

RESOLUTION NO. Z-15-013

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA, AMENDING THE RIVER'S EDGE YACHT AND
COUNTRY CLUB DRI DEVELOPMENT ORDER.**

WHEREAS, Applicant, Gulf Harbour Golf & Country Club, Inc., filed an amendment to the River's Edge Yacht and Country Club DRI Development Order (a/k/a Gulf Harbour) pursuant to Florida Statutes §380.06(19)(e)(2)(k), to clarify uses on Eagle Perch Island as legally described in Exhibit A; allowing for removal of invasive exotic vegetation, trimming of mangroves and native vegetation; repair of erosion and replacement of bulkheads; maintenance of existing pedestrian paths and limited recreational facilities; additional recreational facilities; and allowing the island to be used for Special Events; and

WHEREAS, a Conceptual Site Plan showing existing and proposed uses is attached hereto as Exhibit "B;" and

WHEREAS, no other changes to the River's Edge Yacht and Country Club DRI were proposed; and

WHEREAS, the Lee County Board of County Commissioners reviewed the application and opined that the requested amendment was not a substantial deviation; did not require NOPC review; did not increase regional impacts or negatively impacted regional resources or facilities; and was in accordance with Florida Statutes §380.06(19)(e)(2)(k); and

WHEREAS, a public hearing was advertised and held on June 17, 2015, before the Lee County Board of County Commissioners; and,

WHEREAS, the Board finds the proposed amendment to the River's Edge Yacht and Country Club DRI Development Order does not constitute a substantial deviation; does not require NOPC review; meets the requirements of §380.06(19)(e)(2); Lee County Land Development Code §34-145(d)(1)(c); and all other applicable Lee County Land Development Code and Lee County Comprehensive Plan requirements.

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

1. The above stated recitals are incorporated into this Resolution by reference.
2. The River's Edge Yacht and Country Club DRI Seventh Development Order is hereby amended in accordance with the codification of the Eighth Amendment of the River's Edge Yacht and Country Club DRI Development Order, attached hereto as Exhibit "C."

3. Certified copies of this Resolution and the revised DRI Development Order will be forwarded to the Southwest Florida Regional Planning Council, the Florida Department of Economic Opportunity, and other appropriate agencies. This amendment is rendered as of the date of transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Once effective, the Notice of Adoption of this Development Order Amendment must be recorded as provided for in Chapter 380, Florida Statutes.

Commissioner John Manning made a motion to adopt the foregoing resolution, seconded by Commissioner Larry Kiker. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Absent
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Absent

DULY PASSED AND ADOPTED this 17th day of June, 2015.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

Deputy Clerk

BY: _____

Brian Hamman, Chair



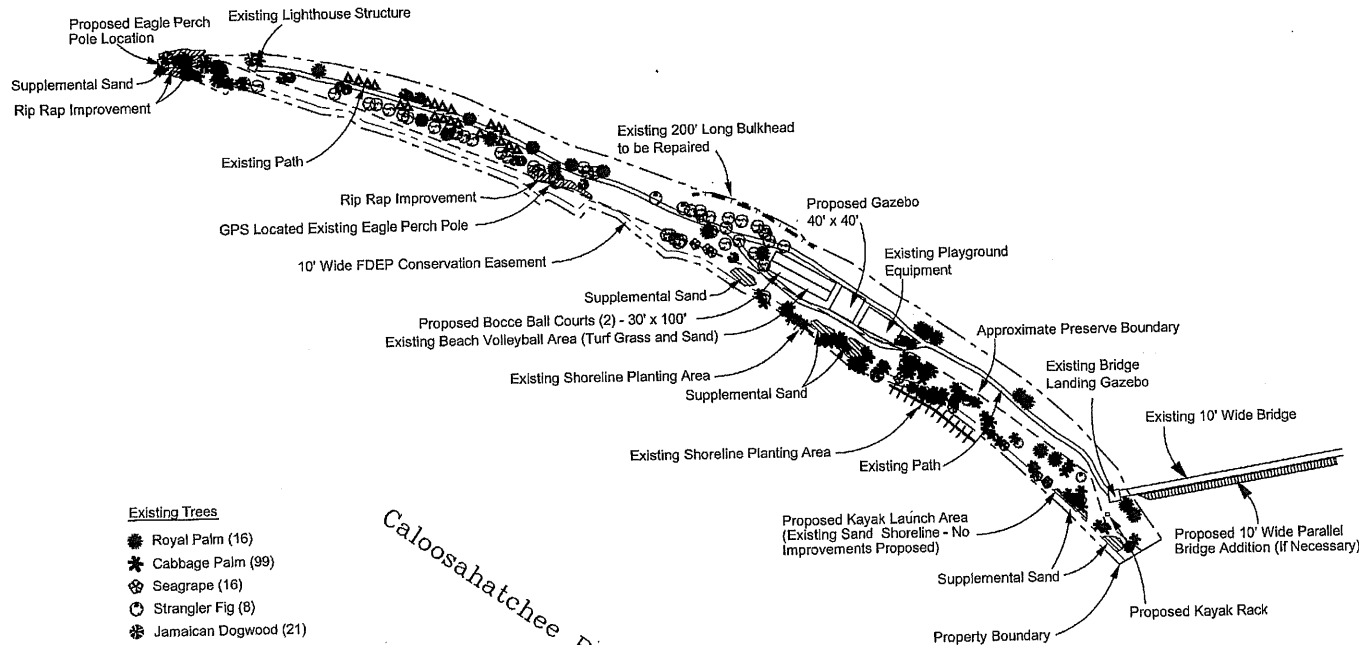
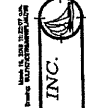
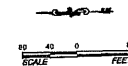
APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Neysa Borkert
Assistant County Attorney
County Attorney's Office

- Exhibit A: Legal Description of the property
Exhibit B: Conceptual Site Plan
Exhibit C: Eighth Amendment of the River's Edge Yacht and Country Club DRI D.O.

SECTION 30
TOWNSHIP 45
RANGE 24

CONCEPTUAL SITE PLAN



Existing Trees

- Royal Palm (16)
- ✱ Cabbage Palm (99)
- ⊕ Seagrape (16)
- ⊙ Strangler Fig (8)
- ⊕ Jamaican Dogwood (21)
- ⊙ Buttonwood (41)
- ⊕ Slash Pine (15)
- ⊕ Pond Apple (1)
- Gumbo Limbo (6)

Caloosahatchee River

- ▨ Rip Rap Improvements
- ▨ Sand Added Only to Existing Upland Areas (0.00 ac)*
- ▲ Proposed Replacement Slash Pines (20)

*Supplemental sand is only added to existing sandy areas and does not include any areas below the mean high water line, or within the FDEP Conservation Area boundaries.

All Structures for recreational activities are located in areas with no native vegetation. No impacts to native vegetation will result from construction.

Notes:
1. Property boundary, preserve boundary, FDEP conservation easement boundary, and location of existing structures are approximate and either digitized from a survey obtained from BCI Engineering and Surveying, Inc. or from BCI aerial photography.
2. Location of existing trees obtained using handheld GPS.

PERMIT USE ONLY, NOT FOR CONSTRUCTION

DR12015-00001

W. DEXTER BENDER & ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
P.O. BOX 1000
FORT MYERS, FL 33902

GULF HARBOUR RECREATIONAL ISLAND

EXHIBIT B

EXHIBIT C

EIGHTH AMENDED DEVELOPMENT ORDER¹

FOR

**RIVER'S EDGE YACHT AND COUNTRY CLUB
(A/K/A GULF HARBOUR)**

A DEVELOPMENT OF REGIONAL IMPACT

**STATE DRI #12-8182-21
COUNTY CASE #81-09-08-DRI(c)**

LET IT BE KNOWN that, pursuant to §380.06, Florida Statutes, the Board of County Commissioners of Lee County, Florida, considered the Application for Development Approval filed by Ramar Group, regarding a Development of Regional Impact consisting of 548 acres, at a public hearing and adopted the original development order for the River's Edge Yacht and Country Club Development of Regional Impact (DRI) on April 19, 1982.

WHEREAS, the River's Edge Yacht and Country Club DRI was amended on March 16, 1992 to decrease the density from 4,380 dwelling units to 2,071; relocate 6 golf holes, the golf course club house, tennis courts, marina basin and marina village; reduce the number of boat slips from 250 to 190 slips; and extend the buildout date 4 years and 11 months to May 4, 1998; and

WHEREAS, a second amendment to the River's Edge Yacht and Country Club DRI was adopted on March 21, 1994 to modify the location and design of the marina facility; and

WHEREAS, a third amendment to the River's Edge Yacht and Country Club DRI was adopted on March 19, 2001 to (1) reduce the number of dwelling units from 2,071 to 1,987; (2) eliminate 200 hotel units; (3) replace the 65,000 square feet of commercial with a 5,000 square foot ship's store and 30,000 square foot club house; (4) eliminate the 250 seat restaurant; and (5) extend the buildout date an additional 7 years to May 4, 2005; and

¹ This is a codification and restatement of all DRI development orders rendered with respect to the River's Edge Yacht and Country Club DRI, including actions taken May 5, 1982, March 16, 1992, March 21, 1994, March 19, 2001, October 7, 2002, October 31, 2005, September 11, 2007, August 20, 2014 and June 17, 2015.

WHEREAS, a fourth amendment to the DRI Development Order was adopted on October 7, 2002, to allow construction of a boardwalk with observation platform and mangrove trimming within the established Mangrove Preservation Area (Tract E); and

WHEREAS, a fifth amendment to the DRI Development Order was adopted on October 31, 2005, to extend the buildout date three years from May 4, 2005 to May 4, 2008 (a cumulative extension of 17 years; 11 months), allowing issuance of building permits and construction on the remaining single-family home lots (currently less than 20 lots) within the DRI boundary; and

WHEREAS, a sixth amendment to the DRI Development Order was adopted on September 11, 2007, to grant a three-year statutory extension of the buildout date to May 4, 2001, and the termination date to May 4, 2013; and

WHEREAS, a seventh amendment to the DRI Development Order was adopted on August 20, 2014, to allow the approved mangrove trimming height within the 10-acre Palmas Del Sol Condominium Association Mangrove Preservation Area to be reduced from a 32-foot NGVD to a 20-foot NGVD, to trim red mangroves in compliance with FDEP Permit File No. 36-0152741-003, as amended, and to extend monitoring requirements for mangrove trimming; and

WHEREAS, an amendment to the DRI Development Order pursuant to Florida Statutes §380.06(19)(e)(2)(k), was filed by Gulf Harbour Golf & Country Club, Inc. on January 23, 2015 to clarify uses on Eagle Perch Island; allow for removal of invasive exotic vegetation, trimming of mangroves and native vegetation; repair of erosion and replacement of bulkheads; maintenance of existing pedestrian paths and limited recreational facilities; additional recreational facilities; and allow the island to be used for Special Events; and

WHEREAS, pursuant to Florida Statutes §380.06(19)(e)(2), the requested amendment is not a substantial deviation and does not require a Notice of Proposed Change; and

WHEREAS, the Board of County Commissioners finds and determines that based upon the evidence in the record, the requested amendment does not constitute a substantial deviation warranting further Development of Regional Impact review; and

NOW THEREFORE, it is resolved by the Board of County Commissioners that the development order for River's Edge Yacht and Country Club DRI is further amended as follows:

NOTE: *New language is underlined and deleted text is struck through.*

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The legal description of the River's Edge Yacht and County Club DRI property (aka Gulf Harbour) is set forth in attached Exhibit A:

B. The River's Edge Yacht and County Club DRI is a Development of Regional Impact consisting of approximately 548 acres. The proposed development is depicted on Map "H", attached as Exhibit B and includes:

1. 1,987 dwelling units of which up to 788 may be single-family (detached and zero lot line type units) and up to 1,199 multi-family on a total of 250.3 acres; approved, but unbuilt multi-family units may be exchanged for single-family units, provided that the resulting total mix of approved multi-family and single-family dwelling units do not exceed a gross trip generation rate of 1,349 p.m. peak hour trips as calculated from the fitted curve formulas of the 6th Edition of the ITE Trip Generation Manual for land use categories 210 and 230;
2. 135 acre 18 hole golf course and 30,000 square foot golf clubhouse with 250 parking spaces;
3. 190 wet berth marina and 5,000 square foot ancillary ship's store;
4. 7,000 gross square foot health club;
5. a 16 tennis court complex;
6. 70.0 acres of lakes;
7. 18.23 acre refined vegetation preservation buffer including:
 - a. 14.02 acre mangrove and listed plant species preserve area south of the proposed marine;
 - b. a 3.88 acre eagles perch management and listed plant species preservation island of 3.88 acres;
 - c. a 0.33 acre shoreline listed plant species preservation area north of the proposed marina; and
8. 250.7 acres of open space (including golf course, preservation areas, and private open space, but excluding lake, marina mitigation and basin areas).

C. The subject property is currently zoned Planned Unit Development (PUD) in accordance with the Lee County Land Development Code and Lee County Ordinance 93-26.

D. The application for development approval is consistent with the requirements of §380.06, Florida Statutes.

E. The proposed development:

1. is not located in an area designated as an Area of Critical State Concern, pursuant to the provisions of §380.05, Florida Statutes;
2. will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area; and
3. is consistent with the Lee County Comprehensive Plan and the Lee County Land Development Code.

F. The Southwest Regional Planning Council has reviewed the proposed development and adopted recommendations subsequently forwarded to Lee County pursuant to §380.06, Florida Statutes. The development, as proposed in the Application for Development Approval and modified by this amended Development Order, is consistent with the recommendations issued by the Southwest Regional Planning Council in accordance with §380.06(12).

G. The proposed conditions set forth below meet the criteria found in §380.05(15)(d), Florida Statutes.

H. The project buildout date is May 4, 2011.

I. Rivers Edge Yacht and Country Club DRI qualified for the statutory three-year extension to all phase, buildout and expiration dates granted by the 2007 Florida Legislature under House Bill 7203 (amending F.S. §380.06(19)(c)) and signed into law on June 19, 2007. The Board of County Commissioners granted the extension pursuant to Lee County Resolution 07-09-17, as the Sixth Amendment to the Rivers Edge Yacht and Country Club DRI Development Order, adopted on September 11, 2007. Under HB7203, the three-year extension is not a substantial deviation, is not subject to further Development of Regional Impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under F.S. §380.06(19)(c).

J. The requests to amend the DRI Development Order, pursuant to Florida Statutes §380.06(19)(e)(2), to reduce the minimum trimming height of the mangroves and other preserve trees from 32-feet NGVD to 20-feet NGVD, to trim red mangroves in

compliance with the FDEP Permit File No. 36-0152741-003, as amended, and to extend monitoring requirements for mangrove trimming and to specify the uses permitted on the portion of the development known as Eagle Perch Island, is are not a considered substantial deviations. Under Florida Statutes § 380.06(19)(e)(2)(k), changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas are not substantial deviations, do not require filing a Notice of Proposed Change, and are not subject to further Development of Regional Impact review.

II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

A. ENERGY

1. The River's Edge development must comply with the Energy Code as adopted and in force at the time of commencement of each phase of the development.

2. River's Edge must construct a jogging and bicycle trail system as described in the Application for Development Approval (hereinafter referred to as the ADA) and the Master Site Plan. That system is to connect all points within the project. Benches and special parking areas are to be provided for bicycles and golf carts at each commercial and recreational area. That portion of the system alongside McGregor Boulevard must be built in conformance with the Lee County Comprehensive Bicycle Facilities Plan and is to be dedicated to the County.

3. The Developers of River's Edge must design all facilities for optimum energy efficiency utilizing state-of-the-art energy conservation techniques, including but not limited to the following:

- proper roof and wall insulation
- glazing
- energy efficient appliances
- structure orientation for solar energy and natural ventilation
- structural shading, e.g., inclusive of porch/patio areas in residential units and utilization of roof overhangs for low-rise buildings
- proper landscaping throughout the project and planting of native shade trees and understory wherever appropriate for all active and passive recreation areas, streets and parking areas
- site design and landscaping to enhance energy conservation

4. River's Edge must cooperate with the Lee County Transit System in locating and providing bus stops and shelters within the development.

5. Alternate energy devices, such as solar collectors, may not be prohibited unless it is determined necessary for the protection of the health, safety and welfare of the residents of the River's Edge Yacht and Country Club DRI.

B. TRANSPORTATION

1. The River's Edge development is responsible for development of all roads and bike paths within the River's Edge development.

2. *Development Impact/Phasing Schedule.* The transportation impact assessment that forms the basis for this Development Order Amendment assumes the land uses and phasing schedule as set forth in attached Exhibit C with a project buildout date of May 4, 2005^{2 3}.

3. *Annual Monitoring Program.* Pursuant to §380.06(18), Florida Statutes, the River's Edge DRI must submit an "Annual Monitoring Report" to the Lee County Department of Transportation (LCDOT), the Southwest Florida Regional Planning Council (SWFRPC), and the Florida Department of Community Affairs (DCA) each year until project buildout. If the local government does not receive the annual report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government must request in writing that the Developer submit the report within 30 days. The failure to submit the report after 30 days may result in the temporary suspension of the Development Order by the local government. At a minimum, the monitoring report must contain a.m. and p.m. peak hour peak season traffic counts (with turning movements) and a professionally acceptable level of service analysis, mutually agreed upon by the Applicant's engineer, LCDOT, FDOT, SWFRPC and DCA, at all project access locations onto McGregor Boulevard (SR 867) as well as at the following regional roadway segments and all intersections included within and at the end of those segments:

²To obtain approval for the Third Amendment to the DRI, the applicant submitted a full transportation analysis, with a buildout horizon of 2005. Subsequent traffic analysis has not been submitted for review. Therefore, May 4, 2005 is the appropriate reference for purposes of traffic analysis.

³The Sixth Amendment to the DRI Development Order served to grant the three-year statutory extension of the buildout date to May 4, 2011. However, the traffic assessment assumptions remained unchanged. Therefore, this date was not altered to reflect the three-year extension.

REGIONAL ROAD SEGMENTS

McGregor Boulevard (SR 867) from

Gladiolus Drive to Pine Ridge Road
Pine Ridge Road to Cypress Lake Drive
Cypress Lake Drive to College Parkway
College Parkway to Winkler Road

Cypress Lake Drive from

McGregor Boulevard to South Pointe Blvd.
South Pointe Blvd. to Winkler Road
Winkler Road to Summerlin Road

Gladiolus Drive from

Pine Ridge Road to A&W Bulb Road
A&W Bulb Road to Winkler Road

Pine Ridge Road from

Gladiolus Drive to McGregor Boulevard

San Carlos Boulevard from

Summerlin Road to Kelly Road
Kelly Road to Gladiolus Drive

INTERSECTIONS:

Gladiolus Drive at Pine Ridge Road
McGregor Boulevard at San Carlos Boulevard/Gladiolus Drive

McGregor Boulevard at Iona Road
McGregor Boulevard at south project entrance
McGregor Boulevard at north project entrance/Pine Ridge Road
McGregor at A&W Bulb Road
McGregor Boulevard at Cypress Lake Drive
San Carlos Boulevard at Kelly Road

The above off-site intersections and roadway segments were identified as significantly impacted by greater than 5% utilization of the adopted level of service volume in the traffic impact statement submitted for the 1999 Notice of Proposed Change. Peak season peak hour traffic counts and level of service calculations must be performed by the Developer's traffic consultant and submitted as part of the annual monitoring report for the significantly impacted road segments.

The purpose of this monitoring report is to: (1) determine if the projected traffic for the Year 2005⁴ in the traffic impact assessment for River's Edge DRI Amendment is exceeded by actual impacts; (2) assist LCDOT and FDOT in determining the proper timing of necessary roadway improvements within the Lee Plan traffic district encompassing the River's Edge DRI (currently District 4); (3) determine the project's external trip generation compared to the estimate of 1,115 net new external trips.

The following is recognized and understood:

- a. Traffic counts may be obtained from original machine and manual peak hour counts, Lee County Traffic Volume Reports and other DRI developments with similar monitoring requirements and other generally acceptable sources.
- b. In the event that construction has not begun on the land uses identified above by the date the monitoring report is due, a letter to the above agencies documenting the development status on-site may be considered an acceptable replacement to the above traffic monitoring for that year.

⁴The Sixth Amendment to the DRI Development Order served to grant the three-year statutory extension of the build out date to May 4, 2011. However, the traffic assessment assumptions remained unchanged. Therefore, this date was not altered to reflect the three-year extension.

4. *Site Related Improvements.* In addition to the payment of monies and other obligations specified in the Development Order Amendment, the Developer, or its successor, is required to construct, at no cost to Lee County and the Florida Department of Transportation, all site-related improvements deemed necessary by Lee County and the Florida Department of Transportation. The Developer, or its successors, must construct site-related roadway and intersection improvements within River's Edge DRI. The Developer must construct any site-related intersection improvements (including but not limited to signalization, if warranted, turn lanes, and additional through lanes found to be necessary by the governmental authority with jurisdiction of the roadway) as appropriate for the project's access intersections onto McGregor Boulevard (SR 867) throughout all phases of development.

When authorized by the Lee County Engineer or his designee, upon approval of plans by Lee County and FDOT, the Developer, or his successors, must build the necessary site related intersection improvements to achieve the adopted level of service for the following intersections:

McGregor Boulevard (SR 867) at

Pine Ridge Road/River's Edge North Entrance (The Developer's responsibility does not include the realignment of Pine Ridge Road)

River's Edge South Entrance

Site-related improvements include any improvement deemed site-related at the time of construction under the definition contained in the Lee County Roads Impact Fee or Development Standards regulations, as either may be amended or replaced. The Developer's obligation must include the full cost of design and engineering, drainage and utility relocation, right-of-way acquisition and dedication, construction of turn lanes, acceleration and deceleration lanes, construction inspection, contract administration, testing and signalization (as needed and warranted). The alignment, design, signalization, and construction schedule must be approved by the Lee County Engineer and FDOT. The Developer must pay the full cost for any site-related intersection improvements found necessary by the County or FDOT for the project's access.

5. *Right-of-Way Dedications.* The property owner have previously dedicated right-of-way to allow widening and improvement of McGregor Boulevard (SR 867). The dedicated property has been appraised at \$191,000.

Additionally, the Florida Department of Transportation identified the need for a stormwater retention pond on the River's Edge site adjacent to McGregor Boulevard near the vicinity of Griffin Boulevard. The property owners dedicated this land to FDOT for the stormwater retention for the McGregor Boulevard widening improvements in 1995. The agreed upon value for this dedication was \$1,742,000.

The \$191,000 McGregor Boulevard widening right-of-way and the \$1,742,000 stormwater retention dedication is applicable to reduce the proportionate share of River's Edge DRI transportation impacts. The dedications are not eligible for road impact fee credits.

6. *Mitigation of Transportation Impacts:*

- a. As mitigation for the transportation impacts created by the development of River's Edge DRI in accordance with this amended development order the Developer, or its successors, must:
 - (1) dedicate property appraised at \$191,000.00 dollars for the McGregor Boulevard widening⁵; and
 - (2) dedicate property to Lee County for the stormwater retention area necessary for the McGregor Boulevard widening, subject to certified appraisals agreed upon by Lee County and the Developer and approved by the Lee County Department of County Lands, determining the fair market value for the dedication. If an agreement cannot be reached on the appraisal amount, then the two appraisers chosen by the Developer and Lee County respectively will chose a third

⁵ This obligation has been satisfied.

independent appraiser to do an appraisal, and the value will be established by an average of the three appraisals⁶; and

- (3) pay Lee County Road Impact Fees at the fee schedule in effect at the time building permits are issued by Lee County. The Road Impact Fees applicable to development of the River's Edge DRI as approved in accordance with the third development amendment are estimated to be \$2,935,689; and
- b. Should the provisions of the roads impact fee regulations be repealed, made unenforceable or of no effect, they must nevertheless be required as payment for the transportation mitigation for the River's Edge DRI Development Order as described above.
- c. The Developer is informed that the Lee County Board of County Commissioners may adopt an interim operation improvement program and that such program may be applicable to this development.

7. Nothing contained in this Development Order Amendment is to imply or supersede any Florida FDOT permitting requirements.

8. To fulfill the obligations of the Developer to provide infrastructure, systems, facilities, and services as required herein, the Developer may employ a number of alternative management and financing mechanisms, including a uniform community development district ("UCDD") pursuant to Chapter 190, Florida Statutes, a property owners association, and special assessments, all as applicable and as available by law. In the event the Developer elects to use a UCDD, the Developer will enter into a Developer's Agreement with Lee County. Such Developer's Agreement will delineate boundaries of the UCDD and must be subject to and not inconsistent with Chapter 190, Florida Statutes, and this Development Order. The various agencies that review this Development Order do not by accepting this condition waive any right they may have to comment on and review the management and financing mechanism chosen by the Developer to manage and finance infrastructure, systems, facilities, services, and

⁶ This obligation has been satisfied. The agreed upon value is \$1,742,000. The Developer also agreed to forgo any claim relating to property values in excess of the agreed upon value for the stormwater retention parcel transferred to FDOT.

improvements pursuant to this paragraph. Furthermore, nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Benefit Unit (MSBU) or a Municipal Services Taxing Unit (MSTU), or a special assessment district, of improvements to various State and County arterial and collector roads to the degree the development is benefitted and has not already mitigated its impacts.

9. River's Edge proportionate share responsibility for any improvements required in this Development Order is discharged in full upon payment of the entire proportionate share contribution due under the terms of this section.⁷ The contribution may not be reduced or refunded provided, however, that all other provisions of the Development Order also must govern.

10. If the proportionate share contribution due under the terms of this section is not paid in a timely manner, issuance of development approvals and building permits for River's Edge must immediately cease.

11. Compliance with all of the terms of the transportation related provisions of this development order must satisfy the substantive requirements related to regional transportation facilities of §§163.3177(10)(h) and 163.3202(2)(g), Florida Statutes (1989); Lee County concurrency regulations; the Lee County Comprehensive Plan, adopted pursuant to Chapter 163, Part II, Florida Statutes; and Rule 9J-5.0055, Florida Administrative Code, as they currently apply. Satisfaction of concurrency extends only through May 4, 2010⁸.

C. AIR QUALITY

The River's Edge development must comply with all applicable codes and apply for all required permits relative to air quality.

⁷ Based upon the level of development approved through and including the Third Amendment to this development order, the only outstanding transportation mitigation payments due are the roads impact fees incurred at building permit issuance.

⁸ Under the provisions of the Fifth DRI Development Order, this project is deemed concurrent until May 4, 2011. The 2007 amendment to F.S. §380.06(19)(c) did not establish an entitlement to extension of concurrency vesting beyond the date set forth in the DRI Development Order as of June 30, 2007.

D. FIRE PROTECTION

The fire protection impacts created by development of River's Edge DRI will be mitigated by the payment of fire impact fees in accordance with the Lee County Land Development Code. No refund or credit for fire impact fees paid prior to the adoption of the third amendment to this development order will be issued.

E. PARKS

The park impacts created by development of River's Edge DRI will be mitigated by the payment of park impact fees in accordance with the Lee County Land Development Code. No refund or credit for park impact fees paid prior to the adoption of the third amendment to this development order will be issued.

F. SCHOOLS

River's Edge must provide off-street school bus loading zones for each development phase as deemed necessary by the Lee County School Board.

G. WATER SUPPLY, WATER QUALITY AND WILDLIFE HABITAT

1. No residential development may commence until sufficient water is available through a public water system to insure adequate fire flow, as well as a sufficient quantity of potable water, to adequately serve the residential development for which a building permit is requested.

2. During Phase I, River's Edge must plug all existing on-site wells in accordance with Lee County Division of Protective Services and South Florida Water Management District standards.

3. The River's Edge development must comply with the best management practices as defined by the South Florida Water Management District (SFWMD) with regard to the use of excavated areas and of wetlands acting as polishing and buffer areas and grassed swales for drainage purposes.

4. Pursuant to the drainage plans and permits approved by the SFWMD and the marina plans and permits approved by the Florida Department of Natural Resources,

Florida Department of Environmental Protection, and U.S. Army Corps of Engineers, stormwater drainage will be collected within the drainage lake system and discharged via a system of weir control structures into spreader swales. Stormwater will not be discharged into the marina basin or the marina mitigation area. Direct discharge of water/effluent by River's Edge DRI into the Caloosahatchee River is prohibited. South Florida Water Management District plans for River's Edge, Phase One, Primary Drainage System Reference Plan, dated January, 1984, revised 12-27-84, Sheet 2 of 27, shows Lakes "O" and "L" running along Griffin Boulevard and Schultz Road, connected by a littoral zone at the northeast corner of the property at the corner of Schultz Road and Griffin Boulevard. Those two lakes must remain substantially in the configuration as shown on the Water Management District Plans referenced herein. Minor adjustments may be made but must not result in a net reduction of the area of Lakes "O" and "L" which must continue to run in an alignment as shown along Griffin Boulevard and Schultz Road.

- a. A row of shrubs and trees containing the Type "B" buffer vegetation (five trees and eighteen shrubs per 100 linear feet), suitably clustered subject to the approval of the Division of Environmental Sciences (DES), must be planted along the west side of the Lakes "O" and "L" along Griffin Boulevard. DES may not unreasonably withhold its approval.
- b. Littoral shelves as required in condition G.7. must be constructed along Lakes "O" and "L".
- c. A Type "B" buffer must be placed in front of Lakes "D" and "G" at the project entrance as shown on Map H attached as Exhibit B.

5. For the riverfront lots the following vegetation management and maintenance guidelines apply:

- a. The following: spider lilies, golden polypody, giant leather fern, and golden leather fern, will hereinafter be referred to as "listed species." The Developer must provide a vegetation conservation buffer along the river, as shown by the surveyed preservation line on attached Exhibit D (Preservation Line Map stamped received 1-3-94), excluding the area approved for the marina basin construction, marina mitigation area, boat access and flushing channels, for the purpose of conserving existing native vegetation, planting additional native vegetation and allowing passive recreational uses. The buffer area must consist of the naturally vegetated area between the Caloosahatchee River and the refined

preservation line described above. Additionally, the preservation areas include the entirety of the Eagles Perch Island. It is the intent of the refined vegetation preservation line to provide natural shoreline stabilization through native vegetation and to protect a unique vegetation/wildlife habitat.

It is understood, however, that visual access to the river from the rear of the lot through the vegetation in the buffer and preservation is desired by the Developer and may be allowed for specific, appropriate areas along the riverfront. Selective trimming of trees and vegetation within the preservation and buffer areas for this purpose may be permitted only in those areas specifically designated in this development order in the conditions specified below. Selective clearing for limited pedestrian access to the river via boardwalks or decks may also be permitted subject to the conditions specified below, but may not involve any dredge or fill activities of wetlands, any dredge or fill activities in the Caloosahatchee River, either the Eagles Perch Island or the Eagles Nest Island, nor involve preservation or buffer areas located west of a north-south line running through marker RP-44 as designated on Exhibit D and excluding the area identified on Exhibit F.

Access to the Eagle Perch Island must be allowed for purposes of 1) the removal and maintenance of invasive exotic vegetation, trimming of mangroves and native vegetation pursuant to FDEP Permit No. 36-037366-001, and similar island preservation and maintenance activities, such as repairing the native vegetation irrigation system, repairing erosion, replacing sand along the beach waterfront or repairing/replacing bulkheads and riprap; and 2) the limited pedestrian use, including unpaved pathways, a covered rest area/gazebo, park benches, limited kayak storage and launching, open-sided roofed pedestrian pavilion, bocce ball courts, a limited children's recreational play area with shade, low intensity pedestrian pathway lighting, a faux lighthouse, and limited use for small group events such as weddings or similar activities using temporary chairs, pop-up tents and limited event service by golf carts. Access to the island and permitted activities are subject to the following conditions:

- (1) The Eagle Perch Island must be accessed via the dock/bridge located in the western portion of the marina basin as shown on the overall Marina Plan, dated October 5, 1993 attached as Exhibit E, which access bridge may be repaired or replaced as needed pursuant to permits properly obtained.

- (2) The point of access to the Eagle Perch Island may be a maximum 8 feet wide. The point of access must have a gate or similar obstruction to impede unauthorized vehicle (e.g. golf cart) access, yet allow pedestrian passage.
- (3) Golf carts are permitted on the Eagle Perch Island only when used for the intermittent removal and maintenance of invasive exotic vegetation, and similar maintenance activities such as repairing erosion, replacing sand along the beach waterfront or repairing/replacing bulkheads and riprap and for limited service for small events on the island.
- (4) Pedestrian uses and other passive activity as described above are permitted on the Eagle Perch Island and also include walking, bird watching, and nature observation. ~~Pedestrian uses not permitted include any activities that involve boardwalks, development, trimming or removing of vegetation.~~
- (5) In the event bald eagles build a nest on the Eagle Perch Island, access to the island must be prohibited during the Southern bald eagle nesting season October 1 through May 15.
- (6) To implement the additional uses shown on the Conceptual Site Plan for Eagle Perch Island, attached hereto as Exhibit I (labeled as "Gulf Harbor Recreational Island"), the owner must submit for local development order approval and be substantially consistent with the site improvements shown on Exhibit I, which include, but are not limited to:
 - a. the installation of twenty-one (21) Florida slash pine (Pinus elliotti var densa); and
 - b. the revised artificial eagle perch structure location with final perch design specifications to be reviewed and approved by Lee County Environmental Sciences staff ; and
 - c. a planting plan for the "Existing Shoreline Planting Areas" to include shade and salt tolerant species with the final species list to be reviewed and approved by Lee County Environmental Sciences staff.

A final preserve management plan must be submitted as part of the required local development order. Trimming activities must be in substantial compliance with the preliminary Gulf Harbour Recreational Island Lee County Preserve Area Management Plan, attached as Exhibit J, with final exotic removal methods and monitoring details to be reviewed and approved by Lee County Environmental Sciences staff.

(7) Any repair/replacement of the existing rip rap and wooden bulkhead must be done pursuant to Land Development Code Chapter 26 requirements as well and state and federal approvals; and any proposed new area of shoreline erosion control along the Caloosahatchee River is limited to the supplemental planting of native vegetation.

b. The Developer must remove all Brazilian pepper, melaleuca, and Australian pine from the refined preservation area with minimal possible disturbance to existing native vegetation.

c. Except as noted in II.G.5.a above for the Eagles Perch Island, no ~~No~~ development, boardwalks, trimming, or clearing of vegetation is allowed in the following preservation areas as depicted on attached Exhibit D:

(1) A complete ten foot radius around any Cabbage Palm with the golden polypody located between marks RP-1 and RP-2;

(2) Eagles Perch Island;

(3) A complete ten foot radius around the golden leather fern located nearly adjacent to RP-34;

(4) West of a north-south line running through RP-44 excluding the area depicted on Exhibit F which is subject to subsection G.5.d.

The following conditions apply to the remaining preservation and buffer areas not listed in (1) through (4) above:

Other than the removal of the exotics delineated above, there must be no removal of any trees or vegetation greater than or equal to four inches in diameter at breast height (4" D.B.H.), except that at least a maximum four foot wide pedestrian access, located outside the preservation areas specified above may be permitted on each lot notwithstanding other limitations. Selective removal/replacement and trimming of trees and vegetation may be permitted for the purpose of providing limited pedestrian access to the river via boardwalks or decks provided all necessary agency or governmental permits are issued as limited by condition G.5.a. above. However, at a minimum, the buffer must contain those trees that are greater than or equal to 4" D.B.H. as well as naturally existing native understory growth. However, those trees or shrubs that are less than 4" D.B.H., or existing native understory growth, may be removed for purposes of providing visual access to the river or pedestrian access as described herein if said understory vegetation is replaced with native coastal strand vegetation replacement stock of not less than one gallon-size nursery grown containerized stock planted for any understory or shrubs removed, with a guaranteed survival rate of 80% after three years. Those trees that are removed must be relocated or replaced with a similar size tree. In no case must more than 20% of the refined preservation buffer be impacted for purposes of pedestrian access.

- d. Selective trimming of native vegetation, one boardwalk with an observation deck, and one access walkover is allowed on the property described in Exhibit F, which is a portion of tract E, per the following conditions:

(1) Mangrove (including other preserved trees) Trimming

- (a) Prior to any mangrove trimming within the 10 acre preserve adjacent to the Palmas del Sol condominiums the following must occur:
- i) The 10-foot wide rip-rap sill (breakwater) must be installed along the entire 10 acre mangrove preserve described in Exhibit F; and
 - ii) A Conservation Easement, approved by the County Attorney's Office, dedicated to Lee County and the Department of Environmental Protection (DEP) detailing the restrictions of the DEP mangrove

trimming permit and the limited trimming of red mangrove must be recorded; and

- iii) A deed donating and conveying clear title to Lee County or the State of Florida to the 11 acre parcel identified as STRAP 27-45-23-00-00005.0000 must be executed and recorded. Prior to recording, the deed must be reviewed and approved by the County Attorney's office. The applicant must pay all costs associated with the donation (e.g. surveys, closing fees, recording). Any exotic vegetation must be removed by hand from the 11 acre parcel prior to the County's acceptance of the donation.
- (b) Three corridors, each the width of each of the buildings (240', 244' and 152' wide) and extending from the landward boundary of the property described in Exhibit F North Northwest to the Caloosahatchee River will have selective mangrove trimming and maintenance as described as follows and as shown on Exhibit G.
- (c) All mangrove trimming must be conducted as permitted by the Florida Department of Environmental Protection (FDEP) General Mangrove Permit File No. 36-0152741-003, as amended, which includes, but is not limited to, the following conditions:
 - (i) Mangrove Trimming must be supervised or conducted exclusively by a Professional Mangrove Trimmer.
 - (ii) No herbicide or other chemical may be used for the purpose of removing leaves of a mangrove.
 - (iii) Trimming must be conducted in stages so that no more than 25% of the foliage is removed annually, and the height and configuration of the mangroves trimmed under these general permits may be maintained.
 - (iv) The final height of trimmed mangroves and other preserved trees to be maintained is 20' NGVD (approximately 18 from substrate). Only the mangroves within the mangrove trimming areas

shown in Exhibit G (as Page 1 of 2 dated August 27, 2014 and Page 2 of 2 dated June 19, 2002) may be trimmed. Because many of the trees in the mangrove trimming areas are less than 32' NGVD in height (as of June 2002), approximately thirty percent of the area will not be initially trimmed. Trees less than 20' NGVD in the mangrove trimming area will only be trimmed as they exceed 20 NGVD in the future to maintain the required elevation.

- (d) Red mangroves will be trimmed in compliance with the FDEP Permit File No. 36-0152741-003, as amended.
- (e) Once the final configuration and height (20' NGVD) is achieved, the trimming corridors will be maintained by annual, bi-annual or biennial trimming events.
- (i) The property described in Exhibit F must be conveyed to the Palmas del Sol Condominium Association, subject to covenants and restrictions with respect to maintenance and use consistent with the Fourth Amendment to the DRI D.O.
- (ii) The observation deck is limited to a maximum of 400 square feet, and must meet the standards of fishing piers in Land Development Code Section 26-73. The access boardwalk to the observation deck is limited to a 5-foot width. The boardwalk and observation deck must be field located to avoid impacts to the existing mangrove forest and individual large mangrove trees. Placement of the boardwalk must be within the limits of the existing berm along the west boundary of the mangrove preserve. The boardwalk and observation deck must be in substantial compliance with the Boardwalk and Observation Deck/Mangrove Trimming Plan prepared by W. Dexter Bender and Associates (attached as two-page Exhibit G).
- (iii) A rip-rap revetment/breakwater system including red mangrove plantings shall be installed along the shoreline of the portion of the property described in Exhibit F to protect the shoreline from further erosion

as shown on Exhibit H. The rip-rap sill must consist of rock material no less than 10-inches in diameter and no greater than 24-inches in diameter. The rock must be placed in a manner that does not damage the existing mangroves. Prior to issuance of a Certificate of Compliance for the rip-rap sill, the rip-rap must be planted with 3-gallon red mangrove seedlings or 3-gallon wetland plants such as leather fern placed 3-foot on center.

- (iv) A Lee County Dock and Shoreline Permit must be obtained for the boardwalk/observation deck and the rip-rap sill. A planting plan for the rip-rap sill showing the locations, species and container size must be submitted with the Dock and Shoreline Permit for the Division of Environmental Sciences staff review and approval.
- (v) The entire 10.17 acre preserve shown in Exhibit F must be placed under a conservation easement granted to Lee County. The easement document must be reviewed and approved by the County Attorney's Office prior to recording in the public records.
- (vi) The nuisance plant Moon vine (*Ipomoea* sp.) must be killed in place by an appropriate herbicide in the portion of the subject property described in Exhibit F.
- (vii) *Monitoring.* The trimming corridors have been monitored annually for a period of ten (10) years from the date of initial trimming, and will continue to be monitored for another five (5) years from the 2014 date of the next trimming below 32' NGVD. Annual reports will be submitted to Lee County Environmental Sciences that analyze tree health, canopy coverage, plant species present and wildlife observed.
- (viii) The Division of Environmental Sciences staff must be notified prior to commencement of any mangrove trimming and invasive exotic vegetation removal. Invasive exotic vegetation removal must be done concurrently with the mangrove trimming. All invasive exotic vegetation including, but not limited to, Brazilian pepper, melaleuca, Australian pine, seaside

mahoe, and carrotwood must be removed from the preserve area.

- e. Prior to the recording of a subdivision plat for riverfront lots, these vegetation maintenance and management guidelines must be included by the Developer in recorded deed restrictions applicable to any residential lots located adjacent to the river and must be enforceable by a homeowner's association as well as being made conditions of the DRI Development Order and local Development Order.
- f. Prior to any clearing in the single-family area along the river, there must be an on-site review by Lee County to insure that there is a complete radius of 25' preserved around any giant leather ferns, ten feet preserved around any golden leather fern or golden polypody, and that any spider lilies without a ten foot radius of preserved area will be relocated or replaced on the River's Edge site with comparable nursery stock.

6. In the Marina mitigation area, prior to clearing or construction activity, a "listed species" vegetation survey must be conducted and any "listed species" located landward of the preservation line shown on Exhibit D must be relocated or replaced elsewhere on-site in a suitably similar habitat.

The spider lilies located near markers RP-21 and RP-22 and between RP-33 and RP-36 must be appropriately relocated and transplanted to appropriate habitat on the Eagles Perch Island by a qualified botanist hired by the Developer prior to development of the flushing channel at this site. The methodology, location and details of this relocation and transplantation must be reported in the next annual monitoring report required to be submitted. Three years after the relocation, or in the 1997 annual monitoring report, whichever occurs first, a qualified botanist hired by the Developer must report on the success or failure status of the relocation and discuss any discernible reasons surrounding the success or failure of the relocation.

7. For all manmade water bodies, except the marina basin, littoral shelves must be constructed at random locations along lake edges with a maximum depth of two feet below the lake control elevation, and must be planted with native wetland vegetation. This work must be done concurrently with construction of the final water management system.

8. In the 1989-90 bald eagle breeding season a bald eagle nest was constructed in the "witches broom" top of an Australian Pine tree located within 25 feet of the existing River's Edge golf course. Pursuant to the Lee County Bald Eagle Management Ordinance, River's Edge prepared a Southern Bald Eagle Habitat Management Plan for the River's Edge Yacht and Country Club that has been adopted by Lee County. The provisions of that plan, as it may be amended from time to time, are incorporated into this development order.

A resolution (#93-09-70) amending the Habitat Management Plan was approved by the Lee County Commission in September, 1993. The amendment deleted the specific nest preservation measures outlined by the eagle management plan because the Florida Game Commission (FGC) and the Lee County Eagle Technical Advisory Committee (ETAC) determined the eagle nest abandoned and the perch tree had been blown down.

The resolution required the creation of a short term and long term plan encouraging bald eagles to continue utilizing River's Edge for perching and feeding. This plan must include:

- a. Designing and constructing an artificial perch for Eagle Perch Island. The structural design and placement of the perch must be subject to approval by the Lee County Eagle Technical Advisory Committee.
- b. A planting plan to install 35' South Florida slash pine trees (*Pinus elliotti* var. *densa*), a minimum of eight feet in height, on the Eagle Perch Island. The pines must be distributed and spaced to promote the growth of tall, straight trees with large crowns at the tops of the trees. The purpose of these pines is to provide future natural perching and roosting substrates for bald eagles.

The locations of the artificial perch and the pine plantings, including sizes and numbers, must be clearly illustrated on a local development order plan for the new marina. The artificial perch and the plantings must be installed and approved by Lee County Division of Natural Resources Management staff prior to issuance of the Certificate of Compliance for the marina.

However, if the plan is further amended, the Southwest Florida Regional Planning Council and the Department of Community Affairs must be notified of the proposed amendment.

9. There must be no entrance ways from River's Edge directly onto Griffin Boulevard or Schultz Road.

I. HURRICANE MITIGATION

River's Edge must provide sufficient storm shelter space during the construction of the first 512 residential units to accommodate at least 24% of that population. Such shelter space must meet the following conditions:

1. Located at least 16' above MSL.
2. No structures located within 150' of the shoreline may be utilized as shelter space.
3. Designated shelter space must be located in the interior hallways and similar areas with no openings leading directly to the exterior.
4. Shelter space must be provided at a ratio of 20' square feet per person.
5. A homeowners association must be established to coordinate and educate the development's residents as to the availability of shelter areas and procedures to follow during a storm event.
6. Structures that provide shelter space must be constructed to withstand 140 mph wind velocities and a professional engineer licensed and registered by the State of Florida must so certify.
7. Subsequent to construction of the shelter, River's Edge will provide comparative information and other data to assist Lee County in developing adequate on site storm shelter standards that may be included within the Lee County Building Code.

8. In lieu of the on-site storm shelter requirements set forth above, the River's Edge development may provide off-site storm shelter space. The space must be coordinated with and approved by the Lee County Emergency Management Services. The timing of this alternative must be as described above.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS

1. This Codified Development Order Amendment constitutes a resolution of Lee County, adopted by the Board of County Commissioners in response to the River's Edge Yacht and Country Club DRI NOPC.

2. All commitments and impact mitigating actions volunteered by the Developer in the Application for Development Approval, subsequent NOPC applications and supplementary documents not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated by reference into this Development Order Amendment.

3. This Development Order Amendment is binding upon the Developer, its successors and assigns. Those portions of this Development Order Amendment that clearly apply only to the project Developer, will be binding upon any builder/developer who acquires any tract of land within the River's Edge Yacht and Country Club DRI.

4. The terms and conditions set out in this document constitute a basis upon which the Developer and County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order.

5. All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order Amendment may be enforced by either party hereto in an action at law or equity, and all costs of such proceedings, including reasonable attorneys' fees will be paid by the prevailing party.

6. It is understood that any reference herein to any governmental agency will be construed to mean future instrumentalities created and designated as successors in interest to, or which otherwise possesses the powers and duties of the referenced governmental agency in existence on the effective date of this Development Order Amendment.

7. If any portion or section of this Development Order Amendment is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision will not affect the remaining portions or sections of the Development Order Amendment, which will remain in full force and effect.

8. The approval granted by this Development Order Amendment is limited. Approval may not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided.

9. Subsequent requests for local development permits will not require further review pursuant to § 380.06, Florida Statutes, unless the Board of County Commissioners finds, after due notice and hearing, that one or more of the following occurs:

- a. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plan creates a reasonable likelihood of adverse regional impacts or other regional impacts not evaluated in the review by the Southwest Florida Regional Planning Council; or
- b. Expiration of the period of effectiveness of this Development Order.

Upon a finding that either of the above has occurred, the Board may order a termination of all development activity until a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with §380.06, Florida Statutes.

10. The established buildout date under this Development Order Amendment is May 4, 2011, and the termination date is May 4, 2013, unless an extension is granted by the Board. No permits for development will be issued by the County subsequent to the termination date, or expiration date, unless the conditions set forth in F.S. §380.06(15)(g) are applicable.

11. An extension of the buildout or termination date may be granted by the Board of County Commissioners if the project has been developing substantially in conformance with the original plans and approval conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, or arising due to the extension,

have been identified. Future requests to extend time will be evaluated cumulatively with past requests in accordance with F.S. §380.06(19). For the purpose of calculating when a buildout date has been exceeded, the time is tolled during the pendency of administrative and judicial proceedings relating to development permits.

12. The Administrative Director of the Lee County Department of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

13. The development will not be subject to down-zoning, or intensity reduction, for five years following the date this Development Order Amendment is approved, unless the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order amendment including, but not limited to such factors as a finding that the Development Order Amendment was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by local government to be essential to the public health, safety and welfare.

14. The Developer, or its successor in title to the undeveloped portion of the subject property, must continue to submit a biennial report to Lee County, the Southwest Florida Regional Planning Council, the State land planning agency (the Department of Community Affairs), and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and must further be consistent with the rules of the State land planning agency. The biennial report must include information required by Florida Statutes §380.06.

The first monitoring report must be submitted to the Administrative Director of the Department of Community Development not later than one year after the effective date of this Development Order Amendment, and further reporting must be submitted not later than May 1st of subsequent calendar years thereafter, until buildout. Failure to comply with this reporting procedure is governed by §380.06(18) Florida Statutes, and the Developer must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This may not be construed to require reporting from individual tenants.

15. Certified copies of this Development Order Amendment will be forwarded to the Southwest Florida Regional Planning Council, the Applicant, and appropriate state agencies. This Development Order Amendment is rendered as of the date of that

transmittal, but is not effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, the Developer must record a notice of its adoption in accordance with § 380.06(15), Florida Statutes.

Commissioner _____ made a motion to adopt the Eighth Development Order Amendment, seconded by Commissioner _____. The vote was as follows:

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

(The remainder of this page is intentionally left blank)

DULY PASSED AND ADOPTED this 17th day of June, 2015.

ATTEST:

LINDA DOGGETT, CLERK

By: _____

Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: _____

Brian Hamman, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____

Neysa Borkert
Assistant County Attorney
Lee County Attorney's Office

Attachments:

Exhibit A - Legal Description

Exhibit B - Map H

Exhibit C - Phasing Schedule

Exhibit D - Sketch of the Preservation Area within River's Edge Yacht Club stamped
"Received JAN 03 1994"

Exhibit E - Overall Marina Plan - dated October 5, 1993

Exhibit F - Sketch of Phase 4 Preservation Area dated 5-1-2002

Exhibit G - Boardwalk and Observation Deck/Mangrove Trimming Plan - 2-page exhibit
prepared by Dexter Bender & Associated dated 8-27-2014 and 6-19-2002,
respectively

Exhibit H - Rip Rap detail

Exhibit I - Conceptual Site Plan for Eagle Perch Island a/k/a Gulf Harbour Recreational
Island, stamped received May 7, 2015

Exhibit J - Gulf Harbour Recreational Island, Lee County Preserve Area Management
Plan, stamped received March 20, 2015

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION
Property located in Lee County, Florida

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS • NAPLES • SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTIONS 29, 30, & 31, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(GULF HARBOUR)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 29, 30, AND 31, TOWNSHIP 45 SOUTH RANGE 24 EAST, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 30; THENCE S89°19'35"W (BEARINGS BASED ON THE FLORIDA COORDINATE SYSTEM, WEST ZONE) ALONG THE SOUTH LINE OF SAID SECTION 30 FOR 425.34 FEET TO THE INTERSECTION WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD (80 FEET FROM CENTERLINE), BEING THE NORTHWESTERLY LINE OF LANDS CONVEYED BY DEED RECORDED IN OFFICIAL RECORDS BOOK 1837, PAGE 2982 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND THE POINT OF BEGINNING, THENCE N49°27'05"E ALONG SAID RIGHT-OF-WAY 556.64 TO THE INTERSECTION WITH THE EAST LINE OF SAID SECTION 30; THENCE CONTINUING N49°27'05"E ALONG SAID RIGHT-OF-WAY LINE INTO SAID SECTION 29 FOR 202.49 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE TO THE NORTHWEST AND SAID RIGHT-OF-WAY LINE FOR 141.67 FEET, RADIUS 2212.00 FEET, CHORD OF 141.65 FEET BEARING N47°37'00"E; THENCE N45°46'55"E ALONG SAID RIGHT-OF-WAY LINE FOR 1444.31 FEET; THENCE N00°44'41"W, LEAVING SAID RIGHT-OF-WAY, ALONG THE WESTERLY LINE OF TRACT "B" PALMETTO POINT, AS RECORDED IN PLAT BOOK 29, PAGES 21 THROUGH 23 OF SAID PUBLIC RECORDS, AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF GRIFFIN BOULEVARD (50 FEET WIDE) FOR 3603.97 FEET; THENCE N89°37'45"W, LEAVING SAID RIGHT-OF-WAY LINE PARALLEL WITH AND 100 FEET SOUTH OF THE NORTH LINE OF SAID SECTION 29 FOR 1279.05 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF SAID SECTION 30; THENCE N89°37'45"W PARALLEL WITH AND 100 FEET SOUTH OF THE NORTHERLY LINE OF SAID SECTION 30 FOR 554 FEET, MORE OR LESS, TO THE WATERS OF THE CALOOSAHATCHEE RIVER, THEN SOUTHWESTERLY AND WESTERLY ALONG THE WATERS OF THE CALOOSAHATCHEE RIVER FOR 6690 FEET, MORE OR LESS, TO THE INTERSECTION WITH THE WESTERLY LINE OF SAID SECTION 30 WHICH BEARS N01°03'43"W FROM THE SOUTHWEST CORNER OF SAID SECTION 30; THENCE S01°03'43"E ALONG THE WESTERLY LINE OF SAID SECTION 30 FOR 2049 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 30; THENCE N88°46'47"E ALONG THE SOUTHERLY LINE OF SAID SECTION 30 FOR 1317.12 FEET TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 2; THENCE S01°06'09" ALONG THE WESTERLY BOUNDARY LINE OF THE LANDS OF RIVER'S EDGE 3, A CONDOMINIUM AS RECORDED IN OFFICIAL RECORD BOOK 1783, PAGE 3709 OF SAID PUBLIC RECORDS, FOR 665.51 FEET TO THE SOUTHWEST CORNER OF

DRI2005-00004

PAGE 1 of 3

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MAY 03 2005

EXHIBIT A
LEGAL DESCRIPTION
Property located in Lee County, Florida

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 31; THENCE N.88°51'11"E. ALONG THE SOUTH BOUNDARY LINE OF SAID CONDOMINIUM LANDS AND THE SOUTH LINE OF SAID FRACTIONAL SECTION FOR 593.45 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID CONDOMINIUM LAND; THENCE CONTINUE N88°51'11"E ALONG THE SOUTH LINE OF SAID FRACTIONAL SECTION FOR 65.45 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 31; THENCE S01°09'19"E ALONG THE WESTERLY LINE OF SAID FRACTION OF SECTION 31 FOR 666.27 FEET TO THE SOUTHWEST CORNER OF SAID FRACTION OF SECTION 31; THENCE N88°55'32"E ALONG THE SOUTHERLY LINE OF SAID FRACTION SECTION 31 FOR 659.51 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 31; THENCE N89°11'55"E ALONG THE SOUTHERLY LINE OF SAID FRACTIONAL SECTION FOR 542.56 FEET; THENCE N01°07'54"W ALONG THE WESTERLY BOUNDARY LINE OF LANDS CONVEYED BY DEED RECORDED IN OFFICIAL RECORD BOOK 2125, PAGE 2439, FOR 221.20 FEET TO THE NORTHWEST CORNER OF SAID LANDS; THENCE N65°09'03"E ALONG THE NORTHWESTERLY BOUNDARY LINE OF SAID LANDS FOR 163.03 FEET TO THE MOST NORTHERLY CORNER OF SAID LANDS; THENCE S40°32'55"E ALONG THE NORTHEASTERLY BOUNDARY LINE OF SAID LANDS, ALONG A LINE PERPENDICULAR WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD FOR 164.14 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD (80 FEET FROM CENTERLINE), BEING THE NORTHWESTERLY LINE OF LANDS CONVEYED BY DEED RECORDED IN RECORD BOOK 1837, PAGE 2982 OF SAID PUBLIC RECORDS; THENCE N49°27'05"E ALONG SAID RIGHT-OF-WAY LINE FOR 1826.43 FEET TO THE SOUTH LINE OF SAID SECTION 30 AND THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS-OF-WAY.

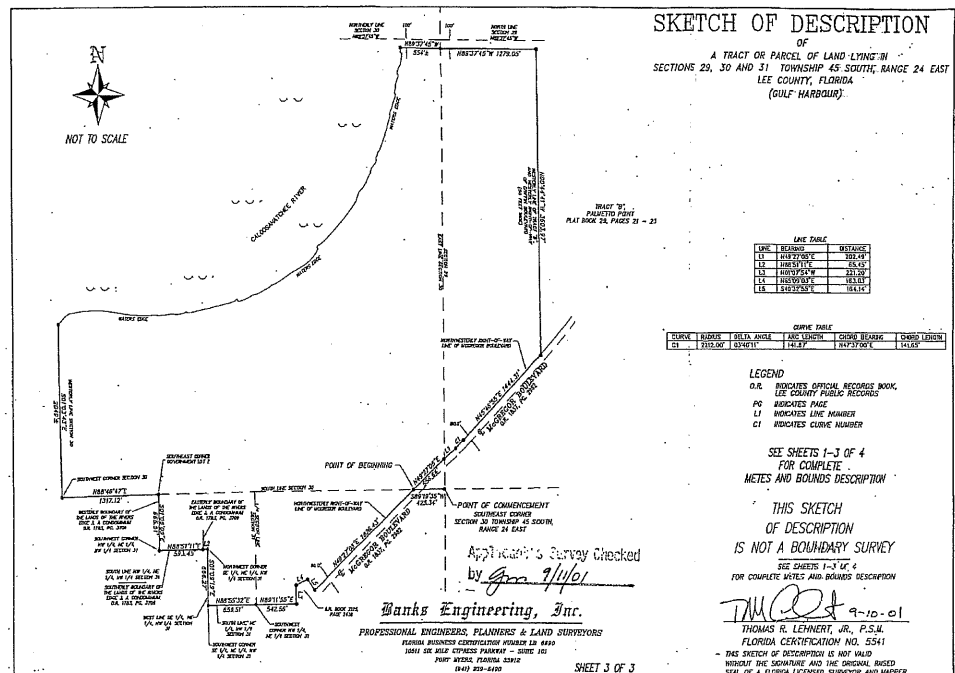
BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTH EAST QUARTER OF SECTION 30, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS BEARING S.89°19'35"W.

SUBJECT TO FACTS THAT MAY BE REVEALED BY AN ACCURATE BOUNDARY SURVEY.

DESCRIPTION PREPARED 7/31/01.

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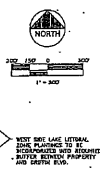
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Exhibit B

Map H

[illegible]

LAND USE	ACREAGE
RESIDENTIAL (INCLUDES EXISTING RESIDENTIAL, PROPOSED RESIDENTIAL, WATER BASIN LESS PRIVATE OPEN SPACE)	197.3
INTERNAL ROAD PAVEMENT (APPROXIMATE)	13.0
LAKES (WATER MANAGEMENT)	70.0
WATER BASIN AND MEDIAN AREAS	17.2
OPEN SPACE (INCLUDES VEGETATION/PRESERVATION - WATER, PRIVATE OPEN SPACE, WILDLIFE PRESERVATION, OTHER OPEN SPACE)	250.7
TOTAL ACREAGE	547.8



2001-00005
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MAY 07 2002
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MASTER CONCEPT PLAN / MAP H

MD MORRIS - DEPEW ASSOCIATES, INC.
ENGINEERS - PLANNERS - SURVEYORS & MAPMAKERS
125 Russell Avenue • Fort Myers, Florida 33901 • (813) 335-3333 • FAX (813) 335-3333

CHECKED BY DVD	INSURANCE BY RDM
DATE 04/03/02	
PRICE	

Exhibit C

Phasing Schedule

RIVER'S EDGE YACHT AND COUNTRY CLUB DRI
(GULF HARBOUR YACHT AND COUNTRY CLUB)
PROPOSED PHASING PLAN
AMENDED TABLE 12B-1

<u>PHASE</u>	<u>DEVELOPMENT IMPROVEMENTS</u>	<u>YEARS</u>
1	215 Multi-Family Units Golf Course Temporary Clubhouse Temporary Pro Shop Sales/Administrative Offices	1-12
2	155 Single-Family Units 343 Multi-Family Units Marina (190 Berths) Clubhouse Facilities Sales/Administrative Offices Tennis Club (8 Courts)	13-14 1994-1995
3	633 Single Family Units 641 Multi-Family Units Total Single-Family Units: 788 Total Multi-Family Units: 1199 Total Dwelling Units: 1987 Total Freestanding Commercial: 0 Ancillary to Principal Uses (Private Residential Tennis and Golf Pro Shops, Marina Support Services) Restaurant and Lounge Facilities Contained within Clubhouse No Hotel/Motel Units Proposed	15-27 <u>30</u> 1996- 2008 <u>2011</u>

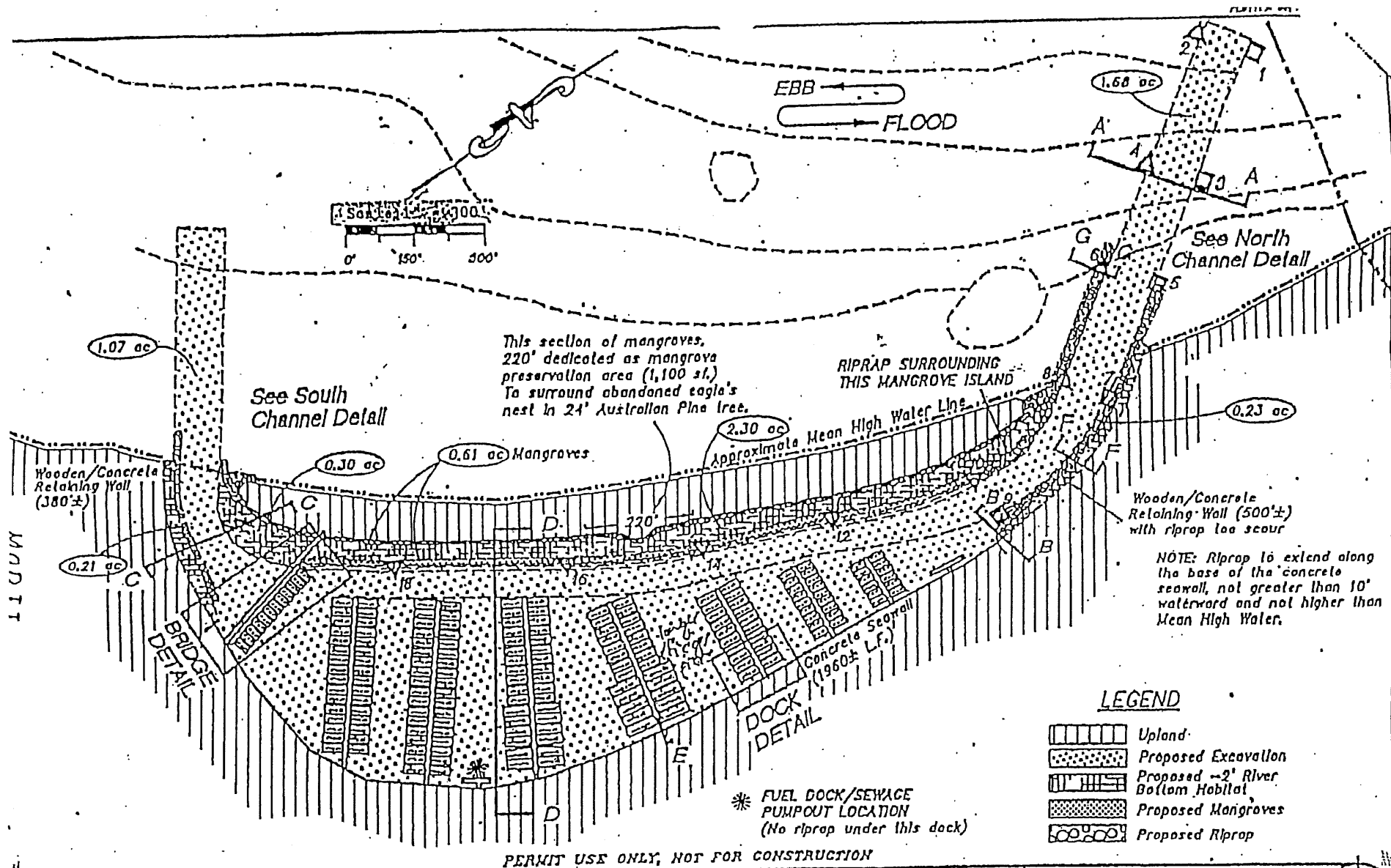
EXHIBIT C

Exhibit D

Sketch of the Preservation Area within River's Edge Yacht Club stamped "Received JAN 03 1994"

Exhibit E

Overall Marina Plan - dated October 5, 1993



DATE
1/30/13
17

FLORIDA DESIGN
COMMUNITIES, INC.

Overall Marina Plan

DRAWN BY: JMW
REVISED: 9/2/93
9/23/93
10/5/93

W. DEXTER BENDER
AND ASSOCIATES
1615 PENWAY ST. SUITE 101
FORT MYERS, FL 33901

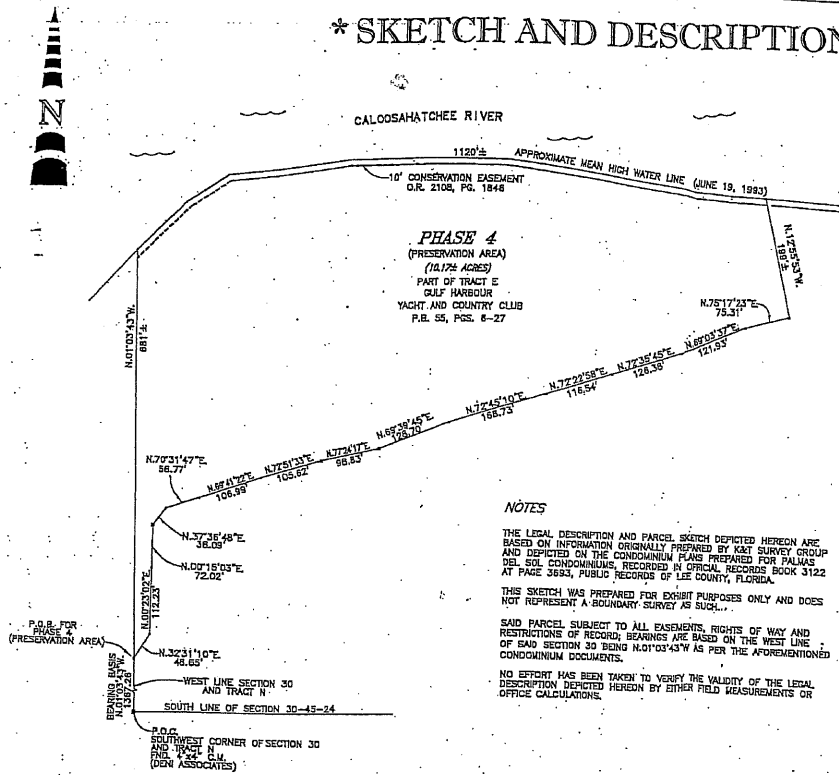


EXHIBIT E

Exhibit F

**Sketch of Phase 4 Preservation Area
dated 5-1-2002**

* SKETCH AND DESCRIPTION *



NOTES

THE LEGAL DESCRIPTION AND PARCEL SKETCH DEPICTED HEREON ARE BASED ON INFORMATION ORIGINALLY PREPARED BY KOT SURVEY GROUP AND DEPICTED ON THE CONDOMINIUM PLANS PREPARED FOR PALMAS DEL SOL CONDOMINIUM, RECORDED IN OFFICIAL RECORDS BOOK 3122 AT PAGE 3693, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS SKETCH WAS PREPARED FOR EXHIBIT PURPOSES ONLY AND DOES NOT REPRESENT A BOUNDARY SURVEY AS SUCH.

SAID PARCEL SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD; BEARINGS ARE BASED ON THE WEST LINE OF SAID SECTION 30 BEING N 01°03'43\"W AS PER THE AFOREMENTIONED CONDOMINIUM DOCUMENTS.

NO EFFORT HAS BEEN TAKEN TO VERIFY THE VALIDITY OF THE LEGAL DESCRIPTION DEPICTED HEREON BY EITHER FIELD MEASUREMENTS OR OFFICE CALCULATIONS.

LEGEND

P.B.	PLAT BOOK
P.R.	PUBLIC RECORDS
P.L.	PLAT
P.C.	PLAT
P.E.	PLAT
P.F.	PLAT
P.G.	PLAT
P.H.	PLAT
P.I.	PLAT
P.J.	PLAT
P.K.	PLAT
P.L.	PLAT
P.M.	PLAT
P.N.	PLAT
P.O.	PLAT
P.P.	PLAT
P.Q.	PLAT
P.R.	PLAT
P.S.	PLAT
P.T.	PLAT
P.U.	PLAT
P.V.	PLAT
P.W.	PLAT
P.X.	PLAT
P.Y.	PLAT
P.Z.	PLAT

DESCRIPTION
OF PALMAS DEL SOL CONDOMINIUM, PHASE 4
(PRESERVATION AREA)
LYING IN SECTION 30, TOWNSHIP 4S SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 30, TOWNSHIP 4S SOUTH, RANGE 24 EAST, BEING A PART OF TRACT "A", GULF HARBOR YACHT AND COUNTRY CLUB SUBDIVISION AS RECORDED IN PLAT BOOK 55, PAGES 8 THROUGH 27, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 30 AND THE SOUTHWEST CORNER OF SAID TRACT "A" OF GULF HARBOR YACHT AND COUNTRY CLUB; THENCE ALONG THE WEST LINE OF SAID SECTION 30 AND SAID TRACT "A", N 01°03'43\"W, FOR 1367.28 FEET TO THE POINT OF BEGINNING OF THE PARCEL, HEREIN DESCRIBED; THENCE LEAVING SAID WEST LINE, N 32°31'10\"E, FOR 48.85 FEET; THENCE N 07°15'03\"E, FOR 112.23 FEET; THENCE N 00°15'03\"E, FOR 75.31 FEET; THENCE N 37°35'48\"E, FOR 38.09 FEET; THENCE N 72°45'10\"E, FOR 188.73 FEET; THENCE N 72°22'58\"E, FOR 118.54 FEET; THENCE N 72°35'45\"E, FOR 128.38 FEET; THENCE N 68°03'37\"E, FOR 121.83 FEET; THENCE N 79°17'23\"E, FOR 75.31 FEET TO THE NORTHWEST CORNER OF LOT 38 OF GULF HARBOR YACHT AND COUNTRY CLUB PHASE ONE AS RECORDED IN PLAT BOOK 55, PAGES 1 THROUGH 4, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N 12°55'53\"W, FOR 199 FEET, MORE OR LESS, TO THE MEAN HIGH WATER LINE OF THE CALOOSAHATCHEE RIVER; THENCE WESTERLY ALONG SAID MEAN HIGH WATER LINE FOR 1150 FEET, MORE OR LESS, TO AN INTERSECTION WITH SAID WEST LINE OF SECTION 30, BEARING N 01°03'43\"W, FROM THE POINT OF BEGINNING; THENCE ALONG SAID WEST LINE OF SECTION 30, S 01°03'43\"E, FOR 681 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL CONTAINS 10.17 ACRES, MORE OR LESS;

PREPARED BY:

Scott M. Shore
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. L3# 5743

5-1-2002

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

* THIS IS NOT A SURVEY *

TITLE PRESERVATION AREA / PALMAS DEL SOL

MERIDIAN
SURVEYING & MAPPING, LLC
LAND SURVEYORS - FLORIDA

2248 RANNEY WAY, SUITE 20
FORT MYERS, FLORIDA 33907
PHONE (841) 275-2573
FAX (841) 275-6467
WWW.MERIDIANL.COM

FILE NO. 2248SK-0100

DATE 2/24/02

1 OF 1

EXHIBIT F

Exhibit G

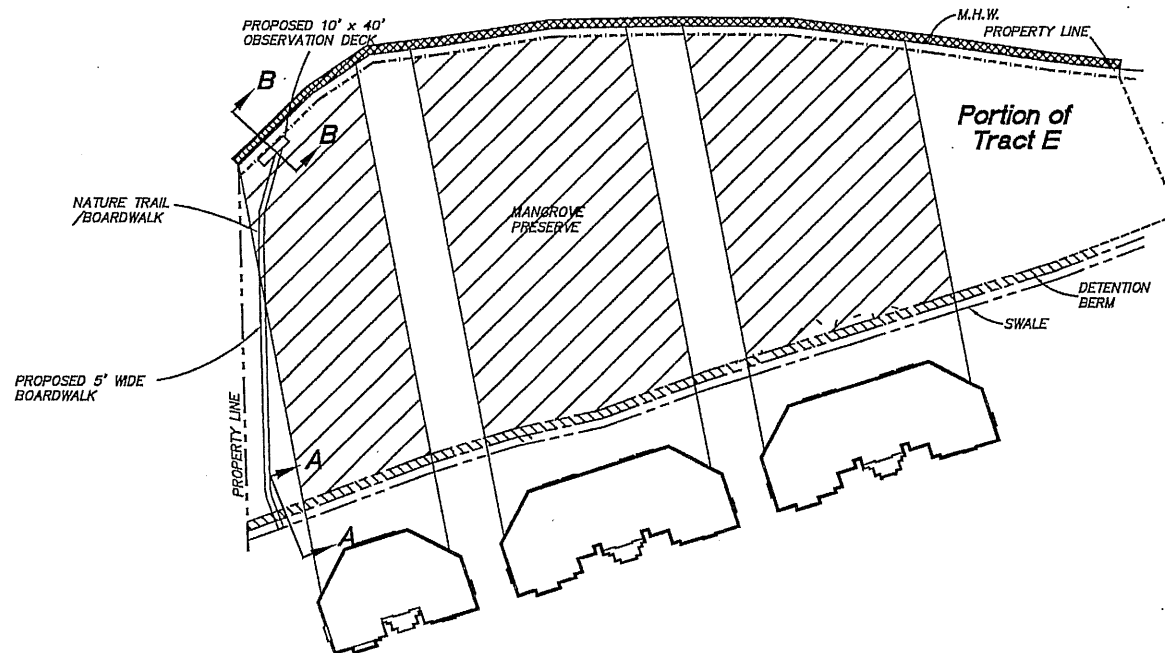
**Boardwalk and Observation Deck/
Mangrove Trimming Plan - 2-page
exhibit prepared by Dexter Bender &
Associated dated 8-27-2014
and 6-19-2002, respectively**

SECTION: 30
TOWNSHIP: 45 S
RANGE: 24 E

Boardwalk and Observation Deck/Mangrove Trimming Plan

Revised August 2014

Caloosahatchee River

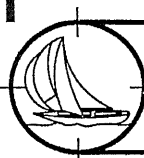


0 100 200
SCALE FEET

-  Proposed Mangrove Trimming Area
Trim Trees to 20' NGVD (18'± from substrate)
-  Proposed Riprap Shoreline Protection

**PERMIT USE ONLY,
NOT FOR CONSTRUCTION**

August 27, 2014 8:08:06 a.m.
Drawing: PALMA2NOTICE.DWG

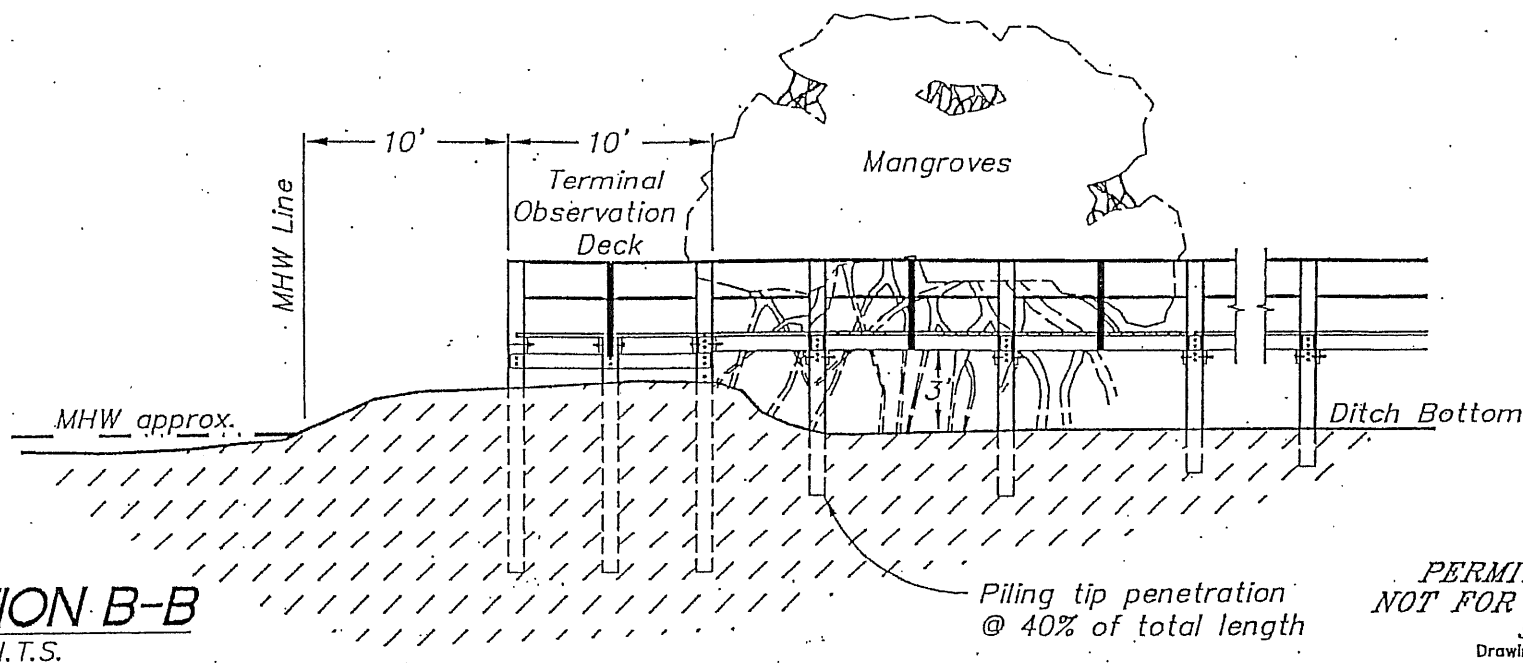
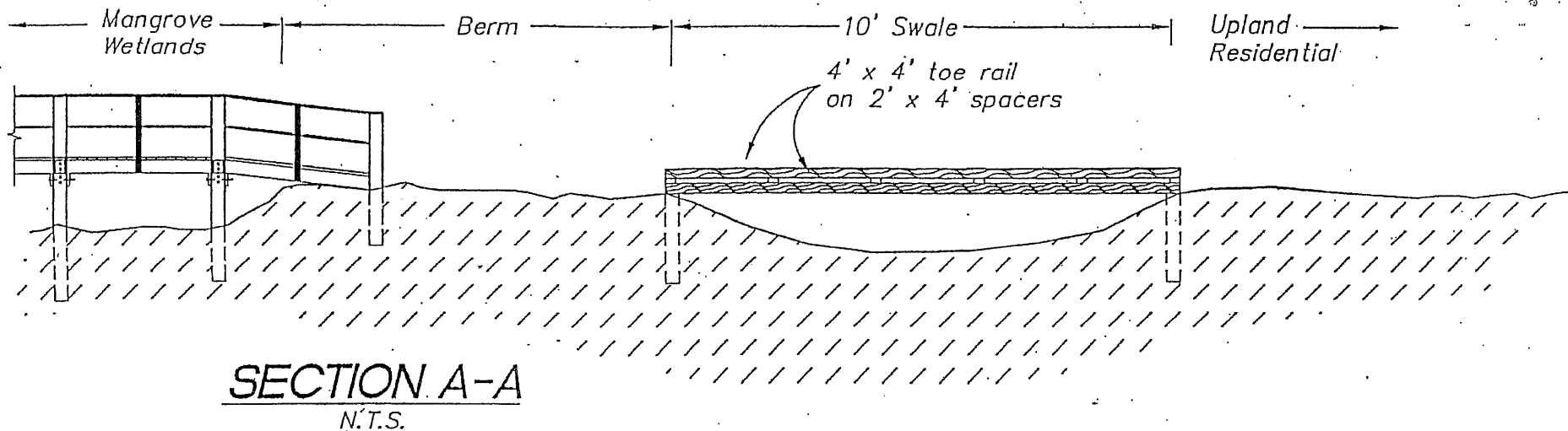


**W. DEXTER BENDER
& ASSOCIATES, INC.**
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS, FL (239) 334-3680

REVISED:

Palmas Del Sol

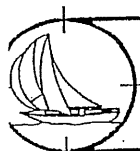
SHEET



HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
W. DEXTER BENDER & ASSOC., INC.

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June 19, 2002 11:25:45 a.m.
Drawing: GROSS1XSA.DWG (DCS)



W. DEXTER BENDER
AND ASSOCIATES
2052 VIRGINIA AVENUE
FORT MYERS, FL 33901 (813) 334-3680

REVISED:

PALMAS del SOL
BOARDWALK and OBSERVATION DECK

SHEET

Exhibit H

Rip Rap Detail

ION: 30
 ISHIP: 45 S
 E: 24 E

Rip Rap Detail and Cross-section

Caloosahatchee River



Proposed Riprap Sill

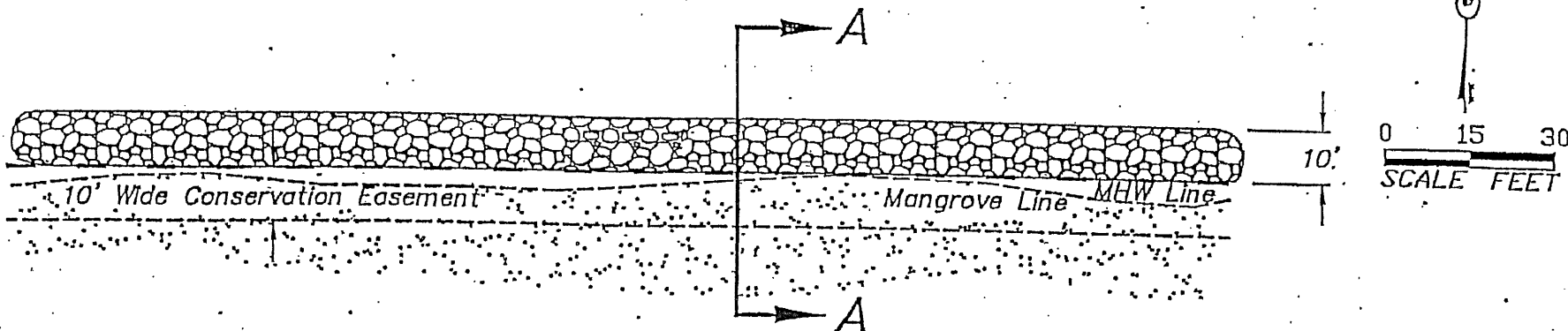
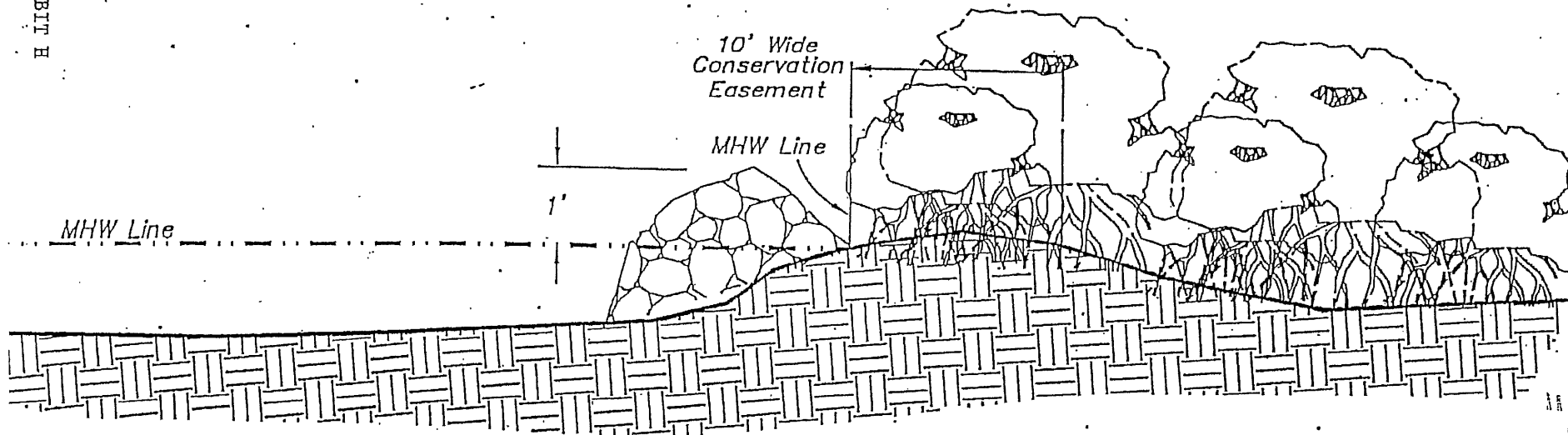


EXHIBIT H



Section A-A
 Not to Scale

PERMIT USE ONLY,
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July 10, 2001 9:05:28 a.m.
 Drawing: CROSSDET.DWG (DCS)

W. DEXTER BENDER
 AND ASSOCIATES
 ENVIRONMENTAL & MARINE CONSULTING
 FORT MYERS, FL (941) 334-3680

REVISED:

Palmas Del Sol

SHEET

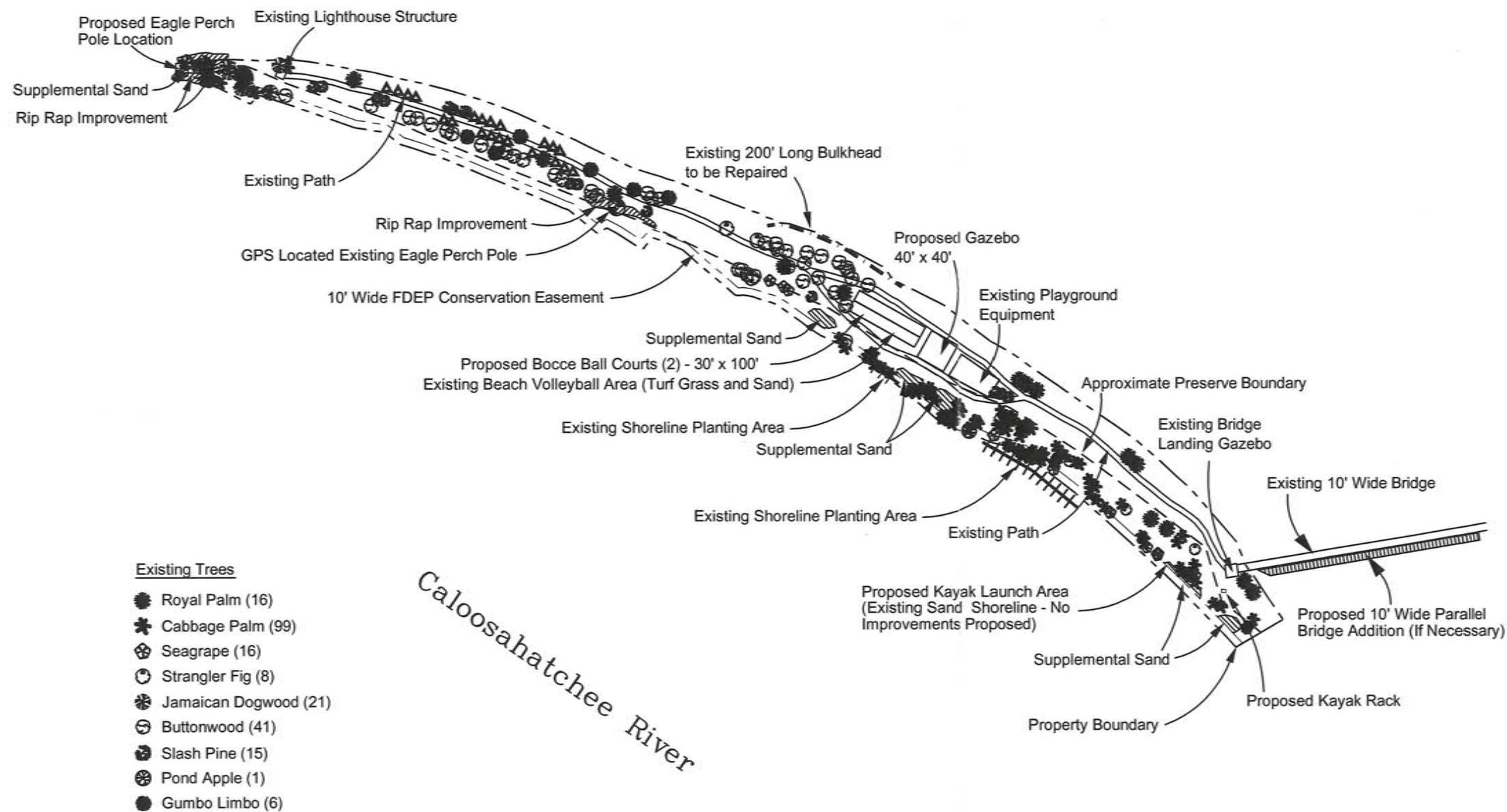
Exhibit I

Conceptual Site Plan for Eagle Perch Island, stamped received May 7, 2015

CONCEPTUAL SITE PLAN



W. DEXTER BENDER & ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
PORT MYERS 239-394-3680



Existing Trees

- Royal Palm (16)
- Cabbage Palm (99)
- Seagrape (16)
- Strangler Fig (8)
- Jamaican Dogwood (21)
- Buttonwood (41)
- Slash Pine (15)
- Pond Apple (1)
- Gumbo Limbo (6)

- ▨ Rip Rap Improvements
- ▨ Sand Added Only to Existing Upland Areas (0.09 ac.)*
- ▲ Proposed Replacement Slash Pine (20)

*Supplemental sand is only added to existing sandy areas and does not include any areas below the mean high water line, or within the FDEP Conservation Area boundaries.

All Structures for recreational activities are located in areas with no native vegetation. No impacts to native vegetation will result from construction.

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Notes
1 Property boundary, preserve boundary, FDEP conservation easement boundary, and locations of existing structures are approximate and either digitized from a survey obtained from BCI Engineering and Surveying, Inc. or from 2004 aerial photography.
2 Locations of existing trees obtained using handheld GPS.

PERMIT USE ONLY, NOT FOR CONSTRUCTION

GULF HARBOUR RECREATIONAL ISLAND

EXHIBIT I

Exhibit J

**Gulf Harbour Recreational Island,
Lee County Preserve Area
Management Plan, stamped
received March 20, 2015**

GULF HARBOUR RECREATIONAL ISLAND
Lee County Preserve Area Management Plan

March 2015

DR12015-00001

Prepared for:

Gulf Harbour Yacht & Country Club, Inc.
14500 Vista River Drive
Fort Myers, FL 33908

Prepared by:

W. Dexter Bender & Associates, Inc.
4470 Camino Real Way, Suite 101
Fort Myers, FL 33966

EXHIBIT J

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MAR 21 2011
COMMUNITY DEVELOPMENT

INTRODUCTION

The Gulf Harbour "Eagle Perch Island" is located within a portion of Section 30, Township 45, Range 24, in Lee County, Florida. Formerly a part of the Rivers Edge Golf Course, the island was formed as a result of the construction of the Gulf Harbour Marina which separates this area from the land. Prior to the construction of Gulf Harbour, an inactive southern bald eagle nest was previously identified situated in an Australian pine located along the shoreline of what was to be designated as the "Eagle Perch Island". An artificial perch was installed adjacent to the location of the old nest and the Australian pine removed after the location was no longer considered a designated eagle nest tree by the regulatory agencies. The interior of the island consists of uplands in which areas of planted vegetation were previously installed as part of the Rivers Edge landscaping. This includes both native trees and hedges which have been trimmed and maintained, but are not part of the indigenous habitat of the island. The western river side of the island consists of a natural shoreline in which red, white, and black mangroves as well as buttonwood, seagrape, scattered cabbage palm, and strangler fig are present. The east side of the island, adjacent to the marina basin, consists almost entirely of a mangrove shoreline in which red and white mangroves are the predominant tree species. This shoreline is a mix of both planted and naturally recruited mangroves. Along with the aforementioned planted vegetation the interior of the island also includes mowed lawn areas with a shell path extending along the center of the island. Playground equipment and benches, a small gazebo at the south end of the island and a faux lighthouse at the north end of the island are also present.

The goal of the proposed management plan is to provide a comprehensive plan for adequate vegetation trimming of the Eagle Perch Island to maintain and improve the view of the river from the island and residences landward of the island. In addition, the plan provides for the removal and control of exotic vegetation on the island and provides for annual monitoring reports to be submitted to ensure compliance. This plan is in conjunction with, and incorporates the same restrictions and trimming conditions as Florida Department of Environmental Protection (DEP) Mangrove Trimming Permit #36-0307366-001, issued August 2, 2011(Appendix A). The Vegetation Trimming Plan Overview Map (Appendix B) depicts the proposed vegetation trimming areas.

MANGROVE TRIMMING

The 0.40 acre mangrove trimming area extends along the marina side shoreline from the south property line northwards approximately 1,080 feet. Due to the steep bank of the man-made shoreline, the fringe is narrow and less than 8'-12' wide and consists of red mangroves with some scattered white mangroves also present.

1. All mangrove trimming shall be conducted as provided for by the DEP General Permit, and will include the following conditions:
 - a. Mangrove trimming shall be supervised or conducted exclusively by a professional mangrove trimmer.

MAR 20 2015

COMMUNITY DEVELOPMENT

DR12015-00001

- b. No herbicide or other chemical shall be used for the purpose of removing leaves of a mangrove.
- c. Trimming shall be conducted in stages so that no more than 25 percent of foliage is removed annually, and the height and configuration of the mangroves trimmed under the general permit may be maintained.
- d. The final height of trimmed mangroves to be maintained shall be no less than six feet as measured from the substrate.

NATIVE VEGETATION TRIMMING

For native trees other than mangroves and other incidental native vegetation which is located within the mangrove fringe trimming areas, trimming shall be limited to removing no more than 25 percent of foliage annually. Trimming will be conducted utilizing ANSI 300 Arborist pruning standards and limited to the removal of lateral limbs only.

Slash pines will not be trimmed and will remain in a natural state.

Native ground cover vegetation and ferns shall not be trimmed or removed.

The GULF HARBOUR RECREATIONAL ISLAND PLAN (DSO October 14, 1994) depicts 3 clusters of spider lilies and 2 cabbage palms holding golden polypody ferns to be preserved. A December 2014 site inspection revealed the presence of the spider lily clusters, but no golden polypody were observed on the cabbage palms on site.

REMOVAL AND CONTROL OF EXOTIC AND NUISANCE VEGETATION

All woody exotic and nuisance vegetation on the island will be cut just above natural grade and the stump treated with an appropriate herbicide containing an indicator dye. Treatment will occur immediately following cutting to ensure maximal uptake of the herbicide. All cut vegetation will be removed to an upland location for disposal. Non-woody exotic vegetation, such as wedelia, will be treated by a foliar application of an appropriate herbicide. Herbicides will be used in strict accordance with label directions by trained herbicide applicators. Coverage of exotic and nuisance vegetation on the island will be maintained below five percent aerial coverage with no woody exotics of seed bearing size (i.e. greater than three feet) present.

DESIGNATED ISLAND FEATURES AND ACTIVITIES

In order to clarify the scope of allowable activities on the eagle perch island, the applicant is requesting the following items be specifically be provided for in the Management Plan:

-Replace the existing bridge to the island with a new bridge, at the same location. The existing bridge landing location will be utilized with no additional impacts to native shoreline vegetation.

-The repair and maintenance of the irrigation system on the island as needed to maintain indigenous and landscape vegetation.

- The ability to repair erosion damage and conduct riprap installation and maintenance as provided for under FDEP permit #36-0307366-002, and the repair and replacement of bulkheads with appropriate State, federal and local authorization as needed in the future to prevent erosion to the island. In addition, supplemental planting of native vegetation along the shoreline may be installed to help prevent erosion as necessary. Plantings will consist of 1 gallon size or larger west coast dune sunflower or golden creeper as needed. Plantings will be spaced at 2' on center intervals.

-The replacement of sand and the maintenance of the beach waterfront areas.

-Continuing limited pedestrian use, including unpaved pathways.

-A covered rest area/gazebo

-Park Benches

-Limited kayak storage and launching (no native vegetation impacts)

-Open sided roofed pedestrian pavilion

-Bocce ball courts

-A limited children's recreational play area with shade

-Low intensity pedestrian pathway lighting

-Limited use for small group events such as weddings or similar activities using temporary chairs, pop up tents and limited event services by golf carts.

These structures and activities will not be located in, nor impact any indigenous areas or native vegetation currently on the island. (See attached Vegetation Trimming Plan Overview)

The existing eagle perch pole will be relocated to the east end of the island as depicted on the Vegetation Trimming Plan Overview.

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MONITORING REPORTS

A Baseline Monitoring Event will be conducted prior to exotic treatment and vegetation trimming activities on the island. A Time Zero Monitoring Event will be conducted after the completion of those activities on the island. A monitoring report will be submitted annually to the Division of Environmental Sciences. Monitoring will document the condition and overall status of native vegetation within the preserve and the presence or absence on exotic or non-native vegetation on the island with recommendations for future treatment and trimming activities. Panoramic photographs from various locations on the island will be included in each report. Monitoring will be conducted annually for a period of 5 years.

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Gulf Harbour Recreational Island
Historic Photographs



1996 Aerial Photograph

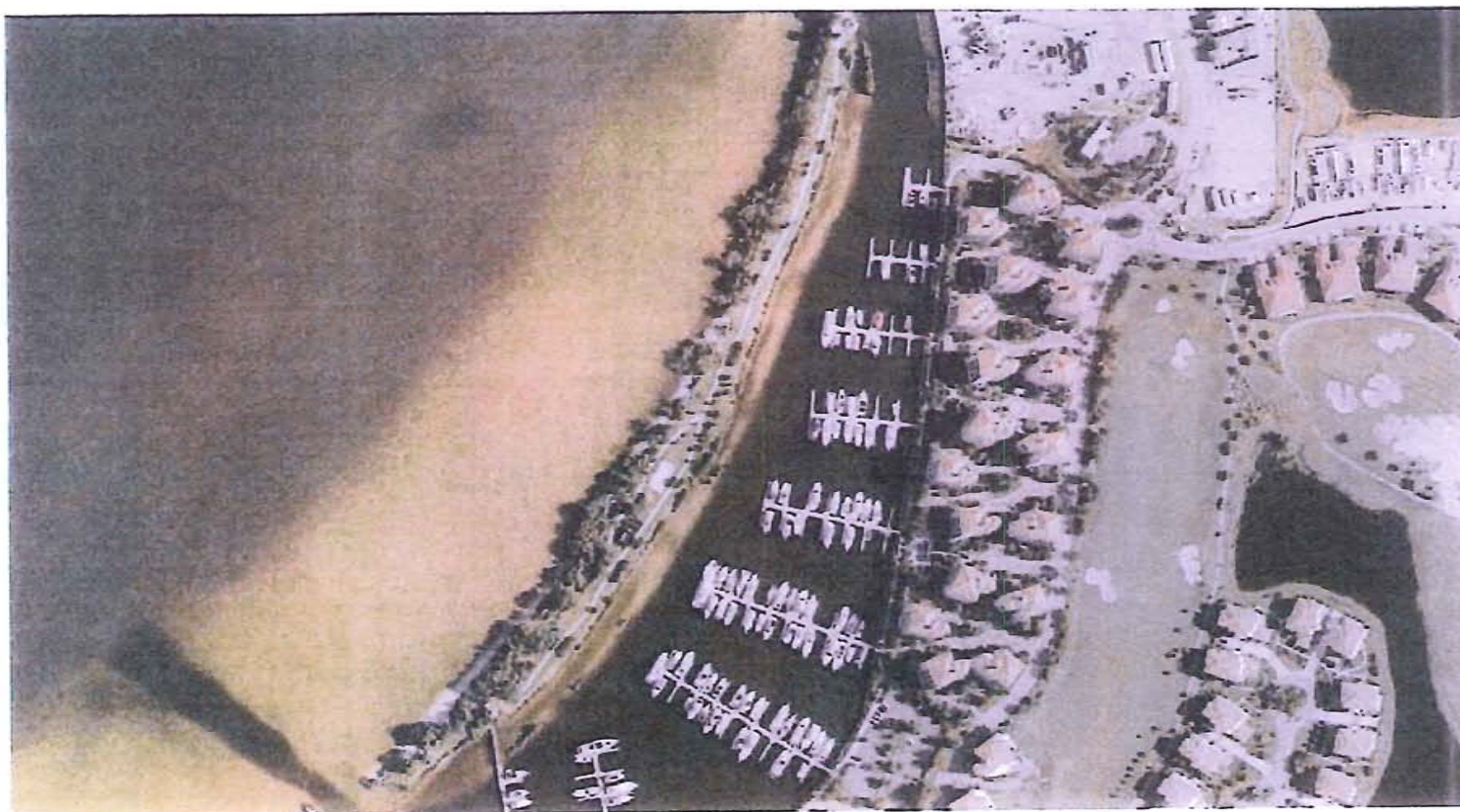
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1999 Aerial Photograph

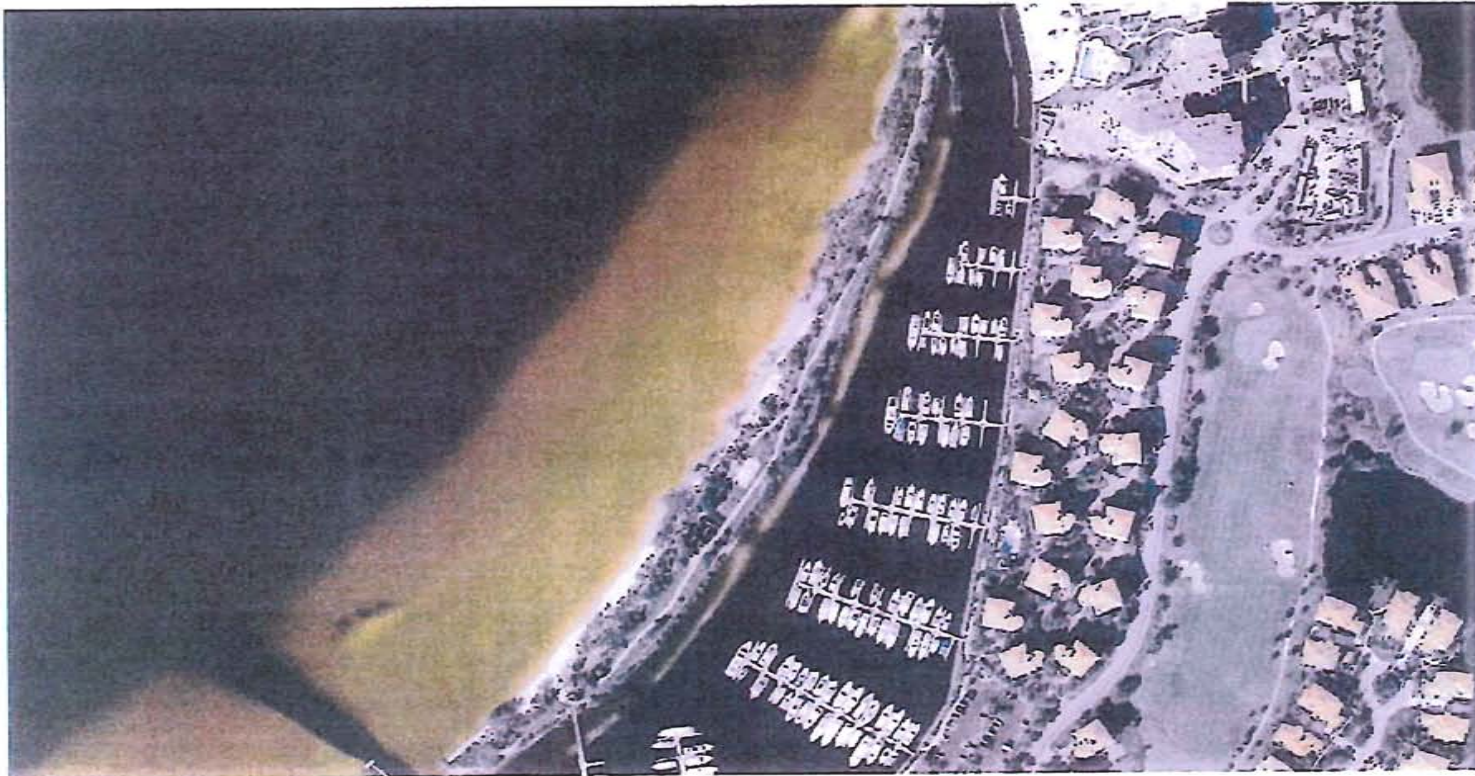
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2002 Aerial Photograph

UR 2015-00001

MAR 20 2015
COMMUNITY DEVELOPMENT



2005 Aerial Photograph

WILSON
MAR 29 2015
COMMUNITY DEVELOPMENT
URI 2015-00001

APPENDIX A

**DEP MANGROVE TRIMMING & SHORELINE
STABILIZATION PERMITS**

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MAR 29 2005
COUNTY DEVELOPMENT



Florida Department of Environmental Protection

South District Office
P.O. Box 2549
Fort Myers, FL 33902-2549

Robert J. Vignelli
Secretary

August 2, 2011

Gulf Harbour Golf & Country Club, Inc.
c/o Parke Lewis
4470 Camino Real Way, Suite 101
Fort Myers FL 33966

Re: Lee County - ERP
File No. 36-0307366-001

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MAR 20 2015

COMMUNITY DEVELOPMENT

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Dear Mr. Eberhard:

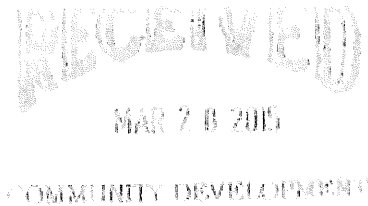
This letter is in response to the above-mentioned file number, received on July 26, 2011, to trim mangroves.

The Department has reviewed the submitted information and determined the project is consistent with the stipulations of the Mangrove Trimming and Preservation Act as a General Permit

(<http://www.dep.state.fl.us/water/wetlands/mangroves/docs/mtpa96.pdf>).

Under Section 403.9327(1)(a), Florida Statutes (F.S.), the proposed activity meets the conditions for trimming mangroves for riparian owners and is subject to the following conditions:

1. The trimming is supervised or conducted exclusively by a professional mangrove trimmer;
2. The trimming is conducted in an area where the Department has not delegated the authority to regulate mangroves to a local government;
3. No herbicide or other chemical will be used for the purpose of removing leaves of a mangrove;
4. The mangroves subject to trimming under the permit do not extend more than 500 feet waterward as measured from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline;
5. No more than 65 percent of the mangroves along the shoreline which exceed 6 feet in pretrimmed height as measured from the substrate will be trimmed, and no mangrove will be trimmed so that the overall height of any mangrove is reduced to less than 6 feet as measured from the substrate;



6. A general permit may be used only once on any parcel of property to achieve a mangrove height of no less than 6 feet;
7. Trimming must be conducted in stages so that no more than 25 percent of the foliage is removed annually; and the height and configuration of the mangroves trimmed under these general permits may be maintained under Section 403.9326(1)(d), F.S.;
8. Notice of intent to use a general permit must be made in writing to the Department and must contain sufficient information to enable the Department to determine the scope of the proposed trimming and whether the activity will comply with the conditions of this section.

The trimming activities proposed are not expected to defoliate, remove or destroy mangroves.

Any changes made in the construction plans or location of the project may necessitate a permit modification or certification from the Department. Therefore, you are advised to contact the Department before beginning the project and before beginning any work in waters or wetlands, which is not specifically described in your submittal.

NOTICE OF RIGHTS OF SUBSTANTIALLY AFFECTED PERSONS

The applicant and persons whose substantial interests are affected by the Department's permitting decision (action) may petition for an administrative proceeding (hearing) in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 within fourteen (14) days from the date of receipt of this notice. A Petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition (or a request for mediation, as discussed below) within the allowed time frame shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207 Florida Administrative Code (F.A.C.).

The petition must contain the following information:

- a) The name, address and telephone number of each Petitioner, the applicant's name and address, the Department application file number and the county in which the project is proposed.
- b) A statement of how and when each Petitioner received notice of the Department's action or proposed action;

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COMMUNITY DEVELOPMENT
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- c) A statement of how each Petitioner's substantial interests are affected by the Department's action or proposed action;
- d) A statement of the material facts disputed by Petitioner, if any;
- e) A statement of facts, which Petitioner contends, warrant reversal or modification of the Department's action or proposed action;
- f) A statement identifying the Rules or Statutes that the Petitioner contends require reversal or modification of the Department's action or proposed action; and
- g) A statement of the relief sought by Petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action addressed in this notice.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Any person may elect to pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the applicant, the Department and any person who has filed a timely and sufficient petition for hearing) and by showing how the substantial interests of each mediating party are affected by the Department's action or proposed action. The agreement must be filed (received) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 by the same deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- a) The names, addresses and telephone numbers of any persons who may attend the mediation;
- b) The name, address and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- c) The agreed allocation of the costs and fees associated with the mediation;
- d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- e) The date, time and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been selected;
- f) The name of each party's representative who shall have authority to settle or recommend settlement;
- g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice or a statement

DR12015-00001



- clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference; and
- h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, F.S., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty (60) days from the date of execution of the agreement.

If mediation results in a settlement of the administrative dispute, the Department must enter a Final Order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for an administrative hearing only in accordance with the requirements for such petitions by the same deadline as set forth above for the filing of a petition.

If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, F.S., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the Department's action and electing remedies under those two Sections.

This notice constitutes final agency action unless a petition or a request for mediation is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 62-103.070, F.A.C. Upon timely filing of a petition, a request for mediation, or a request for an extension of time this notice will not be effective until further Order of the Department.

When the Order is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by the Filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days from the date the Order is filed with the Clerk of the Department.

This notice does not relieve you from the responsibility of obtaining other permits (federal, state or local), which may be required for this project.

ORI 2015-00001

Thank you for applying to the Submerged Lands and Environmental Resource Program. If you have any questions, please contact Elizabeth Gillen at the letterhead address, by telephone at (239) 344-5646 or by e-mail at Elizabeth.Gillen@dep.state.fl.us. When referring to this project, please reference the file number listed above.

Sincerely,



Elizabeth Gillen
Environmental Manager
Submerged Lands and
Environmental Resources Program

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EAG/mv

Enclosures: 2 drawing(s)

Copies to: Gulf Harbour Golf & Country Club, Inc.

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document, including all copies, was mailed before the close of business on August 2, 2011, to the above listed person(s).

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52(7), F.S., with the designated Department clerk, receipt of which is hereby acknowledged.

Marie Veltine
Clerk

8-2-11
Date



SHEET	GULF HARBOR EAGLE PERCH ISLAND	MANGROVE and NATIVE VEGETATION TRIMMING PLAN OVERVIEW (DRAFT)		W. DEXTER BENDER & ASSOCIATES, INC. ENVIRONMENTAL & MARINE CONSULTING FORT MYERS 239/334-3680	
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DR12015-00001

SECTION: 30
TOWNSHIP: 45
RANGE: 24

0 5 10
SCALE FEET

MANGROVE TRIMMING PLAN CROSS SECTION

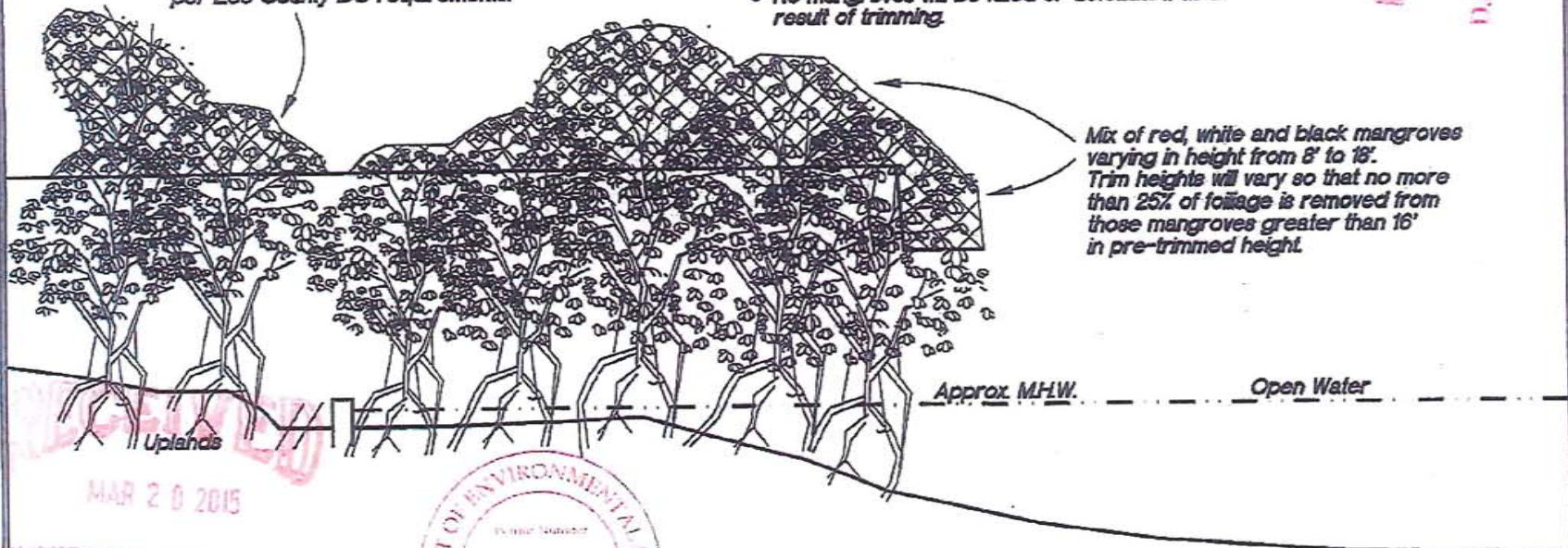


Area of mangroves to be trimmed annually so that no more than 25% of foliage is removed either through topping or lateral limb removal.

- No mangroves to be trimmed below 6' as measured from the substrate.
- No mangroves will be killed or defoliated as a result of trimming.

Buttonwood, seagrape and other non-mangrove vegetation to be trimmed per Lee County DO requirements.

Mix of red, white and black mangroves varying in height from 8' to 18'. Trim heights will vary so that no more than 25% of foliage is removed from those mangroves greater than 16' in pre-trimmed height.



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DR12015-00001



PERMIT USE ONLY,
NOT FOR CONSTRUCTION

May 05, 2011 9:37:49 a.m.
Drawing: GULFH2SECA.DWG



W. DEXTER BENDER
& ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239/334-3680
PORT CHARLOTTE 941/255-1462

EAGLE PERCH ISLAND

SHEET



Florida Department of Environmental Protection

South District Office
P.O. Box 2549
Fort Myers, FL 33902-2549

Rick Scott
Governor

LeBron James
U.S. Governor

Herschel Walker
Secretary

VIA ELECTRONIC MAIL

October 17, 2012

Gulf Harbor Golf & Country Club
c/o W. Dexter Bender & Associates
4470 Camino Real Way, Suite 101
Fort Myers FL 33966
plewis@dexbender.com

Re: Lee County - ERP
File No. 36-0307366-002

Dear Mr. Ebberhard:

Thank you for your application to repair the existing riprap in the areas shown on the attached drawings at Eagle Perch Island at Gulf Harbour Marina, Fort Myers in the Caloosahatchee River, Class III Waters, Section 30, Township 45 South, Range 24 East, Lee County. This type of activity may require authorization for construction and operation of the project (regulatory authorization), unless otherwise exempt by statute or rule, authorization to use state-owned submerged lands (proprietary authorization), and federal authorization for works in waters of the United States through the State Programmatic General Permit (SPGP) program (SPGP IV-R1). Your request has been reviewed for all three authorizations.

The authorizations you have been granted are listed below. Please read each section carefully. Your project **MAY NOT** have qualified for all three authorizations. If your project did not qualify for one or more of the authorizations, then that specific section will advise you how to obtain it. You may **NOT** commence your project without all three authorizations. **If you change the project from what you submitted, the authorizations(s) granted may no longer be valid at the time of commencement of the project. Please contact the Department prior to beginning your project if you wish to make any changes.**

REGULATORY REVIEW - VERIFIED

Based on the information you sent to us, we have determined that **your project is exempt from the need for an Environmental Resource Permit (ERP).** You must

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comply with the criteria and limiting conditions in accordance with Rule 40E-4.051(4)(b), Florida Administrative Code (F.A.C.).

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification will expire after one year, and will not be valid at any other time if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. However, the activity may still be conducted without further notification to or verification from the Department after the one-year expiration of this verification, provided: 1) the project design does not change; 2) site conditions do not materially change; and 3) there are no changes to the statutes or rules governing the exempt activity. In the event you need to re-verify the exempt status for the activity after the one-year expiration of this verification, a new application and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

PROPRIETARY REVIEW - GRANTED

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Your project occurs on state-owned, submerged land and will require authorization from the Department to use these lands. The Department has reviewed your project as described above and on the documents and/or drawings attached to your application, and as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions therein, we find your project qualifies for consent to use state-owned submerged lands. As such, consider this letter to also constitute authorization to perform the activity. This consent is conditioned upon acceptance of and compliance with the attached General Consent Conditions.

SPGP (FEDERAL) REVIEW - APPROVED WITH MANATEE CONDITIONS AND SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

Your project has been reviewed for compliance with State Programmatic General Permit (SPGP IV-R1) effective July 25, 2011. Your proposed activity as outlined on the drawings submitted with your application is in compliance with SPGP IV-R1. U.S. Army Corps of Engineer (Corps) Specific conditions apply to your project (attached). No further permitting for this activity is required by the Corps. The authority granted under SPGP IV-R1 expires five years from the date of issuance. Your project must be completed prior to this expiration date. This authorization is conditioned upon acceptance of and compliance with the attached General Conditions for Department of the Army General Permits (SPGP IV-R1) and/or Manatee Construction Conditions and Sea Turtle and Smalltooth Sawfish Construction Conditions.

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In the event of the transfer of ownership of the property by sale or by any other means, when the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Corps permits is finite, the permit itself, with its limitation, does not expire. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, the attached transfer of permit request must be completed and submitted to the Department at the time of transfer of ownership.

Authority for review - an agreement with the U.S. Army Corps of Engineers entitled "Coordination Agreement between the U.S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act."

This notice constitutes final agency action and is subject to the provisions of Chapter 120, F.S., which does not apply to the SPGP IV-R1 review.

NOTICE OF RIGHTS OF SUBSTANTIALLY AFFECTED PERSONS

This letter acknowledges that the proposed activity is exempt from environmental resource permitting requirements under Rule 40E-4.051(4)(b), F.A.C., and qualifies for authorization to use sovereign submerged lands pursuant to Chapter 253, F.S., and Chapter 18-21, F.A.C. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions, filed by any persons other than the applicant and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

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- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

The petition must contain the information set forth above and must be filed (received by the clerk) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. The petitioner shall mail a copy of the petition to the applicant at the applicant's address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing or pursue mediation as provided below within the appropriate time period shall constitute a waiver of those rights.

Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting

party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired and until the exemption(s) has(have) been executed and delivered.

This letter acknowledging that the proposed activity is exempt from environmental resource permitting requirements under Rule 40E-4.051(4)(b), F.A.C., and qualifies for authorization to use sovereign submerged lands pursuant to Chapter 253, F.S., and Chapter 18-21, F.A.C. constitutes an order of the Department. Subject to the provisions of Section 120.68(7)(a), F.S., which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of the order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.

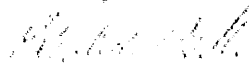
Mediation is not available.

Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at Florida Department of Environmental Protection, South District Office, 2295 Victoria Avenue, Fort Myers, FL 33901.

ORI 2015-00001

Thank you for applying to the Submerged Lands and Environmental Resource Program. If you have any questions, please contact Elizabeth Gillen by telephone at (239) 344-5646 or by e-mail at Elizabeth.Gillen@dep.state.fl.us. When referring to this project, please reference the file number listed above.

Sincerely,



Elizabeth Gillen
Environmental Manager
Submerged Lands and
Environmental Resource Program

EG/mv

Enclosures:

- 2 drawing(s)
- State Lands General Consent conditions
- General Conditions for Department of the Army General Permits (SPGP IV-R1)
- Standard Manatee Construction Conditions
- Sea Turtle and Smalltooth Sawfish Construction Conditions

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document, including all copies, was mailed before the close of business on October 17, 2012, to the above listed person(s).

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52(7), F.S., with the designated Department clerk, receipt of which is hereby acknowledged.

Marcie Vickrine

October 17, 2012

Clerk

Date

0012015-000001

GENERAL CONDITIONS FOR DEPARTMENT OF THE ARMY GENERAL PERMITS
(SPGP IV-R1)

General Conditions:

- 1) The time limit for completing the work authorized ends five years from the date of issuance.
- 2) You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
- 3) If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
- 4) If you sell the property associated with this permit, you must obtain the signature and mailing address of the new owner in the space provided below and forward a copy of the permit to this office to validate the transfer of this authorization.
- 5) If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
- 6) You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further information:

- 1) Limits of this authorization:
 - a) This permit does not obviate the need to obtain other Federal, State or local authorizations required by law.
 - b) This permit does not grant any property rights or exclusive privileges.
 - c) This permit does not authorize any injury to the property or rights of others.
 - d) This permit does not authorize interference with any existing or proposed Federal projects.
- 2) Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

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MAR 20 2015

DEPARTMENT OF THE ARMY

GENERAL CONDITIONS FOR DEPARTMENT OF THE ARMY GENERAL PERMITS
(SPGP IV-R1)

- d) Design or construction deficiencies associated with the permitted work.
 - e) Damage claims associated with any future modification, suspension, or revocation of this permit.
- 3) **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
- 4) **Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a) You fail to comply with the terms and conditions of this permit.
 - b) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).
 - c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.
- 5) Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
- 6) When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549.

TRANSFeree- Signature

Date

NAME-Printed

ADDRESS

0012015-000000

DEPARTMENT OF ENVIRONMENTAL PROTECTION
SUBMERGED LANDS AND ENVIRONMENTAL RESOURCES PROGRAM
GENERAL CONSENT CONDITIONS FOR AUTHORIZATIONS

Project No: 36-0307366-002

Rule 18-21.004(7), Florida Administrative Code (F.A.C.), provides that all authorizations granted by rule or in writing under Rule 18-21.005, F.A.C., except those for aquaculture activities and geophysical testing, shall be subject to the general conditions as set forth in paragraphs (a) through (i) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under Chapter 253 or Chapter 258, Part II, Florida Statutes, (F.S.).

- (a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
- (b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
- (c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
- (d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
- (e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
- (f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
- (g) Structures or activities shall not create a navigational hazard.
- (h) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.
- (i) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under Rule 18-21.004(1)(g), F.A.C., or any other applicable law.

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STANDARD MANATEE CONDITIONS FOR IN-WATER WORK
2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida and emailed to FWC at ImperiledSpecies@myFWC.com.
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at http://myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm. Questions concerning these signs can be forwarded to the email address listed above.

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SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or small tooth sawfish is seen within a fifty-foot radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

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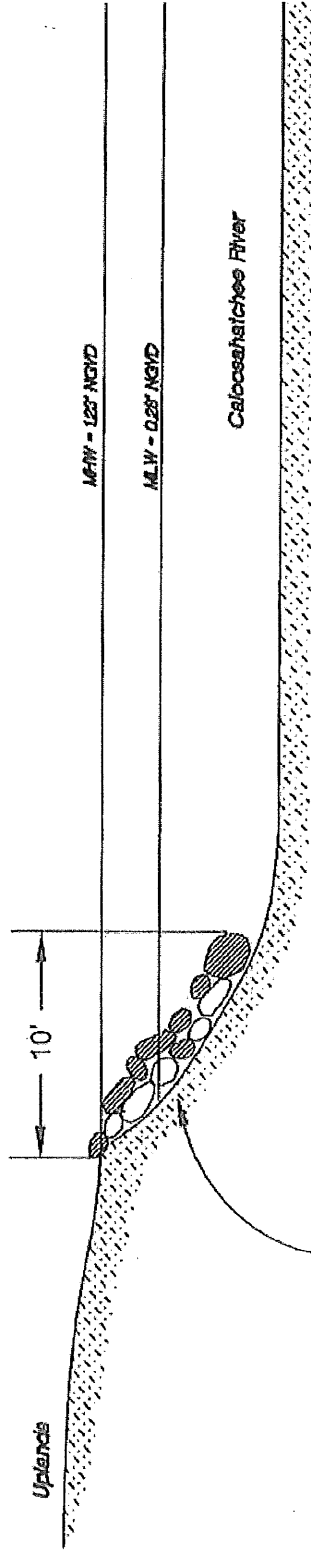
SECTION: 30
TOWNSHIP: 45 S
RANGE: 24 E

Gulf Harbor Preserve Island Rip-Rap Repair Project

N.T.S

DATE: 09/18/2012
TIME: 10:00 AM
PROJECT: GULF HARBOR PRESERVE ISLAND
DRAWING: GULFHP2PLAN.DWG

- Existing Rip-Rap
- Proposed Rip-Rap



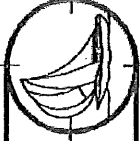
Existing rip-rap is present along shoreline. Additional rip-rap will be added. Filter cloth will be placed in bare areas before rip-rap is installed.

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Notes:
1. MHW and MLW elevations obtained from tidal station 8725520.

PERMIT USE ONLY,
NOT FOR CONSTRUCTION

September 18, 2012 9:55:26 a.m.
Drawing: GULFHP2PLAN.DWG



W. DEXTER BENDER
& ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
FOOT MYERS 239-334-3680

Replacement Rip-Rap Cross Section (typ.)

SECTION 39
TOWNSHIP 45 S
RANGE 24 E



Gulf Harbor Preserve Island Rip-Rap Repair Project



Proposed Rip-Rap Repair

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Replacement Rip-Rap Plan Overview

W. DEXTER BENDER
& ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239-334-3680



APPENDIX B

Vegetation Trimming Plan Overview Map

0012015-000001

VEGETATION TRIMMING PLAN OVERVIEW

