

MANATEE COUNTY ZONING ORDINANCE
PDMU-12-19(P) – DTS# 20120487 – Buzzsaw#00000147 – GULFSIDE HOMES / BOWLEES CREEK, LLP / BOWLEES CREEK

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT APPROVING A PRELIMINARY SITE PLAN FOR TWO OPTIONS: OPTION A: 246 MULTI-FAMILY UNITS INCLUDING A 126-BED (21 UNITS) "ASSISTED LIVING FACILITY" (F.K.A. GROUP CARE HOME – LDC) AND 53 EXISTING BOAT SLIPS. OPTION B: 246 MULTI-FAMILY UNITS AND 53 EXISTING BOAT SLIPS. IF APPROVED, THIS REQUEST WILL SUPERSEDE THE PREVIOUS APPROVAL [PDMU-09-10(Z)(P)] WHICH INCLUDES TWO OPTIONS: A 200 RACK DRY BOAT STORAGE FACILITY, 144 MULTI-FAMILY UNITS AND 53 EXISTING BOAT SLIPS, OR 162 MULTI-FAMILY UNITS AND 53 EXISTING BOAT SLIPS. THE 19.01± ACRE SITE IS NORTH OF BOWLEES CREEK, SOUTH OF 69TH AVENUE WEST (BAY DRIVE), AND WEST OF U.S. 41, BRADENTON. THE SITE IS ZONED PDMU/AI/CH (PLANNED DEVELOPMENT MIXED USE/AIRPORT IMPACT AND COASTAL HIGH HAZARD OVERLAY DISTRICTS); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Gulfside Homes/Bowlees Creek, LLP (the "Applicant") filed an application for a Preliminary Site Plan for approximately 19.01 acres described in Exhibit "A", attached hereto, (the "property") two options: option A: 246 multi-family units including a 126-bed (21 units) "Assisted Living Facility" (f.k.a. Group Care Home – LDC) and 53 existing boat slips; option B: 246 multi-family units and 53 existing boat slips; and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) exceeding a gross density of six dwelling units per acre in the R/O/R Future Land Use Category; 2) exceeding a net density of nine dwelling units per acre in the R/O/R FLUC; 3) exceeding a gross density of nine dwelling units per acre in the RES-16; 4) exceeding a net density of 12 dwelling units per acre in RES-16 FLUC; 5) in the Coastal Evacuation Area; 6) partially in the Coastal High Hazard Overlay District; 7) adjacent to a perennial stream; 8) in the Airport Impact Overlay District; and 9) modifying a non-conforming structure; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 702.6.8, 710-Table A, 714.8.7, 715.3.1.d, and 1105 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the Preliminary Site Plan, Special Approval and Specific Approval applications, subject to the stipulations contained in the staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held public hearings on December 13, 2012, January 10, 2013 and February 14, 2013 to consider the Preliminary Site Plan, Special Approval, and Specific Approval application, received the staff recommendation and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

WHEREAS, the Manatee County Planning Commission, as the County's Local Planning Agency, found the applications consistent with the Manatee County Comprehensive Plan and to

satisfy the criteria for approval in the Manatee County Land Development Code and recommended approval of the applications, subject to the stipulations contained in the staff report.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. FINDINGS OF FACT. The recitals set forth above are true and correct and are hereby adopted as findings by the Board of County Commissioners.

The Board of County Commissioners, after considering the testimony, evidence, documentation, application for amendment of the Official Zoning Atlas, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. The Board of County Commissioners held duly noticed public hearings on March 7, 2013 and April 4, 2013 regarding the proposed Preliminary Site Plan described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, the Manatee County Land Development Code, and has further considered the information received at said public hearing.

B. The Board of County Commissioners makes a Specific Finding that: 1) the proposed buildings exceeding 35 feet in height are consistent with Section 603.7.4.9 of the Land Development Code in that the Board finds that the development, as approved and stipulated, is compatible with the surrounding area and will not create any external impacts that would adversely affect surrounding development or waterfront vistas; and 2) the modification of the nonconforming structure has no effect on or bears no relationship to the specific nonconformity that existed for the project on May 11, 1989.

C. For the purposes of granting Special Approval, the Board finds that the project, as detailed on the Preliminary Site Plan and as conditioned herein, will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

D The Board finds that the public purpose and intent of Section 710, Table A has been satisfied to an equivalent degree because the proposed drive aisle is adequate for 2-way travel.

E. The Board finds that the public purpose and intent of Sections 1105 and 702.6.8 has been satisfied to an equivalent degree by project design. The proposed structure is intended for recreational use only and the existing non-conformity relative to buffer impact and building setback will be reduced.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.1.d, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree because a superior design is maintained.

G. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 714.8.7, the Board finds that the purpose of the LDC regulations is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for two options: Option A: 246 multi-family units including a 126-bed (21 units) “assisted living facility” (f.k.a. group care home-LDC) and 53 existing boat slips; Option B: 246 multi-family units and 63 existing boat slips on the property subject to the following Stipulations:

STIPULATIONS

A. Design

1. The approval of this Preliminary Site Plan supersedes all other previous approvals.
2. The maximum number of dwelling units for this project is 246. This shall be reflected on the Final Site Plan.
3. At time of Final Site Plan, the step-down design elevation, entered into the record, shall be used for all perimeter buildings. Any one of the three designs submitted may be utilized for internal buildings. All buildings shall be in substantial conformance with the elevations presented at the Planning Commission and Board of County Commission meetings.
4. Buildings shall be setback from the property lines a distance equal to their height or a minimum of 30 feet, whichever is greater.
5. At time of future Building Permit, all residential structures shall comply with the applicable allowable interior noise level regulations in LDC Section 604.5.
6. Personal watercraft rentals live aboard vessels, and repair activities shall be prohibited. In-water boat maintenance or repair activities shall be prohibited.
7. Prior to Final Site Plan approval, a Hurricane Evacuation Plan shall be approved or updated by the Emergency Management Division of the Public Safety Department.
8. The Notice to Buyers or Tenants shall be included in the Declaration of Covenants and Restrictions, and in a separate addendum to the sales contract, and in the Final Site Plan and shall include language informing prospective homeowners of the following:
 - a. The maximum number of boat slips approved for this project is 53. A site plan depicting the location of the 53 slips shall also be included and that the boat slips and ramp are open to the public 24/7.
 - b. A maximum of 16 boats may be moored adjacent to the dock on the main channel of Bowlees Creek. Boats shall be moored in a manner which limits encroachment of the dock and mooring area to 25% of the waterway. This restriction may limit the type or size of boats moored along the main channel of Bowlees Creek.

- c. A Hurricane Evacuation Plan is approved by the Public Safety Department for this project.
 - d. The property is in the Airport Impact Overlay District and is subject to noise from aircraft over flights. Specific standards and additional costs may be associated with the development of this project because of the site being in the airport impact area.
9. Any significant historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Division of Historical Resources and treatment of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County. Treatment of the resources must be completed before resource-disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Section 872.05, Florida Statutes, shall be followed.
10. If the access point onto US 41 is reconfigured, the applicant shall submit any amendments to the Easement Deed as part of the Final Site Plan approval.

B. Environmental/Landscaping

1. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with LDC Section 519.
2. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the Environmental Planning Division for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well - used, capped, or plugged.
3. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site plan. Use of Manatee County public potable water supply shall be prohibited.
4. All proposed landscaping for the development shall be in accordance with Florida Yards and Neighborhoods Program unless otherwise approved by the County.
5. A maximum of 16 boats shall be moored adjacent to the dock on the main channel of Bowlees Creek. Boats shall be moored in a manner which limits encroachment of the dock and mooring area to 25% of the waterway. This restriction may limit the type or size of boats moored along the main channel of Bowlees Creek.

6. The maximum number of wet boat slips permitted shall be 53. No more than 16 slips shall be located on the main channel of Bowlees Creek. Boats moored along the main channel of Bowlees Creek shall be limited to a width of 8 feet unless the mooring of boats and structures can meet the criteria of LDC Section 734.2.1.
7. The Final Site Plan shall identify the location of all Osprey nests. Impacts to trees containing Osprey nests shall be avoided to the greatest extent possible. In the event that impacts to nest trees are unavoidable, a replacement osprey platform shall be constructed prior to removal of the nest tree. Removal of nest trees shall be prohibited during the nesting season. The location of any replacement platform shall be approved by the Florida Fish and Wildlife Conservation Commission and be submitted to the County with the Final Site Plan.
8. Buffer compensation shall be provided at 1:1 ratio for any proposed encroachments in the existing wetland buffers including pavilions and shade structures.
9. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by Environmental Planning Division of the Building and Development Services Department.
10. A minimum of three (3) different species of canopy trees (or understory where appropriate) shall be utilized for required landscaping.
11. An integrated Pest Management Plan (IPM) for the application of fertilizers, pesticides and herbicides shall be submitted to the Environmental Planning Division for review and approval prior to Final Site Plan approval. Unless otherwise approved by the Environmental Planning Division native or drought tolerant landscaping shall be utilized in common areas.
12. The developer shall plant native vegetation in the required waterfront setback areas. The type, size, quantity and location of the required plantings shall be approved with the Final Site Plan.
13. The landscape buffer along Bowlees Cove shall be planted in substantial compliance with the exhibit entered into the record attached hereto as Exhibit "B".

Section 3. SPECIFIC AND SPECIAL APPROVALS. Specific Approval is hereby granted for alternatives to Sections 702.6.8, 710-Table A, 714.8.7, 715.3.1.d, and 1105 of the Land Development Code. The Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Special Approval is hereby granted for a project: 1) exceeding a gross density of six dwelling units per acre in the R/O/R Future Land Use Category; 2) exceeding a net density of nine dwelling units per acre in the R/O/R FLUC; 3) exceeding a gross density of nine dwelling units per acre in the

RES-16: 4) exceeding a net density of 12 dwelling units per acre in RES-16 FLUC; 5) in the Coastal Evacuation Area; 6) partially in the Coastal High Hazard Overlay District; 7) adjacent to a perennial stream; 8) in the Airport Impact Overlay District; and 9) modifying a non-conforming structure. The Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

Section 4. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, clause, sentence, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 5. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 6. STATE AND FEDERAL PERMITTING. The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 7. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 4th day of April, 2013 and as amended on 14th day of October, 2014.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

BY: Larry Bustle
Larry Bustle, Chairman



ATTEST: R. B. SHORE
Clerk of the Circuit Court

BY: R. B. Shore
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1:

Commence at the NE corner of the NW ¼ of the NW ¼ of Section 26, Township 35 South, Range 17 East, Public Records of Manatee County, Florida; thence South 375 feet to a point on the East line of the said NW ¼ of the NW ¼ and the Point of Beginning; thence West 525 feet, thence South 675 feet more or less, to the channel of Bowlee's Creek; thence Easterly along the Channel of Bowlee's Creek to a point on the East line of said NW ¼ of the NW ¼ directly South of the Point of Beginning; thence North to the Point of Beginning.

TOGETHER with the Easement described in O.R. Book 1252, Page 3146, Public Records of Manatee County, Florida.

Parcel 2:

That part of the following property lying Northerly of the current centerline of Bowlee's Creek: Begin at the SE corner of the NW ¼ of the NW ¼ of Section 26, Township 35S, Range 17E, thence S 89°59'04" W along the South line of said NW ¼ of the NW ¼ 347.210 feet to the center line of Bowlee's Creek as recorded in County Records Book 108, page 64, of the Public Records of Manatee County, Florida; thence N 0°17'31" East along the center line of said Bowlee's Creek 104.69 feet to the P.C. of a curve to the right having a radius of 365 feet; thence NE'ly along the arc of said curve 437.44 feet; thence N 68°57'31" East 119.45 feet to the intersection of the center line of said Bowlee's Creek and the East line of the said NW ¼ of the NW ¼ thence S 0°08'49" East along the said East line 486.29 feet to the P.O.B.

PARCEL (A):

COM AT A CAPPED IRON ROD SET AT THE NW COR OF SD SEC 26; TH N 89 DEG 48 MIN 47 SEC E, ALG THE NLY LN OF SD NW ¼ A DIST OF 801.65 FT TO A LN WHICH BEARS N 00 DEG 06 MIN 57 SEC E, FROM A WOOD POST MARKING THE COMMON COR OF LOTS 10, 11 & 12 BLK E OF EMERALD ISLES, UNIT NO 1 AS REC IN PB 4 PG 90 (VAC) FOR A POB; TH S 00 DEG 06 MIN 57 SEC W, ALG SD LN A DIST OF 373.05 FT TO SD WOOD POST; TH S 89 DEG 50 MIN 46 SEC E, ALG THE SLY LN OF SD BLK E A DIST OF 155 FT; TH N 00 DEG 07 MIN 05 SEC E, A DIST OF 373.97 FT TO THE AFOREMENTIONED NLY LN OF THE NW ¼ OF SEC 26; TH S 89 DEG 48 MIN 47 SEC W, ALG SD NLY LN A DIST OF 155 FT TO THE POB, CONT 1,329 AC M/L ; LESS; A TRACT OF LAND LYING IN THE NW ¼ OF SEC 26, DESC AS FOLLOWS; COM AT A CAPPED IRON ROD AT THE NW COR OF SD SEC 26; TH N 89 DEG 48 MIN 47 SEC E, ALG THE NLY LN OF SD NW ¼, A DIST OF 801.65 FT FOR A POB; TH S 00 DEG 06 MIN 57 SEC W, A DIST OF 25.75 FT TO THE SLY MAINTAINED RW LN OF 59TH AVE W (BAY DR); TH N 89 DEG 52 MIN 01 SEC E, ALG SD MAINTAINED RW LN, A DIST OF 155 FT; TH N 00 DEG 07 MIN 11 SEC E, A DIST OF 25.90 FT TO THE NLY LN OF NW ¼, TH S 89 DEG 48 MIN 47 SEC W, ALG SD NLY LN A DIST OF

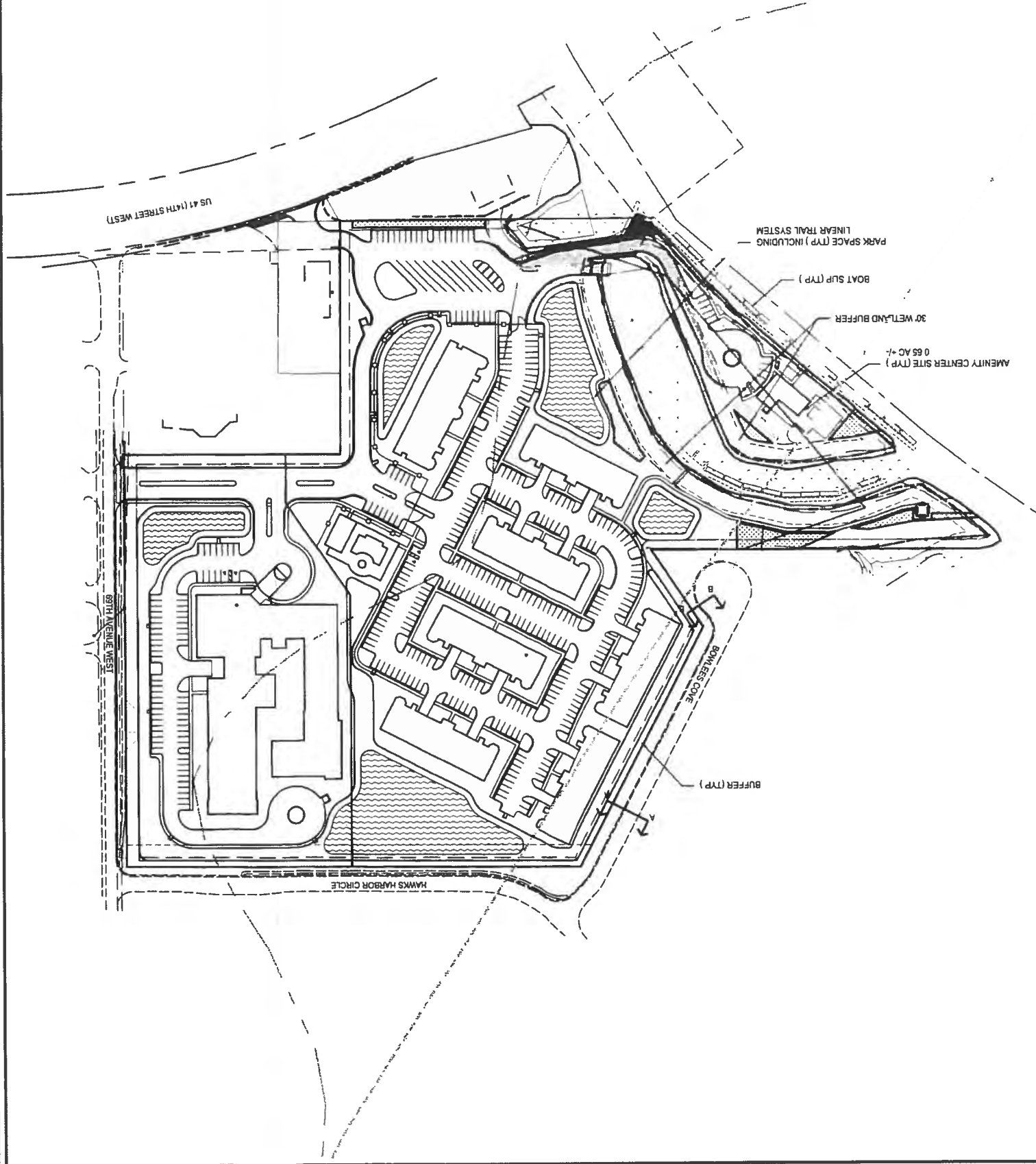
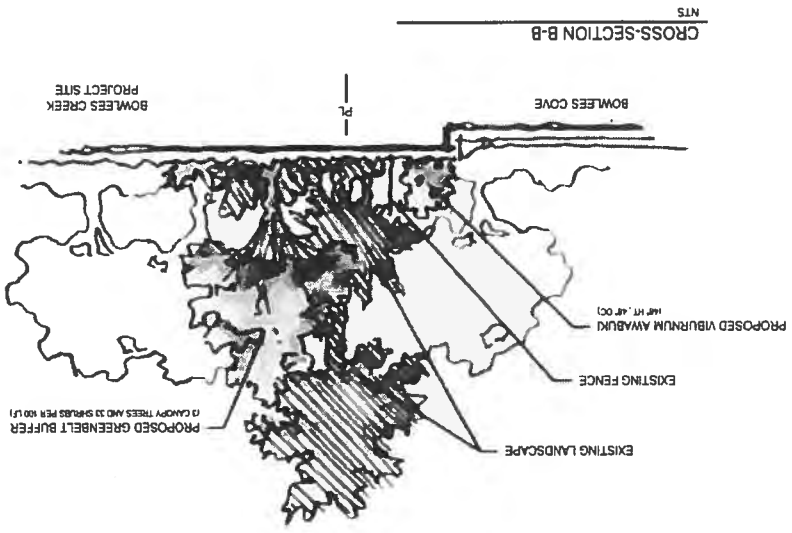
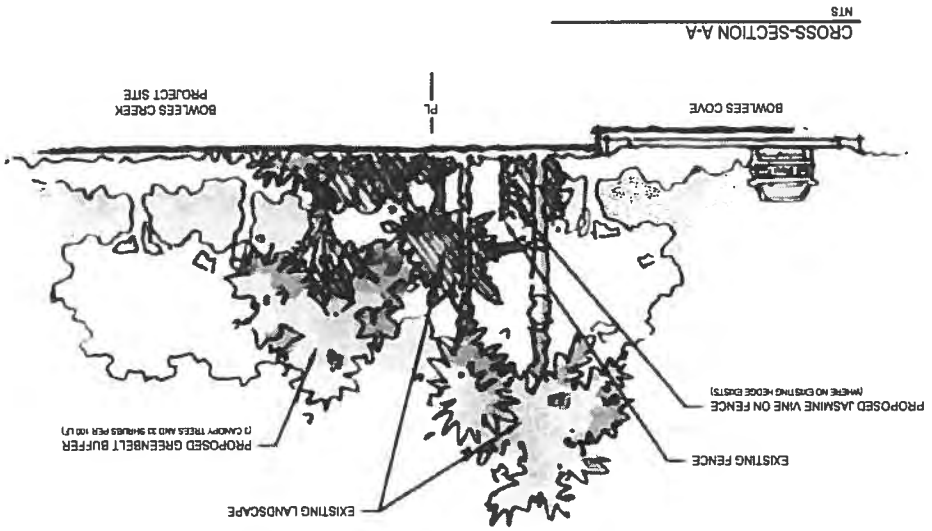
155 FT TO THE POB

PARCEL (C):

BEG AT THE NW COR OF THE NW ¼ OF SEC 26; TH N 89 DEG 52 MIN 01 SEC E, ALG N LN OF SD NW ¼ OF SD SEC 26, 298 FT; TH S 00 DEG 17 MIN 47 SEC W' & PAR TO THE W LN OF SD NW ¼, 25 FT TO THE S R/W OF 69TH AVE W FOR A POB; TH CONT S 00 DEG 17 MIN 47 SEC W, & PAR TO THE W LN OF SD NW ¼, 727.53 FT; TH S 62 DEG 49 MIN 14 SEC E, 568.24 FT TO THE E LN OF LOT 20 BLK E OF VACATED PLAT OF UNIT NO 1 EMERALD ISLES AS PER PLAT REC IN PB 4 PG 90; TH N 00 DEG 06 MIN 57 SEC E, ALG E LN SD BLK E; 988.25 FT TO THE S. R/W 69TH AVE W; TH S 89 DEG 52 MIN 01 SEC W, ALG SD S R/W, 503.73 FT TO THE POB; LESS THAT PART INCLUDED IN OR 1603 P 1408

OVERALL BOUNDARY CONTAINS 828,165± SQUARE FEET AND 19.0121± ACRES.

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NOTE:
BE AWARE THIS DRAWING MAY BE PRINTED AT A
REDUCED SIZE. ALWAYS VERIFY CORRECT SCALE.

EX-03

PROJECT # 215610956

EMPLOYEE ASM

DATE April 2 2013

SCALE: 1" = 20'

PLAN: 1" = 20'

PRELIMINARY PLAN
NOT FOR CONSTRUCTION

BOWLEES CREEK PARCEL

BRADENTON, FLORIDA

BUFFER CROSS-SECTION EXHIBIT

PREPARED BY:

Wilson Miller

Stantec

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