

1. **REQUESTED MOTION:**

ACTION REQUESTED: Conduct a Public Hearing to adopt a Resolution on 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, (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: Vacates the right-of-way.

2. **DEPARTMENTAL CATEGORY:**
COMMISSION DISTRICT #: 3

5:00 #1

3. **MEETING DATE:**

11-23-2004

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:

11/02/04

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 the 23rd day of November, 2004**. 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 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				G County Manager
					OA	OM	Risk	GC	
<i>[Signature]</i>	N/A	N/A	N/A	<i>[Signature]</i>	<i>[Signature]</i> 11/4/04	<i>[Signature]</i> 11/4/04	<i>[Signature]</i>	<i>[Signature]</i> 11/2/04	<i>[Signature]</i>

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 11/2/04
Time: 4:10 PM
Forwarded To:

RECEIVED BY
COUNTY ADMIN:
11/4/04
2:10 pm SLT
COUNTY ADMIN
FORWARDED TO:
11-4-04 - 4/11

11/4/04 2:11

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: VAC2004-00027

WHEREAS, Petitioners Residential Development, Inc., a Minnesota Corporation, and Frank W. Helmerich II, Trustee 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 _____; 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. VAC2004-00027 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

Deputy Clerk Signature

Please Print Name

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

Chairman 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:

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

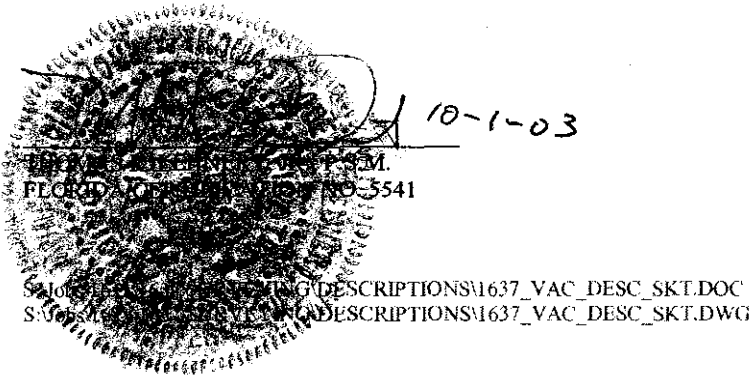


Exhibit "A"
Petition to Vacate
VAC2004-00027
[Page One of One]

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
 FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690
 10511 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 (889) 930-5490

BELLE MEADE SUBDIVISION (PB. 55, PG. 47)

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 RECORDS BOOK
- D.B. INDICATES DEED BOOK

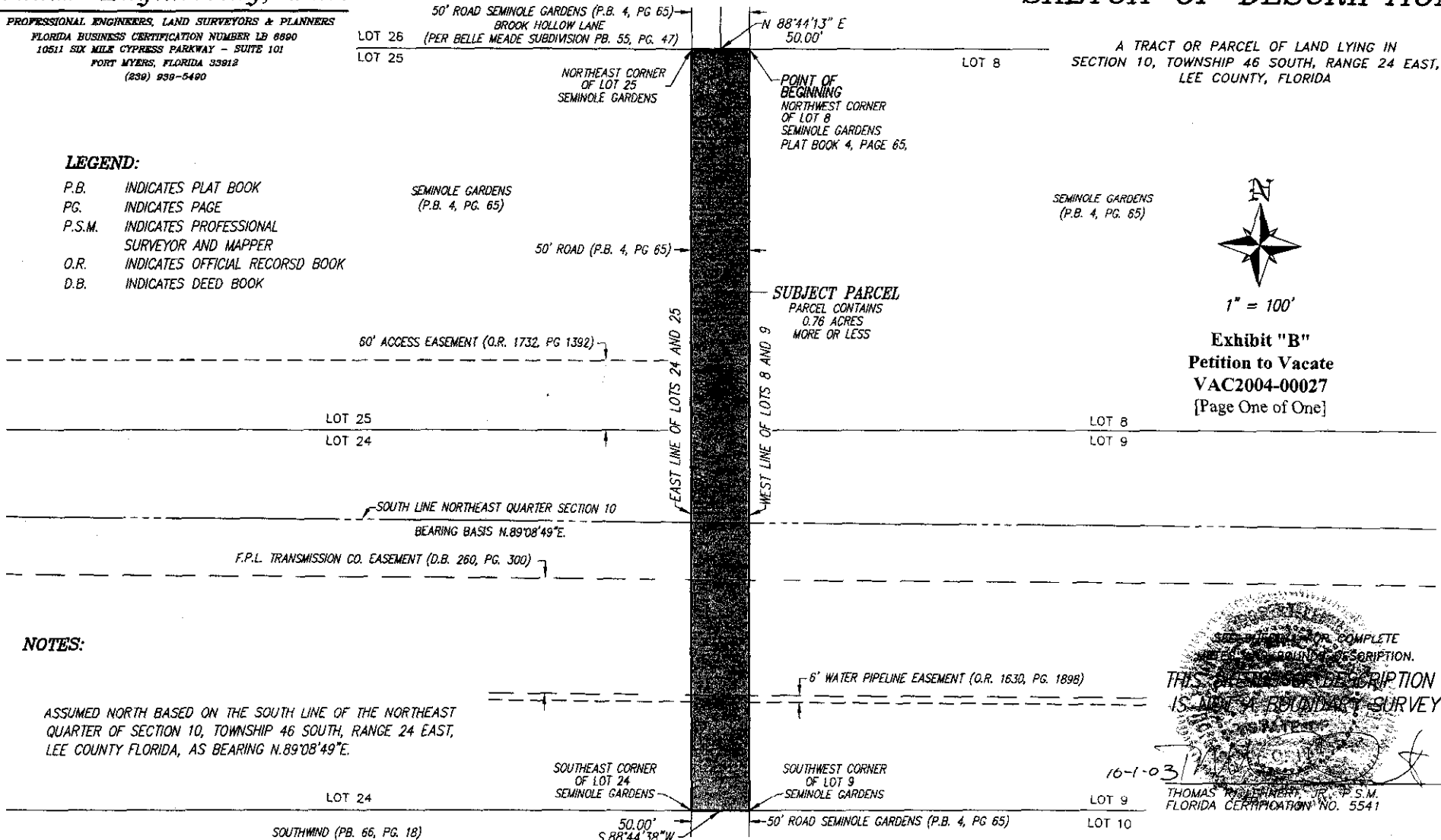
SEMINOLE GARDENS (P.B. 4, PG. 65)

SEMINOLE GARDENS (P.B. 4, PG. 65)



1" = 100'

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



NOTES:

SEE OTHER OR COMPLETE SURVEY FOR COMPLETE DESCRIPTION.
 THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY
 16-1-03
 THOMAS R. FLINNEY, JR., P.S.M.
 FLORIDA CERTIFICATION NO. 5541