

This instrument prepared by
CURTIS R. MOSLEY, ESQ.
Mosley & Wallis, P.A.
Post Office Box 1210
Melbourne, Florida 32902-1210



CFN 2004384356 12-07-2004 11:47 am
OR Book/Page: 5393 / 6046

Scott Ellis

Clerk Of Courts, Brevard County

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SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM OF BAYPORT CONDOMINIUMS

BAYPORT CONDOMINIUMS., a Florida limited liability company, pursuant to the authority reserved in Article XIII of the Declaration of Condominium establishing BAYPORT CONDOMINIUMS, as recorded in Official Records Book 5383, Pages 5692 through 5809 as amended by First Amendment to Declaration of Condominiums of BAYPORT, A CONDOMINIUM recorded in Official Records Book 5393, Pages 6040 through 6045, of the Public Records of Brevard County, Florida, and the Florida Condominium Act, hereby amends and expands said Declaration above described and submits the following described real property located in the City of Cape Canaveral, Brevard County, Florida, which property is more particularly described as follows, to-wit:

SEE SHEETS 2 AND 3 AND 4 OF EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF FOR LEGAL DESCRIPTION OF PHASES ONE AND TWO AND THREE.

together with improvements thereon, containing nineteen(19) buildings, having a total of forty-nine (49) units and other appurtenant improvements more specifically described in Exhibit "A" attached to this amendment to condominium ownership pursuant to the Florida Condominium Act, and hereby declares the same to be known and identified as BAYPORT CONDOMINIUMS.

BAYPORT, L.L.C., a Florida liability company, further amends and expands the above-described Declaration of Condominium to include and merge the common and limited common elements and easements of the property submitted to Condominium by this Amendment with the property described in the original Declaration of Condominium recorded in Official Records Book 5383, Pages 5692 through 5809 as amended by First Amendment to Declaration of Condominium recorded in Official Records Book 5393, Pages 6040 through 6045, inclusive of the Public Records of Brevard County, Florida (the "Declaration").

BAYPORT, L.L.C., a Florida limited liability company, hereby amends the Declaration of Condominium as follows:

1.

I

ESTABLISHMENT OF CONDOMINIUM

The Developer is the owner of the fee simple title to that certain real property situate in the City of Cape Canaveral, County of Brevard, and State of Florida, which property is more particularly described as follows; to-wit:

SEE SHEETS 2 AND 3 AND 4 OF EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF FOR LEGAL DESCRIPTION OF PHASES ONE AND TWO AND THREE.

The Condominium consists of ~~thirteen (13)~~ nineteen (19) buildings containing a total of ~~thirty-three (33)~~ forty-nine (49) residential units and other appurtenant improvements as hereinafter described. Buildings 1, 2, 4, 5, 6, 10, and 11, 13, 17, 19 and 23 are triplex buildings containing two (2) one (1) story units and one (1) two (2) story unit with each unit containing a two (2) car garage. Buildings 1, 2, 4, 5, 6, and 10, 11, 13, 17, 19 and 23 each contain one (1) Dolphin I type unit which has three

(3) bedrooms, two (2) bathrooms and contains approximately 1,507 square feet excluding courtyard; one (1) Sailfish type unit which has three (3) bedrooms, two (2) bathrooms and a powder room and contains approximately 2,501 square feet and one (1) Manatee type unit which has three (3) bedrooms, two (2) baths and contains approximately 1,686 square feet. Buildings 3, 7, 8, 9, and 12, and 14, 15 and 21 are duplexes each of which contains one (1) Dolphin I type unit and one (1) Dolphin II type unit. Each unit contains a two (2) car garage. Each Dolphin I unit has three (3) bedrooms, two (2) baths and contains approximately 1,507 square feet excluding the courtyard. Each Dolphin II type unit has three (3) bedrooms, two (2) baths and contains approximately 1,507 square feet excluding the courtyard. The graphic description of each floor of Buildings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, 14, 15, 17, 19, 21 and 23 are shown on Sheets 36 through 40 inclusive of Exhibit "A" to the Declaration of Condominium. For legal description, survey and plot plan of the condominium see Exhibits A and B to the Declaration of Condominium. The Developer estimates that Phases One and ~~Phase Two~~ of the Condominium will be completed on or before May 31, 2005 and that Phase Three of the Condominium will be completed on or before December 31, 2005. The Developer is obligated to construct Phases One, and Two and Three of the condominium only.

All other provisions of Article I shall remain in full force and effect and unchanged by this Amendment.



2.

II.

CFN 2004384356

OR Book/Page: 5393 / 6047

SURVEY AND DESCRIPTION OF IMPROVEMENTS

- a. Attached hereto and made a part hereof, and marked Exhibit A consisting of 43 pages and marked Exhibit B consisting of 14 pages, are boundary surveys of the entire premises of which Phases One, Two, Three, Four, Five and Six is a part, boundary surveys of each phase, a graphic plot plan of the overall planned improvements, and graphic descriptions of the improvements in which units are located, and plot plans thereof, identifying the units, the common elements and the limited common elements, and their respective locations and dimensions.

Said surveys, graphic descriptions and plot plans were prepared by:

CAMPBELL SURVEYING & MAPPING OF BREVARD, INC.

By: John R. Campbell

Professional Land Surveyor

No. 2351, State of Florida

and have been certified in the manner required by the Florida Condominium Act. Each unit is identified and designated by a specific number. No unit bears the same numerical designation as any other unit. The specific numbers identifying each unit are listed on Sheets 4 through ~~1623~~, inclusive of Exhibit "A" attached to this Declaration of Condominium.

All other provisions of Article II shall remain in full force and effect and unchanged by this Amendment.

III

OWNERSHIP OF UNITS AND APPURTENANT SHARE IN COMMON ELEMENTS AND COMMON SURPLUS, AND SHARE OF COMMON EXPENSES

Each unit shall be conveyed as an individual property capable of independent use and fee simple ownership and the owner or owners of each unit shall own, as an appurtenance to the ownership of each said unit, an undivided ~~one-thirty-third (1/33)~~ one forty-ninth (1/49) share of all common elements of the condominium, which includes, but is not limited to, ground support area, walkways, yard area, parking areas, foundations, etc., and substantial portions of the exterior walls, floors, ceiling and walls between units. The space within any of the units and common elements

shall not be further subdivided. Any undivided interest in the common property is hereby declared to be appurtenant to each unit and such undivided interest shall not be separate from the unit and such interest shall be deemed conveyed, devised, encumbered or otherwise included with the unit even though such interest is not expressly mentioned or described in the conveyance, or other instrument. Any instrument, whether a conveyance, mortgage or otherwise, which describes only a portion of the space within any unit shall be deemed to describe the entire unit owned by the person executing such instrument and an undivided ~~one-thirty-third (1/33)~~ one forty-ninth (1/49) interest in all common elements of the condominium.

The common expenses shall be shared and the common surplus shall be owned in the same proportion as each such unit owner's share of the ownership of the common elements, that is ~~one-thirty-third (1/33)~~ one forty-ninth (1/49).

All other provisions of Article III shall remain in full force and effect and unchanged by this Amendment.

IV

UNIT BOUNDARIES, COMMON ELEMENTS, AND LIMITED COMMON ELEMENTS

The units of the condominium consist of that volume of space which is contained within the decorated or finished exposed interior surfaces of the perimeter walls, floors (excluding carpeting and other floor coverings) and ceilings of the units, the boundaries of the units are more specifically shown in Exhibit "A", attached hereto. The dark solid lines on the floor plans hereinabove mentioned represent the perimetrical boundaries of the units, while the upper and lower boundaries of the units, relating to the elevations of the units, are shown in notes on said plan.

All other provisions of Article IV shall remain in full force and effect and unchanged by this Amendment.

5.



VI.

CFN 2004384356

OR Book/Page: 5393 / 6048

MEMBERSHIP AND VOTING RIGHTS

There shall be a total of ~~thirty-three (33)~~ forty-nine (49) votes to be cast by the owners of the condominium units. Such votes shall be apportioned and cast as follows: The owner of each condominium unit (designated as such on the exhibits attached to this Declaration) shall be entitled to cast one (1) vote. Where a condominium unit is owned by a corporation, partnership or other legal entity or by more than one (1) person, all the owners thereof shall be collectively entitled to the vote assigned to such unit and such owners shall, in writing, designate an individual who shall be entitled to cast the vote on behalf of the owners of such condominium unit of which he is a part until such authorization shall have been changed in writing. The term, "owner," as used herein, shall be deemed to include the Developer.

All other provisions of Article VI shall remain in full force and effect and unchanged by this Amendment.

6.

VII.

COMMON EXPENSES, ASSESSMENTS, COLLECTION LIEN AND ENFORCEMENT, LIMITATIONS

The Board of Administration of the Association shall propose annual budgets in advance for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the common expense budget, which shall include, but not be limited to, the estimated amounts necessary for maintenance, and operation of common elements and limited common elements, landscaping, street and walkways, office expense, utility services, replacement and operating reserve, casualty insurance, liability insurance, administration and salaries. Failure of the board to include any item in the annual budget shall not preclude the board from levying an additional assessment in any calendar year for which the budget has been projected. Each unit owner shall be liable for the payment to the Association of ~~one-thirty-third (1/33)~~ one forty-ninth (1/49) of the common expenses as determined in said budget.

All other provisions of Article VII shall remain in full force and effect and unchanged by this Amendment.

7.



XIV.

JFN 2004384356

JR Book/Page: 5393 / 6049

TERMINATION OF CONDOMINIUM

The distributive share of each unit owner in the net proceeds of sale, though subject to the provisions hereinafter contained, shall be the following portion thereof; to-wit:

AN UNDIVIDED ONE ~~THIRTY-THIRD (1/33)~~ FORTY-NINTH (1/49)

All other provisions of Article XIV shall remain in full force and effect and unchanged by this Amendment.

IN WITNESS WHEREOF, the above-stated Developer has caused these presents to be signed and sealed on this 3rd day of December, 2004.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

DEVELOPER:

Bayport, L.L.C., a Florida limited liability company

By: William M. Young
William Young, Operating Manager

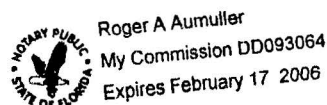
(CORPORATE SEAL)

Nancy K. Montgomery
Print Name: Nancy K. Montgomery
Roger A. Aumuller
Print Name: Roger A. Aumuller

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 3rd day of December, 2004, by WILLIAM YOUNG, Operating Manager of BAYPORT, L.L.C., a Florida limited liability company on behalf of the Company. He is personally known to me or produced FLORIDA DRIVERS License as identification.

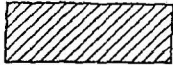
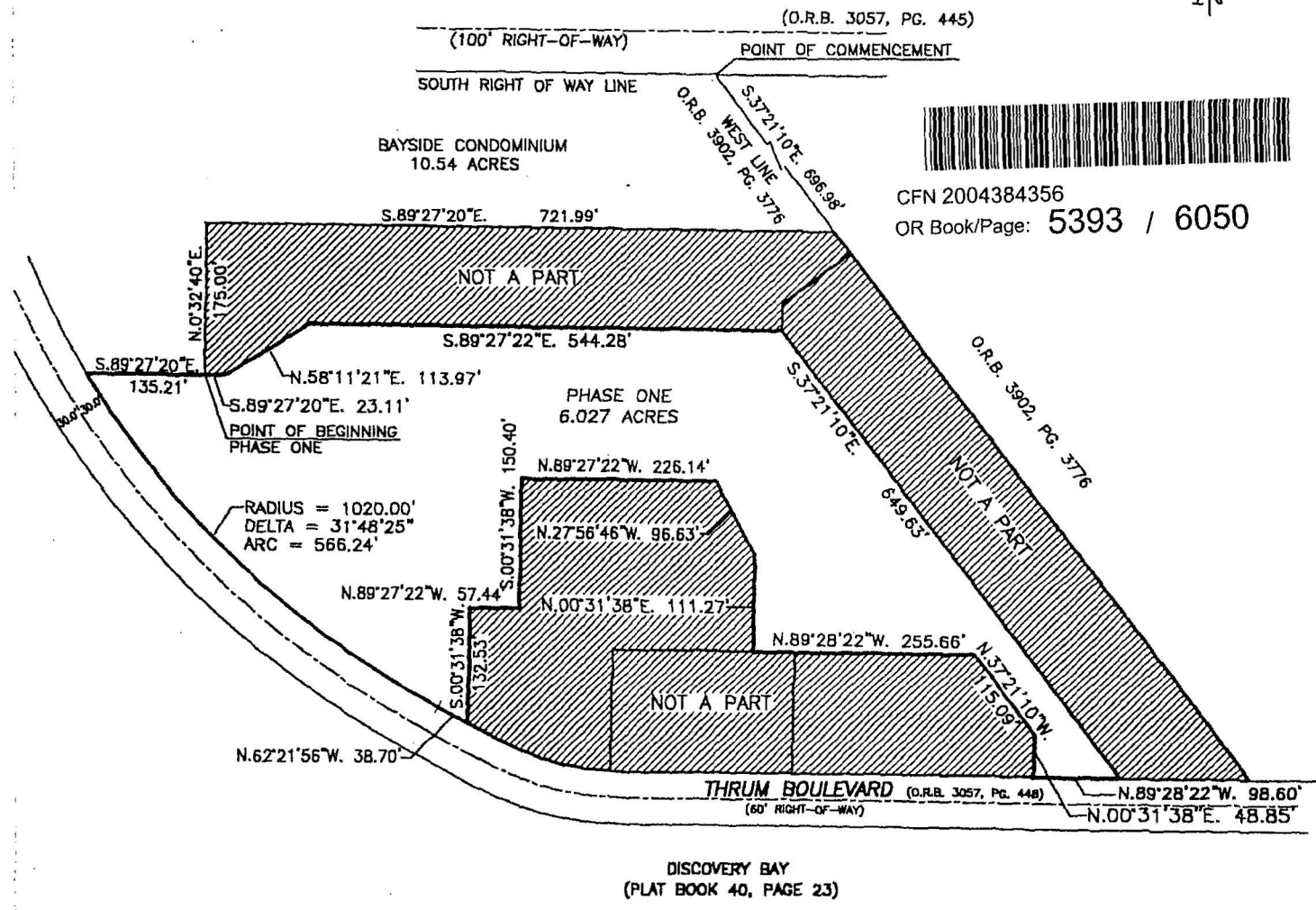
Roger A. Aumuller
NOTARY PUBLIC
My Commission Expires: 2-17-2006





BAYPORT CONDOMINIUMS

Sketch of Survey Phase One



INDICATES THAT AREA NOT INCLUDED IN PHASE ONE

LEGAL DESCRIPTION: (PHASE ONE)

A portion of land lying in Section 15, Township 24 South, Range 37 East, Brevard County, Florida, being more particularly described as follows:

Commence at a point on the South right of way line of Central Boulevard, a 100.00 foot right of way, as described in Official Records Book 3057 at Page 445 of the Public Records of Brevard County, Florida, and the Westerly line of the lands described in Official Records Book 3902 at Page 3776 of the Public Records of Brevard County, Florida; Thence run S.37°21'10"E., a distance of 696.98 feet; Thence run N.89°27'22"W. a distance of 721.99 feet; Thence run S.00°32'40"W. a distance of 175.00 feet to the Point of Beginning; Thence run S.89°27'20"E. a distance of 23.11 feet; Thence run N.58°11'21"E. a distance of 113.97 feet; Thence run S.89°27'22"E. a distance of 544.28 feet; Thence run S.37°21'10"E. a distance of 649.63 feet to a point on the North right of way line of Tower Boulevard, (Tower Boulevard) a 60.00 foot right of way as described in Official Records Book 3057 at Page 448 of said Public Records; Thence run N.89°28'22"W. along said North right of way line a distance of 98.60 feet; Thence leaving said North right of way line run N.00°31'38"E. a distance of 48.85 feet; Thence run N.37°21'10"W. a distance of 115.09 feet; Thence run N.89°28'22"W. a distance of 255.66 feet; Thence run N.00°31'38"E. a distance of 111.27 feet; Thence run N.27°56'46"W. a distance of 96.63 feet; Thence run N.89°27'22"W. a distance of 226.14 feet; Thence run S.00°31'38"W. a distance of 150.40 feet; Thence run N.89°27'22"W. a distance of 57.44 feet; Thence run S.00°31'38"W. a distance of 132.53 feet to a point on the said North right of way line of Tower Boulevard; Thence run N.62°21'56"W. along said North right of way line a distance of 38.70 feet to a point of curvature of a curve to the right having a radius of 1020.00 feet; Thence run Northwest along the arc of said curve through a central angle of 31°48'25", a distance of 566.24 feet; Thence leaving said right of way run S.89°27'20"E. a distance of 135.21 feet to the Point of Beginning. Said Parcel contains 6.027 acres more or less.



3525 N. COURTENAY PARKWAY - SUITE 1
MAILING ADDRESS: P.O. BOX 542148
MERRITT ISLAND, FL 32954 PHONE (407) 453-5820

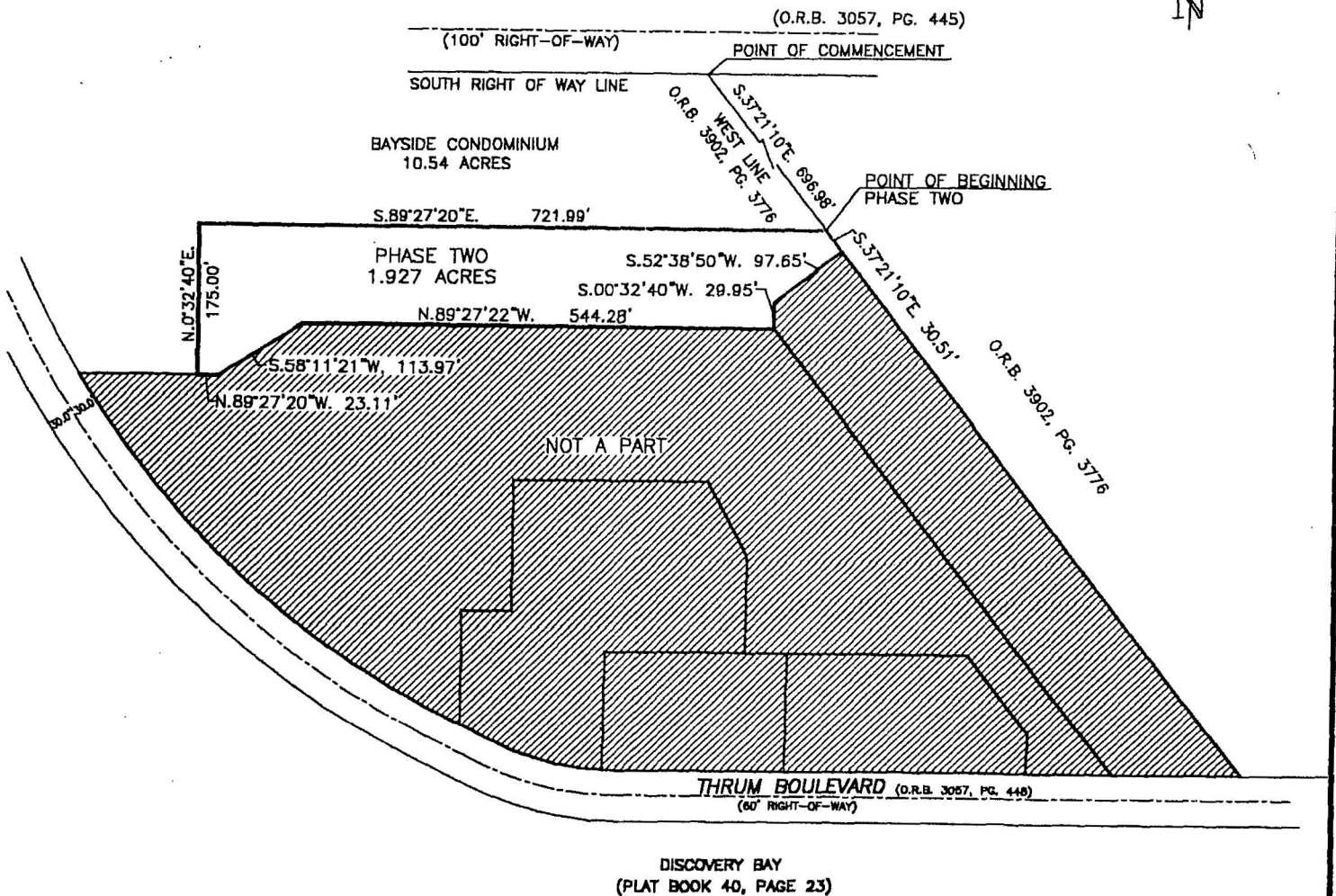


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BAYPORT CONDOMINIUMS

Sketch of Survey Phase Two



LEGAL DESCRIPTION: (PHASE TWO)

A portion of land lying in Section 15, Township 24 South, Range 37 East, Brevard County, Florida, being more particularly described as follows:

Commence at a point on the South right of way line of Central Boulevard, a 100.00 foot right of way, as described in Official Records Book 3057 at Page 445 of the Public Records of Brevard County, Florida, and the Westerly line of the lands described in Official Records Book 3902 at Page 3776 of the Public Records of Brevard County, Florida; Thence run S.37°21'10"E., a distance of 696.98 feet to the Point of Beginning; Thence run S.37°21'10"E. a distance of 30.51 feet; Thence run S.52°38'50"W., a distance of 97.65 feet; Thence run S.00°32'40"W. a distance of 29.95 feet; Thence run N.89°27'22"W. a distance of 544.28 feet; Thence run S.58°11'21"W. a distance of 113.97 feet; Thence run N.89°27'20"W. a distance of 23.11 feet; Thence run N.00°32'40"E. a distance of 175.00 feet; Thence run S.89°27'22"E. a distance of 721.99 feet to the Point of Beginning. Said Parcel contains 1.927 acres more or less.



CFN 2004384356

OR Book/Page: 5393 / 6051

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OF BREVARD, INC.

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MERRITT ISLAND, FL 32954 PHONE (407) 453-5820

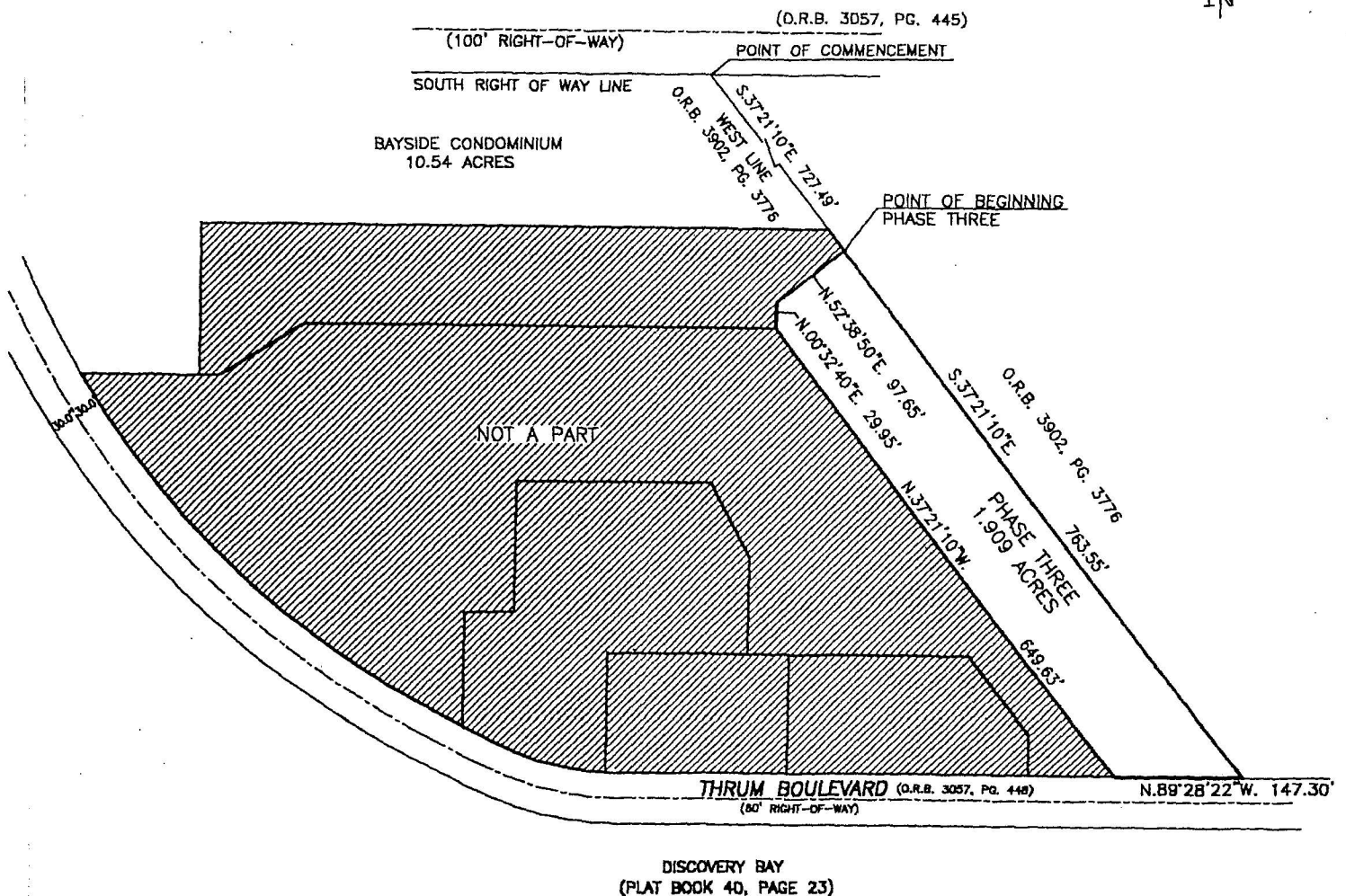
EXHIBIT "B"

SHEET 3



BAYPORT CONDOMINIUMS

Sketch of Survey Phase Three



INDICATES THAT AREA NOT INCLUDED IN PHASE THREE

LEGAL DESCRIPTION: (PHASE THREE)

A portion of land lying in Section 15, Township 24 South, Range 37 East, Brevard County, Florida, being more particularly described as follows:

Commence at a point on the South right of way line of Central Boulevard, a 100.00 foot right of way, as described in Official Records Book 3057 at Page 445 of the Public Records of Brevard County, Florida, and the Westerly line of the lands described in Official Records Book 3902 at Page 3776 of the Public Records of Brevard County, Florida; Thence run S.37°21'10"E., a distance of 727.49 feet to the Point of Beginning; Thence run S.37°21'10"E. a distance of 763.55 feet to a point on the North right of way line of Tower Boulevard, (Tower Boulevard) a 60.00 foot right of way as described in Official Records Book 3057 at Page 448 of said Public Records; Thence run N.89°28'22"W. along said North right of way line a distance 147.03 feet; Thence leaving said North right of way line run N.37°22'12"W. a distance of 649.63 feet; Thence run N.00°32'40"E. a distance of 29.95 feet; Thence run N.52°38'50"E. a distance of 97.65 feet to the Point of Beginning. Said Parcel contains 1.909 acres more or less.

Beginning; Thence continue N.89°28'22"W. along said North right of way line a distance of 278.60 feet; Thence leaving said North right of way line run N.00°31'38"E. a distance of 139.69 feet; Thence run S.89°28'22"E. a distance of 207.93 feet; Thence run S.37°21'10"E. a distance of 115.09 feet; Thence run S.00°31'38"W. a distance of 48.85 feet to the Point of Beginning. Said Parcel contains 0.677 acres more or less.



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EXHIBIT "B"

SHEET 4