

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

**FIFTH 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, inclusive as amended by Second Amendment to Declaration of Condominiums of BAYPORT, A CONDOMINIUM recorded in Official Records Book 5393, Pages 6046 through 6052, inclusive as amended by Third Amendment to Declaration of Condominiums of BAYPORT, A CONDOMINIUM recorded in Official Records Book 5393, Pages 6053 through 6060, inclusive as amended by Fourth Amendment to Declaration of Condominiums of BAYPORT, A CONDOMINIUM recorded in Official Records Book 5648, Pages 8811 through 8821, inclusive 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 , 3, 4, 5, 6, AND 7 EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF FOR LEGAL DESCRIPTION OF PHASES ONE, TWO, THREE, FOUR, AND FIVE AND SIX.

together with improvements thereon, containing twenty-four (24) buildings, having a total of one-hundred six (106) 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 a Florida limited 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 as amended by Second Amendment to Declaration of Condominium recorded in Official Records Book 5393, Pages 6046 through 6052, inclusive as amended by Third Amendment to Declaration of Condominiums of BAYPORT, A CONDOMINIUM recorded in Official Records Book 5393, Pages 6053 through 6060, inclusive as amended by Fourth Amendment to Declaration of Condominiums of BAYPORT, A CONDOMINIUM recorded in Official Records Book 5648, Pages 8811 through 8821, 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 , 3, 4, 5, 6, AND 7 EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF FOR LEGAL DESCRIPTION OF PHASES ONE , TWO, THREE, FOUR, AND FIVE AND SIX.

The Condominium consists of ~~twenty-three (23)~~ twenty-four (24) buildings containing a total of ~~eighty-two (82)~~ one-hundred six (106) residential units and other appurtenant improvements as hereinafter described. Buildings 1, 2, 4, 5, 6, 10, 11, 13, 16, 17, 18, 19, 20 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, 10, 11, 13, 16, 17, 18, 19, 20 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, 12, 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. Buildings 22 and 24 ~~is~~ are a five (5) story buildings containing eight (8) Type "A" units each of which contain three (3) bedrooms, two (2) bathrooms and contains approximately 2,092 square feet and sixteen (16) Type "B" units each of which contain three (3) bedrooms, two (2) bathrooms and contains approximately 2,032 square feet. The graphic description of each floor of Buildings 1 through 24 are shown on Sheets 4 through 35 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 Two of the Condominium will be completed on or before May 31, 2005 and that Phases Three and Four of the Condominium will be completed on or before December 31, 2005. The Developer estimates that Phases Five and Six will be completed on or before December 31, 2006. The Developer is obligated to construct Phases ~~One, Two, Three, Four, and Five and Six~~ all six phases of the condominium only.

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

2.

## II.

### 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 35, 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-eighty second (1/82)~~ one-hundred six (106) 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-eighty second (1/82)~~ one-hundred six (106) 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-eighty second (1/82)~~ one-hundred six (106).

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.

#### **MEMBERSHIP AND VOTING RIGHTS**

There shall be a total of ~~one-eighty second (1/82)~~ one-hundred six (106) 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-eighty second (1/82)~~ one-hundred six (106) 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.

### TERMINATION OF CONDOMINIUM

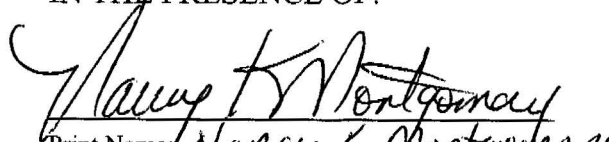
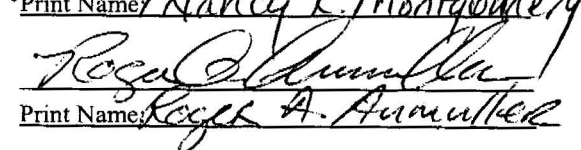
The distributive share of each unit owner in the net proceeds of sale, though subject to the provisions hereinafter contained, shall be the following portion thereof; to-wit:

AN UNDIVIDED ONE ~~EIGHTY TWO (1/82)~~ HUNDRED SIX (1/106)

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 3<sup>rd</sup> day of December, 2004.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

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

DEVELOPER:

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

By:   
William Young, Operating Manager

(CORPORATE SEAL)



STATE OF FLORIDA       )  
COUNTY OF BREVARD    )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> 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.



NOTARY PUBLIC

My Commission Expires: 2-17-2006

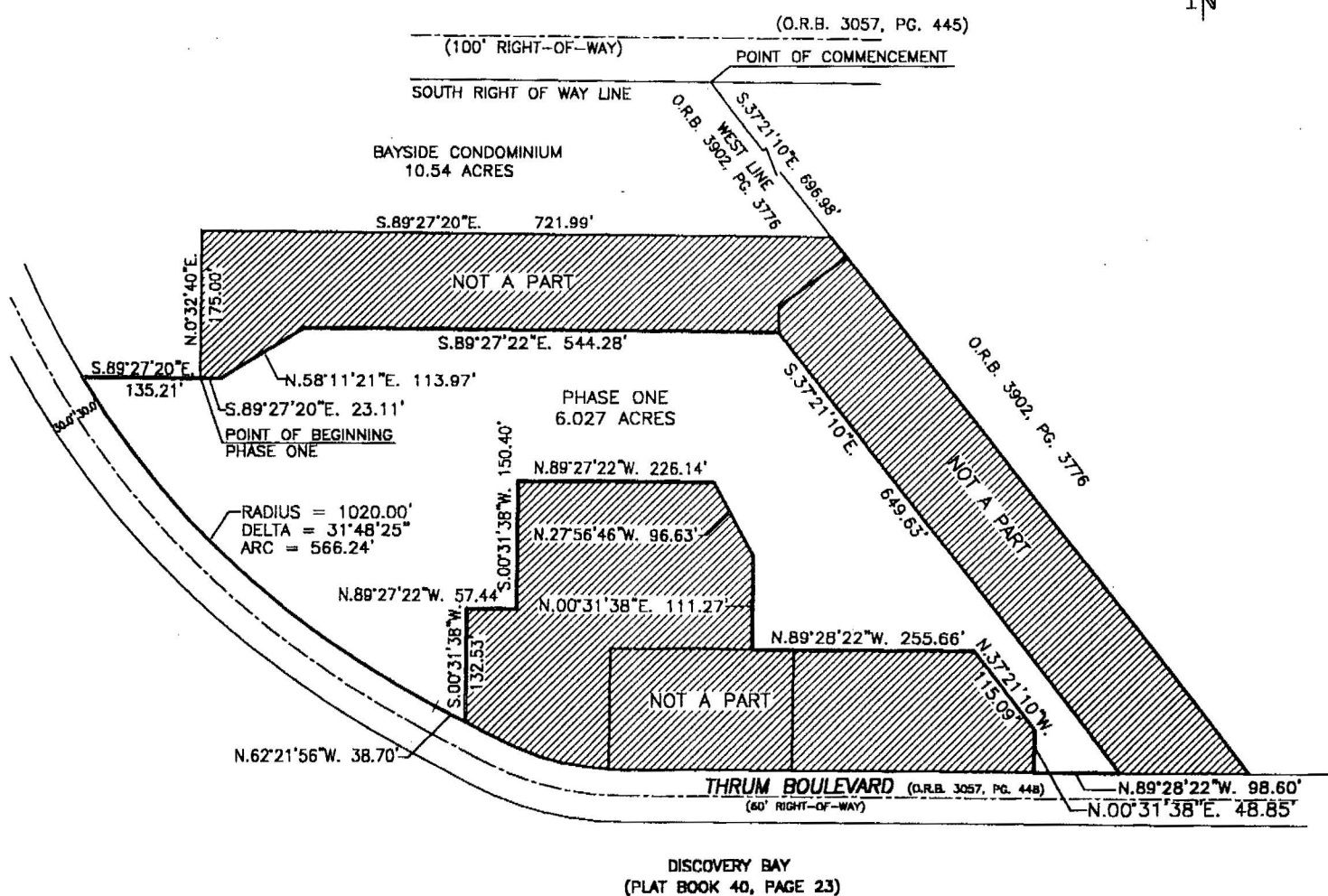


Roger A Aumuller  
My Commission DD093064  
Expires February 17 2006



# 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 Northwesterly 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.

**Campbell**  
SURVEYING AND MAPPING  
OF BREVARD, INC.

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

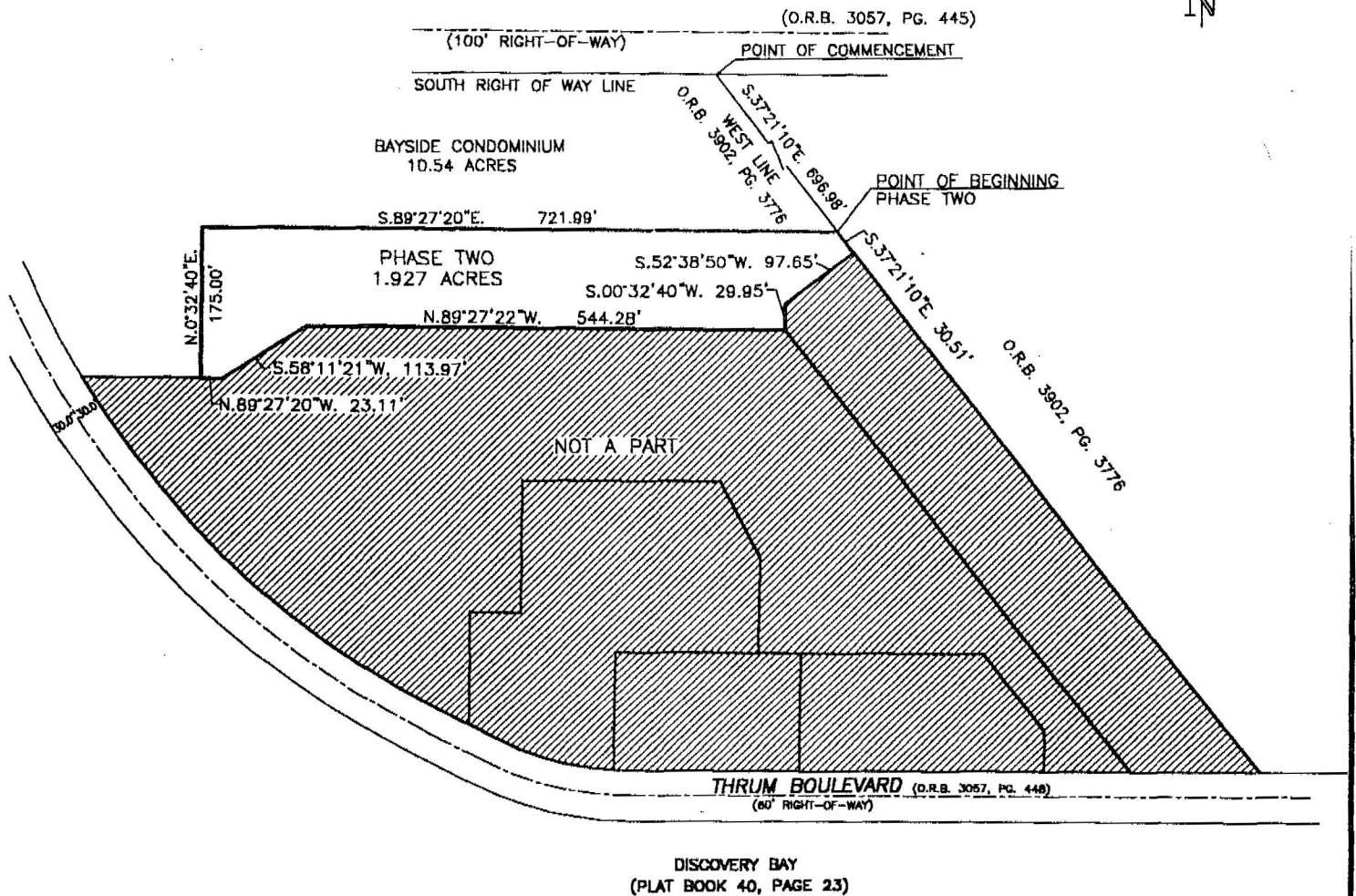
EXHIBIT "B"

SHEET 2



# BAYPORT CONDOMINIUMS

## Sketch of Survey Phase Two



INDICATES THAT AREA NOT INCLUDED IN 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.

**Campbell** SURVEYING AND MAPPING  
OF BREVARD, INC.

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

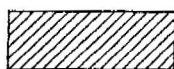
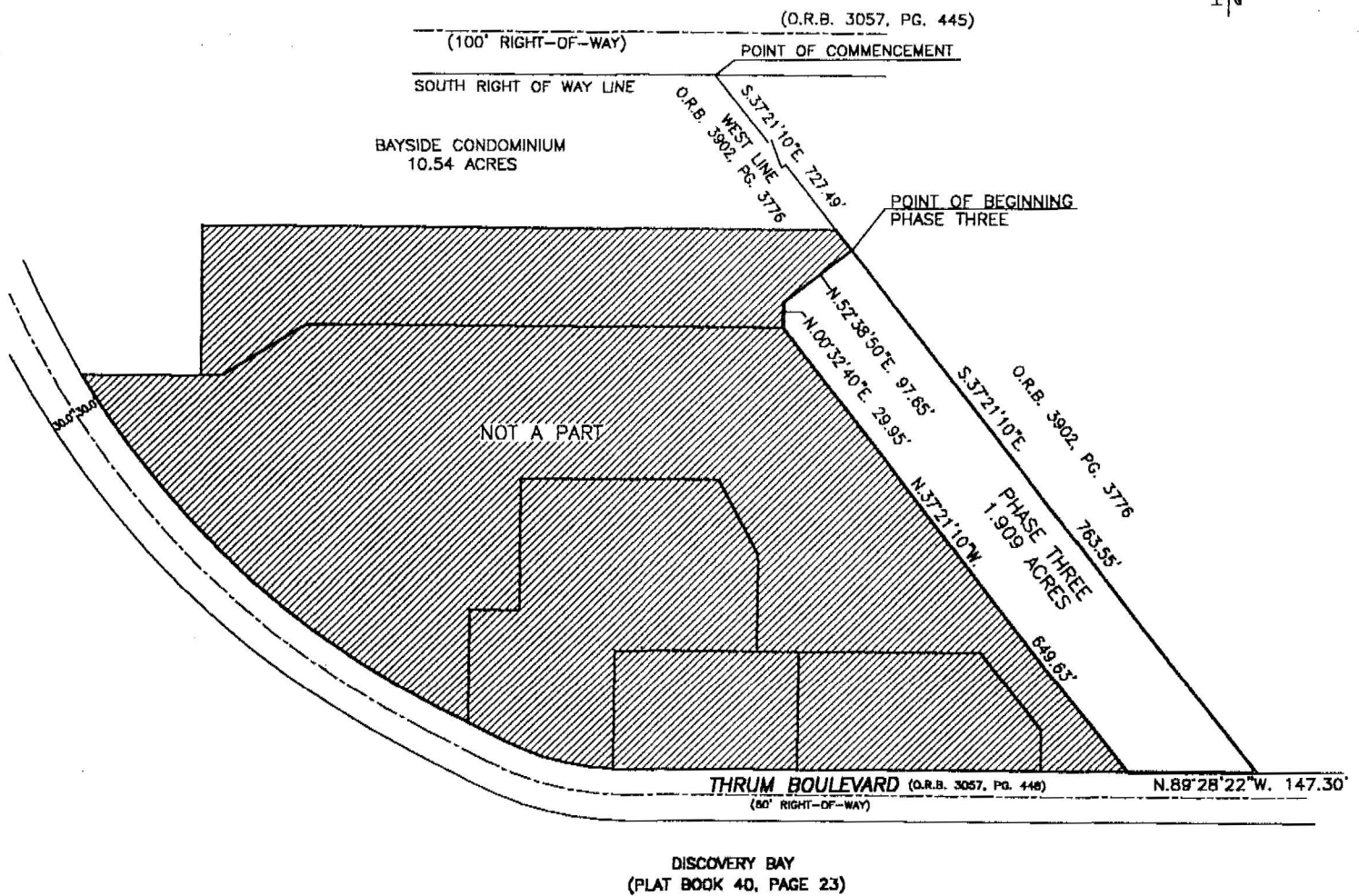
EXHIBIT "B"

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°21'10"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.

**Campbell** SURVEYING AND MAPPING  
OF BREVARD, INC.

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

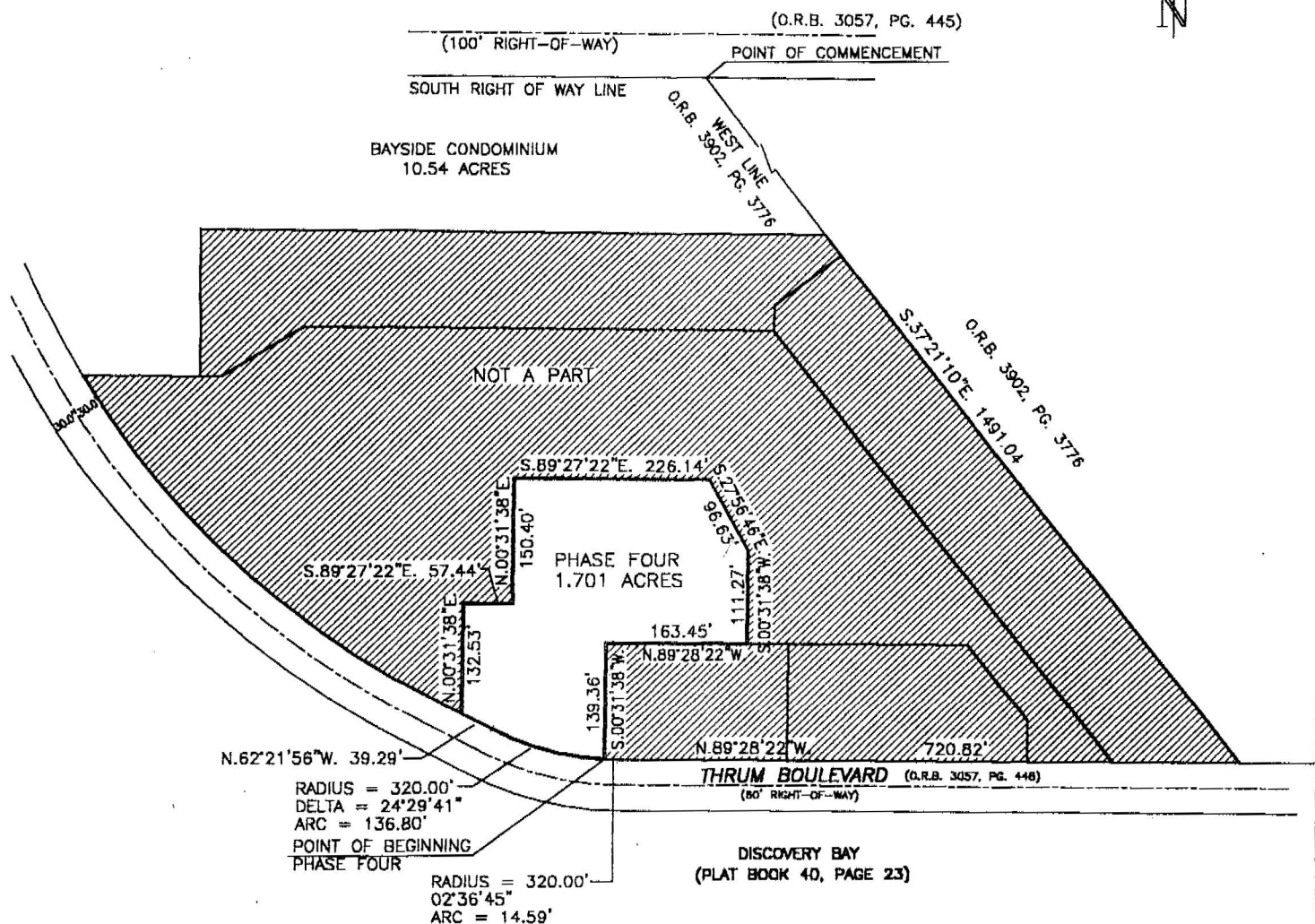
EXHIBIT "B"

SHEET 4



# BAYPORT CONDOMINIUMS

## Sketch of Survey Phase Four



INDICATES THAT AREA NOT INCLUDED IN PHASE FOUR

### LEGAL DESCRIPTION: (PHASE FOUR)

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 1491.04 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 720.82 feet to a point of curvature of a curve to the right having a radius of 320.00 feet; Thence run Northwesterly along said North right of way line and the arc of said curve through a central angle of 02°36'45" a distance of 14.59 feet to the Point of Beginning; Thence continue Northwesterly along said North right of way line and along the arc of said curve through a central angle of 24°29'41", a distance of 136.80 feet; Thence run N.62°21'56"W. a distance of 39.29 feet; Thence leaving said North right of way line run N.00°31'38"E. a distance of 132.53 feet; Thence run S.89°27'22"E. a distance of 57.44 feet; Thence run N.00°31'38"E. a distance of 150.40 feet; Thence run S.89°27'22"E. a distance of 226.14 feet; Thence run S.27°56'46"E. a distance of 96.63 feet; Thence run S.00°31'38"W. a distance of 111.27 feet; Thence run N.89°28'22"W. a distance of 163.45 feet; Thence run S.00°31'38"W. a distance of 139.36 feet to the Point of Beginning. Said Parcel contains 1.701 acres more or less.

**Campbell** SURVEYING AND MAPPING  
OF BREVARD, INC.

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

EXHIBIT "B"

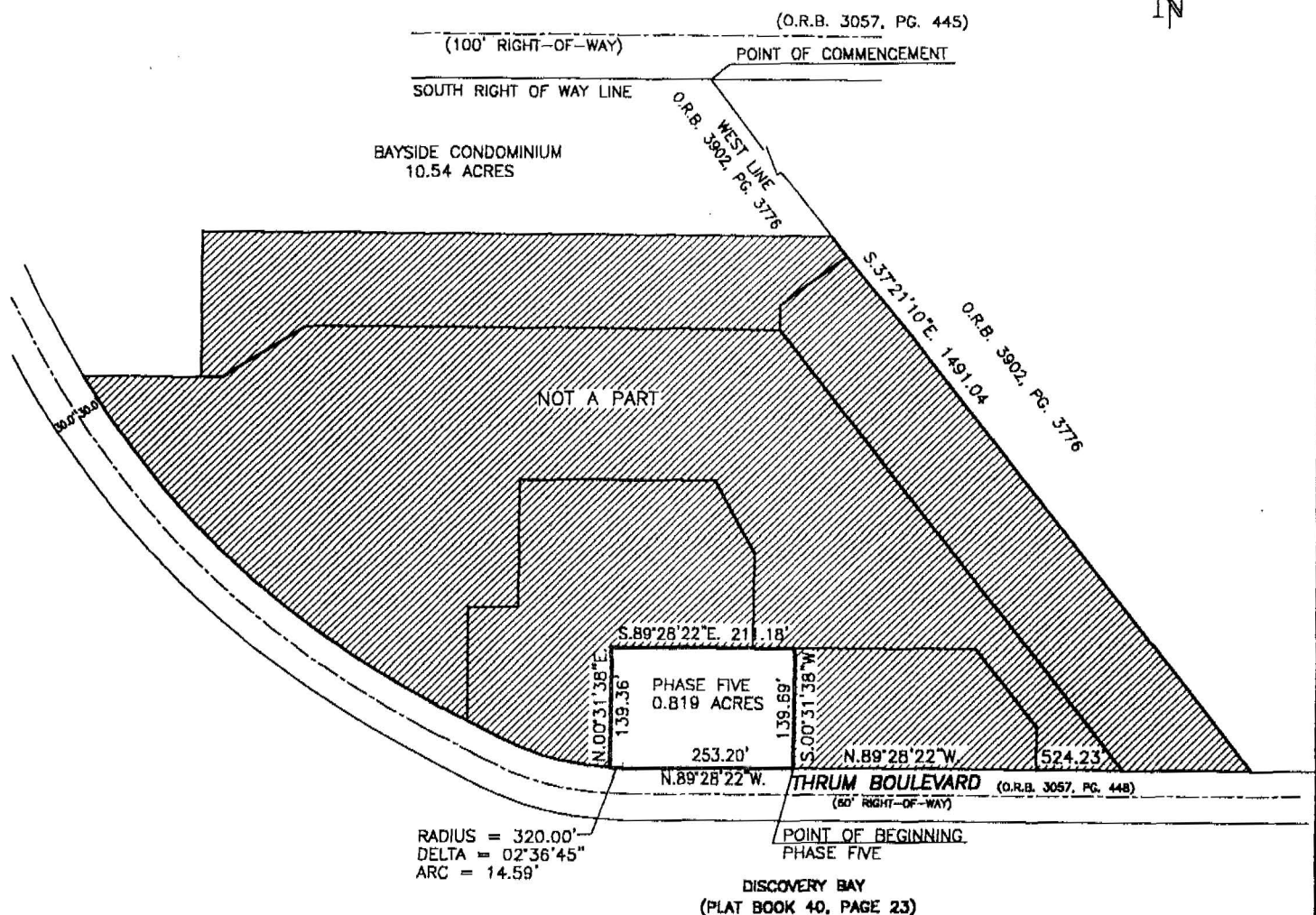
SHEET 5





# BAYPORT CONDOMINIUMS

## Sketch of Survey Phase Five



INDICATES THAT AREA NOT INCLUDED IN PHASE FIVE

### LEGAL DESCRIPTION: (PHASE FIVE)

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 1491.04 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 524.23 feet to the Point of Beginning; Thence continue N.89°28'22"W., along said North right of way line of distance of 253.20 feet to the point of curvature of a curve to the right having a radius of 320.00 feet; Thence run Northwesterly along said North right of way line and along the arc of said curve through a central angle of 02°36'45", and arc length of 14.59 feet; Thence leaving said North right of way line run N.00°31'38"E. a distance of 139.36 feet; Thence run S.89°28'22"E. a distance of 211.18 feet; Thence run S.00°31'38"W. a distance of 139.69 feet to the Point of Beginning. Said Parcel contains 0.819 acres more or less.

**Campbell** SURVEYING AND MAPPING  
OF BREVARD, INC.

3525 N. COURTENAY PARKWAY - SUITE 1  
MAILING ADDRESS: P.O. BOX 542148  
MERRITT ISLAND, FL 32854 PHONE (407) 453-5820

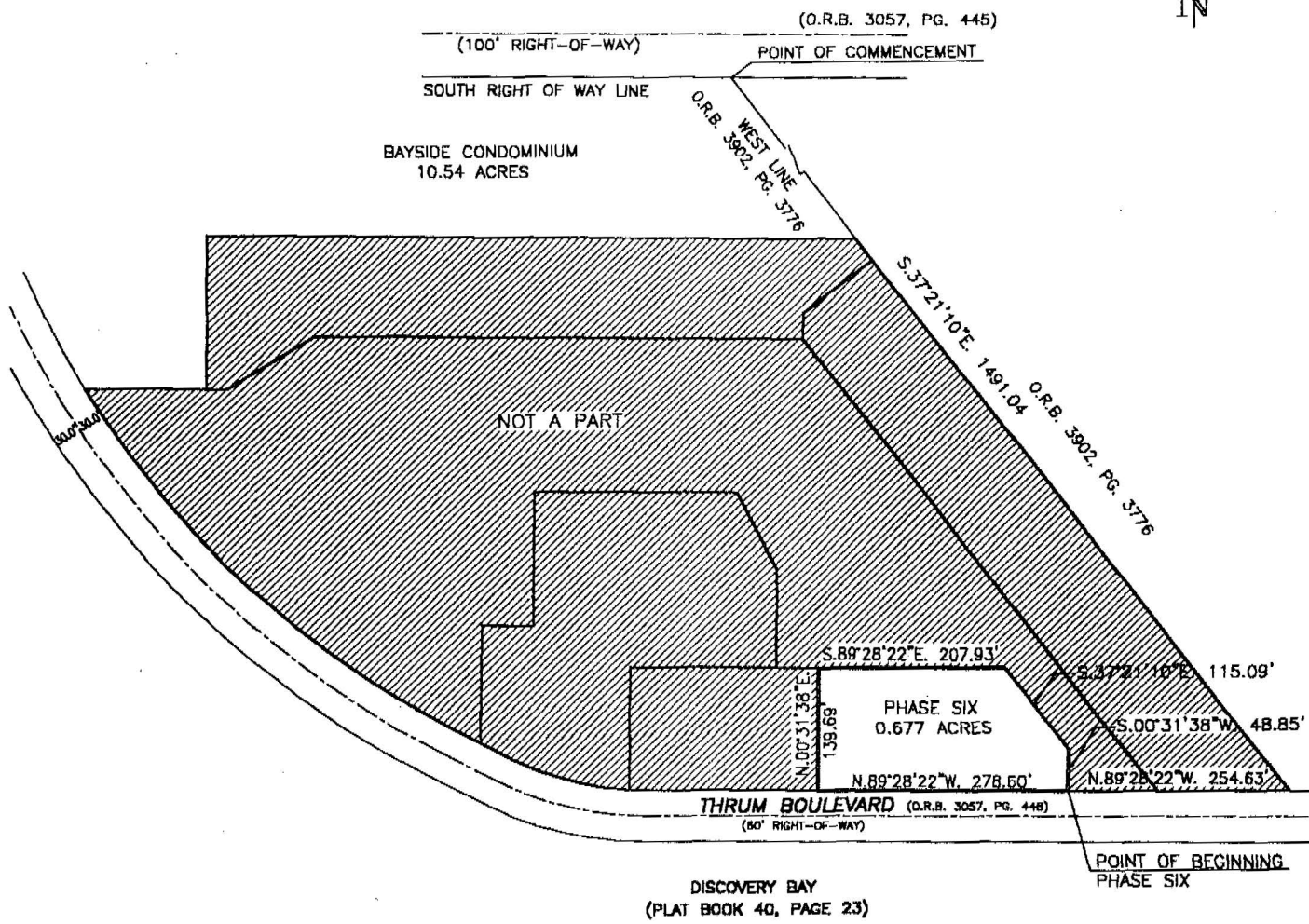
EXHIBIT "B"

SHEET 6



# BAYPORT CONDOMINIUMS

## Sketch of Survey Phase Six

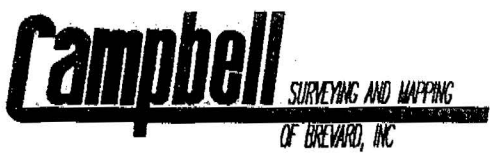


 INDICATES THAT AREA NOT INCLUDED IN PHASE SIX

LEGAL DESCRIPTION: (PHASE SIX)

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 1491.04 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 245.63 feet to the Point of 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.



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