**Application No.**
**SV-12-04-03**
**(Street Vacation)**

**Applicant**
**Heritage of Sarasota, Inc., and Harbour Village Property Owners Association, Inc. / A portion of River Beach Drive**

**Legislative**

**Commission Dist. IV**

Open for Business

# SV-12-04-03
# WARREN AVE and RIVERSIDE DR
# General Area Map

Map Prepared By
Charlotte County
Community Development
Department

## 28/40/21 Mid-County

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise, to the accuracy, or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is it to be used for design. Reflected Dimensions are for Informational purposes only and may have been rounded to the nearest tenth. For precise dimensions, please refer to recorded plats and related documents. Prepared 04-13-2012 by Nancy V

N
NOT TO SCALE

Open for Business

# SV-12-04-03
# WARREN AVE and RIVERSIDE DR
# 2030 Future Land Use Designations

Map Prepared By
Charlotte County
Community Development
Department

## 28/40/21 Mid-County

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N
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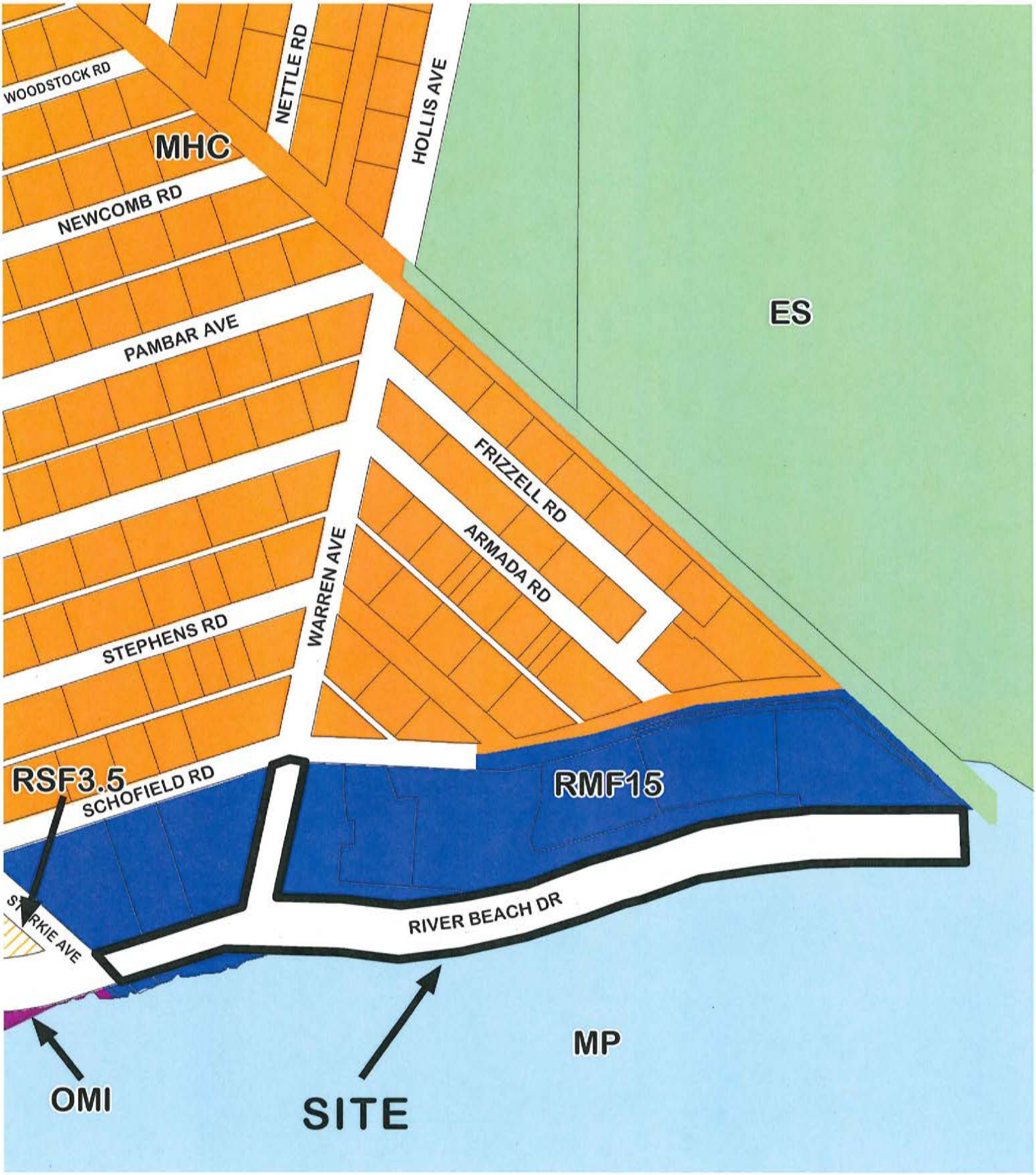
# SV-12-04-03
# WARREN AVE and RIVERSIDE DR
# Zoning Districts

Map Prepared By
Charlotte County
Community Development
Department




28/40/21 Mid-County

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NOT TO SCALE

# MEMORANDUM

**Date:** May 22, 2012

**To:** Charlotte County Board of County Commissioners,
Planning and Zoning Board

**From:** Steven A. Ellis, Planner II SAE
Community Development

**Subject:** SV-12-04-03, Street Vacation, Portions of River Beach Drive and Warren Avenue
Applicants: Heritage of Sarasota, Inc., Harbour Village POA, Inc.

Heritage of Sarasota, Inc., and Harbour Village Property Owners Association, Inc. have applied to vacate the portion of River Beach Drive (platted Riverside Drive) that runs east of Sturkie Avenue and west of the Hayward Canal, as recorded in Plat Book 1, Page 62, and Plat Book 2, Page 30, also to vacate the conditions of the Developer's Agreement (AGR 2006-074) that was required for the approval of a previous street vacation (Res. 2006-223), and the portion of Warren Avenue that runs south of Schofield Road, and north of River Beach Road, as recorded in Plat Book 2, Page 30, as well as the drainage easement in the Warren Avenue right-of-way. The total area to be vacated is 3.88 acres, more or less, and is located in Section 28, Township 40 South, Range 21 East, in Commission District IV.

Heritage of Sarasota, Inc. (HSI) owns abutting lots on both sides of River Beach Drive west of Warren Avenue. They also own abutting property on the west side of Warren Avenue, all of which lies within the boundaries of the Urban Service Area. The Future Land Use Map designation is High Density Residential. The Zoning District is Residential Multi-family 15 (RMF-15). The property lies within Flood Zone 8VE and Storm Surge Evacuation Zone A.

Harbour Village Property Owners Association, Inc. (HVPOA) owns abutting property on the north side of River Beach Drive, east of Warren Avenue. They also own abutting property on the east side of Warren Avenue, all of which lies within the boundaries of the Urban Service Area. The Future Land Use Map designation is High Density Residential. The Zoning District is Residential Multi-family 15 (RMF-15). The property lies within Flood Zone 8VE and Storm Surge Evacuation Zone A.

Charlotte County owns one parcel on the south side of River Beach Drive, west of Warren Avenue (Parcel ID#402128478003).

## ANALYSIS

NOTE: This petition has some complex issues, which can be best understood if the proposed vacation is broken into three parts. For the sake of simplicity, the portion of River Beach Drive to be vacated, west of Warren Avenue, will be referred to as Area 1. The portion of Warren Avenue to be vacated will be referred to as Area 2. The portion of River Beach Drive to be vacated, east of Warren Avenue, will be referred to as Area 3.

**Area 1 –**

GIS aerial of Area 1

This section was the subject of a previous street vacation petition (SV-06-09-13) initiated by HSI, and approved by the Board of County Commissioners on December 19, 2006 (Resolution 2006-223), vacating the north forty feet of the 100' River Beach Drive right-of-way between Sturkie Avenue and Warren Avenue, with three conditions, as follows:

- Condition 2-A – *The Developer's Agreement is approved by the Board of County Commissioners of Charlotte County, Florida.* (AGR 2006-074 was approved on December 19, 2006.)

  The section entitled, "OBLIGATIONS OF THE PARTIES" within the Developer's Agreement reads as follows:

a. *Prior to a Certificate of Occupancy being issued for any development on the Exhibit "A" lands, Developer shall construct the improvements as depicted in Exhibit "B" within the remaining portion of River Beach Road between Sturkie and Warren Avenues (hereinafter the "remaining Portion of River Beach Road"). Developer shall design and permit all public improvements, clear all exotic vegetation from the right-of-way, build a 10 foot wide shell trail, include trail and parking within the development's storm water management systems, build a 4-car shell parking spaces, provide canoe/kayak launch and provide landscaping and buffering within the right-of-way. All public improvements shall be field located.* [Unfulfilled]

b. *County shall maintain the above referenced improvements located within the Remaining Portion of River Beach Road as a shell trail and parking area, as depicted in Exhibit "B", in perpetuity.* [Nothing to maintain, improvements never constructed]

c. *Within 90 days of the effective date of this Agreement, Developer shall convey the land described in Exhibit "C" to County for a beach canoe/kayak launch and County shall accept title to said lands and keep said lands used as a beach canoe/kayak launch in perpetuity.* [Fulfilled]

d. *No additional density shall accrue to the development of the Exhibit "A" lands as a result of the vacation.*

- Condition 2-B – *Easements must be provided to El Jobean Water and Riverwood CDD prior to the filing of the vacation.* [Fulfilled]

- Condition 2-C – *Petitioner shall remove all exotics from the remaining right-of-way, and the Petitioner's property from right-of-way to the water's edge.* [Unfulfilled. A comparison of GIS aerial maps from 2007 through 2011 revealed that the Australian Pines that dominate this undeveloped section of right-of-way were never removed. This was also confirmed by a recent staff site visit.]

Area 1 – River Beach Drive, looking west from Warren Avenue (4/25/12)

Area 1 – River Beach Drive, looking east from Sturkie Avenue (4/25/12)

HIS has offered no off-setting benefits for those that Charlotte County citizens would lose if the vacation was approved and the conditions of the Developer's Agreement were removed.

**Area 2 –**

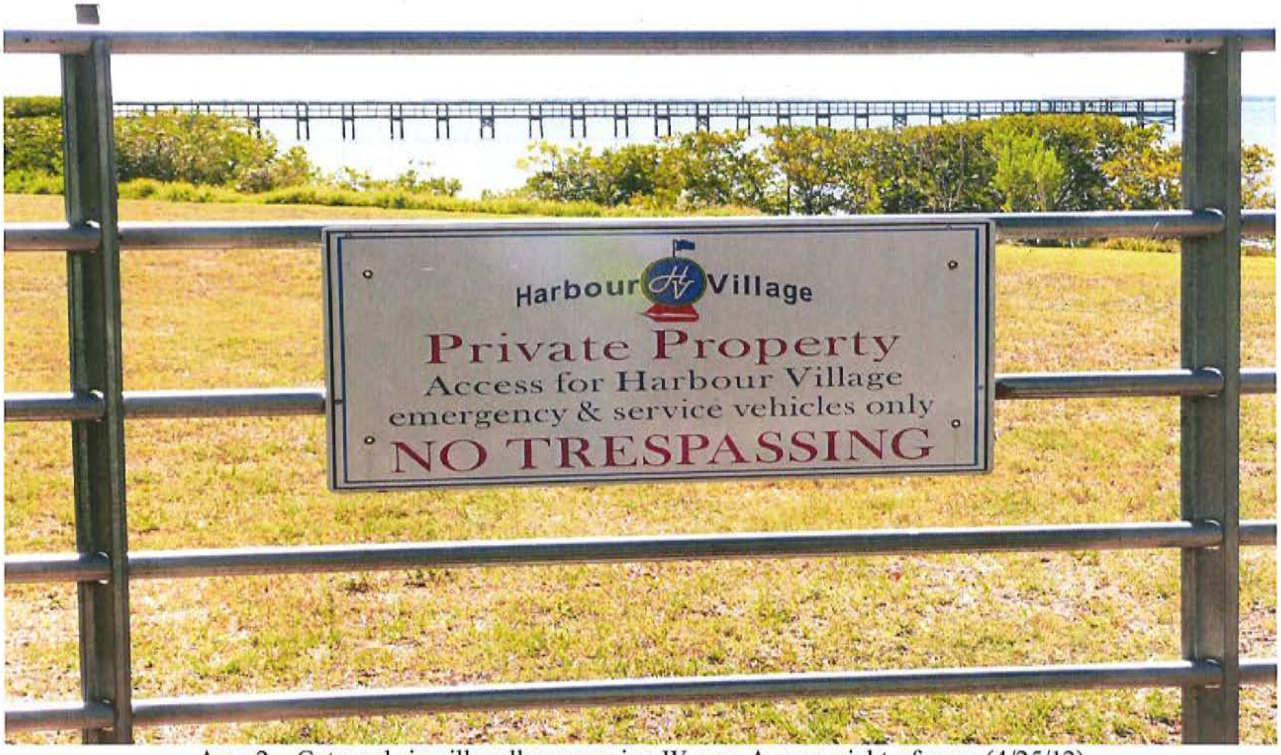
GIS aerial of Area 2

The portion of Warren Avenue proposed to be vacated is paved from the intersection with Schofield Road to the southern edge of HVPOA's driveway. South of that point, the surface is a mixture of grass and marl. If this section of right-of-way is vacated, the eastern half of it would belong to HSI, the western half would go to HVPOA. The applicants have also requested to remove the drainage easement located in the Warren Ave right-of-way. While no "on paper" drainage easement exists, the swales constitute the same thing. This may indicate future development plans that would remove the swales. If that is the case, a stormwater management plan would need to be approved to redirect drainage to existing control structures (please see Land Development's comments).

Area 2 – Warren Avenue looking south from the intersection with Schofield Road (4/25/12)

Area 2 – Warren Avenue looking north from the intersection with River Beach Drive (4/25/12)

During a recent site visit, staff observed a landscape barrier, a metal gate, and a "no trespassing" sign illegally constructed within the Warren Avenue and River Beach Drive rights-of-way. The gate and barrier effectively block public access to the waterfront along the eastern end of River Beach Drive. The sign erroneously states that this section of right-of-way is private property. This matter was referred to Code Enforcement for disposition. Staff is withholding action on the matter until after the public hearings on the petition.




Area 2 – Gate and sign illegally occupying Warren Avenue right-of-way. (4/25/12)

Areas 2 & 3 – Landscape barrier and metal gate constructed in Warren Avenue and River Beach Drive rights-of-way (5/11/12)

**Area 3 –**

GIS aerial of Area 3

The undeveloped portion of River Beach Drive east of Warren Avenue is 100' in width, although much of it is under water. The un-submerged part of this right-of-way varies in width from 3' to 70', and it appears that it is being maintained in the same manner as the abutting HVPOA property immediately to the north.

Area 3 – River Beach Drive looking east of Warren Avenue (4/25/12)

Area 3 – River Beach Drive east of Warren Avenue looking west (4/25/12)

HVPOA was granted a Revocable License Agreement for Temporary Occupation of County Right of Way by the Board of County Commissioners in 1994 in order to construct a 400' wooden fishing pier within the River Beach Road right-of-way (Resolution 94-220). The Developer's Agreement approved by the Board for this purpose (AGR 94-218) allows HVPOA to maintain the right-of-way, but does not mention either exclusive rights to the right-of-way, or any restrictions against public use of the right-of way. A portion of the Agreement reads as follows: "*Further, Developer agrees that no structures other than this wooden fishing pier will be constructed in the right-of-way area.*"

Area 3 – Fishing pier erected in River Beach Drive right-of-way by HVPOA under Permit #94060443, and extended in 2001 under Permit #2001031397 (4/25/12)

**Addressing** has reviewed the application and had no comments.

**Zoning/Environmental** has reviewed the application and had the following comments:

The Zoning Environmental Review Section (ERS) has reviewed the above referenced petition for Environmental and Tree and Landscaping compliance and offers the following comments:

1) A GIS aerial review and site inspection has been conducted by staff. The portion of River Beach Drive to the southeast of Warren Avenue is sodded and landscaped with mangroves that have been regularly trimmed/maintained. There is also an upland retaining wall and a ±390 foot pier which is used by the neighboring condominium residents. The portion of River Beach Drive to the southwest of Warren Avenue is completely un-maintained and contains mature Australian pine trees with the shoreline remaining in its natural state (i.e. no seawall, rip-rap or other man-made

structures). The Myakka River is a highly valuable ecological asset to all the residents of Charlotte County and is utilized by numerous species listed by the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS).

2) The proposed street vacation is NOT consistent with the following Charlotte County Smart Charlotte 2050 Comprehensive Plan Policies and Objectives:

   a. **FLU Policy 2.1.5 – Access to Public Waterbodies**
   The County shall not vacate any public street, right-of-way, or easement that would constrain existing or potential public access to the County's many water bodies in the absence of public benefit.

   b. **ENV Policy 2.2.8 – Promoting Connectivity**
   In its efforts to protect natural resources, the County shall promote linkages between existing public parks, preserves, and similar areas serving to provide for the conservation of natural resources in order to develop a system of interconnected greenways and blueways providing for public recreation while protecting the natural environment. These areas may consist of woodlands, water bodies, and other open spaces. These areas may be used for hiking, bicycling horseback riding, developed as resource-based parks or low-impacting educational facilities and nature centers. Linkages can be made to lands internal to the County or to lands in adjacent counties. The County shall utilize all means identified in ENV Policy 2.2.6 and 2.2.7 to promote this connectivity.

   c. **CST Objective 1.3 – Maintenance of Public Access to Gulf of Mexico and Bay Waters**
   To maintain public access to the Gulf of Mexico and bay waters, through expansion or refurbishing existing facilities or acquisition of new property which shall be consistent with the public's needs and the natural resource capacity of the selected area for a variety of water dependent activities.

   d. **CST Policy 1.3.2 – Acquisition of Public Access Easements**
   The County shall acquire needed lands or public access easements adjacent to the coastal shoreline through Federal, State, regional, and locally-funded land acquisition programs or as part of the development review process, whenever feasible.

   e. **CST Policy 1.3.4 – Require Public Access**
   The County shall require public access in all County-sponsored and, where practical, private coastal development projects. Access to public shorelines shall be required in all publicly-funded coastal renourishment projects.

   f. **CST Objective 2.1 – Charlotte Harbor Watershed Protection**
   To ensure that the County's surface waters are protected.

The applicant is advised that the Charlotte County ERS site review is cursory; additional wildlife or environmental reviews may be required by state and federal agencies.

**Zoning/Current Planning** has reviewed the application and had the following comments:

The proposed street vacations do not appear to conflict with any of the requirements of the Zoning or Subdivision Codes. However, River Beach Drive is the only location where this residential neighborhood has public access to the Myakka River. Good planning practices would suggest retaining that portion of River Beach Drive located between Sturkie Avenue and Warren Avenue for public access to the Myakka River.

Zoning/Current Planning recommends approval of a street vacation only for that portion of River Beach Drive lying east of Warren Avenue.

**Riverwood Community Development District** has reviewed the application and objects to the proposed vacation

"...until such time as the applicant has provided adequate assurances that the District's right to access, install, repair, replace and maintain sanitary sewer facilities will be preserved."

**Real Estate Services** has reviewed the application and had the following comments:

Not in favor of removing conditions of the Developers Agreement or in favor of this street vacation:

1) The vacation of remaining portion of the 60' road right-of-way, which will go the applicant, will leave the County with a small parcel of land (that was granted by the applicant as a condition of the Developer's Agreement – See 3B of the Developer's Agreement) with no means of access. As stated in the Developers Agreement: "the use of this land is to be used as a beach canoe/kayak launch in perpetuity."

2) The application specifies: "Removal of the drainage easement located in Warren Avenue right-of-way. I am unable to find the "drainage easement" in question. Not in favor of relocating/removing existing drainage structures, unless the new drainage design is presented and approved by the County.

**CCU** has reviewed the application and had no comments.

**GIS** has reviewed the application and had no objections.

**Engineering** objects to the street vacation. The County Surveyor and the Construction Services Manager agreed on the following comments:

Do not recommend approval. We are unable to understand why the County would consider voiding an already existing Developers Agreement (SV-06-09-13) which was to provide amenities to the residents of Charlotte County with nothing in exchange. Frontage to the Myakka River is limited and valuable and should not be given away to benefit others.

**Land Development/Right-of-Way** has reviewed the application and had the following comments:

Site visits to the location (S. Warren Ave) found contributing lots and roadway storm water runoff from Schofield Rd. is directed to the right-of-way (ROW) swales running parallel (south) down Warren Ave. Also, the storm water control from the Harbour Village Condos, drains into the ROW of Warren Ave through a concrete culvert (under Warren Ave) and exits through double-barrel concrete culverts (under the unconstructed portion) of the River Beach Dr. ROW.

Opinion: Without a substantial redesign (and construction) of the drainage system in this portion of River Beach Drive, the vacation of these roadways will have serious negative impact on functionality of the local storm water runoff.

**Comprehensive Planning** objects to the street vacation and had the following comments:

Item #1
The application is inconsistent with the Comprehensive Plan on two counts.

1) The applicants have not accounted for the density that would accrue to the adjacent property owners. From rough estimates of the land area of the street vacation, it appears that approximately 0.5 acres would accrue to Heritage of Sarasota Inc. and 1.8 acres (of land) would accrue to the Harbour Village condominium. The zoning district designation of all the land adjacent to the right-of-way is Residential Multi-family-15, which makes all of the right-of-way also RMF-15. Vacating the right-of-way would give developable units of density to the property owners bordering the vacated right-of-way.

   The following excerpt from Smart Charlotte 2050, **FLU Policy 1.2.7**, applies to this application:
   "The TDU program shall be used during the review and approval process for all plan amendments and rezonings that propose to increase the base density on land and street vacations that would result in an accumulation of acreage allowing development of new units of density;..."

   Implementing the policy of Smart Charlotte 2050, the following excerpt from the Transfer of Density Units (TDU) ordinance also applies to this application:
   "Any owner of property petitioning the board for a street or plat vacation which acts to increase the property's base density may, instead of submitting a TDU petition, choose to submit a restrictive covenant with the street or plat vacation that limits the density of the property to that existing at the time of application."

   - If the applicants choose to submit a restrictive covenant on their properties, such covenant must be submitted prior to the BCC hearing and made part of the Board approval of this vacation.

   - If the applicants want to use the density in the future, they must submit information per **Section 3-5-429(a)(2)** of the Charlotte County Code of Laws and Ordinances, which requires a TDU application to be submitted with the street vacation application. They will need to transfer an amount of density to the property equal to that which they would gain from the street vacation.

2) This proposed vacation would remove roughly ¼ mile of waterfront from public access. The following policy of Smart Charlotte 2050 applies to this vacation:

**FLU Policy 2.1.5 Access to Public Water Bodies**
The County shall not vacate any public street, right-of-way, or easement that would constrain existing or potential public access to the County's many water bodies in the absence of public benefit.

Comprehensive Planning Staff made a site visit on May 16. It is apparent that the River Beach Road right-of-way between Warren Avenue and Sturkie Avenue is being used by the public – bicycles and pedestrians. The other portion of River Beach Drive, along the front of the condos, has been landscaped and maintained in way that suggests that it belongs to the condo property. This probably inhibits any public from accessing this public right-of-way even though it provides a very scenic view of the Myakka River with easy access to the water for those who like to fish or kayak and canoe.

Warren Avenue, a portion of which is also proposed to be vacated, provides direct access to the water from SR 776 (El Jobean Road). This feature is valuable to the County and its citizens.

- No public benefit is being offered in exchange for the vacation of the right-of-way. Staff would also advise that no public benefit could be offered to equal the value of this scenic right-of-way.

Item #2:
Comprehensive Planning does not recommend voiding the Development Agreement. However, if such an action is discussed, then there is an issue regarding density that needs to be addressed. Item 3.d. of the Development Agreement of the prior street vacation, Resolution #2006-223, states, "No density shall accrue to the development of the Exhibit "A" lands as a result of the vacation." Voiding the Development Agreement will allow density from the prior vacation to accrue to the applicants. Prior to the Development Agreement being made void, the applicant must submit a TDU application to transfer the amount of density equal to that which vacation 2006-223 would have given them, or, they can choose to include Exhibit "A" lands within a restrictive covenant.

Item #3:
Condition 2.C. of the prior vacation, Resolution #2006-223, required the applicants to remove the exotics, Australian pine, from the remaining right-of-way and the petitioner's property from right-of-way to the water's edge. This condition has not been satisfied and brings into doubt the validity of the prior street vacation.

**Transportation Engineer / Planner** has reviewed the application and had the following comments:

Warren Avenue provides direct access to the water form State Road 776 (El Jobean Road). This feature is very valuable to the County in the future to provide water access to the citizens of the Charlotte County.

**CONCLUSIONS**

Consensus from departmental reviews and others clearly indicates that a recommendation of denial is warranted. Important considerations that led to this conclusion include the following:

- The application as submitted is inconsistent with the Smart Charlotte 2050 Comprehensive Plan
- The applicants have offered no off-setting benefit for the loss of public access
- It is doubtful that any off-setting benefit could be offered that would equal the value of the waterfront proposed to be vacated
- HSI has not fulfilled the conditions of approval for their prior street vacation (SV-06-09-13)
- HSI has not fulfilled the conditions of Developer's Agreement AGR 2006-074
- Removing the conditions of AGR 2006-074 would have the effect of affirming approval of SV-06-09-13 without an off-setting public benefit, making it also inconsistent with the Comprehensive Plan, after the fact, and would leave density unaccounted for contrary to the TDU Ordinance
- Removing the conditions of AGR 2006-074 could be construed as voiding the easements previously granted to El Jobean Water and Riverwood CDD
- Removing the drainage easement (swales) on the Warren Avenue right-of-way without an approved stormwater management plan could be detrimental to the waters of the Myakka River
- HVPOA has obstructed public access to the River Beach Drive right-of-way east of Warren Avenue, and within the Warren Avenue right-of-way, which constitutes a Code violation, and also violates the conditions of AGR 94-218
- The applicants have not accounted for the additional density that would be accrued from the proposed vacations

## RECOMMENDATION

**Community Development** recommends denial of SV-12-04-03 because it is inconsistent with Smart Charlotte 2050 Comprehensive Plan, and does not appear to be in the best interests of the citizens of Charlotte County.

Engineering Division
18400 Murdock Circle
Port Charlotte, FL 33948

**CHARLOTTE COUNTY**
**COMMUNITY DEVELOPMENT DEPARTMENT**

# STREET VACATION APPLICATION

| | |
|---|---|
| **Date Received:** 4/5/12 | **Date of Log-in:** 4/5/12 |
| **Petition #:** SV-12-04-03 | CAP# VST-12-00003 |
| **Receipt #:** 82282 | **Amount Paid:** #1,315.00 |

1. **Name of street(s) to be vacated:** Riverside Drive (remainder), Warren Ave,

2. **Parties involved in the application**

A. Name of Applicant*: Heritage of Sarasota Inc.

Mailing Address: PO Box 496

| | | |
|---|---|---|
| City: Osprey | State: FL | Zip Code: 34229 |
| Phone Number: 941. 323. 7116 | | Fax Number: |

Email Address: MDRSeminole@aol.com

* The applicant must own property fronting on the right-of-way to be vacated

B. Name of Agent: Jeff Ruggieri

Mailing Address: 2568 Commerce Pkwy

| | | |
|---|---|---|
| City: North Port | State: FL | Zip Code: 34289 |
| Phone Number: 941. 875. 7436 | | Fax Number: |

Email Address: Jeff@acuityplanning.com

C. Name of Surveyor: Banks Engineering - c/o Ken Trask

Mailing Address: 12653 SW County Rd 768 ste B

| | | |
|---|---|---|
| City: Lake Suzy | State: FL | Zip Code: 34269 |
| Phone Number: 941. 625. 1165 | | Fax Number: 941. 625. 1149 |

Email Address: Ktrask@Banks engi~~neer~~.com

3. **Applicant's Property ID #:** 402128477001, 402128477002, -03, -78004, -78005
4. **Total acreage of street to be vacated:** 3.85 acs
5. **Commission District:** 4
6. **Purpose of request:**
Vacate remainder of Riverside Drive, Warren Ave. Remove Conditions of Developers Agreement required for SV-06-09-13. Remove drainage esmt located in Warren Ave R-o-w.

Engineering Division
18400 Murdock Circle
Port Charlotte, FL, 33948

## APPLICANT AUTHORIZATION TO AGENT

I, the undersigned, being first duly sworn, depose and say that I am the applicant for the Street Vacation of the property described and which is the subject matter of the proposed hearing.
I give authorization for Jeff Ruggieri to be my agent for this application.

STATE OF Florida, COUNTY OF Charlotte

The foregoing instrument was acknowledged before me this 20 day of March, 2012, by WILLIAM M. LANDER who is personally known to me or has/have produced DL as identification and who did/did not take an oath.

Linda M Cross — Notary Public Signature
William Lander — Signature of Applicant

LINDA M. CROSS — Notary Printed Signature
William Lander (TREASURER HVPOA) — Printed Signature of Applicant

Title
1043 White Alta Way — Address

Commission Code
Milton N.H 03851 — City, State, Zip

603-652-6777 — Telephone Number

Notary Public State of Florida
Linda M Cross
My Commission DD942414
Expires 11/24/2013

Engineering Division
18400 Murdock Circle
Port Charlotte, FL 33948

## APPLICANT AUTHORIZATION TO AGENT

I, the undersigned, being first duly sworn, depose and say that I am the applicant for the Street Vacation of the property described and which is the subject matter of the proposed hearing.
I give authorization for Jeff Ruggiero to be my agent for this application.

STATE OF FL, COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 20 day of March, 2012 by Robert Martell who is personally known to me or has/have produced DL as identification and who did/did not take an oath.

| | |
|---|---|
| Notary Public Signature | Signature of Applicant: Robert Martell |
| Vana Marie Ross | ROBERT MARTELL (PRES.) HERITAGE OF SARASOTA INC |
| Notary Printed Signature | Printed Signature of Applicant |
| | P.O. Box 446 |
| Title | Address |
| | OSPREY FL 34229 |
| Commission Code | City, State, Zip |
| | 941-323-7116 |
| | Telephone Number |

NOTARY PUBLIC-STATE OF FLORIDA
Vana Marie Ross
Commission #DD924629
Expires: SEP. 13, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

CHARLOTTE COUNTY CLERK OF THE CIRCUIT COURT OR BOOK 3638, PGS 2136-2137 2 pg(s) INSTR # 2080276 Doc Type D, Recorded 03/13/2012 at 02:03 PM Deed Doc: $0.70 Rec. Fee: $18.50 Cashier By: VICKIC

10¢ DS

Certified to be a true and correct copy of the original document on file.
☒ This copy has no redactions
☐ This copy has been redacted pursuant to law.
Witness my hand and official seal this 13th day of March 20 12
Clerk of Circuit Court
By _____ Deputy Clerk

PREPARED BY AND RETURN TO:
Thomas M. Tucker
Tucker & Pretschner, P.A.
P. O. Box 356
Sarasota, FL 34230-0356
(941) 954-2121
File No. 117-30
PREPARED WITHOUT EXAMINATION OF TITLE

# QUIT CLAIM DEED

1cc

This Quit Claim Deed is made by **DOLORES GAYLE INGRAM**, hereinafter referred to as "Grantor", to **HERITAGE OF SARASOTA, INC.**, a Florida corporation, whose post office address is P.O. Box 446, Osprey, FL 34229, hereinafter referred to as "Grantee".

Grantor, in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby conveys to Grantee all of its right, title and interest, if any, in and to the following described real property in **Charlotte** County, Florida:

**Begin at the southwesterly corner of Lot 1, Ward 5 of EL JOBEAN, Plat Book 1, Page 62, Charlotte County Public Records, thence southerly along an extension of the westerly boundary of said Lot 1 to the Myakka River; thence easterly along the northern boundary of the Myakka River to the point of intersection with an extension of the Easterly line of Lot 11 of said Ward 5, thence northerly along said extension to the southeasterly corner of Lot 11 of said Ward 5, thence westerly along the southerly boundary of Lots 1 through 11 of said Ward 5 to the point of beginning.**

The Property Appraiser's Parcel Identification Number for the above described property is 402128478005.

Grantor warrants that the subject property does not constitute her homestead, nor is it the homestead of any member of her family, nor is it contiguous thereto.

OR BOOK 3638, Page Number: 2137 INSTR # 2080276 Page: 2 of 2

Dated as of the 13 day of March, 2012.

WITNESSES:

Print Name: Becca F Sylvester

Dolores Gayle Ingram

Dolores Gayle Ingram
Address: 23396 Weaver Ave.
Port Charlotte, FL 33954

Print Name: MARTIN J GRAY

STATE OF FLORIDA
COUNTY OF Charlotte

The foregoing instrument was acknowledged before me this 13 day of March, 2014 by DOLORES GAYLE INGRAM, who (Notary choose one) [ ] is personally known to me, or [✓] has produced FL Lic. as identification.

CINDY D. JOSEPH
MY COMMISSION # DD 794306
EXPIRES: August 3, 2012
Bonded Thru Notary Public Underwriters

Notary Public
Print Name: Cindy D Joseph
Commission Expires: 8/3/2012

TMT/tmh/117-30/Quit Claim Deed

Engineering Division
18400 Murdock Circle
Port Charlotte, FL, 33948

# AFFIDAVIT

**I, the undersigned, being first duly sworn, depose and say that I am the applicant or agent for this Street Vacation and that data and other supplementary matter attached to and made part of the application are honest and true to the best of my knowledge.**

STATE OF FLORIDA, COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 3rd day of APRIL, 2012, by Jeffrey C. Ruggieri who is personally known to me or has/have produced FLORIDA DRIVERS LICENSE as identification and who did/did not take an oath.

| | |
|---|---|
| Notary Public Signature | Signature of Applicant/Agent |
| Notary Printed Signature | Jeff Ruggieri<br>Printed Signature of Applicant/Agent |
| Title<br>NOTARY PUBLIC STATE OF FLORIDA<br>Notary Public State of Florida<br>Gayle L Moore<br>My Commission DD861148<br>Expires 03/06/2013 | 4085 [illegible] Joann<br>Address |
| Commission Code | N Port FL 34286<br>City, State, Zip |
| | 941-568-8002<br>Telephone Number |

BANKS ENGINEERING

Professional Engineers, Planners & Land Surveyors

DESCRIPTION OF A PARCEL OF LAND
LYING IN SECTION 28, T-40-S, R-21-E,
CHARLOTTE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF CHARLOTTE, LYING IN SECTION 28, TOWNSHIP 40 SOUTH, RANGE 21 EAST, BEING A PART OF WARREN AVENUE AND RIVERSIDE DRIVE AS SHOWN ON THE RECORD PLAT OF EL JOBEAN WARD 5 SUBDIVISION, PLAT BOOK 1, PAGE 62, AND EL JOBEAN WARD 1 SUBDIVISION, PLAT BOOK 2, PAGE 30, CHARLOTTE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHEAST CORNER OF LOT 1 OF SAID EL JO BEAN WARD 1 SUBDIVISION AND AT THE SOUTHWEST CORNER OF SAID WARREN AVENUE AND SCHOFIELD ROAD AS SHOWN ON THE PLAT OF SAID SUBDIVISION; THENCE N.69°52'23"E. CROSSING SAID RIGHT OF WAY OF WARREN AVENUE ALONG AN EXTENSION OF THE SOUTHERLY RIGHT OF WAY LINE OF SAID SCHOFIELD ROAD FOR 34.67 FEET; THENCE S.89°39'38"E. CONTINUE CROSSING SAID RIGHT OF WAY OF WARREN AVENUE ALONG SAID SOUTHERLY RIGHT OF WAY EXTENSION FOR 30.43 FEET TO THE SOUTHEAST CORNER OF SAID WARREN AVENUE AND SAID SCHOFIELD ROAD; THENCE S.09°56'30"W. ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID WARREN AVENUE AND THE BOUNDARY OF HARBOUR VILLAGE CONDOMINIUM, CONDOMINIUM BOOK 6, PG 68A THROUGH 68B, SAID PUBLIC RECORDS FOR 260.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID RIVERSIDE DRIVE; THENCE N.89°21'54"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 124.00 FEET; THENCE S.85°44'32"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 109.30 FEET; THENCE N.80°14'19"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 123.29 FEET; THENCE N.76°29'20"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 119.57 FEET; THENCE N.66°52'34"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 119.90 FEET; THENCE N.71°16'24"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 110.00 FEET; THENCE N.68°33'58"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 115.00 FEET; THENCE N.77°38'07"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 110.00 FEET; THENCE N.82°28'18"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 100.00 FEET; THENCE N.87°29'29"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 85.00 FEET; THENCE N.87°29'29"E. ALONG SAID NORTHERLY RIGHT OF WAY LINE AND SAID BOUNDARY FOR 200.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF PALMETTO ROAD; THENCE S.02°30'31"E. CROSSING SAID RIGHT OF WAY OF RIVERSIDE DRIVE FOR 100.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID RIVERSIDE DRIVE; THENCE S.87°29'29"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 200.00 FEET; THENCE S.87°29'29"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 80.62 FEET; THENCE S.82°28'18"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 91.39 FEET; THENCE S.77°38'07"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 97.85 FEET; THENCE S.68°33'58"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 109.43 FEET; THENCE S.71°16'24"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 108.52 FEET; THENCE S.66°52'34"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 124.47 FEET; THENCE S.76°29'20"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 131.25 FEET; THENCE S.80°14'19"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 138.86 FEET; THENCE N.85°44'32"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 117.32 FEET; THENCE S.89°21'54"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 209.38 FEET; THENCE S.69°52'23"W. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 202.12 FEET; THENCE N.55°09'07"W. CROSSING SAID RIGHT OF WAY OF RIVERSIDE DRIVE FOR 69.22 FEET TO THE SOUTHERLY BOUNDARY OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 3111, PAGE 1285, SAID PUBLIC RECORDS AND THE NORTHERLY RIGHT OF WAY LINE OF SAID RIVERSIDE DRIVE; THENCE N.69°52'23"E. ALONG SAID SOUTHERLY BOUNDARY AND SAID NORTHERLY RIGHT OF WAY LINE FOR 282.66 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SAID WARREN AVENUE; THENCE N.09°56'30"E. ALONG SAID WESTERLY RIGHT OF WAY LINE FOR 277.32 FEET TO THE **POINT OF BEGINNING.**


SERVING THE STATE OF FLORIDA

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PARCELS CONTAIN 169160.46 SQUARE FEET OR 3.88 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF WARREN AVENUE AS BEARING S.09°56'30"W.

BANKS ENGINEERING
FLORIDA LICENSED BUSINESS NO. LB6690

MARCH 19, 2012

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NO. LS4684



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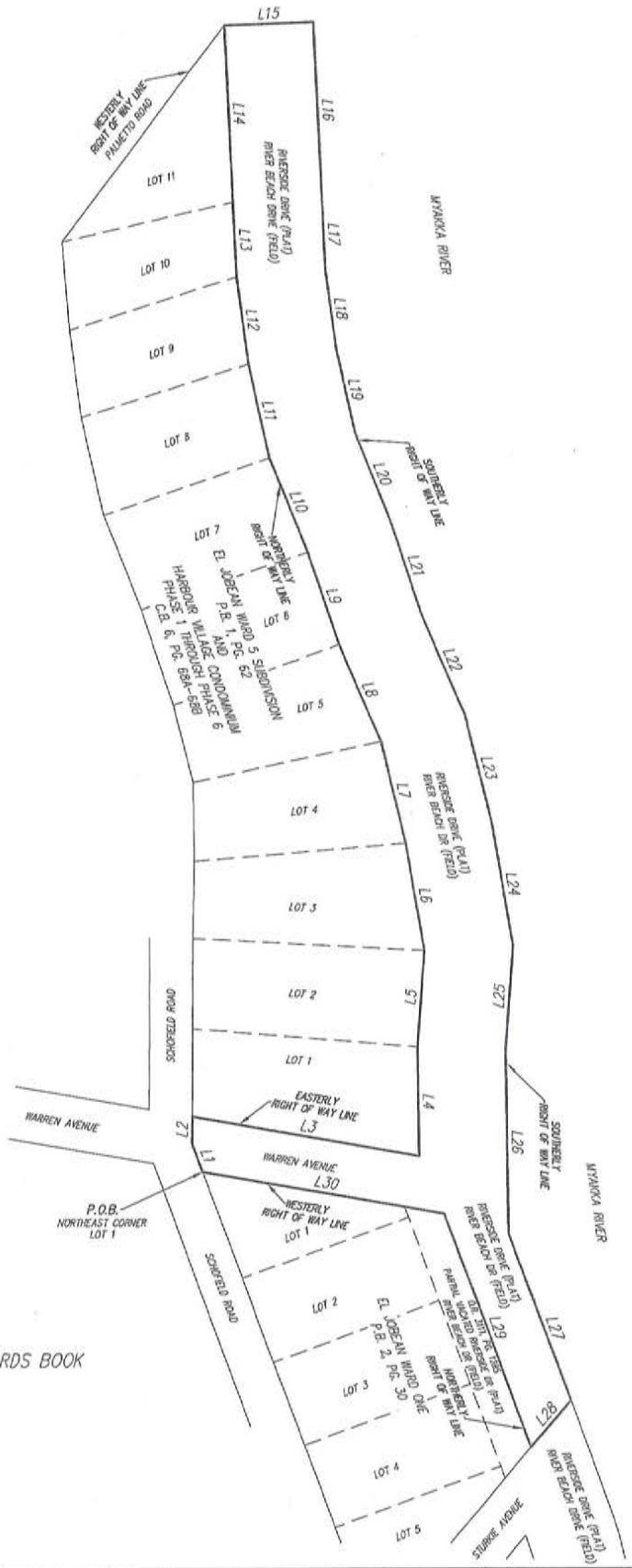


## LINE TABLE

| LINE | BEARING | DISTANCE |
|---|---|---|
| L1 | N69°52'23"E | 34.67' |
| L2 | S89°39'38"E | 30.43' |
| L3 | S09°56'30"W | 260.00' |
| L4 | N89°21'54"E | 124.00' |
| L5 | S85°44'32"E | 109.30' |
| L6 | N80°14'19"E | 123.29' |
| L7 | N76°29'20"E | 119.57' |
| L8 | N66°52'34"E | 119.90' |
| L9 | N71°16'24"E | 110.00' |
| L10 | N68°33'58"E | 115.00' |
| L11 | N77°38'07"E | 110.00' |
| L12 | N82°28'18"E | 100.00' |
| L13 | N87°29'29"E | 85.00' |
| L14 | N87°29'29"E | 200.00' |
| L15 | S02°30'31"E | 100.00' |
| L16 | S87°29'29"W | 200.00' |
| L17 | S87°29'29"W | 80.62' |
| L18 | S82°28'18"W | 91.39' |
| L19 | S77°38'07"W | 97.85' |
| L20 | S68°33'58"W | 109.43' |
| L21 | S71°16'24"W | 108.52' |
| L22 | S66°52'34"W | 124.47' |
| L23 | S76°29'20"W | 131.25' |
| L24 | S80°14'19"W | 138.86' |
| L25 | N85°44'32"W | 117.32' |
| L26 | S89°21'54"W | 209.38' |
| L27 | S69°52'23"W | 202.12' |
| L28 | N55°09'07"W | 69.22' |
| L29 | N69°52'23"E | 282.66' |
| L30 | N09°56'30"E | 277.32' |

## LEGEND

| | |
|---|---|
| PG. | PAGE |
| P.B. | PLAT BOOK |
| C.B. | CONDOMINIUM BOOK |
| P.O.B. | POINT OF BEGINNING |
| L1 | LINE 1 OF LINE TABLE |
| O.R. | CHARLOTTE COUNTY OFFICIAL RECORDS BOOK |

THIS IS NOT A BOUNDARY SURVEY

Kenneth E. Trask

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. LS4684

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
12653 SW COUNTY ROAD 769 - SUITE B
LAKE SUZY, FLORIDA 34269
PHONE: (941) 625-1165 FAX: (941) 625-1149
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6600
WWW.BANKSENG.COM

# SKETCH TO ACCOMPANY DESCRIPTION

PARCEL IN SECTION 28, T-40-S, R-21-E
CHARLOTTE COUNTY, FLORIDA

| DATE | PROJECT | DRAWING | DESIGN | DRAWN | CHECKED | SCALE | SHEET | FILE NO. (S-T-R) |
|---|---|---|---|---|---|---|---|---|
| 3-19-2012 | 3700 | 3700-VACATE -SK | | DPS | KT | 1"=150' | 3 OF 3 | 28-40-21 |

# Charlotte County Government

"To exceed expectations in the delivery of public services"

www.charlottecountyfl.com

## OFFICIAL RECEIPT

Trans Number : **82282**

Date Issued. : 04/05/2012

Application No. : VST-12-00003

Project Name : N/A

Received From : Heritage of sarasota

Applicant : Heritage of Sarasota Inc.
DBA : Heritage of Sarasota, Inc.
Address : P.O. Box 446
Osprey, FL, 34229

### PAYMENT INFO

| Method of Payment / Fee / Description | | Ref Doc | Amount Paid | Comment |
|---|---|---|---|---|
| **Check** | | | | |
| STREET_VAC | STREET VACATION | 2179 | $1,315.00 | |
| | | | **$1,315.00** | Total Check |

Cashier ID : DALTONR

Total Receipt Amount : **$1,315.00**

Change Due : $0.00

### APPLICATION INFO

| Application # | Invoice # | Invoice Amt | Job Address |
|---|---|---|---|
| VST-12-00003 | 90373 | $1,315.00 | |

**Total Amount : $1,315.00**

**Community Development Department**

18400 Murdock Circle | Port Charlotte, FL 33948

# BANKS ENGINEERING

Professional Engineers, Planners & Land Surveyors

## LETTER OF TRANSMITTAL

DATE: 3/29/12

TO: Jeff Ruggieri

PHONE: _____

FAX: _____

REFERENCE: River Beach Drive/Warren Ave. JOB NO. 3700

| COPIES | DESCRIPTION |
|---|---|
| 2 | Sketch & Description (signed & sealed) |
| | |
| | |
| | |
| | |
| | |

REASON:

- ☐ Your Comments
- ☐ Your Approval
- ☒ Your Information
- ☒ As Per Your Request
- ☐ Your Review

VIA:

- ☐ Fax: _____ Pages Total
- ☐ Regular Mail
- ☐ Courier
- ☐ Overnight Express
- ☒ Pick-up

COMMENTS: Please contact Ken Trask if you should have any question or comments regarding this attachment. Thank you.

Heather Polito
Permit Technician

Cc: _____

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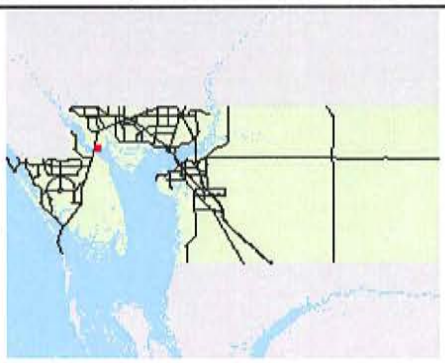
S:\Jobs\37xx\3700\Tml-Ruggieri-sketch & desc copies.docx

# Charlotte County GIS Map

Charlotte County GIS Department Copyright (C) 2012 0 400ft



Copyright 2012
Charlotte County GIS
18500 Murdock Circle
Port Charlotte, FL 33948

Legend
- Accounts
- Lots
- Waterway Names

DISCLAIMER : This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise to the accuracy or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is it to be used for design. C.C.G.I.S. maintains a record regarding the methods used to produce this map and can be furnished upon request.

# Plan of a Part of Ward One
# El Jobean
Charlotte County Florida
Being a subdivision of a part of
Section 28 T 40 S. R 21 E.
Owned by
Boston and Florida Realty Trust
Joel Bean, Trustee.

Hayward & Hayward, Surveyors,
Brockton, Mass. and
El Jobean, Fla.

State of Florida, Charlotte County.
The undersigned Joel Bean sole trustee of the Boston and Florida Realty Trust the owners of the 50 Acres of Land shown on this plat, do hereby authorize the same to be recorded in the Public Records of Charlotte County Florida and do hereby dedicate the Streets and Alleys shown on said plan to the perpetual use of the public for proper purposes, reserving to myself and my successors and assigns the reversion or reversions thereof whenever discontinued by law. In Witness whereof I hereunto set my hand and seal this eighth day of May 1926.

Signed and sealed in presence of
H. E. Hobson
Edw. B. Hayward
Joel Bean

State of Florida. Charlotte Co. ss.
I hereby certify that on this 8th day of May 1926 personally appeared Joel Bean sole trustee of the Boston and Florida Realty Trust and acknowledged that he executed the foregoing plat and dedication for the purposes therein stated.
In Testimony whereof I hereunto set my hand and official seal this 8th day of May 1926.
H. E. Hobson
Notary Public

My Commission Expires
Feb. 13th 1930

Approved for Record
Date 5/10 1926 — Chairman Board County Commissioners
Date 5/10 1926 — R. C. Blount, Clerk of Circuit Court
Date May 4th 1926 — County Engineer.

Engineers Statement
The attached plat is a true and correct plat of the property according to a survey by Hayward and Hayward Surveyors and all P.R.M.'s have been placed as called for under Sec. 7 Chap. 10275 Laws of Florida.
Edward B. Hayward
Surveyor.

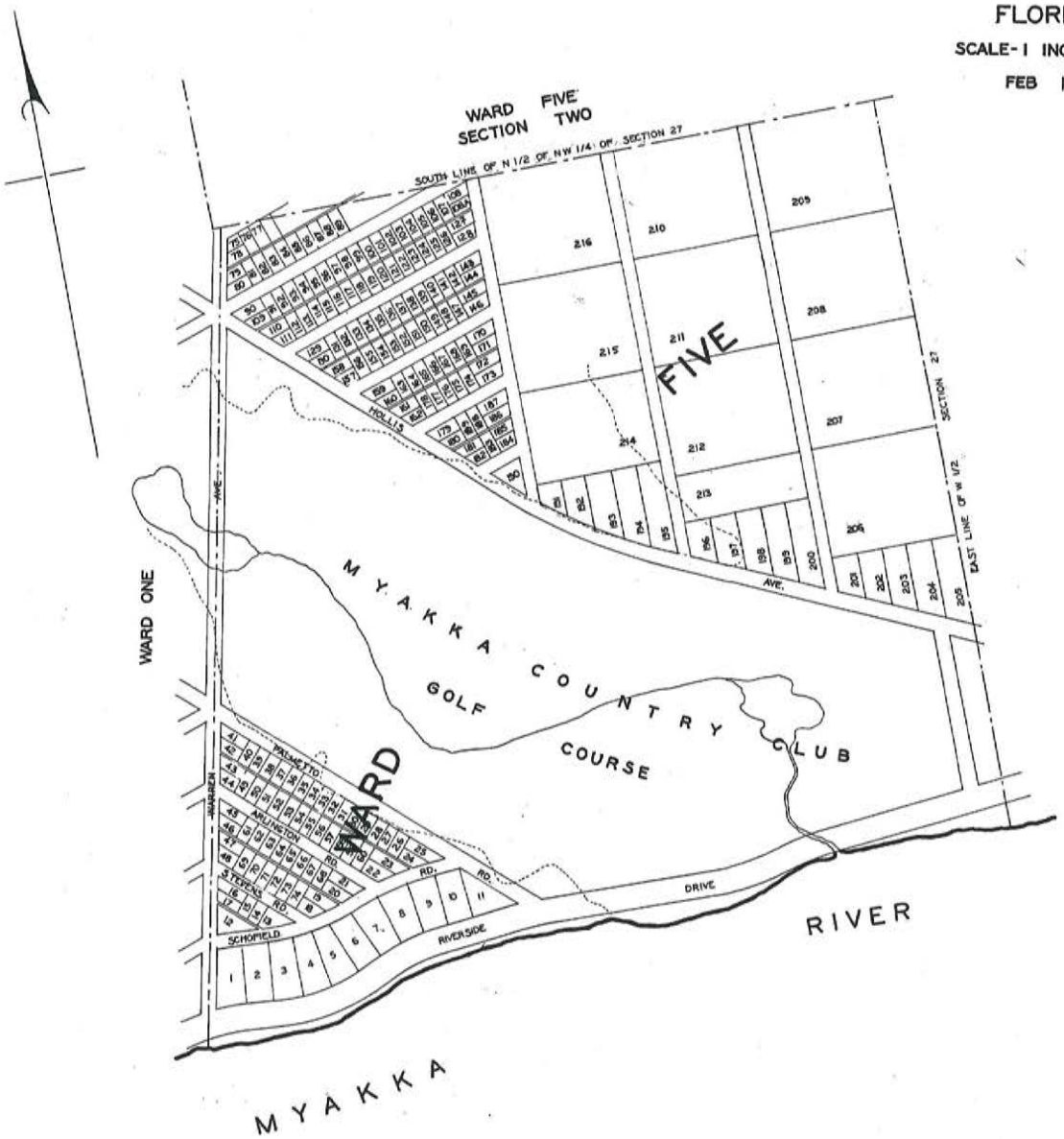
State of Florida, County of Charlotte
R. C. Blount
Clerk

P.B. 1, Page 62

BOSTON & FLORIDA REALTY TRUST.

TOWNSHIP 40 SOUTH— RANGE 21 EAST

PLAN OF
WARD (5)
CITY OF
EL JOBE-AN
FLORIDA
SCALE- 1 INCH= 200 FT.
FEB 1925




HAYWARD & HAYWARD
CIVIL ENGINEERS & SURVEYORS
EL JOBE-AN OFFICE
FEB. 16 1925

## INTEROFFICE MEMORANDUM

**TO:** STEVE ELLIS

**FROM:** DAN DEVALK

**SUBJECT:** HARBOUR VILLAGE, 4410 WARREN AVE.

**DATE:** 05/15/2012

**CC:**

---

**Steve after an inspection of the site, I found a gate and landscape vegetation that appears to be placed in the county easement. This situation is in violation of county code by an unpermitted occupation of the easement. The violation remedies are to remove the obstruction (gate, Berm and vegetation), or by applying for permit approval for the same.**

**Since there is a petition to abandon the easement currently with the zoning department and scheduled to be heard in June. I feel it would be beneficial to all parties to hold enforcement of this situation until such time as the petition has received the final ruling, as the violation may be removed by default with if the petition is approved.**

**If you have any question or concerns with this assessment please feel free contact me at your earliest convenience.**

**Thanks**

# Growth Management

**Engineering Division**
**ROW and Storm Water Section**
18500 Murdock Circle, Port Charlotte, FL 33948
Phone: (941) 743-1955 FAX: (941) 764-4104
steve.reager@charlottefl.com


"To exceed expectations in the delivery of public services"

**Date: 5/21/12**

**TO: Steven Ellis, Planner II, Growth Management**

**FROM: Steve Reager, Senior ROW Inspector, Growth Management**

**Site Address:** River Beach Dr., between Sturkie Ave., And Warren Ave.
**Site Information:** Request to Vacate a portion of River Beach Dr.

**SUBJECT: Evaluation of the local storm water system.**

**Site visits to the location (S. Warren Ave) found contributing lots and roadway storm water runoff from Scoffield Rd. is directed to the right of way (ROW) swales running parallel (South) down Warren Ave. also the storm water control from the Harbour Village Condos, drains into the ROW of Warren Ave. thru a concrete culvert (under Warren Ave.) and exits thru double barrel concrete culverts (under the un constructed portion) of the River Beach Dr. ROW.**

**Opinion: Without a substantial redesign (and construction) of the drainage system in this portion of River Beach Drive, the vacation of these roadways will have serious negative impact on functionality of the local storm water run off.**

Please contact me if I can be of further assistance.
I remain, at your service.

S Steve Reager

Steve Reager
Senior Right of Way Inspector
Growth Management, Engineering Division
Right of Way and Stormwater Section
Office (941) 743-1955

# MEMORANDUM

**Date:** May 21, 2012

**To:** Steven Ellis, Planner II

**From:** Inga Williams, Principal Planner

**Subject:** SV-12-04-03, River Beach Road and Warren Road

---

Comprehensive Planning has objections to this vacation.

Item #1
The application is inconsistent with the Comprehensive Plan on two counts.

1) The applicants have not accounted for the density that would accrue to the adjacent property owners. From rough estimates of the land area of the street vacation, it appears that approximately 0.5 acres would accrue to Heritage of Sarasota Inc. and 1.8 acres (of land) would accrue to the Harbour Village condominium. The zoning district designation of all the land adjacent to the right-of-way is Residential Multi-family-15, which makes all of the right-of-way also RMF-15. Vacating the right-of-way would give developable units of density to the property owners bordering the vacated right-of-way.

   The following excerpt from Smart Charlotte 2050, FLU Policy 1.2.7, applies to this application.
   "The TDU program shall be used during the review and approval process for all plan amendments and rezonings that propose to increase the base density on land and street vacations that would result in an accumulation of acreage allowing development of new units of density;..."

   Implementing the policy of Smart Charlotte, the following excerpt from the Transfer of Density Units (TDU) ordinance also applies to this application.
   "Any owner of property petitioning the board for a street or plat vacation which acts to increase the property's base density may, instead of submitting a TDU petition, choose to submit a restrictive covenant with the street or plat vacation that limits the density of the property to that existing at the time of application."

   - If the applicants choose to submit a restrictive covenant on their properties, such covenant must be submitted prior to the BCC hearing and made part of the Board approval of this vacation.

**COMMUNITY DEVELOPMENT DEPARTMENT**
Comprehensive Planning Section
18500 Murdock Circle | Port Charlotte, FL 33948
Phone: 941.743.1242 | Fax: 941.743.1228

- If the applicants want to use the density in the future, they must submit information per Section 3-5-429(a)(2) of the Charlotte County Code of Laws and Ordinances, which requires a TDU application to be submitted with the street vacation application. They will need to transfer an amount of density to the property equal to that which they would gain from the street vacation.

2) This proposed vacation would remove roughly ¼ mile of waterfront from public access. The following policy of Smart Charlotte 2050 applies to this vacation.

**FLU Policy 2.1.5 Access to Public Water Bodies**
The County shall not vacate any public street, right-of-way, or easement that would constrain existing or potential public access to the County's many water bodies in the absence of public benefit.

Staff made a site visit on May 16. It is apparent that the River Beach Road right-of-way between Warren Street and Sturkie Avenue is being used by the public – bicycles and pedestrians. The other portion of River Beach Road, along the front of the condos, has been landscaped and maintained in way that suggests that it belongs to the condo property. This probably inhibits any public from accessing this public right-of-way even though it provides a very scenic view of the Myakka River with easy access to the water for those who like to fish or kayak and canoe.

Warren Avenue, a portion of which is also proposed to be vacated, provides direct access to the water from SR 776 (El Jobean Road). This feature is valuable to the County and its citizens.

- No public benefit is being offered in exchange for the vacation of the right-of-way. Staff would also advise that no public benefit could be offered to equal the value of this scenic right-of-way.

Item #2:
Comprehensive Planning does not recommend voiding the Development Agreement, however, if such an action is discussed, then there is an issue regarding density that needs to be addressed. Item 3.d. of the Development Agreement of the prior street vacation, Resolution #2006-223, states "No density shall accrue to the development of the Exhibit "A" lands as a result of the vacation." Voiding the Development Agreement will allow density from the prior vacation to accrue to the applicants. Prior to the Development Agreement being made void, the applicant must submit a TDU application to transfer the amount of density equal to that which vacation 2006-223 would have given them, or, they can choose to include Exhibit "A" lands within a restrictive covenant.

Item #3:
Condition 2.C. of the prior vacation, Resolution #2006-223, required the applicants to remove the exotics, Australian pine, from the remaining right-of-way and the petitioner's property from right-of-way to the water's edge. This condition has not been satisfied and brings into doubt the validity of the prior street vacation.

# MEMORANDUM

**Date:** May 14, 2012

**To:** Steven Ellis, Planner II

**From:** Jamie Scudera, Environmental Specialist

**Subject:** SV-12-04-03
River Beach Drive Street Vacation

---

The Current Planning and Zoning Environmental Review Section (ERS) have reviewed the above referenced petition for **Environmental and Tree and Landscaping compliance** and offer the following comments:

1. A GIS aerial review and site inspection has been conducted by staff. The portion of River Beach Drive to the southeast of Warren Avenue is sodded and landscaped with mangroves that have been regularly trimmed/maintained. There is also an upland retaining wall and a ±390 foot pier which is used by the neighboring condominium residents. The portion of River Beach Drive to the southwest of Warren Avenue is completely un-maintained and contains mature Australian pine trees with the shoreline remaining in its natural state (i.e. no seawall, rip-rap or other man made structures). The Myakka River is a highly valuable ecological asset to all the residents of Charlotte County and is utilized by numerous species listed by the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS).

2. The proposed street vacation is NOT consistent with the following Charlotte County Smart Charlotte 2050 Comprehensive Plan Policies and Objectives:

    a. FLU Policy 2.1.5 *Access to Public Waterbodies*,
    b. ENV Policy 2.2.8 *Promoting Connectivity,*
    c. CST Objective 1.3 *Maintenance of Public Access to Gulf of Mexico and Bay Waters,*
    d. CST Policy 1.3.2 *Acquisition of Public Access Easements,*
    e. CST Policy 1.3.4 *Require Public Access*,

f. CST Objective 2.1 *Charlotte Harbor Watershed Protection.*

The applicant is advised that the Charlotte County ERS site review is cursory; additional wildlife or environmental reviews may be required by state and federal agencies.
For any questions pertaining to this application you may contact me at (941)743-1290.

JS

P:\ANIMAL\Street_Vacations\2012\SV-12-04-03(RiverBeachDr).doc

**COMMUNITY DEVELOPMENT DEPARTMENT**
Planning and Zoning Division
18500 Murdock Circle | Port Charlotte, FL 33948
Phone: 941.743.1242 | Fax: 941.743.1292

# MEMORANDUM

**To:** Steven Ellis, Planner II

**From:** Ken Quillen, AICP, Planner III

**Date:** May 11, 2012

**Subject:** Review of proposed Street Vacation; file number: **SV-12-04-03**

---

Below are comments from the Current Planning and Zoning Division regarding the proposed Street Vacation of portions of **River Beach Drive and Warren Avenue** located in the subdivision plats of **El Jobean Ward 1 and El Jobean Ward 5**, all located in Sections 27 and 28, Township 40 South, Range 21 East.

**Zoning:** The applicants, Heritage of Sarasota Inc. and Harbor Village Condominiums, own all of the lots adjacent to proposed River Beach Drive and Warren Avenue street vacation, which is zoned *Residential Multifamily-15* (RMF-15), intended to accommodate multifamily residential uses. These properties comprise all of the adjacent property located to the north of River Beach Drive and the east and west sides of Warren Avenue.

**Future Land Use:** These properties all have a *High Density Residential* Future Land Use Map (FLUM) designation.

**Flood Zone:** The area of the proposed street vacation lies in the "8VE" *Flood Zone* designation, which is a Coastal Flood Zone with velocity hazards, including wave action. Lands in this area are also located in the *Category "A" Storm Serge Evacuation Zone*, which is the first area to be evacuated if necessary.

**Zoning Comments:** The proposed street vacations do not appear to conflict with any of the requirements of the Zoning or Subdivision Codes. However; River Beach Drive is the only location where this residential neighborhood has public access to the Myakka River. Good Planning practices would suggest retaining that portion of River Beach Drive, located between Sturkie Avenue and Warren Avenue for public access to the Myakka River.

**Recommendation: The Zoning Division recommends approval of a street vacation only for that portion of River Beach Drive lying east of Warren Avenue.**

cc: File, SV-12-04-03

**COMMUNITY DEVELOPMENT – Zoning Division**
18400 Murdock Circle | Port Charlotte, FL 33948-1068
Phone: 941.743.1964 | Fax: 941.743.1598

BLALOCK WALTERS
ATTORNEYS AT LAW
WE MAKE A DIFFERENCE

May 1, 2012

Steven Ellis, Planner II
Charlotte County Government
18400 Murdock Circle
Port Charlotte, Florida 33948

RE: SV-12-04-03/Heritage of Sarasota, Inc.

Dear Steven;

Our firm serves as general counsel to the Riverwood Community Development District ("District"). Thank you for providing us with information related to the above-referenced petition.

As you know, the District provides sanitary sewer service to a number of parcels in the area surrounding the proposed right-of-way vacation. Based on the District Engineer's review of the application, it appears that the District has a number of sewer facilities located within the right-of-way area proposed for vacation. As such, the District objects to the proposed vacation until such time as the applicant has provided adequate assurances that the District's right to access, install, repair, replace and maintain sanitary sewer facilities will be preserved.

If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

Scott E. Rudacille

Cc: Janette Knowlton, County Attorney
Board of Supervisors, Riverwood Community Development District
Cal Teague, District Manager
Chris Sharek, P.E., District Engineer

534453/1

*Mark P. Barnebey*
*Anthony D. Bartirome*
*Robert G. Blalock*
*Lisbeth P. Bruce*
*Marisa J. Davies*
*Jonathan D. Fleece*
*Dana Carlson Gentry*
*Charles F. Johnson, III*
*Mary Fabre LeVine*
*Melanie Luten*
*Michael D. Magidson*
*Fred E. Moore*
*Stephen G. Perry*
*Matthew R. Plummer*
*William C. Robinson, Jr.*
*Scott E. Rudacille*
*Jenifer S. Schembri*
*Robert S. Stroud*
*Clifford L. Walters*
*Matthew D. Westerman*

BRADENTON
802 11th Street West
Bradenton, FL 34205

SARASOTA
2 North Tamiami Trail
Suite 408
Sarasota, FL 34236

941.748.0100 phone
941.745.2093 fax
BlalockWalters.com

srudacille@blalockwalters.com

## Ellis, Steven

**From:** Vattikuti, Venkat
**Sent:** Wednesday, May 16, 2012 5:20 PM
**To:** Williams, Inga; Ellis, Steven
**Subject:** RE: SV-12-04-03, River Beach / Warren

Inga,

I agree with the comments, however you may want to add the following item too..

--- Warren Avenue provides direct access to the water form State Road 776 (El Jobean Road). This feature is very valuable to the County in the future to provide water access to the Citizens of the Charlotte County.

Thank you
Venkat

**Venkat Vattikuti, P.E., PTOE**
Transportation Engineer/ Planner
**Community Development**
18500 Murdock Circle, Suite B-200
Port Charlotte, FL 33948
Ph: (941) 623-1064
Fax: (941) 743-1228
www.charlottecountyfl.com

---

**From:** Williams, Inga
**Sent:** Wednesday, May 16, 2012 4:57 PM
**To:** Ellis, Steven
**Cc:** Vattikuti, Venkat
**Subject:** RE: SV-12-04-03, River Beach / Warren

*Inga Williams*, AICP, Principal Planner
Community Development Department
18500 Murdock Circle
Port Charlotte, FL 33948-1094
phone: 941.743.1242
fax: 941.743.1228
Please visit Smart Charlotte 2050 to view Charlotte County's comprehensive plan
Please click on www.CharlotteCountyFL.com to visit the Charlotte County homepage
**"To Exceed Expectations in the Delivery of Public Services"**

---

**From:** Ellis, Steven
**Sent:** Wednesday, April 11, 2012 10:51 AM
**To:** Matarese, Monte; Vattikuti, Venkat; Pederzolli, Gary; Quillen, Ken; Williams, Inga; Scudera, Jamie; Gilbreath, Gina; MacDonald, John; Vigliano, Nancy; Collins, Gerry; Alexander, Debbie; DUrso, Chris; Irish, Stan; Reager, Steve
**Cc:** Clim, Diane; Moore, Gayle
**Subject:** SV-12-04-03, River Beach / Warren

Please see attachments.

Thanks,

Steven A. Ellis, Planner II
Community Development Department

April 25, 2012

TO: Steven a. Ellis, Planner II

FROM: Debra F. Alexander, Real Estate Specialist I

CC: J. Paul Payette, Manager, Real Estate Services Division
Albert Campitelli, Real Estate Specialist I

SUBJECT: Street Vacation Application for SV-12-04-03 – Heritage of Sarasota, Inc.

Not in favor of removing conditions of the Developers Agreement or in favor of this street vacation:

1. The vacation of remaining portion of the 60' road right-of-way, which will go the applicant, will leave the County with a small parcel of land (that was granted by the applicant as a condition of the Developer's Agreement – See 3B of the Developer's Agreement) with no means of access. As stated in the Developers Agreement: "the use of this land is to be used as a beach canoe/kayak launch in perpetuity".

2. The application specifies: "Removal of the drainage easement located in Warren Avenue right-of-way. I am unable to find the "drainage easement" in question. Not in favor of relocating/removing existing drainage structures, unless the new drainage design is presented and approved by the County.

/da

**BUDGET AND ADMINISTRATIVE SERVICES DEPARTMENT**
Real Estate Services Division
18400 Murdock Circle, Port Charlotte, FL 33948
Phone: 941.764.5580 | Fax: 941.764.5590

# INTEROFFICE MEMORANDUM
## Community Development

**To:** Steven Ellis

**FROM:** Gerry Collins
Address Technician

**DATE:** April 11, 2012

**RE:** Addressing Comments
June 11, 2012 P&Z / July 10, 2012 BCC

**SV-12-04-03 – Heritage of Sarasota, Inc.**

I have no comment on this application.

## Ellis, Steven

**To:** Reager, Steve
**Subject:** RE: DRC Street Vacation - Portion of River Beach Dr. & Warren Ave.

---

**From:** Ford, Steven
**Sent:** Tuesday, April 17, 2012 7:13 AM
**To:** Searfoss, Bill; Alexander, Debbie; Amendola, Andy; Bliss, Karen; Carson, Robert; DeGiovine, John; Doll, Richard; Gilbreath, Gina; Grossman, Gary; Ouimet, Jason; Purcell, Don; Reager, Steve; Searfoss, Bill
**Subject:** RE: DRC Street Vacation - Portion of River Beach Dr. & Warren Ave.

I whole heartedly agree with Bill.

*Steven L. Ford, PSM*
County Surveyor
Charlotte County Community Development
South County Annex
410 Taylor Rd., Unit 104
Punta Gorda, FL 33950
Phone (941) 575-3616
FAX (941) 637-9265
Steven.ford@charlottefl.com

---

**From:** Searfoss, Bill
**Sent:** Friday, April 13, 2012 10:12 AM
**To:** Alexander, Debbie; Amendola, Andy; Bliss, Karen; Carson, Robert; DeGiovine, John; Doll, Richard; Ford, Steven; Gilbreath, Gina; Grossman, Gary; Ouimet, Jason; Purcell, Don; Reager, Steve; Searfoss, Bill
**Subject:** DRC Street Vacation - Portion of River Beach Dr. & Warren Ave.

**DRC-SV-12-04-03 Street Vacation**
Portions of River Beach Dr. & Warren Ave.

Do not recommend approval.

Am unable to understand why the County would consider voiding an already existing Developers Agreement (SV-06-09-13) which was to provide amenities to the residents of Charlotte County with nothing in exchange. Frontage to the Myakka River is limited and valuable and should not be given away to benefit others.

*William E. Searfoss*
**Construction Services Manager**
Charlotte County Community Development
Engineering Division
410 Taylor Road, Unit 104, Punta Gorda, Fl. 33950
☎Phone: 941.575.3628
🖷Fax: 941.575.3614
✉E-Mail: bill.searfoss@charlottefl.com
Visit our website: www.charlottecountyfl.com/publicworks
"To Exceed Expectations in the Delivery of Public Services"

## Ellis, Steven

**From:** Pederzolli, Gary
**Sent:** Thursday, April 12, 2012 4:33 PM
**To:** Ellis, Steven
**Subject:** RE: SV-12-04-03, River Beach / Warren

Steven,
I do not see any problems with the street vacation.

---

**From:** Ellis, Steven
**Sent:** Wednesday, April 11, 2012 10:51 AM
**To:** Matarese, Monte; Vattikuti, Venkat; Pederzolli, Gary; Quillen, Ken; Williams, Inga; Scudera, Jamie; Gilbreath, Gina; MacDonald, John; Vigliano, Nancy; Collins, Gerry; Alexander, Debbie; DUrso, Chris; Irish, Stan; Reager, Steve
**Cc:** Clim, Diane; Moore, Gayle
**Subject:** SV-12-04-03, River Beach / Warren

Please see attachments.

Thanks,

Steven A. Ellis, Planner II
Community Development Department
Zoning Division
18400 Murdock Circle
Port Charlotte, FL 33948
Voice: 941-764-4954
Fax: 941-743-1598
www.charlottecountyfl.gov

***"To be the energy in making Charlotte County a beautiful and enriching place to live."***

comcast

April, 17 2012

Steven Ellis
Charlotte County Community Development
18400 Murdock Circle
Port Charlotte Fl 33948

**Re: Heritage of Sarasota, Inc**
**Vacation the portion of River Beach Drive (platted Riverside Drive) that runs east of Sturkie Avenue and west of the Hayward Canal, and the portion of Warren Avenue that runs south of Schofield Road and north of River Beach Road, as well as the drainage easement in the Warren Avenue right-of-way.**

Dear Steven Ellis

Comcast Cable does not object to the request to vacate the request from Heritage of Sarasota, Inc.
Comcast Cable have over head cable attach to FPL poles at the south side of Schofield Rd.

Should you have any questions or concerns, please feel free to contact me. I can be reached at (941) 342-3578.

Sincerely,

Gonzalo Rojas
Specl 2, Construction

FLPTCA0101
4195 Kings Hwy
Port Charlotte, Florida 33980

CenturyLink™

May 21, 2012

Steven A. Ellis, Planner II
Charlotte County Community Development
18400 Murdock Circle
Port Charlotte, FL 33948

RE: Street Vacation
Petition: SV-12-04-03

Dear Mr. Ellis:

CenturyLink has no objection to above referenced vacation request. If you need anything further, please contact me.

Sincerely,

Bill Barnett
Engineer II

wdp/bb

## Ellis, Steven

**To:** Moore, Gayle
**Subject:** RE: street and riverfront vacancies - Myakka River- pls. copy to commissioners

**From:** Gail E Giles [mailto:gilesgaile@yahoo.com]
**Sent:** Thursday, May 24, 2012 3:19 PM
**To:** Commissioner, Assistant
**Cc:** Constance, Chris; Moore, Gayle
**Subject:** street and riverfront vacancies - Myakka River- pls. copy to commissioners

I wish to object to the vacancy requested at Warren Ave to RiverBeach Rd. in El Jobean. There are no accesses to the River should anyone wish to wade in or even put their kayaks in the water on the El Jobean side of the Myakka River. Was it not a condition for the developer to provide a public walking path along the front of their proposed development (Where the Australian Pines are located on the platted but not extended length of River Beach Dr)?. The public walkway would have allowed people to walk along the waterfront and access Warren Avenue and then continue around the top of El Jobean and back down Pambar (inotherwords a circular walk) It is so important to preserve access for social and historical reasons. Charlotte County has given away most access points in the last 20 years without, i believe, doing due diligence. For example: check out historical sites, check for local folk lore, check for value of access re: Hwy 776 designation as a "Scenic Route".
Examples of vacancies of land lost forever:
1. The entire riverfront of Riverwood Development which now denies anyone the chance to visit the Indian Burial Grounds located thereon. Also it had always been the platted 100ft wide road which Joel Bean had hoped would be a great promenade for the public.
2. The entire end of Eleanor Ave vacancy granted to Barbara Hunt which then effectively denied anyone access to the Indian Midden Grounds and years later was also used by the boyscout troops.
3. The whole of El Jobean frontage on the Myakka River should have been kept due to the landing by Captain Daniels and his troops on the Sloop Rosalie which sailed from Fort Myers during the Civil War. A war skirmish, which is well documented in the Civil War documents, notes that when CaptainDaniels and some of his men went ashore at what they thought was a sleeping fishing village looking for supplies and recruits, they were fired upon.
Captain Daniels and his men had to build breastworks and fired cannon balls and muskets at the villagers/natives.
4. Minister Nightingale baptized his members in the Myakka River where Southland and Commercial almost meet.
Please reconsider any request for vacancies on the Myakka River. Part of the economic future of Charlotte County is based on "Eco Tourism". I am proud we have the El Jobean Fishing Pier but we must preserve land base.
So sad to know we have the most beautiful view of a navigable river and have given up most of our rights to it.
Yours truly, Gail Giles
3850 Bravo Rd. Pt. Charlotte Fl. 33953 941-65-3581 or cell: 519-360-0545

Attorney Waksler explained that the agreement for no TDU requirement is encapsulated in the Development Agreement today, and an application for a Large Scale Plan Amendment would come at a later date, together with the zoning change to allow for a Multi-family development, which would be Quasi Judicial.

**Commissioner Cummings** stated that the process is backwards, expressed his concerns of setting precedence, and indicated he does not support the Development Agreement.

**Commissioner Moore** asked what density the land carried prior to 1997. Attorney Waksler advised that the land had 5 units per acre prior to 1997. **Commissioner Moore** stated he does not believe this weakens the TDU Ordinance, that this deals with an inconsistency between the Future Land Use Map (FLUM) and zoning, that he believes the developer has been responsive, and that he would support the agreement.

**Commissioner Duffy** agreed with **Commissioner Moore**, and stated she would support the agreement.

**Chairman Loftus** indicated he would support the agreement.

**Commissioner Cummings** stated that this goes against the Comprehensive Plan (Comp Plan), that he has not been given sufficient reason for the developer not going through the normal process, and indicated that others would come back with this same argument if the variance is given at this time.

**Commissioner Duffy** indicated that some of the developments that have come before the Board had reduced their density, and she believes the County's goal to reduce density by 1% is being accomplished. **Commissioner Cummings** stated he believes the County is way behind.

**COMMISSIONER D'APRILE MOVED TO APPROVE AGREEMENT 2006-073, SECONDED BY COMMISSIONER MOORE.**
**Motion Carried 4:1. Commissioner Cummings opposing.**

## PLANNING AND ZONING AGENDA

1. SV 06-09-13 Legislative Commission District IV
Heritage of Sarasota, Inc. has applied for a Street Vacation

*to vacate the north forty feet of portion of River Beach Drive, (platted as Riverside Drive), located in the El Jobean Ward One subdivision as recorded in Plat Book 2, Page 30 of the Public Records of Charlotte County, Florida, lying between the east right of way of Sturkie Avenue and the west right of way of Warren Avenue. The site is located in Section 28,, Township 40, Range 21. A complete legal description is on file.*

*James Dossett reviewed the goldenrod on petition SV 06-09-13, stated that the petition is based upon an exchange for the County vacating 40 feet of the 100 foot right-of-way, that the client would improve the remaining right-of-way and convey land to the County for a kayak/canoe launch. Mr. Dossett reviewed the offered Development Agreement, and advised that staff and the Planning and Zoning Board recommend approval with three conditions reflected on the goldenrod.*

*Attorney Robert Berntsson appeared on behalf of petitioner, and provided letters of approval.*

*Jim Edgar commented on agenda item 1 on behalf of his mother, a resident who is affected by the proposal.*

*Joe Derado commented on agenda item 1, and presented handouts and photographs.*

***COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.***
***Motion Carried 5:0.***

*Attorney Berntsson explained that the area being conveyed to the County is a separate parcel that is on the applicant's property, and stated that the concerns of the residents have been addressed in the Development Agreement.*

***Commissioner Moore** requested clarification of the area that would remain with the County, and Mr. Dossett commented.*

***Commissioner Cummings** indicated this is a net gain to the public, is improved access with value, and pointed out there are other such areas in the County that work nicely.*

**Commissioner Cummings** indicated he would like to pursue changing an old court case regarding requirements of no parking signs.

**Commissioner D'Aprile** asked Attorney Berntsson if he was considering pursuing the change on the no parking signs. Attorney Berntsson pointed out that only the County can do that through an Ordinance.

**COMMISSIONER MOORE MOVED TO APPROVE RESOLUTION 2006-223 AND AGREEMENT 2006-074, SECONDED BY COMMISSIONER D'APRILE. Motion Carried 5:0.**

2. SV 06-09-15 Legislative Commission District III Gary and Mary Jo Hickman have applied for a Street Vacation to vacate a portion of Winchester Avenue (New Jersey Avenue per plat) located within the Grove City William Harwood Subdivision, as recorded in Plat Book 1, Page 4 of the Public Records of Charlotte County, Florida. The site is bounded on the east by Cindy Lane (Eighth Street per plat), on the west by County Road 775, aka Placida Road (Seventh Street per the plat), on the north by Aillon Subdivision as recorded in Plat Book 4, Page 17 of the Public Records of Charlotte County, Florida and bounded on the south by Block 165, Grove City William Harwood Subdivision. The site, consisting of 0.28 acres more or less (12,402 square feet), is located in Section 17, Township 41 South, Range 20 East, in Commission District III of Charlotte County, Florida.

James Dossett advised that petition SV 06-09-15 is a request by Gary and Mary Jo Hickman for a Street Vacation to vacate a portion of Winchester Avenue in Grove City, and clarified that this is not the Winchester that is a collector road. Mr. Dossett indicated that staff and Planning and Zoning recommend approval with conditions stated in the goldenrod. Mr. Dossett corrected a misprint on the goldenrod and stated that condition number 2 should read: that a fence shall be installed on the vacated area; that the fence must be of a type that cannot be seen through, not chain link fence.

**Commissioner Cummings** asked where Winchester South corridor would go through. **Commissioner Moore** advised it is not near the area in the petition.

CMB BCC #14

(Xref Resolution 2006-223) #1

# SUN NEWSPAPERS

Charlotte • DeSoto • Englewood • North Port • Venice

PUBLISHER'S AFFIDAVIT OF PUBLICATION
STATE OF FLORIDA
COUNTY OF CHARLOTTE:
Before the undersigned authority personally appeared Amber Freeman, who on oath says that she is legal clerk of the (Charlotte Sun, Englewood Sun, DeSoto Sun, North Port Sun, Venice Gondolier Sun), a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Adoption of Resolution, was published in said newspaper in the issues of:

January 30, 2007

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or 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 the said newspaper.

(Signature of Affiant)

Sworn and subscribed before me this 30th day of January, 2007.

(Signature of Notary Public)

SUSAN J. DESMIDT
Comm# DD0352095
Expires 5/16/2008
Florida Notary Assn., Inc

IMAGED
3-21-07
AP

1 x 4.792 x 5.75 - # 27.56

**NOTE – Please Re-Record to reflect the addition of the Agreement number on the Development Agreement.

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3123, PGS 1969-1969 1 pg(s)
INSTR # 1645929
Doc Type NOT, Recorded 03/07/2007 at 09:38 AM
Rec. Fee: $10.00
Cashiered By: MARIANNE Doc. #:1

**NOTICE OF ADOPTION OF RESOLUTION**

TO WHOM IT MAY CONCERN:
Notice is hereby given that the Board of County Commissioners of Charlotte County, Florida in regular session assembled on the 19th day of December, 2006 adopted a Resolution closing, vacating and abandoning the following described properties:

**SV-06-09-13**

Heritage of Sarasota, Inc. has applied for a Street Vacation to vacate the north forty feet of portion of River Beach Drive, (platted as Riverside Drive), located in the El Jobean Ward One subdivision as recorded in Plat Book 2, Page 30 of the Public Records of Charlotte County, Florida, lying between the east right of way of Sturkie Avenue and the west right of way of Warren Avenue. The site is located in Section 28, Township 40, Range 21, and is more particularly described as follows:
The north forty feet of Riverside Drive ( plat ) also known as River Beach Drive, lying between the east right-of-way of Sturkie Avenue and the west right-of-way of Warren Avenue, all being part of the El Jobean Ward One, according to the plat thereof as recorded in Plat Book 2, Page 30 of the Public Records of Charlotte County, Florida.
Dated at Murdock, Charlotte County, Florida, the 19TH day of December, 2006.
BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA
/s/ Richard D. Loftus
P.O. 2007001157.EE
Publish: January 30, 2007
163962 1818770

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3111, PGS 1284-1284 1 pg(s)
INSTR # 1638131
Doc Type NOT, Recorded 02/09/2007 at 08:25 AM
Rec. Fee: $10.00
Cashiered By: MARGEC Doc. #:2

minutes

1

Cty Bdd #14

XREF Agr 2006-074

#2

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3111, PGS 1285-1288 4 pg(s)
INSTR # 1638132
Doc Type GOV, Recorded 02/09/2007 at 08:25 AM
Rec. Fee: $35.50
Cashiered By: MARGEC Doc. #:3

RESOLUTION
NUMBER 2006 – 223

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, TO VACATE THE NORTH 40 FEET OF A PORTION OF RIVER BEACH DRIVE, EL JOBEAN, LOCATED BETWEEN THE EAST RIGHT OF WAY OF STURKIE AVENUE AND THE WEST RIGHT OF WAY OF WARREN AVENUE, IN THE EL JOBEAN AREA, COMMISSION DISTRICT IV, CHARLOTTE COUNTY, FLORIDA, PETITION SV-06-09-13.

RECITALS

WHEREAS, an application has been made by Heritage of Sarasota, Inc. ("Petitioner") to vacate, abandon, discontinue and close a portion of River Beach Drive (platted as Riverside Drive), El Jobean, located in the El Jobean Ward One subdivision as recorded in Plat Book 2, Page 30 of the Public Records of Charlotte, County, Florida, lying between the East right of way of Sturkie Avenue and the West right of way of Warren Avenue, and more particularly described in Exhibit "A" attached hereto and by this reference provided herein. The site is located in Commission District IV and contains a total of 0.28 acres more or less; and

WHEREAS, it appears that the public notice of said application was published and evidence thereof given as required by law to the Board of County Commissioners of Charlotte County ("Board"); and

WHEREAS, Sections 336.09, 336.10,and 336.12, Florida Statutes, authorize the vacating and abandonment of streets and roads and any right of the County and of the public in and to any land or interest therein, by the Board; and

WHEREAS, Petitioner is the fee simple owner of the property abutting the right-of-way sought to be vacated; and

WHEREAS, this vacation of the north forty feet of a portion of River Beach Drive, as described herein, will not affect the ownership or right of convenient access of persons owning other properties in the area; and



BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3123, PGS 1970-1973 4 pg(s)
INSTR # 1645930
Doc Type GOV, Recorded 03/07/2007 at 09:38 AM
Rec. Fee: $35.50
Cashiered By: MARIANNE Doc. #:2

Minutes 4

WHEREAS, the Board has found that the right-of-way which is the subject of this resolution no longer serves a public purpose and is a proper subject for abandonment pursuant to Chapter 336, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. The Board of County Commissioners of Charlotte County hereby approves the Petition of Heritage of Sarasota, Inc. ("Petitioner"), SV-06-09-13, and hereby vacates, abandons, discontinues and closes the north forty feet of a portion of River Beach Drive (platted as Riverside Drive), El Jobean, located in the El Jobean Ward One subdivision as recorded in Plat Book 2, Page 30 of the Public Records of Charlotte County, Florida, lying between the East right of way of Sturkie Avenue and the West right of way of Warren Avenue, consisting of 0.28 acres more or less, Commission District IV, and more particularly described in Exhibit "A" attached hereto and by this reference provided herein.

2. This vacation is subject to the following conditions:

A. The Development Agreement is approved by the Board of County Commissioners of Charlotte County, Florida.

B. Easements must be provided to El Jobean Water and Riverwood CDD prior to the filing of the vacation.

C. Petitioner shall remove all exotics from the remaining right-of-way, and the Petitioner's property from right-of-way to the water's edge.

3. Notice of adoption of this resolution shall be published one (1) time, within thirty (30) days following its effective date, in one issue of a newspaper of general circulation published in Charlotte County. The proof of publication of notice of public hearing, this resolution as adopted, and the proof of publication of the notice of the adoption of this resolution shall be recorded in the deed records of Charlotte County.

4. This resolution shall take effect upon recordation in the Official Records of Charlotte County, Florida.

PASSED AND DULY ADOPTED this 19th day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: _____
Richard D. Loftus, Chairman

ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-Officio Clerk
to the Board of County Commissioners

By: _____ 12/20/06
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: _____
Janette S. Knowlton, County Attorney
RB
LR 2006-639

p:wpdata\public\karen\res\SV-06-96-13.River Beach Drive
LR2006-639
12/5/2006

LEGAL DESCRIPTION

The north forty feet of Riverside Drive (Plat) also known as River Beach Drive, lying between the east right-of-way of Sturkie Avenue and the west right-of-way of Warren Avenue, all being part of El Jobean Ward One, according to the plat thereof as recorded in Plat Book 2, Page 30, of the Public Records of Charlotte County, Florida.

**EXHIBIT A**

cag BCC #14

(Xref Resolution 2006-223)

#3

THIS INSTRUMENT PREPARED BY
Robert H. Berntsson, Esquire
McKinley, Ittersagen,
Gunderson & Berntsson, P.A.
18501 Murdock Circle, Suite 101
Port Charlotte, Florida 33948

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3111, PGS 1289-1292 4 pg(s)
INSTR # 1638133
Doc Type EAS, Recorded 02/09/2007 at 08:25 AM
Deed Doc: $0.70 Rec. Fee: $35.50
Cashiered By: MARGEC Doc. #:4

## NON-EXCLUSIVE UTILITY EASEMENT

THIS INDENTURE, made this 10th day of January, 2007 by and between **HERITAGE OF SARASOTA, INC.**, a Florida Corporation, whose post office address is P.O. Box 700 Osprey, Florida 34299 (Grantor"), and **RIVERWOOD COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government organized and existing under the laws of the State of Florida, whose post office address is 10300 N.W. 11th Manor Coral Springs, Florida 33071 ("Grantee").

**WITNESSETH:**

That the said Grantor for and in consideration of the sum of TEN DOLLARS ($10.00), and other good and valuable consideration, to Grantor in hand paid, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey to Grantees, and the Grantees' successors and assigns, a perpetual non-exclusive easement over, across and under the land hereinafter described (the "Land") and the right to enter upon the Land at all times it may see fit, to construct, reconstruct, maintain, relocate, repair, replace, improve, remove and inspect a central sewer utility system located both beneath and above the ground for the purpose of sewer utility service across, through and under the Land, together with the right to excavate and refill ditches and trenches for the location of such equipment, pumps, pipelines and mains, to restore the Land and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, and maintenance of side equipment, pumps, pipelines, and mains. The Land is situated in Charlotte County, Florida, and is more particularly described below, to wit:

**SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF.**

Together with such rights, easements, privileges, and appurtenances, in or to the Land, which may be required for the full enjoyment of the easements herein granted. If and when the said easement shall be lawfully and permanently discontinued, all rights to said easement conveyed to the Grantees by this clause shall immediately revert to the Grantor, it successors and assigns, and Grantor shall have the right to immediately repossess the same.

IN WITNESS WHEREOF, Grantor has executed this Grant of Easement this 10th day of January, 2007.

Signed, sealed and delivered
in the presence of:

Witness
Printed Name: Sarah E Magnoli

Witness
Printed Name: Jessica Koehler

**HERITAGE OF SARASOTA, INC. A FLORIDA CORPORATION.**

By: Robert Martell
**Robert Martell, President**

STATE OF FLORIDA
COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 10th day of January 2007, by Robert Martell, as President of Heritage of Sarasota, Inc., who is personally known to me, or who produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Sarah E. Magnoli
Commission # DD580512
Expires March 27, 2009

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3123, PGS 1974-1977 4 pg(s)
INSTR # 1645931
Doc Type EAS, Recorded 03/07/2007 at 09:38 AM
Deed Doc: $0.70 Rec. Fee: $35.50
Cashiered By: MARIANNE Doc. #:3

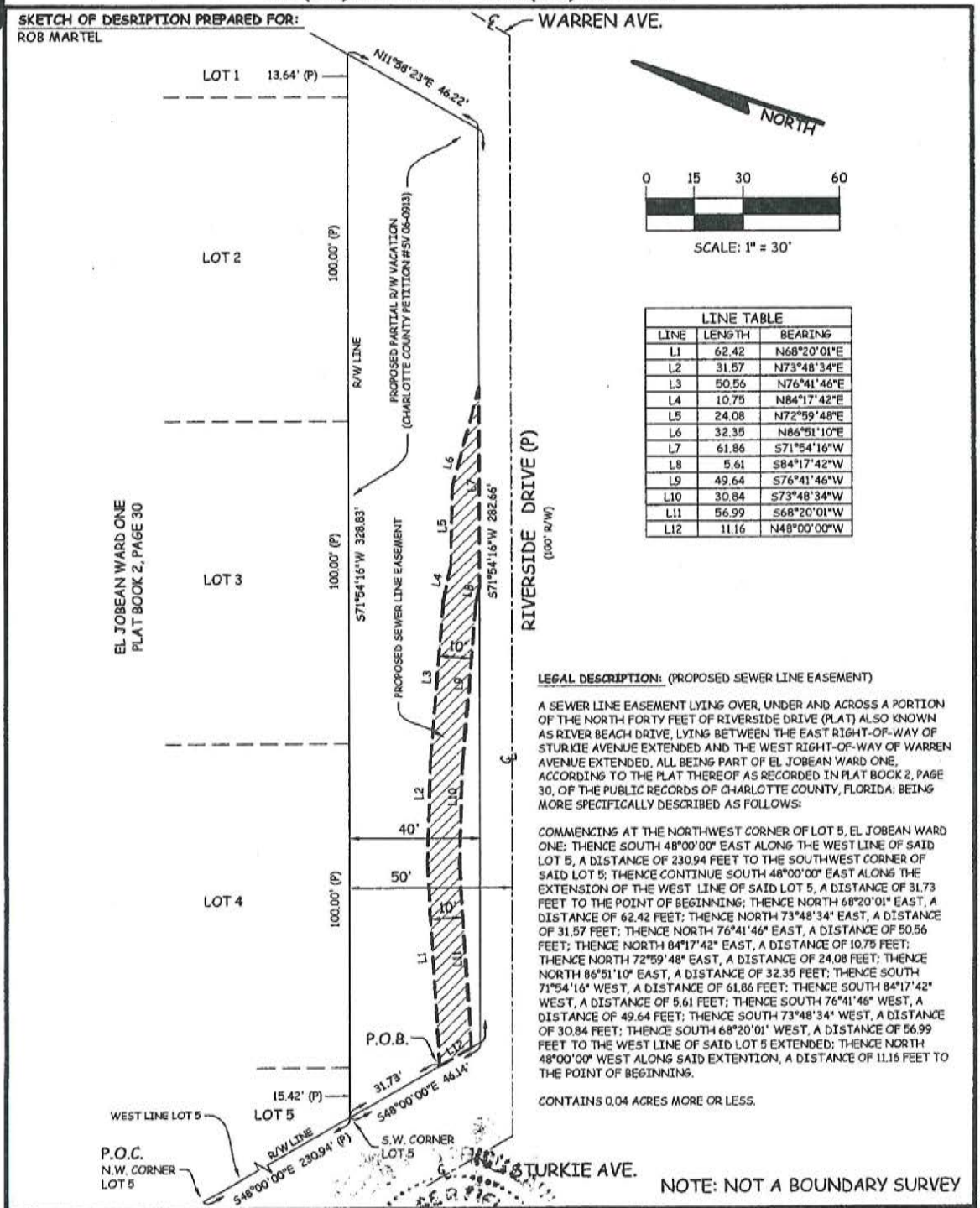
minutes 4

EXHIBIT
A

# THE PHOENIX SURVEYING COMPANY, INC.

CONSULTANTS * SURVEYORS * PLANNERS
17840 TOLEDO BLADE BLVD., SUITE B, PORT CHARLOTTE, FL. 33948
PH. (941) 629 - 6801 FAX (941) 627 - 5168

SKETCH OF DESRIPTION PREPARED FOR:
ROB MARTEL




| LINE TABLE | | |
|---|---|---|
| LINE | LENGTH | BEARING |
| L1 | 62.42 | N68°20'01"E |
| L2 | 31.57 | N73°48'34"E |
| L3 | 50.56 | N76°41'46"E |
| L4 | 10.75 | N84°17'42"E |
| L5 | 24.08 | N72°59'48"E |
| L6 | 32.35 | N86°51'10"E |
| L7 | 61.86 | S71°54'16"W |
| L8 | 5.61 | S84°17'42"W |
| L9 | 49.64 | S76°41'46"W |
| L10 | 30.84 | S73°48'34"W |
| L11 | 56.99 | S68°20'01"W |
| L12 | 11.16 | N48°00'00"W |

**LEGAL DESCRIPTION:** (PROPOSED SEWER LINE EASEMENT)

A SEWER LINE EASEMENT LYING OVER, UNDER AND ACROSS A PORTION OF THE NORTH FORTY FEET OF RIVERSIDE DRIVE (PLAT) ALSO KNOWN AS RIVER BEACH DRIVE, LYING BETWEEN THE EAST RIGHT-OF-WAY OF STURKIE AVENUE EXTENDED AND THE WEST RIGHT-OF-WAY OF WARREN AVENUE EXTENDED, ALL BEING PART OF EL JOBEAN WARD ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 30, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA: BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 5, EL JOBEAN WARD ONE; THENCE SOUTH 48°00'00" EAST ALONG THE WEST LINE OF SAID LOT 5, A DISTANCE OF 230.94 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5; THENCE CONTINUE SOUTH 48°00'00" EAST ALONG THE EXTENSION OF THE WEST LINE OF SAID LOT 5, A DISTANCE OF 31.73 FEET TO THE POINT OF BEGINNING; THENCE NORTH 68°20'01" EAST, A DISTANCE OF 62.42 FEET; THENCE NORTH 73°48'34" EAST, A DISTANCE OF 31.57 FEET; THENCE NORTH 76°41'46" EAST, A DISTANCE OF 50.56 FEET; THENCE NORTH 84°17'42" EAST, A DISTANCE OF 10.75 FEET; THENCE NORTH 72°59'48" EAST, A DISTANCE OF 24.08 FEET; THENCE NORTH 86°51'10" EAST, A DISTANCE OF 32.35 FEET; THENCE SOUTH 71°54'16" WEST, A DISTANCE OF 61.86 FEET; THENCE SOUTH 84°17'42" WEST, A DISTANCE OF 5.61 FEET; THENCE SOUTH 76°41'46" WEST, A DISTANCE OF 49.64 FEET; THENCE SOUTH 73°48'34" WEST, A DISTANCE OF 30.84 FEET; THENCE SOUTH 68°20'01' WEST, A DISTANCE OF 56.99 FEET TO THE WEST LINE OF SAID LOT 5 EXTENDED; THENCE NORTH 48°00'00" WEST ALONG SAID EXTENTION, A DISTANCE OF 11.16 FEET TO THE POINT OF BEGINNING.

CONTAINS 0.04 ACRES MORE OR LESS.

NOTE: NOT A BOUNDARY SURVEY

| | | | |
|---|---|---|---|
| S.I.R. | = SET 5/8" WITH CAP LB #6579 | | |
| F.I.R. | = FOUND 5/8" IRON ROD WITH NO IDENTIFICATION | | |
| I.P. | = IRON PIPE | | |
| S.P.K. | = SET P.K. NAIL | | |
| F.P.K. | = FOUND P.K. NAIL | | |
| P.C. | = PARKER KALON BRAND MASONRY NAIL | | |
| D.H. | = DRILL HOLE | | |
| P.C.P. | = PERMANENT CONTROL POINT | | |
| P.R.M. | = PERMANENT REFERENCE MONUMENT | | |
| C.M. | = CONCRETE MONUMENT | | |
| (M) | = MEASURED DATA | FND | = FOUND |
| (P) | = RECORD PLAT DATA | F.N. | = FOUND NAIL |
| (C) | = CALCULATED DATA | F.N.D. | = FOUND NAIL & DISC |
| Δ | = DELTA | A.T.O.S. | = AT TIME OF SURVEY |
| ARC | = ARC LENGTH | E.O.W. | = EDGE OF WATER |
| R | = RADIUS | T.O.B. | = TOP OF BANK |
| CHD | = CHORD LENGTH | O.H.U. | = OVERHEAD UTILITY |
| CH.B. | = CHORD BEARING | U.P. | = UTILITY POLE |
| B.M. | = BENCH MARK | GUY | = GUY WIRE |
| P.O.L. | = POINT ON LINE | P.S.B. | = PHONE SERVICE BOX |
| R/W | = RIGHT-OF-WAY | M.H. | = MANHOLE |
| ℄ | = CENTERLINE | F.H. | = FIRE HYDRANT |
| P.C. | = POINT OF CURVATURE | C.B. | = CATCH BASIN |
| F.F.E. | = FINISHED FLOOR ELEVATION | ✱ | = LAST DAY IN FIELD |
| W.M. | = WATER METER | L.P. | = LIGHT POLE |

NOTE: THE UNDERSIGNED AND THE PHOENIX SURVEYING COMPANY, INC. MAKE NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, AND OTHER SIMILAR MATTERS. THE SKETCH AS SHOWN HEREON WAS MADE WITHOUT BENEFIT OF ABSTRACT OF TITLE. THIS SKETCH IS NOT VALID UNLESS IT BEARS AN ORIGINAL SIGNATURE AND AN EMBOSSED SURVEYORS SEAL. ANY ADDITIONS AND/OR DELETIONS TO THIS SKETCH ARE PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE UNDERSIGNED.

I HEREBY CERTIFY THAT THIS SKETCH WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

DATE 1-10-06

R.J. STRICKLAND, JR., P.S.M. L.B. # 6579
FLORIDA REGISTRATION # 6144

| SCALE: 1" = 30' | DRW. BY: JS | | JOB # 05-129108 |
|---|---|---|---|

THIS INSTRUMENT PREPARED BY
Robert H. Berntsson, Esquire
McKinley, Ittersagen,
Gunderson & Berntsson, P.A.
18501 Murdock Circle, Suite 101
Port Charlotte, Florida 33948

## NON-EXCLUSIVE UTILITY EASEMENT

THIS INDENTURE, made this 10th day of January, 2007 by and between **HERITAGE OF SARASOTA, INC.**, a Florida Corporation, whose post office address is P.O. Box 700 Osprey, Florida 34299 (Grantor"), and **EL JOBEAN WATER ASSOCIATION, INC.**, a Florida not for profit corporation, whose post office address is P.O. Box 27149, El Jobean, Florida 33927 ("Grantee").

**WITNESSETH:**

That the said Grantor for and in consideration of the sum of TEN DOLLARS ($10.00), and other good and valuable consideration, to Grantor in hand paid, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey to Grantees, and the Grantees' successors and assigns, a perpetual non-exclusive easement over, across and under the land hereinafter described (the "Land") and the right to enter upon the Land at all times it may see fit, to construct, reconstruct, maintain, relocate, repair, replace, improve, remove and inspect a central water system located both beneath and above the ground for the purpose of water or service across, through and under the Land, together with the right to excavate and refill ditches and trenches for the location of such equipment, pumps, pipelines and mains, to restore the Land and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, and maintenance of side equipment, pumps, pipelines, and mains. The Land is situated in Charlotte County, Florida, and is more particularly described below, to wit:

**SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF.**

Together with such rights, easements, privileges, and appurtenances, in or to the Land, which may be required for the full enjoyment of the easements herein granted. If and when the said easement shall be lawfully and permanently discontinued, all rights to said easement conveyed to the Grantees by this clause shall immediately revert to the Grantor, it successors and assigns, and Grantor shall have the right to immediately repossess the same.

IN WITNESS WHEREOF, Grantor has executed this Grant of Easement this 10th day of January, 2007.

Signed, sealed and delivered

in the presence of:

Witness
Printed Name: Sarah E. Magnoli

Witness
Printed Name: Jessica Koehler

**HERITAGE OF SARASOTA, INC. A FLORIDA CORPORATION.**

By: Robert Martell
**Robert Martell, President**

STATE OF FLORIDA
COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 10th day of January 2007, by Robert Martell, as President of Heritage of Sarasota, Inc., who is personally known to me, or who produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

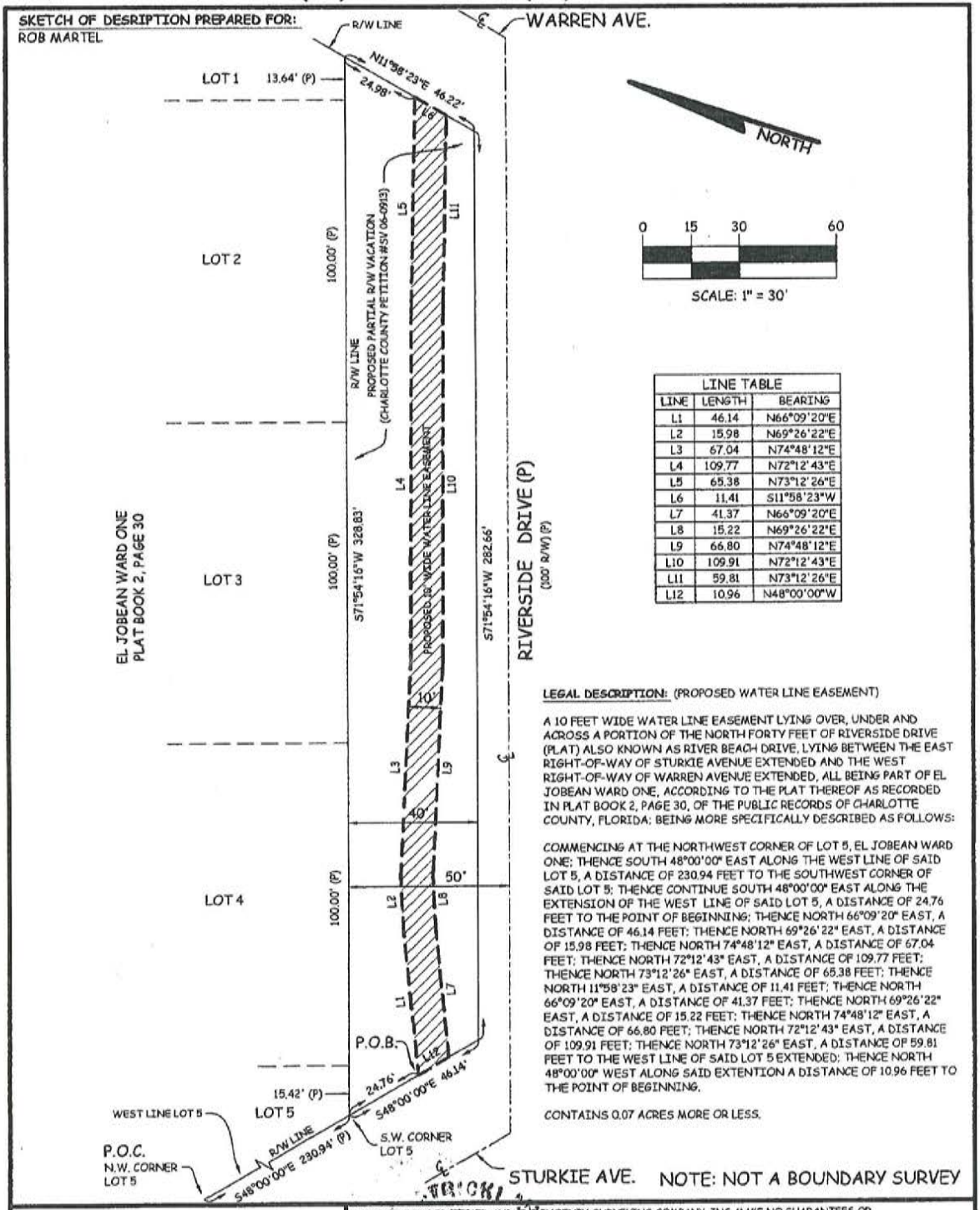
**Sarah E. Magnoli**
**Commission # DD580512**
**Expires March 27, 2009**
Bonded Troy Fain - Insurance, Inc. 800-385-7019

EXHIBIT A

# THE PHOENIX SURVEYING COMPANY, INC.

CONSULTANTS * SURVEYORS * PLANNERS
17840 TOLEDO BLADE BLVD., SUITE B, PORT CHARLOTTE, FL. 33948
PH. (941) 629 - 6801 FAX (941) 627 - 5168

SKETCH OF DESRIPTION PREPARED FOR:
ROB MARTEL




| LINE TABLE | | |
|---|---|---|
| LINE | LENGTH | BEARING |
| L1 | 46.14 | N66°09'20"E |
| L2 | 15.98 | N69°26'22"E |
| L3 | 67.04 | N74°48'12"E |
| L4 | 109.77 | N72°12'43"E |
| L5 | 65.38 | N73°12'26"E |
| L6 | 11.41 | S11°58'23"W |
| L7 | 41.37 | N66°09'20"E |
| L8 | 15.22 | N69°26'22"E |
| L9 | 66.80 | N74°48'12"E |
| L10 | 109.91 | N72°12'43"E |
| L11 | 59.81 | N73°12'26"E |
| L12 | 10.96 | N48°00'00"W |

**LEGAL DESCRIPTION:** (PROPOSED WATER LINE EASEMENT)

A 10 FEET WIDE WATER LINE EASEMENT LYING OVER, UNDER AND ACROSS A PORTION OF THE NORTH FORTY FEET OF RIVERSIDE DRIVE (PLAT) ALSO KNOWN AS RIVER BEACH DRIVE, LYING BETWEEN THE EAST RIGHT-OF-WAY OF STURKIE AVENUE EXTENDED AND THE WEST RIGHT-OF-WAY OF WARREN AVENUE EXTENDED, ALL BEING PART OF EL JOBEAN WARD ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 30, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 5, EL JOBEAN WARD ONE; THENCE SOUTH 48°00'00" EAST ALONG THE WEST LINE OF SAID LOT 5, A DISTANCE OF 230.94 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5; THENCE CONTINUE SOUTH 48°00'00" EAST ALONG THE EXTENSION OF THE WEST LINE OF SAID LOT 5, A DISTANCE OF 24.76 FEET TO THE POINT OF BEGINNING; THENCE NORTH 66°09'20" EAST, A DISTANCE OF 46.14 FEET; THENCE NORTH 69°26'22" EAST, A DISTANCE OF 15.98 FEET; THENCE NORTH 74°48'12" EAST, A DISTANCE OF 67.04 FEET; THENCE NORTH 72°12'43" EAST, A DISTANCE OF 109.77 FEET; THENCE NORTH 73°12'26" EAST, A DISTANCE OF 65.38 FEET; THENCE NORTH 11°58'23" EAST, A DISTANCE OF 11.41 FEET; THENCE NORTH 66°09'20" EAST, A DISTANCE OF 41.37 FEET; THENCE NORTH 69°26'22" EAST, A DISTANCE OF 15.22 FEET; THENCE NORTH 74°48'12" EAST, A DISTANCE OF 66.80 FEET; THENCE NORTH 72°12'43" EAST, A DISTANCE OF 109.91 FEET; THENCE NORTH 73°12'26" EAST, A DISTANCE OF 59.81 FEET TO THE WEST LINE OF SAID LOT 5 EXTENDED; THENCE NORTH 48°00'00" WEST ALONG SAID EXTENTION A DISTANCE OF 10.96 FEET TO THE POINT OF BEGINNING.

CONTAINS 0.07 ACRES MORE OR LESS.

NOTE: NOT A BOUNDARY SURVEY

S.I.R. = SET 5/8" WITH CAP L.B. #6579
F.I.R. = FOUND 5/8" IRON ROD WITH NO IDENTIFICATION
I.P. = IRON PIPE
S.P.K. = SET P.K. NAIL
F.P.K. = FOUND P.K. NAIL
P.K. = PARKER KALON BRAND MASONRY NAIL
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P.R.M. = PERMANENT REFERENCE MONUMENT
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(M) = MEASURED DATA
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ARC = ARC LENGTH
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B.M. = BENCH MARK
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℄ = CENTERLINE
P.C. = POINT OF CURVATURE
F.F.E. = FINISHED FLOOR ELEVATION
W.M. = WATER METER
P.O.T. = POINT OF TERMINUS
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
F.N. = FOUND NAIL
F.N.D. = FOUND NAIL & DISK
A.T.O.S. = AT TIME OF SURVEY
E.O.W. = EDGE OF WATER
T.O.B. = TOP OF BANK
O.H.U. = OVERHEAD UTILITY
U.P. = UTILITY POLE
GUY = GUY WIRE
P.S.B. = PHONE SERVICE BOX
M.H. = MANHOLE
F.H. = FIRE HYDRANT
C.B. = CATCH BASIN
★ = LAST DAY IN FIELD
L.P. = LIGHT POLE

NOTE: THE UNDERSIGNED AND THE PHOENIX SURVEYING COMPANY, INC. MAKE NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, AND OTHER SIMILAR MATTERS. THE SKETCH AS SHOWN HEREON WAS MADE WITHOUT BENEFIT OF ABSTRACT OR TITLE. THIS SKETCH IS NOT VALID UNLESS IT BEARS AN ORIGINAL SIGNATURE AND AN EMBOSSED SURVEYORS SEAL. ANY ADDITIONS AND/OR DELETIONS TO THIS SKETCH ARE PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE UNDERSIGNED.

I HEREBY CERTIFY THAT THIS SKETCH WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

DATE 1-10-06

R.J. STRICKLAND, JR., P.S.M. L.B. # 6579
FLORIDA REGISTRATION # 6144

| SCALE: 1" = 30' | DRW. BY: JS | | JOB # 05-12910A |
|---|---|---|---|

CLG Bee #4

CERTIFIED, TRUE COPY
OF THE ORIGINAL
BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT
CHARLOTTE COUNTY, FLORIDA
BY: Anne L. Pfahler
DEPUTY CLERK

XREF Res 2006-223
Agr 2006-074
#4

**DEVELOPMENT AGREEMENT**

This Agreement is entered into this 19th day of December, 2006, by and between **HERITAGE OF SARASOTA, INC.**., a Florida Corporation (hereinafter "Developer") and **CHARLOTTE COUNTY**, a political subdivision of the State of Florida (hereinafter "County").

**RECITALS**

WHEREAS, Developer is the owner of property more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Developer has sought vacation of a portion of River Beach Road; and

WHEREAS, Developer has agreed to make certain improvements within the balance of River Beach Road as depicted in Exhibit "B"; and

WHEREAS, Developer has agreed to convey land to the County as a condition of approval of the vacation; and

NOW THEREFORE, for and in consideration of the premises and in reliance on the mutual promises, Covenants, undertakings, recitals and other matters contained herein, the parties hereby covenant and agree as follows:

1. **LAND SUBJECT TO THE AGREEMENT.**

The land subject to this agreement is more particularly described in Exhibit "A".

2. **OWNERSHIP**

Heritage of Sarasota, Inc. is owner of the property. All references herein to "Developer" shall be understood to mean Heritage of Sarasota, Inc., it's successors or assigns.

3. **OBLIGATIONS OF THE PARTIES**

a. Prior to a Certificate of Occupancy being issued for any development on the Exhibit "A" lands, Developer shall construct the improvements as depicted in Exhibit "B" within the remaining portion of River Beach Road between Sturkie and Warren Avenues (hereinafter the "remaining Portion of River Beach Road"). Developer shall design and permit all public improvements, clear all exotic vegetation from the right-of-way, build a 10 foot wide shell trail, include trail and parking within the developments's storm water management systems, build a 4-car shell parking spaces, provide canoe/kayak launch and provide landscaping and buffering within the right-of-way. All public improvements shall be field located.

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3111, PGS 1293-1299 7 pg(s)
INSTR # 1638134
Doc Type AGR, Recorded 02/09/2007 at 08:25 AM
Rec. Fee: $61.00
Cashiered By: MARGEC Doc. #:5



BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3123, PGS 1978-1984 7 pg(s)
INSTR # 1645932
Doc Type AGR, Recorded 03/07/2007 at 09:38 AM
Rec. Fee: $61.00
Cashiered By: MARIANNE Doc. #:4

b. County shall maintain the above referenced improvements located within the Remaining Portion of River Beach Road as a shell trail and parking area, as depicted in Exhibit "B", in perpetuity.

c. Within 90 days of the effective date of this Agreement, Developer shall convey the land described in Exhibit "C" to County for a beach canoe/kayak launch and County shall accept title to said lands and keep said lands used as a beach canoe/kayak launch in perpetuity.

d. No additional density shall accrue to the development of the Exhibit "A" lands as a result of the vacation.

4. **OTHER PROVISIONS**

a. The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Developer of the necessity of complying with the law governing those permitting requirements, conditions, terms or restrictions.

b. County, Developer or their successors or assigns may file an action for injunctive relief in the Circuit Court of Charlotte County to enforce the terms of this Agreement.

c. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in or incorporated into this Agreement. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior written or oral representations or agreements.

d. If any provisions of this Agreement are contrary to, prohibited by, or deemed invalid under any applicable law or regulation, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid. The remainder of this Agreement shall not be invalidated thereby and shall be given full force and effect.

e. The parties agree that suits or actions at law arising from the provisions, performance, or breach of this Agreement shall initially be brought in Charlotte County, Florida and no other jurisdiction. This Agreement shall be construed and interpretates under the laws of the State of Florida.

f. This Agreement shall not be construed more strictly against any party.

5. **AMENDMENT OF AGREEMENT**

This Agreement may only be amended in writing by mutual consent of the parties or their successors in interest.

6. **SUCCESSORS AND ASSIGNS**

This Agreement shall inure to the benefit of and be obligatory upon the parties hereto and their respective successors and assigns.

7. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Agreement.

8. **EFFECTIVE DATE**

This Agreement shall be effective upon approval by County.

IN WITNESS WHEREOF, County and Developer have executed this Agreement on the date first above written.

**HERITAGE OF SARASOTA, INC.**

By: Robert Martell
Printed Name: ROBERT MARTELL
Its: PRESIDENT

Witness
Printed Name: Sarah E. Howe

Witness
Printed Name: Jessica Koehler

State of Florida
County of Charlotte

The foregoing instrument was acknowledged before me this 1st day of November 2006 by Robert Martell as Presidat of **HERITAGE OF SARASOTA, INC.**, on behalf of the Corporation. The above mentioned person is personally known to me or who has produced _____ as identification and who did/did not take an oath.

(Seal)

Notary Signature

Sarah E. Magnoli
Commission # DD580512
Expires March 27, 2009
Bonded Troy Fain - Insurance, Inc. 800-385-7019

THIS AGREEMENT IS PASSED AND DULY ADOPTED THIS 19th DAY OF December, 2006.

BOARD OF COUNTY COMMISSIONERS OF
CHARLOTTE COUNTY, FLORIDA

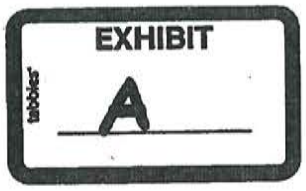
By: _____
Richard D. Loftus, Chairman

Attest:
Barbara T. Scott, Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners

By: Gail Manley
Deputy Clerk 12/20/06
Agr 2006-074

Approved as to form:

By: Janette S. Knowlton
Janette S. Knowlton, County Attorney
RB
LR2006-639

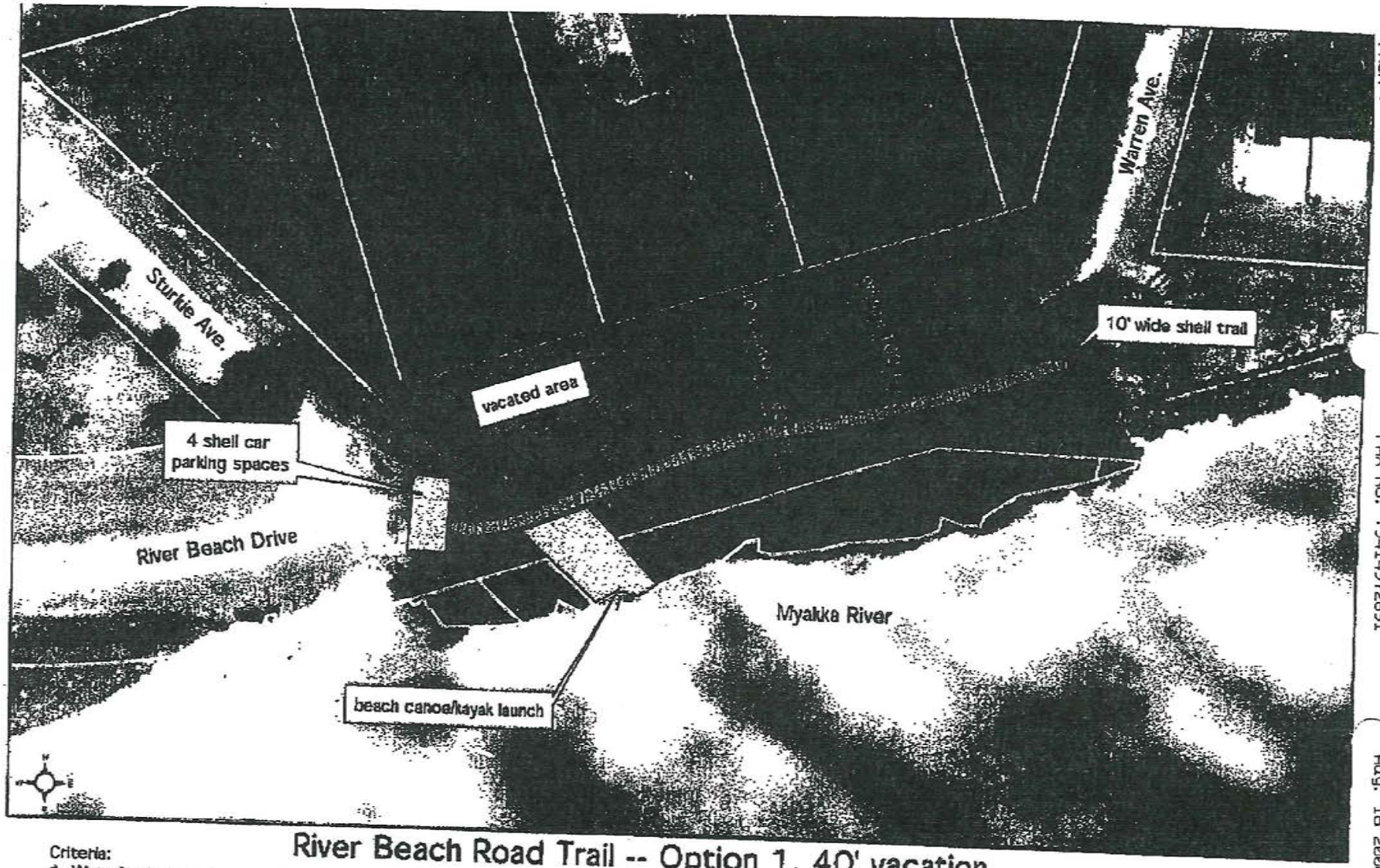



**Legal Description**

Lots 1, 2, 3, 4 and 5, El Jobean Ward One, according to the Plat thereof as recorded in Plat Book 2, Page 30, of the Public Records of Charlotte County, Florida.

Along With:

Those unplatted lands in El Jobean described as lying south of River Beach, lying east of the easterly right-of-way of Sturkie Avenue extended to the mean high water line of the Myakka River, west of the line of the westerly boundary of Lot 1, Ward 5 extended to the mean high water line of the Myakka river and north of the northerly mean high water line of the Myakka River.




# River Beach Road Trail -- Option 1, 40' vacation

Criteria:

1. Waterfront property remains with developer.
2. County retains 60' right of way; vacates 40' (.28 acres + or -).
3. In exchange, developer designs and permits all public improvements, clears all exotics from right of way, builds 10'-wide shell trail, includes trail and parking in development's storm water management system, builds 4-car shell parking spaces and canoe/kayak launch, and provides landscaping and buffering within the right of way.
4. This is a concept plan only; all public improvements shall be field located

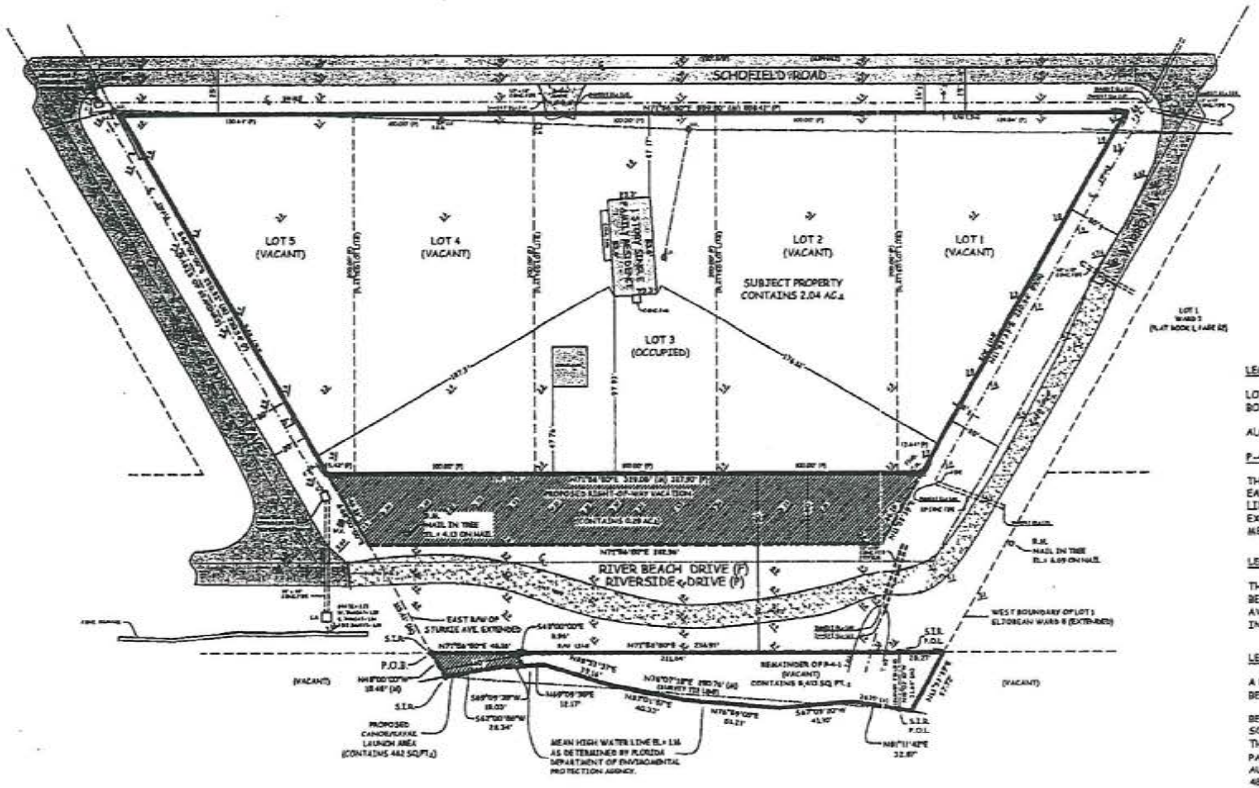
**FOR DISCUSSION PURPOSES ONLY**

EXHIBIT B

8/10/06

BOUNDARY & TOPOGRAPHIC SURVEY CERTIFIED TO:
ROB MARTEL

**EXHIBIT C**




SCALE: 1" = 30'

NOTE: THIS IS NOT A D.E.P. APPROVED MEAN HIGH WATER SURVEY.

LEGAL DESCRIPTION:

LOTS 1, 2, 3, 4 AND 5, EL JOBEAN WARD ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 30, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

ALONG WITH:

P-4-1: (PER CHARLOTTE COUNTY PROPERTY APPRAISER)

THOSE UN-PLATTED LANDS IN EL JOBEAN DESCRIBED AS LYING SOUTH OF RIVER BEACH DRIVE, LYING EAST OF THE EASTERLY RIGHT-OF-WAY OF STURGIS AVENUE EXTENDED TO THE MEAN HIGH WATER LINE OF THE MYAKKA RIVER, WEST OF THE LINE OF THE WESTERLY BOUNDARY OF LOT 1, WARD 5 EXTENDED TO THE MEAN HIGH WATER LINE OF THE MYAKKA RIVER AND NORTH OF THE NORTHERLY MEAN HIGH WATER LINE OF THE MYAKKA RIVER.

LEGAL DESCRIPTION: (PROPOSED RIGHT-OF-WAY VACATION)

THE NORTH FORTY FEET OF RIVERSIDE DRIVE (PLAT) ALSO KNOWN AS RIVER BEACH DRIVE, LYING BETWEEN THE EAST RIGHT-OF-WAY OF STURGIS AVENUE AND THE WEST RIGHT-OF-WAY OF WARREN AVENUE, ALL BEING PART OF EL JOBEAN WARD ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 30, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

LEGAL DESCRIPTION: (PROPOSED CANOE/KAYAK LAUNCH)

A PORTION OF SECTION 28, TOWNSHIP 40 SOUTH, RANGE 21 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF STURGIS AVENUE EXTENDED AND THE SOUTH RIGHT-OF-WAY OF RIVERSIDE DRIVE (ALSO KNOWN AS RIVERBEACH DRIVE) AS SHOWN ON THE PLAT OF EL JOBEAN WARD ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 30, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; THENCE NORTH 71°56'50" EAST ALONG THE SOUTH RIGHT-OF-WAY OF RIVERSIDE DRIVE, A DISTANCE OF 46.16 FEET; THENCE SOUTH 48°00'00" EAST, A DISTANCE OF 8.96 FEET TO THE MEAN HIGH WATER LINE OF THE MYAKKA RIVER; THENCE SOUTH 69°09'39" WEST ALONG SAID MEAN HIGH WATER LINE, A DISTANCE OF 15.03 FEET; THENCE SOUTH 62°00'56" WEST, A DISTANCE OF 28.34 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF STURGIS AVENUE EXTENDED AND THE MEAN HIGH WATER LINE OF THE MYAKKA RIVER; THENCE NORTH 48°00'00" WEST ALONG THE EXTENSION OF THE EAST RIGHT-OF-WAY OF STURGIS AVENUE, A DISTANCE OF 15.65 FEET TO THE POINT OF BEGINNING.

CONTAINS 462 SQUARE FEET MORE OR LESS.


THE PHOENIX SURVEYING COMPANY, INC.
CONSULTANTS * SURVEYORS * PLANNERS
17940 TOLEDO BLADE BLVD., SUITE B, PORT CHARLOTTE, FL. 33948
PH. (941) 629-6801 FAX. (941) 627-5168


BOUNDARY & TOPOGRAPHIC SURVEY

SURVEYOR'S NOTATIONS:
ELEVATIONS ARE REASONABLY ACCURATE AND ARE ASSUMED.
FLOOD ZONE "AE"
BASE FLOOD ELEVATION = 8'
COMMUNITY #120679
PANEL # 0286F DATED 8-28-08
ALL PLATTED EASEMENTS ARE SHOWN.
UNDERGROUND UTILITIES HAVE NOT BEEN LOCATED.
JURISDICTIONAL WETLANDS, IF ANY, HAVE NOT BEEN LOCATED.

NOTE: THE UNDERSIGNED AND THE PHOENIX SURVEYING COMPANY, INC. MAKE NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, AND OTHER SIMILAR MATTERS. THE SURVEY AS SHOWN HEREON WAS MADE WITHOUT BENEFIT OF ABSTRACT OF TITLE. THIS SKETCH IS NOT VALID UNLESS IT BEARS AN ORIGINAL SIGNATURE AND AN EMBOSSED SURVEYORS SEAL. ANY ADDITIONS AND/OR DELETIONS TO THIS SKETCH ARE PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE UNDERSIGNED.

SCALE: 1" = 30' | DRW. BY: | P.B. / P.G.

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

DATE 9-14-09
R. J. STRICKLAND, JR., P.S.M.
FLORIDA REGISTRATION # 5141
L.B. # 6579
JOB # 09-129104

My Rec #14

X Ref Res 2006-223
& DEVELOPER'S AGREEMENT
#5

This Instrument Prepared by and Return
**Robert H. Berntsson, Esq.**
**McKinley, Ittersagen, Gunderson & Berntsson, P.A.**
**18501 Murdock Circle, Suite 101**
**Port Charlotte, Florida 33948**

Property Appraisers Parcel I.D. (Folio) Number(s):

## WARRANTY DEED

**This Warranty Deed** Made this 23rd **day of January, 2007**, by and between **Heritage of Sarasota, Inc.**, a Florida Corporation, whose post office address is **P.O. Box 700 Osprey, Florida 34299,** (hereinafter referred to as "Grantor") and;

**Charlotte County, a political subdivision of the State of Florida,** whose post office address is 18500 Murdock Circle, Port Charlotte, Florida 33948, (hereinafter referred to as "Grantee").

WITNESSETH: That said Grantor, for and in consideration of the sum of $10.00 Dollars and other valuable considerations, receipt whereof is hereby acknowledged, by these presents grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantees, for Public Park purposes, all that certain land situate in Charlotte County, Florida, viz:

**SEE ATTACHED EXHIBIT "A"**

**Subject to restrictions, reservations and easements of record, if any, and taxes for the year 2006 and subsequent years.**

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

Signed, sealed and delivered in our presence:

**HERITAGE OF SARASOTA, INC. A FLORIDA CORPORATION**

Witness Signature: _____ Robert Martell
Printed Name Sarah E. Magnoli Robert Martell, President

Witness Signature: _____
Printed Name Jessica Koehler

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3111, PGS 1300-1301 2 pg(s)
INSTR # 1638135
Doc Type D, Recorded 02/09/2007 at 08:25 AM
Deed Doc: $0.70 Rec. Fee: $18.50
Cashiered By: MARGEC Doc. #:6

STATE OF **Florida**
COUNTY OF Charlotte

The foregoing instrument was acknowledged before me this 23rd day of, **January, 2007** by Robert Martell, President of Heritage of Sarasota, Inc. He is personally known to me and has not taken an oath.

Sarah E. Magnoli
Commission # DD580512
Expires March 27, 2009
Bonded Troy Fain - Insurance, Inc. 800-385-7019

Notary Public
Printed Name: _____
My Commission Expires:

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3123, PGS 1985-1986 2 pg(s)
INSTR # 1645933
Doc Type D, Recorded 03/07/2007 at 09:38 AM
Deed Doc: $0.70 Rec. Fee: $18.50
Cashiered By: MARIANNE Doc. #:5

Minutes 2

# EXHIBIT "A"

LEGAL DESCRIPTION: (PROPOSED CANOE/KAYAK LAUNCH)

A PORTION OF SECTION 28, TOWNSHIP 40 SOUTH, RANGE 21 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF STURKIE AVENUE EXTENDED AND THE SOUTH RIGHT-OF-WAY OF RIVERSIDE DRIVE (ALSO KNOWN AS RIVERBEACH DRIVE) AS SHOWN ON THE PLAT OF EL JOBEAN WARD ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 30, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; THENCE NORTH 71°56'50" EAST ALONG THE SOUTH RIGHT-OF-WAY OF RIVERSIDE DRIVE, A DISTANCE OF 46.16 FEET; THENCE SOUTH 48°00'00" EAST, A DISTANCE OF 8.96 FEET, TO THE MEAN HIGH WATER LINE OF THE MYAKKA RIVER; THENCE SOUTH 69°09'39" WEST ALONG SAID MEAN HIGH WATER LINE, A DISTANCE OF 15.03 FEET; THENCE SOUTH 62°00'56" WEST, A DISTANCE OF 28.34 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF STURKIE AVENUE EXTENDED AND THE MEAN HIGH WATER LINE OF THE MYAKKA RIVER; THENCE NORTH 48°00'00" WEST ALONG THE EXTENTION OF THE EAST RIGHT-OF-WAY OF STURKIE AVENUE, A DISTANCE OF 15.45 FEET TO THE POINT OF BEGINNING.

CONTAINS 462 SQUARE FEET MORE OR LESS.

Chg BCC #14

(Xref Resolution 2006-223)

#6

# SUN NEWSPAPERS

Charlotte • DeSoto • Englewood • North Port • Venice

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3111, PGS 1302-1303 2 pg(s)
INSTR # 1638136
Doc Type NOT, Recorded 02/09/2007 at 08:25 AM
Rec. Fee: $18.50
Cashiered By: MARGEC Doc. #:7

PUBLISHER'S AFFIDAVIT OF PUBLICATION
STATE OF FLORIDA
COUNTY OF CHARLOTTE:

Before the undersigned authority personally appeared Amber Freeman, who on oath says that she is legal clerk of the (Charlotte Sun, Englewood Sun, DeSoto Sun, North Port Sun, Venice Gondolier Sun), a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Meeting, was published in said newspaper in the issues of:

December 4, 2006

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or 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 the said newspaper.

(Signature of Affiant)

Sworn and subscribed before me this 4th day of December, 2006.

(Signature of Notary Public)

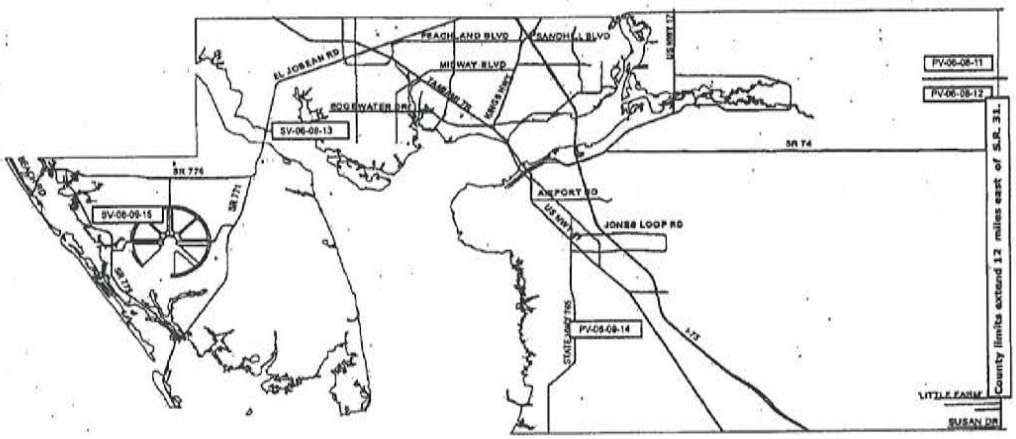
SUSAN J. DESMIDT
Commd DD[illegible]
Expires 6/26/2008
Bonded thru (800)432-4254
Florida Notary Assn., Inc

5 x 18 x 5.75 = $ 517.50

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3123, PGS 1987-1988 2 pg(s)
INSTR # 1645934
Doc Type NOT, Recorded 03/07/2007 at 09:38 AM
Rec. Fee: $18.50
Cashiered By: MARIANNE Doc. #:6

Minutes 2

# NOTICE OF PUBLIC HEARING FOR ONE OR MORE OF THE FOLLOWING MATTERS: PROPOSED CHANGES TO THE FUTURE LAND USE MAP AND COMPREHENSIVE PLAN ELEMENTS, PROPOSED CHANGES TO DEVELOPMENT OF REGIONAL IMPACT, PLAN AMENDMENTS, REZONINGS, PRELIMINARY PLATS, STREET AND PLAT VACATIONS, OR TRANSMITTALS TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) OF LARGE SCALE FUTURE LAND USE MAP AMENDMENTS




A PUBLIC HEARING ON PROPOSALS AND PETITIONS AS DESCRIBED BELOW WILL BE CONDUCTED BY THE BOARD OF COUNTY COMMISSIONERS AT A REGULAR MEETING ON TUESDAY, DECEMBER 19, 2006, AT 9:00 A.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD DURING THE COURSE OF ACTION. THE HEARING WILL BE HELD IN COMMISSION CHAMBERS, ROOM 119, FIRST FLOOR, BUILDING A, THE CHARLOTTE COUNTY ADMINISTRATION CENTER, 18500 MURDOCK CIRCLE, PORT CHARLOTTE, FLORIDA. THE BOARD IS NOT BOUND TO CONSIDER THE PETITIONS IN THE ORDER LISTED IN THIS NOTICE. ANY OF THESE PETITIONS MAY BE CONSIDERED AS SOON AS THE MEETING COMMENCES.

COPIES OF SAID PETITIONS WITH COMPLETE LEGAL DESCRIPTIONS AND SUBSEQUENT STAFF REPORTS WILL BE AVAILABLE FOR REVIEW AT THE CHARLOTTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT, AND ALL CHARLOTTE COUNTY PUBLIC LIBRARIES.

A MEETING AGENDA AND PETITION PACKETS MAY BE REVIEWED AT THE FOLLOWING INTERNET ADDRESS: http://www.charlottecountyfl.com/agenda.asp

ALL INTERESTED PERSONS ARE URGED TO ATTEND THESE PUBLIC HEARINGS. IF YOU HAVE SPECIFIC QUESTIONS OR COMMENTS, YOU ARE ENCOURAGED TO CONTACT A STAFF PERSON AT ANY TIME IN ADVANCE OF THE PUBLIC HEARING(S). PLEASE CALL 941-764-4903 AND MENTION THE PETITION NUMBER OF THE MATTER YOU WISH TO DISCUSS.

PETITIONS

**PV-06-08-11** **Legislative** **Commission District I**

Phyllis Hitchcock, Robert Daughtry, and Randy Williams have applied for a Plat Vacation for All of Bermont Villa Subdivision, Section A, Sheet 1, according to the plat recorded in Plat Book 1, Page 89 of the public records of Charlotte County, Florida, and all of Bermont Villa Subdivision Section A, Sheet 2, as recorded in the Plat Book 1, Page 91, of the public Records of Charlotte County, Florida, lying North of the South line of Section 3, Township 40 South, Range 26 East, being the entire Southeast quarter of said Section 3, LESS AND EXCEPT Lots 19 and 20 of Block 6, Lots 12 and 13 of Block 9, Lots 1 through 6 inclusive of Block 10, Lots 17 and 18 of Block 28, Lots 7 through 10 inclusive and Lots 15 through 20 inclusive of Block 30, Lots 21 through 23 inclusive of Block 33, Lots 15 through 20, inclusive of Block 34, Lots 1 through 6 inclusive of Block 36, Lots 1 through 6 of Block 37, Lots 33 and 34 of Block 38, Lots 15 through 20 inclusive of Block 40, Lots 1 through 3 inclusive and Lots 7 and 8, Block F, Lot 6 of Block M, all located in Bermont Villa Subdivision Section A, Sheet 1; also vacating All Rights of Way LESS AND EXCEPT Caroline Avenue from Broadway to Cavell Street, Cavell Street from Caroline Avenue to Jordan Avenue, Thompson Street from Caroline Avenue to the southeast corner of Lot 15 of Block 30/northeast corner of Lot 6 of Block 31, Stoll Street from Caroline Avenue to the southeast corner of Lot 33 of Block 38/northeast corner of Lot 2 of Block 43, Broadway from Caroline Avenue to Georgia Avenue, Florida Avenue from Broadway to Nolte, Nolte Street from Florida Avenue to the northeast corner of Lot 1 of Block 10/southeast corner of Lot 34 of Block 3 AND from Florida Avenue to the southeast corner of Lot 19, Block 6 & northeast corner of Lot 2, Block 7, Ermoye Street from Florida Avenue to the northeast corner of Lot 17 of Block 38/southeast corner of Lot 8 of Block F AND from Florida Avenue to the southeast corner of Lot 15, Block 34 & northeast corner of Lot 6, Block 35, Unknown Road (adjacent to Park) from Sheldon Road up to Terrace Circle; Terrace Drive from Unknown Road north to Circle Drive; Circle Drive from Terrace Drive to the northwest corner of Lot 6, Block M 7 northeast corner of Lot 13, Block G, and Arcadia Avenue from Ermoye Street to the northwest corner of Lot 18 of Block 28. The site, consisting of 145 acres, more or less, is located in Commission District I, North of Farabee Road, bordered on the west by Caroline Street, on the east by Georgia Avenue, on the south by Broadway and on the north by McCarter Street. A complete legal description is on file.

**PV-06-08-12** **Legislative** **Commission District I**

Triple I Limited Partnership has applied for a Plat Vacation for a portion of Bermont Villa Subdivision, Section A, Sheet 2; as recorded in Plat Book 1, Page 91 of the Public Records of Charlotte County, Florida. The site is located in Section 10, Township 40 South, Range 26 East, in Commission District I, lying South of Farabee Road, east of Caroline Avenue, North of Pershing Street and west of Georgia Avenue, containing 77.45 acres more or less. The applicant is also requesting to vacate a portion of Bermont Villa Subdivision, Section B, Sheet 2, as recorded in Plat Book 1, Page 92, of the Public Records of Charlotte County, Florida, containing 80 acres, more or less. This site is located in Section 10, Township 40 South, Range 26 East, in Commission District I, lying south of Farabee Road, bordered on the west by Adeline Street, bordered on the east by Seminole Avenue, and on the south by Canal Street. All rights of way will be vacated except Broadway. A complete legal description is on file.

**SV-06-09-13** **Legislative** **Commission District IV**

Heritage of Sarasota, Inc. has applied for a Street Vacation to vacate the north forty feet of a portion of River Beach Drive, (platted as Riverside Drive), located in the El Jobean Ward One subdivision as recorded in Plat Book 2, Page 30 of the Public Records of Charlotte County, Florida, lying between the east right of way of Starkie Avenue and the west right of way of Warren Avenue. The site is located in Section 28, Township 40, Range 21. A complete legal description is on file.

**PV-06-09-14** **Legislative** **Commission District II**

Tucker's Grade and US 41, LLC has applied for a Plat Vacation to vacate a portion of Tropical Gulf Acres Unit 8 subdivision, that portion being Block 147, Lots 1 and 2, Block 149, Lots 1 and 2 and a 50 foot right of way known as Gasparilla Avenue lying north of Tribune Boulevard and adjacent to Lots 1 and 2 of Block 147 and Lots 1 and 2 of Block 149 of Tropical Gulf Acres Unit 8, as recorded in Plat Book 4 at Page 40B of the Public Records of Charlotte County, Florida. The site, consisting of 1.32 ± acres, is located in Section 2, Township 42, Range 23 East. A complete legal description is on file.

**SV-06-09-15** **Legislative** **Commission District III**

Gary and Mary Jo Hickman have applied for a Street Vacation to vacate a portion of Winchester Avenue (New Jersey Avenue per plat) located within the Grove City William Harwood Subdivision, as recorded in Plat Book 1, Page 4 of the Public Records of Charlotte County, Florida. The site is bounded on the east by Cindy Lane (Eighth Street per plat), on the west by County Road 775, aka Placida Road (Seventh Street per the plat), on the north by Aillon Subdivision as recorded in Plat Book 4, Page 17 of the Public Records of Charlotte County, Florida and bounded on the south by Block 165, Grove City William Harwood Subdivision. The site, consisting of 0.28 acres more or less (12,402 square feet), is located in Section 17, Township 41 South, Range 20 East, in Commission District III of Charlotte County, Florida.

**EAR Comprehensive Plan Amendments** **Legislative**

Pursuant to 163.3181(1), Florida Statutes, providing for public participation in the comprehensive planning process for the proposed Evaluation and Appraisal Report (EAR) changes and pursuant to Section 163.3184(3), Florida Statutes, transmit to the Department of Community Affairs et al, a Large Scale Plan Amendment to amend the 1997-2010 Comprehensive Plan to update text, maps, diagrams, and policies otherwise reflecting the changes that were the result of the 2003 Evaluation and Appraisal Report (EAR) process; Specifically, amended elements or sections of elements shall include: Future Land Use, Transportation, Natural Resources and Coastal Planning, Infrastructure: Potable Water and Sanitary Sewer, Recreation and Open Space, Housing, Intergovernmental Coordination, and Capital Improvements. The following elements or sections of elements have been previously approved or do not need approval: Stormwater, Solid Waste, Aquifer Recharge, Historic Preservation, Community Facilities and Services.

SHOULD ANY AGENCY OR PERSON DECIDE TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING, A RECORD OF THE PROCEEDING AND FOR SUCH PURPOSE, A VERBATIM RECORD OF THE PROCEEDING IS REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

P.O. #: 2007000827.AA
Publish: December 4, 2006

CERTIFIED TRUE COPY OF THE ORIGINAL
BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT
CHARLOTTE COUNTY, FLORIDA
BY: DEPUTY CLERK

IMAGED
3-21-07
AP

See Agreement 94-#218

# RESOLUTION

IMAGED SS

NUMBER 94 -220

A RESOLUTION AUTHORIZING THE CHAIRMAN TO EXECUTE A REVOCABLE LICENSE AGREEMENT FOR TEMPORARY OCCUPATION OF COUNTY RIGHT OF WAY

## RECITALS

1. HARBOUR VILLAGE PROPERTY OWNERS ASSOCIATION, INC., is desires to enter into an agreement with Charlotte County to permit them to occupy a portion of the County right-of-way known as Riverside Drive (located adjacent to the Myakka River) in Section 27, Township 40 South, Range 21 East, to construct a 400 foot long wooden fishing pier in accordance with State and County regulations.

2. The Engineering Department reviewed this request and has no objection to this agreement since this portion of Riverside Drive has not been constructed and there are no future plans for construction.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

3. Charlotte County hereby grants the Revocable License Agreement for Temporary Occupation of County Right of Way attached hereto and as stipulated in Paragraph 7, the Revocable License Agreement may not be recorded in the public records of Charlotte County.

4. The Chairman is hereby authorized to execute the Revocable License Agreement for Temporary Occupation of County Right of Way.

PASSED AND DULY ADOPTED this 8th day of November 1994.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By [signature]
Richard J. Leonard, Chairman

Attest:
Barbara T. Scott, Clerk of Circuit Court and Ex-officio Clerk to the Board of County Commissioners

By [signature]
Deputy Clerk

APPPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Reneé Francis Lee
Reneé Francis Lee
County Attorney

tr PB

Minutes

File:325389 OR BOOK/PAGE:1373/0840
Recorded: 11/15/94 08:28 A.M.
Barbara T. Scott, Clerk of the Circuit Court - Charlotte County

Recording $ 37.50
Record Verified: JOY BILBREY, D.C.

Agreement #94-218

(See Resolution #94-2[illegible]

# REVOCABLE LICENSE AGREEMENT FOR TEMPORARY OCCUPATION OF COUNTY RIGHT OF WAY

This Agreement is made and entered this 8th day of November, 1994, by and between Charlotte County, a political subdivision of the State of Florida, acting through its Board of County Commissioners (hereinafter "County"), and Harbour Village PROPERTY OWNERS ASSOCIATION, INC. (hereinafter "Developer").

**W I T N E S S E T H:**

WHEREAS, Developer is desirous of entering into an agreement with Charlotte County to permit them to occupy a portion of the County right-of-way known as Riverside Drive (located adjacent to the Myakka River) in Section 27, Township 40 South, Range 21 East, to install a 400 foot long wooden fishing pier in accordance with County and State regulations; and

WHEREAS, the Charlotte County Board of County Commissioners has determined that a portion of County right-of-way is currently unneeded, but may be needed by the County in the future.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants as contained herein, County and Developer hereby agree as follows:

1. County hereby grants to Developer a revocable license to occupy and use, subject to all the terms and conditions of this agreement the following described property:

OR BOOK 13373 PAGE 0841

IMAGED
PA

(8)
IMAGED
12-16-96

A portion of Riverside Drive adjacent to the Myakka River, that lies between Harbour Village and Parcel Four, located in Section 27, Township 40 South, Range 21 East, for a wooden fishing pier.

2. This revocable license is given to Developer for the erection of a wooden fishing pier to be constructed in the right-of-way area. All work performed in said area will be at the sole expense of Harbour Village and not reimbursable or compensable by County at any time during said occupation. Further, Developer agrees that no structures or improvements other than this wooden fishing pier will be constructed in the right-of-way area.

3. Developer will be solely responsible for maintenance of the right-of-way area and costs thereof. Developer understands that this is a revocable license and that for however long Developer uses and occupies that portion of the right-of-way known as Riverside Drive, entitles Developer to no vested rights nor any rights that would make the license irrevocable, and Developer further acknowledges that this is not a license coupled with an interest. This agreement shall continue in force unless or until terminated by the County or Developer by either of them giving ninety (90) days' written notice to the other of its intention to so terminate. This Agreement shall terminate absolutely upon the giving of such notice.

4. Developer further acknowledges that it is not entitled to reimbursement for any costs or expenses during the said use of the County right-of-way nor at the time of revocation of this revocable license by the County or Developer.

5. Developer agrees to indemnify, defend and hold harmless Charlotte County for any and all claims of liability, by Developer or third parties, arising from or occasioned by Developer's use of the right-of-way area, and further agrees to be responsible for any costs incurred in defending the County from such claims of liability, including attorney's fees incurred by the County.

6. This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

7. This agreement may not be recorded in the public records of Charlotte County. If Developer records this agreement, this agreement shall immediately terminate and become null and void.

8. This agreement shall be binding upon and inure to the benefit of the parties hereto.

IN WITNESS WHEREOF, the parties have set their hands and seals this day and year first above written.

Witness

Witness

HARBOUR VILLAGE PROPERTY OWNERS ASSOCIATION, INC

By _____
VICE PRESIDENT

CHARLOTTE COUNTY, FLORIDA

By _____
Richard J. Leonard, Chairman
Board of County Commissioners

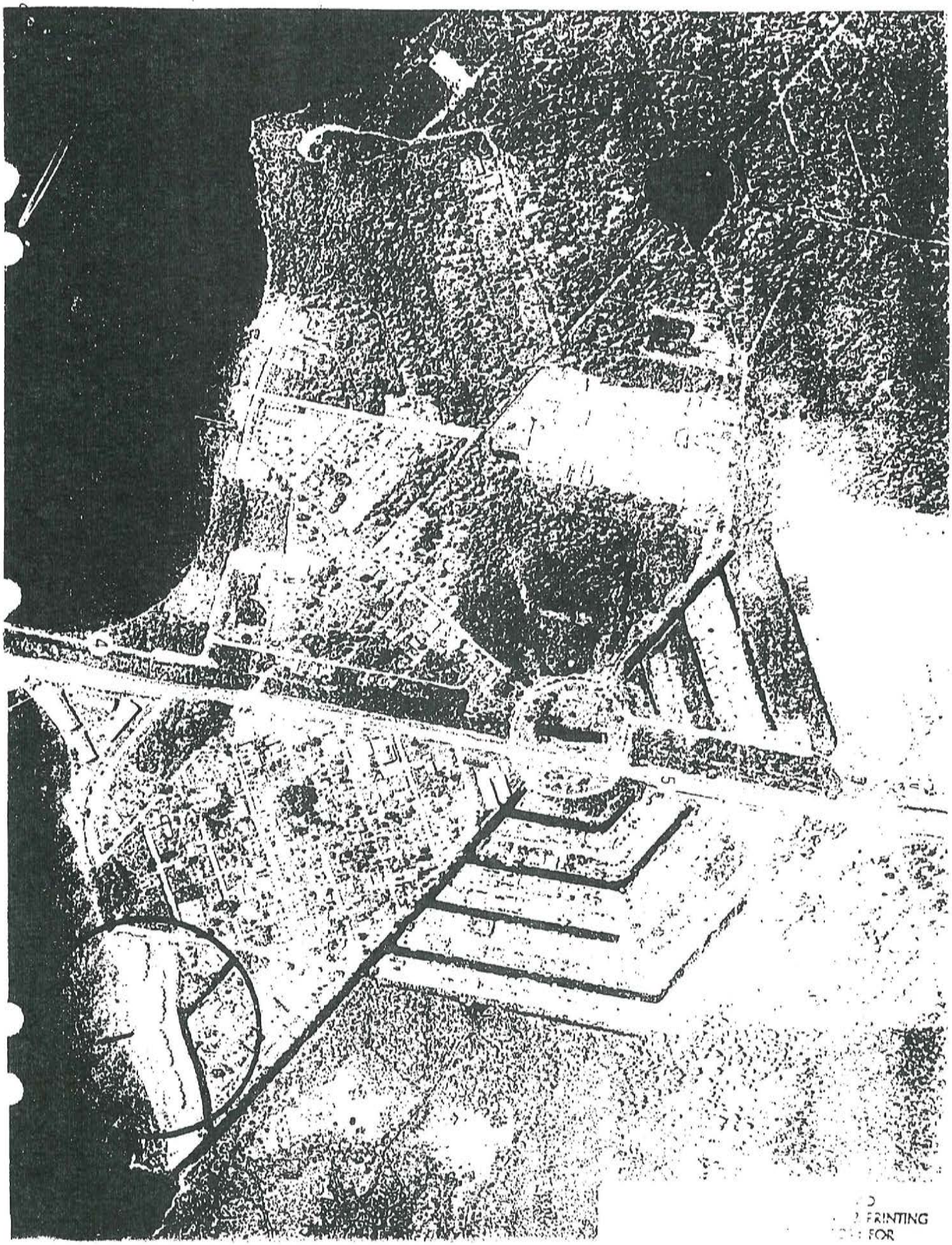
ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners

By _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Reneé Francis Lee
County Attorney

cd:agree\riverside/090894/LR94-711



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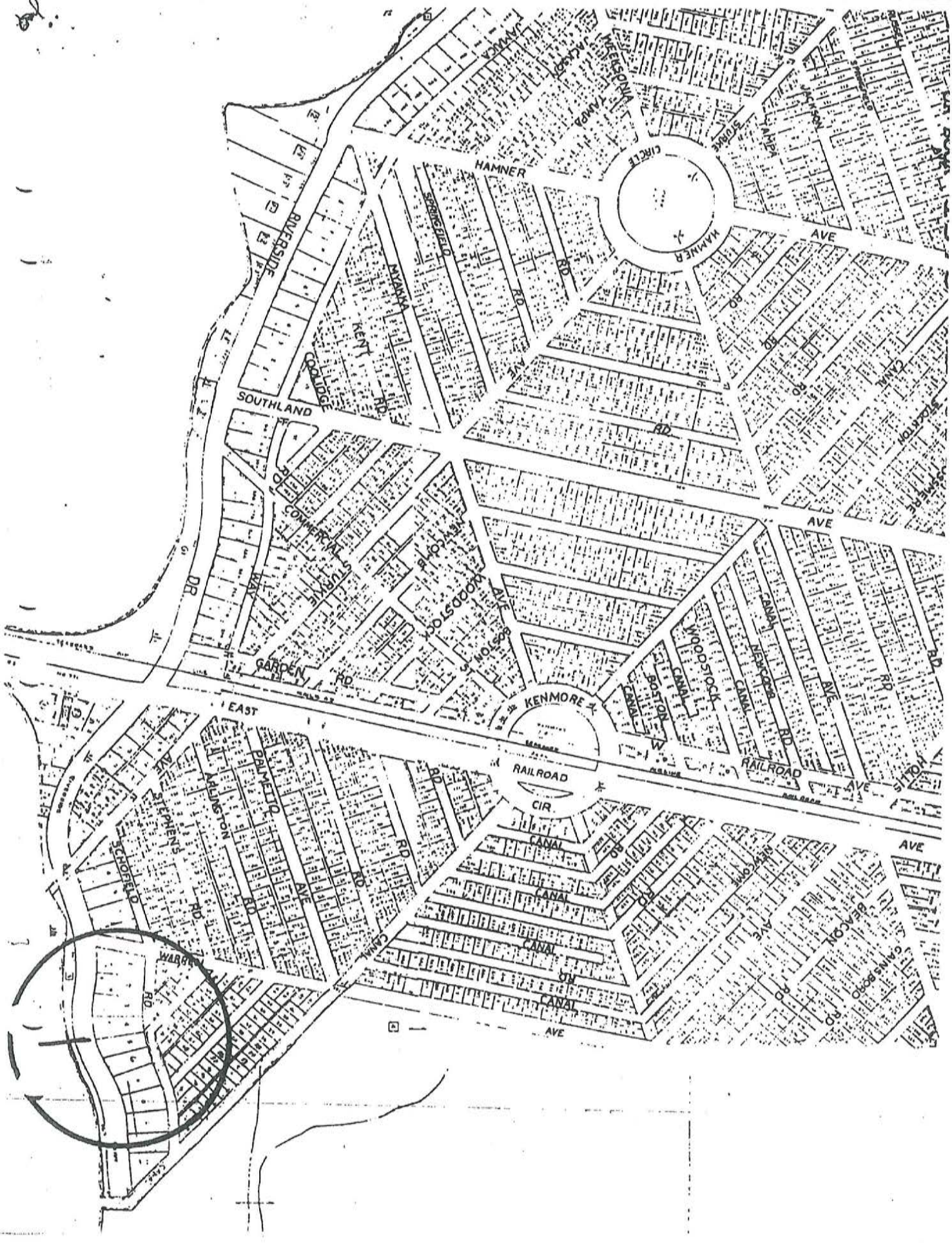
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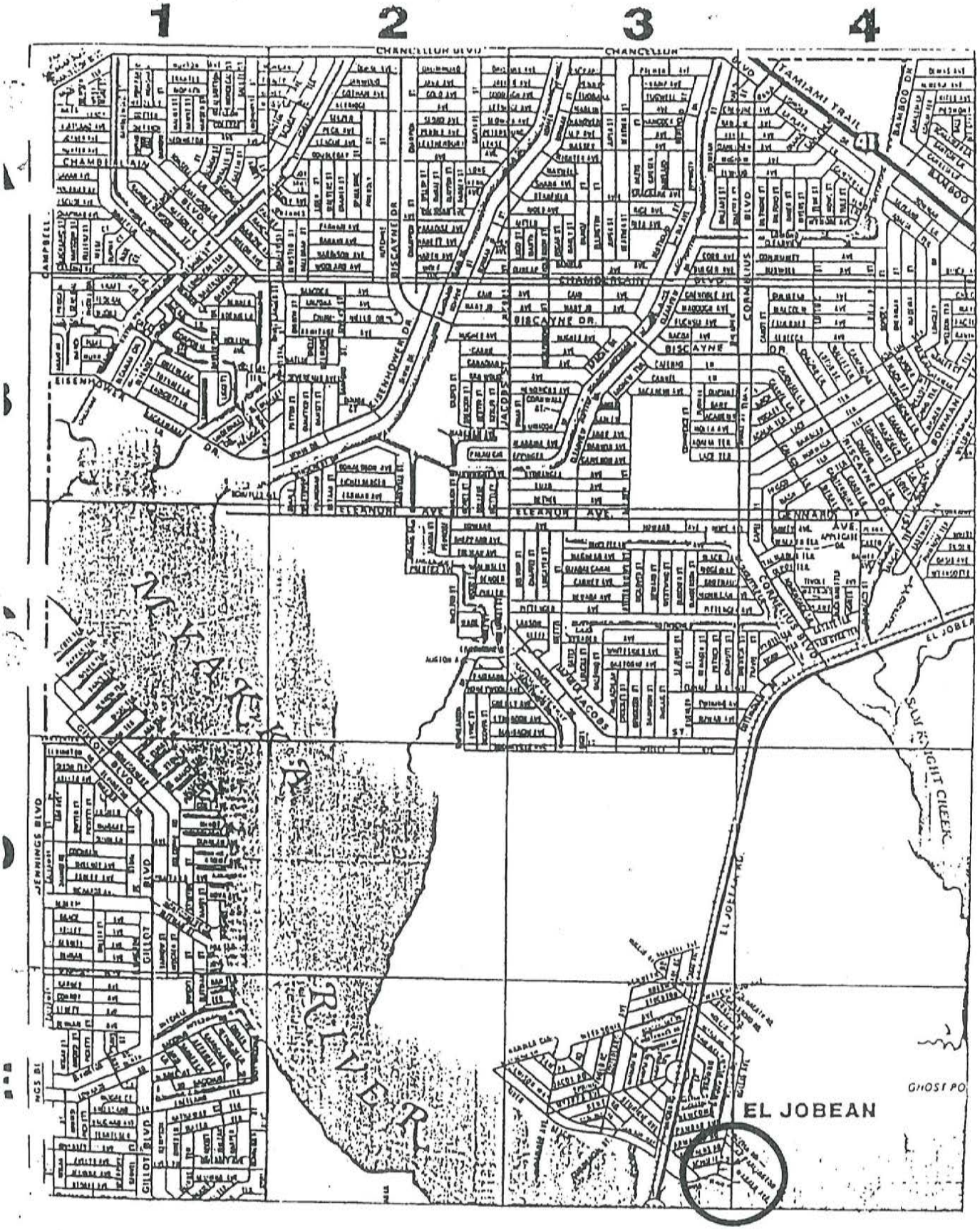
WAY
WOODSTOCK
BOSTON
GARDEN
EAST
KENMORE
RAILROAD
CIR.
NEWCOMB
PALMETTO
ARLINGTON
STEPHENS
SCHOFIELD
WARREN
DEACON
GAINSBORO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CHANCELLOR BLVD
CHAMBERLAIN BLVD
CAMPBELL
EISENHOWER DR
BISCAYNE DR
JACOBS ST
ELEANOR AVE
GENNARO AVE
CORNELIUS BLVD
TAMIAMI TRAIL
BAMBOO DR
BOWMAN
EL JOBEAN
SAW KNIGHT CREEK
GILLOT BLVD
JENNINGS BLVD
RIVER
EL JOBEAN
GHOST PO

Permits
Permit No.
2001031397
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Type
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14578 RIVER BEACH DR PORT CHARLOT
Office
WATER HEATER
Browse
Appl Info
Location / Survey
Zoning / Lot
Building
Elevation
Utility
Addtional Information
Assoc. Tables
Dates
Update Info
Master No. 2001031397
Model
Model Description
WWP
COA
Contractor Est. Value
36000
P/G
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FCC Code
Address No.
116688
Owner
Name
MULTIPLE OWNERS - SEE APPLICA
Address
City
St
Zip
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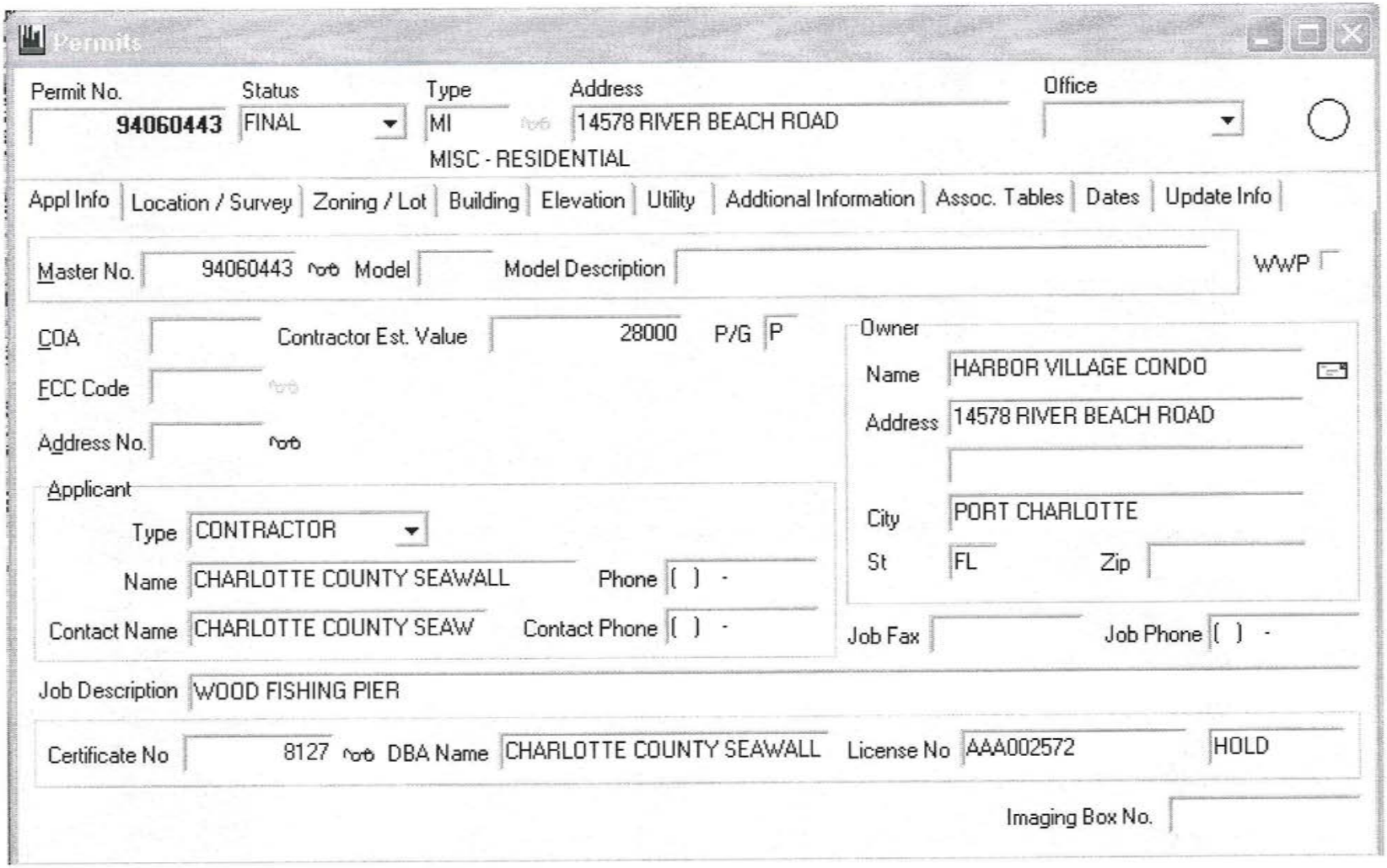
Applicant
Type
CONTRACTOR
Name
EUGENE J EXTEJT
Phone
Contact Name
EUGENE J EXTEJT
Contact Phone
(941)629-4900
Job Fax
Job Phone
(941)629-4900
Job Description
INSTALL DOCK PILING & WOOD DOCK EXTENSION ROW NOT REQUIRED
Certificate No
8127
DBA Name
CHARLOTTE COUNTY SEAWALL
License No
HOLD
Imaging Box No.
Browse
04/24/2012 10:22 AM


Permits
Permit No.
94060443
Status
FINAL
Type
MI
Address
14578 RIVER BEACH ROAD
Office
MISC - RESIDENTIAL
Appl Info
Location / Survey
Zoning / Lot
Building
Elevation
Utility
Addtional Information
Assoc. Tables
Dates
Update Info
Master No.
94060443
Model
Model Description
WWP
COA
Contractor Est. Value
28000
P/G
P
FCC Code
Address No.
Applicant
Type
CONTRACTOR
Name
CHARLOTTE COUNTY SEAWALL
Phone
( ) -
Contact Name
CHARLOTTE COUNTY SEAW
Contact Phone
( ) -
Owner
Name
HARBOR VILLAGE CONDO
Address
14578 RIVER BEACH ROAD
City
PORT CHARLOTTE
St
FL
Zip
Job Fax
Job Phone
( ) -
Job Description
WOOD FISHING PIER
Certificate No
8127
DBA Name
CHARLOTTE COUNTY SEAWALL
License No
AAA002572
HOLD
Imaging Box No.