

THIS DOCUMENT PREPARED
BY AND RETURN TO:

G. TODD COTTRILL, ESQUIRE
PAPPAS, METCALF, JENKS & MILLER, P.A.
245 RIVERSIDE AVENUE, SUITE 400
JACKSONVILLE, FLORIDA 32202

Public Records of
St. Johns County, FL
Clerk # 2010032502,
O.R. 3331 PG 1165-1175
07/08/2010 at 09:20 AM,
REC. \$45.00 SUR. \$50.00

**FIFTH AMENDMENT TO THE
DECLARATION OF CONDOMINIUM
FOR
THE COTTAGES AT WINDING CREEK, A CONDOMINIUM
(Phase II)**

This **FIFTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR THE COTTAGES AT WINDING CREEK, A CONDOMINIUM** (the "Amendment") is made this 2nd day of July, 2010, by **COTTAGES AT WINDING, LTD.**, a Florida limited partnership (the "Developer").

RECITALS:

A. Developer has subjected certain property to the condominium form of ownership, as more fully described in the Declaration of Condominium of The Cottages at Winding Creek, a Condominium, recorded in Official Records Book 3001, page 682, of the public records of St. Johns County, Florida, as amended (together, the "Declaration"). All capitalized terms in this Amendment that are not defined in this Amendment shall have the same meaning ascribed to them in the Declaration.

B. The Cottages at Winding Creek, a Condominium (the "Condominium") is a phased condominium created pursuant to Florida Statutes, Section 718.403.

C. Pursuant to the rights and obligations of Section 718.403, the rules and regulations issued in connection therewith, and the provisions of Sections 4(a) and 6 of the Declaration, Developer desires to amend the Declaration to submit the Phase II Lands as described in Section 4(a) of the Declaration and in the attached **Exhibit "A"** (the "Phase II Lands"), to the Declaration under the terms more fully set forth herein.

NOW THEREFORE, in consideration of the premises, Developer hereby amends the Declaration and makes the following statements with respect to the Declaration as follows:

1. Developer, being the owner of fee simple title of record of the Phase II Lands, located in St. Johns County, Florida, submits the Phase II Lands and improvements thereon to the Condominium Form of Ownership as an addition to the Condominium, pursuant to Chapter 718 of the *Florida Statutes* (2009) (the "Act"), subject to the restrictions and reservations set forth in the Declaration. All references to the Condominium or to the Condominium Property

herein or in the Declaration shall mean and refer to the lands contained in Phase I Lands and Phase II Lands.

2. Article 11 of the Declaration is amended and restated in its entirety as follows:

11. PERCENTAGE OF OWNERSHIP OF COMMON EXPENSES AND COMMON SURPLUS. The undivided share of the Common Expenses and ownership of the Common Elements and Common Surplus attributable to each Condominium Unit shall be computed upon the following basis:

(a) The Developer has not considered the size of the Unit in apportioning the Common Expenses and in determining the ownership of Common Elements and Common Surplus. Each Unit in the Condominium has an undivided one hundred thirty-sixth (1/136th) share in the ownership of the Common Elements and the Common Surplus, and in apportioning the Common Expenses.

(b) If and when the Developer elects to submit Phase III to Condominium ownership, the percentage of the undivided ownership interest in the Common Elements appurtenant to each Unit of the prior phases shall be automatically adjusted and the new percentage of the undivided ownership interest in the Common Elements appurtenant to each Unit Condominium at the time shall be determined by dividing one by the total number of units which have been submitted to the Condominium ownership. Thus, if and when Phase III is added to the Condominium and assuming that Phase III will have forty-eight (48) Units, each Unit in the Condominium will have appurtenant to it a one hundred eighty-fourth (1/184th) undivided ownership interest in the Common Elements and the Common Surplus. The adjusted fractional undivided ownership interest in the Common Elements attributable to each Unit shall be binding upon the Unit Owners, their grantees, assigns, successors, executors or heirs of each and every Unit previously submitted to Condominium ownership pursuant to this Declaration.

3. The survey attached to the Declaration as a portion of Exhibit B, is amended and restated in its entirety with the Survey of the Phase I Lands and Phase II Lands attached as **Exhibit B-1**. A certificate of a surveyor or statement in conformance with Section 718.104(4)(e) of the Act for the Phase II lands is attached to this Amendment as **Exhibit B-2**. Such certificate supplements the surveyor's certificate attached as a portion of Exhibit B attached to the Declaration. A plot plan showing the Phase II Lands and graphic description and floor plans of the improvements within the Phase II Lands is included within Exhibit B attached to the Declaration. The graphic description and floor plans for each Unit within the Phase II Lands contains an identification by letter, name or number or combination thereof, of each Unit within the Phase II Lands as required by Section 718.403(6)(c) of the Act.

4. Except as herein amended, the terms and conditions of the Declaration remain in full force and effect.

IN WITNESS WHEREOF, this Fourth Amendment has been duly executed as of the date first set forth above.

Witnesses:

COTTAGES AT WINDING CREEK, LTD.,
a Florida limited partnership

By: Cottages at Winding Creek, LLC, a Florida limited liability company, its General Partner

By: Vestcor, Inc., a Florida corporation, its Manager

Shirley A. Bowles
Print Name: Shirley A. Bowles

Kim Carroll
Print Name: Kim Carroll

By: Clarence S. Moore
Name: Clarence S. Moore
Its: Vice President

STATE OF FLORIDA

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 2nd day of July 2010, by Clarence S. Moore, the Vice President of Vestcor, Inc., a Florida corporation, the Manager of The Cottages at Winding Creek, LLC, a Florida limited liability company, the General Partner of The Cottages at Winding Creek, Ltd., a Florida limited partnership, on behalf of the partnership.



Shirley A. Bowles
Print Name: Shirley A. Bowles

NOTARY PUBLIC

State of Florida at Large

Commission # DD 676820

My Commission Expires: 08/11/2011

Personally Known

Or Produced ID

[check one of the above]

Type of Identification Produced:

CONSENT OF MORTGAGEE

The undersigned, the holder of that certain Mortgage, Security Agreement and Financing Statement recorded in Official Records Book 2610, Page 516 of the Public Records of St. Johns County, Florida (as amended, the "Mortgage"), encumbering the lands described on Exhibit "A" ("Phase II Lands") to this Fifth Amendment of the Declaration of Condominium of The Cottages at Winding Creek, a Condominium (the "Amendment"), to which this Consent of Mortgagee is attached and for which this Consent is executed, hereby consents to the Amendment and agrees that the lien of its Mortgage, to the extent it encumbers the Phase II Lands, shall be upon all of the condominium units created within Phase II of The Cottages at Winding Creek, a Condominium, according to this Declaration thereof as amended to date and by this Amendment, together with all of the appurtenances thereto including but not limited to, any common elements or limited common elements appurtenant to the Phase II condominium units and to the undivided shares of the common elements allocated to the condominium units in Phase II.

This instrument is executed by the undersigned for the purpose of complying with or pursuant to Florida Statutes, Chapter 718. Executed this 1st day of July, 2010.

COMPASS BANK

Rachel Foss
Print Name: Rachel Foss
Jerry Londowski
Print Name: Jerry Londowski

By: C French YGB JR
Print Name: C FRENCH YARBROUGH JR
Its: SVP
Address: 80060 SKINNER LAKE DR
JACKSONVILLE FL 32246

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 1 day of JULY, 2010, by C FRENCH YARBROUGH JR, as SVP of Compass Bank, on behalf of the Bank. He/she is personally known to be or has produced _____ as identification.



AMIRA ROSS
NOTARY PUBLIC
STATE OF FLORIDA
Comm# DD0629896
Expires 1/16/2011

Amira Ross 7/1/10
NOTARY PUBLIC
Print Name: Amira Ross
Serial Number: DD0629896
My Commission Expires: 1/16/2011

EXHIBIT A

PHASE II LANDS

COTTAGES AT WINDING CREEK PHASE 2

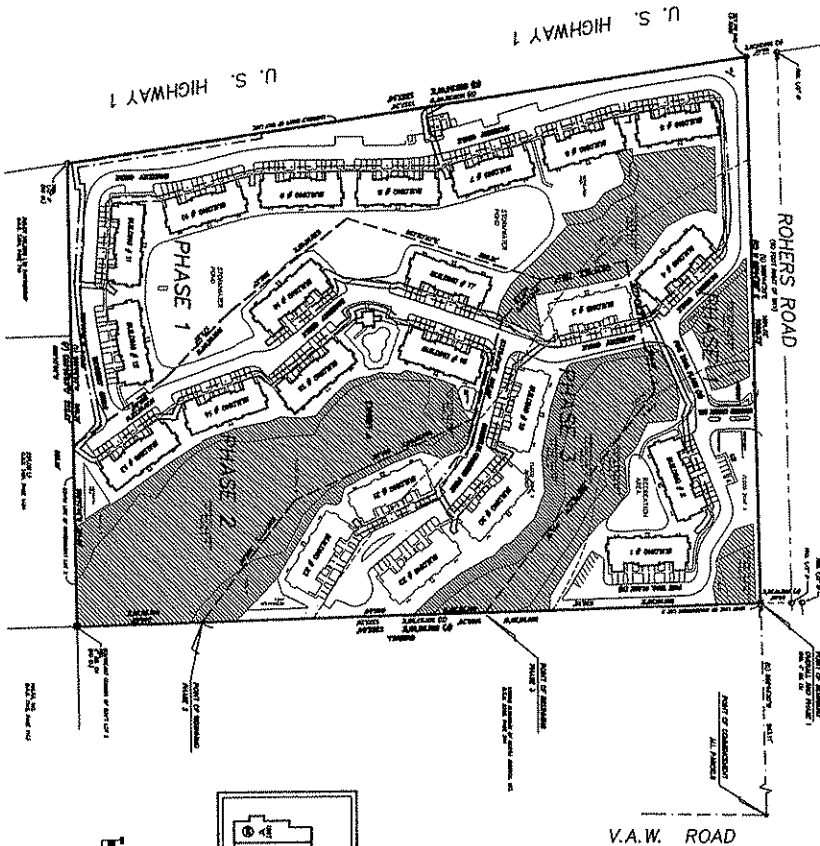
A Parcel of land being a portion of Government Lot 2, Section 30, Township 8 South, Range 30 East, St. Johns County, Florida, and being more particularly described as follows:

Commence at the Northeast corner of said Section 30, said corner being on the Southerly right of way line of V.A.W. Road, thence South 88 degrees 44 minutes 30 seconds West, a distance of 993.11 feet to the Northeast corner of said Government Lot 2; thence South 01 degrees 26 minutes 29 seconds East along the Easterly line of Government Lot 2, a distance of 1086.76 feet to the Point of Beginning of Phase 2; thence South 01 degrees 26 minutes 29 seconds East, continuing along said Easterly line of Government Lot 2, a distance of 246.88 feet to the Southeast corner of said Government Lot 2; thence South 89 degrees 10 minutes 42 seconds West, along the Southerly line of said Government Lot 2, a distance of 351.20 feet; thence North 35 degrees 18 minutes 33 seconds West, a distance of 223.88 feet; thence North 45 degrees 08 minutes 59 seconds West, a distance of 177.38 feet; thence North 38 degrees 19 minutes 49 seconds West, a distance of 292.37 feet; thence North 17 degrees 57 minutes 37 seconds East, a distance of 396.31 feet; thence South 44 degrees 13 minutes 55 seconds East, a distance of 107.63 feet; thence South 73 degrees 34 minutes 36 seconds East, a distance of 200.80 feet; thence South 24 degrees 28 minutes 00 seconds East, a distance of 381.38 feet; thence South 52 degrees 11 minutes 11 seconds East, a distance of 295.68 feet to the Point of Beginning.

EXHIBIT B-1

SURVEY

MAP SHOWING A BOUNDARY SURVEY OF:
THE COTTAGES AT WINDING CREEK, A CONDOMINIUM



CONTINUED AT WINDING CREEK PHASE 1
 THIS MAP IS A PART OF A BOUNDARY SURVEY OF THE COTTAGES AT WINDING CREEK, A CONDOMINIUM, PHASE 1, AND IS TO BE USED IN CONNECTION WITH THE OTHER MAPS OF THIS SURVEY. THE BOUNDARY SURVEY WAS MADE BY THE SURVEYOR ON THE DATE INDICATED ON THE TITLE BLOCK OF THIS MAP. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.

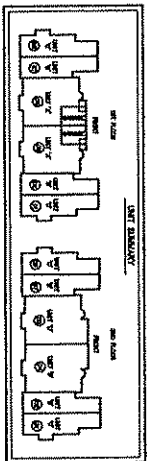
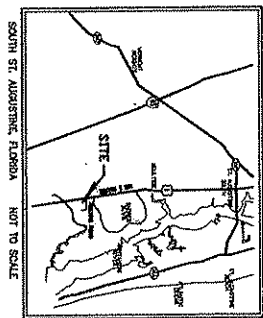
CONTINUED AT WINDING CREEK PHASE 1
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V.A.W. ROAD



SYMBOL	DESCRIPTION
[Symbol]	BOUNDARY
[Symbol]	ADJACENT PROPERTY
[Symbol]	EXISTING ROAD
[Symbol]	PROPOSED ROAD
[Symbol]	EXISTING UTILITY
[Symbol]	PROPOSED UTILITY
[Symbol]	EXISTING EASEMENT
[Symbol]	PROPOSED EASEMENT
[Symbol]	EXISTING ENCUMBRANCE
[Symbol]	PROPOSED ENCUMBRANCE



NO.	REVISION	DATE

DISCLAIMER NOTICE & REPORT

1. THIS IS A PRELIMINARY SURVEY. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.
2. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.
3. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.
4. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.
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9. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.
10. THE SURVEYOR HAS NOT CONDUCTED A RE-SURVEY OF THIS MAP SINCE THE DATE OF THE SURVEY.

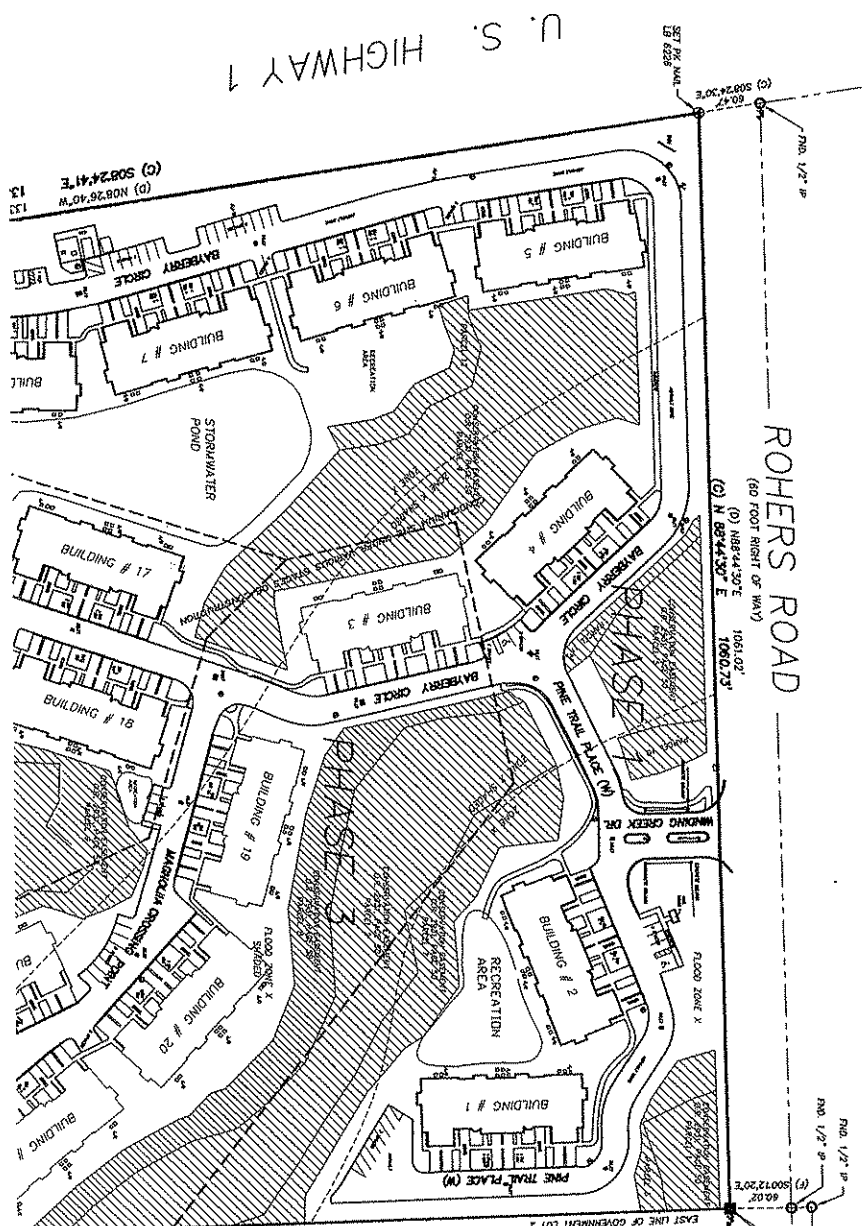
Charles P. DeWitt

6-24-2010

SHEET 1 OF 3
NOT VALID WITHOUT ACCOMPANYING SHEETS

	ATLANTIC-GULF SURVEYING CO. INC. LAND AND ENGINEERING SURVEYS 6400 POND AVENUE, ANDERSONVILLE, FLORIDA 32007 PHONE NO. (904) 225-8244 - FAX NO. (904) 225-8244	CLIENT THE COTTAGES AT WINDING CREEK LLC	DATE OF SURVEY 02/08/10 SCALE AS SHOWN PROJECT THE COTTAGES AT WINDING CREEK, PHASE 1 DATE 02/08/10	FLOOD NOTE PROPERTY SHOWN HEREON LIES WITHIN FLOOD ZONE AS SHOWN ON MOST CURRENT FIRM F.A.A. FLOOD MAP, PANEL NO. 17020C0101 (WINDING CREEK SUBDIVISION)	LEGEND [Symbol] EXISTING BOUNDARY [Symbol] PROPOSED BOUNDARY [Symbol] EXISTING ADJACENT PROPERTY [Symbol] PROPOSED ADJACENT PROPERTY [Symbol] EXISTING ROAD [Symbol] PROPOSED ROAD [Symbol] EXISTING UTILITY [Symbol] PROPOSED UTILITY [Symbol] EXISTING EASEMENT [Symbol] PROPOSED EASEMENT [Symbol] EXISTING ENCUMBRANCE [Symbol] PROPOSED ENCUMBRANCE
	UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, DETAIL, PLAN OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.				

U. S. HIGHWAY 1



MAP SHOWING A BOUNDARY SURVEY OF:
 THE COTTAGES AT WINDING CREEK, A CONDOMINIUM
 CITY OF ST. AUGUSTINE, ST. JOHNS COUNTY, FLORIDA

ROHERS ROAD

APPROPRIATE

AREA	1:250
SCALE	1:250
DATE	11/18/03
BY	JMS
CHECKED	JMS
DATE	11/18/03
SCALE	1:250
DATE	11/18/03
BY	JMS
CHECKED	JMS
DATE	11/18/03



POINT OF BEGINNING
 OVERALL AND PHASE 1
 P.D. 4" 50.00'

POINT OF COMMENCEMENT
 ALL PARCELS
 993.11'

POINT OF BEGINNING
 PHASE 3
 HYDRO ADJUTANT OF NORTH AMERICA
 O.S.B. 2802 PAGE 314

NOT VALID WITHOUT ACCOMPANYING SHEETS
 SHEET 2 OF 3

ATLANTIC-GULF SURVEYING CO., INC.
 LAND AND ENGINEERING SURVEYS
 LICENSED SURVEYORS
 8445 POWER AVENUE, JACKSONVILLE, FLORIDA 32217
 PHONE 904 (904) 731-4341 - FAX (904) 628-8220

CLIENT
 THE COTTAGES AT WINDING CREEK LLC

DATE OF SURVEY	11/18/03
DATE OF PLOT	11/18/03
DATE OF CHECK	11/18/03
DATE OF REVISION	
DATE OF REVISION	
DATE OF REVISION	
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DATE	11/18/03

THIS DRAWING IS THE INSTRUMENT OF SERVICE AND PROPERTY OF ATLANTIC-GULF SURVEYING CO. INC. ANY USE OR REPRODUCTION WITHOUT THE EXPRESSED WRITTEN PERMISSION OF THIS CORPORATION IS PROHIBITED.

U. S. HIGHWAY 1

(O) N08°26'40"W 1337.34'
(C) S08°24'41"E 1337.14'

EASTERLY RIGHT OF WAY LINE

MAP SHOWING A BOUNDARY SURVEY OF:
THE COTTAGES AT WINDING CREEK, A CONDOMINIUM
CITY OF ST. AUGUSTINE, ST. JOHNS COUNTY, FLORIDA

NOVAC HOLDING LTD PARTNERSHIP
O.R.E. 138K, PAGE 710

(7) S

(O) S59°03'50"W 898.38'
(F) S89°10'55"W 898.51'

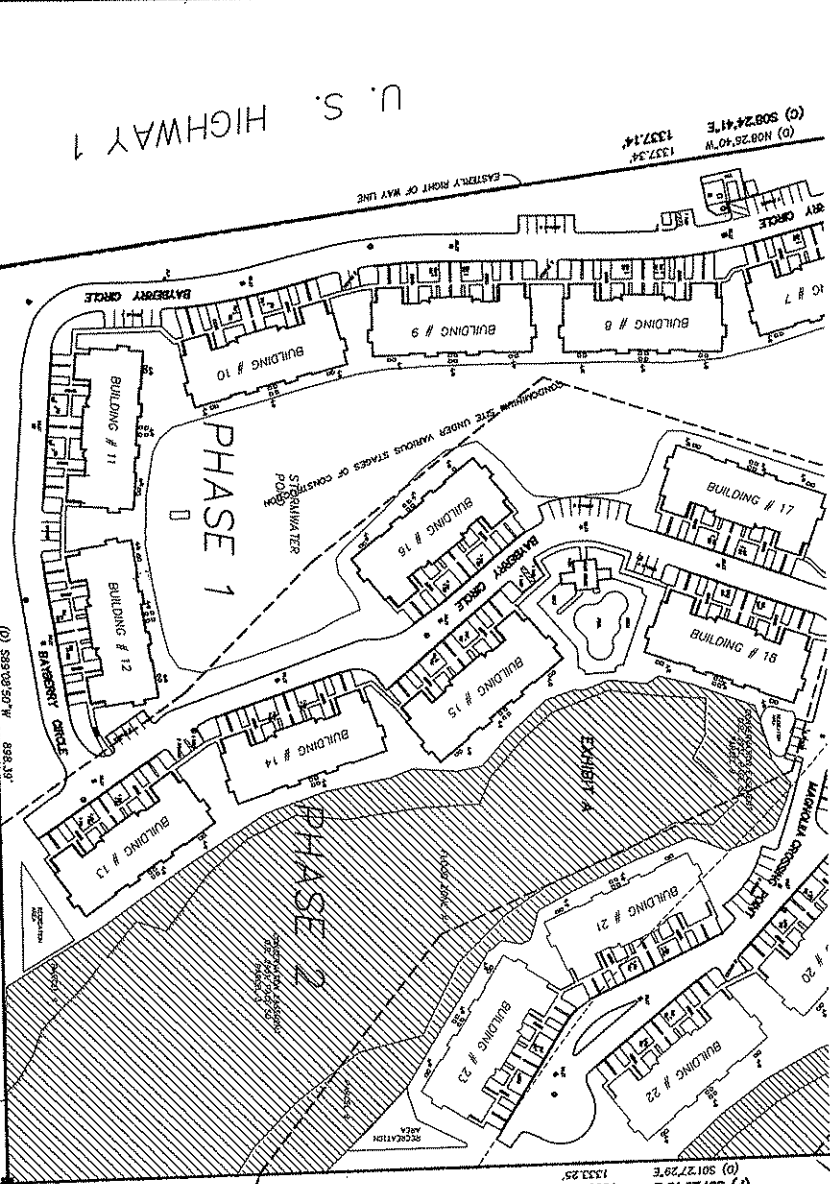
ESTOW LP
O.R.E. 140L, PAGE 143

SOUTH LINE OF GOVERNMENT LOT 2

SOUTHWEST CORNER OF GOV'T LOT 2
(AND 10.)

HAINA, INC.
O.R.E. 115, PAGE 1143

NOT VALID WITHOUT ACCOMPANYING SHEETS
SHEET 3 OF 3



OVERALL
(F) S01°28'16"E 1333.64'
(O) S01°27'29"E 1333.25'



POINT OF BEGINNING
PHASE 2



- ABBREVIATIONS
- A.C. ALIEN CORP.
 - B.L. BOUNDARY LINE
 - E. EAST
 - N. NORTH
 - S. SOUTH
 - W. WEST
 - REC. RECORD
 - RECR. RECREATION
 - RES. RESERVATION
 - ST. STREET
 - STR. STRUCTURE
 - SW. SWANSEA WAY
 - TR. TRAIL
 - UNDEVELOPED UNDEVELOPED
 - UT. UTILITY
 - W. WATER
 - W. WATER

ATLANTIC-GULF SURVEYING CO. INC.
LAND AND ENGINEERING SURVEYS

CLIENT
THE COTTAGES AT WINDING CREEK LLC

DATE	10/1/2010
BY	J. W. HAINA
CHECKED	J. W. HAINA
DATE	10/1/2010
BY	J. W. HAINA
CHECKED	J. W. HAINA

DATE	10/1/2010
BY	J. W. HAINA
CHECKED	J. W. HAINA

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAN OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID

EXHIBIT B-2
SURVEYOR'S CERTIFICATE

**THE COTTAGES AT WINDING CREEK CONDOMINIUM
PHASE II
ST. JOHNS COUNTY, FLORIDA**

CONDOMINIUM CERTIFICATE TO PHASE II OF THE COTTAGES AT WINDING CREEK, A CONDOMINIUM:

I HEREBY CERTIFY THAT I AM A DULY REGISTERED PROFESSIONAL SURVEYOR AND MAPPER AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA, SURVEYOR NO. LS 5100, AND THAT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 718.104(4)(e), FLORIDA STATUTES, THE IMPROVEMENTS FOR PHASE II OF THE COTTAGES AT WINDING CREEK, A CONDOMINIUM, INCLUDING WITHOUT LIMITATION, LANDSCAPING, UTILITY SERVICES, ACCESS TO THE BUILDINGS OF PHASE II OF THE COTTAGES AT WINDING CREEK, A CONDOMINIUM AND COMMON ELEMENT FACILITIES SERVING ALL SUCH IMPROVEMENTS, ARE SUBSTANTIALLY COMPLETE SO THAT THE MATERIAL, TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM OF THE COTTAGES AT WINDING CREEK CONDOMINIUM, AS AMENDED, DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS OF PHASE II OF THE COTTAGES AT WINDING CREEK, A CONDOMINIUM, AND FURTHER, THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND EACH UNIT BE DETERMINED FROM THESE MATERIALS.

CERTIFICATION TO SURVEY DATA CONTAINED ON EXHIBITS ATTACHED TO THE DECLARATION FOR THE COTTAGES AT WINDING CREEK, A CONDOMINIUM.

I HEREBY CERTIFY THAT THE AFOREMENTIONED SURVEY MAP IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY MADE UNDER MY SUPERVISION AND THAT SAID SURVEY MEETS OR EXCEEDS MINIMUM TECHNICAL STANDARDS PURSUANT TO SECTION 472.027, OF THE FLORIDA STATUTES.

Charles P. Delcambre

Charles P. Delcambre, PSM
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATE NO. LS 5100
DATE: June 29, 2010