

Lee County Board Of County Commissioners

Agenda Item Summary

Blue Sheet No. 20021152

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt a resolution on VAC2002-00015 to vacate the southernmost portion of a sixty-foot wide platted right-of-way known as Orange Grove Boulevard in the platted subdivision of LOCHMOOR, Unit 1 and accept a replacement easement and cul-de-sac.

WHY ACTION IS NECESSARY: To construct a gated entrance for a proposed condominium development with 226 units in two multi-story buildings. *The vacation of this right-of-way will not alter existing drainage or utilities; nor is this right-of-way necessary to accommodate any future drainage or utility requirements.* A replacement easement has been granted to cover existing utilities, and a new cul-de-sac will be provided in front of the proposed guardhouse.

WHAT ACTION ACCOMPLISHES: Vacates the right-of-way.

2. DEPARTMENTAL CATEGORY: 04
COMMISSION DISTRICT # 04

5:00 #8

3. MEETING DATE:

11-12-2002

4. AGENDA:

- CONSENT
- ADMINISTRATIVE APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE *336*
FS177 +
- ORDINANCE
- ADMIN. CODE 13-8
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
 - B. DEPARTMENT Community Development
 - C. DIVISION Development Services
- BY: *[Signature]* 10/09/02
Peter J. Eckenrode, Director

7. BACKGROUND: The BOCC adopted a resolution to set a public hearing VAC2002-00015 at 5:00 p.m. on the 22nd day of October, 2002.

LOCATION: The site is located at the southernmost end of Orange Grove Boulevard in Section 21, Township 44, Range 24 in North Fort Myers. The proposed development triggering this vacation is known as "The Estuary".

The right-of-way to be vacated is sixty-foot (60') wide and is approximately the southern two hundred seventy-foot (270') of Orange Grove Boulevard in the platted subdivision of LOCHMOOR, Unit 1; in Section 21, Township 44, Range 24 as recorded in Plat Book 28, Pages 33 through 37 of the official Public Records of Lee County, Florida.

A more detailed sketch is attached to this bluesheet. The existing cul-de-sac at the terminus is to be replaced by a new cul-de-sac via a land exchange further north in front of the proposed guardhouse and gate.

Documentation pertaining to this petition to vacate is available for viewing at the office of Lee Cares.

If the vacation were not approved; the development will still proceed as the zoning is already in place.

Attached to this Blue sheet is the resolution with exhibits.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services	G County Manager								
<i>[Signature]</i>	N/A	N/A		<i>[Signature]</i>	<table border="1"> <tr> <td>OA</td> <td>OM</td> <td>Risk</td> <td>GC</td> </tr> <tr> <td><i>[Signature]</i></td> <td><i>[Signature]</i></td> <td><i>[Signature]</i></td> <td><i>[Signature]</i></td> </tr> </table>	OA	OM	Risk	GC	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
OA	OM	Risk	GC											
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>											

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

*Continued
To 11/12/02 @ 5:00 PM*

Rec. by *Cathy*
Date *10/9/02*
Time *2:13 PM*
Forwarded To
Admin
10/10/02 4:00 PM

RECEIVED BY
COUNTY ADMIN. *TD*
10-10-02
4:25
COUNTY ADMIN.
FORWARDED TO: *BH*
10/10/02

ON 10/22/02

THIS INSTRUMENT PREPARED BY:

Department of Community Development
Development Services Division
1500 Monroe Street
Fort Myers Florida 33901

RESOLUTION NO. _____ FOR PETITION TO VACATE

Case Number: VAC2002-00015

WHEREAS, Petitioner PARADISE YACHT CLUB, INC. in accordance with Florida Statute (F.S.) Chapter 336 and Lee County Administrative Code (LCAC) 13-8, filed a Petition to vacate, abandon, close and discontinue the public's interest in the right-of-way or portion of a right-of-way legally described in the attached Exhibits "A-1" and "A-2"; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing concerning a Petition to Vacate at 5:00 p.m. on the 22nd Day of October, 2002; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate was entered into the minutes of the County Commission Meeting and a copy of said Affidavit is attached as Exhibit "C"; and

WHEREAS, notice concerning the intent of the Petition to Vacate was provided in accordance with LCAC 13-8; and

WHEREAS, it appears that vacating, abandoning, closing or discontinuing the subject right-of-way or portion of right-of-way is in the best interest of the public and promotes the public's health, safety and welfare without invading or violating individual property rights; and

WHEREAS, the letters of review and recommendation provided by the various governmental and utility entities indicate granting Petitioner's request is appropriate and in accordance with F.S. Chapter 336.

NOW therefore be it resolved by the Board of County Commissioners as follows:

1. Petition to Vacate No. VAC2002-00015 is hereby granted.
2. The public's interest in the right-of-way or portion of right-of-way described in Exhibits "A-1" and "A-2", and graphically depicted in Exhibits "B-1" and "B-2" is hereby vacated, abandoned, closed and discontinued.



950 Encore Way · Naples, Florida 34110 · Phone: 941.254.2000 · Fax: 941.254.2099

HM PROJECT #2000.010
03/08/2002
REF. DWG. #B-3677

LEGAL DESCRIPTION:

A PORTION OF ORANGE GROVE BOULEVARD, A 60.00 FOOT RIGHT-OF-WAY, OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE MOST SOUTHWESTERLY CORNER OF ORANGE GROVE BOULEVARD, A 60.00 FOOT RIGHT-OF-WAY, OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS N.59°58'06"W., A DISTANCE OF 400.00 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID ORANGE GROVE BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 35°56'42", SUBTENDED BY A CHORD OF 246.85 FEET AT A BEARING OF N.12°03'33"E., FOR A DISTANCE OF 250.94 FEET TO THE END OF SAID CURVE; THENCE RUN N.84°05'12"E., FOR A DISTANCE OF 60.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS S.84°05'12"W., A DISTANCE OF 460.00 FEET THEREFROM, THE SAME BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID ORANGE GROVE BOULEVARD; THENCE RUN SOUTHERLY, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID ORANGE GROVE BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 460.00 FEET, THROUGH A CENTRAL ANGLE OF 35°56'42", SUBTENDED BY A CHORD OF 283.88 FEET AT A BEARING OF S.12°03'33"W., FOR A DISTANCE OF 288.58 FEET TO THE END OF SAID CURVE; THENCE RUN N.59°58'06"W., ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ORANGE GROVE BOULEVARD, FOR A DISTANCE OF 60.00 FEET TO TO THE POINT OF BEGINNING; CONTAINING 0.372 ACRE, MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE EASTERLY BOUNDARY OF TRACT H OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AS BEING N.30°01'54"E.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY Jerry L. Riefelmacher P.S.M. #6130
JERRY L. RIEFELMACHER STATE OF FLORIDA

Exhibit A-1



950 Encore Way · Naples, Florida 34110 · Phone: 941.254.2000 · Fax: 941.254.2099

HM PROJECT #2000.010
03/08/2002
REF. DWG. #B-3678

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A PORTION OF TRACTS H AND I, OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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BY


JERRY L. RIFFELMACHER

P.S.M. #6130
STATE OF FLORIDA

Exhibit A-2



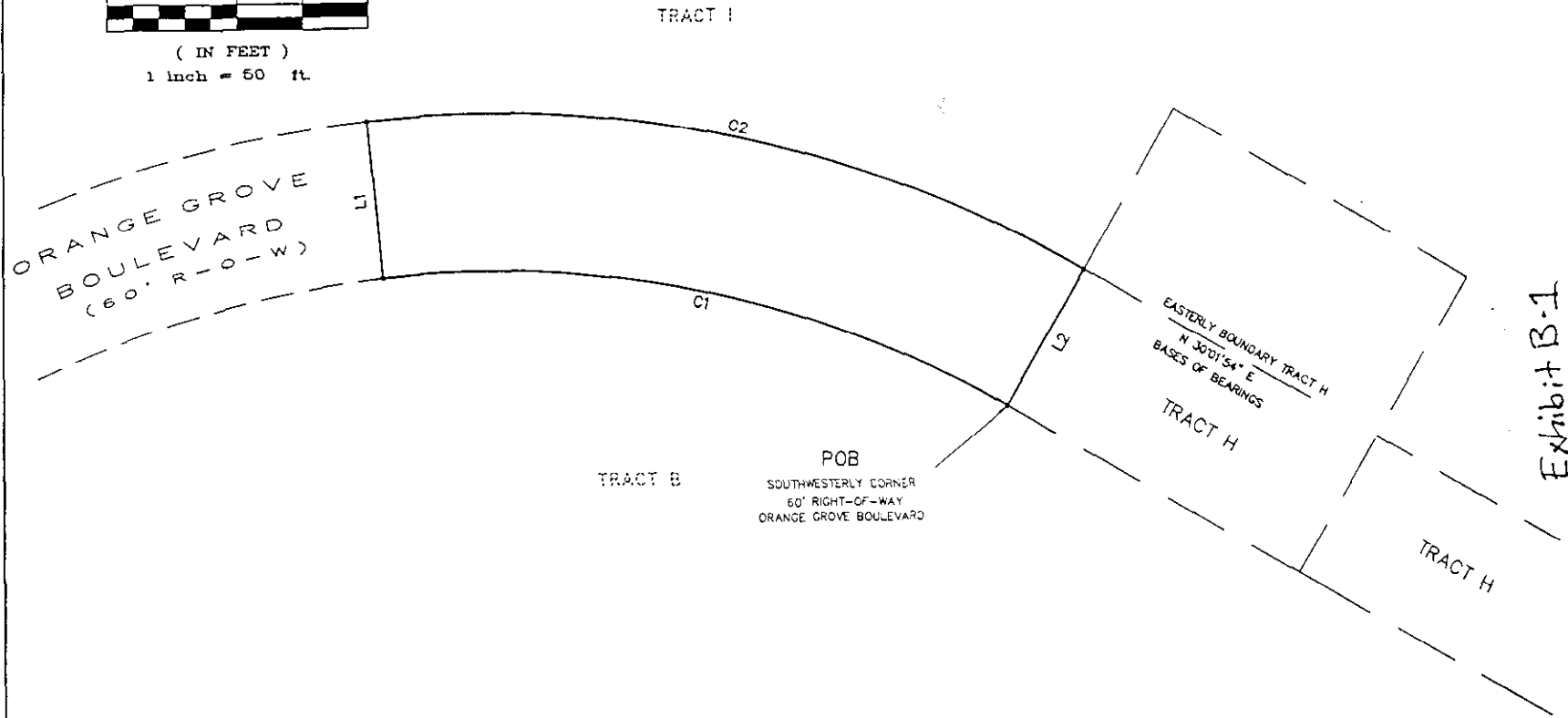
GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N 84°05'12" E	60.00'
L2	N 59°58'06" W	60.00'

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	400.00'	250.94'	246.85'	N 12°03'33" E	35°55'42"
C2	460.00'	288.58'	283.88'	S 12°03'33" W	35°56'42"



LEGEND

POB POINT OF BEGINNING

* NOT A SURVEY *

PARTY CHIEF:	DATE
JLR	3/02
DRAWN BY:	DATE
JLR	3/02
CHECKED BY:	DRAWING NO.
JLR	B-3677



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Naples, FL 34110
Phone: (941) 254-2000
Florida Certificate of
Authorization No.1772

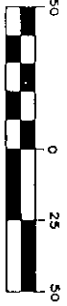
NOT VALID WITHOUT
THE SIGNATURE AND
THE ORIGINAL RAISED
SEAL OF A FLORIDA
LICENSED SURVEYOR
AND MAPPER.

SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.
2000010
REFERENCE NO.
00010REVISEDROWAC



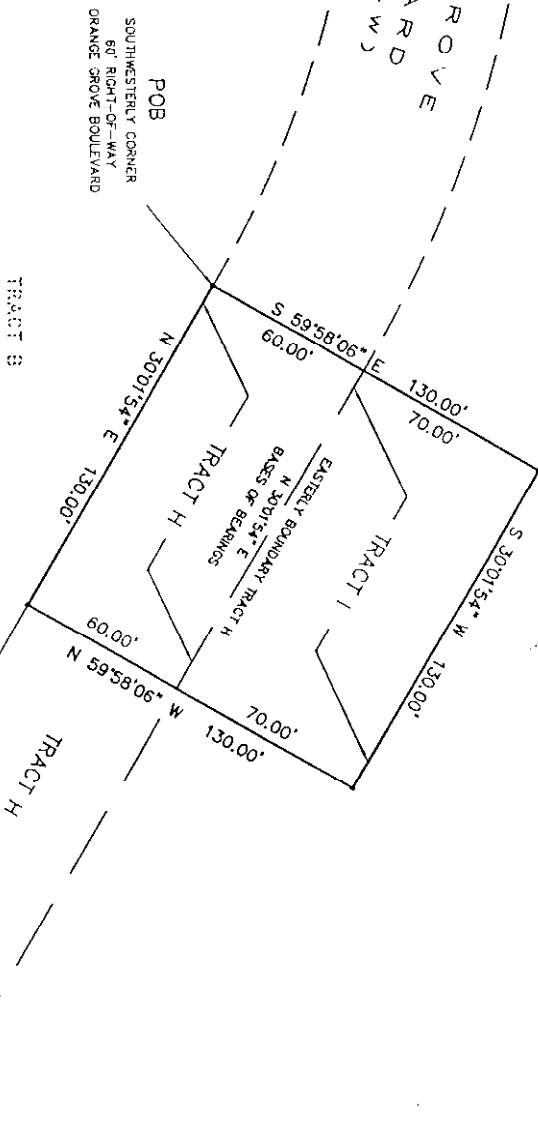
GRAPHIC SCALE



(IN FEET)
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ORANGE GROVE
BOULEVARD
(60'-R-O-W)

TRACT I



LEGEND

POB POINT OF BEGINNING

* NOT A SURVEY *

PARTY CHIEF:	DATE
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CHECKED BY:	DRAWING NO.
J.R.	3/02
J.R.	3/02
J.R.	B-3578



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SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.	2000010
REFERENCE NO.	000100L-06-SAC VAC

Exhibit B-2

NOTICE OF RESOLUTION ADOPTION FOR PETITION TO VACATE

Case Number: VAC2002-00015

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that on the **22nd day of October, 2002** the Board of County Commissioners of Lee County, Florida adopted Resolution No. _____. The effect of this Resolution is to vacate, abandon, close and discontinue the public's interest in the right-of-way or portion of right-of-way legally described in the attached Exhibits "A-1" and "A-2".

Please Govern Yourself Accordingly.

CHARLIE GREEN, CLERK

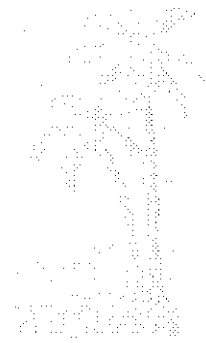
Deputy Clerk Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name



LEE COUNTY
SOUTHWEST FLORIDA



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CERTIFICATE OF AUTHORIZATION LB #1772

BY


JERRY L. RIEFELMACHER

P.S.M. #6130
STATE OF FLORIDA

Exhibit A-1



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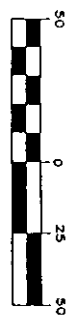
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CERTIFICATE OF AUTHORIZATION LB #1772

BY *Jerry L. Riffelmacher* P.S.M. #6130
JERRY L. RIFFELMACHER STATE OF FLORIDA

Exhibit A-2

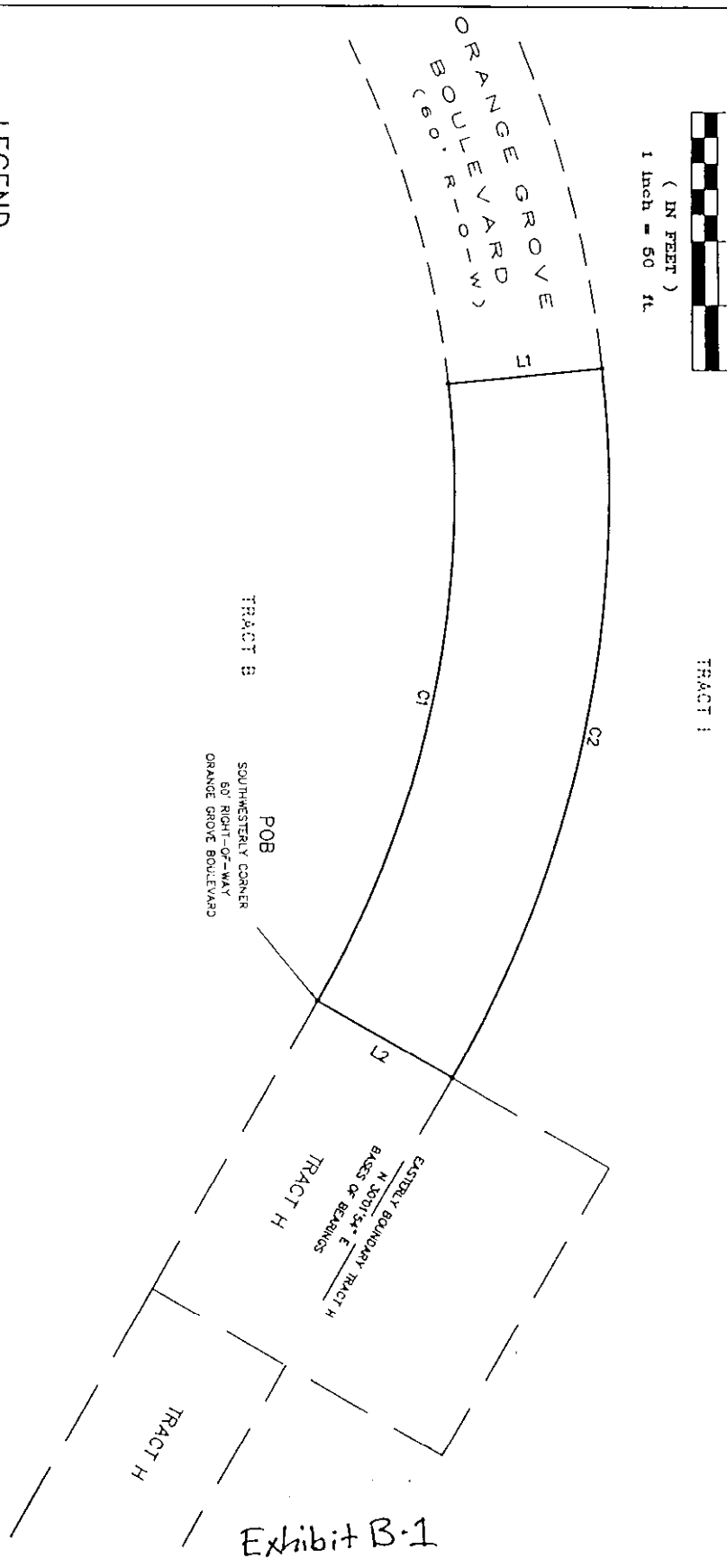


GRAPHIC SCALE



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LEGEND

POB POINT OF BEGINNING

* NOT A SURVEY *

PARTY CHIEF:	DATE
DRAWN BY:	DATE
CHECKED BY:	DRAWING NO.



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AND MAPPER

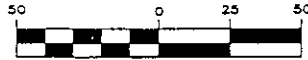
SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.	2000010
REFERENCE NO.	00010658906WAC

Exhibit B-1



GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

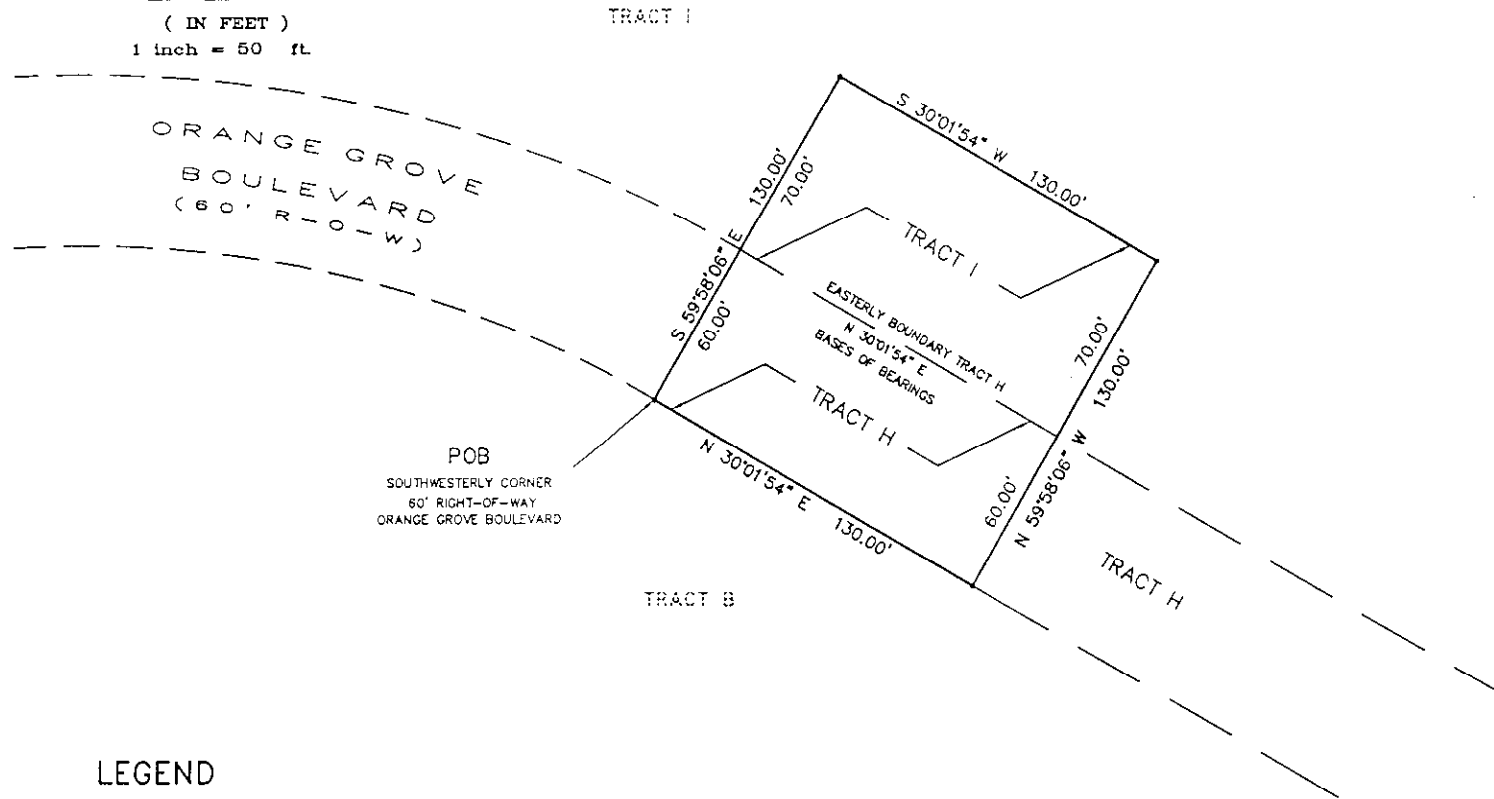


Exhibit B-2

LEGEND

POB POINT OF BEGINNING

* NOT A SURVEY *

PARTY CHIEF:	DATE
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DRAWN BY:	DATE
JLR	3/02
CHECKED BY:	DRAWING NO.
JLR	B-3678



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SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.
2000010
REFERENCE NO.
000100UL-DE-SAC VAC

ES 52 ES 32
MARY, TERRY
THOM
ES

LEE COUNTY UTILITIES
EXCLUSIVE USE EASEMENT GRANT
AND INDEMNITY AGREEMENT

THIS INDENTURE, made and entered into this 1 day of MAY, 2002, between PARADISE YACHT CLUB, INC., Owner, hereinafter referred to as GRANTOR(S), and LEE COUNTY BOARD OF COUNTY COMMISSIONERS, hereinafter referred to as GRANTEE.

WITNESSETH:

1. For and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, GRANTOR hereby grants and transfers to the GRANTEE, its successors and assigns, the use of an exclusive utility easement situated in Lee County, Florida, and located and described as set forth in Exhibit "A", attached hereto and made a part hereof by reference.

2. GRANTEE is granted the right, privilege, and authority to construct, replace, renew, extend and maintain a wastewater collection and/or water distribution system, together with, but not limited to, all necessary service connections, manholes, valves, fire hydrants, lift stations, and appurtenances, to be located on, under, across and through the easement which is located on the property described (Exhibit "A"), with the additional right, privilege and authority to remove, replace, repair and enlarge said system, and to trim and remove roots, trees, shrubs, bushes and plants, and remove fences or other improvements which may affect the operation of lines, mains, and/or facilities.

3. The exclusive utility easement shall not be limited to any particular diameter size or type and/or number of connections to other water/sewer mains for providing water/sewer service to this and any adjacent properties. The total area of this public utility easement is to be reserved for utility lines, mains, or facilities and for any landscaping, (excluding trees), walkways, roadways, drainage ways, or similar uses. Houses, fences, buildings, carports, garages, storage sheds, overhangs, or any other structures shall not be constructed upon or placed in this easement, at anytime, present or future, by GRANTOR, or its heirs, successors or assigns.

4. Title to the utilities constructed hereunder shall remain in the GRANTEE, GRANTEE's successors, appointees, and/or assigns.

5. Subject to any existing easements for public highways or roads, railroads, laterals, ditches, pipelines, and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, GRANTOR(S) covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to sell and convey it, and that the property is free and clear of all liens and encumbrances, except as herein stated, and accordingly, GRANTOR(S) will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against all claims and demands of all other entities.

6. GRANTOR(S), its heirs, successors or assigns, shall indemnify and hold the GRANTEE harmless for any consequential damage to any houses, fences, buildings, carports, garages, storage sheds, overhangs, or any other structures subsequently constructed by GRANTOR(S) in violation of paragraph 3 within the above easement, which results from the required activities of the GRANTEE for any construction, maintenance or repairs to the utilities location within the above-described easement.

7. GRANTEE shall indemnify, save harmless and defend GRANTOR(S) against all losses, claims, demands,

payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act or omission of GRANTEE, its agents, consultants, employees or contractors in the execution of any work performed pursuant to this same, and agrees to assume any related costs.

8. GRANTEE shall have a reasonable right of access across GRANTOR's property for the purposes of reaching the described easement (Exhibit "A") on either paved or unpaved surfaces. Any damage to GRANTOR's property or permitted improvements thereon, as the result of such access to the described easement or the construction, maintenance, or repairs located within the described easement shall be restored, by GRANTEE, to the condition in which it existed prior to the damage.

9. By acceptance of this easement, the County assumes no responsibility for ownership or maintenance of roads. The easement is exclusively for Lee County Utilities, for utility purposes only.

10. This Agreement shall be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the GRANTOR has caused this document to be signed on the date and year first above written.

Joseph Miklavic
1st Witness

[Signature], GRANTOR

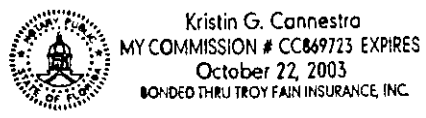
Regina Liggett
2nd Witness

Title: V. Brenden
PARADISE YACHT CLUB INC.

STATE OF Florida)
) SS:
COUNTY OF Lee)

The foregoing instrument was signed and acknowledged before me this 1st day of May, 20002 by Joseph Miklavic who has produced X X as identification, and who (did) (did not) take an oath. (Type Of Identification and Number)

Kristin G. Cannestra
Notary Public Signature
Kristin B. Cannestra
Printed Name of Notary Public



Notary Commission Number

(NOTARY SEAL)

Approved As To Form:

Office of County Attorney



950 Encore Way · Naples, Florida 34110 · Phone: 941.254.2000 · Fax: 941.254.2099

HM PROJECT #2000.010
05/02/2002
REF. DWG. #B-3818

LEGAL DESCRIPTION:

A PORTION OF TRACTS H AND I, ALONG WITH A PORTION OF ORANGE GROVE BOULEVARD, A 60.00 FOOT RIGHT-OF-WAY, OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

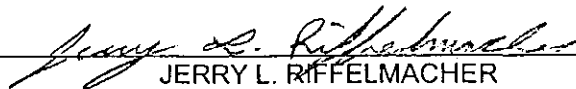
BEGIN AT THE MOST SOUTHWESTERLY CORNER OF ORANGE GROVE BOULEVARD, A 60.00 FOOT RIGHT-OF-WAY, OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS N.59°58'06"W., A DISTANCE OF 400.00 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID ORANGE GROVE BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 35°56'42", SUBTENDED BY A CHORD OF 246.85 FEET AT A BEARING OF N.12°03'33"E., FOR A DISTANCE OF 250.94 FEET TO THE END OF SAID CURVE; THENCE RUN N.84°05'12"E., FOR A DISTANCE OF 68.59 FEET; THENCE RUN S.15°32'37"E. FOR A DISTANCE OF 54.47 FEET; THENCE RUN S.11°35'10"W. FOR A DISTANCE OF 159.34 FEET; THENCE RUN S.27°15'32"W. FOR A DISTANCE OF 166.73 FEET; THENCE RUN S.89°39'50"W. FOR A DISTANCE OF 19.40 FEET TO A POINT ON THE EASTERLY BOUNDARY OF TRACT H OF SAID PLAT OF LOCHMOOR, UNIT 1; THENCE RUN S.30°01'54"W. FOR A DISTANCE OF 39.45 FEET; THENCE RUN N.59°58'06"W. FOR A DISTANCE OF 60.00 FEET TO A POINT ON THE WESTERLY BOUNDARY OF SAID TRACT H; THENCE RUN N.30°01'54"E., ALONG THE WESTERLY BOUNDARY OF SAID TRACT H, FOR A DISTANCE OF 130.00 FEET TO THE POINT OF BEGINNING; CONTAINING 0.673 ACRE, MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE EASTERLY BOUNDARY OF TRACT H OF LOCHMOOR, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28 AT PAGES 33 THROUGH 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AS BEING N.30°01'54"E.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

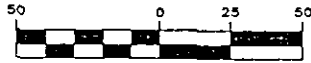
BY


JERRY L. RIFFELMACHER

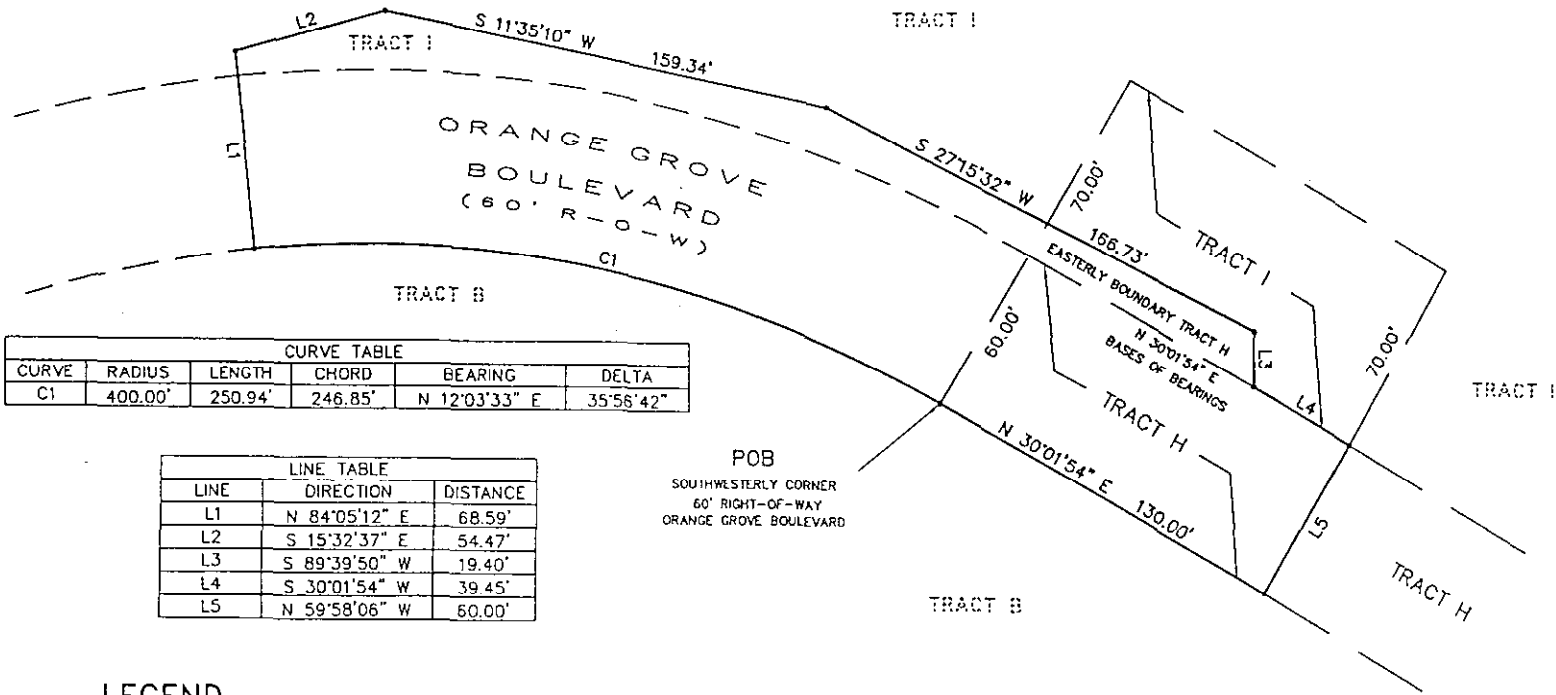
P.S.M. #6130
STATE OF FLORIDA



GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.



CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	400.00'	250.94'	246.85'	N 12°03'33" E	35°56'42"

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N 84°05'12" E	68.59'
L2	S 15°32'37" E	54.47'
L3	S 89°39'50" W	19.40'
L4	S 30°01'54" W	39.45'
L5	N 59°58'06" W	60.00'

POB
SOUTHWESTERLY CORNER
60' RIGHT-OF-WAY
ORANGE GROVE BOULEVARD

LEGEND

POB POINT OF BEGINNING

* NOT A SURVEY *

PARTY CHIEF:	DATE
JLR	5/02
DRAWN BY:	DATE
JLR	5/02
CHECKED BY:	DRAWING NO.
JLR	B-3818



950 Encore Way
Naples, FL. 34110
Phone: (941) 254-2000
Florida Certificate of
Authorization No.1772

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

SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.
2000010
REFERENCE NO.
YES