

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**

<b>Application No.:</b>	DOA-2013-01057
<b>Application Name:</b>	Boca Del Mar PUD
<b>Control No.:</b>	1984-00152
<b>Applicant:</b>	Mizner Trail Golf Club Ltd
<b>Owners:</b>	Mizner Trail Golf Club Ltd
<b>Agent:</b>	Land Design South, Inc. - Douglas Murray
<b>Telephone No.:</b>	(561) 478-8501
<b>Project Manager:</b>	Wendy Hernández, Zoning Manager

TITLE: a Development Order Amendment REQUEST: to modify the Master Plan to re-designate land uses, add units, add access points and reconfigure the recreation area.

**APPLICATION SUMMARY:** Proposed is a Development Order Amendment (DOA) for the Boca Del Mar Planned Unit Development (PUD). The 1,945.96-acre development was originally approved by the Board of County Commissioners (BCC) on August 19,1971 as a Conditional Use for a PUD. The development has been modified several times over the past 42 years, the majority of the amendments were relative to the Commercial and Civic Pods located within the development. The most recent application, reviewed by the Zoning Commission (ZC) and BCC, was DOA-2011-01165 to modify the Master Plan to re-designate land uses, add units, add access points and reconfigure the Recreation Pod. The modification would have allowed for 291 Single family, Zero Lot Line, and Multi-family units on approximately 127-acre Golf Course. On September 26, 2011 the BCC denied the request with prejudice with a vote of 4-3.

The applicant is currently requesting to modify the Master Plan to redesignate the 126.88-acre south Golf Course into 6 new Residential Pods consisting of 288 Zero Lot Line and Townhouse units. The applicant is also proposing to either renovate or rebuild the existing recreation parcel, located on the 3.01-acre parcel of Pod 69A. Also requested is the addition of ingress/egress points along Canary Palm Drive (2), Camino Del Mar (4) and Military Trail (1).

**SITE DATA:**

Location:	Generally located south of Camino Real; east of Powerline Road; west of Military Trail; and, north of SW 18th Street. More specifically, north and east sides of Canary Palm Drive; the east and west sides of Camino Del Mar; and northwest and southwest of Palm D'Oro Drive.
Property Control Number(s):	00-42-47-27-56-000-0691 (Recreation); 00-42-47-26-05-641-0000 (Golf Course)
Existing Land Use Designation:	High Residential (HR-8)
Proposed Land Use Designation:	No proposed change
Existing Zoning District:	Agricultural Residential District (AR) with a Conditional Use for a Planned Unit Development (PUD)
Proposed Zoning District:	No proposed change
Tier:	Urban/Suburban
Acreage:	1945.96 acres (affected area: 129.89 acres)
Overall Gross Density:	<u>Existing:</u> 5.02 dwelling units per acre (du/ac) <u>Proposed:</u> 5.17 du/ac
Dwelling Units:	<u>Overall Master Plan:</u> 10,061 <sup>1</sup> (9,773 existing + 288 proposed) <u>Affected Area:</u> 288 units 154 Zero Lot line 134 Townhouse
Uses:	<u>Overall Development:</u> No change - residential, civic, commercial, and recreational uses. <u>Affected Area:</u> (New Tracts) Tract 64A - Zero Lot Line (27du) Tract 64B - Zero Lot Line (50du) Tract 64C - Townhouse (30du) Tract 64D - Townhouse (55du)

	Tract 64E - Townhouse (49du) and Zero Lot Line (48du) Tract 64F - Zero Lot Line (29du) Tract 69A - Recreation Uses
Overlay District:	NA
Neighborhood Plan:	NA
CCRT Area:	NA
Municipalities within 1 Mile	City of Boca Raton
Future Annexation Area	City of Boca Raton

<sup>1</sup> See information under Findings-1 Consistency with the Plan. The unit count on the Master Plan indicated maximum density on some Tracts, versus the actual number of units' site planned and built.

**RECOMMENDATION:** Staff recommends denial of the request.

**PUBLIC COMMENT SUMMARY:** At the time of publication, staff had received 537 emails from an online petition to oppose the residential construction on Mizner Trail, and 154 emails from individuals opposing the application and 1 in support. Additionally we received documentation emails from interested parties in opposition siting environmental contamination. On Novementer 18<sup>th</sup> 1,927 Courtesy Notices were sent to the surrounding residents, 1,706 certified and 221 regular mail. Of thoses notices mailed, to dates staff has received 24 responses in opposition and 2 in support. Those in opposition state reasons relative to loss of open space, purchased homes as part of a golf course community, design squeezes/shoehornes houses, open space was meant to meander, loss of property value, increase in traffic, developer does not think of the existing residents, schools and libraries negatively affected, notice and congestion, and modification would undermine future planned developments. Those in support of the development did not have any additional comments.

**PROJECT HISTORY:**

The Boca Del Mar Development (originally known as Boca Granada) was approved at the August 19, 1971 BCC Hearing subject to Conditions of Approval, as indicated in a letter from the Zoning Director and Minutes from that hearing (**Exhibits E and F**). The approval was for 10,576 units on 2,134 acres of land with a condition restricting the gross density to 5.47 du/ac (**Figure 4 Original Master Plan 1971**). Following that approval, the development went through a series of site, subdivision and plat approvals.

On February 19, 1985, Calibre Boca Del Mar, LTD requested a Special Exception to amend the Master Plan for the Boca Del Mar PUD to allow the addition of 5 units to Tract 81. The BCC approved the request and added 7 new conditions to the existing Development Order contained within Resolution R-1985-288 (**Figure 5 Final Master Plan, Exhibit 3a**). The Master Plan, with Conditions of Approval, restricted the development to 5.47du/ac.

After the 1985 approval, several DOAs were approved for the Civic and Commercial Pods of the PUD. In addition, numerous administrative changes were approved by the Development Review Officer (DRO) for the different Pods within the development. Within the last 9 years, there have been 3 other applications reviewed by the BCC requesting the allowance of a conversion of the southern golf course to residential uses. The following table lists the history of the DOAs (the previously approved Master Plan referenced the term Tracts, the current ULDC terminology for Tract is Pod, these terms are being used interchangeably throughout the Staff Report).

Tract Number	Application, Resolution and Request	Approval Date
Tract 27- Civic Pod (YMCA)	1984-00152(A) Resolution R-87-1111: Special Exception to amend the Master Plan to allow a General Daycare on Tract 27.	July 28, 1987
	1984-00152(I) Resolution R2002-1004: DOA to add an access point, add square footage and reconfigure the Site Plan.	June 19, 2002
	1984-00152(DOA-2004-00224) Resolution R2004-1371: DOA to modify and delete Conditions of Approval.	June 14, 2004
	1984-00152(DOA-2005-00986) Resolution R2005-2293: DOA to modify a Condition of Approval.	November 17, 2005
Tract 62- Civic Pod: (Congregate Living	1984-00152(B) Resolution R88-1539: Special Exception to amend the Master Plan to include an	August 27,1987

Facility)	Adult Congregate Living Facility.	
Tract 77 Commercial Pod (Shopping Center)	1984-00152(C) Resolution R91-1466: Special Exception to amend the Master Plan to include a child General Day Care.	July 25, 1991
	1984-00152(D) Resolution R95-107: Requested Use allowing a Fitness Center.	January 26, 1995
	1984-00152(F) Resolution R95-1017: A DOA to add a Requested Use to allow an Indoor Entertainment.	July 27, 1995
	1984 -00152(G) Resolution R95-1321.3: DOA to increase square footage; increase number of children in the daycare.	September 28, 1995
Tract 15- Civic Pod (Place of Worship)	1984-00152(E) Resolution R95-115: DOA to add an access point.	January 26, 1995
	1984-00152(H) Resolution R2000-1944: DOA to add square footage; and modify and delete conditions of approval.	November 30, 2000
Tracts 80A, 80B, 81 and 82 (Residential)	ORD 4795-City of Boca Raton: Approval of the involuntary annexation, subject to referendum vote. The Referendum passed and the Master Plan was updated to note the deletion of these Pods.	September 8, 2004
Tracts 64B and C (Golf Course)	Application DOA-2004-00826 R2006-0283, to convert 43 acres of golf course to residential with 236 units. Resolution 2006-283 denied the request by the BCC 5-0. See below for additional information.	February 23, 2006
Tracts 64A-G and 69A (Golf Course and Recreation)	Application ZV/DOA-2010-01728 (no resolution), to convert 126.88 acres of golf course to residential with 390 units was withdrawn by the applicant after their request to remand to the Zoning Commission was denied the by the BCC. See below for additional information	April 28, 2011
Tracts 64A-G and 69A (Golf Course and Recreation)	Application ZV/DOA-2011-01165 R2011-1458, to convert 126.88 acres of golf course to residential with 291 units was denied by BCC with a vote of 4-3 with prejudice. See below for additional information	September 26, 2011

**DOA-2004-00826 History**

Application 2004-00826 was submitted by Mizner Trail Golf Club, LTD in 2004, requesting to re-designate land uses; add units; and add access points on a 43-acre portion of the south golf course (Tracts 64B and C). Prior to the hearings in 2005, the applicant closed the golf course. The project was presented at several ZC hearings (October 6, 2005 and December 1, 2005) each with lengthy discussions by the Boards and the public. At the third ZC hearing, which occurred on February 2, 2006, the final recommendation to the BCC was to deny the request with a vote of 4-3. On February 23, 2006, the application was denied by the BCC with a vote of 5-0 (Commissioner Koons and Commissioner Aaronson were absent). The denial was based on the failure to meet 3 of the 10 standards required for a DOA to be approved pursuant to Article 2.B.2.B of the Unified Land Development Code (ULDC), Ordinance 2003-67, and 5 findings of fact in Resolution R2006-0283:

ULDC Article 2.B.2.B-

- #4: Design Minimizes Adverse Impacts;
- #8: Other Standards; and,
- #10: Changed Circumstances.

Resolution R2006-0283

- The request is not consistent with the intent of the ULDC;
- The request does not minimize adverse effects on adjacent lands;
- The request would cause loss of an integral open space and recreation component and unifying element of an established community;
- The request was inconsistent with the provision of the ULDC regarding layout, function, and general development characteristics; and,
- The request was not supported by changed circumstances that require a modification.

The applicant appealed the BCC's decision to the Fifteenth Judicial Circuit Court, a Petition for Writ of Certiorari challenging the County's denial of its application and asking the Court to direct the County to reconsider its action. On September 11, 2006, the Circuit Court denied the petition without opinion. The applicant brought a second amended complaint alleging, in sum, state and federal takings claims. On August 18, 2008, the Circuit Court Judge found in favor of the County.

### **ZV/DOA-2010-01728 History**

In 2010, ZV/DOA-2010-01728, an application of Siemens Group, LLC, was a request to modify and redesignate uses, and add 7 Pod's, 390 units, and 9 access points on the Master Plan. At the March 3, 2011 ZC Hearing, the project was presented by both staff and the agents, several members of the public were in attendance, with 88 comment cards submitted. After hearing comments from the public, the agents and staff spoke to address their concerns. The Commissioners, who voted in support of the project, cited that the design and layout were reasonable, that the golf course was closed and most likely would not be open again. They stated that the development plan was providing a better situation for the residents. They were concerned about denial of the project and taking away the development rights of the applicant.

Those ZC members who were in favor of Zoning Staff's recommendation (denial of the request) stated that the applicant must explore other development designs and use options and these alternatives have not been presented to them. Another ZC member stated that by the developing the golf course it was a type of reverse taking, that the homeowners along the golf course had invested and paid taxes on their property for this amenity; and that the development of this golf course is different because it was part of a Master Planned community, versus being adjacent to an outside development with a golf course. Lastly, some ZC members felt that the area was not blighted and pointed out that the residents do enjoy and like the green ways and open areas.

Although there was a split vote of 5-3 in favor of staff's recommendation of denial, the ZC were generally consistent that they did not oppose some type of development on these fairways. However, the form, design, impact and loss of open/green space are of a great concern and 5 ZC members found the current request did not meet the ULDC standards for approval. With one member abstaining for conflict of interest, the ZC's vote was to deny the DOA with a vote of 5-3.

Following the ZC Hearing, the applicant requested a postponement to the April 28, 2011 BCC hearing. At the BCC hearing the applicant requested that the application be remanded back to the ZC so that they may present a revised plan, which reduced the number of units from 390 to 291. The BCC recommended denial of this request. The applicant then withdrew the application.

### **DOA-2011-01165 History**

The last public hearing application was DOA-2011-01165. This application, submitted immediately following the withdrawal in April 2011, the applicant requested to modify the Master Plan to redesignate the golf course for 291 Single family, zero lot line, and Multi-family units. The applicant proposed 7 new Residential Pods within the development. The applicant also proposed to modify the recreation parcel, by renovating the existing clubhouse and accessory uses. Also requested was the addition of 7 ingress/egress points along Canary Palm Drive, Via De Sonrisa Norte; Camino Del Mar and Military Trail.

On September 1, 2011, the application was presented to the ZC by staff and the agent. Several members from the public were in attendance. Attorney Ralph Brooks, representing the 2<sup>nd</sup> Coalition Against Mizner Development, was the first to speak from the public and made a presentation that the golf course was an integral open space element that unified the PUD. He quoted portions of Articles 1 and 3 of the ULDC he indicated that the ULDC allows vesting rights for information that is clearly shown on the approved Plan. He also mentioned the proposed plans, summarizing that the proposed plans and visual impact analysis were misleading and did not demonstrate design that is exemplary, imaginative or a reduction of visual impact. He had an expert witness, David Kier of Seminole Bay Land Company, testified on behalf of his client, offering other solutions to the development and use of the golf course.

Other members/interested parties of the public spoke or had their comments read into the record in opposition to the proposed development. These comments are summarized under these headings:

- Loss of green/open space.
- Decrease in property values when they are or have paid premium taxes for a golf course even though the golf course is no longer in operation.



- They oppose an increase in residential units and traffic. They do not want an additional impact on school system.
- The existing open space (prior golf course) is not in a blighted situation.

After hearing comments from the public, the agent did his rebuttal to address the concerns of interested parties/homeowners. The public portion of hearing was closed and was turned over to discussion by the ZC members. Those members of the ZC who were in support of the project cited that the design and layout were much more reasonable than the prior application. They felt that the golf course was closed and would not be open again. They felt that the proposed Preliminary Master Plan provided a better situation for the property owner and the residents. They were concerned about denial of the project and taking away the development rights of the applicant.

Those ZC members who were in favor of Zoning Staff's recommendation (denial of the request) stated that the applicant must explore other development design and use options and these alternatives have not been presented to them. Another ZC member stated that he felt by developing the golf course it was a type of reverse taking, that the homeowners along the golf course had invested and paid taxes on their property for this amenity; and that the development of this golf course is different because it was part of a Master Planned community, versus being adjacent to an outside development with a golf course. Lastly, some ZC members felt that the area was not blighted and pointed out that the residents do enjoy and like the green ways and open areas.

Although there was a split vote of 4-3 in favor of staff's recommendation, the ZC members were generally consistent that they did not oppose a type of development on these fairways. However the form, design, impact and loss of open/green space are of a great concern and 4 ZC members found the current request did not meet the ULDC standards for approval. With one member abstaining for conflict of interest, the ZC's vote was to deny the DOA with a vote of 4-3.

On September 26, 2011, the application was presented before the BCC by staff and the agent. The applicant's attorney, Martin Perry, introduced the project and representatives who would speak on behalf of the application, including property values, marketability of the proposed units; ecological expert, and golf experts. The applicant presented a petition of persons in support of the application and was received and filed. The agent presented their findings of the standards of the ULDC for a DOA. The afternoon session of the hearing continued with the applicant's expert testimony, from Ray Finch, a Golf Industry Expert, and Dr. Donald Richardson as a Preservation and Ecological Expert. Mr. Perry also submitted documentation prepared by Calloway and Price, a Real Estate Property Appraiser providing an analysis on the decrease in property values. Following the presentations by the applicant, the hearing was open to public comment and testimony. Attorney, Ralph Brooks presented their findings submitting documents and expert testimony in opposition of the request.

The BCC requested clarification on the deed restriction that expired in 2012 and the Code requirements for approval or denial of the application. Bob Banks, Chief Assistant County Attorney, stated that the BCC renders their decision based on the expert testimony and evidence provided to them, and the Code requirements. Staff, the applicant, and the residents are providing expert testimony for and against the application request; and, the Board makes its decision based on the current Land Development Code.

Several members of the public spoke in support and opposition of the application. The applicant rebutted and closed, requesting that a decision be made. Robert Kraus, with the Environmental Resource Management spoke on the contamination, and stated that the Department of Environmental Protection (DEP) has been investigating and monitoring this issue for 15 years and have not come to a conclusion. Following the testimony, the Board discussed the testimony presented to them.

The BCC had a long discussion, providing their analysis of the request, and questioned Staff, the Applicant and Assistant County Attorney for clarification on issues with the testimony and evidence. The discussion was mixed relative to whether the applicant had satisfied the Code requirements for redesign of the site, the request met the needs of the existing residents, and entitlement for residential. The meeting concluded with the majority not in support of the request, however, there was disagreement on the vote being with prejudice. Commissioner Santamaria recommended denial with prejudice with a second by Commissioner Abrams. Commissioner Taylor made a substitute motion to recommend denial without prejudice and Commissioner Vana seconded the motion. Commissioner Aaronson, Vana, and Taylor made statements that the applicant should be able to

make another request rather than wait a year. The vote was called and it failed 3-4. The 1<sup>st</sup> motion was called for denial with prejudice and it passed 4-3.

o **Comparison of Housing Types and Numbers between Applications DOA-2004-00826, ZV/DOA-2010-01728, DOA-2011-01165 and DOA-2013-01057**

The table below is a comparison of the previous and current application for golf course conversion and the number of units and housing type proposed. Note that some of the Pods had different lettering but are the same areas.

DOA-2004-00826	ZV/DOA-2010-01728	DOA-2011-01165	DOA-2013-01057
43-acres	126.88-acres	126.88-acres	126.88-acres
Not part of request	32 ZLL (Pod 64A)	17 ZLL and open space (Pod 64A)	27 ZLL and open space (Pod 64A)
Not part of request	123 MF (Pod 64B)	56 MF and open space (Pod 64B)	50 ZLL and open space (Pod 64B)
Not part of request	16 ZLL and Park (Pod 64C)	16 ZLL and open space (Pod 64C)	30 TH and open space (Pod 64C)
Not part of request	17 ZLL (Pod 64D)	open space (Pod 64D)	55 TH and open space (Pod 64D)
	62 MF (Pod 64E)	62 MF (Pod 64E)	
173 MF (Pod 64B)	124 MF (Pod 64F)	124 MF (Pod 64F)	49 TH and 48 ZLL (Pod 64E)
31 ZLL and 12 MFR (Pod 64C)	16 SFR (Pod 64G)	16 SFR (Pod 64G)	29 ZLL (Pod 64F)
236 Units	390 Units	291 Units	288 Units

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: High Residential (HR-8)  
Zoning District: Residential Estate/Special Exception (RE/SE)  
Supporting: Commercial, Recreation and Residential- Single family, Multi-family, Townhouses, and Zero Lot Line (Via Verde PUD, Control No 1981-00171)  
  
FLU Designation: Low Residential (LR-2)  
Zoning District: Residential Estate/Special Exception (RE/SE)  
Supporting: Residential –Single family, Multi-family, and Townhouses (Boca Grove PUD, Control No 1980-00214)

**SOUTH:**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Residential Single family/Special Exception (RS/SE)  
Supporting: Residential- Single family (Boca Point PUD, Control No 1973-00085)  
  
FLU Designation: High Residential (HR-8)  
Zoning District: Residential Single family/Special Exception (RS/SE)  
Supporting: Townhouse; Multi-family (Boca Del Mar III PUD (Palm D'Oro), Control No 1980-00183 and Control 1978-00045)

FLU Designation: Open Space (S) and Multi-family (RM-15)  
Zoning District: Open Space (S) and Multi-family (RM-15)  
Supporting: Residential and open space (Deercreek Country Club; City of Deerfield Beach, Broward County)

**EAST:**

FLU Designation: RL, Residential Low,3.5 du/ac  
Zoning District: R1A, Residential One Family dwelling- 2200 sqft and R1C, Residential One Family dwelling- 1500 sqft  
Supporting: Residential (City of Boca Raton, Palm Beach County)

**WEST:**

FLU Designation: High Residential (HR-8)  
Zoning District: Residential Single family/Special Exception (RS/SE)

Supporting: Single family (Boca Del Mar III, Control No 1978-00045)

o **Surrounding Uses of the Affected Area of Tracts 64A-F**

Twenty-five Tracts, within the Boca Del Mar PUD, are directly adjacent to the golf course, comprising of 3,113 units. Three other Developments, not part of the PUD, are adjacent to the golf course: Palm D'Oro (Control 1980-00183) with 136 residential units, Boca Del Mar III aka La Joya (Control 1978-00045) with 68 residential units; and, the third development is located within the City of Boca Raton comprising of residential units. Approximately 900 units have direct views of the golf course. The units directly adjacent to the proposed conversion comprise of a mix of residential use types: Single family, zero lot line, townhouses and Multi-family.

o **Modification to reduce or reconfigure existing golf course, pursuant to Art.3.E.1.E.3:**

Pursuant to Art.3.E.1.E.3 of the ULDC, any request for modifications to reduce the acreage or reconfigure the boundaries of a golf course previously approved on the Master Plan shall meet 3 criteria: Notice to Homeowners; Reduction of Open Space or Recreation; and Visual Impact Analysis Standards. In 2004-2005, the BCC directed Zoning Division Staff to prepare code amendments addressing golf course conversions. This code amendment (Ordinance 2006-004) addressed concerns related to the conversion of golf courses within the PUDs into residential uses. Before the 2006 code was adopted, the BCC required by policy that any applicant requesting golf course conversion to satisfy the aforementioned criteria as part of the submittal requirements.

Staff has determined the applicant has satisfied the above submittal requirements:

- Notice to Homeowners - Prior to submission of the application the applicant sent 7,560 pieces of certified mail/return receipt, to property owners within the Boca Del Mar PUD. In accordance with Article 3.E.1.E.3, the applicant must provide minutes (**Exhibit K**) of any Association membership meetings, including the vote concerning the subject request.
- Reduction of Open Space or Recreation – Boca Del Mar PUD was first approved under Resolution 3-Y-69. The regulations for PUDs at that time did not include requirements for open space. Golf courses within this PUD were platted separately from the remainder of the PUD, and were not part of any open space dedication. In late 2003, the Zoning Code for PUDs (Ordinance 2003-067) was amended to require dedication of a minimum of 40% of the gross land area for open space. Pursuant to Art.1.I.2.O.13, Open Space means “...*unbuilt land reserved for, or shown on the approved site plan or PDP, as one or more of the following uses: preservation, conservation, wetlands, well site dedicated to PBCWUD, passive recreation, greenway, landscaping, landscape buffer, and water management tracts. In the AGR district, open space shall also include unbuilt land area for bona fide agriculture uses*”. The Code further states that any development approved prior to this requirement would be vested for the open space clearly shown on a development permit.

The applicant for Application DOA-2004-00826 submitted the Open Space Calculation and Analysis prepared by SPG, Sanders Planning Group, P.A. dated June 28, 2005. According to the study, Boca Del Mar currently provides 644.24-acres of open space located within the residential and park tracts of the PUD and 54.12 acres of civic for a total of 698.36 acres of open space, in accordance with Ordinance 2003-069, as amended through Supplement 15. (This figure does not include the golf courses and clubhouses). The prior applicant was subject to the BCC's direction on golf course conversion and they were required to demonstrate that the conversion of part of the south golf course into residential uses will not result in reduction of open space or recreation. This was satisfied by a prior application per BCC's direction and code requirements.

The BCC's direction of golf conversion was codified in 2006, and the current applicant is subject to the 40% open space dedication (within the affected area) and has proven that the golf course conversion will not result in a decrease of existing opens space/recreational facilities. The applicant states that (129.89 acres – i.e.126.88 acre of golf course and 3.01 acres of recreation Pod), the proposed development will be providing a 92.9 acres of open space (71.5%) through the form of landscape buffers, retention, and outdoor recreation facilities as shown on the Preliminary Subdivision Plans (**Figure 9**).

Additionally, the current applicant analyzed the recreational requirements for the proposed residential units and compared them against the existing recreation for the Boca Del Mar PUD as a whole. The applicant proposes to renovate and/or replace the existing club house located in



Tract 69A, and will include a clubhouse, fitness center, pool and lounging area.

- Visual Impact Analysis Standards- The purpose of the Visual Impact Analysis (VIA) is to assess the compatibility and impact of the proposed reconfiguration of the golf course on adjacent properties. Land Design South, agent for the applicant submitted the VIA (**Figure 10**) which included an aerial photograph showing adjacent structures/buildings located within a 1,000-foot radius of all property lines of the proposed site. In addition, the aerial shows the proposed residential layouts superimposed over the south golf course. A set of line of site illustrations (cross-sections) are also prepared to depict how their proposed development would integrate into the existing development with distances between the existing and the proposed homes.

Staff utilized the applicant’s VIA to assess whether there are any compatibility issues and negative impact generated from this request on adjacent properties. Staff’s analysis is found under the Standards 2 and 4 in the Findings portion of this report.

**Ariel views of the subject golf course with adjacent Pod reference**







**FINDINGS:**

Conditional Uses, Requested Uses and Development Order Amendments:

When considering a Development Order application for a Conditional or Requested Use, or a Development Order Amendment, the BCC and ZC shall consider Standards 1 – 8 listed in Article 2.B.2.B of the ULDC. The Standards and Staff Analyses are indicated below. A Conditional or Requested Use or Development Order Amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

- 1. Consistency with the Plan – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.***

**Applicant’s Statement:** The applicant indicated in the Justification Statement (**Exhibit J**) that: “*The Development Order Amendment application is proposing to add 288 units to the PUD; with the addition of these units the overall density of the PUD will be 5.17 du/ac. This increased density is below the allowable 8 du/ac and above the minimum of 5 du/ac, thus is consistent with the Comprehensive Plan and consistent with the original approval which restricted the PUD density to a maximum 5.47 du/ac.*”

**Staff’s Analysis:** Staff has determined that the request is in compliance with Standard 1 based on the following analysis.

The Planning Division has reviewed the application and found the requests to be consistent with the Goals, Objectives and Policies of the Comprehensive Plan (PLAN). The Boca Del Mar Development was approved prior to the County implementing the PLAN. After the adoption of the PLAN in 1989, all lands that comprise Boca Del Mar were given a designation of High Residential 8 (HR-8).

Although the site’s FLU designation allows a maximum density of HR-8 (15,567 du); the original 1971 approval restricted the PUD density to a maximum of 5.47du/ac (**Exhibits E and F and Figure 4**). In 1985, through Conditions of Approval the BCC further reduced the unit count by 28 units for the overall Master Plan. The maximum allowed density and unit count were carried forward on the Final Master Plan dated September 4, 1984 and then to the current approved plan dated September 27, 1995 (**Figures 5 and 6**)

It is important to note that a specific amount of units (density) were assigned to individual Pods of the Boca Del Mar PUD when it was first approved by the BCC and was shown on the Master Plan. Over time, each Pod was being constructed within its units/density shown on the Final Site or Subdivision plan; however, the Master Plan was never updated to reflect the actual built units in each Pod. Once these units are reduced or transferred at the final plan approval the concurrency affiliated with these units is also adjusted, and the units/density originally approved by the BCC are lost. This is why the Master Plan has a notation difference of 10,149 units versus the Site Planned/Built 9,773 units.

During the review of this application, the applicant updated the Master Plan showing the existing and proposed unit count and density for the entire PUD. Therefore, the density designation for the entire PUD should reflect a density of 5.02du/ac (9,773 du on 1,945.96 acres). The current request to increase the density to 5.17du/ac will not exceed the maximum density as governed by the condition restriction unless a modification is being requested. No condition changes are proposed with this request.

o     **Workforce Housing (WFH)**

Because the application is requesting more than 10 units, the development must be in compliance with the Workforce Housing Program (WHP) as regulated in the ULDC Article 5.G.1.C.2, Supplement 15. The subject property has an HR-8 FLU designation and the applicant is not requesting any density bonus.

The applicant has chosen Workforce Housing Program (WHP) Option 2, Limited Incentive, has HR-8 FLU, only utilizing Standard Density not PUD density, and is requesting no density bonus. Therefore, the required Workforce Housing will be calculated as follows:

$288 \text{ units} \times 2.5\% \text{ of standard density} = 7.27 \text{ (rounded down)} = 7 \text{ units of WHP required}$

WHP Program Off-site Options: The applicant has stated in the Justification Statement that they wish to utilize WHP Off-site Options, to buy-out of the 7 required WHP units. ULDC Article 5.G.1.G.4 Option 4, allows for an in-lieu payment for the WHP units. The payment shall be received by the Department of Economic Sustainability (DES), prior to the issuance of the first residential Building Permit.

Accordingly, the following Condition of Approval shall apply:

Prior to the issuance of the first residential Building Permit, the applicant shall submit payment to Department of Economic Sustainability (DES) and a copy of a receipt for that payment to the Planning Division in the amount of \$570,500 (7 units at \$81,500 per WHP unit).

o     **Future Annexation Areas:**

The subject site is within the future annexation area of the City of Boca Raton.

o     **Intergovernmental Coordination:**

The subject site is located within one mile of the City of Boca Raton.

o     **Special Overlay District/ Neighborhood Plan/Planning Study Area:**

The subject site is not within located within a special overlay district, neighborhood plan, or special planning area.

**CONCLUSION:** If the BCC vote to approve the request, this application would be subject to Planning- Workforce Housing Conditions of Approval as indicated in Exhibit C.

2.     ***Consistency with the Code - The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.***

**Applicant’s Statement:** The applicant indicated in the Justification Statement (**Exhibit J**) that “*The proposed amendment complies with all applicable standards and provisions of the Code for the use, layout, function, and general development characteristics. Specifically, the proposed uses comply with all applicable portions of Article 4.B Supplementary Use Standards. The application is proposing*

zero lot line and townhome residential product types. The application is consistent with both the Article 4.B Supplemental Use Standards and the additional property development regulations for specific house types found in Article 3 of the Code. The integrity of the PUD is being upheld with the conversion of the abandoned golf course to residential. The residential units being proposed are consistent and compatible with the character of the PUD. Furthermore, the proposed modifications include the addition of lakes that offer scenic views to residents and minimize impacts on adjacent residents.” Additionally, the applicant describes compliance with Article 3 of the Code for Modifications to Reduce or Reconfigure Existing Golf Courses, through the provision of notification to the residents of Boca Del Mar, and more specifically the 25 communities adjacent to the golf course and the provision of open space that exceeds the minimum required by Code.

**Staff’s Analysis:**

Staff has determined that the request is **not in compliance** with Standard 2 based on the following analysis.

Standard 2 describes two requirements that must be met in order to comply with this standard. The first portion requires the applicant to demonstrate that: *"The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics."* The second portion of Standard 2 requires the applicant to demonstrate whether: *"The proposed use also complies with all applicable portions of Article 4.B, Supplementary Use Standards."*

It is important to note that even though the following analysis addresses Standard 2, there is a reason to include analysis of Standard 4 (Design Minimize Adverse Impact) as these two standards are closely interrelated in terms of demonstration of compliance to meet a) the layout, function and general development characteristics under Standard 2; and b) the proposed design minimizes adverse effects on adjacent properties under Standard 4.

Staff has determined that the request does not comply with the first set of requirements under Standard 2, even though the proposed homes do satisfy the latter part (Supplementary Use Standards of Article 4.B) of Standard 2. Supplementary Use Standards only include definitions and property development regulations such as setbacks, lot dimensions for the proposed, Zero Lot Line (Art.4.B.142) and Townhouse (Art.4.B.132) units. The Preliminary Subdivision Plans of the residential tracts are submitted for information of general layout, final review and approval would be completed by the DRO if the application is approved by the BCC.

The following analysis explains why these requests are not in compliance with the applicable provisions pertaining to layout, function and general development characteristics and are presented under headings of:

- Planned Development District;
- Property Development Regulations;
- Layout, Function and General Development Characteristics; and,
- Objectives and Standards for PDD and PUD location and design of buildings and structures to minimize potential for adverse impact on adjacent properties.

Findings of Facts under each of these headings will also be utilized to determine whether the request is in compliance with Standard 4, Design Minimize Adverse Impact.

**o Planned Development District Purpose and Intent**

Boca Del Mar was approved as a Conditional Use to allow a PUD. It was a Master Planned Community that incorporated some of the following planning principles with the golf course being a prime design feature of the PUD. Pursuant to Article 3.E, Planned Development District (PDD) of the ULDC, the purpose and intent of a PDD is to:

*“...to provide opportunities for development patterns which exceed the expectations of the standard zoning districts, and allow for the creative use of land [Art.3.E.1.A.1].”* These types of planned developments are *“...to encourage ingenuity, imagination on the part of, architects, landscape architects, engineers, planners, developers and builders to create development that promotes sustainable living, address traffic impacts, encourages alternative modes of transportation, creates logical street and transportation networks, preserves the natural environment, enhances the built environment, provides housing choices, provides services to the community, encourage economic*

growth, encourage infill development and redevelopment and minimizes impacts on surrounding areas through the use of flexible and innovative land development techniques.” The ULDC further states under Art.3.E.2.A.1 that a Planned Unit Development (PUD) “...is to promote imaginative design approaches to the residential living environments”.

In addressing whether the proposed use and amendment are in compliance with Standard 2, Consistency with the Code, the applicant responded that the amendment complies with all applicable standards and provisions of the Code for use, layout, function and general development characteristics. Specifically, the proposed uses comply with all applicable portions of Article 4.B Supplementary Use Standards. However, in the Justification Statement the applicant did not address whether the proposed modification of the Master Plan to change the area master planned as golf course/open space, which is a key design feature of the PUD, functioning as a green area/open space/recreation amenity and replacing it with 288 residential units, would allow the integrity of the Master Plan to be maintained. The applicant also did not address how the proposed layout and general development characteristics will enhance the built environment, and will minimize impacts on the surrounding areas.

The issue is not about availability of density. The golf course which was closed in 2005 may not be currently serving the community as originally intended; however, it still exists to provide a physical separation and open space between the residential Pods. The Planned Unit Development from the 1969 Ordinance was to provide alternative means of land development and to provide design latitude for the site planner. Planned Developments approved in the County provide a range of housing types, including the clustering of the units to provide for a means of open spaces, through the use of recreation, lakes, landscaping, and other amenities. The responsibility lies with the applicant to demonstrate how the proposed amendments will be able to minimize the impacts on the existing residential subdivisions if the area is redeveloped with residential uses. This should be typically done through the use of flexible and innovative land development techniques or the promotion of imaginative design approaches to the existing residential living environments of a master planned community. In Staff’s professional opinion, the applicant’s design does not address adverse impacts created by the loss of the open space (golf course) on the existing residents. The applicant proposes to maximize units at a loss of the green space enjoyed or benefited from by for the current residents.

o **Property Development Regulations - Setbacks and Separation**

The Preliminary Subdivision plans are provided to show the proposed design of the new residential Tracts (**Figure 9**). Each of the proposed housing types would be required to meet the minimum property development regulations for the district which are:

Zero Lot Line Setbacks				
Setbacks				
Front	ZLL Side	Side	Side Street	Rear
10 – unit 25 – front loading garage 10 – side loading garage	0	10	10	10

Townhouse Setbacks and Separations					
Setbacks and Separations (1)(2)					
Front < 25' Height	Front 25' – 35' Height	Side < 25' Height	Side 25' – 35' Height	Side Street	Rear
15 – unit 25 – front loading garage 15 – side loading garage or parking tract	20 – unit 30 – front loading garage 20 – side loading garage or parking tract	0 – interior unit 15 – end unit	0 – interior unit 25 – end unit	25 – end unit	25

Many of the homes within the surrounding communities that abut the golf course have minimum setbacks based on the 1969 or 1973 Codes, as amended. The setbacks at that time were measured from the perimeter of the PUD and the roads (30 feet and 60 feet of road widths) and had separations from other residential structures (5 foot per story per structure). Those units which were constructed adjacent to the golf course would have minimal to no setback. In addition, landscape buffers were



intentionally not required in order to maintain the views to this amenity. The current Code requires all structures to have setbacks from their fee simple lot lines and/or setbacks from other structures AND the perimeter Pod boundary. Additionally, the Code has language which allows property owners to reduce their setbacks when they are adjacent to open space 50 feet or wider. In the case of this development, some homes adjacent to the golf course/open space area took advantage of this allowance in the Code and reduced their setbacks. Removal of this open space amenity would create non-conformities in some homes adjacent to the golf course. The Code does not allow this. If the Board approves the development Staff has included a Condition of Approval, requiring a minimum of 50 feet of open space/landscape buffer along the perimeter of the subject Pod where non-conformities would be created.

o     **Layout, Function and General Development Characteristics and Objectives and Standards for PDD and PUD including location and design of buildings and structures to minimize potential for adverse impact on adjacent properties**

The applicant indicated in the Justification Statement (**Exhibit J**) that: *“Great care was taken in developing a revised master plan for the PUD. The Applicant took into account the types and intensities of surrounding properties, existing views and existing access points. The proposed design provides minimum impact and maximum benefit in terms of utilizing an abandoned golf course for a residential project, which provides quality new homes that will enhance existing conditions and values. The type of design provides for landscape buffers and open space exceeding the minimum code requirements which will be maintained by the new homeowners’ association to the benefit of the new development as well as the benefit of the surrounding developments, as discussed further under Changed Conditions and Circumstances.”*

This Master Planned development was designed to incorporate the open space of the golf course or recreation amenity, to intertwine around 25 Pods of the southern portion of Boca Del Mar. Removal of this integral design element of the PUD impacts the existing developments as it relates to layout and general development characteristics. Although the existing clubhouse is proposed to be renovated or redeveloped for the new residents’ recreation amenity, the development of the residential homes adjacent to the existing residences will eliminate the green open space protecting and enhancing their development. Developers in the County have consistently utilized golf courses, green spaces, water bodies and recreation areas to cluster homes while providing amenities of views and special separations.

**Examples of other PUD’s in the County**







An example to support Staff's finding is an analysis of Pods 63, 65 and proposed 64D, relative to lot configuration, housing type, layout, function and exemplary design. This proposed Pod is very long and narrow with the former fairways providing approximately 140 feet to 250 feet of separation between the buildings in Tract 63 (Camino Real Village) and Tract 65 (Palms of Boca Del Mar). This similar lot configuration is seen in the other Proposed Pods with lots widths averaging 200 feet to 250 feet.

Pods 63 and 65 are a compatible housing type, both multi-families, though different in architecture. The applicant is proposing a townhouse use between these Pods, which requires subdivision of lots for fee simple ownership. Though this housing type may be more desirable or marketable for the property owner it has additional restrictions to provide for minimum lots sizes, road Right-of-Way widths and buffers. This presents limitations in design and provision of green space.

The design and layout of Pods 63 and 65 were to maximize the view of the golf course, with their generally linear pattern of construction along the perimeter of the Pod boundaries. Additionally the location of the structures took advantage of minimal to no setback from the Pod boundaries because of this open/green/recreation area and with the creation of the units on the golf course there would be an increase in the non-conformity of the units which exist unless an open space of minimum 50 feet was retained adjacent to the existing Pods as stated above.

The function and layout of the proposed Pods, more specifically in Pods 64B, 64D and 64E, are long, narrow and provide a less than desirable design with homes on one side of the single street that terminates in cul-de-sacs. The layout gives an appearance as if the homes were "squeezed" in, creating almost a tunnel appearance, and having no relation to the existing built environment. In the developed areas the existing homeowners will also have the roads, parking, and lighting behind their houses/ The Visual Impact of the proposed layout to the existing homes will be discussed further under Standard 4.

In site planning new developments, the ULDC does not require compatibility buffers between Pods which have the same Single family residential uses. The code does require a minimum width of 10 feet buffers to be provided between Single family and Multi-family Pods in order to address compatibility issues between the uses. However, the code is a minimum guideline and does not account for every site situation. The intent of the PDD code is to encourage ingenuity and imagination on the part of design professionals, and it is the responsibility of the applicant to demonstrate how this intent is met. Conversion of open space (prior golf course) of this master planned community has an impact on the layout, function and character of the existing homes which were designed to take advantage of views, and setbacks and separations provided by an open space/recreation amenity.



Pod 63, 65 and proposed 64D Building Alignment on Green Space



Streets Layout, Access and Cross Access

To continue the analysis for layout and function, the housing type and placement has a direct correlation with the street layout and design. Because of the fairway configuration there are limited design options. The proposed streets within Pods 64B, 64D, and 64E are approximately 1700 feet to 2300 feet (1/2 mile) in length with housing on a single side of a road.

The applicant proposes to add 5 new access points internal to the PUD and 1 external access point is being added off Military Trail to accommodate the new residential and recreational tracts. The applicant concludes throughout the Justification Statement that they have analyzed and reviewed the placement of these access points.

While the application meets the minimum traffic regulations, the applicant’s proposal and plan do not address and depict how the proposal satisfies Art.3.E.2.B.1.g, Purpose and Intent, which states: “...the reduction of land consumption by roads and other impervious surface areas”. Rather, the proposed layout results in an increase of land consumption by roads and impervious surface areas by the addition of streets in the cul-de-sac form. The reduction in access points may have been accomplished with opportunities to expand existing Pods by sharing existing access points and incorporating cross access between the existing and proposed developments. This modification may lend to a different layout of the lots as well.

Cross access opportunities to reduce additional access points



The layout of this Master Planned Community incorporates golf courses/opens spaces, as well as the parks, lakes, and recreation areas as a unified and distinct green area corridor throughout the entire development. Even though the golf course is closed, it still functions as an open space or passive park type environment. The fairways had golf cart paths to serve as the linkage between the fairways. Staff has observed residents using this same path to walk pets and exercise. The applicant's proposed conversion could have incorporated this existing pathway to provide an amenity to the community, while also creating interconnectivity and a pedestrian circulation.

**CONCLUSION:** If the BCC votes to approve the request, then this application would be subject to Zoning- All Petition, Site Design and Landscape Conditions of Approval (All Petition 1-7, Site Design 1-3, and Landscaping 1-12), which require the applicant to submit an improved pedestrian circulation plan, provide additional landscaping to address visual impact, and provide open space. It is important to note that these recommended conditions do not necessarily address all areas of impact relating to layout, function and the PDD purpose and intent because Staff cannot utilize conditions to address details of a redesign of this development.

**3. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.***

**Applicant's Statement:** The applicant indicated in the Justification Statement (**Exhibit J**) that: *"The proposed density of the additional residential units, is compatible with the existing surrounding neighborhoods. The densities of the surrounding neighborhoods abutting the proposed additional units range from +/- 3.3 du/acre to +/- 19.54 du/acre. The proposed overall density of 2.2 du/acre is consistent and compatible with the established density of the PUD."*

**Staff's Analysis:** Staff has determined that the request is **in compliance** with Standard 3 based on the following.

The 126.88-acre golf course parcel is intertwined within the existing PUD, abutting 25 existing residential Pods within Boca Del Mar and 3 external to the PUD. The proposed development includes a mix of Zero Lot Line and Townhouse for fee-simple housing types, consistent with the residential uses that directly adjacent to the parcels. The proposed residential uses will only create compatibility issues if there are differences in housing types (such as Single family versus Multi-family) or building height (such as one story versus three or more story). The ULDC addresses compatibility through the application of landscape buffers. The widths of these buffers in the ULDC are minimum guidelines, and do not address all types of unique site situations. In this scenario, a 5 to 10-foot wide buffer is being proposed along the perimeter of the new Pods. The widths of these buffers will be addressed under Standard 4, Design Minimizes Adverse Impact.

**CONCLUSION:** If the BCC vote to approve the request, this application would be subject to Zoning – Landscape 1-12 Conditions of Approval as indicated in Exhibit C.

**4. Design Minimizes Adverse Impact – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.***

**Applicant's Statement:**

The applicant indicated in the Justification Statement (**Exhibit J**) that: *"Great care was taken in developing a revised master plan for the PUD. The Applicant took into account the types and intensities of surrounding properties, existing views and existing access points. The proposed design provides minimum impact and maximum benefit in terms of utilizing an abandoned golf course for a residential project, which provides quality new homes that will enhance existing conditions and values. The type of design provides for landscape buffers and open space exceeding the minimum code requirements which will be maintained by the new homeowners' association to the benefit of the new development as well as the benefit of the surrounding developments, as discussed further under Changed Conditions and Circumstances."*

**Staff's Analysis:**

Staff has determined that the request is **not in compliance** with Standard 4 based on the analysis, and is presented under the following headings. Some of the Finding of Facts have been referenced in Staff Analysis of Standard 2.

- Planned Development District Purpose and Intent;
- Layout, Function and General Development Characteristics;
- Objectives and Standards for PDD and PUD location and design of buildings and structures to minimize potential for adverse impact on adjacent properties;
- Open Space; and,
- Exemplary Design and Visual Impact.

**o Planned Development District Purpose and Intent**

See Staff's Analysis under Standard 2, Consistency with Code

**o Layout, Function and General Development Characteristics**

See Staff's Analysis under Standard 2, Consistency with Code

**o Objectives and Standards for PDD and PUD location and design of buildings and structures to minimize potential for adverse impact on adjacent properties**

See Staff's Analysis under Standard 2, Consistency with Code

**o Open Space**

The applicant states in the Justification Statement that great care has been taken in developing the subject site; analyzing the types of housing and intensities of the surrounding properties, taking into consideration existing views and access points. The applicant contends that the design would provide a minimum impact and maximum benefit of the site, while enhancing existing conditions and values. The applicant concludes that the design provided exceeds the minimum code requirements, that will be maintained by the new homeowners and benefit the existing developments.

The applicant reduced the unit count of this application from 291 to 288 from the previous DOA request. Although the applicant has modified the uses by changing house types from Single family, Zero Lot line and Multi-family to Zero Lot line and Townhouse, the layout is very similar to the previous two applications. The currently proposed housing types focus on a fee simple ownership. Though the change to a housing type with subdivided lots (fee simple ownership) may be thought to be a better product by some, it does have some differences in layout and general development characteristics as it relates to areas for open space. What is an open space or green area behind multi-family structures becomes the back yards with accessory structures and uses for the Zero Lot Line and Townhouse units.

When reviewing the proposed development one must consider the concept of a neighborhood: size, boundaries, open spaces and recreation, proximity to civic and commercial areas and the internal road and pedestrian networks. In this case, focus must be placed on the redevelopment of a master planned community and its effect on the surrounding neighborhoods. The Visual Impact Analysis (VIA) (**Figure 10**) is a planning tool used to assist the designer in visualizing how the proposed changes impact the existing development. The key issues of the request to convert master planned recreation use into residential uses revolve around the loss of usable open space and recreation, the vehicular and pedestrian circulation and interconnectivity; the layout and function of the design and their impacts on the existing community.

Open space is a major element in the design and analysis of a development, having two functions- recreation and environmental enhancement or protections. Although open space was not a requirement when Boca Del Mar PUD was approved in 1971, a letter from the then Zoning Director, Bill Boose, indicated that the golf course would be considered as open space. Boca Del Mar PUD as a whole meets the code requirements for open space. The golf course was included as an integral component of the development since its inception as evidenced by correspondence between the original developer and County Staff, and Conditions of Approval requested by the City of Boca Raton (**Exhibits G and H**).

Following the review of these documents, Staff has concluded that the conversion to allow the additional units will have a negative impact on the 25 residential Pods and approximately 3,000 units adjacent to the golf course. The integration of the golf course into the residential tracts provides visual and spatial separation between different housing types within the PUD. In addition, 3 other developments that are not part of the PUD are either contiguous or adjacent to the golf course: Palm D'Oro (Petition 80-183) with 136 units, Boca Del Mar III (Petition 78-45) with 68 units, and the third



development (Parkside) is located within the City of Boca Raton, east of Military Trail. Of these three developments, Boca Del Mar III would have the most impact with the development of the Zero Lot Line homes directly adjacent to the existing homes. Staff has determined that the original visual quality provided by the open space for the adjacent residences will be eliminated for some of the homes.

The 25 Pods adjacent to the golf course are designed in a manner that takes advantage of their proximity to the amenity. The building placement, circulation patterns, and other elements allow the residents to enjoy the direct access and views of the golf course. Though now expired, the preservation of the adjacent homeowners' views was discussed in the Restrictive Covenant. As previously indicated under Standard 2, Consistency with the Code, the applicant has failed to evaluate how the loss of this open space and replacement with residential units would impact the overall design, layout, and function of the existing community.

In the Justification Statement, the applicant indicates that the plans that he submitted were based upon the analysis of the building types and placement of the existing structures. However, the Justification Statement does not support his assertion that the VIA depicts limited impact on the surrounding neighborhoods. Staff's professional analysis cannot conclude from the VIA that the overall layout and design will not have an impact on the adjacent property owners.

Although the installation of landscaping, buffering, and screening enhancements along perimeter site boundaries is typically an appropriate method of mitigating visual impacts, the proposed site plans do not utilize these tools sufficiently enough to accomplish the objectives in part, because the existing developments do not incorporate the same buffers. Furthermore, the physical constraints of the site, with its long, narrow configuration and central placement throughout the community make it difficult to provide a sufficient reduction in impact, while still achieving the intensity of use proposed by the applicant.

#### **o Exemplary Design and Visual Impact**

Pursuant to ULDC Art.3.E.2.A.4, Applicability for current PUD District requirements, a rezoning to the PUD District or a Development Order Amendment (DOA) to a previously approved PUD shall only be granted if a project exceeds the goals, policies and objectives in the Plan. In addition, the minimum requirements of the ULDC and the design objectives and performance standards in this Article, which include but are not limited to, sustainability, trip reduction, cross access, buffering aesthetics, creative design, vegetation preservation, recreation opportunities, mix of uses, mix of unit types, safety and affordable housing. The proposed Preliminary Subdivision/Regulating Plans for the 126.88-acre site provides the following in furtherance of the PUD exemplary design objectives in accordance with Art.3.E.2.A.4:

- 2 housing types;
- Landscape focal points within all of the cul-de-sac islands in the proposed development;
- An additional area of open space to be preserved in perpetuity, and maintained by the HOA;
- Decorative street lighting at the development entrances;
- A fountain to be located in the large water body; and,
- Incorporating existing vegetation that will remain within open space, recreation, civic and other miscellaneous areas.

While staff recognizes the majority of these amenities, features, and details as exemplary elements at the minimum level to comply with the ULDC, staff concludes that the overall layout of the proposal fails to reflect the exemplary design standards or applying of an imaginative design approach to retrofit residential units in a golf course that was originally incorporated into a residential community. Staff has identified the following areas of concern with the proposal:

- 8 of the 9 proposed streets terminate in a dead-end or cul-de-sac, thereby compromising a continuous and interconnected transportation network (see Staff's analysis of Cul-de-sac as listed above);
- The pedestrian circulation and connectivity to existing tracts, open spaces and recreation areas is minimal to non-existent; conflicting with the requirements to reduce traffic trips on the road and pervious areas. The applicant responded that it was not applicable;
- The benches and play structures in the usable open space areas and along pathways was noted in the applicant's justification statement as not applicable;

- Pedestrian Circulation System. The applicant could have enhanced this system by incorporating it into the design and layout of the proposed Pods and the existing Pods. The applicant responded that this was not applicable. The conversion of this existing golf cart path to a pedestrian pathway could have been incorporated as a community amenity that supports a quality layout function, design and character between the proposed Pods and the existing residential Pods; and,
- Cross Access shall be provided to adjacent internal uses/properties. The applicant states that they do have not legal ability to link to the adjacent properties.

Although this application differs from application DOA-2004-00826, Staff concludes that there are similar impacts of the design and redevelopment by the removal of the golf course/open space element and would have negative effects on the adjacent home owners. As stated earlier under Open Space, the use, design and integration of open space is a key land use element in development, providing separation, passive recreation, an environmental enhancement, and visual open corridors that created a function and character for the surrounding residents. The proposed density may not be as high as the prior 2004 request (number of units over land area); however, the negative impact expands upon more communities. The major design constraint is the narrowness of each tract of land.

The original intent of this land use is for a golf course/open space/recreation, and not as a residential use. If the intent was to have residential, the lot layouts would have been designed differently, not necessarily intertwining between the Tracts, or with the narrow widths in some cases. The VIA does not provide any conclusion that the installation of the homes does not have an impact on the adjacent residents. Placement of lot location or the addition of minimal buffers may not mitigate impact, but would require a significant redesign. There is little design effort proposed under the current plans, to incorporate innovative design to replace golf course views with open space/landscape buffers to compensate those neighbors that will be impacted by this proposed conversion of land use.

Installation of landscaping, buffering, and screening enhancements along perimeter site boundaries represents a fundamental approach to mitigate visual impacts. The applicant proposes to increase the minimum buffer width from 5 feet to 10 feet, including additional shrub/hedge material adjacent to the abutting residential tracts. Staff considers this proposal to be inadequate to mitigate the visual impacts of the proposed development, particularly in light of the unique circumstances and integral nature of the subject site within the surrounding residential environment. To this end, staff considers the perimeter planting scheme to be far from adequate to offset the degradation of a visual asset that stands as an integral and fundamental component of an existing and master planned residential environment.

**CONCLUSION:** If the BCC votes to approve the request, then this application would be subject to Zoning- All Petition, Site Design and Landscape Conditions of Approval (All Petition 1-7, Site Design 1-3, and Landscaping 1-12), which require the applicant to submit an improved pedestrian circulation plan, provide additional landscaping to address visual impact, and provide open space. It is important to note that these recommended conditions do not necessarily address all areas of impact relating to layout, function and the PDD purpose and intent because Staff cannot utilize conditions to address details of a redesign of this development.

**5. Design Minimizes Environmental Impact – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.***

**Applicant's Statement:** The applicant indicated in the Justification Statement (Exhibit J) that: *"The proposed amendment does not result in any adverse impacts to the natural environment. The affected area contains limited amounts of existing native vegetation. However, all proper permitting will be completed for the removal of vegetation through PBC ERM."*

**Staff's Analysis:** Staff has determined that the request is **in compliance** with Standard 5 based on the following analyses.

**ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:**

**VEGETATION PROTECTION:** The property has previously been developed.

**CONTAMINATION ISSUE:** The Florida Department of Environmental Protection (FDEP) is presently investigating the reports of on-site contamination at the golf course maintenance facility and its impact on surrounding properties. The FDEP investigation is ongoing and has not released any conclusions at this time.

**WELLFIELD PROTECTION ZONE:** The property is not located within a Wellfield Protection Zone.

**IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER:** All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

**ENVIRONMENTAL IMPACTS:** Other than the FDEP investigation, there are no significant environmental issues associated with this petition beyond compliance with ULDC requirements

Information alleging contamination of the existing golf course has been submitted to the County. The County has forwarded this information to the Florida Department of Environmental Protection (FDEP). The FDEP has acknowledged an open investigation into the golf course maintenance facility, but has not come to any conclusions at this time.

**CONCLUSION:** If the BCC vote to approve the request, this application would be subject to Health Department Conditions of Approval as indicated in Exhibit C.

**6. Development Patterns – *The proposed use or amendment will result in a logical, orderly and timely development pattern.***

**Applicant's Statement:** The applicant indicated in the Justification Statement (**Exhibit J**) that: *"As previously stated, the proposed development of residential units in this section of Boca Del Mar is consistent with the established development pattern of single and Multi-family housing existing on the abutting properties. The Boca Del Mar PUD currently has one of the more intense residential Future Land Use designations permitted by the Comprehensive Plan (HR-8). This intensity was approved in this location due to the location of the PUD, in eastern Palm Beach County with many commercial services, employment opportunities, and transportation infrastructure located in close proximity.*

*A review of the previous amendments approved for the Boca Del Mar PUD indicates favorably the need to adjust the original primarily residential master plan to provide a variety of uses needed to make a more diverse community, including ACLF's, schools, and churches. Given the extremely limited vacant residential land in eastern Palm Beach County (especially in south county), the proposed layout is entirely compatible with the immediate surrounding and regional development pattern for the area.*

*The proposed plan provides a balance between the changing circumstances of elimination of golf courses as a viable recreation amenity and at the same time provides alternative open space areas balanced with residential units that are consistent with the adjacent established density and development patterns."*

**Staff's Analysis:** Staff has determined that the request is **not in compliance** with Standard 6 based on the following analysis.

The 126.88-acre subject site is surrounded by properties that have been developed for residential purposes. For the gross affected acreage (2.24 du/ac), the proposed development is generally consistent with the overall gross density of Boca Del Mar (5.02du/ac existing and 5.17du/ac proposed). The density assigned as a future land use designation does not entitle development, nor does it justify a development pattern in a built environment.

The applicant utilized the same argument as the previous two applications stating that *"...the previous amendments approved for Boca Del Mar indicates favorably the need to adjust the original primarily residential master plan to provide a variety of uses needed to make a more diverse community including ACLF's, schools, and churches."*

This statement; however, does not support the actual request. The applicant is not proposing ACLF's, Schools, or Places of Worship; and the contention that because there were 12 previous changes does not support the need for a change through the Public Hearing process or result in a



justification as a development pattern. As stated earlier in the Project History summary, the development has not undergone any changes to the residential components since the 1985 approval. The 13 applications following that approval were for YMCA, Places of Worship and commercial Pods, requested changes to add square footage, new uses, and reconfiguration of the site plans, in order to make the tracts more viable to the community.

The applicant states that the modifications to the Master Plan provide a balance between the changing circumstances of the elimination of the golf courses and the viable recreation amenity to the provide residential and alternative open space consistent with the established density and development pattern.

Based on Staff's review of this justification it fails to provide an analysis on how the conversion of a recreation/open space amenity is logical, orderly and timely development pattern for the area, or the built Boca Del Mar development.

**CONCLUSION:** If the BCC vote to approve the request, it would be subject to all applicable Conditions of Approval as indicated in Exhibit C.

**7. Adequate Public Facilities – The extent to which the proposed use complies with Art. 2, F, Concurrency.**

**Applicant's Statement:** The applicant indicated in the Justification Statement (**Exhibit J**) that: *“Boca Del Mar was granted a concurrency exemption for the project (No. 90-1128021). The extension was later converted to a permanent exemption in 2000. The PUD currently has concurrency consistent with the 9,773 units shown on the currently approved Master Plan. This proposed Development Order Amendment applications includes a companion Concurrency Reservation application for an additional 288 units. Adequate public facility capacities will be confirmed through review of the application.”*

**ENGINEERING COMMENTS:**

**TRAFFIC IMPACTS:**

The Property Owner has estimated the build-out of the project to be December 31, 2017. Total traffic expected from this project is 2466 trips per day and 267 trips in the PM peak hour. Additional traffic is subject to review for compliance with the Traffic Performance Standard.

The following roadway improvements are required for compliance with the Traffic Performance Standards:

Modify the approaches of the intersection of SW 18th St and Military Trail as follows:

- a. Modify the west approach to include 2 left turn, 1 through and 1 right turn lane.
- b. Modify the east approach to include 1 left, 2 through, and 1 right turn lane.

The property Owner will be required to pay a proportionate share of 5.85% of the total cost of making the above improvements.

**ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)**

Segment: SW 18th St from Powerline Rd to Military Trail

Existing count:	Eastbound=810 vehicles per hour, Westbound=1580 vehicles per hour
Background growth:	Eastbound=47 vehicles per hour, Westbound=128 vehicles per hour
Project Trips:	Eastbound=30 vehicles per hour, Westbound=42 vehicles per hour
Total Traffic:	Eastbound=887 vehicles per hour, Westbound=1750 vehicles per hour

Present laneage: 4 (2 in each direction)

Assured laneage: 4 (2 in each direction)

LOS “D” capacity: 1770 vehicles per hour (directional)

Projected level of service: Eastbound=B, Westbound=D

Segment: Military Trail from SW 18th St to Camino Real

Existing count:	Northbound=1161 vehicles per hour, Southbound=1732 vehicles per hour
Background growth:	Northbound=82 vehicles per hour, Southbound=141 vehicles per hour
Project Trips:	Northbound=11 vehicles per hour, Southbound=20 vehicles per hour
Total Traffic:	Northbound=1254 vehicles per hour, Southbound=1893 vehicles per hour

Present laneage: 4 (2 in each direction)

Assured laneage: 4 (2 in each direction)

LOS “D” capacity: 1960 vehicles per hour (directional)

Projected level of service: Northbound=B, Southbound=D

Prior to issuance of the first building permit, the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code.

PALM BEACH COUNTY HEALTH DEPARTMENT: No Staff Review Analysis

FIRE PROTECTION: No Staff Review Analysis

SCHOOL IMPACTS: In accordance with adopted school concurrency, a Concurrency Determination for 288 residential units (150 single family units and 138 multi-family units) had been approved on May 3, 2013 (Concurrency Case #13050201C). The subject property is located within Concurrency Service Area 21 (SAC 341B and SAC 341D). The applicant has since proposed to add 4 single family units and to remove 4 multi-family units, bring the new totals to 154 and 134, respectively. The total number of units remains at 288. A Concurrency Determination for these 4 single family units had been approved on November 21, 2013 (Concurrency Case #13112101C).

This project is estimated to generate approximately sixty-nine (69) public school students. The schools currently serving this project area are: Verde Elementary School, Boca Raton Community Middle School, and Boca Raton Community High School.

The revised preliminary site plan (dated 8/26/13) shows several bus shelter locations within the affected areas of the development. A bus shelter condition of approval has been applied to this application.

PARKS AND RECREATION: Based on the proposed 288 du 1.67 acres of on site recreation is required. The plan submitted indicates there will be 3.01 acres of recreation provided, therefore, the Parks and Recreation Department standards have been addressed.

WATER/SEWER PROVIDER: City of Boca Raton

Overall Master Plan-Residential Units	+ 288 new units	Total: 10,061 du
Park/Recreation	3.01-acre	Total: 62.55 acres
Golf Course	Reduction in acreage	Total 124.50 acres
Tract 4-School, Public	No change	Total:73,200 sq ft (according to the Palm Beach County Property Appraiser web parcel information)
Tract 15- Place of Worship	No change	Total:48,132 sq ft Which includes: Sanctuary/social hall 14,574 sq ft Social hall: 9,452 sq ft Mikveh Bldg: 2,277sq ft Admin Bldg:5,740 sq ft Private School/youth & senior center: 16,089 sq ft
Tract 24-Fire Station	No change	Total 7,228 sq ft
Tract 26-School, Private/Place of Worship	No change	Total: 92,800sqft Which includes: 48,050 sq ft Place of Worship 44,750 sq ft Private School
Tract 27- YMCA	No change	Total: 75,063 Which includes: 55,309 sq ft recreation building 19,754 sq ft daycare (215 children)
Tract 32 Senior Motel	No change	Total: 192 units (according to the Palm Beach County Property Appraiser web parcel information)

Tract 40-Assembly non-profit	No change	Total: 8,500 sq ft
Tract 77-Shopping Center	No change	Total:76,714 sq ft which includes: 15,000 sq ft fitness center 9,570 sq ft billiard parlor 6,099 sq ft daycare (156 children)

**FINDING:** The proposed Zoning Map Amendment complies with Article 2.F of the ULDC, Concurrency (Adequate Public Facility Standards).

**CONCLUSION:** If the BCC vote to approve the request, this application would be subject to Engineering, Health, Lake Worth Drainage District, and Schools Conditions of Approval as indicated in Exhibit C.

**8. Changed Conditions or Circumstances – *There are demonstrated changed conditions or circumstances that necessitate a modification.***

**Applicant’s Statement:** The applicant’s Justification Statement breaks this standard down into four reasons there are changed circumstances for the proposed development.

- 1. *The Declaration of Restrictions has expired (December 31, 2012);*
- 2. *The popularity of Golf Courses aft diminished, and therefore less revenues to maintain the courses;*
- 3. *The property has become a nuisance.*
- 4. *The current status has reduced property values from the surrounding property owners*

The applicant begins their justification of this standard by stating that the expiration of the Declaration of Restrictions (**Exhibit I**) is a changed circumstance that warrants the change of this recreation/open space area to residential. They state that because this has expired they are no longer bound to be a golf course.

The remainder of the Justification Statement, written by the applicant, is comparable to the statements provided in the last two applications. They restate the argument that golf courses were historically a standard recreational amenity utilized by many PUDs and because of its popularity the courses were able to be maintained by the fees that were collected. The applicant states that the National Golf Foundation states that the number of Golfers has reached a plateau and has been slowly declining. They quote that the Foundation expects to see a decline between 500-1000 golf courses in 2010.

The applicant states that the *“The abandoned golf course at Mizner Trail is a changed of circumstances which currently affects many of the communities which about the property. The residences which enjoyed the previous golf course views now look out onto vacant land that receives minimum amount of maintenance required by the County. Without any revenue, the property owner can only provide what is required.”*

Furthermore, the applicant states, *“... the property becomes a nuisance.”* They consider the site to pose potential health and safety risk to the residents states due to lack of maintenance, people trespassing , using all-terrain vehicles and infestation of pests- opossum, raccoons, and insects. The applicant states that because of the uncertainty of the future, the home values could continue to decline if this proposed development does not act as the catalyst to cure the blight.

**Staff’s Analysis:** Staff has determined that the request is **not in compliance** with Standard 9 based on the following analysis:

The Declaration of Restrictions was a private deed restriction between the Property Owner and the Boca del Mar Improvement Association, and not signed by Palm Beach County. The County considers the Master Plan as the controlling document for this PUD, and only an amendment to that Plan allows for a change in use, regardless of the private restriction. As previously discussed, following the decision of the 2004 application, the applicant sued the County and the Court determined that there was no entitlement to a residential use on the Golf Course.

According to Staff’s research, the World Golf Foundation state its GOLF 20/20 Initiative is taking a lead role to better communicating the positive contributions of golf to society, including Golf’s Economic Benefit, Human Benefit and Environmental Benefit. (<http://www.worldgolffoundation.org/industry-initiatives/image-of-the-game/>) The published

information on their website indicates that there were two significant recessions in 2001 and 2007-2009, and state the decline was due to two industry segments: golf real estate and golf course capital investments. The following table, found on the Foundations website, indicates that the economy of golf is up since 2000, though not at its peak in 2005 when the applicant chose to close the golf course in order to seek approval for residential use. ([http://golf2020.com/media/31624/2011\\_golf\\_econ\\_exec\\_sum\\_sri\\_final\\_12\\_17\\_12.pdf](http://golf2020.com/media/31624/2011_golf_econ_exec_sum_sri_final_12_17_12.pdf)). A CNN report on golf states “Golf is nothing if not resilient. The deep recessions of 2008 in the United States did not spare the sport, but in recent years it has come out swinging as it moves towards the \$75.9 billion it generated in 2005.” (<http://www.cnn.com/2013/09/06/sport/golf/golf-economy-obama-fedex/>)

Size of the U.S. Golf Economy by Industry Segment in 2000, 2005 and 2011 (\$ millions)			
Core Industries	2000	2005	2011
Golf Facility Operations	\$20,496	\$28,052	\$29,852
Golf Course Capital Investment	\$7,812	\$3,578	\$2,073
Golfer Supplies	\$5,982	\$6,151	\$5,639
Endorsements, Tournaments & Associations	\$1,293	\$1,682	\$2,045
Charities	\$3,200	\$3,501	\$3,900
Total Core Industries	\$38,783	\$42,964	\$43,509
Enabled Industries			
Real Estate	\$9,904	\$14,973	\$4,745
Hospitality/Tourism	\$13,480	\$18,001	\$20,555
Total Enabled Industries	\$23,384	\$32,974	\$25,300
TOTAL GOLF ECONOMY	\$62,167	\$75,939	\$68,809

Note: Columns sum based on rounding of individual estimates. Numbers also have not been adjusted for inflation but are expressed as nominal dollars.

The Justification and back up documentation from the applicant, does not provide the actual numbers for the plateau in 2000 and the decline from 2010 nor does it provide any information prior to 2010, or when it closed to the present date 2013.

The applicant states that the abandoned golf course has created a deteriorated or “blighted” condition for the surrounding property owners because the property owner does not have the revenue to maintain the golf course and has allowed the property to become “a visual eyesore” as indicated in the Justification statement including the provision of photos. Whether a property owner chooses to maintain his/her property at minimum standard does not justify a changed circumstance to allow a change in use. All property owners are required to maintain their property.

The Justification Statement documents a similar argument from the 2010 and 2011 applications that the property has now become a nuisance, whereby they are attracting trespassers which vandalize the property. It is the responsibility of all property owners to maintain their property pursuant to the Property Maintenance Code of Palm Beach County to remove hazardous objects which may likely attract vandals. Additionally, the applicant states that the open space has caused complaints by residents over pests such as raccoons, opossums and insects. Many developments throughout the County are developed with open space or preserves. These areas have natural wildlife (mammals and birds) and insects. The fact that wildlife exists within a development does not necessarily result in a pest problem. Maintaining a property on a regular basis would deter unwanted pests.

The fourth reason stated under the applicant’s changed circumstance suggests that there has been a reduction in property values for the adjacent homeowners to the golf course. The applicant however, has not provided any documentation to support such a statement. Staff’s research of the Palm Beach County Property Appraisal’s website suggests that property values of homes and townhomes have gone up since 2011, as indicated on the Palm Beach County Property Appraisers website. The applicant states that the new development will remove uncertainty as to the future of the site. Staff believes the uncertainty has been created by the Property Owner. The Master Plan has not been modified to suggest other uses approved for the development. Throughout the entire County many residents have had reductions in the values of their homes due to the economic times, but it does not lend itself to the suggestion of economic blight. The property owners in Boca Del Mar have a master planned community and they rely on that plan for what is certain and how it is to be developed. The applicant does not provide information to conclude that the change in use cures what they conclude

to be economic blight.

The applicant states in the Justification Statement that there are no vacant residential parcels of any size which extend several miles from the site and that the development of this site supports eastern infill policies. The justification does not discuss or suggest that there is not a housing shortage nor does it justify why the change in use is better suited for this property. They present no testimony to address the supply, demand, and alleged importance of new housing opportunities as opposed to resale, rental, or other alternatives for existing housing opportunities within Boca Del Mar and the surrounding communities. The applicant fails to support the concept that housing values would be increased from the change of view from open field, poorly maintained as it is, to intense housing and additional roadways. The applicant must provide more facts and documentation in order to support his position.

During the hearing of Application DOA-2004-00826 (Mizner Trail Golf Club, LTD versus Palm Beach County), the Judge concluded that the economic value of the golf course parcel as housing was purposely diminished in order to increase density on surrounding residential Pods through an increase in density on each of these Pods. The idea is that the original developers/owners of the Boca Del Mar PUD had already received the financial value of the residential development potential of the golf course when they off-loaded the density to other residential Pods of this PUD.

The golf course/recreation/open space element is an integral part of the residential development. The importance of a master planned community is the security of the homeowners that the original vision will be sustained over time. Minor modifications or uses consistent with the original vision are allowed; however, in this case, the replacement of this area with the proposed residential uses is contrary to the original intent of this development designed with a vision of creating an innovative and sustainable community. Closing of a use or lack of maintenance of a property, at the decision of the property owner, does not qualify as a reason for changed circumstances to justify a need to change a use of a property to residential.

**CONCLUSION:** If the BCC vote to approve the request, this application would be subject to all applicable Conditions of Approval as indicated in Exhibit C.

## **FINAL CONCLUSION AND RECOMMENDATION**

Since the Boca Del Mar Master Plan was first established in 1971 (**Figure 4**), the 1945.96-acre subject site has supported primarily residential uses, golf courses and ancillary uses. Additionally, through the original 1970's planning and preparation for the approval there were several pieces of correspondence between County staff and the developer that referred to density as well as the use of the golf course. The Golf Course was intended to be maintained as a Golf Course for use by the residents.

The site has been planned, designed, and constructed with this Open Space type element as the key design component for the entire development with emphasis on enhanced compatibility to the residential Pods abutting it. A Planned Unit Development is different than standard districts in its ability to provide alternative design options, through reduced setbacks, additional density allowances, variety of housing types and non-residential uses. This is accomplished through the amenities the development provides and the additional open space areas, whether it is through the use of recreation, lakes, or grassy open areas. The conversion of some of these areas to residential significantly impacts the existing design of the Pods and their locations adjacent to these open space areas (Golf Course) and thereby impacts the existing residents in a negative manner. As previously stated, a master plan community provides some levels of reliance to the residents that the key design feature of their community will remain and be maintained over time. Minor modifications or uses consistent with the original vision are allowed; however, in this case, the removal of the open space elements that the golf course provides contrary to the original intent of this development designed in creating an innovative and sustainable community.

Staff's recommendation is for **denial** of the request to modify and redesignate uses, and add Pods, units, and access points on the Master Plan, for failure to comply with the following Standards of art.2.B.2.B of the ULDC:

- Standard 2 -Consistency with the Code;
- Standard 4 - Design Minimizes Adverse Impact;
- Standard 6 - Development Patterns; and,
- Standard 9 - Changed Conditions or Circumstances

If the ZC votes to recommend approval of the request, then Staff recommends the approval be subject to the Conditions of Approval as indicated in Exhibit C.

It should be noted that the listed Conditions of Approval may address some issues raised in the standards of review, such as pedestrian circulation, open space and landscape buffering; however, as stated under Staff's Analysis of the Standards 2, 4, 6 and 9, they do not address all areas of impact because conditions cannot be utilized to address details of a redesign of the development. The proposed Conditions of Approval would require the property owner to redesign the Subdivision Plans to incorporate larger open spaces areas/buffers and relocation/elimination of units in some of the proposed Pods. Some Pods, because of their existing configuration, size and locations (on the perimeter of existing Pods adjacent to streets) may allow the property owner to meet the requirements and have units. This would require some redesign of the subdivision including, shifting of the access, roads and possible loss of units.

The Conditions of Approval for the redesign of other Pods, mainly 64B, 64D and portion of 64E, would restrict them from having any units. The site configuration, open space conditions, and the placement of the homes and roads would limit the design options for conversion of these areas to residential.

## CONDITIONS OF APPROVAL

### EXHIBIT C

#### Development Order Amendment

#### ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolutions R88-1539 (1984-00152B)(Tract 62-CLF); R-95-1321.3 (DOA-84-152G)(Tract 77 Commercial Pod), R-2000-1944 (1984-00152H)(Tract 15-Place of Worship), and R-2005-2293 (DOA-2005-00986)(Tract 27-YMCA), remain in full force and effect. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)
2. All previous Conditions of Approval applicable to the subject property, as contained in the Memorandum dated August 23, 1971 and Minutes dated August 19, 1971 remain in effect. (ONGOING: ZONING-Zoning)
3. All previous conditions of approval applicable to the subject property, as contained in Resolution R-85-288 (Control 1984-00152), have been consolidated as contained herein. (ONGOING: MONITORING - Zoning)
4. The approved Preliminary Master and Regulating Plans are dated September 12, 2013 and August 26, 2013. Modifications to the Development Order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)
5. Previous Condition Number 7 of Resolution R-85-288 which reads:  
The Overall Master Plan for Boca Del Mar PUD shall be reduced by 28 units. This new Master Plan shall be certified by the Site Plan Review Committee prior to certification of the site plan for this tract.

Is hereby amended to read:

Prior to Final Plan approval by the Development Review Officer (DRO), the property owner shall:

- a. Update Master Plan to indicate the built number of units for each residential Pod within Boca Del Mar;
  - b. Revise the Site and/or Subdivision plan for each proposed Residential Pod to reflect the required landscape buffer pursuant to Landscape Condition 2.
  - c. Revise the Site and/or Subdivision Plans for Pods adjacent to Tracts 64A-F, to remove notations of the Golf Course use and setbacks in accordance with Article 1. (DRO: ZONING Zoning)
6. Previous Condition Number 6 of Resolution R-85-288 which reads:  
There will be no more than 80 units in Tract 81. No further units may be added by Site Plan Review Committee approval.  
  
Is hereby deleted. (Reason: Tract 81 was annexed by the City of Boca Raton)
  7. Prior to Final Master Plan approval the Property Owner(s) shall pay all outstanding Liens and Fines that were assessed on the property within the affected area of Application 2013-1057. (DRO:CODE ENF- Accounting)

#### BUILDING

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring



properties. (ONGOING-CODE ENFORCEMENT-Zoning) (Previous Condition 1 of Resolution R-85-288)

2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (ONGOING-CODE ENFORCEMENT-Zoning) (Previous Condition 2 of Resolution R-85-288)

#### ENGINEERING

1. Previous condition 3 of Resolution R-1985-288, Control No. 1984-152, which currently states: This development shall retain on site the first one inch of the storm water runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended.

Is hereby deleted. [Reason: Drainage is a code requirement]

2. Previous condition 4 of Resolution R-1985-288, Control No. 1984-152, which currently states: The developer shall construct concurrent with the issuance of the first building permit, a Left Turn Lane, East approach, on SW 18th Street at Marina Del Mar. (BLDG PERMIT: MONITORING Eng)

Is hereby deleted. [Reason: This portion of the development is now within the City of Boca Raton]

3. Previous condition 5 of Resolution R-1985-288, Control No. 1984-152, which currently states: The Developer shall pay a Fair Share Fee in the amount and manner required by "The Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently The Fair Share Fee for this project is \$200.00 per approved Multi-family dwelling unit and \$300.00 per approved Single family dwelling unit. (ONGOING: ENGINEERING - Eng)

Is hereby deleted. [Reason: Code requirement]

4. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:
  - a. No Building Permits for the site may be issued after December 31, 2017. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)
  - b. Building Permits shall not be issued for more than 49 Single family du (from Pods 64A, 64C, and 64G) and 33 condo/townhome units from Pod 64B (or the equivalent of 40 PM peak hour trips from Pods 64C and 64G, and 45 PM peak hour trips from Pods 64A and 64B) until construction commences to provide for two (2) south approach left turn lanes at the Camino Real and Powerline Road intersection. The turn lanes shall be a minimum length of 450 feet plus a 100-ft taper or as approved by FDOT. The construction shall also include any modifications to the receiving lanes determined to be necessary by FDOT. (BLDG PERMIT: MONITORING-Eng)
  - c. Building Permits shall not be issued for more than 49 Single family du (from Pods 64A, 64C, and 64G) and 73 condo/townhome units (56 units from Pod 64B and 17 units from Pod 64E), or the equivalent of 112 PM peak hour trips from these Pods until construction commences to provide the following geometry at the SW 18th Street and Military Trail intersection:

West Approach - 2 exclusive lefts, 1 through and 1 exclusive right

East Approach - 1 exclusive left, 2 throughs and 1 exclusive right.

The construction shall also include any modifications to the receiving lanes determined to be necessary by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

5. On or before March 22, 2012, acceptable surety for the design, Right-of-Way acquisition, and the Construction Engineering and Inspection Costs as well as the construction for the offsite road improvements as outlined in Conditions No. E.4.b and E.4.c shall be posted with the Land



Development Division. Surety in the amount of 110% shall be based upon an acceptable Certified Cost Estimate provided by the Property Owner's Engineer. At any time during the duration of the surety the County Engineer shall have the authority to determine that sufficient progress has not been made for any and all required work. In the event such a determination is made, Palm Beach County shall have the right to request funds be drawn for the surety (surety drawn) and Palm Beach County may then complete all required work. The County Engineer shall also have the authority to require that the surety amount be updated to reflect current anticipated costs at any time during the duration of the surety. (DATE: MONITORING-Eng)

6. Prior to the issuance of the first Building Permit, the Property Owner shall provide to the Palm Beach County Land Development Division a road Right-of-Way deed and all associated documents as required by the County Engineer for the expanded intersection Right-of-Way and corner clip on SW 18th Street at Military Trail. The Right-of-Way shall be dedicated in accordance with T-P-13 or as otherwise required by the County Engineer. All Right-of-Way deed(s) and associated documents shall be provided and approved prior to the issuance of the first Building Permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right-of-Way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right-of-Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road Right-of-Way conveyances shall be consistent with Palm Beach County's Thoroughfare Right-of-Way Identification Map. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT/ONGOING: MONITORING-Eng)
7. Prior to the issuance of the first Building Permit, the Property Owner shall provide to Palm Beach County Land Development Division by warranty deed additional Right-of-Way for the construction of:
  - i. A right turn lane east approach on SW 18th Street at Camino Del Mar
  - ii. A right turn lane east approach on SW 18th Street at Palm D'Oro Drive
  - iii. A right turn lane west approach on Camino Real at Camino Del Mar

This Right-of-Way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. The Right-of-Way should be continued across the intersecting roadway. The Property Owner may acquire the Right-of-Way independently or through an agreement with Palm Beach County Right-of-Way Acquisition Section. Either way, the Property Owner is responsible for all costs associated with acquiring all necessary Right-of-Way, including but not limited to, surveys, property owner maps, legal descriptions for acquisition and a title search for a minimum of 30 years. This additional Right-of-Way shall be free of all encumbrances and encroachments and shall include Corner Clips where appropriate, as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

8. The Property Owner shall construct:
  - i. A right turn lane east approach on SW 18th Street at Camino Del Mar
  - ii. A left turn lane north approach on Camino Del Mar at SW 18th Street
  - iii. A right turn lane east approach on SW 18th Street at Palm D'Oro Drive
  - iv. A right turn lane west approach on Camino Real at Camino Del Mar
  - v. A left turn lane south approach on Military Trail at the proposed entrance to Pod 64F

Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required Right-of-Way.

- a. Prior to the issuance of the first Building Permit, permits required from Palm Beach County for this construction shall be obtained. (BLDG PERMIT: MONITORING-Eng)
  - b. Prior to the issuance of the first Certificate of Occupancy, construction shall be completed. (CO: MONITORING-Eng)
9. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage and shall not cause adverse stormwater management impacts to adjacent properties. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.
- a. Prior to Final Approval of the Site Plan by the DRO, a drainage study shall be provided to the Land Development Division. (DRO: ENGINEERING-Eng)
  - b. Prior to the issuance of the first Building Permit, any required drainage easements shall be recorded. (BLDG PERMIT: MONITORING-Eng)
10. Prior to issuance of the first Building Permit within a specific tract, the Property Owner shall plat the entire subject tract in accordance with provisions of Article 11 of the Unified Land Development Code. The platting of this project may be phased in accordance with a phasing plan acceptable to the Office of the County Engineer and approved by the Development Review Officer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety, if any. (BLDG PERMIT: MONITORING-Eng)
11. Building Permits for more than 135 Town House units or 111 Single family units or an equivalent number of trips for the site shall not be issued until the Property Owner makes a proportionate share payment in the amount of 5.85% of the total cost of the following improvements at the intersection of SW 18th St and Military Trail: i. modify the west approach to provide a total of 2 left turn lanes, 1 through lane, and 1 right turn lane, ii. modify the east approach to provide a total of 1 left turn lane, 2 through lanes, and 1 right turn lane. These modifications will also require appropriate widening and tapering of the roadways, in advance and beyond the intersection, as approved by the County Engineer. This proportionate share amount may be applied toward construction of this improvement or one or more other improvements that will benefit the mobility in the area impacted by the project, as determined by the County Engineer. The value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the County Engineer or other method approved by the County Engineer at the time of payment. (BLDG PERMIT: MONITORING - Eng)

#### HEALTH

1. Architectural plans must be submitted to the institutional/child care section of the Palm Beach County Health Department in accordance with Rule 64E-13 F.A.C. prior to the issuance of a building permit. (BLDG: HEALTH/BLDG-Health) (Previous condition number D.1 of Resolution R-2005-2293; Control 1984-152) [NOTE: COMPLETED]
2. Since sewer and water service is available to the property, neither a septic tank or well shall be approved for use on the property. (BLDG: HEALTH/BLDG-Health) (previous condition number D.2 of Resolution R-2005-2293; Control 1984-152) [NOTE: COMPLETED]
3. Previous condition number Health 3 of Resolution R-2005-2293; Control 1984-0152 which reads:  
  
Prior to Final DRO approval the property owner shall meet with staff of the Palm Beach County Health Department and provide documentation, including, but not limited to, accurate architectural plans and site plans and a complete and current site survey, to clarify all compliance issues related to operation and design of the child care facility. (DRO: HEALTH-Health) [NOTE: COMPLETED]

4. Previous condition number health 4 of Resolution R-2005-2293; Control 1984-0152 which reads:

Prior to Final DRO approval, the property owner shall submit a health and safety plan that details the expected changes in the physical and operational aspects of the facility and the measures that will be implemented to ensure that the health and safety of children are protected during the construction phase of the project. (DRO: HEALTH - Health) [NOTE: COMPLETED]

#### LANDSCAPE - GENERAL-AFFECTED AREA OF APPLICATION 2013-01057

1. Prior to Final Plan approval by the Development Review Officer (DRO), the Property Owner shall submit a Landscape Plan to the Landscape Section for review and final approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein and all ULDC requirements. (DRO: LANDSCAPE - Zoning)
2. A fifty (50) feet of open space and landscape tract shall be provided at the perimeter of each Pod boundary, adjacent to existing residential structures with reduced setbacks for open space. There shall be no easement encroachment or street dedication within this area. (DRO: LANDSCAPE/ZONING-Zoning)
3. In addition to the ULDC requirements, a minimum of seventy-five (75) percent of all trees to be planted in the perimeter landscape buffers shall meet the following minimum standards at installation:
  - a. tree height: fourteen (14) feet; and,
  - b. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
4. All palms required to be planted on the property by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
  - a. palm heights: twelve (12) feet clear trunk;
  - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
  - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
5. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
6. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and amenities, and to accommodate transverse utility or drainage easements crossings and existing vegetation. All field adjustments shall be the minimum necessary to accommodate the aforementioned features and amenities. (BLDG PERMIT: LANDSCAPE - Zoning)

#### LANDSCAPE – POD 64A

7. In addition to the ULDC requirements, landscaping and buffering along the following property lines of Pod 64 A shall include:
  - a. A fifteen (15) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to Canary Palm Drive and Via De Sonrisa Del Norte;
  - b. A Type I Incompatibility Buffer, approximately 1,200 lineal feet, shall be provided along the north property line, adjacent to the proposed Zero Lot Line units;
  - c. A minimum of fifty (50) feet of open space including a Compatibility Buffer shall be provided along the east and west property lines that abut the existing residential Tracts 57 and 61A;
  - d. No easement encroachment shall be permitted in the above buffers; and,
  - e. One palm for each twenty-five (25) linear feet of the length of each buffer. (DRO: ZONING - Zoning)

#### LANDSCAPE – POD 64B

8. In addition to the ULDC requirements, landscaping and buffering along the following property lines of Pod 64B shall include:
  - a. A fifteen (15) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to Canary Palm Drive;

- b. A Type I Incompatibility Buffer, approximately 1,400 lineal feet, shall be provided along the north property line, adjacent to the proposed Zero Lot Line units;
  - c. A minimum of fifty (50) feet of open space including a Compability Buffer shall be provided along the east and west property lines that abut the existing residential Tracts 62, 72, and 78;
  - d. No easement encroachment shall be permitted in the above buffers; and,
  - e. One palm for each twenty-five (25) linear feet of the length of each buffer.
- (DRO: ZONING - Zoning)

#### LANDSCAPE – POD 64C

9. In addition to the ULDC requirements, landscaping and buffering along the following property lines of Pod 64C shall include:
- a. A fifteen (15) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to Camino Del Mar and Palm D’Ora Road;
  - b. A minimum of fifty (50) feet of open space including a Compability Buffer shall be provided along the north and west property lines that abut the existing residential Tract 71;
  - c. No easement encroachment shall be permitted in the above buffers; and
  - d. One palm for each twenty-five (25) linear feet of the length of each buffer.
- (DRO: ZONING - Zoning)

#### LANDSCAPE – POD 64D

10. Pod 64D shall be maintained as an open space tract in perpetuity. (DRO: ZONING - Zoning)

#### LANDSCAPE – POD 64E

11. In addition to the ULDC requirements, landscaping and buffering along the following property lines of Pod 64E shall include:
- a. A fifteen (15) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to Camino Del Mar and Military Trail (reduced because of Canal);
  - b. A twenty (20) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to SW 18<sup>th</sup> Street;
  - c. A minimum of fifty (50) feet of open space including a Type I Incompability Buffer shall be provided along the north, south, and west property lines that abut the existing residential Tract 65, 67 and 80;
  - d. No easement encroachment shall be permitted in the above buffers; and,
  - e. One palm for each twenty-five (25) linear feet of the length of each buffer.
- (DRO: ZONING - Zoning)

#### LANDSCAPE – POD 64F

12. In addition to the ULDC requirements, landscaping and buffering along the following property lines of Pod 64F shall include:
- a. A fifteen (15) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to Camino Del Mar;
  - b. A twenty (20) foot wide Right-of-Way Buffer shall be provided along the perimeter adjacent to SW 18<sup>th</sup> Street;
  - c. A minimum of twenty-five (25) feet of open space including a Compability Buffer shall be provided along the west property line that abut the existing residential Boca Del Mar III aka La Joya (Control 1978-00045);
  - d. No easement encroachment shall be permitted in the above buffers; and
  - e. One palm for each twenty-five (25) linear feet of the length of each buffer.
- (DRO: ZONING - Zoning)

#### LAKE WORTH DRAINAGE DISTRICT

1. Prior to DRO approval LWDD will require signed and sealed canal cross-sections for E-3, L-49 and L-50 Canals. The cross-sections must extend 50 feet beyond both sides of top of bank, and they are to be tied to an accepted horizontal control, either sectional or plat. The cross-sections shall delineate all features that may be relevant, (i.e. buildings, edge of pavement, curbs, sidewalks, guardrails, grade breaks etc.). The cross-sections shall be a maximum of three hundred feet apart, and a minimum of three cross sections is required. The cross-sections are to be plotted at 1”=10', both horizontal and vertical for small canals, and 1”=20' for large canals. All tract and/or lot lines, block lines, sections lines and easements shall be clearly depicted showing existing LWDD Right-of-Way. Elevations shall be based on the NGVD ('29) datum, with a

conversion factor to NAVD ('88) must be shown. The cross-sections will be used to determine if LWDD will need to have the applicant convey an easement back to LWDD. CONDITION; DRO APPROVAL

#### PLANNED DEVELOPMENT

1. Prior to the recordation of the first plat, all property included in the legal description of the application shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:
  - a. Formation of a single property owner's association, automatic voting membership in the association by any party holding title to any portion of the subject property, and assessment of all members of the association for the cost of maintaining all common areas.
  - b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
  - c. All open space tracts shall be deed restricted and remain in perpetuity as common areas for the use of the residents of the development. These areas shall be maintained by the POA/HOA in accordance with the Code requirements. At the time of turnover of the POA/HOA, the open space tracts/common areas shall be turned over to the association at no cost to the residents.
  - d. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the development. This Declaration shall be amended when additional units are added to the development. (PLAT: CO ATTY - Zoning)

#### PLANNING

1. Prior to the issuance of the first residential Building Permit, the applicant shall submit payment to Department of Economic Sustainability(DES) and a copy of a receipt for that payment to the Planning Division in the amount of \$570,500 (7 units at \$81,500 per WHP unit). (MONITORING:DES/PLANNING-Planning)

#### SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

##### "NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD)

2. Prior to the issuance of the first Certificate of Occupancy (CO) for the residential phases of the development, the school bus shelters shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelters shall be the responsibility of the residential property owner. (CO: MONITORING - School Board.)

#### SIGNS

1. At time of submittal of a Final Master Plan, the applicant shall revise the Master Sign Plan to be compliant with the regulations of Article 8, indicating the locations and final details of the proposed signage. (DRO:ZONING-Zoning)

#### SITE DESIGN AFFECTED AREA OF APPLICATION 2013-01057

1. Prior to Final Approval by the Development Review Officer (DRO), the Site and/or Subdivision Plan shall incorporate a minimum five (5) foot wide continuous concrete sidewalk internal to each Pod providing connectivity to the adjacent residential Pods or Recreational Pod and the neighborhood park. (DRO: ZONING - Zoning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall provide amenities for each Open Space as shown on the Preliminary Subdivision Plan Overall dated October 20, 2013, including but not limited to: shade structure, seating areas, tot lots. Details of each open space shall be provided on the Final Regulating Plan. (DRO: ZONING - Zoning)
3. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise road layout within Pods 64A-F to provide a curvilinear design with the residential units placed on either side of the road. (DRO: ZONING-Zoning)

#### COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:
  - a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
  - b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
  - c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
  - d. Referral to Code Enforcement; and/or
  - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

#### DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.



ZC





Figure 2 Zoning Map

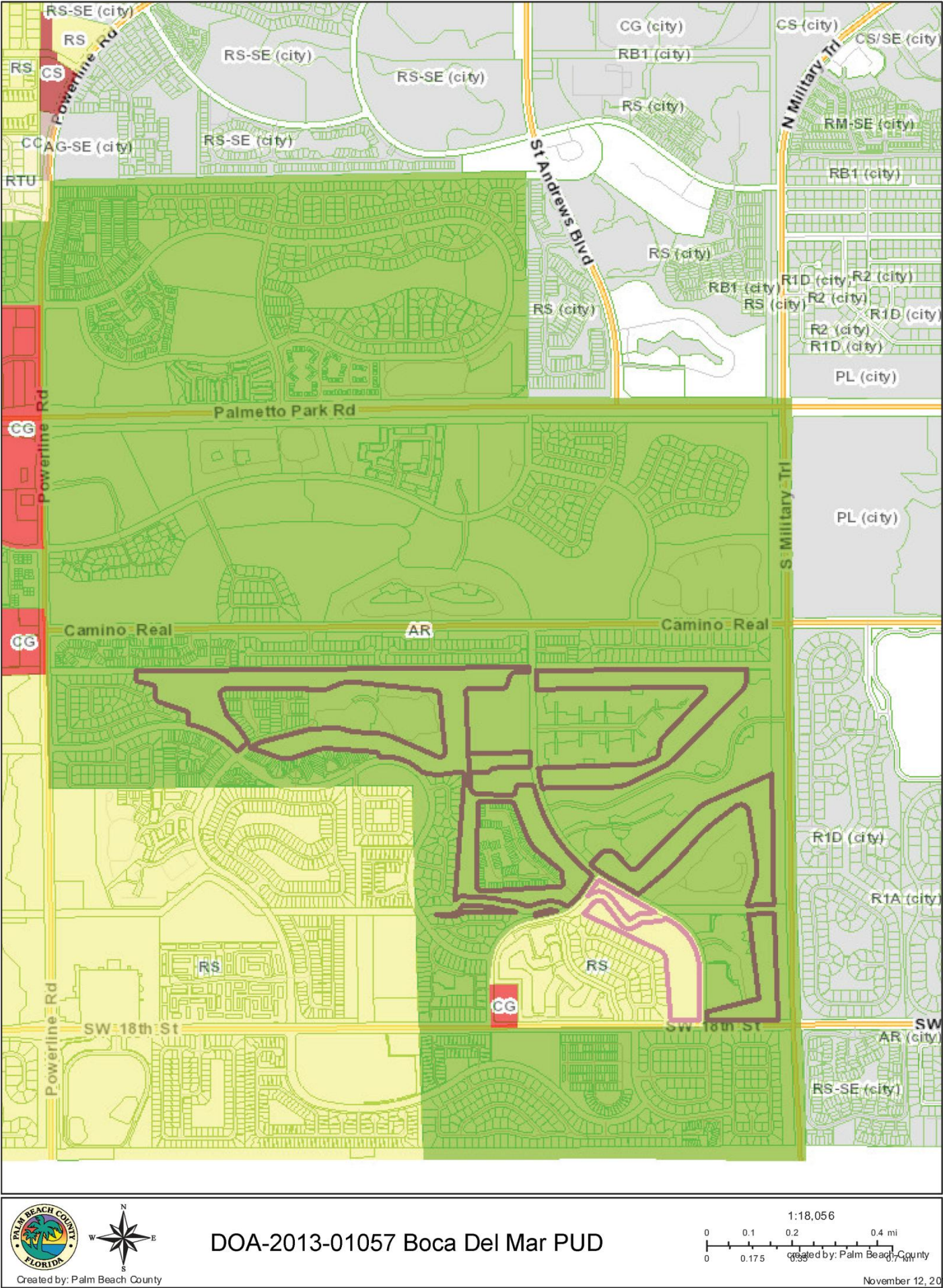




Figure 3 Aerial

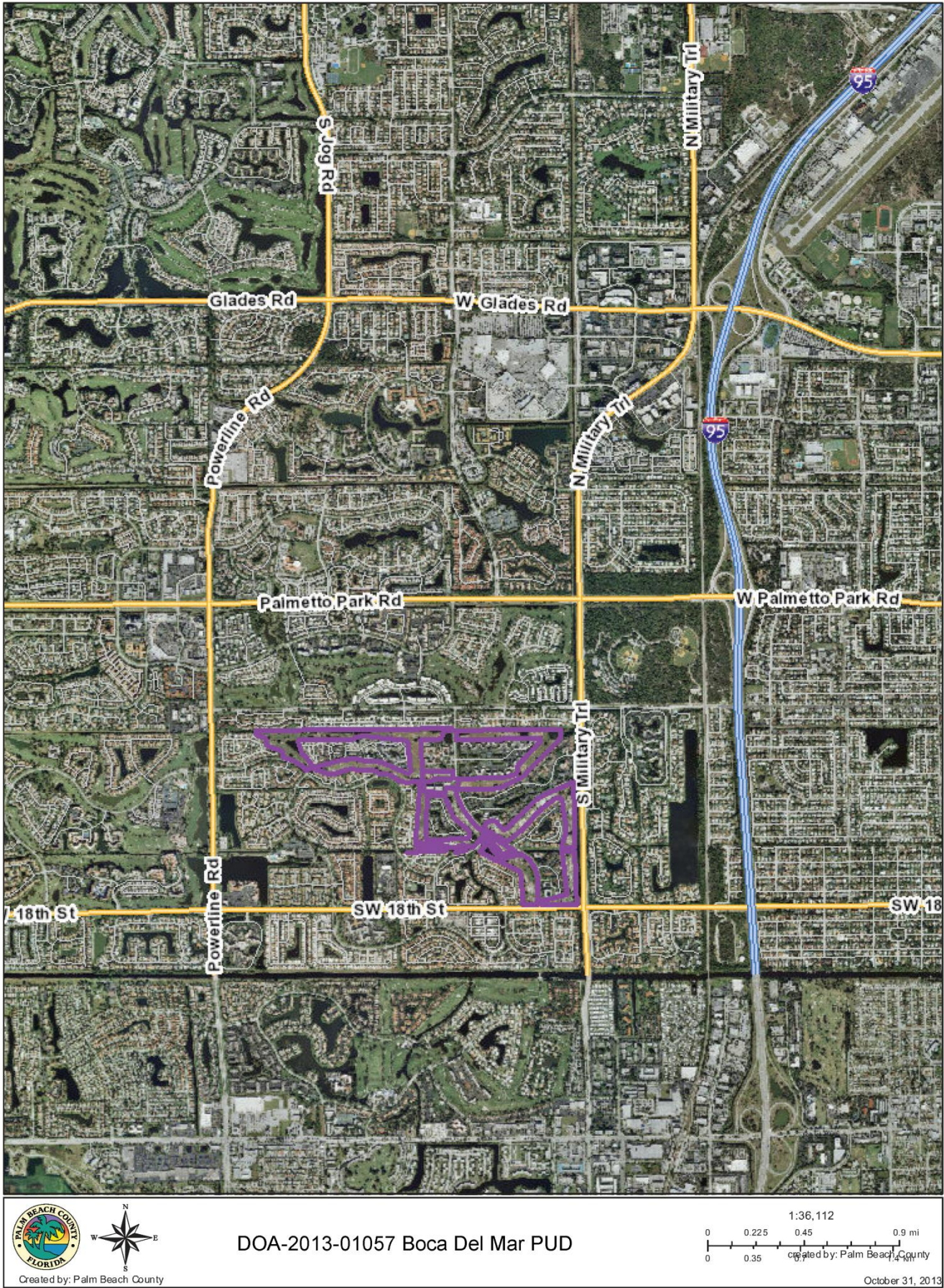
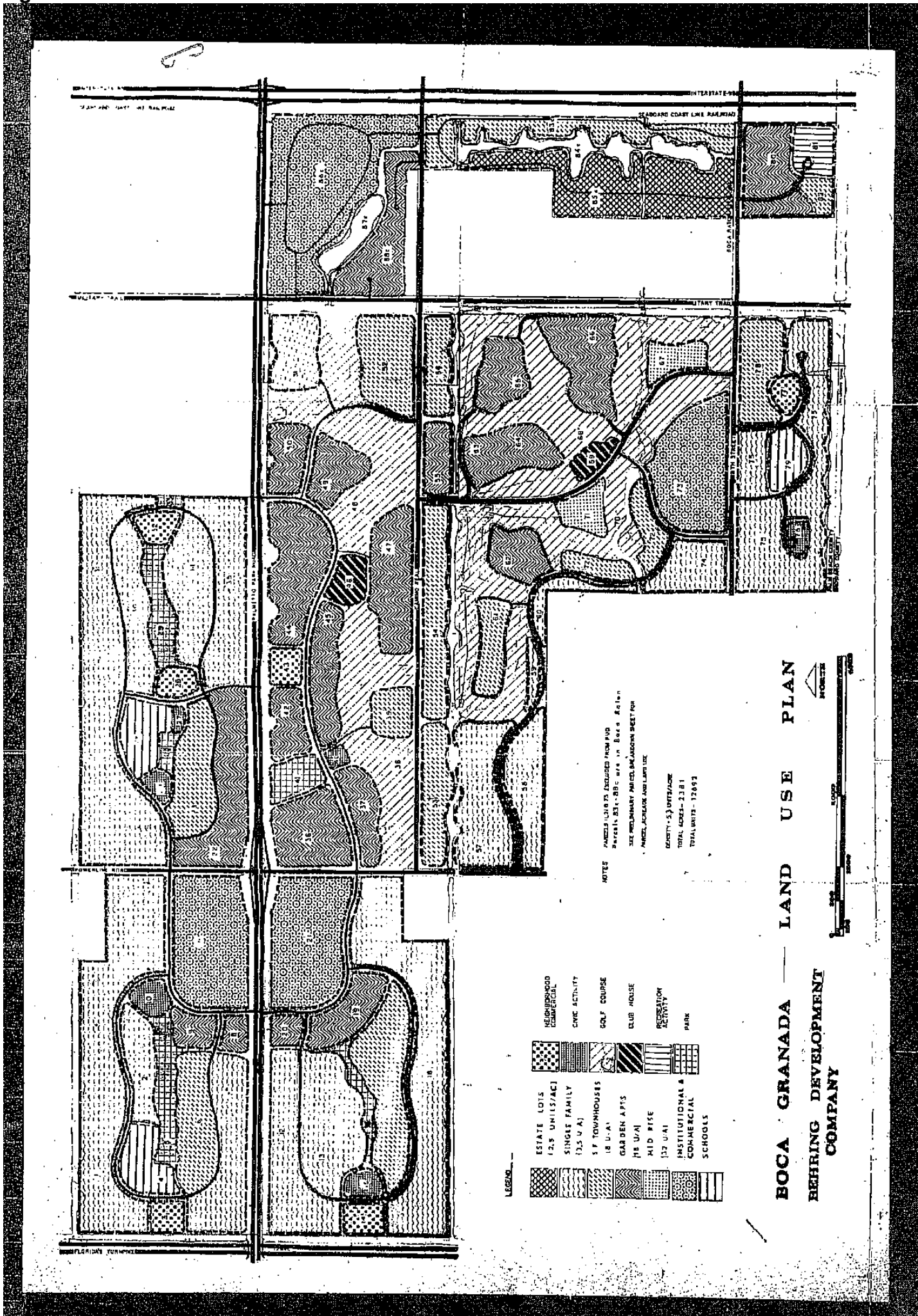




Figure 4 Final Master Plan dated 1971



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**LAND  
DESIGN  
SOUTH**

Planning Landscape Architecture  
Environmental Services Transportation

400 Columbia Drive, Suite 110 • West Plains, MO 65755  
Telephone: 661 • 491-8801 • Fax: 661 • 491-8812

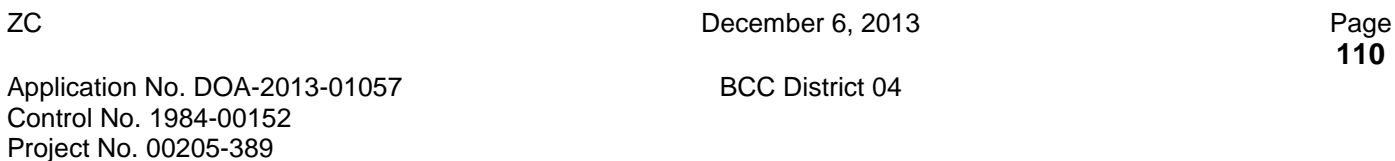
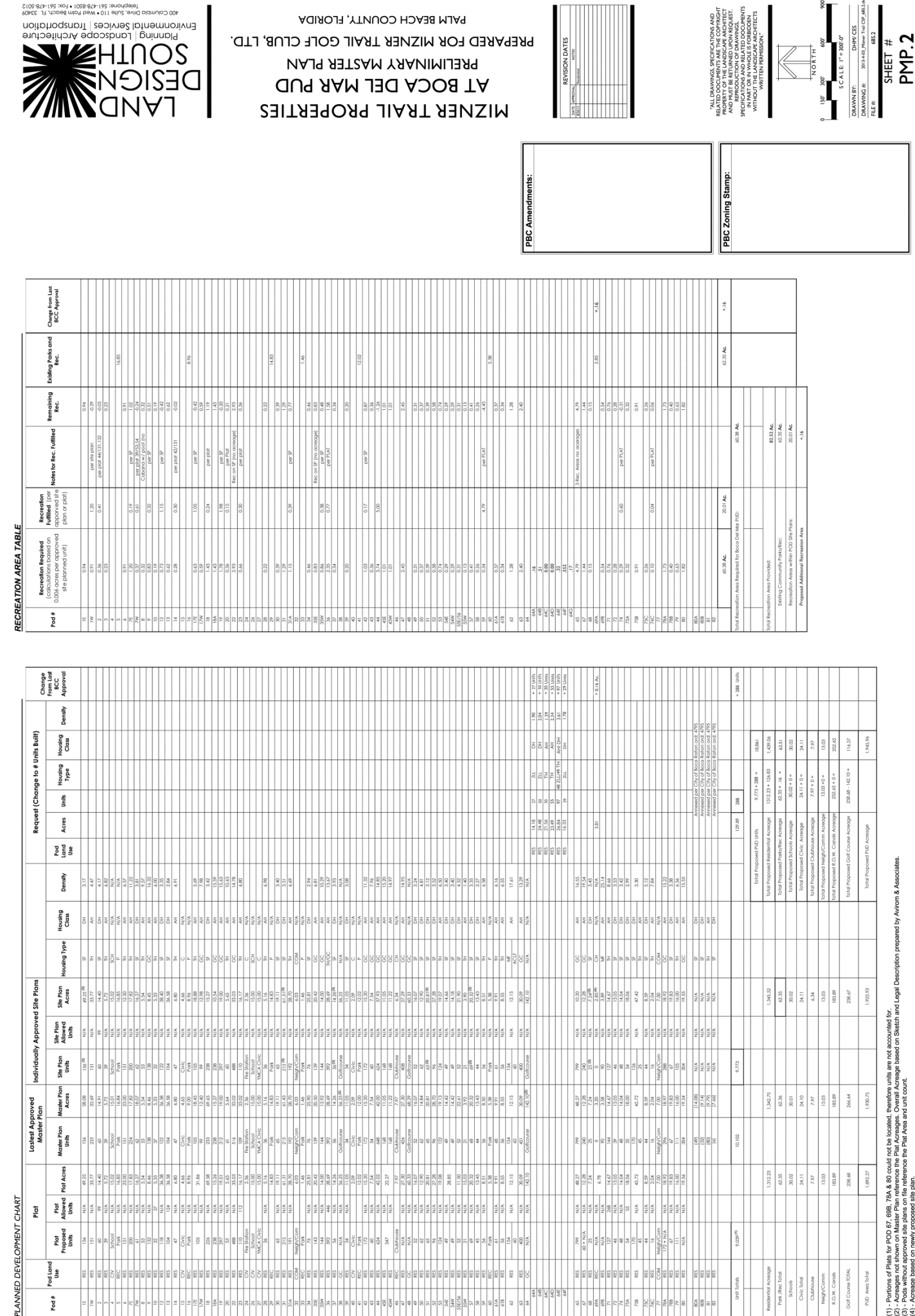
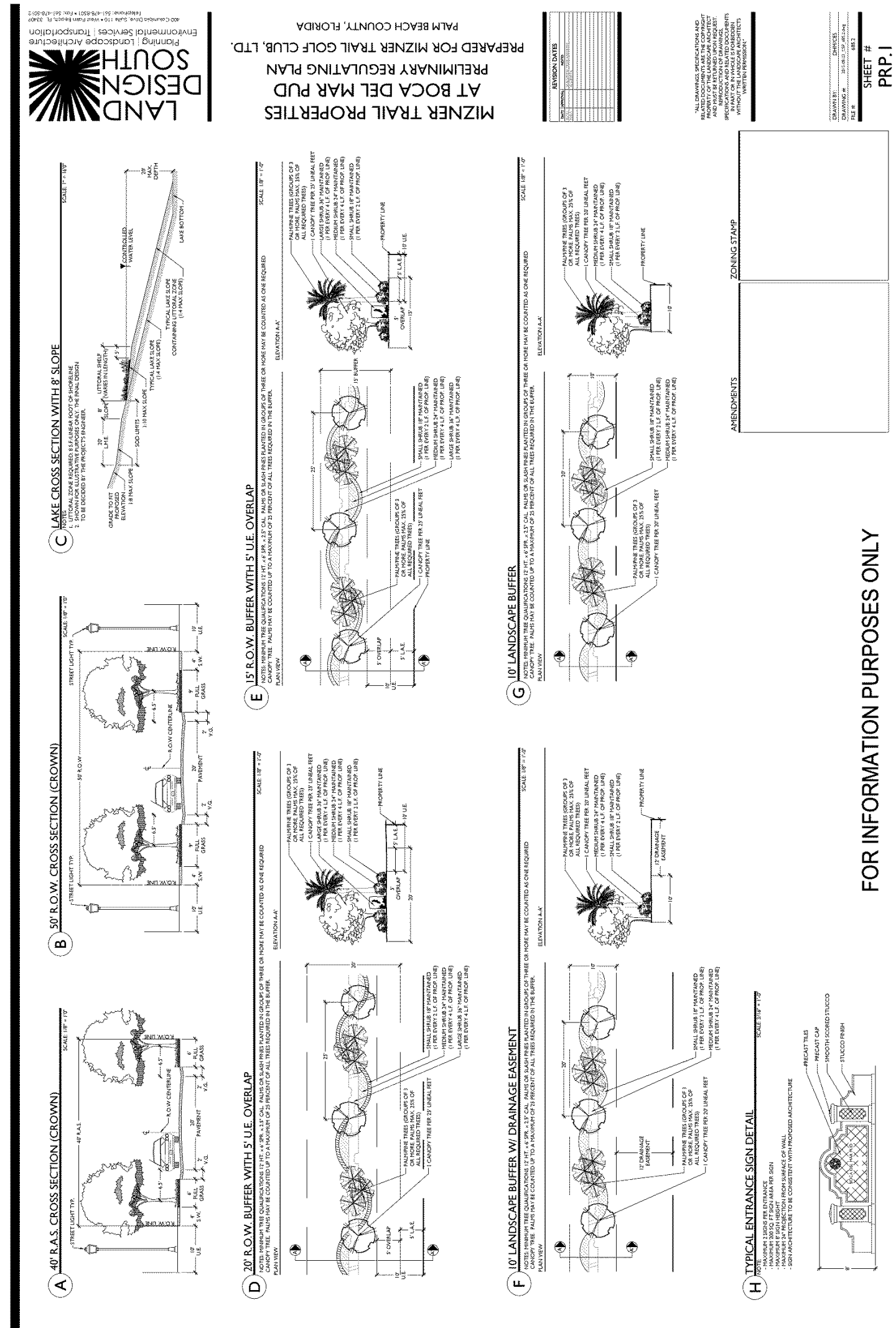
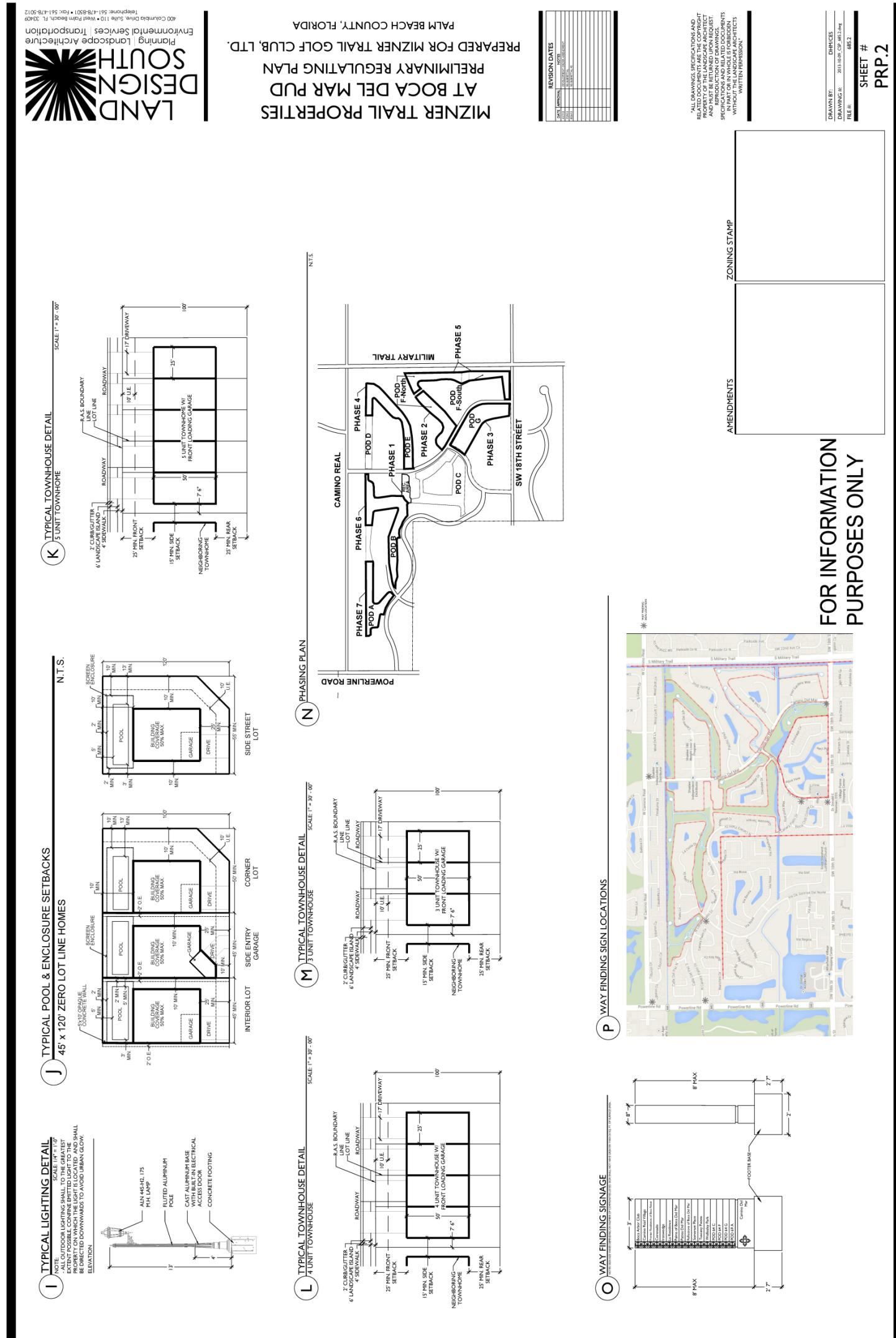


Figure 7 Preliminary Master Plan Dated August 26, 2013 page 2







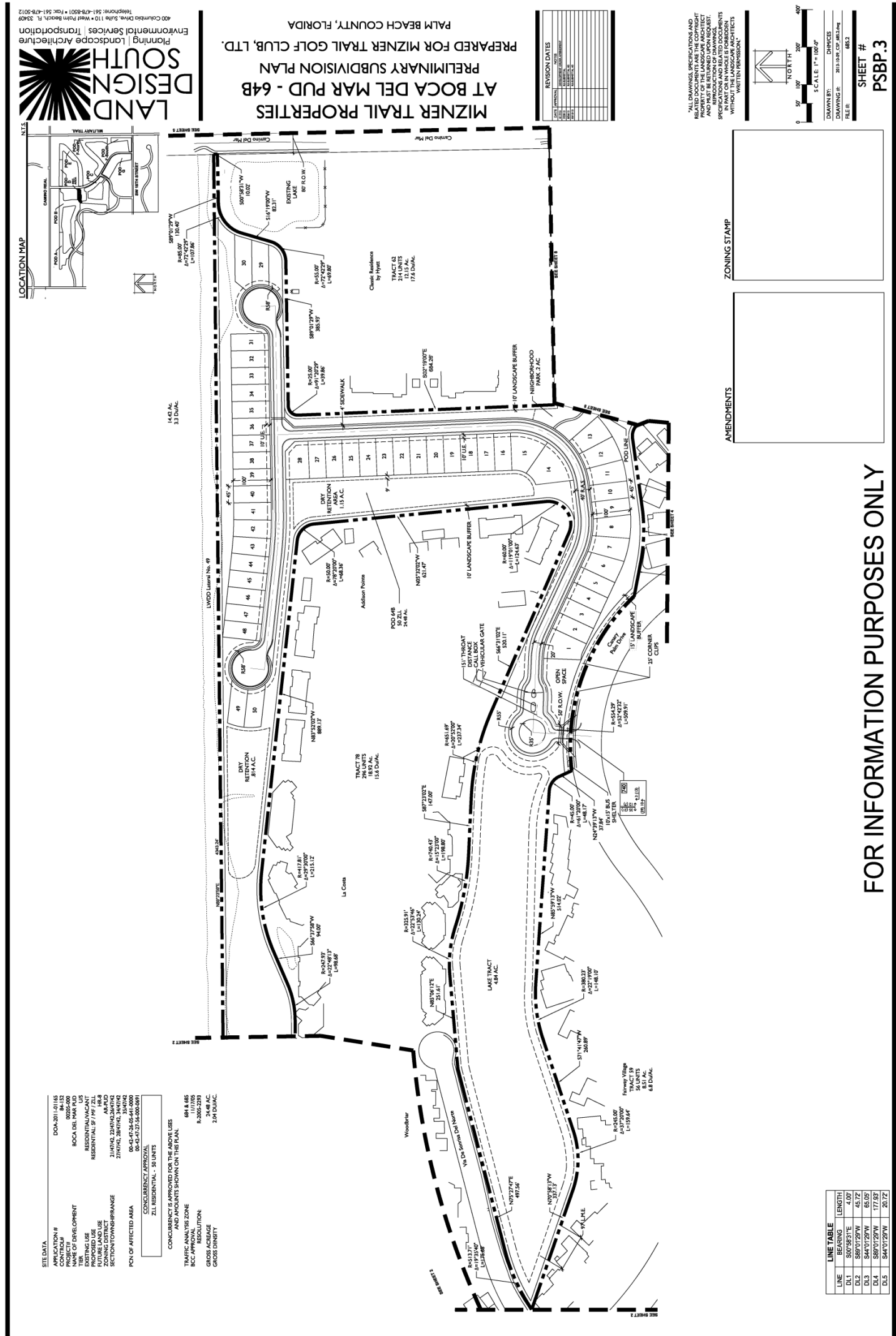




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114

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**Figure 9 Preliminary Subdivision Plan Dated October 10, 2013 page 3**



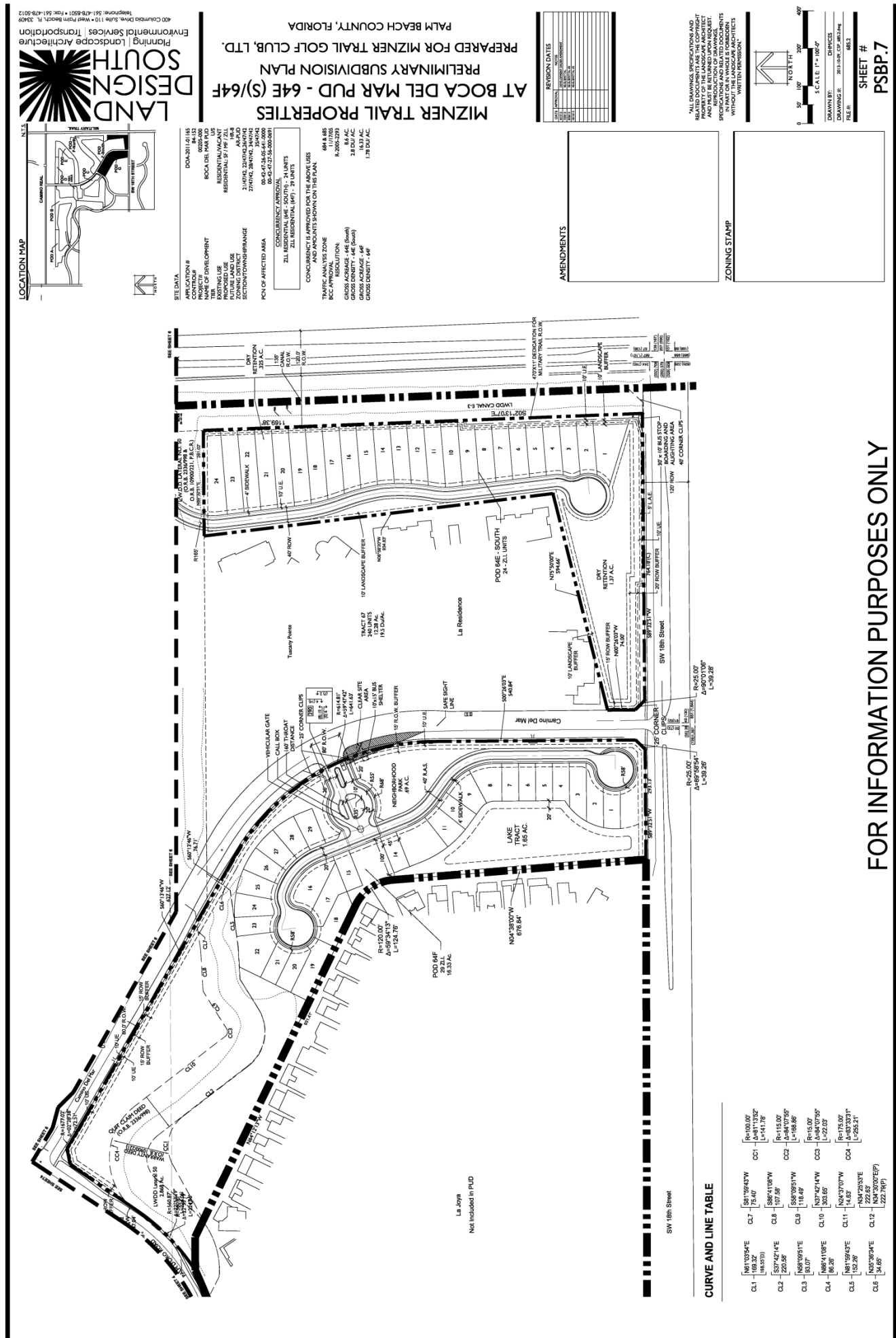




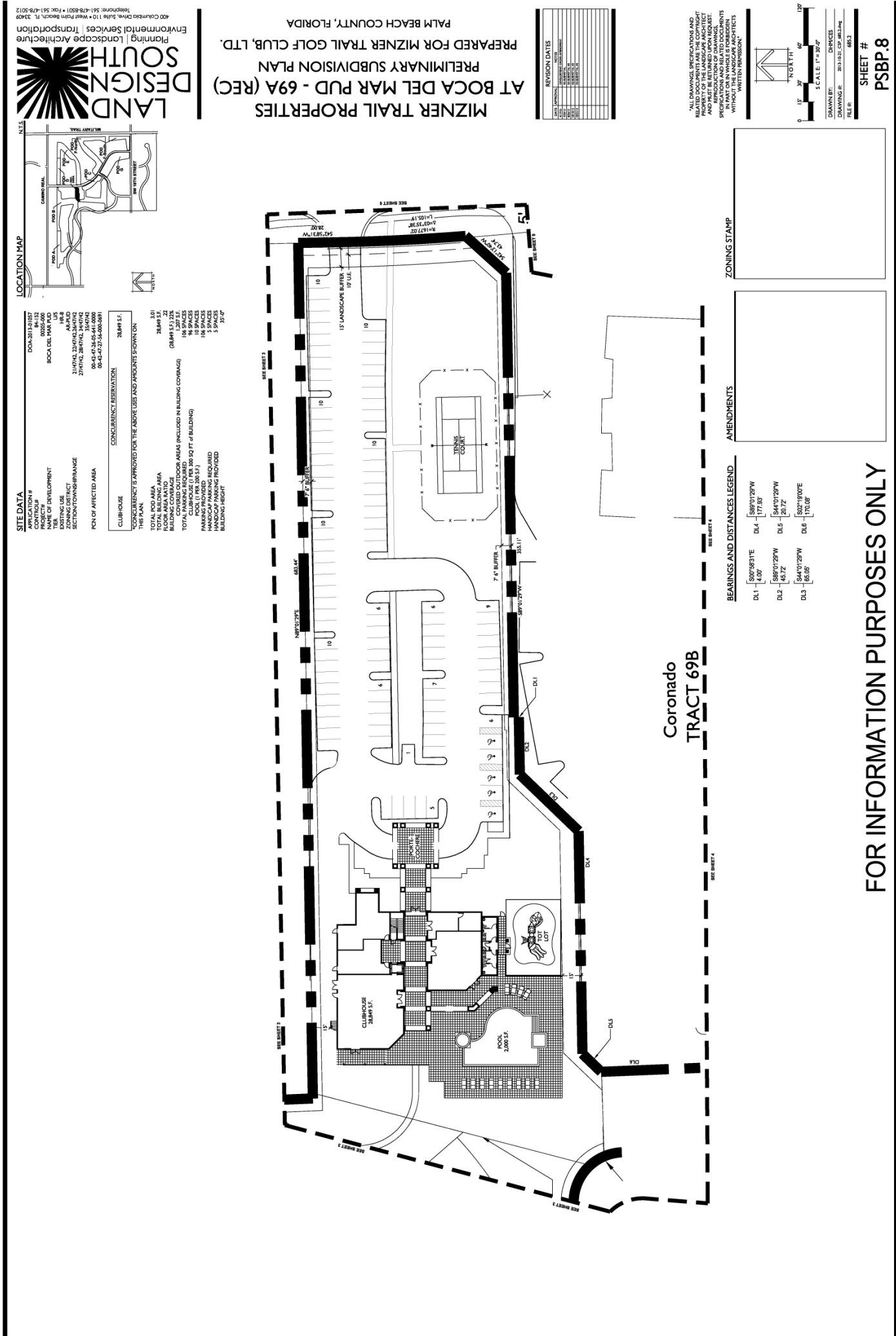
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119

**Figure 9 Preliminary Subdivision Plan Dated October 10, 2013 page 7**



**Figure 9 Preliminary Subdivision Plan Dated October 20, 2013 page 8**





**LANDSCAPE DESIGN SOUTH**

400 Columbia Drive, Suite 110 • West Palm Beach, FL 33409  
Telephone: 561.796.0211 • Fax: 561.796.0219  
Email: info@landscapearchitecturesouth.com

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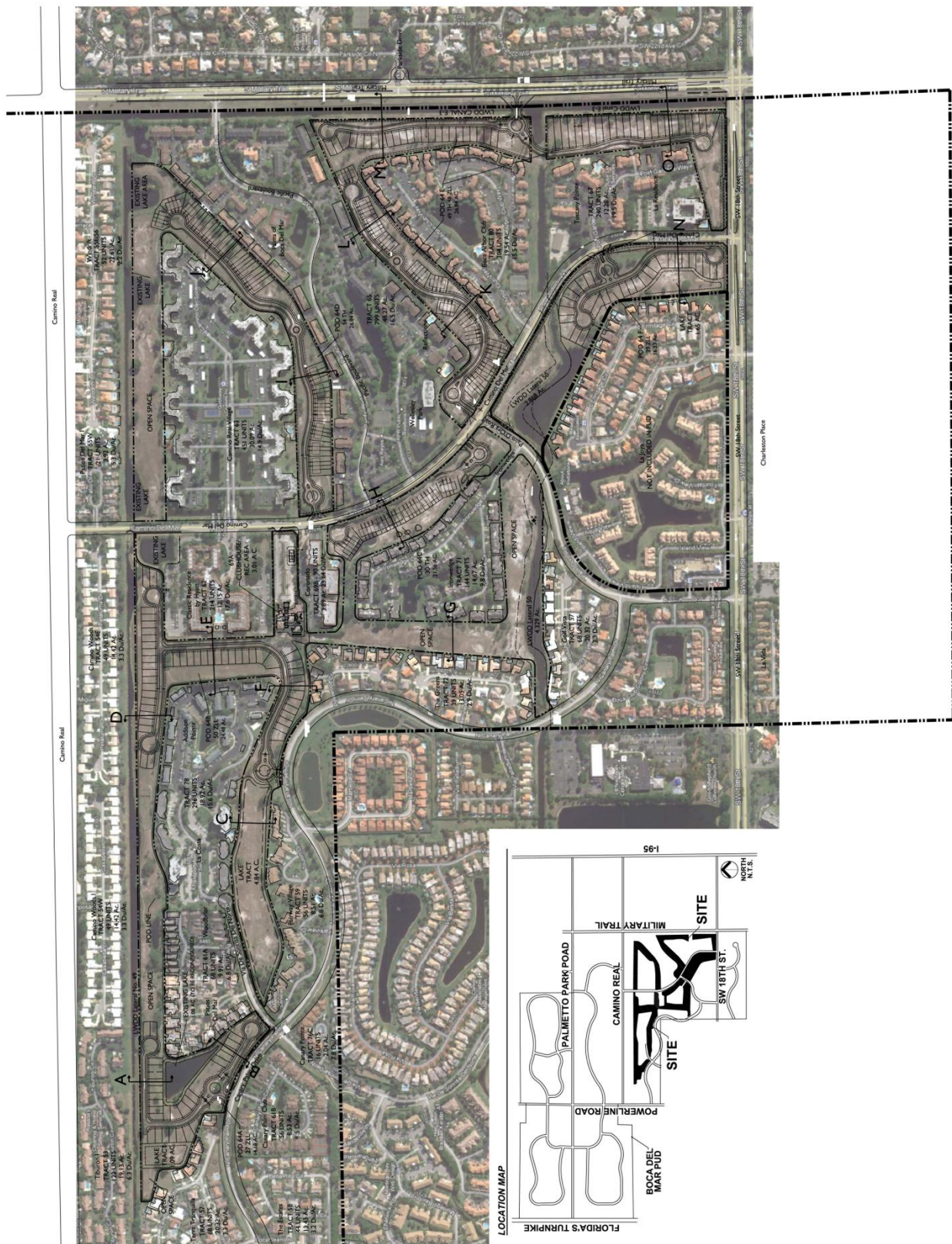


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FILE #:	685.2

SHEET #  
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## AMENDMENTS

ZONING STAMP



**LANDSCAPE  
DESIGN  
SOUTH**

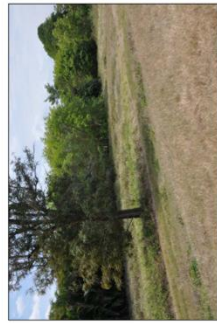
Planning | Landscape Architecture  
Environmental Services | Transportation

400 Columbia Drive, Suite 1010 • West Palm Beach, FL 33409  
Telephone: 561.999.0011 • Email: [info@lcsouth.com](mailto:info@lcsouth.com)

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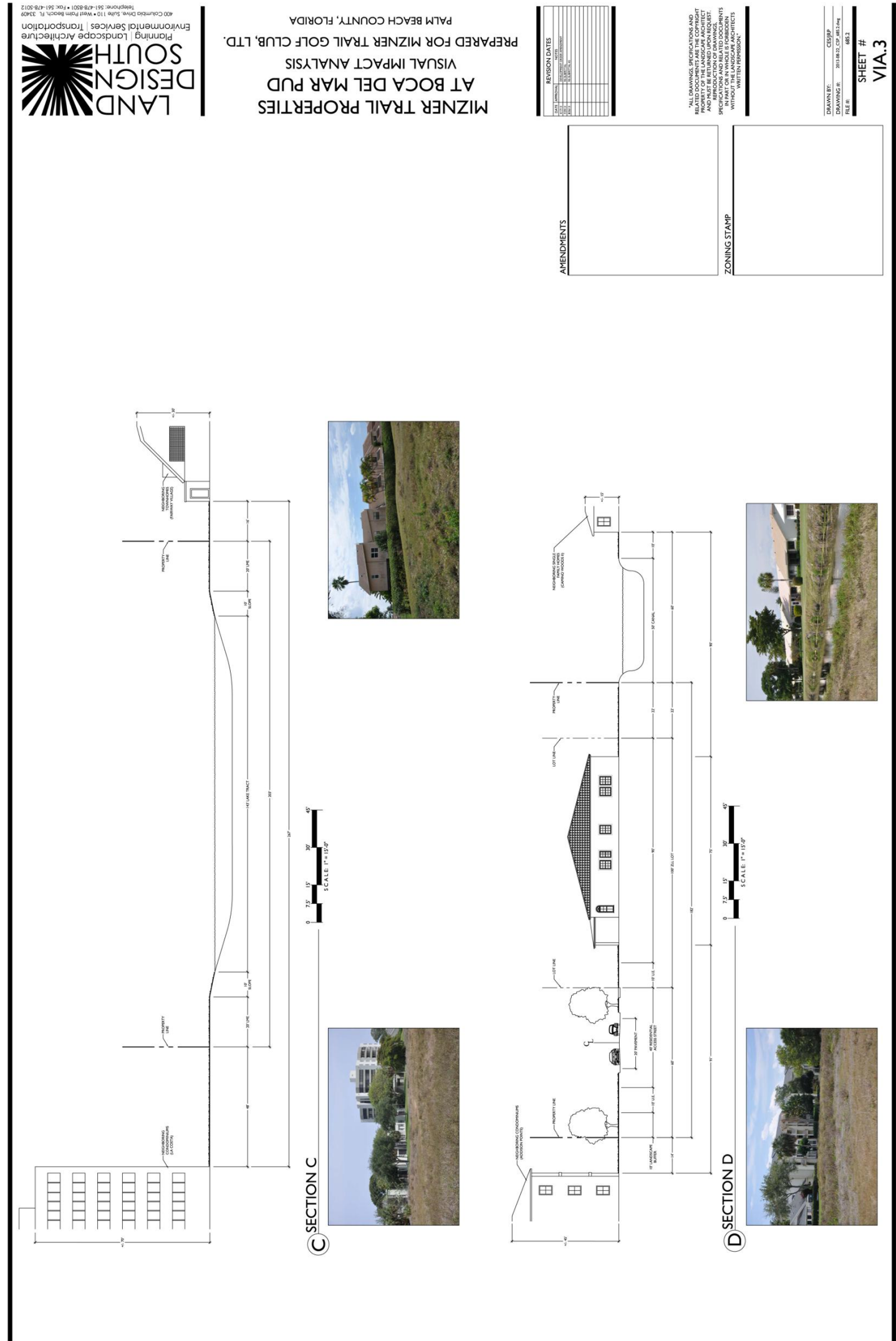
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AMENDMENTS		
ZONING STAMP		





**Figure 10 Visual Impact Analysis dated August 26, 2013 page 3**

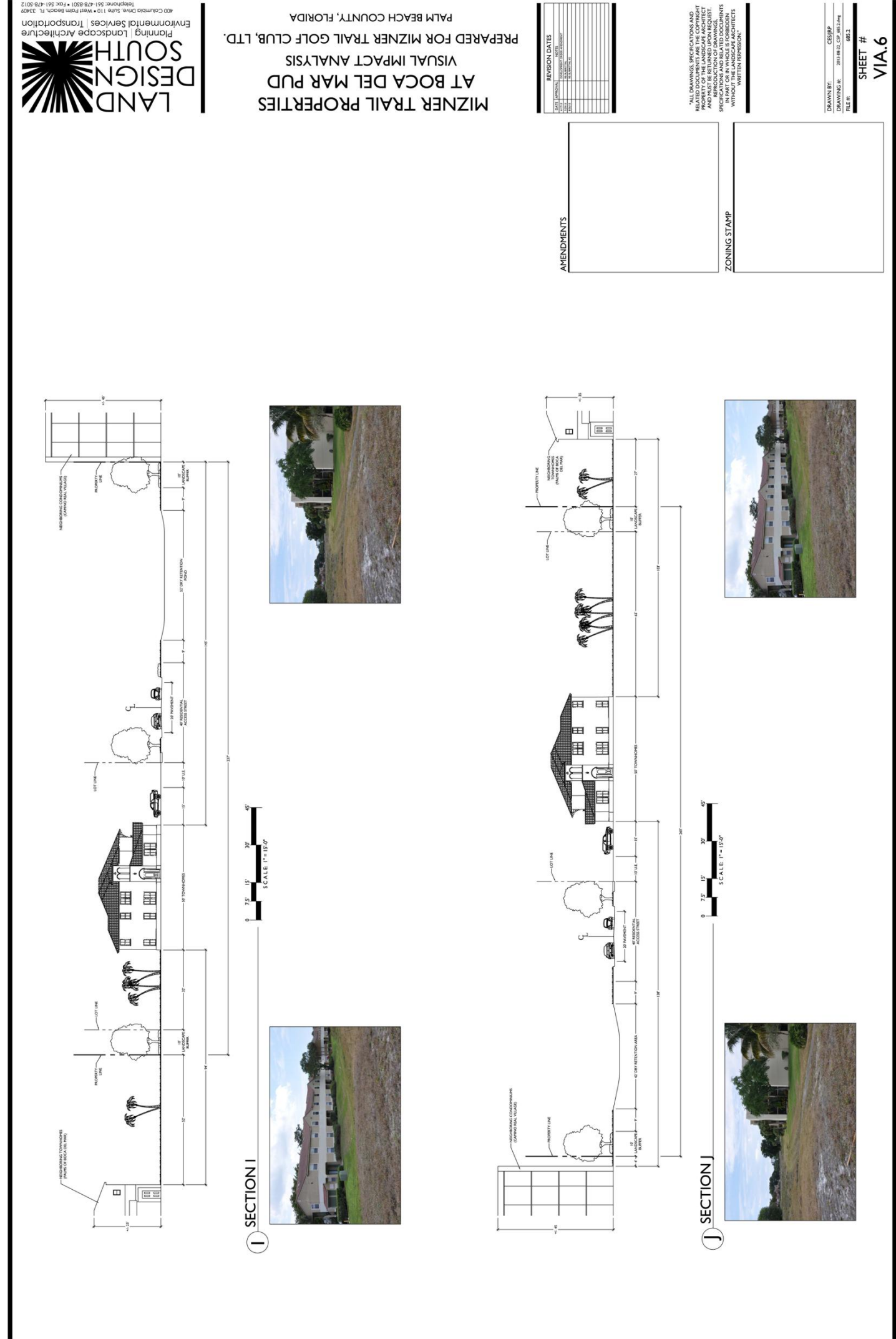




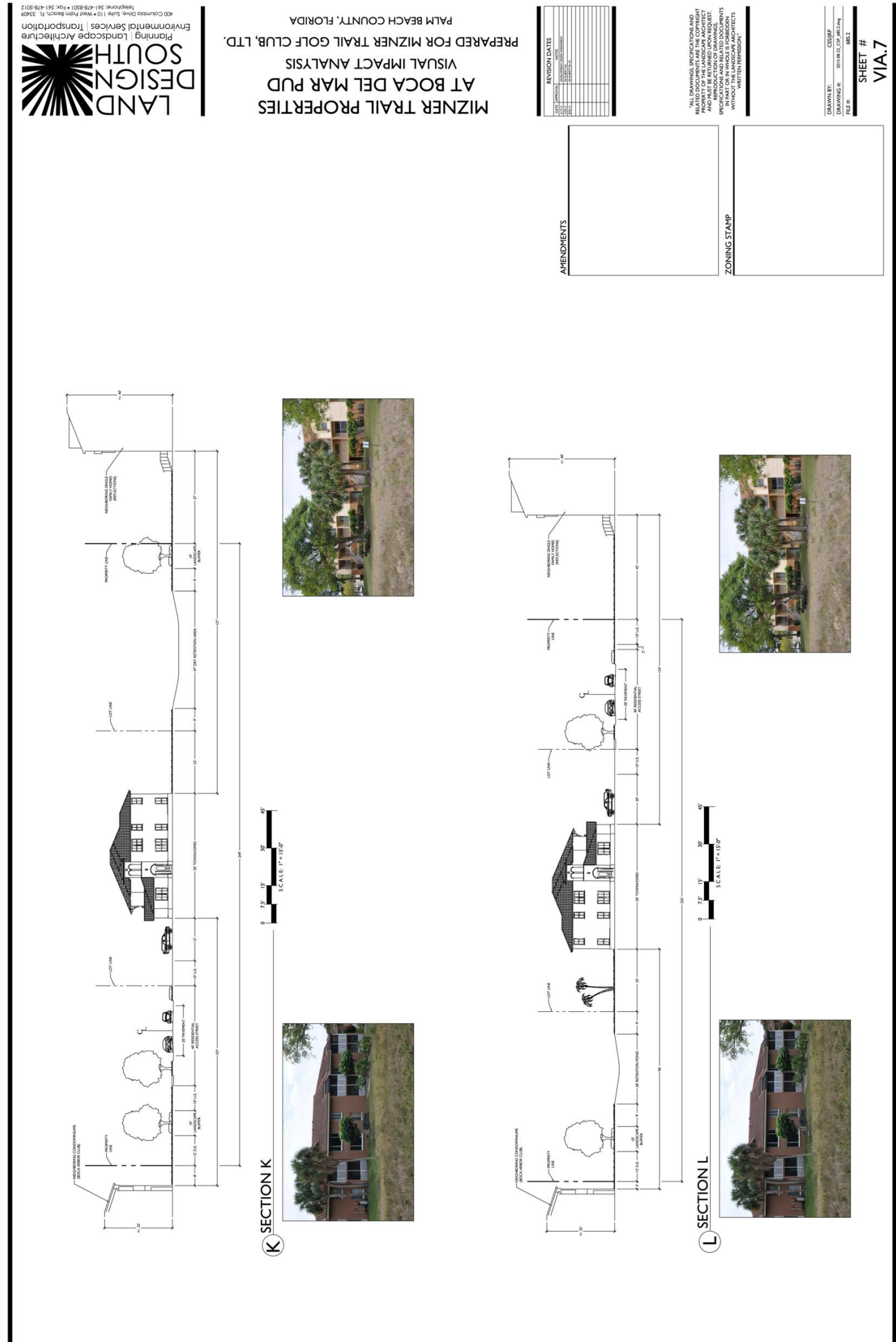




**Figure 10 Visual Impact Analysis dated August 26, 2013 page 6**



**Figure 10 Visual Impact Analysis dated August 26, 2013 page 7**











**Figure 11 Preliminary Street Layout Plan dated October 10, 2013 page 1**

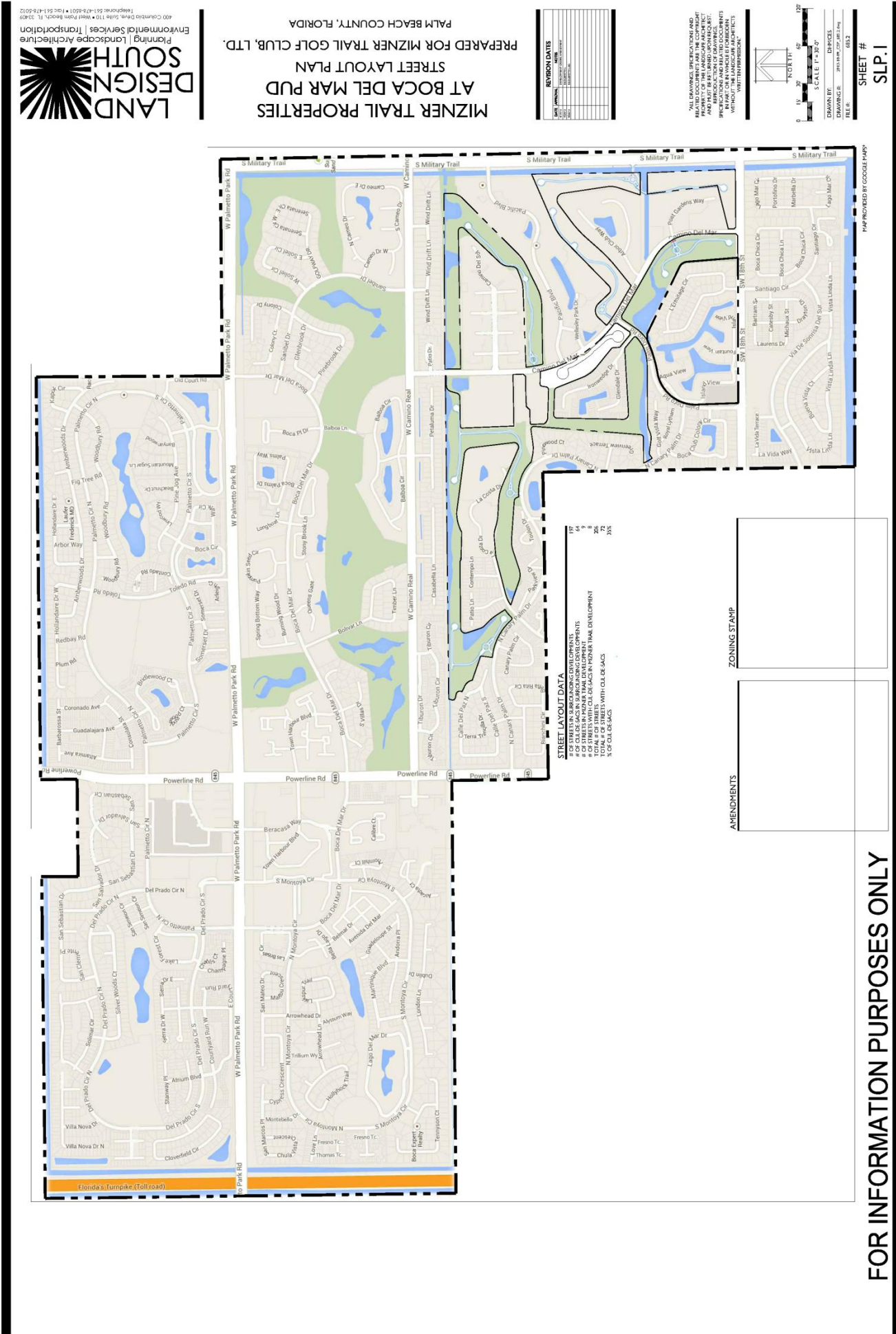






Exhibit D Disclosures

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

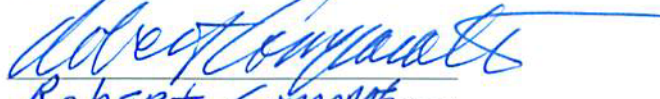
STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared \_\_\_\_\_, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [ PRESIDENT-Compson ] MIZNER TRAIL, INC. [position - e.g., ITS GENERAL PARTNER president, partner, trustee] of MIZNER TRAIL GOLF CLUB, LTD. [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: ~~1111 BOCA RATON RD~~ 36 S.E. 3<sup>rd</sup> St.  
BOCA RATON FL 33432
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
Robert Compagno Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9th day of APRIL, 20 13, by ROBERT COMPAGNO, ☒ who is personally known to me or ☐ who has produced \_\_\_\_\_ as identification and who did take an oath.



  
Notary Public

BEVERLY A. SAMUELSON  
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 12/26/13

**EXHIBIT "A"**  
**PROPERTY**



## EXHIBIT "B"

## DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name

Address

PHillip Bliss 111 Boca Raton Rd., Boca Raton, FL 33432

GERALD WOCHNA 2095 N.W. 30<sup>th</sup> Rd., Boca Raton, FL 33431

ROBERT COMPARATO 36 S.E. 3<sup>rd</sup> St., Boca Raton, FL 33432

ANTHONY COMPARATO 36 S.E. 3<sup>rd</sup> St., Boca Raton, FL 33432

JEFFREY COMPARATO 36 S.E. 3<sup>rd</sup> St., Boca Raton, FL 33432

BERNHARD LANGER 1120 S.W. 21<sup>st</sup> Lane, Boca Raton, FL 33486

LAND DESCRIPTION:

Tracts 64 A, 64 B, 64 C and 64 D, BOCA DEL MAR NO. 7, P.U.D., according to the map or plat thereof as recorded in Plat Book 30, Pages 210 through 217 of the Public Records of Palm Beach County, Florida.

LESS AND EXCEPT:

From Tracts 64 C and 64 D, those portions of said Tracts lying within the Lake Worth Drainage District Right-of-Way for Lateral Canal No. 50 as conveyed to Lake Worth Drainage District by Warranty Deeds recorded in Official Records Book 10900, Page 221 and Official Records Book 24120, Page 1653 of the Public Records of Palm Beach County, Florida.

LESS AND EXCEPT:

A portion of Tract 64 B, BOCA DEL MAR NO. 7, P.U.D., according to the map or plat thereof as recorded in Plat Book 30, Pages 210 through 217 of the Public Records of Palm Beach County, Florida, described as follows:

BEGIN at the most northerly northeast corner of said Tract 64 B, said point being on the west line of Lake Worth Drainage District E-3 Canal; thence S00°49'31"E, along the east line of Tract 64 B and along said west line of the E-3 Canal, 1439.26 feet to the south line of Tract 64 B and the north line of Section 35, Township 47 South, Range 42 East; thence S89°32'51"W, along said south line of Tract 64 B and north line of Section 35, a distance of 296.67 feet to the west line of Tract 64 B; thence continue along said west line of Tract 64 B and its northerly extension the following three (3) courses and distances; thence (1) N18°03'00"E, 316.96 feet to a point of curvature of a curve concave to the west; thence (2) northerly along the arc of said curve, having a radius of 300.00 feet and a central angle of 26°34'00", a distance of 139.10 feet to a point of tangency; thence (3) N08°31'00"W, 882.94 feet to the north line of said Tract 64 B; thence N66°26'33"E, along said north line, 324.03 feet to the POINT OF BEGINNING.

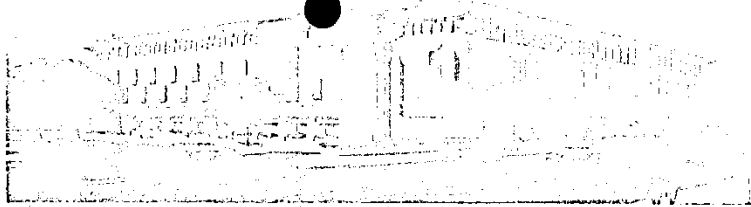
LESS AND EXCEPT:

All of that portion of Tract 64 B lying in Section 35, Township 47 South, Range 42 East, BOCA DEL MAR NO. 7, P.U.D., according to the map or plat thereof as recorded in Plat Book 30, Pages 210 through 217 of the Public Records of Palm Beach County, Florida, described as follows:

BEGIN at the most southerly southeast corner of said Tract 64 B, said point being on the north right-of-way line of S.W. 18th Street; thence S89°32'51"W, along the south line of Tract 64 B and along said north right-of-way line, 764.18 feet to a point of curvature of a curve concave to the northeast; thence northerly along the arc of said curve, having a radius of 25.00 feet and a central angle of 90°01'06", a distance of 39.28 feet; thence N00°26'03"W, 74.00 feet to a north line of said Tract 64 B, the previous two (2) courses

Exhibit E: Palm Beach County Letter of Approval dated August 23, 1971

PALM BEACH COUNTY  
PLANNING, ZONING, AND BUILDING DEPARTMENT  
P. O. BOX 1548  
WEST PALM BEACH, FLORIDA 33402



August 23, 1971

Behring Development Company  
2800 East Oakland Park Boulevard  
Fort Lauderdale, Florida 33308

RE: Postponed Petition No. 1

Gentlemen:

Please be informed that the Board of County Commissioners of Palm Beach County, at the Public Hearing on August 19, 1971, approved your petition as advertised, subject to the following conditions:

The stipulations agreed to between the City of Boca Raton and Behring Corporation.

Density to be restricted to 5.3 dwelling units per gross acre. *CITY & COUNTY TOGETHER*

Plan to be developed as presented. *5.47 - COUNTY*

Reservation to be made of road rights-of-way existing or future as designated by the County Engineer.

Positive drainage to be adequately provided for.

Very truly yours,

William R. Boose  
Interim Zoning Director

WRB:ff

cc: Raymond W. Royce, 450 Royal Palm Way, P. Bch., Fl. 33480  
Jan Wolfe, Engineering Department  
Lee Reed, Health Department

Exhibit F: August 19, 1971 Minutes- 7 pages

August 19, 1971.

ADVERTISING - PROOF OF PUBLICATION; MEETINGS - ZONING

DOCUMENT FILED: Proof of Publication of The Palm Beach Post, issue of July 20, 1971, Notice No. 3403, Notice of Public Hearings to be held August 5 and August 19, 1971, on zoning matters, in the amount of \$208.75.

ACTION: Motion to receive the Proof of Publication and approve for payment. Motion by Commissioner Weaver, seconded by Commissioner Culpepper and unanimously carried.

RESOLUTIONS; ZONING - AMENDMENT

DOCUMENT PRESENTED: Zoning Resolution Amending the Regulations Regarding Conditional Use.

INFORMATION: Interim Zoning Director Boose explained that the resolution would reword the conditional use section of the Zoning Code, basically a change in the wording from "may" to "shall."

ACTION: Motion to adopt the subject resolution. Motion by Commissioner Lytal, seconded by Commissioner Culpepper and unanimously carried.

(For Resolution R-71-294, see Minutes Resolution Book \_\_\_\_\_ at Page \_\_\_\_\_.)

PETITIONS - ZONING, POSTPONED # 1-4; COMMUNICATIONS; DELEGATIONS; COMPLAINTS

SUBJECT: Postponed Items #1-4, on which the Zoning Commission recommended approval unanimously, considered by County Commission on June 17, 1971, deferred to July 15, 1971 on Commission 2-2 tie vote, and postponed to August 19, 1971. The petitions are as follows:

Postponed Item # 1 - Petition of Behring Development Company by Conrad W. Schaefer and Walter Taft Bradshaw, Agents, for the conditional use for a planned unit development. The property is bounded partially on the west by Florida's Turnpike, partially on the south by the Hillsboro Canal and partially on the east by the incorporated limits of Boca Raton and containing approximately 2134 acres in an A-1 Agricultural District, more particularly described in Agenda.

Postponed Item # 2 - Petition of Behring Development Company by Conrad W. Schaefer and Walter Taft Bradshaw, Agents, for the rezoning from A-1 Agricultural District to C-1 Neighborhood Commercial District. Said property located within the proposed planned unit development described in Postponed Petition # 1, and more particularly described in Agenda.

Postponed Item # 3 - Petition of Behring Development Company by Conrad W. Schaefer and Walter Taft Bradshaw, Agents, for the rezoning from A-1 Agricultural District to C-1 Neighborhood Commercial District. Said property is located within the proposed planned unit development described in Postponed Petition # 1, and more particularly described in Agenda.

Postponed Item # 4 - Petition of Behring Development Company by Conrad W. Schaefer and Walter Taft Bradshaw, Agents, for the rezoning from A-1 Agricultural District to C-1 Neighborhood Commercial District. Said property is located within the proposed planned unit development described in the above Postponed Petition # 1, and more particularly described in Agenda.

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August 19, 1971

DELEGATES APPEARING: Raymond Royce, attorney for petitioner  
Clair Andersen, consultant-coordinator for petitioner  
Mayor Norman Wymbs, City of Boca Raton  
Councilman William Miller, City of Boca Raton  
Councilman William Archer, City of Boca Raton  
Fred Bradfute, chairman, Federation of Homeowners of Boca Raton  
Camil Robert Valcourt, President of the Boca Raton Square  
Civic Association, Inc.  
Charles Fisk, representing Save Our Neighborhood Schools  
Association  
Dorothy Wilkins, resident of University Park  
Leslie Wilkins, chairman of conservation committee, Royal  
Palm Audubon Society  
William Myer, member of Board of Directors, Country Club  
Village Homeowners Association  
Willard Cook, member of Planning and Zoning Board of Boca  
Raton, also chairman of SONS  
Tom McCarthy of the engineering firm of Mock, Roos & Searcy  
George Bogard of Behring Corporation  
Dallas Pratt  
Martin (last name unintelligible)  
John Hurdon  
Curtis Clement  
Dr. Howard J. Tees, coordinator of Environmental Biological  
Program, University of Miami  
Taft Bradshaw, agent for Behring Development Company

DOCUMENTS FILED: Certified copy of draft of minutes of special meeting of City  
Council of Boca Raton held August 16, 1971,

Letter dated August 19, 1971 addressed to the County Commission  
from Boca Raton Square Civic Association, Inc., over signature  
of Camil Robert Valcourt, president,

Letter dated August 18, 1971 addressed to Board of County Commis-  
sioners from William L. MacMullen, Chairman, Board of Directors,  
Country Club Village Association,

Xerox copy of letter dated August 10, 1971 addressed to Clair G.  
Andersen from Lake Worth Drainage District over signature of  
James H. Ranson, Manager,

Petition to the County Commission signed by 107 residents of  
University Park,

Xerox copy of letter dated August 17, 1971 addressed to  
Mayor Wymbs from Behring Development Company over signature of  
G. T. Bogard, president.

PRESENTATION BY PETITIONER: Attorney Royce introduced Clair Andersen, consultant-  
coordinator, to outline to the Board what the Behring Corporation  
has done to cooperate with the City of Boca Raton regarding  
Petitions # 1-4.

Mr. Andersen reported in detail on various meetings and con-  
ferences held with representatives of the City, including  
workshops and regular council meetings. The principal concern  
of the city, he said, concerned population densities origi-  
nally proposed for the development and annexation of the  
property into the City of Boca Raton. He read into the record  
portions of a letter dated August 3, 1971 written by Mr. Bogard  
to Mayor Wymbs outlining concessions to be made by the develop-  
ment company, as follows:

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August 19, 1971

1. The company has presented to the city a contract agreement for Boca Raton to provide sewer and water services for Boca Granada, with the company paying the cost of force main extensions to the property and developing a distribution system at a cost of \$5,000,000.
2. The company will reduce residential density for 2,181 acres to 5.3, conforming with density criteria provided in Boca Raton's Master Plan.
3. Total land area will be divided as follows: single family detached, 31%, single family town house, 11%, garden apartments 17%, mid-rise apartments, 1% -- so that of the total land area, 60% is residential.
4. In addition to two golf courses, parks and a marina on the Hillsboro Canal, there will be 35 acres in two lakes, one serving as a buffer for an 85-acre regional shopping center, and the other providing lake front estate sites.
5. A shopping center will be developed without depending on any existing development or adding to the traffic congestion of Boca Raton.
6. Behring will voluntarily annex the development into Boca Raton on a plat to plat basis.
7. Behring will equip a fire station, provide \$5,000 for a police cruiser, and contribute up to \$25,000 for a garbage pickup truck coincident with completion of its 2,000th house. Titles to these items, valued at approximately \$230,000, will be vested in Boca Raton.
8. A fire department to cost approximately \$100,000 will be dedicated to the City of Boca Raton by the developer.
9. Knowing the need for a municipal golf course, Behring will sell to the city land for an 18-hole golf course at actual out-of-pocket cost, or construct the facility for the city at actual out-of-pocket cost.
10. It is anticipated that the ad valorem taxes generated by the development will be more than enough to offset the cost of any services furnished by the city.

Mr. Anderson then filed with the clerk a certified copy of the draft of the minutes of a special meeting of the City Council of Boca Raton held August 16, 1971. He read into the record the motion passed by a 3-2 majority at this meeting, as follows:

"Upon motion by Councilman Honchell, which was seconded by Councilman Miller, it was moved that the City Council authorize and direct the Mayor or other members of the Council to notify the County Commission, and/or any other authorities involved, personally or by letter, that the City of Boca Raton is removing its opposition to the Behring Corporation's application under the County's Planned Unit Development Ordinance, contingent on City of Boca Raton receiving a letter from Behring Corporation expressing their intent to come into the City fully, when and if the City of Boca Raton has adopted a PUD ordinance similar to the county's ordinance, and also a further commitment limiting the density on the present 2143 acres under consideration to 5.47 per acre, which in no case is to exceed 11,738 actual living units; and further, that the Estate zoning and Regional Shopping Center zoning be held in abeyance."

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August 19, 1971

The Behring Corporation then delivered to the City of Boca Raton a written commitment dated August 17, 1971, (on file at City Hall) expressing its intent to become annexed into the city subject to 1. a planned unit development ordinance being adopted by the city comparable to the county's PUD ordinance which would permit the Behring Development Company to build 11,738 living units on 2143 acres; 2. prior to annexation, zoning be granted for a planned unit development under the master plan heretofore submitted, allowing a maximum of 5.47 dwelling units per gross acre on 2143 acres now in the county.

Mr. Andersen concluded his presentation by declaring his clients have tried sincerely and honestly to meet the request of the Commission, expressed a month ago, in every respect, and have also tried to meet all the requests of the City of Boca Raton. He urged Board approval of the petitions.

ACTION: Motion that all documents presented today be accepted for filing. Motion by Commissioner Lytal, seconded by Commissioner Culpepper and unanimously carried.

CALL FOR OBJECTIONS AND COMMENTS: William Miller, City Councilman of Boca Raton, declared he believes one of the primary concerns of the city and county regarding the subject petitions is "people planning." He pointed out, the issue before the Boca Raton City Council was whether the planning for the development was acceptable, not whether the development itself was acceptable. While the majority of the council agreed that the plan is acceptable, he expressed misgivings as to its effect on residents of the area, particularly with regard to overcrowding of schools. He added, "I believe the people of the City of Boca Raton are not in favor of moving forward on the project."

Mayor Wymbs entered into the record a petition signed by residents of the University Park area. He stated the Board's overriding concern should be for people who are already in the area and expressed his opposition to indiscriminately inviting more people in when serious problems face present residents. The development would "add an intolerable situation to the present school system" as well as to present water and sewer facilities, he said, and urged the Board to reject the petitions.

William Archer, City Councilman, Boca Raton, concurred with Mayor Wymbs' statement and reported he voted against the motion passed August 16 because he felt "Boca Raton is not ready for the rapid growth that this type of development will place upon us," on account of the water situation and the school situation in the city.

Fred Bradfute stated his group represents 6,000 families in Boca Raton and has compiled a great deal of information on the proposal under discussion and also visited the Tamarac development of the Behring Corporation. He reported opposition to the corporation in Tamarac, particularly with regard to the recreation area of the development. His group is opposed to Boca Granada because it represents too much growth too soon, and recommends rejection of the proposal.

ACTION: Motion that each person speaking be limited to three or four minutes. Motion by Commissioner Culpepper, seconded by Commissioner Lytal and carried by a four to one majority, Commissioner Johnson voting Nay.

FURTHER OBJECTIONS AND COMMENTS: Camil R. Valcourt, president of the Boca Raton Square Civic Association, Inc. read into the record a letter opposing the Behring Corporation proposal.

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August 19, 1971

Charles Fisk, representing the Save Our Neighborhood Schools Association urged the Board to consider the impact the proposed development would have on the Boca Raton and Delray Beach Schools. He asked the Board to reject the petitions until solution to school problems can be found.

Dorothy Wilkins, a resident of University Park, stated her agreement with Mr. Fisk that the school system should be straightened out before more children are added to the area.

Leslie Wilkins declared studies should be undertaken to determine what effect the proposed mass growth of people on the land will do to the natural environment.

William Myer read into the record a letter from the Board of Directors of Country Club Village Homeowners Group opposing the development.

Willard Cook pointed out the development offers golf courses, shopping centers and other fringe benefits but has made no provision for schools such as the dedication of land or a school building to house the children who will be brought into the development. If the City of Boca Raton changes Planned Unit Development requirements as to density for this development, other areas will also be changed to higher density, and according to Mr. Cook, "if you allow this, you are going to create problems for yourself that won't quit."

FURTHER PRESENTATION BY PETITIONER: Attorney Royce read into the record a letter from the Lake Worth Drainage District and introduced Tom McCarthy of the engineering firm of Mock, Roos and Searcy to answer questions as to drainage.

Commissioner Johnson inquired if the area would be flood-free in the event of a major wet hurricane. Mr. McCarthy replied the canal system is designed for a once in 25 years storm. Commissioner Weaver expressed his dissatisfaction with this reply; and Attorney Royce pointed out that all criteria of the Lake Worth Drainage District will be followed in the project. Mr. McCarthy then stated, "I feel there is no serious problem with this area being developed as an urban area and being drained properly."

As for schools, Attorney Royce stated his clients are willing to coordinate the entire project with the School Board and can provide sites for schools. He pointed out the tax revenue which will be generated from the development will be available to build schools. He added, his clients have been planning this project for more than a year, have worked with every agency involved, and are willing to provide a blueprint of the project and bind themselves to it. Since certain comments had been heard concerning the Tamarac development, he requested Mr. Bogard to comment on that and introduce several Tamarac residents present.

George Bogard explained that the Tamarac recreation lease is common to this part of Florida. The developer builds the facility and for a \$10 monthly fee a resident can participate in the club facility including pool and shuffleboard courts.

Dallas Pratt, Martin . . . . . (last name unintelligible), John Hurdon and Curtis Clement, all Tamarac residents, expressed their satisfaction with the facilities offered.

Dr. Howard J. Tees explained he was employed as a consultant to review the area of development as to its ecological aspects. He stated the Behring Corporation has fulfilled its obligation to develop a plan consistent with the environment, particularly in its efforts to preserve natural features of the land.

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August 19, 1971

Taft Bradshaw stated he had been employed by the Behring Company to develop a master plan for the proposed project which he has previously presented to the Board, and declared this plan has been endorsed by professional planners of every agency to which it has been presented. The merits of the plan have already been established and accepted by the County, by the city planning department and all other agencies involved, Mr. Bradshaw noted, and he requested that the plan be approved subject to the terms and conditions of the application as modified by the downward adjustment of density.

**DISCUSSION BY BOARD AND STAFF MEMBERS:** Commissioner Johnson inquired if the petition before the board is the amended petition or the original petition; and when Attorney Small replied it is the petition as amended by the downward density which is presently before the Board, Commissioner Johnson inquired if it is enforceable and Attorney Small answered in the affirmative. In reply to further questions, he explained that the method of review which accompanies the Planned Unit Development Plan offers a high degree of control, superior to any trust, since there are legal and practical engineering zoning requirements which can be followed, reviewed and controlled all during the plan. Mr. Boose added there is little danger of the County having on its hands an unfinished subdivision since sufficient surety will be required to insure that all public improvements such as streets are completed.

"I don't believe there has ever been a project that has generated more interest and received more consideration than this one," Commissioner Lytal commented, adding "We are confronted with the orderly development of a tremendously large area either by one person or by many people." He predicted the Board will be faced for many years to come with the development of the western part of the County, and it is the Board's responsibility to see that this development is done properly. "Growth means problems," he said, "and we are confronted with it every day, and I'm quite sure it's not going to stop. There are millions of people who want to move to Florida, and public officials on every level of government must do everything possible to make this growth orderly."

**ACTION:** Motion that, considering everything that has been said and done on the proposed plan and realizing that this is without a doubt one of the best unit development plans ever submitted to the County, the County go on record as approving the plans and all of the conditions and agreements made with the City of Boca Raton, and charging the staff with the responsibility of seeing to it that this project is carried out exactly as presented and approved, and to work closely with the officials of Boca Raton. Motion by Commissioner Lytal, seconded by Commissioner Culpepper.

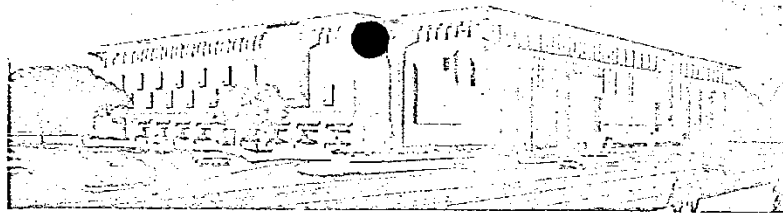
**DISCUSSION ON MOTION:** Commissioner Weaver agreed that growth is inevitable and must be prepared for, but declared he is not convinced that the proposed plan is the best thing that could happen for Palm Beach County at this particular time.

Commissioner Culpepper commented the proposal has been in the planning stage for 14 months, during which time it was analyzed, scrutinized, restricted and modified. He stated in his opinion this is the best planned unit development that has been presented in Palm Beach County and possibly in the State of Florida; and he would prefer to see the area developed on an orderly, unified basis than to have it splintered into extremely high density by a number of developers. He therefore supports the plan.

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Exhibit G: Letter December 3, 1971 Density

PALM BEACH COUNTY  
PLANNING, ZONING, AND BUILDING DEPARTMENT  
P. O. BOX 1548  
WEST PALM BEACH, FLORIDA 33402



December 3, 1971

Behring Development Company  
1941 West Oakland Park Blvd.  
Ft. Lauderdale, Florida 33311

Attn: Mr. Clair G. Andersen  
Vice President

Dear Clair:

As a result of the technical review committee meeting on November 23, 1971 in which members of the Palm Beach County Planning, Zoning and Building Department, Engineering Department, and Legal and Health Departments met with you and other officials of the Behring Development Company, we have the following information to report to you.

Pursuant to the Agenda presented by your people denoting topics to be discussed at the above mentioned meeting, we can summarize our comments on items one through four by stipulating that the technical considerations and determinations involved therein will be handled by the Palm Beach County Land Development Division of the County Engineer's office under the direction of Mr. Jan Wolfe. We understand that we will be kept informed as to any new data or directional changes on these matters and will review such changes or alterations if the occasion necessitates.

We now direct your attention to item five of the November 23rd Agenda in which you pose several queries as enumerated A through F:

A. May the golf course be computed as open space for density purposes.

A golf course is viewed as one of the common open spaces in a Planned Unit Development. It shall be allowed density computation as open space if the golf course carries with it the necessary legal covenants recorded and running with the land to insure that it will remain as open space and for golf recreation purposes. Parties purchasing lots or renting units in the Planned Unit Development must not be barred from utilizing the golf course facilities by charging an excessive membership fee other than reasonable green fees and no fences or other barriers shall be erected around the golf course to prevent purchasers of lots or living units, including leasees, from visual utilization of the open space.

December 3, 1971

B. How shall ownership of the open areas be effectuated?

Ownership of open areas can be accomplished through a normal condominium association method, a property owners' association approach, or by the developer of the Planned Unit Development, or by an independent entity, all of which guarantee perpetual maintenance and control of the open areas. Of course, any change in ownership in the open areas will have to enter into those same covenants guaranteeing the open space to be left as open unimproved land.

C. May commercial property be counted in a computation of density?

Palm Beach County Zoning Resolution No. 3-57 under its Planned Unit Development provisions (26-2) does not envision density computations in portions of a Planned Unit Development that is devoted to commercial usage. Consequently, only those areas set aside for residential building can be considered in the total density/area computations.

D. May roads be computed in density/area figures including arterial, collector and local rights-of-way?

All roads within the boundaries of a Planned Unit Development may be computed in density computations. This is an additional inducement to request that the developer donate the necessary rights-of-way to allow for expansion of existing road facilities and the planning of future road facilities which his project will necessitate to serve the residents therein.

E. May canals and lakes be computed in density figures?

Canals and lakes within the outer perimeter of the Planned Unit Development may be computed in density computations for a given Planned Unit Development. These will be deemed open space.

F. What flexibility is allowed in transferring unused density/area from one dwelling unit classification to another.

Palm Beach County Zoning Resolution No. 3-57 sets up density criteria for each zoning district and further delineates the density figures allotted to different types of dwelling units, i.e., 5.8 units per acre for single family construction; 8.7 dwelling units per acre for multiple family structures of one or two stories, hence, and so on. In the normal Planned Unit Development situation, the "pocket theory" is the system used to compute overall density. Thus, single family areas are checked for their compliance with the 5.8 dwelling units per acre criteria and if more density is included a corresponding amount of acreage is contributed to this development

Behring Development Corp.  
Page three

December 3, 1971


section from adjacent open space.

In the Behring situation, an overall density has been established at 5.47 dwelling units per acre. Because of this ceiling limitation on the number of dwelling units per acre on the entire Planned Unit Development project and because acceptable density limitations have been denoted on the Boca Del Mar master plan per each developmental parcel, it is the feeling of the technical review staff that a transfer of built up or banked density can be effected in the Behring Planned Unit Development. A caveat exists here, however. The developer must insure that a bank of density credit must be maintained at all times prior to construction of an additional developmental phase of the project. This will alleviate any problems which could develop should the developer commit more density to specific development parcels than he has credit for under the undeveloped portions of the Planned Unit Development under the master plan.

We are hopeful that these comments have been helpful and responsive to the questions you raised at the technical review committee meeting of November 23, 1971, and urge you to contact us on any additional problems that might develop in the immediate future.

Sincerely yours,

PALM BEACH COUNTY PLANNING,  
ZONING AND BUILDING DEPARTMENT



William R. Boose  
Director

cc: Messrs. Reed  
Small  
Wolfe

WRB:lmh;mp



Exhibit H: Letter February 17, 1972 Open Space/Golf Course

Behring  
Development  
Company

February 17, 1972

Mr. Wm. R. Boose, Director  
Planning, Zoning & Building Dept.  
Palm Beach County  
810 Datura St.  
West Palm Beach, Fla. 33432

Dear Bill:

This is to verify and confirm our previous statements and commitments to you, as required under the open space provisions of the County PUD resolution, that we will so conduct, or cause to be conducted, the affairs of the two golf courses to be built in Boca del Mar so that all residents therein will always have an opportunity to play golf on either of said two golf courses. We will charge a nominal fee for membership, and the members will be allowed to use all of the facilities on the golf courses by paying the usual fees and other charges.

If either or both of said golf courses are conducted as a private club, membership will be open to all residents of Boca del Mar, be they owners or tenants, by paying the nominal membership fee.

We agree to be bound by this commitment, and agree to bind our successors and assigns.

Yours sincerely,

BEHRING DEVELOPMENT COMPANY

*Clair G. Andersen*  
Clair G. Andersen  
Vice President

CGA:vn

cc: Jim Lee

555 South Federal Highway, Suite 2-A, Boca Raton, Florida 33432 Phone 305 395-5776

Exhibit I Declaration of Restrictions

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B3442 P1283

BOCA DEL MAR GOLF AND TENNIS CLUB

A General Partnership

TO

THE PUBLIC

DECLARATION OF RESTRICTIONS

RELATING TO:

Tracts 64-A, 64-B, 64-C and 64-D,  
BOCA DEL MAR NO. 7

(Also known as South Golf course)

BOCA DEL MAR GOLF AND TENNIS CLUB, a Florida general partnership,  
the owner of all the foregoing described lands, does hereby impress  
upon said land the covenants, restrictions and servitudes hereinafter  
set forth:

1. DEFINITIONS.

As used in this Declaration of Restrictions the following  
words have the following meanings:

(a) DEVELOPER means BOCA DEL MAR GOLF AND TENNIS CLUB, a  
Florida general partnership, its successors and assigns.

(b) PERSON means a person, firm, association, partnership,  
corporation, or any other entity permitted to exist under the laws  
of the State of Florida.

(c) PROPERTY means that land described in Exhibit "A" attached  
hereto and made a part hereof as though fully set forth herein.

(d) BOCA DEL MAR means that area known as BOCA DEL MAR I, a  
Planned Unit Development, approved by the Board of County Commissioners  
of Palm Beach County, Florida, on August 19, 1971, in Resolution No.  
3-57; and Tract 73, BOCA DEL MAR NO. 7, as recorded in Plat Book 30,  
at Page 210, of the Public Records of Palm Beach County, Florida.

Note: Tract 73, or BOCA DEL MAR P.U.D. NO. 3, is  
included as a part of Boca Del Mar for the purposes  
of these Restrictions due to the fact that the total  
density allocated to the said Boca Del Mar P.U.D. NO. 3  
was transferred from that area known as Boca Del Mar I.

(e) RESIDENT means any PERSON who actually resides within BOCA  
DEL MAR whether as owner of a DWELLING UNIT within BOCA DEL MAR or  
a PERSON who owns an unoccupied DWELLING UNIT within BOCA DEL MAR.

THIS INSTRUMENT PREPARED BY  
AND RETURN TO:  
Donald H. Reed, Jr., Esquire  
DESCHLER, REED & CRITCHFIELD  
555 South Federal Highway  
Boca Raton, Florida 33432

(g) IMPROVEMENT ASSOCIATION means BOCA DEL MAR IMPROVEMENT ASSOCIATION, INC., a Florida corporation not for profit, its successors or assigns.

(h) GENDER. The use of any gender is deemed to include all genders; the use of the singular includes the plural and the use of the plural includes the singular.

(i) OWNER means the owner or owners of the PROPERTY from time to time.

2. USE.

The PROPERTY shall be used for no purpose other than for a golf course and customarily related activities, including, but not limited to, tennis and swimming. Such uses are further restricted as follows:

(a) The aforesaid uses shall be restricted to PERSONS who are RESIDENTS, except that PERSONS who are not RESIDENTS may be permitted to use the PROPERTY so long as such use does not prevent a RESIDENT from such use, subject to such reasonable rules, regulations, membership requirements, fees and charges, as may be imposed by OWNER.

(b) In the event the PROPERTY is used as a private or semi-private club or clubs, which type of use is hereby expressly permitted, membership in such private or semi-private club or clubs shall be first made available to RESIDENTS under such rules, regulations, membership requirements, fees and charges, as are reasonable under the circumstances, and no more restrictive than those rules, regulations, membership requirements, fees and charges imposed upon otherwise qualified non-RESIDENTS.

(c) In the event the total number of RESIDENTS exceeds the number of PERSONS which could reasonably use the PROPERTY, it is contemplated, and expressly permitted by these Restrictions, that a maximum number of memberships may be established by OWNER, which such maximum number may from time to time be changed. In the event such a maximum number of memberships is established, the intent of these Restrictions is that PERSONS otherwise qualified for memberships shall be admitted on a "first come-first served" basis; that further, at such

time as memberships equal the maximum number permitted, no RESIDENT otherwise qualified shall be denied membership on account of the existing membership of a non-RESIDENT for a period of more than twelve (12) months from the date of such RESIDENT'S application. Such shall be the case so long as there are members who are non-RESIDENTS. At such time as the maximum number of memberships is comprised solely of RESIDENTS, vacancies shall be filled solely by RESIDENTS so long as there are otherwise qualified RESIDENTS seeking membership; and thereafter memberships for otherwise qualified non-RESIDENTS shall be permitted only to the extent that there is not a sufficient number of otherwise qualified RESIDENTS to fill the maximum number of memberships permitted, and any such otherwise qualified non-RESIDENT membership shall be for not longer than one (1) year, so that there shall always be, to the extent of available memberships, the opportunity for membership by otherwise qualified RESIDENTS.

(d) No RESIDENT otherwise qualified shall be given preference over any other RESIDENT likewise qualified, based upon type of DWELLING UNIT, proximity to the PROPERTY, age, race, sex, religion, color, creed or national origin.

(e) It is further the intent of these Restrictions that the PROPERTY shall not be developed for residential use.

3. FENCES, WALLS OR OTHER BARRIERS.

No fence, wall or other barrier shall be permitted to be built along or around the periphery of the PROPERTY which would serve to obstruct the view of DWELLING UNIT owners or residents adjacent to the PROPERTY, it being the intention of this restriction to preserve to the adjacent DWELLING UNIT owners and residents a view of the golf course located upon the PROPERTY. PROVIDED HOWEVER, the foregoing shall not be deemed to prohibit the reasonable use of landscaping, including trees, hedges, bushes, and other foliage, designed to enhance the beauty of the PROPERTY, and not intended primarily to obstruct the view of DWELLING UNIT owners or residents.



4. TRASH AND PARKING.

(a) All garbage and trash containers and oil and gas tanks must be placed and maintained and so constructed as to render the contents thereof hidden from view from adjoining properties. No garbage or trash shall be placed anywhere except in containers as aforesaid.

(b) The parking or storage of automobiles and other motor vehicles except upon paved areas or grass areas specifically provided for that purpose is prohibited.

(c) The parking or storage of boats and boat trailers, campers, trailers or other vehicles upon any lands in the PROPERTY is prohibited except in spaces expressly provided for same.

(d) Only vehicles bearing current license and registration tags and inspection certificates, as required pursuant to state law, shall be permitted to be parked or stored on any lands within the PROPERTY.

5. NUISANCES.

No noxious or offensive activity shall be carried on within the PROPERTY, except that any reasonable related use of the PROPERTY, such as, but not limited to, golf or tennis tournaments and exhibitions, shall not be deemed to be nuisance.

6. LIVESTOCK AND POULTRY.

No domestic animals, livestock or poultry of any kind shall be raised, bred or kept within the PROPERTY, except for security purposes.

7. NOTICE TO OWNER.

Notice to OWNER of a violation of any of these restrictions shall be in writing and shall be sufficient when delivered or mailed, postage prepaid, to the OWNER.

8. NON-LIABILITY OF DEVELOPER.

The DEVELOPER herein shall not in any way or manner be held liable or responsible for any violation of these restrictions by any person other than itself.

9. ENFORCEMENT.

These restrictions and requirements may be enforced by an action at law or in equity by a majority of the DWELLING UNIT owners in "Boca Del Mar" or by the DEVELOPER.

10. INVALIDITY CLAUSE.

Invalidation of any one of these covenants by a court of competent jurisdiction shall in no way affect any of the other covenants, which shall remain in full force and effect.

11. EXISTENCE AND DURATION.

The foregoing covenants, restrictions, reservations and servitudes shall be considered and construed as covenants, restrictions, reservations and servitudes running with the land and the same shall bind all persons claiming ownership or use of any portions of said land until the 31st day of December, 2012, at which time they shall terminate. This Declaration may be amended during the said term by an instrument signed by the OWNER of the PROPERTY and the IMPROVEMENT ASSOCIATION. Any amendment must be recorded in the Public Records of Palm Beach County, Florida, to be effective.

12. DISCLAIMER.

Nothing contained in this Declaration shall be deemed to give the IMPROVEMENT ASSOCIATION any rights in or to, or control of, the PROPERTY, nor shall the IMPROVEMENT ASSOCIATION be in any wise obligated to maintain the PROPERTY. The sole rights intended to be granted the IMPROVEMENT ASSOCIATION by these Restrictions are those related to the enforcement of same in behalf of the RESIDENTS of "BOCA DEL MAR".

IN WITNESS WHEREOF, BOCA DEL MAR GOLF AND TENNIS CLUB, a Florida general partnership, has caused this instrument to be executed in its partnership name, this 29<sup>th</sup> day of December, 1980.

B3442 P1287

BOCA DEL MAR GOLF AND TENNIS CLUB,  
a Florida partnership

BY:

TEXACO BOCA DEL MAR INC.,  
general partner

By: *R. J. Haden*

(Corporate Seal)

Signed, sealed and delivered  
in the presence of:

*May Ann Siles*

*Deborah D. Davis*  
STATE OF FLORIDA

COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day, before me, an officer  
duly authorized in the State and County aforesaid, to take  
acknowledgements, personally appeared

R. J. Haden  
well known to me to be the Vice President of TEXACO BOCA  
DEL MAR INC., and that he acknowledged executing the same in the  
presence of two subscribing witnesses freely and voluntarily under  
authority duly vested in him by said corporation, and that the seal  
affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last  
aforesaid, this 29<sup>th</sup> day of December, 1980.

*Deborah D. Davis*  
Notary Public

My Commission Expires:  
NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES MAR. 12 1982  
BONDED THRU GENERAL INS. UNDERWRITERS

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF PALM BEACH

Personally appeared before me, the undersigned authority,

R. J. Haden  
who being duly sworn deposes and says that he is the VICE PRESIDENT  
of TEXACO BOCA DEL MAR INC., a Delaware corporation authorized to  
do business in Florida, a partner in BOCA DEL MAR GOLF AND TENNIS  
CLUB, that the other partner is BOCA DEL MAR INC., a Delaware  
corporation authorized to do business in Florida, and that TEXACO  
BOCA DEL MAR INC., the partner executing this instrument had the  
authority to do so and that this instrument was made for carrying  
on in the usual way the business of the partnership.

SWORN TO AND SUBSCRIBED before me in the County and State  
aforesaid, this 29<sup>th</sup> day of December, 1980.

*Deborah D. Davis*  
Notary Public

My Commission Expires:  
NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES MAR. 12 1982  
BONDED THRU GENERAL INS. UNDERWRITERS

APPROVED AS TO:

Form 12-24-80 *RAH*  
Terms 12-30-80 *RAH*  
Description 12-20-80 *RAH*

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B3442 P1288

LEGAL DESCRIPTION

A parcel of land lying in Sections 26, 27, 34 and 35, Township 47 South, Range 42 East, Palm Beach County, Florida, said parcel being more particularly described as follows:

Tracts 64-A, 64-B, 64-C and 64-D, BOCA DEL MAR NO. 7, according to the Plat thereof, as recorded in Plat Book 30, at Pages 210 through 217, of the Public Records of Palm Beach County, Florida.

B3442 P1289

EXHIBIT "A"

RECORD VERIFIED  
PALM BEACH COUNTY, FLA  
JOHN B. DUNKLE  
CLERK CIRCUIT COURT

**JUSTIFICATION STATEMENT  
MIZNER TRIAL PROPERTIES  
(BOCA DEL MAR PLANNED UNIT DEVELOPMENT)**

**Application #: DOA-2013-01057**

**Control No. 1984-00152**

**Development Order Amendment**

*Initial Submittal: April 17, 2013*

*Resubmittal: July 29, 2013*

*Resubmitted: August 26, 2013*

*Resubmitted: October 10, 2013*

*Resubmitted: October 21, 2013*

**REQUEST**

On behalf of the Petitioner, Land Design South of Florida, Inc. is requesting a Development Order Amendment (DOA) to modify the Boca Del Mar Planned Unit Development (PUD) (Control No. 1984-152). The total affected area consists of 122.69 (net) acres of former golf course land and former golf course clubhouse. Specifically, the requested DOA application is requesting the following:

- To re-designate approximately 122.69 acres of abandoned golf course to residential land, of which 71.5% of the acreage will be dedicated open space (Pod 64) (The total acreage is 129.89 acres less canal area of 7.197 for a total acreage of 122.69);
- To modify the 3.01 acre Recreational Parcel (Pod 69A) (Decrease to 3.01, modify site elements);
- To add 288 residential units to the Planned Unit Development (134 townhome units and 154 ZLL units);
- To add one (1) external PUD access point to the PUD from Military Trail and five (5) additional access points to pods internal to the PUD.

**SITE CHARACTERISTICS**

The subject site is located on the north and east sides of Canary Palm Drive, the east and west side of Camino Del Mar, and northwest and southwest of Palm D'Oro Drive, within unincorporated Palm Beach County. The subject property lies within the Urban/Suburban Tier of Palm Beach County and the current Future Land Use designation on the site is HR-8 (High Residential – up to 8 du per acre) and the current Zoning designation is PUD (Planned Unit Development).

The prevailing Master Plan on file with Palm Beach County identifies 10,330 approved dwelling units, which differs from the total number of units listed under the Pod Table on the Master Plan. Additionally, on December 31, 2004, the City of Boca Raton annexed 40.67 acres of the PUD located on the east side of Military Trail into their City limits via Ordinance 4795, which included 167 dwelling units. The prior application for this property, which was denied in 2011, reconciled the discrepancies between the Master Plan, Plats and approved Site Plan and Subdivision Plans. As a result of this prior research and reconciliation, the acreage and unit count of the Boca Del Mar PUD consists of +/-1,945.96 acres and of 9,773 dwelling units.

The affected area of the proposed Development Order Amendment lies within the southeast quadrant of the overall PUD. The 122.69 (net) acres of affected land is comprised of the abandoned golf course, which has not been in operation since 2005 (Pod 64) and the recreation parcel which consists of the former Golf Club House (Pod 69A).



**DEVELOPMENT HISTORY**

The Boca Del Mar Development (originally known as Boca Granada) was approved at the August 19, 1971 Board of County Commissioners hearing subject to conditions of approval. The approval was for 10,576 units on 2,134-acres of land with a condition restricting the density to 5.47 dwelling units per acre. Following that approval, the development went through a series of site, subdivision and plat approvals. The following is a summary of the past Zoning Approvals:

Petition No.	Action	Date	Resolution No.
	Approval of a Condition Use to allow a Planned Unit Development in the A-1 Zoning District granted by the Palm Beach County Board of County Commissioners.	August 19, 1971	
1984-152	Special Expectation to amend the master plan for Boca Del Mar PUD to add 5 dwelling units to Tract 81.	February 19, 1985	R-85-288
1984-152(A)	Special Exception to amend the master plan for Boca Del Mar UD to allow a day care center on Tract 27.	July 28, 1987	R-87-1111
1984-152(B)	Special Exception to amend the master plan for Boca Del Mar PUD to allow an adult congregate living facility on Tract 62.	August 27, 1988	R-888-1539
1984-152I	Special Exception to amend the master plan for Boca Del Mar PUD to allow a child day care center for 85 children on Tract 77.	July 25, 1991	R-91-1466
1984-152(D)	Development Order Amendment for a Requested Use to allow a fitness center in the Agricultural Residential (AR) Zoning district.	January 26, 1995	R-95-107
1984-152(E)	Development Order Amendment to add an access point for the Boca Raton Synagogue.	January 26, 1995	R-95-115
1984-152(F)	Development Order Amendment for a Requested Use to allow an Indoor Entertainment establishment on Tract 77.	July 27, 1995	R-95-1017
1984-152(G)	Development Order Amendment to increase square footage (+2,000 sq. ft.) and children (+71) for an existing day care center on Tract 77.	September 28, 1995	R-95-1321.3
1984-152(H)	Development Order Amendment to increase square footage and modify/delete conditions of approval for the Boca Raton Synagogue.	November 30, 2000	R-2000-1944
1984-152(I)	Development Order Amendment to add an access point, increase square footage and reconfigure the site plan for the YMCA of Boca Raton.	June 27, 2002	R-2002-1004
DOA2004-224	Development Order Amendment to modify/delete conditions of approval.	June 16, 2004	R-2004-1371
1984-152	Development Order Amendment to modify a condition of approval.	November 17, 2005	R-2005-2293

It is important to note that the 1971 approval was approved with Conditions of Approval, as outlined in a letter written by the Zoning Director on August 23, 1971 (a copy of this letter has been included as part of the submittal). The Applicant is not proposing to modify any prior Conditions of Approval.

There have been several zoning requests since the last approval, however those requests were either withdrawn or not approved.

**OVERVIEW OF PROPOSED DEVELOPMENT ORDER AMENDMENT**

The Development Order Amendment is proposing to re-designate Pod 64 of the Boca Del Mar PUD from a golf course use to residential. This Pod is part of the former Mizner Trail Golf Course, which has been out of operation since the fall of 2005. The property is currently unused and vacant. The Development Order Amendment is proposing to add 288 residential units and renovate the club house. The additional residential units will be a mix of zero lot line (ZLL) and townhome units. The ZLL units will be 45'x100' and the townhome units will be 25'x50' fee simple. The modifications being made to Pod 64 has been broken down as follows:

Pod #	Unit Type	Number of Units	Acreage	Pod Density
Pod 64A	ZLL	27 units	14.18 acres	1.9 du/ac
Pod 64B	ZLL	50 units	24.48 acres	2.04 du/ac
Pod 64C	Townhome	30 units	21.56 acres	1.39 du/ac
Pod 64D	Townhome	55 units	23.49 acres	2.34 du/ac
Pod 64E	ZLL & Townhome	48 ZLL & 49 TH	26.84	3.61 du/ac
Pod 64F	ZLL	29 units	16.33 acres	1.78 du/ac
Pod 69	Clubhouse/Rec Area	N/A	3.01 acres	N/A
SUBTOTAL:		288 units	129.894 acres	2.21 du/ac

*Pod 64A*

This Pod is 14.18 acres in size; there are 27 ZLL homes being proposed within this Pod. There is a lake tract being proposed to the west of the residential units being added. An entry point from Canary Palm Drive is being added to this Pod.

*Pod 64B*

This Pod is 24.48 acres in size; there are 50 ZLL units proposed within this Pod. The ZLL units will be located at the eastern end of the Pod. There is a lake tract proposed on the west side of the ZLL units. An entry point from Canary Palm Drive is being added to this Pod.

*Pod 64C*

This Pod is 21.56 acres in size; there are 30 townhome units proposed within this Pod. There is a 2.81 acre lake tract located within the Pod.

*Pod 64D*

This Pod is 23.49 acres in size; 55 townhome units are proposed within this Pod. Dry retention and open space are proposed in this Pod.

*Pod 64E*

This Pod is 26.84 acres in size and is proposing 49 townhome units and 48 ZLL units. Additionally, dry retention areas are proposed throughout the Pod. An access point from Military Trail is being added to the PUD and will allow for entry within the Pod. Additionally, an access point is being added from Camino Del Mar.

*Pod 64F*

This Pod is 16.33 acres in size and is proposing 29 ZLL units. The ZLL units are located at the southern end of the Pod. There is open space being proposed throughout the Pod and dry retention areas being proposed at

the western end of the Pod. There is a 1.65 acre lake tract proposed at the western side of the Pod. There is an access point being added from Camino Del Mar. An access point is being proposed from Camino Del Mar that aligns with Palm D'Ora Road. A school bus stop 10'x15' is being proposed at the entrance of this Pod.

#### *Pod 69*

Modifications to the former golf course clubhouse parcel are being made. It will remain a clubhouse/recreation area.

The prevailing master plan for the Boca Del Mar PUD indicates a total site area of 1,933.09 acres and a total of 10,330 dwelling units. On December 31, 2004, The City of Boca Raton annexed 40.67 acres of the PUD located on the east side of Military Trail into their City limits via Ordinance 4795; the annexation included 167 dwelling units. The annexation and subsequent modification to the acreage and number of dwelling units located within the jurisdiction of Palm Beach County resulted in a total of 1,892.42 acres and 10,163 dwelling units. The Pod identification table located on the Master Plan identifies a total of 10,063 dwelling units within the PUD. There is a discrepancy between the prevailing master plan, the total dwelling units that remain after the annexation and the Pod identification table. There was an application submitted for this PUD in 2011, during the review process, the Applicant researched the Plats, historical Master Plans and various approved site/subdivision plans. As part of the prior research, a Sketch and Legal was prepared for the project. As a result of the prior research that was completed for the project, the Master Plan has been revised to be consistent with the Sketch and Legal and the area of the PUD has been modified to 1,945.96 acres. The total number of dwelling units calculated as existing is 9,773; these numbers less out the land and units annexed into the City of Boca Raton.

The Boca Del Mar PUD has a Future Land Use designation of HR-8; based on the total acreage of 1,945.96, approximately 15,567 dwelling units are permitted within the PUD. The total number of built units, according to research conducted through the Palm Beach County Property Appraiser's Office is approximately 9,781 dwelling units. Thus, the number of remaining units within the PUD is approximately 5,786 dwelling units. This demonstrates that there is sufficient density available within the PUD to accommodate the addition of 288 dwelling units.

The BCC granted the maximum number of units and density within the approval of the conditional use of the PUD (5.47 du/ac). With the addition of the proposed units, the overall density of the PUD is less than the maximum density originally approved by the BCC, at 5.17 du/ac.

#### *Workforce Housing*

The project is subject to the Workforce Housing program (WHP) as it is proposing ten (10) or more dwelling units. The project is using Limited Incentive Program which is available to projects requesting less a bonus density below 50%. Since we are requesting a 0% density bonus, the project is allowed to utilize this program. The percentage of WHP units required is 2.5% of standard density, 8% of PUD density and 17% of WHP density bonus.

The subject site has a land use of HR-8 and the standard density for the HR-8 FLU is 6 du/acre. Mizner Trail is proposing a density of 2.21 du/acre for the affected area, with the overall density of the entire Boca Del Mar PUD is 5.17 du/acre. We would therefore be required to utilize the standard density WHP requirement of 2.5% for the 288 units. This equates to 7.2, or 7 workforce housing units. The seven (7) required workforce housing units fulfill the required ULDC section. The Applicant is proposing to buy-out the required workforce housing units.

#### *Access Point*

The following access points are being added to the Boca Del Mar PUD:

- One (1) access point from Military Trail, accessing Pod 64E.

- Two (2) access points from Canary Palm Drive, accessing Pods 64A and 64B.
- Four (4) access points from Camino Del Mar, accessing Pods 64C, 64D, 64E and 64F.

#### *Open Space*

There will be +/- 92.9 acres (71.5%) of dedicated open space.

#### *Clubhouse*

The existing 15,000 square foot building will be renovated or replaced and will include a fitness center, outdoor pool and lounging areas.

#### *Phasing Plan*

The project is proposed to be developed in phases. The following is the proposed phasing schedule for the development:

- Phase 1: Recreation Area
- Phase 2: Pod 64E North
- Phase 3: Pod 64F
- Phase 4: Pod 64D
- Phase 5: Pod 64E South
- Phase 6: Pod 64C
- Phase 6: Pod 64B
- Phase 7: Pod 64A

#### *Existing Non-Conforming Setbacks*

Several existing communities have reduced building setbacks along the proposed pods which were previously golf course. This reduction was permitted since it was considered open space. These setbacks and reductions were based on the 1969 and 1973 codes. Adjacent to these areas, the proposed plan provides areas of open space where possible to reduce the impact on the adjacent buildings and homes. These areas include lakes, dry retention, and buffers. Upon review of the proposed PDP with PBC Staff, 31 fee-simple lots have been identified for additional review to determine if the proposed development plan creates any non-conformities for these lots. Should additional revisions need to be made upon conclusion of the historical permit research, the applicant will revise the PDP accordingly to eliminate any non-conformities created that otherwise relied upon the adjacent golf course open space for a reduction in setbacks.

### **DEVELOPMENT ORDER AMENDMENT STANDARDS**

The request is for a Development Order Amendment meets the following requirements set forth in Article 2.B.2.B of the Palm Beach County Unified Land Development Code (ULDC) for Development Order Amendment Approval.

#### **1. Consistency with the Plan**

The Development Order Amendment request is consistent with the Purposes, Goals, Objectives and Policies of the County's Comprehensive Plan. The Boca Del Mar development was approved prior to the County implementing the Comprehensive Plan. After the adoption of the Plan in 1989, Boca Del Mar was given a FLUA designation of High Residential – 8 units per acre (HR-8). The HR-8 FLUA designation within a PUD Zoning classification is to achieve a minimum density of 5 units per acre and allows for development at a maximum of 8 units per acre.

The Development Order Amendment application is proposing to add 288 units to the PUD; with the addition of these units the overall density of the PUD will be 5.17 du/ac. This increased density is below the allowable 8 du/ac and above the minimum of 5 du/ac, thus is consistent with the Comprehensive Plan and consistent with the original approval which restricted the PUD density to a maximum 5.47 du/ac.

## 2. Consistency with the Code

The proposed amendment complies with all applicable standards and provisions of the Code for the use, layout, function, and general development characteristics. Specifically, the proposed uses comply with all applicable portions of Article 4.B Supplementary Use Standards. The application is proposing zero lot line and townhome residential product types. The application is consistent with both the Article 4.B Supplemental Use Standards and the additional property development regulations for specific house types found in Article 3 of the Code. The integrity of the PUD is being upheld with the conversion of the abandoned golf course to residential. The residential units being proposed are consistent and compatible with the character of the PUD. Furthermore, the proposed modifications include the addition of lakes that offer scenic views to residents and minimize impacts on adjacent residents.

### Standards for Modifications to Reduce or Reconfigure Existing Golf Courses

Article 3.E.1.E.3 of the Palm Beach County Unified Land Development Code (ULDC) requires that any modifications to reduce the acreage or reconfigure the boundaries of a golf course previously approved on a Master Plan to meet the following Criteria:

- a. *Notice to Homeowners: At the time of submitting the zoning application to amend the Master Plan, the applicant shall provide documentation that the residents of the PUD are notified by certified mail and post notice at the appropriate common areas within the PUD.*

As required in Article 3.E.1.E.3 of the County's ULDC, prior to the submission of the application the Applicant notified the residents of the PUD via certified mail of the proposed re-designation of the golf course. A copy of the notice has been included in the application.

- b. *Reduction of Open Space or Recreation: The applicant must provide justification and documentation that the golf course land areas to be reduced in acreage or the reconfiguration of boundaries will not result in a reduction in required open space for the development.*

Our office reviewed documents previously prepared and submitted for prior applications to the Boca Del Mar PUD. As a part of prior submittal for this project (Application DOA 2004-826), the agent for Mizner Trail Golf Club, Ltd, Sanders Planning Group, was required to review historic files and demonstrate that Boca Del Mar PUD met the minimum requirement for open space without Mizner Trail Golf Course, Pod 64. Sanders Planning Group conducted a comprehensive assessment of all pods of Boca Del Mar and verified that each pod satisfied or exceeded the minimum requirement for open space of the prevailing ordinance at the time of approval for each individual pod. During the review of this application, staff agreed with the data supplied by Sanders Planning Group. We have attached a copy of their open space assessment for your reference.

The affected area included in this application will meet all open space criteria as a standalone development providing a minimum 92.9 acres of open space. Therefore, the overall requirement for open space will be continued to be met by the PUD as a whole after the development of the application parcel. The proposed application is providing 92.9 acres of open space or 71.5% of the project.

- c. *Visual Impact Analysis Standards: The applicant must provide a Visual Impact Analysis.*

A Visual Impact Analysis has been submitted as part of the Development Order Amendment application.

Thus, the proposed Development Order Amendment is consistent with the standards for modifications to reduce or reconfigure existing golf courses.



In addition, the proposal meets the PDD and PUD Objectives and Standards, as well as the regulations governing townhome developments.

The development proposal meets **Article 3.E.2.A.4. - Exemplary Objectives and Standards** for a DOA to a PUD as follows:

- a) *Designed as a predominantly residential district.*

The parcel is being designed as a predominately residential district. The development proposal is to modify the use of the parcel from abandoned golf course to residential. The Applicant is proposing 288 residential units.

- b) *Provide a continuous non-vehicular circulation system for pedestrians and non-motorized vehicles.*

The proposed development provides a continuous non-vehicular circulation system for pedestrians. Each pod area has a continuous sidewalk along the roadway and leading to a public right-of-way.

- c) *Provide perimeter landscape areas to buffer incompatible land uses, or where residential uses are adjacent to other incompatible design elements such as roadways, usable open space areas, where a more intense housing type is proposed, or where residential setbacks are less than adjacent residential development outside the perimeter of the PUD.*

The proposed development provides perimeter landscape buffers adjacent to proposed development areas.

- d) *May offer limited commercial uses for the population of the PUD.*

The proposed development is not proposing limited commercial uses. However, the Boca Del Mar PUD does have commercial uses existing throughout the development.

- e) *Establish neighborhood character and identity.*

The proposed development creates neighborhood character and identity. The project proposes two unique building types; zero lot line homes and townhouse style multi-family units. The roadways are designed to be curvilinear and the buildings are placed in a manner to create areas of open space. Through the style of architecture, landscape materials and design elements, the project will have neighborhood character and identity. The plan was achieved after significant analysis of the size and the width of each development area and proximity and separation from surrounding existing development and the opportunities to provide significant landscape buffers.

- f) *Preserve the natural environment to the greatest extent possible.*

The proposed development preserves the natural elements to the greatest extent possible. Where possible, the native trees will be preserved in place. Additionally, the plan sets aside significant acreage for the creation of natural landscape open space area.

- g) *Provide incentives for civic uses to reduce public capital improvements and expenditures by encouraging joint acquisition, development and operation of publicly owned and operated facilities to serve the residents of the PUD and PBC.*

Boca Del Mar PUD contains several existing civic uses. The proposed application is proposing a private recreation facility.

The development proposal meets Article 3.E.1.C.1 – Design Objectives for a PDD as follows:

- a) *Contain sufficient depth, width, and frontage on a public street, or appropriate access thereto, as shown on the PBC Thoroughfare Identification Map to adequately accommodate the proposed use(s) and design.*

The Boca Del Mar PUD is consistent with this PDD Design Objective. The PUD has frontage on Military Trail, SW 18th Street, Powerline Road, Florida's Turnpike and Palmetto Park Road. The overall PUD (approved as a Conditional Use in the AG Zoning District in 1971) contains 1,945.96 acres. Due to its size, the roads referenced herein, not only are on the County's Thoroughfare Identification Map but bisect the PUD providing miles of frontage and multiple points of access.

- b) *Provide a continuous, non-vehicular circulation system which connects uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the PDD.*

The Boca del Mar PUD provides a variety of uses connected by a hierarchy of streets including thoroughfare arterials, internal collector streets and local streets. All of the streets contain appropriate cross-sections which include sidewalks of appropriate widths to interconnect the various neighborhoods and non-residential uses. Additionally, where major thoroughfares intersect appropriate crosswalks and crossing signalization is provided to allow pedestrian crossing of these busy thoroughfares. All of the internal collector streets and sidewalk areas are public as well as many of the local streets. The new development areas will likewise contain sidewalks and interconnections as deemed appropriate.

- c) *Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses.*

Boca Del Mar is primarily a residential community although a variety of non-residential uses are also constructed as well as a mix of residential housing. In all cases, individual site plans have been reviewed and approved prior to construction of pods to insure that appropriate parking and pedestrian connections are made depending upon the type of use which includes civic areas, assisted living facilities, and multifamily projects.

- d) *Preserve existing native vegetation and other natural/historic features to the greatest possible extent.*

Boca Del Mar PUD began construction in 1971 almost 40 years ago. Much of the property was in agricultural use prior to that time. Most of the existing vegetation was planted as part of the development process and through the years has matured. There is a mix of native and non-native landscaping throughout the project. The affected area of the current application was previously designed and operated as a golf course. At that time, little native vegetation was used and some of the vegetation planted at that time was later determined to be either invasive nonnative species which are currently not permitted or, at least, discouraged. The proposed modification to the PUD will include removal of invasive species and planting in accordance with current code which requires significant use of native species. Where there may be existing native species of plants to the greatest extent practical the plants will be preserved or relocated on site.

- e) *Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound.*

Boca del Mar PUD generally has appropriate screening in those cases (nonresidential or multifamily) where mechanical equipment, loading, and dumpsters exist. However, it should be noted that some of the structures predate current screening requirements in the Code. The affected area of the amendment will be built as residential pods and all screening requirements will be met.

- f) *Locate and design buildings, structures, uses, pathways, access, landscaping, water management tracts, drainage systems, signs and other primary elements to minimize the potential for any adverse impact on adjacent properties.*

Most of Boca Del Mar has been constructed for many years. Buildings, structures, pathways, access, landscaping, water management tracts, drainage systems, and signs have been in place many years. Landscaping throughout the PUD has been allowed to mature and been modified over time to provide an attractive well buffered residential community where many different types and styles of residential housing from mid-rise multifamily to single family coexist in harmony. The affected area of the application will continue this sensitivity to surrounding land uses. A great deal of analysis was undertaken in designing the low intensity use so as not to negatively affect surrounding established uses. The plan submitted herein was undertaken after a detailed assessment of the surrounding built community and a determination where new residential units could be constructed with the minimal impact on adjacent properties.

- g) *Minimize parking through shared parking and mix of uses.*

Parking throughout the Boca Del Mar has been designed to accommodate the type of use on each parcel. In some cases (civic and multifamily parcels) parking lots have been created in appropriate areas proximate to the specific uses and in other cases (single family neighborhoods) individual parking is provided utilizing driveways and garages. Due to the nature and age of the project, there are few if any opportunities for shared parking as the current mix of uses are primarily residential with a small amount of civic and commercial uses on separate designated tracts.

- h. *For PDD only, a minimum of one pedestrian amenity for each 100,000 square feet of GFA or fraction thereof shall be incorporated into the overall development to create a pedestrian friendly atmosphere. Suggested amenities include, but are not limited to:*
- 1) *public art;*
  - 2) *clock tower;*
  - 3) *water feature/fountain;*
  - 4) *outdoor patio, courtyard or plaza; and*
  - 5) *tables with umbrellas for open air eating in common areas and not associated with tenant use (i.e. restaurant) or outdoor furniture.*

This PDD standard appears to apply to non-residential PDD uses. Boca del Mar is an existing PUD which is primarily residential in nature. The affected area will however be designed to include appropriate focal points within each neighborhood.

The development proposal meets **Article 3.E.1.C.2 – Performance Standards** for a PDD as follows:

- a. *Access and Circulation*

- 1) *Minimum Frontage*  
*PDDs shall have a minimum of 200 linear feet of frontage along an arterial or collector street unless stated otherwise herein.*

Boca Del Mar PUD exceeds this standard.

- 2) *PDDs shall have legal access on an arterial or collector street.*

Boca Del Mar PUD has numerous access points on both arterial and collector streets.

- 3) *Vehicular access and circulation shall be designed to minimize hazards to pedestrians, non-motorized forms of transportation, and other vehicles. Merge lanes, turn lanes and traffic medians shall be required where existing or anticipated heavy traffic flows indicate the need for such controls.*

Boca Del Mar PUD meets all standards for road design including where necessary turn lanes, traffic medians and signalization.

- 4) *Traffic improvements shall be provided to accommodate the projected traffic impact.*

Please refer to Traffic Study.

- 5) *Cul-de-sacs*

*The objective of this provision is to recognize a balance between dead end streets and interconnectivity within the development. In order to determine the total number of local streets that can terminate in cul-de-sacs, the applicant shall submit a Street Layout Plan, pursuant to the Technical Manual. The layout plan shall indicate the number of streets terminating in cul-de-sacs, as defined in Article 1 of this Code, and how the total number of streets is calculated. During the DRO certification process, the addressing section shall confirm the total number of streets for the development, which would be consistent with how streets are named. Streets that terminate in a T-intersection providing access to less than four lots, or a cul-de-sac that abuts a minimum 20 foot wide open space that provides pedestrian cross access between two pods shall not be used in the calculation of total number of cul-de-sacs or dead end streets.*

- a) *40 percent of the local streets in a PDD may terminate in a cul-de-sac or a dead-end by right.*

- 6) *Nonresidential PDDs shall provide cross access to adjacent properties where possible, subject to approval by the County Engineer.*

This standard is not applicable.

- 7) *Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project.*

All streets were constructed with appropriate drainage and permitted either by Palm Beach County or the Florida DOT.

- 8) *Public streets in the project shall connect to public streets directly adjacent to the project. If no adjacent public streets exist, and the County Engineer determines that a future public street is possible, a connection to the property line shall be provided in a location determined by the County Engineer. This standard may be waived by the BCC.*

Boca Del Mar is bisected or abutting several arterial roadways shown on the County's Thoroughfare Identification Map. All street connections were designed to meet all applicable

*required. The purpose of this easement is for the future construction of Mass Transit infrastructure in a manner acceptable to Palm Tran;*

- 2) *Prior to the issuance of the first building permit, the property owner shall convey to PBC an easement for a Bus Stop, Boarding and Alighting Area, in a location and manner approved by Palm Tran. As an alternative, prior to Technical Compliance of the first plat, the property owner shall record an easement for a Bus Stop, Boarding and Alighting Area in a manner and form approved by Palm Tran. The property owner shall construct continuous paved pedestrian and bicycle access compliant with the Americans with Disabilities Act (ADA) to and through the Bus Stop Boarding and Alighting Area; and*
- 3) *All PDDs with more than 100 units shall comply with the following requirement:*

*Prior to the issuance of the building permit for the 100th unit, the petitioner shall construct a Palm Tran approved mass transit shelter with appropriate access lighting, trash receptacle and bicycle storage. The location of the shelter shall be within an approved Bus Stop Boarding and Alighting Area easement. Any and all costs associated with the construction and perpetual maintenance shall be funded by the petitioner.*

Boca Del Mar has been mostly built out for many years and Palm Tran routes and stops have been determined utilizing the several arterial thoroughfares that run adjacent to or through the PUD.

g. *Utilities*

*All utility services located in a utility easement, such as telephone, cable, gas, and electric, shall be installed underground or combination/alternative acceptable to the DRO.*

All utility services for the built portion of Boca Del Mar are in place. Utility services for the affected area shall comply with this Standard.

h. *Parking*

1) *Residential Uses*

*Parking for residential uses shall comply with Article 6, PARKING. The DRO may require a covenant to be recorded limiting the affected area to a specific use or uses.*

Residential uses comply with parking requirements which were in affect at the time of the construction of these uses. Any new residential units will comply with Article 5, PARKING.

2) *Nonresidential Uses*

*Nonresidential uses located within a PDD may apply the parking standards indicated in Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements or the minimum/maximum parking standards below. The site plan shall clearly indicate which parking standards are being utilized for the entire site.*

Any existing nonresidential uses comply with the standards applicable at the time these uses were constructed. No new nonresidential uses are being requested as part of this amendment.

3) *Design*

*Parking areas open to the public shall be interconnected and provide safe efficient flow of traffic. Parking areas directly adjacent to other parking areas in the same project shall have cross access.*

Boca Del Mar is primarily a residential Planned Unit Development. All residential parking is private. The minimal non-residential uses have existing parking that complies with the Code



in affect at the time the parking was constructed. There are no adjacent parking areas which would require cross access.

4) *Cross Access*

*Cross access shall be provided to adjacent internal uses/properties, if required by the DRO.*

Boca Del Mar PUD is mostly constructed and parking provided in compliance with the Code in affect at the time each pod was constructed. The affected area has no ability legally or physically to link cross access to any adjacent properties.

5) *Location-Non-residential PDDs*

*A minimum of ten percent of the required parking shall be located at the rear or side of each building it is intended to serve.*

Not applicable.

6) *Distance*

*All parking spaces shall be located within 600 linear feet of a public entrance of the building which it is intended to serve.*

a) *Remote Parking Areas*

*Paved pedestrian pathways shall be provided to all parking areas in excess of 400 feet from a public entrance. Pathways shall be unobstructed grade separated and/or protected by curbs, except when traversing a vehicular uses area, and clearly marked.*

Not applicable.

i. *Way Finding Signs*

*Off-site directional signs, consistent with the on-site directional sign standards in Article 8, SIGNAGE, may be allowed along internal streets in the R-O-W, subject to approval by the County Engineer.*

The signage for the Boca Del Mar PUD was developed in accordance with the regulation in effect at the time of the original approval. Any new off-site directional signs shall comply with this standard.

j. *Emergency Generators*

*A permanent emergency generator shall be required for all Type II and Type III CLFs, Nursing or Convalescent Facilities, and PDD clubhouses 20,000 square feet or greater, and shall meet the standards of Art. 5.B.1.A.18, Permanent Generators.*

Any new recreation construction will comply with this Standard if necessary.

The development proposal meets **Article 3.E.2.B.2 – Required Performance Standards** for a PDD as follows:

a. *Proximity to Other Uses*

*All residential pods with five or more units per acre shall be located within 1,320 feet of a neighborhood park, recreation pod, private civic pod, commercial pod, or a public recreational facility.*

None of the proposed pods are greater than 5 du/acre. However, the applicant is proposing a centrally located recreation pod and a neighborhood park within each pod.

b. *Focal Points*

*A focal point shall be provided at the terminus of 15 percent of the streets in the project. The focal point may be in the form of a plaza, fountain, landscaping, or similar amenity deemed acceptable to the DRO. The focal point shall not be located on a private residential lot.*

Not applicable.

c. *Neighborhood Park*

*Neighborhood parks shall have a direct connection to the pedestrian system and include a tot lot, gazebo, fitness station, rest station, or similar recreation amenity. Neighborhood parks shall not be used towards the Parks and Recreation Departments minimum recreation requirements and shall not be located within areas designated for drainage, stormwater management or other utility purposes.*

A neighborhood park will be provided within every residential pod.

d) *Decorative Street Lighting*

*Decorative street lights shall be provided along the development entrances.*

Decorative street lighting will be provided.

e) *Decorative Paving*

*Decorative pavers shall be provided at the development entrances and incorporated into recreational areas.*

Not applicable.

f) *Fountains*

*A minimum of one fountain shall be located in the main or largest lake or water body.*

A fountain will be provided within the large water body.

g) *Benches or play structures*

*Benches or play structures shall be provided in usable open space areas and along pedestrian pathways.*

Not applicable.

h) *Interspersed Housing*

*WFH units shall be interspersed with market rate units within a pod.*

The project is required to have seven (7) Workforce Housing Units. It is the intent of the Applicant to buy-out these units.

i) *Pedestrian Circulation System*

*An interconnected pedestrian sidewalk, path or trail system shall be provided linking pods to recreational amenities within the development.*

Not applicable.

**3. Compatibility with Surrounding Uses**

The proposed development is compatible with the surrounding uses. The following summarizes the nature of the properties surrounding the subject property.

- ◆ **North:** To the north of the subject property is Via Verde (Control No. 81-171), a residential community. This property originally had a FLUA designation of High Residential - 8 (HR-8) and a Zoning classification of Residential Single Family/Special Exception (RS/SE). Via Verde was annexed and is now located within the City of Boca Raton.

Also, located to the north of the Boca Del Mar PUD is the Boca Grove residential development (Control No. 80-214). This property originally had a FLUA designation of Low Residential -2 (LR-2) and a Zoning classification of Residential Single Family/Special Exception (RS/SE). Boca Grove was also annexed and is now located within the City of Boca Raton.

- ◆ **South:** To the south of the subject property is the Boca Pointe residential development (Control No. 73-085). This property contains a FLUA designation of Medium Residential – 5 (MR-5) and a Zoning classification of Residential Single Family/Special Exception (RS/SE).

Also, located to the south is the Palm D'Oro residential community (Control No. 1980-183), which is surrounded by Boca Del Mar. This property has a FLUA designation of High Residential – 8 (HR-8) and a Zoning classification of Residential Medium Density/Special Exception (RM/SE).

Also, located to the south is the Boca Del Mar II residential community (Petition No. 78-45)), which is surrounded by Boca Del Mar. This property has a FLUA designation of High Residential – 8 (HR-8) and a Zoning classification of Residential Single Family/Special Exception (RS/SE).

Also, located to the south is the Deercreek Country Club, located within the City of Deerfield Beach. This property has a FLUA designation of Open Space (S) and Multi-Family (RM-15) and a Zoning classification of Open Space (S) and Multi-Family (RM-15).

- ◆ **East:** To the east are residential uses located within the City of Boca Raton. This property has a FLUA designation of Residential Low – 3.5 du/ac (RL) and a Zoning Classification of Residential – 1 family dwelling (2,200 sq. ft.) (R1A) and Residential – 1 family dwelling (1,500 sq. ft.) (R1C)
- ◆ **West:** To the west is the Boca Del Mar III residential community (Control No. 78-045). This property has a FLUA designation of High Residential – 8 (HR-8) and a Zoning classification of Residential Planned Unit Development (PUD).

The proposed density of the additional residential units, is compatible with the existing surrounding neighborhoods. The densities of the surrounding neighborhoods abutting the proposed additional units range from +/- 3.3 du/acre to +/- 19.54 du/acre. The proposed overall density of 2.2 du/acre is consistent and compatible with the established density of the PUD.

The proposed layout of the residential units have been designed to take into account the surrounding existing development in terms of types of homes, existing buffers, existing views, and proximity to the proposed development area. The layout of the new development areas have been designed to provide separation, buffering and open space between any new units and the existing units.

#### 4. Design Minimizes Adverse Impact

Great care was taken in developing a revised master plan for the PUD. The Applicant took into account the types and intensities of surrounding properties, existing views and existing access points. The proposed design provides minimum impact and maximum benefit in terms of utilizing an abandoned golf course for a residential project, which provides quality new homes that will enhance existing conditions and values. The type of design provides for landscape buffers and open space exceeding the minimum code requirements which will be maintained by the new homeowners' association to the benefit of the new development as well as the benefit of the surrounding developments, as discussed

further under Changed Conditions and Circumstances.

**5. Design Minimizes Environmental Impact**

The proposed amendment does not result in any adverse impacts to the natural environment. The affected area contains limited amounts of existing native vegetation. However, all proper permitting will be completed for the removal of vegetation through PBC ERM.

**6. Development Patterns**

As previously stated, the proposed development of residential units in this section of Boca Del Mar is consistent with the established development pattern of single and multi-family housing existing on the abutting properties. The Boca Del Mar PUD currently has one of the more intense residential Future Land Use designations permitted by the Comprehensive Plan (HR-8). This intensity was approved in this location due to the location of the PUD, in eastern Palm Beach County with many commercial services, employment opportunities, and transportation infrastructure located in close proximity.

A review of the previous amendments approved for the Boca Del Mar PUD indicates favorably the need to adjust the original primarily residential master plan to provide a variety of uses needed to make a more diverse community, including ACLF's, schools, and churches. Given the extremely limited vacant residential land in eastern Palm Beach County (especially in south county), the proposed layout is entirely compatible with the immediate surrounding and regional development pattern for the area.

The proposed plan provides a balance between the changing circumstances of elimination of golf courses as a viable recreation amenity and at the same time provides alternative open space areas balanced with residential units that are consistent with the adjacent established density and development patterns.

**7. Adequate Public Facilities**

Boca Del Mar was granted a concurrency exemption for the project (No. 90-1128021). The extension was later converted to a permanent exemption in 2000. The PUD currently has concurrency consistent with the 9,773 units shown on the currently approved Master Plan. This proposed Development Order Amendment application includes a companion Concurrency Reservation application for an additional 288 units. Adequate public facility capacities will be confirmed through review of the application.

**8. Changed Conditions or Circumstances**

There have been numerous changed circumstances that have taken place since the original approval of the golf course. Notably, there was a prior Declaration of Restrictions document (Official Records Book 3442 / Page 1283) that was put into place by the Boca Del Mar Improvement Association, which limited the golf course land to use as a golf course and customarily related activities has since expired. The Restrictive document was executed on December 29, 1980 and was valid until December 31, 2012, at which time the document expired. The golf course is no longer required to remain as such by a binding document. This duration and subsequent expiration of this document further demonstrates that the viability of the golf course should be reexamined.

When the Boca Del Mar PUD was approved in 1971 (42 years ago), golf courses were a standard recreational amenity utilized by many Planned Unit Developments. Due to the popularity of golf as a recreational activity at the time, the fees paid by the golfers resulted in substantial funds which in turn could be utilized to maintain and improve the golf course. Since that time, however, the popularity of golf courses has dwindled and there is a vast reduction in golf consumer spending. The net result is that fewer players meant less revenue which meant fewer funds to maintain the course, which resulted in many golf courses including this one to close.

According to the National Golf Foundation, from the mid 1980's to the turn of the century, the number of golfers grew by approximately 50% - from 20 million to 30 million golfers. Since the year 2000, the

number of golfers plateaued and has been slowly declining, in fact the number of golfers added in the 2000's is at -0.7%. The decline of the economy caused a further decline in the number of golfers. The National Golf Foundation expects to see a net decline of between 500 and 1,000 golf courses in the 2010's.

The Mizner Trail golf course closed in the fall of 2005. Since that time, the vacant land, which formerly included the golf course, has been maintained to Palm Beach County minimum standards, creating a blighted condition for surrounding property owners. (Note: The BCC recognized several years ago that the economic problems then facing golf courses would lead to the need for a method to evaluate conversions. This resulted in a new section of the Unified Land Development Code to be created, which required additional notification and to study the effects of conversions through evaluations such as view shed analysis to permit a logical methodology for golf course conversions).

The abandoned golf course at Mizner Trail is a change of circumstances that affects many of the communities which abut the property. The residents which enjoyed the previous golf course views now look out onto vacant land that receives the minimum amount of maintenance required by the County. Without any revenue, the property owner can only provide what is required. Photos of the existing property clearly indicate that the property is an eyesore when compared to the landscaping existing adjacent to it, which is maintained by individual property owners or the homeowners association.

In addition, the vacant golf course has become a nuisance to the residents. Despite the no trespassing signs along Boca Del Mar's streets (which are in themselves undesirable features), the property has been repeatedly vandalized, utilized by a variety of off road bike and all-terrain vehicles, the subject of graffiti of golf course buildings and has created an unsecured situation allowing rear access by trespassers to residential units. The vacant course has also led to complaints from the residents over a growing pest problem (rodents, raccoons, opossums and insects), which also pose a potential health and safety risk to residents, their children and pets as these rodents and insects carry diseases.

Third, the current condition of the former golf course has reduced property values for surrounding property owners. While, in the past, these owners would advertise a residential property as having "golf course views", now adjacent to the former golf course is considered a negative attribute due to the vacancy of the land and the previous issues discussed.

A well designed re-development of the property, as proposed in this application, will correct all of these issues. First, the proposal will provide for an upgraded landscape environment. Great care has been taken to allow sufficient room for upgraded landscape edges in the development areas.

Further, the redevelopment will remove the current attractive nuisance aspect of the property as the property will now be maintained and contain new residents (additional eyes on the street) providing additional safety and security.

Finally, the new development will remove the current uncertainty as to the future of the site. The new homes will be built and sold at values which match or exceed the surrounding community values. Once in place, the new development provides a finished product (both homes and landscape buffers and large natural open areas) which allows a potential homebuyer of adjacent property to know what to expect. The affected property is ideally suited for residential development in an area that provides a full range of services for the new residents. Currently, a review of the aerials extending several miles from the site indicates that there are no vacant residential parcels of any size. This particular property at the density proposed can meet all concurrency criteria.

The proposed development will provide for recreation activities of benefit to the new residents. The former golf course clubhouse is currently shuttered and only contributes to the existing blighted conditions previously discussed. As part of this application, plans are being submitted to enhance the



clubhouse building to provide a variety of health and recreation activities to be utilized by the new residents. The renovated recreation building with activities geared to current times will be an added attraction to the variety of uses currently existing in Boca Del Mar.

NEIGHBORING COMMUNITY MEETING SCHEDULE

Monday, September 23<sup>rd</sup> – Coronado at 7:00 P.M. At Sugar Sand Park, Boca Raton

Tuesday, October 8<sup>th</sup> – Fairway Village

Tuesday, October 15<sup>th</sup> - La Joya at 8:00 P.M.

Wednesday, October 16<sup>th</sup> - Parkside at 6:00 P.M.

9/16/13

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***MIZNER TRAIL GOLF CLUB, LTD***

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Mr. Frank Brand  
[Francisp43@aol.com](mailto:Francisp43@aol.com)  
Wellesley Park

Dear Mr. Brand,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

I have attached a fact sheet about our development plan which contains pertinent information.

More information may be obtained online at [www.pbegov.org](http://www.pbegov.org) by referencing the Development Order Amendment number, DOA 2013-01057.

Please advise as to the availability of the Board and members for a presentation.

Sincerely,



Robert Comparato, President  
Compson Mizner Trail, Inc.  
General Partner

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36 SE 3RD STREET • BOCA RATON, FLORIDA 33432  
TEL (561) 391-4040 • [compson@gate.net](mailto:compson@gate.net)

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**MIZNER TRAIL GOLF CLUB, LTD**

---

Mr. Frank Lewis  
[frankL55@yahoo.com](mailto:frankL55@yahoo.com)  
Terra Tranquilla

Dear Mr. Lewis,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

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**MIZNER TRAIL GOLF CLUB, LTD**

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Ms. Carole Velleca  
[cjvella@hotmail.com](mailto:cjvella@hotmail.com)  
La Costa

Dear Ms. Velleca,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

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General Partner

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***MIZNER TRAIL GOLF CLUB, LTD***

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Ms. Carol Celestino  
[celestinocarol@gmail.com](mailto:celestinocarol@gmail.com)  
La Joya

Dear Ms. Celestino,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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***MIZNER TRAIL GOLF CLUB, LTD***

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Ms. Karen Delano  
[Karendelano4@yahoo.com](mailto:Karendelano4@yahoo.com)  
Addison Pointe

Dear Ms. Delano,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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***MIZNER TRAIL GOLF CLUB, LTD***

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Ms. Jo Cordone  
[jcordone@bellsouth.net](mailto:jcordone@bellsouth.net)  
Camino Real Village

Dear Ms. Cordone,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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General Partner

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***MIZNER TRAIL GOLF CLUB, LTD***

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Ms. Helen Weintraub  
[helenweintraub@gmail.com](mailto:helenweintraub@gmail.com)  
Coronado

Dear Ms. Weintraub,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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***MIZNER TRAIL GOLF CLUB, LTD***

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Ms. Barbara Mandell,  
[info@HRTRealty.com](mailto:info@HRTRealty.com)  
La Residence

Dear Ms. Mandell,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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General Partner

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***MIZNER TRAIL GOLF CLUB, LTD***

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Mr. Robert Luthy  
[rluthy57@bellsouth.net](mailto:rluthy57@bellsouth.net)  
Tiburon I

Dear Mr. Luthy,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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**MIZNER TRAIL GOLF CLUB, LTD**

---

Mr. Steve Foster  
[sifoster@bellsouth.net](mailto:sifoster@bellsouth.net)  
Fairway Village

Dear Mr. Foster,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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***MIZNER TRAIL GOLF CLUB, LTD***

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Mr. Allen Greenberg  
[Agreenb900@aol.com](mailto:Agreenb900@aol.com)  
Windrift

Dear Mr. Greenberg,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

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General Partner

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## *MIZNER TRAIL GOLF CLUB, LTD*

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Mr. Brian Tight  
[briantight@yahoo.com](mailto:briantight@yahoo.com)  
Fairway Village

Dear Mr. Tight,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

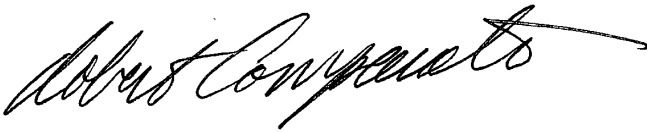
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***MIZNER TRAIL GOLF CLUB, LTD***

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Mrs. Joan Grant  
[joan@grantmgmt.com](mailto:joan@grantmgmt.com)  
Coronado

Dear Ms. Grant,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

I have attached a fact sheet about our development plan which contains pertinent information.

More information may be obtained online at [www.pbcgov.org](http://www.pbcgov.org) by referencing the Development Order Amendment number, DOA 2013-01057.

Please advise as to the availability of the Board and members for a presentation.

Sincerely,



Robert Comparato, President  
Compson Mizner Trail, Inc.  
General Partner

---

36 SE 3RD STREET • BOCA RATON, FLORIDA 33432  
TEL (561) 391-4040 • [compson@gate.net](mailto:compson@gate.net)

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***MIZNER TRAIL GOLF CLUB, LTD***

---

Mr. Mark Ashton  
[mashton@parksideboca.com](mailto:mashton@parksideboca.com)  
Parkside

Dear Mr. Ashton,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.


I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

I have attached a fact sheet about our development plan which contains pertinent information.

More information may be obtained online at [www.pbcgov.org](http://www.pbcgov.org) by referencing the Development Order Amendment number, DOA 2013-01057.

Please advise as to the availability of the Board and members for a presentation.

Sincerely,



Robert Comparato, President  
Compson Mizner Trail, Inc.  
General Partner

---

36 SE 3RD STREET • BOCA RATON, FLORIDA 33432  
TEL (561) 391-4040 • [compson@gate.net](mailto:compson@gate.net)



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***MIZNER TRAIL GOLF CLUB, LTD***

---

Mr. Louis Frangos,  
[lfrangos@comcast.net](mailto:lfrangos@comcast.net)  
Ironwedge

Dear Mr. Frangos,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

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Please advise as to the availability of the Board and members for a presentation.

Sincerely,



Robert Comparato, President  
Compson Mizner Trail, Inc.  
General Partner

---

36 SE 3RD STREET • BOCA RATON, FLORIDA 33432  
TEL (561) 391-4040 • [compson@gate.net](mailto:compson@gate.net)

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***MIZNER TRAIL GOLF CLUB, LTD***

---

Mr. William Reiter  
[reiterbunsic@bellsouth.net](mailto:reiterbunsic@bellsouth.net)  
The Greens

Dear Mr. Reiter,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

I have attached a fact sheet about our development plan which contains pertinent information.

More information may be obtained online at [www.pbcgov.org](http://www.pbcgov.org) by referencing the Development Order Amendment number, DOA 2013-01057.

Please advise as to the availability of the Board and members for a presentation.

Sincerely,



Robert Comparato, President  
Compson Mizner Trail, Inc.  
General Partner

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36 SE 3RD STREET • BOCA RATON, FLORIDA 33432  
TEL (561) 391-4040 • [compson@gate.net](mailto:compson@gate.net)

---

***MIZNER TRAIL GOLF CLUB, LTD***

---

Mr. Mike Ward  
[fc reunions@aol.com](mailto:fc reunions@aol.com)  
Woodbriar

Dear Mr. Ward,

Kindly allow me to introduce myself, I am the managing general partner of the Mizner Trail Properties in Boca Del Mar.

I am writing to request the opportunity to present our development plan to your Board of Directors and association members. As a neighboring community we would like to make a presentation at the September or October board meeting or at your convenience.

I have attached a fact sheet about our development plan which contains pertinent information.

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Please advise as to the availability of the Board and members for a presentation.

Sincerely,



Robert Comparato, President  
Compson Mizner Trail, Inc.  
General Partner

---

36 SE 3RD STREET • BOCA RATON, FLORIDA 33432  
TEL (561) 391-4040 • [compson@gate.net](mailto:compson@gate.net)

### **NEIGHBORING COMMUNITY MEETING SUMMARIES**

- **May 13, 2013 – Coronado, Sugar Sand Park at 7:00 P.M.**  
A meeting was held with the neighboring Coronado community at their HOA meeting. The Applicant and Land Design South presented the proposed 288 unit project at the meeting. No formal vote was taken in favor or against the proposed project.
- **September 23, 2013 – Coronado, Sugar Sand Park at 8:00 P.M.**  
A meeting was held with the neighboring Coronado community at their HOA meeting. The Applicant and Land Design South presented the proposed 288 unit project at the meeting outlining the changes made to the plan since the prior meeting held in May 2013. The residents raised concerns of the proximity of the proposed cul-de-sac and units to their existing units and asked if the proposed plan could be revised. The applicant agreed to make some revisions. No formal vote for or against the project was taken.
- **October 8, 2013 – Fairway Village at 7:30 P.M. (Clubhouse – 6400 Parkview Drive)**  
A meeting was held with the neighboring Fairway Village HOA Board and although the applicant requested the Board to inform residents of the meeting, only the HOA Board was in attendance. The Applicant and Land Design South presented the proposed 288 unit project at the meeting. The residents asked questions and raised concerns about the golf course closure, the overall project and traffic. No formal vote was taken for delivery to the applicant.
- **October 15, 2013 – La Joya at 8:00 P.M.**  
The Applicant and Land Design South presented the proposed 288 unit project at a meeting of the neighboring La Joya community. The residents asked questions and raised concerns about setbacks for the proposed units closest to the existing homes within La Joya. They asked questions and raised concerns about traffic and the ability of getting a signal at their entrance to SW 18<sup>th</sup> Street and the impacts of the proposed project at the intersection of Military Trail and SW 18<sup>th</sup> Street. The residents in attendance had a spokesperson state that they were not supporting the project as it was presented that evening.
- **October 16, 2013 – Parkside at 6:00 P.M.**  
The Applicant and Land Design South presented the proposed 288 unit project at a HOA meeting of the neighboring Parkside community located across Military Trail. The residents asked questions and raised concerns about traffic; specifically about aligning the proposed access to Military Trail with their existing access and the ability of getting a signal at their entrance. They also asked questions about the turning movements of the cars in and out of the proposed Military Trail access and the u-turns and the impacts of the proposed project at SW 18<sup>th</sup> Street. They raised questions about noise and dirt from the traffic along Military Trail. They asked questions about the proposed landscape buffer along Military Trail. The HOA did not take a vote at the meeting for or against the proposed project.
- **October 28, 2013 – Coronado, Sugar Sand Park at 8:00 P.M.**  
A meeting was held with the neighboring Coronado community at their HOA meeting. The Applicant and Land Design South presented the proposed 288 unit project at the meeting outlining the changes made to the plan as requested in the prior Coronado meeting held in September 2013. The residents took copies of the plan stating they would be posted in their buildings as well as petitions for support of the project. No formal vote for or against the project was taken.

**Boca Del Mar - Memorandum**

RE: Meeting with Commissioner Abrams

Date: August 29, 2012

Attendees: Commissioner Steven Abrams, Rosemary Nixon, Felipe Martinez, Robert Brown (SFWMD), James Comparato, Robert Comparato

The following topics were presented and discussed:

- 1. Rosemary Nixon advised us that our proposed compromise of 194 townhouse lots and 64 condominium units was approved by their Steering Committee subject to satisfactory resolution of: 1) Funding for maintenance of the lakes and common areas, and 2) resolution of the concern regarding the arsenic on the golf course grounds.
- 2. The developer agreed to transfer all ground not being used in the proposed plan to a land trust or other entity such as BDMIA upon approval of the project with the Palm Beach County Commission and the expiration of any appeal period.
- 3. As part of the Developer's approval, the lakes and open space land parcels will be re-zoned to Recreation with a conservation easement that will preclude any further development on the open areas to be transferred to the BDMIA. The developer will also place a deed restriction on the property preventing any future development. These three restrictions will ensure all Boca del Mar residents that nothing will ever be built on the vacant land.
- 4. It was discussed that perhaps the most logical entity to take over ownership and maintenance of the lakes and open space would be BDMIA, if they are agreeable. The cost of maintenance was a serious concern for all Boca del Mar citizens.

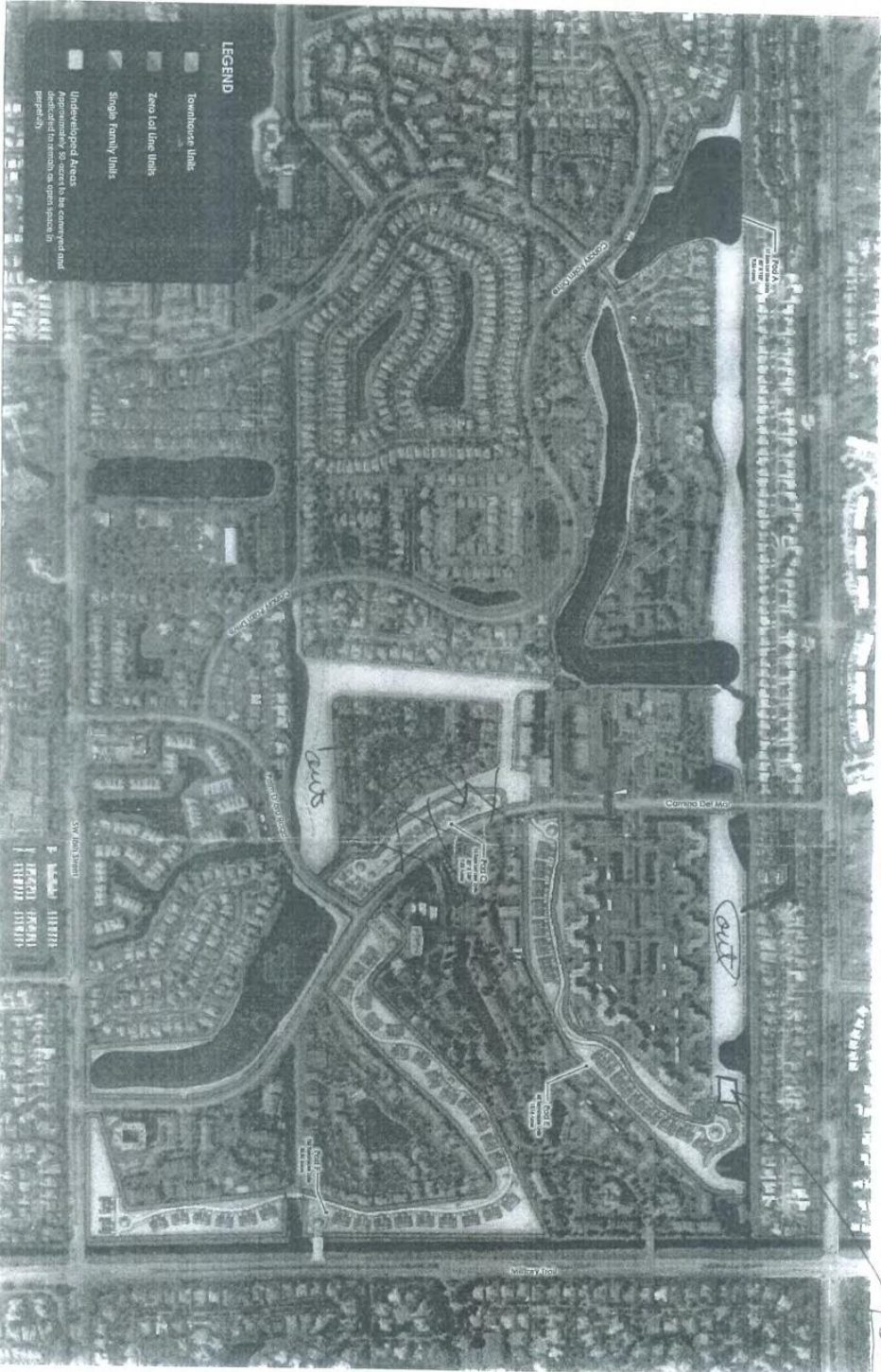
5. Estimated Maintenance Costs

Maintain Lakes	\$	640.00	month
Cut grass to 7"-8" height as previously maintained	\$	2,000.00	month
Monthly Total	\$	2,640.00	
Estimated Total Cost	\$	31,680.00	annually

\*The foregoing costs are based upon bids received from independent contractors presently maintaining the lakes and cutting the grass areas.

6. In order to cover the proposed expense of maintaining the lakes and common areas to be transferred to the BDMIA, the developer will require the 194 new townhouse units and the 64 condominium homeowners to become members of the BDMIA. This will provide \$30,960.00 for maintenance of the lakes based upon the current BDMIA dues structure of \$120.00 per household. BDMIA could then allocate those funds to maintain the lakes and grass in this quadrant of Boca Del Mar. Accordingly, no additional maintenance expense will be passed on to BDMIA as a result of the lakes and common areas being deeded to them.
7. SFWMD is supportive of the proposed lakes but is unable to contribute to the maintenance. However, they may consider funding Xeriscape landscaping costs and design components. No guarantee of participation was assured by Mr. Robert Brown of SFWMD but an indication of some limited assistance was made.
8. The proposed lakes will be dug to approximately 3½ feet and conform to all SFWMD and county code requirements.
9. Ms. Nixon will present this compromise proposal to the BDMIA Board of Directors on September 12, 2012 for its consideration.
10. The compromise proposal has merit for many reasons including additional on-site water storage, maintains and improves water quality, is virtually revenue neutral to BDMIA, will improve neighborhood home values, and will resolve "a problem that is not going to go away" with the developer. The residents and the Developer have worked hard to arrive at what each believes is a fair compromise. This compromise will stop the annual submission of a new site plan for this property and limit the development as shown while adding a number of lakes and open space for the residents use and enjoyment.
11. The concern regarding arsenic was brought up by Rosemary Nixon. Commissioner Abrams and Mr. Brown noted that all golf course communities and in Florida have this problem and he believed that it can be handled with additional monitoring like the previous developments in Palm Beach County have that were located on a golf course.
12. A final request was made by Rosemary Nixon for the developer to go back to cutting the grass as it was previously done. It was specifically noted that the current level of lawn maintenance is fully in compliance with Palm Beach County ordinances. The Developer agreed to resume its previous level of maintenance for the grass areas subject to the receipt of approvals from BDMIA and the Palm Beach County Board of County Commissioners with respect to the development of the 194 townhouse units and 64 condominium units.





PLAN B

202 TH & ZLT  
64 CONDOMINIUMS

Mizner Trail Properties  
Conceptual Site Development Plan

urban  
design  
studios  
1001 N. W. 10th Ave, Suite 200  
Fort Lauderdale, FL 33304  
P 561-526-0111  
F 561-526-0112  
www.urbandesignstudios.com



TH raised back  
8 units

*[Handwritten signature]*

194 TH

64 units

258 units

① Pool to rear  
as in schedule  
of 2 Bldgs of  
apart

② Bldgs not  
clear to  
project behind

③ Elevations  
to water  
adjacent to  
windy

*[Handwritten signature]*

Brian Coleman  
6444 La Costa Drive 202  
Boca Raton, FL 33433  
landmarkm@hotmail.com

September 26, 2012

Compson Development  
36 SE 3<sup>rd</sup> Street  
Boca Raton, FL 33432  
Jim Comporato

Dear Mr. Comporato,

It is my understanding that on Tuesday night September 25, 2012 you attended the Coronado monthly board meeting where it may have been communicated or misconstrued that I personally endorsed your recent plan to build on the fairways at Mizner Trail.

Please understand that I personally do not, and have not endorsed this plan and any communication by you or your associates otherwise would be a misrepresentation of fact and a false representation of my opinion on this matter.

Any attempt to gain support for this plan should be done on its own merits and may not include my endorsement.

Please conduct yourself accordingly.

Sincerely,

Brian Coleman

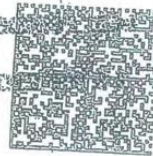


ail Golf Club, Ltd.  
E 3<sup>rd</sup> Street  
aton, FL 33432

**CERTIFIED MAIL**



7006 2150 0000 0693 6281



**Mr. Brian Coleman**  
**6444 La Costa Drive, #202**  
**Boca Raton, FL 33433**

1N  
10/2

334 5E 1 00 10/20/12  
RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD  
EC: 33432491436 \*0375-01584-01-38

334324914  
33433552952



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD ALONG DOTTED LINE

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"><li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>Print your name and address on the reverse so that we can return the card to you.</li><li>Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature <b>X</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><b>Mr. Brian Coleman</b> <b>6444 La Costa Drive, #202</b> <b>Boca Raton, FL 33433</b></p>	<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p> <p>7006 2150 0000 0693 6281</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-0835



*returned  
sent reg  
mail  
10/23*

Mizner Trail Golf Club, Ltd.  
36 SE 3<sup>rd</sup> Street  
Boca Raton, FL 33432

October 1, 2012

Mr. Brian Coleman  
6444 La Costa Drive, #202  
Boca Raton, FL 33433

Dear Brian:

I am in receipt of your letter dated September 26, 2012. For the record, no mention of your endorsement of any plan was made at the meeting by me or any representative of our Company.

Your participation in the preparation, negotiation, and presentation of a compromise plan to Commissioner Abrams is a matter of fact. Your position that you now oppose the plan is disingenuous and an insult to the integrity of the negotiations that preceded the compromise plan that you previously agreed to at the Commissioner's office.

We intend to gain support for this plan with the community with or without your support.

Sincerely,

COMPSON MIZNER TRAIL, INC.  
Its General Partner



Robert Comparato,  
President

CC: J. Comparato

We believe this proposal provides the Community with a first class development that will improve the values of all existing homes in the Boca Del Mar Community. We estimate the price of our townhouses to range from \$375,000.00 to \$475,000.00 and our condominiums to range from \$275,000.00 to \$350,000.00 depending upon size and location. We look forward to any comments or questions you may have and respectfully request BDMIA's support of this development proposal.

Sincerely,

MIZNER TRAIL GOLF CLUB, LTD.

A handwritten signature in dark ink, appearing to read "Robert Comparato", with a long horizontal flourish extending to the right.

Robert Comparato  
President  
COMPSON MIZNER TRAIL, INC.  
Its General Partner

RC/sel

*Mizner Trail Golf Club, Ltd.*  
*36 SE 3<sup>rd</sup> Street*  
*Boca Raton, FL 33432*

October 4, 2012

Boca Del Mar Improvement Association  
6018 SW 18<sup>th</sup> Street  
Boca Raton, FL 33433

Dear Members of the Board:

We have been working with some of the members of your community to arrive at a plan for the development of a portion of the former Mizner Trail Golf Course. We have arrived at a site plan that is a compromise based upon the number of units to be built, the amenities we will provide, and the limitation of developed property. We respectfully request that the Boca Del Mar Improvement Association consider the following proposal:

1. DEVELOPMENT PLAN

We plan to build and develop 194 units of townhouses on the east side of Camino Del Mar together with 64 units of condominiums on the old clubhouse parcel on the west side of Camino Del Mar. The remainder of the former golf course will be designated recreational/preserve with deed restrictions and/or a conservation easement or other restriction acceptable to all parties concerned.

2. TRANSFER OF OPEN SPACE/MAINTENANCE EXPENSE

We propose to transfer all property not used for the development of the 194 Townhouse units and 64 Condominium units to BDMIA, a land trust, or any other entity of your choice so the Association can be in control of the maintenance of the open spaces in your community in perpetuity. We have received proposals from contractors currently performing the work for maintaining all open space areas (proposed lakes and green open space) at a cost of approximately \$32,000.00 annually. We propose these costs be paid for in the future by the requiring the purchasers of the 258 units of new townhouses and condominiums to become members of BDMIA and pay a fee of \$120.00 per year or whatever increases in the rate BDMIA may impose on the entire community in the future. This makes the maintenance of the new amenity package (the lakes and open green space areas) *self-funding and revenue neutral* provided those funds are allocated for the purpose of maintaining these specific open



green space areas and lakes. We would propose the transfer of the lakes and greenway areas occur upon the issuance of permits to build our proposed development from all applicable County, State and Federal agencies and the completion of all necessary construction of all lakes and grading in the areas to be transferred.

### 3. LAKES AND GREENWAY AREAS

Our proposal includes the transfer of approximately 12.9 acres of completed lakes and approximately 70.17 acres of open green spaces. The lakes will be completed in accordance with all specifications dictated by South Florida Water Management District (SFWMD) approval standards and shall be a minimum of 3 ½ -4 feet deep. The depth of the lakes may be increased should additional fill be required or desired. The final design of the lakes will be dictated by the South Florida Water Management District regulations and we agree to conform to said design criteria in all respects. We have designed the shape of the lakes with an arborist in order to save as many as many larger stands of specimen trees as possible.

The estimates of costs provided for the maintenance of the open green space areas anticipates that the open green space areas of the remaining property will be cut to 7-8 inches in height monthly. Mizner Trail, or its affiliates, will be responsible for maintaining the lakes and the open green areas, cut to that agreed upon level, once all Federal, State and County approvals have been received and any appeal period to said approvals has expired. Mizner Trail, or its affiliates, will remain responsible for maintaining the lakes and the open green space areas until the townhouses and condominiums are completed and begin making payments to BDMIA directly. Thereafter BDMIA, or the record owner of the open spaces areas, will be responsible for all future maintenance expense which will be reimbursed from the annual fees paid to BDMIA from the newly developed homes.

### 4. ACCESS

We anticipate that the Military Trail entrance will service approximately 124 units of townhouses and will agree to control entry into that area from Camino Del Mar with a gate or traffic arm to discourage any "cut through" traffic exiting onto Military Trail.

### 5. ENVIRONMENTAL CONCERNS

There has been much discussion about the environmental condition of the property and the presence of arsenic on the golf course. Most people who live on or near a golf course are aware that arsenic is generally found on golf courses since it is part of the fertilizing process used to keep the golf course weed free and green. As a practical matter, once a site plan is approved for the property, the Developer will be required to submit a Site Assessment Report to the Florida Department of Environmental Protection ("FDEP") for their review and approval. FDEP will issue a report with specific recommendations and conditions that will

need to be resolved prior to of any permit being issued to the Developer for development of the property in accordance with the final site plan approval.

As the Developer, we are obligated to comply with all conditions of FDEP's approval and will take whatever steps are necessary to conform to all FDEP standards for any remediation of the arsenic that is required. We will agree to remediate all property owned by us into compliance with FDEP standards for arsenic, including the lake areas and the open areas proposed to be transferred to BDMIA or other entity of your choice.

With respect to the maintenance facility, we have provided a report from Nutting Environmental of Florida, Inc. that was prepared for the BDMIA; regarding this issue dated June 21, 2010 (a copy of the letter is attached for your records). We are not, nor ever have been, the owner of that property and accordingly have no responsibility for any contamination that occurred prior or subsequent to our purchase of the adjacent golf course property. Accordingly, any remediation of this site is the sole responsibility of the owner, K&K Camino Boca Raton, Inc. or successors.

We have also included a letter from Nutting Environmental of Florida, Inc. regarding the claims made by Phyllis Greenberg in an email correspondence dated August 18, 2012. The conclusions set forth in the letter are very direct and dismiss her claims as "false" repeatedly.

#### 6. TIMING

With respect to the timing of approvals, we anticipate beginning the submission process in November of 2012. Assuming the standard approval process timing, we would expect the site plan will be considered by the Palm Beach County Commission in early 2013. If approved, we will proceed simultaneously with the Environmental Assessment for FDEP's approval, finalizing our site plans and lake design drawings, obtaining approval from the South Florida Water Management District for drainage and lake design, and complete our building drawings for the proposed Townhouses and the Condominiums. We estimate that process could take approximately 6 to 8 months to complete. Once all conditions of proceeding to building permit are obtained from the South Florida Water Management District and FDEP with respect to any design changes or remediation requirements, we will then permit the project through Palm Beach County and commence work upon issuance of the permits. We anticipate that construction of the lakes and open space will commence simultaneously with work on our proposed development sites. It would be fair to estimate that it will take approximately 12 months from time of application before any construction would commence.



## Compson Development

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**From:** drew dutton [drewadutton@yahoo.com]  
**Sent:** Saturday, November 10, 2012 6:11 PM  
**To:** compson@gate.net  
**Subject:** Mizner Trail Golf Course Development

This is a message for Robert Comparato....

Mr. Comparato: my name is Drew Dutton...I am one of the Board Members of the Ironwedge Homeowners Association. I received a copy of your letter dated 11/7/12, regarding your company's MTGC Development Plan. I'm not speaking on behalf of our Board when I make the following comments... In Section 2 of your letter you mention \$32000.00 as the estimated cost to maintain the approx 80 acres you propose to give to BDMIA... This is a laughable number...Our Ironwedge HOA spends nearly triple that amount of money to properly maintain the Ironwedge landscape and trees within our relatively small development. It sounds to me like you're proposing to maintain the 80 acres in a similar way that it's been maintained for the last 5 years...it looks very unsightly with high grass/fields and unkept/broken trees, etc...in other words like a dump!!! To properly maintain the 80 acres of landscape, lakes and trees would realistically cost multiple hundreds of thousands of dollars. In your letter you state the proposal would be to keep the landscape cut to 7-8" height once per month...that's totally unacceptable for any green space/recreational use...it would look unsightly like the acreage does today.

I would personally oppose any what you call gated ingress and egress into or out of the townhouse portions of your proposed development onto Camino Del Mar Rd...only entry/exit from Military Trail would be acceptable to me. Even entry/exit of traffic from your proposed condo high rise onto Camino Del Mar will excessively overload traffic on this small street and is not acceptable to me.

In your closing paragraph...you state..."this proposal provides the community with a first class development..."....who's to say the community wants more residential development. As you know, the community as well as the PBC Commissioners have opposed residential development of the Mizner Trail Golf Course 2 times in the last 5 years. What the community wants is a working/properly maintained golf course or properly maintained lakes and green space.

Drew A. Dutton

No virus found in this message.

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Version: 2012.0.2221 / Virus Database: 2441/5390 - Release Date: 11/12/12

*Mizner Trail Golf Club, Ltd.*  
*36 SE 3<sup>rd</sup> Street*  
*Boca Raton, FL 33432*

November 28, 2012

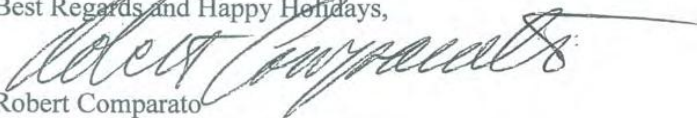
Boca Del Mar Improvement Association  
6018 SW 18<sup>th</sup> Street  
Boca Raton, FL 33433

Dear Members of the Board:

Please be advised that we have decided to postpone our development proposal on the Mizner Trail property for approximately sixty (60) days in order to determine how we intend to proceed.

We will keep you advised.


Best Regards and Happy Holidays,



Robert Comparato  
President  
COMPSON MIZNER TRAIL, INC.  
Its General Partner

RC/bs

# MEMO

**TO:** Frank Lewis, President, BDMIA  
**FROM:** Robert Comparato   
**DATE:** Monday, February 11, 2013  
**RE:** Mizner Trail  
**CC:** James Comparato, Commissioner Steven Abrams

---

Frank,

Good talking with you regarding the Mizner Trail/development re-submittal plans. I am hereby requesting the opportunity for our land planner, Bob Bentz of Land Design South, to meet with the board or your executive committee to discuss our plans at their convenience.

While Brian Coleman has chosen to reverse his position with respect to the compromise plan reached after months of negotiation, we would still like an opportunity to present our position to the entire board.

Thank you very much.



## Compson Development

---

**From:** Gordon Marts [bdmia3@aol.com]  
**Sent:** Monday, June 10, 2013 9:46 AM  
**To:** compson@gate.net  
**Subject:** Re: Mizner Trail Development Proposal

Bob, The meeting is posted on our web site: boca del mar.org and open to all bdmia members. Gordon  
-----Original Message-----

**From:** Compson Development <compson@gate.net>  
**To:** 'Gordon Marts' <bdmia3@aol.com>  
**Cc:** 'Jim Comparato' <jc@compson.com>; 'Bob Bentz' <bbentz@landdesignsouth.com>; 'Steven Abrams' <SAbrams@pbccgov.org>  
**Sent:** Fri, Jun 7, 2013 2:21 pm  
**Subject:** RE: Mizner Trail Development Proposal

Gordon,

I'm sorry to hear the board is "not interested" in listening to a presentation of our development proposal. I think it would benefit your board to understand the reasoning and improvements from the previously submitted plan, specifically traffic information, which has been revised significantly in reaction to neighbors input.

We have had meetings with several neighboring communities to explain the new maintenance plan for the open green spaces which is something your board should definitely be aware of. The new plan will assure the continued maintenance of the open green spaces at a 7' height throughout the undeveloped property.

**IN OUR OPINION, FOR YOUR BOARD TO BLINDLY VOTE ON OUR DEVELOPMENT PROPOSAL WITHOUT HEARING ALL THE PERTINENT FACTS FROM THE LAND PLANNER AND DEVELOPER IS SHORT SIGHTED, UNFAIR TO BDMIA RESIDENTS/MEMBERS AND UNREASONABLE**

Should the board change their position on a presentation we will make ourselves available.

Please advise me of the date of the meeting and if it is a public meeting open to all BDMIA members?

Best Regards,  
Bob

---

**From:** Gordon Marts [mailto:bdmia3@aol.com]  
**Sent:** Tuesday, June 04, 2013 3:49 PM  
**To:** compson@gate.net  
**Subject:**

Bob, The Boca Del Mar board of directors is not interested in a presentation of the Mizner Trail project at this time. They will vote to support or oppose the project at the June directors meeting. Gordon Marts prop mgr

No virus found in this message.

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Version: 2012.0.2242 / Virus Database: 3184/5882 - Release Date: 06/04/13

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Version: 2012.0.2242 / Virus Database: 3184/5882 - Release Date: 06/04/13

No virus found in this message.

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STACY L. KARGER

June 17, 2013

Robert Comparato  
Mizner Trail Associates, Limited  
980 North Federal Highway, Suite 400  
Boca Raton, FL 33432

**Re: Boca Del Mar Improvement Association, Inc.  
/Mizner Trail**

Dear Mr. Comparato:

You stated without equivocation “no deal.” To reinforce your position, you stated “no compromise.” Reinforcing your disregard for the Boca Del Mar Community, without consultation and without notice you submitted a proposed site plan to the County rejecting the discussions between the Association and you.

You have taken full advantage of the numerous venues to communicate to the Association. Pursuant to your request, your land planner presented your latest proposal in the manner and the forum of your choice. Earlier, you were provided an extraordinary opportunity to address the Association’s membership at the Association’s Annual Members’ Meeting.

You know better than anyone else that your plan lives or dies by what has been filed on paper with the County, not an oral presentation to the neighborhood. The County will consider only what is filed with the County. No statement you now make to the Association will modify your unilateral filing with the County.

As for what you describe as a “new maintenance plan,” again, if there was something new and material to consider, then your land planner would have stated that, or the “new” material would be conveyed in writing to the Association. To the extent you address only maintenance between now and construction, is this not “a little bit too little too late,” the Association being subjected to the lack of maintenance. To the extent that your plan is to “maintain” open spaces at a seven inch height in perpetuity, considering the comments that have been made at Association meetings it would appear that you have grossly misunderstood the Community’s concerns, or worse you do not desire to listen.

The bottom line is that the Association has sought to work with you, making repeated

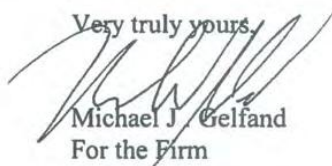
Mr. R. Comparato  
June 17, 2013  
Page 2 of 2

overtures. You rebuffed the Association's efforts to work with you. The Association's requests to you to explain how the project would integrate with the Association has been ignored, even though you promised to respond.

Now that you have heard that an Association meeting is scheduled, you sent a **BOLD FACE ALL CAPITALIZED** message, as if you are screaming at the Association. Your self-serving e-mail does not address that you have had months to work with the Association. You failed to acknowledge the repeated forums the Association has provided you.

Thus, in light of your email copied to Mayor Abrams, this matter has been referred to my attention as counsel for Boca Del Mar Improvement, Inc. Of course, the Association directors either have or will have the opportunity to review relevant materials and be up to speed. If there are supplemental materials provided to the County which you have not provided to the Association, then that is not the Association's fault and you are urged to provide the updated papers in a timely manner; however, it is noted that with the meeting approaching, time is rapidly waning for reviewing supplemental information, if the time has not already passed.

Very truly yours,



Michael J. Gelfand  
For the Firm

MJG/cd

cc: Addressee via email: compson@gate.net  
Mayor Steven Abrams via email: Sabrams@pbcgov.org  
Boca Del Mar Improvement Association, Inc. via email

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## MIZNER TRAIL GOLF CLUB, LTD

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August 20, 2013

Michael J. Gelfand, Esq.  
Gelfand & Arpe, P.A.  
1555 Palm Beach Lakes Blvd., Suite 1220  
West Palm Beach, FL 33401

Dear Mr. Gelfand:

I am in receipt of your letter dated June 17, 2013. The accusations and assertions in your letter are simply untrue or you are very misinformed.

We have reached out to all of the neighboring associations and BDMIA and will continue to do so. In order to set the record straight I have summarized below our continued efforts to meet and compromise with BDMIA and our neighbors as well as the opposition leaders, now BDMIA board member, Mr. Brian Coleman and Ms. Rosemary Nixon.

***With regard to Mr. Coleman and Ms. Nixon:***

- 1) We met with Mr. Coleman, Ms. Nixon and Mayor Abrams numerous times beginning on January 12, 2012 through September 2012 in an effort to achieve a "compromise". We, in fact, agreed on a "compromise plan" with Mr. Coleman and Ms. Nixon consisting of 258 units on August 8, 2012 which was signed by Rosemary Nixon and James Comparato in the presence of Mayor Steven Abrams (copy attached for your reference).

The "compromise plan" as it became known had all 258 units accessing Camino Del Mar at the suggestion and preference of Mr. Coleman and Ms. Nixon. We believe it was not ideal from a traffic standpoint, however it was agreed to in an effort to show good faith and get the needed support from both Mr. Coleman and Ms. Nixon.

Since they represented to us that they would support the plan, privately and publicly, at neighborhood association meetings, at the Palm Beach County Planning & Zoning Commission hearing and the Palm Beach County Board of County Commissioners meeting we included three large new lakes, as you will note on the attached plan. As the leaders of the opposition in previous applications, we believed their support would be helpful to our application.

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- 2) On August 16, 2012 we had a meeting at Mayor Abrams' office with Ms. Nixon, Bob Brown of South Florida Water Management District and others to discuss the lakes (memo attached for your reference).
- 3) On September 24, 2012 we made a presentation of the compromise plan to the Coronado Condominium Association. They were generally supportive but didn't like the four-story condominiums on the clubhouse parcel. Once again, in an effort to compromise we changed those units to two-story townhomes and extended them onto the former driving range parcel.

At the Coronado meeting we mentioned that the compromise plan was reviewed, endorsed and signed by Rosemary Nixon, and that Brian Coleman also verbally endorsed the plan. On September 27, 2012, I received a registered letter from Mr. Coleman reversing his position on supporting the compromise plan, copy attached. Obviously we were very disappointed by his unexpected change of heart, his motivation throughout the negotiations are unclear. He refused our reply by registered letter dated September 1, 2012 (copy attached).

- 4) On October 22, 2012 we met at the Mizner property with Ms. Nixon to review the plan revision regarding the change to townhomes from condominiums on the clubhouse site per Coronado's request and seek her continued support. Unfortunately, at that meeting she told us she was not willing to follow up on the support she had pledged to us when she signed the compromise plan in Mayor Abrams' presence. Again, we were disappointed.

***With regard to BDMIA:***

- 1) On October 4, 2012 we sent a letter to the BDMIA board (copy attached), regarding the compromise plan requesting their feedback and support. Subsequent to that letter we met with BDMIA several board members to discuss and review the plan. After numerous other meetings the BDMIA board rejected the idea of BDMIA owning and maintaining the open spaces due to insurance and environmental concerns, even though it was free and revenue neutral regarding maintenance expenses because our new homeowners would join BDMIA and pay dues.
- 2) On October 8, 2012 we attended a public meeting of the BDMIA membership at which you were in attendance. At the conclusion of the meeting a presentation of the compromise plan was made by James Comparato followed by a question and answer session. Numerous people spoke at the meeting in opposition to the plan including Mr. Coleman, Phyllis Greenberg, William Vale (a board member) and Gail Hewitt, among others. Their comments were overwhelmingly opposed to the compromise plan. The board did not vote on the compromise plan and certainly did not seem inclined to support it.

- 3) Soon thereafter we attempted to meet with numerous neighboring associations to present the compromise plan. The only association that agreed to a presentation was Wellesley Park Condominium which was overwhelmingly negative. We did receive a reply from one of the Ironwedge board members, Mr. Dutton, objecting to the plan (copy attached).
- 4) On April 17, 2013 Bob Bentz and Jennifer Vail of Land Design South met with Rosemary Nixon and two BDMIA board members to present the 228 unit plan and offered to make changes to the plan if they had suggestions. Bradley Rothenberg, Esq., one of the board members present, suggested a presentation to the full board.

On May 10<sup>th</sup>, Jennifer Vail spoke to Gordon Marts; another meeting was not arranged because they "got in trouble" for the first meeting as it wasn't open to all board members.

Gordon subsequently told Jennifer Vail that the June meeting was cancelled and he would try for the July 23<sup>rd</sup> meeting. As you are aware, the June meeting was held on June 17, 2103.

***With regard to the current development application:***

- 1) After working for over a year on the compromise plan we realized we had no support from Mr. Coleman, Ms. Nixon as promised or any neighborhood group, other than Coronado, so we decided to re-evaluate the plan. At that time we met with Commissioner Abrams to explain to him the sequence of events and non-support. We informed him that we would withdraw the compromise plan due to the lack of support we were promised.
- 2) After revising the plan to the current 288 unit plan we tried to present it to the BDMIA board numerous times but were continually refused the opportunity to present our plan (memo dated February 11, 2013 attached), even though BDMIA has supported all previous development applications.
- 3) After numerous delays, reversals, and continued rebuttals from the BDMIA board as well as Mr. Coleman and Ms. Nixon, we filed the 288 unit plan with Palm Beach County on April 17, 2013.
- 4) As you know, the BDMIA board held a public meeting on Monday, June 17, 2013 and voted to oppose our development proposal before the meeting was held, even though it had never seen a presentation of our development proposal from our land planner or ourselves.

We still feel that your board having voted on our development proposal without hearing all the pertinent facts, including traffic studies, and the new maintenance plan from the land planner and developer was short-sighted, unfair to BDMIA residents/members and unreasonable.

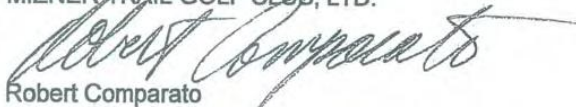


As a clarification, the bold faced, all caps paragraph in my email was for emphasis only, not to be interpreted for your benefit/spin as if I were yelling or screaming at anyone, as I do not conduct business in that manner.

We still stand ready to make a presentation to BDMIA or to any association that will allow us to do so.

Sincerely,

MIZNER TRAIL GOLF CLUB, LTD.



Robert Comparato

President

COMPSON MIZNER TRAIL, INC.

It's General Partner

Enclosures

CC: Mayor Steven Abrams  
Robert Bentz, Land Design South  
Gordon Marts

RC/sel