

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – June 2, 1999 – 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present: Bill Barnett, Mayor (left at 4:30 p.m.)
Bonnie R. MacKenzie, Vice Mayor
Council Members:
Fred Coyle
Joseph Herms
John Nocera
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Richard L. Woodruff, City Manager
Kenneth B. Cuyler, City Attorney
Ron Lee, Planning Director
Tara Norman, City Clerk
Jon Staiger, Natural Resources Manager
David Lykins, Recreation Manager
James Whitaker, Recreation Supervisor
Don Wirth, Community Services Director
Virginia Neet, Deputy City Clerk
Ronald Mosher, Police Officer
Ann Walker, Planner
Cory Ewing, Planner
Jessica Rosenberg, Recording Specialist
Duncan Bolhover, Admin. Specialist
Werner Haardt

George Varnadoe
Cheryl Coyle
James Dean
Harry Timmons
Wheeler Conkling
Amy Rego
David Guggenheim
Larry Pivacek
Other interested citizens and visitors

Media:

AnneElena Foster, Naples Daily News
Heather Dawson, WINK News

INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2

Herb Luntz

ANNOUNCEMENTSITEM 3

Recognition of the 283rd Army Concert Band – Herb Luntz accepted a proclamation on behalf of the Community Services Department and noted that the US Air Force would provide a unit for the City’s Fourth of July weekend celebration.

Collier County Planning Services Director Bob Mulhare noted that the Florida Department of Transportation and the Collier County Metropolitan Planning Organization had recently sponsored the “Walk Florida Road Show” and that, in the category of Community Organization and Design, the sponsors awarded the Fifth Avenue South Redevelopment District the “Golden Sneaker Award” for its many pedestrian-friendly improvements.

Recreation Manager David Lykins noted that the State has pledged approximately \$14,000.00 to supplement the City’s budget to present anti-tobacco programs geared to high risk minority youth; Recreation Supervisor James Whitaker distributed literature detailing upcoming activities to be held at the River Park Community Center and Anthony Park.

ITEMS TO BE ADDEDITEM 4

Item 16 Consider site plan approval for a residence at 545 Central Avenue

MOTION by Herms to SET THE AGENDA AND ADD ITEM 16 AND CONTINUING ITEM 9 UNTIL THE NEXT REGULAR MEETING;

seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

.....ITEM 5-f

AWARD A BID FOR RENOVATIONS TO THE FLEISCHMANN COMMUNITY CENTER \ CONTRACTOR: HIGHPOINT GENERAL CONTRACTING, NAPLES, FLORIDA \ AMOUNT: \$23,332.00 \ FUNDING: CIP #98G07.

City Manager Richard Woodruff noted that Council Member Herms had requested a review of the contractor’s work at Gulfview Middle School, but since the staff had not as yet done so, he suggested continuing the item.

Public Input: (on continuance) None. (9:13 a.m.)

MOTION by Tarrant to CONTINUE TO THE JUNE 16TH REGULAR MEETING;

seconded by Herms and carried 6-1, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-no, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 5-a

May 5, 1999 Regular Meeting and May 17, 1999 Workshop Meeting.

.....ITEM 5-b

APPROVE THE FOLLOWING SPECIAL EVENTS:

- (1) Pippin's 5K Run - 7/4
- (2) New Year's Eve Party (Park Shore) - 12/31
- (3) New Year's Eve Block Party (2nd Ave. S.) 12/31
- (4) Private New Year's Eve Party (Cutlass Cove Beach Club) - 12/31
- (5) Naples Art Association "Art in the Park" - 1/8/00, 2/5/00, 3/4/00

.....ITEM 5-c

CONSIDER A BUDGET AMENDMENT IN THE AMOUNT OF \$50,000.00 IN ORDER TO PROVIDE FOR LABOR ATTORNEY FEES.

..... ITEM 5-d
WAIVE COMPETITIVE BIDS AND AUTHORIZE THE PURCHASE OF A FRONT-
END LOADER, UNDER A PINELLAS COUNTY BID, FOR USE AT THE
WASTEWATER TREATMENT PLANT \ VENDOR: KELLY TRACTOR COMPANY,
INC., FORT MYERS, FLORIDA \ PRICE: \$58,080.00 \ FUNDING: WATER/SEWER
FUND (UNRESTRICTED).

RESOLUTION 99-8542..... ITEM 5-e
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN
INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND COLLIER
COUNTY FOR CONTRACTOR LICENSING BY COLLIER COUNTY; AND
PROVIDING AN EFFECTIVE DATE. City Manager Richard Woodruff noted that the
agreement has been modified to include licensing for tree-trimming contractors. He noted that the
City would lose only a modicum of revenue by allowing the County to issue the licenses, and that
the benefits would certainly outweigh the loss.

..... ITEM 5-g
AUTHORIZE THE PURCHASE OF THE JULY 4, 1999 FIREWORKS DISPLAY \
VENDOR: ZAMBELLI INTERNATIONALE \ PRICE: \$30,000.00 \ FUNDING: BEACH
ACCOUNT.

RESOLUTION 99-8543..... ITEM 5-h
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN
AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO WITH
CHANGES AS APPROVED BY THE CITY ATTORNEY, WITH THE GREATER
NAPLES LITTLE LEAGUE (GNLL) PERMITTING CERTAIN CAPITAL
IMPROVEMENTS AND COMMITTING THE CITY TO GRANTING A TWENTY-FIVE
(25) YEAR USE OF THE FACILITY; AND PROVIDING AN EFFECTIVE DATE.

*MOTION by Van Arsdale to APPROVE CONSENT AGENDA ITEMS 5-a
THROUGH 5-e AND ITEMS 5-g AND 5-h, AND REMOVING ITEM 5-f
FOR SEPARATE DISCUSSION; seconded by Nocera and unanimously
carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-
yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).*

END CONSENT AGENDA

ORDINANCE 99-8544..... ITEM 15-a
AN ORDINANCE ADOPTING SMALL SCALE COMPREHENSIVE PLAN
AMENDMENT PETITION 99-CPASS3, AMENDING THE FUTURE LAND USE MAP
OF THE COMPREHENSIVE PLAN FROM CONSERVATION TO WATERFRONT
MIXED USE FOR PROPERTY LOCATED ADJACENT TO AND SOUTH AND EAST
OF BAYVIEW PARK, MORE PARTICULARLY DESCRIBED HEREIN; AND
PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (9:32
a.m.)

ORDINANCE 99-8545..... ITEM 15-b
AN ORDINANCE GRANTING REZONE TO PLANNED DEVELOPMENT PETITION
99-R8 IN ORDER TO REZONE 124 ACRES LOCATED ADJACENT TO AND SOUTH
AND EAST OF BAYVIEW PARK FROM “C,” CONSERVATION TO “PD,” PLANNED
DEVELOPMENT, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING
AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (9:32 a.m.)

It is noted for the record that Items 15-a and 15-b were considered concurrently.

Council Member Tarrant questioned whether the proposed rezoning had been given appropriate
public notice, as required by law. City Attorney Kenneth Cuyler stated that to the best of his
knowledge, the advertising schedule had met all statutory requirements. Planning Director Ron

Lee explained that if a rezone is initiated by the City, a 30-day notice is required; in this case, the rezone was initiated by the petitioner. He added that staff nevertheless contacts those property owners within 500 feet of the proposed rezone prior to the Planning Advisory Board meeting. In this particular case, however staff had informed property owners beyond that perimeter as well as all homeowner associations south of the US 41 bridges of both the PAB and tentative Council meeting dates. Council briefly discussed public hearing requirements and public notice requirements. Mr. Tarrant also cautioned of a possible violation of law if both a Planned Development and a rezone were approved at the same meeting. Attorney Cuyler however indicated that he did not believe this could be construed as contract zoning.

Council Member Herms questioned the necessity of rezoning all of the subject property to PD; City Manager Richard Woodruff explained that any area that remains “C” Conservation would be subject to whatever future changes may occur in conservation text, and that better control would be achieved through a PD. Attorney Cuyler then explained that this being a quasi-judicial proceeding, Council Members must disclose ex parte communications with the petitioner or other parties regarding this issue. Mayor Barnett and Council Member Herms stated that they had not spoken to any parties other than those previously disclosed at First Reading; Council Member Nocera stated that he had also spoken to the same parties, as well as the petitioner; Vice Mayor MacKenzie and Council Member Coyle indicated that they had spoken to many of the same parties plus additional members of the public; Council Member Van Arsdale stated that he had spoken to petitioner representatives, and other citizens and interested parties; Council Member Tarrant stated that he had spoken only to a few members of the public. A voluntary oath was then administered by the City Clerk to those intending to offer testimony on this issue; witnesses responded in the affirmative.

Dr. Woodruff noted that Council Member Van Arsdale had requested that staff analyze alternative sites for the 15 boat trailer parking spaces proposed in the northern section of the project, so as to avoid the removal of an additional half-acre of mangroves. He then presented a report detailing several parking options, a copy of which is contained in the file for this meeting in the City Clerk’s Office. Later in the meeting, Mr. Van Arsdale indicated support for the parking sites as proposed. Natural Resources Manager Jon Staiger subsequently discussed the mitigation process.

Petitioner representative George Varnadoe reiterated the public benefits of Hamilton Harbor, and noted that any mangroves lost would be replaced. In addition, he explained that five acres offsite would also be planted with mangroves, and agreed to annex this acreage into the City and deed it to the Naples Land Preservation Trust. He also cited additional PD stipulations that construction is to begin within six months of receipt of permits and be completed within two years. Attorney Varnadoe noted he favored allocating a portion of the 450 dry boat slips to the general public and the remainder to those who might live in a nearby future project. Council Member Tarrant however proposed all spaces being utilized on a first-come-first-served basis, and said that he believed this project was being proffered in order to accommodate a significant planned development in the County and that preferential treatment would be shown to certain marina users. Attorney Varnadoe then read into the record a letter from Collier Enterprises regarding the interlocal agreement between the City and County to thereby clarify the City’s rights (See Attachment 1). Dr. Woodruff provided additional clarification and explained that the City would retain sole jurisdiction over the project as long as the PD zoning ordinance and the Development of Regional Impact (DRI) development order were within proscribed standards; Mr. Lee stressed that the aforementioned indeed were within the development criteria and standards as set forth in

the agreement. Mr. Lee further explained that staged entertainment in the proposed restaurant would require a conditional use permit, as it is not a permitted use in the PD. Council Member Herms questioned whether the petitioner would pay legal fees emanating from lawsuits filed against the City relative to approval of this project; Attorney Varnadoe stated that this would be inappropriate, noting both the public benefits as well as the petitioner's development rights. Noting citizen concern, Council Member Coyle requested assurance that the marina would not be expanded inland; Attorney Varnadoe referenced additional language included in the PD, and stressed that boats stored at Hamilton Harbor would be the only ones launched there. Dr. Woodruff subsequently made a brief presentation on yearly vessel registrations in Collier County, a copy of which is contained in the City Clerk's Office in the file for this meeting. He also reiterated what he said he believed were the important project benefits, such as the 450 dry slips, the deeding of land to the Naples Land Preservation Trust, and the reduction of traffic on Naples Bay through availability of fuel at that location.

It is noted for the record that due to the amount of public input, registered speakers are listed as either opposing or supporting the project. Documents submitted by the speakers are contained in the file for this meeting in the City Clerk's Office. Summaries are provided for those speakers representing citizen groups or where Council participated in the discussion.

Harry Timmons, 555 Kingstown Drive, representing the Citizens to Preserve Naples Bay, displayed a chart illustrating the north/south channel in the harbor and the westward junction of Gordon's Pass. He noted what he described as the tremendous vessel congestion already in the proposed project area, and stated that he believed the facility would in no way reduce traffic. He also compared the size of Hamilton Harbor project to a large discount retail building. Mr. Timmons stated that the project would violate both the Comprehensive Plan and PD standards, and that it shows neither compatibility with nor beneficial effect upon the surrounding area. In response to Council Member Coyle, he stated that he believed public benefit to be synonymous with the commitment to honor existing zoning. Mr. Coyle however noted the increased demand for boat storage facilities, and urged distributing them appropriately. Council Member Van Arsdale challenged the assumption that construction of these facilities directly influences the number of boats on the Bay.

Wheeler Conkling, 652 Bridgeway Lane, representing the Citizens to Preserve Naples Bay, noted that although his group had investigated the project, it could not support it as it is counter to CTPNB's primary objective, which is to preserve the Bay. He noted that the group conducted a mail survey of its membership regarding the proposed Hamilton Harbor, and that it received 912 responses, largely in opposition. He therefore urged further study. Council Member Coyle however stated that, regardless, he did not feel any compromise was likely, and that continuation would simply constitute an unnecessary delay. Mayor Barnett challenged the aforementioned survey language which, he said, strongly urges opposition to the project.

Ron Pennington, 289 Spring Line Drive, formerly a member of the Citizens to Preserve Naples Bay, noted that he favored the project, and that he felt it was inappropriate to participate with CTPNB in legal action against the City and had therefore resigned from the board.

James Kessler, 3250 Green Dolphin Lane, - opposed

Michael Simonik, 455 13th Avenue South, representing the Environmental Confederation of Southwest Florida, the Save the Manatee Club, and the Responsible Growth Management Coalition, urged opposition to the project.

Recess 12:00 p.m. to 1:30 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

City Attorney Cuyler noted that the motion to halt these proceedings filed by the plaintiffs at the District Court of Appeal had been denied.

David Guggenheim, Ph.D., 710 Starboard Drive, representing the Conservancy of Southwest Florida, reiterated concerns expressed previously regarding the loss of mangrove habitat, the impact on water quality, and the potential of boat traffic resulting in additional manatee deaths. He also voiced uneasiness regarding the adjacent land owned by the petitioners, its potential future development and anticipated impact on the City's natural resources. Dr. Guggenheim also questioned the ensuing boat traffic relative to the carrying capacity of the Bay, and urged that Council disapprove the project. Council Member Coyle and Dr. Guggenheim briefly discussed purchase of the property adjacent to Hamilton Harbor. Council Member Herms volunteered to head a committee of Collier Enterprises and representatives of opposing groups, to over the course of the next several months work to reach a compromise on various issues. Mr. Coyle however stated that negotiations have thus far yielded only a lawsuit. Mr. Herms nevertheless voiced concern that project approval may predispose present and future Councils to additional litigation.

Lindsay Rocco, 1020 8th Avenue South, representing the Port Royal Property Owners Association, stressed that the association had indeed polled its membership prior to forming an opinion, and that the board accurately represents Port Royal residents. She asked for a timely referendum on the matter and urged the City to determine the actual carrying capacity of the Bay prior to granting the rezone. She also stated that the project would have an adverse effect on property values in Port Royal.

Eileen Arsenault, 1188 Gordon Drive – opposed

Susan Grove, 626 Third Street North, representing the Collier County Autobahn Society, voiced opposition to the project noting potential negative environmental impact on the already compromised ecosystem of Naples Bay as well as to the sensitive ecosystems to the south, and stated that the costs would outweigh any project benefits. She expressed appreciation to Council Members Tarrant and Herms for their efforts to halt the project, and urged similar action from the entire Council.

Dean Edmonds, 1019 Spyglass Lane, - opposed

Donald Jones, 3495 Fort Charles Drive, - opposed

John Scott, 1150 Galleon Drive, - opposed

George Gaynor, 800 Admiralty Parade, - not present when called

Scott Brady, 40 Seagate Drive, - not present when called

Marguerite Kelbaugh, 102 Moorings Park Drive, - not present when called

Randy Ward, 124 Briarcliff Drive, representing the Marine Industries Association of Collier County, urged approval of the project and stressed that all the boats stored there would not be in the water simultaneously. He cited International Marine Institute studies which determined that approximately 8% of the boats in a dry storage marina are in use at any given time. He also noted that the boats would be serviced, maintained, and cleaned on land, and therefore would not pollute the Bay with detergents or other agents.

Thomas Campbell, 4305 Gordon Drive, - opposed

Jim Weigel, 520 Anchor Rode Drive, representing the Citizens to Preserve Naples Bay, expressed opposition to the project citing potential long term adverse effects to Naples Bay. He noted that Council Member Coyle had pledged to support the project only if CTPNB approved it, and asked him to honor that commitment. Council Member Coyle explained that he had worked diligently to achieve a compromise acceptable to the CTPNB, but later discovered that the group had no intention of approving the project. Mr. Weigel countered that he felt his group had worked sincerely with Mr. Coyle and the developer.

Alan Walburn, 900 Eight Avenue South, - in favor

George Williams, 1325 Seventh Street South, - opposed

Jim Loskill, 2170 Sheepshead Drive, - in favor

Ernest Allgrove, 4455 Gordon Drive, representing Casamari Real Estate, and a local citizen he referred to as Mrs. Dorrance Hamilton, noted what he described as inconsistency on the part of Council Member Coyle; namely his opposition to mangrove destruction at Naples Airport, but sanction of the proposed project. Mr. Allgrove also urged that the City take more time to identify alternatives. Council Member Coyle clarified that the mangroves at the airport have officially been designated wetlands and must be protected. He reiterated that the upper Naples Bay should not be the only location for boat storage facilities, and advocated a more equitable distribution.

David Trowbridge, 1000 10th Avenue South, representing the Charter Club Resort, referenced the ongoing litigation and the recent physical improvements made at Naples Landing, and noted the importance of the current vote. He stated that if Council does not approve the Hamilton Harbor loading dock, Naples Landing may continue to serve as a loading dock for barge traffic.

Duke Turner, 899 10th Street South – in favor

MOTION by Herms to CONTINUE FOR SIX MONTHS TO CONDUCT PUBLIC MEETINGS TO FACILITATE A COMPROMISE; seconded by Tarrant and failed 2-5, all members present and voting (MacKenzie-no, Tarrant-yes, Nocera-no, Coyle-no, Herms-yes, Van Arsdale-no, Barnett-no).

In response to Council Member Tarrant, Attorney Cuyler stated that the Comprehensive Plan amendment meets all relevant criteria. With regard to the small scale Comprehensive Plan amendment, Attorney Cuyler explained that this is legislative in nature and noted that there is a statutory procedure by which an aggrieved party may petition to be heard by the Division of Administrative Hearings. It then can proceed to the Administration Commission or the Department of Community Affairs. He also noted the possibility of a declaratory judgement or injunction. Mr. Tarrant then asked if Attorney Cuyler had concern regarding the splitting of a Planned Unit Development (PUD); however, Attorney Cuyler stated that since the petition is within the terms of the interlocal agreement, there should be no controversy. In addition, Attorney Cuyler acknowledged that all permitting procedures would have to be followed, and that they too could potentially be challenged. He then reiterated, for Council Member Tarrant, that appropriate public notice had been given and that contract zoning had not occurred. Dr. Woodruff confirmed that the subject property had previously been zoned “R1-7.5” Residence District prior to “C” Conservation, and Council briefly discussed the deed-restricted land.

MOTION by Van Arsdale to APPROVE ORDINANCE 99-8544; seconded by Nocera and carried 5-2, all members present and voting (Herms-no, Coyle-yes, Nocera-yes, Van Arsdale-yes, MacKenzie-yes, Tarrant-no, Barnett-yes).

MOTION by Van Arsdale to APPROVE ORDINANCE 99-8545 WITH STIPULATIONS OR REVISIONS TO THE PD AS FOLLOWS: THE PD DOCUMENT WILL SUNSET IN 10 YEARS (TO COMPORT WITH THE TERM OF THE INTERLOCAL AGREEMENT) UNLESS THE INTERLOCAL TERM IS EXTENDED IN SUBSTANTIALLY THE SAME FORM BEYOND THE 10-YEAR PERIOD. ALL PROPOSED AMENDMENTS TO THE PROJECT MUST BE UNDER THE SOLE JURISDICTION OF THE CITY. THERE WILL BE ADDITIONAL LANGUAGE INSERTED IN THE PD REGARDING A LETTER OF

CREDIT OR BONDING TO ASSURE CONSTRUCTION OF THE PROPOSED COMMERCIAL DOCKAGE AND FUEL FACILITIES. NO BOATS MAY BE LAUNCHED FROM HAMILTON HARBOR OTHER THAN THOSE IN PERMITTED WET AND DRY SLIPS AT HAMILTON HARBOR. A MITIGATION AREA WILL BE LOCATED GENERALLY BEHIND THE COMMONS OFFICE PARK ON GOODLETTE-FRANK ROAD ON COLLIER ENTERPRISES-OWNED LAND, SAID MITIGATION AREA TO BE ANNEXED TO THE CITY AND DEEDED TO THE NAPLES LAND PRESERVATION TRUST. STAGED ENTERTAINMENT IN THE RESTAURANT FACILITY WILL BE PERMITTED AS PER APPLICABLE CITY CODE. *This motion was seconded by Nocera and carried 5-2, all members present and voting (MacKenzie-yes, Van Arsdale-yes, Tarrant-no, Coyle-yes, Herms-no, Nocera-yes, Barnett-yes).*

Recess 3:27 p.m. to 3:35 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 99-8546.....ITEM 6
A RESOLUTION GRANTING CONDITIONAL USE PETITION 99-CU11, FOR CONDITIONAL USE APPROVAL OF A COCKTAIL LOUNGE FOR PADDY MURPHY'S IRISH PUB, LOCATED AT 457 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (3:35 p.m.). Attorney Larry Pivacek noted that the lounge had received both a building permit for renovations and a Certificate of Occupancy from the Building Department, which specified that no food is to be served. Paddy Murphy's began operating, but later received indication from the Planning Department that it required a conditional use approval of a cocktail lounge. Dr. Woodruff clarified that if an establishment can document 51% or more of its revenue is from the sale of food, it is a restaurant and does not require a conditional use.

Planner Cory Ewing referenced various complaints received, and Police Officer Ron Mosher provided clarification on the various types of police calls received. Mr. Mosher however noted that few had been received lately, possibly demonstrating a concerted effort to control the crowd and noise. Attorney Pivacek agreed, stating that the lounge has made every effort to remedy the problems. Council briefly discussed the efficacy of an open container law.

Public Input: None. (3:53 p.m.)

MOTION by Herms to APPROVE RESOLUTION 99-8546 FOR ONE YEAR TO BE AUTOMATICALLY RENEWED ANNUALLY IF NO PROBLEMS ARE ENCOUNTERED BY STAFF; NO FURTHER FEES ARE REQUIRED. THE PETITIONER WILL BE NOTIFIED TWO MONTHS IN ADVANCE OF RENEWAL IF PROBLEMS ENCOUNTERED. THE CONDITIONAL USE APPLIES ONLY TO CURRENT SQUARE FOOTAGE AND CURRENT ADDRESS. *This motion was seconded by Barnett and carried 6-1, all members present and voting (Nocera-yes, Herms-yes, Van Arsdale-yes, Tarrant-yes, Coyle-no, MacKenzie-yes, Barnett-yes).*

Dr. Woodruff referenced fliers posted at the establishment, and cautioned that Council has not authorized staged entertainment. He stressed that if Paddy Murphy's intends to offer staged

entertainment, conditional use approval must be obtained. He then noted forthcoming ordinances regarding this issue.

.....ITEM 14
CONSIDER A LANDSCAPE PLAN AND RIPRAP INSTALLATION AS SUBMITTED BY PAUL JACOBSON PERTAINING TO UTILIZATION OF PROPERTY ON GULF SHORE BOULEVARD NORTH AT ALLIGATOR LAKE. (3:54 p.m.) City Manager Richard Woodruff noted that it is a violation of City Code to fill a lake, including the installation of riprap, without Council authorization. Natural Resources Manager Jon Staiger stated that Mr. Jacobson needs to riprap his shoreline in order to stabilize it. Vice Mayor MacKenzie questioned the impact on the mangroves in the area; Dr. Staiger explained that some mangroves were removed already, but that they would be replaced. He then provided background information on another similar incident where a property owner required an after-the-fact permit. Dr. Staiger explained that this request is for a prior permit, and that the petitioner will shield the riprap with vegetation so that it will not be visible.

Public Input: None. (3:59 p.m.)

MOTION by Van Arsdale to APPROVE ITEM 14; seconded by Tarrant and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

ORDINANCE (First Reading).....ITEM 7
AN ORDINANCE APPROVING CHANGE IN THE TEXT PETITION 99-T7, AMENDING SECTION 102-1092 AND SECTION 102-1093 OF THE CODE OF ORDINANCES IN ORDER TO GIVE CITY COUNCIL THE ABILITY TO APPROVE ALL LIQUOR LICENSES WITHIN THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT AND TO CLARIFY THE TERMS OF OFFICE AND JURISDICTION OF THE STAFF ACTION COMMITTEE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:00 p.m.). Vice Mayor MacKenzie cautioned that this action may be construed as arbitrary or capricious and therefore proposed spacing licenses by a predetermined distance. City Attorney Kenneth Cuyler agreed that this may be problematic, and suggested establishing criteria. Dr. Woodruff noted the number of liquor licensees already existing on Fifth Avenue, and suggested that Council may want to approve all licenses in the future. Mayor Barnett however noted that he believed Council sought to regulate licenses for lounges, not restaurants. Vice Mayor MacKenzie suggested that a distance restriction for restaurants would serve to limit their number on Fifth Avenue, allowing a proper balance between retail and residential. Planner Ann Walker reminded Council that it already had conditional use approval over lounge use, and that it would be efficacious to tie liquor license approval to lounges. Dr. Woodruff noted that after a certain hour, restaurants tend to serve snacks and hard liquor, and that a distance requirement may not give Council the intended restriction. Council Member Van Arsdale however agreed with Mayor Barnett, noting that he favored restrictions on cocktail lounges only.

Public Input: None. (4:13 p.m.)

MOTION by Van Arsdale to APPROVE AT FIRST READING AMENDED TO STIPULATE THAT ESTABLISHMENTS WITH LIQUOR LICENSES WHICH REQUIRE CONDITIONAL USE APPROVAL SHALL NOT BE CLOSER THAN 250 FEET APART. STAFF WILL CLARIFY STIPULATION LANGUAGE. *This motion was seconded by Nocera and carried 6-1, all members present and voting (MacKenzie-yes, Tarrant-yes, Nocera-yes, Coyle-no, Herms-yes, Van Arsdale-yes, Barnett-yes).*

ORDINANCE (First Reading- continued).....ITEM 8
AN ORDINANCE ADDING SECTION 127 TO CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF ESTABLISHING PROCEDURES FOR OUTDOOR DINING; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:14 p.m.). Dr. Woodruff asked that this item be continued, as Council has not yet discussed it in a Workshop Meeting.

Public Input: (on continuance) None. (4:14 p.m.)

MOTION by Tarrant to CONTINUE TO THE JUNE 14TH WORKSHOP MEETING; *seconded by Van Arsdales and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdales-yes, Barnett-yes).*

.....**ITEM 9**
CONSIDER A REQUEST BY DR. AND MRS. JEFFREY HEITMANN TO APPEAL THE SPECIAL ASSESSMENT PLACED ON THEIR PROPERTY, LOCATED ON THE SOUTHEAST CORNER OF US 41 AND 2ND AVENUE NORTH, WITHIN THE 2ND AVENUE NORTH SPECIAL ASSESSMENT DISTRICT. (4:15 p.m.) City Manager Richard Woodruff noted that this item has been continued by prior motion.

ORDINANCE 99-8547.....ITEM 10
AN ORDINANCE REPEALING SECTIONS 50-61 and 50-62 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF DISSOLVING THE CITY OF NAPLES PUBLIC EMPLOYEES RELATIONS COMMISSION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:16 p.m.)

Public Input: None. (4:16 p.m.)

MOTION by Herms to ADOPT ORDINANCE 99-8547; *seconded by MacKenzie and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdales-yes, Barnett-yes).*

RESOLUTION 99-8548.....ITEM 11
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION, COLLIER COUNTY, THE CITY OF MARCO ISLAND AND THE CITY OF NAPLES, CREATING THE COLLIER COUNTY METROPOLITAN PLANNING ORGANIZATION; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:16 p.m.). Council Member Herms stated that members of Marco Island Council had requested that Council support this issue, and noted that the County staff was also receptive. City Attorney Kenneth Cuyler stated that he has signed the resolution, but due to his representation of both Naples and Marco Island, has not given advice to any parties. He added that if Council wishes to have it reviewed by another attorney, the item should be continued.

Public Input: None. (4:17 p.m.)

MOTION by Nocera to APPROVE RESOLUTION 99-8548; *seconded by Van Arsdales and carried 6-1, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-no, Van Arsdales-yes, Barnett-yes).*

ORDINANCE (First Reading).....ITEM 12
AN ORDINANCE AMENDING SECTIONS 2-101, 2-102, AND 2-103 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF ARTICULATING A POLICY RELATIVE TO PUBLIC ACCESS TO NON-EXEMPT CITY RECORDS

THROUGH THE OFFICE OF THE CITY CLERK; AND PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:18 p.m.). City Clerk Tara Norman stated that, pursuant to the direction given at an April Council workshop, this ordinance was drafted to affirm managerial policy whereby the City Clerk provides assistance to the public in accessing non-exempt records. She noted that other changes were also drafted in order to make the Code of Ordinances comport with the Charter, and that a resolution would be submitted at Second Reading appointing the Deputy City Clerk. Ms. Norman noted that if an individual has difficulty obtaining a non-exempt record, she would clarify the request and assist in obtaining the necessary record. Dr. Woodruff added that if Ms. Norman has difficulty obtaining a record from any City department, that she would then inform him so that he may intervene. She also stated that if she felt a City department was withholding a non-exempt record, she would bring the matter to the attention of Council. Council Member Herms questioned the policy should anyone request an exempt record; Ms. Norman explained that the individual must be informed the reason for the exemption. She added that there are over 700 exemptions in State law, and that the City should be very specific as to why an exemption is claimed.

Public Input: None. (4:26 p.m.)

MOTION by Van Arsdale to APPROVE AT FIRST READING. STAFF WILL DRAFT A COMPANION RESOLUTION TO BE PRESENTED AT SECOND READING WHICH WILL CONFIRM VIRGINIA NEET AS DEPUTY CITY CLERK. *This motion was seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).*

RESOLUTION 99-8549.....ITEM 13-a
A RESOLUTION DESIGNATING TARA A. NORMAN, CITY CLERK, AS CHIEF ELECTION OFFICIAL FOR THE CITY OF NAPLES GENERAL ELECTION OF FEBRUARY 1, 2000; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:27 p.m.).

Public Input: None. (4:27 p.m.)

MOTION by Nocera to APPROVE RESOLUTION 99-8549; seconded by MacKenzie and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 99-8550.....ITEM 13-b
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, WITH THE BOARD OF COLLIER COUNTY COMMISSIONERS AND COLLIER COUNTY SUPERVISOR OF ELECTIONS FOR SERVICES AND THE USE OF VOTING AND BALLOT TABULATING EQUIPMENT IN CONJUNCTION WITH THE CITY OF NAPLES GENERAL ELECTION ON FEBRUARY 1, 2000; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:27 p.m.).

Public Input: None. (4:27 p.m.)

MOTION by Nocera to APPROVE RESOLUTION 99-8550; seconded by Van Arsdale and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 99-8551.....ITEM 13-c
A RESOLUTION AUTHORIZING THE USE OF THE COLLIER COUNTY VOTING AND BALLOT TABULATION SYSTEM FOR THE CITY OF NAPLES GENERAL

ELECTION TO BE HELD FEBRUARY 1, 2000; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard (4:28 p.m.).

Public Input: None. (4:28 p.m.)

MOTION by Nocera to APPROVE RESOLUTION 99-8551; seconded by Van Arsdale and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION (Continued) ITEM 13-d
A RESOLUTION APPOINTING A CITY ELECTOR TO THE CANVASSING BOARD FOR THE CITY OF NAPLES GENERAL ELECTION OF FEBRUARY 1, 2000; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (4:29 p.m.). Council Member Tarrant stated that he believed the elector should be an individual who has never served in political office. Dr. Woodruff suggested continuing the item and submitting to staff a list of nominees.

Public Input: (on continuance) None. (4:30 p.m.)

IT WAS THE CONSENSUS OF COUNCIL TO CONTINUE TO THE JUNE 16TH REGULAR MEETING. STAFF WILL DETERMINE CANDIDATES AT THAT TIME.

It is noted for the record that Mayor Barnett left the meeting at 4:30 p.m.

.....ITEM 16
CONSIDER SITE PLAN APPROVAL FOR A RESIDENCE AT 545 CENTRAL AVENUE. (4:30 p.m.) City Manager Richard Woodruff stated that the developer had said the present grade of the lot is approximately 4 1/2 feet above the crown of the road, and that to have both a driveway and parking stalls on the property in the 25-foot setback would be difficult. Alternatives are a driveway and individual parking stalls as submitted in the revised site plan or, conversely, the placement of parking in the first 12 feet of the City right-of-way behind the curb line. Council Member Van Arsdale said that he favored the current site plan for parking, and Council briefly discussed the placement of the parking stalls as well as the setback requirements. Dr. Woodruff noted that the encroachment of eaves into the side yard setbacks was within the applicable Code.

Public Input: None. (4:36 p.m.)

MOTION by Van Arsdale to APPROVE THE CURRENT SITE PLAN REVIEWED BY COUNCIL; seconded by Nocera and carried 6-0 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-absent).

CORRESPONDENCE & COMMUNICATIONS (4:36 p.m.)
Council Member Coyle requested support of a \$50,000.00 capital improvement project line item for a Naples Bay Mangrove Restoration Feasibility Study.

MOTION by Herms to SUPPORT THE PROPOSAL, EXCLUDING USE OF OUTSIDE CONSULTANTS; seconded by Nocera and carried 5-1 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-no, Barnett-absent).

Mr. Van Arsdale noted he felt the issue was not properly advertised, and suggested it instead be presented during budget discussions. Mr. Coyle also proposed a future meeting regarding reconsideration of the height of boat storage facilities; Vice Mayor MacKenzie suggested a workshop discussion after the summer recess and proposed inviting the Marine Trades Association.

OPEN PUBLIC INPUT (4:46 p.m.)

Bill Boggess, 1100 Eighth Avenue South, noted concern regarding the Collier County beach restoration project not receiving all the sand that was planned and contracted for. He asked Council to research the issue as he said this fill deficit may result in costly storm damage.

CORRESPONDENCE & COMMUNICATIONS (Continued from Page 12)

Council Member Nocera noted that an above-ground gasoline storage tank had been placed at the boat storage facility under construction adjacent to condominiums on River Point Drive; City Manager Richard Woodruff noted he would determine whether the storage tank is permitted. Council Member Herms noted concern regarding a project proposed by the Airport Authority to realign North Road in the southwest quadrant; Dr. Woodruff clarified that both Council and the County Commission must first approve the project. Mr. Herms then asked for Council consensus to maintain the “C” Conservation zoning on the airport property between North Road and the Gordon River as opposed to a suggested PD rezone with a Conservation overlay; after Council discussion, Dr. Woodruff stated that staff would bring both petitions forward to Council for consideration. Mr. Herms also questioned whether Council intended to rezone the western quadrant of the airport to Conservation; Council directed Dr. Woodruff to initiate a rezone petition. Dr. Woodruff then noted Council would receive a memo regarding a recent Airport Authority decision to build the final eight corporate T-hangars; Mr. Herms questioned whether the Master Plan allows this; however, Mr. Coyle noted he would provide information relative to this issue at a future Council meeting. Dr. Woodruff noted applicants are still needed for vacancies on the Moorings Bay Special Taxing District Advisory Committee and the Affordable Housing Commission; he additionally noted interviews for the Community Services Advisory Board and the Planning Advisory Board candidates would be conducted in the near future.

ADJOURN (5:18 p.m.)

Bill Barnett, Mayor

Tara A. Norman, City Clerk

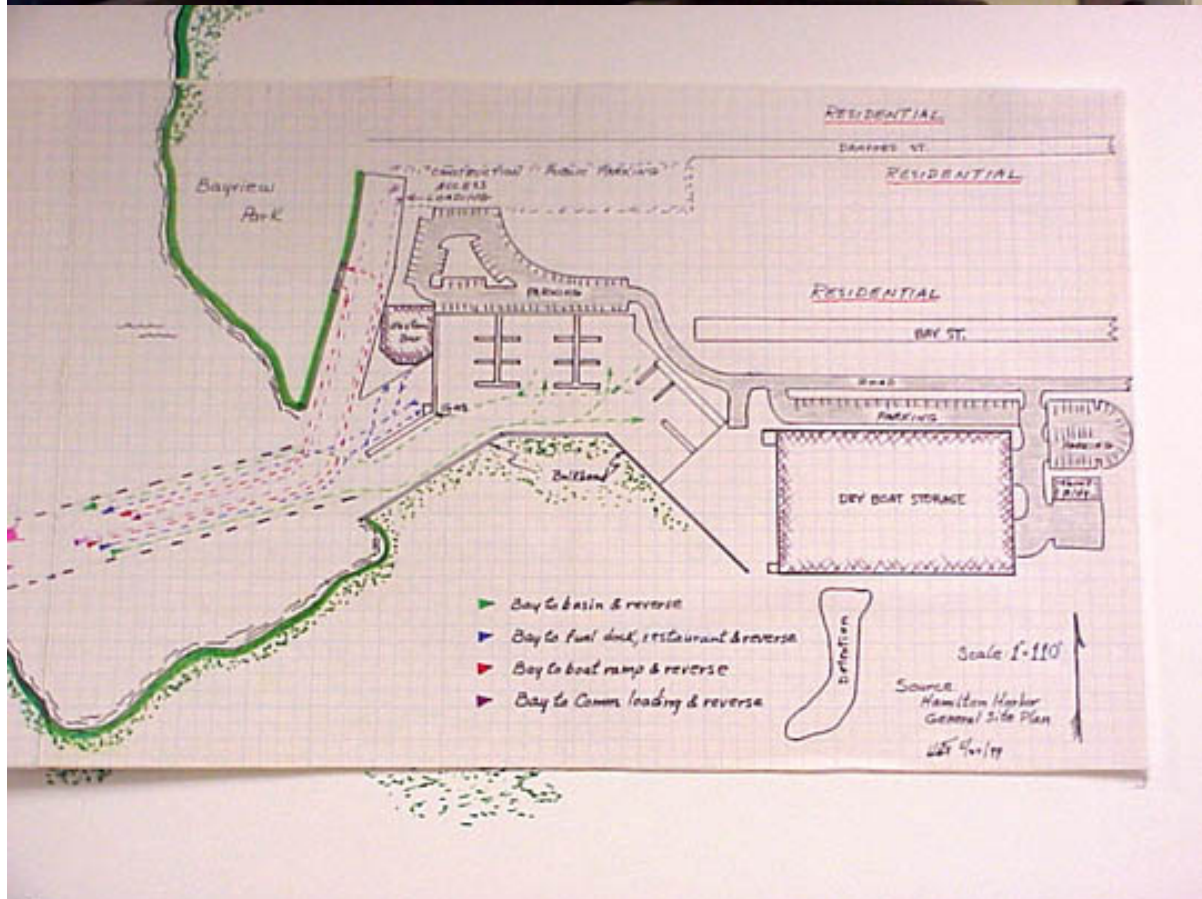
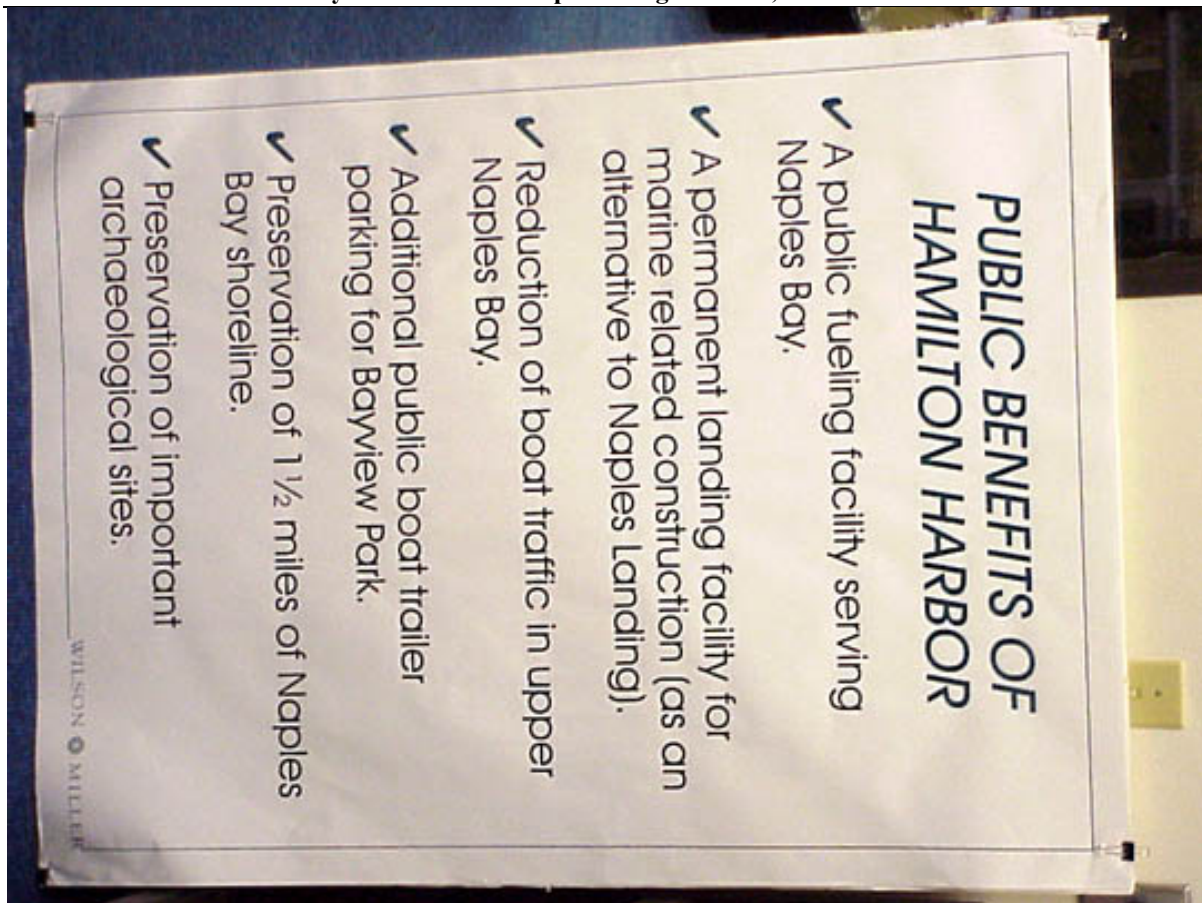
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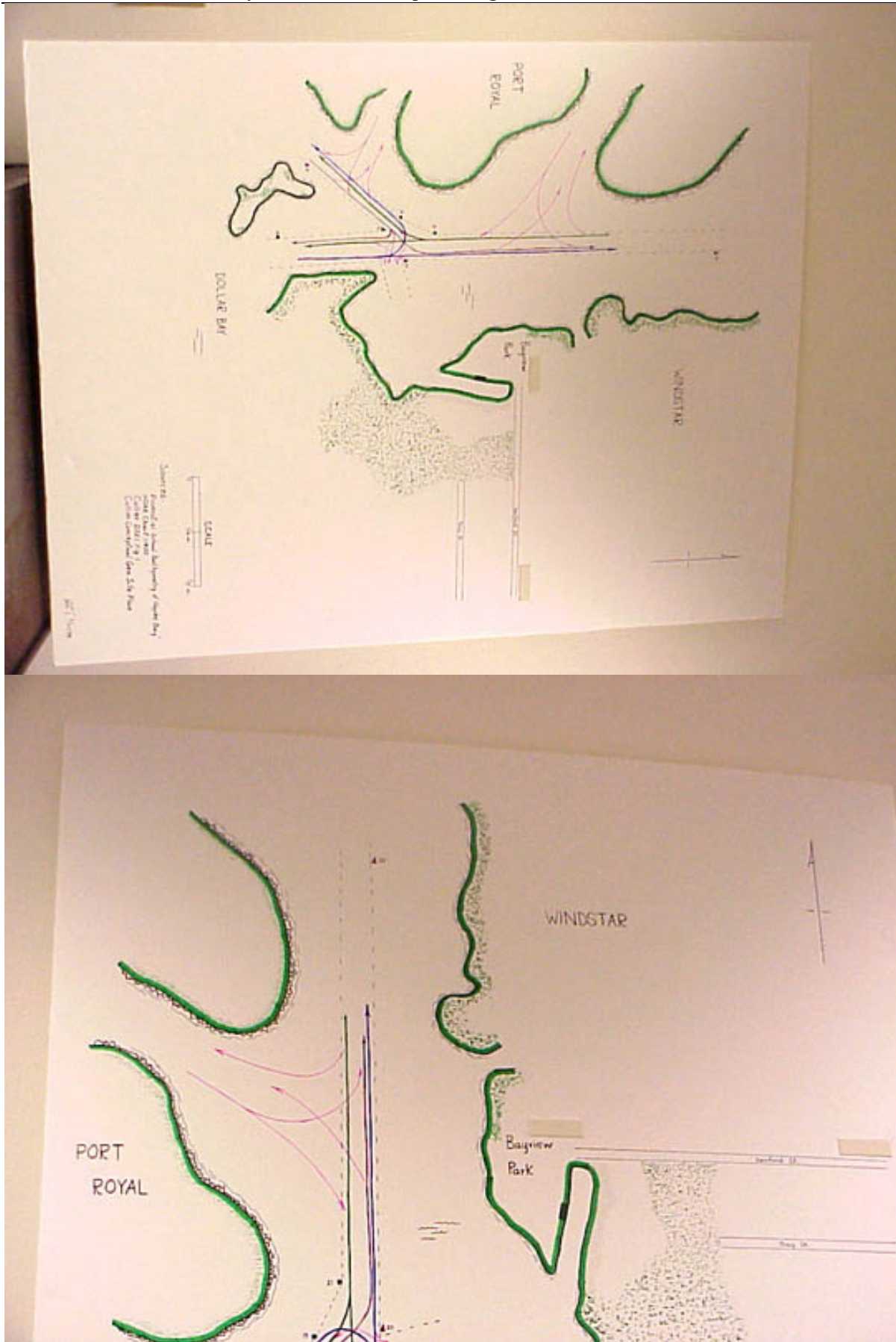
Jessica R. Rosenberg, Recording Specialist

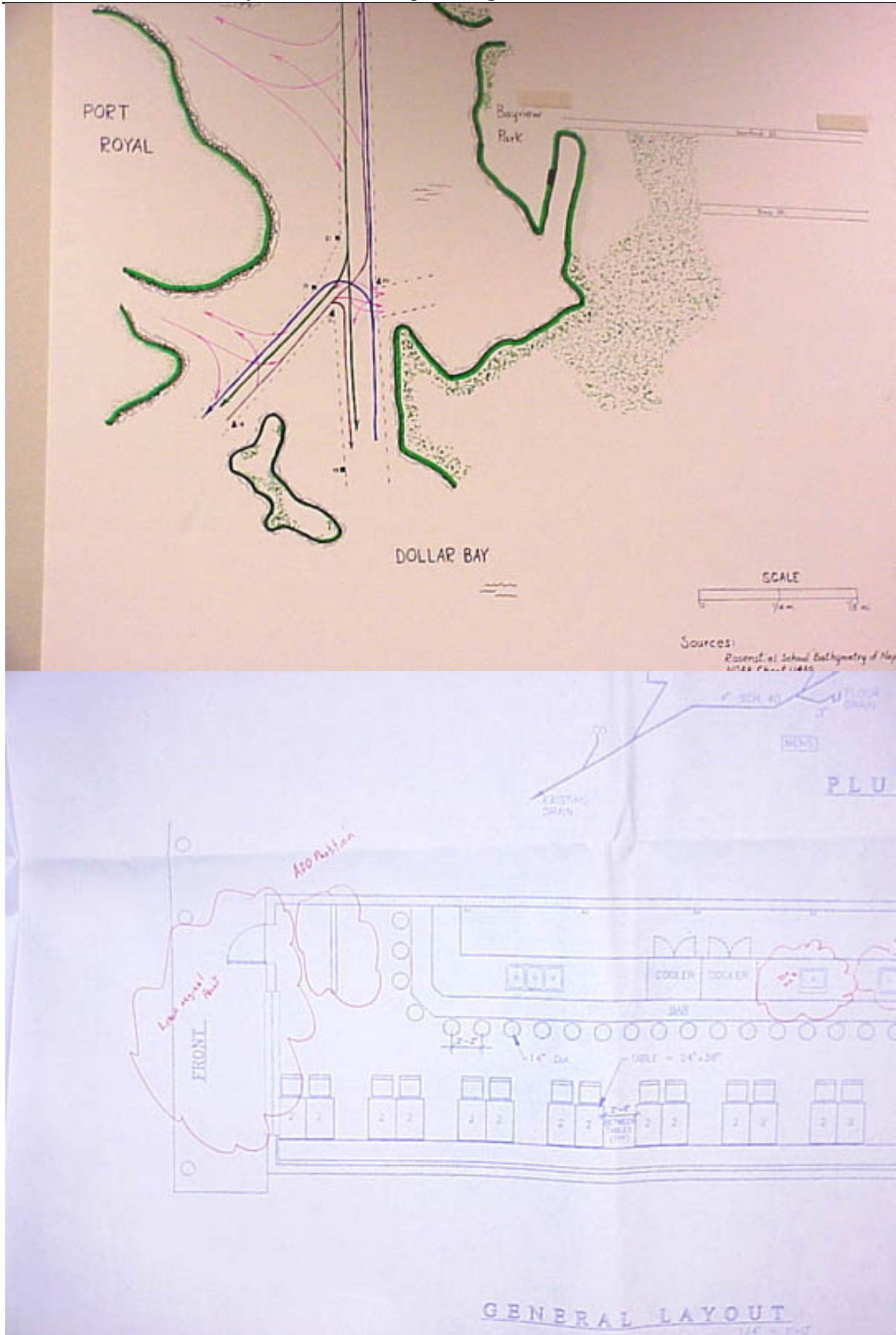
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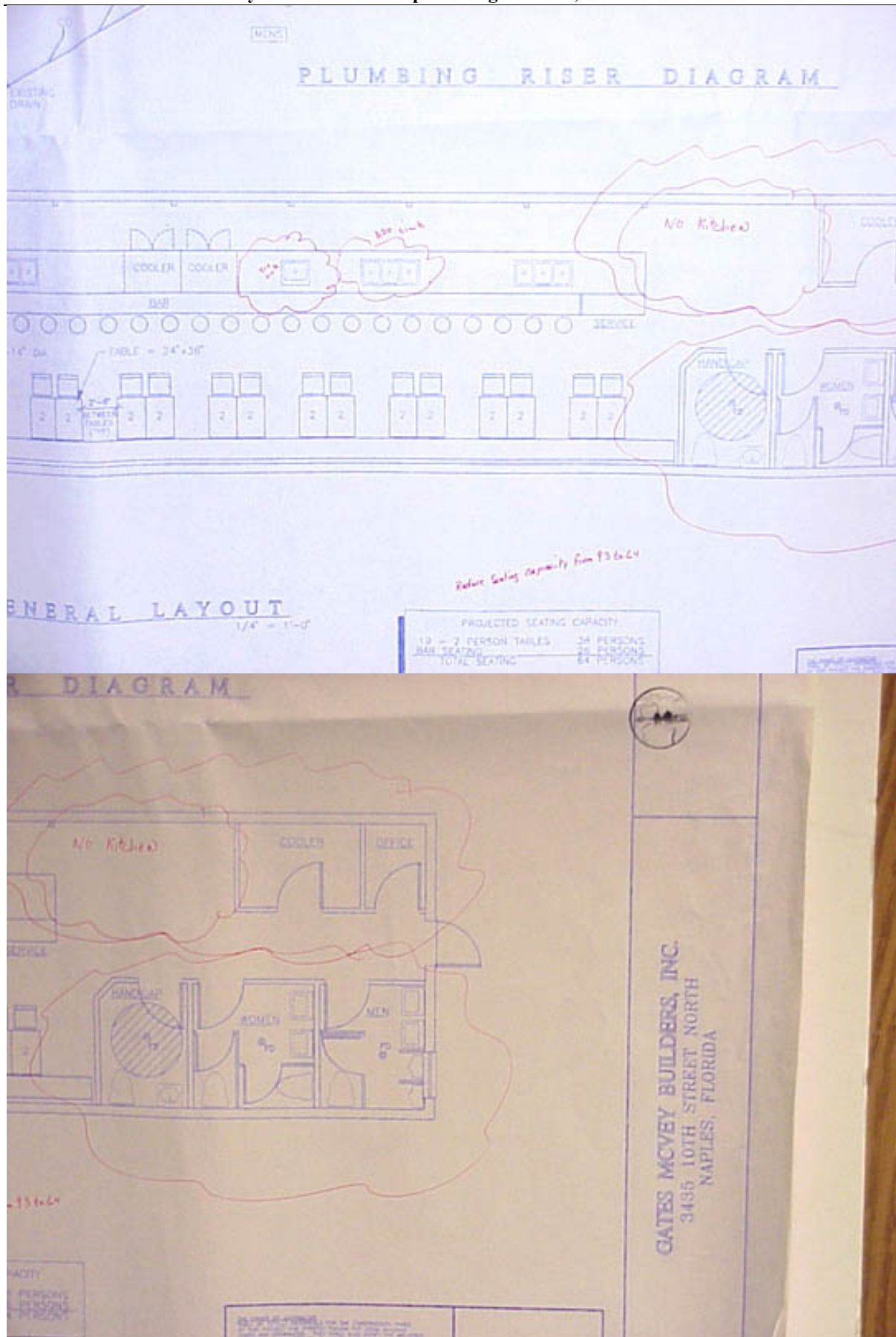


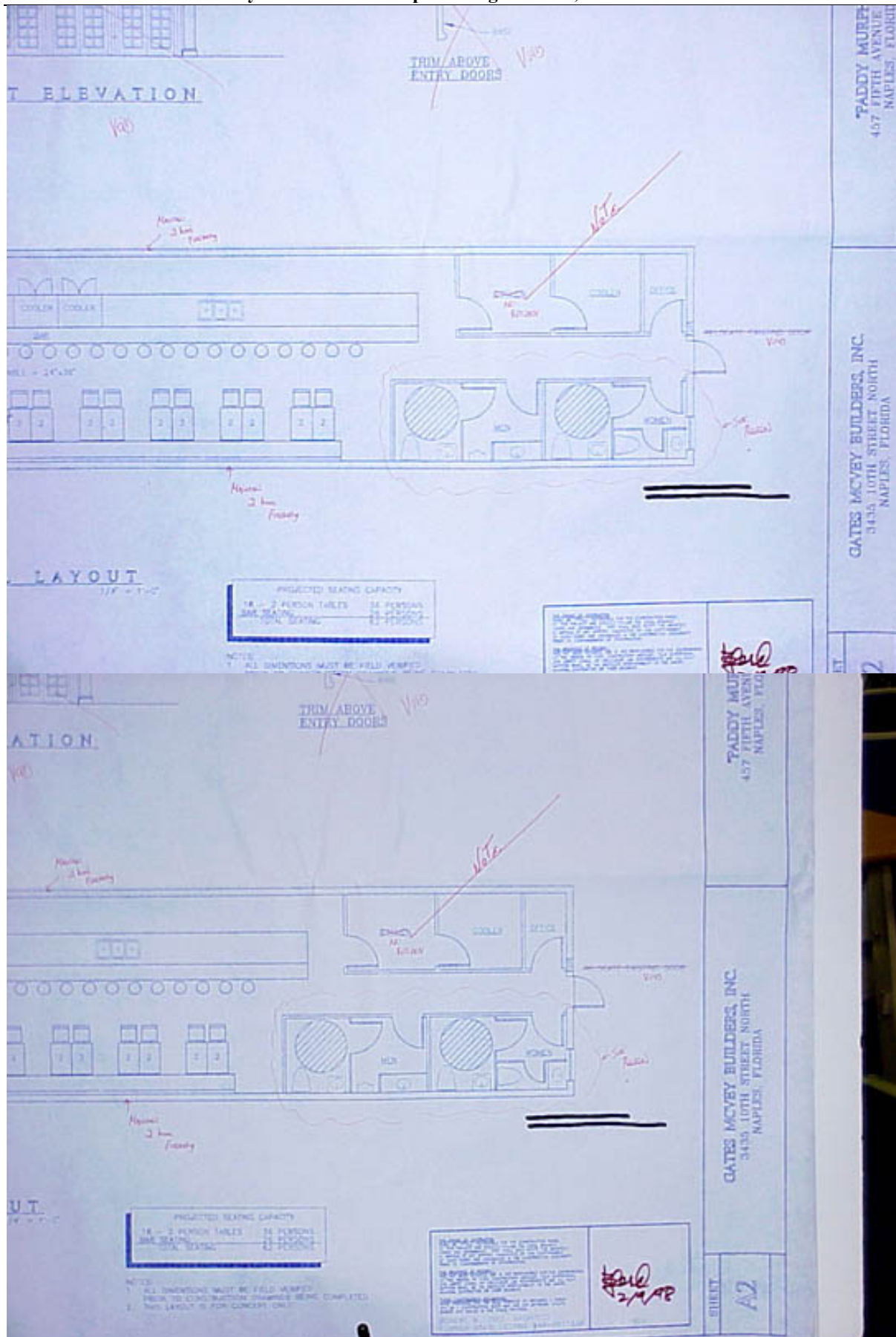


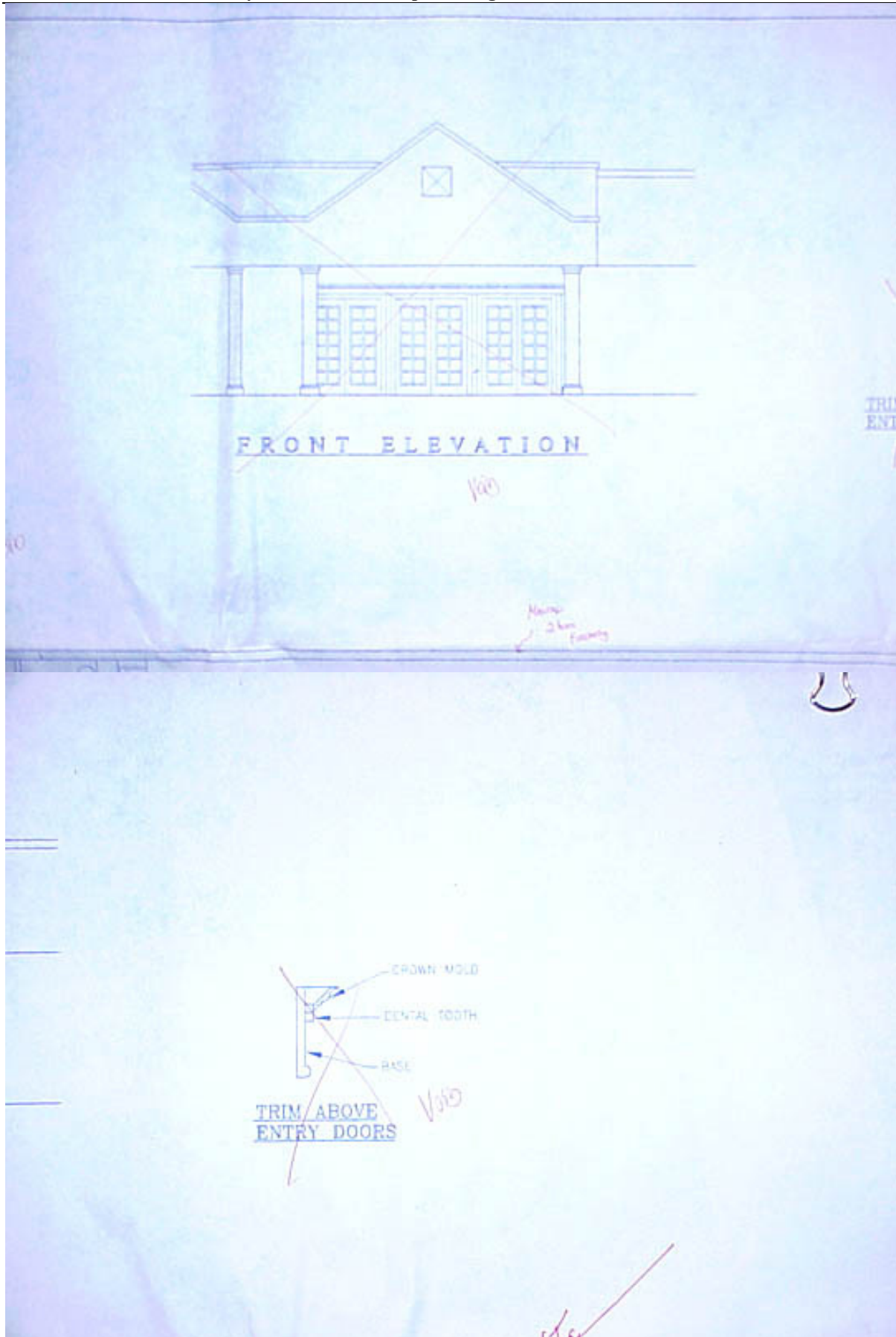




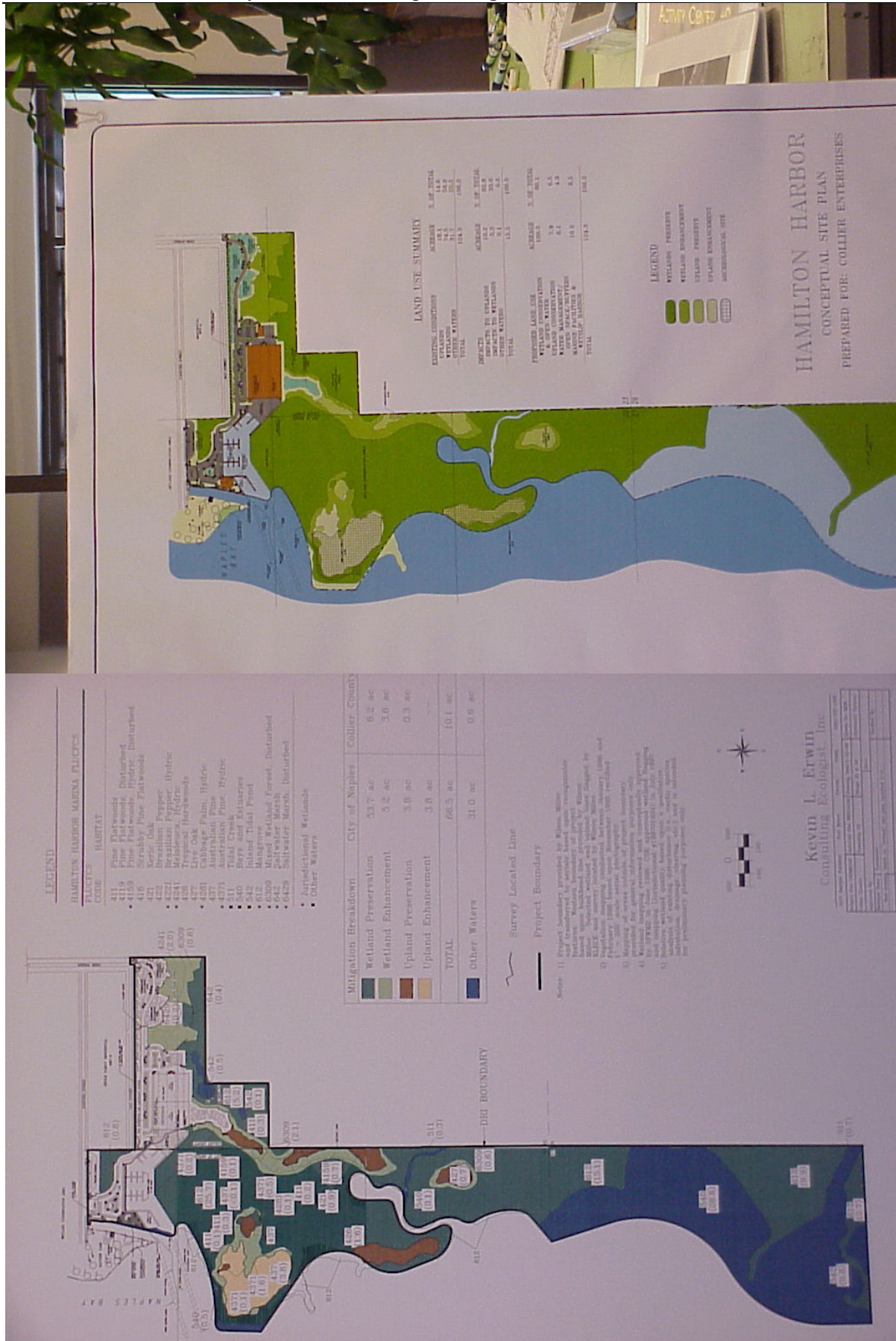




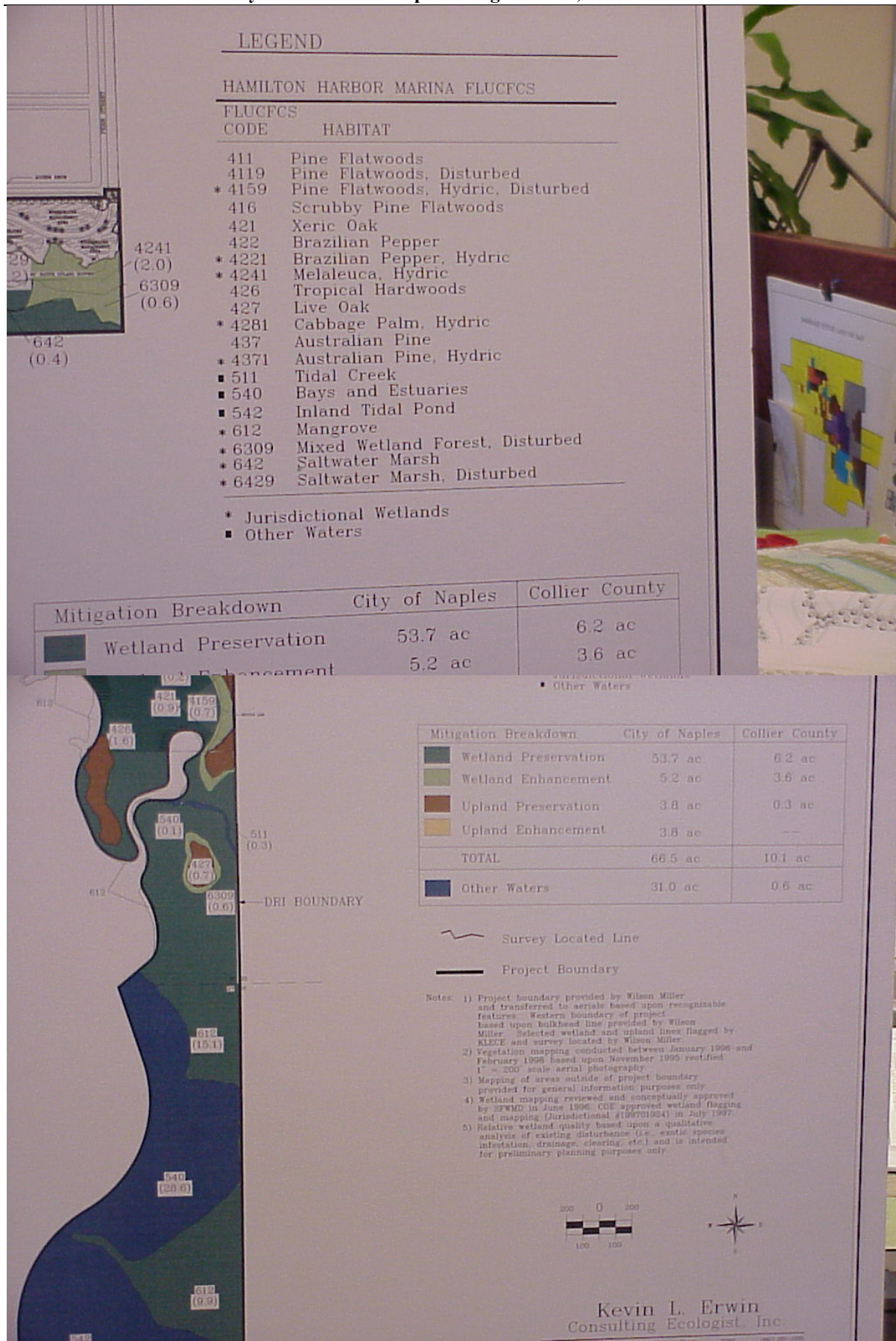


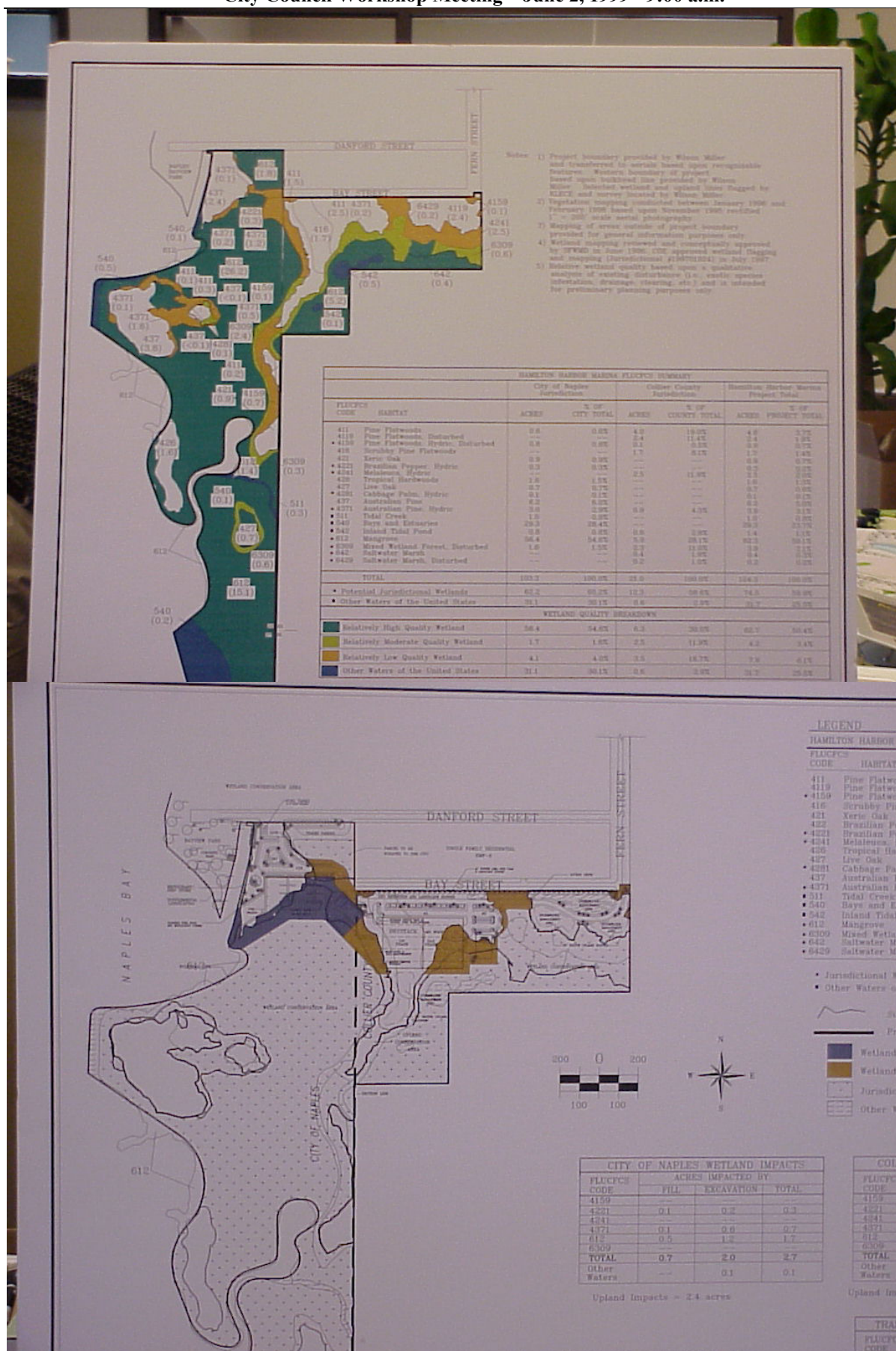


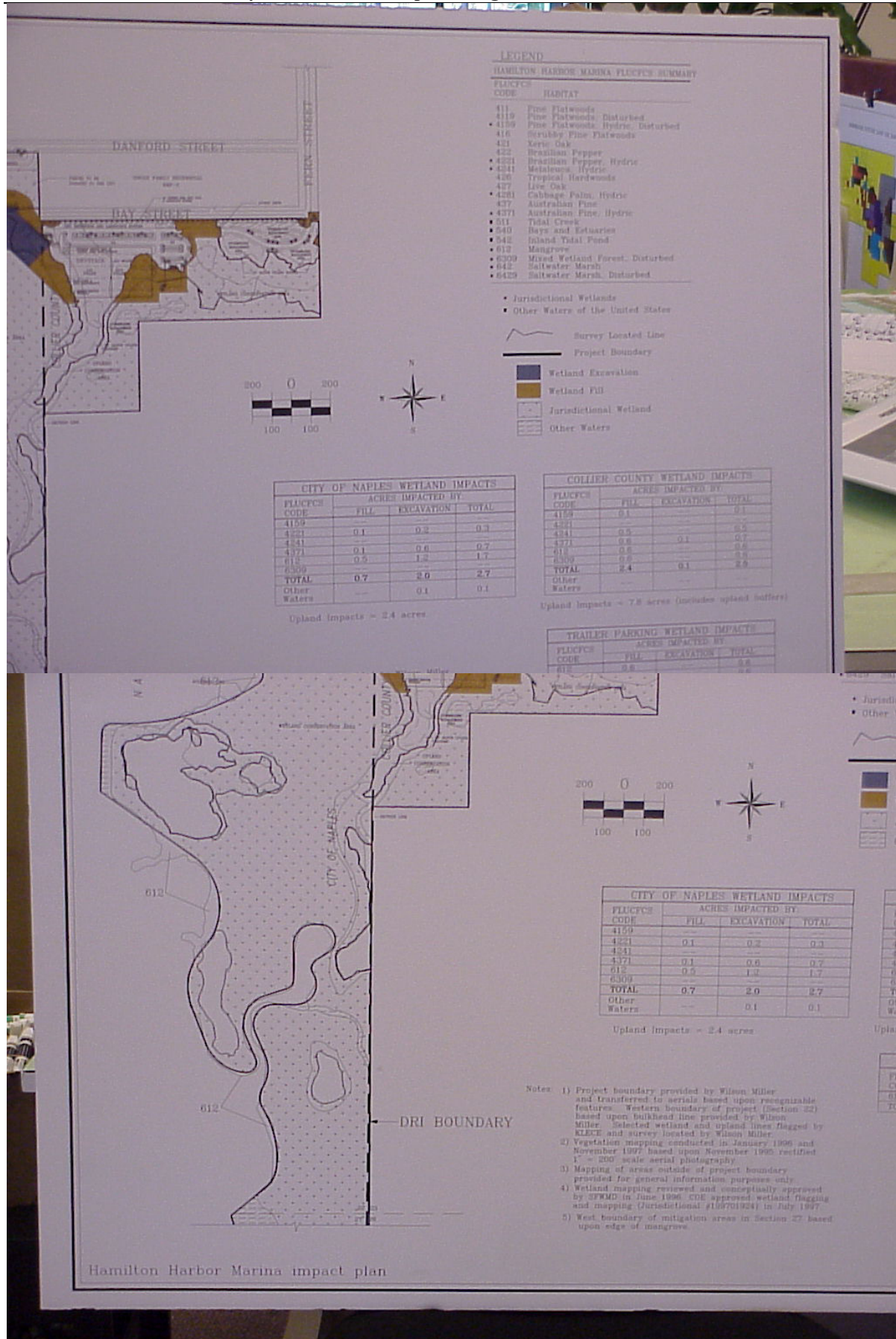




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City Council Workshop Meeting – June 2, 1999 - 9:00 a.m.

