

*Cemetery 215.B
215.P*

AMENDMENT TO AGREEMENT

MICRO FILMED
ROLL.....

THIS AGREEMENT, entered into this 24th day of April, 1973, by and between JOHN S. BOOTH and FRANK E. COWAN, as TRUSTEES of the Bird Bay Village Trust with full power to sell, convey, hypothecate, lease, encumber, mortgage, lien and otherwise deal with said property, herein referred to as "Owners", and to the CITY OF VENICE, a municipal corporation, in the County of Sarasota, Florida, herein referred to as the "City."

WITNESSETH:

WHEREAS, the Owners have, by warranty deed from the Venice Memorial Park, Inc., a Florida Corporation, dated April 12, 1973 and filed on April 16, 1973 in the Office of the Clerk of Courts, Sarasota County in O.R. Book 988, Page 144 et seq., become owners of the herein described property, and successors in interest under the agreement, dated August 21, 1972 of the prior owners with the City and,

WHEREAS, by petition of Valencia Development Corporation, a Florida Corporation, as Owner then, and by agreement of August 21, 1972, with the City, and by City Resolution #363-72, dated August 23, 1972, all of which instruments were filed for record in the Office of the Clerk of Courts, Sarasota County, on October 25, 1972, in O.R. Book 977, Pages 1368 seq., and in O.R. Book 977, Pages 1373 et seq., the property, described therein, was annexed to the City of Venice, for use (except as to the cemetery area) as a planned residential community and,

WHEREAS, the cemetery area, comprising 30 acres, not then a part of the planned residential development, is described as follows:

Commence at the NW Corner of the NE 1/4 of the NE 1/4 of Sec. 7, Twp. 39 S, Rge. 19 E, Sarasota County, Florida; thence N 89 deg. 31' 14" W along the N line of said Sec. 7, a distance of 655.17'; thence N 23 deg. 56' E 86.21; thence

N 66 deg. 04' W 75.81' to the POB; thence N 23 deg. 56' E 303.95' ; thence N 5 deg. 35' W 853.23'; thence N 359.27'; thence W 15.00'; thence S 84 deg. 00' W 430.00'; thence S 69 deg. 30' 40" W, 607.9' to the easterly R/W of Seaboard Coastline Railroad (100' Wide); thence S 11 deg. 57' 40" E, along said R/W, 1208.06' to the northerly R/W of U/S #41; thence S 66 deg. 04' E along said R/W, 475.19'; thence N 23 deg. 56' E 250.00'; thence S 66 deg. 04' E 203.18 ' to the POB and containing 30.00 acres of land; said property being and lying in Sec. 6 & 7, Twp. 39 S, Rge. 19 E, Sarasota County, Florida.

and which parcel appeared as Parcel A on Exhibit (A-2) attached to the agreement of August 21, 1972, and,

WHEREAS, the August 21, 1972 agreement, provided, in Paragraph 11.-(b), entitled, "Reservations and Restrictions" as follows: "It is agreed that upon failure of the Owners, within a reasonable time, to obtain the requisite license for the cemetery, that Parcel A, Exhibit (A-2) be, then, deemed wholly a part of the planned residential community herein; that the master plan be amended by petition and that the Council, then, modify the uses permitted and the density to be allowed thereon, in a manner reasonably related to the overall project density and use." and,

WHEREAS, a reasonable time, has now elapsed, within which the license for the cemetery was to have been obtained, and the Owners having now petitioned the City, pursuant to the terms of the agreement's Paragraph 11-b, and the cemetery being now deemed a part of the planned residential community, and the agreement further requiring, thereupon, that the master plan for the community, as expanded, be amended and that the uses and density to be permitted thereon be redetermined, "in a manner reasonably related to the overall project density and use." and,

WHEREAS, the Owners and the City, by agreement, dated February 15, 1973, filed in O.R. Book 997, Pages 1506 et seq., on April 11, 1973, which filing included the petition and the Resolution of the City Council, annexed to the City of Venice a 19 acre parcel, contiguous to the heretofore annexed Bird Bay Village, and which agreement, of April 11, 1973, amended the agreement of August 21,

1972 and modified the master plan of Lane L. Marshall Associates, dated June 26, 1972, attached thereto as Exhibit A-2, by substituting therefor a revised master plan (designated "site plan"), as prepared by James C. Padgett, A.I.A., dated February 1, 1973, as the basis for development of the extended planned residential community and,

WHEREAS, the Owners have, by warranty deed from Valencia Development Corporation, a Florida Corporation, dated April 12, 1973, and filed on April 16, 1973, in the Office of the Clerk of Courts, Sarasota County, in O.R. Book 998, Page 142 et seq., become owners of all the property comprising the planned residential community now known as, Bird Bay Village and,

WHEREAS, by virtue of these conveyances and by reason of covenants running with the land contained in the agreement with the City, the Owners are in unified control of all the property comprising the planned residential community, known as Bird Bay Village.

NOW THEREFORE, in consideration of the mutual understanding and by mutual agreement of the Owners and the City, the agreements dated August 21, 1972, and February 15, 1973, are amended and modified in the following manner, to-wit:

1. Paragraph 1 "Land Use", is amended by deleting the phrase "Lane L. Marshall and Associates, Land Planners and Consultants, dated, June 26, 1972" and substituting therefor, the following phrase, "James C. Padgett, A.I.A., dated April 13, 1973."
2. Paragraph 11 "Other Reservations and Restrictions" is amended, by deleting, entirely, the sub-paragraphs (a), (b) and (c) and substituting therefor the following sub-paragraphs (a), (b), (c) and (d):
 - (a) It is agreed that Parcel A, Exhibit A-2 comprising 30 acres be and is, a part of the planned residential community. On this basis, the project now comprises 195.6 acres.
 - (b) That the description of the area added herein to the planned residential community, known as Bird Bay Village is as follows:

Commence at the NW corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 7, Twp. 39 S, Rge. 19E, Sarasota County, Florida; thence N 89 deg. 31' 14" W along the N line of said Sec. 7 a distance of 655.17'; thence N 23 deg. 56' E 86.21'; thence N 66 deg. 04' W 75.81' to the POB; thence N 23 deg.

56' E 303.95'; thence N 5 deg. 35' W 853.23';
thence N 359.27'; thence W 15.00'; thence S
84 deg. 00' W 430.00'; thence S 69 deg. 30'
40" W 607.9' to the easterly R/W of Seaboard
Coastline Railroad (100' Wide); thence S 11
deg. 57' 40" E, along said R/W, 1208.06' to
the Northerly R/W of U.S. #41; thence S 66 deg.
04' E along said R/W, 475.19'; thence N 23 deg.
56' E 250.00'; thence S 66 deg. 04' E 203.18'
to the POB and containing 30.00 acres of land
said property being and lying in Sec. 6 & 7,
Twp. 39 S, Rge. 19 E, Sarasota County, Florida.

(c) It is agreed that, of the 30 acres referred to
in subparagraph (a) immediately above, 4 acres,
already zoned B-1 Business, lying along the
Venice By-Pass, be used for business purposes,
and that the remaining 26 acres already zoned
R-3 Residential, be used for residential pur-
poses.

(d) Overall density for living units for the entire
project will be limited to 8.4 units per acre,
and the open space ratio will be a minium of
73%.

3 In all other respects the terms of the agreement of
August 21, 1972, (except as modified by the agreement
dated February 15, 1973) are confirmed and re-adopted
as a part hereof, as though fully set forth herein.

IN WITNESS WHEREOF, the City has caused this instrument to be
executed by its proper officials thereunto duly authorized and
its corporate seal hereunto affixed, and the Owners have hereunto
set their hands and seals the day and year first above mentioned.

CITY OF VENICE, FLORIDA

BY: Thomas W. Humphreys
MAYOR

Attest: [Signature]
City Clerk

OWNERS:
BIRD BAY VILLAGE TRUST

John S. Booth
John S. Booth
As Trustee U/A

Frank E. Cowan
Frank E. Cowan
As Trustee U/A

WITNESSES:

Diane L. McGuane
Kathy Hall
As to Both Trustees

STATE OF FLORIDA)
 : SS
COUNTY OF SARASOTA)

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared THOMAS HUMPHRIS and STEPHEN ALBEE, JR. respectively Mayor and City Clerk of the City of Venice, a municipal corporation in the County of Sarasota, State of Florida, to me personally known, and who executed the foregoing Agreement in the name of and for that corporation, affixing the Corporate Seal of that corporation thereto.

WITNESS my hand and official seal in the County and State last aforesaid this 30th of April, 1973.

Marion S. Mayo
Notary Public, State of Florida at Large
Notary Public, State of Florida at Large
My Commission Expires May 21, 1976
Bonded by U. S. F. & C.

STATE OF FLORIDA)
 : SS
COUNTY OF SARASOTA)

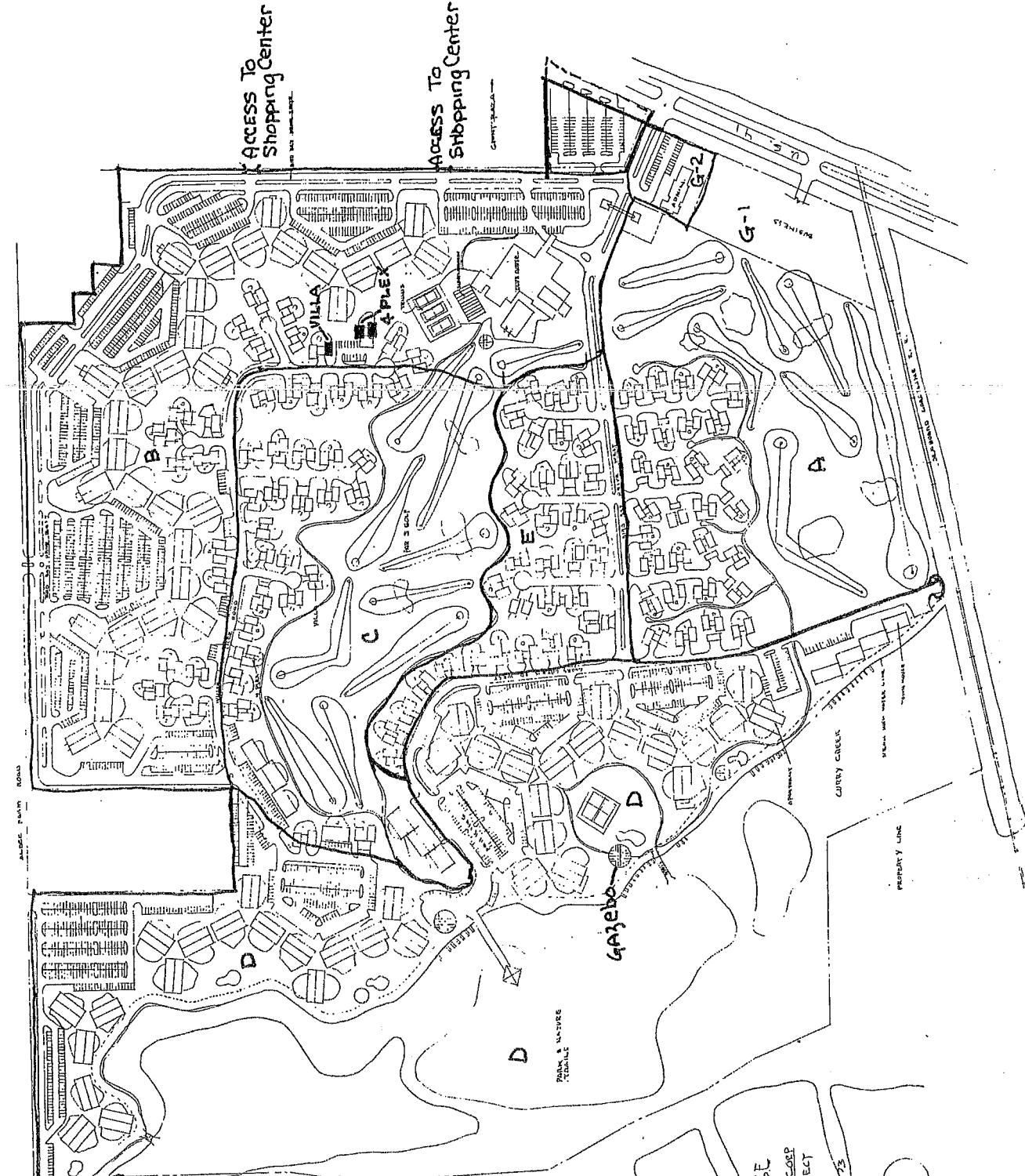
I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgments, personally appeared JOHN S. BOOTH and FRANK E. COWAN, Trustees of Bird Bay Village Trust, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged before me that, they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid. this 24th of April, 1973.

Deane S. McGuire
Notary Public, State of Florida at Large
Notary Public, State of Florida at Large
My Commission Expires Mar. 20, 1976
Bonded by U. S. F. & C.

-My commission expires:

215 B
245.P



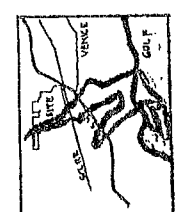
PROJECT: "BIRD BAY" VILLAGE, WILSON COUNTY, TENN.
 DATE: 1973
 DRAWN BY: J.C.P.

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BIRD BAY VILLAGE
 WILSON COUNTY DEVELOPMENT CORP.
 JAMES C. BODGETT, ARCHITECT
 3-1-73



AREA MAP

PETITION FOR INCORPORATION OF CERTAIN PROPERTY, AS PART OF THE PLANNED RESIDENTIAL COMMUNITY, KNOWN AS BIRD BAY VILLAGE IN THE CITY OF VENICE AND FOR MODIFICATION OF THE AGREEMENTS RELATING THERETO:

TO: THE HONORABLE MAYOR AND CITY COUNCIL CITY OF VENICE, FLORIDA

COMES NOW, JOHN S. BOOTH and FRANK E. COWAN, as TRUSTEES, of the Bird Bay Trust with full power to sell, convey, hypothecate, lease, encumber, mortgage, lien and otherwise deal with the property herein described, representing that the following information, including that contained in the attached exhibit is true and correct to the best of their knowledge and belief, and they respectfully request that:

- 1. The boundaries of the planned residential community now known as Bird Bay Village, as established in the annexation agreement, dated August 21, 1972, and as extended by the annexation agreement dated February 15, 1973, now be extended further, so as to include the cemetery area (originally excluded) described as follows:

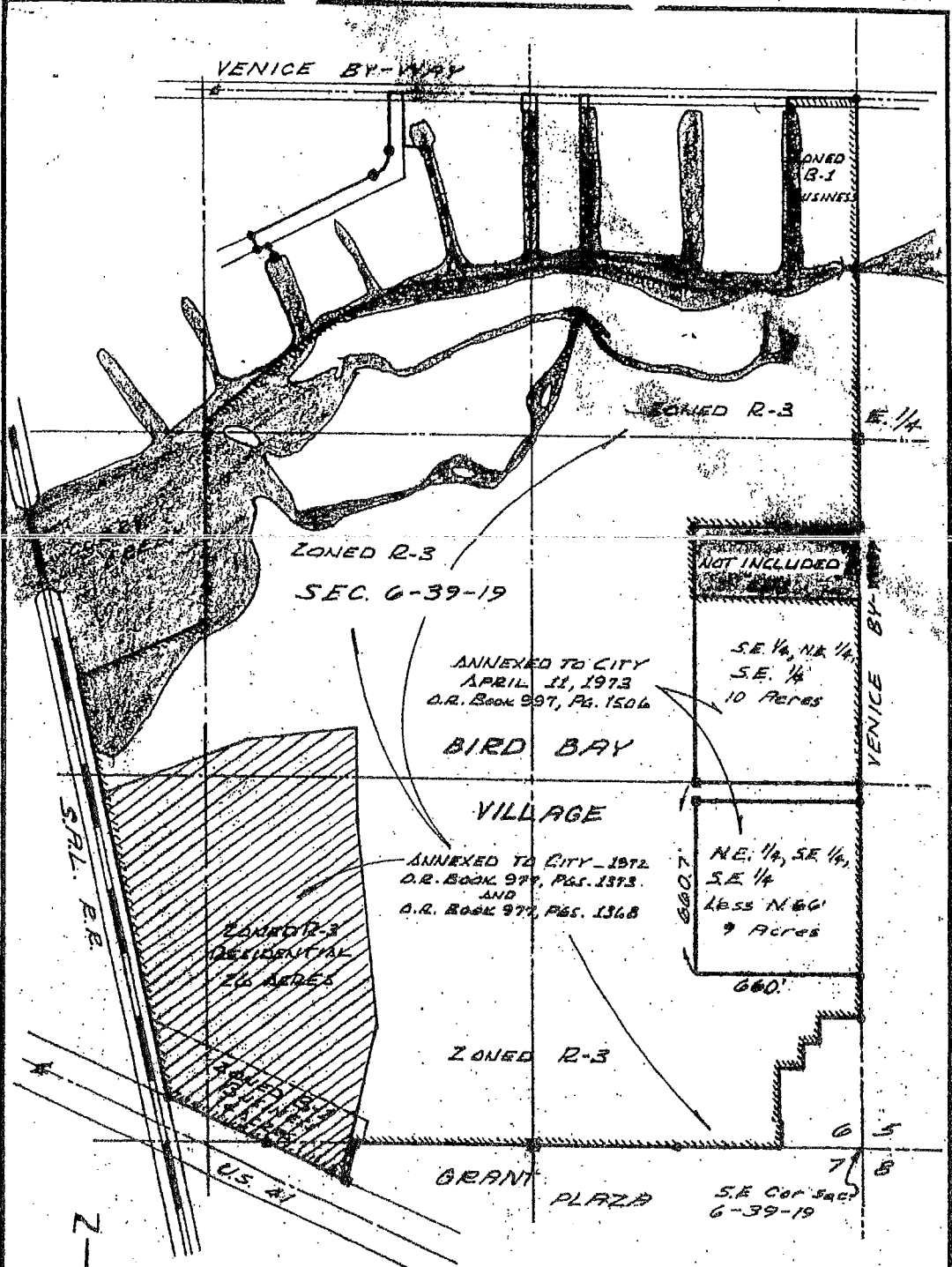
Commence at the NW Corner of the NE 1/4 of the NE 1/4 of Sec. 7, Twp. 39 S, Rge 19 E, Sarasota County, Florida; thence N 89 deg. 31' 14" W along the N line of said Sec. 7, a distance of 655.17'; thence N 23 deg. 56' E 86.21'; thence N 66 deg. 04' W 75.81' to the POB; thence N 23 deg. 56' E 303.95'; thence N 5 deg. 35' W 853.23'; thence N 359.27'; thence W 15.00'; thence S 84 deg. 00' W 430.00'; thence S 69 deg. 30' 40" W 607.9' to the easterly R/W of Seaboard Coastline Railroad (100' Wide); thence S 11 deg. 57' 40" E, along said R/W, 1208.06' to the Northerly R/W of U.S. #41; thence S 66 deg. 04' E along said R/W, 475.19'; thence N 23 deg. 56' E 250.00'; thence S 66 deg. 04' E 203.18' to the POB and containing 30.00 acres of land; said property being and lying in Sec. 6 & 7, Twp. 39 S, Rge. 19 E, Sarasota County, Florida, which deemed wholly a part of the planned residential community.

- 2. The master plan of the planned residential community known as Bird Bay Village, be amended accordingly and the agreements, creating the planned residential community, be modified and amended so as to establish the uses and density permitted within the new addition in a manner reasonably related to the overall project density and use.

3. Exhibit A, attached hereto and made a part hereof shows,

- (a) The boundaries of the planned residential community, as extended,
(b) The extent of the new area added herein,
(c) Indicates the existing zoning categories, and
(d) Dates of OFFICIAL RECORD DATA.

- 4. Title to the property, described herein, is in the names of the petitioners, who own in their names, jointly as Trustees, all the remaining property comprising the planned residential community, now known as Bird Bay Village.



PREVIOUSLY ZONED AND ANNEXED TO CITY OF VENICE - 30 ACRES, ADDED TO BIRD BAY VILLAGE PLANNED RESIDENTIAL COMMUNITY

Scale: 1" = 500'

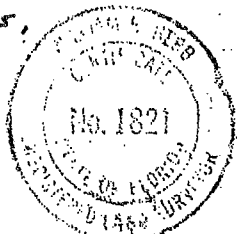
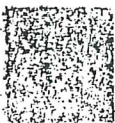


EXHIBIT-A

APRIL 20, 1978

<p>LEGEND: I.P. Iron Pipe C.M. Concrete Monument P.R.M. Permanent Reference Monument P.O.B. Point of Beginning</p>	<p>MEMBER: FLA. SOCIETY OF PROFESSIONAL LAND SURVEYORS MANASOTA CHAPTER OF THE FLA. SOCIETY AMERICAN CONGRESS ON SURVEYING & MAPPING</p> <p>633 EAST VENICE AVENUE MAIL: P. O. BOX 752 VENICE, FLORIDA 33595 PHONE: 488-7759</p>	<p>COBIA & HEBB, INC. PROFESSIONAL LAND SURVEYORS</p> <p>BY: <i>William H. Hebb</i> WILLIAM H. HEBB, LICENSE NO. 1821 ARCHIE B. BROWN, ASSOCIATE</p>
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JAMES C. PADGETT, ARCHITECT
 2051 MAIN STREET • SARASOTA • FLORIDA 33577
 SUITE 113 • TELEPHONE NUMBER 955-8370
 MEMBER OF THE AMERICAN INSTITUTE OF ARCHITECTS

215-B

SUBJECT: "BIRD BAY" SITE DEVELOPMENT PLAN DATA.*
FOR: VALENCIA DEVELOPMENT CORPORATION
DATE: APRIL 13, 1973**

I. GROSS AREA TABULATIONS

A - Residential 188.46 ac. 195.6 ac. (Gross)
 B - Commercial 7.14 ac.

II. % OF GROSS ACREAGE FOR:

ITEM	NO. UNITS	NO. ACRES	% OF GROSS ACREAGE
A - Villas	158	3.98	2.04
B - 4 Plex	128	1.61	.82
C - Townhouses	78	1.07	.55
D - Apartments	1279	10.00	5.11
E -			
F - Clubhouse		1.15	.59
G -			
H - Administration		.14	.07
	1643 du	17.95	9.18 - SUB TOTAL (1)
J - Parking (2:1)	3286	26.40	13.50
K - Roads		8.22	4.20
		34.62	17.70 - SUB TOTAL (2)
L - Open space (gross ac. minus sub totals {1} and {2})		143.03	73.12
		195.60	100.00 - TOTALS

III. GROSS RESIDENTIAL DENSITY = $\frac{1643 \text{ du}}{195.6 \text{ ac.}} = 8.40 \text{ du/ac.}$

Residential Units By August 21, 1972 Agreement 1643
 New Residential Units From Cemetery 30 Ac. + Scheiar 19 Ac. 1437
 Density For New Area = $206 \div 49 \text{ Ac.} = 4.20 \text{ Per Ac.}$ 206
 * As per P.U.D. zoning regulations, Sarasota County, Florida
 Density For New Residential Area = $206 \div 26 \text{ Ac.} = 7.92 \text{ Per Ac.}$
 ** Revised as per new site plan (4/13/73)



April 7, 1973

The Honorable Mayor and Members
of the Venice City Council
City Hall
Venice, Florida 33595

Gentlemen:

You will recall that Bird Bay Village, a planned residential community, was annexed to the City in October, 1972. It was the first Planned Unit Development project in Sarasota County. There is now pending before the Council our request for inclusion within this project, approximately 20 acres, located along Venice By-Way, contiguous to the eastern boundary of Bird Bay. Since no increase in the overall residential units to be constructed was sought, the project density was voluntarily reduced to 8-3/4 per acre. Re-zoning on the new parcel to R-3 was recently approved and completion of the annexation is scheduled for the Council meeting to be held on April 10, 1973.

In the course of preparing the changes in the master plan, so as to accommodate this added area, and also, in the preparation of the subdivision plats and their detail for advance approval of the Council, so as to permit the start of our actual construction, we found that the area designated for the golf course in the original master plan was woefully inadequate, even with the added 20 acres above. Regretfully, we find that our only solution, consistent with our promised objective of making Bird Bay Village "the finest Planned Unit Development in Florida," is to abandon the plans for a cemetery. The cemetery 30 acres is shown on the original master plan, but, by the agreement (paragraph II-A), was excluded from the planned residential community as such. The agreement does provide for the inclusion of this area as part of the Bird Bay community, in the event it is not used as a cemetery.

The Honorable Mayor and Members
of the Venice City Council

April 7, 1973
page 2

215B

It is my purpose in writing this letter, to advise you in advance, of our problem and our proposed solution. Under normal circumstances, where land areas are re-adjusted to changed use requirements, this particular problem would not arise. The difficulty here results from State of Florida requirement of a minimum permitted area for cemeteries, of 30 acres. We had made plans for this bare minimum and now find we must use a part of that. Ergo, we will be unable to meet the cemetery requirements. I need not point out that the usual solution - acquisition of an adjoining parcel - is not available to us. We can only go west and there we are blocked by the Seaboard Coastline RR right of way.

I am therefore, calling to your attentions, that under the provisions of paragraph II-C of our original agreement, dated August 21, 1972, that we, as owners, have failed, "within a reasonable time, to obtain the requisite license for a cemetery," and that, Parcel A, Exhibit A-2 (the cemetery), be "deemed wholly a part of the planned residential community." I further ask that "the master plan be amended by petition and the Council, then, modify the uses permitted and the density to be allowed thereon, in a manner reasonably related to the overall project density and use." I propose further, that this petition be presented for consideration of the Council at its meetings scheduled for April 23rd and 24th, 1973.

In anticipation, a revised master plan of Bird Bay Village, with the cemetery area included as part of the planned residential community, has been prepared, together with a re-computation of overall density and that attributable to the newly added community area. This data will, among other things, demonstrate the following:

1. The addition of 206 residential units within the added area zoned R-3, at a density of less than 8 units per acre.
2. The business use of approximately 4 acres along the By-Pass, already zoned B-1.
3. The reduction overall of density for residential use to less than 8 1/2 units per acre. (10 units per acre permitted by original agreement).
4. Buffering the residential usage from the By-Pass by utilizing the established business use on the highway.

The Honorable Mayor and Members
of the Venice City Council

April 7, 1973
page 3

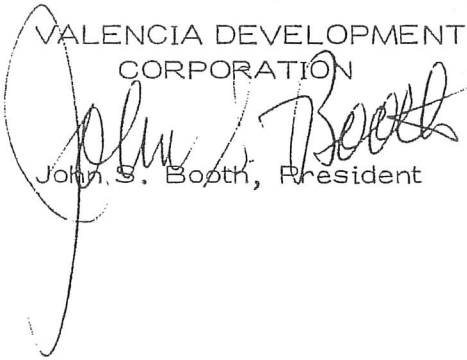
215-B

In my own, and all my associates' considered judgments, the proposal, though sacrificing the cemetery, an admitted community need, will immeasurably improve the Bird Bay Village and its amenities. You may rest assured that we will endeavor to seek an alternative site in the area for a cemetery. Finally, you know we are anxious to get into the construction phase of Bird Bay.

Your prompt action will quicken us to this goal. It is the feeling of all of us, that with your cooperation now, and the prompt establishment of this final master plan, we can avoid bothering you in the future with the amendments that would otherwise be likely.

Respectfully submitted,

VALENCIA DEVELOPMENT
CORPORATION



John S. Booth, President

JSB:w

629 Alhambra Road



Venice, Florida 33595

215-B

A CONDOMINIUM ON THE GULF OF MEXICO

BIRD BAY PROVISIONAL DESIGN DATA

Total Acreage

151

Residential

146.9

Commercial

3.9

Living Units

Units /Acre

Cluster Villas

143.0

3.5

Town Houses

42.0

3.5

4-Plex Units

88.0

4.4

Water Front Apts.

576.0

12.6

Rental Apartments

588.0

21.9

Total

1437

10.0

Open Space

Park Area

53.5 ac.

Par 3 Golf Course

21.4 ac.

General

10.1 ac.

Total

85.0 ac.

56%

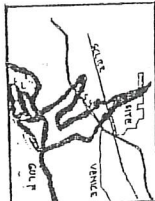
PARKING RATIO UNIT

2 to 1

OCT 25 3 27 PM '72

FILED AND RECORDED
REGISTERED CLERK
SARASOTA COUNTY, FLA.

483394



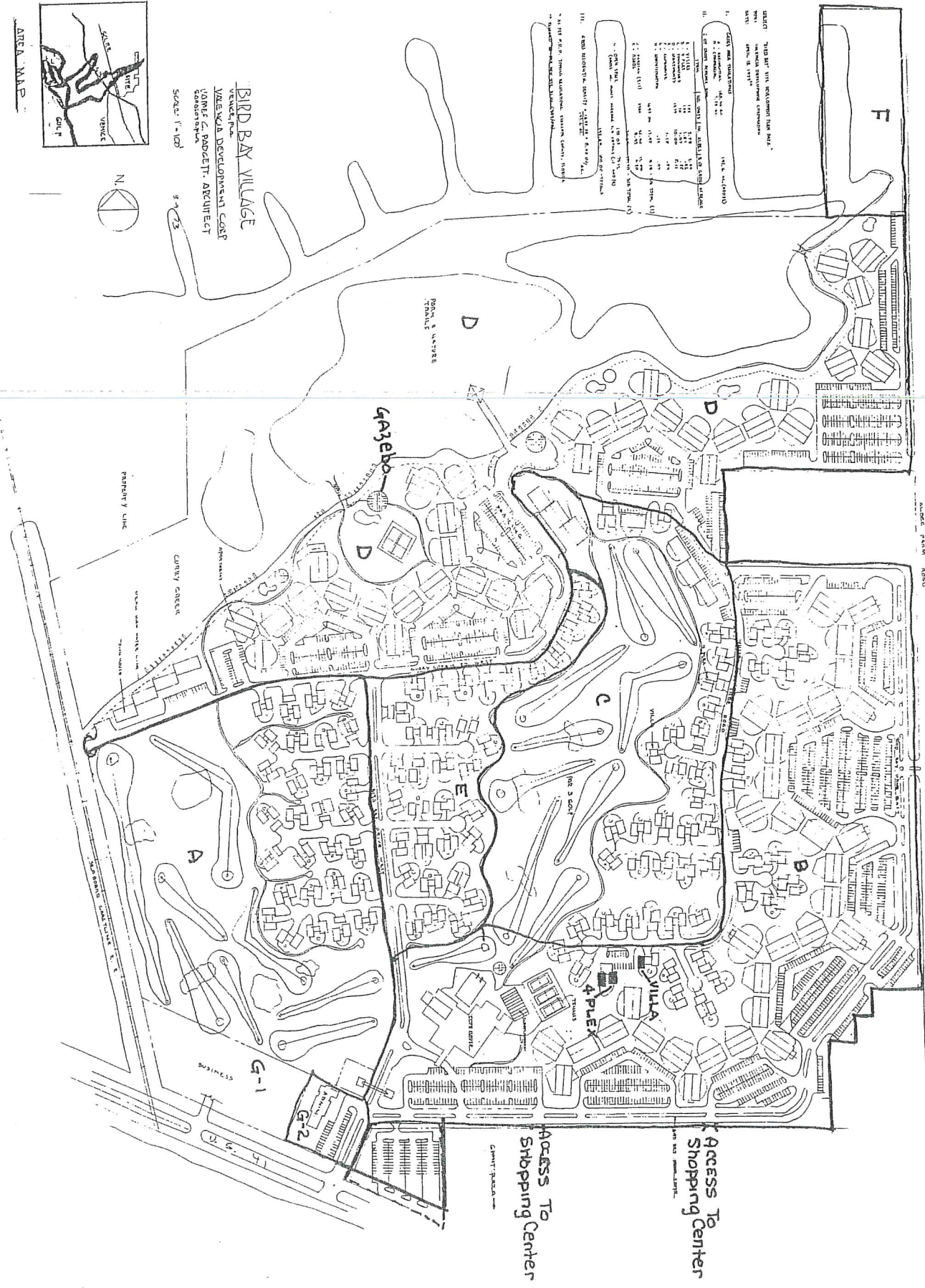
AREA MAP



BIRD BAY VILLAGE
 VILLAGE PLAN
 JAMES W. DEVELOPMENT CORP.
 JOHN F. SPODDETT, ARCHITECT
 CONSTRUCTION

SCALE: 1" = 100'

3-7-73



1. TOTAL AREA: 100.00 AC.

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