

## LaPlaya Boat Docks Agreement

This Agreement is made by and between LaPlaya LLC, a Florida limited liability company, and its assigns "LaPlaya" and Vanderbilt Beach Residents Association, a Florida non-profit organization "Vanderbilt" on this \_\_\_\_\_ day of \_\_\_\_\_ 2008. LaPlaya and Vanderbilt hereby agree as follows:

### WITNESSETH:

**WHEREAS**, LaPlaya owns and operates a hotel, with related amenities, located at 9891 Gulf Shore Drive, Naples, Collier County, Florida; and

**WHEREAS**, LaPlaya installed twenty-three (23) boat docks which are for the use of LaPlaya hotel guests and members of the private LaPlaya Club without obtaining conditional use approval from Collier County; and

**WHEREAS**, Vanderbilt contends that LaPlaya should have obtained conditional use approval from Collier County pursuant to the Collier County Land Development Code prior to installing twenty-three (23) boat docks which are for the use of LaPlaya hotel guests and members of the private LaPlaya Club; and

**WHEREAS**, LaPlaya contends that a conditional use approval or amendment is not required by the Collier County Land Development Code for installation and use of twenty-three (23) boats; and

**WHEREAS**, Vanderbilt contends that the boat docks violate the Site Development Plan, and/or that the boat docks constitute a marina and are inconsistent with the Collier County Land Development Code; and

**WHEREAS**, LaPlaya contends that the boat docks do not violate the Site Development Plan, that the boat docks do not constitute a marina, and that the boat docks comply with the Land Development Code.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto freely and voluntarily agree as follows

1. The above recitals are incorporated herein as though fully set forth at this Paragraph 1.
2. Whenever (SDP) appears at the end of a paragraph, it means that the conditions in that paragraph have been agreed to by LaPlaya and Vanderbilt to be placed as conditions to the boat docks on the Site Development Plan (SDP) approval by Collier County.
3. LaPlaya is the owner of twenty-three (23) boat docks which are for the use of LaPlaya hotel guests and members of the private LaPlaya Club.

4. LaPlaya agrees that it shall not add any additional fishing piers, gazebos or boat docks into the bay without the expressed written consent of Vanderbilt, which consent may be withheld for any reason or no reason at all. LaPlaya further agrees not to expand or extend the existing 23 boat docks into the bay without the expressed written consent of Vanderbilt, which consent may be withheld for any reason or no reason at all.
5. The following conditions are agreed upon between LaPlaya and Vanderbilt and shall be conditions for the boat docks that shall be placed on the Site Development Plan (SDP):
  - A. Live-a-boards and overnight stays on boats are prohibited. (SDP)
  - B. Over-water fish cleaning stations or disposal of fish wastes in water are prohibited. (SDP)
  - C. Discharging marine sewage, combustible or other hazardous materials, grey water (shower, dish washing and laundry discharges) or contaminated bilge water are prohibited. (SDP)
  - D. Fueling facilities are prohibited, except on the beach. (SDP)
  - E. No bright lighting shall be installed on the docks. All lighting shall be shielded. (SDP)
  - F. Boat drafts are strictly limited to a depth of 3 feet. (SDP)
  - G. The rental of jet boats or jet skis is prohibited, except on the beach. (SDP)
  - H. There shall be an individual designated as the Dock Contact Person, on call 24-hours a day, whose job duties shall include compliance with the provisions of the SDP, the conditions specified by the Environmental Protection Agency (EPA) in response to Department of Environmental Protection (DEP) permit #11-0220559-002 (Submerged Land Lease), water quality criteria, control of amplified sound from the docks or boats and the noise ordinance of Collier County. (SDP)
  - I. The DEPs approved "Boat Slip User Agreement" shall be available for public inspection at the LaPlaya hotel. (SDP)
  - J. Canvas structures covers are prohibited. Individual boat covers that adhere directly to the boat are allowed. (SDP)
  - K. A gated entry shall be provided from the landward access point. (SDP)
  - L. Boat dock usage shall be limited to guests and members associated with the authorized upland uses. (SDP)

6. LaPlaya shall comply with the Collier County noise ordinance and take whatever steps are necessary to avoid and resolve any noise complaints from the surrounding neighborhood resulting from any violations of the noise ordinance connected to utilization of the boat docks.
7. Vanderbilt and LaPlaya agree that the LaPlaya boat docks are an accessory use associated with the commercial uses of the LaPlaya hotel and private club.
8. LaPlaya shall amend its Site Development Plan (SDP) to include those SDP conditions to the boat docks identified in this Agreement as outlined in Exhibit "A".
9. This Agreement shall be binding upon all successors and assigns of LaPlaya and Vanderbilt.
10. Vanderbilt agrees that it shall not challenge the SDP Amendment for the LaPlaya boat docks at LaPlaya and issuance of final Certificates of Occupation (COs) for said docks provided the SDP Amendment is consistent with each and every term of this Agreement.
11. Repair and/or re-configuration of the docks is permitted so long as the number of docks and the protrusion and overall coverage of the docks is within area covered by existing submerged land lease. (Exhibit "B").
12. This Agreement shall terminate and be null and void if LaPlaya is required to go through a public hearing process for the boat docks for guests and members associated with the authorized upland uses, provided said public hearing process is not initiated at the request of LaPlaya.
13. This Agreement resolves all issues between the parties involving the LaPlaya boat docks at LaPlaya. LaPlaya acknowledges this Agreement is only intended to clarify positions of both parties and not intended to set a precedent for future land use consideration within or on the LaPlaya property. Both parties agree that because of the specific facts in this instance, a public hearing is not required for the boat docks at LaPlaya that are the subject of this Agreement. All applicable regulations of the Collier County Land Development Code (LDC) and in particular that portion of the LDC designated as the Vanderbilt Beach Residential Tourist Overlay, remain as required by such code.
14. Vanderbilt shall reasonably assist LaPlaya in resolving County issues regarding the docks, including appearance in support of the boat docks at any hearing conducted by the County provided the issues presented therein are consistent with the terms of this Agreement.

15. LaPlaya shall have the right to assign all or part of the rights and obligations under this Agreement to one or more future owners of all or part of the LaPlaya Property. Consent to such an assignment by Vanderbilt shall not be required, provided that there is no modification of any of the terms of this Agreement, including, but not limited to the Developer's rights or obligations hereunder.
16. Any notice, request, demand, instructions or other communication to be given to any party hereunder shall be in writing, and either hand delivered, delivered by overnight courier, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

	LaPlaya LLC
If to LaPlaya	2600 Golden Gate Parkway, Suite 200
	Naples, FL 34105-3227
	Telephone: (239) 262-2600
If to Vanderbilt:	Vanderbilt Beach Residents Association
	P. O. Box 771330
	Naples, FL 34108

Any notice demands, request or other communication shall be deemed to be given upon actual receipt in the case delivery by hand delivery, overnight courier, or three (3) business days after depositing the same in a letter box or by other means placed within the possession of the United States Postal Service, properly addressed to the party in accordance with the foregoing and with the proper amount of postage affixed thereto.

The addresses and addressees for the purpose of this Section may be changed by any party or giving written notice of such change to the other party in the manner provided herein. For the purposes of changing such addresses or addressees only, unless and until such written notice is received, the last addressee and respective address stated herein shall be deemed to continue in effect for all purposes. Phone numbers are provided in this Section for the mere convenience of the parties.

17. This Agreement embodies the entire understanding of the parties with respect to the subject matter herein, and the terms hereof control over and supersede all prior understandings. This Agreement may not be modified or amended in any respect other than by written instrument signed by the applicable parties hereto. This Agreement shall be construed under the laws of the State of Florida. Venue for any action arising hereunder shall lie exclusively in Collier County, Florida, with jurisdiction for said action being in the Florida state court of appropriate jurisdiction.

Insubstantial Change request to SDP #

Purpose: addition of the following special conditions to boat dock provisions of the SDP:

1. Live-a-boards and overnight stays on boats shall be prohibited
2. Over-water fish cleaning stations or disposal of fish wastes in water is prohibited
3. Discharging marine sewage, combustible or other hazardous materials, grey water (shower, dish washing and laundry discharges) or contaminated bilge water shall be prohibited.
4. Fueling facilities shall be prohibited.
5. No bright lighting shall be installed on the docks. All lighting shall be shielded.
6. Boat drafts shall be limited to a depth of 3 feet.
7. The rental of jet boats or jet skis is prohibited except on the beach.
8. There will be a designated individual as the Dock Contact Person who will be on call 24-hours a day and who's duties shall include compliance with the provisions of this SDP, the conditions specified by the EPA in response to DEP permit #11-0220559-002 (Submerged Land Lease), water quality criteria, control of amplified sound from the docks or boats and the noise ordinances of Collier County.
9. The Department of Environmental Protection (DEP) approved "Boat Slip User Agreement" shall be available for public inspection at the La Playa Hotel.
10. Canvas structure covers are prohibited. Individual boat covers that adhere directly to the boat are allowed.
11. A gated entry will be provided from the landward access point.
12. Usage shall be limited to guests and members associated with the authorized upland uses.

Exhibit "A"

**NOTES**

- 1.) THIS SURVEY HAS BEEN PREPARED SPECIFICALLY AND EXCLUSIVELY TO PROVIDE THE NECESSARY DATA REQUIRED FOR A SUBMERGED LAND LEASE.
- 2.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF LOT 26, CONNERS VANDERBILT BEACH ESTATES UNIT NO.1, AS RECORDED IN PLAT BOOK 3, AT PAGES 8 & 9, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, AS BEING S.85°31'10"E.
- 3.) THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.
- 4.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- 5.) ELEVATIONS REFER TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D. 29).
- 6.) THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 7.) THE SHORELINE (SEAWALL) DISTANCE ALONG PORTIONS OF LOTS 24 THROUGH 28 OF CONNERS VANDERBILT BEACH ESTATES IS 4684 +/- LINEAR FEET.
- 8.) MEAN HIGH WATER ELEVATION = 1.4 FEET N.G.V.D. 1929 PER THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF SURVEY AND MAPPING.
- 9.) STATE PLANE COORDINATES SHOWN HEREON REFER TO FLORIDA EAST ZONE (NORTH AMERICAN DATUM 1983)(1990 ADJUSTMENT), SCALED +/- FROM QUADRANGLE.
- 10.) THE WATERWARD BOUNDARY LINE AS OF JULY 1, 1975, DEPICTED HEREON, WAS OBTAINED FROM AN AERIAL PHOTOGRAPH COMPARISON EXHIBIT PROVIDED BY TURRELL & ASSOCIATES, INC., DEPICTING EXISTING CONDITIONS AS OF 1975.
- 11.) THIS IS A FIELD SURVEY.

**LEGAL DESCRIPTION**

A PORTION OF LOTS 24, 25, 26, 27, BLOCK B, A PORTION OF VANDERBILT LAGOON, CONNERS VANDERBILT BEACH ESTATES, UNIT NO.1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 8 AND 9, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, LOCATED IN SECTION 29, TOWNSHIP 48 SOUTH, RANGE 25 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 26, BLOCK B, OF CONNERS VANDERBILT BEACH ESTATES, UNIT NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 8 AND 9, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; THENCE RUN S.85°31'10"E., ALONG THE NORTH LINE OF SAID LOT 26, FOR A DISTANCE OF 135.57 FEET TO THE NORTHEAST CORNER OF SAID LOT 26; THENCE CONTINUE S.85°31'10"E. FOR A DISTANCE OF 8.81 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL, THE SAME BEING A POINT ON THE MEAN HIGH WATER LINE AND A POINT ON A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY, OF WHICH THE RADIUS POINT BEARS S.83°31'55"W., A DISTANCE OF 308.10 FEET THEREFROM; THENCE RUN SOUTHERLY, ALONG THE FACE OF SAID SEAWALL, SAID MEAN HIGH WATER LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS 308.10 FEET, THROUGH A CENTRAL ANGLE OF 05°06'25", SUBTENDED BY A CHORD OF 27.45 FEET AT A BEARING OF S.35°54'53"E., FOR A DISTANCE OF 27.48 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF SUBMERGED LAND HEREIN DESCRIBED; THENCE RUN N.80°29'25"E., FOR A DISTANCE OF 99.39 FEET; THENCE RUN S.09°31'50"E., FOR A DISTANCE OF 183.29 FEET; THENCE RUN S.10°09'09"E., FOR A DISTANCE OF 35.78 FEET; THENCE RUN S.09°07'58"E., FOR A DISTANCE OF 194.34 FEET; THENCE RUN S.80°33'27"W., FOR A DISTANCE OF 77.16 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL, THE SAME BEING A POINT ON SAID MEAN HIGH WATER LINE; THENCE RUN N.09°25'29"W., ALONG THE FACE OF SAID SEAWALL AND ALONG SAID MEAN HIGH WATER LINE, FOR A DISTANCE OF 311.86 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY, FROM WHICH THE RADIUS POINT BEARS S.78°01'43"W., A DISTANCE OF 308.10 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE FACE OF SAID SEAWALL, SAID MEAN HIGH WATER LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS 308.10 FEET, THROUGH A CENTRAL ANGLE OF 19°23'23", SUBTENDED BY A CHORD OF 103.77 FEET AT A BEARING OF N.21°39'58"W., FOR A DISTANCE OF 104.27 FEET TO THE POINT OF BEGINNING, CONTAINING 32,897.2 SQUARE FEET OR 0.755 ACRE, MORE OR LESS.

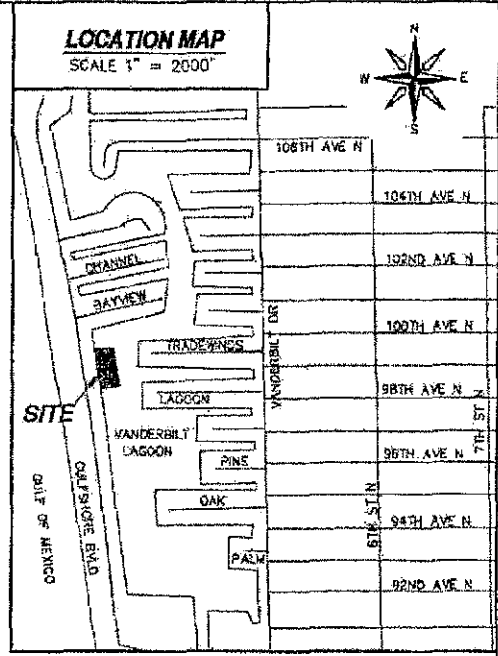
**CERTIFIED TO:**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

**CERTIFICATION**

I HEREBY CERTIFY THAT THIS SPECIFIC PURPOSE SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 10/12/07. THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-8, F.A.C. PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

*Thomas J. Garris* 11/5/07  
 THOMAS J. GARRIS, STATE OF FLORIDA, (L.S. #3741)  
 BBL SURVEYORS & MAPPERS INC. (L.B. #6753)

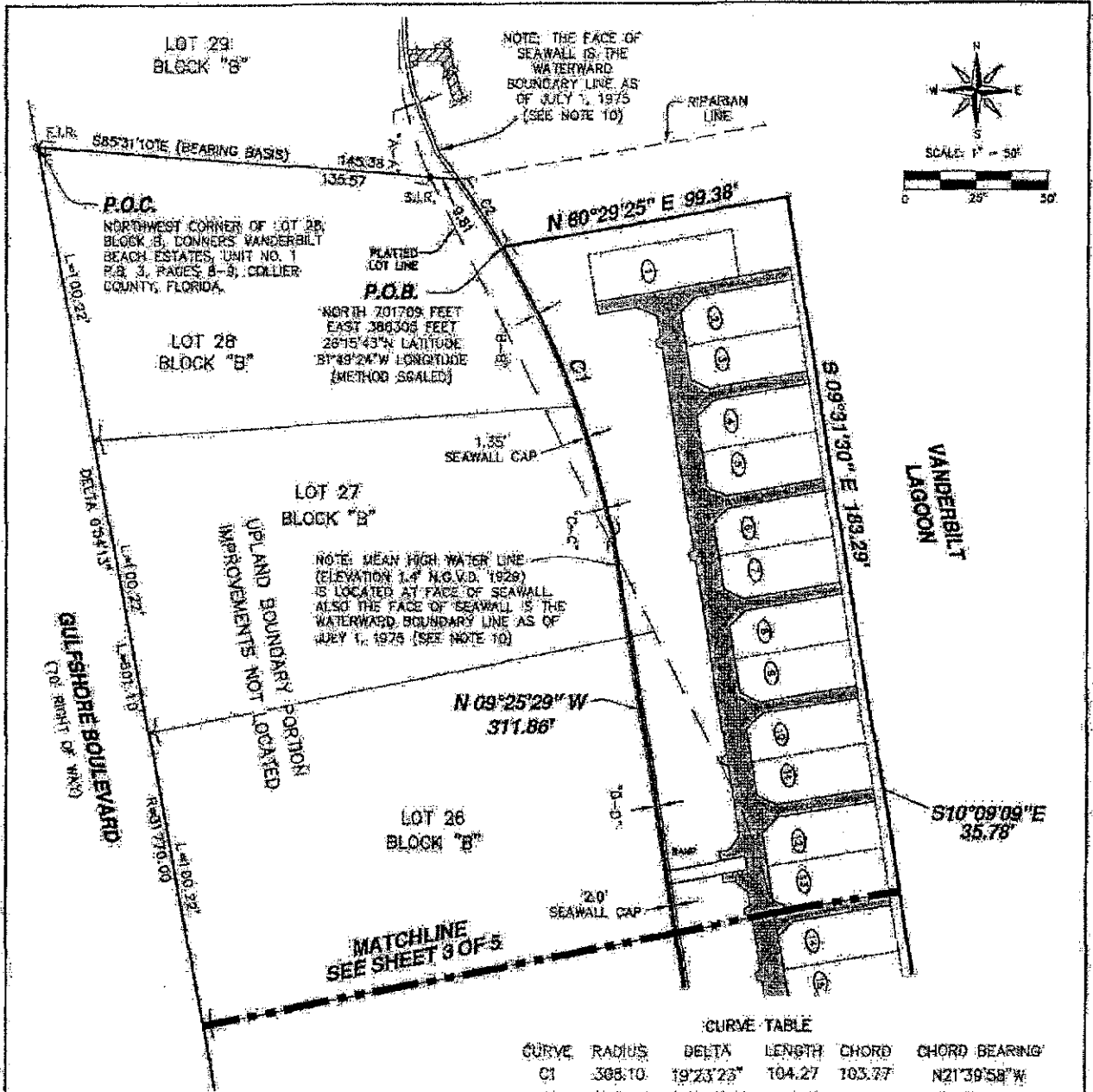


**LEGEND:**

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- SEC. SECTION
- F.I.R. FOUND IRON ROD
- S.I.R. SET 5/8" IRON ROD W/CAP (L.B. #6753)
- L.B. LICENSED BUSINESS
- L.S. LICENSED SURVEYOR
- PROPOSED MOORING PILING
- EXISTING WOOD PILING
- EXISTING CONCRETE PILING
- UTILITY BOX
- ELECTRICAL BOX
- TYP. TYPICAL
- BOAT SLIP IDENTIFICATION NUMBER
- EXISTING WOOD DOCK
- EXISTING FLOATING CONCRETE DOCK

**SHEET 1 OF 5**

DATE: 10/31/07	<b>SPECIFIC PURPOSE SURVEY</b>  <b>A PORTION OF VANDERBILT LAGOON, CONNERS VANDERBILT BEACH ESTATES, UNIT NO.1, A PORTION OF SECTION 29, TWP 48S, RNG 25E, COLLIER COUNTY, FLORIDA</b>	<b>BBL SURVEYORS &amp; MAPPERS INC.</b> <b>1502-A RAIL HEAD BLVD. NAPLES, FLORIDA 34110 (239) 597-1315</b>
SCALE: 1" = 2000'		
DRAWN BY: BUJ		
APPROVED: T.J.G		



CURVE TABLE

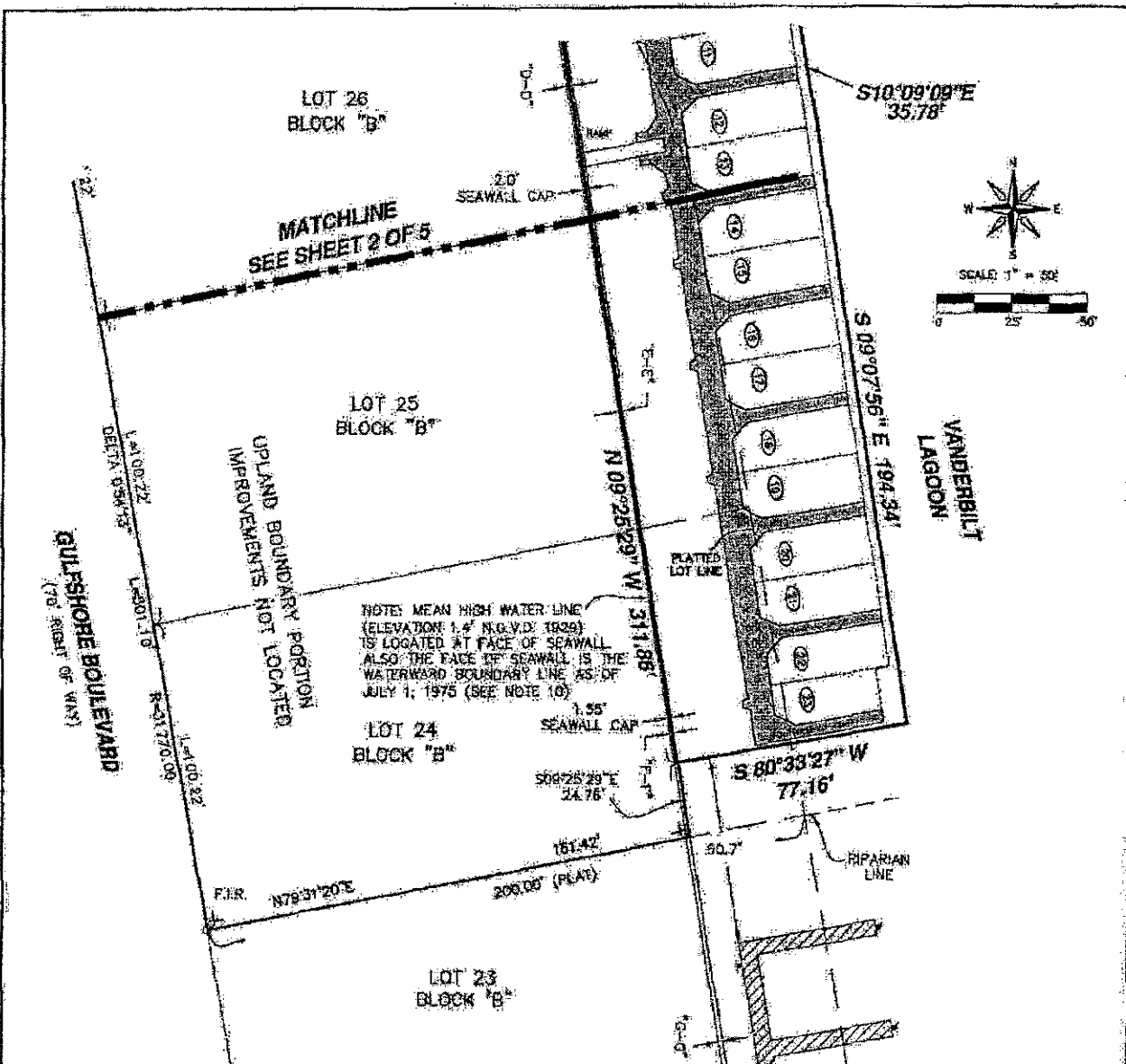
CURVE	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	308.10	19°23'23"	104.27	103.77	N21°39'58"W
C2	308.10	05°08'25"	27.48	27.45	S33°54'53"E

SECTION	TOP OF SEAWALL	BOTTOM OF SEAWALL
"A-A"	ELEV. = 4.30'	ELEV. = -2.2'
"B-B"	ELEV. = 3.86'	ELEV. = -4.1'
"C-C"	ELEV. = 3.89'	ELEV. = -3.5'
"D-D"	ELEV. = 3.86'	ELEV. = -2.3'
"E-E"	ELEV. = 3.88'	ELEV. = -2.6'
"F-F"	ELEV. = 3.86'	ELEV. = -2.6'

*Thomas J. Garris* 11/5/07  
 THOMAS J. GARRIS, STATE OF FLORIDA, (L.S. #3741)  
 BBL SURVEYORS & MAPPERS INC. (L.B. #6733)

**SHEET 2 OF 5**

DATE: 10/31/07	<b>SPECIFIC PURPOSE SURVEY</b>  <b>A PORTION OF VANDERBILT LAGOON, CONNERS VANDERBILT BEACH ESTATES, UNIT NO. 1, A PORTION OF SECTION 29, TWP 48S, RNG 25E, COLLIER COUNTY, FLORIDA</b>	<b>BBL SURVEYORS &amp; MAPPERS INC, 1502-A RAIL HEAD BLVD. NAPLES, FLORIDA 34110 (239) 597-1315</b>
SCALE: 1" = 50'		
DRAWN BY: BUD		
APPROVED: TUG		



**LEGEND:**

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- SEC. SECTION
- F.I.R. FOUND IRON ROD
- S.I.R. SET 5/8" IRON ROD W/CAP (L.B. #6753)
- L.B. LICENSED BUSINESS
- L.S. LICENSED SURVEYOR
- (x) EXISTING WOOD PILING
- (\*) EXISTING CONCRETE PILING
- (□) UTILITY BOX
- (□) ELECTRICAL BOX
- (TYP.) TYPICAL
- (①) BOAT SLIP IDENTIFICATION NUMBER
- (Hatched) EXISTING WOOD DOCK
- (Hatched) EXISTING FLOATING CONCRETE DOCK

SHEET 3 OF 5

*Thomas J. Garris*  
 THOMAS J. GARRIS, STATE OF FLORIDA, (L.S. #3741)  
 BLS SURVEYORS & MAPPERS INC. (L.B. #0753)

DATE: 10/31/207	<b>SPECIFIC PURPOSE SURVEY</b>  <b>A PORTION OF VANDERBILT LAGOON,          CONNERS VANDERBILT BEACH ESTATES,          UNIT NO. 1, A PORTION OF SECTION 29,          TWP 48S, R1NG 25E, COLLIER COUNTY, FLORIDA</b>	<b>BLS SURVEYORS &amp;          MAPPERS INC.</b> <b>1502-A RAIL HEAD          BLVD. NAPLES,          FLORIDA 34110</b> <b>(239) 597-1315</b>
SCALE: 1" = 50'		
DRAWN BY: BUD		
APPROVED: TJC		