

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20050812**

**1. ACTION REQUESTED/PURPOSE:** Adopt a Resolution of Exchange relating to 1) privately owned property located in Section 10, Township 46 South, Range 24 East, and 2) County held easements located in Section 10, Township 46 South, Range 24 East; authorize Chairman to execute all documents necessary to effectuate the exchange; authorize the Division of County Lands to handle and accept all documentation to complete this transaction, and approve payment for costs to close.

**2. WHAT ACTION ACCOMPLISHES:** Exchange of County property must be approved by the Board of County Commissioners pursuant to Florida Statute.

**3. MANAGEMENT RECOMMENDATION:** Management recommends Board approve the Action Requested.

**4. Departmental Category:** 6 *CBF* **5. Meeting Date:** *06-28-2005*

<b>6. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>7. Requirement/Purpose: (specify)</b> <input checked="" type="checkbox"/> Statute <u>125.37</u> <input type="checkbox"/> Ordinance _____ <input type="checkbox"/> Admin. Code _____ <input type="checkbox"/> Other _____	<b>8. Request Initiated:</b> Commissioner _____ Department <u>Independent</u> Division <u>County Lands</u> <i>6-7-05</i> By: <u>Karen L.W. Forsyth, Director</u> <i>KLF</i>
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**9. Background:** The proposed exchange consists of a parcel owned by D.R. Horton, Inc., within a pending new development known as Catalina at Winkler Preserve, and two utility easements acquired by the County by instruments recorded at Official Record Book 2215, page 645, and Official Record Book 3799, page 4642, Public Records of Lee County, Florida. Based upon the terms of the agreement, staff has determined that the existing utility easements previously conveyed to the County several years ago under a different proposed development plan which has since expired, are not necessary for County purposes. This exchange will provide the County with a new public utility easement serving the needs of the County, the Catalina project, and adjacent properties.

No Funds are required for this transaction.

ATTACHMENTS: Resolution of Exchange; Exchange Agreement; County Deed; Location Map

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>K. Forsyth</i>				<i>A. Brown</i>	<i>MR</i>	<i>6/9/05</i>	<i>6/7/05</i>	<i>6/7/05</i>	<i>[Signature]</i>

**11. Commission Action:**  
 Approved  
 Deferred  
 Denied  
 Other

RECEIVED BY  
 COUNTY ADMIN: *[Signature]*  
*6-9-05*  
 1:50  
 COUNTY ADMIN  
 FORWARDED TO: *[Signature]*  
*6/9/05*  
*3:20 PM*

Rec. by *[Signature]*  
 Date: *6/9/05*  
 Time: *11:00*  
 Forwarded to  
 Admin.  
*6/9/05 2pm*

**RESOLUTION OF EXCHANGE**

WHEREAS, D.R. Horton, Inc., a Delaware corporation, as the Developer of a project known as Catalina at Winkler desires to exchange an existing public utility easement held by the County for a new public utility easement over, across and through certain property within the Catalina at Winkler Preserve project; and

WHEREAS, the Board of County Commissioners entered into the Catalina Utility Easement Exchange Agreement on \_\_\_\_\_, 2005; and

WHEREAS, based upon the terms of this agreement, County staff has determined that the existing utility easement previously conveyed to the County by instrument recorded at O.R. Book 2215, Page 645, and at O.R. Book 3799, Page 4642, Public Records of Lee County, Florida, will not be necessary for County purposes; and

WHEREAS, this exchange would provide the County with a new public utility easement to serve the needs of the County, the Catalina project, and adjacent properties; and

WHEREAS, an exchange is of mutual benefit to the Developer and the public; and

WHEREAS, the proposed exchange was advertised and approved after full consideration by the Board of County Commissioners.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. An exchange will be accomplished by the execution and recording of documents as indicated below:

- a. County deed to D.R. Horton, Inc., for the property described in the existing utility easement described hereinabove, said property being more particularly described in the attached Exhibit "A".
- b. Perpetual Utility Easement from D.R. Horton, Inc., to Lee County, a political subdivision of the State of Florida, for a new public utility easement over certain property within the Catalina project, said property being more particularly described in the attached Exhibit "B".

2. Lee County staff has the authority to take all action necessary to complete the exchange and to close the transaction. The Chairman may execute the necessary documents on behalf of the Board.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and, being put to a vote, the vote was as follows:

ROBERT P. JANES  
DOUGLAS R. ST. CERNY  
RAY JUDAH  
TAMMY HALL  
JOHN E. ALBION

Yay	Nay
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

DULY PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

ATTEST:

CHARLIE GREEN, CLERK

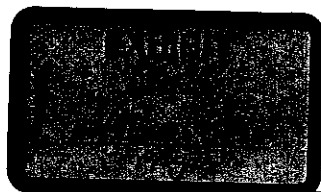
By: \_\_\_\_\_  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney



**DESCRIPTION**

Parcel in  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

A tract or parcel of land lying in SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records in Section 10, Township 46 South, Range 24 East, Lee County, Florida. Said tract or parcel being more particularly described as follows:

BEGINNING at the southeast corner of Lot 29 of said SEMINOLE GARDENS run  $N01^{\circ}13'18''W$  along the east line of said Lot 29 for 329.93 feet to the northeast corner of said Lot 29; thence run  $N88^{\circ}45'22''E$  along an easterly extension of the north line of said Lot 29 for 20.00 feet; thence run  $S01^{\circ}13'18''E$  along a line 20 feet east of and parallel to the east line of said Lot 29 for 329.93 feet to an intersection with the north line of BELLE MEADE Subdivision as recorded in Plat Book 55, Page 47, Lee County Records ; thence run  $S88^{\circ}45'10''W$  along said north line for 20.00 feet to the POINT OF BEGINNING.

Containing 0.15 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida west zone (NAD 1983/90 Adjustment) and are based on the east line of Lot 29 SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records to bear  $N01^{\circ}13'18''W$ .

21608s04desc.doc

*Scott A. Wheeler* 8/2/02

Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949

OR BOOK 03799  
PAGE 4645

LOT 3

LOT 4

OR BOOK 03779 PAGE 4646

50'

N88°45'22"E 20.00'

20' WATERLINE EASEMENT  
(O.R. 2215 / 645)

WEST 20' LYING EAST OF LOT 29

80' WIDE UNAMED ROAD (TO BE VACATED)  
S01°13'18"E 329.93'

N01°13'18"W 329.93'

LOT 29

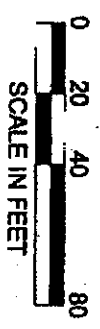
**POINT OF BEGINNING**  
BE CORNER OF LOT 29 "SEMINOLE  
GARDENS" (P.B. 4, PG. 65, L.C.R.)

S88°45'10"W 20.00'

**BELLE MEADE**  
(P.B. 55, PG. 47, L.C.R.)

BROOK HOLLOW LANE

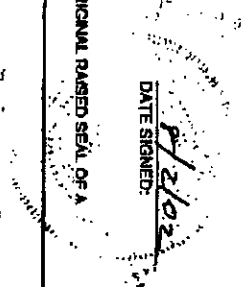
**THIS IS NOT A SURVEY**



**NOTES**

1. BEARINGS HEREINAFORE MENTIONED ARE STATE PLANE FOR THE FLORIDA WEST ZONE (NAD 1983/80 ADJUSTMENT) AND ARE BASED ON THE EAST LINE OF LOT 29 SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, PAGE 66, LEE COUNTY RECORDS TO BEAR N01°13'18"E.
2. DESCRIPTION IS ATTACHED.

*Scott A. Wheeler*  
 SCOTT A. WHEELER FOR THE FIRM - L.S. 6940)  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5949



DATE SIGNED: 1/2/02

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

**BATFACO**  
 SOUTH WEST FLORIDA LAND TRUST, LLC  
 2740 N.W. 10th Avenue, Fort Lauderdale, FL 33309  
 (954) 575-1111

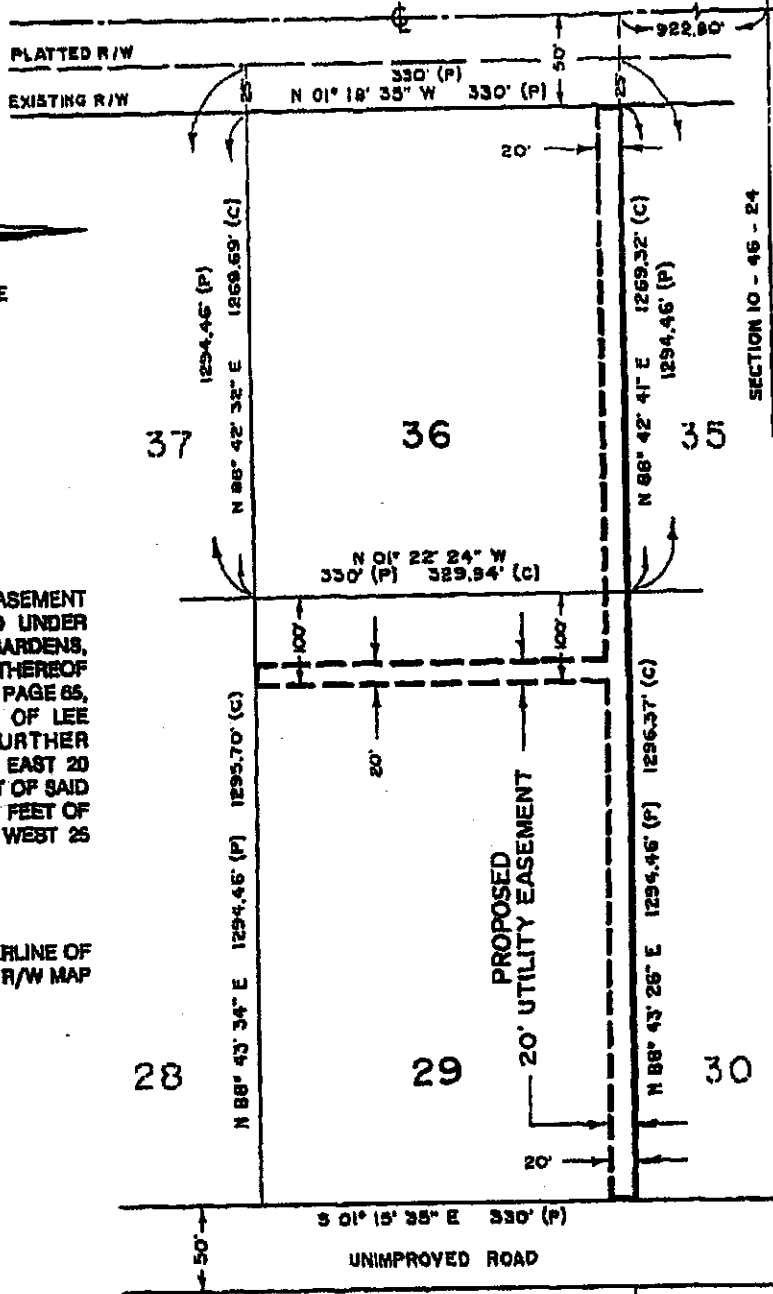
UTILITY EASEMENT  
 SEMINOLE GARDENS

DATE OF RECORD: 1/2/02  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

NO.	DESCRIPTION	DATE
1	...	...
2	...	...

SKETCH TO ACCOMPANY DESCRIPTION  
 SHEET 2 OF 2

WINKLER ROAD



SECTION 10 - 46 - 24  
SECTION 3 - 46 - 24

LEGAL DESCRIPTION

A 20 FOOT WIDE UTILITY EASEMENT LYING OVER, ACROSS AND UNDER LOT 29 AND 36, SEMNOLE GARDENS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FURTHER DESCRIBED AS BEING THE EAST 20 FEET OF THE WEST 100 FEET OF SAID LOT 29, AND THE NORTH 20 FEET OF LOT 29 AND 36, LESS THE WEST 26 FEET OF LOT 36.

NOTES:

BASIS OF BEARINGS: CENTERLINE OF WINKLER ROAD EXTENSION R/W MAP BEING N 01° 18' 35\" W

(C) = CALCULATED

SKETCH OF A LEGAL DESCRIPTION  
THIS IS NOT A FIELD SURVEY

4-12-91 9104017 FISK PROPERTIES / 70

CERTIFICATE

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT BOTH THE DESCRIPTION AND THE ACCOMPANYING SKETCH ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

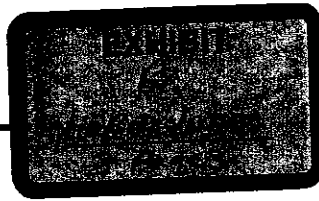
*Ben R. Homola*  
BEN R. HOMOLA  
REGISTRATION No. 3960  
PROFESSIONAL LAND SURVEYOR  
STATE OF FLORIDA

VALID ONLY  
WITH  
EMBOSSSED SEAL



Deni Associates

1341 ARC WAY • FORT MYERS, FLORIDA 33912 • (813) 275-8675



## DESCRIPTION

Parcel in  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

A tract or parcel of land lying in Section 10, Township 46 South, Range 24 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:


Commencing at the North Quarter Corner of said Section 10 run  $S89^{\circ}05'58''W$  along the North line of the Northwest Quarter ( $NW \frac{1}{4}$ ) of said Section 10 for 1269.57 feet to an intersection with the East right of way line of Winkler Road (100 feet wide); thence run  $S01^{\circ}17'21''E$  along said East right of way line for 454.75 feet to the POINT OF BEGINNING.

From said Point of Beginning run the following courses parallel and 5 feet Northerly as measured perpendicular to the Southerly right of way line of Sumner Avenue (proposed, 84 feet wide):  $N88^{\circ}42'39''E$  for 95.40 feet to a point of curvature; easterly along an arc of curve to the right of radius 163.00 feet (delta  $19^{\circ}34'20''$ ) (chord bearing  $S81^{\circ}30'11''E$ )(chord 55.41 feet) for 55.68 feet to a point of compound curvature and southeasterly along an arc of curve to the right of radius 30.00 feet (delta  $55^{\circ}54'39''$ ) (chord bearing  $S43^{\circ}45'42''E$ ) (chord 28.13 feet) for 29.27 feet to a point on a non-tangent curve and an intersection with the extended Westerly right of way of Sumner Avenue (proposed, 40 feet wide); thence run the following courses along the Westerly and Southerly right of way line of Sumner Avenue (proposed, 40 feet wide): southerly along an arc of curve to the left of radius 480.00 feet (delta  $20^{\circ}01'03''$ ) (chord bearing  $S08^{\circ}43'11''W$ ) (chord 166.85 feet) for 167.70 feet to a point of tangency;  $S01^{\circ}17'21''E$  for 353.17 feet to a point of curvature; southeasterly along an arc of curve to the left of radius 110.00 feet (delta  $89^{\circ}58'15''$ ) (chord bearing  $S46^{\circ}16'28''E$ )(chord 155.52 feet) for 172.73 feet to a point of tangency;  $N88^{\circ}44'24''E$  for 1,019.94 feet and  $N88^{\circ}45'10''E$  for 103.52 feet; thence leaving said right of way run  $S01^{\circ}14'50''E$  for 140.00 feet to an intersection with the North line of the Record Plat of Belle Meade as recorded in Plat Book 55, Page 47, Lee County records; thence run  $S88^{\circ}45'10''W$  along said North line for 20.00 feet; thence run  $N01^{\circ}14'50''W$  for 135.00 feet; thence run the following courses parallel and 5 feet Southerly and Westerly as measured perpendicular to the Southerly and Westerly right of way line of Sumner Avenue (proposed, 40 feet wide):  $S88^{\circ}45'10''W$  for 83.51 feet;  $S88^{\circ}44'24''W$  for 1,019.94 feet to a point of curvature; northwesterly along an arc of curve to the right of radius 115.00 feet (delta  $89^{\circ}58'15''$ ) (chord bearing  $N46^{\circ}16'28''W$ )(chord 162.59 feet) for 180.58 feet to a point of tangency;  $N01^{\circ}17'21''W$  for 353.17 feet to a point of curvature and northerly along an arc of curve to the right of radius 485.00 feet (delta  $19^{\circ}49'27''$ ) (chord bearing  $N08^{\circ}37'23''E$ )(chord 166.97 feet) for 167.81 feet to a point on a non-tangent curve and an intersection with the Southerly right of way of Sumner Avenue (proposed, 84 feet wide);

**DESCRIPTION (cont.)**

thence run the following courses along Southerly right of way line of Sumner Avenue (proposed, 84 feet wide): northwesterly along an arc of curve to the left of radius 25.00 feet (delta  $52^{\circ}30'19''$ ) (chord bearing  $N45^{\circ}27'52''W$ ) (chord 22.12 feet) for 22.91 feet to a point of compound curvature; westerly along an arc of curve to the left of radius 158.00 feet (delta  $19^{\circ}34'20''$ ) (chord bearing  $N81^{\circ}30'11''W$ ) (chord 53.71 feet) for 53.97 feet to a point of tangency and  $S88^{\circ}42'39''W$  for 95.40 feet an intersection with the East right of way line of Winkler Road (100 feet wide); thence run  $N01^{\circ}17'21''W$  along said East line for 5.00 feet to the POINT OF BEGINNING.  
Containing 0.29 acres, more or less.

Bearings hereinabove mentioned are based on the North line of the Northwest Quarter (NW 1/4) of said Section 10 to bear  $S89^{\circ}05'58''W$ .

  
Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949





THIS INSTRUMENT PREPARED BY:

Russell P. Schropp  
Post Office Box 280  
Fort Myers, Florida 33902

Strap No.: 10-46-24-01-00033.0000

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### CATALINA UTILITY EASEMENT EXCHANGE AGREEMENT

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, between D.R. HORTON, INC., a Delaware corporation, whose address is 1192 East Newport Center Drive, #150, Deerfield Beach, FL 33442 ("Horton"); and Lee County, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902 (County).

WHEREAS, Horton is the fee simple owner of property located in Section 10, Township 46 South, Range 24 East, Lee County, Florida and more specifically described in attached Exhibit "A" ; and

WHEREAS, Horton is the Developer of a project known as Catalina at Winkler ("Catalina Project") which includes the property described in Exhibit "A"; and

WHEREAS, the County holds an easement interest for public utility purposes over and across the property described in Exhibit "A", said easement being recorded at Official Records Book 2215, Page 645, and at Official Records Book 3799, Page 4642, Public Records of Lee County, Florida; and

WHEREAS, Horton desires to develop the Catalina Project in a manner that requires the relocation and reconfiguration of the public utility easement described above which encumbers the property described in Exhibit "A"; and

WHEREAS, in order to facilitate the design and development of the Catalina Project as proposed by Horton and accommodate public utilities within the Catalina Project for the benefit of the Catalina Project and adjacent properties, the County is willing to relocate and reconfigure the existing public utility easement to a new location; and

WHEREAS, a principal purpose of this Agreement is to provide for an exchange of real property interests as allowed by and pursuant to Section 125.37, Florida Statutes (2004); and

WHEREAS, the purpose of this Agreement is to set forth the terms acceptable to the parties to accomplish both objectives; and

WHEREAS, the parties believe this Agreement will facilitate county utility needs and adequately serve to protect the public interest.

NOW, THEREFORE, in consideration of the covenants contained in this Agreement, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties do hereby agree as follows:

1. The recitals set forth above are true and correct and incorporated into this Agreement.
2. The purpose of the Agreement is to accommodate the relocation of the public utility easement presently existing over the property described in Exhibit "A" by virtue of that certain instrument recorded in O.R. Book 2215, Page 645, and in O.R. Book 3799, Page 4642, Public Records of Lee County, Florida, while continuing to accommodate the public utility needs of the County.
3. The County has agreed to relinquish and exchange its rights in the existing public utility easement based upon Horton's agreement to provide a new utility easement, in the form attached hereto as Exhibit "B," over and across the property described in said Exhibit "B." In consideration of this new public utility easement, the County shall execute and deliver to Horton a County Deed in the form attached hereto as Exhibit "C" conveying its interest in the existing public utility easement to Horton.
4. This Agreement was considered by the Board of County Commissioners in accordance with the requirements of Section 125.37, F.S.. Horton will be responsible for all recording costs and fees associated with this exchange (including but not limited to documentary stamps and costs of advertising required under Section 125.37, F.S.).
5. The parties understand and agree that no impact fee credits will be issued to Horton, or any other party, for the new public utility easement described in Exhibit "B."
6. Horton covenants and agrees that the new public utility easement described in Exhibit "B" will be shown on any future plat of the property.
7. This Agreement will be construed in accordance with the laws of the State of Florida. The venue for any action arising from this Agreement lies in Lee County, Florida.
8. The parties agree that the rights and obligations provided to the Horton under this Agreement are freely assignable to a purchaser for value.
9. This Agreement, including all exhibits, constitutes the entire agreement of the parties and may be modified only by a written instrument executed with the same formality.

10. This exchange must be completed with all necessary documents recorded in the Public Records of Lee County on or before September 30, 2005, otherwise this Agreement will terminate and be of no further force and effect.

11. The County hereby authorizes the Chairman of the Board of County Commissioners, or his designee to accept and execute all documents on behalf of the County and to do all other things prudent and necessary to effectuate the terms of this Agreement and the exchange of real property interests contemplated herein.

12. This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns.

\_\_\_\_\_  
Witness Signature

D.R. HORTON, INC., a Delaware corp.

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_  
name: \_\_\_\_\_  
Its \_\_\_\_\_

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing Agreement was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2005 by \_\_\_\_\_ as \_\_\_\_\_ of D.R. Horton, Inc. He is personally known to me or has produced the following identification \_\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

ATTEST:

CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

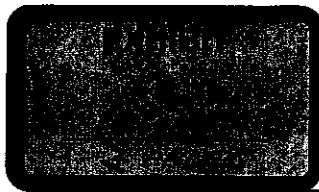
APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney

Attachments:

- Exhibit A - Legal Description of Existing Public Utility Easement Area
- Exhibit B - New Utility Easement and Legal Description
- Exhibit C - County Deed

#1323354v1



**DESCRIPTION**

Parcel in  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

A tract or parcel of land lying in SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records in Section 10, Township 46 South, Range 24 East, Lee County, Florida. Said tract or parcel being more particularly described as follows:

BEGINNING at the southeast corner of Lot 29 of said SEMINOLE GARDENS run N01°13'18"W along the east line of said Lot 29 for 329.93 feet to the northeast corner of said Lot 29; thence run N88°45'22"E along an easterly extension of the north line of said Lot 29 for 20.00 feet; thence run S01°13'18"E along a line 20 feet east of and parallel to the east line of said Lot 29 for 329.93 feet to an intersection with the north line of BELLE MEADE Subdivision as recorded in Plat Book 55, Page 47, Lee County Records ; thence run S88°45'10"W along said north line for 20.00 feet to the POINT OF BEGINNING.

Containing 0.15 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida west zone (NAD 1983/90 Adjustment) and are based on the east line of Lot 29 SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records to bear N01°13'18"W.

21608s04desc.doc

*Scott A. Wheeler 8/2/02*

Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949

OR BOOK 03799  
PAGE 4645

LOT 3

LOT 4

OR BOOK 03799

PAGE 4646

WEST 20' LYING EAST OF LOT 29  
60' WIDE UNAMED ROAD (TO BE VACATED)  
S01°13'18"E 329.93'

N01°13'18"W 329.93'

LOT 30

LOT 29

N88°45'22"E 20.00'

S88°45'10"W 20.00'

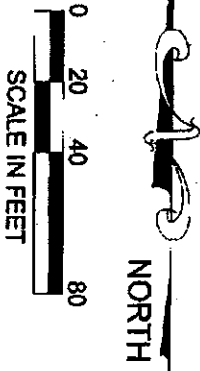
20' WATERLINE EASEMENT  
(O.R. 2215 / 045)

**POINT OF BEGINNING**  
SE CORNER OF LOT 29 "SEMINOLE  
GARDENS" (P.B. 4, PG. 85, L.C.R.)

**BELLE MEADE**  
(P.B. 55, PG. 47, L.C.R.)

BROOK HOLLOW LANE

**THIS IS NOT A SURVEY**



**NOTES**

1. BEARINGS HEREINAFTER MENTIONED ARE STATE PLANE FOR THE FLORIDA WEST ZONE (NAD 1983/80 ADJUSTMENT) AND ARE BASED ON THE EAST LINE OF LOT 29 SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, PAGE 85, LEE COUNTY RECORDS TO BEAR N01°13'18"E.
2. DESCRIPTION IS ATTACHED.

*Scott A. Wheeler*  
 SCOTT A. WHEELER (FOR THE FIRM - LB-6940)  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5849

DATE SIGNED: *1/2/02*

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

**BALTRACO**  
 and Associates, Inc.  
 10000 W. US HWY 90, SUITE 100  
 FORT WORTH, TEXAS 76133  
 (817) 336-1111  
 FAX (817) 336-1112  
 WWW.BALTRACO.COM

**SOUTHWEST FLORIDA LAND THREE, LLC**  
 10000 W. US HWY 90, SUITE 100  
 FORT WORTH, TEXAS 76133  
 (817) 336-1111  
 FAX (817) 336-1112  
 WWW.BALTRACO.COM

PROFESSIONAL SURVEYOR  
 LICENSE NO. 5849  
 EXPIRES 12/31/02

UTILITY EASEMENT  
 SEMINOLE GARDENS

DATE: 1/2/02  
 BY: SCOTT A. WHEELER  
 FOR: SOUTHWEST FLORIDA LAND THREE, LLC

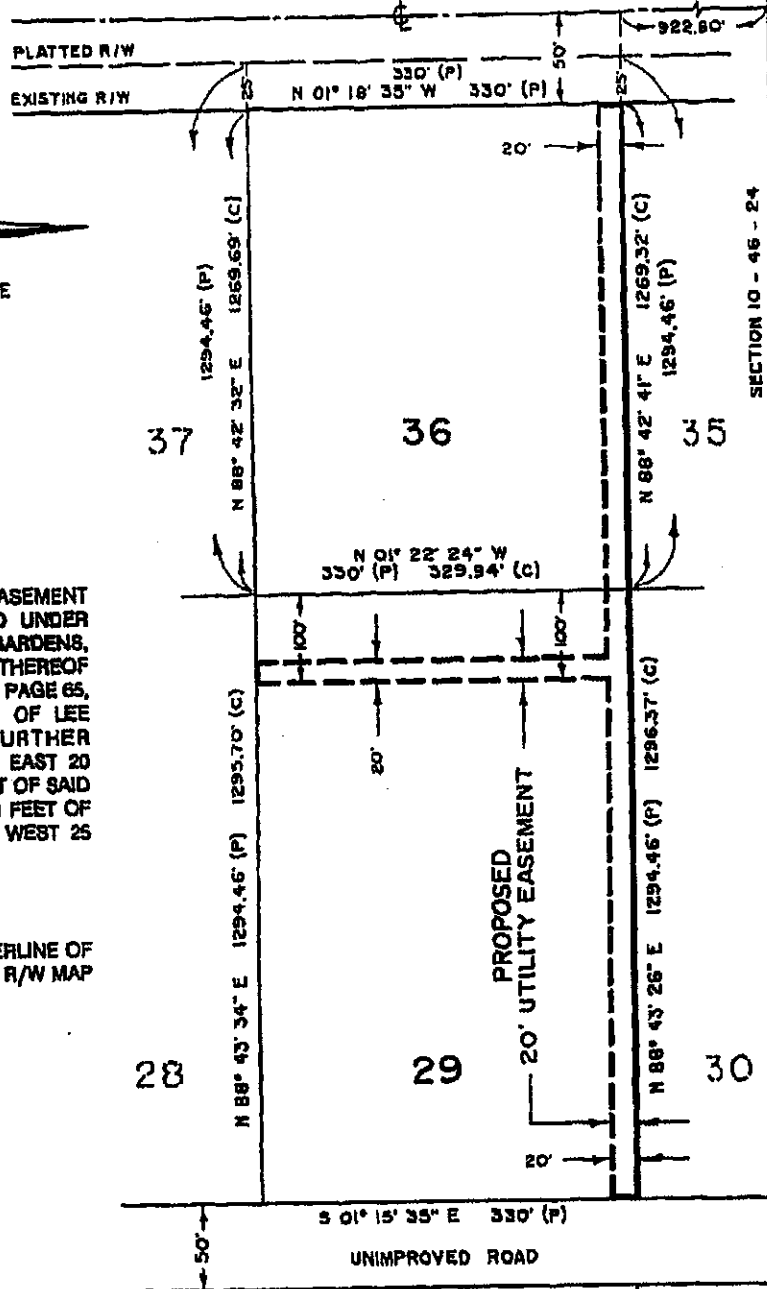
SCALE: AS SHOWN

SKETCH TO ACCOMPANY DESCRIPTION  
 SHEET 2 OF 2

WINKLER ROAD



NOT TO SCALE



SECTION 10 - 46 - 24  
SECTION 3 - 46 - 24

LEGAL DESCRIPTION

A 20 FOOT WIDE UTILITY EASEMENT LYING OVER, ACROSS AND UNDER LOT 28 AND 36, SEMINOLE GARDENS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FURTHER DESCRIBED AS BEING THE EAST 20 FEET OF THE WEST 100 FEET OF SAID LOT 29, AND THE NORTH 20 FEET OF LOT 29 AND 36, LESS THE WEST 25 FEET OF LOT 36.

NOTES:

BASIS OF BEARINGS: CENTERLINE OF WINKLER ROAD EXTENSION R/W MAP BEING N 01° 18' 35" W

(C) = CALCULATED

SKETCH OF A LEGAL DESCRIPTION  
THIS IS NOT A FIELD SURVEY

4-12-91 9104017 FISK PROPERTIES / 70

CERTIFICATE

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT BOTH THE DESCRIPTION AND THE ACCOMPANYING SKETCH ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Ben R. Homola*  
BEN R. HOMOLA  
REGISTRATION NO. 3890  
PROFESSIONAL LAND SURVEYOR  
STATE OF FLORIDA

VALID ONLY  
WITH  
EMBOSSSED SEAL



Deni Associates

1241 ARC WAY

FORT MYERS, FLORIDA 33912

(813) 275-8875





THIS INSTRUMENT PREPARED BY:  
Russell P. Schropp  
P.O. Box 280  
Fort Myers, FL 33902-0280

Strap No.: 10-46-24-01-00033.0000

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**PERPETUAL UTILITY EASEMENT**

This indenture is made this \_\_\_\_\_ day of \_\_\_\_\_, 2005 between **D.R. HORTON, INC.**, a Delaware corporation, whose address is 1192 East Newport Center Drive, #150, Deerfield Beach, FL 33442 (Grantor), and Lee County, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, Florida 33902 (Grantee) as follows:

For good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, a perpetual utility easement over and across that certain property more particularly described in attached Exhibit "A".

Grantor warrants that subject to existing easements, if any, for public highways, roads, railroads, laterals, ditches, pipelines and electrical transmission and/or distribution lines and telephone and cable television lines covering the land described above, Grantor is lawfully possessed of the land and has good and lawful right and power to convey, and that the property is free and clear of all liens and encumbrances except as recorded in the public records.

This easement is binding on the parties, their successors and assigns.

IN WITNESS of the above this instrument is executed.

\_\_\_\_\_  
Witness Signature

**D.R HORTON, INC.,  
a Delaware corporation**

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing Agreement was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2005 by \_\_\_\_\_ as \_\_\_\_\_ of D.R. Horton, Inc., a Delaware corporation. He is personally known to me or has produced the following identification \_\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney

Attachments:

Exhibit A - Legal Description and Sketch of Easement Area

#1323362v1



**DESCRIPTION**

Parcel in  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

A tract or parcel of land lying in Section 10, Township 46 South, Range 24 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:


Commencing at the North Quarter Corner of said Section 10 run S89°05'58"W along the North line of the Northwest Quarter (NW 1/4) of said Section 10 for 1269.57 feet to an intersection with the East right of way line of Winkler Road (100 feet wide); thence run S01°17'21"E along said East right of way line for 454.75 feet to the POINT OF BEGINNING.

From said Point of Beginning run the following courses parallel and 5 feet Northerly as measured perpendicular to the Southerly right of way line of Sumner Avenue (proposed, 84 feet wide): N88°42'39"E for 95.40 feet to a point of curvature; easterly along an arc of curve to the right of radius 163.00 feet (delta 19°34'20") (chord bearing S81°30'11"E)(chord 55.41 feet) for 55.68 feet to a point of compound curvature and southeasterly along an arc of curve to the right of radius 30.00 feet (delta 55°54'39") (chord bearing S43°45'42"E) (chord 28.13 feet) for 29.27 feet to a point on a non-tangent curve and an intersection with the extended Westerly right of way of Sumner Avenue (proposed, 40 feet wide); thence run the following courses along the Westerly and Southerly right of way line of Sumner Avenue (proposed, 40 feet wide): southerly along an arc of curve to the left of radius 480.00 feet (delta 20°01'03") (chord bearing S08°43'11"W) (chord 166.85 feet) for 167.70 feet to a point of tangency; S01°17'21"E for 353.17 feet to a point of curvature; southeasterly along an arc of curve to the left of radius 110.00 feet (delta 89°58'15") (chord bearing S46°16'28"E)(chord 155.52 feet) for 172.73 feet to a point of tangency; N88°44'24"E for 1,019.94 feet and N88°45'10"E for 103.52 feet; thence leaving said right of way run S01°14'50"E for 140.00 feet to an intersection with the North line of the Record Plat of Belle Meade as recorded in Plat Book 55, Page 47, Lee County records; thence run S88°45'10"W along said North line for 20.00 feet; thence run N01°14'50"W for 135.00 feet; thence run the following courses parallel and 5 feet Southerly and Westerly as measured perpendicular to the Southerly and Westerly right of way line of Sumner Avenue (proposed, 40 feet wide): S88°45'10"W for 83.51 feet; S88°44'24"W for 1,019.94 feet to a point of curvature; northwesterly along an arc of curve to the right of radius 115.00 feet (delta 89°58'15") (chord bearing N46°16'28"W)(chord 162.59 feet) for 180.58 feet to a point of tangency; N01°17'21"W for 353.17 feet to a point of curvature and northerly along an arc of curve to the right of radius 485.00 feet (delta 19°49'27") (chord bearing N08°37'23"E)(chord 166.97 feet) for 167.81 feet to a point on a non-tangent curve and an intersection with the Southerly right of way of Sumner Avenue (proposed, 84 feet wide);

**DESCRIPTION (cont.)**

thence run the following courses along Southerly right of way line of Sumner Avenue (proposed, 84 feet wide): northwesterly along an arc of curve to the left of radius 25.00 feet (delta 52°30'19") (chord bearing N45°27'52"W) (chord 22.12 feet) for 22.91 feet to a point of compound curvature; westerly along an arc of curve to the left of radius 158.00 feet (delta 19°34'20") (chord bearing N81°30'11"W) (chord 53.71 feet) for 53.97 feet to a point of tangency and S88°42'39"W for 95.40 feet an intersection with the East right of way line of Winkler Road (100 feet wide); thence run N01°17'21"W along said East line for 5.00 feet to the POINT OF BEGINNING.  
Containing 0.29 acres, more or less.

Bearings hereinabove mentioned are based on the North line of the Northwest Quarter (NW 1/4) of said Section 10 to bear S89°05'58"W.

  
Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949





This Instrument Prepared by:  
Russell P. Schropp  
P.O. Box 280  
Fort Myers, FL 33902

THIS SPACE FOR RECORDING

---

**COUNTY DEED**

THIS DEED, executed this \_\_\_ day of \_\_\_\_\_, 2005, by LEE COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 Grantor, to D.R. HORTON, INC., a Delaware corporation, whose address is 1192 East Newport Center Drive, #150, Deerfield Beach, FL 33442, Grantee.

Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

**See Attached Exhibit "A"**

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described, and is not to be deemed to warrant the title or to represent any state of facts concerning the same.

**IN WITNESS WHEREOF** Grantor has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman or Vice Chairman of said Board, the day and year aforesaid.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

CHARLIE GREEN, CLERK

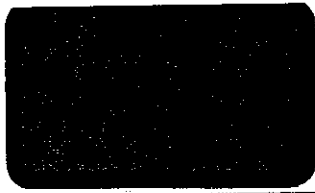
By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney

#1323355v1



**DESCRIPTION**

Parcel in  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

A tract or parcel of land lying in SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records in Section 10, Township 46 South, Range 24 East, Lee County, Florida. Said tract or parcel being more particularly described as follows:

BEGINNING at the southeast corner of Lot 29 of said SEMINOLE GARDENS run N01°13'18"W along the east line of said Lot 29 for 329.93 feet to the northeast corner of said Lot 29; thence run N88°45'22"E along an easterly extension of the north line of said Lot 29 for 20.00 feet; thence run S01°13'18"E along a line 20 feet east of and parallel to the east line of said Lot 29 for 329.93 feet to an intersection with the north line of BELLE MEADE Subdivision as recorded in Plat Book 55, Page 47, Lee County Records ; thence run S88°45'10"W along said north line for 20.00 feet to the POINT OF BEGINNING.  
Containing 0.15 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida west zone (NAD 1983/90 Adjustment) and are based on the east line of Lot 29 SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records to bear N01°13'18"W.

21608s04desc.doc

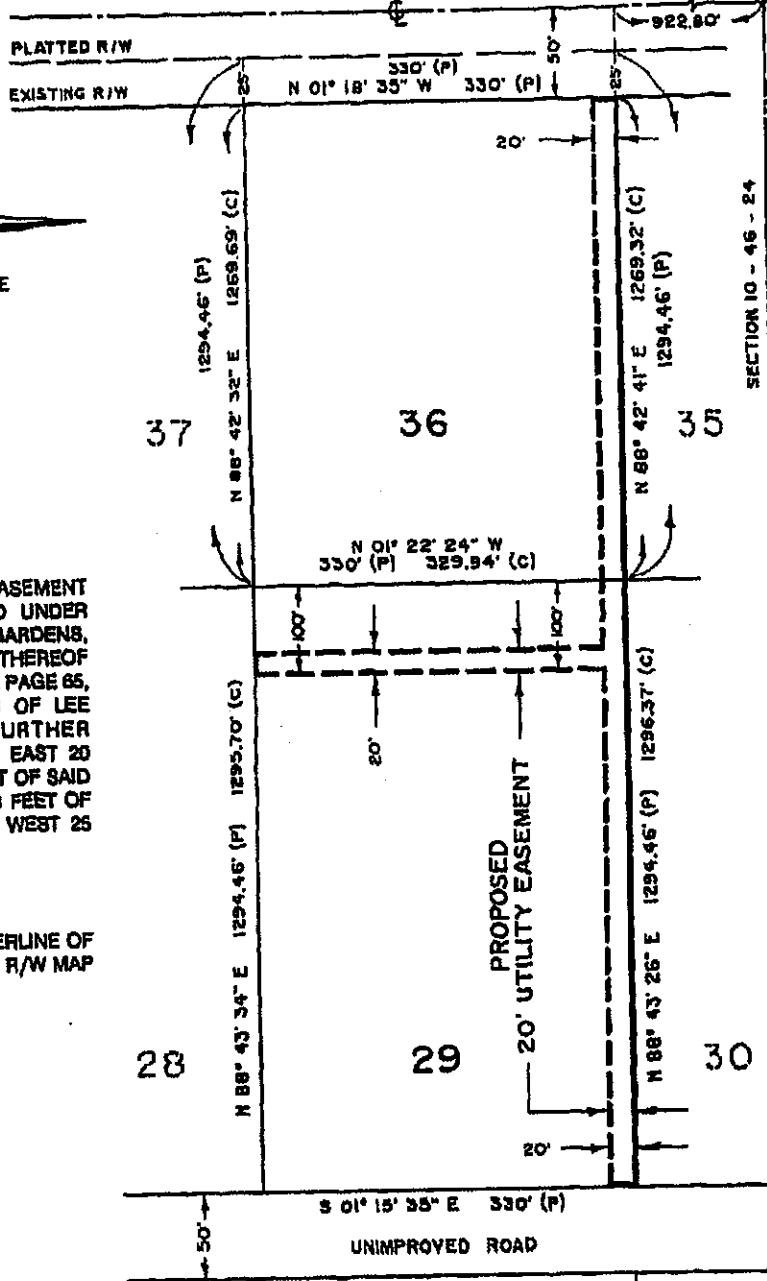
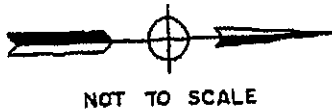
*Scott A. Wheeler 8/2/02*  
Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949

OR BOOK 03799  
PAGE 4645





WINKLER ROAD



SECTION 10 - 46 - 24  
SECTION 3 - 46 - 24

LEGAL DESCRIPTION

A 20 FOOT WIDE UTILITY EASEMENT LYING OVER, ACROSS AND UNDER LOT 29 AND 36, SEMINOLE GARDENS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FURTHER DESCRIBED AS BEING THE EAST 20 FEET OF THE WEST 100 FEET OF SAID LOT 29, AND THE NORTH 20 FEET OF LOT 29 AND 36, LESS THE WEST 25 FEET OF LOT 36.

NOTES:

BASIS OF BEARINGS: CENTERLINE OF WINKLER ROAD EXTENSION R/W MAP BEING N 01° 18' 36\" W

(C) - CALCULATED

SKETCH OF A LEGAL DESCRIPTION  
THIS IS NOT A FIELD SURVEY

4-12-91 9104017 FISK PROPERTIES / 70

CERTIFICATE

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT BOTH THE DESCRIPTION AND THE ACCOMPANYING SKETCH ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Ben R. Homola*  
BEN R. HOMOLA  
REGISTRATION No. 3860  
PROFESSIONAL LAND SURVEYOR  
STATE OF FLORIDA

VALID ONLY  
WITH  
EMBOSSSED SEAL



Deni Associates

1341 ARC WAY • FORT MYERS, FLORIDA 33912 • (813) 275-0873

This Instrument Prepared by:  
Russell P. Schropp  
P.O. Box 280  
Fort Myers, FL 33902

THIS SPACE FOR RECORDING

**COUNTY DEED**

THIS DEED, executed this \_\_\_ day of \_\_\_\_\_, 2005, by LEE COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 Grantor, to D.R. HORTON, INC., a Delaware corporation, whose address is 1192 East Newport Center Drive, #150, Deerfield Beach, FL 33442, Grantee.

Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

**See Attached Exhibit "A"**

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described, and is not to be deemed to warrant the title or to represent any state of facts concerning the same.

**IN WITNESS WHEREOF** Grantor has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman or Vice Chairman of said Board, the day and year aforesaid.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

CHARLIE GREEN, CLERK

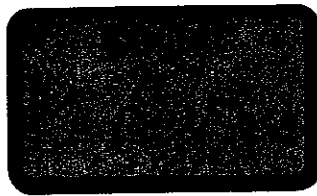
By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney

#1323355v1



**DESCRIPTION**

Parcel in  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

A tract or parcel of land lying in SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records in Section 10, Township 46 South, Range 24 East, Lee County, Florida. Said tract or parcel being more particularly described as follows:

BEGINNING at the southeast corner of Lot 29 of said SEMINOLE GARDENS run N01°13'18"W along the east line of said Lot 29 for 329.93 feet to the northeast corner of said Lot 29; thence run N88°45'22"E along an easterly extension of the north line of said Lot 29 for 20.00 feet; thence run S01°13'18"E along a line 20 feet east of and parallel to the east line of said Lot 29 for 329.93 feet to an intersection with the north line of BELLE MEADE Subdivision as recorded in Plat Book 55, Page 47, Lee County Records ; thence run S88°45'10"W along said north line for 20.00 feet to the POINT OF BEGINNING.

Containing 0.15 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida west zone (NAD 1983/90 Adjustment) and are based on the east line of Lot 29 SEMINOLE GARDENS as recorded in Plat Book 4, Page 65, Lee County Records to bear N01°13'18"W.

21608s04desc.doc

*Scott A. Wheeler 8/2/02*

Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949

OR BOOK 03799 PAGE 4645

LOT 3

LOT 4

DR BOOK 03799 PAGE 4646

WEST 20' LYING EAST OF LOT 29  
50' WIDE UNAMED ROAD (TO BE VACATED)

S01°13'18"E 329.93'

BROOK HOLLOW LANE

N01°13'18"W 329.93'

LOT 30

N88°45'22"E 20.00'

20' WATERLINE EASEMENT  
(O.R. 2215 / 845)

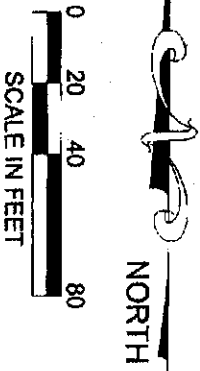
LOT 29

**POINT OF BEGINNING**  
SE CORNER OF LOT 29 "SEMINOLE  
GARDENS" (P.B. 4, PG. 65, L.C.R.)

S88°45'10"W 20.00'

BELLE MEADE  
(P.B. 55, PG. 47, L.C.R.)

THIS IS NOT A SURVEY



NOTES

1. BEARINGS HEREINAFTER MENTIONED ARE STATE PLANE FOR THE FLORIDA WEST ZONE (NAD 1983) ADJUSTMENT) AND ARE BASED ON THE EAST LINE OF LOT 29 SEMINOLE GARDENS AS RECORDED IN PLAT BOOK 4, PAGE 65, LEE COUNTY RECORDS TO BEAR N01°13'18"E.
2. DESCRIPTION IS ATTACHED.

*Scott A. Wheeler*  
 SCOTT A. WHEELER (FOR THE FIRM - LB-6940)  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5949

DATE SIGNED: 8/2/02

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

**BATFACO**  
 Land Association, Inc.  
 One, Statewide, Association, Inc.  
 11000 N. W. 11th Street, Suite 100  
 Fort Lauderdale, Florida 33304  
 Phone: (954) 571-1100  
 Fax: (954) 571-1101

**SOUTHWEST FLORIDA LAND THREE, LLC**

DEED COLLIER RECORDS  
 DATE: 08/02/02  
 FROM: LAND FOR FLORIDA STATE  
 MAP: 0201-000-0000  
 FILE: 0201-000-0000

UTILITY EASEMENT  
 SEMINOLE GARDENS

PLAT NO. 4  
 SECTION 4, PG. 65  
 LEE COUNTY RECORDS

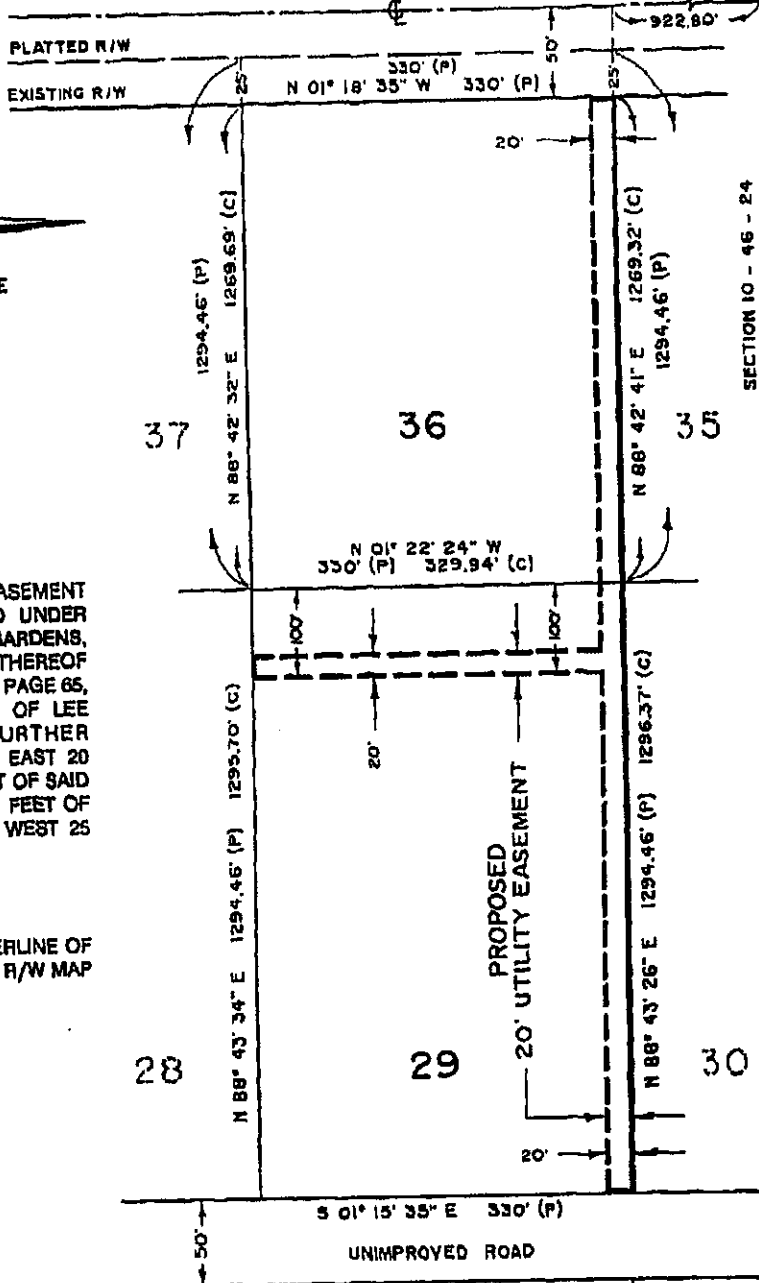
DATE: 08/02/02

SCALE: AS SHOWN

DATE: 08/02/02

2 OF 2

WINKLER ROAD



SECTION 10 - 46 - 24  
SECTION 3 - 46 - 24

LEGAL DESCRIPTION

A 20 FOOT WIDE UTILITY EASEMENT LYING OVER, ACROSS AND UNDER LOT 29 AND 36, SEMINOLE GARDENS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 65, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FURTHER DESCRIBED AS BEING THE EAST 20 FEET OF THE WEST 100 FEET OF SAID LOT 29, AND THE NORTH 20 FEET OF LOT 29 AND 36, LESS THE WEST 25 FEET OF LOT 36.

NOTES:

BASIS OF BEARINGS: CENTERLINE OF WINKLER ROAD EXTENSION R/W MAP BEING N 01° 18' 35" W

(C) - CALCULATED

SKETCH OF A LEGAL DESCRIPTION  
THIS IS NOT A FIELD SURVEY

4-12-91 9104017 FISK PROPERTIES / 70

CERTIFICATE

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT BOTH THE DESCRIPTION AND THE ACCOMPANYING SKETCH ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Ben R. Homola*

BEN R. HOMOLA  
REGISTRATION NO. 3850

PROFESSIONAL LAND SURVEYOR  
STATE OF FLORIDA

VALID ONLY  
WITH  
EMBOSED SEAL



Deni Associates

8241 ARC WAY

FORT MYERS, FLORIDA 33912

(813) 275-8875

