

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

WHEREAS, Milton Schmidt, James Cochran, James Ryan (for Imperial Harbor Associates) Mary Littleton & Carol Roberts in reference to Bonita Fairways and Tennis Club, have properly filed an application for a rezoning from MH-1, IL, and AG-2 to Mobile Home Planned Development to permit a mobile home development not to exceed a maximum of 750 units with mobile homes not to exceed one story and the club house not to exceed 35 feet above average grade, on 184.14 total acres of land. The proposed development will also include a golf course, model homes and sales office.

NOTE: If approved, the Master Concept Plan will deviate from the following Lee County Standards:

- (1) Minimum setbacks from a mobile home unit from a side property line of 7 feet, a rear property line of 15 feet, and a water body of 25 feet (Sections 439.02.B. and 202.15.B.4.), to:

5 feet from a side property line
10 feet from a rear property line
20 feet from a water body
- (2) Parking requirement for membership organizations of 1 space per 300 square feet and 6 spaces per golf hole (Sections 202.16.J.4.d. and h.), to provide a total of 100 parking spaces for the clubhouse/shelter and golf course;
- (3) Requirements for the calculation of the size of the emergency shelter for mobile home developments (Section 439.D.3.), to require only 15,000 square feet of shelter space;
- (4) Requirement that the lot widths on curvilinear streets be measured at the required setback line (Section 202.18.C.4.b.), to allow the width to be measured at midpoint of the side lot line;
- (5) Minimum setbacks between structures and the centerline of a private street of 1/2 (ROW) (or street easement) plus 20 feet (202.18.B.2.a.), to 1/2 (ROW) plus 10 feet;
- (6) Requirement that access streets be constructed paralleling certain arterial and collector streets [DSO Sections C.3.j.(2) and C.3.o.], to require no access road;
- (7) Maximum depth for a water retention excavation of 12 feet (509.B.), to 20 feet;
- (8) Requirement that properties which exhibit soils, hydrology and vegetation characteristic of saltwater inundation or freshwater ponding be subject to certain additional regulations and ordinances [202.11.B.1.b., DSO Section C.1.b.(4), and Ordinance 86-31, Section 6.03], to allow development of wetlands and wetland soils as per the site plan;

- (9) Minimum water retention excavation setbacks to a private property line of 50 feet (509.C.4.), to 0 (zero) feet; and
- (10) Requirement that, where practical, a residential development larger than 5 acres shall provide 2 or more means of ingress or egress [DSO Section C.2.d.(4)], to allow only one access; and

WHEREAS, the subject property is located on the north side of Terry Street between Old and New U.S. 41, described more particularly as:

LEGAL DESCRIPTION: In Sections 26 and 27, Township 47 South, Range 25 East, Lee County, Florida:

Commencing at the Northeast corner of Section 27, Township 47 South, Range 25 East, Lee County, Florida; THENCE S.01°24'14"E. along the East line of said Section 27 a distance of 1417.15 feet to a point on the Southerly right-of-way of A.C.L. Railroad (130 foot right-of-way); and the POINT OF BEGINNING of the herein described; THENCE N.48°14'25"W. along said Southerly right-of-way a distance of 613.18 feet to the Northeast of Imperial Harbor Unit No. 1 (P.B. 11, Pg. 56-57); THENCE S.33°58'56"W. along the Easterly line of said Unit 1, a distance of 30.26 feet to the Northeast corner of parcel "C" of said Plat;

THENCE N.48°14'25"W. along the Northerly line of said parcel "C" 45.32 feet to the Northeast corner of Lot 09, Block 01 of Plat;

THENCE S.11°43'45"W. along the Easterly line of said lot and the center of a 12 foot drainage and utility easement 92.38 feet to the Southeast corner of said lot 09 on the Northerly line of Parcel "A" of said Unit 1;

THENCE S.48°14'25"E. along said parcel "A" a distance of 10.00 feet to the Easterly line of said Unit No. 1;

THENCE S.33°58'56"W. along said Easterly line of Unit No. 1, a distance of 50.48 feet;

THENCE S.44°35'16"W. along the rear line of lots of Block 02 of said Plat, a distance of 178.39 feet;

THENCE S.38°58'46"W. and continuing along the rear line of said lots of Block 02, a distance of 191.18 feet;

THENCE S.31°13'56"W. and continuing along the rear line of said lots of Block 02, 237.65 feet;

THENCE S.24°35'06"W. and continuing along the rear line of said lots of Block 02, 195.95 feet to the Northerly line of Parcel "D" on said Plat;

THENCE S.48°26'06"E. along Parcel "D" 5.88 feet to the Easterly line of said Plat;

THENCE S.33°58'56"W. along the Easterly line of said Plat 10.13 feet;

THENCE S.48°17'38"E. a distance of 53.61 feet; THENCE N.41°42'22"E. a distance of 100.00 feet; THENCE S.48°17'38"E. along the rear line of Block 34, Imperial Harbor Unit No. 7, a distance of 525.00 feet;

THENCE S.41°42'22"W. along the rear line of Block 32, a distance of 466.60 feet to a point of curve; THENCE Southwesterly along said rear line of Block 32, a distance of 834.21 feet on the arc of circular curve concave to the Northwest, having a radius of 2663.99 feet and being subtended by a chord which bears S.50°42'55"W. 830.72 feet; THENCE continuing Westerly and Northwesterly along the said rear line of lots of Block 32, a distance of 303.06 feet on the arc of a circular curve concave to the Northeast, having a radius of 190.00 feet and being subtended by a chord which bears N.74°37'08"W. 271.94 feet; THENCE continuing along said rear line of Block 32, N.28°55'31"W. a distance of 72.79 feet; THENCE continuing along said

rear line of Block 32, a distance of 229.73 on the arc of a circular curve concave to the Northwest, having a radius of 2404.014 feet and being subtended by a chord which bears S.66°48'36"W. a distance of 229.65 feet; THENCE continuing along said rear line of Block 32, S.69°35'44"W. a distance of 154.98 feet; THENCE S.01°24'10"E. along said rear line of Block 32 a distance of 481.22 feet; THENCE S.88°35'50"W. along Block 30-32 of said Unit No. 7, a distance of 575.65 feet to the Easterly line of Florida Power & Light Company right-of-way (100 feet wide); THENCE S.00°59'33"E. along said Easterly right-of-way a distance of 1487.23 feet to a point on the Northerly right-of-way of West Terry Street (used as a 60 foot right-of-way); THENCE S.83°02'59"E. along said Northerly right-of-way of West Terry Street (30 feet North and parallel to the centerline and section line) a distance of 2733.57 feet to a point on the East line of Section 27; THENCE N.00°48'18"W. along the East line of Section 27 a distance of 2626.58 feet to the East Quarter (E ¼) corner of Section 27; THENCE N.89°07'54"E. along the Quarter (¼) section line of Section 26, Township 47 South, Range 25 East, Lee County, Florida and the Northerly line of Lot #7 of the Helfenstein Estates (P.B. 8, Pg. 40) a distance of 1334.42 feet to the Southerly right-of-way of the A.C.L. Railroad; THENCE Northwesterly along said Southerly right-of-way a distance of 96.42 feet on the arc of circular curve concave to the Southwest, having a radius of 3711.88 feet and being subtended by a chord which bears N.42°05'42"W. 96.42 feet to a point on a continuing curve not radial; THENCE continuing Northwesterly along said right-of-way a distance of 387.43 feet on the arc of circular curve concave to the Southwest, having a radius of 4644.60 feet and being subtended by a chord which bears N.45°51'02"W., 387.29 feet to a point of tangent; THENCE N.48°14'25"W. along said Southerly right-of-way a distance of 1371.37 feet to the POINT OF BEGINNING of the herein described; being a part of Sections 26 and 27, Township 47 South, Range 25 East, Lee County, Florida.

Subject to easements and restrictions of record.

Containing 184.14 acres of land, more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 27-47-25-00-00001.0000, 27-47-25-00-00002.0000, 14-47-25-01-00004.0010, 14-47-25-01-00006.0010, 14-47-25-01-00005.0080, 14-47-25-01-00005.0100, 14-47-25-01-00005.0070, & 14-47-25-01-00005.0060; and

WHEREAS, proper authorization has been given to Carleton Ryffel by Milton Schmidt, James Cochran, James Ryan (for Imperial Harbor Associates), and The Estate of Henry Minster (Mary Littleton and Carol Roberts), the owners 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

WHEREAS, the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on February 14, 1989; 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 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 WITH CONDITIONS the rezoning from MH-1, IL, and AG-2 to Mobile Home Planned Development to permit a mobile home development not to exceed a maximum of 750 units with mobile homes not to exceed one story and the club house not to exceed 35 feet above average grade, on 184.14 total acres of land. The proposed development will also include a golf course, model homes and sales office.

Approval is conditioned upon the following:

1. The development and use of this property shall be in accordance with the one-page Master Concept Plan for "Bonita Fairways and Tennis Club," prepared by Carleton Ryffel (stamped received November 29, 1988, plan revised November 15, 1988), except as may be modified by the conditions herein. No more than a maximum of 710 units shall be permitted. This approval does not relieve this development from compliance with all other applicable state or local regulations, except for those deviations specifically approved in this document as part of this development.
2. Property development regulations shall be in accordance with the MH-2 zoning district (Section 439.01.B and C) except as amended in Deviations #1 and #4.
3. a. To mitigate the encroachment of wetlands, the applicant shall create 4.2 acres of wetland marsh and 1.0 acre of wetland hammock. A mitigation plan shall be submitted prior to preliminary development order approval for any phase and shall be subject to approval by the Department of Community Development. The mitigation plan shall include the following:
 - 1) A specific wetland creation plan including location, acreage, design specifications, plantings, maintenance and timetable.
 - 2) A specific plan for the removal of all exotic vegetation, such as *Melaleuca quinquenervia* and *Schinus tereanthifolius*, located within this development. The plan shall also include a three (3) year maintenance program to control the re-invasion of exotic vegetation.
 - 3) Plant coverage for the created wetlands shall be a minimum of eighty (80) percent after a maximum of two (2) years upon establishment. No one species shall comprise more than 30% of the plantings.

b. Prior to issuance of a Final Development Order, the field location of golf course holes 4, 5, 6--tees, landing areas and greens-- shall be identified and (subject to approval by the Department of Community Development) utilized in such a manner that as much of the scrub oak habitat (3.4 acres) is protected as possible. The scrub oak habitat which is preserved shall be considered a preservation area; however, the trimming and maintenance of trees a minimum of fifteen (15) feet in height in a 50 foot wide "ball flight path" from tees to greens shall be allowable.

c. Prior to preliminary development order approval for any phase of this development, the developer shall submit a gopher tortoise habitat management plan and provide evidence that the management plan has been approved by the Florida Game and Fresh Water Fish Commission (FG&FWFC). The gopher tortoise habitat management plan shall be subject to approval by the Department of Community Development and shall contain the following:

- 1) If determined to be feasible by FG&FWFC, twelve (12) of the twenty (20) known active gopher tortoise holes shall be enclosed/protected within the scrub preservation area, five (5) other active holes along the back of lot lines shall be developed around, and three (3) of the active holes/gopher tortoises shall be relocated to the scrub preservation area or other area approved by the FG&FWFC.

- 2) Management guidelines for the scrub oak habitat.

4. a. The developer shall initiate the establishment of a homeowners' or residents' association to provide an educational program for hurricane preparedness. The established homeowners' or residents' association shall maintain an educational program for hurricane preparedness. The program shall consist of annually describing the risks of the hurricane hazards to the residents, as well as the actions to mitigate the dangers which these hazards present. A disclosure statement shall be provided to all prospective purchasers indicating the wind vulnerability of the proposed project in a Category 1 or greater hurricane and stating the amount of flooding (in feet) that may occur in a Category 4 hurricane.

b. The developer shall provide a usable on-site emergency shelter with no less than 15,000 square feet of shelter space as part of the final development order process for the first phase of the development.

c. At the completion of development construction or each phase thereof, a development representative shall provide to Lee County Emergency Medical Service a site plan depicting the official street names and building addresses within the development.

d. At the completion of development construction or each phase thereof, a development representative shall contact Lee County Emergency Medical Service to discuss: 1) the designation of emergency helicopter landing zones; and 2) the accessibility of the EMS unit.

5. Prior to approval of a preliminary development order, the developer shall meet with the Department of Community Services to discuss the possibility of providing a bike path/sidewalk connection with the county park to the east of the subject property and shall provide such a connection at the request of the Department of Community Services provided such request can be executed in a manner which is consistent with good planning practices and does not unduly compromise Applicant's security considerations.

6. Potable water service shall only be from the Bonita Springs Water System. A letter shall be submitted as part of the request for final plan approval from the Bonita Springs Water System, Inc. stating that it is able and willing to supply potable water to this development.

7. At the time of the last sale or leasing of the last lot within the proposed Mobile Home Planned Development, any model homes or sales offices shall be removed or converted to residences.

8. Deviations 1 and 5 are hereby approved, except that these deviations are not effective for all lots abutting Imperial Harbor.

Deviation 2 is hereby approved.

Deviation 3 is hereby approved.

Deviation 4 is hereby approved.

Deviation 6 is hereby approved.

Deviation 7 is hereby approved.

Deviation 8 is hereby approved subject to compliance with Condition 3.

Deviation 9 is hereby approved for the existing lake ONLY. For the lakes to be created as shown on the Master Concept Plan, the deviation is PARTIALLY APPROVED to reduce the required 50 feet to 25 feet.

Deviation 10 is hereby approved on the condition that the Applicant provide emergency access by roadway and "break-away" gate, maintained at the Applicant's expense and meeting Department of Community Development requirements, to the existing roadway in the Imperial Harbor Mobile Home Park which abuts the proposed development in the northerly portion near the existing railroad right-of-way.

9. Buffering along the perimeter boundary abutting Imperial Harbor shall be a 15-foot wide, type F planted buffer on a 2-foot high berm. The buffer shall be at least 75% opaque at the time of planting and shall consist of all native vegetation.

10. As offered by the applicant as a condition to this zoning, the development shall connect to the Imperial Harbor sewage treatment plant. No on-site sewage treatment plant shall be permitted. Any required upgrading of the Imperial Harbor plant shall be done by the developer of this development. Treated effluent shall be used as spray irrigation of the golf course.

11. A permanent access point shall be provided onto Pine Street, with DOT&E approval. This approval shall be granted by Lee County DOT&E and shall be required in writing prior to final plan approval. If approved, a second access, specifically an emergency breakaway access, shall be provided onto West Terry Street. If denied, the case shall be taken back for a hearing before the Hearing Examiner or the Board to provide one access onto Terry Street. This alternative access is in lieu of the proposed access onto Atlantic as currently shown on the Master Concept Plan.

Site Plan 89-021 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 Mobile Home Planned Development zoning:

1. The proposed mix of uses is appropriate at the subject location;
2. Sufficient safeguards to the public interest are provided by the recommended conditions to the Master Concept Plan; and
3. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
4. Approval of the requested deviations enhances the objectives of the planned development without interfering with the general intent of the zoning regulations in protecting the public health, safety and welfare.

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

John E. Manning	Absent
Charles L. Bigelow, Jr.	Absent
Ray Judah	Aye
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 24th day of April, A.D., 1989.

ATTEST:
CHARLIE GREEN, CLERK

BY:

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY:

Chairman

Approved as to form by:

County Attorney's Office

FILED

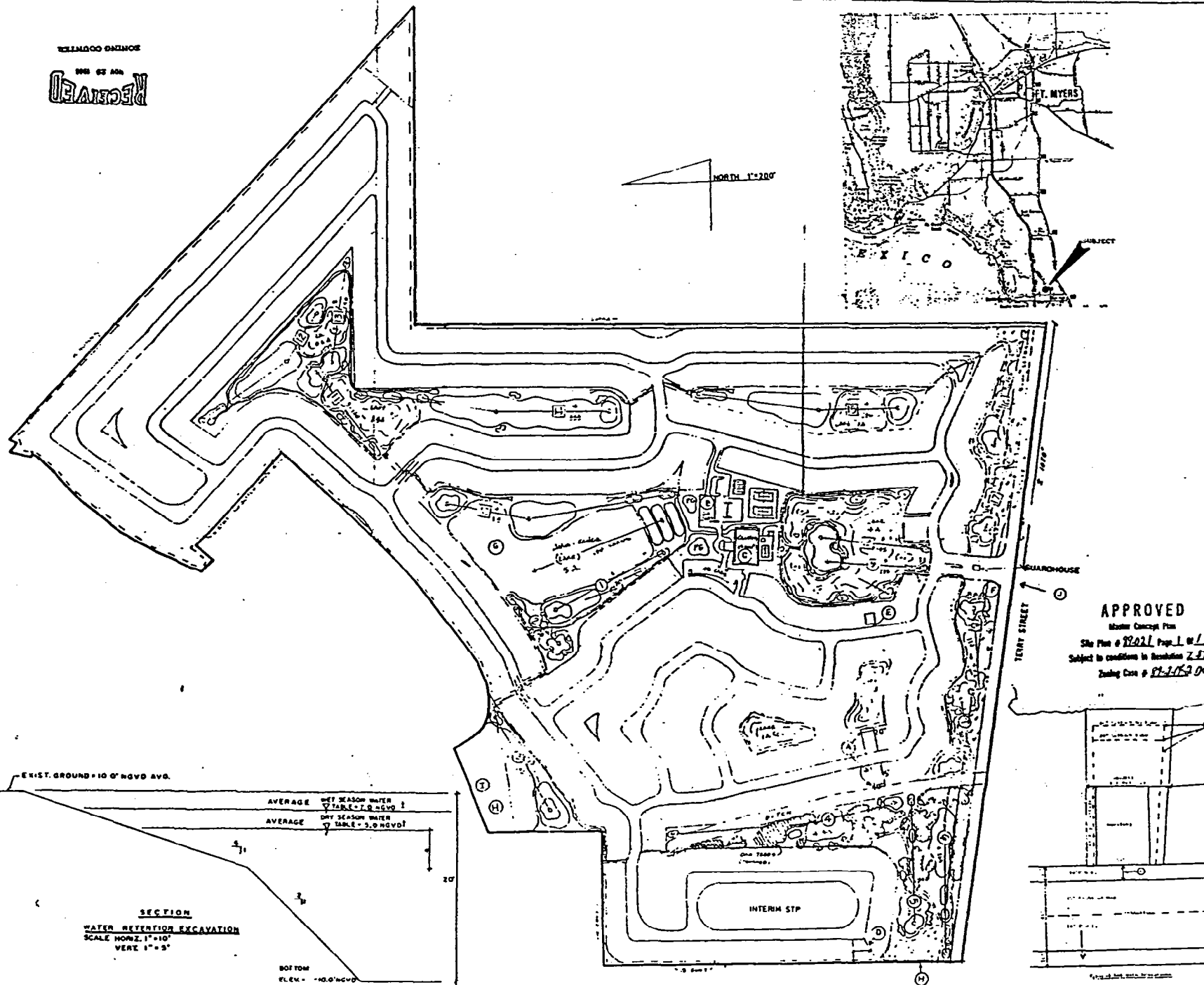
DEC 22 89

CLERK CIRCUIT COURT

BY Charlie Green, D.C.

TELMEX 000000

RECEIVED



PROJECT SUMMARY

Specific Details To Be Approved With This Plan

1. Site Size: Approximately 164.14 Acres
2. Permitted Uses: Mobile Homes and customary accessory uses including but not limited to: Golf Course, Clubhouse Facility, Excavations, Water Retention, Guardhouse, Essential Services 1001.11 and 1001.13, and 1001.14, Model Homes, Sales Offices, Signs in compliance with Sign Ordinance, Maintenance Area, Personal and Private Recreational Facilities.
3. Gross Density will not exceed 4.1 Units/Acre or 750 Units.
4. Project rights-of-way will be 45' in width with the exception of the project entry which may be 100' more or less.
5. All lots will conform to the minimum MM-2 zoning district standards except as amended below under Deviations. Lots may be sold by lot or in blocks.
6. Maximum Height of mobile homes is 1 story; Club, 35' 2nd floor (KESB) grade.

CONCEPTUAL LAND USE BREAKDOWN

1. Future R/W	3.14 Acres
2. Golf Course (Land part)	34.74
3. Lakes	16.97
4. Roads	26.79
5. Maintenance Area	0.97
6. Clubhouse Area	4.28
7. Residential	45.25
8. Total	164.14 Acres

CONCEPTUAL OPEN SPACE

1. Individual Open Space @ 25% of 40%	18.41 Acres
2. Lakes @ 25% of 40%	16.97
3. Golf Course	34.74
4. Perimeter Buffer/Drainage	2.35
5. Permeable Clubhouse Area	2.25
6. Total Open Space Provided	74.75 Acres = 45%
7. Open Space Required @ 40%	71.66 Acres = 40%

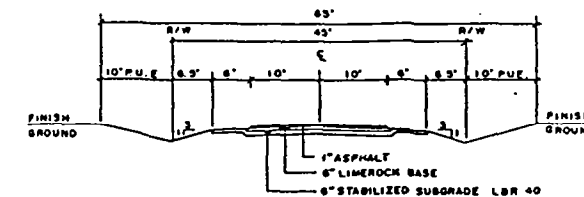
8. Residents of 73 mobile home lots on land owned by the applicant north of this project may use the clubhouse/hurricane shelter.

9. Income from MM-1, IL and AG-2 to MHPD.

SCHEDULE OF DEVIATIONS/VARIANCES

- A Deviation from Section 439.02 B
 1. Min from 7' to 5'
 2. Min from 15' to 10'
 3. Min from 25' to 20' (30% R/W)
- B Deviation from Section 202.16.1.4.1. (parking for membership organizations) 1 space/100 S.F. and Section 202.16.1.4.2. (parking for golf course) 5 spaces/acre to a total of 100 parking spaces for the clubhouse/shelter and golf course.
- C Deviation from Section 439.02.3. Shelter size of 17,777 S.F. to 15,000 S.F. (100 units)
- D Deviation from Section 202.16.1.4.1. to allow lot width to be measured at the midpoint of side lot lines.
- E Deviation from Section 202.16.1.4.2. to allow structural setbacks from a Private road of 1/2 R/W + 10' instead of 1/2 R/W + 20'.
- F Deviation from DDO C.3.3.(12) and C.3.6. to not require access roads.
- G Deviation from Section 518 B to allow excavations of 20' depth.
- H Deviations from Section 202.11, DDO Section C.1.4.(4), Ordinance 86-11 to allow development of wetlands and wetland soils as per the site plan.
- I Deviation from Section 518.C.4. to allow an excavation setback from a private property line of 0' from the required 50'.
- J Deviation from DDO Section C.2.4.(4) to allow one access point to the project.

*The deviations or variances indicated by letter above are shown on the Master Concept Plan in the same manner. When the plan would have the same lateral deviation or variance in more than one location, then it is assumed that those deviations/variances are also granted.



CARLETON RYFFEL, A.I.C.P.

4200 Corporate Court SW Suite C-201

Fort Myers Florida

LAND PLANNER & DEVELOPMENT COORDINATOR

33007

813 / 482-4404

BONITA FAIRWAYS AND TENNIS CLUB

MASTER CONCEPT PLAN

9/8/88

REVISED 11/15/88