

Lee County Board of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20031072

1. **REQUESTED MOTION:**

**ACTION REQUESTED:** Deny appeal of an administrative interpretation of the Lee Plan under the single-family residence provision filed by Billie Adcock on behalf of Kathryn VanDeMortel.

**WHY ACTION IS NECESSARY:** To take action concerning an appeal of a denial for a favorable administrative determination of the Lee Plan under the single-family residence provision.

**WHAT ACTION ACCOMPLISHES:** The Board will uphold the determination that the property owner is entitled to construct one single-family residence on the subject parcel after sufficient access to the property is established in accordance with applicable County regulations.

2. **DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT #

AP #3

3. **MEETING DATE:**

10-14-2003

4. **AGENDA:**

- \_\_\_\_\_ CONSENT
- \_\_\_\_\_ ADMINISTRATIVE
- X APPEALS
- \_\_\_\_\_ PUBLIC
- \_\_\_\_\_ WALK ON
- \_\_\_\_\_ TIME REQUIRED:

5. **REQUIREMENT/PURPOSE:**  
(Specify)

- \_\_\_\_\_ STATUTE
- \_\_\_\_\_ ORDINANCE
- \_\_\_\_\_ ADMIN. CODE
- X OTHER Lee Plan  
Ch. XII

6. **REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION Land Use
- BY: Dawn E. Perry-Lehnert  
Assistant County Attorney

7. **BACKGROUND:**

Billie Adcock has filed an appeal of MUD2003-00072 pertaining to property located at 6320 Allen Park Drive, Bokeelia. The appeal seeks relief from the County Attorney's denial of a favorable administrative interpretation under the Lee Plan single-family residence provisions. In August 2003, the Office of the County Attorney concluded that the subject property will be entitled to construct one single-family residence once sufficient access is provided to the subject property.

(Continued on Page 2)

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
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA	OM	RISK	GC	<i>[Signature]</i>
				<i>[Signature]</i>	Rk 9/10	9/10/03	58 9/10/03	12/9/10/03	9-11-03

10. **COMMISSION ACTION:**

- \_\_\_\_\_ APPROVED
- \_\_\_\_\_ DENIED
- X DEFERRED FOR TWO WEEKS TO 10-14-03
- \_\_\_\_\_ OTHER

ON 09-30-03

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
9/10/03 10.003

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
9/10  
11/10/03  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
9/10

The subject parcel existed as a separate parcel in 1977 and prior to the adoption of the Lee Plan. It is located in the rural land use category and is comprised of approximately 19,161 square feet. Access to the parcel appears to be via private, unplatted roads.

In order to qualify for a favorable determination under the Lee Plan provisions, the parcel must: (1) encompass at least 7,500 square feet; and (2) front on a road constructed of compacted materials with adequate drainage. This parcel does not front on a road meeting the minimum Lee Plan standard. Therefore, a conditional determination was issued allowing construction of a single-family residence once the road fronting the parcel was brought up to the minimum standard.

As a basis for appeal, the applicant asserts that bringing the road access up to the required standard will create a hardship for the property owner. No compensable taking of the property occurs due to the property owner's financial inability to exercise the right to construct the single-family home as conditioned by the single-family determination.

The procedures for administrative interpretation govern the Board's consideration of the requested appeal. These guidelines are set forth in Chapter XIII of the Lee Plan and require the Board to consider only the information submitted in the administrative interpretation process. The Board must determine whether the County Attorney's Office has properly applied the criteria set forth in the plan to the facts presented in the application. No additional evidence may be considered by the Board.

The applicant has not demonstrated a factual basis for relief on the grounds of equitable estoppel. A single-family residence can be constructed on the parcel once the road fronting the property and providing access has been brought up to the appropriate standard.

The administrative interpretation being appealed correctly provides a favorable single-family residence determination with the condition that sufficient access be provided prior to issuance of a building permit for the dwelling. This determination is consistent with others issued by the County Attorney's office for similarly situated parcels.

**Attachments:**

1. Notice of Appeal
2. Administrative Interpretation of Single Family Residence Provisions of the Lee Plan MUD 2003-00072
3. Application
4. Staff Report
5. Lee Plan Chapter XIII.b.B



Key West Professional Centre  
1342 Colonial Blvd. B-16 • Fort Myers, Florida 33907  
Phone (239) 274-8988 • Fax (239) 274-8908  
www.SignatureSeriesHomes.com

*cc: Billie Jacobs*

CB C016000 CG C060969

Attachment 1

2003 AUG 29 PM 1:38

RECEIVED BY  
LEE CO. ATTORNEY

August 29, 2003

Lee County Attorney's Office

RE: Case No.: MUD2003-00072

**Applicant:** Signature Series Homes, Inc. for  
Kathryn A. VanDeMortel  
1342 Colonial Blvd. Ste. B-16  
Fort Myers, FL 33907

RECEIVED  
SEP 04 2003

**Owner:** Kathryn A. VanDeMortel  
7897 Breakwater Court  
Bokeelia, FL 33922

ZONING COUNTER

MUD 2003-00072

**Property In**

**Question:** 6320 Allen Park Drive  
**Strap No.:** 08-44-22-01-0000B.0080

**Appeal:**

We are requesting an appeal to your determination that is denying a permit to build a single family residence.

This situation will cause a hard ship to Kathryn A. VanDeMortel. She is a single parent and has used her savings to purchase above referenced parcel. She has also closed on a construction loan to construct a home for the family.

There are existing homes in this parcel and a new home under construction on across the street from said parcel in question.

We would like you to reconsider your determination in this case.

Respectfully,

*Billie G. Adcock, Pres*

Billie G. Adcock, President  
Signature Series Homes, Inc.

*You're only a signature away*



Lee County Attorney's Office

RE: Case No. MUD2003-00072

RECEIVED  
SEP 04 2003

To Whom It May Concern:

ZONING COUNCIL

MUD 2003-00072

My name is Kate Van De Mortel, I have purchased property at 6320 Allen Park Dr., Bokeelia, Florida. I am a single mom who purchased this property with the idea of building a home on it for me and my child. The builder that I chose, Signature Series Homes, Inc., has informed me that you have denied my application for a permit to build on this property. I had this land surveyed prior to buying it to make sure that it was a smart move. Now I am told that you will not let us have a permit.

Hanover is the main street that turns into my subdivision and it is being paved at this time. There are other homes being built in this subdivision. Photo provided of Manneheim Dr. where they are building a home, the property is underwater.

Please move quickly and promptly in this matter and approve my permit. Thank you for your prompt attention to this matter.

I look forward to any help you can give this matter.



**ADMINISTRATIVE INTERPRETATION OF  
THE SINGLE FAMILY RESIDENCE PROVISIONS OF  
THE LEE PLAN**

CASE NO.: MUD2003-00072

DATE OF  
APPLICATION: 8/1/03

APPLICANT: SIGNATURE SERIES HOMES, INC. FOR  
KATHRYN A. VANDEMORTEL  
1342 COLONIAL BOULEVARD, SUITE B-16  
FORT MYERS, FL 33907

OWNER: KATHRYN A VANDEMORTEL  
7897 BREAKWATER COURT  
BOKEELIA, FL 33922

AGENT: SIGNATURE SERIES HOMES, INC.  
1342 COLONIAL BOULEVARD, SUITE B-16  
FORT MYERS, FL 33907

PROPERTY IN  
QUESTION: 6320 Allen Park Drive, more particularly described as Lot B-8, of the unrecorded redivision of the N ½ of Lots 1 and 2, Block B, Kreamer's Avocados Subdivision, Section 8, Township 44 South, Range 22 East, Pine Island, Lee County, Florida. The East 127.5 feet of the West 1020.0 feet of the North half (N ½) of the North half (N ½) of Lots 1 and 2, Block B, Kreamer's Avocados Subdivision, according to plat recorded in Plat Book 5 at Page 21, of the Public Records of Lee County, Florida.

STRAP NO.: 08-44-22-01-0000B.0080

FINDINGS OF  
FACT: The documentation provided with the application shows that the current owner acquired the parcel in March 2003, via a Corporate Warranty Deed recorded in the Public Records of Lee County in Official Records (OR) Book 3885, Page 1791. For the purpose of calculating density, the parcel comprises approximately .44 acres (19,161 square feet) of land and is zoned RS-1. The parcel is located in the Rural Future Land Use Category, which requires a minimum of 43,560 square feet per dwelling unit. For this reason, the owner must obtain a favorable administrative interpretation of the single family residence provisions

of the Lee Plan to construct a dwelling on the property. The property existed as a separate parcel in 1977, as evidenced by the Warranty Deed recorded in the Public Records of Lee County in OR Book 1181, Page 932.

The parcel is more than 7,500 square feet, and complied with the governing zoning requirements when created as a lot in prior to the Lee Plan's effective date of December 21, 1984.

The Lee Plan requires that the parcel front on a road with a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use. The parcel must also be served by drainage swales or equivalent drainage measures. This parcel fronts on Allen Park Drive, a road that appears to have been constructed of compacted materials some time ago. Allen Park Drive is a private road that has fallen into disrepair and no longer meets Lee Plan XIII.b.B(3) standards for access.

#### DETERMINATION:

The property is within an unplatted subdivision and is accessed via private roads. It appears many of these roads were originally constructed of compacted materials. Access to the subject parcel is via Allen Park Drive, which appears to be a road of compacted materials that has not been adequately maintained. Due to the apparent lack of maintenance, the road no longer meets the requirements for access set forth in Lee Plan XIII.b.B(3).

If Allen Park Drive is repaired and maintained in a manner that provides sufficient access to the subject parcel, then the owner will be entitled to construct one single-family residence on the property. Sufficient access must, at minimum, be a properly compacted surface with adequate drainage. The Director of Development Services will determine whether the access, as repaired and maintained, is sufficient.

Accordingly, this parcel will meet the requirements set forth in Lee Plan Chapter XIII for a favorable administrative interpretation of the single-family residence provisions, if, and when, Allen Park Drive is improved in a manner that will provide access in compliance with Lee Plan XIII.b.B.4.a(3).

**THIS DETERMINATION IS NOT A PERMIT TO BUILD A SINGLE FAMILY RESIDENCE OR TO CONSTRUCT ANY IMPROVEMENTS TO LAND, INCLUDING A ROAD.**

**Applications for building permits or development orders must comply with all applicable County, State, and Federal regulations as those regulations exist at the time each application is submitted.**

**APPEAL PROCEDURE:**

"An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied, to the facts presented, the standards set forth in the Plan for such administrative interpretations. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public hearing."

Based upon this quoted language, if you disagree with this administrative interpretation, you have the right to an appeal to the Board of County Commissioners. In order to exercise this right of appeal, a written Notice of Appeal must be delivered to the County Attorney's Office, at 2115 Second Street, Fort Myers, Florida, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 20<sup>th</sup> day of August, 2003.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY: 

Dawn E. Perry-Lehnert  
Assistant County Attorney

DPL/pr

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Julie Dalton, Property Appraiser's Office  
Debbie Carpenter, DCD  
Tidemark

TV

**ADMINISTRATIVE INTERPRETATION OF  
THE SINGLE FAMILY RESIDENCE PROVISIONS OF  
THE LEE PLAN**

CASE NO.: MUD2003-00072

DATE OF APPLICATION: 8/1/03

APPLICANT: SIGNATURE SERIES HOMES, INC. FOR  
KATHRYN A. VANDEMORTEL  
1342 COLONIAL BOULEVARD, SUITE B-16  
FORT MYERS, FL 33907

OWNER: KATHRYN A VANDEMORTEL  
7897 BREAKWATER COURT  
BOKEELIA, FL 33922

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1342 COLONIAL BOULEVARD, SUITE B-16  
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Dated this 20<sup>th</sup> day of August, 2003.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
Dawn E. Perry-Lehnert  
Assistant County Attorney

DPL/pr

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Julie Dalton, Property Appraiser's Office  
Debbie Carpenter, DCD  
Tidemark



# APPLICATION FOR ADMINISTRATIVE ACTION

### APPLICATION FOR:

- Administrative Variance (Sup A)
- Consumption On Premises Per. (Sup C)
- Ordinance Interpretation (Sup E)
- Relief for Easement Encroachment (Sup
- Adm. Deviation from Chapter 10 (Sup I)
- Dock & Shoreline structures (Sup. K)
- Redevelopment District (Sup L)
- Admin. Approval FMB (no supplement)
- Final Plan Approval per Resolution: #
- Commercial Lot Split (Sup B)
- Min. Use Determination (Sup D)
- Relief for Desig. Hist. Res. (Sup F)
- Adm. Amend. PUD or PD (Sup H)
- Placement of Model Home/Unit or Model Display Center (Sup. J)
- Wireless Communication Facility (Sup. M and Shared Use Plan Agreement)

Applicant's Name: SIGNATURE SERIES HOMES INC FOR KATHRYN A. VANDEMARTEL Phone #: \_\_\_\_\_

Project Name: N/A

STRAP Number: 08 44 22 01 0000B . 0080

Application Form:  Computer Generated\*  County Printed

\* By signing this application, the applicant affirms that the form has not been altered.

\*\*\*\*\* STAFF USE ONLY \*\*\*\*\*

Commission District: 01 Land Use Classification: Rural

Current Zoning: RS-1 Lee Plan Density Range: \_\_\_\_\_

Case Number: MUD 2003-00072 Fee: RES 2003-05610

Date of Application: 8/1/03 Date Fee Paid: 8/1/03

Intake by: BS Receipt Number: \_\_\_\_\_

LEE COUNTY  
COMMUNITY DEVELOPMENT  
P.O. BOX 398 (1500 MONROE STREET)  
FORT MYERS, FLORIDA 33902  
PHONE (239) 478-8585

**RECEIVED**  
AUG 01 2003

PERMIT COUNTER

MUD 2003-00072

PART I - GENERAL INFORMATION

SIGNATURE SERIES HOMES, INC FOR

1. APPLICANT'S NAME: KATHRYN A. VANDEMARTEL  
 Mailing Address:  
 Street: 7897 BREAKWATER CT (AND SEE AGENT)  
 City: BOKEELTA State: FL Zip: 33922  
 Phone Number: Area Code: (239) Number: 283-8529 Ext: \_\_\_\_\_  
 Fax Number: Area Code: N/A Number: \_\_\_\_\_  
 E-mail address: N/A

2. Relationship of applicant to property:

Owner  Trustee  
 Option holder  Contract Purchaser  
 Lessee  Other (indicate) BUILDER/AGENT

If applicant is NOT the owner, submit a Notarized Authorization Form from the owner to the applicant.

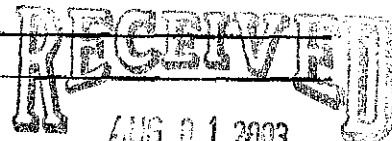
3. AGENT'S NAME(S): (Use additional sheets if necessary): SIGNATURE SERIES HOMES INC

Mailing Address:  
 Street: 1342 COLONIAL BLVD., STE B-16  
 City: FORT MYERS State: FL Zip: 33907  
 Contact Person: BILLIE G. ADAMCK, PRES  
 Phone Number: Area Code: (239) Number: 274-8988 Ext: \_\_\_\_\_  
 Fax Number: Area Code: (239) Number: 274-8908  
 E-mail address: SALES@SIGNATURESERIESHOMES.COM

4. TYPE OF REQUEST (please check one)

- Administrative Variance (requires supplement A)
- Commercial Lot Split (requires supplement B)
- Consumption On Premises (requires supplement C)
- Minimum Use Determination (requires supplement D)
- Ordinance Interpretation (requires supplement E)
- Relief for Designated Historic Resources (requires supplement F)
- Easement Encroachment (requires supplement G)
- Administrative Amendment to a PUD or Planned Development (requires supplement H)
- Administrative Deviation from Chapter 10 of the LDC (requires supplement I)
- Placement of Model Home/Unit or Model Display Center (requires supplement J)
- Dock & Shoreline Structure (requires supplement K)
- Redevelopment District (requires supplement L)
- Wireless Communication Facility (requires supplement M)
- Admin Approval FMB (no supplement)
- Final Plan Approval (no supplement)

5. NATURE OF REQUEST (please print): PERMISSION TO CONSTRUCT SFR



PART II - PROPERTY INFORMATION

Is this request specific to a particular tract of land? \_\_\_\_\_ NO \_\_\_\_\_ YES. If the answer is yes, please complete the following:

1. Is this action being requested as a result of a violation notice?  NO \_\_\_\_\_ YES.

a. If yes, date of notice: \_\_\_\_\_

b. Specific nature of violation: \_\_\_\_\_

2. Relationship of applicant to property: \_\_\_\_\_ Owner  Other (please indicate): BUILDER / ADJACENT

3. Name of owner of property: KATHRYN A. VANDEMORTEL

Mailing Address: Street: 7897 BREAKWATER CT

City: DOKEELIA State: FL Zip: 33922

Phone Number: Area Code: (239) Number: 283-8529 Ext: \_\_\_\_\_

Fax Number: Area Code: \_\_\_\_\_ Number: \_\_\_\_\_

4. Legal Description: Is property one or more undivided platted lots within a subdivision recorded in the official Plat Books of Lee County?

NO. Attach a legible copy of the metes and bounds property description and boundary survey (10 acres or more) or certified sketch of description (less than 10 acres) meeting the minimum technical standards set out in chapter 61G 17-6.006, Florida Administrative Code.

YES. Property is identified as:

Subdivision Name: KREAMER AVOCADOS

Plat Book 5 Page 21 Unit \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

5. STRAP NUMBER: 08 44 22 01 0000B . 0080

6. Property Dimensions:

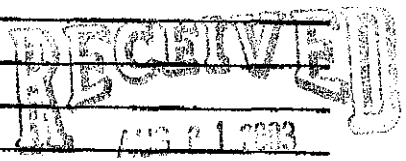
Area: 19,161.45 square feet or \_\_\_\_\_ acres.

Width along roadway: 122.5 feet.

Depth: 156.42 feet.

7. Property Street Address: 6320 ALLEN PARK DRIVE

8. General Location Of Property: DOKEELIA



*This includes 230' R/W on SW corner*

MUD 2003-00072

PART III

SIGNATURE SERIES HOMES, INC AFFIDAVIT

I, Billie G. Adeock, PRES certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application.

Signature Series Homes, Inc  
Billie G. Adeock, Pres  
Signature of owner or owner-authorized agent

7-29-03  
Date

SIGNATURE SERIES HOMES, INC  
Billie G. Adeock, PRES  
Typed or printed name

STATE OF FLORIDA)  
COUNTY OF LEE )

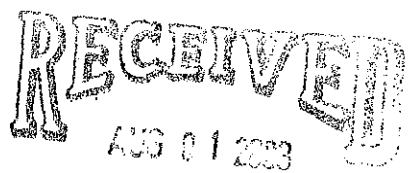
The foregoing instrument was certified and subscribed before me this 29 day of July, 2003, by Billie G. Adeock, who is personally known to me as identification.



Patricia C Porter  
Signature of notary public

Patricia C Porter  
Printed name of notary public

(SEAL)



PERMIT COURT

MUD 2003-00072

**EXPLANATORY NOTES - GENERAL**

1. APPLICATIONS FOR AN ADMINISTRATIVE SETBACK VARIANCE FROM CHAPTER 34 (ZONING) OF THE LAND DEVELOPMENT CODE MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT A FORM.
2. APPLICATIONS FOR A COMMERCIAL LOT SPLIT MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT B FORM.
3. APPLICATIONS FOR AN ADMINISTRATIVE APPROVAL FOR CONSUMPTION-ON-PREMISES PERMIT MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT C FORM.
4. APPLICATIONS FOR A MINIMUM USE DETERMINATION MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT D FORM.
5. APPLICATIONS FOR AN INTERPRETATION OF THE LAND DEVELOPMENT CODE MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT E FORM.
6. APPLICATIONS FOR ADMINISTRATIVE RELIEF FOR DESIGNATED HISTORIC RESOURCES MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT F FORM.
7. APPLICATIONS FOR RELIEF FOR EASEMENT ENCROACHMENT MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT G FORM.
8. APPLICATIONS FOR ADMINISTRATIVE AMENDMENT TO A PUD OR PLANNED DEVELOPMENT MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT H FORM.
9. APPLICATIONS FOR AN ADMINISTRATIVE DEVIATION FROM CHAPTER 10 (DEVELOPMENT STANDARDS) OF THE LAND DEVELOPMENT CODE MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT I FORM.
10. APPLICATIONS FOR ADMINISTRATIVE APPROVAL FOR THE PLACEMENT OF A MODEL HOME/UNIT OR MODEL DISPLAY CENTER MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT J FORM.
11. APPLICATIONS FOR ADMINISTRATIVE APPROVAL FOR THE PLACEMENT OF DOCKS AND SHORELINE STRUCTURES MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT K FORM.
12. APPLICATIONS FOR ADMINISTRATIVE APPROVAL TO UTILIZE REDEVELOPMENT DISTRICT REGULATIONS MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT L FORM.
13. APPLICATIONS FOR ADMINISTRATIVE APPROVAL TO PLACE WIRELESS COMMUNICATION FACILITIES MUST INCLUDE THIS FORM PLUS THE ADMINISTRATIVE ACTION REQUEST SUPPLEMENT M FORM.
14. ALL APPLICANTS MUST PAY THE APPLICATION FEE SET FORTH IN THE COUNTY EXTERNAL FEES AND CHARGES MANUAL. (ADMINISTRATIVE CODE 3-10 APPENDIX C)

**EXPLANATORY NOTES FOR PART I**

1. Applicant's Name: Application may be by the landowner or his authorized agent.
2. Relationship of applicant to owner. If the applicant is not the owner of the property, a notarized authorization form from the owner to the applicant must be submitted.
3. Agent's Name: If the applicant will have other people representing him in processing this application, please indicate their name, address, and phone number.
4. Place check mark next to type of administrative action being requested.
5. State in general terms, the purpose of the requested action.

**RECEIVED**  
 AUG 01 2003

**MUD 2003-00072**

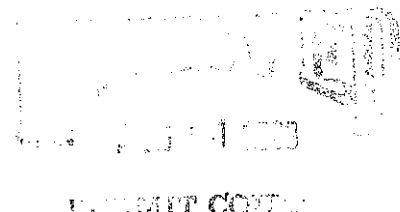
**EXPLANATORY NOTES FOR PART II**

**Part II must be completed for all applications in which a particular tract or parcel of land is involved. Applications for administrative interpretations of the ordinance which do not affect a particular parcel of land do not need to complete this part.**

1. **If the request is due to a violation notice, please indicate the date it was issued, the type of notice (i.e. building code, zoning, etc.) and what the violation was.**
2. **Relationship of applicant to owner: If the applicant is not the owner of the property, please state the relationship such as option holder, contract purchaser, lessee, trustee, agent, etc. Please submit a notarized authorization form from the owner to the applicant.**
3. **If the applicant is the owner, please write "same".**
4. **If the application includes multiple abutting parcels or other than one or more undivided platted lots in a subdivision recorded in the official Plat Books of Lee County, please submit a complete, legible, description of the perimeter boundary of the property, by metes and bounds with accurate bearings and distances for every line. The Director may reject any legal description which is not legible or sufficiently detailed. Please submit a boundary survey or certified sketch of description (depending on the size of the property and relevance of existing conditions to the review of the application), meeting the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-8, Florida Administrative Code.**
5. **If more than one parcel is involved, list all STRAP numbers. If the property is within an unrecorded subdivision, please submit a copy of the O.R. Book and Page where the subdivision plat is recorded.**
6. **Please describe of how to get to the property referencing major streets.**

**EXPLANATORY NOTES FOR PART III**

1. **The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant.**
2. **All information submitted with the application becomes a part of the public record and will be a permanent part of the file.**
3. **Please submit all applications in person. Mailed-in applications will not be processed.**
4. **All attachments and exhibits submitted must be legible, suitable for recording, and of a size that will fit or conveniently fold to fit into a letter size (8 1/2" x 11") folder.**
5. **Department staff will review this application for compliance with requirements of the Lee County Land Development Code. The applicant will be notified of any deficiencies.**





PLANS for  
PERMIT  
BEING HELD FOR  
THIS

### ADMINISTRATIVE ACTION REQUEST SUPPLEMENT D

#### MINIMUM USE DETERMINATION

Please submit the "Application for Administrative Action"

Address: \_\_\_\_\_

Lot, or survey indicating dimensions and area of each lot

122.50 x 156.42

c. Comprehensive Plan Land Use designation for the subject property: SINGLE FAMILY RES

d. Zoning: Indicate the zoning on the parcel(s) when the parcel(s) was created (split out into its present dimensions from a larger parcel): RESIDENTIAL

#### 2. INTENDED USE

a. Do you wish to construct one single family residence on each of the above parcels? \_\_\_\_\_ NO.  
 YES

If the parcel on which you wish to construct one home is some combination of lots, indicate which lots will comprise the final single family parcel: B-8

b. Do you wish to reappportion lots?  NO \_\_\_\_\_ YES. If yes, on the site plan or map submitted for 2 above, please indicate the changes you wish to make in compliance with this provision.

#### 3. ADDITIONAL DOCUMENTATION REQUIRED

a. Copy of the recorded deed, agreement for deed, or other official documentation indicating the date you acquired the property and the date the deed was recorded in the Lee County Clerk's office.

b. If the parcel(s) is not in a platted or unofficial recorded subdivision, please provide a copy of the recorded deed (or other official documentation) establishing the date the parcel(s) was created (i.e. split out from a larger parcel into its present dimensions).

RECEIVED  
AUG 01 2003  
COUNTY

**PROPERTY DATA FOR PARCEL 08-44-22-01-0000B.0080  
TAX YEAR 2003 (PRELIMINARY)**

Parcel data is available for the following tax years:

[ 2001 | 2002 | 2003 (Preliminary) ]

[ Next Lower Parcel Number | Next Higher Parcel Number | Display Tax Bills on this Parcel ]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.  
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2003 PRELIMINARY ROLL.

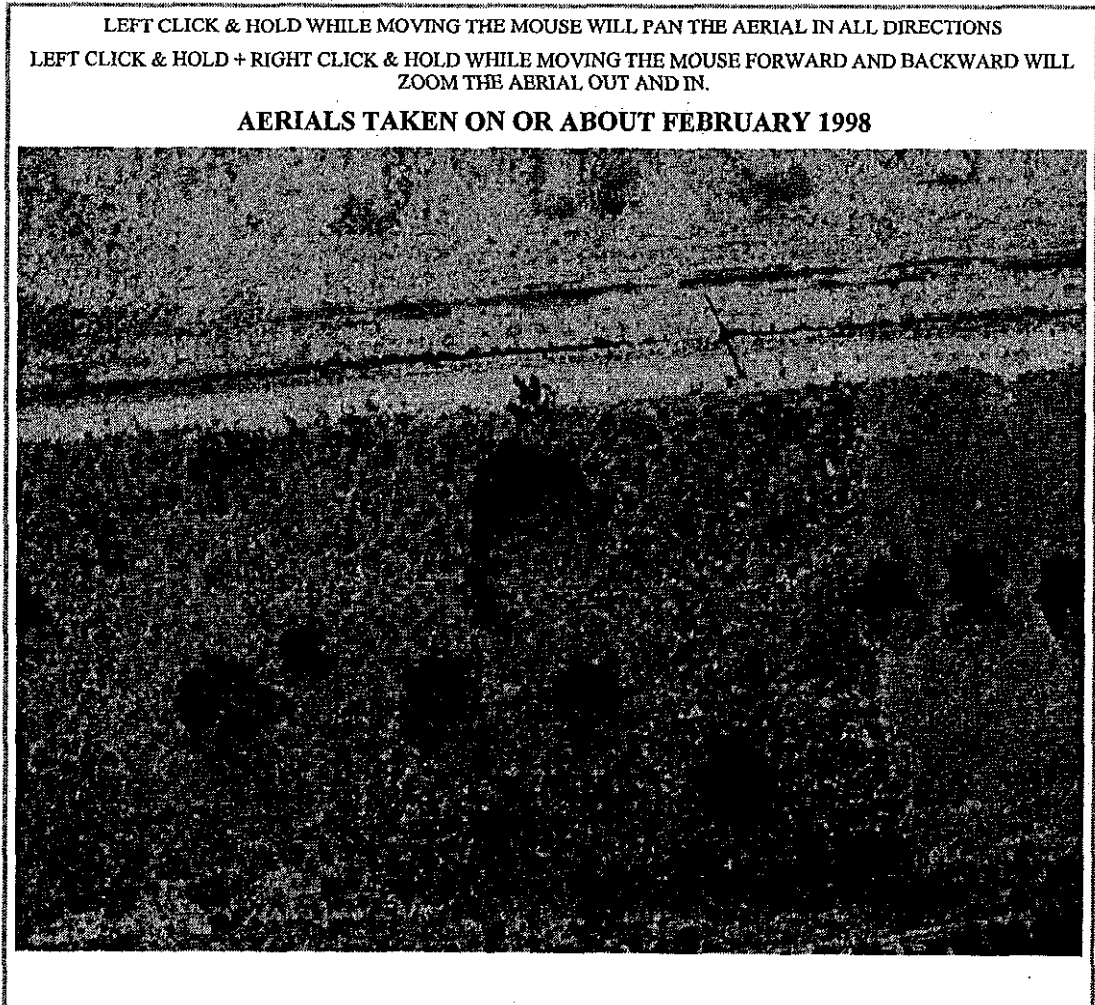
Owner of Record	Legal Description	Image of Structure
VAN DEMORTEL KATHRYN A 7897 BREAKWATER CT BOKEELIA FL 33922	KREAMERS AVOCADO SUBD BLK B PB 5 PG 21 PT LTS 1 + 2 LOT B-8	(Not Presently Available)
<b>Site Address</b>		
6320 ALLEN PARK DR Bokeelia, FL 33922		

Taxing District	DOR Code
007 - MATLACHA-PINE ISLAND FIRE DISTRICT	00 - VACANT RESIDENTIAL

Property Values		Exemptions		Dimensions	
Just	3,700	Homestead	0	Measurement Units	LT
Assessed	3,700	Agricultural	0	Number of Units	1.00
Assessed SOH	3,700	Widow	0	Frontage	0
Taxable	3,700	Widower	0	Depth	0
Building	0	Disability	0	Bedrooms	
Land	3,700	Wholly	0	Bathrooms	
Building Extra Features	0	Energy	0	Total Sq. Ft.	
Land Extra Features	0	SOH Difference	0	Year Improved	0

Sales Transactions						
Sale Price	Date	OR Book / Page	Transaction Details			Vacant / Improved
			Type	Description		
14,900	3/18/2003	3885/1791	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	V	
100	3/1/1993	2376/1294	01	Disqualified (Doc Stamp .70 / SP less th \$100 / Other DisQ)	V	
3,500	9/1/1992	2330/4379	06	Qualified (Fair Market Value / Arms Length / One	V	

STRAP #)						
<b>Parcel Renumbering History</b>						
<b>Prior STRAP</b>		<b>Renumber Reason</b>		<b>Renumber Date</b>		
08-44-22-01-00025.1230		Reserved for Renumber ONLY		Wednesday, December 02, 1998		
05-44-22-01-00025.1230		Reserved for Renumber ONLY		Unspecified		
<b>Solid Waste (Garbage) Roll Data</b>						
<b>Solid Waste District</b>			<b>Roll Type</b>	<b>Category</b>	<b>Unit/Area</b>	<b>Tax Amount</b>
005 - Service Area 5 - Pine Island Area			-		0	0.00
<b>Land Tracts/Land Use</b>						
<b>Description</b>			<b>Use Code</b>		<b>Units</b>	
Vacant Residential			0		1.00 Lot	
<b>Storm Surge Category</b>		<b>Flood Insurance (FIRM)</b>				
		<b>Rate Code</b>	<b>Community</b>	<b>Panel</b>	<b>Version</b>	<b>Date</b>
Category 3		B	125124	0145	C	110492





**CORPORATE WARRANTY DEED**



INSTR # 5763713  
Official Records BK 03885 PG 1791  
RECORDED 03/28/2003 02:25:56 PM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 6.00  
DEED DOC 104.30  
DEPUTY CLERK M Robinson

This Indenture, Made this 18 day of March, 2003, A.D.  
Between

Kristy K. Cleary, Inc., a Florida Corporation  
whose post office address is: 180 Pebble Shores Drive  
Suite 101  
Naples, Florida 34110

a corporation existing under the laws of the State of Florida  
hereinafter called the Grantor, to

Kathryn A. Van De Mortel  
whose post office address is: 7897 Breakwater Court, Bokeelia FL 33922

Hereinafter called the Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten Dollars, to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in Lee County, Florida, to wit:

Lot B-8, of the unrecorded redivision of the N 1/2 of Lots 1 and 2, Block B, Kreamer Avocados Subdivision, Section 8, Township 44 South, Range 22 East; Pine Island, Lee County, Florida. The East 127.5 feet of the West 1020.0 feet of the North half (N 1/2) of the North half (n 1/2) of Lots 1 and 2, Block B, Kreamers Avocados Subdivision, according to plat recorded in Plat Book 5 at page 21, of the Public Records of Lee County, Florida.

Subject to and together with an easement for roadway purposes 60 feet wide lying 30 feet on each side of the South line of the North half (N1/2) of the North half (N1/2) of said Lots 1 and 2, Block B.

Parcel Identification Number: 08-44-22-01-0000B.0080

And the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Kristy K. Cleary, Inc., a Florida Corporation

By: Nancy Rossi, Pres  
Nancy Rossi  
Its: President

Signed and Sealed in Our Presence:  
(TWO SEPARATE WITNESSES REQUIRED)

Sylvia Waskovic  
Witness Sylvia Waskovic

Beth Amos  
Witness Beth Amos

State of Florida  
County of Collier

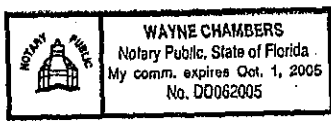
(CORPORATE SEAL)

MUD 2003-00072

The foregoing instrument was acknowledged before me this 18 day of March, 2003 by Nancy Rossi President of Kristy K. Cleary, Inc. a corporation existing under the laws of the State of Florida on behalf of the corporation. He/she is personally known to me or has produced FDL as identification.

This instrument prepared by  
David M. Holzhauser  
Record & Return to  
Title Services of S.W. Florida, Inc.  
1705 Colonial Boulevard Suite A-2  
Fort Myers, Florida 33907

Wayne Chambers  
Notary Public  
My Commission Expires: Oct. 1, 2005  
My Commission Number: DD062005 (SEAL)



Return to (enclose self addressed stamped envelope)

Name: Kristy K. Cleary

Address: 11488 Oakland Drive  
Bokeelia, Fl. 33922

This Instrument Prepared by: Kristy K. Cleary

Address: 11488 Oakland Drive  
Bokeelia, Fl. 33922

Property Appraisers Parcel Identification (Folio Number(s)):

Strap #08-44-22-00025-123

Object(s) S.S. #1(s):

QUIT-CLAIM DEED

RAMCO FORM B

CHARLE OF CTY, FL

93 APR -8 AM 9:18

3367044

OR 2576 Pg 1 294

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

This Quit-Claim Deed, Executed this 11th day of March, A.D. 1993, by

Kristy K. Cleary, Trustee / Individually  
first party, to  
Kristy K. Cleary, Inc., A Florida Corporation  
whose post office address is P.O. Box 329  
St. James City, Florida 33956

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires)

Witnesseth, That the said first party, for and in consideration of the sum of \$ 10.00 in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Lee, State of Florida, to-wit:

Lot B-8, of the unrecorded redivision of the N $\frac{1}{2}$  of Lots 1 and 2, Block B, KREAMER'S AVOCADO SUBDIVISION SECTION 8, Township 44 South, Range 22 East, Pine Island, Lee County, Florida. The East 127.5 feet of the West 1020.0 feet of the North half (N $\frac{1}{2}$ ) of the North half (N $\frac{1}{2}$ ) of Lots 1 and 2, Block B, KREAMER'S AVOCADO SUBDIVISION, according to plat recorded in Plat Book 5 at Page 21, of the Public Records of Lee County, Florida.

Subject to and together with an easement for roadway purposes 60 feet wide lying 30 feet on each side of the South line of the North half (N $\frac{1}{2}$ ) of the North half (N $\frac{1}{2}$ ) of said Lots 1 and 2, Block B.

This land is not now and has never been the homestead of the grantor, nor is it contiguous to the homestead of the grantor.

To Have and to Hold The same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

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

Signed, sealed and delivered in the presence of:

*[Signature]*  
Witness Signature (as to first witness)

DAN GIVERTON  
Printed Name

*[Signature]*  
Witness Signature (as to last witness)

S.S. DIXON  
Printed Name

Witness Signature (as to Grantor, if any)

Printed Name

Witness Signature (as to Co-Grantor, if any)

Printed Name

STATE OF Florida )

COUNTY OF Lee )

Kristy K. Cleary, Trustee: Individually

known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that she executed the same, that I relied upon the following form of identification of the above-named person, she is personally known to me and that an oath (was/was not) taken.

*[Signature]*  
Grantor Signature

Kristy K. Cleary, Trustee/Indv.

11488 Oakland Dr., Bokeelia, Fl. 33922

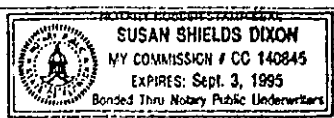
Post Office Address

Grantor Signature, if any

Printed Name

Post Office Address

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared



Witness my hand and official seal in the County and State last aforesaid this 11 day of March, A.D. 19 93.

*[Signature]*  
Notary Signature

Printed Notary Signature

ALSO VERIFIED - CHARLIE GREEN, CLERK  
BY: LAY JAMES  
Documentary Tax Pd. \$  
Intangible Tax Pd.  
Deputy Clerk

THIS INSTRUMENT PREPARED BY:  
GUARDIAN TITLE SERVICES CORPORATION  
Linda Gregory  
13391 MCGREGOR BOULEVARD  
FORT MYERS, FLORIDA 33919

3272310

STRAP NO: 08-44-22-01-00025.1230  
GRANTEE'S SOCIAL SECURITY NO:

THIS WARRANTY DEED Made this 25<sup>th</sup> day of September, 1992,  
by Eldridge J. Thomas

whose post office address is: 210 Tanbridge Dr.  
Wilmington, NC 28405

\$ 24.50

herein after called the grantor, to

By [Signature]

Kristy K. Cleary, Trustee

whose post office address is: 11488 Oakland Drive, Boca Raton, FL, 33422

hereinafter called the 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 Lee County, Florida:

Lot B-8, of the unrecorded redivision of the N 1/2 of Lots 1 and 2, Block B, KREAMER'S AVOCADO SUBDIVISION SECTION 8, Township 44 South, Range 22 East, Pine Island, Lee County, Florida. The East 127.5 feet of the West 1020.0 feet of the North half (N 1/2) of the North half (N 1/2) of Lots 1 and 2, Block B, KREAMER'S AVOCADO SUBDIVISION, according to plat recorded in Plat Book 5 at Page 21, of the Public Records of Lee County, Florida.

Subject to and together with an easement for roadway purposes 60 feet wide lying 30 feet on each side of the South line of the North half (N 1/2) of the North half (N 1/2) of said Lots 1 and 2, Block B.

This land is not now and has never been the homestead of the grantor, nor is it contiguous to the homestead of the grantor.

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 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, 1991, restrictions, reservations and easements of record, if any.

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

Signed, sealed and delivered in our presence:

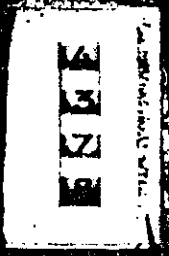
Stephanie C. Drew  
Witness

Eldridge J. Thomas  
Eldridge J. Thomas

Also Print: Stephanie C. Drew

Mary N. Guler  
Witness

Also Print: Mary N. Guler



This Warranty Deed Made and executed the 26th day of January A.D. 1977 by FLORIDA STATE PROPERTIES, INC.

a corporation existing under the laws of State of Florida, and having its principal place of business at 2157 McGregor Blvd., Fort Myers, Lee County, Florida, hereinafter called the grantor, to Eldridge J. Thomas

whose postoffice address is 210 Tanbridge Road, Wilmington, North Carolina 28401 hereinafter called the grantee

Whereas said deed herein the terms "grantor" and "grantee" include all the parties to this deed and the heirs, legal representatives and assigns of each and the successors and assigns of each of them

Witnesseth: That the grantor, for and in consideration of the sum of \$1,095.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Lee County, Florida, viz:

Lot B-8: of the unrecorded redivision of the N 1/2 of lots 1 & 2, Block B., Kreamer's Avocado Subdivision Section 8, T44S., R22E., Pine Island, Lee County, Florida. The East 127.5 ft of the West 1020.0 ft. of the North half (1/2) of the North half (1/2) of lots 1 and 2, Block B, Kreamer's Avocado Subdivision, according to plat recorded in Plat Book 5 at page 21 of the public records of Lee County. Subject to and together with an easement for roadway purposes 60 feet wide lying 30 feet on each side of the South line of the North half (1/2) of the North half (1/2) of said lots 1 and 2, Block B.

Subject to restrictions, limitations, and reservations of record, including but not limited to those recorded in OR Book 975, Page 501, Lee County, Florida.

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

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

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it 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

In Witness Whereof

the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

(CORPORATE SEAL)

ATTEST: C. S. Vaughn Secretary

FLORIDA STATE PROPERTIES, INC.

Signed, sealed and delivered in the presence of:

Burton Stafford J. H. Altstine

By Robert M. Duff Vice President

STATE OF Florida COUNTY OF Lee

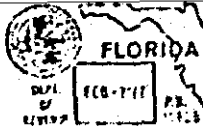
I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Robert M. Duff and C. S. Vaughn

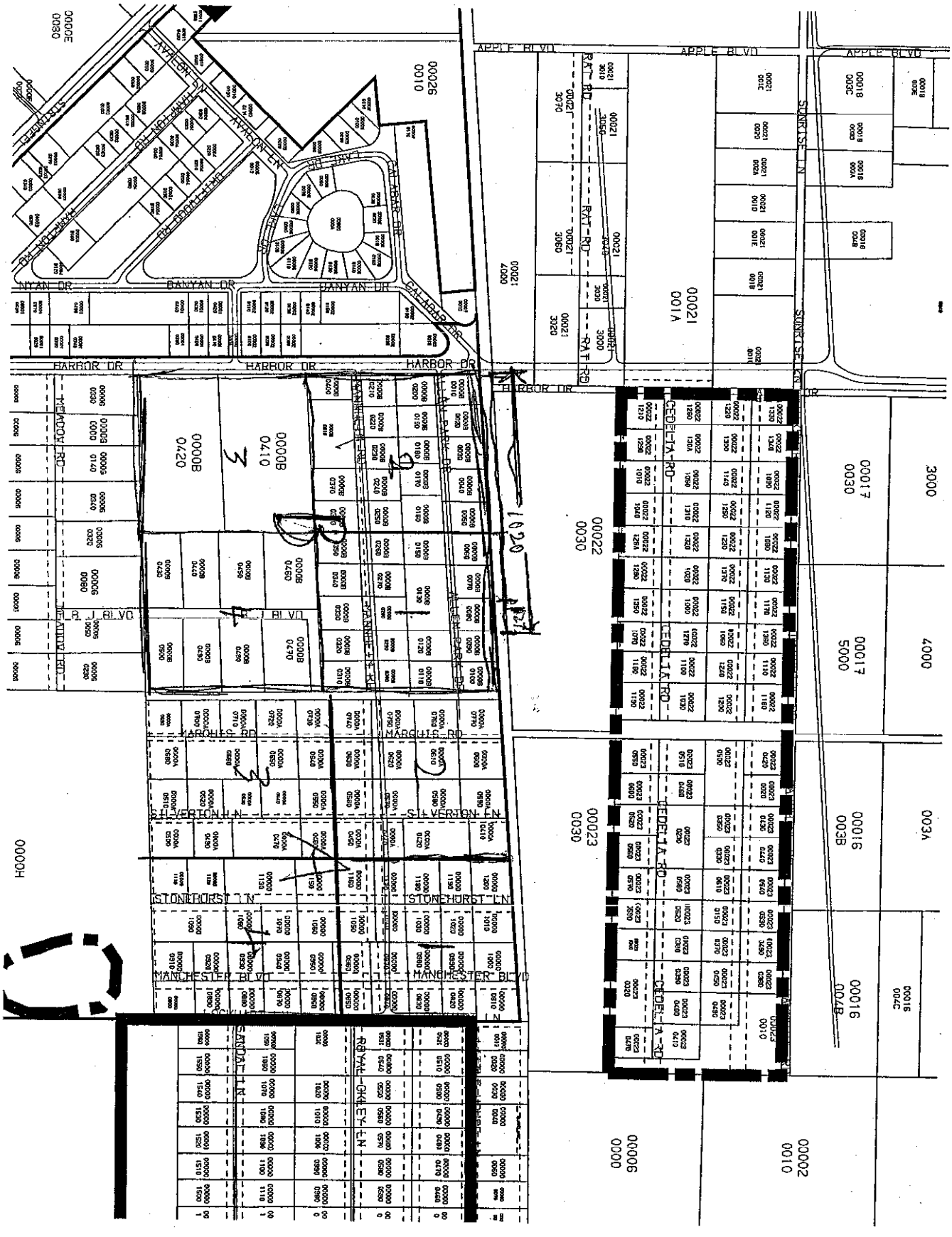
well known to me to be the Vice President and Secretary respectively of the corporation named as grantor in the foregoing deed and that they were duly acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal on the County and State last aforesaid this 26th day of January A. D. 19 77

This Instrument prepared by: Robert M. Duff Address Florida State Properties, Inc. P. O. Box 2503 Fort Myers, Fla 33902

My Commission expires: 7/1/77





*Dive on SIM:*

*Could check out this Road for A mud?*

*TAWISZ, PETA*

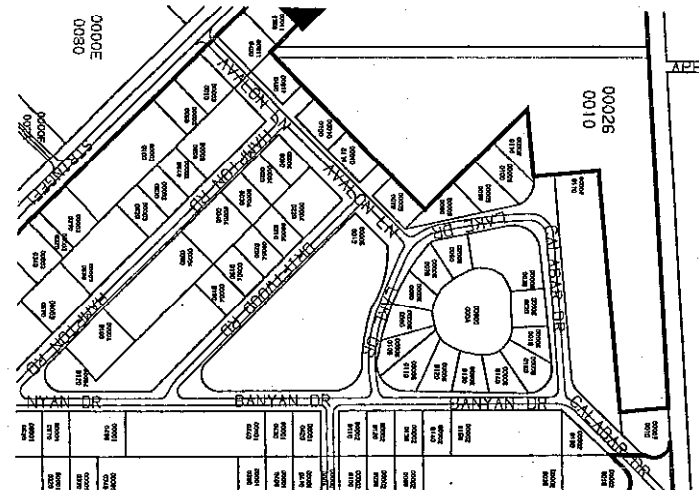
Parcel No.	Area	Parcel No.	Area
00018 00018 00018 00018 00018		00021 001A	
00018 00018 00018 00018 00018		00021 4030	

Parcel No.	Area	Parcel No.	Area
00017 0030		00022 0030	
00017 5000		00023 0030	

Parcel No.	Area	Parcel No.	Area
00016 0038		00023 0030	
00016 0048		00006 0000	

Parcel No.	Area	Parcel No.	Area
00002 0010		00006 0000	

Parcel No.	Area	Parcel No.	Area
00008 0410		00008 0450	
00008 0420		00008 0470	





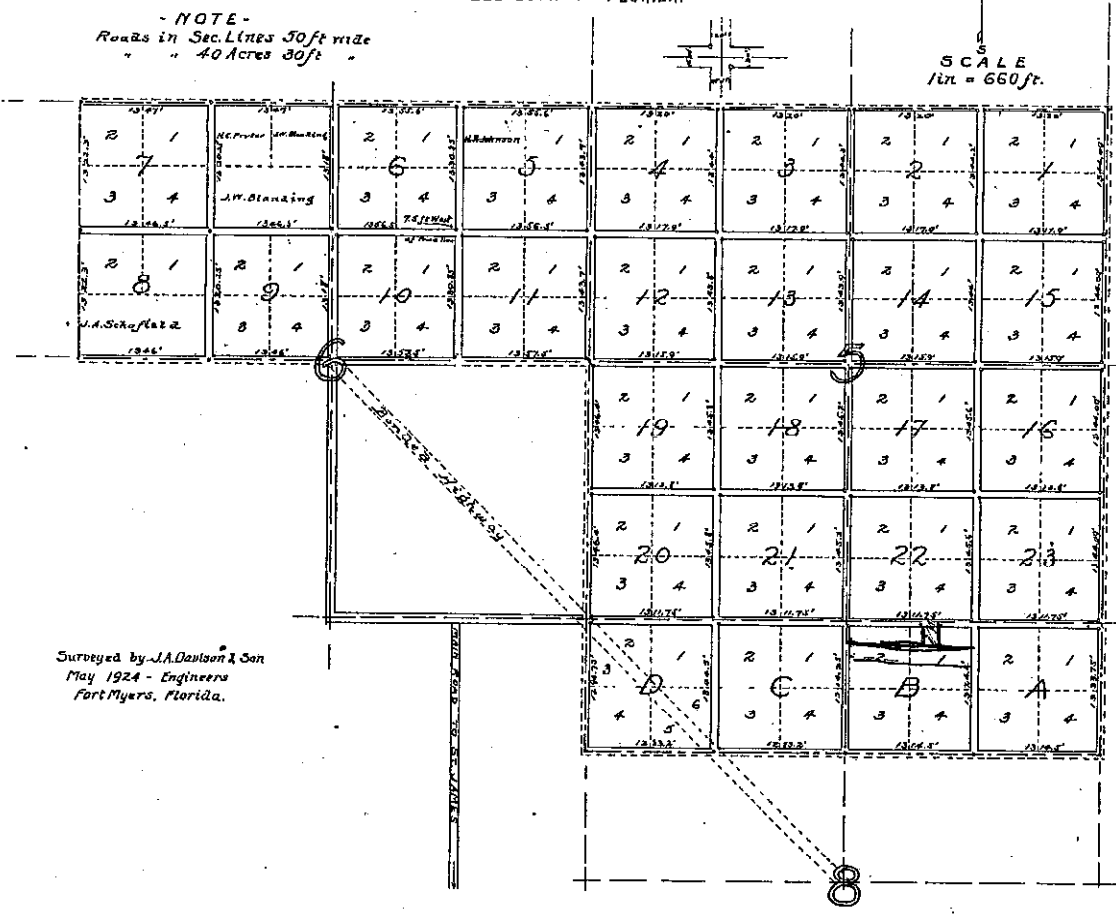
# KREAMER'S AVOCADO SUB-DIVISION

LANDS of HARRY M. KREAMER in Secs. 5-6 + Blocks A-B-C-D of  
KREAMER'S Sub-Division of Sec. 8, All in Twp. 44 S., R22 E.

## PINE ISLAND LEE COUNTY FLORIDA.

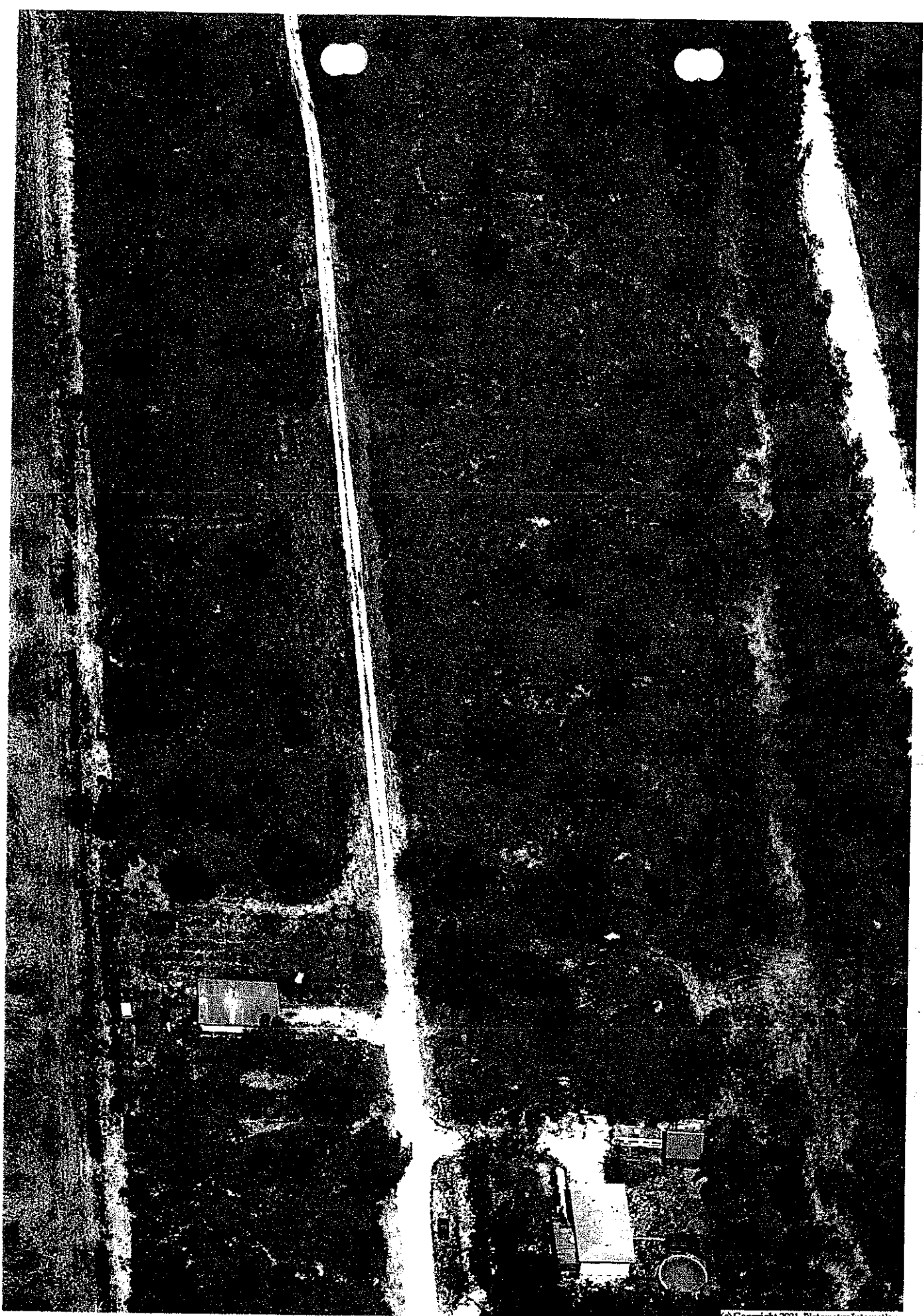
- NOTE -  
Roads in Sec. Lines 50 ft wide  
" " 40 Acres 80 ft "

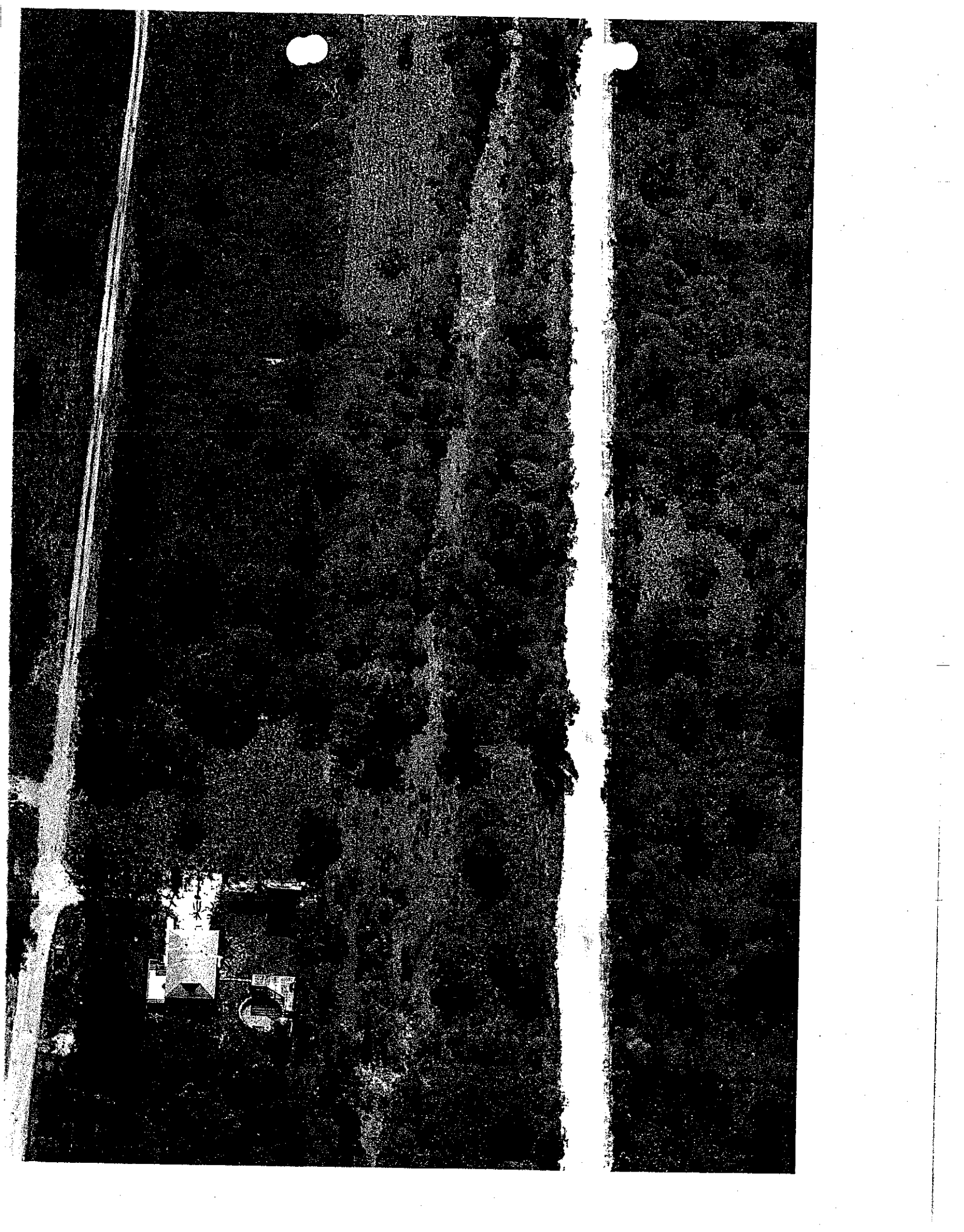
SCALE  
1 in = 660 ft.

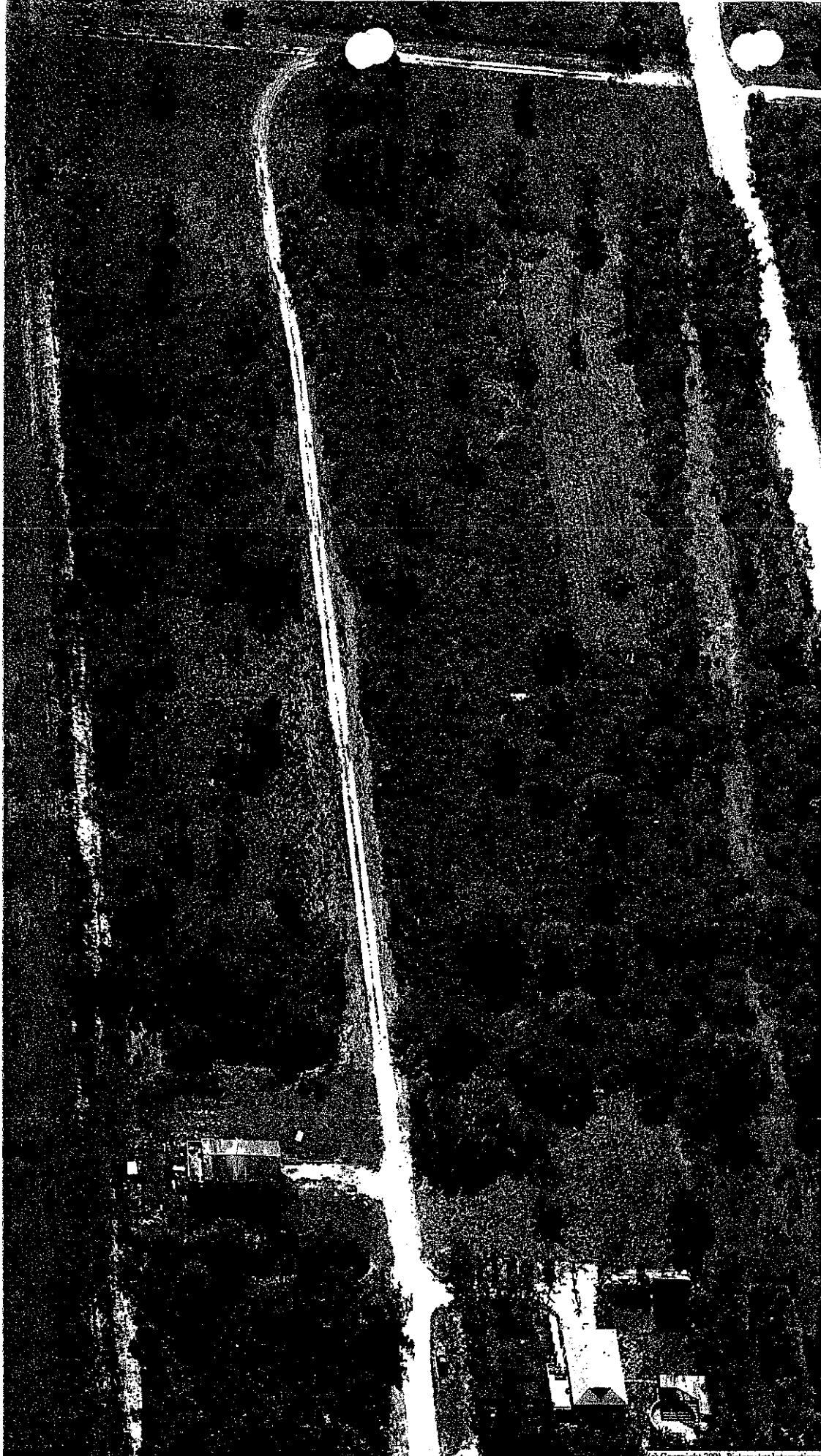


Surveyed by J.A. Dawson & Son  
May 1924 - Engineers  
Fort Myers, Florida.

FILED IN THE OFFICE OF THE  
CLERK OF THE CIRCUIT COURT,  
LEE COUNTY, FLA.  
J. A. Dawson & Son  
Surveyors







BSA#-05120302



SCALE: 1" = 30'

# SITE PLAN FOR SIGNATURE SERIES HOMES

## DESCRIPTION:

ADDRESS: 6320 ALLEN PARK DR  
STRAP# 08-44-22-01-0000.0080  
LOT B~8  
BOKEELIA, FLORIDA

## BARBOT, STEUART & ASSOCIATES, INC.

3228 EVANS AVENUE, FORT MYERS, FLORIDA 33901 PHONE (239) 936-7353 FAX (239) 936-5823



BARBOT, STEUART & ASSOCIATES, INC.  
CONSULTING ENGINEERS

3228 EVANS AVENUE, FORT MYERS, FLORIDA 33901 PHONE (239) 936-7353 FAX (239) 936-5823

NOTICE TO ALL CONTRACTORS AND OWNERS INVOLVED IN CONSTRUCTION OF SEPTIC SYSTEMS:

THE HUS SOILS REPORT ATTACHED IS ACCOMPANIED BY A DIMENSIONED SITE PLAN INDICATING THE LOCATION OF THE BUILDING SERVED AND THE LOCATION ON THE SEPTIC SYSTEM.

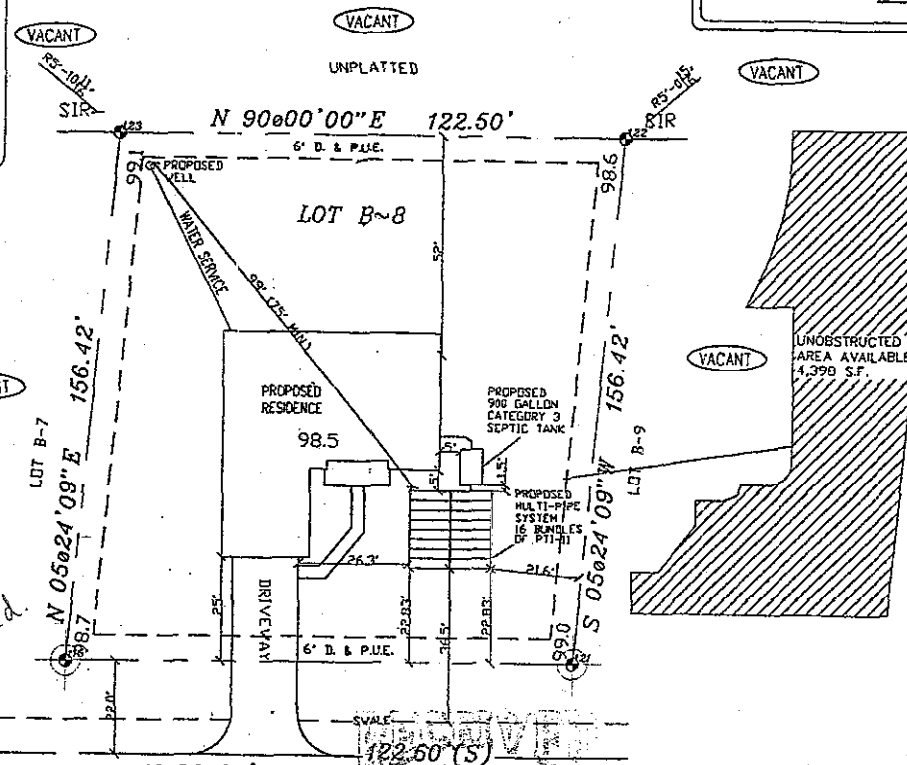
BECAUSE OF DEVIATIONS IN LAYOUT AND CONSTRUCTION, THE DIMENSIONS AND SETBACKS MAY NOT BE AS SHOWN ON THE SITE PLAN.

NEITHER THE ENGINEER NOR THE ENGINEERING COMPANY SHALL BE RESPONSIBLE FOR ANY CHANGES IN THE SITE PLAN.

THANK YOU.

J.E. STEUART, P.E., 18796  
PRESIDENT,  
BARBOT, STEUART & ASSOCIATES

06-02-03



*30' B/W  
NOT depicted.*

BENCHMARK:  
FN&T LB  
6133 TBM  
98.53'

BENCHMARK:  
FN&T LB  
6133 TBM  
98.56'

ALLEN PARK DRIVE  
R16'EASEROCK ROAD PERMIT COUNTY

MUD 2003-00072

PROPERTY SLOPES FROM NORTH TO SOUTH AT LESS THAN 1%



**DETERMINATION OF  
THE APPLICATION OF THE  
MINIMUM USE PROVISION**

CASE # MUD2003-00072

DATE RECEIVED BY ZONING DIVISION: 8/1/03

STRAP NUMBER: 08-44-22-01-0000B.0080

APPLICANT: Signature Series Homes, Inc./Van De Mortel

OWNER: Kathryn A. Van De Mortel

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: March 2003
- b) PLACE RECORDED: OR Book 3885 Page 1791

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1977
- b) PLACE RECORDED: OR Book 1181 Page 932
  - 1) LOT WAS CREATED/RECORDED IN PLAT BOOKS PRIOR TO December 21, 1984 AND HAS NOT BEEN ALTERED: YES\_\_ NO\_\_ N/A X
  - 2) A LEGAL DESCRIPTION OF THE LOT WAS LAWFULLY RECORDED IN O.R. BOOKS PRIOR TO DECEMBER 21, 1984: YES X NO\_\_ N/A\_\_
  - 3) LOT WAS LAWFULLY CREATED AFTER DECEMBER 21, 1984 AND IS IN COMPLIANCE WITH THE LEE PLAN: YES\_\_ NO\_\_ N/A X

**ZONING WHEN CREATED/RECORDED:** AG-2

- a) COMPLIED WITH ZONING WHEN CREATED/RECORDED: YES  NO  N/A
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  NO  N/A
- c) CREATED AFTER JUNE 27, 1962 AND PRIOR TO DECEMBER 21, 1984 AND HAS A WIDTH NOT LESS THAN 50 FEET AND HAS AN AREA NOT LESS THAN 5,000 SQUARE FEET AND RECORDED IN A PLAT BOOK: YES  NO  N/A
- d) CREATED AFTER JUNE 27, 1962 AND PRIOR TO DECEMBER 21, 1984, HAS A MINIMUM OF 7,500 SQUARE FEET AND RECORDED IN O.R. BOOK: YES  NO  N/A

**LAND USE CATEGORY:** Rural (Coastal Rural Pending Pine Island Plan)

- a) LOT IS CONSISTENT WITH DENSITY REQUIREMENTS: YES  NO

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

THE LOT IS NOT CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1977 prior to the adoption of the Lee Plan or zoning regulations. It conforms to the current RS-1 zoning district and exceeds the 7,500 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Allen Park Drive, an unsurfaced road with drainage swales. One of the conditions of the Single Family Provision of the Lee Plan is that the subject parcel must be accessible by a road with a graded surface of shell, marl, gravel base rock or other compacted fill material. Therefore, this lot fails to qualify for one single family residence under the Single Family Provision of the Lee Plan.



## **b. ADMINISTRATIVE INTERPRETATIONS OF THE PLAN**

Persons or entities whose interests are directly affected by the Lee Plan have the right to an administrative interpretation of the plan as it affects their specific interest. Such an interpretation, under the procedures and standards set forth below, will remain in effect and thereafter be binding upon the county only as to the legally described property and any plan of development upon which the interpretation was based. If the plan of development is proposed to be, or is changed, through any action of any owner or developer of the property, then the administrative interpretation is no longer binding on the county. Actions that will render a previous interpretation no longer binding include any of the following: significant changes in parcel or platted lot(s) configuration; changes to land uses; decreases in the amount of open space or preserved land; increases in density or intensity of use; increases in the size or acreage of the property; or any other change that makes the plan of development less consistent with the current Lee Plan. (Note: combining lands consistent with XIII.b.B.4.b.(4) is allowed.) A determination of whether or not a plan of development has been, or would be changed sufficiently to render the previous interpretation no longer binding on the county will be made on a case by case basis by the Administrative Designee using the above-described criteria.

Administrative interpretations are intended to expedite and reduce disputes over interpretations of the Lee Plan, resolve certain map or boundary disputes, avoid unnecessary litigation, ensure consistency in plan interpretation, and provide predictability in interpreting the plan. All such administrative interpretations, once rendered, are subject to challenge under the provisions of Section 163.3215, Florida Statutes.

Anyone seeking an administrative interpretation must submit an application with requested information and will have the burden of demonstrating compliance with the standards set forth below.

### **A. SUBJECT MATTER OF ADMINISTRATIVE INTERPRETATIONS.**

Administrative interpretations will be provided only as to the matters set forth below. In no event will administrative interpretations hereunder involve questions of the consistency of development or land use regulations with the Lee Plan. Administrative interpretations will be limited to:

1. County Attorney's Office:

- a. Whether the single-family residence provision as hereinafter defined applies and the applicant desires a written opinion for future use, or a concurrent building permit application has not been approved under 2.a. below.

2. County Administrator (or his designee):

- a. Whether the single-family residence provision as hereinafter defined applies and the applicant is also applying for a building permit. If said permit application is not approved, a separate application for the single-family residence provision may be submitted to the County Attorney's Office for final review and, if applicable, written denial.
- b. Whether an area has been (or should have been) designated Wetlands on the basis of a clear factual error. A field check will be made prior to the issuance of such an interpretation.

- c. Clarification of land use map boundaries as to a specific parcel of property.

## **B. STANDARDS FOR ADMINISTRATIVE INTERPRETATIONS.**

Administrative interpretations of the Lee Plan will be determined under the following standards:

1. deny all economically viable use of property will be avoided;
2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole;
3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations;
4. Single-Family Residence Provision:
  - a. Applicability

Notwithstanding any other provision of this plan, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the density requirements of the Lee Plan, will be allowed to construct one single-family residence on said property PROVIDED THAT:

(1) Date Created:

- (a) the lot or parcel must have been created and recorded in the official Plat Books of Lee County prior to the effective date of the Lee Plan (December 21, 1984), and the configuration of said lot has not been altered; OR
- (b) a legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; OR
- (c) the lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.

(2) Minimum Lot Requirements: In addition to meeting the requirements set forth above, the lot or parcel must:

- (a) have a minimum of 4,000 square feet in area if it was created prior to June 27, 1962; OR
- (b) have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984; OR
- (c) have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County; OR

- (d) have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; OR
  - (e) have been approved as part of a Planned Unit Development or Planned Development.
- (3) Access and Drainage: In addition to meeting the requirements set forth above:
- (a) the road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; OR
  - (b) the lot or parcel must be located within a subdivision which was approved under Chapter 177, Florida Statutes, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.

If the lot or parcel cannot meet the requirement of access and drainage, this requirement will not apply to the extent that it may result in an unconstitutional taking of land without due process.

- (4) Interchange, Airport Commerce, and Industrial Development land use categories: In addition to the requirements set forth above, a residential use must be the only reasonable use of the lot or parcel. The existence of a reasonable commercial or industrial use will be determined by reference to all of the applicable facts and circumstances, including, but not limited to, the nature of the surrounding uses, the adequacy of the lot size (pursuant to Chapter 34 of the Land Development Code) for commercial or industrial uses, and whether adequate infrastructure exists or can reasonably be provided to serve a commercial or industrial use at the location in question.

b. Construction Regulations

Subsequent to a property owner establishing the right to build a single-family residence on a lot through the procedures set forth in this plan, the following policies will prevail:

- (1) The residential structure must be in compliance with all applicable health, safety, and welfare regulations, as those regulations exist at the time the application for construction of the residence is submitted.
- (2) Lots or parcels which qualify for the right to construct a residence and which contain wetlands will be subject to special provisions of the Wetlands Protection Ordinance.
- (3) If two or more contiguous lots or parcels have each qualified for the right to build a single-family residence, the property owner is permitted and encouraged to reappportion properties if the result of the reappointment is a lot or lots which come closer to meeting the property development regulation standards for the zoning district in which it is located and as long as no property becomes non-conforming or increases in its non-conformity as a result of the reappointment and as long as the density will not increase.

- (4) If a lot or parcel has qualified for the right to construct a single-family residence, nothing herein will be interpreted as prohibiting the combining of said lot or parcel with other contiguous property provided the density will not increase.
- (5) If two or more contiguous properties have each qualified for the right to construct a single-family residence and if the lots or parcels are located in a zoning district which permits duplex or two-family dwellings, the property owner(s) may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

c. Transferability

This right will run with the land and be available to any subsequent owner if the property which qualifies for the single-family provision is transferred in its entirety.

**C. PROCEDURE FOR ADMINISTRATIVE INTERPRETATIONS.**

The following procedures will apply in obtaining administrative interpretations:

1. Except as provided in 3. below, anyone seeking an administrative interpretation of the plan will submit an application, on an appropriate form provided by the county, with all requested information to the Zoning and Development Review Division (single-family residence provision) or the Planning Division (all other applications), or to their successor agencies.
2. The person authorized by Section A.1. or 2. above will review such information and issue an administrative interpretation in writing within sixty (60) days after submittal of the application and all requested information to the appropriate division. The interpretation will contain findings and reasons for the interpretation rendered.
3. If the request for a single-family residence provision or Wetlands determination is in conjunction with an application for a building permit, development order, or planned development rezoning, a separate application will not be required. The interpretation will be noted on the building permit, development order, or planned development rezoning approval, or will be contained in the reasons for denial where applicable.
4. An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied to the facts presented and the standards set forth in the plan for such administrative interpretation. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public meeting.
5. The Board of County Commissioners will consider the appeal at a hearing to be held within thirty (30) days after the date of the written request for appeal. A decision overruling the written interpretation will be in writing and will be rendered by the Board within thirty (30) days after the date of the hearing. Alternatively, the Board may adopt the administrative interpretation being appealed.

6. Where appropriate and necessary all administrative interpretations rendered by the designated persons (or upon appeal, approved by the Board of County Commissioners) will be incorporated into the Plan during the next amendment cycle. (Amended by Ordinance No. 94-30, 00-22)

### **c. LEGISLATIVE INTERPRETATIONS OF THE PLAN**

In order to apply the plan consistently and fairly, it will be necessary from time to time to interpret provisions in the plan in a manner which insures that the legislative intent of the Board of County Commissioners which adopted the plan be understood and applied by subsequent boards, county employees, private property owners, and all other persons whose rights or work are affected by the plan. When the plan is interpreted, it should be done in accordance with generally accepted rules of statutory construction, based upon sound legal advice, and compiled in writing in a document which should be a companion to the plan itself. These goals will be accomplished by the procedures which are set forth below:

#### **A. COMPREHENSIVE PLAN ANNOTATIONS COMMITTEE.**

The Director of Community Development, the Planning Director, and the County Attorney will together be empowered to sit as the Comprehensive Plan Annotations Committee. In each instance, these persons may designate one or more subordinates to serve in their place, but only one vote may be cast by or on behalf of each of the aforementioned officials. The purpose of the committee is to make written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. If the committee cannot recommend an interpretation unanimously, then both a majority and minority recommendation will be made to the Local Planning Agency. Similarly, if the committee cannot reach a majority position with respect to an interpretation, then each official will submit a separate recommendation to the Local Planning Agency. In accomplishing its work, the committee will operate as follows:

##### **1. Organization**

The committee will meet regularly at such times and places as it may choose. Its meetings will be either private or open to the public, or a combination thereof, as the committee chooses. The committee will have total discretion in this matter. No public notices of its meetings will be required. It may invite to its meetings such persons as it believes will best assist it in its work. It is intended that the committee will function in an informal workshop atmosphere, with emphasis to be placed on the timely production of concise, written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. The County Attorney will be responsible for reducing the recommendations of the committee in writing, unless he is in the minority, in which case the Planning Director will be responsible for reducing the majority recommendation to writing. In every case, the Planning Director will be responsible for delivering the recommendations to the Local Planning Agency on a timely basis as part of the published agenda of the Local Planning Agency.

##### **2. Requests for Interpretations**

Requests for interpretations will be placed before the Comprehensive Plan Annotations Committee by any one of its three members in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county