

**Lee County Board Of County Commissioners**

Agenda Item Summary

Blue Sheet No. 20021317

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Adopt a resolution on Petition VAC2002-00032 to vacate an approximately 1,320 foot long portion of a fifty-foot wide road right-of-way in the platted subdivision of Seminole Gardens located in Section 10, Township 46 South, Range 24 East; and accept a replacement public utility easement.

**WHY ACTION IS NECESSARY:** To allow the property to be developed into 282 single family units as per Winkler Preserve RPD - DCI2002-00012.

*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.*

**WHAT ACTION ACCOMPLISHES:** Vacates the Right-of-Way and accepts a replacement Public Utility Easement.

**2. DEPARTMENTAL CATEGORY:** 04

COMMISSION DISTRICT # 03

**3. MEETING DATE:**

5:00 #5  
11-26-2002

**4. AGENDA:**

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

**5. REQUIREMENT/PURPOSE:**

- (Specify)
- STATUTE FS177
  - ORDINANCE
  - ADMIN. CODE 13-1 & 13-8
  - OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
  - B. DEPARTMENT Community Development
  - C. DIVISION Development Services
- BY: Peter J. Eckenrode, Director *11/13/02*

**7. BACKGROUND:** The Board of County Commissioners adopted a Resolution on November 5<sup>th</sup>, 2002 to set a Public Hearing regarding this proposed vacation for 5:00 p.m. on November 26<sup>th</sup>, 2002.

**LOCATION:** The Right-of-Way to be vacated is an approximately 1,320 foot long portion of a fifty-foot wide road right-of-way along the West edge of lots 1 through 4 and along the East edge of lots 29 through 32 on the subdivision plat of Seminole Gardens and recorded in the Public Records of Lee County, Florida at Plat Book 4, Page 65.

The site is located on the East side of Winkler Road, south of Summerlin Road and between the subdivisions of Belle Meade to the South and Crown Colony to the North.

Documentation pertaining to this Petition to Vacate is available for viewing at the Office of Lee Cares.

A replacement utility easement is being provided to Lee County Utilities along with this vacation to include an existing water main within the right-of-way.

There are no objections to this Resolution to Vacate. Staff recommends the adoption of the Resolution.

Attached to this Blue Sheet is the Resolution to Vacate 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 <i>11/14</i>	G County Manager								
<i>[Signature]</i>	N/A	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

*11-14-02 TP*  
*1:55 PM*  
*11/14/02*

**Rec. by CoAtty**  
**Date: 11/14/02**  
**Time: 1:30**  
**Forwarded To:**  
*Adm. Serv.*  
*11/14/02 1:45 PM*

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: VAC2002-00032

WHEREAS, Petitioner; **Winkler Preserve, LLC** in accordance with Florida Statute (F.S.) Chapter 177 and Lee County Administrative Code (LCAC) 13-1, filed a Petition to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit "A"; and

WHEREAS, the Petition also included a request, in accordance with F.S. Chapter 336 and LCAC 13-8, 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 Exhibit "A"; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing concerning the Petition to Vacate on the **26<sup>th</sup> of November, 2002 at 5:00 p.m.**; 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, the Petitioner is fee simple title holder to the underlying land sought to be vacated in accordance with F.S. Chapter 177; and

WHEREAS, the Petitioner provided proof all applicable state and county taxes have been paid on the property to be vacated in accordance with F.S. Chapter 177; and

WHEREAS, Petitioner did provide notice to all affected property owners concerning the intent of the Petition to Vacate in accordance with the LCAC 13-1; 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 various governmental and utility entities indicate that granting the Petitioner's request is appropriate and in accordance with the requirements of the Florida Statutes.

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

1. Petition to Vacate No. **VAC2002-00032** is hereby granted.
2. The public's interest in the easement, plat or portion of plat legally described in Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated.
3. The public's interest in the right-of-way or portion of right-of-way described in Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated, abandoned, closed and discontinued.
4. A Notice of Resolution Adoption will be published one time within 30 days of adoption in a newspaper of general circulation. An Affidavit of Publication for the Notice of Resolution Adoption will be attached to the Resolution as Exhibit "D".
5. This Resolution will become effective upon recording of a fully executed Resolution, including all exhibits referred to above, in the public records of Lee County, Florida.

This Resolution passed by voice and entered into the minutes of the Board of County Commissioners of Lee County, Florida, this **26<sup>th</sup> of November, 2002**.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

\_\_\_\_\_  
Deputy Clerk Signature

\_\_\_\_\_  
Chairman Signature

\_\_\_\_\_  
Please Print Name

\_\_\_\_\_  
Please Print Name

APPROVED AS TO FORM

\_\_\_\_\_  
County Attorney Signature

\_\_\_\_\_  
Please Print Name

**DESCRIPTION**


Road Right-of-Way  
Seminole Gardens  
Plat Book 4, Page 65, Lee County Records  
Section 10, Township 46 South, Range 24 East  
Lee County, Florida

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

Beginning at the Southeast corner of Lot 29 of said Seminole Gardens run N 01° 13' 18" W along the east line of said Lot 29 and Lots 30, 31 and 32 of said Seminole Gardens for 1237.90 feet to an intersection with the north line of the northeast quarter (NE-1/4) of said Section 10; thence run N 89° 02' 07" E along said North line for 50.00 feet; thence run S 01° 13' 18" E along the westerly line of Lots 1, 2, 3 and 4 of said Seminole Gardens for 1237.65 feet to the Southwest corner of said Lot 4; thence run S 88° 45' 10" W for 50.00 feet to the point of beginning.

Containing 61,889 square feet, more or less.

Bearings herein above mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based on the north line of the northeast quarter (NE-1/4) of said Section 10, Township 46 South, Range 24 East, Lee County Florida to bear N 89° 02' 07" E.

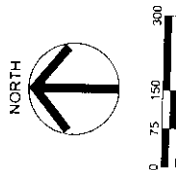
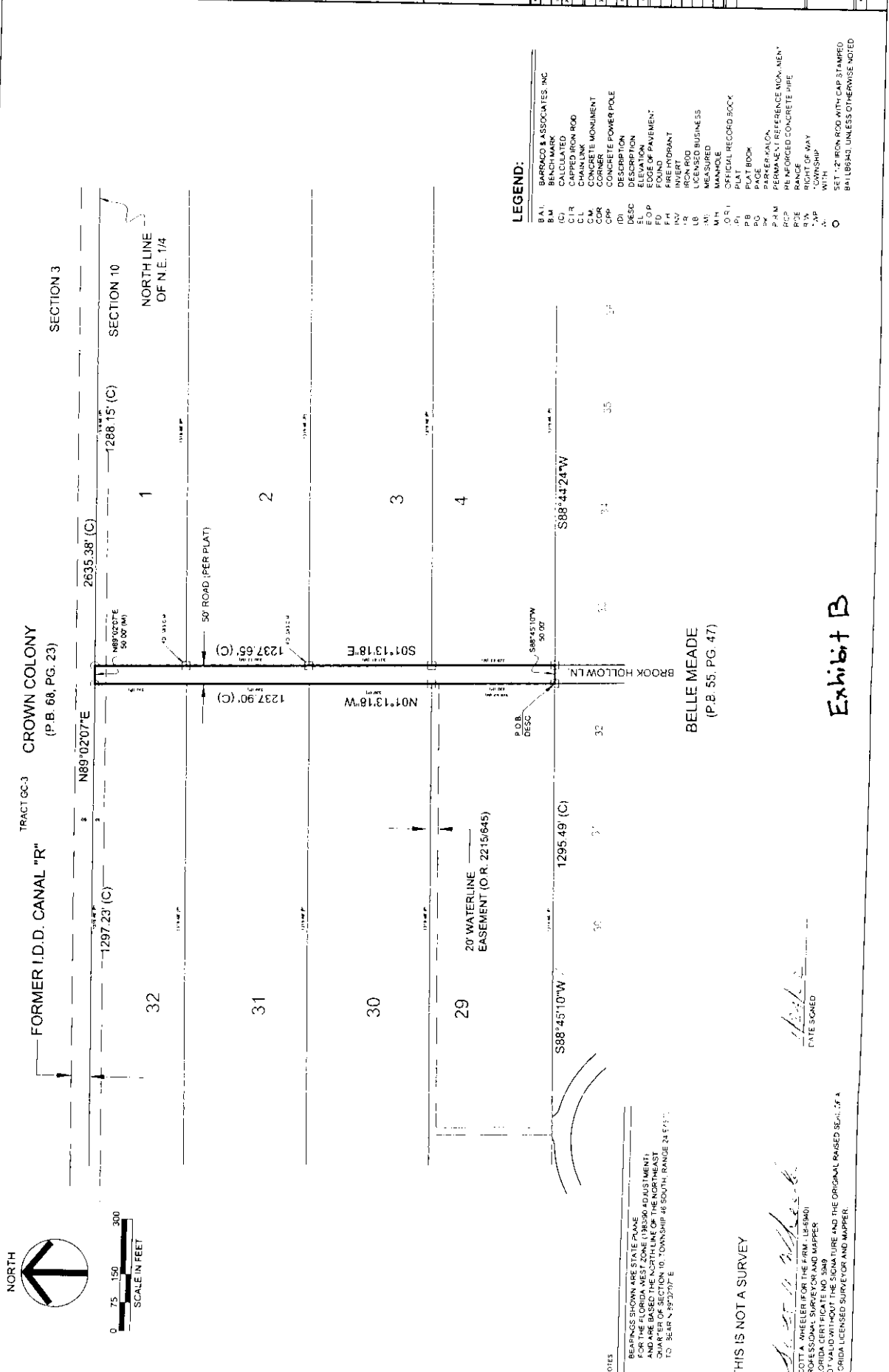
  
Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949

21608

**Exhibit A**



NO.	DATE	DESCRIPTION
1	10/1/10	FIELD DATA
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32	10/1/10	FIELD DATA



**LEGEND:**

SYMBOL	DESCRIPTION
BA1	BARRACO & ASSOCIATES, INC.
BA2	BA1
BA3	BA1
BA4	BA1
BA5	BA1
BA6	BA1
BA7	BA1
BA8	BA1
BA9	BA1
BA10	BA1
BA11	BA1
BA12	BA1
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BA100	BA1

NOTES:  
 BEARINGS SHOWN ARE STATE TRUE  
 FOR THE FLORIDA WEST ZONE (DMS) ADJUSTMENT  
 AND ARE BASED ON THE NORTH LINE OF THE NORTHEAST  
 QUARTER OF SECTION 10, TOWNSHIP 48 SOUTH, RANGE 24 EAST,  
 15° 36' 41" N 89° 20' 7" E

THIS IS NOT A SURVEY

SCOTT A. WHEELER FOR THE FIRM - LB-65001  
 SURVEYOR AND MAPPER  
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A  
 FLORIDA LICENSED SURVEYOR AND MAPPER

DATE SIGNED

SKETCH TO ACCOMPANY DESCRIPTION

7/28/10 2 OF 2

EXHIBIT B