

1. REQUESTED MOTION:

ACTION REQUESTED: Accept a Petition to Vacate a portion of a 50-foot wide non-county maintained Road Right-of-Way (660.05 +/- feet in length) located off of Winkler Road Extension at south end of Brook Hollow Lane in Seminole Gardens, Fort Myers, Florida, and adopt a resolution setting a Public Hearing for 5:00 PM on the 23rd day of November, 2004. (Case No. VAC2004-00027)

WHY ACTION IS NECESSARY: To vacate the public's interest in a portion of the Right-of-Way to provide for the development of a residential project known as Banyan Bay. **The vacation of these rights-of-way will not alter traffic conditions and the rights-of-way are not necessary to accommodate any future traffic requirement.**

WHAT ACTION ACCOMPLISHES: Setting the time and date of the Public Hearing.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 3

04

C4A

3. MEETING DATE:

10-26-2004

4. AGENDA:

CONSENT

- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE F.S. Ch. 177 & 336 (PTV)
- ORDINANCE
- ADMIN. CODE 13-1 & 13-8
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
 - B. DEPARTMENT Community Development
 - C. DIVISION Development Services
- BY: *[Signature]* *10/5/04*

Peter J. Eckenrode, Director

7. BACKGROUND:

The completed petition to vacate, VAC2004-00027 was submitted by Banks Engineering, Inc. as the agent on behalf of Residential Development, Inc., a Minnesota Corporation, and Frank W. Helmerich II, Trustee. The portion of Right-of-Way that the applicant proposed to vacate bisects the Banyan Bay RPD (Zoning Case No. DCI2003-00052. Resolution No. Z-04-001) which was approved by the Board of County Commissioners on Monday, August 2, 2004.

LOCATION: The site is located at **south end of Brook Hollow Lane, Fort Myers, Florida 33908**. The 50 foot wide non-county maintained Road Right-of-Way (660.05 +/- feet in length) is lying in Section 10, Township 46 South, Range 24 East, between the east line of Lots 24 & 25, and west line of Lots 8 & 9 of Seminole Gardens, a subdivision recorded in Plat Book 4, Page 65, of Public Records of Lee County, Florida.

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. Staff recommends the scheduling of the Public Hearing.

Attached to this Blue sheet is the Petition to Vacate, Resolution to set Public Hearing, Notice of Public Hearing and 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 10/14/04			G County Manager
<i>[Signature]</i>	N/A	N/A	N/A	<i>[Signature]</i> 10/14/04	OA <i>[Signature]</i> 10/14/04	OM <i>[Signature]</i> 10/14/04	Risk <i>[Signature]</i> 10/14/04	GC <i>[Signature]</i> 10/14/04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *10/11/04*
Time: *2:00 AM*

RECEIVED BY
COUNTY ADMIN: *[Signature]*
10/14/04
3:25 PM '04
COUNTY ADMIN
FORWARDED TO: *[Signature]*

PETITION TO VACATE (AC 13-1 & AC 13-8)

Case Number: VAC2004-00027

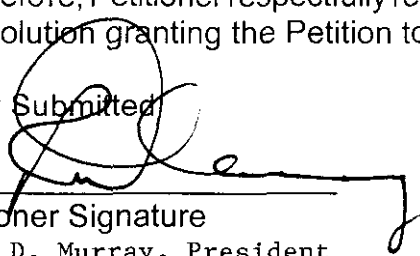
Petitioner, Residential Development, Inc., a Minnesota Corporation
requests the Board of County Commissioners of Lee County, Florida, to grant this Petition
to Vacate and states as follows:

1. Petitioner's mailing address, 8929 Aztec Drive, Eden Prairie, MN 55347.
2. In accordance with Florida Statute (F.S.) Chapter 177 and Lee County Administrative Code (LCAC) 13-1, Petitioner desires to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit "A" and in accordance with F.S. Chapter 336 and LCAC 13-8, Petitioner desires 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".
3. A sketch showing the area(s) the Petitioner desires to vacate is attached as Exhibit "B".
4. In accordance with F.S. Chapter 177, proof Petitioner paid all applicable state and county taxes on the property to be vacated is attached as Exhibit "C".
5. In accordance with F.S. Chapter 177, Petitioner is the fee simple title holder to the underlying land sought to be vacated.
6. In accordance with the LCAC 13-1, Petitioner did provide notice to all affected property owners concerning the intent of this Petition. Notice concerning the intent of this Petition will also be provided in accordance with LCAC 13-8.
7. In accordance with letters of review and recommendation provided by various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Board of County Commissioners adopt a Resolution granting the Petition to Vacate.

Respectfully Submitted,

By:



Petitioner Signature
Rick D. Murray, President
Residential Development, Inc.

Printed Name & Title

By:

Petitioner Signature

Printed Name & Title

PETITION TO VACATE (AC 13-1 & AC 13-8)

Case Number: VAC2004-00027

Petitioner, Frank W. Helmerich II, Trustee
requests the Board of County Commissioners of Lee County, Florida, to grant this Petition to Vacate and states as follows:

1. Petitioner's mailing address, 5845 Riverside Lane, Fort Myers, FL 33919.
2. In accordance with Florida Statute (F.S.) Chapter 177 and Lee County Administrative Code (LCAC) 13-1, Petitioner desires to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit "A" and in accordance with F.S. Chapter 336 and LCAC 13-8, Petitioner desires 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".
3. A sketch showing the area(s) the Petitioner desires to vacate is attached as Exhibit "B".
4. In accordance with F.S. Chapter 177, proof Petitioner paid all applicable state and county taxes on the property to be vacated is attached as Exhibit "C".
5. In accordance with F.S. Chapter 177, Petitioner is the fee simple title holder to the underlying land sought to be vacated.
6. In accordance with the LCAC 13-1, Petitioner did provide notice to all affected property owners concerning the intent of this Petition. Notice concerning the intent of this Petition will also be provided in accordance with LCAC 13-8.
7. In accordance with letters of review and recommendation provided by various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Board of County Commissioners adopt a Resolution granting the Petition to Vacate.

Respectfully Submitted

By: 
Petitioner Signature

Frank W. Helmerich II, Trustee
Printed Name & Title

By: _____
Petitioner Signature

Printed Name & Title

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF A 50 FOOT ROAD AS SHOWN ON THE PLAT OF SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, AT PAGE 65, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 8 OF SAID SEMINOLE GARDENS; THENCE S.01°14'20"E. ALONG THE WEST LINE OF LOTS 8 AND 9 OF SAID SEMINOLE GARDENS FOR 660.05 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE S.88°44'38"W. FOR 50.00 FEET TO THE SOUTHEAST CORNER OF LOT 24 OF SAID SEMINOLE GARDENS; THENCE N.01°14'20"W. ALONG THE EAST LINE OF LOTS 24 AND 25 OF SAID SEMINOLE GARDENS FOR 660.05 FEET TO THE NORTHEAST CORNER OF SAID LOT 25; THENCE N.88°44'13"E. FOR 50.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 0.76 ACRES MORE OR LESS

ASSUMED NORTH BASED ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEARING N.89°08'49"E.

DESCRIPTION PREPARED: 08-26-2003

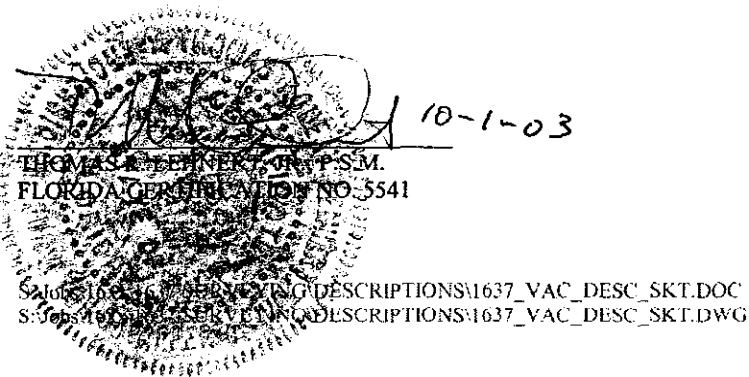


Exhibit "A"
Petition to Vacate
VAC2004-00027
[Page One of One]

Banks Engineering, Inc.

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
 FLORIDA BUSINESS CERTIFICATION NUMBER LB 6680
 10611 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 (889) 939-6480

SKETCH OF DESCRIPTION

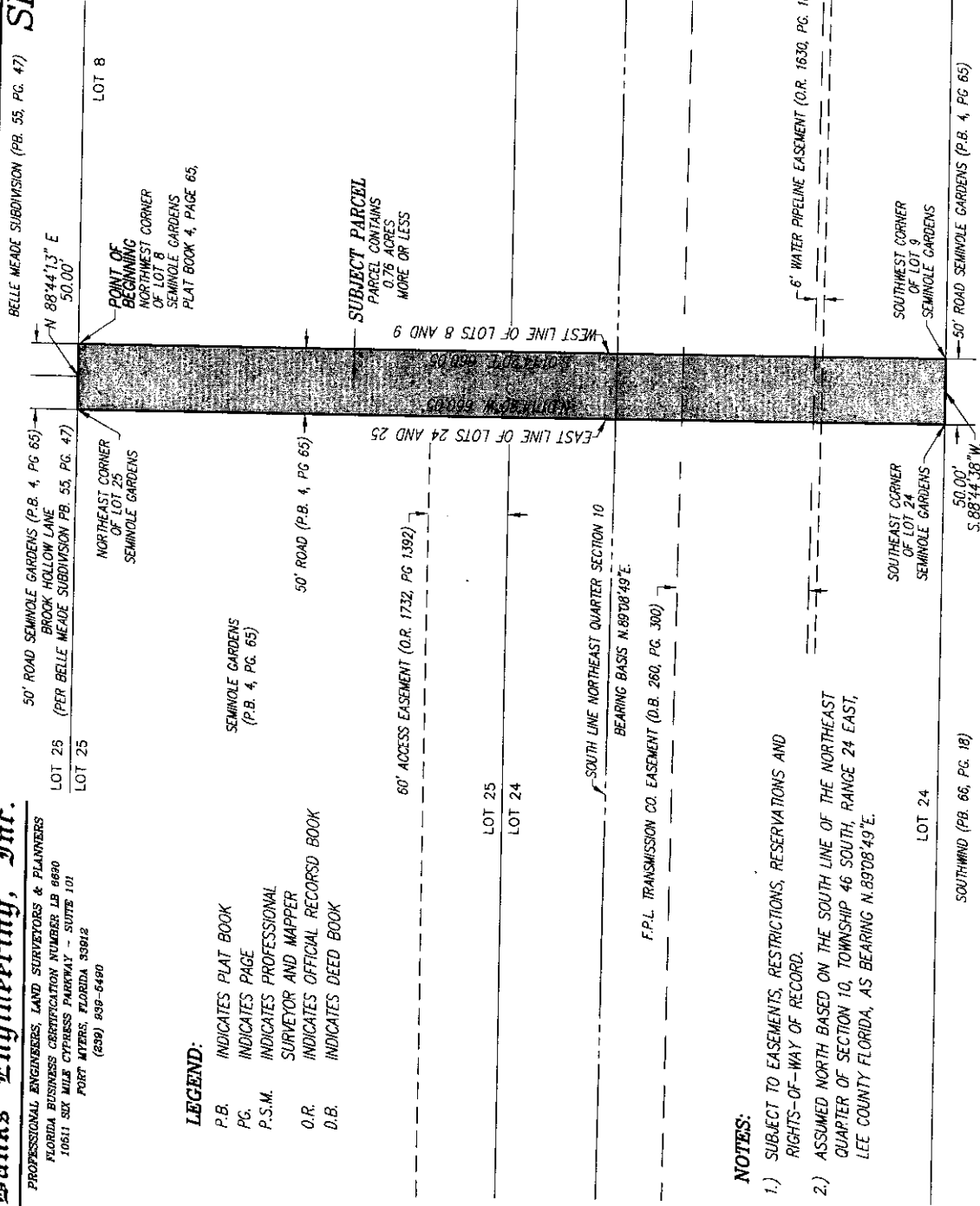
A TRACT OR PARCEL OF LAND LYING IN
 SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 LEE COUNTY, FLORIDA

LEGEND:

- P.B. INDICATES PLAT BOOK
- PG. INDICATES PAGE
- P.S.M. INDICATES PROFESSIONAL SURVEYOR AND MAPPER
- O.R. INDICATES OFFICIAL RECORDED BOOK
- D.B. INDICATES DEED BOOK

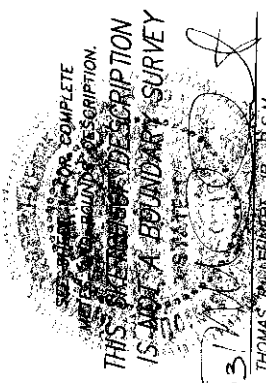


Exhibit "B"
Petition to Vacate
VAC2004-00027
 [Page One of One]



NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) ASSUMED NORTH BASED ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA, AS BEARING N.89°08'49"E.



10-1-03
 THOMAS W. WETMORE, JR. P.S.M.
 FLORIDA CERTIFICATION NO. 5541

THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED 08-26-03
 SHEET 2 OF 2

S:\JOBS\1637\SURVEYING\DESCRIPTIONS\1637_VAC_DESC_SKT.DOC
 S:\JOBS\1637\SURVEYING\DESCRIPTIONS\1637_VAC_DESC_SKT.DWG

Exhibit "C"
Petition to Vacate
VAC2004-00027
 [Page One of Two]

Lee County Tax Collector - Print Results



Real Property Information

Account	Tax Year	Status
10-46-24-01-00008.0000	2003	PAID
Original Account	Book/Page	
10-46-24-01-00008.0000	1510/402	
Physical Address	Mailing Address	
FIZER ROBERT M TR C/O DAVID W SWOR TR ACCESS UNDETERMINED FORT MYERS FL 33908	FIZER ROBERT M TR C/O DAVID W SWOR TR 6000 FOREST BLVD FT MYERS FL 33908 USA	
Legal Description		
SEMINOLE GARDENS PB 4 PG 65 LOT 8		
Outstanding Balance as of 8/26/2004		\$0.00

Real Property Information

Account	Tax Year	Status
10-46-24-01-00009.0000	2003	PAID
Original Account	Book/Page	
10-46-24-01-00009.0000	1893/2781	
Physical Address	Mailing Address	
HELMERICH FRANK W II TR ACCESS UNDETERMINED FORT MYERS FL 33908	HELMERICH FRANK W II TR 5845 RIVERSIDE LANE FT MYERS FL 33919 USA	
Legal Description		
SEMINOLE GARDENS PB 4 PG 65 LOTS 9 THRU 12		
Outstanding Balance as of 8/26/2004		\$0.00

Exhibit "C"
Petition to Vacate
VAC2004-00027
 [Page Two of Two]

Lee County Tax Collector - Print Results



Real Property Information

Account	Tax Year	Status
10-46-24-01-00024.0000	2003	PAID
Original Account	Book/Page	
10-46-24-01-00024.0000	1510/402	
Physical Address	Mailing Address	
FIZER ROBERT M JR C/O DAVID W SWOR TR ACCESS UNDETERMINED FORT MYERS FL 33908	FIZER ROBERT M JR C/O DAVID W SWOR TR 6000 FOREST BLVD FT MYERS FL 33908 USA	
Legal Description		
SEMINOLE GARDENS PB 4 PG 65 LOTS 24 25 + 26		
Outstanding Balance as of 8/26/2004		\$0.00

Real Property Information

Account	Tax Year	Status
10-46-24-01-00040.0000	2003	PAID
Original Account	Book/Page	
10-46-24-01-00040.0000	1510/402	
Physical Address	Mailing Address	
FIZER ROBERT M JR C/O DAVID W SWOR TR 17441 WINKLER RD FORT MYERS FL 33908	FIZER ROBERT M JR C/O DAVID W SWOR TR 6000 FOREST BLVD FT MYERS FL 33908 USA	
Legal Description		
SEMINOLE GARDENS PB 4 PG 65 LOT 40 LESS R/W OR 260 PG 434		
Outstanding Balance as of 8/26/2004		\$0.00

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as STRAP No. 10-46-24-01-00009.0000 and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate Residential Development, Inc. and Banks Engineering, Inc. as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

[Handwritten Signature]
Owner*(signature)

Frank W. Helmerich, II, Trustee
Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 28th day of July, 2004, by Frank W. Helmerich, II, Trustee, who is personally known to me or who has produced a Florida's Driver's License as identification and who did (did not) take an oath.

(SEAL)



Mary C Gagnon
My Commission DD087084
Expires January 27, 2006

Mary C. Gagnon
Notary Public

Mary C. Gagnon
(Name typed, printed or stamped)

**If more than one owner then all owners must sign. See explanation on back.*

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as STRAP Nos. 10-46-24-01-00040.0000; 10-46-24-01-00024.0000 & 10-46-24-01-00008.0000 and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate Residential Development, Inc. and Banks Engineering, Inc. as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

[Handwritten Signature]

Owner*(signature)

David W. Swor, Successor Trustee

Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 27th day of July, 2004; David W. Swor, Successor Trustee, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

(SEAL)



Judy Mallett
Commission # DD286803
Expires May 28, 2008
Bonded Troy Fair - Insurance, Inc. 800-385-7019

Judy Mallett

Notary Public

Judy Mallett

(Name typed, printed or stamped)

**If more than one owner then all owners must sign. See explanation on back.*

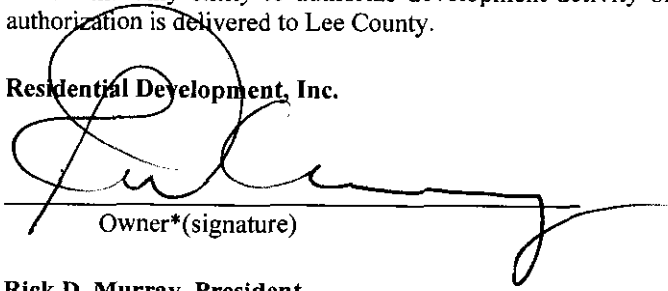
LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as STRAP Nos. 10-46-24-01-00009.0000; 10-46-24-01-00040.0000; 10-46-24-01-00024.0000 & 10-46-24-01-00008.0000 and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering, Inc. as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Residential Development, Inc.


Owner*(signature)

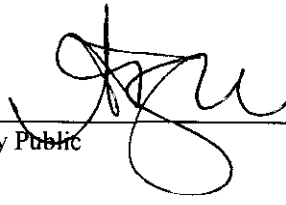
Rick D. Murray, President
Printed Name

STATE OF Minnesota
COUNTY OF Hennepin

Sworn to (or affirmed) and subscribed before me this 22nd day of July, 2004, by Rick D. Murray, President, Residential Development, Inc., a Minnesota corporation, on behalf of the corporation, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

(SEAL)




Notary Public

(Name typed, printed or stamped)

*If more than one owner then all owners must sign. See explanation on back.



THIS INSTRUMENT PREPARED BY
AND RETURNED TO:

PRESTON O. COCKEY, JR., Esquire
PRESTON O. COCKEY, JR., P.A.
201 N. FRANKLIN STREET, SUITE 3410
TAMPA, FL 33602

INSTR # 6424129
OR BK 04417 Pgs 2159 - 2160; (2pgs)
RECORDED 09/02/2004 11:09:21 AM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 18.50
DEED DOC 9,188.00
DEPUTY CLERK L Ambrosio

Parcel ID No.: 10-46-24-01-00040.0000
10-46-24-01-00008.0000
10-46-24-01-00024.0000

TRUSTEE'S DEED

THIS TRUSTEE'S DEED made this 31st day of August, 2004 by DAVID W. SWOR, individually and as Trustee under that Land Trust Agreement dated April 30, 1981, with full power and authority to protect, conserve, sell, lease, encumber or otherwise manage and dispose of the real property described herein ("Grantor"), to, RESIDENTIAL DEVELOPMENT, INC., a Minnesota corporation, whose address is 15 Choctaw Circle, Chanhassen, MN 55317 ("Grantee").

WITNESSETH: That Grantor for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, conveys and confirms unto Grantee all of Grantor's interest in that certain land situate in Lee County, Florida, more particularly described as:

Lots 8, 24, 25, 26 and 40, less and except the Westerly 25 feet of Lot 40, SEMINOLE GARDENS, according to the plat thereof as recorded in Plat Book 4, Page 65, Public Records of Lee County, Florida. (the "Property")

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.

The Property is not the homestead of the Grantor.

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple and that Grantor has good right and lawful authority to sell and convey the Property.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed and sealed the day and year first above written.

Witnesses:

William A. Scanlon
Name: William A. Scanlon

Mary S. Schehr
Name: Mary S. Schehr

David W. Swor
David W. Swor, individually and as Trustee under that Land Trust Agreement dated April 30, 1981

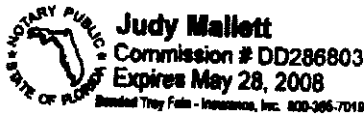
Address: 6000 Forest Boulevard
Ft. Myers, Florida 33908

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 31st day of August, 2004 by David W. Swor, individually and as Trustee under that Land Trust Agreement dated April 30, 1981, to me personally known or who produced as identification.

(Affix Seal)

Judy Mallett
NOTARY PUBLIC
Print Name: Judy MALLETT



348009-1- Swor Trustec's Deed



THIS INSTRUMENT PREPARED BY AND RETURN TO:

Preston O. Cockey, Jr., Esquire
Preston O. Cockey, Jr., P.A.
201 N. Franklin Street
Suite 3410
Tampa, Florida 33602

INSTR # 6424130
OR BK 04417 Pg 2161; (1pg)
RECORDED 09/02/2004 11:09:21 AM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 10.00
DEED DOC 0.70
DEPUTY CLERK L Ambrosio

QUITCLAIM DEED

THIS QUITCLAIM DEED made this 31st day of August, 2004, by **ROBERT M. FIZER**, individually and as Trustee ("Grantor"), to **RESIDENTIAL DEVELOPMENT, INC.**, a Minnesota corporation, whose address is 15 Choctaw Circle, Chanhassen, MN 55317 ("Grantee").

WITNESSETH: That Grantor for and in consideration of the sum of \$10.00 and other valuable consideration, receipt which is hereby acknowledged, remises, releases and quitclaims to Grantee all of Grantor's right, title, and interest in that certain land situate in Lee County, Florida, more particularly described as follows:

Lots 8, 24, 25, 26 and 40, less and except the Westerly 25 feet of Lot 40, SEMINOLE GARDENS, according to the plat thereof as recorded in Plat Book 4, Page 65, Public Records of Lee County, Florida. (the "Property")

The Property is not the homestead of Grantor.

IN WITNESS WHEREOF, Grantor has executed this deed on the day and year above.

Witnesses:

William A. Scanlon
Print Name: William A. Scanlon

Robert M. Fizer, Jr.
Robert M. Fizer, individually and as Trustee

Mary S. Schehr
Print Name: Mary S. Schehr

Address: 1415 Argyle Drive
Ft. Myers, Florida 33919

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30th day of August, 2004, by Robert M. Fizer, individually and as Trustee. He is personally known to me or has produced _____ as identification.

 **Judy Mallett**
Commission # DD286803
Expires May 28, 2008
(Affix Seal) (Notary Public - Insurance, Inc. 800-385-7019)

Judy Mallett
NOTARY PUBLIC
Print Name: Judy MALLETT

550

2214546

This Indenture

Wherever used herein, the term "party" shall include the heirs, personal representatives, successors and assigns of the respective party; herein, the use of the singular number shall include the plural and the plural the singular; the use of any gender shall include all genders, and, if used, the term "sex" shall include all the sexes herein described if more than one.

Made this 14th day of January A. D. 19 87

Between ROBERT S. BARBER and SANDRA K. BARBER, his wife, as the sole General Partners of SKB PARTNERSHIP, a General Partnership,

Lee and State of Florida, of the County of party of the first part.

FRANK W. HELMERICH, II, TRUSTEE
5845 Riverside Lane, Fort Myers, Florida, 33907
Lee and State of Florida, party of the second part.

Witnesseth, that the said party of the first part, for and in consideration of the sum of TEN and 00/100 (\$10.00) Dollars, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the said party of the second part all the right, title interest claim and demand which the said party of the first part has in and to the following described lots, pieces or parcels of land, situate lying and being in the County of Lee State of Florida, to wit:

Lots 9, 10, 11 and 12, SEMINOLE GARDENS, according to the plat thereof, as recorded in Plat Book 4, Page 65, of the Public Records of Lee County, Florida

550
Helmerich

JAN 22 3 54 PM '87

THIS INSTRUMENT PREPARED BY
FRANK W. HELMERICH, II, P.R.
COSTELLO, SIMS & ROYSTON
ATTORNEYS AT LAW
8880 COLLEGE PARKWAY - POST OFFICE DRAWER 6888
FORT MYERS, FLORIDA 33907

To Have and to Hold the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in Our Presence:

Robert S. Barber
Sandra K. Barber
Frank W. Helmerich, II
Judy Riba

SKB PARTNERSHIP, a General Partnership
BY: *Robert S. Barber* L.S.
Robert S. Barber
BY: *Sandra K. Barber* L.S.
Sandra K. Barber
L.S.

State of Florida

County of LEE

I Herby Certify That on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, ROBERT S. BARBER and SANDRA K. BARBER, his wife, as the sole General Partners of SKB PARTNERSHIP, a General Partnership,

to me well known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same freely and voluntarily for the purposes therein expressed.

Witness my hand and official seal at Fort Myers, County of Lee and State of Florida, this 14th day of January, A. D. 1987

Judy Riba

Notary Public: Toby Riba
My Commission Expires [unclear] State of Florida
My Commission Expires [unclear]

VAC2004-00027
LIST OF PROPERTY OWNERS IN CLOSE PROXIMITY TO
PROPOSED RIGHT OF WAY VACATION

10-46-24-08-0000C.0000

South Florida Water Management District
C/O Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, FL 32399

10-46-24-01-00020.0000

Pinnacle Construction of Fort Lauderdale Inc.
3706 N. Ocean Boulevard, Suite 460
Fort Lauderdale, FL 33308

10-46-24-01-00013.0000

Oasis One LLC
301 W. Warner, Ste 134
Tempe, AZ 85284

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA
HOLMES BEACH ♦ PORT CHARLOTTE

August 30, 2004

South Florida Water Management District
C/O Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, FL 32399

**RE: VAC2004-00027 – Petition to Vacate
Notice to Property Owner in Close Proximity**

To Whom It May Concern:

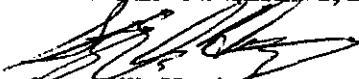
Please accept this letter as notification of a proposed petition to vacate that is currently under review by Lee County Development Services. The proposal is to vacate the public's interest in a portion of a 50 foot road right of way shown on the plat of Seminole Gardens, as recorded in Plat Book 4, Page 65 of the public records of Lee County. Any lots mentioned are referring to this plat.

The portion of the right of way that is proposed to be vacated is that portion adjacent to the west edge of lots 8 and 9 and along the east edge of lots 24 and 25 which measures approximately 660 feet. The northern 1,320 feet of the subject right of way (adjacent to the west line of lots 1 through 4) was vacated by the Board of County Commissioners by resolution no. 02-11-68 on November 26, 2002. The portion of the subject right-of-way that is adjacent to the west line of lots 5 through 7 (Belle Meade Subdivision) was vacated by the Board of County Commissioners on July 27, 2004. Attached is a reduced copy of the plat showing the portion of right-of-way proposed to be vacated in relation to these approvals, a location map reflecting the location of the proposed right of way in relation to notified property owners, a copy of the legal description and sketch of the proposed vacation, and a copy of the list of property owners in close proximity to proposed right of way vacation, as identified by Lee County Community Development.

Should you have any questions or require further information in this regard, please do not hesitate to contact me at (239) 770-2527.

Sincerely,

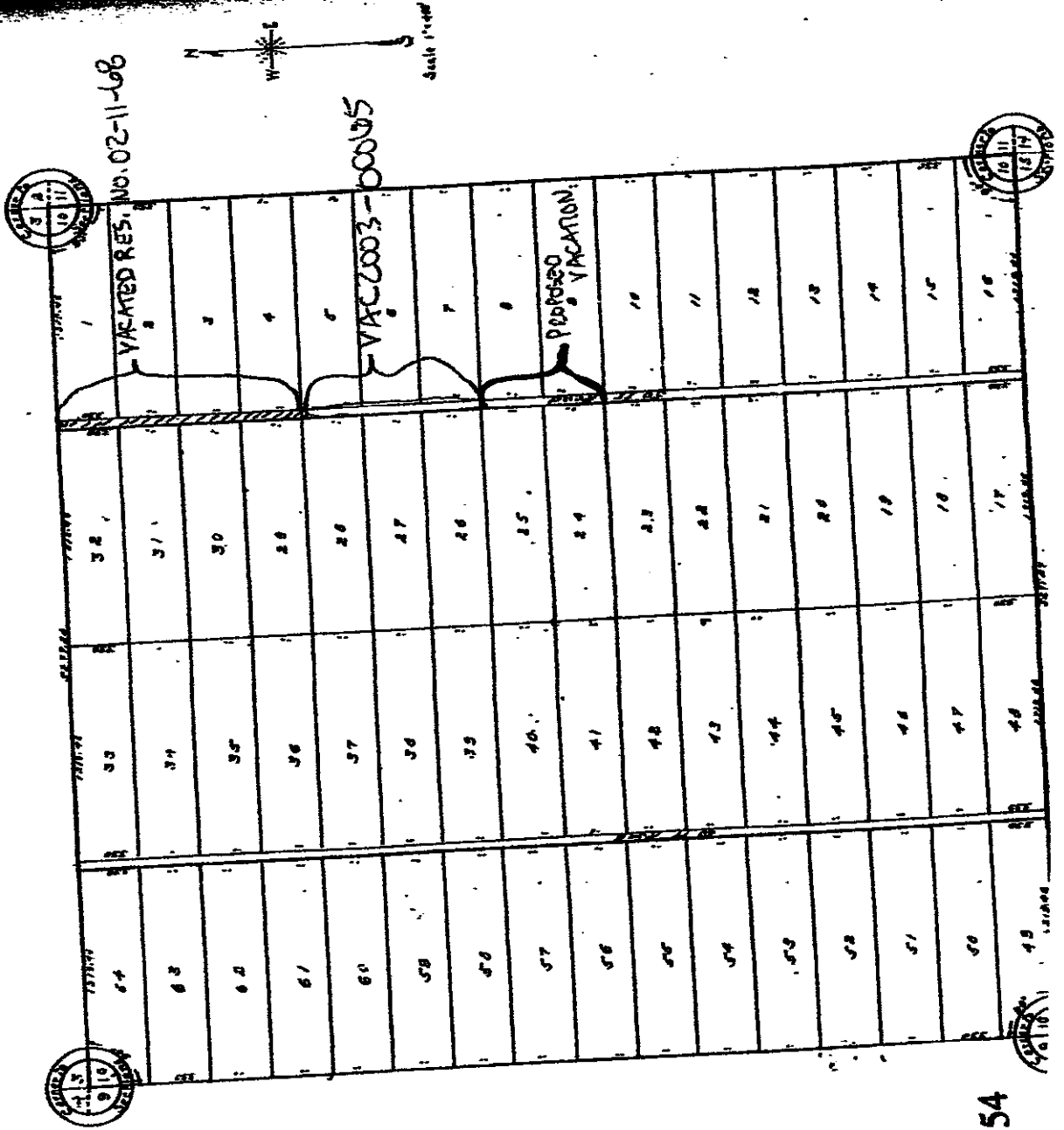
BANKS ENGINEERING, INC.


Stacy Ellis Hewitt
Planner

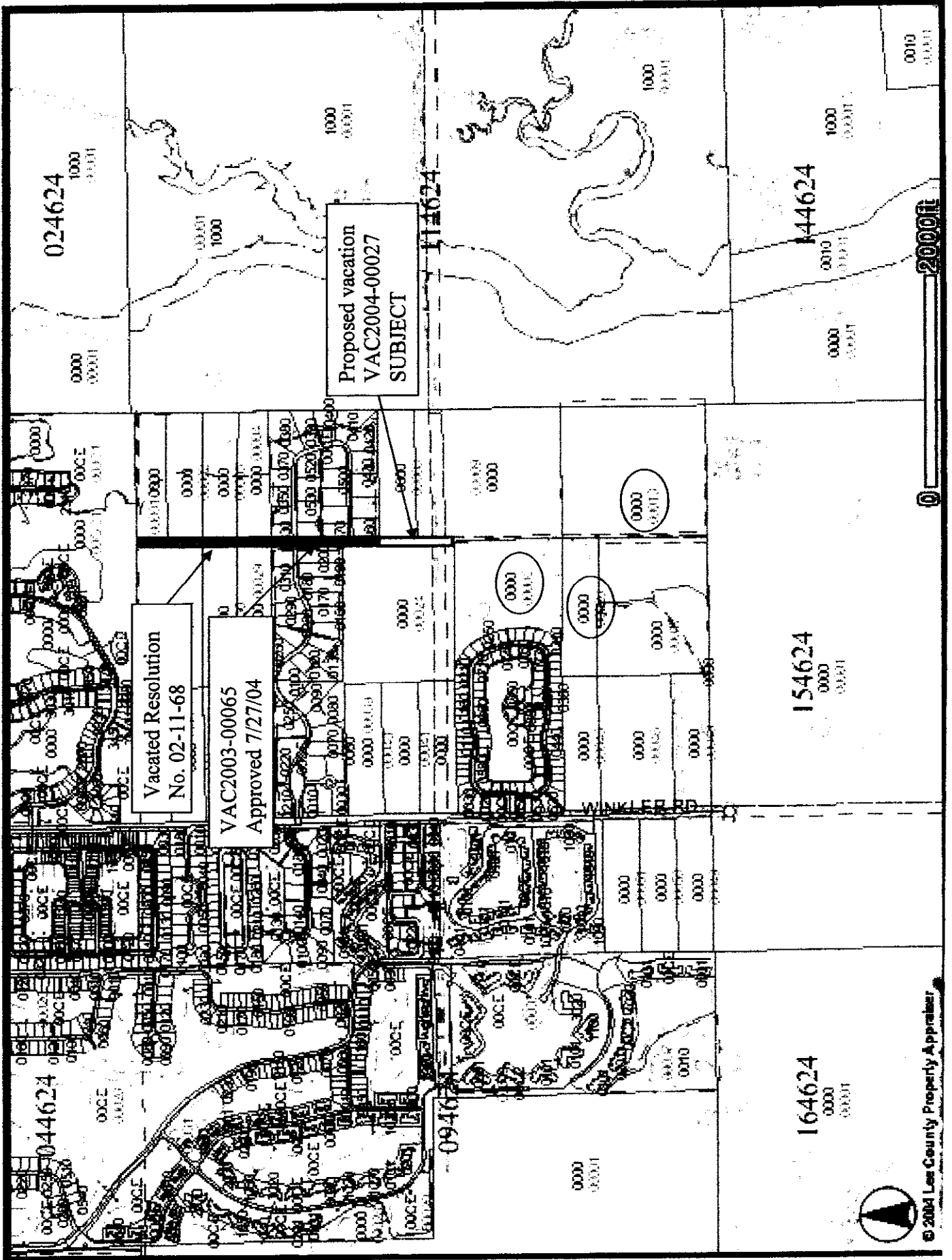
Attachments

SEMINOLE GARDENS.

Being a subdivision of Section 10, Township 20 South of
 Range 24 East, Lee County, Florida.
 ALL LOTS SUBJECT TO THE TERMS, CONDITIONS, AND Covenants



Represents Lee County requested notification parcels



Lanks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF A 50 FOOT ROAD AS SHOWN ON THE PLAT OF SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, AT PAGE 65, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 8 OF SAID SEMINOLE GARDENS; THENCE S.01°14'20"E. ALONG THE WEST LINE OF LOTS 8 AND 9 OF SAID SEMINOLE GARDENS FOR 660.05 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE S.88°44'38"W. FOR 50.00 FEET TO THE SOUTHEAST CORNER OF LOT 24 OF SAID SEMINOLE GARDENS; THENCE N.01°14'20"W. ALONG THE EAST LINE OF LOTS 24 AND 25 OF SAID SEMINOLE GARDENS FOR 660.05 FEET TO THE NORTHEAST CORNER OF SAID LOT 25; THENCE N.88°44'13"E. FOR 50.00 FEET TO THE POINT OF BEGINNING.


SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

SUBJECT TO FACTS THAT MAY BE REVEALED BY AN ACCURATE BOUNDARY SURVEY.

PARCEL CONTAINS 0.76 ACRES MORE OR LESS

ASSUMED NORTH BASED ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEARING N.89°08'49"E.

DESCRIPTION PREPARED: 08-26-2003

 10-1-03

THOMAS R. LEHNERT, JR., P.S.M.
FLORIDA CERTIFICATION NO. 5541

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SHEET 1 OF 2

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA
HOLMES BEACH ♦ PORT CHARLOTTE

August 30, 2004

Pinnacle Construction of Fort Lauderdale Inc.
3706 N. Ocean Boulevard, Suite 460
Fort Lauderdale, FL 33308

**RE: VAC2004-00027 – Petition to Vacate
Notice to Property Owner in Close Proximity**

To Whom It May Concern:

Please accept this letter as notification of a proposed petition to vacate that is currently under review by Lee County Development Services. The proposal is to vacate the public's interest in a portion of a 50 foot road right of way shown on the plat of Seminole Gardens, as recorded in Plat Book 4, Page 65 of the public records of Lee County. Any lots mentioned are referring to this plat.

The portion of the right of way that is proposed to be vacated is that portion adjacent to the west edge of lots 8 and 9 and along the east edge of lots 24 and 25 which measures approximately 660 feet. The northern 1,320 feet of the subject right of way (adjacent to the west line of lots 1 through 4) was vacated by the Board of County Commissioners by resolution no. 02-11-68 on November 26, 2002. The portion of the subject right-of-way that is adjacent to the west line of lots 5 through 7 (Belle Meade Subdivision) was vacated by the Board of County Commissioners on July 27, 2004. Attached is a reduced copy of the plat showing the portion of right-of-way proposed to be vacated in relation to these approvals, a location map reflecting the location of the proposed right of way in relation to notified property owners, a copy of the legal description and sketch of the proposed vacation, and a copy of the list of property owners in close proximity to proposed right of way vacation, as identified by Lee County Community Development.

Should you have any questions or require further information in this regard, please do not hesitate to contact me at (239) 770-2527.

Sincerely,

BANKS ENGINEERING, INC.


Stacy Ellis Hewitt
Planner

Attachments

A 154

48	48	48	48
49	49	49	49
50	50	50	50
51	51	51	51
52	52	52	52
53	53	53	53
54	54	54	54
55	55	55	55
56	56	56	56
57	57	57	57
58	58	58	58
59	59	59	59
60	60	60	60
61	61	61	61
62	62	62	62
63	63	63	63
64	64	64	64

PARCELS
VACATION

VAC-003-0005

VACATED RES. NO. 02-11-68

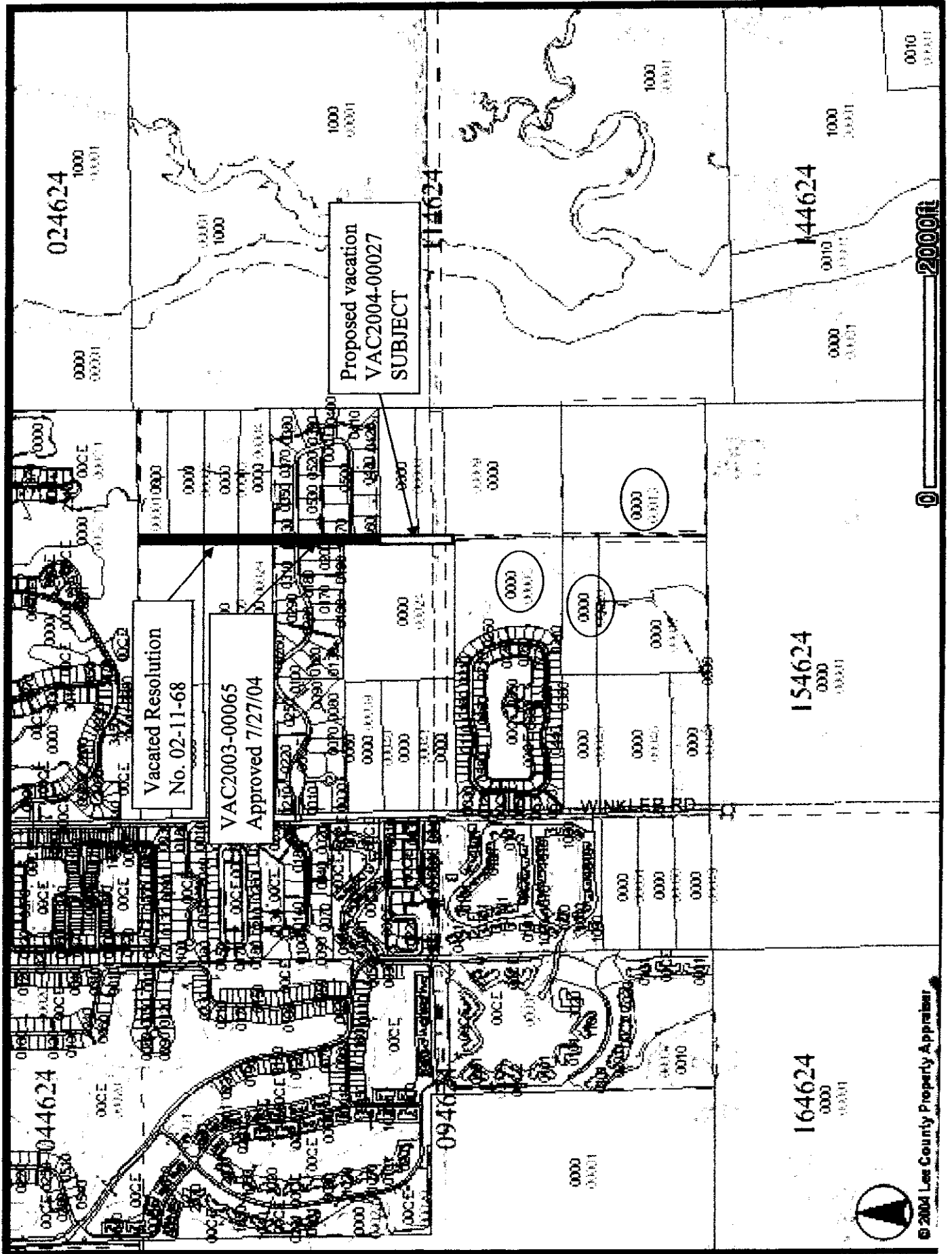


SEMINOLE GARDENS.

Being a subdivision of Section 10, Township 48 South of
 Range 2 East, Lee County, Florida.
 ALL LOTS ARE TO BE 1/4 AC. IN SIZE, 1/4 AC. IN AREA, 1/4 AC. IN AREA.

W. J. ...
 ...

Represents Lee County requested notification parcels



Proposed vacation
VAC2004-00027
SUBJECT

Vacated Resolution
No. 02-11-68

VAC2003-00065
Approved 7/27/04

024624

144624

154624

164624

2000ft



© 2004 Lee County Property Appraiser

Lanks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF A 50 FOOT ROAD AS SHOWN ON THE PLAT OF SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, AT PAGE 65, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

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ASSUMED NORTH BASED ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEARING N.89°08'49"E.

DESCRIPTION PREPARED: 08-26-2003


THOMAS R. LEHNERT, JR., P.S.M.
FLORIDA CERTIFICATION NO. 5541

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S:\Jobs\1637\SURVEYING\DESCRIPTIONS\1637_VAC_DESC_SKT.DWG

SHEET 1 OF 2

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA
HOLMES BEACH ♦ PORT CHARLOTTE

August 30, 2004

Oasis One LLC
301 W. Warner, Ste 134
Tempe, AZ 85284

**RE: VAC2004-00027 – Petition to Vacate
Notice to Property Owner in Close Proximity**

To Whom It May Concern:

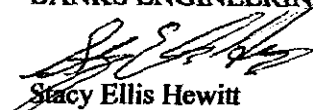
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Sincerely,

BANKS ENGINEERING, INC.


Stacy Ellis Hewitt
Planner

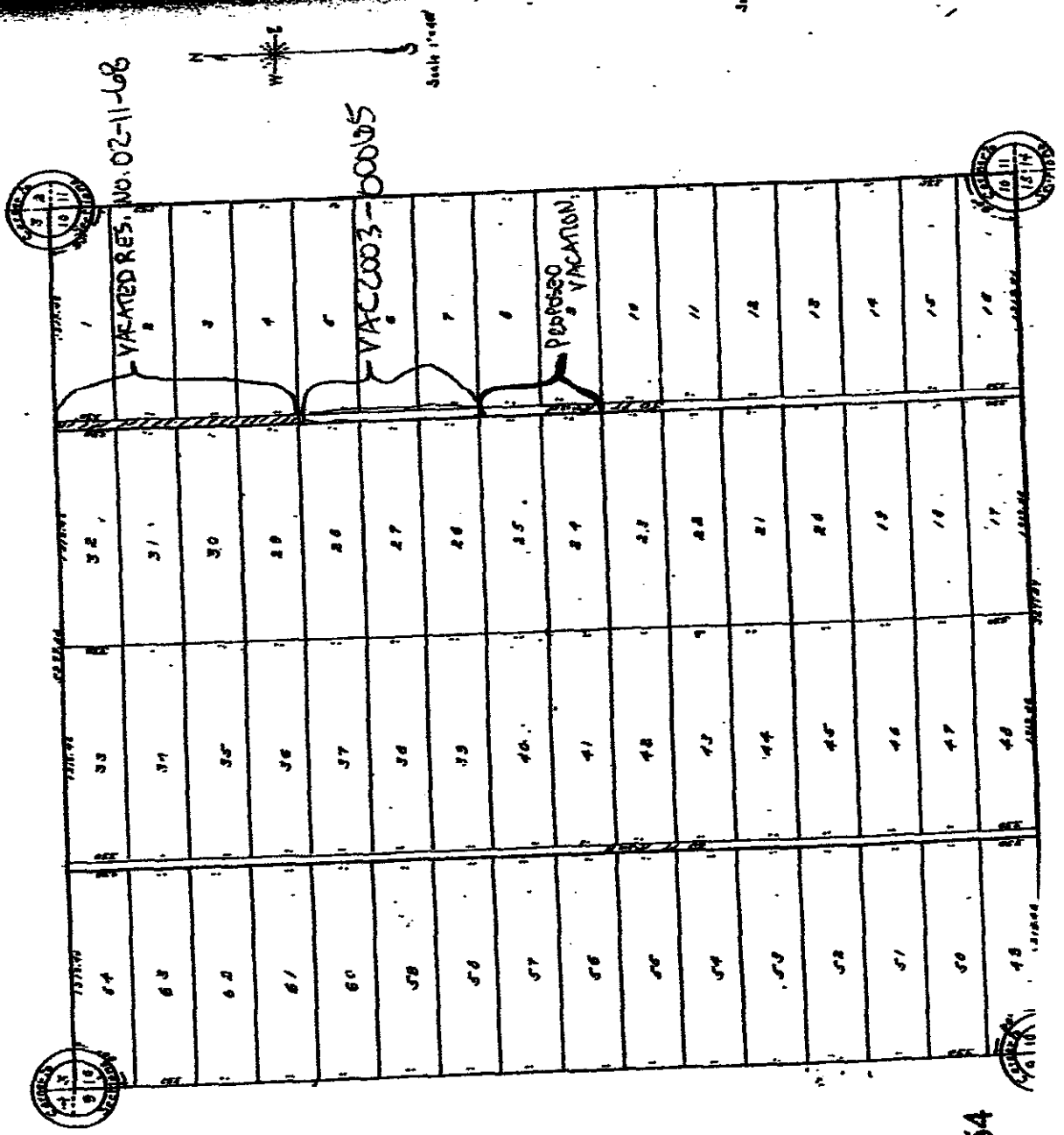
Attachments

24/10/1911
Survey of
Seminole Gardens

65

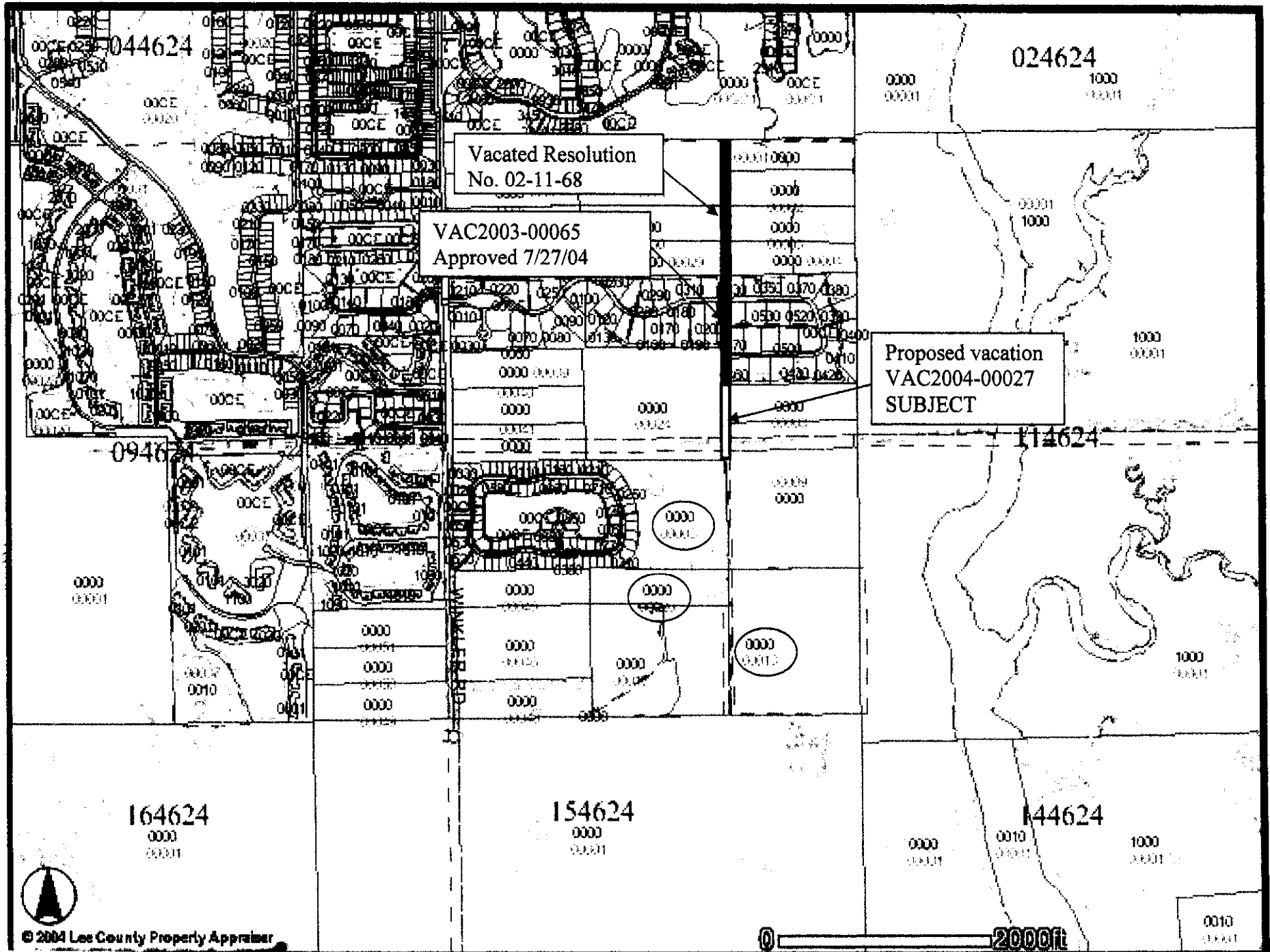
SEMINOLE GARDENS.

Being a subdivision of Section 10, Township 46 South of
Range 24 East, Lee County, Florida.
ALL CORNERS MARKED WITH 1 INCH IRON PIN, 1/2 INCH DIA.



A 154

Represents Lee County requested notification parcels



Danks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
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LYING IN
SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

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DESCRIPTION PREPARED: 08-26-2003


THOMAS R. LEHNERT, JR., P.S.M.
FLORIDA CERTIFICATION NO. 5541

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SHEET 1 OF 2



Florida Power & Light Company
15834 Winkler Road
Fort Myers, FL 33908
(239) 415-1326

September 11, 2003

Ms. Stacy Ellis Hewitt
Banks Engineering, Inc.
10511 Six Mile Cypress Parkway
Suite 101
Fort Myers, FL 33912

RE: PETITION TO VACATE
PORTION OF 50' ROW IN SEMINOLE GARDENS (PB 4 PG 65)
(SOUTH OF BROOK HOLLOW LANE)

Dear Ms. Hewitt:

I have reviewed the petition to vacate the above mentioned ROW as described in the attached pages and offer the following.

Florida Power & Light Company has "No Objection) to the vacating of said right of way. We neither have any facilities within the road right of way nor do we have any plans to install any.

If you have any questions, please feel free to call me at (239) 415-1326.

Yours truly,

A handwritten signature in black ink that reads "John W. Hahn".

John W. Hahn
Senior System Project Manager

Attachments

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

September 5, 2003

Mr. Nathan Sederstrom
Florida Power & Light
15834 Winkler Road
Fort Myers, FL 33908

RE: Petition to Vacate – Request for Letter of Review and Recommendation
Portion of 50' ROW in Seminole Gardens (PB 4 PG 65)
(South of Brook Hollow Lane)

Dear Mr. Sederstrom:

Please accept this letter as a request for a letter of review and recommendation for a petition to vacate for the above referenced project. The portion of right-of-way that the applicant proposes to vacate dissects the Banyan Bay RPD (DCI2003-00052). The applicant is proposing to vacate an approximately 1,650 foot long portion of the 50' road right-of-way adjacent to the west edge of lots 8 through 12 and along the east edge of lots 21 through 25, Seminole Gardens, Plat Book 4, Page 65, Lee County Public Records. The right-of-way adjacent to the west line of lots 1 – 4 was vacated by the Board of County Commissioners by Resolution No. 02-11-68 on November 26, 2002. I have attached a reduced copy of the draft proposed master concept plan for Banyan Bay RPD, a reduced copy of the plat showing the portion of right-of-way to be vacated, and a survey of the subject property for your review.

Belle Meade Subdivision (Plat Book 55, Pages 47-50) lies to the north of the subject property and does not require access to the right-of-way that the applicant proposes to vacate. The portion of Southwind Subdivision (Plat Book 66, Pages 18-20) that abuts the right-of-way that the applicant proposes to vacate is designated as a preserve area and does not require access.

Please forward your letter of review and recommendation to my attention at your earliest convenience. Should you have any questions or require further information in this regard, please do not hesitate to contact me at (239) 368-5577 or (239) 770-2527. Thank you for your kind consideration.

Sincerely,

BANKS ENGINEERING, INC.



Stacy Ellis Hewitt
Permitting Technician

Attachments

A 154

49	48	47	46	45	44	43	42	41	40	39	38	37	36	35	34	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1
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REPOSED VACATION

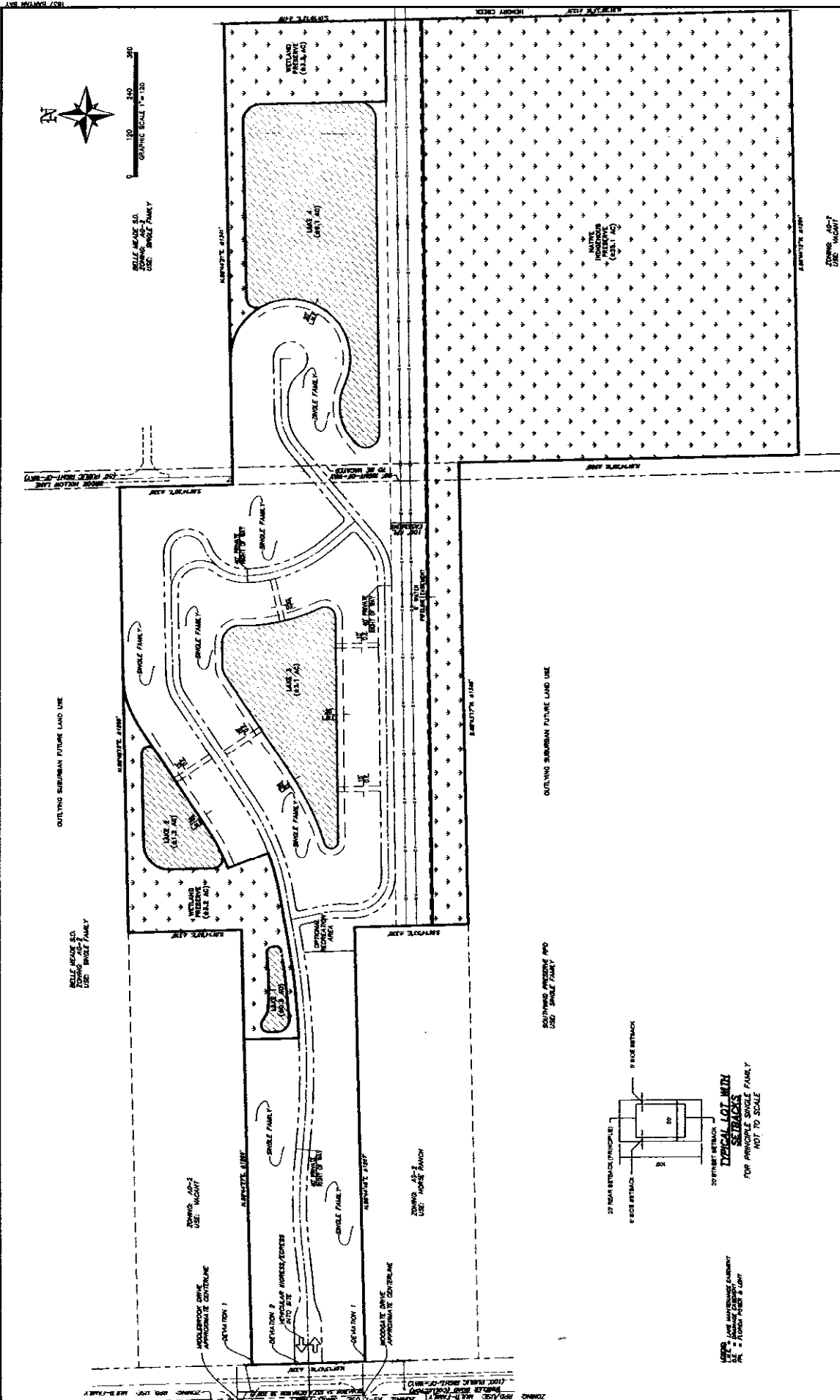
VACATED RES. NO. 02-11-68



SEMINOLE GARDENS.

Being a subdivision of Section 10, Township 46 South of
 Range 24 East, Lee County, Florida.
 ALL CORNERS MARKED WITH 1 INCH IRON PEG, 1/2 IN. WIDE, PLATE CORNERS.

W. J. ...
 by ...
 1968



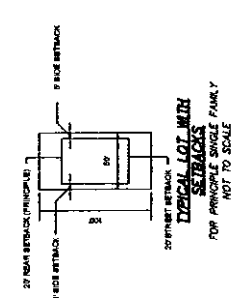
PREPARED BY:
RESIDENTIAL DEVELOPMENT, INC.
 15 CHERRY CREEK
 CHANDLER, IN 47817

PREPARED FOR:
Starkus Engineering, Inc.
 Professional Engineers, Planners & Land Surveyors
 1011 W. 11th Street, Suite 101
 Panama City, Florida 32381
 Phone: (904) 932-1111
 FAX: (904) 932-1112

DATE: 07/21/03
 PROJECT: 1437
 DRAWING: 010
 SHEET: 1 OF 1
 SCALE: 1" = 100'
 DATE OF PLAN: 07-24-03
 18-44-24

MASTER CONCEPT PLAN
BANYAN BAY
 LEE COUNTY, FLORIDA

ZONING: RD-7
 USE: HIGHWAY



NOTES:
 1. SEE MASTER PLAN SHEET 010 FOR LOT LAYOUT.
 2. SEE MASTER PLAN SHEET 010 FOR LOT LAYOUT.
 3. SEE MASTER PLAN SHEET 010 FOR LOT LAYOUT.



P. O. Box 370
Fort Myers, FL 33902-0370

September 15, 2003

Banks Engineering, Inc.
10511 Six Mile Cypress Parkway, Suite 101
Fort Myers, Florida 33912

Attn: Stacy Ellis Hewitt

RE: Vacation of a Portion of 50' ROW in Seminole Gardens (PB 4 PG 65)
(South of Brook Hollow Lane)

Sprint-Florida Incorporated has reviewed the plans for the above referenced proposal. Based on the review of the request, we do not have any objections to the vacation of the 1,650' portion of 50' right-of-way adjacent to the west edge of lots 8 through 12 and along the east edge of lots 21 through 25, Seminole Gardens, Plat Book 4, Page 65 in the Lee County Records.

If you should have any questions or require additional information, please give me a call at (239) 336-2030.

Sincerely,
Sprint-Florida Incorporated

A handwritten signature in cursive script that reads "Jack H. Mitchell".

Jack H. Mitchell
Network Engineer I

cc: File

2931 Michigan Avenue
Fort Myers, Florida 33916
Phone 941-334-8828
Fax 941-334-8575



September 19, 2003

Banks Engineering, Inc
C/O Stacy Ellis Hewitt
10511 Six Mile Cypress Pkwy #101
Ft Myers, FL 33912

Re: Request for a Letter of Review and Recommendation on a Proposed
Easement Vacation of the Following Location: Portion of 50' ROW in
Seminole Gardens (PB 4 PG 65) South of Brook Hollow Lane.

Dear Stacy Ellis Hewitt,

Comcast has no existing utilities in the above referenced location and has no
objection with the vacation of the above referenced utility easement.

If you need any further information please do not hesitate to contact me at
(239) 732-3865.

Sincerely

A handwritten signature in black ink, appearing to read "Lucia Vera".

Lucia Vera
Design Coordinator



October 2, 2003

Ms. Stacy Ellis Hewitt
Banks Engineering, Inc.
10511 Six Mile Cypress
Suite 101
Fort Myers, Fla. 33912

RE: Vacation of right-of-way
Portion of 50' ROW in Seminole Gardens (PB 4. Page 65)

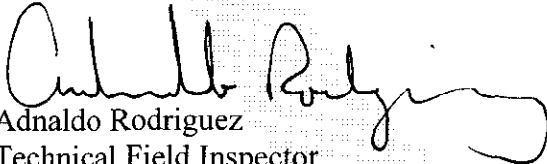
Dear Ms. Hewitt

We are in receipt of your prints for the above listed vacation of right-of way. At this time, Time Warner Cable has no facilities in this area and no future build is anticipated. Time Warner Cable has **NO CONFLICT** with this proposed construction.

If you have any further questions or concern, please do not hesitate to contact me at (239) 772-2218, Ext. 120.

Sincerely,

TIME WARNER CABLE


Adnaldo Rodriguez
Technical Field Inspector

AR/sgs

AmeriGas

America's Propane Company

October 13, 2003

Banks Engineering Inc.
10511 Six Mile Cypress Parkway
Fort Myers, Florida 33912
Attn: Stacy Ellis Hewitt

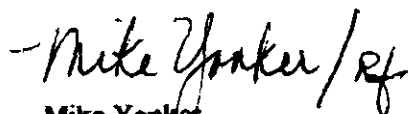
Dear Ms. Hewitt

In reference to your letter dated September 5, 2003 AmeriGas has no interest on right of way on the following parcel(s):

STRAP NO.: 10-46-24-01-00008.0000
STRAP NO.: 10-46-24-01-00009.0000
STRAP NO.: 10-46-24-01-00024.0000
STRAP NO.: 10-46-24-01-00040.0000

Please feel free to contact me at 941-334-2849, should you have further questions.

Sincerely,



Mike Yonker
Sales & Service Manager



LEE COUNTY
SOUTHWEST FLORIDA

(941)479-8531

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: _____

September 9, 2003

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stillwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

Stacy Ellis Hewitt
Banks Engineering, Inc.
10511 Six Mile Cypress Pkwy., Suite 101
Fort Myers, FL 33912

**SUBJECT: PETITION TO VACATE PORTION OF PLATTED RIGHT-OF WAY - SEMINOLE GARDENS
STRAP #S: 10-46-24-01-00024.0000, 00040.0000, .00008.0000 & 00009.0000
BANYAN BAY RPD**

Dear Ms. Hewitt:

Lee County Utilities is in receipt of your letter and associated attachments concerning the Petition to Vacate portions of the existing right-of-way located within the above mentioned parcels as recorded in Plat Book 4, Page 65 of Lee County Public Records. Lee County Utilities has reviewed your request and currently has **NO OBJECTION** to the proposed vacation.

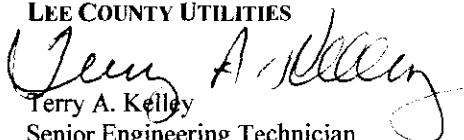
However, please be advised that record drawings indicate that Lee County Utilities owns and maintains potable water facilities within or near the portion of right-of-way to be vacated. Lee County Utilities' position of '**NO OBJECTION**' is based in part, on the belief that those facilities are located within separate, existing recorded Florida Cities Water Company/Lee County Utilities' easements.

These existing recorded easements are to remain intact including but not limited to the following: Exclusive & Perpetual Water Pipeline Easement Grant as recorded in O.R. Book 1630, Pages 1898-99 of Lee County Public Records, Exclusive & Perpetual Water Pipeline Easement Grant as recorded in O.R. Book 1630, Pages 1900-01 of Lee County Public Records, Exclusive & Perpetual Water Pipeline Easement Grant as recorded in O.R. Book 1630, Pages 1902-03 of Lee County Public Records, Exclusive & Perpetual Water Pipeline Easement Grant as recorded in O.R. Book 1656, Pages 1124-26 of Lee County Public Records and Exclusive & Perpetual Water Pipeline Easement Grant as recorded in O.R. Book 1659, Pages 3157-59 of Lee County Public Records.

If you should have any questions, or require further assistance, please do not hesitate to contact our office at 479-8531.

Sincerely,

LEE COUNTY UTILITIES


Terry A. Kelley
Senior Engineering Technician
Utilities Engineering Division

VIA FACSIMILE #(239)368-5577
ORIGINAL MAILED 09/09/03

cc: Correspondence File
Margaret Lawson, Lee County DOT



LEE COUNTY
SOUTHWEST FLORIDA

239-479-8585

BOARD OF COUNTY COMMISSIONERS
September 4, 2004

Writer's Direct Dial Number: _____

Bob Janes
District One

Ms. Stacy Ellis Hewitt
Banks Engineering, Inc.,
10511 Six Mile Cypress Parkway,
Suite 101,
Fort Myers, FL 33912

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

Re: **VAC2004-00027 - Petition to Vacate** the Public's Interest in a portion of a 50-foot Right-A-Way between the east line of Lots 24 & 25, and west line of Lots 8 & 9 on South of Brook Hollow Lane in Seminole Gardens (PB 4, Pg 65)

John E. Albion
District Five

Donald D. Stilwell
County Manager

Dear Ms. Hewitt:

James G. Yaeger
County Attorney

This office has received your request to vacate the above referenced portion of the above described non-county Road right-of-way as shown on the plat of Seminole Gardens for the development of a residential project known as Banyan Bay. The portion of Right-of-Way that your clients proposed to vacate bisects the Banyan Bay RPD (Zoning Case No. DCI2003-00052, Resolution No. Z-04-001) which was approved by the Board of County Commissioners on Monday, August 2, 2004. Based on a review of the information provided and our subsequent research, this office has no objection to the proposed vacation.

Diana M. Parker
County Hearing Examiner

You and your clients should be aware, however that the Board of County Commissioner's approval of this petition will only extinguish the rights of the public to use the right-of-way. Private rights of use may still remain. This means that certification of fee ownership in the area being vacated will be required prior to issuance of any building permit(s) within that area of the easement as it presently exists, occupied or otherwise.

Should you have any questions, please call me at the above telephone number.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Peter J. Eckenrode
Director

PJE/RSK

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LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (941) 479-8124

Tuesday, October 07, 2003

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

Ms. Stacy Ellis Hewitt
Banks Engineering, Inc.
10511 Six Mile Cypress Parkway Suite 101
Fort Myers, FL 33907

Re: Petition to Vacate a portion of a fifty (50) foot wide right of way in
Seminole Gardens Subdivision, as recorded in Plat Book 04 Page 65, in
the public records, Lee County, Florida.

Dear Ms. Hewitt:

Based on the review of the documents submitted with your request, Lee County
Division of Natural Resources has no objection to the vacation of the subject
right of way.

Should you have any questions, please call me at the above telephone number.

Regards,

LEE COUNTY PUBLIC WORKS DEPARTMENT

Allen L. Davies, Jr.
Natural Resources Division

-cc: Don Blackburn, Development Services
Joan Henry, County Attorney's Office
Margaret Lawson, LCDOT
Roland Ottolini, P.E., NRD

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 **LEE COUNTY**
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: 479-8580

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

October 21, 2003

Ms. Stacy Ellis Hewitt
Banks Engineering, Inc.
10511 Six Mile Cypress Pkwy., Suite 101
Fort Myers, FL 33912

RE: Petition to Vacate road right-of-way adjacent
To the west edge of Lots 8 through 12, and the
East edge of Lots 21 through 25, Seminole Gardens

Dear Ms. Hewitt:

Lee County Department of Transportation has reviewed your request to vacate the above described road right-of-way recorded in Plat Book 4, page 65. DOT does not maintain the right-of-way nor does it contain DOT facilities.

Therefore, DOT offers no objection to this petition to vacate as proposed.

Yours very truly,

DEPARTMENT OF TRANSPORTATION


Margaret Lawson
Right-of-way Supervisor

MAL/mlb

cc: Don Blackburn, Development Services
Allen Davies, Natural Resources
DOT PTV File

S:\DOCUMENT\Petition To Vacate\2003\Seminole Gardens - Hewitt.doc



Florida Department of Transportation

JEB BUSH
GOVERNOR

801 North Broadway Avenue
Bartow, Florida 33830

JOSE ABREU
SECRETARY

September 23, 2003

Banks Engineering, Inc.
Attn: Stacy Ellis Hewitt
6640 Willow Park Drive, Suite B
Naples, Florida 34109

RE: Vacation of Right of Way

Dear Mrs. Hewitt:

In response to your letter we received on September 15, 2003 our staff has conducted a review of your request to vacate the subject area as marked and generally described as: That portion of Right of Way 50' wide by approximately 1,650' long, adjacent to the west edge of Lots 8 thru 12 and along the east edge of Lots 21 thru 25, Seminole Gardens, lying within Section 10, Township 46 South, Range 24 East, per Plat Book 4, Page 65 of Lee County, Florida and highlighted in the Master Concept Plan of Banyan Bay.

Based on this review, we offer "No Objections" to this vacation request.

Sincerely,

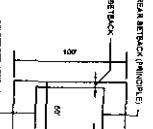
Gerald W. Strouse,
Property Management Administrator

GWS/bit

cc: Scott Gilbertson, P.E. – Lee County
Peter J. Eckenrode – Lee County
Mike Rippe – FDOT
Tom Garcia - FDOT

ZONING: RPD/USE MULTI-FAMILY ZONING: RS-1 USE SINGLE-FAMILY
 PUBLIC RIGHT-OF-WAY
 (100' PUBLIC RIGHT-OF-WAY)

LEGEND
 1. 2' SIDE SETBACK FROM EXISTING LOT BOUNDARY
 2. 10' SIDE SETBACK FROM EXISTING LOT BOUNDARY
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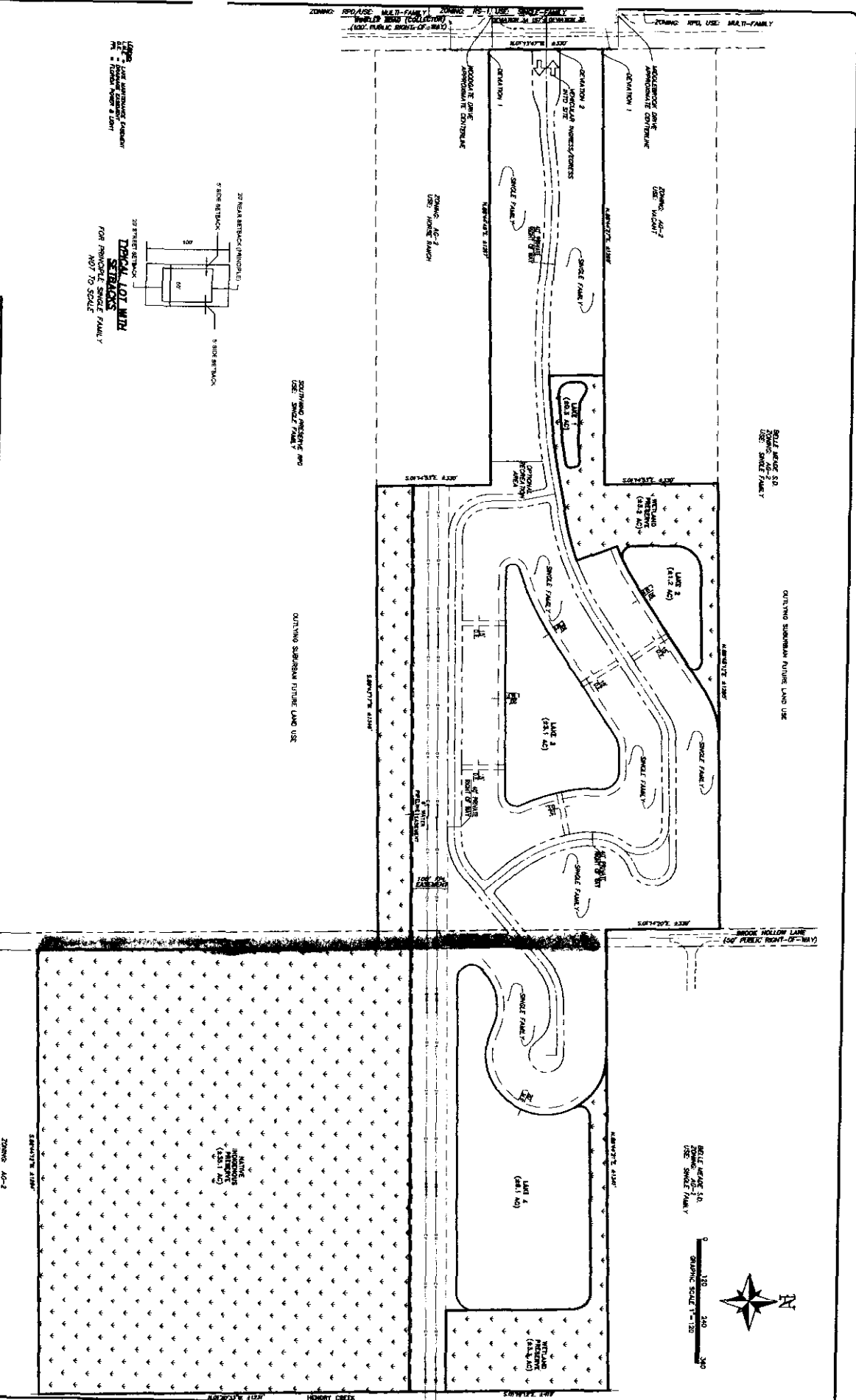


RESIDENTIAL DEVELOPMENT, INC.
 15000 W. BAYVIEW BLVD.
 SUITE 100
 MIAMI, FL 33147

NO.	DATE	DESCRIPTION
1	07/21/03	1. PRELIMINARY PLAN
2	08/15/03	2. REVISIONS TO PRELIMINARY PLAN
3	09/05/03	3. FINAL PLAN

Martha Engineering, Inc.
 11111 NW 22nd Avenue, Suite 101
 Miami, FL 33187
 Phone: (305) 551-1111
 Fax: (305) 551-1112
 Email: info@marthaeng.com

DATE	07/21/03	PROJECT	1837	OWNER	RESIDENTIAL DEVELOPMENT, INC.	SCALE	AS SHOWN	DATE	07/21/03	BY	JL	DATE	07/21/03	BY	JL
<p>MASTER CONCEPT PLAN BANYAN BAY LEE COUNTY, FLORIDA</p>															
DATE	07/21/03	PROJECT	1837	OWNER	RESIDENTIAL DEVELOPMENT, INC.	SCALE	AS SHOWN	DATE	07/21/03	BY	JL	DATE	07/21/03	BY	JL



SCALE: GRAPHIC SCALE 1"=100'
 0 100 200 300

**RESOLUTION NO. _____ TO SET PUBLIC HEARING
FOR PETITION TO VACATE** Case Number: VAC2004-00027

WHEREAS, a Petition to Vacate was filed with the Board of County Commissioners;
and

WHEREAS, the Petitioner seeks to abandon, discontinue, close or vacate a portion
of a plat, easement, parcel or right-of-way legally described in the attached Exhibit "A".

WHEREAS, under Florida Statute and the Lee County Administrative Code, the
Board must hold a Public Hearing in order to grant a vacation affecting a public easement,
public right-of-way or platted lands.

BE IT THEREFORE RESOLVED by the Board of County Commissioners of Lee
County, Florida, as follows:

1. A Public Hearing on Petition to Vacate No. VAC2004-00027 is set for the
_____ in the Lee County Commission Chambers.
2. A Notice of Public Hearing on this Petition to Vacate will be published in
accordance with the Lee County Administrative Code.

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

Deputy Clerk Signature

BOARD OF COUNTY
COMMISSIONERS OF
LEE COUNTY, FLORIDA

Chairman Signature

Please Print Name

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF A 50 FOOT ROAD AS SHOWN ON THE PLAT OF SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, AT PAGE 65, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 8 OF SAID SEMINOLE GARDENS; THENCE S.01°14'20"E. ALONG THE WEST LINE OF LOTS 8 AND 9 OF SAID SEMINOLE GARDENS FOR 660.05 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE S.88°44'38"W. FOR 50.00 FEET TO THE SOUTHEAST CORNER OF LOT 24 OF SAID SEMINOLE GARDENS; THENCE N.01°14'20"W. ALONG THE EAST LINE OF LOTS 24 AND 25 OF SAID SEMINOLE GARDENS FOR 660.05 FEET TO THE NORTHEAST CORNER OF SAID LOT 25; THENCE N.88°44'13"E. FOR 50.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 0.76 ACRES MORE OR LESS

ASSUMED NORTH BASED ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEARING N.89°08'49"E.

DESCRIPTION PREPARED: 08-26-2003

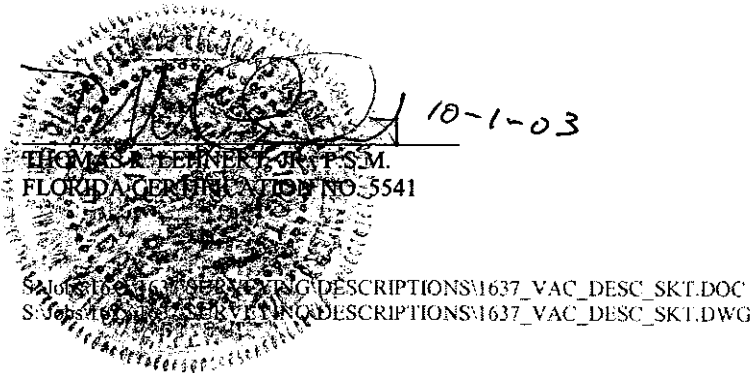


Exhibit "A"
Petition to Vacate
VAC2004-00027
[Page One of One]

NOTICE OF PUBLIC HEARING FOR PETITION TO VACATE

Case Number: VAC2004-00027

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that on the 23rd day of November 2004 @ 5:00 PM in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider and take action on a Petition vacating, abandoning, closing and discontinuing the public's interest in the right-of-way or portion of a right-of-way, as well as the easement, plat or portion of a plat legally described in the attached Exhibit "A"

Interested parties may appear in person or through a representative and be heard with respect to the Petition to Vacate.

Anyone wishing to appeal the decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

A copy of the Petition to Vacate is on file in the Office of the Clerk of the Circuit Court of Lee County, Florida, Minutes Department, Room 200, 2115 Second Street, Fort Myers, Florida, 33902-0398.

CHARLIE GREEN, CLERK

Deputy Clerk Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF A 50 FOOT ROAD AS SHOWN ON THE PLAT OF SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, AT PAGE 65, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

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PARCEL CONTAINS 0.76 ACRES MORE OR LESS

ASSUMED NORTH BASED ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEARING N.89°08'49"E.

DESCRIPTION PREPARED: 08-26-2003

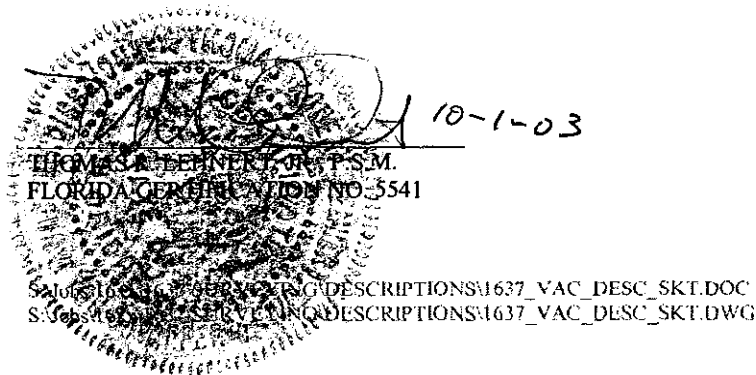


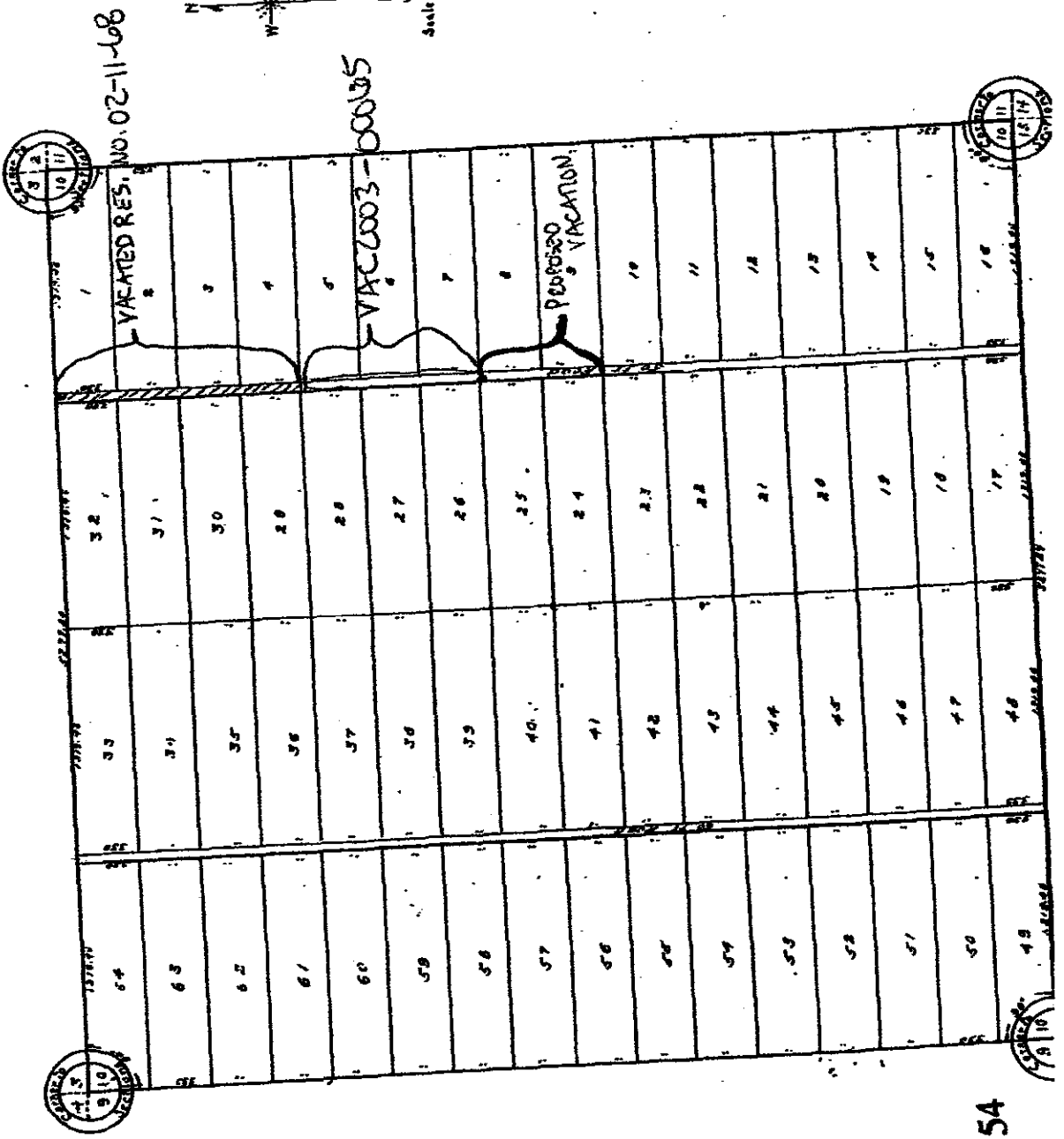
Exhibit "A"
Petition to Vacate
VAC2004-00027
[Page One of One]

24 (Copy of Survey of 1892)

65

SEMINOLE GARDENS.

Being a subdivision of Section 10, Township 48 South of
Range 40 East, Lee County, Florida.
all corners marked with 1 inch iron pins, 1/4 inch diameter, unless shown



A 154

Banks Engineering, Inc.

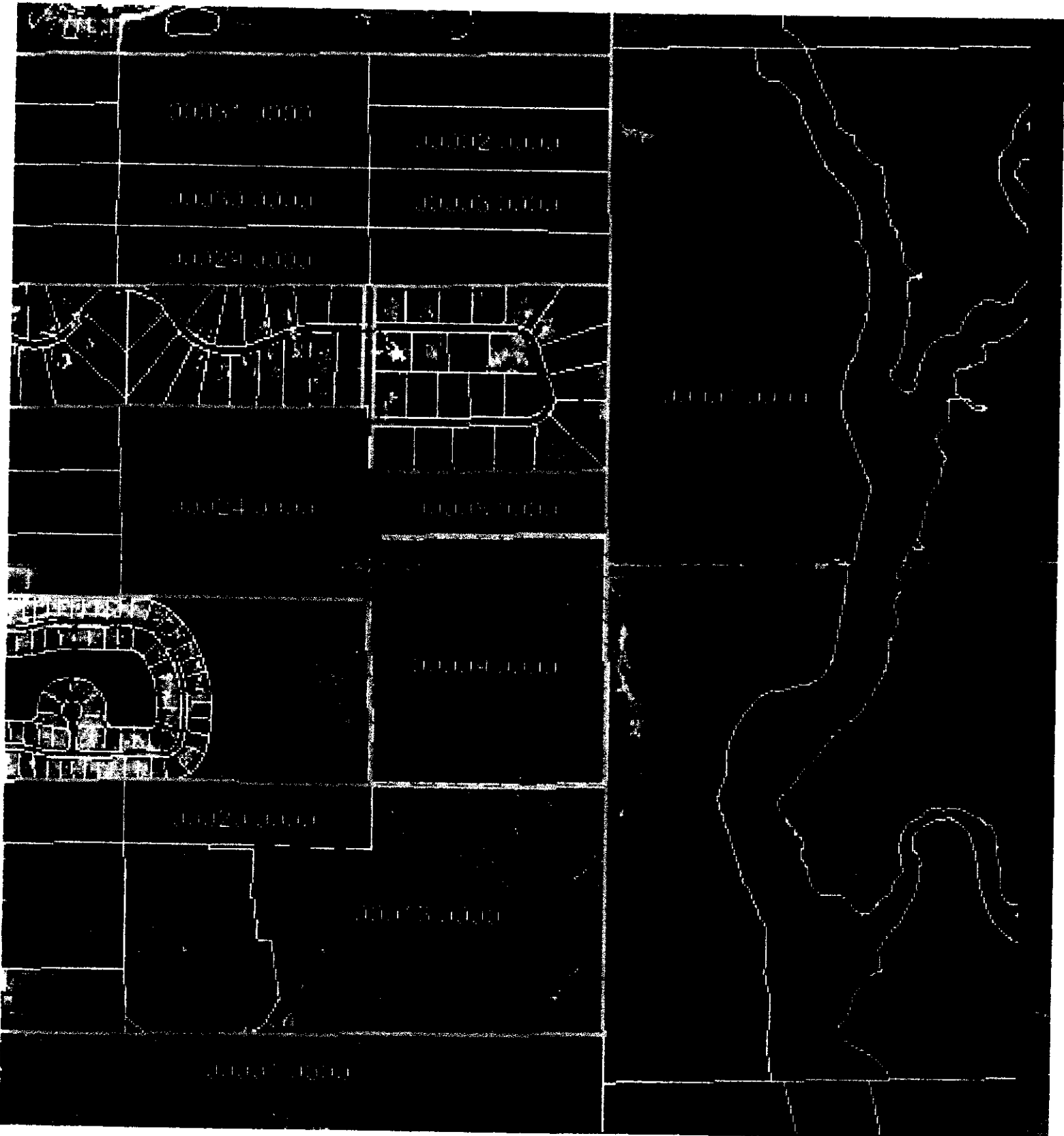
Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA
HOLMES BEACH ♦ PORT CHARLOTTE


Narrative Description of Request

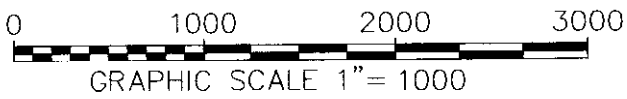
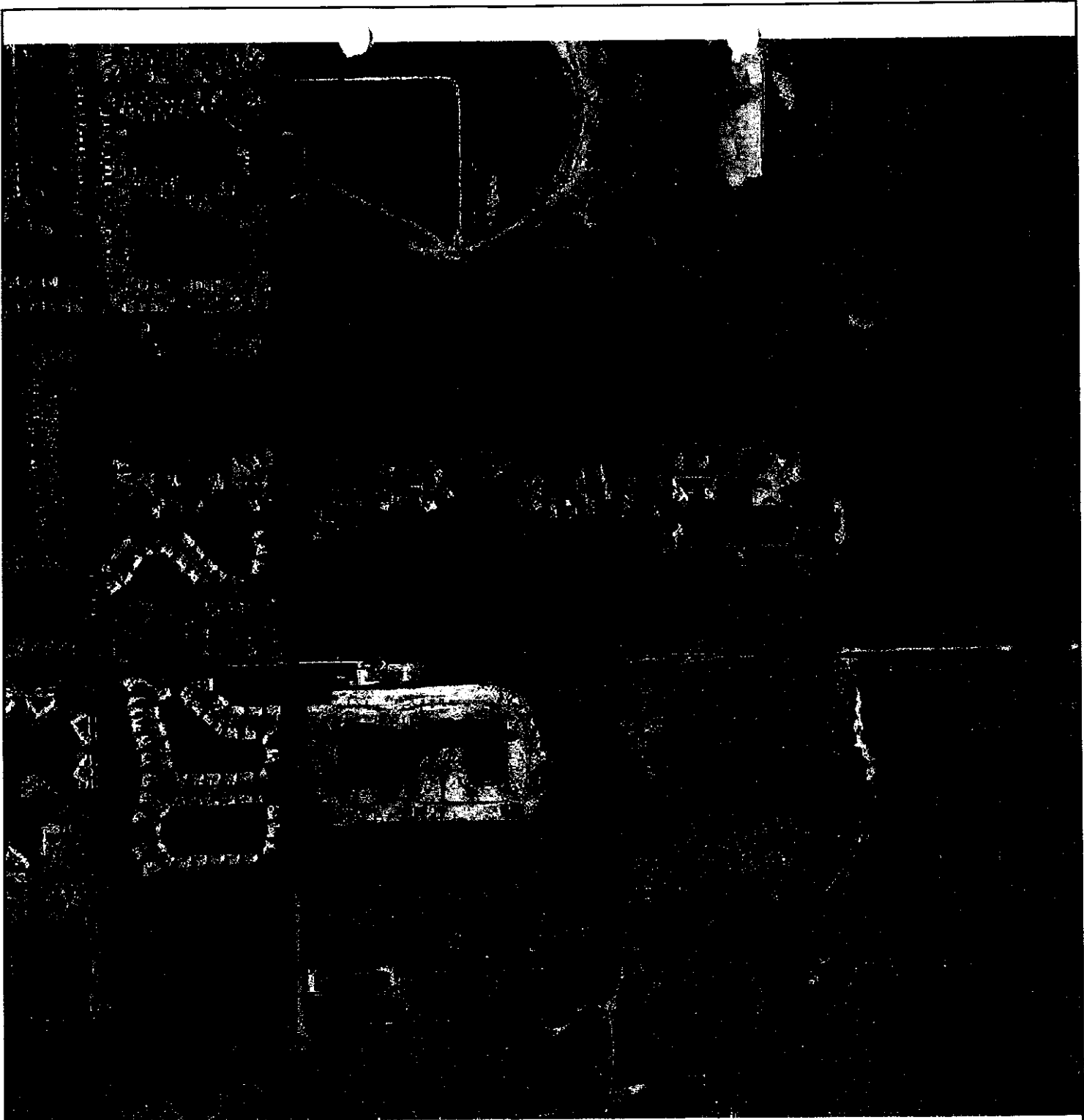
VAC2004-00027

The applicant has submitted a Petition to Vacate the public's interest in a portion of a 50-foot right-of-way adjacent to the west edge of lots 8 and 9 and along the east edge of lots 24 and 25, Seminole Gardens, Plat Book 4, Page 65, Lee County Public Records (approximately 660 feet in length). The portion of right-of-way that the applicant proposes to vacate dissects the Banyan Bay RPD (Zoning Case No. DCI2003-00052, Resolution No. Z-04-001) which was approved by the Board of County Commissioners on Monday, August 2, 2004. The proposed vacation is necessary for the development of the approved master concept plan. The vacation will not alter traffic conditions, and the road is not necessary to accommodate any future traffic requirements. There are no objections to this petition to vacate.

The portion of the subject right-of-way that is adjacent to the west line of lots 1 through 4 was vacated by the Board of County Commissioners by Resolution No. 02-11-68 on November 26, 2002. The portion of the subject right-of-way that is adjacent to the west line of lots 5 through 7 was vacated by the Board of County Commissioners on July 27, 2004. Attached is a reduced copy of the approved master concept plan for Banyan Bay RPD and a reduced copy of the plat showing the portion of right-of-way to be vacated.



 = PROPOSED VACATION



Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
 FORT MYERS ♦ NAPLES ♦ SARASOTA
 10511 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 PHONE: (239) 939-5490 FAX: (239) 939-2523
 ENGINEERING LICENSE # EB 6469
 SURVEY LICENSE # LB 6690

AREA LOCATION MAP & AERIAL PHOTOGRAPH
BANYAN BAY ROW VACATION
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
10/25/03	1637	AER	SEH	SEH	TRL	1"=1000'	1	1	SECTION 10 F-46-S - R-24-E