IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R Markley Dennis, Jr , Circuit Court Judge

Case No 2009-CP-10-3723

Dunes West Golf Club, LLC, Appellant,

v

Town of Mount Pleasant, Respondent

RECORD ON APPEAL
VOLUME II of III

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APPRAISAL REPORT

of

Property of Dunes West Golf Club, LLC
3535 Wando Plantation Way
Mt Pleasant, SC 29466

Prepared for

Ms Frances I Cantwell
Regan & Cantwell, LLC
105 Wappoo Creek Drive, Suite 1-A
Charleston, SC 29412

Prepared by

J Richard Marlow, MAI, SGA
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203 W Main St , P O Box 28
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April 11, 2011

Town of Mt Pleasant

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THE SOCIETY OF GOLF APPRAISERS

April 11, 2011

Ms Frances I Cantwell
Regan & Cantwell, LLC
105 Wappoo Creek Drive, Suite 1-A
Charleston, SC 29412

Re Property of Dunes West Golf Club, LLC
3535 Wando Plantation Way
Mt Pleasant, SC 29466

Dear Ms Cantwell

As requested, I have completed an appraisal of the above-referenced real property located in Mt Pleasant, SC for the purpose of estimating the market value of the fee simple interest in the property under two different zoning classifications The "before" value estimate will be based upon the hypothetical condition that the subject falls under the R-1 and R-3 zoning classification The "after" value will be based upon the current CR-O zoning classification The difference in these two value estimates is considered to be the diminished value that results from the CR-O zone The effective date of valuation is June 15, 2006

The property in question is the Dunes West Golf Club located within Dunes West, a major Planned Unit Development (PUD) In June, 2006, the Town of Mt Pleasant amended the PUD and rezoned the subject property from R-1 and R-3 to Conservation Recreation Open Space (CR-O) All golf courses within the Town of Mt Pleasant were rezoned to the CR-O classification

In 2009, the property owner filed an application to rezone portions of the subject property to R-1 and R-3 so that portions of the subject may be developed with single-family residential and townhouse lots This application was denied by the Town of Mt Pleasant on June 9, 2009

A description of the subject property is included in this report along with a discussion of valuation methodology as well as market data utilized in this analysis This is a retrospective appraisal, which is effective June 15, 2006 The property was inspected on September 28 and November 29, 2010 and January 6, 2011 I relied on information provided by others to determine the attributes of the property as of the effective date of valuation Also, information was utilized in the appraisal that would have been available to market

participants at that time I also acknowledge information, analysis and expertise furnished by others Specifically, Charleston Appraisal Service, Inc performed the analysis relating to the value of that portion of the subject identified as excess land

As a result of my investigation and analysis, it is my opinion that the market value of the fee simple interest in the subject property, based upon the hypothetical condition of R-1 and R-3 zoning in place, as of June 15, 2006 was

SEVEN MILLION EIGHT HUNDRED EIGHTY-NINE THOUSAND DOLLARS

($7,889,000)

It is also my opinion that the market value of the fee simple interest in the subject property with the CR-O zoning classification as of June 15, 2006 was

THREE MILLION SEVEN HUNDRED NINETY-EIGHT THOUSAND DOLLARS

($3,798,000)

Based on the value estimates cited above, it is my opinion that the loss in value to the property belonging to Dunes West Golf Club, LLC as of June 15, 2006 was

FOUR MILLION NINETY-ONE THOUSAND DOLLARS

($4,091,000)

The information and opinions contained in this appraisal set forth my best judgment in light of the information available at the time of the preparation of this report This appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice as established by the Appraisal Foundation Your attention is directed to the Assumptions and Limiting Conditions upon which the value conclusion is contingent If I can be of further service in this matter, please feel free to call on me

Respectfully submitted,

J Richard Marlow

J Richard Marlow, MAI, SGA
SC Certified General Real Estate Appraiser
Certificate #CG2639

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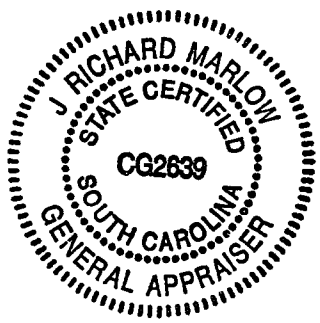


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SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Property Type	Golf course and undeveloped land
Owner	Dunes West Golf Club, LLC
Location	3535 Wando Plantation Way, Mt Pleasant, SC 29466
Date of Valuation	June 15, 2006
Date of Inspection	September 28 and November 29, 2010, January 6, 2011
Purpose of Appraisal	To estimate the market value of the fee simple interest in the subject property based upon the hypothetical condition that the subject is zoned R-1 and R-3 as well as based upon its current CR-O zoning classification
Land Area	256 49 acres
Improvements	(1) 18-hole golf course (2) Two-story masonry clubhouse (3) One-story metal cart storage building (4) One-story wood-frame maintenance building (5) Miscellaneous site improvements
Zoning -	
"Before"	PUD (R-1 & R-3)
"After"	Conservation Recreation Open Space (CR-O)
Highest and Best Use -	
"Before"	Semi-private golf club and development of excess land
Highest and Best Use -	
"After"	Semi-private golf club
Market Value - "Before"	$7,889,000
Market Value - "After"	$3,798,000
Difference in Values	$4,091,000

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made with the following general assumptions

(1) No responsibility is assumed for the legal description or for matters including legal or title considerations Title to the property is assumed to be good and marketable unless otherwise stated

(2) The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated

(3) Responsible ownership and competent property management are assumed

(4) The information furnished by others is believed to be reliable However, no warranty is given for its accuracy

(5) All engineering studies are assumed to be correct The plot plans and illustrative material in this report are included only to help the reader visualize the property

(6) It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable No responsibility is assumed for such conditions or for obtaining the engineering studies that may be required to discover them

(7) It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless the lack of compliance is stated, described, and considered in the appraisal report

(8) It is assumed that the property conforms to all applicable zoning and use regulations and restrictions unless a nonconformity has been identified, described, and considered in the appraisal report

(9) It is assumed that all required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based

(10) It is assumed that the use of the land and improvements is confined within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report

(11) Unless otherwise stated in this report, the existence of hazardous materials, which may or may not be present on the property, was not observed by the appraiser The appraiser has no knowledge of the existence of such materials on or in the property The appraiser, however, is not qualified to detect such substances The presence of substances such as asbestos, urea-formaldehyde foam insulation, and other

potentially hazardous materials may affect the value of the property The value estimated is predicated on the assumption that there is no such material on or in the property that would cause a loss in value No responsibility is assumed for such conditions or for any expertise or engineering knowledge required to discover them The client is urged to retain an expert in this field, if desired

(12) The subject property is appraised under two different zoning classifications including the existing CR-O zone The appraisal of the property based upon the R-1 and R-3 zoning is considered to be a hypothetical condition, i e , that which is contrary to what exists but is supposed for the purpose of analysis

This appraisal report has been made with the following general limiting conditions

(1) Any allocation of the total value estimated in this report between the land and the improvements applies only under the stated program of utilization The separate values allocated to the land and buildings must not be used in conjunction with any other appraisal and are invalid if so used

(2) Possession of this report, or a copy thereof, does not carry with it the right of publication It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with the proper qualification and only in its entirety

(3) The appraiser, by reason of this appraisal, is not required to give further consultation or testimony or be in attendance in court with reference to the property in question unless arrangements have been previously made

(4) Neither all nor any part of the contents of this report (especially any conclusions as to value or the identity of the appraiser) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser

(5) Unless otherwise stated, the market value herein reported is effective only on the date specified The market value of real estate is affected by national and local economic conditions and, consequently, will vary with future changes in such conditions

(6) I have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the Americans with Disabilities Act (ADA) It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the Act If so, this fact could have a negative effect upon the value of the property Since I have no direct evidence relating to this issue, I did not consider possible non-compliance with the requirements of the ADA in estimating the value of the property

DESCRIPTION, ANALYSES AND CONCLUSIONS

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IDENTIFICATION OF THE PROPERTY

The subject property consists of several irregular-shaped parcels located on or near Wando Plantation Way within the major planned unit development known as Dunes West The subject property is the Dunes West Golf Club, a semi-private facility situated on 256 49 acres The subject land is improved with an 18-hole golf course, clubhouse, cart storage building, maintenance building and various other improvements The subject consists of six tax parcels which will be further identified in this report The address of the property is 3535 Wando Plantation Way, Mt Pleasant, SC 29466

Fee simple ownership in the subject property is vested in Dunes West Golf Club, LLC The legal description consists of surveys for the six parcels that comprise the subject The surveys and other descriptive information are located in the addenda Also, areas identified by the property owner as suitable for residential development will also be described within this report

Golf courses are typically valued as going concerns as the income from golf operations is attributable to real property, personal property, and managerial expertise In the valuation of the subject, the property will be valued as a going concern but appropriate deductions will be made for personal property and business value (if any) in order to arrive at a value for real property only

PURPOSE AND DATE OF APPRAISAL

The purpose of this appraisal is to estimate the market value of the property under two different zoning classifications The "before" value estimate will be based upon the hypothetical condition that the property is zoned R-1 and R-3 The "after" value estimate will be based upon the existing CR-O classification The effective date of valuation is June 15, 2006 The subject property was inspected on September 28 and November 29, 2010 and January 6, 2011

PROPERTY RIGHTS APPRAISED

The property rights or interests to be valued in this report are fee simple interest Fee simple interest may be defined to mean

> *Absolute ownership unencumbered by any other interest or estate subject only to the limitations imposed by the governmental powers of taxation, eminent domain police power and escheat* [1]

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[1] The Appraisal of Real Estate, 13th Ed (Chicago The Appraisal Institute 2008) p 111

INTENDED USE OF THE APPRAISAL

The intended use of this appraisal is to offer the Town of Mt Pleasant and their assigns the market value of the property both "before" and "after" a change in the zoning classification from R-1 and R-3 to CR-O

SCOPE OF WORK

The scope of this assignment began in December, 2009 when I was contacted by Frances I Cantwell, the attorney representing the Town of Mt Pleasant Ms Cantwell provided me basic information about the lawsuit between Dunes West Golf Club, LLC and the Town of Mt Pleasant (Case No 2009-CP-10-3723) I submitted a proposal to Ms Cantwell in December, 2009 outlining the work involved in preparing an appraisal of the Dunes West Golf Club under two different zoning classifications Ms Cantwell engaged me to perform this work on behalf of the Town of Mt Pleasant by a letter dated February 16, 2010 The scope of this appraisal involved the investigation and analysis necessary to reach a value conclusion for the subject property The subject property, its neighborhood, and general market area were inspected and an attempt was made to discover all facts relevant to the value of the property

The subject property was inspected on September 28, 2010 in the presence of Richard Rankin, General Manager of Dunes West Golf Club Mr Rankin assisted me in my inspection and provided much useful information about the appraised property Management also provided extensive information about the property including but not limited to income and expense information, rounds report and membership data The property was reinspected on November 29, 2010 and January 6, 2011

I researched the area economy as well as the broader market for golf courses I researched the subject's market area relative to golf course supply and demand and investigated competing clubs Pertinent information about the subject property was also gathered including surveys and other descriptive information provided by the property owner regarding potential residential development of portions of the subject Both the "before" and "after" value estimates are predicated on my analysis of the highest and best use of the property I considered uses that are physically possible, legally permissible, financially feasible and maximally productive The highest and best use of the subject property, both vacant and improved, was considered in this analysis

After a determination of highest and best use, I considered all applicable approaches to value All three of the traditional appraisal approaches, namely, the cost approach, income capitalization approach and sales comparison approach, were considered in this analysis The income capitalization approach and sales comparison were developed in the valuation of the golf course in the "before" situation or under the hypothetical zoning of R-1 and R-3 The cost approach would provide little insight into the valuation of the subject Only the income capitalization approach was developed into a value indication for the golf course based upon

the current CR-O zoning classification This method of valuation is given primary credence in both the "before" and "after" value estimates

The contributing value of excess land not used in conjunction with the golf course is based upon an investigation and analysis prepared by Michael C Robinson, MAI, SRA of Charleston Appraisal Service, Inc The appraisal of 23 27 acres of excess land prepared by Mr Robinson is incorporated within this report with a copy located in the addenda

A number of sources were consulted regarding the appraisal including public records, other appraisers, golf course operators, and consultants John B LaFoy, ASGCA was retained by the Town of Mt Pleasant in conjunction with this case Mr LaFoy provided information to me regarding the playability of the Dunes West golf course, cost of restoring portions of the golf course affected by development and other information Forsberg Engineering and Surveying, Inc offered professional opinions related to the development potential of the excess land

Published sources were also consulted for information regarding golf operations, demographic information, etc Sources include the National Golf Foundation and the database of the Society of Golf Appraisers

A final estimate of value was concluded based upon the analysis of the available market data, and this self-contained appraisal report sets forth all of my findings and conclusions The appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) as well as the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute

GOING-CONCERN VALUE

Although real property only is appraised, this value estimate is based upon appropriate deductions made from the going-concern value Going-concern value is the value of a proven property operation with the assumption that the business enterprise is expected to continue operating well into the foreseeable future Going-concern may be defined to mean

> *"The market value of all the tangible and intangible assets of an established and operating business with an indefinite life as if sold in aggregate* [2]

DEFINITION OF MARKET VALUE

The term "market value" is defined by federal financial institutions in the United States of America as

[2] The Appraisal of Real Estate, 12th Ed (Chicago The Appraisal Institute, 2001), p 27

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale the buyer and seller, each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby

1 Buyer and seller are typically motivated

2 Both parties are well informed or well advised and acting in what they consider their own best interest

3 A reasonable time is allowed for exposure in the open market

4 Payment is made in terms of cash in U S dollars or in terms of financial arrangements comparable thereto and

5 The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale [3]

AREA DATA

For a description of the Mt Pleasant and Charleston areas, the reader's attention is directed to the appraisal report prepared by Charleston Appraisal Service, Inc located on Exhibit H in the addenda

NEIGHBORHOOD DATA

For a description of the subject neighborhood, the reader's attention is directed to Exhibit H in the addenda

DESCRIPTION OF SUBJECT PROPERTY

The property herein appraised is the land and improvements of Dunes West Golf Club, LLC The appraised property consists of 256 49 acres upon which are located an 18-hole golf course, clubhouse and various other improvements The property consists of land not used in conjunction with the golf course and the subject will hereinafter be described as the golf course and excess land However, the property owner proposes some residential development on the golf course and these areas will be further described in the following paragraphs

[3] Federal Register, Volume 55 No 163, August 22 1990, pp 34228 and 34229

GOLF COURSE LAND DATA

Location

The Dunes West golf course consists of several distinct parcels within Dunes West, a major PUD located within the Town of Mt Pleasant in Charleston County, SC This location is just north of SC Hwy 41, about three miles west of US Hwy 17 and about 10 miles north of Charleston, SC The address of the subject is 3535 Wando Plantation Way, Mt Pleasant, SC 29466

Legal Description

The legal description for the subject also includes land purportedly to be excess land as well as land used in conjunction with the golf course That land devoted to the golf course is best identified by the plats that show the subject property less proposed single-family lots and townhome sites that will be further identified in this report The legal description for the subject is a survey entitled "Final Plat of Dunes West Golf Course Owned by Scratch Golf Company" prepared by Thomas and Hutton Engineering Company dated August 10, 2004 This survey is referenced in the most recent deed and is recorded in Plat Book EH on pages 737-745 in the RMC Office for Charleston County, SC The seven parcels that comprise the subject total 256 51 acres A subsequent off-conveyance of 0 02 acre results in a total land area of 256 49 acres

Size and Shape

As indicated above, the total land area, including excess land, contains 256 49 acres The size of the various parcels that comprise the subject may be identified as follows

Tract A -	34 10 Acres
Tract B -	44 34 Acres
Tract C -	62 39 Acres
Tract C3 -	6 97 Acres
Tract D -	47 40 Acres
Tract D Part -	11 36 Acres
Tract E -	49 93 Acres
Total -	256 49 Acres

Excess land will hereinafter be identified as parcels containing 23 27 acres After my inspection of the subject land and reviewing aerial photographs and other descriptive information, I conclude that no additional land is classified as excess land Therefore, 233 22 acres are identified as being used in conjunction with the Dunes West golf course The various parcels that comprise the golf course are very irregular in shape and are typically elongated-shaped parcels that contain two or more golf holes The parcels typically have narrow areas where cartpaths are located The cartpaths cross the private subdivision streets within Dunes West and no cartpath easements were noted For the shape and dimensions of

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the subject land, the reader's attention is directed to the aforementioned surveys, as well as aerial maps and other descriptive information located in the addenda

Topography

The topography of the subject land is mostly level with modest changes in elevation being the result of shaping of the golf course The terrain of the subject lends itself to a golf course with several low-lying areas containing water hazards Several lagoons are located on the subject land Although no wetlands delineation is known, a number of areas throughout the subject property are considered to be wetlands Most of the land is open and used in conjunction with the golf course although several peripheral areas are wooded and/or overgrown

Much of the subject land is within a designated flood hazard area Specifically, much of the subject land is within Zone AE or within the 100-year flood hazard zone Portions of the subject are in Zone X or outside of the 100-year flood plain Drainage throughout the property is generally considered to be adequate No adverse soil or subsoil conditions were noted and no hazardous or toxic substances were observed on the subject property However, I am not an expert in such matters and advise the client to obtain an expert in the environmental field to ascertain the presence of any such substances

Streets and Access

The primary means of access to Dunes West Golf Club is from Wando Plantation Way, a private subdivision street that terminates at the Dunes West clubhouse Wando Plantation Way is accessible via a manned guardhouse and gate The golf course also fronts on several other subdivision streets off of Wando Plantation Way Wando Plantation Way is about 0 8 mile east of SC Hwy 41 which provides direct access to US Hwy 17

Utilities

Electricity, telephone service, public water and public sewer are available and adequate for the use of the subject

Easements or Encroachments

The survey of the subject identifies several easements including drainage easements and a sewer line easement A portion of the golf course is also encumbered by an avigational easement

DESCRIPTION OF IMPROVEMENTS

(1) 18-Hole Golf Course

The subject property opened in November, 1991 as Dunes West Golf Club, a semi-private golf course It was designed by well-known golf course architect Arthur Hills and is a good quality facility that has received a number of accolades over the years Golf Digest's Places to Play ranked Dunes West ★★★ ½ (out of a possible★★★★★) The golf course meanders through the adjacent Dunes West development and several subdivision streets must be crossed to access the various holes The golf course is a returning nines in that the two nine-hole segments begin and end near the clubhouse Many of the holes adjoin homesites on one or both sides, but the corridors for the golf holes are typically 100 yards wide or wider, which is considered to be an ample buffer from the numerous dwellings Also, many of the golf holes are tree-lined, which adds to the esthetic quality of the course

The golf course is a par-72 with maximum yardage of 6,859 Ratings and yardages from the various tees are as follows

Tee	Course Rating	Slope Rating	Yardage
Black	73 7	139	6,859
Gold	71 5	131	6,508
Blue	69 3	122	6,100
White	66 1	108	5,424
Red	69 6	120	5,129

The Dunes West Golf Club layout is scenic layout with a number of attractive holes The course has a number of water hazards as lagoons or marshland come into play on several holes A large lagoon between Holes 16 and 17 is the water source for the golf course irrigation system Several other lagoons on the subject property typically do not come into play A number of greenside and fairway bunkers provide additional hazards along with out of bounds which come into play on most all holes Dunes West is considered to be a challenging golf course that would appeal to all levels of play

The golf course is constructed according to United States Golf Association (USGA) specifications The tees and fairways are Bermuda 419 and the greens are Bermuda grass Drainage throughout the golf course appears to be adequate Drainage is tied in with the adjacent residential development and a number of drainage easements traverse the golf course The golf course is equipped with an automatic irrigation system with the primary water source being an on-site deep well The primary irrigation holding pond is located between holes 16 and 17 The water source is purported to be ample The golf course is equipped throughout with asphalt cartpaths The golf course has two good quality restrooms

The practice facilities consist of a good quality driving range approximately 300 yards long with a turf grass teeing area about 80 yards wide A practice green adjacent to the driving range contains about 9,000 sq ft

The golf course was inspected on September 28 and November 29, 2010 and January 6, 2011 The course was in very good condition on those dates The condition of the golf course on the date of valuation is also considered to be average to good Some capital improvements have been made to the golf course subsequent to the date of valuation including a new pump station and replacement of irrigation valves as well as bunker renovation Management indicates the cost of these improvements was approximately $485,000 On the date of valuation, the golf course was about 15 years old and the cartpaths and other components would have exhibited normal wear and tear

The golf course described above is based upon its current architectural and physical features and is before the golf course is altered in order to make the excess land suitable for residential development Required changes are detailed in a consultant's report prepared by John B LaFoy, ASGCA, a copy of which is located in Exhibit H in the addenda Briefly, changes to the golf course are enumerated as follows

- Hole No 9 to be shortened, possibly to a par-3
- Encroachment of townhomes on Hole No 10 possibly requiring netting along the right margin of the golf hole
- Change in configuration of Hole No 11 with loss of approximately 50 yards likely resulting in converting the hole from a par-5 to par-4
- Reconfigure green at Hole No 13 resulting in a loss of as much as 50 yards
- Reconfigure tee on Hole No 14 resulting in a loss of approximately 10 yards
- Shorten championship tee on the eighteenth hole resulting in a loss of approximately five yards
- Loss of approximately 25 yards of the driving range resulting in protective netting at the end of the range

While the individual changes to the golf course are not substantial, the cumulative effect of all the changes is believed to diminish the overall playability and desirability of the golf course The golf course will lose approximately 115 yards of length and the reconfigured holes would change the golf course from a par-72 to a par-71 with a possible change to a par-70 The continuation of the golf course as an Arthur Hill-designed golf course is not known

In summary, Dunes West Golf Club is considered to be a good quality semi-private golf course with an attractive layout that has been well received in the golf market It appeals to all levels of play and no functional inadequacies were observed other than those described above as a result of changes made to accommodate residential development

(2) One- and Two-Story Masonry Clubhouse

The primary building for Dunes West Golf Club is a one- and two-story clubhouse located at the terminus of Wando Plantation Way The building was constructed in 1991 and is an attractive and functional building that serves the needs of Dunes West members and

daily-fee guests The main level has 7,088 sq ft and contains an attractive entry, dining room, kitchen, administrative offices and pro shop A second floor contains 5,615 sq ft resulting in a total building area of 12,703 sq ft The second floor is utilized as a meeting room, men's and women's locker rooms, and additional office space The antebellum-style building has first floor and second floor covered porches that wrap around the front, west side and rear of the building The reader's attention is directed to the building sketch and photographs for a more graphic description of the clubhouse

Structurally, this building can be described as follows

Foundation	Poured concrete on concrete footing
Structural System	Wood frame building with brick veneer
Roof	Wood truss roof system covered with composition shingles
Exterior Doors	1¾" wood doors with glass panels
Windows	Wood double-hung windows with insulated glass and decorative shutters
Interior Floor Finish	Commercial grade carpet in most public areas, ceramic tile, quarry tile in kitchen
Interior Walls	Drywall, some paneled wainscot
Ceilings	Painted drywall
Interior Doors	1¾" six-panel wood doors with commercial hardware
Plumbing	Two first-floor restrooms, two second-floor locker rooms with ample fixtures including ceramic tile showers, adequate supply lines and drains in kitchen and food preparation areas
Electrical	Ample electrical service with incandescent and fluorescent lighting
Heating & Cooling	Zoned HVAC
Specialty Items	Built-in cabinetry, extensive millwork, second stairway, elevator, dumbwaiter, sprinkler system, walk-in cooler/freezer, stainless steel range hood

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The clubhouse presents a good appearance and is functional for its intended use The building was in average condition on the date of inspection although some of the carpet was visibly worn The clubhouse was believed to be in fair to average condition on the date of valuation Management indicates that approximately $300,000 in clubhouse improvements were made in 2006 and/or 2007

(3) One-Story Metal Cart Storage Building

This structure is located just to the east of the clubhouse and is believed to have been constructed in 1991 It contains 6,068 sq ft of building area and is primarily open cart storage area A chain-link partitioned area is used for club storage

Structurally, this building can be briefly described as follows

Foundation	Concrete slab on grade
Structural System	Pre-engineered steel building with center columns, prefinished galvalume wall panels
Floor	Concrete
Roof	Steel roof structure with prefinished galvalume roof panels, 8' ceiling height
Exterior Doors	Four 8' x 7' metal overhead doors, commercial glass personal door in aluminum frame with glass sidelights
Windows	None
Interior Walls	Exposed insulation
Ceilings	Exposed insulation
Plumbing	Hose bib and floor drain
Electrical	Heavy electric service for battery chargers, surface mounted fluorescent fixtures
Heating & Cooling	None
Specialty Items	Wall vents and exhaust fan

The cart storage building is in fair to average condition It is functional for its intended use

(4) One-Story Wood-Frame Maintenance Building

The Dunes West Golf Club maintenance facility is located just off of Colonel Vanderhorst Circle and is adjacent to the 10th hole of the golf course The maintenance building was constructed in 1991 It contains 7,580 sq ft of building area and contains storage areas, service garage, employee break room, office, and restrooms

Structurally, this building can be briefly described as follows

Foundation	Concrete slab on grade
Structural System	6" x 6" wood timbers with 2" x 6" purlins, prefinished galvalume wall panels
Floor	Concrete
Roof	Wood truss roof system covered with galvalume roof panels
Exterior Doors	Four 12' x 10' metal overhead doors, two flush metal personnel doors
Windows	Aluminum windows
Interior Floor Finish	Concrete in garage area, carpet and vinyl tile in finished areas
Interior Walls	Exposed insulation in garage area, rough-sawn plywood in finished areas
Ceilings	Suspended acoustical tile in shop area and finished area, exposed roof structure in storage area
Plumbing	Restroom with two sinks, two urinals, toilet and fiberglass shower stall
Electrical	Ample electrical service with fluorescent lighting
Heating & Cooling	Heat and air conditioning in finished areas

As indicated, the maintenance building is about 18 years old and is a functional building that is considered adequate for its intended purpose It is generally in average condition

Other improvements located at the maintenance facility include a 20' x 20' concrete block chemical storage building and a freestanding pool shed These appurtenances are also in average condition

(5) Miscellaneous Site Improvements

A number of site improvements are located in the vicinity of the clubhouse Extensive asphalt paving includes parking spaces for approximately 146 cars It should be noted that land scheduled for residential development will take approximately 32 parking spaces A circular driveway is located in front of the clubhouse and leads to the bag drop area which has a bag stand This frame structure has a hip roof that covers about 384 sq ft A small brick starter shed is located between the clubhouse and the driving range Concrete flatwork consists of sidewalks as well as curb and gutter in the parking areas The area in the vicinity of the clubhouse is attractively landscaped with numerous ornamental shrubs, bushes and several mature trees A formal courtyard is located to the rear of the clubhouse and is the site of weddings and other social functions The site improvements are all in average to good condition and lend to the overall use and desirability of the subject property

Extensive personal property was observed and is used in conjunction with Dunes West Golf Club Fixtures, furnishings, and equipment (FF&E) include maintenance equipment, golf carts, clubhouse furnishings, kitchen equipment, etc The FF&E used in the Dunes West operation varies as to age and condition but most all appears to be serviceable and suitable for its intended use However, this valuation is of real property only and no fixtures, furnishings, and equipment are included in this valuation

DESCRIPTION OF EXCESS LAND

The property owner wishes to development approximately 23 27 acres into 25 single-family homesites and 56 townhouse sites These prospective homesites and townhouse sites are referred to within this report as excess land and are located throughout the subject property Specifically, the subdivision lots are adjacent to various golf holes including 1, 9, 10, 11, 12, 13, 14, 15, 16 and 18 Four small proposed patio homesites are located adjacent to the clubhouse Eight townhome sites are also located adjacent to the clubhouse with 48 townhouse sites located between Wando Plantation Way and Hole No 10

The homesites vary in size from 0 21 acre to 1 44 acres and contain a total of 15 39 acres The 56 townhome sites contain a total of 7 88 acres The reader's attention is directed to Exhibit H located in the addenda for sketches and aerial maps prepared by Seamon Whiteside and Associates This descriptive information also shows Lots 7 and 8 as being developed into townhouse lots It should be noted that this parcel belongs to John Wieland Homes and Neighborhood, Inc and is not included in this valuation

The subject lots vary as to overall desirability This relates to size, location within Dunes West and other features Many of the lots adjoin golf holes but most are not considered to be prime golf course view lots That is, they are typically located between

holes and would not have expansive views of fairways and/or greens Most of the lots are level to lightly sloping The lots consist of both open land and woodland Several of the lots appear to be within flood hazard areas and/or contain wetlands More particular information about the development potential of the various excess land parcels is set forth in a consultant's report prepared by Daniel C Forsberg and located in Exhibit H in the addenda Homesites 1 through 4 are paved with asphalt and are currently used as a portion of the Dunes West parking lot These lots front on Ten Downing Place Way A street would have to be constructed to serve the townhome sites designated as Lots 9-15 and 26

Townhome Sites 5 and 6 are also accessible from Hartford Village Way These lots presently encumber landscaped areas adjacent to the clubhouse parking lot Development of these sites would result in the loss of one of the driveway entrances to the parking lot Also, it appears that Townhome Site No 5 encroaches on the cartpath that extends from the clubhouse to Holes 1 and 10 and the driving range The townhouse project located on Lots 9-15 and 26 is at the site of the existing maintenance building This structure, as well as ancillary site improvements would be razed in order to develop this portion of the subject Replacement of the maintenance facility on the land of Dunes West Golf Club, LLC is expressly assumed

Other encroachments of proposed excess land onto the golf course include Lots 16 and 17 which is at the end of the driving range The imposition of these homesites would reduce the length of the driving range and limit its potential for having a teeing area at the south end Several of the proposed lots including C, Y and 25 are encumbered with cartpaths that would have to be relocated

ZONING AND RESTRICTIONS

The subject property falls within the zoning jurisdiction of the Town of Mt Pleasant and the subject property is part of the Dunes West Planned Unit Development (PUD) that dates to about 1990 A total of 8,435 residential units are allowed on the property under the PUD The developer had some flexibility to allocate density across the site and the subject property was zoned R-1, Low-Density Residential and R-3, Medium-Density Residential

In June 15, 2006 the Town of Mt Pleasant amended the PUD and changed the zoning classification of the subject property from R-1 and R-3 to Conservation-Recreation Open Space, a new zoning district that "ensures the preservation of conservation, recreation and/or open space use of land against undesirable development " Permitted uses within the CR-O classification include recreation uses such as golf courses and accessory uses including clubhouses, snack bars, parking areas, etc Prohibited uses include single-family and multi-family residential development

An application to rezone portions of the subject to R-1 and R-3 was denied by the Town of Mt Pleasant on June 9, 2009 The portion of the subject herein referred to as excess land was the property in question However, the "before" value estimate herein reported relates to the entire property of Dunes West Golf Club, LLC The "before" value estimate is

a hypothetical condition in that all of the subject is assumed to have the zoning classification that was in effect prior to the June 15, 2006 rezoning to CR-O The "after" value herein reported is the value of the property of Dunes West Golf Club, LLC subject to the CR-O zoning classification

Based upon discussions with the Planning Department staff of Mt Pleasant, the subject is believed to conform to the CR-O zoning classification Parking requirements for golf courses under the existing zoning ordinance are one space per five club members No parking requirements are known for daily-fee golf courses

Other land use controls are believed to affect the subject property As indicated, a portion of the subject is within a designated flood hazard area and is subject to certain limitations regarding construction Wetlands are subject to special regulations regarding their potential for use No other subdivision regulations, watershed ordinances or other public land use controls are believed to affect the subject

I was not furnished a title report setting forth pertinent recordation data about the property in question However, based upon information provided me as well as my cursory inspection of the public records, no restrictive covenants are believed to adversely affect the subject It is my understanding that an agreement restricting the use of the subject property to a golf course terminated upon acquisition by Dunes West Golf Club, LLC in 2005

TAXES AND ASSESSMENTS

According to the Charleston County Assessor's Office, the subject property is identified as six tax parcels The most pertinent information regarding these parcels is as follows

		Market Value				
Tax Parcel #	Area (Ac)	Land	Improvements	Total	Assessed Value	2006 Taxes
540 00-00-038	49 93	$ 625 000	$ 273 600	$ 898 600	$ 53 916	$ 9,430 70
540 00-00 039	58 76	$ 565 000	$ 196 000	$ 761 000	$ 45 660	$ 7 985 95
540 00-00-040	62 39	$ 885 000	$ 458 000	$1 343 000	$ 80 580	$13 967 21
540-00-00-041	44 34	$ 525 000	$ 273 600	$ 798 600	$ 47 920	$ 8,381 30
594 03-00 161	6 97	$ 85 000	$ 1 652 000	$1 737 000	$ 104,220	$18,228 07
594 03-00-154	34 1	$ 405 000	$ 196 000	$ 601 000	$ 36 060	$ 6,306 91
Total	256 49	$3,090 000	$ 3 049 200	$6 139 200	$ 368 356	$64,300 14

The assessments cited above predate successful appeal of the 2005 revaluation The assessments are for 2006 and the assessment ratio for the subject is 6% of market value The taxes are based upon a millage rate of $0 1999 The current real estate taxes cited above are net of credits as a result of the local option sales tax

In addition to real property, Charleston County taxes business personal property Even though the property herein appraised is real property only, business personal property taxes must be considered in the valuation of the subject as a going concern Business personal property taxes in 2006 totaled $9,125 38

HISTORY OF THE PROPERTY

Fee simple ownership in the subject property is vested in Dunes West Golf Club, LLC, which obtained title by a deed from Scratch Golf, LLC This deed is recorded March 2, 2005 in Deed Book 527 on page 597 in the RMC Office for Charleston County, SC The reported sales price was $4,000,000 Special circumstances related to this sale include an agreement that restricted the use of the subject property to a golf course The grantee had the right to terminate this agreement and develop any excess land

A small off-conveyance is the only other deed that affects the subject By a deed dated May 4, 2006, Dunes West Golf Club, LLC conveyed a small parcel containing about 0 02 acre to Stephen E Karinshak This deed is recorded in Deed Book 582 on page 280

No other deeds, contracts or offers were discovered within the preceding three years

HIGHEST AND BEST USE ANALYSIS – "BEFORE"

The term "highest and best use" is defined in The Appraisal of Real Estate as

> *The reasonably probable and legal use of vacant land or an improved property that is physically possible legally permissible, appropriately supported financially feasible and that results in the highest value* [4]

The highest and best use of a property is not determined through subjective analysis by the appraiser but is formed by the competitive forces within the marketplace In the appraisal process, an analysis by the appraiser is required to estimate the highest and best use to which the property may be put The primary objective of this analysis is to evaluate which specific type of use would maximize value The highest and best use of a property must be legally permissible, physically possible, financially feasible, and maximally productive

Every parcel of real estate has a use that will bring out its most productive merits The use to which a parcel of real estate is currently put may or may not be its highest and best use It is generally necessary to determine the highest and best use of the site as though vacant and available for use Also, the highest and best use of the whole property must be analyzed, taking into consideration any improvements When a parcel of land is improved with a substantial structure, the result is an integrated unit whose highest and best use may be different from that of the site as though vacant

[4] The Appraisal of Real Estate, 12th Ed (Chicago The Appraisal Institute 2001), p 305

Based on my observation of land uses and development trends throughout the Mt Pleasant area and subject neighborhood, it is concluded that the highest and best use of the land as though vacant is for residential development As this highest and best use analysis is for the subject property with the R-1 and R-3 zoning in place, I conclude that the majority of the land would be developed with residential homesites and/or multi-family projects The physical features of the land would allow such development and would likely be the most feasible use for the land A secondary use for the subject land would be for development with a golf course Although the golf market is difficult, golf courses are being constructed in planned unit developments Although the subject land was planned as a major recreational amenity for the larger Dunes West Planned Unit Development, the cost associated with constructing a golf course would provide an inadequate rate of return to the investment Even though portions of the subject land present topographical challenges or an irregular shape, the highest and best use for the subject land as though vacant is believed to be for residential usage Portions of the property could be developed with recreational amenities such as swim/tennis club, soccer fields, etc

The highest and best use of the subject property as presently improved is for continued use of the property as Dunes West Golf Club with residential development of excess land The subject land has been improved with a good quality 18-hole golf course designed by Arthur Hills It is the focal point of Dunes West and the golf course is considered to be one of the better public golf courses in the Charleston market The clubhouse is attractive and the property offers good potential for a semi-private golf club Although swim and tennis facilities are available within Dunes West, they are not part of the appraised property and are available to area residents under a separate membership

Golf courses are typically characterized as daily-fee, semi-private, municipal and private The good quality attributes of the subject make it very competitive in the public-premium golf market in the Charleston area, and continued use as a semi-private club is forecast Daily-fee rounds are considered to be an important component of the income-producing capability of the subject While the property offers some potential for conversion to a private club, the income-producing capability of the subject is believed to be maximized by allowing public play Although the subject is located within a gated community, the subject is not considered to be a typical country club That is, it has no other recreational amenities such as a swimming pool or tennis courts and the clubhouse has only a moderate-sized food and beverage operation Although the Dunes West residential area is a primary demand generator for members at Dunes West, the club currently has an inadequate membership base to convert to a private facility Continued operation as a semi-private club is forecast as the offering of memberships encourages regular play from area residents The current operation of Dunes West Golf Club is believed to be the most likely and most feasible method of operation considering the subject's physical features

The construction budget for the subject is not known Based upon cost data found in my appraisal files, the estimated cost of the golf course, clubhouse and related improvements is believed to be between $6 million and $9 million It is evident that the existing improvements have contributing value over and above the value of the land However, the subject property is believed to suffer some external obsolescence The economic

obsolescence inherent in the subject relates to the cost of the various improvements and the return on investment That is, the income attributable to the golf operation provides an inadequate rate of return to the total investment This relates primarily to the principle of transference Transference is often referred to as imparted value and is prevalent in the current golf market Few stand-alone golf courses are constructed in the nation but developers are still building golf courses that are part of master-planned communities Developers realize that lots adjacent to or very near a golf course often achieve substantial premiums over non-golf-oriented lots This is referred to as transference in that part of the value of the golf course and other club assets is transferred to adjacent or nearby homesites Transference is evident at Dunes West based upon the extensive number of lots that adjoin the subject This factor notwithstanding, the highest and best use of the subject property is for continued use as Dunes West Golf Club It is evident that the clubhouse, golf course and other improvements have contributing value over and above the value of the land as though vacant

A golf course typically encumbers approximately 150 to 175 acres Some 18-hole golf courses are located on tracts that would approximate 100 to 110 acres while others encumber 200 acres or more This great variation in size relates to topography, shape, distance between holes and other factors The subject contains 256 49 acres and is believed to have additional areas purported to be excess land suitable for development This excess land contains about 23 27 acres While the remaining land area of 233 22 acres is not all used in conjunction with the golf course, no other developable land was observed as a result of irregular shape, lack of access, wetlands or other features Therefore, the property herein identified as excess land is believed to be suitable for residential development and has a highest and best use for same The majority of the single-family lots identified within this report offer reasonably good development potential based upon their topography and access from subdivision streets However, lots 1 through 4 previously identified encumber a portion of the clubhouse parking lot and are considered to be undesirable lots that would not appeal to a large segment of the market Also, these lots would take approximately 32 of the golf club's parking spaces out of service The remaining parking is considered to be marginally adequate and development of these lots is believed to have an adverse effect on the golf course Townhouse Lots 5 and 6 are located in a landscaped area adjacent to club's parking area While these units would be very close to the golf club, they are not believed to have an adverse effect on club operations However, these townhome sites are also not believed to be particularly desirable The proposed townhome development between Wando Plantation Way and Colonel Vanderhorst Circle is believed to be proper and results in the highest and best use for this portion of the excess land

As previously discussed, development of the excess land required some changes to the golf course While difficult to quantify, changes to the golf course are believed to adversely affect its playability and income-producing capability The esthetic appeal of the golf course is diminished by this additional development, particularly adjacent to Hole No 10 The playability of several holes is adversely affected by the encroachment of subdivision lots on tees or greens While the typical recreational golfer might notice little change in the golf course, the avid golfer who would play the championship tees would consider the course short by modern standards Also, members who play the course on a regular basis would

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likely be displeased with changes to the golf course For more particular information regarding the efficiency of the highest and best use of the subject, the reader's attention is directed to the consultant report prepared by John B LaFoy and located in the addenda as Exhibit H

In summary, the highest and best use of the subject property in the "before" situation is a hypothetical condition as it relates to zoning The "before" value estimate assumes residential development of the excess land under the R-1 and R-3 zoning classifications It is evident that the majority of the appraised property has a highest and best use for continued use as Dunes West Golf Club, however, approximately 23 27 acres has been identified as land suitable for residential development Such a use, based upon the hypothetical condition, is physically possible, legally permissible, appropriately supported, financially feasible and results in the highest value

Although the highest and best use of the subject property is for its continued use as a semi-private golf course, the efficiency of the highest and best use or the overall desirability of the property must be gauged by comparing the subject with competing properties As indicated, the subject offers some flexibility regarding the use of the golf course, but the projected success of the subject is based upon how the facility is perceived by market participants Golf industry trends and local market conditions will be discussed in the following market analysis section

MARKET ANALYSIS

In order to gauge the income-producing capability of the subject, I considered its position in the golf market I reviewed other golf properties in the Upstate area I also consulted published data, particularly from the National Golf Foundation (NGF), which tracks golf participation and course development on a nationwide basis National and regional trends will be briefly discussed as they are believed to have some bearing on the viability of the subject property

National/Regional Trends

The golf market throughout the United States is dramatically different in the 21st century as development of new facilities has declined substantially from the 1990s The National Golf Foundation tracked 124 5 course openings (18-hole equivalents) in 2005, a decline from nearly 400 courses opened in 2000 2002 through 2004 openings totaled 220, 171 and 150 5, respectively However, golf course closings increased in recent years in the wake of the poor economy and declining rounds at many facilities Closings on a nationwide basis totaled 62 5 in 2004 resulting in a net gain of 88 courses or approximately one half of one percent of the U S total Development in South Carolina has also declined dramatically in recent years from the substantial development of the mid- to late-1990s In 2004, 4 5 courses were developed in South Carolina after 0 5 courses (9 holes) coming on line in 2003 This results in a total number of golf courses (18-hole equivalents excluding executive and par-3 courses) in South Carolina as follows

SOUTH CAROLINA

Daily Fee -	273 0
Municipal -	10 5
Private -	109 0
Total -	374 0

Source Golf Facilities in the U S , 2005 Edition

Approximately 20% of South Carolina's golf courses are located in the Myrtle Beach market with approximately 15% of the total supply located in Beaufort County 110 courses are associated with real estate developments and 28 are classified as resort courses Much of the golf development in recent years is associated with real estate developments Golf as a real estate amenity has grown in popularity in recent years, and developers realize substantial premiums from lots fronting on a golf course The supply contribution of real estate related golf has varied from a low of 31% of all golf courses to a high of 66% in recent years Development of golf courses in the most recent decade averaged roughly 50% of new courses being real estate related

The state of South Carolina has approximately 10,671 people for every 18-hole golf course in the state, below the U S average of 19,595 people South Carolina is well known for its quality golf facilities including the resort areas along the coast and Low Country as well as several well-known private clubs and resorts in the upstate region The state has many destination resort areas that skew golf supply and demand analysis

In summary, golf facility supply increased approximately 0 5% in 2005, bringing the total number of golf courses in the U S to approximately 16,000 facilities The development of stand-alone public courses that were so prevalent in the mid- to late-1990s has declined dramatically, and many golf courses constructed in today's market are affiliated with real estate developments This relates to the principle of transference in that part of the capital expenditures for a golf course (as well as other amenities) is transferred to adjoining or nearby homesites

The golf market in the United States has been difficult in recent years, primarily because of the substantial increase in supply However, participation rates are also stable to declining The National Golf Foundation estimates that the total number of golf participants in the United States was 37 9 million in 2003, a 3 3% increase from the 2002 level of 36 7 million However, the definition of a golfer by the NGF is very broad as it includes individuals who play as little as one time per year Core golfers as defined by NGF play an average of 37 rounds per year The number of adult core golfers in 2004 was 12 8 million, a decline of 4 7% from 2003 Pellucid Corporation estimates the golf industry had an attrition ratio of 1 4 1 in 2002, meaning that it lost 1 4 golfers for every golfer gained NGF indicated that the total number of golf rounds increased 0 7% in 2004, the first increase in rounds in three years Private club rounds were flat for the year while public courses had slight increases Premium public courses had the best showing with nearly a 2% gain Results can vary substantially by region, due in large part to weather Economic conditions in various

areas of the country also affect participation Annual rounds played in the US over the last five years are shown as follows

US Rounds

Year	No. of Rounds (millions)
2001	518 1
2002	502 4
2003	495 0
2004	499 7
2005	499 6

Source National Golf Foundation

The National Golf Foundation estimates a nationwide participation rate in 2003 of 12 9%, an increase from the 2002 level of 12 6% However, NGF also estimates 418,300 golfers in South Carolina Based upon the 2004 population of 4,158,493, this indicates a South Carolina participation rate of 10 1%

Golf and second-home development has been a major beneficiary of the aging of the population and the transfer of inherited wealth The baby boom generation is now moving into the 50- to 59-year-old age bracket, a group that plays an average of 37 6 rounds per year The 60 to 69 age group plays an average of 56 rounds per year, over the twice the number of the 18 to 29 age group Demographics are favorable for the next ten to fifteen years

Charleston, South Carolina Trends

While regional and national trends in the golf industry are important, local market conditions are the primary factor regarding the viability of a golf property The location of the subject in Charleston County is considered to be desirable The Charleston area is the major metropolitan area on the South Carolina coast and the economy is considered to be reasonably diverse and healthy The Charleston area has several major destination resorts and the area economy is geared toward travel and tourism

The Charleston golf market is one of three major coastal-oriented golf markets in South Carolina The Hilton Head Island market, less than two hours south of Charleston, is commonly referred to as the South Carolina Lowcountry and is one of the major destination resorts in the United States Hilton Head Island is located in Beaufort County and areas off the island have also experienced substantial development in recent years including a number of golf-oriented residential developments Beaufort County contains about 60 golf courses

The Grand Strand area of Myrtle Beach and its environs is one of the major golf destination resorts in the country The Myrtle Beach MSA has more public golf courses per capita than any other MSA in the nation Over 75 golf courses are located in Horry and Georgetown Counties

The Charleston golf market covers a relatively large geographical area as it also contains Dorchester and Berkeley Counties These counties are major suburban areas of Charleston and include a number of public and private golf courses The Charleston golf market is also very diverse and golf courses vary from military and low-end daily fee courses to exclusive resort courses such as those found on Kiawah Island The Charleston market also contains several nationally ranked private courses

The National Golf Foundation ranks golf accessibility for the 362 Metropolitan Statistical Areas in the nation While this statistic relates to total population and not golfer population, it is believed to be representative of the overall position of the market in relation to supply and demand Accessibility is estimated based upon the population of a specific metropolitan area and the population per golf hole The 362 metropolitan areas in the nation are then ranked according to the availability of golf on a per capita basis The ranking for the Charleston MSA is exemplified as follows

Metropolitan Statistical Area Golf Accessibility – 2004
Charleston – North Charleston MSA
2004 Population – 578,716

	Holes	Population per Hole	National Rank
Public	486	1,191	122
Private	207	2,796	81
Total	693	835	105

Source Golf Facilities in the US, 2005 Edition

The US average for the metropolitan areas is 1,866 persons per hole for public courses and 3,866 persons per hole for private courses Based upon this information, it appears that the Charleston market has an oversupply of golf courses relative to the population The Charleston MSA ranks in the top one-third of available public golf courses nationwide Stated differently, only 121 of the nation's 362 MSA's have more people per hole than the Charleston area The private segment of the market also appears to be oversupplied with its ranking of 81 out of the 362 MSA's

The supply information cited above is believed to be skewed by the resort courses in the area and the relatively large number of visitors to the area Also, a large number of second homes are located in the Charleston market, particularly in resorts such as Kiawah, Seabrook Island, Wild Dunes and others Demand is difficult to quantify as a result of the amount of golf rounds attributable to non-residents

Although the Charleston market has 11 5 courses identified as private courses, this excludes several of the resort courses at Kiawah Island and Wild Dunes These are classified as public access courses but would compete only indirectly with the subject Private courses in the market include two golf courses at Seabrook Island, two golf courses at Daniel Island as well as the Golf Club at Briar's Creek and Bulls Bay Golf Club Metropolitan Charleston is the location of two renowned private golf courses The Country Club of Charleston is purported to be the oldest golf club in the United States Yeamans Hall County Club opened

in 1925 and is an exclusive club with a golf course ranked among the top 100 courses in the United States by Golf magazine A private club in the vicinity of the subject is Snee Farm Country Club located just off of US Hwy 17 in Mt Pleasant These private courses are not believed to compete directly with the subject

The National Golf Foundation surveys golfers from throughout the nation and the results of these surveys indicate that most golfers would travel approximately 30 minutes on a regular basis to play golf Essentially all golfers arrive at their destination course by automobile and traffic patterns and congestion throughout the Charleston area seem to indicate that most golfers play golf regularly at a course near their home This is confirmed by discussions with club managers who indicate that the majority of their membership resides within this approximate 30-minute drive time Therefore, most Dunes West members would come from the Mt Pleasant area with some spillover from Charleston and North Charleston This would also seem to indicate that the most competitive properties for Dunes West are located in the Mt Pleasant area RiverTowne Country Club is located in the RiverTowne residential neighborhood across Hwy 41 across from Dunes West The golf course opened in late 2001 and operates as a semi-private facility The course is an attractive Arnold Palmer design and has an attractive clubhouse Charleston National is located just off of US Hwy 17 relatively near the subject and is also a competitive course It is also the focal point of a residential neighborhood Charleston National is ranked ★★★½ by Golf Digest's Places to Play, a ranking similar to that of the subject The subject would also compete with Patriots Point, a daily-fee golf course conveniently located in Mt Pleasant just across the Cooper River Bridge from Charleston This course is well received in the local market and is an attractive facility with good views The two resort courses at Wild Dunes are open to the public but have limited daily-fee play Coosaw Creek Country Club, Legend Oaks, The Links at Stono Ferry and other public courses in the Charleston market are somewhat removed from Mt Pleasant and have limited overlap regarding the base of demand

As can be seen from the sampling of golf courses listed above, the Charleston golf market is very diverse It contains top quality golf courses such as the Ocean course at Kiawah and The Links course at Wild Dunes Affordable golf is available at properties such as Charleston Municipal and Links at Stono Ferry Golf packages are available for visitors to the area The Charleston Area Golf Guide lists 19 golf courses that may be played as part of a golf package

The Charleston area has promoted itself as a golf destination in recent years, and the diversity of the area has resulted in a relatively healthy golf market Although many courses have experienced stable to declining rounds in recent years, most are exhibiting revenue growth as a result of increases in green fees

Additional insight into the viability of the local golf market is based upon the golf admissions tax collected by Charleston County This tax is collected on a fiscal year basis that runs from July 1 to June 30 The 5% tax rate has not changed in recent years and the tax revenue collected is believed to be representative of local market conditions

Golf Admissions Tax – Charleston County

Fiscal Year	Tax Collected
2000-01	$1,635,867
2001-02	$1,689,909
2002-03	$1,719,839
2003-04	$1,827,577
2004-05	$2,179,713

Source South Carolina Department of Parks, Recreation and Tourism

Based upon the tax rate of 5%, golf revenue in Charleston County in 2004-05 totaled $43,594,260, an approximate 19% increase from the previous fiscal year The total revenue in Charleston County approximates $1,750,000 per golf course based upon the 25 courses in the county

In summary, Dunes West Golf Club is a good quality golf facility located in the desirable Charleston, South Carolina market Although the Charleston market has exhibited declining rounds, in concert with prevailing trends in most other golf markets, it shows a relative strength when compared with the nearby Hilton Head Island and Myrtle Beach markets This is believed to relate to the strength of the local economy and the overall desirability of the Charleston market as a destination resort and retirement area Continued growth in travel and tourism is forecast along with an improvement of the national economy

ESTIMATE OF MARKETING PERIOD

Marketing period may be defined as

The time it takes an interest in real property to sell on the market subsequent to the date of an appraisal [5]

The marketing period considers the anticipated time required to expose the property to a pool of prospective purchasers and allow appropriate time for negotiation, due diligence, and the consummation of a sale A reasonable marketing period is also contingent upon the property being offered at a price that is supported by market evidence

Although conditions in the golf industry have been unfavorable in recent years, golf courses sell from time to time with prospective purchasers being an investment group or golf management company Although a marketing period for the subject can obviously vary, I have reviewed several sales of golf properties in recent years It is my judgment that, if properly priced for current conditions and professionally marketed, the subject property would have a marketing period of 12 to 24 months

[5] The Dictionary of Real Estate Appraisal, 3rd Ed (Chicago The Appraisal Institute 1993) p 220

Exposure time is the period prior to the sale that a property would typically be available on the market The exposure period is also estimated at 12 to 24 months

"BEFORE" VALUATION

METHOD OF APPRAISING

In the appraisal of the subject property, I have given consideration to all of the three traditional approaches to value, namely the cost approach, the income capitalization approach, and the sales comparison approach In the valuation of the subject, only the sales comparison approach and income capitalization approach will be developed into value indications for the golf course These approaches are believed to be the only applicable approaches to value for the subject The cost approach for golf courses such as the subject is very difficult to prepare as accrued depreciation is almost impossible to measure The cost approach would likely provide little insight into buyers' and sellers' expectations regarding a property of this type and the golf course is best valued by the income capitalization approach with support given to the sales comparison approach

As the "before" value estimate includes the contributing value of excess land, the sales comparison approach and subdivision approach will be developed for this portion of the subject As indicated, this analysis has been prepared by Charleston Appraisal Service and the reader's attention is directed this reported located in Exhibit H of the addenda for more particular information about methodology

INCOME CAPITALIZATION APPROACH

Properties such as the subject are generally considered to be income-producing or investment property and the income capitalization approach is appropriate in this valuation This approach is predicated on the assumption that there is a definite relationship between the amount of income a property will earn and its value The principle of anticipation is fundamental to this approach as value is created by the expectation of benefits to be derived in the future The income capitalization approach consists of methods, techniques, and mathematical procedures that an appraiser uses to analyze a property's benefits and convert these anticipated benefits into an indication of present value

In the income capitalization approach, a property may be valued by direct capitalization, which converts a single year's income into a value estimate, or by yield capitalization Yield capitalization is *a method used to convert future benefits into present value by discounting each future benefit at an appropriate yield rate or by developing an overall rate that explicitly reflects the investment s income pattern value change and yield rate*"[6] Yield capitalization may also be referred to as discounted cash flow analysis (DCF) as a discount rate is used to calculate the present value of future cash flows The DCF has

[6] The Appraisal of Real Estate, 12th Ed (Chicago The Appraisal Institute, 2001) p 549

special applicability when there are expected changes in income and property value In this method of yield capitalization, a property's income stream and its reversion, which is the value of the property at the end of the ownership period, are discounted to a present value using an appropriate discount rate This is a market-oriented technique that is believed to adequately interpret the attitudes and expectations of buyers and sellers of this type of property

In the valuation of the subject property, the income capitalization approach will be developed by a discounted cash flow technique Income and expenses attributable to the golf operation will be discounted over a 5-year holding period This will allow for the unstabilized nature of the income stream as a result of current market conditions as well as projected improvement in the Charleston market and the golf market in general A discounted cash flow analysis is believed to best mirror prospective buyers' expectations regarding the subject property

The revenue the subject property will produce is from a number of sources including membership income, green fees, cart rentals, food and beverage income, and pro shop sales Expenses will be allocated to the various areas, and a net operating income will be estimated for each of the 5 years in the holding period

I have relied on a number of sources to estimate income and expenses for Dunes West Golf Club The historical operating data was unavailable prior to the purchase of the subject by Dunes West Golf Club, LLC in March, 2005 However, income and expenses for the subject for the last nine months of 2005 as well as subsequent years were made available to me 2005 and 2006 income and expenses were presented on the following reconstructed operating statement The full calendar year of 2006 is presented as income and expenses up to the date of valuation on June 15, 2006 were not available This information is given much emphasis in this valuation as it is believed to be representative of the past performance of the property as well as trends in the marketplace

Other sources useful in this analysis include actual income and expense data from other golf courses My appraisal files include actual income and expense statements for a number of golf courses offering somewhat similar attributes Members of the Society of Golf Appraisers survey daily-fee, private, and semi-private golf courses regarding income and expenses This information is useful in substantiating individual income and expense categories as well as various ratios used in this analysis The National Golf Foundation surveys golf courses throughout the United States and publishes operating data by region Operating and Financial Performance Profiles of 18-Hole Golf Facilities in the U S is believed to be a good source of data for income and expenses The 2004 edition was consulted by me This information will be referred to in the following paragraphs as the NGF study

I have reconstructed the income and expenses for Dunes West Golf Club for the last nine months of 2005 and 2006 Interest expense, depreciation, and non-recurring items are excluded from the income and expenses provided The income and expenses set forth on the following reconstructed operating statement are formatted to conform to the Uniform System

of Accounts for Clubs This method of presentation has been adopted by the Society of Golf Appraisers and others in the industry as it provides for comparison of the subject with the various other indicators

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Reconstructed Operating Statement
Dunes West Golf Club
Mt. Pleasant, SC

Annual Rounds	31 330 0	39 272 5
% Daily Fee Play	58 5%	71 7%
Average Green Fee	N/A	$40 50
Number of Members End of Year	N/A	331
Year	2005 (9 months)	2006
Revenues		
Initition Fees	$ 89 502	$ 62 500
Membership Dues	435 296	552 866
Green Fees	871 826	1 139 765
Cart Rental Fees	126 618	152 791
Food & Beverage	677 145	793 076
Pro Shop Sales	221 933	244 473
Driving Range	33 321	46 422
Other Income	22,362	39 599
Total Income	$ 2 478 003	$ 3 031 492
Dept Costs & Expenses		
Golf Course Maint	$ 638 765	$ 775 734
Cart Lease/Maint		-
Driving Range	5 370	6 000
F & B Cost of Goods	188 610	231 578
F & B Expenses	328 860	416 839
Pro Shop Cost of Goods	127 555	143 892
Pro Shop Expenses	302 521	376 990
Other Expenses	73 777	
Total Dept Costs/Exp	1 665 458	$ 1 951 033
Undistributed Expenses		
Admin & General	$ 229 413	$ 267,678
Management Fee	99 120	121 332
Marketing & Promotion	70 952	79,292
Professional Fees	8 292	15,386
Utilities	68 574	77 121
Repairs & Maint	19 592	20 635
Total Undistrib Exp	$ 495 943	$ 581 444
Fixed Charges		
Property Taxes	$ 57 922	$ 71 626
Insurance	1 453	3 279
Res for Replacement		
Total Fixed Charges	$ 59 375	$ 74 905
Total Expenses	$ 2 220 776	$ 2 607 382
Net Income	$ 257 227	$ 424,110

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The income and expense information cited above is based upon the best information available to me The club provided detailed income and expenses but some allocation was necessary in order to conform to the Uniform Standards of Accounts for Clubs The following notes are considered to be important in the analysis of this historical data

- Annual rounds are 18-hole equivalent paid rounds
- Average green fee is calculated by dividing total non-member green fees by the number of daily-fee rounds
- Initiation fee income includes some $2,000 initiation fees for social memberships no longer offered
- Other income includes typical income items such as handicap fees, golf club rentals, bag storage, etc
- Golf course maintenance expense includes some lease payments for equipment Maintenance equipment lease payments total $5,787 in 2005 and $32,302 in 2006
- Dunes West utilizes golf carts owned by the club
- 2006 property taxes were paid on an assessed value that was subsequently successfully appealed
- Management fees are paid to an outside management firm
- No reserves for replacements or deductions for other capital expenditures are included

Although the information cited above presents a limited time frame, it is believed to be representative of current operations The subject property is relatively stable and the property is considered to be well managed The individual income and expenses attributable to Dunes West Golf Club will be set forth and discussed in the following sections

Revenue

Initiation Fees

Dunes West Golf Club is projected to continue to operate as a semi-private club and approximately 25% to 30% of play has come from members in recent years The current form of membership is a non-refundable initiation fee that has remained stable in recent years at $5,000 Management indicates that some $2,500 initiation fees are offered to purchasers of new John Wieland Homes or to new members purchasing a resigning member's home However, the vast majority of initiation fees are at $5,000

The memberships at Dunes West are complicated by a joint arrangement with The Club at Dunes West Athletic Club The Athletic Club members have the use of several swimming pools, tennis courts and fitness center Although this is a separate club membership, Dunes West Golf Club offers a joint membership wherein golf club members have the use of facilities at both clubs with payment of a single initiation fee and dues However, management indicates that the clubs are distinctly different and there is no comingling of dues or expenses to club operations The only joint expense is the management of both clubs which falls under the responsibilities of the Dunes West Golf Club general manager

The current charges for initiation fees and dues at Dunes West are considered to be competitive in the local marketplace Although Charleston County offers a wide variety of public and private golf courses, only three located in Mt Pleasant are considered to be directly competitive with the subject The following summary provides membership charges, green fees, and other information about these competitive clubs

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Summary of Competitive Golf Clubs

Property	Year Built	Amenities	Type Operation	Green Fee w/Cart Low	Green Fee w/Cart High	Membership Type	Initiation Fee	Monthly Dues	Annual Rounds	Remarks
RiverTowne Country Club 1700 River Towne Country Club Dr Mt. Pleasant, SC	2001	Arnold Palmer designed golf course 7 188 yards large and attractive clubhouse with restaurant	Semi private	$75	$110	Res Single Res Family Non-res Single Non-res Family	$ 10 000 $ 15 000 $ 12 000 $ 18,000	$205 $262 $262 $337	20 000	Good quality golf course in residential community 4 5 stars by Golf Digest
Charleston National Golf Club 1360 National Drive Mt. Pleasant, SC	1990	Rees Jones designed golf course 7 064 yards full service clubhouse	Semi private	$42	$70	Full Golf	$ 500	$196	35 000 40 000	Meanders through residential neighborhood c 100 members members may walk; $15 members cart fee
Patriots Point Links on Charleston Harbor One Patriots Point Road Mt. Pleasant, SC	1981	Willard Byrd designed golf course 6 955 yards modest clubhouse with grill	Daily Fee	$49	$75	Annual Pass	N/A	N/A	35 000	Conveniently located near Charleston, Good views of city and harbor Memberships in form of annual user's fee-$1,500 with $20 cart fee

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The preceding chart is believed to be representative of current market conditions in the Mt Pleasant area RiverTowne Country Club is considered to be the most competitive property with Dunes West It is a good quality, modern course that is located directly across SC Hwy 41 from the subject The subject is considered to be slightly superior to Charleston National Golf Club which is also located relatively nearby Patriots Point is well located in the Charleston market and is primarily a daily-fee golf course that has strong penetration in the marketplace

Initiation fee income declined in 2006 from the 2005 level but continued growth in memberships is projected However, the initiation fee is believed to remain stable over the projected ownership term at $5,000 Income attributable to initiation fees is shown on the following summary

Initiation Fees

Year	Initiation Fee	# New Members	Revenue
1	$5,000	15	$ 75,000
2	$5,000	15	$ 75,000
3	$5,000	20	$100,000
4	$5,000	20	$100,000
5	$5,000	25	$125,000

Membership Dues

Membership dues at Dunes West Golf Club as of the date of valuation are as follows

Family -	$220/Month
Single -	$200/Month
Social -	$60/Month
Non-Resident -	$80/Month

The dues cited above are believed to be reasonable and supported by competitive dues as set forth on the preceding schedule of competitive properties The dues for the subject are considered reasonable and are adopted in this analysis

Dunes West Golf Club had approximately 340 members as of the effective date of valuation The estimated number of members for each of the years of the projection period will be estimated and applied to the average dues per member Average dues have varied in recent years and totaled $1,670 per member per year in 2006 The number of members in 2005 is not known Traditionally, dues have increased rather steadily in the local market in recent years and a modest increase is projected over the ownership period $1,700 is utilized in Year 1 Income attributable to membership dues is forecast as follows

Membership Revenue

Year	# New Members	Resignations	Total # Members	Ave Membership Dues/Yr	Revenue
1	15	15	340	$1,700	$578,000
2	15	15	340	$1,750	$595,000
3	20	15	345	$1,800	$621,000
4	20	15	350	$1,850	$647,500
5	25	15	360	$1,900	$684,000

Green Fees

Green fee income at Dunes West Golf Club results from non-member play which was approximately 58% of rounds in 2005 and 72% in 2006 The percent of daily-fee play is projected to remain relatively stable at 72% of total rounds Growth in membership is projected to be modest but more or less commensurate with daily-fee play The average green fee is projected to increase modestly over the holding period The average green fee in 2006 was $40 50 It should be noted that this fee includes a cart fee for non-member rounds

The green fees at Dunes West Golf Club are considered reasonable Like many other golf courses in the area, the subject has a wide variety of rates based upon golf packages, twilight rates, 9-hole rates, seasonable variations, discount carts, etc Generally speaking, the daily-fee rates vary from $45 to as high as $90 which is for a weekend green fee during peak season Package rates typically vary from $38 to a high of $71 As indicated, these green fees include a cart fee Based upon the wide variety of green fees, an average green fee will be utilized in this analysis Based upon prospective changes to the golf course as a result of delineating excess land, an average green fee in the "before" valuation is estimated at $38 75 or approximately $1 75 less than previous years Rounds are projected at 39,000 which is very near the 2006 level Rounds increase modestly over the projection period to a fifth-year level of 41,000 Green fee revenue in Year 1 is estimated at $1,088,100, an approximate 4 5% decline from the 2006 level

Cart Rental Fees

As indicated previously, cart rental income at Dunes West is attributable to member rounds only Members are responsible for a cart fee although members are also allowed to walk Based upon information provided by management, the subject had 13,578 5 member rounds in 2006 of which 346 (10 5%) were walking rounds The stated cart fee for members at the subject is $17 00 which is competitive in the marketplace

Cart rental income is based primarily on the 2005 and 2006 data presented $140,000 is utilized in Year 1 which is based upon historical data and results in income per total round of $3 59 This department revenue is increased 3% per year over the ownership term

Driving Range

Driving range income in 2006 was $46,422 or $1 18 per round The semi-private courses surveyed in the SGA database indicate average range income of $0 93 per round Several similar properties that I reviewed have range revenue varying from $0 75 to over $2 00 per round $1 25 per round is utilized for the subject based upon the historical performance The price per round is increased 3% per year

Pro Shop Sales

The sales in the pro shop are generated through the sale of golf-related merchandise and are typically related to rounds played Most purchasers of merchandise are at the facility to play golf, and pro shop sales typically increase as the number of rounds increases Merchandise sales per round are difficult to gauge for 2005 but are believed to have approximated $8 00 per round The revenue declined to $6 23 per round in 2006 This level is above the SGA survey which indicated median pro shop sales of $4 07 per round or the NGF study which indicated an average of $3 20 per round $6 50 per round is utilized in this analysis and is increased 3% per year

Food and Beverage

Food and beverage revenue can vary substantially among golf properties based upon the kitchen and dining facilities, competitive position, and other factors The subject has a full service restaurant, and food and beverage revenue is an integral part of Dunes West Golf Club The club has a full service kitchen and bar and serves several evening meals per week in addition to a typical lunch menu Food and beverage revenue for nine months of 2005 totaled $677,145 The 2006 level was $793,076 or $20 19 per round

The SGA database indicates a relatively wide range of food and beverage revenue with semi-private courses having median revenue of $10 10 per round The upper quartile courses indicated $16 14 per round The historical information for the subject is given much emphasis in this analysis and is also supported by several competitive properties found in my appraisal files A good quality semi-private club in the upstate region of South Carolina indicated 2006 food and beverage income of $35 46 per round A good quality semi-private club in the northern Virginia market had food and beverage revenue in recent years varying from approximately $22 to $28 per round $21 per round in utilized in Year 1 It increases 3% per round over the ownership period

Other Revenue

Miscellaneous income is attributable to ancillary income such as handicap fees, club rentals, golf lessons, club repair and other miscellaneous items This historical information previously cited is given much emphasis in this analysis and $35,000 is utilized in Year 1 It is increased 3% per year

Total Revenue

Year 1 revenue is estimated at $3,037,350, relatively near the 2006 revenue This lack of revenue growth relates primarily to prospective changes in the golf course However, income increases steadily over the projection period to a fifth-year level of $3,656,367 This trend is appropriate and deemed reasonable based upon the current economic climate in the golf industry as well as the national economy Modest improvement in revenue is believed to be appropriate and representative of investors' expectations

Expenses

Departmental Costs and Expenses

Golf Course Maintenance

The golf course maintenance expense for Dunes West Golf Club is estimated based upon the historical experience of the subject as well as the maintenance expense for competitive properties A review of various golf course maintenance expenditures in the SGA survey resulted in a relatively wide range Some championship golf courses have maintenance budgets exceeding $1,000,000, whereas low-end daily-fee courses often have minimal expenditures on supplies as well as payroll The SGA survey indicated golf course maintenance expenses varying from approximately $360,000 to $785,000 with a median of $537,192 Several maintenance budgets in my appraisal files were reviewed Two good quality resort courses in adjacent Beaufort County indicated 2005 maintenance expenses of $492,000 each A somewhat similar semi-private golf course in Brunswick County, NC indicated a 2006 expense of $630,000 The historical expense of the subject is considered to be at the upper end of the range for similar courses and modest reduction is forecast $750,000 is utilized in Year 1 The maintenance expense is increased 3% per year

Cart Maintenance

On the date of valuation, Dunes West Golf Club utilized Club Car golf carts owned by the club Therefore, no lease payments were evident and none are forecast for the projected ownership term Nominal expenses for cart maintenance are believed to be appropriate in this analysis

Driving Range

The driving range expense is typically an allocation of the pro shop expense and relates primarily to labor and supplies involved in the driving range operation The historical expense provided is for supplies only as labor has been included in the pro shop expense The driving range expense in the SGA database typically varies from about $0 20 to $0 25 per round Several competitive properties that I investigate indicated driving range expenses varying from approximately $0 15 to $0 20 per round $0 20 is utilized in this analysis and is increased modestly over the projection period

Cost of Goods - Food and Beverage

The SGA survey and other published sources indicate cost of goods for food and beverage varying from approximately 30% to 48% The 2005 and 2006 historical expenses for the subject were 27 9% and 29 2%, respectively The subject's food and beverage operation appears to be efficient with cost of goods below the norm Several somewhat similar properties in my appraisal files indicated cost of goods approximating 35% of food and beverage revenue 30% is utilized in this analysis based upon the historical information provided

Food and Beverage Expenses

Food and beverage expenses relate to labor, supplies and other costs associated with this department Recent historical expenses totaled 48 6% in 2005 and 52 6% in 2006 When coupled with cost of goods sold, the total food and beverage expenses approximated 80% of departmental revenue This margin is considered to be superior to most competitive properties, many of which lose money on the food and beverage operation Semi-private clubs in the SGA database indicate total expenses attributable to the food and beverage operation (including cost of goods sold) from approximately 70% to 100% The restaurant is open to the public and is convenient to area residents Food and beverage expenses of 50% of revenue are utilized in this analysis This results in a total food and beverage expense (including cost of goods sold) of 80% of departmental revenue

Cost of Goods – Pro Shop

According to published sources and actual expense statements I reviewed, the cost of goods for merchandise in the pro shop varies from about 65% to 75% The historical cost of goods for the subject appears to be below the norm as cost of goods totaled 57 5% of merchandise sales in 2005 and 58 9% in 2006 The historical information is blended with more typical cost of goods sold and 63% is utilized in this analysis

Pro Shop Expenses

This expense consists of pro shop personnel and supplies This expense also exhibits a relatively wide range in published sources, but most similar properties that I reviewed typically had pro shop expenses varying from $200,000 to $300,000 The SGA database indicates a median pro shop expense for semi-private clubs of $243,381 A good quality resort course in Beaufort County had a 2006 expenditure of approximately $195,000 It should be noted that this expense includes the expense of the general manager who also has some duties in managing the Dunes West Athletic Club The historical expense also includes a management expense that was paid to Affinity Golf Partners A more typical pro shop expense of $300,000 is utilized in this analysis and is increased 3% per year

Other Expenses

Other departmental expenses are related to the miscellaneous income previously set forth Again, this would be a prorated personnel cost and facilities expense as it relates to miscellaneous income Expenses related to handicap fees, club rentals and various miscellaneous items are included in this category A relatively large expense is the commissions paid on golf lessons The historical expense is given some emphasis It is estimated at 20% of other revenue

Undistributed Expenses

Administrative and General

This expense category includes salaries for office personnel as well as employee benefits, office supplies, dues and subscriptions, etc Costs related to membership sales are also included in this category The surveyed clubs in the SGA database exhibit a relatively wide range as this expense varies from about $120,000 to about $300,000 The most competitive properties I reviewed indicated administrative and general expenses of about $250,000 to $400,000 The historical expense appears reasonable and is supported by competitive properties After reviewing available data, $285,000 is believed to be an appropriate administrative and general expense in Year 1 as this analysis will also include a management fee

Management Fee

A management fee is deducted from the revenues as this is a means of compensation to the club owner for overseeing the operation As of the date of valuation, the subject property was managed by Affiniti Golf Partners The charge in 2005 and 2006 was 4% of gross revenue I attended a Society of Golf Appraisers educational session on management fees A representative of a golf course management company indicated that fees are structured in numerous ways but typically have a base management fee varying from 3% to 6% of gross revenue Incentive fees can often be added as a percentage of net income In any event, a management fee of 4% is believed to be appropriate in this analysis

Marketing and Promotion

Advertising at the subject includes various print media as well as other promotions The marketing and promotion expense has been relatively stable in recent years and is at the upper end of the range of semi-private golf courses as surveyed by the SGA The median marketing expense per this database is $31,707 However, the subject's location in a tourist-oriented area results in a higher than normal expenditure The historical information provided is believed to be representative of local market conditions and $75,000 is utilized in Year 1 It is increased 3% per year

Professional Fees

Legal and accounting fees and other professional fees would be required in the operation of the subject The SGA database has professional fees for semi-private clubs varying from approximately $3,000 to $10,000 with a median of $6,341 Several competitive clubs that I reviewed had expenses varying from about $5,000 to about $15,000 $12,000 is utilized in this analysis and is increased 3% per year

Utilities

The historical expense is given much emphasis in this analysis and is supported by published sources $77,500 is adopted in Year 1

Repairs and Maintenance

This expense relates to the upkeep of the grounds and clubhouse Typical expenses would include general repairs, pest control, burglar alarm expense, waste disposal, landscaping, and other items The historical expense is supported by published sources $22,500 is utilized in Year 1 and is increased 3% per year

Fixed Charges

Property Taxes

Property taxes are sensitive to local market conditions, and the estimated tax is based upon the current assessment for the subject Even though personal property is not included in this valuation, personal property taxes must be paid in order to arrive at an estimate of net operating income Property taxes in Year 1 are lower than those indicated for 2006 as the result of a successful appeal of the 2005 assessment Property taxes in Year 1 are estimated at $60,000 and are increased 3% per year

Property Insurance

The historical expense is below the norm as the range indicated by the SGA survey varies from approximately $16,000 to $35,000 $12,000 is utilized in this analysis and is increased 3% per year

Reserves for Replacements

Reserves for replacements are set aside each year to replace fixtures, furnishings, and equipment and short-lived realty components As golf carts are owned, an allowance above the norm is utilized While difficult to gauge in the marketplace, reserves for replacements are reasonably estimated at 5% of gross revenues, which indicates $151,868 in Year 1

Total Expenses

Expenses for the subject property total $2,699,567 in Year 1, which is above the 2005 and 2006 expense level The expense ratio in Year 1 is 88 9% It improves to 85 8% in Year 5 The median expense ratio in the SGA database for semi-private golf courses is 87 9%

Net Operating Income

Net operating income totals $337,784 in Year 1 and increases steadily over the ownership term to the fifth-year level of $515,018

Estimate of Reversion

The value of the reversion in Year 5 is calculated by capitalizing an estimated fifth-year's net operating income at a terminal capitalization rate of 11% This capitalization rate is supported by investor surveys and conveyances of golf courses that indicated overall rates The estimated reversion is exemplified as follows

Fifth-Year Net Operating Income

$515,018 – 0 11 =	$4,681,982
Less 2% Cost of Sale =	(93,640)
Estimated Reversion =	$4,588,342

Summary of Income & Expenses Before
Dunes West Golf Club
Mt. Pleasant SC

Annual Rounds		39 000			39 000			40 000			40 500			41 000	
Ave Greens Fee		$ 38 75			$ 39 91			$ 41 11			$ 42 34			$ 43 61	
/ Nonmember Play		72/			72/			72%			72/			72%	
Year	1	% of Rev.	$/Round	2	% of Rev.	$/Round	3	% of Rev.	$/Round	4	% of Rev.	$/Round	5	% of Rev.	$/Round
Revenues															
Initiation Fees	$ 75 000	2 5/	1 92	$ 75 000	2 4/	1 92	$ 100 000	3 0%	2 50	$ 100 000	2 9%	2 47	$ 125 000	3 5/	3 05
Membership Dues	578 000	19 0%	14 82	595 000	19 0%	15 26	621 000	18 8/	15 53	647 500	2 9%	15 99	684 000	18 9%	16 68
Greens Fees	1 088 100	35 8/	27 90	1 120 743	35 9%	28 74	1 183 964	35 8/	29 60	1 234 727	35 8/	30 49	1 287 470	35 6/	31 40
Cart Rental Fees	140 000	4 6/	3 59	144 200	4 6/	3 70	148 526	4 5/	3 71	152 982	35 8/	3 78	157 571	4 4/	3 84
Driving Range	48 750	1 6/	1 25	50 310	1 6/	1 29	53 200	1 6/	1 33	55 485	1 6/	1 37	57 810	1 6/	1 41
Food & Beverage	819 000	27 0%	21 00	843 570	27 0%	21 63	891 200	26 9%	22 28	929 475	27 0%	22 95	969 240	26 8/	23 64
Pro Shop Sales	253 500	8 3/	6 50	261 300	8 4/	6 70	276 000	8 3/	6 90	287 550	8 3/	7 10	300 120	8 3/	7 32
Other Income	35,000	1 2/	0 90	36,050	1 2/	0 92	37,132	1 1/	0 93	38,245	1 1/	0 94	39,393	1 1/	0 96
Total Income	$ 3 037 350	100 0%	77 88	$ 3 126 173	100 0%	$ 80 16	$ 3 311 022	100 0%	$ 82 78	$ 3 445 964	100 0%	$ 85 09	$ 3 620 604	100 0%	$ 88 31
Dept Costs & Expenses															
Golf Course Maint.	$ 750 000	24 7/	$ 19 23	$ 772 500	24 7/	19 81	$ 795 675	24 0%	$ 19 89	$ 819 545	23 8/	$ 20 24	$ 844 132	23 3/	$ 20 59
Cart Maint./Lease	2 500	0 1/	0 06	2 575	0 1/	0 07	2 650	0 1/	0 07	2 732	0 1/	0 07	2 814	0 1/	0 07
Driving Range	7 800	0 3/	0 20	8 190	0 3/	0 21	8 400	0 3/	0 21	8 910	0 3/	0 22	9 430	0 3/	0 23
F & B Cost of Goods	245 700	8 1/	6 30	253 071	8 1/	6 49	267 360	8 1/	6 68	278 843	8 1/	6 89	290 772	8 0%	7 09
F& B Expenses	409 500	13 5/	10 50	421 785	13 5/	10 82	445 600	13 5%	11 14	464 738	13 5/	11 48	484 620	13 4/	11 82
Pro Shop Cost of Goods	159 705	5 3/	4 10	164 619	5 3/	4 22	173 880	5 3/	4 35	181 157	5 3/	4 47	189 076	5 2%	4 61
Pro Shop Expenses	300 000	9 9%	7 69	309 000	9 9%	7 92	318 270	9 6/	7 96	327 818	9 5/	8 09	337 653	9 3/	8 24
Other Expenses	7,000	0 2/	0 18	7,210	0 2%	0 18	7,426	0 2/	0 19	7,649	0 2%	0 19	7,879	0 2/	0 19
Total Dept. Costs/ Exp	$ 1 882 205	62 0%	$ 48 26	$ 1 938 950	62 0%	$ 49 72	$ 2 019 261	61 0%	$ 50 48	$ 2 091 391	60 7/	$ 51 64	$ 2 166 374	59 8/	$ 52 84
Undistributed Expenses															
Admin. & General	$ 285 000	9 4/	7 31	$ 293 550	9 4/	$ 7 53	$ 302 357	9 1%	$ 7 56	$ 311 427	9 0%	$ 7 69	$ 320 770	8 9%	$ 7 82
Management Fee	121 494	4 0%	3 12	125 047	4 0%	3 21	132 441	4 0%	3 31	137 839	4 0%	3 40	144 824	4 0%	3 53
Marketing & Promotion	75 000	2 5/	1 92	77 250	2 5/	1 98	79 568	2 4/	1 99	81 955	2 4/	2 02	84 413	2 3/	2 06
Professional Fees	12 000	0 4/	0 31	12 360	0 4/	0 32	12 731	0 4/	0 32	13 113	0 4/	0 32	13 506	0 4/	0 33
Utilities	77 500	2 6/	1 99	79 825	2 6/	2 05	82 220	2 5/	2 06	84 686	2 5/	2 09	87 227	2 4/	2 13
Repairs & Maint.	22,500	0 7/	0 58	23,175	0 7%	0 59	23,870	0 7/	0 60	24,586	0 7/	0 61	25,324	0 7/	0 62
Total Undistrib Exp	$ 593 494	19 5/	15 22	$ 611 207	19 6/	$ 15 67	$ 633 186	19 1/	$ 15 83	$ 653 606	19 0%	$ 16 14	$ 676 064	18 7/	$ 16 49
Fixed Charges															
Property Taxes	$ 60 000	2 0%	1 54	$ 61 800	2 0%	$ 1 58	$ 63 654	1 9%	$ 1 59	$ 65 564	1 9%	$ 1 62	$ 67 531	1 9%	$ 1 65
P operty Insurance	12 000	0 4/	0 31	12 600	0 4/	0 32	13 230	0 4/	0 33	13 892	0 4/	0 34	14 586	0 4/	0 36
Res for Replacement	151,868	5 0%	3 89	156,309	5 0%	4 01	165,551	5 0%	4 14	172,298	5 0%	4 25	181,030	5 0%	4 42
Total Fixed Charges	$ 223 868	7 4/	5 74	$ 230 709	7 4/	$ 5 92	$ 242 435	7 3/	$ 6 06	$ 251 753	7 3/	$ 6 22	$ 263 147	7 3/	$ 6 42
Total Expenses	$ 2,699,567	88 9%	69 22	$ 2,780,866	89 0%	$ 71 30	$ 2,894,882	87 4/	$ 72 37	$ 2,996,750	87 0%	$ 73 99	$ 3,105,585	85 8/	$ 75 75
Net Income	$ 337,784	11 1%	8 66	$ 345,307	11 0%	$ 8 85	$ 416,140	12 6%	$ 10 40	$ 449,214	13 0%	$ 11 09	$ 515,018	14 2%	$ 12 56

002772

Discount Rate Selection

The procedure used to convert the income stream and reversion into a present value is called discounting A discount rate is "*an interest rate used to convert future payments or receipts into present value a general term used to refer to any rate used to convert future cash flows into a present value*" [7] The estimation of a yield rate or discount rate is critical to DCF analysis Although the actual yield or internal rate of return on an investment cannot be calculated until the investment is sold, a discount rate can be obtained after considering alternate non-real estate investments as well as investor's criteria for projects offering similar risk-reward ratios

The selection of an appropriate discount rate is determined by the project's perceived risk compared to that of other investment opportunities The discount rate used in this analysis is not a mortgage interest rate nor an equity yield rate but an overall yield rate that is deemed necessary to attract capital to this type of investment This capital might be equity capital, mortgage funds, or some combination thereof The discount rate for the subject is determined after considering a number of sources regarding investment criteria for real estate projects as well as alternative investments Key rates that are used as a benchmark in this analysis are summarized below

Reserve Bank Discount Rate -	6 25%
Prime Rate -	8 25%
U S 10-Year Bonds -	5 07%
Corporate Bonds – AA -	6 28%
Corporate Bonds – BBB -	7 10%

While the rates cited above provide a basis for the estimate of the discount rate for the subject, one must consider the risks inherent in a real estate investment, the burden of management, and the illiquidity of a property such as the subject

PricewaterhouseCoopers publishes the Golf Financing and Investment Survey The Spring, 2005 survey indicated discount rates ranging from 9% to 18% with an average of 13 78% This average declined slightly from the 2004 survey which indicated an average discount rate of 14% Also, the survey indicated an overall rate of 10 77% with a terminal capitalization rate of 11%

www realtyrates com publishes a quarterly investors' survey for most all property types Realtyrates com polls 312 appraisal and brokerage firms, developers, investors, and lenders nationwide Golf properties are tracked via category including daily-fee, semi-private and private clubs The Second Quarter, 2006 survey indicated a relatively wide range of discount rates for semi-private golf courses The discount rates varied from 8 88% to 16 61% with an average of 12 78% Discount rates for new development and recapitalizations were approximately 100 to 150 basis points higher The survey also indicated an average overall rate for semi-private clubs of 11 94%

[7] Ibid , p 487

Based on the information cited above, 12 5% is adopted in this analysis and is believed to be indicative of investors' expectations This discount rate relates primarily to the good quality facility and market area in which it is located The net operating income as previously set forth is discounted on the following Prospective Present Value Schedule, which indicates a value for the property of $3,977,801 which is rounded to $3,978,000 This value includes real and personal property which will be allocated later in this report

Software	ARGUS Ver 8 6 02	Dunes West Golf Club	Date	4/12/11
File	Dunes West Argus Before	3535 Wando Plantation Way	Time	17 28
Property Type	Golf	Mt Pleasant, SC	Ref#	AAE
Portfolio			Page	1

PROSPECTIVE PRESENT VALUE
Cash Flow Before Debt Service plus Property Resale
Discounted Annually (Endpoint on Cash Flow & Resale) over a 5-Year Period

Analysis Period	For the Year Ending	Annual Cash Flow	P V of Cash Flow @ 11 50%	P V of Cash Flow @ 12 00%	P V of Cash Flow @ 12 50% *	P V of Cash Flow @ 13 00%	P V of Cash Flow @ 13 50%	P V of Cash Flow @ 14 00%	P V of Cash Flow @ 14 50%
Year 1	May-2007	$337,784	$302,945	$301,593	$300,252	$298,924	$297,607	$296,302	$295,008
Year 2	May-2008	$345,307	$277,751	$275,276	$272,836	$270,426	$268,049	$265,702	$263,387
Year 3	May-2009	$416,140	$300,203	$296,201	$292,268	$288,406	$284,611	$280,883	$277,219
Year 4	May-2010	$449,214	$290,639	$285,483	$280,442	$275,511	$270,688	$265,971	$261,355
Year 5	May-2011	$515,018	$298,847	$292,235	$285,799	$279,531	$273,428	$267,484	$261,695
Total Cash Flow		$2,063,463	$1,470,385	$1,450,788	$1,431,597	$1,412,798	$1,394,383	$1,376,342	$1 358,664
Property Resale @ 11% Cap Rate		$4,588 342	$2,662,450	$2,603,548	$2,546 204	$2 490,368	$2,435 995	$2,383,041	$2,331,462
Total Property Present Value			$4,132,835	$4,054,336	$3,977,801	$3 903,166	$3,830 378	$3 759,383	$3,690,126
Rounded to Thousands			$4,133,000	$4,054,000	$3,978 000	$3,903,000	$3 830,000	$3,759,000	$3,690,000

509

00027775

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SALES COMPARISON APPROACH

The sales comparison approach is the process of estimating market value by analyzing the market activity of similar properties and comparing these properties to the subject While other approaches to value also utilize comparative analysis techniques, the sales comparison approach is considered to be direct evidence of the marketplace and the subject property's position within it The basic premise of the sales comparison approach is the principle of substitution, which states that the value of a property tends to be set by the price that would be paid to acquire a substitute property of similar utility and desirability within a reasonable amount of time This approach to value has broad applicability when sufficient market data is available

In the sales comparison approach, the subject is compared with market data based upon an appropriate unit of comparison Typically, golf course properties are distinctive and offer diverse physical and economic attributes They are difficult to compare with one another as market-derived adjustments for the various dissimilarities are almost impossible to make However, golf properties can be compared based upon several units of comparison The value indicators used in this analysis will be price per golf course hole, gross income multiplier, price per round, and a green fee multiplier My research uncovered several sales of golf properties that are believed to be useful in this analysis

I researched the southeastern region of the nation to discover sales that offer the most similarity to the subject The following six golf course sales are believed to index the market value of the subject

002776

Golf Course Sale No 1

Name & Location	Palmetto Hall Plantation
	108 Fort Howell Drive, Hilton Head Island, SC
Grantor	Greenwood Development Corporation
Grantee	CNL Income Partners, LP
Deed Date	4-28-06
Deed Book and Page	2363-1563 Beaufort County
Indicated Price	$7,600,000
Area	479 85 Acres
# of Golf Holes	36
Price per Hole	$211,111
Annual Rounds	58,000
Price per Round	$131 00
Average Greens Fee	N/A
Greens Fee Multiplier	N/A
Estimated Gross Income	$3,900,000
Estimated Operating Expenses	$3,400,000 (87 2%)
Estimated Net Operating Income	$500,000
Gross Income Multiple	1 95
Overall Rate	6 58%
Financing	Cash to Seller
Confirmed	John Betts, Grantor

General Description

Palmetto Hall Plantation is located on the north end of Hilton Head Island and contains two good quality golf courses both of which are rated ★★★★ by Golf Digest 'Places to Play' The two courses are identified by their architects and the Arthur Hills course opened for play in 1989 It is a challenging course of 6,651 yards with a course rating of 73 7 and a slope rating of 136 The Hills course is a scenic course with some marsh views and treelined fairways The Robert Cupp course opened for play in 1993 It is 7,079 yards with a course rating of 75 6 and a slope rating of 149 This course is unique because of its geometrically shaped hazards Water comes into play on several holes Both golf courses meander through the Palmetto Hall residential community Other course improvements include a driving range and practice green The club also has two tennis courts and a pool Palmetto Hall has a 14,000 sq ft clubhouse with a second floor banquet room accessible via an elevator A 2,400 sq ft pro shop was constructed in 2003 The facility has a separate cart storage building This is a semi-private club that also caters to resort guests on Hilton Head Island The premier golf membership is $17,500, a reduction from the 2004 level of $25,000 Although this is not an equity club, memberships are 100% refundable or 60% refundable of the then current price The maximum number of golf memberships is 450 with 279 golf

members at the time of sale All property owners of Palmetto Hall must be at least a social member of which there were 282 Golf memberships are also available to non-residents One of the two courses are designated a 'private' course everyday until 12 00 Golf resident dues are $3,598 per year with non-resident dues being $2,692 Greens Fees vary substantially based upon the season, time of day, and other factors They typically vary between $50 and $95 This property was purchased by an investor who sub-sequentially leased the facility to Heritage Golf for a 20 year term plus four five year renewal options





Palmetto Hall Plantation

002778

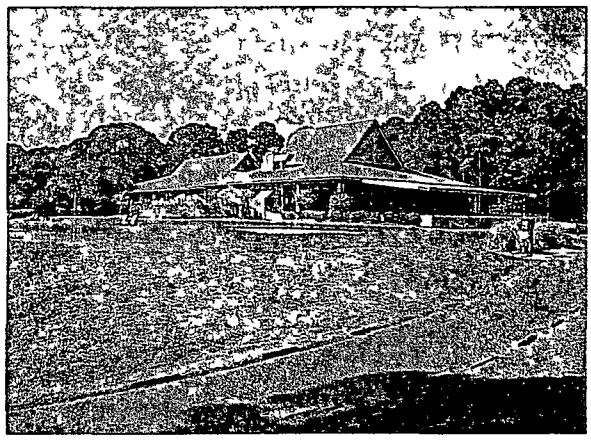
Golf Course Sale No 2

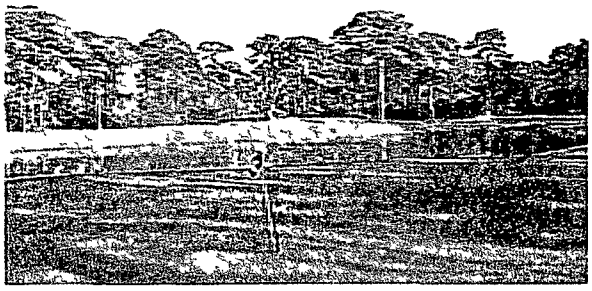
Name & Location	Oyster Reef Golf Club, 155 High Bluff Road, Hilton Head Island, SC
Grantor	NGP Realty Sub, LP
Grantee	Heritage Golf Oyster Reef, LLC
Deed Date	1-24-05
Deed Book & Page	2088-105, Beaufort County
Indicated Price	$9,000,000
Area	187 575 acres
# of Golf Holes	18
Price per Hole	$500,000
Annual Rounds	44,800
Price per Round	$200 89
Average Greens Fee	$49 50
Greens Fee Multiplier	4 06
Estimated Gross Income	$2,600,000
Estimated Operating Expenses	$1,785,000 (68 7%)
Estimated Net Operating Income	$815,000
Gross Income Multiple	3 46
Overall Rate	9 06%
Financing	Cash to seller
Confirmed	Hotel and Club Associates

General Description

This sale property is located in Hilton Head Plantation and is a good quality Rees Jones design with a ★★★ ½ Golf Digest rating The golf club opened in 1982 It is a par-72 layout of 7,023 yards It has five tee settings and the maximum yardage has a course rating of 73 7 and a slope of 131 This course meanders through the residential neighborhoods of Hilton Head Plantation but is considered to be a scenic course with several holes bordering marshland A number of water hazards are in place The course is in average condition but was renovated in 1999 All turf grass including greens is Bermuda grass and the course is overseeded with winter rye Structures include a clubhouse containing 10,650 sq ft , cart storage building and maintenance building Other facilities include a driving range, practice bunker and green and large putting green The course has operated in recent years as a resort facility although memberships are still available The club had 123 members at the time of sale The initiation fee is $10,000 Family resident dues are $5,986 with non-resident family dues of $3,894 Greens fees varied depending upon season, resort guest, and other factors but typically vary between $57 00 and $125 00

Oyster Reef operated for many years as a member-owned facility until it was sold in 2000 for $7,100,000





Oyster Reef Golf Club

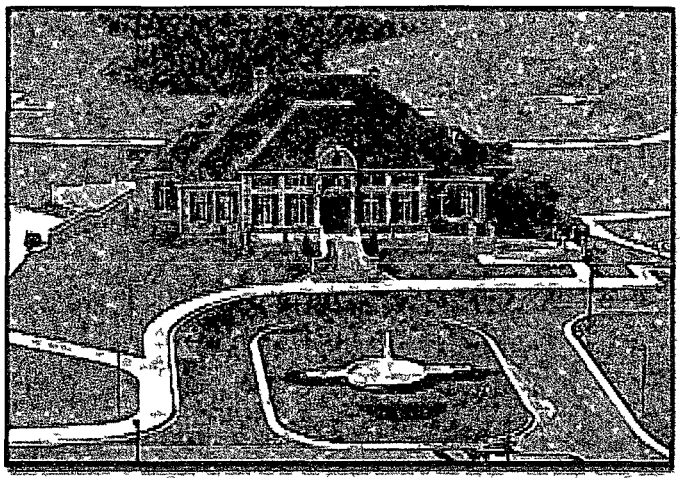
Golf Course Sale No 3

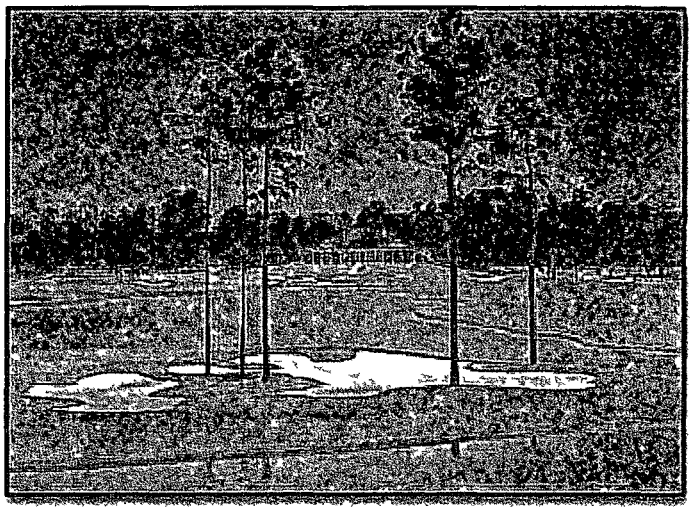
Name & Location	Taberna Country Club
	401 Taberna Way, New Bern, NC
Grantor	V J Walker, LLC
Grantee	F & G Leonard, LLC
Deed Date	9-9-05
Deed Book & Page	2355-59, Craven County
Indicated Price	$4,700,000
Area	219 54 Acres
# of Golf Holes	18
Price per Hole	$261,111
Annual Rounds	25,000
Price per Round	$188 00
Average Greens Fee	$35 00
Greens Fee Multiplier	5 37
Estimated Gross Income	$1,750,000 in 2004, buyer projects $2,000,000 in 2006
Estimated Operating Expenses	$1,375,000 (78 6%), $1,500,000 projected in 2006
Estimated Net Operating Income	$375,000, $500,000 projected in 2006
Gross Income Multiple	2 69
Overall Rate	8 00%
Financing	Cash to seller
Confirmed	Seller

General Description

This semi-private golf club is located in the eastern NC community of New Bern Taberna County Club is the centerpiece of a residential community developed by The Weyerhaeuser Corporation Par 72 golf course was designed by Jim Lipe and opened for play in 1998 This is a good quality golf course that meanders through the residential development and is designed around the natural wetlands The course plays is 6, 917 yards from the back tees and has a course rating of 73 0 and a slope of 133 Other improvements include an attractive 14,000 sq ft clubhouse with cart storage underneath A large swimming pool and 4 tennis courts are part of Taberna County Club Taberna converted from semi-private to private in recent years and the club presently has 517 members Initiation fees are $5,000 for an individual and $7,500 for a full family membership The monthly dues are $138 for an individual and $185 for a family Greens Fees for guests are $40 00 Monday through Thursday and $50 00 Friday through Sunday Member cart fees are $13 00 This property was purchased in November, 2003 for $2,750,000

002781





Taberna Country Club

002782

Golf Course Sale No 4

Name & Location	Legend Oaks Plantation Golf Club, 118 Legend Oaks Way, Summerville, SC
Grantor	Legend Oaks Plantation Golf Club, LLC
Grantee	Legend Oaks Facilities, LLC
Deed Date	9-18-06
Deed Book & Page	5596-159, Dorchester County
Indicated Price	$2,540,000
Area	160 95 acres
# of Golf Holes	18
Price per Hole	$141,111
Annual Rounds	40,000
Price per Round	$63 50
Average Greens Fee	$32 00
Greens Fee Multiplier	1 98
Estimated Gross Income	$1,675,000 (2005)
Estimated Operating Expenses	$1,350,000 (80 6%)
Estimated Net Operating Income	$325,000 (2005)
Gross Income Multiple	1 52
Overall Rate	12 8%
Financing	Cash to seller
Confirmed	Hilda Allen - Agent

General Description

This sale property is a semi-private golf club located about 18 miles from the downtown business district of Charleston, SC Legend Oaks is a semi-private golf course that opened in 1994 It was designed by Scott Pool, a protegee of Pete Dye and is a good quality facility rating ★★★ in Golf Digest's Places to Play Maximum yardage is 6,974 and the course and slope ratings from the back tee are 73 3 and 135 respectively The course has a number of water hazards and it meanders through the Legend Oaks Plantation residential development The golf course does not have a driving range The plantation style clubhouse is an attractive facility with a large wrap around porch and contains approximately 8,000 sq ft The property has a separate cart storage building and a freestanding pavilion Golf carts and a small amount of maintenance equipment were leased At the time of sale the facility had approximately 317 members of which about 140 were golf members Monthly dues for golf members varied from $135 to $150 Greens fees varied from approximately $35 to $55 Approximately 20% of total rounds were from members This golf course sold subject to a conservation easement





Legend Oaks Plantation

002784

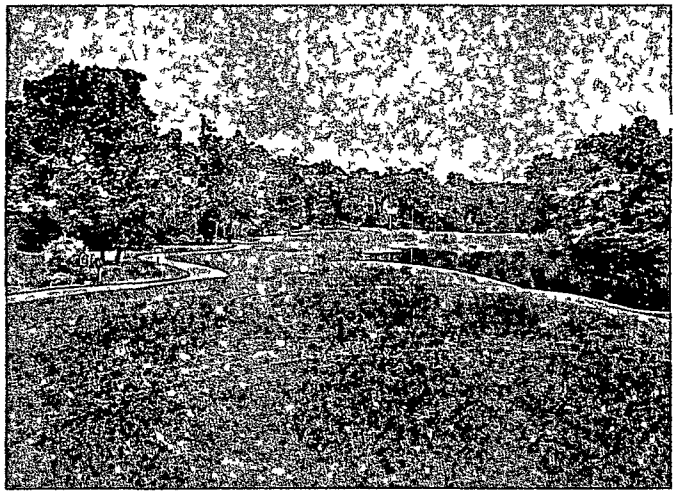
Golf Course Sale No 5

Name & Location	Coosaw Creek Country Club, 4120 Club Course Drive, North Charleston, SC
Grantor	Greenwood Development Corporation
Grantee	Coosaw Creek Owner's Association, Inc
Deed Date	2-14-06
Deed Book & Page	5198-11, Dorchester County
Indicated Price	$2,500,000
Area	149 66 acres
# of Golf Holes	18
Price per Hole	$138,889
Annual Rounds	18,500
Price per Round	$135 14
Average Greens Fee	$27 00
Greens Fee Multiplier	5 01
Estimated Gross Income	N/A
Estimated Operating Expenses	N/A
Estimated Net Operating Income	N/A
Gross Income Multiple	N/A
Overall Rate	N/A
Financing	Cash to seller
Confirmed	John Betts - Grantor

General Description

This sale property is a semi-private golf course located about six miles off of I-26 and about 15 miles from downtown Charleston, SC Coosaw Creek is a good quality golf course ranked ★★★1/2 by Golf Digest's Places to Play The 18-hole par-71 golf course was designed by Arthur Hills and opened in 1993 Maximum yardage is 6,593 and the back tees have a course rating of 72 7 and a slope rating of 140 Water or marsh comes into play on eleven holes The golf course meanders through the Coosaw Creek residential subdivision Other amenities include a 10,000 sq ft clubhouse, swimming pool, two tennis courts, a basketball court and playground The golf course has a driving range and practice area At the time of sale, the club had approximately 310 golf members with total membership of 615 Greens fees varied from approximately $40 to $65 This conveyance included all personal property except for golf carts which were leased The subject property was purchased by the Coosaw Creek homeowner's association who had the right of first refusal The property had previously been under contract to Heritage Golf Group





Coosaw Creek Country Club

Golf Course Sale No 6

Name & Location	Beau Rivage Resort and Golf Club, 649 Beau Rivage Promenade, Wilmington, NC
Grantor	DS Golf Centers, LLC
Grantee	Beau Rivage Golf and Resort, LLC
Deed Date	3-27-06
Deed Book & Page	4997-2939, New Hanover Country
Indicated Price	$3,500,000 (see remarks)
Area	131 93 acres plus 25/32 interest in 1 10 acres associated with the lodging units
# of Golf Holes	18
Price per Hole	$194,444
Annual Rounds	41,477 - 2005
Price per Round	$84 34
Average Greens Fee	$28 50
Greens Fee Multiplier	2 96
Estimated Gross Income	$1,442,177 - 2005
Estimated Operating Expenses	$1,473,949 (102%)
Estimated Net Operating Income	($31,772) - 2005
Gross Income Multiple	2 43
Overall Rate	N/A
Financing	$3,000,000 deed of trust with grantor for three years
Confirmed	Oetzel – Hartman Group

General Description

This sale property is the Beau Rivage Resort and Golf Club located about eight miles south of the downtown business district of Wilmington, NC The golf course was designed by Joe Gestner and Eddie Lewis and opened for play in 1988 It is an 18-hole – par 72 course with maximum yardage of 6,565 The course rating from the back tees are 73 5 with a slope rating of 139 The golf course was renovated in 2001 and has 419 Bermuda on the fairways and Tif Eagle Bermuda on the greens Other improvements include a 13,077 sq ft clubhouse having a full basement used for cart storage The clubhouse has banquet facilities and a full-service food and beverage operation The maintenance building is a 4,000 sq ft pre-engineered steel building 25 golf villas were also part of the conveyance and the facility has two tennis courts and a large swimming pool Other improvements include a good quality driving range and practice facility The facility had approximately 200 golfing members at the time of sale The sales price was $3,800,000 with $3,000,000 financed by the sellers The sales price was reduced to $3,500,000 if the loan was paid off within 9 months

of the closing This was subsequently accomplished and the various indicators are based upon the $3,500,000 sales price The grantees also made about $200,000 in capital improvements to the facility and enhanced operations Income was substantially increased and expenses were reduced in 2006





Beau Rivage Resort and Golf Club

GOLF COURSE SALES COMPARISON GRID

Sale No	1	2	3	4	5	6
Name & Location	Palmetto Hall	Oyster Reef	Taberna	Legend Oaks	Coosaw Creek	Beau Rivage
Land Area (Ac)	479 850	187 575	219 540	160 950	126 000	131 930
# of Holes	36	18	18	18	18	18
Clubhouse (SF)	16,400	10,560	14 000	c 8,000	10,000	13,077
Driving Range	Yes	Yes	Yes	Yes	Yes	Yes
Other Amenities	Pool, tennis	None	Pool, tennis	Pool, tennis	Pool, tennis	Pool, tennis, lodge
Condition	Good	Average	Good	Average	Average	Average
Financial Data						
Date of Sale	04-06	01-05	09-05	09-06	02-06	03-06
Sales Price	$7,600,000	$9,000,000	$4,700,000	$2,540,000	$2,500,000	$3,500,000
Rounds/Year	58,000	44,800	25,000	40,000	18,500	41,477
Total Revenue	$3,900,000	$2,600,000	$1,750,000	$1,675,000	N/A	$1,442,177
Avg Greens Fee	N/A	$49 50	$35 00	$32 00	$27 00	$28 50
Value Indications						
Price/Hole	$211,111	$500,000	$261,111	$141,111	$138,889	$194,444
Gross Income Mult	1 95	3 46	2 69	1 52	N/A	2 43
Price/Round	$131 03	$200 89	$188 00	$63 50	$135 14	$84 38
Green Fee Mult	N/A	4 06	5 37	1 98	5 01	2 96
Overall Cap Rate	6 58%	9 06%	8 00%	12 80%	N/A	N/A

Conclusion – Sales Comparison Approach

The market data previously cited is believed to be useful in this analysis as the properties offer some similarity regarding physical and economic features Other golf course sales were reviewed, but those selected above are believed to be most representative of the value of the subject However, all of the properties differ regarding location, age, condition, and other attributes and the various features of the property must be considered in the comparison process All of the comparable sales are semi-private or for-profit private facilities that would offer much similarity to the subject regarding investors' expectations

My review of golf course sales in recent years seems to indicate relatively stable market conditions Generally speaking, the golf market has been difficult in recent years, but the transactions cited above are believed to be representative of current market conditions The sales took place within the last 18 months and no major adjustment is necessary for this time lapse involved Sale No 4 closed after the date of valuation but was reportedly under contract on or very near the date of valuation

The golf properties cited above offer some similarity and can be reasonably compared with the subject Sales 4 and 5 are given emphasis as they are located in the Charleston, SC market Golf Course Sales 1 and 2 are considered to be superior properties located in the Hilton Head Island, SC market Sales 3 and 6 are located in eastern North Carolina Most of the comparable sales had a swimming pool and tennis courts with Sale No 6 having on-site golf villas Overall, Sales 4, 5 and 6 are considered to be inferior to the subject with Sales 1 and 2 being superior The physical features of Sale No 3 are believed to compare favorably with the subject

The schedule on the preceding page sets forth a summary of the comparable sales as well as the value indicators for the various units of comparison Four units of comparison were cited excluding the overall capitalization rate, which is useful in the income capitalization approach These units of comparison will be discussed and analyzed in the following paragraphs

Price per Hole

Although this is a well-known unit of comparison for golf properties, the indicated values can vary substantially based upon the physical and economic features of the properties The indicated prices per hole in this analysis vary from a low of $138,889 to a high of $500,000 The price per hole can be only a rough approximation of value, but Sales 1 and 3 are believed to offer the most similarity to the subject regarding this indicator $215,000 per hole is adopted in this analysis This indicates a value as follows

18 Holes @ $215,000 = $3,870,000

Gross Income Multiple

This indicator can also vary substantially depending on how gross income is calculated This is, some clubs include gross food and beverage sales as well as pro shop merchandise in gross income, whereas other clubs lease out the food and beverage operation Also, the sale of golf merchandise is sometimes part of the golf pro's compensation Properties with high expense ratios typically indicate low gross income multiples The gross income multiples set forth by the available data varies from 1 52 to 3 46 with an average of 2 32 Sales with high expense ratios typically indicate lower GIM's 1 35 is adopted as the gross income multiple in this analysis This indicated value is exemplified as follows

$3,037,350 x 1 35 = $4,100,423
(R) $4,100,000

Price per Round

This indicator can be useful in valuing daily-fee or semi-private clubs and is given some emphasis in this analysis This indicator is believed to be reflective of the overall market acceptance of a golf course The price per round is obtained by dividing the sales price by the total number of rounds at the time sale The indicated price per round as set forth by the available data varies from $63 50 to $200 89 This indicated range is relatively large and the average price per round indicated by the available data is $133 82 $100 per round is adopted in this analysis which indicates a value for the subject as follows

39,000 Rounds x $100 00 = $3,900,000

Green Fee Multiplier

The green fee multiplier is estimated by dividing the price per round by the average green fee The green fee multiplier allows comparison offering dissimilar physical features Quality courses typically demand higher green fees and higher sales prices The five comparable sales indicating green fee multipliers exhibited a relatively wide range but average 3 88 Sales No 4 is considered to be atypical and other golf course sales I reviewed indicate GFM's of 4 0 to 6 0 The average price per round is skewed by the inclusion of a green fee After deducting a cart fee of $17, the average green fee for the subject is $21 75 which is believed to be appropriate in this analysis A green fee multiplier of 4 5 is adopted in this analysis This indicates a value for the subject utilizing this technique as follows

$21 75 x 39,000 rounds x 4 5 = $3,817,125
(R) $3,820,000

Summation - Sales Comparison Approach

The units of comparison cited above are believed to provide some insight into the valuation of the subject and how it compares with the available market data The properties offer some similarity, and the economic indicators are believed to support the value obtained

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by the income capitalization approach The good physical features of the subject and its income-producing capability were considered in the adoption of the various indicators The units of comparison cited above indicate a range varying from $3,820,000 to $4,100,000 The indicators adopted in this analysis are deemed reasonable based upon the property's physical and economic attributes The gross income multiplier is given much emphasis in this valuation as it is of primary importance to prospective buyers and sellers of properties of this type $4,000,000 is adopted as the value by the sales comparison approach and is well supported by the data cited above

RECONCILIATION – GOLF COURSE VALUATION

That portion of the subject identified as the Dunes West Golf Course has been valued as a going concern by the income capitalization approach and sales comparison approach The value estimates are as follows

Income Capitalization Approach -	$3,978,000
Sales Comparison Approach -	$4,000,000

The income capitalization approach is considered to be the best method of valuation for a property such as the subject The discounted cash flow analysis was prepared as the attributes of the subject lend it to an estimate of revenues and expenses over a projected ownership term Care was taken in the estimate of income and expenses attributable to the subject, and the discount rate used in this analysis is believed to be indicative of investors' expectations regarding a property of this type This approach to value is given much emphasis in this valuation It is believed to adequately gauge the expectations of market participants and also considers the physical and economic attributes of the property in question

The sales comparison approach is useful in this analysis and is believed to support the final value estimate Several sales of golf courses were cited These assets were compared with the available data based upon several units of comparison The sales comparison approach is believed to lend support to the final value estimate and is believed to be reflective of current market conditions

In summary, the income capitalization approach and sales comparison approach can be utilized to formulate a final value estimate that takes into consideration all attributes of the property in question including the intangible, yet very real, aspects of a going concern While the subject consists of a parcel of land, golf course improvements, and various items of personal property, the value herein reported is the value of the going concern to a single purchaser as of the current date of valuation Although no business value was allocated for the subject, none is evident based upon the value obtained by the income capitalization approach That is, there is no excess income available to the property after a reasonable return on and return of the various assets are considered

After considering the data contained herein, it is my opinion that as of June 15, 2006, the Dunes West golf course had a market value, as a going concern, of $4,000,000 This estimate is based upon the income capitalization approach with secondary emphasis given to the sales comparison approach This value also includes the contributing value of fixtures, furnishings, and equipment which can be reasonably estimated based upon their contribution to the total property Based upon my review of information provided by management as well as an observation of the quantity and quality of personal property used in the operation of Dunes West Golf Club, the estimated contributing value of FF&E is $450,000 It should be noted that the personal property includes golf carts as well as maintenance equipment and clubhouse furnishings This results in a value of the real property of that portion of the subject occupied by the golf course as follows

Value of Going Concern -	$4,000,000
Less Personal Property -	($ 450,000)
Value of Real Property – Golf Course -	$3,550,000

VALUATION OF EXCESS LAND

Based upon the highest and best use of the subject property, the areas herein referred to as excess land have contributing value over and above the value of the golf course and related facilities The excess land consists of several single-family homesites as well as two small parcels of land identified as proposed multi-family sites This land is valued by Michael C Robinson, MAI, SRA of Charleston Appraisal Service, Inc Information regarding his appraisal is set forth in a report and is included as Exhibit H in the addenda of this report The contributing value of excess land is $4,399,000 This value takes into consideration wetlands and other factors related to the development potential of the excess land as well as factors related to the playability of the golf course Such costs to be incurred include the relocation of cartpaths and tees as well as the construction of a new maintenance facility The engineering estimates, golf course cost data as well as the indicated value of the excess land is well supported and is adopted in this valuation

SUMMATION "BEFORE" VALUE ESTIMATE

The total value of property of Dunes West Golf Club, LLC in the "before" valuation consists of the golf club and excess land Based upon the highest and best use of the subject, these two components are valued separately and summed for a total property value The data and assumptions utilized in the "before" valuation are believed to be reasonable and proper in all respects The final value estimate of the subject property based upon the hypothetical condition of the R-1 and R-3 zoning classifications as of June 15, 2006 can be shown as follows

Golf Course -	$3,550,000
Excess Land -	4,339,000
Total Property Value -	$7,889,000

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VALUATION "AFTER"

DESCRIPTION OF SUBJECT PROPERTY - "AFTER"

Property appraised in the "after" valuation will be the entire property of Dunes West Golf Club, LLC The land area is unchanged at 256 49 acres and is improved with the 18-hole golf course, clubhouse and other improvements No change to the golf course is evident in the valuation of the subject in the "after" situation That is, no rerouting of cartpaths or relocation of tees or greens would be necessary The golf course yardage and par of 72 would be unaltered The maintenance building would remain in its present location and no parking spaces would be lost as a result of development of excess land

ZONING AND RESTRICTIONS

The subject property is now appraised based upon its current zoning classification As previously discussed, the Town of Mt Pleasant rezoned the subject on June 15, 2006 to Conservation – Recreation Open Space (CR-O) Permitted uses under this zoning classification include golf courses Prohibited uses include single-family and multi-family residential development

HIGHEST AND BEST USE ANALYSIS – "AFTER"

Based upon the attributes of the subject property, including its current CR-O zoning classification, the highest and best use of the subject is for its continued use as Dunes West Golf Club This use has been in effect for a number of years and no other use is forecast Based upon the current zoning classification, the land previously designated as excess land no longer has a highest and best use for residential development The only potential use for the excess land is for buffers and open space in conjunction with the Dunes West golf course Based upon the current zoning, the existing golf operation could be expanded That is, swimming pools, tennis courts, and other club-related facilities are allowable uses under the CR-O classification Therefore, a swimming pool, tennis courts or other recreation amenity could be constructed on areas previously designated as excess land It should be noted that such amenities are available elsewhere within the Dunes West development and the need for such amenities is considered very unlikely

Although the highest and best use of the golf course remains unaltered, the flexibility regarding future uses of the subject land is changed That is, if the existing golf course were to cease operations, the underlying land has essentially no potential for any intensive use Therefore, land devoted to the golf course would likely revert to open space with some potential for recreational usage such as soccer fields or other recreational amenities as noted above

Golf courses are unique properties in that they may last for 100 years or more Although the physical life of a golf course is long, the economic life can vary depending upon a number of factors Like any other property, the highest and best use of a golf property can change over time The value of on-going golf operations for a property with a very desirable location can sometimes be exceeded by the underlying land value based on one or more alternative development uses This is evidenced by the fact that golf courses have been converted in recent years to residential subdivisions, commercial developments and other uses However, conversion to alternate use is best accomplished by a core golf course Golf courses that meander through residential developments often have limited alternate uses This factor notwithstanding, the CR-O zoning classification precludes any future development of the subject land for homesites or other residential properties Based upon the nature of the Dunes West development, any change in use would likely be many years in the future However, the golf industry is currently experiencing declining participation rates

In summary, the highest and best use of the appraised property, subject to the existing CR-O zoning, is for continued use as Dunes West Golf Club The primary effects of the zoning relate to the lack of development potential of the excess land Also, the property is precluded from a prospective change in highest and best use or for any future development potential subsequent to the closure of the existing golf operations These factors are believed to result in some diminution in the subject's real property market value

METHOD OF APPRAISING

The subject property will be valued in the "after" situation by the income capital approach As previously discussed, this is considered to be the best method of valuation for golf courses The subject will be valued as a going concern with appropriate deductions made to arrive at a value for real property only

A restrictive zoning classification such as CR-O undoubtedly diminishes the value of the property to prospective buyers in comparison with a hypothetical replacement property that offers potential for alternate uses While golf courses that meander through residential subdivisions are more difficult to redevelop than core golf courses, the subject is believed to offer reasonably good development potential if the golf operations were to cease Although several areas are irregular-shaped areas with limited access, the subject has extensive road frontage on Wando Plantation Way and other subdivision streets Typically, the value inherent in golf courses relates to the quantity, quality and durability of the income stream Therefore, the CR-O zone on Dunes West Golf Club, LLC is believed to result in some diminished value, not only from the loss of value of excess land, but from the golf operations

Dunes West Golf Club is well located in a growing suburban area As previously discussed, Dunes West is a desirable and attractive development with dwellings in a moderate to upper price range Continued use of the subject as Dunes West Golf Club is forecast for many years into the foreseeable future No trends are evident in the marketplace

that would alter current land use patterns Dunes West is considered to be a viable neighborhood for many years, and area residents are projected to support Dunes West Golf Club The subject is located in a dynamic market area, and continued utilization of the subject as a semi-private golf club is forecast well into the foreseeable future The game of golf has been around for centuries and will likely continue to be played by the members of the club as well as daily-fee participants However, participation rates for golf are stable to declining and it is the uncertain nature of the golf market as well as the loss of future development potential that results in diminished value for the subject property, as encumbered

My investigation of the golf market did not reveal any sales of golf courses useful in estimating the diminished value of the subject Golf courses are often restricted in use by deed restrictions, zoning, conservation easements or other agreements but diminished value is difficult to glean from market evidence Certainly, most prospective purchasers would recognize the potential or lack of potential for alternate uses but location, quality of the golf course and other improvements and other factors make an adjustment difficult However, the value of a golf course is directly related to the perceived risk inherent in the project and this impact is best measured by the income capitalization approach

INCOME CAPITALIZATION APPROACH

Only the income capitalization approach will be developed into a value indication The discounted cash flow analysis, as previously prepared, will be developed utilizing an adjusted discount rate to reflect the appropriate risk level for the subject Also, the golf course is changed from the "before" valuation, that is, the "before" valuation considered the various changes that accrued to the golf course as a result of relocated tees, greens, and cartpaths as well as the other factors previously mentioned The cumulative effect of these changes resulted in an average green fee in the "before" valuation of $38 75 The "after" valuation is believed to result in a green fee of $40 50 in Year 1 It increases modestly over the projection period to a fifth-year level of $45 58 The level of play is unaltered from the "before" valuation and income attributable to memberships is unchanged Operating expenses are believed to be unchanged except for those related directly to gross income such as a management fee and reserves for replacements

Based upon this information, the cash flows attributable to Dunes West Golf Club are summarized on the following summary of income and expenses

Summary of Income & Expenses-After
Dunes West Golf Club
Mt. Pleasant SC

Annual Rounds		39 000			39 000			40 000			40 500			41 000		
Ave Greens Fee		$ 40 50			$ 41 72			$ 42 97			$ 44 26			$ 45 58		
/ No member Play		72/			72/			72/			72/			72/		
Year		1			2			3			4			5		
		% of Rev.	$/Round		% of Rev.	$/Round		% of Rev.	$/Round		% of Rev.	$/Round		% of Rev.	$/Round	
Revenues																
Initiation Fees	$ 75 000	2 4/	1 92	$ 75 000	2 4/	1 92	$ 100 000	3 0%	2 50	$ 100 000	2 9%	2 47	$ 125 000	3 4/	3 05	
Membership Dues	578 000	18 7/	14 82	595 000	18 7/	15 26	621 000	18 5/	15 53	647 500	2 9%	15 99	684 000	18 6/	16 68	
Greens Fees	1 137 240	36 8/	29 16	1 171 357	36 9%	30 03	1 237 434	36 8/	30 94	1 290 489	36 9%	31 86	1 345 613	36 6/	32 82	
Cart Rental Fees	140 000	4 5/	3 59	144 200	4 5/	3 70	148 526	4 4/	3 71	152 982	36 9%	3 78	157 571	4 3/	3 84	
Driving Range	48 750	1 6/	1 25	50 310	1 6/	1 29	53 200	1 6/	1 33	55 485	1 6/	1 37	57 810	1 6/	1 41	
Food & Beverage	819 000	26 5/	21 00	843 570	26 6/	21 63	891 200	26 5/	22 28	929 475	26 5/	22 95	969 240	26 3/	23 64	
P o Shop Sales	253 500	8 2/	6 50	261 300	8 2/	6 70	276 000	8 2/	6 90	287 550	8 2/	7 10	300 120	8 2/	7 32	
Other Income	35,000	1 1/	0 90	36,050	1 1/	0 92	37,132	1 1/	0 93	38,245	1 1/	0 94	39,393	1 1/	0 96	
Total Income	$ 3 086 490	100 0%	79 14	$ 3 176 787	100 0%	$ 81 46	$ 3 364 491	100 0/	$ 84 11	$ 3 501 726	100 0%	$ 86 46	$ 3 678 747	100 0%	$ 89 73	
Dept Costs & Expens s																
Golf Course Maint	$ 750 000	24 3/	$ 19 23	$ 772 500	24 3/	19 81	$ 795 675	23 6/	$ 19 89	$ 819 545	23 4/	$ 20 24	$ 844 132	22 9%	$ 20 59	
Cart Maint /Lease	2 500	0 1/	0 06	2 575	0 1/	0 07	2 650	0 1/	0 07	2 732	0 1/	0 07	2 814	0 1/	0 07	
Driving Range	7 800	0 3/	0 20	8 190	0 3/	0 21	8 400	0 2/	0 21	8 910	0 3/	0 22	9 430	0 3/	0 23	
F & B Cost of Goods	245 700	8 0%	6 30	253 071	8 0%	6 49	267 360	7 9%	6 68	278 843	8 0%	6 89	290 772	7 9%	7 09	
F& B Expenses	409 500	13 3/	10 50	421 785	13 3/	10 82	445 600	13 2/	11 14	464 738	13 3/	11 48	484 620	13 2/	11 82	
Pro Shop Cost of Goods	159 705	5 2/	4 10	164 619	5 2/	4 22	173 880	5 2/	4 35	181 157	5 2%	4 47	189 076	5 1/	4 61	
Pro Shop Expenses	300 000	9 7/	7 69	309 000	9 7/	7 92	318 270	9 5/	7 96	327 818	9 4/	8 09	337 653	9 2/	8 24	
Other Expenses	7,000	0 2/	0 18	7,210	0 2/	0 18	7,426	0 2/	0 19	7,649	0 2/	0 19	7,879	0 2/	0 19	
Total Dept. Costs/ Exp	$ 1 882 205	61 0%	$ 48 26	$ 1 938 950	61 0%	$ 49 72	$ 2 019 261	60 0%	$ 50 48	$ 2 091 391	59 7/	$ 51 64	$ 2 166 374	58 9%	$ 52 84	
Undistributed Expenses																
Admin. & General	$ 285 000	9 2/	7 31	$ 293 550	9 2/	$ 7 53	$ 302 357	9 0%	$ 7 56	$ 311 427	8 9%	$ 7 69	$ 320 770	8 7/	$ 7 82	
Management Fee	123 460	4 0%	3 17	127 071	4 0%	3 26	134 580	4 0%	3 36	140 069	4 0%	3 46	147 150	4 0%	3 59	
Marketing & Promotion	75 000	2 4/	1 92	77 250	2 4/	1 98	79 568	2 4/	1 99	81 955	2 3/	2 02	84 413	2 3/	2 06	
Professional Fees	12 000	0 4/	0 31	12 360	0 4/	0 32	12 731	0 4/	0 32	13 113	0 4/	0 32	13 506	0 4/	0 33	
Utilities	77 500	2 5/	1 99	79 825	2 5/	2 05	82 220	2 4/	2 06	84 686	2 4/	2 09	87 227	2 4/	2 13	
Repairs & Maint	22,500	0 7/	0 58	23,175	0 7/	0 59	23,870	0 7/	0 60	24,586	0 7/	0 61	25,324	0 7/	0 62	
Total Undistrib Exp	$ 595 460	19 3/	15 27	$ 613 231	19 3/	$ 15 72	$ 635 324	18 9%	$ 15 88	$ 655 836	18 7/	$ 16 19	$ 678 390	18 4/	$ 16 55	
Fixed Charges																
Property Taxes	$ 60 000	1 9%	1 54	$ 61 800	1 9%	$ 1 58	$ 63 654	1 9%	$ 1 59	$ 65 564	1 9%	$ 1 62	$ 67 531	1 8/	$ 1 65	
Property Insurance	12 000	0 4/	0 31	12 600	0 4/	0 32	13 230	0 4/	0 33	13 892	0 4/	0 34	14 586	0 4/	0 36	
Res for Replacement	154,325	5 0%	3 96	158,839	5 0%	4 07	168,225	5 0%	4 21	175,086	5 0%	4 32	183,937	5 0%	4 49	
Total Fixed Charges	$ 226 325	7 3/	5 80	$ 233 239	7 3/	$ 5 98	$ 245 109	7 3/	$ 6 13	$ 254 541	7 3/	$ 6 28	$ 266 054	7 2/	$ 6 49	
Total E penses	$ 2,703,989	87 6/	69 33	$ 2,785,421	87 7/	$ 71 42	$ 2,899,694	86 2/	$ 72 49	$ 3,001,769	85 7/	$ 74 12	$ 3,110,818	84 6/	$ 75 87	
Net Income	$ 382,501	12.4%	9 81	$ 391,366	12 3/	$ 10 04	$ 464,797	13.8%	$ 11.62	$ 499,957	14.3%	$ 12.34	$ 567,929	15.4%	$ 13.85	

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Discount Rate Selection

Based upon the increased risk associated with the CR-O zoning, it is deemed appropriate to allow for a higher discount rate in my capitalization of projected revenue over a typical ownership term Therefore, in the valuation of the subject with the existing zoning, I have utilized a 13 5% discount rate This is an increase of 100 basis points from the "before" valuation

The valuation of the subject by the income capitalization approach is shown on the following schedule

Software	ARGUS Ver 8 6 02	Dunes West Golf Club	Date	4/12/11
File	Dunes West Argus After	3535 Wando Plantation Way	Time	17 46
Property Type	Golf	Mt Pleasant SC	Ref#	AAC
Portfolio			Page	1

PROSPECTIVE PRESENT VALUE
Cash Flow Before Debt Service plus Property Resale
Discounted Annually (Endpoint on Cash Flow & Resale) over a 5-Year Period

Analysis Period	For the Year Ending	Annual Cash Flow	P V of Cash Flow @ 11 50%	P V of Cash Flow @ 12 00%	P V of Cash Flow @ 12 50%	P V of Cash Flow @ 13 00%	* P V of Cash Flow @ 13 50%	P V of Cash Flow @ 14 00%	P V of Cash Flow @ 14 50%
Year 1	May-2007	$382,501	$343,050	$341,519	$340,001	$338 496	$337,005	$335,527	$334,062
Year 2	May-2008	$391,366	$314,799	$311,994	$309,227	$306,497	$303,803	$301,144	$298,519
Year 3	May-2009	$464 797	$335,304	$330,834	$326,442	$322,128	$317,889	$313,724	$309,633
Year 4	May-2010	$499,957	$323,470	$317,731	$312,121	$306,633	$301 265	$296,015	$290,878
Year 5	May-2011	$567,929	$329,548	$322 259	$315,160	$308,249	$301,519	$294,965	$288,580
Total Cash Flow		$2,306 550	$1 646,171	$1,624,337	$1 602 951	$1,582 003	$1,561 481	$1 541,375	$1,521,672
Property Resale @ 11% Cap Rate		$5 059,731	$2,935,980	$2 871,027	$2 807,791	$2,746,219	$2 686 260	$2,627,866	$2 570,988
Total Property Present Value			$4,582,151	$4,495,364	$4,410,742	$4,328 222	$4,247,741	$4 169 241	$4,092,660
Rounded to Thousands			$4 582 000	$4,495,000	$4,411 000	$4 328 000	$4,248,000	$4 169,000	$4,093 000

The preceding discounted cash flow analysis sets forth the cash flows and the discount rate which results in a value for the subject of $4,258,438 which is rounded to $4,258,000 As with the "before" valuation, a deduction is made for the contributory value of fixtures, furnishings, and equipment (FF&E) used in the golf operation As indicated on the following discounted cash flow summary, the value of the property of Dunes West Golf Club, LLC, subject to the current zoning classification of CR-O as of the effective date of valuation is exemplified as follows

Value by Income Capitalization Approach -	$4,248,000
Less FF&E -	(450,000)
Value of Subject Property with CR-O Zoning -	$3,798,000

DIFFERENCE IN "BEFORE" AND "AFTER VALUES

Based upon the data and analysis previously set forth, the difference in the "before" and "after" values can be summarized as follows

Value "Before" (R-1 and R-3 zoning) -	$7,889,000
Value "After" (CR-O zoning) -	3,798,000
Difference -	$4,091,000

CERTIFICATION

I certify that, to the best of my knowledge and belief

- The statements of fact contained in this report are true and correct
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial and unbiased professional analyses, opinions and conclusions
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved
- I have no bias with respect to the property that is the subject of this report or to the parties involved with the assignment
- My engagement in this assignment was not contingent upon developing or reporting predetermined results
- My value conclusion as well as other opinions expressed herein are not based upon a requested minimum value, a specific value or approval of a loan
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors that cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives
- I have made a personal inspection of the property that is the subject of this report
- No one provided significant real property appraisal assistance to the person signing this certification
- As of the date of this report, I have completed the continuing education program of the Appraisal Institute

J. Richard Marlow, MAI, SGA

4-20-11
Date

002801

ADDENDA

Exhibit A

QUALIFICATIONS OF APPRAISER

J Richard Marlow, MAI, SGA
Real Estate Appraiser & Consultant
203 W Main St , P O Box 28
Wilkesboro, NC 28697

Office 336-838-3277 Fax 336-838-3209
E-mail jrmmai@earthlink net
Website www marlowgolf com

Professional Experience

North Carolina State Certified General Real Estate Appraiser Certificate No A254

South Carolina State Certified General Real Estate Appraiser Certificate No CG 2639

Virginia State Certified General Real Estate Appraiser Certificate No 4001 005355

Georgia State Certified General Real Estate Appraiser Certificate No 327238

Self-employed since November, 1981, offering appraisal and consultation services on all types of real property

From August, 1973, to October, 1981, employed as an appraiser with the firm of Milton-Gentry & Associates, Lynchburg, Virginia Duties consisted of appraisal and consultation services on all types of real property

Qualified as expert witness in Bedford County, Virginia, Circuit Court, Wilkes County, Caldwell County, Catawba County, Iredell County, Watauga County, and Haywood County, North Carolina, Superior Courts, U S Bankruptcy Court, North Carolina Property Tax Commission, Beaufort County, South Carolina Board of Equalization and Review, Court of the SC Administrative Law Judge

Educational Background

General

Graduate of University of North Carolina, Chapel Hill, North Carolina, 1970 Received Bachelor of Science degree in Business Administration

Appraisal

1 American Institute of Real Estate Appraisers – Course I-A, "Basic Appraisal Principles, Methods and Techniques," 1974

2 American Institute of Real Estate Appraisers – Course I-B, "Capitalization Theory and Techniques," 1975

3 American Institute of Real Estate Appraisers – Course II, "Urban Properties," 1976

4 American Institute of Real Estate Appraisers – Course VI, "Investment Analysis," 1977

5 American Institute of Real Estate Appraisers – Course IV, "Litigation Valuation," 1982

6 Appraisal Institute – Advanced Income Capitalization - Course 520, 1993

7 Appraisal Institute - Highest and Best Use and Market Analysis - Course 510, 1994

8 Appraisal Institute – Separating Real and Personal Property from Intangible Business Assets – Course 800, 2002

9 Appraisal Institute – Advanced Sales Comparison and Cost Approach - Course 530, 2003

10 Uniform Standards of Professional Appraisal Practice - 2007

11 Attended various seminars and programs sponsored by the Appraisal Institute, North Carolina Department of Transportation and Society of Golf Appraisers

Professional Designations

MAI – Member of the Appraisal Institute, Certificate #6071, awarded 1979

SGA – Member of the Society of Golf Appraisers, Certificate #16, awarded 1995

Professional Affiliations and Activities

Past President and Vice President of the Society of Real Estate Appraisers, Lynchburg Chapter No 161

Past Treasurer of Blue Ridge Chapter #56, American Institute of Real Estate Appraisers

Member – National Non-Residential Appraisal Reports Subcommittee - American Institute of Real Estate Appraisers, 1980-89

002804

Member – National Golf Foundation

Past President – Wilkes Chamber of Commerce

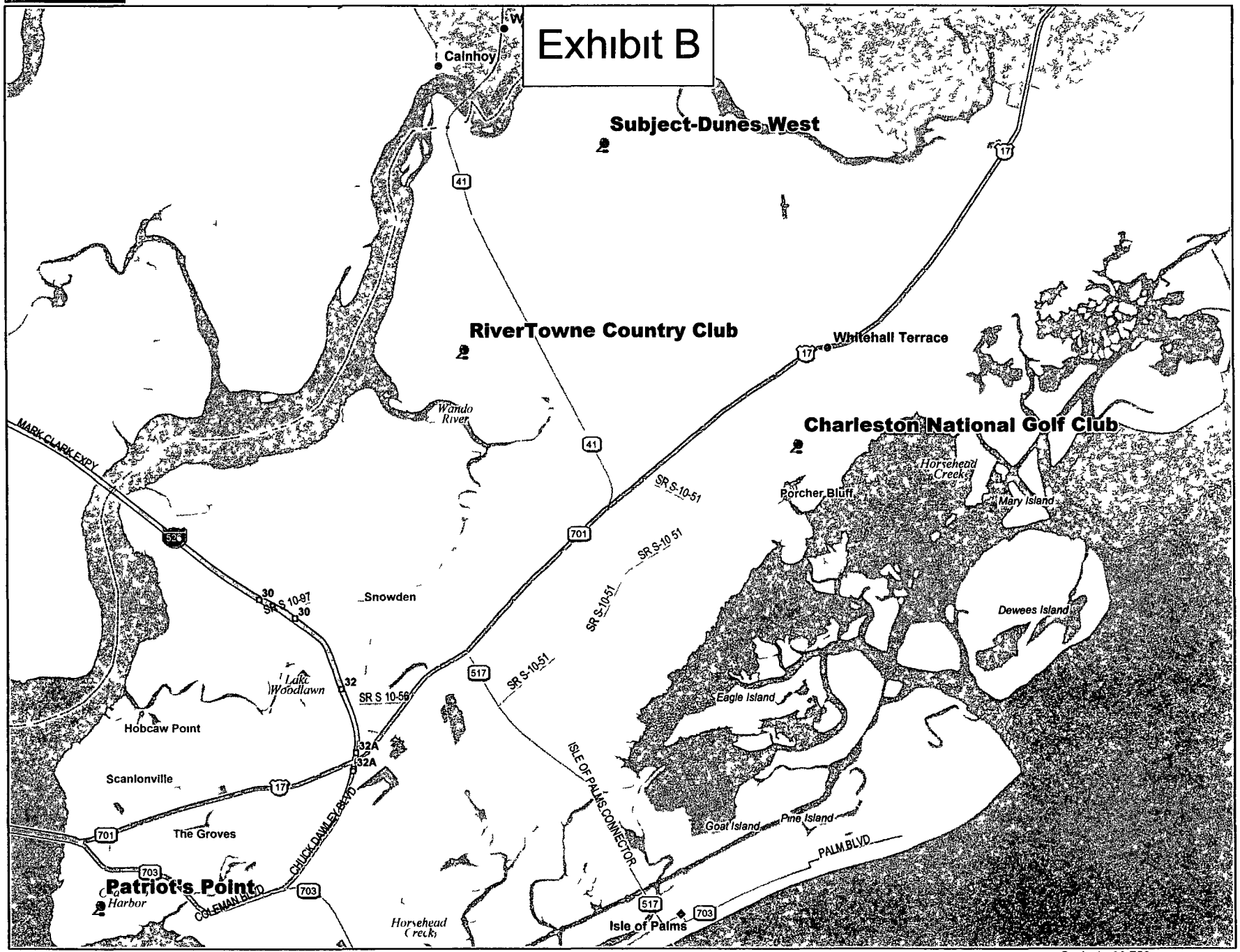
Types of Properties Appraised

Acreage Tracts
Apartments
Convenience Stores
Condominium Projects
Country Clubs
Golf Courses
Hotels/Motels
Industrial Buildings
Marinas
Mobile Home Parks
Nursing Homes
Office Buildings
Residences
Restaurants
Retail Properties
Shopping Centers
Special Purpose Properties
Subdivisions

A Partial List of Appraiser's Clients

Bank of America
Wachovia Bank & Trust Company, N A
Branch Banking & Trust Company
SunTrust Bank
First Citizens Bank
Centura Bank
Peoples Bank
CommunityOne Bank
Yadkin Valley Bank
Bayview Financial Trading Group
First National of America, Inc
First National Bank, Shelby, NC
First Bank, Troy, NC
Piedmont Bank
Bank of Granite
Southern Community Bank & Trust
Park Sterling Bank
United Community Bank
CIT Small Business Lending Corporation
Textron
LinksCorp
AEW Capital Management
General Electric Credit Corporation
BTM Capital Corporation
Lowe's Companies, Inc
Duke Energy
Crescent Resources
The Nature Conservancy
The Conservation Fund
Conservation Trust for North Carolina
Foothills Conservancy
Town of North Wilkesboro, NC
Town of Wilkesboro, NC
City of Hickory, NC
City of Morganton, NC
City of Statesville, NC
City of Annapolis, MD
City of Salisbury, NC
Beaufort County, SC
National Park Service
North Carolina Department of Transportation
North Carolina Department of Administration
South Carolina Department of Revenue
United States Forest Service
United States Postal Service
Wilkes Regional Medical Center
Individuals, Corporations, and Attorneys

Exhibit B



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TN
MN (0 0°E)

Scale 1 93 750

1 = 1 48 mi

Data Zoom 11 1

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY

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THOMAS HUTTON ENGINEERING CO.
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MOUNT PLEASANT SC 29464 843/849-0200
SUMMERVILLE, SC MYRTLE BEACH, SC

DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.

SHEET 2 OF 9
DRAWING NO. D 1568

002821

PLAT APPROVED
PLANNING & ZONING USE ONLY
NOTES
SEE SHEET FOR NOTES AND REFERENCES
SEE SHEET FOR LINE AND CURVE TABLES
WAGNER CREEK
PHASE 2B
PHASE 2B
PHASE 2B

543

002822

TRACT B
TRACT A
TRACT E
PHASE 2B2
PHASE 2B4
WANDO PLANTATION WAY
PIGNATELLI CRESCENT
COTTON FIELD DRIVE
COL VANDERHORST CIR.
MATCH LINE SEE SHEET 3
MATCH LINE SEE SHEET 5
NOTES
SEE SHEET 1 FOR KEY MAP AND REFERENCE DRAWINGS
PLAT APPROVED
PLANNING & ZONING USE ONLY
TOWN OF MT. PLEASANT S.C.
DATE
S.C. Minimum Standards Certification
FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY
THOMAS HUTTON ENGINEERING CO.
DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.
SHEET 4 OF 6

NOTES
SEE SHEET FOR NOTES AND REFERENCES
SEE SHEET FOR LINE AND CURVE TABLES
PLANNING & ENG. USE ONLY
PLAT APPROVED
TOWN OF MT. PLEASANT, S.C.
DATE: 1.16.04
PHASE 1B2
MATCH LINE SEE SHEET
TRACT D
7.0 ac ±
PART OF TRACT D
3 ac ±
PHASE 1B2
PHASE 1B2
PHASE 1B3
PALMETTO CREEK CT.
WANDO PLANTATION WAY
COL. VANDERHORST CIR.
TRACT E
9.93 ac ±
TRACT E
2.4± ac
TRACT G
WAGNERS POINT CIRCLE
DOWNING PLACE WAY
DOWNING PLACE WAY
AMESBURY CT.
TRACT G4
3.42 ac ±
HARTFORD VILLAGE
PHASE 2
COL. VANDERHORST CIR.
FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY
THOMAS HUTTON ENGINEERING CO.
DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.
5 OF 9

002824

PLAT APPROVED
TOWN OF MT. PLEASANT S.C.
PLANNING & ENG. USE ONLY
NOTES
WAGNER CREEK
WAGNER DESERT CT
VANDERHORST CIR
VANDERHORST DR
BRELL WARD CIRCLE
TRACT C
TRACT C1
TRACT C2
TRACT C3
TRACT C4
TRACT A
TRACT B
HARTFORD VILLAGE PHASE 2
PHASE 1A
PHASE 1B1
PHASE 1B2
PHASE 1B3
FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY
THOMAS HUTTON ENGINEERING CO.
DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.
9 OF 9

002825

546

PLANNING & BASIC USE ONLY
PLAT APPROVED
TOWN OF MT. PLEASANT, S.C.
DATE: 1.18.05
NOTES
1) SEE SHEET FOR NOTES AND REFERENCES
2) SEE SHEET FOR LINE AND CURVE TABLES
R 752 P 307
TRACT A
3.40 acres
TRACT B
4.34 acres
MATCHLINE SEE SHEET
TRACT C
3.34 acres
COL. VANDERHORST CIR.
60' R/W
PHASE 1B1
PHASE 1B1
PHASE 1B1
PHASE 1B1
COL. VANDERHORST CIR.
60' R/W
FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY
THOMAS HUTTON ENGINEERING CO.
DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.
7
9

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY
DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.
PLAT APPROVED
TOWN OF MT PLEASANT S.C.
PLANNING & ENG USE ONLY
TOOMER CREEK
COL. VANDERHORST CIR.
SHELL RING CIRCLE
PHASE 1A
PHASE 1B1
PHASE 1B2
TRACT B
44.34 AC±
MATCHLINE SEE SHEET
NOTES
SEE SHEET 1 FOR NOTES AND REFERENCES.
SEE SHEET 8 FOR LINE AND CURVE TABLES.

002826

T526 0309

CURVE	LENG	RADIUS	DELTA	TANGENT	CHORD	CHORD BEARING
	66.83	30.00	90°00'00"	30.00	60.14	S 89°34'56" E
	36	20.94	9° 2'55"	18.00	36	N 4° 0'27" E
		30	50°E 3		779.32	
	18	840.21	13		7	S 50°34'00" E
		83	3°10'3	84	844.97	S 50°7' 4.36"W
	188.	86	12°3'50	84	S 56°1'3.56"W	
	258.30	04	0°04	130.72	516 04'3.8"W	06
		84	0°	73	N 52° 'E	44
		00	86°36.86	84.60	N 2°6'30"E	72
	73	10NE	9° 3	04	893 86.86	
C1	90	00	86° 0"	00	S 7°11'3"W	36
C12	58		0° 3	166	N43 33 06"E	310.00
C13			2 73.2	56	9° 16"W	477.46
		00	36 2' 44	04	66'1' '8"W	30
			89° 9 04		N8 28'0"E	34.06
	63	78 00	50° 3		8° 39'00"W	86.06
		00	0°4 0'2	90.62	516°8'36"W	180.08
C2			89° 8 04	3.30	N0°36'1"W	09
C2		00	0 34	84	88° 6'34"W	148.36
	04	00	0° 8 88		N36° 36"E	
			46°34		N36 0'2"E	
	104 83		89°34 0'2		106.68	
	13		84 04		N 8°W	102.88
	36.	66.	1	18.86	N 0° 'E	36.38
C2			2 8	9	N15°3'00"W	
		900 00	2° 7'4		8 16° 'E	
	63.		8 0°	0.	N0° 09'37"	64.83
	36	1861	15°0		82°34'28 W	360.64
C3			6° 10	78 77	516 30'26 W	78
	220	8.2	26° 13		N27° 'E	04
		104	2 0° 2	190	N15° 33'E	
			3 06		84 6 W	33
C34		61.90	77° 05		8 0° 4'E	
	64.34	00	84° 36		N 8°3 06"E	
C38	04	00	2°0 16	117	82 8° 2 'E	91.00
	36.30		26°		87°37'36"E	
		38	16° 56		33'E	78.86
	84 04		150°	108	64° 7'E	90.86
			0°0 9'0		8° 2 'W	12.
		81	3		84 14'0"E	92.81
			7 2 27'	88.98	N64 00"W	30.2
		00	37° 9	77	N0° 8'E	04
	09	34	26	106	S67°36.06"W	2 .00
		00	2°3		N 90° 'E	71.86
		00	9°	21	87° 18'E	.56
		00	7° 7'04	109.78	8° 2	.34
		00	78°22 09	78	8° 8'7'E	81.00
				79	88 34 'E	78
		00	0°		8° 2 'E	
			3 2	36	3 06"E	.83
			3 4 0°		8°0° 4'E	2 2
		00	2°		898°06'33"E	
		00	109° 64	66	893 2 38"E	
C5		00	84 36 27"	22	N 3°3'36"E	33.77
	64		8° 00		N89°0'10"W	
			0°		836°84 8'E	08
			N°3 04		6 28'3"E	C34.2
			8 08	6.12	N77° 84	63
	78	00	0° 04'		84 9	34.86
		00	36'	121.64	78° 0'4"E	
64		00	9° 8 88		N79°84 86 8	06
	10 61	00 80	26° 8 01'		88°8'84 84"E	98.
	08	66.2	86° 35		103 3'E	306.93
		80 00	2°3'34		N23 83 4 "E	
68		1081	08		27°34 "8	84
	66 50	.89	9° 8'3'7"	61	88°02'38"E	60
		396.	3°3 '4	00	N88° 8 86"E	8 80
	64	106	18	32	8° 2'0"E	.82
		84			N82° 2 '8"E	30
	04	66	34 9'2	04	N7° 08"E	86.2
		02	7°03'30	80	N32°36 86	98
	58	30 00	0° 03		8 2° 'E	36.89
		00	47°05'8	363 64	82°8'60"W	
		00	69°3'00		N04 87'0"E	34.24
	73		0°2		332°0 2 E	.31
		00	8°2 8 64	1134	N66°32'E"W	
80	90 33	32 00	6 0	6.84	N78°08 02"E	90
		00	16	77	8 8° 3 "W	2.53
		00	16°0		82°14'36"E	136.72
63		64	3°13		N0° 3 "E	.29
C8	62	64	68°08	33 80	N46°34'82"W	60.09
		64	1°		N0°2 3'0"E	36.

LINE	LENGTH	BEARING
	53.36	N2° 'E
	88	N67° 7' 8 E
L3	00	08.40"W
		N78°8'W 'E
L3	84	N6°18 80 E
	83 3	N82° 8'E 'E
	73	N82°8'84"W
	3	N8
L8	36.36	N8 36'0 "E
L10	15	N48°30'8"W
L9	19.34	S2°3'30 "E
L12	.35	S82°8' 4
	78	N4 80.3"W
	01	N46 .8"E
	50	E 3 .83"E
	30.00	N46°0 8 "E
L17	80	N48°82 8"W
		846°07 2 "E
		843°3'36"E
	8	8 8°07'8"W
		6 0'8"E
72	64	N 8° 2 "E
L2	03	N2° 'E
L2		8° 3 "E
L2		N47° "E
2	48	3°E3 "E
L2		N2 2 "E
	30	N3° 2 "E
L2		N3° 2 8"E
L	50.00	N43° "E
		N48° 3
	50.00	883 2
3		83 .W "E
	84.04	8 0° 48 E
	34.21	03 04.80 E
36	3	888 E8'3"E
		883 7'E
	108	883 '2"E
		N86 2 8
	2.3	N 3 '30"W
		N72° 'I"E
L	7	N0°28 8"E
		N0°72 80"E
		N30° 42'3"E
		N46°3 '8"E
		N3?°
	59	84 8'2 "E
		N36°E 'E
	00	8 8° 8 "E
	73	8 7° 50 E
		N 0 8 2'8"E
L6		N48° 3 0"E
55		0° 7'E
	LU	7° "E
56	L2	856° 0' "E
	6.1	N 3° "E
		N37° 3'82"E
56	30	N46° "E
	17	N3 .06 0'E
	6 80	N73 .1 80"E
	78	N84 E .0
82		N49°2 30"
60	9	N0 8 7'E
64		N7 '39.8
	28	N7 2 "E
	8.96	886°2 80 W
L 7		2 2° 8"E
66		84 "E "E
69	30.8	N40° 80'E
	50.8	N38° 2 "E
	90	N48 1'2"E
L72		N43 E 90'E
		N38°8'82"W
	E 33	N6 .0'46"E
		N46°83'E
		73 8 2"E
	54	3°4 '86"E
	82.	0°4 04"E
78	00	N03 .04 "E
80	64	0°1'2"E
	60	N4 0 '8"E
		N8°06 85"E
		N0°86 0'E
		04.4 '2"E
66.66		10° 8'7"E
66	60 77	3 '4"E
	30	N85°2 0'E
		3 "E
68		N66°2 8'E
	3.2	827° 3 "E
		3 2'E 2'E
	30	N86°0'E
L	100	N68° "E
84		N8°8'4 E
		878°06 42"E

LINE	LENGTH	BEARING
56		N44 36'38 E
L		N8° 0 E
58	36.	N34 82 06"E
L88	66	N3° 8 2"E
L100		N66 2 2"E
100	68	N58°28'0 "E
	77	86° 1 "E
		N46° 2 E "E
L104	8	N46°86 2"E
	8	N78 08 8"E
L106		N17°27 8"E
L10	4.12	848°3 "E
L10		823° 20"E
L10		0°8'2 8"E
L90		8°8'83.84"E
	96	N 8°3 2"E
62		8 8° 'E
		8°E3 '2"E
		84°E 8"E
	8	N 8°E 8"E
66	88	87°8'04"E
		N 8°E 8"E
L10		8 88.84"E
	30	82°33 84"E
L12		8 88.84"E
		8°E3 8"E
	3.2	N 8°E 8"E
		8°E 8"E
	5	8°E 8"E
L13	74	8°8' 2"E
L13		8°8' 84"E
	84.73	8°E 4
	82	8°E 2 88
L	2	8°E 8"E
	98	88° 3'E
		N88°E 30 E
	84	N82°E 0'E
		N3°E 84 E
		N28 8E'E
L14	66	N3°E 0'E
		8 3°E 8"E
L14	72.2	N3°E 8"E
	84	0°E 8"E
		8 7°E8 E
	88	8°E 4
		N3°E 84 E
		N28 8E'E
		N3°E 8"E
		8°E 8"E
L	48	8°E 8"E
	30	N8° 8"E
	8.37	N76 0°2 E
		N3° 0'E
L2	84 88	84 3 40"E
	30	N23 3E'E
L16	8 .03	8°E 8"E
L	10 77	N0°8'3"E
164		N3 3'E
L		84°E3 8"E
		N0°E 8"E
	58	8°E 8"E
	82 08	88°E 3
		N0°E 8"E
L		8 8°E3"E
	8.00	N8° 6 E
L	84.30	N8°E 2
	90	N3°E 8"E
L		N33 33 08"
L2		8°E 8"E
	88 8	N3 10 3"E
		N63 0 "E
		7°0 3"E
L 78	.88	N2 06 3"E
L18	68	N2 00'34"E
186	36	N0°E 8"E
		N3°E 8"E
	84	N0°E 8"E
184	108	N0°E 8"E
		82 36 "E
186	12.8	8° 8"E
	00	8 8"E
	00	N3 8'43"E
	00	N2 8'3"E
	8.4	8 3°43"E

LINE	LENGTH	BEARING
186		N3 .84"E
	90	N36°2'43"E
	158	814 04"E
194	41.36	836°3'83"E
L1	977	83 08'8"E
L196	3.2	N8°E 8"E
	3.19	N7°84'86"E
L198	32.78	8°E6"E
L86	5 44	803 8'86"E
L200	2 .82	N7°84"E
L	86	826°2'E"E
2	8.88	800°8'E"E
	38.08	804 83'E"E
208	8	8088°40"E
206	34.23	N0°E 8"E
L20	27	8°E 86.44"E
L 08	36	88°08'E"E
	3	814 3'E"E
L210		833° 2'E"E
28	34.80	8°E 8"E
L212	83.08	8°E 8"E
L		8°E 8"E
L214	8.10	8°E 8"E
216		808°3'E"E
L218	.87	83°E 8"E
	36	81 .0'E"E
218	08	N0°E 8"E
L219	86	8°E 8"E
L2	8.34	2 2'E"E
22		8°E 8"E
L221	22	N72°E 8"E
L2	36.8	N8°E 8"E
L2	8	N3°E 8"E
28	32	N8°E 8"E
L22	84 48	N8°E 8"E
22	31.90	N7°E 8"E
	26	N8°E 8"E
L2		N0°E 8"E
2	30	N8°E 8"E
L233	64	N8°E 8"E
	80	N72°E 8"E
3	70	N8°E 8"E
	8.8	N8° 8"E
23	36.30	N8°E 8"E
L234	36.	N8°E 8"E
	88	N36°E 8"E
	36	N8°E 8"E
L2	46.20	N36°E 8"E
2	88	N6°E 8"E
L2		N6°E 8"E
84	29	N8°E 8"E
L2		N78°E 8"E
L2	63	8°E 8"E
L2	78.0	N6°E 8"E
		N3°E 8"E
L2 3	8.2	N0°E 8"E
L240	90 08	N2°E 8"E
2	26	N2°E 8"E
L242		N3°E 8"E
28		N34 8E'E
L 84	106.84	N36 .8'E
88	30	8°E 8"E
L		N8°E 8"E
28	4.4	N8°E 8"E
L2	F80.30	8°E 8"E
L2	28	N8°E 8"E
L2	27	N0°E 8"E
	60 00	N3°E 64"E
L246	66.80	88 8'E"E
L248	80.88	N8°E 8"E
98	36.	8°E 8"E
88	80	8°E 8"E
L248	82 2	8°E 8"E
		N8°E 8"E
	32	N 8°E 8"E
L2		N8°E 8"E
L	88	N86 08 8"E
L2	108 00	84 88 "E
72	60	3°E 8"E
L2	96.	N8°E 8"E
2		N0°E 8"E
L 7	98 84	N0°E 8"E
L		3°E 8"E
77	3.30	926 46'E"E
L2	34	N0°E 8"E
L2	4	N8°E 8"E
280		N3°E 8"E

NOTES

) SEE SHEET FOR NOTES AND REFERENCES

PLANNING & ENG USE ONLY

PLAT APPROVED
TOWN OF MT PLEASANT S.C.
BY _____
Director of Planning & Development
DATE 7 18 05

Charleston, South Carolina
Office Register Mesne Conveyance
I've recorded this 26th day of February 2002 at 11:48 o'clock PM Plat Book EB Page 281 and recieve the copy filed As A Drawer — Folder 8 — among No. 21 Original plat (s) Plat(s) Prod delivered Thomas & Hutton Engineering Co.
Exclusion

Register Mesne Conveyance

S.C. Minimum Standards Certification

I, Charles Gulick, S., Registered Professional Land Surveyor, for the State of South Carolina, certify to owner(s) shown hereon that, to the best of my knowledge, information and belief, this survey was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein.

Charles Gulick, S. P.L.S.
S.C. Registration Number 16853

Date 2/21/02

This ... is not valid copy of this document unless sealed, signed, dated and inked embossed seal. The surveyor

THOMAS HUTTON ENGINEERING CO.
633 HOU ON NORTHCUT BOULEVARD
MOUNT PLEASANT SC 29464 (843)884-0800
NATIONWIDE AK MYRTLE BEACH, SC

DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH Ggolf COMPANY

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FOR REVIEW
DATE: 2/21/02
DRAWN BY: JMF
CHECKED BY: CG
SCALE: 1" = 100'

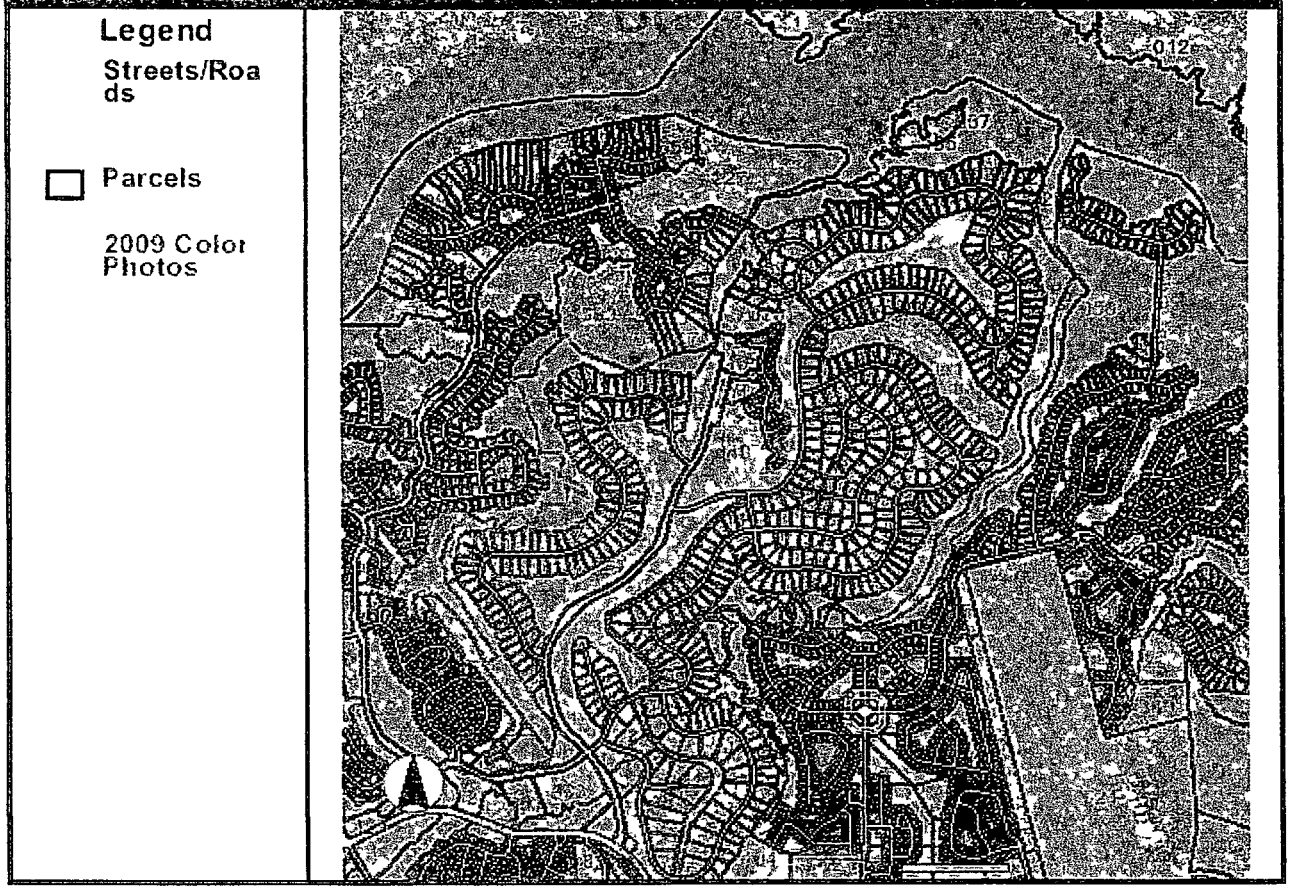
SHEET 9 OF 9
DRAWING NO. D 1588

0002827

548

Exhibit D

Charleston County
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Charleston County GIS
4045 Bridge View Drive
North Charleston SC 29405 7464



549

002328

Exhibit E

Dunes West Golf Club

A Place To Live A Place To Play

JOHN WIELAND HOMES AND NEIGHBORHOODS

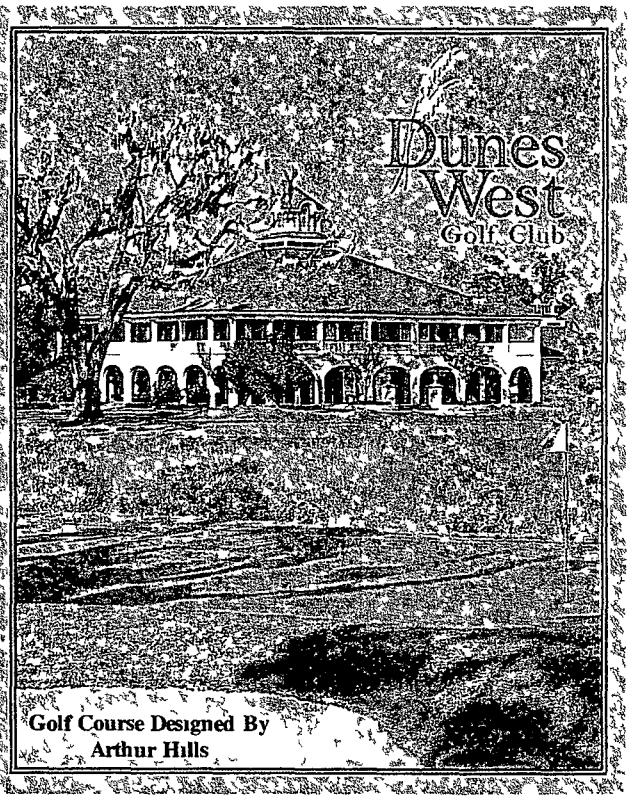
Interested in a home at Dunes West call (843) 881 6060

www.duneswestgolfclub.com

3535 Wando Plantation Way
Mt Pleasant SC 29466
Pro Shop (843) 856 9000 Catering (843) 856 9378

Dunes West Golf Club is Managed By

Boyd Golf LLC 1-800 388-3864 3/09



Golf Course Designed By Arthur Hills

HOLE	1	2	3	4	5	6	7	8	9	OUT	INITIAL	10	11	12	13	14	15	16	17	18	IN	TOT	HCP	NET
BLACK 73 7/139	405	383	357	489	409	168	497	197	381	3286		396	531	173	360	470	561	412	214	456	3573	6859		
BLUE 69 3/122	360	345	322	446	372	135	452	162	351	2945		358	496	152	324	423	481	369	169	383	3155	6100		
WHITE M66 1/108 F71 8/126	299	330	290	396	331	109	442	129	299	2625		313	476	135	258	389	429	319	144	336	2799	5424		
HANDICAP	3	7	9	11	1	17	13	15	5			10	12	18	14	2	8	6	16	4				
+/																								
PAR	4	4	4	5	4	3	5	3	4	36		4	5	3	4	4	5	4	3	4	36	72		
RED 69 6/120	290	300	255	392	311	107	420	126	295	2496		310	442	122	256	379	427	262	109	326	2633	5129		
HANDICAP	13	11	9	3	7	17	5	15	1			10	8	18	14	2	12	6	16	4				

Local Rule Any ball coming to rest on the course on the opposite side of any road is deemed O B **DO NOT HIT OVER ROADS**

Scorer Attest Date

550

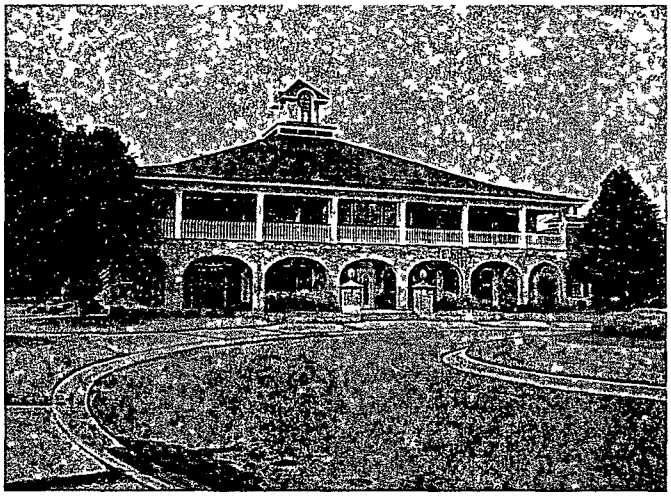
002829

PHOTOGRAPH VIEWS

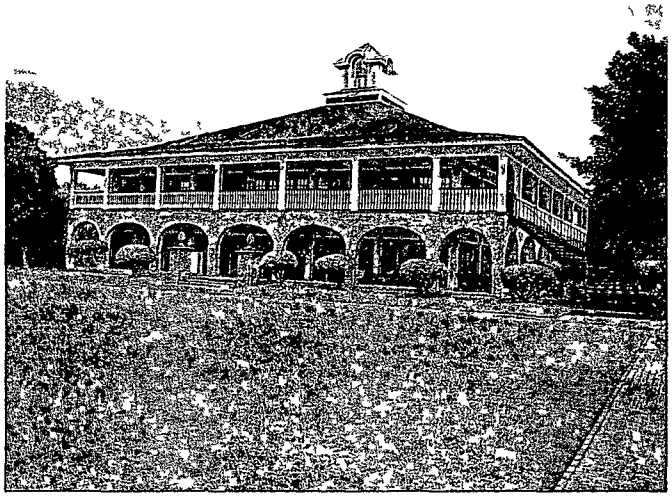
Exhibit G



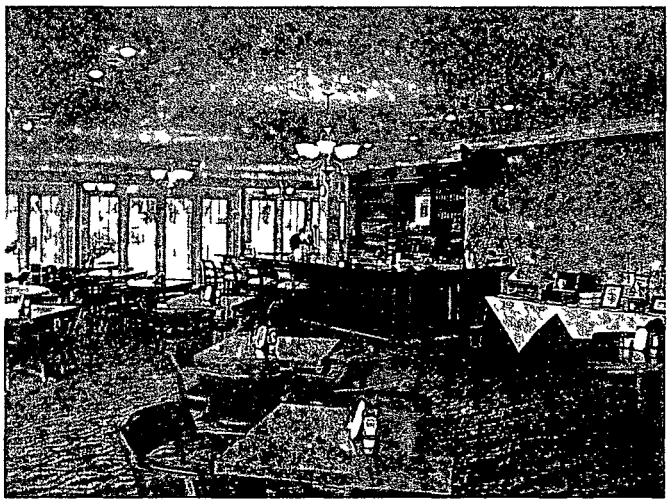
(1) View of Dunes West Golf Club clubhouse as seen from Wando Plantation Way



(2) Front view of clubhouse



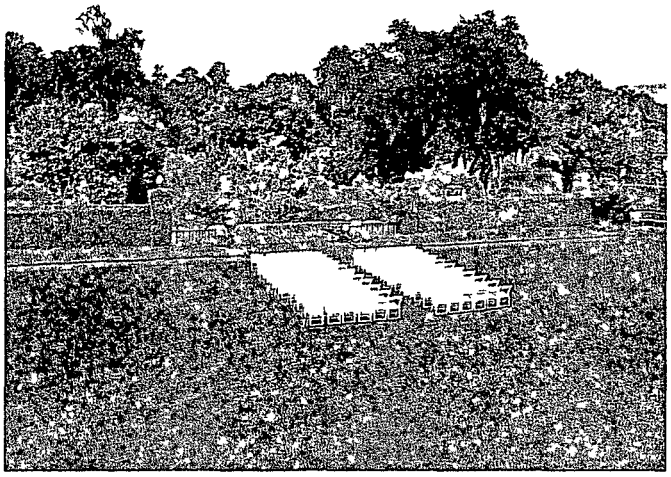
(3) Rear view of clubhouse showing adjacent courtyard



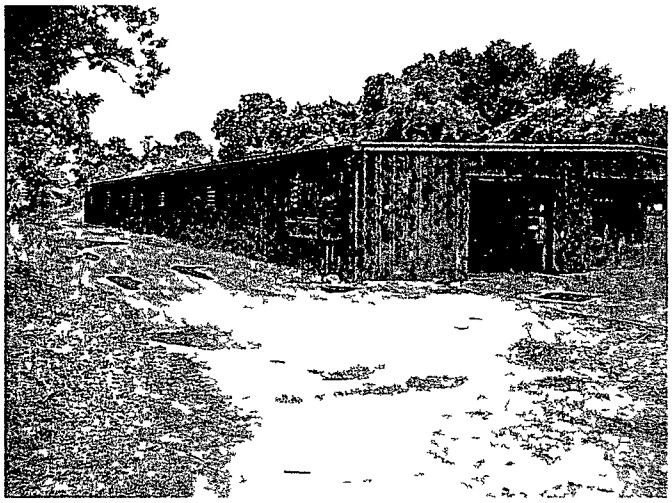
(4) Interior view of clubhouse showing dining room



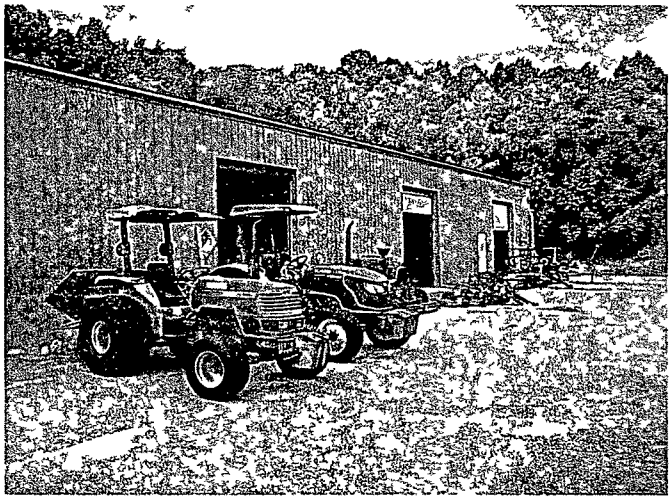
(5) Interior view of clubhouse showing pro shop



(6) View of courtyard as seen from second floor of clubhouse



(7) View of golf cart storage building

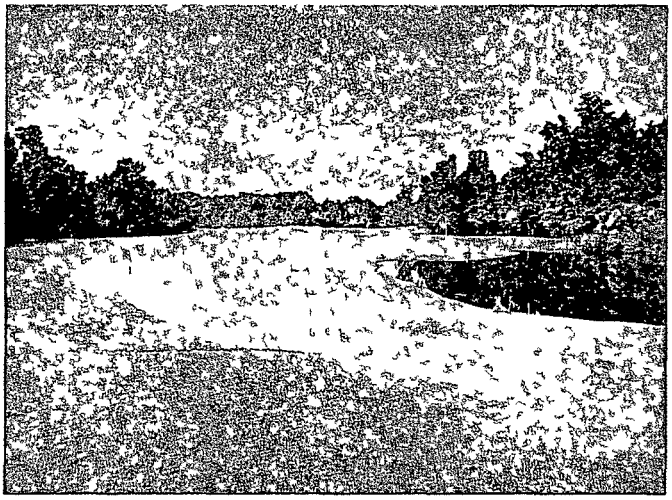


(8) View of maintenance building

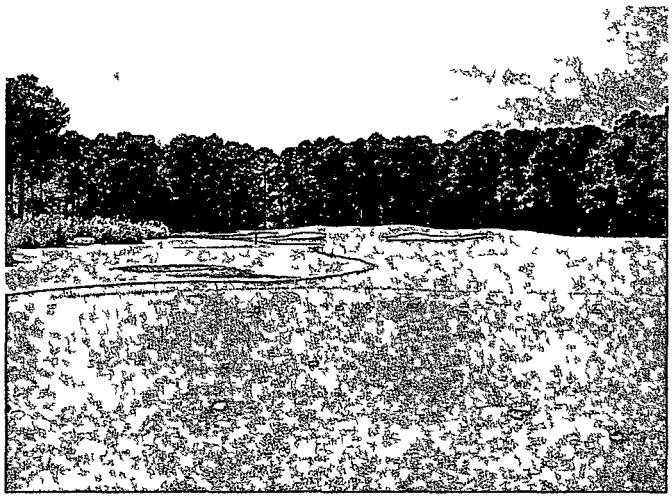


(9) View of Hole No 1

002834



(10) View of par-5 fourth hole

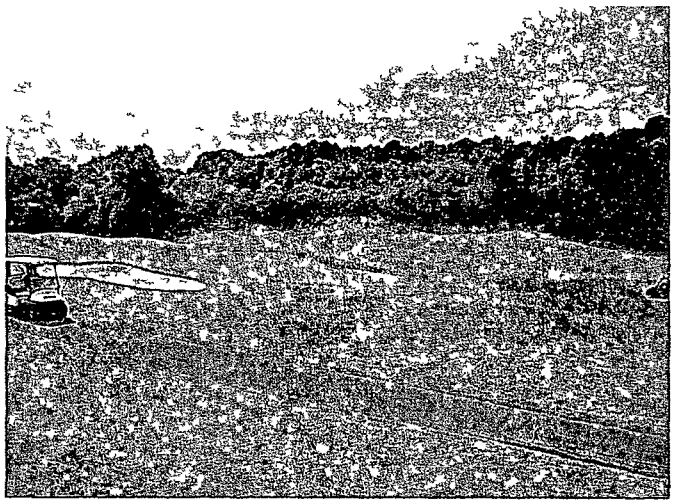


(11) View of par-3 eighth hole



(12) View of Hole No 10

002835



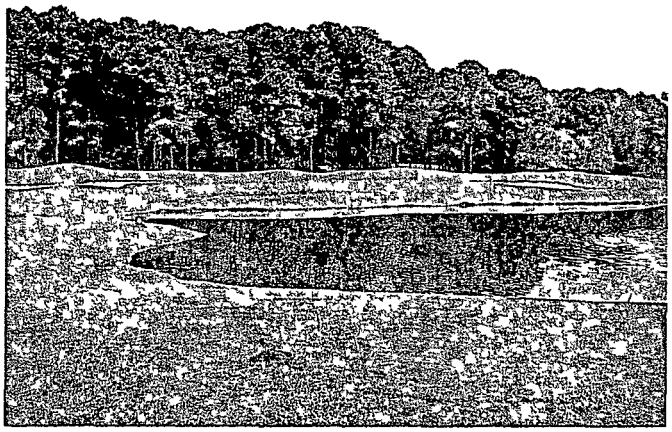
(13) View of Hole No 10 green showing Lots 11-13 in background



(14) View of par-3 Hole No 12



(15) View of par-5 fifteenth hole



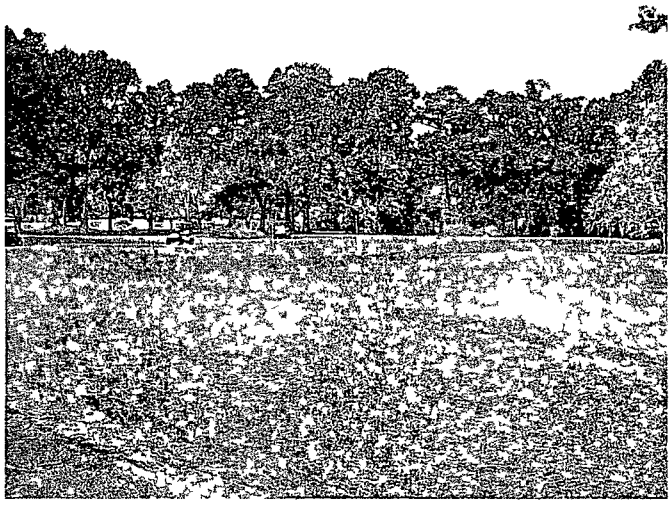
(16) View of par-3 Hole No 17



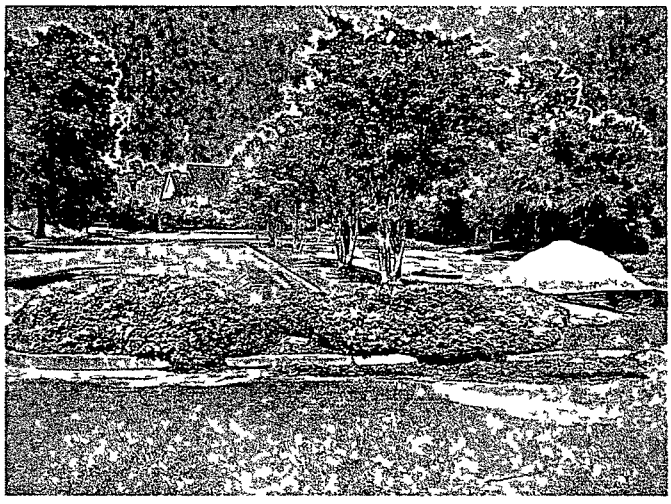
(17) View of Hole No 18



(18) View of driving range



(19) View of practice green



(20) View of proposed Lots 1-4



(21) View of proposed Lots 5 and 6

002838



(22) View of proposed Lots 16 and 17 as seen from Colonel Vanderhorst Circle



(23) View of proposed Lots 18 and 19 located between Holes 15 and 16



(24) View of proposed Lots 19 and 20 located between Holes 11 and 12 as seen from Wando Plantation Way



(25) View of proposed Lots 22-24 as seen from cartpath between Holes 12 and 13



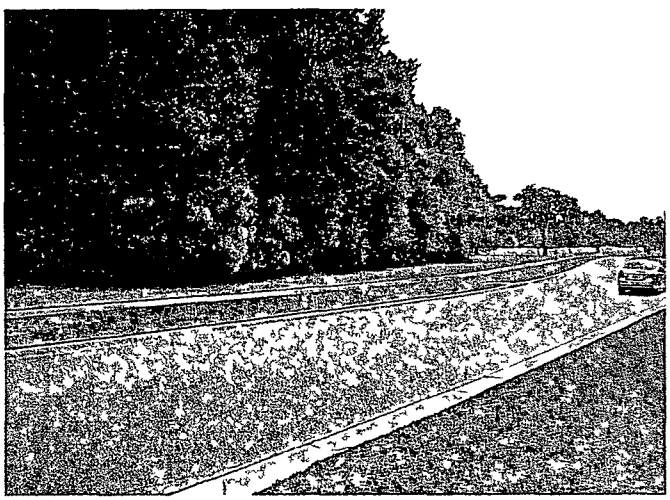
(26) View of proposed Lot B as seen from intersection of Colonel Vanderhorst Circle and Wagner Creek Court



(27) View of proposed Lot C showing cartpath from Hole No 1 as seen from Colonel Vanderhorst Circle



(28) View of proposed Lot H as seen from Hole No 18 tee



(29) View of proposed Lots U and V as seen from Colonel Vanderhorst Circle



(30) View of proposed Lot W as seen from Cottonfield Drive



(31) View of proposed Lots X and Y as seen from adjacent Hole No 14

002842

Exhibit H

CHARLESTON APPRAISAL SERVICE, INC

REAL ESTATE APPRAISERS AND CONSULTANTS

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Charleston SC 29401
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Michael C Robinson MAI SRA
President
Joseph G McInerney III
Harold E Marshall
James L. Rogers Jr

March 24 2011

Frances I Cantwell, Esq
Regan and Cantwell LLC
105 Wappoo Creek Drive
Suite 1-A
Charleston SC 29412

RE Retrospective Value Estimate-Summary Appraisal Report
Various Potential Lots, Dunes West Subdivision, Mt Pleasant, SC

Dear Ms Cantwell

At your request, I have made a market value estimate of numerous potential lots located in Dunes West Subdivision This estimate is based upon ownership by a single entity Costs associated with arriving at the net present value of the lots have been considered On the effective date of this value estimate it was not legally permissible for these potential lots to be developed for residential use This value estimate is based on the hypothetical condition that the subdivisions would be permitted by the town of Mt Pleasant and zoned for residential development Plats of the various potential lots were provided to me and are included in this appraisal Should these lots not be able to be zoned for residential use and subdivided as represented to me my value estimate would be invalid

There are a significant number of issues that would have to be resolved in order for the potential lots to be ready for sale These issues and the costs necessary to remedy them have been addressed in reports prepared by Forsberg Engineering and Surveying Inc and Jon LaFoy golf course architect Copies of these reports are included in the addenda of this appraisal

Based on these reports, it is required that I make extraordinary assumptions that the issues raised can be resolved These assumptions have been made to the benefit of the property owner and if the assumptions are later proved to be incorrect, my opinion and conclusions could be impacted Several of these assumptions are listed below

A That several potential wetland areas may be permitted for fill and development

B A suitable relocation for the maintenance shed may be located without impacting surrounding property

C That several sewer lines and storm water drainage easements are able to be relocated to suitable areas

D That the required movement of some golf course features will not impact the desirability or play of the course

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Town of Mt Pleasant

Your attention is invited to the following report which exhibits the factual data and reasoning used in forming my opinion of value This is a retrospective appraisal since my inspections of the potential lots were made in December 2010 I assume no appreciable physical changes in the potential lots occurred between the valuation date and the inspection date Based on my investigation and analysis, it is my opinion that the market value of the potential lots that are the subject of this report discounted for sales costs, development costs and a sales period as of June 15, 2006 was

FOUR MILLION THREE HUNDRED THIRTY-NINE THOUSAND DOLLARS $4,339,000

I was not provided with environmental audits on the potential subject lots My value estimate assumes the soils are undisturbed and free of contaminants, groundwater contamination and hazardous materials Neither have I been provided with soil studies on the subject potential lots I also assume the potential lots have no freshwater wetlands other than those described in this report Should any of the above assumptions be proven incorrect by subsequent studies, my value estimate could be affected

I certify that to the best of my knowledge and belief, the statements and opinions contained in this report are full, true and correct I certify that I have no interest in the subject property, and that neither the employment to make this appraisal nor the compensation is contingent upon the value estimate

I further certify that this appraisal was made in conformity with the requirements of Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation as of January 1, 2011 and also with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute This is a Summary Appraisal report due to the level of presentation and discussion contained herein

This appraisal assignment was not made nor was the appraisal rendered on the basis of a requested minimum valuation, specific valuation or an amount which would result in approval of a loan This appraisal is intended to meet the requirements of Title XI of the Financial Institution Reform, Recovery and Enforcement Act (FIRREA) of 1989, Public Law

This appraisal was prepared for the exclusive use of the client The information and opinions contained in this appraisal set forth the appraiser's best judgement in light of the information available at the time of the preparation of this report Any use of this appraisal by any other person or entity, or any reliance or decisions based on this appraisal are the sole responsibility and at the sole risk of the third party Charleston Appraisal Service, Inc accepts no responsibility for damages suffered by any third party as a result of reliance on or decisions made or actions taken based on this report

Respectfully submitted,

CHARLESTON APPRAISAL SERVICE, INC

Michael C. Robinson, MAI,SRA
President
State Certified General Real
Estate Appraiser SC No CG76

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MCR/tew/09-110

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Qualifications of Appraiser
Forsberg Engineering & Surveying Report
John LaFoy Report

SUMMARY OF IMPORTANT DATA AND CONCLUSIONS	
TRACT LOCATION	Dunes West Subdivision, Mt Pleasant, SC
OWNER	Dunes West Golf Club, LLC
TAX MAP NUMBERS	All Currently Part of Larger Tracts
IMPROVEMENTS	None
HIGHEST & BEST USE	Single Family Residential Development (Assumed)
ZONING	R1-Low Density Residential District (Assumed) R3-Medium Density Residential Dist (Assumed)
TAXES	See Assessment/Property Tax Section
UTILITIES	All Available
DATE OF ESTIMATE	June 15, 2006
DATE OF INSPECTION	December 9, 2010
DATE OF REPORT	March 24, 2011
ESTIMATE OF MARKET VALUE AFTER DEDUCTING FOR DEVELOPMENT COSTS, SALES COST AND ABSORPTION PERIOD AS OF JUNE 15, 2006	**$4,339,000**

SUMMARY OF IMPORTANT DATA AND CONCLUSIONS

SITE SIZES **ESTATE LOTS**	Parcel A - 1 03 Acres Parcel B - 1 00 Acres Parcel C - 1 44 Acres Parcel G - 0 76 Acres Parcel H - 0 64 Acres Parcel I - 0 69 Acres Parcel U - 1 01 Acres Parcel V - 1 00 Acres Parcel W - 1 01 Acres Parcel X - 1 00 Acres Parcel Y - 1 06 Acres Parcel 25 - 1 22 Acres
SMALL LOTS.	Parcel 1 - 0 21 Acres Parcel 2 - 0 23 Acres Parcel 3 - 0 26 Acres Parcel 4 - 0 26 Acres Parcel 16 - 0 36 Acres Parcel 17 - 0 36 Acres Parcel 18 - 0 27 Acres Parcel 19 - 0 26 Acres Parcel 20 - 0 25 Acres Parcel 21 - 0 26 Acres Parcel 22 - 0 25 Acres Parcel 23 - 0 27 Acres Parcel 24 - 0 29 Acres
HIGHER DENSITY TRACTS.	Parcel 5 - 0 63 Acres Parcel 6 - 0 58 Acres TOTAL 1 21 Acres Parcel 9 - 0 61 Acres Parcel 10 - 0 53 Acres Parcel 11 - 0 66 Acres Parcel 12 - 0 81 Acres Parcel 13 - 0 85 Acres Parcel 14 - 1 21 Acres Parcel 15 - 0 82 Acres Parcel 26 - 1 18 Acres TOTAL 6 67 Acres

LOCATION OF THE PROPERTY

The potential lots that are the subject of this appraisal are located in the Dunes West Subdivision in the town of Mt Pleasant, Charleston County, SC Dunes West is located on the east side of S C Highway 41 on the south side of the Wando River The unsubdivided lots are currently part of the Dunes West Golf Course The potential subject lots are identified on the Charleston County Tax assessor's map 540-00-00 as part of parcels 038, 039, 040, 041 and 154 A location map identifying the subject sites is included in this section of the report

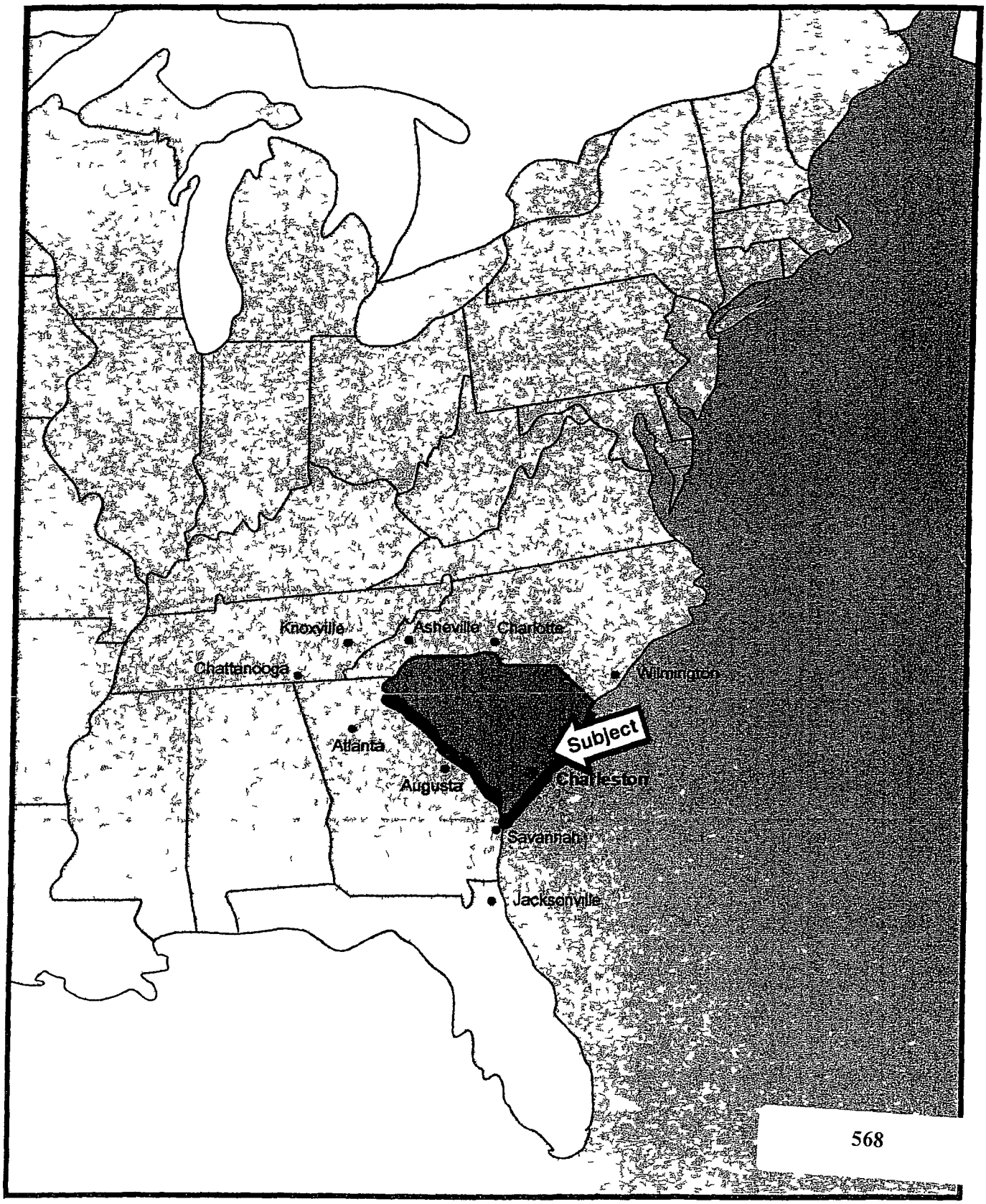
LEGAL DESCRIPTION

Since the potential subject lots have yet to be subdivided, they are legally described as part of the larger parcels identified above

STATEMENT OF OWNERSHIP

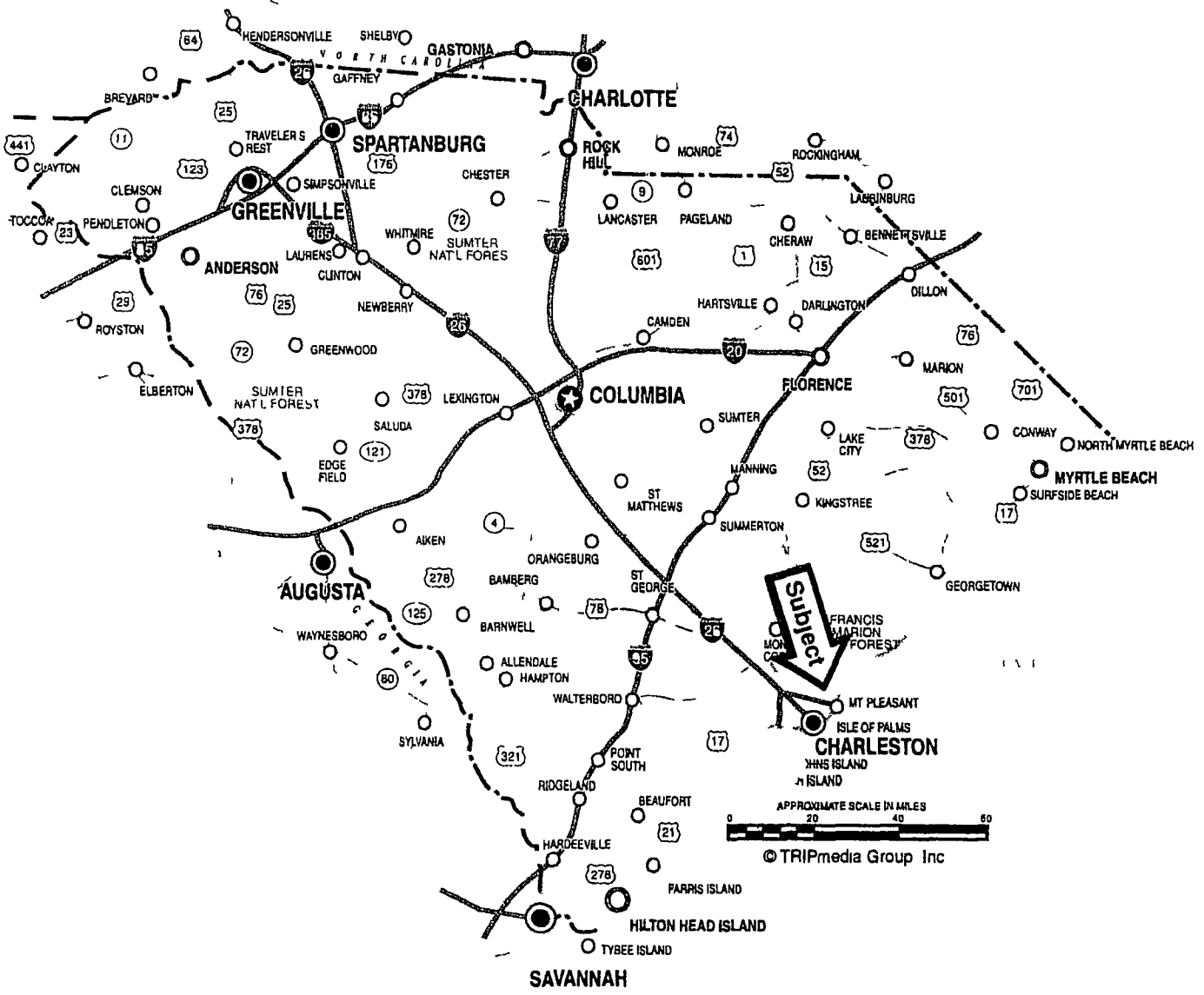
According to the records of the Charleston County RMC Office, the parent tracts, of which the potential lots are a part, are owned by Dunes West Golf Club, LLC The golf course was purchased in its entirety for $4,000,000 on March 2, 2005 This transaction is recorded in the Charleston County RMC office in Deed Book 0527, page 597 There have been no sales or listings on the property within the past five years

Regional Map



002028

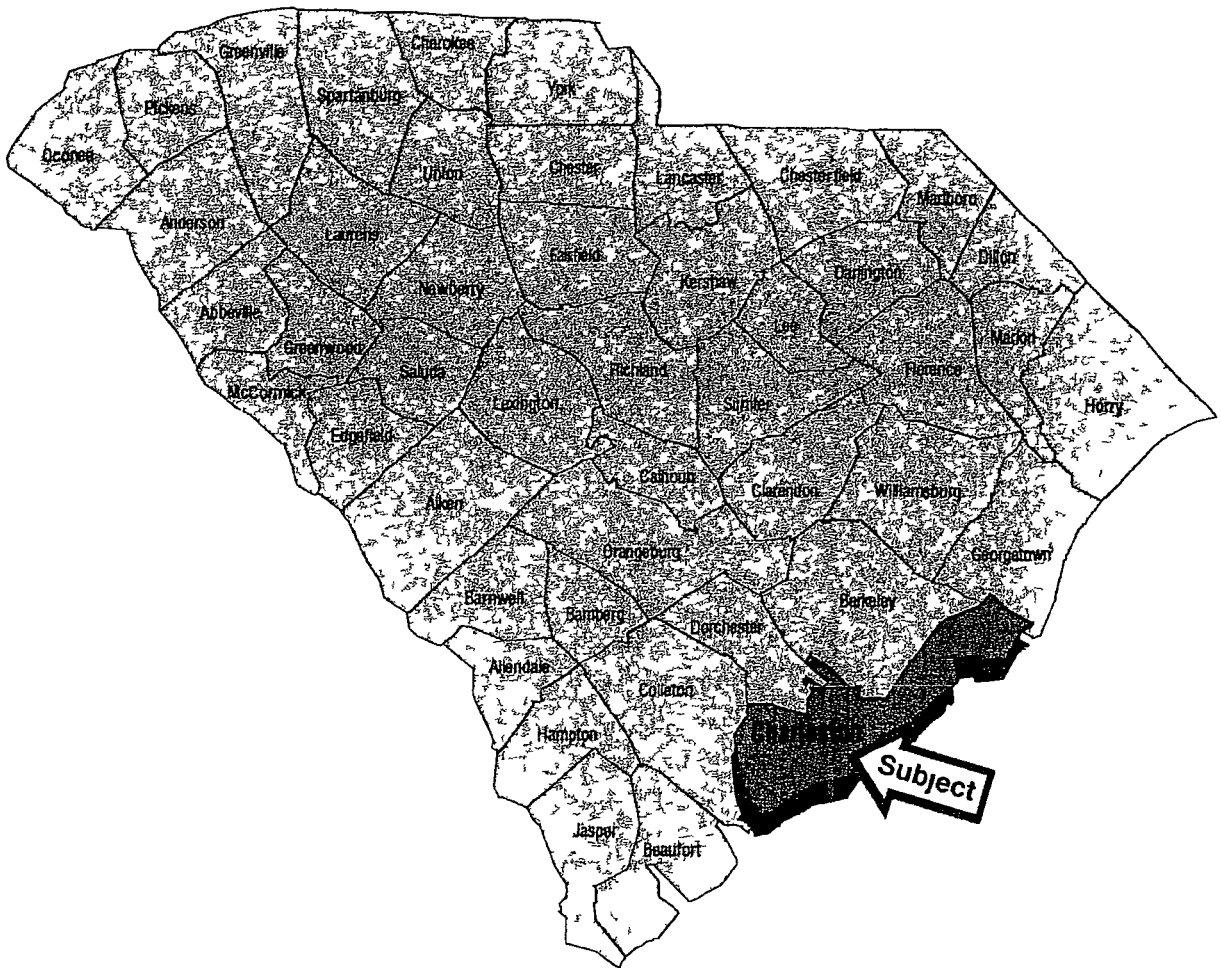
South Carolina



For more maps please visit www.TRIPinfo.com

0025029

South Carolina
County Outline Map



002630

PROPERTY RIGHTS APPRAISED

The property rights appraised are those of fee simple ownership of the various potential lots identified later in this appraisal Fee simple is the greatest possible estate in real property, but subject to the limitations of eminent domain, escheat, police power and taxation This appraisal is based on the hypothetical condition that the lots, as proposed, could be legally subdivided and zoned for single family development The subject lots have several easements and encroachments affecting value The cost necessary to remedy these issues has been accounted for in this appraisal, and I assume that if they were able to be legally subdivided and developed residentially, they would be available for lease or sale at economic figures

DATE OF APPRAISAL

March 24, 2011

DATE OF INSPECTION

December 9, 2010

DATE OF ESTIMATE

June 9, 2006

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PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to estimate the market value of the potential subject sites assuming they could be subdivided from their parent tract as presented later in this report and used for residential purposes Market value is defined in the following manner

> *the most probable price as of a specified date in cash or in terms equivalent to cash or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale with the buyer and seller each acting prudently knowledgeably and for self-interest, and assuming that neither is under undue duress"* [1]

Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby

a buyer and Seller are typically motivated

b both parties are well informed or well advised, and each acting in what they consider their own best interest,

c a reasonable time is allowed for exposure in the open market

d payment is made in terms of cash in U S dollars or in terms of financial arrangements comparable thereto and

e the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale

The clients in this report are the town of Mt Pleasant and its representatives including Frances I Cantwell, Esq It is my understanding this appraisal will be used by the clients in legal proceedings surrounding permission to subdivide the potential subject lots

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[1] The Appraisal of Real Estate The Appraisal Institute 13th Edition Page 23

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CHARLESTON APPRAISAL SERVICE, INC
LIMITING CONDITIONS

The appraisal is subject to the following conditions and to such other specific and limiting conditions as are set forth in the appraisal report

1 The legal description furnished is assumed to be correct

2 No responsibility is assumed for matters of a legal nature affecting the property appraised or the title thereto, nor is any opinion rendered as to the title which is assumed to be good and marketable All existing liens and encumbrances have been disregarded unless otherwise stated and the property is appraised as though free and clear Management and ownership are assumed to be in competent hands It is assumed that all national, state, county and city laws, ordinances and restrictions have been complied with

3 The sketch in this report indicates approximate dimensions and is included to assist the reader in visualizing the property We have made no survey, engineering studies or soil and analysis of the property and assume no responsibility in connection with such matters or for engineering which might be required to discover such factors

4 Unless otherwise noted herein, it is assumed that there are no encroachments, zoning or restriction violations existing in the subject property

5 Information, estimates and opinions contained in this report are obtained from sources considered reliable and believed to be true and correct, however, no liability for them can be assumed by the appraiser

6 The appraiser is not required to give testimony or attendance in court by reason of this appraisal, with reference to the property in question, unless arrangements have been previously made

7 The division of the land and improvements as valued herein is applicable only under the program of utilization shown These separate valuations are invalidated by any other application On all appraisals, subject to satisfactory completion repairs or alterations the appraisal report and value conclusion are contingent upon completion of the improvements in a workmanlike manner

8 Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the Appraisal Institute Except as hereinafter provided, the party for whom this appraisal report was prepared may distribute copies of this report, in its entirety, to such third parties as may be selected by the party for whom this appraisal report was prepared however selected portions of this appraisal report shall not be given to third parties without prior written consent of the signatories of this appraisal report Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations media sales media or other media for public communication without the prior written consent of the signatories of this appraisal report

CHARLESTON APPRAISAL SERVICE, INC
CERTIFICATE OF APPRAISAL

I certify that to the best of my knowledge and belief

- The statements of fact contained in this report are true and correct
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial and unbiased professional analyses
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment
- My engagement in this assignment was not contingent upon developing or reporting predetermined results
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client the amount of the value opinion the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal
- The reported analyses opinions and conclusions were developed, and this report has been prepared in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute
- The reported analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives
- I have made a personal inspection of the property that is the subject of this report
- No one provided significant real property appraisal assistance to the person signing this certification
- As of the date of this report I, Michael C Robinson MAI, SRA, have completed the requirements under the continuing education program of the Appraisal Institute and also the continuing education program of the South Carolina Real Estate Appraiser's Board

Michael C Robinson MAI, SRA
State Certified General Real
Estate Appraiser SC #CG 76

3/24/11
Date

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002034

NEIGHBORHOOD DATA

A neighborhood is a portion of a larger community in which there is a homogenous group of populations, buildings or land uses Natural or man-made boundaries many times will define a neighborhood The primary purpose of a neighborhood analysis is to identify and consider relative existing and potential influences that may have an impact on the value of the subject property

The town of Mt Pleasant is located in Charleston County, South Carolina Mt Pleasant, to local residents, connotes not only the town but also all the area situated on the east side of the Cooper River to an ill-defined point several miles to the east The town of Mt Pleasant had a 2000 population of 47,609 and a 1990 population of 30,108 The population was 17,735 in 1980 In addition to this incorporated area, there are several thousand people living outside the town limits

Development in Mt Pleasant during the 1970's occurred at a rapid pace Its appeal was derived from its proximity of Charleston, the beaches and also the quality of life offered During this time, Mt Pleasant attracted families in the highest per capita income segment outside of downtown Charleston

In recent years, this rapid development has placed a strain on the area and its facilities The two bridges that spanned the Cooper River had a difficult time accommodating rush hour traffic An average of 63,650 vehicles crossed the bridges daily in 1999 According to the South Carolina Highway Department, their capacity was 44,000 vehicles per day This overload was noticeable during rush hours Construction was completed in mid 1992 on a third bridge connecting North Charleston and Mt Pleasant This relieved some of the pressure, but delays still occurred Construction was completed in 2005 on an eight lane replacement bridge for the two bridges that previously connected Mt Pleasant to the City of Charleston, and this has significantly improved the flow of traffic to and from the City of Charleston

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Mt Pleasant is best categorized as a bedroom community There is little industrial development, and commercial development had, until recent years,

tended to cater to the needs of neighborhood residents Particularly since the completion of the Mark Clark Expressway which extends from Mt Pleasant through North Charleston to the West Ashley area of Charleston, and also the Isle of Palms Connector, residential and commercial development activity has increased in Mt Pleasant Near the intersection of U S Highway 17N and the Isle of Palms Connector is Mt Pleasant Town Center This is a multi-tenant center with numerous restaurants, retail stores and a theater It has been such a popular destination for shoppers that it has received much of the blame for traffic problems that plague this section of Mt Pleasant According to the 2003 traffic count map prepared by the S C Department of Transportation, 39,908 vehicles per day passed in front of Town Center The map indicates that east of the Isle of Palms Connector, 35,980 vehicles traveled U S Highway 17 daily

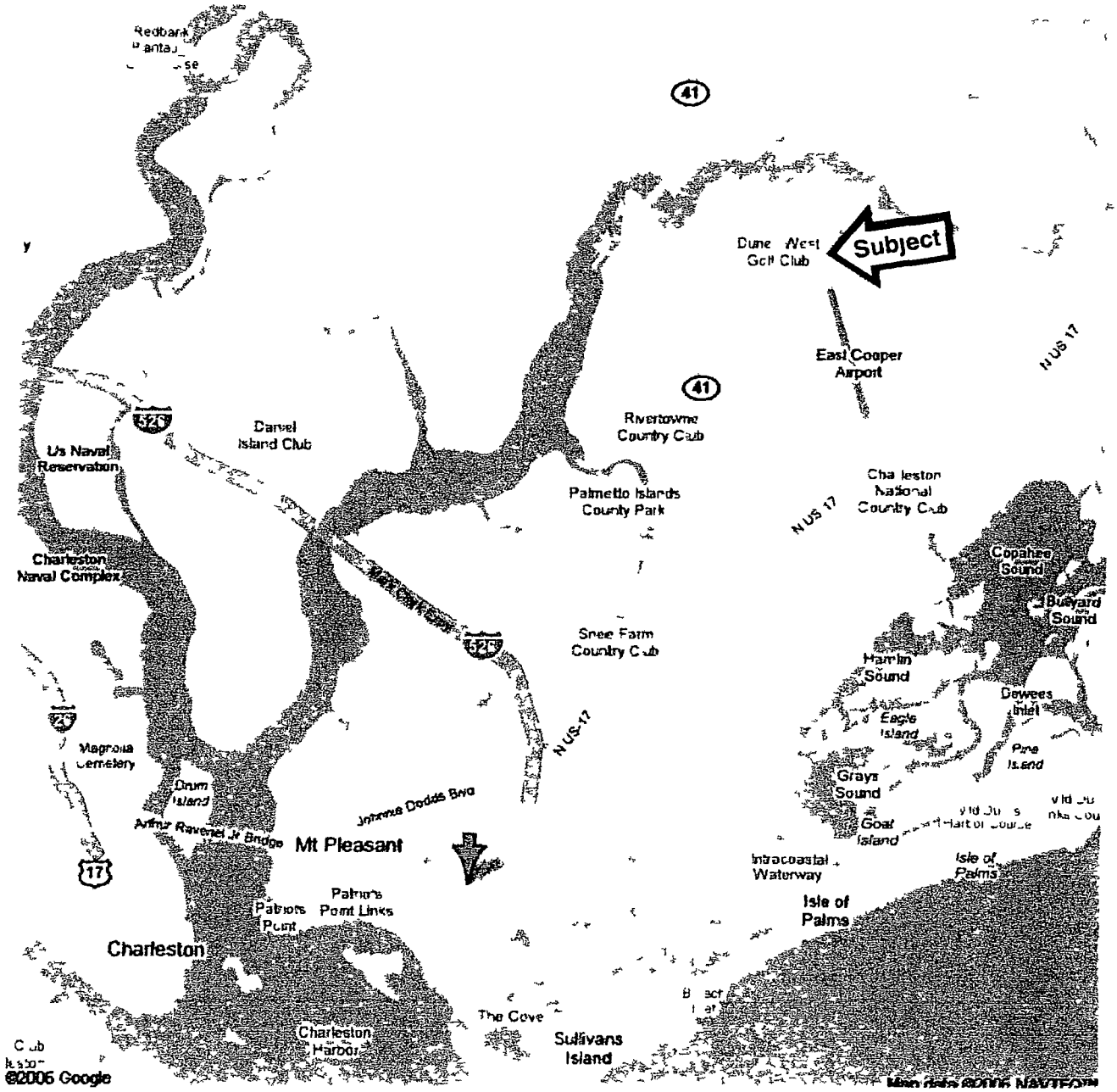
S C Highway 41 intersects U S Highway 17 several miles east of the Isle of Palms Connector It is a major thoroughfare carrying a substantial amount of residential traffic to several subdivisions north of U S Highway 17 In addition, it extends across the Wando River into Berkeley County In 2003, 14,800 vehicles per day traveled this route in the vicinity of the intersection Just beyond the intersection in front of the subject tract, 27,500 vehicles per day were counted By comparison, in 1999, the traffic count just west of the U S Highway 17/Isle of Palms Connector was 40,800 vehicles per day, and the traffic count in front of the subject tract was 22,300 vehicles per day A short distance farther east on U S Highway 17 are the Mt Pleasant Airport, Park West Subdivision, Charleston National Country Club and the new Wando High School The town of Mt Pleasant annexed 1,600 acres on the north side of U S Highway 17 just east of the subject tract The development underway on this tract is called Carolina Park It will have a built-out of 1,700 homes, 950,000 square feet of retail space and 110 acres of public parks An internal road system is planned that will connect Carolina Park with the new Wando High School, Dunes West and Park West subdivision Additionally, in the past several years, a number of other smaller developments have taken place in this area Obviously, as more of the land closer to the center of Mt Pleasant becomes developed, the areas in the vicinity of S C Highway 41 further east are being placed under greater development pressure

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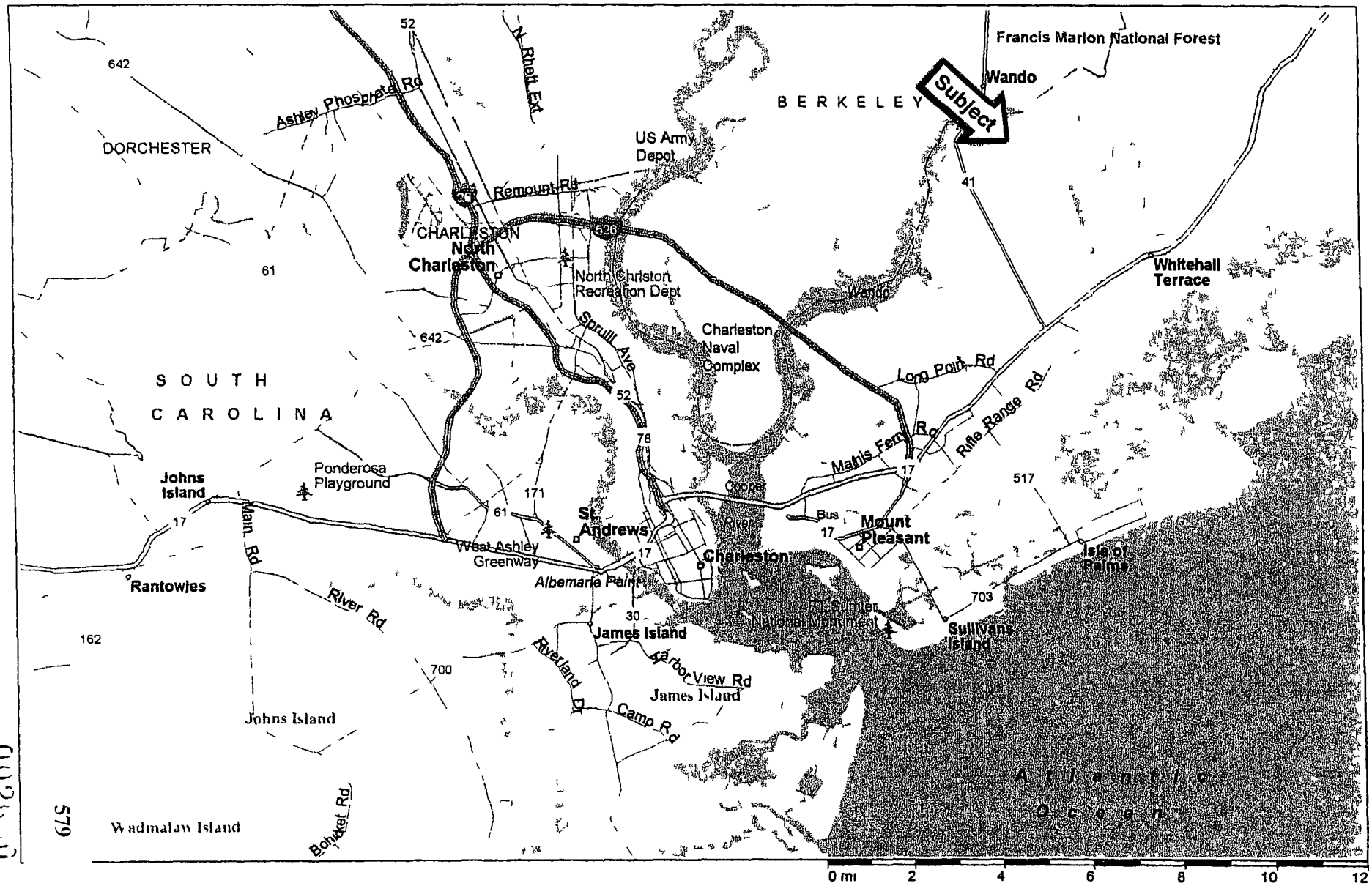
The Patriots Point development is located on Patriots Point Road just south of the subject site Within this development are high-end residential condominiums, a full service marina located directly on the Cooper River, the Patriot's Point Naval Museum, a Hilton Hotel, the Patriots Point Golf Course and the College of Charleston sports complex which include a baseball field, tennis courts and soccer fields

The immediate neighborhood is the Dunes West Planned Development It was initiated some 20 years ago as a gated residential community It has frontage on the Wando River, Wagner Creek and Toomer Creek It has had periods of prosperity separated by several periods of hard luck As of this date, approximately 80% of the lots allowed in the planned development have been platted The planed development has a full assortment of community facilities including an 18 hole golf course

Mt Pleasant, along its primary commercial corridors, is heavily developed with franchise restaurants, office buildings and motels The convenience of Mt Pleasant to downtown Charleston also resulted in strong demand for residential housing, both private ownership and rentals, located behind the commercial corridors Dunes West has struggled due to its location on the northeast fringe of Mt Pleasant Due to the character of the neighborhood, however, and as development increases, I feel it will continue to prosper


Subject
Dune West Golf Club
41
East Cooper Airport
N US 17
Rivertowne Country Club
Daniel Island Club
526
Us Naval Reservation
Charleston Naval Complex
Palmetto Islands County Park
Charleston National Country Club
Copahee Sound
Boyard Sound
Hamlin Sound
Dewees Inlet
Eagle Island
Pine Island
Grays Sound
Goat Island
Shee Farm Country Club
Magnolia Cemetery
Drum Island
Arthur Ravenel Jr Bridge
Mt Pleasant
Johnnie Dodds Blvd
17
Patriots Point
Patriots Point Links
Charleston
Intracoastal Waterway
Isle of Palms
The Cove
Charleston Harbor
Sullivans Island
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SITE DATA

I was provided with unsigned and undated plats of the potential lots that are the subject of this report Copies of these are included in this section of the report A copy of a layout of the lots is also located in this section of the report As previously mentioned, in order to prepare this appraisal, it was necessary to assume the hypothetical condition that these plats are accurate, and that the subdivision and residential use of the lots could receive approval from the town of Mt Pleasant Also for purposes of this report, the hypothetical condition is assumed that the potential lots could be rezoned into two categories which would allow low density and medium density residential development It was also necessary to make several extraordinary assumptions that a number of physical issues could be resolved to make the potential lots available for sale These assumptions were set forth earlier in this appraisal The lots are presented below and appraised later in this report in three categories Estate Lots (12), Small Lots (13), Higher Density Tracts (2) The total acreage is calculated to be 23 27

LOTS ZONED R-1

ESTATE LOTS

LOT	LOCATION	SIZE
A	Wagner Creek Court	1 03 Acres
B	Wagner Creek Court	1 00 Acres
C	Col Vanderhorst Circle	1 44 Acres
G	Pignateli Crescent	0 76 Acres
H	Pignateli Crescent	0 64 Acres
I	Pignateli Crescent	0 69 Acres
U	Col Vanderhorst Circle	1 01 Acres
V	Col Vanderhorst Circle	1 00 Acres
W	Cottonfield Drive	1 01 Acres
X	Cottonfield Drive	1 00 Acres
Y	Cottonfield Drive	1 06 Acres
25	Wando Plantation Way	1 22 Acres

SMALL LOTS

1	Downing Lace Way	0 21 Acres
2	Downing Lace Way	0 23 Acres
3	Downing Lace Way	0 26 Acres
4	Downing Lace Way	0 26 Acres
16	Col Vanderhorst Circle	0 36 Acres
17	Col Vanderhorst Circle	0 36 Acres

580

18	Wando Plantation Way	0 27 Acres
19	Wando Plantation Way	0 26 Acres
20	Wando Plantation Way	0 25 Acres
21	Wando Plantation Way	0 26 Acres
22	Wando Plantation Way	0 25 Acres
23	Wando Plantation Way	0 27 Acres
24	Wando Plantation Way	0 29 Acres

HIGHER DENSITY TRACTS

LOT	LOCATION	SIZE
5	Wando Plantation Way	0 63 Acres
6	Wando Plantation Way	0 58 Acres
		1 21 Acres
9	Wando Plantation Way	0 61 Acres
10	Wando Plantation Way	0 53 Acres
11	Wando Plantation Way	0 66 Acres
12	Wando Plantation Way	0 81 Acres
13	Wando Plantation Way	0 85 Acres
14	Wando Plantation Way	1 21 Acres
15	Wando Plantation Way	0 82 Acres
26	Wando Plantation Way	1 18 Acres
		6 67 Acres (requires road)

For appraisal purposes, recognizing that a purchaser/developer requiring land suitable for higher density development would be interested in coordinating efforts on adjoining parcels, I have included these lots into two acreage parcels Lots 5 and 6 contain a total of 1 21 acres, and lots 9 through 15 and lot 26 contain a total of 6 67 acres In order to create lots 9 through 15 and lot 26, a road must be extended from Wando Plantation Way to Colonel Vanderhorst Circle

Forsberg Engineering and Surveying took the individual plats on the lots and superimposed these on the master survey prepared by Thomas&Hutton Engineering dated February 2005 After doing this, it became obvious that for the potential subject lots to be suitable for residential construction, issues concerning a number of the lots must be resolved or otherwise accounted for in the appraisal process Forsberg Engineering and Surveying inspected the lots and identified these issues That firm also prepared an estimate of the preparation cost that would be encountered prior to the lots being ready for sale

In addition, golf course architect, Jon LaFoy, inspected the golf course and identified a number of issues to be resolved on the course if the potential lots were to be platted as presented Copies of both reports are included in the addenda of this report Costs to resolve the issues are set forth in the reports

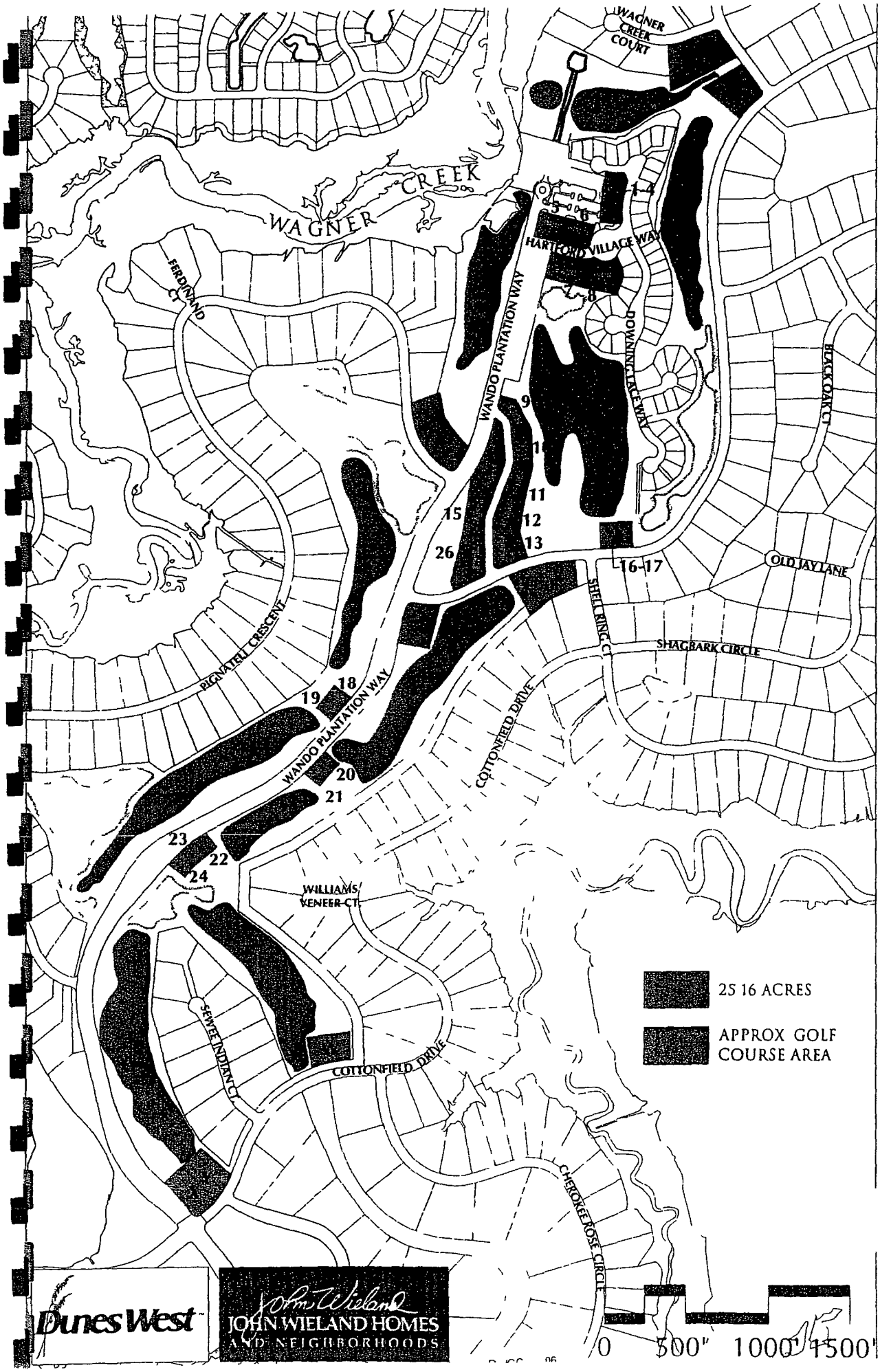
Additionally, if subdivision and residential use were to be allowed, impact fees would be due on each of the allowed lots Forsberg Engineering identified these costs in their report as well

Site Development Costs (per Forsberg)	-	$1,514,744
Golf Course Relocation Costs (per LaFoy)	-	628,300
TOTAL	-	$2,143,044

In order to market the lots properly, this work must be completed early on I have assumed that these costs would be incurred in the first six month sale period projected later in this appraisal

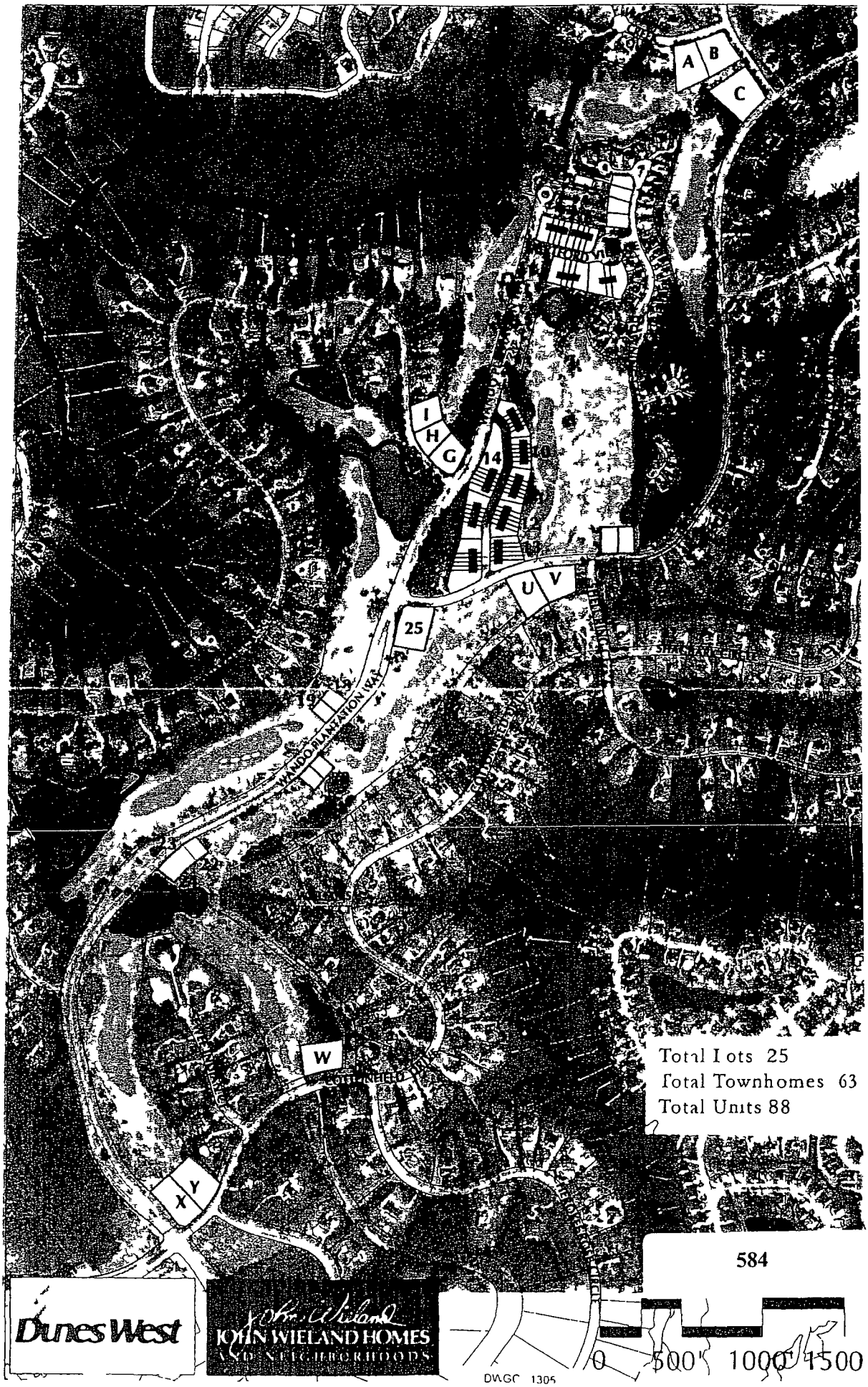
Except as presented earlier, I assume that residential development would be possible on the sites similar to that existing in Dunes West I also assume that the sites contain no hazardous material or groundwater contamination as defined by the Department of Health and Environment Control Since these determinations are beyond the scope of my professional services, subsequent studies would be required for confirmation If any of my assumptions are proved incorrect by subsequent professional analyses, my value indication could be affected

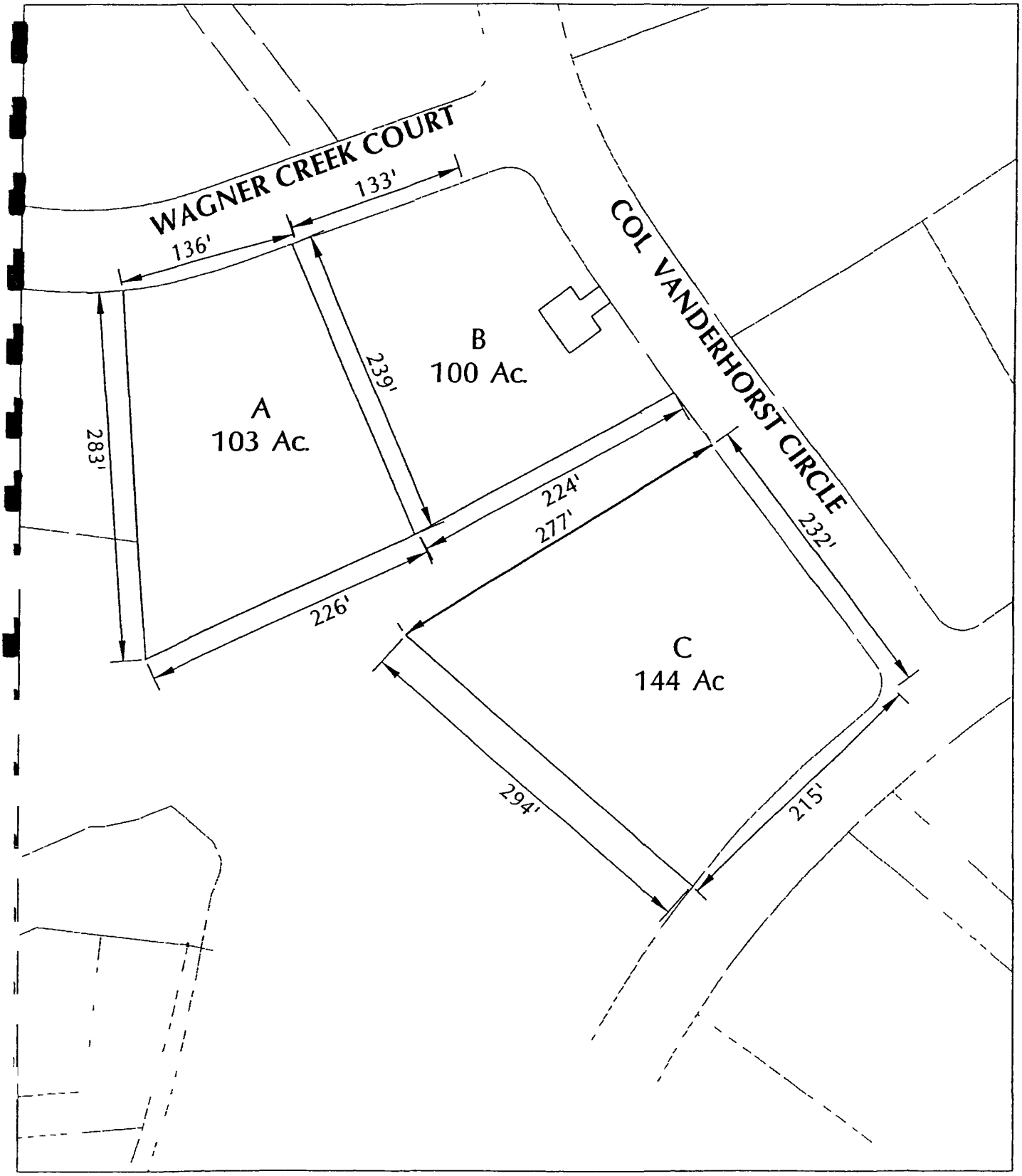
Dunes West is a gated community, and the potential subject sites would be part of a property owners' regime All the potential sites have paved road access All other municipal services are available from the town of Mt Pleasant


WAGNER CREEK COURT
WAGNER CREEK
HARTFORD VILLAGE WAY
WANDO PLANTATION WAY
DOWNING LAKE WAY
FERDINAND CT
BLACK OAK CT
OLD JAY LANE
SHELL RING CT
SHAGBARK CIRCLE
PIGNATELLI CRESCENT
COTTONFIELD DRIVE
WILLIAMS VENEER CT
SEWEE INDIAN CT
CHEROKEE ROSE CIRCLE
1-4
5
6
8
9
1
11
12
13
15
26
16-17
18
19
20
21
22
23
24
25 16 ACRES
APPROX GOLF COURSE AREA
0
500'
1000'
1500'
Dunes West
JOHN WIELAND HOMES AND NEIGHBORHOODS

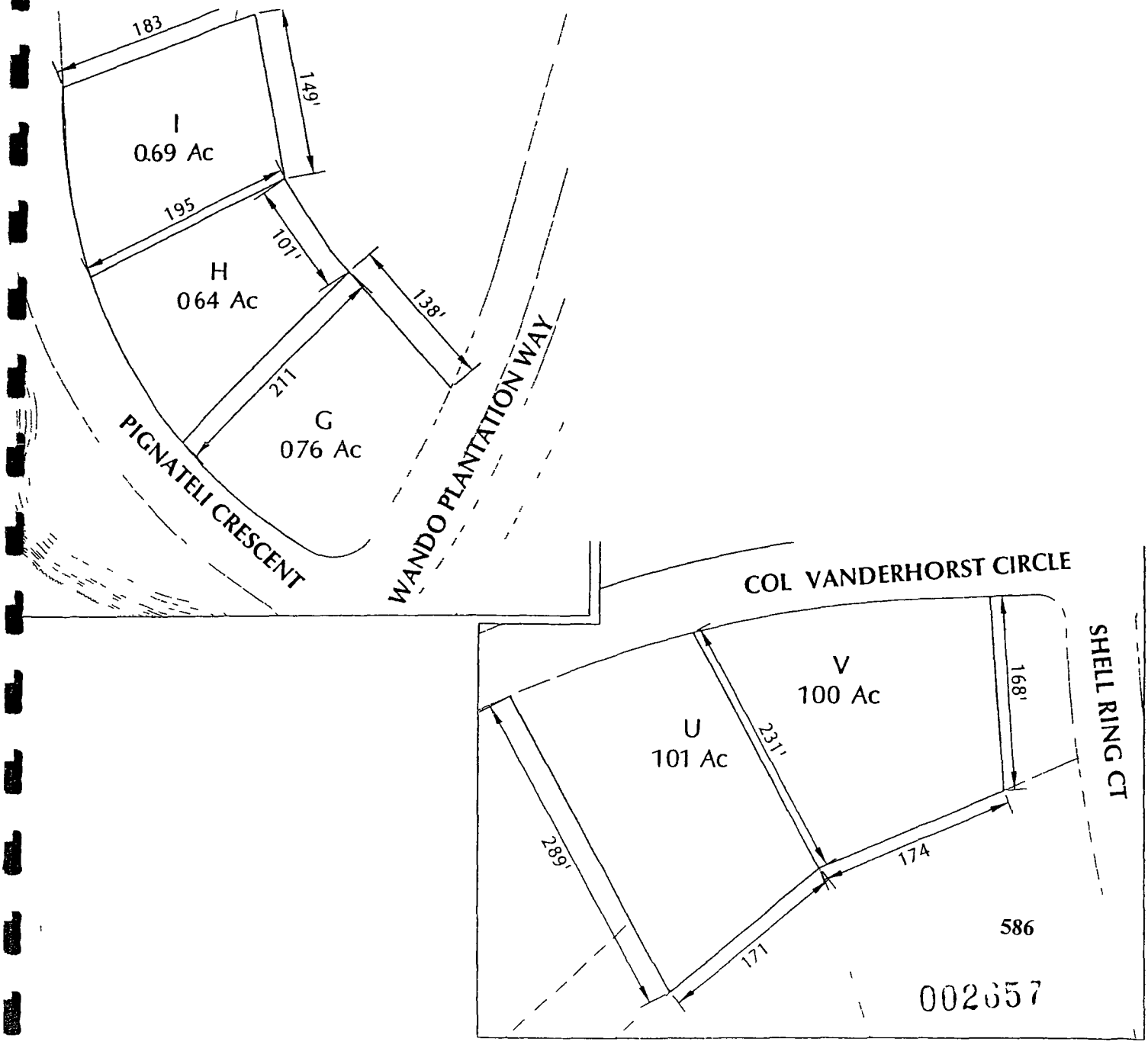
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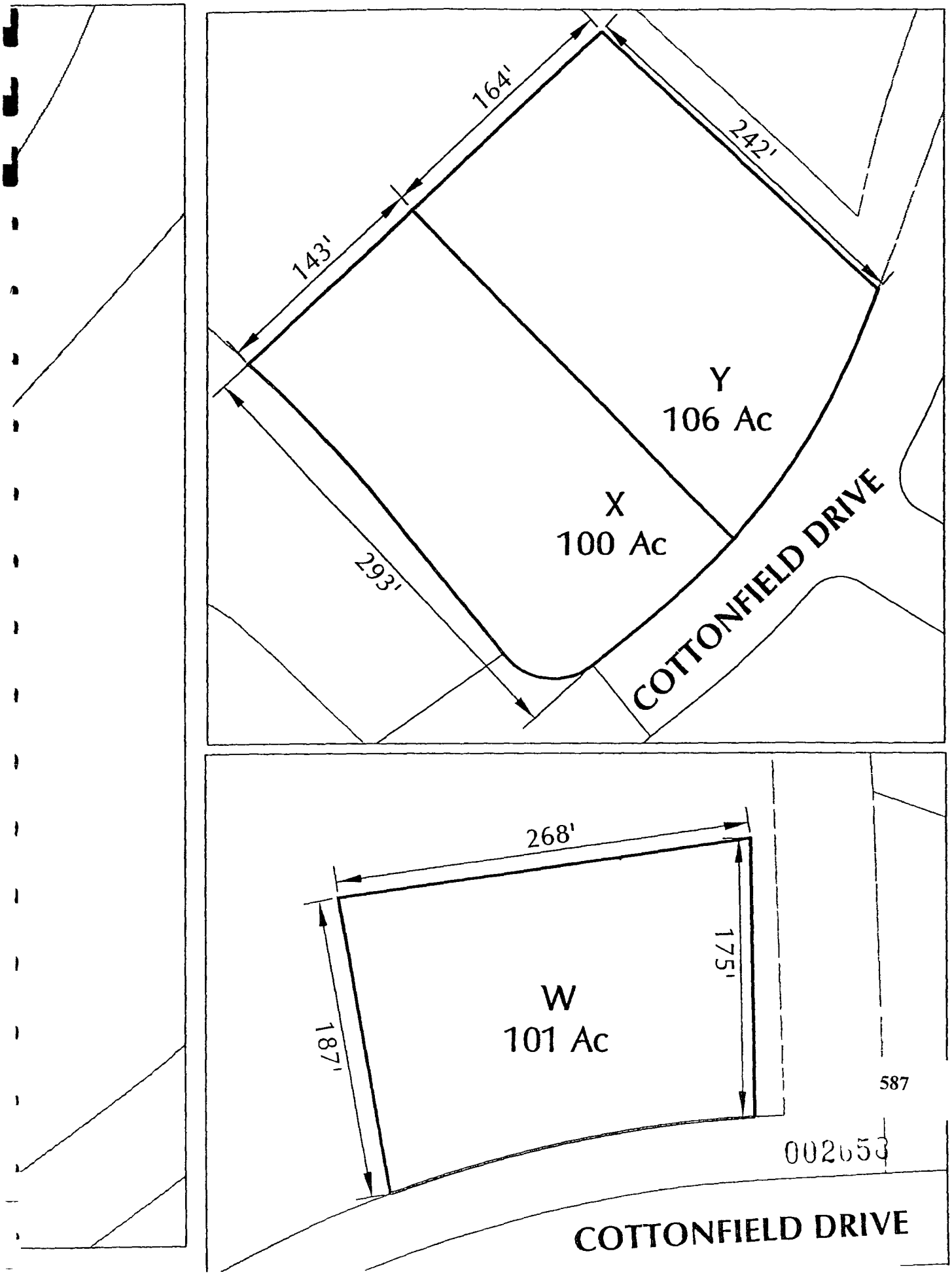
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A
B
C
I
H
G
14
U
V
25
WANDO PLANTATION WAY
W
X
Y
Total Lots 25
Total Townhomes 63
Total Units 88
584
Dunes West
JOHN WIELAND HOMES
AND NEIGHBORHOODS
0
500'
1000'
1500
DWGC 1305

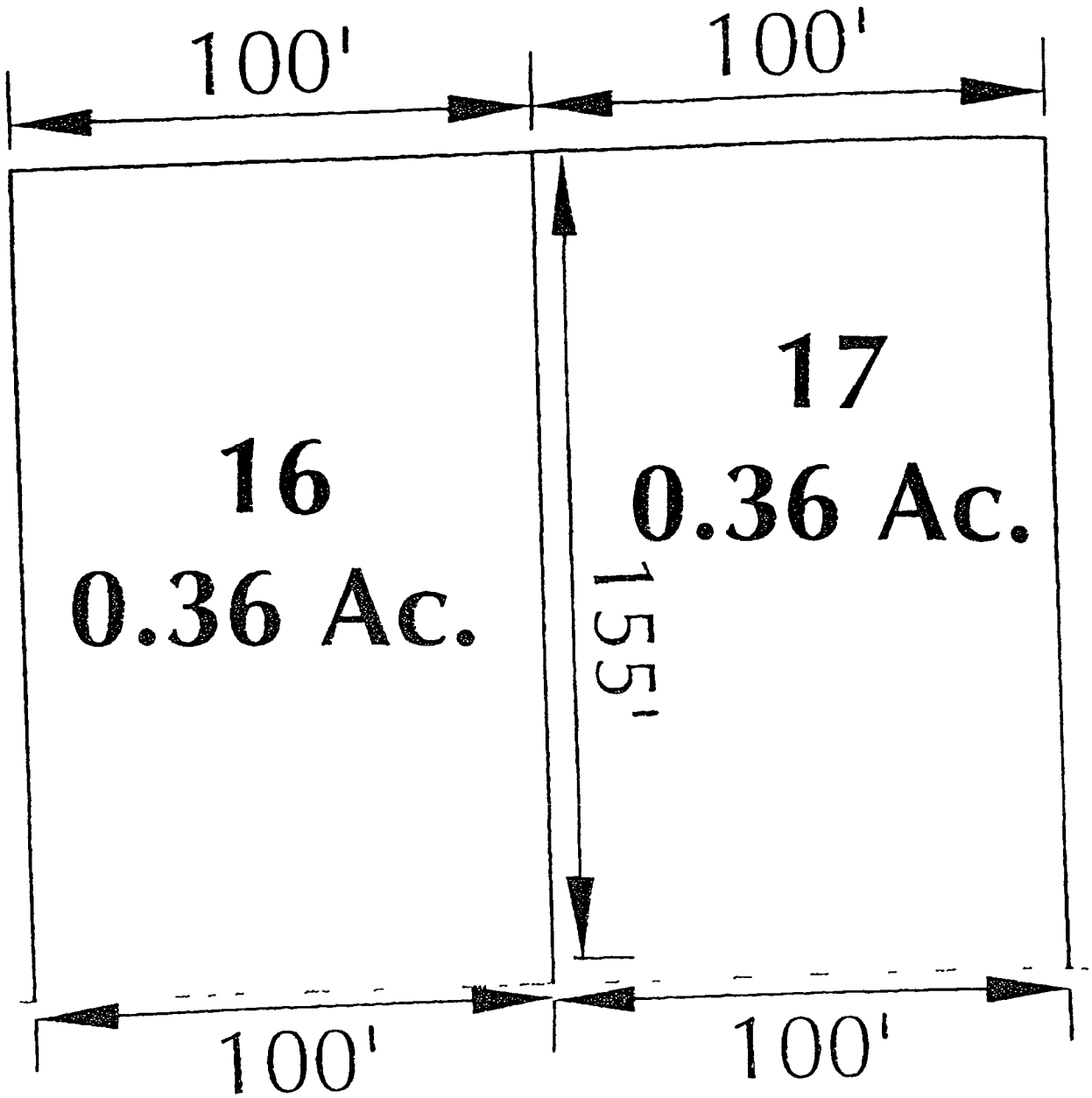

WAGNER CREEK COURT
133'
136'
COL VANDERHORST CIRCLE
A
103 Ac.
B
100 Ac.
C
144 Ac
283'
239'
224'
277'
226'
232'
294'
215'

002056


183
149'
I
0.69 Ac
195
101'
H
064 Ac
138'
211
G
076 Ac
PIGNATELI CRESCENT
WANDO PLANTATION WAY
COL VANDERHORST CIRCLE
SHELL RING CT
V
100 Ac
U
101 Ac
168'
231'
289'
174
171
586
002657


164'
242'
143'
293'
Y
106 Ac
X
100 Ac
COTTONFIELD DRIVE
268'
175'
187'
W
101 Ac
587
002653
COTTONFIELD DRIVE

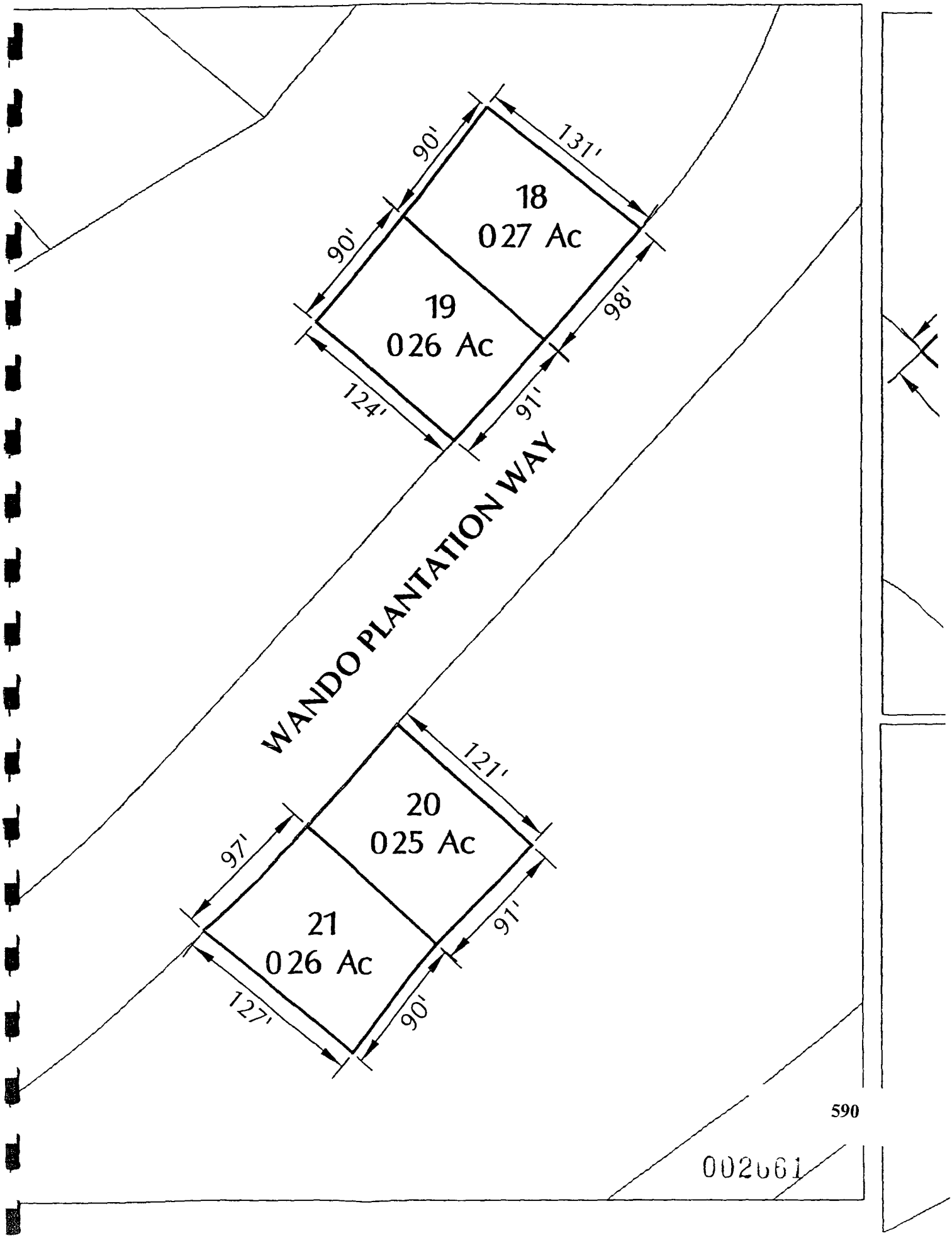

COL. VANDERHORST CIRCLE
WANDO PLANTATION WAY
25
122 Ac
285'
194'
DWGC 1309
WANDO PLANTATION WAY
22
025 Ac
115'
23
027 Ac
127'
90'
90'
24
029 Ac
130'
91'
588
002050

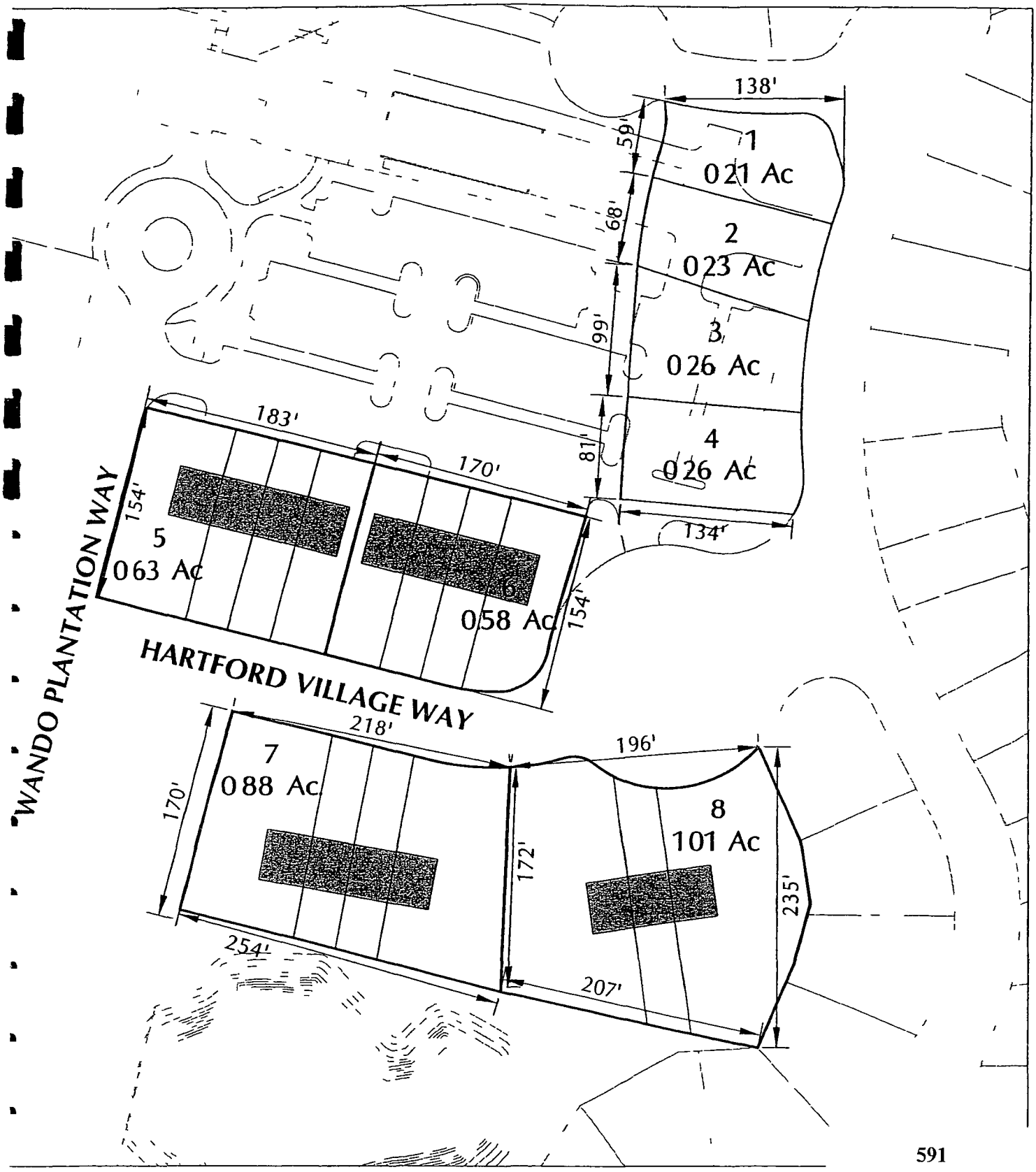


L. VANDERHORST CIRCL

589

002650


18
027 Ac
19
026 Ac
90'
90'
131'
98'
124'
91'
WANDO PLANTATION WAY
20
025 Ac
21
026 Ac
97'
121'
91'
127'
90'
590
002661



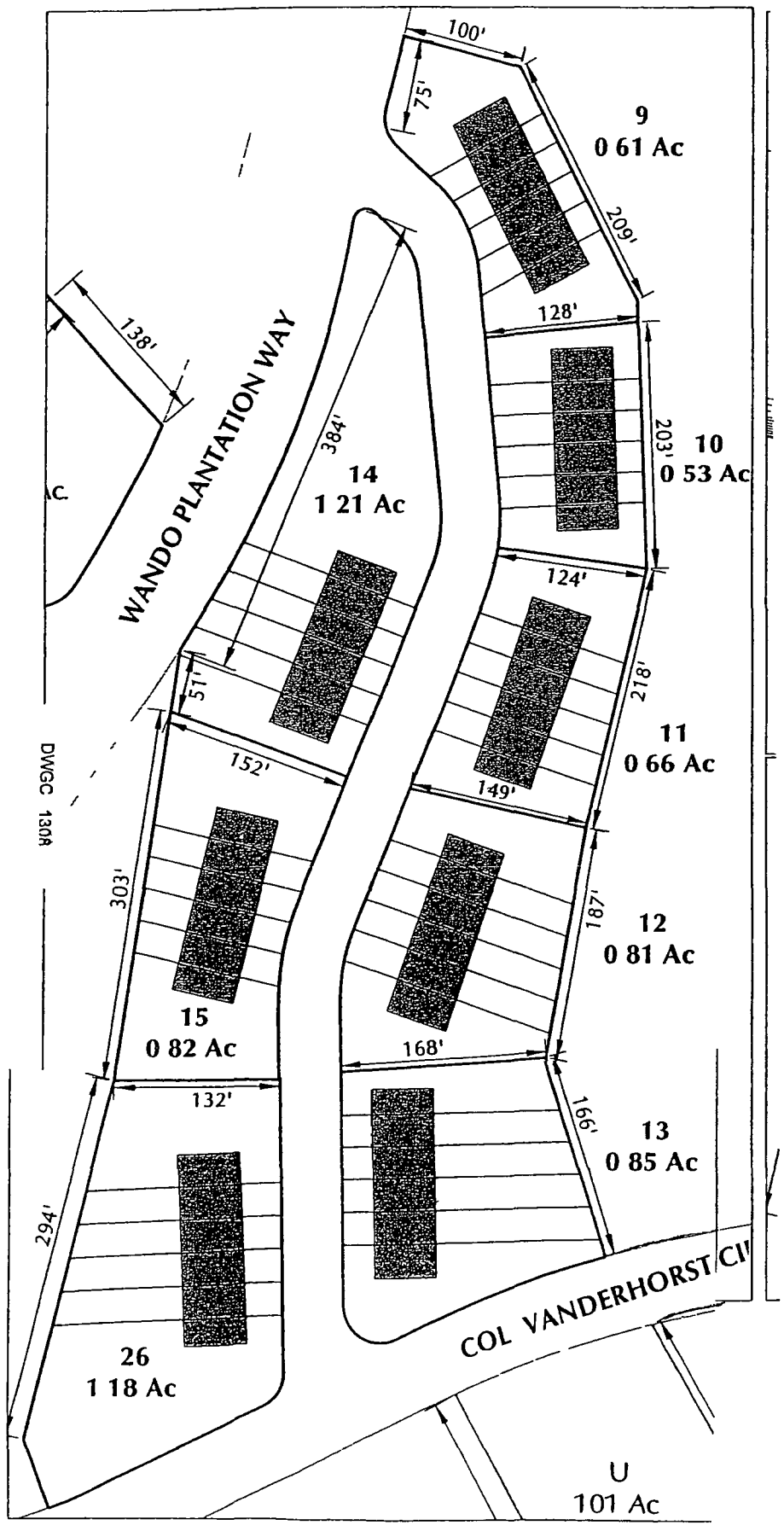
591

002662

sWest™

John Wieland
JOHN WIELAND HOMES
AND NEIGHBORHOODS

0 100' 200' 300'


100'
75'
9
0 61 Ac
209'
128'
138'
WANDO PLANTATION WAY
384'
14
1 21 Ac
203'
10
0 53 Ac
124'
51'
218'
152'
149'
11
0 66 Ac
DWGC 1308
303'
187'
12
0 81 Ac
15
0 82 Ac
168'
132'
169'
13
0 85 Ac
294'
COL VANDERHORST CI
26
1 18 Ac
U
101 Ac

592

002063

HIGHEST AND BEST USE/ZONING

The highest and best use of the land is defined as

"The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported and financially feasible and that results in the highest value " [2]

An analysis of highest and best use is firmly based on marketability issues and market driven conclusions The highest and best use analyses for vacant land and improved properties should consider four criteria They are listed below

1) Physically Possible
2) Legally Permissible
3) Financially Feasible
4) Maximally Productive

"The analysis of land as though vacant focuses on alternative uses with the appraiser testing each reasonably probable use for legal permissibility, physical possibility, financial feasibility and maximum productivity In contrast, the appraiser applies the four tests in the analysis of the property as improved, but the focus is not on alternative uses but on three possibilities continuation of the existing use, modification of the existing use or demolition and redevelopment of the land " [3]

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[2] The Appraisal of Real Estate 13th Edition The Appraisal Institute page 277
[3] The Appraisal of Real Estate 13th Edition The Appraisal Institute page 281

ZONING - The parent tracts of which the potential subject sites are a part are zoned Conservation/Recreation/Open Space (CR-O) by the town of Mt Pleasant The purpose of this zoning is to ensure the preservation of conservation, recreation and/or open space use of the land against undesirable development providing opportunities for improving public and/or recreation activities and providing for a community wide network of open space buffer zones and recreation spaces Neither residential nor commercial development is allowed on the CR-O district

As previously mentioned, for purposes of this appraisal only, it was necessary to assume the hypothetical condition that the potential subject sites could be rezoned to low-density (R-1) and medium-density (R-3) and subdivided for ultimate single family residential development

HIGHEST AND BEST USE

The potential sites that are the subject of this report are non-contiguous parcels located within Dunes West subdivision There are some wetlands on several of the sites that would pose problems for their development No other soil conditions are known to exist that would make development difficult Several of the lots have physical restrictions in the way of paved cart paths, drainage and utility lines and portions of the golf course These issues would have to be resolved to accomplish development with homesites All the sites have paved road frontage and access to public utilities Some utility lines would have to be extended to reach individual lots Due to their sizes and fragmentation, the sites lack potential for some types of development, otherwise, there are no other impediments known to exist that preclude development of any type on the potential sites

Based on the above described hypothetical condition, it has been assumed that these potential sites are zoned R-1 and R-3 R-1 is low-density, single family development with a minimum lot size of 10,000 square feet Lot coverage of 35% is allowed, and minimum width and depth required are 80 feet and 110 feet, respectively The medium density residential district (R-3) allows any use permitted in the R-1 district Additionally, duplex dwellings, single family patio homes and zero lot line dwellings are allowed Minimum lot areas allowed are 6,000 square feet, and the lot width and depth requirements are 50 feet

and 85 feet, respectively The maximum lot coverage allowed is 50% Based on the hypothetical condition employed in this appraisal, it is my opinion that the legally permissible uses for the potential subject sites would be for single family residential development according to the provisions of the zoning ordinance

Financial feasible uses are those uses that bring a positive return to the landowner's investment This return is based upon the value of the land and/or cost necessary to develop Dunes West subdivision is developed with single family homes Most financially feasible uses are those that are compatible with nearby uses For these reasons, I do not believe that office, industrial, or retail development would be feasible for the potential subject sites even if they were legally permissible These uses typically require urban or suburban locations with a greater volume of traffic or major thoroughfares and in higher concentrations of population For these reasons, I believe that the only financially feasible use for the potential subject sites are those allowed under assumed R-1 and R-3 zoning

The maximally productive use for land is that use which returns the greatest financial benefit to the landowner In considering the maximally productive/highest and best use for the potential subject sites, all of the issues discussed in the financially feasible analysis apply Based on this and future potential for the sites, it is my opinion that the maximally productive use for the potential subject sites, subject to the hypothetical condition and extraordinary assumptions, would be to develop them with single family homes of varying sizes and prices

ASSESSMENT/PROPERTY TAXES

Real Estate in Charleston County is appraised at 100% of its market value Property other than owner occupied, single family residences are assessed at 6% From time to time as need dictates, county wide equalization programs are instituted to ensure these values are at current levels In 2005, the Assessor's office released new tax appraisals to all property owners in Charleston County Since the parcels being appraised in this report have not been subdivided from the parent tract, they did not have individual tax appraisals In this appraisal, I have projected tax appraisals on the potential lots utilizing tax appraisals of existing lots in Dunes West

In 2006, the millage for the town of Mt Pleasant was 199 9, and the assessment ratio for vacant lots was 6%

In November 1990, Charleston County voted in favor of a 1% local option sales tax By law, most of the proceeds from the tax must be used to reduce real and personal property taxes in the County The tax was implemented in 1991 and is currently in effect A reduction in real and personal property taxes is being realized These credits are reflected in the total taxes The tax credit factor in 2006 for the town of Mt Pleasant was 0 00047, and for Charleston County the credit factor was 0 00090 If subdivisions of the subject parcels were to be allowed, they would be appraised individually, and the 2006 taxes would have been based upon the previously described figures According to the Charleston County policy, an approximate discount of 10% to owners holding more than 10 lots could be obtained

The average value estimate for estate lots in 2006 is $317,500 which indicates a tax liability of approximately $3,373 per annum, and smaller lots have an average value estimate of $213,896 indicating $2,272 per annum The value of the higher density tract is estimated at $2 8 million, and taxes are estimated to be $29,700 per annum At a total of $99,712 and with s 10% discount, taxes for the initial year of the projection period would be $89,740

Since the cost for providing municipal services continues to rise, taxes would be higher in succeeding years

MARKETING TIME

Estimating a marketing period is a very subjective exercise due to the forces operating in the market The rise and fall in interest rates, general state of the economy, size of a property, changes in land uses and marketing expertise all impact a marketing period All the above plus several additional factors would play a role in the time it would take to sell the subject property Since many of these forces are unpredictable, I feel it is necessary to qualify any marketing estimate

In the Highest and Best Use section of this report, it was stated that it would be maximally productive to develop the potential subject sites in Dunes West with single family homes An owner as a single entity would therefore most likely be an investor or a group of investors experienced in such endeavors Sales and development of such tracts have been occurring at an unprecedented pace in recent years In this appraisal, I have estimated the market values of the potential subject sites based upon their subdivision into 25 lots and two higher density tracts As seen in the Valuation section of this report, I have estimated an absorption period for those lots to be two years I have discounted income to be received from lot sales to a present net value estimate by deducting all costs associated with such development Any differences in development costs or changes in the state of the economy could impact a projected marketing period

THE APPRAISAL PROCESS

In the foregoing sections of this report, I have examined and discussed the potential subject lots To arrive at an estimate of market value, it is necessary to collect and analyze all data in the market which might tend to indicate the value of the lots The potential subject lots must be compared to comparable lots which can be purchased or from which a similar monetary return may be received

Each of the three approaches to value requires data collection from the market, and each is governed equally by the principle of substitution This principal holds that 'when two or more commodities or services with substantially the same utility are available, the one with the lowest price receives the greatest demand and widest distribution"

In the Cost Approach "no man is justified in paying more for a property than that amount by which he can obtain, by purchase of a site and construction of a building, without undue delay, a property of equal desirability and utility"

In the Income Capitalization Approach 'value tends to be set by the investment necessary to acquire, again without undue delay, a comparable substitute income property offering an equally desirable net income return"

As applied to the Sales Comparison Approach, the principle may be stated "when a property is replaceable in the market, its value tends to be set at the cost of acquiring an equally desirable substitute property, assuming that no costly delay is encountered in making the substitution"

SCOPE OF THE APPRAISAL

I have based my appraisal of the potential subject sites in Dunes West subdivision on unrecorded subdivision plats provided to me These potential lots are vacant, therefore, the Cost and Income Capitalization approaches were not utilized in this report The site valuations of the potential lots were performed using techniques practiced in the Sales Comparison Approach Sales data was obtained from office files, residential MLS, real estate agents, appraisers, courthouse records and information from buyers and sellers The retail value of the potential subject lots was then discounted for a holding period, development costs and sales costs

The Site Valuation was performed using techniques of the Sales Comparison Approach In this approach, it was necessary to collect sales and other pertinent data on similar vacant sites This data was obtained from the sources listed above Adjustments between the sales and the potential subject sites were made for reasons to be discussed later in this appraisal The estimated values of the subject lots were then added to yield an estimate of gross retail sales

Once the gross retail value of the potential subject lots was estimated, it was necessary to estimate the costs involved in development and an estimated period of time necessary to sell all of the lots Development costs which would be incurred in this project were estimated by Forsberg Engineering Additionally, Jon LaFoy estimated costs associated with adjustments that would be necessary to the golf course if the lots were platted as presented In this report, I have estimated that it would take two years to sell the potential subject lots A discounted cash flow analysis was utilized to convert the gross income from lot sales into a market value estimate for the potential lots assuming ownership by a single entity

SITE VALUATION

In order to estimate the values of the potential lots in the Dunes West subdivision, I have analyzed sales of lots that took place in Dunes West and competing areas over the past several years

The units of comparison most commonly used when appraising vacant land are price per front foot, price per square foot, price per acre and price per site The only one felt to be of significance in comparing the sales to the subject lots is the price per site

Obviously, amenities, location, desirability, views and access all impact this indication I have considered all these features when comparing the comparable sales to the subject potential lots In this appraisal, I have organized the potential subject lots in Dunes West into three categories They are as follows estate lots, small lots and higher density tracts Within these categories, individual adjustments were made according to sizes and the respective desirability of lots within each group This process is reflective of the process utilized by developers when pricing such lots for sale

On the following page is a summary of sales utilized in this appraisal followed by a comparable sales location map, and following that are individual analysis sheets on each of the comparable sales used for comparison to the potential subject lots

600

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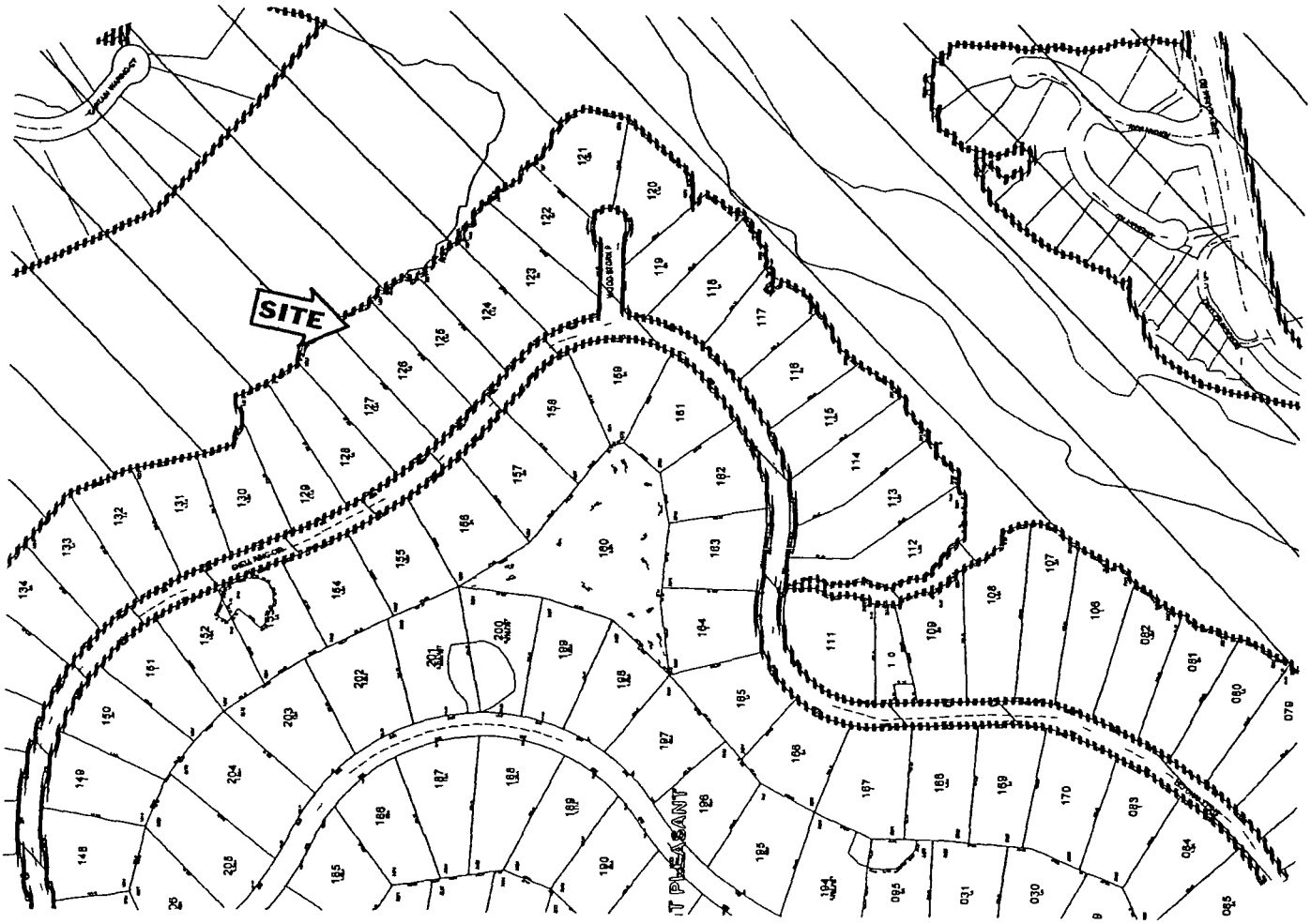
SUMMARY OF SALES

Sale	Date	Location	Sale Price	Acreage
		COMPARABLE LOT SALES		
1	05/07	1853 Shell Ring Circle Dunes West	$ 355,000	1 13
2	06/07	3356 Cottonfield Drive Dunes West	$ 350 000	1 08
3	09/05	1841 Shell Ring Court Dunes West	$ 340 000	1 09
4	10/06	3069 Pignatelı Crescent Dunes West	$ 350,000	1 06
5	03/05	1121 Ayers Plantation Way Dunes West	$ 170 000	0 44
6	04/05	2720 Fountainhead Way Dunes West	$ 200 000	0 33
7	03/06	2900 Riverwood Drive Dunes West	$ 180 000	0 30
8	02/07	1130 Ayers Plantation Way Dunes West	$ 210 000	0 38
		COMPARABLE TRACT SALES		
9	03/07	Long Bend Drive Seabrook Island	$ 750,000	1 812
10	06/06	Grey Marsh Road Park West - Mt Pleasant	$1,100,000	1 56
11	11/06	1400 Belle Isle Avenue Belle Hall - Mt Pleasant	$3,100,000	5 538
12	08/05	Belle Hall Station Belle Hall, Mt Pleasant	$1,947 000	4 88

601

SALE NO 1

LOCATION	1853 Shell Ring Circle, Dunes West
SALE PRICE	$355,000
DATE OF SALE	May 15, 2007
GRANTOR	Michael Glennon and Lisette Glennon
GRANTEE	Timothy T Hensch and Susan A Hensch
SIZE	1 13 Acres
DEED BOOK & PAGE	E626 - 0119
TAX MAP NUMBER	594-07-00-126

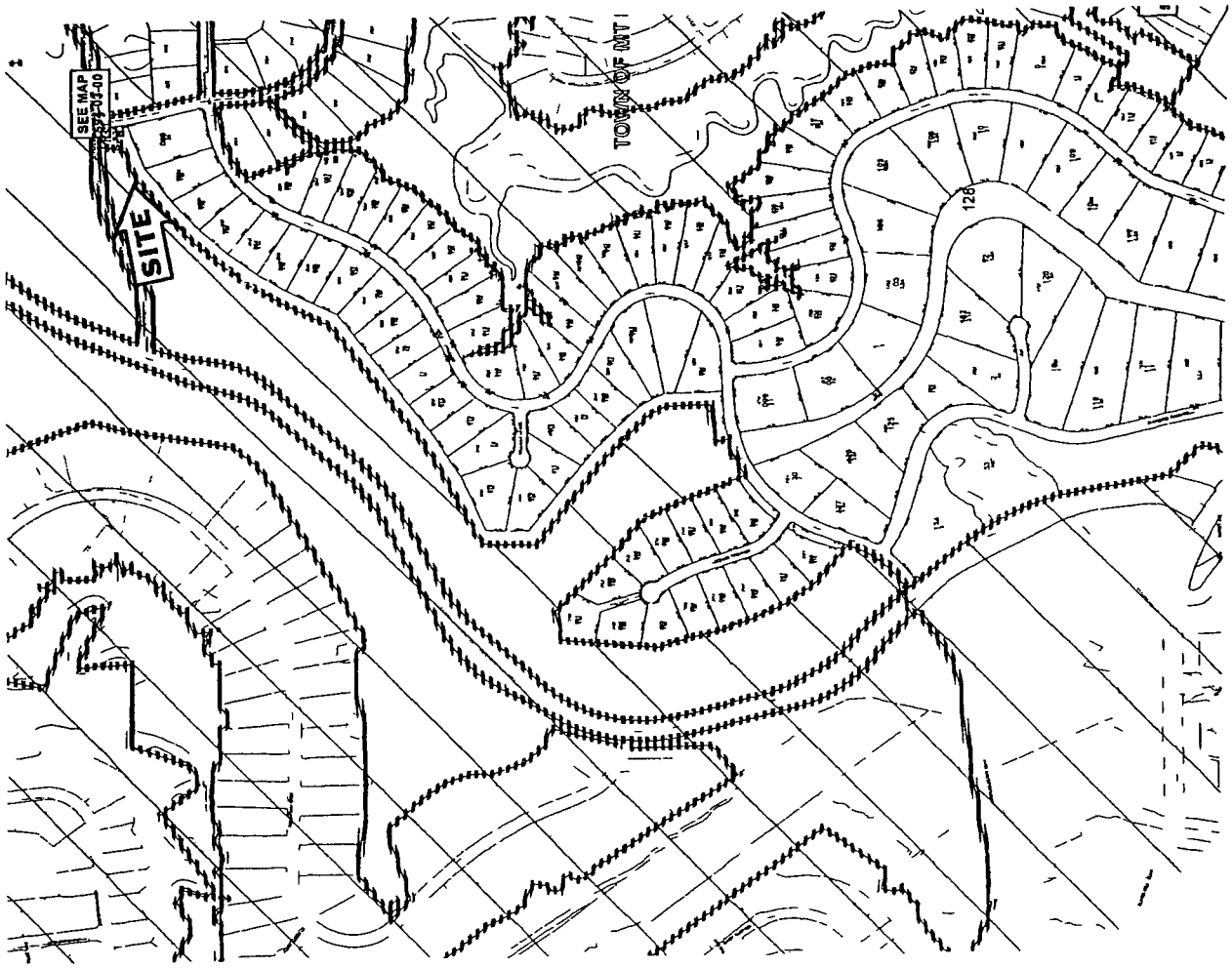


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002673

SALE NO 2

LOCATION	3356 Cottonfield Drive, Dunes West
SALE PRICE	$350,000
DATE OF SALE	June 28, 2007
GRANTOR	Aaron M Strom
GRANTEE	Susan N Morris
SIZE	1 08 Acres
DEED BOOK & PAGE	S630 - 0897
TAX MAP NUMBER	594-11-00-063

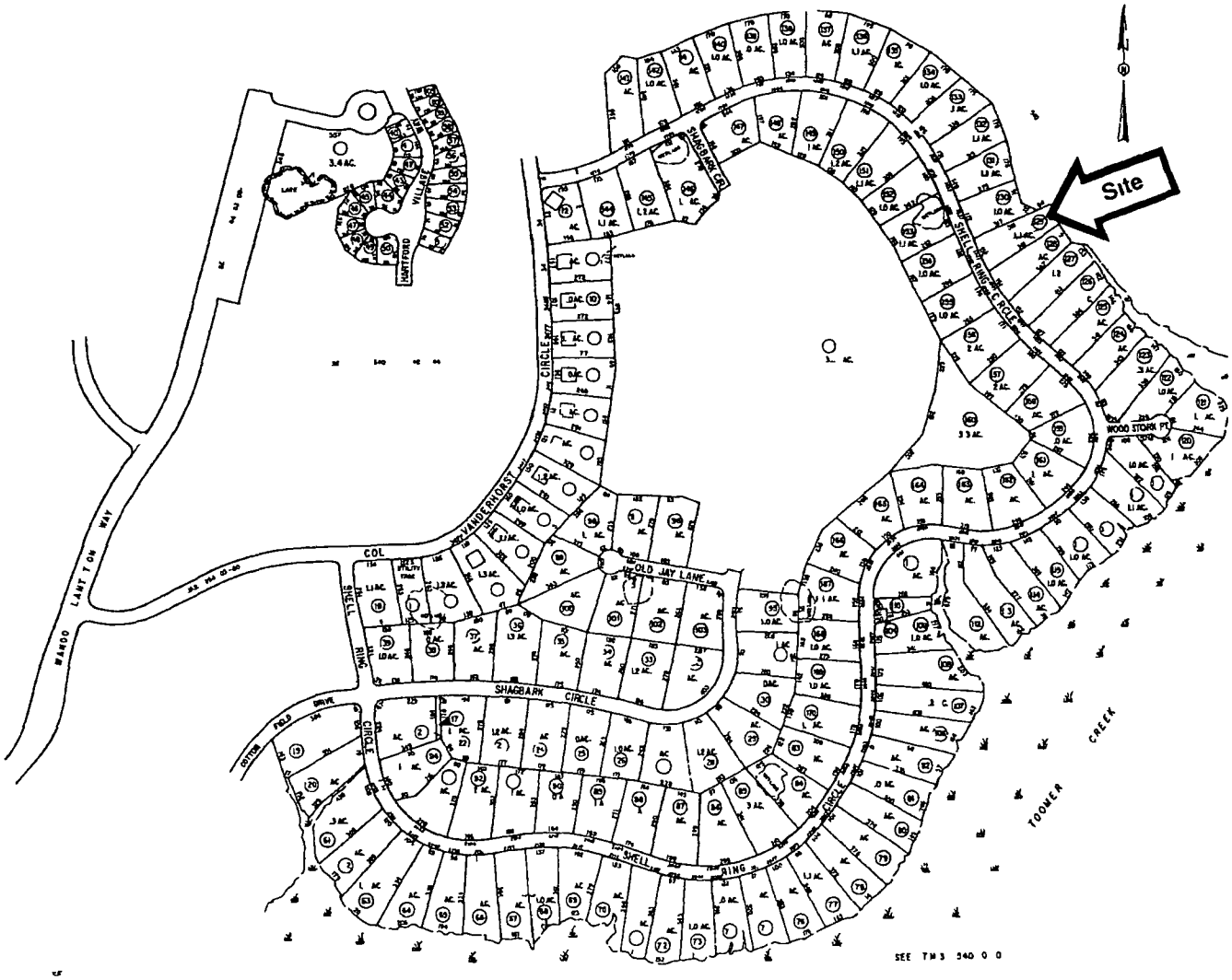


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SALE NO 3

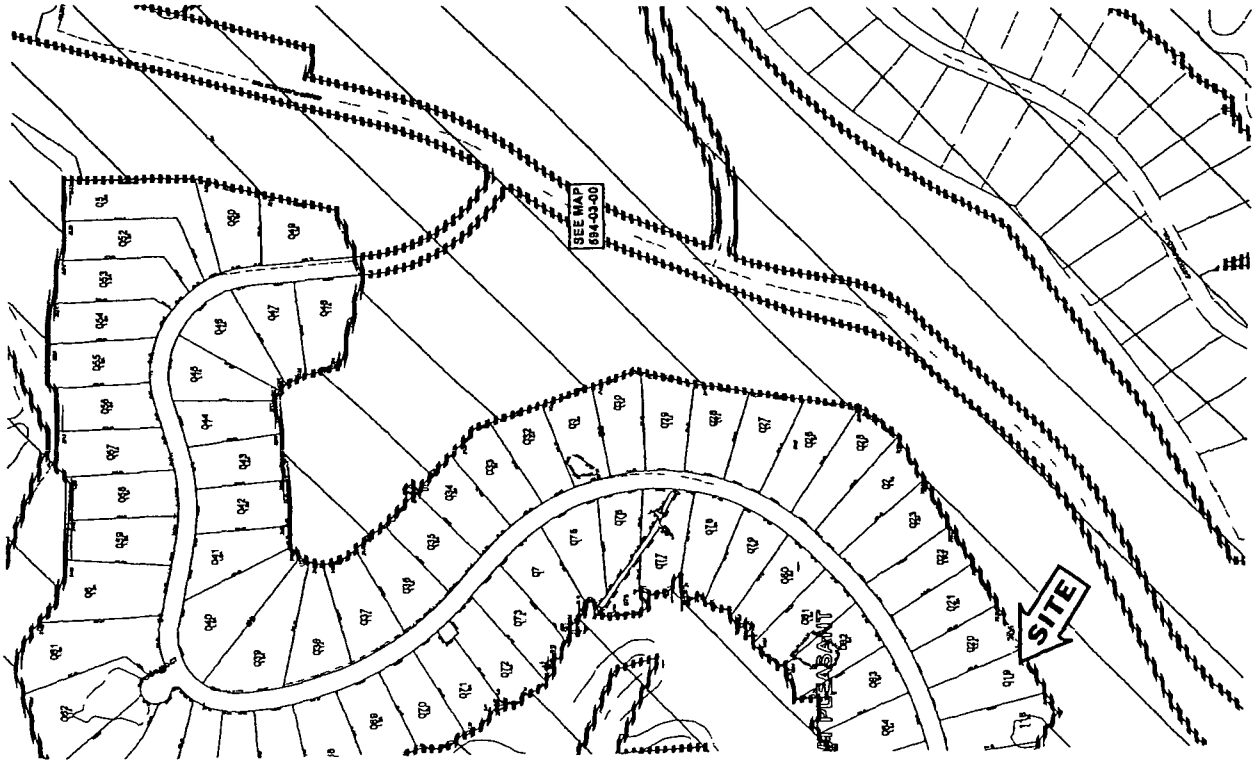
LOCATION	1841 Shell Ring Circle, Dunes West
SALE PRICE	$340,000
DATE OF SALE	September 28, 2005
GRANTOR	Two Brothers Development, LLC
GRANTEE	Carl R Erdmann
SIZE	1 09 Acres
DEED BOOK & PAGE	M556 - 0075
TAX MAP NUMBER	594-07-00-129



604

SALE NO 4

LOCATION	3069 Pignateli Crescent, Dunes West
SALE PRICE	$350,000
DATE OF SALE	October 17, 2006
GRANTOR	Michael L Van Beyrer & Barbara A Van Beyrer
GRANTEE	Paul Spencer & Kelley Spenser
SIZE	1 06 Acres
DEED BOOK & PAGE	A603 - 0687
TAX MAP NUMBER	594-06-00-019

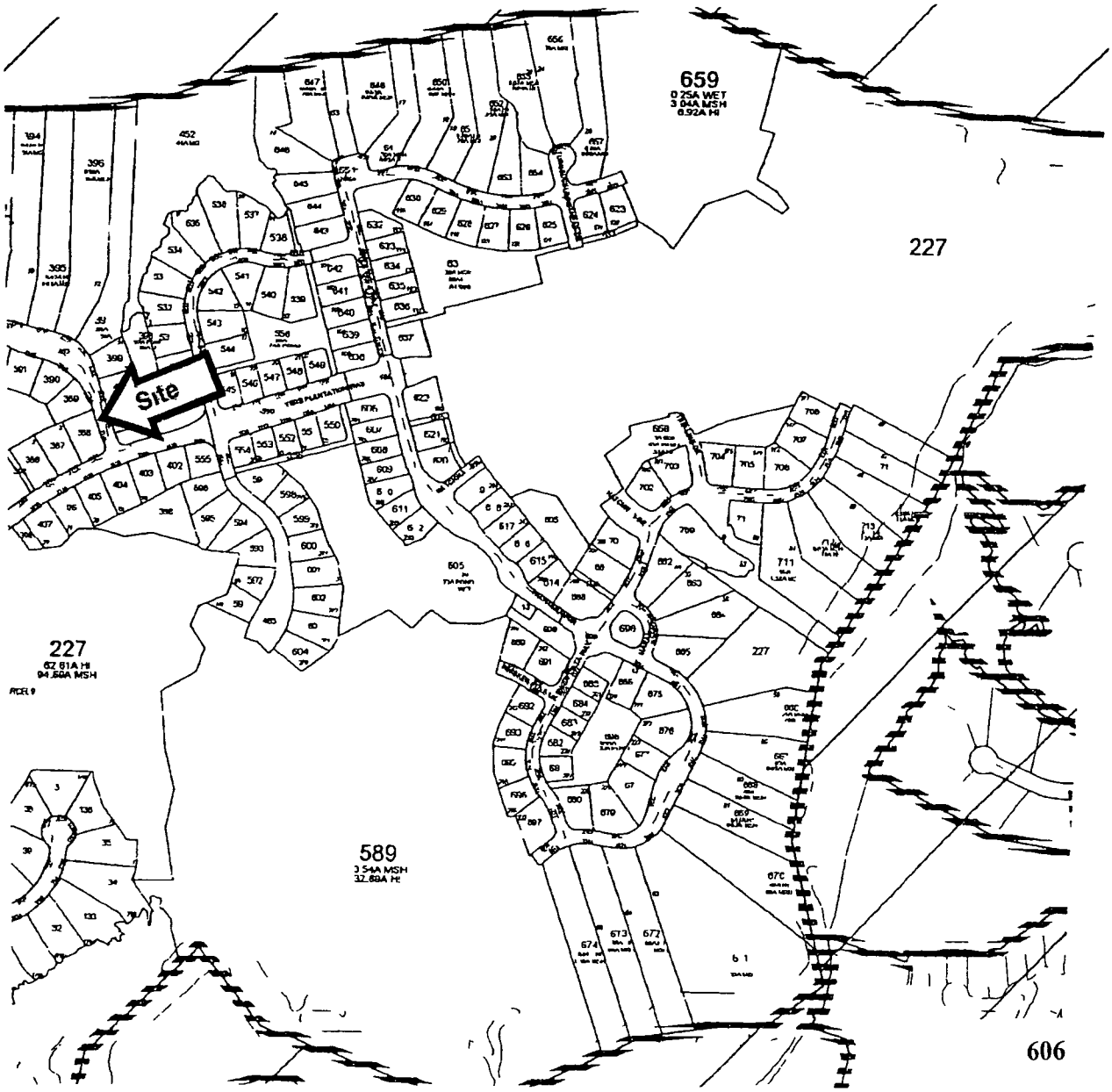


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SALE NO 5

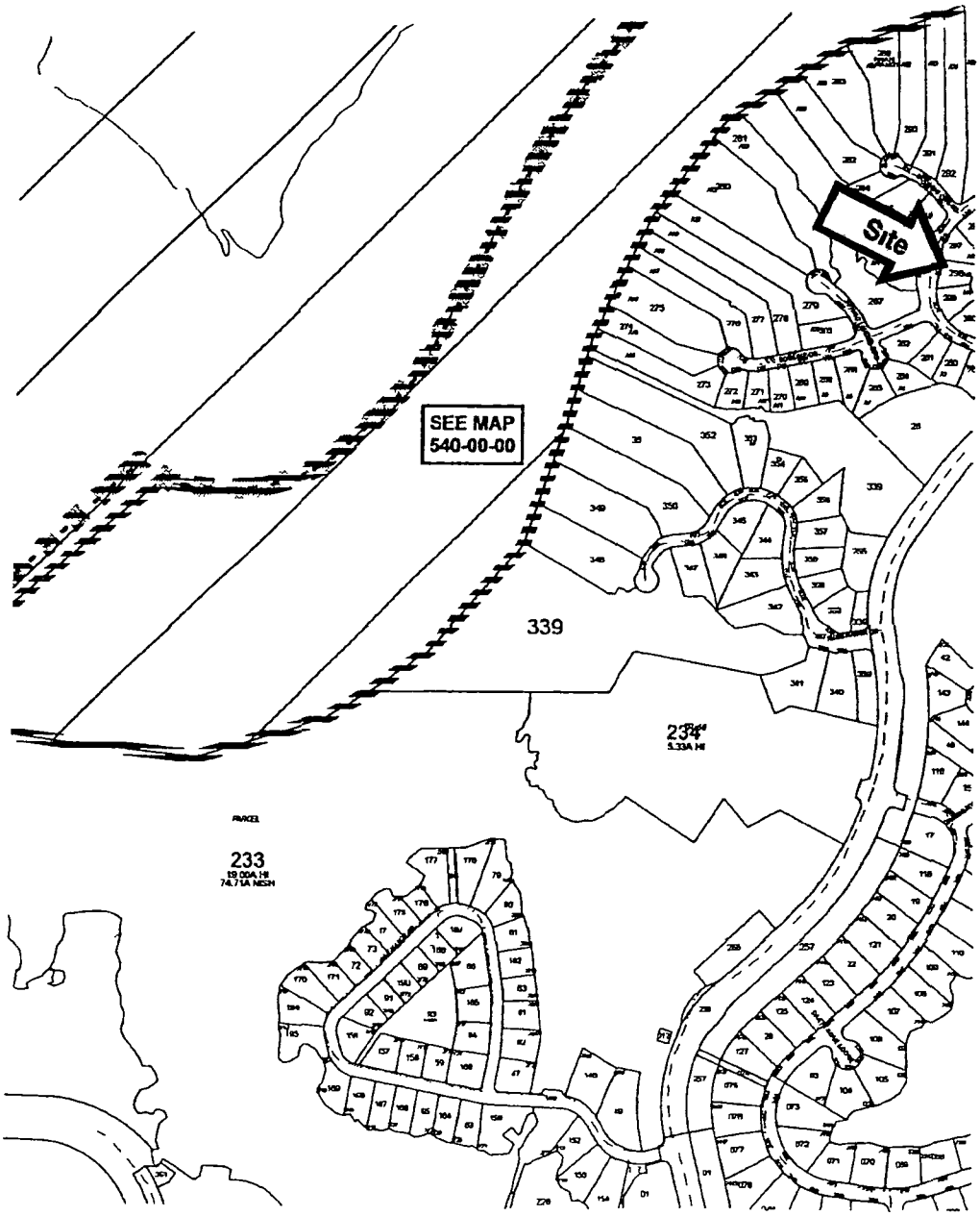
LOCATION	1121 Ayers Plantation Way, Dunes West
SALE PRICE	$170,000
DATE OF SALE	March 9, 2005
GRANTOR	Jay Alan Jeffries
GRANTEE	Benjamin T Vorhees
SIZE	0 44 Acres
DEED BOOK & PAGE	L528 - 0111
TAX MAP NUMBER	594-05-00-388



002077

SALE NO 6

LOCATION	2720 Fountainhead Way, Dunes West
SALE PRICE	$200,000
DATE OF SALE	April 30, 2005
GRANTOR	Richard Artale
GRANTEE	Russell A Barkley, et al
SIZE	0 33 Acres
DEED BOOK & PAGE	A524 - 0714
TAX MAP NUMBER	594-05-00-298

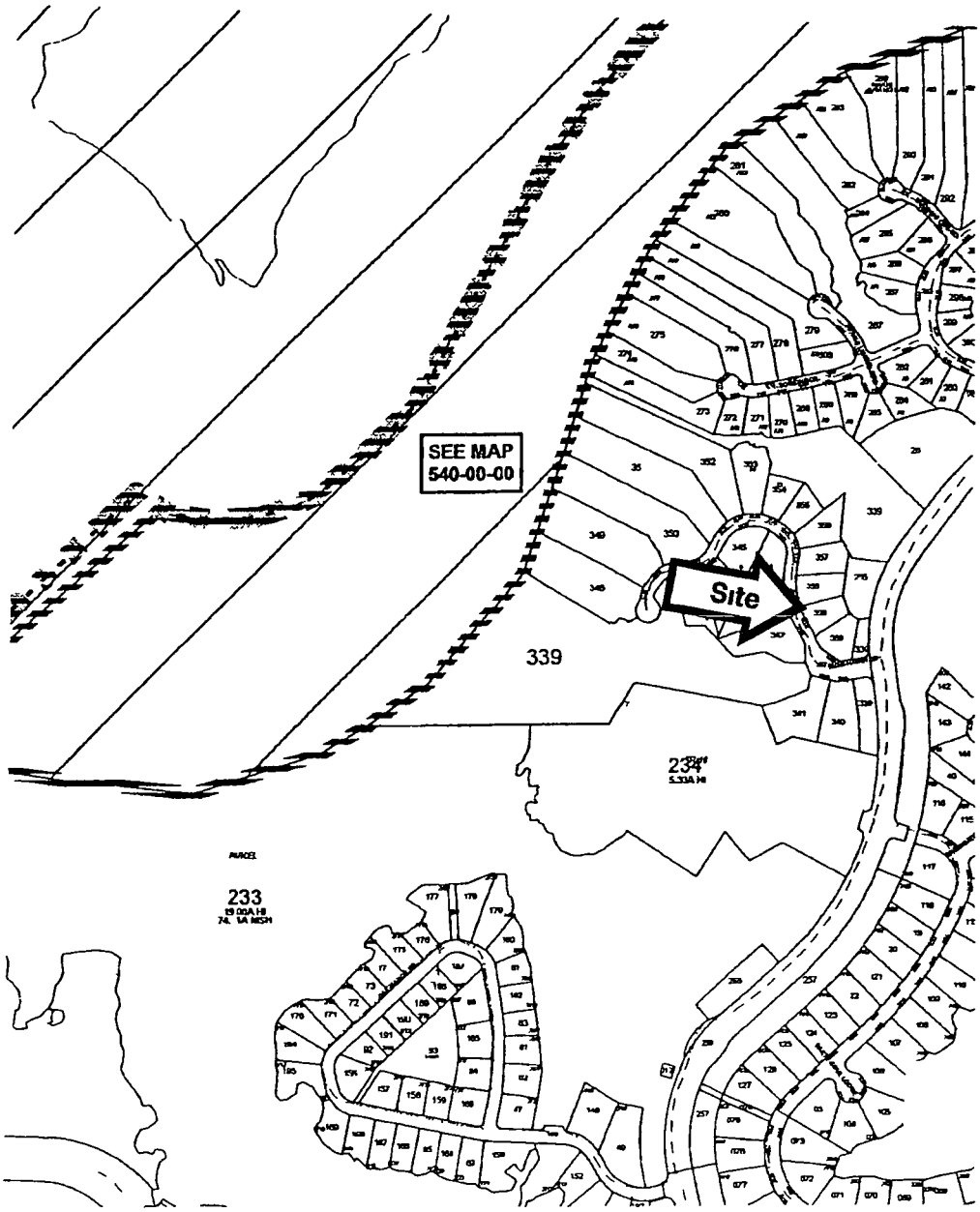


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SALE NO 7

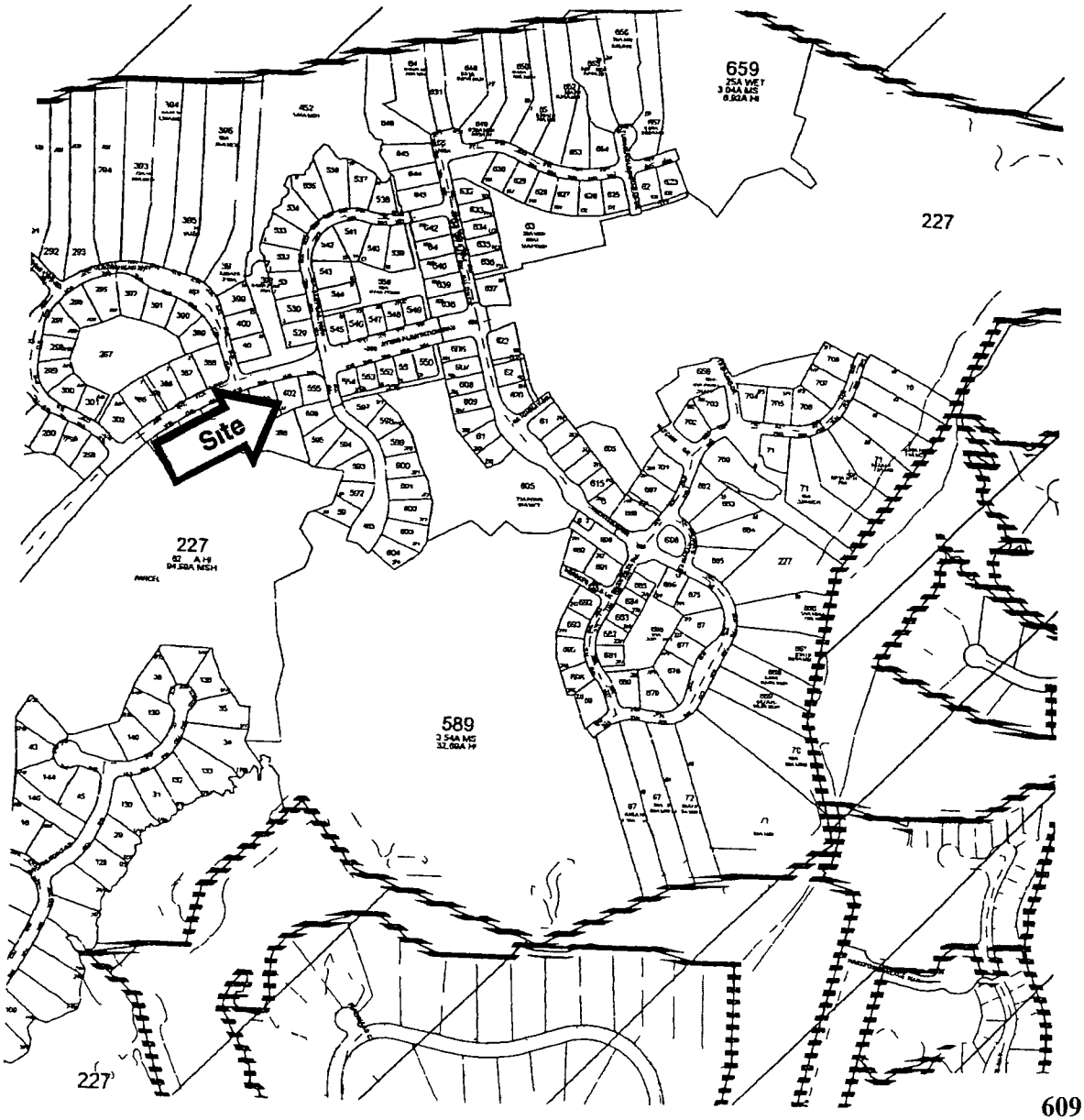
LOCATION	2900 Riverwood Drive, Dunes West
SALE PRICE	$180,000
DATE OF SALE	March 17, 2006
GRANTOR	John Weiland Homes
GRANTEE	Brian L Kornahrens
SIZE	0 30 Acres
DEED BOOK & PAGE	R578 - 0563
TAX MAP NUMBER	594-05-00-338



608

SALE NO 8

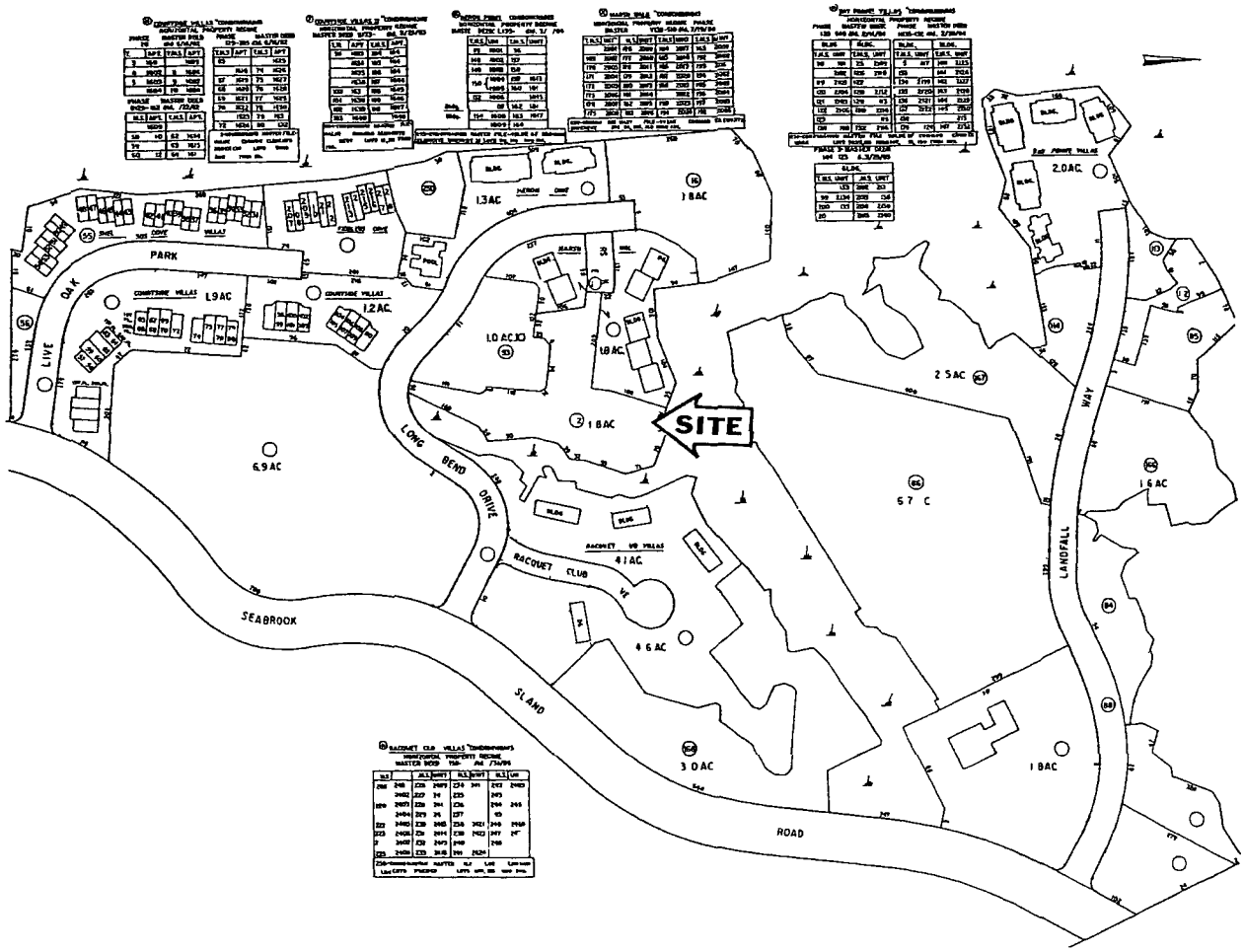
LOCATION	1130 Ayers Plantation Way, Dunes West
SALE PRICE	$210,000
DATE OF SALE	February 23, 2007
GRANTOR	Clarence E Turner
GRANTEE	Fabian Troy Leiker
SIZE	0 38 Acres
DEED BOOK & PAGE	R616 - 3152
TAX MAP NUMBER	594-05-00-402



SALE NO 9

LOCATION	Long Bend Drive, Seabrook Island
SALE PRICE	$750,000
DATE OF SALE	March 15, 2007
GRANTOR	CN Properties, LLC
GRANTEE	Wood Development, Inc
SIZE	1 812 Acres
DEED BOOK & PAGE	F619 - 031
TAX MAP NUMBER	149-01-00-092
UNIT OF COMPARISON AND AMOUNT	$68,182/Unit - $413,907/Acre

Located just inside island security gate - approved for 11 units - all utilities available - zoned multi-family residential - sale was for cash and a 30 day closing - listed at $980,000



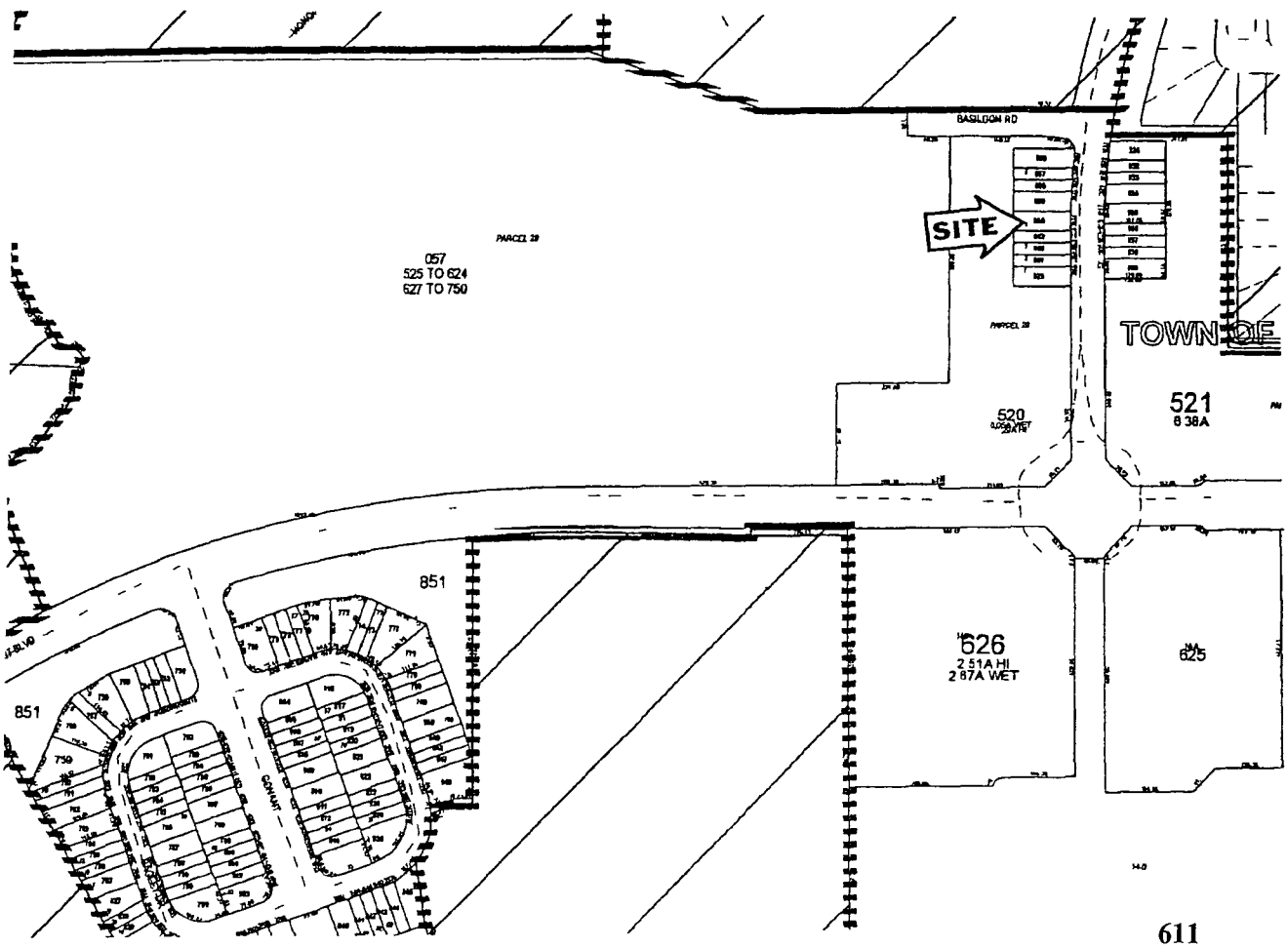
610

002681

SALE NO 10

LOCATION	Grey Marsh Road, Park West, Mt Pleasant
SALE PRICE	$1,100,000
DATE OF SALE	June 13, 2006
GRANTOR	Centrium Associates, LLC
GRANTEE	Cambridge Commons, LLC
SIZE	1 56 Acres
DEED BOOK & PAGE	P587 - 115
TAX MAP NUMBER	594-16-00-523, 524
UNIT OF COMPARISON AND AMOUNT	$61,111/Unit - $705,128/Acre

Two parcels divided by Grey Marsh Road - developed with 18 townhomes - price between $448,900-$595,000 - amenities include pool, tennis courts, playground, walking trail - zoned PD (RTH) - all utilities available

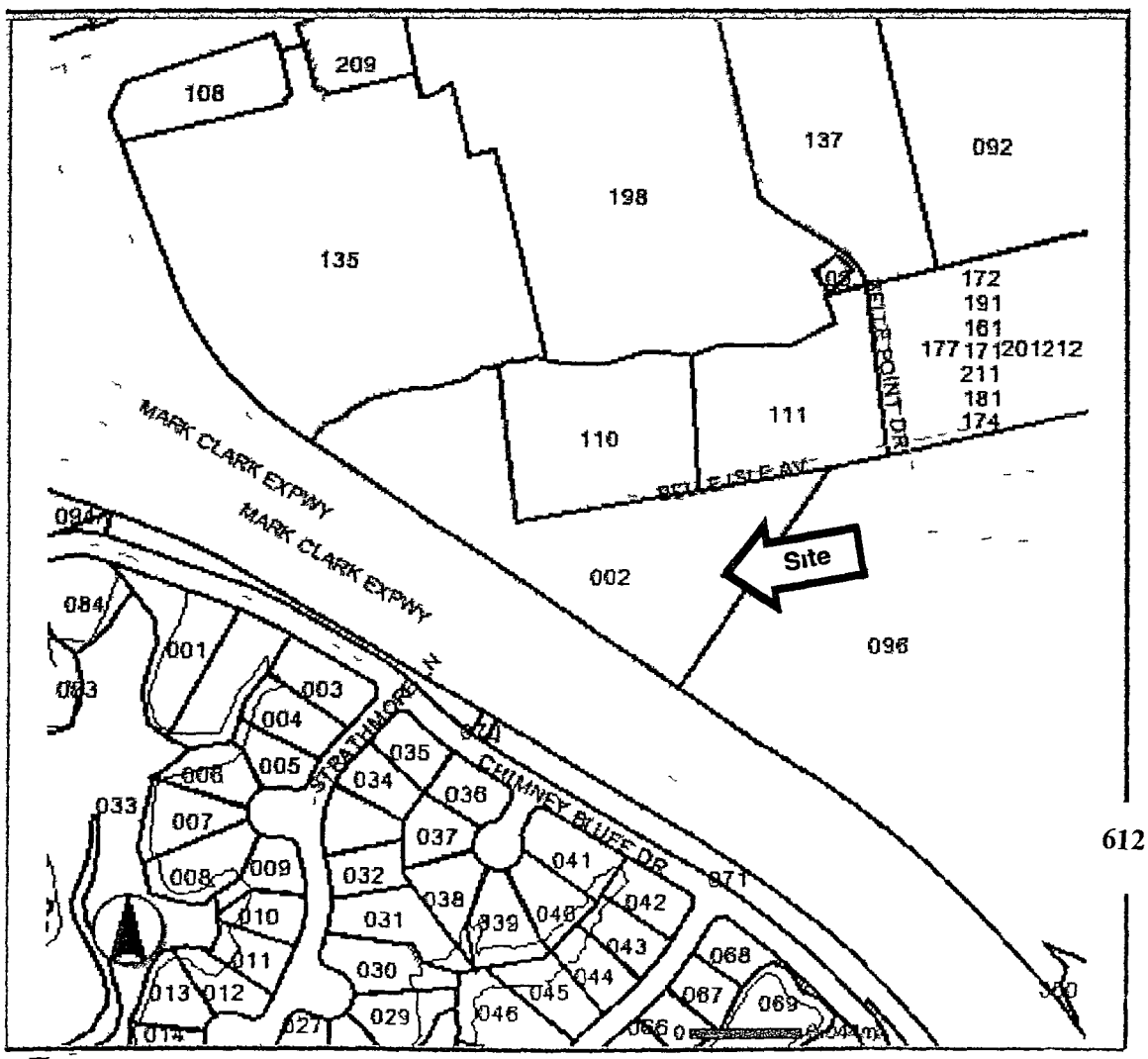


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SALE NO 11

LOCATION	1400 Belle Isle Ave , Belle Hall, Mt Pleasant
SALE PRICE	$3,100,000
DATE OF SALE	November 29, 2006
GRANTOR	BB&W Investments, LLC
GRANTEE	Belle Hall Properties, LLC
SIZE	5 538 Acres
DEED BOOK & PAGE	D607 - 405
TAX MAP NUMBER	540-00-00-002
UNIT OF COMPARISON AND AMOUNT	$47,692/Unit - $559,769/Acre

Developed with 65 condo units (Belle Hall Gardens) - four, 3 story buildings with 5-6 units per floor - all contain 1,197 SF, 2 bedrooms, 2 baths priced between $249,000 to $265,900 - zoned PD - water and sewer available - borders I-526 - amenities include pool, clubhouse and garden

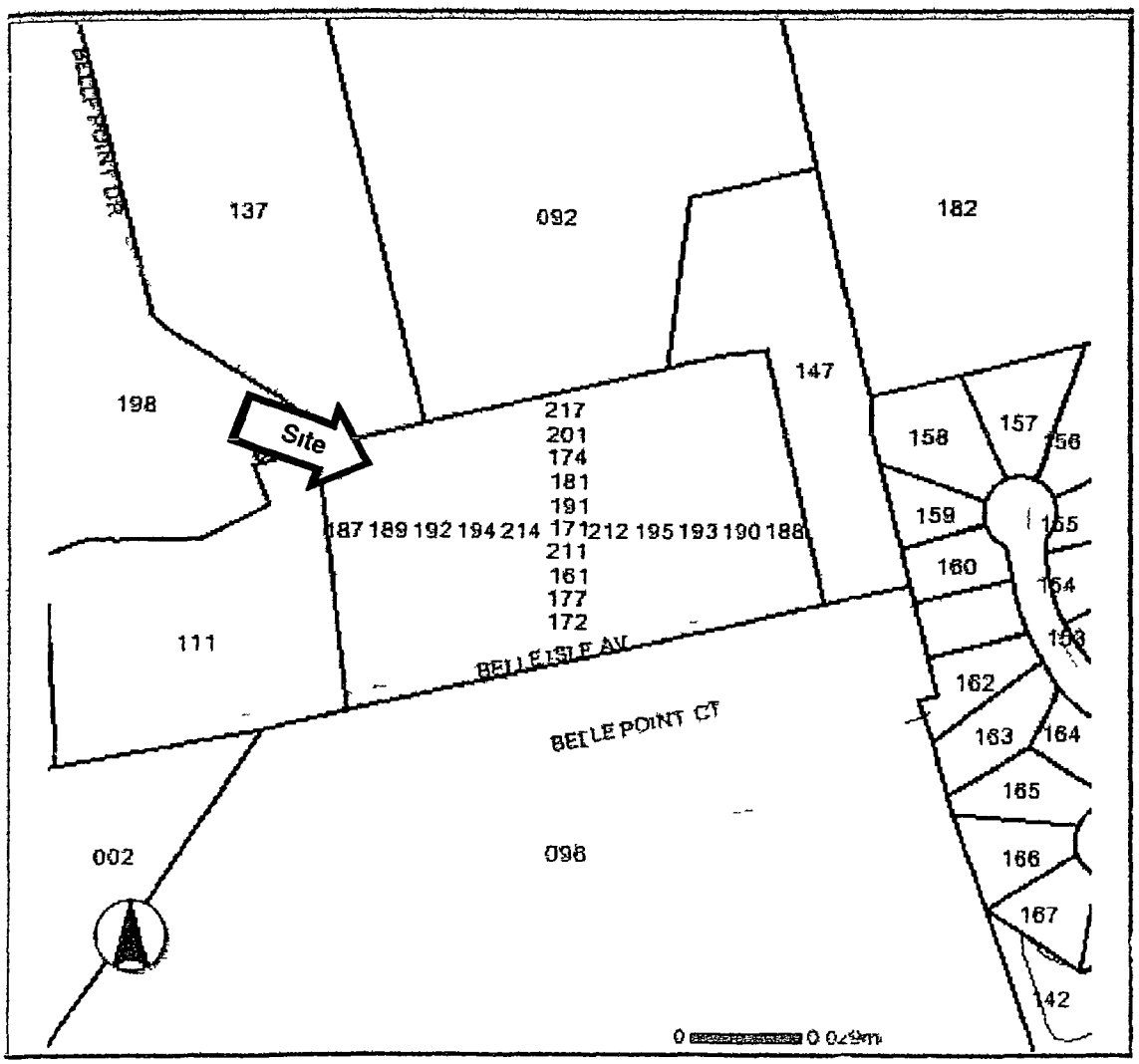


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SALE NO 12

LOCATION	Belle Hall Station, Belle Hall, Mt Pleasant
SALE PRICE	$1,947,000
DATE OF SALE	August 25, 2005
GRANTOR	Belle Hall Land Investment
GRANTEE	Belle Hall Direct 101, LP
SIZE	4 880 Acres
DEED BOOK & PAGE	F551 - 381
TAX MAP NUMBER	540-00-00-095
UNIT OF COMPARISON AND AMOUNT	$33,000/Unit - $398,975/Acre

Developed with 59 condo units in four, three story buildings - one and two bedroom units - water and sewer available - had commercial zoning, but sale contingent on change to allow condo development



DISCUSSION

The comparable sales cited in this report are zoned for single family residential development The first consideration prior to utilizing the comparable sales to estimate the values of the subject lots is to determine if there has been any change in market conditions since the dates of the sales If so, prior to comparing the sales to the subject lots, the sales must be adjusted to recognize this change The change could either be positive or negative In this appraisal, I have cited sales that occurred both before approximate to and after the effective date of the appraisal For this reason, any fluctuations in market conditions are accounted for in the selection of sales utilized in the appraisal

Potential lots A, B, C, U, V, W, X, Y and 25 all contain more than one acre, and lots G, H and I contain almost one acre Sales 1 through 4 cited in this report also contain more than one acre, and they have been utilized to estimate the values of these potential lots Sales 5 through 8 contain from 0 30 acre to 0 44 acre, and they have been used in this report to estimate the values of potential lots 1 through 4 and 16 through 24 which contain from 0 21 to 0 36 acres Sales 9, 10, 11 and 12 have been utilized in this report to estimate the values of the potential higher density tracts which are designated as lots 5 and 6 (1 21 acres) and lots 9 through 15 and lot 26 (6 67 acres)on the master plan

ESTATE LOTS - Sales 1 through 4 include lots ranging in size from 1 06 acres to 1 13 acres The largest, Sale 1, sold for the highest price at $355,000 In this group of potential subject lots, lots C and 25 are the largest containing 1 44 acres and 1 22 acres, respectively Based on sales 1 through 4, I have estimated the values of potential lots C and 25 at $365,000 and $360,000, respectively Potential lots A and Y are approximately the same size as the lots in sales 2, 3 and 4, and I feel these sales indicate prices for those potential lots at $350,000 each Potential lots B, U, V, W and X are all 1 00 and 1 01 acres which is a bit smaller than the sales cited in this report Additionally, potential Lot V is an interior lot and potential Lot B has an inferior view It is my opinion that the values for potential lots U, W and X are $340,000 each The values estimated for potential lots B and V are $320,000 and $275,000, respectively Potential lots G, H and I are a bit

smaller than these other estate lots, and Lot G has inferior views compared to lots H and I It is my opinion that the value of Lot G is some 20% less than Lot V or $220,000 The values estimate for potential lots H and I are estimated at approximately 20% less than potential Lot U or $275,000

SUMMARY OF ESTIMATED VALUES
ESTATE LOTS

Lot A	1 03 Acres	$ 350,000
Lot B	1 00 Acres	320,000
Lot C	1 44 Acres	365,000
Lot G	0 76 Acres	220,000
Lot H	0 64 Acres	275,000
Lot I	0 69 Acres	275,000
Lot U	1 01 Acres	340,000
Lot V	1 00 Acres	275,000
Lot W	1 01 Acres	340,000
Lot X	1 00 Acres	340,000
Lot Y	1 06 Acres	350,000
Lot 25	1 22 Acres	360,000
TOTAL ESTIMATED RETAIL VALUE		**$3,810,000**

SMALLER LOTS - Sales 5, 6, 7 and 8 have been used to estimate the values of the smaller potential subject lots Sizes of the sale lots range from 0 30 acres to 0 44 acres None of the comparable sales have golf course frontage, whereas, all of the potential smaller lots except for lots 1 through 4 do For this reason, positive adjustments are necessary to each of the comparable sales when comparing them to potential lots 16 through 24 These sales show no significant price difference due to size therefore, the only adjustment required to the sales is due to the superior golf course views of the potential lots Since I was unable to find sales of similarly sized lots with golf course views, I have analyzed paired sales of larger lots One lot had a golf course view, and one did not On tax map 594-07-00 parcel 124 is a golf course lot containing 1 08 acres, and it sold for $125,000 on May 10, 2004 A short distance away, an interior lot at tax map number 594-07-00 parcel 161 containing 1 09 acres sold for $95,000 on February 24, 2004 This indicates a difference of a little over 30% For this reason, I have adjusted the sales

utilized in this report which are all interior lots by 30% due to the superior golf course views of the potential lots 16 through 24 This indicates an adjusted price per site for these potential lots of $247,000 each ($190,000 x 1 30) Lots 1 through 4 are in a more dense and active environment, and they would border on the main parking lot for the clubhouse For this reason, it is my opinion that they have a value some 25% less than the sales cited, consequently, $190,000 x 75% = $142,500 is the value estimate for lots 1 through 4

SUMMARY OF ESTIMATED VALUES
SMALLER LOTS

Lot 1	0 21 Acres	$ 142,500
Lot 2	0 23 Acres	142,500
Lot 3	0 26 Acres	142,500
Lot 4	0 26 Acres	142,500
Lot 16	0 36 Acres	247,000
Lot 17	0 36 Acres	247,000
Lot 18	0 27 Acres	247,000
Lot 19	0 26 Acres	247,000
Lot 20	0 25 Acres	234,650
Lot 21	0 26 Acres	247,000
Lot 22	0 25 Acres	247,000
Lot 23	0 27 Acres	247,000
Lot 24	0 29 Acres	247,000
TOTAL ESTIMATED RETAIL VALUE		**$2,780,650**

HIGH DENSITY TRACTS - As previously mentioned, for appraisal purposes, lots 5 and 6 and lots 9 through 15 and lot 26 have been treated as a 7 88 acre tract These groups are located proximate to each other, and it is most likely that a developer would choose to purchase the entire acreage so as to establish continuity in the development The first group (lots 5 & 6) contains a total of 1 21 acres The second group (lots 9-15 and 26) contains a total of 6 67 acres In order to estimate its value, I have utilized four sales of multi-family tracts Of these, Sale 12 occurred prior to the demise of the real estate market It has been adjusted by 8- per annum to recognize continuing appreciation after its time of sale until June 2006

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The potential subject combined sites contain 7 88 acres The first group is very close to the clubhouse at Dunes West The second group has views of the golf course but is a bit farther removed from the clubhouse The first group of the subject sites would have eight units, and the second group would have 48 units After adjusting Sale 12 for market conditions to June 2006 by 8% per annum, the prices per unit indicated by the comparable sales is as follows

Sale 9	(11 Units)	$/Unit $68,182
Sale 10	(18 Units)	$/Unit $61,111
Sale 11	(65 Units)	$/Unit $47,692
Sale 12	(59 Units)	$/Unit $35,200

Sale 9 cited in this report is a 1 812 acre tract It was subsequently divided into 11 residential units Sale 9 is located on Seabrook Island just inside the security gate The potential subject tract is also in a gated community however, it is much closer to the clubhouse/common amenities than the sale site requiring a positive adjustment The potential subject tract has considerably more units than the sale site which would require a large negative adjustment For these reasons, it is my opinion that the price per unit indicated for the potential subject tract is much less than $68,182

Sale 10 is located in Park West subdivision adjacent to Dunes West This site included 1 56 acres that were subsequently improved with 18 residential units This is one-third as many units as in the potential subject tract requiring a large negative adjustment The location is inferior to that of the potential tract requiring a positive adjustment For these reasons, an overall negative adjustment would be required indicating a price per unit for the potential tract of much less than $61,111

Sale 11 is located in Belle Hall subdivision just off Long Point Road This site contains 5 538 acres, and it was developed with 65 condominium units This site has a similar number of units as the potential tract requiring no adjustment Its location is considered to be inferior lacking the amenity package of the potential tract requiring a positive adjustment For these reasons, it is my opinion that the price per unit indicated by this sale for the potential tract is a bit more than $47,692

Sale 12 is also in Belle Hall It has 4 88 acres developed with 59 units This sale required a positive adjustment due to the amenities available to the potential tract The number of units in Sale 12 is similar to that in the subject tract requiring no adjustment For these reasons, it is my opinion that the price per unit for the potential tract indicated by this sale is much greater than $35,200

Based on sales 9, 10, 11 and 12, it is my opinion that the price per unit indicated for the potential subject tract is $45,000 Consequently

56 Units x $45,000/Unit = $2,520,000

TOTAL ESTIMATED RETAIL VALUE 7 88 ACRE HIGH DENSITY TRACT $2,520,000

SUMMARY OF ESTIMATED RETAIL VALUES

Estate Homesites	-	$ 3,810,000
Small Single Family Homesites	-	2,780,650
Multi-Family Tracts	-	2,520,000
TOTAL		**$ 9,110,650**

ESTIMATED RETAIL VALUE OF POTENTIAL LOTS AS OF JUNE 15, 2006

NINE MILLION ONE HUNDRED ELEVEN THOUSAND DOLLARS

($9,111,000)

DISCOUNTING FOR A SALES PERIOD, DEVELOPMENT COSTS AND SALES COST

In order to estimate the market value of the potential subject lots, an estimate of time required to sell the available lots must be made Cash flow from sales made sometime in the future must then be discounted to present value Development costs necessary to ready the lots for home construction must also be deducted from the cash flow estimate In addition, other expenses incurred in bringing sales to the closing table must also be deducted The costs of most significance are sales commissions, profit, real property taxes, property owner's association fees and marketing expenses

DEVELOPMENT COSTS

The potential subject lots are all on paved roads, and water and sewer services are available There are, however, a number of issues that exist on several of the lots that must be resolved prior to them being available for single family construction The values previously estimated in this appraisal for the potential lots did not recognize the presence of such issues These issues ere identified and costs associated with their resolutions were made by Forsberg Engineering and John LaFoy, golf course architect Copies of these reports and cost estimates are include in the addenda of this appraisal The total development cost according to these estimates is $2,143,044 This figure must be accounted for in the first period since all sites must be ready to market at the beginning of the sales period

ABSORPTION PERIOD

In order to estimate the period of time necessary to sell lots in a development, an analysis of lot sales in similar developments is usually performed Obviously, if listing prices are adjusted up or down and a period of time necessary to sale lots in a subdivision would be directly impacted As of the effective date of this appraisal, the real estate market in Charleston and Mt Pleasant was very strong Sales were occurring at a very rapid rate Since Dunes West is a self-contained market, and there were a significant number of vacant lots available prior to the time of this appraisal, I have chosen to analyze the number of lots sold over a several year period in order to forecast a period of time necessary to sell the potential subject lots Prior to 2004, lot sales were a bit slack in Dunes West In 2004, the number of lots sold increased to approximately 115 In

2005, lot sales totaled approximately 100, and in 2006, there were approximately 30 vacant lots sold in Dunes West Since the potential subject lots would have competition from developer owned and privately owned lots in Dunes West, if they were placed on the market, it would be unreasonable to assume that they would all sell within a one year period I feel that it is more reasonable to assume, however, that within two years from the effective date of this appraisal all of the potential subject lots could have sold Based upon the increase in lot prices during this time, I have adjusted the lot sales forecast in the second year by 10%

COMMISSIONS

Caution should be taken when establishing commissions that the broker be fully compensated for the sales effort so as to ensure the optimum absorption of the lots into the market Many times when a sales broker has exclusive control over a potential development, commission rates become a negotiated item This is also the case many times when sale prices are substantial In a survey of real estate agents, in the case of commissions on vacant land, it is many times as high as 10% In the case of the subject potential lots, however, due to the number of lots available and the health of the market in June 2006, it is my opinion that compensation for sales efforts should be 6% of sale prices

PROPERTY TAXES

The potential subject lots have not been subdivided consequently, they are not subject to individual property tax liability If subdivided, they would be taxed on the same basis as similar lots in Dunes West In order to estimate the tax liability on the potential subject lots during the absorption period, I have referred to the taxes on the lots cited on the comparable sales in this appraisal It appears that the estate lots had a tax liability in 2006 of approximately $3,373 per annum The smaller residential lots had a tax liability of approximately $2,272 per annum The potential multi-family tracts are estimated to have had a tax liability of approximately $29,700 in 2006 Once again, since it is not possible to determine which lots might sell first, the tax liabilities for all the lots have been added and spread over the entire absorption period equitably The total tax liability was calculated to be $89,740 for the first year ($3,373 x 12 large lots $2,272 x 13 small lots, 29,700 multi-family tracts x 90% multiple lot ownership) For purposes of this

report, the first year taxes have been increased by 4% per annum Total taxes are diminished by one-fourth for each of the four, six month sales period

HOMEOWNERS ASSOCIATION REGIME FEES

In a potentially high quality gated community such as Dunes West, a Home Owner's Association (HOA) must be established to manage the common area and facilities These include the roads, parking lots, landscaping, salaries and other operating issues For vacant lots, it appears that the HOA dues in Dunes West in 2006 were approximately $700 to $800 per annum I have estimated a fee of $750 per annum per lot for a total of $60,750(81 lots) Once again, this cost has been diminished over four, six month sale periods An annual increase of 4% has been forecast

MARKETING/LEGAL AND ACCOUNTING

One of the components necessary for the success of a high quality residential development is proper marketing Exposure of the development to potential lot purchasers in a professionally designed marketing program would be invaluable in ensuring that lot sales occur at the most rapid pace possible Obviously, the pre-opening and introductory sales period would be most important for ensuring that the project gets off on the right foot It is during this initial period that the greatest marketing cost would be incurred For the ensuing years, it would be necessary to conduct a marketing maintenance program that would keep the project in front of those targeted to be potential purchasers

Dunes West is a mature development and well recognized by the greater Charleston community For this reason, I have assumed that marketing costs would be absorbed and fully compensated through sales commissions

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ENTREPRENEURIAL PROFIT

One of the largest costs in a development is entrepreneurial profit It is this expectation of profit that motivates an investor to undertake a venture such as the development of a vacant tract of land This profit is the reward for the successful completion of such a venture Obviously, all safeguards should be taken prior to beginning development to ensure that results will be successful Since the development of a vacant tract requires the integration

of many disciplines, it is important to segregate these disciplines properly in order to measure entrepreneurial profit accurately A brief discussion of this breakdown is discussed in the following paragraphs

Obviously, if capital is provided to a development project, profit must be earned on the amount invested The supplier of this capital need not necessarily assume the role of an entrepreneur, and care must be taken to analyze this correctly This form of profit may be reflected in an interest return on debt and an equity return

The second area where profit is earned is on the construction of site improvements A general contractor who handles the actual development work is entitled to a profit on labor and materials that go into the development Typically, a general contractor is not involved in the ownership of the development, and this profit is his motivation in contracting to perform the work

The last area of profit encountered in a typical development is generally known as entrepreneurial profit It is the reward received by a developer for site selection, planning, obtaining of approvals and overall coordination The individual or entity acting as developer may or may not participate in any of the previous areas of profit, but in either case, profit is necessary to reward efforts expended in this area

In the calculation of entrepreneurial profit, it is necessary to analyze the timing of the development project Since the entrepreneur is entitled to compensation for efforts expended, it is generally considered that no compensation has been earned until the project is underway In other words, if entrepreneurial profit is calculated as a percentage return, the value of the land is not included because a vacant tract of land for which a market price has been paid does not have an entrepreneurial profit ingredient Compensation for the developer's time and effort in a project begins to accrue as plans are drawn up, approvals are received, financing is secured, construction bids are let, construction is begun and when the lots are sold It is not possible to determine how much profit is earned at the completion of each step of the project, and it is quite possible that profit due for successful completion of individual stages could be lost if the overall

project fails

The specific time when compensation is due the developer for his efforts is another matter of discussion It is generally considered to be difficult for a developer to obtain compensation at any point during the project prior to completion It is a matter of opinion, however, as to whether it is at the point of completion of construction that the developer's job is done or if it is when all the lots are sold I feel that it is reasonable to assume that a feasible subdivision is worth more after all approvals have been obtained and all construction has been completed and lots are ready for sale If this is true, this is due to the efforts of the developer/entrepreneur, and some portion of profit has been earned There are many ways to calculate what this figure might be, and one is based on a percentage of cost At this point, the developer is not necessarily entitled to a return on profit from lots since there is risk associated with lot sales Should he choose to sell the project at its completion, another entrepreneur would step into his shoes and would expect profit for the risk he would encounter This second entrepreneur would be entitled to profit received as a percentage of lot sales over the absorption period

The development and sale of single family lots in Dunes West is less of a speculative venture due to the maturity of the development Even still, because of a downturn in the real estate market, I feel there is a substantial element of risk involved in such a project For this reason, in this report, I have estimated an entrepreneurial profit of 15% of gross sales to compensate a developer/investor in the sale of the potential lots that are the subject of this appraisal

SELECTION OF A DISCOUNT RATE

Discount rates can vary widely for different types of investments A discount rate takes into account the time value of money, inflation and general market risk as well as the reliability of the prospective financial development and the quality and durability of the income stream to be generated A discounted cash flow analysis is simply a set of procedures in which the quality, quantity, timing and duration of a stream or series of periodic income is discounted to its present value at a specified rate A discount rate would

also be defined as the estimated yield rate necessary to attract capital to such an investment

A number of financial indicators were considered during the selection process Economic indicators have been taken from the issue of 'Valuation Insights and Perspectives" of the Appraisal Institute Figures used are those for September 2006 These are indicated below

MARKET RATES AND BOND YIELDS %	SEPTEMBER 2006
Reserve Bank Discount Rate	6 25
Prime Rate (Monthly)	8 25
Federal Funds Rate	5 25
Three Month Treasury Bills	4 81
Six Month Treasury Bills	4 89
Three Month Certificates of Deposit	5 34
LIBOR Three Month Rate	5 38
U S Five Year Bonds	4 67
U S Ten Year Bonds	4 72
U S Thirty Year Bonds	4 85
Municipal Tax Exempts (Aaa) +	3 87
Municipal Tax Exempts (A) +	4 38
Corporate Bonds (Aaa) +	5 51
Corporate Bonds (A) +	5 98
Corporate Bonds (Baa) +	6 43

The Federal Reserve Discount Rate of 6 25% is considered to be the safest rate quoted while the Corporate Bond (Baa) at 6 43% would be the instrument having the greatest risk, however, due to the vast differences in tax treatment comparing bond yields to money market rates is not always a good comparison Real property ownership enjoys other benefits that are not available for bonds or monetary instruments The risk to a developer at this time, even in an established subdivision, has driven up the requirement for returns Based on the above information and the band of investment derived discount rate, I feel a discount rate of 12% is appropriate for these calculations The calculation of the net present value for the potential subject lots is listed below

PRESENT WORTH ANALYSIS

On the following page is a discounted cash flow analysis of the potential lots that are the subject of this report in the Dunes West development A summary of the data used to calculate this estimate is presented on the following page

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No Lots	25 and 2 High Density Tracts (56 Lots)
Absorption Period	2 Years
Gross Sales	$9,111,000
Development Costs	$2,143,044 (in the 1st six month period)
Sales Commissions	6%
Entrepreneurial Profit	15% of Gross Sales
Marketing/Overhead Exp	$0 00/Annum
Lot Price Increases	10%/Annum
Expense Increases	4%/Annum
Real Estate Taxes	$89,740 (year 1) ($3 324/site-27sites)
Discount Rate	12 0%
Discount Periods	Bi-Annual (4)
Property Owner s Fee	$60,750 (year 1) ($750/Annum/Lot-81 Lots)

Based on the information presented and the following calculations, it is my opinion that the discounted market value of the potential lots in Dunes West as presented in this report as of June 15, 2006 is

FOUR MILLION THREE HUNDRED THIRTY-NINE THOUSAND DOLLARS

($4,339,000)

PRESENT WORTH CHART				
6 Month Periods	1	2	3	4
Gross Sales	$2,277,750	$2 277,750	$2,505 525	$2 505 525
Commissions	136 665	136,665	150,332	150,332
Marketing etc	00	00	00	00
Profit 15%	341,663	341,663	375,829	375,829
POA	30 375	22,875	15 990	8 190
Property Tax	11,219	67,311	11 667	23 335
Development Costs	2 143,044	00	00	00
Net Sales Income	<385 216>	1 709,236	1,951 707	1 947 839
Discount Factor	9434	8900	8396	7920
SUBTOTAL	$<363,413>	$1 521,220	$1 638 653	$1 542 688

TOTAL - $4,339,148 ROUNDED TO $4,339,000

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ADDENDA

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QUALIFICATIONS OF APPRAISER
MICHAEL C ROBINSON, MAI, SRA

BIOGRAPHICAL

Born in Charleston, South Carolina Currently reside at 32 Hasell Street, Charleston, SC
Graduated from local grammar and high schools
Graduated from The Citadel in 1965 with degree in English

PROFESSIONAL DESIGNATIONS

MAI - Member Appraisal Institute
SRA Senior Residential Appraiser Appraisal Institute

BUSINESS AND PROFESSIONAL AFFILIATIONS

Appraisal Institute South Carolina Chapter President 2000
Board of Zoning Appeals City of Charleston 1990-Present
Charleston Advisory Board of Directors - Carolina First Bank 1997 Present
Charleston Trident Board of Realtors
Charleston Chamber of Commerce
Institute of Financial Education, President 1979 1980
Licensed Broker - State of South Carolina
Lowcountry Savings Bank Chairman of the Board 1988-1997
Metropolitan Charleston Exchange Club - Treasurer 1981-1982
State Certified General Real Estate Appraiser State of SC Certification #CG 76 State of GA #4858 State of MS #GA630
Seminar Panels on Conservation Easements Clemson University Lowcountry Open Land Trust, Appraisal Institute

EDUCATION

Understanding & Testing DCF Valuation Models	- 2010	Columbia, SC
Residential Design The Makings of a Good House	- 2010	Charleston, SC
Spotlight on USPAP Appraisal Review	- 2010	Columbia, SC
Spotlight on USPAP Agreement for Services Instructions	- 2010	Columbia, SC
Appraising for AMC s Understanding their Guidelines	2009	Columbia, SC
A Lenders Perspective The Role of the Appraiser	- 2009	Columbia, SC
National USPAP Update	- 2009	Columbia, SC
Property Tax Reform Act of 2006 Its Effect on Market Value	2009	Columbia, SC
Federal & State Legislative & Regulatory Update	2008	Blowing Rock, NC
Spotlight on USPAP Common Errors & Issues	- 2008	Columbia, SC
Analyzing Distressed Real Estate	- 2008	Columbia, SC
Spotlight on USPAP Hypothetical Conditions	2007	Charleston SC
The Valuation of Wetlands	2007	Columbia, SC
Business Practices & Ethics	- 2007	Columbia, SC
National USPAP Update	2007	Columbia, SC
Inverse Condemnation	2007	Columbia, SC
New Technologies for the Appraiser	2007	Columbia, SC
Challenges of Easements, Eminent Domain & ROW	- 2006	Columbia, SC
Summary Appraisal Report	2006	Columbia, SC
Feasibility Analysis	2006	Columbia, SC
Small Hotel Motel Valuation	2006	Columbia, SC
Appraisal Scope of Work	2006	Charleston, SC
Loss Prevention	2006	Columbia, SC
Condo Hotels Intro to Emerging Market	2005	Columbia, SC
Business Practices and Ethics	2005	Columbia, SC
Analyzing Operating Expenses	2005	Columbia, SC
Single Family Fraud	2005	Columbia, SC
Home Mortgage Fraud	2004	Columbia, SC
National USPAP Update	2004	Columbia, SC
Business Practices & Ethics	2004	Columbia, SC
Special Purpose Properties	2004	Columbia, SC
Improving Appraisals	2003	Columbia, SC

EMPLOYMENT HISTORY

After graduation from The Citadel I spent two years with the U S Army and resigned as a Captain in 1968 From 1969 to 1973 I was employed by the Charleston County Assessor's Office I was promoted to Senior Staff Appraiser during this time From 1973 to 1984 I was Chief Appraiser of Home Federal Savings & Loan Association of Charleston In this capacity I was responsible for all residential, commercial, industrial and development appraisals requested by the Loan Committee From 1984 to present, I offer appraisal services through Charleston Appraisal Service Inc

PARTIAL LIST OF MAJOR CLIENTS

Asset Management and Consulting Services (AMCS)
Atlantic Coast Life Insurance Company
Baker Motors of Charleston
Bank of America
Beaufort Realty Company
Beaufort County Open Land Trust, Inc
Bell South
Berkeley Charleston-Dorchester Council of Governments
Bon Secours St. Francis Xavier Hospital
Carolina First Bank
Charleston Naval Complex Redevelopment Authority
Charleston Commissioners of Public Works
Cities of Charleston, North Charleston Folly Beach and Goose Creek
Clemson University
Coastal Community Foundation
Collins Investment Management Inc
Counties of Charleston and Berkeley
Community First Bank
CSX Railroad
Department of the Navy
Ducks Unlimited Foundation
Exxon Corporation, USA
Farm Credit Bureau
First Citizens Bank
First Federal of Charleston
Historic Charleston Foundation
Lowcountry Open Land Trust, Inc
McNair Law Firm
MeadWestvaco
Medical University of South Carolina
National Park Service
Rick Hendrick s Automobile Dealerships
Santee Cooper
S C Department of Natural Resources
S C Department of Revenue
S C Department of Transportation
S C Electric and Gas Company/SCANA
S C Public Service Authority
S C Real Estate Development
S C State Ports Authority
South Coast Community Bank
St Andrews Public Service District
Sun Bank & Trust Corporation of Florida
The Bank of South Carolina
The Beach Company
The Citadel Military College of SC
The Conservation Fund
The Nature Conservancy
The Trust for Public Land
Town of Hollywood
Town of Mt Pleasant
U S Army Corps of Engineers
Wachovia
Wetlands America Trust

Various other Banks Mortgage Companies
Attorneys and Individuals

JOHN B. LaFoy

March 4 2011

Frances I Cantwell
Regan and Cantwell, LLC
105 Wappoo Creek Drive, Ste 1-A
Charleston, South Carolina 29412

Subject Dunes West vs Mount Pleasant

Dear Frances

The question regarding the construction evaluation for golf course modifications at Dunes West in 2006 versus 2009 is pretty straight forward In my opinion, the answer is that any difference would be negligible as there are several factors Over the years we have seen a fairly steady increase in golf construction prices from year to year Over a three year period, you would ***normally*** see some increases, although I would expect them to be slight. Other factors, such as oil and fuel prices, do affect the cost of PVC pipe (used in irrigation and drainage) and running equipment, but from 2006 to 2009 that would have not been a big factor on this amount of work

By 2006, the volume of golf construction was way down from previous years and prices were starting to become much more competitive between contractors and material suppliers Through 2009, and the recession in full force, golf construction projects became even more scarce and the competition for them began to drive prices down even lower, or at least keep them at current levels As a result, the cost of golf construction stayed at approximately the same level It is difficult to put a definitive percentage on increases or decreases (as slight as they may be) since bid numbers almost always reflected one or two contractors "hungry" for work

For what it is worth, I am still using approximately the same unit costs for material and labor estimates that I used five or six years ago I should also say that the cost for golf construction on a very large project (i e a new golf course or total golf course renovation) would probably been somewhat less in 2009 versus 2006 However, on smaller projects, the cost difference would have been much less noticeable

I hope this clarifies the question!

Sincerely

John LaFoy

630

Town of Mt Pleasant

002613

FORSBERG
ENGINEERING
& SURVEYING
INCORPORATED

Ms Frances Cantwell
Regan and Cantwell
105 Wappoo Creek Drive
Suite 1-A
Charleston SC 29412

March 15 2011

RE Dunes West – Cost Estimation

Dear Ms Cantwell

I reviewed my estimate with data from other projects that we were providing engineering services on during 2006 and 2009 Given the uncertainty of the work needed at Dunes West I used a 10% contingency factor Added to that uncertainty is that the data from 2006/2009 while similar is not of the same nature I am therefore satisfied that my estimate for Dunes West is a good representation of the cost that would be likely under either year's scenario Please call me to discuss if needed.

Sincerely,

Daniel C Forsberg PE, RLS
Forsberg Engineering & Surveying, Inc

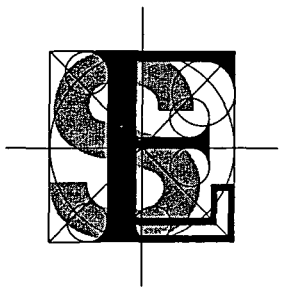
631

Town of Mt Pleasant

002620

PO Box 30575 Charleston South Carolina 29417 Phone 843 571 2622 Fax 843 571 6780 Email mail@forsberg-engineering com

TAB 49



FORSBERG
ENGINEERING
& SURVEYING
INCORPORATED

SITE DEVELOPMENT
ANALYSIS AND COST ESTIMATE
PROPOSED RESIDENTIALS LOTS/PARCELS AT DUNES WEST GOLF COURSE
TOWN OF MT PLEASANT, SC
1/18/11

Forsberg Engineering & Surveying, Inc (Daniel C Forsberg) was retained as an expert witness to offer professional opinions relating to the potential for the creation of approximately 81 residential units/lots within the Dunes West Subdivision These 81 units were superimposed on multi-page plats of the Dunes West Golf Course These units are shown in red and are drawn at a scale of 1" = 100' Slight variations may be present in the rescaling/positioning of these proposed units on the referenced plats Forsberg also obtained as-built data from Mt Pleasant Waterworks on the locations and depths of existing potable water and sanitary sewer lines within the subdivision The position of these water and sewer lines was added to the scaled plats and is shown in blue (water) and green (sewer) lines No site topography was provided or readily available but the referenced plats appear to show major golf course features (tees, greens, etc) and various recorded easements Forsberg visited the site on two occasions and walked the proposed unit sites to aid in the analysis of these sites The developer numbered these units and we have attempted to use their system for ease in comparison of this analysis

All costs shown in this report are based upon the professional opinion of Daniel C Forsberg Since detailed topographic and boundary data is not available we would normally add a 10% contingency to the overall estimate

Various assumptions are noted in this analysis Forsberg is very concerned with potential wetlands in a number of areas and the assumption that the developer can obtain permits for the development of such areas should be considered a "risky assumption "

Lots A, B, C

It is my opinion that lots A, B, and C have potential issues with freshwater wetlands and that the U S Army Corps of Engineers (U S A C E) is the agency authorized to determine whether wetlands do in-fact exist The northwest area of Lot C has considerable standing water For the purpose of this analysis, it is assumed that the developer can obtain the necessary permits for the development of the lots

632

Town of Mt Pleasant GU2568

P O Box 30575 Charleston South Carolina 29417 Phone 843 571 2622 Fax 843 571 6780 Email mail@forsberg-engineering com

Item of work		Cost
1) Mobilization		$ 2,000 00
2) Clear and Grub Portion of Lot C 1 0 Ac @$5000/Ac		$ 5,000 00
3) Silt Fence-800 L F @$3 50/L F		$ 2,800 00
4) Temporary Lot Access L S		$ 1,200 00
5) Mucking out wet Area 2000 C Y @ $25/C Y (remove and replace/Haul offsite)		$ 50,000 00
6) Add Fill (Approx 2' over 22,500 S F) 1667 C Y @$15/C Y		$ 25,005 00
7) New Water Services (Main along Frontage) 3 @ $1000 00/Ea		$ 3,000 00
8) New Sewer Services		
1 Double @ $3000 00		$ 3,000 00
1 Single @ $2500 00		$ 2,500 00
9) Road Repairs – Flowable Fill, Base and Pavement (10' x 28' x 8')/27 = 83 C Y		
83 C Y @ $50 00/C y = $4150 00		$ 4,150 00
(10' x 28')/9 = 31 S Y @ $20 00/S Y		$ 620 00
10) Grassing – Lump Sum Fee		$ 2,000 00
	Subtotal	$101,275 00
Surveying and Engineering @ 12%		$ 12,153 00
Sewer and Water Impact Fees		
Water – 3 REU @ $2000 00		$ 6,000 00
Sewer – 3 REU @ $4,500 00		$ 13,500 00
	Total	$132,928 00

Parcels (9,10,11,12, 13, 14, 15, 26)

It is my opinion that this area has potential wetland issues The following costs are based on providing potable water and sanitary sewer to the property at the right of way line The costs are based on flat topographic and minimal slopes for any sanitary sewer extensions The closed gravity sewer is located approximately 700 feet away at the intersection of Wagners Point Circle and Colonel Vanderhorst Circle

633

002399

Item of work		Cost
1) Mobilization		$ 2,000 00
2) Silt Fence – 700 L F @ $3 50/L F		$ 2,450 00
3) Gravity Sanitary Sewer 9' – 11' Depth (8" Dia) Select Backfill 700 L F @ $50 00/L F		$ 35,000 00
4) Road Repair		
a) Pavement Cut @ Intersection – Lump Sum Fee		$ 6,000 00
b) Curb and Gutter - 650 L F @ $12 00/L F		$ 7,800 00
c) Repave Portions of Col Vanderhorst Circle (700' x 13')/9 = 1011 S Y @ $20 00/S Y		$ 20,220 00
5) New 8" Water Main Extension		
a) New Tap and 8" Dia G V – Lump Sum Fee		$ 7,500 00
b) Road Repair @ Water Line – Lump Sum Fee		$ 6,000 00
6) Grassing – Lump Sum Fee		$ 1,500 00
	Subtotal	$ 88,470 00
Surveying and Engineering @ 15%		$ 13,270 00
Sewer and Water Impact Fee		
Water – 48 REU @ $2,000 00		$ 96,000 00
Sewer – 48 REU @ $4,500 00		$216,000 00
	Total	$413,740 00

Lots 16 & 17

It is my opinion that these lots are encumbered by substantial stormwater and sanitary sewer lines and associated easements The following costs assume that the developer can obtain permission to relocate these lines and easements

Item of work	Cost
1) Mobilization	$ 2,000 00
2) Silt Fencing – 700 L F @ $3 50	$ 2,450 00

3) New Storm Relocated to the north property line		
a) New Junction Boxes – 2 @ $4,000 00		$ 8,000 00
b) New Pipe – Select Backfill 320 L F @ $50 00/L F		$ 16,000 00
4) Remove existing pipe and boxes 280 L F Backfill Select @ $20 00/L F		$ 5,600 00
5) New Sanitary Sewer Relocated to the east		
a) New Manholes – 3 @ $4000 00		$ 12,000 00
b) New 8" Dia Line – 215 L F @ $60/L F Select Backfill (14' Depth)		$ 12,900 00
6) Remove Existing Sewer and Manholes Select Backfill – 150 L F @ $20 00/L F		$ 3,000 00
7) New Water Services (Main on Far Side)		
a) 1 Double @ $2,000 00		$ 2,000 00
b) Road Repair – Lump Sum Fee		$ 3,000 00
8) Grassing – Lump Sum Fee		$ 2,000 00
	Subtotal	$ 68,950 00
Surveying and Engineering @ 15%		$ 10,342 00
Sewer and Water Impact Fee		
Water – 2 REU @ $2000 00		$ 4,000 00
Sewer – 2 REU @ $4500 00		$ 9,000 00
	Total	$ 92,292 00

Lots U & V

There is no gravity sewer along these lot frontages The following costs assume that a new gravity line will be extended along the frontage of Colonel Vanderhorst Circle (See Parcels 9 – 15, 26)

Item of work	Cost
1) Mobilization	$ 2,000 00
2) New Water Service (Main Along Frontage) 2 @ $1000 00 Ea	$ 2,000 00

635

002401

3) New Double Sewer Service 1 @ $3,000 00		$ 3,000 00
4) Road Repair – Lump Sum Fee		$ 3,500 00
	Subtotal	$ 10,500 00
Surveying and Engineering @ 15%		$ 1,575 00
Sewer and Water Impact Fee		
Water – 2 REU @ $2,000 00		$ 4,000 00
Sewer – 2 REU @ 4,500 00		$ 9,000 00
	Total	$ 25,075 00

Lot 25

There is no gravity sewer along this lot frontage The following costs assume that a new gravity sewer line will be extended along Colonel Vanderhorst Circle to serve parcels 9-15, 26

Item of work		Cost
1) Mobilization		$ 2,000 00
2) Silt Fence – 400 L F @ $3 50/L F		$ 1,400 00
3) Gravity Sanitary Sewer 0' – 5' Depth (8" Dia) Select Backfill – 400 L F @ $40 00/L F		$ 16,000 00
4) Road Repair – Lump Sum Fee		$ 3,500 00
5) New Water Service (Main Along Frontage) – Lump Sum Fee		$ 1,000 00
	Subtotal	$ 23,900 00
Surveying and Engineering @ 15%		$ 3,585 00
Sewer and Water Impact Fees		
Water – 1 REU @ $2,000 00		$ 2,000 00
Sewer - 1 REU @ $4,500 00		$ 4,500 00
	Total	$ 33,985 00

636

002402

Lots 18 – 24

These lots are proposed along Wando Plantation Way There is no gravity sewer line along the frontages The following costs are based upon the assumption that the developer will obtain a suitable sewer easement from a lot owner/owners, for the extension of gravity service to these lots The available sewer depths are marginal as to the ability to provide gravity services with adequate cover Ductile iron pipe may be necessary In addition, Lots 18 and 19 are encumbered by an existing 50' drainage easement The costs below includes the relocation of the drainage facilities across these lots, and the relocation of the drainage easement

Item of work		Cost
1) Mobilization		$ 2,000 00
2) Silt Fencing – 4100 L F @ $3 50/L F		$ 14,350 00
3) Gravity Sewer 3' – 7' Depth Select Backfill 2175 L F @ $50 00/L F		$108,750 00
4) Sewer Services - 7 @ $500 00		$ 3,500 00
5) Road Repair/Walks		$ 5,000 00
6) Water Services (Main Near Side) 2 @ $1000 00 (Main Far Side) – 3 @ $2,000 00		$ 2,000 00 $ 6,000 00
7) Relocated New Storm to North drainage lots 18, 19 – 410' a) New Junction Boxes – 3 @ $3,000 00 b) New Pipe – Select Backfill 410 L F @ $35 00/L F		$ 9,000 00 $ 14,350 00
8) Remove existing pipe and boxes 220 L F Select Backfill @ $20 00/L F		$ 4,400 00
9) Grassing		$ 4,000 00
	Subtotal	$173,350 00
Surveying and Engineering @ 15%		$ 26,002 00
Sewer and Water Impact Fees Water – 7 REU @ $2,000 00 Sewer – 7 REU @ $4,500 00		$ 14,000 00 $ 31,500 00
	Total	$244,852 00

637

002463

Lot W

It is my opinion that Lot W contains wetlands and that the U S A C E will need to determine whether there are or are not any wetlands on this lot This lot appears to be composed of golf course property and "recreation easement" land For the purpose of this cost analysis, it is assumed that the developer can obtain the necessary permits for the development of this lot, and that the developer owns or controls both land ownership entities

Item of work		Cost
1) Mobilization		$ 2,000 00
2) New Sewer Service		$ 2,500 00
3) New Water Service (Main on Far Side of Street)		$ 2,000 00
4) Road Repair		$ 3,000 00
5) Clear and Grub Portion of Lot (150' x 120) 41 Ac @ $5000 00/Ac,		$ 2,050 00
6) Silt Fencing – 600 L F @ $3 50		$ 2,100 00
7) Temporary Lot Access – Lump Sum Fee		$ 1,200 00
8) Muck Wet Areas 1200 C Y @ $25 00/C Y Remove and Replace /Haul Offsite		$ 30,000 00
9) Add Fill (Approximately 1 ft over 15,000 S F) 555 C Y @ $15 00/C Y		$ 8,325 00
10) Grassing – Lump Sum Fee		$ 1,500 00
	Subtotal	$ 54,675 00
Surveying and Engineering @ 12%		$ 6,561 00
Sewer and Water Impact Fee		
Water – 1 REU @ $2,000 00		$ 2,000 00
Sewer – 1 REU @ $4,500 00		$ 4,500 00
	Total	$ 67,736 00

002404

Lots X, Y

There is no gravity sewer along the frontage of these lots The closest gravity sewer is approximately 400 feet away on Cherokee Rose Circle The costs below assume a gravity extension to serve these lots

Item of work		Cost
1) Mobilization		$ 2,000 00
2) Silt Fencing – 450 L F @ $3 50/L F		$ 1,575 00
3) New Gravity Sewer 3' – 5' Depth (8" Dia) Select Backfill – 440 L F @ $30 00/L F		$ 13,200 00
4) Road Repair – Lump Sum Fee (Water and Sewer)		$ 4,000 00
5) New Water Service – (Main on Far Side)		$ 2,000 00
6) Grassing		$ 1,500 00
	Subtotal	$ 24,275 00
Surveying and Engineering 15%		$ 3,641 00
Sewer and Water Impact Fee		
Water – 2 REU @ $2,000 00		$ 4,000 00
Sewer – 2 REU @ $4,500 00		$ 9,000 00
	Total	$ 40,916 00

Lots G,H, I

It is my opinion that these lots contain wetlands and that the U S A C E will need to determine whether there are or are not any wetlands on these lots It is assumed that the developer can obtain the necessary permits for the development of these lots There is no gravity sewer along the frontage of these lots The closest gravity sewer is approximately 200 feet north of Lot I The costs below assume a gravity extension to serve these lots

Item of work	Cost
1) Mobilization	$ 2,000 00
2) Silt Fencing – 550 L F @ $3 50/L F	$ 1,925 00

639

002405

3) New Gravity Sewer 5' – 7' Depth (8" Dia Select Backfill) 600 L F @ $40/L F		$ 24,000 00
4) New Water Services (Main on Far Side)		$ 4,000 00
5) Road Repair		$ 4,000 00
6) Grassing		$ 2,000 00
	Subtotal	$ 37,925 00
Surveying and Engineering @ 15%		$ 5,689 00
Sewer and Water Impact Fees Water – 3 REU @ $2,000 00 Sewer – 3 REU @ $4500 00		$ 6,000 00 $ 13,500 00
	Total	$ 63,114 00

Club House Lots

1-4, 5-6

Lots 1-4 are proposed within an existing parking area with a dedicated 20' drainage easement in the vicinity of Lots 2/3 It is unknown if other utilities cross through the area Gravity sewer exists along the east side of Hartford Village Way Potable water exist along the proposed lot frontages The costs below assume that the parking lot will be removed and reworked along the rear of these lots It is also assumed that the drainage line and its easement will be removed and relocated

Lots 5-6 are proposed for 8 townhouse style homes There is an existing 20' drainage easement crossing Lot 5 and an existing paved parking lot access near the line between 5/6 Potable water exists along the south side of these lots but there is no gravity sewer along the lot frontage The closest sewer is located approximately 350 feet north of these lots It is assumed that a gravity extension will be needed to serve these lots The cost below also include the removal and relocation of the existing drainage line

Item of work	Cost
1) Mobilization	$ 2,000 00
2) Silt Fencing – 1700 l f @ $3 50/L F	$ 5,950 00

640

002406

3) Demolish and Remove existing pavements (offsite disposal) – 3000 S Y @ $3 50/S Y		$ 10,500 00
4) Utility Conflict Allowance		$ 10,000 00
5) Remove and Relocate Drainage Lots 2/3		
280 L F @ $40 00/L F		$ 11,200 00
3 Boxes @ $3,000 00/Ea		$ 9,000 00
6) Remove and Relocate Drainage Lots 5/6		
230 L F @ $40 00/L F		$ 9,200 00
3 Boxes @ $3,000 00/EA		$ 9,000 00
7) Rework Remaining Parking		$ 15,000 00
8) New Sewer Extension (Lots 5/6)		
5' – 7' Depth (8" Dia)		
Select Backfill – 650 L F @ $50 00/L F		$ 32,500 00
9) Pavement Repair (Sewer 5/6)		$ 15,000 00
10) New Sewer (Lots 1-4)		
2 Double Services @ $3,000 00		$ 6,000 00
11) Road Repair (Sewer 1-4)		
2 @ $3,000 00		$ 6,000 00
12) New Water Services (Main Near Side)		
6 Doubles @ $1500/Ea		$ 9,000 00
13) Grassing/Landscape Parking (Rework)		$ 10,000 00
	Subtotal	$160,350 00
Surveying and Engineering @ 15%		$ 24,052 00
Sewer and Water Impact Fees		
Water – 12 REU @ $2,000 00		$ 24,000 00
Sewer – 12 REU @ $4,500 00		$ 54,000 00
	Total	$262,402 00

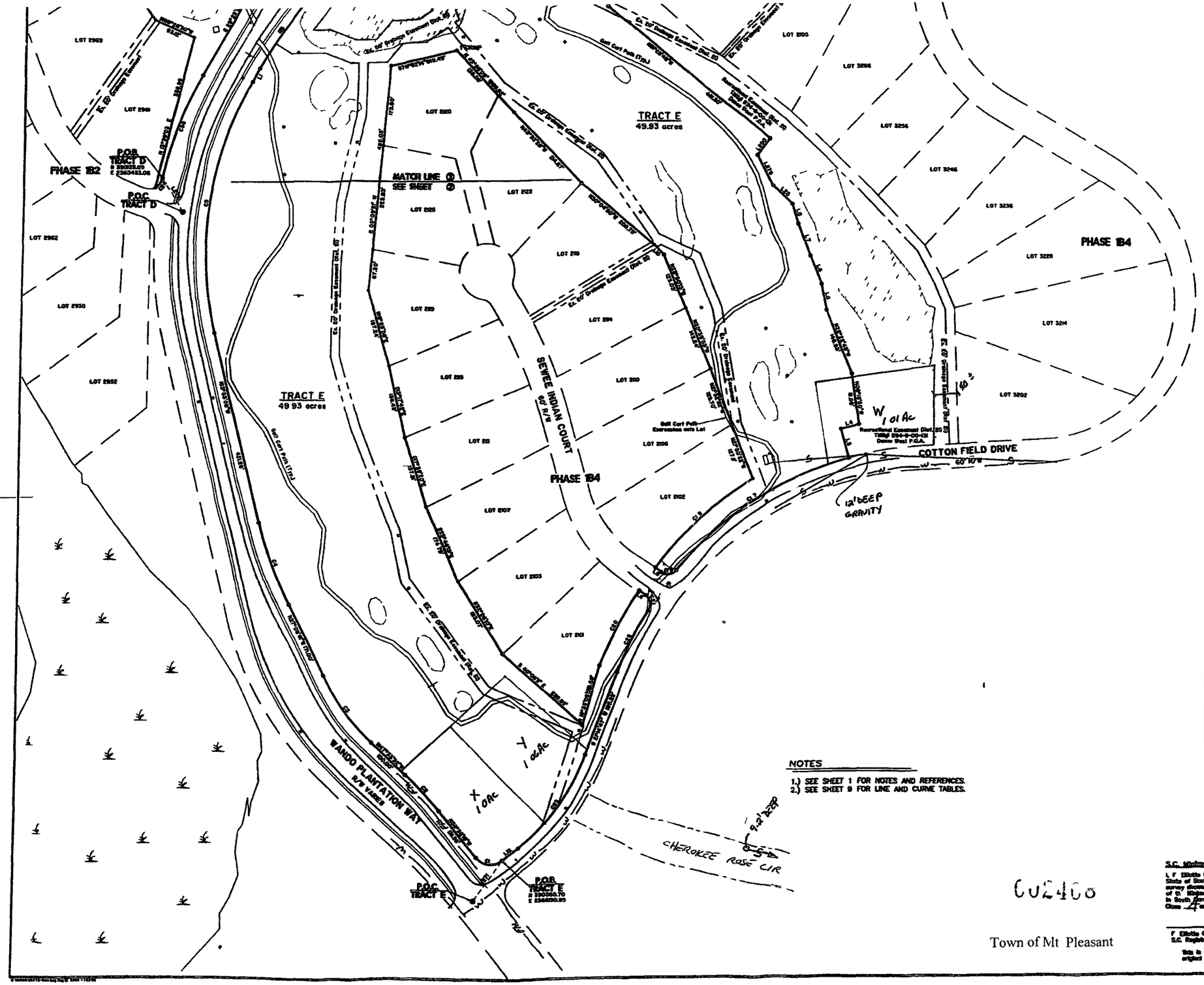
Subtotal All Parcels - $1,377,040 00
10% Contingency - $ 137,704 00
Total $1,514,744 00

Attachments
Sheets 2 of 9 thru 8 of 9

641

002407

BK T526P6302



NOTES

1.) SEE SHEET 1 FOR NOTES AND REFERENCES.
2.) SEE SHEET 9 FOR LINE AND CURVE TABLES.

PLANNING & BMC USE ONLY
PLAT APPROVED
TOWN OF MT PLEASANT S.C.
BY _____
Director of Planning & Development
DATE 2-18-05

Charleston, South Carolina
Office of Register Mesne Conveyance
Plat recorded this 24th day of February, 2005 at 12:46 o'clock in Plat Book EH Page 738 and tracing cloth copy filed in File 8 Drawer — Folder 5 Drawing No 30
Original plat (a White Print) delivered to Thomas & Hutton Engineering.
SHEET 2 OF 9

Register Mesne Conveyance

S.C. Minimum Standards Certification

I, F Elliotte Gohea, II, a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that this survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for Class A survey as specified therein.

F Elliotte Gohea, II, R.L.S.
S.C. Registration Number 16292
Date 2/10/05

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor

602466

Town of Mt Pleasant

642

SOUTH CAROLINA PROFESSIONAL ENGINEER 16292 THOMAS & HUTTON ENGINEERING CO. CERTIFICATE OF AUTHORIZATION No C00285

DUNES WEST
TOWN OF MT PLEASANT CHARLESTON COUNTY S.C.

THOMAS & HUTTON ENGINEERING CO.
935 HOUSTON NORTHCUTT BOULEVARD
MOUNT PLEASANT SC 29464 (843)849 0200
SAVANNAH, GA MYRTLE BEACH, SC

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY

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JOB NO: 2-9779
DATE: 6/30/04
DRAWN: PPB
REVIEWED:
CHECKED:
SCALE: 1" = 100'

SHEET 2 OF 9
DRAWING NO: D- 1589

NOTES

1.) SEE SHEET 1 FOR NOTES AND REFERENCES.
2.) SEE SHEET 9 FOR LINE AND CURVE TABLES.

PLANNING & ENG USE ONLY
PLAT APPROVED
TOWN OF MT. PLEASANT, SC
BY _____
Director of Planning & Development
DATE 7-19-05

Charleston, South Carolina
Office of Register Mesne Conveyance
Plat recorded this 28th day of February, 2005
in Plat Book EH, Page 720 and having data
copy filed in Plat & Survey ___ Folder S Drawing No 21
Original plat (s) Within Proof delivered to Thomas & Hutton
SHEET 1 OF 9

Register Mesne Conveyance

S.C. Minimum Standards Certification

I, Chris Quinn, S.C. a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that this survey shown hereon was made in accordance with the requirements of the Minimum Standard Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A Survey as specified therein.

F. Chris Quinn, S.C. P.L.S.
S.C. Registration Number 10292

Date: 7/18/05

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor

WAGNER CREEK

PHASE 82

TRACT D
47.40 acres

TRACT E
49.93 acres

MATCH LINE SEE SHEET 2

MATCH LINE SEE SHEET 4

WANDO PLANTATION WAY

PIGNATELLI CRESCENT

HUGH SMITH CT

WILLIAMS VE

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY

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THOMAS & HUTTON ENGINEERING CO.
935 HOUSTON NORTHCUTT BOULEVARD
MOUNT PLEASANT SC 29464 (843)849 0200
SAVANNAH GA MYRTLE BEACH, SC

DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S.C.

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION THOMAS & HUTTON ENGINEERING, CO No C00265

SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR REG No 10292 F. ELLIOTTE QUINN III

JOB No. 2-5173
DATE: 6/10/04
DRAWN: PTS
REVIEWED: ---
CHECKED: ---
SCALE: 1" = 100'

SHEET 3 OF 9
DRAWING NO: D 1589

643

Town of Mt Pleasant

002400

T526 6304

WAGNER CREEK

MATCH LINE SEE SHEET

PHASE 1B2

PIGNATELLI CRESCENT 60 R/W

WANDO PLANTATION WAY 60 R/W

COL. VANDERHORST CIR. 60 R/W

COTTON FIELD DRIVE 60 R/W

POC TRACT C

TRACT D
47.40 acres

TRACT E
49.93 acres

PHASE 1B4

LOT 3220 LOT 3219 LOT 3086 LOT 3085 LOT 3092 LOT 3088 LOT 3084 LOT 3076 LOT 3070 LOT 3095 LOT 3091 LOT 3087 LOT 3083 LOT 3079 LOT 3075 LOT 3066 LOT 3062 LOT 3054 LOT 3058 LOT 3057 LOT 3061 LOT 3065 LOT 3069 LOT 3368 LOT 3364 LOT 3360 LOT 3356 LOT 3352 LOT 3348 LOT 3344 LOT 3334 LOT 3328 LOT 3322 LOT 3318 LOT 3314 LOT 3310 LOT 3306 LOT 3304 LOT 3308

18 0.27Ac
19 0.24Ac
20 0.25Ac
21 0.26Ac
22 1.22Ac

Approx. 7' DEEP

NOTES

1.) SEE SHEET 1 FOR NOTES AND REFERENCES.
2.) SEE SHEET 9 FOR LINE AND CURVE TABLES.

PLANNING & BMC USE ONLY
PLAT APPROVED
TOWN OF MT PLEASANT S.C.
BY _____
Director of Planning & Development
DATE 2-18-05

Charleston, South Carolina
Office of Register Mesne Conveyance
Plat recorded this 24th day of February, 2005 at 12:47 o'clock in Plat Book KH Page 749 and tracing both copy filed in File 4 Drawer — Folder 5 Drawing No 32 Original plat (a White Print) delivered to Thomas & Hutton Engineering.
SHEET 4 OF 9

Register Mesne Conveyance

S.C. Minimum Standards Certification

I, F Elliotte Coker, III, a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that this survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein.

F Elliotte Coker, III, R.L.S.
S.C. Registration Number 11292
Date: 2/21/05

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor

THOMAS & HUTTON ENGINEERING CO.
Certificate of Authorization No. C00258
SOUTH CAROLINA PROFESSIONAL ENGINEER
SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR
SOUTH CAROLINA NOTARY PUBLIC
SOUTH CAROLINA NOTARY PUBLIC
SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION

NOTES BK T526 Pg 305

1.) SEE SHEET 1 FOR NOTES AND REFERENCES.
2.) SEE SHEET 9 FOR LINE AND CURVE TABLES.

PLANNING & BMC USE ONLY
PLAT APPROVED
TOWN OF MT. PLEASANT SC
BY _____
Director of Planning & Development
DATE 2-18-05

Charleston, South Carolina
Office of Register Mesne Conveyance
I hereby certify that the within Plat was recorded this 24th day of February 2005 at 10:07 o'clock in Plat B EB1 Page 241 and Drawing No 31
I further certify that the within Plat is a true and correct copy filed or Plat Drawer 1 Folder 3 Drawing No 31
Original plat (White Print) delivered to Trustees & Hopkins Incorporated
SHEET 5 OF 9

Register Mesne Conveyance

MATCH LINE SEE SHEET 4

MATCH LINE SEE SHEET 6

PHASE 1B2

PHASE 1B3

TRACT D
47 40 acres

TRACT C
52 41 acres

TRACT E
49 93 acres

TRACT C4
3 42 acres

WANDO PLANTATION WAY
R/W VARIES

COL VANDERHORST CIR
60' R/W

WAGNERS POINT CIRCLE
60' R/W

PIGMATELLO CRESCENT
60' R/W

DOWNING PLACE WAY
R/W VARIES

DOWNING PLACE WAY 60' R/W

AMESBURY CT
50' R/W

HARTFORD VILLAGE PHASE 2

P.O.C. TRACT D

P.O.B. TRACT C4

P.O.C. TRACT C

P.O.B. TRACT D

PART OF TRACT D
0 64Ac.

Whitemarsh Building

S.C. Minimum Standards Certification

I, F. Elliotte Quinn, II, a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that this survey shown hereon was made in accordance with the requirements of the Uniform Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein.

F. Elliotte Quinn, II, P.L.S.
S.C. Registration Number 10292

Date: 2/16/05

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor.

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY

© COPYRIGHT 2004 THOMAS & HUTTON ENGINEERING CO All rights reserved

THOMAS & HUTTON ENGINEERING CO.
938 HOUSTON NORTHCUTT BOULEVARD
MOUNT PLEASANT SC 29464 (843)849-0200
SAVANNAH, GA MYRTLE BEACH, SC

DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY SC

SOUTH CAROLINA THOMAS & HUTTON ENGINEERING CO No C00205 CERTIFICATE OF AUTHORIZATION

SOUTH CAROLINA PROFESSIONAL REG No 10292 F ELLIOTTE QUINN LAND SURVEYOR

JOB NO: 2-6775
DATE: 6/10/04
DRAWN: PPG
REVIEWED:
CHECKED:
SCALE: 1" = 100'

SHEET 5 OF 9
DRAWING NO D 1589

645

Town of Mt Pleasant

005411

FLANNING & EMC USE ONLY

PLAT APPROVED
TOWN OF MT. PLEASANT S.C.
BY _____
Director of Planning & Development
DATE 2-18-05

Charleston, South Carolina
Office of Register Mesne Conveyance
Plat recorded the 24th day of February, 2005 at 12:27 o clock in Plat Book EH Page 743 and mesne cloth copy filed in Pcle B Drawer — Folder 5 Drawing No 34
Original plat (a White Print) delivered to Thomas & Hutton Engineering
SHEET 6 OF 9

Register Mesne Conveyance

B T526PG306

NOTES

1.) SEE SHEET 1 FOR NOTES AND REFERENCES.
2.) SEE SHEET 9 FOR LINE AND CURVE TABLES.

WAGNER CREEK

WAGNER CREEK CT
50' R/W

COL. VANDERHORST CIR.
50' R/W

SHELL RING CIRCLE
50' R/W

HARTFORD VILLAGE PHASE 1

HARTFORD VILLAGE PHASE 2

PHASE 1A

PHASE 1B1

PHASE 1B3

TRACT A
34.10 acres

TRACT B
44.34 acres

TRACT C
62.41 acres

TRACT C3
6.97 acres

TRACT C4
13.42 acres

PART OF TRACT D
11.36 acres

POC TRACT C
N 397539.07
E 2569560.69

POB TRACT C
N 397539.07
E 2569560.69

POC TRACT A & B

POR TRACT A
N 397463.67
E 2569560.63

POR TRACT B
N 397067.60
E 2569624.73

LIFT Station
Town of Mt. Pleasant
(Ref. 6)

A 1.03Ac
B 1.0Ac
C 1.44Ac

MATCH LINE ⑤ SEE SHEET ⑤

MATCH LINE ⑤ SEE SHEET ⑤

THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF DHEC-OCRM PERMIT AUTHORITY ON THE SUBJECT PROPERTY CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY GENERALLY DELINEATING THE PERMIT AUTHORITY OF THE DHEC-OCRM THE OFFICE OF OCRM IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY WHETHER SHOWN HEREIN OR NOT

SIGNATURE 02 14 05
DATE

The critical line shown on this plat is valid for three years from the date of this signature subject to the cautionary language above

S.C. Minimum Standards Certification

I, F Elliotte Galen, III, a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that this survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein.

Date 2/6/05

F Elliotte Galen, III, P.L.S.
S.C. Registration Number 10292

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor

DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY S C

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY

©COPYRIGHT 2004 THOMAS & HUTTON ENGINEERING CO All right reserved

THOMAS & HUTTON ENGINEERING CO.
935 HOUSTON NORTHCUTT BOULEVARD
MOUNT PLEASANT SC 29464 (843)849 0200
SAVANNAH GA MYRTLE BEACH SC

JOB NO: 2" NOTES
DATE: 8/30/04
DRAWN: PPG
REVISIONS:
CHECKED:
SCALE: 1" 100'

SHEET 6 OF 9

DRAWING NO: D- 1589

602412

Town of Mt Pleasant

NOTES:
1) SEE SHEET 1 FOR NOTES AND REFERENCES.
2) SEE SHEET 9 FOR LINE AND CURVE TABLES.

PLANNING & BMC USE ONLY
PLAT APPROVED
TOWN OF MT. PLEASANT S.C.
BY: _____
Director of Planning & Development
DATE: 2-10-06

Charleston, South Carolina
Office of Register Mesne Conveyance
Plat recorded this 24th day of February, 2006 at
11:40 o'clock in Plat Book EB Page 783 and tracing cloth
copy filed in Plat Cabinet ___ Folder ___ Drawing No. 32
Original plat (a White Print) delivered to Thomas & Hutton
Engineering
Register Mesne Conveyance

S.C. Minimum Standards Certification
I, F. Elliotte Quinn, II, a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that this survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class ___ survey as specified therein.

F. Elliotte Quinn, II, P.L.S.
S.C. Registration Number 16282
Date: 2/16/06

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor

TRACT A
34.10 acres

TRACT B
44.34 acres

TRACT A
34.10 acres

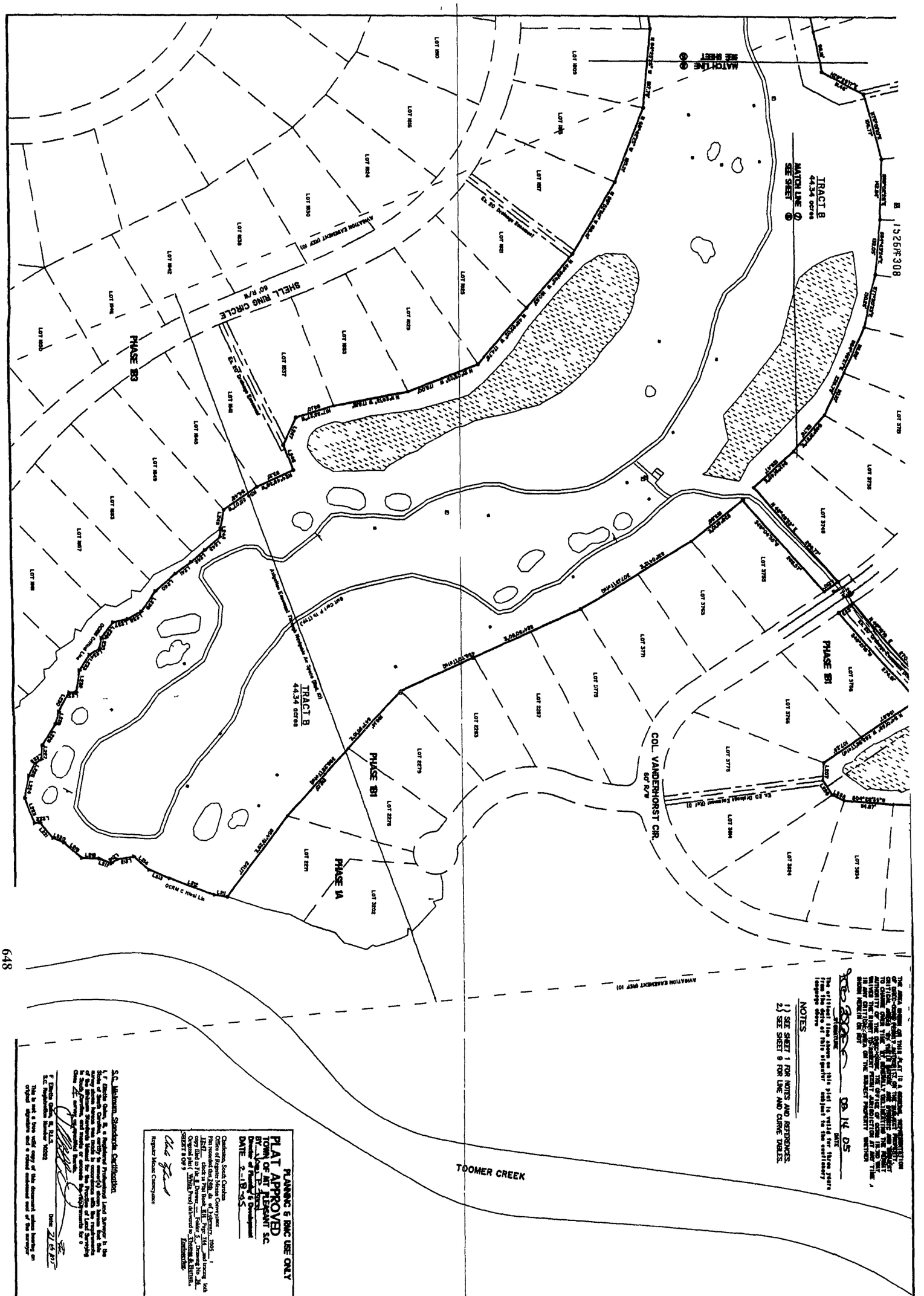
PHASE 1B1

COL. VANDERHORST CIR.
60' R/W

MATCH LINE ② SEE SHEET ③

MATCH LINE ① SEE SHEET ①

Ex. 20' Drainage Easement (Bk. 0, Pg. 0)



NOTES

1) SEE SHEET 1 FOR NOTES AND REFERENCES.
2) SEE SHEET 9 FOR LINE AND CURVE TABLES.

PLANNING & ENG USE ONLY

PLAT APPROVED
TOWN OF MT PLEASANT S.C.
By: _____
Director of Planning & Development
DATE: 7-18-05

Charleston County Office of Register Mesne Conveyance
File Recorded this 25th day of January, 2005
at 12:51 pm in Plat Book EB Page 310
Document No. 24
Original Plat(s) delivered to Thomas & Hutton Engineering

Register Mesne Conveyance

S.C. Minimum Standards Certification

I, F. Chris Cahill, S. C.L.S., a Registered Land Surveyor in the State of South Carolina, hereby certify to owner(s) named hereon that the survey shown hereon was made in accordance with the requirements of the Minimum Standard Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein.

F. Chris Cahill, S. C.L.S.
S.C. Registration Number 16202

Date: 7-18-05

This is not a true valid copy of this document unless bearing an original signature and a raised embossed seal of the surveyor.

FINAL PLAT OF
DUNES WEST GOLF COURSE
OWNED BY
SCRATCH GOLF COMPANY

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THOMAS & HUTTON ENGINEERING CO
935 HOUSTON NORTHCUTT BOULEVARD
MOUNT PLEASANT SC 29464 (843)849 0200
SAVANNAH GA MYRTLE BEACH, SC

DUNES WEST
TOWN OF MT PLEASANT
CHARLESTON COUNTY, S C

SCALE: 1" = 100'
DATE: 6/30/05
DRAWN: PPG
CHECKED: FCC
SCALE: 1" = 100'

SHEET 8 OF 9
DRAWING NO. D- 1569

THOMAS & HUTTON ENGINEERING CO
REG. No. 2293
PROFESSIONAL LAND SURVEYOR
SOUTH CAROLINA
CERTIFICATE OF AUTHORIZATION

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO 2009-CP-10-3723
	)	
DUNES WEST GOLF CLUB, LLC,	)	
	)	
Plaintiff,	)	
	)	SUPPLEMENTAL MEMORANDUM
	)	IN SUPPORT OF
vs	)	MOTION FOR SUMMARY
	)	JUDMGENT ON BEHALF OF
	)	THE TOWN OF MOUNT PLEASANT
TOWN OF MOUNT PLEASANT,	)	
	)	
Defendant	)	
	)	

SUBSTANTIVE DUE PROCESS

Any attempt by the Plaintiff to claim a property right under S C Code Ann§ 6 -29-1510, et seq (Vested Rights Act) is unavailing

The Vested Rights Act became law on July 1, 2005 The Act provided for a two (2) year vested right in approved site specific development plans The Act required municipalities to provide a process to allow a landowner with a vested right to apply for an extension of the vested right at the end of the vesting period The municipality is required to grant up to five (5) extensions, provided there has been no amendment to land regulations that would prohibit the approval S C Code Ann § 6-29-1530 (A) (1) and (2)

The Act further provides that no change in zoning made subsequent to vesting that affects property subject to the vested sight specific development plan operates to " affect, prevent or delay development of the real property under a vested sight specific development plan S C Code Ann §6-29-1540 (13)

As applied here the best the Plaintiff can establish is that, as of July 1 2005 it had a vested right in a sight specific development plan that being its planned development Per the Act that vested right expired as of June 30 2007 The CRO and Rezoning Ordinances were passed in June 2006 Presuming a vested right to its planned development then existed it was incumbent on the Plaintiff to act on its rights that is proceed under its planned development The Record reveals it did not do so

The Record reveals there was never any subdivision or other application made with respect to the Golf Course before June 30 2007 The Record reveals it was not until January 2008 that an application was made and this application was ultimately withdrawn The only application carried to completion was made in early 2009 By then the vested right in the planned development had long since expired

To the extent the Plaintiff had a vested right in its planned development, that right expired in June 2007 And no request was ever made to extend it Having not availed itself of its rights Plaintiff cannot be heard to complain of a denial of a property interest it allowed to expire

Charleston South Carolina

May 9, 2011

Frances I Cantwell

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Fax 843 762 8284

R Allen Young, Esq
Town of Mount Pleasant
P O Box 745
Mount Pleasant, South Carolina 29465
Tel 843-849-2020
Fax 843-388-1078

Attorneys for the Defendant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO 2009-CP-10-3723
	)	
DUNES WEST GOLF CLUB, LLC	)	
	)	
Plaintiff,	)	
	)	
vs	)	AFFIDAVIT OF
	)	KENT PRAUSE
TOWN OF MOUNT PLEASANT,	)	
	)	
Defendant	)	
	)	

Personally appeared before me in the undersigned who, being duly sworn, deposes and says

My name is Kent Prause, and what is set out in this Affidavit is personally known to me I am the Zoning Administrator for the Town of Mount Pleasant, South Carolina My duties include the administration and enforcement of the Town's Zoning Code In response to the General Assembly enacting the Vested Rights Act, the Town of Mount Pleasant amended its Land Development Regulations and Zoning Code in accordance with the directives of the Act Attached to this Affidavit are true and correct copies of the vested rights provisions of the Town's Land Development Regulations and Zoning Code

Kent Prause

Kent Prause

SUBSCRIBED and SWORN to

before me this 9th day of May, 2011

Patricia E Mann

Notary Public for South Carolina
My Commission expires 2-10-2016

(C) The Planning Commission shall approve the appropriate location of the undeveloped park and recreational land during the subdivision process

(1) The Planning Commission shall make its determination based upon topography, geology access and location with particular attention to significant physical features of the project area such as the location of grand trees scenic vistas wildlife habitat and water access

(2) Wetland areas are generally not to be included in area calculations

(D) The private ownership use and maintenance of the undeveloped park and recreational land shall be provided for by recorded written agreement conveyance or restrictions

(E) The provisions of this section shall not apply to nonresidential subdivisions or land zoned MF Multifamily Residential District or RTH Townhouse for Sale Residential District
('81 Code § 154 45) (Ord passed 6-9-92 Am Ord 99012 passed 4-21 99, Am Ord 02045 passed 7-9-02)

ADMINISTRATION

§ 155 084 RECORDED RESTRICTIVE COVENANTS

(A) Pursuant to the provisions of S C Code § 6-29-1145, the applicant for a development approval (permit) shall confirm that the activity for which approval has been requested is not restricted by any recorded covenant that is contrary to conflicts with or prohibits the activity by signing a Development Approval Application (Permit) Recorded Covenant Affidavit

(B) If it has actual notice of the existence of a recorded covenant that is contrary to conflicts with or prohibits the activity for which approval has been requested, either from information in the affidavit from materials or information submitted by the applicant, or from any other source, including but not limited to other property holders, the town shall immediately cease processing the application request or permit and shall not approve the same unless confirmation from the applicant is received that the restrictive covenant has been released by action of the appropriate authority or property holders or by court order

(C) As used in this section

(1) ***ACTUAL NOTICE*** is not constructive notice of documents filed in the local offices concerning the property and does not require the town to conduct searches in any records offices for filed restrictive covenants

(2) ***PERMIT*** does not mean an authorization to build or place a structure on a tract or parcel of land and expressly applies only to applications for subdivision, as defined in this chapter,

(3) ***RESTRICTIVE COVENANT*** does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land
(Ord 08021 passed 4-8 08)

§ 155 085 VESTED RIGHTS

For establishment of a property owner s vested rights, refer to Zoning Code § 156 049 (Vested Rights)
(Ord 05035 passed 6-14 05)

§ 155 086 FEES

(A) Upon submission of a preliminary plat as required in these regulations the applicant shall submit such required fees as may be established from time to time

(1) *ACTUAL NOTICE* is not constructive notice of documents filed in the local offices concerning the property and does not require the town to conduct searches in any records offices for filed restrictive covenants

(2) *PERMIT* does not mean an authorization to build or place a structure on a tract or parcel of land and expressly applies only to applications or requests for approval of the following

(a) Zoning map amendments

(b) Variance approval

(c) Special exception approval or

(d) Impact assessment approval

(3) *RESTRICTIVE COVENANT* does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land (Ord 08020 passed 4-8-08)

§ 156 049 VESTED RIGHTS

(A) *Purpose* This section is intended to clarify the rights of property owners regarding the time frame for which the town s land use decisions can be considered to confer vested rights This section is written to bring the town into compliance with the Vested Rights Act, Article 11 of Chapter 29 Title 6 of the Code of Laws of South Carolina 1976 (S C Code §§ 6-29-1510 *et seq*)

(B) *Definitions* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning

BUILDING PERMIT A written warrant or license issued by a local building official that authorizes the construction or renovation of a building or structure at a specified location

LOCAL GOVERNING BODY

(a) The governing body of a county or municipality, or

(b) A county or municipal body authorized by statute or by the governing body of the county or municipality to make land use decisions For the purposes of this section this would include Town Council Planning Commission, Board of Zoning Appeals, Design Review Board, and Town Appearance Commission as is applicable

SITE SPECIFIC DEVELOPMENT PLAN A development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties

VESTED RIGHT The right to undertake and complete the development of property under the terms and conditions of a site specific development plan

(C) *Vesting periods*

(1) Approved site specific development plans shall be vested for a period of two years from the date of final approval by the local governing body

(2) At the appropriate time within the vesting period the property owner may make application and be granted a building permit from the Town Building Inspector in accordance with all other applicable town regulations

(D) *Extensions of vesting periods* To request an extension of the vesting period beyond what is allowed in division (C) of this section, the property owner must submit a written request to the local governing body as defined in this section prior to the expiration of the vesting period requesting an extension The local governing body must approve applications for at least five extensions of the vested right unless an

amendment to the land development ordinances or regulations has been adopted that prohibits approval

(E) *Conditions and limitations*

(1) Site specific development plan provisions apply to projects that require the investment in grading installation of utilities streets and other infrastructure and other significant expenditures necessary to apply for a building permit For purposes of this section the following are considered site specific development plans

(a) Town Council approved planned developments

(b) Town Council approved impact assessments

(c) Planning Commission approved sketch plans or preliminary plats

(d) Board of Zoning Appeals approved variances and special exceptions

(e) Final planning staff approvals and Design Review Board final approvals regarding Commercial Design Review Overlay District applications

(f) Town Appearance Commission approved certificates of appropriateness and

(g) Conditional uses and sign permits approved by the Zoning Administrator or his or her designee

(2) A site specific development plan for which a variance regulation or special exception is necessary does not confer a vested right until the variance regulation or special exception is obtained

(3) A vested site specific development plan is subject to later local governmental overlay zoning that imposes site plan related requirements but does not affect allowable types height as it affects density or intensity of uses, or density or intensity of uses

(4) Upon expiration of a vested right, a building permit may be issued for development only in accordance with applicable land development ordinances or regulations

(5) A vested right to a site specific development plan may be revoked by the local governing body upon its determination after notice and a public hearing that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval
(Ord 05035 passed 6-14-05 Am Ord 07071, passed 11 13 07)

§ 156 050 SITE PLAN APPROVAL REQUIRED

(A) It shall be unlawful to commence the clearing excavation or filling of any lot for any site improvements the construction of any building commencing construction of any building or for commencing the moving or alteration of any building until a site plan has been approved for such work

(1) Site plans for single-family residences on individual lots shall meet the minimum requirements of the Building Official for issuance of a building permit

(2) The felling of any live tree is prohibited unless such felling of trees is duly authorized under the provisions of §§ 156 220 *et seq*

(B) The preliminary site plan for all construction activities other than on a single family lot shall show the following

(1) The proposed title of the project and the names of the engineer, architect designer or landscape architect and the developer

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO 2009 CP 10-3723
	)	
DUNES WEST GOLF CLUB LLC,	)	
	)	
Plaintiff,	)	
	)	NOTICE OF MOTION
vs	)	AND MOTION FOR SUMMARY
	)	JUDMGENT ON BEHALF OF
	)	THE TOWN OF MOUNT PLEASANT
TOWN OF MOUNT PLEASANT,	)	
	)	
Defendant	)	
	)	

FILED
2011 APR -6 PM 4 07
LIE J ARMSTRONG
CLERK OF COURT
BY

TO G TRENHOLM WALKER AND CLAYTON B MCCULLOUGH ESQ , ATTORNEYS FOR THE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that, ten (10) days after service of this Notice upon you or as soon thereafter as counsel may be heard, counsel for the Defendant Town of Mount Pleasant will move before the Presiding Judge of the Ninth Judicial Circuit Charleston County, Court of Common Pleas for an Order pursuant to Rule 56 of the South Carolina Rules of Civil Procedure granting summary judgment in its favor on the ground that there are no genuine issues of material fact and that the Defendant is entitled to judgment as a matter of law This motion is directed to all causes of action set out in the Complaint and is based on the circumstance that the pleadings and discovery warrant judgment in favor of the Defendant as they reveal a failure of proof as to one or more elements of the causes of action alleged

This motion will be supported by pleadings discovery and applicable case law, and as well as supplemental memoranda

Charleston, South Carolina

April 6 2011

Frances I Cantwell

Frances I Cantwell Esq
Regan and Cantwell LLC
105 Wappoo Creek Drive Suite 1-A
Charleston South Carolina 29412
Tel 843 762 8282
Fax 843-762 8284

R Allen Young Esq
Town of Mount Pleasant
P O Box 745
Mount Pleasant South Carolina 29465
Tel 843-849 2020
Fax 843-388 1078

Attorneys for the Defendant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO 2009-CP-10-3723
	)	
DUNES WEST GOLF CLUB, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs	)	SUPPLEMENT TO MOTION FOR
	)	SUMMARY JUDMGENT ON BEHALF
	)	OF THE TOWN OF MOUNT PLEASANT
TOWN OF MOUNT PLEASANT,	)	
	)	
Defendant	)	
	)	

FILED
2011 APR 14 AM 9 55
JULIE J
CLERK OF COURT
CHARLESTON

TO G TRENHOLM WALKER AND CLAYTON B MCCULLOUGH ESQ
ATTORNEYS FOR THE PLAINTIFF

This motion for summary judgment is supplemented as follows

The evidence does not sustain any claim for an unlawful exaction (Complaint, First Cause of Action) The Ordinance contested by the Plaintiff did not abrogate any legally cognizable vested right of the Plaintiff, as contended, and this case does not involve any condition imposed as part of an administrative or quasi-judicial permit application that would trigger an analysis under either Nollan v Coastal California Comm'n 483 U S 825 (1987) or Dolan v City of Tigard, 512 U S 374 (1994)

The evidence is insufficient to sustain an equal protection claim (Complaint, Seventh Cause of Action) A rational basis exists for the alleged different treatment by the Defendant of the Snee Farm rezoning request and that of the Plaintiff As fundamentally, there is no evidence that any difference in treatment was motivated by purposeful, invidious discrimination

The evidence is insufficient to sustain a substantive due process claim (Complaint, Fifth Cause of Action) The actions of the Defendant did not deprive the Plaintiff of a cognizable

property interest rooted in state law The actions of the Defendant were rationally related to furthering the public welfare, and bore a rational relationship to the exercise of police power traditionally accomplished by way of zoning

The evidence is insufficient to sustain a takings claim, either categorical or regulatory (Complaint, Second and Third Causes of Action) The doctrine of parcel of the whole precludes the Plaintiff from conceptually severing portions of its properties from parent tracts Plaintiffs' holdings in Dunes West constitute the parcel as a whole The evidence demonstrates the ordinance complained of furthers legitimate land use issues, did not interfere with the Plaintiff's use its parcels and that the parcels, post rezoning, retain significant value

The Plaintiff is not entitled to declaratory as the causes of action upon which this relief is based are not legally sustainable And, even if a takings cause of action could be proven (exaction categorical or regulatory) whether the prior zoning of Plaintiff's properties is reinstated would rest with the Defendant, in which case any taking would be temporary

Charleston, South Carolina

April 13, 2011

Frances I Cantwell

Frances I Cantwell, Esq
Regan and Cantwell, LLC
105 Wappoo Creek Drive, Suite 1-A
Charleston South Carolina 29412
Tel 843-762-8282
Fax 843-762-8284

R Allen Young, Esq
Town of Mount Pleasant
100 Ann Edwards Lane
Mount Pleasant, South Carolina 29464
Tel 843-849-2020
Fax 843-388-1078

Attorneys for the Defendant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO 2009 CP-10-3723
	)	
DUNES WEST GOLF CLUB LLC,	)	
	)	
Plaintiff	)	
	)	MEMORANDUM IN
vs	)	
	)	SUPPORT OF SUMMARY JUDGMENT
TOWN OF MOUNT PLEASANT	)	
	)	
Defendant	)	
	)	

FILED
2011 MAY -6 PM 2 43
JULIE J ARMSTRONG
CLERK OF COURT
BY

During the 2005 - 2006 timeframe a number of golf courses along coastal South Carolina were converted to residential uses the most notable in the area being the Kings Grant Course on Dorchester Road Golf Course conversions were often confusing to the public and at times, controversial To get in front of the issue the Town Council of the Town of Mount Pleasant (herein 'Town Council or 'Town) instructed its planning staff to review the zoning applicable to every golf course in the Town and to prepare a report on the potential for unilateral conversion of the courses to other uses Staff's report revealed that the zoning on a majority of the courses in the Town would have allowed for the conversion of golf courses to other uses with little if any Town oversight (Ex 1, Dep Farrell, p 9, line 22 – p 13, line 9, Ex 2, Staff report)

To provide a process whereby golf course conversions could be more effectively evaluated and controlled the Town Council enacted an ordinance creating a new zoning district the Conservation Recreation Open Space district (CRO) (herein CRO Ordinance) Uses permitted in the CRO district are recreationally based to include golf courses tennis courts swimming facilities playing fields and uses accessory thereto Among the purposes of the district are to provide and maintain a community-wide network of green and recreational spaces to lessen hazards posed by periodic flooding associated with development and to guard against

the introduction of inappropriate uses on existing recreational lands In tandem with the creation of CRO district Town Council enacted ordinances rezoning all golf courses in the Town of Mount Pleasant, both public and private to the CRO district The Golf Club at Dunes West was rezoned CRO by Ordinance 06035 effective as of June 14 2006 (herein Rezoning Ordinance) (Ex 3, CRO Ordinance Ex 4 Rezoning Ordinance Ex 5, Dep Farrell p 12, line 22 – p 13 line 9)

The Rezoning Ordinance applied to the six tax map parcels that contained the Dunes West Golf Course At the time of the rezoning these parcels were used solely for golf course and recreational purposes At the time of the rezoning the Town s Comprehensive Plan designated these parcels as open space (Ex 4 Rezoning Ordinance Ex 6 Dep Farrell p 112 line 24 – p 113, line 7)

John Wieland Homes and Neighborhoods (herein JWHN ') is the master developer of Dunes West having purchased these rights and the undeveloped portion of the Dunes West community in 2002 JWHN is a privately held corporation controlled by John Wieland (herein Wieland)

Some time in 2005 Wieland formed Dunes West Golf Club LLC (herein Golf Club) for the purpose of acquiring title to the Golf Course at Dunes West The Golf Course had been laid our and developed in the early 1990 s by the initial Dunes West developer The course was designed and laid out over six contiguous tax map parcels Little, if any change has been made to the course since its initial construction (Ex 7, Prause Dep p 50 lines 3-20 Ex 8 Popson Dep p 83 line 8 – p 85, line 2)

The Golf Club purchased the six tax map parcels that comprised the golf course from Scratch Golf Company in March 2005 for the asking price of $4 million The purchase was

financed by way of an intercompany loan to the Golf Club from JWHN When purchased the six parcels were subject to the Dunes West Planned Development (herein Dunes West PD) Though the six parcels were then used for golf and recreational pursuits, under the Dunes West PD single and multi-family houses were allowed uses on the parcels (Ex 9 Dunes West PD Ex 10, Deed, Ex 11, Answers to Interrogatories, Ex 12, Dep McMickle, p 7, line 4 – p 8 line 7)

When the CRO and Rezoning Ordinances were under consideration, the Golf Club contended the tax parcels comprising the golf course included lands not required for golf course play The Golf Club represented that some 60 of the 256 acres contained within the tax parcels were not needed for the golf course operations (herein Claimed Developable Lands) No plat of the Claimed Developable Lands then existed, and no graphic or other pictorial depiction of the Lands was presented to the Council (Ex 13 Council Minutes, 6/13/06)

In 2008 the Golf Club petitioned to rezone to residential use approximately 18 acres of the golf course tax map parcels The location of the acreage sought to be rezoned fell within areas of play of the golf course and would have required alterations to the course, to include relocating cart paths and the fairway of the 10th hole The rezoning also contemplated the abandonment of an easement not owned by the Golf Club The rezoning request sparked spirited public debate After the Planning Commission voted to recommend to Council that the rezoning application be denied the Golf Club withdrew it (Ex 14, 2008 Rezoning Application, Ex 15 Planning Commission Minutes 1/23/08, Ex 16, Planning Committee Minutes 2/4/08 Ex 17 Letter of Withdrawal)

Roughly a year later, in 2009 the Golf Club again applied to have a portion of the golf course tax map parcels rezoned Like the 2008 proposal the 2009 Rezoning Application

included acreage within areas of play that would have resulted in alterations to the golf course, to include the reconfiguration of the fairway of the 10th hole shortening a hole moving tee boxes and the relocation of numerous cart paths (Ex 18, 2009 Rezoning Application, Ex 19 Power-Point Presentation, Ex 20, LaFoy Report, Ex 49, Forsberg Report)

The application came before the Planning Commission on April 29 2009 Again spirited public debate ensued The Planning Commission voted to recommend to Town Council that the rezoning be denied (Ex 21 Planning Commission Minutes, 4/22/09)

The application then came before the Planning Committee of Town Council The Committee voted to recommend that Council defer action for 30 days At the Council meeting held on May 12 2009, numerous residents appeared in opposition to the rezoning Council deferred the issue At its meeting held on June 9, 2009, Town Council denied the rezoning by refusing to give first reading to an ordinance that would have authorized it (Ex 22 Planning Committee Minutes, 5/509, Ex 23 Council Minutes 5/12/09 Ex 24 Council Minutes 6/9/09)

In 2008 the Golf Club along with two (2) other entities controlled by Wieland borrowed nearly $9 million from Bank of America The loan was collateralized by the Dunes West Golf Course and two other golf courses in the Atlanta area owned by Wieland Wieland apportioned the debt equally to the three courses resulting in approximately $3 000,000 00 being allocated to the Dunes West Golf Club The appraisal commissioned by Bank of America valued the Dunes West Golf Club at $ 4 9 million or some $900 000 more than the Golf Club purchase price This appraisal duly noted the Golf Course was zoned CRO and thus restricted to recreational use The appraisal noted the highest and best use of the property if vacant and as improved, was a golf course The Rule 30(b)(6) witness of the Golf Club on financial matters

testified that this appraisal was low, in his opinion (Ex 25, Commitment Letter Ex 26, Appraisal Excerpts Ex 27 Dep McMickle p 7 line 4 – p 12 line 12)

The Golf Course was refinanced in 2010 The appraisal used in conjunction with the refinance valued the course with the CRO zoning at $3 5 million The Golf Club s Rule 30(b)(6) witness on financial matters testified the drop in value from the 2008 appraisal was attributable to the economy (Ex 28, Appraisal Excerpts Ex 29 Dep McMickle p 13 line 16 – p 16 line 16)

The Bank of America loan proceeds were not used to repay the intercompany loan owed by the Golf Club to JWHN Instead a $3,000,000 00 cash distribution was made by the Golf Club to Wieland its owner (Ex 30 Dep McMickle p 41, line 6 – p 42 line 1)

The Golf Club s Rule 30(b)(6) witness on financial operations testified that for accounting purposes, the 3 golf courses owned by Wieland are combined and borrow from one another so that all reflect a positive cash flow As for Dunes West, he testified that it performs better than the other Wieland courses in Atlanta and that it generates a positive cash flow (Ex 31 Dep McMickle p 16 line 16 – p 17 line 6, Ex 32 Dep McMickle, p 54 line 15 – p 57, line 3)

This action was commenced on June 12, 2009 The Golf Club contests the validity of the CRO and Rezoning Ordinances as applied to its property, claims the Ordinances constitute a taking of Claimed Developable Lands, alleges constitutional violations of due process and equal protection and seeks declaratory relief and damages

STANDARD OF REVIEW

Summary judgment is warranted when the pleadings, depositions answers to interrogatories, and admissions on file together with the affidavits, show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law Rule 56(b), SCRCP

A party faced with a summary judgment motion must present evidence sufficient such that a reasonable juror could find, by a preponderance of the evidence, in his favor Sylvia Development Corporation v Calvert County, Maryland, 48 F3d 810 (4th Cir 1995)

Entry of summary judgment is mandated, after adequate time for discovery and upon motion against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case and upon which that party will have the burden of proof at trial because a failure of proof of an essential element of the nonmoving party's case necessarily renders all other facts immaterial Celotex Corporation v Catrett 477 U S 317 (1986)

APPLICABLE LEGAL PRINCIPLES

Rezoning is a legislative function Leonardis v City of Greenville, 316 S C 471 450 S E 2d 597 (Ct App 1994)

A zoning ordinance is presumptively valid and the party attacking it must show its invalidity by clear and convincing evidence Town of Scranton v Willoughby, 306 S C 421 412 S E 2d 424 (1999)

There is a strong presumption in favor of the validity of municipal zoning ordinances, and in favor of the validity of their application Harbit v City of Charleston 382 S C 383 675 S E 2d 776 (Ct App 2009)

EXACTIONS

The Golf Club contends the CRO and Rezoning Ordinances as applied to the Golf Club s properties, constitute an unlawful exaction (Ex 33 Complaint, First Cause of Action) Specifically it is alleged that the rezoning unilaterally exacted from Dunes West Golf Club its entitled, vested right to develop and imposed the requirement that the Parcels[1] remain a park, recreation area and open space for the benefit of the citizens of the Town as a condition of the Town's past and future development approvals for the entire Dunes West project granted to DWGC JWHN JWHNC[2], and their predecessors developers' (Ex 33, Complaint, Paragraph 31)

As an initial matter any development rights of JWHN and JWHNC have not at all been affected by the CRO or Rezoning Ordinance These Ordinances only apply to the tax parcels where the Golf Club is located Neither JWHN nor JWHNC owns any properties within these parcels (Ex 33, Complaint, Paragraph 5)

The allegation that the Golf Club had vested rights to develop is incorrect The Golf Club bases its entitlement and 'vested right to develop solely on the zoning in place when it purchased the Golf Club Parcels The Golf Club s Rule 30(b)(6) witness so testified (Ex 34 Dep Popson, p 76 line 3 – p 77 line 14)

Zoning however, in and of itself, creates no vested rights In Friarsgate, Inc v Town of Irmo, 290 S C 266, 349 S E 2d 891 (Ct App 1986), the Court of Appeals held that for an owner to acquire a vested right to an existing zoning classification, he must show something more than a mere expectation that zoning will not change a landowner has no right to insist that property not be restricted by a zoning regulation absent a showing that he has prior to the

[1] Per the Complaint Parcels refers to the entire six (6) Tax Map parcels owned by the Golf Club

[2] Per the Complaint, DWGC is Dunes West Golf Club JWHN is John Wieland Homes and Neighborhoods and JWHNC is John Wieland Homes and Neighborhoods of the Carolinas

effective date of the regulation established a nonconforming use 101(a) C J S *Zoning and Planning*, Section 70 (1979) Id at 273

The evidence on this issue is clear and unrefuted When the Rezoning Ordinance was passed, all of the Golf Club s properties were being used only for golf course and recreational uses No other use had been established (Ex 35 Dep Popson p 38 line 11 – p 39 line 20) Even if the Claimed Developable Lands were within the rezoned parcels the fact remains such lands were not being used in a manner inconsistent with the CRO Ordinance regulations Under the law the Golf Club s expectation that its zoning would not change simply does not constitute a vested right Because the Golf Club cannot demonstrate that when the CRO and Rezoning Ordinances were enacted it was using its properties for residential uses it had no vested development rights to such uses

More fundamentally, the exaction cause of action fails as a matter of law Exaction jurisprudence comes into play when as a condition of receiving a permit a condition or exaction is tied to the approval The United States Supreme Court has held in such instances nexus must exist between the permit and the exaction, that is the exaction must bear some relationship to the nature of the permit and the extent of the exaction must be roughly proportional to the extent of the impact of the proposed development project See Nollan v Coastal California Comm n 483 U S 825 (1987) Dolan v City of Tigard 512 U S 374 (1994) As explained by Justice O Connor in Lingle v Chevron USA, Inc , 544 U S 528 546-547 (2005)

> Both Nollan and Dolan involved fifth amendment takings challenges to adjudicative land use exactions – specifically government demands that a land owner dedicate an easement allowing public access to her property as a condition of obtaining a development permit See Dolan, *supra* at 379–380 (permit to expand a store and parking lot conditioned on the dedication of a portion of the relevant property for a ' greenway' including a bike/pedestrian path), Nollan *supra*, at 828 (permit to build a larger residence on beachfront property conditioned on dedication of

> an easement allowing the public to traverse a strip of the property between the owner s seawall and the mean high tide line)
>
> The question was whether the government could without paying compensation that would otherwise be required upon affecting such a taking demand the easement as a condition for granting a development permit the government was entitled to deny The court in Nolan answered in the affirmative provided that the exaction would substantially advance the same government interest that would furnish a valid ground for denial of a permit 483 U S at 834 837 The Court further refined this requirement in Dolan holding that an adjudicative exaction requiring dedication of private property must also be rough[ly] proportiona[l] both in nature and extent to the impact of the proposed development

The Nollan and Dolan lines of cases establish that issues of exaction arise only in relation to a permit or development application the relevant inquiry being whether the extraction sought as a condition of approval relates to the proposed development in a roughly proportional manner

This case does not involve an administrative or quasi-judicial review of a permit application This case involves a rezoning of property which is a legislative decision Leonardis v City of Greenville *supra* The rezoning did not require the Golf Club to do anything differently from what it was doing prior to the CRO and Rezoning Ordinances being enacted There were (and are) no conditions attendant to the continued use of its property for recreational purposes that would trigger either a Nollan or Dolan analysis And no permit or other development application has ever been conditioned on the Ordinances The Golf Club's Rule 30(b)(6) witness so testified (Ex 36 Dep Popson, p 80 line 17 – p 81, line 20)

Exactions jurisprudence is not applicable to the facts of this case as a matter of law The Town is entitled to summary judgment on this Cause of Action

EQUAL PROTECTION

The Golf Club contends it was denied equal protection of the law because a rezoning was approved at the Snee Farm golf course The Golf Club contends it is similarly situated to Snee Farm and thus the denial of its application for a rezoning constitutes a violation of its rights of equal protection (Ex 33 Complaint, Seventh Cause of Action)

To establish an equal protection claim the Golf Club must show that it is similarly situated to Snee Farm that it was treated differently from Snee Farm without rational basis, and that the difference in treatment was the result of intentional invidious discrimination A benefit bestowed to one but denied to another does not give rise to an equal protection claim A violation is established only if a plaintiff can prove the governing body intended to discriminate Whaley v Dorchester County Board of Zoning Appeals, 337 S C 568 575-576 524 S E 2d 404, 408 (1999), Sylvia Development Corporation v Calvert County, Maryland *supra*, 48 F 3d at 819 (4th Cir 1995)

The facts of this case do not support an equal protection claim

In 2006 the owner of the Snee Farm golf course filed an application with the Town to rezone approximately 20 acres from the CRO district to a PD planned development district The rezoning applied to 20 contiguous acres sought the development of 58 units with the monies generated from sales being applied to the razing of the clubhouse and the reconstruction of a new one improvements to tennis courts the construction of a new events pavilion pool and practice green with an expanded driving range The proposal caused minimal alteration to areas of play of the course The Snee Farm community was essentially split as to the merits of the proposal (Ex 37, Snee Farm PD Ex 38, Dep Prause p 32, line 23 – p 34, line 4, Ex 39, Dep Prause p 38, line 25 – p 40, line 9)

The proposal of the Golf Club was to rezone approximately 18 acres and develop 32 units The acreage sought to be rezoned was not contiguous and if approved would have required significant alteration to the 10th hole fairway and the relocation of numerous cart paths Discovery revealed that in addition to these alterations, the 2009 proposal would have also required the shortening a hole from a par four to a par three and moving a number of tee boxes The monies generated from sales were to have been applied to unspecified on course and improtatntly off-course improvements The Dunes West community did not embrace the rezoning proposal

(Ex 40 Dep Prause p 39 line 12 – p 40 line 9 Ex 20 LaFoy Report

The Snee Farm and Dunes West rezoning requests are similar to the extent that each involved a request to rezone property from the CRO district to a residential classification That however is where the similarly ends

The Snee Farm proposal presented a compact contiguous unified site design that caused minimal alteration to the areas of play of the golf course The Dunes West proposal contemplated spattering new lots throughout the golf course tracts and required far more significant alterations to the areas of play (Ex 37, Snee Farm PD, Ex 18 2009 Rezoning Application)

Even assuming however, that Snee Farm and Dunes West are similarly situated there exists a rational basis for the difference in treatment The two proposals are simply different The Snee Farm proposal presented a clear picture to the Town and the neighborhood of what was in store The Snee Farm proposal set out a definite number and layout of lots The Snee Farm proposal identified and designated buffers and open space The Snee Farm proposal addressed drainage and traffic The Snee Farm proposal identified specific course improvements The

Dunes West proposal was neither as unified nor as definite nor as informative The Dunes West proposal did not commit to a particular development scheme and offered no information relative to matters such as drainage The Dunes West proposal did not specify course improvements From a land use perspective, the Snee Farm proposal was far more cohesive and definitive, a circumstance that provides a rational, and thus legal justification for difference in treatment

But finally even assuming that Snee Farm and Dunes West are similarly situated and that they were treated differently without rational basis, the equal protection cause of action still fails as a matter of law because there is no evidence that the difference in treatment was motivated by any ill will or purposeful intent to harm or otherwise discriminate against the Golf Club The Record is telling on this point Every witness proffered by the Golf Club testified that in dealings with the Town they have been treated fairly and professionally In the words of John Wieland nobody picked on us (Ex 41, Dep Popson p 17, line 6 – p 20, line 10 Ex 42, Dep Whiteside, p 8 lines 3 21 Ex 43 Dep Wieland, p 32, lines 1-4) Absent proof of intentional invidious discrimination, there is no viable equal protection claim Sylvia Development Corporation v Calvert County, Maryland, *supra* 48 F 3d at 820 Butler v Town of Edgefield 328 S C 238 251 493 S E 2d 838, 845 (1997)

At the end of the day all the Golf Club can demonstrate is that it was treated differently from Snee Farm when each sought to rezone land subject to the CRO classification to a different classification Differences existed between the proposals that provided a rational basis for the Council to have approved one and denied the other Even if that were not the case the Golf Club cannot establish that it was targeted or was the subject of intentional, invidious discrimination Without this proof, it cannot prevail The Town is entitled to summary judgment in this cause of action

SUBSTANTIVE DUE PROCESS

The Golf Club contends its rights to substantive due process were violated because the application of the CRO zoning district to the six tax parcels that comprise the golf course was arbitrary and excessive, resulting in the loss of its vested right to develop its land (Complaint, Fifth Cause of Action)

In order to prove a denial of substantive due process it is incumbent that the Golf Club demonstrate that it was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law It must demonstrate that the actions of the Council were so far afield of legitimate government action that no process could cure the deficiency This being a zoning matter the Golf Club must make clear that the Council s actions had no foundation in reason and were but arbitrary and irrational exercises of power with no relationship to the public health morals safety or welfare The Golf Club must demonstrate the purpose behind the Ordinances had no conceivable rational relationship to the exercise of traditional police power through zoning Sylvia Development Corp v Calvert County, *supra*, 48 F 3d at 827 Harbit v City of Charleston *supra* 382 S C at 394 675 S E 2d at 782

In its review of a substantive due process challenge to a zoning ordinance the court must determine whether the ordinance bears relationship to any legitimate governmental interest Harbit v City of Charleston, *supra*, 382 S C at 394 395, 675 S E 2d at 782

Due process is not denied simply because a legislative body does not permit a landowner to make the most beneficial use of its property Bear Enterprises v County of Greenville 319 S C 137 141, 459 S E 2d 883 886 (Ct App 1995)

The Golf Club has no cognizable property interest rooted in state law The most the Golf Club can prove on this issue is that, prior to the Rezoning Ordinance, it could have developed its property for residential uses Such, however, does not rise to the level of a cognizable property interest because zoning, alone, vests no rights And, the Golf Club has no rights rooted in state law to insist that it zoning not be changed Friarsgate, *supra*

The CRO and Rezoning Ordinances are not arbitrary either on their face or in their application to the Golf Club's property It is simply not credible to contend that protection and preservation of open space, the provision of a community-wide network of recreational areas, and protection against periodic flooding are not in furtherance of the public health, safety or welfare These aims are quintessential, legitimate governmental interests that are traditionally advanced by way of zoning and land use restrictions

Moreover, the application of the Ordinances to the Golf Club's property was wholly consistent with how these properties, even the Claimed Developable Lands, were then being used Not one square inch of Golf Club property was rendered nonconforming by virtue of either of these Ordinances That the Golf Club may not have the most beneficial or financially lucrative use of its property simply does not support a substantive due process claim Bear Enterprises v County of Greenville, *supra*

To the extent it is contended that the Council caved to the wishes of its constituents such does not rise to the level of a substantive due process violation Courts recognize that zoning is an "inescapably political function Sylvia Development Corporation v Calvert County, Maryland *supra*, 48 F 3d at 828-829 *(It is not pernicious per se for a zoning authority to be influenced by political pressure*)

The Town is entitled to summary judgment on this cause of action

TAKINGS

The Golf Club contends the CRO and Rezoning Ordinances deprive it of all economic and beneficial use of the Claimed Developable Land resulting in a taking of its property (Complaint Second and Third Causes of Action) While the 2008 and 2009 rezoning applications sought to rezone approximately 18 acres, the Claimed Developable Lands for which compensation is sought in this action amount to approximately 25 acres (Ex 44 Site Plan) These are the only lands the Golf Club claims to have been taken by the Ordinances The Golf Club does not dispute the application of the Ordinances to its remaining lands conceding it never intended to develop them Notably the acreage for which it seeks compensation is within areas of play contrary to the representations that the Rezoning Ordinance included areas not part of the play areas of the course (Ex 45, Dep Popson, p 59, line 18 – p 61 line 10 Ex 46, Dep Popson, p 65 lines 2-5)

The law recognizes four types of takings (1) those involving the physical appropriation of land (2) those involving an exaction of land or other asset as a condition of permit approval (3) those where as a result of the application of a regulation property is rendered devoid of any economic value (categorical taking), and (4) those where as a result of the application of a regulation a property is left with but a token economic interest (regulatory taking) Lingle v Chevron, *supra* 544 U S at 548

This case does not involve a physical appropriation of land For reasons stated this case does not implicate an exaction analysis And for reasons to be set forth the facts of this case do not support either a categorical or regulatory taking

The Golf Club s categorical and regulatory takings causes of action are premised on the theory that the Claimed Developable Lands, though never legally separated from their parent tracts, can be "conceptually severed" and considered as stand alone legally existing individual parcels of property If this premise fails, so do the takings causes of action because the Golf Club's own evidence demonstrates the six golf course tax parcels retained significant value after being rezoned CRO The 2008 Cushman and Wakefield appraisal commissioned by Bank of America valued these parcels, with the CRO zoning, at $ 4 9 million, a value the Golf Club deemed low A second Cushman and Wakefield appraisal done in 2010 valued the parcels at $3 5 million, the decrease being attributed by the Golf Club to the economy These are hardly insignificant values that could support a contention that the rezoning rendered the parcels "economically idle" or left but a token economic interest therein Lucas v South Carolina Coastal Council 505 U S 1003, 1009 (1992)

In determining the confiscatory effect of a regulation, the law requires that the parcel as a whole be viewed As held by the United States Supreme Court in Penn Central Transportation, Co , et al v New York City, et al, *supra*, 438 U S at 130-131 (1978)

> 'Taking jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated In deciding whether a particular governmental action has affected a taking, this Court focuses rather both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole – here, the City block designated as the "landmark site

In accord is Beard v South Carolina Coastal Council, 304 S C 205 207, 403 S E 2d 620, 622 (1991), where the Supreme Court specifically adopted the reasoning of Penn Central

> It is important to note at the outset that the Beard's complaints concern only a portion of their property The Beards contend that only the area between the existing wall and proposed wall has been taken As an initial matter, the Beard's approach to a 'takings ' contention in the

> context of a zoning regulation is inaccurate ' Takings jurisprudence does not divide a single parcel into discreet segments to determine whether rights in a particular segment have been entirely abrogated [The] Court focuses rather on the parcel as a whole (*citation omitted*)

The notion of conceptual severance was specifically disregarded in Tahoe-Sierra Preservation Council v Tahoe Regional Planning Agency, 535 U S 302 (2002) where the claimant attempted to sever the temporal aspect of land ownership from the physical aspect

Determining the relevant parcel is the threshold step in a regulatory takings analysis When, as here, multiple tracts are in play, courts have considered a number of factors in determining whether the tracts should be considered as a unit or individually The factors include when and how the tracts were purchased there physical relationship to one another, how the owner has used the tracts and how the tracts have been developed District In town Properties Limited Partnership v District of Columbia 198 F 3d 874 889 (D C Cir 1999) (*The District Court used several factors to determine the relevant parcel the degree of contiguity the dates of acquisition the extent to which the parcel has been treated as a single unit and the extent to which the restricted lots benefit the unregulated lot An analysis focused on these factors is eminently sound and it mirrors the approach taken by other courts in regulatory takings cases (citations omitted))*

The relevant parcel or ' parcel as a whole , in this case are the six tax parcels that comprise the golf course The parcels were purchased as a package in one transaction The parcels are contiguous The parcels were financed as an entity The parcels were refinanced as an entity The parcels have always been used in unison, as a golf course and have been carried on the owner s book as a single asset that being a golf course

In Quirk v Town of New Boston 140 N H 124, 663 A2d 1328 (1995) a property owner sought to have a 200 foot perimeter setback applied to his campground site declared a taking The New Hampshire court refused to recognize the perimeter as separate and apart from the parent tract

> In the present case we find no compelling reason to view the perimeter as a discrete segment of the campground That the plaintiff has never treated the perimeter of his campground as distinct from the interior supports this finding At least where an owner possesses a full bundle of property rights the destruction of one strand of the bundle is not a taking because the aggregate must be viewed in its entirety Andrews v Allard 444 U S 51 65 66 100 S Ct 318 327 62 L Ed 2d 270 (1979) Penn Central Trans Co 438 U S at 130-131 98 S Ct at 2662),

Quirk 140 N H at 132 553 A2d at 1333

The Golf Club finds itself in the identical position as the owner of the campground It has purchased and thereafter treated, for purposes of use financing and taxes the Claimed Developable Lands as part and parcel of the parent tracts to which they legally belong

The Ordinances have not effected a categorical taking These facts cannot be disputed After the parcels were zoned CRO, two independent appraisals demonstrated the parcels used as a golf course retained significant value, in the multiple millions This value enabled the Golf Club to secure a loan and pay its owner $3 million To contend the Ordinances rendered the parcels economically idle or without economic use is simply not credible

Neither have the Ordinances effected a regulatory taking

A regulatory taking analysis requires a balancing of factors, those being the character of the government action the economic impact of the regulation on the claimant and the extent to which the regulation has interfered with distinct investment backed expectations If after application of the regulation the claimant is left with beneficial use of his property, there is no

regulatory taking Penn Central Transportation, Co , et al v New York City, et al *supra* 438 U S at 124

There can be little question but that the character of the CRO Ordinance is bottomed on legitimate land use considerations Preservation of open space and recreational opportunities, flood prevention and curbing ill effects of indiscriminate golf course conversions are all proper zoning considerations

As for economic impact, a beneficial use of the parcels remains The Golf Club s attempt to sever the Claimed Developable Lands from the parent tracts must be held for naught because the law of takings does not and has never divided tracts into discreet segments Penn Central *supra* Indeed if such were the case virtually every zoning regulation would be confiscating to at least some part or remnant of the property Animas Valley Sand and Gravel Inc v Board of Commissioners of the County of La Plata, 38 P 3d 59 69, (Colo 2001) *(were we to accept AVSG s position that a court should evaluate the effect of a regulation with respect to only on segment of the parcel virtually any land use regulation would effect a taking if the landowner defined the relevant parcel small enough For example were partitioning allowed a zoning ordinance that required a setback would effect a taking of the land between the lot line and the building line Such a regime would defeat the balance of interests reached in takings jurisprudence)* See also Beard v South Carolina Coastal Council *supra*

All evidence reveals that the application of the CRO and Zoning Ordinances to the six parcels has not rendered them valueless or without beneficial use The Golf Club s lender s appraisals and the testimony of its witnesses cogently demonstrate this point

The Town s evidence is in accord A comparison of the values of the parcels before the application of the CRO zoning and afterwards reveals there remains significant value in the

parcels zoned CRO, even when residential value is imputed to the Claimed Developable Lands Ex 47, Appraisal of Richard Marlow, valuing the parcels, post-zoning at $3,840,000 Even if June 2006 is considered the date of the alleged take, the end result is the same All evidence demonstrates the value of the parcels in 2006, after the CRO zoning, was $3,798,000[3] (Ex 48 Appraisal of Richard Marlow valuing the parcels, post-zoning, at $3,798,000)

As for distinct investment backed expectations, while the Golf Club may have intended to subdivide and create lots from the six golf course tax parcels, the fact is, it never did so And while it may have been heeding the advice of the zoning administrator to garner support for its proposal, such provides no excuse for failing to establish its rights

Note must be made that, when the Golf Club purchased the six parcels and when the Rezoning Ordinance was passed, all six parcels were only being used for a recreational pursuit, that being a golf course This fact is important as courts traditionally look " to the existing use of property as a basis for determining the extent of interference with the owner s 'primary expectation concerning the use of the parcel" Esposito v South Carolina Coastal Council, 939 F 2d 165, 170 (4th Cir 1991), quoting *Penn Central*, 438 U S at 136 See Penn Central, *supra*, 438 U S at 136 *(the New York City law did not interfere in any way with the present uses of the Terminal Its designation as a landmark not only permits by contemplates that appellants may continue to use the property precisely as it has been used for the past 65 years So the law does not interfere with what must be regarded as Penn Central s primary expectation concerning the use of the parcel)* The Rezoning Ordinance did not interfere with the Golf

[3] A takings claim does not ripen until it can be determined how far the regulation goes Palazzolo v Rhode Island 533 U S 606 at 621 622 (2001) Here, the Golf Club contends that the Ordinances only effects a taking of what it asserts to be Claimed Developable Lands As the extent of these Lands has been a moving target from 60 in 2006 to 18 in 2008 and 2009 and now roughly 25 in this lawsuit there was no way of knowing either the extent of the claim or how far the Town would go until a request for relief from the Ordinances was requested That did not occur until 2009

Club s traditional use of the property as a golf course And, as the Golf Club admitted it had no intention to develop the whole course, the Rezoning Ordinance does not interfere with Golf Club s anticipated future use of the parcels all of which brings into question whether its primary expectation concerning the use of the parcels has been affected at all

When all is said and done the evidence reveals that the application of the CRO district to the Golf Club s properties did not render them valueless Substantial value remains in the parcels, as a golf course The Golf Club does not contend the parcels, as a course have no value Nor could it in light of their substantial borrowing potential of which the Golf Club has availed itself

That the CRO and Rezoning Ordinance have resulted in a lesser value to the parcels is not dispositive The dispositive issue is what value remains Keystone Bituminous v DeBenedictis 480 U S 470 497 (1987) (*our test for regulatory taking requires us to compare the value that has been taken from the property with the value that remains in the property*) Here, the evidence demonstrates significant value remains in the parcels The takings causes of action fail as a matter of law, and the Town is entitled to summary judgment

RELIEF

The Golf Club contends that, because the Rezoning Ordinance is an unlawful exaction and that it constitutes a taking of its property it is entitled to a declaration that the Ordinance is invalid and that the zoning reverts back to the Dunes West PD, entitling it to all uses permitted as of right under the Dunes West PD (Complaint Fourth Cause of Action) For reasons already set forth, this relief must be denied as the Ordinance is neither an unconstitutional exaction nor a categorical or regulatory taking Moreover if a taking could be proven, the remedy would be to pass title to the Town in return for just compensation Because however the Town has not

taken physical possession of the Claimed Developable Lands, it would have available the remedy of repealing the CRO zoning as to these Lands and paying just compensation for the time of the take See S C Code Ann § 28 2-230 (B) Jennings v Sawyer, 182 S C 427 189 S E 746 (1937) (the condemnor may abandon the property condemned at any time before taking actual possession and entering thereupon), See also Cobb v South Carolina Department of Transportation 365 S C 360 365, 618 S E 2d 299 301 (2005) where the Supreme Court made note of the historical treatment of an inverse condemnation action as equivalent to an eminent domain case

As for the relief requested in the sixth cause of action the most this court could declare is whether the Rezoning Ordinance is invalid, as the Court has no authority to order a rezoning Bear Enterprises v Greenville County, 319 S C at 142, 459 S E 2d at 885

CONCLUSION

For the foregoing reasons it is submitted that there exists no genuine issue of material fact as to any of the causes of actions set forth in the Complaint, and the Town is entitled to summary judgment as a matter of law

Respectfully submitted

Charleston South Carolina

May 6 2011

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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	C A NO 2009-CP-10-3723
DUNES WEST GOLF CLUB LLC	)	
	)	
Plaintiff	)	**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**
	)	
vs	)	
	)	
TOWN OF MOUNT PLEASANT	)	
	)	
Defendant	)	

FILED
2011 MAY -9 PM 2 46
JULIE J ARMSTRONG
CLERK OF COURT
BY

INTRODUCTION

The Plaintiff seeks to recover compensation for a regulatory restriction that converted its residential property in Dunes West to a park

In 2006 the Town of Mount Pleasant (the Town) on its own initiative against the Plaintiff's will unilaterally changed the zoning of 257 acres owned by Plaintiff in the middle of Dunes West to eliminate all residential and commercial uses The only uses allowed under the new zoning are park recreation and open space The land downzoned consists of six contiguous TMS parcels (hereinafter the Property) Before the rezoning the zoning authorized both single-family and multi-family residential uses The Plaintiff owner seeks compensation for the regulatory taking of its land specifically the elimination of any economically beneficial use of 60 4 acres surrounding the Dunes West golf course (hereinafter the Surrounding Acreage)

Plaintiff Dunes West Golf Club LLC an affiliate of John Wieland Homes & Neighborhoods purchased the Property in March 2005 primarily to subdivide and develop the Surrounding Acreage for residential use At that time the Dunes West

Planned Development District ordinance (Dunes West PD) adopted in 1990 established the zoning The Dunes West PD authorized as a matter of right both R 1 (low density residential district with lot sizes greater than 10 000 square feet) and R 3 (medium density residential district with lot sizes greater than 6 000 square feet including single family homes and duplexes) on the Property The Dunes West PD established the ability to develop multi-family residential use within Dunes West as a matter of right The Dunes West PD of 1990 set forth a large multiphase project over thousands of acres The development since then has been guided by and in reliance upon the Dunes West PD

John Wieland Homes & Neighborhoods (JWHN) purchased Dunes West for over $20 million and took over as developer in 2002 At that time Scratch Golf owned the Property In March 2005 Plaintiff purchased the Property from Scratch Golf for $4 million The main reason Plaintiff purchased the Property was to proceed with the residential development of the Surrounding Acreage The golf course and its facilities occupy approximately 196 11 acres The remaining 60 4 acres comprise the Surrounding Acreage Plaintiff is a home builder It makes money from residential development not from golf course and hospitality services

The downzoning of Plaintiff's land was in reaction to publicized changes proposed for the golf course at King s Grant outside Summerville The owner of King s Grant decided to close that golf course and build houses on the land that had been the golf course [1]

[1] The evidence does not support the Town s contention that golf courses were being converted to residential up and down the coast of South Carolina

In response the Town pushed ahead on parallel tracks with a new zoning district and the re-zoning of all golf courses in the Town to this new zoning district The new zoning district created by the Town was CRO (conservation recreation open-space) CRO prohibits residential and commercial uses

Plaintiff cautioned the Town and urged the Town to slow down to ensure that the down-zoned land would include only land that was used as a golf course Plaintiff and its affiliates fully intended to develop the Surrounding Acreage but had no intention at that time of developing the 196 11 acres of golf course land Plaintiff told the Town that the proposed ordinance rezoning the Property Ordinance No 06035 (the Ordinance) as written would go far beyond the Town s stated intent and take away all value from the 60 4 acres of Plaintiff's developable land around the course Despite Plaintiff's pleas the Town adopted the Ordinance over Plaintiff's objections The Ordinance re-zoned to CRO the entirety of Plaintiff's parcels including the 60 4 acres of the Surrounding Acreage The only sop to the Plaintiff was a statement by a single councilman that Plaintiff could apply for re-zoning of portions of the Surrounding Acreage to residential in the future

Plaintiff did just that and again was shot down In the spring of 2009 Plaintiff via its authorized agent JWHN submitted two applications to the Town seeking to rezone approximately 17 of the 60 acres of developable land from CRO to R-1 and R-3 pursuant to the Dunes West PD The Town Council voted to deny Plaintiff's application in June of 2009 refusing to allow even one residential lot to be cut from the Surrounding Acreage

STANDARD FOR SUMMARY JUDGMENT

Summary judgment is proper if the pleadings depositions answers to interrogatories and admissions on file together with the affidavits if any show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law S C R Civ P 56 In determining whether any triable issues of fact exist the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party Osborne v Adams 346 S C 4 7 550 S E 2d 319 321 (2001)

Summary judgment is not appropriate when further inquiry into the facts of the case is desirable to clarify the application of the law Harbit v City of Charleston 382 S C 383 389-90 675 S E 2d 776 779 (S C Ct App 2009) as amended (May 4 2009) reh g denied (May 4 2009) (internal citations omitted) Further summary judgment should not be granted even when there is no dispute as to the evidentiary facts if there is a dispute as to the conclusion to be drawn therefrom Jackson v Swordfish Investments, L L C 365 S C 608 611-12 620 S E 2d 54 56 (2005)

For purpose of the pending motions the record must be viewed in the light most favorable to the Plaintiff Summary judgment should be denied if there is a scintilla of evidence to sustain Plaintiff's claims Hancock v Mid-S Mgmt Co , Inc 381 S C 326 330 673 S E 2d 801 803 (2009) reh g denied (Mar 18 2009)

ARGUMENT

I The record includes proof that the Plaintiff has a vested, cognizable property interest under South Carolina law

While Defendant has included in its grounds for summary judgment that the Plaintiff does not have a vested right a vested right is not necessary to establish a taking under these circumstances as will be explained below Nevertheless the record establishes a genuine issue of material fact that Plaintiff had a vested right under the Vested Rights Act and the common law

a Evidence supports Plaintiff's vested right to develop the parcels under the South Carolina Code and Town Code

Passed in 2004 the Vested Rights Act (the Act) became effective on July 1 2005 S C Code Ann §§ 6-29-1510 et seq The Act compelled local governments to adopt ordinances in conformity with the Act by July 1 2005 S C Code Ann § 6-29 1530 To comply with the Act the Town adopted its own vested rights ordinance to comply with the mandate of the Act

The Act defines a 'vested right for its purposes as **the right to undertake and complete the development of property under the terms and conditions of a site specific development plan** or a phased development plan as provided in this article and in the local land development ordinances or regulations adopted pursuant to this chapter § 6-29-1520(10) (emphasis added)

The Act defines a site specific development plan as

> a development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties The plan may be in the form of but is not limited to the following plans or approvals **planned unit development** subdivision plat preliminary or general development plan variance conditional use or special use permit plan conditional or special

use district zoning plan or other land use approval designations as are used by a county or municipality

S C Code Ann § 6-29 1520 (emphasis added) A planned development district is a planned unit development or PUD

The Town s vested rights ordinance defines a site specific development plan as [a] development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties §156 049 Town of Mount Pleasant Zoning Code Under both the Act and the ordinance the Dunes West PD is a Site Specific Development Plan

The Act specifically established in an owner a two year vested right effective upon its adoption for all approved site specific development plans

> (A)(1) A vested right is established for two years upon the approval of a site specific development plan
> (2) On or before July 1 2005 in the local land development ordinances or regulations adopted pursuant to this chapter **a local governing body must provide for**
> **(a) the establishment of a two-year vested right in an approved site specific development plan,**

S C Code Ann § 6-29-1530(A)(1) and (2)(a)(emphasis added) See § 156 049(C)(1) Town of Mount Pleasant Zoning Code (Approved site specific development plans shall be vested for a period of two years from the date of final approval by the local governing body)

The Act specifically provides that subsequent owners have the benefit of Site Specific Plans they run with the land

> A vested right pursuant to this section is not a personal right but attaches to and runs with the applicable real property The landowner and all successors to the landowner who secure a vested right pursuant to this article may rely upon and exercise the vested right for its duration

S C Code Ann § 6-29-1550

The Dunes West PD was an approved Site Specific Development Plan on the effective date of the Act Per the express terms of the Act Plaintiff had a *statutory* vested right to proceed with the residential development authorized by the Dunes West PD for two years until July 1 2007 At the time of the downzoning on June 13 2006 Plaintiff had a statutory vested right as a matter of law

Although the Plaintiff has not moved for summary judgment it will make the appropriate motion during trial for the entry of judgment in its favor on this issue Plaintiff had a vested right as a matter of law under the Act to proceed with the residential uses established by the approved Dunes West PD on June 13 2006 when Defendant unilaterally changed the zoning and took away that right

b There is evidence to support Plaintiff's vested right to develop the parcels under common law as well

Plaintiff's prezoning development and substantial expenditures incurred at Dunes West since 2002 including the purchase of the Property in early 2005, all in reliance to the Dunes West PD create an issue of fact as to whether Plaintiff has a vested right under the common law to residential use for the Surrounding Acreage

A vested right under the common law means simply a right which under particular circumstances is protected from legislative interference – it is a present fixed right of future enjoyment 2 Sutherland Statutory Construction § 41 6 (7th ed) It is plain that under the common law the Dunes West PD enjoyed a vested both present and future right to develop the land including the parcels at issue in this case R-1 and R-3

The right to use one s property is vested when prior to the enactment of valid legislative restrictions by a zoning ordinance the owner has in good faith substantially entered on performance of a series of acts necessary to accomplish the intended end Vulcan Materials Co v Greenville County Bd of Zoning Appeals 342 S C 480 498-99 536 S E 2d 892 901-02 (S C Ct App 2000) The vested rights doctrine recognizes that where property owners have reasonably made a substantial expenditure of money time labor or energy in a good faith reliance of a government approved land-use they have a vested right This vested right attaches to and runs with the property permitting the owner to make use of it in accordance with the government approved land-use Michael Weinman Associates Gen P ship v Town of Huntersville 147 N C App 231 234 555 S E 2d 342 345 (N C Ct App 2001)

Plaintiff is for all intents and purposes one and the same with JWHN the master developer of Dunes West since 2002 It would be an understatement to say that Plaintiff made a substantial expenditure of money time labor and energy into the large multiphase residential development of Dunes West Those expenditures included the construction and installation of roads water sewer electricity and other infrastructure for starters The expenditures in reliance of the phasing of development included the purchase price of the Surrounding Acreage that accompanied the golf course

The main reason Plaintiff purchased the Property was to develop the Surrounding Acreage for residential use Plaintiff would never have purchased the Property if there could be no residential use Operation of the golf course is not a financially profitable venture Plaintiff's business is residential home development not recreation and hospitality

Plaintiff's significant expenditures efforts investment and improvements at Dunes West establish far more than a scintilla of evidence that Plaintiff had a vested right under the common law to proceed with residential development on the Surrounding Acreage at the time the Town unilaterally stripped the land of that use

II There is far more than a scintilla of evidence to support Plaintiff's claim for inverse condemnation Indeed, the evidence overwhelmingly establishes Plaintiff's claim for inverse condemnation

The South Carolina Supreme Court requires only two elements be proven to establish an unconstitutional taking via inverse condemnation (1) affirmative conduct of a government entity and (2) the conduct effects a taking i e damage Byrd v City of Hartsville 365 S C 650 657 620 S E 2d 76 79 (S C 2005) Genuine issues of material fact preclude summary judgment on the inverse condemnation claim

The first element affirmative conduct requires the Town to enact and rule upon a zoning ordinance which restricts the use of land Id The determination that an act is affirmative positive and aggressive depends on the facts and circumstances of the particular case White v County of Newberry, S C 985 F 2d 168 173 (4th Cir 1993) It is undisputed the first element is met in this case

As to the question of whether there has been a regulatory taking the Supreme Court of South Carolina has adopted the tests applied by the Supreme Court of the United States If the regulation deprives the owner of all viable economic use of the land then the analysis is under Lucas v South Carolina Coastal Council 505 U S 1003 112 S Ct 2886 (1992) and if the owner is left with some economically viable use then the analysis is guided by the principles enumerated in Penn Central Transportation Co v City of New York 438 U S 104 (1978) If Lucas does not apply

then Penn Central does " Byrd v City of Hartsville 365 S C 650 660 620 S E 2d 76 81 (2005)

In this case Plaintiff asserts that it has met the *per se* takings test of Lucas There is proof that the Town deprived Plaintiff of all viable economic use of the Surrounding Acreage The land for which Plaintiff seeks compensation is the sixty acres comprising the Surrounding Acreage not the entire Property This case bears an uncanny resemblance to Lucas where the Supreme Court of the United States flatly rejected the state s argument that the land retained economic value as a picnic area and recreational site once residential use was prohibited

The South Carolina Supreme Court has not held that the parcel to be considered in the takings analysis must in all instances be identical to the tax map parcel identification No case has come before the Supreme Court of South Carolina comparable to this one where the acreage that lost all value came even close to the size of this acreage The cases cited by Defendant that involve a sliver of land next to the marsh a 200 foot buffer or a temporary taking bear no relationship to the facts of this case Here the affected land that has been permanently deprived of all viable economic use is over **sixty acres**

In implementing the case by case approach to judge the validity of zoning regulations on specific parcels of land numerous courts applying United States Supreme Court precedent have allowed less than all the land to be considered as a separate parcel under some circumstances See Nectow v City of Cambridge 277 U S 183 48 S Ct 447 72 L Ed 842 (1928) See also Am Sav & Loan Ass n v Marin County 653 F 2d 364 366 (9th Cir 1981) (adjacent parcels under a common owner

may be considered separately if it can be shown the owner treated the parcels separately) Loveladies Harbor, Inc v United States 28 F 3d 1171 1181 (Fed Cir 1994) (holding that when determining the denominator in the relevant parcel analysis [o]ur precedent displays a flexible approach designed to account for factual nuances and severing twelve and one-half affected acres from larger 250-acre parcel and finding categorical taking) Giovanella v Conservation Comm n of Ashland 447 Mass 720 728 857 N E 2d 451 458 (2006) (identifying whether the land is put to the same use or different uses as a factor in determining the relevant parcel) Twain Harte Associates, Ltd v County of Tuolumne 217 Cal App 3d 71 85 265 Cal Rptr 737 (Cal Ct App 1990) (holding the nature of the particular land use regulation has been recognized as potentially creating separate parcels for taking purposes) Florida Rock Industries v United States 791 F 2d 893 904 (C A Fed 1986) (finding a taking where the government s refusal to allow limestone mining on a proposed 98-acre tract was only part of the owner s original 1560 acre purchase) John E Fee Unearthing the Denominator in Regulatory Taking Claims 61 Univ Chi L Rev 1535 (1994) (where the total restrictions on development affect a significant enough segment of land that it could be independently developed for a profit the principles of fairness and justice underlying the Fifth Amendment require that the owner be compensated for this loss)

Thus contrary to Defendant s assertion in its Motion the law does not demand that the entire 257 acres be treated as a whole in an as applied inverse condemnation suit for purposes of the Lucas analysis There is plenty of proof in the record not just a scintilla to support the severance of the Surrounding Acreage to sustain a taking *per se* under Lucas

Here there is a fundamental issue as to what constitutes the relevant parcel to be evaluated in a takings analysis Because the relevant parcel to be considered in a takings case is a question of fact and material facts are in dispute as to what constitutes the relevant parcel summary judgment is improper See Am Sav & Loan Ass n v Marin County 653 F 2d 364 371 (9th Cir 1981) (holding summary judgment improper because identifying the relevant parcel is a question of fact) K & K Const , Inc v Dep't of Natural Res 456 Mich 570 580 575 N W 2d 531 536 (1998) (holding that determining the size of the denominator parcel is inherently a factual inquiry)

On the other hand if the Court were to determine that the land to be considered is all the acreage of the Property including the golf course footprint then there is also abundant proof to support a taking under Penn Central The test set forth in Penn Central inherently entails weighing the facts

> Three factors are typically balanced to decide whether the public benefit from a regulation or law outweighs the private harm to the landowner (1) the character of the government action (2) the economic impact of the regulation on claimant and (3) the degree to which the regulation/law has interfered with distinct investment-backed expectations If the public benefit outweighs the harm to the landowner there is no taking and the government need not pay compensation

Sea Cabins on Ocean IV Homeowners Ass n, Inc v City of North Myrtle Beach 345 S C 418 430 548 S E 2d 595 601 (2001) (citing Penn Cent Transp Co v City of New York 438 U S 104 98 S Ct 2646 57 L Ed 2d 631 (1978)) [2]

[2] In 2005 the United States Supreme Court clarified the Penn Central test by holding that the first two factors the magnitude of a regulation s economic impact and the degree to which it interferes with legitimate investment-backed expectations are the primary factors to be considered Lingle v Chevron U S A , Inc 544 U S 528 548

Our Supreme Court recognizes that the Penn Central analysis necessarily depends on an *ad hoc* fact-sensitive inquiry

> The general rule is that regulatory-takings cases require essentially ad hoc factual inquiries balancing all relevant circumstances to determine whether the government has taken property Two circumstances are especially important (1) the economic impact on the claimant and particularly the extent to which the [government] has interfered with distinct investment-backed expectations and (2) the character of the governmental action

Byrd v City of Hartsville 365 S C 650 658-9 620 S E 2d 76 80 (S C 2005) (quoting Penn Central 438 U S at 124 98 S Ct at 2659 57 L Ed 2d at 648))

The record includes considerable proof that the Plaintiff's primary purpose in acquiring the Property was to proceed with residential development of portions of the Surrounding Acreage that these were legitimate investment-backed expectations and that the downzoning had a profound adverse economic effect on Plaintiff This proof establishes genuine issues of material fact as to a taking under the Penn Central analysis

There is far more than a scintilla of evidence to support the takings claim under both the Lucas and Penn Central tests depending on what the Court determines to be the relevant parcel

III There is proof the Town violated Plaintiff's substantive due process rights in passing its excessive ordinance downzoning land outside the golf course footprint and abrogating Plaintiff's vested rights pursuant to the Dunes West PD

Plaintiff maintains that the rezoning of the entire Property not just the Surrounding Acreage was arbitrary and capricious If the analysis is confined to the

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(2005) The character of the government action while still relevant is a secondary consideration Id at 539

Surrounding Acreage there is considerable uncontradicted proof the professed reason behind the rezoning of Plaintiff's private residential property to park land was arbitrary and capricious

Both the United States and South Carolina Constitutions provide that no person shall be deprived of life liberty or property without due process of law U S Const amend XIV 1 S C Const art I 3 To prove a denial of substantive due process Plaintiff must show it was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law Sloan v S Carolina Bd of Physical Therapy Examiners 370 S C 452 483 636 S E 2d 598 614 (2006) Plaintiff has previously discussed the evidence in support of its vested right i e a cognizable property interest rooted in state law to residential development of the Surrounding Acreage

In this case the Town went so far beyond the outer boundaries of legitimate governmental authority that no process could remedy the deficiency " Harbit v City of Charleston 382 S C 383 394-395 675 S E 2d 776 782 (S C Ct App 2009)

Because the Town s Ordinance encompasses some sixty acres beyond the stated purpose of the Ordinance – preserving the golf course – it bears no reasonable relationship to a legitimate government interest and is unconstitutional The Town s own witnesses concede the reach of the Ordinance extended to land well beyond its stated purpose The Town s Ordinance is especially excessive in light of the fact that the Town knew Plaintiff had no present intention of developing the golf course and that Plaintiff intended to develop the Surrounding Acreage pursuant to the valid Dunes West PD

When Plaintiff sought a rezoning application to remedy the deficiency as was done with Snee Farm (discussed below) the Town s denial gave Plaintiff no other recourse but to file this lawsuit For these reasons the Town is not entitled to summary judgment on Plaintiff's substantive due process claim

IV Evidence supports Plaintiff's Equal Protection claim based on the Town's refusal to rezone a portion of the Surrounding Acreage to residential in 2009 The record reflects the Town's disparate treatment of Plaintiff as compared to similarly situated land where the Town granted a request for rezoning to residential

The Plaintiff alleges and the evidence supports that the Town did not apply its ordinances equally to all land downzoned from PD to CRO In 2009 the Town arbitrarily denied Plaintiff's request to rezone a portion of the Surrounding Acreage outside the golf course envelope The Town selectively enforced its rules when it permitted a similarly situated property owner to rezone its land outside the golf course footprint and intentionally refused Plaintiff's similar request These material questions of fact are in controversy and preclude the Town from summary judgment on Plaintiff's equal protection claim

The Town downzoned all TMS parcels that included golf courses from PD to CRO on June 13 2006 Plaintiff was told by the Town when it unilaterally changed the zoning from PD to CRO for Plaintiff's developable land outside the golf course footprint that Plaintiff should request to rezone its non-golf course developable land from CRO back to residential within the PD

Snee Farm is similarly situated to Plaintiff The TMS parcels at Snee Farm downzoned included land that was not part of the Snee Farm golf course The Town granted Snee Farm s later request to rezone land outside the golf course footprint to

residential There is no proof that the purposes of the CRO district necessitated that all the Surrounding Acreage at Dunes West remain CRO but did not require that some residual acreage at Snee Farm remain CRO Defendant argues the circumstances are different based on the community support of the Snee Farm application and the type and location of residential development However the inquiry is not whether the proposed zoning back to residential was popular or not but whether the Town can establish a distinction when applying the purposes and criteria of the CRO zoning district

A state may not deny to any person within its jurisdiction the equal protection of the laws U S Const amend XIV § 1 see S C Const art I § 3 ('The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged nor shall any person be deprived of life liberty or property without due process of law nor shall any person be denied the equal protection of the laws ')

The Equal Protection Clause requires that a state apply each law within its scope equally to persons similarly situated, and that any differences of application must be justified by the law's purpose " Harbit v City of Charleston 382 S C 383 396-397 675 S E 2d 776 782 - 83 (S C Ct App 2009) The purpose of an Equal Protection claim is to secure every person against arbitrary and intentional discrimination whether occasioned by express terms of a statute or by its improper execution through duly constituted agents Sunday Lake Iron Co v Township of Wakefield, 247 U S 350 352 38 S Ct 495 (1918))

The *sine qua non* of an equal protection claim is a showing that similarly situated persons received disparate treatment Olson v S C Dept of Health and Envtl Control 379 S C 57 70 663 S E 2d 497 504 (S C Ct App 2008)

> There are three steps in determining whether an ordinance survives rational basis scrutiny under the Equal Protection Clause (1) whether plaintiff was treated differently than others similarly situated (2) whether defendant intentionally discriminated against plaintiff and had a rational basis for doing so and (3) whether the discrimination/classification bears a rational relationship to a legitimate government purpose or goal

Bibco Corp v City of Sumter 332 S C 45 52 53 504 S E 2d 112 116 (1998)

The United States Supreme Court recognizes equal protection claims brought by a class of one meaning the plaintiff alleges that he has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment Village of Willowbrook v Olech 528 U S 562 564 120 S Ct 1073 1074 - 1075 (2000)

There is evidence to support the inference that that the Town purposefully and invidiously discriminated against Plaintiff in refusing Plaintiff s request to rezone the developable lots similar to those the Town approved in Snee Farm The Town insisted that Plaintiff meet the stringent requirements of §156 031 (D) Town of Mount Pleasant Zoning Code for changes to zoning while not applying the same standard to Snee Farm or previously to itself when it originally rezoned the Plaintiff's land There is also evidence that the Town lacked any rational basis for discriminating against Plaintiff when it refused to rezone Plaintiff's developable land outside the golf course footprint

The Town s denial of Plaintiff's request to rezone is not rationally related to the purpose of its ordinance The CRO designation sought to ensure the preservation of conservation recreation and/or open space used of land against undesirable

development provide opportunities for improved public and/or private recreation activities and provide for a community-wide network of open space buffer zones and recreation spaces including insuring that existing golf courses such as Snee Farm and Dunes West would remain golf courses These aims of the CRO ordinance theoretically remain the same whether the land outside the golf course is situated at Snee Farm or Dunes West This absence of a rational basis premised is itself evidence of discriminatory intent

Questions of state of mind and intent are preeminently factual issues for the triers of the facts Starkey v Bell 281 S C 308 315 S E 2d 153 at 156 (S C Ct App 1984) Questions of intent should not be decided on summary judgment See Wallace v Day 390 S C 69 76 700 S E 2d 446 450 (S C Ct App 2010) (holding that the determination of the parties intent at the time they executed a contract was a question of fact that should not have been decided on summary judgment)

V Summary judgment on the takings issue is improper because the record includes evidence that creates a reasonable inference that the Ordinance was enacted through an abuse of the Town's police power

Illegitimate use of police power constitutes a taking where it exceeds the limits of constitutionality and reasonableness and actually interferes with property rights Almost 90 years ago Justice Holmes recognized that excessive regulations could become a taking Pa Coal Co v Mahon 260 U S 393 415 (1922) The United States Supreme Court reiterated years later that [t]he Fifth Amendment s guarantee was designed to bar Government from forcing some people alone to bear public burdens which in all fairness and justice should be borne by the public as a whole Armstrong v United States' 364 U S 40 49 (1960)

The United States Supreme Court has long held that to justify the state interposing its authority on behalf of the public it must appear that (1) the interests of the public require such interference and (2) that the means are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals Goldblatt v Town of Hempstead, N Y 369 U S 590 594-95 82 S Ct 987 990 8 L Ed 2d 130 (1962)

The record includes evidence to support the finding and conclusion the Town abused its police power The Plaintiff communicated and the Town knew that the Plaintiff would not develop the golf course rendering the need to enact the Ordinance wholly unnecessary The public s interest in keeping the golf course did not require the excessive regulation adopted by the Town The Town s own witnesses have testified that the land encompassed by the downzoning Ordinance exceeded that which was reasonably necessary to accomplish the purpose of preserving the golf course

Although the valid exercise of police power is a presumption in a takings case there is evidence that the Town abused its police power in stripping Plaintiff of its rights to residential development on land that was not necessary for inclusion in the Ordinance to accomplish the Town's stated goal

CONCLUSION

For the foregoing reasons the Town s Motion for Summary Judgment should be DENIED

Signature to Follow

PRATT-THOMAS WALKER P A

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May 9 2011
Charleston South Carolina

CERTIFICATE OF SERVICE

Undersigned certifies that the pleading or paper to which this certificate is affixed was served upon the party(s) to this action by hand or by depositing a copy of same enclosed in a first class postpaid wrapper properly addressed to the attorney(s) of record for such other party(s) in a post office or official depository under the exclusive care and custody of the United States Postal Service on this 9th day of May 2011 in Charleston South Carolina

G Trenholm Walker

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF JOHN WIELAND

DUNES WEST COUNTRY CLUB, LLC,

Plaintiff,

vs CASE NO 2009-CP-10-3723

TOWN OF MOUNT PLEASANT,

Defendant

COPY

DEPONENT JOHN WIELAND

DATE FEBRUARY 17, 2011

TIME 11 23 AM

LOCATION Pratt-Thomas Walker
16 Charlotte Street
Charleston, South Carolina

REPORTED BY Darah L Nekola, Court Reporter
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WWW CLARK-ASSOCIATES COM

some leading questions just to get the ball rolling
Q John, you are -- you tell me if I am wrong, I understand that you are the -- have a controlling interest in John Wieland Homes and Neighborhoods and John Wieland Homes of the Carolinas?
A I do
Q Okay As well as the Dunes West Golf Course, LLC?
A I do
Q Okay Now, are those interests in your individual capacity or are there other corporate entities that you control? For example, Dunes West Golf Course, LLC, who are the members of that?
A I don't know This may not sound, you know, supremely intelligent, but I don't really know the answer to that question Obviously, I am, and I don't know whether I'm the sole member or not
Q But you would be the controlling member?
A I'm sure I'm the controlling member
Q Well, let's talk about Dunes West in general
A Okay
Q When did you or your -- when I say you, I'm talking about either John Wieland Homes and Neighborhoods or John Wieland Homes and Neighborhoods of the Carolinas Because as I understand it, those are

the entities that own property in Dunes West neighborhood except for the golf course, is that correct?

A Right

Q Now, when did you -- when did you acquire -- first acquire an interest in Dunes West?

A We built homes in Dunes West before we acquired the land -- I mean, the Dunes West entity It belonged to an individual by the name of ^ Allen Fecker, who, as you probably know, got engaged in a lot of litigation with the POA at Dunes West And I don't know what the entity name he had -- he owned the course out there, but even -- I mean, not the course, but the development

Q Right

A And then he eventually settled -- well, no No No He eventually just ran out of gas and sold it to us

Q So when -- what you purchased essentially, what I'm going to refer to as the undeveloped portions of the Dunes West Development?

A That would be a good way to put it

Q With the exception, of course, of the golf course

A With the exception of the golf course

Q And when you purchased the undeveloped portions

of the Dunes West neighborhood, your entities then became the master developer of the Dunes West neighborhood?

A Yes

Q Did you -- and you had the controlling interest of the POA?

A It's all very complex, but I think so Controlling interest of the POA?

Q Do you have the most votes?

A Oh, yeah We have the most votes

Q So you would -- and did you have -- you had authority -- well, I will get to that in a second

The golf course -- and just for purposes of today, when I talk about the golf course, I'm talking about the six tracts of land that comprise like 256 acres that Dunes West Golf Course, LLC, bought from Scratch Golf When we talk about the developable land, we will get into that But when I say the golf course, I mean the whole 256 acres

A You know, of course, I would respectfully disagree that that's the golf course

Q Sure And that's why we're here

A Yeah That's why we're here

Q But I think I am just doing it primarily because it's just easy to refer to it that way the total, and

A Not that I'm aware of
Q Okay When you purchased the golf course -- and I'm talking about -- now let's talk about the 256 acres
A Okay
Q Tell me what your plans were
A Well, my plan -- I'm a developer That's what I do and homebuilder So my plan was -- I mean, to us, we had -- me, I hate golf courses You know, I don't play golf, and they all lose money
Q That's fair
A So, you know, under the assumption that I had 56, 57, whatever it is, developable acres in the purchase, you know, we purchased the 266 acres -- and sorry, if I'm confusing the numbers a little But we purchased the big tract so that what we were calling the -- the clubhouse and the 18 things with the flags and -- you know, could operate, you know, over here, and then we could take the good dirt and use our floating zoning to develop the good dirt
Q When you talk about the 57 or so acres of good dirt, did you identify that before you purchased the property?
A Absolutely
Q And who did you -- how did you do that?
A Well, I mean, as you said, I thought it was five,

but you said six different tracts And, you know, why it was that way, I have, you know, no idea But, you know, our vision was always that Scratch Golf had done a decent job I don't know whether they made money or not I guessing they probably didn't because they sold it And, you know, we haven't made money And so working with Kevin Popson, who is the president of our Charleston company and who you will be deposing, I guess, next week, you know, we tried to figure out what we could do with what we considered to be the good land

Q Well, I mean, did you actually go out and walk it or did you have somebody survey it or is there a document that, you know, identifies where you thought this good land was?

A Well, I grew up on a golf course until we moved And so I knew about out-of-bounds markers And to me the out-of-bounds markers are always the edge of the golf course And we developed the -- we built on a golf course up in Summerville And the golf course edge is always the out-of-bounds markers, and I just assumed that was the case So I never looked at the survey, but in my mind -- you know, as I said, I don't play golf I think it takes too long But that's the edge of the course And then everything else is developable land

Q So what you -- visually you saw where the out of

bounds markers were, and you then made the assumption that everything that was beyond those boundaries were right for development?

A That's my understanding

Q And then at that time, your zoning would have allowed you to develop that property?

A I don't have any idea

Q Okay

A I mean, I assume so, or I wouldn't have bought it

Q All right Now, did you expect that your zoning would always stay the same?

A Absolutely Well, I mean, unless we went down and petitioned for a change and then they could approve it or not approve it

Q And on what basis -- what is that assumption based on that you -- your zoning would never change unless you were asked for it?

A Well, I have been in the business 35 years and owned -- you know, working five cities and have dealt with lots of counties and municipalities, and I have never had a, you know, political jurisdiction change the zoning on a piece of property against my will

Q Okay This is the first time that has ever happened?

are people -- it's not a private course And there are people that live in Dunes West that belong to the club across the street And there are people who don't live in Dunes West who belong to the club So, I mean, it's one of those -- it's like optional, you know If you want to play golf, that's nice, then you can join that course or you can join the course across the street Or you can just pay -- go down and pay to play that day

Q Well, then why did you purchase the course?

A For the 57 acres

Q So you paid $4 million for the 57 acres that are in dispute?

A No There's some value in the course as, you know, because we can sell it again

Q Right

A And we can -- as you determined, we borrowed against it So there's obviously value in it

Q And you borrowed against it after it was rezoned to the conservation recreation open space designation?

A No The conservation CRO, whatever you call it, I mean, that was a surprise after we owned the course

Q Right But you were able to borrow money from Bank of America after the property was zoned CRO?

A I don't know the timing of those transactions, but I won't dispute that

Q Well, if, for example, the property was zoned CRO in June of 2006 and you --
A Well, there is some residual value to a golf course if it's cheap enough
Q All right So I guess where I'm going is that do you acknowledge that the golf course -- take aside the 56 acres
A Okay
Q That the golf course has value?
A Yeah The 18 holes have some value
Q All right Do you know -- what would you estimate that value to be?
A I have no idea
Q Okay
A Less than what we paid for it
Q Less than 4 million?
A Yes Because we wouldn't pay 4 million to lose money
Q The 57 acres that's in dispute right now, were they ever -- when was the first -- if you recall, when were -- when were they ever first identified on a plat or on a site plan or actually drawn in on the golf course lands?
A I would have to check that I think we started working on that before we closed down the property I

think Kevin Popson went to speak to Joel Ford, who was the head of development for the Town, about our aspirations

Q And who would have been the draftsman, if you will, would you have an engineering firm working for you?

A Yes Seamon Whiteside has always done our work And we do a lot of work like by hand, you know I mean, if we have a plat, we sit down and --

Q So there would be some in-house drawings, sketches?

A Sketches

Q And then work done by Seamon and Whiteside?

A I don't know, you know, what we sketched in-house and what was done I'm not -- I mean, I just know we did an infinite -- seemingly infinite series of sketches, studies, theoretical outcomes of what could be done on this land and keep everybody happy

Q And you thought -- you think that occurred before you bought the property?

A I'm telling you, you know, I think we started on that process before we bought the property

Q Okay In this lawsuit, we have been given a site plan of the disputed areas And it is showing that what is in play, at least in this lawsuit, is 25 16 acres

Are you aware of that?

A Well, we kept modifying the acreage in which we wanted to develop over, you know, a period of years in an effort to satisfy the property owner's who were causing the disruption at the town council

Q So let me not put words in your mouth, but as I understand it, what you did is you have honed down your plan to 25 16 acres of developable land partly in response to the uproar that the neighborhood was raising?

A We kept seeking to compromise

Q And so are --

A Well, you know, our -- we feel that the CRO zoning was imposed unfairly and unconstitutionally, but at the time my memory is that -- first of all, it happened really, really quickly without, I think, the appropriate due consideration with a really large turnout by the owners -- some owners at Dunes West But there was -- the thought was raised, and I can't think -- tell you by whom or -- that if you don't like this, you know -- first of all, it isn't going to happen, you know We're not going to slow this thing down We're going to happen, so come on back and tell us -- you know, you can go from CRO back to something else

A I'm not talking about the flags and the --
Q The lands were purchased in March of '05, and at that point, if I'm understanding your testimony, there were already discussions or you-all had already looked at potential development spots that were included within those lands And why was there never any plans brought forward to the Town of Mount Pleasant?
A You mean before it was zoned CRO?
Q Well, between 2005 -- for the whole year of 2005 and the half year of 2006? Do you know -- there was never any subdivision plats brought forward -- or I don't have any record of it
A When was the -- I mean, I should know this, but I have a lot of other things I have to do When was the CRO zoning?
Q That was in June of '06
A We bought the property in --
Q March of '05
A Because it's -- Dunes West is a huge site And we weren't ready to develop, you know, this property And we had floating zoning, so we assumed that we could develop the site whenever we wanted And we did a variety of sketches and worked with Seamon Whiteside, and we had some great ideas about putting townhomes on the -- you know, one of the golf holes, which would have

really driven everybody crazy So, you know, we were surprised, shocked, infuriated, you know, when the city council -- town council, you know, all of the sudden pops up and rezones our property

Q Well, in the '05-'06 time frame, the economy was doing substantially better than it is today, right?

A Oh, today, yeah

Q And you were selling lots -- developing and selling lots elsewhere within Dunes West?

A Yeah We just build We don't sell lots Well, no, that's not true Back in the harbor -- I don't think the -- it would be accurate to say that we were busy

Q Right You were either selling lots or selling and building homes?

A Yeah

Q And so this -- there was no need at that point in time to --

A We didn't need more lots

Q So it was more or less a response to what the market was doing When the market demanded that these lots come on line, that's when you would have brought them on line?

A Well, in the institute -- yes Plus the fact that being close to the clubhouse was the advantage of

this property And so to market it at the end of Dunes West would even be more valuable

Q I see The longer you held it the more --

A The longer you held it the more valuable it became

Q Okay You were here this morning for Mr McMickle's deposition when we went through the financing, and I'm not going to go through all of that with you

A Thanks

Q How did you first acquire the -- did you pay cash for the golf course?

A I think so

Q Did that come from John Wieland Homes or do you remember?

A Well, John Wieland Homes is the entity that has the money

Q Okay Because, I mean, if that's what -- if I understood the testimony earlier, there's an intercompany loan --

A That sounds like the way we do business

Q So I would assume that John Wieland Homes and Neighborhoods forked over the $4 million Dunes West Golf Course, LLC, carries that as a liability on its books, and they are repaying you as you go along?

Q But your typical permitting processes, you didn't -- you're not aware of any -- experiencing anything unusual because of your being Dunes West?

A Nobody picked on us

MS CANTWELL Okay That's all I got Thank you

THE WITNESS That's terrific Thank you

(The deposition was concluded at 12 06 p m)

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY
CASE NO 09-CP-10-3723

30(b)(6) DEPOSITION OF KEVIN POPSON

DUNES WEST GOLF CLUB, LLC,

PLAINTIFF,

vs

COPY

TOWN OF MT PLEASANT,

DEFENDANT

WITNESS KEVIN POPSON

DATE FEBRUARY 25, 2011

TIME 10 10 A M

LOCATION PRATT-THOMAS WALKER, P A
16 Charlotte St
Charleston, SC 29401

REPORTED BY
WANDA S BUCKNER
NCRA Registered Professional Reporter
NCRA Certified Realtime Reporter
CLARK & ASSOCIATES
P O Box 73129
North Charleston, SC 29415
(843) 762-6294

just reviewed some files that I had and reviewed a few depositions that were sent to me

Q Okay Those are the only documents you reviewed?

A Correct

Q Did you read the Complaint?

A I did not I haven't in a long time

Q Let's go ahead and mark -- you referred to a timeline It is a document called Dunes West Golf Club Timeline dated December 22 --

(Exhibit No 2 was marked for identification)

Q -- '10 Just identify for the record what that is

A This is a timeline that I created just from old notes or a Day-Timer and recollection just trying to put together for me and for others in our company just sort of the events as I recall them leading up from the beginning until today

Q This is with respect to rezoning portions of the golf course to allow for residential development?

A Correct

Q You have dates, a number of dates down on the right-hand side of the page Are those

enough Have you ever given a deposition before?

A I have

Q So the ground rules are -- have not changed much over the years except they tightened up a little bit on what lawyers can object to and what you can talk to your lawyer about during the deposition I don't think we will have any issues related to that But I just want to clarify that if you don't understand a question, it is really important for you to tell me you don't, because otherwise, it is going to be assumed that you did and we are going to assume that your answer responded to the question as asked

A Okay

Q I am not the greatest deposer in the world and I am not all that articulate, so feel free to say, what are you talking about, and I will try to clarify and make it as clear as I can

A Okay

Q Before we started the deposition you were telling me a little bit about your work background For the record, let's put that on the record Tell me what you do now?

A What I do now is I am currently the Charleston division president for John Weiland

Homes Under that is all of the responsibilities for anything that John Weiland does in the Charleston area

Q And where are his primary -- where are the company's primary holdings located?

A In Charleston?

Q Yes

A We have the subdivision of Dunes West that we are the developer and also the home builder Hamlin Plantation, we are a joint venturer on the development part of it with the Centra Corporation, and the entity is Hamlin Plantation, LLC On the development side, we a joint venture, but we are really the only home builder in there now

The third is I purchase lots, developed lots, from the Daniel Island Company, and build homes on Daniel Island

Q When you say you purchase and develop lots, what does that mean?

A For example, well, Daniel Island Company will develop a section of lots, 20, 30, 40, whichever And we will go in, John Weiland will go in, I will go in and buy 10, 15, 20, 30, whatever Whatever they will allow me to have or whatever we think we could handle

Q And then for the purpose you build homes, or do you buy them to build homes and sell, or do you buy them to sell the lots?

A We buy on Daniel Island, we buy those lots to build homes and sell homes

Q When you buy a lot from the Daniel Island Company, for example, would the lot be equipped with utilities?

A Yes, ma'am Everything is right there, all utilities in place, all of the structure in place

Q What you would have to do is get the topography right and start turning dirt?

A Get a permit from the City of Charleston and start building the home

Q So John Weiland Homes actually builds homes, is a home builder --

A Yes, ma'am

Q -- and a developer

A Yes

Q And just -- I am trying to understand As a developer, when you say you are in a joint venture with Centra in the Hamlin Plantation development, as a developer would that mean that you, you, the joint venture, would actually be the entity that is

plotting or platting out the lots and building the infrastructure?

A It depends I don't know how much detail you want me to get in on the joint venture, but quickly, the joint venture, 50/50 partnership with John Weiland and Centra Corporation, the Centra Corporation was the managing partner They were in charge of putting the infrastructure and amenities in In one section known as The Sound, the joint venture sold developed lots to whomever, end users, builders, whatever

In addition to that, the partnership sold parcels to the Centra Corporation to build their homes and brought parcels to John Weiland Homes to, you know, build his homes In those cases, the individual partner would go into that raw land, develop the infrastructure, create the lot, and then when the lot was ready, go down, get the permit to build the homes

Q Let's move over to Dunes West As I understand it, John Weiland Homes or John Weiland Homes Carolina -- let's just say John Weiland for the two corporate entities -- purchased essentially all of the undeveloped areas of the neighborhood at some point in time?

A Yes In August of 2002 we closed on the remaining raw pieces of dirt at Dunes West We also purchased -- in that one agreement was, I believe it was like 20 individual developed lots in Darts Point and about 30 developed lots in Richmond Cove that the previous developer had already developed

Q And as to those lots being, quote, developed, end quote, that meant they were ready to be built on, utilities were at the site --

A They were

Q -- they had been platted, plat had been approved, roads were in, all you had to do was turn dirt?

A Correct

Q On the other acreage areas, John Weiland Homes would -- to bring those lots to market -- would build the infrastructure, and then sell the lots or build homes for sale to other people?

A Yes Just depending on the section For example, Marsh Cove We would go in and develop all of the infrastructure And then in that case, John Weiland of Georgia would develop the property And then in Marsh Cove's case, when the lots were developed, then John Weiland of the Carolinas, which is the Charleston division, would then buy the lots

and then build the homes on top of that

Q Okay

A Back in the Harbor section, for another example, we would go in and develop the lots and then sell them to individuals So we sort of had two lines of business That was the first time, at least in Charleston, that John Weiland had done that For example, in Brickyard when we sold him a parcel, he went in and developed it and built his own homes He did that throughout

But in Dunes West, since we had a lot of waterfront properties, some nice properties, we felt that that was a good product just to sell the lots

Q I see You mentioned Brickyard I have asked you what you do now You have pretty well explained it Prior to -- when did you come on board -- when did you start working for John Weiland?

A Came working for John Weiland in August of 2002 when we purchased Dunes West

Q Do you remember who you bought it from?

A Allan Fecker was -- Dunes West Residential Golf, LLC, I believe, is the entity The gentleman's name was Allan Fecker

Q We will go through the deeds, I have that

back where the creek was

Q The creek and there was a little bit of the brick -- what is it, the --

A It was called the commissary It was an old building left over from the brickyard days, and the chimney It is still there We left it in the middle of the cul-de-sac

But there were two lakes back there that was actually dug out by the workers to get the clay to make the brick That is probably where you were because of all of the birds and the nature and alligators and so forth

Q Didn't see any gators or snakes, thank goodness, but I saw some good birds

A Both of the other ones were there

Q You know, so you have been the project manager, I guess -- let's just talk about Dunes West now -- since '02 I see from your time schedule that you did that we have marked as Exhibit A that you have a -- you are the liaison, if you will -- tell me if I am wrong -- to the neighborhoods, but also to officials at the Town of Mt Pleasant?

A Yes, I am

Q So would you be the person that would approach the Town with ideas that y'all had or

submissions that you made as far as subdivision plats or anything like that?

A Yes, I would say 90 percent of the time If there was something that like picking up a plat or something like that or making a minor change, I might have sent somebody else that works for me But most of the time, it would be myself

Q And with respect to your dealing with the Town, who- did you primarily interact with?

A During Dunes West time or all --

Q Um-hum

A Dunes West, Joel Ford, dealt with Joel Ford a lot Have known Joel for a long, long time A little bit with Kent Prause A lot with Christine Farrell Kevin Mitchell Kevin Mitchell signs the plats, so there is a lot of dealing with him

You know, the office staff, you know, dropping off plats, picking up plats Probably touched just about everybody at one point in time but I would say Joel, Kevin and Christiane probably the most

Q Was your primary business with the Town presenting subdivision plats for approval?

A Yes You know, if we were getting ready to do another section, a new section, we would

always try to meet and just make sure we weren't doing anything wrong, we were abiding by the ordinances And maybe a quick review with Christiane and/or Joel saying, here is what we want to do, is there anything we are missing, whatever Sort of to try to get their thoughts so as we progressed through construction drawings or whatever, we kind of eliminated any possible mistakes or errors that we would have to deal with later

Q And how would you describe your dealings with the Town? By that, I mean, were they cooperative, were they obstinate? Just in general, how would you describe, if you went in to talk to Christiane or Joel, how did it go, by and large?

A I don't ever recall having an argument or anything like that They have always been wonderful to deal with You know, sometimes the plats -- the signing of the plats were delayed

Q Right

A And, you know, I would like them in two weeks and I didn't get them in four weeks, but it was just normal business

Q And how about did you ever have any dealings with council? I saw in your timeline you

talked to a couple of councilmen from time to time How were you received?

A You know, I really didn't do a lot of politicking with the council members Some I knew, some I met with, some I talked with, some I just said hello But again, anybody who I have ever dealt with or talked to, very nice, very pleasant

I guess if there is one council member that I probably have known the longest or most it would be Paul Gawrych, but never any issues

Q Paul lives in Dunes West, right?

A He does He moved there -- he wasn't there when we bought in 2002, but he did move in eventually and I can't recall when, but he is a resident

Q Okay The golf course was bought, I think, in 2005 And what -- tell me what provoked or what led up to the purchase of the golf course?

A We, as I mentioned earlier, part of my job was to manage the neighborhood and deal with the homeowners association Up until January of '06, we were in charge of the homeowners association, the POA I was president of the homeowners association

Q Let me stop you right there When you say you were president of the association, was that

and those people are -- they still are
Q I need to know about that because I never get the full story You probably know it better than anybody What would have gone on prior to your -- to John Weiland stepping in?
A I still need to answer your other question But there was a lot
Q That other question was what led up to the purchase of the golf course?
A Yes
Q All right I want to write that down
A I don't want to not answer your question
Q Okay
A Frances, we would be here a long time for the history of Dunes West
Q Thumbnail
A Okay
Q I know people were mad about something and I don't know what it was
A There was a lot of promises made --
Q Okay
A -- by Wild Dunes Associates which was Bobby Ginn, a joint venture between Bobby Ginn and some other guys and the Georgia-Pacific Company, equestrian, horses, all that stuff That never

evolved because livestock is not allowed in the town of Mt Pleasant

But -- and the roads that were built since they put the privacy gate up and the Town wasn't going to get the roads when they were finished, those roads were private so they really didn't have to live up to the standards of building the roads to the standards of Mt Pleasant, which are excellent And so the roads started failing

So there was a promise broken, roads failing, there was no communication We are the developer We are going to do it the way we want and there was lack of communication So that just festered Then they sold it to Mr Fecker Mr Fecker just sort of did the same thing Just didn't communicate, didn't listen to the homeowners, did what he wanted So just a lot of baggage, I guess

Q You had a lot of fence-mending to do?

A We did When we bought the property, there was $2 million escrowed We went in and repaired all of the roads that had failed under Georgia-Pacific and now Fecker, so we did all that We built brand-new amenities for them We cleaned up a lot of the legal issues

We took a huge effort on real estate community because there was lawsuits at Dunes West, and the real estate contracts literally, to the POA, literally were written that the customer would agree that he is getting into a homeowners association that is under litigation So the realtors didn't want to take people out to Dunes West and get in the middle of that

So the real estate community was sour on Dunes West and that was my biggest worry about taking over, you know, Dunes West Can we get the realtors to come back We worked hard at doing that But there was definitely a lot of things that we cleaned up

And one of the things, to go back to your question, was Mr Feker, there was drainage issues with the golf course and the community Salt water had gotten into one of the lakes because the flap gates were busted and Mr Feker and the POA wouldn't fix them, because they owned or maintained the drainage system

Well, Scratch Golf was the owner of the golf course and irrigating out of these ponds that now had salt water running in them through all of the irrigation from the golf course, and I think

80 percent of the golf course just burned out

So Scratch Golf then sued Mr Feker personally and the homeowners association of Dunes West because Mr Feker controlled the association as the developer So the litigation was going on and on We got involved I had to be involved because now I am the president of the homeowners association

So it finally was heading to court and it was clear that the homeowners association and Mr Feker were going to lose So we finally got to a settlement

John Weiland kicked in a lot of money to help settle it, and then the rest of the insurance companies kicked in and, you know, everything was taken care of

But in that time of possible litigation, getting to know the Scratch Golf guys, you know, I was getting wind that they were going to sell the golf course Then once they settled and got their money -- and I forget how much that was, my guess is $3 million -- but once they got that settlement, then they were definitely putting the golf course on the market And that is when we became interested

Q Why were you interested in acquiring the

course?

A Pretty much because of the residual land around the -- the play -- the out-of-bounds markers, if you would, of the golf course There was residual land that we, as a developer and home builder, could go in there and cut out and either create lots to sell to individuals or build homes to sell to individuals

And at the time, if you recall, I said we were back in The Harbor developing lots, putting lots on the market and people were buying them We had a lot of success The market was really good from 2002 to two thousand -- probably up to 2007, so the idea was -- and there was no golf course lots available at Dunes West And really, no other golf course lots that I was aware of at the time in other golf course communities in Mt Pleasant Snee Farm was built out, Patriots Point didn't have residential, Charleston National had all of their residential around the golf course already

So it was a nice opportunity for us, if anything, to just sell, develop lots to people to be on the golf course

Q Do you think that the golf course is an amenity to the neighborhood at large?

A Yeah I mean, you know, in our marketing, we use it, you know Arthur Hills 18-whole golf course All of the other amenities we have, boat ramp, boat storage, three swimming pools, we play on all of that

Q Okay

A But not everybody is a golfer

Q Right

A So, whether they come and choose a home there because of the golf course or not is kind of hard to tell

Q But you think that it could facilitate some sales? Obviously, that inures to John Weiland outside of the confines of the parcels that comprise the course

A I'm sorry?

Q I guess, speaking from John Weiland's perspective, not from Dunes West Golf Course, does the golf course from time to time help facilitate sales of his lots?

A Yes I mean, I don't know how to calculate that and I don't have a number for you, whether that was five buyers or 500 buyers, but, yeah, I would think that the amenity of the golf course being there, and if you are a golfer, would

drive somebody to come in there

Q Okay Well, let's talk about -- I am trying to -- so the Scratch Golf lawsuit settlement was in October of '04 That was the lawsuit pertaining to the salt water in the irrigation system?

A Yes, ma'am

Q And then you have, approximately two weeks later, that they start marketing the golf course for sale?

A That is pretty quick

Q Did they come to y'all?

A Not really Again, in dealing with the litigation part of it, I was -- then also we had repairs that we had to make to the golf course as the homeowners association president The drainage on the golf course is the homeowners' responsibility

So when we were -- we were repairing the roads, we were also cleaning out and fixing some of the drainage And so I developed a relationship with the Scratch Golf guys because I had to fix drains on their golf course

So I developed a relationship And then during the lawsuit, you know, obviously I was in

touch with them quite a bit and just knew that it was going to be on the market So I don't -- I want to say that I approached them first, but --

Q You had, pretty quickly, from October of '04, end of October to November 22 of '04, there is a purchase agreement that was signed?

A Yes, ma'am I was fearful that somebody else could come in and buy it, too So it was very -- we wanted to move as quick as possible

Q Why did you want to control it?

A Well, for a couple of reasons One is, you know, the residual land around could be developed And then, you know, to have the control of the amenity itself, you know, fearful that somebody else would come in and buy it and run it into the ground or wouldn't care or the confusion

There was a lot of confusion with buyers, you know When they would come in, you know, prior to us owning the golf course, they would come in and say, well, we want to buy your house, we also want to be a member Okay, well, you can buy our house but when are you done with us, you need to go down and see the Scratch Golf guys

So it was sort of confusion of different owners So, you know, because we were the developer

and we had spent a lot of money in Dunes West, you know, it was something we felt we needed to lock up and move quickly, and, you know, to get the development of some of those lots

Q Do you remember what you paid for it?

A $4 million

Q Do you know -- tell me about this How did you arrive at that number?

A It was what they asked, the price, that was their price, 4 million We said, we will buy it for that

Q Did you do any analysis?

A We did If you look at that or get a chance to look at that, we went under contract in November and then we had a due diligence period If I recall, our due diligence period was -- it was very short

It was, I want to say, the end of December And then I believe we got an extension until sometime maybe in January or maybe end of January But we had, you know, we had a lot to do as normal when you are trying to buy a property, all of the due diligence, again, these lots, the residual land, you know, all of the normal things you would do

Q When you refer to -- there is a memo I haven't looked at this, so, I need to take a break and look at this I will mark it as 3

(Exhibit No 3 was marked for identification)

(A recess was taken)

Q Back on the record Kevin, I was asking you about the analysis that was done and what led up to -- we were talking about what happened, what led up to the purchase of the golf course and the analysis that was done

You referred to what I thought I marked as Exhibit C which is a memo and a number of documents that, from what I can gather, are estimates of investments that will be made in the golf club clubhouse and then estimates of the cost to construct various lots under two scenarios, options A and B That is just a general description Would you essentially agree with that?

A Yes

Q Now, it is dated -- your memo is dated February 6 of '06 And the option A that -- the information pertaining to development of the lots is dated February 3 And the 10th hole renovations is similarly dated February 3 of '06 And then the

golf clubhouse renovations is dated February -- I can't read it -- 3 of '06?

A Yes

Q So was that the date that these documents were prepared or printed?

A They were -- I would say they were prepared anywhere from probably two weeks prior to that

Q Okay So this is '06?

A Correct

Q So this is a year after the --

A Correct

Q Okay Let's talk about -- before we get to Exhibit 3 and what happened after you bought it, what sort of analysis -- or if there was one done -- did John Weiland or did Dunes West Golf Club, LLC, perform with respect to identifying potential, as you call, residual lots?

A After we put the contract in, I then went down to Joel Ford's office with Stuart Whiteside At the time, basically, what I attempted to do was any residual property, I basically went in and loaded up whatever I could put on there, townhomes, homes, whatever I think -- I don't know the count, it was 81 or 88 lots, something like that -- never

really took it any further than that

When we met with Joel, Joel recommended that we go to the planning commission And to jump back, the golf course was zoned PD, planned development And our PUD is an older PUD and you don't see these anymore, but it allows us to float the zoning into the PD areas

As long as we stay within our limits of the different density, R1, R3, multiple family, whatever, we had certain, you know, density limits that we couldn't go over So as long as we stayed within those limits, we could float whatever we wanted into our PD zoning So -- and we could do that at a staff level, at least that was my understanding of it, and maybe Stuart Whiteside's

Q When you say staff level you mean as far as the Town was concerned?

A Correct So what -- we went to Joel and said, okay, first of all, am I correct, can we float the zoning in and, you know, would 88 lots work and, you know, and his idea was, fine, yeah, we can do that but I don't want to do it at a staff level I think that responsibility, we need to go to the planning commission

So then he also said, before you go to the

planning commission, I would get the support of the neighborhood

So right then, or right thereafter, listening to Joel and his advice, as I always did, we started the process of starting to visit all of the different homeowners

Q Was this before you bought the property or after you bought it?

A This was shortly after we put it under contract Part of the due diligence was what can we do with this land We closed on it March 5 March 5 of '05 or March 3 of '05 And then we started in earnest meeting with the homeowners

What happened was every time we met, it was sort of, okay, I will support you if you take this lot off And then go to the next one, okay, we will support you if you take these lots off So it sort of just always was a moving target

Finally, we got to the point in '06 where we were -- we, John Weiland, were comfortable with, you know, option A or option B, and we felt that with the homeowners we discussed it with, they would maybe support us but they ended up not supporting us So this evolved from meetings with many, many homeowners

Q You refer to this, you are talking about what we have marked as Exhibit 3?

A Yes, ma'am

Q So that would be -- the evolution started before you bought the golf course and it continued up to and through February of '06, approximately a year later?

A Yes And it really didn't change much after that, but as you have seen in the timeline, we still met with the homeowners, we tried to get their support, so forth And I don't really know anything to change from that point in time I think we were still at the end, at the 32 properties that we wanted to develop

Q You mentioned that you had done a scenario where you had 81 to 88 lots?

A Something like that

Q I see that you ordered a survey of possible lots along the golf course Did you ever get that survey?

A What I wanted to know was -- you could walk like the 10th hole and you could see the white sticks or you could see the out of bounds, whatever You knew just by playing golf or looking at it, you could see the land outside the golf course if you

were on the golf course

But there were some sections where some of this land butted up to property owners And that, I didn't know where the line was So, for example, on the 18th hole, there was three lots we wanted to do on Pignatelli Those three lots butted up to a homeowner there, so I sort of needed to know where that property was, you know, to see what land I had there, whether it be one lot I could fit in there, two lots or three lots

So it wasn't a detailed boundary of all of the residual land, it was more of wherever it butted up to an original homeowner so I didn't sort of get into their lot

Q And Southeastern Survey did that for you?

A Yes

Q Where are those documents?

A If I had them I would have made copies and sent them over to you

Q Who would have them if you don't, Southeastern?

A Southeastern

Q Did you ever share that with the Town or leave one with the Town?

A I don't believe so

Q Did you ever show it to Joel?
A I don't believe so
Q Who was -- I see this is in December of '04, again, during the due diligence You order a survey like at the end of December of '04 And it says, Paul Michaud --
A Michaud He was the example I used on the 18th hole I just wanted to make sure I wasn't encroaching on his, so I just had a few property stakes put up so I could look at it
And of course he saw the property stakes and thought, what is John Weiland doing, here they go, developing the golf course already, and kind of raised some Cain
Q And then in February of '05, this is before y'all had closed, you met with Joel Ford concerning the golf course development Can you recall or what do you recall about that meeting?
A Frances, I think it was just, we are getting ready to close in a week, you know, am I doing the right thing, am I going the right way, just confirming what we had said back in November We were getting really close
I think it was sort of repetitive of what we talked to on the 23rd We need to go to planning

and zoning Let's get the public involved

Q All right Let's get a few housekeeping things out of the way I am going to --

(Exhibit No 4 was marked for identification)

Q -- show you what I have marked as Exhibit 4 And it is a -- the title is special warranty deed, Scratch Golf, LLC, conveying to Dunes West Golf Club, LLC Do you see that?

A I do

Q Is this the deed by which Dunes West Golf Club acquired what I will call just loosely the golf course?

A It appears to be the one

Q All right Now, if you turn to -- you are right, consideration was $4 million, you were right about that

If you turn to page three which is the first page of Exhibit A, the course itself or the properties that were conveyed consist of six different TMS numbers Do you see that?

A Okay, I do

Q Now, when y'all bought -- when Dunes West Golf Club bought this property that is encompassed within these TMS numbers, at the time Scratch Golf

was using that property solely for recreational purposes, is that right?

A That's correct

Q Do you know of any restriction that would have prevented them from using the property for any other purpose?

A I do not

Q Okay After you purchased the property in March of '05, Dunes West Golf Club continued to operate the golf club, the golf course on these parcels in a similar manner to which Scratch Golf had, is that correct?

A Yes, ma'am

Q All right Maybe you operated it a little bit better, but I guess my point is you didn't change any use from when you purchased the property, you just continued what was in place?

A We continued the use and continued what was in place and we have kept 95 percent of the existing employees

Q Okay Just to bring the circle home, this is another --

MS CANTWELL Did I give you a copy?

(Exhibit No 5 was marked for identification)

Q They reference a plat entitled, final plat of Dunes West Golf Club owned by Scratch Golf Company by Elliott Quinn, III, dated August 4, 2004 and recorded in plat book EH, pages 737 through 745 Do you see that?

A Um-hum, I do

Q Did y'all review that plat prior to the purchase of the golf course?

A Frances, I saw it is a boundary plat, many pages I saw -- Lenny Krawcheck showed me that at the closing because I went down to sign for the buyer I saw it It was a quick look at it I am assuming -- my assumption would be our attorneys, before we closed, would have reviewed all of that stuff

Q When you were -- first of all, I am talking about when you were laying out lots Who was helping you identify potential lots for development on the course?

A That was me

Q Just you?

A Right

Q You didn't involve anybody from Stuart Whiteside's office?

A Not at that point In the beginning, you

know, it was just kind of walking around, thinking, okay, I could take this piece or that piece and --

Q So there was never any engineering analysis done with respect to soils?

A No, because the soils, for example, out at Dunes West are pretty consistent throughout

Q How about as far as where the utilities were, utility lines were?

A I don't recall -- we may have gotten into that in the beginning, but it seemed like a lot of that came later on after we dialed into what we thought we could do, you know, with the residents supporting us

Q When you mentioned what you dialed in and what you thought you could do, that would be the scenario set forth in Exhibit 3?

A Yes

Q That would be in February of '06, approximately 11 months later?

A Correct

Q All right At that point in February of '06, did you have a -- did you have a sketch or any type of plat that showed the actual layout of those lots on the golf course itself, on the golf course parcels?

A In -- for this memo?
Q Yes
A Yes
Q Who did that?
A That would have been myself and Chris Donato, Junior, or Stuart or one of the engineers
Q Okay And at that point in time, did anybody take a look at what I am calling the Quinn plat to determine where the location of easements or recreational areas or anything like that were?
A I don't remember us laying this out and looking at it, no I don't know whether Stuart went back to reference it or somebody in his office, if they were doing it, but we didn't lay it out and talk about it
Q Were the plans that you were drawing in '06, would it be fair to say they were more or less conceptual or sketch plans --
A Yes
Q -- as opposed to a subdivision plat?
A Yes Because when Joel's recommendation was to us to go to the planning commission, he recommended we go there with a sketch plan and, you know, you go, as you probably know, you go to the planning commission with a sketch plan and you

pretty much, that's all you do

And then if they allow it or don't allow it -- well, if they allow it, then you would then get back into construction drawings, and in that particular case, you would get into where the sewer is, where the water is, setbacks, any kind of ordinances that the Town would require

Q Okay

A We didn't want to go through all that and spend all of the money if, you know, we were going to go into planning commission, they were just going to turn us down

Q Did you ever go to the planning commission?

A We did I am losing track of dates It was right before the rezoning took place, I believe sometime in '06 We were denied

Q You were denied?

A We were Or they --

Q Would that have been -- the planning commission, you would have filed -- you would have made a submittal to the Town of Mt Pleasant to get on the agenda, I would assume?

A Yes But if I may correct myself, we did not end up going to the planning commission in '06

because at the time we were getting ready to go, that is when the rezoning was going to start taking place

Q Okay So what you were doing between '05 -- March of '05 and February of '06 were, I guess, going through the various development potential?

A Conceptuals, correct

Q And talking to the neighborhood?

A Correct

Q Then when we get into '06, the spring of '06, that is when council -- council started it or something with the planning commission regarding rezoning golf courses?

A Yes

Q And your recollection, you tell me, every golf course in Mt Pleasant was rezoned, is that right?

A That's correct

Q The $4 million purchase figure you indicated earlier, that was just the asking price?

A It was

Q So there was no analysis You tell me, was there analysis done by anyone in John Weiland, you or anyone else, as to what it thought the real

value of that property was?

A If there was they did it outside of my presence I don't recall any of that

Q So there was nothing that you are aware of that -- where they -- there was any discussion where people sat down and said, all right, they are asking 4 million, we think we have X amount of land that we might be able to develop for nongolf course use, so we think this is an -- that comes to a certain amount of money, so we think $4 million is fair, good deal, bad deal, any of those sort of discussions going on?

A The only thing I recall was that John Weiland felt that the $4 million was a fair price for the golf course and that residual would have been an added gift

Q So would it be fair to say that $4 million for the golf course, as is, was fair, correct?

A Yeah I have nothing to base that on, but that was my understanding of it And then, you know --

Q The residuals would be a bonus?

A Bonus, right

Q Okay Do you have an opinion as to what the value of the golf course -- let's break it out

Golf course properties consist of roughly 256 acres that was comprised in those TMS numbers that are set forth in the special warranty deed

A Sounds right

Q From what I gather, at least in the Complaint, is that it was alleged that roughly 60 of those acres were, quote, developable land, end quote?

A Sounds right

Q And what I am hearing now -- or we will get to that in a minute So I guess the questions, I want to break those out and ask you what your opinion is, if you have one, what would be -- what value would you attribute to the golf course, the 256 acres minus the 60 acres claimed to be developable?

A Frances, I don't know how to calculate that My guess is we bought it for 4 million thinking that was a good deal, so I guess, you know, if I had to put a number on it, it would be worth 4 million

Q Are you going to be testifying to the value of the course in this lawsuit?

A Well, I guess not

Q Okay Do you feel like you are qualified

to do that?

A Not really

Q Okay How about the 60 acres that are claimed to be developable?

A Yes

Q Do you have an opinion as to what they are worth?

A Well, it would depend on what time, you know, is it '06, what they were worth or --

Q What do you think they were worth in '06?

A Well, you know, 32 lots was about $10 million We had as many as maybe 81 townhomes, so, what is that, triple the value? Maybe 30 million

Q That is the build-out of 81 lots?

A That would be, yes, just, you know, laying townhomes wherever we could put townhomes

Q But when you came down to Exhibit 3, there were substantially less lands proposed to be developed at that point in time?

A It was, because of negotiations with the neighborhood

Q Okay Realistically speaking, if the parcels had not been down-zoned, what would you have expected John Weiland to actually develop, or Dunes

West Golf Club, I guess, I should say?

A That is hard to say I guess because we met with all of the homeowners and we said that this is what we would end up looking to do, I guess I would have to, you know, go back to this and say that is what we would be looking to --

Q When you say this, you are talking about what you set forth in Exhibit 3?

A Right Exhibit 3, the 32 lots, roughly $10 million

Q Okay

A There could be more developed, but I think we were satisfied with dialing down to that

Q And in truth, when you got to -- when you arrived at the 32 lots or the scenarios in Exhibit 3 at that point in time, the property -- you were still subject to the PD, but the property had not been rezoned So you could have gone forward with that, with either scenario A or B as set forth in Exhibit 3?

A We could have if the planning commission would have allowed us

Q Right, okay I guess what I am saying there wasn't a restriction on you that limited you to 32?

A No, no And there are probably some homesites or some of the pieces that we let go that if I had my preference I would put back into the mix

Q Describe for me what the developable land is or where it is and how much do you think that there is on the six parcels?

A I am not sure if I understand the question, but I will try The biggest section would have been near the 10th hole I believe that is about 11 acres Then the balance of it was sort of in field, if you would, single lots, you know, throughout the rest of the golf course

Q Let's take a look at --

(Exhibit Nos 6 and 7 were marked for identification)

Q All right Exhibit 6 and 7 are documents that have been produced in discovery that have been represented as being the properties that are subject to this lawsuit They are -- they comprise 25 16 acres as shown in purple on Exhibit 6, and then in yellow on Exhibit 7 Do you see that?

A I do

Q Exhibit 7 talks about 25 lots and 63 townhomes

A It does

Q Do exhibit -- let's talk about Exhibit 7 The layout shown on Exhibit 7 of lots, is that generally where you would consider the developable land to be?

A Yes

Q Is there any more?

A We could have probably carved out some more of this along Wando Way, but I don't know what that would add up to as far as how much more acreage

Q Okay Was this plan or any semblance of the layout shown on Exhibit 6 or 7 ever presented to the Town of Mt Pleasant?

A It was not

Q Okay The maintenance shed, as I understand it, is located on the golf course And on Exhibit 7, it would be where you have what looks to appear like townhomes on the corner of -- I don't have the street marked, but it is Wando Plantation Way, I think that might be Colonel Vanderhorst?

A It is

Q So where would -- you would have moved the maintenance shed, I take it?

A Yeah And again, this evolved, but at

this point in time, if this was the plan we were going to go for or go with, then the maintenance shed could have been moved here, or we at one time thought about moving it back up here where our cart shed is

Q So when you pointed to here, you were pointing to an area on Exhibit 7 adjacent to the green area at the corner of Wando Way Plantation and Colonel Vanderhorst, essentially where it has the Number 26 on it?

A Yes

Q And the alternate location would have been farther up this little white area?

A Next to the club That is the cart, what we call the cart barn

Q Right

A It would have been right to the right of that, adjacent to that There was a lot of discussion of that because that would have made a little bit more sense for the golf maintenance guys, because right now, as it exists, the maintenance shed is kind of away from the office and the clubhouse, so forth So having it all in one area was kind of a good thought to the golf guys

Q If you see on the top of Exhibit 7, lots 1

through 4, the maintenance shed would have been immediately adjacent to those lots?

A It would have been behind those lots, correct

Q Okay

A We -- if those would have been developed, we would have put some kind of buffer in there, whether it be a berm or landscaping, something to hide the shed

Q Those sorts of issues, the berming and the landscaping, that would have been done as part of bringing these lots to market?

A Yes

Q These are two documents, they are going to be 8 and 9 --

(Exhibit Nos 8 and 9 were marked for identification)

Q -- that somehow got into the files of Mt Pleasant, because we reproduced them to Trenholm Walker as part of the Freedom of Information Act request and these show potential locations for the maintenance shed And as I read this, it was at that point in time, it was proposed that the maintenance shed be located where lot 25 is shown on Exhibit 7, is that correct?

A That's correct
Q When was this -- when was the plan to locate the maintenance shed at the location of lot 25 on Exhibit 7 made?
A Frances, I am not sure of the exact date of when, but as we moved to an acceptable plan of where the homes would go, this lot would have been deleted and the maintenance shed would have been moved here
Q All right So your scenario under Exhibit 3, your development scenario at that time, contemplated the maintenance shed going where lot 25 is shown on Exhibit 7?
A Correct
Q So the iteration that we are showing of the developable land on lot 27 -- excuse me -- on Exhibit 7 was done after the lot -- after the development proposal or potential that is set forth in Exhibit 3?
A This was done before this I'm sorry if I misunderstood your question
Q Exhibit 7 was done before Exhibit 3?
A Correct
Q Well, Exhibit 7 -- I am trying -- I just want to understand it -- what Exhibit 7 has been

represented to us today is that these are the lands that are the subject of the lawsuit

A Okay, correct

Q Which means that there is a -- now state there is a potential for a developable lot to be put, Number 25 on Exhibit 7, which, as I read it, at one point in time that was where the maintenance shed was going to be relocated to

A Right, as we got down to this conceptual plan If we were to get the zoning for this layout of this conceptual layout, then we would move the shed either here or up here

Q So those are the other two locations you had?

A We had

Q At one point you considered putting it where 25 is?

A When we got down to our 32 lot scenarios, conceptual, because the cul-de-sac changed, the lot configuration changed This was no longer in play And so we felt we could move it to there That is what this drawing is for

Q So the -- how many lots were you talking about on Exhibit 3?

A There was a total of 32 There was 26 in

here

Q 26 on the 10th fairway?

A And six individual, I believe These three and those three

Q All right So out of the plans evolved even more to have a total of 25 lots and 63 townhomes, is that right, so you are up to 88?

A Well, it started out this way and it evolved to the 32 because of all the discussions with the homeowners

MS CANTWELL Let's go off the record for a second

(Off-the-record)

Q Exhibit 7 shows a total development of 88 units, correct?

A Correct

Q And does Exhibit 7 reflect what the number of units and their location -- generally reflect what you and Joel Ford discussed prior to your purchase of the golf course?

A Yes

Q All right And the Exhibit 6, which is another iteration of the layout of the parcels, shows that the acreage is 25 16, correct?

A Correct

Q So this 88, the 81 to 88 -- scratch that
The Exhibit 7 which shows 88 units is your max -- your maximum of developable units prior to your discussions with the neighborhoods?
A Correct
Q So this would be the max developable land on the course?
A Correct
Q Okay Who was present besides you and Joel, was anybody else ever present for those meetings?
A The first one we met in November of 2004, Stuart Whiteside was with me
Q Any other times?
A Not that I recall
Q All right How about any of the Town people there, Christiane, Kevin?
A No, not at the first meeting, it was just Stuart, Joel and I Then the second time that I went by before we closed, I believe it was just Joel and I
Q Okay To your knowledge, has there ever been any submission, whether it was a sketch plan, bubble plan, preliminary plat, anything like that, was there ever any submission made to the Town of

Mt Pleasant to subdivide that would have resulted in the subdivision of what you are claiming to be developable land from the parent tracts that comprise the golf course?

A Not that I recall giving them anything

Q Okay Let's talk about exhibit -- we want to talk about a couple of exhibits

(Exhibit No 10 was marked for identification)

Q Exhibit 10, do you recognize that document?

A I do

Q Just to speed things along, this was the presentation made to town council requesting a rezoning of certain lands to allow for residential use?

A It was

Q Okay Now, as I understand it, the developable land that the plaintiff is claiming at Dunes West Golf Club, when y'all eyeballed it initially, you were looking at out-of-bounds markers, is that right?

A Correct

Q And the plan that has -- that is being presented now or what you are suing for, not all of

the acreage is outside areas of play of the golf course, isn't that right?

A Can you say that again

Q Yeah Bad question

In order to construct or plat out the lots that are shown on Exhibits 6 and 7, alterations to the golf course will have to be made, won't they?

A Yes

Q And so what you are showing here and claiming as developable land, it is not, from the golfer's perspective, these lands are not out of bounds, they are within the area of play?

A Yes They would be if they were developed as this sits There would be some that would come into play

Q So what you initially thought were considered developable were areas beyond the out-of-bound markers of the golf course, correct?

A Correct

Q But you changed now and you are actually developing or would like to develop parcels that would -- that would be within the playing areas of the golf course that would require alteration to the course, is that right?

A Correct

Q Okay Just so I am clear on this, to your knowledge, speaking for Dunes West Golf Club, are there any other lands within the TMS numbers, the parent tracts of the golf course, that you are claiming are developable other than what is shown on Exhibit 6 and 7?

A No

Q All right So we don't have 60 acres, we have 25 acres and some change?

A That's correct

Q Now, the -- these lots that are shown on Exhibits 6 and 7, when they were located as they were on these exhibits, was any comparison made or did anybody consult or look at the plat of the golf course by which you acquired property, the Quinn plat we talked about earlier, to determine where potential easements were?

A No

Q Have you seen Danny Forsberg's report?

A I looked at it very briefly

Q And do you recall his report identifying that a number of these lots were either low or sitting on drainage or recreational easements?

A I do recall that

Q All right I think you said earlier that

the drainage system is now controlled by the POA or owned by the POA?

A It is

Q And recreational amenities areas are owned by the POA?

A The recreational areas are owned by John Weiland Homes

Q I'm sorry Is there something called recreational easements?

A I am not familiar with that

Q Has the POA been asked to allow for easements to be moved?

A They were never asked

Q All right And so if any of the lots that are shown on Exhibits 6 or 7 encroach upon areas of the property owners association, those lots are not developable unless you could -- unless you get permission from the association?

A Right If that is -- if what he is saying, the easements are there, if all of that is true, then, yes, we would have to go to the POA

Q If the POA didn't approve it, you couldn't develop the lot?

A At that point in time, correct

Q What about now?

A Well, if the easement was in -- I guess where the easement goes over the lot, if the easement goes over the lot like in the center, obviously you couldn't develop it without their approval If the easement is, you know, sort of along the side of the lot and there is still room to fit the house, then you could still develop it

Q But it is fair to say or is it fair to say that to the extent any of these lots shown on or potential lots shown on Exhibit 6 or 7 require POA approval to alter an easement, that permission would have to be gotten before you could market the lot?

A Correct

Q If you didn't get that permission you couldn't market the lot?

A At that point in time, correct We could go back the next year and ask the new board if they would allow us to do that

Q Okay And nobody has asked -- as far as you know there has never been any request made to the POA to alter any of the easements they own?

A There has not We -- I wasn't aware of any issues that would cause the POA to be involved

Q Okay

(A recess was taken)

Q I am going to quickly run you through Exhibit 2 which is your timeline

A Okay

Q Then I am going to get into some things asking about specific causes of action which y'all brought

Referencing Exhibit 2, Kevin, you know we get to February of '05 right before you purchased the property and you meet with Joel, and I believe at that point in time you said, again, you just reiterated, am I on the right track, that sort of thing?

A Correct

Q Over the next -- between February of '05, you bought it in March of '05, and then in March of '06, you show -- council start discussing rezoning for all golf courses What do you recall about that?

A Just remember a lot of things in the newspaper from starting with Kings Grant up in -- I guess that is Summerville, where somebody up there was trying to actually develop all of the golf course And so I think a lot of that bleeded down over to the Town of Mt Pleasant and I guess there was concern with the current council that that could

happen with the golf courses in Mt Pleasant

Q It was never your intention to develop the whole course?

A It was never our intention to develop the whole course

Q So then I see that there is again, the matter gets to the planning commission in April of '06?

A Yeah That was the planning commission to vote to recommend the rezoning to the CRO or conservation open space

Q Do you recall any discussions or interactions with Mr Gawrych?

A At that time?

Q Yeah

A Frances, we spoke I don't recall any conversations I know Paul -- these are my own words -- I know Paul was torn because he lived there and he wanted to do what was right by his constituents, I guess, if you would And I knew that And I know how council is and, you know, whenever there is a bunch of people up there rabble-rousing, if you would, you know, they like to support the people who vote for them

So that is why it was very important for

us to try to get the homeowners to support us That is why we took all this effort We felt like if we could have the homeowners of Dunes West on our side, that would bode well with the Town of Mt Pleasant, the council

Q Did you have the property owners board on your side? I can't remember?

A You know, we did and we didn't At one point in time they didn't want to support us Then we had numerous meetings with them And we always took the approach where we wanted everybody to win

And part of all of the negotiations was the fact that, okay, if we get this rezoning, we win, because we get homes to build and a profit to make hopefully We were going to donate the monies to the POA if they supported us

Q This would have been after the council had rezoned the golf course properties?

A Correct And there was probably some discussion of how we could help the POA out if they supported us prior to the rezoning, because all of these meetings that we had, it was like, okay, what can we do to get your support

Q Okay

A A lot of the homeowners association board

members said, okay, money, give us money, give us that, whatever There was always -- we were trying to figure out what it would take to get the support And we felt we could give some money to the POA We felt we could redo the club, you know, so the club members would, you know, be happy So what we tried to attempt was to have a win-win for everybody

Q This is happening over the course, after the rezoning, this starts up -- it looks like starts up in earnest again in January of '08?

A Correct

Q Did you actually make a submission at that point or request to rezone?

A We did

Q All right And that request was ultimately withdrawn?

A It was withdrawn We went to planning commission and we were voted down, or they voted not to recommend to council So we felt at that time that, okay, you know, council in the past has voted sometimes even if planning commission didn't recommend

Q Right

A And sometimes planning commission would not -- would recommend something and council not

vote for it So -- but we felt that, you know, this was a sensitive thing We had a lot of people coming out

The planning commission voted to not recommend, that we felt that council probably wasn't going to vote for it, so we thought, let's step back, let's go back to the homeowners and see if we can't win their support So we went through it

Q What happened at the annual meeting in December of '08? Says Kevin explains our plans for rezoning and solicits the residents' support

A It is the same thing, Frances You know, boos and --

Q Was Mr Weiland there?

A I don't think so

Q Is the Web site still available?

A I don't believe so

Q Okay

A You know, you could try It may still be there, but I don't think so

Q It wouldn't be up-to-date, I would take it

A It would not be up-to-date

Q All right So in March of '09, again, there is a series of meetings with residents

Actually Mr Weiland comes to one on March 26

A Yes The strategy that -- I changed the strategy I felt that if I had smaller meetings with the subsections, Hartford Village, Marsh Cove, whatever, I felt maybe I could get more support there, and if anything, divide and conquer, sort of

The idea was to go smaller groups and get somebody's support Then we did have one more big meeting where John came in That was the one that was at Carlo That was the last one

Q That was the last meeting?

A That we had of the large group, correct

Q All right So you did make a submission in '09, obviously You went to the planning commission How did -- they recommended against it?

A They did

Q And when it got to council, they voted it down on the first reading?

A They did And then second and last, third read

Q And there had been some discussion before the vote, you and Kenny Seamon talked to Ken Glasson, who was a council member, and Nick Collins

A Yes And Joe Bustos, I don't know if that is in here somewhere or not I remember speaking to

Joe And it was just simply, here is our plan, we would love your support

Q Were they open to talking to you?

A They were open to talking, but they weren't going to sit there and say, we are going to support you or not support you It was just sort of, here is what we are doing, a little heads up, so you don't see it for the first time on the screen that night

Q Okay Who was mayor at that point? Was it Kruger Smith or was Mayor Hallman?

A It was still Mayor Hallman, but we were coming up -- I have to think back now We were coming up on the new election that Mayor Swails --

Q Won?

A -- won, and I believe he was campaigning at this time

Q Okay

A I may be wrong about that

Q I can't remember either I was just curious about that All right Let's take different tract Let's talk about the Complaint

(Exhibit No 11 was marked for identification)

Q I know it has been a while since you have

read that, Kevin, but I am showing you Exhibit 11 which is actually the Complaint that was filed by the Dunes West Golf Club against the Town of Mt Pleasant

It sets out a number of beefs that Dunes West has with the Town, various causes of action I just want to go through some of them with you to talk about some factual things more than anything else I am not obviously asking you to make any legal calls If you would turn to page 10 of the Complaint?

A Okay

Q There is a seventh cause of action alleged and in paragraphs 56 and 57, if you want to read them real quickly, you can

A Okay

Q What do you know about the rezoning of Snee Farm?

A I was -- I was at the planning commission and the council when they voted for it The only thing different that I remember about this is the 50 residential units were, well -- it was constructed on seven acres and my personal thought was, wow, that is a lot of density for seven acres But nothing more than that

Q Well, if you read page 59, paragraph 57 says, Dunes West Golf Club is similarly situated to the developers and owners of property in Snee Farm Country Club

And then in paragraph 59, it says In granting the 2007 rezoning request of Snee arm and denying the similar rezoning request of the plaintiff in June of 2009, the Town of Mt Pleasant acted arbitrarily and denied the plaintiff its constitutional right to due process and equal protection

What I wanted to ask you about is factually tell me why you believe if that is the case, that is what Dunes West Golf Club alleged, why you were similarly situated to Snee Farm

A Well, I would believe that we sort of did, you know, took the same path They had their golf course rezoned and they wanted to take a portion of the residual land and develop it The same thing with us

Theirs was around the clubhouse, I believe They were going to have to move some things, the clubhouse or the parking lot or tennis courts or something like that But it was my feeling that we were doing -- going down the same

path as the Snee Farm guys

We wanted to take something that was residual to the golf course, not really mess with the golf course, and put some homes on it And they were allowed and we weren't

Q So essentially, they got approved and you didn't?

A Correct

Q But your proposal would have altered the golf course to a greater degree than theirs, wouldn't it?

A Yes

Q If you recall, I mean, I don't know if you know

A I don't think that they got into any golf holes I don't know if I ever really saw their plan I do know that they would have had to do -- move some of the facilities there But I don't remember them having to move any of the golf course

Q So essentially what we have got is we are a -- Snee Farm is a golf course, they have got part of theirs rezoned, we didn't?

A Correct

Q Okay As for paragraph 60, it says that As a result of the Town's denial of your

Q Take a minute to read that
A Okay
Q Let's talk a little bit Essentially, the second paragraph -- excuse me -- second sentence of paragraph 13 says that The zoning of the town at that time, i e , Dunes West, PD, entitled and vested Dunes West Golf Club to develop the parcels with R1 and R3 and multiple family residential usage as a matter of right
A Okay
Q Now, was that -- does that reflect or refer to what we were talking about earlier, that under the zoning you had flexibility to apply R1 and R3 at various places throughout the PD so long as you didn't exceed your density caps?
A That's correct
Q Then it says, the next sentence says These vested development rights were an integral part of the parcel's value and inducement to the plaintiff's purchase since the operation and maintenance of a golf course is not financially profitable
Now, tell me what you mean by vested rights What do you think that means?
A I think it means that when we bought the

golf course we had the zoning of PD in place, and you know, that was our right at the time And in '06 the zoning was changed on us and took away our vested rights

Q So you were basing your vested rights on the zoning of the property at the time you bought it?

A Correct

Q Okay Is there any other basis for vested rights that you are aware of?

A Not really

Q There is no development agreement with the Town, is there?

A There is not

Q Okay Let's look at page four, paragraph 19

A Okay

Q This paragraph says -- and I am not going to read it again, but it essentially says that Dunes West Golf Club, but it also mentions John Weiland Homes Neighborhoods and John Weiland Homes Neighborhoods of the Carolinas, had a vested right to develop the developable land

Now, this is what I kind of want to -- the three entities, Dunes West Golf Club, LLC, John

Weiland Homes and John Weiland Homes of the Carolinas, they are all separate corporate entities, aren't they?

A As far as I know, yes

Q They may all be controlled by Mr Weiland but they are separate, they exist as separate entities?

A Yes

Q Now, the John Weiland Homes and John Weiland Homes of the Carolinas, to your knowledge, do they have any legal interest or title to any of the lands claimed to be developable that are subject of this lawsuit?

A The legal part of it, I don't know if I can comment on that But the owner of the land is the Dunes West Golf Club, LLC

Q As far as you know, that is the sole owner?

A That is the sole owner

Q All right Well, it talks about -- paragraph 19 says they have a vested right to develop the developable land by virtue of the ordinance, which we discussed, and then it says Their significant investment in and improvement to the Dunes West project since taking over as

developer in 2002 and becoming owner of the golf course in March 2005

Now, has Dunes West Golf Club made any investments or any investment in any lands outside of the parcels that were acquired from Scratch Golf Company?

A No

Q So there has been no investments by the golf club company outside the confines of what I am referring to as the gross -- the gross acreage that comprises the golf course?

A That's correct

Q So expenditures by -- well, as John Weiland Homes or John Weiland Homes and Neighborhoods, other than a loan to perhaps the Golf Club, LLC, has it made any independent investments in the property owned by the Dunes West Golf Club?

A No

Q Okay Do you have an idea of what the Dunes West Golf Club, LLC, what the level of their investment has been in the parent tracts that comprise the golf course?

A It would be -- it would be limited on my end, but my guess is, or my opinion would be the 4 million that they purchased it with, and then

whatever improvements that we have done to the club, mostly cosmetic, new carpet, TVs, new furniture

MS CANTWELL I think that was quantified by Mr McMickell?

MR McCULLOUGH Yes

MS CANTWELL Fair enough?

MR McCULLOUGH There is a narrow area that you were called for

Q Let's look at paragraph 22 of Exhibit 11

A Okay I think I understand it

Q Tell me what your understanding of that paragraph is

A That the ordinance took, basically, took our golf course and the residual land of the golf course and turned it into a creation of a park open space or rec area

Q And what about the part that says As a condition of the Town's past and future development approvals for the entire Dunes West project, Grand Dunes, Dunes West Golf Club, John Weiland Homes and John Weiland Homes and Neighborhoods I guess what I am getting at is to your knowledge has -- since this lawsuit -- since this rezoning occurred in June of '06, has any application, other than your rezoning application for Dunes West Golf Course

to -- Dunes West Golf Club, any application been denied or conditioned on your agreeing to maintain the golf course as a golf course?

A No

Q All right How about for John Weiland Homes?

A No

Q Or John Weiland Homes and Neighborhoods?

A No

Q They are all three separate, are they not?

A Correct

Q So you had approvals granted to you, tell me if I am wrong, but subsequent to the rezoning of the golf course in 2006, there have been other applications processed, evaluated, approved, disapproved by the Town, is that correct?

A Yes

Q Has this rezoning ever been mentioned as a condition of your getting approval?

A No

Q Let's go to page nine of the Complaint Let's take a look -- if you would, take a look at paragraphs 50, 51 and 52

A Okay

Q All right In paragraph 50 alleges that

the ordinance was excessive, arbitrary and capricious in rezoning nongolf course land to CRO

Now, nongolf course land, we are talking about -- you have identified today, you have referred to as the residual property?

A Okay

Q Is that right?

A That's correct

Q Now, the next paragraph talks about the developable land and the parcels And I will tell you, if -- you referenced it earlier in the Complaint -- the developable land are the alleged 60 acres that were outside of the area of play which I think you have been referring to as residual properties?

A Correct

Q And the parcels are the parent tracts, all six TMS?

A Correct

Q Now, in 51, Dunes West Golf Club is alleging that the CRO zoning violated constitutional rights and that Dunes West Golf Club has lost all significant economical and beneficial use of the developable lands and the parcels

Now, I want to break that out a little

bit The parcels -- the developable land, I don't know if you want to refer to it as the 25 16 acres you are suing for, that is to, as it has been laid out in the Complaint, that is a separate part of the parcels as an entity, the parent tracts, correct? If you don't know --

A I am confused by the question

Q I guess here it is Let's look at the parcels The parcels as defined in the Complaint are the 256 acres that you bought from Scratch Golf

A Okay

Q Now, those parcels have been rezoned to CRO?

A Correct

Q Now, this paragraph alleges that that rezoning has deprived Dunes West Golf Club of all significant economical and beneficial use of the parcels

My question is, I just want to get it clarified, the 256 acres that you purchased in 2005, the use of those parcels is the same today as it was in 2005?

A Most of it is the same

Q What is different?

A Well, the golf course itself, the play of

lay of the golf course is the same use as it was before The residual or developable land, yeah, as it sits today, it is the same, but my right to develop it has gone

Q I am just trying to talk about the parcels Because this paragraph says it is not limited to developable land, it talks about the parcels itself

What I am saying is the CRO has not prevented the use of the parcels, the entire 256 acres that was in existence when you bought the property in 2005?

A Correct

Q So the same use is going on today as it was in '05, correct?

A Correct

Q And probably -- I don't know when the golf course was built I think in the early '90s?

A I think that's correct

Q And there has not been any significant alteration of the golf course as originally laid out by Georgia-Pacific?

A That's correct

Q And in this lawsuit, if -- I want to make sure I understand it What is on the table as far

as property claimed to have been taken by inverse condemnation are the 25 16 acres?

A Correct

Q All right Do you have a number of what you think that value is, of those developable lands, what was taken, what were your damages?

A The only thing I can refer to would be the memo in '06 of what we wanted to do with the 32 lots

Q Okay No -- nothing since '06 Have you looked at Chris Donato's appraisal?

A Very briefly I didn't read through the whole thing And, you know, I would rely on whatever he came up with the value, you know, currently or in '09

Q And was there ever any analysis done on how developing the lands that you would like to develop would affect the golf course itself?

A Not really You know, we were going to redo the 10th hole We were going to shorten it, make the green a little bit more attractive with sort of an island green

We did go back to Arthur Hills for his recommendation since it is an Arthur Hills and we didn't want to lose the Arthur Hills designation, so

we went back to him and said, hey, if we make this change, is this going -- is there anything you see wrong with this and can we still claim it is an Arthur Hills And he sent us an e-mail back saying, yeah, fine, you can make the change It is fine

Q Did he -- excuse me

A Go ahead

Q Did Mr Hills review the layout that is shown on Exhibits 6 and 7?

A No

Q All right So the only thing he was commenting on --

A Was the conceptual of the new 10th hole

Q Okay And do you know that -- do you know whether or not any of the other lots, other than lots 10, 11, 12, 13, 14, 15, and 26, taking those aside, those are the lots on the 10th hole --

A Correct

Q -- do you know whether any of the other lots require alterations to the course?

A No The only other thing that would have come into play is we would have maybe had to reroute some cart paths, like, for example, in here The cart paths kind of go all over the place and they would have to be redesigned

Q You are pointing to --
A -- lots A, Band C
Q On Exhibit 7?
A Yes
Q I'm sorry Were you going to say something else?
A Well, there was one of your witnesses reported that the tee boxes would have to be moved or whatever and that was never the case from our end
Q Do you know if that is accurate?
A I don't think the report that I read was accurate, because it was already mentioned of not moving tee boxes
Q So if, in fact, the dimensions that had been given to Mt Pleasant, the dimensions of the lots as laid out would require moving tee boxes when platted on the -- when overlaid and platted on the course, what would you have done? Would you have made the lot smaller or move the tee box?
A We would have probably moved the property line in away from the tee box
Q That would have affected the size of some of the lots?
A Correct

Q Okay
A But not to the point where you couldn't put a house on them
Q Okay
A The goal back here was to try to keep these an acre because of all of the other homeowners around it were an acre And that was one of the comments in all of these meetings that, you know, these are all acres so those should be acres
Q You are referring to lots --
A A, B, C, U, V, W, X, Y
Q What about lots, the smaller lots, 22, 23, 24, 19, 18, 21, 20, 16, 17, those seem to be small lots, right?
A Yeah I believe those were roughly around half acre
Q Okay
A Then these would be -- for the reference --
Q Let's call them the clubhouse lots?
A The attempt there was to keep them similar to what was in Hartford Village
Q Are all of those lots shown, are they going to be single-family development?
A Some of these are single-family and then

some of these are townhomes The five or six by the clubhouse, there are some townhomes there and along the 10th hole was townhomes

Q So the plan would be to construct townhomes?

A At this point in time, yes

Q As we sit here today, the lots laid out on Exhibits 6 and 7 have never been subdivided from their parent tracts?

A They have not

Q Okay And the rezoning, if you reference Exhibit 10, the rezoning request that was made in 2009 is not the same configuration of lots that are shown on Exhibits 6 and 7?

A That's correct

Q So the town council never saw an iteration of Exhibit 6 or 7?

A Not that I have ever shown them

Q Okay

(Off-the-record)

MS CANTWELL We are finished

(The deposition concluded at 12 40 P M)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO 2009-CP 10-3723
	)	
	)	
DUNES WEST GOLF CLUB, LLC	)	
	)	NOTICE OF TAKING OF DEPOSITION
Plaintiff,	)	
	)	DATE January 10, 2011
vs	)	
	)	TIME 9 30 am
TOWN OF MOUNT PLEASANT	)	
	)	PLACE Regan and Cantwell, LLC
Defendant	)	105 Wappoo Creek Drive Suite 1 A
	)	Charleston South Carolina

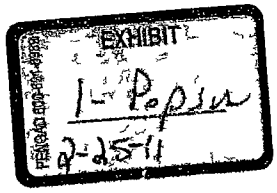
TO G TRENHOLM WALKER ESQ AND CLAYTON B MCCULLOUGH ESQ
ATTORNEYS FOR THE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that the Defendant will take the oral deposition of the witness named at the time and place set forth above before a notary public authorized by law to administer oaths You are notified to appear and take such part as you may deem appropriate

WITNESS Dunes West Golf Club, LLC

As to the matters set forth in Exhibit A, Dunes West Golf Club, LLC is hereby directed pursuant to Rule 30(B)(6), South Carolina Rules of Civil Procedure, to file a designation with the Court specifying one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and shall set forth, for each person designated, the matters on which he will testify or produce documents or things The person so designated shall testify as to matters known or reasonably available to the organization

The oral examination will continue from day to day until completed This deposition is being taken for the purpose of discovery for use at trial and for all other purposes as are permitted under the rules of this Court and all applicable statutes and laws



Charleston, South Carolina

December 30, 2010

Frances I Cantwell, Esq
Regan and Cantwell, LLC
105 Wappoo Creek Drive, Suite 1-A
Charleston, South Carolina 29412
Tel (843) 762-8282
Fax (843) 762-8284

Attorney for the Defendant

CERTIFICATE OF MAILING

The undersigned certifies that a copy of this Notice was e-mailed and placed in any envelope with first-class postage attached, addressed to addressee above and deposited in the United States Postal Service at Charleston, South Carolina on the 30th day of December, 2010

Charleston South Carolina

December 30, 2010

Theda R Monteiro, Legal Assistant
Regan and Cantwell, LLC
105 Wappoo Creek Drive, Suite 1 A
Charleston, South Carolina 29412
Tel 843-762-8282
Fax 843-762 8284

AMENDED EXHIBIT A

1 The facts supporting the allegations of Paragraph 13 of the Complaint that the Dunes West PUD vested development rights to Dunes West Golf Club, LLC, to include the identity of the rights vested

2 The facts supporting the allegations of Paragraph 19 of the Complaint that Dunes West Golf Club, LLC made significant investment in and improvements to the Dunes West Project

3 The facts supporting Dunes West Golf Club, LLC s distinct investment-backed expectations upon the purchase of the Golf Course

4 The facts supporting the allegations of Paragraph 21 of the Complaint that the re-zoning of the Parcels, as defined in the complaint, destroyed all economic value of the Parcels

5 The facts supporting the allegations of Paragraph 22 of the Complaint that the re-zoning imposed conditions for past and future development approvals in the entire Dunes West Project

6 The facts supporting the allegations of Paragraphs 50 and 51 of the Complaint that the rezoning violated state and federal constitution rights to due process

7 The facts supporting the allegations of Paragraphs 57 and 59 of the Complaint that the due process and equal protection rights of the Plaintiff have been violated

8 The amount of damages claimed by the Plaintiff for each of the following (1) a total taking, (2) a partial taking (3) a temporary taking, (4) due process violation, and (5) equal protection violation

9 The financial operations of all aspects of the Dunes West Golf Course, to include revenues, expenses capital improvements

10 The financing of the purchase of the Golf Course and any financing or refinancing or debt restructuring subsequent to the initial purchase of the Course

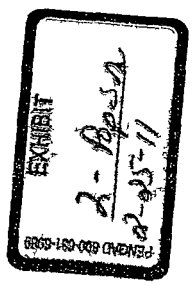
11 The facts supporting the existence and location of areas within the TMS parcels that comprise the Golf Course that Plaintiff contends are outside the area of play and are developable

12 The person knowledgeable about the acquisition of the Golf Course, to include its value at the time of purchase and currently, the negotiations leading to its purchase and the specific development plans contemplated at the time of purchase

13 The person most knowledgeable about the value, amount and location of acreage claimed and contemplated for development now and at the time of purchase and how that was determined

DUNES WEST GOLF COURSE TIMELINE
Dec 22, 2010

Scratch Golf Lawsuit Settlement	October 15, 2004
Scratch Golf starts marketing the golf course for sale at $4,000,000	October 30, 2004
John Wieland and Scratch Golf enter into purchase agreement	November 22, 2004
Kevin and Stuart Whiteside meet with Joel Ford concerning development of golf course	November 23, 2004
Kevin orders surveying of possible lots along golf course	December 3, 2004
Southeastern Surveying surveys lots/trees around golf course Paul Michaud emails to complain	December 28, 2004
Kevin met with Joel Ford concerning development of golf course	February 22 2005
Kevin John, Dave met with Dr Maize, a Dunes West Resident and Planning Commission Member He said he could support and recommended multiple small meetings throughout Dunes West	July 12, 2005
John Wieland sends a letter to all DW residents explaining our plan to develop around the Golf Course	December 20, 2005
Town Council starts discussing rezoning for all Mt Pleasant golf courses	March 2006
Mailing to DW Property Owners to gain support/attend Planning Commission	April 1 2006
Planning Commission votes to rezone golf courses recommend rezoning to Town Council	April 19, 2006
Planning Committee of Council votes to recommend rezoning on golf courses to full Council	May 1, 2006
Keith Nothstein, President of DWPOA, sends letter to the Town supporting the rezoning	May 9, 2006



Town Council votes to rezone golf courses to CR-O Conservation recreation, open space district, first reading	May 9, 2006
Town Council votes to rezone golf courses to CR O, Second and Final reading	June 13, 2006
Kevin and Kenny Seamon met with Joe Bustos, a Council Member, to explain our plan and to gain his support	March 30, 2007
General Meeting with Dunes West Residents	June 8 2007
Kevin met once again with Joel Ford to discuss Golf Course Lots	June 11, 2007
Smaller Dunes West Neighborhood meeting to gain support for golf lots	January 8, 2008
Another smaller neighborhood meeting to gain support for Golf Course lots	January 9, 2008
Another smaller neighborhood meeting to gain support for Golf Course rezoning	January 10 2008
E-blast to all golf and swim and racquet members requesting support for the rezoning	January 21, 2008
Planning Commission-JW requests to rezone back to original PD Zoning Planning Comm votes 'No	January 23 2008
Kevin met with Christine Farrell at Town to discuss withdrawal of request to rezone golf lots	January 25, 2008
John Wieland withdraws request-required to wait 1 year before we can go back to Council	January 30, 2008
Planning Committee of Council votes to accept JW withdrawal of rezoning request	February 4, 2008
Town Council approves JW request to withdraw rezoning	February 12, 2008
Dunes West POA Annual meeting—Kevin explains our plans for rezoning and solicits the resident's support	December 9, 2008

Establish website—DWZONINGINFO COM to help residents learn about our plans and to share their comments	March 17, 2009
Kevin holds Golf Lots Presentation to Marsh Cove/ Richmond Cove residents at Tim Anderson's home	March 17, 2009
Kevin holds Golf Lots Presentation to Egrets Walk/ Palm Cove residents at Mel Goldstein's home	March 19 2009
Kevin Holds Golf Lot Meeting for Hartford Village/ Downing Place at Mike Murrin's home	March 23, 2009
Kevin holds Golf Lot meeting for Golf club members at Swim and Racquet Clubhouse	March 25, 2009
Special meeting for residents of Dunes West at Carlo School John Wieland and Dave Durham attended and spoke	March 26, 2009
Kevin meets with Jim Dooley, Planning Commission Member, regarding Golf Course rezoning	March 30 2009
Kevin holds presentation for Harbour residents to gain support for rezoning	March 31, 2009
Kevin holds another meeting with Hartford Village residents	April 8, 2009
Kevin holds rezoning meeting for Col Vanderhorst residents at Bev Costell's home	April 13, 2009
John Wieland sends letter to all Club Members asking for their support	April 13, 2009
Kevin holds meeting for Swim and Racquet Members to gain support	April 16 2009
Planning Commission votes not to recommend JW rezoning back to PD zoning	April 22, 2009
Planning Committee of Council votes not to recommend to full Council	May 5, 2009
Jennifer Courville, President of DWPOA, speaks on behalf of the POA in support of JW rezoning	May 11, 2009

Town Council votes to deny JW the right to rezone back to PD zoning, first reading	May 11, 2009
Kevin and Kenny Seamon meet with Ken Glasson, Town Council Member, regarding rezoning	June 5, 2009
Kevin and Kenny Seamon meet with Nick Collins Town Council Member, regarding rezoning	June 5, 2009
Town Council votes to deny JW rezoning back to PD, second and final reading	June 9, 2009
Lawsuit filed at 4 00 pm	June 12, 2009

MEMO

Date Monday February 6 2006
Subject Dunes West – Additional Golf Lots (follow-up)
From Dave Durham
To John Wieland Terry Russell Eric Price Whitney Crouse
Rich Rankin Kevin Popson

JOHN WIELAND HOMES
AND NEIGHBORHOODS
1950 Sullivan Road Atlanta GA 30337
Phone 770 703 2213 • Fax 770 907 3442

Option B 26 Cluster and 6 Golf (1 acre)

Revenues	$10,106 800
Projected Cost	$2,285,220 *(Includes development relocation of maintenance shed reconfiguration of hole #10 and new green entrance hardscapes)*
Clubhouse	$738 710
15% Contingency	$110 807
Course Improvements	$220 000 *(Includes bunker repair bid irrigation repairs landscape)*

$6,752,063 Net Contribution



Dunes West Golf Course Home Sites
Projected Revenue / Cost Program
February 3, 2006

Option A

Projected Gross Revenues (28 Lots)	9,657,200
Projected Costs	2,135,220
Gross Income	7,521,980
Gross Margin	77 9%

Option B

Projected Gross Revenues (32 Lots)	10,106,800
Projected Costs	2,285,220
Gross Income	7,821,580
Gross Margin	77 4%

Assumptions

- Berms / landscaping on Wando Way included
- Relocation costs for maintenance shed/ equipment are included
- Relocation costs for 10th Green as shown on Option "B" are included
- Build four Entrance Ways on Wando Way
- Costs for Clubhouse improvements and sand traps repairs not included
- Roadway costs are based on Option "B" If Option "A" is selected cost savings would occur
- Option "A" costs are less, since 10th Green would not need to be relocated
- Lots 1&22 on Option "A" may need to be removed if entrance or buffer is needed

Golf Course Home Sites – Option B
Gross Revenues

10th Hole Home Sites

Lot			
	1	$409,900	Typical Lot Size 75x120
	2	$459 900	
	3	$429,900	
	4	$409,900	
	5	$379,900	
	6	$409,900	
	7	$409,900	
	8	$409,900	
	9	$409,900	
	10	$399,900	
	11	$209,900	
	12	$199,900	
	13	$199 900	
	14	$199,900	
	15	$199,900	
	16	$199,900	
	17	$189,900	
	18	$179,900	
	19	$169,900	
	20	$359,900	
	21	$339,900	
	22	$279,900	
	23	$179,900	
	24	$159,900	
	25	$169,900	
	26	$159,900	
Total		**$7,527,400**	

Individual Home Sites

Lot			
	A	$439,900	1 04ac
	B	$399,900	1 00ac
	C	$439,900	1 44ac
	W	$439,900	1 00ac
	X	$429,900	1 04ac
	Y	$429,900	1 04ac
Total		**$10,106,800**	

Golf Course Home Sites – Option A
Gross Revenues

10th Hole Home Sites

Lot			
	1	$159,900	Typical Lot Size 75x120
	2	$169 900	
	3	$179,900	
	4	$189 900	
	5	$199,900	
	6	$199,900	
	7	$199,900	
	8	$199,900	
	9	$209,900	
	10	$399,900	
	11	$409,900	
	12	$409,900	
	13	$409,900	
	14	$409,900	
	15	$409,900	
	16	$419,900	
	17	$429,900	
	18	$439,900	
	19	$439,900	
	20	$429,900	
	21	$399,900	
	22	$359,900	
Total		**$7,077,800**	

Individual Homesites

Lot			
	A	$439,900	1 04AC
	B	$399,900	1 00AC
	C	$439,900	1 44AC
	W	$439,900	1 04AC
	X	$429,900	1 04AC
	Y	$429,900	1 04AC
Total		**$ 9,657,200**	

Dunes West Golf Course Home Sites
Projected Costs

Engineering (Design / Submittals)	39,000 00
Surveying	21,000 00
Development Fees	56,800 00
Roadway	500,000 00
Sewer	138,000 00
Water	62,000 00
Entrance Ways	400,000 00
10th Green Relocation / Fairway	150,000 00
Maintenance Shed Relocation	425,000 00
Landscaping	350,000 00
Signage	14,000 00
Lighting	20,000 00
Subtotal	**2,176,400 00**
Contingency (5%)	**108,820 00**
	2,285,220 00

Preliminary Opinion of
Probable Construction Cost for

3 Feb 06

10th Hole Fairway Homes

ITEM	UNIT	QUANTITY	UNIT PRICE	COST
ROADWAY AND DRAINAGE SYSTEM				
Clearing and Grubbing	Ac	5	$5 000 00	$25 000 00
Strip Topsoil & Spoil Onsite	C Y	950	$5 10	$4 845 00
Strip Topsoil & Repsread on Shoulders	C Y	1 150	$6 75	$7 762 50
Excav Roadbed to Subgrade	C Y	1 150	$5 25	$6 037 50
Fill Roadbed to Subgrade (onsite source)	C Y	1 150	$6 00	$6 900 00
Rough Grade to Subgrade	S Y	2 275	$3 50	$7 962 50
Excavate Pond & Spoil Onsite	C Y	25 000	$4 85	$121 250 00
Fine Grade Roadbed	S Y	2 275	$2 10	$4 777 50
Fine Grade Shoulders	S Y	1 150	$1 50	$1 725 00
24 Concrete Roll Curb	L F	1 700	$10 00	$17 000 00
24 Concrete Valley Gutter	L F	50	$15 00	$750 00
Concrete Gutter Apron	Ea	1	$1 275 00	$1 275 00
Base Course (8 GABC)	S Y	2 275	$9 75	$22 181 25
Asphalt Surface Course (2)	S Y	2 275	$6 25	$14 218 75
Temporary Turn a Round (6 GABC)	Ea	1	$5 500 00	$5 500 00
Sidewalk	S F	1 700	$15 00	$25 500 00
15 Reinforced Concrete Pipe (O Ring)	L F	200	$30 00	$6 000 00
18 Reinforced Concrete Pipe (O Ring)	L F	200	$35 00	$7 000 00
24 Reinforced Concrete Pipe (O Ring)	L F	200	$43 00	$8 600 00
30 Reinforced Concrete Pipe (O Ring)	L F	200	$60 00	$12 000 00
36 Reinforced Concrete Pipe (O Ring)	L F	200	$82 00	$16 400 00
6 Underdrain	L F	1 700	$11 50	$19 550 00
Curb Inlet Type I6	Ea	8	$2 500 00	$20 000 00
Catch Basin/Yard Inlet	Ea	12	$2 100 00	$25 200 00
Junction Box	Ea	2	$2 600 00	$5 200 00
Excavate and Grade Swales	L F	600	$4 00	$2 400 00
PyraMat Pipe Outlet Aprons	Ea	2	$850 00	$1 700 00
Tree Protection Fencing	L F	1 000	$5 00	$5 000 00
Temp Construction Entrance (Rock Mat)	Ea	1	$1 850 00	$1 850 00
Silt Fence	L F	1 700	$3 25	$5 525 00
Silt Fence (Reinforced)	L F	500	$4 00	$2 000 00
Drainage Structure Protection	Ea	20	$250 00	$5 000 00
Grassing	S Y	12 000	$2 00	$24 000 00
Traffic/Street Signs	Ea	2	$275 00	$550 00
			Subtotal =	*$440 660 00*
SANITARY SEWER SYSTEM				
Connect to Existing Manhole	Ea	1	$2 750 00	$2 750 00

ITEM	UNIT	QUANTITY	UNIT PRICE	COST
Manholes (6 to 8 Deep)	Ea	4	$2 500 00	$10 000 00
Manholes (8 to 10 Deep)	Ea	4	$2 900 00	$11 600 00
Manholes (10 to 12 Deep)	Ea	3	$3 200 00	$9 600 00
Manholes (12 to 14 Deep)	Ea	3	$3 700 00	$11 100 00
8 PVC Sewer Line (6 to 8 Deep)	L F	400	$28 00	$11 200 00
8 PVC Sewer Line (8 to 10 Deep)	L F	400	$32 00	$12 800 00
8 PVC Sewer Line (10 to 12 Deep)	L F	400	$39 00	$15 600 00
8 PVC Sewer Line (12 to 14 Deep)	L F	400	$48 00	$19 200 00
Short Single Sewer Service	Ea	10	$675 00	$6 750 00
Long Single Sewer Service	Ea	12	$1 375 00	$16 500 00
Testing and Inspections	L S	1	$10 000 00	$10 000 00
			Subtotal =	*$137 100 00*
WATER SYSTEM				
Wet Tap to Existing Line	Ea	1	$5 000 00	$5 000 00
8 PVC Water Main	L F	600	$19 00	$11 400 00
6 PVC Water Main	L F	250	$16 00	$4 000 00
8 Gate Valve and Box	Ea	3	$1 150 00	$3 450 00
6 Gate Valve and Box	Ea	3	$900 00	$2 700 00
8 MJ Fitting (Bend Tee Reducer Etc)	Ea	3	$600 00	$1 800 00
6 MJ Fitting (Bend Tee Reducer Etc)	Ea	3	$500 00	$1 500 00
Fire Hydrant	Ea	4	$3 000 00	$12 000 00
Short Single Water Service	Ea	10	$425 00	$4 250 00
Long Single Water Service	Ea	12	$725 00	$8 700 00
Testing and Inspections	L S	1	$6 500 00	$6 500 00
			Subtotal =	*$61 300 00*
			TOTAL CONSTRUCTION COST =	***$639 060 00***
CONTINGENCIES				
General Contingency (10%)	L S	1	$63 906 00	$63 906 00
Mucking Contingency (??% @ 18)	C Y	2 000	$30 00	$60 000 00
			Subtotal =	*$123 906 00*
			TOTAL COST WITH CONTINGENCIES =	***$762,966 00***
INDIVIDUAL LOTS				
Tap and Bore Line	Ea	6	$1 500 00	$9 000 00
Grass and Fine Grading Bore Site	Ea	6	$350 00	$2 100 00
Long Single Service (2 for each lot)	Ea	12	$725 00	$8 700 00

ITEM	UNIT	QUANTITY	UNIT PRICE	COST
Service Fees (Water & Sewer)	Ea	12	$465 00	$5 580 00
Testing and Inspections	L S	6	$750 00	$4 500 00
			Subtotal =	*$29 880 00*
			TOTAL CONSTRUCTION COST =	***$41 880 00***

ENGINEERING & LANDSCAPE ARCHITECTURE FEES

Design and Submittal (Eng)	L S	1	$27 500 00	$27 500 00
Design and Submittal (L A)	L S	1	$8 000 00	$8 000 00
Surveying for Cul de Sac (Plats and Staki	L S	1	$10 000 00	$10 000 00
Surveying for Individual Lots (Plats and St	L S	6	$1 000 00	$6 000 00
Construction Administration	L S	1	$4 000 00	$4 000 00
			Subtotal =	*$55 500 00*
			TOTAL =	***$55 500 00***

PRELIMIN `Y BUDGET
DUNES WE_ GOLF CLUB
ADDITIONS RENOVATIONS

Trade	Item	Quantity	Unit	Cost/Unit		Total
General Conditions	Supervision - Project Manager (50%)	7	Wk	$3,000 00	$	21,000
	Superintendant (100%)	14	Wk	$1,500 00	$	21,000
	Labor	14	Wk	$750 00	$	10,500
	Office Overheads	7	Wk	$1,000 00	$	7,000
	Permits/Inspections	1	LS	$7,500 00	$	7,500
	Material Testing	1	LS	$8,500 00	$	8,500
	Final Cleaning	1	LS	$1,500 00	$	1,500
					$	**77,000**
Demolition	Remove Walls, Cart debris	5,900	SF	$2 00	$	11,800
	Remove & cart floor	1,400	SF	$2 50	$	3,500
	Remove & cart doors & frames	12	EA	$50 00	$	600
	Remove & cart portion of stair	1	LS	$1,800 00	$	1,800
	Remove & cart steps	24	LF	$20 00	$	480
	Remove beams & columns	31	EA	$75 00	$	2,325
	Remove trusses/Floor on 2nd Floor	700	SF	$3 00	$	2,100
	Selective demolition of roof	900	SF	$2 00	$	1,800
	Shoring & bracings during demolition	1	LS	$8,500 00	$	8,500
	Remove & cart misc Fixtures	1	LS	$850 00	$	850
	Remove planters at entrance	2	EA	$350 00	$	700
					$	**34,455**
Site Work/	Rework affected hardscape & landscape	1	LS	$3,500 00	$	3,500
					$	**3,500**

PRELIMIN Y BUDGET
DUNES WES GOLF CLUB
ADDITIONS RENOVATIONS

Trade	Item	Quantity	Unit	Cost/Unit		Total
Concrete	Excavation for wall & column footings	120	CY	$10 00	$	1,200
	Concrete at Wall Footings	90	CY	$250 00	$	22,500
	Concrete at Column Footings	20	CY	$250 00	$	5,000
	Slab on Grade	3,000	SF	$2 50	$	7,500
	Miscellaneous concrete patching	1	LS	$1,500 00	$	1,500
					$	**37,700**
Masonry	Brick Veneer	5,100	SF	$5 00	$	25,500
	Lintels	30	EA	$50 00	$	1,500
	Pre-fabricated columns	16	EA	$1,400 00	$	22,400
	Stucco	250	SF	$7 00	$	1,750
					$	**51,150**
Struct Steel	Columns	8,440	LBS	$1 25	$	10,550
	Beams	6,260	LBS	$1 25	$	7,825
	Railings	175	LF	$45 00	$	7,875
	Miscellaneous Steel	1	LS	$7,500 00	$	7,500
	(Connections, Base Plates, Anchor Bolts, etc)				**$**	**33,750**
Wodwork/Millwork	Timber Pile Foundations	20	EA	$1,200 00	$	24,000
	Floor truss	3,000	SF	$4 00	$	12,000
	Roof truss	3,300	SF	$5 00	$	16,500
	Wood Stud Framing (L+M)	6,000	SF	$5 00	$	30,000
	Wood Stair/ Modification	1	LS	$14,500 00	$	14,500
	Millwork in Kitchen, Dining areas	1	LS	$36,500 00	$	36,500
	Wood base	325	LF	$4 50	$	1,463
	Chair Rails	325	LF	$6 50	$	2,113
	Crown mouldings	325	LF	$10 00	$	3,250
	Exterior trim/cornice	450	LF	$20 00	$	9,000
					$	**149,325**

PRELIMIN Y BUDGET
DUNES WES GOLF CLUB
ADDITIONS RENOVATIONS

Trade	Item	Quantity	Unit	Cost/Unit		Total
Roofing/Waterprfg	Roof Structure	3,300	SF	$1 00	$	3,300
	Waterproofing	1	LS	$1,500 00	$	1,500
	Gutters/Downspouts/Roof Drains	1	LS	$2,500 00	$	2,500
	Insulation (L+M)	12,600	SF	$1 25	$	15,750
	Tyvek	6,600	SF	$1 00	$	6,600
					$	**29,650**
Doors/Windows	Double French Doors, Frames, Hdwr (L+M)	6	PR	$1,800 00	$	10,800
	Single French Doors, Frames, Hdwr (L+M)	2	EA	$900 00	$	1,800
	Wood Doors, Frames, Hdwr (L+M)	4	EA	$700 00	$	2,800
	Clad Wood Windows (L+M)	1,450	SF	$32 00	$	46,400
					$	**61,800**
Finishes	Drywall (L+M)	14,700	SF	$2 50	$	36,750
	Sheathing - OSB (L+M)	6,600	SF	$3 00	$	19,800
	Ceramic Tile (L+M)	400	SF	$9 00	$	3,600
	Gypsum Board Ceiling (L+M)	6,000	SF	$3 50	$	21,000
	Painting (existing plus new areas)	23,000	SF	$2 25	$	51,750
	Wall Covering (L+M)	160	SY	$15 00	$	2,400
	VCT (L+M)	300	SF	$1 75	$	525
	Vinyl Base (L+M)	130	LF	$1 00	$	130
	Brick Floor (L+M)	400	SF	$4 50	$	1,800
	Wood Floor (L+M)	3,000	SF	$8 00	$	24,000
	Carpet (L+M)	150	SY	$25 00	$	3,750
					$	**165,505**
Specialties	Toilet Accessories	2	Sets	$900 00	$	1,800
	Fire Extinguisher/Cabinet	2	EA	$100 00	$	200
	Signage	1	LS	$250 00	$	250
					$	**2,250**

812

PRELIMIN ~Y BUDGET
DUNES WES GOLF CLUB
ADDITIONS RENOVATIONS

Trade	Item	Quantity	Unit	Cost/Unit		Total
Plumbing	Lavatories	2	EA	$700 00	$	1,400
	Water Closets	2	EA	$700 00	$	1,400
	Water Heater	1	EA	$850 00	$	850
	Floor Drains	2	EA	$400 00	$	800
	Rough-in	1	LS	$1,000 00	$	1,000
	Under Slab Plumbing	1	LS	$1,200 00	$	1,200
					$	**6,650**
HVAC	Heat Pumps	2	EA	$4,500 00	$	9,000
	Condenser & drain piping	1	LS	$2,500 00	$	2,500
	Air Distribution to added area	6,000	SF	$3 00	$	18,000
	Start-up	1	LS	$750 00	$	750
	Balancing	1	LS	$1,800 00	$	1,800
					$	**32,050**
Sprinkler	Provide sprinkler coverage	6,000	SF	$1 75	$	10,500
					$	**10,500**
Electrical	Temporary Power					
	Lighting					
	Power					
	Mechanical Connections					
	Controls Wiring					
	Fire Alarm					
	Voice/Data Stub ups only					
	Stand by during demolition	6,000	SF	$7 00	$	42,000
					$	**42,000**
	Sub-total				**$**	**703,535**
	Fee/Coordination (5%)				**$**	**35,175**
	Total				**$**	**738,710**

PRELIMINARY BUDGET
DUNES WEST GOLF CLUB
ADDITIONS RENOVATIONS

Trade	Item	Quantity	Unit	Cost/Unit	Total

Notes & Clarifications

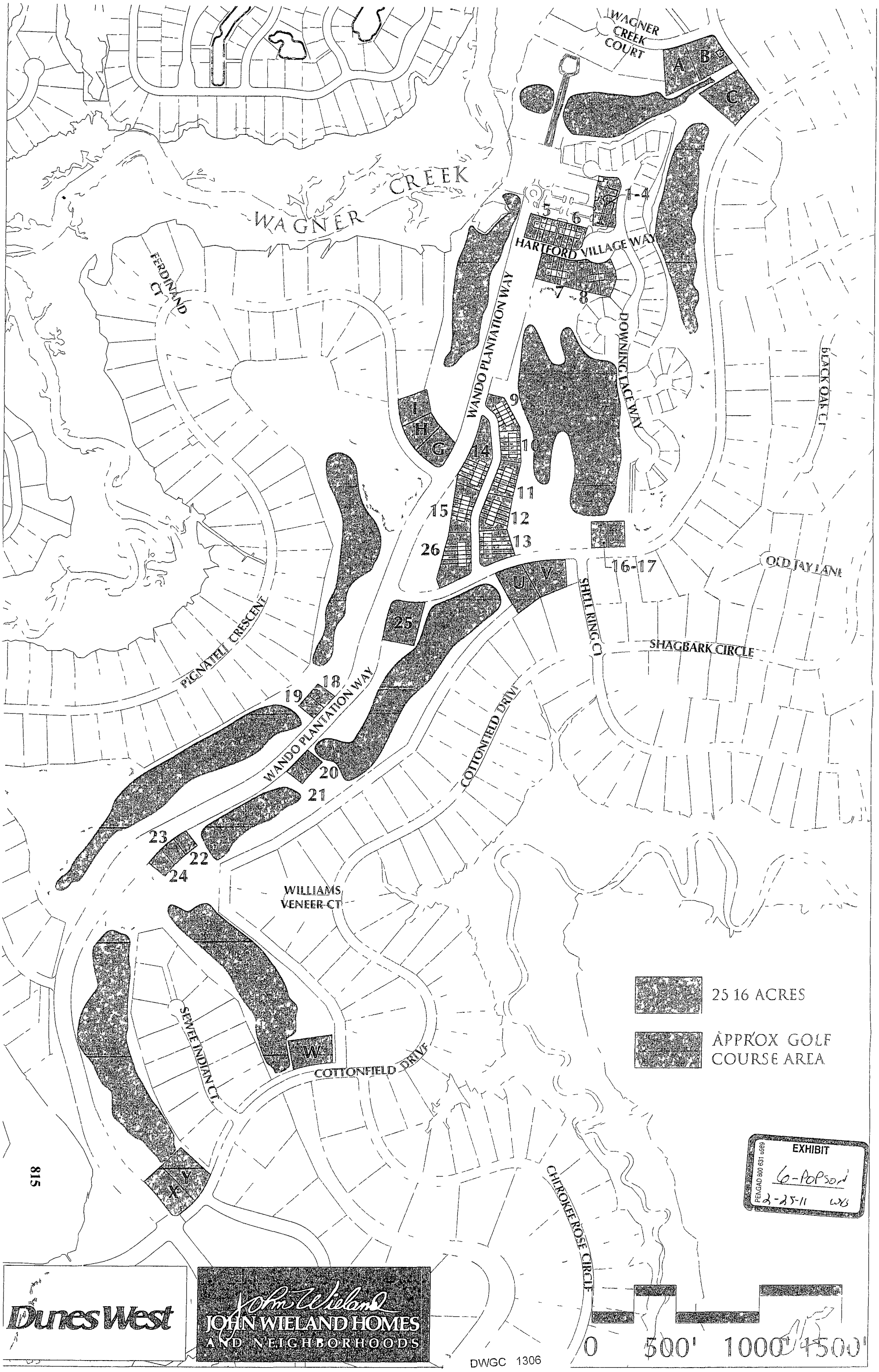
(1) The following items are not included -

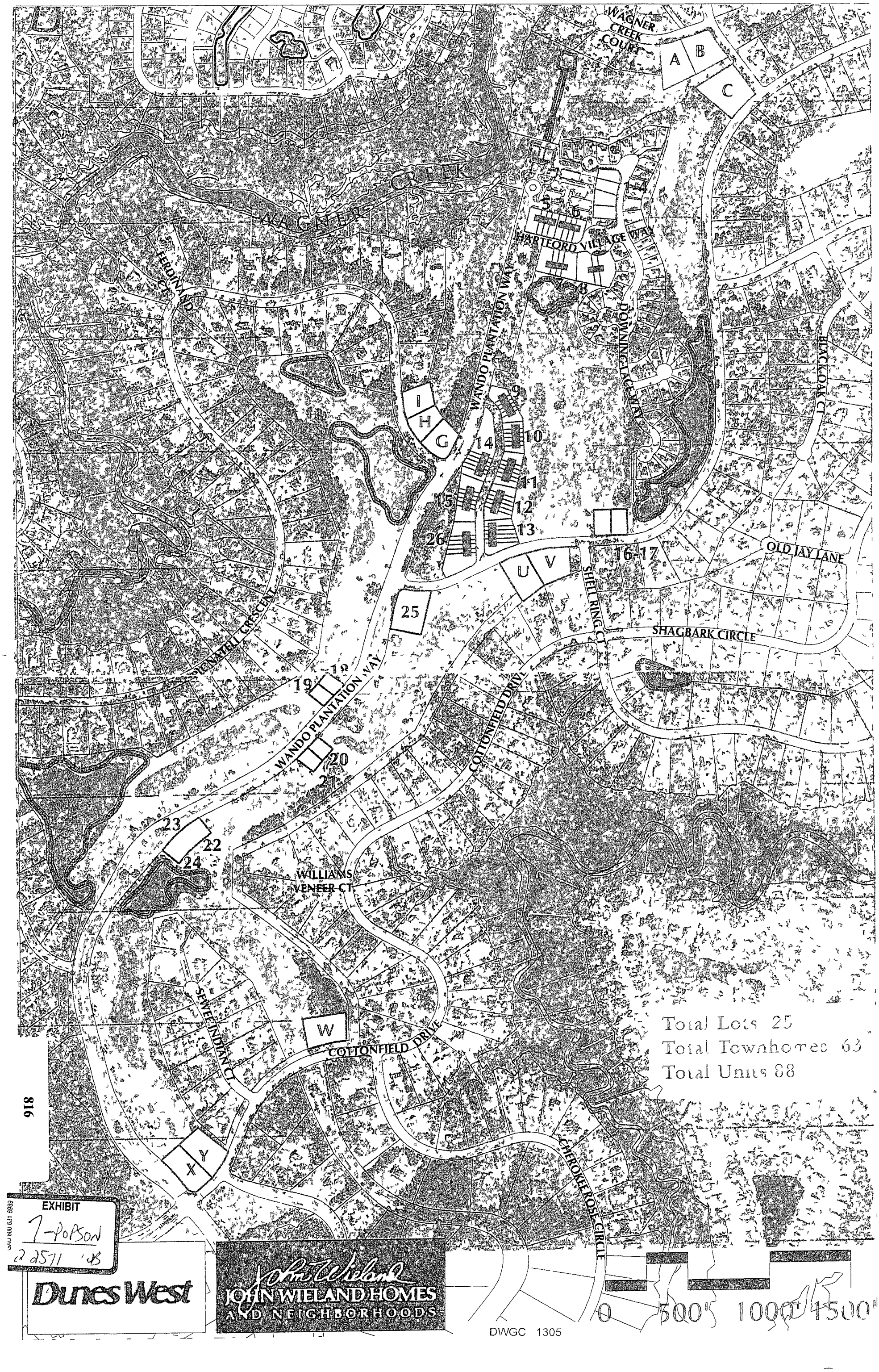
- Designer, Engineers & Consultants Fees
- Subsurface exploration, testing, Surveys
- Upgrading existing construction (to remain) to current applicable building codes/ordinances
- Overtime, or, accelerated schedule (All work to be performed during normal working hours)
- Furniture, Fixtures, Equipment and their handling
- Security Work (Equipment and wiring)
- Telephone & data cables and equipment
- Appliances & Equipment
- Window blinds, drapes, curtains and tracks
- Special finishes (faux paint, granite, marble, wood panels, etc)
- Modifications/Repairs to existing construction to remain
- Phasing (all work to be completed in a single phase)
- Allowances for Design & Construction contigencies

(2) New work to match existing construction as close as possible

(3) This preliminary budget is based on schematic plans, undated, for the existing and proposed layouts of first and second floors of the Golf Club

814


WAGNER CREEK COURT
A
B
C
WAGNER CREEK
1-4
5
6
HARTFORD VILLAGE WAY
7
8
FERDINAND CT
WANDO PLANTATION WAY
DOWNING LACEWAY
BLACK OAK CT
I
H
G
9
10
14
11
15
12
13
26
16-17
OLD JAY LANE
U
V
SHELL RING CT
25
PIGNATELLI CRESCENT
SHAGBARK CIRCLE
19
18
20
21
COTTONFIELD DRIVE
23
22
24
WILLIAMS VENEER CT
SEWEE INDIAN CT
W
COTTONFIELD DRIVE
Y
X
CHEROKEE ROSE CIRCLE
25 16 ACRES
APPROX GOLF COURSE AREA
EXHIBIT
6-POPsod
2-25-11 WS
PENGAD 800 631 6989
0
500'
1000'
1500'
Dunes West
John Wieland
JOHN WIELAND HOMES AND NEIGHBORHOODS
DWGC 1306
815


WAGNER CREEK COURT
A
B
C
WAGNER CREEK
HARTFORD VILLAGE WAY
FERDINAND CT
WANDO PLANTATION WAY
DOWNING LAKE WAY
BLACK OAK CT
I
H
G
9
10
14
11
15
12
13
26
U
V
16-17
OLD JAY LANE
SHELL RING CT
25
SHAGBARK CIRCLE
PIGNATELLI CRESCENT
19
18
20
27
COTTONFIELD DRIVE
23
22
24
WILLIAMS VENEER CT
W
SEWEE INDIAN CT
Y
X
CHEROKEE ROSE CIRCLE
Total Lots 25
Total Townhomes 63
Total Units 88
0
500'
1000'
1500'
EXHIBIT
7-POPSON
2 25 11 'JB
Dunes West
JOHN WIELAND HOMES
AND NEIGHBORHOODS
DWGC 1305
918

Town of Mt. Pleasant
Town Council Meeting
May 12, 2009



Trenholm Walker

Introductions

The Proposal

EXHIBIT
10-Prop'd
9-25-11 WB

JOHN WIELAND HOMES AND NEIGHBORHOODS

History

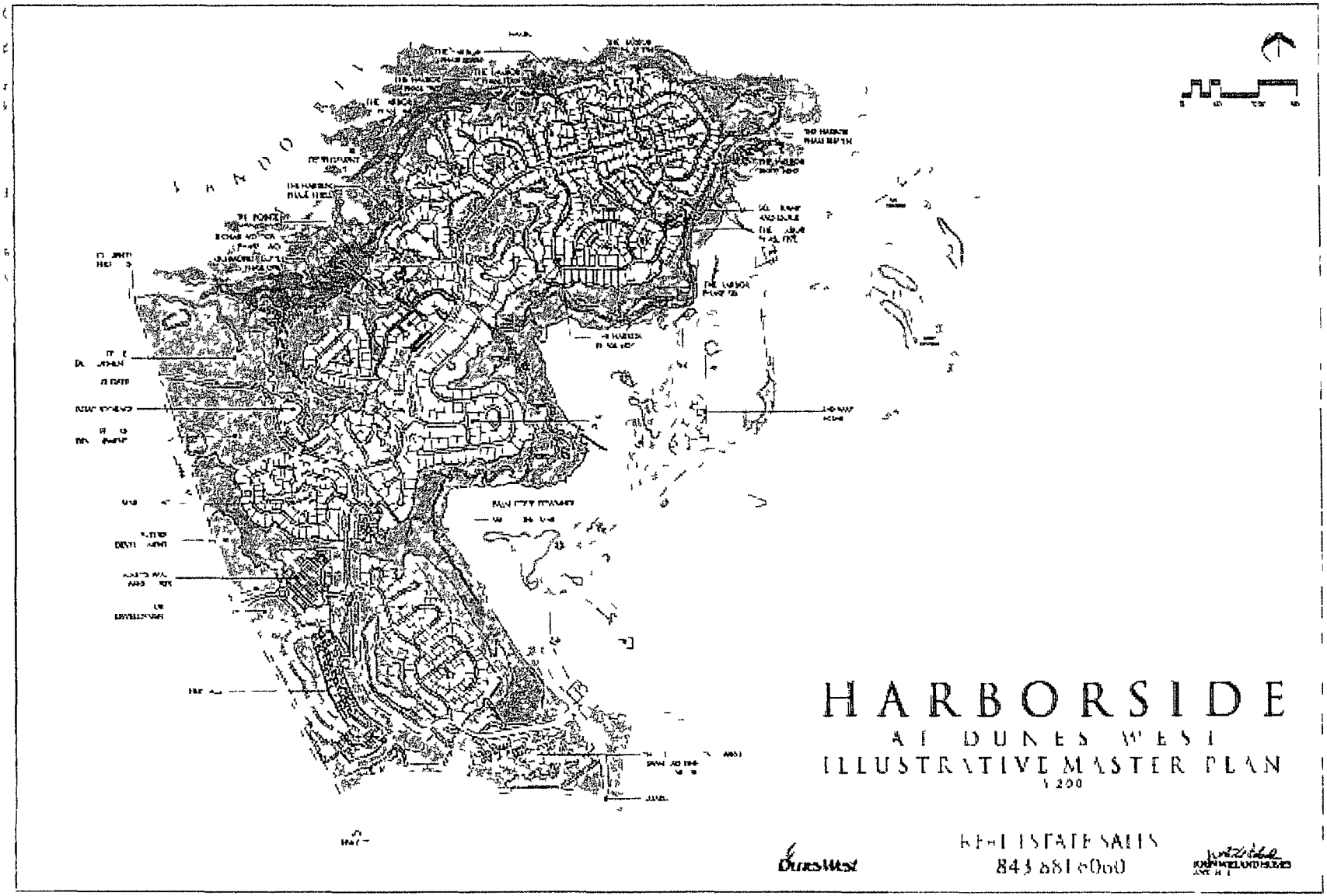
- Homebuilding Operations Construction started in 1996
- John Wieland Homes and Neighborhoods purchased Dunes West in August 2002
- Project to date, John Wieland Homes and Neighborhoods has built 560 homes
- John Wieland Homes and Neighborhoods purchased the Golf Course in March of 2005
- Improvements to The Golf Club
  - Rebuilt Sand Traps, Interior Renovations, updated the Irrigation System
- The Club at Dunes West
  - Resurfaced the Tennis Courts, upgraded Hartford Village Pool and Thomas Lynch Hall Pool
- John Wieland Homes and Neighborhoods enhanced common area landscaping throughout Dunes West
- Built $3 Million Club, Water Park, Boat Ramp, Boat Storage, Walking Trails and a New Playground
- Completed and donated a Crab Dock on the Wando River to the POA
- Assisted the POA in arriving at a settlement with Mt Pleasant regarding Dunes West Boulevard, the Scratch Golf Lawsuit and the Roads and Drainage lawsuit

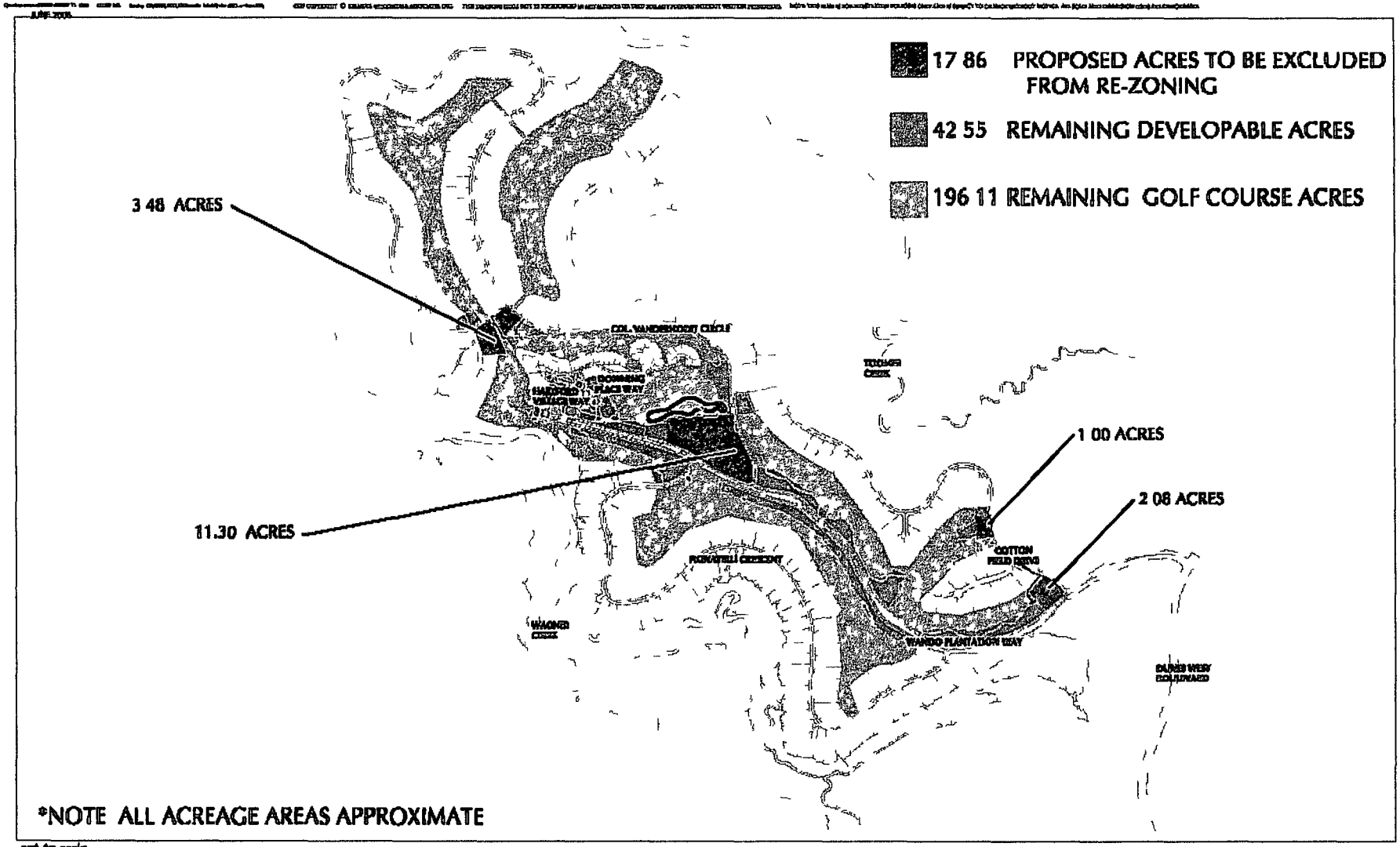
818

Dunes West Green Space/Open Space

- Wetlands and Buffer = **400** acres
- Golf Course = **256 acres**
- Developable land donated as open space = **20 acres**
- Total in Dunes West = **676 acres**

- Hobcaw Creek Plantation – **178 Total Acres**
- Brickyard Plantation – **534 Total Acres**
- Hamlin Plantation – **430 Total Acres**


HARBORSIDE
AT DUNES WEST
ILLUSTRATIVE MASTER PLAN
1:200
REAL ESTATE SALES
843.881.0060
DunesWest



not to scale

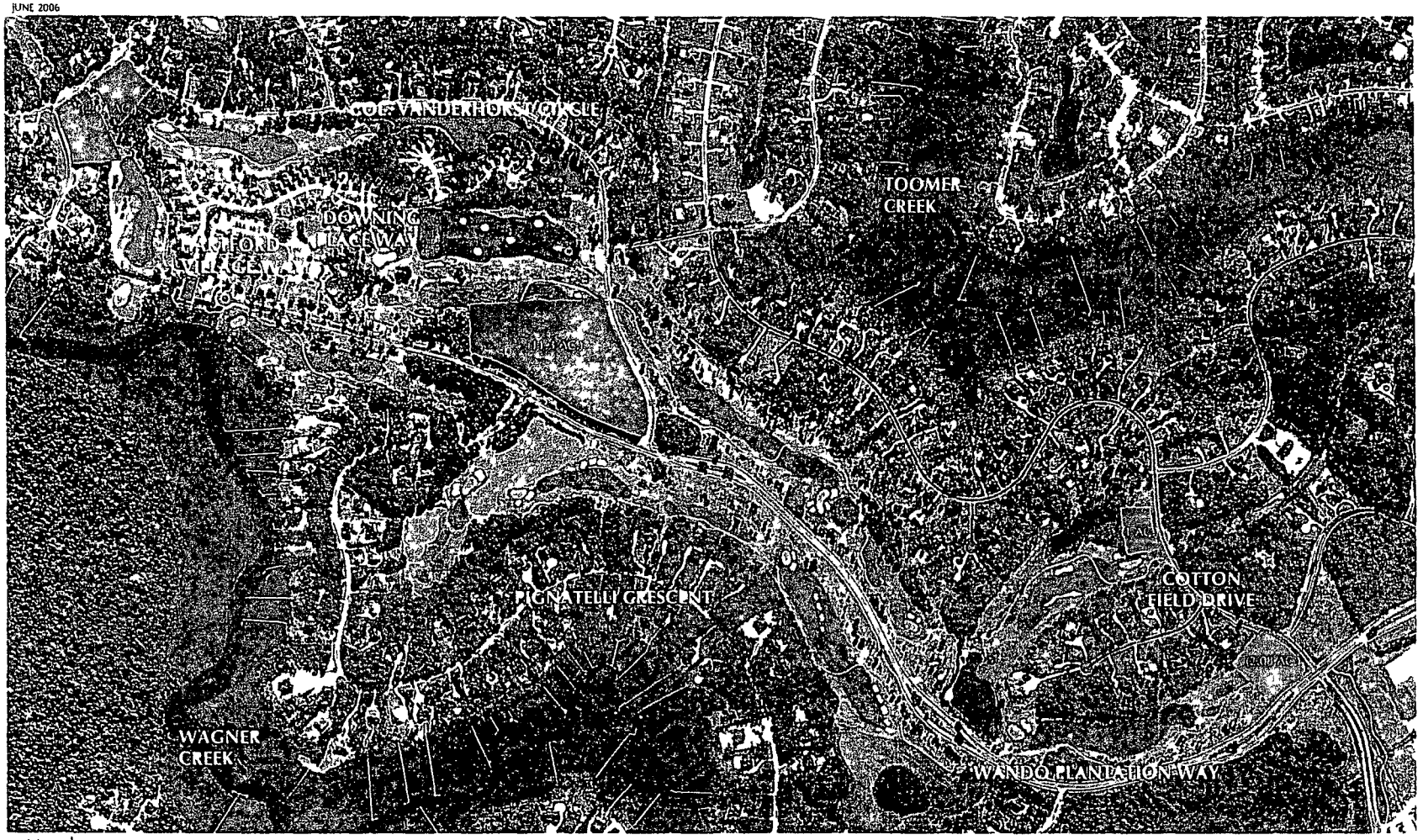
DUNES WEST
ACREAGE CALCULATIONS

mt pleasant, south carolina

SEAMON WHITESIDE & ASSOCIATES INC

One Acre Golf View – 6+ Acres

JUNE 2006



not to scale

DUNES WEST
PROPOSED AREAS OF DEVELOPMENT
DunesWest mt pleasant south carolina

SEAMON WHITESIDE & ASSOCIATES INC

822



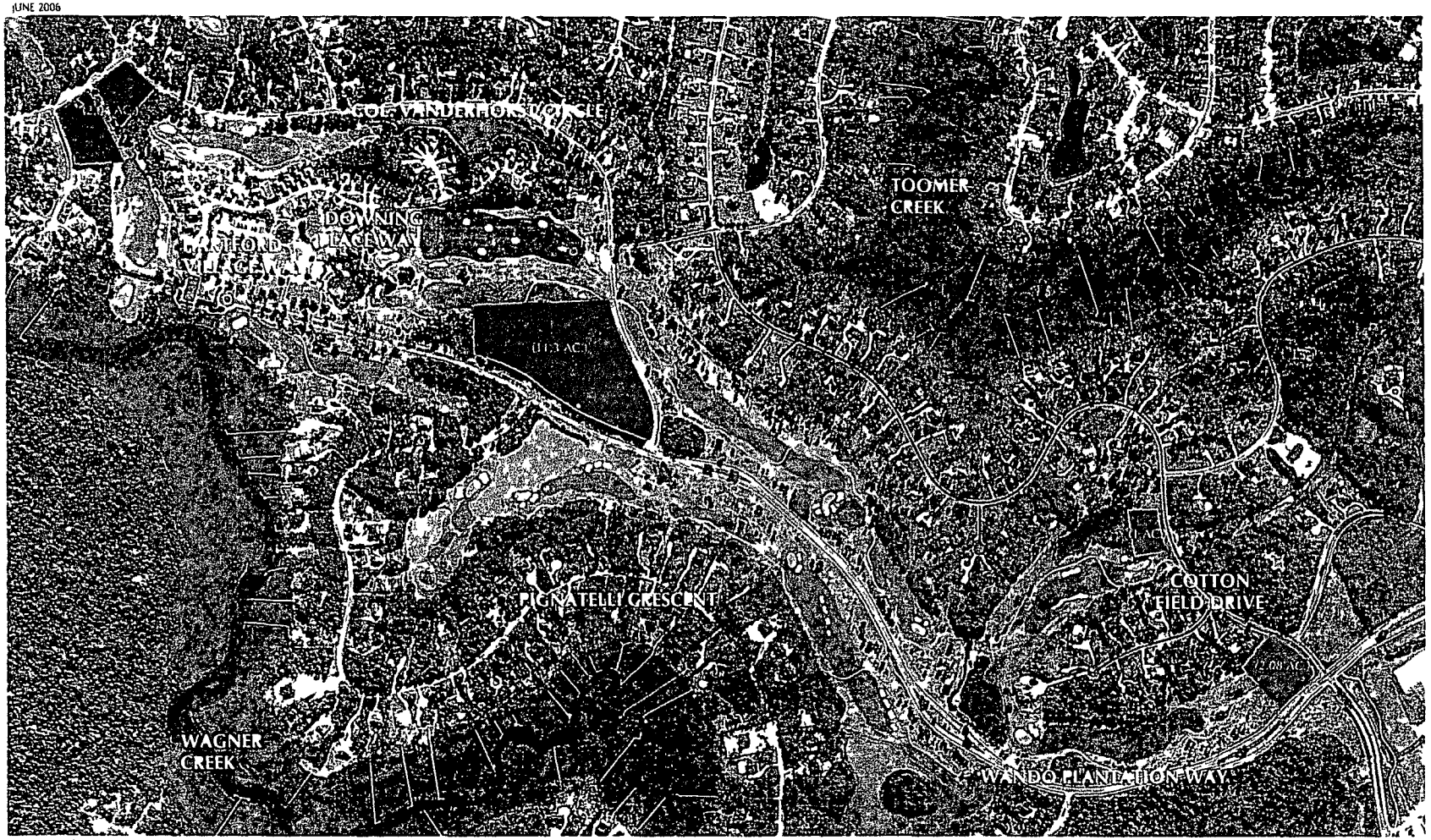
SEAMON WHITESIDE & ASSOCIATES INC

DUNES WEST

PROPOSED AREAS OF DEVELOPMENT

mt pleasant, south carolina

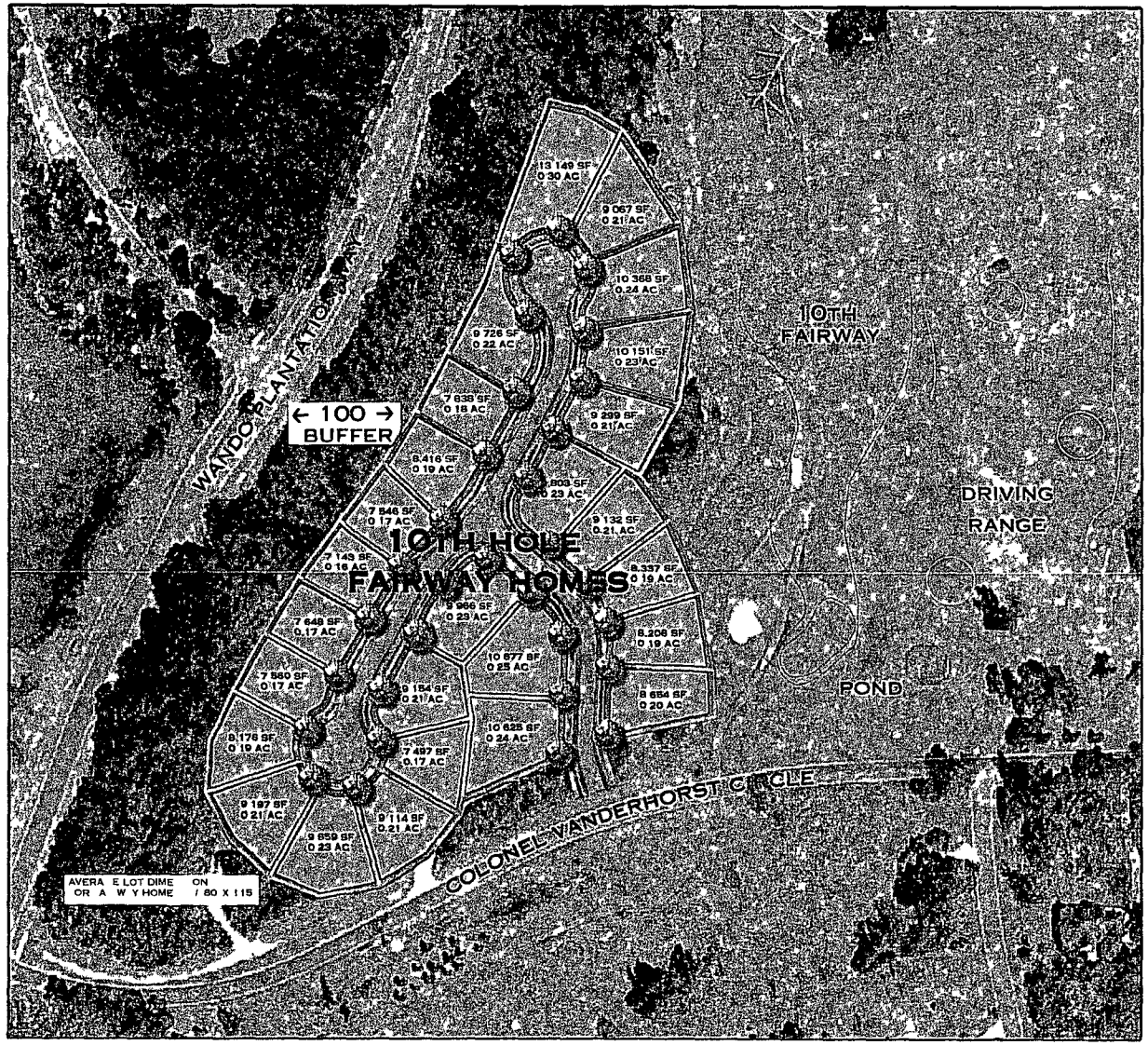
Fairway Homes – 11 30 Acres



not to scale

DUNES WEST
PROPOSED AREAS OF DEVELOPMENT
mt pleasant south carolina

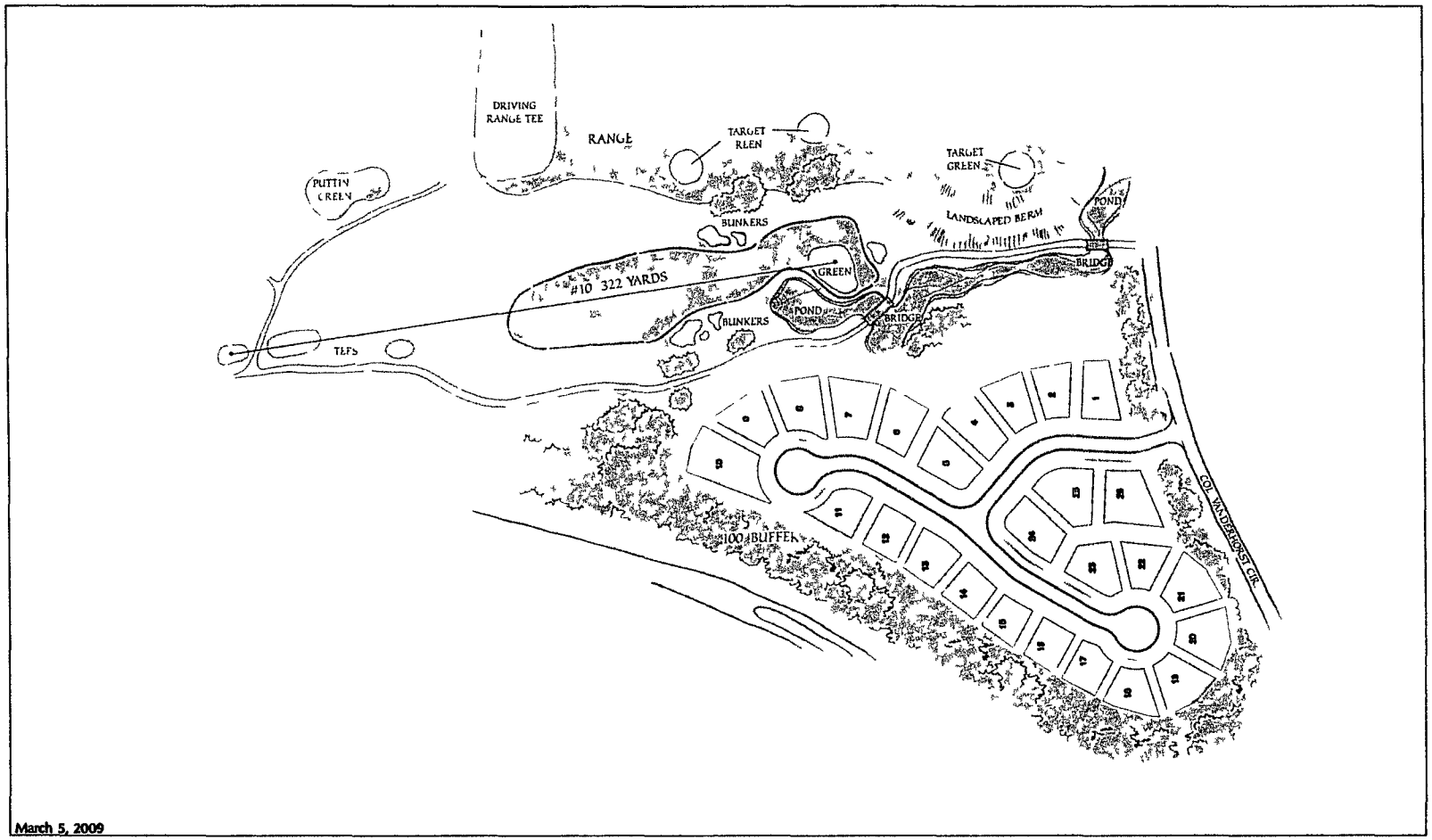
SEAMON WHITESIDE & ASSOCIATES INC



DUNES WEST

OVERALL HOME LOCATIONS

Dunes West mt pleasant, south carolina JOHN WIELAND HOMES



0 150 300 450

NORTH

SeamonWhiteside

10th HOLE RE-DESIGN

DUNES WEST

mt pleasant south carolina

Dunes West

JOHN WIELAND HOMES

928

new 10th hole

Robin Gill

From	Whitney Crouse [whitney.crouse@affinitygolf.com]
Sent	Friday, June 08, 2007 3:32 PM
To	Robin Gill
Subject	Fwd: Dunes West Course Modification

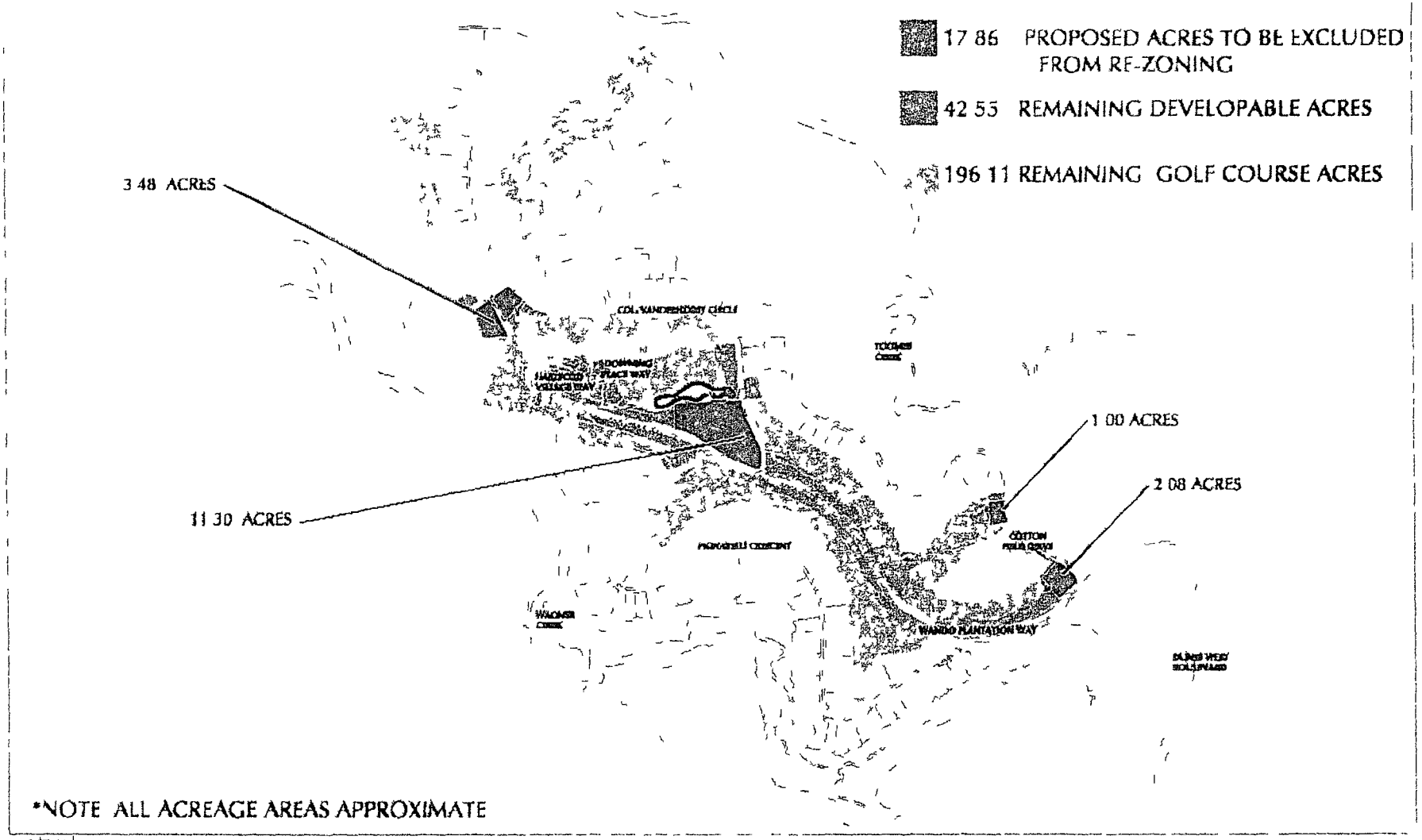
Arthur Hills Email

Begin forwarded message:

> From: Whitney Crouse <whitney.crouse@affinitigolf.com>
> Date: June 8, 2007 3:49:43 PM EDT
> To: <whitney.crouse@affinitigolf.com>
> Subject: FW: Dunes West Course Modification
>
>
> -----Original Message-----
> From: Whitney Crouse
> To: John Wieland ; dave durham ; Eric Price ; Terry Russell ; Kevin Popson ; Rich Rankin ; Lee Andrea ; Steve Willy
> Sent: Friday, February 10, 2006 5:53 PM
> Subject: FW: Dunes West Course Modification
>
> I received this positive response from Mr. Hills
> -----Original Message-----
> From: Arthur Hills
> To: whitney.crouse@affinitigolf.com
> Cc: Jim Decker
> Sent: Friday, February 10, 2006 4:54 PM
> Subject: RE: Dunes West Course Modification
>
> Dear Mr. Crouse
>
> Thanks for your note. We wish you success with the renovation. We are, of course, delighted to hear that the course is in great shape and that remarkable things are happening. Sounds like your group is the savior.
>
> Best regards
>
> ARTHUR HILLS
>
> AH/lc
>
> ARTHUR HILLS, ASGCA
> Arthur Hills/Steve Forrest and Associates
> Golf Course Architects
> 7351 West Bancroft
> Toledo, OH 43615
> 419/841-8553
> 419/841-9600 Fax
> ahills@arthurhills.com
> www.arthurhills.com
>
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1

Arthur Hills' Approval



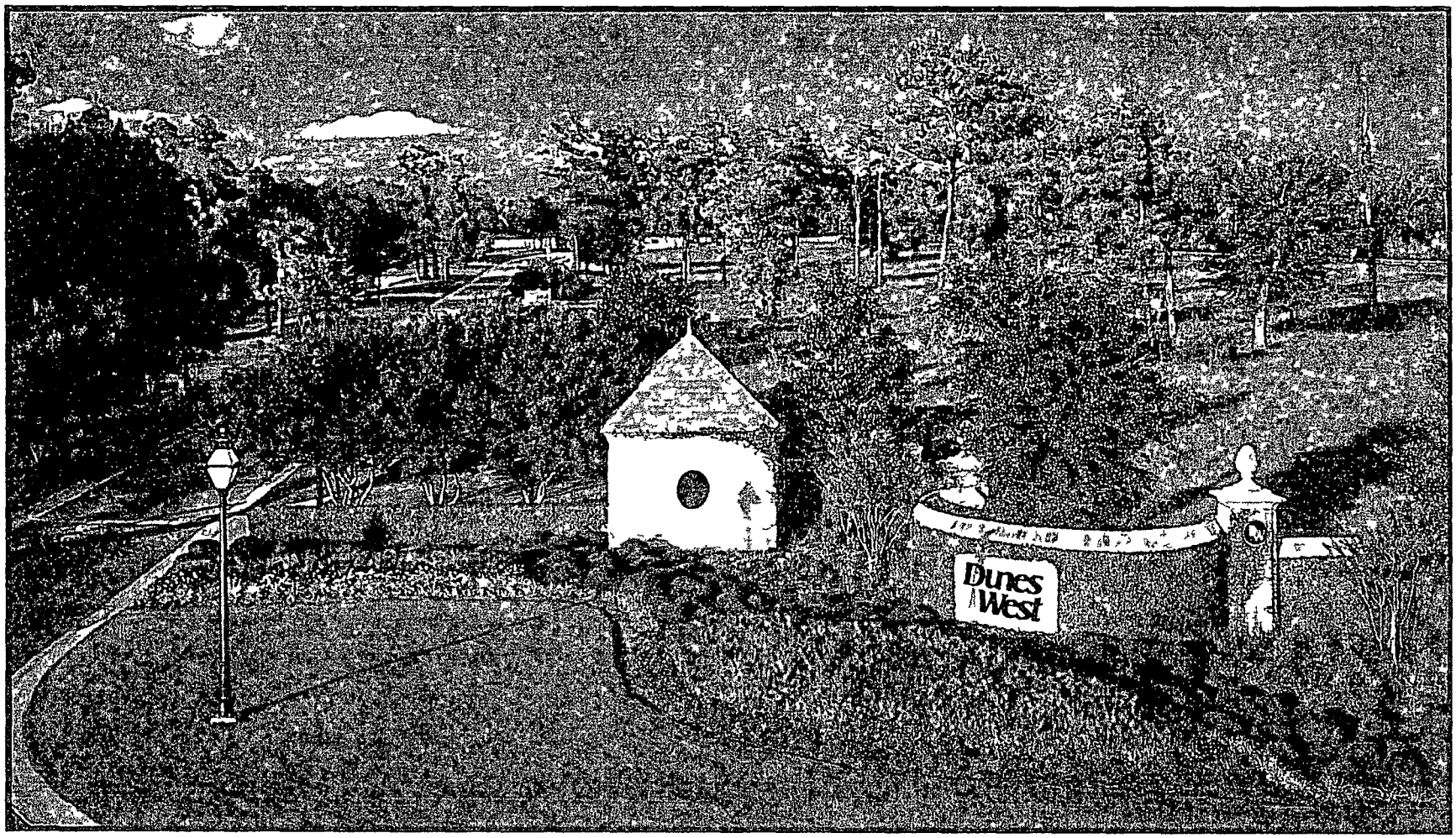
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DUNES WEST
ACREAGE CALCULATIONS
mt pleasant , south carolina

SEAMON, WHITESIDE & ASSOCIATES, INC.

828

Questions



IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF STUART WHITESIDE

DUNES WEST GOLF CLUB, LLC,

Plaintiff,

vs CASE NO 2009-CP-10-3723

TOWN OF MOUNT PLEASANT,

Defendant

COPY

DEPONENT	STUART WHITESIDE
DATE	MARCH 9, 2011
TIME	10 00 AM
LOCATION	Regan and Cantwell, LLC 105 Wappoo Creek Drive Charleston, South Carolina
REPORTED BY	Darah L Nekola, Court Reporter CLARK & ASSOCIATES, INC P O Box 73129 Charleston, SC 29415 843-762-6294 WWW CLARK-ASSOCIATES COM

today
A Sounds good
Q Tell me what you reviewed in preparation for this deposition
A I reviewed our file Of course, this is going back for six years or so, and we have had a variety of different people working on the project And so we -- I'm not sure exactly who has kept this, but this is the latest notebook that we had of different correspondence and plans and that type of thing that various people that have worked for me have, you know, worked on
Q And I guess I should have put this on the record You are a principal in Seamon Whiteside?
A That's correct
Q What sort of firm is that?
A Civil engineering, landscape architecture, land planning, and I'm a civil engineer
Q And where did you go to college?
A Clemson
Q And is that -- do you have any postgraduate work?
A Bachelor's degree in '78, master's degree in '79
Q And what's your master's in?

the town of Mount Pleasant or East Cooper?

A Yes, ma'am

Q So over the course of the years, I would assume that you have had many, many dealings with the staff and/or the council?

A Yes, we have

Q Who did you primarily deal with?

A Through the time of this project it was -- Joel Ford was the planner He was supported by Christiane Farrell, who is now the current town planner

Q How about people on town council?

A We have always been in contact -- close contact with all of the council members

Q Do you sort of -- not to use this word in the bad sense, but sort of to lobby or to let them know what's coming or to talk to them about your projects?

A That's correct

Q Have you been treated fairly by the Town?

A Oh, yes

Q The subdivision process in the Town of Mount Pleasant, are you familiar with it?

A Yes

Q Can you briefly outline what the steps are?

far as that transaction?
A Yes I don't believe -- he did sell some later, but mainly he developed everything So it was really -- he had most of the control of the lots
Q And when you say developed, are we talking about lots or are we talking about lots with houses on them?
A He did both He developed townhouses and single-family lots
Q Okay The residential component of the PD was R-1 and R-3 Were there any others?
A R-1, R-3, RTH, which is townhouses and multifamily, yeah That's pretty much it And what happened in addition is as they used up the R-3 units, the Town, through their PD, allowed R-3 units, which is a smaller single-family lot to be using the multifamily accounts because you could do an R-3 unit in a multifamily area So since they didn't develop as many multifamily as they thought they were going to, they were allowed to use multifamilies for R-3 single-family
Q And was that administrative?
A Yes
Q And that was Joel?

A That's correct
Q The golf course Were you involved in any way or consulted when the -- when Dunes West Golf Club purchased the golf course property?
A Originally or when exactly are you talking?
Q I'm talking about in '05
A When Wieland purchased it, yes
Q And what were those -- what were those discussions about?
A Early on Wieland came -- the discussion as far as the use of the course, the first time was probably as far as they were going to purchase it and knew there was some undeveloped property associated with the golf course, so we started working with them on the undeveloped portion
Q What did you do?
A We worked -- looked to examine what we had from the existing property information and figured -- determined where additional residential development could occur
Q Did you actually do lot layouts?
A Just master plans Early on it was just lot layouts, where lots could fit
Q Can you give me a time frame about when this was going on?

A Let me look back at my notes Yeah Late 2004 we started showing some conceptual layouts to the Town And then for the following year-and-a-half or so, we did a lot of varying different layouts

Q And why were you varying your layouts?

A We did a -- when we met with Joel Ford originally, he said he didn't have a problem with coming back with the additional lots, but we need to go through the process -- the sketch plan process And he advised before we came back with the sketch plan to get -- for Wieland to get support of the homeowners association

So for a year-and-a-half or so, Kevin Popson with Wieland was working with the HOA to negotiate or to review the different lots So during that process as issues arose, we would revise the layout

Q And the process that Joel said would apply, the sketch plan and then I guess the preliminary plat, that was consistent with what you described earlier as to how to get subdivision lots approved?

A Yes

Q Would you have tipped the scales and required an impact assessment?

A In meeting with Joel, he said no
Q How many lots were initially proposed?
A I can't remember the exact number, but from Joel, he did not require one
Q Okay
A And I'm not sure when the -- when in that time frame the Town started requiring impact assessments of Dunes West
Q Okay And you brought a file that I will take a look at in a little bit So you think this was in early -- this was in late '04 before the purchase that --
A Yeah We met with Joel in November of '04
Q And who would have been in that meeting?
A Kevin Popson, myself, and Joel
Q Nobody else from the Town?
A Not that I remember
Q Okay Tell me what you looked at when you were preparing site plans What documents did you use or did you refer to?
A We had some base information that John Wieland Homes obtained from Thompson Hutton, who did the original design of the golf course area
Q Did you look at the plat by which Wieland purchased -- got title to the property?

A We may I'm not sure where it would be
Q Did you look at where utilities were located?
A Yes, we did
Q And through Mount Pleasant Waterworks?
A That's correct
Q Let me just ask you this Let's mark these in succession
(Exhibit Nos 2 through 6 were marked for identification)
Q Stuart, you have just been handed documents that have been marked Exhibits 2 through 6 Are you familiar with -- let's look at Exhibit 2 Are you familiar with this document?
A I have seen several like it I'm not sure if this exact one I have seen, but yeah
Q Did your office produce this?
A It very well could have I don't see a name on it, but we did a lot of them that were of this same type
Q And so this exhibit has been represented as -- this is the property that's the subject of the lawsuit?
A Correct
Q The potential development parcels within the

golf course parcels?

A Right

Q And I guess my question is, I just didn't know how these sites were decided on, whether you had any input in that, whether you made any suggestions

A Yeah This is where the plan evolved from There were other sites during the process as well This is -- at the end of the day, this is where the additional lots were -- that were determined could be developed

Q Who made that determination?

A Probably us working with John Wieland Homes

Q You would have been consulting him on potential sites?

A That's correct

Q And if you look at the next exhibit, which I think is going to be 4 -- 3 Exhibit 2 was more or less an aerial where the lots were superimposed This is more of a plot plan Do you see that?

A Yeah That's correct

Q You don't know whether -- who produced this?

A I believe we did in-house, but -- I would guess we did

Q All right So when you were siting these

A I think with the proper improvement, you would develop the lots
Q And in fact, could you not have done that in '05 at the time of the purchase?
A Yes
Q Okay Is there anything that you're aware of that prevented Dunes West Golf Club from coming forward with a subdivision plat in either '05 or '06 through June of '06, I guess?
A From a sketch plan standpoint, no I think as we went through construction documents with the preliminary plat, you had to show the proper improvements that you would have to do to get the lots developed
Q Could that have been done between -- could that have been done between '05 and '06?
A Yes
Q Do you know why no formal submission was ever made?
A We were advised at that -- by the Town to proceed with getting homeowners' approval or support before we made the formal submittal
Q And that was from Joel?
A That's correct
Q And that was from that November meeting?

done
A That's correct
Q Okay And if I'm understanding your testimony, the reason that nothing came forward is that you were trying to get the homeowners -- was it the homeowners association or the homeowners?
A Most likely the homeowners association
Q The homeowners association
A I believe I'm not sure who they presented to
Q Okay And did you ever get any support from them -- did they ever take a vote?
A I can't recall
Q Okay Let me ask you about -- I just want you to explain this to me There are three documents that are stapled together, and it's called postdevelopment -- golf course lot postdevelopment map dated May 6th of '09 And if you would explain what these documents -- well, actually it's four sheets -- are and what the narrative means?
A It's a drainage analysis that we were underway in 2009, I believe, trying to determine -- for one thing, we were going to -- actually we were going to develop those lots on number 10 that

enlarged a drainage pond to help some of the drainage situations on Colonel Vanderhorst Circle And this is just some of the background information It looks like this is just a progress narrative that wasn't ever finished or completed with the full report

Q What was the -- you know, when I read the narrative, and I wasn't just -- what was the net effect? Was there going to be more drainage into the pond, less drainage?

A I think a couple of things We were trying to help the drainage in that area, and it was also the drainage patterns in that area had changed and some of the wetlands in that area that are near Wando Plantation -- Wando, yeah, Plantation Way, were not getting the water that it originally did, so this was an effort to put more water into that wetland area to help support it as a wetland

Q And from what you -- your knowledge of the sites that are shown on Exhibit 2, would any of them require any wetland fill?

A Yes, they would

Q Okay And is there a wetland buffer imposed by OCRM?

A Typically on some -- on wetlands that are

remained, there are some wetland buffers that are remaining -- that are associated with the wetlands

Q Let me ask you this As far as getting the wetland -- do you know how much wetlands you would have had to fill to build these lots?

A I can't recall I know we went through some early analysis on it, and -- to determine what fill was required If there wasn't, mitigation would be required as well

Q And tell me the process of getting that approved

A Well, we were working with Newkirk Environmental, who would have to -- for one thing, if any of the wetland buffers had any restrictive covenants on it, they would have to remove those And secondly, find additional mitigation for the wetlands that we wanted to fill

Q And I don't know how the OCRM does the calculation, but it's something more than 1 to 1, is it not?

A That's correct

Q So you would have had to have mitigated any fill of wetlands that you had done?

A Yes And there was a process that we were going through to determine what mitigation was

required, and if there was mitigation on site within Dunes West, that we could provide most of the mitigation

Q But was OCRM ever approached?

A There were discussions with them

Q And who would have been having those discussions?

A Probably Newkirk Environment

Q Who was the Newkirk --

A Probably Bobby Riggs

Q He works for Newkirk?

A Yes

Q I didn't realize that

A Yeah He has been with them for several years now

Q I think my cousin works for them, Ryan Cleary

A Yeah Ryan is a good boy

Q So the drainage, was it -- am I understanding correctly that the drainage in the area of Colonel Vanderhorst Way and Wando Plantation Way had some problems?

A That's what I understand And I knew that when we were doing some of the work associated with the new ponds, hopefully that was going to help

alleviate some of those problems
Q And did you take into effect the fact that you were going to be having more impervious surfaces?
A Yes
Q Stuart, I am going to show you -- I am going to make a copy of this, if I can -- have the capability I am showing you two documents, a sewer estimate, one of one, and then there's a -- behind it -- I don't know if there -- if it's meant to be behind it, but there's a handwritten note
A That's correct
Q Can you explain to me what these two documents reflect?
A Just some cost estimates that were to extend sewer to some of the lots along Wando Plantation Way
Q Would that have been along Wando Plantation -- we're not talking about the multifamily lots that are shown as 9 through 14?
A No It's lot site 25 and 18 through 21
Q Okay And those were the lots that were not shown on the original plan that was done in '05 as we discussed before?
A That's correct

EXHIBIT
Whitaker-2
DR 3/1
PENCAD 800-631 6989

WAGNER CREEK COURT
WAGNERS CREEK
FERDINAND CT.
HARTFORD VILLAGE WAY
DOMINGLACE WAY
BLACK OAK CT.
WANDO PLANTATION WAY
OLD JAY LANE
SHELLRING CT.
SHAGBARK CIRCLE
CYNATHELL CRESCENT
COTTONFIELD DRIVE
WILLIAMS VENEER CT.
SEWEE INDIAN CT.
CHEROKEE ROSE CIRCLE
845

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16-17 18 19 20 21 22 23 24 25 26

Total Lots 25
Total Townhomes 63
Total Units 88

0 500' 1000' 1500'

Dunes West

John Wieland Homes and Neighborhoods

DWGC 1305

EXHIBIT 3
Wilkside
DS 3/9
PENGAD 800 631 6989

846

WAGNER CREEK COURT
A
B
C
WAGNER CREEK
1-4
5
6
HARTFORD VILLAGE WAY
7
8
WANDO PLANTATION WAY
DOWNING LACE WAY
BLACK OAK CT
FERDINAND CT
1
H
G
9
10
11
12
13
14
15
26
16-17
OLD JAY LANE
U
V
25
SHELL RING CT
SHAGBARK CIRCLE
PIGNATELLI CRESCENT
18
19
20
21
WANDO PLANTATION WAY
COTTONFIELD DRIVE
23
22
24
WILLIAMS VENEER CT
SEWEE INDIAN CT
W
COTTONFIELD DRIVE
Y
X
CHEROKEE ROSE CIRCLE

25 16 ACRES

APPROX GOLF COURSE AREA

0 500' 1000' 1500'

Dunes West™

John Wieland
JOHN WIELAND HOMES AND NEIGHBORHOODS

DWGC 1306

WAGNER CREEK COURT

COL VANDERHORST CIRCLE

WANDO PLANTATION WAY

HARTFORD VILLAGE WAY

A
103 Ac

B
100 Ac

C
144 Ac

1
021 Ac

2
023 Ac

3
026 Ac

4
026 Ac

5
063 Ac

6
058 Ac

7
088 Ac

8
101 Ac

133'
181'
283'
239'
227'
277'
223'
232'
294'
215'
138'
59'
68'
99'
81'
183'
170'
154'
134'
218'
196'
172'
235'
254'
207'

VGC 1307

847

EXHIBIT
PENGAD 800-631-6989
Whitacre-4
DN 3/9

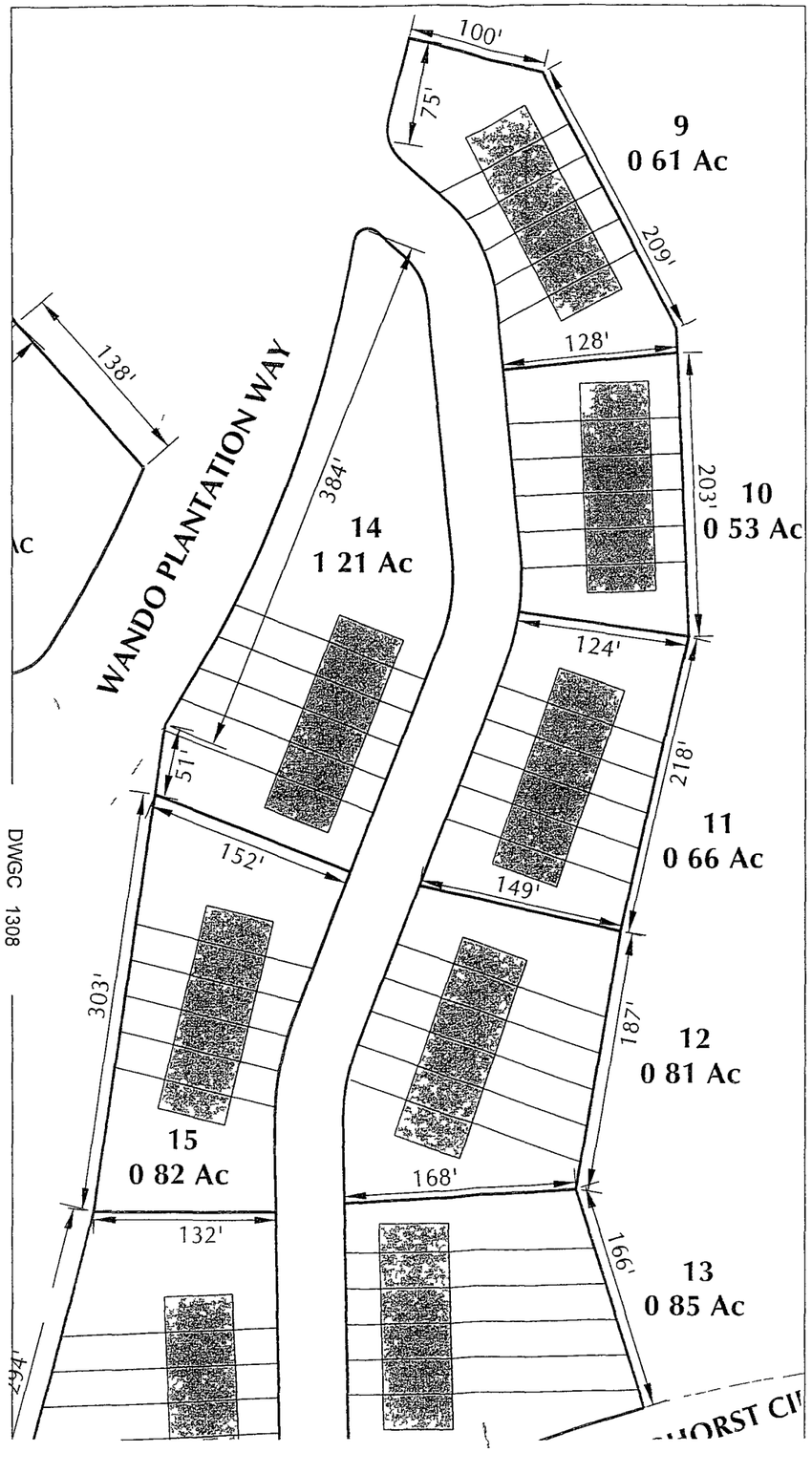
Dunes West™

John Wieland
JOHN WIELAND HOMES
AND NEIGHBORHOODS

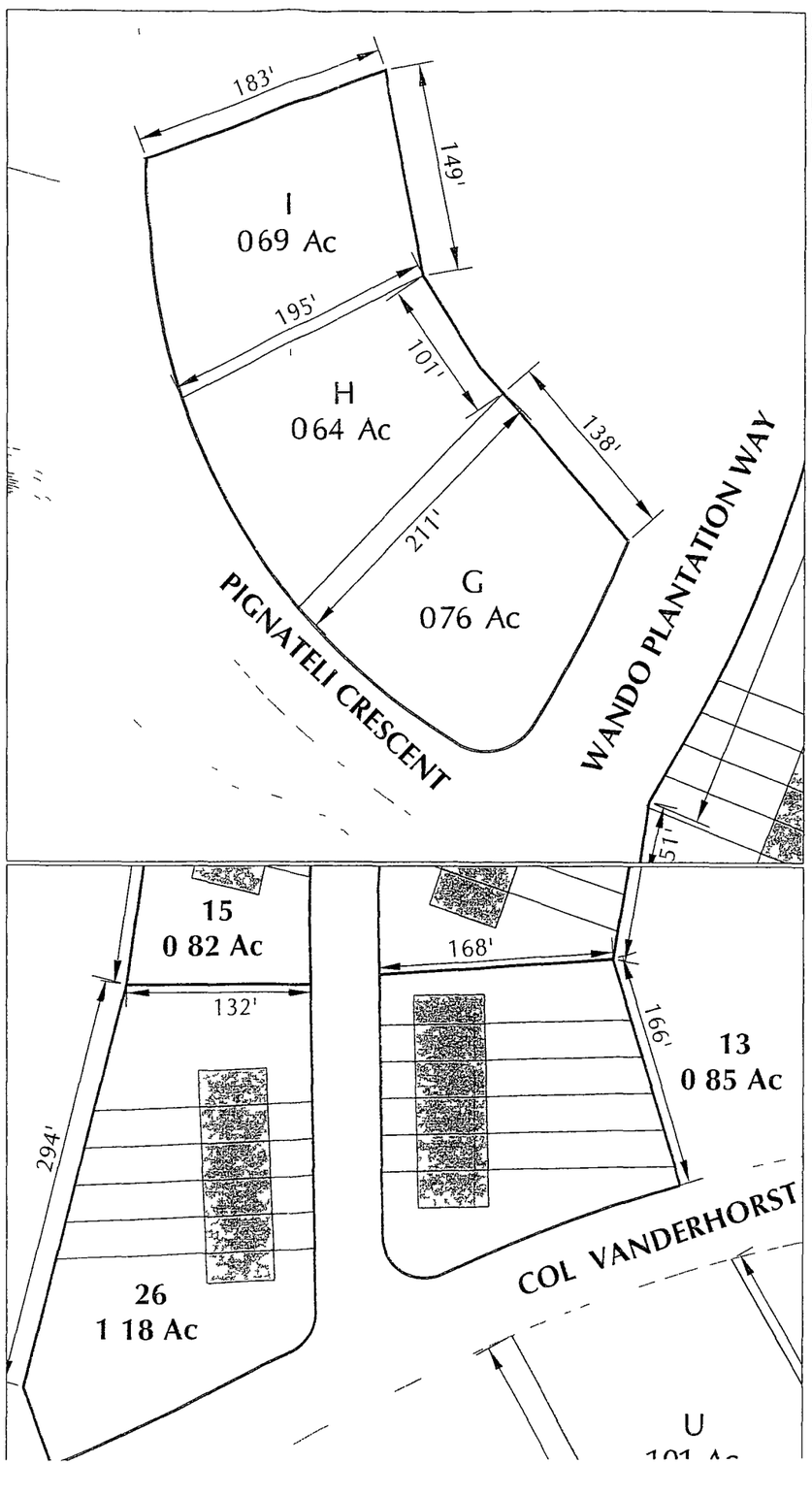
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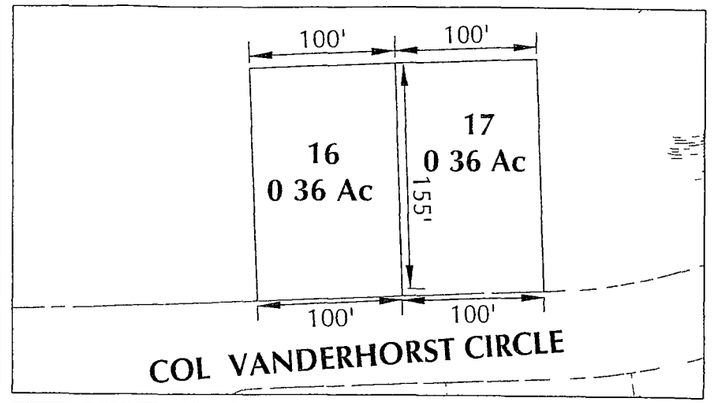
John Wieland HOMES AND NEIGHBORHOODS

Dunes West



DWGC 1308





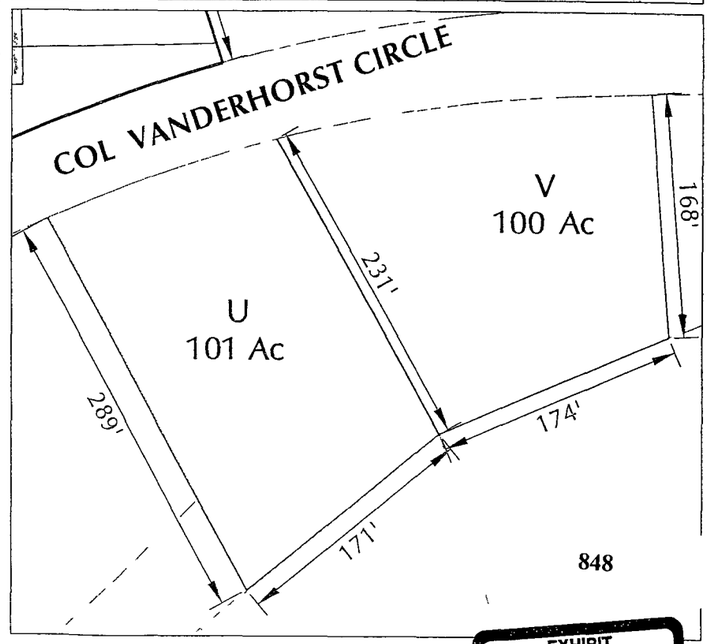
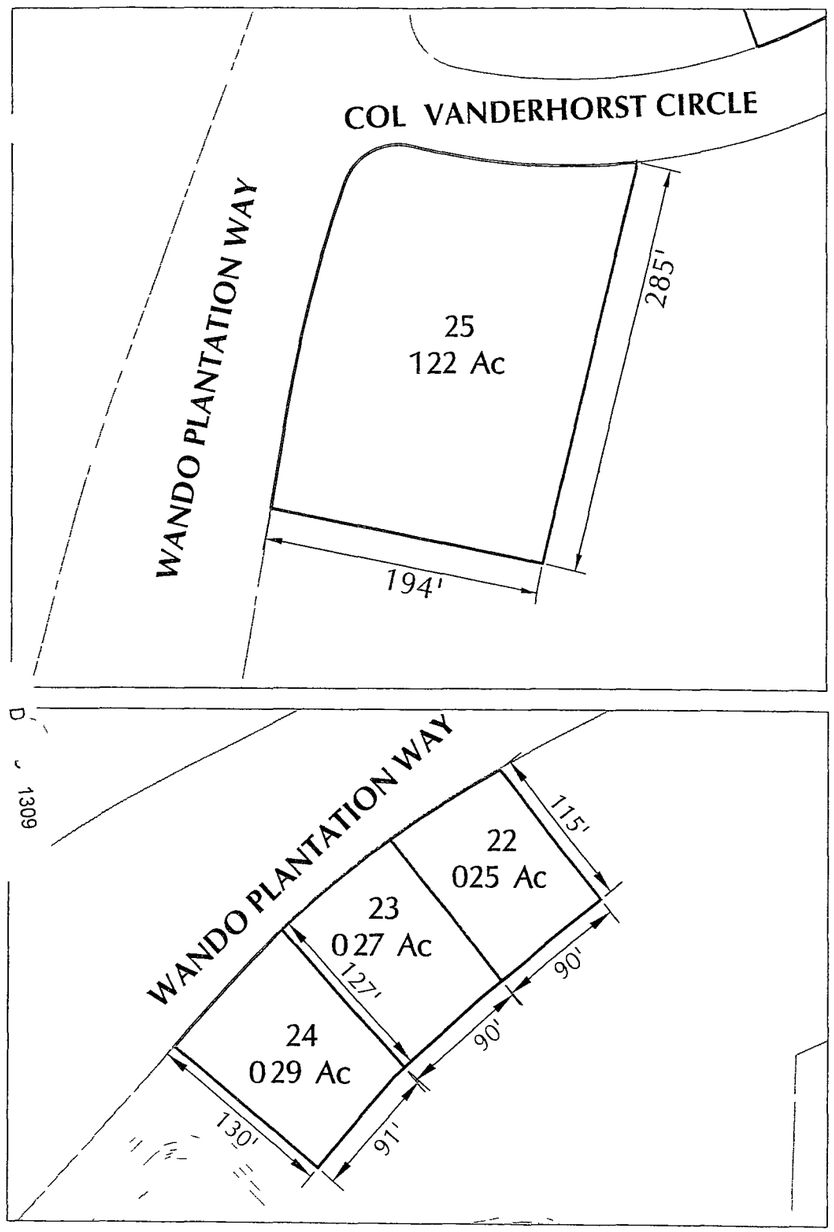
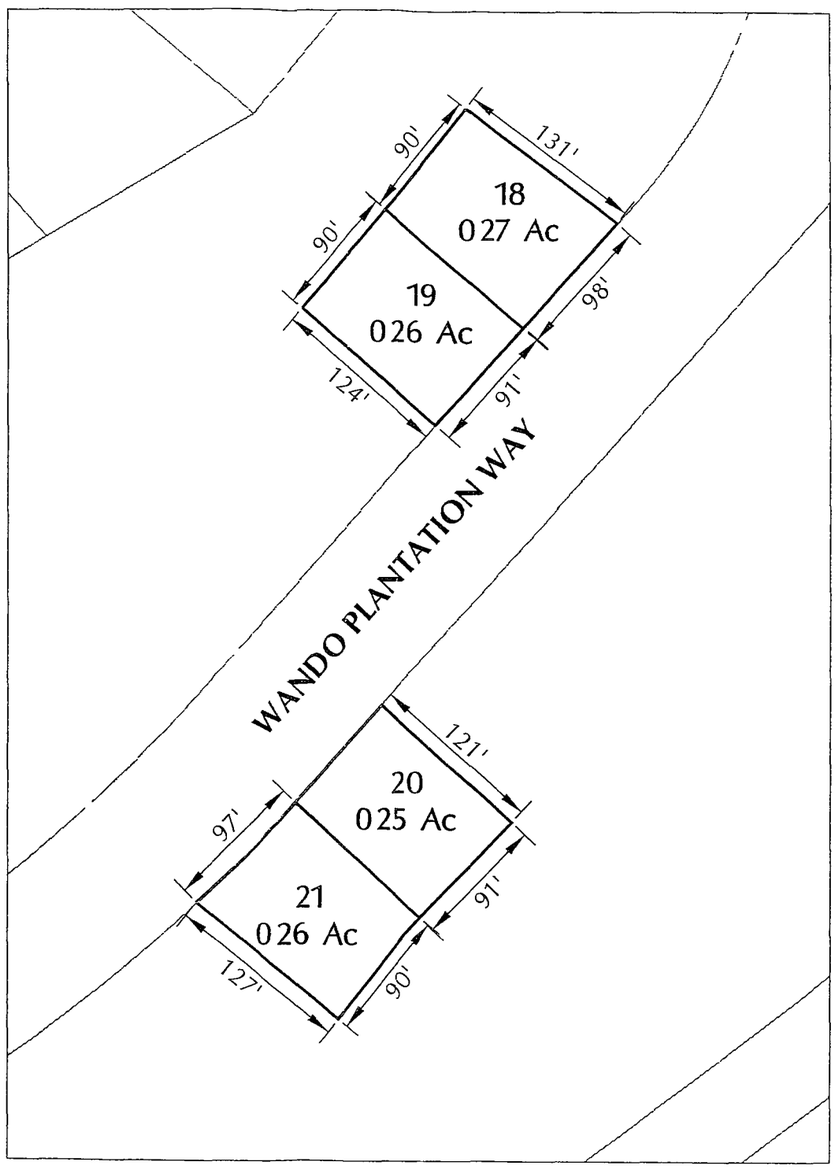
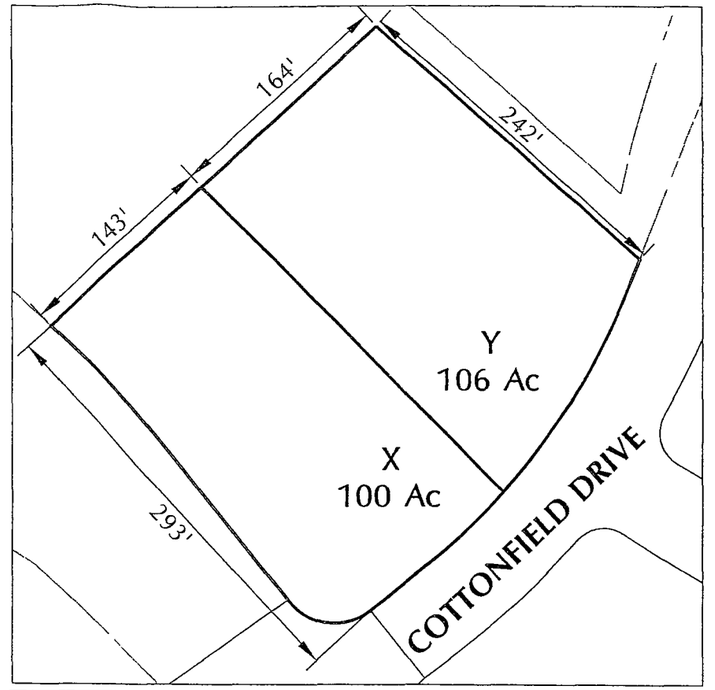


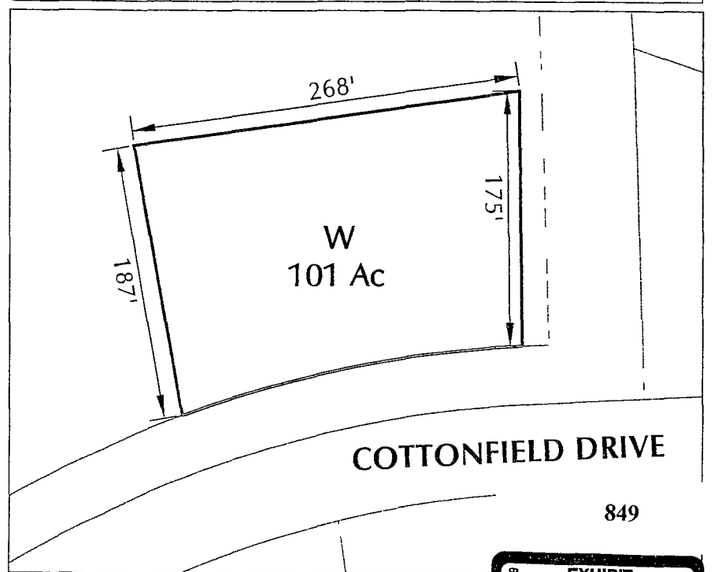
EXHIBIT
PENGAD 800-631-6989
Lawsuit-5
3/9

0 100' 200' 300'









849

EXHIBIT
Whitestle 6
3/9

PENGAD 800-631-6989

Dunes West™

John Wieland
JOHN WIELAND HOMES
AND NEIGHBORHOODS

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

DUNES WEST GOLF CLUB, LLC

Plaintiff,

vs CASE NO 2009-CP-10-3723

TOWN OF MOUNT PLEASANT,

Defendant

COPY

DEPOSITION OF JOEL P FORD

DATE January 14, 2011

TIME 9 30 a m

LOCATION REGAN & CANTWELL, LLC
105 Wappoo Creek Drive
Charleston, SC

TAKEN BY Counsel for Plaintiff

REPORTED BY Karen V Andersen, RMR, CSR

A WILLIAM ROBERTS, JR & ASSOCIATES

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Columbia, SC (803) 731-5224
Greenville, SC (864) 234-7030
Charlotte, NC (704) 573-3919

A WILLIAM ROBERTS, JR , & ASSOCIATES (800) 743-DEPO
scheduledepo com

A Correct
Q And when was your last day with the Town?
A I think it was January the 9th, 2009
Q What was the position, your position with the Town at the time you left the Town?
A Director of planning and development
Q How long had you held that position?
A Well, we went through name changes I started as town planner in the end of '78, 1st of '79, and became director probably around the time before Hugo, '86 or '87, something like that
Q Putting the specifics of the title aside, you were head of planning for roughly 31 years or so?
A 30 years
Q Very good Are you working now?
A No
Q Do you recall the annexation of Dunes West back in 1990?
A I do
Q Were you involved in the zoning of Dunes West at the time it was annexed into the town?
A Yes
Q Was the zoning on Dunes West imposed at the time it was annexed into the town?
A I wouldn't use the word imposed They

requested a zoning, and we granted that zoning

Q Got you Tell me a little bit about that process Did the property owner put forth a plan?

A Yes

Q Did you and your staff have input into that plan?

A Yes, to some degree

Q At that time, who was the owner of Dunes West, or what later became known as Dunes West?

A The way I recall it, Trenholm, it was a joint venture I'm going to call it a joint venture between Georgia-Pacific and another group who I didn't quite understand what --

Q Some assortment of Wild Dunes folks?

A Noel Thorn and some other individuals from Wild Dunes were involved in it

Q According to the records provided by the Town, the Dunes West planned development was adopted in 1990, does that sound about right?

A Yes, sir

Q I know it's been a very long time ago Do you remember any specific provisions or changes the Town requested to the PD at Dunes West at the time, I mean, before it was adopted?

A Well, certainly there was staff review,

6

and we would meet often with the developers as we went through the process And primarily the point guy for the joint venture was Noel Thorn Almost all of our meetings were with Noel himself And I'm certain that we probably reviewed the documents I want to say they might have been prepared by the McNair Law Firm or something like that I can't remember who, but I don't think it was Sid Boone But, I know, you know, we would take exception to the way parts of the proposal would be written, and we might say, no, let's do it this way or that way We didn't necessarily get our way, because we very much wanted Dunes West in the town of Mount Pleasant I mean, there was a great deal at stake there, it was about 4,500 acres But we had input How does that sound Just as when any document is submitted to us, we get to review it, and offer our thoughts and corrections, and that type of thing

Q When was the last time you looked at the 1990 planned development district, plan?

A Specifically the Dunes West plan?

Q Yes, sir

A I'm just going to throw out there, three or four years

Q To your knowledge, before June 13, 2006,

A Yes

Q Do you know whether that comp plan had any specific provisions dealing with golf courses?

A May have, I don't recall

Q Do you know whether it had any specific provisions dealing with open space?

A Again, it may have I don't recall If you had a copy of the document, I could refresh my memory

Q You and I are both flying blind right now Before we get there, over the years, had you signed off on subdivision plats at various times that were submitted by the Dunes West developer?

A Certainly, yes

Q And up until 2006, what was the procedure with respect to when a subdivision plat could be approved by staff approval, and those other instances where it took Planning Commission approval?

A There had been changes made in that procedure prior to 2006 And I'm not going to recall a timeline, because, like I said, we are going back to 1980

Q Just tell me how it evolved

A But, originally, plats would be submitted to, in the early days, to the town engineer And if

it met the requirements, it would be approved That was up until the early '90s -- excuse me, up until the early '80s And then in the '80s, we decided that the -- the Town decided, when I say we, the Town, that there should be more review, particularly by the Planning Commission, when there was the creation of new streets as part of a subdivision If there were not any new infrastructure improvements such as streets, it could be reviewed by the engineer, and then it was reassigned to my position, from the engineer to my position around, I'm going to say, '85 or '86, that I could approve plats if there was a public street in existence that provided access to the lot, and if infrastructure, such as water and sewer was available, then that would fall under my purview and not the Planning Commission's The Planning Commission would review anything where new infrastructure was placed

Then just to make matters more complicated, we eventually changed it back to -- it became what I'm going to refer to as, more or less, a consent item, if all requirements were met and it did not fall within the -- I think that the Planning Commission reviewed the preliminary plat, which would show either a sketch plan or a preliminary plat But

as far as the final plat, before recording, that could be approved by staff So there was that little distinction made also in the process later in the game

Q Right At that time the Planning Commission, as I understand it, would have to approve preliminary plats, and it was then up to the staff to sign off on the conditional or final plat?

A Correct

Q Upon compliance with the ordinances governing those?

A Yeah, and all the conditions that might have been stipulated by the Planning Commission for approval, correct

Q Exactly So back, say, in 2005, if the developer of Dunes West and the master developer then was John Wieland Homes, if they had come to you with a plat that met the technical requirements of the ordinance, in other words, it had had the correct setbacks, buffers, the infrastructure was there, that type of thing, under what circumstances would it require Planning Commission approval? Was it still a new street?

A Yes, or if it was triggered, perhaps, by an impact assessment, which might be based on size,

if it's commercial or dredge, or some other significant size to what was planned or what they were attempting to do

Q Okay But if they came in, say, with a plat for a single-family lot, just a single lot subdivision, and all the technical requirements were met, including the infrastructure on the road and setbacks, lot size, all that kind of thing -- I guess setbacks would not be an issue then It would be lot width and all that kind of stuff But if they met the minimum lot size under the PD, was that a staff decision whether to approve it?

A Yes, it would be

Q And would the only basis for a turn-down be that that single lot subdivision did not meet the technical requirements of your ordinances?

A Well, there may be other factors involved, but typically, I'm going to answer the question that, yes, if it met all of the technical requirements But there may be other requirements that had legal implications, or something of that nature, we would also look at

Q What will be an example of those?

A Well, they could be things like deed restrictions There could be known easements that

existed that would perhaps somehow put a shadow or a doubt or whatever, a question upon what the intention of that subdivision was being done for There may be physical features of the property that would somehow preclude perhaps an intended use that was unknown at that point in time But, nevertheless, there would be some type of cloud that might require us to further evaluate or investigate what the intent of that subdivision was

And I'm going to use a very plain example, and I know you are aware of this But, for instance, take a big planned development like Seaside Farms or something like that, as you know, they don't develop -- there were multiple tracts within that property, as you are aware And I assume there were different entities within all these various LLCs or something like that that may exist

And one thing that, you know, from my position and my responsibility, I would always be kind of worried about, is to make sure that I didn't create a division of property that somehow ran afoul of what the various interests may have Because as you develop a large planned development, or any large tract of land, typically, it's not all done at once on one plat, as you know, it's typically done in

stages And oftentimes, a lot of the larger planned developments were selling off tracts to different people

Charleston National probably had eight or nine different developers within that one PD Dunes West obviously had a bunch, especially when Pat Tomlin bought in, because Pat was selling to various builders And you may have a drainage easement that went straight through one guy's property that or something like that that may affect very severely how this property over here was being developed

So it was -- sometimes it was more than just technical review that staff would put to test on a request

Q On the Dunes West part, putting aside Park West, with respect to subdivision plats that were submitted to you for Dunes West that did not have to go to Planning Commission, do you recall any subdivision plats that you rejected that were ones that would only require staff approval?

A I recall one There was an entity that owned, I guess, most of the balance of Dunes West I can't recall the fellow's name I think he was federally indicted or something

Q That would be one Allen Fecker?

A Allen Fecker

Q And convicted?

A I guess he was convicted He should have been If he wasn't, justice sure missed out But at any rate, he was selling off properties, or perhaps the court was disbursing the property, I don't know at that stage, because it was getting fairly confusing, but Wieland Homes was somehow involved in some of the parcels And Fecker was trying to figure out how to hold onto, I guess, some pieces or something like that, even though it appeared that -- and -- here's one I'm going to give you, talking about met technical requirements, there was very little requirements on the way some of the things could be done at Dunes West But, on paper, it looked as if there was a clean lot being created But in reality, what I knew was there was a question of jurisdictional wetlands and marshlands And somehow they were trying to create a piece of land it looked like he was going to need a helicopter to get to, or else he was going to need a permit from the Army Corps in OCRM in order to perhaps have clean access to the property

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And if he did get that permit and was allowed to fill it, then it was conceivably going to

affect properties on either side of it, kind of like potential litigation any way you look at it And I recall perhaps telling them, no, I'm not going to approve this, maybe we will take it to a Planning Commission or Town Council, I want somebody else to bless this besides myself

Q Do you recall any other instances where you rejected a subdivision plat for Dunes West that did not require Planning Commission review and approval?

A No

Q Tell me what you recall as the genesis of the ordinance that was later adopted on June 13, 2006, creating the Conservation Open Space-Recreational District

A Plain and simple It was, more or less, a directive from Council that staff investigate and prepare the classification to protect golf course facilities -- golf courses and the facilities I guess is the way to say it -- from being turned into dwelling units, just plain and simple

Q Who told you this? When you say Council, what was the first instruction you had? Who did it come from?

A I think it was brought up on more than one

occasion, but I think it was addressed at a meeting or something And I really don't recall I know that one Council person, Paul Gawrych, was really on top of that subject I don't remember if others chimed in or not on it But I do recall Gawrych, and possibly because, I'm trying to recall, he either lived in Charleston National or Dunes West at the time I don't even remember He lived in both of them at one point or another So I don't know where he was living at that point in history

Q To the best of your knowledge, was your first introduction to the idea at either a Committee or a Council meeting?

A I think the subject was brought up at a Committee meeting, but it very -- no, I don't It could have been either one

Q I'm just curious as to whether any individual Council member approached you before the meeting to say, for instance, this is a concern of mine, and I'm going to introduce to the Committee or Council, and this is what I have in mind?

A I don't recall in casual conversations to that regard It very well could have been I can't answer it I don't know

Q When you were employed by the Town, did

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Council members ever send you e-mails about various planning issues they were involved in or concerned about?

A Yeah, once in awhile, not as much as you might think I mean, surprisingly, they usually send e-mails about other things, about each other and stuff like that, you know

Q Who in addition to Paul Gawrych was a proponent, a big backer of this potential zoning district?

A I think they were all pretty much for it I don't recall, if there was somebody descending, I really don't recall them doing that I'm not saying they all stood around and jumped up and down and clapped or anything, Trenholm But I think there was a general consensus on their part that this is how they were going to do it

Q Did Council give any instruction as to how it was to be done?

A No Other than what I previously explained, that, you know, the intent was to make sure that these golf courses and --

Q And related support facilities?

A -- facilities were protected from being developed into housing

Q Was it then up to the planning staff to put together the zoning tool that would accomplish that?

A Yes

Q Who would have been the first person to take a crack at drafting that, the zoning tool?

A We probably -- I probably would have assigned Christiane But bear in mind, Christiane Farrell was supervisor over the rest of the staff So her understanding would be to use any of their abilities Kent Prause typically crafted all of our zoning ordinances and amendments But that didn't necessarily mean that Kent was the architect behind what the intent of the ordinance might be or the various components within the ordinance

Christiane very well could have relied on Kelly Cousino or one of the other, Kevin Mitchell, or one of our other staff members for their input and to have them look at different things, or Eddie Bernard, if it was trees So different members of staff would certainly have participated in it And very often Christiane would hold a staff meeting and say, okay, guys, here's what we are going to try to do here, you do this and you do this and you look at this and look at that, and so forth and so on

And ultimately, if she had questions about what content might be in it or something like that, she would come to me and say, Joel, what do you think, are we on the right track And I might look at it and offer my comments to it, and back and forth And then it would be sent to Allen Young, the Town Attorney's office, for legal review, and then it would be presented We would prepare the public hearing notice And we go to the Planning Commission, and then from the Planning Commission, the Planning Committee of Council, and then to the full Town Council

Q Do you require any brainstorming sessions with other folks on the planning staff as to how best to accomplish what Council had asked staff to do?

A On something like this particular ordinance -- you used the word require, no, we wouldn't have required necessarily I mean, we were free, I guess, to involve our people For instance, we had to pass an ordinance that dealt with how garbage was picked up, because it got pretty confusing with townhouses versus condominiums versus apartment complexes And so we certainly pulled in Public Works to help with that What, you all have a garbage problem?

Q Frances and I have litigated the difference between garbage and pickups, not just in magistrate court, not circuit court, we went all the way to Federal Court and spent three days trying a garbage case

A I seem to remember some obscure matter like that But anyway, something like that we would require somebody to come in, hey, Jody, how do you pick up the garbage

Q On this one, talking about this specific ordinance where Council said --

A No, no, no, no

Q But do you recall any sessions, conversations, where you and others were discussing, well, what's the best way to carry this out, or anything like that?

A I don't recall

Q As I understand it, staff would put together a draft that may have involved a number of people, and then it gets vetted by legal counsel, Allen Young?

A Yes

Q And the next step, assuming that it obtains legal approval, is it goes to the Planning Commission?

A Yes

Q Then after review by the Planning Commission, hearing by the Planning Commission, they make a recommendation to Council, as I understand it

A Yes

Q And then Council will put the proposed ordinance on its agenda And how many readings if it makes it past the first?

A Two readings

Q What I want to do now is have you take a look at the ordinance, which is, I think Exhibit 11 This is the ordinance creating the conservation-recreation open space In the ordinance under A-2, it says one of the purposes Is to ensure the preservation for conservation, recreation and/or open space use of land against undesirable development

Had the planning staff or anybody else from the Town, to your knowledge, conducted a study to determine or to analyze the amount of land that should be devoted to conservation within the Town of Mount Pleasant

A You are not referring specifically to this particular ordinance, are you? Are you asking about in previous history of Mount Pleasant?

Q Yes What I'm tryıng to fınd out ıs, ın thıs ordınance ıt says one of the goals ıs to preserve land, to conserve land

A Yes

Q What I'm tryıng to fınd out ıs what studıes, analyses, ıf any, the Town had done to determıne just how much land ın ıts estımatıon needed to be preserved for conservatıon purposes?

A We had certaınly done that ın the past We had a long hıstory of tryıng to preserve open space There's no questıon about that And, yeah, we studıed that extensıvely through varıous master plannıng, comprehensıve plannıng processes ın the past, the adoptıon of open space, preservatıon of land, dedıcatıon of land for fee ın lıeu of, or credıts for open space, and so forth and so on So, yeah, we had done that for 20 plus years But I thınk the key here ıs, thıs specıfıc purpose ıs agaınst undesırable development As I saıd, the dırectıve from Town Councıl was to preserve the land from the development ınto houses Thıs partıcular -- thıs partıcular zonıng dıstrıct specıfıcally for golf courses

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Q Rıght And I understand that that was the purpose, to keep ıt out of the hands of "undesırable"

development What I'm interested in is the studies that you mentioned, if there are any about conservation and open space Do you recall any specific studies or analyses that the Town had done before June 2006 that assessed the volume of open space, or made a determination as to the minimum necessary, or anything like that?

A Yes, we very definitely have done that several times, as I stated We even created an Open Space Commission I don't know what they call themselves these days But it was -- we had an absolute inventory of every acreage of land that was undeveloped, and not only undeveloped, but which ones had protective covenants on it, to our knowledge, land that had been previously dedicated to the public, all our various park facilities, very extensive studies on that stuff

Q What was the name of the commission that you said, Open Space Commission?

A Yeah I wish I had asked Christiane these questions yesterday I don't know, open space land -- they are still in operation That's who the Oakland Plantation land was deeded over to, those guys when they did Oakland Plantation I can't think of the name of it, Open Space Foundation, with Mount

Pleasant in front of it, probably

Q Is it a Town body or is it a private body with a name Mount Pleasant in front of it?

A They were appointed by the Town It's -- what's the word you all --

Q Land trust?

A Like a 501, nonprofit organization I think the appointment does come from the Town, because the Town originally set it up and a charter was established If you get with Robert Dodds, he was the attorney that drafted all that for the Town and probably has a copy of their charter, what they do and don't do and so forth and so on

Q To your recollection, was there a study or analysis associated with the creation of this commission, or after it went into operation, that essentially assessed the needs of the Town for open space?

A That body very definitely went through all those types of studies and procedures and so forth after their establishment, but I'm not going to go as far as saying there's any direct correlation to this ordinance

Q I understand To your knowledge, were any of those studies consulted or reviewed by planning

staff in the process of developing this ordinance?

A I don't know

Q Who would have any studies or analyses of open space along the lines of those you've referred to?

A They would be available at the -- probably right there at the Mount Pleasant planning office

Q Do you recall whether there are any directives in those materials that specifically addressed golf courses or open space in planned development districts, anything like that?

A I don't recall I'm pretty sure that golf courses would be counted and shown as open space

Q Was it your understanding of Council's directive that they wanted golf courses to remain golf courses in simple terms?

A That was my understanding

Q Was it your understanding that they wanted golf courses to remain operational golf courses, where play could occur, or simply to prevent any development on the land that was then being used as a golf course?

A I don't know their intention in that regard

Q Are you aware of any studies or analyses

that were done by planning staff or anybody else with the Town, before the enactment of this ordinance, to take a look at the volume of golf course play to determine if there were sufficient or insufficient facilities for playing golf in the town of Mount Pleasant?

A No

Q To your knowledge, has any study ever been done?

A Not by the Town planning staff I'm sure operators of the golf course have hopefully done some of that

Q At the time this ordinance was adopted, are you aware of anything that showed that within the town of Mount Pleasant, there was insufficient supply of available golf courses?

A I have no knowledge of it

Q Are you aware of any study that looked at the rounds of play at the golf courses within the town of Mount Pleasant, and assessed whether the golf courses were being played near capacity or under capacity, anything like that?

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A No

Q Moving onto the phrase that you pointed out to me a few minutes ago, undesirable development,

what is meant by undesirable?

A I'd put at the top of the list a steel mill, having been born and raised in Georgetown, South Carolina No, I think the intent is clear I think that the idea was to prevent -- and the best example that I really have was -- and what really kicked off this ordinance to begin with were newspaper articles that we were hearing from places like Horry County, Myrtle Beach, Conway area, and a few other areas, where there was probably an over-capacity of golf courses And golf courses were being converted in certain developments into housing units, and there was a public hue and cry and outrage at, how can that be, you know, I bought this house thinking there was going to be a golf course behind me, and next thing I know, I've got an apartment complex

So that was probably -- and I'm not the author of that specific word undesirable there I guess there are other ways you could have phrased that, but I think that was clearly the intent and the direction that was given to us by Town Council, and what staff tried to accomplish

Q If we look solely to the word undesirable, without the overlay of the intent you just described,

is there any definition of undesirable that you know about?

A Well, I was getting ready to say --

Q Setback and buffer --

A Trenholm, you know, undesirable, I would say, in retrospect, if staff had to do over again, probably wouldn't choose that, because beauty is in the eye of the beholder

Q Mercibeaucomp

A I think to John Wieland, probably a three-story house with eight bedrooms would probably be desirable So I do get your point there, but I don't think you need to belabor the point, that's a poor choice of words

Q It's a word that, to your knowledge, doesn't appear elsewhere in the zoning ordinance?

A You really are testing my memory now I will not answer that I take the position of the Fifth on that

Q I have a certain client that loves the word tasteful, it's right there, desirable and tasteful

A I think I know who that client might be

Q You would agree undesirable is, to a large extent, that it is entirely subjective?

A For the most part, yeah

Q There are no objective criteria associated with this adjective undesirable in this ordinance, are there?

A I think you've warned us You've whipped this horse It's a poor choice of words I think as human beings, we could probably collectively agree on some acts of behavior that are undesirable for all of us

Q Was it your understanding that essentially what Council intended was to ensure against any residential or commercial development of these lands or industrial?

A Yeah I mean, I think it could have been spelled out I won't go as far as saying commercial There perhaps are some type of open space commercial uses that would be -- you know, it's almost like you could almost get down -- if you really wanted to clarify it, you would get into this whole explanation of unanticipated residential development of this property, or something of that nature Because that's really more where it was intended when the ordinance was written, and to preserve the open space, to preserve the property as open space or related uses to that

Q If we were to roll back the clock, and we were before the final reading of this ordinance, and you had your editor's pen there, and you were able to substitute a word or phrase for undesirable, what would you put in there?

A I probably would just knock the whole sentence out, just say you couldn't -- if I could see the future, just say you couldn't drag me over this particular sentence And then I will just spare myself I will spare myself the trouble of --

Q You just fast-forwarded to the future I'm going to the past We just put you, and you went backwards as editor

A But I'm a Planner, we always look to the future, not the past

Q But you were editor and chief, ultimately, at that time

A No, I wouldn't take that credit I've had many things I've stuck in ordinances the way I've written rearranged by Town Council

Q Okay I think I understand you If you were going back in time, you just would eliminate number two?

A Probably

Q Let's go to --

A I certainly would word it entirely different

Q Let's go back to number one where it says, to provide for and permit an appropriate valuation by the tax assessor and/or land appraiser that reflects the conservation, recreation, and/or open space use of land

Was there a problem with the assessor or appraisers not getting it?

A I have no idea where that came from I will just be plain and simple When you handed me this ordinance, I looked at it, and I was like, what in the hell does that mean? So that's my answer

Q And putting aside the meaning, did you know of any problem with tax assessors or land appraisers coming up with the wrong valuations for land that was reserved for conservation, recreation or open space?

A I myself personally don't, but I can't speak for staff

Q Okay

A There may be knowledge within my department

Q As we sit here today, you aren't aware of any problems with these assessors or appraisers then

in existence, are you?

A I'm not

Q All right Number 3, to lessen the hazards and loss of property, life, and the reduction of health and safety due to periodic inundation of floodwaters by restricting or prohibiting uses in these areas

Had the Town, before adopting this ordinance, conducted some sort of flood study?

A Well, certainly there have been flood studies that have been done And, yes, we did study stormwater overall for the town of Mount Pleasant, extensively before we adopted the stormwater management ordinance, which provides for payment of fees and so forth and so on based on stormwater uses So we have a pretty good history in that regard, as far as looking at those types of things

Q I understand the Town would look at drain issues

A I think here, if we were going to play editor today, I probably would have been a little more specific And I will be honest with you, this is the first time I've ever looked at this ordinance I did talk about uses and so forth with the staff, but this business of, by restricting or prohibiting

uses in these areas, I probably would have indicated that you could almost get into a little bit more explanation on impervious surface area or something of that nature, instead of just saying uses, because uses is wide open Uses can be anything

Q Right

A So I think that probably the intent, by just throwing uses in there, they are referring to impervious surface area

Q And that comes back to stormwater runoff, what you were talking about earlier?

A Yes, correct

Q Specifically, though, with respect to periodic inundation of floodwaters, do you know of any studies done by the Town that were for the purpose of assessing periodic inundation of floodwaters? And I'm not talking about just stormwater runoff, but periodic inundation of floodwaters as stated in that Subparagraph (3)

A Yeah, I think we very definitely -- we did the Stormwater Management Act It wasn't based on just hurricane events and stuff It was based on problem areas that we had in the town We had a long history in a couple of golf course areas of the town where there was relationship of stormwater from

streets, and it flooded the golf course, or the golf course might control perhaps -- as you know, most golf courses have extensive water features And very often, that controls the level of water through risers And oftentimes, in a couple of the golf courses, they may try to keep the water level higher than what would be desirable, say, from an engineer's point of view He would rather have the water level lower in case you do have a rain event that riser can't keep up with, because the lake is already full with water and, therefore, backs up into the streets and into the yards, and so forth and so on

So we looked -- I would say if we kept those files, and I can't really say whether we have or not, but you would find that when we did our stormwater management plan, that a great deal of effort, at least one year of study, went into looking at things like rain events, and not just catastrophic hurricanes, but 10-year storms, 20-year, 50, so forth and so on

Q Are you aware of any particular study that was referred to by planning staff dealing with inundation of floodwaters when it drafted this ordinance?

A No

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Q Are you aware of any statement by any Council member in the instruction to draft the ordinance that brought up, as a basis for the ordinance, a fear of inundation of floodwaters?

A I'm not aware of any

Q As I understand your testimony, what you were saying earlier, the principal purpose was to prevent residential development on the golf course, correct?

A In summary, yes, that was the direction

Q Number 4 says, to provide opportunities for improved public and/or private recreation activities Were there studies then in place or any analysis that you know of that assessed whether or not there were available public and private recreation facilities within the town?

A We had done those studies before

Q Are you aware of any study that came to the conclusion that golf courses needed to be preserved as golf courses in order for the town to have sufficient public or private recreation activities?

A It's a part of it

Q I understand it's a part of it, but are you aware of any study that concluded that the Town

needed to take action, through zoning or other means, to preserve golf courses as golf courses in order to provide sufficient public and/or private recreation facilities?

A You are trying to make a direct correlation, I think, between this ordinance and specific studies that were done for the purposes of adopting this ordinance So I have to break my answers into two parts I don't know of any studies that were done specifically for the purpose of drafting this ordinance But I do know that, yes, in the past, and not only were there studies done, but in some cases, by the very creation of the golf course, a developer was either taking perhaps a donation of open space, not in the sense that he was actually donating land for recreation, per se, but we actually gave a partial credit if he provided amenities within your planned development, okay, that you maybe didn't have to pay any fees in lieu of or dedicate other public open space So there is a correlation there, but there wasn't any specific studies done for this ordinance

Q Number 5 says, to provide a community-wide network of open space, buffer zones and recreation areas What is that talking about?

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A Well, a network could be many things, couldn't it?

Q That's what I got thrown by It sounded like it was looking at a network, which would be all the open space and buffers and recreation spaces within the community, or community-wide, rather than just isolating the golf course

A Well, I think that by the use of the word network, that implies that the golf courses are part of the community-wide system of open space

Q Are you aware of any study or analysis that came to the conclusion that the golf courses needed to remain golf courses for there to be an adequate community-wide network of open space, buffer zones and recreation space?

A No

Q We are very soon going to get to the parcels that were rezoned to this CR-O district, but before we do, are you aware of any other lands since June 13, 2006, that have had the CR-O district -- that have been zoned CR-O?

A I'm not aware of any

Q Are you aware of any instances where there was an effort by either property owner or planning staff to rezone property CR-O, even though it did not

succeed?

A Will you ask the question again? I'm starting to daydream

Q I don't blame you on that one

A That was pretty dry Put some emotion in it

Q I'm trying to find out -- as you said, to your knowledge, no other lands were zoned CR-O I'm trying to find out if there was an effort to zone another land CR-O that did not succeed that you could think of?

A No, I can't think of any

Q To your knowledge, had anybody, any owner of a golf course in Mount Pleasant before the adoption of this ordinance, communicated they intended to close down the golf course and convert it to residential use?

A No

Q So you are not aware of any imminent threat to do that at the time this ordinance was adopted?

A Not in Mount Pleasant

Q Did you partake in drafting the individual ordinances that were used to rezone the golf courses, the five or six golf courses in Mount Pleasant?

A No

Q Were you aware that the rezoning of the golf course areas at Dunes West included lands that were not part of the golf course property?

A No

Q Let me now turn back the clock a little bit, and talk about specifically Kevin Popsen How long have you known Kevin?

A Better than 20 years

Q Okay Before he came to Dunes West with John Wieland, was he involved in a similar capacity for other development projects?

A I recall him at Hobcaw Creek Plantation

Q What was your understanding of Kevin's position with Dunes West?

A I assume you mean at this point in time

Q Yeah, exactly

A Because I believe he did move up the ladder

Q He did

A So to speak

Q Right

A Hierarchy, whatever

Q Right

A I guess he was kind of like -- I'm going

to refer to the position as like operating manager or something like that, would be probably some type of title

Q Before this ordinance was adopted -- well, let me rephrase that The earliest record that we have produced by the Town showing or indicating that the Town was considering rezoning golf courses comes from a Town Council meeting dated February 14, 2006 Didn't Kevin approach you before February 14, 2006, about the possibility of subdividing some lots from the nongolf course land that was on the TMS parcels that included the golf course?

A The last part is pretty confusing

Q All right

A But the first part, let me answer the first part, and then we can talk about the parcels and so forth He definitely approached me at some point in time Now, as to that date -- and you say, you intentionally say prior to, I don't know if it was prior to or afterwards, but, yes, I mean, Kevin definitely came to my office and showed me some hypotheticals

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Q What were the hypotheticals?

A Just the possibility of cutting various pieces of land into development, into houses, lots

Q These are pieces of land next to the golf course?

A They were pieces of land that were -- I don't know if they were part of the golf course or not part of the golf course It was just pieces of land that were vacant, undeveloped

Q When you say he gave you some hypotheticals, did he have some illustrations of some potential lot configurations?

A Yes, yes

Q Did he ask anything of you at that time?

A Ask anything? Like what, would I like to go to lunch?

Q With respect to these properties, did he say, Joel, what do you think, or, Joel, I mean, what was --

A I think he tried to put a positive spin on it, like, Joel, this is what we would like to do and, you know, we are trying to work with the property owners At the time, you know, Wieland, I think was dealing with some issues in Dunes West that had to do with things like upkeep of the amenities And they had several major road failings in there that they probably needed to fix, and so forth and so on He was talking about hypothetical uses of how they might

could get some lots out of it, and maybe give some money to the HOA or POA, whatever they call themselves, and things like that But, you know, that was pretty much where it was I don't recall if he asked my opinion, hey, Joel, do you think this would get approved?

Q Do you recall any discussion with him where he asked you, if I go ahead and proceed with getting a subdivision plat drawn that should be subject to staff approval, would you approve it? Do you remember anything like that?

A I don't recall that

Q Do you recall any conversation with Kevin before this ordinance came up where you indicated to him that, in all likelihood, you were not going to approve at the staff level a subdivision of these lands because it would be too controversial, and that you would probably require that it be reviewed by Planning Commission?

A I don't recall using those words I do recall --

Q And I wasn't saying you did it verbatim to the effect of

A Yeah I don't recall telling him that I wouldn't necessarily approve it if it was presented

to me, because nothing was ever presented to me, like I said, other than sketches, which I've had a million developers come and show me different sketches on the same piece of property, case in point, Richard Cohen

But I don't recall specifically telling him, oh, I'm not going to approve this if you submit it, Kevin, I've got to take this to Planning Commission I don't recall ever specifically using those words

Q Perhaps my phrasing was wrong And I'm not suggesting that Kevin said those words Let me back up and try to say it a different way Did you suggest to Kevin that it would be probably best to get Planning Commission approval for any subdivision of lots out of lands around the golf course?

A Lots that would part of the parcel of the golf course, yes, I probably did, like I said, suggest that that's where we would want to go with this But, like I said, there was never a submittal to me

Q At any time did you, before the ordinance was adopted, did you request that Kevin not submit any subdivision plat --

A Not to my knowledge

Q -- that may have subdivided lands out of

the golf course parcels?

A Not to my knowledge I'm going to elaborate To my knowledge, I have never scared a developer off by merely suggesting the way -- if Joel Ford had his way in the world, that he wouldn't submit some particular thing to me, that I know that it would get disapproved or approved, because I've been wrong so many times when I suggest to developers, and they always submit I don't recall ever scaring anyone off from making a submittal to my office

Q Yeah So they have not followed your wise counsel, S-E-L?

A What's S-E-L stand for?

Q Counsel

A I'm not even going to address that

Q Fair enough Do you recall any comment by Kevin that he would wait and see what, once this zoning ordinance got on the track, that he was not going to submit anything, because the ordinance, even though he might have a right to do it under the PD, because the ordinance was coming down the track?

A He very well may have I don't recall the specific conversation

Q Do you recall a meeting that involved

Kevin and Stuart Whiteside to talk about potential subdivision of lands around the golf course?

A You know, I definitely know that I met with Kevin I definitely know I met with Stuart I very well may have met with them both at the same time And I don't recall if that was the specific reason that we met, but it may have come up during the conversation of a meeting for another purpose

MR WALKER Got you Do you mind if we take five minutes?

MS CANTWELL Sure

(A recess transpired)

BY MR WALKER

Q Kevin and Stuart visited your office Do you remember any conversations with either Kevin or Stuart where they said that they were not going to proceed with an effort to subdivide lots out of the golf course parcels?

A They said they were not going to?

Q Right

A They may have I don't recall I really don't

Q Well, if you don't recall --

A Then what do I say if I don't recall?

Q You say you don't recall

A Okay I don't recall

Q Now, with respect to what's on the ground over there right now, what uses can the owner make of the land that's around the areas in play of the golf course? My client --

MS CANTWELL I object to the form of the question, but you can answer it

Q I'm just trying to find out, you as the former planner, head of planning for 30 years in Mount Pleasant, and a person that was there when the ordinance was adopted, I just want to know what uses --

A Type of uses

Q Exactly -- that are allowed once my client's property was rezoned, and on the land that's not part of the golf course?

A Not part of the playable course or something of that nature?

Q Exactly, exactly

MS CANTWELL Can we just assume that --

THE WITNESS That you all are in dispute over the use of the word golf course versus --

MS CANTWELL Well, I don't know if this is appropriate, but my issue, Trenholm, is that the way you are phrasing the question, is that there are

lands that are not part of the golf course And I know what you are trying to say, is that you all claim they are developable acreages We say that they are not And if we can just understand that we have a basic disagreement on that, so that when you phrase your question, I don't have to object every time

Q I will make it a hypothetical Assuming that there are lands on the parcels that were rezoned that are not part of the areas of play or the footprint of the golf course, making that assumption, if that were the case, what uses could the owner make of those lands?

A Well, related facilities, I would assume, would include things like clubhouses and tennis courts, swimming pools --

Q The owner could put more --

A -- indoor paddle board, archery range

Q So he could do other recreational facilities?

A Yes, is my understanding, yes

Q Okay What else? He could leave it as open space, right?

A That would be an option

Q What is really the difference between if

this property had been condemned to be a park and recreation and the way it is right now, what would be the difference?

A I don't know It's a hypothetical I'm not sure I understand the question You mean in other words, if -- you said condemned How about if it was acquired, whatever, but --

Q That's what I mean If this property had been acquired through imminent domain for the purpose of open space and recreation, what would be the difference between those uses and the uses that are allowed now?

A I'm not sure there would be any particular differences But, I mean, it could be any other type of recreational facility

Q Is it your understanding that this ordinance was passed for the benefit of the public?

A Yes, yeah

Q And do you believe the public benefits from having land -- let me rephrase that to take care of Frances' objection Assuming there's land on these parcels that's not part of the areas of golf play, do you believe that the public benefits from leaving those lands as open space?

A I think segments of the public do

Q And why segments?

A There's particular people that play on golf course or like to feed geese or walk their dogs

Q You are aware that the Dunes West property owner came back in 2009 and requested a zoning change for portions of the lands that were rezoned, are you aware of that, even though it occurred after your departure?

A I'm aware of it now I did discuss that with staff I wasn't aware -- I must have missed the article in the paper

Q Were you aware that they came back in 2008 and made an application that was heard by the Planning Commission, then denied?

A Yeah, I was aware that they had started the process and so forth and so on, yes

Q And they were denied by the Planning Commission, correct? The Planning Commission made recommendation not to approve, excuse me

A Yes, sir Yes, sir Yes, sir

Q Right And then they came back, property owner came back in 2009, and made application, and again received a negative recommendation from the Planning Commission, correct?

A To my knowledge

question of administrative remedies, a remedy, an administrative remedy

A Not a legislative remedy

Q Exactly For instance, if the Planning Director makes a decision that is within the Planning Director's purview, and the property owner doesn't like it, that property owner could appeal that?

A Appeal

Q Depending upon what the decision is to the Planning Commission of the --

A Right

Q My understanding is there's no such recourse, administrative recourse from --

A Rezoning

Q -- A rezoning, is that your understanding too?

A That's correct

Q Were you involved at all in the rezoning of a portion of the Snee Farm golf parcels that included the parking lot and some areas around the clubhouse to allow residential --

A In the sense that I was director of planning, yes, I was involved

Q What is your understanding of what they showed in order to justify that zoning change?

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MR WALKER That's what I was looking for

MS CANTWELL Okay It's in a Planning Commission --

MR WALKER 26

MS CANTWELL Look at 26, yeah

MR WALKER There it is

BY MR WALKER

Q With respect to the zoning change that was approved for 20 acres of the Snee Farm golf parcel, what about that -- was there anything to your knowledge about that zoning change that -- let me rephrase that Was there anything about that rezoning that was necessary to implement the Comprehensive Plan?

A Necessary to implement the Comprehensive Plan?

Q Right For instance, I will just get right down to it The ordinance that states declaration of policy, Section 156 --

MS CANTWELL Can I show him?

MR WALKER Yeah, by all means, show him this

Q 031D, declaration of policy, refers to certain standards for granting a request to change

zoning And the first one is, where necessary to implement the Comprehensive Plan What was it in your estimation, if you have any information at all, what was it about Snee Farm's request to rezone 20 acres that was necessary to implement the comp plan?

A Make the world a more livable place

Q Okay Then number two, to correct an original mistake, manifest error in the regulations or map, you would agree with me that there was no showing, with respect to the Snee Farm rezoning request, that there was an original mistake or manifest error in the regulations or map?

A Not that I'm what aware of

Q You would agree with me there's nothing about the Snee Farm zoning change request that made it necessary in order to recognize substantial change or change in conditions or circumstances in a particular locality?

A Well, the way I recall the Snee Farm request, that particular locality of Snee Farm, you know, there were claims that were being made that the -- I think the clubhouse needed upgrading and facilities needed upgrading, and things like that And there was housing demand in that area, and things of that nature

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Q Well, upgrading the clubhouse, the clubhouse could be upgraded under CR-O, right? There's no problem with upgrading -- the zoning didn't have to change to upgrade the clubhouse?

A Let's be more specific, though I think in order to upgrade the clubhouse, they had to tear the thing down, is kind of what I think they had in mind, or do substantial changes to the grounds, the parking lot, the swimming pool There was some relocation -- I don't remember the specifics of the plan I'm sure you've got it in here as an exhibit I could look at it and point them out to you

Q But those are all recreational uses and activities and projects that came within the allowed uses under CR-O, correct?

A Those particular uses did

Q Right

A I said, and they felt like there was also -- I guess in their mind, they felt that there was -- in order to do those things, they also needed perhaps more housing, or something of that nature But, you know, I can't really read into the intent of the developer in that regard But that's just, I think, part of their presentation probably to Town Council

I know there was a great deal of discussion at the meetings, Trenholm, where they went back and forth over, well, if we can do this and this, then we are going to go do this and this, if that makes any sense

Q I think there was a quid pro quo going on, and my understanding is they worked it out

A Yes

Q That it was an arrangement

A Right

Q But I didn't mean to suggest that you needed to get into the head of the Snee Farm people From a planner's standpoint, was there anything --

A No

Q -- that you would answer there was nothing that you could think of with respect to the Snee Farm application that made residential use necessary in order to recognize substantial change or change in conditions or circumstances in a particular locality, correct?

A Right, or to recognize changes in technicality, style, or manner of doing business I think the first one kind of covered the policy intent, make the world a better place to live

MR WALKER Okay I'm going to try to do

my best this afternoon I don't know how I'm going to do it

(Off-the-record conference)

Q Where are you now living?

A Mount Pleasant, 1438 Hindman Avenue, Mount Pleasant

MR WALKER Frances, I think that's all I have

EXAMINATION

BY MS CANTWELL

Q Let me just look real quick This is just for my clarification Before Dunes West annexed into Mount Pleasant, was it an existing PD in the county?

A Yes

Q And so when it came into Mount Pleasant, you all did some tweaking to it to what was already there?

A Yes

Q And you may have already answered this or clarified it, but when you and Kevin Popsen and maybe Stuart Whiteside were -- or when Popsen was showing you hypotheticals of potential subdivisions, I guess, were the properties he's showing you within the TMS maps that were ultimately rezoned to the CR-O, or do you know?