



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: September 19, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Settlement Agreement for Comins Development

Background: In Accordance With F.S. 70.51, a Settlement Agreement between the City and Comins Development has been reached. A draft was presented to the Council by the City Attorney at the September 5 Council Meeting for review. The City Attorney suggested changes to the document and those changes were made. Modifications made to the plan are outlined starting on Page 2, Section 8 of the attached document.

Staff Recommendation: Approve the settlement Agreement. Advertise for a public hearing on October 3, 2017 to approve the PD.

Suggested Motion: I move to approve the Settlement Agreement between the City and Comins Development and direct the City Clerk to advertise for a public hearing to be held on October 3, 2017.

Alternatives: Do not approve the Settlement Agreement

Fiscal Impact: Undetermined at this time.

Attachments: Settlement Agreement

PROCEEDING PURSUANT TO SECTION 70.51, FLORIDA STATUTES,
IN AND FOR BELLE ISLE, FLORIDA

COMINS DEVELOPMENT I, LLC, a Florida
limited liability company,

Petitioner,

vs.

BELLE ISLE, FLORIDA,

File No. _____

Respondent.

_____ /

SETTLEMENT AGREEMENT

COMINS DEVELOPMENT I, LLC, a Florida limited liability company, (hereinafter called "Petitioner"), and BELLE ISLE, FLORIDA, a municipal corporation formed and existing under the laws of the State of Florida (hereinafter called the "City"), hereby enter into this Settlement Agreement and agree to the following facts, terms and conditions:

1. The City Manager shall present this Settlement Agreement to the Belle Isle City Council (the "City Council") for approval on September 19, 2017, or as soon thereafter as can be reasonably accomplished. If the City Council approves this Settlement Agreement, it will proceed to public hearing to approve the PD which will be a final resolution of the proceeding filed by Petitioner pursuant to Section 70.51, Florida Statutes. If the City Council fails to approve the Settlement Agreement, this proceeding shall continue pursuant to Section 70.51, Florida Statutes, and a hearing will be scheduled before Lewis W. Stone, Esq., the Special Magistrate appointed in this matter.

2. On June 1, 2017, Petitioner filed a Request for Relief under Section 70.51, Florida Statutes, regarding the City's denial of a Planned Development ("PD") / Preliminary Subdivision

Plan (“PSP”) (collectively, the “PD/PSP”) for the proposed Silver Isles Townhome Project that is comprised of three contiguous parcels of property (the “Properties”).

3. The Properties are located on Daetwyler Drive in the City and have approximately 350 feet of frontage on Lake Conway.

4. Portions of the Properties were formerly used as a mobile home park, a restaurant and a single family home. Three docks and one boat ramp exist on the Properties.

5. The Properties have a Medium Density Future Land Use Map designation that requires a development density of between 5.6 and 10 dwelling units per acre. The Properties are currently zoned R-2, which allows multiple-family dwelling units. The City’s PD District also allows multiple-family dwelling units.

6. On April 25, 2017, the City’s Planning and Zoning Board recommended approval of the PD/PSP with specific conditions.

7. On May 2, 2017, the City Council denied the proposed preliminary concept plan and thereby denied the PD/PSP, and this proceeding was timely filed within thirty (30) days following the denial.

8. On August 29, 2017, a mediation between the Petitioner and the City was conducted by the Special Magistrate. At the mediation, the Petitioner presented for consideration by the City’s representatives a revised preliminary concept plan for the PD/PSP (the “Concept Plan”) which is attached hereto as Exhibit “A” and conceptual architectural renderings (the “Architectural Concepts”) which are attached hereto as Exhibit “B.” The following terms of this Settlement Agreement were negotiated at the mediation and will be confirmed by the City Council’s approval of this Settlement Agreement:

A. The Concept Plan is acceptable with the following modifications:

(i) Add a note to the Concept Plan establishing the minimum size of the townhome units at 2,000 s.f. and requiring that each unit have a double car garage.

(ii) Remove the twelve (12) parallel parking spaces north and south of the pool area and replace them with the maximum number of angled parking spaces (potentially 18-20) that can be provided using accepted engineering practices without decreasing the minimum square footage of any townhome unit or the total number of townhome units.

(iii) The location of buildings shown on the Concept Plan are approved unless they need to be shifted to accommodate the angled parking.

(iv) The City shall coordinate the Orange County Fire Department's review and approval of the street layout in the Concept Plan.

(v) Depict the location of any dumpsters / recyclers on the Concept Plan and include a note stating they will be screened by a wall and gate.

(vi) The two Architectural Concepts attached to this Settlement Agreement as Exhibit "B" shall be part of the PSP approval and the Development Plan. The Petitioner shall select elements from the Architectural Concepts for the design of the townhome units.

(vii) The nine (9) townhome units facing the lake shall not exceed a thirty foot (30') height limit; the twenty-one (21) non-lakefront townhome units shall not exceed a thirty-five foot (35') height limit.

(viii) The recreational open space areas located on either side of the center lakefront building shown on the Concept Plan shall include hardscape elements and a landscape planting plan substantially similar to the depiction on Exhibit "C" attached hereto, which shall be used to soften the view from the lake of the townhome units located behind the lakefront units but

not significantly restrict views of the lake from those townhome units. The ultimate type and description of landscaping shall be included in the Development Plan.

(ix) Add a note on the Concept Plan requiring the Properties to be platted at one time in a single plat.

(x) Add a note on the Concept Plan stating that copies of the State Department of Environmental Protection (“DEP”) and Orange County permits issued for lakefront clearing shall be provided with the Development Plan submittal.

B. The following conditions shall apply to the dock and fishing/observation piers:

(i) Dock permitting shall occur only after platting and creation of the homeowners’ association (the “HOA”) for the PD/PSP.

(ii) The applicant for any dock or fishing/observation piers shall be the HOA.

(iii) The dock and fishing/observation piers shall be owned by the HOA. The HOA may lease boat slips to individual owners of the townhome units in the PSP/PD.

(iv) No boathouses shall be allowed on the dock or on the fishing/observation piers.

(v) No storage lockers shall be located on the dock or the fishing/observation piers.

(vi) No dock or fishing/observation pier shall be located within thirty feet (30’) from the residential property to the north or twenty feet (20’) from the property to the south.

(vii) No overnight mooring or other mooring by any individual watercraft for more than one hour during a 24-hour period shall be allowed on a fishing/observation pier. Drop-off and pick-up of boat passengers from the southern fishing/observation pier is allowed.

(viii) The length and location of the dock and the fishing/observation piers shall be governed by the City Code; provided, however, that the size of the dock and of the fishing/observation piers shall comply with the following conditions set forth below that were recommended by the Planning and Zoning Board on April 25, 2017. In the event of a conflict between the City Code and the conditions set forth in this Settlement Agreement, the conditions set forth in the Settlement Agreement shall control.

(ix) The existing boat docks and boat ramp on the Properties shall be removed prior to installation of the proposed 10-slip boat dock and the fishing/observation piers;

(x) The proposed 10-slip boat dock shall not be permitted by the City nor constructed before 25% of the total number of units approved within this PD/PSP have been permitted, constructed, and issued a certificate of occupancy;

(xi) The 10-slip boat dock shall be deed restricted to use only by residents/property owners within the development and shall not be utilized for commercial lease or profit

(a) The layout and design of the boat dock and fishing/observation piers shall be determined through a separate Belle Isle permitting process in accordance with the Belle Isle boat dock regulations, except that the terminal platform of the fishing/observation piers shall be no larger than ten feet by twenty feet (10' X 20'), the height of the dock and the fishing/observation piers shall be no greater than five feet (5') above the Normal

High Water Line (“NHWL”), and the maximum size of the 10-slip boat dock terminal platform shall be 3,600 square feet.

9. The first reading of the PD with these conditions and the revised Concept Plan shall be scheduled for hearing before the City Council as soon as reasonably possible following the City Council’s approval of this Settlement Agreement.

10. The Petitioner shall reimburse the City for legal review of all agreements related to this proceeding or the Revised PD/PSP, not to exceed \$2,000.00. The City shall send an invoice to the Petitioner for the amount owed and include reasonable detail of the legal work performed for which reimbursement is requested.

11. The Petitioner and the City shall each pay one-half (1/2) of an invoice to be sent by the Special Magistrate for his services within twenty (20) days following receipt of the invoice.

12. The Petitioner acknowledges and agrees that the City, through the Police Department or the Code Enforcement Officer shall have authority to enter the properties at any time, present or in the future, to enforce the terms and conditions set forth in this Settlement Agreement and PD/PSP once approved by the City Council.

AGREED TO AS OF THE LATEST DATE INDICTED BELOW.

PETITIONER

Comins Development I, LLC, a Florida limited liability company

By: _____

Its: _____

Dated: _____

[Signatures Continue on Following Page]

CITY OF BELLE ISLE, FLORIDA

Lydia Pisano, Mayor

This _____ day of _____, 2017.

ATTEST:

Clerk

Approved as to form and legality:

Thomas P. Callan, Assistant City Attorney

Exhibit "A"

(Preliminary Concept Plan for PD/PSP)

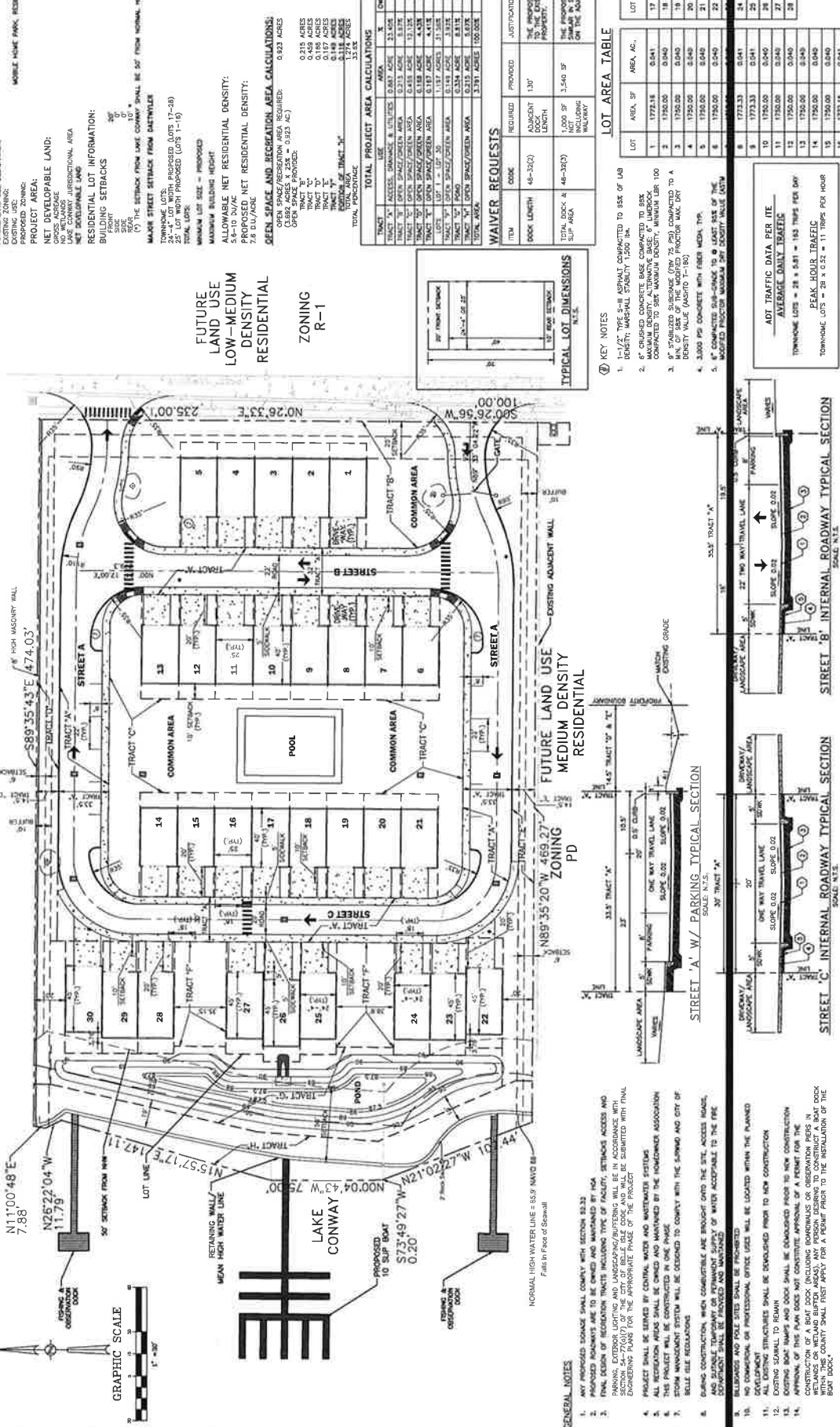
FUTURE LAND USE LOW DENSITY RESIDENTIAL

FUTURE LAND USE MEDIUM DENSITY RESIDENTIAL

FUTURE LAND USE LOW-MEDIUM DENSITY RESIDENTIAL

ZONING R-1-AA

ZONING R-1



SITE PROPERTY LOCATION:
 SECTION, TOWNSHIP, RANGE:
 PARCEL ID:

FUTURE LAND USE DESIGNATION:
 DENSITY RESIDENTIAL, R-1
 3.791 ACRES
 3.791 ACRES
 0.00 ACRES
 0.00 ACRES
 0.00 ACRES
 0.00 ACRES

NET DEVELOPABLE LAND:
 LAKE CONWAY JURISDICTIONAL AREA
 NO. OF LOTS: 30
 BUILDING SETBACKS:
 FRONT: 5 FT
 SIDE: 5 FT
 REAR: 5 FT

MARKER STREETS:
 (1) THE SETBACK FROM LAKE CONWAY SHALL BE 50' FROM NORMAL HIGH WATER ELEVATION.
 (2) THE SETBACK FROM LAKE CONWAY SHALL BE 50' FROM NORMAL HIGH WATER ELEVATION.
 TOWNSHIP LOTS:
 24 - 4' LOT WITH PROPOSED LOTS 17-30
 21 WITH PROPOSED LOTS 1-16
 TOTAL LOTS: 30 LOTS
 MINIMUM LOT SIZE - PROPOSED: 58-10 5/16 AC
 ALLOWABLE NET RESIDENTIAL DENSITY: 1.68 LOTS/ACRE
 PROPOSED NET RESIDENTIAL DENSITY: 1.68 LOTS/ACRE
 OPEN SPACE AND RECREATION AREA CALCULATIONS:
 TOTAL PROJECT AREA CALCULATIONS:
 TRACT 1: 0.215 ACRES
 TRACT 2: 0.459 ACRES
 TRACT 3: 0.107 ACRES
 TRACT 4: 0.189 ACRES
 TRACT 5: 0.189 ACRES
 TRACT 6: 0.189 ACRES
 TRACT 7: 0.189 ACRES
 TRACT 8: 0.189 ACRES
 TRACT 9: 0.189 ACRES
 TRACT 10: 0.189 ACRES
 TRACT 11: 0.189 ACRES
 TRACT 12: 0.189 ACRES
 TRACT 13: 0.189 ACRES
 TRACT 14: 0.189 ACRES
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 TRACT 25: 0.189 ACRES
 TRACT 26: 0.189 ACRES
 TRACT 27: 0.189 ACRES
 TRACT 28: 0.189 ACRES
 TRACT 29: 0.189 ACRES
 TRACT 30: 0.189 ACRES
 TOTAL PROJECT AREA: 3.791 ACRES

DEVELOPER: [Name]
DESIGNER: [Name]
DATE: [Date]

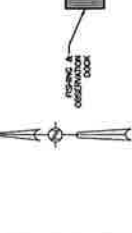
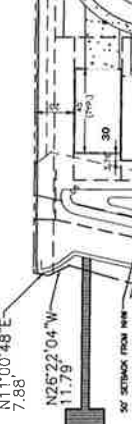
GENERAL NOTES:
 1. ALL PROPOSED STRUCTURES SHALL COMPLY WITH SECTION 55.32 IMA.
 2. FINAL DESIGN OF RECREATION TRACTS INCLUDING TYPE OF FACILITY, SETBACKS, ACCESS AND PARKING, EXTERIOR LIGHTING AND LANDSCAPING/BUFFERING WILL BE IN ACCORDANCE WITH SECTION 54-77.01(7) OF THE CITY OF BELLE ISLE CODE AND WILL BE SUBMITTED WITH FINAL CONSTRUCTION PERMITS FOR THE APPROPRIATE PHASE OF THE PROJECT.
 3. PROJECT SHALL BE SERVED BY CANAL, WATER AND WASTEWATER SYSTEMS.
 4. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED BY THE ENGINEER'S ASSOCIATION.
 5. THIS PROJECT WILL BE CONSTRUCTED IN ONE PHASE.
 6. STORM MANAGEMENT SYSTEM WILL BE DESIGNED TO COMPLY WITH THE SLOWS AND CITY OF BELLE ISLE REGULATIONS.
 7. DURING CONSTRUCTION, WHEN CONVICTIONABLE ARE BROUGHT ONTO THE SITE, ACCESS WALES, AND STABLE, TEMPORARY OR PERMANENT SUPPLY OF WATER ACCEPTABLE TO THE PRELIMINARY DESIGN SHALL BE PROVIDED AND MAINTAINED.
 8. BARRIERS AND POLE SETS SHALL BE PROVIDED.
 9. ALL EXISTING PROFESSIONAL OFFICE USES WILL BE LOCATED WITHIN THE PLANNED DEVELOPMENT.
 10. ALL EXISTING STRUCTURES SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION.
 11. EXISTING ROAD TAMPERS AND DOCK SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION.
 12. EXISTING ROAD TAMPERS AND DOCK SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION.
 13. APPROVAL OF THIS PLAN DOES NOT CONSTITUTE ASSURANCE OF A PERMIT FOR THE CONSTRUCTION OF THE PROPOSED DEVELOPMENT.
 14. RELIANCE ON WETLAND BUFFER ZONING: ANY PERSON DESIRING TO CONSTRUCT A BOAT DOCK WITHIN THIS COUNTY SHALL APPLY FOR A PERMIT PRIOR TO THE INSTALLATION OF THE BOAT DOCK.

LOT AREA TABLE

LOT	AREA, SF	AREA, AC.
1	17723.16	0.41
2	17500.00	0.40
3	17500.00	0.40
4	17500.00	0.40
5	17500.00	0.40
6	17500.00	0.40
7	17500.00	0.40
8	17500.00	0.40
9	17500.00	0.40
10	17500.00	0.40
11	17500.00	0.40
12	17500.00	0.40
13	17500.00	0.40
14	17500.00	0.40
15	17500.00	0.40
16	17723.16	0.41

WAIVER REQUESTS

ITEM	REQUIRED	PROVIDED	JUSTIFICATION
DOCK LENGTH	48-30(2)	130'	THE PROPOSED DOCK LENGTH IS SMALLER THAN THE EXISTING DOCK ON THE SUBJECT PROPERTY.
TOTAL DOCK & SLIP AREA	48-30(2)	3,540 SF	THE PROPOSED DOCK AND DOCK AREA IS SMALLER THAN THE EXISTING DOCK AND DOCK AREA ON THE SUBJECT PROPERTY.



NOT AILED FOR COUNTY OFFICIALS REVIEW

PLANNED DEVELOPMENT/ PRELIMINARY SUBDIVISION PLAN FOR SILVER ISLES 7740, 7728, AND 7740 DAETWYLER DRIVE BELLE ISLE, ORANGE COUNTY, FLORIDA

FEG ENGINEERING GROUP
 Engineering the Future
 5121 S. Orange Avenue, Suite 200
 Orlando, FL 32809
 Phone: 407-885-0324
 Fax: 407-895-0325
 www.feg-inc.us

REVISIONS

DATE	BY	REVISIONS

PRELIMINARY CONCEPT PLAN FOR PD/SP

APPROVED BY: [Signature]
DATE: MAY 11, 2017

APPROVED BY: [Signature]

APPROVED BY: [Signature]

APPROVED BY: [Signature]

APPROVED BY: [Signature]

APPROVED BY: [Signature]

APPROVED BY: [Signature]

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Exhibit "B"

(Architectural Concepts)



Silver Isles Townhomes
 Belle Isle, Orange County, Florida

Elevation - West Side
 3-3-3 Units Buildings - Lake View - Elevation A



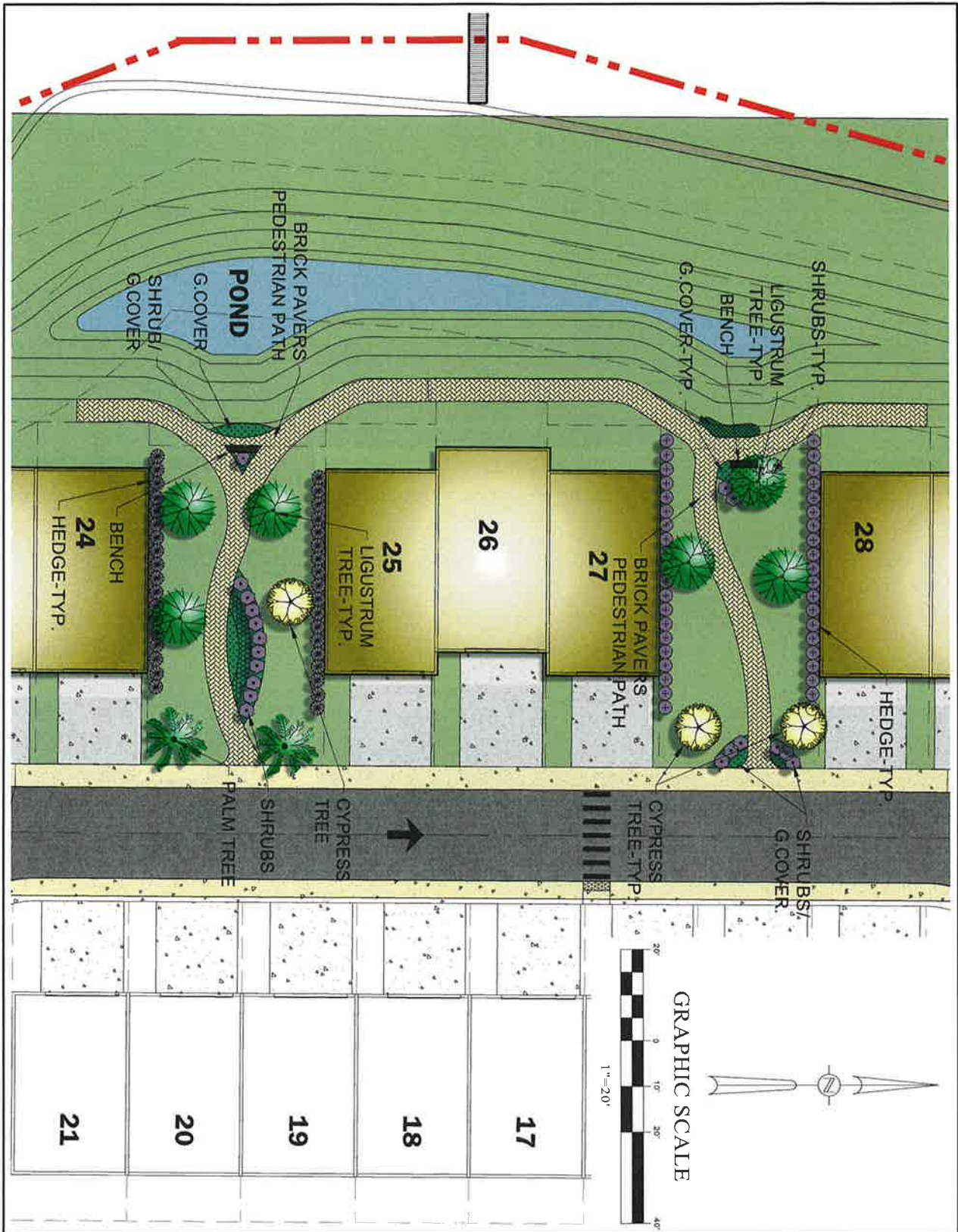
Silver Isles Townhomes
 Belle Isle, Orange County, Florida

Elevation - West Side
 3-3-3 Units Buildings - Lake View - Elevation B

CMJN ASSOCIATES
 300 Atlantic Avenue, Suite 200, Jacksonville, FL 32202
 904.241.1111
 CA, JN No. 217024-10

Exhibit "C"

(Hardscape and Landscape Concepts for Lakefront Open Spaces Between Buildings)



14

PROJECT NAME:		LANDSCAPE CONCEPT PLAN SILVER ISLES TOWNHOME PROJECT 7710, 7728, AND 7740 DAETWYLER DRIVE BELLE ISLE, ORANGE COUNTY, FLORIDA	
CLIENT:		COMINS DEVELOPMENT 9145 NARCOOSSEE RD. #102	
	F.E.G. PROJECT NO.:	15-084	
DATE:	SCALE:	1" = 20'	
08/31/2017			

FEG  **FLORIDA ENGINEERING GROUP**
Engineering the Future

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