SUMTER COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY

SUBJECT: **Public Hearing to Vacate a Portion of Right-of-Way of CR 647 N (Old Istachatta Green Settlement Road) (Staff recommends approval).**

REQUESTED ACTION: Approve Request to Vacate.

☐ Work Session (Report Only) **DATE OF MEETING:** 10/26/2010
☒ Regular Meeting ☐ Special Meeting

CONTRACT: ☐ N/A Vendor/Entity:
Effective Date: Termination Date:
Managing Division / Dept: Planning

BUDGET IMPACT:
☐ Annual **FUNDING SOURCE:**
☐ Capital **EXPENDITURE ACCOUNT:**
☒ N/A

HISTORY/FACTS/ISSUES:
The following is the staff report regarding the request to vacate a portion of CR 647 N lying between Lots 78 and Lot 53 and a portion of Lot 52 to a point where the northerly extension of the west boundary of CR 657 would intersect with the portion of Lot 52 as per plat of River Retreats, recorded in Plat Book 3, Page 42, Public Records of Sumter County.

Picture of Portion of CR 647 N Proposed to be Vacated.

On August 12, 2010, the County received a Petition for Road Closing from Danny & Joyce Clay to vacate a portion of CR 647 N, as described above.

The key issue in review of a Petition for Road Closing is to assure that no property is denied appropriate access after the closing of a road.

Currently, this portion of CR 647 N provides access to Lots 53 and a portion of Lot 52 owned by Danny & Joyce Clay (Petitioners), Lot 78 owned by John & Lorena Marek, and by Parcel L24=022, owned by Richard & Carol Ann Hough. Please see the attached map for reference.

If this portion of CR 647 N is closed, then the Clay's will continue to have access to CR 647 N with the reconfigured property lines. The Marek's will continue to have access to CR 647 N and CR 657 with the reconfigured property lines. The Hough property will no longer have access to CR 647 N.

The Hough's have filed a formal objection to the closing of CR 647 N. In response to this objection, staff completed the following analysis.

In addition to Parcel L24=022, the Hough's also own Lot 79 within the River Retreats subdivision. Lot 79 is adjacent to L24=022 and is accessed by CR 657. Due to the common ownership and the unified use of parcel L24=022 and Lot 79 within the River Retreats subdivision, the Hough's could access their parcel L24=022 through Lot 79 (CR 657).

Secondly, parcel L24=022 includes an easement, designated as a 911 Road SW 70th Lane, to provide access to the property. SW 70th Lane is an unpaved privately maintained road. The Houghs assert that given the condition of SW 70th Lane, it is not a viable point of access to L24=022. However, it is the private property owners responsibility to assure the condition of private roadways are suitable to provide access to their property. The deed (Book 1408, Page 125-126, Public Records of Sumter County) reflecting this easement is attached.

The request to close this portion of CR 647 N was previously addressed by the Board on July 19, 2005. At that time, the Board denied the request to close the portion of CR 647 N due to their finding that it was the Board's policy to not "…vacate right-of-way that anyone needs or actually uses for access to their property." A copy of the minutes of this action is attached.

In addition, on June 9, 2005, Circuit Court Judge Booth issued a Final Judgment in reference to a suite between William Berens (former owner of the Hough's property) and John & Lorena Marek regarding the status of CR 647 N. The Final Judgment deemed this portion of CR 647 N to be "…dedicated public right-of-way and should be open to use by the parties and the public for that purpose." (Book 1389, Page 413, Public Records Sumter County). A copy of the Final Judgment is attached.

It is staff's opinion that the previous actions by the Board and Judge Booth in 2005 do not specifically preclude the ability of the current Board to vacate the portion of CR 647 N if it finds that appropriate access is maintained for all parties.

0 55 110 Feet

Vacate ROW Petition for Portion CR 647 N

Roads
Hough Property
Clay Property

Sumter County Planning & Development
September 28, 2010

PETITION FOR ROAD CLOSING

The undersigned petitions the Board of County Commissioners of Sumter County, Florida, to vacate and close the following described road, right-of-way or easement and alleges as follows:

1. The road, right-of-way or easement sought to be vacated is described as follows: (proper legal description must be furnished)
That portion of Old Istachatta Street lying between Lots 78 and Lot 53 and a portion of Lot 52 to a point where the Northerly extension of the West boundary of Magnolia Dr would intersect with the southern boundary of said Lot 52 as per Plat of River Retreats recorded in Plat Book 3, Page 42 Public Records of Sumter County.

2. Attached is the instrument, if any, that identifies the title or interest which the County and public hold in the property sought to be vacated

3. Sumter County did not pay more than a nominal amount for the road, right-of-way or easement sought to be vacated in that said property was either dedicated to the County in a subdivision plat or title has passed through statutory dedication (Attach written support of this claim)

4 Attached is a list of all persons likely to be affected by the road closing, which include all persons owning property abutting the road or any extension thereof, as well as any other person who is known to Petitioner to use the road or easement for access to other property whether said other property abuts the road or easement or not.

5 Petitioner hereby certifies that the vacating will not deprive other persons of access to and from their property, whether the access involved is a binding, legal access, by prescription or otherwise

6 Petitioner hereby certifies that at least thirty (30) days prior to the hearing on petition, petitioner has notified in writing, certified mail return receipt requested, all persons listed pursuant to paragraph 4 above advising such persons that petitioner seeks to have the county vacate the subject property and renounce any right to the public in same, copies of all mail receipts to be filed at the hearing In lieu of this notice, the petitioner may present signatures from all such property owners waiving this notice

7. Attached are certificates from public utility companies with easements in the area that the vacating will neither interfere with their services nor encroach unreasonably upon their easement

8 The Petitioner believes this Petition should be granted for the following reasons: Based on recent acquisition of property by Petitioner, the use of this easement for purposes of access to adjoining property is no longer needed. In addition, upkeep of this easement would be greatly improved due to the fact individuals accessing this road currently (Richard & Carol Hough) would no longer be able to bring heavy equipment to their property via this access, which has previously contributed to the deterioration of the road. Mr & Mrs Hough have legitimate access to their own property via S.W. 70th Lane. Further, there are no utilities affected by this proposed road closure. Upkeep would fall on the petitioners Mr & Mrs Danny & Clay and Mr & Mrs. John Marek

9 The vacating of the above described road or right-of-way is in compliance with the Sumter County Comprehensive Plan and long range goals and trends of the area of the property sought to be vacated for the following reasons·

10. Attached is a map showing the general area around the right-of-way to be vacated

DATED this 12th day of August, 2010.

Sarah M. Sieg
Witness

Danny L Clay

Witness

Joyce M Clay

STATE OF Florida)

COUNTY OF Sumter)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Danny L. Clay & Joyce M. Clay who produced FLDL as identification or is known personally to me to be the person(s) described in and who executed the foregoing instrument and who did/did not taken an oath; and acknowledged before me that they (he, she, they) executed the same

WITNESS my hand and official seal in the County and State last ~~aforesaid~~ this 12th day of August, 2010.

Rhonda AuBuchon
Notary Signature

My Commission Expires: 2/24/2011 (SEAL)

RHONDA AUBUCHON
Commission # DD 997484
Expires February 24, 2011
Bonded Thru Troy Fain Insurance 800-385-7019

John + Lorena Marek

Richard + Carol Hough

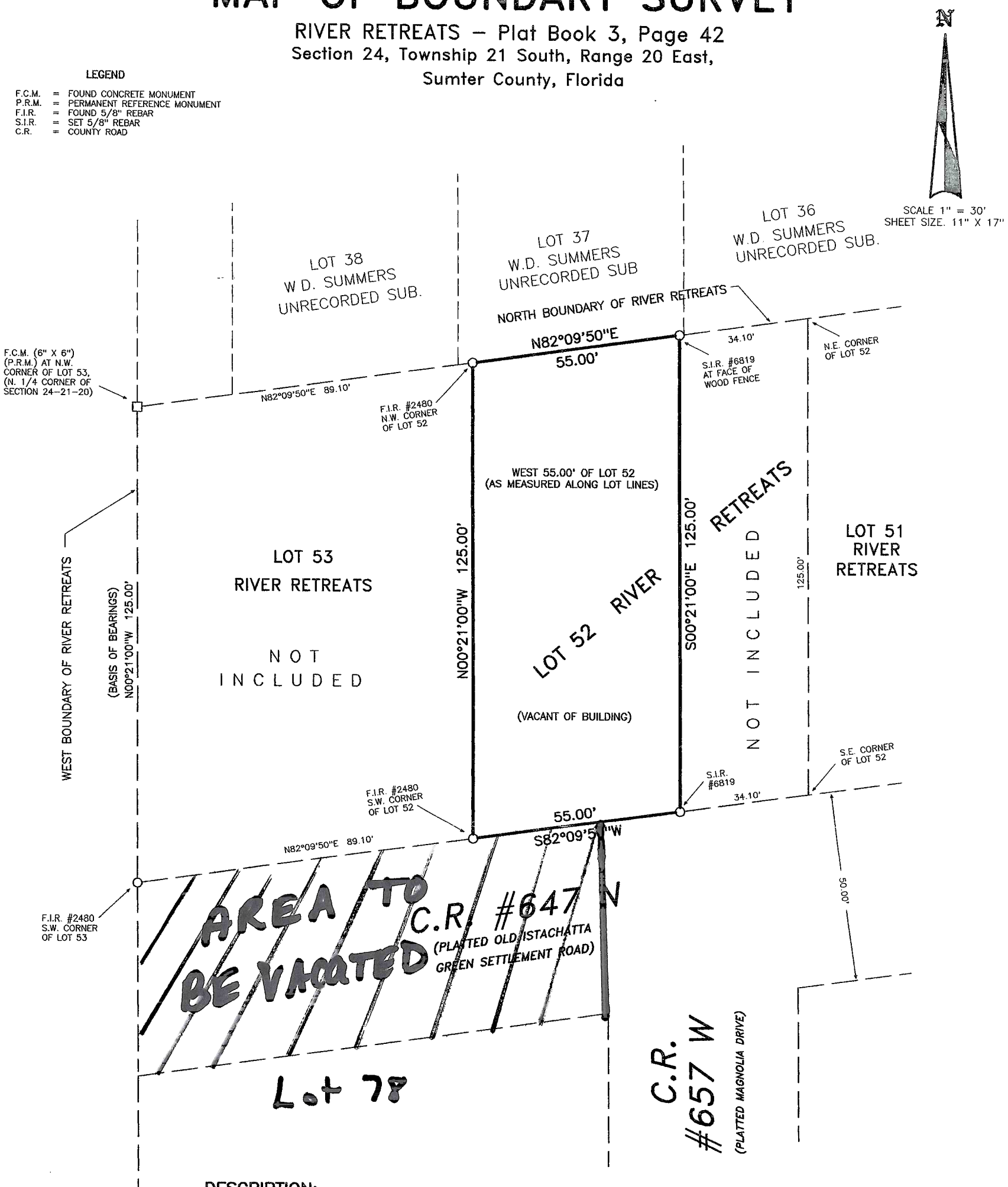
Danny + Joyce Clay

MAP OF BOUNDARY SURVEY

RIVER RETREATS – Plat Book 3, Page 42
Section 24, Township 21 South, Range 20 East,
Sumter County, Florida

LEGEND

F.C.M. = FOUND CONCRETE MONUMENT
P.R.M. = PERMANENT REFERENCE MONUMENT
F.I.R. = FOUND 5/8" REBAR
S.I.R. = SET 5/8" REBAR
C.R. = COUNTY ROAD



DESCRIPTION:

The West 55.00 feet (as measured along the lot lines) of Lot 52, RIVER RETREATS, according to the plat thereof recorded in Plat Book 3, Page 42 of the Public Records of Sumter County, Florida.
Subject to covenants, restrictions and easements of record.

SURVEY REPORT:

DATA SOURCES:

1. Copy of prior survey of Lot 53, RIVER RETREATS, dated 6/3/08, prepared for Danny L. Clay.
2. Description prepared from survey. Survey based on ownership records and divisional instructions provided by client.
3. Copy of record plat of RIVER RETREATS (Plat Book 3, Page 42).
4. Retracement of subdivision monumentation found in place.
5. Bearings are matched to the call of N00°21'00"W for the West line of Lot 53, RIVER RETREATS.
6. Copy of W.D. SUMMERS UNRECORDED SUBDIVISION (on file).

LIMITATIONS:

1 This survey is SUBJECT TO any facts that may be disclosed by a current, full and accurate title search.
2. Underground utilities, if any, were not located.
3. This survey does not address environmental matters, jurisdictional boundaries or hazardous waste concerns, should any of the foregoing exist.

Prepared for: CLAY

Certified To: DANNY L. CLAY

HUNT'S SURVEYING & MAPPING, PLLC
LICENSED BUSINESS NO. 6819
P.O. Box 283 – 1315 W. C–476, Bushnell, Florida 33513
Phone: (352) 793–3260 Fax: (352) 793–4669

Date of Survey: March 1. 2010

Revisions

Coordinate File: CLAY5552
Screen File: CLAY5552
Reference: CLIENT FILE

CERTIFICATION:

I hereby certify that the survey shown herein was made in accordance with the "Minimum Technical Standards" for surveying and mapping in the State of Florida: Chapter 61G17–6, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

3/5/10

Douglas K. Hunt, Professional Surveyor and Mapper
Florida Certificate No. 2480

VOID UNLESS EMBOSSED WITH RAISED SURVEYORS SEAL

PLAT BOOK CB PAGE 5803

For Restriction See OR 77 pg 519

For Road closing see OR 399 pg 21 & OR 404 pg 478

For Lot Combination Ag See OR 745 Pg 699

For Road Closing see OR 324 pg 47 for portion of Hickory Rd

42

RIVER RETREATS

A SUBDIVISION IN SECTION 24, T21 S, R20E
SUMTER COUNTY, FLORIDA

PREPARED
BY
TRUBY W. HUNT
REGISTERED SURVEYOR NO. 528
BUSHNELL, FLORIDA

DESCRIPTION THE N.W. 1/4 OF N.E 1/4 SECTION 24, T21S, R20E. LESS- COMMENCE AT N.E CORNER OF N.W. 1/4 OF N.E 1/4 SECTION 24, T21S, R20E, RUN THENCE S82°09'50"W 225' TO P.O.B., THENCE CONTINUE S82°09'50"W 210', THENCE S0°09'40"E 892.5' THENCE N82°09'50"E 210', THENCE N0°09'40"W 892.5' TO P.O.B.

DEDICATION: W. D. SUMMERS AND HIS WIFE FRANCES L SUMMERS, THE OWNERS OF THE LANDS HEREIN PLATTED, AS DEDICATORS, DO HEREBY DEDICATE TO THE PUBLIC AND THE PURCHASERS OF ANY LANDS SHOWN ON THIS PLAT ALL STREETS, CANALS, PARKS, AND OTHER PUBLIC PLACES SHOWN ON THIS PLAT AND HEREBY REQUEST THAT THIS PLAT BE RECORDED IN THE PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA.

WITNESS OUR HANDS AND SEALS AS DEDICATORS THIS 29th DAY OF March 1963.
SIGNED AND SEALED IN THE PRESENCE OF:

Truby W. Hunt — WITNESS
W D Summers — W D SUMMERS
A A Ferguson — WITNESS
Frances L Summers — FRANCES L SUMMERS

STATE OF FLORIDA
COUNTY OF SUMTER

BEFORE THE UNDERSIGNED, AN OFFICER DULY AUTHORIZED AND ACTING, PERSONALLY APPEARED W D. SUMMERS AND HIS WIFE FRANCES L. SUMMERS TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION, AND THEY BEING DULY SWORN, ACKNOWLEDGED THEN AND THERE BEFORE ME THAT THEY EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL THIS 29th DAY OF March 1963.

MY COMMISSION EXPIRES 7-24-64

Joyce C. Hunt
NOTARY PUBLIC

I, TRUBY W. HUNT, HEREBY CERTIFY THAT I PREPARED THIS PLAT AND THAT IT IS A CORRECT REPRESENTATION OF THE LANDS PLATTED; THAT THIS PLAT COMPLIES WITH ALL PROVISIONS OF CHAPTER 177, FLORIDA STATUTES, AND WITH ALL OF THE PLAT REQUIREMENTS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA, ON THE THIRD DAY OF AUGUST 1960.

SURVEYED AND PLATTED IN JANUARY, 1963 Truby W. Hunt
REGISTERED FLORIDA LAND SURVEYOR NO.528

ABSTRACTOR'S REPORT: I HEREBY CERTIFY THAT W D. SUMMERS AND HIS WIFE FRANCES L SUMMERS ARE THE APPARENT RECORD OWNERS OF THE LANDS HEREBY PLATTED; THAT THERE ARE NO DELINQUENT TAXES ON SUCH LANDS AND THAT RECORD TITLE TO ALL ACCESS ROADS IS HELD BY SUMTER COUNTY OR THE STATE OF FLORIDA.

DATED THIS 1st DAY OF April, 1963 W. N. Barnett
ABSTRACTOR

COUNTY ATTORNEY'S REPORT: I HEREBY CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND THAT IT COMPLIES IN FORM WITH CHAPTER 177, FLORIDA STATUTES, AND WITH THE REQUIREMENTS OF THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA

J. H. Bobbitt
COUNTY ATTORNEY SUMTER COUNTY

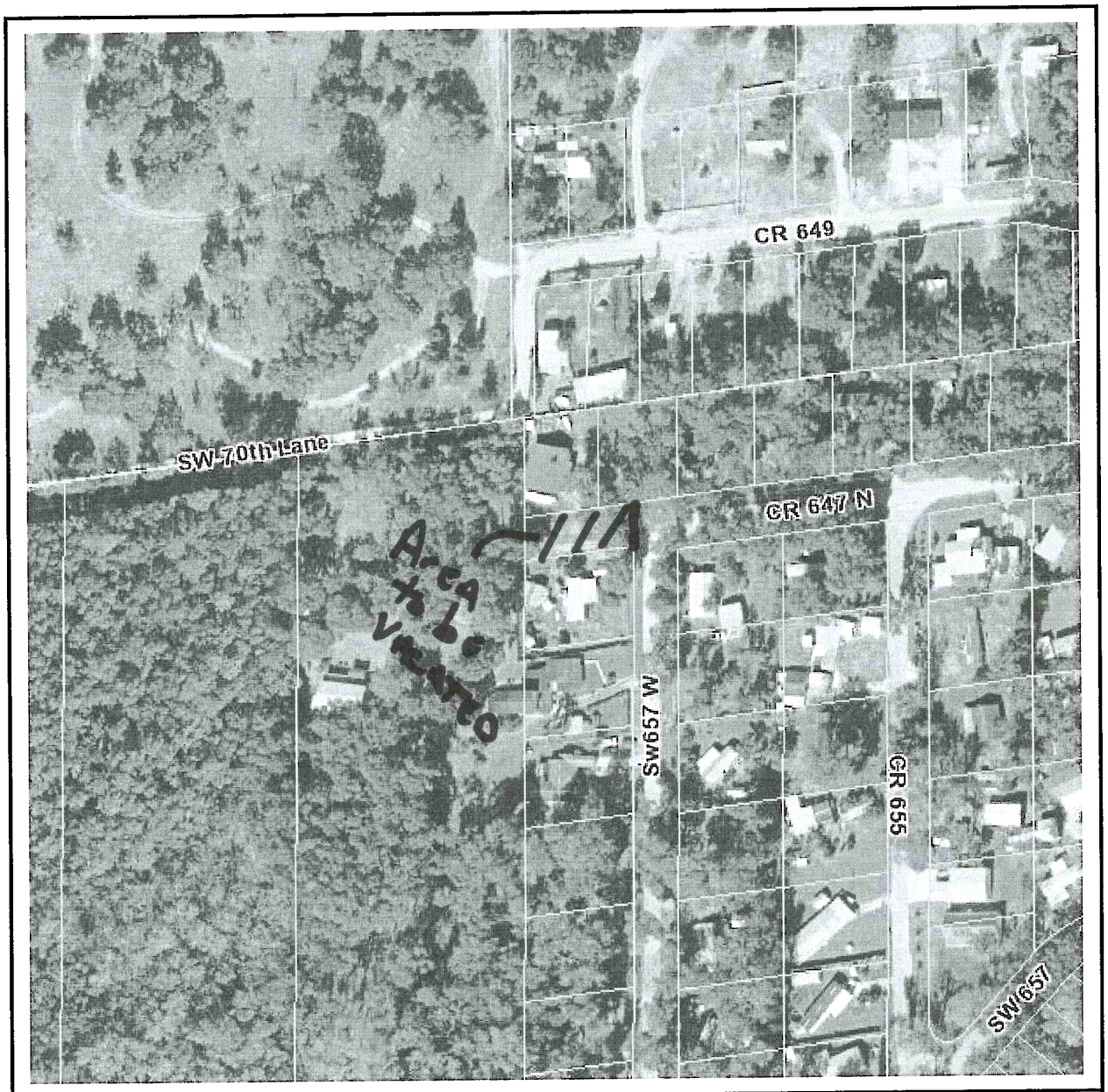
WHEREAS, THIS PLAT WAS ON THE 8th DAY OF May, 1963, SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA, FOR RECORD, AND HAS BEEN APPROVED BY SAID BOARD, NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA, THAT SAID PLAT SHALL BE RECORDED IN THE PUBLIC RECORDS OF THIS COUNTY AND THAT THE DEDICATION OF ALL STREETS, CANALS, PARKS AND OTHER PUBLIC PLACES SHOWN THEREON IS HEREBY ACCEPTED BY SAID BOARD FOR SUMTER COUNTY AND THE PUBLIC GENERALLY AND SHALL BE BINDING ON ALL PERSONS HEREAFTER.

BOARD OF COUNTY COMMISSIONERS SUMTER COUNTY, FLORIDA

ATTEST: C. Burton Marsh, CLERK — BY: J. H. Bobbitt, CHAIRMAN

I, C BURTON MARSH, CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, HEREBY CERTIFY THAT I HAVE EXAMINED THIS PLAT, THAT IT COMPLIES WITH ALL OF PROVISIONS OF CHAPTER 177, FLORIDA STATUTES, IN FORM, THAT IT WAS FILED FOR RECORD ON THE 10th DAY OF May, 1963, FILE NO. 52632 AND RECORDED IN PLAT BOOK 3 PAGE 42

C. Burton Marsh
CLERK OF CIRCUIT COURT, SUMTER COUNTY, FLORIDA



Sumter County Property Appraiser
Ronnie Hawkins, CFA · Bushnell, Florida · 352-793-0210

PARCEL:

Name:		LandVal
Site:		JustVal
Mail:		Assd
Sales Info	NONE	Exmpt
		Taxable

This information, GIS Map Updated: 7/16/2010, was derived from data which was compiled by the Sumter County Property Appraiser Office solely for the governmental purpose of property assessment. This information should not be relied upon by anyone as a determination of the ownership of property or market value. No warranties, expressed or implied, are provided for the accuracy of the data herein, it's use, or it's interpretation. Although it is periodically updated, this information may not reflect the data currently on file in the Property Appraiser's office. The assessed values are NOT certified values and therefore are subject to change before being finalized for ad valorem assessment purposes.

The Board of County Commissioners convened in regular session on this Tuesday. July 19, 2005, at Bushnell, Sumter County, Florida, with the following Members present to wit: Dick Hoffman, District No. 1. Joey Chandler, Chairman, District No. 2, Michael Francis, District No. 3, Jim Roberts, Vice Chairman, District No. 4, and Randy Mask, District No. 5. Bernard Dew, County Administrator. Connie Webb, Deputy Clerk, and Randall N. Thornton, Attorney for the Board, were also present and acting in their respective official capacities. Gloria R. Hayward, Clerk & Auditor. was absent.

The meeting was called to order at 5:03 p.m. by Chairman Chandler. with the devotional given by Mr. Francis, followed by the flag salute.

ROAD CLOSING – RESOLUTON

At 5:04 p.m., Chairman Chandler called for a public hearing to consider a road closing petition filed by John Marek and Lorena Marek, as follows: That portion of Old Istachatta Street lying between Lots 78 and Lot 53 and a portion of Lot 52 to a point where the Northerly extension of the West boundary of Magnolia Drive would intersect with the Southern boundary of said Lot 52 as per plat of RIVER RETREATS, recorded in Plat Book 3, Page 42, Public Records of Sumter County, Florida. Proof of Publication as advertised, filed herewith. Attorney Thornton advised that after staff review it was determined that the closure of this road would deprive at least two parcels of access to the property and that this particular portion of road has been the subject of a legal action in which it was decided that this right-of-way is to remain open and to be used by those parties. On the basis of the staff review and these other matters mentioned it is recommended that petition be denied inasmuch as it is the policy of this Board never to vacate a right-of-way that anyone needs or actually uses for access to their property. Petitioners, John Marek and Lorena Marek, spoke in favor of the resolution. Julian Harrison, counsel for Willamae Berens, and Richard Huff spoke against the resolution. Mr. Roberts moved to deny the petition. Motion was seconded by Mr. Francis and carried.

COMMISSIONERS

Mr. Hoffman moved to appoint Commissioner Hoffman to the Canvassing Board for the 2006 election year with Commissioner Mask as an alternate. Motion was seconded by Mr. Francis and carried.

GRANTS – ELECTIONS

Karen Krauss, Supervisor of Elections, has made application to U.S. Department of Health and Human Services for reimbursement of $6,589.84 for work done at polling sites to make them ADA accessible. No action necessary.

Prepared by and return to:
Lawrence J. Marchbanks, Esq.
Attorney at Law
Lawrence J. Marchbanks P.A.
110 Cleveland Avenue
Wildwood, FL 34785
352-748-5888
File Number: **05-0937**
Will Call No.:

9.00
9.50 T.F.
1995.00 DOC
2013.50

Grantee S.S. No.
Parcel Identification No. **L24=022**

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this **11th** day of **July, 2005** between **Willamae F. Berens, a single woman** whose post office address is **7110 CR 657 W., Bushnell, FL 33513** of the County of **Sumter**, State of **Florida**, grantor*. and **Richard B. Hough and Carol Ann Hough, his wife** whose post office address is **P.O. Box 5307, Clearwater, FL** of the County of Pinellas State of **Florida**, grantee*, 33758-5307

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Sumter County, Florida**, to-wit:

See attached

Subject to all applicable Declaration of Restrictions, Covenants, Conditions and Easements of record.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2004.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence.

Witness Name: Shirley Egbert

Willamae F. Berens (Seal)
Willamae F. Berens

Witness Name: Christina Adkins

State of Florida
County of Sumter

The foregoing instrument was acknowledged before me this 11th day of July, 2005 by Willamae F. Berens, who [ ] is personally known or [X] has produced a driver's license as identification.

[Notary Seal]

Notary Public

Printed Name:

My Commission Expires:

MABEL YOUNG
MY COMMISSION # DD 303614
EXPIRES: April 14, 2006
Bonded Thru Budget Notary Services

SUMTER COUNTY, FLORIDA DOC $1,995.00
GLORIA HAYWARD, CLERK OF CIRCUIT COURT

07/14/2005 #2005-24021
08:39 39AM B-1408 P-125

DoubleTime®

EXHIBIT A

Parcel 1.

Parcel # L24A149

Lot 79, RIVER RETREATS, according to the map or plat thereof as recorded in Plat Book 3, Page(s) 42, Public Records of Sumter County, Florida.

Parcel 2:

Parcel # L24=022

Begin at the Northeast corner of the NE ¼ of NW ¼ of Section 24, Township 21 South, Range 20 East, Sumter County, Florida, run South 81° 39' 10" West along the North line of said Northeast ¼ of Northwest ¼ a distance of 264.00 feet, thence South 0° 51' 50" East parallel to the East line of said Northeast ¼ of Northwest ¼ a distance of 1328.0 feet, more or less to the South line of said Northeast ¼ of Northwest ¼ thence Easterly along the South line of said Northeast ¼ of Northwest ¼ 264.0 feet, more or less to the East line of said Northeast ¼ of Northwest ¼, thence North 0° 51' 50" West along said East line of Northeast ¼ of Northwest ¼ 1328.0 feet, more or less to the Point of Beginning.

Subject to:

Subject To a Right-of-way easement in common with Grantors their heirs and assigns over & across the South 30 feet of The North 50 feet; and the West 30 feet of the East 50 feet of the North 175 feet and the East 20 feet of the North 50 feet of the North 175 feet of the NE 1/4 of the NW 1/4 of Sec 24, Township 24 South, Range 20 East

SUMTER COUNTY, FLORIDA
GLORIA HAYWARD, CLERK OF CIRCUIT COURT
DOC $1,995.00

07/14/2005 #2005-24021
08:39:39AM B-1408 P-126

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR SUMTER COUNTY, FLORIDA

CASE NO: 2005CA000382

WILLAMAE F BERENS
Plaintiff

VS

JOHN MAREK and LORENA MAREK
Defendants

_____/

FILED IN THE OFFICE OF
CLERK OF CIRCUIT COURT
SUMTER COUNTY, FLORIDA

2005 JUN 10 P 3:

GLORIA R. HAYWARD
CLERK OF CIRCUIT COURT

BY _____

SUMTER COUNTY, FLORIDA
GLORIA HAYWARD, CLERK OF CIRCUIT COURT

FINAL JUDGMENT

THIS CAUSE having come on for a final hearing on May 24, 2005, the Court having heard the testimony of the parties and their witnesses, having reviewed the physical evidence and documents submitted, and having heard the argument of counsel and the parties, and the Court being otherwise fully advised in the premises, it is, thereupon:

ORDERED and ADJUDGED as follows:

1 The Court finds that the part of CR 647 (Old Istachatta Road) which is between Lot 79 and Lot 53 of River Retreats Subdivision Plat Book 3 Page 3 is a dedicated public right-of-way and should be open to use by the parties and the public for that purpose.

2. Both parties **WILLAMAE BERENS, JOHN MAREK and LORENA MAREK** shall allow public use of the right-of-way described herein above. That right-of-way shall not be cluttered with furniture or other unnecessary objects. Any automobiles or other motor vehicles parked in the right-of-way shall be parked within 3 feet of the outer limit of the right-of-way. The post box which is maintained by **JOHN and LORENA MAREK** shall be allow to continue to be maintained.

3. The Court reserves jurisdiction to enforce the provisions of this Final Judgment.

DONE and ORDERED in chambers on this 9th day of June, 2005, in Bushnell, Sumter County, Florida.

JOHN W BOOTH
Circuit Court Judge

06/13/2005 #2005-19579
11:30:29AM B-1389 P-413

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to **JULIAN E. HARRISON**, 138 Bushnell Plaza, Suite 301, Bushnell, Florida 33513, **WILLAMAE BERENS**, 7110 CR 657W, Bushnell, Florida 33513 and **JOHN & LORENA MAREK**, 9491 CR 647N, Bushnell, Florida 33513 by US mail on this 10 day of June, 2005.

GLORIA R. HAYWARD, CLERK OF THE CIRCUIT COURT

(Deputy Clerk) (Judicial Assistant)

SUMTER COUNTY, FLORIDA
GLORIA HAYWARD, CLERK OF CIRCUIT COURT

06/13/2005 #2005-19579
11 30:29AM B-1389 P-414

CERTIFIED MAIL

October 4, 2010

Bradley Cornelius, Planning Manager
Sumter County Board of County Commissioners
Division of Planning & Development
Planning Services
910 North Main Street, Suite 301
Bushnell, Florida 33513

Re: Notice of Public Hearing, October 12, 2010 (Vacate Portion of CR 647 N.)

Dear Mr. Cornelius:

We have received your notice of Public Hearing regarding the petition of Danny and Joyce Clay to vacate a portion of CR 647 N. After reviewing the petitioners map, I find this closure would permanently eliminate me and any guest from utilizing a public right-of-way to access our property. This particular access is used weekly not only by ourselves but two other property owners, one of which is the petitioners. Due to our property size and mostly wooded, I do not feel there is another reasonable access into our property which could be accomplished without extensive changes and excessive cost. Furthermore, we purchased this property five years ago having this legal public right-of-way which has been in existence since River Retreats was approved as a legal subdivision.

We object strongly to any consideration of closing this portion of CR 647 N. as a dedicated public right of way.

Sincerely,

Richard Hough

Mr. & Mrs. Richard Hough
PO Box 5307
Clearwater, Florida 33758-5307

Cornelius, Brad

From: Darryl Johnston [djohnston@johnston-sasser.com]
Sent: Friday, October 08, 2010 10:40 AM
To: Cornelius, Brad
Cc: Arnold, Bradley; Sue Clark, 'Hough,Richard'
Subject: Public Hearing to Vacate Portion of CR 647N

Dear Mr Cornelius.

I represent Mr. and Mrs. Richard Hough and plan to attend the hearing with my clients before the Sumter County Board of County Commission to speak in opposition to the petition to vacate a portion of CR. 647N. I recently learned that the petitioner has requested the hearing be postponed from October 12 to October 26. I recently spoke with County Administrator Brad Arnold, and he suggested that I email you to advise that the Houghs have no objection to the postponement of the hearing. If there is any change to the petitioner's request to postpone the hearing, please notify me immediately. While my clients intend to retire to Sumter County, they currently live in Clearwater To attend the hearing will require them to take off work for at least a portion of the hearing day. If the hearing is to be postponed, I would like to save them (and me) an unnecessary trip

While the Houghs have already written you with a general objection to the proposed street vacation, I wanted to provide you some additional information and request that you share it with the Board prior to the next public hearing. The portion of CR. 647N which is proposed to be vacated has always been used by the Houghs to access their eight acre property Vacating the road will effectively close their access.

The other alternative is on SW 70th Lane which is a private, narrow, and unpaved road which is not county maintained It requires two 90 degree turns to approach the Houghs' northern property line This access can only be used by an averaged sized vehicle. Anything larger makes it impossible to complete the 90 degree turns without trespassing on other property My clients and some of their friends and family who visit have motor homes and campers which would make use of SW 70th Lane problematic. My clients also have several other larger vehicles, boats and trailers which prevent use of SW 70th Lane as a viable access to their property

There are additional problems with use of SW 70th Lane for even normal sized vehicles. The dirt road is only 10 feet wide. The grade of the dirt road is below the Houghs' property line and would require a transition area. The Houghs' property is heavily treed and extensive costs would be incurred to remove trees, stumps and roots to enable use of that access. The road is sandy and is susceptible to wash out. Finally, the aesthetic appearance of the property would be forever changed from a wooded view to a road and driveway along the northern end of their property It simply does not make sense to vacate a portion of a county road which has been historically used by the property owner and continues to be used for access.

There are other reasons which we will discuss with the Board on October 26th. This same request (by a different petitioner) was properly denied by the Board in July, 2005 because there were people who "need or actually use" the road for access to their property We respectfully request that the current Petition to Vacate be denied for the same reasons.

Sincerely,

Darryl W Johnston, Esquire
Johnston and Sasser, P.A
29 S. Brooksville Avenue
Brooksville, FL 34601
(352) 796-5123
(352) 799-8423 facsimile
djohnston@johnston-sasser.com

Cornelius, Brad

From: Arnold, Bradley
Sent: Friday. October 08, 2010 10:43 AM
To: Darryl Johnston
Cc: Cornelius, Brad; Derrill McAteer
Subject: RE. Public Hearing to Vacate Portion of CR. 647N
Importance: High

Mr. Johnston,

Mr. Cornelius is out today; however, as we discussed via phone I appreciate the additional information for the record regarding the upcoming public hearing. Although this issue is on the agenda for the BOCC 10/12/10 meeting, the applicant requested its postponement to the 10/26/10 meeting to which staff supports the request. We anticipate the BOCC supporting the request and staff's recommendation for the postponement.

Bradley

From: Darryl Johnston [mailto:djohnston@johnston-sasser.com]
Sent: Friday, October 08, 2010 10:40 AM
To: Cornelius, Brad
Cc: Arnold, Bradley; Sue Clark; 'Hough,Richard'
Subject: Public Hearing to Vacate Portion of CR. 647N

Dear Mr Cornelius.

I represent Mr and Mrs. Richard Hough and plan to attend the hearing with my clients before the Sumter County Board of County Commission to speak in opposition to the petition to vacate a portion of CR. 647N. I recently learned that the petitioner has requested the hearing be postponed from October 12 to October 26. I recently spoke with County Administrator Brad Arnold, and he suggested that I email you to advise that the Houghs have no objection to the postponement of the hearing. If there is any change to the petitioner's request to postpone the hearing, please notify me immediately While my clients intend to retire to Sumter County, they currently live in Clearwater To attend the hearing will require them to take off work for at least a portion of the hearing day If the hearing is to be postponed, I would like to save them (and me) an unnecessary trip.

While the Houghs have already written you with a general objection to the proposed street vacation, I wanted to provide you some additional information and request that you share it with the Board prior to the next public hearing. The portion of CR. 647N which is proposed to be vacated has always been used by the Houghs to access their eight acre property Vacating the road will effectively close their access.

The other alternative is on SW 70th Lane which is a private, narrow, and unpaved road which is not county maintained It requires two 90 degree turns to approach the Houghs' northern property line. This access can only be used by an averaged sized vehicle. Anything larger makes it impossible to complete the 90 degree turns without trespassing on other property My clients and some of their friends and family who visit have motor homes and campers which would make use of SW 70th Lane problematic. My clients also have several other larger vehicles, boats and trailers which prevent use of SW 70th Lane as a viable access to their property

There are additional problems with use of SW 70th Lane for even normal sized vehicles. The dirt road is only 10 feet wide. The grade of the dirt road is below the Houghs' property line and would require a transition area. The Houghs' property is heavily treed and extensive costs would be incurred to remove trees, stumps and roots

to enable use of that access. The road is sandy and is susceptible to wash out. Finally, the aesthetic appearance of the property would be forever changed from a wooded view to a road and driveway along the northern end of their property It simply does not make sense to vacate a portion of a county road which has been historically used by the property owner and continues to be used for access.

There are other reasons which we will discuss with the Board on October 26th. This same request (by a different petitioner) was properly denied by the Board in July, 2005 because there were people who "need or actually use" the road for access to their property We respectfully request that the current Petition to Vacate be denied for the same reasons.

Sincerely,

Darryl W Johnston, Esquire
Johnston and Sasser, P.A.
29 S Brooksville Avenue
Brooksville, FL 34601
(352) 796-5123
(352) 799-8423 facsimile
djohnston@johnston-sasser.com