

**1. Requested Motion:**

**Meeting Date: Oct. 7, 2013**

Motion to APPROVE/DENY a two-year extension of time for previously approved and extended development order DOS2001-00083 (Waterside at Bay Beach) from September 19, 2013 to September 19, 2015.

**Why the action is necessary:**

Section 10-123 of the LDC provides that the Town Council may grant two-year extensions of time for an approved development order, provided the requirements of that section are met. The developer's legal counsel requested an extension on August 22, 2013.

**What the action accomplishes:**

**2. Agenda:**

- Consent
- Administrative
- Public Hearing

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other

**4. Submitter of Information:**

- Council
- Town Staff – Comm. Dev.
- Town Attorney

**5. Background:**

Richard Yovanivich, owner's representative, requested an extension to the approved development order DOS2001-00083 on August 22, 2013. The original expiration date for DOS2001-00083 was September 19, 2009. Two, two-year extensions were previously granted via state mandated certain permit extensions, thereby extending the expiration date to September 19, 2013. In 2012, however, the state legislation extending permits included a provision that no permit extension can exceed a total of four (4) years. Since this development order has already received a four year extension under applicable state law, the applicant can only further extend the expiration date of the development order pursuant to Section 10-123(a) of the Land Development Code, which provides for development order extensions that may be granted at the discretion of Town Council. See attachments for additional information.

Attachments:

- Tab A - Applicant's letter requesting a two year extension for DOS2001-00083, including narrative addressing the requirements of Sec. 10-123(a)
- Tab B – Development Order plans for Waterside at Bay Beach, Phase 5-8
- Tab C – Previous extensions granted for DOS2001-0083

**6. Alternative Action:**

- DENY the applicant's request for a development order extension thereby requiring the developer to obtain for a new development order prior to commencement of construction.

**7. Management Recommendations:**

- APPROVE the requested development order extension to extend the expiration date of DOS2001-00083 to September 19, 2015

**8. Recommended Approval:**

| <b>Town<br/>Manager</b>   | <b>Town<br/>Attorney</b> | <b>Finance<br/>Director</b> | <b>Public<br/>Works<br/>Director</b> | <b>Community<br/>Development<br/>Director</b>                                      | <b>Parks &amp;<br/>Recreation<br/>Director</b> | <b>Town<br/>Clerk</b> |
|---|--------------------------|-----------------------------|--------------------------------------|--|--|-----------------------|
|  |                          |                             |                                      |  |  |                       |

**9. Council Action:**

Approved     Denied     Deferred     Other

**COLEMAN, YOVANOVICH & KOESTER, P.A.**  
**ATTORNEYS AT LAW**

Kevin G. Coleman  
Richard D. Yovanovich  
Edmond E. Koester  
William M. Burke  
Gregory L. Urbancic  
Matthew L. Grabinski  
Craig D. Grider

NORTHERN TRUST BANK BUILDING  
4001 TAMiami TRAIL NORTH  
SUITE 300  
NAPLES, FLORIDA 34103  
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239-435-1218 FACSIMILE  
[www.cyklawfirm.com](http://www.cyklawfirm.com)

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Matthew M. Jackson  
Jeffrey J. Beihoff  
Harold J. Webre  
Caroline M. Magliolo  
Charles A. B. Thomson  
David Kerem  
Michael D. Gentzle

Writer's Email:  
[ryovanovich@cyklawfirm.com](mailto:ryovanovich@cyklawfirm.com)

Of Counsel:  
Kenneth R. Johnson

August 22, 2013

Walter G. Fluegel, MBA, AICP  
Community Development Director  
Town of Fort Myers Beach  
2523 Estero Blvd.  
Fort Myers Beach, Florida 33931

*Via Email*

**RE: Development Order Extension Request/Waterside at Bay Beach  
DO# DOS2001-00083**

Dear Mr. Fluegel,

The Waterside of Bay Beach project is the subject of DO# DOS2001-00083. The DO is scheduled to expire on September 19, 2013. As you are aware, due to difficult economic times projects have not progressed as originally anticipated. The Florida Legislature has provided for extensions to development orders in recognition of the tough economic times.

We have been advised that the property owner can request that the Town Council extend the expiration date of DO# DOS2001-00083. There currently is no form to request the extension.

Please allow this letter to serve as a request for an extension to the expiration date of DO# DOS2001-00083 from September 19, 2013 to September 19, 2015.

Thank you for your time and attention to this matter.

Sincerely,



Richard D. Yovanovich, Esq.

**NARRATIVE:** Development Order Extension Request/Waterside at Bay Beach  
DO# DOS2001-00083

The request to extend DO# DOS2001-00083 is consistent with Section 10-123 of the Town of Fort Myers Code.

Due to difficult economic times all of the building's authorized to be constructed by the Development Order have not been completed in the time frame originally anticipated. The Development Order authorized the construction of four ten story buildings. There is one remaining building to be constructed and it is anticipated the construction will be commencing in the near future. The Florida Legislature has recognized that there have been difficult economic times throughout the State of Florida and has adopted various statutes requiring local governments to grant extensions to local development permits and local development orders. DOS2001-00083 had received the State authorized extensions and the Development Order was extended through September 19, 2013. A request for an extension for the Development Order was submitted to the Town of Fort Myers Beach on August 22, 2013 meeting the timing requirements in Section 10-123(a). All development infrastructure is currently in place. Therefore there is no need for a surety or performance bond to ensure construction of needed infrastructure. The existing Development Order is in compliance with the Fort Myers Beach Comprehensive Plan and the Town of Fort Myers Beach Code. The completion of the Waterside at Bay Beach proposed development has been approved through a Settlement Agreement and there are no timelines by which building permits must be issued. We are not aware of this Development Order conflicting with any incipient policies of the Town Councils.

The request is to extend the DO# DOS2001-00083 from September 19, 2013 to September 19, 2015.

**NOTICE**

THESE PLANS ARE PRODUCED IN CONJUNCTION WITH TECHNICAL SPECIFICATIONS AND CONTRACT DOCUMENTS FOR THE WORK AS DESCRIBED HEREIN. BIDS OR PRICE PROPOSALS FOR THIS WORK SHOULD BE MADE ONLY AFTER CAREFUL REVIEW OF THE SPECIFICATIONS WHICH SET FORTH MATERIAL, CONSTRUCTION AND TESTING REQUIREMENTS. PLANS WHICH ARE NOT STAMPED "APPROVED FOR CONSTRUCTION" ARE PRELIMINARY AND SUBJECT TO CHANGE BASED UPON FINAL AGENCY APPROVALS.

THE PROPOSED MINIMUM BUILDING AND ROADWAY ELEVATIONS ARE BASED ON APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. IF THESE ELEVATIONS ARE MAINTAINED, THE SITE CAN BE USED FOR BUILDING PURPOSES WITHOUT UNDUE DANGER FROM FLOOD. THIS CERTIFICATION APPLIES TO COMPLETED DEVELOPMENT PARCELS ONLY.

SITE SPECIFIC GEOTECHNICAL INVESTIGATIONS MUST BE CONDUCTED TO DETERMINE THE SUITABILITY OF SOIL CONDITIONS PRIOR TO THE DESIGN OF INDIVIDUAL PARCELS AND FOUNDATIONS WHICH ALSO MUST COMPLY WITH ALL APPLICABLE BUILDING CODES.

THE CONSTRUCTION PROCESS IS BEYOND THE ENGINEER'S CONTROL AND THE ENGINEER DOES NOT CERTIFY UNDUE DANGER FROM FLOOD OR ADVERSE SOIL CONDITIONS DURING THE CONSTRUCTION PROCESS.

**REVIEWING AGENCIES**

**LEE COUNTY**

DEPARTMENT OF COMMUNITY DEVELOPMENT  
ZONING AND DEVELOPMENT SERVICES DIVISION  
1831 HENDRY STREET P.O. 398  
FT. MYERS, FL 33902  
[941] 335-2235

**FIRE DISTRICT:**  
FORT MYERS BEACH  
FIRE CONTROL DISTRICT  
3043 ESTERO BOULEVARD  
FT. MYERS BEACH, FL 33931

**ELECTRIC SERVICE:**  
FLORIDA POWER & LIGHT  
15834 WINKLER ROAD  
FT. MYERS, FLORIDA 33908  
(941) 332-9123

**WATER MANAGEMENT:**  
SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
2301 MCGREGOR BLVD.  
FT. MYERS, FLORIDA 33901  
(941) 338-2929

**TELEPHONE:**  
SPRINT UNITED TELEPHONE  
OF FLORIDA  
2820 CARGO ST., BLDG A.  
FT. MYERS, FL 33916

**POTABLE WATER SERVICE:**  
LEE COUNTY UTILITIES  
1500 MONROE STREET  
FT. MYERS, FLORIDA 33901  
(941) 479-8585

**LANDSCAPE ARCHITECT:**  
ARTHUR NEUMANN, ASLA, P.A.  
757 12TH AVENUE SOUTH  
NAPLES, FL 34102  
(941) 263-8155

CONSTRUCTION PLANS FOR:  
**WATERSIDE - PHASE 5-8**  
RESIDENTIAL PLANNED DEVELOPMENT  
IN SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST  
FINAL DEVELOPMENT ORDER  
FORT MYERS BEACH, LEE COUNTY, FLORIDA

PREPARED FOR  
**GILES DEVELOPMENT, INC.**  
7401 ESTERO BOULEVARD  
FORT MYERS BEACH, FLA. 33931  
[941] 765-6400

LOCATION  
LOCATED IN SECTION 3, TOWNSHIP 47S, RANGE 24E,  
LEE COUNTY, FLORIDA.

**SHEET INDEX**

| SHEET NO. | SHEET TITLE                                 |
|-----------|---|
| 1         | COVER SHEET                                 |
| 2         | EXISTING CONDITIONS                         |
| 3         | OVERALL MASTER SITE, SIGN & STRIPING PLAN   |
| 4         | UTILITY PLAN (PHASE 5-6)                    |
| 5         | UTILITY PLAN (PHASE 7-8)                    |
| 6         | PAVING, GRADING & DRAINAGE PLAN (PHASE 5-6) |
| 7         | PAVING, GRADING & DRAINAGE PLAN (PHASE 7-8) |
| 8         | ROADWAY PLAN AND PROFILE                    |
| 9         | SIGNING AND STRIPING PLAN                   |
| 10        | PAVING, GRADING & DRAINAGE DETAILS (1)      |
| 11        | PAVING, GRADING & DRAINAGE DETAILS (2)      |
| 12        | POTABLE WATER DETAILS (1)                   |
| 13        | POTABLE WATER DETAILS (2)                   |
| 14        | POTABLE WATER DETAILS (3)                   |
| 15        | SANITARY SEWER DETAILS                      |
| 16        | AERIAL PHOTOGRAPH                           |

**LEGEND:**

**WATER DISTRIBUTION SYSTEM**

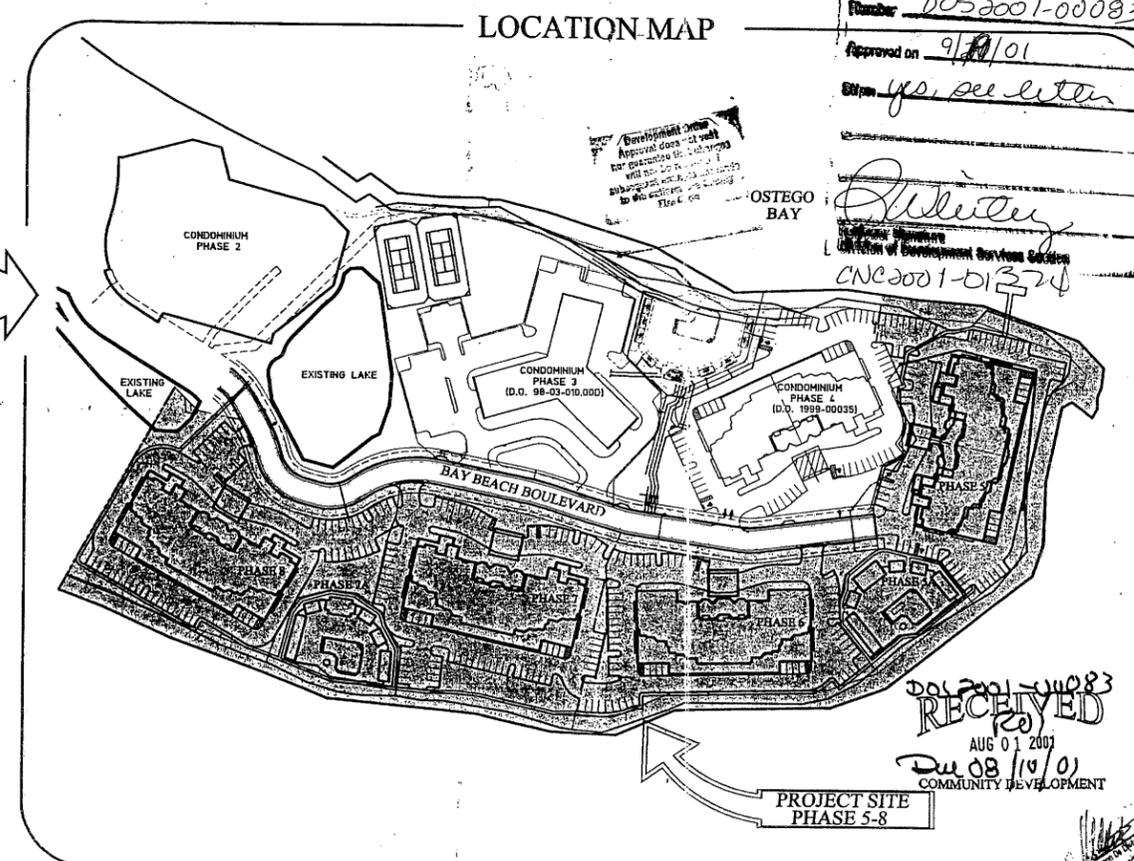
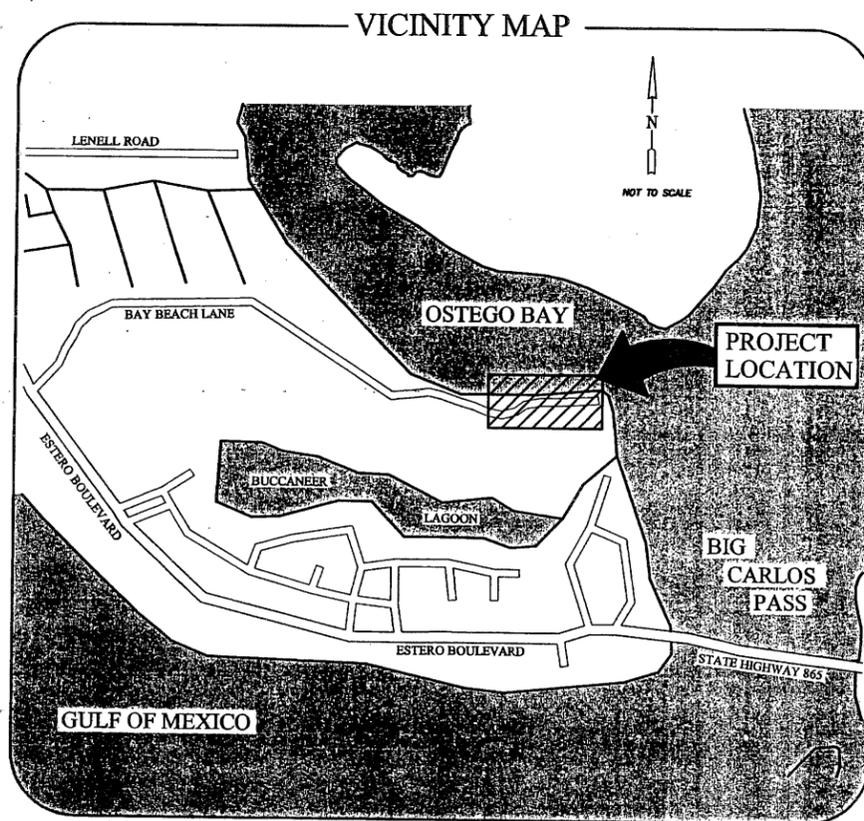
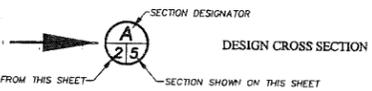
- 12" WM ——— EXISTING WATER MAIN & PIPE SIZE
- 8" EM ——— EXISTING EFFLUENT MAIN & PIPE SIZE
- EXISTING FIRE HYDRANT
- PROPOSED FIRE HYDRANT
- 12" WM ——— PROPOSED WATER MAIN, VALVE & PIPE SIZE
- 8" EM ——— PROPOSED EFFLUENT MAIN, VALVE & PIPE SIZE

**SANITARY SEWER SYSTEM**

- 8" SS ——— EXISTING SEWER MAIN & PIPE SIZE
- EXISTING MANHOLE
- 8" SS ——— PROPOSED SEWER MAIN, MANHOLE & PIPE SIZE
- 4" FM ——— EXISTING SANITARY FORCE MAIN & PIPE SIZE
- 4" FM ——— PROPOSED SANITARY FORCE MAIN & PIPE SIZE

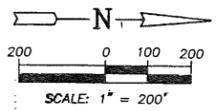
**STORM DRAINAGE SYSTEM**

- 15" RCP ——— EXISTING STORM DRAIN & PIPE MATERIAL/SIZE
- EXISTING CATCH BASIN
- EXISTING STORM DRAIN MANHOLE/HEADWALL
- 24 LF 15" RCP @ 0.2% ——— PROPOSED STORM DRAIN, INLET & PIPE INFO
- x 9.6 ——— EXISTING SPOT ELEVATION
- (12.50) ——— PROPOSED GRADE
- DRAINAGE FLOW ARROW



Development Order  
Number DC2001-00083  
Approved on 9/10/01  
By yes, see letter  
*[Signature]*  
Director of Development Services Section  
CNC2001-01370

**RECEIVED**  
AUG 01 2001  
Due 08/10/01  
COMMUNITY DEVELOPMENT

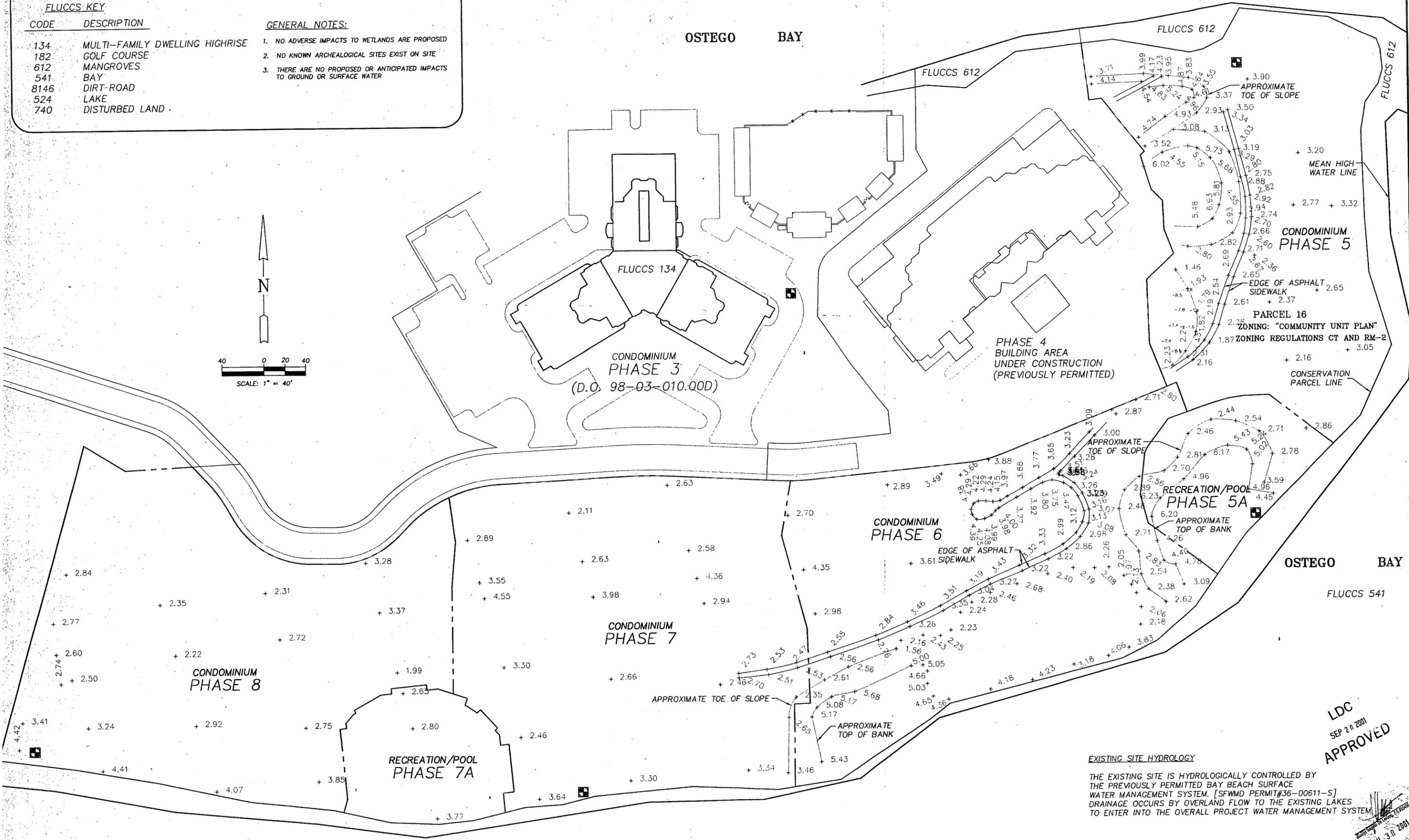
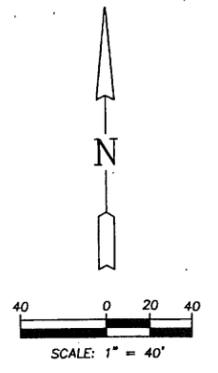


|   |            |                      |                          |
|---|------------|----------------------|--------------------------|
| PLANS PREPARED BY:<br><b>Agnoli, Barber &amp; Brundage, Inc.</b><br>Professional Engineers, Planners & Land Surveyors<br>7400 Tamiami Trail North, Naples Florida 34108 (941) 597-3111<br>1425 Madison Avenue, Suite 101, Fort Myers, Florida 33901 |            | DATE:<br>APRIL 2001  | PLAN STAGE:<br>SUBMITTAL |
| ABB PROJECT NO.<br>7755-MST   | SHEET<br>1 | ABB FILE NO.<br>7926 | OF<br>16                 |
| ACAD FILE NO.   |            |                      |                          |

**FLUCCS KEY**

| CODE | DESCRIPTION                    |
|------|--------------------------------|
| 134  | MULTI-FAMILY DWELLING HIGHRISE |
| 182  | GOLF COURSE                    |
| 612  | MANGROVES                      |
| 541  | BAY                            |
| 8146 | DIRT ROAD                      |
| 524  | LAKE                           |
| 740  | DISTURBED LAND                 |

- GENERAL NOTES:**
1. NO ADVERSE IMPACTS TO WETLANDS ARE PROPOSED
  2. NO KNOWN ARCHEOLOGICAL SITES EXIST ON SITE
  3. THERE ARE NO PROPOSED OR ANTICIPATED IMPACTS TO GROUND OR SURFACE WATER



LDC  
SEP 21 2001  
APPROVED

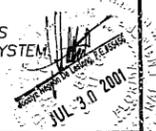
**EXISTING SITE HYDROLOGY**  
THE EXISTING SITE IS HYDROLOGICALLY CONTROLLED BY THE PREVIOUSLY PERMITTED BAY BEACH SURFACE WATER MANAGEMENT SYSTEM. [SFWM PERMIT#36-00611-S] DRAINAGE OCCURS BY OVERLAND FLOW TO THE EXISTING LAKES TO ENTER INTO THE OVERALL PROJECT WATER MANAGEMENT SYSTEM

| DATE | REVISIONS | BY | NO. | DATE | REVISIONS | BY | NO. | DATE | REVISIONS | BY | NO. | DATE |
|------|-----------|----|-----|------|-----------|----|-----|------|-----------|----|-----|------|
|      |           |    |     |      |           |    |     |      |           |    |     |      |

GILES DEVELOPMENT, INC.  
WATERSIDE AT BAY BEACH  
PHASE 5-8  
EXISTING CONDITIONS MAP

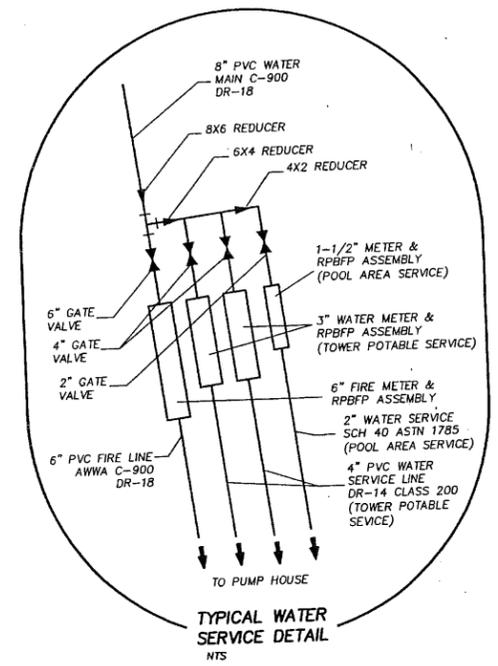
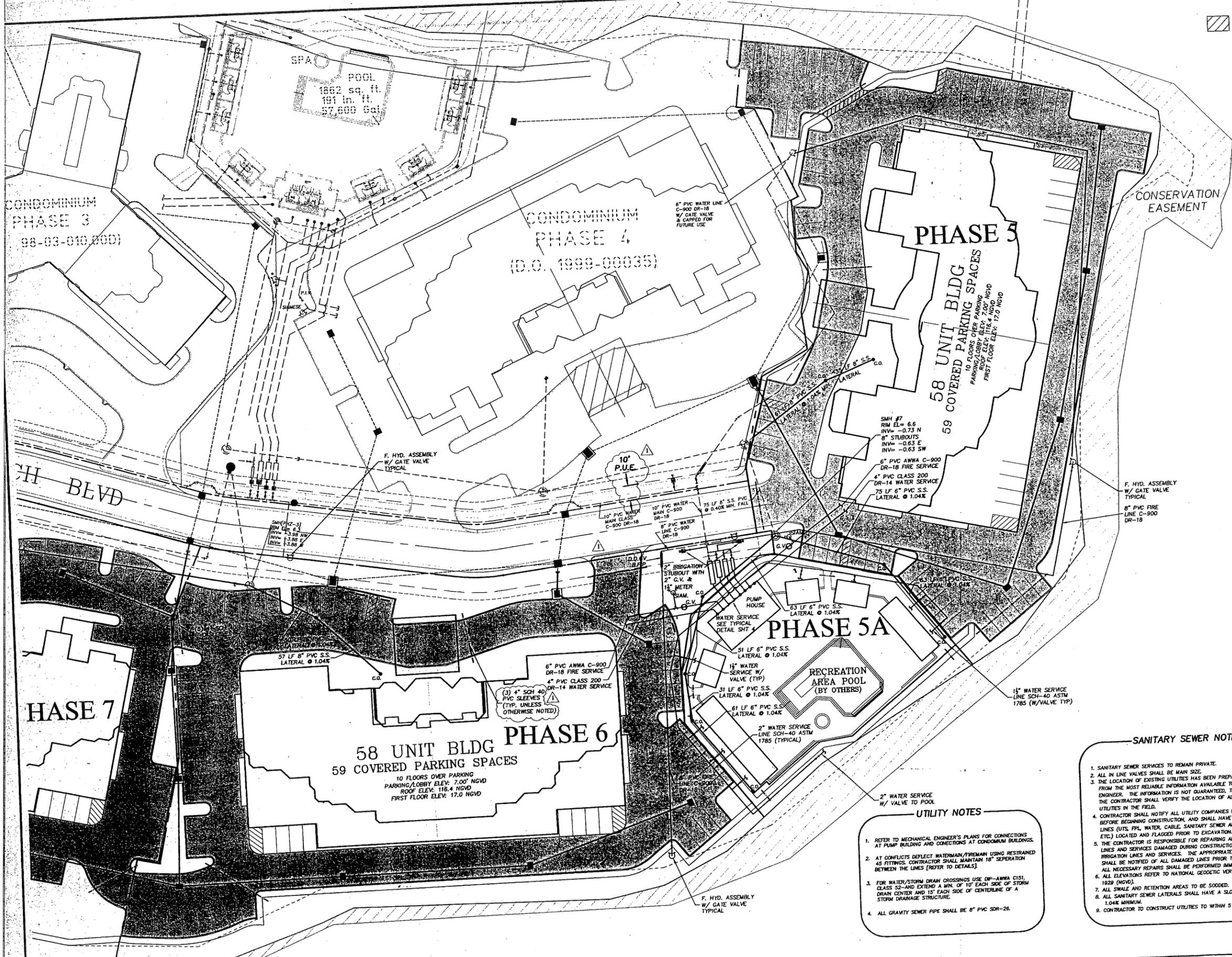
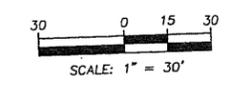
**GNOLI**  
BARBER &  
BRUNDAGE, INC.  
Professional engineers, planners, & land surveyors  
Office: County Bldg. 800, 1100 Tamiami Trail, North Naples, FL 34108 (813)999-1111  
Law County: Suite 101, 1000 Bayshore Blvd., Fort Myers, FL 33901 (813)997-3111  
Certificate of Authorization No. LP 3604 and PS 3264 Fax: (813)999-2222

|                       |                   |                 |          |
|-----------------------|-------------------|-----------------|----------|
| DESIGNED BY: JNL      | DATE: APRIL 2001  | PLAN STAGE      | SHEET: 2 |
| DRAWN BY: RAF         | DATE:             | SUBMITTAL       | OF 16    |
| CHECKED BY: FB        | DATE:             | ABB PROJECT NO. | 7755-MST |
| REVIEWED BY:          | DATE:             | ACAD DWG:       | 7926-ec  |
| HORIZ SCALE: 1" = 40' | PLOT VIEW: LIMITS | FILE NO.        | 7926     |
| VERT SCALE: N/A       |                   |                 |          |





LEGEND  
 CONSERVATION PARCEL AREA



- POTABLE WATER NOTES**
- POTABLE WATER SERVICES TO BE PROVIDED BY LEE COUNTY UTILITIES.
  - THE PROPOSED WATER MAIN SHALL BE AWWA C900 CL200 DR14 PVC UNDERNATH PAVEMENT (TO 6' MINIMUM PAST EDGE OF PAVEMENT) AND AT ALL DEFLECTED UTILITY CROSSINGS UNLESS SPECIFICALLY CALLED OUT OTHERWISE. ALL OTHER PROPOSED WATER MAIN SHALL BE AWWA C900 CL150 SDR18 PVC UNLESS SPECIFICALLY CALLED OUT OTHERWISE.
  - ALL PROPOSED WATER MAIN SHALL BE INSTALLED WITH 36" MINIMUM COVER FROM PROPOSED GROUND OVER WATER MAIN ALIGNMENT.
  - ALL WATER MAIN FITTINGS SHALL BE RESTRAINED JOINT. ALL FITTINGS UNDER CONCRETE OR ASPHALT SHALL BE RESTRAINED.
  - ALL IN LINE VALVES SHALL BE MAIN SIZE.
  - THE LOCATION OF EXISTING UTILITIES HAS BEEN PREPARED FROM THE MOST RELIABLE INFORMATION AVAILABLE TO THE ENGINEER. THE INFORMATION IS NOT GUARANTEED, THEREFORE THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES IN THE FIELD.
  - CONTRACTOR SHALL NOTIFY ALL UTILITY COMPANIES IN THE AREA BEFORE BEGINNING CONSTRUCTION, AND SHALL HAVE ALL SERVICE LINES (UTS, FPL, WATER, CABLE, SANITARY SEWER AND FORCE MAIN, ETC.) LOCATED AND FLAGGED PRIOR TO EXCAVATION.
  - THE CONTRACTOR IS RESPONSIBLE FOR REPAIRING ALL UTILITY LINES AND SERVICES DAMAGED DURING CONSTRUCTION, INCLUDING IRRIGATION LINES AND SERVICES. THE APPROPRIATE UTILITY SHALL BE NOTIFIED OF ALL DAMAGED LINES PRIOR TO REPAIR. ALL NECESSARY REPAIRS SHALL BE PERFORMED IMMEDIATELY.
  - ALL ELEVATIONS REFER TO NATIONAL GEODETIC VERTICAL DATUM 1929 (NGVD).
  - IF THERE ARE ANY NEW OR RELOCATED WATER MAINS THAT CROSS ANY SANITARY SEWERS, STORM SEWERS, FORCE MAINS, OR RECLAIMED WATER LINES, THE WATER MAINS CROSS ABOVE SUCH PIPELINES WITH A MINIMUM VERTICAL DISTANCE OF 18 INCHES BETWEEN THE OUTSIDE OF THE WATER MAINS AND THE OUTSIDE OF SUCH PIPELINES. IF SUCH CROSSINGS ARE ARRANGED SO THAT ALL PIPE JOINTS ARE EQUIDISTANT FROM THE POINT OF CROSSING WITH NO LESS THAN TEN FEET BETWEEN ANY TWO JOINTS (OR, ALTERNATIVELY, THE SANITARY SEWERS, STORM SEWERS, FORCE MAINS, AND RECLAIMED WATER LINES AT SUCH CROSSINGS ARE PLACED IN SLEEVES OR ENCASED IN CONCRETE TO OBTAIN THE EDGE OF THE TEN FOOT SEPARATION BETWEEN JOINTS).
  - CONTRACTOR TO CONSTRUCT UTILITIES WITHIN 5 FEET OF BUILDING.
  - ALL PROPOSED WATER MAINS SHOWN ON THIS UTILITY PLAN, LOCATED WITHIN P.U.E. TO BE DUCTILE IRON PIPE PER L.P.C.

- SANITARY SEWER NOTES**
- SANITARY SEWER SERVICES TO REMAIN PRIVATE.
  - ALL IN LINE VALVES SHALL BE MAIN SIZE.
  - THE LOCATION OF EXISTING UTILITIES HAS BEEN PREPARED FROM THE MOST RELIABLE INFORMATION AVAILABLE TO THE ENGINEER. THE INFORMATION IS NOT GUARANTEED, THEREFORE THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES IN THE FIELD.
  - CONTRACTOR SHALL NOTIFY ALL UTILITY COMPANIES IN THE AREA BEFORE BEGINNING CONSTRUCTION, AND SHALL HAVE ALL SERVICE LINES (UTS, FPL, WATER, CABLE, SANITARY SEWER AND FORCE MAIN, ETC.) LOCATED AND FLAGGED PRIOR TO EXCAVATION.
  - THE CONTRACTOR IS RESPONSIBLE FOR REPAIRING ALL UTILITY LINES AND SERVICES DAMAGED DURING CONSTRUCTION, INCLUDING IRRIGATION LINES AND SERVICES. THE APPROPRIATE UTILITY SHALL BE NOTIFIED OF ALL DAMAGED LINES PRIOR TO REPAIR. ALL NECESSARY REPAIRS SHALL BE PERFORMED IMMEDIATELY.
  - ALL ELEVATIONS REFER TO NATIONAL GEODETIC VERTICAL DATUM 1929 (NGVD).
  - ALL SWALE AND RETENTION AREAS TO BE SODED.
  - ALL SANITARY SEWER LATERALS SHALL HAVE A SLOPE OF 1.04% MINIMUM.
  - CONTRACTOR TO CONSTRUCT UTILITIES TO WITHIN 5 FEET OF BUILDING.

- UTILITY NOTES**
- REFER TO MECHANICAL ENGINEER'S PLANS FOR CONNECTIONS AT PUMP BUILDING AND CONNECTIONS AT CONDOMINIUM BUILDINGS.
  - AT CONFLICTS DEFLECT WATERMAIN/FIREMAN USING RESTRAINED 45 FITTINGS. CONTRACTOR SHALL MAINTAIN 18" SEPARATION BETWEEN THE LINES (REFER TO DETAILS).
  - FOR WATER/STORM DRAIN CROSSINGS USE DRIP-AWAY C151, CLASS 52-AND EXTEND A MIN. OF 10' EACH SIDE OF STORM DRAIN CENTER, AND 15' EACH SIDE OF CENTERLINE OF A STORM DRAINAGE STRUCTURE.
  - ALL GRAVITY SEWER PIPE SHALL BE 8" PVC SDR-26.

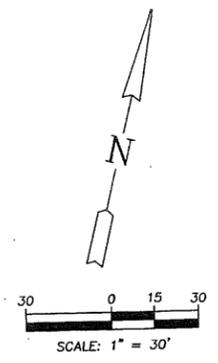
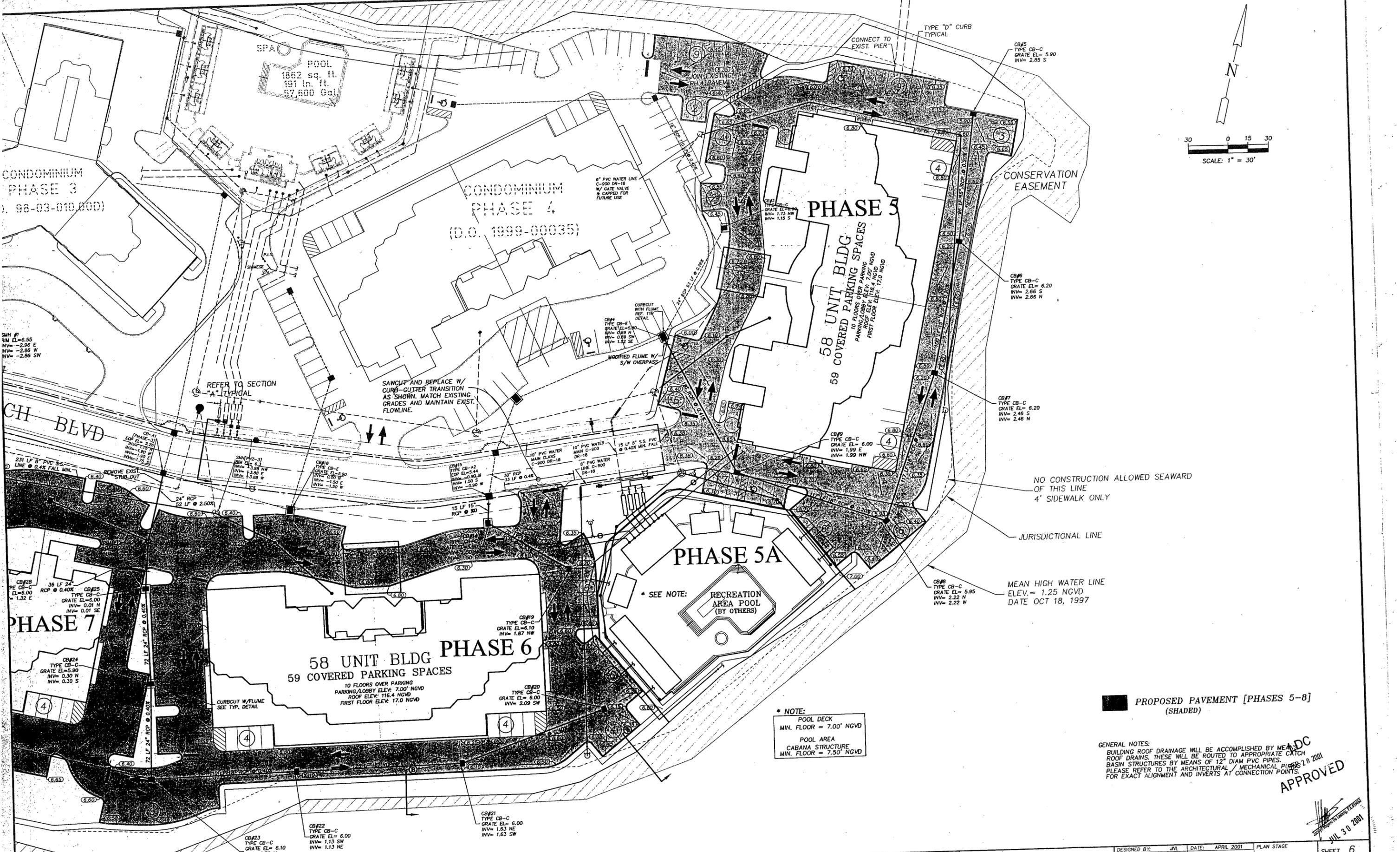
| NO. | DATE    | REVISIONS  | BY  | NO. | DATE | REVISIONS | BY |
|-----|---------|--|-----|-----|------|-----------|----|
| 1   | 7/27/01 | ADD WATER NOTE #12, REVISE ENTRANCE PHASE 6 AND SCH 40 PVC SLEEVES, P.U.E. LABEL | RAF |     |      |           |    |

GILES DEVELOPMENT, INC.  
 WATERSIDE AT BAY BEACH  
 PHASES 5-8  
 UTILITY MASTER PLAN (PHASE 5 & 6)

GNOLI  
 BARBER &  
 BRUNDAGE, INC.  
 Professional engineers, planners, & land surveyors  
 1000 County Road 200, 7400 Sandhill Road, North Naples, FL 34108 (813) 971-3111  
 Fort Myers, FL 33901 (813) 971-3111  
 Fort Myers, FL 33901 (813) 971-3111  
 Certificate of Authorization No. 18 3664 and 18 3664

|                       |                         |                       |                 |
|-----------------------|-------------------------|-----------------------|-----------------|
| DESIGNED BY: JNL      | DATE: APRIL 2001        | PLAN STAGE: SUBMITTAL | SHEET NO. OF 16 |
| DRAWN BY: RAF         | DATE:                   | ABB PROJECT NO. 7755  | FILE NO. 7926   |
| CHECKED BY: PJB       | DATE:                   | ACAD DWG: 7926-me     |                 |
| REVIEWED BY:          | DATE:                   |                       |                 |
| HORIZ SCALE: 1" = 30' | PLOT VIEW: utility(5)-4 |                       |                 |
| VERT SCALE: N/A       |                         |                       |                 |





NO CONSTRUCTION ALLOWED SEAWARD OF THIS LINE  
4' SIDEWALK ONLY

JURISDICTIONAL LINE

MEAN HIGH WATER LINE  
ELEV. = 1.25 NGVD  
DATE OCT 18, 1997

PROPOSED PAVEMENT [PHASES 5-8]  
(SHADED)

\* NOTE:  
POOL DECK  
MIN. FLOOR = 7.00' NGVD  
POOL AREA  
CABANA STRUCTURE  
MIN. FLOOR = 7.50' NGVD

GENERAL NOTES:  
BUILDING ROOF DRAINAGE WILL BE ACCOMPLISHED BY MEANS OF 12\"/>

APPROVED

JUL 30 2001

| NO. | DATE    | REVISIONS               | BY  | NO. | DATE | REVISIONS | BY |
|-----|---------|-------------------------|-----|-----|------|-----------|----|
| 1   | 7/27/01 | REVISE ENTRANCE PHASE 6 | RAF |     |      |           |    |

FOR: GILES DEVELOPMENT, INC.  
WATERSIDE AT BAY BEACH  
PHASES 5-8  
PAVING, GRADING & DRAINAGE PLAN - (5&6)

AGNOLI  
Professional engineers, planners, & land surveyors  
1001 N. W. 10th Street, Fort Myers, FL 33901 (941) 937-1111  
Certificate of Accreditation No. 18 2001 and 02 2004

|                       |                  |                 |          |
|-----------------------|------------------|-----------------|----------|
| DESIGNED BY: JNL      | DATE: APRIL 2001 | PLAN STAGE      |          |
| DRAWN BY: RAF         | DATE:            | SUBMITTAL       | SHEET 6  |
| CHECKED BY: PJB       | DATE:            | ABB PROJECT NO. | OF 16    |
| REVIEWED BY:          | DATE:            | 7755-MST        |          |
| HORIZ SCALE: 1" = 30' | DATE:            | ACAD DWG:       | FILE NO. |
| VERT SCALE: N/A       | PLOT VIEW:       | 7926-me         | 7926     |



## Town of Fort Myers Beach

Larry Kiker  
Mayor

Bob Raymond  
Vice Mayor

Joe Kosinski  
Council Member

Jo List  
Council Member

Alan Mandel  
Council Member

August 5, 2011

CRM Florida Properties, LLC  
25 Park Place, 8<sup>th</sup> Floor  
Atlanta, GA 30303

Attn: Andrew Kroll, Senior Vice President

RE: Development Order Extension Request (Lee County DOS2011-00083)  
Waterside at Bay Beach

Dear Mr. Kroll,

You have requested a two year extension of a Lee County Development Order (DOS2001-00083) for property identified by strap number: 03-47-24-W3-00014.113. The original expiration date was September 19, 2009.

Chapter 2009-096, Laws of Florida, provided for a two year extension, from the date of expiration, for each valid development order and building permit with an expiration date between September 1, 2008 and January 1, 2012 provided that the application as received by the local jurisdiction by close of business on December 31, 2009.

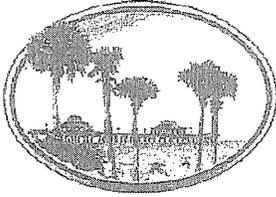
An application was made prior to the close of business on December 31, 2009 thereby qualifying DOS2001-0083 for this initial 2 extension and revised the expiration date to September 19, 2011.

The 2011 Legislative session resulted in a further extension consideration, and Chapter 2011-14, Laws of Florida, spelled out the eligible permits and approvals.

Town Staff has reviewed your request and supporting documents and has determined that the requested extension is **APPROVED**. The development order DOS2001-00083 is extended for an additional two years with a new expiration date of **September 19, 2013**.

Sincerely,

Walter G. Fluegel, MBA, AICP  
Community Development Director  
Town of Fort Myers Beach



## Town of Fort Myers Beach

---

*Larry Kiker*  
Mayor

*Herb Acken*  
Vice Mayor

*Tom Bahcock*  
Councilmember

*Jo List*  
Councilmember

*Bob Raymond*  
Councilmember

Bay Beach VI LLC  
4530 Bay Beach Lane  
Fort Myers Beach, FL 33931

March 9, 2010

Dear Mr. Claussen,

You have requested a two-year extension of a development order, DOS2001-00083, which had an expiration date of September 19, 2009, and associated concurrency certificate CNC2001-01242. Your request was received by the Town of Fort Myers Beach prior to the close of business December 31, 2009.

Chapter 2009-096, Laws of Florida, provided an extension of two years from the expiration date for each valid development order and building permit with an expiration date between September 1, 2008 and January 1, 2012. The Town Council of Fort Myers Beach adopted Resolution 09-30 to implement these statutory extensions.

Staff has reviewed your request and determined that the requested extension is **APPROVED** and the development permit DOS2001-00083 is extended for two years to a new expiration date of September 19, 2011.

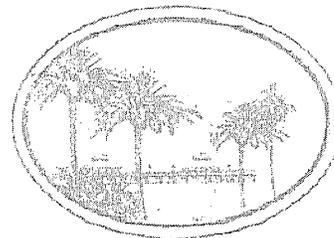
Sincerely,

Department of Community Development  
Town of Fort Myers Beach

Frank Shockey, Ph.D., CFM  
Community Development Director

*Town of Fort Myers Beach*

TOWN OF  
FORT MYERS BEACH



January 08, 2008

RECEIVED BY

Mr. James A Carr. P. E.  
Agnoli, Barber and Brundage, Inc.  
7400 Tamiami Train N.  
Suite 200  
Naples, Florida 34108

Re: Waterside at Bay Beach, Phases 5-8  
DO # DOS2001-00083  
CNC2001-001242

Dear Mr. Carr:

Pursuant to the provisions of LDC Section 10-123, an additional two (2) year extension of the Development Order for the referenced project is approved with one (1) condition(s). A copy is attached to verify this condition(s).

The new expiration date for this Development Order is September 19, 2009, as extended.

DEPARTMENT OF COMMUNITY DEVELOPMENT  
Development Services Division

Peter J. Eckenrode  
Director  
(239) 533-8348

Attachments  
cc: File  
PJE/rlm

RECEIVED  
JAN 10 2008

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

**Development Order Extension Conditions for #DOS2001-00083  
Waterside at Bay Beach, Phases 5-8**

Waterside at Bay Beach is located on the east side of Estero Blvd., north of Big Carlos Pass on Estero Island, in Lee County, Florida, Section 03, Township 47 South, Range 24 East. The property covered by this Development Order is zoned BB, (Bay Beach Zoning District), Planning Land Use 2010, (Mixed Residential at 99% and Wetlands at 1%).

**Analysis:** The Waterside at Bay Beach Development Order, originally applied for (232) residential condominium units in four (4) buildings, 10-story over parking, with streets, open parking, utilities, storm water drainage facilities and related site improvements. The Development Order was approved on September 19, 2001 with stipulations. After the approved Development Order was an application for a **Minor Change (MO1)**, that was submitted and approved on October 25, 2001 for two (2) swimming pools, 5,344 +/- S. F. in 10 buildings (6 bldg. -338 +/- S. F. per bldg., 2 bldg. - 665 +/- SF. per bldg., 2 bldg. - 993 +/- S. F. per bldg.) for Cabanas, 2076 +/- S. F. in 2 bldg. (1038 +/- per bldg.) for pump houses, 2 spas and related site improvements. A **Minor Change (MO2)**, was submitted and approved on April 22, 2003 for changes limited to Phase 5-A only, the reconfiguration of the Cabana structures and pool deck area. A **Minor Change (MO3)**, was submitted and approved on November 19, 2003 for minor modification to the site plan showing construction details of the retaining wall and modified landscape plans. An **Amendment Application (AO1)**, was submitted and approved on August 4, 2005, with stipulation(s) for the following: Slight adjustment to the building footprint, landscape modifications, parking and utility modifications and phasing changes. An **Amendment Application (AO2)**, was submitted and approved on March 7, 2006, with stipulation(s) for the following: Adjusted building footprints, adjusted parking spaces, revised utilities and rearranged landscaping. A **Minor Change (MO5)**, was submit and approved on June 9, 2006, with stipulation(s) for the following: Revised landscaping in Phase 7A and 8. To date, Waterside Phases 5 through 8 is approximately 75% complete. Certificate of construction completion has been processed for Phases 5 (54 units plus 2 guest units) and Phase 8 (56 units plus 2 guest units). Phase 7 (58 units) will be ready for CC in January of 2008. Phase 6 has yet to be started.

On November 13, 2001 the Lee County Board of County Commissioners passed Ordinance 01-18 limiting the extension of Development Order to no more than (10) ten years from original approval. Lee County Development Services approved the original Development Order for Waterside at Bay Beach (Phase 5-8) on September 19, 2001. This Development Order was originally scheduled to expire on September 19, 2007. The Development Services Division received a request for a two-year extension of this Development Order on May 22, 2007 which was within the six (6) year life of the Development Order. Approved site plans for these improvements are on file in the Division of Development Services.

The original Concurrency Certificate # CNC2001-01242 was valid for 3 years, expiring on September 19, 2004. At that time a Concurrency renewal was issued and was scheduled to expire at the same date as the Development Order, September 19, 2007. On May 22, 2007 a letter requesting that the Concurrency certificate be extended was received in Development Services. On November 28, 2007 the Concurrency Certificate for the remaining Development Order improvements was renewed and a Concurrency Certificate extension was issued and will expire at the end of the first Development Order extension on September 19, 2009.

Section 10-123 of the Land Development Code states:

- (a) The Director of Development Services may grant a (2) two-year extension of time for the Development Order provided:
  - (1) The applicant requests the extension, in writing, prior to the expiration date of the Development Order
  - (2) The applicant's request identifies the reasons for the extension

- (3) All surety or performance bonds are extended by the Developer
  - (4) The Development Order is in compliance with the Lee Plan and all other county land development regulations
  - (5) In no case may extensions be approved that would extend a Development Order more than ten (10) years from the date of the original approval
- (b) Where the Director recommends a denial of the extension request, or where the Developer contests the proposed conditions placed on a Development Order extension by the Director, the Developer may request the Board of County Commissioners to grant the extension provided items (1) through (5) can be satisfied.
- (c) The grant of an extension is a matter of discretion and not of right.

As noted above no surety is required to be extended for this project. The applicant has requested the extension in writing in a timely fashion and has stated that the extension of the Development Order will allow the remaining development improvements to be completed.

In accordance with the above, staff recommends that the additional Development Order Extension for the Waterside at Bay Beach, Phase 5-8 Project be approved with the following one (1) condition(s):

- (1) Any changes to the approved Development Order Plans must be in compliance with the Ft. Myers Beach LDC.

The applicant has agreed to the above one (1) stated condition(s) on this date \_\_\_\_\_ of 2008. The new expiration date, as extended, is September 19, 2009.

Signed

\_\_\_\_\_

Print (and/or) Seal

\_\_\_\_\_



TOWN OF  
FORT MYERS BEACH

FEB - 5 2008

RECEIVED BY

February 4, 2008

Mr. Jerry Murphy  
Community Development Director  
Town of Fort Myers Beach  
2523 Estero Blvd.  
Ft. Myers Beach, FL 33931

Re: Development Order Extension  
DOS2001-00083, Waterside at Bay Beach Phases 5-8

Dear Mr. Murphy:

Please allow this letter to serve as a request for an extension to the above-referenced Development Order. A request for a Development Order extension was sent to Lee County on May 22, 2007 and received approval from Lee County on January 8, 2008. The extension was then rescinded when it was found that Development Order extensions must be processed through the Town of Fort Myers Beach.

Please be advised that construction has been diligently pursued by the developer. Three buildings of the four in this Development Order have been completed and received Certificates of Occupancy. Only one building remains to be constructed (Phase 6). Building 6 has been designed, the master infrastructure installed, and all utility impact fees paid on this, as yet unconstructed, building.

The developer wishes to delay the start of this final building due to the slowdown in market conditions. We understand that an extension of two years is possible through the current codes, and we respectfully request this extension. In addition, we would like know if there is any means by which the time periods for extensions may be lengthened, or a second two-year term considered, as the economic situation is unlikely to reverse itself quickly enough to complete this final phase of construction.

A fee of \$350.00 was paid to Lee County. We trust that arrangements can be made to credit that fee to this extension. Thank you for helping us through the process.

Sincerely,

  
James A. Carr, P.E.

JAC/jml  
Enclosures

cc: Michael F. Johnson  
Chris Claussen

01-020j8.ltr.doc

## Jerry Murphy

---

From: June Lehmann [lehmann@abbinc.com]  
Sent: Monday, February 04, 2008 10:27 AM  
To: Jerry Murphy; brad case  
Cc: cgclaussen@aol.com; Michael Johnson; Jim Carr  
Subject: FW: Waterside Development Order Extension

Attachments: 20080204102023789.pdf



2008020410202378  
9.pdf (60 KB)

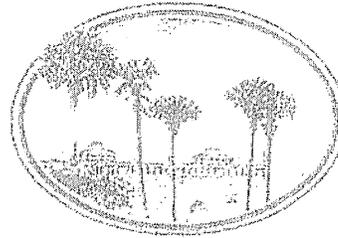
Mr. Murphy and Mr. Case:

Per the direction of Mr. Case, we are forwarding a letter requesting a Development Order Extension. (A hard copy of this letter will follow by mail.) We look forward to meeting with you on Wednesday at 11 a.m.

Thanks.

June Miller Lehmann  
Permit Coordinator  
Agnoli, Barber & Brundage, Inc.  
9990 Coconut Road, Suite 103  
Bonita Springs, FL 34135  
Telephone: 239-597-3111  
Fax: 239-498-2726  
Mobile: 239-825-7218

**Fax**



Town of Fort Myers Beach

WWW.FORTMYERSBEACHFL.GOV

To: BILL SPIKOWSKI

From:

FAX # 334-8878

FAX # 239-765-0909

PHONE # 334 8866

PHONE # 239-765-0202

Attention: BILL

Pages: 2 w/THIS COVER

Date: 2/4/08

Re: DOX FOR WATERSIDE@  
BAY BEACH

cc: ANNE DALTON

Urgent     For Review     Please Comment     Please Reply     Please Recycle

BAY BEACH - WATERSIDE

2/6/08

Meeting on D.O. Extension

3 years prior to permit - conservative for sales -  
FEMA FIRM Issue

Water Line capacity/pressure

Sand in the water line

Height

Mike Johnson, Chris Clausen, June Lehmann, James Carr

2 year extension

issues, conditions

Town Council Hearing

brad case

From: Jerry Murphy  
Sent: Saturday, February 09, 2008 4:25 PM  
To: brad case  
Cc: Anne Dalton (adalton@daltonlegal.com); bill@spikowski.com  
Follow Up Flag: Follow up  
Flag Status: Red

Brad,

In preparing your report for the DOX for Bay Beach you will need to review and discuss LDC Section 34-651, and the stipulated settlement agreement referenced therein. If docks are proposed, the DRI development order referenced therein may also come into play. Have you requested a copy of the DOS file from LC? Y

Gerald Murphy, AICP, CFM, Director  
Department of Community Development  
Town of Fort Myers Beach  
Fort Myers Beach, FL 33931  
(239) 765-0202; FAX (239) 765-0909

Docks NOT RECORDED IN DOS 2001-2008

Note new e-mail address jerry@fortmyersbeachFL.gov

Please note: Florida has a very broad public records law. Most written communications to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

"SPONBILL NEST"

## Conventional Zoning Districts

development regulations are contained in Table 34-3.

(c) In addition to these restrictions on allowable uses and dimensional requirements, the commercial design standards found in § 34-991–1010 apply to all commercial and mixed-use buildings or portions thereof that are being newly built and to “substantial improvements” to such buildings as defined in § 6-405.

### Sec. 34-649. IN (Institutional) zoning district.

(a) The purpose of the IN zoning district is to provide suitable regulations for churches, civic buildings, schools, and government buildings.

(b) In the IN zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

### Sec. 34-650. CF (Community Facilities) zoning district.

(a) The purpose of the CF zoning district is to provide suitable regulations for parks and nature preserves.

(b) In the CF zoning district, allowable uses are defined in Table 34-2 and property development regulations are contained in Table 34-3.

### Sec. 34-651. BB (Bay Beach) zoning district.

(a) The purpose of the BB zoning district is to implement the binding agreement that settled litigation over development rights in Bay Beach and to recognize prior rights granted for the construction and use of docks.

(b) Land uses in the BB zoning district shall conform to all requirements of the stipulated settlement agreement between Stardial Investments Company and the Town of Fort Myers Beach dated February 23, 2001, a copy of which is recorded in O.R. Book 3414, Pages 4775–4786, as amended in O.R. Book 3414, Pages 4787–4789, and including any future amendments to this agreement. Land uses in the BB zoning district must also conform to DRI development order #12-9394-124 regarding dock

construction that was issued by Lee County on December 5, 1994, notice of which is recorded in O.R. Book 2586, Pages 1851–1854.

(1) Allowable land uses include those uses in lawful existence as of February 23, 2001, and those additional uses as defined in the settlement agreement and in the DRI development order.

(2) Building size and placement shall be governed by the regulations in this code, including the property development regulations in the RM district, except where specifically superseded by terms of the settlement agreement.

(3) Replacement buildings cannot exceed the height, square footage of floor and parking areas, and all other measurable parameters of the original buildings. See buildback regulations in § 34-3237–3238.

### Sec. 34-652. EC (Environmentally Critical) zoning district.

(a) *Purpose.* The purpose of the EC zoning district is to designate beaches and significant wetlands whose preservation is deemed critical to the Town of Fort Myers Beach through its comprehensive plan, including:

- (1) Beaches that have been designated in the “Recreation” category on the future land use map, and.
- (2) Wetlands that have been correctly designated in the “Wetlands” category on the future land use map.

(b) *Intent.* The application of the EC district is intended to prevent a public harm by precluding the use of land for purposes for which it is unsuited in its natural state and which injures the rights of others or otherwise adversely affects a defined public interest.

(c) *Accretion.* Accretions of beaches or wetlands, whether by natural causes or through beach renourishment or artificial filling, will automatically be assigned to the EC zoning district.