

FLAGLER COUNTY RESOLUTION NO. 2000-15

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, APPROVING THE APPLICATION FOR DEVELOPMENT APPROVAL OF MANUFACTURED HOME COMMUNITIES, INC., AND APPROVING THE PLANNED UNIT DEVELOPMENT FOR BULOW PLANTATION, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, on August 26, 1998, a preapplication conference was held regarding a Development of Regional Impact (DRI) and was attended by Manufactured Home Communities, Inc., Gatorland Vistas, Inc. (Applicant) and representatives of: Northeast Florida Regional Planning Council (RPC); Department of Environmental Protection (DEP); St. John's River Water Management District (SJRWMD); Florida Fish and Wildlife Conservation Commission (FWC); Florida Department of Transportation (FDOT); Florida State Parks (Parks); and Flagler County, Florida (County); and

WHEREAS, on June 30, 1999, Applicant submitted to the County and the RPC an Application for Development Approval (ADA) for a DRI known as "Bulow Plantation", in accordance with Section 380.06, Florida Statutes; and

WHEREAS, on October 12, 1999, Applicant responded to a sufficiency request from the RPC for additional information by filing a sufficiency response which supplements said ADA; and

WHEREAS, Bulow Plantation as proposed in the ADA is a planned unit development (PUD) located on approximately 323 acres in the unincorporated area of Flagler County, consisting of a total of 1020 residential units and commercial (including permanent commercial campground facilities), recreational, and other uses; and

WHEREAS, the ADA also constitutes Applicant's application for PUD zoning; and

Inst No: 00005837 Date: 03/15/2000
 SYD CRISBY, FLAGLER County
 BY: [Signature] D.C. Time: 10:55:31

WHEREAS, pursuant to Section 380.031 and 380.06, Florida Statutes, the Board of County Commissioners of Flagler County, Florida, (County), as the local government having jurisdiction, is authorized and required by law to consider the Bulow Plantation DRI ADA; and

WHEREAS, the County has received and reviewed the comments and recommendations of its staff, which recommends approval of the ADA subject to certain conditions; and

WHEREAS, the County has received and reviewed the report and recommendations of the RPC, which recommends approval of the ADA subject to certain conditions; and

WHEREAS, pursuant to Section 380.06, Florida Statutes, notice of a public hearing on the ADA and PUD was published on January 5, 2000, in the Flagler/Palm Coast News/Tribune and was provided to the Florida Department of Community Affairs (DCA), the RPC, and other persons designated by DCA rules; and

WHEREAS, the County on March 6, 2000, held a quasi-judicial public hearing ("the adoption hearing") on the ADA and the proposed PUD at which all parties were afforded the opportunity to present evidence and argument on all issues, conduct cross-examination and submit rebuttal evidence, and any member of the general public requesting to do so was given an opportunity to present written or oral evidence; and

WHEREAS, the County at its public hearing fully considered the ADA, the report of the RPC, the County staff recommendations and the evidence of record presented at the public hearing, and was otherwise fully advised in the premises.

I. NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, THAT SAID BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Applicant is Manufactured Home Communities, Inc., of Chicago, Illinois, and its authorized agent is John Seibel, HCI Box 531-A, Bunnell, Florida, 32110. Applicant may designate a substitute authorized agent by delivering written notice of the substitution to the County.

2. The legal description of the property comprising the proposed Bulow Plantation DRI is as follows: Please see attached Exhibit A

3. When developed in accordance with the conditions imposed by this development order, the Bulow Plantation DRI:

- a. will not have a significant negative impact on the environment and natural and historical resources of the region;
- b. will have a favorable economic impact on the economy of the region by providing new employment and business for the residents of the region;
- c. will efficiently use water, sewer, solid waste disposal, emergency services and other necessary public facilities;
- d. will efficiently use public transportation facilities;
- e. will favorably affect the ability of people to find adequate housing reasonably accessible to their places of employment; and

f. will not create an unreasonable additional demand for, or additional use of, energy, and complies with other criteria for determining regional impact as the RPC has deemed appropriate.

4. The proposed Bulow Plantation DRI is not located in an area of critical state concern designated pursuant to the provisions of Section 380.05, Florida Statutes.

II. BE IT FURTHER RESOLVED THAT THE BOARD MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. The proceedings herein have been conducted in compliance with the provisions of Chapter 380, Florida Statutes, and all conditions precedent to the granting of development approval required by Chapter 380, Florida Statutes, have occurred.

2. The proposed development does not interfere with the achievement of the objectives of any adopted state land development plan applicable to the area as determined by the RPC.

3. The proposed Bulow Plantation DRI and PUD Master Plan, when developed subject to the conditions imposed by this development order and as depicted on attached Exhibit B, is consistent with the Flagler County Comprehensive Plan, subdivision regulations, and other local land development regulations.

4. The proposed development is in all material aspects consistent with the report and recommendations of RPC, dated February 3, 2000 and submitted pursuant to Section 380.06(12), Florida Statutes.

III. BE IT FURTHER RESOLVED THAT THE BOARD HEREBY ORDERS AS FOLLOWS:

1. The ADA and PUD for the Bulow Plantation DRI are hereby approved, subject to the special conditions of development contained in the attached Exhibit C.

2. This development order resolution, together with all attachments hereto, constitutes the development order pursuant to Section 380.06, Florida Statutes, for the Bulow Plantation DRI and PUD. The ADA and sufficiency response filed by the Applicant are incorporated herein by reference, and the proposed development shall be carried out substantially in conformance with the ADA, except to the extent that the ADA and the sufficiency response are inconsistent with the other terms and conditions of this development order. The ADA and sufficiency response are amended by any inconsistent terms of this development order. The County's level of service standards and concurrency management standards shall be met by this DRI.

3. The following development is hereby authorized: Please see the land use table attached as Exhibit D Master and Planned Unit Development Map (Exhibit B).

4. The County Planning and Zoning Director is designated as the local official responsible for receiving and monitoring the annual reports. The procedures for review of Planned Unit Developments under Article III of the Flagler County Development Code and other applicable provisions of the Flagler County Land Development Code shall be followed to facilitate such compliance monitoring by the County Planning and Zoning Director. The provisions of Section 380.06(17), Florida Statutes, shall apply to this development order. Section 380.06(17), Florida Statutes,

currently provides: "The local government issuing the development order is primarily responsible for monitoring the development order. Local governments shall not issue any permits or approvals or provide any extensions of service if the developer fails to act in substantial compliance with the development order."

5. This development order shall take effect upon adoption and shall remain in effect for the duration of the development as described in the ADA as provided in Paragraph 8. below. The effective date of this development order may be extended by the County upon a showing of the Applicant of excusable delay, including market conditions. In no event shall the effective date of the development order be extended by five or more years, except as provided by Section 380.06(19)(c), Florida Statutes.

6. Pursuant to Section 380.06(18), Florida Statutes, and Rule 9J-2.025, Florida Administrative Code, Applicant shall provide an annual monitoring report relating to its activities to the County Planning and Zoning Director, the RPC, and the DCA on July 31 of each year during the term of this development order, commencing on July 31, 2001. The annual report shall contain the following:

a. A description of any proposed changes to be made in the proposed plan of development, phasing, or in the representations contained in the ADA since the DRI received approval, and any actions (substantial deviation or non-substantial deviation determinations) taken by local government to address these proposed changes.

A summary comparison of development activity proposed and actually conducted during the preceding calendar year, and projected for the ensuing calendar year, to include: site improvements; dwelling units constructed; gross floor area constructed by land use type; location; and phases with appropriate maps.

c. An identification by location, size, and buyer of any undeveloped tracts of land in the development that have been sold to a separate entity or developers (other than individual single-family lots), with map(s) which show the parcel(s) or sub-parcel(s) involved.

d. A description of any lands purchased, leased or optioned by the Applicant adjacent to the original DRI site subsequent to issuance of the development order. Such land, its size, and intended use shall be identified on a site plan and map.

e. An assessment of the Applicant's and the County's compliance with conditions of approval contained in the development order and the commitments which are contained in the ADA and which have been identified by the County, the RPC, or the DCA as being significant.

f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year.

g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued.

h. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Applicant pursuant to subsection 380.06(15)(f)1, Florida Statutes.

i. A listing of any significant local, state, and federal permits which have been obtained, applied for, or denied, during this reporting period, and specifying the agency, type of permit, parcel, location(s), and activity for each.

j. A description of any moratorium on development imposed by a regulatory agency, specifying the type of moratorium, duration, cause, and remedy.

k. A synopsis of the operating parameters of the potable water, wastewater, and solid waste facilities serving the development area for the preceding year. A copy of any site or quality/quantity analysis performed by the regulatory agencies shall be included where available, along with any violation notice or enforcement action.

l. A listing as required by the RPC of the deed restrictions and/or covenants that were in place for the preceding year to ensure non-potable sources of irrigation water were utilized for common areas, where feasible.

m. A description of specific construction plans, design criteria, and planting and maintenance programs for the stormwater treatment system prepared and submitted at the time of permitting review.

n. A description of any changes to the previously reported stormwater plans, design criteria, or planting and maintenance programs.

o. Copies of all regulatory permits issued for work within wetlands.

p. Copies of monitoring reports completed during the previous year for the stormwater/wetland systems. (Such monitoring reports shall be submitted in accord with SJRWMD permit conditions.)

q. Traffic reports shall be submitted to the Florida Department of Transportation (FDOT) District Office in DeLand, as well as to Flagler County, the RPC, and to DCA. The first traffic report shall be due at the time of the first annual report, and shall be provided annually until the project is fully occupied. The timing of

recommended traffic improvements will be based on the information contained in traffic monitoring reports. The following information shall be included:

(1) A description of current development by land use, type, location, and amount of commercial square footage, along with the proposed construction schedule for the ensuing 12 month period, and appropriate maps.

(2) An inventory of new and/or improved roadways, traffic control devices or other transportation facility improvements to be constructed or provided by the Applicant or governmental entity to adequately accommodate the total existing and anticipated traffic demands.

(3) Traffic counts, turning movements and levels of service actual for the past 12 months and projected for the ensuing 12 months, including traffic estimates for the following roads and intersections, distinguishing between project-related traffic and total traffic volumes.

- Old Kings Road north and south of the project, including turning movements at project entrance.

- S.R. 100 east and west of Old Kings Road, including turning movements at the S.R. 100/Old Kings Road intersection.

- Old Dixie Highway east and west of Old Kings Road, including turning movements at the Old Dixie Highway/Old Kings Road intersection.

Note: Actual FDOT or Flagler County traffic counts shall be used where possible. If actual FDOT or Flagler County traffic counts are not available for a particular road or intersection, the Applicant shall retain, at its expense, a traffic

engineering firm to collect the necessary counts. FDOT seasonal adjustment factors shall be used when adjusting traffic counts.

r. A table showing the acreage of the Florida Land Use and Cover Classification System (FLUCCS) categories impacted, preserved, or reserved by the development as of the date of the report.

s. A synopsis of the irrigation systems that have been implemented within the project during the period for which the report is filed, with a chart showing the types of irrigation system, areas (acreage) served, parties responsible for maintenance, and estimated gallons per year used by water source.

t. A statement certifying that the RPC, the DCA, the County, and all affected agencies have been sent copies of the annual report in conformance with Subsections 380.06(15) and (18), Florida Statutes.

7. Definitions contained in Chapter 380, Florida Statutes, shall control in the construction of this development order. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order. If the County is a party in any judicial or administrative proceeding to enforce this development order, the Applicant or its successor shall pay the County its reasonable attorneys' fees and costs of such action. The County and the Applicant will assist each other in recovering their respective attorneys' fees and costs from other parties when such fees and costs are authorized by

law or contract. The venue for enforcement of this Development Order shall be in the Circuit Court in and for Flagler County, Florida.

8. The Applicant shall commence physical development of the DRI within one year from the date of recordation of notice of this development order, and shall complete such development within 12 years thereafter, unless extended by amendment of this development order. During the effective period of this DO, the County agrees that the approved DRI shall not be subject to downzoning, unit density reduction or intensity reduction, unless the County can demonstrate substantial changes in the conditions underlying the approval of the development order have occurred, or that the development order was based on substantially inaccurate information provided the developer, or that the changes clearly established by the local government to be essential to the public health, safety or welfare. The development order shall terminate as of such completion of development. The commencement and completion dates shall be tolled during any period that the Applicant is prevented from commencing or performing physical development due to state or federal license requirements, moratoria, or judicial or administrative delays beyond the control of the Applicant. Any such tolling shall be subject to Section 380.06(19)(c), Florida Statutes. "Development" as used in this Development Order is defined by Section 380.04, Florida Statutes.

Unless otherwise stated, the Applicant is responsible for the ongoing maintenance of capital facilities or systems described in the special conditions of this development order, and will remain so after the order terminates. However, the Applicant may transfer such responsibilities to County-approved private or governmental entities which assume

such responsibilities and are approved by the Flagler County Board of County Commissioners.

9. The ADA, the Bulow Plantation sufficiency response and the additional information submitted in writing to the RPC and the County by the Applicant during the review period between November 1, 1999 and February 3, 2000, are hereby made part of this development order.

10. Copies of all permit applications associated with the Bulow Plantation DRI shall be submitted to the RPC and Flagler County, for informational purposes, simultaneously with submittal to the appropriate agencies.

11. In the event that any portion or section of this Development Order is determined to be invalid by a court of competent jurisdiction, the remaining portions or sections of this Development Order shall remain in full force and effect. The applicant and County further agree that if any portion or section of this Development Order is determined to be invalid by a court of competent jurisdiction, the applicant and County shall amend the Development Order pursuant to Chapter 380, Florida Statutes, to solely address the portion or section of this Development Order determined to be invalid. During its term, this development order constitutes a land development regulation applicable to the property described in Exhibit A. The term "Applicant" shall include Manufactured Home Communities, Inc. and any successors-in-interest who perform development activity on the property. Any successor or assignee of Gatorland Vistas, Inc., shall be subject to the provisions contained in the Bulow Plantation Development Order issued by Flagler County. Any lease contract or agreement for sale in accordance with this Development Order of those interests by Gatorland Vistas, Inc. for all or any

part of the property subject to this Development Order shall contain a legend substantially in the following form clearly printed or stamped thereon:

THE PROPERTY DESCRIBED HEREIN IS PART OF THE BULOW PLANTATION DEVELOPMENT OF REGIONAL IMPACT AND IS SUBJECT TO A DEVELOPMENT ORDER, NOTICE OF WHICH IS RECORDED IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, WHICH IMPOSES CONDITIONS, RESTRICTIONS AND LIMITATIONS UPON THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY WHICH ARE BINDING UPON EACH SUCCESSOR AND ASSIGN OF GATORLAND VISTAS, INC. THE DEVELOPMENT ORDER DOES NOT CONSTITUTE A LIEN, CLOUD, OR ENCUMBRANCE OF REAL PROPERTY OR CONSTITUTE ACTUAL OR CONSTRUCTIVE NOTICE OF SAME. A COPY OF THE DEVELOPMENT ORDER MAY BE REVIEWED AT THE OFFICE OF THE PLANNING AND ZONING DEPARTMENT, FLAGLER COUNTY, OR AT THE OFFICES OF THE DEPARTMENT OF COMMUNITY AFFAIRS, STATE OF FLORIDA, TALLAHASSEE, FLORIDA.

12. Any proposed change to the development approved by this development order which creates a reasonable likelihood of additional regional impact shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review pursuant to Chapter 380, Florida Statutes.

13. Notice of the adoption of this development order resolution, together with a certified copy of this resolution, shall be recorded by the Applicant in accordance with Section 380.06(15)(f), Florida Statutes. The notice of adoption of this development order shall include a legal description of the property covered by this development order, shall state the unit of local government which adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any modifications may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance.

14. Local ordinances cited in this development order are incorporated herein by reference.

15. The codes, ordinances, statutes and rules cited in and relied upon in this development order shall be those in effect on March 6, 2000. Applicant has elected to be bound by the rules adopted pursuant to Chapters 407 and 373, Florida Statutes, in effect at the date of the Development Order, in accordance with Section 380.06(5)(c), Florida Statutes.

16. Notices required by this development order between the Applicant and the County shall be by certified mail, return receipt requested, and shall be effective upon receipt.

17. The County shall transmit a certified copy of this development order by certified mail to the DCA, the RPC, and the Applicant.

PASSED AND ADOPTED this 6 day of March, 2000.

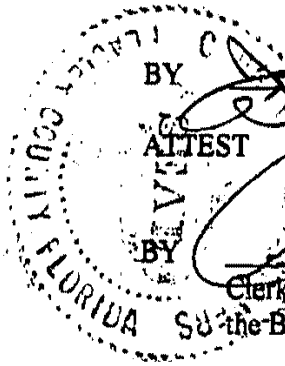
BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

3.14.00

BY [Signature]
Chairman

ATTEST

BY [Signature]
Clerk and Ex Officio Member of
the Board



2/29/00:9

UNOFFICIAL DOCUMENT

APPROVED AS TO FORM

[Signature]

ASSISTANT COUNTY ATTORNEY

KK

LEGAL DESCRIPTION

LOT 4, BULOW GRANT, SECTION 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND SECTION 37, TOWNSHIP 12 SOUTH, RANGE 32 EAST, FLAGLER COUNTY, FLORIDA.











CONTAINING 323.44 ACRES, MORE OR LESS.

UNOFFICIAL DOCUMENT

EXHIBIT A

LEGEND

OFF REC 0687 PAGE 0218

-  EXISTING RESIDENTIAL MEDIUM DENSITY SINGLE FAMILY LOTS
-  PROPOSED RESIDENTIAL MEDIUM DENSITY SINGLE FAMILY LOTS
-  PROPOSED COMMERCIAL PARCEL/ACTIVITY CENTER
-  PROPOSED RECREATIONAL AREAS (OPEN SPACE LANDS)
-  LAKES / CANALS
-  SALTWATER MARSH
-  TRANSPORTATION COLLECTOR ROAD
-  EXISTING ROADWAYS
-  PROPOSED WELL SITES
-  FLOODWAY

20 PROPOSED BOAT DOCK SITES ALONG NEW CANAL SYSTEM

BULOW PLANTATION
323.4± ACRE SITE

UNDEVELOPED LAND

RECREATIONAL/
OPEN SPACE
AREAS (PEDESTRIAN
WALKWAYS, ETC.)

LAKES
(TYP.)

PROPOSED AMENITY/
ACTIVITY CENTER
SITE

EMERG.
ACCESS

EXISTING SEWER
TREATMENT PLANT
AND EXPANSION AREA

BULOW PLANTATION
ENTRANCE

UNION

EMERG.
ACCESS

PROPOSED WELL-
SITE AREA

EXISTING WATER
TREATMENT PLANT
AND 3) EXIST. WELLS

OUT-PARCEL

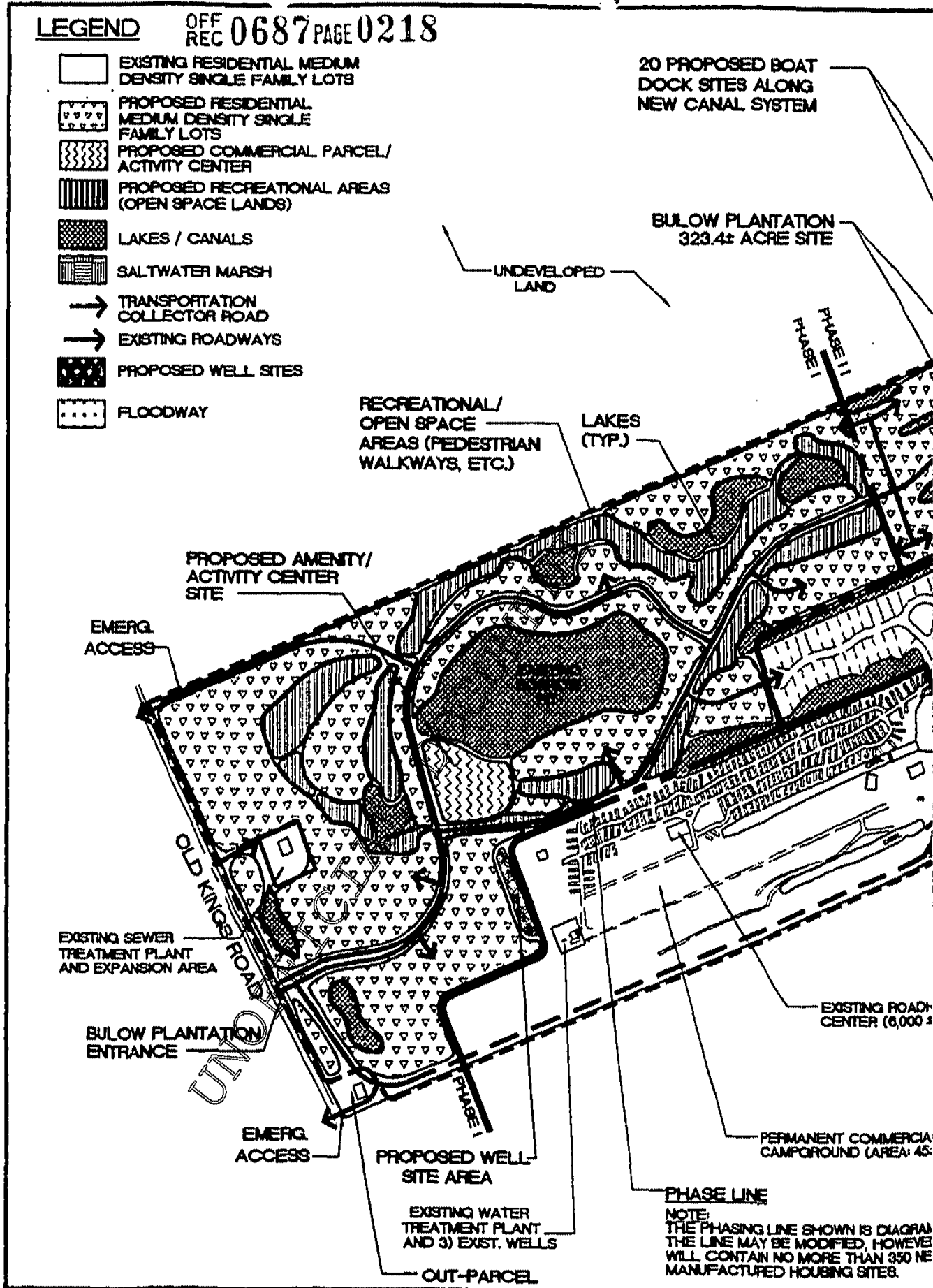
EXISTING ROAD-
CENTER (6,000 ±)

PERMANENT COMMERCIAL
CAMPGROUND (AREA: 45±)

PHASE LINE

NOTE:
THE PHASING LINE SHOWN IS DIAGRAM
THE LINE MAY BE MODIFIED, HOWEVER
WILL CONTAIN NO MORE THAN 350 NE
MANUFACTURED HOUSING SITES.

PHASE I
PHASE II



FLOODWAY AREA

PROPOSED 700± SINGLE FAMILY, MEDIUM DENSITY MANUFACTURED HOME LOTS (190± ACRES)

GENERAL PUD NOTES:

- 1) TOTAL ACRES - 323.4± ACRES
- 2) 1020 RESIDENTIAL UNITS (271± ACRES)
- 3) 45± ACRES COMMERCIAL RV/CAMPGROUND
- 4) COMMERCIAL BUILDINGS (23,000 SF)

OFF REC 0687 PAGE 0219

SALTWATER MARSH/ CONSERVATION AREAS

BULOW CREEK

EXIST. CANALS TO BULOW CREEK

ONE BOAT RAMP (NOTE IF NEW RAMP IS ERECTED THE LOCATION IS TO BE DETERMINED IN THE FIELD AND PERMITTED/APPROVED BY FLAGLER COUNTY AND THE STATE PERMITTING AGENCIES)

AUDUBON WAY
EXIST. ENTRANCE ROAD

EXISTING BULOW VILLAGE MANUFACTURED HOMESITE AREA (133± ACRES) 280± UNITS

EXISTING RECREATION CENTER

EXISTING RESTAURANT

EMERGENCY ACCESS

BULOW RUINS STATE MONUMENT AREA

UNOFFICIAL DOCUMENT

HOUSE/CVIC (SF)

(ACRES)

PHASE I

EXHIBIT B

MASTER PLANNED UNIT DEVELOPMENT MAP (PUD)

**BULOW PLANTATION
FLAGLER COUNTY, FLORIDA**

GATORLAND VISTAS INC.
AN ILLINOIS CORP.

MARCH, 2000

95137PUD

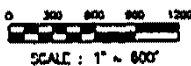


EXHIBIT C

SPECIFIC CONDITIONSA. Vegetation and Wildlife:

1. Within six months from the date of this development order, the developer shall at its option, do one of the following:
 - i) Contribute \$43,330.00 to the Florida Fish and Wildlife Conservation Commission Land Acquisition Trust Fund, Northeast Florida account, to purchase 10 acres of habitat to compensate for the loss of habitat supporting the gopher tortoise and its associated wildlife community, and obtain the necessary gopher tortoise permit(s) from the FFWCC, or
 - ii) Purchase an outparcel of gopher tortoise habitat contiguous with existing state owned conservation land and transfer unencumbered title to the lead land management agency and obtain the necessary gopher tortoise permit(s) from the FFWCC, or
 - iii) Some combination of options i and ii above approved by the FFWCC.

(NEFRPC SRPP Policy 4.4.1, Policy 4.4.2, Policy 4.4.6)

2. A Manatee Protection Plan shall be developed for the project. This plan shall include strategies to prevent manatee impacts during and after construction. A manatee education program shall also be developed and incorporated into the Manatee Protection Plan that includes the distribution of manatee educational materials and the posting of educational signs, with special emphasis given to information describing what boaters can do to minimize adversely impacting manatees in Bulow Creek. The applicant will submit the Manatee Protection Plan to FDEP, FFWCC, and Flagler County for review and approval.

(NEFRPC SRPP Policy 4.5.11)

3. Currently, there are 26 existing docks out of the potential 167 canal front lots with access to Bulow Creek. To minimize the increase in boat traffic, the number of new home sites allowed to apply for dock permits shall be limited to a maximum of 20 new sites selected for potential dock construction. Dock size shall be limited to no more than 150 square feet over water and shall not extend more than 5' over the water to assure safe navigability of the canal. No other boat docking structures shall be constructed, unless the applicant conducts a study to be approved by

FDEP, FFWCC, and Flagler County, which indicates that additional docks will not result in additional regional impacts to water quality and endangered species. This limitation shall be enforced by requiring the developer to record a perpetual conservation easement(s) within the permanent Flagler County public records, and enact appropriate lot deed restrictions and/or covenants that run with the land. The dock limitations shall further be depicted on all approved development plans, and clearly publicized to all existing and future lot owners.

4. Limit the development to one boat ramp for the property.

(NEFRPC SRPP Policy 4.5.11, Policy 4.5.8, Policy 4.3.8)

5. Osprey nests will be protected by appropriate methodologies during construction and preserved as part of the finished development. If it is determined necessary to move or take down the Osprey nests, the applicant must apply for a permit(s) from the FFWCC. The Osprey nest site replacement plan shall provide for the installation of at least one Osprey nesting platform within suitable undisturbed Bulow Plantation areas for each existing Osprey nest proposed for removal. All construction activities occurring within 500 feet of an Osprey nest shall take place during the non-nesting season of September through February.

(NEFRPC SRPP Policy 4.4.1)

B. Wetlands:

6. To provide maximum protection to Bulow Creek as well as protect the salt marsh system, a minimum buffer of 50-feet with an average of 75-feet will be provided. This buffer shall begin at the jurisdictional wetland line and proceed landward. The wetlands preserved within this buffer will be preserved through a conservation easement. Any isolated wetlands onsite shall be provided a 25 foot buffer. All buffer areas should be maintained in a natural vegetation state, including under and over story, with the exception of one boardwalk. The applicant has agreed that the boardwalk will be constructed per FDEP guidelines that allow for construction with only temporary impacts. Due to the size of the shoreline associated with the project, in order to minimize impacts in the wetland area, the number of boardwalks will be limited to one (1) boardwalk for this project. This boardwalk can be used as a canoe launch and/or for non-motorized boat launching and must be equipped with handrails to prevent the docking of motorized boats.

(NEFRPC SRPP Policy 4.5.8, Policy 4.3.1, Policy 4.3.2)

C. Water:

7. The applicant has stated that the five (5) on-site canals do not offer adequate vegetative cover or habitat for wetland dependent species, but do provide a direct connection to the Outstanding Florida Waters of Bulow Creek. To protect the water quality of Bulow Creek, a Natural Resource of Regional Significance, a minimum 25-foot upland buffer shall be established for lands adjacent to the canals. The minimum upland buffer shall be 25-feet landward of the top of bank. The applicant will post signs to educate residents that shall include language identifying this buffer. The developer and/or property management shall be responsible for maintaining this 25-foot buffer to insure buffer preservation and to limit impacts.

(NEFRPC SRPP Policy 4.3.1, Policy 4.3.2)

8. The lots adjacent to canals shall be graded to prevent untreated stormwater from entering the canal system and eventually Bulow Creek. The use of on-site stormwater ponds will be designed as to direct stormwater runoff to prevent water quality degradation and shall meet all local, state, and federal requirements for stormwater treatment and water quality standards.

(NEFRPC SRPP Policy 4.3.1, Policy 4.1.3, Policy 4.1.8)

9. A Construction Best Management Practices Plan shall be developed for the site. This plan shall include strategies for sedimentation control including: a double row of silt screening on all lands adjacent to surface waters or wetlands; several lines of silt barriers in the canals; daily monitoring, recording, and preparing of control devices; along with standard strategies that are included in Chapter 6 of the "Florida Development Manual: A Guide to Sound Land and Water Management." This plan must be approved by the FDEP, Northeast District Office, prior to the initiation of construction.

(NEFRPC SRPP Policy 4.1.3, Policy 4.3.8)

D. Floodplains:

10. The applicant shall not develop manufactured home sites, but may develop recreation and open space amenities, within the floodway. Any development within the 100-year floodplain shall have the first finished floor elevated to a minimum height of 8 feet NGVD 1929 Datum. The developer should elevate roadways and provide compensatory storage as in accordance with appropriate permitting agency.

(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.7.3)

E. Water Supply:

11. The necessary permit(s) to construct the water mains and distribution system for this project and to expand the plant capacity shall be obtained from the FDEP prior to occupancy of Phase I. Development shall occur concurrent with the provision of adequate central potable water service meeting the adopted level of service in the Flagler County Comprehensive Plan.

(NEFRPC SRPP Policy 4.2.5, Policy 4.2.6)

12. Water conservation strategies, including xeriscape landscape techniques and low flow plumbing fixtures, shall be incorporated into the construction, operation, and maintenance phases of the development, and shall be included into the covenants and deed restrictions. The conservation strategies must include, but are not limited to, the following conditions:
 1. The applicant shall commit to utilizing 50% native/drought-tolerant/Xeriscape vegetation in all common landscaped areas.
 2. As the applicant has previously committed, the development will provide Xeriscape/drought-tolerant literature to all residents.
 3. The applicant will utilize only slow-release/organic fertilizers within developer-maintained areas.
 4. Surface water from on-site stormwater ponds shall be used as the primary source for irrigation and the shallow wells will be used only as emergency back-ups.

(NEFRPC SRPP Policy 4.2.1, Policy 4.2.11)

F. Wastewater Management:

13. The necessary wastewater treatment permit(s) needed to expand the plant to handle the additional wastewater treatment needs of this project shall be obtained from the FDEP prior to occupancy of Phase I. Development shall occur concurrent with the provision of adequate central sewer service meeting the adopted level of service in the Flagler County Comprehensive Plan. Expansion of wastewater treatment plant shall be limited to the existing geographic location. No movement of percolation ponds or spray irrigation may occur any further eastward toward Bulow Creek than as they existed on March 6, 2000.

(NEFRPC SRPP Policy 4.2.5)

G. Stormwater Management:

14. The applicant must prepare a pre-development monitoring report for the canals, Bulow Creek and stormwater ponds (after completion). The water quality monitoring report shall be included with the submittal of the Annual Report. These reports should include the recorded levels of total nitrogen, total phosphorus, and BOD. If these reports indicate a decline in water quality below the Florida Water Quality standards in the related water bodies, the developer must to identify likely sources and to provide beneficial remedies (such as decreasing fertilizer use, improved stormwater treatment, improved wastewater treatment).

(NEFRPC SRPP Policy 4.1.1, Policy 4.1.2, Policy 4.3.5)

H. Transportation:

15. Prior to the occupancy of greater than 375 dwelling units in the expanded area of the development, the applicant shall provide the NEFRPC, DCA, and Flagler County with a trip generation analysis of the existing occupied development to confirm the trip generation rates used in the analysis, and an analysis of the operating conditions of Old Kings Road. If the transportation reviewing agencies determine that the trip generation rate used in this analysis should be modified to better represent project traffic impacts, the applicant shall prepare a traffic study, to be reviewed and approved by the reviewing agencies, which indicates whether there are substantial impacts from the project. If necessary, the DO will be amended to include transportation conditions to address any substantial impacts to regionally significant facilities.

1. Applicant shall dedicate an additional ten (10) feet of right of way for possible future widening of Old Kings Road or construction of a county bicycle path system.
2. Prior to any development within Phase II, a traffic impact analysis of the existing development plus projected Phase II traffic and associated impacts should be conducted. The traffic impact analysis should identify the following.
 - a.) Additional or modified turn lane requirements at Old Kings Road entrance;
 - b.) Need for intersection traffic signalization at the project entrance on Old Kings Road;
 - c.) Total traffic impacts on the capacity of Old Kings Road. If Old Kings requires additional traffic lanes and/or signal improvements the developer shall contribute their proportionate share toward the total cost. The proportionate share will be determined as a percentage of the total traffic volume generated from Bulow Plantation.

Bulow Plantation includes both the existing and new development approved under this development.

3. Developer shall provide additional means of ingress and egress for emergency access. The emergency access depicted on the proposed Master plan (Map H) is acceptable provided the roadways are stabilized and can accommodate a structural use fire apparatus.

(NEFRPC SRPP Policy 5.2.1)

I. Air Quality:

16. The following fugitive dust control measures shall be undertaken during all construction activities throughout buildout of the project:

1. Contractors will moisten soil or use resinous adhesives on barren areas, which shall include, at a minimum, all roads, parking lots, and material stockpiles;
2. Contractors will use mulch, liquid resinous adhesives with hydro-seeding or sod on all landscape areas;
3. Contractors will remove soil and other dust-generating material deposited on paved streets by vehicular traffic, earth moving equipment, or soil erosion;
4. Contractors will utilize the best operating practices in conjunction with any burning resulting from land clearing, which may include the use of air curtain incinerators.

J. Hurricane Preparedness:

17. To mitigate impacts within Category 1 or 2 storm surge zones, development of all structures within Category 1 or 2 storm surge zones as shown in the Northeast Florida Hurricane Storm Surge Atlas Volume 4 shall have the first finished floor elevated to a minimum height of 8 feet NGVD 1929 Datum.

(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6)

18. The County shall designate the entire development as a portion of the Category 1 evacuation zone.

(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6)

19. When developed, the clubhouse will be built to shelter standards as shown in the American Red Cross Guidelines for Shelter Selection (ARC 4496). The structure shall be large enough, based on the guidelines, to shelter at least 25% of the estimated development population. The structure will be available for use as a shelter for development residents when ordered to evacuate their homes by the County authorities during non-hurricane events.

(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6)

20. All residents of this development shall be provided with information regarding the vulnerability of the development to the impacts of hurricanes. The Flagler County Emergency Management Office must approve these materials prior to distribution. This information shall take the form of educational materials designed to increase evacuation participation.

(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6, Policy 3.8.3)

UNOFFICIAL DOCUMENT

K. Applicant Commitments:

The applicant has committed within the ADA and sufficiency response to the following conditions to mitigate the adverse impacts associated with the Bulow Plantation Development of Regional Impact.

1. The developer has agreed to limit the type of outboard engine to be used in the waterways, to reduce leakage.
2. The applicant has committed to using the on-site stormwater lakes as the primary source of non-potable water supplies (irrigation and fire demand) with the shallow wells used as a secondary source.
3. Building structures will be placed a minimum of one foot above the 100-Year flood elevation or one foot above the highest adjacent road elevation, whichever is highest. The slope of this area will be approximately 1%.
4. The applicant has agreed to implement residential water saving fixtures such as low flow showers and toilets as part of the conservation measures, and to distribute water conservation literature to existing and future residents.
5. The RV resort will not be expanded beyond 350 spaces as part of this development.
6. Relocation efforts for relocating gopher tortoises will follow the guidelines established by the Florida Fish and Wildlife Conservation Commission.
7. The wetlands along Bulow Creek will be placed in conservation by recording a conservation easement with the County and in the PUD agreement.
8. Any boardwalk will be located within existing cuts already within the wetlands and will meet all FDEP standards allowing for construction with only temporary impacts, (including boardwalks at least five feet above mean high water with hand rails) such that shading will not occur, and access will be limited.
9. Best management practices for the protection of wetlands will be utilized, with the use of silt fences and turbidity barriers where necessary.
10. Best management practices will be utilized to develop a plan to prevent adverse impacts to Bulow Creek. This plan may include, but is not limited to, the following measures:

- a. Installation of silt screens along the canals and Bulow Creek during construction.
 - b. Floating turbidity barriers in the canal during construction.
 - c. Grading and construction of stormwater ponds at the initial stage of construction.
 - d. Disturbed areas near the canals and Bulow Creek will be sodded and stabilized upon completion of grading.
11. The developer will pay \$300,000 to be applied toward the purchase of a fire pumper and an Advanced Life Support ambulance. Prior to October 1, 2001 or the occupancy of the fifty-first unit in the new section of the DRI, whichever comes first, the developer will pay the County \$100,000. Prior to the occupancy of the 201st of the expanded units, the developer will pay the second installment of \$100,000 plus interest, and the final installment plus interest shall be due prior to occupancy of the 351st unit in the expanded area. All balances owed as of October 1, 2001 shall accrue interest at the rate of 2% interest per annum.
12. No lot may be sold or conveyed directly or indirectly by the Applicant. The entire parcel as described in Exhibit A must be sold or conveyed in its entirety. Use of corporate structures or stock transfers to lot renters as a form of transfer or sale of singular lots is also prohibited. Finally, the land described in Exhibit A shall not constitute common condominium property.
13. A scale, fully dimensioned map of the street and lot layout for Bulow Plantation, along with all required buffers, conservation easements, recreation areas, bodies of water, commercial or activity center sites, stormwater management areas, lift stations, sewer treatment plants, water treatment or pumping facilities, boat launches and project entrance signs, flood zone and roadway limits, and vacant land remaining to be developed shall be provided to Flagler County prior to beginning development of the first phase. A revised updated map will be provided to Flagler County prior to beginning any subsequent phase of development. Emergency Services Departments and personnel, as requested.
14. Substantial deviation review would be conducted if the development is no longer a 55 year or older community as represented by the applicant in the ADA.

2/24/00:4

Land Use Table Exhibit D

Bulow Plantation permitted principle uses and Buildings**I. Manufactured Housing Area (271 ± Acres)**

1. A total of 1020 leased and Improved Manufactured Housing sites for placement of Manufacturing Homes & Appurtenances.
2. Accessory Buildings and structures including but not limited to the Activity Center/ Shelter, Laundry, Swimming Pool, Pool House, Hot Tub or Spa, Tennis Courts, ShuffleBoard and Bocci Courts and other Recreational Facilities and Buildings.
3. Manufactured Housing Sales Center.

II. Permanent Commercial Campground (45± Acres)

1. 350 improved recreational vehicles spaces.
2. Leasing of campground spaces.
3. Commercial storage of recreational vehicles, boats, motor vehicles, trailers etc.
4. Vending upon receiving county occupational license.
5. Recreational vehicle sales.
6. Accessory Buildings and structures including But not limited to Clubhouse Meeting Hall, Shower and Bathroom Facilities, Laundry, Swimming Pool, pool house, Tennis Courts, Shuffleboard Courts, Picnic Pavilions & other Recreational Facilities.

III. Commercial Area

23,000± square feet of commercial space, including but not limited to Convenience Store, Laundry, Recreational vehicles Sales Restaurant, Bar, Professional office, Storage, Automobile Service Station & Activity Center and Associated parking per use (11,300 SF existing commercial, 12,000 ±SF proposed).

UNOFFICIAL DOCUMENT