

Instrument No:2013042875 12/23/2013 12:29 PM BK:1980 PG:1787 32

RECORDED IN THE OFFICIAL RECORDS OF Gail Wadsworth, Clerk of the Circuit Court & Comptroller Flagler, FL

Prepared By:
Community Development Department
City of Palm Coast
160 Cypress Point Parkway, Suite B-106
Palm Coast, FL 32164

Reserved for Recording Information:

Return To:
City Clerk
City of Palm Coast
160 Cypress Point Parkway, Suite B-106
Palm Coast, FL 32164

CITY OF PALM COAST

Minor Development Order Modification and Reconciliation

Of the MASTER PLAN APPROVAL FOR

DOCKS, FISHING PIER, SHELL PATH AND CONNECTING SINGLE FAMILY FOOTPATHS FOR VILLAGE AT PALM COAST PHASE I

On February 17, 2011, the City of Palm Coast approved the Master Plan for docks, a fishing pier, and shell path for the Village at Palm Coast Phase I Subdivision as recorded in Map Book 33, Pages 1 through 4 of the Public Records of Flagler County, Florida.

On March 1, 2011, a scrivener's error was discovered and amended through the City Clerk's Office on March 3, 2011. The amendment was recorded on March 9, 2011 (Book 1808 Page 384) replacing the incorrect filing within the Master Plan Approval of February 17, 2011.

On March 9, 2012, the City of Palm Coast approved a minor modification to the Master Plan to allow roofs on docks for the Village at Palm Coast Phase I Subdivision as recorded in Map Book 33, Pages 1 through 4 of the Public Records of Flagler County, Florida.

This modification serves to replace instruments (2011005125 and 2012009196) of the Public Records of Flagler County, Florida to reflect the corrections as well as parcels affected.

FINDINGS OF FACT

Affected Properties: **LOTS 1 THROUGH 36 AND PARCELS 'B', 'C', AND 'F' ALL
WITHIN VILLAGE AT PALM COAST PHASE I SUBDIVISION [See
Attached 'Exhibit A' for legal descriptions of all affected
properties]**

BK: 1980 PG: 1788

Applicant: VILLAGE AT PALM COAST HOMEOWNERS ASSOC.
1 FLORIDA PARK DRIVE, SUITE 204
PALM COAST, FL 32137

Project Name: VILLAGE AT PALM COAST PHASE 1 / DOCKS, FISHING PIER,
AND SHELL PATH AND CONNECTING SINGLE FAMILY FOOT
PATH

Project No.: 2010020002
Application Type: MASTER PLAN 2nd MODIFICATION & RECONCILIATION
Application No. 2637

Requested Approval: Master Plan 2ND Modification & Reconciliation Approval for the
construction of docks and shell path with connecting pervious
paver paths to contiguous single-family lots on Parcels B, C,
and F and a fishing pier on Common Area "C".

Parcel Acreage: 10.15 acres

Zoning Classification: PSP and PRS

CONCLUSIONS OF LAW

The Approval sought is consistent with the *City of Palm Coast Comprehensive Plan* and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances as set forth in the Code of Ordinances of the City of Palm Coast.

The Owners have expressly agreed to be bound by and subject to the development conditions and commitments stated below and have covenanted and agreed to have such conditions and commitments run with, follow, and perpetually burden the aforescribed property.

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:

- (1) The aforementioned application for Master Plan Approval is **GRANTED**.
- (2) All development of the property shall fully comply with all of the codes and ordinances in effect in the City of Palm Coast at the time of issuance of a development order and/or development permit, including but not limited to, all impact fee ordinances.
- (3) The conditions upon this master plan approval and the commitment made as to this development approval, which have been accepted by and agreed to by the Owner of the property is as follows:
 - a. The docks, fishing pier, and shell path are to be consistent with the approved Master Plan that is attached to this approval as 'Exhibit B'. Roof over docks are allowed as part of this Master Plan approval. The fishing pier is for recreational use only in which the mooring of boats is **prohibited**.
 - b. Owners of lots adjacent to Parcels B, C, and F may apply for a dock permit as an accessory use for their single-family dwelling provided a dwelling unit exists on their platted lot adjacent to the common areas as depicted on the Master Plan. The attached Easement Agreement ('Exhibit C') shall be executed by each property owner desiring a dock and recorded in the public records of Flagler County, Florida. The recorded Easement Agreement must accompany each application for a dock permit. .
 - c. The Habitat Management Plan has been deemed sufficient and is attached to this approval as 'Exhibit D'. The Habitat Management Plan and the conditions therein shall be required for the entire scope of development including, but not limited to,:
 - i. all area west of the shell path will be maintained by the homeowners association and individual lot owners.
 - ii. mechanized equipment intended for maintenance purposes is **prohibited** within the maintained vegetated buffer (MVB) that reduces ground cover greater than 80% or disturbs the intended stormwater filtration function. The MVB is the area that averages 25 feet between the proposed shell path and the Intracoastal Waterway.
 - iii. each owner of Lots 1 through 36 adjacent to Parcel C and Parcel F as well as the property owner for Common Area "C" is responsible for hiring a Qualified Environmental Planner to conduct an updated survey for listed species and rare habitats (sea grass beds) on the property prior to construction / development activities and should relocations be required for the presence of gopher tortoise, shall be permitted by the lot owners for the lots and the associated common areas.
 - iv. the common area associated with each lot is under the control of the Homeowners Association and no development is proposed for this area after the completion of the shell path and connecting pervious paver footpaths from each owner of Lots 1 through 36 adjacent to

BK: 1980 PG: 1790

Parcel C and Parcel F.

d. The construction of docks shall comply with the regulations outlined in the City of Palm Coast Land Development Code and Technical Manual. Docks proposed for construction in the Intracoastal Waterway shall first obtain permits from the Army Corps of Engineers and St. Johns River Water Management District (SJRWMD or District). Specific design standards and dimensions for docks and fishing pier will be addressed during permit review by applicable federal, state, and local permitting agencies.

e. Each individual dock shall have a fire extinguisher that meets City standards and regulations.

f. A roof is permissible for each single boat slip and/or the adjoining platform. The boat dock roof shall be composed of "fern green" tile as approved for all single family residences in the Village at Palm Coast Phase I. The construction shall be a "hip roof" in style and height of the roof shall not be greater than 13 feet above the floor decking of the primary structure. Roof specifications shall be consistent with exhibits provided in the February 21, 2012 application materials.

g. A Site Development Permit is required to be obtained for the shell path. There shall be no disturbance of land until the permit has been issued and a preconstruction meeting has been held on the site. As a means of avoiding excavation of sensitive segments, the Applicant has agreed to creating the shell path above-grade (shell with slope meeting grade), which is a slight change from the plans approved by SJRWMD. However, the engineer of record for this project must submit calculations to SJRWMD meeting the District's satisfaction. If approved by SJRWMD, the change may be picked up at the as-built stage in lieu of altering the permit issued by the District.

h. A Paver Installation Permit is required for each lot owner pursuing the connection of a pervious paver path connection to the shell path as an accessory use for their single-family dwelling provided a dwelling unit exists on their platted lot adjacent to the common areas as depicted on the Master Plan. The paver footpath shall not exceed 5 feet in width. A landscape plan shall be provided reflecting the total scope of work within each lot, Parcel B, Parcel C, and Parcel F as applicable. The attached Easement Agreement ('Exhibit E') shall be executed by each property owner desiring a paver path and recorded in the public records of Flagler County, Florida. The recorded Easement Agreement must accompany each application for a paver permit.

(4) This Master Plan Approval touches and concerns the aforescribed property and the conditions, commitments, and provisions of this Master Plan Approval shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or in part by action of the City of Palm Coast by virtue of a document of equal dignity herewith. The Owners have expressly covenanted and agreed to this provision and all other terms and provisions of this Master Plan Approval.

BK: 1980 PG: 1791

(5) The terms and provisions of this Approval are not severable and in the event any portion of this Master Plan Approval shall be found to be invalid or illegal then the entire Development Approval shall be null and void.

(6) Applicable agreements shall be executed prior to permit application submittal.

(7) All required federal, state, county, and/or local permits shall be acquired prior to construction.

Done and Approved on the date first written above.

As approved and authorized for execution by the City of Palm Coast staff, through administrative review.

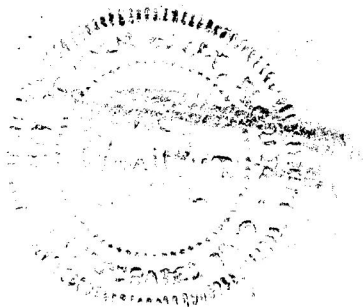
Attest:

City of Palm Coast, Florida

Virginia Smith
City Clerk

Ray Tyner
Ray Tyner, Planning Manager

☐ Sign and Return
☒ Sign and Record



BK: 1980 PG: 1792

Master Plan Approval Affidavit**OWNER'S/APPLICANT'S CONSENT AND COVENANT:**

Project Name: VILLAGE AT PALM COAST PHASE 1 / DOCKS, FISHING PIER, SHELL PATH AND SINGLE FAMILY FOOT PATH
 MASTER PLAN
 Project No.: 2010020002
 Application Type: MASTER PLAN APPROVAL
 Application No.: 1946
 Parcel No.: 05-11-31-5918-00000-00B0; 05-11-31-5918-00000-00C0; 05-11-31-5918-00000-00F0; & 05-11-31-5918-00000-00G0

COMES NOW, VILLAGE AT PALM COAST HOMEOWNER ASSOC., the Owner on behalf of itself and its successors, assigns and transferees of any nature, whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, and conditions, and commitments set forth in this Master Plan Approval. Affiant states that he/she accepts the findings, as outlined in this Master Plan Approval, and further states that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission, or refund for the purpose of securing the said Master Plan Approval for VILLAGE AT PALM COAST PHASE 1 / DOCKS, FISHING PIER, SHELL PATH AND SINGLE FAMILY FOOT PATH.

ATTEST:

VILLAGE AT PALM COAST HOMEOWNER ASSOC.

1 FLORIDA PARK DRIVE, SUITE 204

PALM COAST, FL 32137

 Attesting Corporate Official

 Authorized Signer

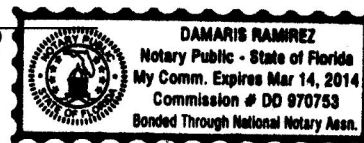
ACKNOWLEDGEMENT

STATE OF Florida
 COUNTY OF Flagler

The foregoing instrument was acknowledged before me this 7th day of November, 2013, by John F. Lodermeick of VILLAGE AT PALM COAST HOMEOWNER ASSOC. who is personally known to me or has produced DL # (type of identification) as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 7th day of November, 2013.

 Notary Public



BK: 1980 PG: 1793

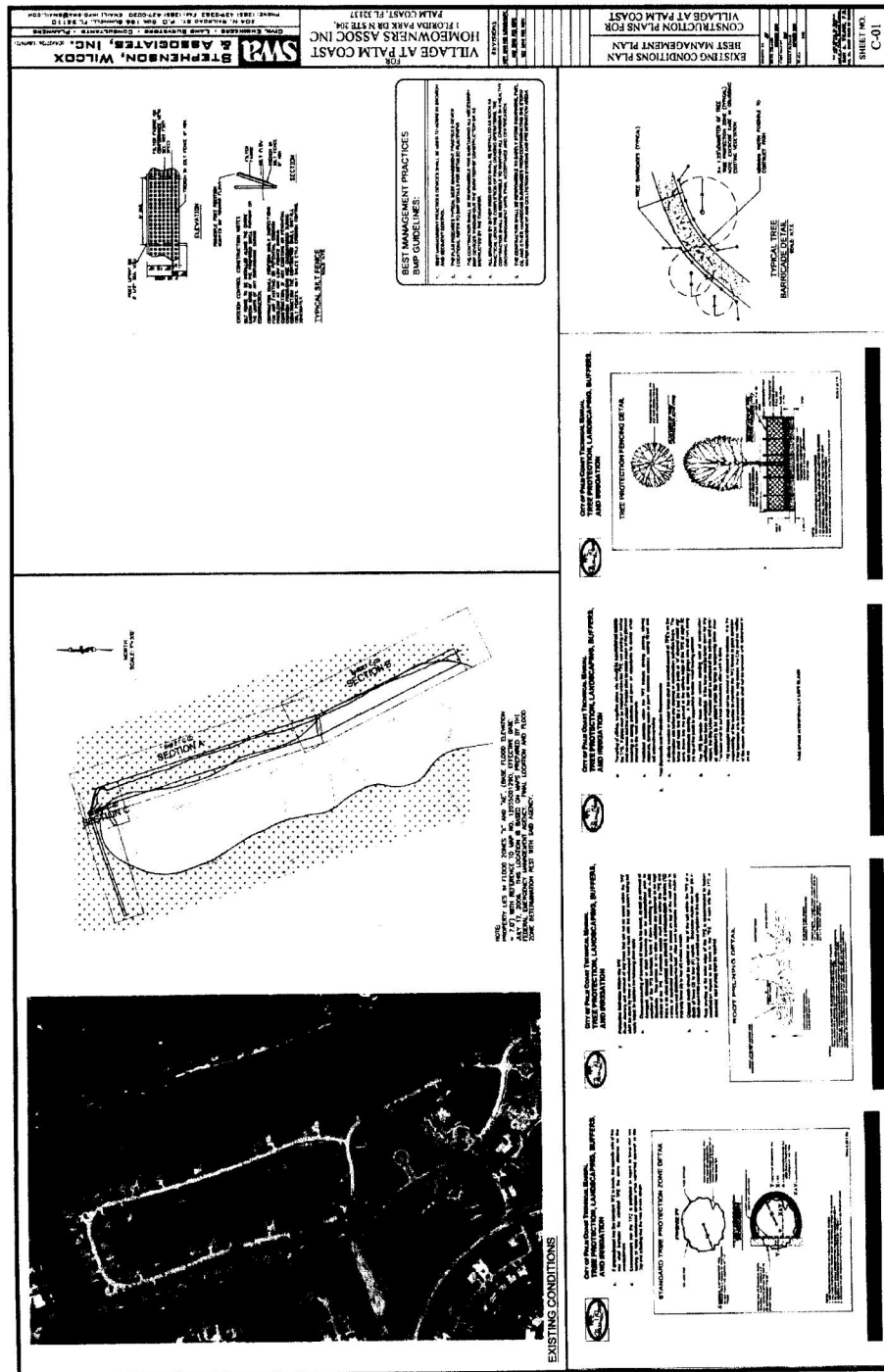
EXHIBIT 'A' (corrected 3-1-2011)
AFFECTED PROPERTIES OF THE MASTER PLAN APPROVAL FOR
DOCKS, FISHING PIER, AND SHELL PATH FOR VILLAGE AT PALM COAST PHASE 1

Village at Palm Coast Phase 1 Subdivision, Lot 1
 - Property Appraiser's ID # 05-11-31-5918-00000-0010
 Village at Palm Coast Phase 1 Subdivision, Lot 2
 - Property Appraiser's ID # 05-11-31-5918-00000-0020
 Village at Palm Coast Phase 1 Subdivision, Lot 3
 - Property Appraiser's ID # 05-11-31-5918-00000-0030
 Village at Palm Coast Phase 1 Subdivision, Lot 4
 - Property Appraiser's ID # 05-11-31-5918-00000-0040
 Village at Palm Coast Phase 1 Subdivision, Lot 5
 - Property Appraiser's ID # 05-11-31-5918-00000-0050
 Village at Palm Coast Phase 1 Subdivision, Lot 6
 - Property Appraiser's ID # 05-11-31-5918-00000-0060
 Village at Palm Coast Phase 1 Subdivision, Lot 7
 - Property Appraiser's ID # 05-11-31-5918-00000-0070
 Village at Palm Coast Phase 1 Subdivision, Lot 8
 - Property Appraiser's ID # 05-11-31-5918-00000-0080
 Village at Palm Coast Phase 1 Subdivision, Lot 9
 - Property Appraiser's ID # 05-11-31-5918-00000-0090
 Village at Palm Coast Phase 1 Subdivision, Lot 10
 - Property Appraiser's ID # 05-11-31-5918-00000-0100
 Village at Palm Coast Phase 1 Subdivision, Lot 11
 - Property Appraiser's ID # 05-11-31-5918-00000-0110
 Village at Palm Coast Phase 1 Subdivision, Lot 12
 - Property Appraiser's ID # 05-11-31-5918-00000-0120
 Village at Palm Coast Phase 1 Subdivision, Lot 13
 - Property Appraiser's ID # 05-11-31-5918-00000-0130
 Village at Palm Coast Phase 1 Subdivision, Lot 14
 - Property Appraiser's ID # 05-11-31-5918-00000-0140
 Village at Palm Coast Phase 1 Subdivision, Lot 15
 - Property Appraiser's ID # 05-11-31-5918-00000-0150
 Village at Palm Coast Phase 1 Subdivision, Lot 16
 - Property Appraiser's ID # 05-11-31-5918-00000-0160
 Village at Palm Coast Phase 1 Subdivision, Lot 17
 - Property Appraiser's ID # 05-11-31-5918-00000-0170
 Village at Palm Coast Phase 1 Subdivision, Lot 18
 - Property Appraiser's ID # 05-11-31-5918-00000-0180
 Village at Palm Coast Phase 1 Subdivision, Lot 19
 - Property Appraiser's ID # 05-11-31-5918-00000-0190
 Village at Palm Coast Phase 1 Subdivision, Lot 20
 - Property Appraiser's ID # 05-11-31-5918-00000-0200
 Village at Palm Coast Phase 1 Subdivision, Lot 21
 - Property Appraiser's ID # 05-11-31-5918-00000-0210
 Village at Palm Coast Phase 1 Subdivision, Lot 22
 - Property Appraiser's ID # 05-11-31-5918-00000-0220
 Village at Palm Coast Phase 1 Subdivision, Lot 23
 - Property Appraiser's ID # 05-11-31-5918-00000-0230
 Village at Palm Coast Phase 1 Subdivision, Lot 24
 - Property Appraiser's ID # 05-11-31-5918-00000-0240

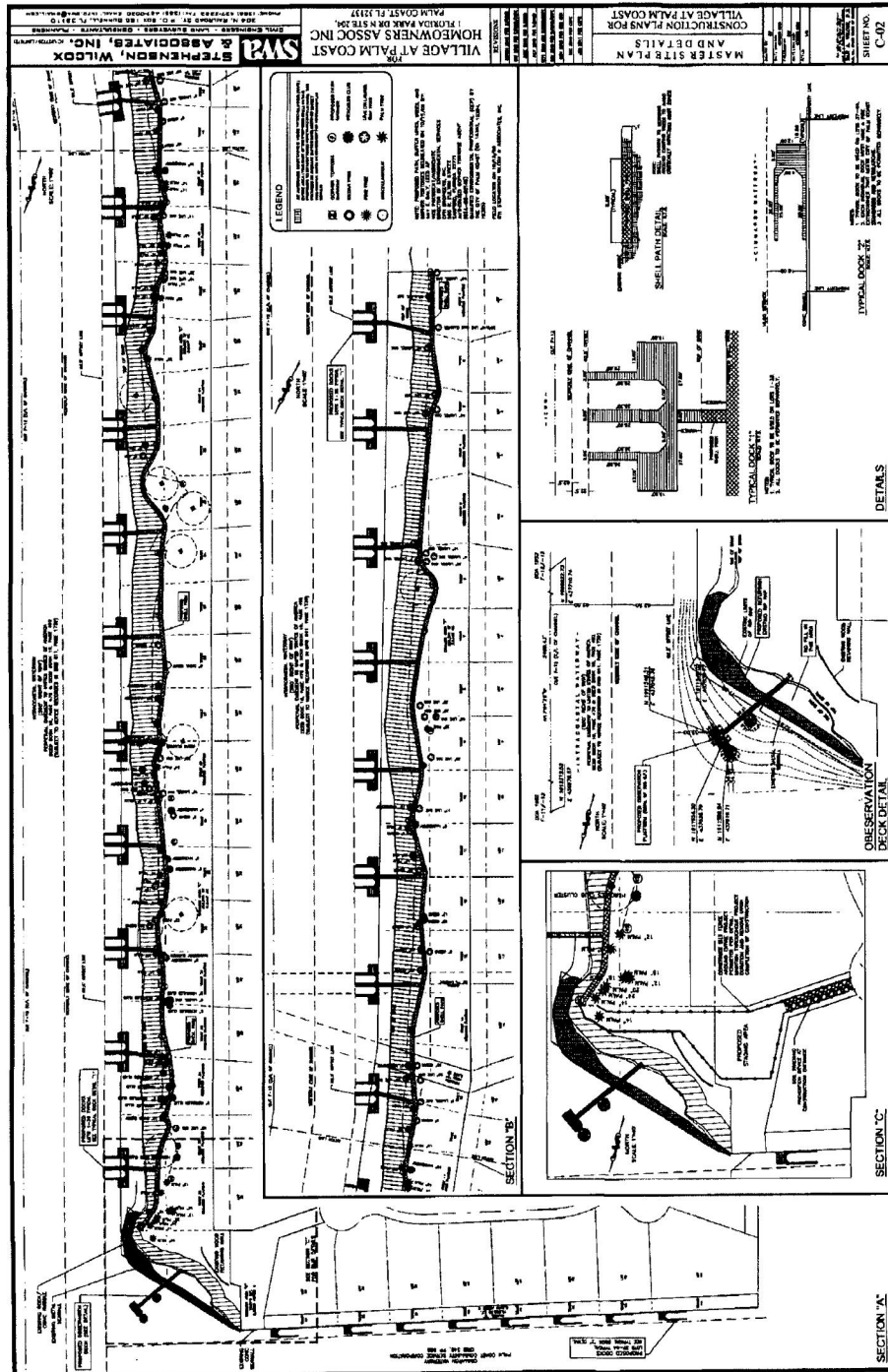
BK: 1980 PG: 1794

Village at Palm Coast Phase 1 Subdivision, Lot 25
 - Property Appraiser's ID # 05-11-31-5918-00000-0250
 Village at Palm Coast Phase 1 Subdivision, Lot 26
 - Property Appraiser's ID # 05-11-31-5918-00000-0260
 Village at Palm Coast Phase 1 Subdivision, Lot 27
 - Property Appraiser's ID # 05-11-31-5918-00000-0270
 Village at Palm Coast Phase 1 Subdivision, Lot 28
 - Property Appraiser's ID # 05-11-31-5918-00000-0280
 Village at Palm Coast Phase 1 Subdivision, Lot 29
 - Property Appraiser's ID # 05-11-31-5918-00000-0290
 Village at Palm Coast Phase 1 Subdivision, Lot 30
 - Property Appraiser's ID # 05-11-31-5918-00000-0300
 Village at Palm Coast Phase 1 Subdivision, Lot 31
 - Property Appraiser's ID # 05-11-31-5918-00000-0310
 Village at Palm Coast Phase 1 Subdivision, Lot 32
 - Property Appraiser's ID # 05-11-31-5918-00000-0320
 Village at Palm Coast Phase 1 Subdivision, Lot 33
 - Property Appraiser's ID # 05-11-31-5918-00000-0330
 Village at Palm Coast Phase 1 Subdivision, Lot 34
 - Property Appraiser's ID # 05-11-31-5918-00000-0340
 Village at Palm Coast Phase 1 Subdivision, Lot 35
 - Property Appraiser's ID # 05-11-31-5918-00000-0350
 Village at Palm Coast Phase 1 Subdivision, Lot 36
 - Property Appraiser's ID # 05-11-31-5918-00000-0360
 Village at Palm Coast Phase 1 Subdivision, Lot 37
 - Property Appraiser's ID # 05-11-31-5918-00000-0370
 Village at Palm Coast Phase 1 Subdivision, Lot 38
 - Property Appraiser's ID # 05-11-31-5918-00000-0380
 Village at Palm Coast Phase 1 Subdivision, Lot 39
 - Property Appraiser's ID # 05-11-31-5918-00000-0390
 Village at Palm Coast Phase 1 Subdivision, Lot 40
 - Property Appraiser's ID # 05-11-31-5918-00000-0400
 Village at Palm Coast Phase 1 Subdivision, Lot 41
 - Property Appraiser's ID # 05-11-31-5918-00000-0410
 Village at Palm Coast Phase 1 Subdivision, Lot 42
 - Property Appraiser's ID # 05-11-31-5918-00000-0420
 Village at Palm Coast Phase 1 Subdivision, Lot 43
 - Property Appraiser's ID # 05-11-31-5918-00000-0430
 Village at Palm Coast Phase 1 Subdivision, Lot 44
 - Property Appraiser's ID # 05-11-31-5918-00000-0440
 Village at Palm Coast Phase 1 Subdivision, Parcel B
 - Property Appraiser's ID # 05-11-31-5918-00000-00B0
 Village at Palm Coast Phase 1 Subdivision, Parcel C
 - Property Appraiser's ID # 05-11-31-5918-00000-00C0
 Village at Palm Coast Phase 1 Subdivision, Parcel F
 - Property Appraiser's ID # 05-11-31-5918-00000-00F0
 Village at Palm Coast Phase 1 Subdivision, Common Area G
 - Property Appraiser's ID # 05-11-31-5918-00000-00G0

Exhibit A (corrected 3-1-2011)
 Master Plan Approval for Village at Palm Coast Phase 1 Docks, Fishing Pier, & Shell Path
 Page 2 of 2



BK: 1980 PG: 1797



BK: 1980 PG: 1798

Exhibit 'C' of Master Plan Approval

After recording return to:
 Village at Palm Coast Homeowners Assoc., Inc.
 Post Office Box 351465
 Palm Coast, Florida 32135

This space reserved for Recording Information:

EASEMENT AGREEMENT

This Easement Agreement is made this ____ day of _____, 20__, between the Village At Palm Coast Homeowners Association, Inc., a Florida corporation, its successors and assigns (hereinafter referred to as the "Association"), whose mailing address is 7 Florida Park Drive North, Suite C, Palm Coast Florida 32137, and _____, its successors and assigns, whose mailing address is _____, (hereinafter referred to as "Owner").

WITNESSETH:

For _____ Dollars (\$0.00) and other good and valuable consideration in hand paid by Owner, the adequacy and receipt of which are hereby acknowledged, the Association hereby grants, bargains and conveys to Owner a non-exclusive perpetual access easement ("Easement"), for the purposes described in this Agreement, under, in, over, across, on, and through the real property located in Flagler County, Florida (Parcel ____) described in Exhibit "A" attached hereto and incorporated herein by reference and hereinafter referred to as "Easement Parcel" that directly adjoins Lot ____, (hereinafter referred to as "Unit"), described in Exhibit "B". The Association and Owner agree as follows:

The Easement Parcel, an easement appurtenant to the Unit, is reserved and granted and shall be a covenant running with the land for the benefit and in favor of Owner (and its heirs successors, successors in title, and assigns and designees) for the Unit, for construction of a dock as an accessory use to the existing home in compliance with the recorded Master Plan Approval for Village at Palm Coast Phase 1 as well as to provide access to any waterway, dock, or riparian right, that is part of, or directly adjoining to the Easement Parcel. By execution of this Easement Agreement, Owner also consents to the Master Plan Approval recorded in O.R. Book ____, Page ____, Public Records of Flagler County, Florida.

Owner covenants for itself, its heirs, successors, successors in title, and assigns and designees that it shall assume all risks associated with the Easement Parcel, along with any waterway, dock, or riparian right, that is part of, or directly adjoining to the Easement Parcel, including, but not limited to, the risk of property damage or personal injury incidental to such activities and shall indemnify and hold harmless the Association, and its affiliates from any liability, claims, or expenses, including attorney's fees, arising from such property damage or personal injury.

Owner covenants for itself, its heirs successors, successors in title, and assigns and designees that it shall carry any and all proper and necessary insurance coverage for any waterway, dock, or riparian right, that is part of, or directly adjoining to the Easement Parcel.

Owner covenants for itself, its heirs successors, successors in title, and assigns and designees that it shall be responsible for full compliance with any and all governing agencies' rules, (including but not limited to the St. Johns River Water Management District, the Army Core of Engineers, Flagler County, the City of Palm Coast, and the Association's Architectural Review Committee), generally; including statutes, ordinances, and rules regarding the use of the Easement Parcel, and any waterway, dock, or riparian right, that is part of, or directly adjoining to the Easement Parcel. Compliance includes not only future compliance, but also ensuring compliance of any existing non-compliance at the date of this agreement. Any non-compliance, no matter when it may be discovered, shall be brought into compliance as soon as possible at the cost of the Owner.

The easement is subject to and subordinate to any and all existing easements on the Easement Parcel. Owner may not interfere with any existing easements over the Easement Parcel.

BK: 1980 PG: 1799

If a permit for a dock that directly adjoins the Easement Parcel is denied only for issues beyond the control of the Owner, the Association will refund, at the request of the Owner, the full amount of the consideration referenced above in this agreement.

/s/ _____
Owner

/s/ _____
John Loudermilk, President
Village At Palm Coast Homeowners Association, Inc.

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by John Loudermilk, President of Village At Palm Coast Homeowners Association, Inc. a Florida corporation, on behalf of the corporation. He is personally known to me and did take an oath.

/s/ _____

(Print Name)
Notary Public, State of Florida
My commission expires _____.

BK: 1980 PG: 1800

Exhibit A

This exhibit provides the legal description of:

1) The Easement Parcel, which is as follows: "Parcel ____"

(Sketch of Easement Parcel on following page)

BK: 1980 PG: 1801

**THIS SPACE INTENTIONALLY LEFT BLANK TO INSERT
SKETCH OF EASEMENT PARCEL**

Village at Palm Coast Phase I Easement Agreement
Page 4 of 5

BK: 1980 PG: 1802

Exhibit B

This exhibit provides the legal description of:

1) The property being granted an easement appurtenant to the Unit, that is reserved and granted and shall be a covenant running with the land which is as follows:

“Lot __, VILLAGE AT PALM COAST PHASE I, according to the plat thereof, recorded in Plat Book 33, Page(s) 1-4 of the Public Records of Flagler County, Florida.”

BK: 1980 PG: 1803

EXHIBIT 'D'**VILLAGE AT PALM COAST PHASE 1
FLAGLER COUNTY, FLORIDA****HABITAT MANAGEMENT PLAN****DECEMBER 2010**

*Engineers
Architects
Planners
Surveyors
Landscape Architects
Traffic/Transportation
Environmental Scientists
Construction Management*

Prepared by:

CPH Engineers, Inc.
500 West Fulton Street
Sanford, Florida 32738

Office: 407-322-6841 / Fax: 407-330-0639

Engineer - CUA 3215 Landscape Architect - LC0000298 Architect - AA26000926 Surveyor - LB7145

BK: 1980 PG: 1804

**VILLAGE AT PALM COAST PHASE 1
HABITAT MANAGEMENT PLAN
TABLE OF CONTENTS**

	<u>Page</u>
1.0 INTRODUCTION.....	1
2.0 EXISTING CONDITIONS	1
3.0 MAINTAINED VEGETATED BUFFER.....	3
4.0 UPLAND LOTS AND COMMON AREA	3
5.0 INTRACOASTAL WATERWAY.....	3
6.0 HABITAT MANAGEMENT BENEFITS	5

APPENDIX A – Maintained Vegetated Buffer, Management and Monitoring Plan

1.0 INTRODUCTION

CPH Engineers, Inc. (CPH), Environmental Services, has prepared this habitat management plan for the Village at Palm Coast Phase 1 site located in Flagler County, Florida. The purpose of this habitat management plan is to meet local, state and federal protection standards for protected flora and fauna through implementation of a development plan that includes the protection of listed species within and adjacent to the Villages at Palm Coast Phase 1 project site. The subject property is located in Section 32, Township 10 South, Range 31 East, Flagler County, Florida.

2.0 EXISTING CONDITIONS

The subject property is located within a partially developed private community known as Tidelands which consists of single family residencies along the intracostal waterway (ICW). The subject area is generally undeveloped land located between the ICW and residential lots and includes a common area owned by the Tideland Homeowners Association. The project area includes portions of the ICW, forested uplands and some open land. The area contains several undeveloped lots and a large common area controlled by the Tideland Homeowners Association. A Protected Species Survey conducted in December 2010 documented the occurrence of gopher tortoise (*Gopherus polyphemus*) burrows located on undeveloped single family lots and within the common area. Manatees (*Trichechus manatus*) were also documented in the immediate vicinity by state and local data bases.

The gopher tortoise is listed as a "Threatened" species by the FFWCC and is protected by state law under Chapter 68A-27, Florida Administrative Code. The manatee is listed as Endangered by the USFWS and the FFWCC. The manatee is protected under the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1631 *et seq.*, the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*, the Florida Manatee Sanctuary Act of 1978, Chapter 68C-22, Florida Administrative Code (F.A.C.) and Florida Chapter 68A, F.A.C. The Florida Fish and Wildlife Conservation Commission (FFWCC) regulate the taking of species listed as endangered, threatened or of special concern and their nests through Rules 68A-27.003, 68A-27.004 and 68A-27.005, Florida Administrative Code. The FFWCC also provides technical assistance to other agencies that have regulatory authority over activities, which may affect fish and wildlife and their habitat.

The project was issued a permit modification by the SJRWMD on December 8, 2010 (40-035-63175-8) establishing a Maintained Vegetated Buffer (MVB) located between a proposed shell walking path and the ICW within the common area. The MVB is located along the eastern landward extent of the development. All area west of the shell path will be maintained by the home owners association and individual lot owners.

A majority of this area is comprised of hardwoods forests with oaks and cabbage palm as the dominant species. Other areas are absent of trees and are composed of mostly grasses and weeds.

3.0 MAINTAINED VEGETATED BUFFER

The MVB is an area that averages 25 feet between the future location of the proposed shell path and the ICW. This habitat is primarily comprised of native upland vegetation suitable for coastal, sandy habitats. In some areas of the MVB restoration activities are required. Areas required to be restored will be done so in accordance with the SJRWMD approved MVB Management and Restoration Plan and plant list (**Appendix A**). The restoration effects will include annual monitoring and reporting to the SJRWMD until the restoration is deemed successful and monitoring requirements are waived by the SJRWMD. Those areas without need of restoration are to be maintained as appropriate habitat through non-mechanical and selective trimming means and when possible the replacement of vegetation with species on the approved planting list.

Gopher tortoises located within the buffer will benefit from the preservation of the MVB through the restoration and maintenance activities. Selective trimming will allow more open spaces for grasses and forbes suitable for foraging. The prohibition of mechanized equipment (recreation or maintenance) provides a measure of safety to the current population. Restored areas will include vegetation typical of those habitats deemed optimal gopher tortoise habitat.

4.0 UPLAND LOTS AND COMMON AREA

Much of the project area is comprised of undeveloped single family lots and their associated common area. These areas are located west of the proposed shell path. The development of these lots will be permitted separately by private individuals and no restrictions can be placed over them by the home owners association. The common area associated with each lot is under the control of the HOA and no development is proposed for this area after the completion of the

proposed shell path. Each lot owner will be responsible for conducting a gopher tortoise survey on their lots prior to development activities and should relocations be required, shall be permitted by the lot owners for the lots and the associated common areas.

5.0 INTRACOASTAL WATERWAY

The Villages at Palm Coast Phase 1 project will allow for future lot owners to apply for permits to build docks on the ICW adjacent to the common area associated with their own single family lot. Lot owners who decide to obtain permits for docks located in the ICW may do so after proper permits are obtained from the ACOE, SJRWMD and the City of Palm Coast. As part of the permit process additional site specific surveys and dock dimensions will be reviewed by the regulatory agencies who will provide comments and guidance to applicants during the review process.

Specific design standards and dimensions will be addressed during dock permit review by the ACOE, SJRWMD and City of Palm Coast. In addition to the details and requirements included in the permits issued by the regulatory agencies during the individual dock permit reviews the following conditions will be required at a minimum for all projects with construction activities located on the ICW for protection of manatees during and after the construction process.

- Construction activities must obtain and post applicable permits from the ACOE, FDEP, SJRWMD and City of Palm as applicable during construction activities.
- All proposed projects must provide updated survey results from a City of Palm Coast Qualified Environmental Professional (QEP) for listed species and rare habitats (sea grass beds) prior to construction activities.
- All projects must use FFWCC approved screens or barriers to prevent manatees from entering the construction zone. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- All projects shall implement a manatee observer with after action reporting. At least one person shall be designated as a manatee observer when in-water work is being performed.

BK: 1980 PG: 1808

That person shall have experience in manatee observation and equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity.

- Movement of a work barge, other associated vessels, or any in-water work shall not be performed after sunset, or before sunrise when the possibility of spotting manatees is negligible.
- All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.
- Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads Caution: Manatee Area must be posted. A second sign measuring at least 8-1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.
- Construction staff shall undergo a pre-construction educational program to familiarize the staff with manatee regulations and proper in-water protocol to prevent harm to manatees.
- A permanent sign measuring at least 8-1/2" by 11" will be placed in a visible location at the entrance of each dock from land which reads Caution: Manatee Area in block print. Typical signs will include a small picture of a manatee but is not required.
- All projects will not be allowed permanent potable or reclaimed water fixtures, cleaning stations.

BK: 1980 PG: 1809

6.0 HABITAT MANAGEMENT BENEFITS

Through the implementation of the habitat management plan for the Village at Palm Coast, Phase 1 the potential harm to listed species will be minimal. The goal is allow residents to develop and enjoy their community while coexisting with the native Florida wildlife through the habitat management standards outlined in this report.

BK: 1980 PG: 1810



Environmental Team
500 West Fulton Street
Sanford, Florida 32771

APPENDIX A

Maintained Vegetated Buffer Management and Monitoring Plan

**Village at Palm Coast Phase 1
Habitat Management Plan
Flagler County**

MAINTAINED VEGETATED BUFFER (MVB) MANAGEMENT AND MONITORING PLAN

Tracts within the proposed Maintained Vegetated Buffer (MVB) that require restoration will be required to be managed and monitored to ensure survival of the restored buffer. Each tract will be restored with plants from the approved plant list with no less than 80% cover at the time of restoration activities.

Monitoring of the restored tracts shall be conducted twice annually, once in the wet season (August – September) and once in the dry season (March- April). Annual reports will be provided to the SJRWMD after the wet season monitoring event. Monitoring and reporting shall occur no less than 5 years from the end of restoration activities. If the restoration activities have met success criteria after 5 years the SJRWMD will not require further monitoring.

Success Criteria

The restoration activities shall be considered a success when at least 80% of planted vegetation has survived and are showing signs of normal annual growth, based upon standard growth parameters and at least 80% of the restoration area is under vegetative cover.

Monitoring Methodology

Monitoring shall be conducted twice annually and shall include photostations and percent cover determined by 1-meter square quadrats located in each tract with restoration activities. Each tract shall have a permanent photostation located along the shell path, west of the restoration area. Photos will be taken in a manner to include the entire MVB within the tract. Photographs shall be taken for visual aid to determine vegetative composition, cover and growth. A minimum of 5 1-meter plots shall be located within the restoration area of each tract to determine the percent cover and composition of ground cover species. Each plot shall be permanently marked in the field.

Maintenance

The MVB will be maintained by the applicant. If at any time the percent cover of vegetation fall below 80% for any given tract the applicant will install vegetation from the approved list. Regular trimming and cutting of woody shrubs, vines, grasses and other ground cover vegetation shall be allowed provided that the work is done by hand and hand tools. No mechanical tools such as mowers, chainsaws, backhoes etc. are permitted for regular maintenance. Artificial irrigation is prohibited except as required to establish installed vegetation. No fertilizers or herbicides shall be used within the MVB.

Annual Reports

Annual reports will be submitted to the SJRWMD in October annually until the project is released from monitoring requirements. Annual reports will include at a minimum, a summary of restoration activities, maintenance, mortality rate of planted vegetation, percent cover of desirable vegetative species, recommendations and photographs

BK: 1980 PG: 1812

depicting each tract. In the case of mortality rates greater than 50% of planted vegetation a remediation plan will be included with the recommendations.

Annual reports will include a map of each restored lot that will include at a minimum, the location of the sample plots, limits of restoration activities.

BK: 1980 PG: 1813

Plants Approved for Restoration Work within the Maintained Vegetative Buffer**Trees**

Live oak (*Quercus virginiana*)
 Laurel oak (*Quercus laurifolia*)
 Turkey Oak (*Quercus laevis*)
 Red cedar (*Juniperus virginiana*)
 Cabbage palm (*Sabal palmetto*)
 Yaupon holly (*Ilex vomitoria*)
 Dahoon holly (*Ilex cassine*)
 Slash pine (*Pinus elliotii*)
 Longleaf pine (*Pinus palustris*)
 Sweet gum (*Liquidambar styraciflua*)
 Red maple (*Acer rubrum*)
 Magnolia (*Magnolia virginiana*)
 Sugarberry (*Celtis laevigata*)

Shrubs

Saw palmetto (*Serenoa repens*)
 Wax myrtle (*Myrica cerifera*)
 Fetterbush (*Lyonia lucida*)
 Blueberry (*Vaccinium* sp.)
 Broomsedge (*Andropogon* sp.)
 Blackberry (*Rubus* sp.)

Groundcover

Panic grasses (*Panicum* sp.)
 Cordgrass (*Spartina alterniflora*)
 Muhly grass (*Muhlenbergia capillaris*)
 Crown grass (*Paspalum Quadrifolium*)
 Fakahatchee Grass (*Tripsacum dactyloides*)
 Saw grass (*Cladium* sp.)
 Bahiagrass (*Paspalum notatum*)
 Bermuda grass (*Cynodon dactylon*)
 Love grass (*Eragrostis* sp.)
 Prickly pear cactus (*Opuntia* sp.)

BK: 1980 PG: 1814

Exhibit 'E' of Master Plan Approval

After recording return to:
 Village at Palm Coast Homeowners Association, Inc.
 Post Office Box 351465
 Palm Coast, Florida 32135

Reserved for Recording

EASEMENT AGREEMENT

This Easement Agreement is made this ____ day of _____, 20 __, between the Village At Palm Coast Homeowners Association, Inc., a Florida corporation, its successors and assigns (hereinafter referred to as the "Association"), whose mailing address is _____, its successors and assigns, whose mailing address is _____, _____, _____, (hereinafter referred to as "Owner").

WITNESSETH:

For _____ Dollars (\$0.00) and other good and valuable consideration in hand paid by Owner, the adequacy and receipt of which are hereby acknowledged, the Association hereby grants, bargains and conveys to Owner a non-exclusive perpetual access easement ("Easement"), for the purposes described in this Agreement, under, in, over, across, on, and through the real property located in Flagler County, Florida (Parcel _____) described in Exhibit "A" attached hereto and incorporated herein by reference and hereinafter referred to as "Easement Parcel" that directly adjoins Lot _____, (hereinafter referred to as "Unit"), described in Exhibit "B". The Association and Owner agree as follows:

The Easement Parcel, an easement appurtenant to the Unit, is reserved and granted and shall be a covenant running with the land for the benefit and in favor of Owner (and its heirs successors, successors in title, and assigns and designees) for the Unit, for construction of a pervious paver footpath as an accessory use to the existing home in compliance with the recorded Master Plan Approval for Village at Palm Coast Phase 1 as well as to provide access to a shell path, that is part of, or directly adjoining to the Easement Parcel. By execution of this Easement Agreement, owner also consents to the Master Plan Approval recorded in O.R. Book _____, Page _____, Public Records of Flagler County, Florida.

Owner covenants for itself, its heirs, successors, successors in title, and assigns and designees that it shall assume all risks associated with the Easement Parcel, along with any use associated with the footpath, that is part of, or directly adjoin to the Easement Parcel, including, but not limited to, the risk of property damage or personal injury incidental to such activities and shall indemnify and hold harmless the Association, and its affiliates from any liability, claims, or expenses, including attorney's fees, arising from such property damage or personal injury.

Owner covenants for itself, its heirs successors, successors in title, and assigns and designees that it shall carry any and all proper and necessary insurance coverage for a 5-foot wide footpath, that is part of, or directly adjoining to the Easement Parcel.

Owner covenants for itself, its heirs successors, successors in title, and assigns and designees that it shall be responsible for full compliance with any and all governing agencies' rules, (including but not limited to the St. Johns River Water Management District, the Army Corps of Engineers, Flagler County, the City of Palm Coast, and the Association's Architectural Review Committee), generally; including statutes, ordinances, and rules regarding the use of the Easement Parcel, that is part of, or directly adjoining the Easement Parcel. Compliance includes not only future compliance, but also ensuring compliance of any existing non-compliance at the date of this agreement. Any non-compliance, no matter when it may be discovered, shall be brought into compliance as soon as possible at the cost of the Owner.

The easement is subject to and subordinate to any and all existing easements on the Easement Parcel. Owner may not interfere with any existing easements over the Easement Parcel.

BK: 1980 PG: 1815

If a permit for the pervious paver footpath that directly adjoins the Easement Parcel is denied only for issues beyond the control of the Owner, the Association will refund, at the request of the Owner, the full amount of the consideration referenced above in this agreement.

/s/ _____
Owner

/s/ _____
John Loudermilk, President
Village At Palm Coast Homeowners Association, Inc.

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by John Loudermilk, President of Village At Palm Coast Homeowners Association, Inc. a Florida corporation, on behalf of the corporation. He is personally known to me and did take an oath.

/s/ _____

(Print Name)
Notary Public, State of Florida
My commission expires _____.

BK: 1980 PG: 1816

Exhibit A

This exhibit provides the legal description of:

- 1) The Easement Parcel, which is as follows: "Parcel _____"

(Sketch of Easement Parcel on following page)

BK: 1980 PG: 1817

**THIS SPACE INTENTIONALLY LEFT BLANK TO INSERT
SKETCH OF EASEMENT PARCEL**

Villages of Palm Coast Phase I Easement Agreement
4 of 5

BK: 1980 PG: 1818

Exhibit B

This exhibit provides the legal description of:

- 1) The property being granted an easement appurtenant to the Unit, that is reserved and granted and shall be a covenant running with the land which is as follows:

“Lot ____, VILLAGE AT PALM COAST PHASE I, according to the plat thereof, recorded in Plat Book 33, Page(s) 1-4 of the Public Records of Flagler County, Florida.”

Villages of Palm Coast Phase I Easement Agreement
5 of 5