



The Board has the following options:

1. Maintain the decision by the Board on October 26, 2010, to vacate and close a portion of CR 647N; or
2. Reverse the decision by the Board on October 26, 2010, to vacate and close a portion of CR 647N.

Attached for the Board's information are:

1. Staff report.
2. Minutes from Board meeting on October 26, 2010.
3. Copy of Plat for River Retreats.
4. Deeds from 1975 for:  
  
OR Book 167, Pages 203-204 (Parcel L24=023) – Currently owned by Geegan  
OR Book 167, Pages 241-242 (Parcel L24=022) – Currently owned by Hough  
OR Book 167, Pages 243-244 (Parcel L24=024) – Currently owned by Bates  
OR Book 168, Pages 782-783 (Parcel L24=025) – Currently owned by Moreau
5. Hough's Deed for L24=022 (OR Book 1408, Pages 125-126).
6. Request for Rehearing from Darryl Johnston, attorney for Mr. & Mrs. Hough. Letters from Mr. Johnston dated November 1, 2010, and November 2, 2010.
7. Email from Mr. Johnston to Derrill McAteer, County Attorney, dated November 17, 2010.
8. Title search by Helen Blackmon, from Felix M. Adams Attorney's Office, dated November 24, 2010.
9. Undated letter from Richard and Carol Hough submitted by Carol Hough at the November 9, 2010, Board meeting.
10. Letter from Frank B. Arenas, attorney for Mr. & Mrs. Clay and Mr. & Mrs. Marek, dated December 20, 2010.
11. Email from Margaret & Donald Geegan, owner of parcel L24=023, dated December 26, 2010.
12. Emails from Mr. McAteer to Bradley Arnold, County Administrator, and Brad Cornelius, Director of Planning & Development, dated October 11, 2010, and November 7, 2010.
13. Email from Mr. McAteer to Mr. Johnston, dated November 18, 2010.

# ***Board of County Commissioners***

## ***Division of Planning & Development***

### **Planning Services**

7375 Powell Road, Suite 115 • Wildwood, FL 34785 • Phone (352) 689-4460 • FAX: (352) 689-4461  
Website: <http://sumtercountyfl.gov/planning>



### **Staff Report Rehearing of Board's Decision to Vacate and Close a Portion of CR 647N January 11, 2011**

On October 26, 2010, the Board approved the petition of Danny & Joyce Clay for the vacation and closing of a portion of CR 647N. See Exhibit 1 for location of the road closing. On November 1, 2010, the County received a request for rehearing of the petition from Mr. Darryl Johnston, attorney for Mr. & Mrs. Richard Hough. The Board set the rehearing for January 11, 2011. The following information provides a response to the assertions by Mr. Johnston in his letter dated November 2, 2011.

The request for the rehearing is centered on the issue of whether the vacation and closing of the portion of CR 647N deprives Mr. & Mrs. Hough access to their 8 acre parcel (L24=022). In addition, the Houghs own Lot 79, adjacent to L24=022, within the River Retreats subdivision. See Exhibit 1 for location of the Hough's property.

The following provides a response to Mr. Johnston's November 2, 2010, letter:

1. The staff report for the October 26, 2010, hearing did indicate that the easement noted on the deed for the Hough's property (OR Book 1408, Pages 125-126) was SW 70<sup>th</sup> Lane. After further research, staff concurs that the easement reflected on the Hough's deed and SW 70<sup>th</sup> Lane are not the same. However, staff does not concur that the Hough's have no access to SW 70<sup>th</sup> Lane.

In 1975, four 8 acre MOL parcels were created, which includes parcel L24=022 owned by the Houghs. These deeds are recorded as:

OR Book 167, Pages 203-204 (Parcel L24=023) – Currently owned by Geegan  
OR Book 167, Pages 241-242 (Parcel L24=022) – Currently owned by Hough  
OR Book 167, Pages 243-244 (Parcel L24=024) – Currently owned by Bates  
OR Book 168, Pages 782-783 (Parcel L24=025) – Currently owned by Moreau

The deeds for the four parcels all include the same easement language as reflected in the Hough's deed (OR Book 1408, Pages 125-126).

Parcels L24=023, L24=024, L24=025 all directly access SW 70<sup>th</sup> Lane. None of these properties access via the easement described on the deeds. The access to

SW 70<sup>th</sup> Lane is shown on Exhibit 2. The following information is provided in support of this fact:

- a. Email from Mr. & Mrs. Geegan, owner of Parcel L24=023, to Mr. Cornelius, dated December 26, 2010, stating that they have owned the property since 1978 and have only ever accessed the property via SW 70<sup>th</sup> Lane over the past 32 years.
- b. Parcel L24=024, currently owned by Bates, was developed with a home in 1976. The address of the home is 9683 SW 70<sup>th</sup> Lane. The driveway to the home is connected to SW 70<sup>th</sup> Lane. This property has used SW 70<sup>th</sup> Lane as its sole point of access for 34 years.
- c. Parcel L24=025, currently owned by Moreau, has a gate with access to SW 70<sup>th</sup> Lane.

The River Retreats subdivision was platted in 1963 (PB 3, Page 42, Public Records of Sumter County), 12 years before the creation of the four 8 acre parcels. In review of the plat, the stub out of CR 649N (Old Istachatta Green Settlement Road) and CR 657 (River Drive) were to serve Lot 53 (CR 649N) and Lots 44 & 45 (CR 657). The assumption that these stub outs are also to provide access to the property to the west is presumptive. There is no indication on the plat of the intent to provide additional access to the west of the River Retreats subdivision. However, the plat does not preclude future connections from outside of the River Retreats subdivision.

In addition, SW 70<sup>th</sup> Lane has been in place since at least 1970. The 1970 aerial, Exhibit 3, clearly shows the presence of SW 70<sup>th</sup> Lane over the 40 year period.

It is staff's opinion that given SW 70<sup>th</sup> Lane is used as access by the three other 8 acre parcels since at least 1976; it is not unreasonable to assume the Hough's 8 acre parcel (L24=022) also has the ability to access from SW 70<sup>th</sup> Lane.

2. If the assertion by Mr. Johnston that parcel L24=022 has no legal access to SW 70<sup>th</sup> Lane is valid, then it does not result in the outcome that the Houghs have no reasonable access to the 8 acre parcel (L24=022) with the vacation and closing of the portion of CR 647N. Even with the vacation and closing of CR 647N, the Houghs still maintain two points of access to parcel L24=022.

In addition to Parcel L24=022, the Houghs 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 Houghs could access their parcel L24=022 through Lot 79 (CR 657). A picture of Lot 79, owned by the Houghs, is shown in Exhibit 2.

Secondly, there is another access point from the River Retreats subdivision to parcel L24=022. There is a similar stub out from CR 657 to parcel L24=022. This CR 657 stubout is cleared and there is a gate to the southern end of Hough's property (L24=022). It appears the Houghs use this access. At the time of the staff site visit on December 29, 2010, there was a box truck parked just beyond the gate on the Hough's property. A picture of this access is shown in Exhibit 2.

Contrary to Mr. Johnston's assertion, parcel L24=022 can not be split into two (2) four (4) acre parcels, which would require a northern and southern access point. The County's Comprehensive Plan adopted Future Land Use Map classifies parcel L24=022 as Agriculture. The Agriculture future land use requires a minimum parcel size of 10 acres. Since the existing 8 acre parcels were created prior to the adoption of the Comprehensive Plan, they are considered vested at 8 acres. However, these parcels can not be made smaller than 8 acres.

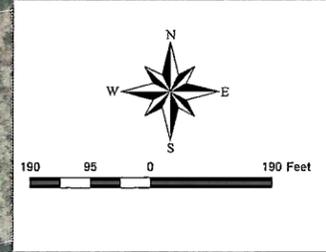
3. As of December 30, 2010, there are no open code enforcement cases regarding Hough's property.

In conclusion, based on the above stated review and analysis, staff finds that the vacation and closing of a portion of CR 647N by the Board on October 26, 2010, does not deprive Mr. & Mrs. Hough of reasonable access to parcel L24=022. Staff recommends the Board maintain its October 26, 2010, decision to vacate and close a portion of CR 647N.



**Exhibit 1**  
**CR 647N Road Vacation & Closing Re-Hearing**  
**January 11, 2011**

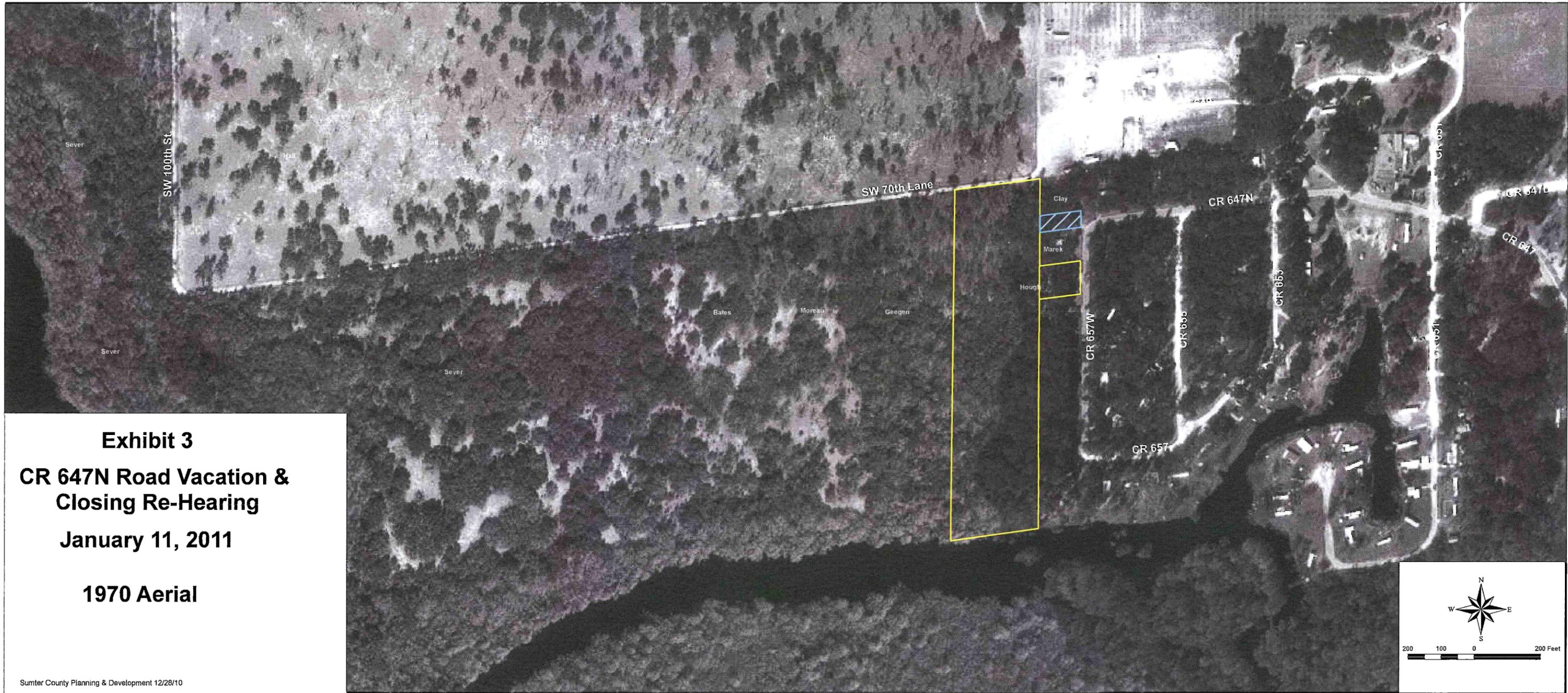
-  Hough Property
-  Portion of CR 647N Closed





**Exhibit 2**  
**CR 647N Road Vacation & Closing Re-Hearing**  
**January 11, 2011**

 Hough Property  
 Portion of CR 647N Closed



**Exhibit 3**  
**CR 647N Road Vacation & Closing Re-Hearing**  
**January 11, 2011**  
**1970 Aerial**

The Board of County Commissioners convened in regular session on this Tuesday, October 26, 2010, at The Villages, Sumter County, Florida, with the following members present to wit: Richard Hoffman, District No. 1; Douglas Gilpin, Chairman, District No. 2, Don Burgess, Vice Chairman, District No. 3, Garry Breeden, District No. 4; and Randy Mask, 2nd Vice Chairman, District No. 5. The following individuals were also present and acting in their respective official capacities: Bradley Arnold, County Administrator; William Kleinsorge, Finance Director; Melissa Elliott, Deputy Clerk; Connie Webb, Deputy Clerk; and Derrill McAteer, The Hogan Law Firm, attorneys for the Board. The meeting was called to order at 5:00 p.m. by Chairman Gilpin, with the invocation given by 2nd Vice Chairman Mask, followed by the flag salute which was led by Chairman Gilpin.

## **1. TIMED ITEMS AND PUBLIC HEARINGS**

a. *5:00 p.m. - Public Hearing - Vacate a Portion of Right-of-Way of CR 647N (Old Istachatta Green Settlement Road)*

Chairman Gilpin called for a public hearing to consider the petition of Danny and Joyce Clay to vacate a portion of right-of-way of CR 647N (Old Istachatta Green Settlement Road). Proof of Publication, as advertised, filed herewith. The matter was tabled at the October 12, 2010 meeting until this evening.

Brad Cornelius, Planning Director, gave a summary of the petition. Mr. Cornelius advised that the portion being considered is part of a platted subdivision, River Retreats. The key issue in reviewing a petition for road closing is to assure that no property is denied appropriate access after the closing of the road or right-of-way. If closed three property owners will be affected, Danny and Joyce Clay, the petitioners, who own Lot 53 and a portion of Lot 52; John and Lorena Marek, who own Lot 78; and Richard and Carol Ann Hough, who own Lot 79 and Parcel L24=022. The Clays will continue to have access to CR 647N, the Mareks will continue to have access to CR 647N and CR 657, however the Hough property will no longer have access to CR 647N. Due to the common ownership and the unified use of Parcel L24=022 and Lot 79, the Houghs could access Parcel L24=022 through Lot 79 (CR 657). The deed to Parcel L24=022 includes an easement known as SW 70th Lane, which is an unpaved privately maintained road to provide access to the property. It is the responsibility of the owner to assure the condition of private roadways are suitable to provide access to their property. The Houghs assert that given the condition of SW 70th Lane, it is not a viable access to L24=022 as is the portion of CR 647N being considered for closing. The Houghs have filed a formal objection to the closing of CR 647N.

Mr. Cornelius advised that on July 19, 2005 the Board considered a request to close this same portion of CR 647N. At that time the Board denied the request 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." Mr. Cornelius advised that after listening to the tape of the July 19,

2005 hearing, staff could find no reference to the access off of SW 70th Lane and staff feels there is possibly more information available this evening than was in 2005. In addition, on June 9, 2005, Circuit Court Judge Booth issued a Final Judgment in reference to a suit between William Berens (former owner of the Houghs' property) and John and Lorena Marek regarding the status of CR 647N. The Final Judgment deemed the portion of CR 647N in question to be "... dedicated public right-of-way and should be open to use by the parties and the public for that purpose." Mr. Cornelius advised that 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 647N if it finds that appropriate access is maintained for all parties. Staff does recommend the vacation and closing of the requested portion of CR 647N.

#### PUBLIC INPUT

Applicants, Joyce and Danny Clay, 8260 101st Court, Largo, Pinellas County, Florida addressed the Board regarding their petition. Ms. Clay presented photos for the record of the area in question.

Lorena and John Marek, 9491 CR 647N, Bushnell, spoke in favor of the closing.

Darryl Johnston, counsel for the Houghs, spoke against the closing and requested that the Board deny the request to close this portion of CR 647N. He provided a survey and photos of the area for the record.

Richard Hough, 9541 CR 647N, Bushnell, spoke against the proposed closing and discussed the hardships it will cause for him. There was discussion regarding the equipment that is stored on the property

During Board discussion it was clarified that CR 647N is a County road and SW 70th Lane is a 911 road. Commissioner Breeden expressed that realistically CR 647N is the appropriate access to the Houghs' property and should not be vacated. Mr. Cornelius advised the Board that there is an active code case regarding the heavy vehicles on the Houghs' property. It was clarified that Lot 79 and the Houghs' 8 acres are two separate parcels and if Lot 79 were sold there would still be access to the 8 acres as referenced on the deed to the property

10-26-10-1-a

**Commissioner Hoffman moved, with a second by 2nd Vice Chairman Mask, to approve the petition of Danny and Joyce Clay to close and vacate that portion of CR 647N described as "that portion of Old Istachatta Street lying between Lot 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 Lot 52 as per plat of River Retreats, recorded in Plat Book 3, Page 42, Public Records of Sumter County, Florida" and the related resolution (Resolution No. 2010-47). The motion carried 3 - 2 with**

**Commissioner Breeden, and Chairman Gilpin voting nay.**

*b. 5:00 p.m. - Ordinance to Amend Sumter County Land Development Code- Appendix 13-D to Allow Alternative Roadway Curb and Gutter Section*

Chairman Gilpin called for a public hearing to consider an ordinance of the Board of County Commissioners of Sumter County, Florida, amending the Sumter County Code to allow for alternative curb and gutter design, providing for severability; and providing for an effective date. Proof of Publication, as advertised, filed herewith.

Brad Cornelius, Planning Director, gave a summary of the proposed ordinance. The ordinance will allow for a deviation in terms of road construction design standards as to curb and gutter. An alternative curb and gutter section may be allowed subject to approval by Sumter County Public Works. The effective date of the ordinance will be November 1, 2010. The Zoning and Adjustment Board reviewed the proposed ordinance and recommended approval.

PUBLIC · There was no public input.

10-26-10-1-b

**Commissioner Breeden moved, with a second by Commissioner Hoffman, to approve an ordinance (Ordinance No. 2010-16) to Amend the Sumter County Land Development Code, Appendix 13D to allow alternative roadway curb and gutter design as presented. The motion carried unanimously 5 - 0 .**

*c. 5:30 p.m. · Public Hearing - Ordinance to Adopt Spring 2010 Cycle Large Scale Amendments- Sumter County Comprehensive Plan - DCA No. 10-1*

Chairman Gilpin called for a public hearing to consider an ordinance to adopt the Spring 2010 Cycle Large Scale Amendments · Sumter County Comprehensive Plan - DCA No. 10-1. Proof of Publication, as advertised, filed herewith.

Brad Cornelius, Planning Director, advised that this is the final adoption hearing for the Spring Cycle of the 2010 Large Scale Comprehensive Plan Amendments. These proposed amendments were approved for transmittal by the Board in the Spring to the Florida Department of Community Affairs (DCA) for review. On September 24, 2010, DCA issued their Objections, Recommendations and Comments Report (ORC) to the proposed amendments. The two amendments are presented this evening.

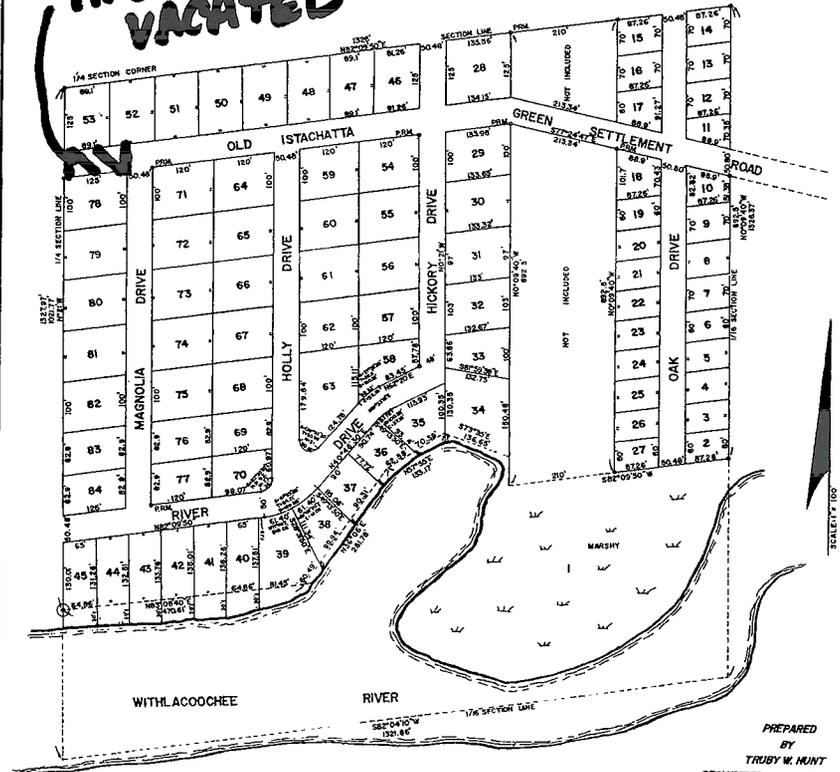
1 CP-A2010-0001 (George Sola, et al. Monarch Ranch) · This request is to change future land use from Agriculture to Industrial and inclusion in the Urban Development Area on 2,866 acres MOL. The subject property is located south of the Florida Turnpike to the east of I-75 and west of the CSX Railroad and north of the City of Coleman. The proposed amendment also includes a new policy to the Future Land Use Element to limit development entitlements and amends a policy to clarify that Sector Plans are only required for a

# RIVER RETREATS

A SUBDIVISION IN SECTION 24, T21 S, R20 E  
SUMNER COUNTY, FLORIDA

**DESCRIPTION:** THE N.E. 1/4 OF N.E. 1/4 SECTION 24, T21 S, R20 E, LESS: COMMENCE AT N.E. CORNER OF N.E. 1/4 OF N.E. 1/4 SECTION 24, T21 S, R20 E, RUN THENCE S62°09'50"W 223' TO P.O.B., THENCE CONTINUE S62°05'00"W 210', THENCE S04°04'00"E 892.5' THENCE N62°09'50"E 210', THENCE N02°09'40"W 892.5' TO P.O.B.

**AREA TO BE VACATED**



**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 Sumner County, Florida.

**WITNESS:** Our hands and seals as dedicators this 13th day of March, 1963, signed and sealed in the presence of:

*W.D. Summers*  
 WITNESS  
*Frances L. Summers*  
 W.D. SUMMERS  
*Frances L. Summers*  
 FRANCES L. SUMMERS

### STATE OF FLORIDA COUNTY OF SUMNER

BEFORE ME, 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 them and their before me that they executed the same.

**WITNESS:** My hand and official seal this 13th day of March, 1963.

MY COMMISSION EXPIRES: 7-24-64  
*James C. Hunt*  
 JAMES 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 Sumner County, Florida, on the 13th 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 Sumner County or the State of Florida.  
DATED THIS 13th day of March, 1963.  
*W.D. Summers*  
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 Sumner County, Florida.  
*W.D. Summers*  
COUNTY ATTORNEY SUMNER COUNTY

**WHEREAS,** this plat was on the 13th day of March, 1963, submitted to the Board of County Commissioners of Sumner County, Florida, for record, and has been approved by said Board, now therefore be it resolved by the Board of County Commissioners of Sumner 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 Sumner County and the public generally and shall be binding on all persons hereafter.

BOARD OF COUNTY COMMISSIONERS SUMNER COUNTY, FLORIDA  
ATTEST: *W.D. Summers*  
CLERK

I, C. BURTON MARSH, CLERK OF THE CIRCUIT COURT OF SUMNER COUNTY, FLORIDA, hereby certify that I have examined this plat, that it complies with all provisions of Chapter 177, Florida Statutes, in form, that it was filed for record on the 13th day of March, 1963, file No. 266-22, and recorded in Plat Book 3, Page 174.

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

SEE: 100  
30

19.500.00  
21.00  
35.50  
6.00  
315.95

REC. 167 PAGE 203

WARRANTY DEED  
MUNIC. TO HOLD

RANGE FORM 01

This Warranty Deed Made the 15<sup>th</sup> day of ~~August~~ September A. D. 1975 by

THEODORE DREIER and BARBARA L. DREIER, his wife,  
hereinafter called the grantor, to JAMES C STEPP and CELIA STEPP, his wife,

whose postoffice address is 6458 146th Avenue, Clearwater, Florida 33520  
hereinafter called the grantee;

(Wherever used herein the words "estate" and "heirs" include all the parties to this instrument and the heirs (and) representatives and assigns of individuals, and the successors and assigns of corporations)

**Witnesseth:** That the grantor, for and in consideration of the sum of \$ 10 00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, alien, releases, conveys and confirms unto the grantee, all that certain land situated in Sumter County, Florida, viz: From the Northeast corner of the Northeast 1/4 of the Northwest 1/4 of Section 24, Township 21 South, Range 20 East, Sumter County, Florida, run South 81 degrees 39 minutes 10 seconds West along the North line of said Northeast 1/4 of Northwest 1/4 a distance of 264.0 feet to the Point of Beginning of this description. From said Point of Beginning continue South 81 degrees 39 minutes 10 seconds West 264.0 feet, thence South 0 degrees 51 minutes 50 seconds East parallel to the East line of said Northeast 1/4 of Northwest 1/4 a distance of 1328.50 feet, more or less to the South line of said Northeast 1/4 of Northwest 1/4 thence Easterly along the said South line of Northeast 1/4 of Northwest 1/4, 264.0 feet, more or less, to a point that is South 0 degrees 51 minutes 50 seconds East of the Point of Beginning, run thence North 0 degrees 51 minutes 50 seconds West 1328 feet, more or less to the Point of Beginning.

SUBJECT to a right-of-way easement in common with Grantors, their heirs and assigns over and 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 South 50 feet of the North 175 feet, of Northeast 1/4 of the Northwest 1/4 of Section 24, Township 21 South, Range 20 East.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. **SEE DEED RESTRICTIONS ON REVERSE SIDE HEREOF**

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1974.

FLORIDA DOCUMENTARY SUR TAX \$ 21.45  
STATE OF FLORIDA DOCUMENTARY STAMP TAX DEPT. OF REVENUE \$ 58.50  
SEP 22 1975

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

*Theodore Dreier*  
*Barbara L. Dreier*  
*James C. Stepp*  
*Celia P. Young*

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 acknowledgments, personally appeared THEODORE DREIER and BARBARA L. DREIER, his wife,

to me, known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

Witness my hand and official seal of the County and State last aforesaid this 15th day of August, 1975.

This instrument prepared by:  
THIS INSTRUMENT WAS PREPARED BY  
DAVID A. DAVIS, ATTORNEY AT LAW  
P. O. BOX 127, DUSHNELL, FLA. 33513

OFF REC: 167 PAGE 204

This Deed is given subject to the following restrictions:

- 1. No mobile homes or mobile-home type structures will be permitted in compliance with Sumter County A5 Zoning.
- 2. Dwellings must be conventional housing with a minimum of 1100 sq. ft. under roof, inclusive of screened porches, but exclusive of garages or "out" buildings under separate roof.
- 3. There may not be more than one dwelling per six acres and all dwellings must be a minimum of 200 feet set back from the road and 200 feet set back from the river.

FILED & RECORDED IN  
 SUMTER COUNTY OF  
 MASSACHUSETTS  
 RECORDS DEPT.  
 SEP 23 1 35 PM '75  
 C. BURTON MARSH  
 CLERK OF DISTRICT COURT  
 BY *W. M. ...*  
*W. M. ...*

115292

Warranty Deed

STATE OF MASSACHUSETTS }  
COUNTY OF DUKES COUNTY }

I, SOPHIA B. CAMPOS, Clerk of the Superior Court, within and for the County and State of Massachusetts, do hereby certify, that said Court is a Court of Record; that *Madred P. Huntington* Esquire, whose name is subscribed to the certificate of proof of acknowledgment of the annexed Instrument, was at the time of taking the same a *Notary Public* within and for said County of Dukes County, residing therein, duly commissioned and sworn, and qualified to act as such; that as such *Notary Public* he was at the time of taking such acknowledgment duly authorized by the laws of the state of Massachusetts to administer oaths and to take the acknowledgments and proof of deeds or conveyances *state of Massachusetts*; that I am well acquainted with the handwriting of said *Notary Public* and I verily believe his signature to the same is genuine; I have compared the impression of the seal affixed thereto with a specimen impression thereof filed in my office and I believe the impression of the seal upon the original certificate is genuine.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Superior Court at Edgartown, in said Dukes County this *fifteenth* day of *September* in the year of our Lord nineteen hundred and *seventy-five*.

*Sophia B. Campos*  
 Clerk





11, 500.00  
FREE 11/10/75  
3148 J  
600

OST. REC 167 PAGE 243

RAMEO FORM 01

WARRANTY DEED  
INDIVID. TO INDIVID.

This Warranty Deed Made the 15<sup>th</sup> day of September A. D. 1975 by

THEODORE DREIER and BARBARA L. DREIER, his wife,

hereinafter called the grantor, to HOWARD J. EINWALTER and DE LORA A. EINWALTER, his wife

whose postoffice address is 3599 62nd Street North, St. Petersburg, Florida, 33710  
hereinafter called the grantees:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

**Witnesseth:** That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, alien, re-mises, releases, conveys and confirms unto the grantees, all that certain land situate in Sumter County, Florida, viz: From the Northeast corner of the Northeast 1/4 of Northwest 1/4 of Section 24, Township 21 South, Range 20 East, Sumter County, Florida, run South 81 degrees 39 minutes 10 seconds West along the North line of said Northeast 1/4 of Northwest 1/4 a distance of 792 feet, to the Point of Beginning of this description. From said Point of Beginning continue South 81 degrees 39 minutes 10 seconds West 264.0 feet, thence South 0 degrees 51 minutes 50 seconds East parallel to the East line of said Northeast 1/4 of Northwest 1/4 a distance of 1329.50 feet, more or less, to the South line of said Northeast 1/4 of Northwest 1/4, thence Easterly along the said South line of Northeast 1/4 of Northwest 1/4 264.0 feet, more or less to a point that is South 0 degrees 51 minutes 50 seconds East, of the Point of Beginning, run thence North 0 degrees 51 minutes 50 seconds West 1329.0 feet to the Point of Beginning.

SUBJECT to a right-of-way easement in common with Grantors, their heirs and assigns over and 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 South 50 feet of the North 175 feet; of Northeast 1/4 of the Northwest 1/4 of Section 24, Township 21 South, Range 20 East.

SEE DEED RESTRICTIONS ON REVERSE SIDE HEREOF

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any-wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantees that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

~~Signature~~

Signed, Sealed and Delivered in our Presence.

*Theodore Dreier*  
*Barbara L. Dreier*

*Elizabeth E. Young*  
*William Young*

STATE OF FLORIDA  
COUNTY OF SUMTER  
*Duval County*



I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared THEODORE DREIER and BARBARA L. DREIER, his wife,

to me known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State that aforesaid this 15<sup>th</sup> day of September A. D. 1975.

*Signature*

This instrument prepared by DAVID A. DAVIS, ATTORNEY AT LAW, COMMISSION EXPIRES OCTOBER 26, 1977

Address: THIS INSTRUMENT WAS PREPARED BY DAVID A. DAVIS, ATTORNEY AT LAW P. O. BOX 127, BUSHNELL, FLA. 33513

SPACE BELOW FOR RECORDERS USE

OFF REC: 167 PAGE 244

This Deed is given subject to the following restrictions:

- 1. No mobile homes or mobile-home type structures will be permitted in compliance with Sumter County A5 Zoning.
- 2. Dwellings must be conventional housing with a minimum of 1100 sq. ft. under roof, inclusive of screened porches, but exclusive of garages or "out" buildings under separate roof.
- 3. There may not be more than one dwelling per six acres and all dwellings must be a minimum of 200 feet set back from the road and 200 feet set back from the river.

115318

FILED & RECORDED IN PUBLIC RECORDS OF SUMTER COUNTY, FLA. THIS 24th DAY OF SEPTEMBER

SEP 24 2 44 PM '75

C. BURTCH MARRER CLERK OF CIRCUIT COURT

BY: *[Signature]*

Warranty Deed

STATE OF MASSACHUSETTS }  
COUNTY OF DUKES COUNTY }

I, SOPHIA B. CAMPOS, Clerk of the Superior Court, within and for the County and State above named do hereby certify, that said Court is a Court of Record; that Mildred T. Huntington Esquire, whose name is subscribed to the certificate of proof of acknowledgment of the annexed instrument, was at the time of taking the same a Notary Public within and for said County of Dukes County, residing therein, duly commissioned and sworn, and qualified to act as such; that as such Notary Public he was at the time of taking such acknowledgment duly authorized by the laws of the state of Massachusetts to administer oaths and to take the acknowledgments and proof of deeds or conveyances for lands tenements or hereditaments in said state of Massachusetts; that I am well acquainted with the handwriting of said Mildred T. Huntington and verily believe his signature to the same is genuine. I have compared the impression of the seal affixed thereto with a specimen impression thereof filed in my office and I believe the impression of the seal upon the original certificate is genuine.



IN WITNESS WHEREOF, I have hereunto set my hand and placed the seal of the said Superior Court at Edgewater, in said Dukes County this 21st day of September in the year of our Lord nineteen hundred and seventy-five.

*Sophia B. Campos* Clerk.



NOT. REC. 168 PM 783

THIS DEED IS GIVEN SUBJECT TO THE FOLLOWING RESTRICTIONS:

- 1. No Mobile Homes or mobile-home type structures will be permitted in compliance with Sumter County A5 zoning.
- 2. Dwellings must be conventional housing with a minimum of 1100 square feet under roof, inclusive of screened porches, but exclusive of garages or "out" buildings under separate roof.
- 3. There may not be more than one dwelling per six acres and all dwellings must be a minimum of 200 feet set back from the road and 200 feet set back from the river.

RANCO FORM 01

Warranty Deed

TO

STATE OF MASSACHUSETTS }  
COUNTY OF DUKE COUNTY }

I, SOPHIA B. CAMPOS, Clerk of the Superior Court, within and for the County and State of Massachusetts, do hereby certify that said Court is a Court of Record; that Mildred T. Huntington whose name is subscribed to the certificate or proof of acknowledgment of the annexed instrument, was at the time of taking the same a Notary Public within and for said County of Duke County, residing therein, duly commissioned and sworn, and qualified to act as such Notary Public he was at the time of taking such acknowledgment duly authorized by the laws of the state of Massachusetts to administer oaths and to take the acknowledgments and proof of deeds or conveyances for lands, tenements or hereditaments in said state of Massachusetts; that I am well acquainted with the handwriting of said Mildred T. Huntington and verily believe his signature to the same is genuine. I have compared the impression of the seal affixed thereto with a specimen impression thereof filed in my office and I believe the impression of the seal upon the original certificate is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Superior Court at Edgartown, in said Duke County this ninth day of October in the year of our Lord nineteen hundred and seventy-five.



Sophia B. Campos Clerk.

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

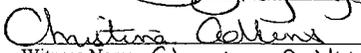
Subject to all applicable Declaration of Restrictions, Covenants, Conditions and Easements of record.

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  
  
Witness Name: Christina Adkins

  
Willamae F. Berens (Seal)

State of Florida  
County of Sumter

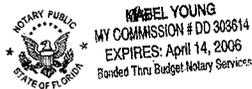
The foregoing instrument was acknowledged before me this 11th day of July, 2005 by Willamae F. Berens, who  is personally known or  has produced a driver's license as identification.

[Notary Seal]

Notary Public

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

My Commission Expires: \_\_\_\_\_



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

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  $\frac{1}{2}$  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 ¼ of the NW ¼ of Sec. 24, Township 24 South, Range 20 East

*with*

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

# JOHNSTON & SASSER, P.A.

ATTORNEYS AND COUNSELORS AT LAW

MAILING ADDRESS:  
POST OFFICE BOX 997  
BROOKSVILLE, FLORIDA 34605-0997  
TELEPHONE: (352) 796-5123  
FAX: (352) 799-3187

DAVID C. SASSER  
DARRYL W. JOHNSTON

29 SOUTH BROOKSVILLE AVENUE  
BROOKSVILLE, FLORIDA 34601

November 1, 2010

**VIA FACSIMILE (352) 689-4461 AND  
REGULAR U.S. MAIL DELIVERY**

Brad Cornelius  
Director of Planning  
7375 Powell Road  
Suite 115  
Wildwood, FL 34785



RE: Request for Rehearing of Petition to Vacate portion of CR 647N

Dear Mr Cornelius.

Pursuant to Sumter County Code, Section 20-21, please allow this letter to serve as the formal request of Mr and Mrs. Richard Hough for a rehearing by the Board of County Commission on the Petition to Vacate portion of CR 647N. The original hearing was held last Tuesday on October 26, 2010. It is my clients' intention to submit proof of misrepresentation or mistake of substantial fact and other errors for the Board's reconsideration.

Sincerely yours,

Darryl W. Johnston

cc: Mr and Mrs. Richard Hough  
DWJ/

# JOHNSTON & SASSER, P.A.

ATTORNEYS AND COUNSELORS AT LAW

MAILING ADDRESS:  
POST OFFICE BOX 997  
BROOKSVILLE, FLORIDA 34605-0997  
TELEPHONE: (352) 796-5123  
FAX: (352) 799-3187

DAVID C. SASSER  
DARRYL W. JOHNSTON

29 SOUTH BROOKSVILLE AVENUE  
BROOKSVILLE, FLORIDA 34601

November 2, 2010

VIA FACSIMILE (352) 689-4461 AND  
REGULAR U.S. MAIL DELIVERY

Brad Cornelius  
Director of Planning  
7375 Powell Road  
Suite 115  
Wildwood, FL 34785



RE: Request for Rehearing of Petition to Vacate portion of CR 647N

Dear Mr. Cornelius:

Pursuant to the request of Derrill McAteer, Esq., I am forwarding information on behalf of Mr. and Mrs. Richard Hough to be shared with the Board of County Commission prior to its consideration of the request for a rehearing on the Petition to Vacate portion of CR 647N. This letter will also summarize some of the misrepresentations, mistakes of substantial fact and other errors which we would want to present for the Board's consideration.

1 A Warranty Deed from Berens to Hough as recorded in O.R. Book 1408, Page 125, public records of Sumter County is attached as Exhibit 1. It was represented at the hearing and in the executive summary that the Houghs have legal access to their property over SW 70th Lane. This was also testified to as a significant difference between the current hearing and the one which occurred in 2005 because the SW 70th Lane access was not considered then. This is inaccurate.

According to the Houghs' deed, their property is subject to two right-of-way easements across their property. A copy of a drawing showing these easements is attached as Exhibit 2. These easements burden and do not benefit the Houghs' property. There is no easement granted to Houghs or for the benefit of the Houghs' property in their deed. The private road known as SW 70th Lane is not legally described anywhere in the Houghs' deed, and therefore, they have no legal right to traverse that private road.

In addition, the words "subject to an easement" have been held insufficient as a matter of law to reserve or create an easement. See Procacci v. Zacco, 324 So.2d 180 (Fla. 4th DCA 1976) and Marchman v. Perdue, 543 So.2d 1286 (Fla. 1st DCA 1989). Whether "subject to and

easement" language creates or reserves an easement is a question of fact involving the intent of the parties. Usually this means litigation. We intend to have a complete title search performed and provided to the Board prior to the rehearing date. We do not know where the statement on page 2, paragraph 7 of the Executive Summary originated, but it appears to be materially inaccurate.

2. CR 647 N was used by the Berens, the Houghs' predecessors in title, from the time they purchased the property in 1975. A barn was built on the acreage in 1981. The sole access to the 8 acre parcel since then has been over the portion of CR 647 N which the Board has voted to vacate.

3. The Clays have not approached the Houghs, let alone "many times" and have not acted as mediators. The Clays have called in complaints to the Southwest Florida Water Management District against the Houghs. The complaint was unfounded. The Clays have not contacted the Houghs about paving or maintaining the public right of way known as CR 647 N.

4. Contrary to the Mareks' testimony that heavy equipment and trucks traveled the public right of way at all hours of the night, only one vehicle (flat bed truck) has ever come in after midnight during the five years the Houghs have owned their property. This was when the antique fire truck they purchased broke down during transport to the property and had to be hauled in on a flat bed truck. It was at 1:47 a.m., it was due to a mechanical breakdown, and it was the only time it has ever occurred.

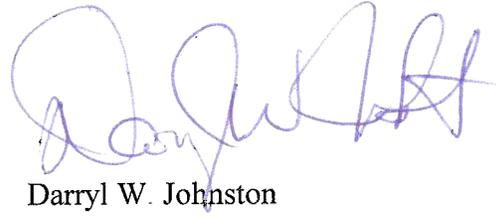
5. All the equipment on the Houghs' eight acres is allowed to be there, and there are no code violations. The code enforcement complaint that was mentioned at the hearing had already been investigated and the investigation was completed. The report had simply not been signed off. There was no code enforcement violation and staff knew or should have known this.

6. There was a misrepresentation that the Houghs did not do anything to maintain the public right of way. In 2005, the Houghs requested permission to trim trees and even offered to pave the right-of-way, but were told by County officials that they could not because it was public property. They asked me to write then County Attorney, Randall Thornton. A copy of my letter is attached as Exhibit 3. Mr. Thornton advised that the property would be put into the maintenance plan. The only tree trimming that has been done was the removal of trees by the Mareks and/or Clays which was directly contrary to the instructions not to trim or remove trees from the public right of way.

These are some of the misrepresentations and inaccuracies for the Board to consider in granting the request for rehearing. The CR 647 N access is the only historical access to the 8 acre parcel and is the only viable access. There is also a stub out further down Magnolia Drive (CR 657 W), however, use of that access would require a driveway being cleared through 6 acres of heavily wooded property. That is unreasonable. Stub outs are typically required at the end of subdivisions for connectivity to adjacent property which may or may not be developed in the future. The 8 acre tract could be split into two four acre tracts and the public roads would serve as the direct access to those tracts. It makes no sense to eliminate the only public access ever used by the owners of the 8 acre tract.

We respectfully request the rehearing.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Darryl W. Johnston". The signature is fluid and cursive, with a large initial "D" and "J".

Darryl W. Johnston

cc: Mr and Mrs. Richard Hough  
% Derrill McAteer, Esq  
% Bradley Arnold

enclosures  
DWJ/

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 <sup>Duval</sup> 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:

*Shirley Egbert*  
Witness Name: Shirley Egbert  
*Christina Adkins*  
Witness Name: Christina Adkins

*Willamae F. Berens* (Seal)  
Willamae F. Berens

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  has produced a driver's license as identification.

[Notary Seal]

*Mabel Young*  
Notary Public

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

My Commission Expires: \_\_\_\_\_



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

DoubleTimee

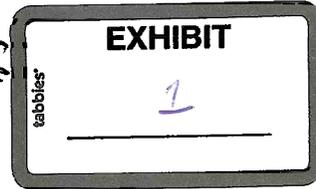


EXHIBIT A

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:

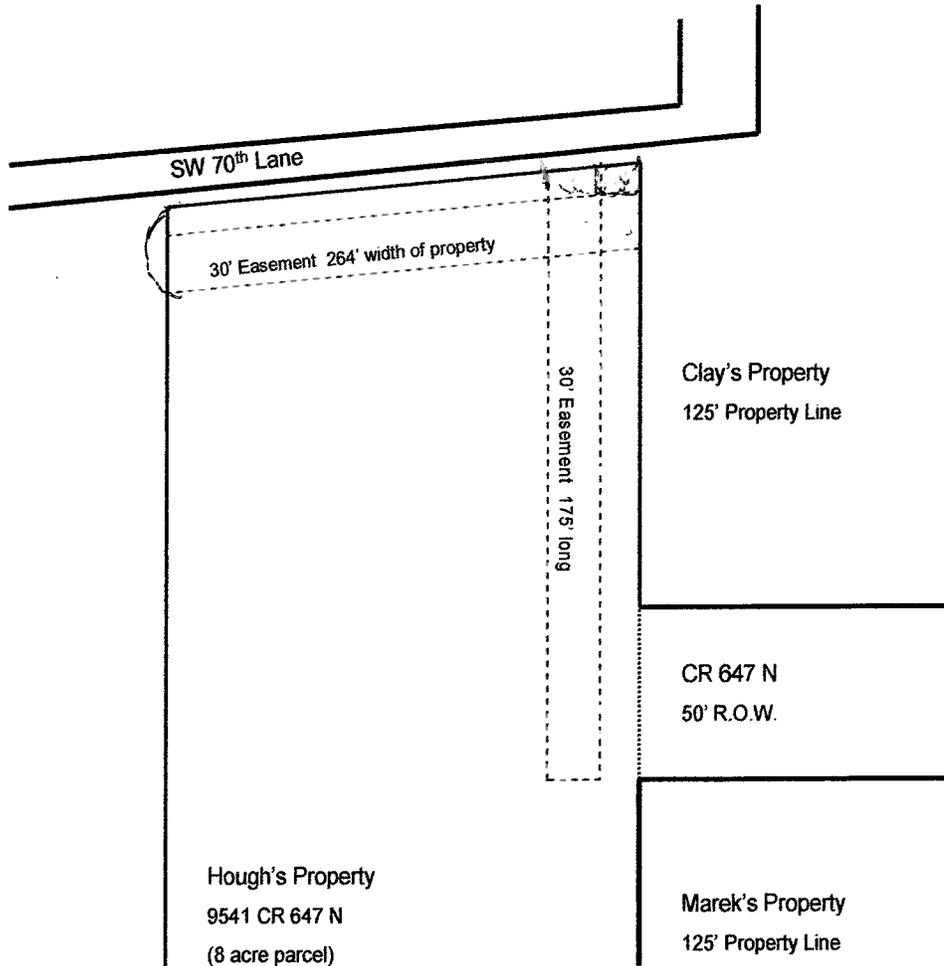
Subject To a right-of-way easement in common with Grantors their heirs and assigns over ½ across the South 30 feet of the North 50 feet; and (the West 30 feet of the East 50 feet of the North 175 feet) and (the East 20 feet of the North 50 feet of the North 175 feet) of the NE ¼ of the NW ¼ of Sec. 24, 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

*with*

# Property Easement



November 7, 2005

Randall Thornton, Esquire  
P.O. Box 58  
Lake Panasoffkee, FL 33538-0058

RE: Mr and Mrs. Richard Hough

Dear Mr Thornton:

It was a pleasure talking with you last week, and it is my hope that this matter will be able to resolve itself without much more of our involvement.

I represent Mr and Mrs. Richard Hough who own Lot 79 in River Retreats subdivision. The River Retreats plat was recorded in 1963 in Plat Book 3, Page 42, public records of Sumter County, Florida. The Houghs also own 8 acres behind Lot 79 and west of the River Retreats subdivision.

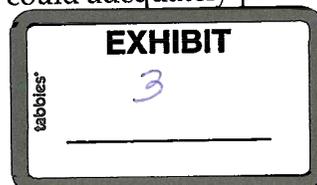
The Houghs' only access to their eight acres is across the platted streets shown on the plat as Old Istachatta and River Drive. Both of these streets stub out into my clients' eight acres. The roads are not paved at the stub outs. I have highlighted in yellow the street access to my clients' property and have highlighted in green my clients' lot and property. My clients are unable to use both public streets, but for different reasons.

The River Drive access is blocked by what appears to be hurricane debris. Since the debris is being stored on a platted street, it makes sense for it to be removed by the Sumter County Department of Public Works. The blocked road makes it impossible for my clients to access the southern part of their property and also impedes access for the owners of Lots 43 and 44 in River Retreats.

The Old Istachatta access is partially blocked by a mailbox, two palm trees and a shrub/tree located in the middle of the right of way. A copy of photographs showing the encroachments are enclosed for your review. It is impossible for the Houghs to access their property without scraping the shrub/tree closest to their gate. I believe all of the encroaching items were placed there by the Mareks, owners of Lot 78 in River Retreats. The items in the right-of-way prevent access to the north part of my clients' property and also impedes access for the owners of Lots 52 and 53 in River Retreats.

Although I have not seen it, I am aware of a civil order between the Mareks and the Houghs' predecessor in title that permits use of the public right of way (Old Istachatta) for the Mareks' mailbox and parking on part of the right of way. I do not believe it was proper for the Court to enter such an order without due process to Sumter County. I also do not believe a Judge would knowingly impair use of a public right-of-way, especially if it was needed for access by owners west of River Retreats subdivision and within River Retreats.

The purpose of this letter is to request that the Sumter County Department of Public Works place the clearing of these two right of ways into the scheduled of maintenance. My clients do not request or care whether the right-of-way is paved, but only that it be cleared so their vehicles, travel trailer and/or motor home could adequately pass over the right-of-way.



My clients have a gate located at the north entrance to their property, and the gate opens into the right of way. My clients agree to change the gate opening to open into their property, and they will immediately effect that change on the weekend after the right-of-ways are cleared.

You expressed concern about the civil court order, and perhaps that issue can be resolved by asking the Court to reconsider the Order. However, parking within 3 feet of their property should not affect my clients' access, however, the Mareks routinely park five to ten feet from their property line. I have enclosed a copy of a picture that shows this. The mailbox, however, is a hindrance for my clients to make a right turn onto Holly Drive with any kind of trailer attached to their vehicle. If the mailbox is located in front of the Mareks' home (like most everyone else), it becomes a non-issue. We need to have the mailbox removed from the right-of-way.

Please let me know if we can resolve these encroachments onto the right-of-way as suggested in my letter. If you would like to discuss it further, or if I can be of help in the process please let me know.

I look forward to hearing from you.

Sincerely yours,

Darryl W Johnston

enclosures

cc: Mr and Mrs. Richard Hough  
DWJ/

**Cornelius, Brad**

---

**Subject:** FW: Follow Up to C 647N Road Closing Petition

---

**From:** Darryl Johnston [mailto:DJohnston@johnston-sasser.com]  
**Sent:** Wednesday, November 17, 2010 12:46 AM  
**To:** Derrill McAteer  
**Cc:** Sue Clark  
**Subject:** RE Follow Up to C 647N Road Closing Petition

Derrill,

I will be in depositions all morning on Wednesday. Sue is calling the title searcher in Sumter and will get with you if there is information. In the meantime, you can simply review the deed and see it does not describe what is known as SW 70th Ave. It only describes property within my clients' property. Further, the grant in the deed is "subject to", not "together with" which means my clients would not have the legal right to claim use of the land even if it described SW 70th Ave. (which it does not). You can advise your client that regardless of the search, the Hough's deed does not give access as Mr. Cornelius represented. Hopefully we will have some of the search results available by noon, but I doubt it.

Darryl

11/17/2010

**FELIX M. ADAMS**  
**Attorney at Law**

**138 Bushnell Plaza**  
**Suite 201**  
**Bushnell, Florida 33513**  
Darryl W Johnston, Esq.  
P O. Box 997  
Brooksville, FL 34605-0997

**Telephone (352) 793-6900**  
**Facsimile (352) 793-6990**

November 24, 2010

Re: Title Search – Lot 79 River Retreats and Houghs' 8 acre tract

Dear Mr Johnston.

I have, as you requested, searched for access to the Houghs' 8 acre tract and have been unable to find any access to it. The easement that is along the north side of their property does not appear to have been given to any of those persons who own those four tracts, the Houghs and three other owners. All of the deeds simply say "subject to", not reserving nor granting an easement. I am enclosing a copy of The Fund Title Notes regarding "subject to" easement for your reference. I realize they may have access through Lot 79, which they own, but it appears not necessarily because of the location of the house according to the property appraiser. Without a survey, I am unable to tell if there is access available through that lot to the 8 acre tract. If they were to sell Lot 79, it also appears they would have to sell a portion of the 8 acre tract because of an overlap of the lot onto the 8 acre tract.

I searched the property to the north of the Houghs' tract and found a deed (955 OR 704) from Leon H. Handley to Todd Hall, Trustee of the Lynn Trust dated 2/28/2002, the present owner, a copy being attached for your ready reference since it refers to "an existing road around and over a portion of the east, south and west boundary of the SW1/4 of Section 13, Township 21 South, Range 20 East", which lies directly north of the Houghs' parcel, the SW1/4 of 13-21-20 being directly North of the NW1/4 of 24-21-20. That "existing road" may be that SW 70<sup>th</sup> Lane on your sketch but no access is given to the Hough property. I'd like to see the Zoning Board's staff's private easement lying to the north of Houghs' property since I have been unable to locate it unless, once again, it is that "existing road" in 13-21-20, however, no such easement was given to the Houghs.

Additionally, I realize the Houghs purchased Lot 79 and the 8 acre tract at the same time, however, their access, guaranteed, should not be dependent upon Lot 79 for the 8 acre tract. That SW 657 Way appearing on the GIS aerial map of the property appraiser, may not be a county road either and if not, again no access. Road and Bridge was closed when I tried to call. I will try again on Monday to find out about that.

My statement for this search is enclosed. If I can be of further assistance, please give me a call.

Yours truly,

  
Helen R. Blackmon

This Instrument prepared by and should be returned to: Robert S. Green, Esq., CURNEY & HANDLEY, P.A., Post Office Box 1273, Orlando, FL 32802

Documentary Stamps \$ 776.60  
Intangible Tax \$  
Paid 10th Day of Mar 2002  
GLORIA R. HAYWARD, CLERK  
CIRCUIT COURT SUMTER COUNTY, FL  
BY *[Signature]* C.C.

ExN  
Rec 9.00  
TF 1.50  
Doc 776.60  
Int  
CC 777.10

WARRANTY DEED

Individual to Individual  
Property Appraisers Parcel I D Number(s):  
Grantee(s) S S #(s):

THIS WARRANTY DEED made the 27<sup>th</sup> day of February A D. 2002 by LEON H. HANDLEY, a married man, hereinafter called the grantor, to TODD HALL, TRUSTEE OF THE LYNN TRUST DATED 2/28/2002, whose post office address is, 1450 10th Street South, Safety Harbor. Florida 34695, hereinafter called grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the 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, releases, conveys and confirms unto the grantee, all that certain land situate in Sumter and Hernando Counties, Florida, viz:

The Southwest 1/4 and the Southwest 1/4 of the Northeast 1/4; the East 1/2 of the Northwest 1/4, Sumter County, and that portion of the Southwest 1/4 of the Northwest 1/4 lying in Sumter County and that portion of the Southwest 1/4 of the Northwest 1/4 lying in Hernando County, in Section 13, Township 21 South, Range 20 East

Subject to existing road around and over a portion of the east, south and west boundary of the SW 1/4 of Section 13, Township 21 South, Range 20 East

Subject to Reservations in favor of the State of Florida, as set forth in the deed from the Trustees of the Internal Improvement Fund of the State of Florida, recorded in Deed Book 97, page 477, public records of Hernando County, Florida; and Reservations in favor of the State of Florida, as set forth in the deed from the Trustees of the Internal Improvement Fund of the State of Florida, recorded in Deed Book 118, page 558, public records of Sumter County, Florida

The real property conveyed hereby is not the homestead of the Grantor as homestead is defined under the laws and the constitution of the State of Florida; and, further, Grantor herein has never resided on the real property conveyed hereby, nor any portion of real property adjacent thereto Grantor, Leon H Handley, resides in Orange County, Florida

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

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2001, and as referred to above

SUMTER COUNTY, FLORIDA  
GLORIA R. HAYWARD, CLERK OF CIRCUIT COURT

03/06/2002 #2002-4298  
02:41 10PM B-955 P-704

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written

Signed, sealed and delivered in the presence of:

Robert Green  
Name: Robert Green  
(Type or print)

Leon H. Handley  
Name: Leon H. Handley  
Address: 1800 Turnberry Terrace  
Orlando, FL 32804

Joyce M. Julian  
Name: Joyce M. Julian  
(Type or print)

Two Witnesses

STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 27 day of February, 2002, by LEON H. HANDLEY, who is personally known to me ~~or~~ who has produced \_\_\_\_\_ as identification and who ~~did~~/did not take an oath

(NOTARIAL SEAL)



Joyce M. Julian  
Name: Joyce M. Julian  
(Type or print)  
Notary Public  
My commission expires:

A DUPLICATE ORIGINAL OF THIS INSTRUMENT IS BEING SIMULTANEOUSLY RECORDED IN HERNANDO COUNTY, FLORIDA. DOCUMENTARY STAMP TAX IN THE AMOUNT OF \$7,761.60 HAS BEEN PAID IN SUMTER COUNTY, FLORIDA.

SUMTER COUNTY, FLORIDA  
GLORIA R. HAYWARD, CLERK OF CIRCUIT COURT

03/06/2002 #2002-4298  
02:41:10PM B-955 P-705

Submitted by  
Carol Hough at  
11/9/10 Boac Meeting  
Public Comment

Dear Commissioner,

My wife and I have attempted to reach out and communicate with the board to explain several gross misrepresentations given to you at a recent public hearing. We can only hope to address you in the future as we seek your support in not closing our road access. Please find enclosed two supporting documents to show we have tried to work with the county in anyway to resolve the issues of CR 647 N.

The following was our attempt to seek assistance through proper channels in requesting maintenance to CR 647 N. We feel the misrepresentations given to you imply we have done nothing and refused to assist any persons to maintain CR 647 N. Actually we have made numerous attempts through Sumter County to obtain maintenance. Although we may have disagreements, we have always respected the counties answer and position as to individuals not performing work on the county roadway.

#### Actions taken and documented by Richard & Carol Hough

##### A. September & October 2005 - Inquired to Road and Bridges Department

- Personal contact with Director Hurst for advise
- Informed County has no responsibility of maintenance.
- Implied this was a private matter
- Provided a document of Criteria for Acceptance of Unmaintained Roads
- Attempted a meeting with the County Attorney – Refused

##### B. October 2005 - Researched County Records

- Obtained Plat Map of River Retreats Subdivision
- Resolution to adopt Rules & Regulations for Subdivision Plat approvals
- Found approval for River Retreats Subdivision.

##### C. October 31, 2005 – Hired Attorney Johnston to assist in communication

- Attorney Johnston's letter to the County Attorney's Office
- No response follow up letter to County Attorney
- County Attorney responded that our Road's will be put into maintenance

**D. April 6, 2006 -- Letter written to Public Works Division -- Director Hurst**

- Attorney Johnston advised us to write letter requesting permission
- Requested permission to conduct minor upkeep on roadway
- No response received
- Personal contact with Director Hurst for direction and advise
- Declined to give any permission citing liability issues
- Offered to pay county or their contactor to completely pave road
- Offer was verbally declined

**E. February 2009 --Contact with Public Works Division**

- Personal contact with Director Gary Kuhl
- Explained ongoing and past issues of neighbors blocking roadway
- Addressed new issues of trees being planted in middle of roadway
- Provided written documents to include County Attorney response letter
- March 6, 2010 received an email response from Director Kuhl who had conferred with the County Administrator and it was determined this situation is a private matter that the county cannot intercede.

Enclosures: Letter to Public Works Division, 4/6/2006  
Email response from Public Works Division, 3/6/2009

CERTIFIED MAIL  
Return Receipt Requested

April 6, 2006,

Director Tommy Hurst  
Sumter County Public Works Division  
319 E. Anderson Avenue  
Bushnell, Florida 33513

Re: 9541 County Road 647 N. Bushnell, Florida 33513

Dear Director Hurst:

I own the above listed property located in Sumter County, Florida. The access to this property is located at the northern most end of County Road 647 North. Since purchasing this property in July 2005 I have had issues with a neighbor located on the corner of County Road 647 North and County Road 657 West. This dispute has left me with a limited access from County Road 647 North into our property. Although the roadway is in excess of 50 feet, I am reduced to the approximate width of one lane for ingress and egress into our property. The problem arises from multiple obstructions to negotiate through the 150 feet of unimproved roadway. These obstructions require a vehicle to enter our fenced property at approximately 40 degrees. At this angle the gated opening is further reduced in width.

On March 19<sup>th</sup> I removed our gate located at the property entrance. I removed this gate due to damage it sustained by a contractor's large truck that was leaving our property. While traveling outbound onto County Road 647 North the passenger side of this truck struck the post the gate was mounted. The post was pushed downward and the gate was driven into the ground causing it to be noticeably damaged and unsightly. Our neighbor verbally expressed her displeasure with the condition of our gate that faces her property. I agreed with her assessment and removed it.

I understand through a written response from Sumter County this roadway has been scheduled for maintenance in the future. As detailed in the correspondence this schedule may take years before being accomplished due to priorities throughout Sumter County. Furthermore, until this maintenance is accomplished I am unable to drive our motor home into our property. The rubber roof and fiberglass body would be damaged from the low hanging tree branches. The Cactus plants are a concern in puncturing the tires, and the width of the entrance is obviously compromised by the angle in which I have to enter to avoid the obstructions.

I am writing this letter in request of written permission from Sumter County and/or your Division to clear these obstacles from the roadway. I will bare the cost to accomplish these tasks and acknowledge Sumter County is not responsible for any of my expenses. In specific, I am requesting permission to accomplish the following:

- Remove two Spanish Bayonet plants, four inches diameter at the base
- Remove one dead plant approximately two feet tall
- Remove Cactus plants growing and spreading in the roadway
- Trim several low hanging branches from oak trees growing on the right of way
- Smooth/level the vehicle ruts

Under normal circumstances, I do not think this issue would require such formal documentation or written permission to accomplish. Unfortunately, I cannot walk past our neighbor's property without being verbally accosted over a variety of unsubstantiated misdeeds. I suspect this neighbor has planted the above documented plants and may take great displeasure if I attempt to remove any such items. Since I do not own or control this property/roadway, I am requesting written permission to accomplish the above tasks.

Sincerely,



Richard Hough  
P. O. Box 5307  
Clearwater, FL 33758-5307

Enclosure

cc: Darryl W. Johnston, Johnston & Sasser, P.A.

RANDALL N. THORNTON  
ATTORNEY AT LAW  
POST OFFICE BOX 58  
LAKE PANASOFFKEE, FLORIDA 33538

2031 NORTH C-470  
RTHORNTONATTY@EARTHLINK.NET

(352) 793-4040  
FAX (352) 793-3848

December 29, 2005

Darryl W Johnston  
Attorney at Law  
Post Office Box 997  
Brooksville, FL 34605-0997

Re: Mr and Mrs. Richard Hough

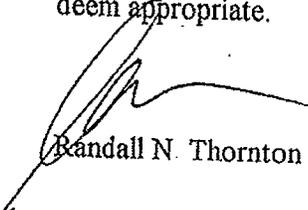
Dear Darryl:

I have requested that these roads be put into maintenance. It may be years before any maintenance is done on these roads so your clients should not get their hopes up.

As to the Mareks' mailbox, Sumter County will not institute litigation over such a minor matter. If this is interfering with your clients, then your clients will need to address that problem.

These roads are not essential parts of the Sumter County road system and by their very nature, will not receive much attention over time. There is simply too many other pressing issues.

I trust that this will give you information necessary for your clients to take such action as they deem appropriate.

  
Randall N. Thornton

/mm

---

**From:** Kuhl, Gary [Gary.Kuhl@sumtercountyfl.gov]  
**Sent:** Friday, March 06, 2009 10:28 AM  
**To:** Hough, Richard  
**Subject:** RE: County Road 647 N

Mr. Hough, Public Works staff did visit the site in question again yesterday (Mr. Jackey Jackson and I). I apologize for the length of time it has taken for me to get this matter to this point. As you know we have visited the area several times and reviewed the public records and the information you have provided. We wanted to make sure, again, that we had a clear visual of the site in mind before reviewing this item with our County Administrator yesterday afternoon. We noted the incorrect sign on the chain link fence that we have discussed before ("End of County right of way" sign). Your neighbor, Ms. Marek, has also contacted the County in this regard. While I wish I had some straight-forward way to solve your problem, I do not. It appears to us in Public Works and to our County Administrator that you have a situation that is a private matter and not something where the County can properly intercede.

*Gary Kuhl*

Public Works Director  
Sumter County  
319 E. Anderson Avenue  
Bushnell, FL 33513  
gary.kuhl@sumtercountyfl.gov  
(352) 793 0240 phone  
(352) 793-0247 fax

---

**From:** Hough, Richard [REDACTED]  
**Sent:** Wednesday, March 04, 2009 3:04 AM  
**To:** Kuhl, Gary  
**Subject:** County Road 647 N

Good Morning Mr. Kuhl,  
My wife and I met with you two weeks ago to discuss the ongoing issue of CR 647 N. This involves our neighbor's, the Marek's, who have continued to utilize a portion of the roadway for personal use and limiting ours. I hope your research and communication with the administrator has been beneficial.  
Thanks for allowing us your time.  
Richard & Carol Hough

\*\*\*\*\* Important Notice \*\*\*\*\*

The Board of Sumter County Commissioners is a public agency subject to Chapter 119 of Florida Statutes concerning public records.

3/7/2009

## **Timeline of Road Closure Petition**

- **August 9, 2010** - SWFMD (Southwest Florida Water Management District) received complaint by Mr. Danny Clay reporting violations against Richard & Carol Hough. Complaint indicated, Hough's, had modified wetlands adjoining Withlacoochee River. Heavy equipment being brought in to include fuel tanks, bull dozers, etc. (SWFMD completed an onsite visit August 30, 2010 and found No Violations.)
- **August 11, 2010** – Letter postmarked to Richard & Carol Hough regarding Notice of Violations from the Sumter County Code Compliance Department. Multiple violations to include “Staging Area” of equipment. (Mr. Hartman verbally requested Two (2) letters written in response and that he would inspect and close the unfounded complaints. Both letters were written and mailed certified August 31, 2010, and No Violations existed.)
- **August 12, 2010** – County receives Petition for Road Closing from Danny and Joyce Clay to vacate a portion of CR 647 N.
- **September 22, 2010** – Letter postmarked and sent to Richard & Carol Hough giving notice of Public Hearing to vacate portion of CR 647 N. Notice stated Public Hearing date of October 12, 2010. (Note: 21 Days notice did not comply with County Code requirement of thirty (30) days written notice.
- **September 28, 2010** – Actually received letter giving notice of Public Hearing road closure. Telephone contact made on this date with Director Cornelius inquiring into petition. He advised me that we should attend scheduled hearing because the Board may not act upon the petitioner's request of postponement due to Mr. Clay's scheduling conflict.
- **October 4, 2010** – First available appointment with Attorney Johnston and letter submitted by Richard and Carol Hough objecting to road closure.
- **October 8, 2010** – Letter by Attorney Johnston to Bradley Cornelius objecting to road closure.
- **October 11, 2010** – Telephone call received from Attorney Johnston that we no longer needed to attend the meeting for road closure on the following day.

- **October 12, 2010** – Sumter County B.O.C.C. meeting where the board agreed to postpone petition until the following meeting at the petitioner's request of his personal scheduling conflict.
- **October 26, 2010** – Sumter County B.O.C.C. Public Hearing vote 3 to 2 in granting petitioners request.
- **October 27, 2010** – Telephone contact by Carol Hough with Code Compliance Department to inquire into what active code case existed on our property. The inspector was unaware of any open code cases but would check and contact back with results. Called back to verify no open code cases.
- **October 29, 2010** – Received a facsimile of "Affidavit of Pre-Hearing Compliance" – Issued by the Code Compliance Department verifying no violations existed and a verification inspection was conducted by Code Compliance Department. (Information was relayed to Mr. Cornelius.)

Enclosures: SWFMD - Complaint of wetland violation  
Letter responding to Notice of Violation #CE2010-0030  
Letter responding to Notice of Violation #CE2010-0283  
Affidavit of Compliance

## REGULATION DEPARTMENT COMPLAINT WORKSHEET

<b>ROUTE TO:</b> <input checked="" type="checkbox"/> Surface Water <input type="checkbox"/> Water Use <input type="checkbox"/> Environmental <input type="checkbox"/> Well Construction			
<b>Service Office:</b> <input type="checkbox"/> Bartow <input checked="" type="checkbox"/> Brooksville <input type="checkbox"/> Sarasota <input type="checkbox"/> Tampa			
<b>Date of Complaint:</b> 08/09/2010		<b>Taken By:</b> MLE	
<b>CT #</b> 332363	<b>Permit #</b>	<b>License #</b>	
<b>County:</b> Sumter	<b>Project Name:</b> Houth- Ag/Wetland Complaint		
<b>Type of Complaint:</b> (if known)	Wetlands	D & F	Off-Site Discharge
	Lake/Stream	Drainage	Abandoned Well
	Well Complaint	Flooding	Unpermitted Construction
	Other:		
<b>Single Family Residence – Refer to DEP THRU TSV – Transfer to FDEP Form</b>			
Richard B. and Carol Ann Houth			
<b>Owner's Name / Responsible Party (circle one)</b>			<b>Phone Number</b>
9541 C.R. 647 North	Bushnell	FL	33513
<b>Owner's Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
Danny Clay			727-612-4989
<b>Complainant</b>			<b>Phone Number</b>
8260 101st Court North	Largo	FL	33777
<b>Complainant's Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
<b>Nature of Complaint/Activity: (Is activity ongoing? If not, when was it conducted?)</b>			
Complaint of modifications of wetlands adjoining Withlacoochee River. Heavy Equipment being brought in, i.e. fuel tanks, bull dozers, etc. Alternate cell number: 727-560-9237			
<b>Location and Directions. (See attached map )</b>			
<b>Assigned to:</b> MCP			
<b>25</b>	<b>21</b>	<b>20</b>	
<b>Section</b>	<b>Township</b>	<b>Range</b>	<b>Lat</b> 83° 39' 11.00" <b>Long</b> 82° 15' 38.11"

**CERTIFIED MAIL**

August 30, 2010

Chief Inspector Lee Hartman  
Sumter County Board of County Commissioners  
Division of Planning & Development  
Code Compliance Department  
8015E County Road 466  
Lady Lake, FL 32162

Re: Notice of Violation, File #CE2010-0030

Violations: 13-713 Home Occupations  
6-104 Nuisances-Inoperable Vehicles  
13-51 Building Permits of Structures  
13-728 Vehicle & Equipment Staging Area

The first violation alleges I/we are conducting some kind of business on this property located in Sumter County. As previously stated to you in April of this year followed by a letter at your request, I/we have no desire to conduct any business activity in Sumter County. We do not permanently live at this location and only spend our weekends occupying the property.

The second violation documents more than one inoperable vehicle on this property. This issue was discussed over the telephone in April and you requested all but one vehicle be registered along with being operable. This request has been complied with by applying for and receiving registration on our 1966 Kaiser Fire Truck. Note: All vehicles on the property are operable.

The third violation documents an unpermitted structure. Per our telephone conversation you cited a barn built without permit on this property. I have no knowledge as to why a permit was not filed. The current structures on this property were standing the day we first viewed the property for sale. From my estimation this structure has been on the site for quiet some time and built by a previous owner

The fourth violation documents a Staging Area of vehicles and equipment on our property. Please note in April 2009 an identical complaint was made and notice violations were mailed regarding our illegal use of the property for a Staging Area. I/we again in this written correspondence maintain that all the vehicles and equipment on our property are personally owned for our private use.

We hope the above response has addressed all of your concerns regarding this file number complaint and meets to the approval of the Sumter County Code Compliance Department.

Sincerely,

Carol Ann Hough  
PO Box 5307  
Clearwater, Florida 33758-5307

**CERTIFIED MAIL**

August 30, 2010

Chief Inspector Lee Hartman  
Sumter County Board of County Commissioners  
Division of Planning & Development  
Code Compliance Department  
8015E County Road 466  
Lady Lake, FL 32162

Re: Courtesy Notice of Violation, File # CE2010-0283

Dear Mr Hartman:

This letter is in response to the above violation notice issued August 2010. This notice documents a Sumter County Code violation on a parcel of property I currently own. This notice cites a violation of 6-103(3) NUISANCES-UNSAFE HOUSING occurring on our property

I contacted you after receiving this notice to determine the nature of the violation. Per our telephone conversation you informed me our neighbor has made complaint that our roof is leaking and is in an unsafe condition. Our neighbor's level of concern for our property never ceases to amaze me. You have requested a written response to this stated complaint.

When this property was purchased in 2005 we applied for a mortgage. During this application process a home inspection was required to obtain the mortgage. The roof was included in this inspection and did not require repair or have any foreseeable problems. All mortgage companies require a home to be maintained in a structurally sound condition to maintain their mortgage. We have met these obligations and have had no leaks or repairs to the roof.

I hope the above correspondence has specifically addressed your concern along with our neighbor. Please let me know if you require additional information.

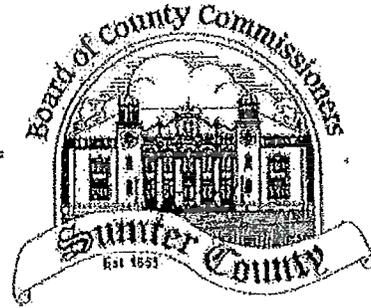
Sincerely,

Carol Ann Hough  
PO Box 5307  
Clearwater, Florida 33758-5307

# Board of County Commissioners

## Division of Planning & Development

Code Compliance Department  
7375 Powell Road • Wikitwood, FL 34785 • Phone (352) 689-4478 • FAX: (352) 689-4461  
Website: <http://sumtercountyfl.gov/CodeEnforcement>



COUNTY OF SUMTER (Petitioner)

File #: CE2010-0030

vs.

HOUGH, RICHARD B & CAROL ANN (Respondent)

cc:

### AFFIDAVIT OF PRE-HEARING COMPLIANCE

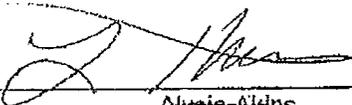
STATE OF FLORIDA  
COUNTY OF SUMTER

BEFORE ME, the undersigned authority, personally appeared Alysia Atkins for Sumter County, who after being sworn, deposes and says:

- 1 That on , a NOTICE OF VIOLATION AND REQUEST FOR HEARING was issued in the above styled matter, and that a hearing was set for *N/A*
- 2 That on prior to said hearing, staff personally conducted an inspection of the violation  
*ON 10/29/10 BY LAK*
- 3 That the inspection revealed that the corrective action necessary to remove the violation has been taken, with the following exception, if any *N/A*

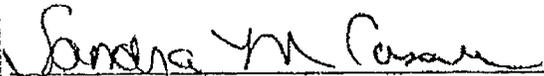
In consideration of the above, I recommend that no further action be taken at this time

FURTHER AFFIANT SAYETH NOT  
DATED this

  
\_\_\_\_\_  
Alysia Atkins  
*L.R. WIETMAN*

Before me the above named Code Secretary, who personally known to me, did appear and execute this Affidavit of Pre-Hearing Compliance this , the day of , *10/29/10*

\*\*\*\*\*  
SANDRA M. CASWALS  
Comm# DD0703792  
Expires 9/22/2011  
Florida Notary Assn., Inc  
\*\*\*\*\*

  
\_\_\_\_\_  
NOTARY PUBLIC



**Frank B. Arenas, Esq.**  
Attorney at Law

frank@frankarenas.com  
www.frankarenas.com  
(352) 748-3681 Fax

P.O. Box 600/1511 Taylor Avenue  
Coleman, Florida 33521-0600  
(352) 748-3678 Phone

Mr Brad Cornelius, AICP, CPM  
Director  
Sumter County Division of Planning and Development  
Sumter County Government  
7375 Powell Road  
Wildwood, FL 34785  
VIA FACSIMILE & US MAIL

December 20, 2010

RE vacated area of CR 647N

Dear Mr Cornelius:



Thank you for sending me the information on CR 647N; it does not appear to be “a complete title search” as promised by the Houghs’ attorney Mr. Darryl W. Johnston, Esq.

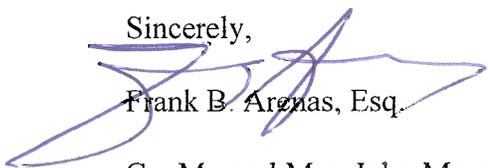
The information also does not have a certified survey of the Houghs’ entire property of the Lot 79 and the 8 acre contiguous tract. The 8 acres certainly would have access from Lot 79 as they are owned in common by the Houghs, and the house straddles the common boundaries of the lot/parcel

The 8 acres also appear to have open public access at the west end of River Drive (south end of the 8 acres) since the Houghs have a gate and driveway at that location, as well as the Houghs’ easement that might access to SW 70<sup>th</sup> Lane on the north, giving the Houghs 3 separate assess points to the 8 acres. Any litigation mentioned by Mr Johnston would appear to be directed to the easement grantors and the Houghs, not Sumter County

My clients, Mr and Mrs. John Marek and Mr Danny Clay, have requested I bring to the BOCC’s attention the following. 1) the vacated road will produce real estate taxes from the new owners, 2) the vacated road will reduce liability to Sumter County, 3) the vacated road does not appear to meet the required 60 feet right of way, and; 4) it will keep peace in the neighborhood.

We respectfully request the Houghs please provide the BOCC with a complete title search and certified survey showing the easements and all other access points to the 8 acre parcel prior to the re-hearing on January 11, 2011 Thank you in advance.

Sincerely,

  
Frank B. Arenas, Esq.

C – Mr. and Mrs. John Marek, Mr. Danny Clay

**Cornelius, Brad**

---

**From:** DONALD GEEGAN [djgeegan@verizon net]  
**Sent:** Sunday, December 26, 2010 2 01 PM  
**To:** Cornelius, Brad  
**Subject:** SW70 Lane

Mr Cornelius,                      12/26/10

In response to our conversation on 12/23/10 We purchased Lot 2, Parcel #L24-023 on August 15, 1978 We have paid property taxes on this 8 acres for 32 years We have used CR 649 and SW70 Lane to access our property for 32 years SW 70 Lane is Grandfathered in as a road with the only access to our land We do not want SW70 lane closed We want SW 70 Lane to remain open indefinitely

Margaret & Donald Geegan  
6151 Bayou Grande Blvd. n.e.  
St. Petersburg, Fl 33703

727 527-8276

## Strone, Jane

---

**From:** Douglas, Jessica  
**Sent:** Monday, November 22, 2010 1:05 PM  
**To:** Strone, Jane  
**Subject:** FW: Note: Inverse Condemnation Law and Road Closing  
**Attachments:** image001.jpg

Please add this e-mail 1 of two that we will have to add to the scheduling a public hearing for road closing of 647 N item.

Please note change in contact information below

Jessica Douglas  
Staff Assistant III  
Board of Sumter County Commissioners  
7375 Powell Road  
Wildwood FL 34785  
Phone: (352) 689-4400  
Fax: (352) 689-4401  
Email: Jessica.Douglas@sumtercountyfl.gov

---

**From:** Derrill McAteer [mailto:Derrill@hoganlawfirm.com]  
**Sent:** Monday, November 22, 2010 11:05 AM  
**To:** Douglas, Jessica  
**Subject:** FW Note. Inverse Condemnation Law and Road Closing

---

**From:** Derrill McAteer  
**Sent:** Monday, October 11, 2010 12:44 PM  
**To:** Arnold, Bradley; Cornelius, Brad  
**Cc:** Tom Hogan, Amy Palmer  
**Subject:** Note: Inverse Condemnation Law and Road Closing

Brad.

Please note the below re inverse condemnation and road closing:

"Right of access to one's land is a property right; therefore, even where a public body has properly exercised its discretion in determining to vacate a street, the property owner may therefore be entitled to compensation for consequent loss of access."

*Pinellas County v Austin*, 323 So 2d 6 (Fla. 2d DCA 1975).

My offering of this citation does not infer anything about the quality of the upcoming petition for vacation or the risks of actual litigation should same be granted. I'm just advising the county that the landowner technically has a right of action, even, as in the above case, where alternate access exists.

-Derrill

**Derrill L. McAteer, Esq.**



*We mean business™*

Post Office Box 485  
Brooksville, Florida 34605

## Strone, Jane

---

**From:** Douglas, Jessica  
**Sent:** Monday, November 22, 2010 1:05 PM  
**To:** Strone, Jane  
**Subject:** FW: "Easement" over L24=022

Please note change in contact information below

Jessica Douglas  
Staff Assistant III  
Board of Sumter County Commissioners  
7375 Powell Road  
Wildwood, FL 34785  
Phone: (352) 689-4400  
Fax: (352) 689-4401  
Email: [Jessica.Douglas@sumtercountyfl.gov](mailto:Jessica.Douglas@sumtercountyfl.gov)

---

**From:** Derrill McAteer [<mailto:Derrill@hoganlawfirm.com>]  
**Sent:** Monday, November 22, 2010 11:06 AM  
**To:** Douglas, Jessica  
**Subject:** FW: "Easement" over L24=022

---

**From:** Derrill McAteer  
**Sent:** Sunday, November 07, 2010 10:31 AM  
**To:** Arnold, Bradley, 'Cornelius, Brad'  
**Cc:** Amy Palmer  
**Subject:** "Easement" over L24=022

Brad A. and Brad C.

As to the Hough property and the deed to the above referenced parcels, one of the cases cited by Mr. Johnston in his letter of November 2, 2010, *Procacci v. Zacco*, 324 So.2d 180 (Fla. 4<sup>th</sup> DCA 1976), appears to be on point and as represented therein. Inclusion of the simple language "Subject to" is not, on its face, evidence of the granting of an easement and often cannot be relied upon without the consideration of surrounding facts and a judicial determination. The second case cited does not seem as relevant or on point.

Derrill

**Derrill L. McAteer, Esq.**

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## Douglas, Jessica

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**From:** Arnold, Bradley  
**Sent:** Thursday, November 18, 2010 2:11 PM  
**To:** Douglas, Jessica  
**Cc:** Cornelius, Brad  
**Subject:** FW: Hough Petition for Rehearing Sumter County

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**From:** Derrill McAteer [mailto:Derrill@hoganlawfirm.com]  
**Sent:** Thursday, November 18, 2010 1:48 PM  
**To:** Arnold, Bradley  
**Cc:** Cornelius, Brad  
**Subject:** FW: Hough Petition for Rehearing Sumter County

If you would, please add this email, the email concerning my review of Mr. Johnston's case law and the one concerning inverse condemnation to the executive summary for this item, thanks.

**Derrill L. McAteer, Esq.**



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**From:** Derrill McAteer  
**Sent:** Thursday, November 18, 2010 10:03 AM  
**To:** 'Darryl Johnston'  
**Cc:** 'Cornelius, Brad'; 'Arnold, Bradley'; Amy Palmer  
**Subject:** RE: Hough Petition for Rehearing Sumter County

Darryl,

Yes, given the commission's tabling of the rehearing request and the silence of the code as to this issue, I would take the position that the appeal period would run as you described; from the time of final BOCC action (denial of request rehearing or denial *at* rehearing).

Derrill

**Derrill L. McAteer, Esq.**



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