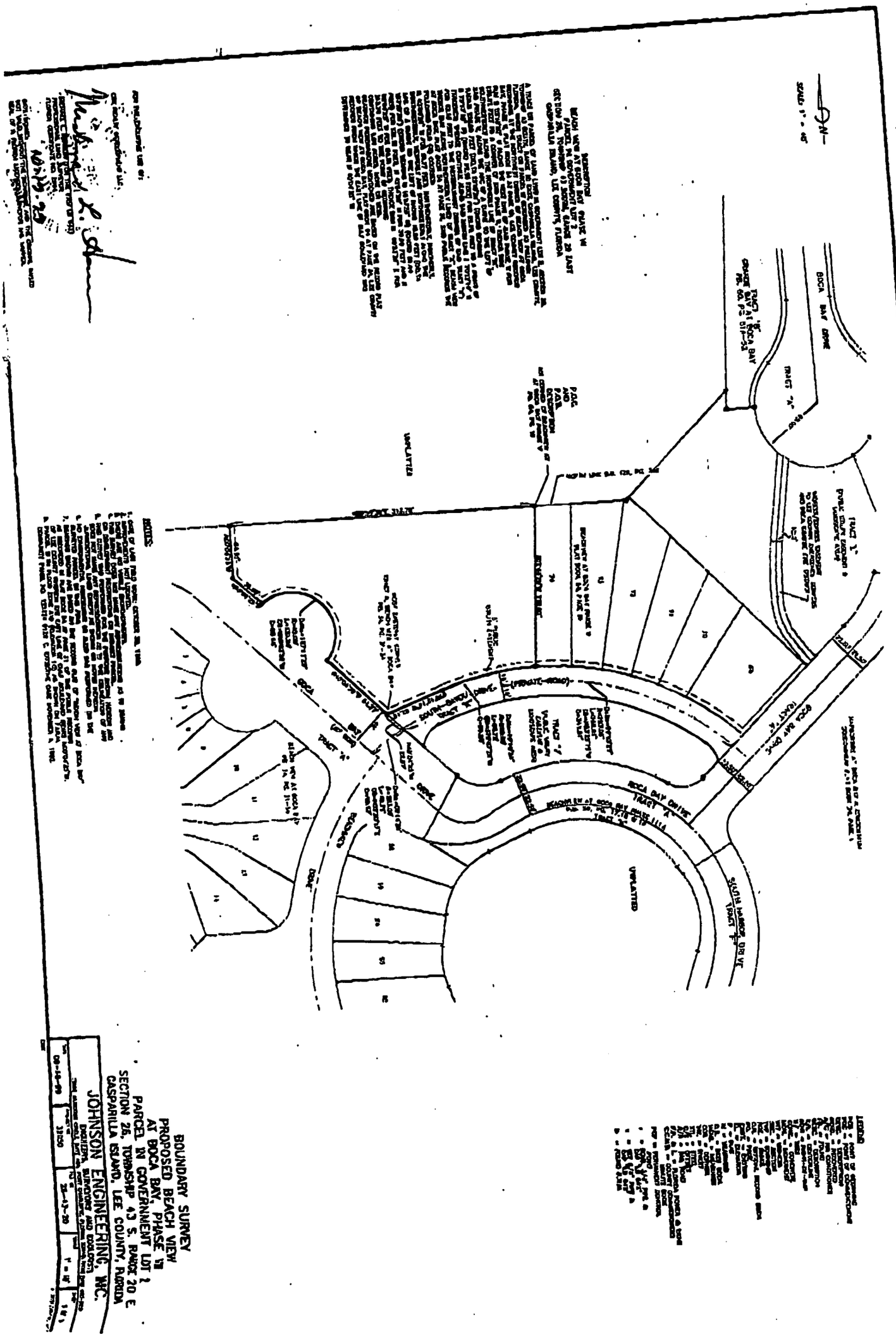
MLH:vrb
32050lgl.beachviewPHVII

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R. BULL
DAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
CHRIS D. HAGAN
KENTON R. KEILING
W. BRITT POMEROY
ANDREW D. TILTON
MARK G. WENTZEL
IRVIN M. WINTER

ASSOCIATES
LONNIE V. HOWARD
MICHAEL L. LOHR
PATRICIA H. NEWTON
BARRY E. SYREN



BOUNDARY SURVEY
PROPOSED BEACH VIEW
AT BOCA BAY, PHASE 1B
PARCEL IN GOVERNMENT LOT 2
SECTION 25, TOWNSHIP 43 S, RANGE 26 E
CASPARILLA ISLAND, LEE COUNTY, FLORIDA

JOHNSON ENGINEERING, INC.

INSTR # 4935350
OR BK 03288 PG 2255
RECORDED 08/04/00 03:58 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 19.50
DEPUTY CLERK K Cartwright

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT AND CARR, P.A.
2315 Aaron Street
Port Charlotte, FL 33952

TWENTY-FOURTH AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY

This Twenty-Fourth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 31st day of July, 2000, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999, June 24, 1999; three (3) amendments dated September 23, 1999 and an amendment dated March 21, 2000, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529; OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174); OR 3171, Page 3869; OR 3174, Page 2395; OR 3174, Page 2399 and OR 3256, Page 0228 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Harborshore III).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this

Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 31st day of July, 2000.

CSX REALTY DEVELOPMENT, LLC

Shirley E. Armistead
First Witness

By: Patricia J. Affoora
Its: Vice President

Appd. as to Legal Form

SHIRLEY E. ARMISTEAD
Type/Print Name of Witness

Peggy K. Wilson
Second Witness

PEGGY K. WILSON
Type/Print Name of Witness

Shirley E. Armistead
First Witness

By: Douglas R. Maxwell
Its: Asst. Secretary

SHIRLEY E. ARMISTEAD
Type/Print Name of Witness

Peggy K. Wilson
Second Witness

PEGGY K. WILSON
Type/Print Name of Witness

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twenty-Fourth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 31st day of July, 2000, by Patricia J. Affoora as Vice President and by Douglas R. Maxwell as Asst. Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/03

Dorothy A. McDowell
Notary Public

(SEAL)

DOROTHY A. MCDOWELL
MY COMMISSION # CC 887766
EXPIRES: November 22, 2003
Bonded Thru Notary Public Underwriters

58442_v1
7/18/00

OR BK 03288 PG 2257

JOHNSON ENGINEERING, INC.
FORT MYERS
NAPLES
PORT CHARLOTTE

ENGINEERS, SURVEYORS, PLANNERS AND ECOLOGISTS

KENTON R. KEILING
MANAGING PARTNER

SUNTRUST CENTER
18501 MURDOCK CIRCLE
SUITE 404 • BOX M
TELEPHONE (941) 625-9919
FAX (941) 625-3269
PORT CHARLOTTE, FLORIDA
33948

CARL E. JOHNSON
1911-1968

July 31, 2000

DESCRIPTION
HARBORSHORE III AT BOCA BAY, A CONDOMINIUM
IN GOVERNMENT LOT 2
SECTION 26, TOWNSHIP 43 SOUTH, RANGE 20 EAST
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2, Section 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the most Easterly corner of Tract I, Beach View at Boca Bay Phase IV, Plat Book 62 at Page 62, Lee County records, run S 33°31'34" W along the Southwest line of said Tract I for 16.68 feet; thence run Southeasterly along the arc of a curve to the left of radius 92.00 feet (delta 06°59'04") (chord bearing S 20°24'49" E) (chord 11.21 feet) for 11.21 feet to a point of reverse curvature; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 118.00 feet (delta 32°08'00") (chord bearing S 07°50'21" E) (chord 65.31 feet) for 66.18 feet to a point of reverse curvature; thence run Southerly and Southeasterly along the arc of a curve to the left of radius 92.00 feet (delta 39°33'43") (chord bearing S 11°33'12" E) (chord 62.27 feet) for 63.52 feet to a point of reverse curvature; thence run Southeasterly and Southerly along the arc of a curve to the right of radius 108.00 feet (delta 32°59'23") (chord bearing S 14°50'22" E) (chord 61.33 feet) for 62.18 feet to the Point of Beginning of the herein described parcel.

From said Point of Beginning run Southwesterly along said arc of a curve to the right of radius 108.00 feet (delta 09°48'23") (chord bearing S 06°33'31" W) (chord 18.46 feet) for 18.48 feet to a point of reverse curvature; thence run Southwesterly and Southerly along the arc of a curve to the left of radius 82.00 feet (delta 28°49'22") (chord bearing S 02°56'58" E) (chord 40.82 feet) for 41.25 feet to a point of reverse curvature; thence run Southeasterly, Southerly and Southwesterly along the arc of a curve to the right of radius 228.00 feet (delta 28°47'56") (chord bearing S 02°57'41" E) (chord 113.40 feet) for 114.60 feet to a point of reverse curvature; thence run Southwesterly along the arc of a curve to the left of radius 192.00 feet (delta 12°50'45") (chord bearing S 05°00'55" W) (chord 42.96 feet) for 43.05 feet; thence run S 89°42'59" E for 254 feet, more or less, to the Mean High Water Line of Gasparilla Sound; thence run Northerly along said Mean High Water Line for 250 feet, more or less, to an intersection with a line bearing N 82°27'59" E passing through the Point of Beginning; thence run S 82°27'59" W along said line for 243 feet, more or less, to the Point of Beginning.

Containing 1.29 acres, more or less.

Bearings hereinabove mentioned are based on Beach View at Boca Bay, Plat Book 54 at Page 31, Lee County Records wherein the East line of Gulf Boulevard bears N 00°04'25" W.

Michael L. Harmon, For the Firm
Professional Land Surveyor
Florida Certificate No. 2904

CHAIRMAN
FORREST H. BANKS

PRESIDENT
STEVEN K. MORRISON

PARTNERS
GARY R. BULL
DAN W. DICKEY
JOSEPH W. EBNER
ARCHIE T. GRANT, JR.
CHRIS D. HAGAN
KENTON R. KEILING
PATRICIA H. NEWTON
W. BRITT POMEROY
ANDREW D. TILTON
MARK G. WENTZEL
KEVIN M. WINTER

ASSOCIATES
LONNIE V. HOWARD
MICHAEL L. LOHR
MICHAEL W. NORMAN
CHURCH L. ROBERTS, IV
BARRY E. SYREN

MLH/vrb
32050lgl.harborshoreIII@bocabay.doc

AD VALOREM TAXES

MILL RATE	TAXES LEVIED	TAXING AUTHORITY
4.4751	16,813.10	CO GEN REVENUE
.8532	3,205.31	CO CAP OUTLAY
.5755	2,162.04	LIBRARY
6.6750	25,089.19	SCHOOL - STATE
2.3880	8,881.88	SCHOOL - LOCAL
.0400	150.27	WC INLAND WATWY
.9870	2,242.82	SF WATER MGMT
.1000	375.68	SFWM EVERGLADES
.0392	147.27	HYACINTH
.3826	1,476.67	LEE CO MOSQUITO
.4049	1,521.13	BOCA GRANDE FIR
1.1604	4,359.40	CO UNINC - MSTU
.0090	33.81	GASP WASTE-MSTU
.0733	275.37	LEE ALL HAZARDS

NON-AD VALOREM ASSESSMENTS

RATE/BASIS	AMOUNT	LEVYING AUTHORITY
	87,721.74	COMBINED TOTAL

If you have paid any of the property described to you, please forward this notice to the new owner or return to the tax collector as soon as possible. If you have not received notices for all your Lee County assessments, contact the Lee County Tax Collector's office immediately. This tax notice covers taxes and non-advalorem assessments for the calendar year as indicated hereon. Discounts for early payment have been computed for you on this notice. PLEASE PAY ONLY THE AMOUNT.

DISCOUNTS BY CALENDAR

4% if paid in November
3% if paid in December
2% if paid in January
1% if paid in February

PAYMENT OF TAXES MAY BE IN U.S. DOLLARS or CHECK DRAWN ON U.S. BANK

DISCOUNTS AND PENALTY ARE DETERMINED BY POSTMARK OF PAYMENT. Checks credited subject to payment. If paying by mail, your check will serve as your receipt. Postdated and incorrect checks will be returned. Taxes and assessments are due November 1 and become delinquent April 1, of the following year, at which time the law imposes the following interest rates:

REAL ESTATE - 3% minimum necessary charge plus advertising.
PERSONAL PROPERTY - 1 1/2 % per month plus advertising and fees.

TAX PAYMENTS MADE AFTER MARCH 31ST ARE DELINQUENT AND MUST BE PAID IN CERTIFIED U.S. FUNDS ONLY (CERTIFIED CHECK, CASHIER'S CHECK OR MONEY ORDER)

TAX SALE - Certificates will be sold on all unpaid real estate items on or before June 1st resulting in additional charges. Tax Deeds will be issued on all unpaid personal property tax.

"[illegible]"	"[illegible]"	[illegible]	[illegible]
77	000	005	

NET ASSESS VAL 3786810
TAXABL VAL 3786810

PARL IN GL 2 & 5 DESC
OR 2014/69 LES OR2608/1167
OR2688/2422 &LESS S/D 5
OR 2014/ 69

PAID-Lee Co [illegible] SEE 8 85812.87
11/18/88 001 [illegible] 1588388

IF YOU HAVE QUESTIONS CONCERNING THIS NOTICE CONTACT:

PROPERTY APPRAISER: Questions relating to exemptions, property descriptions, change of mailing address, legal description or taxable value, exemptions. [illegible] P.O. Box 1[illegible] Fort Myers, FL 33902.

AD VALOREM TAXING AUTHORITY: Questions relating to millage rates levied: Lee County Commission [illegible] Fort Myers [illegible] Call other taxing authorities - Tax Collector [illegible]

NON-AD VALOREM ASSESSMENT LEVYING AUTHORITY: Questions relating to rate/basis of amount of levy : Tax Collector [illegible]

TAX COLLECTOR: Questions relating to current taxes, billings, payment problems [illegible]

NOTICE OF ABOUT TO EXPIRE TAX DEED: If you have a tax deed application filed on this property, the first publication of notice of sale will appear on [illegible] in the [illegible] Review. You may redeem the property by paying the amount for which it was sold, plus interest, costs and fees. If you have any questions, please contact the Clerk of Courts, Tax Deed Division, [illegible] Fort Myers, FL 33902.

NOTICE TO TAXPAYERS ENTITLED TO EXEMPTION: Exemptions are available to Florida residents only. To qualify for homestead exemption you must be a legal resident of the State of Florida as of January 1st of the taxable year and reside on the property as your permanent residence. Your tax bill incorporates changes you have made on your exemption application. If you have not received your homestead exemption, please contact the Property Appraiser's office prior to May 1st of the taxable year. The first installment payment must be made on or before June 30th in order to participate in this plan. Keep in mind it is necessary if you participate in the plan for the next year.

SPECIAL NOTICE: Pursuant to Florida Statute 200.069 the Florida Division of Forestry will be central burning permits in the following counties to reduce fire hazards resulting from accidentally burning vegetation fuel continuously because, Todd Creek, Todd Hill, Todd Mill, Todd Pine, Todd Mine, Todd Cove, Todd Acre, Todd Mine, Todd Mine. For more information call the Division of Forestry [illegible].

After Recording, Please Return To:
ROBERT C. SIFRIT, ESQ.
Farr, Farr, Emerich, Sifrit, et al.
P.O. Box 2159
Port Charlotte, FL 33949

5

INSTR # 4935351
OR BK 03288 PG 2259
RECORDED 08/04/00 03:58 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 15.00
DEPUTY CLERK K Cartwright

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT AND CARR, P.A.
2315 Aaron Street
Port Charlotte, FL 33952

TWENTY-FIFTH AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF BOCA BAY

This Twenty-Fifth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this 1st day of August, 2000, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant reserved in the Master Covenants, in Paragraph 2.01.01 thereof, the right to convey title to any property owned by it, or any interest therein, to the Master Association as a common area, and any such conveyance is effective upon recording the deed or instrument of conveyance in the public records of the County.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999, June 24, 1999; three (3) amendments dated September 23, 1999; an amendment dated March 21, 2000 and July 31, 2000, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529; OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174); OR 3171, Page 3869; OR 3174, Page 2395; OR 3174, Page 2399; OR 3256, Page 0228 and OR 3288, Page 2255 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By adding the following paragraph 2.07:

"2.07 POWERHOUSE BUILDING and MAINTENANCE FACILITY. The DECLARANT has constructed a MAINTENANCE FACILITY and renovated the existing POWERHOUSE BUILDING, both of which are located at the southerly terminus of the ADDITIONAL LANDS. DECLARANT shall convey to the MASTER ASSOCIATION title to the lands and improvements of the MAINTENANCE FACILITY and to the POWERHOUSE BUILDING, not later than the date upon which the DECLARANT is obligated to relinquish control of the MASTER ASSOCIATION. Nothing contained herein shall preclude DECLARANT from transferring title to the lands and improvements of the MAINTENANCE FACILITY and POWERHOUSE BUILDING to the MASTER ASSOCIATION prior to the time set forth herein."

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this 1st day of August, 2000.

CSX REALTY DEVELOPMENT, LLC

Shirley E. Armistead
First Witness

By: Patricia J. Altman
Its: Vice President

SHIRLEY E. ARMISTEAD
Type/Print Name of Witness

Appd. as to Legal Form

Peggy K. Wilson
Second Witness

PEGGY K. WILSON
Type/Print Name of Witness

Shirley E. Armistead
First Witness

By: Douglas R. Morrell
Its: Asst. Secretary

SHIRLEY E. ARMISTEAD
Type/Print Name of Witness

Peggy K. Wilson
Second Witness

PEGGY K. WILSON
Type/Print Name of Witness

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twenty-Fifth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this 1st day of August, 2000, by Patricia J. Affoora as Vice President and by Douglas R. Maxwell as Asst Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires: 11/22/03

Dorothy A. McDowell
Notary Public

(SEAL)

DOROTHY A. MCDOWELL
MY COMMISSION # CC 887766
EXPIRES: November 22, 2003
Bonded Thru Notary Public Underwriters

58787_v1
7/28/00

THIS INSTRUMENT PREPARED BY:
ROBERT C. SIFRIT, ESQ.
FARR, FARR, EMERICH, SIFRIT,
HACKETT AND CARR, P.A.
2315 Aaron Street
Port Charlotte, FL 33952

TWENTY-SIXTH AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF BOCA BAY

This Twenty-Sixth Amendment to Declaration of Covenants and Restrictions of Boca Bay (the "Amendment") is made this _____ day of _____, 2001, by CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, ("Declarant").

PREAMBLE:

Declarant executed and recorded the Declaration of Covenants and Restrictions of Boca Bay which are dated April 12, 1989 and recorded in the official records of Lee County, Florida (the "County") at Book 2107, Page 0001 and following (the "Master Covenants").

Declarant reserved in the Master Covenants, in Paragraph 11.01 thereof, the right to amend the Master Covenants from time to time so long as Declarant owns all or a portion of the real property which is the subject matter of the Master Covenants.

Declarant reserved in the Master Covenants, in Paragraph 2.01.01 thereof, the right to convey title to any property owned by it, or any interest therein, to the Master Association as a common area, and any such conveyance is effective upon recording the deed or instrument of conveyance in the public records of the County.

Declarant has heretofore amended the Master Covenants by documents dated April 11, 1990, October 15, 1990, May 1, 1992, December 16, 1992, February 25, 1994, October 13, 1994, November 15, 1994, February 17, 1995, November 6, 1996, October 23, 1997, November 14, 1997, December 8, 1997; two (2) amendments dated July 8, 1998, October 6, 1998, February 3, 1999, February 26, 1999, May 7, 1999, June 24, 1999; three (3) amendments dated September 23, 1999; an amendment dated March 21, 2000, July 31, 2000 and August 1, 2000, recorded respectively in OR 2144, Pg. 3363; OR 2181, Pg. 2356; OR 2311, Pg. 3259; OR 2349, Pg. 4451; OR 2479, Pg. 2713; OR 2548, Pg. 1353; OR 2574, Pg. 3403; OR 2579, Pg. 0047; OR 2762, Pg. 1900; OR 2890, Pg. 2802; OR 2890, Pg. 2804; OR 2901, Pg. 0656; OR 2987, Pg. 1172; OR 2987, Pg. 1175; OR 3030, Page 3731; OR 3073, Pg. 3870, OR 3082, Pg. 3898; OR 3115, Pg. 2529;

OR 3137, Pg. 1049 (as re-recorded in OR 3162, Pg. 2174); OR 3171, Page 3869; OR 3174, Page 2395; OR 3174, Page 2399; OR 3256, Page 0228; OR 3288, Page 2255; and OR 3288, Page 2259 of the Public Records of the County. It is the intent of the Declarant to further exercise its rights to amend the Master Covenants by virtue of this Amendment.

NOW, THEREFORE, Declarant hereby modifies the Master Covenants as follows:

1) By amending Exhibit A thereof, and consequently the definition of the SUBJECT PROPERTY therein set forth, to include the property described in Exhibit A attached hereto (Harborshore IV at Boca Bay, A Condominium).

All words and phrases used herein which are defined in the Master Covenants shall retain the same definitions in this Amendment unless expressly modified by this Amendment.

IN WITNESS WHEREOF, CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, being the DECLARANT herein, has executed this instrument this _____ day of _____, 2001.

CSX REALTY DEVELOPMENT, LLC

_____ By:_____
First Witness Its:_____

_____
Type/Print Name of Witness

_____
Second Witness

_____
Type/Print Name of Witness

_____ By:_____
First Witness Its: Secretary

_____
Type/Print Name of Witness

_____
Second Witness

_____
Type/Print Name of Witness

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Twenty-Sixth Amendment to the Declaration of Covenants and Restrictions of Boca Bay was acknowledged before me this ____ day of _____, 2001, by _____ as _____ and by _____ as Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of said corporation. They are personally known to me or have produced _____ as identification.

My Commission Expires:

_____
Notary Public
(SEAL)

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2/13/01

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TO

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

BOCA BAY

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DECLARATION OF COVENANTS AND RESTRICTIONS

OF

BOCA BAY

THIS DECLARATION OF COVENANTS AND RESTRICTIONS OF BOCA BAY (MASTER COVENANTS) is made this 6th day of APRIL, 1989, by CSX REALTY, INC., a Virginia corporation, ("DECLARANT").

P R E A M B L E :

DECLARANT currently owns certain real property located in Lee County, Florida, which is described in Exhibit "A" attached hereto and made a part hereof (the "SUBJECT PROPERTY").

DECLARANT intends to develop various types of residential living units within the SUBJECT PROPERTY which will be subject to the jurisdiction of various homeowners and condominium associations. DECLARANT desires to establish an overall master association, the members of which shall be all owners of property in Boca Bay, in order for the master association to: (i) own or operate, and to administer, maintain and repair portions of the SUBJECT PROPERTY, and engage in various activities, for the benefit of all residents of the SUBJECT PROPERTY, and to (ii) enforce the covenants and restrictions contained herein.

DECLARANT has therefore deemed it desirable for the efficient preservation of the values and amenities to be established in the SUBJECT PROPERTY to delegate and assign to BOCA BAY MASTER ASSOCIATION, INC., a Florida corporation not-for-profit, (the "MASTER ASSOCIATION") certain powers and responsibilities, including, without limitation: (i) certain powers and duties of the ownership or operation, and administration, maintenance and repair of portions of the SUBJECT PROPERTY; (ii) the enforcement of the covenants and restrictions contained herein; (iii) the right to assess the members of the MASTER ASSOCIATION for the expenses to be incurred by it; and (iv) the collection and disbursement of the assessments and charges hereinafter provided. THE MASTER ASSOCIATION IS NOT AND IS NOT INTENDED FOR ANY PURPOSE TO BE A CONDOMINIUM ASSOCIATION NOR SUBJECT TO THE PROVISIONS OF CHAPTER 718, FLORIDA STATUTES.

These MASTER COVENANTS are not a declaration of condominium. No portion of the SUBJECT PROPERTY is submitted by these MASTER COVENANTS to the condominium form of ownership. DECLARANT does not intend that any portion of the SUBJECT PROPERTY be submitted to the condominium form of ownership except that property legally described in a declaration of condominium specifically prepared in accordance with Chapter 718, Florida Statutes, executed by or with the consent of DECLARANT. Further, the expressed intent of these MASTER COVENANTS, and the ARTICLES and BYLAWS of the MASTER ASSOCIATION is that the substantive rights hereunder shall not be retroactively affected by legislation subsequent to the date of the execution of those instruments.

NOW, THEREFORE, DECLARANT hereby declares that the SUBJECT PROPERTY, and such additions as may hereafter be made pursuant to the terms of these MASTER COVENANTS, shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens and charges set forth below, all of which are created in the best interests of the owners and residents of the SUBJECT PROPERTY, and which shall run with the SUBJECT PROPERTY and shall be binding upon all persons having or acquiring any right, title or interest in the SUBJECT PROPERTY or any portion thereof, and shall inure to the benefit of each and every person, from time to time, owning or holding an interest in the SUBJECT PROPERTY, or any portion thereof.

1. DEFINITIONS. The words and phrases listed below, as used in this Declaration of Covenants and Restrictions, shall have the following meanings, unless the context otherwise requires:

1.01 ADDITIONAL LANDS shall mean such real property, if any, which is not now part of the SUBJECT PROPERTY and which DECLARANT shall have the right to add to the SUBJECT PROPERTY, as more fully discussed in Article 11.02 hereof.

1.02 ARTICLES mean the Articles of Incorporation of the MASTER ASSOCIATION, as same may be amended from time to time.

1.03 ASSESSMENT means the amount of money which may be assessed against an OWNER for the payment of the OWNER's share of COMMON EXPENSES, and any other funds which an OWNER may be required to pay to the MASTER ASSOCIATION as provided by these MASTER COVENANTS, the ARTICLES or the BYLAWS.

1.04 BOARD means the Board of Directors of the MASTER ASSOCIATION.

1.05 BYLAWS mean the Bylaws of the MASTER ASSOCIATION, as same may be amended from time to time.

1.06 COMMON AREAS means any property, whether improved or unimproved, or any interest therein, now or hereafter owned by the MASTER ASSOCIATION for the benefit, use and enjoyment of the MEMBERS of the MASTER ASSOCIATION and the residents of the SUBJECT PROPERTY, or any other property which is declared to be a COMMON AREA by these MASTER COVENANTS. COMMON AREAS may include, but are not limited to, parks, open areas, lakes, beaches, beach and pool facilities, jogging paths, clubhouses, tennis courts, racquetball courts, shuffleboard courts, other recreational areas and facilities, median strips, sidewalks, entranceways, roads, walls, parking areas, landscaped buffers, waterscaping, and other similar properties.

1.07 COMMON EXPENSES mean all expenses of any kind or nature whatsoever properly incurred by the MASTER ASSOCIATION, including, but not limited to, the following:

1.07.01 Expenses incurred in connection with any COMMON AREA, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements and alterations.

1.07.02 Expenses of obtaining, repairing or replacing personal property in connection with any COMMON AREA, or in connection with the performance of the MASTER ASSOCIATION's duties.

1.07.03 Expenses incurred in connection with maintaining, repairing and improving landscaping, sprinkler systems, structures and other improvements in, under or upon any COMMON AREA for which the obligation to maintain, repair and improve has been delegated to the BOARD from time to time.

1.07.04 Expenses incurred in connection with the administration and management of the MASTER ASSOCIATION.

1.07.05 Expenses declared to be COMMON EXPENSES by the provisions of these MASTER COVENANTS or by the ARTICLES or BYLAWS.

1.07.06 Any expense of prosecuting or defending any

action for or against the MASTER ASSOCIATION, including attorneys' fees.

1.08 COMMON SURPLUS means the excess of all receipts of the MASTER ASSOCIATION over the amount of the COMMON EXPENSES.

1.09 CONSERVATION AREAS mean those lands described in that certain Deed of Conservation Easement, dated the 28th day of December, 1988, and recorded in Official Records Book 2045, Page 4426, of the County, which lands are subject to the terms and provisions thereof (the CONSERVATION EASEMENT); together with any lands which may now or hereafter be designated "Conservation Area" or "Preservation Area" in any recorded plat or other recorded instrument concerning any portion of the SUBJECT PROPERTY.

1.10 COUNTY shall mean Lee County, Florida.

1.11 DECLARANT means CSX REALTY, INC., a Virginia corporation, or any successor of DECLARANT who may be assigned the rights of DECLARANT pursuant to a written assignment executed by the then present DECLARANT and recorded in the public records of the COUNTY.

1.12 HOMEOWNERS ASSOCIATION means a non-profit corporation, other than the MASTER ASSOCIATION, which is formed to administer a declaration of covenants and restrictions, declaration of condominium, or similar declaration affecting any portion of the SUBJECT PROPERTY, and whose members consist of OWNERS of any PROPERTY affected by such declaration. For purposes of this DECLARATION, the PROPERTY affected by any such declaration shall be deemed to be operated by, and subject to the concurrent jurisdiction of, the respective HOMEOWNERS ASSOCIATION. Where the context requires or admits, the term "Homeowners Association" shall also mean and include condominium "Association", as that term is defined in Florida Statutes, Chapter 718 (1987), the Florida Condominium Act.

1.13 INSTITUTIONAL LENDER means any company or entity holding a mortgage encumbering any PROPERTY, which in the ordinary course of business makes, purchases, guarantees, or insures real estate mortgage loans, and which company or entity is not owned or controlled by the OWNER of the PROPERTY encumbered. An INSTITUTIONAL LENDER may include a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension or profit sharing plan, mortgage company, the Federal National Mortgage Association, an agency of the United States or any other governmental authority, or any other similar type of lender generally recognized as an institutional lender. For definitional purposes only, an INSTITUTIONAL LENDER shall also mean the holder of any mortgage executed by or in favor of DECLARANT, whether or not such holder would otherwise be considered an INSTITUTIONAL LENDER.

1.14 MASTER ASSOCIATION means BOCA BAY MASTER ASSOCIATION, INC., a Florida corporation not-for-profit.

1.15 MASTER COVENANTS means this Declaration of Covenants and Restrictions of BOCA BAY as it may be amended from time to time.

1.16 MEMBER means a member of the MASTER ASSOCIATION, as provided in Paragraph 3.06 of these MASTER COVENANTS.

1.17 OWNER means the record owner(s) of the fee title to any UNIT or PLANNED UNIT.

1.18 PERSON means an individual, partnership, syndicate, association, trustee, personal representative, corporation or any other legal entity, (collectively, PERSONS).

1.19 PLANNED UNIT means a UNIT which may be constructed within any PROPERTY pursuant to a recorded Declaration of Condominium or recorded plat, but which is not yet constructed or for which the controlling governmental authority has not yet issued a certificate of occupancy.

1.20 PROPERTY means all or any portion of the SUBJECT PROPERTY. The term PROPERTY shall include all or any UNITS and PLANNED UNITS located upon or within the SUBJECT PROPERTY.

1.21 SUBJECT PROPERTY means all of the property subject to these MASTER COVENANTS from time to time, including any property which may from time to time be added to these MASTER COVENANTS by an amendment.

1.22 UNIT means a residential dwelling contained within the SUBJECT PROPERTY, for which the controlling governmental authorities have issued a certificate of occupancy. Where any building contains more than one dwelling, each such dwelling shall be a UNIT. A UNIT may include, but is not limited to, a house, apartment, townhouse, patio home, cluster home, or residential condominium parcel. The term UNIT shall include any PROPERTY or interest in PROPERTY owned in conjunction with the UNIT.

2. COMMON AREAS

2.01 Conveyance to MASTER ASSOCIATION.

2.01.01 By DECLARANT. DECLARANT shall have the right to convey title to any property owned by it, or any interest therein, to the MASTER ASSOCIATION as a COMMON AREA, and any such conveyance shall be effective upon recording the deed or instrument of conveyance in the public records of the COUNTY. DECLARANT may require the MASTER ASSOCIATION to operate and maintain any property owned by DECLARANT which DECLARANT intends to eventually convey to the MASTER ASSOCIATION as a COMMON AREA, by written notice to the MASTER ASSOCIATION, so long as such property is improved or is useful for the purposes for which same is intended. In that event, such property shall be deemed a COMMON AREA even though not yet owned by the MASTER ASSOCIATION. If DECLARANT thereafter determines not to convey such property to the MASTER ASSOCIATION as a COMMON AREA, DECLARANT shall so notify the MASTER ASSOCIATION in writing and thereafter such property shall no longer be deemed to be a COMMON AREA. Notwithstanding the foregoing, DECLARANT shall not have the obligation to develop or convey any property to the MASTER ASSOCIATION as a COMMON AREA, and if DECLARANT desires to convey any property to the MASTER ASSOCIATION, the timing of the conveyance of same shall be in the sole discretion of DECLARANT.

2.01.02 By Any Other PERSON. Any other PERSON may also convey title to any property owned by such PERSON, or any interest therein, to the MASTER ASSOCIATION as a COMMON AREA, but the MASTER ASSOCIATION shall not be required to accept any such conveyance, and no such conveyance shall be effective to impose any obligation for the maintenance, operation or improvement of any such property upon the MASTER ASSOCIATION, unless the BOARD expressly accepts the conveyance by executing the deed or other instrument of conveyance or by recording a written acceptance of such conveyance in the public records of the COUNTY.

2.02 Use and Benefit. All COMMON AREAS shall be held by the MASTER ASSOCIATION for the use and benefit of the MASTER ASSOCIATION and its MEMBERS, the residents of the SUBJECT PROPERTY, and their respective guests and invitees, the holders of any mortgage encumbering any PROPERTY from time to time, and any other persons authorized to use the COMMON AREAS or any portion thereof by DECLARANT or the MASTER ASSOCIATION, for all proper and reasonable purposes and uses for which the same are reasonably intended, subject to the terms of these MASTER COVENANTS.

2.03 Membership Fees for Recreational Facilities. The BOARD shall have the right, in its sole discretion, to impose membership fees, various use fees and similar charges which each OWNER and resident of the SUBJECT PROPERTY will be required to pay in order to be entitled to use all or any recreational facilities within the COMMON AREAS. Furthermore, the BOARD shall have the right, in its sole discretion, to impose an additional membership or use fee or similar charge which each guest or invitee of an OWNER or resident of the SUBJECT PROPERTY will be required to pay in order for such guest or invitee to use all or any of such recreational facilities. So long as DECLARANT appoints a majority of the Directors of the MASTER ASSOCIATION, it shall have the right to authorize any other Person to use all or any such recreational facilities, and the BOARD shall charge therefor such membership or use fees as it may deem proper. The foregoing shall specifically not apply to any recreational facility within the SUBJECT PROPERTY which is part of the common elements of a condominium, or which is owned or operated by any HOMEOWNERS ASSOCIATION.

2.04 Lakes and Canals. No OWNER or HOMEOWNERS ASSOCIATION shall draw water out of any lake or canal existing within the SUBJECT PROPERTY and declared COMMON AREAS, for irrigation purposes for any PROPERTY owned by the OWNER or HOMEOWNERS ASSOCIATION without the prior written consent of the MASTER ASSOCIATION, which may be granted or withheld in its sole discretion. Any HOMEOWNERS ASSOCIATION or OWNER shall have the right to drain surface or storm waters into any COMMON AREAS lake or canal within the SUBJECT PROPERTY. However, except in the case of PROPERTY which is contiguous to any such lake or canal, each HOMEOWNERS ASSOCIATION or OWNER desiring to use such irrigation or drainage shall be responsible for obtaining an access easement from the OWNER's PROPERTY to any such lake or canal for such purposes, and no such access easement is hereby declared or is to be implied by necessity or otherwise. The MASTER ASSOCIATION shall have the right to approve the location and design of any irrigation system which draws water out of any COMMON AREAS lake or canal existing within the SUBJECT PROPERTY, which approval will not be unreasonably withheld, and no HOMEOWNERS ASSOCIATION or OWNER shall install such an irrigation system without the written approval of the MASTER ASSOCIATION as to the design of such system. The MASTER ASSOCIATION shall not be liable if any water drawn from any COMMON AREAS lake or canal within the SUBJECT PROPERTY for irrigation purposes is not suitable for such purposes, or if the level of the water in any COMMON AREAS lake or canal existing within the SUBJECT PROPERTY falls to a level which is below the intake pipes of any irrigation system.

2.05 Grant and Modification of Easements. The MASTER ASSOCIATION shall have the right to grant, modify or terminate easements over, under, upon, or across any property owned by the MASTER ASSOCIATION, and shall have the further right to modify, relocate or terminate existing easements in favor of the MASTER ASSOCIATION.

2.06 Additions, Alterations or Improvements. The MASTER ASSOCIATION shall have the right to make additions, alterations or improvements to the COMMON AREAS, and to purchase any personal property, as it deems necessary or desirable from time to time, provided, however that if the cost of any additions, alterations, improvements or personal property shall in any calendar year exceed in the aggregate the sum of Fifty ($50.00) Dollars (which sum shall be increased in direct proportion to any increase in the Consumer Price Index subsequent to the date of the recording of these MASTER COVENANTS, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, using the U.S. City Average, all items 1967 = 100, or any similar Index if the foregoing Index is discontinued) multiplied by the number of UNITS and PLANNED UNITS within the SUBJECT PROPERTY as of the time such additions, alterations or improvements are to be made, then such additions, alterations or improvements shall not be made without

the approval of a majority of the votes of the MEMBERS. The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing COMMON AREAS, or any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations or improvements to the COMMON AREAS shall be a COMMON EXPENSE.

3. MASTER ASSOCIATION. In order to provide for the administration of the SUBJECT PROPERTY the MASTER ASSOCIATION has been organized under the Laws of the State of Florida.

3.01 Articles of Incorporation. A copy of the ARTICLES is attached hereto as Exhibit "B." No amendment to the ARTICLES shall be deemed an amendment to these MASTER COVENANTS, and these MASTER COVENANTS shall not prohibit or restrict the amendment of the ARTICLES except as provided herein.

3.02 BYLAWS. A copy of the BYLAWS is attached hereto as Exhibit "C." No amendment to the BYLAWS shall be deemed an amendment to these MASTER COVENANTS, and these MASTER COVENANTS shall not prohibit or restrict the amendment of the BYLAWS except as provided herein.

3.03 Powers of the MASTER ASSOCIATION. The MASTER ASSOCIATION shall have all the powers indicated or incidental to those contained in its ARTICLES and BYLAWS. In addition, the MASTER ASSOCIATION shall have the power to enforce these MASTER COVENANTS and shall have all powers granted to it by these MASTER COVENANTS. By these MASTER COVENANTS, the SUBJECT PROPERTY is hereby submitted to the jurisdiction of the MASTER ASSOCIATION.

3.04 Approval or Disapproval of Matters. Whenever the decision of a MEMBER is required upon any matter, whether or not the subject of a MASTER ASSOCIATION meeting, such decision shall be expressed in accordance with the ARTICLES and BYLAWS, except as otherwise provided herein.

3.05 Acts of the MASTER ASSOCIATION. Unless the approval or action of the MEMBERS, or a certain specific percentage of the BOARD, is specifically required in these MASTER COVENANTS, the ARTICLES or BYLAWS, all approvals or actions required or permitted to be given or taken by the MASTER ASSOCIATION shall be given or taken by the BOARD and the BOARD may so approve an act through the proper officers of the MASTER ASSOCIATION without a specific resolution. When an approval or action of the MASTER ASSOCIATION is permitted to be given or taken, such action or approval may be conditioned in any manner the MASTER ASSOCIATION deems appropriate or the MASTER ASSOCIATION may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.

3.06 Membership. Each OWNER shall be a MEMBER of the MASTER ASSOCIATION.

3.07 MEMBERS' Voting Rights. The total number of votes of all the MEMBERS of the MASTER ASSOCIATION shall be equal to the total number of UNITS and PLANNED UNITS from time to time. Each HOMEOWNERS ASSOCIATION shall have that number of votes equal to the number of UNITS and PLANNED UNITS contained within the PROPERTY subject to the jurisdiction of the HOMEOWNERS ASSOCIATION. As provided in the BYLAWS, the votes of MEMBERS shall be cast by their respective HOMEOWNERS ASSOCIATION Representative at all meetings of the MEMBERS of the MASTER ASSOCIATION.

3.08 MEMBER Share. The share of a MEMBER in the funds and assets of the MASTER ASSOCIATION cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the PROPERTY associated with the membership of the MEMBER, nor

may a membership be separately assigned, hypothecated or transferred in any manner except as an appurtenance to such PROPERTY.

4. ASSESSMENTS FOR COMMON EXPENSES

4.01 Responsibility. Each MEMBER shall be responsible for the payment of ASSESSMENTS for COMMON EXPENSES to the MASTER ASSOCIATION as herein provided.

4.02 ASSESSMENT UNIT. For the purpose of establishing and determining ASSESSMENTS for COMMON EXPENSES payable by the MEMBERS, each UNIT and PLANNED UNIT shall be one ASSESSMENT UNIT.

4.03 Determination of ASSESSMENTS for COMMON EXPENSES. Prior to the beginning of each calendar year, the BOARD shall adopt a budget for such calendar year which shall estimate all of the COMMON EXPENSES to be incurred by the ASSOCIATION during the calendar year. In determining the budget for any calendar year, the BOARD may take into account COMMON AREAS and ASSESSMENT UNITS anticipated to be added during the calendar year. The BOARD shall then establish the ASSESSMENT for COMMON EXPENSES per ASSESSMENT UNIT, which shall be equal to the total amount to be assessed for COMMON EXPENSES pursuant to the budget, divided by the total number of ASSESSMENT UNITS within the SUBJECT PROPERTY. The ASSOCIATION shall then promptly notify all MEMBERS, in writing, of the amount, frequency, and due dates of the ASSESSMENT for COMMON EXPENSES per ASSESSMENT UNIT. From time to time during the fiscal year, the BOARD may modify the budget for the fiscal year, and pursuant to the revised budget or otherwise the BOARD may, upon written notice to the MEMBERS, change the amount, frequency or due dates of the ASSESSMENTS for COMMON EXPENSES per ASSESSMENT UNIT. If the expenditure of funds is required by the MASTER ASSOCIATION in addition to funds produced by the regular ASSESSMENTS for COMMON EXPENSES, the BOARD may make special ASSESSMENTS for COMMON EXPENSES, which shall be levied in the same manner as herein provided for regular ASSESSMENTS for COMMON EXPENSES and shall be payable in the manner determined by the Board as stated in the notice of any special ASSESSMENT for COMMON EXPENSES. If any ASSESSMENTS for COMMON EXPENSES are made payable in equal periodic payments as provided in the notice from the ASSOCIATION, such periodic payments shall automatically continue to be due and payable in the same amount and frequency as indicated in the notice, unless or until: (i) the notice specifically provides that the periodic payments will terminate upon the occurrence of a specified event or the payment of a specified amount, or (ii) the MASTER ASSOCIATION notifies the MEMBER in writing of a change in the amount or frequency of the periodic payments. Notwithstanding the foregoing, in no event shall any ASSESSMENT for COMMON EXPENSES payable by any MEMBER be due less than ten (10) days from the date of the notification of such ASSESSMENT for COMMON EXPENSES.

4.04 Payment of ASSESSMENTS for COMMON EXPENSES. On or before the date each ASSESSMENT for COMMON EXPENSES is due, each MEMBER shall be required to and shall pay to the MASTER ASSOCIATION an amount equal to the ASSESSMENT for COMMON EXPENSES per ASSESSMENT UNIT for each ASSESSMENT UNIT then owned by such MEMBER.

4.05 Enforcement. If any MEMBER fails to pay any ASSESSMENT for COMMON EXPENSES when due, the MASTER ASSOCIATION shall have the rights set forth in Paragraph 8.01, including but not limited to the charging and collection of interest, the recording of a Claim of Lien and the foreclosure of same, and the acceleration of ASSESSMENTS for COMMON EXPENSES for the remainder of the budget year.

4.06 ASSESSMENTS for COMMON EXPENSES while DECLARANT Appoints a Majority of the BOARD. Notwithstanding anything contained in this Article 4 or elsewhere herein to the contrary, so long as DECLARANT appoints a majority of the directors of the

MASTER ASSOCIATION, DECLARANT shall pay any amount of COMMON EXPENSES incurred by the MASTER ASSOCIATION and not produced by ASSESSMENTS for COMMON EXPENSES receivable from the other MEMBERS, but shall not be liable for any ASSESSMENTS for COMMON EXPENSES for any UNITS or PLANNED UNITS within the PROPERTY owned by DECLARANT.

5. ARCHITECTURAL CONTROL

5.01 Purpose. Architectural control will be exercised over all buildings, structures and improvements to be placed or constructed upon any PROPERTY for the purpose of insuring the development of the entire SUBJECT PROPERTY as a residential community of high standards and aesthetic beauty. It is the intent of this Paragraph that the party exercising architectural control shall have the right to control all architectural aspects of any improvements constructed on any PROPERTY including, but not limited to, height, site planning, set-back requirements, open space, exterior design, color schemes, landscaping, waterscaping, and aesthetic criteria, to the end that the entire SUBJECT PROPERTY may be developed as a planned high-quality residential community with each portion of the SUBJECT PROPERTY complementing the other portions.

5.02 Party Exercising Architectural Control. DECLARANT shall have the right to exercise such architectural control so long as it owns any PROPERTY, or holds a mortgage encumbering any PROPERTY other than a UNIT. Thereafter, the MASTER ASSOCIATION shall exercise such architectural control, provided, however, that at any time DECLARANT shall have the right to relinquish architectural control over all or any portion of the SUBJECT PROPERTY, by written notice to the MASTER ASSOCIATION. So long as DECLARANT has the right to exercise architectural control, and has not voluntarily relinquished such control to the MASTER ASSOCIATION, the MASTER ASSOCIATION shall not have the right to exercise architectural control and that right shall be exclusively vested in DECLARANT.

5.03 OWNER to Obtain Approval. Each OWNER, by accepting title to any PROPERTY, and each HOMEOWNERS ASSOCIATION, covenants and agrees that no building, fence, wall, tennis court, swimming pool, patio area, driveway, substantial landscaping changes, antenna, sign, mailbox, or other structure or improvement, or any change or alteration thereto other than normal maintenance and repair which does not significantly alter or change the original structural or exterior condition and color of same, shall be placed, constructed or made upon any PROPERTY, nor shall the elevation of any PROPERTY be changed, nor shall any lake, canal or beach be filled or the boundaries of same altered, unless and until plans and specifications therefor have been submitted to the party then exercising architectural control and the approval of same has been obtained as provided below. Such plans and specifications to be submitted shall fully describe in detail the improvements to be made including, but not limited to, all materials, equipment, and colors to be used. If the party exercising architectural control deems such plans and specifications insufficient, that party may require the plans and specifications to be further detailed.

5.04 Approval of Plans and Specifications. The party exercising architectural control shall have the right to approve or disapprove the plans and specifications on any grounds. Approval of any new plans and specifications shall not be unreasonably withheld, and architectural control shall not be applied in a discriminatory manner or to unreasonably prohibit the reasonable development of any PROPERTY. Notwithstanding the foregoing, the party exercising architectural control shall have complete discretion to approve or disapprove any plans and specifications on the grounds of exterior aesthetics. The party exercising architectural control shall approve or disapprove any plans or specifications within thirty (30) days after they have been submitted for approval, by written notice to the PERSON

submitting same, and if the party exercising architectural control fails to disapprove any plans or specifications within such thirty (30) day period, they shall be deemed to have been approved and upon request the party exercising architectural control shall give written notice of such approval. Any approval of plans or specifications which is conditioned upon changes being made shall be deemed a disapproval until such time as the PERSON submitting the plans and specifications agrees to the changes or revises the plans and specifications to reflect the changes requested. If the party exercising architectural control approves, or is deemed to have approved, any plans or specifications, the PERSON submitting the plans and specifications may proceed to make improvements or repairs in strict conformance with the plans and specifications submitted and approved or deemed to have been approved.

5.05 Remedy for Violations. If this Article 5 is violated in that any construction, improvement, change, or alteration is made without first obtaining the approval of the party exercising architectural control, or is made prior to the time approval is presumed as set forth herein, the party exercising architectural control shall specifically have the right to injunctive relief, which shall include, but not be limited to, requiring the applicable HOMEOWNERS' ASSOCIATION or OWNER to stop, remove or alter any such construction, improvement, change or alteration in a manner which is satisfactory to the party exercising architectural control or the party exercising architectural control may pursue any other remedy available by law. The party exercising architectural control must commence any such action within one (1) year of the date of the violation. The foregoing shall be in addition to any other remedy set forth herein for violations of these MASTER COVENANTS. Furthermore, notwithstanding anything contained herein to the contrary, the party exercising architectural control shall have the exclusive authority to enforce the provisions of this Article.

5.06 Effect of HOMEOWNERS ASSOCIATION. No plans and specifications for proposed changes or improvements to any PROPERTY shall be submitted for approval to the party exercising architectural control pursuant to this Article 5 until a HOMEOWNERS ASSOCIATION granted the right to exercise architectural or similar control pursuant to a declaration of restrictions, declaration of condominium or similar document recorded with respect to such PROPERTY, has first approved such plans and specifications.

5.07 No Liability. Notwithstanding anything contained herein to the contrary, the party having the authority to exercise architectural control shall merely have the right, but not the duty, to exercise such control, and shall not be liable to any OWNER due to the exercise or nonexercise of such control, or the approval or disapproval of any construction, improvement, alteration or maintenance. Furthermore, the approval or failure to disapprove of any plans or specifications submitted for approval shall not be deemed to be a warranty that such plans or specifications are complete or do not contain structural defects, or in fact meet any standards, guidelines or criteria of the party exercising architectural control, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and the party exercising architectural control shall not be liable for any deficiency, or injury resulting from any deficiency, in such plans or specifications.

6. TAXES AND INSURANCE

6.01 Taxes. The MASTER ASSOCIATION shall be responsible for the payment of real estate taxes and assessments for any COMMON AREAS, and personal property taxes for any personal property owned by, or made the responsibility of, the MASTER ASSOCIATION.

6.02 Insurance. The MASTER ASSOCIATION shall have the

right to obtain such insurance as is deemed necessary from time to time to afford protection to the MASTER ASSOCIATION. Such insurance shall include, but not be limited to, the following:

6.02.01 Fire, flood and extended coverage insurance on all insurable real and personal property owned by the MASTER ASSOCIATION on a current replacement cost basis in an amount not less than one hundred (100%) percent of insurable value (based on current replacement cost), and

6.02.02 Comprehensive general public liability insurance covering loss or damage resulting from claims made against the MASTER ASSOCIATION, with such coverages as may be desired by the MASTER ASSOCIATION, but not less than $1,000,000.00 for bodily injury, death, or property damage, arising out of a single occurrence.

6.02.03 Blanket fidelity bonds for all officers, directors and employees of the MASTER ASSOCIATION and all other Persons handling or responsible for funds of or administered by the MASTER ASSOCIATION, in an amount not less than three (3) months' aggregate ASSESSMENTS for COMMON EXPENSES payable by the MEMBERS plus reserve funds held by the MASTER ASSOCIATION.

6.03 COMMON EXPENSES. Sums expended for taxes, assessments and insurance shall be considered COMMON EXPENSES of the MASTER ASSOCIATION.

6.04 Default by MASTER ASSOCIATION. If the MASTER ASSOCIATION shall default in the payment of any taxes or assessments, or shall fail to obtain any insurance required herein, or shall fail to pay any overdue premiums on such insurance, and if the MASTER ASSOCIATION shall not correct any such failure within ten (10) days after written notice by any MEMBER or INSTITUTIONAL LENDER, such MEMBER or INSTITUTIONAL LENDER shall have the right to cure such failure, and shall be entitled to reimbursement from the MASTER ASSOCIATION for all costs and expenses incurred in connection with correcting such failure.

7. USE RESTRICTIONS AND MAINTENANCE

7.01 Residential Purposes. All PROPERTY shall be used for residential and related recreational use only and not for commercial, trade or business purposes.

7.02 Portable Buildings. No portable buildings, temporary or accessory buildings or structures, or tents, shall be erected, constructed or located upon any PROPERTY for storage or otherwise, without the prior written consent of the MASTER ASSOCIATION.

7.03 Signs. No sign advertising the sale, lease or rental of any PROPERTY or UNIT, and no political sign, advertising or commercial sign shall be posted, displayed, inscribed, or affixed to, or be visible from, the exterior of a UNIT, or upon any PROPERTY, without the prior written consent of the MASTER ASSOCIATION.

7.04 Pets. No animals, livestock or poultry of any kind shall be permitted within the SUBJECT PROPERTY except for common household pets. Any household pets must not be kept or maintained for commercial purposes and must not be an unreasonable nuisance or annoyance to other residents of the SUBJECT PROPERTY. The MASTER ASSOCIATION may require any pet to be immediately and permanently removed from the SUBJECT PROPERTY due to a violation of this Paragraph.

7.05 Nuisances. No nuisances shall be allowed upon any PROPERTY, nor any use or practice which is an unreasonable source of annoyance to other OWNERS or which interferes with the

peaceful possession and proper use of the residents of the SUBJECT PROPERTY. No improper, offensive or unlawful use shall be made of any PROPERTY, and all laws, zoning ordinances and regulations of all controlling governmental bodies shall be observed.

7.06 Lakes. The use of any lake within the SUBJECT PROPERTY shall be subject to all rules, regulations and restrictions adopted by the BOARD concerning same. In particular, and without limitation, no swimming or boating will be allowed in any such lake unless and except as expressly permitted pursuant to any such rules, regulations and restrictions adopted by the BOARD.

7.07 Boats. No boats or boat trailers may be kept or stored outside of any UNIT or PLANNED UNIT, except that boats or boat trailers may be kept or stored on any COMMON AREAS pursuant to rules and regulations adopted by the MASTER ASSOCIATION if, and only if expressly permitted by any such rules and regulations.

7.08 Vehicles. Only automobiles, small trucks, vans, and other vehicles commonly used as private passenger vehicles may be parked within the SUBJECT PROPERTY, without the consent of the MASTER ASSOCIATION. No vehicle shall be parked on the SUBJECT PROPERTY without the written consent of the MASTER ASSOCIATION, which may be arbitrarily withheld, if commercial equipment is exposed upon the vehicle. The foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial vehicles making delivery to or from, or while used in connection with providing services to, the SUBJECT PROPERTY. Any vehicle which cannot operate on its own power shall not remain on the SUBJECT PROPERTY for more than twenty-four (24) hours, and no major repair of any motor vehicle shall be made on the SUBJECT PROPERTY.

7.09 Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any PROPERTY.

7.10 Surface Water Management. The surface water management system for the SUBJECT PROPERTY shall be installed, operated and maintained in accordance with all permits and approvals issued by the controlling governmental authorities. Furthermore, the surface water management system shall not be adversely interfered with, changed or altered except pursuant to permits or approvals issued by the controlling governmental authorities.

7.11 Outside Antennas. No outside antennas or signal-receiving dishes are permitted.

7.12 Wells. No wells may be installed within the SUBJECT PROPERTY without the prior written consent of the MASTER ASSOCIATION.

7.13 Maintenance Provisions. Except for portions of any PROPERTY to be maintained by the MASTER ASSOCIATION as elsewhere provided, all buildings and other improvements existing under, upon or over any PROPERTY from time to time shall at all times be maintained in accordance with all applicable governmental requirements, and in a first-class condition and in good working order, so as to preserve the beauty, quality and value of all PROPERTY. Without limiting the foregoing, the following standards shall apply with respect to the maintenance of any PROPERTY:

7.13.01 Buildings and Other Improvements. All buildings and other improvements shall be maintained in first-class condition, especially as to the exterior appearance. Painting or other exterior maintenance shall be periodically performed as reasonably required. No excessive or unsightly mildew, rust deposits, dirt, or deterioration shall be permitted to accumulate on any building or improvement.

7.13.02 Sidewalks, Roads and Parking Areas. All sidewalks, roads, streets, driveways, parking areas, and other paved or hard-surfaced areas intended for use by vehicular or pedestrian traffic shall be cleaned and kept free of debris, and cracks, damaged or eroding areas on same shall be repaired, replaced or resurfaced as necessary. All curbing and bumper stops shall be repaired or replaced if damaged. All striping, including but not limited to, parking space, traffic lane and directional markings, within any road, street, or parking area, shall be repainted as necessary, so that same will be clearly visible at all times.

7.13.03 Landscaping. All PROPERTY containing a UNIT, or owned or exclusively used in conjunction with the ownership of a UNIT, or owned or operated by a HOMEOWNER'S ASSOCIATION, shall be tastefully landscaped. Lawns shall be primarily sodded, and shall not be paved or covered with gravel, artificial turf or other covering unless permitted by the party exercising architectural control. All diseased or dead sod, plants, shrubs or flowers shall be promptly replaced. All landscaping shall be regularly maintained in first class condition and appearance, including mowing, trimming, fertilization, irrigation, and weed, insect and disease control.

7.13.04 Trash. No garbage, trash, refuse or rubbish shall be deposited, dumped or kept on any PROPERTY except in closed dumpsters or other sanitary garbage collection facilities. All dumpsters and garbage facilities shall be screened from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted. No refuse shall be allowed to accumulate so as to be detrimental to the surrounding area. Garbage bags or private trash containers required to be placed near any street for collection purposes shall not be placed outside more than twenty-four (24) hours prior to scheduled collection times.

7.13.05 Utility Lines and Services. All utility lines and services shall be maintained in good working condition.

7.14 Rules and Regulations. Reasonable rules and regulations concerning the maintenance and use of the SUBJECT PROPERTY may be made and amended from time to time by the MASTER ASSOCIATION in the manner provided by its ARTICLES and BYLAWS. Copies of such rules and regulations and amendments shall be furnished by the MASTER ASSOCIATION to any OWNER upon request.

7.15 Waiver. The BOARD shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions, as to any PROPERTY or UNIT where, in the discretion of the BOARD, circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or if any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of DECLARANT, MASTER ASSOCIATION, or any other person having the right to enforce these restrictions from insisting upon strict compliance with respect to all other PROPERTY and UNITS, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future. Notwithstanding the foregoing, so long as DECLARANT owns any PROPERTY, or holds a mortgage encumbering any PROPERTY other than a UNIT, if any waiver or deviation of any restriction contained in this Article 7 requires the consent of the MASTER ASSOCIATION, such consent shall be obtained from DECLARANT, and not from the MASTER ASSOCIATION, unless DECLARANT voluntarily relinquishes this right at an earlier date.

7.16 Responsibility for Maintenance and Compliance.

7.16.01 OWNERS. The OWNER of any PROPERTY shall be responsible for complying with all of the provisions of this

Article with respect to such PROPERTY.

7.16.02 HOMEOWNERS ASSOCIATION. Each HOMEOWNERS ASSOCIATION shall be responsible for complying with all provisions of this Article with respect to all of the PROPERTY which is subject to the jurisdiction of the HOMEOWNERS ASSOCIATION, notwithstanding the fact that the OWNER of any portion of the PROPERTY may also be responsible for such compliance with respect to the PROPERTY owned by such OWNER.

7.16.03 MASTER ASSOCIATION. The MASTER ASSOCIATION shall maintain, repair, and improve all COMMON AREAS. In addition, the MASTER ASSOCIATION shall have the right to assume the obligation to operate or maintain any PROPERTY which is not owned by the MASTER ASSOCIATION such as, but not limited to walls or fences on or near the boundaries of the SUBJECT PROPERTY, and any landscaping, sprinkler systems, sidewalks, paths, or other improvements, in or within fifteen (15) feet of any public road right-of-ways within the SUBJECT PROPERTY, if the BOARD determines that the operation or maintenance of the PROPERTY by the MASTER ASSOCIATION would be in the best interests of the residents of the SUBJECT PROPERTY and the OWNER or HOMEOWNERS ASSOCIATION otherwise responsible for such operation or maintenance shall concur. Thereafter the PROPERTY shall be operated or maintained by the MASTER ASSOCIATION and not by the OWNER or HOMEOWNERS ASSOCIATION, until the BOARD determines no longer to assume the obligation to operate or maintain the PROPERTY and so notifies the appropriate OWNER or HOMEOWNERS ASSOCIATION in writing. To the extent the MASTER ASSOCIATION assumes the obligation to operate or maintain any PROPERTY which is not owned by the MASTER ASSOCIATION, the MASTER ASSOCIATION shall have the right to enter upon such PROPERTY in connection with the operation or maintenance of same, and no such entry shall be deemed a trespass.

7.16.04 Enforcement. If any OWNER or HOMEOWNERS ASSOCIATION fails to comply with any provision of this Article, the MASTER ASSOCIATION shall have all rights of enforcement set forth in Article 8, including, but not limited to, the right to perform any maintenance which any OWNER or HOMEOWNERS ASSOCIATION has failed to perform, and to assess the applicable OWNER or HOMEOWNERS ASSOCIATION for all costs and expenses incurred by the MASTER ASSOCIATION in connection therewith.

7.16.05 Limitations. No OWNER or HOMEOWNERS ASSOCIATION shall maintain, repair or improve any PROPERTY for which the MASTER ASSOCIATION has the responsibility and duty for maintenance without the prior written consent of the MASTER ASSOCIATION.

7.17 Exceptions for DECLARANT. The foregoing use and maintenance restrictions shall not apply to DECLARANT, or with respect to any PROPERTY owned by DECLARANT and shall not apply with respect to the development of the SUBJECT PROPERTY, the construction of any building, recreational facility and other improvements within the SUBJECT PROPERTY, nor to the sale of new UNITS or PLANNED UNITS developed within the SUBJECT PROPERTY from time to time, by DECLARANT or by the developer of any portion of the SUBJECT PROPERTY. Specifically, and without limitation, DECLARANT and any developer(s) of any portion of the SUBJECT PROPERTY shall have the right to: (i) construct any buildings or improvements within the SUBJECT PROPERTY; (ii) maintain customary and usual sales, general office and construction operations on any PROPERTY; (iii) place, erect or construct portable buildings, temporary or accessory buildings, or structures upon any PROPERTY for storage or other purposes; (iv) temporarily deposit, dump or accumulate trash, refuse and rubbish in connection with the development or construction of any PROPERTY; (v) post, display, inscribe or affix to the exterior of a UNIT or PLANNED UNIT or upon any PROPERTY, "For Sale" and other reasonable signs used in developing any PROPERTY for sale to the public, and for promotional

purposes; (vi) excavate fill from any lakes within or contiguous to the SUBJECT PROPERTY by dredge or dragline, store fill on the SUBJECT PROPERTY, and sell excess fill from the SUBJECT PROPERTY; (vii) grow plants and trees upon the SUBJECT PROPERTY for later use and sell excess plants and trees; and (viii) authorize membership or use rights in recreational facilities to PERSONS not OWNERS.

8. COLLECTION OF ASSESSMENTS, LIEN, DEFAULT AND ENFORCEMENT

8.01 Monetary Defaults and Collection of ASSESSMENTS.

8.01.01 Interest. If any OWNER is in default in the payment of any ASSESSMENT for more than ten (10) days after same is due, or in the payment of any other monies owed to the MASTER ASSOCIATION for a period of more than ten (10) days after written demand by the MASTER ASSOCIATION, such OWNER shall pay to the MASTER ASSOCIATION interest at the highest rate permitted by law on the amount owed to the MASTER ASSOCIATION from and after such ten (10) day period.

8.01.02 Acceleration of ASSESSMENTS. In addition, if any OWNER is in default in the payment of any ASSESSMENT or any other monies owed to the MASTER ASSOCIATION, for more than ten (10) days after written demand by the MASTER ASSOCIATION, the MASTER ASSOCIATION shall have the right to accelerate and require such defaulting OWNER to pay to the MASTER ASSOCIATION ASSESSMENTS for COMMON EXPENSES for the remainder of the budget year. In the event of such acceleration, the defaulting OWNER shall continue to be liable for any increases in the regular ASSESSMENTS for COMMON EXPENSES, for all special ASSESSMENTS for COMMON EXPENSES, and all other ASSESSMENTS and monies payable to the MASTER ASSOCIATION.

8.01.03 Collection. If any OWNER fails to pay any ASSESSMENT or other monies due to the MASTER ASSOCIATION within ten (10) days after written demand, the MASTER ASSOCIATION may take any action deemed necessary in order to collect such ASSESSMENTS or monies including, but not limited to, retaining the services of a collection agency or attorney to collect such ASSESSMENTS or monies, initiating legal proceedings for the collection of such ASSESSMENTS or monies, recording a claim of lien as hereinafter provided, and foreclosing same in like manner as mortgage liens are foreclosed, or any other appropriate action. The OWNER shall be liable to the MASTER ASSOCIATION for all costs and expenses incurred by the MASTER ASSOCIATION incident to the collection of any ASSESSMENT or other monies owed to it, and the enforcement or foreclosure of any lien for same, including reasonable attorneys' fees, and all sums paid by the MASTER ASSOCIATION for taxes and on account of any mortgage lien and encumbrance in order to preserve and protect the MASTER ASSOCIATION's lien. The MASTER ASSOCIATION shall have the right to bid in the foreclosure sale of any lien foreclosed by it for the payment of any ASSESSMENTS or monies owed to it, and if the MASTER ASSOCIATION becomes the OWNER of any PROPERTY by reason of such foreclosure, it shall offer such PROPERTY for sale within a reasonable time and shall deduct from the proceeds of such sale all ASSESSMENTS or monies due it. All payments received by the MASTER ASSOCIATION on account of any delinquent ASSESSMENTS or monies owed to it by any OWNER, shall be first applied to payments and expenses incurred by the MASTER ASSOCIATION, then to interest, then to any unpaid ASSESSMENTS or monies owed to the MASTER ASSOCIATION in the order that the same were due.

8.01.04 Lien for ASSESSMENT and Monies Owed to MASTER ASSOCIATION. The MASTER ASSOCIATION shall have a lien on all PROPERTY owned by any OWNER, for any unpaid ASSESSMENTS (including any ASSESSMENTS which are accelerated pursuant to this DECLARATION) or other monies owed to the MASTER ASSOCIATION by such OWNER, and for interest, reasonable attorneys fees incurred by the MASTER ASSOCIATION incident to the collection of the ASSESSMENTS and other

monies, or enforcement of the lien, and for all sums advanced and paid by the MASTER ASSOCIATION for taxes and on account of superior mortgages, liens or encumbrances in order to protect and preserve the MASTER ASSOCIATION's lien. The lien is effective from and after the recording of a claim of lien in the public records of the COUNTY, stating the description of the PROPERTY, the name of the OWNER, the amount due, and the due dates, and shall also secure all unpaid assessments, costs, interest and attorney's fees which may accrue after the recording of the claim of lien. The lien is in effect until all sums secured by it have been fully paid. The claim of lien must be signed and acknowledged by an officer or agent of the MASTER ASSOCIATION. Upon payment in full of all sums secured by the lien, the PERSON making the payment is entitled to a satisfaction of the lien.

8.01.05 Transfer of PROPERTY after ASSESSMENT. The MASTER ASSOCIATION's lien shall not be affected by the sale or transfer of any PROPERTY, and in the event of any such sale or transfer, both the new OWNER and the prior OWNER shall be jointly and severally liable for all ASSESSMENTS, interest, and other costs and expenses owed to the MASTER ASSOCIATION which are attributable to any PROPERTY purchased by or transferred to such new OWNER. Any OWNER, upon demand, shall be entitled to receive from the MASTER ASSOCIATION a statement as to any then unpaid ASSESSMENTS, interest, or other costs or expenses owed to the MASTER ASSOCIATION by such OWNER, and any purchaser or transferee of any PROPERTY shall have the right to rely on such statement.

8.01.06 Subordination of the Lien to Mortgages. The lien of the MASTER ASSOCIATION for ASSESSMENTS or other monies shall be subordinate and inferior to the lien of any mortgage in favor of an INSTITUTIONAL LENDER recorded prior to the recording of a Claim of Lien by the MASTER ASSOCIATION. The sale or transfer of any PROPERTY which is subject to such a mortgage of an INSTITUTIONAL LENDER, by the foreclosure of such mortgage or by deed in lieu thereof, shall extinguish the lien of the MASTER ASSOCIATION as to any ASSESSMENT, interest, expenses or other monies owed to the MASTER ASSOCIATION which became due prior to such sale or transfer, (the "Extinguished Lien") unless a Claim of Lien for same was recorded prior to the recording of the mortgage, and neither the INSTITUTIONAL LENDER, nor any purchaser at a foreclosure sale, nor their grantees or successors, shall be responsible for such payment of the Extinguished Lien, but they shall be liable for any ASSESSMENTS due after such sale or transfer. If the MASTER ASSOCIATION's lien or its rights to any lien for any such ASSESSMENTS, interest, expenses or other monies owed to the MASTER ASSOCIATION by any OWNER is extinguished as aforesaid, the amount of the Extinguished Lien shall thereafter be a COMMON EXPENSE, collectible from all OWNERS including such acquirer, and their or its successors and assigns.

8.02 Non-Monetary Defaults. In the event of a violation by any OWNER (other than the non-payment of any ASSESSMENT or other monies) of any of the provisions of these MASTER COVENANTS, or of the ARTICLES or BYLAWS, the MASTER ASSOCIATION shall give written notice thereof to the OWNER with copy to the appropriate HOMEOWNER ASSOCIATION. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the HOMEOWNERS ASSOCIATION or OWNER fails to commence and diligently proceed to completely cure as soon as practicable such violation within seven (7) days after written notice by the MASTER ASSOCIATION, the MASTER ASSOCIATION may, at its option:

(i) Commence an action to enforce the performance on the part of the HOMEOWNERS ASSOCIATION or OWNER or both of them, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

(ii) Commence an action to recover damages; and/or

(iii) Take any and all action reasonably necessary to correct such failure, which action may include, but is not limited to, removing any building or improvement for which architectural approval has not been obtained, or performing any maintenance required to be performed by these MASTER COVENANTS.

All expenses incurred by the MASTER ASSOCIATION in connection with the correction of any failure, or the commencement of any action against any HOMEOWNERS ASSOCIATION or OWNER, including reasonable attorneys fees, shall be assessed against the applicable HOMEOWNERS ASSOCIATION or OWNER, and shall be due upon written demand by the MASTER ASSOCIATION. The MASTER ASSOCIATION shall have a lien for any such ASSESSMENT and any interest, costs or expenses associated therewith, including attorneys' fees incurred in connection with such ASSESSMENT, and may take such action to collect such ASSESSMENT or foreclose the lien as in the case and in the manner of any other ASSESSMENT. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of the COUNTY.

8.03 No Waiver. The failure of the MASTER ASSOCIATION to enforce any right, provision, covenant or condition which may be granted by these MASTER COVENANTS, the ARTICLES, or the BYLAWS, shall not constitute a waiver of the right of the MASTER ASSOCIATION to enforce such right, provision, covenant or condition in the future.

8.04 Rights Cumulative. All rights, remedies and privileges granted to the MASTER ASSOCIATION pursuant to any terms, provisions, covenants or conditions of these MASTER COVENANTS, the ARTICLES or the BYLAWS, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the MASTER ASSOCIATION thus exercising the same from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

8.05 Enforcement By or Against other Persons. In addition to the foregoing, these MASTER COVENANTS may be enforced by DECLARANT or the MASTER ASSOCIATION, by any procedure at law or in equity against any PERSON violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce these MASTER COVENANTS shall be borne by the PERSON against whom enforcement is sought, provided such proceeding results in a finding, express or implied, that such PERSON was in violation of these MASTER COVENANTS. In addition to the foregoing, any HOMEOWNERS ASSOCIATION or OWNER shall have the right to bring an action to enforce these MASTER COVENANTS against any PERSON violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no HOMEOWNERS ASSOCIATION or OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any PERSON, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

8.06 Certificate as to Unpaid ASSESSMENTS or Default. Upon request by the OWNER of any PROPERTY, or any INSTITUTIONAL LENDER holding a mortgage encumbering any PROPERTY, the MASTER ASSOCIATION shall execute and deliver a written certificate as to whether such OWNER is in default with respect to the payment of ASSESSMENTS or with respect to compliance with the terms and provisions of these MASTER COVENANTS.

9. DEDICATIONS. The DECLARANT reserves the right to

dedicate, grant or convey any portion of the SUBJECT PROPERTY and ADDITIONAL LANDS owned by it, or any interest or easement therein, to any governmental or quasi-governmental agency or private or public utility company, and shall also have the right to direct the MASTER ASSOCIATION to likewise dedicate, grant or convey any COMMON AREA, or any interest or easement in any COMMON AREA, whereupon the MASTER ASSOCIATION shall execute such documents as will be necessary to effectuate such dedication. This right of DECLARANT shall terminate when DECLARANT no longer has any interest in any portion of the SUBJECT PROPERTY and ADDITIONAL LANDS, either as OWNER or mortgagee, and thereafter the right shall be vested within the MASTER ASSOCIATION. Any PROPERTY, or any interest or easement therein, which is dedicated, granted or conveyed pursuant to this Article shall not be subject to the covenants and restrictions contained within these MASTER COVENANTS, unless the instrument so dedicating, granting, or conveying such PROPERTY, interest or easement specifically provides that same is subject to the covenants and restrictions contained within these MASTER COVENANTS.

10. TERM OF DECLARATION. All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all OWNERS, their successors, personal representatives, heirs or assigns, regardless of how the OWNERS acquire title, for a period of fifty (50) years from the date of these MASTER COVENANTS, unless within such time, MEMBERS representing one hundred (100%) percent of the votes of the entire membership of the MASTER ASSOCIATION execute a written instrument declaring a termination of these MASTER COVENANTS (as it may have been amended from time to time). After such fifty (50) year period, unless sooner terminated as provided above, these covenants, conditions, reservations and restrictions shall be automatically extended for successive periods of ten (10) years each, until MEMBERS representing a majority of the votes of the entire membership of the MASTER ASSOCIATION execute a written instrument declaring a termination of these MASTER COVENANTS (as it may have been amended from time to time). Any termination of these MASTER COVENANTS shall be effective on the date the instrument of termination is recorded in the public records of the COUNTY, provided, however, that any such instrument, in order to be effective, must be approved in writing and signed by DECLARANT so long as DECLARANT owns any PROPERTY, or holds any mortgage encumbering any PROPERTY other than a UNIT or PLANNED UNIT.

11. AMENDMENT

11.01 Generally; DECLARANT'S Amendment Rights. These MASTER COVENANTS may be amended (i) upon the approval of not less than sixty-six and two-thirds (66-2/3%) percent of the votes of the entire membership of the MASTER ASSOCIATION and by not less than a majority of the BOARD, or (ii) upon the approval of not less than seventy-five (75%) percent of the votes of the entire membership of the MASTER ASSOCIATION, provided, however, that any such amendment, in order to be effective, must be approved in writing and signed by DECLARANT so long as DECLARANT owns any PROPERTY or ADDITIONAL LANDS, or holds any mortgage encumbering any PROPERTY or ADDITIONAL LANDS other than a UNIT or PLANNED UNIT. In addition, these MASTER COVENANTS may be amended from time to time, by DECLARANT and without the consent of the MASTER ASSOCIATION or any OWNER, so long as DECLARANT owns any PROPERTY or ADDITIONAL LANDS, or holds any mortgage encumbering any PROPERTY or ADDITIONAL LANDS other than a UNIT or PLANNED UNIT. In order to be effective, any amendment to these MASTER COVENANTS must first be recorded amongst the public records of the COUNTY, and in the case of an amendment made by the MEMBERS and the BOARD, such amendment shall contain a certification by the President and Secretary of the MASTER ASSOCIATION that the amendment was duly adopted.

11.02 Additional Lands. So long as DECLARANT owns any

PROPERTY, or holds any mortgage encumbering any PROPERTY other than a UNIT or PLANNED UNIT, DECLARANT shall have the right to unilaterally amend these MASTER COVENANTS, without the consent or joinder of the MASTER ASSOCIATION or any OWNER or mortgagee, for the purpose of adding to these MASTER COVENANTS all or any portion of the ADDITIONAL LANDS, as more particularly described in Exhibit "D" attached hereto, or any other property which is contiguous to the SUBJECT PROPERTY from time to time, which ADDITIONAL LANDS or other property shall become part of the SUBJECT PROPERTY on the date the Amendment is recorded in the public records of the COUNTY, and thereafter such property shall be governed by these MASTER COVENANTS. For purposes of this Paragraph, other property shall be deemed to be contiguous to the SUBJECT PROPERTY if the other property has a common boundary with the SUBJECT PROPERTY at any point, or if the other property is only separated from the SUBJECT PROPERTY by the width of any public or dedicated road right-of-way, or by any other property owned by any governmental authority. Nothing in these MASTER COVENANTS shall impose any duty or obligation upon DECLARANT to increase the size of the ADDITIONAL LANDS or to add ADDITIONAL LANDS to the SUBJECT PROPERTY. Only that portion of the ADDITIONAL LANDS which is added by DECLARANT to the SUBJECT PROPERTY shall be subject to the provisions of these MASTER COVENANTS. Some of the effects of adding such ADDITIONAL LANDS to the SUBJECT PROPERTY may be to increase the size of the SUBJECT PROPERTY, the number of UNITS, the number of MEMBERS, the number of persons using the MASTER ASSOCIATION COMMON AREAS, the size of the MASTER ASSOCIATION'S budget and the total number of votes which may be cast by MEMBERS.

11.03 Proviso. No amendment shall discriminate against any OWNER or PROPERTY, or class or group of OWNERS or PROPERTY, unless the OWNERS so affected join in the execution of the amendment. No amendment shall change the number of votes of any MEMBER or increase any OWNER's proportionate share of the COMMON EXPENSES, unless the OWNERS of the PROPERTY affected by such amendment join in the execution of the amendment. No amendment may prejudice or impair the priorities of INSTITUTIONAL LENDERS granted hereunder unless all INSTITUTIONAL LENDERS join in the execution of the amendment. No amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, DECLARANT, unless DECLARANT joins in the execution of the amendment.

12. RIGHTS OF INSTITUTIONAL LENDERS. Upon written notice to the MASTER ASSOCIATION by any INSTITUTIONAL LENDER holding, insuring or guaranteeing a mortgage encumbering any PROPERTY, UNIT or PLANNED UNIT, identifying the name and address of the INSTITUTIONAL LENDER and the PROPERTY, UNIT or PLANNED UNIT encumbered by such mortgage, any such INSTITUTIONAL LENDER will be entitled to timely written notice of:

(i) Any condemnation or casualty loss that affects either a material portion of the SUBJECT PROPERTY or the PROPERTY, UNIT or PLANNED UNIT securing its mortgage.

(ii) Any sixty-day delinquency in the payment of ASSESSMENTS or charges owed by the OWNER of the PROPERTY, UNIT or PLANNED UNIT on which it holds the mortgage, or by the HOMEOWNER'S ASSOCIATION MEMBER having jurisdiction over the PROPERTY, UNIT or PLANNED UNIT.

(iii) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the MASTER ASSOCIATION.

(iv) Any proposed action that requires the consent of a specified percentage of mortgage holders.

13. THE PASS CLUB

13.01 Required Membership. The DECLARANT intends, but is not obligated, to construct a recreational club facility at the southerly terminus of the ADDITIONAL LANDS (the PASS CLUB). If constructed, all MEMBERS shall be obligated to become members of the Florida non-profit corporation to be created for the purpose of operating the PASS CLUB (the Club Corporation), upon becoming MEMBERS of the MASTER ASSOCIATION, provided however, that if an OWNER takes title to a UNIT prior to completion of the PASS CLUB, such OWNER shall not be obligated to become a member of the Club Corporation until completion of that facility and its availability for use by MEMBERS.

13.02 Initiation Fees, Dues and Other Charges. Upon becoming a member of the Club Corporation, each OWNER shall be obligated to pay to it (other than as set forth in Section 13.04) an initiation fee the amount of which shall be determined from time to time by the Board of Directors of the Club Corporation. All OWNERS shall be required to pay annual dues to the Club Corporation, in such amounts as may be determined from time to time by its Board of Directors. Charges for food, beverages, and other services offered by the PASS CLUB shall be determined by the Board of Directors of the Club Corporation from time to time and billed as used to individual members periodically, as the Board may determine, but not more frequently than monthly. The Board of Directors may determine from time to time, to set minimum spending requirements for members, for periods of time not less than quarter annually.

13.03 Transfer of Ownership and Control. The DECLARANT may, at its option, retain control of the Board of Directors of the Club Corporation until such time as it, or its successors and assigns, shall have conveyed all of the PROPERTY and the ADDITIONAL LANDS to third parties, notwithstanding any contrary provision regarding transfer of control that may be contained in this or any other document concerning the BOCA BAY Development. DECLARANT shall convey to the MASTER ASSOCIATION the lands and improvements constituting the PASS CLUB not later than the date upon which the DECLARANT is obligated to relinquish control of the Board of Directors of the Club Corporation. Nothing contained herein shall preclude the DECLARANT from transferring control of the Board of Directors of the Club Corporation or conveying to the MASTER ASSOCIATION the land and improvements constituting the PASS CLUB, prior to the times set forth herein.

13.04 Application of Initiation Fees from First and Subsequent Purchasers. The Club Corporation initiation fee paid by the first OWNER of each UNIT (other than the DECLARANT) shall be paid to the DECLARANT, to be used by it in defraying the costs and expense of the construction and equipping of the PASS CLUB facilities for the use and benefit of its members. Initiation fees for all subsequent OWNERS of UNITS shall be paid to and retained by the Club Corporation to be used for the purposes of (i) establishing a reserve account for capital improvements and replacements for the PASS CLUB, and (ii) reimbursing to those whose membership in the Club Corporation is terminated pursuant to Section 13.05, below, a portion of the initiation fee paid by such members.

13.05 Termination of Membership. An OWNER's membership in the Club Corporation shall automatically terminate when that OWNER ceases to be a member of the MASTER ASSOCIATION. Upon termination, the former member shall be entitled to receive from the Club Corporation a sum equal to seventy-five percent (75%) of the initiation fee paid by such former member, or such other sum as may be determined by the Club Corporation from time to time.

13.06 Collection of Initiation Fees and Dues; Lien. If any OWNER shall fail to pay the required initiation fee, annual dues, or any minimum spending requirements when the same become due, then upon certification thereof to the MASTER ASSOCIATION by

the Club Corporation, the MASTER ASSOCIATION may proceed on behalf of the Club Corporation to collect such delinquent amounts from the defaulting OWNER in the manner provided in Article 8, and in such case, it shall specifically have the lien rights described in Section 8.01.04 thereof. Upon collection of the delinquent amounts, the MASTER ASSOCIATION shall remit such sums to the Club Corporation, less any expenses of collection paid by such delinquent OWNER, or otherwise.

13.07 Non-Resident Members. The Board of Directors of the Club Corporation may determine from time to time, to offer memberships in the PASS CLUB to persons who are not MEMBERS of the MASTER ASSOCIATION, entitling such persons to use of the PASS CLUB facilities. The conditions upon which non-resident members shall be offered the use of such facilities, and any fees, dues and minimum spending requirements shall be as determined from time to time by the Board of Directors of the Club Corporation.

14. MISCELLANEOUS

14.01 Damage or Destruction. If any existing UNITS or PLANNED UNITS are damaged or destroyed, such damaged or destroyed UNITS or PLANNED UNITS shall continue to be deemed UNITS or PLANNED UNITS for purposes of assessments, voting and use rights, unless and until all the PROPERTY owned in conjunction with the UNITS or PLANNED UNITS is developed with a different number of UNITS and PLANNED UNITS than existed prior to such damage or destruction, and the MASTER ASSOCIATION is so notified in writing. Thereafter, the number of assessment units assignable to such PROPERTY will be changed to equal the number of UNITS and PLANNED UNITS then existing within such PROPERTY. Notwithstanding the foregoing, in the event any PROPERTY is submitted to the condominium form of ownership, such PROPERTY shall be deemed to contain the number of UNITS and PLANNED UNITS provided in the respective declaration of condominium, as amended from time to time, unless and until the declaration of condominium is amended to provide for a different number of UNITS and PLANNED UNITS within the condominium, and a copy of the amended declaration of condominium is delivered to the MASTER ASSOCIATION.

14.02 Conflict With ARTICLES or BYLAWS. In the event of any conflict between the ARTICLES and the BYLAWS and these MASTER COVENANTS, these MASTER COVENANTS, the ARTICLES, and the BYLAWS, in that order, shall control.

14.03 HOMEOWNERS ASSOCIATION. Nothing contained herein shall be deemed to restrict or limit the right of DECLARANT to declare additional restrictions with respect to the SUBJECT PROPERTY, or to create any HOMEOWNERS ASSOCIATION to enforce such additional restrictions and assess the OWNERS subject to such additional restrictions for any purpose.

14.04 Authority of MASTER ASSOCIATION and Delegation. Nothing contained in these MASTER COVENANTS shall be deemed to prohibit the BOARD from delegating to any one of its members, or to any officer, or to any committee or any other person, any power or right granted to the BOARD by these MASTER COVENANTS including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by these MASTER COVENANTS.

14.05 Prohibited Activities Within the CONSERVATION AREAS. Activities prohibited within the CONSERVATION AREAS include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation; excavation, dredging, or removal of soil material; diking or fencing; and any other activities detrimental

to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation. The MASTER ASSOCIATION has the authority to enforce the provisions of the CONSERVATION EASEMENT and the foregoing prohibited activities.

14.06 Roads, Water Management Systems and Utilities - MASTER ASSOCIATION Responsibilities. The responsibilities of the MASTER ASSOCIATION shall include operation, control and maintenance of all roads and water management systems not maintained by the COUNTY or a HOMEOWNERS ASSOCIATION within or upon the SUBJECT PROPERTY, and all utilities now or hereafter servicing the SUBJECT PROPERTY.

14.07 Prior Covenants. Certain portions of the SUBJECT PROPERTY and the ADDITIONAL LANDS are subject to certain covenants that were previously recorded by DECLARANT in the Public Records of the COUNTY, as required by the COUNTY. These covenants include a Covenant of Unified Control, recorded in Official Records Book 1995, Page 2840, and two (2) Declaration of Restrictive Covenants, recorded, respectively, in Official Records Book 1995, Page 2845, and Official Records Book 1995, Page 2853, all Public Records of the COUNTY. Each OWNER and any other PERSON owning such portion of the affected PROPERTY or ADDITIONAL LANDS, shall be subject to the provisions of these covenants, which, by reference, are incorporated herein. The MASTER ASSOCIATION has the authority to enforce the provisions of these Prior Covenants.

14.08 Severability. The invalidation in whole or in part of any of these covenants, conditions, reservations and restrictions, or any section, sub-section, sentence, clause, phrase, word or other provision of these MASTER COVENANTS shall not affect the validity of the remaining portions which shall remain in full force and effect.

14.09 Validity. If any court shall hereafter determine that any provisions as originally drafted herein violate the rule against perpetuities, the period specified in these MASTER COVENANTS shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law.

14.10 Gender. Unless otherwise so required, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

14.11 Governing Law. The construction, validity and enforcement of these MASTER COVENANTS shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF, CSX REALTY, INC., a Virginia corporation, being the DECLARANT herein, has executed this instrument this 12th day of April, 1989.

WITNESSES:

CSX REALTY, INC.,
a Virginia corporation

By: _____

STATE OF VIRGINIA)
) SS:
CITY COUNTY OF Richmond)

The foregoing instrument was acknowledged before me this 12th day of April, 1989, by Stephen D. Beck of CSX REALTY, INC., a Virginia corporation, on behalf of the corporation.

M. Marie Vega
NOTARY PUBLIC, State of Virginia at Large

My Commission Expires: 4-13-92 (Notary Seal)

THIS INSTRUMENT PREPARED BY: R. NORWOOD GAY III, ESQ.
R. NORWOOD GAY III, P.A.
115 North Tamiami Trail, Suite 10
Nokomis, Florida 34275
Telephone: (813) 488-8851

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2158 JOHNSON STREET
TELEPHONE (813) 334 0046
TELECOPIER (813) 334 3661
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902 1550

CARL E JOHNSON
1911 1968

October 31, 1988

DESCRIPTION
BOCA BAY

SUBJECT PROPERTY
PARCEL IN GOVERNMENT LOTS 1 & 2
SECTION 23, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lots 1 & 2, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of said Government Lot 2 run S 89° 22' 31" W along the north line of said section for 96.46 feet to an intersection with the southwesterly line of East Avenue (50 feet wide) and the northeasterly line of the Seaboard Air Line Railroad (former Charlotte Harbor and Northern Railway Company) right-of-way (100 feet wide) and the Point of Beginning.

From said Point of Beginning run S 14° 25' 00" E along said line for 1019.39 feet to an intersection with the south line of the North 990.00 feet of said Lot 1; thence run S 89° 22' 31" W along said south line and the north line of the south half (S-1/2) of the south half (S-1/2) of said Lot 2 for 70.02 feet; thence run the following courses: N 14° 25' 00" W for 89.15 feet, N 52° 31' 15" W for 29.86 feet, S 89° 22' 31" W for 19.13 feet, N 14° 25' 00" W for 123.56 feet, N 89° 22' 31' E for 19.13 feet, N 37° 28' 46" E for 23.41 feet, N 14° 25' 00" W for 383.64 feet, S 89° 22' 31" W for 38.10 feet, N 14° 25' 00" W for 159.80 feet, N 43° 51' 30" E for 9.54 feet, N 89° 22' 31" E for 25.62 feet, N 14° 25' 00" W for 47.69 feet to a point of curvature; thence run along the arc of a curve to the left of radius 123.00 feet (chord bearing N 53° 07' 36" W) (chord 153.84 feet) (delta 77° 25' 11") for 166.20 feet to a point of tangency; thence run the following courses: S 88° 09' 49" W for 12.81 feet, S 01° 39' 30" E for 13.00 feet, S 88° 09' 49" W for 167.98 feet, N 01° 39' 30" W for 8.00 feet, N 46° 44' 51" W for 14.12 feet, S 88° 09' 49" W for 103.24 feet, S 43° 51' 30" W for 42.95 feet, N 75° 33' 58" W for 35.69 feet to a point on a curve; thence run along the arc of a curve to the left of radius 108.00 feet (chord bearing S 57° 43' 12" W) (chord 109.44) (delta 60° 53' 14") for 114.77 feet; thence run S 07° 22' 31" W for 58.95 feet to a point of

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PRESIDENT
FORREST H. BANKS

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DAN W. DICKEY
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W DAVID KEY, JR.
W. BRITT POMEROY
CARL A BARRACO

CONSULTANTS
LEIF E. JOHNSON
LESTER L. BILLSON

curvature; thence along the arc of curve to the right of radius 125.00 feet (chord bearing S 48° 22' 31" W) (chord 164.01 feet) (delta 82° 00' 00") for 178.90 feet to a point of tangency; thence run S 89° 22' 31" W for 229.18 feet to the easterly line of Gulf Boulevard; thence run N 01° 39' 30" W along said easterly line for 318.09 feet to the north line of said section; thence run N 89° 22' 31 " E for 974.20 feet to the Point of Beginning.

ALSO

From the northeast corner of said Lot 2 run S 89° 22' 31" W along the north line of said lot and said section for 1170.66 feet to an intersection with the west line of Gulf Boulevard (100 feet wide) being also the northeast corner of lands described in deed recorded in Official Record Book 1494 at page 163, Lee County records; thence run S 01° 39' 30" E along said west line of said road for 150.00 feet to the southeast corner of lands described in deed to Katherine Hammond recorded in Official Record Book 445 at page 584, Lee County records and the Point of Beginning.

From said Point of Beginning continue S 01° 39' 30" E along said west line of said road for 218.61 feet; thence run S 89° 22' 31" W for 150.40 feet to the Coastal Construction Control Line; thence run S 02° 36' 11" E along said Control Line for 267.66 feet; thence run N 89° 22' 31" E for 145.99 feet to the west line of Gulf Boulevard (100 feet wide); thence run S 01° 39' 30" E for 40.01 feet to the northeast corner of lands described in deed to Symington recorded in Official Record Book 430 at page 719, Lee County records; thence run S 89° 22' 31" W for 236 feet more or less to the Approximate Mean High Tide Line of the Gulf of Mexico passing through a 3/4" iron pipe at 145.33 feet along said line; thence run northerly along said line for 526 feet more or less to an intersection with a line bearing S 89° 22' 31" W and passing through the Point of Beginning; thence run N 89° 22' 31" E along said line being also the south line of said lands described in deed to Hammond and the north line of said Parcel 9 for 238 feet more or less to the Point of Beginning passing through a 3/4" iron pipe at 154.01 feet from said Point of Beginning.

All containing 7.55 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

TOGETHER WITH Boca Bay North Village, a Condominium, Phase I, per legal description attached.

AND TOGETHER WITH Boca Bay North Village, a Condominium, Phase II, per legal description attached.

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2158 JOHNSON STREET
TELEPHONE (813) 334-0046
TELECOPIER (813) 334-3661
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902-1550

CARLE JOHNSON
1911-1968

October 27, 1988

DESCRIPTION

BOCA BAY NORTH VILLAGE, A CONDOMINIUM
PHASE I
PARCEL IN GOVERNMENT LOT 2
SECTION 23, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract of parcel of land lying in Government Lot 2, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of said Government Lot 2 run S 89 22' 31" W along the north line of said section for 96.46 feet to an intersection with the southwesterly line of East Avenue (50 feet wide) and the northeasterly line of the Seaboard Airline Railroad (formerly Charlotte Harbor and Northern Railway company) right-of-way (100 feet wide); thence run S 14 25' 00" E along said line for 667.24 feet; thence run S 89 22' 31" W parallel with the north line of said section for 70.02 feet to the Point of Beginning.

From said Point of Beginning continue S 89 22' 31" W parallel with the north line of said section for 142.86 feet; thence run the following courses: S 43 51' 30" W for 14.01 feet, S 89 22' 31" W for 58.50 feet, N 46 08' 30" W for 14.27 feet, S 89 22' 31" W for 252.19 feet, S 01 39' 30" E for 11.01 feet, S 43 51' 30" W for 35.04 feet, S 89 22' 31" W for 75.02 feet, N 46 08' 30" W for 28.54 feet, S 89 22' 31" W for 362.97 feet, N 01 39' 30" W for 15.00 feet, S 89 22' 31" W for 95.02 feet to the easterly right-of-way line of Gulf Boulevard; thence run N 01 39' 30" W along said easterly right-of-way line for 331.01 feet; thence run N 89 22' 31" E for 229.18 feet to a point of curvature; thence run along the arc of a curve to the left of radius 125.00 feet (chord bearing N 48 22' 31" E) (chord 164.01 feet) (delta 82 00' 00") for 178.90 feet to a point of tangency; thence run N 07 22' 31" E for 58.95 feet to a point on a curve; thence run along the arc of a curve to the right of radius 108.00 feet (chord bearing N 57 43' 12" E) (chord 109.44 feet) (delta 60 53' 14") for 114.77 feet; thence run the following courses: S 75 33' 58" E for 35.69 feet, N 43 51' 30" E for 42.95 feet, N 88 09' 49" E for 103.24 feet, S 46 44' 51" E for 14.12 feet, S 01 39' 30" E for 8.00 feet, N 88 09' 49" E for 167.98 feet, N 01 39' 30" W

CHAIRMAN
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PRESIDENT
FORREST H BANKS

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W DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO

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ROBERT S. O'BRIEN

for 13.00 feet, N 88 09' 49" E for 12.81 feet to a point of curvature; thence run along the arc of a curve to the right of radius 123.00 feet (chord bearing S 68 36' 45" E) (chord 97.00 feet) (delta 46 26' 53") for 99.71 feet; thence run the following courses: S 43 54' 33" W for 193.35 feet, S 49 28' 27" E for 10.02 feet, S 28 47' 25" E for 19.09 feet, S 06 08' 44" E for 50.59 feet, S 04 41' 32" W for 54.23 feet, S 11 09' 10" E for 49.59 feet, S 35 26' 08" E for 35.64 feet, S 56 01 27" E for 38.58 feet, S 77 00' 25" E for 41.34 feet, N 79 02' 00" E for 54.21 feet, S 71 09' 13" E for 88.79 feet, S 14 25' 00' E for 148.78 feet to the Point of Beginning.

Containing 9.72 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

MLH/pd
16352

JOHNSON ENG... ..RING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2158 JOHNSON STREET
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FORT MYERS, FLORIDA
33902-1550

CARL E. JOHNSON
1911-1968

November 29, 1988

DESCRIPTION

BOCA BAY NORTH VILLAGE, A CONDOMINIUM
PHASE II
PARCEL IN GOVERNMENT LOT 2
SECTION 23, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Government Lot 2 Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of said Government Lot 2 run S 89° 22' 31" W along the north line of said section for 96.46 feet to an intersection with the southwesterly line of East Avenue (50 feet wide) and the northerly line of the Seaboard Airline Railroad (formerly Charlotte Harbor and Northern Railroad Company) right-of-way (100 feet wide); thence run S 14° 25' 00" E along said line for 667.24 feet; thence run S 89° 22' 31" W parallel with the north line of said section for 70.02 feet to a point designated "A" and the Point of Beginning.

From said Point of Beginning run the following courses: S 89° 22' 31" W for 142.86 feet, S 43° 51' 30" W for 14.01 feet, S 89° 22' 31" W for 58.50 feet, N 46° 08' 30" W for 14.27 feet, S 89° 22' 31" W for 252.19 feet, S 01° 39' 30" E for 11.01 feet, S 43° 51' 30" W for 35.04 feet, S 89° 22' 31" W for 75.02 feet, N 46° 08' 30" W for 28.54 feet, S 89° 22' 31" W for 362.97 feet, N 01° 39' 30" W for 15.00 feet, S 89° 22' 31" W for 95.02 feet to the easterly line of Gulf Boulevard; thence run S 01° 39' 30" E along said easterly line for 341.06 feet to an intersection with the south line of the north 990.00 feet of said Lot 1; thence run N 89° 22' 31' E along said south line for 1129.34 feet; thence run the following courses: N 14° 25' 00" W for 89.15 feet, N 52° 31' 15" W for 29.86 feet, S 89° 22' 31' W for 19.13 feet, N 14° 25' 00" W for 123.56 feet, N 89° 22' 31" E for 19.13 feet, N 37° 28' 46" E for 23.41 feet, N 14° 25' 00" W for 101.50 feet to the Point of Beginning.

ALSO

From the hereinabove described point designated "A" run N 14° 25' 00" W for 148.78 feet to the Point of Beginning.

From said Point of Beginning continue N 14° 25' 00" W for 133.36 feet; thence run the following courses:

CHAIRMAN
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PRESIDENT
FORREST H. BANKS

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ANDREW D. TILTON
JEFFREY C. COONER

DAN W. DICKEY
KENTON R. KEILING
DONALD D. STOUTEN
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CARL A. BARRACO

CONSULTANTS
LEIF E. JOHNSON
LESTER L. BULSON
ROBERT E. O'BRIEN

S 89° 22' 31" W for 38.10 feet, N 14° 25' 00" W for 159.80 feet, N 43° 51' 30" E for 9.54 feet, N 89° 22' 31" E for 25.62 feet, N 14° 25' 00" W for 47.69 feet to a point of curvature; thence run along the arc of a curve to the left of radius 123.00 feet (chord bearing N 29° 54' 09" W) (chord 65.68 feet) (delta 30° 58' 18") for 66.49 feet; thence run the following courses: S 43° 54' 33" W for 193.35 feet, S 49° 28' 27" E for 10.02 feet, S 28° 47' 25" E for 19.09 feet, S 06° 08' 44" E for 50.59 feet, S 04° 41' 32" W for 54.23 feet, S 11° 09' 10" E for 49.59 feet, S 35° 26' 08" E for 35.64 feet, S 56° 01' 27" E for 38.58 feet, S 77° 00' 25" E for 41.34 feet, N 79° 02' 00 E for 54.21 feet, S 71° 09' 13" E for 88.79 feet to the Point of Beginning.

Containing 9.44 acres more or less

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

MLH/pd
16352

State of Florida

Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of BOCA BAY COMMUNITY ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on June 5, 1987, as shown by the records of this office.

The document number of this corporation is N21009.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
5th day of June, 1987.

GREAT SEAL OF THE STATE OF FLORIDA · IN GOD WE TRUST ·

George Firestone
Secretary of State

CR2E022 (10-85)

ARTICLES OF INCORPORATION

OF

BOCA BAY COMMUNITY ASSOCIATION, INC.

A Non-Profit Corporation

The undersigned, acting as incorporator of a non-profit corporation under Chapter 617 of the Florida Statutes, hereby adopts the following Articles of Incorporation for such corporation:

ARTICLE I

NAME

The name of the corporation (hereinafter called the Association) is BOCA BAY COMMUNITY ASSOCIATION, INC.

ARTICLE II

DURATION

The period of duration of the Association shall be perpetual.

ARTICLE III

PURPOSES AND POWERS

By way of explanation and not of limitation, the purposes for which the Association is formed are:

(a) to be and constitute the Association to which reference is made in the Declaration of Covenants, Conditions, and Restrictions of Boca Bay (hereinafter the Declaration), recorded

or to be recorded in he Office of the Clerk o the Circuit Court of Lee County, Florida establishing a plan of development with respect to several parcels of land located on Gasparilla Island, Lee County, Florida and known or to be known as Boca Bay, to perform all obligations and duties of the Association and to exercise all rights and powers of the Association, as specified in the Declaration, the Bylaws of the Association, and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the owners of residential units within Boca Bay (the "Owners"); and

(c) to provide for the management, operation, and maintenance of the roads, surface water management and utility systems within the development; and

(d) to promote the health, safety and welfare of the residents within the development and such additions thereto as may hereafter be brought within the jurisdiction of the Association for such purpose.

In furtherance of its purposes, the Corporation shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Board of Directors:

(a) all powers conferred upon not for profit corporations by common law and the statutes of the State of Florida in effect from time to time;

(b) all powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set

out in these Articles, the Bylaws, or the Declaration, including, without limitation, the following:

(i) to affix, levy, and collect, and enforce payment by any lawful means of all charges and assessments pursuant to the terms of the Declaration; and pay all expenses in connection therewith, and all office and other expenses incidental to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied on or imposed against the property of the Association;

(ii) purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise deal in and with real or personal property, or any interest therein, wherever situated;

(iii) make contracts and incur liabilities, borrow money at such rates of interest as the Association may determine, issue its notes, bonds, and other obligations, and, secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income;

(iv) dedicate, sell or transfer all or any part of the common properties to any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members, agreeing to such dedication, sale, or transfer;

(v) merge and consolidate with other corporations both for profit and not for profit, domestic or foreign, provided that the surviving corporation is a corporation not for profit, and provided that any merger or consolidation shall have the assent by vote or written instrument of two-thirds of each class of members;

(vi) have and exercise any and all powers, rights, and privileges that a non-profit corporation organized under Chapter 617 of the Florida Statutes by law may now or hereafter have or exercise.

(vii) to manage, control, operate, maintain, repair and improve property subjected to the Declaration or any other property for which the Association by rule, regulation, Declaration, or contract has a right or duty to provide such services;

(viii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under any Declaration of Covenants, Conditions, and Restrictions or Bylaws;

(ix) to engage in activities which will actively foster, promote, and advance the common interests of all owners.

(x) annex Additional Property, (as defined in the Declaration), however, real property submitted by the Developer to be added subject and pursuant to the Declaration of Covenants, Conditions, and Restrictions of Boca Bay shall not require any approval or consent of the Association;

(xi) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and, as such, to advance the business or ownership interests of such corporations, firms, or individuals;

(xii) to sue and be sued;

(xiii) to adopt, alter, and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the

affairs of the Corporation; provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration;

(xiv) to provide any and all supplemental services as may be necessary or proper;

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article III are independent powers, not to be restricted by reference or to inference from the terms of any other paragraph or provision of this Article III. The Association is organized and shall be operated in accordance with the purposes set forth above. The activities of the Association will be financed by assessment against members as provided in the Declaration, and no part of any net earnings of the Association will inure to the benefit of any member.

ARTICLE IV

MEMBERSHIP

Every person or entity who is record owner of a fee or undivided fee interest in any Unit as defined in the Declaration which is subject by covenants of record to assessment by the Association, including contract sellers, but excluding persons or entities holding title merely as security for performance of an obligation, shall be a member of the Association. Voting Membership shall be appurtenant to and may not be separated from ownership of a Unit which is subject to assessment by the Association.

ARTICLE V

CLASSES OF MEMBERS

The Association shall have two classes of voting members:

Class A. Class A members shall be all Owners with the exception of Declarant, as such term is defined in the Declaration, and shall be entitled to one vote for each Unit owned, subject to the terms of the Declaration. When more than one person holds an interest in any Unit, all such persons shall be members. The vote of such members may be determined among themselves, but in no event shall more than one vote be cast with respect to any Unit owned by Class A members.

Class B. The Class B member shall be the Declarant as such term is defined in the Declaration, who shall be entitled to three (3) votes for each Unit owned, subject to the terms of the Declaration. The Class B membership shall cease and be converted to Class A membership as provided in the Declaration.

ARTICLE VI

BOARD OF DIRECTORS

The business and affairs of the Corporation shall be conducted, managed and controlled by the Board of Directors. The Board shall consist of three (3) members. The names and addreses of the initial Board of Directors are as follows:

NAME AND ADDRESS	
H. Thomas Dunck,	c/o CSX Realty, Inc., One James Center, Suite 1700, Richmond, Virginia 23219
David L. Lancaster,	c/o CSX Realty, Inc., One James Center, Suite 1700, Richmond, Virginia 23219
Mark S. Hoffmann,	c/o CSX Realty, Inc., One James Center, Suite 1700, Richmond, Virginia 23219

The method of elections and terms of office, removal, and filling of vacancies shall be as set forth in the Bylaws. The Board may delegate such operating authority to such companies, individuals or committees as it, in its discretion, may determine.

ARTICLE VII

DISSOLUTION

The Corporation may be dissolved only as provided in the Declaration, Bylaws and by the laws of the State of Florida.

If the Association is dissolved, the property consisting of the surface water management system shall be conveyed to an appropriate unit of local government. If it is not accepted then the surface water management system must be dedicated to a similar non-profit corporation.

ARTICLE VIII

AMENDMENTS

These Articles may be amended as provided by the Florida Not for Profit Corporation Act.

ARTICLE IX

INCORPORATOR

The name and address of the incorporator are as follows:

NAME	ADDRESS
Mark S. Hoffmann	c/o CSX Realty, Inc. One James Center Suite 1700 Richmond, VA 23219

ARTICLE X

REGISTERED AGENT AND OFFICE

The initial registered office of the Corporation is 1625 Hendry Street, Suite 301, Fort Myers, Florida 33901 and the initial registered agent at such address is Beverly Myers Grady.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation on this 4th day of June, 1987.

Mark S. Hoffman
Incorporator

STATE OF VIRGINIA)

CITY OF RICHMOND)

BEFORE ME, the undersigned authority personally appeared Mark S. Hoffman to me known to be the person described in and who executed the foregoing Articles of Incorporation and acknowledged before me, according to law, that he executed the same for the purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the City and State above mentioned, this 4th day of June, 1987.

M. Marie Vegas
Notary Public

My Commission Expires: 5-15-88

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED.

In pursuance of Chapter 48.091 Florida Statutes, the folowing is submited in compliance with said Act:

First -- That BOCA BAY COMMUNITY ASSOCIATION, INC., desiring to organize under the laws of the State of Florida, with its principal office as indicated in the Articles of Incorporation at City of Fort Myers, County of Lee, State of Florida, has named Beverly Myers Grady, located at 1625 Hendry Street, Suite 301, Fort Myers, Florida 33901, as its agent to accept service of process within this State.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above-stated corporation at the place designated in the Certificate, I hereby agree to act in this capacity and agree to comply with the provisions of said Act relative to keeping open said office.

By: Beverly Myers Grady
Resident Agent

State of Florida

Department of State

I certify that the attached is a true and correct copy of the Articles of Amendment, filed on January 13, 1989, to Articles of Incorporation for BOCA BAY COMMUNITY ASSOCIATION, INC., changing its name to BOCA BAY MASTER ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N21009.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
13th day of January, 1989.

Jim Smith
Secretary of State

CR2EO22 (6-88)

ARTICLES OF AMENDMENT

OF

BOCA BAY MASTER ASSOCIATION, INC.

(Formerly, BOCA BAY COMMUNITY ASSOCIATION, INC.)

A Florida corporation not for profit

FILED
1989 JAN 13 PM 1:14
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Florida Statutes, Section 617.018, the Articles of Incorporation of the above-named corporation are amended as follows:

1. The Preamble and Articles I through VI and Article VIII are deleted in their entirety and there is substituted therefor the following Articles I through VII:

Preamble

CSX Realty, Inc., a Virginia corporation (the "DECLARANT"), owns certain property in Lee County, Florida. DECLARANT intends to record a Declaration of Covenants and Restrictions of BOCA BAY (the "DECLARATION") which will affect the property. This Association is being formed to administer the DECLARATION and to perform, among other things, the duties and exercise the powers pursuant to the DECLARATION, as and when the DECLARATION is recorded in the Public Records of Lee County, Florida, with these Articles attached as an Exhibit. All of the definitions contained in the DECLARATION shall apply to these Articles and to the Bylaws of the Association. Until such time as the DECLARATION is so recorded the incorporator herein shall be the member of the Association.

ARTICLE I

Name

The name of the corporation is: BOCA BAY MASTER ASSOCIATION, INC. (the "MASTER ASSOCIATION").

ARTICLE II

Duration

The Master Association shall have perpetual existence.

ARTICLE III

Purpose

The purposes for which the MASTER ASSOCIATION is organized are as follows:

3.01 To operate as a corporation not-for-profit pursuant to Chapter 617 of the Florida Statutes; and to exercise all of the common law and statutory powers of a corporation not for profit under the laws of Florida which are not in conflict with the terms of these ARTICLES.

3.02 To administer, enforce and carry out the terms and provisions of the DECLARATION, as same may be amended from time to time.

3.03 To administer, enforce and carry out the terms and provisions of any other declaration of covenants and

restrictions, or similar document, submitting property to the jurisdiction of, or assigning responsibilities, rights or duties to the MASTER ASSOCIATION.

3.04 To promote the health, safety, welfare, comfort, and social and economic well-being of the OWNERS and residents of the SUBJECT PROPERTY, as authorized by the DECLARATION, by these ARTICLES, and by the BYLAWS.

ARTICLE IV

MEMBERS

The qualification of members and the manner of their admission shall be as regulated by the BYLAWS.

ARTICLE V

Directors

1. The affairs of the MASTER ASSOCIATION shall be managed by a BOARD consisting of not less than three (3) Directors, and which shall always be an odd number. The number and qualifications of Directors shall be determined in accordance with the BYLAWS. In the absence of such determination, there shall be three (3) Directors.

2. The directors of the MASTER ASSOCIATION shall be elected by the MEMBERS, except that DECLARANT shall have the right to appoint directors of the MASTER ASSOCIATION as follows:

2.01 DECLARANT shall have the right to appoint all of the directors until fifty (50%) percent of the PLANNED UNITS that may be constructed within the SUBJECT PROPERTY and the ADDITIONAL LANDS have been actually constructed.

2.02 Thereafter, DECLARANT shall have the right to appoint a majority of the directors until such time as (i) seventy-five (75%) percent of the PLANNED UNITS that may be constructed within the SUBJECT PROPERTY and the ADDITIONAL LANDS have actually been constructed, and (ii) seventy-five (75%) percent of the PLANNED UNITS within each parcel of PROPERTY which is or is to be subject to the jurisdiction of a HOMEOWNERS ASSOCIATION have been constructed and conveyed to Purchasers other than DECLARANT.

2.03 Thereafter, MEMBERS other than DECLARANT shall have the right to elect a bare majority of the Directors, and DECLARANT shall have the right to appoint all other directors so long as DECLARANT owns any PROPERTY, or holds a mortgage encumbering any PROPERTY other than a UNIT.

2.04 Thereafter, DECLARANT shall no longer have the right to appoint any Directors.

3. The number of persons constituting the first Board of Directors shall be three (3) and their names and addresses are as follows:

Name	Address
Stephen D. Beck	c/o CSX Realty, Inc., One James Center, Suite 1700, Richmond, Virginia 23219
David L. Lancaster	c/o CSX Realty, Inc., One James Center, Suite 1700, Richmond, Virginia 23219
Mark S. Hoffmann	c/o CSX Realty, Inc., One James Center, Suite 1700, Richmond, Virginia 23219

ARTICLE VI

INDEMNIFICATION

The Corporation shall indemnify any officer, director, employee or agent, or any former officer, director, employee or agent to the full extent permitted by law.

ARTICLE VII

Cumulative Voting

At each election for Directors, every MEMBER entitled to vote at that election shall have the right to cumulate that MEMBER's votes by giving one candidate as many votes as the number of Directors to be elected at that time multiplied by the number of votes held by that MEMBER, or by distributing those votes on the same principle among any number of candidates.

2. Article VII is renumbered Article VIII.

3. The foregoing amendments were adopted by written consent of all of the directors and members entitled to vote thereon, pursuant to Florida Statutes, Section 617.017(3), on January 11, 1989.

IN WITNESS WHEREOF, we, the undersigned, have executed these Articles of Amendment, this 11th day of January, 1989.

BOCA BAY COMMUNITY ASSOCIATION, INC.

By: _____, President

Attest: _____
Mark S Hoffman,
Secretary

STATE OF VIRGINIA)
~~COUNTY OF~~ City of Richmond)

The foregoing instrument was acknowledged before me this 11th day of January, 1989, by Stephen D Beck and Mark S Hoffman, President and Secretary, respectively, of BOCA BAY COMMUNITY ASSOCIATION, INC., a Florida corporation not-for-profit, on behalf of the Corporation.

_____
Notary Public

My Commission Expires: 4-13-92 (SEAL)

BYLAWS
OF
BOCA BAY MASTER ASSOCIATION, INC.,
a Florida corporation not-for-profit

OR2107 PG0044

1. GENERAL

1.01 Identity. These are the BYLAWS of BOCA BAY MASTER ASSOCIATION, INC., (the "MASTER ASSOCIATION") a corporation not-for-profit formed under the laws of the State of Florida. The MASTER ASSOCIATION has been organized for the purposes stated in the Articles of Incorporation, and shall have all of the powers provided in these BYLAWS, the Articles of Incorporation, the Declaration of Covenants and Restrictions of BOCA BAY (the "MASTER COVENANTS"), and any other statute or law of the State of Florida, or any other power incident to any of the above powers.

1.02 Principal Office. The principal office of the MASTER ASSOCIATION shall be at such place as the BOARD may determine from time to time.

1.03 Fiscal Year. The fiscal year of the MASTER ASSOCIATION shall be the calendar year.

1.04 Seal. The seal of the MASTER ASSOCIATION shall have inscribed upon it the name of the MASTER ASSOCIATION, the year of its incorporation and the words "Corporation Not-for-Profit." The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed or otherwise reproduced upon any instrument or document executed in the name of the MASTER ASSOCIATION.

1.05 Inspection of Books and Records. The records of the MASTER ASSOCIATION shall be open to inspection by the MEMBERS and all holders, insurers, or guarantors of any first mortgage encumbering any PROPERTY, upon request, during normal business hours or under other reasonable circumstances. Such parties may make or obtain copies of those records, at their reasonable expense. Such records of the MASTER ASSOCIATION shall include current copies of the MASTER COVENANTS, ARTICLES, BYLAWS, any Rules and Regulations of the MASTER ASSOCIATION, and any amendments thereto, any insurance policies and other contracts entered into by the MASTER ASSOCIATION, and the books, minutes, records and financial statements of the MASTER ASSOCIATION. The MASTER ASSOCIATION shall make available for inspection to prospective purchasers of any PROPERTY or UNIT, current copies of the MASTER COVENANTS, ARTICLES and BYLAWS, and the most recent annual financial statement of the MASTER ASSOCIATION.

1.06 Definitions. Unless the context otherwise requires, all terms used in these BYLAWS shall have the same meaning as are attributed to them in the MASTER COVENANTS and the ARTICLES.

2. MEMBERSHIP IN GENERAL

2.01 MEMBER. Each OWNER shall be a MEMBER of the MASTER ASSOCIATION. Such membership shall be established upon the recording of an instrument of conveyance in the Public Records of the COUNTY, conveying a unit or Planned Unit therein, to an Owner.

2.02 DECLARANT. DECLARANT shall be a MEMBER of the MASTER ASSOCIATION so long as DECLARANT owns any PROPERTY, or holds a mortgage encumbering any PROPERTY other than a UNIT.

2.03 MEMBER Register. The secretary of the MASTER ASSOCIATION shall maintain a register in the office of the MASTER ASSOCIATION showing the names and addresses of the MEMBERS of the MASTER ASSOCIATION. Each HOMEOWNERS' ASSOCIATION shall at all times advise the secretary of the names of the officers and

directors of the HOMEOWNERS' ASSOCIATION and of the number of UNITS and PLANNED UNITS within the PROPERTY subject to the jurisdiction of the HOMEOWNERS' ASSOCIATION. Furthermore, upon request from the MASTER ASSOCIATION, the HOMEOWNERS ASSOCIATION shall supply the MASTER ASSOCIATION with a current list of the names and addresses of OWNERS subject to the jurisdiction of the HOMEOWNERS ASSOCIATION, and the names and addresses of all INSTITUTIONAL LENDERS holding mortgages encumbering PROPERTY subject to the jurisdiction of the HOMEOWNERS ASSOCIATION. Each MEMBER shall at all times advise the secretary of any change of address of the MEMBER, or of any change of ownership of the MEMBER's UNIT or Institutional Lender thereon. The MASTER ASSOCIATION shall not be responsible for reflecting any changes, until notified of such changes in writing. Any mortgagee of any PROPERTY may register by notifying the MASTER ASSOCIATION in writing of its mortgage. If the MASTER ASSOCIATION files a claim of lien which affects any PROPERTY encumbered by the mortgage of a registered mortgagee, a copy of the claim of lien shall be mailed to the registered mortgagee.

OR2110 / PG0045

3. Transfer of MEMBERSHIP

Transfer of membership in the MASTER ASSOCIATION shall be established by the recording in the Public Records of the COUNTY of a deed or other instrument establishing a transfer of record title to any PROPERTY for which membership has already been established as herein provided, the OWNER(S) designated by such instrument of conveyance thereby becoming a MEMBER(S), and the prior OWNER's membership thereby being terminated. In the event of death of an OWNER, his or her membership shall be automatically transferred to his or her heirs or personal representatives. Notwithstanding the foregoing, the MASTER ASSOCIATION shall not be obligated to recognize such transfer of membership until such time as the MASTER ASSOCIATION receives a true copy of the recorded deed or other instrument establishing the transfer of ownership of the PROPERTY, and it shall be the responsibility and obligation of the former and new OWNER of the PROPERTY to provide such true copy of the instrument to the MASTER ASSOCIATION.

4. MEMBERSHIP VOTING

4.01 Voting Rights. Each member shall have one (1) vote for each UNIT and PLANNED UNIT owned by the MEMBER, except that there shall never be more than one (1) vote for each UNIT or PLANNED UNIT irrespective of the number of MEMBERS who may share in its ownership.

4.02 Majority Vote and Quorum Requirements. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding upon all MEMBERS for all purposes, unless where otherwise provided by law, in the MASTER COVENANTS, the ARTICLES or in these BYLAWS. Unless otherwise so provided, at any regular or special meeting, the presence in person or by proxy of persons entitled to cast a majority of the votes of the entire membership at the time of such vote shall constitute a quorum.

4.03 Voting; REPRESENTATIVE. The President of each HOMEOWNERS' ASSOCIATION shall be the designated person (the "REPRESENTATIVE") to act on behalf of all of his or her respective HOMEOWNERS ASSOCIATION MEMBERS at all MEMBERS' meetings of the MASTER ASSOCIATION. The REPRESENTATIVE shall be named in a certificate signed by the Secretary of the HOMEOWNERS' ASSOCIATION, and filed with the Secretary of the MASTER ASSOCIATION. The President named in such certificate, in the absence of a revocation of same, shall conclusively be deemed to be the person entitled to cast the total number of authorized votes for his or her respective HOMEOWNERS' ASSOCIATION MEMBERS at any meeting. In the absence of such certificate, or if the President named in such certificate does not appear in person or by proxy at any meeting, the votes of

that HOMEOWNERS' ASSOCIATION'S MEMBERS may be cast at any meeting by the Vice President, Secretary, or Treasurer, in that order, of that HOMEOWNERS ASSOCIATION.

4.04 Proxies. Every REPRESENTATIVE of a HOMEOWNERS' ASSOCIATION entitled to vote at a meeting of the MEMBERS, or to express consent or dissent without a meeting, may authorize another person to act on the REPRESENTATIVE's behalf by a proxy signed by such REPRESENTATIVE or his or her respective attorney-in-fact. Any such proxy shall be delivered to the Secretary of the MASTER ASSOCIATION, or the person acting as secretary at the meeting, at or prior to the time designated in the order of business for so delivering such proxies. No proxy shall be valid after the expiration of eleven (11) months from the date thereof, unless otherwise provided in the proxy. Every proxy shall be revocable at any time at the pleasure of the REPRESENTATIVE executing it. Any proxy issued by a REPRESENTATIVE of a HOMEOWNERS' ASSOCIATION may only authorize a director or officer of the HOMEOWNERS' ASSOCIATION to act on the REPRESENTATIVE's behalf.

OR2107 PG0046

4.05 Rights of DECLARANT. Notwithstanding anything contained in these BYLAWS, the ARTICLES or the MASTER COVENANTS to the contrary, so long as the DECLARANT owns any PROPERTY, or holds a mortgage encumbering any PROPERTY other than a UNIT, no vote of the MEMBERS shall be effective without approval in writing by the DECLARANT.

5. MEMBERSHIP MEETINGS

5.01 Who May Attend. Any OWNER or INSTITUTIONAL LENDER may attend and observe any meeting of the MEMBERS. However, only those REPRESENTATIVES specified in Article 4 shall participate and vote in any MEMBERS' meeting.

5.02 Place. All meetings of the MEMBERS shall be held at the principal office of the MASTER ASSOCIATION or at such other place and at such time as shall be designated by the BOARD and stated in the notice of meeting.

5.03 Notices. Written notice stating the place, day and hour of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each MEMBER not less than 14 nor more than 60 days before the date of the meeting, by or at the direction of the President, the Secretary or the officer or persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, addressed to the MEMBER at the MEMBER's address as it appears on the records of the MASTER ASSOCIATION, unless such MEMBER shall have filed a written request with the Secretary of the MASTER ASSOCIATION stating that notices to that MEMBER be mailed to some other address. For the purpose of determining MEMBERS entitled to notice of, or whose vote may be cast by the MEMBER'S REPRESENTATIVE at any meeting of the MEMBERS of the MASTER ASSOCIATION, or in order to make a determination of the MEMBERS for any other purpose, the BOARD shall be entitled to rely upon the MEMBER register as it exists ten days prior to the giving of the notice of any meeting, and the BOARD shall not be required to take into account any changes in membership occurring after that date but may, in their sole and absolute discretion, do so. Notwithstanding the foregoing, if the PROPERTY of an OWNER is owned by more than one person or by an entity, only one notice shall be required to be sent to any one such OWNER. Notice shall also be sent to each REPRESENTATIVE.

5.04 Waiver of Notice. Whenever any notice is required to be given to any MEMBER under the provisions of the ARTICLES or these BYLAWS, or as otherwise provided by law, a waiver thereof in writing signed by the PERSON or PERSONS entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a MEMBER

at a meeting shall constitute a waiver of notice of such meeting, except when the MEMBER objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, which objection may be stated notwithstanding the provisions of Article 5.01.

5.05 Annual Meeting. The annual meeting for the purpose of electing directors and transacting any other business shall be held at eight o'clock p.m. on the third Monday in March of each year, or at such other time in the months of March or April of each year as shall be selected by the BOARD and as is contained in the notice of such meeting. If the BOARD fails to call such meeting by the end of March of any year, then within thirty (30) days after the written request of any MEMBER, Officer or Director of the MASTER ASSOCIATION, the Secretary shall call an annual meeting.

5.06 Special Meetings. Special meetings of the MEMBERS may be requested at any time by written notice to the Secretary by any Director, the President, or any MEMBER(S) having not less than 25% of the votes of the entire membership, or as otherwise provided by law. Such request shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting. Notice of any special meeting shall be given by the Secretary, or other officer of the MASTER ASSOCIATION, to all of the MEMBERS and the REPRESENTATIVES within thirty (30) days after same is duly requested, and the meeting shall be held within forty-five (45) days after same is duly requested.

5.07 Adjournments. Any meeting may be adjourned or continued by a majority of the votes present at the meeting in person or by proxy, regardless of a quorum, or if no REPRESENTATIVE entitled to vote is present at a meeting, then any officer of the MASTER ASSOCIATION may adjourn the meeting from time to time. If any meeting is adjourned or continued to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted at the original meeting. If the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, notice of the adjourned meeting may be given to MEMBERS and REPRESENTATIVES not present at the original meeting, without giving notice to the MEMBERS and REPRESENTATIVES who were present at such meeting.

5.08 Organization. At each meeting of the MEMBERS, the President, the Vice President, or any person chosen by a majority of the REPRESENTATIVES present, in that order, shall act as chairman of the meeting. The Secretary, or in his absence or inability to act, any person appointed by the chairman of the meeting shall act as Secretary of the meeting.

5.09 Order of Business. The order of business at the annual meetings of the MEMBERS shall be.

A. Call to order and determination of chairman of the meeting;

B. Calling of the roll; certifying of proxies; determining quorum;

C. Proof of notice of meeting or waiver of notice;

D. Reading and disposal of any unapproved minutes;

E. Appointment of inspectors of election;

F. Determination of number of Directors;

OR2107 PG0047

G. Nomination and election of Directors;

H. Reports of Directors, officers or committees;

I. Unfinished business;

J. New business; and

K. Adjournment.

5.10 Minutes. The minutes of all meetings of the MEMBERS shall be kept in a book available for inspection by the MEMBERS or their authorized representatives, and the members of the BOARD, at any reasonable time. The MASTER ASSOCIATION shall retain these minutes for a period of not less than seven (7) years.

5.11 Actions Without a Meeting. Any action required or permitted to be taken at any annual or special meeting of the MEMBERS of the MASTER ASSOCIATION, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the REPRESENTATIVES having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all REPRESENTATIVES entitled to vote thereon were present and voted. Within ten days after obtaining such authorization by written consent, notice shall be given to all MEMBERS and those REPRESENTATIVES who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

OR2107 PG0048

6. BOARD

6.01 Number and Qualifications.

6.01.01 The affairs of the MASTER ASSOCIATION shall be managed by a BOARD comprised of not less than three nor more than eleven Directors. So long as the DECLARANT is entitled to appoint any Director pursuant to the ARTICLES, the number of Directors will be determined, and may be changed from time to time, by the DECLARANT by written notice to the BOARD. In the absence of such notification, there shall be three directors. Other than those selected by DECLARANT, DIRECTORS must be either OWNERS, officers of a corporate OWNER, partners of a partnership OWNER, or trustees of a trust OWNER.

6.01.02 After the DECLARANT is no longer entitled to appoint any DIRECTORS, the number of DIRECTORS on the BOARD shall, in the absence of a determination to the contrary by the MEMBERS, be increased to equal the number of HOMEOWNERS ASSOCIATIONS (plus one if the number of HOMEOWNERS ASSOCIATIONS is an even number, but in no event more than eleven).

6.01.03 Notwithstanding the foregoing, in no event shall there be less than three (3) Directors, and the number of Directors shall always be an odd number, and in any event the MEMBERS shall not have the right to change the number of Directors so long as the DECLARANT has the right to determine the number of Directors as set forth above.

6.02 Election of Directors by Members. Election of Directors to be elected by the MEMBERS of the MASTER ASSOCIATION shall be conducted in the following manner:

6.02.01 At any time after the DECLARANT no longer has the right to appoint one or more Directors or upon the earlier voluntary relinquishment by the DECLARANT of its right to appoint any or all Director(s), a special meeting of the MEMBERS may be called to elect new Directors. In the absence of such a meeting, the Directors appointed by the DECLARANT may continue to serve until the next annual meeting of the MEMBERS.

6.02.02 Except as provided above, the MEMBERS shall elect Directors at the annual MEMBERS' meetings, unless a special meeting of the MEMBERS is called in order to fill a vacancy on the BOARD as provided in Paragraphs 6.16.02 and 6.17 below.

6.02.03 Prior to any special or annual meeting at which Directors are to be elected by the MEMBERS, the existing BOARD may appoint a committee, which committee shall nominate one PERSON for each Director to be elected by the MEMBERS, on the basis that the number of Directors to serve on the BOARD will not be altered at the MEMBERS' meeting. Nominations for additional directorships created at the meeting may be made from the floor, and other nominations may be made from the floor.

6.02.04 The election of Directors by the MEMBERS shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each REPRESENTATIVE voting being entitled to cast his or her total number of authorized votes for each of as many nominees as there are vacancies to be filled, or by cumulative voting, as each REPRESENTATIVE may determine.

6.02.05 Except with respect to Directors appointed by the DECLARANT, until such time as one Director is elected from each HOMEOWNERS' ASSOCIATION, no two Directors shall be elected or appointed from any one HOMEOWNERS ASSOCIATION, unless (i) no person from another HOMEOWNERS' ASSOCIATION is nominated at a meeting to elect Directors, or (ii) no person nominated from another HOMEOWNERS' ASSOCIATION is able or willing to serve. No REPRESENTATIVE of a HOMEOWNERS' ASSOCIATION shall be eligible to be elected or shall serve as a DIRECTOR.

6.03 Term of Office. All Directors elected by the MEMBERS shall hold office until the next annual meeting of the MEMBERS and until their successors are duly elected, or until such Director's death, resignation or removal, as hereinafter provided or as otherwise provided by statute or by the ARTICLES.

6.04 Organizational Meeting. The newly elected BOARD shall meet for the purposes of organization, the election of officers and the transaction of other business immediately after their election or within ten days of same at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.

6.05 Regular Meetings. Regular meetings of the BOARD may be held at such time and place as shall be determined, from time to time, by a majority of the Directors.

6.06 Special Meetings. Special meetings of the BOARD may be called by any Director, or by the President, at any time.

6.07 Notice of Meetings. Notice of each meeting of the BOARD shall be given by the Secretary, or by any other officer or Director, which notice shall state the day, place and hour of the meeting. Notice of such meeting shall be delivered to each Director either personally or by telephone or telegraph, at least 48 hours before the time at which such meeting is to be held, or by first class mail, postage prepaid, at least three days before the day on which such meeting is to be held. Notice shall also be posted in a conspicuous location at each recreational facility operated by the MASTER ASSOCIATION, at least 48 hours in advance of any Directors' meeting, for the benefit of the MEMBERS, except in an emergency. Notice of a meeting of the BOARD need not be given to any Director who signs a waiver of notice either before or after the meeting. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place, the time or the manner in which the meeting has been called or convened, except when a Director

states, at the beginning of the meeting, an objection to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the BOARD need be specified in any notice or waiver of notice of such meeting.

6.08 Attendance at BOARD Meetings. All meetings of the BOARD shall be open to all MEMBERS and INSTITUTIONAL LENDERS. A Director may appear at a BOARD meeting by telephone conference, but in that event a telephone speaker shall be attached so that any discussion may be heard by the Directors and any MEMBERS present as in an open meeting.

6.09 Quorum and Manner of Acting. A majority of the BOARD determined in the manner provided in these BYLAWS shall constitute a quorum for the transaction of any business at a meeting of the Directors. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the BOARD, unless the act of a greater number of Directors is required by statute, the MASTER COVENANTS, the ARTICLES or by these BYLAWS.

6.10 Adjourned Meetings. A majority of the Directors present at a meeting, whether or not a quorum exists, may adjourn any meeting of the BOARD to another place and time. Notice of any such adjourned meeting shall be given to the Directors who are not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other Directors. Any business that might have been transacted at the meeting as originally called may be transacted at any adjourned meeting without further notice.

6.11 Presiding Officer. The presiding officer of the Directors' meetings shall be the Chairman of the BOARD if such an officer is elected; and if none, the President of the MASTER ASSOCIATION shall preside. In the absence of the presiding officer, the Directors shall designate one of their members to preside.

6.12 Order of Business. The order of business at a Directors' meeting shall be:

A. Calling of roll; determining quorum;

B. Proof of due notice of meeting;

C. Reading and disposal of any unapproved minutes;

D. Reports of officers and committees;

E. Election of officers;

F. Unfinished business;

G. New business; and

H. Adjournment.

6.13 Minutes of Meetings. The minutes of all meetings of the BOARD shall be kept in a book available for inspection by the MEMBERS of the MASTER ASSOCIATION, or their authorized representatives, and the Directors at any reasonable time.

6.14 Committees. The BOARD may, by resolution duly adopted, appoint committees. Any committee shall have and may exercise such powers, duties and functions as may be determined by the BOARD from time to time, which may include any powers which may be exercised by the BOARD and which are not prohibited by law from being exercised by a committee.

6.15 Resignation. Any Director of the MASTER ASSOCIATION

may resign at any time by giving written notice of his or her resignation to the BOARD or Chairman of the BOARD or the President or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time when such resignation is to become effective is not specified therein, immediately upon its receipt; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

6.16 Removal of Directors. Directors may be removed as follows:

6.16.01 Any Director other than a Director appointed by the DECLARANT may be removed by majority vote of the remaining Directors, if such Director has been absent for the last three consecutive Directors' Meetings, or adjournments and continuances of such meetings.

6.16.02 Any Director other than a Director appointed by the DECLARANT may be removed with or without cause by MEMBERS having a majority of the votes of the entire membership at a special meeting of the MEMBERS called expressly for that purpose by MEMBERS having not less than thirty-three and one-third (33-1/3%) percent of the votes of the entire membership. The vacancy on the BOARD caused by any such removal may be filled by the MEMBERS at such meeting or, if the MEMBERS shall fail to fill such vacancy, by the BOARD as in the case of any other vacancy on the BOARD, subject to the requirements of Paragraph 6.02.05. For the purposes of this Article 6.16.02, the voting and the call for the special recall meeting shall be by direct action of the MEMBERS of the MASTER ASSOCIATION, and not by their respective REPRESENTATIVES.

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6.17 Vacancies. Subject to the requirements of Paragraph 6.02.05, vacancies on the BOARD may be filled by a majority vote of the Directors then in office, though less than a quorum, or by a sole remaining Director, and the Directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall have qualified, unless sooner displaced. If there are no Directors in office, then a special election of the MEMBERS shall be called to elect the Directors. Notwithstanding anything contained herein to the contrary, the DECLARANT at all times shall have the right to appoint the maximum number of Directors permitted by the ARTICLES, and any vacancies in the BOARD may be filled by the DECLARANT to the extent that the number of Directors then serving on the BOARD who were appointed by the DECLARANT is less than the number of Directors the DECLARANT is then entitled to appoint.

6.18 Directors Appointed by the DECLARANT. Notwithstanding anything contained herein to the contrary, the DECLARANT shall have the right to appoint the maximum number of Directors in accordance with the privileges granted to the DECLARANT pursuant to the ARTICLES. All Directors appointed by the DECLARANT shall serve at the pleasure of the DECLARANT, and the DECLARANT shall have the absolute right, at any time, and in its sole discretion, to remove any Director appointed by it, and to replace such Director with another PERSON to serve on the BOARD. Replacement of any Director appointed by the DECLARANT shall be made by written notice to the MASTER ASSOCIATION which shall specify the name of the PERSON designated as successor Director. The removal of any Director and the designation of his successor by the DECLARANT shall become effective immediately upon delivery of such written instrument by the DECLARANT. The DECLARANT may waive its right to appoint one or more Directors which it has the right to appoint at any time upon written notice to the MASTER ASSOCIATION, and thereafter such Director(s) shall be elected by the MEMBERS.

6.19 Compensation. The BOARD shall not be entitled to any compensation unless the MEMBERS elect to pay them compensation, and set the amount of such compensation, at any meeting of the

MEMBERS.

6.20 Powers and Duties. The Directors shall have the right to exercise all of the powers and duties of the MASTER ASSOCIATION, express or implied, existing under these BYLAWS, the ARTICLES, the MASTER COVENANTS, or as otherwise provided by statute or law. Such powers and duties of the Directors shall include, without limitation (except as limited elsewhere herein), the following:

6.20.01 The ownership, operation, care, upkeep and maintenance of the COMMON AREAS, and any other portion of the SUBJECT PROPERTY determined to be maintained by the BOARD.

6.20.02 The determination of the expenses required for the operation of the MASTER ASSOCIATION.

6.20.03 The making and collection of ASSESSMENTS for COMMON EXPENSES from MASTER ASSOCIATION MEMBERS required to pay same.

6.20.04 The employment and dismissal of personnel.

6.20.05 The adoption, amendment and enforcement of rules and regulations covering the details of the operation and use of PROPERTY owned or maintained by the MASTER ASSOCIATION.

6.20.06 Maintaining bank accounts on behalf of the MASTER ASSOCIATION and designating signatories required therefor.

6.20.07 Obtaining and reviewing insurance for PROPERTY owned or maintained by the MASTER ASSOCIATION.

6.20.08 The making of repairs, additions and improvements to, or alterations of, PROPERTY owned or maintained by the MASTER ASSOCIATION.

6.20.09 Borrowing money on behalf of the MASTER ASSOCIATION; provided, however, that (i) the consent of the MEMBERS having at least two-thirds (2/3) of the votes of the entire membership, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these BYLAWS, shall be required for the borrowing of any sum in excess of $25,000.00; and (ii) no lien to secure repayment of any sum borrowed may be created on any PROPERTY without the consent of the OWNER of such PROPERTY.

6.20.10 Contracting for the management and maintenance of PROPERTY owned or maintained by the MASTER ASSOCIATION authorizing a management agent or company to assist the MASTER ASSOCIATION in carrying out its powers and duties by performing such functions as the submission of proposals, collection of ASSESSMENTS, preparation of records, enforcement of rules, and maintenance, repair and replacement of the COMMON AREAS with funds as shall be made available by the MASTER ASSOCIATION for such purposes. The MASTER ASSOCIATION and its officers shall, however, retain at all times the powers and duties granted by all MASTER ASSOCIATION documents and the MASTER COVENANTS, including, but not limited to, the making of ASSESSMENTS, promulgation of rules, and execution of contracts on behalf of the MASTER ASSOCIATION.

6.20.11 Exercising all powers specifically set forth in the MASTER COVENANTS, the ARTICLES, these BYLAWS, and as otherwise provided by statute or law, and all powers incidental thereto or implied therefrom.

6.20.12 Suspending the right of any OWNER to use the recreational facilities on any PROPERTY owned and maintained by the MASTER ASSOCIATION, so long as the OWNER is delinquent in the payment of ASSESSMENTS.

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6.20.13 Entering into and upon any portion of the SUBJECT PROPERTY, including UNITS and Planned Units, when necessary to maintain, care for and preserve any PROPERTY in the event the respective HOMEOWNERS' ASSOCIATION or OWNER fails to do so.

6.20.14 Collecting delinquent ASSESSMENTS by suit or otherwise, abating nuisances, and enjoining or seeking damages from the OWNERS for violations of these BYLAWS and the terms and conditions of the MASTER COVENANTS or of the Rules and Regulations of the MASTER ASSOCIATION.

6.20.15 Acquiring and entering into agreements whereby the MASTER ASSOCIATION acquires leaseholds, memberships, and other possessory or use interests in lands or facilities, whether or not contiguous to the lands operated by the MASTER ASSOCIATION, intended to provide for the enjoyment, recreation, or other use and benefit of the OWNERS and declaring expenses in connection therewith to be COMMON EXPENSES; all in such form and in such manner as may be deemed by the BOARD to be in the best interest of the MASTER ASSOCIATION; and the participation in the acquisition of any interest in lands or facilities for the foregoing purposes may be direct or indirect, meaning, without limiting the generality of the foregoing, by direct ownership of land or acquisition of stock in a corporation owning land.

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7. OFFICERS

7.01 Members and Qualifications. The officers of the MASTER ASSOCIATION shall include a President, who shall be a member of the Board, a Vice President, a Treasurer and a Secretary, all of whom shall be elected by the Directors of the MASTER ASSOCIATION and may be pre-emptively removed from office with or without cause by vote of the Directors at any meeting by concurrence of a majority of the Directors. Any person may hold two or more offices except that the President shall not also be the Secretary. The BOARD may, from time to time, elect such other officers and designate their powers and duties as the BOARD shall find to be appropriate to manage the affairs of the MASTER ASSOCIATION from time to time. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified, or until death, resignation, or removal, as provided in these BYLAWS.

7.02 Resignations. Any officer of the MASTER ASSOCIATION may resign at any time by giving written notice of such resignation to any Director, the President or the Secretary. Any such resignation shall take effect at the time specified therein, or if there is no time specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make such resignation effective.

7.03 Vacancies. A vacancy in any office, whether arising from death, resignation, removal or any other cause may be filled for the unexpired portion of the term of the office which shall be vacant in the manner prescribed in these BYLAWS for the regular election or appointment of such office.

7.04 The President. The President shall be the chief executive officer of the MASTER ASSOCIATION. The President shall have all of the powers and duties which are usually vested in the office of president of an association or corporation including, but not limited to, the power to appoint committees from among the MEMBERS from time to time, as the President may in his or her discretion deem appropriate to assist in the conduct of the affairs of the MASTER ASSOCIATION.

7.05 The Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also

assist the President generally and exercise such other powers and perform such other duties as may be prescribed by the BOARD.

7.06 The Secretary. The Secretary shall prepare and keep the minutes of all proceedings of the Directors and the MEMBERS. The Secretary shall attend to the giving and serving of all notices to the MEMBERS and Directors and other notices required by law. The Secretary shall have custody of the seal of the MASTER ASSOCIATION and affix the same to instruments requiring a seal when duly executed. He or she shall keep the records of the MASTER ASSOCIATION, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association, and as may be required by the BOARD or the President.

7.07 The Treasurer. The Treasurer shall have custody of all property of the MASTER ASSOCIATION, including funds, securities, and evidences of indebtedness. The Treasurer shall keep books of account for the MASTER ASSOCIATION in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the BOARD for examination at reasonable times. The Treasurer shall submit a Treasurer's Report to the BOARD at reasonable intervals and shall perform all other duties incident to the office of treasurer. The Treasurer shall collect all ASSESSMENTS and shall report promptly to the BOARD the status of collections.

7.08 Compensation. The officers of the MASTER ASSOCIATION shall not be entitled to compensation unless the BOARD specifically votes to compensate them. However, neither this provision, nor the provision that Directors will not be compensated unless otherwise determined by the MEMBERS, shall preclude the BOARD from employing a Director or an officer as an employee of the MASTER ASSOCIATION and compensating such employee, nor shall they preclude the MASTER ASSOCIATION from contracting with a Director for the management of PROPERTY subject to the jurisdiction of the MASTER ASSOCIATION, or for the provision of services to the MASTER ASSOCIATION, and in either such event to pay such Director a reasonable fee for such management or provision of services.

8. FINANCES AND ASSESSMENTS

8.01 Adoption of the Budget.

8.01.01 At least thirty (30) days before the commencement of any fiscal year of the MASTER ASSOCIATION, the BOARD shall adopt a budget for such fiscal year, necessary to defray the COMMON EXPENSES of the MASTER ASSOCIATION for such fiscal year. The COMMON EXPENSES of the MASTER ASSOCIATION shall include all expenses of any kind or nature whatsoever incurred, or to be incurred, by the MASTER ASSOCIATION for the operation of the PROPERTY owned or operated by the MASTER ASSOCIATION, and for the proper operation of the MASTER ASSOCIATION itself, including, but not limited to, the expenses of the operation, maintenance, repair, or replacement of the COMMON AREAS, costs of carrying out the powers and duties of the MASTER ASSOCIATION, all insurance premiums and expenses, including flood and fire insurance and extended coverage; reasonable reserves for purchases, deferred maintenance, replacements, betterments, and unknown contingencies; and all other expenses designated as COMMON EXPENSES by these BYLAWS, the MASTER COVENANTS, the ARTICLES, or any other applicable statute or law of the State of Florida. The annual budget of the MASTER ASSOCIATION shall be detailed and shall show the amounts budgeted by accounts in expense classifications including, where applicable, but not limited to, the following: administration of the MASTER ASSOCIATION, management fees, maintenance, rent for recreational and other commonly used facilities, taxes upon MASTER ASSOCIATION PROPERTY, taxes upon leased areas, insurance, security provisions, other expenses, operating capital, reserves, and any fees payable to any controlling governmental agencies. If pursuant to any agreement entered into by the MASTER ASSOCIATION, any expense of

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the MASTER ASSOCIATION is to be shared with any PERSON(S), then the annual budget of the MASTER ASSOCIATION shall contain a separate classification for such expense(s). If the BOARD fails to adopt an annual budget for any year, the prior year's budget shall remain in effect until a new budget is adopted or the existing budget is amended or revised.

8.01.02 If, after the adoption of any budget, it shall appear that the adopted budget is insufficient to provide adequate funds to defray the COMMON EXPENSES of the MASTER ASSOCIATION for the fiscal year to which the adopted budget applies, the BOARD may adopt an amended budget to provide such funds. All of the above provisions shall apply to the adoption of an amended budget.

8.02 Assessments and Assessment Roll.

8.02.01 As soon as practicable after the adoption of a budget, or an amended budget, the BOARD shall fix and determine the amount and frequency of the MEMBERS' ASSESSMENTS for COMMON EXPENSES for each ASSESSMENT UNIT, pursuant to the MASTER COVENANTS, the ARTICLES and these BYLAWS. Such ASSESSMENTS shall be due not more frequently than monthly, and shall each be in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Any periodic ASSESSMENTS for COMMON EXPENSES, whether quarterly, monthly or otherwise, shall be equal unless the BOARD determines unequal ASSESSMENTS are required to provide funds in advance for the expenses of the MASTER ASSOCIATION, or unless the BOARD changes the number of ASSESSMENT UNITS assigned to the MEMBERS as provided in the MASTER COVENANTS. As soon as practicable after the determination of the ASSESSMENTS for COMMON EXPENSES, the MASTER ASSOCIATION shall notify each MEMBER, in writing, of the amount, frequency and due date of such MEMBER's ASSESSMENTS, provided, however, that no ASSESSMENT shall be due in less than (10) days from the date of such notification.

8.02.02 If the expenditure of funds by the MASTER ASSOCIATION is required that cannot be paid from the ASSESSMENTS for COMMON EXPENSES, the BOARD may make special ASSESSMENTS, which shall be levied in the same manner as herein provided for ASSESSMENTS for COMMON EXPENSES and shall be payable in the manner determined by the BOARD. Each MEMBER's share of any special ASSESSMENT shall be in the same proportion as the MEMBER's share of the ASSESSMENTS for COMMON EXPENSES.

8.02.03 The MASTER ASSOCIATION shall maintain an ASSESSMENT roll for each MEMBER, designating the name and current mailing address of the MEMBER, the amount of each ASSESSMENT payable by such MEMBER, the dates and amounts in which the ASSESSMENTS come due, the amounts paid upon the account of the MEMBER, and the balance due.

8.03 Depositories. The funds of the MASTER ASSOCIATION shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the Board from time to time. Funds shall be withdrawn only upon checks and demands for money signed by such officers, Directors or other persons as may be designated by the BOARD.

8.04 Application of Payments and Commingling of Funds. All sums collected by the MASTER ASSOCIATION from ASSESSMENTS may be commingled in a single fund or divided into more than one fund, as determined by the BOARD.

8.05 Accounting Records and Reports. The MASTER ASSOCIATION shall maintain accounting records according to good accounting practices. The records shall be open to inspection by MEMBERS and all INSTITUTIONAL LENDERS, or their authorized representatives, at reasonable times. The records shall include, but not be limited

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to, (a) a record of all receipts and expenditures, and (b) the assessment roll of the MEMBERS referred to above. The BOARD may, and upon the vote of a majority of the MEMBERS shall, conduct an audit of the accounts of the MASTER ASSOCIATION by a public accountant, and if such an audit is made, a copy of the report shall be made available to each MEMBER and INSTITUTIONAL LENDER, upon written request to the MASTER ASSOCIATION.

9. PARLIAMENTARY RULES

Roberts' Rules of Order (latest edition) shall govern the conduct of the MASTER ASSOCIATION meetings when not in conflict with the MASTER COVENANTS, the ARTICLES or these BYLAWS.

10. AMENDMENTS

Except as otherwise provided, these BYLAWS may be amended in the following manner:

10.01 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

10.02 Initiation. A resolution to amend these BYLAWS may be proposed by any Director, or by one or more of the MEMBERS or their authorized representatives.

10.03 Adoption of Amendments.

10.03.01 A resolution for the adoption of the proposed amendment shall be adopted either: (a) by a majority of all of the Directors of the MASTER ASSOCIATION; or (b) by MEMBERS having not less than a majority of the votes of the entire membership of the MASTER ASSOCIATION. Any amendment approved by the MEMBERS may provide that the BOARD may not further amend, modify or repeal such amendment.

10.03.02 Notwithstanding the foregoing, so long as DECLARANT appoints a majority of the directors of the MASTER ASSOCIATION, DECLARANT shall have the right to unilaterally amend these BYLAWS without the joinder or approval of any Directors or any MEMBER.

10.04 Limitation on Amendments. No amendment shall make any changes in the qualification for membership nor in the voting rights or property rights of MEMBERS without approval by all of the MEMBERS and the joinder of all record owners of mortgages upon the UNITS. No amendment shall be made that is in conflict with the MASTER COVENANTS or the ARTICLES. So long as the DECLARANT owns any PROPERTY, or holds any mortgage encumbering any PROPERTY other than a UNIT, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the DECLARANT, unless the DECLARANT shall join in the execution of the amendment.

10.05 Execution and Recording. No modification of, or amendment to, these BYLAWS shall be valid unless recorded in the public records of the COUNTY.

11. RULES AND REGULATIONS

The BOARD may, from time to time, adopt, or amend previously adopted, Rules and Regulations concerning the use of the COMMON AREAS and concerning the use, operation and maintenance of other portions of the SUBJECT PROPERTY in order to further implement and carry out the intent of the MASTER COVENANTS, the ARTICLES, and these BYLAWS. The BOARD shall make available to any MEMBER, upon

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request, a copy of the Rules and Regulations adopted from time to time by the BOARD.

12. MISCELLANEOUS

12.01 Tenses and Genders. The use of any gender or of any tense in these BYLAWS shall refer to all genders or to all tenses, wherever the context so requires.

12.02 Partial Invalidity. Should any of the provisions hereof be void or become unenforceable at law or in equity, the remaining provisions shall, nevertheless, be and remain in full force and effect.

12.03 Conflicts. In the event of any conflict, any applicable Florida statute, the MASTER COVENANTS, the ARTICLES, these BYLAWS, and the Rules and Regulations of the MASTER ASSOCIATION shall govern, in that order.

12.04 Captions. Captions are inserted herein only as a matter of convenience and for reference, and in no way are intended to or shall define, limit or describe the scope of these BYLAWS or the intent of any provisions hereof.

12.05 Waiver of Objections. The failure of the BOARD or any officers of the MASTER ASSOCIATION to comply with any terms and provisions of the MASTER COVENANTS, the ARTICLES, or these BYLAWS which relate to time limitations shall not, in and of itself, invalidate the act done or performed. Any such defect shall be waived if it is not objected to by a MEMBER of the MASTER ASSOCIATION within thirty (30) days after the MEMBER is notified, or becomes aware, of the defect. Furthermore, if such defect occurs at a general or special meeting, the defect shall be waived as to all MEMBERS who received notice of the meeting and failed to object to such defect at the meeting.

The foregoing was adopted as the BYLAWS of the MASTER ASSOCIATION at the First Meeting of the BOARD on the 12th day of April, 1989.

By: _____, President

By: _____, Secretary

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MDS

Documentary Tax Pd. $ .70
$ ——— Intangible Tax Pd.
CHARLIE GREEN, CLERK, LEE COUNTY
By Trent Voges Deputy Clerk

THIS INSTRUMENT was prepared by:
William C. Basney, Esq.
CSX Transportation, Inc.
500 Water Street – J150
Jacksonville, FL 32202

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ROADWAY EASEMENT

This Easement is granted this 30th day of October, 1997, by CSX Realty Development, LLC, a Georgia limited liability company, successor to CSX Realty Development Corporation, a Georgia corporation, (GRANTOR) to the Boca Bay Master Association, Inc. a Florida not-for-profit corporation (GRANTEE).

RECITALS

A. GRANTOR is the owner of Tract A, Boca Bay Drive, (GRANTOR'S Property), according to that certain plat of Grande Bay at Boca Bay (the "Plat") which will be recorded in the Lee County records, a copy of which is attached as Exhibit A.

B. GRANTEE has or will have use of property adjacent to GRANTOR'S Property by deed, dedication or easement, including Tract C and Tract D of the Plat (GRANTEE'S Property).

C. The Plat dedicates GRANTOR'S Property to GRANTOR and the Grande Bay at Boca Bay Homeowners' Association. In order to provide GRANTEE access to GRANTEE'S Property, GRANTOR wishes to grant to GRANTEE a non-exclusive roadway easement upon the terms and conditions contained [redacted] Easement.

NOW, THEREFORE, in consideration of the Ten Dollars ($10.00) and other valuable considerations, the receipt of which is acknowledged by GRANTOR, GRANTOR grants to GRANTEE a non-exclusive roadway easement (the "Easement") over and upon GRANTOR'S Property, for the purpose of foot, bicycle, golf cart and motorized scooter (not exceeding 100 c.c. and equipped with proper muffler device) use of the roadway.

TO HAVE AND TO HOLD the Easement and rights herein granted, solely for the purpose herein contained; SUBJECT, however, to the following conditions and covenants:

1. Maintenance Responsibility. GRANTEE shall be responsible for landscape maintenance in that portion of GRANTOR'S Property which runs adjacent to Tract C and Tract D of the Plat and is not paved roadway. In addition, the cost of maintenance of that portion of GRANTOR'S Property which is paved roadway shall be shared equally by GRANTEE and the Grande Bay at Boca Bay Homeowners' Association, who shall in good faith cooperate in regard to this obligation.

2. GRANTEE'S motor vehicle use (other than by scooters as previously described) of the roadway on GRANTOR'S Property is prohibited except as required for maintenance of GRANTEE'S Property.

3. Nothing herein shall be deemed to limit GRANTOR'S use of the roadway on GRANTOR'S Property by motor vehicles or otherwise.

4. Nothing herein shall be deemed to limit the Grande Bay at Boca Bay Homeowners' Association, its members and their guests and invitees use of the roadway on GRANTOR'S Property by motor vehicles.

5. Covenants Binding. The Easement shall run with title to the GRANTOR'S Property and the GRANTEE'S Property and shall be binding upon each of the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Easement as of the day and year first above stated.

Donna W Melton
First Witness

Donna W. Melton
Typed/Printed Name

Jane S. Otrich
Second Witness

Jane S. Otrich
Typed/Printed Name

Donna W Melton
First Witness

Donna W. Melton
Typed/Printed Name

Jane S. Otrich
Second Witness

Jane S. Otrich
Typed/Printed Name

Donna W Melton
First Witness

Donna W. Melton
Typed/Printed Name

Jane S. Otrich
Second Witness

Jane S. Otrich
Typed/Printed Name

CSX Realty Development, LLC, successor to CSX Realty Development Corporation, a Georgia corporation.

By: Patricia J. Aftoora

Patricia J. Aftoora
Vice President & Secretary

Boca Bay Master Association, Inc., a Florida not-for-profit corporation

By: Stephen D. Beck

Stephen D. Beck
President

Appd. as to Legal Form

Grande Bay at Boca Bay Homeowners' Association Inc., a Florida not-for- profit corporation

By: Stephen D. Beck

Stephen D. Beck
President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of October, 1997 by Patricia J. Aftoora as Vice President & Secretary of CSX REALTY DEVELOPMENT, LLC, a Georgia limited liability company, successor to CSX REALTY DEVELOPMENT CORPORATION, a Georgia corporation, on behalf of the corporation. He is personally known to me.

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
Notary Public

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of October, 1997 by Stephen D. Beck as President of the BOCA BAY MASTER ASSOC[redacted]N INC., a Florida not-for-profit corporation. He is personally known to me.

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
NOTARY PUBLIC

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of October, 1997 by Stephen D. Beck as President of the GRANDE BAY AT BOCA BAY HOMEOWNERS' ASSOCIATION INC., a Florida not-for-profit corporation. He is personally known to me.

DOROTHY A. MCDOWELL
Notary Public - State of Florida
My Commission Expires Nov 22, 1999
Commission # CC490726

Dorothy A. McDowell
Notary Public

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2158 JOHNSON STREET
TELEPHONE (813) 334-0046
TELECOPIER (813) 334-3661
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902-1550

CARL E. JOHNSON
1911-1968

December 5, 1988

DESCRIPTION
ADDITIONAL LANDS
BOCA BAY
SECTIONS 23, 24 AND 26, T. 43 S., R. 20 E.
GASPARILLA ISLAND, LEE COUNTY, FLORIDA

NEIGHBORHOOD #4

A tract or parcel of land lying in Government Lot 1, Section 23, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of said Lot 1 run S 89° 22' 31" W along the north line of said Section 23 for 96.46 feet to an intersection with the easterly line of the Seaboard Air Line Railroad right-of-way (formerly Charlotte Harbor & Northern Railway Company) (100 feet wide); thence run S 14° 25' 00" E along said easterly line and the westerly line of East Avenue (50 feet wide) as shown on the plat of Unit No. 2 Golden Beach recorded in Plat Book 14 at page 83, Lee County Records for 348.08 feet; thence run N 85° 35' 00" E along a westerly prolongation of the southerly line of First Street South (50 feet wide) for 50.77 feet to the Point of Beginning. From said Point of Beginning continue N 85° 35' 00" E along said southerly line and the northerly line of Parcel 16 as described in deed recorded in Official Record Book 590 at page 879, Lee County Records for 227.23 feet; thence run along the easterly line of said Parcel S 04° 25' 00" E for 176 feet, S 19° 13' 14" E for 129.48 feet and S 19° 45' 00" E for 121 feet to an intersection with the northerly line of Second Street South (50 feet wide); thence run S 70° 15' 00" W along said northerly line and the southerly line of said Parcel 16 for 216.23 feet to an intersection with said easterly line of East Avenue; thence run N 14° 25' 00" W along said easterly line for 482.38 feet to the Point of Beginning.

Containing 2.16 acres more or less including 0.78 acre more or less in an existing man-made boat basin.

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER

DAN W. DICKEY
KENTON R. KEILING
DONALD D. STOUTEN
GEORGE J. KALAL
MICHAEL L. HARMON
THOMAS L. FENDLEY
W. DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO

CONSULTANTS
LEIF E. JOHNSON
LESTER L. BULSON

P.U.D. AND SPECIAL EXCEPTION PARCEL
NEIGHBORHOODS #5 THROUGH #10

A tract or parcel of land lying in Government Lots 1, 2, 5 and 6, Section 23 and Government Lots 1, 2, and 3, Section 26, Township

Exhibit "D"

OR2107 PG0053

43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

From the northeast corner of Government Lot 2 of said Section 23 run S 89° 22' 31" W along the north line of said lot in said Section 23, being also the north line of the former United States Military Reservation referred to in deed to Charlotte Harbor and Northern Railway Company recorded in Deed Book 129 at page 346, Lee County Records for 96.46 feet to an intersection with a line 50 feet easterly from (as measured on a perpendicular) the former main track centerline of the Seaboard Air Line Railroad and the Point of Beginning. From said Point of Beginning continue S 89° 22' 31" W along said north line for 51.48 feet to said centerline; thence run S 14° 25' 00" E along said centerline for 1,019.39 feet to an intersection with the south line of the North 990 feet of said Government Lot 1, Section 23; thence run S 89° 22' 31" W along said south line for 51.49 feet to an intersection with a westerly line of said Seaboard Air Line Railroad; thence run S 14° 25' 00" E along said westerly line for 1768.03 feet to a point of curvature; thence continue southerly along said westerly line along the arc of a curve to the right of radius 1860.05 feet (chord bearing S 02° 43' 19" W) (chord = 1096.26 feet) for 1112.78 feet to a point of tangency; thence continue along said westerly line S 19° 51' 38" W for 476.31 feet; thence run S 28° 51' 38" W for 641.21 feet to a point of curvature; thence run southerly along the arc of a curve to the left of radius 1712.54 feet (chord bearing S 16° 08' 49" W) (chord = 753.78 feet) for 760 feet to a point of tangency; thence run S 03° 26' 01" W, parallel with the westerly line of said railroad right-of-way, for 830.00; thence run S 28° 20' 22" E for 227.89 feet to an intersection with said westerly line of said railroad; thence run S 03° 26' 01" W along said westerly line for 1353.08 feet; thence deflect 43° 23' to the right and run S 46° 49' 01" W along a northwesterly line of said lands as described in said deed for 150.53 feet to an intersection with a north line of said lands; thence run S 89° 55' 35" W along said north line for 599.31 feet to the railroad rail referred to as Monument "A" in said deed; thence run S 00° 04' 25" E along the west line of said lands as described in said deed for 1199.91 feet to a railroad rail referred to as Monument "B" in said deed; thence deflect to 90° 10' to the right and run N 89° 54' 25" W along a north line of said lands as described in said deed for 347.48 feet; thence run S 33° 20' 35" W for 130.23 feet; thence run S 01° 35' 35" W for 90.64 feet; thence run S 44° 39' 25" E for 208.42

OR2107 PG0059

feet to an intersection with a south line of said lands as described in said deed; thence run S 89° 42' 59" E along said south line for 473.59 feet to a 3/4" pipe; thence continue S 89° 42' 59" E along said south line for 411 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 150 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 290 feet to a 3/4" pipe; thence run N 00° 17' 01" E for 100 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 344 feet to a 3/4" pipe; thence run S 00° 17' 01" W for 161 feet to a 3/4" pipe; thence run S 89° 42' 59" E for 106 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run northerly and northeasterly along said Line for 7860 feet more or less to an intersection with the south line of the North 1980 feet of said Government Lot 1 in said Section 23; thence run S 89° 22' 31" W along said south line for 914 feet more or less to an intersection with said easterly line of said former railroad right-of-way; thence run N 14° 25' 00" W along said easterly line for 2038.78 feet to the Point of Beginning.
Containing 96.51 acres more or less.

PENINSULA PARCEL

All that part of the North 660 feet of Government Lot 1, Section 24, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida lying westerly of the Mean High Water Line of Charlotte Harbor and easterly of the Mean High Water Line of Boca Grande Yacht Basin being also Parcel 19 in deed recorded in Official Record Book 590 at page 789, Lee County Records.
Containing 2.15 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone based on ties to Florida Department of Natural Resources Monuments A-15 through A-20.

GULF VILLAS

From the northeast corner of said Lot 2 run S 89° 22' 31" W along the north line of said lot in said section for 1170.66 feet to an intersection with the west line of Gulf Boulevard (100 feet wide) being also the northeast corner of lands described in deed recorded in Official Record Book 1494 at page 163 Lee County records; thence run S 01° 39' 30" E along said west line of said road for 150.00 feet to the southeast corner of land that is described in deed to Kathryn Hammond

recorded in Official Record Book 445 at page 584 Lee County records; thence continue S 01° 39' 30" E along said west line of said road for 218.61 feet to the Point of Beginning.
From said Point of Beginning run S 89° 22' 31" W for 150.40 feet to the Coastal Construction Control Line; thence run S 02° 36' 11" E along said control line for 267.66 feet; thence run N 89° 22' 31" E for 145.99 feet to the west line of Gulf Boulevard (100 feet wide); thence run N 01° 39' 30" W along said west line of said road for 267.54 feet to the Point of Beginning.
Containing 0.91 acres more or less
Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

MLH/pd
16352a