

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

WHEREAS, Lee County Board of County Commissioners for Punta Gorda Isles/Burnt Store Marina, Inc. Et.Al., has properly filed an application for: Parcel A: In the AG/IL District with stipulations per Resolution Z-69-15 to PR District. Parcel B: known as tract "A" less lots 1 thru 4, Block 1009 per recorded plat recorded in Plat Book 34 page 93. In the AG/IL District with stipulations per Resolution Z-69-15 and RM-2 District with stipulations per Resolution Z-74-298 to PR District. Parcel C: All recorded lots in Punta Gorda Isles Section Twenty-two, according to the plat thereof recorded in the Office of the Clerk of the Circuit Court, Lee County, Florida in Plat Book 28, pages 118 and Section Twenty-two Replat recorded in Plat Book 34 pages 92 and 93 less the first 500 feet West of the Easterly property line and less tract C as recorded in the official records of the Clerk of the Circuit Court, Lee County, Florida in Plat Book 28, Page 138. In the IL/RM-2 District with a stipulation per Resolution Z-74-298 and AG/IL with stipulations per Resolution Z-69-15 to RM-10.

All those parcels shown as (A) lying West of the first 500 feet from the Easterly property line, in Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in Lee County, Florida in Plat Book 28 pages 118-138 and amended by Section Twenty-two replat in Plat Book 34 pages 92 and 93. In the AG/IL District with stipulation per Resolution Z-69-15 to AG.

All those parcels shown as Tract "B" lying West of the first 500 feet from the Easterly property line, in Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in Lee County, Florida, Plat Book 28, Pages 118-138. In the AG/IL District with stipulations per Resolution Z-69-15 to AG with Unusual Use for a Golf Course and Clubhouse (Sec. 500.10).

All those parcels shown as Tract "B" lying in the Easterly 500 feet of Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in Lee County, Florida, Plat Book 28, Pages 118-138. In the AG District an Unusual Use for a Golf Course and Clubhouse (Sec. 500.10).

All platted lots lying in the Easterly 500 feet of Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court, Lee County, Florida, Plat Book 28, Pages 118-138, in the AG District to RM-10 on a piece of property located at the Northwest corner of Lee County, west of Burnt Store Road; abuts the Charlotte County line, described more particularly as;

Section 01, Township 43S, Range 22E, Lee County, Florida.
Section 06, Township 43S, Range 23E, Lee County, Florida.

PR PARCEL:

PARCEL A

All lands west of the following to the mean high water line of Charlotte Harbor:

Beginning at the southwest corner of Section Twenty-two replat of Punta Gorda Isles Subdivision, as recorded in Plat Book 34, Page 93 go N 02° 48' 08" E for 911.78', thence go N 29° 57' 57" E for 713.93' to a point on the Charlotte/Lee County line in Section 01, Township 43S, Range 22E, Lee County, Florida.

Together with the north 330' of Section 01, Township 43S, Range 22E seaward from the mean high tide of the Charlotte Harbor shoreline, also in Lee County, Florida.

AND:

PARCEL B

"Tract A", a replat of Punta Gorda Isles Section Twenty-two as the plat thereof recorded in the office of the Clerk of the Circuit Court in Lee County, Florida in Plat Book 34, page 92 and 93, less lots 1 through 4, Block 1009, Plat Book 34, Page 93.

RM-10 PARCEL

All platted lots and roads in Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court, Lee County, Florida in Plat Book 28, Pages 118-138 and Section Twenty-two Replat recorded in Plat Book 34, Pages 92 and 93 more particularly described as follows:

A parcel of land being all of GOVERNMENT LOT 1 and a portion of GOVERNMENT LOTS 2, 3, and 4, and the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, of the North 278 feet of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 1, Township 43 South, Range 22 East, and all of Section 6, Township 43 South, Range 23 East less the South 1660 feet thereof and less the right-of-way for BURNT STORE ROAD, (State Road No. 765) Lee County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 6, Township 43 South, Range 23 East; thence run N 89° 36' 00" W along the South boundary line of Charlotte County and the North Boundary line of Lee County a distance of 17.52 feet to the Point of Beginning of the parcel of land hereinafter described; said boundary line also being the South line of Punta Gorda Isles, Section 21, Sheet 46, Plat Book 13, Page 1-z-21, of the Public Records of Charlotte County, Florida; thence run S 00° 20' 00" W along the Westerly right-of-way line of State Road No. 765 (Burnt Store Road) a distance of 167.79 feet to a point; thence run S 01° 35' 20" W along the said Westerly right-of-way line of State Road No. 765 a distance of 756.86 feet to a point; thence run S 02° 50' 40" W along the said Westerly right-of-way line of State Road No. 765 a distance of 727.59 feet to the Point of Curvature of a circular curve to the left having a radius of 17,390.08 feet; said curve being the Westerly right-of-way line of State Road No. 765; thence run Southwesterly along the arc of said curve an arc distance of 653.57 feet through a central angle of 02° 09' 12" to the Point of Tangency; thence run S 00° 41' 28" W along the said Westerly right-of-way line of State Road No. 765 a distance of 1093.95 feet to a point of intersection with a line that is 1660 feet North of and parallel to the South line of said Section 6; thence run S 88° 22' 02" W along said line that is 1660 feet North of and parallel to the South line of said Section 6, a distance of 5236.84 feet to a point of intersection with the West line of the South 1660 feet of said Section 6; said line also being the East line of the NE ¼, SE ¼ of Section 1, Township 43 South, Range 22 East; thence run S 00° 22' 37" W along the West line of the South 1660 feet of said Section 6 and the East line of the NE ¼ of the SE ¼ of the said Section 1 a distance of 602.92 feet to a point of intersection with a line that is 278 feet south of and parallel to the North line of SE ¼ of the SE ¼ of said Section 1; thence run N 89° 35' 58" W along said line that is 278 feet south of and parallel to the North line of the said SE ¼, SE ¼ of Section 1 a distance of 1318.75 feet to a point on the west line of the North 278 feet of the said SE ¼, SE ¼ of Section 1; thence run N 00° 38' 20" E along the said West line a distance of 278 feet to the Northwest corner of the said SE ¼, SE ¼; said point also being the Southeast corner of Government Lot 4 in said Section 1; thence run N 89° 35' 58" W along the South line of said Government Lot 4 a distance of 1228.63 feet to a point; thence run the following bearings and distances in Government Lots 2, 3, and 4, in said Section 1; N 17° 50' 47" E 286.24 feet; N 10° 23' 40" E 644.65 feet; N 01° 48' 25" E 695.54 feet; N 23° 51' 46" E 305.62 feet; N 16° 44' 33" E 515.42 feet; N 02° 48' 08" E 911.78 feet; thence N 29° 57' 57" E a distance of 713.93 feet to a point of intersection with the North line of said Government Lot 2; said point also being on the South line of Section 36, Township 42 South, Range 22 East, Charlotte County; thence run S 89° 35' 30" E along the North line of Government Lots 1 and 2 in said Section 1; the south line of said Section 36; and the South line of Punta Gorda Isles Subdivision, Section 21, as recorded in Plat Book 13 at Pages 1-Z-8, 9, 14, 15, 20, and 21 of the Public Records of Charlotte County, Florida a distance of 1698.98 feet to the Northeast corner of said Section 1; thence run S 89° 35' 30" E along the North line of the NW ¼ of said Section 6, the south line of Section 31, Township 42 South, Range 23 East, Charlotte County and the South line of the said Punta Gorda Isles Subdivision, Section 21, a distance of 2658.80 feet to the N ¼ corner of said Section 6; thence run S 89° 36' 00" E along the North line of the NE ¼ of said Section 6; the South line of said Section 31, and the South line of said Punta Gorda Isles Subdivision, Section 21, a distance of 2618.29 feet to the Point of Beginning, said point being N 89° 36' 00" W a distance of 17.52 feet from the Northeast corner of said Section 6; Less all of tract C; and less Lot 1, Block 1011; and Lots 2 and 3, Block 1001, as recorded in the official records of the Clerk of the Circuit Court, Lee County,

Florida, in Plat Book 28, Pages 118-138. Also less parcels designated as AG (Greenways); also less parcels designated as AG with unusual use in D-83-445 attached and incorporated herein.

AG PARCEL (GREENWAYS)

All those parcels shown as A in D-83-445 attached and incorporated herein lying in Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in Lee County, Florida, in Plat Book 28, Pages 118-138 and amended by Section Twenty-two replat in Plat Book 34, Pages 92 and 93.

AG WITH AN UNUSUAL USE FOR A GOLF COURSE AND CLUBHOUSE

All those lands as designated in D-83-445 attached and incorporated herein shown as Tract B, lying West of the first 500' from the Easterly property line, in Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in office of the Clerk of the Circuit Court in Lee County, Florida, Plat Book 28, Pages 118-138.

AND

All those lands as designated in D-83-445 attached and incorporated herein shown as Tract B, lying in the Easterly 500' of Punta Gorda Isles Section Twenty-two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in Lee County, Florida, Plat Book 28, Pages 118-138.

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 approval of the requested RM-10, FR, AG, and AG with Unusual Use for a Golf Course and Clubhouse zoning based on the finding that Punta Gorda Isles, Inc., platted a golf course oriented subdivision with multi-family uses. The lots surrounding the golf course area are one acre or larger. After the plats were filed the zoning department was requested to clarify what the zoning was for the platted lots. The zoning classification was RU-3, which converted to RM-2. The density that was stipulated in the clarification and original oral motion took the entire golf course into account. However, the legal description which was filed with the original zoning application included the platted lots only and did not include the golf course. The zoning director interpreted the density as ten units per lot. This is an attempt to correct and clarify the past errors and to zone the property with the approximate density of ten units on each lot; and

WHEREAS, an appeal was timely filed by an aggrieved person/the Division of Community Development; 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 Authority, 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 Board accepts and grants the zoning as recommended by the Zoning Board and the basis for it was that due to previous actions of the County in approving the initial zoning, and errors made in the official minutes, and due to actions of past County employees in executing certificates of density, and the permitting of structures at a density of ten (10) units per lot and the existence of the golf course and greenways, the Board of County Commissioners felt that fundamental fairness standards mandated the Board to rezone the property to the zoning as requested. The Board does note that this zoning is not particularly appropriate from a strict planning standpoint and that RM-10 is not appropriate in this desolate part of Lee County where the infrastructure is totally lacking and the Board noted that by this action they claim no responsibility for the provision of infrastructures. This action is merely being taken to correct the greivous errors of the past at the recommendation of the attorney's office. The Board does hereby set forth two motions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS AS THE ZONING APPEALS BOARD, that the Zoning Appeals Board does hereby grant the requested RM-10, PR, AG and AG with an Unusual Use for a Golf Course and Clubhouse as was recommended by the Zoning Board and the referenced memo from the Development Review Department dated January 11, 1984 regarding the Preservation Districts and Industrial Districts which is attached and incorporated herein by reference as M-83-445.

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

Porter J. Goss	Aye
Roland Eastwood	Nay
Roland Roberts	Aye
Bill Fussell	Aye
Melvin Morgan	Aye

The Board does hereby move that this property be placed in the same category as those properties that have been designated as potential properties subject to the provisions of Chapter 380 (the DRI process).

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

Porter J. Goss	Aye
Roland Eastwood	Aye
Roland Roberts	Aye
Bill Fussell	Aye
Melvin Morgan	Aye

DULY PASSED AND ADOPTED this 10th day of September, A.D., 1984.

ATTEST:
SAL GERACI, CLERK

BY: Mary Armstrong
Deputy Clerk

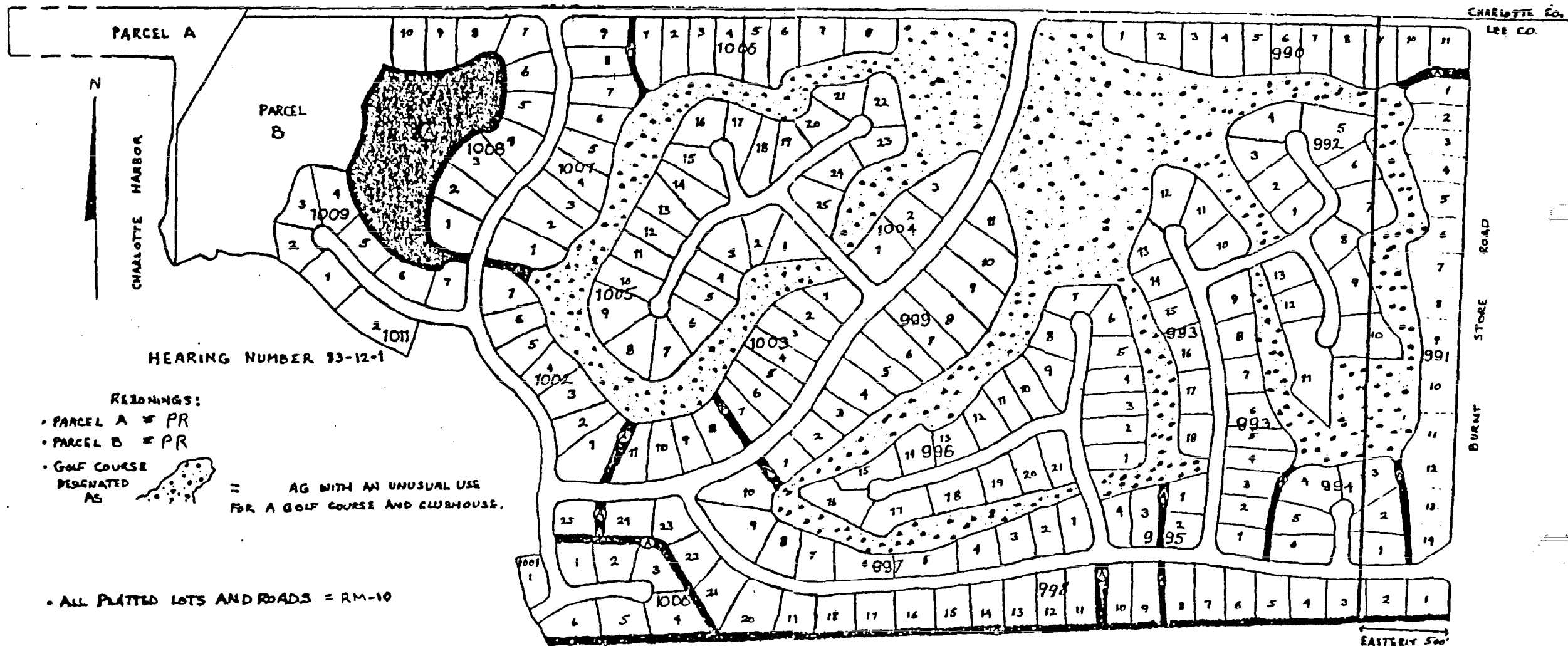
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: R. Eastwood

Chairman

Approved as to form by:

Neal Montgomery
County Attorney



83-12-1

SUMMARY REPORT

I. APPLICATION SUMMARY

A. Request:

Parcel A

In the AG/IL District with stipulations per Resolution Z-69-15 to PR District

Parcel B known as tract "A" less lots 1 thru 4 Block 1009 per recorded plat recorded in plat book 34 page 93
In the AG/IL District with stipulations per Resolutions Z-69-15 and RM-2 District with stipulations per Resolution Z-74-298 to PR District

Parcel C - All recorded lots in Punta Gorda Isles Section TwentyTwo, according to the plat thereof recorded in the Office of the Clerk of the Circuit Court, Lee County, Florida in Plat Book 28, pages 118 and Section Twenty two Replat recorded in plat book 34 pages 92 and 93 less the first 500 ft. West of the Easterly property line and less tract C as recorded in the official records of the Clerk of the Circuit Court, Lee County, Florida in Plat Book 28, Page 138. In the IL/RM-2 District with a stipulation per Resolution Z-74-298 and AG/IL with stipulations per Resolution Z-69-15 to RM-10.

All those parcels shown as (A) lying West of the first 500ft from the Easterly property line, in Punta Gorda Isles Section Twenty two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in Lee County, Florida in Plat Book 28 pages 118-138 and amended by Section Twenty Two replat in Plat Book 34 pages 92 and 93. In the AG/IL District with stipulation per Resolution Z-69-15 to AG

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All those parcels shown as Tract "B" lying in the Easterly 500 ft of Punta Gorda Isles Section Twenty Two, a subdivision according to the plat thereof recorded in the Office of the Clerk of Circuit Court in Lee County, Florida, Plat Book 28, Pages 118-138. In the AG District a Unusual Use for a Golf Course and Clubhouse (Sec.500.10)

All platted lots lying in the Easterly 500 ft of Punta Gorda Isles Section Twenty Two, a subdivision according to the plat thereof recorded in the Office of the Clerk of the Circuit Court. Lee County, Florida. Plat Book 28, Pages 118-138
In the AG District to RM-10.

B. Applicant:

Lee County Board of County Commissioners for Punta Gorda Isles Burnt Store Marina, Inc. ETAL.

C. Proposed Use:

Developing as multi-family condominium project, request is to reconcile zoning and land use.

D. Location:

No address assigned; lies to west of Burnt Store Road and to south of Charlotte-Lee line in Sec. 01, Twp. 43, Rge. 22 and in Sec. 06, Twp. 43, Rge. 23. (District # 1)

E. Property Description:

520 acres, more or less

II. RECOMMENDATIONS:

A. LPA Findings:

The LPA ruled the request consistent with the Lee County Comprehensive Plan.

B. Zoning Board Recommendations: See minutes report.

C. Staff Recommendation:

1. For the property to the West of the Easterly 500':

a. Parcel A - rezone from IL with stipulations to PR.

II. RECOMMENDATIONS (Cont.)

- b. Parcel B - rezone from RM-2 with stipulations and IL with stipulations to PR.
 - c. All Platted Lots - rezone from RM-2 with stipulations to RM-10.
 - d. All Greenways - rezone from IL with stipulations to AG.
 - e. Golf Course - rezone from IL with stipulations to AG with an unusual use for a golf course and clubhouse.
 - f. All Roads - rezone from IL with stipulations to RM-10.
2. For the Easterly 500':
- a. All Platted Lots - rezone from AG to RM-10.
 - b. Golf Course - rezone from AG to AG with an unusual use for a golf course and clubhouse.

D. Rationale for Staff Recommendation:

A brief history of prior actions necessitating the proposed rezoning of portions of Burnt Store Marina is presented here for your information.

This tract of land was rezoned in 1968 from agricultural use to industrial use (later converted to IL); see Resolution Z-69-15 (attached). The easterly 500 feet, along Burnt Store Road, was deleted at that time and remained agricultural; other stipulations were attached as well.

A multi-family subdivision around a golf course was subsequently platted on the entire parcel, and proper zoning was requested in 1974. Zoning Resolution Z-74-298 (attached) approved multi-family zoning with a stipulated density of 4.8 units per acre. If the entire property had been included in that request, as was probably intended, 10 units would have been allowed on each one acre lot. However, only the platted lots themselves were advertised and approved; legally, only 4.8 units could be placed on each of those lots.

In 1977, the problem was apparently perceived by the developer's attorney, who persuaded the then-Director of the Lee County Zoning Department to sign a "Certificate of Density" to clarify that 10 units were allowable on each lot. This procedure has been found to be improper and was rescinded by the Board of County Commissioners. On June 1, 1983, to remedy the problem in a legal fashion, staff was directed to initiate a rezoning application to RM-10 for the lots, and to amend the other zonings to conform with existing uses on the property.

The application before you on January 16, 1984, is legally complex but will reconcile land use and zoning as follows:

<u>PROPOSED ZONING</u>	<u>DESCRIPTION OF LANDS</u>
PR	Parcels A & B are wetlands and submerged lands (not proposed for development)
AG	"Greenways" that provide access to the golf course
RM-10	All platted lots and roads
AG with Unusual Use for Golf Course	Golf Course

E. Public Input:

One letter of objection on file. No objection presented at hearing.

III. SURROUNDING LAND USES AND ZONINGS See attached maps.