

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Conduct a Public Hearing to adopt a Resolution to Vacate a 10-foot +/- wide Alley/Road Right-of-Way Easement located between Palm Avenue and East Railroad Avenue in Boca Grande, Florida.  
(Case No. VAC2003-00027)

**WHY ACTION IS NECESSARY:** The property owners fronting the Alley want to eliminate the public interest in the platted right-of-way. The Alley/Right-of-Way is not open to traffic and is not necessary to accommodate any future traffic requirement.

**WHAT ACTION ACCOMPLISHES:** Vacates the Alley/Road Right-of-Way Easement.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT #: 1

04

5:00 #1

**3. MEETING DATE:**

06-08-2004

**4. AGENDA:**

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

STATUTE F.S. Ch. 177 & 336

ORDINANCE

ADMIN. CODE 13-1 & 13-8

OTHER

**6. REQUESTOR OF INFORMATION:**

A. COMMISSIONER

B. DEPARTMENT Community Development

C. DIVISION Development Services

BY:  5/24/04

Peter J. Eckenrode, Director

**7. BACKGROUND:**

The Board of County Commissioners has adopted a Resolution to set a Public Hearing for 5:00 PM on 8th day of June, 2004.

**LOCATION:** Petition No. VAC2003-00027 proposes to vacate a 10-foot +/- wide Alley/Right-of-Way, which is not constructed, and encumbers a portion of land contained in Block 7, as shown on the reserved plat of Boca Grande, as recorded in Plat Book 7, Pages 1 and 1a, of the Public Records of Lee County, Florida. **The site is located south of 3<sup>rd</sup> Street between East Railroad Avenue and Palm Avenue, Boca Grande, Florida, 33921.**


Documentation pertaining to this Petition to Vacate is available for viewing at the Office of Lee Cares.

There are no objections to this Petition to Vacate. Replacement Easements as requested have been provided by one utility company and the other will provide (see agreement) if the vacation is granted. Staff recommends adoption of this resolution.

Attached to this Blue sheet is the Resolution with exhibits.

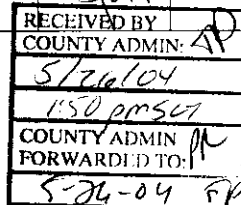
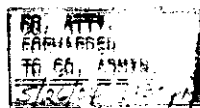
**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services Risk	G County Manager
	N/A	N/A	N/A	John J. ... 5-26-04	OA 5/26/04 OMB 5/26/04 JS 5/26/04	GC 5/26/04 

**10. COMMISSION ACTION:**

- APPROVED  
 DENIED  
 DEFERRED  
 OTHER



THIS INSTRUMENT PREPARED BY:

Department of Community Development  
Development Services Division  
1500 Monroe Street  
Fort Myers Florida 33901

RESOLUTION NO. \_\_\_\_\_ FOR PETITION TO VACATE

Case Number: VAC2003-00027

WHEREAS, Petitioners Jay D. Spurgeon & Susan C. Spurgeon; Patricia Song & Walter Allen Tilley; Ann F. Regnery; Suzanne L. Fuller, Trustee; Michael Kahler & Mary Kahler; SunTrust Bank, Trustee; and James York & Katherine C. York, in accordance with Florida Statute (F.S.) Chapter 177 and Lee County Administrative Code (LCAC) 13-1, filed a Petition to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit "A"; and

WHEREAS, the Petition also included a request, in accordance with F.S. Chapter 336 and LCAC 13-8, to vacate, abandon, close and discontinue the public's interest in the right-of-way or portion of right-of-way legally described in the attached Exhibit "A"; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing concerning the Petition to Vacate on the 8<sup>th</sup> day of June, 2004 at 5:00 p.m. ; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate, was entered into the minutes of the County Commission Meeting and a copy of said Affidavit is attached as Exhibit "C"; and

WHEREAS, the Petitioner is fee simple title holder to the underlying land sought to be vacated in accordance with F.S. Chapter 177; and

WHEREAS, the Petitioner provided proof all applicable state and county taxes have been paid on the property to be vacated in accordance with F.S. Chapter 177; and

WHEREAS, Petitioner did provide notice to all affected property owners concerning the intent of the Petition to Vacate in accordance with the LCAC 13-1; and

WHEREAS, it appears that vacating, abandoning, closing or discontinuing the subject right-of-way or portion of right-of-way is in the best interest of the public and promotes the public's health, safety and welfare without invading or violating individual property rights; and

WHEREAS, the letters of review and recommendation provided by various governmental and utility entities indicate that granting the Petitioner's request is appropriate and in accordance with the requirements of the Florida Statutes.

NOW therefore be it resolved by the Board of County Commissioners as follows:

1. Petition to Vacate No. VAC2003-00027 is hereby granted.
2. The public's interest in the easement, plat or portion of plat legally described in Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated.
3. The public's interest in the right-of-way or portion of right-of-way described in Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated, abandoned, closed and discontinued.
4. A Notice of Resolution Adoption will be published one time within 30 days of adoption in a newspaper of general circulation. An Affidavit of Publication for the Notice of Resolution Adoption will be attached to the Resolution as Exhibit "D".
5. This Resolution will become effective upon recording of a fully executed Resolution, including all exhibits referred to above, in the public records of Lee County, Florida.

This Resolution passed by voice and entered into the minutes of the Board of County Commissioners of Lee County, Florida, this \_\_\_\_\_.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

\_\_\_\_\_  
Deputy Clerk Signature

\_\_\_\_\_  
Chairman Signature

\_\_\_\_\_  
Please Print Name

\_\_\_\_\_  
Please Print Name

APPROVED AS TO FORM

\_\_\_\_\_  
County Attorney Signature

\_\_\_\_\_  
Please Print Name

# EXHIBIT "A"

## SKETCH & DESCRIPTION

### DESCRIPTION:

A PORTION OF LAND, BEING THE ALLEY CONTAINED IN BLOCK 7, AS SHOWN ON THE REVISED PLAT OF BOCA GRANDE, AS RECORDED IN PLAT BOOK 7, PAGES 1 AND 1A, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

### SURVEYOR'S NOTATIONS:

1. THIS SKETCH AND DESCRIPTION IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY BUT IS INTENDED TO REFLECT A GRAPHIC DEPICTION OF THE DESCRIPTION SHOWN HEREON.
2. BEARINGS ARE BASED ON ASSUMED DATA AS REFERENCED TO THE SOUTHERLY R/W LINE OF THIRD STREET BEING N90°00'00"E.
3. THIS SKETCH AND DESCRIPTION CONTAINS TWO (2) SHEETS AND IS INTENDED TO BE USED IN ITS ENTIRETY.

### PREPARED FOR THE EXCLUSIVE USE OF:

JAMES E. FULLER;  
LEE COUNTY.

### ABBREVIATIONS:

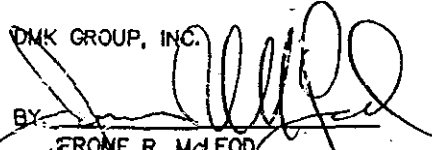
Approx.=Approximate  
 (C)=Calculated data  
 C.=Chord dimension  
 C.B.=Chord Bearing  
 D.O.T.=Department of Transportation  
 Drain.=Drainage  
 Es'mt=Easement  
 L.B.=Land Surveying Business  
 O.R.=Official Records  
 (P)=Plat data  
 P.B.=PLAT BOOK  
 PG=PAGE  
 P.I.D.=Parcel Identification  
 P.O.B.=Point of Beginning  
 P.O.C.=Point of Commencement  
 R/W=Right-of-Way  
 S.F.=Square Feet  
 Util.=Utility  
 ⊕ =Centerline  
 P =Property Line

### SURVEYOR'S CERTIFICATE

"I HEREBY CERTIFY THAT THE ATTACHED DESCRIPTION(S) WAS PREPARED UNDER MY DIRECTION AND THAT THIS DESCRIPTION AND SKETCH COMPLY WITH 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 CHAPTER 472.027, FLORIDA STATUTES. SUBJECT TO ALL NOTES AND NOTATIONS SHOWN HEREON."

05/01/03  
DATE OF SIGNATURE

DMK GROUP, INC.

BY:   
 JEROME R. McLEOD  
 Professional Surveyor and Mapper  
 State of Florida Certificate No. 5925  
 Land Surveying Business No. 3943

NOTE: Not valid unless signed and imprinted with an embossed Surveyor's seal.



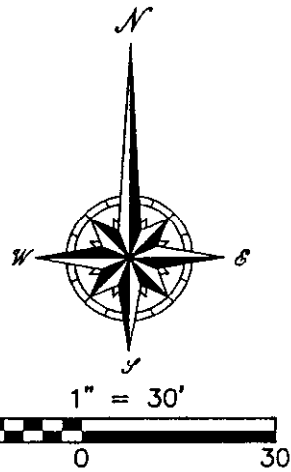
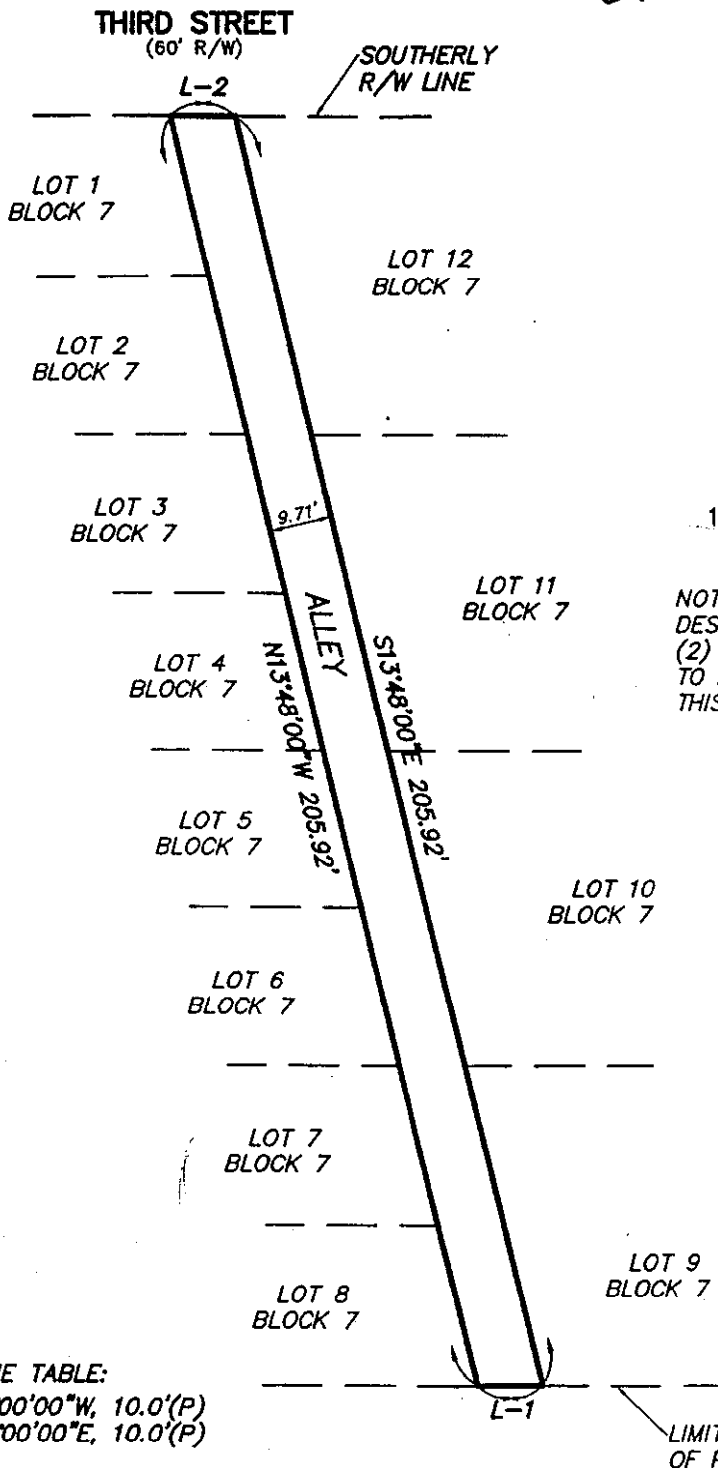
4315 McCall Rd.  
 Englewood, FL  
 34224  
 (941) 475-6596

ENGINEERS SURVEYORS PLANNERS

DATE: 05/01/03	JOB No. 03-0247		
SCALE: 1"=30'	DWN. JRM	CK'D JRM	
UPDATES & REV.	DATE	DWN. BY:	

# SKETCH & DESCRIPTION

Exhibit "B"



NOTE: THIS SKETCH AND DESCRIPTION CONTAINS TWO (2) SHEETS AND IS INTENDED TO BE USED IN ITS ENTIRETY. THIS IS NOT A BOUNDARY SURVEY.

LINE TABLE:  
 L-1= S90°00'00"W, 10.0'(P)  
 L-2= N90°00'00"E, 10.0'(P)



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