

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

Blue Sheet No. 20020135

1. REQUESTED MOTION:

ACTION REQUESTED: Approve reconveyance of a property originally donated for a right of way easement located in Section 3, Township 44 South, Range 24 East; authorize Chairman to execute County Deed; authorize County Lands Division to handle and complete all documentation necessary to finalize this transaction.

WHY ACTION IS NECESSARY: The current property owners have requested the return of this easement in accordance with F.S. 255.22. Board execution of the county deed is necessary to transfer a county interest in the property.

WHAT ACTION ACCOMPLISHES: Extinguishes the county's easement in property.

2. DEPARTMENTAL CATEGORY: 06
COMMISSION DISTRICT #: 4 *CL6A*

3. MEETING DATE: *04-09-2002*

4. AGENDA: <input checked="" type="checkbox"/> CONSENT ADMINISTRATIVE <input type="checkbox"/> APPEALS <input type="checkbox"/> PUBLIC <input type="checkbox"/> WALK ON TIME REQUIRED:	5. REQUIREMENT/PURPOSE: (Specify) <input checked="" type="checkbox"/> STATUTE 255.22 <input type="checkbox"/> ORDINANCE <input type="checkbox"/> ADMIN. <input type="checkbox"/> OTHER	6. REQUESTOR OF INFORMATION A. COMMISSIONER B. DEPARTMENT <i>Independent</i> C. DIVISION <i>County Lands</i> BY: <i>Karen L. W. Forsyth, Director</i>
	<p align="right"><i>SS 3-7-02</i> <i>RAW</i></p>	

7. BACKGROUND:

In May 1985 a 40' wide easement for right of way was granted to Lee County by Richard H. Peterson, Trustee. The easement was recorded in the Public Records at O.R. 1782, Page 1806 and is part of the parcel identified by STRAP 03-44-24-02-00000.0470. The current owner, DRW Partnership, LLP is requesting this easement be reconveyed.

Florida Statute 255.22 authorizes the County to reconvey property donated for a specific purpose if a request is received from an adjacent owner, and the County has not used the property for such purpose for a period of sixty (60) consecutive months. County Staff has reviewed this request and determined the easement has not been used, nor are there plans to use this property. Therefore the statutory requirements for reconveyance have been met and it is appropriate to relinquish the public interest in the easement to the current property owner.

Staff recommends the Board approved the Requested Motion.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>K. Forsyth</i>	<i>N/A</i>	<i>N/A</i>	<i>3/21/02</i>	<i>3-25-02</i>	OA <i>3-26-02</i>	DM <i>3/27/02</i>	RISK <i>3-26-02</i>	GC <i>3-26-02</i>	<i>3-28-02</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *3/22/02*
Time: *400 pm*
Forwarded To:
Co Admin
3-25-02

RECEIVED BY
COUNTY ADMIN.
3/25/02
COUNTY ADMIN.
FORWARDED TO:
3/28/02

This Instrument Prepared by:

Lee County Division of County Lands
Post Office Box 398
Fort Myers, FL 33902-0398

STRAP No. part of 03-44-24-02-00000.0470

THIS SPACE FOR RECORDING

COUNTY DEED

THIS DEED, executed this ___ day of _____, 2002 by LEE COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 Grantor, to DRW PARTNERSHIP, LLP, whose address is 2800 Southcross Drive, Burnsville, MN 55337, Grantee.

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

SEE ATTACHED EXHIBIT A

This transfer expressly includes any right or interest the county may hold under FS s. 270.11 with respect to petroleum, phosphate, metal or minerals in, on or under the subject parcel.

This transfer expressly reserves unto Lee County all rights, title and interest granted by that certain Perpetual Public Utility Easement Grant recorded in Official Record Book 3393, page 2804, Public Records of Lee County Florida.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described by virtue of the Easement Agreement recorded in OR 1782, page 1806, and is not be deemed to warrant the title or to represent any state of facts concerning the same.

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

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO LEGAL FORM:

Office of County Attorney

EXHIBIT A

A tract or parcel of land lying in Section 3, Township 44 South, Range 24 East, Lee County, Florida, described as follows:

Beginning at the S.E. corner of Lot 52, Mariana Park as recorded in Plat Book 9, Page 111, run N 0°53'40" W for 43.42 feet; thence run N 39°24'40" W for 561.15 feet; thence run N 0°53'40" W for 64.23 feet; thence run S 39°24'40" E for 561.15 feet; thence run S 0°53'40"E for 64.23 feet to the Point of Beginning. Containing 0.5153 Acres more or less.

25.00
45

1938693

OFF REC 1782PG1806

Documentary Tax Pd. \$ 45

Intangible Tax Pd.

CHARLIE GREEN, CLERK, LEE COUNTY

By R. Peterson Deputy Clerk

EASEMENT AGREEMENT

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY R. PETERSON, D.C.

IT IS HEREBY AGREED that RICHARD H. PETERSON, Trustee, hereinafter called "GRANTOR", for Ten Dollars (\$10.00) and other good and valuable consideration paid by Lee County, a political subdivision of the State of Florida, hereinafter referred to as "GRANTEE", the receipt of which is hereby acknowledged, has granted, bargained, and sold to "GRANTEE", a 40' wide easement and right-of-way for the purpose providing pedestrian and vehicular ingress and egress upon and across the GRANTORS property as described on Exhibit "A" attached hereto and incorporated herein. A Legal Description and Boundary Sketch of the easement herein granted is contained in Composite Exhibit "B" attached hereto and incorporated herein.

GRANTOR hereby binds himself, his heirs and legal representatives, to warrant and forever defend the above described easement and rights unto GRANTEE, its successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

The easement, rights, and privileges granted herein are nonexclusive, and GRANTOR reserves and retains the right to convey similar rights and easements to such other persons as GRANTOR may deem proper.

GRANTOR also retains, reserves, and shall continue to enjoy use of the surface of such property for any and all purposes which do not interfere with and prevent the use by GRANTEE of the within easement, including the right to build and use the surface of the herein granted easement for drainage ditches and private streets, roads, driveways, alleys, walks, gardens, lawns, planting or parking areas, and other like uses and/or to dedicate all or any part of the property affected by this easement to any municipal or county government for use as a public street road, or alley. If the GRANTOR, or any of GRANTOR's successors or assigns, shall

RECEIVED

MAY 11 1955

J

MAY 11 1955

dedicate all or any part of the property affected by this easement, the GRANTEE, and its successors and assigns shall execute all instruments that may be necessary or appropriate to effectuate such dedication, without, however, extinguishing the easement rights herein granted.

This instrument shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors, and assigns of the parties hereto.

The easement herein granted shall be perpetual.

IN WITNESS WHEREOF, this instrument is executed this 26th day of March, 1985.

Signed, Sealed and Delivered in the Presence of:

W. Stewart
WITNESS
William P. Mills
WITNESS

Richard H. Peterson
GRANTOR

STATE OF FLORIDA)
COUNTY OF LEE) ss:

SWORN TO AND SUBSCRIBED before me this 26 day of March 1985 by Richard H. Peterson.

Mary J. Long
NOTARY PUBLIC

My Commission Expires:
Notary Public, State of Florida at Large
My Commission Expires April 26, 1988

This instrument prepared by:
PHILIP L. BURNETT, Esquire
Burnett & Brondstetter, P.A.
Post Office Box 2258
Fort Myers, Florida 33902

EXHIBIT ALegal Description

A tract or parcel of land lying in section 3, township 44 south, range 24 east, Lee County, Florida, and being described as follows:

Beginning at the S.E. corner of lot 52, Mariana Park, as recorded in plat book 9 at page 111 of the public records of Lee County, Florida; thence run N 89° 52' W along the south line of Lot 52 and 53 of said Mariana Park for 698.70 feet to the S.W. corner of said lot 53; thence run N 0° 53' 40" W along the east right of way line of Brown Road for 165.00 feet to the N.W. corner of said lot 53; thence run S 89° 52' E along the north line said lot 53 for 349.35 feet to the NW corner of said lot 52; thence run N 0° 53' 40" W along the west line of lots 47 and 44 and lot 39 to the south westerly right of way line of Cleveland Ave. (SR.45, US 41, 200 foot wide right of way); thence run S 39° 24' 40" E along said south westerly right of way for 561.15 feet to the intersection with the east line of lot 52, Mariana Park; thence run S 0° 53' 40" E along the west right of way line of Judd Road for 107.65 feet to the point of beginning. Containing 3.692 acres, more or less, and known as all of lot 53 and that part of lots 52, 47, 44 and 39, lying south westerly of the west right of way line of Cleveland Ave. (SR.45, US 41, 200 foot right of way) in Mariana Park. Subject to easements, restrictions, and reservations of record. Note: OR1110, Page 924.

COMPOSITE
EXHIBIT B

Legal Description

A tract or parcel of land lying in Section 3, Township 44 South, Range 24 East, Lee County, Florida, described as follows:

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HK Stewart



BROWN RD. 50' R/W
N 0° 53' 40" W 165.00'

389° 52' 00" E 348.35'

N 0° 53' 40" N 375.45'

64.23'

TWEEDY BROWN'S SOUTH RESTAURANT

N 89° 52' 00" W 698.70'

U.S. 41 200' R/W

S 39° 24' 40" E 561.15'
40' ROAD EASEMENT 0.5153 AC.
N 33° 24' 40" N 561.15'

50° 53' 40" E 181.65'
64.23'
43.42'
POB

OFF
REC 1782 PG 1811

3/20/85

Tweedy Brown's South Restaurant
40' Access Road Easement

Legal Description

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thence run N 0° 53' 40"W for 64.23 feet; thence run
S 39° 24' 40"E for 561.15 feet; thence run S 0° 53' 40"E
for 64.23 feet to the Point-of-Beginning. Containing
0.5153 Acres more or less.

KStewart

CHARLIE GREEN
CLERK OF CIRCUIT COURT
Charlie Green
MAY 6 3 22 PM '85
RECORDED IN OFFICIAL
RECORDS
LEE COUNTY, FLORIDA
RECORD VERIFIED