

JOINT MEETING OF THE BOARD OF COUNTY COMMISSIONERS AND THE
PLANNING & ZONING COMMISSION

Monday, October 20, 1986

The Board of County Commissioners and the Planning & Zoning Commission of Indian River County met in Special Joint Session at the County Commission Chambers, 1840 25th Street, Vero Beach, Florida, on Monday, October 20, 1986, at 9:00 o'clock A.M.

Present from the Board of County Commissioners were Don C. Scurlock, Jr., Chairman; Patrick B. Lyons, Vice Chairman; Margaret C. Bowman; Richard N. Bird; and William C. Wodtke, Jr.

Present from the Planning & Zoning Commission were John Tippin, Chairman; Ruth Stanbridge, Vice Chairman; Claude C. Kleckner; Daniel Richey; and John Brenner. Absent were Ben F. Bailey, III and Daniel G. Downey, Jr. Also present were Bruce Barkett, Assistant County Attorney; Robert Keating, Director of Planning & Development; and Barbara Bonnah, Deputy Clerk.

The Chairman called the meeting to order.

PUBLIC HEARING - GRAND HARBOR ESTUARINE PLAN, Continued from the
Meeting of October 14, 1986

Commissioner Lyons explained that this meeting was postponed from October 14, 1986, because the Planning & Zoning Commission did not have all the information at their meeting of September 25, 1986, nor did the Board have the time to give the matter the full consideration it deserves.

The Board reviewed the following memo dated September 16, 1986:

(insert)

TO: The Honorable Members of the Board of County Commissioners DATE: September 16, 1986 FILE:

DIVISION HEAD CONCURRENCE:

Robert M. Keating
Robert M. Keating, AICP
Planning & Development Director

SUBJECT: GRAND HARBOR: ESTUARINE
PLAN AND CONCEPTUAL PRD
PLAN APPROVAL

THROUGH: Michael K. Miller
Chief, Current Development MKM

FROM: Stan Boling, Staff Planner
Art Challacombe, Chief
Environmental Planning

REFERENCES: PRD
HARBOR

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at their regular meeting of October 14, 1986.

BACKGROUND AND PROJECT DESCRIPTION:

On October 25, 1985, the Board of County Commissioners issued a development order (D.O.) for the Grand Harbor development of regional impact (D.R.I.) project. The D.O. included an extensive list of conditions that will control many aspects of the development as well as the timing and construction of infrastructure improvements needed to serve the project. The D.O., which is in effect for 20 years, is the controlling document in regards to all development plans within the project. The D.O. may be amended by the County, pursuant to review by the State and regional planning council and state regulations governing D.R.I.'s.

The entire project, located north of 45th Street and south of 53rd Street and the North Relief Canal between U.S. #1 and the Indian River, will consist of a commercial marina/hotel "Harbor Center" area, an office park, a shopping center, and a large residential area consisting of residential units, a golf course, golf and tennis club, and an estuarine/wetlands area. The owner/applicant, Grand Harbor, Inc., is now requesting approval of three items:

1. the Estuarine Plan, as required in condition #8 of the D.O.;
2. an Amendment to D.O. condition #8, to allow a mitigation proposal that is part of the Estuarine Plan; and
3. the Conceptual PRD Plan, which covers the residential portion of the project, including the estuarine system area.

** At their regular meeting of September 25, 1986, the Planning and (see below) Zoning Commission unanimously approved these three items with conditions. The following report and staff recommendation describe and specify conditions of approval.

CONCURRENT REVIEWS

The proposed estuarine plan represents the major design modifications made to the project in response to D.O. conditions and various environmental permitting agencies. In accordance with the D.O., the estuarine plan must be approved prior to conceptual PRD plan approval. Amendment of a D.O. standard is necessary if the estuarine plan is to be approved, to ensure conformance of the estuarine plan with the D.O. The proposed D.O. amendment would allow some encroachment of development into a previously non-exempted wetlands area in return for restoration and creation of other wetland areas.

Several changes have been made to the project design since the October 1985 D.R.I. approval. All of these changes have occurred within the proposed estuarine system. Originally, four marina areas were proposed. Plans now propose only one marina in the "Harbor Center", located in the existing marina basin in the northeast corner of the project. The conceptual PRD plan incorporates these estuarine system modifications and provides more detail in regards to the phasing and development of the residential areas of the project.

ESTUARINE PLAN AND D.O. AMENDMENT

In the period since the County approved the Development Order on October 23, 1985, the estuarine plan has undergone various revisions and concept improvements. The applicant is requesting that the County approve the design plan, mosquito management plan and revised permit drawings, all of which represent the final estuarine plan product. The plan (see attachment #6 & #7) proposes to restore the existing marsh system from its highly altered and degraded condition through the implementation of Open Marsh Water Management (OMWM).

The objective of OMWM is to return the marsh area to a more naturally functioning estuarine ecosystem, while at the same time eliminating mosquito habitats and breeding areas. This will be accomplished by creating channels and rotary ditches that will open the marsh to the Indian River. The intertidal connection between the marsh and the River will provide ecological benefits such as increased water circulation and fish penetration, thereby creating nursery areas and increasing the movement of needed nutrients. The channels and ditches created for the marsh system will eliminate those depressional and ponded sites within the marsh that act as breeding areas for salt marsh mosquitos.

The proposed estuarine plan designates development and golf course fill areas (approximately twelve acres) within the "non-exempt" wetlands. Presently, the D.O. limits excavation and fill within the non-exempt wetlands to what is necessary for adequate flushing, habitat restoration and mosquito control. The plan does not meet these limitations. The applicant is proposing that a total of sixteen wetland acres be restored in the exempt area or created in upland areas in exchange for permission to allow twelve acres of development in the "non-exempt" wetlands. Approval of this scheme will require amendment of the Development Order by the Board of County Commissioners.

County and regional planning council staff find the estuarine plan and D.O. amendment proposal acceptable as long as certain conditions are attached to the plan as follows:

1. a back-up mosquito control technique administered by the I.R.C. Mosquito Control District shall be established by the developer;
2. an estuarine waterway maintenance plan, acceptable to the County and Regional Planning Council, shall be provided by the developer;
3. it shall be a requirement that all site plans ensure control of run-off into wetlands;
4. a maximum depth of -3 feet for all interior wetland system channels with the major connecting channels tapering to -4 feet at the interface of the estuary and the Indian River be established and channel widths shall be limited; and
5. the D.O. shall be amended to allow for development of up to ten acres within the "non-exempt" wetlands in exchange for an equal number of acres restored or created in exempted areas.

A maximum of two additional acres within the non-exempt area may be filled for roadway use provided that a minimum of six acres of additional wetlands are created elsewhere as part of the estuarine plan.

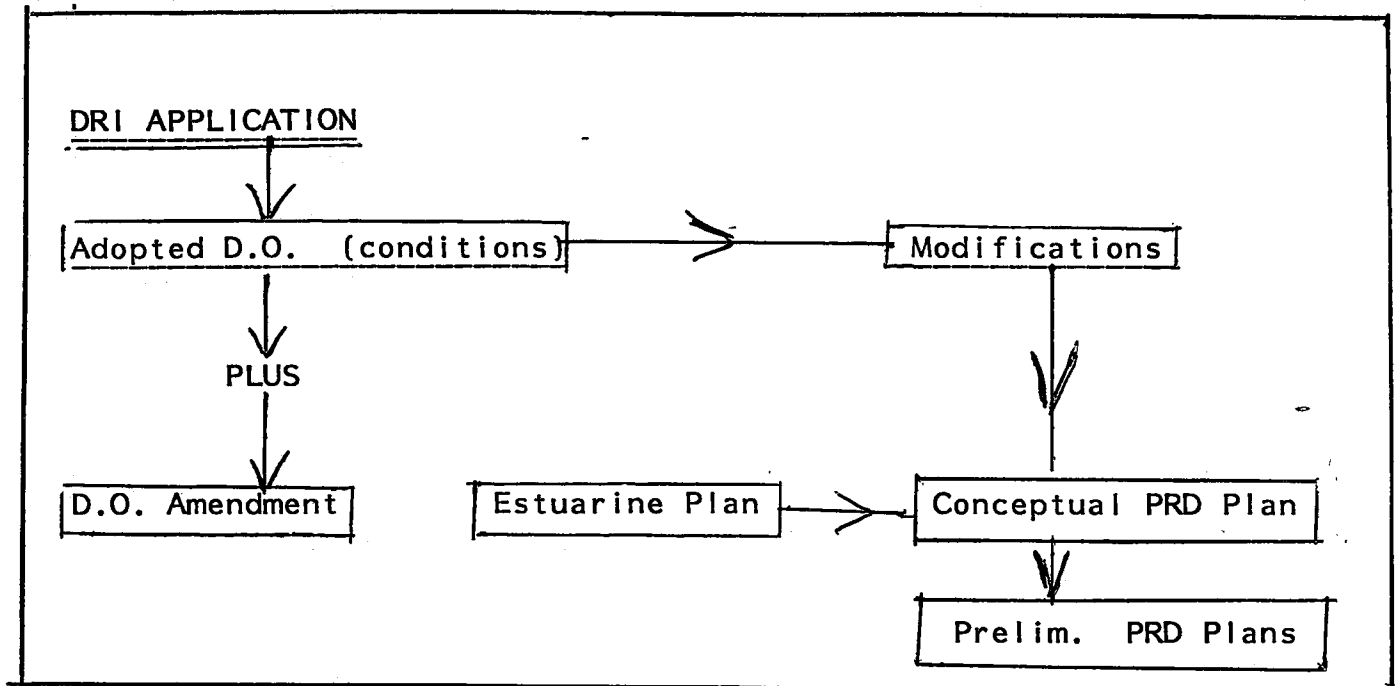
In addition to the above stated conditions, the developer will not receive authorization to commence work on the estuarine system until a land development permit is issued by the County and all agency permits are obtained for the project.

RECOMMENDATIONS

Staff recommends that the Board of County Commissioners:

1. Amend the Grand Harbor development order (D.O.) condition #8 and condition #17 by adopting the attached resolution.
2. Approve the estuarine plan subject to the following conditions:
 - a) Mosquito Control - Prior to the release of any site plan, the applicant shall coordinate with the Indian River Mosquito Control District and provide the District with an operational system that will ensure that a backup control technique will be available in the event that OMWM does not provide adequate mosquito control benefits. The applicant shall provide Indian River County with all legal agreements, bonding transactions, escrow account documentation or other arrangements that are developed with the Mosquito District.
 - b) Maintenance Provisions - Prior to any site plan approval, the applicant shall provide Indian River County, Treasure Coast Regional Planning Council and the Indian River Mosquito Control District with an operation plan for future maintenance of the estuarine waterway and rotary ditches. The plan shall, at a minimum describe the methods for detritus and vegetation removal, responsibility for performing the work, marsh protection practices during work activities in the marsh and channels and the method for funding all maintenance activities. The plan shall be approved by the County, the Indian River Mosquito Control District and the Treasure Coast Regional Planning Council prior to the issuance of a land development permit by the County.
 - c) Nearby Potential Pollution Sources - All site plan applications shall demonstrate that the potential negative effects to adjacent wetlands caused by fertilizers and lawn chemicals entering through runoff will be controlled so as not to impact those wetlands, by means such as upland edge buffers and berms.
 - d) Depth & Width of the Estuarine Channels - Development of the estuarine waterway system shall be limited to a maximum depth of minus three (3) feet mean low water of all interior channels within the estuarine system with the major connecting channels tapering to minus four (4) feet mean low water at the interface of the estuary and the Indian River. In addition the applicant shall be required to slope the bottom of all channels from the deepest depth to the shallower edges. The applicant shall provide for channel widths that:
 1. are in conformance with approved environmental permits; and
 2. contain slopes which range from 4:1 to 12:1. [resulting in widths ranging from 24 feet to 72 feet].

Stan Boling, Staff Planner, presented the following graphic showing the steps needed to go through the entire DRI application procedure:



Mr. Challacombe presented the following chart:

<u>SUMMARY OF ENVIRONMENTAL AGENCY ISSUES PROCESS</u>			
AGENCY NAME	SUBMITTAL RESPONSE	COMPLETENESS	PROPOSED ISSUE
PERMIT TYPE	DATE	DATE	DATE
U.S. Army Corps of Engrs. Wetlands Fill Permit	July, 1985	7/15/86	Within 1-2 months
DER - Dredge & Fill Permit	5/17/86	5/86	"intent to issue" within 1 week
St. Johns River Water Management District	6/86	Not Complete	11/11/86 General Permit rec'd.
IRC a) mangrove alteration b) land clearing c) land development	Not submitted	N/A	No permit to be issued until developer receives land devop. permit

Mr. Boling noted that basically, the western 2/3's of the project is the same as it was going through the DRI process. It is in the areas of the estuarine plan where the modifications are being proposed. Mr. Boling advised that he would be presenting the Conceptual PRD later on in this meeting.

Art Challacombe, Chief of Environmental Planning, noted that John Beidler and Douglas Carlson of the Mosquito Control District and Joe Carroll from the U. S. Fish & Wildlife Service were in attendance this morning. After last Tuesday's meeting, staff contacted as many of the local jurisdictional agencies as possible so that they could have an opportunity to listen to the Board's thoughts on this matter, because whatever we ultimately do with this project in terms of approvals, local jurisdictional agencies, as well as staff, are going to have to live with the monitoring and overseeing the implementation of this project.

Mr. Challacombe explained that Condition 8 of the Development Order is the key condition to the estuarine system guidelines. The objectives of the plan are: 1) To create a more natural functioning marsh system. Approximately 110 acres in the area are very altered by man's activities and fresh water influence; and, 2) To create a system to keep the area as free of mosquitoes as possible. He compared the modified estuarine plan to the one the Board saw last October. No marinas are proposed in the wetlands system in the new plan. The marine activities will be limited to the existing basin area. In the old plan very little high marsh was created or preserved, the idea being that high marsh created more mosquitoes. Staff had deep reservations about that theory and the environmental agencies did not feel that dominance of the low marsh would be the desirable goal of the estuarine plan. With that in mind, the developer changed the plan to show a majority of high marsh habitat that will be preserved or created from uplands or spoil areas. The channel depths in the old areas were too wide and too deep. The developer has reduced them and increased the wetland

acreage, and the channel is basically closed off from the wetlands system with the exception of a canal and 3 culverts. Everything in the plan is to be done in the natural way and nothing artificial as far as water movement is concerned. One thing that has remained constant in the developer's plan is the filling in of the non-exempt wetlands. Mr. Challacombe pointed out the non-exempt and exempt wetland areas on the developer's plan and emphasized that the each jurisdictional agency reviewing this application has their own boundaries for wetland under their permitting process.

The exempt wetlands are the ones that are highly altered and are very difficult to restore. Basically, the developer can work within those exempt areas with regard to fill and creating his project. In return the developer will stay out of the non-exempt areas. Referring to the developer's plan, he pointed out the subject 12 acres of non-exempt wetlands. Mr. Challacombe stated that right from the beginning the Planning staff has informed the developer that this change is a deviation from the Development Order and would require the approval of the Board of County Commissioners. Staff is recommending that the Board amend the Development Order and approve the estuarine plan subject to the conditions proposed by staff in the above memo.

Mr. Challacombe then reviewed the status on the following issues:

D.O. Amendment -- The developer is requesting to be allowed to fill in 10 acres of existing high marsh in the non-exempt area for a golf course plus another 2 acres for road fill. As a whole, the environmental benefits would be that the developer has an incentive to spend the money to restore the total wetland system. In addition, the owner has agreed to create an additional 6 acres of wetlands somewhere in the lower section of the site.

Mosquito Control -- With the development of this project, it will be very difficult for the Indian River Mosquito Control

District to use its present technique of spraying by fixed wing aircraft, and they are considering using a helicopter which is far more costly. Staff is requiring the developer to work with Mosquito Control to develop a bonding or escrow account to cover the cost and implementation of whatever mosquito control techniques are felt suitable by the Mosquito Control District. This condition must be resolved prior to the owner receiving a land development permit from the County.

John Beidler, Executive Director of the Indian River Mosquito Control District, reported that the developer has been told that despite their best efforts there will be large numbers of mosquitoes in the area from time to time. He believed, however, that sandflies might be a worse problem. The Mosquito Control District recognizes that they have a great deal of responsibility in this particular area. An impoundment area was ruined when the Army Corps of Engineers placed a great deal of fill material in the area, and the past few years it has been controlled only by spraying larvicide from fixed-wing airplanes. They feel that the implementation of an open marsh water management technique instead of the impounding technique warrants special attention to this particular area with the cost to be borne by the developer, and they worked out a tentative agreement with the developer last Friday which basically requires that for a number of years the developer will support mosquito breeding inspections of this particular area and will furnish the equipment and subsidize the salary of the inspector for the Mosquito Control District. In addition, if it is deemed necessary, the developer has agreed to supplement the open marsh water management with a rotary ditching technique if that is acceptable to the DER and the DNR. The District would have to continue monitoring this area of small islands on a basis of 3 times a week during the breeding period and then 2 days a week during the non-breeding period. The District will continue to larvicide the area at the taxpayers expense, just like any other

area, up until the time of the construction of the condos as the FAA will not allow fixed-wing aircraft to fly over condos or clusters of single-story buildings. They have treated this area as many as 16 times a year, and hopefully, that will be precluded by the open marsh system in addition to the rotary ditching procedure.

Chairman Scurlock asked if the larvicide could be applied by using a spraying vehicle, and Mr. Beidler stated they would try that method in the smaller areas under the agreement that the developer will furnish any specialized equipment.

Mr. Beidler believed that the District has all the bases covered and stated that they have not run into any opposition as yet.

Pollution Sources Mr. Challacombe advised that as a condition of approval of the estuarine plan, staff is recommending, and the developer has agreed, to construct a continuing upland edge swale and berm system along the entire shoreline so that no run off would be entering the estuarine system through the golf course greens.

Planning & Zoning Commissioner Ruth Stanbridge had a question about the DDT testing process, and Mr. Challacombe felt that the testing and monitoring would be done by the DER. If there appears to be a problem with DDT levels, those areas cannot be opened up to the Indian River until such time as the developer solves that problem. Further, a Certificate of Occupancy will not be issued for any of the units until the estuarine system is operational.

Commissioner Bowman asked about the effect of DDT levels during a 100-year storm, and Mr. Challacombe felt in that event we would have a similar problem throughout the entire County. —

Mrs. Stanbridge pointed out that the Planning & Zoning approval of the Development Order was not unanimous. She voted in dissent for the reasons that the widths of the channels were

too wide; stormwater runs into these channels even during a 25-year storm; and because the developer proposes to fill in some of the non-exempt wetlands for a golf course.

Mr. Challacombe stressed that the developer is going to take off 6 inches of top soil which contains most of the pesticide residues.

Commissioner Lyons noted that Condition #9 of the Development Order does not specify 6 inches. It just says that soils with DDT will be removed and placed on the golf course greens.

Chairman Scurlock felt from the developer's standpoint, we should set a specific level of how much DDT residue will be allowed.

Mr. Challacombe suggested that language be inserted into the maintenance plan whereby the developer is required to address that part of the issue.

Chairman Scurlock just wanted to make sure that it gets done because floating numbers are very difficult to work with and keep things fair.

Commissioner Bird wished to see staff and the developer get together and determine a reasonable level and then bring it back to the Board for approval.

Mr. Challacombe advised that they will be coordinating with other agencies on this matter.

Maintenance of the Estuarine Waterway and Rotary Ditches -- A maintenance provision is tied to the land development permit. Basically, the network is set up so that the answers will come at the time the land development permit is issued. The County holds the ultimate control through that land development permit to give the developer the go ahead. Once the developer receives all the other permits and staff has seen that the Mosquito Control District and the Treasure Coast Regional Planning Council approves and feels comfortable with the maintenance and mosquito

agreements, then it all ties right into the land development process.

Chairman Scurlock wanted to make sure that they don't set artificially low rates for these maintenance services in the beginning because he did not want to see the homeowner's association come back to the County after the project is finished complaining about the high maintenance bills.

Commissioner Lyons agreed and suggested possibly setting up a municipal special taxing unit for them.

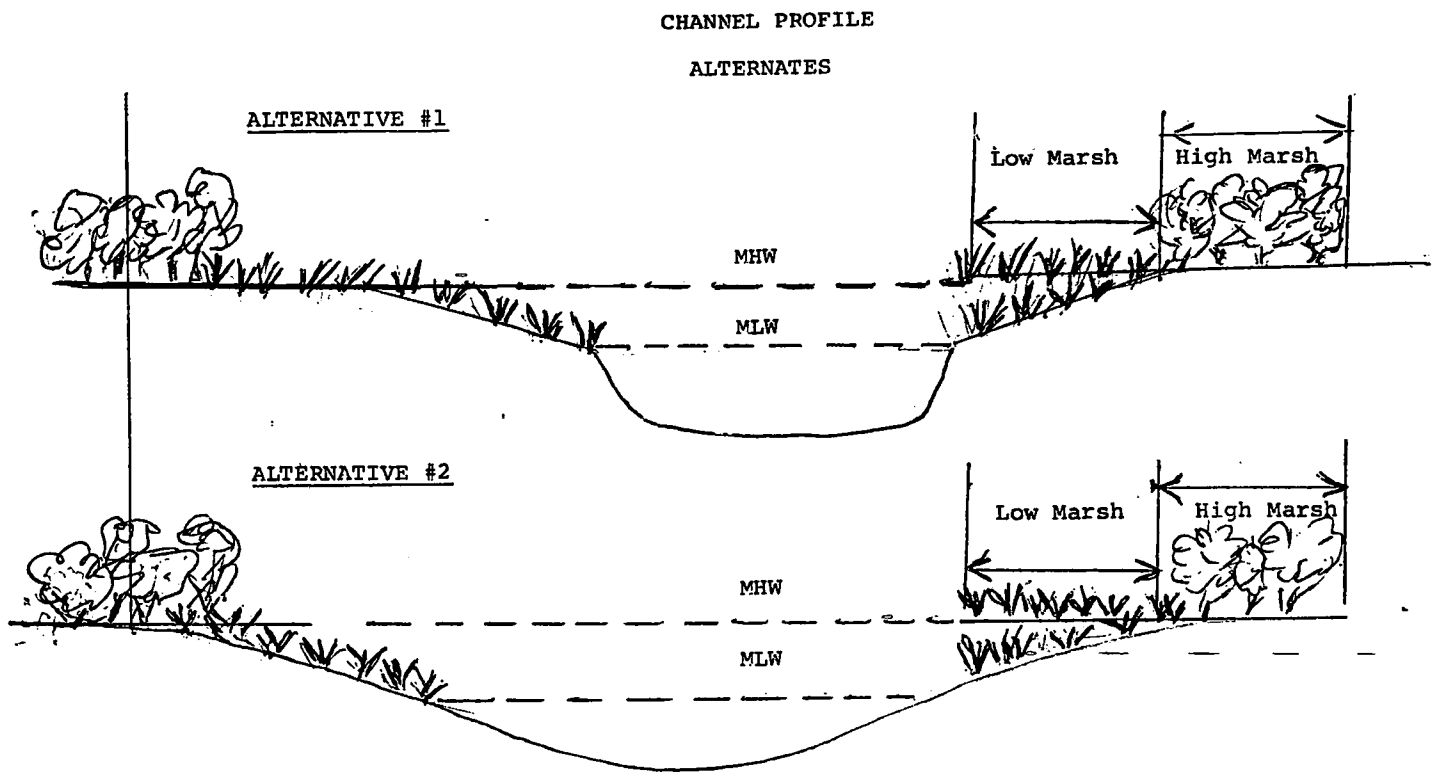
Commissioner Wodtke felt that a MSTU would be a good option for the homeowner's association, but pointed out that it would be difficult to determine the initial tax billing.

Planning & Zoning Commissioner Claude Kleckner advised that after stating his opposition to the filling in of non-exempt wetlands at the P & Z meeting of September 25th, he since has had time to look into this and feels the developer is really within his rights. For that reason he did not vote against the mitigation plan at the P & Z meeting of September 25, 1986.

However, he certainly is not in love with it. He expressed his concern about the maintenance after it is in the hands of the homeowner's association, and wondered who will say what the maintenance will be and how it will be done. He suggested that a performance bond be posted to cover maintenance of the initial construction for 5 years or until the area is stabilized, and then in the future establish some sort of an escrow account for which the homeowners association would be responsible. Mr. Kleckner believed Grand Harbor would have a very good influence on our county and was very pleased to see the effort the developer has made to solve the various environmental requirements. He pointed out, however, that when money has to be cut and push comes to shove, the first areas to be hit are the ecological areas, and that is the main reason for his suggestion of the performance bond. He believed that the health of the Indian River lagoon must be our first priority.

Depths & Widths of Waterways in the Estuarine Channels

Mr. Challacombe presented the following chart:



Mr. Challacombe advised that staff is proposing Alternative #2 as a better and natural approach to constructing the estuarine system.

Commissioner Bird wondered if we would be creating a maintenance problem by having the shallow channels, but Mr. Challacombe did not believe we would. He explained that we don't want to go too deep because we don't want it to become dead water due to low oxygen content. In order to preserve the high marsh, staff recommends as little alteration as possible.

Mrs. Stanbridge wished to see the widths of the channels reduced even more, but Chairman Scurlock felt there would be a problem with the movement of the water.

Michael Egan, attorney representing Grand Harbor, appreciated the Board's response and consideration of this complex matter. He advised that with respect to the DDT issues,

they have already dealt with the DER and established a background for the Indian River soils. They will be establishing the depth to reach that background in these ditches, excavating that, and then get rid of that soil. Attorney Egan suggested that the language in paragraph 2 (d) of Condition #8 of the estuarine plan be changed by striking the wording following the final sentence that reads, "The applicant shall provide for channel widths that:", and substitute: "within non-exempt wetlands, the applicant shall provide for channel widths that are in conformance with approved environmental permits and do not exceed 72 feet unless wider channels are necessary to remove existing spoil banks."

Mr. Challacombe stated that staff's recommendation for Alternate #2 still stands along with the present wording in 2(d).

Commissioner Lyons asked the developer what the advantage would be in having increased channel widths, and Attorney Egan pointed out that the permits are ready to be issued and that change would alter the plan substantially. All they are asking for is the flexibility to have an open water area in the central area to establish a saltwater gradient and provide better flushing. He emphasized that 18 different agencies were involved in reaching this compromise solution.

Commissioner Wodtke wanted to go with whatever is the best system for protecting the Indian River.

Dr. Christenson, Professor of Hydrologics at the University of Florida, advised that if we want more flushing, we need to get more energy into the water. The wind energy that goes into the water depends on the area of the surface; therefore, he strongly disagreed with staff on the point of narrowing the channels. He presented a graph and explained how oxygen is taken in from the surface and down to the bottom.

Mr. Kleckner noted that several highly esteemed experts have written to Douglas Carlson of the Mosquito Control District, and almost uniformly, they are recommending narrower widths. Mr.

Grant Gilmore of the Harbor Branch Oceanographic Institution suggested that the estuarine channels be aligned with the prevailing winds in order to get the maximum flushing.

Mr. Challacombe stated that he did not disagree with Dr. Christenson in theory, but still recommended eliminating the basin and going with channels widths at a maximum of 72 feet. He strongly advised against taking out existing high marsh.

Richard Shaub, developer of Grand Harbor, emphasized what an arduous task they have had in working this out with the various agencies, and suggested a compromise on the language on the widths in order to comply with the DER and Corps permits.

Attorney Egan suggested that at the end of Paragraph 2(d), strike the period, substitute a comma, and state: "unless otherwise permitted by the DER and the Army Corps of Engineers."

Chairman Scurlock asked if anyone had any objection to the suggested language, and Mr. Challacombe reported that he had talked with Janet Llewellyn of the DER and explained the County's position in relation to their permitting. Mrs. Llewellyn explained to him that if the County wishes to be more restrictive, there should not be any problem with modifying the DER and the other permits as long as it was in the environment's best interests.

ON MOTION by Commissioner Lyons, SECONDED by Commissioner Bird, the Board unanimously adopted Resolution 86-89, amending the Development Order approving the Grand Harbor Development of Regional Impact; with the amendments to Section (8) and Section (17) as recommended by staff.



RESOLUTION AMENDING THE DEVELOPMENT ORDER APPROVING THE GRAND HARBOR DEVELOPMENT OF REGIONAL IMPACT.

WHEREAS, pursuant to the provisions in Chapter 380, Florida Statutes, the Board of County Commissioners of Indian River County has adopted Resolution 85-128 establishing the Development Order approving the Grand Harbor Development of Regional Impact and has adopted Resolution 86-4 amending the adopted Development Order; and

WHEREAS, the project developer has requested certain amendments to the Development Order to allow encroachment of development areas within designated "non-exempt" wetland areas in return for restoration and creation of wetland areas elsewhere on the project site; and

WHEREAS, the amendment request has been reviewed by the Treasure Coast Regional Planning Council and the State Department of Community Affairs and has not been determined to constitute a substantial deviation under Florida Statutes; and

WHEREAS, the Development Order is being amended in conjunction with an estuarine plan required by the Development Order; and

WHEREAS, the estuarine plan proposes the excavation and utilization of only one marina basin area; and

WHEREAS, references to the excavation and construction of a second marina basin shall be modified to reflect the use of one marina basin;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, that the adopted Development Order approving the Grand Harbor Development of Regional Impact as amended, is hereby amended as follows, with said amendments to be incorporated into the existing Development Order:

SECTION 1

Under "HABITAT, VEGETATION AND WILDLIFE" item 8 shall be amended to read as follows:

8. Prior to County approval of any conceptual PRD plan a plan detailing the design of the estuarine waterway and basin system shall be submitted to Indian River County and Treasure Coast Regional Planning Council for review and approval. The plan shall be designed to meet the following performance standards:
 - a) It shall provide for adequate flushing within the system;
 - b) It shall not include proposed marina Basins ~~3, 4, and 5~~ 2, 3, and 4;
 - c) It shall be constructed up to a maximum depth of -4 feet mean low water south of marina Basin ~~2~~ 1.
 - d) It may include proposals to excavate or fill any wetlands designated as exempted wetlands in Exhibit 9 of this report. Excavation or fill proposals in other wetlands (non-exempt wetlands) shall be limited to those which are necessary to provide for the following management objectives:

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- I restoration of tidal exchange between marsh habitat and the Indian River Lagoon;
- II restoration of mosquito control functions and public health values;
- III restoration of water quality;
- IV development of adequate nursery habitat for fish; and
- V provision for adequate flushing.

Excavation or fill proposals in non-exempt wetlands may also be permitted for golf course, development areas, and roadways provided that:

- such non-exempt wetlands excavation and fill areas shall not exceed a cumulative total of twelve (12) acres for the entire project; any proposal to exceed the cumulative twelve (12) acre total shall constitute a substantial deviation;
 - mitigation at no less a rate than 1:1 in the form of the restoration and creation of other wetland areas shall be provided in return for approval of excavation and fill requests for development within the non-exempt wetlands.
- e) It shall provide no navigable connections to the Indian River Lagoon, other than that provided by the existing channel. Navigable access shall be prevented either by construction of bridges or boardwalks across flushing connections that are structures that form low, effective barriers to navigation; the maximum distance between the bottom of such structures and mean low water levels shall be 24 inches. The maximum width of the connection shall be the minimum needed to provide an adequate flushing regime for the estuarine/waterway system.
 - f) It shall provide for, and detail, all plans for construction and management of associated wetland habitats.
 - g) As a minimum, the estuarine waterway and flushing channels shall include a fully vegetated littoral zone. As a minimum, 30 square feet of vegetated littoral zone shall be established per linear foot of estuarine waterway shoreline which occurs. The littoral zone shall consist entirely of native vegetation.
 - h) The waterway system south of marina Basin 2 1 shall be designed for use by canoes and small non-motorized boats only. Signs prohibiting entrance of motorized boats shall be posted.
 - i) All waterways, basins and the access channel to the Intracoastal Waterway shall be posted as a Manatee Area and Idle Speed Zone.

The development plan which includes the vegetative mitigation plan, must be approved by Indian River County and Treasure Coast Regional Planning Council in consultation with U.S. Fish and Wildlife Service, Florida Game and Fresh Water Fish Commission, Florida Department of Natural Resources, and the Governor's Technical Subcommittee on Managed Salt Marshes. No site plan approval can be considered prior to the fulfillment of this condition.

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SECTION 2

Under "HABITAT, VEGETATION AND WILDLIFE" item 17 shall be amended to read as follows:

17. Marina Development shall be restricted to existing marina Basin 1 ~~and proposed marina Basin 2~~, as identified on page 12-20 of the ADA. Marinas 2, 3 and 4 shall not be constructed. The maximum number of slips to be accommodated within ~~Basins~~ Basin 1 ~~and 2~~ shall be a total of 72 at this time. It is recognized that the basis for this restriction is concern for potential boating impacts upon the West Indian manatee and negative impacts on wetlands. The developer is studying methods to address and mitigate those impacts. Should the developer subsequently demonstrate reasonable assurance that additional slips would not have a significant adverse effect upon the manatee species, or should the marina siting plan approved by Council identify Grand Harbor as a suitable site for additional slips of the size and type proposed in the Grand Harbor ADA, then the developer shall be presumed to be entitled to construct such additional slips. However, should additional slips (more than 72) be proposed for the site, such slips shall be considered a substantial deviation pursuant to Section 380.06(19), F.S. and, therefore, shall require a review by the regional planning council.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED in a public hearing held on this the 20th day of October, 1986.

Don C. Scurlock, Jr.
Don C. Scurlock, Jr., Chairman
Board of County Commissioners

ATTEST:

Freda Wright
County Clerk
by D. Waterhouse
D.C.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Bruce Barkett
Bruce Barkett, County Attorney

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MOTION WAS MADE Commissioner Lyons, SECONDED by Commissioner Bowman, that the Board approve the Estuarine Plan for Grand Harbor subject to the conditions as set out in the above staff recommendation.

Under discussion, Commissioner Bowman asked if the Motion left the language in Condition 2d as is, but Commissioner Bird asked what the other suggested language was for 2(d).

Commissioner Bowman explained that it was "unless otherwise permitted by the DER and the Army Corps of Engineers."

Commissioner Bowman felt there is a possibility that the DER and the Corps may want to cut down the width of those ditches.

COMMISSIONERS LYONS AND BOWMAN AGREED TO INCLUDE IN THEIR MOTION the amended language for Condition 2d in Section 8, "unless otherwise permitted by the DER and the Army Corps of Engineers."

THE CHAIRMAN CALLED FOR THE QUESTION. The Motion was voted on and carried unanimously.

Chairman Scurlock wished to have staff come back about the monitoring and performance bond on the maintenance, and Mr. Boling said they are planning to bring both back on the Consent Agenda of a future meeting and if there are any questions, it can be pulled off and discussed.

ESTUARINE PLAN IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

CONCEPTUAL PRD PLAN APPROVAL

Planner Stan Boling reviewed the following plan analysis:

CONCEPTUAL PRD PLAN ANALYSIS:

The conceptual PRD plan proposes the general lay-out of the project, which is to consist of a system of roads servicing residential development "POD's". The PODs are generally surrounded by open spaces and recreation areas. This arrangement allows for the clustering of units within PODs and the conservation of large open space areas. Approval of the conceptual PRD plan is actually approval of this concept layout, and a series of conceptual plans for traffic and pedestrian circulation, drainage, utilities, and phasing. After conceptual plan approval, the developer may submit site plans for the detailed development of individual PODs and other common amenities such as the golf club and golf course.

1. Project Size:

Golf & Tennis Club.....	14.7 acres
Golf Course.....	115.0 acres
Residential PODs.....	206.2 acres
Open Space/Roads.....	560.7 acres
Total PRD Uplands.....	467.4 acres
PRD Estuarine System.....	93.3 acres
Total PRD Project.....	560.7 acres

NOTE: Total DRI Project (PRD & Commercial).....677.7 acres

2. Zoning Classification: RM-6 (Residential Multi-Family up to 6 units/acre)

3. Land Use Designation:

MD-1 (Medium Density Residential up to 8 units/acre)
RR-2 (Rural Residential up to one unit per acre)

4. Total Proposed Units: 2,764

5. Proposed Building Density: ±4.93 units/acres (gross) ±5.9 units/acre (uplands)

No transfer of density from environmentally sensitive areas is proposed.

6. Surrounding Land Uses:

North: golf course, groves, undeveloped
South: commercial, groves, undeveloped
East: Indian River
West: commercial, groves, undeveloped

7. Landscaping and Buffering: a minimum 25' perimeter buffer area will be provided along the PRD boundary. Only small portions of the PRD actually abut adjacent developable property; most of the project is bordered by roads and the river. Landscape ordinance 84-47 will be applied during review and consideration of preliminary PRD plans (the next step in the PRD process).

8. Traffic Circulation: Indian River Boulevard, which will run through the western one-quarter of the project, as well as 45th Street and U.S. #1 will provide access to the project. Internal project circulation is to be handled via a system of boulevards and feeder roads that will service individual "PODS" or development areas. An internal pedestrian system will also be provided. The traffic engineer has approved the conceptual roadway and pedestrian master plan as long as conditions are added to the plans to provide for:

• a pedestrian crossing with pedestrian signalization at the intersection of Indian River Boulevard and the main entrance road; and

• the closing of direct access to Indian River Boulevard for a water tank site when alternate access becomes available.

The plan proposes to waive the normal recreational vehicle space requirement by placing a deed restriction on the land that prohibits recreational vehicles and boats within residential areas and PODs. The planning department and attorney's office have verified that the county has the authority, pursuant to [section 25.4(H)(3)d. of the PRD ordinance, to waive the requirement as part of PRD plan approval.

It should be noted that the D.O. provides an extensive list of traffic improvements to be provided by the developer as the project is built and vehicle trips are generated by the development.

9. **Drainage:** The project is to be divided into five drainage basins. Four of these basins contain interconnected freshwater lakes. The fifth basin is located in the estuarine waterway portion of the project. The freshwater basins would discharge into the estuarine basin through one-way control structures in order to maintain the freshwater-salt water interface. Water quality treatment would be provided by grass swales and filtration through lake-edge underdrains in the freshwater basins and by underground exfiltration trenches located in the uplands portions of the estuarine drainage basin. The developer will need to secure a stormwater management permit and land development permit prior to construction of any phase.
10. **Utilities:** Public water and wastewater service will be provided to the site. The county water distribution system is to be expanded by the developer to connect into the existing county system. Temporarily, water from the City of Vero Beach will be utilized at the beginning of the project. In conjunction with existing county water storage, a 500,000 gallon ground storage tank is to be constructed on the project site to facilitate storage capacity and fire flow. The county wastewater collection and transmission system will be expanded by the developer, as well as an expansion of the Gifford wastewater treatment plant, to handle the project's effluent. The Utilities department has approved the conceptual water and wastewater utilities plan. The developer will need to secure a land development permit and utilities permits prior to construction of any phases.
11. **Recreation and Open Space:** PRD open space and recreation area requirements would be exceeded through the provision of an estuarine area, golf course, golf and tennis club, pedestrian system, and common open space areas.

Recreation Area.....Required: 33.2 acres
Provided: 132.9 acres

Open Space.....Required: 280.4 acres
Provided: 328.4 acres

12. **Phasing and Densities:** The project is divided into 12 phases. The phasing plan ensures that each phase or accumulation of phases would be able to "stand on its own" and would not exceed six units/acre at any time during project build-out. The applicant proposes to develop several of the phases and provide infrastructure throughout the project. Secondary developers may site-plan and develop individual PODs.

Residential densities are to be clustered on individual PODs ("A" through "T") and would range from 10 units/acre up to 18 units/acre on each POD. Some densities may be shifted between PODs as long as infrastructure and drainage improvements are proven adequate and as long as the gross density of the phasing plan remains at or below 6 units/acre at any given time.

One 178 acre phase area, to be known as the River Club, is not included in the conceptual PRD plan at this time. However, this parcel, located immediately west of the existing marina basin and north of PODs G and I, is to be formally added to the conceptual PRD plan at a later date.

13. Gifford Dock Road Abandonment: The plan proposes to reroute the portion of Gifford Dock Road that crosses the southeastern corner of the project. The re-alignment would leave approximately 800' of the 2,000' long road intact (see attachment #5).

Because Gifford Dock Road has historical significance, the re-alignment plan was reviewed by the Scenic Trails Committee at their July 23, 1986 meeting. The Committee recommended approval of the plan subject to:

- . the placement of a historic marker at the river landing site;
- . the preservation of public river access via the road and landing site.

All utility providers and appropriate county departments have been notified of the proposal and none objected to the abandonment. Access to properties south of Gifford Dock Road would be ensured.

On August 29, 1986, staff met with owners of properties immediately south of Gifford Dock Road. The owners have no objection to the re-alignment provided the new road segments are in service prior to removal of the existing segment. Formal proceedings for abandonment will be brought before the Board at a later date. No abandonment or re-routing will be actually approved prior to a formal right-of-way abandonment.

14. Water Access Requirement: The public water access requirement found in the site plan and subdivision ordinances applies to this PRD. The ordinances require the dedication of a 15' wide public access easement for every 600' of shoreline for projects abutting the ocean or the river. With 4,800' of shoreline, the PRD project is required to provide eight 15' wide easements. Staff has accepted the applicant's proposal to dedicate fee simple ownership of property at the Gifford Dock Road landing, including a recently constructed 108' long dock. The total park area to be dedicated would run from the northern boundary of the Gifford Dock Road north to include the dock and approximately 180' of shoreline; the parcel's depth would be approximately 75'. It is staff's opinion that such a dedication would satisfy the PRD water access requirement.

RECOMMENDATIONS:

Staff recommends that the Board of County Commissioners:

1. grant conceptual PRD plan special exception approval to Grand Harbor, subject to the following conditions:
 - a) At such time that the Indian River Boulevard/Main Entrance Road is developed, an at grade pedestrian crossing, including pedestrian signalization, shall be provided by the developer. The developer shall be responsible for 100% of the cost of the pedestrian crossing and signalization and such costs shall not be credited towards any traffic impact fees.
 - b) Direct access from Indian River Boulevard to the water storage tank site shall be temporary. At such time that another access point from the north or south becomes available, such access shall be utilized and the direct connection to Indian River Boulevard shall be closed.

- c) Prior to the issuance of any certificates of occupancy for residential units, covenants and restrictions, prohibiting storage of any recreational vehicles or boats, shall be filed and placed over the residential area involved.
- d) The Board of County Commissioners will consider formal proceedings to abandon a portion of Gifford Dock Road that would allow for the re-routing of the road around the project's southeastern boundary. In no case shall any abandonment become effective nor shall the road be removed by the developer until such time that the developer constructs the new road segments in a manner acceptable to the public works director, and dedicates sufficient right-of-way for the new road segments.
- e) Prior to the release of any site plan for the project, the developer shall dedicate to the county a parcel running north from the eastern most tip of Gifford Dock Road to a point 20 feet north of the existing dock. Said parcel shall have a minimum 75' depth from the mean high water line of the river, running west. The developer shall also dedicate the entire existing dock and shall place a historic marker at the Gifford Dock Road river landing site.

Mr. Boling explained that this plan is very similar to what was submitted to the DRI, and most of staff's concerns have been met. Staff recommends that the Board of County Commissioners grant conceptual PRD plan special exception approval to Grand Harbor, subject to the five conditions listed in the above memo:

Commissioner Bird felt that while it is great that we are acquiring access to the west side of the river, it is unfortunate that the river is rather shallow in that area and will limit the size of the boats that will be able to go through there. He believed we may want to address some channel markers at some point in the future when the areas starts being used.

ON MOTION by Commissioner Bird, SECONDED by Commissioner Lyons, the Board unanimously approved the Conceptual PRD Plan for Grand Harbor subject to the conditions outlined by staff.

REQUEST FOR WAIVER FROM REQUIREMENTS OF STORMWATER MANAGEMENT AND
FLOOD PROTECTION ORDINANCE

The Board reviewed the following letter dated 10/10/86:

Beindorf and Associates

a division of Kimley-Horn and Associates, Inc.

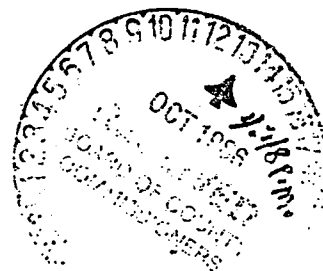
3885 20th Street, Vero Beach, FL 32960 • (305) 562-7981

October 10, 1986

File No. 5736.11.03

MEMO TO: Indian River County
Board of County Commissioners

RE: Request for Waiver Under Section 21 1/2 -7



The following is submitted in compliance with Section 21 1/2 -7(b)(1) for purposes of obtaining a waiver under such Section.

GRAND HARBOR

Request for Waiver

Grand Harbor is requesting a waiver from the requirements of the Indian River County Stormwater Management and Flood Protection Ordinance that require "an equal volume of storage capacity must be created for any volume of the regulatory flood that would be displaced by fill or structures below elevation 4.0 feet NGVD or the 10 year Flood elevation which has been determined by FEMA, whichever is greater. As required by the waiver amendment the following items are addressed.

1.) "The development project is situated in an estuarine environment."

Grand Harbor is located on the shores of the Indian River which is an estuarine (tidal) environment.

2.) "The development project, as designed, will meet all other requirements of the stormwater management and flood protection ordinance."

Grand Harbor stormwater management system has been designed to meet all other requirements of the County Stormwater Ordinance as well as the requirements of Florida Department of Environmental Regulation and the St. Johns River Water Management District.

3.) "The project will not create a material adverse impact on flood protection on other lands in the estuarine environment."

Beindorf and Associates

Grand Harbor
Request for Waiver
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There are several conditions that can create high water in the River during a storm event. These would vary from a rainfall condition with little or no wind to a storm condition with tidal surge build up at the inlets due to wind. This latter case will cause the water to flow from the ocean into the river creating the flood condition. The worst condition, as verified by the FEMA maps, will be from this latter case with wind and surge conditions at the inlets. Under this condition, filling along the river within the flood zone would have no adverse effect on the flood elevations. The flood elevation is controlled by many factors including the ocean elevation, the inlets and river physical characteristics and the river elevation (not volume). Part of the river flooding will be created by the action of the wind on the river water surface creating waves. The height of the wave and surge is a function of the amount of area the wind has to act on. Filling the lands in question would decrease the area on which the wind could act and therefore decrease the flood wave and surge elevation. The net effect could be a very small reduction in flood elevation.

It should be noted that the Grand Harbor project as currently planned cannot comply with the above noted requirement of the stormwater ordinance without the waiver and still complete the project. Any attempt to complete the project would require dredging in the lower areas of the project which could endanger environmental areas and would require additional permits. Conformance with the present ordinance will not improve flood protection to the development.

Public Works Director Jim Davis explained that with the actual amendment to the Stormwater Ordinance that was approved last week, the applicant needs to prove that the project is situated in an established tidal environment; that the project meets all other requirements of the stormwater ordinance; and does not create a material adverse impact on flood protection of other lands in the environment. In staff's opinion, Grand Harbor meets those requirements with the exception of the cut and fill balance. He advised that the applicant is planning to use 646,000 cubic yards of material to fill in the existing storage volume and another 320,000 cubic yards to fill in the excavation. Director Davis reported that he had done a very simple analysis as to the effect this fill would have in the flood plain area. Using a 25-mile length of the Indian River, approximately 1½ miles wide, he figured that this amount of fill would raise the flood stages approximately 3/10's of an inch. Staff's recommendation is that we go ahead and grant the waiver. He felt it is going to be difficult to determine the cumulative effect of

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the fill activity as the years progress without some type of monitoring or staging, and that the Public Works Dept. would try to get a handle on how much material is being placed in the floodplain over the years. Director Davis felt the waiver is a good provision.

ON MOTION by Commissioner Bowman, SECONDED by Commissioner Lyons, the Board unanimously granted a waiver from requirements under Section 21 of the Stormwater Management and Flood Protection Ordinance to the developer of Grand Harbor.

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 11:30 o'clock A.M.

ATTEST:

Greda Wright
Clerk

Dac Skulski
Chairman