

# PLANNING DIVISION

## M E M O R A N D U M



**to:** Board of County Commissioners  
**from:** Paul O'Connor, AICP, Director of Planning <sup>PUC</sup>  
**subject:** Lee County's 2000/2001 Regular Comprehensive Plan Amendment Cycle  
**date:** December 28, 2001

Recently, Planning staff provided Board members with the staff reports and backup documentation for the January 10<sup>th</sup>, 2001 adoption hearing for the 2000/2001 comprehensive plan amendment cycle. The cover memo for that packet was dated December 21, 2001. The December 21<sup>st</sup> correspondence stated that staff reports for 5 of the amendments being considered for adoption would be provided at a later date under a separate cover. Attached are the 5 remaining staff reports with backup documentation for the January 10<sup>th</sup> adoption hearing. These 5 amendments represent all of the administrative agenda items for the public hearing, while the staff reports that were sent previously were all consent agenda items. The materials contained herein should be added to the packet of materials that was provided on December 21, 2001.

If you have any questions regarding the adoption hearing or the materials contained in this packet, do not hesitate to call me at 479-8309.

*cc: Donald Stilwell, County Administrator  
Mary Gibbs, Director, Department of Community Development  
Minutes  
Lee Cares  
Tim Jones, Assistant County Attorney  
Janet Watermeier, Director, Economic Development  
Dave Loveland, DOT  
Diana Parker, County Hearing Examiner*

**CPA 2000-02  
PRIVATELY INITIATED  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**BoCC Public Hearing Document  
for the  
January 10<sup>th</sup> Adoption Hearing**

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**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

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

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	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
BARRY ERNST	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
VIRGINIA SPLITT	<u>AYE</u>
GREG STUART	<u>AYE</u>

**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:**

<b>JOHN ALBION</b>	<u>AYE</u>
<b>ANDREW COY</b>	<u>AYE</u>
<b>BOB JANES</b>	<u>AYE</u>
<b>RAY JUDAH</b>	<u>AYE</u>
<b>DOUG ST. CERNY</b>	<u>AYE</u>

**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**

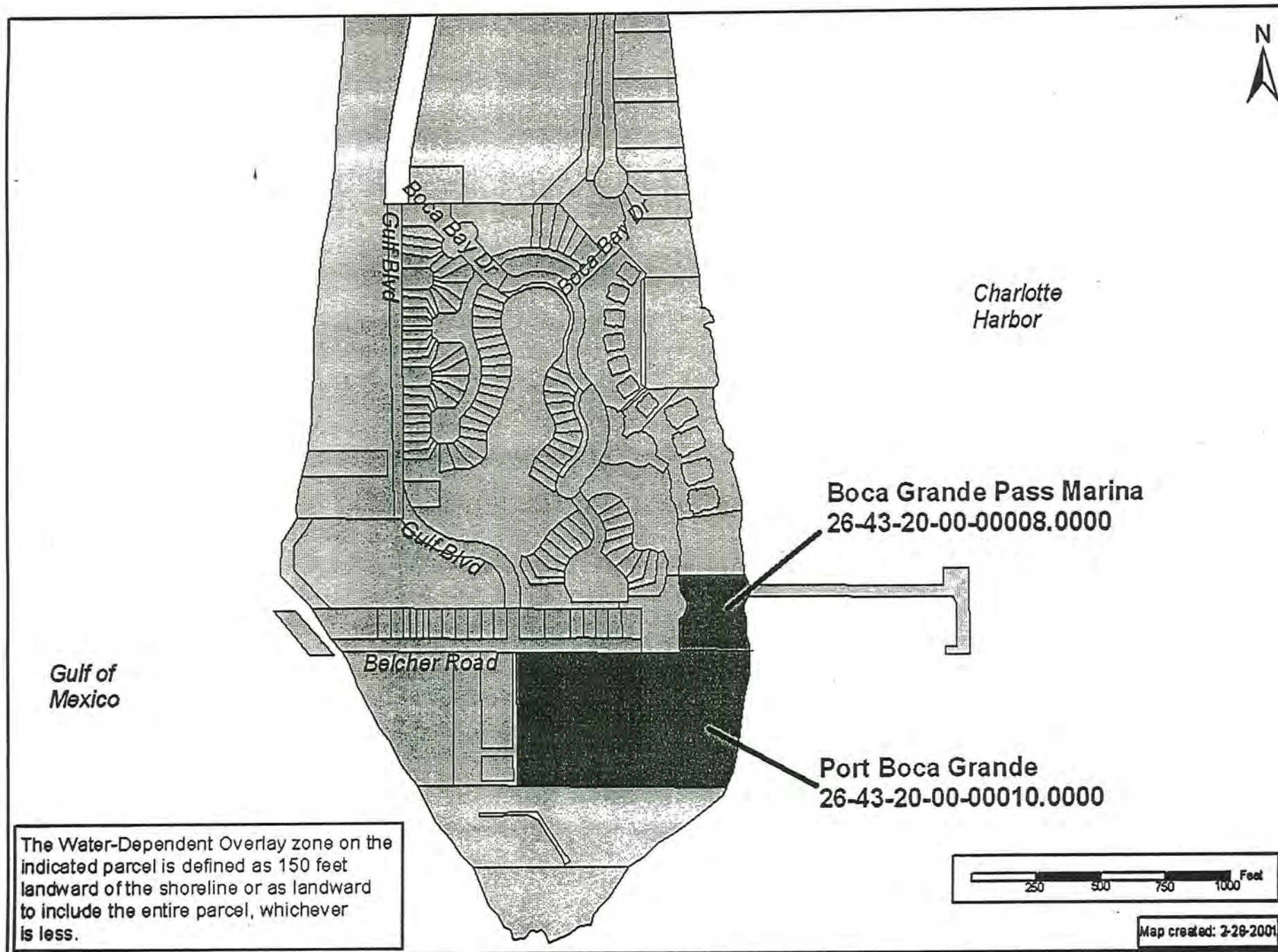
**RAY JUDAH**

**BOB JANES**

**DOUG ST. CERNY**

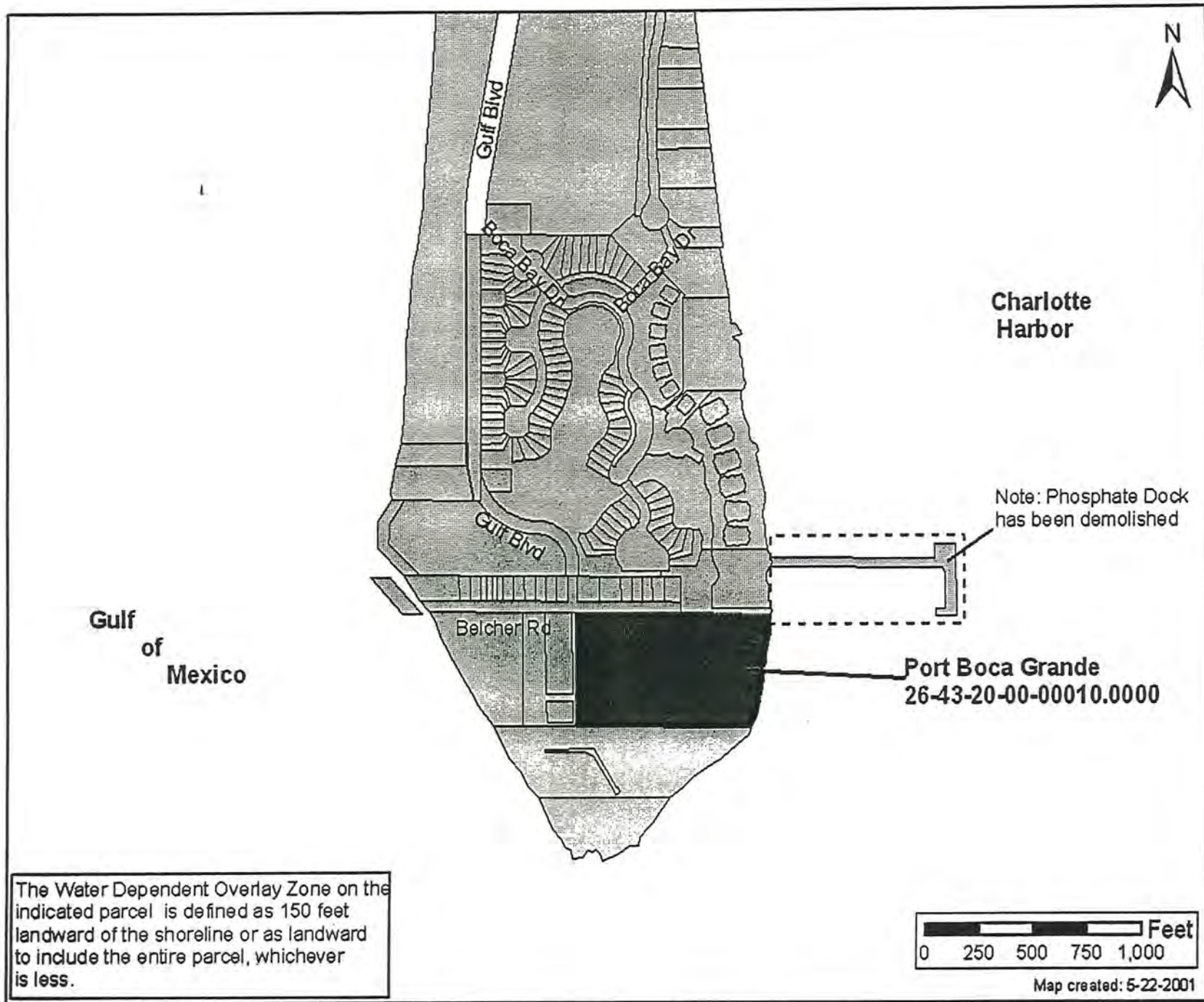
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Attachment 1 Existing WDO Map





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.

Mr. Peter Blackwell, Planner  
January 24, 2001  
Page 3

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:

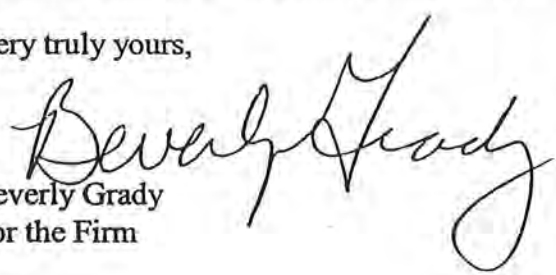
Lee Plan - Goal 15: Gasparilla Island be amended to add the following objective and policy:

**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,

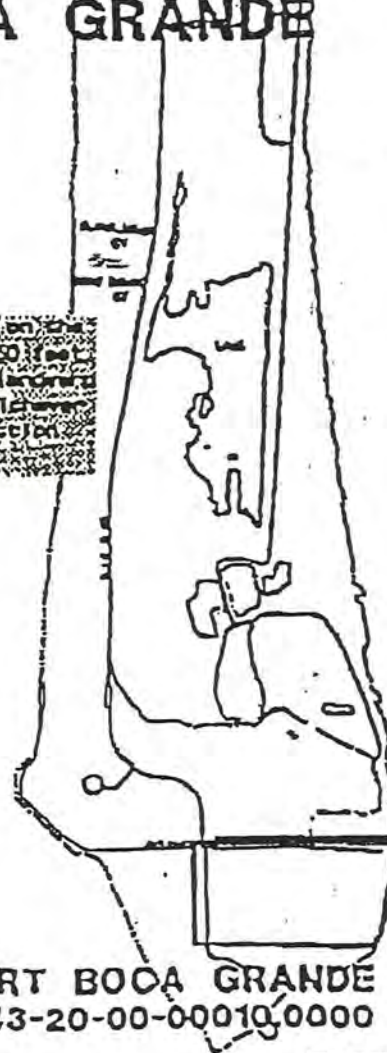
  
Beverly Grady  
For the Firm

BG/umr  
Enclosure

81044\_1

# WATER DEPENDENT OVERLAY SOUTH BOCA GRANDE

The water dependent overlay zone on the indicated parcel is defined as 150 feet landward of the shoreline or the landward to include the entire parcel, whichever is less. The base map is a reduction of the original.



PORT BOCA GRANDE  
STRAP NO. 26-43-20-00-00010,0000



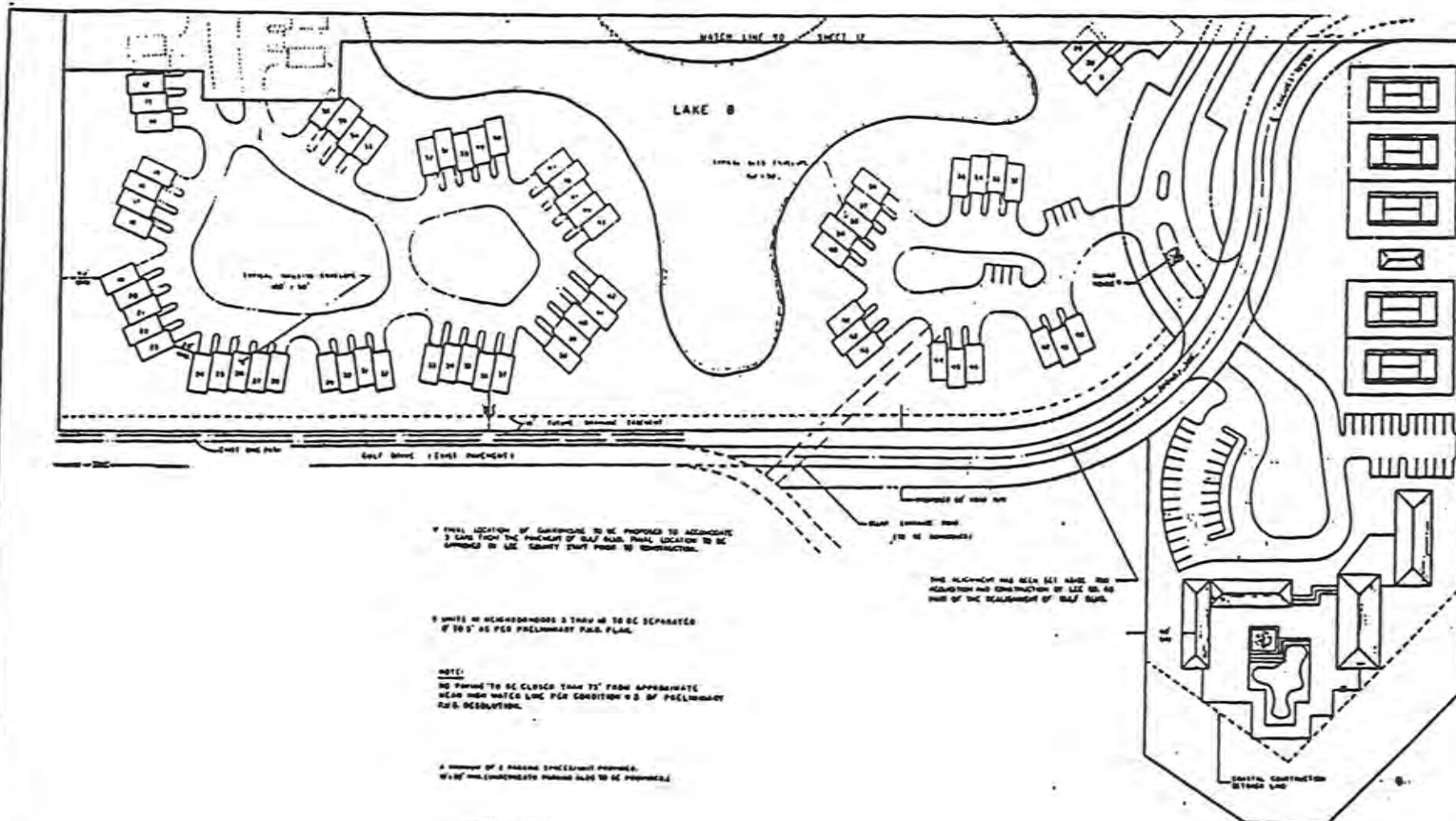


E. Soils: 2-Canaveral fine sand. This is a nearly level, moderately well drained to somewhat poorly drained soil on low ridges. In most years, under natural conditions, this soil has a water table at a depth of 18 to 40 inches for 2 to 6 months. The water table recedes to a depth of more than 40 inches 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).

**Attachment 5**  
**Previous Resolutions**  
**Concerning the Boca Bay PUD**



FINAL LOCATION OF GOLF COURSE TO BE PROVIDED TO ACCOMMODATE 3 LAKES FROM THE PERIMETER OF GOLF COURSE. FINAL LOCATION TO BE APPROVED BY THE COUNTY ENGINEER PRIOR TO CONSTRUCTION.

9 UNITS IN NEIGHBORHOODS 2, 10 & 8 TO BE SEPARATED BY 10' AS PER PRELIMINARY PUD PLAN.

NOTE:  
NO PARKING TO BE ALLOWED WITHIN 75' FROM APPROXIMATE NEAR HIGH WATER LINE FOR CONDITION NO. 3 OF PRELIMINARY PUD DEVELOPMENT.

A NUMBER OF 2 EXISTING SPECIFICATIONS. WHEN NECESSARY, FUTURE PLANS TO BE PROVIDED.

#### GENERAL NOTES

1. A SALES OFFICE IS TO BE LOCATED WITHIN APPROXIMATELY 100' OF ENTRANCE TO GOLF COURSE ON EITHER A 400' BARRIER OF THE RECREATION AREA IN NEIGHBORHOOD 2 (ADJACENT TO CHARLOTTE NATIONAL).
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 (SHEETS 22, 23, 24) FOR ROAD DETAILS, ETC.

#### APPROVED

And I certify that  
This Plan is a true and correct copy  
Subject to conditions in Resolution No. 1000  
Signed this 1st day of May, 1987

BOCA BAY

RECEIVED

SITE DEVELOPMENT PLAN  
NEIGHBORHOODS 2, 10 & 8 TENNIS CLUBS & GOLF COURSE

JOHNSON ENGINEERING, INC.	
CIVIL ENGINEERS - LAND SURVEYORS	
OFFICE: 1001 N. W. 10th Ave., Suite 100, Fort Lauderdale, FL 33304	
DATE: 05-14-87	BY: J.E.

APR 16 9 00 AM '87  
CLERK OF DISTRICT COURT  
1ST DISTRICT  
RECORDED AND RECORD VERIFIED

601.0  
Biller

OFF 1910 1302  
R.C.

RESOLUTION NUMBER Z-86-166

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

2258567

RECORD VERIFIED - CHARLIE GREEN - CLERK  
BY: H. 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;

- 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.s.(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 W 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 W 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 Rumphrey, Jones & Myers, P.A., Kenton Randall Keiling of Johnson Engineering, Inc., H. Thomas Dunk, 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 satisfactory 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 Ann Wallace  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Bill Fussell  
Chairman

Approved as to form by:

Charles J. Brannitt  
County Attorney's Office

FILED

APR 10 1987

CLERK CIRCUIT COURT

BY Mary Ann Wallace D.C.



OFFICE 061309  
REC

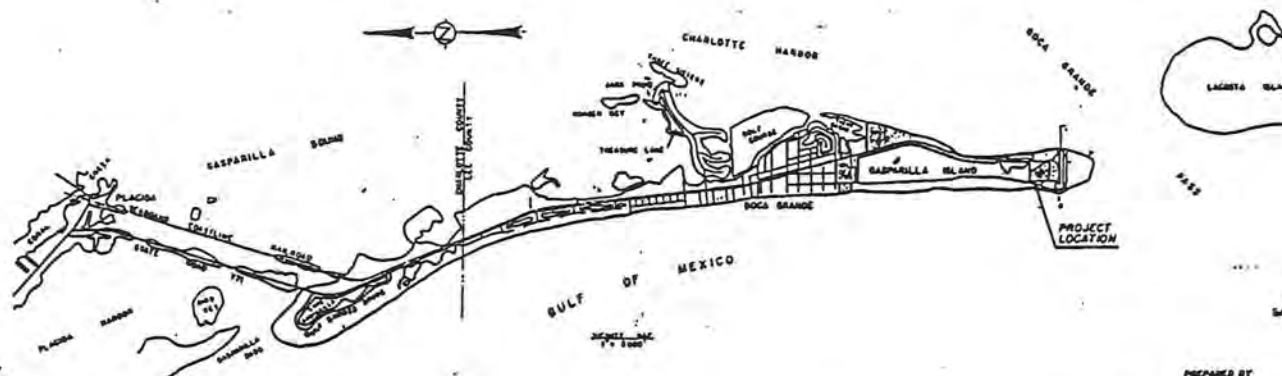
PRELIMINARY  
ENGINEERING PLANS  
FOR

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
3-6	ACTUAL PHOTO & RESOLUTION PLAN
7-10	SITE DEVELOPMENT PLAN
11	LAND USE MODIFICATION PLAN
12-15	MASTER DRAINAGE PLAN
16-18	PLAN AND PROFILE SHEET
19	ROAD AND DRAINAGE DETAILS
20-22	PRELIMINARY WATER AND SEWER SYSTEM
23-25	GENERAL WATER/SEWER DETAILS
26-28	LANDSCAPE PLAN

APPENDIX A-D

JUNE 1986

BOCA GRANDE ISLAND WATER CANAL, SEE SHEET 26-28	FOOTING DETAILS SEE SHEET 26-28	WATER MAINS SEE SHEET 26-28
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APPROVED

For ~~REVISION~~ Plan  
See Plan # ~~20-22~~ 20-22, 20-23  
Subject to conditions in Resolution ~~20-22~~ 20-22  
Issued Date of ~~20-22~~ 20-22

PREPARED BY

JOHNSON ENGINEERING, INCORPORATED

CIVIL ENGINEERS LAND SURVEYORS

PORT MYERS, FLORIDA



A.T. GRANT

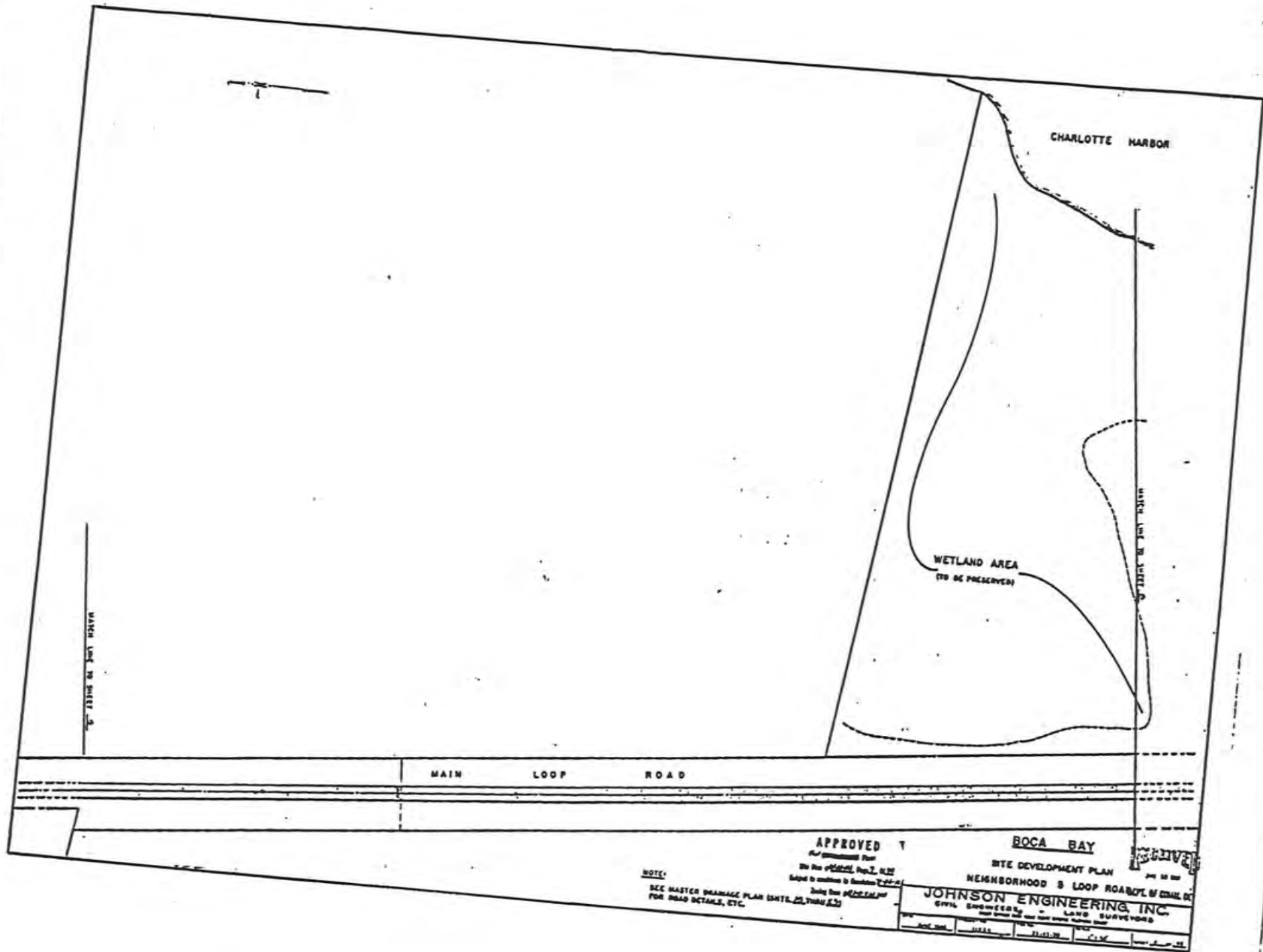
Registered Professional Engineer  
Florida Certificate No. 12421

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DEPT. OF CIVIL ENG.

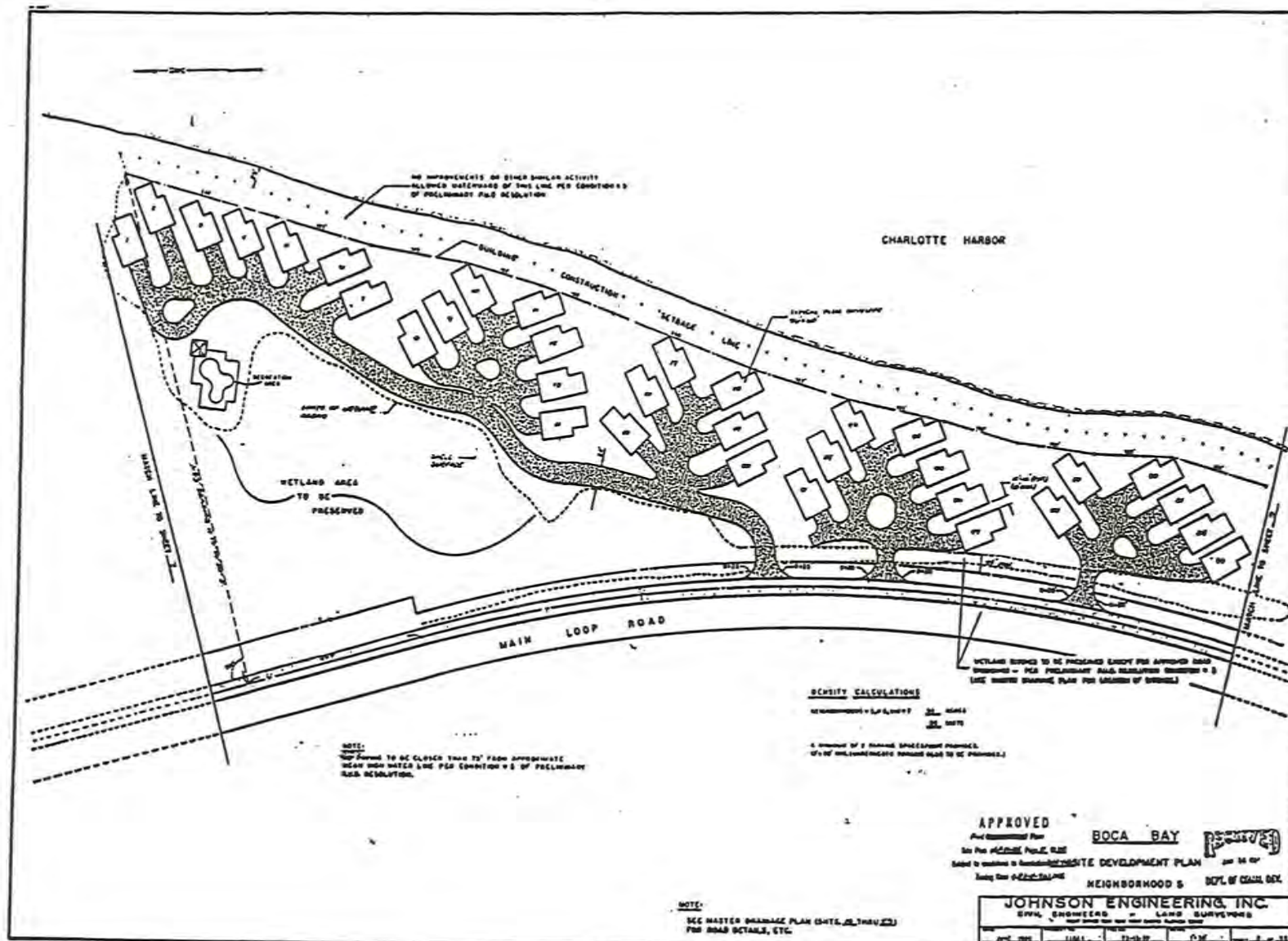
DEVELOPER BY:  
CSX RESOURCES, INC.  
ONE JAMES STREET  
PORT MYERS, FL 33901

REVISED JANUARY 7, 1987  
REVISED DECEMBER 31, 1986  
REVISED DECEMBER 16, 1986  
REVISED NOVEMBER 14, 1986  
REVISED AUGUST 22, 1986

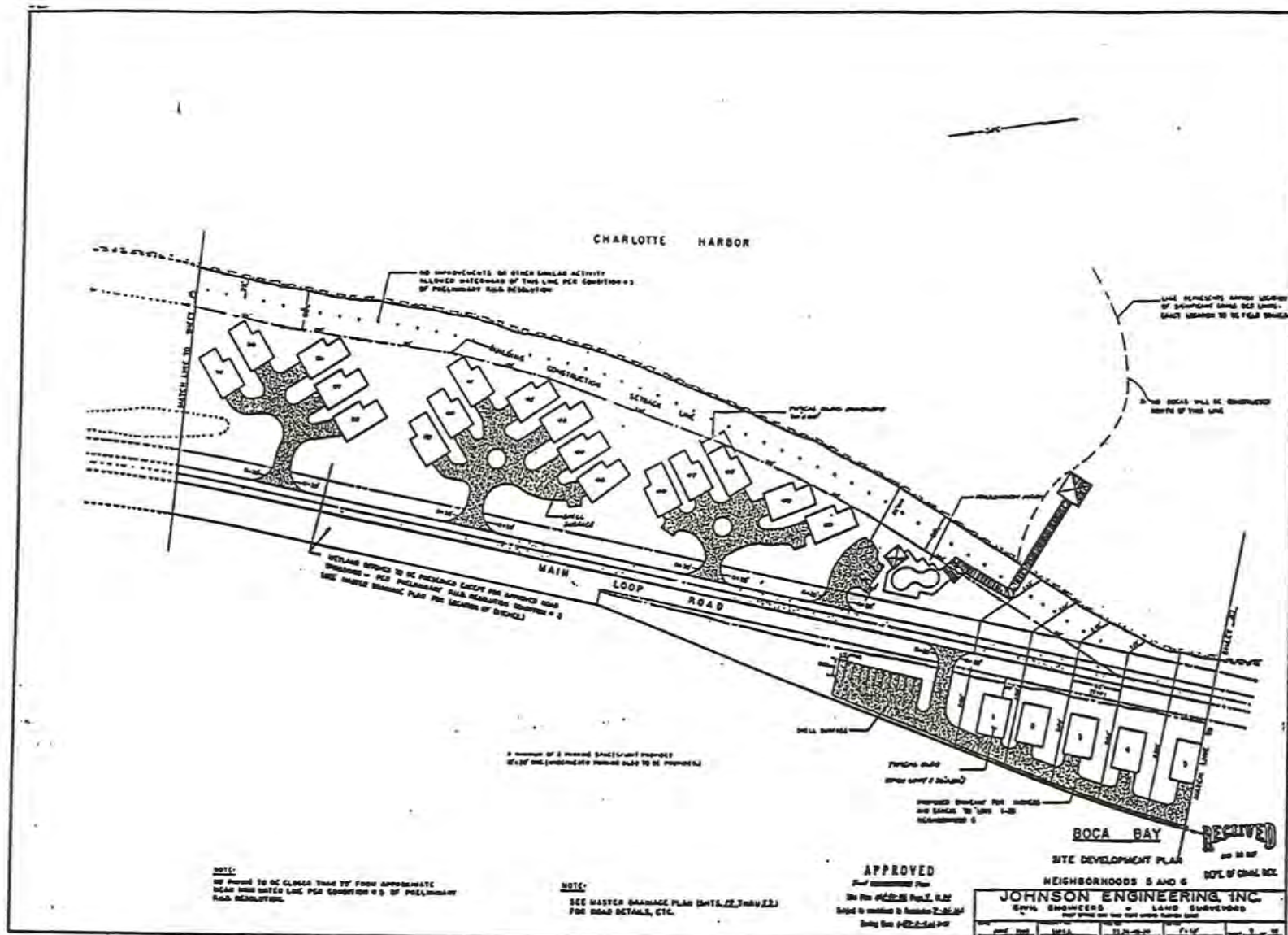
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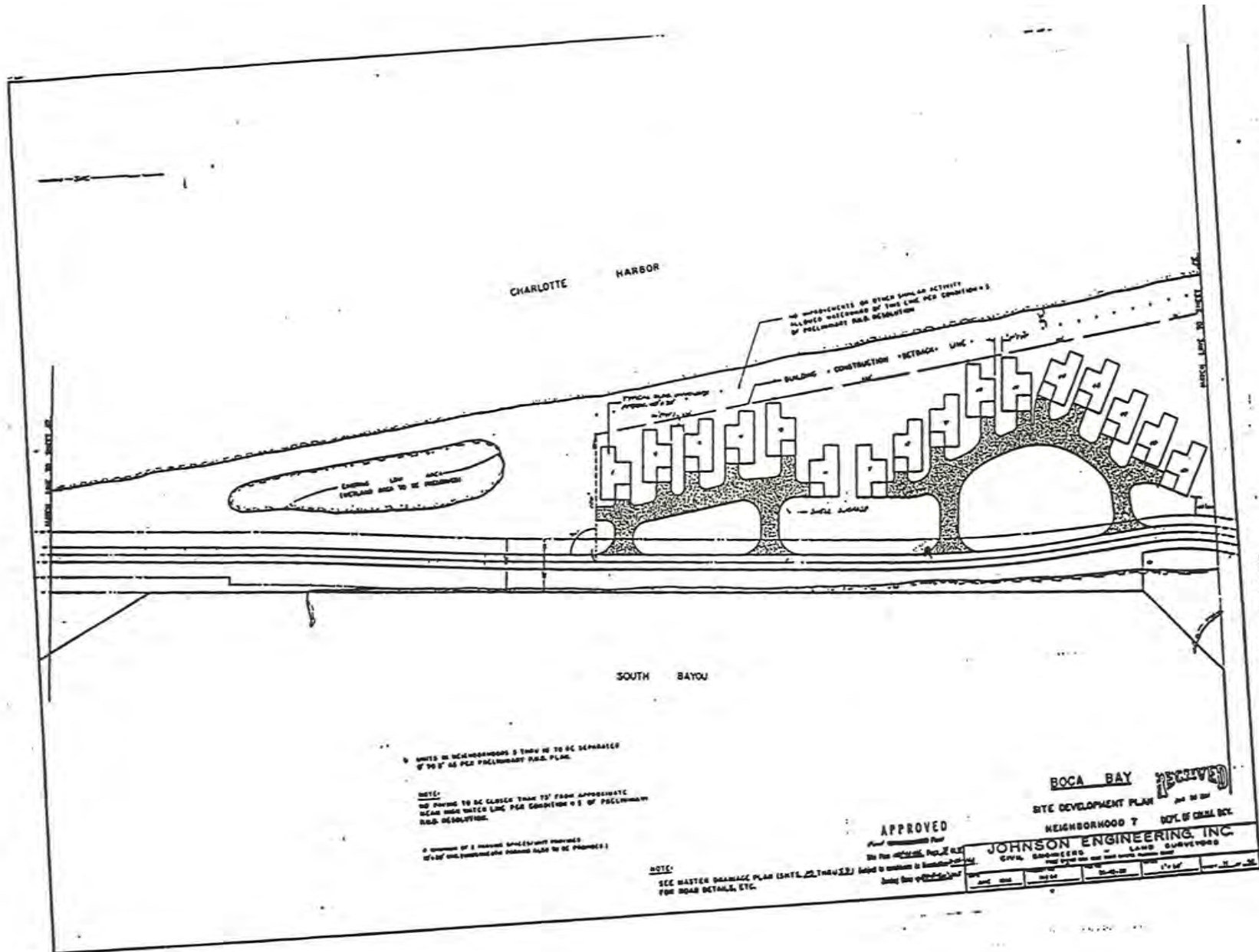




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FE 1910 PG 1314



APPROVED

BOCA BAY

SITE DEVELOPMENT PLAN

NEIGHBORHOOD 7

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS LAND SURVEYORS

DATE: 10-10-88

BY: [Signature]

FOR: [Signature]

[illegible]

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 con-  
 tinued 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:

Single-Family Detached

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)

Single-Family Attached (Villas)

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)

Multiple-Family Building (Flats/Town Homes)

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: Charlie Green  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: J. Manning  
Chairman

Approved as to form by:

Smith  
County Attorney's Office

FILED

JUN 17 1993

CLERK, CIRCUIT COURT  
BY Charlie Green D.C.

for

# BOCA BAY

SOUTH VILLAGE

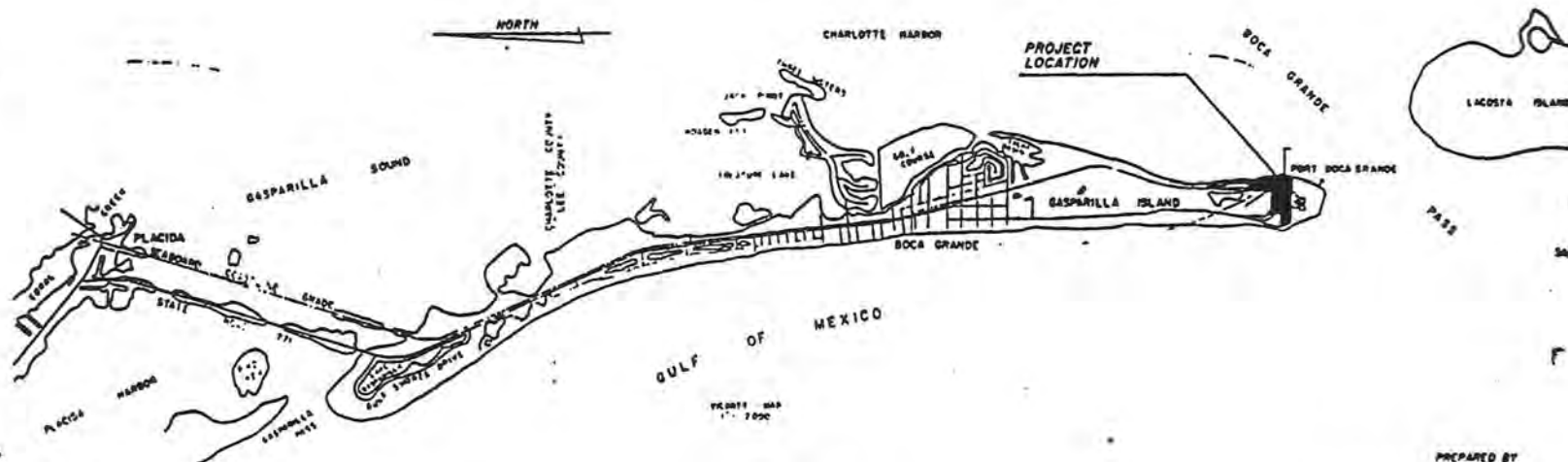
NEIGHBORHOODS 7, 8, 9, 105

SECTION 26      TOWNSHIP 43 S.      RANGE 20 E.

GASPARILLA ISLAND, LEE COUNTY, FLORIDA

**PREPARED FOR:**

CSX REALTY, INC.



APPROVED

INDEXED TO  
 FILED IN  
 Subject to conditions in Appendix 2.1  
 Issued on 01-01-1961  
 No. 24/11/19  
 196

## INDEX

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|---|--|
| 1 | COVER SHEET                                  |
| 2 | OVERALL BOCA RAY SITE MAP                    |
| 3 | FLD MASTER SITE PLAN<br>(NEIGHBORHOODS 7-10) |
| 4 | DETAILS & NOTES                              |
| 5 | TYPICAL UNIT LAYOUTS<br>& DETAILS            |
| 6 | SKETCH TO ACCOMPANY<br>LEGAL DESCRIPTION     |

**UTILITIES:**

WALLS AND SCOTT  
SALVATORE TRAMONTANO ASSOC INC  
PO BOX 376  
JACKSONVILLE, FLA 32201

**CLAIMS**

ALBANY, N.Y. (AP) — A man who was shot and killed by a police officer in a New York City subway station last week was identified as a 37-year-old man from Albany, N.Y.

**RECAPITULATION**

U.S. FID FILE (Miami) (CONFIDENTIAL)  
140 PAGES, 10/10/67  
PUNIA, LEO, FID

1994-1995

054 02007 / 05 00700 01/03 !

**PROJECT DEVELOPER**

CSK REALTY, INC.  
CSK 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

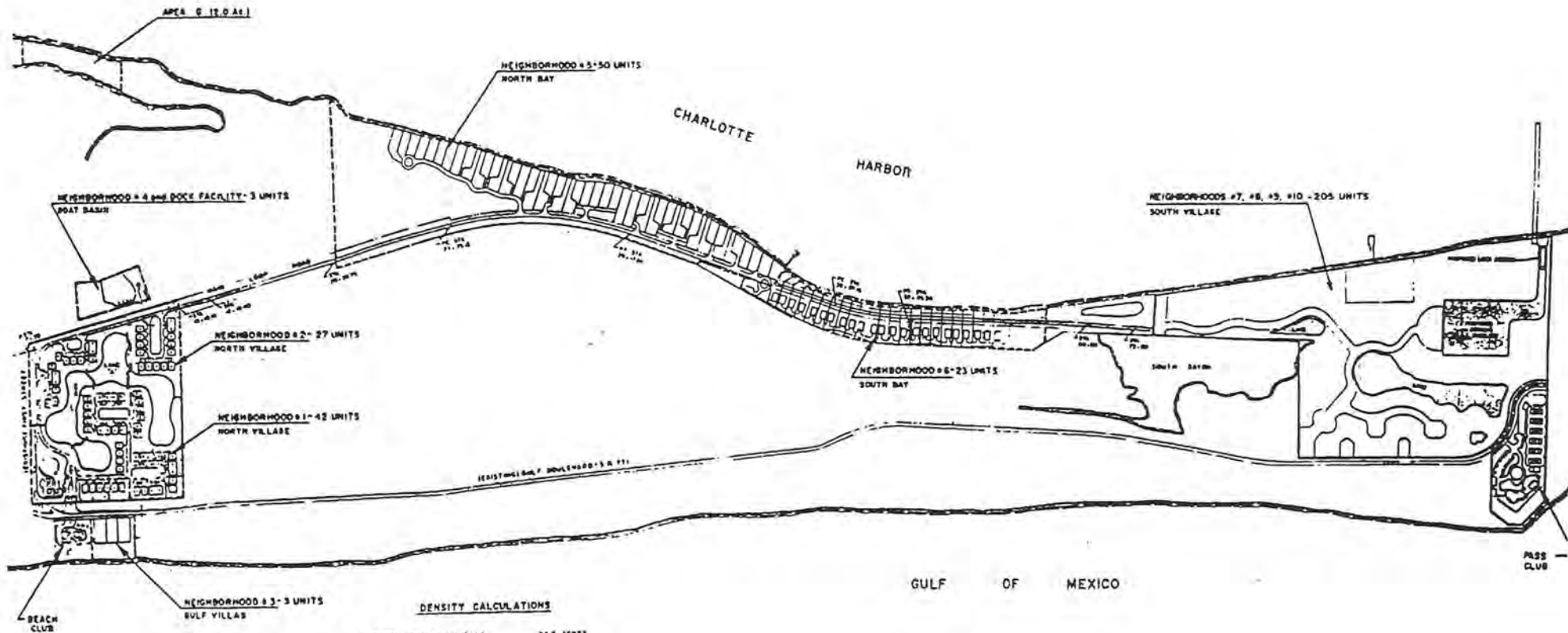
CIVIL ENGINEERS      LAND SURVEYORS

FOOT MEARS, FLORENCE



12/1/1911  
RECEIVED BY THE U.S. DEPT. OF AGRICULTURE  
WASHINGTON, D.C. 20250

**REGISTRATION**



# DENSITY CALCULATIONS

A. NEIGHBORHOODS #1 AND #2 (NORTH VILLAGE) AND AREA C	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 BAY)	31.4 ACRES 50 UNITS
E. NEIGHBORHOOD #6 (SOUTH BAY)	9.2 ACRES 23 UNITS
F. NEIGHBORHOODS #7, #8, #9, #10 (SOUTH VILLAGE) AND PLSS CLUB	24.5 ACRES 205 UNITS
TOTAL AC. (PREVIOUSLY APP'D. PLAN)	121.1 ACRES
TOTAL UNITS (PREVIOUSLY APP'D. PLAN)	344 UNITS
TOTAL AC. (PROPOSED PLAN)	125.90 ACRES
TOTAL UNITS (PROPOSED PLAN)	363 UNITS

REVIEWED BY: J. J. JOHNSON  
REVIEWED BY: J. J. JOHNSON  
REVIEWED BY: J. J. JOHNSON  
REVIEWED BY: J. J. JOHNSON

APPROVED

Submitted to:  
Florida Department of  
SALINE TO CONFORM TO TOWNSHIP 22  
County of Collier, FL  
Date: 10/10/2010

BOGAY

INDEX MAP

AND  
NEIGHBORHOOD LAYOUT

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS - LAND SURVEYORS

1001 W. 11th Ave., Suite 100, Fort Lauderdale, FL 33304

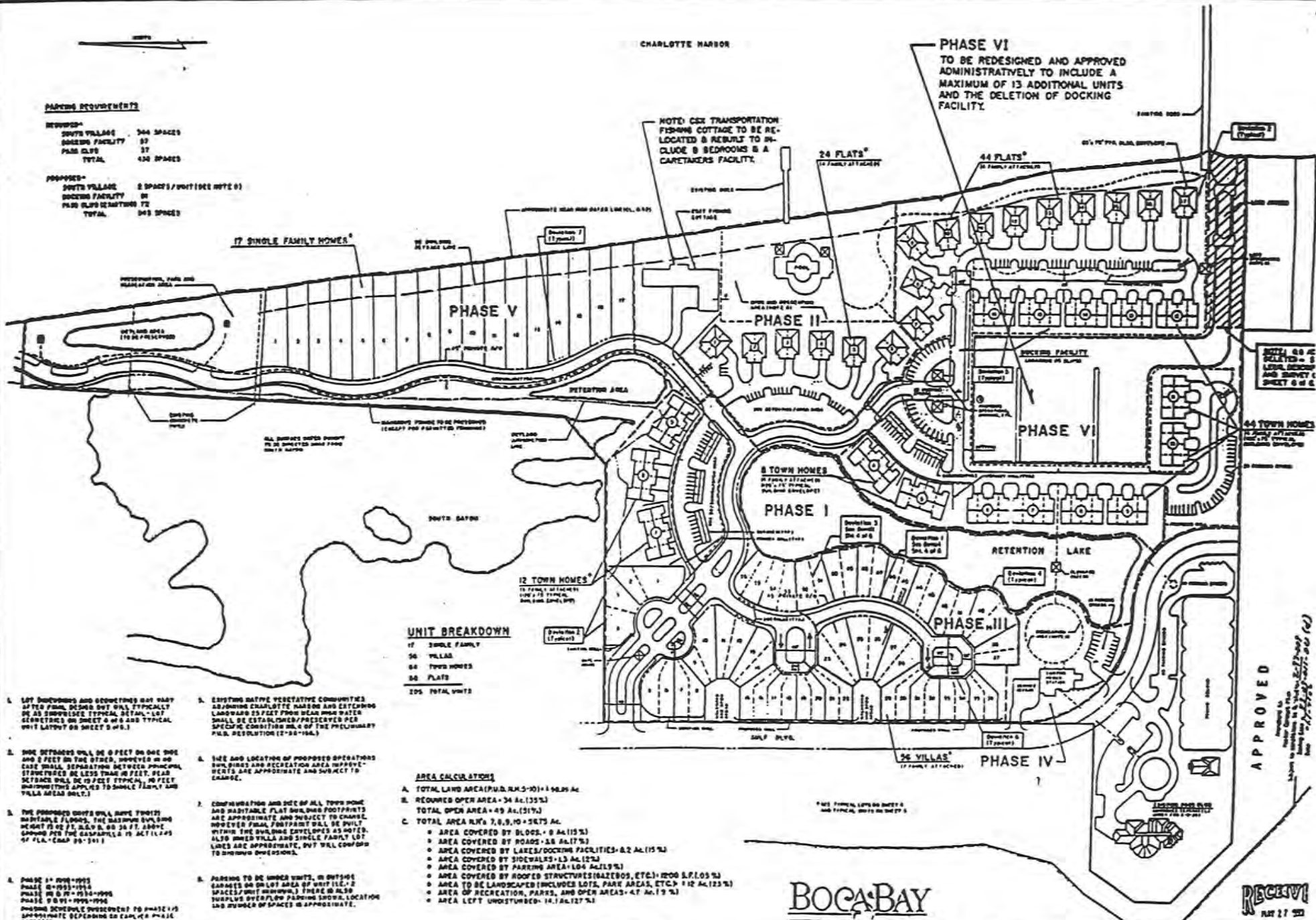
DATE: 10/10/2010	PROJECT: 10220	SCALE: 1"=200'	SHEET: 1 OF 1
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**PARKING REQUIREMENTS**

**REMOVED:**  
SOUTH VILLAGE 344 SPACES  
DOCKING FACILITY 37  
PARK CLUB 37  
TOTAL 418 SPACES

**PROPOSED:**  
SOUTH VILLAGE 2 SPACES / UNIT (SEE NOTE 1)  
DOCKING FACILITY 31  
PARK CLUB 72  
TOTAL 343 SPACES



**UNIT BREAKDOWN**

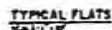
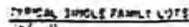
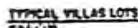
17 SINGLE FAMILY  
56 VILLAS  
64 TOWN HOMES  
56 FLATS  
193 TOTAL UNITS

**AREA CALCULATIONS**

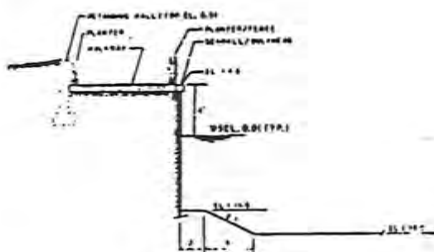
- TOTAL LAND AREA (PUB. R.M.S. 10) = 1,962.35 AC.
- REQUIRED OPEN AREA = 34 AC. (1.7%)
- TOTAL OPEN AREA = 49 AC. (2.5%)
- TOTAL AREA R.M.S. 7, 8, 9, 10 = 2,673 AC.
  - AREA COVERED BY BLOODS = 9 AC. (1.5%)
  - AREA COVERED BY ROADS = 1.8 AC. (1.7%)
  - AREA COVERED BY LAKES/DOCKING FACILITIES = 8.2 AC. (1.5%)
  - AREA COVERED BY SIDEWALKS = 1.3 AC. (1.2%)
  - AREA COVERED BY PARKING AREA = 1.04 AC. (1.9%)
  - AREA COVERED BY ROOFED STRUCTURES (GARAGES, ETC.) = 1.03 AC. (1.2%)
  - AREA TO BE LANDSCAPED (INCLUDES LOTS, PARK AREAS, ETC.) = 12 AC. (1.2%)
  - AREA OF RECREATION, PARKS, AND OTHER AREAS = 47 AC. (1.9%)
  - AREA LEFT UNDEVELOPED = 14.1 AC. (1.2%)

- LOT DIMENSIONS AND LOCATIONS MAY VARY AFTER FINAL DESIGN BUT WILL TYPICALLY BE AS SHOWN IN THIS PRELIMINARY LAYOUT. LOT GENERATIONS ON SHEET 2 OF 2 AND TYPICAL UNIT LAYOUT ON SHEET 3 OF 3.
- THE PROPOSED DRIVEWAYS WILL HAVE TWENTY (20) FEET WIDE DRIVEWAYS, THE DRIVEWAY WIDTH HEIGHT IS 12 FT. MIN. AND 10 FT. MAX. DRIVEWAY WIDTH SHALL BE 10 FEET TYPICAL, 10 FEET MINIMUM APPLIES TO SINGLE FAMILY AND TOWN HOME ONLY.
- THE PROPOSED DRIVEWAYS WILL HAVE TWENTY (20) FEET WIDE DRIVEWAYS, THE DRIVEWAY WIDTH HEIGHT IS 12 FT. MIN. AND 10 FT. MAX. DRIVEWAY WIDTH SHALL BE 10 FEET TYPICAL, 10 FEET MINIMUM APPLIES TO SINGLE FAMILY AND TOWN HOME ONLY.
- EXISTING NATIVE VEGETATIVE COMMUNITIES ADJACENT TO CHARLOTTE HARBOR AND EXISTING LANDSCAPE 15 FEET FROM BEACH OR WATER SHALL BE ESTABLISHED/PRESERVED PER SPECIFIC CONDITION NO. 4 OF THE PRELIMINARY P.E.D. RESOLUTION (12-30-1984).
- THE LOCATION OF PROPOSED OPERATIONS ARE APPROXIMATE AND SUBJECT TO CHANGE.
- CONFIRMATION AND SIZE OF ALL TOWN HOME AND HABITABLE FLAT BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE, HOWEVER FINAL FOOTPRINT SHALL BE SUBMITTED WITHIN THE BUILDING DEVELOPMENT REVIEW. ALSO, UNIMPROVED TOWN AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO EXISTING DIMENSIONS.
- PARKING TO BE UNDER UNITS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS. THERE IS ALSO SURPLUS OVERFLOW PARKING SHOWN. LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

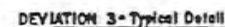
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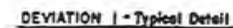
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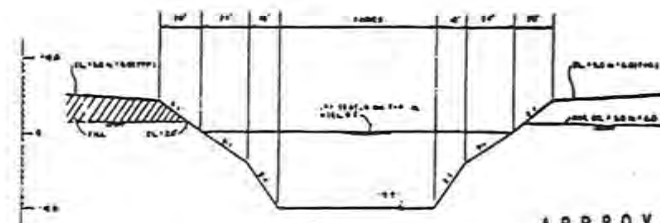
**TYPICAL SECTION-DOCKING FACILITY**



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### TYPICAL LAKE SECTION

679

APPROVED

Attached to  
 Author Contact File  
 Subject to conditions in Declaration 29107  
 Survey Case # 88-029-4-0110  
 Date 05/07/88  
7/9/88

BOCA BAY

RECEIVED

JOHNSON ENGINEERING, INC.

ROBINSON ENGINEERING, INC.  
CIVIL ENGINEERS - LAND SURVEYORS

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JOHNSON ENGINEERING, INC. <sup>LA 00000000</sup>  
CIVIL ENGINEERS - LAND SURVEYORS  
214 Johnson Street, P.O. Box 100, New Orleans, Louisiana 70113-1000, Phone 504-581-7700  
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17 SINGLE FAMILY  
20 TRAILER  
22 TOWN HOUSES  
26 FLATS  

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205 TOTAL UNITS

**BURNER**  
& Company

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FEB 27 1963

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SOUTH BAY & SOUTH VILLAGE PLD. PLAN AMENDMENT  
ZONING COUNTER  
SECTION 26, TWP 43 SOUTH, RGE. 20 EAST  
BAYSHIRE ISLANDS LEE COUNTY FLORIDA  
SECTION 26, TWP 43 SOUTH, RGE. 20 EAST



*Acce*

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	<u>Aye</u>	—
John E. Albion	<u>Aye</u>	—
Andrew W. Coy	<u>Aye</u>	—
John E. Manning	<u>Aye</u>	—
Douglas R. St. Cerny	<u>Aye</u>	—

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

ATTEST:  
CHARLIE GREEN, CLERK

BY: Michelle B. Gosmer  
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 C. [Signature] 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 ½" 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 acres more or less.

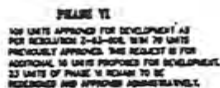
Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone based on ties to the Florida Department of Natural Resources Monuments "A15" through "A20" from which the East line of Gulf Boulevard was determined to bear N00°04'25"W.

### 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.

Case No. 95-06-050.03Z 01.01





RESOLUTION Z-93-009

17 SINGLE FAMILY  
86 VILAS  
64 TOWN HOUSES  
66 PLATS  
13 ADPT. UNITS (for children  
of disabled family)  
258 TOTAL UNITS

## REQUESTED UNITS TO DATE

12 SINGLE FAMILY
04 VILLAS
00 TOWN HOMES
00 PLATS
<b>100 TOTAL UNITS</b>

PROJECT AREA ASSOCIATED  
WITH THIS REQUEST

TEMPERATURE

COMPOSITION

LIQUID

SOLID

PHASE LINE

PURE A

PURE B

LIQUIDUS

SOLIDUS

EUTECTIC TEMPERATURE

EUTECTIC COMPOSITION

PROPOSED ADDITIONAL UNITS

RECEIVED  
JUN 8 1966  
TO MEMBERS OF THE BOARD

APPROVED

Master Control Panel

500 Pcs = 22.00¢ Pcs. 1.00

Subject to conditions in Enclosure 2 99-07  
 Insuring Case # 99-07-000002

## BOCA BAY

**SOUTH VILLAGE**

MASTER DEVELOPMENT PLAN  
SHOWING A PORTION OF PHASE VI

**JOHNSON ENGINEERING, INC.**

ENGINEERS, SURVEYORS AND ECOLOGISTS  
1001 MARINE DRIVE, SUITE 404, PORT CHARLOTTE, FLORIDA 33681. PHONE 813/938-1771

DATE	RECEIVED AT	BY	TIME	PLACE
MAY, 1974	30050	36-43-39	1° = 30'	34 OF 4

EXHIBIT IV-E

FORM 9-55-1	MAY, 1948	70250	75-42-34	P = 25	34 OF 6
-------------	-----------	-------	----------	--------	---------

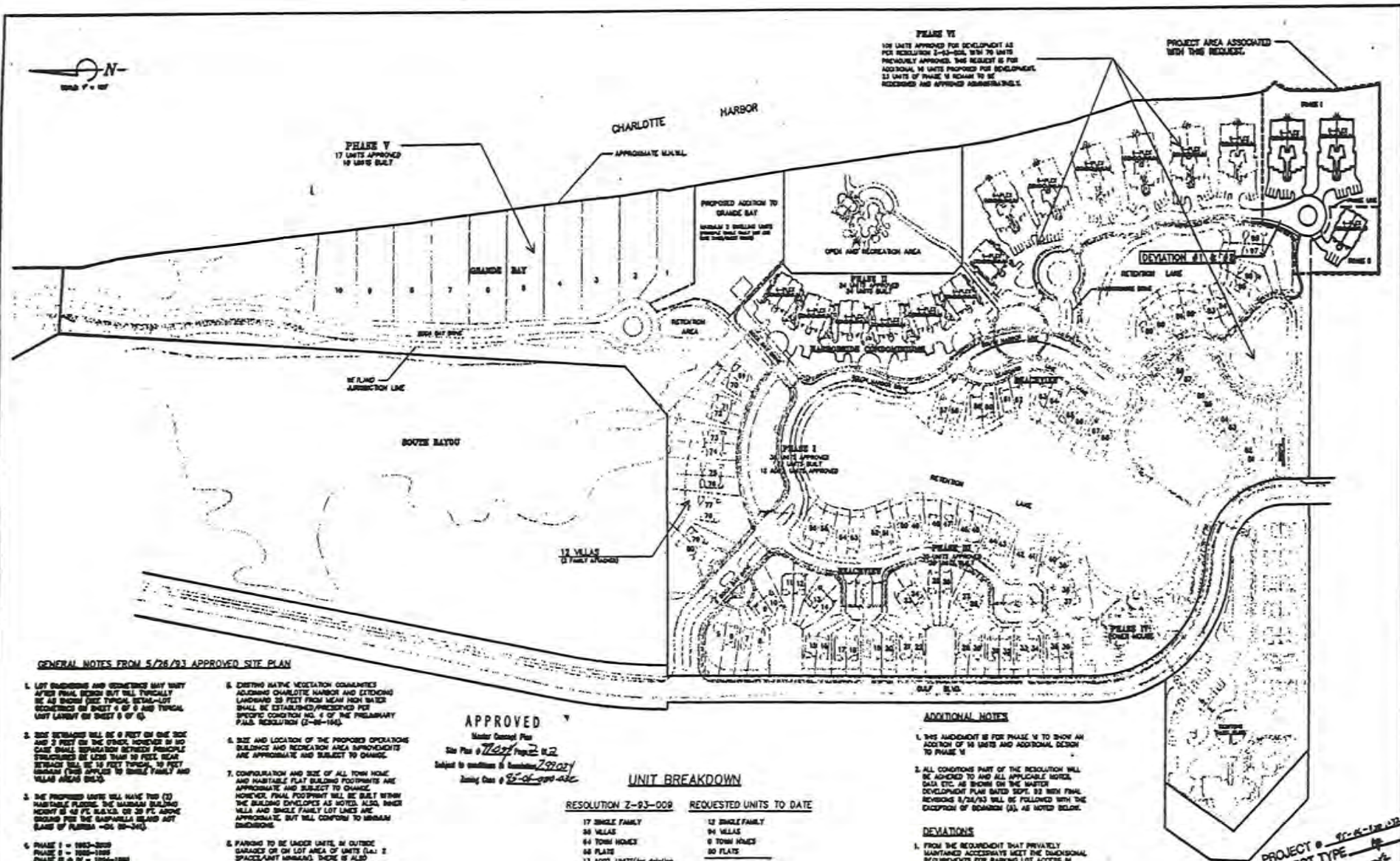
### ADDITIONAL NOTES

1. THIS AMENDMENT IS FOR PHASE VI TO SHOW AN ADDITION OF 16 WHITE AND ADDITIONAL DESIGN TO PHASE VI
2. ALL CONDITIONS PART OF THE RESOLUTION WILL BE ADHERED TO AND ALL APPLICABLE NOTICES, DATA ETC. AS SHOWN ON THE MASTER DEVELOPMENT PLAN SHOWN SEPT. 20 WITH FINAL REVISIONS 8/28/93 WILL BE FOLLOWED WITH THE EXCEPTION OF DEVIATION (3), AS NOTED.

### DEVIATIONS

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARROW LEFT ACCESS IS ASILETS FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 3'4" (SECTION 34-2046(J) LNC) TO 2'.
2. FROM THE REQUIREMENT IN SECTION 10-2044) AND (a) LNC. THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 30 UNITS TO ALLOW ACCESS TO BE MADE BY THE 30 FOOT SIDE ACCESSWAY.





5. LIT BRANCHES AND CONDUCTORS MAY VARY AFTER PHASE SECTION BUT WILL USUALLY BE AS SHOWN (SEE TYPICAL DETAIL) (SEE SECTION 10-100 FOR 100' 0" AND TYPICAL UNIT LAYOUT ON SHEET 9 OF 10).
6. 200' BRANCHES WILL BE 6 FEET ON ONE SIDE AND 3 FEET ON THE OTHER. HOWEVER IN ONE CASE SMALL SEPARATION BETWEEN PERMISSIBLE 10' LIT CAN BE 14' ON ONE SIDE. THE OTHER BRANCH WILL BE 16 FEET TOPICAL, 16 FEET BOTTOMICAL AND 10' TO DOUBLE PHASE AND VILLAS ANGLES BOLD.
7. THE PREPARED UNIT WILL HAVE TWO (2) MAINLINE PLUMBING, THE MAINLINE PLUMBING HORIZONAL ON 6" P.V.C. OR ON 20" P.C. ABOVE GROUND. THE MAINLINE PLUMBING WILL BE 10' (BASE OF FLUORIN - 04- 30- 300).
8. PHASE 1 = 1983-2003  
PHASE 2 = 2003-1993  
PHASE 3 = 1993-1983  
PHASE 4 = 1983-1983  
PHASE 5 = 1983-1983  
PHASE 6 = 1983-1983  
PHASE 7 = 1983-1983  
PHASE 8 = 1983-1983  
PHASE 9 = 1983-1983  
PHASE 10 = 1983-1983  
PHASE 11 = 1983-1983  
PHASE 12 = 1983-1983  
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PHASE 205 = 1983-1983  
PHASE 206 = 1983-1983  
PHASE 207 = 1983-19

6. DENSITY AND THE VEGETATION COMMUNITIES ADJOINING CHARLOTTE HARBOR AND EXTENDING LANDWARD 35 FEET FROM MEAN HIGH WATER SHALL BE PRESERVED AND PROTECTED FROM ANY SPECIFIC CONSTRUCTION NO. 4 OF THE PAPER PLAN. RECONSTRUCTION (2-196-194).
7. SIZE AND LOCATION OF THE PROPOSED OPERATIONS BUILDINGS AND RECREATION AREA IMPROVEMENTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
8. CONFIGURATION AND SIZE OF ALL TOWN HOME AND HABITABLE FAMILIAR BUILDING FOOTPRINTS ARE APPROXIMATE AND SUBJECT TO CHANGE.
9. THE PROPOSED FOOTPRINTS SHALL BE LOCATED WITHIN THE BUILDING ENVELOPES AS NOTED, ALSO, BENCH WALLS AND SINGLE FAMILY LOT LINES ARE APPROXIMATE, BUT WILL CONFORM TO MARIANA DIMENSIONS.
10. PARKING TO BE SAVED LOTS, IN OUTSIDE GARAGES OR ON LOT AREA OF UNITS (SAL 1) SPACE/UNIT/UNIT. THERE IS ALSO BUILDING LOTS, IN OUTSIDE GARAGES, LOCATION AND NUMBER OF SPACES IS APPROXIMATE.

Master Concept Plan  
Site Plan of 7707 Project 02  
Subject to conditions of Resolution 799027  
Issued Date: 05-06-2000

RESOLUTION Z-93-008	REQUESTED UNITS TO DATE
17 SINGLE FAMILY	12 SINGLE FAMILY
86 VILLAS	94 VILLAS
64 TOWN HOMES	8 TOWN HOMES
86 FLATS	80 FLATS
13 ADPT. UNITS (for deletion of existing family)	
<u>216 TOTAL UNITS</u>	<u>186 TOTAL UNITS</u>

1. THIS AMENDMENT IS FOR PHASE 11 TO SHOW AN ADDITION OF 16 UNITS AND ADDITIONAL DESIGN TO PHASE 11.

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. 83 WITH FINAL REVISIONS 8/24/93 WILL BE FOLLOWED WITH THE EXCEPTION OF REVISIONS (A), AS NOTED BELOW.

1. FROM THE REQUIREMENT THAT PRIVATELY MAINTAINED ACCESSWAYS MEET THE DIMENSIONAL REQUIREMENTS FOR PARKING LOT ACCESS IN AISLES FROM THE DIMENSIONAL WIDTH REQUIREMENT OF 34' (SECTION 34-3016(2) LDC) TO 20'.
2. FROM THE REQUIREMENT IN SECTION 16-2940(a) AND (a) LDC THAT ACCESSWAYS PROVIDE ACCESS TO NO MORE THAN 50 UNITS TO ALLOW ACCESS TO BE UNITS BY THE 20 FOOT WIDE ACCESSWAY.

**A. TOTAL LAND AREA (P.L. - BAY 8-10) = 502.50 Ac.**  
**B. BUILDING FOOT AREA = 434 Ac. (20%)**  
**C. TOTAL GRN AREA = 500 Ac. (100%)**  
**D. TOTAL AREA (P.L. 8-10) = 502.50 Ac.**  
 AREA COVERED BY BUILDING 56.7 Ac. (10%)  
 AREA COVERED BY ROAD 10.0 Ac. (2%)  
 AREA COVERED BY LAKE 50.0 Ac. (10%)  
 AREA COVERED BY SWEDEN 0.3 Ac. (.1%)  
 AREA COVERED BY POND 0.5 Ac. (.1%)  
 AREA COVERED BY ROADS, FENCELINES, FENCEING, ETC. 0.01 Ac. (.01%)  
 AREA BY 1/4 CORNERED BUILDING LINE, POND AREA, ETC. 0.12 Ac. (.24%)  
 AREA BY 1/4 CORNERED BUILDING LINE, POND AREA, ETC. 0.7 Ac. (.14%)  
 AREA LEFT UNDEVELOPED 300 Ac. (60%)

8-3-68 REVISION TO MASTER DEVELOPMENT PLAN  
IS TO SHOW ADMINISTRATIVE APPROVAL PLD-99-042  
CASE #95-99-122.13A 08/01 TOWN OF LOS ANGELES.

EXHIBIT IV-E

**JOHNSON ENGINEERING, INC.**  
ENGINEERS, SURVEYORS AND ECOLOGISTS

RECEIVED

BOARDING COUNTRY

PLAN

ENGINEERS, SURVEYORS AND ECOLLOGISTS				
1001 ALABAMA DRIVE, SUITE 404, PORT CHARLOTTE, FLORIDA 33602, PHONE 813-961-1111				
DATE	PROJECT NO.	ACRES	FEET = 100'	SCALE
SEPT. 1982	35050	26-4-15		1" = 100'



# ZONING MAP

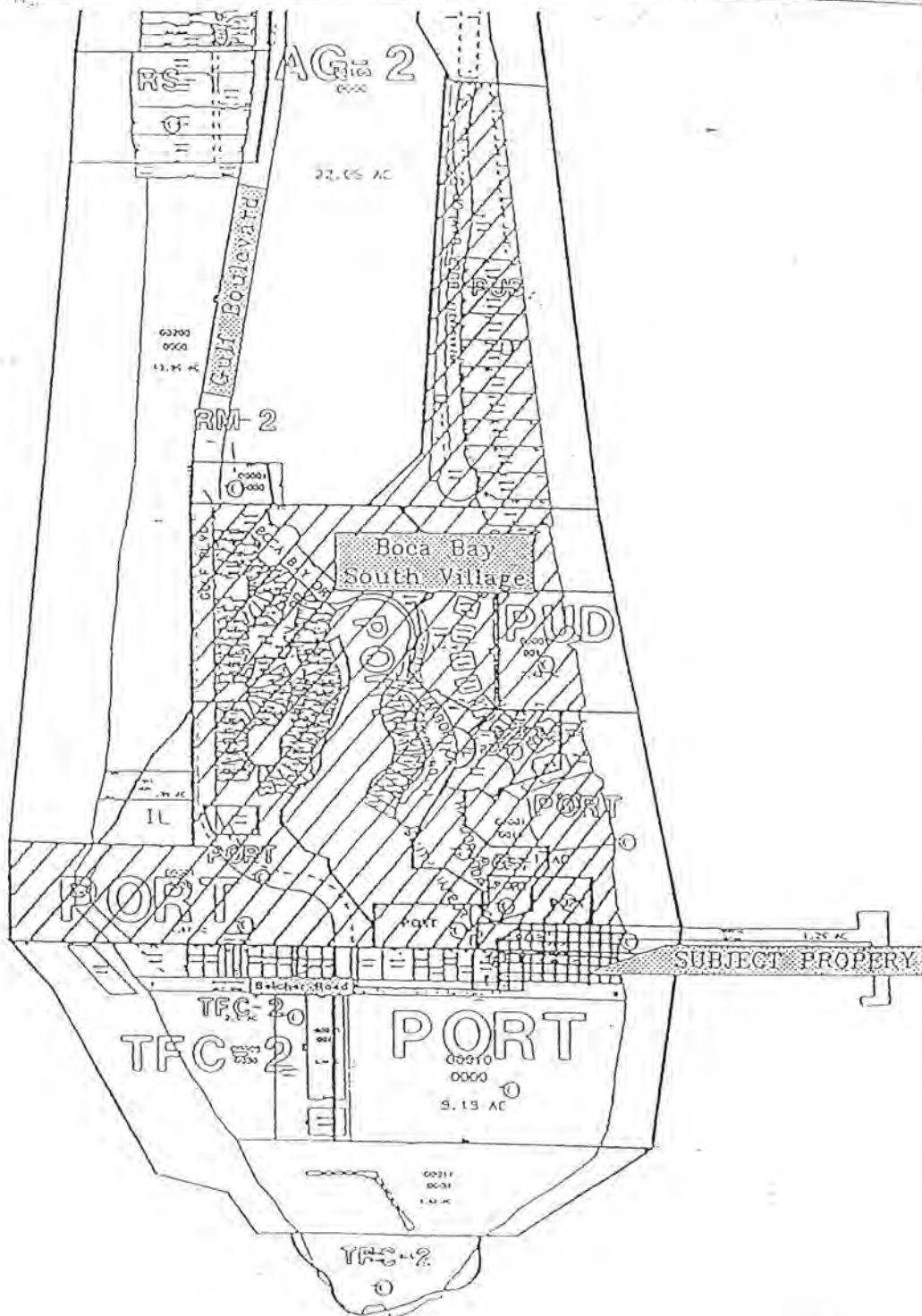
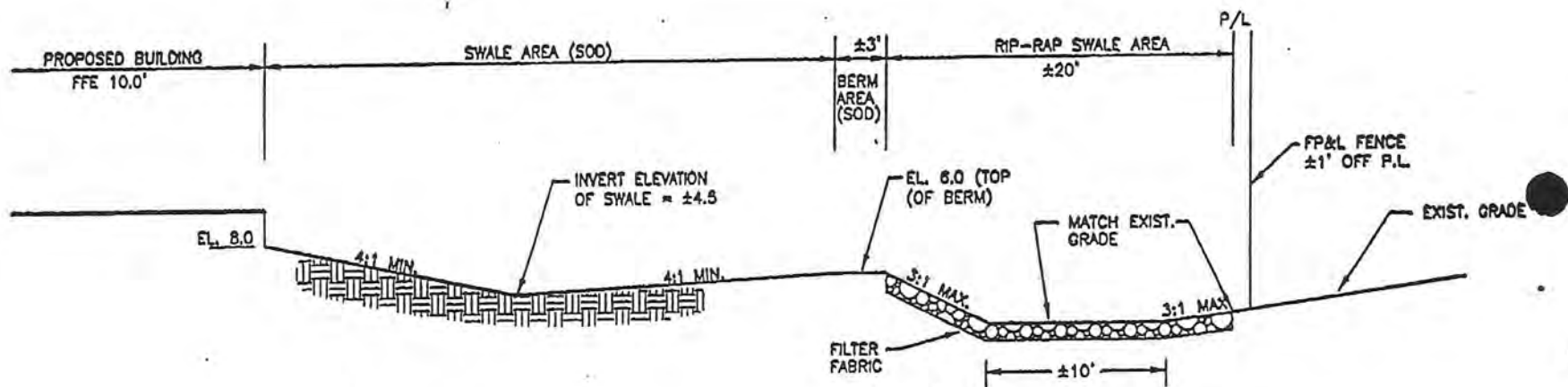


EXHIBIT C







## SECTION B-B

N.T.S.

# 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

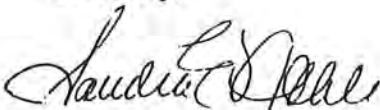
**Re: CSX Application for Comprehensive Plan Amendment  
Case No. CPA2000-00002**

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.

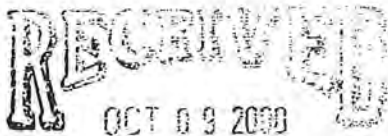
If you have any questions or if you need any further information, please feel free to contact me or Mr. Pritt.

Sincerely,



Sandra E. Noble, CLA  
Certified Legal Assistant

SEN/umr  
Enclosure



PERMIT COUNTER

CLEVELAND TOLEDO AKRON COLUMBUS CINCINNATI FORT MYERS BONITA SPRINGS NAPLES

[www.ralaw.com](http://www.ralaw.com)



## 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: SA Crosby  
PRINTED NAME: Stephen A Crosby  
TITLE: President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26<sup>th</sup> 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

77032\_1

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

**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.



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**

**TELEPHONE NUMBER**

**(941) 337-0970**

**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.

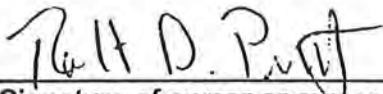
3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon sound 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

**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 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

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.

BOCA GRANDE PASS/MARINA  
STRAP NO. 26-43-20-00-00008.0000

PORT BOCA GRANDE  
STRAP NO. 26-43-20-00-00010.0000



# 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.

BOCA GRANDE PASS/MARINA  
STRAP NO. 26-43-20-00-00008.0000

Proposed Deletion  
Boca Grande  
Pass Marina

PORT BOCA GRANDE  
STRAP NO. 26-43-20-00-00010.0000



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 10<sup>th</sup> day of January, 2002.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chairman

DATE: \_\_\_\_\_

Approved as to form by:

\_\_\_\_\_  
County Attorney's Office