



DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION

Tel. (239) 574-0553
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

PLANNED DEVELOPMENT PROJECT (PDP) AMENDMENT APPLICATION

PROPERTY INFORMATION

Project Name: Tarpon Point PDP Amendment
Location/Address 6026 Tarpon Estates Ct
Strap Number 22-45-23-C4-00500.0050 Unit Block Lot (s) 5
Plat Book 73 Page 70-79 Future Land Use MX Current Zoning R1

PROPERTY OWNER (S) INFORMATION

Owner James Rizzo Address 60 Lane Ave
Phone 973-449-9849 City Caldwell,
Email jimriz66@gmail.com State N.J. Zip 07006
Owner Suzanne Rubinetti Address 60 Lane Ave
Phone 973-207-8959 City Caldwell
Email State N.J. Zip 07006

APPLICANT INFORMATION (If different from owner)

Applicant Avalon Engineering, Inc/ Linda Miller Address 2503 Del Prado Blvd S, Suite 200
Phone 239-573-2077 City Cape Coral
Email linda@avaloneng.com State FL Zip 33904

AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)

Representative Avalon Engineering, Inc./ Linda Miller Address 2503 Del Prado Blvd S, Suite 200
Phone 239-573-2077 City Cape Coral
Email linda@avaloneng.com State FL Zip 33904



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If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

(ALL SIGNATURE MUST BE NOTARIZED)

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

CORPORATION/COMPANY NAME (IF APPLICABLE)

James Rizzo
OWNER'S NAME (TYPE OR PRINT)

Suzanne Rubinetti
OWNER'S NAME (TYPE OR PRINT)

James Rizzo
APPLICANT NAME (TYPE OR PRINT)

James Rizzo
OWNER'S SIGNATURE

Suzanne Rubinetti
OWNER'S SIGNATURE

James Rizzo
APPLICANT SIGNATURE

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF New Jersey

COUNTY OF Essex

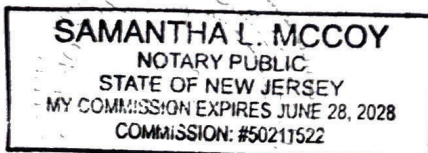
Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 10 day of MARCH, 2026 by James Rizzo and Suzanne Rubinetti know is personally known to me or produced NJ Drivers Lic. as identification.

Exp Date: 6-28-28 Commission Number: 50211522

Signature of notary Public:

Printed Name of Notary Public:

[Signature]
SAMANTHA L. MCCOY





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CORPORATION/COMPANY NAME

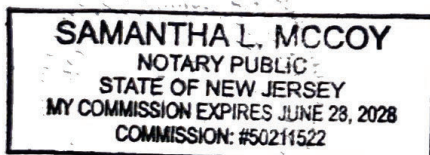
Suzanne Rubinetti

OWNER'S NAME (TYPE or PRINT)

Suzanne Rubinetti
OWNER'S SIGNATURE

STATE OF NJ, COUNTY OF Essex

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Exp Date: 6-28-28 Commission Number: 50211522

Printed Name of Notary Public: SAMANTHA L. McCoy



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DOCUMENTARY EVIDENCE (LDC, Section 3.1.11F.6)

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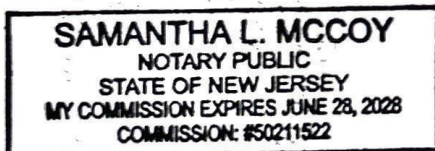
Suzanne Rubinetti


OWNER/APPLICANT SIGNATURE

OWNER/APPLICANT NAME (TYPE OR PRINT)

STATE OF New Jersey, COUNTY OF Essex

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know is personally known to me or produced NJ Drivers Lic. as identification.



Exp Date: 6-28-28 Commission Number: # 50211522

Signature of notary Public:



Printed Name of Notary Public:

SAMANTHA L. MCCOY



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James Rizzo
OWNER/APPLICANT NAME (TYPE OR PRINT)

James Rizzo
OWNER/APPLICANT SIGNATURE

STATE OF NJ, COUNTY OF Essex

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know is personally known to me or produced NJ Drivers Lc. as identification.

Exp Date: 6-28-28 Commission Number: 50211522

Signature of notary Public:

[Signature]

Printed Name of Notary Public:

SAMANTHA L. McCoy





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CORPORATION/COMPANY NAME

James Rizzo

OWNER'S NAME (TYPE or PRINT)

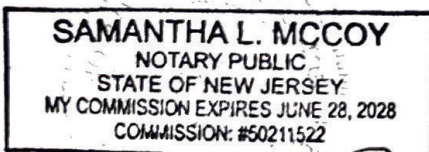
James Rizzo
OWNER'S SIGNATURE

STATE OF NJ, COUNTY OF Essex

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Exp Date: 6-28-28 Commission Number: 50211522

Printed Name of Notary Public: SAMANTHA L. McCoy





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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Avalon Engineering, Inc./ Linda Miller

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING
EXAMINER AND CITY COUNCIL.

UNIT _____ BLOCK _____ LOT(S) 5 SUBDIVISION Tarpon Point

OR LEGAL DESCRIPTION Tarpon Point PB 73 PGS 70-79 Lot 5

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

James Rizzo
PROPERTY OWNER (Please Print)

Suzanne Rubineti
PROPERTY OWNER (Please Print)

James Rizzo
PROPERTY OWNER (Signature & title)

Suzanne Rubineti
PROPERTY OWNER (Signature & title)

STATE OF NJ, COUNTY OF Essex

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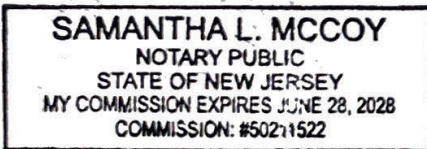
Exp Date: 6.28.28 Commission Number: 50211522

Signature of notary Public:

[Signature]

Printed Name of Notary Public:

SAMANTHA L. McCoy



Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation papers.



DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION

For Internal Use Only

Case _____

Date _____

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PLANNED DEVELOPMENT PROJECT (PDP) AMENDMENT APPLICATION

NOTE: All applications require Public Hearings before the Hearing Examiner and City Council.

Pre-Application Conference Required

A pre-application conference is required with the Development Services Department prior to submitting a PDP Amendment application.

Pre-Application Meeting Date: March 5, 2026.

PDP APPLICATION REQUIREMENTS

Please check the PDP amendment(s) below that are requested:

- ☒ Amend or eliminate one or more conditions appearing in a PDP development order.
- ☐ Amend a previously approved Master Concept Plan (MCP)
- ☐ Rezone all or a portion of a PDP.
- ☐ Second request to extend the date of substantial construction or buildout period of a project.
- ☐ Request to extend the date of substantial construction after the buildout period has expired.
- ☐ Add new land into a previously approved PDP.
- ☐ Eliminate part, but not all, of the land from a previously approved PDP.

Information Required for all PDP Amendments:

- Date of pre-application meeting held with the Planning staff.
- Letter of intent (see below for additional details for each particular type of amendment)
- Legal descriptions of the PDP project and the tracts, lots, or area subject to the amendment, if applicable.

Specific Amendment Types

1. Information required to amend or eliminate one or more conditions in a PDP development order.

- Letter of intent that identifies the specific conditions in the development order proposed to be amended. The letter of intent should explain why the PDP amendment will promote the public health, safety, and welfare of the community, and is consistent with the public interest.
- A boundary survey of the site.
- A site development plan or as-built survey of the area covered by the amendment for requests involving physical changes to land in the PDP.



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2. Amend a previously approved MCP.
 - A letter of intent that includes a general project description, describes the proposed change(s) to the MCP, and the reason(s) for the change(s).
 - A boundary survey of the site.
 - A legal description of the site in a WORD document.
 - A copy of the previously approved MCP.
 - A copy of the new or proposed MCP.
3. **Information required to rezone all of a portion of a PDP.**
 - Letter of intent that describes the request and identifies how the requested rezone is consistent with the six standards used for evaluating rezones appearing in LDC, 3.4.6.
 - A legal description, in a WORD document, of the PDP project area and the area proposed to be rezoned.
4. **Information required to extend the date of substantial construction or buildout period of a project for a second and subsequent time, or after the buildout period has expired. (First requests to extend the date of substantial construction or buildout period may be sought administratively and require a different application.)**
 - A letter of intent explaining why construction on the site has not occurred within the period of time required by the PDP. Such justification may include, but is not limited to the following:
 - Change of ownership of the property subsequent to the project approval.
 - A deterioration of economic conditions subsequent to project approval.
 - State or national health-related emergencies.
 - Adverse weather conditions that have impeded the physical development of the site.
 - A boundary survey of the site.
 - A legal description of the site in a WORD document.
 - A copy of the previously approved MCP.
5. **Information required to add new land into a previously approved PDP.**
 - Legal description of the previously approved PDP.
 - Legal description and survey of the land requested to be added to the PDP.
 - Letter of intent that describes the reason(s) for adding new land to the PDP project area.
6. **Information required to eliminate part, but not all, of the land from a previously approved PDP.**
 - An application signed by owners of 100% of the property governed by the PDP.
 - A letter of intent outlining the following:
 - A request to abandon the PDP and the reasons for the abandonment.



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- Acknowledge that the petitioners agree to relinquish all entitlements granted previously by the PDP, except for any rezone, vacation, variance, or subdivision approval.
- A current site plan or as-built survey showing all improvements to the project area.
- A legal description and accompanying sketch of the area proposed to be abandoned.

Note: For any PDP amendment, staff may require additional information deemed necessary to evaluate the project.

FEES: The applicant shall be responsible for all administrative review fees, advertising costs, and recording fees associated with recording documents with the Lee Clerk of Circuit Court. All advertising and recording fees are based on a cost-recovery basis.

Administrative review fees are based in part on the area of the PDP according to the schedule below:

1) PDP Amendment Fee: \$2,525.00

Additional fees are required for site over 10 acres. To calculate these additional fees, an additional \$55.00 is required for each additional acre over 10 acres with a maximum cap on fees established at \$3,915.00.

2) Fire review Fee: \$104.00

3) PDP Amendment Public Hearing Fees: \$665.00

Total fees submitted (add Categories 1-3 above): \$ _____

Until these fees are paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificate of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.



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PLANNED DEVELOPMENT PROJECT (PDP) AMENDMENT APPLICATION

PROPERTY INFORMATION

Project Name: Tarpon Point PDP Amendment
Location/Address 6025 Tarpon Estates Ct
Strap Number 22-45-23-C1-00500.0080 Unit Block Lot (s) 8
PlatBook 73 Page 70-79 Future Land Use MX Current Zoning R1

PROPERTY OWNER (S) INFORMATION

Owner Michael Kirby Address 6025 Tarpon Estates Ct
Phone City Cape Coral
Email State FL Zip 33914
Owner Whitney Kirby Address 6025 Tarpon Estates Ct
Phone City Cape Coral
Email State FL Zip 33914

APPLICANT INFORMATION (If different from owner)

Applicant Avalon Engineering, Inc/ Linda Miller Address 2503 Del Prado Blvd S, Suite 200
Phone 239-573-2077 City Cape Coral
Email linda@avaloneng.com State FL Zip 33904

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(ALL SIGNATURE MUST BE NOTARIZED)

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

CORPORATION/COMPANY NAME (IF APPLICABLE)

Michael Kirby

OWNER'S NAME (TYPE OR PRINT)

Whitney Kirby

OWNER'S NAME (TYPE OR PRINT)

OWNER'S SIGNATURE

OWNER'S SIGNATURE

APPLICANT NAME (TYPE OR PRINT)

APPLICANT SIGNATURE

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STATE OF FL

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 10th day of March, 2026 by Michael & Whitney Kirby, know is personally known to me or produced as identification.

Exp Date: 3-11-2029 Commission Number: HH 645052

Signature of notary Public:

Printed Name of Notary Public:

Karina Oesch





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CORPORATION/COMPANY NAME

Michael Kirby

OWNER'S NAME (TYPE or PRINT)

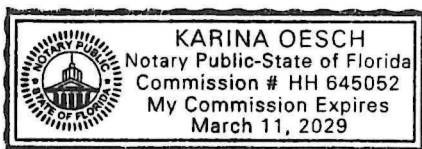
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Printed Name of Notary Public: Karina Oesch





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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Linda Miller/ Avalon Engineering, Inc.

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING
EXAMINER AND CITY COUNCIL.

UNIT _____ BLOCK _____ LOT(S) 8 SUBDIVISION Tarpon Point

OR LEGAL DESCRIPTION Tarpon Point PB 73 PGS 70-79 Lot 8

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

Michael Kirby

PROPERTY OWNER (Please Print)

Whitney Kirby

PROPERTY OWNER (Please Print)

Owner

PROPERTY OWNER (Signature & title)

PROPERTY OWNER (Signature & title)

STATE OF FL, COUNTY OF Lee

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Printed Name of Notary Public:

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Michael Kirby

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OWNER/APPLICANT SIGNATURE

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CORPORATION/COMPANY NAME

Whitney Kirby

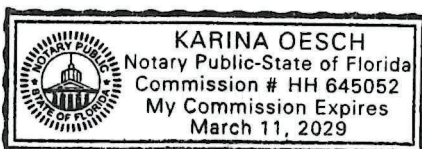
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Whitney Kirby

OWNER'S SIGNATURE

STATE OF FL, COUNTY OF Lee

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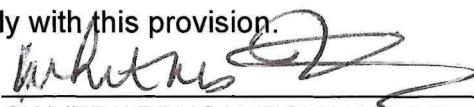
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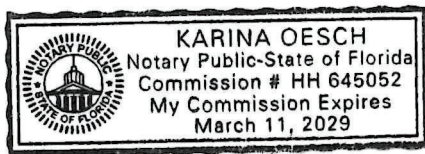
Whitney Kirby

OWNER/APPLICANT NAME (TYPE OR PRINT)


OWNER/APPLICANT SIGNATURE

STATE OF FL, COUNTY OF Lee

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know is personally known to me or produced _____ as identification.



Exp Date: 3-11-2029 Commission Number: HH 645052

Signature of notary Public:



Printed Name of Notary Public:

Karina Oesch

March 17, 2026

Mr. Brett Limbaugh, Director
Development Services
City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

PROJECT: TARPON POINT – VILLAGE C - LOTS 5 & 8

SUBJECT: PLANNED DEVELOPMENT PROJECT AMENDMENT LETTER OF INTENT

Dear Mr. Limbaugh,

On behalf of the property owners James Rizzo and Suzanne Ribinetti and Michael and Whitney Kirby, we request approval of an Amendment to a portion of the Planned Development Project for Tarpon Point, for two lots within Village C, to eliminate a condition that the lot width at the front building line be one hundred (100) feet.

Tarpon Point was approved by Ordinance 14-01 and has been amended by Ordinances 131-02, 01-07, 77-11, and lastly in 2016 by Ordinance 21-16. Tarpon Point is a Mixed Use Planned Development Project consisting of a subdivision with five (5) multi-family villages (Villages A, B, D, E, and F), forty-seven (47) single-family residential building sites (Village C), two (2) commercial tracts (Marina Villages 1 and 2), two (2) preservation area tracts (Wetland Areas 1 and 2), a marina, and common areas for ingress and egress, drainage, buffers and miscellaneous uses. This development consists of 161.57 acres of land and submerged lands located between Rose Garden Road and the Caloosahatchee River/Glover Bight.

This PDP Amendment is modifying the conditions of approval for two Lots within Village C, Lot 5 and Lot 8, consisting of 16,937.27 and 14,206.51 square feet respectfully, Strap # 22-45-23-C4-00500.0050 and 22-45-23-C1-00500.0080, located at 6025 and 6026 Tarpon Estates Court. These lots were platted as part of the Tarpon Point Plat, recorded in Plat Book 73 Pages 70-79.

The subject parcels are zoned R-1 (Single Family Residential) and have a Future Land Use designation of MX (Mixed Use).

This PDP Amendment will request approval of the following:

Modify the General Considerations, O. 5, in Ordinance 14-01 and as amended in Ordinance 131-02, General Considerations, C.1. to include Lots 5 and 8 in the lots that are exempt from the requirement to have a minimum width at the building line of one hundred (100) feet for all lots within Village C.

Since approval of Tarpon Point development in February 27, 2001, over twenty-five (25) years ago, the Tarpon Estates Property Owners Association Design Review Board has enacted specific guidelines for single family home development in Village C including the size of the under air square footage of the home, the number of full size garage units, location of the garage, being opposite of the adjacent neighbors, and not facing the street, and the home must include a swimming pool.

Limbaugh /Tarpon Point PDP Amendment
Letter of Intent
March 17, 2026
Page 2 of 3

Some of the TPPOA requirements exceed the City's development requirements specified in the Tarpon Point PDP and within the City's R1 (Single Family Residential) Zoning Regulations.

As such, the placement of the garage at the building setback for Lots 5 and 8, due to the lot fronting along the curve of the cul-de-sac is approximately 31.5 feet in width, less than the one hundred (100) feet established in Ordinance 14-01 and amendment by Ordinance 131-02.

Currently, the house plans for Lot 8 have been approved by the TPPOA and are under review within the city's building department. We respectfully request approval of this PDP Amendment.

Sincerely,

AVALON ENGINEERING, INC.

A handwritten signature in cursive script that reads "Linda Miller".

Linda Miller, AICP
Vice President



March 17, 2026

Mr. Brett Limbaugh, Director
Development Services
City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

PROJECT: TARPON POINT – VILLAGE C - LOTS 5 & 8

SUBJECT: PLANNED DEVELOPMENT PROJECT AMENDMENT LETTER OF INTENT

Dear Mr. Limbaugh,

The Tarpon Point Property Owners and Freeman and Hasselwander Resort Properties, LLC are in agreement with allowing the property owners James Rizzo and Suzanne Ribinetti and Michael and Whitney Kirby, to seek approval of an Amendment to a portion of the Planned Development Project for Tarpon Point, for two lots within Village C, to eliminate a condition that the lot width at the front building line be one hundred (100) feet.

This PDP Amendment is modifying the conditions of approval for two Lots within Village C, Lot 5 and Lot 8, consisting of 16,937.27 and 14,206.51 square feet respectfully, Strap # 22-45-23-C4-00500.0050 and 22-45-23-C1-00500.0080, located at 6025 and 6026 Tarpon Estates Court. These lots were platted as part of the Tarpon Point Plat, recorded in Plat Book 73 Pages 70-79. The subject parcels are zoned R-1 (Single Family Residential) and have a Future Land Use designation of MX (Mixed Use).

This PDP Amendment will request approval of the following:

Modify the General Considerations, O. 5, in Ordinance 14-01 and as amended in Ordinance 131-02, General Considerations, C.1. to include Lots 5 and 8 in the lots that are exempt from the requirement to have a minimum width at the building line of one hundred (100) feet for all lots within Village C.

Since the approval of the Tarpon Point development on February 27, 2001, over twenty-five (25) years ago, the Tarpon Estates Property Owners Association Design Review Board has enacted specific guidelines for single family home development in Village C including the size of the under-air square footage of the home, the number of full-size garage units, location of the garage, being opposite the adjacent neighbors and not facing the street, and the home must include a swimming pool.

Some of the TPPOA requirements for development exceed the City's development requirements specified in the Tarpon Point PDP and within the City's R1 (Single Family Residential) Zoning Regulations. As such, the placement of the garage at the building setback for Lots 5 and 8, due to the lot fronting along the curve of the cul-de-sac is approximately 31.5 feet in width at the building line, less than the one hundred (100) feet established in Ordinance 14-01 and amendment by Ordinance 131-02.

www.TarponPoint.com

lsnyder@tarponpoint.com

5902 Silver King Blvd, Cape Coral, FL 33914/239-471-0264 ext 200

Currently, the house plans for Lot 8 have been approved by the TPPOA and are under review within the city's building department.

We respectfully request approval of this PDP Amendment to permit homes that comply with the TPPOA's regulations and that will enhance the community.

Sincerely,

Lauren Snyder

Tarpon Point Property Owners Secretary of the Board of Directors
Member of the Design Review Board
Property Manager for Tarpon Point and Tarpon Point Marina

Exhibit "B"

TARPON POINT LEGAL DESCRIPTION:

A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, TARPON POINT ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

TRACTS 1, 2, 3, 4, 5, 6, 8, 9 AND 10, CAPE CORAL UNIT 77, TARPON POINT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 9 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTHWEST CORNER OF LOT 8, BLOCK 3443 OF CAPE CORAL UNIT 67 ACCORDING TO PLAT BOOK 25, PAGES 57 THROUGH 65, AND A POINT ON THE EAST RIGHT OF WAY LINE OF CASABA CANAL (200 FOOT RIGHT OF WAY); THENCE RUN N89°34'47"E ALONG THE NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID CAPE CORAL UNIT 67, FOR 530.00 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 3443 AND THE SOUTHWEST CORNER OF ROSE GARDEN ROAD RIGHT OF WAY; THENCE CONTINUE RUNNING N89°34'47"E ALONG SAID NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID ROSE GARDEN ROAD RIGHT OF WAY, FOR 180.00 FEET; THENCE RUN ALONG THE LINE COMMON TO SAID CAPE CORAL UNIT 77 AND SAID ROSE GARDEN ROAD RIGHT OF WAY FOR THE FOLLOWING FOUR COURSES: N00°25'13"W FOR 83.59 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 480.00 FEET AND A CENTRAL ANGLE OF 126°43'55" (CHORD=N62°56'44"E, 858.13 FEET) FOR 1061.71 FEET TO THE POINT OF TANGENCY, THEN RUN S53°41'18"E FOR 1195.41 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 90°53'32" (CHORD=N80°51'56"E, 783.85 FEET) FOR 872.50 FEET TO THE NORTHEASTERLY CORNER OF SAID TRACT 6 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE NORTHWESTERLY CORNER OF TRACT 7 (CITY PARK) OF SAID CAPE CORAL UNIT 77; THENCE RUN S01°03'10"W ALONG THE LINE COMMON TO SAID TRACT 6 AND SAID TRACT 7 FOR 1189.01 FEET TO AN INTERSECTION WITH THE MEAN HIGH WATER LINE AS DETERMINED BY THE WILSON MILLER SURVEY DATED 6-19-01; THENCE RUN ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING FIVE COURSES: S87°40'41"W FOR 370.36 FEET, S77°19'11"W FOR 205.00 FEET, S18°26'06"W FOR 94.87 FEET, S87°36'51"W FOR 360.31 FEET, S74°41'03"W, FOR 438.56 FEET TO A POINT ON THE EAST END OF AN EXISTING SEAWALL, THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TEN COURSES: N85°20'05"W FOR 284.33 FEET, S79°08'24"W FOR 38.56 FEET, S79°06'04"W FOR 61.30 FEET, S86°28'20"W FOR 20.52 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.01 FEET AND A CENTRAL ANGLE OF 117°16'46" (CHORD=N34°21'45"W, 42.71 FEET) FOR 51.19 FEET TO A POINT, THEN RUN N23°15'22"E FOR 90.41 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 32.97 FEET AND A CENTRAL ANGLE OF 78°29'55" (CHORD=N15°19'43"W, 41.72 FEET) FOR 45.17 FEET TO A POINT, THEN RUN N55°35'07"W FOR 171.52 FEET, N72°52'33"W FOR 155.24 FEET, N73°31'20"W FOR 136.02 FEET TO THE NORTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVENTEEN COURSES: N05°38'56"E FOR 4.20 FEET, N38°42'47"E FOR 65.79 FEET, N16°46'03"E FOR 48.12 FEET, N10°33'10"E FOR 50.57 FEET, N64°17'30"E FOR 34.71 FEET, N14°57'55"E FOR 42.08 FEET, N30°15'57"W FOR 49.50 FEET, N22°23'00"W FOR 24.21 FEET, S76°05'50"W FOR 41.77 FEET, S16°50'57"W FOR 91.57 FEET, S09°58'51"W FOR 81.54 FEET, N81°15'17"W FOR 80.80 FEET, S38°50'01"W FOR 42.56 FEET, S05°48'39"W FOR 72.55 FEET, S12°41'35"E FOR 77.99 FEET, S21°16'03"W FOR 16.87 FEET, S44°37'14"E FOR 15.08 FEET TO A POINT ON THE NORTHEASTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL S44°37'19"W FOR 221.79 FEET TO THE SOUTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TEN COURSES: N76°48'25"W FOR 37.16 FEET, N83°05'48"W FOR 25.59 FEET, N87°57'41"W FOR 73.23 FEET, S85°48'27"W FOR 44.89 FEET, S66°53'43"W FOR 79.59 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 47.49 FEET AND A CENTRAL ANGLE OF 176°40'27" (CHORD=S20°02'11"E, 94.94 FEET) FOR 146.44 FEET TO A POINT, THEN RUN N72°50'13"E FOR 44.74 FEET, N65°28'26"E FOR 47.24 FEET, N68°33'18"E FOR 53.41 FEET, S63°53'24"E FOR 21.11 FEET TO A POINT ON THE NORTHERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TWENTY SIX COURSES: S05°11'45"W FOR 145.69 FEET, S07°29'52"E FOR 75.37 FEET, S11°03'12"E FOR 65.78 FEET, S26°12'49"E FOR 99.86 FEET, S62°27'36"E FOR 79.11 FEET, N85°09'30"E FOR

81.04 FEET, N50°42'38"E FOR 34.82 FEET, N03°20'45"E FOR 90.29 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 38.95 FEET AND A CENTRAL ANGLE OF 75°10'51" (CHORD=N47°09'57"E, 47.52 FEET) FOR 51.11 FEET TO A POINT, THEN RUN N78°38'48"E FOR 85.24 FEET, N68°36'03"E FOR 80.41 FEET, N33°48'49"E FOR 100.02 FEET, N30°26'59"E FOR 60.40 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 24.92 FEET AND A CENTRAL ANGLE OF 145°12'18" (CHORD= S78°19'08"E, 47.56 FEET) FOR 63.15 FEET TO A POINT, THEN RUN S04°16'53"E FOR 126.71 FEET, S10°23'38"E FOR 151.26 FEET, S22°00'35"E FOR 161.44 FEET, S19°52'52"E FOR 71.54 FEET, S40°07'45"W FOR 32.06 FEET, N86°35'08"W FOR 185.19 FEET, N79°40'25"W FOR 150.42 FEET, N84°00'47"W FOR 150.59 FEET, N89°19'44"W FOR 122.39 FEET, S87°33'15"W FOR 155.37 FEET, S78°23'57"W FOR 150.95 FEET, S72°24'29"W FOR 148.99 FEET TO A POINT ON THE WEST END OF SAID EXISTING SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TWENTY-THREE COURSES: S82°04'05"W FOR 110.46 FEET, S71°22'24"W FOR 107.75 FEET, S82°10'15"W FOR 215.40 FEET, N74°46'25"W FOR 209.20 FEET, N68°18'15"W FOR 94.94 FEET, N77°49'12"W FOR 49.98 FEET, N70°20'58"W FOR 51.75 FEET, N56°24'51"W FOR 270.63 FEET, N16°07'50"W FOR 107.60 FEET, N27°36'52"E FOR 20.72 FEET, N08°55'38"W FOR 243.31 FEET, N03°45'00"E FOR 83.16 FEET, N06°33'53"W FOR 45.47 FEET, N03°34'46"E FOR 60.52 FEET, N03°18'41"W FOR 54.07 FEET, N04°26'13"E FOR 39.08 FEET, N01°36'06"W FOR 62.38 FEET, N13°25'39"W FOR 56.44 FEET, N05°27'35"E FOR 57.95 FEET, N04°06'41"W FOR 98.05 FEET, N10°09'27"E FOR 90.11 FEET, N32°03'20"W FOR 21.07 FEET, N16°16'13"E FOR 23.79 FEET TO THE WESTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL THE FOLLOWING FIVE COURSES: N52°23'11"E FOR 31.12 FEET, N87°47'12"E FOR 70.02 FEET, S89°52'33"E FOR 633.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 90°32'40" (CHORD=N44°51'07"E, 142.09 FEET) FOR 158.03 FEET TO THE POINT OF TANGENCY, THEN RUN N00°25'13"W FOR 832.53 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 6,450,035 SQUARE FEET (148.07 ACRES), MORE OR LESS.

SUBMERGED LANDS LEGAL DESCRIPTION:

O.R. BOOK 3659, PAGE 1147

A PARCEL OF SUBMERGED LAND LOCATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS RECORDED IN O.R. BOOK 3659, PAGE 1147 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE PLATTED P.R.M. AT LOT 1, BLOCK 3483A, CAPE CORAL UNIT 67, ACCORDING TO PLAT BOOK 25, PAGE 59 OF THE PUBLIC RECORD OF LEE COUNTY, FLORIDA RUN S20°21'23"E, 1977.69 FEET TO A DRILL HOLE IN AN EXISTING SEAWALL AND THE POINT OF BEGINNING, SAID POINT OF BEGINNING ALSO BEING A POINT OF CUSP AT THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY AND WESTERLY ALONG SAID SEAWALL AND ALONG THE ARC OF SAID CURVE 61.3 FEET THROUGH A CENTRAL ANGLE OF 145°16'08", (CHORD BEARING N78°19'08"W, CHORD 47.56 FEET) TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID SEAWALL THE FOLLOWING THIRTEEN COURSES: S30°26'59"W, 60.40 FEET; S33°48'49"W, 100.02 FEET; S68°36'03"W, 80.41 FEET; S78°38'48"W, 85.24 FEET; TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE ALONG THE ARC OF SAID CURVE 51.0 FEET THROUGH A CENTRAL ANGLE OF 75°18'03", (CHORD BEARING S47°09'57"W, CHORD 47.52 FEET) TO A POINT OF TANGENCY; THENCE S03°20'45"W, 90.29 FEET; S50°42'38"W, 34.82 FEET; S85°09'30"W, 81.04 FEET; N62°27'36"W, 79.11 FEET; N26°12'49"W, 99.86 FEET; N11°03'12"W, 65.78 FEET; N07°29'52"W, 75.37 FEET; N05°11'45"E, 145.69 FEET TO THE END OF SAID PORTION OF SEAWALL; THENCE N44°43'53"E, 93.47 FEET TO THE BEGINNING OF AN EXISTING SEAWALL; THENCE N44°37'19"E, 221.79 FEET TO ITS TERMINUS; THENCE N44°50'19"E, 143.00 FEET TO THE BEGINNING OF AN EXISTING SEAWALL; THENCE ALONG SAID SEAWALL THE FOLLOWING SIX COURSES: S73°31'20"E, 136.02 FEET; S72°52'33"E, 155.24 FEET; S55°35'07"E, 171.52 FEET TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE WEST; THENCE ALONG THE ARC OF SAID CURVE 46.0 FEET THROUGH A CENTRAL ANGLE OF 78°50'29", (CHORD BEARING S15°19'43"E, CHORD 41.72 FEET) TO A POINT OF TANGENCY; THENCE S23°15'22"W, 90.41 FEET TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE ALONG THE ARC OF SAID CURVE 51.5 FEET THROUGH A CENTRAL ANGLE OF 117°10'00", (CHORD BEARING S34°26'19"E, CHORD 42.67 FEET); THENCE LEAVING SAID SEAWALL ALONG THE FOLLOWING SIX COURSES: S67°44'52"W, 141.71 FEET; S04°16'53"E, 137.56 FEET; S10°23'38"E, 146.12 FEET; S22°00'35"E, 157.28 FEET; S19°52'52"E, 72.47 FEET; THENCE S70°07'08"W, 50.00 FEET TO AN EXISTING SEAWALL; THENCE ALONG SAID SEAWALL THE FOLLOWING FOUR COURSES: N19°52'52"W, 71.54

FEET; N22°00'35"W, 161.44 FEET; N10°23'38"W, 151.26 FEET; THENCE N04°16'53"W, 126.71 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PARCEL OF SUBMERGED LAND LOCATED IN "GLOVER BIGHT" WATERBODY, SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERN MOST CORNER OF TRACT MV-1, BLOCK 7025 OF TARPON POINT AS RECORDED IN PLAT BOOK 73, PAGES 70-79 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT LYING 1.17 FEET FROM THE EASTERN LINE OF SAID TRACT; RUN S24°22'05"E FOR 89.58 FEET; THENCE RUN S04°39'55"W FOR 142.70 FEET; THENCE RUN S22°00'35"E FOR 91.25 FEET; THENCE RUN S67°59'25"W FOR 190.00 FEET; THENCE RUN S39°13'07"W FOR 91.27 FEET; THENCE RUN S67°59'25"W FOR 231.66 FEET; THENCE RUN S70°07'08"W FOR 25.00 FEET TO A POINT ON THE SOUTHERN END OF AN EXISTING SUBMERGED LAND LEASE PARCEL RECORDED IN O.R. BOOK 3659, PAGE 1147 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN THE FOLLOWING FIVE (5) COURSES ALONG THE BOUNDARY OF SAID SUBMERGED PARCEL, 1) N19°52'52"W FOR 72.47 FEET; 2) N22°00'35"W FOR 157.28 FEET; 3) N10°23'38"W FOR 146.12 FEET; 4) N04°16'53"W FOR 137.56 FEET; 5) N67°44'52"E FOR 141.71 FEET TO A POINT ON THE SOUTHERN LINE OF ABOVE DESCRIBED TRACT MV-1; THENCE THE FOLLOWING FOUR (4) COURSES ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL, 1) N86°28'20"E FOR 20.52 FEET; 2) N79°06'04"E FOR 61.30 FEET; 3) N79°08'24"E FOR 38.56 FEET; 4) S85°20'05"E FOR 284.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 588,101 SQUARE FEET, MORE OR LESS (13.5± ACRES).

Tarpon Point PDP Amendment

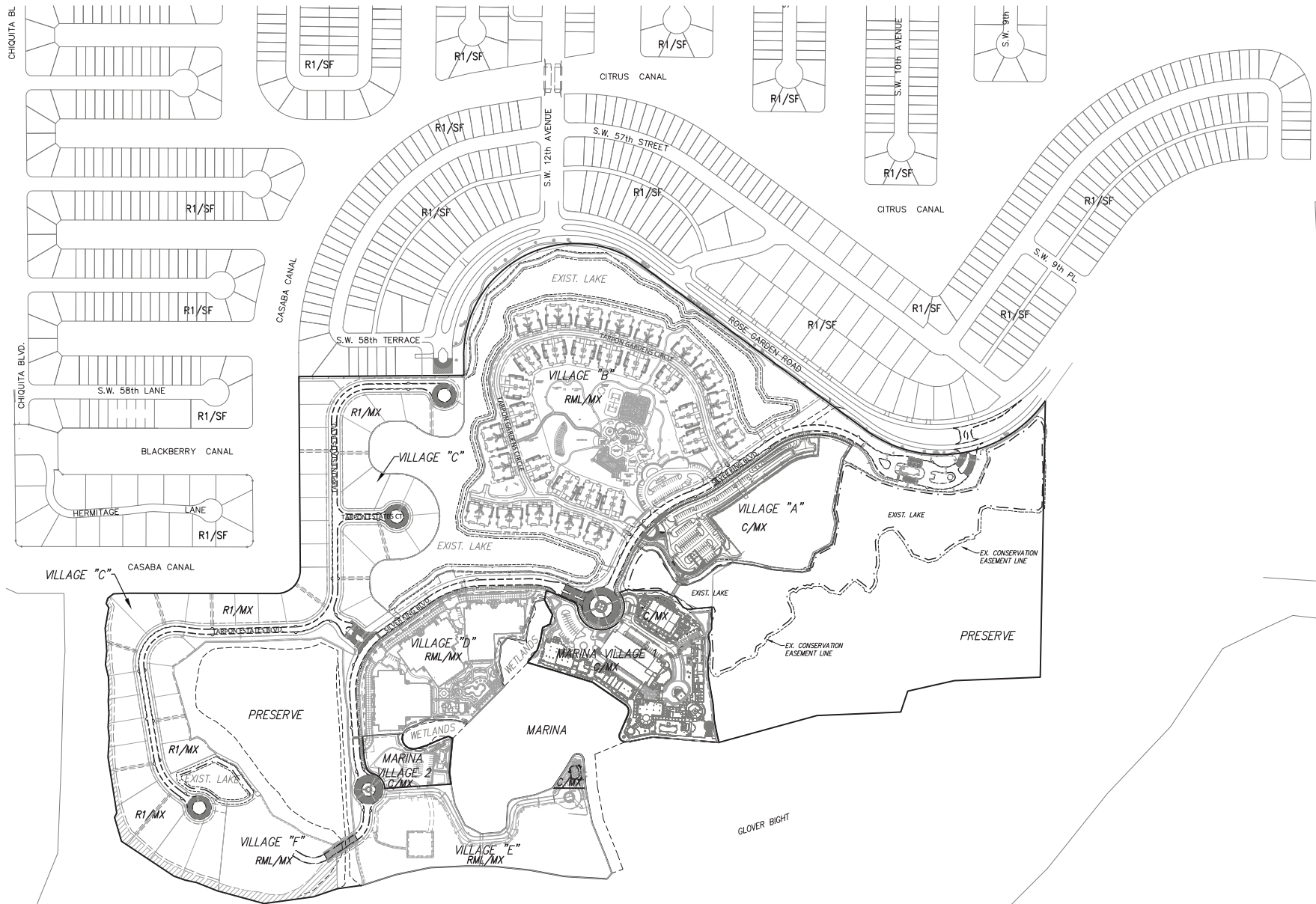
Lots 5 and 8, Village C

Legal Description:

Lot 5, Tarpon Point, according to the plat thereof as recorded in Plat Book 73, Pages 70 through 79, of the Public Records of Lee County, Florida.

Lot 8, Tarpon Point, according to the plat thereof as recorded in Plat Book 73, Pages 70 through 79, of the Public Records of Lee County, Florida.

P:\CAD\2026\26-112\EXHIBITS\26-112 zoning.dwg, Layout1, 3/10/2026 11:33:36 AM, 2025 Avalon Engineering, Inc., 2025 Avalon Engineering, Inc.



VERTICAL ELEVATIONS BASED ON: NGVD 29

ZONING AND
LAND USE EXHIBIT

TARPON POINT
PDP AMENDMENT
6603 TARPON SPURS COURT
CAPE CORAL, FLORIDA 33904

AVILON ENGINEERING, INC.
2503 DEL PALMO BLVD. S. #200
CAPE CORAL, FLORIDA 33904
PAPER 12/26 12/26/2025

DATE	BY	REVISION DESCRIPTION

P:\CAD\2026-112\EXHIBITS\26-112 AERIAL.dwg Layout1 3/10/2026 1:38:27 AM 2025 Avilon Engineering, Inc. 2025 Avilon Engineering, Inc.



2025 AERIAL

VERTICAL ELEVATIONS BASED ON: NGVD 29



REVISION DESCRIPTION

DATE

AVILON ENGINEERING, INC.
2503 DEL PINO BLVD. S. #200
CAPE CORAL, FLORIDA 33904
P: 941.671.1234 F: 941.671.1235

TARPON POINT
PDP AMENDMENT
6005 TARPON SPURS COURT
CAPE CORAL, FLORIDA

AERIAL
EXHIBIT

26-112 EXHIBIT

2 OF 3



62-102108(1)	3	3
SETBACK EXHIBIT	TARPON POINT PDF#AMPMENT	
	AVALON ENGINEERING, INC.	
	2903 DEL PRADO BLVD S #1000 DAVE CONALL FLORIDA 33004 PAPER 01/28 (228) 975-2017	
		
		REVISION DESCRIPTION
		B.Y.
		DATE

Design Review Guidelines Tarpon Estates

DESIGN REVIEW GUIDELINES

Tarpon Estates in Tarpon Point by TPPOA Design Review Board

Dated March 17, 2026

Below are amendments made by Tarpon Estates

Tarpon Estates as amended March 23, 2017

9. Use Restrictions

9.8 Home Size and Construction.

All Dwelling Units shall contain a minimum of three thousand (3,000) square feet of air-conditioned living space, not including the garage unless said Parcel abuts a canal.

In such case however, if the Parcel abuts a canal, then all Dwelling Units shall contain a minimum of Three Thousand Eight Hundred (3,800) square feet of air conditioned living space not including the garage. All Dwelling Units including the garage shall be made of cinderblock construction except that wood or metal framing shall be permitted above the first story.

A consideration in the reduction of the AC square footage of an Estate Home floor plan may be waived if approved by both the TPPOA DRB and the Tarpon Estate BOD based on Home site configuration challenges.

As amended by Tarpon Estates July 9, 2021

5.11 Construction Impact Assessment.

Construction Impact Assessment. In addition to the foregoing requirements of this Section 5 as amended from time to time hereafter, prior to constructing a Living Unit or a Parcel that cost **\$250,000 or more**, the Parcel Owner must pay a non-refundable Construction Impact Assessment of the Association in the amount of Two Thousand Five Hundred and 00/100 Dollars **(\$2,500.00)** The Construction Impact Assessment shall be considered an assessment and can be collected as such in accordance with the provisions in Section 4 of this Declaration and as provided in F.S. 720.3085, as amended from time to time hereafter. The Construction Impact Assessment may be used in any way and at any time whatsoever in the same manner as upon which other assessments are used as a revenue to meet any operating or capital expenditures, whether known or unknown, at any time in the Associations' operation.

\$250.00: Administrative Fee for administrative cost of the required \$10,000

Construction Deposit builders must place with Tarpon Estates Homeowners Association

Required Tarpon Estates Fees:

1. ****\$10,000 Builder Security Deposit ** Payable to GDC Trust Account**
2. ****\$250.00 Administrative Fee for Escrow management **Payable to Tarpon Estates**
3. **** \$2,500.00 Construction Impact Assessment Payable to Tarpon Estates**
****One check may be written to Tarpon Estates for the two fees totaling \$2,750.00, which includes the Construction Impact and \$250 administration for Attorney Escrow.**

****The above mentioned fees are a Tarpon Estates Fee and are in addition to the Design Review Fees to the Tarpon Point Property Owner**

All Fees will be part of the submittal package for DRB including Fees for the Estates Fees.

Design Review Guidelines Tarpon Estates

The TPPOA DRB will collect these fees along with the required Tarpon Point DRB fees as outlined in this package.

The design and building of your home in Tarpon Estates at Tarpon Point should be an exciting and pleasurable experience for you. We welcome you to the neighborhood and look forward to working with you to create your dream home. The homes in Tarpon Estates are all individually designed custom homes which differentiate Tarpon Estates from typical tract developments. Therefore, to protect your investment and the entire quality of the neighborhood, Tarpon Estates requests that these Design Review Guidelines be followed.

These Guidelines have been developed to help you work with your architect, designer or builder. It is not the intent of these Guidelines to judge what is beautiful or not beautiful, but to coordinate and encourage architectural diversity within the community. In addition, every effort should be made to preserve and complement the waterfront location.

The Design Review Guidelines are intended as an overview of the design and construction process to be followed at Tarpon Estates. More specific design requirements and restrictions on the use of your home site are explained in the "Declaration of Covenants, Conditions and Restrictions for Tarpon Estates". These documents should be referred to for the specific requirements of your home site development.

All homeowners in Tarpon Estates are automatically members of Tarpon Point Estates Homeowners Association, Inc., and Tarpon Point Property Owners Association, Inc. and are required to maintain their membership in these Associations and pay their annual dues. The Board of Directors of the Association has appointed a Design Review Board (DRB) which reviews each of the home designs before construction may begin.

The Design Review Guidelines cover three aspects of construction:

Site Development: The analysis of your lot based on its orientation and natural features. Specific recommendations include the siting of your home on the lot and proposed hardscape and landscape elements.

Architectural Standards: Items to consider in designing your home as they relate to the style, building materials, detailing and colors.

Construction Standards: Directions to be followed by your contractor to assure the quality of construction and the maintenance of a well-kept construction site.

Design Review Procedures

The plans and materials for all homes built in Tarpon Estates are reviewed by the Tarpon Point Property Owners (TPPOA) Design Review Board (DRB) before construction may begin. To assist in this review, application forms are included with this document. The forms furnish the TPPOA DRB with the basic information they need to review your plans, and function as a checklist for you

Design Review Guidelines Tarpon Estates

so that all design aspects of your home are considered. Any questions about the Design Review Guidelines should be submitted to the TPPOA DRB. The DRB Board will make every effort to clarify the guidelines and interpret the instructive covenants and architectural guidelines. (Refer to Forms, Section G)

Step 1: Secure the services of your architect, designer, and/or builder to discuss the concept of your home. Review the capabilities of your lot and discuss these Design Review guidelines.

Step 2: Preliminary Review: A preliminary review of the concept for your home with a representative of the DRB is required. At this time, conceptual ideas, and drawings which you and your builder have conceived may be reviewed. This preliminary review is to help you avoid approval difficulties at the time of the final review.

Step 3: Final Review: When final construction drawings for your home are complete, they must be submitted to the DRB for final approval. This information includes full working drawings for the construction of the home, site improvement plans, site grading, landscape plans, and irrigation plans. Design review fees must be paid at this time.

A total of one (1) hard set of completed plans, along with electronic files, must be submitted to the DRB, along with a complete. The DRB will make every attempt to review the plans within 45 days after the submittal. At this time, adjustments to the plans may be required. If the revisions are substantial, the DRB may require that the plans be resubmitted for review. Once the plans are approved, they will be distributed: one set to be retained by the DRB; one to the homeowner; and one to be retained by the builder at the home site. **No site clearing or construction work of any kind is permitted on the home site until final approval is received from the DRB. Construction work must begin within nine months of the final approval of the plans or the approval shall be void.**

This Design Review Procedure must be followed to ensure that the Contractor follows the Design Review Guidelines and to protect neighboring residents during construction. The DRB will require inspection of the staking plan for your home and home site improvements before construction may begin. Upon completion of construction, the DRB will complete a formal inspection of the home and site improvements. Intermediate inspections may also be done by the DRB at any time during construction to verify compliance with the approved construction drawings.

Construction work must begin within nine months of the final approval of the plans, or the approval shall be void.

A Certificate of Occupancy is required within 18 months of Commencement of Construction or receipt of Approved Building Permit from the City of Cape Coral, barring Act of God or destruction due to natural weather forces. A fine of \$1,000 a month will be deducted from the \$10,000 Builders Bond and will be retained by DRB of the TPPOA until the home is completed and receives a Certificate of Occupancy from the City of Cape Coral. A copy is required to be submitted to the DRB.

****The DRB has the right to allow additional time for construction completion of an Estate Home in which the size or scope of workmanship may require additional time. The DRB reserves right to make an exception to allow additional time if the builders requests**

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additional time, with complete explanation of reason for extension, and time frame to complete. Approval will be in writing with a firm deadline from the DRB or the \$1,000 monthly fine will apply.

The TPPOA DRB does not assume responsibility for the following:

1. The structural adequacy, capacity or safety features of the proposed improvement or structure.
2. Soil erosion, un-compactable or unstable soil conditions.
3. Compliance with any or all building codes, safety requirements, governmental laws, regulations, or ordinances.
4. Performance or quality of work of any contractor.
5. Hazardous waste regulation compliance is a requirement and responsibility of the builder.

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Required Design Review Fees Payable to: Tarpon Point POA

A. Preliminary Review

Canal Lots \$250.00

Interior Lots \$200.00

B. Final Review

Canal Lots \$350.00

Interior Lots \$300.00

C. Additional Reviews

Canal Lots \$250.00

Interior Lots \$150.00

Tarpon Estates Required Fees:

Tarpon Estates: \$10,000 Builder Security Deposit payable to: **GDC Trust Account**

Tarpon Estates: \$2,500.00 **Builder Construction Assessment payable to **Tarpon Estates**.

Tarpon Estates Administration Fee: \$250**-payable to **Tarpon Estates**.

****Tarpon Estates may be one check for a total of \$2,750.00.**

All Fees should be turned into the DRB offices located at 5902 Silver King Blvd.

Attention: Lauren Snyder with complete packages.

Review packages will be rejected if not complete.

Site Development

Tarpon Estates occupies a beautiful area of the Tarpon Point community. The lots are largely open and spacious with generous views of Preserves, lakes and waterways. It is the intent of these Guidelines to preserve and enhance the natural and manmade amenities of the Tarpon Point Community. The location of your home should emphasize these amenities and strive to preserve as much of the natural vegetation and existing trees as possible.

Site Engineering

The lots within Tarpon Estates are largely open and devoid of most vegetation. Some of the waterfront lots border areas of native shoreline vegetation which must be carefully preserved in compliance with the South Florida Water Management District environmental regulations. In addition to the natural characteristics of your site, the developers of Tarpon Estates require that setbacks and other restrictions be observed to preserve the appeal of the c o m m u n i t y .

The homes constructed within Tarpon Estates must all meet the minimum finished floor elevation requirements of the Federal Emergency Management Administration (FEMA), as well as State of Florida and Cape Coral building codes, if applicable.

Design Review Guidelines Tarpon Estates

The majority of the lots within the development will require filled slab or stem wall construction to achieve this elevation requirements. It is recommended that you consult with your landscape architect, architect, or builder to determine the best possible location of the structure on your property.

Careful grading design will be required to ensure proper site drainage. **Berms and other obstructions which create water pockets or allow water runoff to adjacent lots will not be permitted**. All utility service within Tarpon Estates is required to be underground and connect to your home in accordance with city regulations.

Site Improvements and Exterior Color Selections

The lots at Tarpon Estate range in size and differ between waterfront and interior lot locations. Various setbacks are required to preserve the character of the community.

Setback: Single lot homesites- Homes shall have a minimum front yard setback of 10 feet to the road right of way, 7.5-foot setbacks to the side property lines and a 15-foot setback to the rear property line.

Exterior Colors: No exterior colors on any structure shall be permitted that, in the sole judgment of the DRB would be inharmonious or incongruous with Tarpon Point and Tarpon Point Estates. Any future exterior color tile roof and/or style of existing home tile are desired by Owners, the changes must be first submitted to the DRB for approval in writing and if approved the TPPOA DRB will do so in writing.

Driveways: Driveways must be designed to avoid fire hydrants, transformers, and other site utilities. Curved and offset driveways with adequate turnaround space are suggested. All driveways are to have a minimum width of 18 feet unless site conditions necessitate a narrower driveway. Deviations from the standard 18-foot width must be approved by the DRB. No pavement edge is permitted closer than 6 feet to a side property line to permit adequate landscape buffering.

The layout and materials used for the driveway and entry walk create first impressions of your home. All driveways and walkways must be constructed of paver blocks or stamped concrete. Earth tones are recommended. Asphalt driveways and plain broom finish concrete are not acceptable. The entry walkway to your home should be wide enough to provide an entry statement to your front door.

Walkways – All walkways leading to the rear of your home must be 21/2 feet off the exterior block wall so landscaping can be provided to hide/shield equipment. Only ONE (1) side of the home shall have a walkway.

Swimming pools- All homes are required to have a swimming pool. Include but not limited to lap pool, infinity edge pool or resort style pools. Swimming pool screen enclosures and allowed walls and fences must be built within the rear and side yard setbacks. These screen enclosures and fences must set back a minimum of 10 feet from the rear property lines and may not extend into the 7.5-foot side yards or beyond the side of the building on a corner lot. It is also important to keep all pools and decks out of utility easements which may occur on your lot. Above ground pools and pools constructed of vinyl or other synthetic materials are not permitted. Spas may be constructed of concrete or synthetic materials. All decking around pool and spa areas must be finished concrete, aggregate, elastomeric concrete finish, pavers or wood decking. **Screen enclosure colors may be bronze or white.**

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Screen enclosures shall be designed to complement the architecture of your house and may not exceed the height of the house. All aluminum enclosures must have painted or anodized finishes; no mill finish aluminum is permitted.

Lineal Walls: Linear walls will not exceed 30 feet without off sets.

Impact Glass is required for all windows and sliding glass doors.

Hurricane shutters are allowed only on the back of house and inside the lanai-all motor and mechanisms must not be exposed.

The location of other permanent play structures including swing sets, basketball backboards, etc., must be reviewed by the DRB. All lawn furnishings including dog houses, bird baths, and pole mounted bird feeders, flag poles, ponds and similar accessories are subject to the approval of the DRB. Clothes drying lines are prohibited on all lots within Tarpon Point. Fountains and statues are best suited to walled garden environments and must be approved by the DRB.

Solar Panels: Solar collectors may be installed on the roof, if approved by the ARB, with application to the ARB, showing location and with appropriate fees: Location must be within an orientation to the south or within 45° east or west of due south if such determination does not impair the effective operation of the solar collectors.

Careful pruning of the vegetation along the waterfront is permitted but must be done in compliance with state and local environmental regulations.

The use of landscape materials to provide screening and privacy within your yard is preferred to the construction of fences and walls. Hedges and tall shrub materials must be carefully considered in your landscape plan so that they do not block your neighbor's views of the water. If fences or walls are desired, the DRB must approve the materials, color selection and construction. Fences and walls may not exceed a height of 6 feet and may not be constructed in front yards or the street side yard of corner lots. All fencing along the rear of the waterfront lots must be metal picket fencing of the same or similar design as the Rose Garden buffer fence constructed by the developer. Chain link fences are strictly prohibited. The DRB may, at its discretion, require that shrubbery or vines be planted on the exterior of the fence or wall. Fences and hedgerows which obstruct vision sight lines driveways, street intersections and on corner lots are dangerous for vehicular traffic and are prohibited.

Service yard areas for the storage of trash cans, location of A/C compressors, pump equipment, pool equipment, etc., must be screened by a minimum of 3-foot-high screen wall or dense hedgerow.

All meters and equipment shall be located so as not be visible from the street.

(See illustrations). **All and any propane tanks must be underground.**

The DRB is empowered to amend and update these guidelines as necessary to keep up with current building trends as well as market changes, building, zoning, and code changes as necessary to be in compliance and up to date.

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Mailbox Specifications Tarpon Estates

Company: Creative Mailbox Design

Telephone: 1-813-818-7100 Press #3 for Sales and refer to Tarpon Estates

Single Mailbox w/ Light Parts

1. **3" x 9' Fluted Black Post**
2. **SB 43 Base**
3. **DB 12 S Bracket**
4. **Triple Light Fixture (no part number and always triple bulb)**
5. **ME 3 Mailbox and red stamped flag. Knob pull on the mailbox door**

These are the only authorized parts for all mailboxes within Tarpon Estates

All areas of your home site are to be maintained in a neat and orderly appearance. Lawns and shrubs are to be trimmed and dead trees and branches are to be removed. All trash must be kept in containers. Inoperable vehicles are not permitted on any lot within Tarpon Point. Travel trailers, boats, Jet Ski's (personal watercraft) motorcycles and campers are not permitted in driveways, except for loading and unloading; at all other times they must be parked outside of the Tarpon Point development or completely inside the garage. Repairs to vehicles and boats are not permitted on the lots within Tarpon Estates except for minor one day repairs. In addition, commercial vehicles are not permitted on any home sites except as required for deliveries and construction work. Vehicles may not be parked on lawns or common areas.

Landscape and Irrigation Design

Landscaping is an essential element of your home. Tarpon Estates requires that your design be completed by a registered landscape architect who will provide expertise for siting your home and the proposed site improvements. The DRB requires that a minimum of \$20,000 be spent for landscape material exclusive of the sod and irrigation system. As a minimum requirement, Sixty percent of this landscape expenditure must be allocated for plantings along the front elevation.

Trees add significantly to the value of your property and create a sense of permanence and maturity. The landscape plans submitted for your lot must show existing trees of six inches diameter or greater.

As a minimum requirement, five shade trees must be included in the landscape design of your front yard. The preference is that the trees be selected to provide a canopy, however, palm trees may be used for this requirement at a rate of three palms per required tree. The minimum tree height shall be 10 feet with a caliper of two inches.

The installation of Royal or Foxtail Palms in Tarpon Point has been established as a tropical landscape theme element throughout the community. The Royal or Foxtail Palms must have a minimum of 12' of gray wood below the crown of the tree and be full specimen trees. A minimum of three of these trees must be in your front yard landscaping. The location of the Royal or Foxtail palms must be included on the landscape plans for the home and submitted for approval by the DRB. The cost of installing the Palms will be the responsibility of the individual lot owners.

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Landscape plans must be completed at a scale no smaller than 1" = 20' and show all natural areas, proposed planting beds, sodden lawn, and all tree locations. The plans must also include a plant list with common and botanical names, plant sizes, and material spacing. Your landscape architect can best advise you of plant materials which are appropriate to the soils and drainage conditions of your home site. Tree and shrub masses should be designed to moderate the climate of the living environments within and surrounding your home. Breezes may be directed or buffered by the materials and trees planted to provide shade in the heat of the day. Shrub masses should be located so that your neighbor's views of the water are not inhibited. Natural areas may be enhanced with the addition of under story materials to create islands of landscaping in your yard.

Sections of some lots abut natural preserve areas which are required as shoreline buffers along the canal. Some other lots abut natural preserves and an inland lake. These Preserve areas will be maintained by the Association and must not be damaged in any way. Native plant species must be preserved in these areas and various setbacks from these buffers to any site construction must be observed as regulated by South Florida Water Management District.

The use of native plant materials is encouraged because of their inherent adaptability to the area and low maintenance requirements. A list of suggested plant materials is included in the back of these Design Review Guidelines.

Six specific exotic plants are prohibited in Tarpon Estates:

Earleaf Acacia Ear Tree Australian Pine Brazilian Pepper Punk Tree
Downey Rosemyrtle, Acacia auriculiformis Enterolobium cyclocarpum Casuarina equisetifolia Schinus terebinthifolius
Melaleuca leucadendra Rhodomyrtus tomentosus

These plants are prohibited because of their invasive tendencies and their ability to destroy native plant systems.

Lawn areas of your homesite are to be sodded with approved St. Augustine (*Stenotaphrum secundatum*) species. Floratam sod is a recommended species due to chinch bug resistance, though other hybrids of St. Augustine may be approved by the DRB. All areas which are not sodded, paved, or left in natural vegetation, must be covered with three inches of mulch or pine straw to maintain soil moisture and to keep weeds out of planted beds. Pine bark, eucalyptus or florimulch are approved mulches.

Site lighting may be incorporated in the landscape and architectural plans for a dramatic nighttime effect. Lighting can be used to accent architectural elements and specimen landscape materials. Lighting fixtures should be concealed in shrub beds and lighting wells. Lighting layout and product specifications should be included with the landscape plans. All lighting should be directed within your lot, with no spillover onto adjacent lots. The use of colored lenses is prohibited, except when used in holiday displays. The DRB reserves the right to require lighting be relocated or removed if it effects neighbors.

To ensure a thriving lawn and plant materials, an automatic underground irrigation system is required. Irrigation plans for your home must be furnished at the same scale as your landscape plan and are part

Design Review Guidelines Tarpon Estates

of your final review. To ensure continuous expanse of healthy landscaping and irrigation, coverage is required from the street to the property line or adjacent conservation easements.

All homeowners must use the Tarpon Point irrigation water supply for irrigation. Individual irrigation wells are not permitted on lots within Tarpon Estates. To maintain water quality and the natural systems, homeowners may not access any of the retention areas within the Tarpon Point development for home irrigation.

It is suggested that areas of native vegetation not be irrigated because doing so will encourage undesirable weed growth. Your system should be designed with an automatic time clock so that watering may be completed during the hours allotted by the City of Cape Coral during the dry season. This feature is especially critical when local governments require watering restrictions during seasons of inadequate rainfall.

Architectural Guidelines

The developers of Tarpon Point have established a style of architecture for the entire community. The project entry, the clubhouse and the community buildings are themed in the manner of Addison Mizner's Florida resort style. While this design is preferred, other styles are permitted as approved by the DRB. It is important that you work closely with your architect, designer and/or builder to ensure that your home is designed to both meet your needs and comply with community standards.

A preliminary review of your design by the Tarpon Estates DRB is Required before construction drawings are prepared. This will avoid costly changes to the design once the final drawings have been completed.

Homes within Tarpon Estates are to be used exclusively as residential dwelling units. No business or occupations are to be operated in the homes. The only business which may occur is the showing of the home for sale.

Lots within Tarpon Estates range from .28 acre to over 1/2 acre lots. The minimum square footage of the homes constructed within Tarpon Estates varies according to the lot location. These square footages have been established to assure an appropriate minimum standard home size. Homes built on the waterfront canal lots (lots 16-39) must contain a minimum of 3,800 square feet of air-conditioned living space. All other homes (lots 1-15 & 40-44) must have a minimum air-conditioned living space of 3,000 square feet. Garages, porches, and patio areas are not included as part of the minimum square footage of the house.

All homes in Tarpon Estates are to be pre-wired and equipped for an electronic alarm signaling system and cable television.

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Garages: Garages are to be sized to accommodate a minimum of three (3), full-sized cars with an allowance of 10 feet by 22 feet of garage space for each car. The garage height shall not exceed 10 feet.

Garages: Garages In order to have a more harmonious community garages must be located either left or right hand per the attached “Garage Exhibit” or Counter Opposing as listed on the page 25- Alternate garage door location/design may be reviewed by the DRB if necessary due to home site constrictions.

Garages may not be converted for any other use. To insure an attractive front elevation for your home, Tarpon Estates requires that garage door openings and service doors out of the garage are side load garage doors. (Adequate maneuvering space should be provided on the driveway to comfortably back out of the garage and exit your driveway forward. or driveways must allow adequate back-up space to maneuver vehicles into a forward driving position upon exiting.)

Your landscape plan should be designed to buffer the driveway and garage area from your neighbor's lot. Automatic garage door openers are required for all homes.

Elevations and Roofing

Significant attention should be given to the design of all four elevations of your home. The design of the roof also makes a major statement about the architecture of your home. **Flat roofs are not permitted.** Care should be taken in the design process to incorporate interesting windows, entry way, and roof treatments.

Exterior finishes should be applied consistently to all sides of the home.

Exterior Front Elevations must have two different architectural elements.

Architectural Elements are defined as: Unique details and component parts that, together, form the architectural style of houses, buildings and structures. **Siding or wall cladding** is defined as the protective material attached to the exterior side of a wall, house or other building.

All homes are required to have a stucco exterior wall cladding with an additional complimentary secondary wall element on the front facade of the home such as stone, marble, granite, tile, or keystone.

All homes within Tarpon Estates are to have stucco finish. Various textures of stucco and the use of stucco bands are encouraged for variety. Wood is encouraged for soffits, and simulated siding materials are prohibited as exterior siding materials. All stucco walls must be painted or contain approved color impregnation. Door and window trim should be finished to match or complement the materials of the elevations. Windows with reflective glass are prohibited. Fascia's, gutters, and downspouts are to be designed as integral parts of the architecture and finished to complement the house. Unfinished metal is not permitted except for copper.

Roof pitches and the width of overhangs may vary as required by the individual design of your home. Houses may not exceed a maximum height at the eve of 45 feet. Roof materials of concrete or clay tile are required throughout Tarpon Estates.

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Chimneys should be considered as important design elements of your elevation and should be carefully designed. They must be constructed of stucco and complement the elevation. If a prefabricated metal fireplace is used, the flue and metal spark arrestor must be shrouded by a material approved by the DRB.

Exterior Colors: No exterior colors on any structure shall be permitted that, in the sole judgment of the DRB would be inharmonious or incongruous with Tarpon Point and Tarpon Point Estates. Any future exterior color changes desired by Owners must be first approved in writing by the TPPOA DRB. Color style of existing homes tile if Owner desires change the tile and style must be approved by the DRB.

Roof Accessories and Appurtenances

To maintain the quality of the elevation and roof lines of your home, the design must limit visible mechanical elements. Plumbing stacks and roof vents should match the roof color and be placed in inconspicuous locations. Antennas or satellite dishes are permitted in accordance with section 9.13 of the Declaration of Covenants, Conditions and Restrictions. Window air- conditioning units are prohibited, and Geothermal heating and AC systems are allowed as long as is not disbursed into the lakes or storm sewer. Solar heaters are not to be visible from any streets within the community. Ample construction materials must be supplied along with your completed Final Review Form to the DRB for approval. The DRB will review your proposed architectural plans, materials, and color selections regarding the aesthetic appeal of your design in the community.

Construction Standards

1. Pre-Construction

Prior to any site clearing work on your lot, the final site layout, landscaping, and architectural plans must be completed and approved by the DRB. The completed plans must also include any revisions required by the Board. In addition to the approval by the Board, the plans for your home must also meet the requirements of all applicable governmental codes. The builder and contractor must review all of the Design Review Guidelines, Building Codes, and Covenants and Restrictions enforced by the City of Cape Coral. Design review fees are to be paid prior to receiving City building permits.

The sign and permits posted on the construction site must be approved by the DRB. A single 24" X 36" sign which includes the name of the builder and homeowner may be permitted on the property during construction. The design of the sign shall be approved by the DRB and used consistently on all lots. Subcontractor signs are not permitted. Signs should not be posted on any trees. The back of the sign shall serve as the permit board. (See approved signage attachment)

Once the DRB has approved the construction plans for your home, construction may begin. A City of Cape Coral building permit must be obtained and posted at the site. The foundation staking and location must be reviewed with the DRB. Trees and natural areas to be preserved must be barricaded.

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The DRB reserves the right to do periodic inspections at any time during construction to ensure compliance with the plans.

2. Construction Site Conduct

The general contractor for your home is responsible for the conduct of the workers on the job and the condition of the site.

To ensure the construction quality and safety of all workers, drugs and intoxicants are not permitted on any construction sites.

As amended March 17, 2026

For Tarpon Estates to keep pristine and beautiful, the DRB within their power is implementing a few new rules regarding construction sites. These rules will apply to any projects that include outside material storage, porta potties, or dumpsters.

The rules are follows:

- All construction dumpsters will be placed on the job strategically as close to the home as possible.
- All porta potties must be a minimum of **15 feet behind** the back of curb and **7 1/2 feet off** any property line.
- These portable bathrooms shall be leveled up and staked into the ground with some type of land anchor. The door entrance shall face the **new home**, not the road.
- There will be **no storage** of any trailers for more than one consecutive night. This rule is consistent with the Tarpon Estates Declaration and Documents and it is important that homeowners building conform and comply with Tarpon Estates Declarations and Documents.
- If cameras are placed on the property, the camera must be **15 feet** back and no higher than 10 feet off the ground.
- No material shall be stored in the **15-foot buffer** in front of every home, for longer than two weeks.

Site Maintenance-Excavation and Fill Material

Excavation is necessary component of most construction projects 'however all efforts must be made to preserve the pristine condition of the community. Any areas disturbed during construction, including access paths, staging areas, or excavation zones, must be promptly restored. All excavated areas shall be properly backfilled and graded to a neat and level condition immediately upon completion of the work in that area.

If fill or excess material is generated during construction, it must either be:

- Evenly distributed and graded on the subject property in an approved location, or
- Removed and exported offsite within forty-eight (48) hours.

The contractor is responsible for trash and debris which might litter the streets throughout Tarpon Point from the construction activity. Trash should be stored in a city approved container on the job site and be emptied on a regular basis. Fires are not permitted on construction sites. At the end of each day, workers must clean up the trash at the site and keep construction materials neatly stored. Construction trailers are not permitted on any lots or common areas. Builders will be required to ensure their workers enter and leave Tarpon Point via the designated construction entrance.

To preserve the natural areas of the lot, preservation areas, and barricades should be constructed. Additionally, all vehicular traffic should be kept away from the area within the dripline of existing trees to prevent soil compaction of the root zones. Damaged limbs and dead vegetation should be

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removed from all sites.

- 3. Final Inspection** Upon construction completion, the homeowner or builder must give written notice to the DRB that the home is complete and ready for inspection. All trash and building materials must be removed from the site and the house should be connected to all permanent utility systems. The landscape contractor must have all of the landscaping installed and the sod in place. The irrigation system should be completely tested and fully operational.

A final survey and a copy of the Certificate of Occupancy for the home must be submitted to the DRB. At that time, the DRB shall notify the homeowner and builder whether or not the home complies with the approved plans. Any unauthorized changes to the actual construction which vary from the approved plans must be rectified with the DRB before the final inspection is approved. Security deposits retained by Tarpon Estates Homeowners Association will on be released upon final inspections and approval by the TPPOA DRB.

4. Appeal

If final construction approval is denied by the DRB and the homeowner feels that the decision is unfair, the homeowner may appeal to the Board. A hearing with the full Board of the DRB will be held to allow the homeowner to present his or her position. After the hearing, the DRB will notify the homeowner and builder of the final decision. The decision by the DRB is final and binding.

LANDSCAPE MATERIALS

The following is a list of plan materials which may be used for the landscaping of your home at Tarpon Estates. Each of the plans is followed by notations indicating whether the plan is a native plant or a xeriscape plant. Several of the plants share all of these characteristics.

"N" - Indicates native Florida plants

"X" - Indicates xeriscape plants; plants which survive on natural rainfall with little supplemental irrigation.

TREES

COMMON NAME	BOTANICAL NAME	ADAPTABILITY
Black Olive	Bucida buceras	N, X
Buttonwood	Conocarpus erectus	N,X
Cattley Guava	Psidium littorale	X
Crape Myrtle	Lagerstroemia indica	X
Geiger Tree	Cordia sebes.tena	N, X
Golden Shower Tree	Cassia Fistula	X
Gumbo Limbo	Bursera simaruba	N,X
Jacaranda	Jacaranda mimosaeifolia	X
Laurel Oak	Quercus laurifolia	N, X
Ligustrum	Ligustrum japonicum	X
Live Oak	Quercus virginiana	N,X

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Loquat	Eriobotrya japonica	X
Mahogany	Swietenia mahogany	N,X
Ochrosia	Ochrosia elliptica	X
Orchid Tree	Bauhinia species	X
Pigeon Plum	Coccoloba diversifolia	N,X
Seagrape	Coccoloba uvifera	N,X
Slash Pine	Pinus elliottii	N, X
Southern Magnolia	Magnolia grandiflora	N, X
Tabebuia	Tabebuia species	X

PALMS

COMMON NAME	BOTANICAL NAME	ADAPTABILITY
Cabbage Palm	Sabal palmetto	N, X
Canary Island Date Palm	Phoenix canariensis	X
Malayan Coconut Palm	Cocos nucifera "Green Malayan"	X
Manilla/Christmas Palm	Veitchia merrilli	X
Montgomery Palm	Veitchia montgomeryana	X
Needle Palm	Rhapidophyllum hystrix	N, X
Paurotis Palm	Acoelorrhaphe wrightii	N, X
Pygmy Date Palm	Phoenix roebelenii	X

Queen Palm	Syagrus romanzofliana	
Royal Palm	Roystonea regia	N, X
Senegal Date Palm	Phoenix reclinata	X
Solitaire/Alexander Palm	Prychosperma elegans	X
Washington Fan Palm	Washingtonia robusta	X
Foxtail Palm	Wodyetia bifurcate	X

Design Review Guidelines Tarpon Estates

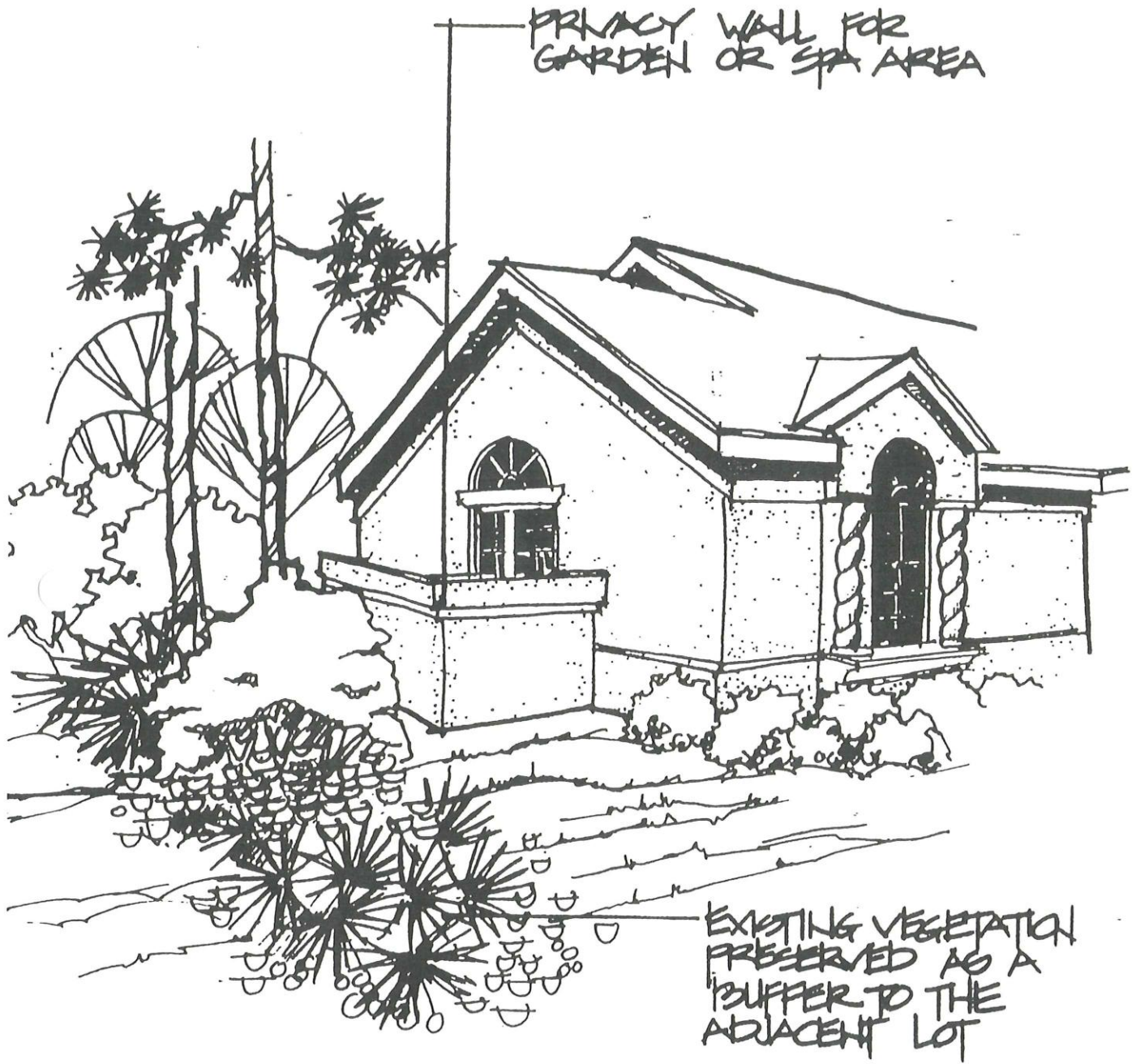
SHRUBS AND MEDIUM SIZED PLANTS

COMMON NAME	BOTANICAL NAME	ADAPTABILITY
Awabuki Viburnum	Viburnum odoratissimum	
Burford Holly	Ilex comuta 'Burfordii'	X
Buttonwood	Conocarpus erecta	N, X
Cocoplum	Chrysobalanus icaco	N, X
Hibiscus	Hibiscus rosa sinensis	
Indian Hawthorn	Raphiolepis indica	X
Inkberry	Scaevola plumieri	N, X
Ixora	Ixora species	- X
Juniper	Juniperus chinensis	X
King Sago	Cycas revolute	X
Myrsine	Rapanea punctata	N, X
Oleander	Nerium oleander	X
Pampas Grass	Cortaderia selloana	X
Pittosporum	Pittosporum tobira	X
Podocarpus	Podocarpus macrophyllus	X
Plumbago	Plumbago auriculata	X
Sandankwa Viburnum	Viburnum suspensum	
Sea Grape	Coccoloba uvifera	N, X
Silver Thom	Eleagnus pungens	X
Sweet Viburnum	Viburnum odoratissimum	
Yaupon Holly	Ilex vomitoria	N, X

VINES, GRASSES AND GROUND COVERS

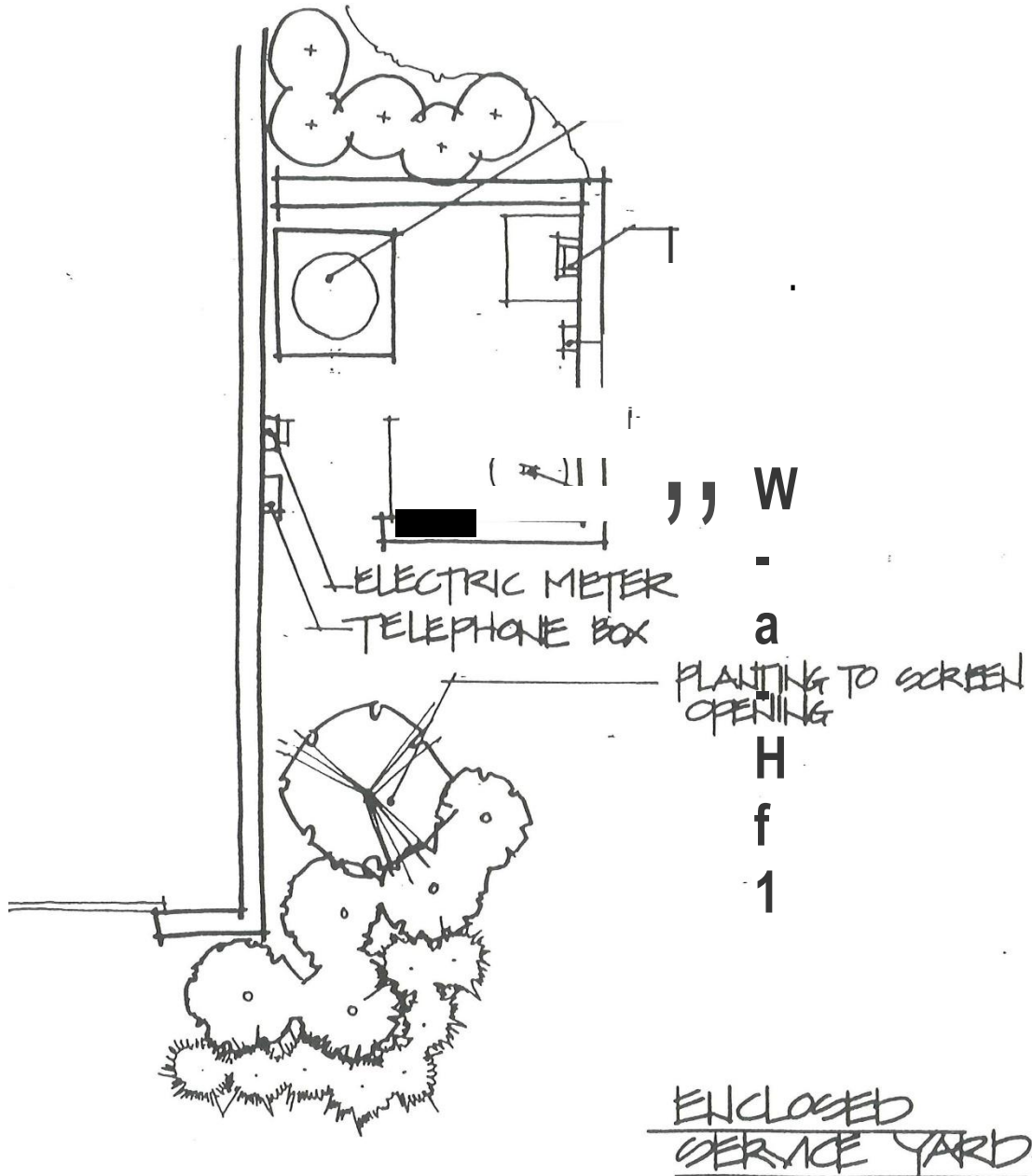
COMMON NAME	BOTANICAL NAME	ADAPTABILITY
Algerian Ivy	Hedera canariesis	X
Cardboard Plant	Zamia furfuracea	X
Coontie	Zamia integrifolia	N, X
Creeping Fig	Ficus pumila	X
Daylily	Hemerocallis spp.	X
English Ivy	Hedera helix	
Liriope	Liriope muscari	X
Mondo Grass	Ophiopogon japonicus	X
Parson's Juniper	Juniperus chinensis 'Parsonii'	X
Shore Juniper	Juniperus conferta	X
St. Augustine Grass	Stenotaphrum secundatum	

Design Review Guidelines Tarpon Estates



WALLS & LANDSCAPE BUFFERS

Design Review Guidelines Tarpon Estates



BUILDER TIMETABLE FOR
DESIGN REVIEW,
CONSTRUCTION AND APPROVAL
(C)

Design Review Guidelines Tarpon Estates

BUILDER TIMETABLE FOR DESIGN REVIEW, CONSTRUCTION AND APPROVAL

The terms of this timetable are part of the Participating Builder Agreement for Tarpon Estate as specifically incorporated therein.

1. DESIGN REVIEW.

(a) Initial Review.

(i) In accordance with time requirements for commencement of construction as set forth in the Lot Purchase Agreements for Tarpon Estate, Builder shall submit to the Architectural Review Committee three (3) sets of the following initial plans as part of the initial review process, as more fully described in the Design Review Guidelines, and email copy of prints. The following initial plans are:

- (1) Existing topographic plan & proposed grading.
- (2) Dimension site plans
- (3) Garage side entrance/Carport
- (4) Screened Porch
- (5) Construction materials and color described on plans
- (6) Floor plans with Square Footage
- (7) Living area with Square Footage
- (8) Schematic landscape plan
- (9) Preliminary floorplans
- (10) Elevations (all 4 elevations required)
- (11) Exterior elevation drawings.
- (12) Building/wall selection.

(ii) Prior to submitting the initial plans, Builder shall also complete the preliminary stakeout in accordance with the Design Review Guidelines.

(iii) THE ARCHITECTURAL REVIEW COMMITTEE, IN ITS SOLE AND ABSOLUTE DISCRETION, SHALL HAVE THE RIGHT TO APPROVE, APPROVE WITH CONDITIONS OR REJECT THE INITIAL PLANS AND PRELIMINARY STAKEOUTS. The Architectural Review Committee shall notify Builder within ten (10) business days after receipt of the plans and completion of the stakeout of its decision.

(iv) If the Architectural Review Committee requires modification to the

Design Review Guidelines Tarpon Estates

initial plans or preliminary stakeout, Builder shall, within ten (10) business days of the date of Architectural Review Committee's notice, submit revised plans to the Architectural Review Committee. Review of such revised plans shall proceed in accordance with this section.

(b) Final Review.

(i) The Builder shall submit to the Architectural Review Committee three (3) sets of the following final plans as part of the final review process, as more fully described in the Design Review Guidelines:

- (1) Exterior color and material selections.
- (2) Second architectural material
- (3) Final pool plans and screen enclosure
- (4) Final Landscape plans.
- (5) Complete architectural plans and specifications.

These documents shall be an accurate extension of the initial plans as approved.

(ii) Within ten (10) business days after receipt of the final plans, Architectural Review Committee shall notify Builder that the plans are either approved as submitted or approved subject to specific conditions.

(iii) If the Architectural Review Committee requires conditions to the final plans or final stakeout, Builder shall, within five (5) business days of the date of the Architectural Review Committee's notice, submit revised plans to the Architectural Review Committee. Review of such revised plans shall proceed in accordance with this section.

(c) Preconstruction Meeting. The Builder must request a preconstruction meeting within ten (10) business days after final plans have been approved. This meeting includes the review of the approved plans for completeness, a field review and clearing walk.

(d) The approval of all plans hereunder is to preserve the aesthetic beauty of Tarpon Estate and Tarpon Point and ensure compliance with the Community and Neighborhood Declaration of Covenants and Restrictions and Design Review Guidelines. The Architectural Review Committee's approval hereunder shall in no way be construed as a guaranty that such plans comply with applicable building or safety codes or other governmental regulations.

Design Review Guidelines Tarpon Estates

Design Review

CONSTRUCTION ADMINISTRATION

GENERAL INFORMATION

DESIGN REVIEW FEE

Contractor: _____

License No. _____

Address _____

City _____

Construction Address _____

Property owner: _____

Preliminary Review- Payable to Tarpon Point POA

Canal Lots (\$250) _____

Interior Lots (\$200) _____

Received: _____

Mailed: _____

Final Review

Canal Lots (\$350) _____

Interior (\$300) _____

Received: _____

Mailed: _____

Additional reviews

Canal Lots (\$250) _____

Interior Lots (\$150) _____

Tarpon Estates Fees

\$10,000 Builder Security Deposit

payable to **GADC Trust Account**

\$2,500 Construction Impact Assessment

\$250.00 Administrative Fee**

May be combined for one check for

\$2,750.00

****payable to Tarpon Estates**

RECEIVED: _____

MAIL DATE: _____

**The Tarpon Point
DRB will collect all
checks and mail to
the appropriate
parties**

RECEIVED: _____

MAILED DATE: _____

Design Review Guidelines Tarpon Estates

AGREEMENT:

I as Contractor for the above-described construction project, acknowledge and agree that the improvements be constructed in accordance with plans and specifications which have been approved.

I further acknowledge and agree that:

1. I have read and understood the Design Review Guidelines and Declarations of Covenants, Conditions and Restrictions applicable to the property and will follow and obey these documents.
2. I am responsible for completing the project as described by the drawings and specifications approved and any proposed changes will be submitted for approval prior to implementation.
3. I will maintain a clean construction site at all times and install a job sign, commercial dumpster and job toilet in conformance with the Guidelines.
4. I am responsible for the conduct of all workers performing service on this project at all times while they are in Tarpon Estates. Workers will use the designated construction entrance.
5. I will notify the office of the Tarpon Point Property Owners DRB for field inspections by written email to lsnyder@tarponpoint.com

THIS APPLICATION, Design Review Fee and Agreement made this _____ day of _____, 20____, by _____

WITNESS

CONTRACTORS SIGNATURE

Application approved this _____ day of _____ 20____ by _____

PRELIMINARY REVIEW FORM

TPPOA Design
Review Board
Tarpon Estates

DATE SUBMITTED: _____
DATE APPROVED: _____
REVIEW FEE RECEIVED BY: _____
APPROVED BY: _____

GENERAL INFORMATION

Design Review Guidelines Tarpon Estates

Construction Address: _____

Lot: _____ Landscape Architect _____

Owner: _____ Address _____

Address _____ City/State _____

City/State _____ Telephone _____

_____ Telephone _____

Surveyor/Architect/Builder _____

Address _____ City/State _____

City/State _____ Telephone _____

The following information must be included in order to submit for a review:

_____ Preliminary stake out completed

_____ SQUARE FOOTAGE

_____ Existing topographic plan & proposed

_____ Living Area

_____ Grading

_____ Schematic landscape plan

_____ Garage / Carport _____

_____ Preliminary floor plans

_____ Screened Porch

_____ elevations (all 4 elevations required)

_____ Construction materials and color described on plans

Total _____

Design Review Guidelines Tarpon Estates

FINAL REVIEW FORM

Design Review Board
Tarpon Estates

DATE SUBMITTED: _____
DATE APPROVED: _____
REVIEW FEE RECEIVED BY: _____
APPROVED BY: _____

GENERAL INFORMATION

Construction Address _____

Lot _____

Owner _____

Address _____

City/State _____

Telephone _____

Architect/Builder _____

Address _____

City/State _____

Telephone _____

Landscape Architect _____

Address _____

City/State _____

Telephone _____

Surveyor _____

Address _____

City/State _____

Telephone _____

The following information must be included to submit for a review:

FINAL STAKE OUT COMPLETED
CONSTRUCTION PLANS (1/4" =
1'0) SPECIFICATIONS TO INCLUDE:

FLOOR PLANS WITH DIMENSIONS
FOUNDATION PLAN
ELECTRICAL PLAN
ROOF PLAN
POOL ENCLOSURE PLAN
EXTERIOR ELEVATIONS FROM
EXISTING GRADE (4 SIDES)

SQUARE FOOTAGE

Living Area _____

Garage/Carport _____

Screened Porch _____

Decks _____

Other _____

Total _____

- _____ GRADING PLAN -Including existing and proposed grades.
- _____ SITE PLAN – (1"=20' Min.) – Including the location of all structures on the site & utilities
- _____ LANDSCAPE PLAN – (1"=20' Min.) – with Plant List and Irrigation Plan
- _____ CONSTRUCTION MATERIAL SAMPLES BOARDS

Design Review Guidelines Tarpon Estates

Walls _____ Mfg name & # _____

Trim _____ Mfg name & # _____

Paving _____ Mfg name & # _____

Garage Doors _____ Mfg name & # _____

Other _____ Mfg name & # _____

Foundation _____ Mfg name & # _____

Roofing _____ Mfg name & # _____

***Due to lot configuration**

**Garages must be:
Counter Opposing or
Left or Right**

Lot 2 6047 Right

Lot 4 6039 Right

Lot 5 6035 Left

Lot 8 6025 Left

Lot 11 6007 Left

Lot 17 6004 Left

Lot 21 6024 Right

Lot 23 6042 Right

Lot 27 6058 Left

Lot 29 6068 Left

Lot 33 6084 Left

Lot 35 6092 Left

Lot 37 6100 Left

Lot 39 6108 Left

Lot 38 6104 Right

Lot 40 6099 Left

Lot 41 6095 Right

Lot 42 6091 Left

Lot 43 6087 Right

Lot 44 6081 Counter*

- | EXISTING ZONING | EXISTING LAND USE | SITE IMPROVEMENTS | AREA OF PROPERTIES |
|---------------------------------|-------------------|------------------------|--|
| Single-Family Residential (R-1) | Mixed Use | Both sites are vacant. | Lot 5: 16,937 sq. ft.
Lot 8: 14,207 sq. ft. |

Street Address: 6025 and 6026 Tarpon Estates Court

Urban Service Area: Infill

Centralized Water and Sewer: Centralized utilities are available.

Street Access: Both sites have frontage along Tarpon Estates Court, a private street

STRAP Number: 22-45-23-C4-00500.0050 and 22-45-23-C1-00500.0080

Block/Lot(s): Lots 5 and 8, Block 7025, Unit 77, Tarpon Point Subdivision

Case Planner: Mike Struve, AICP, Planning Team Coordinator

Approved By: Amy Yearsley, AICP, Planning Manager

DESCRIPTION OF THE TARPON POINT DEVELOPMENT

The Tarpon Point development is in southern Cape Coral, south of Rose Garden Road, and north of the Caloosahatchee River.

Tarpon Point is a mixed-use Planned Development Project (PDP) that was originally approved by Ordinance 14-01, and has subsequently been amended by Ordinances 131-02, 1-07, 77-11, and 21-16. This development consists of five multi-family village tracts (Villages "A," "B," "D," "E" and "F"), one single-family residential tract (Village "C"), two commercial tracts (Marina Villages #1 and #2), two conservation tracts, and three tracts dedicated for private streets (see Figure 1). Tarpon Point has been approved for 1,099 multi-family units, 47 single-family homes, 45,000 sq. ft. of retail and office space, a ±35,000 sq. ft. conference center, 500 restaurant seats, and 308 hotel rooms. The conversion of the hotel in Marina Village #1 to a compound use building allowing both hotel/motel and multi-family uses in the same building was approved by Ordinance 77-11. The most recent PDP amendment, Ordinance 21-16, approved a three-story conference center in Marina Village #1, a parking lot and accompanying access road in Village "A", and 170 multi-family units in Village "A". Ordinance 21-16 also approved an increase in the number of hotel rooms located on Marina Village #1 from 268 to 308 and eliminated an off-site paving requirement for Pelican Boulevard.

The Tarpon Point development has 61.32 acres zoned Residential Multi-Family Low, 39.24 acres zoned Preservation, 29.21 acres zoned Single-Family Residential (R-1), and 18.29 acres zoned Commercial. The project has about 108.82 acres with a Future Land Use classification (FLUC) of Mixed-Use (MX) and 39.24 acres with a FLUC of Natural Resources/Preservation.

Tarpon Point contains tracts of land that total 148.06 acres. The development contains an additional 13.5-acre parcel of submerged land for a total project area of 161.56 acres.

Portions of the project are in a special flood hazard area. The southern portion of the development is in the FEMA limit of moderate wave action (LiMWA). The LiMWA line marks the inland limit where waves between 1.5 and 3 feet in height are expected during base flood events.

Most of the project is in the Coastal High Hazard Area that is a zone vulnerable to high-velocity wave action, storm surges, and erosion. Florida Statutes, Section 163.3177(6)6. requires that local governments limit public expenditures in these areas.

Figure 1. Aerial of the Tarpon Point Project showing the location of various villages and the two subject sites. Aerial provided by Avalon Engineering, Inc.



The Tarpon Point development is surrounded on three sides by low-lying lands with Preservation zoning that are currently undeveloped. Sites to the north consist of platted lots with R-1 zoning that are built out with single-family homes.

PURPOSE OF THE PDP AMENDMENT

This amendment is limited to two residential sites, Lots 5 and 8, in Village "C". The owners of these two lots request the City revise Section III., 0.5. in Ordinance 14-01 that requires a minimum lot width of 100 feet at the setback line. This condition in its entirety appears below.

In Village "C", all lots shall have a minimum width at the building line of one hundred (100) feet, a minimum lot depth of one hundred twenty-five (125) feet, and minimum side yards of ten (10) feet. Furthermore, all driveways located in Village "C" shall be constructed of pavers and/or stamped concrete. The foregoing conditions regarding minimum lot width, minimum side yards, and driveways in Village "C" shall not affect the deviation approved in this Development Order to allow fences or walls on the front and side property lines within the entire Tarpon Point project area.

ENTITLEMENT HISTORY

The FLUC of Lots 1-24, Block 7025, Unit 77 has been Mixed-Use since the adoption of the City Comprehensive Plan.

The zoning of Lots 1-24, Block 7025, Unit 77 was amended from Residential Development to R-1 by Ordinance 4-19.

GENERAL REQUIREMENTS

The purpose of PDP amendments is to allow changes to PDPs that were approved prior to the adoption of the LDC. New PDPs are not allowed by the LDC.

PDP amendments may include one or more of the following:

1. Modify or eliminate one or more conditions appearing in a PDP development order.
2. Rezone all or a portion of a PDP.
3. Extend the date of substantial construction or buildout period of a project.
4. Incorporate or add new land into a previously approved PDP.
5. Eliminate or contract land from a previously approved PDP.

ANALYSIS:

Staff reviewed this application based on LDC, Section 3.4.8. for evaluating PDP amendments. An amendment to a portion of a PDP shall not require an application from the owners of 100% of the property that is controlled by the existing PDP if all of the following criteria are met.

1. *The property that is controlled by the existing PDP consists of more than one parcel or tract of land.*
Staff analysis and recommended finding: The Tarpon Point project includes over 50 individual sites. Most of these sites are under separate ownership. This criterion has been met.
2. *The party or parties making application for the amendment of the existing PDOP hold title to ownership of 100% of the property that would be included in the proposed amendment or is a third party with written consent of all owners of the project that would be included in the proposed amendment for which the third party will apply.* **Staff analysis and recommended finding: Two parties owning two different lots in the project area have signed a PDP amendment application. James Rizzo and Suzanne Rubinetti, the owners of Lot 5 and Michael and Whitney Kirby, the owners of Lot 8, are both signatories to this application. This criterion has been met.**
3. *The proposed amendment would not negatively affect the lawful existence of the existing PDP as it relates to the property that is controlled by the PDP development plan and that would not be included in the proposed amendment.* **Staff analysis and recommended finding: This PDP amendment is limited to eliminating a minimum lot width requirement for Lots 5 and 8 in Village "C". Minimum lot widths are frequently established in local zoning codes for ensuring safe, orderly development, maintaining community aesthetics, and providing for adequate spacing of driveways along a street. For platted, residential lots in the City, the LDC requires a minimum width at the setback line of 80 feet. A higher standard was established for the single-family lots in Tarpon Point in 2001, presumably because the lot areas were considerably greater than the typical 10,000 sq. ft. platted homesites that dominate most residential areas of the City.**

This amendment applies only to Lots 5 and 8 in Village "C". Compared to other lots in Village "C", these two lots are irregular and are narrower at the front of these two sites. Of the remaining seven single-family lots in Village "C", all except the two subject lots have widths of at least 100 feet at the front property line. Since Lots 5 and 8 are irregular and slowly increase in width as the depth of these lots increase, a greater percentage of

these two lots near their respective fronts is unavailable for the construction of a single-family home compared to most other sites in Village "C".

The minimum lot width requirement is exacerbated by the private restrictions codified in the Design Review Guidelines for Tarpon Estates that exceed City requirements. These requirements for new single-family homes in Village "C" include establishing minimum living areas, implementing garage design standards, including garage placement, and requiring each house to have a swimming pool. For example, the Design Review Guidelines require a minimum living area of 3,000 sq. ft. for new single-family homes on Lots 5 and 8 and stipulate that garages must accommodate three full-size cars.

Ordinance 131-02 that earlier amended Ordinance 14-01 that approved the Tarpon Point development, eliminated the minimum width lot requirement for Lots 6-7, 16-17, 30-33, 37-39, and 45-46 in Village "C", but this amendment did not provide a similar exemption for Lots 5 and 8.

In summary, this PDP amendment will eliminate a lot width requirement for two residential sites in Village "C". The request will provide relief for both homeowners with lots that are irregularly shaped and have less width at the front property line compared to most sites in this village. The elimination of this provision will assist each homeowner in complying with homeowner association requirements that in several instances exceed City standards. The relief sought by these homeowners is identical to the relief granted to several property owners in this village under a prior PDP amendment. This amendment will not have an adverse effect on other properties in the Tarpon Point development and may positively benefit the community by facilitating infill development on two of the remaining undeveloped residential sites in Village "C".

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CONSISTENCY WITH THE COMPREHENSIVE PLAN

Future Land Use Element

Table 1, Policy 1.15. Identification of Zoning Districts Consistent with Various Future Land Use Classifications.

Future Land Use	Consistent Zoning Districts
Single-Family (SF)	R-1, RE
Single-Family and Multi-Family (SM)	R-1, RML, RMM, RE, A
Multi-Family	RML, RMM
Low Density Residential (LDR)	RE, A
Commercial/Professional	C, P
Mixed-Use (MX)	All except MXB
Downtown-Mixed (DM)	SC, MXB
Pine Island Road District (PIRD)	CC
Commercial Activity Center (CAC)	NC
Light Industrial (I)	I
Natural Resources/Preservation (PRES)	PV
Public Facilities (PF)	All
Parks and Recreation (PK)	ALL except MX7 and MXB
Open Space (OS)	PV

Staff analysis and recommended finding: *Table 1. above shows the R-1 District is consistent with the Mixed-Use FLUC of the sites. This request is consistent with this policy.*

Policy 1.15.e.

Mixed-Use...

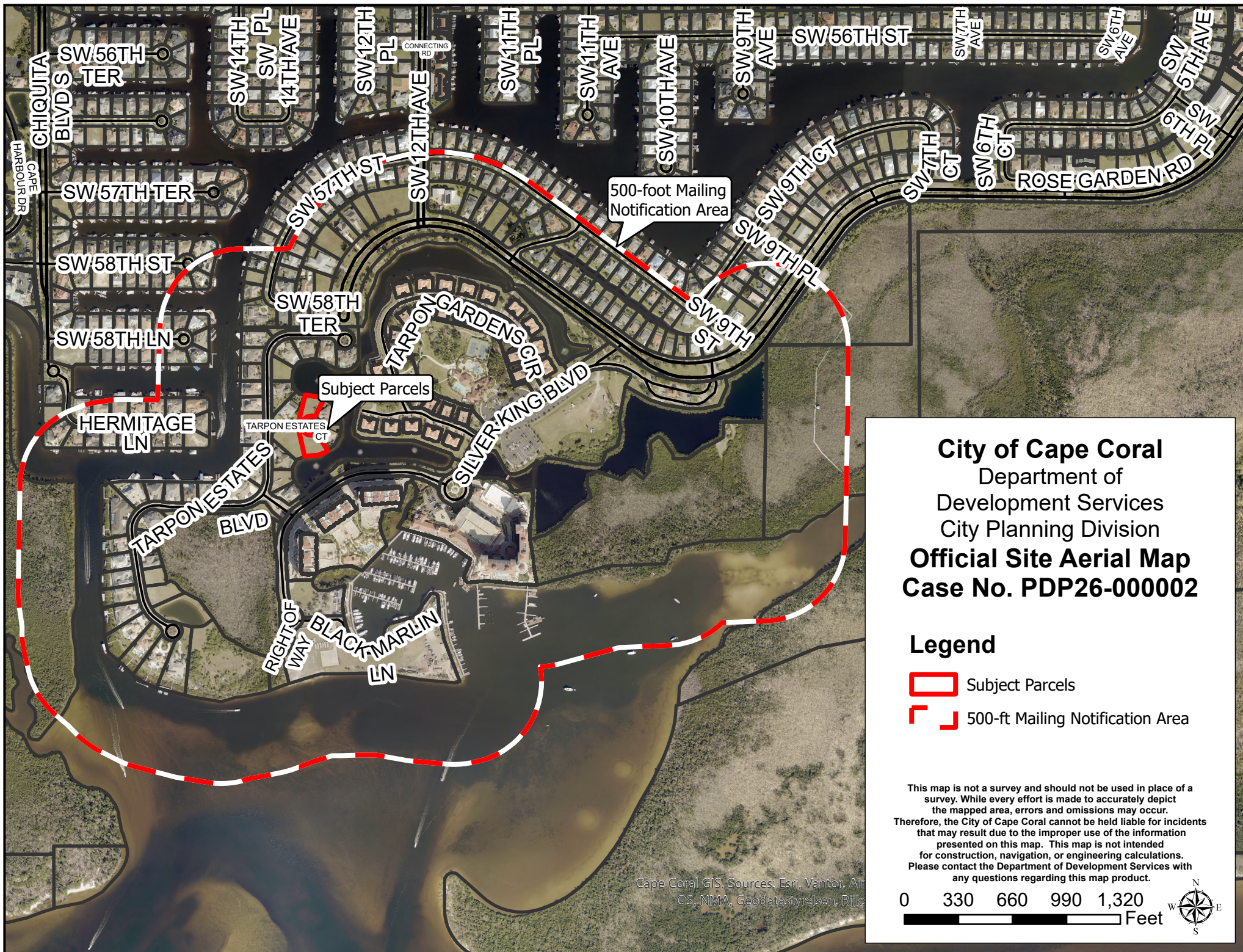
The following will control the mix of uses allowed in the Mixed-Use Land Use Category.

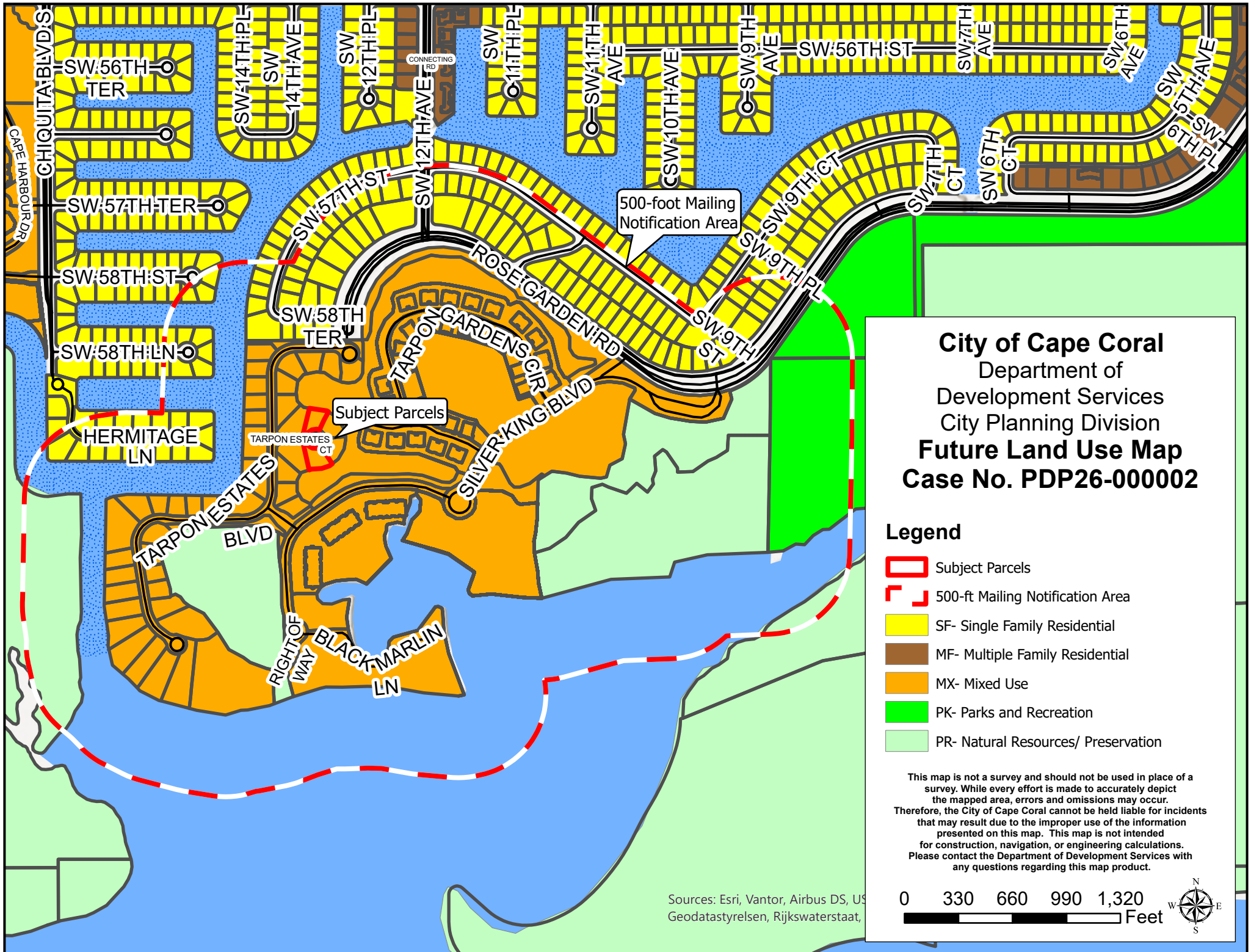
Properties less than one (1) acre: The designation of smaller properties as Mixed-Use is desired to encourage the accumulation of land into large properties. However, in some cases assemblages are difficult due to existing development. In these situations, a property with a Mixed-Use future land use classification may be developed with one use, which is also consistent with its underlying zoning district...

Staff analysis and recommended finding: *The two sites will each be developed with a single use (a single-family home) that is consistent with this policy.*

RECOMMENDATION

Planning staff recommends approval of the requested PDP amendment subject to those terms and conditions appearing in the amended development order.





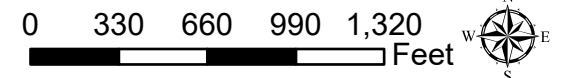
City of Cape Coral
Department of
Development Services
City Planning Division
Future Land Use Map
Case No. PDP26-000002

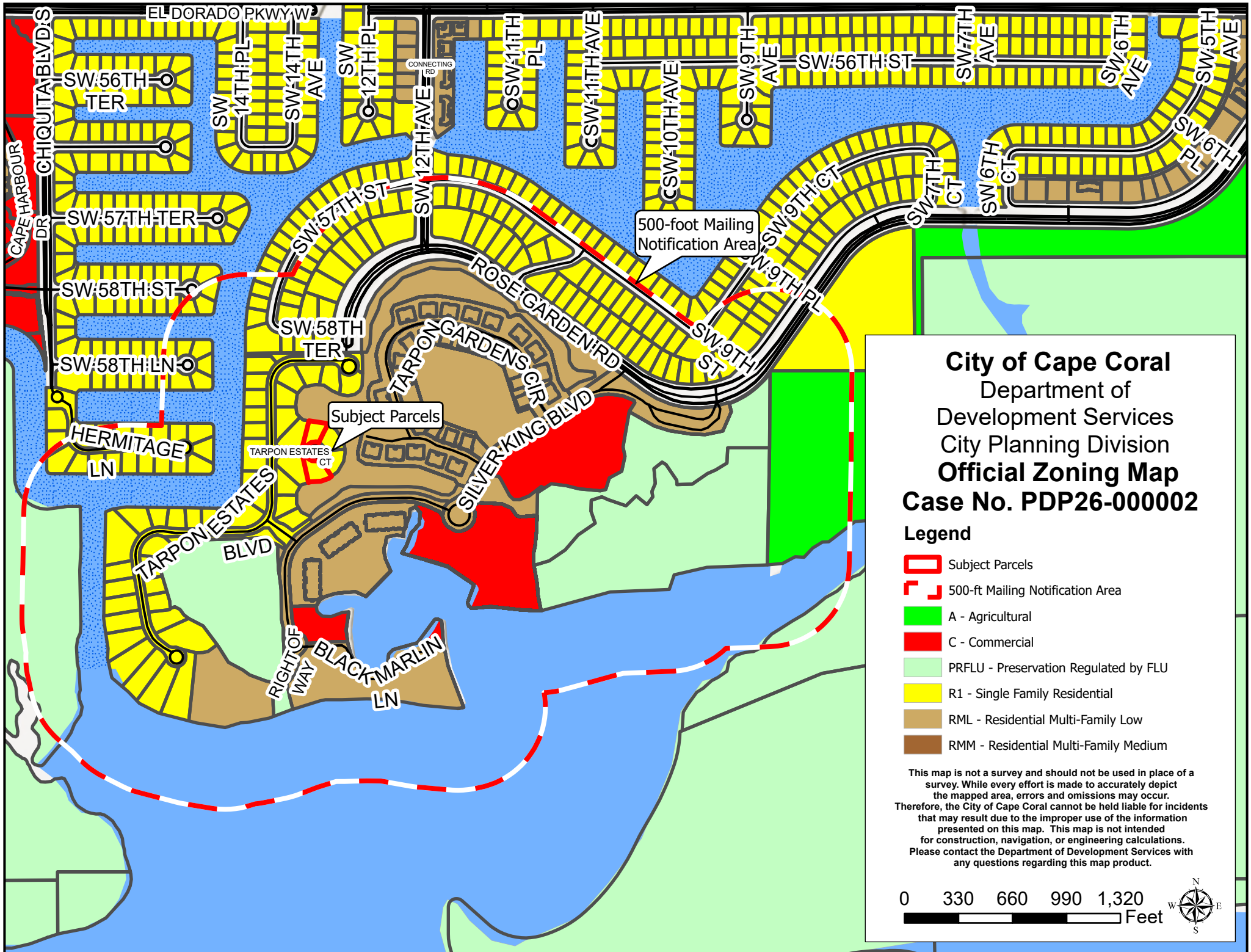
Legend

-  Subject Parcels
-  500-ft Mailing Notification Area
-  SF- Single Family Residential
-  MF- Multiple Family Residential
-  MX- Mixed Use
-  PK- Parks and Recreation
-  PR- Natural Resources/ Preservation

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation, or engineering calculations. Please contact the Department of Development Services with any questions regarding this map product.

Sources: Esri, Vantor, Airbus DS, US
Geodatastyrelsen, Rijkswaterstaat,

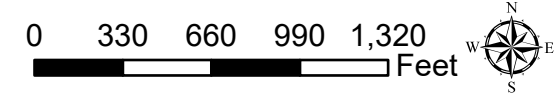




City of Cape Coral
Department of
Development Services
City Planning Division
Official Zoning Map
Case No. PDP26-000002

- Legend**
- Subject Parcels
 - 500-ft Mailing Notification Area
 - A - Agricultural
 - C - Commercial
 - PRFLU - Preservation Regulated by FLU
 - R1 - Single Family Residential
 - RML - Residential Multi-Family Low
 - RMM - Residential Multi-Family Medium

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation, or engineering calculations. Please contact the Department of Development Services with any questions regarding this map product.



Re-recorded to record exhibits omitted from original recording at OR Book 03390, Page 1703, et. seq.

COUNCILMEMBER STEVENS PDP #00-00800015
 02/13/01
 03/13/01
 03/14/01
 03/15/01
 03/16/01

ORDINANCE 14 - 01

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "TARPON POINT"; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR A PORTION OF CERTAIN PROPERTY DESCRIBED AS TRACTS 1, 2, 3, 4, 5, 6, 8, 9, AND 10, CAPE CORAL UNIT 77, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN ROSE GARDEN ROAD AND THE CALOOSAHATCHEE RIVER/GLOVER BIGHT; GRANTING REPLAT AND SUBDIVISION OF TRACTS 1, 2, 3, 4, 5, 6, 8, 9, AND 10, CAPE CORAL UNIT 77, FOR A MIXED USE SUBDIVISION; REZONING AS FOLLOWS: REZONING +26.37 ACRES, A PORTION OF TRACTS 2, 4, 5, 8, AND 9, CAPE CORAL UNIT 77, LEE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED HEREIN FROM R-3 (MULTI-FAMILY) TO RD (RESIDENTIAL DEVELOPMENT); REZONING +6.08 ACRES, A PORTION OF TRACT 3, CAPE CORAL UNIT 77, LEE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED HEREIN, FROM C-1 (PEDESTRIAN COMMERCIAL) TO R-3 (MULTI-FAMILY); REZONING +7.48 ACRES, A PORTION OF TRACT 4, CAPE CORAL UNIT 77, LEE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 (MULTI-FAMILY) TO C-1 (PEDESTRIAN COMMERCIAL); REZONING +1.60 ACRES, A PORTION OF TRACT 2, CAPE CORAL UNIT 77, LEE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 (MULTI-FAMILY) TO C-1 (PEDESTRIAN COMMERCIAL); GRANTING SPECIAL EXCEPTIONS AS MORE SPECIFICALLY DESCRIBED HEREIN TO ALLOW THE FOLLOWING USES: GATE HOUSES IN MULTI-FAMILY (R-3) AND RESIDENTIAL DEVELOPMENT (RD) DISTRICTS; ESSENTIAL SERVICE FACILITIES-GROUP I IN MULTI-FAMILY (R-3) AND RESIDENTIAL DEVELOPMENT (RD) DISTRICTS; CLUBS, PRIVATE IN MULTI-FAMILY (R-3) DISTRICTS; GUEST/STAFF QUARTERS IN (RD) DISTRICTS; BUSINESS OFFICES-GROUP III IN C-1 (PEDESTRIAN COMMERCIAL) DISTRICTS; RECREATION, COMMERCIAL-GROUP III IN C-1 (PEDESTRIAN COMMERCIAL) DISTRICTS; RENTAL ESTABLISHMENTS-GROUP III IN C-1 (PEDESTRIAN COMMERCIAL) DISTRICTS; SELF-SERVICE FUEL PUMPS IN C-1 (PEDESTRIAN COMMERCIAL) DISTRICTS; SELF-SERVICE FUEL PUMP STATION IN C-1 (PEDESTRIAN COMMERCIAL) DISTRICTS; AND STORAGE, ENCLOSED IN C-1 (PEDESTRIAN COMMERCIAL) DISTRICTS; APPROVING THE FOLLOWING DEVIATIONS, AS MORE PARTICULARLY DESCRIBED HEREIN, TO THE LAND USE AND DEVELOPMENT REGULATIONS: DEVIATIONS TO ALLOW REDUCTION OF THE MINIMUM REQUIREMENTS FOR FRONT YARD AND REAR YARD, DISTANCE BETWEEN BUILDINGS, MINIMUM LIVING AREA ON THE GROUND FLOOR, AND MINIMUM FRONT, SIDE, AND REAR SETBACK FOR A WALL OR FENCE, AND DEVIATIONS TO ALLOW AN INCREASE IN THE MAXIMUM FENCE OR WALL HEIGHT AND MAXIMUM BUILDING HEIGHT; AND DEVIATIONS TO THE ENGINEERING AND DESIGN STANDARDS TO ALLOW ALTERNATIVE STANDARDS FOR LOCAL ROADS, ALTERNATIVE PLACEMENT AND STANDARDS OF SIDEWALKS, AND AN INCREASE IN MAXIMUM CUL-DE-SAC LENGTH; APPROVING A DEVELOPMENT PLAN; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, an application from Marina Resources, Inc., has been received requesting approval of a Planned Development Project (PDP) for Tarpon Point; requesting replat and subdivision, rezoning, Special Exceptions, Deviations to the Land Use and Development Regulations, Deviations to the City of Cape Coral Engineering Design Standards, and Development Plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency on February 14, 2001; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, REPLAT, SUBDIVISION, REZONING, SPECIAL EXCEPTIONS, DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS, DEVIATIONS TO THE CITY OF CAPE CORAL ENGINEERING DESIGN STANDARDS, AND DEVELOPMENT PLAN.

(NOTE: Within this Section, reference is made to certain tracts of land named "Village A", "Village B", "Village C", "Village D", "Village E", "Village F", "Marina Village 1", and Marina Village 2". These named tracts of land are those tracts indicated on the Subdivision Plan, Sheet 6 of 9 of the approved plan set.)

Having reviewed the application requesting approval of a Planned Development Project for Tarpon Point, PDP 00-00800021, requesting a replat and subdivision of Tracts 1,2,3,4,5,6,8,9, and 10, Cape Coral Unit 77, for a mixed use subdivision; rezoning as follows: a rezoning of ±26.37 acres, a portion of Tracts 2, 4, 5, 8, and 9, Cape Coral Unit 77, according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, and lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described herein from R-3 (Multi-Family) to RD (Residential Development); a rezoning of ±6.08 acres, a portion of Tract 3, Cape Coral Unit 77 according to the plat thereof as recorded in Plat Book 34, Pages 55 through 65 of the Public Records of Lee County, Florida, also lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described herein, from C-1 (Pedestrian Commercial) to R-3 (Multi-Family); a rezoning of ±7.48 acres, a portion of Tract 4, Cape Coral Unit 77 according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, and lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described herein, from R-3 (Multi-Family) to C-1 (Pedestrian Commercial); a rezoning of ±1.60 acres, a portion of Tract 2, Cape Coral Unit 77, according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, and also lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described herein, from R-3 (Multi-Family) to C-1 (Pedestrian Commercial); Special Exceptions as follows: a special exception to allow Gate Houses in Multi-Family (R-3) and Residential Development (RD) Districts on any properties within Villages A, B, C, D, E, F, and on all private right-of-way tracts; a special exception to allow Essential Service Facilities-Group I in Multi-Family (R-3) and Residential Development (RD) Districts on all properties, as needed, within Villages A, B, C, D, E, F; a special exception to allow Clubs, Private in a Multi-Family (R-3) District on any properties within Villages A, B, D, E, and F; a special exception to allow Guest/Staff Quarters in a Residential Development (RD) District on all properties within Village C; a special exception to allow Business Offices-Group III uses on all properties within Marina Villages 1 and 2; a special exception to allow Recreation, Commercial-Group III uses on all properties within Marina Villages 1 and 2; a special exception to allow Rental Establishments-Group III uses in a Pedestrian Commercial (C-1) District on all properties within Marina Villages 1 and 2; a special exception to allow Self-Service Fuel Pumps in a Pedestrian Commercial (C-1) District on all properties within Marina Villages 1 and 2; a special exception to allow a Self-Service Fuel Pump Station in a Pedestrian Commercial (C-1)

District on all properties within Marina Villages 1 and 2; a special exception to allow Storage, Enclosed in a Pedestrian Commercial (C-1) District on all properties within Marina Villages 1 and 2; deviations from the indicated Sections of the City of Cape Coral Land Development Regulations as follows: Deviation from Sections 3.9.1 A. and 3.9.1 B. to allow fences or walls at a height of ten (10) feet and entry gates at a height of sixteen (16) feet within the entire Tarpon Point project area; a deviation from Section 3.9.2 to allow fences or walls on the front and side property lines within the entire Tarpon Point project area; a deviation from Sections 3.9.1A(2) and 3.9.4 to allow fences or walls of other than open mesh and which may block waterfront view(s) on all properties within the entire Tarpon Point project area except for those in Village C; a deviation of 20 feet from Section 3.1.4.B 2. to allow gazebos with a rear setback of zero feet, in lieu of the required 20 feet within Villages A, E, and F; a deviation of 82 feet from Section 2.7.2 D., Table R-3 Dimensional Regulations Maximum Building Height, to allow building heights at a maximum of 120 feet (10 residential floors over parking), in lieu of the maximum 38 feet within Village A; a deviation of 900 square feet from Section 2.7.2 D Table R-3 Dimensional Regulations (e), to eliminate the requirement that not less than 900 square feet of living area be located on the ground floor and so as to allow for the provision of parking on the ground floor beneath the residential floors within Villages A, D, E, and F; a deviation from Section 3.3.2.A., Distance Between Buildings, to eliminate the requirement for distance(s) between buildings and to allow the distance between buildings to be determined by Fire Code requirements only, within Village A, D, E and F; a deviation of 52 feet from Section 2.7.2.D., Table R-3 Dimensional Regulations, Maximum Building Height, to increase the maximum building heights from 38 feet to a maximum of 90 feet (7 residential floors over parking) within Village D; a deviation of 172 feet from Section 2.7.2 D., Table R-3 Dimensional Regulations, Maximum Building Height, to increase the maximum building heights from 38 feet to a maximum of 210 feet (18 residential floors over parking) within Villages E and F; a deviation of ten (10) feet from Section 2.7.7 D., Table C-1, Dimensional Regulations, Minimum Yards, Front to reduce the minimum required front setback from 25 feet to 15 feet within Marina Villages 1 and 2; a deviation of 10 feet from Section 2.7.7.D., Table C-1, Dimensional Regulations, Minimum Yards, Rear to allow the rear setback for accessory structures adjacent to the water at zero feet in lieu of the required 10 feet within Marina Villages 1 and 2; deviations to the City of Cape Coral Engineering Design Standards as follows: a deviation from the Engineering & Design Standards, Local Roads, Sheet 50, to allow roadway details as shown on the plans; a deviation from the Engineering & Design Standards, Dead-End Streets, Sheet 43, to allow cul-de-sacs with a maximum length of 2,000 feet in lieu of the maximum 500 feet; a deviation from the Engineering Design Standards to allow an 8-foot wide meandering pathway/sidewalk, that may meander in and out of the right-of-way on one side of the Tarpon Point main spine road, in lieu of the required 5-foot sidewalks; a deviation from the Engineering & Design Standards, Sheet 50, to allow cul-de-sacs without a sidewalk and/or bike path; a Development Plan with respect to locations of densities and intensities of uses as follows: a maximum of 220 multi-family units in Village A; a maximum of 120 multi-family units in Village B; a maximum of 44 single family units in Village C; a maximum of 128 multi-family units in Village D; a maximum of 232 multi-family units in each of Villages E and F; approval of a marina use in Marina Village 1; a maximum of 230 resort hotel units, two restaurants of not more than 200 seats each, and 45,000 square feet of retail space in Marina Village 2; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida does hereby grant the aforesaid PDP approval, Replat and Subdivision approval, rezonings, Special Exceptions, Deviations to the Land Development Regulations, Deviations to the City of Cape Coral Engineering Design Standards, and approves a Development Plan in accordance with

plan set, Sheets 1-5, and Sheets 7-9, dated June 30, 2000 and Sheet 6 dated June 30, 2000 and also bearing a revision date of March 6, 2001, prepared by Avalon Engineering, Inc., and in accordance with the Tarpon Point PDP Landscape Buffer Illustrative Plan prepared by Wilson Miller, Inc., dated December 29, 2000 and bearing a revision date of March 6, 2001; from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Tarpon Point development is a Mixed Use Planned Development Project (PDP). This development consists of a mixed use subdivision with five (5) multi-family village tracts (Villages A, B, D, E, F), forty-four (44) single-family residential building sites (Village C), two (2) commercial tracts (Marina Villages 1 and 2), and three (3) preservation area tracts (Conservation Areas 1, 2a, and 2b), and common areas for ingress and egress, drainage, and buffers. The entire subject property consists of a total area of approximately 148.07 acres of land located between Rose Garden Road and the Caloosahatchee River/Glover Bight. The development will occur in unspecified phases with a build out in ten (10) years.
- B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.
- C. The name(s) of the legal and equitable owner(s) are Marina Resources, Inc.
- D. The legal description of the property is as follows:
 1. The legal description of the entire project site of the Tarpon Point PDP is as indicated on attached Exhibit "A", incorporated herein by reference.
 2. The legal description of the property rezoned by this ordinance from R-3 (Multi-Family) to RD (Residential Development) is as indicated on attached Exhibit "B", incorporated herein by reference.
 3. The legal description of the property rezoned by this ordinance from C-1 (Pedestrian Commercial) to R-3 (Multi-Family) is as indicated on attached Exhibit "C", incorporated herein by reference.
 4. The legal description of the property rezoned by this ordinance from R-3 (Multi-Family) to C-1 (Pedestrian Commercial) within Marina Village 1 is as indicated on attached Exhibit "D", incorporated herein by reference.
 5. The legal description of the property rezoned by this ordinance from R-3 (Multi-Family) to C-1 (Pedestrian Commercial) within Marina Village 2 is as indicated on attached Exhibit "E", incorporated herein by reference.
- E. The Tarpon Point PDP has approximately 72.89 acres zoned R-3 (Multi-Family District), 26.37 acres zoned RD (Residential Development District), and 9.56 acres zoned C-1 (Pedestrian Commercial District), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 108.82 acres with a Future Land Use designation of Mixed Use and approximately 39.24 acres with a Future Land Use designation of Natural Resources/Preservation.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of the R-3 (Multi-Family), RD (Residential Development), and C-1 (Pedestrian

Commercial) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- K. The term "Developer", for purposes of this development order, shall mean and refer to Marina Resources, Inc., its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 26th day of February, 2001, that the Planned Development Project application for Development Approval submitted by Marina Resources, Inc., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. DRAINAGE/WATER QUALITY

- 1. Prior to the issuance of any site plan or building permits, a general permit and stormwater discharge certification shall be obtained from the South Florida Water Management District (SFWMD). With each individual site development submitted, the Developer shall be required to provide on-site stormwater runoff provisions, with either a letter of compliance, modification, or exemption, as applicable, from South Florida Water Management District.
- 2. The Developer shall provide, as part of the site's overall management plan, regularly scheduled parking lot vacuum sweeping to help ensure optimal stormwater runoff quality protection.
- 3. Prior to the issuance of any site plan or building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (FDEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.

4. At completion of construction, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater infrastructure and facilities have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification".

B. ENERGY

1. The Developer shall incorporate at a minimum the following energy conservation measures into this development, through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Cape Coral City Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the first alternative shall be utilized and the following features must be included:
 - a. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
 - b. Use of energy efficient features in window design (e.g., tinting and exterior shading).
 - c. Use of operable windows and ceiling fans.
 - d. Installation of energy-efficient appliances and equipment.
 - e. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
 - f. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
 - g. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
 - h. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs.
 - i. Planting of shade trees to provide shade for all street and parking areas.
 - j. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.

- k. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- l. Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- m. Consideration by any project architectural review committee(s), if any exist, of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- n. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements.
- o. Provision of bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

C. HURRICANE EVACUATION

- 1. Prior to issuance of the building permits, the Developer shall meet with the Lee County Disaster Preparedness and Cape Coral emergency management officials to discuss and identify (if appropriate) any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City.
- 2. The Developer shall encourage actual site users and developers to incorporate within their building design the sheltering demands of the employees and their families.

D. WETLANDS, VEGETATION, AND WILDLIFE

- 1. Ongoing control and removal of nuisance exotic plants on-site is required including but not limited to *Casuarina* sp. (Australian Pine), *Melaleuca quinquenervia* (melaleuca), and *schinus terebinthifolius* (Brazilian Pepper).
- 2. All landscaping and screening required in the subject development by either this Development Order or the City Code of Ordinances or the City Land Use Development Regulations shall be maintained in good condition throughout the life of this Development.
- 3. Any roadway constructed over lands designated as Natural Resources/Preservation shall be constructed as a bridge, with no fill placed within such area.
- 4. A protective barrier composed of stakes and rope and/or other suitable material with good visibility and durability shall be placed around trees to be preserved. No tree credits shall be awarded for any tree not so preserved.
 - (a) The protective barrier shall be erected prior to land preparation or construction activities.
 - (b) The protective barrier shall be placed at or greater than the full dripline of all protected trees and shall be maintained and remain in place

until all major construction activity is terminated.

- (c) No equipment, chemicals, soil deposits or construction materials shall be placed within such protective barriers.
 - (d) Light construction activities subsequent to the removal of protective barriers shall be accomplished with light machinery or hand labor only.
4. The Developer shall comply with State of Florida regulations pertaining to the protection of gopher tortoise burrows located on the site and a protective barrier composed of stakes, silt fence, and rope or other suitable materials shall be placed around all gopher tortoise burrows, including any that are discovered during the life of the project. This requirement shall be waived if the Developer provides the City with evidence of a funded permit prior to the issuance of any City of Cape Coral permit. The Developer shall seek a gopher tortoise relocation permit for some or all of the gopher tortoises that must be removed from the site, if such permit is available at the time of development. Only as a last resort shall the Developer seek a gopher tortoise take permit.

E. FIRE PROTECTION

- 1. Fire impact fees shall be paid as specified by City Ordinance.
- 2. The Developer shall review site development plans with the Cape Coral Fire Department to incorporate fire protection design recommendations into the project.
- 3. All permits shall be subject to Fire Department review with respect to National Fire Protection Association (NFPA) Regulations regarding setback, distance between buildings, and access to structures and shall comply with such regulations. Any request for a setback, distance between buildings, or access to structures which does not comply with said regulations must obtain a variance from the Board of Adjustments and Appeals of Standard Fire Prevention Code.
- 4. No fence or wall that exceeds six (6) feet in height shall be constructed and/or erected on any single-family residence site in Village "C" unless such site provides 360 degrees access not less than three (3) feet wide and six (6) feet eight (8) inches high to each of the front, side and rear yards. If the Developer desires to construct a fence or wall that exceeds six (6) feet in height and that does not comply with the forgoing access requirement, the Development shall submit the plans for such proposed fence or wall to the City which may approve such plans after consideration of the following: the extant internal circulation available on the site for safety (fire and emergency access) purposes, the location of all extant structures on the site, the height of the proposed fence or wall, the materials from which such fence or wall is proposed to be constructed, and alternative approaches to fire safety (including but not limited to fire sprinklers) that may be required by the City prior to the installation of such fence or wall.

F. WATER CONSERVATION

1. The Developer shall incorporate the use of water conserving devices as required by state law (Section 553.14, Florida Statutes).
2. For the purpose of non-potable water conservation, the development should require, through the use of deed restriction, the utilization of xeriscape principals, where feasible, in the design and installation of the project's landscaping.
3. Irrigation will be accomplished in accordance with City Ordinance(s) or South Florida Water Management District mandate as applicable.

G. SOLID WASTE

1. The Developer and tenants of the project should investigate methods of reducing solid waste volume at the project.
2. The Developer and tenants of the project shall identify to the City, the presence of and the proper on-site handling and temporary storage procedures for hazardous waste that may be generated on-site, in accordance with local, regional and state hazardous waste programs.
3. The Developer will require that an EPA/DER approved holding storage tank be provided on-site along with the proper monitoring devices if a prospective user has the potential for producing toxic or industrial waste. These wastes will be disposed of off-site by a company licensed to dispose of such wastes.
4. The Developer shall inform the waste hauler and disposer of the nature of any hazardous waste on the site, to determine if, and the extent of, any special precautions that may be necessary.
5. No solid waste disposal facilities shall be located on-site.
6. The Developer will participate in recycling programs.
7. Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

H. WASTEWATER MANAGEMENT

1. Wastewater (sewer) service is currently available to the site.
2. The Developer shall design, construct and install all improvements required by the City to connect to the City's wastewater system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria. Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
4. Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).

5. The Developer shall connect to City wastewater facilities within thirty (30) days notification of requirement of connection.
6. Developer shall grant appropriate easement for utility service as required by City.
7. The Developer shall install a force main off of the project site to a point on Skyline Boulevard approximately twenty (20) feet south of the terminal manhole which the force main discharges into.

I. WATER SERVICE

1. Water service is currently available to the site.
2. The Developer shall design, construct and install all improvements required by the City to connect to the City's water system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
4. The Developer shall connect to the City facilities within thirty (30) days notification of requirement for connection.
5. Developer shall grant appropriate easement for utility service as required by City.

J. IRRIGATION SERVICE

1. Irrigation service is currently available to the site.
2. The Developer shall connect to the City's irrigation system as prescribed by City Ordinance. The Developer shall design, construct and install all improvements required by the City to connect to the City's irrigation system in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
4. Developer shall grant appropriate easement for utility service as required by City.

K. AIR QUALITY

1. If any of the individual tract owners/developers create a complex source of pollution as defined by DEP rules, they shall apply directly to DEP for permitting.
2. Each individual tract development will be required to comply with all federal, state and local laws and codes governing air quality and emissions.

L. HISTORICAL/ARCHAEOLOGICAL

During the life of the project, if any historical or archaeological sites are uncovered, work in the vicinity shall cease until the proper authorities can be contacted and an evaluation of the site carried out.

M. TRANSPORTATION

1. The traffic impact assessment upon which this Development Order for the Tarpon Point PDP is based assumes project buildout in ten (10) years. The traffic impact assessment included the expected impacts of residential proposed land uses.
2. The traffic impacts of this development do not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.
3. The Developer shall provide the City of Cape Coral all appropriate Road Impact Fees at the time of application for each building permit.
4. The Developer shall provide the City of Cape Coral with an Annual Traffic Monitoring Report each year until the development reaches buildout. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for preparing the report. If this report shows impacts greater than those estimated at the time of original approval and/or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions to assure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard.
5. Based on existing and projected volumes and conditions, the Developer shall complete the following improvements on Pelican Boulevard from Eldorado Parkway West to Cape Coral Parkway West: 1) Provide an overlay of no less than one inch in thickness and re-stripe as a four-lane roadway and 2) Provide sidewalks five feet in width on both sides of Pelican Boulevard, consistent with applicable Engineering Design Standards, in locations approved by the City of Cape Coral. Said improvements shall commence within one year of issuance of any permit, including but not limited to any site plan permit, for any development within the Tarpon Point PDP to meet the requirements of paragraph 4 above. Marina Resources, Inc. or its assignees in interest shall be entitled to impact fee credits in the amount of fifty percent of the value of said improvements, as determined by the City of Cape Coral at the time said improvements are accepted as complete by the City. Impact fee credits shall be granted only after acceptance of the completed roadway improvements, in their entirety.
6. The Developer shall maintain Pelican Boulevard in good condition throughout the construction period so as to mitigate any damage to or negative impacts on the road related to the construction activity for this project. Furthermore, the Developer shall overlay Pelican Boulevard from Eldorado Parkway West to Cape Coral Parkway West with asphalt not less than one-inch in thickness and re-stripe said area as a four-lane roadway at the end of the ten (10) year construction period provided for herein.

N. SUBDIVISION

1. The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
2. Prior to any final plat approval, either the required site improvements will be satisfactorily completed, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements, as determined by the

City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.

3. The Director shall submit the Plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

O. GENERAL CONSIDERATIONS

1. The Developer may be entitled to credit for contributions, construction, expansion, or acquisition of public facilities, that require impact fees or exactions to meet the same needs. The local government and the Developer may enter into a capital contribution front-ending agreement to reimburse the Developer for voluntary contributions in excess of his fair share.
2. Prior to issuance of a permit, the Developer shall enter into an agreement, in a form acceptable to the City Attorney, regarding obligations resulting from landscaping located in utility easements.
3. The Developer shall complete all work related to the entire length of the landscape buffer, including but not limited to plant installation from the spine road entrance along Rose Garden Road to the Casaba Canal as indicated on the revised Tarpon Point PDP Landscape Buffer Illustrative Plan dated December 29, 2000 and bearing a revision date of March 6, 2001, prepared by Wilson Miller, Inc., within one year of issuance of any permit, including but not limited to site plan permit(s), for any development within the Tarpon Point PDP.
4. In Marina Village 2, the hotel approved herein may contain accessory uses generally located within hotels including but not limited to one or more snack bars, coffee shops, and/or restaurants. The establishment of such accessory uses shall be in addition to and shall not affect the approval of the two (2) restaurants containing not more than two hundred (200) seats each in Marina Village 2. Furthermore, at least one of the two aforesaid restaurants approved above in Marina Village 2 shall contain not less than one hundred fifty (150) seats.
5. In Village C, all lots shall have a minimum width at the building line of one hundred (100) feet, a minimum lot depth of one hundred twenty-five (125) feet, and minimum side yards of ten (10) feet. Furthermore, all driveways located in Village C shall be constructed of pavers and/or stamped concrete. The foregoing conditions regarding minimum lot width, minimum side yards, and driveways in Village C shall not affect the deviation approved in this Development Order to allow fences or walls on the front and side property lines within the entire Tarpon Point project area.
6. In Villages E and F, a distance of not less than one hundred twenty-five (125) feet shall be maintained between each of the buildings for which a height

deviation has been approved pursuant to this Development Order.

P. CONCURRENCY

The Tarpon Point, mixed-use subdivision PDP is concurrent for roads, sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the Tarpon Point PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Tarpon Point PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall 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. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review pursuant to Sections 163.3220-163.3243, Florida Statutes, unless it is found by the City Council, after due notice and hearing, that one or more of the following is present:
 - 1. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City.
 - 2. Substantial deviations include but are not limited to:
 - a. Any change which requires a variance to code and above those specifically incorporated herein.

- b. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
- c. An expiration of the period of effectiveness of this Development Order as herein provided.
- d. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved in accordance with Chapter 163, Florida Statutes, and all local approvals have been obtained.

- H. The deadline for commencing physical development under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within two (2) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in ten years from the date of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.
- I. The Director of the Cape Coral Department of Community Development or his designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Copies of this recorded Development Order will be forwarded to the Developer, the Department of Community Affairs, and all permitting agencies. Upon this Development Order becoming effective, notice of its adoption shall be recorded in the Office of the Clerk of the Circuit Court by the City, as provided in Section 163.3239, Florida Statutes.

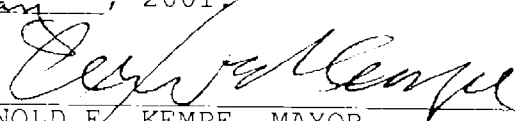
SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 27th DAY OF February, 2001.


ARNOLD E. KEMPE, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 21st DAY OF March, 2001.


BONNIE J. MAZURKIEWICZ
CITY CLERK

APPROVED AS TO FORM:


MARILYN W. MILLER
ACTING CITY ATTORNEY
crd/pdp008-15S

WilsonMiller

New Directions In Planning, Design & Engineering

Exhibit "A"

Sheet 1 of 8

**LEGAL DESCRIPTION
TARPON POINT
(Revised)**

Tracts 1, 2, 3, 4, 5, 6, 8, 9 and 10, Cape Coral Unit 77 according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida.

BEGIN at the Northeast corner of the aforementioned Tract 8; thence, along the boundary of the aforementioned plat of Cape Coral Unit 77 for the following five (5) courses:

1. N.89°37'47"E., 90.00 feet;
2. N.00°25'13"W., 83.59 feet;
3. along the arc of a non-tangent circular curve concave Southeasterly, having for its elements a radius of 480.00 feet, a central angle of 126°43'55", a chord distance of 858.13 feet, a chord bearing of N.62°56'44"E., an arc distance of 1,061.71 feet;
4. S.53°41'18"E., 1,195.41 feet;
5. Easterly, along the arc of a tangent circular curve concave Northerly having for its elements a radius of 550.00 feet, a central angle of 90°53'32", a chord distance of 783.85 feet, a chord bearing of N.80°51'56"E., an arc distance of 872.50 feet;

thence, along the east line of the aforementioned Tract 6, S.01°03'10"W., 1,189.01 feet; thence, along the mean high water line as referenced on the aforementioned plat of Cape Coral Unit 77 for the following five (5) courses:

1. S.87°40'41"W., 370.36 feet;
2. S.77°19'11"W., 205.00 feet;
3. S.18°26'06"W., 94.87 feet;
4. S.87°36'51"W., 360.31 feet;
5. S.74°41'03"W., 436.36 feet;

thence, leaving said mean high water line, continue, S.74°41'03"W., 2.20 feet; thence N.85°20'05"W., 284.33 feet; thence S.79°08'24"W., 38.56 feet; thence S.79°06'04"W., 61.30 feet; thence S.86°21'08"W., 20.55 feet; thence, along the arc of a non-tangent circular curve concave Northeasterly, having for its elements a radius of 25.69 feet, a central angle of 113°30'53", a chord distance of 42.97 feet, a chord bearing of N.35°01'17"W., an arc distance of 50.89 feet; thence N.23°36'02"E., 90.39 feet; thence Northerly, along the arc of a tangent circular curve concave Westerly having for its elements a radius of 33.50 feet, a central angle of 79°09'58", a chord distance of 42.69 feet, a chord bearing of N.15°58'56"W., an arc distance of 46.29 feet; thence N.55°33'55"W., 170.39 feet; thence N.73°08'14"W., 291.94 feet; thence N.12°09'09"E., 3.95 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following fifteen (15) courses:

1. N.38°42'47"E., 65.79 feet;

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Sheet 3 of 8

feet; thence S.39°42'00"W., 32.04 feet; thence N.86°35'08"W., 185.19 feet; thence N.79°40'25"W., 150.42 feet; thence N.84°00'47"W., 150.59 feet; thence N.89°19'44"W., 122.39 feet; thence S.87°33'15"W., 155.37 feet; thence S.78°23'57"W., 150.95 feet; thence S.72°24'29"W., 148.99 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following twenty-three (23) courses:

1. S.82°04'05"W., 110.46 feet;
2. S.71°22'24"W., 107.75 feet;
3. S.82°10'15"W., 215.40 feet;
4. N.74°46'25"W., 209.20 feet;
5. N.68°18'15"W., 94.94 feet;
6. N.77°49'12"W., 49.98 feet;
7. N.70°20'58"W., 51.75 feet;
8. N.56°24'51"W., 270.63 feet;
9. N.16°07'50"W., 107.60 feet;
10. N.27°36'52"E., 20.72 feet;
11. N.08°55'38"W., 243.31 feet;
12. N.03°45'00"E., 83.16 feet;
13. N.06°33'53"W., 45.47 feet;
14. N.03°34'46"E., 60.52 feet;
15. N.03°18'41"W., 54.07 feet;
16. N.04°26'13"E., 39.08 feet;
17. N.01°36'06"W., 62.38 feet;
18. N.13°25'39"W., 56.44 feet;
19. N.05°27'35"E., 57.95 feet;
20. N.04°06'41"W., 98.05 feet;
21. N.10°09'27"E., 90.11 feet;
22. N.32°03'20"W., 21.07 feet;
23. N.16°16'13"E., 23.79 feet;

thence, along the south line of the spreader waterway as recorded in Plat Book 32, pages 48 through 111, Public Records of Lee County, Florida, (said line also being the boundary of the aforementioned Tract 9, Cape Coral Unit 77) for the following five (5) courses:

1. N.52°23'11"E., 31.12 feet;
2. N.87°47'12"E., 70.02 feet;
3. S.89°52'33"E., 633.18 feet;
4. Northeasterly, along the arc of a tangent circular curve concave Northwesterly having for its elements a radius of 100.00 feet, a central angle of 90°32'40", a chord distance of 142.09 feet, a chord bearing of N.44°51'07"E., an arc distance of 158.03 feet;
5. N.00°25'13"W., 832.53 feet;

Wilson MillerExhibit "A"
Sheet 2 of 8

2. N.16°46'03"E., 48.12 feet;
3. N.10°33'10"E., 50.57 feet;
4. N.64°17'30"E., 34.71 feet;
5. N.14°57'55"E., 42.08 feet;
6. N.30°15'57"W., 49.50 feet;
7. N.22°23'00"W., 24.21 feet;
8. S.76°05'50"W., 41.77 feet;
9. S.16°50'57"W., 91.57 feet;
10. S.09°58'51"W., 81.54 feet;
11. N.81°15'17"W., 80.80 feet;
12. S.38°50'01"W., 42.56 feet;
13. S.05°48'39"W., 72.55 feet;
14. S.12°41'35"E., 77.99 feet;
15. S.22°52'55"W., 16.79 feet;

thence, S.44°30'11"E., 15.58 feet; thence S.44°40'23"W., 222.05 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following ten (10) courses:

1. N.76°15'48"W., 36.81 feet;
2. N.83°05'48"W., 25.59 feet;
3. N.87°57'41"W., 73.23 feet;
4. S.85°48'27"W., 44.89 feet;
5. S.66°53'43"W., 79.59 feet;
6. along the arc of a non-tangent circular curve concave Easterly, having for its elements a radius of 47.49 feet, a central angle of 176°24'41", a chord distance of 94.94 feet, a chord bearing of S.20°02'11"E., an arc distance of 146.22 feet;
7. N.72°50'13"E., 44.74 feet;
8. N.65°28'26"E., 47.24 feet;
9. N.68°33'18"E., 53.41 feet;
10. S.65°25'47"E., 20.71 feet;

thence S.05°08'05"W., 146.14 feet; thence S.07°37'45"E., 75.30 feet; thence S.10°55'05"E., 65.73 feet; thence S.26°07'51"E., 100.28 feet; thence S.62°36'43"E., 79.07 feet; thence N.85°10'08"E., 80.94 feet; thence N.50°41'23"E., 35.05 feet; thence N.03°10'05"E., 90.20 feet; thence, along the arc of a non-tangent circular curve concave Southeasterly, having for its elements a radius of 36.47 feet, a central angle of 63°56'10", a chord distance of 38.62 feet, a chord bearing of N.40°57'46"E., an arc distance of 40.70 feet; thence N.71°54'52"E., 10.24 feet; thence N.78°43'53"E., 85.12 feet; thence N.68°42'23"E., 80.29 feet; thence N.33°49'40"E., 100.10 feet; thence N.30°23'26"E., 60.47 feet; thence N.47°24'02"E., 6.52 feet; thence Easterly, along the arc of a tangent circular curve concave Southerly having for its elements a radius of 25.32 feet, a central angle of 123°56'06", a chord distance of 44.70 feet, a chord bearing of S.70°37'55"E., an arc distance of 54.76 feet; thence S.04°04'00"E., 125.87 feet; thence S.10°24'01"E., 151.19 feet; thence S.22°00'30"E., 161.87 feet; thence S.19°52'09"E., 71.00

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Exhibit "A"
Sheet 4 of 8

thence, along the north line of the aforementioned Tracts 8 and 9, N.89°34'47"E., 620.00 feet, to the POINT OF BEGINNING.

Said parcel contains 148.07 acres, more or less.

Subject to easements, restrictions and reservations of record.

Bearings are based on the north line of Tract 8, Cape Coral Unit 77 as being N.89°34'47"E. This description together with the attached sketch are not valid without the signature and raised seal of a Florida registered surveyor and mapper.

SEE ATTACHED SKETCH

Prepared by:

WilsonMiller, Inc.



Mark D. Haines, PSM
Professional Surveyor and Mapper No. LS5312
State of Florida

9/6/00
Date:

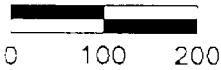
P.I.N.: 03331-000-0X3 PZPSR
Ref: A-03331-16
Date: August 28, 2000
Revised: September 9, 2000

Exhibit "A"

Sheet 5 of 8



SCALE IN FEET



SEE SHEET
2 OF 4

CAPE CORAL UNIT 67
PLAT BOOK 25, PAGES 57 THROUGH 65

1195.41'

CAPE CORAL UNIT 77

TRACT 5

S.53°41'18"E.

TRACT 10

LINE TABLE

Line	Bearing	Distance
L1	N.16°07'50"W.	107.60'
L3	N.68°18'15"W.	94.94'
L4	N.77°49'12"W.	49.98'
L5	N.70°20'58"W.	51.75'
L6	N.16°16'13"E.	23.79'
L7	N.04°06'41"W.	98.05'
L8	N.10°09'27"E.	90.11'
L9	N.27°36'52"E.	20.72'
L10	N.03°45'00"E.	83.16'
L11	N.06°33'53"W.	45.47'
L12	N.03°34'46"E.	60.52'
L13	N.03°18'41"W.	54.07'
L14	N.04°26'13"E.	39.08'
L15	N.01°36'06"W.	62.38'
L16	N.13°25'39"W.	56.44'
L17	N.05°27'35"E.	57.95'
L18	N.32°03'20"W.	21.07'
L19	N.87°47'12"E.	70.02'
L20	N.52°23'11"E.	31.12'
L21	S.26°07'51"E.	100.28'
L22	N.03°10'05"E.	90.20'
L23	S.10°24'01"E.	151.19'
L24	S.87°33'15"W.	155.37'
L25	S.82°04'05"W.	110.46'
L26	S.71°22'24"W.	107.75'
L27	S.78°23'57"W.	150.95'
L28	S.72°24'29"W.	148.99'
L29	N.89°19'44"W.	122.39'

Curve number 1

Radius= 550.00
Delta= 90°53'32"
Arc= 872.50
Tangent= 558.63
Chord= 783.85
Chord Brg. N.80°51'56"E.

Curve number 8

Radius= 480.00
Delta= 126°43'55"
Arc= 1061.71
Tangent= 957.12
Chord= 858.13
Chord Brg. N.62°56'44"E.

ROSE GARDEN ROAD

L40

90.00'
N.89°34'47"E.

TRACT 5

POINT OF BEGINNING
NORTHEAST CORNER
TRACT 8, CAPE CORAL
UNIT 77

TRACT 8

SEE SHEET
4 OF 4

THIS IS NOT A SURVEY.
** SEE ATTACHED
FOR LEGAL DESCRIPTION **

SURVEYOR'S NOTES:

BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF
TRACT 8, CAPE CORAL UNIT 77, AS SHOWN HEREON BEING
N89°34'47"E

THIS SKETCH DOES NOT PURPORT TO DEPICT THE REGULATORY
JURISDICTION OF ANY FEDERAL, STATE OR LOCAL AGENCY.

REVISED ANNOTATION 12/27/00

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PROJECT AREA
REVISED

WilsonMiller

Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants

WilsonMiller, Inc.

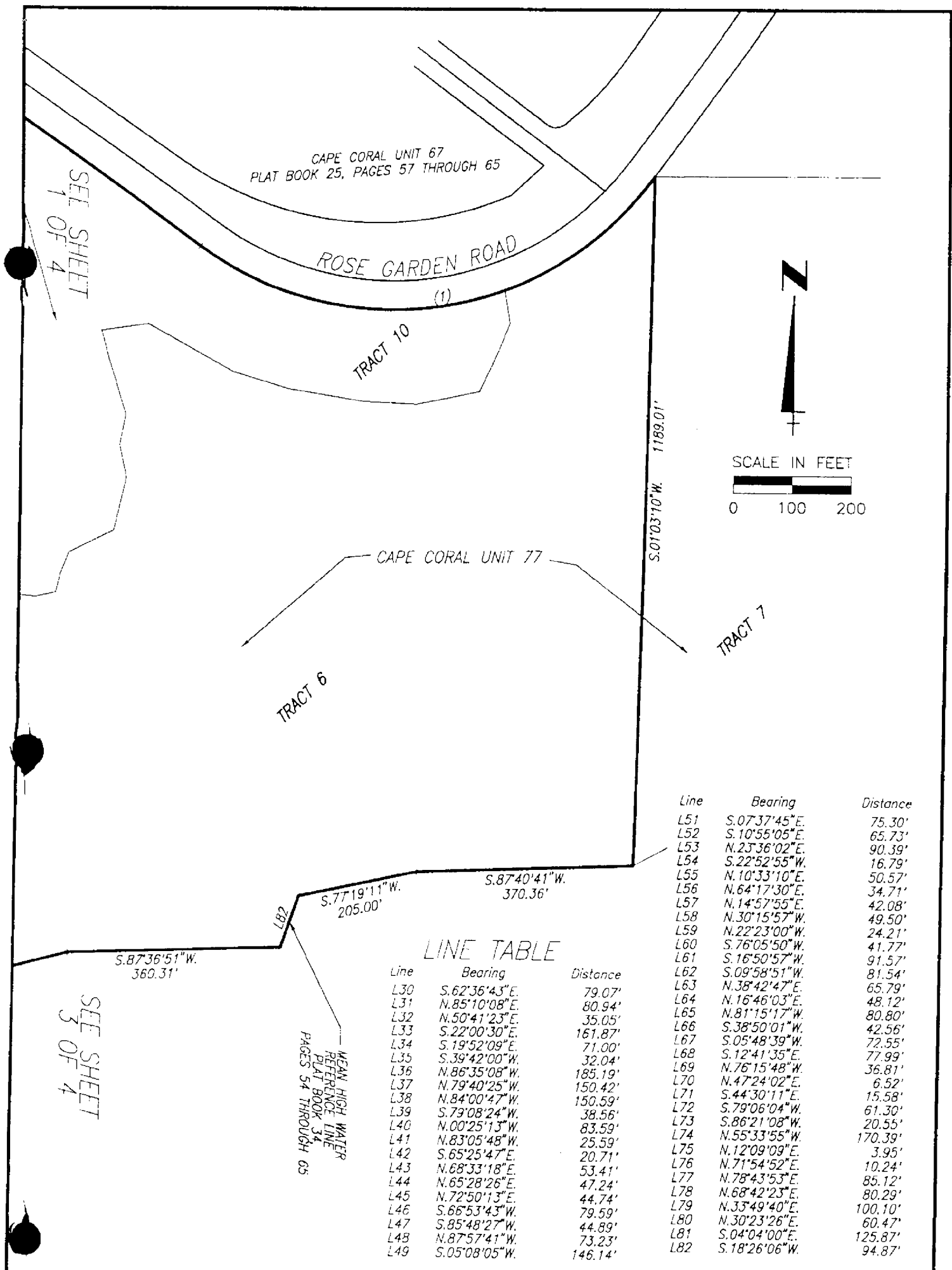
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DRAWN BY: 1223	CHKD BY: 1386	CAD FILE: 33311601.DWG	PIN: 03331-000-0X3	TASK: PZPSR	SHEET 1 OF 4	DRAWING INDEX NO: A-3331-16	REV:
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Exhibit "A"

Sheet 6 of 8



LINE TABLE

THIS IS NOT A SURVEY.

** SEE ATTACHED FOR LEGAL DESCRIPTION **

REVISED ANNOTATION 12/27/00

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

TARPON POINT

PROJECT AREA

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PZPSR

SHEET

2

OF 4

DRAWING INDEX NO:

A-3331-16

REV:

Exhibit "A"

Sheet 8 of 8

1.00'

THIS IS NOT A SURVEY.
** SEE ATTACHED FOR LEGAL DESCRIPTION **



Curve number 3
Radius= 100.00
Delta= 90°32'40"
Arc= 158.03
Tangent= 100.95
Chord= 142.09
Chord Brg. N.44°51'07"E.

(REFERENCE BEARING)
N.89°34'47"E. 620.00'

SEE SHEET
1 OF 4
TRACT 1
TRACT 4

CAPE CORAL SPREADER WATERWAY

(PLAT BOOK 32, PAGES 48 THRU 111)

S.89°52'33"E.
633.18'

TRACT 9

TRACT 1

SEE SHEET
3 OF 4

CANAL

APPROXIMATE MEAN HIGH
WATER MEANDER LINE

N.08°55'38"W.
243.31'

N.56°24'51"W.
270.63'

N.74°46'25"W.
209.20'

S.82°10'15"W.
215.40'

FOR: MARINA RESOURCES, INC.

REVISED ANNOTATION 12/27/00

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PROJECT AREA
REVISED

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CHKD BY:

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CAD FILE:

33311601.DWG

PIN:

03331-000-0X3

TASK:

PZPSR

SHEET

4

OF 4

DRAWING INDEX NO:

A-3331-16

REV:

Wilson Miller

New Directions in Planning, Design & Engineering

Exhibit "B"

Sheet 1 of 5

**LEGAL DESCRIPTION
TARPON POINT
Parcel 1 - R3 to RD Re-Zone**

A portion of Tracts 2, 4, 5, 8, and 9, Cape Coral Unit 77, according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, and lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of Tract 8, according to the aforementioned plat of Cape Coral Unit 77; thence, along the North line of said Tract 8 and an easterly prolongation thereof, N.89°34'47"E., 600.00 feet; thence S.00°25'13"E., 280.00 feet; thence S.12°59'40"W., 560.35 feet; thence S.45°47'36"W., 302.16 feet; thence S.54°51'24"W., 83.23 feet; thence Southwesterly, along the arc of a tangent circular curve concave Southeasterly having for its elements a radius of 330.00 feet, a central angle of 27°39'38", a chord distance of 157.77 feet, a chord bearing of S.41°01'35"W., an arc distance of 159.31 feet, to a point of intersection with a line radial to said curve; thence N.62°48'14"W., 67.18 feet; thence, along the line of Tract 1 according to the aforementioned plat of Cape Coral Unit 77, for the following fourteen (14) courses:

1. N.03°55'43"W., 53.54 feet;
2. S.89°34'47"W., 16.22 feet;
3. S.80°31'09"W., 116.17 feet;
4. N.86°08'47"W., 77.86 feet;
5. N.87°47'39"W., 75.33 feet;
6. S.88°24'02"W., 269.13 feet;
7. S.30°58'25"W., 53.90 feet;
8. S.59°28'25"W., 77.80 feet;
9. S.64°16'39"W., 73.19 feet;
10. S.17°52'30"E., 126.18 feet;
11. S.16°01'10"E., 176.08 feet;
12. S.61°06'20"E., 53.10 feet;
13. S.35°54'57"E., 39.10 feet;
14. S.53°18'55"E., 38.04 feet;

thence S.65°51'56"W., 147.95 feet; thence S.36°19'32"W., 221.64 feet; thence S.43°35'51"W., 200.27 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following sixteen (16) courses:

1. N.56°24'51"W., 7.85 feet;
2. N.16°07'50"W., 107.60 feet;
3. N.27°36'52"E., 20.72 feet;
4. N.08°55'38"W., 243.31 feet;
5. N.03°45'00"E., 83.16 feet;
6. N.06°33'53"W., 45.47 feet;
7. N.03°34'46"E., 60.52 feet;
8. N.03°18'41"W., 54.07 feet;
9. N.04°26'13"E., 39.08 feet;
10. N.01°36'06"W., 62.38 feet;
11. N.13°25'39"W., 56.44 feet;

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Wilson MillerExhibit "B"
Sheet 2 of 5

12. N.05°27'35"E., 57.95 feet;
13. N.04°06'41"W., 98.05 feet;
14. N.10°09'27"E., 90.11 feet;
15. N.32°03'20"W., 21.07 feet;
16. N.16°16'13"E., 23.79 feet;

thence, along the south line of the spreader waterway as recorded in Plat Book 32, pages 48 through 111 of the Public Records of Lee County, Florida (said line also being the boundary of the aforementioned Tract 9, Cape Coral Unit 77) for the following five (5) courses:

1. N.52°23'11"E., 31.12 feet;
2. N.87°47'12"E., 70.02 feet;
3. S.89°52'33"E., 633.18 feet;
4. Northeasterly, along the arc of a tangent circular curve concave Northwesterly having for its elements a radius of 100.00 feet, a central angle of 90°32'40", a chord distance of 142.09 feet, a chord bearing of N.44°51'07"E., an arc distance of 158.03 feet;
5. N.00°25'13"W., 832.53 feet;

thence, along the north line of the aforementioned Tract 9, N.89°34'47"E., 150.00 feet, to the POINT OF BEGINNING.

Said parcel contains 26.37 acres, more or less.

Subject to easements, restrictions and reservations of record.

Bearings are based on the north line of Tract 8, Cape Coral Unit 77 as being N.89°34'47"E.

This description together with the attached sketch are not valid without the signature and raised seal of a Florida registered surveyor and mapper.

SEE ATTACHED SKETCH

Prepared by:

Wilson Miller, Inc.

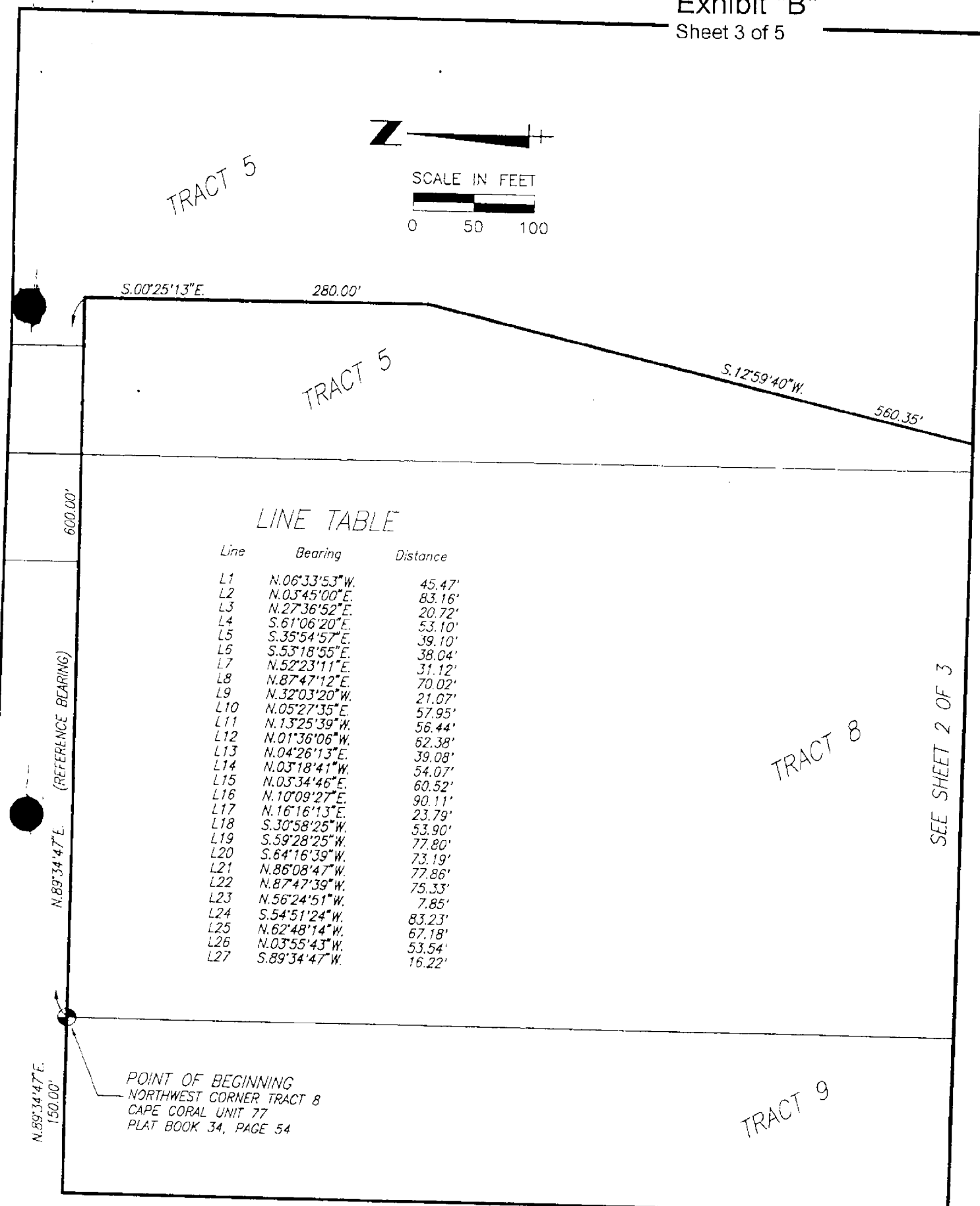
Mark D. Haines
Mark D. Haines, PSM

Professional Surveyor and Mapper No. LS5312
State of Florida

11/20/00
Date:

P.I.N.: 03331-000-0X3 PZPSR
Ref: A-03331-10
Date: August 25, 2000
Revised: September 9, 2000
November 21, 2000

Exhibit "B"
Sheet 3 of 5



REYOR'S NOTES:
BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF
TRACT 8, CAPE CORAL UNIT 77, AS SHOWN HEREON BEING
N89°34'47"E.
THIS SKETCH DOES NOT PURPORT TO DEPICT THE REGULATORY
JURISDICTION OF ANY FEDERAL, STATE OR LOCAL AGENCY.

THIS IS NOT A SURVEY.
** SEE ATTACHED FOR LEGAL DESCRIPTION **

FOR: MARINA RESOURCES, INC.

REVISED ANNOTATION 12/26/00

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PARCEL 1
R3 TO RD RE-ZONE

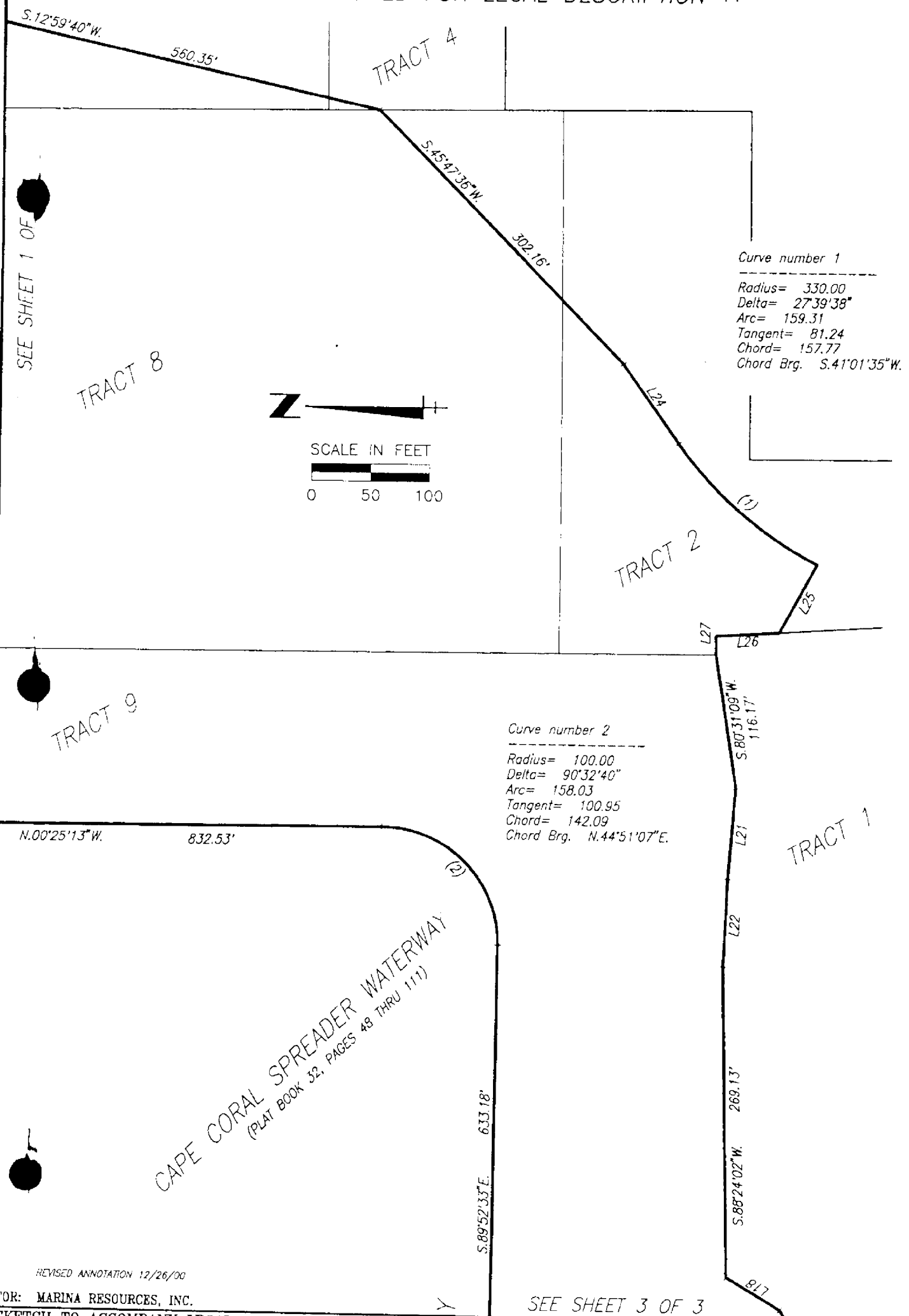
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Exhibit "B"
Sheet 4 of 5

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REVISED ANNOTATION 12/26/00
FOR: MARINA RESOURCES, INC.
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PARCEL 1
R3 TO RD RE-ZONE

SEE SHEET 3 OF 3

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CAPE CORAL SPREADER WATERWAY
(PLAT BOOK 32, PAGES 48 THRU 111)

Exhibit "B"
Sheet 5 of 5

SEE SHEET 2 OF 3

CANAL

APPROXIMATE MEAN HIGH WATER
MEANDER LINE

TRACT 9

TRACT 1

TRACT 9



SCALE IN FEET
0 50 100

THIS IS NOT A SURVEY.
** SEE ATTACHED FOR LEGAL DESCRIPTION **

FOR: MARINA RESOURCES, INC.
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PARCEL 1
R3 TO RD RE-ZONE

REVISED ANNOTATION 12/26/00

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Exhibit "C"
Sheet 1 of 3

**LEGAL DESCRIPTION
TARPON POINT
Parcel 3 - C1 to R3 Re-Zone**

A portion of Tract 3, Cape Coral Unit 77 according to the plat thereof as recorded in Plat Book 34, Pages 55 through 65 of the Public Records of Lee County, Florida, also lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Tract 8 according to the aforementioned plat of Cape Coral Unit 77; thence, along the East line of said Tract 8, S.00°25'13"E., 931.80 feet to the POINT OF BEGINNING; thence, along the North line of the aforementioned Tract 3, N.89°34'47"E., 391.13 feet; thence S.79°12'49"E., 44.67 feet; thence S.10°37'19"W., 26.89 feet to the mean high water line of a waterbody; thence, meander along said mean high water line for the following eight (8) courses:

1. S.76°05'50"W., 41.77 feet;
2. S.16°50'57"W., 91.57 feet;
3. S.09°58'51"W., 81.54 feet;
4. N.81°15'17"W., 80.80 feet;
5. S.38°50'01"W., 42.56 feet;
6. S.05°48'39"W., 72.55 feet;
7. S.12°41'35"E., 77.99 feet;
8. S.22°52'55"W., 16.79 feet;

thence, leaving said mean high water meander line, S.44°30'11"E., 15.58 feet; thence S.44°40'23"W., 222.05 feet to the mean high water line of a waterbody; thence, meander along said mean high water line for the following six (6) courses:

1. N.76°15'48"W., 36.81 feet;
2. N.83°05'48"W., 25.59 feet;
3. N.87°57'41"W., 73.23 feet;
4. S.85°48'27"W., 44.89 feet;
5. S.66°53'43"W., 79.59 feet;
6. along the arc of a non-tangent circular curve concave Southeasterly, having for its elements a radius of 47.49 feet, a central angle of 43°42'30", a chord distance of 35.36 feet, a chord bearing of S.46°18'54"W., an arc distance of 36.23 feet;

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Exhibit "C"
Sheet 2 of 3

thence, leaving said mean high water line, S.86°04'17"W., 118.23 feet; thence N.00°25'13"W., 403.94 feet; thence N.89°34'47"E., 300.00 feet; thence N.00°25'13"W., 210.01 feet to the POINT OF BEGINNING.

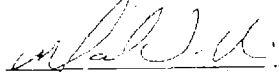
Said parcel contains 6.08 acres, more or less.

Subject to easements, restrictions and reservations of record. Bearings are based on the west line of Tract 8, Cape Coral Unit 77 as being N.00°25'13"E. This description together with the attached sketch are not valid without the signature and raised seal of a Florida registered surveyor and mapper.

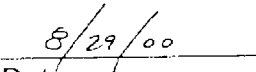
SEE ATTACHED SKETCH

Prepared by:

WilsonMiller, Inc.



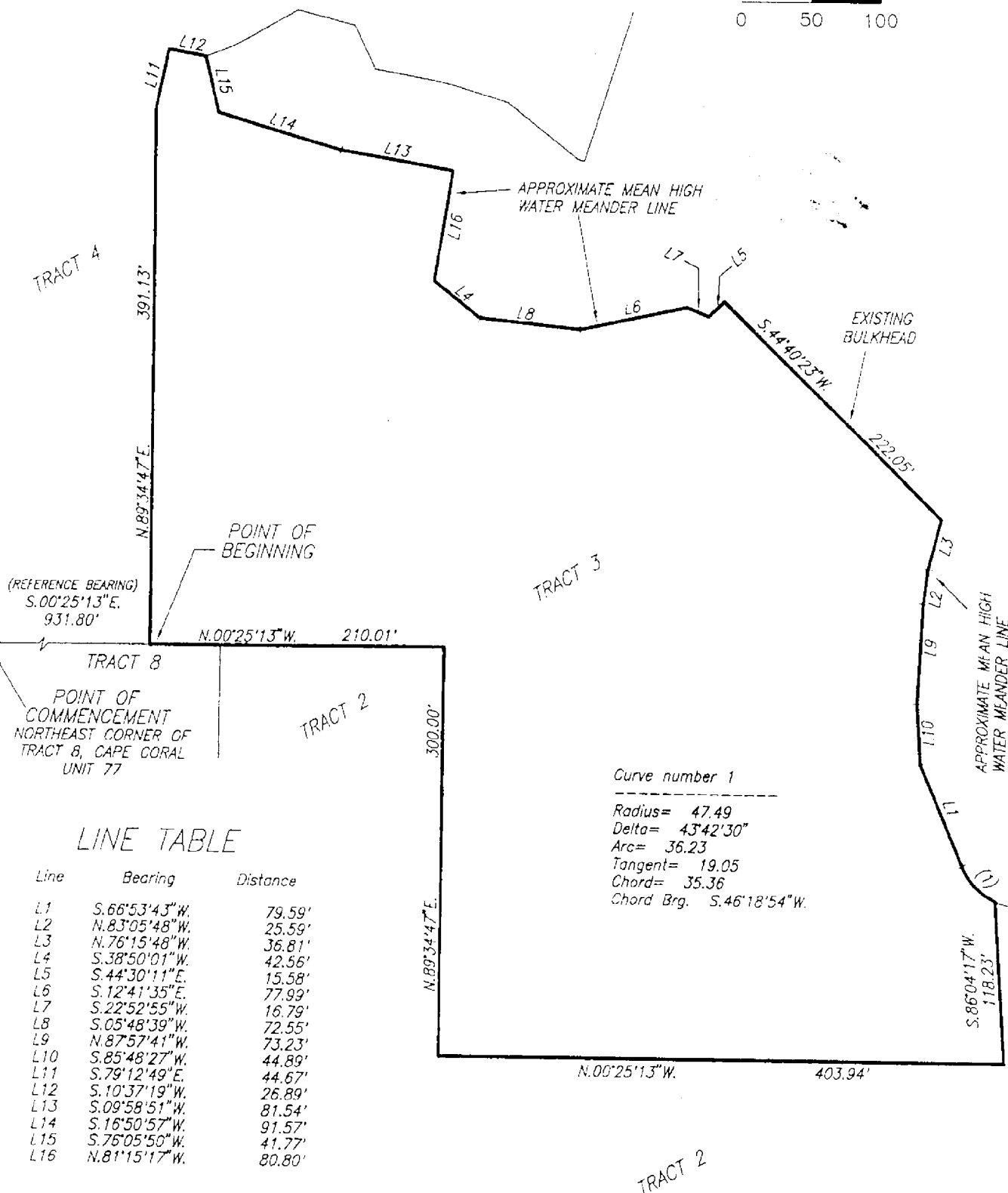
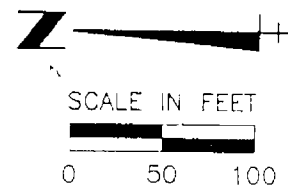
Mark D. Haines, PSM
Professional Surveyor and Mapper No. LS5312
State of Florida


Date: 8/29/00

P.L.N.: 03331-000-0X3 PZPSR
Ref: A-03331-13
Date: August 25, 2000

Exhibit "C"

Sheet 3 of 3



LINE TABLE

Line	Bearing	Distance
L1	S.66°53'43\"W.	79.59'
L2	N.83°05'48\"W.	25.59'
L3	N.76°15'48\"W.	36.81'
L4	S.38°50'01\"W.	42.56'
L5	S.44°30'11\"E.	15.58'
L6	S.12°41'35\"E.	77.99'
L7	S.22°52'55\"W.	16.79'
L8	S.05°48'39\"W.	72.55'
L9	N.87°57'41\"W.	73.23'
L10	S.85°48'27\"W.	44.89'
L11	S.79°12'49\"E.	44.67'
L12	S.10°37'19\"W.	26.89'
L13	S.09°58'51\"W.	81.54'
L14	S.16°50'57\"W.	91.57'
L15	S.76°05'50\"W.	41.77'
L16	N.81°15'17\"W.	80.80'

Curve number 1

Radius= 47.49
Delta= 43°42'30\"
Arc= 36.23
Tangent= 19.05
Chord= 35.36
Chord Brg. S.46°18'54\"W.

SURVEYOR'S NOTES:

BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF TRACT 8, CAPE CORAL UNIT 77, AS SHOWN HEREON BEING S00°25'13\"E

THIS SKETCH DOES NOT PURPORT TO DEPICT THE REGULATORY JURISDICTION OF ANY FEDERAL, STATE OR LOCAL AGENCY.

THIS IS NOT A SURVEY.

** SEE ATTACHED FOR LEGAL DESCRIPTION **

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

TARPON POINT

PARCEL 3

C1 TO R3 RE-ZONE

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New Directions In Planning, Design & Engineering

Exhibit "D"

Sheet 1 of 4

**LEGAL DESCRIPTION
TARPON POINT
Parcel 4 - R3 to C-1 Re-Zone**

A portion of Tract 4, Cape Coral Unit 77 according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, and lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Tract 8, according to the aforementioned plat of Cape Coral Unit 77; thence, along the East line of said Tract 8, S.00°25'13"E., 931.80 feet; thence, along the South line of the aforementioned Tract 4, N.89°34'47"E., 391.13 feet; thence S.79°12'49"E., 44.67 feet, to the POINT OF BEGINNING; thence N.10°47'11"E., 44.65 feet; thence S.74°22'29"E., 732.02 feet; thence, along the Easterly line of said Tract 4 for the following five (5) courses:

1. S.00°07'29"W., 111.66 feet;
2. S.00°46'40"W., 111.59 feet;
3. S.15°21'05"E., 70.14 feet;
4. S.00°27'33"E., 83.21 feet;
5. S.07°44'14"E., 114.35 feet;

thence S.74°41'03"W., 2.20 feet; thence N.85°20'05"W., 275.20 feet; thence N.41°12'18"W., 159.64 feet; thence S.25°00'41"W., 59.21 feet; thence N.23°36'02"E., 35.08 feet; thence Northerly, along the arc of a tangent circular curve concave Westerly having for its elements a radius of 33.50 feet, a central angle of 79°09'58", a chord distance of 42.69 feet, a chord bearing of N.15°58'56"W., an arc distance of 46.29 feet; thence N.55°33'55"W., 170.39 feet; thence N.73°08'14"W., 291.94 feet; thence N.12°09'09"E., 3.95 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following seven (7) courses:

1. N.38°42'47"E., 65.79 feet;
2. N.16°46'03"E., 48.12 feet;
3. N.10°33'10"E., 50.57 feet;
4. N.64°17'30"E., 34.71 feet;
5. N.14°57'55"E., 42.08 feet;
6. N.30°15'57"W., 49.50 feet;
7. N.22°23'00"W., 24.21 feet;

thence, leaving said mean high water line, N.10°37'06"E., 26.87 feet, to the POINT OF BEGINNING.

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Exhibit "D"
Sheet 2 of 4

Said parcel contains 7.48 acres, more or less.

Subject to easements, restrictions and reservations of record. Bearings are based on the East line of Tract 8, Cape Coral Unit 77 as being S.00°25'13"E. This description together with the attached sketch are not valid without the signature and raised seal of a Florida registered surveyor and mapper.

SEE ATTACHED SKETCH

Prepared by:

WilsonMiller, Inc.



1/3/00

Mark D. Haines, PSM
Professional Surveyor and Mapper No. LS5312
State of Florida

Date:

P.I.N.: 03331-000-0X3 PZPSR
Ref: A-03331-14
Date: August 25, 2000

Exhibit "D"

Sheet 3 of 4

POINT OF COMMENCEMENT
NORTHEAST CORNER OF TRACT 8
CAPE CORAL UNIT 77

SCALE IN FEET

0 50 100

TRACT 5

TRACT 5

TRACT 4

POINT OF BEGINNING

N.89°34'47"E. 391.13'

S.74°22'29"E.
732.02'

TRACT 3

LINE TABLE

Line	Bearing	Distance
L1	N.23°36'02"E.	35.08'
L2	S.25°00'41"W.	59.21'
L3	S.74°41'03"W.	2.20'
L4	N.12°09'09"E.	3.95'
L5	N.10°33'10"E.	50.57'
L6	N.38°42'47"E.	65.79'
L7	N.16°46'03"E.	48.12'
L8	N.64°17'30"E.	34.71'
L9	N.14°57'55"E.	42.08'
L10	N.30°15'57"W.	49.50'
L11	N.22°23'00"W.	24.21'
L12	N.10°37'06"E.	26.87'
L13	N.10°47'11"E.	44.65'
L14	S.15°21'05"E.	70.14'
L15	S.00°27'33"E.	83.21'
L16	S.79°12'49"E.	44.67'

APPROXIMATE MEAN HIGH
WATER MEANDER LINE

EXISTING MARINA BASIN

N.75°08'14"W.
291.94'

EXISTING BULKHEAD

SEE SHEET 2 OF 2

SURVEYOR'S NOTES:

BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF
TRACT 8, CAPE CORAL UNIT 77, AS SHOWN HEREON BEING
S.00°25'13"E.THIS SKETCH DOES NOT PURPORT TO DEPICT THE REGULATORY
JURISDICTION OF ANY FEDERAL, STATE OR LOCAL AGENCY.

THIS IS NOT A SURVEY.

** SEE ATTACHED FOR LEGAL DESCRIPTION **

FOR: MARINA RESOURCES, INC.

* REVISED ANNOTATION 12/26/00

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

TARPON POINT

PARCEL 4

R3 TO C1 RE-ZONE

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33311401

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TASK:

PZPSR

SHEET

1

OF 2

DRAWING INDEX NO:

A-3331-014 LEG # 13630

REV:

Exhibit "D"

Sheet 4 of 4

TRACT 5

TRACT 10

TRACT 4

TRACT 6

SCALE IN FEET

0 50 100

S.74°22'29"E.
732.02'

SEE SHEET 1 OF 2

TRACT 4

Curve number 1

Radius= 33.50
Delta= 79°09'58"
Arc= 45.29
Tangent= 27.70
Chord= 42.69
Chord Brg. N.15°58'56"W.

N.75°08'14"W.
291.94'

EXISTING BULKHEAD

N.55°33'55"W.
170.39'

(1)
L1
L2

N.41°21'18"W.
159.64'

N.85°20'05"W.
275.20'

EXISTING BULKHEAD

S.00°07'29"W.
111.66'

S.00°46'40"W.
111.59'

L14

517

S.07°44'14"E.
114.35'

L3

THIS IS NOT A SURVEY.

** SEE ATTACHED FOR LEGAL DESCRIPTION **

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PARCEL 4
R3 TO C1 RE-ZONE

* REVISED ANNOTATION 12/26/00

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2

OF 2

DRAWING INDEX NO:
A-3331-014

LEG / 13630

REV:



Exhibit "E"
Sheet 1 of 2

LEGAL DESCRIPTION
TARPON POINT
Parcel 2 - R3 to C-1 Re-Zone

A portion of Tract 2, Cape Coral Unit 77, according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, and also lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at the Northwest corner of Tract 8, according to the aforementioned plat of Cape Coral Unit 77; thence, along the West line of said Tract 8, S.00°25'13"E., 1,115.24 feet; thence, along the boundary of Tract 1 according to the aforementioned plat of Cape Coral Unit 77, for the following two (2) courses:

1. N.89°34'47"E., 16.22 feet;
2. S.03°55'43"E., 439.11 feet;

thence N.86°04'17"E., 52.37 feet, to the POINT OF BEGINNING; thence, continue, N.86°04'17"E., 74.77 feet; thence S.00°25'13"E., 75.19 feet; thence N.89°34'47"E., 98.03 feet; thence N.79°09'07"E., 79.43 feet; thence N.10°50'53"W., 2.91 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following six (6) courses:

1. N.72°50'13"E., 44.74 feet;
2. N.65°28'26"E., 47.24 feet;
3. N.68°33'18"E., 53.41 feet;
4. S.65°25'47"E., 20.71 feet;
5. S.05°08'05"W., 146.14 feet;
6. S.07°37'45"E., 51.77 feet;

thence, leaving said mean high water line, S.86°14'54"W., 383.77 feet; thence N.03°55'43"W., 230.33 feet, to the POINT OF BEGINNING.

Said parcel contains 1.60 acres, more or less.

Subject to easements, restrictions and reservations of record.

Bearings are based on the west line of Tract 8, Cape Coral Unit 77 as being N.00°25'13"E.

This description together with the attached sketch are not valid without the signature and raised seal of a Florida registered surveyor and mapper.

SEE ATTACHED SKETCH

Prepared by:

Wilson Miller, Inc.



Mark D. Haines, PSM

Professional Surveyor and Mapper No. LS5312

State of Florida

8/29/00
Date:

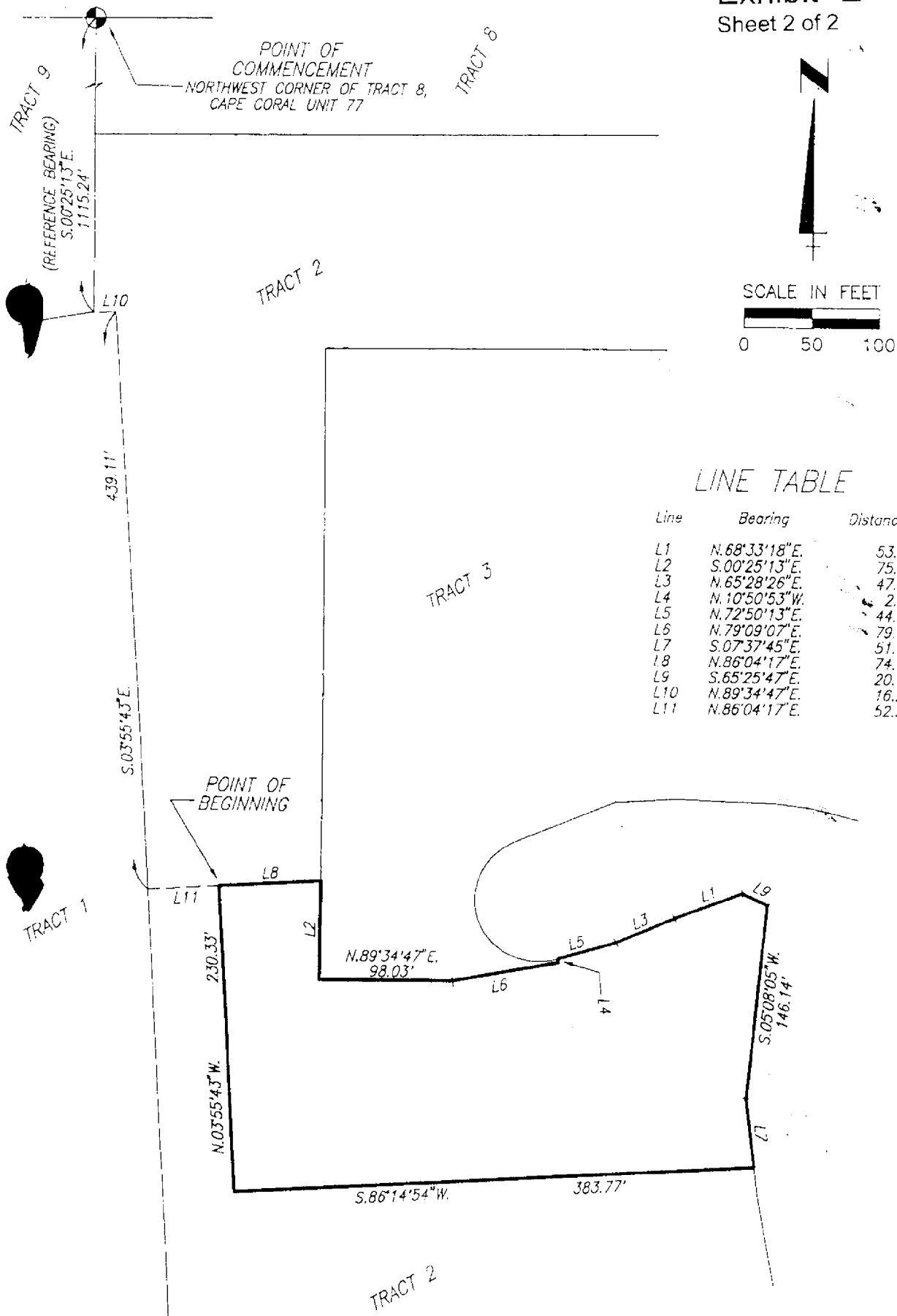
P.L.N.: 03331-003-0X3 PZPSR Ref: A-03331-11 Date: August 25, 2000

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Exhibit "E"
Sheet 2 of 2



LINE TABLE

Line	Bearing	Distance
L1	N.68°33'18"E.	53.41'
L2	S.00°25'13"E.	75.19'
L3	N.65°28'26"E.	47.24'
L4	N.10°50'53"W.	2.91'
L5	N.72°50'13"E.	44.74'
L6	N.79°09'07"E.	79.43'
L7	S.07°37'45"E.	51.77'
L8	N.86°04'17"E.	74.77'
L9	S.65°25'47"E.	20.71'
L10	N.89°34'47"E.	16.22'
L11	N.86°04'17"E.	52.37'

SURVEYOR'S NOTES:
ALL DIMENSIONS SHOWN HEREON ARE BASED ON THE WEST LINE OF TRACT 1, AS SHOWN HEREON BEING S.03°55'43"W.
THIS SKETCH DOES NOT PURPORT TO DEPICT THE REGULATORY JURISDICTION OF ANY FEDERAL, STATE OR LOCAL AGENCY.

THIS IS NOT A SURVEY.

** SEE ATTACHED FOR LEGAL DESCRIPTION **

FOR: MARINA RESOURCES, INC.
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PARCEL 2
R3 TO C1 RE-ZONE

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DRAWN BY: 1223	CHKD BY: 1223	CAD FILE: 33311101	PIN: 03331-000-0X3	TASK: PZPSR	SHEET 1 OF 1	DRAWING INDEX NO: A-3331-011 LEG # 13627	REV:
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COUNCILMEMBER STEVENS

PDP #02-00800010

11/18/02

11/22/02

11/27/02

12/03/02

12/04/02

12/09/02

01/06/03

INSTR # 5686311

OR BK 03825 PG 4501

RECORDED 01/17/2003 08:43:42 AM

CHARLIE GREEN, CLERK OF COURT

LEE COUNTY

RECORDING FEE 33.00

DEPUTY CLERK P Johnston

ORDINANCE 131 - 02

AN ORDINANCE AMENDING ORDINANCE 14-01 A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "TARPON POINT" PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR A PORTION OF CERTAIN PROPERTY DESCRIBED AS TRACTS 1, 2, 3, 4, 5, 6, 8, 9, AND 10, CAPE CORAL UNIT 77, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN ROSE GARDEN ROAD AND THE CALOOSAHATCHEE RIVER/GLOVER BIGHT; GRANTING AMENDED REPLAT AND SUBDIVISION OF TRACTS 1, 2, 3, 4, 5, 6, 8, 9, AND 10, CAPE CORAL UNIT 77, FOR A MIXED USE SUBDIVISION; REZONING A ±0.72 ACRE PORTION OF A PARCEL OF LAND SITUATED IN TRACT 4, CAPE CORAL UNIT 77 (TARPON POINT), BEING MORE PARTICULARLY DESCRIBED HEREIN, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1), REZONING A ±0.30 ACRE PORTION OF A PARCEL OF LAND SITUATED IN TRACT 2, CAPE CORAL UNIT 77 (TARPON POINT), BEING MORE PARTICULARLY DESCRIBED HEREIN FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1), REZONING A ±2.84 ACRE PORTION OF A PARCEL OF LAND SITUATED IN TRACT 9, CAPE CORAL UNIT 77 (TARPON POINT), BEING MORE PARTICULARLY DESCRIBED HEREIN FROM MULTI-FAMILY RESIDENTIAL (R-3) TO RESIDENTIAL DEVELOPMENT (RD); GRANTING A SPECIAL EXCEPTION TO ALLOW SELF-SERVICE FUEL PUMPS IN A PEDESTRIAN COMMERCIAL (C-1) DISTRICT LOCATED WITHIN VILLAGE "E"; GRANTING A SPECIAL EXCEPTION TO ALLOW A SELF-SERVICE FUEL PUMP STATION IN A PEDESTRIAN COMMERCIAL (C-1) DISTRICT LOCATED WITHIN VILLAGE "E"; REPEALING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, ALLOWING A REDUCTION OF THE MINIMUM REQUIREMENTS FOR MAXIMUM BUILDING HEIGHTS AS MORE PARTICULARLY DESCRIBED HEREIN WITHIN VILLAGE "A", GRANTED BY ORDINANCE 14-01; APPROVING DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW REDUCTION OF THE MINIMUM REQUIREMENTS FOR TREE PLANTING, FRONT YARD AND REAR YARD SETBACKS, AND MAXIMUM BUILDING HEIGHTS AS MORE PARTICULARLY DESCRIBED HEREIN; APPROVING AMENDED AND ADDITIONAL CONDITIONS OF APPROVAL; APPROVING AN AMENDED DEVELOPMENT PLAN; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, an application from Tarpon Point Associates, LLC, successor in interest to Marina Resources, Inc., has been received requesting the amendment of a Planned Development Project (PDP) for "Tarpon Point", (PDP 00-00800015) previously approved by the Cape Coral City Council in Ordinance 14-01 on February 27, 2001; requesting amended replat and subdivision, rezonings, Special Exceptions, repeal of a deviation to the Land Use and Development Regulations, deviations to the Land Use and Development Regulations, amended and additional Conditions of Approval, and amended Development Plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency on December 11, 2002; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

INST # 6414837 OR BK 04410 Pgs 3035 - 3056; (21pgs) RECORDED 08/27/2004 08:57:16 AM
CHARLIE GREEN, CLERK OF COURT, LEE COUNTY, FLORIDA
REC FEE 180.00
DEPUTY CLERK G Shewood

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, AMENDED REPLAT AND SUBDIVISION, REZONINGS, SPECIAL EXCEPTIONS, REPEAL OF A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS, AMENDED AND ADDITIONAL CONDITIONS OF APPROVAL, AND AMENDED DEVELOPMENT PLAN.

Having reviewed the application requesting approval of an amended Planned Development Project for "Tarpon Point", PDP 02-00800010, amending Ordinance 14-01, requesting amended replat and subdivision in accordance with a plan set titled Tarpon Point (P.D.P Amendment), Subdivision Sheet 4 of 4, prepared by Avalon Engineering, Inc., bearing a revision date of October 16, 2002; rezoning a ± 0.72 acre portion of a parcel of land situated in Tract 4, Cape Coral Unit 77 (Tarpon Point) according to Plat Book 34, Pages 54 through 65, of the Public Records of Lee County, Florida, being also located in Section 22, Township 45 South, Range 23 East, City of Cape Coral, Lee County, Florida, being more particularly described herein, from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1), rezoning a ± 0.30 acre portion of a parcel of land situated in Tract 2, Cape Coral Unit 77 (Tarpon Point) according to Plat Book 34, Pages 54 through 65, of the Public Records of Lee County, Florida, being also located in Section 22, Township 45 South, Range 23 East, City of Cape Coral, Lee County, Florida, being more particularly described herein, from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1), rezoning a ± 2.84 acre portion of a parcel of land situated in Tract 9, Cape Coral Unit 77 (Tarpon Point) according to Plat Book 34, Pages 54 through 65, of the Public Records of Lee County, Florida, being also located in Section 22, Township 45 South, Range 23 East, City of Cape Coral, Lee County, Florida, being more particularly described herein from Multi-Family (R-3) to Residential Development (RD); a special exception to allow Self-Service Fuel Pumps on all property located in a Pedestrian Commercial (C-1) District within Village "E"; a special exception to allow a Self-Service Fuel Pump Station on all property located in a Pedestrian Commercial (C-1) District within Village "E"; repeal of a deviation of 82 feet to the City of Cape Coral Land Use and Development Regulations from Section 2.7.2.D., Table R-3 Dimensional Regulations, Maximum Building Height, to allow building heights at a maximum of 120 feet (10 residential floors over parking) within Village "A", granted by Ordinance 14-01; deviations from the indicated Sections of the City of Cape Coral Land Use and Development Regulations as follows: a deviation to reduce the requirement for Tract "D" (Village "D"), Tract "E" (Village "E"), Tract "F" (Village "F"), Tract "MV-1" (Village "MV-1"), and Tract "MV-2" (Village "MV-2") that all sites must have one tree for each one thousand five hundred (1,500) square feet required under Section 5.2.9 B., Tree Planting Requirements, to require that Tract "D" (Village "D"), Tract "E" (Village "E"), Tract "F" (Village "F"), Tract "MV-1" (Village "MV-1"), and Tract "MV-2" (Village "MV-2") must have one tree for each three thousand (3,000) square feet; a deviation of fifteen (15) feet, from Section 2.7.2 D., Table RD, Dimensional Regulations, Minimum Yards, Front, to reduce the minimum required front setback from 25 feet to 10 feet within Village "C"; a deviation of five (5) feet, from Section 2.7.2 D., Table RD, Dimensional Regulations, Minimum Yards, Rear, to reduce the minimum required rear setback from 20 feet to 15 feet within Village "C"; a deviation of fifteen (15) feet, from Section 2.7.2 D., Table RD, Dimensional Regulations, Maximum Building Height, to increase the maximum building heights of a single family development from 30 feet to a maximum of 45 feet (for sites of 15,000 square feet, the deviation is 10 feet) within Village "C"; a deviation of ± 69 feet from Section 2.7.2.D., Table R-3 Dimensional Regulations, Maximum Building Height, to increase the maximum building heights from 38 feet to a maximum of ± 107 feet (8 residential floors over parking) within Village "A"; a deviation of ± 132 feet from Section 2.7.2.D., Table R-3 Dimensional Regulations, Maximum Building Height, to increase the maximum building heights from 38 feet to a maximum of ± 170 feet (12 residential floors over parking) within Village "D"; a deviation of ± 282 feet from Section 2.7.2 D., Table R-3 Dimensional Regulations, Maximum Building Height, to increase the maximum building heights from 38 feet to a maximum of ± 320 feet (24 residential floors over parking) within Villages "E" and "F"; elimination of the requirement contained in Ordinance 14-01, Section III.O.5. for Lots 6-7, 16-17, 30-33, 37-39, and 45-46 of Village "C" that such lots shall have a minimum width at the building line of one hundred (100) feet; elimination of the requirement contained in Ordinance 14-01, Section III.O.5. that all lots in Village "C" shall have minimum side yards of ten (10) feet; and

amendment to the Development Plan with respect to locations of densities of uses as follows: a maximum of 132 multi-family units in Village "A"; a maximum of 120 multi-family units in Village "B"; a maximum of 47 single family units in Village "C"; a maximum of 210 multi-family units in Village "D"; a maximum of 326 multi-family units in Village "E" and a maximum of 140 multi-family units in Village "F", and that the aforementioned quantity of multi-family units within Villages "A", "B", "D", "E", and "F", may be reallocated without incurring a substantial deviation from the terms of this development order as long as the quantity of multi-family units within any such Village is not increased by more than five (5) percent and that in no event shall the total number of dwelling units within the project area for the Tarpon Point PDP exceed 976 dwelling units; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve amended replat and subdivision, rezoning, Special Exceptions, repeal of a deviation to the City of Cape Coral Land Use and Development Regulations, Deviations to the City of Cape Coral Land Use and Development Regulations, amended and additional Conditions of Approval, and amended Development Plan approval from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Tarpon Point development is a Mixed Use Planned Development Project (PDP). This development consists of a mixed use subdivision with five (5) multi-family village tracts (Villages "A", "B", "D", "E", and "F"), forty-seven (47) single-family residential building sites, private road and common area tracts (Village "C"), two (2) commercial tracts (Marina Villages 1 and 2), and two (2) conservation area tracts (Wetland Areas 1 and 2), and common area tracts for ingress and egress, drainage, buffers and miscellaneous uses. The entire subject property consists of a total area of approximately 148.07 acres of land located between Rose Garden Road and the Caloosahatchee River/Glover Bight. The development will occur in unspecified phases with a build out in ten (10) years.
- B. The name of the legal and equitable owner is Tarpon Point Associates, LLC.
The legal description of the property is as follows:
 1. The legal description of the entire project site of the Tarpon Point PDP is as indicated in attached Exhibit "A", incorporated herein by reference.
 2. The legal description of the property rezoned by this ordinance from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1) is as indicated in attached Exhibit "B", incorporated herein by reference.
 3. The legal description of the property rezoned by this ordinance from Multi-Family Residential (R-3) to Residential Development (RD) is as indicated in attached Exhibit "C", incorporated herein by reference.
- C. The Tarpon Point PDP has approximately 69.03 acres zoned Multi-Family Residential (R-3), 29.21 acres zoned Residential Development (RD), and 10.58 acres zoned Pedestrian Commercial (C-1), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 108.82 acres with a Future Land Use designation of Mixed Use and approximately 39.24 acres with a Future Land Use designation of Natural Resources/Preservation.
- D. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of the Multi-Family Residential (R-3), Residential Development (RD), and Pedestrian Commercial (C-1) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- E. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.

- F. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- G. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- H. The term "Developer", for purposes of this development order, shall mean and refer to Tarpon Point Associates, LLC, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 6th day of January, 2003, that the Planned Development Project application for amended Development Approval submitted by Tarpon Point Associates, LLC, is hereby ordained approved, subject to all of the conditions, restrictions, and limitations described in Ordinance 14-01 which remain in full force and effect unless specifically amended herein, together with the following additional conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. HURRICANE EVACUATION/SHELTERING

1. Prior to issuance of the building permits, the Developer shall meet with the Lee County Emergency Management, and Cape Coral Emergency Management officials to discuss and identify (if appropriate) any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City.
2. The City encourages actual site users as well as any Developer to incorporate within their building design the sheltering demands of the residents, employees, and their families.

- B. In addition to all of the conditions of approval included within Ordinance 14-01 Section III.E., Fire Protection, the following Condition shall apply:

High-rise buildings present different/additional demands upon the fire protection services provided by the City. In order to help mitigate those demands, the developer will be required to provide enhanced fire protection and safety features in and around the high-rise buildings constructed in Villages "A", "D", "E", and "F". These enhanced features will be identified early in the design phase and will become part of the designs for the high-rise buildings. The Fire, Rescue and Emergency Management Services Department will work closely with the developer and his designer to ensure these features are designed into the buildings before final construction permit approval.

C. GENERAL CONSIDERATIONS

In addition to all of the conditions of approval included within Ordinance 14-01 Section III.O., General Considerations, except Section III.O.5, the following Condition shall apply:

1. In Village "C", all lots shall have a minimum lot depth of one hundred twenty-five (125) feet, and all lots except Lots 6-7, 16-17, 30-33, 37-39, and 45-46 shall have a minimum width at the building line of one hundred (100) feet. Furthermore, all driveways located in Village C shall be constructed of pavers and/or stamped concrete. The foregoing conditions regarding minimum lot width and driveways in Village "C" shall not affect the deviation approved in this Development Order to allow fences or walls on the front and side property lines within the entire Tarpon Point project area.
2. The special exception to allow Self-Service Fuel Pumps in a Pedestrian Commercial (C-1) District located Within Village "E" and the special exception to allow Self-Service Fuel Pumps in a Pedestrian Commercial (C-1) District located Within Village "E" are subject to the following conditions:

- a. The special exception to allow Self-Service Fuel Pumps and a Self-Service Fuel Pump Station in a Pedestrian Commercial (C-1) District on all properties within Marina Villages 1 and 2 shall terminate at such time as any Self-Service Fuel Pumps and/or a Self-Service Fuel Pump Station within Village "E", approved herein, becomes operational.
- b. The Self-Service Fuel Pumps and/or a Self-Service Fuel Pump Station shall be limited to providing fuel for marine vessels only.
3. Development of certain properties within Village "C" is subject to the following requirements:
 - a. Any fencing along the rear of Lots 16-39 must be metal picket material.
 - b. Homes built on Lots 16-39 must contain a minimum of 3,000 square feet of air conditioned living space.
 - c. Roof materials of concrete or clay tile or materials resembling concrete or clay tile are required on Lots 1-47.
4. The deviation approved herein to the Land Use and Development Regulations, Section 5.2.9 B., Tree Planting Requirements, shall not be construed to diminish the requirements of Section 5.2.9 D., Parking Area Interior Landscaping.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the Tarpon Point PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Tarpon Point PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall 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. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more of the following is present:
 1. A substantial deviation from the terms or conditions of this Development Order, including but not limited to:

- a. Any change which requires a variance to code and above those specifically incorporated herein.
 - b. An increase of more than five (5) percent in parking requirements, trip generation rates, water or sewer usage, or building square footage.
 - c. Any increase in density of the total project area over the approved 976 dwelling units or increase in density of Village "C" over the approved 47 dwelling units
 - d. An expiration of the period of effectiveness of this Development Order as herein provided.
 - e. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order; or
2. Other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

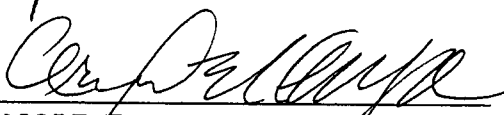
SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

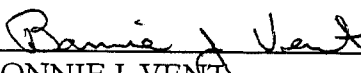
SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of Lee County, Florida. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

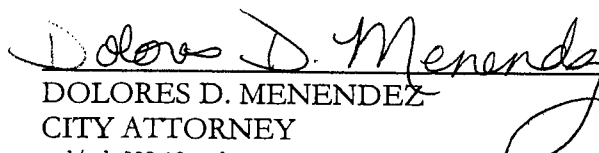
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 6th DAY OF January, 2003.


ARNOLD E. KEMPE, MAYOR

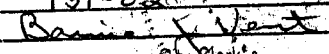
ATTESTED TO AND FILED IN MY OFFICE THIS 13th DAY OF January, 2003.


BONNIE J. VENT
CITY CLERK

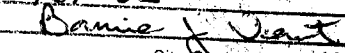
APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
ord/pdp028-10amd

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality; that this is a true and correct copy of Ordinance

131-02

City Clerk

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality; that this is a true and correct copy of Ordinance

131-02

City Clerk

**LEGAL DESCRIPTION
TARPON POINT
(Revised)**

Tracts 1, 2, 3, 4, 5, 6, 8, 9 and 10, Cape Coral Unit 77 according to the plat thereof as recorded in Plat Book 34, Pages 54 through 65 of the Public Records of Lee County, Florida, lying within Section 22, Township 45 South, Range 23 East, Lee County, Florida.

BEGIN at the Northeast corner of the aforementioned Tract 8; thence, along the boundary of the aforementioned plat of Cape Coral Unit 77 for the following five (5) courses:

1. N.89°37'47"E., 90.00 feet;
2. N.00°25'13"W., 83.59 feet;
3. along the arc of a non-tangent circular curve concave Southeasterly, having for its elements a radius of 480.00 feet, a central angle of 126°43'55", a chord distance of 858.13 feet, a chord bearing of N.62°56'44"E., an arc distance of 1,061.71 feet;
4. S.53°41'18"E., 1,195.41 feet;
5. Easterly, along the arc of a tangent circular curve concave Northerly having for its elements a radius of 550.00 feet, a central angle of 90°53'32", a chord distance of 783.85 feet, a chord bearing of N.80°51'56"E., an arc distance of 872.50 feet;

thence, along the east line of the aforementioned Tract 6, S.01°03'10"W., 1,189.01 feet; thence, along the mean high water line as referenced on the aforementioned plat of Cape Coral Unit 77 for the following five (5) courses:

1. S.87°40'41"W., 370.36 feet;
2. S.77°19'11"W., 205.00 feet;
3. S.18°26'06"W., 94.87 feet;
4. S.87°36'51"W., 360.31 feet;
5. S.74°41'03"W., 436.36 feet;

thence, leaving said mean high water line, continue, S.74°41'03"W., 2.20 feet; thence N.85°20'05"W., 284.33 feet; thence S.79°08'24"W., 38.56 feet; thence S.79°06'04"W., 61.30 feet; thence S.86°21'08"W., 20.55 feet; thence, along the arc of a non-tangent circular curve concave Northeasterly, having for its elements a radius of 25.69 feet, a central angle of 113°30'53", a chord distance of 42.97 feet, a chord bearing of N.35°01'17"W., an arc distance of 50.89 feet; thence N.23°36'02"E., 90.39 feet; thence Northerly, along the arc of a tangent circular curve concave Westerly having for its elements a radius of 33.50 feet, a central angle of 79°09'58", a chord distance of 42.69 feet, a chord bearing of N.15°58'56"W., an arc distance of 46.29 feet; thence N.55°33'55"W., 170.39 feet; thence N.73°08'14"W., 291.94 feet; thence N.12°09'09"E., 3.95 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following fifteen (15) courses:

1. N.38°42'47"E., 65.79 feet;

Naples Fort Myers Sarasota Bradenton Tampa

4571 Colonial Boulevard, Suite 100 Fort Myers, Florida 33912-1062 941-939-1020 941-939-7479
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2. N.16°46'03"E., 48.12 feet;
3. N.10°33'10"E., 50.57 feet;
4. N.64°17'30"E., 34.71 feet;
5. N.14°57'55"E., 42.08 feet;
6. N.30°15'57"W., 49.50 feet;
7. N.22°23'00"W., 24.21 feet;
8. S.76°05'50"W., 41.77 feet;
9. S.16°50'57"W., 91.57 feet;
10. S.09°58'51"W., 81.54 feet;
11. N.81°15'17"W., 80.80 feet;
12. S.38°50'01"W., 42.56 feet;
13. S.05°48'39"W., 72.55 feet;
14. S.12°41'35"E., 77.99 feet;
15. S.22°52'55"W., 16.79 feet;

thence, S.44°30'11"E., 15.58 feet; thence S.44°40'23"W., 222.05 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following ten (10) courses:

1. N.76°15'48"W., 36.81 feet;
2. N.83°05'48"W., 25.59 feet;
3. N.87°57'41"W., 73.23 feet;
4. S.85°48'27"W., 44.89 feet;
5. S.66°53'43"W., 79.59 feet;
6. along the arc of a non-tangent circular curve concave Easterly, having for its elements a radius of 47.49 feet, a central angle of 176°24'41", a chord distance of 94.94 feet, a chord bearing of S.20°02'11"E., an arc distance of 146.22 feet;
7. N.72°50'13"E., 44.74 feet;
8. N.65°28'26"E., 47.24 feet;
9. N.68°33'18"E., 53.41 feet;
10. S.65°25'47"E., 20.71 feet;

thence S.05°08'05"W., 146.14 feet; thence S.07°37'45"E., 75.30 feet; thence S.10°55'05"E., 65.73 feet; thence S.26°07'51"E., 100.28 feet; thence S.62°36'43"E., 79.07 feet; thence N.85°10'08"E., 80.94 feet; thence N.50°41'23"E., 35.05 feet; thence N.03°10'05"E., 90.20 feet; thence, along the arc of a non-tangent circular curve concave Southeasterly, having for its elements a radius of 36.47 feet, a central angle of 63°56'10", a chord distance of 38.62 feet, a chord bearing of N.40°57'46"E., an arc distance of 40.70 feet; thence N.71°54'52"E., 10.24 feet; thence N.78°43'53"E., 85.12 feet; thence N.68°42'23"E., 80.29 feet; thence N.33°49'40"E., 100.10 feet; thence N.30°23'26"E., 60.47 feet; thence N.47°24'02"E., 6.52 feet; thence Easterly, along the arc of a tangent circular curve concave Southerly having for its elements a radius of 25.32 feet, a central angle of 123°56'06", a chord distance of 44.70 feet, a chord bearing of S.70°37'55"E., an arc distance of 54.76 feet; thence S.04°04'00"E., 125.87 feet; thence S.10°24'01"E., 151.19 feet; thence S.22°00'30"E., 161.87 feet; thence S.19°52'09"E., 71.00

feet; thence S.39°42'00"W., 32.04 feet; thence N.86°35'08"W., 185.19 feet; thence N.79°40'25"W., 150.42 feet; thence N.84°00'47"W., 150.59 feet; thence N.89°19'44"W., 122.39 feet; thence S.87°33'15"W., 155.37 feet; thence S.78°23'57"W., 150.95 feet; thence S.72°24'29"W., 148.99 feet to the mean high water line of a water body; thence, meander along said mean high water line for the following twenty-three (23) courses:

1. S.82°04'05"W., 110.46 feet;
2. S.71°22'24"W., 107.75 feet;
3. S.82°10'15"W., 215.40 feet;
4. N.74°46'25"W., 209.20 feet;
5. N.68°18'15"W., 94.94 feet;
6. N.77°49'12"W., 49.98 feet;
7. N.70°20'58"W., 51.75 feet;
8. N.56°24'51"W., 270.63 feet;
9. N.16°07'50"W., 107.60 feet;
10. N.27°36'52"E., 20.72 feet;
11. N.08°55'38"W., 243.31 feet;
12. N.03°45'00"E., 83.16 feet;
13. N.06°33'53"W., 45.47 feet;
14. N.03°34'46"E., 60.52 feet;
15. N.03°18'41"W., 54.07 feet;
16. N.04°26'13"E., 39.08 feet;
17. N.01°36'06"W., 62.38 feet;
18. N.13°25'39"W., 56.44 feet;
19. N.05°27'35"E., 57.95 feet;
20. N.04°06'41"W., 98.05 feet;
21. N.10°09'27"E., 90.11 feet;
22. N.32°03'20"W., 21.07 feet;
23. N.16°16'13"E., 23.79 feet;

thence, along the south line of the spreader waterway as recorded in Plat Book 32, pages 48 through 111, Public Records of Lee County, Florida, (said line also being the boundary of the aforementioned Tract 9, Cape Coral Unit 77) for the following five (5) courses:

1. N.52°23'11"E., 31.12 feet;
2. N.87°47'12"E., 70.02 feet;
3. S.89°52'33"E., 633.18 feet;
4. Northeasterly, along the arc of a tangent circular curve concave Northwesterly having for its elements a radius of 100.00 feet, a central angle of 90°32'40", a chord distance of 142.09 feet, a chord bearing of N.44°51'07"E., an arc distance of 158.03 feet;
5. N.00°25'13"W., 832.53 feet;

thence, along the north line of the aforementioned Tracts 8 and 9, N.89°34'47"E., 620.00 feet, to the POINT OF BEGINNING.

Said parcel contains 148.07 acres, more or less.

Subject to easements, restrictions and reservations of record.

Bearings are based on the north line of Tract 8, Cape Coral Unit 77 as being N.89°34'47"E. This description together with the attached sketch are not valid without the signature and raised seal of a Florida registered surveyor and mapper.

SEE ATTACHED SKETCH

Prepared by:

WilsonMiller, Inc.



Mark D. Haines, PSM

Professional Surveyor and Mapper No. LS5312

State of Florida

2/6/00
Date:

P.I.N.: 03331-000-0X3 PZPSR

Ref: A-03331-16

Date: August 28, 2000

Revised: September 9, 2000



SCALE IN FEET
0 100 200

SEE SHEET
2 OF 4

CAPE CORAL UNIT 67
PLAT BOOK 25, PAGES 57 THROUGH 65

CAPE CORAL UNIT 77

TRACT 5

TRACT 10

LINE TABLE

Line	Bearing	Distance
L1	N.16°07'50"W.	107.60'
L3	N.68°18'15"W.	94.94'
L4	N.77°49'12"W.	49.98'
L5	N.70°20'58"W.	51.75'
L6	N.16°16'13"E.	23.79'
L7	N.04°06'41"W.	98.05'
L8	N.10°09'27"E.	90.11'
L9	N.27°36'52"E.	20.72'
L10	N.03°45'00"E.	83.16'
L11	N.06°33'53"W.	45.47'
L12	N.03°34'46"E.	60.52'
L13	N.03°18'41"W.	54.07'
L14	N.04°26'13"E.	39.08'
L15	N.01°36'06"W.	62.38'
L16	N.13°25'39"W.	56.44'
L17	N.05°27'35"E.	57.95'
L18	N.32°03'20"W.	21.07'
L19	N.87°47'12"E.	70.02'
L20	N.52°23'11"E.	31.12'
L21	S.26°07'51"E.	100.28'
L22	N.03°10'05"E.	90.20'
L23	S.10°24'01"E.	151.19'
L24	S.87°33'15"W.	155.37'
L25	S.82°04'05"W.	110.46'
L26	S.71°22'24"W.	107.75'
L27	S.78°23'57"W.	150.95'
L28	S.72°24'29"W.	148.99'
L29	N.89°19'44"W.	122.39'

Curve number 1

Radius= 550.00
Delta= 90°53'32"
Arc= 872.50
Tangent= 558.63
Chord= 783.85
Chord Brg. N.80°51'56"E.

Curve number 8

Radius= 480.00
Delta= 126°43'55"
Arc= 1061.71
Tangent= 957.12
Chord= 858.13
Chord Brg. N.62°56'44"E.

ROSE GARDEN ROAD

90.00'
N.89°34'47"E.

TRACT 5

POINT OF BEGINNING
NORTHEAST CORNER
TRACT 8, CAPE CORAL
UNIT 77

TRACT 8

SEE SHEET
4 OF 4

THIS IS NOT A SURVEY.
** SEE ATTACHED
FOR LEGAL DESCRIPTION **

SURVEYOR'S NOTES:

BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF
TRACT 8, CAPE CORAL UNIT 77, AS SHOWN HEREON BEING
N89°34'47"E

THIS SKETCH DOES NOT PURPORT TO DEPICT THE REGULATORY
JURISDICTION OF ANY FEDERAL, STATE OR LOCAL AGENCY.

REVISED ANNOTATION 12/27/00

(REFERENCE BEARING)
N.89°34'47"E. 620.00'

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
CARPON POINT
PROJECT AREA
REVISED

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CAPE CORAL UNIT 67
PLAT BOOK 25, PAGES 57 THROUGH 65

ROSE GARDEN ROAD

TRACT 10

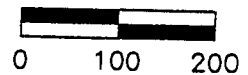
CAPE CORAL UNIT 77

TRACT 6

TRACT 7



SCALE IN FEET



S.01°03'10"W. 1189.01'

S.77°19'11"W.
205.00'

S.87°40'41"W.
370.36'

S.87°36'51"W.
360.31'

LINE TABLE

Line	Bearing	Distance
L30	S.62°36'43"E.	79.07'
L31	N.85°10'08"E.	80.94'
L32	N.50°41'23"E.	35.05'
L33	S.22°00'30"E.	161.87'
L34	S.19°52'09"E.	71.00'
L35	S.39°42'00"W.	32.04'
L36	N.86°35'08"W.	185.19'
L37	N.79°40'25"W.	150.42'
L38	N.84°00'47"W.	150.59'
L39	S.79°08'24"W.	38.56'
L40	N.00°25'13"W.	83.59'
L41	N.83°05'48"W.	25.59'
L42	S.65°25'47"E.	20.71'
L43	N.68°33'18"E.	53.41'
L44	N.65°28'26"E.	47.24'
L45	N.72°50'13"E.	44.74'
L46	S.66°53'43"W.	79.59'
L47	S.85°48'27"W.	44.89'
L48	N.87°57'41"W.	73.23'
L49	S.05°08'05"W.	146.14'

Line	Bearing	Distance
L51	S.07°37'45"E.	75.30'
L52	S.10°55'05"E.	65.73'
L53	N.23°36'02"E.	90.39'
L54	S.22°52'55"W.	16.79'
L55	N.10°33'10"E.	50.57'
L56	N.64°17'30"E.	34.71'
L57	N.14°57'55"E.	42.08'
L58	N.30°15'57"W.	49.50'
L59	N.22°23'00"W.	24.21'
L60	S.76°05'50"W.	41.77'
L61	S.16°50'57"W.	91.57'
L62	S.09°58'51"W.	81.54'
L63	N.38°42'47"E.	65.79'
L64	N.16°46'03"E.	48.12'
L65	N.81°15'17"W.	80.80'
L66	S.38°50'01"W.	42.56'
L67	S.05°48'39"W.	72.55'
L68	S.12°41'35"E.	77.99'
L69	N.76°15'48"W.	36.81'
L70	N.47°24'02"E.	6.52'
L71	S.44°30'11"E.	15.58'
L72	S.79°06'04"W.	61.30'
L73	S.86°21'08"W.	20.55'
L74	N.55°33'55"W.	170.39'
L75	N.12°09'09"E.	3.95'
L76	N.71°54'52"E.	10.24'
L77	N.78°43'53"E.	85.12'
L78	N.68°42'23"E.	80.29'
L79	N.33°49'40"E.	100.10'
L80	N.30°23'26"E.	60.47'
L81	S.04°04'00"E.	125.87'
L82	S.18°26'06"W.	94.87'

MEAN HIGH WATER
REFERENCE LINE
PLAT BOOK 34,
PAGES 54 THROUGH 65

THIS IS NOT A SURVEY.

** SEE ATTACHED FOR LEGAL DESCRIPTION **

REVISED ANNOTATION 12/27/00

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PROJECT AREA
REVISED

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SEE SHEET
2 OF 4

THIS IS NOT A SURVEY.
** SEE ATTACHED
FOR LEGAL DESCRIPTION **

TRACT 10

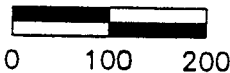
TRACT 6

MEAN HIGH WATER
REFERENCE LINE
PLAT BOOK 34,
PAGES 54 THROUGH 65

CALOOSA HATCHEE
S.74°41'03"W. 436.36'
S.74°41'03"W. 220'
W.50°20'55"W. 284.33'
N.85°20'25"W. 639



SCALE IN FEET



Curve number 2

Radius= 47.49
Delta= 176°24'41"
Arc= 146.22
Tangent= 1516.06
Chord= 94.94
Chord Brg. S.20°02'11"E.

Curve number 7

Radius= 25.32
Delta= 123°56'06"
Arc= 54.76
Tangent= 47.55
Chord= 44.70
Chord Brg. S.70°37'55"E.

Curve number 4

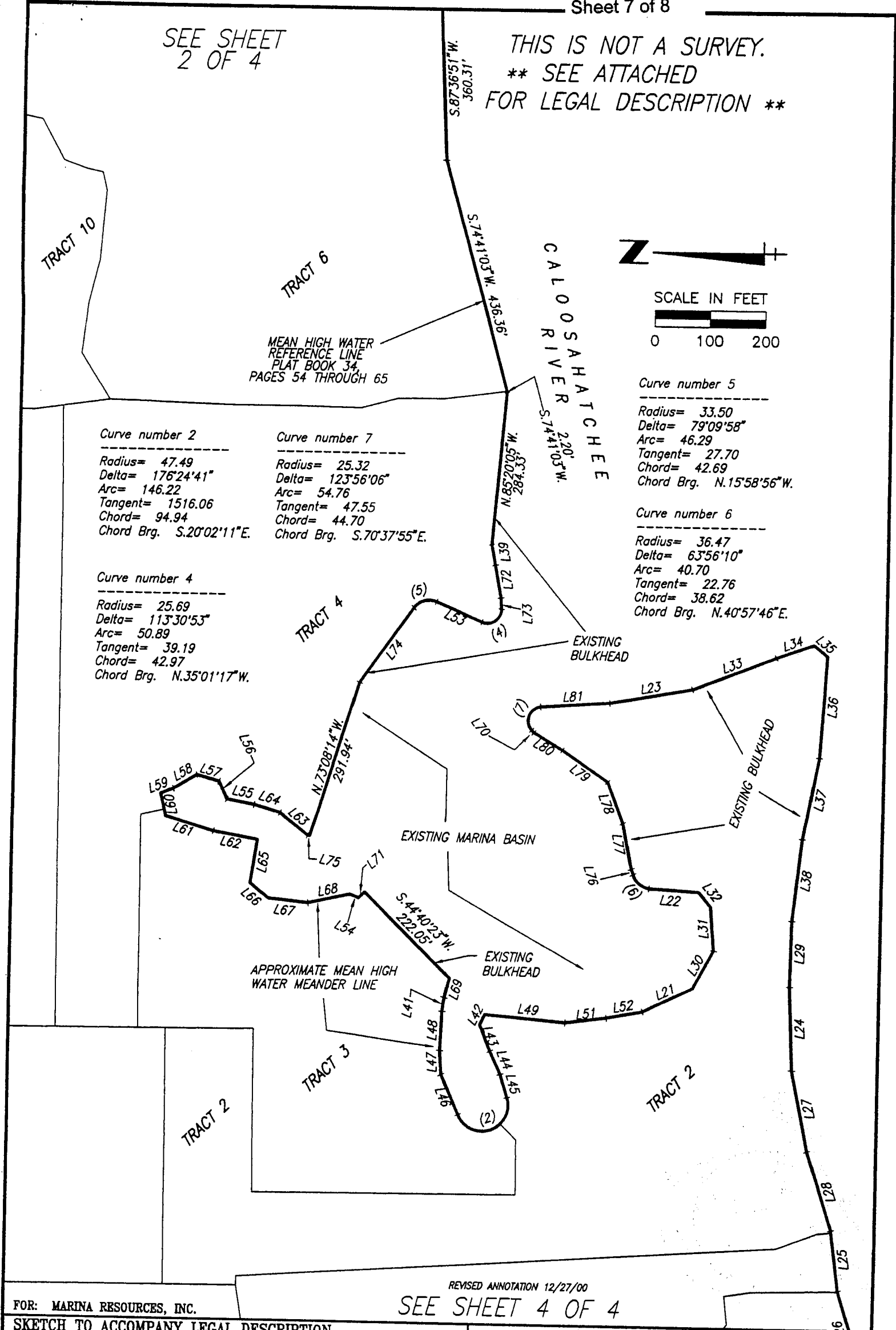
Radius= 25.69
Delta= 113°30'53"
Arc= 50.89
Tangent= 39.19
Chord= 42.97
Chord Brg. N.35°01'17"W.

Curve number 5

Radius= 33.50
Delta= 79°09'58"
Arc= 46.29
Tangent= 27.70
Chord= 42.69
Chord Brg. N.15°58'56"W.

Curve number 6

Radius= 36.47
Delta= 63°56'10"
Arc= 40.70
Tangent= 22.76
Chord= 38.62
Chord Brg. N.40°57'46"E.



REVISED ANNOTATION 12/27/00

SEE SHEET 4 OF 4

FOR: MARINA RESOURCES, INC.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
TARPON POINT
PROJECT AREA
REVISED

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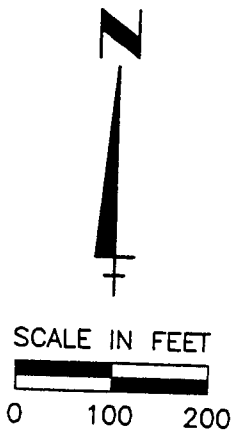
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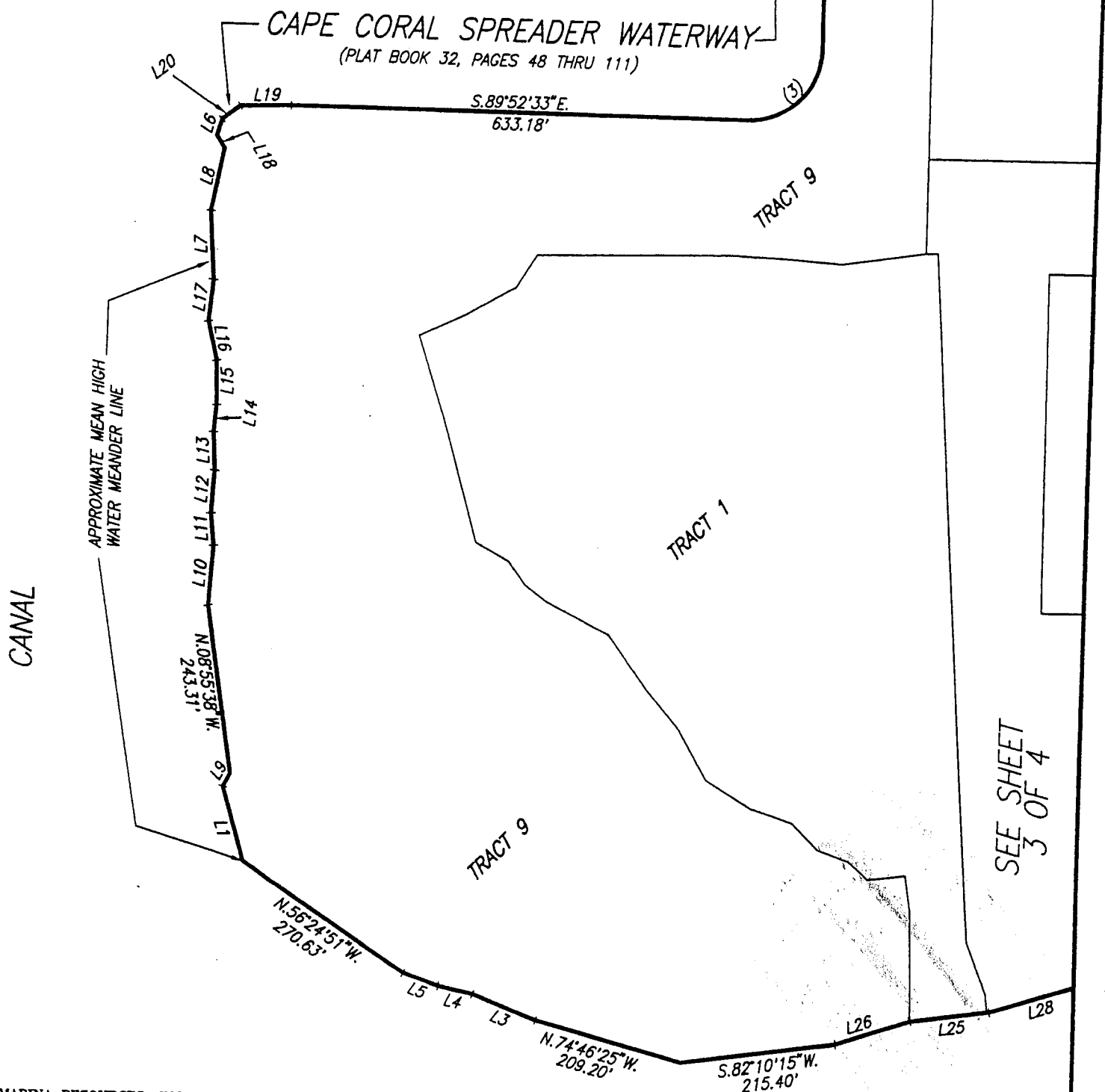
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(REFERENCE BEARING)
N.89°34'47"E. 620.00'

THIS IS NOT A SURVEY.
** SEE ATTACHED FOR LEGAL DESCRIPTION **



Curve number 3
Radius= 100.00
Delta= 90°32'40"
Arc= 158.03
Tangent= 100.95
Chord= 142.09
Chord Brg. N.44°51'07"E.



FOR: MARINA RESOURCES, INC. REVISED ANNOTATION 12/27/00

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
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A PARCEL OF LAND SITUATED IN TRACT 2, CAPE CORAL UNIT 77 (TARPON POINT) ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING ALSO LOCATED IN SECTION 22 TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CORNER COMMON TO TRACTS 4, 5 AND 10 OF SAID CAPE CORAL UNIT 77; THENCE RUN S28°06'17"W FOR 1,135.92 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ALSO A POINT ON AN EXISTING SEAWALL; THENCE RUN N89°40'19"W, LEAVING SAID EXISTING SEAWALL, FOR 142.31 FEET TO A POINT ON AN EXISTING SEAWALL; THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING FOUR COURSES: N33°48'49"E FOR 100.02 FEET, N30°26'59"E FOR 60.40 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 24.92 FEET AND A CENTRAL ANGLE OF 145°12'18" (CHORD=S78°19'08"E, 47.56 FEET) FOR 63.15 FEET TO THE POINT OF TANGENCY; THENCE RUN S04°16'53"E FOR 126.71 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 12,982 SQUARE FEET (0.30 ACRES), MORE OR LESS.

GENERAL NOTES:

- 1. BASIS OF BEARINGS: EAST LINE TRACT 8 CAPE CORAL UNIT 77 AS S00°25'13"E(PLAT)
- 2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
- 3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF PARCEL IN TRACT 2, CAPE CORAL UNIT 77 (TARPON POINT), ZONE CHANGE TO C-1 ZONE.

FOR: TARPON POINT ASSOCIATES, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-21-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

EXHIBIT "B"
SHEET 1 OF 4

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

SHEET 1 OF 2

STOUTEN AND ASSOCIATES, INC.
SURVEYING AND MAPPING CONSULTANTS

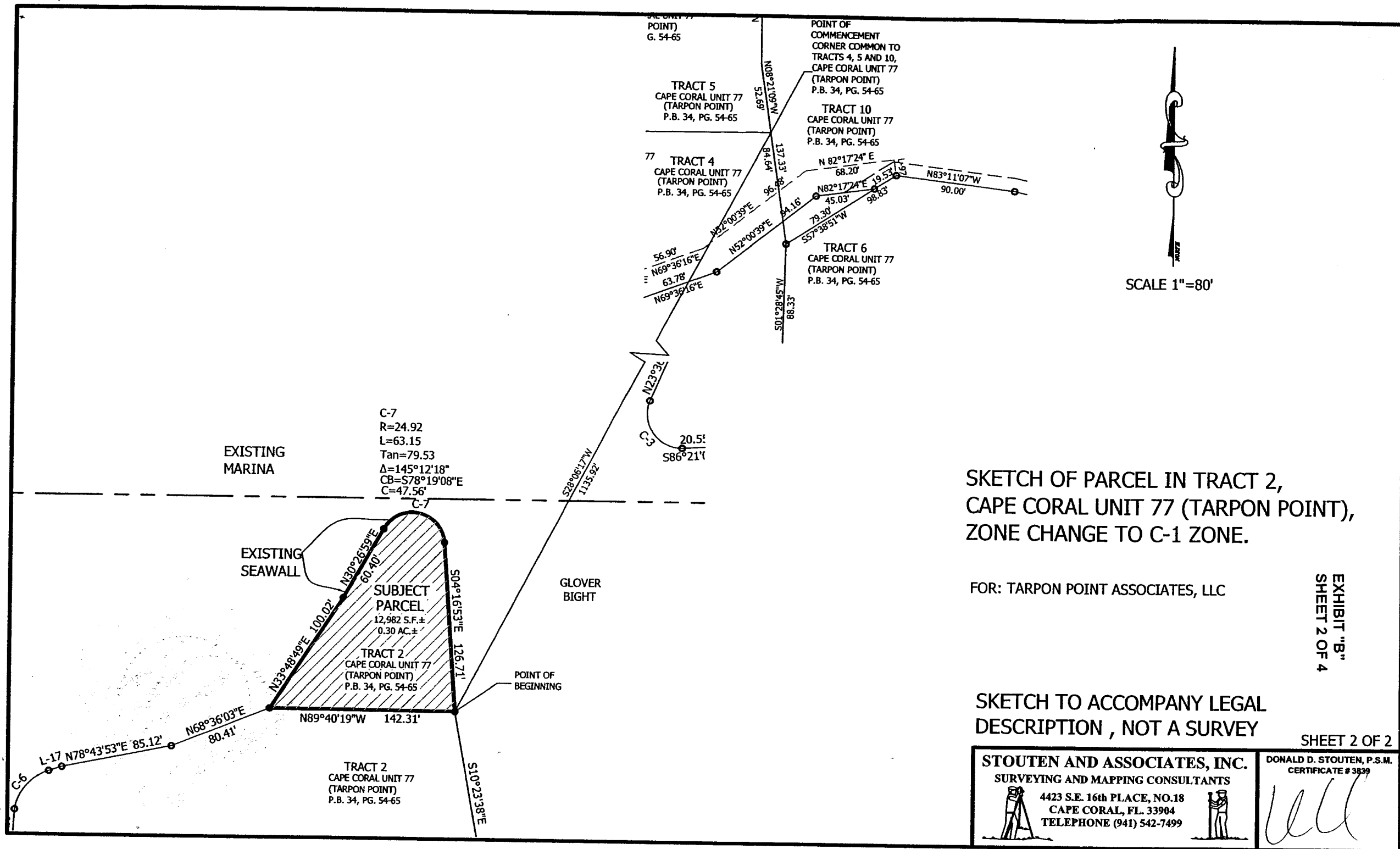


4423 S.E. 16th PLACE, NO.18
CAPE CORAL, FL. 33904
TELEPHONE (941) 542-7499



DONALD D. STOUTEN, P.S.M.
CERTIFICATE # 3839





SKETCH OF PARCEL IN TRACT 2,
CAPE CORAL UNIT 77 (TARPON POINT),
ZONE CHANGE TO C-1 ZONE.

FOR: TARPON POINT ASSOCIATES, LLC

EXHIBIT "B"
SHEET 2 OF 4

SKETCH TO ACCOMPANY LEGAL
DESCRIPTION , NOT A SURVEY

SHEET 2 OF 2

STOUTEN AND ASSOCIATES, INC.
SURVEYING AND MAPPING CONSULTANTS
4423 S.E. 16th PLACE, NO.18
CAPE CORAL, FL. 33904
TELEPHONE (941) 542-7499

DONALD D. STOUTEN, P.S.M.
CERTIFICATE # 3839

A PARCEL OF LAND SITUATED IN TRACT 4, CAPE CORAL UNIT 77 (TARPON POINT) ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING ALSO LOCATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CORNER COMMON TO TRACTS 4, 5 AND 10 OF SAID CAPE CORAL UNIT 77; THENCE RUN S60°08'10"W FOR 426.02 FEET TO THE POINT OF BEGINNING; BEING ALSO A POINT ON A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 32°28'15" (CHORD=N21°06'45"W, 55.92 FEET) FOR 56.67 FEET TO AN INTERSECTION WITH A LINE WHICH BEARS N69°54'52"E; THENCE RUN N69°54'52"E ALONG SAID LINE FOR 40.94 FEET; THENCE RUN S70°07'09"E FOR 18.95 FEET; THENCE RUN S90°00'00"E FOR 126.69 FEET; THENCE RUN S65°00'00"E FOR 65.84 FEET; THENCE RUN S35°00'00"E FOR 53.66 FEET; THENCE RUN S68°21'37"E FOR 21.95 FEET; THENCE RUN N85°00'00"E FOR 104.65 FEET; THENCE RUN S01°42'47"W FOR 76.54 FEET; THENCE RUN S00°07'29"W FOR 17.57 FEET; THENCE RUN N74°22'29"W FOR 390.02 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 31,240 SQUARE FEET (0.72 ACRES), MORE OR LESS.

GENERAL NOTES:

1. BASIS OF BEARINGS: EAST LINE TRACT 8 CAPE CORAL UNIT 77 AS S00°25'13"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF PARCEL IN TRACT 4, CAPE CORAL UNIT 77 (TARPON POINT), ZONE CHANGE TO C-1 ZONE.

FOR: TARPON POINT ASSOCIATES, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-21-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

EXHIBIT "B"
SHEET 3 OF 4

LEGAL DESCRIPTION TO ACCOMPANY
SKETCH, NOT A SURVEY

SHEET 1 OF 2

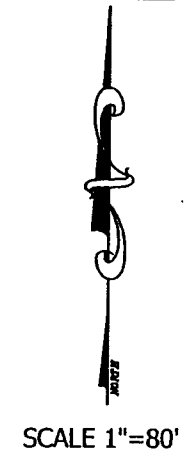
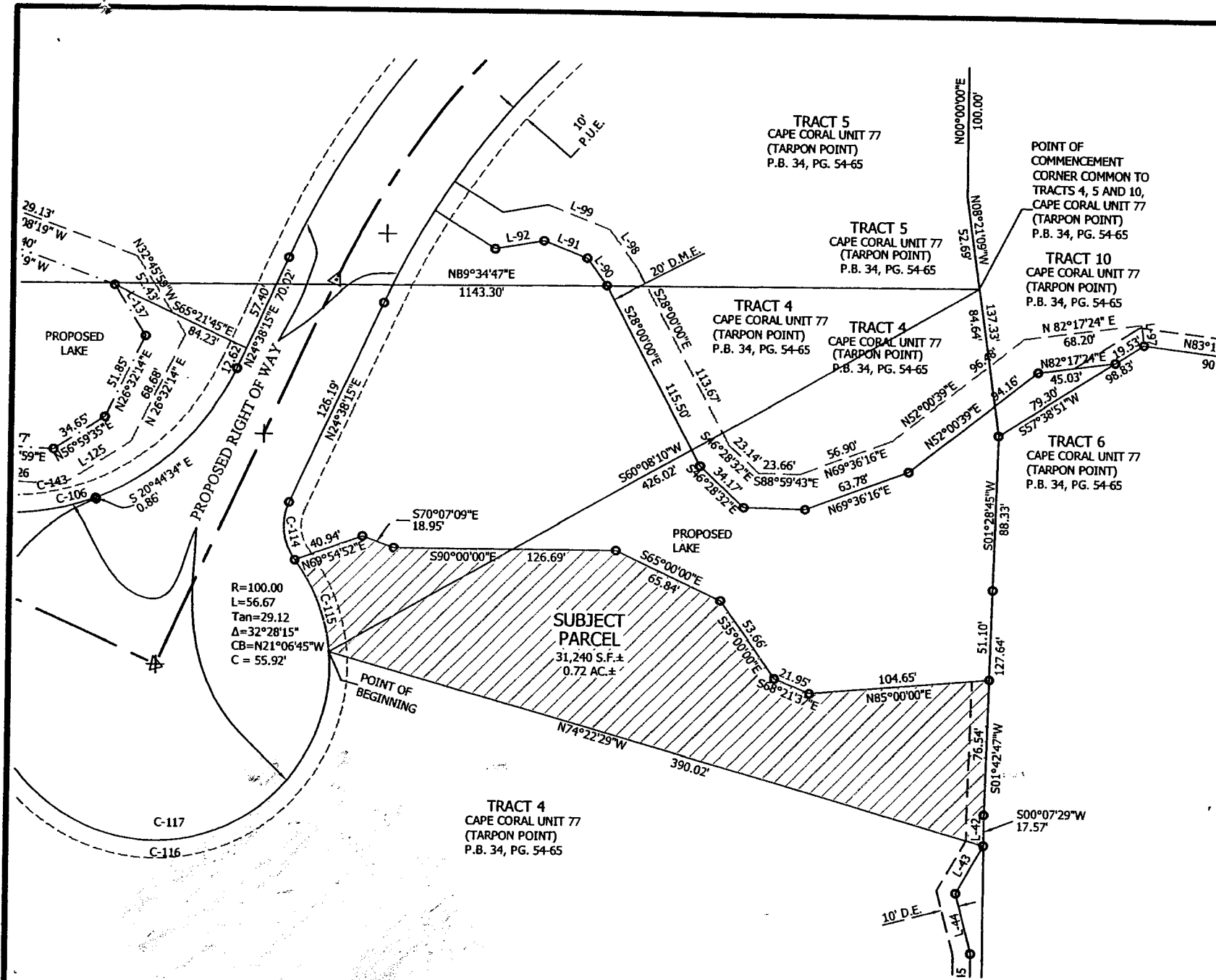
STOUTEN AND ASSOCIATES, INC.
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO.18
CAPE CORAL, FL. 33904
TELEPHONE (941) 542-7499



DONALD D. STOUTEN, P.S.M.
CERTIFICATE # 3839

Donald D. Stouten



SKETCH OF PARCEL IN TRACT 4,
CAPE CORAL UNIT 77 (TARPON POINT),
ZONE CHANGE TO C-1 ZONE.

FOR: TARPON POINT ASSOCIATES, LLC

EXHIBIT "B"
SHEET 4 OF 4

SKETCH TO ACCOMPANY LEGAL
DESCRIPTION , NOT A SURVEY

SHEET 2 OF 2

STOUTEN AND ASSOCIATES, INC.
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO.18
CAPE CORAL, FL. 33904
TELEPHONE (941) 542-7499

DONALD D. STOUTEN, P.S.M.
CERTIFICATE # 3839

A PARCEL OF LAND SITUATED IN TRACT 9, CAPE CORAL UNIT 77 (TARPON POINT) ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING ALSO LOCATED IN SECTION 22 TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CORNER COMMON TO TRACTS 2, 3 AND 8 OF SAID CAPE CORAL UNIT 77; THENCE RUN S47°42'43"W FOR 1264.36 FEET TO THE POINT OF BEGINNING; THENCE RUN S05°42'25"W FOR 387.31 FEET TO A POINT OF INTERSECTION WITH THE MEAN HIGH WATER LINE AS ESTABLISHED BY THE WILSON MILLER SURVEY DATED 6-19-01; THENCE RUN ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING FIVE COURSES: N74°46'25"W FOR 4.92 FEET, N68°18'15"W FOR 94.94 FEET, N77°49'12"W FOR 49.98 FEET, N70°20'58"W FOR 51.75 FEET AND N56°24'51"W FOR 262.78 FEET; THENCE RUN N43°35'51"E, LEAVING SAID MEAN HIGH WATER LINE FOR 200.27 FEET; THENCE RUN N36°19'32"E FOR 90.77 FEET; THENCE RUN N53°40'28"W FOR 5.46 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 60.00 FEET AND A CENTRAL ANGLE OF 49°14'55" (CHORD=N36°19'32"E, 50.00 FEET) FOR 51.57 FEET TO A NON-TANGENT INTERSECTION WITH A LINE WHICH BEARS S53°40'28"E; THENCE RUN S53°40'28"E ALONG SAID LINE FOR 80.19 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 49°04'11" (CHORD=S78°12'33"E, 33.22 FEET) FOR 34.26 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 60.00 FEET AND A CENTRAL ANGLE OF 57°00'33" (CHORD=S74°14'22"E, 57.27 FEET) FOR 59.70 FEET TO A NON-TANGENT INTERSECTION WITH A LINE WHICH BEARS S78°22'52"E; THENCE RUN S78°22'52"E ALONG SAID LINE FOR 80.40 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 123,798 SQUARE FEET (2.84 ACRES), MORE OR LESS.

GENERAL NOTES:

- 1. BASIS OF BEARINGS: EAST LINE TRACT 8 CAPE CORAL UNIT 77 AS S00°25'13"E (PLAT)
- 2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
- 3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF PARCEL IN TRACT 9, CAPE CORAL UNIT 77 (TARPON POINT), ZONE CHANGE TO RD ZONE.

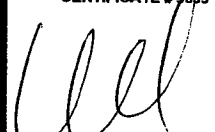
FOR: TARPON POINT ASSOCIATES, LLC

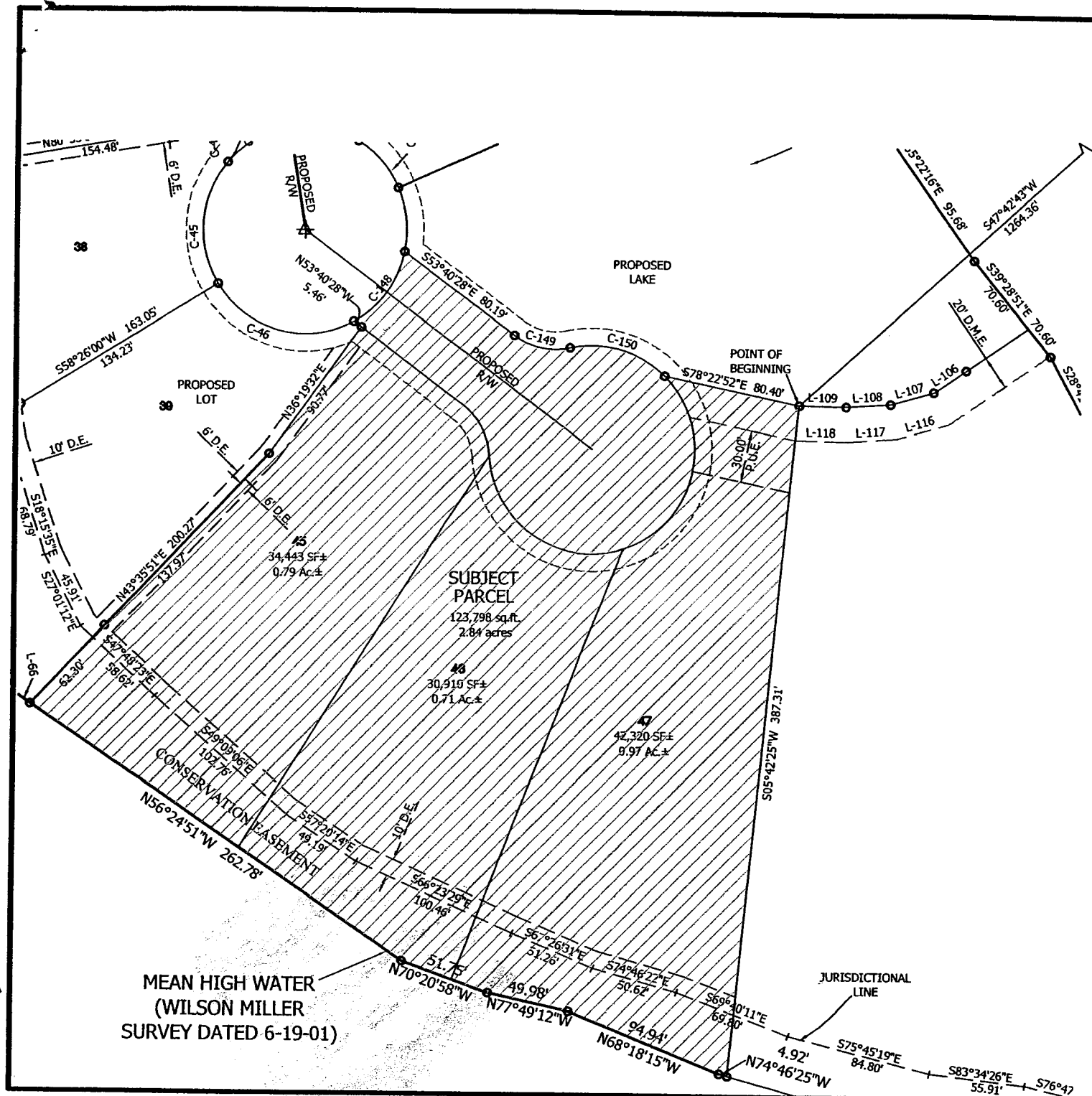
I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-21-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

EXHIBIT "C"
SHEET 1 OF 2

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

SHEET 1 OF 2

STOUTEN AND ASSOCIATES, INC. SURVEYING AND MAPPING CONSULTANTS 4423 S.E. 16th PLACE, NO.18 CAPE CORAL, FL. 33904 TELEPHONE (941) 542-7499		DONALD D. STOUTEN, P.S.M. CERTIFICATE # 7889 
		



TRACT 3
CAPE CORAL UNIT 77
(TARPON POINT)
P.B. 34, PG. 54-65

POINT OF
COMMENCEMENT
CORNER COMMON TO
TRACTS 2, 3 AND 8,
CAPE CORAL UNIT 77
(TARPON POINT)

SCALE 1"=80'

CURVE TABLE						
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C-148	49°14'55"	60.00'	51.57'	27.50'	50.00'	N36°19'32"E
C-149	49°04'11"	40.00'	34.26'	18.26'	33.22'	S78°12'33"E
C-150	57°00'33"	60.00'	59.70'	32.58'	57.27'	S74°14'22"E

SKETCH OF PARCEL IN TRACT 9,
CAPE CORAL UNIT 77 (TARPON POINT),
ZONE CHANGE TO RD ZONE.

FOR: TARPON POINT ASSOCIATES, LLC

SKETCH TO ACCOMPANY LEGAL
DESCRIPTION , NOT A SURVEY

SHEET 2 OF 2

STOUTEN AND ASSOCIATES, INC.

SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO.18
CAPE CORAL, FL. 33904
TELEPHONE (941) 542-7499

DONALD D. STOUTEN, P.S.M.
CERTIFICATE # 3839



THIS INSTRUMENT PREPARED BY:
Steven I. Winer, Esquire
Roetzel & Andress, a Legal Professional Association
2320 First Street, Suite 1000
Fort Myers, Florida 33901-2904

INSTR # 5767161
Official Records BK 03888 PG 0488
RECORDED 04/01/2003 02:20:52 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DEPUTY CLERK J Miller

MORTGAGEE CONSENT AND JOINDER TO PLAT

In accordance with Section 177.081(2), Florida Statutes, the undersigned, the owner and holder of that certain Mortgage and Security Agreement and Assignment of Rents and other security instruments dated June 22, 2001, and recorded on June 27, 2001, in O.R. Book 03439, Page 2835, and that certain Mortgage and Security Agreement and Assignment of Rents dated September 19, 2001 and recorded on September 21, 2001, in O.R. Book 03488, Page 2795, and that certain Mortgage and Security Agreement and Assignment of Rents dated December 20, 2002 and recorded on December 23, 2002, in O.R. Book 3805, Page 756, and that certain Construction Mortgage and Security Agreement and Assignment of Rents dated March 13, 2003, and recorded on March 18, 2003, in O.R. Book 3874, Page 3525, Public Records of Lee County, Florida, hereby consents to and joins in that certain plat referred to as the Tarpon Point Plat as recorded at Plat Book 73, Page 70, Public Records of Lee County, Florida, and the undersigned further consents and joins and ratifies said Plat and all dedications and reservations therein.

IN WITNESS WHEREOF, the undersigned has made and executed this Consent and Joinder this 27 day of March, 2003.

Witnesses:

Print Name:

Print Name:

BFV INTERIM FINANCE, B.V. a
Netherlands corporation

By:

L.H. Pijper J. Visscher
its Chief Executive Officer
Operational

By:

R. H. Geel
its President

jr

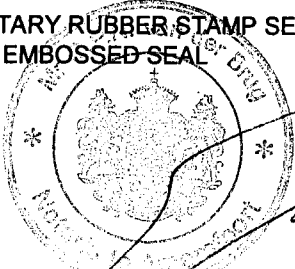
COUNTRY OF THE NETHERLANDS

J. Visser

The foregoing instrument was acknowledged before me this 27 day of March, 2003,
by L. H. Pijper, Chief Executive Officer and R. H. Geel, President of BFV Interim Finance, B.V.,
who ☒ are personally known to me or who ☐ have produced _____
_____ as identification.

operational

NOTARY RUBBER STAMP SEAL
OR EMBOSSED SEAL



Mr. G.P.N. van der Breg
Notary Public

Printed Name

Commission No.

23-02-2001
Expiration Date

jn

COUNCILMEMBER STEVENS PDP 06-00800006
01/04/07
01/08/07
02/26/07

INSTR # 2007000097927, Pages 5
Doc Type GOV, Recorded 03/26/2007 at 02:12 PM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$44.00
Deputy Clerk WMILLER
#1

ORDINANCE 1 - 07

AN ORDINANCE AMENDING ORDINANCE 14-01 AS AMENDED BY ORDINANCE 131-02, A PLANNED DEVELOPMENT PROJECT ENTITLED "TARPON POINT" FOR PARCELS IDENTIFIED AS "MARINA VILLAGE 1" AND "MARINA VILLAGE 2", BEING A PORTION OF PROPERTY DESCRIBED AS CAPE CORAL SUBDIVISION UNIT 77 TRACTS 1, 2, 3, 4, 5, 6, 8, 9, AND 10, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN ROSE GARDEN ROAD AND THE CALOOSAHATCHEE RIVER/GLOVER BIGHT; REPEALING THE MARINA USE IN MARINA VILLAGE 1 AND APPROVING A MARINA USE IN MARINA VILLAGE 2; APPROVING RELOCATION OF THE PREVIOUSLY APPROVED HOTEL FROM MARINA VILLAGE 2 TO MARINA VILLAGE 1; APPROVING AN INCREASE IN THE MAXIMUM RESORT HOTEL UNITS FROM 230 TO 268; APPROVING THE LOCATION OF RESTAURANTS PREVIOUSLY APPROVED FOR MARINA VILLAGE 2 TO BE IN EITHER MARINA VILLAGE 1 OR MARINA VILLAGE 2, AND ELIMINATING THE MAXIMUM OF TWO RESTAURANTS; APPROVING AN INCREASE IN MAXIMUM NUMBER OF RESTAURANT SEATS FROM NOT MORE THAN 200 SEATS EACH TO A TOTAL OF 500 SEATS FOR ALL RESTAURANTS, WITH ONE RESTAURANT HAVING AT LEAST 150 SEATS; APPROVING RETAIL AND OFFICE SPACE IN MARINA VILLAGE 1 AND OFFICE SPACE IN MARINA VILLAGE 2 WITH THE MAXIMUM 45,000 SQUARE FEET OF RETAIL SPACE PREVIOUSLY APPROVED IN MARINA VILLAGE 2 TO BE THE MAXIMUM ALLOWED AS RETAIL OR OFFICE SPACE IN BOTH MARINA VILLAGE 1 AND MARINA VILLAGE 2, WITH AT LEAST FIFTY PERCENT (50%) OF SUCH SPACE LOCATED IN MARINA VILLAGE 1; GRANTING AMENDMENT OF THE DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Tarpon Point" Planned Development Project was approved by the City Council of the City of Cape Coral by Ordinance 14-01, and amended by Ordinance 131-02; and

WHEREAS, an application from Tarpon Point Associates, LLC has been received requesting the amendment of a portion of the "Tarpon Point" Planned Development Project (PDP) Development Plan for parcels identified as "Marina Village 1" and "Marina Village 2"; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, AMENDED DEVELOPMENT PLAN APPROVAL

Having reviewed the application requesting approval of an amended Planned Development Project for "Tarpon Point," amending Ordinance 14-01, as amended by Ordinance 131-02, requesting the following be approved for the tracts identified as "Marina Village 1" and "Marina Village 2": repeal of the marina use in Marina Village 1 and approval of the marina use in Marina Village 2; approval of relocation of the previously approved hotel from Marina Village 2 to Marina Village 1; approval of an increase in the maximum resort hotel units from 230 to 268; approval of the location of

restaurants previously approved for Marina Village 2 to be in either Marina Village 1 or Marina Village 2, and elimination of a maximum of two restaurants; approval of an increase in maximum number of restaurant seats from not more than 200 seats each to a total of 500 seats for all restaurants, with one restaurant having at least 150 seats; approval of retail and office space in Marina Village 1 and office space in Marina Village 2 with the maximum 45,000 square feet of retail space previously approved in Marina Village 2 to be the maximum allowed as retail or office space in both Marina Village 1 and Marina Village 2, with at least fifty percent (50%) of such space located in Marina Village 1; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP amendment, including amended development plan approval in accordance with PDP Amendment Plan, Sheet 1 of 1, dated 10/25/06, prepared by Avalon Engineering, Inc., for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations, from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

A. The Tarpon Point development is a Mixed Use Planned Development Project (PDP). This development consists of mixed use subdivisions with five (5) multi-family Village tracts (Villages "A", "B", "D", "E", and "F"), forty-seven (47) single-family residential building sites, private road and common area tracts (Village "C"), two (2) commercial tracts (Marina Villages 1 and 2), and two (2) conservation area tracts (Wetland Areas 1 and 2) and common area tracts for ingress and egress, drainage, buffers and miscellaneous uses. The entire subject property consists of a total area of approximately 148.07 acres of land located between Rose Garden Road and the Caloosahatchee River/Glover Bight. The development will occur in one phase. The physical development authorized under this Development Order shall terminate simultaneously with the expiration of Ordinance 131-02, being January 6, 2013, unless an extension is approved by the Council.

B. The name of the legal and equitable owner is Tarpon Point Associates, LLC.

C. The legal description of the entire project site of the Tarpon Point PDP is as follows:

A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, TARPON POINT ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

TRACTS 1, 2, 3, 4, 5, 6, 8, 9 AND 10, CAPE CORAL UNIT 77, TARPON POINT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 9 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTHWEST CORNER OF LOT 8, BLOCK 3443 OF CAPE CORAL UNIT 67 ACCORDING TO PLAT BOOK 25, PAGES 57 THROUGH 65, AND A POINT ON THE EAST RIGHT OF WAY LINE OF CASABA CANAL (200 FOOT RIGHT OF WAY); THENCE RUN N89°34'47"E ALONG THE NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID CAPE CORAL UNIT 67, FOR 530.00 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 3443 AND THE SOUTHWEST CORNER OF ROSE GARDEN ROAD RIGHT OF WAY; THENCE CONTINUE RUNNING N89°34'47"E ALONG SAID NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID ROSE GARDEN ROAD RIGHT OF WAY, FOR 180.00 FEET; THENCE RUN ALONG THE LINE COMMON TO SAID CAPE CORAL UNIT 77 AND SAID ROSE GARDEN ROAD RIGHT OF WAY FOR THE FOLLOWING FOUR COURSES: N00°25'13"W FOR 83.59 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 480.00 FEET AND A CENTRAL ANGLE OF 126°43'55" (CHORD=N62°56'44"E, 858.13 FEET) FOR 1061.71 FEET TO THE POINT OF TANGENCY, THEN RUN S53°41'18"E FOR 1195.41 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 90°53'32" (CHORD=N80°51'56"E, 783.85 FEET) FOR 872.50

FEET TO THE NORTHEASTERLY CORNER OF SAID TRACT 6 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE NORTHWESTERLY CORNER OF TRACT 7 (CITY PARK) OF SAID CAPE CORAL UNIT 77; THENCE RUN S01°03'10"W ALONG THE LINE COMMON TO SAID TRACT 6 AND SAID TRACT 7 FOR 1189.01 FEET TO AN INTERSECTION WITH THE MEAN HIGH WATER LINE AS DETERMINED BY THE WILSON MILLER SURVEY DATED 6-19-01; THENCE RUN ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING FIVE COURSES: S87°40'41"W FOR 370.36 FEET, S77°19'11"W FOR 205.00 FEET, S18°26'06"W FOR 94.87 FEET, S87°36'51"W FOR 360.31 FEET, S74°41'03"W, FOR 438.56 FEET TO A POINT ON THE EAST END OF AN EXISTING SEAWALL, THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TEN COURSES: N85°20'05"W FOR 284.33 FEET, S79°08'24"W FOR 38.56 FEET, S79°06'04"W FOR 61.30 FEET, S86°28'20"W FOR 20.52 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.01 FEET AND A CENTRAL ANGLE OF 117°16'46" (CHORD=N34°21'45"W, 42.71 FEET) FOR 51.19 FEET TO A POINT, THEN RUN N23°15'22"E FOR 90.41 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 32.97 FEET AND A CENTRAL ANGLE OF 78°29'55" (CHORD=N15°19'43"W, 41.72 FEET) FOR 45.17 FEET TO A POINT, THEN RUN N55°35'07"W FOR 171.52 FEET, N72°52'33"W FOR 155.24 FEET, N73°31'20"W FOR 136.02 FEET TO THE NORTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVENTEEN COURSES: N05°38'56"E FOR 4.20 FEET, N38°42'47"E FOR 65.79 FEET, N16°46'03"E FOR 48.12 FEET, N10°33'10"E FOR 50.57 FEET, N64°17'30"E FOR 34.71 FEET, N14°57'55"E FOR 42.08 FEET, N30°15'57"W FOR 49.50 FEET, N22°23'00"W FOR 24.21 FEET, S76°05'50"W FOR 41.77 FEET, S16°50'57"W FOR 91.57 FEET, S09°58'51"W FOR 81.54 FEET, N81°15'17"W FOR 80.80 FEET, S38°50'01"W FOR 42.56 FEET, S05°48'39"W FOR 72.55 FEET, S12°41'35"E FOR 77.99 FEET, S21°16'03"W FOR 16.87 FEET, S44°37'14"E FOR 15.08 FEET TO A POINT ON THE NORTHEASTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL S44°37'19"W FOR 221.79 FEET TO THE SOUTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TEN COURSES: N76°48'25"W FOR 37.16 FEET, N83°05'48"W FOR 25.59 FEET, N87°57'41"W FOR 73.23 FEET, S85°48'27"W FOR 44.89 FEET, S66°53'43"W FOR 79.59 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 47.49 FEET AND A CENTRAL ANGLE OF 176°40'27" (CHORD=S20°02'11"E, 94.94 FEET) FOR 146.44 FEET TO A POINT, THEN RUN N72°50'13"E FOR 44.74 FEET, N65°28'26"E FOR 47.24 FEET, N68°33'18"E FOR 53.41 FEET, S63°53'24"E FOR 21.11 FEET TO A POINT ON THE NORTHERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TWENTY SIX COURSES: S05°11'45"W FOR 145.69 FEET, S07°29'52"E FOR 75.37 FEET, S11°03'12"E FOR 65.78 FEET, S26°12'49"E FOR 99.86 FEET, S62°27'36"E FOR 79.11 FEET, N85°09'30"E FOR 81.04 FEET, N50°42'38"E FOR 34.82 FEET, N03°20'45"E FOR 90.29 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 38.95 FEET AND A CENTRAL ANGLE OF 75°10'51" (CHORD=N47°09'57"E, 47.52 FEET) FOR 51.11 FEET TO A POINT, THEN RUN N78°38'48"E FOR 85.24 FEET, N68°36'03"E FOR 80.41 FEET, N33°48'49"E FOR 100.02 FEET, N30°26'59"E FOR 60.40 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 24.92 FEET AND A CENTRAL ANGLE OF 145°12'18" (CHORD=S78°19'08"E, 47.56 FEET) FOR 63.15 FEET TO A POINT, THEN RUN S04°16'53"E FOR 126.71 FEET, S10°23'38"E FOR 151.26 FEET, S22°00'35"E FOR 161.44 FEET, S19°52'52"E FOR 71.54 FEET, S40°07'45"W FOR 32.06 FEET, N86°35'08"W FOR 185.19 FEET, N79°40'25"W FOR 150.42 FEET, N84°00'47"W FOR 150.59 FEET, N89°19'44"W FOR 122.39 FEET, S87°33'15"W FOR 155.37 FEET, S78°23'57"W FOR 150.95 FEET, S72°24'29"W FOR 148.99 FEET TO A POINT ON THE WEST END OF SAID EXISTING SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TWENTY-THREE COURSES: S82°04'05"W FOR 110.46 FEET, S71°22'24"W FOR 107.75 FEET, S82°10'15"W FOR 215.40 FEET, N74°46'25"W FOR 209.20 FEET, N68°18'15"W FOR 94.94 FEET, N77°49'12"W FOR

49.98 FEET, N70°20'58"W FOR 51.75 FEET, N56°24'51"W FOR 270.63 FEET, N16°07'50"W FOR 107.60 FEET, N27°36'52"E FOR 20.72 FEET, N08°55'38"W FOR 243.31 FEET, N03°45'00"E FOR 83.16 FEET, N06°33'53"W FOR 45.47 FEET, N03°34'46"E FOR 60.52 FEET, N03°18'41"W FOR 54.07 FEET, N04°26'13"E FOR 39.08 FEET, N01°36'06"W FOR 62.38 FEET, N13°25'39"W FOR 56.44 FEET, N05°27'35"E FOR 57.95 FEET, N04°06'41"W FOR 98.05 FEET, N10°09'27"E FOR 90.11 FEET, N32°03'20"W FOR 21.07 FEET, N16°16'13"E FOR 23.79 FEET TO THE WESTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL THE FOLLOWING FIVE COURSES: N52°23'11"E FOR 31.12 FEET, N87°47'12"E FOR 70.02 FEET, S89°52'33"E FOR 633.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 90°32'40" (CHORD=N44°51'07"E, 142.09 FEET) FOR 158.03 FEET TO THE POINT OF TANGENCY, THEN RUN N00°25'13"W FOR 832.53 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 6,450,035 SQUARE FEET (148.07 ACRES), MORE OR LESS.

- D. The Tarpon Point PDP has approximately 69.03 acres zoned Multi-Family Residential (R-3), 29.21 acres zoned Residential Development (RD), and 10.58 acres zoned Pedestrian Commercial (C-1), pursuant to the authority of Chapter 166, Florida Statutes, and the Land use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 108.82 acres with a Future Land Use designation of Mixed Use and approximately 39.24 acres with a Future Land use designation of Natural Resources/Preservation.
- E. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Multi-Family Residential (R-3), Residential Development (RD), and Pedestrian Commercial (C-1) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- F. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- I. The term "Developer", for purposes of this development order, shall mean and refer to Tarpon Point Associates, LLC, its successors in interest, lessees, and/or assigns.
- J. All provisions and conditions relevant to the parcels contained in the "Tarpon Point" PDP as approved by Ordinance 14-01 and amended by Ordinance 131-02 shall remain in full force and effect, except as otherwise stated in this Development Order.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

GENERAL CONSIDERATIONS

In Marina Village 1, the hotel approved herein may contain accessory uses generally located within hotels including but not limited to one or more snack bars, coffee shops, and/or restaurants. The establishment of such accessory uses shall be in addition to and shall not affect the approval of any restaurants located in either Marina Village 1 or Marina Village 2. Any number of restaurants is allowed in Marina Village 1 or Marina Village 2 so long as the maximum number of seats within all restaurants, excluding the accessory uses located within hotels including but not

limited to one or more snack bars, coffee shops, and/or restaurants, do not exceed 500 seats combined, with one restaurant having at least one hundred fifty (150) seats.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the Tarpon Point PDP.
- B. The physical development authorized under this Development Order shall terminate simultaneously with the expiration of Ordinance 131-02, being January 6, 2013, unless an extension is approved by the Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- C. The Director of the Cape Coral Department of Community Development or his/her designee shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives access to the project site for the purpose of assuring compliance with this Development Order.
- D. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter revise the original, recorded Development Order to the City.

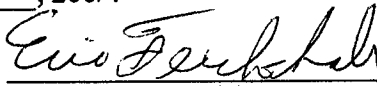
SECTION V. SEVERABILITY

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance, which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of Lee County, Florida. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 12th DAY OF March, 2007.

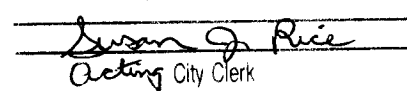

ERIC P. FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 21st DAY OF March, 2007.


BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
pdp068-6

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance 1-07

Acting City Clerk

11/15/11

11/21/11

11/28/11

INSTR # 2011000272385, Pages 10
Doc Type GOV, Recorded 12/20/2011 at 10:15 AM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$86.50
Deputy Clerk JMILLER
#1

ORDINANCE 77 - 11

AN ORDINANCE AMENDING ORDINANCE 14-01, AS AMENDED, WHICH APPROVED A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "TARPON POINT" FOR CERTAIN PROPERTY DESCRIBED AS A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, TARPON POINT ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT SILVERKING BOULEVARD, BLACK MARLIN LANE, AND TARPON ESTATES BOULEVARD; BY APPROVING EXPANSION OF THE PROJECT ONTO SUBMERGED LANDS AS MORE PARTICULARLY DESCRIBED HEREIN; GRANTING SPECIAL EXCEPTIONS FOR "LANDSCAPING SERVICES ESTABLISHMENT", "BUSINESS OFFICE - GROUP III", "RECREATION, COMMERCIAL - GROUP III", AND "RENTAL ESTABLISHMENTS - GROUP III" IN A PEDESTRIAN COMMERCIAL (C-1) ZONE; GRANTING A DEVIATION TO ALLOW 1.5 PARKING SPACES PER UNIT FOR CERTAIN UNITS; GRANTING THE USE OF DWELLING UNIT, MULTI-FAMILY IN THE HOTEL BY ALLOWING THE BUILDING TO BE A COMPOUND USE BUILDING; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Tarpon Point" Planned Development Project was approved by the City Council of the City of Cape Coral by Ordinance 14-01, as amended by Ordinance 131-02, and Ordinance 1-07; and

WHEREAS, an application has been received from Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C., requesting amendment of a portion of A Planned Development Project (PDP) for "Tarpon Point", requesting a deviation, special exception, and development plan approval; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP DEVELOPMENT PLAN APPROVAL, DEVIATION, SPECIAL EXCEPTIONS.

Having reviewed the application requesting approval of a Planned Development Project amendment for "Tarpon Point", requesting expansion of the project to include submerged lands as described in Exhibit "B"; requesting a Special Exception to allow a Landscaping Services Establishment use in a Pedestrian Commercial (C-1) zone; requesting a Special Exception to allow a Business Office - Group III use in a Pedestrian Commercial (C-1) zone; requesting a Special Exception to allow a Recreation, Commercial - Group III use in a Pedestrian Commercial (C-1) zone; requesting a Special

Exception to allow a Rental Establishments - Group III use for the Marina Village 1 and Marina Village 2 tracts in a Pedestrian Commercial (C-1) zone; requesting a deviation of .5 parking space per unit from the parking requirement for multiple family dwellings of 2.00 spaces per two bedroom unit and a deviation of 1.0 parking space per unit from the parking requirement of 2.50 spaces per three bedroom unit pursuant to Section 5.1.7.G. of the Land Use and Development Regulations in order to allow multiple family dwellings in the compound use building in Marina Village 1 of two bedroom or more units to provide 1.5 parking spaces per unit; requesting the conversion of the hotel in Marina Village 1 to a compound use building in order to allow "Dwelling Unit, Multi-Family" uses within a portion of the building; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, including deviation and special exceptions, and approve development plan, in accordance with plan set, Sheets 1 through 7, dated June 22, 2011, and also bearing a revision date of July 26, 2011 and October 26, 2011, prepared by Avalon Engineering, Inc. for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Tarpon Point development is a Mixed Use Planned Development Project (PDP). This development consists of mixed use subdivisions with five (5) multi-family Village tracts (Villages "A", "B", "D", "E", and "F"), forty-seven (47) single-family residential building sites, private road and common area tracts (Village "C"), two (2) commercial tracts (Marina Villages 1 and 2), and two (2) conservation area tracts (Wetland Areas 1 and 2) and common area tracts for ingress and egress, drainage, buffers and miscellaneous uses. The "Tarpon Point" PDP approved 929 multi-family units, 47 single-family units, 45,000 sq. ft. of retail/office space, 500 restaurant seats and 268 hotel rooms. The conversion of the hotel in Marina Village 1 to a compound use building will allow both hotel/motel and dwelling unit, multi-family uses in the building under the conditions specified herein.

The "Tarpon Point" development currently contains tracts of land that total $148.07\pm$ acres. The development is being expanded onto an additional $13.5\pm$ acre parcel of submerged lands for a total project area of $161.57\pm$ acres. The expansion area is a marina parcel originally approved as a Development of Regional Impact (DRI), which has since been rescinded pursuant to City of Cape Coral Ordinance 57-11.

Development subject to this amendment will occur with a buildout date of 2021.

- B. The name of the legal and equitable owner is Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C.

Tarpon Land, LP is the current Lessee of a lease titled Sovereignty Submerged Lands Lease Modification to Reflect Change in Ownership with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida as Lessor with an effective date of the modified lease of April 18, 2011. Upon the consent of the State of Florida and assignment of the lease to Freeman & Hasselwander Resort Properties, L.L.C., Tarpon Land, LP will have no further ownership or lessee interest in the property subject to this PDP amendment.

- C. The legal description of the property subject to extant PDP Development Order is as described in attached Exhibit "A".
- D. The legal description of the portion of the property for which the Planned Development Project is being amended is as described in attached Exhibit "B".
- E. The legal description of the submerged lands upon which the Planned Development Project is being expanded is as described in attached Exhibit "C".
- F. The "Tarpon Point" PDP subject parcel has 10.58 acres zoned Pedestrian Commercial (C-1), $69.03\pm$ acres zoned Multi-Family Residential (R-3), $29.21\pm$ acres zoned Residential Development (RD) and $39.24\pm$ zoned Preservation (PRES) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately $108.82\pm$ acres with a Future Land Use designation of Mixed-Use (MX) and $39.24\pm$ acres with a Future Land Use designation of Natural Resources/Preservation.

- G. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Pedestrian Commercial (C-1), Multi-Family Residential (R-3), and the Residential Development (RD) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- H. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- I. The "Tarpon Point" PDP, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C., its successors in interest, lessees, and/or assigns.
- K. All provisions and conditions contained in Ordinance 14-01 as amended by Ordinance 131-02 and Ordinance 1-07 shall remain in full force and effect, except as otherwise stated in this Development Order.
- L. The physical development authorized in Ordinance 131-02 and 1-07 has a termination date of January 6, 2013. The termination date is hereby extended to the same expiration date of this amendment, being ten years from the date of adoption of this ordinance.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for development approval submitted by Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. WASTEWATER MANAGEMENT

This amendment to the Development Order in no way makes a part hereof, revises, extends, amends or otherwise alters the Utilities Agreement and Amendments thereto between the City of Cape Coral and the successor in interest, currently being Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C.

B. WATER SERVICE

This amendment to the Development Order in no way makes a part hereof, revises, extends, amends or otherwise alters the Utilities Agreement and Amendments thereto between the City of Cape Coral and the successor in interest, currently being Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C.

C. IRRIGATION SERVICE

This amendment to the Development Order in no way makes a part hereof, revises, extends, amends or otherwise alters the Utilities Agreement and Amendments thereto between the City of Cape Coral and the successor in interest, currently being Tarpon Land, LP and Freeman & Hasselwander Resort Properties, L.L.C.

D. TRANSPORTATION

The Developer shall maintain Pelican Boulevard in good condition until such time that the overlay and necessary surface and structural repairs described herein have been completed. The Developer shall overlay Pelican Boulevard from El Dorado Parkway West to Cape Coral Parkway West, including all side street radii, with Type S-III asphalt not less than one-

inch in thickness and re-stripe (with paint and beads) said area as a four-lane roadway. It is understood that surface and structural repairs according to City specifications will be performed as needed in order to preserve the integrity of the roadway surface. The overlay and structural repairs shall be completed at the same time by December 31, 2014, but should not be completed prior to January 1, 2014, unless requested by the City Transportation Staff based on safety concerns.

E. GENERAL CONSIDERATIONS

1. The special exceptions for the Landscaping Services Establishment, Business Office - Group III, Recreation, Commercial - Group III, and Rental Establishments - Group III shall be located only in the Marina Village 1 and Marina Village 2 tracts of the subdivision.
2. In the conversion of the hotel in Marina Village 1 to a compound use building, Developer shall convert no less than an entire wing on any floor of the building to residential dwelling units. Both hotel units and residential dwelling units shall not be located in the same wing on a floor, but each wing on a floor must be completely hotel use or completely residential dwelling units.
3. The total number of dwelling units previously approved shall remain at a maximum of 976, with a maximum of 929 multi-family units. In no event shall all the units in the compound use building be converted to multi-family dwelling units. The number of multi-family units credited to the compound use building in the Marina Village 1 tract may be reallocated only from the 132 multi-family units allowed in Village A, the 326 multi-family units allowed in Village E, and the 140 multi-family units allowed in Village F, and such reallocation shall not be considered a substantial deviation from the terms of this development order.
4. The number of existing boat docks or slips together with any new slips proposed to be added that are located in the marina area of the submerged lands upon which the Planned Development Project is being expanded shall be regulated by the Lee County Manatee Protection Plan, the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida Sovereignty Submerged Lands Lease Modification to Increase Square Footage and Re-configure Structures, or other applicable regulatory agency.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Tarpon Point" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

- F. The approval granted by this Development Order is limited. Such approval shall 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. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
1. Any change which requires a variance to code and above those specifically incorporated herein.
 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 3. An expiration of the period of effectiveness of this Development Order as herein provided.
 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors, in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

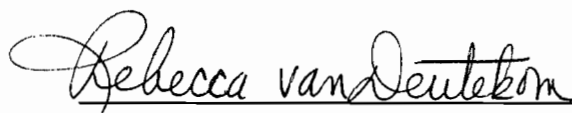
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 12th DAY OF December, 2011.


JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>aye</u>
McCLAIN	<u>aye</u>
CARIOSCIA	<u>aye</u>
NESTA	<u>aye</u>
CHULAKES-LEETZ	<u>aye</u>
ERBRICK	<u>aye</u>
McGRAIL	<u>aye</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 15th DAY OF December, 2011.


REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
ord/pdp11-5

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida and the keeper of the records and corporate seal of said municipality; that this is a true and correct copy of Ordinance 17-11

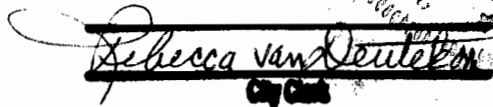

REBECCA VAN DEUTEKOM
CITY CLERK

EXHIBIT "A"

A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, TARPON POINT ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

TRACTS 1, 2, 3, 4, 5, 6, 8, 9 AND 10, CAPE CORAL UNIT 77, TARPON POINT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 9 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTHWEST CORNER OF LOT 8, BLOCK 3443 OF CAPE CORAL UNIT 67 ACCORDING TO PLAT BOOK 25, PAGES 57 THROUGH 65, AND A POINT ON THE EAST RIGHT OF WAY LINE OF CASABA CANAL (200 FOOT RIGHT OF WAY); THENCE RUN N89°34'47"E ALONG THE NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID CAPE CORAL UNIT 67, FOR 530.00 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 3443 AND THE SOUTHWEST CORNER OF ROSE GARDEN ROAD RIGHT OF WAY; THENCE CONTINUE RUNNING N89°34'47"E ALONG SAID NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID ROSE GARDEN ROAD RIGHT OF WAY, FOR 180.00 FEET; THENCE RUN ALONG THE LINE COMMON TO SAID CAPE CORAL UNIT 77 AND SAID ROSE GARDEN ROAD RIGHT OF WAY FOR THE FOLLOWING FOUR COURSES: N00°25'13"W FOR 83.59 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 480.00 FEET AND A CENTRAL ANGLE OF 126°43'55" (CHORD=N62°56'44"E, 858.13 FEET) FOR 1061.71 FEET TO THE POINT OF TANGENCY, THEN RUN S53°41'18"E FOR 1195.41 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 90°53'32" (CHORD=N80°51'56"E, 783.85 FEET) FOR 872.50 FEET TO THE NORTHEASTERLY CORNER OF SAID TRACT 6 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE NORTHWESTERLY CORNER OF TRACT 7 (CITY PARK) OF SAID CAPE CORAL UNIT 77; THENCE RUN S01°03'10"W ALONG THE LINE COMMON TO SAID TRACT 6 AND SAID TRACT 7 FOR 1189.01 FEET TO AN INTERSECTION WITH THE MEAN HIGH WATER LINE AS DETERMINED BY THE WILSON MILLER SURVEY DATED 6-19-01; THENCE RUN ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING FIVE COURSES: S87°40'41"W FOR 370.36 FEET, S77°19'11"W FOR 205.00 FEET, S18°26'06"W FOR 94.87 FEET, S87°36'51"W FOR 360.31 FEET, S74°41'03"W, FOR 438.56 FEET TO A POINT ON THE EAST END OF AN EXISTING SEAWALL, THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TEN COURSES: N85°20'05"W FOR 284.33 FEET, S79°08'24"W FOR 38.56 FEET, S79°06'04"W FOR 61.30 FEET, S86°28'20"W FOR 20.52 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.01 FEET AND A CENTRAL ANGLE OF 117°16'46" (CHORD=N34°21'45"W, 42.71 FEET) FOR 51.19 FEET TO A POINT, THEN RUN N23°15'22"E FOR 90.41 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 32.97 FEET AND A CENTRAL ANGLE OF 78°29'55" (CHORD=N15°19'43"W, 41.72 FEET) FOR 45.17 FEET TO A POINT, THEN RUN N55°35'07"W FOR 171.52 FEET, N72°52'33"W FOR 155.24 FEET, N73°31'20"W FOR 136.02 FEET TO THE NORTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVENTEEN COURSES: N05°38'56"E FOR 4.20 FEET, N38°42'47"E FOR 65.79 FEET, N16°46'03"E FOR 48.12 FEET, N10°33'10"E FOR 50.57 FEET, N64°17'30"E FOR 34.71 FEET, N14°57'55"E FOR 42.08 FEET, N30°15'57"W FOR 49.50 FEET, N22°23'00"W FOR 24.21 FEET, S76°05'50"W FOR 41.77 FEET, S16°50'57"W FOR 91.57 FEET, S09°58'51"W FOR 81.54 FEET, N81°15'17"W FOR 80.80 FEET, S38°50'01"W FOR 42.56 FEET, S05°48'39"W FOR 72.55 FEET, S12°41'35"E FOR 77.99 FEET, S21°16'03"W FOR 16.87 FEET, S44°37'14"E FOR 15.08 FEET TO A POINT ON THE NORTHEASTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL S44°37'19"W FOR 221.79 FEET TO THE SOUTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TEN COURSES: N76°48'25"W FOR 37.16 FEET, N83°05'48"W FOR 25.59 FEET, N87°57'41"W FOR 73.23 FEET, S85°48'27"W FOR 44.89 FEET, S66°53'43"W FOR 79.59 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 47.49 FEET AND A CENTRAL ANGLE OF 176°40'27" (CHORD=S20°02'11"E, 94.94 FEET) FOR 146.44 FEET TO A POINT, THEN RUN N72°50'13"E FOR 44.74 FEET, N65°28'26"E FOR 47.24 FEET, N68°33'18"E FOR 53.41 FEET, S63°53'24"E FOR 21.11 FEET TO A POINT ON THE NORTHERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID EXISTING

SEAWALL THE FOLLOWING TWENTY SIX COURSES: S05°11'45"W FOR 145.69 FEET, S07°29'52"E FOR 75.37 FEET, S11°03'12"E FOR 65.78 FEET, S26°12'49"E FOR 99.86 FEET, S62°27'36"E FOR 79.11 FEET, N85°09'30"E FOR 81.04 FEET, N50°42'38"E FOR 34.82 FEET, N03°20'45"E FOR 90.29 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 38.95 FEET AND A CENTRAL ANGLE OF 75°10'51" (CHORD=N47°09'57"E, 47.52 FEET) FOR 51.11 FEET TO A POINT, THEN RUN N78°38'48"E FOR 85.24 FEET, N68°36'03"E FOR 80.41 FEET, N33°48'49"E FOR 100.02 FEET, N30°26'59"E FOR 60.40 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 24.92 FEET AND A CENTRAL ANGLE OF 145°12'18" (CHORD=S78°19'08"E, 47.56 FEET) FOR 63.15 FEET TO A POINT, THEN RUN S04°16'53"E FOR 126.71 FEET, S10°23'38"E FOR 151.26 FEET, S22°00'35"E FOR 161.44 FEET, S19°52'52"E FOR 71.54 FEET, S40°07'45"W FOR 32.06 FEET, N86°35'08"W FOR 185.19 FEET, N79°40'25"W FOR 150.42 FEET, N84°00'47"W FOR 150.59 FEET, N89°19'44"W FOR 122.39 FEET, S87°33'15"W FOR 155.37 FEET, S78°23'57"W FOR 150.95 FEET, S72°24'29"W FOR 148.99 FEET TO A POINT ON THE WEST END OF SAID EXISTING SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TWENTY-THREE COURSES: S82°04'05"W FOR 110.46 FEET, S71°22'24"W FOR 107.75 FEET, S82°10'15"W FOR 215.40 FEET, N74°46'25"W FOR 209.20 FEET, N68°18'15"W FOR 94.94 FEET, N77°49'12"W FOR 49.98 FEET, N70°20'58"W FOR 51.75 FEET, N56°24'51"W FOR 270.63 FEET, N16°07'50"W FOR 107.60 FEET, N27°36'52"E FOR 20.72 FEET, N08°55'38"W FOR 243.31 FEET, N03°45'00"E FOR 83.16 FEET, N06°33'53"W FOR 45.47 FEET, N03°34'46"E FOR 60.52 FEET, N03°18'41"W FOR 54.07 FEET, N04°26'13"E FOR 39.08 FEET, N01°36'06"W FOR 62.38 FEET, N13°25'39"W FOR 56.44 FEET, N05°27'35"E FOR 57.95 FEET, N04°06'41"W FOR 98.05 FEET, N10°09'27"E FOR 90.11 FEET, N32°03'20"W FOR 21.07 FEET, N16°16'13"E FOR 23.79 FEET TO THE WESTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL THE FOLLOWING FIVE COURSES: N52°23'11"E FOR 31.12 FEET, N87°47'12"E FOR 70.02 FEET, S89°52'33"E FOR 633.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 90°32'40" (CHORD=N44°51'07"E, 142.09 FEET) FOR 158.03 FEET TO THE POINT OF TANGENCY, THEN RUN N00°25'13"W FOR 832.53 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 6,450,035 SQUARE FEET (148.07 ACRES), MORE OR LESS.

EXHIBIT "B"

ALL OF TRACTS A, E, AND F; TRACTS MV-1 AND MV-2, BLOCK 7025, TARPON POINT, A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, FLORIDA, AS PER THE PLAT RECORDED IN PLAT BOOK 73, PAGES 70 THROUGH 79, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

EXHIBIT "C"

O.R. BOOK 3659, PAGE 1147

A PARCEL OF SUBMERGED LAND LOCATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS RECORDED IN O.R. BOOK 3659, PAGE 1147 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE PLATTED P.R.M. AT LOT 1, BLOCK 3483A, CAPE CORAL UNIT 67, ACCORDING TO PLAT BOOK 25, PAGE 59 OF THE PUBLIC RECORD OF LEE COUNTY, FLORIDA RUN S20°21'23"E, 1977.69 FEET TO A DRILL HOLE IN AN EXISTING SEAWALL AND THE POINT OF BEGINNING, SAID POINT OF BEGINNING ALSO BEING A POINT OF CUSP AT THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY AND WESTERLY ALONG SAID SEAWALL AND ALONG THE ARC OF SAID CURVE 61.3 FEET THROUGH A CENTRAL ANGLE OF 145°16'08", (CHORD BEARING N78°19'08"W, CHORD 47.56 FEET) TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID SEAWALL THE FOLLOWING THIRTEEN COURSES: S30°26'59"W, 60.40 FEET; S33°48'49"W, 100.02 FEET; S68°36'03"W, 80.41 FEET; S78°38'48"W, 85.24 FEET; TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE ALONG THE ARC OF SAID CURVE 51.0 FEET THROUGH A CENTRAL ANGLE OF 75°18'03", (CHORD BEARING S47°09'57"W, CHORD 47.52 FEET) TO A POINT OF TANGENCY; THENCE S03°20'45"W, 90.29 FEET; S50°42'38"W, 34.82 FEET; S85°09'30"W, 81.04 FEET; N62°27'36"W, 79.11 FEET; N26°12'49"W, 99.86 FEET; N11°03'12"W, 65.78 FEET; N07°29'52"W, 75.37 FEET; N05°11'45"E, 145.69 FEET TO THE END OF SAID PORTION OF SEAWALL; THENCE N44°43'53"E, 93.47 FEET TO THE BEGINNING OF AN EXISTING SEAWALL; THENCE N44°37'19"E, 221.79 FEET TO ITS TERMINUS; THENCE N44°50'19"E, 143.00 FEET TO THE BEGINNING OF AN EXISTING SEAWALL; THENCE ALONG SAID SEAWALL THE FOLLOWING SIX COURSES: S73°31'20"E, 136.02 FEET; S72°52'33"E, 155.24 FEET; S55°35'07"E, 171.52 FEET TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE WEST; THENCE ALONG THE ARC OF SAID CURVE 46.0 FEET THROUGH A CENTRAL ANGLE OF 78°50'29", (CHORD BEARING S15°19'43"E, CHORD 41.72 FEET) TO A POINT OF TANGENCY; THENCE S23°15'22"W, 90.41 FEET TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE ALONG THE ARC OF SAID CURVE 51.5 FEET THROUGH A CENTRAL ANGLE OF 117°10'00", (CHORD BEARING S34°26'19"E, CHORD 42.67 FEET); THENCE LEAVING SAID SEAWALL ALONG THE FOLLOWING SIX COURSES: S67°44'52"W, 141.71 FEET; S04°16'53"E, 137.56 FEET; S10°23'38"E, 146.12 FEET; S22°00'35"E, 157.28 FEET; S19°52'52"E, 72.47 FEET; THENCE S70°07'08"W, 50.00 FEET TO AN EXISTING SEAWALL; THENCE ALONG SAID SEAWALL THE FOLLOWING FOUR COURSES: N19°52'52"W, 71.54 FEET; N22°00'35"W, 161.44 FEET; N10°23'38"W, 151.26 FEET; THENCE N04°16'53"W, 126.71 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PARCEL OF SUBMERGED LAND LOCATED IN "GLOVER BIGHT" WATERBODY, SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERN MOST CORNER OF TRACT MV-1, BLOCK 7025 OF TARPON POINT AS RECORDED IN PLAT BOOK 73, PAGES 70-79 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT LYING 1.17 FEET FROM THE EASTERN LINE OF SAID TRACT; RUN S24°22'05"E FOR 89.58 FEET; THENCE RUN S04°39'55"W FOR 142.70 FEET; THENCE RUN S22°00'35"E FOR 91.25 FEET; THENCE RUN S67°59'25"W FOR 190.00 FEET; THENCE RUN S39°13'07"W FOR 91.27 FEET; THENCE RUN S67°59'25"W FOR 231.66 FEET; THENCE RUN S70°07'08"W FOR 25.00 FEET TO A POINT ON THE SOUTHERN END OF AN EXISTING SUBMERGED LAND LEASE PARCEL RECORDED IN O.R. BOOK 3659, PAGE 1147 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN THE FOLLOWING FIVE (5) COURSES ALONG THE BOUNDARY OF SAID SUBMERGED PARCEL, 1) N19°52'52"W FOR 72.47 FEET; 2) N22°00'35"W FOR 157.28 FEET; 3) N10°23'38"W FOR 146.12 FEET; 4) N04°16'53"W FOR 137.56 FEET; 5) N67°44'52"E FOR 141.71 FEET TO A POINT ON THE SOUTHERN LINE OF ABOVE DESCRIBED TRACT MV-1; THENCE THE FOLLOWING FOUR (4) COURSES ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL, 1) N86°28'20"E FOR 20.52 FEET; 2) N79°06'04"E FOR 61.30 FEET; 3) N79°08'24"E FOR 38.56 FEET; 4) S85°20'05"E FOR 284.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 588,101 SQUARE FEET, MORE OR LESS (13.5± ACRES).

PDP15-0011

ORDINANCE 21 - 16

AN ORDINANCE AMENDING ORDINANCE 14-01, AS AMENDED, WHICH APPROVED A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "TARPON POINT" FOR CERTAIN PROPERTY DESCRIBED AS A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, FLORIDA, AS PER THE PLAT RECORDED IN PLAT BOOK 34, PAGES 54 THROUGH 65, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND A PARCEL OF SUBMERGED LAND LOCATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT SILVER KING BOULEVARD, BLACK MARLIN LANE, AND TARPON ESTATES BOULEVARD; BY APPROVING REZONING OF TRACT "A" FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1); GRANTING DEVIATIONS FROM THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, SECTION 5.2, LANDSCAPING; ELIMINATING AN OFF-SITE PAVING REQUIREMENT FOR PELICAN BOULEVARD; APPROVING AN INCREASE IN THE NUMBER OF HOTEL ROOMS FOR THE PROJECT; AMENDING THE MASTER DEVELOPMENT PLAN; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Tarpon Point" Planned Development Project was approved by the City Council of the City of Cape Coral by Ordinance 14-01, as amended by Ordinance 131-02, Ordinance 1-07, and Ordinance 77-11; and

WHEREAS, an application from Freeman and Hasselwander Resort Properties, LLC, has been received requesting amendment of the "Tarpon Point" Planned Development Project (PDP), including a rezoning of Tract "A," deviations to the Land Use and Development Regulations, and elimination of off-site paving improvements required in Ordinance 14-01; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, DEVIATION, REZONING, AMENDMENT TO DEVELOPMENT ORDER CONDITIONS, REVISIONS TO THE MASTER DEVELOPMENT PLAN.

Having reviewed the application requesting approval of a Planned Development Project amendment for "Tarpon Point" PDP, requesting the following:

The rezoning of Tract "A" from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1); and

A deviation of 1,309 square feet to the minimum foundation planting area requirement of 3,239 square feet pursuant to Section 5.2.13.C.1 of the City of Cape Coral Land Use and Development Regulations for the Marina Village 1 Tract to allow a foundation planting area of 1,930 square feet; and

A deviation of 1.5 feet to the minimum spacing requirement of 3 feet on centers for shrubs planted in a foundation landscaped area pursuant to Section 5.2.13.C.1 of the Cape Coral Land Use and Development Regulations to allow shrubs in this area to be planted 4.5 feet apart within the Marina Village 1 Tract; and

A deviation to Section 5.2.13.C.5, Table 5, of the City of Cape Coral Land Use and Development Regulations that provides minimum requirements for a Buffer "C" to waive all buffer requirements for the for the west property line of Village "A" Tract adjacent to Silver King Boulevard;

Eliminating a condition in Ordinance 14-01, Section III.M.6, requiring the Developer to overlay Pelican Boulevard from El Dorado West to Cape Coral Parkway West with asphalt not less than one-inch in thickness and re-stripe said area as a four-lane roadway at the end of the construction period;

Increasing the number of hotel rooms previously approved for the Marina Village 1 Tract from 268 to 308;

Amending the Master Development Plan to approve the expansion of the hotel on Marina Village Tract 1 to include a conference center with a minimum area of 35,000 square feet;

Amending the Master Development to approve the development of the Village "A" Tract in two phases, with the Phase I area approved for the development of a parking lot for supporting activities occurring at the Conference Center, and the Phase II area approved for a maximum of 170 residential units, including parking and related improvements;

and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve development plan in accordance with plan set, Sheets 1-10, dated November 18, 2015, and also bearing a revision date of March 28, 2016, prepared by Avalon Engineering, Inc., Sheets LA-1 and LA-2, and LA-3, dated February 23, 2016, prepared by Urban Green Studio, and Boundary and Topographic Survey, dated June 17, 2015, prepared by Stouten Cramer Professional Surveyors, dated June 17, 2015. All aforementioned sheets appear in composite Exhibit A for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The "Tarpon Point" development is a Mixed-Use Planned Development Project (PDP). This development consists of five multi-family Village tracts (Villages "A," "B," "D," "E" and "F"), 47 single-family residential building sites, a common area tract (Village "C"), two commercial tracts (Marina Villages 1 and 2), and two conservation tracts, and three tracts utilized for private streets. The Tarpon Point PDP approved 929 multi-family units, 47 single-family units, 45,000 square feet of retail/office space, 500 restaurant seats, and 268 hotel rooms. The hotel located in Marina Village 1 is approved for both hotel/motel and multi-family uses in the same building.

This PDP amendment approves expanding the existing hotel on Marina Village I to include a three-story conference center, and increasing the number of hotel rooms within the existing hotel from 268 to 308. The conference center will include, but is not limited to, banquet and meeting rooms, and kitchen and storage facilities. This amendment also approves a parking lot and accompanying access road located on the Phase I area of the Village "A" Tract, and the future development of a maximum of 170 multi-family units located on the Phase II area of the Village "A" Tract. This PDP amendment extends the buildout date for the Tarpon Point project for ten years from the date of adoption of this PDP amendment. Project phasing for the Village "A" Tract is depicted on Sheet 6 of 10, entitled "Master Site Plan (Parking Lot)" and is summarized below.

Phase I shall include:

1. Constructing the parking lot on Village "A" Tract for supporting the hotel and conference center located on Marina Village 1; and
2. Constructing the access road associated with the parking lot off Silver King Boulevard.

Phase II shall include:

1. Constructing the multi-family development consisting of a maximum of 170 dwelling units with structured parking on Village "A" Tract; and
2. Completing the planting of any remaining trees needed to meet minimum landscaping requirements for the entire 7.71-acre Village "A" Tract.

The construction of the parking lot and access road associated with Phase I of this project shall occur prior to the construction of Phase II or concurrently with the construction of Phase II. In no event shall a certificate of occupancy be issued by the City for a building located on the Phase II area prior to the completion of all Phase I improvements.

- B. The name(s) of the legal and equitable owner(s) are Freeman and Hasselwander Resort Properties, LLC.
- C. The legal description of the property subject to the extant PDP Development Order, that includes the submerged lands, is described in attached Exhibit B.
- D. The legal description of the portion of the property for which the Planned Development Project is being amended is described as follows:

Tract MV-1 and Tract A, Block 7025, Tarpon Point, a replat of a portion of Unit 77, Cape Coral, Florida, as per the plat recorded in Plat Book 73, Pages 70 through 79, inclusive, Public Records of Lee County, Florida.

- E. The City of Cape Coral Official Zoning District Map of all of the property within the limits of the City of Cape Coral is hereby amended with respect to real property described as follows:

Tract A, Block 7025, Tarpon Point, a replat of a portion of Unit 77, Cape Coral, Florida, as per the plat recorded in Plat Book 73, Pages 70 through 79, inclusive, Public Records of Lee County, Florida.

by rezoning said property from MULTI-FAMILY RESIDENTIAL (R-3) to PEDESTRIAN COMMERCIAL (C-1) ZONE, and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

That the amendment to the City of Cape Coral Official Zoning District Map as prescribed herein is consistent with the City of Cape Coral Comprehensive Plan.

- F. The "Tarpon Point" PDP property has 18.29 acres zoned Pedestrian Commercial (C-1), 61.32 acres zoned Multi-Family Residential (R-3), 29.21 acres zoned Residential Development (RD), and 39.24 acres zoned Preservation (PRES) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 108.82 acres with a Future Land Use designation of Mixed-Use (MX) and 39.24 acres with a future land use designation of Natural Resources/Preservation.

The Tarpon Point development contains tracts of land that total 148.06 acres. In addition, the development contains an additional 13.5 acre parcel of submerged lands for a total project area of 161.56 acres.

- G. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Pedestrian Commercial (C-1), Multi-Family Residential (R-3), Residential Development (RD), and Preservation (PRES) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- H. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.

- I. The "Tarpon Point" PDP, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Freeman and Hasselwander Resort Properties, LLC, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for development approval submitted by Freeman and Hasselwander Resort Properties, LLC, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. WETLANDS, VEGETATION, AND WILDLIFE

In the event all or a portion of the subject property is located within an Eagle Nest Management Zone, the developer shall comply with all City laws, regulations, and guidelines that are currently in effect or that may be hereafter adopted by the City concerning the protection and management of bald eagle nests including, but not limited to Chapter 23 of the City Code of Ordinances. No development shall occur on any portion of the subject property that is within an Eagle Nest Management Zone except in accordance with a Bald Eagle Management Plan that has been approved by the City. Once an Eagle Management Plan has been approved by the City for all or a portion of the property, the Developer's ability to develop in accordance with such Plan shall not be affected by any amendment to the City's regulations concerning eagle nests, so long as no additional or "new" eagle nest need to be accommodated. In the event, however, that one or more eagle nests are hereafter established or determined to be active in locations that result in all or a portion of the subject property being located in a new or expanded Eagle Nest Management Zone, then no development shall occur in such new zone except in accordance with an Eagle Management Plan that has been approved by the City for such zone.

B. TRANSPORTATION

This PDP amendment eliminates a provision in Ordinance 14-01 requiring the Developer to overlay Pelican Boulevard from El Dorado Parkway West to Cape Coral Parkway West with asphalt not less than one-inch in thickness and to re-stripe said area as a four-lane roadway at the conclusion of construction activities.

C. GENERAL CONSIDERATIONS

- 1. All provisions and conditions contained in the "Tarpon Point" PDP as approved by Ordinance 14-01 and amended by Ordinances 131-02, 1-07, and 77-11, shall remain in full force and effect, except as otherwise stated in this Development Order.
- 2. Prior to issuance of a permit, the Developer shall enter into an agreement, in a form acceptable to the City Attorney, regarding obligations resulting from landscaping located in utility easements.
- 3. The Developer shall maintain the existing landscape buffer along the northern property line of Village "A" Tract, adjacent to and south of Silver King Boulevard. The shrubs within this buffer shall be maintained at a minimum height of six feet for the life of the project. Shrubs that die or are removed shall be replaced with a shrub of the same species having a minimum height of 32 inches. Trees that die or are removed shall be replaced with a canopy tree having a minimum caliper at least equal to that of the removed tree; however, if the caliper of the removed tree is greater than four inches (measured at a height of 12 inches above the ground), the replacement tree shall be required to have a minimum caliper of four inches.
- 4. The Phase 2 area of the Village "A" Tract as depicted on Sheet 6 of 10 entitled "Master Site Plan (Parking Lot)" may be developed with a maximum of 170 multi-family residential units without requiring a PDP amendment unless the project contains a request that necessitates a PDP.

5. The conference center associated with the hotel located on Marina Village I shall have a minimum gross floor area of 35,000 square feet. Besides meeting rooms and conference facilities, this area may include space devoted to food preparation and storage, and other ancillary purposes.

D. CONCURRENCY

The "Tarpon Point" PDP is concurrent for roads, sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Tarpon Point" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall 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. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 1. Any change which requires a variance to code and above those specifically incorporated herein.
 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 3. An expiration of the period of effectiveness of this Development Order as herein provided.
 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. This Development Order shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. The Developer shall be responsible for reimbursing the City for all recording fees within 30 days of being notified by the City that the Development Order has been recorded.

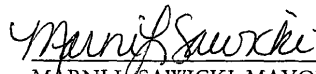
SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 13th DAY OF June, 2016.


MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	<u>aye</u>	LEON	<u>aye</u>
BURCH	<u>excused</u>	ERBRICK	<u>aye</u>
CARIOSCIA	<u>aye</u>	WILLIAMS	<u>aye</u>
STOUT	<u>aye</u>	CODSEN	<u>aye</u>

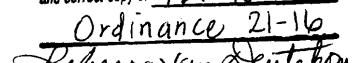
ATTESTED TO AND FILED IN MY OFFICE THIS 20th DAY OF June, 2016.


REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
ord/PDP15-0011 Tarpon Point Amendment

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida and the keeper of the records and corporate seal of said municipality; that this is a true and correct copy of PDP 15-0011

Ordinance 21-16

City Clerk



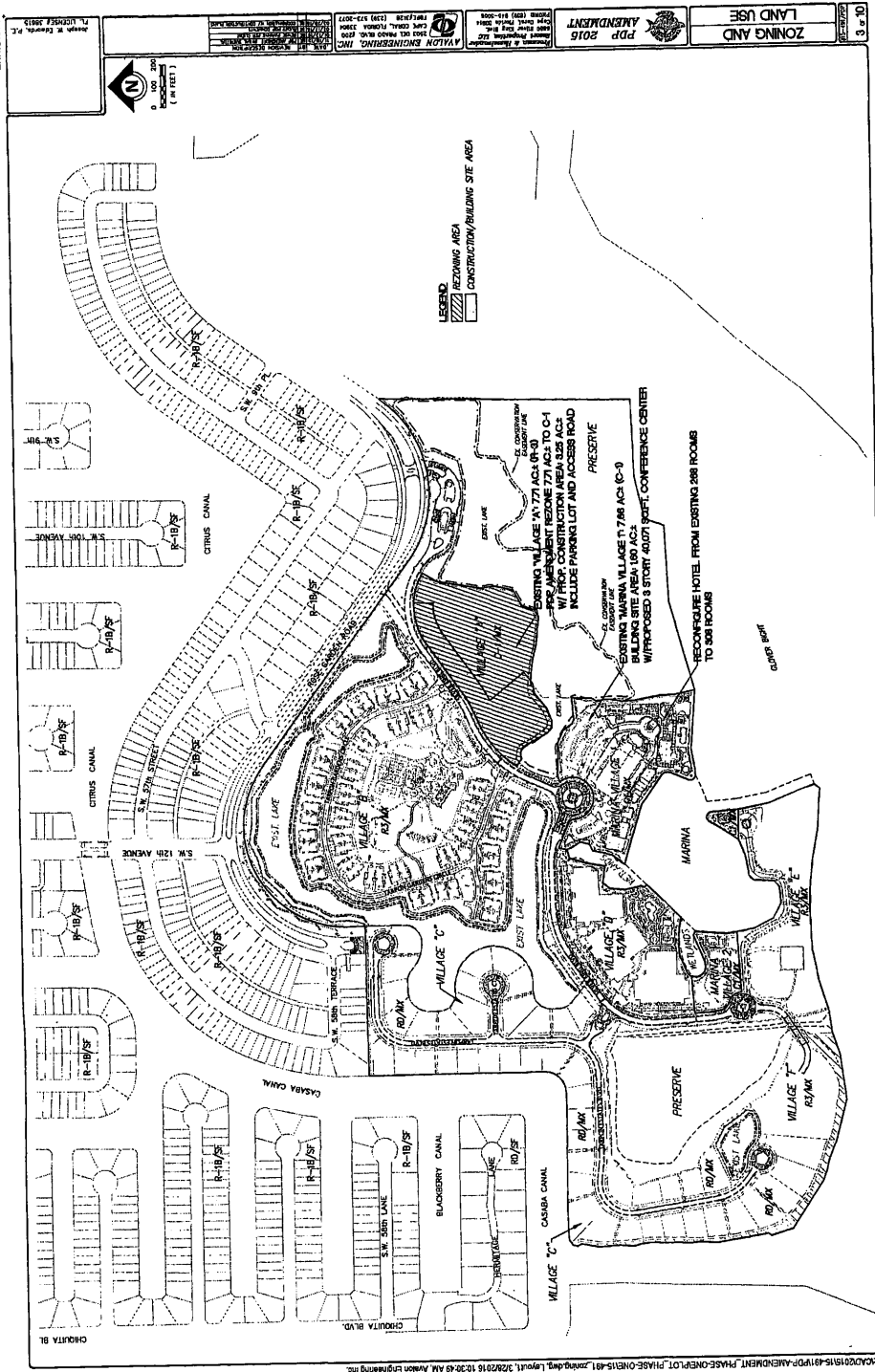
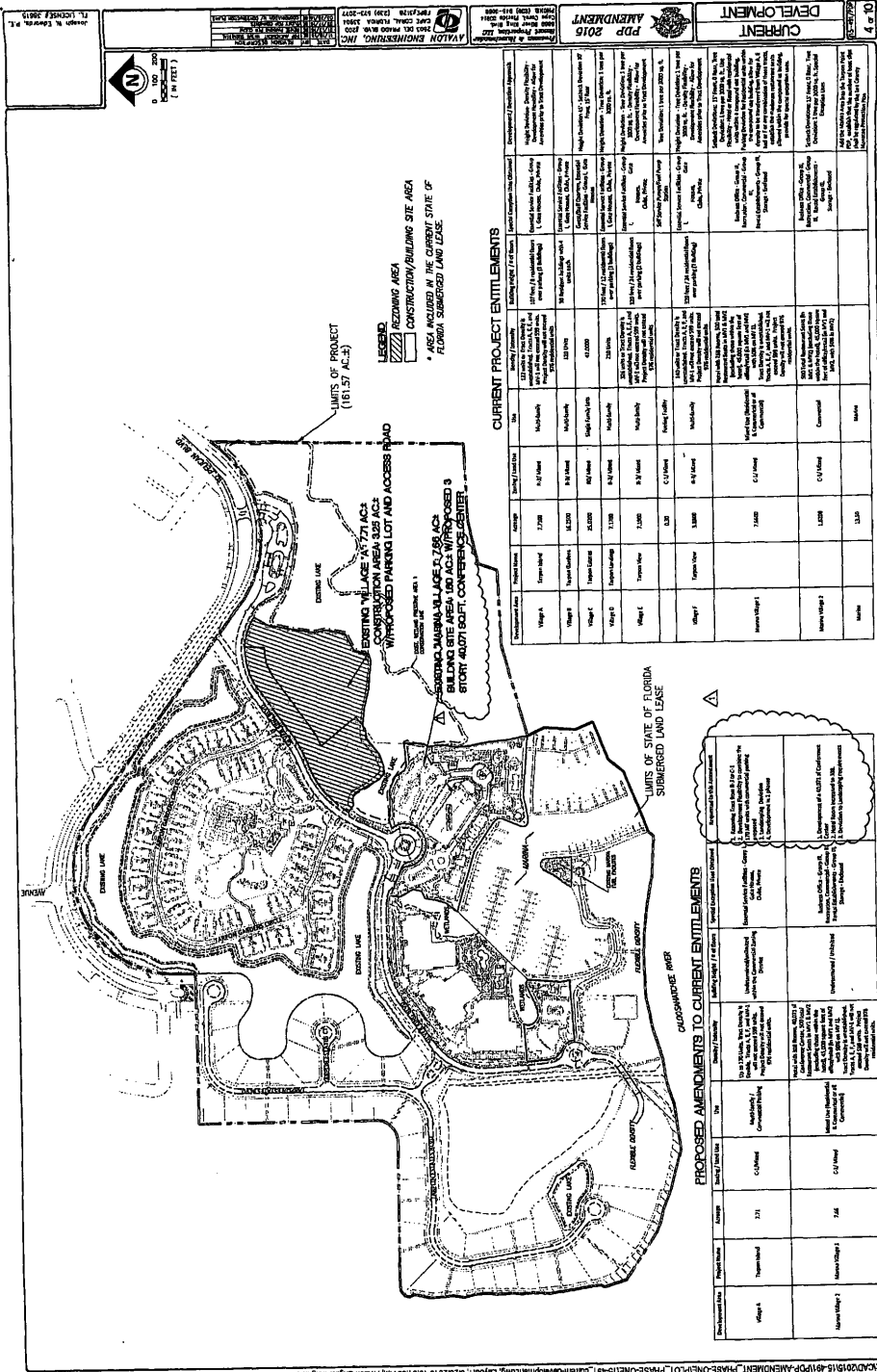


Exhibit A.



Joseph W. Edwards, P.E.
P.E. LICENSE # 38615



MARINA VILLAGE 'T'
CONSTRUCTION AREA:

BUILDING SITE: CONSTRUCTION AREA:	69,681 SF	1.60 AC±	100%
BUILDING COVERAGE:	32,045 SF	0.73 AC±	46%
(CONCRETE CURB COVERED) 24,114 SF			
PORT COLORED 2,388 SF AND BALCONY 1,608 SF.)			
BRICK PAVEMENT:	12,676 SF	0.28 AC±	18%
CONC. APRON:	3,378 SF	0.08 AC±	5%
CONC. WALKS:	3,405 SF	0.08 AC±	5%
GREEN SPACE: (INCL. EX. RETENTION AREAS)	18,170 SF	0.42 AC±	26%

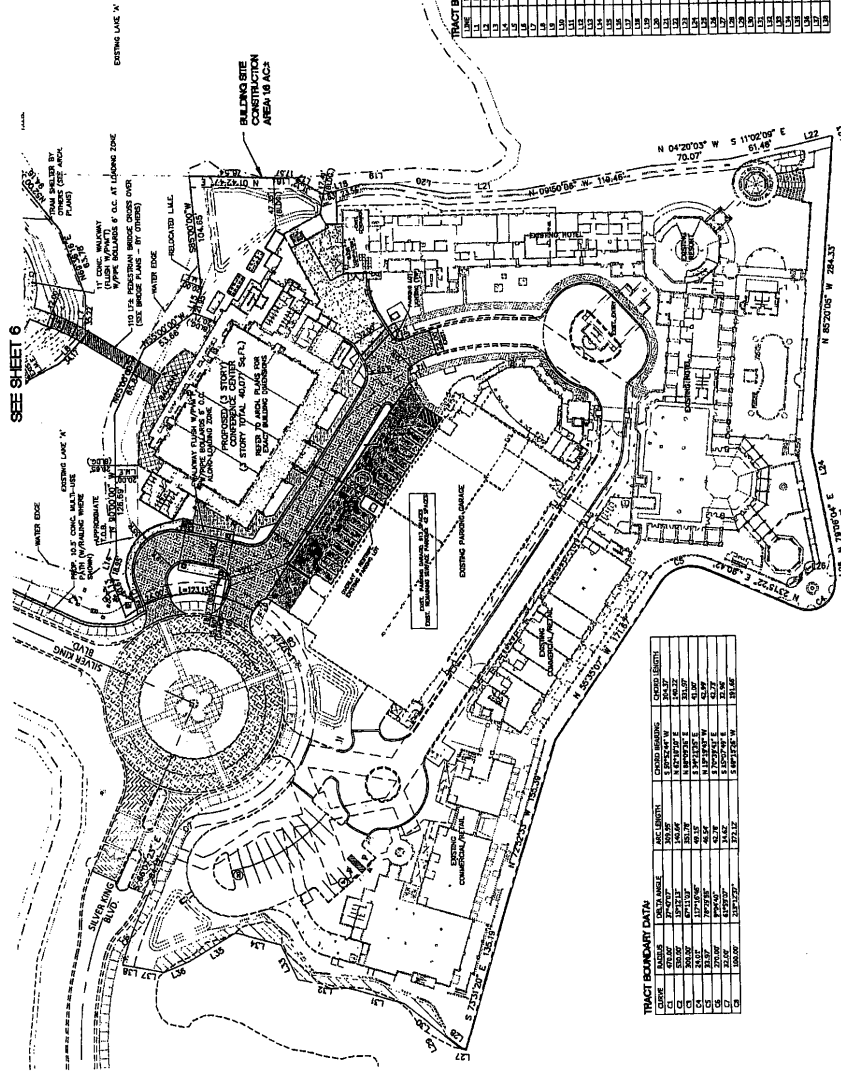
PARKING SUMMARY

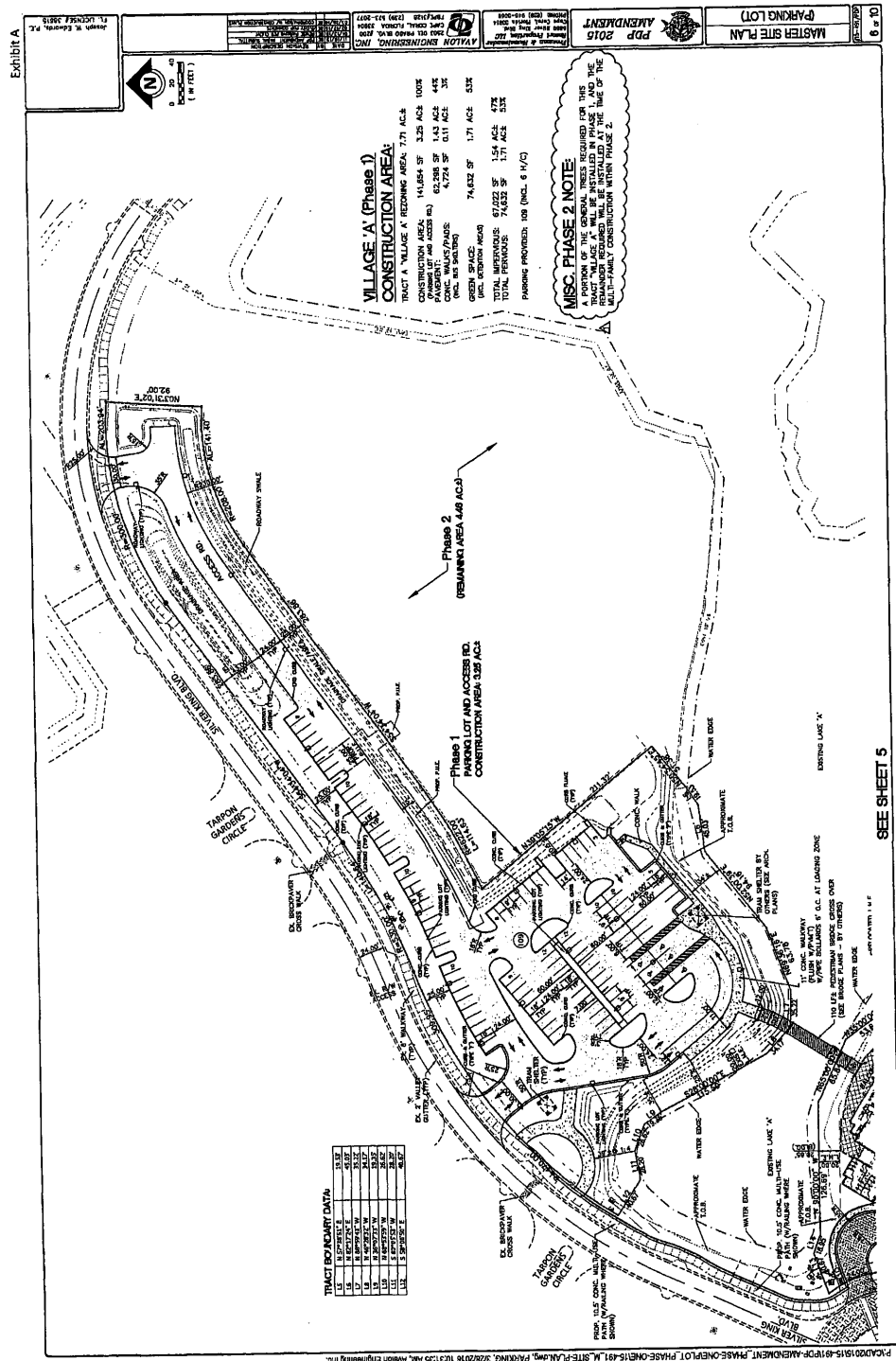
PARKING PROVIDED: 664 SP'S. (INCL. 21 H/C)
 EXIST. 513 SPACES PARKING INCL. 12 H/C
 EXIST. 42 SPACES SURFACE LOT INCL. 3 H/C
 PROP. 109 SPACES SURFACE LOTS INCL. 6 H/C (VILLAGE "A")

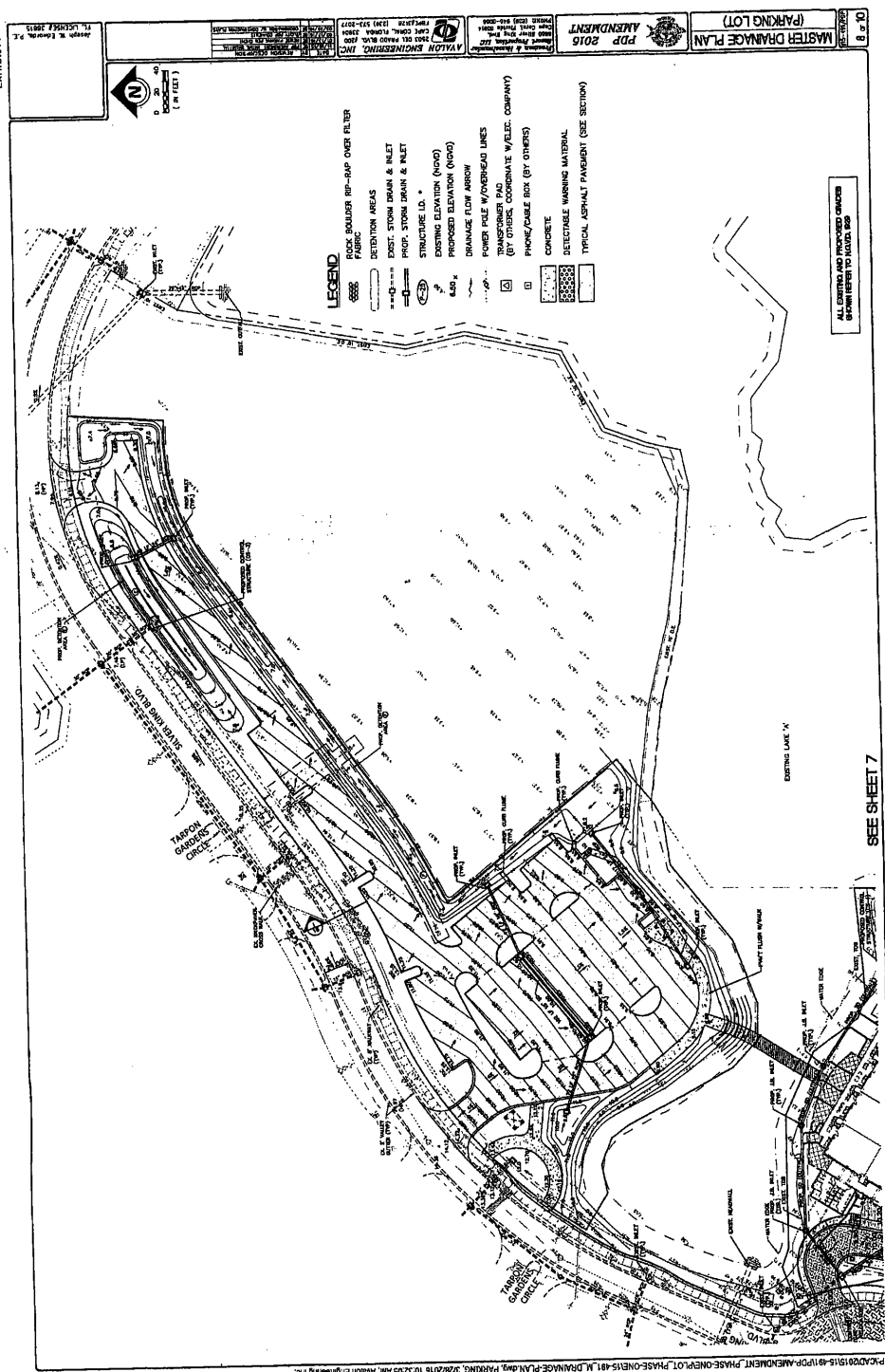
PARKING REQUIRED: 664 SP'S.

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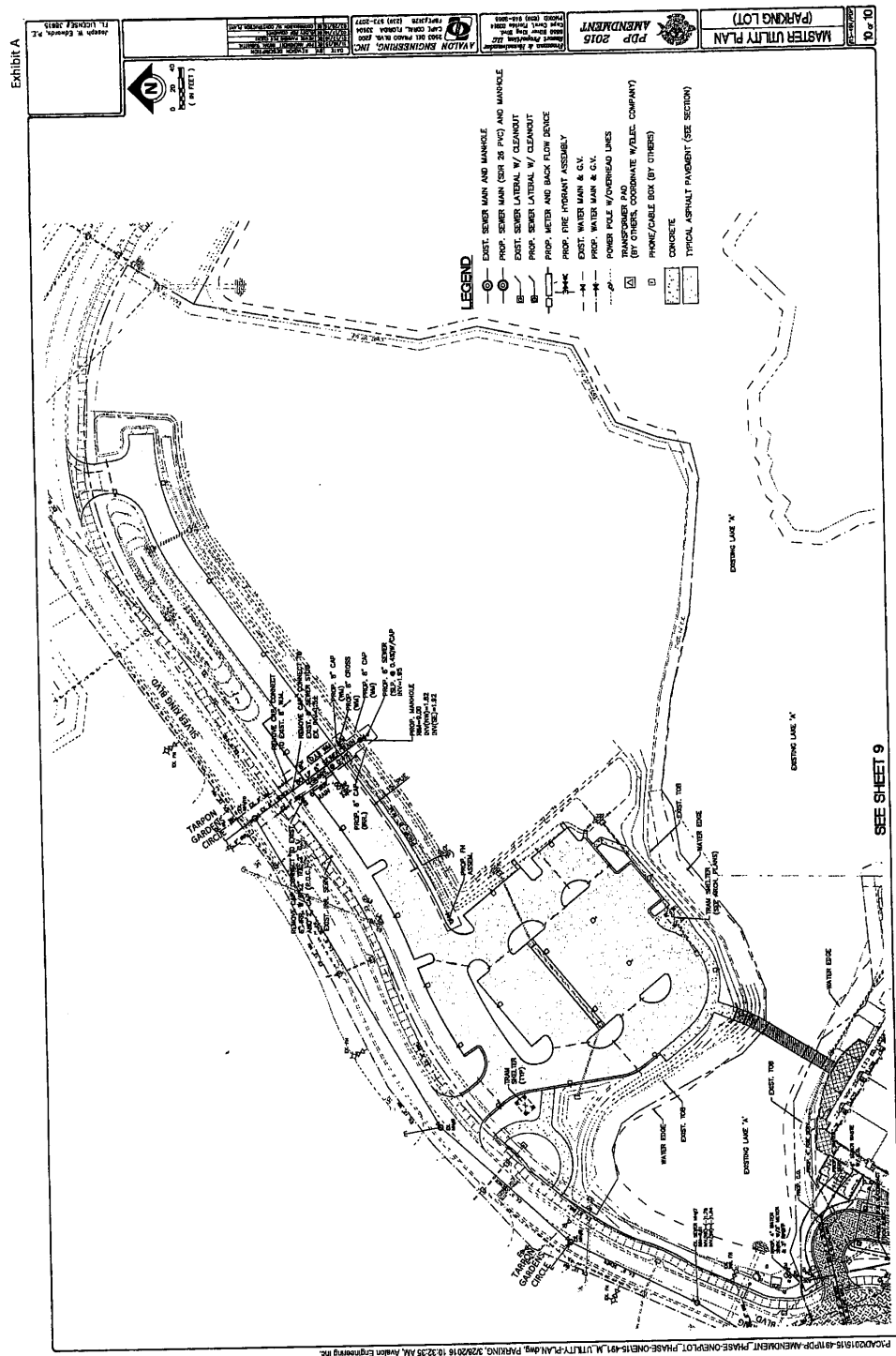
TRACT BOUNDARY DATA						
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4	20	157.113	157.113	154.66	S 89°17'50" E	94.17
5	20	157.113	157.113	154.66	S 89°17'50" E	94.17
6	20	157.113	157.113	154.66	S 89°17'50" E	94.17
7	20	157.113	157.113	154.66	S 89°17'50" E	94.17
8	20	157.113	157.113	154.66	S 89°17'50" E	94.17
9	20	157.113	157.113	154.66	S 89°17'50" E	94.17
10	20	157.113	157.113	154.66	S 89°17'50" E	94.17
11	20	157.113	157.113	154.66	S 89°17'50" E	94.17
12	20	157.113	157.113	154.66	S 89°17'50" E	94.17
13	20	157.113	157.113	154.66	S 89°17'50" E	94.17
14	20	157.113	157.113	154.66	S 89°17'50" E	94.17
15	20	157.113	157.113	154.66	S 89°17'50" E	94.17
16	20	157.113	157.113	154.66	S 89°17'50" E	94.17
17	20	157.113	157.113	154.66	S 89°17'50" E	94.17
18	20	157.113	157.113	154.66	S 89°17'50" E	94.17
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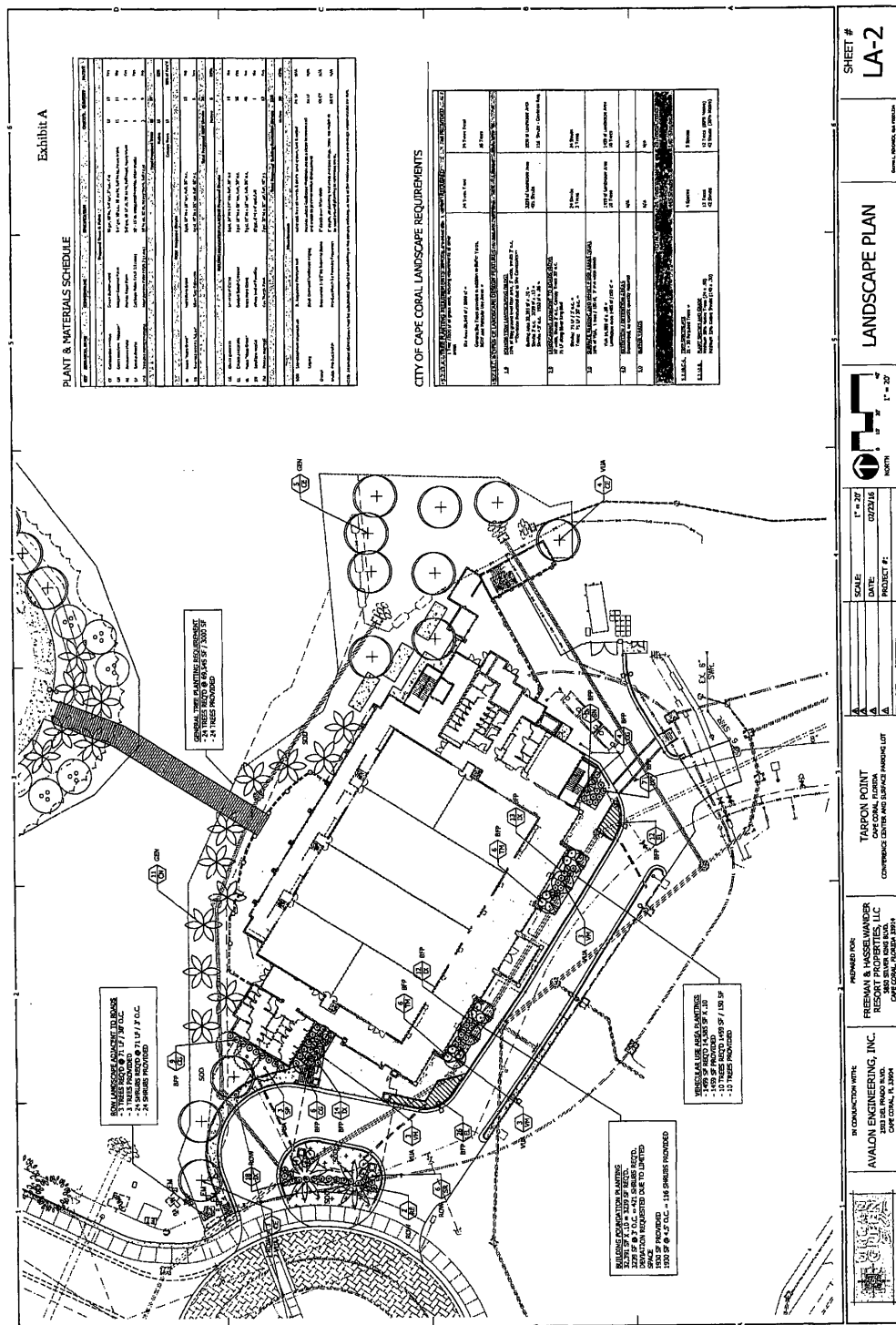






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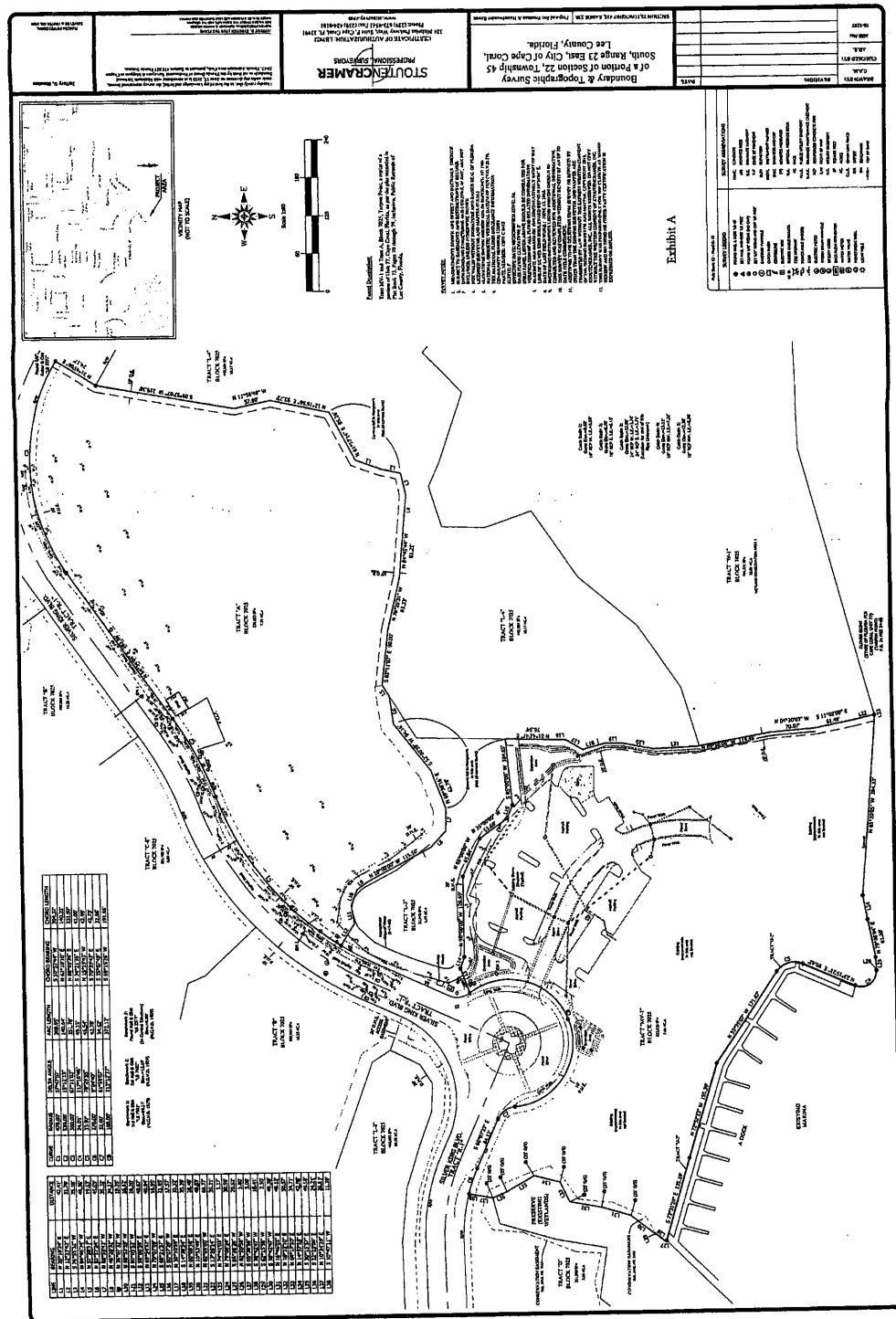


Exhibit "B"**TARPON POINT LEGAL DESCRIPTION:**

A REPLAT OF A PORTION OF UNIT 77, CAPE CORAL, TARPON POINT ACCORDING TO PLAT BOOK 34, PAGES 54 THROUGH 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

TRACTS 1, 2, 3, 4, 5, 6, 8, 9 AND 10, CAPE CORAL UNIT 77, TARPON POINT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGES 54 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 9 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTHWEST CORNER OF LOT 8, BLOCK 3443 OF CAPE CORAL UNIT 67 ACCORDING TO PLAT BOOK 25, PAGES 57 THROUGH 65, AND A POINT ON THE EAST RIGHT OF WAY LINE OF CASABA CANAL (200 FOOT RIGHT OF WAY); THENCE RUN N89°34'47"E ALONG THE NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID CAPE CORAL UNIT 67, FOR 530.00 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 3443 AND THE SOUTHWEST CORNER OF ROSE GARDEN ROAD RIGHT OF WAY; THENCE CONTINUE RUNNING N89°34'47"E ALONG SAID NORTH LINE OF SAID CAPE CORAL UNIT 77, BEING ALSO THE SOUTH LINE OF SAID ROSE GARDEN ROAD RIGHT OF WAY, FOR 180.00 FEET; THENCE RUN ALONG THE LINE COMMON TO SAID CAPE CORAL UNIT 77 AND SAID ROSE GARDEN ROAD RIGHT OF WAY FOR THE FOLLOWING FOUR COURSES: N00°25'13"W FOR 83.59 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 480.00 FEET AND A CENTRAL ANGLE OF 126°43'55" (CHORD=N62°56'44"E, 858.13 FEET) FOR 1061.71 FEET TO THE POINT OF TANGENCY, THEN RUN S53°41'18"E FOR 1195.41 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 90°53'32" (CHORD=N80°51'56"E, 783.85 FEET) FOR 872.50 FEET TO THE NORTHEASTERLY CORNER OF SAID TRACT 6 OF SAID CAPE CORAL UNIT 77, BEING ALSO THE NORTHWESTERLY CORNER OF TRACT 7 (CITY PARK) OF SAID CAPE CORAL UNIT 77; THENCE RUN S01°03'10"W ALONG THE LINE COMMON TO SAID TRACT 6 AND SAID TRACT 7 FOR 1189.01 FEET TO AN INTERSECTION WITH THE MEAN HIGH WATER LINE AS DETERMINED BY THE WILSON MILLER SURVEY DATED 6-19-01; THENCE RUN ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING FIVE COURSES: S87°40'41"W FOR 370.36 FEET, S77°19'11"W FOR 205.00 FEET, S18°26'06"W FOR 94.87 FEET, S87°36'51"W FOR 360.31 FEET, S74°41'03"W, FOR 438.56 FEET TO A POINT ON THE EAST END OF AN EXISTING SEAWALL, THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TEN COURSES: N85°20'05"W FOR 284.33 FEET, S79°08'24"W FOR 38.56 FEET, S79°06'04"W FOR 61.30 FEET, S86°28'20"W FOR 20.52 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.01 FEET AND A CENTRAL ANGLE OF 117°16'46" (CHORD=N34°21'45"W, 42.71 FEET) FOR 51.19 FEET TO A POINT, THEN RUN N23°15'22"E FOR 90.41 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 32.97 FEET AND A CENTRAL ANGLE OF 78°29'55" (CHORD=N15°19'43"W, 41.72 FEET) FOR 45.17 FEET TO A POINT, THEN RUN N55°35'07"W FOR 171.52 FEET, N72°52'33"W FOR 155.24 FEET, N73°31'20"W FOR 136.02 FEET TO THE NORTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVENTEEN COURSES: N05°38'56"E FOR 4.20 FEET, N38°42'47"E FOR 65.79 FEET, N16°46'03"E FOR 48.12 FEET, N10°33'10"E FOR 50.57 FEET, N64°17'30"E FOR 34.71 FEET, N14°57'55"E FOR 42.08 FEET, N30°15'57"W FOR 49.50 FEET, N22°23'00"W FOR 24.21 FEET, S76°05'50"W FOR 41.77 FEET, S16°50'57"W FOR 91.57 FEET, S09°58'51"W FOR 81.54 FEET, N81°15'17"W FOR 80.80 FEET, S38°50'01"W FOR 42.56 FEET, S05°48'39"W FOR 72.55 FEET, S12°41'35"E FOR 77.99 FEET, S21°16'03"W FOR 16.87 FEET, S44°37'14"E FOR 15.08 FEET TO A POINT ON THE NORTHEASTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL S44°37'19"W FOR 221.79 FEET TO THE SOUTHWESTERLY END OF SAID SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TEN COURSES: N76°48'25"W FOR 37.16 FEET, N83°05'48"W FOR 25.59 FEET, N87°57'41"W FOR 73.23 FEET, S85°48'27"W FOR 44.89 FEET, S66°53'43"W FOR 79.59 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 47.49 FEET AND A CENTRAL ANGLE OF 176°40'27" (CHORD=S20°02'11"E, 94.94 FEET) FOR 146.44 FEET TO A POINT, THEN RUN N72°50'13"E FOR 44.74 FEET, N65°28'26"E FOR 47.24 FEET, N68°33'18"E FOR 53.41 FEET, S63°53'24"E FOR 21.11 FEET TO A POINT ON THE NORTHERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID EXISTING SEAWALL THE FOLLOWING TWENTY SIX COURSES: S05°11'45"W FOR

145.69 FEET, S07°29'52"E FOR 75.37 FEET, S11°03'12"E FOR 65.78 FEET, S26°12'49"E FOR 99.86 FEET, S62°27'36"E FOR 79.11 FEET, N85°09'30"E FOR 81.04 FEET, N50°42'38"E FOR 34.82 FEET, N03°20'45"E FOR 90.29 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 38.95 FEET AND A CENTRAL ANGLE OF 75°10'51" (CHORD=N47°09'57"E, 47.52 FEET) FOR 51.11 FEET TO A POINT, THEN RUN N78°38'48"E FOR 85.24 FEET, N68°36'03"E FOR 80.41 FEET, N33°48'49"E FOR 100.02 FEET, N30°26'59"E FOR 60.40 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 24.92 FEET AND A CENTRAL ANGLE OF 145°12'18" (CHORD=S78°19'08"E, 47.56 FEET) FOR 63.15 FEET TO A POINT, THEN RUN S04°16'53"E FOR 126.71 FEET, S10°23'38"E FOR 151.26 FEET, S22°00'35"E FOR 161.44 FEET, S19°52'52"E FOR 71.54 FEET, S40°07'45"W FOR 32.06 FEET, N86°35'08"W FOR 185.19 FEET, N79°40'25"W FOR 150.42 FEET, N84°00'47"W FOR 150.59 FEET, N89°19'44"W FOR 122.39 FEET, S87°33'15"W FOR 155.37 FEET, S78°23'57"W FOR 150.95 FEET, S72°24'29"W FOR 148.99 FEET TO A POINT ON THE WEST END OF SAID EXISTING SEAWALL; THENCE RESUME RUNNING ALONG SAID MEAN HIGH WATER LINE THE FOLLOWING TWENTY-THREE COURSES: S82°04'05"W FOR 110.46 FEET, S71°22'24"W FOR 107.75 FEET, S82°10'15"W FOR 215.40 FEET, N74°46'25"W FOR 209.20 FEET, N68°18'15"W FOR 94.94 FEET, N77°49'12"W FOR 49.98 FEET, N70°20'58"W FOR 51.75 FEET, N56°24'51"W FOR 270.63 FEET, N16°07'50"W FOR 107.60 FEET, N27°36'52"E FOR 20.72 FEET, N08°55'38"W FOR 243.31 FEET, N03°45'00"E FOR 83.16 FEET, N06°33'53"W FOR 45.47 FEET, N03°34'46"E FOR 60.52 FEET, N03°18'41"W FOR 54.07 FEET, N04°26'13"E FOR 39.08 FEET, N01°36'06"W FOR 62.38 FEET, N13°25'39"W FOR 56.44 FEET, N05°27'35"E FOR 57.95 FEET, N04°06'41"W FOR 98.05 FEET, N10°09'27"E FOR 90.11 FEET, N32°03'20"W FOR 21.07 FEET, N16°16'13"E FOR 23.79 FEET TO THE WESTERLY END OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID SEAWALL THE FOLLOWING FIVE COURSES: N52°23'11"E FOR 31.12 FEET, N87°47'12"E FOR 70.02 FEET, S89°52'33"E FOR 633.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 90°32'40" (CHORD=N44°51'07"E, 142.09 FEET) FOR 158.03 FEET TO THE POINT OF TANGENCY, THEN RUN N00°25'13"W FOR 832.53 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 6,450,035 SQUARE FEET (148.07 ACRES), MORE OR LESS.

SUBMERGED LANDS LEGAL DESCRIPTION:

O.R. BOOK 3659, PAGE 1147

A PARCEL OF SUBMERGED LAND LOCATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS RECORDED IN O.R. BOOK 3659, PAGE 1147 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE PLATTED P.R.M. AT LOT 1, BLOCK 3483A, CAPE CORAL UNIT 67, ACCORDING TO PLAT BOOK 25, PAGE 59 OF THE PUBLIC RECORD OF LEE COUNTY, FLORIDA RUN S20°21'23"E, 1977.69 FEET TO A DRILL HOLE IN AN EXISTING SEAWALL AND THE POINT OF BEGINNING, SAID POINT OF BEGINNING ALSO BEING A POINT OF CUSP AT THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY AND WESTERLY ALONG SAID SEAWALL AND ALONG THE ARC OF SAID CURVE 61.3 FEET THROUGH A CENTRAL ANGLE OF 145°16'08", (CHORD BEARING N78°19'08"W, CHORD 47.56 FEET) TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID SEAWALL THE FOLLOWING THIRTEEN COURSES: S30°26'59"W, 60.40 FEET; S33°48'49"W, 100.02 FEET; S68°36'03"W, 80.41 FEET; S78°38'48"W, 85.24 FEET; TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE ALONG THE ARC OF SAID CURVE 51.0 FEET THROUGH A CENTRAL ANGLE OF 75°18'03", (CHORD BEARING S47°09'57"W, CHORD 47.52 FEET) TO A POINT OF TANGENCY; THENCE S03°20'45"W, 90.29 FEET; S50°42'38"W, 34.82 FEET; S85°09'30"W, 81.04 FEET; N62°27'36"W, 79.11 FEET; N26°12'49"W, 99.86 FEET; N11°03'12"W, 65.78 FEET; N07°29'52"W, 75.37 FEET; N05°11'45"E, 145.69 FEET TO THE END OF SAID PORTION OF SEAWALL; THENCE N44°43'53"E, 93.47 FEET TO THE BEGINNING OF AN EXISTING SEAWALL; THENCE N44°37'19"E, 221.79 FEET TO ITS TERMINUS; THENCE N44°50'19"E, 143.00 FEET TO THE BEGINNING OF AN EXISTING SEAWALL; THENCE ALONG SAID SEAWALL THE FOLLOWING SIX COURSES: S73°31'20"E, 136.02 FEET; S72°52'33"E, 155.24 FEET; S55°35'07"E, 171.52 FEET TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE WEST; THENCE ALONG THE ARC OF SAID CURVE 46.0 FEET THROUGH A CENTRAL ANGLE OF 78°50'29", (CHORD BEARING S15°19'43"E, CHORD 41.72 FEET) TO A POINT OF TANGENCY; THENCE S23°15'22"W, 90.41 FEET TO THE BEGINNING OF AN UNEQUAL RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE ALONG THE ARC OF SAID CURVE 51.5 FEET THROUGH A CENTRAL ANGLE OF 117°10'00", (CHORD BEARING S34°26'19"E, CHORD 42.67 FEET); THENCE LEAVING SAID SEAWALL ALONG THE FOLLOWING SIX COURSES: S67°44'52"W, 141.71 FEET; S04°16'53"E, 137.56

FEET; S10°23'38"E, 146.12 FEET; S22°00'35"E, 157.28 FEET; S19°52'52"E, 72.47 FEET; THENCE S70°07'08"W, 50.00 FEET TO AN EXISTING SEAWALL; THENCE ALONG SAID SEAWALL THE FOLLOWING FOUR COURSES: N19°52'52"W, 71.54 FEET; N22°00'35"W, 161.44 FEET; N10°23'38"W, 151.26 FEET; THENCE N04°16'53"W, 126.71 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PARCEL OF SUBMERGED LAND LOCATED IN "GLOVER BIGHT" WATERBODY, SECTION 22, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERN MOST CORNER OF TRACT MV-1, BLOCK 7025 OF TARPON POINT AS RECORDED IN PLAT BOOK 73, PAGES 70-79 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT LYING 1.17 FEET FROM THE EASTERN LINE OF SAID TRACT; RUN S24°22'05"E FOR 89.58 FEET; THENCE RUN S04°39'55"W FOR 142.70 FEET; THENCE RUN S22°00'35"E FOR 91.25 FEET; THENCE RUN S67°59'25"W FOR 190.00 FEET; THENCE RUN S39°13'07"W FOR 91.27 FEET; THENCE RUN S67°59'25"W FOR 231.66 FEET; THENCE RUN S70°07'08"W FOR 25.00 FEET TO A POINT ON THE SOUTHERN END OF AN EXISTING SUBMERGED LAND LEASE PARCEL RECORDED IN O.R. BOOK 3659, PAGE 1147 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN THE FOLLOWING FIVE (5) COURSES ALONG THE BOUNDARY OF SAID SUBMERGED PARCEL, 1) N19°52'52"W FOR 72.47 FEET; 2) N22°00'35"W FOR 157.28 FEET; 3) N10°23'38"W FOR 146.12 FEET; 4) N04°16'53"W FOR 137.56 FEET; 5) N67°44'52"E FOR 141.71 FEET TO A POINT ON THE SOUTHERN LINE OF ABOVE DESCRIBED TRACT MV-1; THENCE THE FOLLOWING FOUR (4) COURSES ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL, 1) N86°28'20"E FOR 20.52 FEET; 2) N79°06'04"E FOR 61.30 FEET; 3) N79°08'24"E FOR 38.56 FEET; 4) S85°20'05"E FOR 284.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 588,101 SQUARE FEET, MORE OR LESS (13.5± ACRES).