

Revised

Meeting Date
December 19, 2017



AGENDA	
Section	Old Business
Item No.	V. A.

SUPPLEMENTAL AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	1923 Indian River Home Sites Plat, PB3/PG 37: Acceptance of Common Law Dedication
DEPT/OFFICE:	Citizen Request: LTM of Florida Holdings, LLC ("LTM") – Supplemental Report

Requested Action:

The Applicant is requesting that the County Commission acknowledge the Common Law Dedication and accept the 1923 Indian River Home Sites Plat. Alternatively, if the Commission does not accept the Dedication, it may wish to consider a Cross Access Agreement to allow residential or commercial development to LTM's property by way of a 40' driveway.

Summary Explanation & Background:

LTM of Florida Holdings, LLC ("LTM") has received the title search and survey of the Miller Cove Road property and Old Dixie Highway, north of Palm Shores Estates, as requested by County staff. This has been submitted to County staff. Based upon the documents reviewed, LTM believes that there are no encroachments or claims of title to Miller Cove Road or Old Dixie Highway and continues its request that the Commission accept the roadways in the Indian River Home Sites Plat.

However, following discussions with County staff, LTM may be agreeable to accept a cross access easement for the express purpose of providing access to the subject property for the purpose of either commercial or residential development. Highlights of the proposed agreement include:

- The property (Miller Cove Road and Old Dixie Highway) will be used as a driveway, not a public or private roadway.
- Access and use is granted to the general public, which would include all adjacent property owners as well as utilities (already installed and future).
- LTM will post a three (3) year maintenance bond after construction of the driveway.
- The cross access easement would provide access for the future development of the subject property for either commercial or residential uses.

(continued next page)

Contact: Kimberly Bonder Rezanka, Esq., Cantwell & Goldman, P.A.
Phone/e-mail: 321-639-1320, ext. 123; kim@cflawoffice.com

Clerk to the Board Instructions:

Exhibits Attached: *Previously tabled agenda from 10/24/17 with all attachments; staff and CAO responses to the previous agenda; staff and CAO responses to the revised agenda.*

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager: Frank Abbate	Assistant County Manager, John Denninghoff		Department Director / Extension				
	Assistant County Manager, Jim Liesenfelt						

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Supplemental Citizen Agenda Report, p. 2

If this agreement is approved by the Commission, there would be no need for the formal acceptance of the dedication of the Plat, but there are two issues to be addressed prior to adoption by the Commission: (1) whether the approval of the Agreement includes the Commission's approval of a 40' wide driveway access for LTM's property; and (2) whether this approval also includes the Commission's approval of a driveway for a commercial development?

LTM asserts that the County accepted the Plat either before or at the time it vacated First Avenue south of Central Boulevard by County Resolution dated June 20, 1963. Further, the Town of Palm Shores does not now and never has had any authority over the roadways in the Indian River Home Sites Plat, and all actions taken by the Town as to the roadways are null and void. Finally, the County Commission has the authority to acknowledge the common law dedication, retroactive to June 20, 1963. However, the County has no obligation to construct any roadway or related improvements to the roadways in the Plat.



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

December 20, 2017

MEMORANDUM

TO: Scott Knox, County Attorney Attn: Eden Bentley

RE: Item V.A. Citizen Request by LTM of Florida Holdings, LLC (LTM), Supplemental Report for 1923 Indian River Home Sites Plat, PB 3/PG 37, Acceptance of Common Law Dedication

The Board of County Commissioners, in regular session on December 19, 2017, granted you permission to file a Declaratory Judgment suit in the Circuit Court regarding the citizen request by LTM for Supplemental Report for 1923 Indian River Home Sites Plat, PB 3/PG 37, Acceptance of Common Law Dedication

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

CROSS ACCESS AGREEMENT

This Cross Access Agreement is made by and between Brevard County Board of County Commissioners, whose address is 2725 Judge Fran Jamieson Way, Viera, FL 32940, and LTM of Florida Holdings, LLC, whose address is 4113 Quando Dr., Orlando, FL 32812.

WHEREAS, Brevard County Board of County Commissioners, is the owner of certain real property located in Brevard County, Florida., being more particularly described and attached hereto as **Exhibit "A"** (hereafter "Parcel 'A'"), and

WHEREAS, LTM of Florida Holdings, LLC, is the owner of certain real property located in Brevard County, Florida, and being more particularly described and attached hereto as **Exhibit "B"** (hereafter "Parcel 'B'")

WHEREAS, the parties desire to provide common access over, upon, and across Parcel A for the "purpose of providing a driveway for future commercial or residential development of Parcel B;" and

WHEREAS, LTM of Florida Holdings, LLC, desires to construct a driveway and not a public nor a private roadway,

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. The foregoing recitals are incorporated herein by reference and accepted as true.
2. Brevard County Board of County Commissioners and LTM of Florida Holdings, LLC, agree to share a perpetual, irrevocable non-exclusive easement for common access over, upon and across Parcel A. The common access provided for by this agreement shall be for the use of the parties and the parties' tenants, guests, licensees, invitees, successors and assigns for purposes of ingress and egress, including but not limited to the right to fit, construct, maintain and repair driveway surfaces, ditches, underground or above ground pipes, lines and mains, conduits, lines and the like for utilities; including the right to excavate, fill, and/or trench thereon, and further the right to remove obstructions, trees, bushes and undergrowth, all as necessary for the intended common access created by this agreement.
3. Brevard County Board of County Commissioners covenants that it is lawfully seized and possessed of Parcel "A"; LTM of Florida Holdings, LLC covenants that it is lawfully seized and possessed of Parcel "B".
4. The benefits and burdens on each parcel described herein created by this agreement are intended to and shall run with the land.

5. LTM of Florida Holdings, LLC shall post a three (3) year maintenance bond equal to 10% of the construction cost of the driveway improvements.

6. In addition to those parties described in Section 2., above, the driveway shall be open to the general public.

7. In any proceeding to interpret or enforce the provisions of this agreement, the prevailing party shall be entitled to recover the costs of the proceeding, provided each party shall be responsible for the payment of their own attorney's fees.

IN WITNESS WHEREOF, the parties have made and executed this easement agreement on the respective dates under each signature:

Signatures follow on next page:
Signed, sealed, and delivered in the presence of:

Witness
Print Name: _____

Property Owner

Witness
Print Name: _____

Property Owner

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, who is/is not personally known to me or who have produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal at _____, Florida, the County of Brevard, State of Florida, this _____ day of _____, 2017.

Notary Public
Print Name _____
Commission No. _____
My Commission Expires: _____

DESCRIPTION: PREPARED BY BRIEL & ASSOCIATES LAND SURVEYORS, INC.

RIGHT OF WAY LYING IN SECTION 30, TOWNSHIP 26 SOUTH, RANGE 37 EAST, BREVARD COUNTY FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

A PORTION OF CENTRAL BOULEVARD AS SHOWN ON THE PLAT OF INDIAN RIVER HOME SITES AS RECORDED IN PLAT BOOK 3, PAGE 37 OF THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA; LYING EAST OF DIXIE HIGHWAY AS SHOWN ON SAID PLAT AND WEST OF U.S. HIGHWAY 1 (STATE ROAD NO. 5) AS PRESENTLY LOCATED.

TOGETHER WITH A PORTION OF DIXIE HIGHWAY AS SHOWN ON THE PLAT OF INDIAN RIVER HOME SITES AS RECORDED IN PLAT BOOK 3, PAGE 37 OF THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA; LYING NORTH OF CENTRAL BOULEVARD AS SHOWN ON SAID PLAT AND EXTENDING TO THE NORTH BOUNDARY LINE OF SAID PLAT.

Exhibit "A"

PARCEL NO. 140 PART 1
SECTION 70020-2549
F.P. NO. 237550-1
PAGE 3

PARCEL NO. 140 PART 1

SECTION NO. 70020-2549

"Parcel 6:

A portion of the North 1/2 of the South 1/2 of Government Lot 2, Section 30, Township 26 South, Range 37 East, Brevard County, Florida, being more particularly described as follows: Begin at the intersection of the South line of the North 1/2 of the South 1/2 of said Government Lot 2 and the Easterly right of way line of the Florida East Coast Railroad, said intersection also being the Point of Beginning of the herein described parcel; thence run S 89 degrees 46'49" E along said South line of the North 1/2 of the South 1/2 of Government Lot 2 a distance of 330.0 feet; thence run N 0 degrees 13'11" E a distance of 326.45 feet to the North line of the said North 1/2 of the South 1/2 of Government Lot 2; thence run N 89 degrees 43'23" W along said North line a distance of 442.12 feet to the Easterly Right of Way line of Florida East Coast Railroad; thence run S 18 degrees 44'01" E along the said Easterly Right of Way line a distance of 345.20 feet to the Point of Beginning."

(The above described parcel of land being those lands described and recorded in Official Records Book 4375, page 0562, Public Records of Brevard County, Florida.)

Exhibit "B"



County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

To: Rita Pritchett, Chair, and Members of Board of County Commissioners

From:  Eden Bentley, Deputy County Attorney

Thru: Scott Knox, County Attorney 

Subj.:
1. LTM of Florida Holdings, LLC Citizen Request to accept 1923 plat
Includes non-dedicated area known as "Miller Cove Road"
2. Supplemental agenda request- requesting cross easements from the county to unknown parties.

Date: December 14, 2017

1. This office recommends against the acceptance of the 1923 plat at this time due to the potential for multiple legal claims, lawsuits and the possibility of setting a very costly precedent that could potentially impact hundreds of miles (or more) of platted roads—both improved dirt roads and unimproved rights of way—that appear on archaic recorded plats but have not been accepted as having been dedicated to the County for ownership or maintenance.

A citizen has requested that County Commission accept a plat from 1923. The citizen owns landlocked property adjacent to the plat in question. The citizen's property is not within the boundaries of the plat the County has been asked to accept. Acceptance of the plat is intended to have the County accept responsibility, ownership and maintenance of the roads within the plat so the property owner can obtain access through the right of way shown on that 1923 plat. Specifically, the citizen seeks to obtain access over a non-dedicated area called Central Boulevard, as shown on the plat—which is now called Miller Cove Road.

The 1923 plat did not dedicate the roads to Brevard County. The roads were merely drawn as part of the plat and no intent as to the ownership of the roads is provided on the face of the plat. In such situations, there can be an offer to dedicate, but there must be acceptance of the offer to dedicate by the County if the "ownership" is to vest in the County. Acceptance of the offer can occur via documentation, such a recorded document, or acceptance may occur by action of the government undertaking the construction or maintenance of roads within the plat. Here, according to the County records, there is no evidence of construction or maintenance of the roads in the plat. The citizen's attorney cites multiple actions of third parties and vacating actions as indicia of acceptance.

This office does not agree that those actions constitute acceptance of the platted right of way by Brevard County. The federal court has specifically addressed vacating and ruled that a vacating of platted right of way is not indicative of ownership by the County.

Analysis

Precedent for Maintenance

This type of plat exists in many places in Brevard County. If the County were to accept any or all plats with undeveloped or improved dirt roads shown on these plats under circumstances similar to those on Miller Cove Road, the County could be taking on the responsibility and cost for the future maintenance of many, many miles of new roads. The exact amount of mileage is unknown and would be difficult to establish; however, discussions with the staff indicate it is likely hundreds of miles resulting in millions of dollars of additional maintenance responsibility to the County if the roads were constructed. Thus, the issue before the Board has ramifications beyond the single plat presented due to the precedent that might be set.

Jurisdictional Issues

As to the plat presented, there are additional issues relating to jurisdiction over and title to the roads. The jurisdictional issue arises because the Town of Palm Shores has annexed the majority of the platted land. Legally, municipalities have jurisdiction over the plats within the city boundaries. The County does not accept/approve plats within towns pursuant to Chapter 177, Florida Statutes. Accordingly, acceptance of the 1923 plat by the County appears to be unauthorized and might additionally put the County in conflict with the Town of Palm Shores.

Slander of Title and Ownership Issue

To complicate matters further, there have been two replats over the area included in the 1923 plat and subsequent acceptance of the original plat by the county could cloud the title to lots in those subdivisions.

In November of 2017 this office indicated that there might be title issues in the non-dedicated area known as Miller Cove Road and recommended obtaining a title search and a survey before taking further action.

Late on December 12, 2017, those documents were provided. There was also a title opinion provided by a local attorney. The title opinion incorporated the search from Old Republic National Title Insurance Company. The title company states the owner of Parcel 1 (most of the Miller Cove Road area) is the City (*sic*) of Palm Shores and Brevard County. In the opinion of title, the attorney states that he disagrees with the title company on this issue. His final conclusion as to Miller Cove Road relates to the County's jurisdiction "for public use". He does not opine as to other ownership rights to Central Boulevard. In short, the title company and the attorney are not in agreement on the ownership issue. (See attached map.)

In addition, the title work shows plats and resolutions, but there is no deed which shows the original ownership of the area in question which leads to significant questions about the completeness of the search.

The title search did not include Official Record Book 3491 Page 2992, a warranty deed which purports to transfer the north half of Central Avenue (called Miller Cove Road) to Ralph D. Miller. (See attached deed) This issue also needs to be addressed; the claims of a third party to title to the road could result in litigation against the county since by accepting the plat, the county would be purporting to create an interest in the road which is also claimed by Mr. Miller, which can also be a slander of title issue.

The survey provided by LTM of Florida Holdings, LLC, is not a survey of the non-dedicated area called Miller Cove Road. Rather it is a survey of two lots, Parcels 5 and 6 (these parcels appear to be lots outside the plat in question). Since the survey provided does not contain a legal description of the "road", there is no clear means to verify the area depicted is exactly the same area described in the title search. The customary approach is to have a legal description on the survey that matches the legal description in the title work. There is simply no legal description for the "road" on the survey provided. Nonetheless, there is a sketch showing the non-dedicated area and that sketch shows many physical alterations and items in the Miller Cove Road area. There are drainage improvements, ponds, swales, gravel and piping. There is no information about any underground improvements that may exist. Based on the sketch, there is enough information to put the county on notice of possible claims of third parties.

Due to the deed transferring half of the non-dedicated "right of way" to Mr. Miller, the disagreement between the title company and the attorney apparently intending to provide a title opinion, the "survey" showing numerous encroachments or occupation by others, this office has significant concerns regarding the state of title in this area. Acceptance of the 1923 plat was already problematic due to the fact most of the plat is in the Town of Palm Shores and the County has no authority to accept/approve plats in municipalities. The potential for litigation over the road area and alterations to that area in the future is high and could be costly if the County takes over the road or attempts to grant easements over an area it does not own.

2. Late in the afternoon of 12/14/17, the citizen's attorney has requested an alternative approach which involves the County granting easements over the non-dedicated area to unnamed parties. The form of the proposed easement is attached. However, since the county does not own the "road", the County cannot grant easements to anyone. If the county were to attempt to do so, it could subject itself to slander of title claims resulting from the cloud on the title created by the cross easement.

POINT OF DISAGREEMENT BY CANTWELL & GOLDMAN

PAGE 1744, DATED 10/27/1992

REPUBLIC NATIONAL TITLE COMPANY RECORD TITLE OF PALM SHORES & B POINT OF DISAGREEMENT GOLDMAN

FOURTH AVE. VACATED BY BOCC ORB 4494, PAGE 1706, 12/4/2001 VACATED BY CITY OF PALM SHORES, ORD. 92-02, ORB 3246, PAGE 1744, DATED 10/27/1992

PARCEL 2 PER OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, RECORD TITLE HOLDER: EDWARD VICTOR MASON AND THE CITY OF PALM SHORES AND BREVARD COUNTY, POINT OF DISAGREEMENT BY CANTWELL & GOLDMAN

PARCEL 3 PER OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, RECORD TITLE HOLDER: BENSON, ET AL AND THE CITY OF PALM SHORES AND BREVARD COUNTY, POINT OF DISAGREEMENT BY CANTWELL & GOLDMAN

VACATED BY CITY OF PALM SHORES, ORDINANCE 92-02, DATED 10/27/1992

CENTRAL BOULEVARD VACATED BY BOCC ORB 2929, PAGE 2911, 7/19/1988

DIXIE HIGHWAY, FOURTH AVE & THIRD AVE VACATED BY BOCC ORB 2929, PAGE 2911, 7/19/1988

PALM SHORES ESTATES PLAT BOOK 35, PAGE 25 11/9/1988

INDIAN RIVER BO... PLAT BOOK 3, P... 9/15/1925

REC RR

REMOVED



SURVEYING & MAPPING DIVISION
2725 JUDGE FRAN JAMESON WAY
BLDG A, STE. A220
MERA, FL 32940
PHONE: (321)633-2080

SCALE: 1"=100'

DATE: 12/14/17

DRAWING NAME: 263730 MILLER COVE ROAD_12-14-17

SHEET: 1 OF 1

REVISION

SECTION: 30, TWN: 26 SOUTH

MILLERS COV

INFORMATION

Prepared by and Return To: 9512665D
 Name: LEANNE N. KUGELMANN
 FIDELITY NATIONAL TITLE
 Address: 2255 N. COURTSWAY PARKWAY, SUITE D
 NERRITT ISLAND, FLORIDA
 Property Appraiser's Parcel I.D. (Folio) Number(s):
 26-39-30-01-E-1

WARRANTY DEED
 HDN TO HDN

Grantee(s) S.S. #(s):

Handy Crawford Clerk Circuit Court
 Recorded and Verified: Brevard County, FL
 # Pgs: 2 # Names: 2
 Trust Fund: 135 Rec Fee: 700
 Stamp-Deed: 32.26 Excise Tx
 Stamp-Mtg Int Tx
 Service Chg Refund

THIS WARRANTY DEED Made the seventeenth day of July A. D. 19 95 by

Edward V. Mason, a married man

hereinafter called the grantor, to RALPH D. MILLER, a married man

whose postoffice address is 2381 appalachian Dr. Melbourne, Fl 32935
2360 MILLER COVE ROAD, MELBOURNE, FL 32916
 hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in BREVARD County, Florida, viz:

LOTS 1 THRU 12, BLOCK E, THE WESTERLY ONE HALF OF LOTS 1 THRU 6, BLOCK D, INSTANCES RIVER HOME SITES, AS RECORDED IN PLAT BOOK 3, PAGE 37, ALL OF VACATED FOUR... AVENUE AND THE NORTH ONE HALF OF VACATED CENTRAL BOULEVARD AS RECORDED IN OFFICIAL RECORDS BOOK 3246, PAGE 1744, OF THE PUBLIC RECORDS OF BREVARD COUNTY, GRANTOR(S) HEREBY STATE that the above-described property is not their homestead under the laws and the constitution of the state of FLORIDA.

Subject to easements, restrictions, reservations, and limitations of record, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1994.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Leanne M. Kugelmann
 Witness Signature
Banner M. Kugelmann
 Witness Printed Name

Maribeth Goldfarb
 Witness Signature
Maribeth Goldfarb
 Witness Printed Name

Edward V. Mason L.S.
 Grantor Signature
EDWARD V. MASON
 Grantor Printed Name
115 Woods North
M.I. Fl 32952 L.S.
 Grantor Signature
 Grantor Printed Name

STATE OF FLORIDA)
 COUNTY OF BREVARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Edward V. Mason, a married man

to me known to be the person(s) described in or has/have produced a drivers license as identification and who executed the foregoing instrument and he/she/they acknowledged before me that he/she/they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 17 day of July A.D. 19 95
 My Commission Expires:

(SFA1)

Leanne M. Kugelmann
 Notary Signature
 Printed Name: LEANNE M. KUGELMANN
 COMMISSION # CO 425639
 EXPIRES DEC 12, 1998
 BONDED thru
 ATLANTIS BONDING CO. INC.

BK 3491 PG 2992

95 JUL 20 PM 2:58

Law Offices of
CANTWELL & GOLDMAN, P.A.

www.cfglawoffice.com

Bradly Roger Bettin, Sr.
William H. Cantwell, II^{1,2}
Mitchell S. Goldman
J. Wesley Howze
Matthew J. Monaghan
Nina V. Rawal
Kimberly Bonder Rezanka
Michael Sjuggerud³
Jay R. Thakkar

¹ Board Certified Construction Lawyer and
Board Certified Business Litigation Lawyer
² Also Member of West Virginia Bar
³ Also Member of District of Columbia
Bar, New York Bar, and Washington Bar

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474 N. Harbor City Blvd., Suite # 1
Melbourne, FL 32935
(by appointment only)

December 13, 2017

Eden Bentley, Deputy County Attorney
2725 Judge Fran Jamieson Way
Building C
Viera, FL 32940

✓ John Denninghoff, Asst. County Manager
2725 Judge Fran Jamieson Way
Building C
Viera, FL 32940

RE: Request that Brevard County accept Plat at PB 3, PG 37, Indian River Home Sites
December 19, 2017 County Commission Meeting, Item. V.A.

Dear Eden and John:

Enclosed please find a Title Opinion Letter from Mitchell S. Goldman, Esq., the Owner and Encumbrance ("O & E") Report from Old Republic National Title Insurance Company ("Old Republic") with all documents provided from Old Republic, and the Plat of Survey of Central Ave. a/k/a Miller Cove Road from Robert R. Briel, P.M.S. adding Central Blvd., November 16, 2017, Project No. 16057 (large and 11 x 17 copy).

As suggested yesterday by email, our client LTM of Florida Holdings, LLC would be interested in a Cross Access Easement to construct a private driveway over Old Dixie Highway and Central Boulevard, if the County does not acknowledge or accept the common law dedication of the Indian River Home Sites Plat. We are in process of drafting such an Agreement, and will provide it to you tomorrow by email.

Please contact me to discuss the Agenda Item at your earliest opportunity.

Sincerely,

Kim Rezanka

Kimberly Bonder Rezanka

KBR/pc
enclosures

cc: Mark Mattioli
Scott Knox, County Attorney (via email)
Andrew Holmes, County Engineer (via email)
Tad Caulkins, Planning and Development Director (via email)



Law Offices of
CANTWELL & GOLDMAN, P.A.

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474 N. Harbor City Blvd., Suite # 1
Melbourne, FL 32935
(by appointment only)

December 13, 2017

Eden Bentley, Deputy County Attorney
2725 Judge Fran Jamieson Way
Building C
Viera, FL 32940

RE: O & E Report on Miller Cove Road and adjacent leg of Old Dixie Highway
Request that Brevard County accept Plat at PB 3, PG 37, Indian River Home Sites

Dear Eden:

Please be advised that this firm represents LTM of Florida Holding, LLC ("LTM"). The purpose of this letter is to address the County's concern that Miller Cove Road, a/k/a Central Boulevard, and Old Dixie Highway, north of Palm Shores Estates, are in private ownership.

Pursuant to Brevard County's request, we ordered an Owner and Encumbrance ("O & E") Report from Old Republic National Title Insurance Company ("Old Republic"). A complete copy of the Report and accompanying documents are enclosed herewith.

The O & E Report provides information on the Last Record Title Holders for four (4) separate Parcels, generally described as: (1) Miller Cove Road and Old Dixie Highway; (2) the north 331 feet of Miller Cove Road, east of Old Dixie Highway; (3) the south 331 feet of Miller Cove Road, east of Old Dixie Highway; and (4) the Parcel at the east end of Miller Cove Road owned by Florida Department of Transportation ("FDOT").

Old Republic has opined that Miller Cove Road and Old Dixie Highway are held by Brevard County and the Town of Palm Shores ("Town"); no reason was provided for this opinion other than both have exercised jurisdiction by Ordinance or Resolution over the roadways. I disagree.

Additionally, solely from the public records, Old Republic has identified 331 feet of Miller Cove Road, east of Old Dixie Highway, as being held by owners of adjacent lands. Again, I disagree. Old Republic acknowledged that it would never issue title insurance on the added lands as the parcels have not been split in the public records and the owners have never

paid taxes on the added lands. The examiner acknowledged that Old Republic was not providing a legal opinion, but merely reflecting what existed in the public records of Brevard County.

I reviewed the O & E Report, the documents provided by Old Republic, other matters of record and documents provided by LTM. The documents reviewed are contained within the documents provided by Old Republic or the provided herein, and include:

1. Indian River Home Sites Plat, Plat Book 3, Page 37, recorded Sept. 15, 1923 ("Plat).
2. County Res. (6/20/63): County vacates 1st Ave. south of Central, upon request of Robert M. Pursell.
3. Town Ord. 88-02 (5/24/88): Town annexes Blocks F, K, L, M and N and all vacated Right-Of-Way in the Indian River Home Sites Subdivision, upon the request of Danny L. Wilbourne. (See Exhibit "1").
4. County Res. 88-255 (7/19/88): County vacates Blocks F, K, L, M and N, part of 3rd and 4th and Old Dixie that lay south of Central Blvd., and that part of "Center Boulevard" lying between Blocks F and K, upon request of Dan Wilbourne. This allowed replat for Palm Shore Estates. Two legal notices recorded.
5. Palm Shore Estates Plat (11/8/88): A replat of a portion of Honeybrook Plantation, and "a replat of Blocks F, K, L, M and N, and the vacated portions of Old Dixie Hwy., Third Ave, Fourth Ave., and Central Blvd. per the Plat of Indian River Home Sites", with Certificate of Approval by Municipality dated October 2, 1998.
6. Town Ord. 91-02 (4/26/91): Town annexes Blocks "C", "D" and "E" into Town, as requested by Ralph Miller and Ed Mason, "per 171.044". (See Exhibit "2").
7. Town Ord. 92-02 (7/92): Town vacates all of 3rd and 4th Ave. and 331 feet of Central Blvd. "as recorded in Plat Book 3, Page 37 of Public Records of Brevard County".
8. Town Res. 94-01 (5/24/94): Town renames Central Blvd. as Miller Cove Road, "upon request of owner of private roadway". (Map still shows 3rd and 4th Ave. north of Miller Cove Road.) Section 5 requires "property owners responsibility . . . keep said road clear and accessible for emergency vehicles."
9. County Res. 2001-414 (12/4/01): County vacates 3rd and 4th Ave. north of Central Blvd., upon request of Ralph Miller.
10. Town Res. 2009-07 (10/21/09): Town vacates 1st Ave. north of Central, subject to "attached Map", upon request of Ralph Miller, with legal description attached.

11. The Brevard County Property Appraiser's Comments to 2340 Miller Cove Road, Palm Shores: the Plat's right-of-way is in the County and that the Town needed to rescind Ord. No. 92-02; the BCPAO removed previously added 3rd Avenue right-of-way in 1996, due to the improper Ordinance; City of Palm Shores to rescind Ord. 92-02. (See Exhibit "A").
12. Florida Today legal notice re Ord. 92-02 (published 9/16/92). (See Exhibit "B").
13. The Brevard County Public Works Department records, stating that the Town had no jurisdiction to vacate 1st Avenue reflected in Res. 2009-07. (See Exhibit "C").
14. The screen shot from Brevard County E9-1-1 Administration of the 911 GIS Map showing LTM's Parcel outlined in blue and the Town of Palm Shores shaded in light blue, received 4/12/17. (See Exhibit "D").
15. FDOT Final (As-Built) Plans, Project ID 237550-1-52-01, portions reflecting improvements on Miller Cove Road (dated 4/26/04). (See Exhibit "E").
16. Certified Surveyor's Report dated December 12, 2017 from Robert R. Briel, P.S.M. opining that Ord. 92-02 vacated a portion of Central Boulevard that lies west of Florida East Coast Railway. (See Exhibit "F").
17. Plat of Survey of Central Ave. a/k/a Miller Cove Road from Robert R. Briel, adding Central Blvd., November 16, 2017, Project No. 16057. (To be provided separately.)

Based upon the O & E Report and the referenced documents, it is my opinion that:

(a) Brevard County has the sole jurisdiction over Central Boulevard, a/k/a Miller Cove Road and the applicable portion of Old Dixie Highway. The County exercised jurisdiction over the Plat Property as early as June 20, 1963. No documents in the public records reflect that the County relinquished control of the roads in the Plat to the Town or to any other agency.

(b) Central Boulevard is still under the jurisdiction of Brevard County because the Town never annexed the roadways in the Plat or ever accepted ownership of the roadways in that Plat. While the Town has adopted an Ordinance and three (3) Resolutions regarding the various roadways in the Plat, it was without legal authority to do so. Therefore, the vacating of roadways by Palm Shores and the renaming of Central Boulevard are invalid actions of the Town.

(c) No part of Central Boulevard is in private ownership because no part of Central Boulevard was ever legally vacated by the County to result in added lands to those along Central Boulevard/Miller Cove Road. This is supported by the fact that the Property Appraiser has declined to separate the 331 feet of Central Boulevard east of Old Dixie Highway into new ownership.

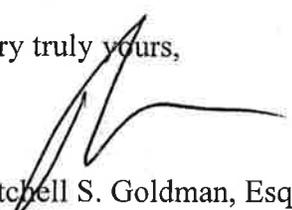
(d) Ord. 92-02 is improper and vague, as no legal legal description by metes and bounds or map delineating vacated property is attached. The Ordinance does not attach proof of legal notice, and the only legal notice found in the records of Florida Today does not satisfy F.S. 177.101 (1992).¹ Despite public records requests, no other records are available from the Town regarding this vacating. The Town should have rescinded Ord. 92-02.

(e) The interest held by the County in Central Boulevard and the applicable portion of Old Dixie Highway is for street purposes, held in trust for the benefit of the public. Miller Cove Road is currently and has been used by the public and by public services and vehicles for many years and has not been vacated by the County. See AGO 78-125.

(f) There is no evidence of record wherein any agency or person, other than the County, the Town and FDOT, has exerted or claimed control of Central Boulevard or the applicable portion of Old Dixie Highway.

Therefore, based upon the foregoing, I am of the opinion that Central Boulevard and the applicable portion of Old Dixie Highway are under the jurisdiction of Brevard County, for public use, and neither the Town nor any natural person has any ownership of Central Boulevard.

Very truly yours,



Mitchell S. Goldman, Esquire
MSG/pc

Enclosures

¹ § 177.101 Vacation and annulment of plats subdividing land (1997):

(4) Persons making application for vacations of plats either in whole or in part shall give notice of their intention to apply to the governing body of the county to vacate said plat by publishing legal notice in a newspaper of general circulation in the county in which the tract or parcel of land is located, in not less than two weekly issues of said paper, and must attach to the petition for vacation the proof of such publication,



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
2300 Maitland Center Parkway #140
Maitland, FL 32751
Phone: 407-647-1915

OWNER & ENCUMBRANCE PROPERTY INFORMATION REPORT

Agent File No.: Miller Cove Road
File No: 17117418

CANTWELL & GOLDMAN, P.A.
96 WILLARD STREET
#302
COCOA, FL 32922
Phone: 321-639-1320

ATTN: Kim

THIS TITLE SEARCH IS AN OWNERSHIP AND ENCUMBRANCE SEARCH ONLY AND DOES NOT REFLECT TITLE DEFECTS OR OTHER MATTERS THAT WOULD BE SHOWN BY TITLE INSURANCE.

Legal Description:

Parcel 1:

Right of way lying in Section 30, Township 26 South, Range 37 East, Brevard County, Florida being more particularly described as follows:

A portion of Central Boulevard a/k/a Miller Cove Road as shown on the plat of Indian River Home Sites as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County; lying East of Dixie Highway as shown on said plat and West of U.S. Highway 1 (State Road No. 5) as presently located, LESS AND EXCEPT the West 331 feet thereof, ALSO LESS AND EXCEPT any portion thereof lying within Parcel No. 137 as set forth and described in that certain Warranty Deed from Corinne K. Rabensteiner, Individually and as Trustee of the Chiefet Revocable Trust to the State of Florida Department of Transportation recorded in O.R. Book 4441, Page 189, Public Records of Brevard County, Florida.

TOGETHER WITH a portion of Dixie Highway as shown on the plat of Indian River Home Sites as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County, Florida; lying North of Central Boulevard a/k/a Miller Cover Road as shown on said plat and extending to the North Boundary line of said plat.

Parcel 2:

The North 1/2 of the West 331 feet of Central Boulevard a/k/a Miller Cove Road, as shown on the plat of Indian River Home Estates as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County.

Parcel 3:

The South 1/2 of the West 331 feet of Central Boulevard a/k/a Miller Cove Road, as shown on the plat of Indian River Home Estates as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County.

Parcel 4:

Parcel No. 137 as set forth and described in that certain Warranty Deed from Corinne K. Rabensteiner as Trustee of the Chiefet Revocable Trust to the State of Florida Department of Transportation recorded in O.R. Book 4441, Page

189, Public Records of Brevard County, Florida.

Last Record Title Holder:

Parcel 1: City of Palm Shores, a political subdivision of the State of Florida and Brevard County, Florida, a political subdivision of the state of Florida, subject to the rights of the public, as their interests may appear.

Parcel 2: Edward Victor Mason a/k/a Edward V. Mason and the City of Palm Shores, a political subdivision of the State of Florida and Brevard County, Florida, a political subdivision of the state of Florida, subject to the rights of the public, as their interests may appear.

Parcel 3: Albert Benson and Amporn Benson, husband and wife; Frances A. McHarvey; Kenneth J. Myrback, Jr. and Maria R. Myrback, husband and wife; Gary Jarek and Lori A. Jarek, husband and wife, and the City of Palm Shores, a political subdivision of the State of Florida and Brevard County, Florida, a political subdivision of the state of Florida, subject to the rights of the public, as their interests may appear.

Parcel 4: State of Florida Department of Transportation, subject to the right of the public

Documents of Record (copies attached):

1. Plat of Indian River Home Sites recorded in Plat Book 3, Page 37, Public Records of Brevard County, Florida.
2. Ordinance No. 92-02 vacating all of Fourth Avenue, all of Third Avenue, and the West 331 feet of Central Avenue (n/k/a Miller Cove Road) recorded in O.R. Book 3246, Page 1744, Public Records of Brevard County, Florida.
3. Resolution to change the name of Central Avenue to Miller Cove Road recorded in O.R. Book 3395, Page 1323, Public Records of Brevard County, Florida.
4. Warranty Deed from Corinne K. Rabensteiner, Individually and as Trustee of the Chiefet Revocable Trust to the State of Florida Department of Transportation recorded in O.R. Book 4441, Page 189, Public Records of Brevard County, Florida.
5. Resolution vacating a portion of Third Avenue and Fourth Avenue recorded in O.R. Book 4494, Page 1706, Public Records of Brevard County, Florida.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY has not searched for, nor do we assume any liability as to any, restrictions, easements, reservations, conditions, or limitations of record, further this report does not cover any improvement or special assessments by any county or municipal governmental agency.

This report is not title insurance. Pursuant to s. 627.7843, Florida Statutes, the maximum liability of the issuer of this property information report for errors or omissions in this property information report is limited to the amount paid for this property information report, and is further limited to the person(s) expressly identified by name in the property information report as the recipient(s) of the property information report.

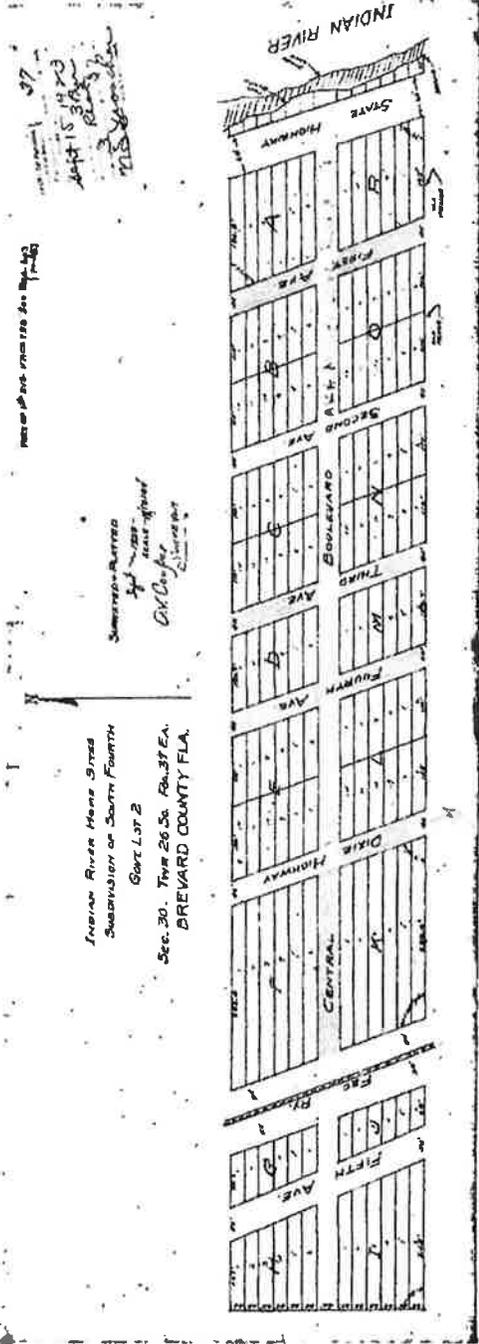
Date: December 01, 2017


Authorized Signatory

1. Resolution forwarded by OK on August 23
2. Resolution No. 2007-2008-07
(see attached resolution for details)

3. Resolution No. 2007-2008-07
4. Resolution No. 2007-2008-07
5. Resolution No. 2007-2008-07

6. Resolution
NO. 94-01
FORWARD OK 2015
PAGE 13-2



Indian River Home Sites
Submission of South Fourth
Block Lot 2
Sec. 30, Twp. 26 S., R. 31 E.,
BREVARD COUNTY FLA.

File No.
17117418

Supporting
Copies

ORDINANCE NO. 92-02

AN ORDINANCE OF THE CITY OF PALM SHORES, BREVARD COUNTY, FLORIDA, VACATING ALL OF FOURTH AVENUE, ALL OF THIRD AVENUE AND THE WEST 331 FEET OF CENTRAL BOULEVARD, ALL IN INDIAN RIVER HOME SITES SUBDIVISION; PROVIDING FOR REPEAL OF ORDINANCE IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF PALM SHORES, BREVARD COUNTY, FLORIDA, that:

SECTION 1. All of Fourth Avenue, all of Third Avenue, and the West 331 Feet of Central Boulevard all in Indian River Home Sites Subdivision as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County, Florida are hereby vacated.

SECTION 2. All Ordinance, or parts of Ordinances, not specifically in conflict herewith are hereby continued in full force and effect.

SECTION 3. This Ordinance shall become in full force and effect in accordance with the Charter of the City of Palm Shores, Brevard County, Florida.

SECTION 4. This Ordinance was passed on the first reading at a regular meeting of the City Council on the day of June, 1992, and passed on the second/final reading at a regular meeting of the City Council on the day of July, 1992.

By Anne DeWitt
Mayor, City of Palm Shores

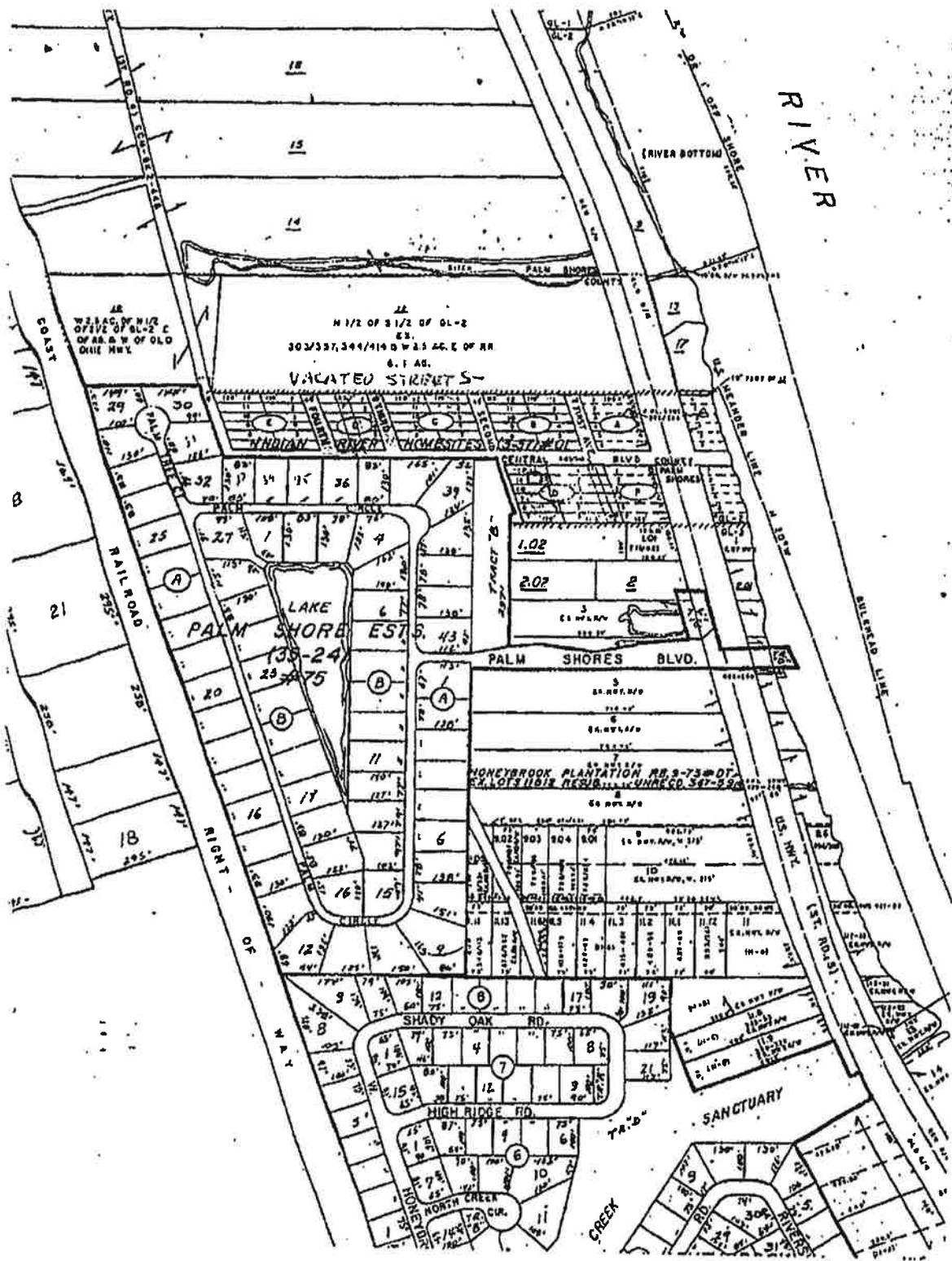


10-27-92

Mediation

Clerk Circuit Court
 Brevard County, FL
 150
 9.00
 Extra Tax
 F.T. Tax
 Fund

Please Return to: Town of Palm Shores
P.O. Box 360915
Melbourne, FL 32936



UNSUITABLE
FOR
MICROFILM

800



Published Daily



CFN:2001287857 12-28-2001 08:01 am
OR Book/Page: 4494 / 1706

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 6 #Names: 2
Trust: 3.00 Rec: 21.00 Serv: 0.00
Excise: 0.00
Mfg: 0.00 Int Tax: 0.00

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared MAUREEN FARR who on oath says that she is LEGAL ADVERTISING CLERK

of the FLORIDA TODAY, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a LEGAL NOTICE

(AD#769500-S103.25) the matter of

BREVARD COUNTY PUBLIC WORKS

in the Court

RE: RALPH D. MILLER

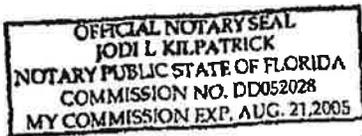
was published in the FLORIDA TODAY NEWSPAPER

in the issues of NOVEMBER 15, 2001

Affiant further says that the said FLORIDA TODAY NEWSPAPER is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Maureen Farr
(Signature of Affiant)

Sworn to and subscribed before this this 15TH DAY OF NOVEMBER, 2001



Jodi L. Kilpatrick
(Signature of Notary Public)

JODI L. KILPATRICK
(Name of Notary Typed, Printed or Stamped)

Personally Known or Produced Identification

Type Identification Produced

AD#769500-11/15/2001
LEGAL NOTICE
LEGAL NOTICE TO VACATE RIGHTS-OF-WAY IN INDIAN RIVER HOME SITES IN SECTION 28, TOWNSHIP 24 SOUTH, RANGE 17 EAST
NOTICE IS HEREBY GIVEN that pursuant to Chapter 204.09, Florida Statutes, and Chapter 204.05, Florida Statutes, the Board of County Commissioners of Brevard County, Florida, is revising vacating the following described property, to wit:
That portion of Third Avenue and Fourth Avenue lying north of the north right-of-way line of Central Boulevard as shown on the PLAT OF INDIAN RIVER HOME SITES as recorded in Plat Book 31 Page 37, of the Public Records of Brevard County, Florida. Legal description prepared by AAL Land Surveying Services, Inc.
The Board of County Commissioners will hold a public hearing to determine the advisability of such vacating of the above-described rights-of-way at 9:00 a.m. on December 4, 2001 at the Brevard County Government Center Board Room, Building C, 2725 Jesse Road, Jamieson Way, Viera, Florida at which time and place all those for or against the same may be heard before final action is taken.
Pursuant to Section 204.05, Florida Statutes, if a person decides to appeal any decision made by the board, agency or commission with respect to the vacating of the right-of-way, the record of the proceedings, copy, for such purpose, or the one may need to be a verbatim transcript of the proceedings as made, which record included the location and identified participants in the hearing.
Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.
The needs of hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

RETURN: Clerk to the Board #27

VACATING RIGHTS-OF-WAY IN PLAT OF INDIAN RIVER HOME SITES IN
SECTION 30, TOWNSHIP 26 SOUTH, RANGE 37 EAST

WHEREAS, pursuant to Article II, Section 86-36, Brevard County Code, a petition has been filed by **RALPH D. MILLER** with the Board of County Commissioners to vacate rights-of-way in Brevard County, Florida, described as follows:

That portion of Third Avenue and Fourth Avenue lying north of the north right-of-way line of Central Boulevard as shown in the **PLAT OF INDIAN RIVER HOME SITES** as recorded in Plat Book 3, Page 37, of the Public Records of Brevard County, Florida. Legal description prepared by AAL Land Surveying Services, Inc.

WHEREAS, the vacating action will in no way affect any private easements which may also be present in the existing public easement or public right-of-way.

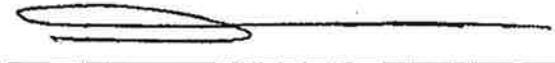
WHEREAS, notice of the public hearing before the Board of County Commissioners was published one time in the TODAY Newspaper, a newspaper of general circulation in Brevard County, Florida, prior to the public hearing; and

WHEREAS, the Board finds that vacating the rights-of-way will not be detrimental to Brevard County or the public.

THEREFORE BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that the rights-of-way are hereby vacated; and Brevard County renounces and disclaims any rights in and to said rights-of-way.

DONE, ORDERED AND ADOPTED, in regular session, this 4th day of December A.D., 2001.

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Truman Scarborough, Chairman

As approved by the Board on:

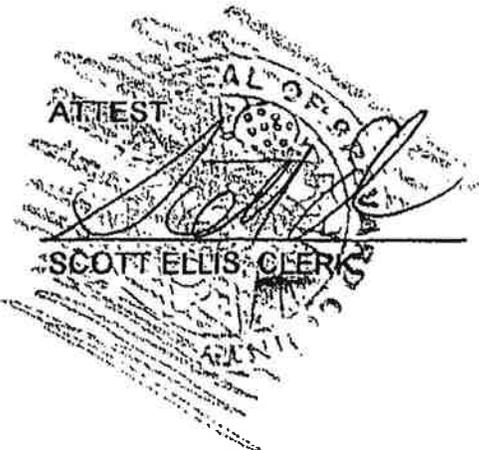
December 4, 2001



CFN:2001287857

OR Book/Page: 4494 / 1707

RETURN: Clerk to the Board #27



* ASSESSORS MAP *

SECTION: 30 TOWNSHIP: 26 South RANGE: 37 East DISTRICT: 4

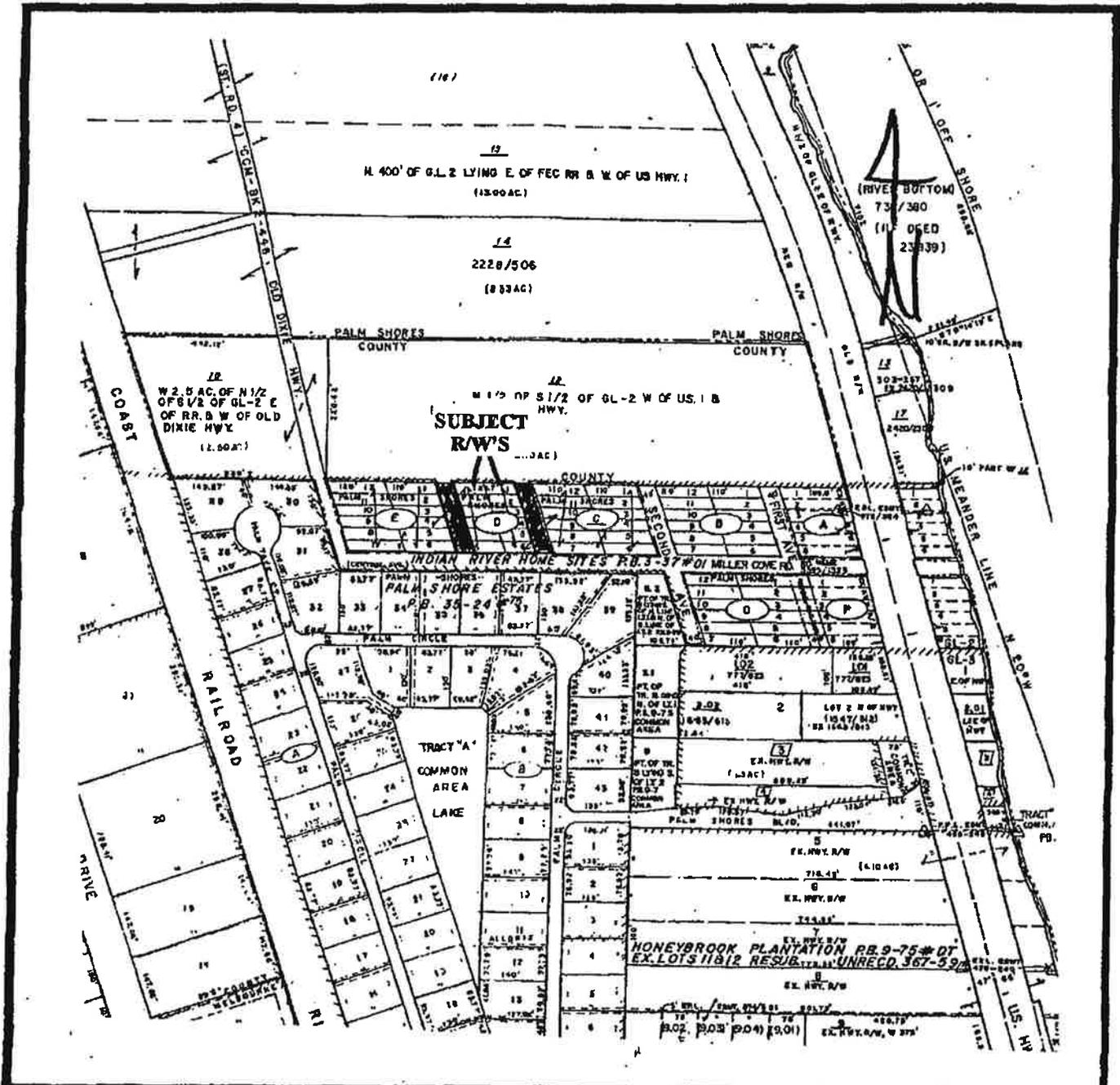
STREET NAME or SUBDIVISION **INDIAN RIVER HOME SITES**



PETITIONER'S NAME **RALPH D. MILLER**

CFN:2001287857
OR Book/Page: 4494 / 1708

RETURN: Clerk to the Board #27



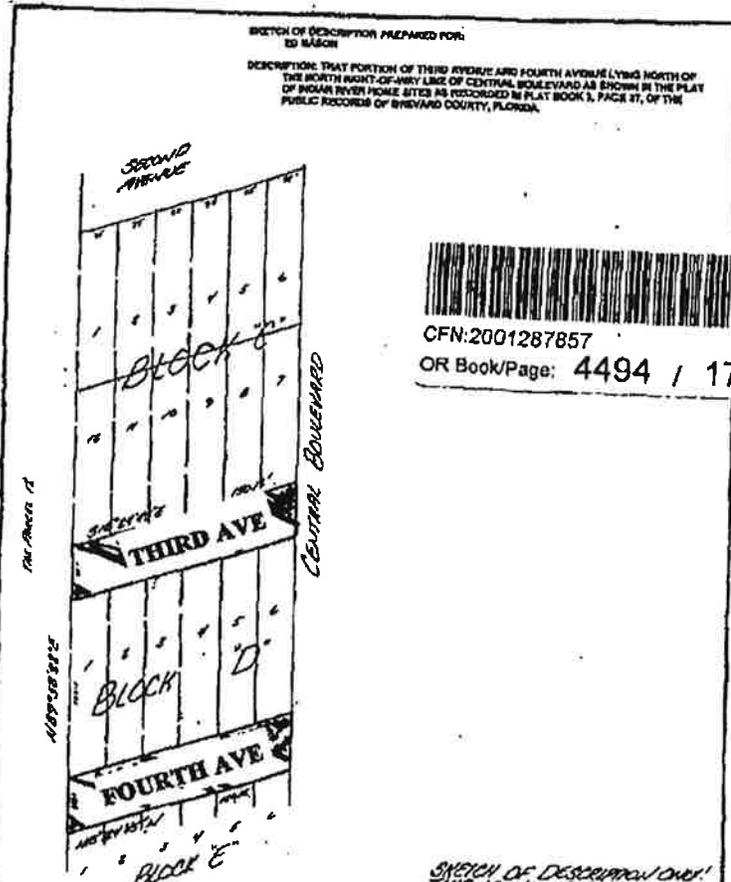
* SURVEY MAP *

SECTION: 30 TOWNSHIP: 26 South RANGE: 37 East DISTRICT: 4

STREET NAME or SUBDIVISION INDIAN RIVER HOME SITES

PETITIONER'S NAME RALPH D. MILLER

RETURN: Clerk to the Board #27




 CFN:2001287857
 OR Book/Page: 4494 / 1709

*SKETCH OF DESCRIPTION ONLY!
THIS IS NOT A SURVEY!*

AAL LAND SURVEYING SERVICES, INC.

<p>PROFESSIONAL SEAL</p> <p>ANDREW W. FORTNEY P.L.S. No. 1000 L.A. 6423</p>	<p>NOTICE</p> <p>THIS SKETCH AND SURVEY HAVE BEEN PREPARED IN ACCORDANCE WITH AVAILABLE RECORDS THROUGHOUT FLORIDA AS SET FORTH IN THE PUNISH BOOKS OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 462, F.S. THIS SKETCH IS FOR THE USE OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. IT IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SKETCH IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SKETCH IS NOT TO BE USED FOR ANY OTHER PURPOSES.</p> <p>NOTICE</p> <p>THIS SKETCH IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SKETCH IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SKETCH IS NOT TO BE USED FOR ANY OTHER PURPOSES.</p> <p style="text-align: right;"> ANDREW W. FORTNEY, P.L.S. 1140 W. KENNEDY BLVD. SUITE 400 WEST MELBOURNE, FLORIDA 32906 (321) 268-2110 </p>
--	--

RETURN TO
TOWN OF PALM SHORES
301 Palm Cove
PALM SHORES, FL. 32940
(407) 842-4888



RESOLUTION NO. 94-01

A RESOLUTION TO OFFICIALLY NAME A PRIVATE ROAD
MILLER COVE ROAD

WHEREAS, The Town of Palm Shores of Brevard County, Florida, has been requested to name certain private roadways affording ingress and egress to and from Highway 1 for the occupants of Indian River Home Sites; and

WHEREAS, the owner of said private roadway has identifies said private road by name and Brevard County Officials have requested the Town of Palm Shores adopt a resolution acknowledging and approving the name identifying said private road in order for addresses to be assigned and said road to be entered into the Brevard County 911 Emergency Telephone System;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF PALM SHORES, PALM SHORES, FLORIDA, AS FOLLOWS:

Section 1. The following street name identifying the private road within the Indian River Home Sites, Plat Book 3, Page 37, as Recorded in the Public Records of Brevard County, are hereby acknowledged, accepted and approved by the Town of Palm Shores, viz:

Miller Cove Road

Section 2. That the location of this private road named in Section 1 of this Resolution is shown and depicted on the map marked "Exhibit A", attached to this Resolution and by this referenced incorporated herein and made a part hereof.

Sandy Crawford Clerk Circuit Court
Recorded and Verified Brevard County, FL
Pgs. 3 # Nar.us 2
Trust Fund 2.00 Rec Fee 13.00
Stamp-Deed _____ Excise Tx _____
Stamp-Intg _____ Int Tx _____
Service Chg _____ Refund _____

BK 3395PG 1323

611529
94 MAY 26 AM 10:48

Section 3. This Resolution is adopted to enable Brevard County officials to enter the addresses and street name into the Brevard County 911 Emergency Telephone System.

Section 4. Nothing contained in this Resolution shall be deemed or construed to be an acceptance of the herein designated road as a public street or road of the Town of Palm Shores, nor to constitute said roadway as part of the public street system of the Town of Palm Shores, nor as any assumption by the Town of Palm Shores of responsibility for improvement, repair, maintenance or safety of the private road herein identified.

Section 5. It shall be the property owners responsibility to install and maintain the proper street sign and stop sign and keep said road clear and accessible for emergency vehicles.

PASSED AND ADOPTED at a regular meeting of the Town of Palm Shores, Town of Palm Shores, Florida, this 24 day of May, A.D. 1994

Gene Jensen
Mayor, Town of Palm Shores

Attest:

Patty Osterman
City Clerk

(SEAL)

BK3395PG1324

He

PREPARED BY AND RETURN TO:
Patrick F. Healy, Esq.
GRAY HARRIS & ROBINSON, P.A.
1800 W. Hibiscus Blvd., Suite 138
Melbourne, Florida 32901
TAX I.D. CODE: 26-37-30-01-00000.0-0007.00

CFN 2005233233 06-30-2005 11:50 am
OR Book/Page: 5492 / 2669

QUIT-CLAIM DEED

THIS QUIT-CLAIM DEED made this 28 day of June, 2005, by RALPH D. MILLER, a single man, hereinafter called the Grantor, to EDWARD V. MASON, a single man, whose post office address is 5250 N. Harbor City Blvd., Palm Shores, FL 32940, hereinafter called the Grantee:

WITNESSETH:

THAT THE GRANTOR, for and in consideration of the sum of \$10.00 Dollars in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said grantee forever, all the right title, interest, claim and demand which the said grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of BREVARD, State of Florida, to wit:

Lots 1 through 12, inclusive, Block E, and the Westerly one-half of Lots 1 through 6. Block D, INDIAN RIVER HOME SITES, according to the Plat thereof, as recorded in Plat Book 3, Page 37, all of vacated Fourth Avenue as described in Official Records Book 4494, page 1706, of the Public Records of Brevard County, Florida.

SUBJECT TO covenants, restrictions and easements of record.

SUBJECT TO all applicable zoning rules and regulations.

SUBJECT TO taxes for the year 2003 and subsequent years.

THIS DEED WAS PREPARED WITHOUT BENEFIT OF A TITLE SEARCH AND NO REPRESENTATIONS AS TO SAME ARE MADE BY GRAY-ROBINSON, P.A.

TO HAVE AND TO HOLD, the same together with all singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said grantor, either in law or equity, to the only proper use, benefit and behoof of the said grantee forever.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in our presence:

Dianna Brockett
WITNESS
Name Printed Dianna Brockett

Ralph D. Miller
RALPH D. MILLER

Patrick F. Healy
WITNESS
Name Printed Patrick F. Healy

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 1 #Names: 3
Trust: 1.00 Rec: 9.00 Serv: 0.00
Mtg: 0.00 Excise: 0.00
nl Tax: 0.00

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 28 day of June, 2005, by RALPH D. MILLER, [] who is personally known to me or [] has produced _____ as identification.

Scott Ellis
NOTARY PUBLIC
Print _____
My Commission Expires: _____



Patrick F. Healy
MY COMMISSION # DD214762 EXPIRES
May 22, 2007
BONDING TRUSTEES INSURANCE, INC.



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700
<https://www.bcpao.us>

PROPERTY DETAILS

Account 2609876
 Owners Mason, Edward V
 Mailing Address 3819 Riverside Dr Melbourne FL 32935
 Site Address 2360 Miller Cove Rd Palm Shores FL 32940
 Parcel ID 26-37-30-01-E-1
 Property Use 0213 - Manufactured Housing - Double Wide
 Exemptions None
 Taxing District 43J0 - Palm Shores
 Total Acres 1.00
 Subdivision Indian River Homesites S/D
 Site Code 0001 - No Other Code Appl.
 Plat Book/Page 0003/0037
 Land Description Indian River Homesites S/D Lots 1 Thru 12 Blk E & W
 1/2 Of Blk D



VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$68,220	\$70,370	\$65,450
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$68,220	\$70,370	\$65,450
Assessed Value School	\$68,220	\$70,370	\$65,450
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$68,220	\$70,370	\$65,450
Taxable Value School	\$68,220	\$70,370	\$65,450

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
06/28/2005	\$43,100	QC	Improved	5492/2669
05/31/2002	\$30,000	WD	Improved	4607/2357
06/29/2001	\$15,000	QC	Vacant	4371/2641
07/01/1995	\$4,600	PT	Vacant	3491/2992
07/01/1990	\$55,000	PT	--	3072/0962
04/27/1986	--	QC	--	2752/2857
02/26/1980	\$10,500	WD	--	2231/0646

BUILDINGS

PROPERTY DATA CARD #1

Building Use	Year Built	Story Height	Floors	Residential Units	Commercial Units
0213 - Manufactured Housing - Double Wide	2001	8	1	1	0

Materials	Sub Areas	
Exterior Wall:	Vinyl/Aluminum	Base Area (1st)
Frame:	Wood Frame	Total Base Area
Roof:	Enamel Metal	Total Sub Area
Roof Structure:	Hip/Gable	

Extra Features

Carport: Low	130
Covered Patio: Low	9
Screen Enclosure: Low	541
Enclosed Room: Average	200
Skirting: Simulated Stone/Brick	148

Additional Extra Features

No Data Found



This Document Prepared By and Return to:
 Patrick F. Healy, Esq.
 Gray, Harris & Robinson, P.A.
 1800 W. Hibiscus Blvd., Suite 138
 Melbourne, FL 32902
 (321) 727-8100

CFN 2002137836 06-04-2002 06:27 am
 OR Book/Page: 4607 / 2366

Scott Ellis
 Clerk Of Courts, Brevard County

#Pgs: 1	#Names: 2	Surv: 0.00
Trust: 1.00	Rec: 5.00	Excise: 0.00
Mtg: 0.00		nt Tax: 0.00

Warranty Deed

This Indenture, Made this 31st day of May, 2002 A.D., Between
 Ralph D. Miller, a single man

of the County of Brevard, State of Florida, grantor, and
 Edward Victor Mason

whose address is: 3819 Riverside Drive, Melbourne, Florida 32935

of the County of Brevard, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,
 and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has
 granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,
 lying and being in the County of Brevard, State of Florida to wit:
 Lots 1 through 12, Block C, Lot 7, Block B, the Easterly one half of
 Lots 1 through 6, Block D, INDIAN RIVER HOME SITES, as recorded in
 Plat Book 3, page 37, all of vacated Third Avenue as described in
 Official Records Book 4494, page 1706, of the Public Records of
 Brevard County, Florida.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Lory Klopfenstein
 Printed Name: Lory Klopfenstein
 Witness

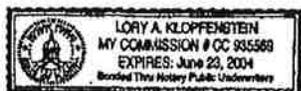
Ralph D. Miller
 Ralph D. Miller (Seal)
 P.O. Address: 2360 Miller Cove Dr.
 Melbourne, FL 32940

Peggy K Hedrick
 Printed Name: PEGGY K HEDRICK
 Witness

STATE OF Florida
 COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 31st day of May, 2002 by
 Ralph D. Miller, a single man,

he is personally known to me or he has produced his Florida driver's license as identification



Lory Klopfenstein
 Printed Name:
 Notary Public
 My Commission Expires:



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2609875
 Owners Mason, Edward Victor
 Mailing Address 3819 Riverside Dr Melbourne FL 32935
 Site Address 2340 Miller Cove Rd Palm Shores FL 32940
 Parcel ID 26-37-30-01-C
 Property Use 3020 - Nursery (Non-Agric. Classification)
 Exemptions None
 Taxing District 43J0 - Palm Shores
 Total Acres 1.12
 Subdivision Indian River Homesites S/D
 Site Code 0001 - No Other Code Appl.
 Plat Book/Page 0003/0037
 Land Description Indian River Homesites S/D All Blk C & E 1/2 Of Blk D & All Of Vac Third Ave Lying Adj



VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$41,400	\$41,270	\$33,930
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$41,050	\$37,320	\$33,930
Assessed Value School	\$41,400	\$41,270	\$33,930
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$41,050	\$37,320	\$33,930
Taxable Value School	\$41,400	\$41,270	\$33,930

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
05/31/2002	--	WD	Vacant	4607/2366
12/04/2001	--	RD	Improved	4494/1706
06/29/2001	\$15,000	QC	Vacant	4371/2641
07/01/1995	\$4,600	PT	Vacant	3491/2992
07/01/1990	\$55,000	PT	--	3072/0962
04/27/1986	--	QC	--	2752/2857
02/26/1980	\$10,500	WD	--	2231/0646

BUILDINGS

No Data Found



CFN:2001190249 09-07-2001 08:31 am
OR Book/Pages: 4415 / 2892

THIS INSTRUMENT PREPARED BY AND RETURN TO:
JEANNI BROWN
GLOW TITLE & ESCROW CORP
150 S COURTENAY PARKWAY
MERRITT ISLAND FL 32952

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 1 #Names: 4
Trust: 1.00 Rec: 5.00 Serv: 0.00
Deed: 896.00 Excise: 0.00
Mig: 0.00 Int Tax: 0.00

Property Appraisers Parcel Identification (Fofo) Numbers:
26-37-30-75-0000A.0-0033.00
Grantees SS #s:

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made the 31st day of August, A.D. 2001 by **MARVIN K. WATERMAN** and **PATRICIA G. WATERMAN, HUSBAND AND WIFE**, herein called the grantors, to **ALBERT BENSON** and **AMPORN BENSON, HUSBAND AND WIFE** whose post office address is 151 PALM CIRCLE, MELBOURNE, FL 32940, hereinafter called the Grantees:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantors, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, allens, remises, releases, conveys and confirms unto the grantee all that certain land situate in BREVARD County, State of Florida, viz:

LOT 33, BLOCK A, PALM SHORE ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 35, PAGE 24, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

Subject to easements, restrictions and reservations of record and to taxes for the year 2001 and thereafter.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the grantors hereby covenant with said grantees that the grantors are lawfully seized of said land in fee simple; that the grantors have good right and lawful authority to sell and convey said land, and hereby warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2000.

IN WITNESS WHEREOF, the said grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Jeanni Brown
Witness #1 Signature
Jeanni Brown
Witness #1 Printed Name
Barbara M. Buckholz
Witness #2 Signature
BARBARA M. BUCKHOLZ
Witness #2 Printed Name

Marvin K. Waterman L.S.
MARVIN K. WATERMAN
151 Palm Circle, Melbourne, FL. 32940
Patricia G. Waterman L.S.
PATRICIA G. WATERMAN
151 Palm Circle, Melbourne, FL. 32940

STATE OF FLORIDA
COUNTY OF BREVARD

The forgoing instrument was acknowledged before me this 31st day of August, 2001, by MARVIN K. WATERMAN and PATRICIA G. WATERMAN who are personally known to me or have produced Jeanni Brown as identification.

SEAL

Jeanni Brown
Notary Signature

My Commission Expires:
File # 0-19118



Jeanni Brown
MY COMMISSION # D0007330 EXPIRES
May 17, 2005
BONDED TITLE TRUST FARM INSURANCE & INC.

Printed Notary Signature



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2609961
Owners Benson, Albert; Benson, Amporn
Mailing Address 151 Palm Cir Melbourne FL 32940-7209
Site Address 151 Palm Cir Palm Shores FL 32940
Parcel ID 26-37-30-75-A-33
Property Use 0110 - Single Family Residence
Exemptions HEX1 - Homestead First
 HEX2 - Homestead Additional
Taxing District 43J0 - Palm Shores
Total Acres 0.25
Subdivision Palm Shore Estates
Site Code 0001 - No Other Code Appl.
Plat Book/Page 0035/0024
Land Description Palm Shore Estates Lot 33 Blk A



VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$192,140	\$154,550	\$158,350
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$128,540	\$125,900	\$125,030
Assessed Value School	\$128,540	\$125,900	\$125,030
Homestead Exemption	\$25,000	\$25,000	\$25,000
Additional Homestead	\$25,000	\$25,000	\$25,000
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$78,540	\$75,900	\$75,030
Taxable Value School	\$103,540	\$100,900	\$100,030

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
08/31/2001	\$128,000	WD	Improved	4415/2892
06/01/1989	\$27,500	WD	--	3002/3054

BUILDINGS

PROPERTY DATA CARD #1

Building Use	Year Built	Story Height	Floors	Residential Units	Commercial Units
0110 - Single Family Residence	1992	8	1	1	0

Materials	Sub Areas	
Exterior Wall: Brick	Base Area (1st)	2174
Frame: Wood Frame	Garage	440
Roof: Asph/Asb Shngl	Open Porch	35
Roof Structure: Hip/Gable	Screen Porch	396
	Total Base Area	2174
	Total Sub Area	3045

Extra Features	Additional Extra Features
No Data Found	No Data Found

Return to: (enclose self-addressed stamped envelope)

Name: E#45140
CHICAGO TITLE INSURANCE COMPANY
Address: 2955 PINEDA CAUSEWAY, SUITE 110
MELBOURNE, FLORIDA 32940

This Instrument Prepared by:
PAMELA W. TRAPANI
Address: CHICAGO TITLE INSURANCE COMPANY
2955 PINEDA CAUSEWAY, SUITE 110
MELBOURNE, FLORIDA 32940

Property Appraisers Parcel Identification (Folio) Number(s):
26-37-30-75-A-34

WARRANTY DEED
RECORDED & VERIFIED
BREVARD COUNTY

046676

W. W. ...
CLERK, CIRCUIT COURT

91 AUG 20 PM 3:26

100
500
5400
LAW OFFICE

SPACE ABOVE THIS LINE FOR PROCESSING DATA SPACE ABOVE THIS LINE FOR RECORDING DATA

This Warranty Deed Made and executed the 15th day of AUGUST A. D. 1991 by
DANNY L. WILBOURNE, AS PRESIDENT OF PALM SHORES ESTATES, INC.

a corporation existing under the laws of the State of Florida and having its principal place of
business at 164 PALM CIRCLE, MELBOURNE, FLORIDA 32940
hereinafter called the grantor, to

FRANCES A. MCHARVEY, a single woman
whose postoffice address is 153 PALM CIRCLE, MELBOURNE, FLORIDA 32940

hereinafter called the grantees:

(Whoever used herein the terms "grantor" and "grantee" include all the parties to this instrument and
their legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$10.00 and other
valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell,
alien, remise, release, convey and confirm unto the grantees, all that certain land situate in BREVARD
County, Florida, viz:

Lot 34, Block A, PALM SHORES ESTATES, according to the plat thereof, as recorded
in Plat Book 35, Pages 24 and 25, Public Records of Brevard County, Florida.
EXCEPT TAXES ACCRUING SUBSEQUENT TO DECEMBER 31, 1990.

SUBJECT TO TAXES AND ASSESSMENTS FOR THE YEAR 1991 AND SUBSEQUENT YEARS.
SUBJECT TO ZONING, RESTRICTIONS, PROHIBITIONS AND OTHER REQUIREMENTS IMPOSED
BY GOVERNMENTAL AUTHORITY: RESTRICTIONS AND MATTERS APPEARING ON THE PLAT OR
OTHERWISE COMMON TO THE SUBDIVISION: PUBLIC UTILITY EASEMENTS OF RECORD.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any-
wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantees that it is lawfully seized of said land in fee
simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully war-
rants the title in said land and will defend the same against the lawful claims of all persons whomsoever;
and that said land is free of all encumbrances

In Witness Whereof the grantor has caused these presents to
be executed in its name, and its corporate seal to be hereunto affixed, by its
proper officers thereunto duly authorized, the day and year first above written.

PALM SHORES ESTATES, INC., a Florida
Corporation

By: *[Signature]*
DANNY L. WILBOURNE President



Signed, sealed and delivered in the presence of:

[Signature]
WITNESS Dawn M. Craver

WITNESS Pamela W. Trapani

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments,
personally appeared DANNY L. WILBOURNE

well known to me to be the President of the corporation named as grantor
in the foregoing deed and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily
under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of AUGUST A. D. 1991.



[Signature]
NOTARY PUBLIC - PAMELA W. TRAPANI

BK 3144 PG 3402



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700

<https://www.bcpao.us>

PROPERTY DETAILS

Account 2609962
 Owners Mc Harvey, Frances A
 Mailing Address 153 Palm Cir Melbourne FL 32940
 Site Address 153 Palm Cir Palm Shores FL 32940
 Parcel ID 26-37-30-75-A-34
 Property Use 0110 - Single Family Residence
 Exemptions HEX1 - Homestead First
 HEX2 - Homestead Additional
 SNCO - Senior - County
 Taxing District 43J0 - Palm Shores
 Total Acres 0.25
 Subdivision Palm Shore Estates
 Site Code 0001 - No Other Code Appl.
 Plat Book/Page 0035/0024
 Land Description Palm Shore Estates Lot 34 Blk A



VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$141,530	\$88,070	\$96,070
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$78,800	\$77,180	\$76,650
Assessed Value School	\$78,800	\$77,180	\$76,650
Homestead Exemption	\$25,000	\$25,000	\$25,000
Additional Homestead	\$25,000	\$25,000	\$25,000
Other Exemptions	\$28,800	\$27,180	\$26,650
Taxable Value Non-School	\$28,800	\$27,180	\$26,650
Taxable Value School	\$53,800	\$52,180	\$51,650

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
08/30/1991	\$90,000	WD	Improved	3144/3402

BUILDINGS

PROPERTY DATA CARD #1

Building Use	Year Built	Story Height	Floors	Residential Units	Commercial Units
0110 - Single Family Residence	1989	8	1	1	0

Materials

Exterior Wall: Brick
 Frame: Wood Frame
 Roof: Asph/Asb Shngl
 Roof Structure: Hip/Gable

Sub Areas

Base Area (1st)	1332
Garage	484
Open Porch	70
Screen Porch	300
Total Base Area	1332
Total Sub Area	2186

Extra Features

Fireplace 1

Additional Extra Features

No Data Found

Return to: 11604-13-00425
North American Title Company
130 Interlachen Road, Suite B
Melbourne, Florida 32940

This Instrument Prepared
under the supervision of:
Mark J. Loterstein, Esq.
North American Title Company
130 Interlachen Road, Suite B
Melbourne, Florida 32940

Property Appraisers Parcel Identification (Folio) Number: 26-37-30-75-0000A.0-0035.

WARRANTY DEED

This Warranty Deed made this 26th day of August, 2013 by Kathi D. Trumeter, a single woman, whose mailing address is 1905 Cedarwood Drive, Melbourne, FL 32935, hereinafter called the grantor(s), to Frances A. McHarvey, a single woman, whose post office address is 153 Palm Circle, Melbourne, FL 32940, hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor(s), for and in consideration of the sum of \$10.00 (ten) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, allens, remises, releases, conveys and confirms unto the grantee all that certain land situate in Brevard County, State of Florida, viz:

Lot 35, Block A, Palm Shore Estates, according to the map or plat thereof, as recorded in Plat Book 35, Page(s) 24 and 25, Inclusive, of the Public Records of Brevard County, Florida.

SUBJECT TO: covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2013 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any,

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

[Signature]
First Witness Signature
JOAN T. READ
Witness Printed Signature
Vivian K. Franzen
Second Witness Signature
Vivian K. Franzen
Witness Printed Signature

Third Witness Signature

Witness Printed Signature

Fourth Witness Signature

Witness Printed Signature

[Signature]
Kathi D. Trumeter

STATE OF: Florida
COUNTY OF: Brevard

The foregoing instrument was acknowledged before me this 26th day of August, 2013 by Kathi D. Trumeter, a single woman hereinafter called the grantor(s), who produced a FDX as identification.

My Commission Expires:



[Signature]
Notary Signature Notary Public, State and County Aforesaid
JOAN T. READ
Printed Notary Signature



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700

<https://www.bcpao.us>

PROPERTY DETAILS

Account 2609963
Owners Mc Harvey, Frances A
Mailing Address 153 Palm Cir Melbourne FL 32940
Site Address 155 Palm Cir Palm Shores FL 32940
Parcel ID 26-37-30-75-A-35
Property Use 0010 - Vacant Residential Land (Single Family, Platted)
Exemptions None
Taxing District 43J0 - Palm Shores
Total Acres 0.25
Subdivision Palm Shore Estates
Site Code 0001 - No Other Code Appl.
Plat Book/Page 0035/0024
Land Description Palm Shore Estates Lot 35 Blk A

VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$25,000	\$25,000	\$25,000
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$25,000	\$25,000	\$25,000
Assessed Value School	\$25,000	\$25,000	\$25,000
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$25,000	\$25,000	\$25,000
Taxable Value School	\$25,000	\$25,000	\$25,000

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
08/26/2013	\$10,000	WD	Vacant	6957/2504
02/28/1996	\$10,000	WD	Vacant	3549/0723
07/30/1991	\$14,500	WD	Vacant	3142/0662

BUILDINGS

No Data Found

Prepared by and Return to:
Amy J. Harvey
Alday-Donalson Title Agencies of America, Inc.
1990 W. New Haven Avenue, Suite 102
Melbourne, Florida 32904
File Number: 11050016



CFN 2005059066 02-21-2005 10:33 am
OR Book/Page: 5424 / 8573

Scott Ellis
Clerk Of Courts, Brevard County
#Pgs: 1 #Names: 4
Trust: 1.00 Rec: 9.00 Serv: 0.00
1,963.50 Excise: 0.00
Mtg: 0.00 nt Tax: 0.00

This Warranty Deed

Made this February 14, 2005 A.D. By **STEVEN JAMES KLASSEN** and **CATHERINE MARIE KLASSEN**, husband and wife hereinafter called the grantor,

to **KENNETH J. MYRBACK, JR.** and **MARIA K. MYRBACK**, husband and wife,

whose post office address is: hereinafter called the grantee: **157 PALM CIRCLE, MELBOURNE, FL 32940**

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Brevard County, Florida, viz:

Lot 36, Block A, PALM SHORE ESTATES, according to the plat thereof, as recorded in Plat Book 35, Page 24 and 25, Public Records of Brevard County, Florida.

SUBJECT TO covenants, restrictions, easements of record and taxes for the current year.

Parcel ID Number: 26-37-30-75-A-36

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2004.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Printed Name: Amy J. Harvey

Witness Printed Name: Pat Thompson

Witness Printed Name: _____

Witness Printed Name: _____

Steven James Klassen (Seal)
STEVEN JAMES KLASSEN

Address: Catherine Marie Klassen (Seal)
CATHERINE MARIE KLASSEN

Address: 361 Deer Lakes Dr. (Seal)
Melbourne, FL 32940

Address: _____ (Seal)

State of: Florida
County of Brevard

The foregoing instrument was acknowledged before me this 14th day of February, 2005, by STEVEN JAMES KLASSEN and CATHERINE MARIE KLASSEN, husband and wife, who is/are personally known to me or who has produced a valid drivers license as identification.

[Signature]
Notary Public
Printed Name: _____
(Seal)



AMY J. HARVEY
Notary Public, State of Florida
My Comm. exp. April 20, 2007
Comm. No. DD184174



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700

<https://www.bcpao.us>

PROPERTY DETAILS

Account 2609964
 Owners Myrback, Kenneth J Jr; Myrback, Maria K
 Mailing Address 157 Palm Cir Melbourne FL 32940
 Site Address 157 Palm Cir Palm Shores FL 32940
 Parcel ID 26-37-30-75-A-36
 Property Use 0110 - Single Family Residence
 Exemptions HEX1 - Homestead First
 HEX2 - Homestead Additional
 Taxing District 43J0 - Palm Shores
 Total Acres 0.25
 Subdivision Palm Shore Estates
 Site Code 0001 - No Other Code Appl.
 Plat Book/Page 0035/0024
 Land Description Palm Shore Estates Lot 36 Blk A



VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$170,680	\$131,140	\$136,240
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$133,890	\$131,140	\$130,620
Assessed Value School	\$133,890	\$131,140	\$130,620
Homestead Exemption	\$25,000	\$25,000	\$25,000
Additional Homestead	\$25,000	\$25,000	\$25,000
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$83,890	\$81,140	\$80,620
Taxable Value School	\$108,890	\$106,140	\$105,620

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
02/14/2005	\$280,500	WD	Improved	5424/8573
06/30/1999	\$16,500	WD	Vacant	4044/3784
02/28/1996	\$10,000	WD	Vacant	3545/4244
07/30/1991	\$14,500	WD	Vacant	3142/0619

BUILDINGS

PROPERTY DATA CARD #1

Building Use	Year Built	Story Height	Floors	Residential Units	Commercial Units
0110 - Single Family Residence	2000	8	1	1	0

Materials	Sub Areas	
Exterior Wall: Stucco	Base Area (1st)	1852
Frame: Masnryconc	Garage	430
Roof: Asph/Asb Shngl	Open Porch	65
Roof Structure: Hip/Gable	Screen Porch	305
	Total Base Area	1852
	Total Sub Area	2652

Extra Features	Additional Extra Features
Patio: Concrete 352	No Data Found

This Document Prepared By and Return to:
Jay R. Thakkar, Esq.
Cantwell & Goldman, P.A.
96 Willard St., Suite 302
Cocoa, FL 32922

Parcel ID Number: 26-37-30-75-A-37

Warranty Deed

This Indenture, Made this 29th day of January, 2017 A.D., Between Jeffrey G. Smith, an unmarried man of the County of Brevard, State of Florida, grantor, and Gary Jarek and Lori A. Jarek, husband and wife whose address is: 159 Palm Circle, Palm Shores, FL 32935 of the County of Brevard, State of Florida, grantees.

Witnesseth that the GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10) DOLLARS, and other good and valuable consideration to GRANTOR in hand paid by GRANTEEES, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEEES and GRANTEEES' heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Brevard State of Florida to wit:

Lot 37, Block A, Palm Shore Estates, according to the map or plat thereof, as recorded in Plat Book 35, Page(s) 24 through 25, inclusive, of the Public Records of Brevard County, Florida.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Blair Wilgus
Printed Name: Blair Wilgus
Witness

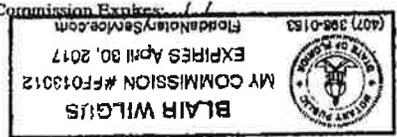
Jeffrey G. Smith (Seal)
Jeffrey G. Smith
P.O. Address: 1201 Hutchinson Pond Rd., Habers, GA 31632

Paula Kuznetsov
Printed Name: Paula Kuznetsov
Witness

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 29th day of January, 2017 by Jeffrey G. Smith, an unmarried man who is personally known to me or who has produced his _____ as identification.

Blair Wilgus
Printed Name: _____
Notary Public
My Commission Expires: 1/1





Brevard County Property Appraiser
 Titusville • Merritt Island • Viera • Melbourne • Palm Bay
 PROPERTY DETAILS

Phone: (321) 264-6700
<https://www.bcpao.us>

Account 2609965
 Owners Jarek, Gary; Jarek, Lori A
 Mailing Address 159 Palm Cir Palm Shores FL 32940-7209
 Site Address 159 Palm Cir Palm Shores FL 32940
 Parcel ID 26-37-30-75-A-37
 Property Use 0110 - Single Family Residence
 Exemptions HEX1 - Homestead First
 HEX2 - Homestead Additional
 Taxing District 43J0 - Palm Shores
 Total Acres 0.25
 Subdivision Palm Shore Estates
 Site Code 0001 - No Other Code Appl.
 Plat Book/Page 0035/0024
 Land Description Palm Shore Estates Lot 37 Blk A



VALUE SUMMARY

Category	2017	2016	2015
Total Market Value	\$155,480	\$114,620	\$120,930
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$102,250	\$99,150	\$98,470
Assessed Value School	\$102,250	\$99,150	\$98,470
Homestead Exemption	\$25,000	\$25,000	\$25,000
Additional Homestead	\$25,000	\$25,000	\$25,000
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$52,250	\$49,150	\$48,470
Taxable Value School	\$77,250	\$74,150	\$73,470

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
01/29/2017	\$199,500	WD	Improved	7810/1325
12/02/2009	--	QC	Improved	6087/2206
05/08/2009	\$135,000	WD	Improved	5984/2334
06/18/2008	--	CT	Improved	5872/9264
04/14/2005	\$217,000	WD	Improved	5455/6543
08/10/2000	\$106,500	WD	Improved	4206/0511
12/30/1997	\$118,000	WD	Improved	3750/1739
12/01/1993	--	QC	Vacant	3349/0684
07/01/1993	\$26,000	NN	Vacant	3307/1277
05/30/1993	\$20,000	WD	Vacant	3293/1528
11/01/1992	--	PT	Vacant	3244/0615
01/01/1992	--	CT	Vacant	3173/0447

BUILDINGS

PROPERTY DATA CARD #1

Building Use	Year Built	Story Height	Floors	Residential Units	Commercial Units
0110 - Single Family Residence	1993	8	1	1	0

Materials	Sub Areas	
Exterior Wall: Brick	Base Area (1st)	1486
Frame: Wood Frame	Garage	400
Roof: Asph/Asb Shngl	Open Porch	54

Roof Structure:

Hip/Gable

Screen Porch
Total Base Area
Total Sub Area

288
1486
2228

Extra Features
Patio: Concrete

364

Additional Extra Features
No Data Found

01-GWD.09-02/99
August 14, 2000
This instrument prepared by
ALICIA CREW
under the direction of
GEORGE S. LOVETT, ATTORNEY
Department of Transportation
719 South Woodland Boulevard
DeLand, Florida 32720


CFN:2001224279 10-16-2001 11:19 am
OR Book/Page: 4441 / 0189

Scott Ellis
Clerk Of Courts, Brevard County
#Pgs: 5 #Names: 4
Trust: 2.00 Rec: 13.00 Serv: 0.00
Mfg: 0.00 Exclse: 0.00
Int Tax: 0.00

PARCEL NO. 137.1R
SECTION 70020-2549
F.P. NO. 237550 1
STATE ROAD 5
COUNTY: BREVARD

PLEASE RETURN TO
FLA. DEPT OF TRANSPORTATION
R/W RECORDS MGM MSI-S51
719 S. WOODLAND BOULEVARD
DELAND, FL 32720-6834
ATTN: M. BUSCHER

WARRANTY DEED

THIS WARRANTY DEED Made the 22 day of August, 2001, by
CORINNE K. RABENSTEINER, individually and as Trustee of the "Chiefet"
Revocable Trust, (ADDRESS PRINT/TYPE): 5240 N. HARBOR CITY BLVD,
PALM SHORES, FL 32940 grantor(s), to the STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION, grantee: (wherever used herein the terms "grantor" and
"grantee" include all the parties to this instrument and the heirs,
legal representatives and assigns of individuals and the successors, and
assigns of organizations).

WITNESSETH: That the grantor, for and in consideration of the sum
of \$1.00 and other valuable considerations, receipt and sufficiency
being hereby acknowledged, hereby grants, bargains, sells, aliens,
remises, releases, conveys and confirms unto the grantee, all that
certain land situate in Brevard County, Florida, viz:

PARCEL NO. 137 SECTION NO. 70020-2549
F.P. NO. 237550 1

THAT PART OF:

"Lots Three (3), Four (4), Five (5) and Six (6), Block A, except Highway
Right-of-Way, INDIAN RIVER HOME SITES, according to the plat thereof, as
recorded in Plat Book 3, Page 37, Public Records of Brevard County,
Florida."

(The above described parcel of land being those lands described and
recorded in Official Records Book 4088, Page 3541, Public Records of
Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

From an old 4" X 4" coquina monument at the Southwest corner of Lot 4 of
the plat of HONEYBROOK PLANTATION, as recorded in Plat Book 9, Page 75,
Public Records of Brevard County, Florida, run North 89 degrees 39
minutes 08 seconds East 195.365 meters (640.96 feet) along the North
boundary of Lot 5 of said HONEYBROOK PLANTATION to a point on the
existing West right of way-line of State Road 5, said existing West
right of way line being parallel with and 18.898 meters (62.00 feet)
West of, when measured at right angles to, the centerline of survey for
said State Road 5 as shown on the Florida Department Transportation
Right of Way Map, Section 70020-2549; thence North 15 degrees 31 minutes
10 seconds West 184.303 meters (604.67 feet) along said existing West
right of way line to a point on the South boundary of that certain
parcel of land as described and recorded in Official Records Book 1573,
Page 355, Public Records of Brevard County, Florida for the POINT OF
BEGINNING; thence North 89 degrees 57 minutes 03 seconds West 38.541
meters (126.45 feet) along said South boundary to the Southwest corner
of Lot 6, Block "A" of INDIAN RIVER HOMESITES, as recorded in Plat Book

PARCEL NO. 137.1R
SECTION 70020-2549
F.P. NO. 237550 1
PAGE 2

3, Page 37, Public Records of Brevard County, Florida; thence North 18 degrees 54 minutes 22 seconds West 7.652 meters (25.10 feet) to the Northwest corner of said Lot 6; thence South 89 degrees 57 minutes 08 seconds East 18.769 meters (61.58 feet) along the North boundary of said Lot 6 to the beginning of a nontangent curve concave Southwesterly and having a radius of 2022.500 meters (6635.49 feet); thence from a tangent bearing of North 17 degrees 12 minutes 24 seconds West, run Northwesterly 22.778 meters (74.73 feet) along the arc of said curve with a chord bearing of North 17 degrees 31 minutes 46 seconds West through a central angle of 00 degrees 38 minutes 43 seconds to a point on the North boundary of Lot 3 of the aforesaid Block "A"; thence South 89 degrees 57 minutes 21 seconds East 21.069 meters (69.12 feet) along said North boundary to the aforesaid existing West right of way line; thence South 15 degrees 31 minutes 10 seconds East 30.054 meters (98.60 feet) along said West right of way line to the Point of Beginning.

CONTAINING: 728.6 Square meters (7,843 Square feet), more or less.

This legal description prepared
under the direction of:
Michael N. Crozier, PLS #3186
Jones, Wood & Gentry, Inc.
136 East Robinson Street
Orlando, Florida 32801



TOGETHER with all tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

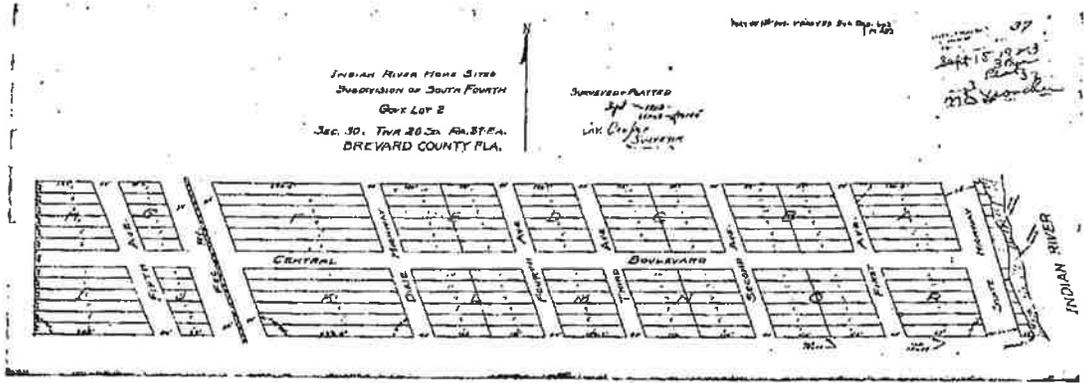
IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

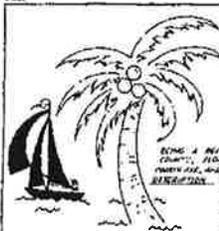
Signed, sealed and delivered in
the presence of: (Two witnesses
required by Florida Law, PRINT/TYPE
NAME BELOW SIGNATURE)

JACK L. KRAUA
JACK L. KRAUA

LA SHARNE R. CHASE
LaShayne R. Chase

CORINNE K. RABENSTEINER
CORINNE K. RABENSTEINER,
Individually, and as Trustee
5246 N. Harbor City Blvd
P.O. Box 360334
Melbourne, FL 32936





PALM SHORE ESTATES

A SUBDIVISION OF A PORTION OF
SECTION 30, TOWNSHIP 26 SOUTH, RANGE 37
EAST, PALM SHORES, BREVARD COUNTY, FLORIDA.

BEING A PART OF A PORTION OF LOTS 1-4 OF SUBDIVISION PLANNED IN 1958 AS SHOWN ON THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND A PART OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

- ### GENERAL NOTES
1. THIS PLAN IS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE FLORIDA STATUTES...
 2. THE BOUNDARIES OF THE TRACT ARE SHOWN BY THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA...
 3. THE DISTANCES ARE GIVEN IN FEET AND DECIMALS THEREOF...
 4. THE BEARING OF EACH LINE IS GIVEN IN DEGREES, MINUTES AND SECONDS...
 5. THE AREA OF EACH LOT IS GIVEN IN SQUARE FEET AND DECIMALS THEREOF...
 6. THE CURVE DATA IS GIVEN IN THE CURVE TABLE...
 7. THE PLANNED IMPROVEMENTS ARE SHOWN BY DASHED LINES...
 8. THE PLANNED IMPROVEMENTS ARE SUBJECT TO THE APPROVAL OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS...
 9. THE PLANNED IMPROVEMENTS ARE SUBJECT TO THE APPROVAL OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS...
 10. THE PLANNED IMPROVEMENTS ARE SUBJECT TO THE APPROVAL OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS...

- ### SURVEYOR'S NOTES
1. THIS SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 2. THE INSTRUMENTS USED WERE OF THE MOST ACCURATE TYPE...
 3. THE BEARING AND DISTANCE OF EACH LINE WAS MEASURED AND CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 4. THE AREA OF EACH LOT WAS CALCULATED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 5. THE CURVE DATA WAS CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 6. THE PLANNED IMPROVEMENTS WERE CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 7. THE PLANNED IMPROVEMENTS WERE CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 8. THE PLANNED IMPROVEMENTS WERE CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 9. THE PLANNED IMPROVEMENTS WERE CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...
 10. THE PLANNED IMPROVEMENTS WERE CHECKED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION...

NO.	BEARING	DELTA	ARC	CHORD	DELTA	ARC	CHORD	DELTA	ARC	CHORD
1	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
2	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
3	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
4	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
5	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
6	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
7	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
8	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
9	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00
10	89° 58' 00"	90° 02' 00"	100.00	100.00	180° 00' 00"	100.00	100.00	180° 00' 00"	100.00	100.00



PREPARED BY
BRIEL & ASSOCIATES
LAND SURVEYORS, INC.
MILLSIDE PLAZA, SUITE 100
10012 155th Ave SE
SHEET 1 OF 2

PLAT BOOK 35
AND PAGE 24

STATEMENT
I, the undersigned, being a duly qualified and licensed Surveyor in and for the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original record of the same as the same appears on the records of the State of Florida, and that the same is a true and correct copy of the original record of the same as the same appears on the records of the State of Florida.

PLANNED IMPROVEMENTS
The planned improvements shown on this plan are subject to the approval of the Brevard County Board of County Commissioners, and the same shall be subject to the approval of the Brevard County Board of County Commissioners.

RECORDING INFORMATION
This plan was recorded on this day of this month, 2017, at the office of the Clerk of the Board of County Commissioners, Brevard County, Florida.

BY _____
Surveyor

WITNESSED BY _____
Clerk of the Board of County Commissioners

RECORDING INFORMATION
This plan was recorded on this day of this month, 2017, at the office of the Clerk of the Board of County Commissioners, Brevard County, Florida.

BY _____
Surveyor

WITNESSED BY _____
Clerk of the Board of County Commissioners

PALM SHORE ESTATES

A SUBDIVISION OF A PORTION OF
SECTION 30, TOWNSHIP 26 SOUTH, RANGE 37
EAST, PALM SHORES, BREVARD COUNTY, FLORIDA.

BEING A PART OF A PORTION OF LOTS 1-11 OF HUNTERTON PLANTATION AS RECORDED
IN PLAT BOOK 6, PAGE 28 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING
A PART OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 AND 11 OF THE TRACT DESCRIBED AS OLD STATE ROAD, THIRD 200 FEET
WIDE AS SHOWN ON THE PLAT OF HUNTERTON PLANTATION, PG. 1, PL. 67 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



PLAT BOOK 95
PAGE 25



PREPARED BY
ORIEL & ASSOCIATES
LAND SURVEYORS, INC.
1401 1ST BEACH, PALM BEACH, FLORIDA
(407) 754-0078
SHEET 2 OF 2

Order: 17117413
Doc: F:\BREVARD\173509026

Public Record
Page 2 of 2

Requested by: Lindsey Cash, Platfiled: 1/10/2017 12:29 PM

File No.
17117418

FYI

The Daily Times

Published Daily

MELBOURNE, BREVARD COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared Fred McFarlin, who on oath says that he is publisher of The Daily Times, a daily newspaper published at Melbourne, in Brevard County, Florida; that the attached copy of advertisement, being a Legal Notice

Board County Commissioners

in the matter of Public Hearing

closing, vacating is the

Court, was published

in said newspaper in the issues of
June 7, 1963

Affiant further says that the said The Daily Times is a newspaper published at Melbourne, in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, each week and has been entered as second class mail matter at the post office in Melbourne, in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Fred McFarlin

Sworn to and subscribed

before me this 10



A. D. 1963

Notary Public
State of Florida at Large
My Commission Expires Feb. 23, 1966
Issued by American Press & County Co.

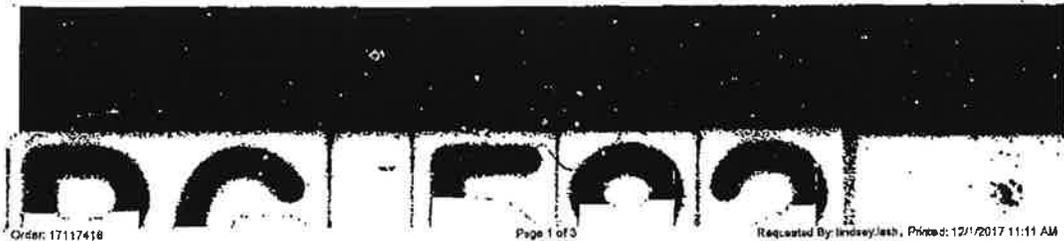
LEGAL NOTICE

NOTICE OF PUBLIC HEARING TO BE HELD AT MELBOURNE, FLORIDA, IN THE MATTER OF THE CLOSING AND VACATING OF THE PUBLIC HIGHWAY BEING THE HIGHWAY DESCRIBED IN THE FOLLOWING PARAGRAPHS: That section of First Avenue, being south of Central Boulevard, in Melbourne, in said Brevard County, Florida, from the intersection of said First Avenue and the Public Highway being the highway described in the following paragraph:

That section of First Avenue, being south of Central Boulevard, in Melbourne, in said Brevard County, Florida, from the intersection of said First Avenue and the Public Highway being the highway described in the following paragraph:

JOHN H. WICKHAM, CHAIRMAN, BOARD OF COUNTY COMMISSIONERS, BREVARD COUNTY, FLORIDA.
June 9, 1963

JUN 13 1963



June 20, 1963.

RR 603 PAGE 583

On motion of Commissioner King, seconded by Commissioner Wenner, the following resolution was unanimously adopted:

R E S O L U T I O N .

WHEREAS, proper petition was filed with the Board of County Commissioners of Brevard County, Florida, at their May 23rd meeting, 1963, requesting the closing and vacation of a portion of First Avenue, lying South of Central Boulevard, in Government Lot No.2, Section 30, Twp.26 South, Range 37 East, Brevard County Florida, for reasons set forth in the Petition, and

WHEREAS, on the same day the Board of County Commissioners adopted a resolution to consider the advisability of such closing and set the time and place for a public hearing, the same being in the Commissioners Room, Court House, in Titusville, Florida, at the hour of 10:30 o'clock A.M., on the 20th day of June, 1963, and

WHEREAS, at such hearing no objections were presented, either oral or written,-

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Brevard County, Florida, that the request in the petition of Robert M. Pursell, be and the same is hereby granted, and the following portion of Street is hereby closed, vacated, abandoned, and discontinued, and all rights of the County and the public are hereby terminated and discontinued, as to the following portion of Street:

That portion of First Avenue, lying south of Central Boulevard, in Government Lot No.2, Sec.30, Twp.26 South, Range 37 East, Brevard County, Florida.

And the Clerk is hereby directed to cause Notice thereof to be published one time in the Daily Times, as by law provided.

DONE AND ADOPTED, in regular session this 20th day of June



Joe H. Wickham
JOE H. WICKHAM, CHAIRMAN,
BOARD OF COUNTY COMMISSIONERS,
BREVARD COUNTY, FLORIDA.



The Daily Times

Published Daily

MELBOURNE, BREVARD COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared Fred McPartin, who on oath says that he is publisher of The Daily Times, a daily newspaper published at Melbourne, in Brevard County, Florida; that the attached copy of advertisement, being a Legal Notice

Board County Commissioners

in the matter of Adoption Resolution

in the _____ in the _____ Court, was published

in said newspaper in the issues of _____
June 26, 1963

Affiant further says that the said The Daily Times is a newspaper published at Melbourne, in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, each week and has been entered as second class mail matter at the post office in Melbourne, in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Fred McPartin
Sworn to and subscribed

before me this _____ day of _____ A. D. 1963.
Walter Ross
Notary Public
Notary Public, State of Florida at Large
My Commission Expires A. D. 1963
Issued by American Fee & County Co.

LEGAL NOTICE
NOTICE OF ADOPTION OF RESOLUTION
NOTICE is hereby given that the Board of County Commissioners of Brevard County, Florida, did on the 20th day of June, A. D. 1963, adopt a resolution, creating, vacating, re-constituting and re-designating the following portion of a street, described as follows:
That portion of First Avenue, lying South of Central Boulevard, in Contracted Lot No. 5, Section 20, Twp. 28 South, Range 27 East, Brevard County, Florida, and enclosing any interest of Brevard County, and the Public in and to said portion of said First Avenue above described.
All persons take notice and govern themselves accordingly.
June 28, 1963
(S E A L)
Joe H. Wickham, Chairman
Board of County Commissioners
Brevard County, Florida
June 28, 1963

FILED AND RECORDED
BREVARD COUNTY, FLA.
VERIFIED
359188
JUN 18 AM 9 02
Walter Ross
Notary Public



CAPE PUBLICATIONS, INC. VERIFIED

The Times
Published Weekly on Wednesdays

THE TRIBUNE
Published Weekly on Wednesdays

STAR-ADVOCATE
Published Weekly on Wednesdays



Published Daily

3
 2.00
 1.50
 1.00
 0.50
 0.25

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared Linda L. Spicer who on oath says that he/she is Legal Advertising Clerk of the FLORIDA TODAY, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a Legal Notice

in the matter of vacate road rights-of-way in Indian River Home Sites by Dan Wilbourne in the Court

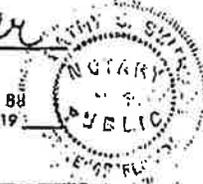
was published in the FLORIDA TODAY NEWSPAPER in the issues of June 30, 1988

Affiant further says that the said FLORIDA TODAY NEWSPAPER is a newspaper published in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida regularly as stated above, and has been entered as second class mail matter at the post office in COCOA, said Brevard County, Florida for a period of one year next preceeding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Linda L. Spicer
Sworn and subscribed to before me this

30th day of June 88 A.D. 19

Gally Smith
Notary Public
State of Florida at Large
Commission Expires March 29, 1992



OFF. REC.
2929

NOTICE OF PUBLIC HEARING TO VACATE ROAD RIGHTS-OF-WAY IN INDIAN RIVER HOME SITES
 TO WHOM IT MAY CONCERN: NOTICE IS HEREBY GIVEN that pursuant to Chapter 219, Chapter 22, and Article I, Section 10, of the Florida Constitution, the Board of County Commissioners of Brevard County, Florida, on June 21, 1988, resolved the vacating of the following described road rights-of-way, to wit:

All of Block P, N. E. 1/4 and E 1/2 of that part of Tract 27, containing Blocks A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, and 1/2 of that part of Old State Highway 1, and 1/2 of that part of County Highway 1, being located in the PLAT OF THE SITES, as shown on the plat of Block 2, Page 2 of the Public Records of Brevard County, Florida.

Also, that part of the Old State Highway bounded on the North by the line of INDIAN RIVER HOME SITES, as shown on the plat of Block 2, Page 2 of the Public Records of Brevard County, Florida.

The Board of County Commissioners will hold a public hearing to determine the propriety of such vacating of the property of such road rights-of-way, at 10:00 A.M. on July 17, 1988, in North Brevard Service Center, Titusville, Florida, 700 Park Avenue, and shall sit down for or appoint the same that no hearing shall be held unless notice is given.

Noticed in Section 219.11, Florida Statutes, if a person desires to object any vacating made by the Board with respect to the vacating, he or she must file a petition with the Board and a petition record in which the Board includes testimony and evidence upon which the matter is being vacated. However, no fee is required for such vacation record.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA
 R. C. WOODWARD, JR.
 CLERK
 P.O. Box 1000, DeFuniak Springs, Florida 32530-1000

542196

88 AUG -2 AM 8:31

RECEIVED
 PAGE 2910
 JUN 30 1988
 Board of County Commissioners

RESOLUTION NO. 88-255

VACATING OF ROAD RIGHT-OF-WAY IN INDIAN RIVER
HOME SITES SUBDIVISION IN SECTION 30, TOWNSHIP
26 SOUTH, RANGE 37 EAST

WHEREAS, pursuant to Article I, Chapter 20, Brevard County Code, a petition was filed by DAN WILBOURNE to vacate road rights-of-ways in Brevard County, Florida, described as follows:

All of Blocks F, K, L, M and N and that part of Third Avenue lying between Blocks M and N; that part of Fourth Avenue lying between Blocks M and L; that part of Old Dixie Highway lying between Blocks L and K; that part of Center Boulevard lying between Blocks F and K; all according to the PLAT OF INDIAN RIVER HOME SITES as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County, Florida.

Also, that part of the Old Dixie Highway bounded on the North by the South line of INDIAN RIVER HOME SITES in Plat Book 3, Page 37; and bounded on the south by the west line of Honeybrook Plantation in Plat Book 9, Page 75 of the Public Records of Brevard County, Florida.

WHEREAS, notice of the public hearing before the Board of County Commissioners was published in the TODAY Newspaper, a newspaper of general circulation in Brevard County, Florida, one time at least two weeks prior to the date of said hearing; and

WHEREAS, the Board finds that the vacating of the road rights-of-way will not operate to the detriment of Brevard County or the public.

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that the road rights-of-way described above is hereby vacated; and Brevard County renounces and disclaims any rights in and to said rights-of-way.

DONE, ORDERED AND ADOPTED, in regular session, this 19th day of July A.D., 1988.


SUE SCHMITT, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

ATTEST:


R. C. WINSTEAD, JR.

DEF. REC.
CLERK
2929

PAGE

2911



CAPE PUBLICATIONS, INC.

The Times
Published Weekly on Wednesdays

THE TRIBUNE
Published Weekly on Wednesdays

STAR-ADVOCATE
Published Weekly on Wednesdays



Published Daily

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared Linda L. Spicer who on oath says that he/she is Legal Advertising Clerk of the FLORIDA TODAY, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a Legal Notice

_____ in the matter of _____
Board of County Commissioners Adoption of Resolution
Indian River Home Sites in the _____ Court

was published in the FLORIDA TODAY NEWSPAPER
in the issues of July 28, 1988

Affiant further says that the said FLORIDA TODAY NEWSPAPER is a newspaper published in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida regularly as stated above, and has been entered as second class mail matter at the post office in COCOA, said Brevard County, Florida for a period of one year next preceeding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

ADOPTION OF RESOLUTION
VACATING ROAD RIGHTS-
OF-WAY IN INDIAN RIVER
HOME SITES
TO WHICH IT MAY CONCERNE
NOTICE IS HEREBY GIVEN
that on the 18th day of July, 1988,
the Board of County Commissioners
of Brevard County, Florida,
adopted a resolution vacating
road rights-of-way in Indian Riv-
er Home Sites, as indicated by
DAN WILBOURNE, to wit:

ALL of Blocks P, X, L, M and
N and that part of Third Ave-
nue lying between Blocks M
and N; that part of Fourth
Avenue lying between Blocks
M and N; that part of Old
Oak Highway lying between
Blocks L and M; that part of
Center Road lying between
Blocks P and Q; and all ac-
cordance to the PLAT OF IN-
DIAN RIVER HOME
SITES, as recorded in Plat
Book 2, Page 22 of the Public
Records of Brevard County,
Florida.

And, that part of the Old
Oak Highway bounded on
the North by the South line of
INDIAN RIVER HOME
SITES in Plat Book 2, Page
22; and bounded on the South
by the west line of Water-
tough Plantation in Plat Book
2, Page 15 of the Public Re-
cords of Brevard County,
Florida.

The Board further requested and
directed any title of the Coun-
ty and to said road rights-of-
way.
All persons take notice and
comply therewith accordingly.
BY ORDER OF THE BOARD OF
COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA
D. C. WILBOURNE, JR.,
CLERK
By: Daniel Yarnall, Deputy Clerk
10-28-11-77/8 1988
Terryway

Linda L. Spicer
Sworn and subscribed to before me this

28th day of July 1988

Gayle J. Smith 2929
Notary Public
State of Florida at Large
My Commission Expires March 23, 1992



RECEIVED
JUL 29 1988

Board of County Commissioners

PAGE
2912

RESOLUTION 2009-07

VACATING RIGHT-OF-WAY IN PLAT OF INDIAN RIVER HOME SITES IN SECTION 30, TOWNSHIP 26 SOUTH, RANGE 37 EAST

Whereas, a petition has been filed by Edward Mason with Brevard County and the Town of Palm Shores, Florida to vacate First Avenue, a right-of-way in the Town of Palm Shores, described in Exhibit A attached.

Whereas, Brevard County has indicated to the Town that the County has no interest in the right-of-way and renounces any claims thereto;

Whereas, the vacating action will in no way affect any private easements which may also be present in the existing public easement or public right-of-way;

Whereas, the abutting property owners have consented to the vacating of the right-of-way;

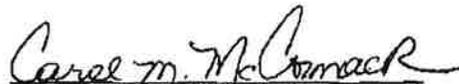
Whereas, the Town Council finds that vacating the right-of-way will not be detrimental to the Town of Palm Shores or the public.

Now Therefore, be it resolved by the Town Council of the Town of Palm Shores, Florida, that the right-of-way as described in Exhibit A is hereby vacated; and renounces and disclaims any rights in and to said right-of-way.

DONE, ORDERED, AND ADOPTED this 21st day of October, 2009 by the Town Council of the Town of Palm Shores.



Patricia J. Burke, CMC
Town Clerk

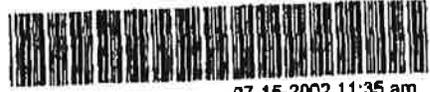

Carol M. McCormack, Mayor
Town of Palm Shores

DESCRIPTION:

A portion of First Avenue lying in Section 30, Township 26 South, Range 37 East, Brevard County, Florida, being more particularly described as follows:

Beginning at the southwest corner of Lot 6 Block A, of Indian River Home Sites, as described in Plat Book 3, Page 37 of the Public Records of Brevard County, Florida; thence run $N89^{\circ}57'03''W$ along the north right of way line of Central Boulevard (a 40 foot right of way), a distance of 42.29 feet to the west right of way line of First Avenue (a 40 foot right of way) and the southeast corner of Lot 6, Block B of said Indian River Homesites; thence run $N18^{\circ}54'22''W$ along said west right of way line and the east line of Block B of said Indian River Homesites, a distance of 150.62 feet to the northeast corner of Lot 1, Block B, of said Indian River Homesites; thence run $S89^{\circ}57'30''W$ a distance of 42.29 feet to the east right of way line of First Avenue and the northwest corner of Lot 1, Block A, of said Indian River Homesites; then run $S18^{\circ}54'22''E$ along the said east right of line and the west line of Block A of said Indian River Homesites, a distance of 150.63 feet to the point of beginning; containing 0.138 acres, more or less.

EXHIBIT A



CFN 2002175199 07-15-2002 11:35 am
OR Book/Page: 4637 / 1839

ORDINANCE-01-18

AN ORDINANCE OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, AMENDING THE OFFICIAL TOWN ZONING MAP FOR A PARCEL OF LAND DESCRIBED AS 26-37-30-01-0000C.0-0000.00 INDIAN RIVER HOMESITES LEGALLY DESCRIBED AS "Lots 1-3 and lots 10-12, Block C and lots 1-3, Block D, Indian River Home sites as Recorded in Plan Book 3, Page 37, Together with the North half of vacated third Avenue and the North Half of Vacated Fourth Avenue as Recorded in Official Records Book 3246, Page 1744, All within the Public Records of Brevard County, Florida. Contains .69 acres more or less" LOCATED AT 2340 MILLER COVE RD, MELBOURNE, FL 32940 FROM R-2 TO C-2 ; PROVIDING FOR REPEAL OF EXISTING ORDINANCES IN CONFLICT HERewith; PROVIDING FOR FILING WITH THE BREVARD COUNTY PROPERTY APPRAISER; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

Record + Return to:
Town of Palm Shores
5030 Paul Hurt Lane
Palm Shores, FL 32940

Whereas, the owner has petitioned for a change of zoning classification from R-2 to C-2;

Whereas, the Town Planning and zoning Board and Town Council acting as the Local Planning Agency have held public hearings to determine whether this change is consistent with the Comprehensive Plan, furthers the public health, safety, welfare, general environment, and is compatible with the surrounding area and have made findings of fact with respect thereto.

Whereas, the Town Council has made findings of fact after due public hearing that the proposal is consistent with the Comprehensive Plan, furthers the public health, safety, welfare, general environment, and is compatible with the surrounding area and have made findings of fact with respect thereto.

SECTION 3. The Official Zoning Map of the Town of Palm Shores shall be amended to classify this parcel as "C-2", Commercial with conditions found in the Binding Development Agreement attached hereto and made a part hereof;

SECTION 4. The Town Clerk is hereby directed to record this ordinance, the attached survey and maps with the Clerk of Courts.

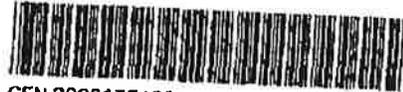
SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of conflict.

SECTION 6. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

SECTION 7. This ordinance shall become effective immediately upon its adoption.

SECTION 8. This ordinance was passed on the first reading at a regular meeting of the Town Council on the 22 day of January, 2002 and adopted on second/final reading at a regular meeting of the Town Council of the 26 day of February, 2002

Scott Ellis
Clerk Of Courts, Brevard County
#Pgs: 3 #Names: 2
Trust: 2.00 Rec: 13.00 Serv: 0.00
Excise: 0.00
Mtg: 0.00 Int Tax: 0.00



CFN 2002175199

OR Book/Page: 4637 / 1840

The foregoing ordinance was moved for adoption by Council Member Marc Forcier. The motion was seconded by Council Member Carol Schneider and, upon being put to a vote, the vote was as follows:

Mayor Cathy Swatek	<u>Aye</u>
Council Member Carol Schneider	<u>Aye</u>
Council Member Frank Falcone	<u>Aye</u>
Council Member Bill Blucker	<u>Aye</u>
Council Member Marc Forcier	<u>Aye</u>

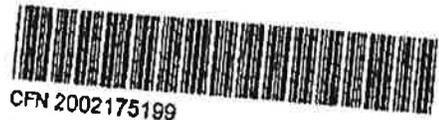
The ordinance was then declared to be duly passed and adopted the 26 day of February, 2002.

BY: Cathy A Swatek
Mayor, Town of Palm Shores

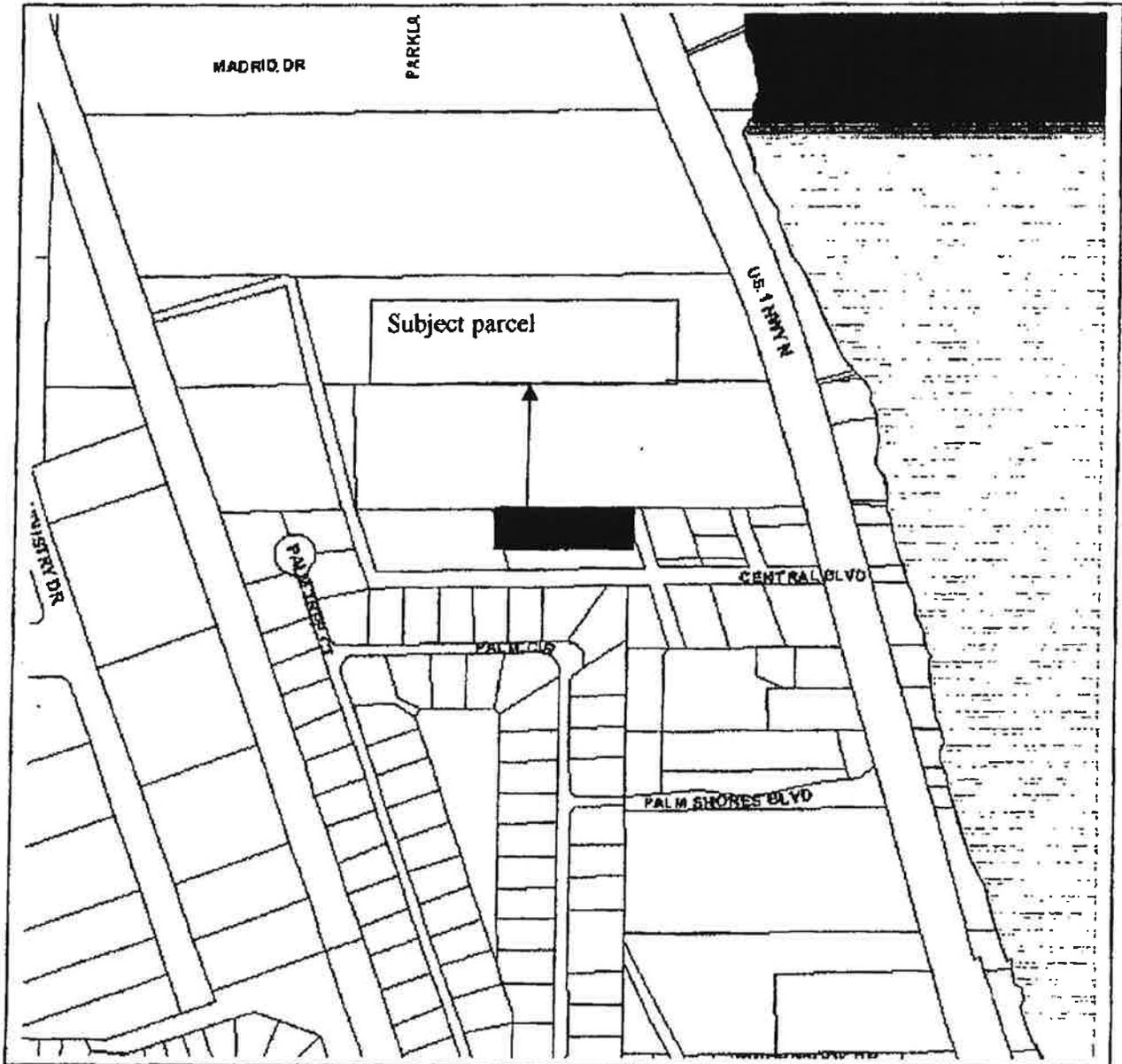
ATTEST:
Patty Waterman Town Clerk

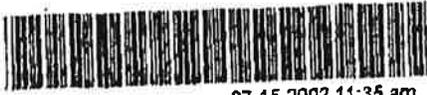
I HEREBY CERTIFY that notice of the public hearing on this Ordinance was published in the Florida Today, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the 26 day of February, 2002, and the first reading was held on the 22 day of January, 2002, and that public hearing was held on the 26 day of February 2002, and that the second and final reading was held on the 26 day of February, 2002.

Patty Waterman
Patty Waterman, Town Clerk (SEAL)



CFN 2002175199
OR Book/Page: 4637 / 1841





CFN 2002175200 07-15-2002 11:35 am
 OR Book/Page: 4637 / 1842

ORDINANCE 01-19

*Record & Return to:
 → TOWN OF PALM SHORES
 50.30 PAUL HURTT LANE
 PALM SHORES, FL 32940*

AN ORDINANCE OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, AMENDING THE OFFICIAL TOWN LAND USE MAP FOR A PARCEL OF LAND DESCRIBED AS 26-37-30-01-0000C.0-0000.00 INDIAN RIVER HOME SITES LEGALLY DESCRIBED AS "Lots 1-3 and lots 10-12, Block C and lots 1-3, Block D, Indian River Home sites as Recorded in Plan Book 3, Page 37, Together with the North half of vacated third Avenue and the North Half of Vacated Fourth Avenue as Recorded in Official Records Book 3246, Page 1744, All within the Public Records of Brevard County, Florida. Contains .69 acres more or less" LOCATED AT 2340 MILLER COVE RD, MELBOURNE, FL 32940 FROM MEDIUM DENSITY RESIDENTIAL TO COMMERCIAL; PROVIDING FOR REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR FILING WITH THE BREVARD COUNTY PROPERTY APPRAISER; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

Whereas, the owner has also petitioned for a change to the Future Land Use Map to designate the lands under the Town's Comprehensive Plan/Future Land Use Map as Commercial;

Whereas, the Town Planning and zoning Board and Town Council acting as the Local Planning Agency have held public hearings to determine whether this change is consistent with the Comprehensive Plan, furthers the public health, safety, welfare, general environment, and is compatible with the surrounding area and have made findings of fact with respect thereto.

Whereas, the Town Council has made findings of fact after due public hearing that the proposal is consistent with the Comprehensive Plan, furthers the public health, safety, welfare, general environment, and is compatible with the surrounding area and have made findings of fact with respect thereto.

SECTION 3. The Future Land Use Map of the Comprehensive Plan shall be amended from Medium Density Residential to Commercial.

SECTION 4. The Town Clerk is hereby directed to record this ordinance, the attached survey and maps with the Clerk of Courts.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of conflict.

SECTION 6. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

SECTION 7. This ordinance shall become effective pursuant to Chapter 163 F. S. part II for small scale comprehensive plans.

SECTION 8. This ordinance was passed on the first reading at a regular meeting of the Town Council on the 22 day of January, 2002 and adopted on second/final reading at a regular meeting of the Town Council of the 26 day of Feb . , 2002.

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 2	#Names: 2	
Trust: 1.50	Rec: 9.00	Serv: 0.00
Rec: 0.00		Exclse: 0.00
Mtg: 0.00		Int Tax: 0.00



CFN 2002175200

OR Book/Page: 4637 / 1843

The foregoing ordinance was moved for adoption by Council Member Carol Schneider. The motion was seconded by Council Member Marc Forcier, and, upon being put to a vote, the vote was as follows:

Mayor Cathy Swatek	<u>Aye</u>
Council Member Carol Schneider	<u>Aye</u>
Council Member Frank Falcone	<u>Aye</u>
Council Member Bill Blucker	<u>Aye</u>
Council Member Marc Forcier	<u>Aye</u>

The ordinance was then declared to be duly passed and adopted the 26 day of February, 2002.

BY: Cathy C Swatek
Mayor, Town of Palm Shores

ATTEST: Patty Waterman
Town Clerk

I HEREBY CERTIFY that notice of the public hearing on this Ordinance was published in the Florida Today, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the 26 day of February, 2002, and the first reading was held on the 22 day of January, 2002, and that public hearing was held on the 26 day of February, 2002, and that the second and final reading was held on the 26 day of February, 2002.

Patty Waterman
Patty Waterman, Town Clerk (S E A L)



TOWN OF PALM SHORES, FLORIDA
ORDINANCE NO. 88-02

AN ORDINANCE ANNEXING AN UNINCORPORATED TRACT OF LAND LYING CONTIGUOUS WITH THE TERRITORIAL LIMITS OF THE TOWN OF PALM SHORES, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of said property, Danny L. Wilbourne, has petitioned the Town of Palm Shores for annexation of the real property hereinbelow described to the Town in accordance with Florida Statutes Section 171.044; and

WHEREAS, the County of Brevard has sole interest of record in and to the said real property; and

WHEREAS, the said property is presently located in an unincorporated area of Brevard County contiguous to the Town of Palm Shores and is reasonably compact as required by Florida Statutes Section 171.044;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, THAT,

SECTION 1. The following described real property is hereby annexed to the Town of Palm Shores: Blocks F,K,L,M and N, and all vacated Right-Of-Way in the Indian River Home Sites Subdivision.

SECTION 2. The above described real property will be annexed into the Town with R1-A Zoning (Single Family Residential District). (Parcels will be aggregated with Tax Parcels 755 and 756 and developed as a residential subdivision.)

SECTION 3. The boundary lines of the Town of Palm Shores are hereby redefined to include the real property described in the preceding section of this ordinance.

SECTION 4. This ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, ON THE 24th DAY OF May 1988.

Sandy Campbell Clerk Circuit Court
Re: 100 Blocks 500
100 500
Stamp-Deed _____
Stamp-Intg _____
Service Chg _____

Paul Liker
MAYOR PAUL LIKER



Leon Ritter
LEON RITTER, TOWN CLERK
Notary Public, State of Florida
My Commission Expires June 5, 1990
FIRST READING 4/26/88
SECOND READING 5/24/88

401045
93 JUN 18 AM 11:16



Exhibit "1"

Return To:
TOWN OF PALM SHORES
P.O. BOX 360915
MELB., FL 32936

Return to:
Town of Palm Shores
P.O. Box 360915
Merib., FL 32936

TOWN OF PALM SHORES
ORDINANCE # 91-02

AN ORDINANCE ANNEXING AN UNINCORPORATED TRACT OF LAND LYING
CONTIGUOUS WITH THE TERRITORIAL LIMITS OF THE TOWN OF PALM
SHORES, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owners of said property, RALPH MILLER and EDWARD MASON, has
petitioned the Town of Palm Shores for annexation of the real property herein
below described to the Town in accordance with Florida Statutes Section 171.044; and

WHEREAS, the County of Brevard has sole interest of record in and to the said
real property; and

WHEREAS, the said property is presently located in an unincorporated area of
Brevard County contiguous to the Town of Palm Shores and is reasonably compact
as required by Florida Statutes Section 171.044;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES,
BREVARD COUNTY, FLORIDA, THAT,

SECTION 1. The following described real property is hereby annexed to the
Town of Palm Shores: That parcel of land described as LOT 1 through LOT 12,
BLOCK "C"; LOT 1 through LOT 6, BLOCK "D"; LOT 1 through LOT 12, BLOCK "E";
INDIAN RIVER HOME SITES, AS RECORDED IN PLAT BOOK 3, PAGE 37, OF THE PUBLIC
RECORDS OF BREVARD COUNTY, FLORIDA, LYING WEST OF STATE ROAD 5, (U.S. HIGHWAY
NO. ONE). TOWNSHIP 26S, RANGE 37E, SECTION 30.

SECTION 2. The above described real property will be annexed into the Town
with R-2, Residential Zoning.

SECTION 3. The boundary lines of the Town of Palm Shores are hereby redefined
to include the real property described in the preceding section of this ordinance.

SECTION 4. This ordinance shall take effect immediately upon it's adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, BREVARD
COUNTY, FLORIDA, ON THE 26th DAY OF April 1991.

Anne Bernstein
MAYOR ANNE BERNSTEIN



1ST READING: March 26, 1991
2ND READING: April 26, 1991

RECORDED & VERIFIED
041475
91 AUG -8 AM 10:00
Clerk

PGS. 1 # IMAGES 3
TRUST FEE \$ 1.00 BREVARD CO., FL
REC FEE 5.00 CLERK CIRCUIT CT.
DUC ST _____
INT TAX "C" _____
EXCISE TAX _____
SERV CHRG _____
REFUND _____

BK3142PG2449

Exhibit "2"

SERVER DATE: 11/22/2011

Brevard County Property Appraiser

AUTHORIZED USERS ONLY

Comments

RENUNBER: 2609875 SITE ADDRESS: 2340 MILLER COVE RD PALM SHORES 32940
 PARCEL ID: 26-37-30-01-C
 PRIMARY OWNER: MASON, EDWARD VICTOR

LINE	ROLL	COMMENTS
1	1984	AC PER CD, PT SUB 01-B-1, E-1 & 00-10 12/22/83 VH---
2	1987	--QC R 12/4/86 2752/2857 .10 PT(VAR PARS) DOUGLAS P CLARKE TO
3	1987	INEZ M NISKANEN ONLY 1/5/87 DS---
4	1989	--NOTE: 2952/1228 WATER AGREEMENT 11/9/88 MH---
5	1990	3072/962 PT (26-37-30-01-B-1;26-37-30-01-C;26-37-30-01-E-1) I M
6	1990	1990 NISKANEN TO EDWARD V MASON & RALPH D MILLER T/C'S 7/27/90 MH
7	1992	3142/2449 TOWN OF PALM SHORES ANNEXES PROPERTY TO CITY LIMITS
8	1992	(CHANGE MILLAGE CODE TO 43J0) 10/1/92 GL---
9	1992	ANNEXED INTO PALM SHORES ASSIGNED R2 ZONING (PALM SHORES ORD
10	1992	91-02) 9/29/92 BB---
11	1995	1994 DP S/O PT TO 01-E-1 PER OWNERS REQUEST 4/17/95 GL---
12	1995	ADDED VAC RD R/W PER 3246/1744 ORDINANCE 92-02 (THIS PART MISSED
13	1995	WHEN ORDINANCE ORIGINALLY WORKED) 7/11/95 GL---
14	1995	PA-89 VALUE CHANGE 07/18/95
15	1995	1995 LAND DEPT PA 89-REWORKED LAND /ADDING .15AC
16	1995	OF VACATED R/W TO TOTAL PARCEL.ASSESSD 1.13AC
17	1995	AT 15000 PER ACRE=16950.7-10-95/GBT---
18	1996	3491/2992 PT (PT B-6, E-1 & C) E V MASON TO RALPH D MILLER
19	1996	NOTE: TRANSFERRING WHAT CAN BE IDENTIFIED, LEGAL DESC REFERENCES
20	1996	LOTS 1 THRU 12 BLK 2 BUT THERE IS NO BLK 2 IN PB 3 PG 37, TITLE
21	1996	CO NOTIFIED, CALLED LEANNE KUGELMANN @ FIDELITY, COPY OF DEED TO
22	1996	S/O DEPT FOR B-6 PER BR 12/7/95 VH---
23	1996	REMOVED RD R/W (3RD AVE) PREVIOUSLY ADDED AS VACATED RD R/W PER
24	1996	3246/1744 (ORD #92-02) R/W ADDED IN ERROR AS ORD #92-02 IS DONE
25	1996	BY CITY OF PALM SHORES & RD R/W IS IN COUNTY ADJACENT OWNERS
26	1996	WILL HAVE TO APPLY THROUGH COUNTY FOR VACATION & CITY OF PALM
27	1996	SHORES IS GOING TO RESCIND ORD #92-02 3/27/96 GL---
28	1999	FC 7/16/98 CHANGED USE CODE TO 4900 - OPEN STORAGE,
29	1999	+% ON EXTRA FEATURES FOR 1999 TAX ROLL...DMA
30	2001	LTR 6/5/2001 TO EDWARD V MASON P/VH---
31	2001	4371/2641 PT(26-37-30-01-B-7,C*,E-1) R D MILLER TO
32	2001	RALPH D MILLER & EDWARD VICTOR MASON J/T W R/S
33	2002	4607/2366 PT(26-37-30-01-B-7 & 26-37-30-01-C) R D
34	2002	MILLER TO EDWARD VICTOR MASON
35	2004	ADD VAC THIRD AVE PER 4494/1706 PT (VAC THIRD AVE NOW
36	2004	ADDED TO 01-C* & VAC FOURTH AVE CREATED AS
37	2004	01-E-1.01) BEING RESOLUTION 2001-414 VACATING R/W
38	2004	(ADDING .14 AC BEING 6,004 SQUARE FEET)---
39	2006	REZONED (.52 AC) FROM R2 (MULTI-FAMILY) TO C2 (COMM)
40	2006	PER 01-18 (02/26/02)
41	2006	LAND PANEL ACREAGE SPLIT TO REFLECT ZONING
2000	1995	REMOVED ADMIN ADJ BEG FY 95-96 LAM 2-17-95
3000	1997	WOODEN FENCE AND OUT BUILDING. 09/23/97 LW
3001	1998	IMPROVEMENT IS OUT BUILDING AND WOOD FENCE; 4/20/98, DSM
2000	1999	ISSUED ADM ADJ 36.00 BEG FY 99/00 RLH PER LAS 3/16/99

Exhibit "A"

3006	2006	FY06/07: UC1222, WOOD FENCE & OUTBLDG; 07/28/06, LL
3003	2000	OUT BUILDING AND WOOD FENCE, NO SERVICE FOUND; 8/16/00, DSM
3004	2001	OUT BUILDING AND WOOD FENCE, 9/18/01 PEAS
3005	2002	UC 4900:1 PDC-STORAGE BLDG & WOOD FENCE;NO SERV H/S; 8/05/02, DSM
2001	1999	PROPERTY INCORPERATED-NOT SUBJECT TO ADM ADJ RLH/LAS 3/16/99

281034

92 NOV 18 AM 11:24

ORDINANCE NO. 92-02

AN ORDINANCE OF THE CITY OF PALM SHORES, BREVARD COUNTY, FLORIDA, VACATING ALL OF FOURTH AVENUE, ALL OF THIRD AVENUE AND THE WEST 331 FEET OF CENTRAL BOULEVARD, ALL IN INDIAN RIVER HOME SITES SUBDIVISION; PROVIDING FOR REPEAL OF ORDINANCE IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF PALM SHORES, BREVARD COUNTY, FLORIDA, that:

SECTION 1. All of Fourth Avenue, all of Third Avenue, and the West 331 Feet of Central Boulevard all in Indian River Home Sites Subdivision as recorded in Plat Book 3, Page 37 of the Public Records of Brevard County, Florida are hereby vacated.

SECTION 2. All Ordinance, or parts of Ordinances, not specifically in conflict herewith are hereby continued in full force and effect.

SECTION 3. This Ordinance shall become in full force and effect in accordance with the Charter of the City of Palm Shores, Brevard County, Florida.

SECTION 4. This Ordinance was passed on the first reading at a regular meeting of the City Council on the _____ day of June, 1992, and passed on the second/final reading at a regular meeting of the City Council on the _____ day of July, 1992.

By Anne Dauter
Mayor, City of Palm Shores

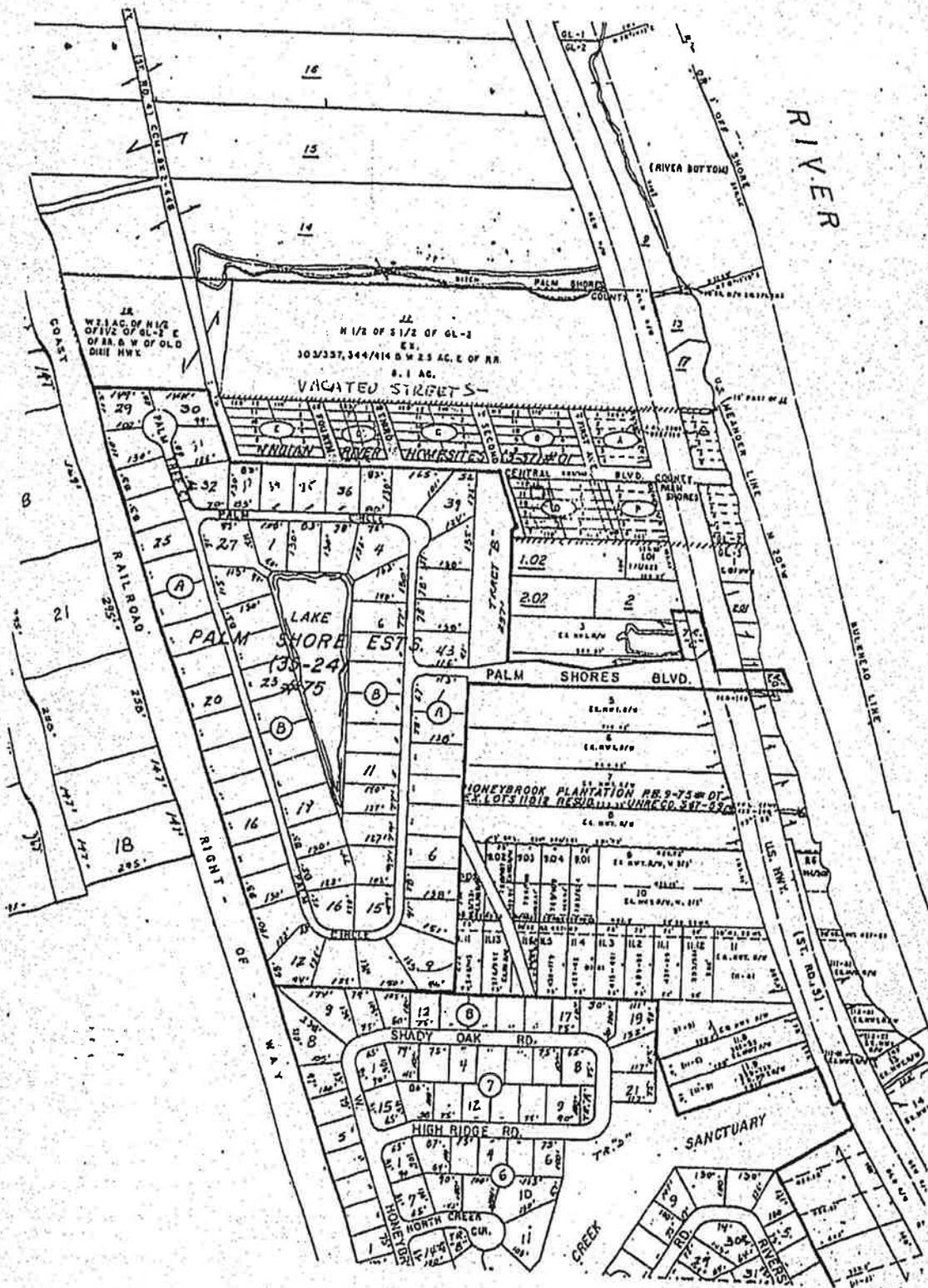


10-27-92

MacDonald
Clerk Circuit Court

Recorded by	✓	Verified	✓
Index	150	Index	900
County		County	
City		City	
State		State	

Please return to: Town of Palm Shores
P.O. Box 360915
Melbourne, FL 32936



UNSUITABLE FOR MICROFILM

800

Property Search

Brevard County Property Appraiser
Dana Blickey, CFA

Map Subject Property () () Open Map in New Window ()

BCPAO ()

Picto ()

Google ()

Bing ()

Search by Account Number (Ex. 1234567 - More search options available soon.)

Street

Sales

2017	<input type="checkbox"/>
2016	<input type="checkbox"/>
2015	<input type="checkbox"/>
2014	<input type="checkbox"/>
2013	<input type="checkbox"/>

LEGEND

Account: 2609875 Parcel ID: 26-37-30-01-C
 Sale: 6/29/2001 \$15,000 - Vacant
 BCPAO Market Value: \$41,400
 Owners: Mason, Edward Victor
 Address: 2340 Miller Cove Rd Palm Shores FL 32940



Details | Zoom | Clear | Hide

Notice

INSTRUCTIONS (/Docs/misc/Instructions_MapSearch.pdf#20170405)

TO-701105-1T-9/16,1992,Wed

LEGAL NOTICE
TOWN OF PALM SHORES, FL
TOWN COUNCIL MEETING
 NOTICE IS HEREBY GIVEN THAT THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, FL WILL HOLD ITS MEETING ON SEPTEMBER 22, 1992 AND OCTOBER 27, 1992 AT EAST COAST LAWN SPRAYING, 5250 N. HARBOR CITY BLVD., PALM SHORES, FL AT 7:00 p.m. NOTICE IS HEREBY GIVEN OF THE PROPOSED ENACTMENT OF THE FOLLOWING ORIDINANCE.

/s/LEONA BITTER

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ORDINANCE #92-02
 AN ORDINANCE OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, VACATING ALL OF FOURTH AVENUE, ALL OF THIRD AVENUE AND THE WEST 331 FEET OF CENTRAL BOULEVARD, ALL IN INDIAN RIVER HOME SITES SUBDIVISION; PROVIDING FOR REPEAL OF ORDINANCE IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Exhibit "B"

From: Cazessus, Marc
To: [Jackson, Susan G](#)
Cc: [Vitale, Anthony](#)
Subject: 1st Avenue Vacating, Town of Palm Shores
Date: Tuesday, June 05, 2012 11:12:00 AM

Ms. Susan:

Ms. Kay called me this morning to review the information I supplied her on February 16, 2012. She informed me that based on her review of the documents that:

1. The City did not have jurisdiction under the JPA as per Item 5.A.1. (Page 8), the agreement automatically expired after five years from the I date of its adoption unless renewed.
2. The County will divide the r/w into separate parcels based on the adjoining parcel ownership, ownership will revert to each adjoining parcel owner, each parcel will receive a separate tax parcel ID number as the adjoining owners are within the limits of the City and minimal taxes based on a zoning to be specified later will be accessed.
3. Ms. Kay will contact the City to advise it as to the County's actions and to alert them of the lapse of the JPA.
4. Ms. Kay will provide us updates per email.

Thank you,

Public Works - Survey

I DON'T KNOW
WHAT HAPPENED
TO MY NAME? BY
MARC CAZESSUS

November 22, 2011

RE: Vacating of First Avenue, plat of "Indian River Home Sites" (PB 03 @ Pg 37) In Section 30, Twp. 26 S., Rge. 37 E.

Minutes form phone conversation between Ms. Katy Gargis, Mr. Tony Vitale and Mr. Marc Cazessüs

1. First Avenue was vacated by the Town of Palm Shores ("T of PS") in 2009 per the request of Doug Robertson of Robertson and Assoc. Ms. Kay is going to email us a copy of the recorded document for our files.
2. Ms. Cynthia has a letter in her file from Robertson and Assoc. wherein he states that, based on the County's research; the County does not have any jurisdiction over the First Avenue r/w and therefore could vacate said r/w. A review of the information from Ms. Cynthia's file available at this time did not provide any research or data support this statement.
3. Ms. Kay is concerned that TP #1 of Blk B (Baharloui-#2609873-5660/3759) and TP #4 (Waterman, TR.-#2615060-5919/0235) may now be without a dedicated/deeded access as the T of PS was supposed to recorded a cross ingress-egress easement agreement prior to vacating the r/w. To the best of Ms. Kay's knowledge, this agreement document was never recorded. It was discussed however that if these parcel owners have been using the r/w as access to their parcels for the statute time required, they most likely enjoy an unwritten right of access by prescriptive rights.
4. Mr. Tony asked if Ms. Kay was aware of any Joint Planning Agreement between the County and the T of PS regarding the transfer of r/w title when lands are annexed by a municipality. Neither was aware of a JPA; both would attempt to ascertain and locate one if available.
5. Mr. Tony inquired if Ms. Kay was aware of a state statute which automatically transferred the title of a r/w when the surrounding parcels were annex by a municipality. Ms. Kay said she was not aware of such a statute.
6. Mr. Tony informed Ms. Kay that he would like the opportunity to review Ms. Cynthia's file information with her prior to providing copies of this information. Ms. Kay agreed and said that Mr. Tony could contact her after Thanksgiving.
7. Attached are copies of the plat, tax maps, various deeds of resolutions or vacating and property appraisers reference information which is also in my staff library.

By: Marc Cazessüs, PLS

Brevard County Surveying & Mapping Division

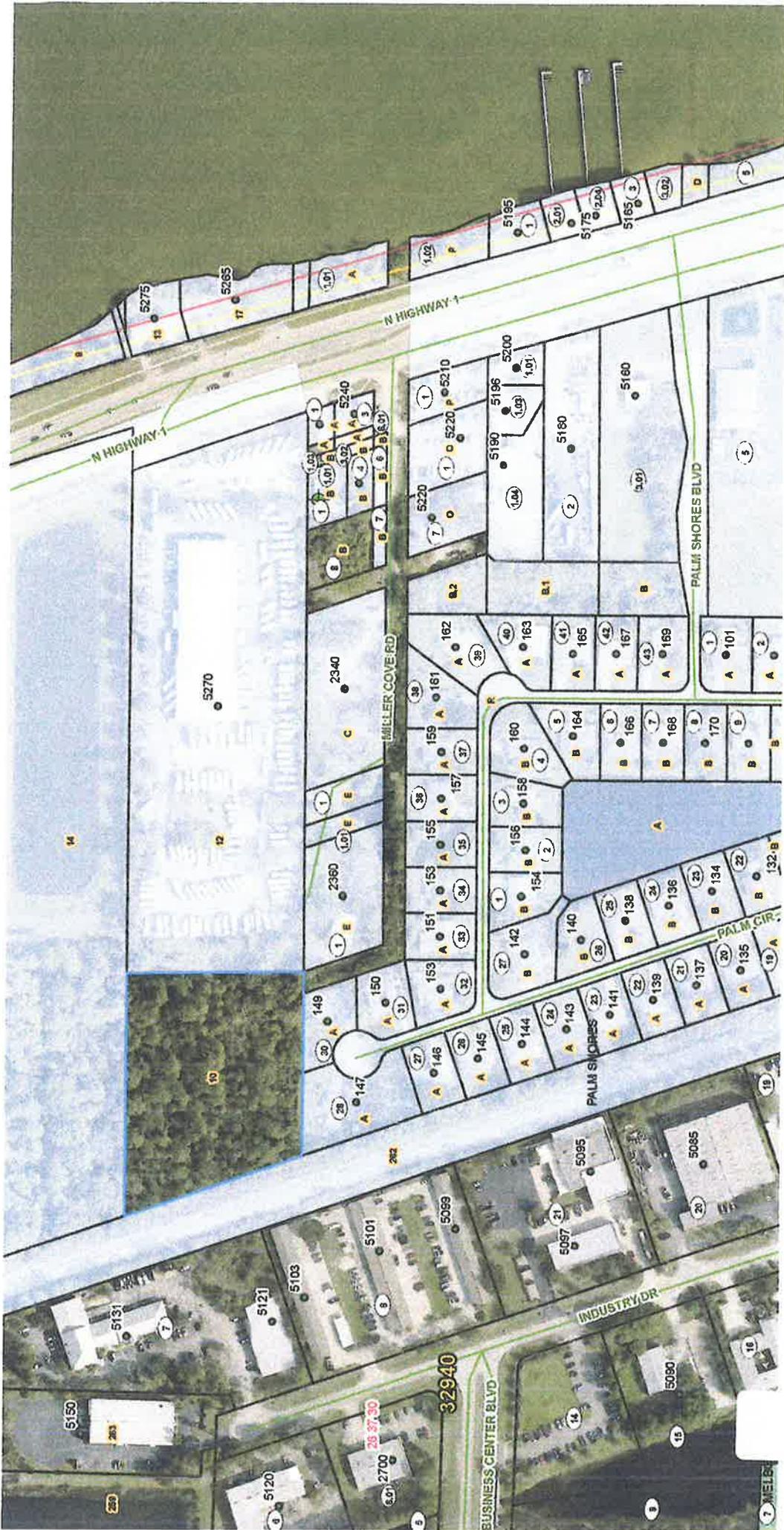
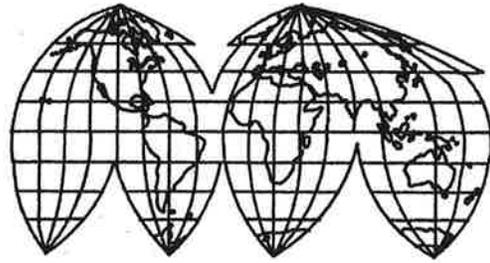


Exhibit "D"

Briel & Associates

Land Surveyors, Inc.

1790 Highway A1A, Suite 208
Satellite Beach, Florida 32937
321-773-7775, fax 321-773-7797
Email: brielassociates@cfl.rr.com



Surveyor's Report

To: LTM of Florida Holdings LLC
From: Robert R. Briel, PSM
CC: file 16057
Date: December 12, 2017
Re: City of Palm Shores Ordinance 92-02.

Mr. Mattioli,

I have reviewed City of Palm Shores Ordinance no. 92-02 as recorded in Official records Book 3246, Page 1744 of the Public Records of Brevard County Florida. The Ordinance vacates all of Third and Fourth Streets, and the West 331 feet of Central Boulevard as established by the plat of "Indian River Homesites, Subdivision of South Fourth Govt. Lot 2, Sec. 30, Twp. 26 So. Ra. 37 Ea., BREVARD COUNTY FLA" per Plat Book 3, Page 37. As to Central Boulevard, the westerly terminus based on the plat is at the west line of Government Lot 2, which lies approximately 302 feet west of the Florida East Coast Railway.

The recorded copy of the sketch provided as sheet 2 of the Ordinance is at a scale to small to provide a definitive location of the intent of the vacation.

Thus, based upon the description in the Ordinance, the vacated portion of Central Boulevard would lie west of the Florida East Coast Railway.

Briel & Associates
Land Surveyors, Inc.

Robert R. Briel, P.S.M.

President

RRB/sls

C:\title commitments 16057 16057-vacate

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
FINAL (As-Built) PLANS

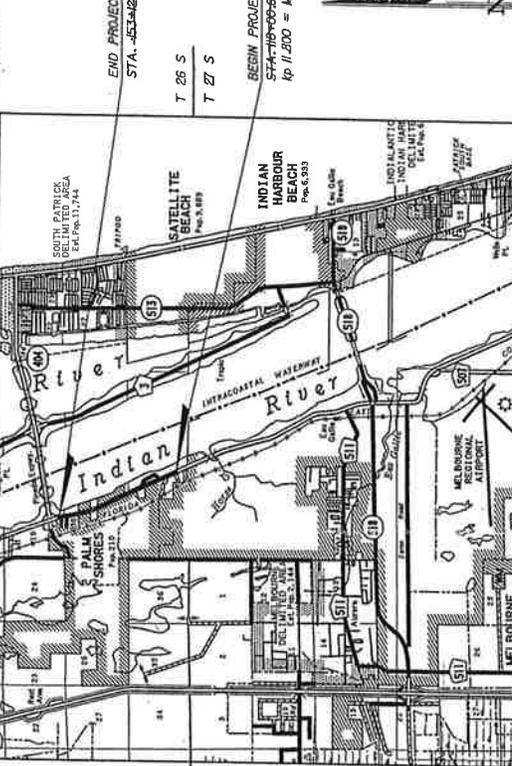
FINANCIAL PROJECT ID 237550-1-52-01
BREVARD COUNTY
STATE ROAD NO. 5
(FROM POST ROAD TO STATE ROAD NO. 404)

REVISION	DATE	DESCRIPTION
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2	02/11/01	ISSUED FOR BIDDING
3	02/11/01	ISSUED FOR BIDDING
4	02/11/01	ISSUED FOR BIDDING
5	02/11/01	ISSUED FOR BIDDING
6	02/11/01	ISSUED FOR BIDDING
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98	02/11/01	ISSUED FOR BIDDING
99	02/11/01	ISSUED FOR BIDDING
100	02/11/01	ISSUED FOR BIDDING

KEY SYMBOL	DESCRIPTION
1	As-Built
2	Proposed
3	Existing
4	Utility
5	Right-of-Way
6	Grade
7	Drainage
8	Structure
9	Barrier
10	Lighting
11	Signage
12	Survey
13	Topography
14	Water
15	Vegetation
16	Other

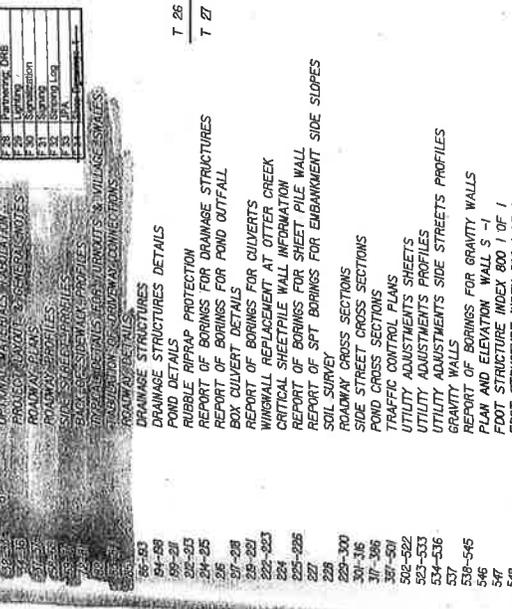
INDEX OF ROADWAY PLANS	SHEET NO.	SHEET DESCRIPTION
ROADWAY PLANS	56-53	DRAINAGE STRUCTURES
ROADWAY PLANS	56-54	DRAINAGE STRUCTURES
ROADWAY PLANS	56-55	DRAINAGE STRUCTURES
ROADWAY PLANS	56-56	DRAINAGE STRUCTURES
ROADWAY PLANS	56-57	DRAINAGE STRUCTURES
ROADWAY PLANS	56-58	DRAINAGE STRUCTURES
ROADWAY PLANS	56-59	DRAINAGE STRUCTURES
ROADWAY PLANS	56-60	DRAINAGE STRUCTURES
ROADWAY PLANS	56-61	DRAINAGE STRUCTURES
ROADWAY PLANS	56-62	DRAINAGE STRUCTURES
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ROADWAY PLANS	56-64	DRAINAGE STRUCTURES
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ROADWAY PLANS	56-100	DRAINAGE STRUCTURES

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ROADWAY SHOP DRAWINGS TO BE SUBMITTED TO: JOSEPH SIMONS, III, P.E., INC. 3670 MARINE EXPLORER, SUITE 300 ORLANDO, FL 32803

PLANS PREPARED BY: REVIEWS, SMITH & HILLS, INC. 3670 MARINE EXPLORER, SUITE 300 ORLANDO, FL 32803

NOTE: THE SCALE OF THESE PLANS MAY HAVE CHANGED BY REPRODUCTION.

NOTE: THIS PROJECT IS TO BE LET TO CONTRACT WITH FINANCING TO BE PROVIDED BY THE CITY OF MELBOURNE, FLA.

Exhibit "F"

Jan R. Cleveland
4/26/04

CONTRACTOR: RKT CONSTRUCTORS, INC.
DISTRICT SECRETARY: GEORGE GILROEY
PROJECT MANAGER: ANZEE R. CLEVELAND
ENGINEER OF RECORD: JOSEPH SIMONS, III, P.E.
REGISTERED PROFESSIONAL ENGINEER
REGISTERED PROFESSIONAL SURVEYOR
PROJECT ADMINISTRATOR: THYME FRANKLIN
ROADWAY PLANS
ENGINEER OF RECORD: JOSEPH SIMONS, III, P.E.

DATE	DESCRIPTION

NOTE: THIS IS A METRIC UNIT PROJECT

LENGTH OF PROJECT IS BASED ON CENTERLINE OF CONSTRUCTION

ROADWAY	BRIDGES	NET LENGTH OF PROJ.	EXCEPTIONS	GROSS LENGTH OF PROJ.
3.512.002	0.000	3.512.002	0.000	3.512.002

FOOT PROJECT MANAGER: ANZEE R. CLEVELAND

PROJECT 237550-1-52-01
Roadway Sheets 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

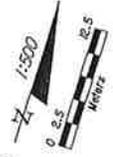
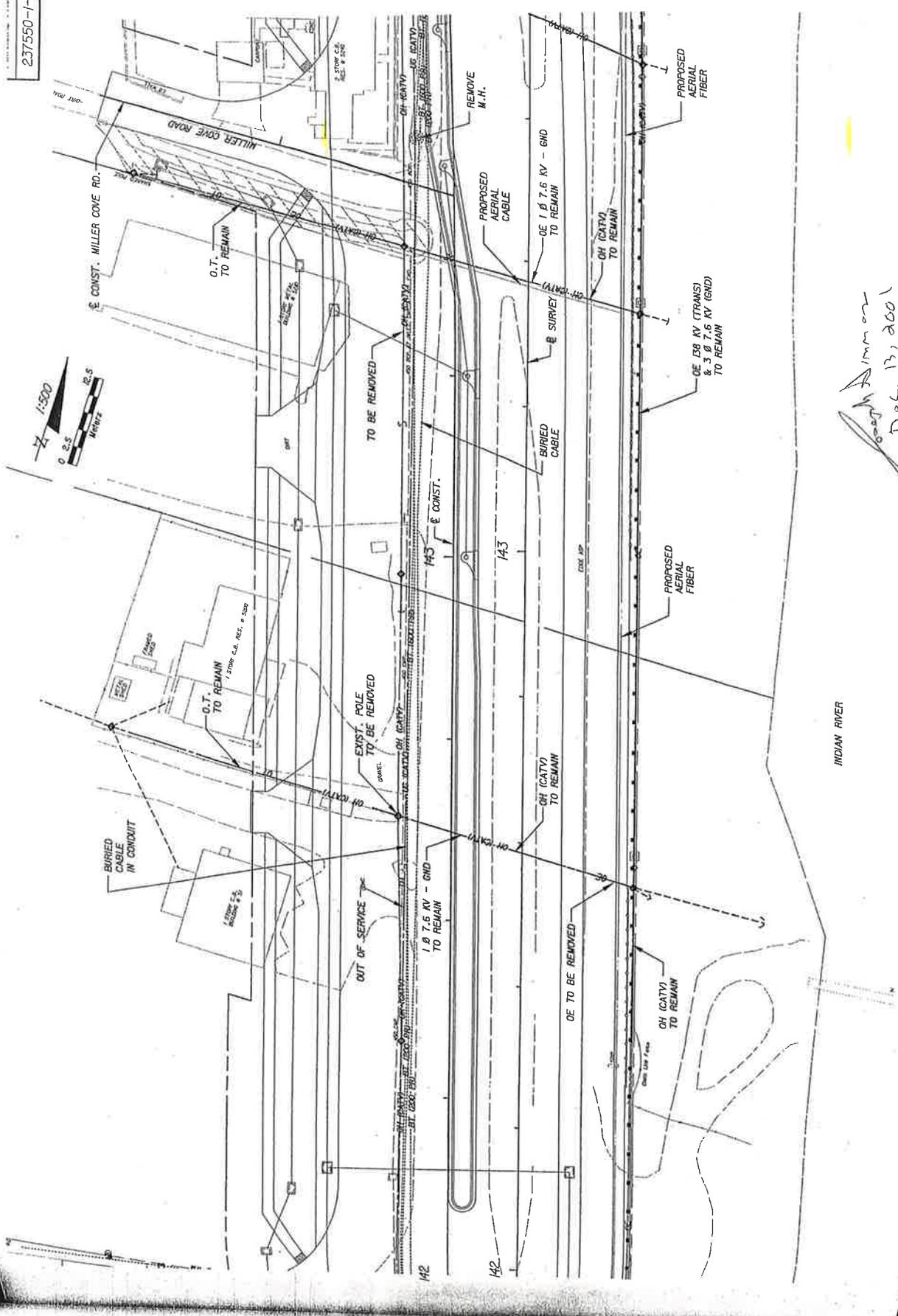
THIS PROJECT WAS CONSTRUCTED IN SUBSTANTIAL COMPLIANCE WITH THESE PLANS AS PROVIDED BY THE ENGINEER OF RECORD.

SIGNED: [Signature]
PROJECT ADMINISTRATOR

FLORIDA DEPARTMENT OF TRANSPORTATION
ROADWAY AND TRAFFIC DESIGN STANDARDS
REVISED JANUARY 2000 AND
REVISED MAY 2003
CONSTRUCTION OF ROAD AND BRIDGE
AS AMENDED BY CONTRACT DOCUMENTS.

REVISIONS

PROJECT 237550-1-52-01
Roadway Sheets 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59,



South American
Dec. 13, 2001

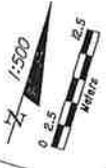
REVISION									
NO.	DATE								

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

RS&H
Reynolds, Smith and Hills, Inc.
Professional, Addressing, Planning and Environmental Services
Tallahassee, Florida

STATE ROAD 5
UTILITY ADJUSTMENT PLAN
STA 142+00 TO STA 143+75

142/142A/143.dgn 12/06/2001 07:11:58 PM



CURVE CLSR5-3
 PI STA. 144+50.375
 DELTA = 7° 38' 13" (LT)
 T = 136.826 M
 L = 273.246 M
 R = 2,050.000 M
 PC STA. 143+03.550
 PT STA. 145+68.796
 e = 0.022

BEGIN CONSTRUCTION
 STA. 49+50.000
 & CONST. MILLER COVE ROAD

STA. 49+49.418
 & CONST. SR 5

STA. 50+00.000 & CONST.
 MILLER COVE ROAD

STA. 49+49.418
 & CONST. SR 5

STA. 50+00.000 & CONST.
 MILLER COVE ROAD

STA. 43+49.827 & CONST. SR 5

STA. 50+00.000 & CONST.
 MILLER COVE ROAD

STA. 43+49.827 & CONST. SR 5

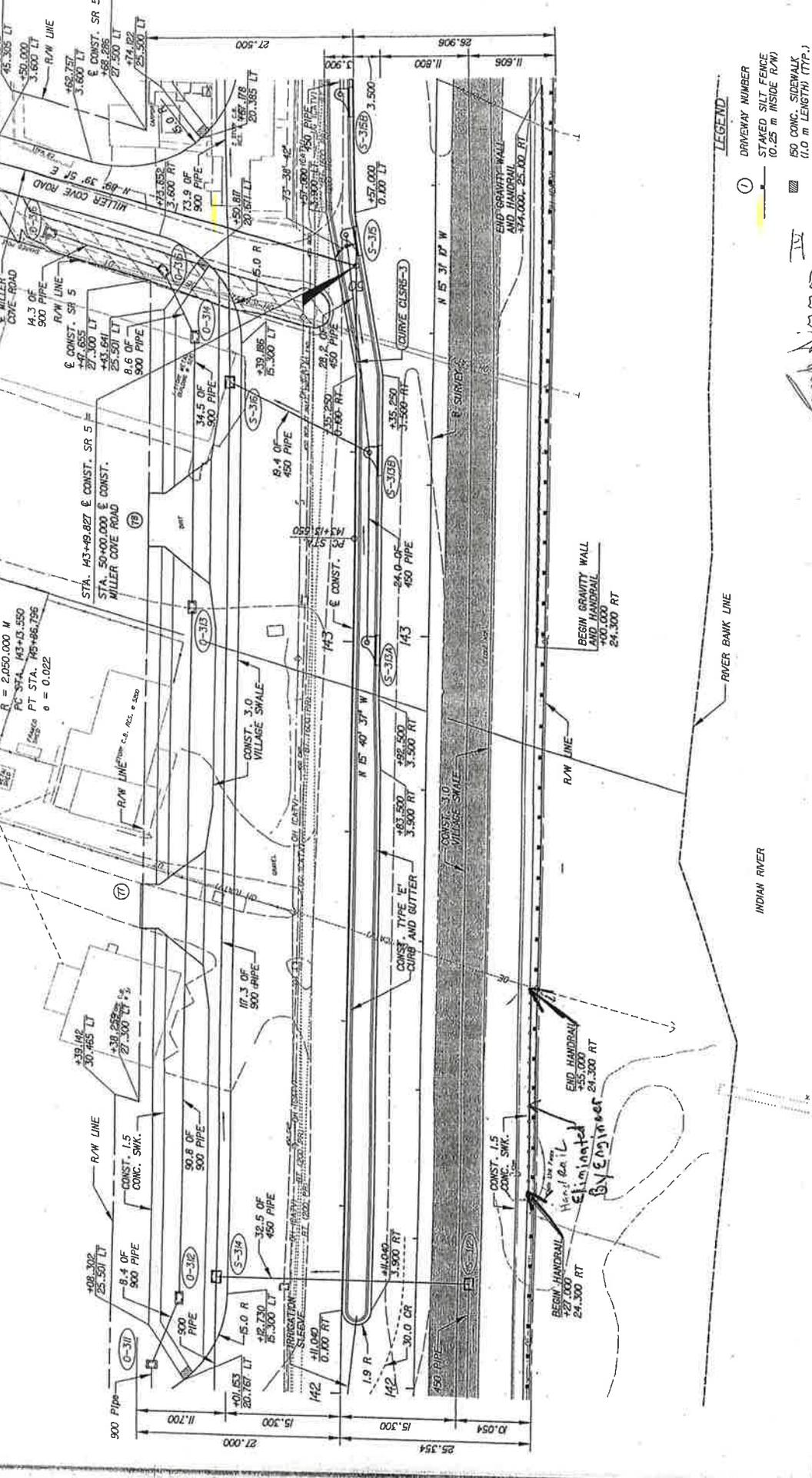
STA. 50+00.000 & CONST.
 MILLER COVE ROAD

STA. 43+49.827 & CONST. SR 5

STA. 50+00.000 & CONST.
 MILLER COVE ROAD

STA. 43+49.827 & CONST. SR 5

STA. 50+00.000 & CONST.
 MILLER COVE ROAD



LEGEND

- ① DRIVEWAY NUMBER
- STAKED SILT FENCE
10.25 m INSIDE R/W
- 150 CONC. SIDEWALK
(1.0 m LENGTH) (TYP.)
- EXISTING CONCRETE PAVEMENT

Handwritten signature: [Signature]
 Dec 13, 2001

STATE ROAD 5
 PLAN
 STA 142+00 TO STA. 143+75

STATE OF FLORIDA
 DEPARTMENT OF TRANSPORTATION

RSH
 Reynolds, Smith and Hills, Inc.
 10000 E. US Highway 1, Suite 100, Fort Lauderdale, FL 33315

NO.	DATE	DESCRIPTION	BY	DATE	DESCRIPTION

COMPONENTS OF CONTRACT PLANS SET

- ROADWAY PLANS
- PAVING AND FINISH MARKING PLANS
- ROADWAY LIGHTING PLANS

A DETAILED INDEX APPEARS ON THE REVERSE SHEET OF EACH COMPONENT

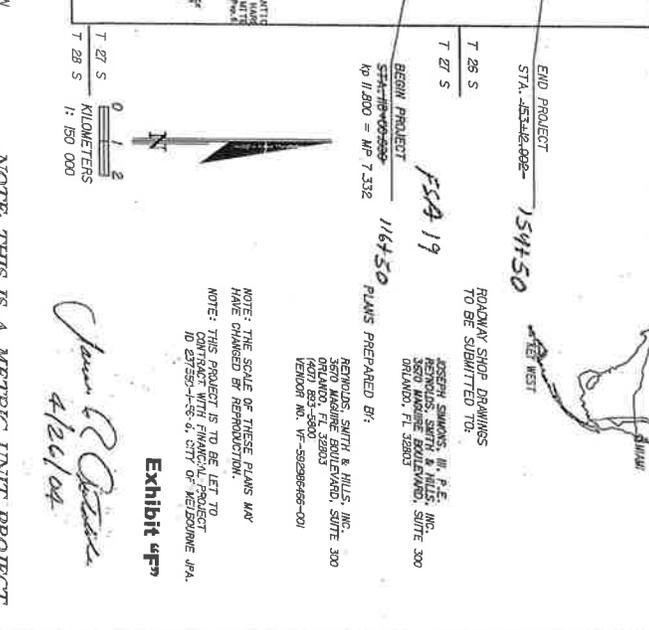
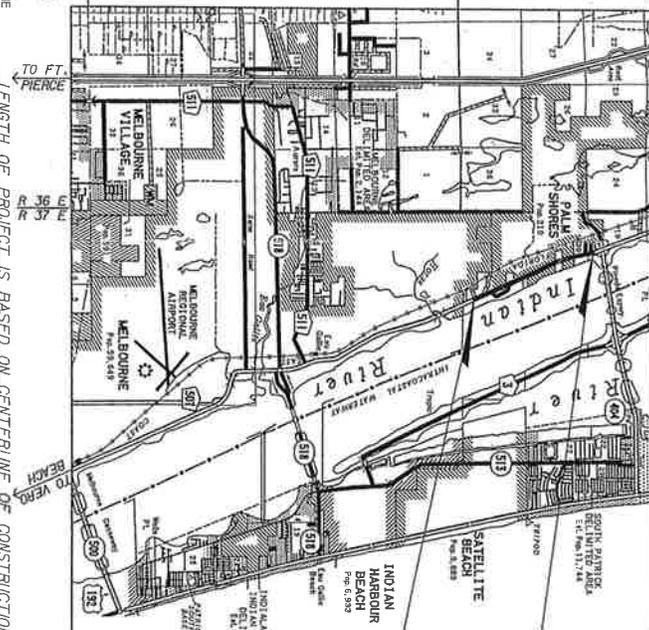
INDEX OF ROADWAY PLANS

SHEET NO.	SHEET DESCRIPTION
1	INDEX OF ROADWAY PLANS
2	ROADWAY PLANS
3	PAVING AND FINISH MARKING PLANS
4	ROADWAY LIGHTING PLANS
5	UTILITY ADJUSTMENTS SHEETS
6	UTILITY ADJUSTMENTS PROFILES
7	UTILITY ADJUSTMENTS SIDE STREETS PROFILES
8	UTILITY ADJUSTMENTS SIDE STREETS PROFILES
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100	UTILITY ADJUSTMENTS SIDE STREETS PROFILES

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
FINAL (As-Built) PLANS

FINANCIAL PROJECT ID 237550-1-52-01
BREVARD COUNTY
STATE ROAD NO. 5
(FROM POST ROAD TO STATE ROAD NO. 404)

REVISION	DATE	DESCRIPTION
1	03/10/03	ISSUED FOR BIDDING
2	03/10/03	ISSUED FOR BIDDING
3	03/10/03	ISSUED FOR BIDDING
4	03/10/03	ISSUED FOR BIDDING
5	03/10/03	ISSUED FOR BIDDING
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98	03/10/03	ISSUED FOR BIDDING
99	03/10/03	ISSUED FOR BIDDING
100	03/10/03	ISSUED FOR BIDDING



PROJECT 237550-1-52-01
 ROWWAY SHEETS 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
 PAVING AND FINISH MARKING SHEETS S-2, S-3, S-4, S-5, S-6, S-7, S-8 (REVISED 03/10/03)
 LIGHTING SHEETS L-10, L-14, L-15, L-16, L-17 (REVISED 03/10/03)

PROJECT ADMINISTRATOR'S CERTIFIED STATEMENT
 THIS PROJECT WAS CONSTRUCTED IN SUBSTANTIAL COMPLIANCE WITH THESE PLANS AS PROVIDED BY THE ENGINEER OF RECORD.

SIGNED: *[Signature]*
 PROJECT ADMINISTRATOR

LENGTH OF PROJECT IS BASED ON CENTERLINE OF CONSTRUCTION	LENGTH OF PROJECT	METERS
ROADWAY	3.582,002	
BRIDGES	0.000	
NET LENGTH OF PROJ.	3.582,002	
EXCEPTIONS	0.000	
GROSS LENGTH OF PROJ.	3.582,002	

FDDT PROJECT MANAGER : ANZEE R. CLEVELAND

NOTE: THIS IS A METRIC UNIT PROJECT

CONTRACTOR: B.T. CONSTRUCTION, INC.
 DISTRICT SUPERVISOR: GEORGE GRIFFOLEY
 PROJECT MANAGER: ANZEE R. CLEVELAND
 ENGINEER OF RECORD: JOSEPH SIMMONS, III
 RESIDENT CONTRACT ADMINISTRATOR: JIM BOUGHAMEN
 PROJECT ADMINISTRATOR: SHARIE FRANKLIN
 ENGINEER OF RECORD: JOSEPH SIMMONS, III, P.E.
 P.E. NO. 35201

NOTE: THE SCALE OF THESE PLANS MAY VARY FROM SHEET TO SHEET. THESE PLANS HAVE BEEN CHECKED FOR CONFORMANCE WITH THE CONTRACT DOCUMENTS.

NOTE: THIS PROJECT IS TO BE LET TO CONTRACT WITH FINANCIAL PROJECT ID 237550-1-52-01, CITY OF MELBOURNE, FLA.

Exhibit 400

[Signature]
 4/16/04

From: [Sharon & Ed Washburn](#)
To: [Lewis, Sally A](#)
Subject: Fwd: Miller cove road
Date: Friday, December 15, 2017 3:04:16 PM

FYI

Begin forwarded message:

From: "kbohne@fla-lawyers.com" <kbohne@fla-lawyers.com>
Subject: Fwd: Miller cove road
Date: December 15, 2017 at 2:46:36 PM EST
To: Sharon & Ed Washburn <edwashburn_sharon@cfl.rr.com>

Forward to ms lewis please

Sent from my Sprint Samsung Galaxy S® 6.

----- Original message -----

From: kbohne@fla-lawyers.com
Date: 12/15/17 2:34 PM (GMT-05:00)
To: "Bentley, Eden" <Eden.Bentley@brevardfl.gov>
Cc: Carol McCormack <mayor@townofpalmshores.org>, Sharon & Ed Washburn <edwashburn_sharon@cfl.rr.com>
Subject: Miller cove road

I noticed my letter has an incomplete sentence. The second to last paragraph should read as follows:

"The Surveyor's Report of Briel & Associates dated December 12, 2017 and attached to Cantwell and Goldman opinion as Exhibit E incorrectly concludes that the western terminus of Miller Cove Road is west of the railroad tracks. That report does not take into consideration that Palm Shores Estates was platted in 1988 which replatted the west end of the old plat and the area west of the railroad was replatted as well, probably long before 1992, the year the Town did the vacating of Miller Cove Road."

Karl W. Bohne, Jr.
Schillinger & Coleman, P.A.
1311 Bedford Drive
Melbourne, FL 32940
[321-255-3737](tel:321-255-3737) Telephone
[321-255-3141](tel:321-255-3141) Facsimile

Office Hours:

8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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SCHILLINGER & COLEMAN, P.A.

ATTORNEYS AT LAW

1311 BEDFORD DRIVE
MELBOURNE, FLORIDA 32940

KARL W. BOHNE, JR.
CHRISTOPHER J. COLEMAN
CHARLES A. SCHILLINGER

POST OFFICE BOX 410818
MELBOURNE, FLORIDA 32941-0818

JOEL A. GOLDFARB

TELEPHONE (321) 255-3737
FACSIMILE (321) 255-3141

December 15, 2017

Eden Bentley, Deputy County Attorney
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, FL 32940

Re: LTM of Florida Holdings request for plat acceptance

Dear Ms. Bentley;

On behalf of the Town of Palm Shores and as the Town Attorney for the Town of Palm Shores I have reviewed the title search, survey and letters from the law firm of Cantwell and Goldman, P.A. and below are my comments with respect to these documents.

It was my understanding that the County Commission requested that the applicant for the request to the County to "accept" Miller Cove Road was to provide the County Commission a title search and survey of Miller Cove Road. On December 13, 2017 documentation was submitted to the County Attorney's Office which purportedly complied with this request. Initially, it doesn't seem that a legal description of the entire Miller Cove Road right of way was provided. So how can a proper ownership report and title opinion be issued without a legal description? How does anybody know if in fact the existing pathway is within what we now call "Miller Cove Road"? Also, the title search refers to 4 parcels; however, the survey does not identify those parcels. It is therefore extremely difficult to track the title search with the survey with respect to the parcels identified as Parcel 1, Parcel 2, Parcel 3, and Parcel 4 in the title search.

The title search indicates that the 4 identified parcels have ownership interests as follows:

Parcel 1: Town of Palm Shores;

Parcel 2: Edward Mason and the Town of Palm Shores;

Parcel 3: Albert and Amporn Benson, Frances McHarvey, Kenneth J. Myrback, Jr. and Maria R. Myrback, Gary and Lori Jarek, Town of Palm Shores and Brevard County;

Parcel 4: Florida Dept of Transportation.

The title search report was specifically identified as an Ownership and Encumbrance Report. Notwithstanding the fact that Old Republic was hired to do what is commonly known as an O&E

search and despite the ownership information provided by Old Republic, the applicant has disagreed with his own expert title examination and now tries to convince the County that their own expert is incorrect. This is analogous to impeaching your own expert which is highly irregular. Also, the legal opinion of Cantwell & Goldman is not a legal opinion concerning ownership, but rather the majority of the opinion is concerning jurisdiction.

A. Plat Dedication.

There is still the open issue as to whether there was a proper dedication and acceptance of the 1923 Plat and the right of ways therein. There are two distinct forms of dedication in Florida with regard to roads: common-law dedication and statutory-presumed dedication. Common-law dedication of a road requires “clear and unequivocal proof” of two elements: 1) an offer to dedicate property to the use of the public and 2) acceptance by the public. *Bonifay v. Dickson*, 459 So. 2d 1089, 1093-94 (Fla. 1st DCA 1984). An offer to dedicate may be implied from the acts of the landowner. *Id.* at 1094. Likewise, acceptance may be implied from acts of the public, including “use by the public or maintenance and improvement by the proper authorities of part of the land dedicated.” *Id.* Quite frankly, there does not appear to me any clear and unequivocal proof of either 2 elements.

There are two types of statutory-presumed dedication. The first type is set forth in section 95.361(1) and involves roads constructed by a county, municipality, or the Department of Transportation. Under this provision, a private road becomes a public road when it “has been maintained or repaired continuously and uninterruptedly for 4 years by the county, municipality, or the Department of Transportation.” § 95.361(1), Fla. Stat. This provision dates to the 1940s. See, *Sun Plaza W. Dev. Corp. v. City of Holmes Beach*, 465 So. 2d 542, 544 n.2 (Fla. 2d DCA 1985) (“The law has been in essentially the same form for more than forty years though under different numbers. Therefore, references to section 95.361 in this opinion should be read to include its predecessor statutes.”). Again this doesn’t seem to be the case as there is really no proof who built the road. That leaves on possible way to show this was a public ROW.

The second type of presumed dedication is set forth in section 95.361(2) and applies to roads not constructed by a government entity. Enacted in 2003, this provision employs nearly the same language used in section 95.361(1), the only differences being that the road must have been “regularly maintained or repaired” rather than “maintained or repaired continuously and uninterruptedly” and such maintenance must occur for seven years rather than four years.

We know from Town records the Town did not regularly maintain or repair the right of way and in fact I don’t believe the Town has done any repair or maintenance to this particular road right of way. I also believe that there are no county records of right of way maintenance either. There have been some suggestions that the US Postal delivery, AT&T service, etc., amounts to public acceptance. But that is an extreme stretch. If that were the case there would be an enormous amount of “private roads” within the unincorporated county that would now be considered public roads and need to be maintained by the county. That of course would be an absurd result.

In those cases applying common-law dedication and statutory-presumed dedication under section 95.361(1), the concepts are discussed separately and analysis of each is not mixed. Importantly,

there are no cases applying section 95.361(1) so that the common law elements of offer and acceptance are made requirements of statutory-presumed dedication. Instead, to the extent statutory presumed dedication is applied, courts focus on the level of maintenance and repair without reference to offer or acceptance. See e.g., *Chackal v. Staples*, 991 So. 2d 949, 953-56 (Fla. 4th DCA 2008); *Pasco v. City of Oldsmar*, 953 So. 2d 766, 769- 70 (Fla. 2d DCA 2007); *Hancock v. Tipton*, 732 So. 2d 369, 372 (Fla. 2d DCA 1999); *Lee v. Calhoun Cty.*, 532 So. 2d 43, 43 (Fla. 1st DCA 1988); *Osceola Cty. v. Castelli*, 435 So. 2d 417, 418 (Fla. 5th DCA 1983); *Hodges v. City of Winter Park*, 433 So. 2d 1257, 1259 (Fla. 5th DCA 1983); *Balbier v. City of Deerfield Beach*, 408 8 So. 2d 764, 765 (Fla. 4th DCA 1982); *Campanella v. Shuford*, 336 So. 2d 1257, 1258 (Fla. 1st DCA 1976).

The filing of a map under 95.361 (3) is not necessary to establish a dedication. See *Sun Plaza W. Dev. Corp.*, 465 So. 2d at 544 (noting that a government entity may obtain title under section 95.361 without the filing of a map). Instead, the filing of the map, as the statute states, creates “prima facie evidence of ownership of the land.” Furthermore, there is no requirement that a government entity intend to acquire property under section 95.361. See, *In re Jackson*, 169 B.R. 742, 746 (Bankr. N.D. Fla. 1994) (“The debtor seeks to prove that the County does not own fee title to the land beneath the roadway. He asserts that since the County neither owns the land nor seeks to assert any claim of title to the land, fee title belongs to him. Regardless of the County’s intentions, however, the land may have been dedicated to the County by common law or statutory dedication.”). So unless it can be shown that the ROW was “regularly maintained or repaired” by the Town or the County, for the appropriate time period of 7 years they have no public access and their access is private.

There is a real hard case for a common-law dedication. The problem is clear and unequivocal proof. We do not know who built the road. So, FS 95.361 (1) does not apply and 95.361 (2) would apply if at all. But again there is no “regularly maintained or repaired” proof.

B. What if there was a dedication

It seems to appear that the legal opinion accompanying the disputed title search and the submitted survey, assumes a dedication and acceptance. There are a line of cases which hold that there is a presumption that streets and roads depicted on a plat map without a written dedication create a private access right to the lot owners and constitutes an offer to dedicate use of those roads to the public. *Kirkland v. City of Tampa*, 75 Fla. 271 (1918) and *City of Palmetto v. Katsch*, 86 Fla. 506 (1923). This that means with respect to Central BLVD, k/n/a Miller Cove Road on the Indian River Home Sites Plat, one could argue an intent to dedicate. Now, assuming that it cannot be proved that there was an acceptance, there might be an argument that portions of Miller Cove Road and “Dixie Highway” on the Indian River Home Sites Plat are within the Town and those referenced road sections may be now “owned” by abutting parcel owners.

A Grantor/sub-divider’s legal title in dedicated property passes to the grantees of lots sold in reference to a plat, which lots abut the dedicated streets. The grantees title extends to the entire width of the right of way, if there is no abutting property owner on the other side of the right of way, and to the mid-point or center if there is an abutting property owner on the other side of the street or right of way. *Walker v. Pollack*, 74 So.2d 886 (Fla. 1954), *Smith v. Horn*, 70 So 435 (Fla. 1915) *New Pierce Hotel*

v. Phoenix Tax Title Corp., 171 So 525 (Fla. 1936), and *US v. 16.33 Acres of Land in County of Dade*, 342 So.2d 476 (Fla. 1977).

If you recall the Town annexed, in 1991, Lots 1-12 Block C, Lots 1-6 Block D, Lots 1-12 Block E of the Indian River Home Site Plat. Resolution 91-02 Palm Shores. That being said it would follow that based upon those cases extending the grantees title to at least the center line of the right of way, the Town then arguably annexed at least those portions of Miller Cove Road and Dixie Highway that abuts these lots, at least to the Center Line.

A compelling argument exists, at least as to those lots abutting Miller Cove Road to the North in Blocks C, D, and E, the owners of such lots may have in fact got the entire Miller Cove right of way. In 1988 the Plat of Palm Shores Estates was recorded, 2 years before the Annexation Resolution. This resulted in the elimination of those lots south of Miller Cove Road that were on the Indian River Home Site Plat as well as other lots thereon. In my opinion that plat eliminated the lots in the Indian River Home Site Plat abutting the southern border of Miller Cove Road, notably Blocks K,L, M, and N as well as Block F abutting the Western Edge of Dixie.

So in theory, it can be argued that the portions of Miller Cove Road, at least to the center line and may be the entire ROW abutting Blocks C, D, and E, of the Indian River Home Site Plat are in the Town as well as Dixie Highway. If these right of ways were not accepted it would seem to me that these abutting lot owners should have a whole lot to say and object to the County accepting the right of way and the County as they may very well be in the Town and may be Town right of ways.

I suppose that even if the dedication was accepted, an argument can be made that at least those portions of the Miller Cove Road right of way that abutted the annexed lots came with the annexation based upon the above cases. That being said, then the Town's Vacate Ordinance 92-02 may control and again the abutting lots own the vacated portions of those right of ways.

C. Rebuttal to Legal Opinion.

The legal opinion of Cantwell and Goldman contained certain conclusions which are reproduced below. My rebuttal is in italics.

(a) Brevard County has the sole jurisdiction over Central Boulevard, a/k/a Miller Cover Road and the applicable portion of Old Dixie Highway. The County exercised jurisdiction over the Plat Property as early as June 20, 1963. No documents in the public records reflect that the County relinquished control of the roads in the Plat to the Town or to any other agency. *As far as the County exercising jurisdiction as far back as 1963, the vacate resolution does not equate to the exercise of jurisdiction over the plat or right of way as required by the case law. If the County never had the road then it cannot vacate it. In essence the vacate is nothing more than the county saying we have nothing to do with this right of way. In fact there are no county records, other than a vacate resolution, which would indicate that the county ever accepted the right of ways in the 1923 plat. There is no clear and unequivocal proof of the acceptance of any purported dedication of the road right of ways on the 1923*

plat. The vacate resolution can't amount to acceptance. Something more than that must be clearly shown, such as continuous maintenance and repair, which is lacking in the record.

In the past the applicant has stated grounds to show acceptance of the plat:

- *Three(3) addresses have been assigned by Brevard County on Miller Cove Road; 2340 Miller Cove Road has assigned itself that address and receives mail at a mailbox on Miller Cove Road. Mail is delivered to mailboxes by use of Miller Cove Road. This does not in and of itself mean that the County has accepted the Plat dedications. In fact throughout both the incorporated and unincorporated areas of the county addresses are assigned for emergency services purposes.*
- *FDOT has built 150 feet of road, as well as drains and swales on Miller Cove Road. (We believe Florida Statutes requires Brevard County to maintain the road because of this construction, but the explanation is extremely long.) The mere fact that FDOT has made an improvement does not equate to the County's acceptance of a Plat dedications.*
- *AT&T has installed fiber optics in the ROW of Miller Cove Road. We have been in contact with AT&T and the legal department is searching for records. The local contact at AT&T believes AT&T was given verbal permission from Palm Shores to install the fiber optics "in the ROW". Again, just because AT&T has run fiber optics down Miller Cove Road does not mean the County has accepted the Plat dedications*
- *FPL has installed and maintained four (4) power poles and overhead lines in the Miller Cove ROW. FPL has been unable to locate any permits, and believes that the County provided a ROW map and advised FPL it could use any ROW; Miller Cove Road was identified on the map as a ROW. Same as above*
- *Per a local resident, Brevard County public works has removed debris from the swale on Miller Cove Road. This is certainly different than acceptance of any dedication. Debris removal is not the same as accepting responsibility of the ROW. I have not seen any clear proof that the county has accepted any ROW for maintenance purposes.*
- *Waste Pro utilizes Miller Cove Road for trash pickup. Unaccepted roads do get garbage service. However, in this instance Waste Pro denies any such service. Apparently a dumpster located on another property is used for trash service. Also, trash collection has nothing to do with County acceptance. Don't waste collectors provide trash collection on private roads...of course they do.*
- *Brevard County Mosquito Control utilizes Miller Cove Road to spray to control mosquitos. This does not equate to acceptance of dedication. I suspect that other unaccepted roads are utilized for such services.*
- *Brevard County Code Enforcement has utilized Miller Cove Road to investigate my client. I am sure Brevard County Code Enforcement utilizes other unaccepted streets for code enforcement.*
- *1st Avenue, south of Central Blvd. (now Miller Cove Road), of the Indian River Home Sites Subdivision was vacated by Brevard County by June 20, 1963 Resolution, ORB 503, Pg. 583. The vacate may have been under the mistaken belief that these ROWs were accepted.*

- 3rd Avenue and 4th Avenue of the Indian River Home Sites Subdivision was vacated by Brevard County by Resolution 2001-414, ORB 4494, Pg. 1706. *The vacate may have been under the mistaken belief that these ROWs were accepted.*
- The roads in the Indian River Home Sites Subdivision are within the jurisdiction of the County (as opposed to any municipality). *This has not been conclusively determined.*
- No “holder of any interest in any reversionary rights in streets” of the Indian River Home Sites Subdivision made any claim for those rights by July 1, 1973, as required by F.S. 177.085(2). *That being so again it doesn’t necessarily mean these are now publically accepted ROWs. What it means is the reversionary interest is unenforceable.*

Also, the mere reference to the plat in subsequent sales does not necessarily show an intent to dedicate. It could merely be a reference to a recorded plat that did not dedicate to the County. But assuming it is an intent to dedicate, there appears to be insufficient evidence of acceptance. Address assignment is not an intent to accept a purported dedication, nor does the issuance of a building permit. Also, if the county did not issue any utility permits and if the utilities were advised that they can be installed in the “County right of way” again that’s not evidence of acceptance. Neither FP&L nor AT&T applied to the town for any utility permits. The portion paved was done by FDOT, not the Town or County. So, again I don’t see how that can be imputed acceptance by the County of any alleged dedication.

(b) Central Boulevard is still under the jurisdiction of Brevard County because the Town never annexed the roadways in the Plat or ever accepted ownership of the roadways in that Plat. While the Town has adopted an Ordinance and three (3) Resolutions regarding the various roadways in the Plat, it was without legal authority to do so. Therefore, the vacating of roadways by Palm Shores and the renaming of Central Boulevard are invalid actions of the Town. *There is an argument that in fact the roadways were annexed. As stated above, “A Grantor/sub-divider’s legal title in dedicated property passes to the grantees of lots sold in reference to a plat, which lots abut the dedicated streets. The grantees title extends to the entire width of the ROW, if there is no abutting property owner on the other side of the ROW, and to the mid-point or center if there is an abutting property owner on the other side of the street or ROW.” So when the Town annexed the lots the abutting right of ways came with the annexation and therefore the Town could vacate these right of ways.*

(c) No part of Central Boulevard is in private ownership because no part of Central Boulevard was ever legally vacated by the County to result in added lands to those along Central Boulevard/Miller Cove Road. This is supported by the fact that the Property Appraiser has declined to separate the 331 feet of Central Boulevard east of Old Dixie Highway into new ownership. *First off, it is a dangerous proposition to base legal title and ownership on what the property appraiser shows or concludes. I know of no legal authority which purports to base ownership of property based upon the property appraiser’s conclusions. The property appraiser appraises property and does not make legal determinations concerning ownership.*

(d) Ord. 92-02 is improper and vague, as no legal description by metes and bounds or map delineating vacated property is attached. The Ordinance does not attach proof of legal notice, and the only legal notice found in the records of Florida Today does not satisfy F.S. 177.101 (1992). Despite public records requests, no other records are available from the Town regarding this vacating. The

Town should have rescinded Ord. 92-02. *The ordinance vacates the following: All of Fourth Avenue, All of Third Avenue, and the West 331 Feet of Central Boulevard all in Indian River Home Sites Subdivision as recorded in Plat book 3, Page 37 of the Public Records of Brevard County, Florida. This seems sufficient to determine what has been vacated. There is an argument that the provisions of Chapter 177.101 do not apply to the vacating of rights of ways on plats, as that section seems to focus on an attempt to vacate the entire plat or a portion thereof, which may result in the vacating of all right of ways; however, the referenced section does not provide the process and procedure for a municipality to vacate individual road right of ways on a plat. There is no dispute that a municipality can vacate right of way, even those contained in plats. As stated in AGO*

76-12, "A municipality's power to vacate streets is based upon s. 166.042..." See also AGO 78-125, "Therefore, a street in which the public has only an easement when properly vacated ceases to be a street; the abutting landowners continue to hold fee simple title to the center of the vacated roadbed unencumbered by the easement." So the provisions of 177.101 do not apply to the vacating and abandoning of streets and right of ways. Any challenge to this ordinance has long been precluded by the statute of limitations.

(e) The interest held by the County in Central Boulevard and the applicable portion of Old Dixie Highway is for street purposes, held in trust for the benefit of the public. Miller Cove Road is currently and has been used by the public and by public services and vehicles for many years and has not been vacated by the County. See AGO 78-125. *To the extent and assuming that Miller Cove Road is a public right of way, which has not yet been determined by clear and unequivocal proof, the right of ways which have not been abandoned and which still remain in either the County or Town, they are kept and held in trust for the benefit of the public. But as stated above the legal opinion seems to disagree with the conclusions of the title search. I quote the legal opinion as follows: "Old Republic has opined that Miller Cove Road and Old Dixie Highway are held by Brevard County and the Town of Palm Shores...I disagree". It seems that the legal opinions disagreement with the Old Republic search is contrary to the stated position in this subsection (e) where it states "The interest held by the County in Central Boulevard and the applicable portion of Old Dixie Highway is for street purposes, held in trust for the benefit of the public".*

(f) There is no evidence of record wherein any agency or person, other than the County, the Town and FDOT, has exerted or claimed control of Central Boulevard or the applicable portion of Old Dixie Highway. *I am not quite sure the relevance of this statement. If they are trying to convince the County that it is a dedicated and accepted County right of way then why would they even acknowledge the Town's claim of control unless they are not sure and despite the opinions conclusion that "I am of the opinion that Central Brevard and the applicable portion of Old Dixie Highway are under the jurisdiction of Brevard County... and neither the Town or any natural person has any ownership...". Again it is interesting to note that they do not opine that the road is a county "owned" right of way but rather merely under the jurisdiction of Brevard County, but they try to negate the Town's ownership and private ownership.*

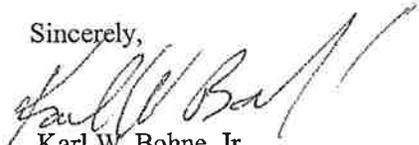
I also would like to emphasize the county attorney's opinion of October 20, 2017 where it was stated that the County probably cannot accept the "1923 Plat" due to jurisdictional issues involving the town of Palm Shores; there is no case law indicating that the actions listed by the applicant are deemed acceptance of ownership. In addition, a memo from Mr. Andrew J. Holmes, Public Works Director,

dated 10/20/2017 shows no county records of maintenance activities for the subject right of ways, the same is true for town records, there has been no public street constructed within the right of ways.

The Surveyor's Report of Briel & Associates dated December 12, 2017 and attached to Cantwell and Goldman opinion as Exhibit E incorrectly concludes that the western terminus of Miller Cove Road is west of the railroad tracks. That report does not take into consideration

Since the inception of this matter original opinions and positions of the Town have admittedly changed after further development of the facts and the tile search. The Town objects to the county "accepting" the plat and road right of ways at this juncture due to the many unanswered questions and unresolved issues. The Town also would object to any proposal that would provide that Miller Cove Road and Old Dixie Highway will be used as a driveway, not a public nor private roadway. This proposal assumes that there is no rights to the right of ways by the Town or other private interests. Those issues still must be resolved.

Sincerely,



Karl W. Bohne, Jr.

CC: Client

From: Sharon & Ed Washburn
To: Lewis, Sally A
Subject: Fwd: Miller cove road
Date: Friday, December 15, 2017 3:04:16 PM

FYI

Begin forwarded message:

From: "kbohne@fla-lawyers.com" <kbohne@fla-lawyers.com>
Subject: Fwd: Miller cove road
Date: December 15, 2017 at 2:46:36 PM EST
To: Sharon & Ed Washburn <edwashburn_sharon@cfl.rr.com>

Forward to ms lewis please

Sent from my Sprint Samsung Galaxy S@ 6.

----- Original message -----

From: kbohne@fla-lawyers.com
Date: 12/15/17 2:34 PM (GMT-05:00)
To: "Bentley, Eden" <Eden.Bentley@brevardfl.gov>
Cc: Carol McCormack <mayor@townofpalmshores.org>, Sharon & Ed Washburn <edwashburn_sharon@cfl.rr.com>
Subject: Miller cove road

I noticed my letter has an incomplete sentence. The second to last paragraph should read as follows:

"The Surveyor's Report of Briel & Associates dated December 12, 2017 and attached to Cantwell and Goldman opinion as Exhibit E incorrectly concludes that the western terminus of Miller Cove Road is west of the railroad tracks. That report does not take into consideration that Palm Shores Estates was platted in 1988 which replatted the west end of the old plat and the area west of the railroad was replatted as well, probably long before 1992, the year the Town did the vacating of Miller Cove Road."

Karl W. Bohne, Jr.
Schillinger & Coleman, P.A.

1311 Bedford Drive
Melbourne, FL 32940
[321-255-3737](tel:321-255-3737) Telephone
[321-255-3141](tel:321-255-3141) Facsimile

Office Hours:

8:30 a.m. to 5:00 p.m. Monday thru Thursday
8:30 a.m. to 12 Noon on Friday

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December 19, 2017

Agenda Item: V. A

Submitted by LTM of Florida Holdings, LLC

Addition to Cross Access Agreement:

8. INDEMNIFICATION. Except where limited by law, LTM agrees that it will indemnify and save harmless the COUNTY from any and all liability, claims, damages, expenses, proceedings and causes of action of every kind and nature arising out of or connected with the use, occupation, management or control of Parcel A, any improvement thereon or any equipment or fixtures used in connection with Parcel A. LTM agrees that it will, at its own expense, defend any and all actions, suits or proceedings which may be brought against the COUNTY in connection with LTM's use of Parcel A or the County's claim of ownership and that LTM will satisfy, pay and discharge any and all judgments that may be entered against the COUNTY in any such action or proceedings. LTM retains the right to approve the attorney hired by the COUNTY, approve the fees of the attorney(s) hired and to approve any settlement that affects LTM's use of Parcel A.

All personal property, equipment, fixtures, structures or improvements constructed or placed on or about the premises shall be at the risk of LTM and the COUNTY shall not be liable for any damage or loss to personal property, equipment, fixtures, structures or improvements located thereon for any cause whatsoever.



Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2609832
 Owners Ltm Of Florida Holding LLC
 Mailing Address 4113 Quando Dr Belle Isle FL 32812
 Site Address Not Assigned
 Parcel ID 26-37-30-00-10
 Property Use 8060 - State Owned Land - Vacant
 Exemptions EXSF - State Owned
 Taxing District 4200 - Unincorp District 4
 Total Acres 2.42
 Subdivision N/A
 Site Code 0001 - No Other Code Appl.
 Plat Book/Page N/A
 Land Description W 2.5 Ac Of N 1/2 Of S 1/2 Of Lot 2 E Of Rr & W Of St Rd

VALUE SUMMARY

Category	2016	2015	2014
Total Market Value	\$26,620	\$26,620	\$26,620
Agricultural Market Value	\$0	\$0	\$0
Assessed Value Non-School	\$26,620	\$26,620	\$26,620
Assessed Value School	\$26,620	\$26,620	\$26,620
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$26,620	\$26,620	\$26,620
Taxable Value Non-School	\$0	\$0	\$0
Taxable Value School	\$0	\$0	\$0

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
02/10/2017	\$69,700	QC	Improved	7824/2863
06/27/2001	--	WD	Vacant	4375/0562
01/29/2001	--	QC	Vacant	4285/4017
12/01/1988	\$50,000	WD	--	2971/2409
12/01/1986	--	QC	--	2752/2856
04/01/1980	\$17,400	--	--	2231/0644

BUILDINGS

No Data Found

Property Search

Brevard County Property Appraiser
Dana Blickley, CFA

Map Subject Property () () Open Map in New Window ()

BCPAO ()

Picto ()

Google ()

Bing ()

Search by Account Number (Ex. 1234567 - More search options available soon.)

- 2017
- 2016
- 2015
- 2014
- 2013
- LEGEND

The map displays several parcels with labels: 'PALM TREE CT', 'MILLER COVE RD', 'N HIGHWAY 1', and 'HIGHWAY 1'. A large yellow rectangular area highlights a specific parcel. Other labels include '26-37-30' and '26-37-31'. The map shows street layouts and individual lots within these streets.



Account: Parcel ID:
 Sale:
 BCPAO Market Value:
 Owners:
 Address:

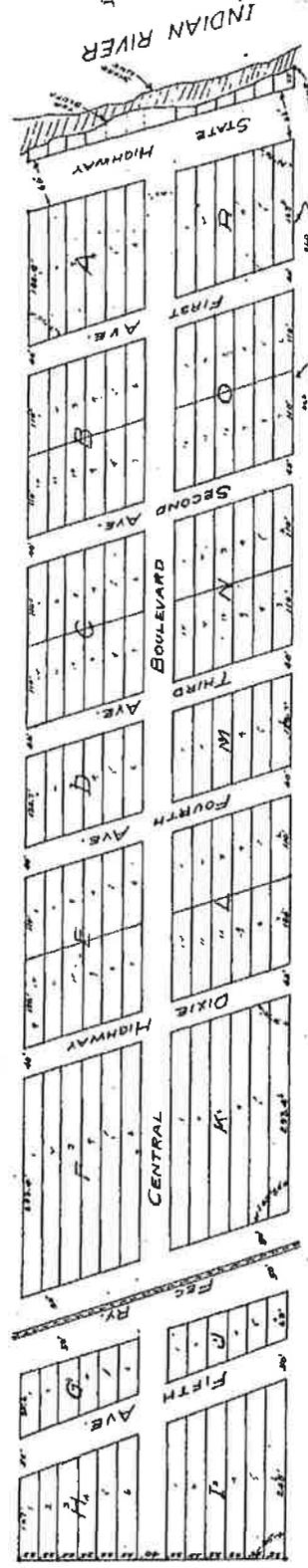
INSTRUCTIONS (/Docs/misc/Instructions_MapSearch.pdf#20170405)

INDIAN RIVER HOME SITES
SUBDIVISION OF SOUTH FOURTH
GOVT. LOT 2
SEC. 30, TWP 26 S., RA. 37 E.,
BREVARD COUNTY FLA.

SURVEYED & PLATTED
BY *W. H. COOPER*
SCALE 1" = 100.00'
DATE 11/11/1923

PLAT OF 18 AVE. & LOCATED 300 BY 400
11-11-23

87
11/11/23
W. H. COOPER
11-11-23





Looking West on Miller Cove Road



Looking East on Miller Cove Road

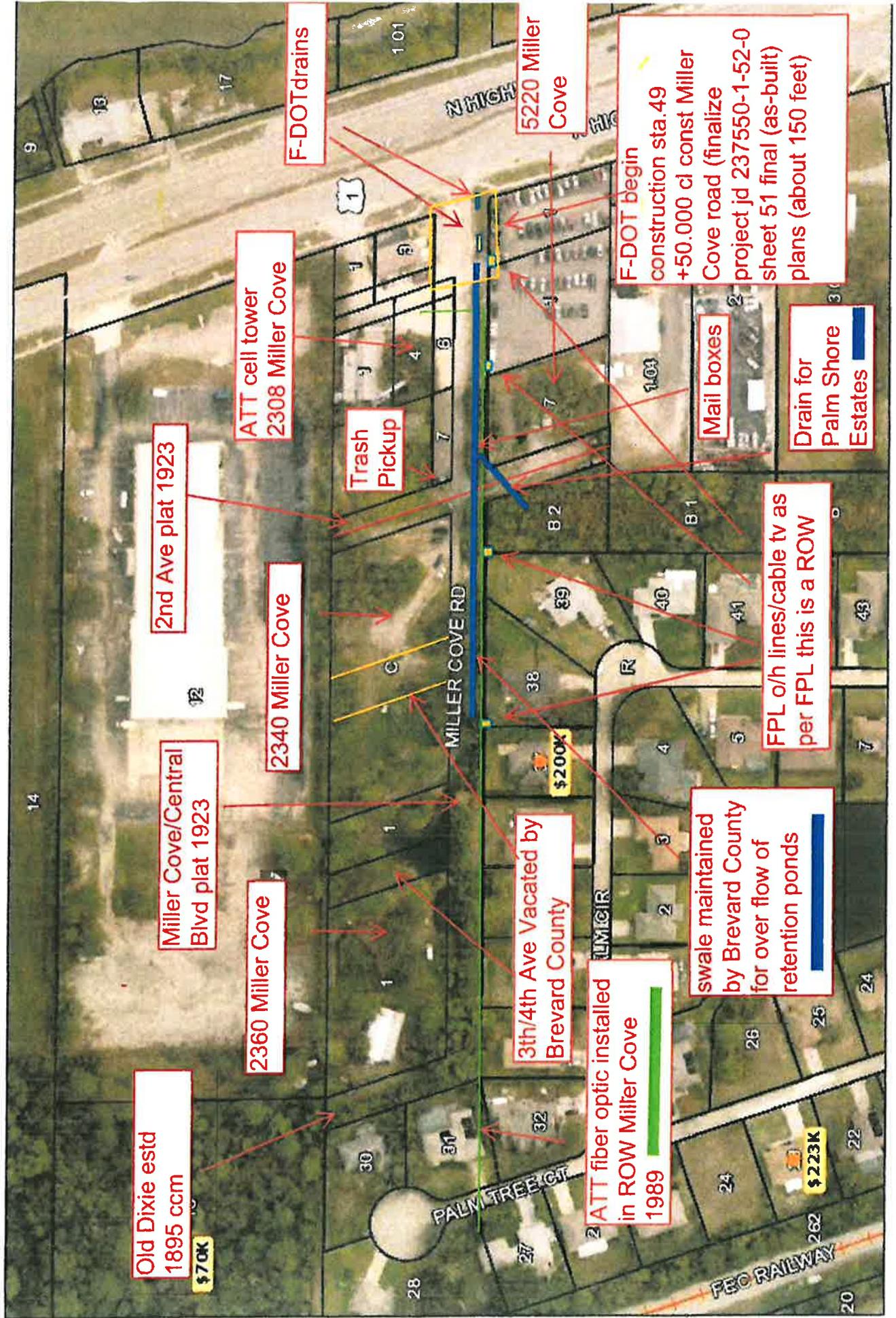


Looking North on Old Dixie Highway



Looking south on Old Dixie Highway

Brevard County Property Appraiser



M E C
CONTRACTORS ■ ENGINEERS
Mid-Florida Engineering Consultants dba

August 17, 2017

Kimberly Bonder Rezanka, Esq.
Cantwell and Goldman PA
96 Willard Street, Suite 302
Cocoa, FL 32922

Re: Miller Cove Road, Brevard County, FL Road Construction Feasibility

Dear Mrs. Rezanka,

M.E.C. has reviewed the standard details for paved and unpaved roads per the Brevard County "Official Land Development Exhibits". M.E.C. believes that a county road can be constructed in the ~800 linear feet of the Miller Cove Road Right-of-Way and ~160 linear feet of adjacent Old Dixie Highway contingent upon approval of the following:

- Variance/waiver to allow for a 40 foot wide Right-of-way in lieu of a 50 foot Right-of-Way.
- Variance/waiver to allow emergency vehicles to turnaround on site in lieu of constructing a Cul-De-Sac or Tee Turnaround within the Right-of-way.
- Variance/waiver to allow exemption from construction of roadside sidewalks.
- Variance/waiver to allow exemption from construction of roadside curbs.

M.E.C. has reviewed the FDOT as-built drawing this area mentioned above. This review has confirmed that there is a 50 foot by 50 foot road entrance with associated drainage structures that can be used to connect to the new proposed Miller Cove Road.

Please feel free to contact me with any questions. Thank you in advance.

Sincerely,



Gary Neal P.E.
Engineer
garyn@meconstruction.com

Law Offices of
CANTWELL & GOLDMAN, P.A.

www.cfglawoffice.com

Bradly Roger Bettin, Sr.
William H. Cantwell, II^{1,2}
Mitchell S. Goldman
J. Wesley Howze
Matthew J. Monaghan
Nina V. Rawal
Kimberly Bonder Rezanka
Michael Sjuggerud³
Jay R. Thakkar

¹ Board Certified Construction Lawyer and
Board Certified Business Litigation Lawyer

² Also Member of West Virginia Bar

³ Also Member of District of Columbia
Bar, New York Bar, and Washington Bar

96 Willard Street, Suite # 302
Cocoa, FL 32922-7947
Telephone: (321) 639-1320
Facsimile: (321) 639-9950

474 N. Harbor City Blvd., Suite # 1
Melbourne, FL 32935
(by appointment only)

May 22, 2017

Via email: Eden.Bentley@brevardfl.gov

Ms. Eden Bentley
Assistant County Attorney
Brevard County Attorney's Office
2725 Judge Fran Jamison Way, Bldg. C
Viera, FL 32940

RE: Address and Access – Miller Cove Road, Palm Shores

Dear Eden:

We represent LTM of Florida Holdings, LLC (“LTM”) regarding the land development permits and related issues for the Property identified as Parcel Id. 26-37-30-00-10, located in Brevard County but adjacent to lands in the Town of Palm Shores. *The Property Appraiser's information and map are enclosed.*

On April 28, 2017, Karl Bohne, the Town of Palm Shores' Attorney, sent you an email requesting the County Attorney's opinion on several matters related to the 1923 Indian River Homes Sites Plat, including whether the County had accepted the dedication of the roads in the Plat or whether the County believed the roads to be private roads. On May 1, 2017, my client and I met with you, John Denninghoff, Tad Caulkins, Cindy Thurman and several other County staff members to discuss my client's access to his Property by Miller Cove Road and Old Dixie Highway. You – understandably – believed the meeting was about the denial of an address assignment and had just received Mr. Bohne's lengthy email and attachments.

To date, we have heard nothing from the County in response to Mr. Bohne's email or our meeting of May 1st. LTM asserts that Miller Cove Road has been dedicated by the 1923 Plat, that the County accepted the dedication, and that LTM is entitled to access via Miller Cove Road and Old Dixie Highway. With this letter, we have provided additional information supporting these assertions.

As to the dedication, Mr. Bohne provided sufficient information to show the intent of the owner of the land that recorded the Plat, W. E. G. Harris, to dedicate the Plat to the County. As further evidence, we have all the deeds from Mr. Harris to subsequent owners that reference the Plat.

Mr. Harris left all the remaining property to his wife, Hettie Harris. We have copies of the probate of Mrs. Harris; the streets of Indian River Homes Sites Plat were not included in the Probate Estate.

I. Acceptance of the dedication of the 1923 Plat by Brevard County

Regarding the County's acceptance of the dedication, we provide the following facts which support acceptance. First, several properties along Miller Cove Road have been provided addresses on Miller Cove Road, including: 2360 Miller Cove Road (existing residence); 2340 Miller Cove Road (former plant nursery); and 2308 Miller Cove Road (cell tower and related structure). Additionally, there is a single-family residence on the south side of Miller Cove Road – accessible only by Miller Cove Road – with no assigned address, Parcel Id. 26-37-30-01-O-7.

Second, there are FPL power poles and lines, as well as AT&T fiber optic cable along and traversing Miller Cove Road. When FPL and AT&T were contacted about permits or easements, neither has permits or easements for their utilities. Both were told by the County that they could install the utilities on the County's right-of-way without permits. The Town of Palm Shores has no permits on file for the poles or cable, either. Furthermore, Waste Pro collects trash by way of Miller Cove Road, as evidenced by several green trash containers along Miller Cove Road. Right-of-ways for public road use include use for public utilities such as electric power poles. *See Nerbonne, N.V. v. Florida Power Corp.*, 692 So. 2d 929 (Fla. 5th DCA 1997).

Third, there is fifty feet (50') of paved road from U.S. 1 to the west, on what is known as Miller Cove Road. We are in the process of researching the as-builts and permits from 2003-2004 to determine who exactly paved this area and who has responsibility for its maintenance. FDOT does own a portion of this area, by virtue of a deed to it in 2001. *A copy of the Deed is enclosed.*

Fourth, the County vacated Third Avenue and Fourth Avenue of the 1923 Plat, by Resolution 2001-414, filed in ORB 4494, Page 1707, Public Records of Brevard County. According to the Resolution, this was done pursuant to County Code Section 86-36, which states that the Board of County Commissioners "is hereby authorized and empowered to close, vacate and abandon any county road, right of way, alley way, place of travel or easement (of any type) or any portion thereof within its jurisdiction." While you indicted that the vacating was akin to a quit claim deed, we dispute that characterization as it contradicts the plain and clear language of the County Code. The County can only vacate that over which it has jurisdiction. *A copy of the Resolution is enclosed.*

Acceptance of dedication may be implied from acts showing an intention to accept, including, among other things, use by the public or maintenance and improvement by proper authorities of part of the land dedicated. *Bonifay v. Dickson*, 459 So. 2d 1089, 1094 (Fla. 1st DCA 1089). Based upon the foregoing reasons and case law, we believe the acceptance is clear, unequivocal and with satisfactory proof of acceptance.

II. County-owned Miller Cove Road

Once ownership of Miller Cove Road is agreed upon, LTM has several challenges, as were discussed in far too much depth at our meeting of May 1, 2017. However, LTM requests consideration of several items.

First, an address must be assigned to LTM's Property, off of Old Dixie Highway. The Address Request Form (*copy enclosed*) does not appear to provide for any discretion and is a ministerial function. Moreover, the Form includes a bold disclaimer that "receiving an address does not guarantee a property is buildable or that any permits can be issued". LTM will be submitting this Form to address assignment today.

Second, LTM will be requesting waivers to the requirements of a 50' ROW, a full size paved roadway and sidewalks. As analyzed by Mr. Denninghoff, Miller Cove Road has insufficient width for all County Code requirements. There are many examples in the County of waivers of these requirements, including Sun Pointe Place, Morningside Drive and Furman Road. We understand from County staff there are many more examples.

Third, if the County is unwilling to work with LTM on these waivers, LTM will be requesting the County to pave the road under a proportionate share agreement per Sec. 163.3180, Fla. Stat. or a public-private partnership agreement under Sec. 255.065, Fla. Stat. LTM has been prepared to pave the roadway at its sole cost, but anticipated that the County would be enthusiastic about the improvement; enthusiasm appeared lacking at the May 1, 2017 meeting.

Fourth, Old Dixie Highway will also need to be improved as Miller Cove Road terminates into Old Dixie. Please confirm that the County agrees that the portion of Old Dixie Highway, from Miller Cove Road/Central Boulevard, is a county-owned road.

Fifth, LTM will need to apply for a permit, or obtain a waiver from a permit, to clear both Miller Cove Road and Old Dixie Highway. There are palm trees and other trees in the road right-of-way of both roads. A clearing permit will allow LTM to remove the remaining trees from the right-of-ways of Miller Cove Road and Old Dixie Highway.

III. Moving Forward

LTM needs to move forward on its project. It has a pending comprehensive plan amendment and rezoning scheduled before P & Z in July. Despite the contentions of Palm Shores' Mayor, LTM's neighbors are not opposed to the roadway or the use of LTM's Property as proposed. *The rendering of the proposed use is enclosed.* The Mayor's letter to the County opposing the rezoning will be addressed in more detail, but this is not the proper place to do so.

On behalf of LTM, we request a status update on these matters. Thank you for your assistance. We look forward to hearing from you in the near future.

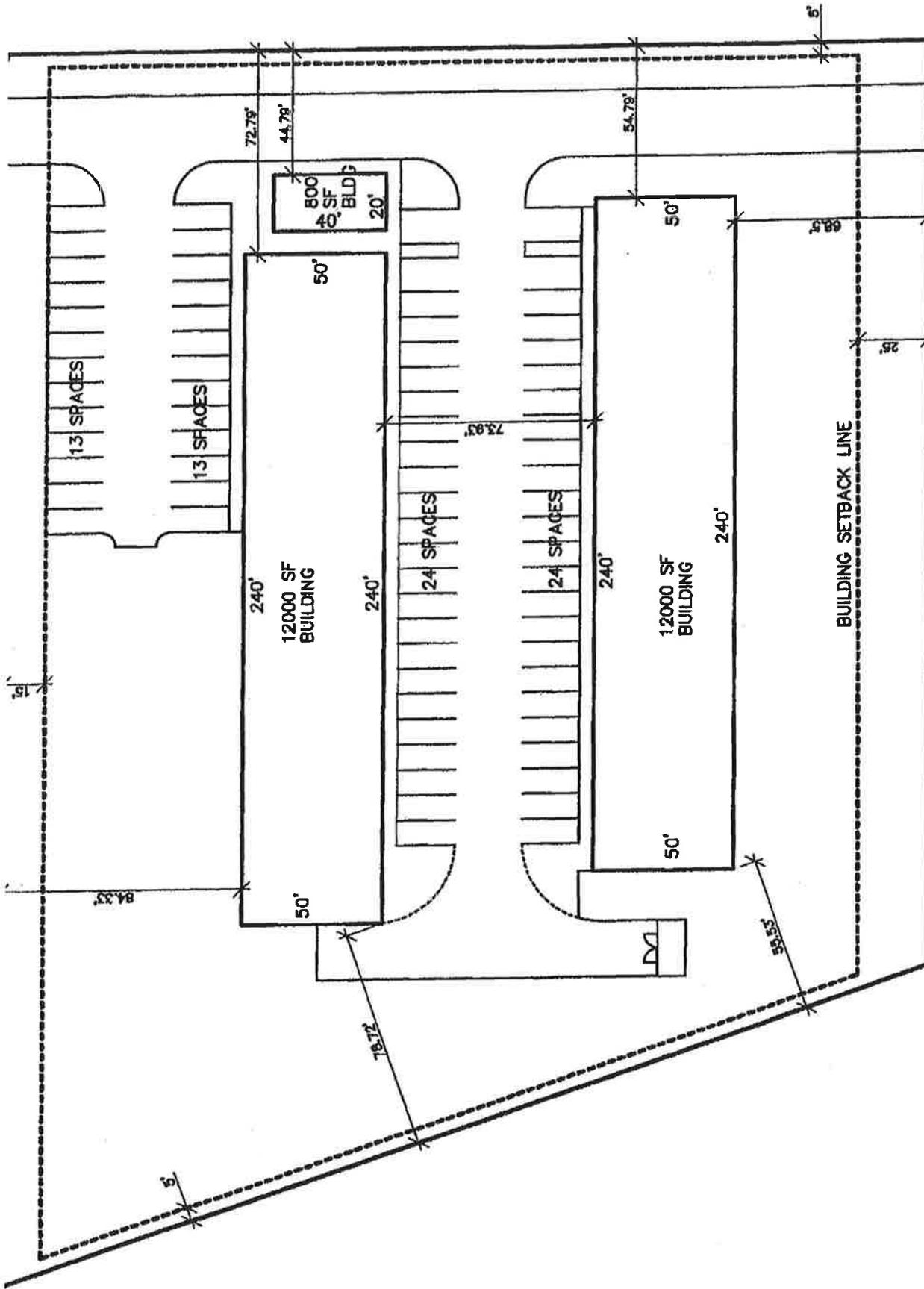
Sincerely,



Kimberly Bonder Rezanka

KBR/bms
enclosures

cc: John Denninghoff
Commissioner Curt Smith
Cindy Thurman
Karl Bohne, Esq.



DIXIE HIGHWAY -
101 901

LTM of Florida Holdings LLC.
 CONCEPT PLAN, SITE LAYOUT
 PARCEL ID 26-37-30-00-10
 BREVARD COUNTY, FL

M.E.C.
 CONTRACTORS - ENGINEERS
 M.E. CONSTRUCTION, INC.
 7007 Canal Drive, West Melbourne, FL 32904
 (321) 939-1174 (FAX) 1982 Bldg 7000 Ave. Brevard
 PROFESSIONAL ARCHITECTURE C/O 0-2028

04 / 00 / 17

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-2012-CA-048562

MERRITT INDUSTRIAL PARK II, LLC, AS
SUCCESSOR IN INTEREST TO MERRITT
INDUSTRIAL PARK, INC., a Florida corporation,

Plaintiff,

v.
BREVARD COUNTY, a political subdivision
of the State of Florida, et al

Defendants.

MOTION FOR SUMMARY JUDGMENT AND
MOTION FOR SANCTIONS

Defendant, Brevard County, Florida (hereinafter "County"), by and through its undersigned counsel and pursuant to Fla.R.Civ.P. 1.510(c), hereby moves for entry of an order granting the Motion for Summary Judgment in its favor and against Plaintiff, Merritt Industrial Park II, LLC, and its successor in interest Park 'N Cruise II, LLC, and as good cause therefore states that the affidavits in support of this motion, together with the pleadings and discovery on file show that there is no genuine issue as to any material fact and that the County is entitled to summary judgment as a matter of law. County further motions the Court for sanctions against Plaintiff for filing a frivolous lawsuit. In accordance with Section 57.105(4), this motion was filed at least twenty-one days after service on the Plaintiff.

1. This is an action for quiet title and declaratory judgment involving property designated as a road in a residential subdivision plat, known as the Kelly Park Subdivision, as recorded in Official Public Records Book 4, page 21 in 1924 or 1925.

2. The determinative issue in this case is whether London Boulevard, specifically the area described in Plaintiff's Amended Complaint as the "London Property", is within the boundary of the Kelly Park Subdivision. Amended Complaint ¶¶ 10, 29

I. THERE IS NO GENUINE ISSUE AS TO ANY MATERIAL FACT

A. The Parties

Plaintiff, Merritt Industrial Park, Inc./Merritt Industrial Park II, LLC/Kabboord Properties II, LLC, no longer owns the property described in the complaint. The property described in paragraph 12 of the Amended Complaint was conveyed to Park 'N Cruise II, LLC, on October 1, 2014, according to the deed recorded in the Official Records of Brevard County, Florida, Book 7223, Page 1748. Copy of said deed is attached as Exhibit A. References to the "Plaintiff" throughout this Motion include Merritt Industrial Park, Inc., Merritt Industrial Park II, LLC/Kabboord Properties II, LLC, and Park 'N Cruise II, LLC, which all were/are managed by David W. Kabboord, 3201 N. Atlantic, Avenue, Cocoa Beach, Florida 32931.

3. Defendants Keith I. Notary, AC Notary Co., Charles C. Chandler, Sr., as Trustee of the Charles C. Chandler, Sr. Trust, Hubert V. Bays, Zvonimir Matkovic and Radonvan Cvetkovic own lots within the Kelly Park subdivision that are adjacent to London Boulevard. Amended Complaint ¶¶ 16, 19, 21, 23

4. Defendant County claims easement rights over all the roads depicted within the subdivision that have not otherwise been formally vacated and considers them public rights of way. Brevard County's Answer ¶¶ 6, 24, 30d, Fourth Aff. Def. , Fifth Aff. Def.

B. The Recorded Plat Map of Kelly Park

5. The legal descriptions in Plaintiffs' deeds state that the property lies "West of the Kelly Park Subdivision according to the plat thereof as recorded in Plat Book 4, Page 21 of the Public Records of Brevard County, Florida" (hereinafter referred to as the "Recorded Plat Map"). The western boundary of the Kelly Park Subdivision is the eastern boundary of Plaintiff's property. Amended Complaint Exbs. A & D; Campbell, Dep. Exb. 2; Sweeney Aff.; Exb. A; Carlile Dep. pp. 22-29

6. The Plaintiff has not paid property taxes for the land described in the Amended Complaint as the "London Property". Naughton Aff.

7. In or around May 1925, then-landowner, L.L. Kelly subdivided the property shown in the Recorded Plat Map, which was accepted by the clerk and recorded in Plat Book 4, Page 21 of the Official Records of Brevard County, Florida. Amended Complaint Exb. A; Sweeney Aff.; Hollmann Aff. Carlile Dep. pp. 22-29

8. The Recorded Plat Map, entitled "Map of Kelly Park" spans Sections 7 and 18 and includes property divided into blocks and lots, named and dimensioned roads, and parks. Amended Complaint Exb. A; Sweeney Aff.; Hollmann Aff.

9. The Recorded Plat Map shows the westernmost blocks and lots bounded on the west by a right of way named Roosevelt Avenue, which is further defined by dimensions. Amended Complaint, Exb. A; Campbell, Dep. Exb. 2; Carlile Dep. 22-29

10. In 1971, the County changed the names of most of the roads within the Recorded Plat Map. Roosevelt Avenue is now called London Boulevard. Amended Complaint ¶ 8, Exb. C

11. Around the same time the Recorded Plat Map was recorded, Mr. Kelly's surveyor, Harold Wilson, drafted two other maps that depict portions of the land subdivided in the Recorded Plat Map Park. Sweeney Aff. Campbell Aff.

12. Surveyor Wilson drafted a map of Section 7, T24SR37E entitled the "First Addition to Kelly Park." It does not show a road on the west side of the lots. It does not include all the blocks and lots that are depicted in the Recorded Plat Map. Amended Complaint Exb. B; Campbell, Aff. Exb. 1; Campbell, Dep. Exb. 3, p.21-23; Sweeney, Aff. Exb. 1

13. Surveyor Wilson also drafted a map titled "Map of L.L. Kelly First Addition to Kelly Park," which is also limited to a portion of Section 7. It depicts an unnamed but dimensioned street along the western boundary. It does not show all the lots and blocks depicted in the Recorded Plat Map. Campbell, Dep. 17, pp. 48-50; Sweeney Aff.

14. Neither draft map of the First Addition to Kelly Park was recorded in the Public Records of Brevard County, Florida. Campbell, Dep. pp. 19, 20, 48-50; Sweeney Aff.

15. On December 29, 1933, Mr. Kelly conveyed by warranty deed, all lots within the Kelly Park Subdivision to Edith S. Kelly recorded in Deed Book 218, Page 461, Public Records of Brevard County, Florida. Campbell Dep. p. 37, Exb. 10.

16. The legal description used in Mr. Kelly's deed includes a reference to the "subdivision of Kelly Park as recorded in the Public Records of Brevard Co., Fla. on page ____ of plat book ____." Although Mr. Kelly did not include the book or page number, according to the Brevard County Clerk, there is only one recorded Map of Kelly Park and that's the one recorded at Plat Book 4, Page 21, the Recorded Plat Map. Amended Complaint Exb. A; Campbell Dep. Exb. 10; Hollmann Aff.

17. Mr. Kelly's deed includes lots in Blocks D and E, which are located in Section 18 and shown only on the Recorded Plat Map. Campbell Dep. pp. 38, 39, Exb. 10; Sweeney Aff.

18. Through the years, government agencies such as the Florida Department of Transportation, the Canaveral Port Authority and the Brevard Property Appraiser, along with numerous surveyors, including Plaintiff's surveyor, John R. Campbell and surveyors within his surveying company working under his direction, have prepared signed and sealed surveys interpreting the Recorded Plat Map to include the London Property as a right of way within the boundaries of the Kelly Park Subdivision. Campbell, Dep. pp. 25-54 and Exbs. 4-9, 11-16, 18, 19

19. The County currently maintains North Banana River Drive and Dover Avenue as public rights of way. Jackson Aff.

20. Although London Boulevard is not open to the public at this time, the intersection of London Boulevard and Sea Ray Drive is improved with a drive way apron constructed to Brevard County public road standards. Ragain Aff.

21. There are no pending petitions to vacate the public right of way that encumbers London Boulevard or any public rights of way in the Kelly Park Subdivision. Cazessus Aff.

C. Opinion Testimony of John Campbell

22. Plaintiff filed this quiet title and declaratory judgment action to claim ownership of a portion of London Boulevard which Plaintiff describes as the "London Property" in paragraph 10 of the Amended Complaint, using the argument that L.L. Kelly never intended to

include London Boulevard, nee Roosevelt Avenue, within the boundary of the Kelly Park Subdivision. Campbell Aff.

23. Plaintiff does not allege or claim to have been aware of the unrecorded maps of the First Addition to Kelly Park at the time it acquired the above described property in 1976.

Amended Complaint

24. In addition to the unrecorded map of Section 7, Plaintiff's evidence to support its claim to London Boulevard is the opinion testimony from surveyor John R. Campbell who argues, by affidavit and deposition testimony, that the unrecorded map of Section 7 depicting a portion of the Kelly Park subdivision without any roads is what Mr. Kelly really intended to be the subdivision of Kelly Park. Campbell Aff.

25. Mr. Campbell is not aware of any recorded documents, conveying title to property or otherwise, that refer to the unrecorded maps of the First Addition to Kelly Park. Campbell, Dep. 20

26. Mr. Campbell does not know why the First Addition to Kelly Park draft maps were not recorded and does not know what L.L. Kelly intended to do with the unrecorded maps. Campbell, Dep. pp. 19, 48-50

27. Mr. Campbell discovered the unrecorded maps of the First Addition to Kelly Park in early 2012 upon receiving Surveyor Wilson's historical files from a retiring surveyor. It was upon this discovery that Mr. Campbell formed his opinion that London Boulevard was not included within the boundary of the Kelly Park Subdivision. Campbell, Dep. 50-51

28. The basis of Mr. Campbell's opinion is that the monuments depicted in the Recorded Plat Map are located on the block corners, not the roads, so the western side of those blocks is the western subdivision boundary. Campbell Aff. Campbell Dep. pp. 63, 64, Exb. 2

29. Florida's first platting and mapping law was enacted by the State Legislature in 1925 and became effective around the time the Recorded Plat Map was recorded. Ch. 10275, Laws of Florida, attached as Exhibit "B" and incorporated herein. Campbell Dep. 9

30. Unlike the current platting statute, Ch. 177, Fla. Stat., the 1925 law did not require monuments to be placed on the plat map boundary: "In making a survey a sufficient number of permanent monuments, in no case less than two (2) and in no case more than two thousand (2000) feet apart, shall be placed either within the tract or on the exterior boundaries thereof, or both, so as to provide definite reference lots set forth on the said plat." Ch. 10275, Sec. 7

31. The Recorded Plat Map includes monuments that meet this requirement. Campbell Dep. pp. 63, 64, Exb. 2

32. The Recorded Plat Map also complies with the then-applicable standards to create roads within plat boundaries. Campbell Exb. 2; Sweeney Aff. Carlile Dep. pp. 22-29 Ch. 10275, Sec. 8 states:

"All lots shall be numbered either by progressive numbers, or if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name shall be numbered consecutively throughout the several additions. Excepted parcels must be marked 'Not included in this plat.' The dimensions of all lots and the width of all streets and alleys shall be given on the plat. Where all lots in any block are of the same dimensions it shall be sufficient to mark the precise length and width of one tier thereof; by all oges, triangles or other lots which are not squares or parallelograms, shall have the length of their sides and angles plainly defined by figures. The streets must be named or numbered and the alleys of public grounds properly designated. All land within the boundaries of the plat

must be accounted for either by blocks, lots, out lots, parks, streets, alleys or excepted parcels. But no strip or parcel of land shall be reserved by the owner when recording a sub-division, unless the same is sufficient in size and area to be of some practical use or service." *EMPHASIS PROVIDED*

II. BREVARD COUNTY IS ENTITLED TO SUMMARY JUDGMENT AS A MATTER OF LAW

A. Standard for Summary Judgment

33. The County is entitled to summary judgment because the pleadings, depositions, and affidavits on file with the Court shows that there is no genuine issue as to any material fact and the County is entitled to judgment as a matter of law. Fla.R.Civ.P. 1.510(c).

34. The purpose of a motion for summary judgment is to determine the existence or absence of genuine issues of material fact for the trier of fact. *Pamperin v. Interlake Co., Inc.*, 634 So.2d 1137 (Fla. 1st DCA 1994); *CSX Transp., Inc. v. Pasco County*, 660 So.2d 757 (Fla. 2^d DCA 1995). In a motion for summary judgment, the burden is on the moving party to show the absence of a genuine issue of material fact. *Albelo v. Southern Bell*, 682 So.2d 1126, 1129 (Fla. 4th DCA 1996); *Fine Arts Museums Foundation v. First Nat'l*, 633 So.2d 1179 (Fla. 4th DCA 1994). Once the moving party tenders competent evidence to support the motion, the opposing party must come forward with counter-evidence sufficient to reveal a genuine issue for trial. *Landers v. Milton*, 370 So2d 368, 369 (Fla. 1979); *Williams v. Garden City Claims, Inc.*, 796 So.2d 586, 588 (Fla. 3^d DCA 2001). It is not enough for the non-moving party to merely assert that an issue exists. *Landers at 369*. If the opposing party cannot point to admissible evidence that creates a triable issue, the Court should grant the motion for summary judgment. *Id*

B. The Evidence Offered By Plaintiff To Reinterpret Its Deed Is Inadmissible.

35. Plaintiff's claim to the London Property is based on a reinterpretation of the legal description in the Plaintiff's deed and the intent of the original owner, L. L. Kelly, in creating the Kelly Park Subdivision. Extrinsic or parol evidence is only admissible to interpret a deed if there is a latent ambiguity in the deed. *Mason v. Roser*, 588 So.2d 622 (Fla. 1st DCA 1991). "Where a deed refers to another deed or to a map, plat or survey for a description, the deed, map, plat or survey becomes as much a part of the instrument as if copied therein." *Routh v. Williams*, 141 Fla. 334, 337 (Fla. 1940). If there is no ambiguity in the language used, then the intention of the grantor must be ascertained from that language. *Western World, Inc. v. Dansby*, 566 So.2d 866 (Fla. 1st DCA 1990). Parol evidence is not admissible to contradict the plain intent of the language used or when the purpose and effect of such evidence is to alter, impair or defeat the operation and effect of the deed. *Reid v. Barry*, 93 Fla. 849 (Fla. 1927).

36. The facts in *Routh* are similar to this case. The buyer in that case negotiated the deal with an unrecorded purchase map before the plat was recorded. Using the unrecorded map as evidence, she alleged that her lot was larger than what was reflected on the recorded plat referenced in her deed. *Routh* at 337-338. She argued that the recorded plat was merely a picture of the lines and corners of the lots as surveyed and that the deed intended to convey property according to the unrecorded purchase plat. *Id.* The Florida Supreme Court disagreed, holding that neither the unrecorded purchase plat nor the evidence of the engineer who created it was sufficient to overthrow the recorded plat by which the purchase was made. *Id.* at 338. There was no ambiguity in the deed that allowed for the admission of parol evidence because the "plat by which both parties purchased was definite and certain as to the description and the record [left] no doubt whatever as to the intention of the parties." *Id.*

37. Plaintiff has less evidence to offer in support of its claim, than the unsuccessful property owner in *Routh*. Plaintiff cannot offer evidence that it relied on the unrecorded map of Section 7 in acquiring its property. Plaintiff had no knowledge of either unrecorded map of the First Addition to Kelly Park at the time it acquired the property. Those draft maps were stored away for decades in the historic files of Harold Wilson, unknown to modern surveyors until rediscovered by Mr. Campbell in 2012. But still they are of no consequence. These unrecorded maps are nothing more than draft worksheets used to prepare the document Mr. Kelly ultimately chose to create the Kelly Park Subdivision, the Recorded Plat Map. The fact that one of the draft maps does not include a road on the western side is meaningless in light of the clear and unambiguous language of the Recorded Plat Map, Mr. Kelly's deed and the chain of title extending therefrom, including Plaintiffs' deeds and the Defendant's deeds.

38. In this case, the incorporation of the Recorded Plat Map in the legal description contained in the Plaintiffs' deeds is undeniable. Mr. Kelly's intent in recording the Recorded Plat Map and selling property in reference to that document is also uncontroverted. The language in Plaintiffs' deeds identifying the eastern boundary of the property as the western boundary of London Boulevard as is clear and unambiguous. The unrecorded map of Section 7 and Mr. Campbell's testimony based on that map are inadmissible parol evidence as a matter of law.

C. London Boulevard Is Located Within The Kelly Park Subdivision Boundary.

39. Mr. Campbell's opinion that London Boulevard doesn't exist and the western boundary of the Recorded Plat Map is the monumented western boundary of Block C is not consistent with the plat law in effect at the time of recording. Campbell, Aff. ¶¶ 7, 8; Campbell, Dep. pp. 14-19, 38, 63-64. Unlike the current platting laws which require the exterior boundaries

of a plat map to be monumented, this was not the requirement in 1924 or 1925. See Section 177.091(7), Fla. Stat. The Recorded Plat Map satisfies the monumentation requirements of the earliest platting statute. Ch. 10275, Sec. 7; See paragraphs 29-32 above.

40. The Recorded Plat Map also meets the requirements to identify and include the London Property within the boundary of the Kelly Park Subdivision. As required in Ch. 10275, Section 8, all roads, including London Boulevard, formerly named Roosevelt Avenue, are clearly named and dimensioned. If Mr. Kelly had intended to exclude any area of the Recorded Plat Map from the boundaries, those areas should have been identified and marked as "Not included in this plat." Sweeney Aff.; Exhibit B

41. In addition, Mr. Campbell's suggestion that Mr. Kelly intended to not provide access to lots located in the Kelly Park Subdivision is illogical and contrary to law. Without inclusion of London Boulevard within the plat boundary, most of the lots on the western side of the subdivision would not have access. Without such access lot owners would have to sue Mr. Kelly for access by way of necessity. It is illogical to presume, as Mr. Campbell suggests, that Mr. Kelly would have intentionally created a situation that would require lot owners to sue him to gain access. Campbell, Dep. 21-23 The presumption is actually the opposite. Florida law, now and at the time the Kelly Park Subdivision plat map was recorded, presumes that streets and roads depicted on a recorded plat map without a written declaration create a private access right to the lot owners and constitutes an offer to dedicate use of those rights of way to the public. *Kirkland v. City of Tampa*, 75 Fla. 271 (1918); *City of Palmetto v. Katsch*, 86 Fla. 506, (1923).

42. L.L. Kelly's intention in creating the Kelly Park Subdivision through the Recorded Plat Map and including the roads within the boundary of that subdivision is clear and

unambiguous. The eastern boundary of Plaintiff's property is the western boundary of London Boulevard.

D. Plaintiff Has No Legal Interest In The London Property.

43. As established above, London Boulevard, and the London Property as described in Paragraph 10 of the Amended Complaint, are included within the boundary of the Recorded Plat Map and the Kelly Park Subdivision. Since the legal description of Plaintiffs' deed references the western boundary of the Recorded Plat Map as the eastern boundary of Plaintiffs' property, Plaintiff does not own property within the boundaries of the Kelly Park Subdivision. This means that Plaintiff has no legal standing to challenge the status of London Boulevard as a public right of way. Only the grantor, in this case, Mr. Kelly, or his successors in interest to London Boulevard, the Defendant lot owners and other subdivision lot owners with access to London Boulevard, have legal standing to make such claims.

44. The effect of a dedication of property rights is that the legal title of the property remains in the grantor, while the public takes the beneficial use of the property. *Robbins v. White*, 42 So. 841 (Fla. 1907). Dedication essentially grants an easement in favor of the public for the purpose intended in the dedication. *City of Coral Gables v. Old Cutler Bay Homeowners Corp.*, 529 So.2d 1188 (Fla. 3d DCA 1988). Grantor-subdivider's legal title in dedicated property passes to the grantees of lots sold in reference to a plat, which lots abut the dedicated streets. Their title extends the entire width of the right of way, subject to the public easement, if there is no lot owner on the other side of the street. If there are lots on each side of the street, title extends to the centerline of the right of way. *Walker v. Pollack*, 74 So.2d 886 (Fla. 1954); *Smith v. Horn*, 70 So. 435 (Fla. 1915); *New Pierce Hotel Co. v. Phoenix Tax title Corp.*, 171 So.

525 (Fla. 1936); *United States v. 16.33 Acres of Land in County of Dade*, 342 So.2d 476, 480 (Fla. 1977); See also Sections 177.085(2)¹ and 336.12, Fla. Stat. Since the Plaintiff does not own any lots within the Kelly Park Subdivision, it does not have any rights to London Boulevard should the County vacate the public rights in the future. Accordingly, Plaintiff has no legal standing to challenge the interpretation of the Recorded Plat Map.

45. This rule is reflected in the statutory process required to vacate all or a portion of a recorded plat. Section 177.101(3), Fla. Stat. qualifies that only the person who holds “fee simple title to the whole or that part of the tract covered by the plat sought to be vacated” may file an application. Plaintiff doesn’t own property within the plat and therefore is not an eligible party to seek a change to the plat because it doesn’t stand to benefit from the outcome of a vacating.

46. Even if Plaintiff had standing to challenge the status of London Boulevard, a claim that London Boulevard was never dedicated as a public road is contrary to the principles of common law dedication and acceptance of roadways. The Florida Supreme Court discussed these principles in *City of Palmetto* at 353:

“In *Florida East Coast Ry. Co. v. City of Miami*, 79 Fla. 539, 84 So. 726, this court held that a common law dedication is the setting apart of land for public use, and to constitute it there must be an intention by the owner clearly indicated by his words or acts to dedicate the land to the public use, and an acceptance by the public of the dedication. [Citations omitted] This seems to be the general rule, and whether an express or an implied dedication is relied on, the intention of the owner to set apart the lands for the use of the public is the foundation and essence of every dedication. The act of dedication is affirmative in character, need not be by formal act or dedication, may be by parol, may result from the conduct of the owner of the lands dedicated, and may be manifested by a written grant,

¹ Any reversionary interest Mr. Kelly may have claimed in the dedicated rights of way in the Kelly Park Subdivision was extinguished by Section 177.085(2), Fla. Stat. There is no evidence that Mr. Kelly attempted to enforce his reversionary rights at any time. A claim to London Boulevard based on reversionary rights is barred by statute.

affirmative acts, or permissive conduct of the dedicator. In fact, any manner in which the owner sees fit to indicate a present intention to appropriate his lands to public use meets the requirement of the law. The means generally exercised to express one's purpose or intention to dedicate his lands to the public use are by a (1) written instrument executed for that purpose; (2) filing a plat or map of one's property designating thereon streets, alleys, parks, etc.; (3) platting one's lands and selling lots and blocks pursuant to said plat indicating thereon places for parks, streets, public grounds, etc.; (4) recitals in a deed by which the rights of the public are recognized; (5) oral declarations followed by acts consistent therewith; (6) affirmative acts of the owner with reference to his property, such as throwing it open in a town, fencing and designating streets thereon; (7) acquiescence of the owner in the use of his property by the public for public purposes."

In addressing the issue of whether a plat constitutes a sufficient dedication, the Court in *Florida East Coast R. Co. v. Worley*, 49 Fla. 297, 303, 241 So. 541(1906), wrote:

"It has frequently been held by this court that where the owner of a tract of land makes a town plat thereof, laying same out into blocks and lots with intervening streets clearly indicated upon the plat separating the blocks and conveys lots with reference to such plat, he thereby evinces an intention to dedicate the streets to public use as such, and his grantees as against him and those claiming under him acquire the right to have such streets kept open. Such acts constitute a complete dedication and the streets cannot be closed up or obstructed unless in pursuance of legal authority. [Citations omitted] This is true although there is no formal written dedication accompanying the map and the rule stated applies not only to streets and avenues, but to parks and other public places designated upon such plat."

Mr. Kelly's intention to create the roads described in the Recorded Plat Map and sell the lots created in the Kelly Park subdivision subject to the Recorded Plat Map is consistent with common law dedication of those roads for public right of way use.

47. Just as an offer to dedicate can be made by implication, formal acceptance by the governing authority occurs by implication. The Florida Supreme Court established the rule that use of some of the platted roads is considered acceptance of all. Citing cases from around the country, the Court focused on the important public policy behind the principle that acceptance of any part of the roads before revocation constitutes an acceptance of all of the roads stating:

"It is impossible for a municipality to improve all streets shown on a plat as soon as the plat is recorded. Many people own wild and uncultivated land without any buildings on it. They conceive the idea that in the natural course of events there will be increases in population, main roads will be built and the land will become useful for development and home sites. They have engineers survey the land and make maps of it. They have streets, alleys and other public places shown on these plats, and they are recorded. In due course, main thoroughfares are built which will attract people to the land. Lots are sold and houses are built. The dedicators or owners of the land knew and did not intend that all streets, alleys and ways would be put to public use immediately, but that they would be put to public use with changing conditions and as the need became evident." *Indian Rocks Beach v. Ewell*, 59 So.2d 647, 654 (Fla. 1952).

48. There is no time requirement for the development of all rights of way once accepted. Even if some roads are not opened, the public rights cannot be lost through abandonment or adverse possession. *Waterman v. Smith*, 94 So.2d 186 (Fla. 1957). The public's rights in the developed and undeveloped portions of dedicated rights of way is protected as an exception to the application of the Marketable Records Title Act (MRTA), Section 712.03(5), Fla. Stat. *Florida Department of Transportation v. Clipper Bay Investments, LLC*, 160 So.3d 858, 867 (Fla. 2015); citing *Water Control District of South Brevard v. Davidson*, 638 So.2d 521, 526 (Fla. 5th DCA 1994)("Rights or easements acquired for the use and benefit of the public are not easily lost or surrendered and MRTA should be broadly construed to protect these rights to the extent possible under the law.")

49. Through the years, the County has demonstrated its acceptance of Mr. Kelly's common law offer to dedicate the rights of way shown on the Recorded Plat Map. At least two of the rights of way in the Recorded Plat Map, Dover Avenue and North Banana River Dr., have been maintained as public roads by the County for decades. Jackson Aff. In 1971, the County renamed all the rights of way shown in the Recorded Plat Map. Amended Complaint, Exb. C. There have also been multiple occasions where the County vacated the public interest in

portions of rights of way and a park parcel located within the Recorded Plat Map. Cazessus Aff. Why would the County take these actions if it didn't believe it had an interest in the platted rights of way or park parcel? The rights of way in the Kelly Park Subdivision, including London Boulevard, are subject to a dedicated public right of way easement.

III. CONCLUSION

50. The County is entitled to summary judgement on Amended Complaint Count I for quiet title as a matter of law. London Boulevard is located within the Kelly Park Subdivision and outside of Plaintiff's legal description. Plaintiff has no standing to challenge the status of London Boulevard, which is clearly established in the record as a dedicated public right of way.

51. The County is entitled to summary judgment on Amended Complaint II for declaratory judgement as a matter of law. The document Plaintiff seeks an interpretation of, the unrecorded map of Section 7, along Mr. Campbell's erroneous opinion of the 1925 Recorded Plat Map boundary, are inadmissible parol evidence offered in attempt to reform the legal descriptions of Plaintiffs' deeds. Plaintiffs' deeds and legal descriptions are clear and unambiguous. The eastern boundary of Plaintiff's property is the western boundary of London Boulevard. There is also no actual, present or bona fide need for declaratory relief. Contrary to Plaintiff's allegations there is no pending petition to vacate London Boulevard.

52. The facts recited above, as set forth in the affidavits, pleadings and discovery of record, establish that the boundary of the Kelly Park subdivision includes the London Boulevard. Therefore the area described in the Amended Compliant as the London Property is not owned by the Plaintiff. The adjoining lot owners have the equitable interest in the London Property and the County holds a public right of way easement over the same. Plaintiff lacks standing to file a

claim to London Boulevard and has failed to state a claim for which relief can be granted. Even if Plaintiff has standing, the claim, which is tantamount to a claim for reformation of Plaintiffs' deed, is barred by statute of limitations. Section 95.231(2), Fla.Stat.

IV. SANCTIONS

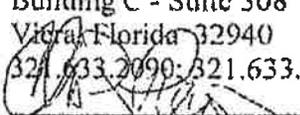
53. Pursuant to Section 57.105, Florida Statutes, sanctions are appropriate wherever a party and/or its attorney pursue a claim that they know or should know is not supported by the application of then-existing law to the material facts. As discussed above, Plaintiff, through its attorney and expert witness, has pursued claims without legal standing which are neither supported by then-existing law, nor application of the material facts to such law. Plaintiff and Plaintiffs' attorney failed to make any attempt to withdraw or correct the deficiencies in the Amended Complaint. The County is entitled to sanctions under Section 57.105, Fla. Stat., against Plaintiff and Plaintiffs' attorney for filing and maintaining a frivolous lawsuit.

WHEREFORE, Defendant, Brevard County, respectfully requests that this Honorable Court enter Summary Final Judgment with prejudice against Plaintiff as to Counts I and II of the Amended Complaint filed herein, Grant County's Motion for Sanctions, including attorney's fees and litigation costs, and grant such other relief as the Court deems just and proper.

Dated this 27th day of February, 2016.

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
Building C - Suite 308
Viera, Florida 32940

321.633.2090 / 321.633.2096 Fax


Christine Lepore, Assistant County Attorney
Florida Bar No. 985790

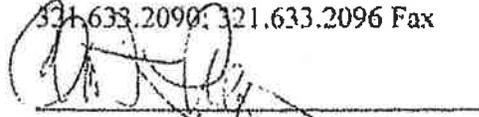
christine.lepore@brevardcounty.us

Attorney for Brevard County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail through the Florida Courts e-filing portal to Jason Gordon, Esq., jgordon@brevardlegal.com and jbarlow@brevardlegal.com; Joe Caruso, Esq., joe@jtechmspa.com and krystalw@jtechmspa.com and Timothy Pickles, Esq., tpickles@brevardlawgroup.com on this the 27th day of February, 2016,

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
Building C - Suite 308
Viera, Florida 32940
321.633.2090; 321.633.2096 Fax



Christine Lepore, Assistant County Attorney
Florida Bar No. 985790
christine.lepore@brevardcounty.us
Attorney for Brevard County

2

Prepared by and Return to
Superior Title Insurance Agency II, LLC,
1980 N Atlantic Avenue, Suite 807
Cocoa Beach, Florida 32931

File Number KPI - 32

Corporate Warranty Deed

This Indenture, made, October 1, 2014 A D

Between

Kabboord Properties II, LLC, a Florida limited liability company whose post office address is 3201 North Atlantic Ave, Cocoa Beach, FL 32931 a corporation existing under the laws of the State of Florida, Grantor and

Park N Cruise II, LLC, a Florida limited liability company whose post office address is 3201 N Atlantic Avenue, Cocoa Beach, FL 32931, Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10 00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Brevard, State of Florida, to wit

Parcel 1

A parcel of land being a part of the East 1/2 of the SE 1/4 of the SW 1/4, Brevard County, Florida, being more particularly described as follows

Commence at the intersection of the North right of way line of Lambert Road and the West right of way line of Roosevelt Avenue per plat of Kelly Park Subdivision, according to the plat thereof, as recorded in Plat Book 4, Page 21, thence run S 73°08'18" W along said North right of way line, a distance of 283 97 feet to the Point of Beginning, thence continue S 73°08'18" W along said North right of way line, a distance of 27 59 feet to the point of curvature of a curve to the right, thence run along the arc of said curve having a radius of 865 00 feet through a central angle of 05°03'31" an arc distance of 76 33 feet to a point on the East line of lands described in O R Book 2422, Page 2496, of said Public Records, thence run N 00°41'21" E along said East line a distance of 231 00 feet, thence run S 89°18'39" E a distance of 100 00 feet, thence run S 00°41'21" W a distance of 202 90 feet to the North right of way line of said Lambert Road and the Point of Beginning, said land is located in Section 7, Township 24 South, Range 37 East, Brevard County, Florida

Parcel 2

That part of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 and of Government Lot 4, lying North, South and East of lands owned by the Canaveral Port Authority, also lying North of the North right of way of State Road No 528 and West of Kelly Park Subdivision according to the Plat thereof as recorded in Plat Book 4, Page 21, of the Public Records of Brevard County, Florida, said land is located in Section 7, Township 24 South, Range 37 East, Brevard County, Florida LESS and Except lands described in Official Records Book 3510, Page 268, of the Public Records of Brevard County, Florida

Subject to taxes for the current year, covenants, restrictions and easements of record, if any

Parcel Identification Number 2443801 and 2428311

And the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever



Prepared by and Return to
Superior Title Insurance Agency II, LLC,
1980 N Atlantic Avenue, Suite 807
Cocoa Beach, Florida 32931

File Number KPI - 32

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name by its duly authorized officer and caused its corporate seal to be affixed the day and year first above written

Kabboord Properties II, LLC, a Florida limited liability company

Signed and Sealed in Our Presence:

By [Signature]
David Kabboord
Its. President

Witness Print Name CANDICE ESTABROOK

[Signature]

Witness Print Name ASHLEY BUNA

State of Florida
County of Brevard

The foregoing instrument was acknowledged before me this 1st day of October, 2014, by David Kabboord, the President of Kabboord Properties II, LLC, a Florida limited liability company A corporation existing under the laws of the State of Florida, on behalf of the corporation
He is personally known to me

[Signature]

(Seal)
Notary Public
Notary Printed Name CANDICE ESTABROOK

My Commission Expires



BREVARD COUNTY LAW LIBRARY



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REGULAR SESSION 1925

GENERAL
ACTS AND RESOLUTIONS

ADOPTED BY THE
LEGISLATURE OF FLORIDA

At its Twentieth Regular Session,
April 7 to June 5, 1925
Under the Constitution of A. D. 1885

PUBLISHED BY AUTHORITY OF LAW UNDER
DIRECTION OF THE ATTORNEY GENERAL

Vol. I

1925

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BREVARD COUNTY LAW LIBRARY
VIERA, FL

EXHIBIT

B

2-CA-048562-XXXX-XX

the City of Tallahassee; and the sum of thirty thousand dollars, or so much thereof as may be required, is hereby appropriated for that purpose.

Chap. 10275.
1925

Sec. 2. That the amount to be paid by the State Treasurer for the construction of such sidewalks and pavements shall not be proportionately greater than the rate paid by citizens of Tallahassee for their proportionate share of the cost of such construction, and the assessments shall be on the same basis.

Proportion
same as for
citizens.

Sec. 3. That the proportionate cost of any such improvement may be assessed against the property of the State along which such sidewalks and pavements are constructed, and the State Comptroller shall approve such assessments if proportionately the same as the assessments against private property abutting the same streets, and shall draw his warrant in favor of the city for the amount of such assessments, and the State Treasurer shall pay the same from the appropriation hereby made.

Sec. 4. That the streets where the improvements are to be made as contemplated by this Act are Jefferson Street south of the property of the State College for Women, paving and sidewalk; Copeland Street east of the property of the State College for Women, sidewalk; Brevard Street south of the Governor's mansion, paving; Green square, paving and sidewalks on four sides; Jackson Square, paving on north and south sides; Wayne Square, paving and sidewalks on three sides.

Property
designated.

Sec. 5. That this Act shall take effect immediately on its passage and approval by the Governor, or on its becoming a law without such approval.

Approved June 11, 1925.

CHAPTER 10275—(No. 253).

AN ACT to Regulate the Making of Surveys and Filing for Record of Maps and Plats in the State of Florida.

Be It Enacted by the Legislature of the State of Florida:

Section 1. That whenever maps or plats of any land within this State are brought to a County Clerk or other public recording officer to be placed on public record, it shall be the duty of the County Clerk or other public

Examina-
tion of plats
and maps
before
recording.

Chap. 10275.
1925

recording officer, before filing, to examine said map or plat and see that it complies in form with all the requirements of this Act. If this Act has been complied with, he shall so certify, with date of filing for record, on the map or plat and also on the copy thereof required by Section 11 of this Act; otherwise he shall return the map or plat to the owner for correction.

Surveys
required.

Sec. 2. Whenever any City, Town or addition thereto shall be laid out or altered as hereinafter provided, or whenever any land shall be platted into lots and blocks, within this State, the proprietor or proprietors thereof, shall cause a survey and true map or plat thereof to be made by a Civil Engineer or competent Surveyor.

Requirements
of plats.

Sec. 3. Such map or plat shall in every case be made with India ink, or some other equally substantial and distinct method, and be made on a scale sufficiently large to show plainly all details, on tracing cloth (of such size as each county may require). In case of a large plat it may require two or more sheets, in which case the sheets are to be numbered, and the number of the sheets to be indicated on the first sheet below the title.

Sec. 4. The plat shall have a title or name. If the plat be a Town, City or Village, the full name of such Town, City or Village must appear as the title or name of the plat; if the land platted be an addition to or a subdivision of a Town, City or Village already platted, then shall the title of the plat include, with the name of such addition or subdivision, the name of the Town, City or Village, as the case may be, of which such platted land is a subdivision, or to which it is an addition. The name of the County and State in which the land platted is situated should appear under the title.

Sec. 5. There shall be written or printed upon the tracing cloth on which map or plat shall be made a full and detailed description of the land embraced in said map or plat showing the Township and Range in which such lands are situated and the Section and parts of Sections platted. If the premises are in a Spanish grant or are not included in the subdivision of the Government surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest Government corner, forty-acre corner, or other recorded and well established corner. The description must be so complete that from it without reference to the plat, the starting point can be determined

and the outlines run. If a subdivision of a part of a previous recorded plat is made the previous lots and blocks shall be given. If the plat be a re-subdivision of the whole of a previous recorded plat the fact shall be so stated.

Sec. 6. In connection with the description there shall be a dedication of the plat by the owner or owners, and his or their wives, whose signatures must be witnessed, and their execution of the dedication must be acknowledged in the same manner as deeds conveying lands are required to be witnessed and acknowledged; and in all cases the title, caption and dedication must agree. In case the dedication is to be made by a corporation then it shall be signed by the President and Secretary, respectively, of the corporation, by and with authority of its Board of Directors.

Sec. 7. In making the survey a sufficient number of permanent monuments, in no case less than two (2) and in no case more than two thousand (2000) feet apart, shall be placed either within the tract or on the exterior boundaries thereof, or both, so as to provide definite reference points from which may be located any points, lines or lots set forth on the said plat. The monuments so placed shall be of metal not less than 3 inches in diameter and 24 inches long, driven in the ground, or if smaller, to be increased in a solid block of concrete, said monuments having the reference point marked thereon. They shall have their position in reference to each other indicated by distances and angles and not less than one of said monuments shall have its location indicated on the plat in reference to the nearest Government corner or other corner referred to in Section 5 hereof. The position of said monuments shall be indicated on the plat by a small circle and shall be marked "PERMANENT REFERENCE MONUMENT" or the initials "P. R. M." to designate the same.

Sec. 8. In drawing the map or plat three inches shall be left blank on the left edge of the tracing cloth for binding in the record book. A plain designation of the cardinal points, the date of survey, and the correct scale of the drawing, shall be given. The drawing shall be made in a workman-like manner and must agree with the description. All section lines and quarter-section lines occurring in the map or plat shall be indicated by lines drawn upon such map or plat, with appropriate words and figures. If the description is by metes and bounds, the point of be-

Dedication.

Permanent reference monuments.

Margin on plats.

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Chap. 10275.
1925

Numbering
of lots and
streets.

ginning shall be indicated together with all bearings and distances of the boundary lines.

All lots shall be numbered either by progressive numbers, or if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name shall be numbered consecutively throughout the several additions. Excepted parcels must be marked "Not included in this plat." The dimensions of all lots and the width of all streets and alleys shall be given on the plat. Where all lots in any block are of the same dimensions it shall be sufficient to mark the precise length and width of one tier thereof; but all gores, triangles or other lots which are not squares or parallelograms, shall have the length of their sides and angles plainly defined by figures. The streets must be named or numbered and the alleys or public grounds properly designated. All land within the boundaries of the plat must be accounted for either by blocks, lots, out lots, parks, streets, alleys or excepted parcels. But no strip or parcel of land shall be reserved by the owner when recording a sub-division, unless the same is sufficient in size and area to be of some practical use or service.

Certificate
of engineer.

Sec. 9. The Engineer or Surveyor making the survey or plat shall certify on the plat that it is a correct representation of the land platted and that permanent reference monuments have been placed as called for under Section 7 of this Act.

Approval
certificate.

Sec. 10. Before said map or plat shall be presented to the County Clerk for record, the owner or owners shall cause to be placed thereon a certificate of approval by the County Commissioners, Town Board, or Council, or the Board of Commissioners (in municipalities having a commission form of government) or their accredited representatives, having jurisdiction over the land described in the said map or plat. However, such approval shall not bind the County Commissioners, Town Board, City Council or Board of Commissioners to open up and keep in repair any parcels dedicated to the public in any map or plat so offered, but they may exercise such right at any time.

Sec. 11. For purposes of record the owner or owners, shall present to the County Clerk in and for the County in which the land platted is a part, a map or plat of the land platted drawn on tracing cloth together with a print or photographic copy of the tracing made on cloth.

Sec. 12. The map or plat on tracing cloth is to be filed by the County Clerk in his office in a book of the proper size for such papers so that it shall not be folded, and kept in the vault. The print or photographic copy on cloth shall be filed in a similar book and kept in his office for the use of the public.

Sec. 13. It shall be a misdemeanor for any person or persons to molest any monuments established according to this Act, or to deface or destroy any map or plat placed on public record.

Penalties.

Sec. 14. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 15. This Act shall take effect upon its passage and approval by the Governor, or upon becoming a law without such approval.

Approved June 11, 1925.

CHAPTER 10276--(No. 254).

AN ACT to Designate and Describe the Route of State Road No. 63.

Be it Enacted by the Legislature of the State of Florida:

Section 1. That a road beginning at Zolfo Springs, and extending to Bradenton via Ona, in the most direct and practicable route, is hereby declared to be a State road and designated as Road No. 63.

State Road No. 63.

Sec. 2. This Act shall take effect immediately upon its passage and approval by the Governor, or upon becoming a law without such approval.

Approved June 11, 1925.

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Kimberly Bonder-Rezanka

From: jetmec27@aol.com
Sent: Monday, May 22, 2017 11:55 AM
To: address.assign@brevardfl.gov; kim@cflawoffice.com
Subject: address request
Attachments: address filled out.pdf; deed.pdf

To whom it may concern

My Name is Mark Mattioli and I am requesting an address assigned to my property. I have attached the paper work that is required.

Thank you Mark

***** ADDRESS & INFORMATION REQUEST FORM *****

(REQUEST SECTION)

(To be completed by Requestor)

DATE: 5/22/2017

REQUESTOR: MARK MATTIOLI (LTM of Florida)

COMPANY: 4880 SILVER OAK BLVD.

ADDRESS: MELBOURNE FL - 32935

PHONE/FAX: 407-222-8605

EMAIL: _____

COMMENTS: JOB # _____

IF REQUESTING ADDRESS (fill out information below)

IF REQUESTING INFO. (provide address): _____

TAX ACCOUNT # 2609832 (indicated on property tax bill)

LEGAL DESCRIPTION: Township 26 Range 37 Section 30
Subdivision Code _____ Block/Parcel _____ Lot _____

Note: A recorded deed may be necessary to obtain an address.

PLAT BOOK ~~_____~~ PAGE ~~_____~~ SUBDIVISION _____

PURPOSE: AT&T SFR IRRIG.PUMP ELECT SOIL TEST SEPTIC

LIFT STATION UNPAVED ROAD OTHER Roll Permits
(agreement required)

NOTE: A certified metes & bounds survey is required for all parcel split-outs.

SURVEY PROVIDED: YES NO PLOT PLAN PROVIDED: YES NO
(required for parcel split-outs) (required for corner lots)

NOTE: RECEIVING AN ADDRESS DOES NOT GUARANTEE A PROPERTY IS BUILDABLE OR THAT ANY PERMITS CAN BE ISSUED!

address.assign@brevardfl.gov OR Fax: (321) 690-6842

E9-1-1 Administration/Address Assignment
2725 Judge Fran Jamieson Way, Bldg. A120
Viera, FL 32940

SUBMIT TO

If you have any questions, our office may be reached at (321) 690-6846.

Address Assignment Response Section (Page 2) will be emailed or faxed once processed,

Kimberly Bonder-Rezanka

From: Assignment, Address [Address.Assignment@brevardfl.gov]
Sent: Monday, May 22, 2017 4:58 PM
To: jetmec27@aol.com
Cc: kim@cfglawoffice.com; Assignment, Address; Bentley, Eden
Subject: RE: address request (Mattioli) Miller Cove Road
Attachments: address filled out.pdf; deed.pdf

Mr. Mattioli,

Our office is awaiting a status of the roadway issue; therefore, at this time we are unable to issue an address.

Once this has been determined and our office is officially notified by appropriate staff that the roadway is county maintained to your property, then we can possibly release an address with the proper approvals.

If you have any questions or our office can be of further assistance, please let us know.

Respectfully,

Regina R. Mahaney
9-1-1 Addressing Coordinator
Brevard County E9-1-1 Administration
2725 Judge Fran Jamieson Way
Building A, Suite 120
Viera, FL 32940-6022
Office: (321) 690-6846 Ext. 1
Fax: (321) 690-6842
address.assign@brevardfl.gov

NOTICE: Receiving an address does not guarantee a property is buildable or that any permits can be issued! Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

 Please consider the environment before printing this E-mail.

From: jetmec27@aol.com [mailto:jetmec27@aol.com]
Sent: Monday, May 22, 2017 11:55 AM
To: Assignment, Address; kim@cfglawoffice.com
Subject: address request

To whom it may concern

My Name is Mark Mattioli and I am requesting an address assigned to my property. I have attached the paper work that is required.

Thank you Mark

Lewis, Sally A

From: Karl Bohne <kbohne@fla-lawyers.com>
Sent: Tuesday, May 23, 2017 12:06 PM
To: Bentley, Eden
Subject: Miller Cove

Eden, below is my response to the letter you recently received from Ms. Rezanka.

On page one last paragraph I don't know that this information provides "sufficient" information concerning the intent to dedicate. Also, the mere reference to the plat in subsequent sales does not necessarily show an intent to dedicate. It could merely be a reference to a recorded plat that did not dedicate to the County. But assuming it is an intent to dedicate, there appears to be insufficient evidence of acceptance.

Address assignment is not an intent to accept a purported dedication, nor does the issuance of a building permit. Also, if the county did not issue any utility permits and if the utilities were advised that they can be installed in the "County right of way" again that's not evidence of acceptance. Neither FP&L nor AT&T applied to the town for any utility permits. As far as Waste Pro, they do not provide service. Apparently a dumpster located on another property is used for trash service. As you recall in my previous email to you there were identified many instances of an acceptance of a common law dedication. This in my opinion falls under the second type of presumed dedication is set forth in section 95.361(2) and applies to roads not constructed by a government entity. Enacted in 2003, this provision employs nearly the same language used in section 95.361(1), the only differences being that the road must have been "regularly maintained or repaired" rather than "maintained or repaired continuously and uninterruptedly" and such maintenance must occur for seven years rather than four years. So unless they can show that the ROW was "regularly maintained or repaired" by the County, for the appropriate time period of 7 years they have no public access and their access is private.

The portion paved was done by FDOT, not the Town or County. So, again I don't see how that can be imputed acceptance by the County of any alleged dedication. Also, trash collection has nothing to do with County acceptance. Don't waste collectors provide trash collection on private roads...of course they do.

As far as the "vacate", if the ROWs were not accepted then the vacation of them is a non-issue. If the county never "owned" them they cannot legally vacate them.

The determination as to the status of the ROWs on this plat must be resolved. Despite the contention that the neighbors are on board, the Town continues to receive inquiries from Town residents who do express concern. The residents of Ashley Oaks and the residents impacted in Palm Shores Estates by the project absolutely object to the project. They are concerned about the flooding of their property due to removal of all trees, changes in underground drainage, the increase in the height of the road, noise, crime, traffic and a complete change of use adjacent to residential communities. I think suffice to say the Miller Cove Road is in the County and it is being cleared without a permit as best as the Town can determine. Ms. Rezanka has inquired of the Town whether it would want to annex the areas in questions and the Town would not be interested if the property is rezoned to commercial that would permit storage warehouses. The Town would like to see the development be consistent with the surrounding neighborhood which is predominately residential.

Karl W. Bohne, Jr.

Schillinger & Coleman, P.A.

1311 Bedford Drive

Melbourne, FL 32940

321-255-3737 Telephone

321-255-3141 Facsimile

Office Hours:

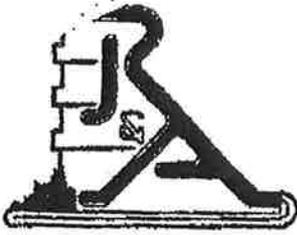
8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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Robertson and Associates
LAND PLANNING & DEVELOPMENT CONSULTANTS

September 9, 2009

Cynthia Streater, Operations Specialist
Transportation Engineering/Survey Section
2725 Judge Fran Jamieson Way Bldg. A. Rm. 220
Viera, FL 32940

Re: Miller Cove Road, Palm Shores

Dear Cynthia:

You recently informed me that First Avenue, a dirt road extending north from Miller Cove Road in the Town of Palm Shores was not considered to be a County road. My question now is whether Miller Cove Road (see attached map) is a County road, or does Brevard County consider it to be the Town's responsibility for maintenance. If this is the case, please provide the rationale for this determination, i.e., instrument of conveyance or County ordinance.

As always, we appreciate your assistance. Please give me a call if you have any questions.

Sincerely,


Doug Robertson, President
Robertson and Associates

Cc: Carol M. McCormack, Mayor, Town of Palm Shores
Scott Lamb, P.E.



FLORIDA'S SPACE COAST



TRANSPORTATION ENGINEERING DEPARTMENT
2725 Judge Fran Jamieson Way, Viera, Florida 32940
Telephone: (321) 617-7315
Fax: (321) 633-2083

September 30, 2009

Robertson & Associates
Land Planning & Development Consultants
Doug Robertson, President
100 Parnell Street
Merritt Island, FL 32953

SUBJECT: MILLER COVE ROAD, PALM SHORES

Dear Mr. Robertson,

This is in response to your letter dated September 9, 2009, in which you have questions regarding the maintenance responsibility for Miller Cove Road. Brevard County does not have any jurisdiction over any portion of the subject right of way. Attached is a copy of Resolution 94-01 that named a private road to "Miller Cove Road" May 24, 1994 for address purposes only, and there was no acceptance or responsibility for improvement, repair or maintenance.

If we can be of further assistance, please advise.

Sincerely

Cynthia Streeter
Public Works Department

CS

Attachments

RETURN TO
TOWN OF PALM SHORES
111529
P.O. BOX 111529
PALM BEACH, FL 33406

RESOLUTION NO. 94-01

A RESOLUTION TO OFFICIALLY NAME A PRIVATE ROAD
MILLER COVE ROAD

WHEREAS, The Town of Palm Shores of Brevard County, Florida, has been requested to name certain private roadways affording ingress and egress to and from Highway 1 for the occupants of Indian River Home Sites; and

WHEREAS, the owner of said private roadway has identifies said private road by name and Brevard County Officials have requested the Town of Palm Shores adopt a resolution acknowledging and approving the name identifying said private road in order for addresses to be assigned and said road to be entered into the Brevard County Emergency Telephone System;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF PALM SHORES, PALM SHORES, FLORIDA, AS FOLLOWS:

Section 1. The following street name identifying the private road within the Indian River Home Sites, Plat Book 3, Page 37, as Recorded in the Public Records of Brevard County, are hereby acknowledged, accepted and approved by the Town of Palm Shores, viz:
Miller Cove Road

Section 2. That the location of this private road named in Section 1 of this Resolution is shown and depicted on the map marked "Exhibit A", attached to this Resolution and by this referenced incorporated herein and made a part hereof.

Landy Crawford Clerk Circuit Court
Recorded and Verified Brevard County, FL
Pgs. 3 # Pages 2
Trust Fund 2.00 Rec Fee 13.00
Stamp-Dead _____ Enclos Tx _____
Stamp-Mtg _____ Int Tx _____
Service Chg _____ Reband _____

BK3395PG1323

611529
MAY 26 AM 10:48

Section 3. This Resolution is adopted to enable Brevard County officials to enter the addresses and street name into the Brevard County 911 Emergency Telephone System.

Section 4. Nothing contained in this Resolution shall be deemed or construed to be an acceptance of the herein designated road as a public street or road of the Town of Palm Shores, nor to constitute said roadway as part of the public street system of the Town of Palm Shores, nor as any assumption by the Town of Palm Shores of responsibility for improvement, repair, maintenance or safety of the private road herein identified.

Section 5. It shall be the property owners responsibility to install and maintain the proper street sign and stop sign and keep said road clear and accessible for emergency vehicles.

PASSED AND ADOPTED at a regular meeting of the Town of Palm Shores, Town of Palm Shores, Florida, this 24 day of May, A.D. 1994

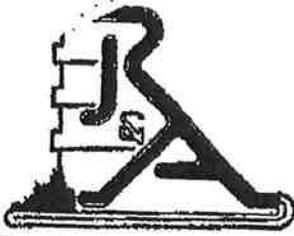
Anne J. Tomlin
Mayor, Town of Palm Shores

Attest:

Patty Waterman
City Clerk

(SEAL)

BK 3395PG 1324



Robertson and Associates
LAND PLANNING & DEVELOPMENT CONSULTANTS

September 9, 2009

Cynthia Streater, Operations Specialist
Transportation Engineering/Survey Section
2725 Judge Fran Jamieson Way Bldg. A. Rm. 220
Viera, FL 32940

Re: Miller Cove Road, Palm Shores

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As always, we appreciate your assistance. Please give me a call if you have any questions.

Sincerely,


Doug Robertson, President
Robertson and Associates

Cc: Carol M. McCormack, Mayor, Town of Palm Shores
Scott Lamb, P.E.



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September 30, 2009

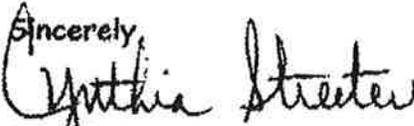
Robertson & Associates
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SUBJECT: MILLER COVE ROAD, PALM SHORES

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If we can be of further assistance, please advise.

Sincerely,

Cynthia Streeter
Public Works Department

CS

Attachments

RETURN TO
TOWN OF PALM SHORES
111528
MAY 26 AM 10:48

RESOLUTION NO. 94-91

A RESOLUTION TO OFFICIALLY NAME A PRIVATE ROAD
MILLER COVE ROAD

WHEREAS, The Town of Palm Shores of Brevard County, Florida, has been requested to name certain private roadways affording ingress and egress to and from Highway 1 for the occupants of Indian River Home Sites; and

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Section 1. The following street name identifying the private road within the Indian River Home Sites, Plat Book 3, Page 37, as Recorded in the Public Records of Brevard County, are hereby acknowledged, accepted and approved by the Town of Palm Shores, viz:

Miller Cove Road

Section 2. That the location of this private road named in Section 1 of this Resolution is shown and depicted on the map marked "Exhibit A", attached to this Resolution and by this referenced incorporated herein and made a part hereof.

Sandy Crawford Clerk Circuit Court
Recorded and Verified Brevard County, FL
Pgs. 3 # Pages 2
Trust Fund 2.00 Rec Fee 13.00
Stamp-Dead _____ Enclos Tx _____
Stamp-Mtg _____ Int Tx _____
Service Chg _____ Retard _____

BK3395PG1323

Section 3. This Resolution is adopted to enable Brevard County officials to enter the addresses and street name into the Brevard County 911 Emergency Telephone System.

Section 4. Nothing contained in this Resolution shall be deemed or construed to be an acceptance of the herein designated road as a public street or road of the Town of Palm Shores, nor to constitute said roadway as part of the public street system of the Town of Palm Shores, nor as any assumption by the Town of Palm Shores of responsibility for improvement, repair, maintenance or safety of the private road herein identified.

Section 5. It shall be the property owners responsibility to install and maintain the proper street sign and stop sign and keep said road clear and accessible for emergency vehicles.

PASSED AND ADOPTED at a regular meeting of the Town of Palm Shores, Town of Palm Shores, Florida, this 24 day of May, A.D. 1994

Armen J. Jernsten
Mayor, Town of Palm Shores

Attest:

Patricia Waterman
City Clerk

(SEAL)

EX 3395 PG 1324



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

Inter-Office Memo

TO: Board of County Commissioners

FROM: Andrew J. Holmes, PE, Public Works Director 
Tad Calkins, Planning and Development Director 

DATE: October 20, 2017

SUBJECT: Staff Report
Board of County Commissioner October 24, 2017 Meeting, Agenda Item:
VI.F.2, Citizen Request by LTM of Florida Holdings, LLC, Re: 1923 Indian
River Home Site Plat, PB 3/PG 37, Acceptance of Common Law
Dedication

The purpose of this report is to communicate the staff response to the submitted agenda item referenced above. The following comments are pertinent to the submitted item. Should the Board desire to accept the Miller Cove Road right of way, the following items should be considered.

1. The County Attorney's Office has identified several legal issues for the Board to consider. Those comments are contained in a separate memo from their office.
2. The existing right of way width shown on the plat is 30'-40' wide. The Brevard County Code requires a 50' wide right of way to construct a public road. A waiver of the minimum right of way width would be required in order to construct a public street within the right of way. Note that construction of a county standard roadway within a substandard width right of way is often much more expensive proposition than if the right of way was of standard width.
Maintenance is also often much more expensive due to a lack of separation distances between the constructed improvements and utilities, drainage facilities and the like.

No roadway design has been submitted by the developer that demonstrates that a road meeting County Code requirements could be constructed to fit within the existing right of way width.

3. Brevard County Public Works has no record of maintenance activities being performed within this right of way by Brevard County in the past.
4. There has not been a public street constructed within the right of way in the past.
5. Construction of a public street requires drainage improvements, typically consisting of both a storm water collection system (inlets and pipes, and/or ditches), a storm water treatment system (typically a retention area and/or some sort of biometric filtering or water quality enhancement feature), and a storm water feature to mitigate the increased flow rates due to the increase in impervious areas (typically a detention pond).

With the limited area available within a right of way, the pond elements of these storm water features are typically constructed outside of the normal road right of way. **Construction of the pond areas underground is sometimes possible, given sufficient land area, depending upon soil conditions and the existing ground water elevation, however these features are very costly to construct and maintain. Long term maintenance often requires a complete reconstruction of large portions of the roadway when these systems fail due to siltation.**

6. It is unknown exactly how many miles of unaccepted, substandard width rights of way exist in Brevard County, but the length potentially totals many hundreds of miles. **The Board may want to consider the impact of the decision in this instance potentially creating a precedent that may have far reaching consequences if many of these other unaccepted rights of way are brought to the Board with similar requests.**
7. Currently, the Brevard County Code requires that a lot front on a County Maintained Road or an approved private road, in order to have an address assigned as part of obtaining a building permit for the property. Additionally, the code requires commercial developments have direct access to a paved public or private road.



County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

To: John Denninghoff, Assistant County Manager

CC: Tad Calkins, Planning and Development Director
Andrew Holmes, Public Works Director

From: *EB* Eden Bentley, Deputy County Attorney

Through: Scott Knox, County Attorney *SK*

Subj.: LTM of Florida Holdings, LLC request to accept plat Item VI F (2)

Date: October 20, 2017

Question 1. Can the County accept the 1923 plat as requested?

Short Answer: Probably not due to jurisdictional issues involving the Town of Palm Shores.

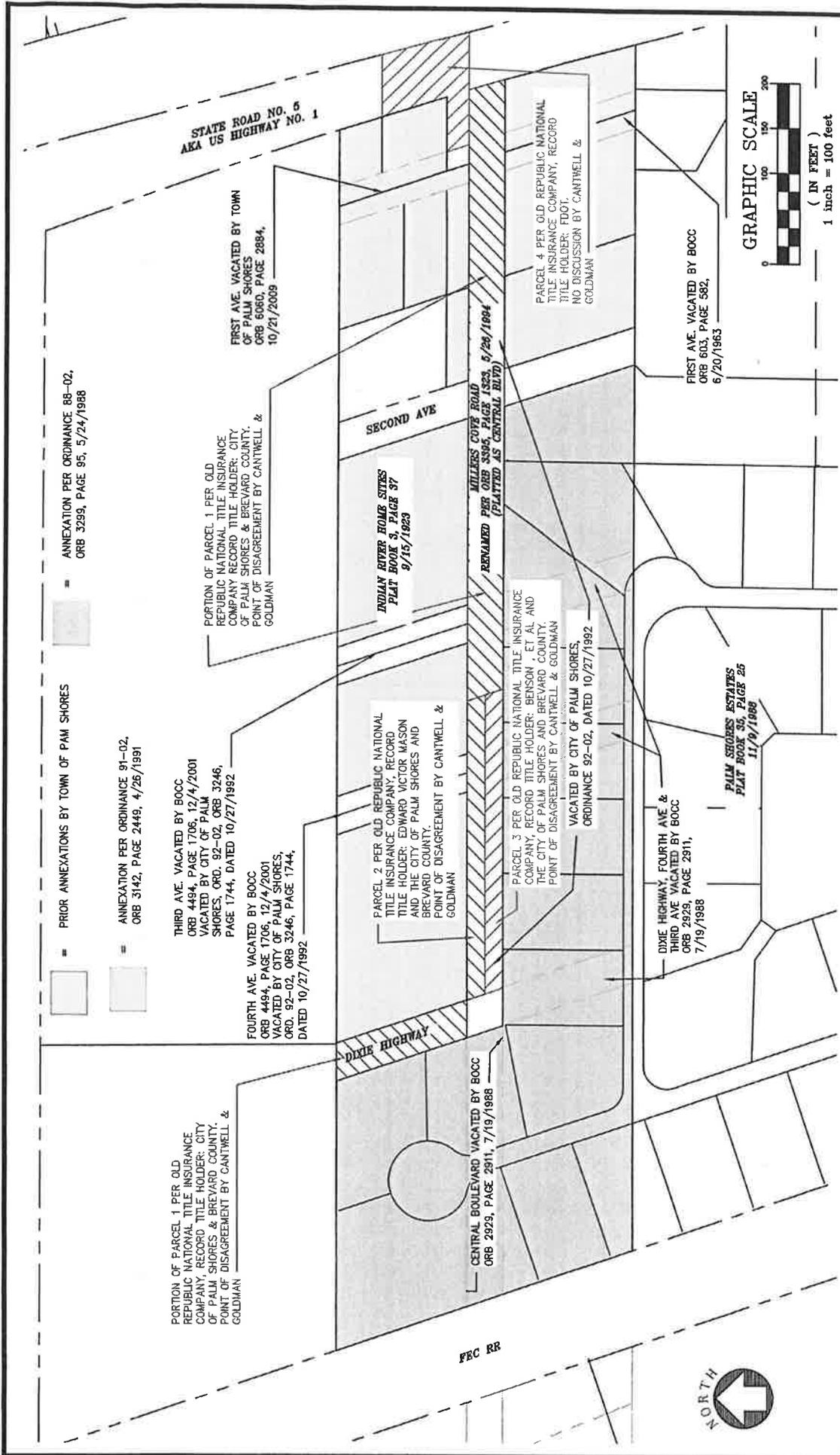
Question 2. Is the area known as Miller Cove "road" owned and maintained by the County?

Short Answer: No. Case law indicates the actions listed by the applicant are not deemed to be acceptance of ownership and maintenance by the County.

Question 3. This question was not specifically presented by the agenda item, but is a logical question for the Board. Can the road areas alone be accepted by the County at this time?

Short Answer: There are numerous title issues in this area and at least one person has received a deed to a portion of the area referred to as Miller Cove Road. Questions regarding the exact location of improvements have also arisen which may create claims due to occupation as well as claims via deeds.

Recommendation: Request that the applicant provide a survey and appropriate title work for the area in question before proceeding further.



	INFORMATION SKETCH MILLERS COVE ROAD		PREPARED FOR: BREVARD COUNTY ATTORNEY
	SECTION: 30, TWN: 26 SOUTH, RING: 37 EAST		
SURVEYING & MAPPING DIVISION 2725 JUDGE FRAN JAMESON WAY BUREAU A, FT. PIERCE, FL 32940 PHONE: (321)633-2080	DATE: 12/14/17 DRAWING NAME: 263730.MILLER COVE ROAD_12-14-17 SHEET: 1 OF 1 DATE: REVISION:		