

RESOLUTION 17 -1446

**A RESOLUTION OF THE TOWN OF MIAMI LAKES, FLORIDA,
TO APPROVE THE TERMS AND CONDITIONS OF THE
PROPOSED SETTLEMENT AGREEMENT TO RESOLVE THE
PENDING LEGAL ACTION BY COMAR VENTURES
CORPORATION V. THE TOWN OF MIAMI LAKES;
AUTHORIZING THE MAYOR TO EXECUTE THE
AGREEMENT; AUTHORIZING THE TOWN MANAGER AND
TOWN ATTORNEY TO IMPLEMENT THE TERMS AND
CONDITIONS OF THE SETTLEMENT AGREEMENT;
PROVIDING FOR INCORPORATION OF RECITALS;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, on November 3, 2015, the Town Council adopted Resolution 15-1338 approving Comar Ventures Corporation (the “Applicant”) preliminary plat and included a condition that prior to approval of the final plat, the Applicant submit and have approved by the Town Council, after a public hearing, a site plan application; and

WHEREAS, on September 6, 2016, at a properly noticed quasi-judicial hearing held by the Town Council of the Town of Miami Lakes, after hearing testimony from staff, Applicant, the public, and other testimony, the Town Council determined that Applicant’s request for site plan and final plat approval did not meet the criteria set forth in the Town Code; and

WHEREAS, in response to the Town’s denial, the Applicant filed a Writ of Certiorari styled *Comar Ventures Corporation v. Town of Miami Lakes* Case number 2016 368 AP seeking review of the Town’s September 6, 2017 decision, and a request for relief pursuant to Section 70.51 of the Florida Statutes title Florida Land Use and Environmental Dispute Resolution Act; and

WHEREAS, on March 24, 2017, the Applicant submitted a proposed settlement agreement to the Town for consideration regarding the legal actions; and

WHEREAS, on March 27, 2017, during a publicly noticed meeting, the Town Council, after taking into account public comments, directed the Town Manager and Town Attorney to prepare and draft a proposed settlement agreement for consideration by the Town Council; and

WHEREAS, the proposed settlement (Exhibit "A"), outlines the terms of the agreement between the Applicant and the Town; and

WHEREAS, the proposed settlement agreement shall be subject to approval of Applicant's amended site plan and final plat approval; and both the site plan and final plat shall be subject to a quasi-judicial hearing that will take place subsequent to the execution of the agreement; and

WHEREAS, should the Town deny the application, the settlement agreement shall be null and void; and

WHEREAS, the Town Council desires to approve the terms and conditions of the proposed Settlement Agreement as substantially outlined in Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this resolution by this reference.

Section 2. Approval of Settlement Agreement. The proposed settlement agreement between Comar Ventures Corporation and the Town of Miami Lakes, as may be acceptable to

the Town Manager and approved as to form and legality by the Town Attorney, is approved, in substantially the form attached hereto as Exhibit "A".

Section 3. Authorization of Town Officials. The T o w n Manager and Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the proposed Settlement Agreement.

Section 4. Execution of the Settlement Agreement. The T o w n Mayor is authorized to execute the proposed Settlement Agreement on behalf of the Town.


Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

***** This Portion has intentionally been left blank *****

Passed and adopted this 2nd day of May 2017.


The foregoing resolution was offered by Vice Mayor Lama who moved its adoption. The motion was seconded by Councilmember Mestre and upon being put to a vote, the vote was as follows:

Mayor Manny Cid.	yes
Vice Mayor Tony Lama	yes
Councilmember Luis Collazo	yes
Councilmember Tim Daubert	yes
Councilmember Ceasar Mestre	yes
Councilmember Frank Mingo	yes
Councilmember Nelson Rodriguez	yes




Manny Cid
MAYOR

Attest:



Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (“Agreement”) is made this ___ day of April 2017, by and between COMAR VENTURES CORPORATION, a Florida (“Comar”), and the TOWN OF MAMI LAKES (“City”), a Florida municipal corporation, (all collectively, the “Parties”) who hereby stipulate and agree as follows:

RECITALS

WHEREAS, Comar owns that certain 1.7-acre parcel of land located in Miami-Dade County, Florida and more particularly described in Exhibit “A” attached hereto (“Property”); and

WHEREAS, on August 7, 2015, pursuant to section 13-308 of the Town of Miami Lakes Code Comar submitted an application for approval of a preliminary plat to subdivide the Property; and

WHEREAS, the Town Planner reviewed the preliminary plat application package and recommended that the Town Council of the Town of Miami Lakes “Town Council”) approve Comar’s proposed preliminary plat subject to conditions; and

WHEREAS, on November 3, 2015, the Town Council adopted Resolution 15-1338 granting the requested preliminary plat approval subject to conditions; and

WHEREAS, Resolution 15-1338 included a condition that a site plan for the Property be approved along with the plat; and

WHEREAS, pursuant to Resolution 15-1338 Comar submitted its application for final approval for the “Loch Ness Gardens” plat and for the related site plan; and

WHEREAS, the Town Planner reviewed the final plat and site plan application package and recommended that the Town Council approve the final plat and site plan subject to conditions; and

WHEREAS, on September 6, 2016 the Town Council after public hearing voted to deny the final plat and site plan; and

WHEREAS, on October 5, 2016 Comar filed (1) a petition for writ of certiorari styled *Comar Ventures Corporation v. Town of Miami Lakes*, Case No. 2016-368-AP, requesting that the circuit court appellate court quash the Town’s denial of the final plat and site plan (the “Petition”) and (2) a request for relief pursuant to Section 70.51, the Florida Statutes the Florida Land Use and Environmental Dispute Resolution Act (Applications PLAT 2016-002 and PHSP 2016-002) (the “FLUEDRA relief”); and

WHEREAS, Comar Ventures by letter dated March 24, 2017 proposed a settlement with the town that would result in approval of the plat and site plan with conditions and the voluntary dismissal of the Petition and FLUEDRA request; and

WHEREAS, on March 27, 2017 the Town Council considered public comments and directed the town manager and town attorney to meet with Comar in an effort to draft a settlement agreement for Town Council review at its April 18, 2017 meeting.

NOW, THEREFORE, in consideration of the mutual agreements, undertakings, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The foregoing recitals are true, accurate, and correct and are incorporated herein by this reference.
2. The Parties agree as follows:
 - A. Pursuant to Code of Ordinances of the Town of Miami Lakes (the "Code"), the Town Manager will initiate the process for Town review and approval of Comar Ventures' application to approve the plat set forth in Exhibit A, attached hereto and made a part hereof (the "Plat"), and site plan (the "Site Plan") set forth in Exhibit B, attached hereto and made a part hereof).
 - B. The Town Council of the Town of Miami Lakes (the "Town Council") will consider the Plat and the Site Plan pursuant to the platting and site plan processes established by the Town Code.
 - C. Comar Ventures through a unity of title shall combine lots 3 and 4 of the Loch Ness Gardens plat. The unity of title shall be reviewed and approved as to form by the Town Attorney. The unity of title shall be filed in the public records of Miami-Dade County only after the non-appealable approval of both the Plat and Site Plan within 30 days of the later of the non-appealable plat approval or the non-appealable site plan approval. The unity of title may be dissolved only after approval by the Town Council.
 - D. In furtherance of this settlement, Comar Ventures has submitted to the Town the Site Plan showing:
 - 1) Four single-family houses as follows: one house on lot one, one house on lot two, one house on lot five and one house on the combined lots three and four.
 - 2) That none of the four houses shall face Loch Ness Drive.
 - 3) That none of the four houses will be more than one story in height.
 - E. In the event the Town Council approves the Plat and the Site Plan, and within 30 days of the expiration of any applicable appeal periods, Comar shall dismiss with prejudice the petition for writ of certiorari referenced herein, and the FLUEDRA request.

- F. In the event the Town Council does not approve either the final plat or the site plan as set forth in exhibits “A” and “B” herein, this agreement has no force and effect and shall be deemed void and Comar retains its right to pursue its pending petition for writ of certiorari and related request for FLUEDRA relief.
 - G. Comar expressly recognizes and acknowledges that the Town makes no representation that the Town Council will approve the plat and site plan as set forth above.
 - H. The Town shall make administrative adjustments to the plat and/or site plan to incorporate in those documents any non-Town-required approvals that are acceptable to the Town Manager and Comar.
 - I. Comar shall work with the neighbors in the surrounding community and the Town to rename the cul-de-sac. However, such change in the name of the street may not be implemented if it triggers a new plat application.
3. The Parties hereto agree that they shall expeditiously provide to each other documents and instruments as may be reasonably necessary to effectuate the purposes of this Agreement.
 4. Each Party hereto acknowledges that this Agreement is a compromise resolution of disputed claims and agrees that it shall never be treated or used as an admission or evidence of liability or wrongdoing against any party hereto for any purpose whatsoever. Each Party hereto acknowledges that this settlement is based solely on their desire to resolve all disputes and avoid any further costs of litigation.
 5. The Parties represent and warrant that they have executed this Agreement freely and voluntarily after having had an opportunity to consult with their respective attorneys concerning their rights and obligations hereunder.
 6. This Agreement shall be deemed drafted by all Parties and there shall be no presumption against any Party relating to the drafting of said Agreement and the language used herein. The obligations and duties of the Parties are as provided for in each provision of this Agreement, notwithstanding that certain sections are identified as creating obligations for specific Parties.
 7. The laws of the State of Florida shall govern this Agreement and its enforcement. Venue for any action or proceeding brought under this Agreement shall be in Miami-Dade County.
 8. The Parties signing this Agreement represent and warrant that they have full and complete legal and binding authority to enter into this Agreement.

9. This Agreement may be executed in counterpart originals with the same force and effect as if fully and simultaneously executed as a single original document. A facsimile or electronic (PDF) copy of this Agreement and any signatures thereon shall be considered for all purposes as originals.
10. Time is of the essence with respect to each provision contained in this Agreement.

DATED this 2ND day of ~~April~~^{MAY} 2017.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly entered into and signed as of the date set forth above.

(SIGNATURES ON FOLLOWING PAGE)

COMAR VENTURES CORPORATION

Witnesses:

W. Tucker Gibas
Print Name W. Tucker Gibas

Julio A. Viji
Print Name Julio A. Viji

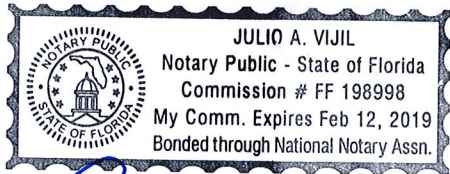
By: Rodolfo Corujo
Rodolfo Corujo

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 26th day of April 2017 by Rodolfo Corujo, as Vice President of Comar Ventures Corporation, freely and voluntarily on behalf of said corporation. This person is personally known to me or who produced Florida Drivers License as identification.

Julio A. Viji

NOTARY PUBLIC, State of Florida at Large
Print Name Julio Viji
My commission expires:



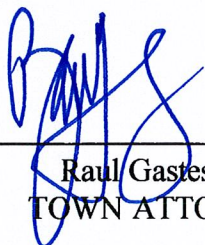
TOWN OF MIAMI LAKES
By: [Signature]

ATTEST:
[Signature]
Town Clerk, Town of Miami Lakes

Date: May 2nd, 2017

May 2nd, 2017

Approved as to form and legal sufficiency:

A handwritten signature in blue ink, appearing to read "Raul Gastesi, Jr.", is written over a horizontal line.

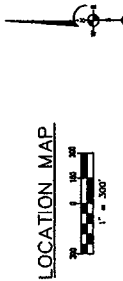
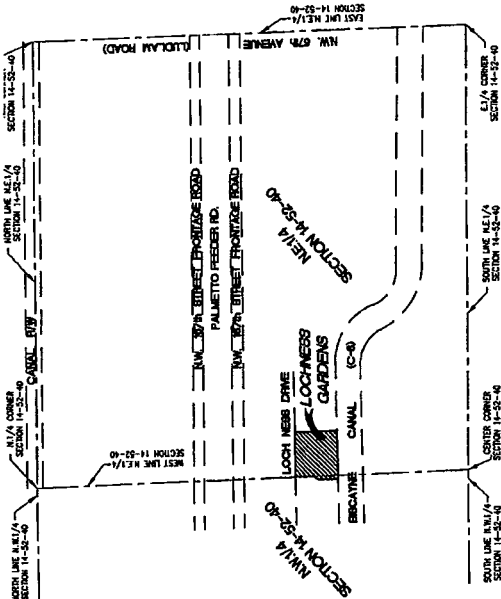
Raul Gastesi, Jr.
TOWN ATTORNEY

EXHIBIT “A”

LOCHNESS GARDENS

A REPLAT OF TRACT "A" OF MIAMI LAKES LOCH NESS SECTION, AS RECORDED IN PLAT BOOK 93, PAGE 45 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SECTION 14, TOWNSHIP 52 SOUTH, RANGE 40 EAST, IN THE TOWN OF MIAMI LAKES, MIAMI-DADE COUNTY, FLORIDA

MANUEL G. VERA & ASSOCIATES, INC.
 ENGINEERS - LAND SURVEYORS - PLANNERS
 13800 SW 47th STREET MIAMI, FLORIDA 33175
 PHONE: (305) 221-8210 FAX: (305) 221-1295
 JANUARY 2018



KNOW ALL MEN BY THESE PRESENTS:
 THAT COMAR VENTURES CORP., A FLORIDA CORPORATION, HAS CAUSED TO BE MADE THE REPLAT OF THE ATTACHED PLAT ENTITLED LOCHNESS GARDENS, THE SAME BEING A REPLAT OF THE FOLLOWING DESCRIBED PROPERTY:

LEGAL DESCRIPTION:
 TRACT "A" OF "MIAMI LAKES LOCH NESS SECTION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 93, AT PAGE 45, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

IN WITNESS WHEREOF:
 THE SAID COMAR VENTURES CORP., A FLORIDA CORPORATION, HAS CAUSED THESE PRESENTS TO BE MADE AND SIGNED BY ITS PRESIDENT, MANUEL G. VERA, AND TWO OF ITS OFFICERS, AS WITNESSES, AND THE SAID COMAR VENTURES CORP., A FLORIDA CORPORATION, AND ITS CORPORATE SEAL TO BE HERETO AFFIXED IN THE PRESENCE OF THESE TWO WITNESSES THIS 28th DAY OF MAY, A.D. 2018.

WITNESS: Manuel Vera BY: Manuel Vera
 PRINT: Manuel Vera TITLE: President

WITNESS: Yancy Perez
 PRINT: Yancy Perez TITLE: Witness

WITNESS: Janice Alonso
 PRINT: Janice Alonso TITLE: Witness

ACKNOWLEDGEMENT:
 STATE OF FLORIDA
 COUNTY OF MIAMI-DADE

I HEREBY CERTIFY THAT ON THIS DAY PERSONALLY APPEARED BEFORE ME AN OFFICER DULY AUTHORIZED TO ADMINISTER OATHS AND TAKE ACKNOWLEDGEMENTS, Manuel Vera, WHO VOLUNTARILY AND KNOWINGLY SWEARED TO THE TRUTH OF THE FOREGOING INSTRUMENT FREELY AND VOLUNTARILY AS SUCH OFFICER FOR THE PURPOSES THEREIN EXPRESSED AND WHO DID NOT TAKE AN OATH.

WITNESS MY HAND AND OFFICIAL SEAL THIS 28th DAY OF MAY, A.D. 2018.

MY COMMISSION NUMBER: 67484672
 BY: Manuel Vera
 REGISTERED FIDELITY BOND NUMBER: 24,2017
 NOTARY PUBLIC
 STATE OF FLORIDA AT LARGE



NOTE:
 THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEFINITION OF THE DESCRIBED LAND AND INTEREST THEREIN. ANY INSTRUMENT REFERRING TO THE DESCRIBED LAND OR INTEREST THEREIN MUST BE REFERRED TO THIS PLAT. THERE SHALL BE NO ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED PLAT ENTITLED LOCHNESS GARDENS IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS AS RECENTLY SURVEYED AND PLATTED UNDER MY DIRECTION, THAT THE SURVEY DATA AS SHOWN ON THIS PLAT COMPLIES WITH THE APPLICABLE REQUIREMENTS OF CHAPTER 177, PART 1, FLORIDA STATUTES, AND THAT PERMANENT REFERENCE REQUIREMENTS HAVE BEEN MET.

MANUEL G. VERA & ASSOCIATES, INC.
 CERTIFICATE OF AUTHORIZATION NO. 024348
Manuel Vera
 PROFESSIONAL SURVEYOR AND MAPPER
 No.282, STATE OF FLORIDA.

TOWN OF MIAMI LAKES PLAT RESTRICTIONS:
 THAT INDIVIDUAL WELLS SHALL NOT BE PERMITTED WITHIN THIS SUBDIVISION, EXCEPT FOR SWIMMING POOLS, SPRINKLER SYSTEMS AND/OR AIR CONDITIONERS.
 THAT THE USE OF SEPTIC TANKS WILL NOT BE PERMITTED WITHIN THIS SUBDIVISION, UNLESS APPROVED FOR TEMPORARY USE IN ACCORDANCE WITH COUNTY AND STATE REGULATIONS.
 THAT THE SUBDIVISION SHALL BE INSTALLED UNDERGROUND, EXCEPT TRANSMISSION LINES, WITHIN THE MAINTENANCE OF PUBLIC UTILITIES.

MIAMI-DADE COUNTY PLAT RESTRICTIONS:
 THAT INDIVIDUAL WELLS SHALL NOT BE PERMITTED WITHIN THIS SUBDIVISION, EXCEPT FOR SWIMMING POOLS, SPRINKLER SYSTEMS AND/OR AIR CONDITIONERS.
 THAT THE USE OF SEPTIC TANKS WILL NOT BE PERMITTED WITHIN THIS SUBDIVISION, UNLESS APPROVED FOR TEMPORARY USE IN ACCORDANCE WITH COUNTY AND STATE REGULATIONS.
 THAT THE SUBDIVISION SHALL BE INSTALLED UNDERGROUND, EXCEPT TRANSMISSION LINES, WITHIN THE MAINTENANCE OF PUBLIC UTILITIES.

OWNER'S PLAT RESTRICTIONS:
 THAT THE UTILITY EASEMENTS AT THE SIDES AND/OR FRONT OF CERTAIN LOTS AS SHOWN BY DASHED LINES OF THE ATTACHED PLAT ARE HEREBY RESERVED FOR THE INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES.

TOWN OF MIAMI LAKES APPROVAL:
 THIS PLAT WILL NOT RESULT IN A REDUCTION IN THE LEVEL OF SERVICES FOR THE AFFECTED PUBLIC FACILITIES BELOW THE LEVEL OF SERVICES PROVIDED IN THE TOWN'S COMPREHENSIVE PLAN BY RESOLUTION NO. 177,981(0), PASSED AND ADOPTED BY TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, MIAMI-DADE COUNTY, FLORIDA, THIS DAY OF MAY, 2018.

SIGNED: _____ TOWN MANAGER
 ATTEST: _____ TOWN CLERK

THIS PLAT HAS BEEN REVIEWED BY A PROFESSIONAL SURVEYOR AND MAPPER UNDER CONTRACT TO THE TOWN OF MIAMI LAKES, MIAMI-DADE COUNTY, FLORIDA, AND THE SURVEYOR AND MAPPER CERTIFIES THAT THE LOTS AND OTHER FEATURES AS SHOWN ON THIS PLAT CONFORM TO CHAPTER 177.081(0), FLORIDA STATUTES.

BY: _____ PROFESSIONAL SURVEYOR AND MAPPER No. _____
 STATE OF FLORIDA

MIAMI-DADE COUNTY APPROVAL:
 THE DEPARTMENT OF REGULATION AND ECONOMIC RESOURCES CERTIFIES THAT THIS PLAT APPEARS TO CONFORM TO ALL THE REQUIREMENTS OF CHAPTER 28 OF THE MIAMI-DADE COUNTY CODE, ENACTED THIS DAY OF _____ A.D. 2018.

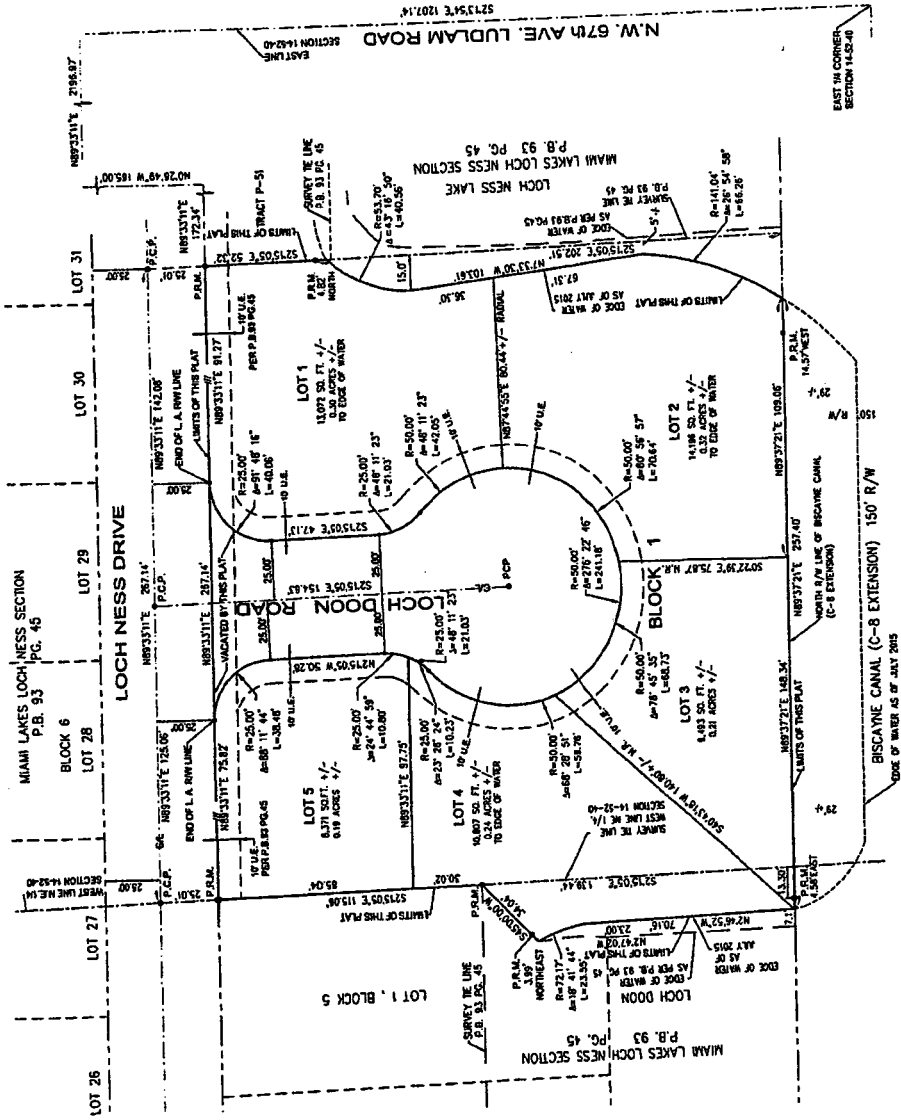
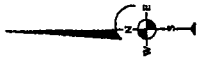
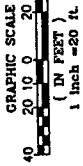
BY: _____ DIRECTOR

RECORDING STATEMENT:
 FILED FOR RECORD THIS DAY OF _____ A.D. 2018
 AT THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AT PAGE _____
 THAT COMPLETES WITH THE LANDS OF THE STATE OF FLORIDA, AND MIAMI-DADE COUNTY.
 HANLEY RAVEN
 CLERK OF CIRCUIT COURT
 DEPUTY CLERK

LOCHNESS GARDENS

A PART OF TRACT 21 OF MIAMI LAKES LOCH NESS SECTION, AS RECORDED IN PLAT BOOK 93, PAGE 43 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING IN SECTION 14, TOWNSHIP 52 SOUTH, RANGE 40 EAST, IN THE TOWN OF MIAMI LAKES, MIAMI-DADE COUNTY, FLORIDA.

MANUEL G. VERA & ASSOCIATES, INC.
SURVEYORS AND PLANNERS
1700 N.W. 70th STREET, MIAMI, FLORIDA 33175
PHONE: (305) 221-4210 FAX: (305) 221-1255
JANUARY 2016



ABBREVIATIONS:

- DA - DENOTES CENTERLINE
- DA - DENOTES RIGHT-OF-WAY
- P.B. - DENOTES PLAT BOOK
- P.C. - DENOTES POINT OF CURVATURE
- U.C. - DENOTES UTILITY CASHMENT
- 50 FT. - DENOTES PERMANENT MONUMENT
- Δ - DENOTES DELTA
- L - DENOTES LINE
- L.A. - DENOTES LIMITED ACCESS
- N.R. - DENOTES NON RADIAL
- P.P.M. - DENOTES PERMANENT REFERENCE MONUMENT (7" x 7" CONCRETE MONUMENT)

SURVEYOR'S REPORT:

BEARINGS SHOWN HEREON ARE RELATIVE TO AN ASSUMED MERIDIAN. THE POINT OF BEGINNING OF THIS PLAT IS THE POINT OF BEGINNING OF LOT NESS DRIVE, WHICH BEARS N 80°31'11" E.

RECORDING STATEMENT:

FILED FOR RECORD THIS 22nd DAY OF JANUARY 2016 AT THE PUBLIC RECORDS OFFICE OF MIAMI-DADE COUNTY, FLORIDA. THIS PLAT COMPLETES WITH THE LAWS OF THE STATE OF FLORIDA AND MIAMI-DADE COUNTY, FLORIDA.

HARVEY ELVIN
CLERK OF CIRCUIT COURT

BY: _____ DEPUTY CLERK

NOTE: THIS PLAT, AS DRAWN AND AS SHOWN HEREON, IS THE PROPERTY OF THE SURVEYOR AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR. ANY OTHER GRAPHIC OR DIGITAL FORM OF THIS PLAT THAT IS NOT IDENTICAL TO THE PUBLIC RECORDS OF THIS COUNTY, WILL BE CONSIDERED UNLAWFUL.

EXHIBIT “B”

