

**TANNENBAUM HANEWICH**  
ATTORNEYS AT LAW

ALAN E. TANNENBAUM\*  
MARK C. HANEWICH\*\*  
NICOLE L. JORDAN  
KRISTINA H. SNYDERMAN  
DARNELL COLES  
JAMES E. TOALE, OF COUNSEL\*\*\*

\* Board Certified in Construction Law  
\*\*Also Admitted in MA and RI  
\*\*\* Board Certified in Real Estate Law

www.TANNENBAUMHANEWICH.com

(941) 316.0111 - telephone  
(941) 316.0515 - facsimile  
(888) 883.9441 - toll free

1990 Main Street  
Suite 725  
Sarasota, Florida 34236

970 Lake Carillon Drive  
Suite 300  
St. Petersburg, Florida 33716  
(by appointment only)

February 24, 2015

City of North Port  
Office of the City Attorney  
North Port City Hall  
4970 City Hall Blvd.  
North Port, FL 34286-4100

Re: RFP# 2015-31, Zoning Hearing Officer

Dear M. Duyn,

I am applying for the position of zoning hearing officer. You will find enclosed the proposal form and additional documents requested.

Thank you for your consideration.

Sincerely,



James E. Toale, Esq.  
For the Firm  
[itoale@th-legal.com](mailto:itoale@th-legal.com)  
Direct Phone Line (941) 308-3164  
Department Fax # (941) 316-0515

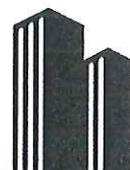
JET/ms  
Enclosures

CITY ATTORNEY'S OFFICE

FEB 27 2015

CITY OF NORTH PORT

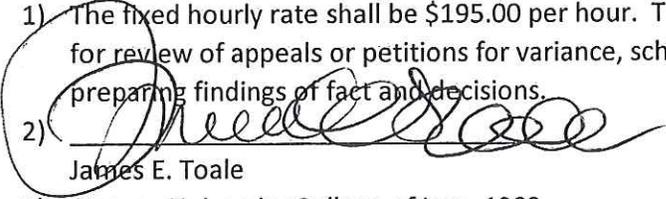
COPY



## RESPONSE TO RFP FOR ZONING HEARING OFFICER

1) The fixed hourly rate shall be \$195.00 per hour. Travel time is excluded. Time will only be billed for review of appeals or petitions for variance, scheduling and conducting hearings, and preparing findings of fact and decisions.

2)

  
James E. Toale

3) Stetson University College of Law, 1983.

4) See attached Bar Card and printout from The Florida Bar.

5) I have represented clients in zoning and land use issues in the City of Sarasota for over 20 years. This experience includes platting which involves public hearings in that jurisdiction, rezoning property and obtaining site plan approval. I have represented land owners before the City of Sarasota Board of Adjustment in appeals from the Director of Neighborhood and Development Services interpretation of the Zoning Code. For more than 15 years I have represented land owners before Code Enforcement Hearing Officers as well as the Board of Zoning Appeals in Sarasota County. In 2013 and 2014 I served as the Foreclose General Magistrate for the 12<sup>th</sup> Judicial Circuit for Sarasota County. During this time I conducted hundreds of trials as well as hearings on pre-trial and post judgment motions. I have attached a representative sample of my Reports and Recommendations.

6) As a Hearing Officer I would provide both Administration and property owner sufficient time to introduce relevant testimony and evidence, I would then state my findings of fact and decision to the parties and provide a written finding of fact and decision at the conclusion of the hearing. In reviewing the two areas where the Hearing Officer will be used, it would seem that two forms could be created, one for variance cases and another for interpretation cases. I have reviewed the standards for appeal in the City of North Port Land Development Code and find that it is much more restrictive than other codes. It should be relatively simple to make a finding if the Director's decision has or has not removed all reasonable uses of the property. Having presided over many trials and hearing with Pro Se litigants I am very comfortable describing the process in advance so a property owner will understand how the hearing will be conducted.

7) See attached Reports and Recommendations.

8) I think would find that I have the type of demeanor for this type of position. You are free to contact the primary Judge who adopted my Reports and Recommendations as well as other Judges I interacted with as a Magistrate.

9) See attached pages.

10) I acknowledge receipt of Addendum No. 1 to this RFP.



CITY OF NORTH PORT  
Request for Proposal  
No. 2015-31  
THIS IS NOT AN ORDER

Date:	2/4/15
Page:	1 of 12

Office of the City Attorney  
North Port City Hall  
4970 City Hall Boulevard  
North Port, FL 34286-4100

Contact Person: Ginny Duyn, CPPB, Purchasing Manager  
Phone: 941-429-7174  
Fax: 941-429-7173  
Email: [gduyn@cityofnorthport.com](mailto:gduyn@cityofnorthport.com)

Reply No Later Than: February 28, 2014 @ 3:00 p.m. (EST)  
The City of North Port will not review proposals that are not returned on time.

SCOPE OF SERVICES

RFP NO. 2015-31  
ZONING HEARING OFFICER

**PURPOSE:** The City of North Port, Florida (hereinafter "City") is seeking quotations from qualified proposers, hereinafter referred to as the Appointee, to provide zoning hearing officer services for the City Commission, in accordance with the terms, conditions, and specifications contained in this Request for Proposal (RFP).

**RESERVED RIGHTS:** The City reserves the right to accept or reject any and/or all proposals, to waive irregularities and technicalities, and to request resubmission of proposals. Also, the City reserves the right to accept all or any part of the proposal and to increase or decrease quantities to meet additional or reduced requirements of the City. Any sole response received by the first submission date may be rejected by the City depending on available competition and timely needs of the City.

**FORM OF PROPOSAL:** The submitted Proposal Form signed by the Appointee, together with the complete Proposal package furnished by the City, and a purchase order shall constitute a binding contract. The Appointee shall be required to perform according to the Appointee's submitted Proposal Form and the City's Proposal package.

**CANCELLATION:** The City Commission shall have the right to unilaterally cancel, terminate or suspend this appointment, with or without cause, in whole or in part, by providing the Appointee thirty (30) days written notice by certified mail.

**EQUAL EMPLOYMENT OPPORTUNITY:** The City of North Port, Florida, in accordance with the provisions of Title VI of The Civil Rights Act of 1964 (78 Stat. 252) and the Regulations of the Department of Commerce (15 CFR, Part 8) issued pursuant to such Act, hereby notifies all Appointees that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposal in response to this advertisement and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

All appointees are hereby notified that the successful respondents must and shall comply with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act and the Florida Civil Rights Act, all as amended. Specifically, Appointee agrees that:

- No person shall, on the grounds of race, color, sex, religion, age, disability, national origin or marital status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, activity or service funded through this Appointment.
- Appointee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, national origin or marital status. Appointee agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- Appointee will, in all solicitations or advertisements regarding program activities, services provided or applications for employment, state that all qualified applicants will receive consideration for services or employment without regard to race, color, religion, sex, age, disability, national origin or marital status.
- City may require Appointee to submit reports as may be necessary to indicate non-discrimination. City officials will be permitted access to Appointee's books, records, accounts and other sources of information and its facilities as may be pertinent to ascertain compliance with non-discrimination laws.

It is expressly understood that City shall have the right to terminate this Appointment upon receipt of evidence of discrimination.

**BACKGROUND:** The City of North Port was incorporated June 18, 1959 and functions under the Council/Manager form of government. The five member City Commission is elected at large to four-year staggered terms; Commissioners elect one member to serve as Mayor for a one-year term. The City Manager is appointed by the Commission as the chief administrative officer of the City.

The City has approved a Zoning Hearing Officer. The Office of the Zoning Hearing Officer plays a vital role in the City's review processes and its relationship with its citizens.

To be eligible for service as a Hearing Officer, a person must: (a) be a member in good standing with the Florida Bar for a minimum of five years, (b) be engaged in the practice of law in Sarasota County or be a resident of the city, (c) have a minimum of two years' experience in land use, zoning or other land use regulatory experience, (d) may not be a city employee, officer or board or committee member. Full administrative/ support services for the contract Officers are provided by the City of North Port staff. Hearing Officer shall be appointed by the City Commission for a definite term not to exceed four years.

**PURPOSE:** The Zoning Hearing Officer conducts quasi-judicial hearings on zoning appeals and variance matters. The City of North Port is soliciting request for proposals for the purpose of contracting with qualified hearing officers. More than one Hearing Officer may be selected. The successful respondents with whom the City appoints shall perform the duties of the Hearing Officer as set forth in North Port City Code of Ordinances No. 2014-29 (provided via attachment to this Request for Proposal).

**BRIEF SCOPE OF WORK:** The Zoning Hearing Officer shall:

1. Hear and decide appeals as needed where it is alleged there is error in any order, decision or determination of the Director responsible for land development services in the enforcement of zoning regulations.
2. Authorize variances from the terms of the City of North Port Zoning Regulations.

**SUBMITTAL FORMAT:** Respondents to this RFP must include the following information:

- 1) Proposal Form - Include a firm, fixed hourly rate for all services identified in this request for proposal. No other costs above the proposed rate will be accepted.

- 2) Signature - The Proposal Form must be signed.
- 3) Education – State name of school, year of graduation from law school. .
- 4) A copy of a Florida Bar License and be a member in good standing with the Florida Bar.
- 5) Zoning Hearing Officer Experience – List, chronologically, your Zoning Hearing Officer experience.

Specific experience with:

Land Use Law.

Environmental Law.

Land Use Code and Other City Regulations relating to zoning for the City of North Port and/or other local governments.

Civil Violation proceedings and Code Enforcement.

Other Hearing Officer or administrative law judge experience.

For each area of experience, please list jurisdictions, types of cases, approximate numbers of cases, hearings conducted, and approximate dates/timeframes in which services were provided. Non-legal experience may be listed.

- 6) View of Roles and Duties - A statement describing your view of the roles and duties of a Hearing Officer in a municipal setting and your approach to conducting public hearings.
- 7) Hearing Reports - Up to three Hearing Officer's reports (recommendations or decisions) from hearings you have conducted, or other similar written report demonstrating similar experience.
- 8) Additional Information: Any other pertinent information the proposer chooses to provide.
- 9) Required Submittal Forms: Any and all pages that have the following: "THIS PAGE MUST BE SUBMITTED WITH PROPOSAL".

Place proposal with all the required items in a sealed envelope clearly marked for specification number, project name, name of proposer, and due date and time.

- **PAPER/FONT SIZE:** 8.5"x11"/Font Calibri 11, PDF FORMAT.
- **NUMBER OF ORIGINAL PROPOSALS:** One (1) original hard-copy **UNBOUND** (marked "ORIGINAL") and signed in blue ink.
- **NUMBER OF COPIES:** One (1) hard-copy **BOUND** (marked "COPY"). Do not use three ring binders of any kind.
- **CD or USB Flash Drive:** One (1) electronic version in Portable Document Format (PDF) or Flash Drive containing the entire submittal.

**EVALUATION CRITERIA:** Evaluations of submitted proposals will be based on the criteria listed below.

- A. General qualifications:
  - Education
  - Background, training and experience in:
    - Zoning, and Environmental Law
    - Code Enforcement Law
  - Background, training and experience as a Hearing Officer
  - Experience working in public sector
- B. Conduct of Public Hearings:
  - View of the role and duties of Hearing Officer
  - Approach to conducting public hearings
  - View of the principles that led to good public hearings.
  - Approach to participates in public hearings
  - Definition of a “good result” in a contested matter coming before the Hearing Officer.
- C. Decision making
  - Thoroughness of decisions
  - Clarity of decisions
  - Ability to identify issues, facts and relevant rules
  - Application of the rules and law to the facts.
- D. Cost to the City – Hourly rate

**CRITERIA FOR AWARD:** Award shall be made to the lawyer that, in the City’s judgment, best meets the criteria specified below and which, in the City’s opinion, best accommodates the City’s needs and interests. The decision shall rest solely with the City and the City reserves the right to modify or reject any proposal submitted to it for consideration. With 50 being a perfect score, submittals will be awarded based on the following formula:

**Remarks:** The assigned value is judged on a scale of **1 through 5**

- 1=Poor, Unacceptable, Needs major help to be acceptable
- 2=Marginal, Weak, Workable but needs clarifications
- 3=Good, No major weaknesses, Fully Acceptable as is
- 4=Excellent, Very good, Solid in all respects
- 5=Outstanding, out-of-the-box, Innovative

<i>Evaluation Criteria</i>	<i>Value</i>	<i>Assigned Value</i>	<i>Weight 1-10</i>	<i>Score</i>
General Qualifications	1-5		X 2	=
Conduct of Public Hearings	1-5		X 2	=
Decision Making	1-5		X 2	=
Cost to the City – Hourly rate	1-5		X 4	=
			<b>Total Points</b>	

**TAXES:** City of North Port is exempt from Federal Excise and State Sales Taxes. The Appointee shall assume liability for Local, State, or Federal Tax that is applicable to the work.

**PAYMENT:** All invoices will be paid in accordance with the Local Government Prompt Payment Act (F.S. 218.74).

**INSURANCE REQUIREMENTS:**

**WORKERS COMPENSATION:** Coverage to apply for all employees for Statutory Limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of \$100,000 each accident; \$100,000 each employee; and \$500,000 policy limit for disease.

**COMPREHENSIVE GENERAL LIABILITY:** Occurrence form required. Aggregate must apply separately to this contract/job. Minimum \$1,000,000 each occurrence; \$1,000,000 general aggregate.

**BUSINESS AUTOMOBILE LIABILITY:** All owned, non-owned hired. \$1,000,000 each accident for property damage and bodily injury with contractual liability coverage.

**PROFESSIONAL LIABILITY INSURANCE:** with minimum \$1,000,000 per occurrence for this project with a \$1,000,000 policy term general aggregate. Coverage shall be extended beyond the policy year term either by a supplemental extended reporting period (ERP) with as great of duration as available, with no less coverage and reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made.

**SPECIAL REQUIREMENTS:** City of North Port is to be named additional insured on Comprehensive Commercial General Liability Policy.

All certificates of insurance must be on file with and approved by the City before commencement of any work activities under this agreement.

Any and all deductibles to the above referenced policies are to be the responsibility of the successful Appointee. Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of the contract period. Renewal certificates shall be sent to the City thirty (30) business days prior to any expiration date. There shall be a thirty (30) business day notification to the City in the event of cancellation or modification of any stipulated insurance coverage. It shall be the responsibility of the Appointee to insure that all appointees comply with the same insurance requirements that he/she is required to meet. All certificates of insurance meeting the required insurance provisions shall be forwarded to the City of North Port Purchasing Office.

**NOTE:**

**Evidence of Insurance.** Certificate of Insurance showing coverage, forms, limits. Actual insurance certificates will be required from recommended Appointee within five working days after being awarded this appointment.

**INSURANCE:** Have you reviewed the Insurance requirements above and are capable of providing the requested Insurance?

yes  No

**THIS PAGE MUST BE SUBMITTED WITH PROPOSAL**

PROPOSAL SUBMITTAL SIGNATURE FORM

The undersigned attests to his/her authority to submit this proposal and to bind the firm herein named to perform as per Agreement, if the firm is awarded the Agreement by the City.

The undersigned further certifies that he/she has read the Request for Proposal, Terms and Conditions, Insurance Requirements and any other documentation relating to this request and this proposal is submitted with full knowledge and understanding of the requirements and time constraints noted herein.

As addenda are considered binding as if contained in the original specifications, it is critical that the firm acknowledge receipt of same. The submittal may be considered void if receipt of an addendum is not acknowledged.

Addendum No. 1 Dated 2-13-15 Addendum No. Dated Addendum No. Dated Addendum No. Dated Addendum No. Dated Addendum No. Dated

Company Name Tannenbaum Hanewich PL Telephone # 941-316-0111 E-Mail jtoole@TH-Legal.com Fax # 941-316-0515

Main Office Address 1990 Main Street, Suite 725 Sarasota FL 34236

Address of Office Servicing City of North Port, if different than above: [X] SAME AS ABOVE

Office Address City State Zip Code

Telephone # E-mail Fax # Alan E. Tannenbaum, Managing Member

Name & Title of Firm Representative Signature Date 2/24/15

Do you accept Visa? [X] YES [ ] NO

THIS PAGE MUST BE SUBMITTED WITH PROPOSAL

STATEMENT OF ORGANIZATION  
(Information Sheet for Transactions and Conveyances Corporation Identification)

The following information will be provided to the City of North Port for incorporation in legal documents. It is, therefore, vital all information is accurate and complete. Please be certain all spelling, and capitalization is exactly as registered with the state or federal government. *If the field does not apply to you, please note N/A in that field.*

Company: (Legal Registration) Tannenbaum Hanewich PL  
Type of Entity (Sole Proprietor, Corporation, LLC, LLP, Partnership, etc.): Professional Limited Liability Company

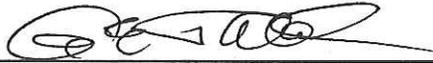
APPOINTEE, IF FOREIGN CORPORATION, MAY BE REQUIRED TO OBTAIN A CERTIFICATE OF AUTHORITY FROM THE DEPARTMENT OF STATE, IN ACCORDANCE WITH FLORIDA STATUTE §607.1501 (visit http://www.dos.state.fl.us/).

Business Address: 1990 Main Street, Suite 725  
Sarasota, FL 34236

Phone: 941-316-0111 Fax: 941-316-0515

E-Mail atannenbaum@TH-Legal.com

Federal Identification Number: 65-1002110

Signature of person authorized to bind: 

Print Name and Title of person authorized to bind: Alan E. Tannenbaum.

Contact Name and Title for this Proposal, if different than above: James E. Toole

Phone: 941-308-3164 Fax: 941-316-0515

E-Mail jtoole@TH-Legal.com

Respondent shall submit proof that it is authorized to do business in the State of Florida unless registration is not required by law.

Is this a Florida <sup>LLC</sup> ~~Corporation~~:  Yes or  No (Please Check One)

If not a Florida Corporation,  
In what state was it created: \_\_\_\_\_  
Name as spelled in that State: \_\_\_\_\_

What kind of corporation is it:  "For Profit" or  "Not for Profit"

Is it in good standing:  Yes or  No

Authorized to transact business in Florida:  Yes or  No

State of Florida Department of State Certificate of Authority Document No.: L0000 0004707

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Does it use a registered fictitious name:  Yes or  No

DBA (if any): \_\_\_\_\_

Names of Officers:

President: Alan E. Tannenbaum Secretary: \_\_\_\_\_  
*Managing Member*

Vice President: \_\_\_\_\_ Treasurer: \_\_\_\_\_

Director: \_\_\_\_\_ Director: \_\_\_\_\_

Other: \_\_\_\_\_ Other: \_\_\_\_\_

Name of Corporation (As used in Florida):

Tannenbaum Hanewich PL  
(Spelled exactly as it is registered with the state or federal government)

Corporate Address:

Post Office Box: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

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

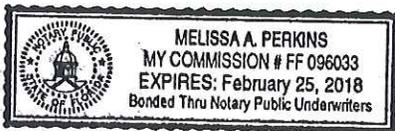
City, State, Zip: \_\_\_\_\_

\_\_\_\_\_  
1990 Main Street, Suite 725  
Sarasota, FL 34236

STATE OF FLORIDA  
COUNTY OF SARASOTA

Sworn to and subscribed before me this 24 day of February, 2014, by Alan Tannenbaum who  is personally known to me or  has produced his/her driver's license as identification.

Melissa A. Perkins  
Notary Public - State of Florida  
Print Name: Melissa A. Perkins  
Commission No: FF096033



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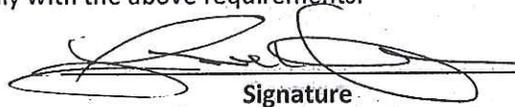
DRUG FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that Tannenbaum Hanewich P.C.  
\_\_\_\_\_ (name of business) does:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

Check one:

I certify that I comply fully with above requirements.  
I do not comply fully with the above requirements.

  
Signature

2/20/2015  
Date

THIS PAGE MUST BE SUBMITTED WITH PROPOSAL

## REFERENCES - CLIENT LIST

1. Name of Contact Person: Cynthia Eliopoulos Telephone # 330-805-5809  
E-mail: CKE22@msn.com
2. Name of Contact Person: Judge Robert Bennett, Jr. Telephone # 941-861-7800  
E-mail: Not available.
3. Name of Contact Person: Sheldon Holland Telephone # 941-809-6740  
E-mail: molsholl@mailmt.com
4. Name of Contact Person: Anthony DeLoach Telephone # 941-371-7617  
E-mail: tonyd@wesinc.com

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\*\*\* Please complete this form if you are NOT submitting an Offer. \*\*\*

RFP # 2015-31  
Title: Zoning Hearing Officer

**Statement:** This form may be used, in part, to assess the accuracy of this solicitations and vendor selection; its submission does not restrict the recipient from future bids, proposals or quotes.

Please mark where applicable and return this form [gduyn@cityofnorthport.com](mailto:gduyn@cityofnorthport.com).

We have declined to bid, propose or quote on the above mentioned solicitation for the following reasons:

- Specifications too "restrictive"
- No longer offer this product/service.
- Unable to meet specifications.
- Specifications are unclear.
- Insufficient time to respond to this solicitation.
- Our schedule would not permit us to perform.
- Unable to meet bonding/and or insurance requirements.
- Other (please specify).

Explanations regarding above:

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\_\_\_\_\_  
Lawyer's Name

\_\_\_\_\_  
Telephone and email address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent (point of contact) Name

CONFLICT OF INTEREST FORM

F.S. §112.313 places limitations on public officers (including advisory board members) and employees' ability to contract with the City either directly or indirectly. Therefore, please indicate if the following applies:

PART I.

- I am an employee, public officer or advisory board member of the City.  
\_\_\_\_\_ (List Position Or Board)
- I am the spouse or child of an employee, public officer or advisory board member of the City.  
Name: \_\_\_\_\_
- An employee, public officer or advisory board member of the City, or their spouse or child, is an officer, partner, director, or proprietor of Respondent or has a material interest in Respondent. "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of [§112.313], indirect ownership does not include ownership by a spouse or minor child.  
Name: \_\_\_\_\_
- Respondent employs or contracts with an employee, public officer or advisory board member of the City.  
Name: \_\_\_\_\_
- None of The Above

PART II:

Are you going to request an advisory board member waiver?

- I will request an advisory board member waiver under §112.313(12)
- I will NOT request an advisory board member waiver under §112.313(12)
- N/A

The City shall review any relationships which may be prohibited under the Florida Ethics Code and will disqualify any Appointee whose conflicts are not waived or exempt.

NAME: James E. Toole

SIGNATURE: [Handwritten Signature] DATE: 2/20/15

THIS PAGE MUST BE SUBMITTED WITH PROPOSAL

COPY

COUNTRYWIDE HOME LOANS v. NAM T. DAM, ET AL.

COPY

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA**

**COUNTRYWIDE HOME LOANS,  
Plaintiff,**

v.

**CASE NO.: 2009 CA 006552  
Division:**

**NAM T. DAM, ET AL  
Defendant(s),**

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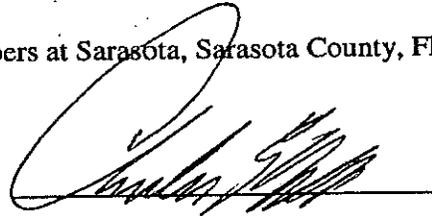
**ORDER ADOPTING RECOMMENDED ORDER**

THIS CAUSE came before the Court on the Recommended Order of Magistrate, filed by Magistrate James Toale, and the undersigned, having considered the findings and recommendation contained therein, it is hereby,

**ORDERED AND ADJUDGED that:**

1. The Recommended Order of Magistrate, entered on November 22, 2013 a copy of which is attached hereto, is ratified and approved.
2. The parties are ordered to abide by all of the findings and recommendations contained in the Recommended Order of Magistrate, and the Court hereby adopts each and every finding and recommendation therein as the Order of this Court.

**DONE AND ORDERED** in Chambers at Sarasota, Sarasota County, Florida on this 13 day of December 2013.



**Circuit Judge**

OPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

COUNTRYWIDE HOME LOANS  
Plaintiff

CASE NO.: 2009 CA 006552

vs.

NAM T. DAM  
Defendant

REPORT AND RECOMMENDED ORDER FROM TRIAL

This cause came before the Foreclosure General Magistrate for trial, and having taken evidence or heard testimony, the Magistrate makes these findings and recommendations (check all that apply):

**FINDINGS OF FACT:**

- The Magistrate and the Court have jurisdiction of the subject matter and the parties.
- Plaintiff has standing to bring this action.
- Present at trial: Plaintiff \_\_\_\_\_ Represented by: Michelle Mason
- Defendant(s) \_\_\_\_\_ Represented by: Amanda Kuson
- All parties were properly served and noticed. Borrower:  personal  constructive.
- Testimony was given by: Phillip Houghbey - Bank of America
- Plaintiff filed the original Promissory Note and Mortgage with the clerk of court. Noted
- Exhibits entered into evidence: Promissory Note ; Other Payment History, the acceleration letter, assigned & Mortgage
- If the holder of the Note or the person otherwise entitled to enforce the Note has delegated authority for Plaintiff to bring the action on its behalf, or for the servicer of the loan to testify at trial, evidence of that delegated authority has been introduced into evidence (does not apply when servicer is the Plaintiff and the holder of the Note).
- All conditions precedent to accelerate the debt have been satisfied by Plaintiff.
- Plaintiff established that its mortgage lien is superior to that of all Defendants' interests.
- Plaintiff established the amount of debt due.
- Plaintiff established costs it has disbursed and entitlement to collect.
- Plaintiff established attorney's fees and entitlement to collect.
- Magistrate has reviewed the proposed Uniform Final Judgment of Foreclosure and confirms its accuracy.
- Other: \_\_\_\_\_

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to Fla.R.Civ.Pro. 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

IT IS THEREFORE RECOMMENDED that the Uniform Final Judgment of Foreclosure attached hereto  be entered by the Circuit Court or  NOT be entered by the Circuit Court.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this 11<sup>th</sup> day of Oct., 2013. - Date of trial

Signed 22<sup>nd</sup> day of Nov., 2013

[Signature]  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

COPY

COUNTRYWIDE HOME LOANS v. NAM T. DAM, ET AL  
CASE NO. 2009 CA 006552 NC

MAGISTRATE JAMES TOALE  
CONTINUATION (PAGE 1 OF 2)

Generally, the person who is entitled to enforce a promissory note secured by a mortgage, is the person who is entitled to foreclose the mortgage. Florida Statutes § 673.3011 sets forth who is entitled to enforce a promissory note. That Statute's first subsection states that: "The holder of the instrument" is entitled to enforce the instrument. "Holder" is defined in § 671.201(21) Fla. Stat. (2013) to include "the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession."

Plaintiff pled in its Complaint that: "Plaintiff, as servicer for the owner and acting on behalf of the owner with authority to do so, is the present designated holder of the note and mortgage with authority to pursue the present action." While this allegation may include more facts than required to plead entitlement to enforce the promissory note and foreclose the mortgage, the Court reads this allegation as one which states that the Plaintiff is the holder of the note.

Plaintiff filed the original note on August 31, 2010. The original note contained one blank endorsement from the payee of the note. As such, the person having possession of this bearer instrument on the date the foreclosure suit was filed would have been entitled to enforce it as well as foreclose the mortgage securing that obligation.

Plaintiff entered the following exhibits into evidence: a copy of the note, a copy of the mortgage, the loan payment history, the pre-acceleration letter, and an assignment of mortgage. When the element of possession of the original note at inception of the case was brought forward at trial, the Plaintiff's witness indicated that he had access to business records which included custodial records indicating where the note was at the time the instant case was filed. In fact, he had access to the business record on his smartphone. Since there was no business record in evidence regarding the possession of the promissory note on the relevant date, the witness was not allowed to testify under the business records exception to the Hearsay Rule. However, the Court granted a recess of approximately one hour giving time for the Plaintiff's attorney and witness to print a copy of the custodial business record, so they could attempt to introduce it into evidence. When the trial reconvened, the Plaintiff was apparently unsuccessful in printing a copy of the business record, but tried once again to have the witness testify from the record on his smartphone. The testimony of the witness regarding the possession of the promissory note was ruled inadmissible as hearsay.

Plaintiff then turned to the Assignment of Mortgage from Mortgage Electronic Registration Systems, Incorporated (MERS) as Nominee for Americas Wholesale Lender to Plaintiff as evidence that Plaintiff had standing to bring the foreclosure action. It is noted that the Assignment of Mortgage predates the filing of the suit. The second subsection of § 673.3011 states that a non-holder in possession of the note with the rights of a holder is entitled to enforce the note. It has been held that an assignment of mortgage from MERS as nominee for the original lender, as is the case here, confers the rights of a holder, to a non-holder in possession of the note. *Taylor v. Deutsche Bank National Trust Company*, 44 So.3d 618 (Fla. 5<sup>th</sup> DCA 2010). However, the lack of any evidence that the Plaintiff had possession of the

COPY

COUNTRYWIDE HOME LOANS v. NAM T. DAM, ET AL  
CASE NO. 2009 CA 006552 NC

MAGISTRATE JAMES TOALE  
CONTINUATION (PAGE 2 OF 2)

note at the inception of the lawsuit still causes Plaintiff's argument that it had standing when it filed the action to fail.

Defendant points out that the copy of the note attached to the complaint did not show the endorsement found on the original note, and that the date the endorsement was placed on the note was critical to Plaintiff establishing standing. This was the same issue raised in the case cited in Plaintiff's Memorandum of Law Supporting Plaintiff's Standing. *Stone v. BankUnited*, 2013 WL 1845584 (Fla. 2<sup>nd</sup> DCA). In the instant case, Plaintiff could have proved standing as a holder of the note, or as a non-holder in possession with the rights of a holder if it had just introduced evidence that it had possession of the note at the inception of the lawsuit. Subsection three of §673.3011 is the only subsection which provides for the enforcement of a note without physical possession of the note. This subsection deals with situations involving lost notes and cases where a party attempted to purchase a note and the seller mistakenly paid off and cancelled the note. Neither of those situations apply in the instant case.

Here the Plaintiff knew that the Defendant was going to challenge standing at trial. It was no secret. Standing was raised as an affirmative defense and while the Court is not privy to all of the discovery conducted in the case, the small amount which appears in the docket relates to standing and specifically the possession of the note. The Court is frustrated by what it sees as lack of trial preparation by Plaintiffs in general. It is aware that Plaintiffs maintain many business records on various database platforms. These business records include custodial records and correspondence logs. The Court's observation is that the witnesses appearing at trial are generally very familiar with these business records and are able to lay the proper foundation for their entry into evidence. Once introduced into evidence, the witness would be able to testify as to crucial facts necessary for Plaintiffs to prove their cases. This preparation cannot begin the day of trial. It must begin at least 60 days prior to trial so that the necessary exhibits can be placed on the Plaintiff's witness and exhibit list.

On the day of this trial, Plaintiff simply did not prove the element of standing.

IT IS THEREFORE RECOMMENDED that the case be involuntarily dismissed.

COPY

SERVICE LIST

Case No. 2009 CA 006552 NC

Law Offices of Michael Moran  
2197 Ringling Blvd.  
Sarasota, FL 34237

Choice Legal Group, P.A.  
1800 NW 49<sup>th</sup> St. Suite 120  
Fort Lauderdale, FL 33309

Unknown Spouse of Nam T. Dam A/K/A Nam Thi Dam  
4623 Beneva Road  
Sarasota, FL 34233

Unknown Tenant(s)  
4623 Beneva Road  
Sarasota, FL 34233

**COPY**

**JP MORGAN CHASE BANK NA v. STEPHEN A SPENCER, ET AL.**

**COPY**

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA**

**JP MORGAN CHASE BANK NA**  
Plaintiff(s),

v.

**Case Number: 2009CA1104**  
**Division: C**

**STEPHEN A SPENCER, ET AL**  
Defendant(s).

---

**ORDER ADOPTING RECOMMENDED ORDER**

THIS CAUSE came before the Court on the Recommended Order of Magistrate, filed by Magistrate James Toale, and the undersigned, having considered the findings and recommendation contained therein, it is hereby,

**ORDERED AND ADJUDGED** that:

1. The Recommended Order of Magistrate, entered on December 12, 2013 a copy of which is attached hereto, is ratified and approved.
2. The parties are ordered to abide by all of the findings and recommendations contained in the Recommended Order of Magistrate, and the Court hereby adopts each and every finding and recommendation therein as the Order of this Court.

19 **DONE AND ORDERED** in Chambers at Sarasota, Sarasota County, Florida on this day of December 2013.

---

**ROBERT B BENNETT JR**  
Senior Circuit Judge  
Twelfth Judicial Circuit

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JP MORGAN CHASE  
Plaintiff

CASE NO.: 2009 CA 00 1104

vs.

STEPHEN SPENCER  
Defendant

REPORT AND RECOMMENDED ORDER FROM TRIAL

This cause came before the Foreclosure General Magistrate for trial, and having taken evidence or heard testimony, the Magistrate makes these findings and recommendations (check all that apply):

**FINDINGS OF FACT:**

The Magistrate and the Court have jurisdiction of the subject matter and the parties.

Plaintiff has standing to bring this action.

Present at trial: Plaintiff \_\_\_\_\_ Represented by: Robert Schneider

Defendant(s) \_\_\_\_\_ Represented by: Pro Se

All parties were properly served and noticed. Borrower:  personal  constructive.

Testimony was given by: Jason George

Plaintiff filed the original Promissory Note and Mortgage with the clerk of court.

Exhibits entered into evidence: Promissory Note ; Other \_\_\_\_\_.

If the holder of the Note or the person otherwise entitled to enforce the Note has delegated authority for Plaintiff to bring the action on its behalf, or for the servicer of the loan to testify at trial, evidence of that delegated authority has been introduced into evidence (does not apply when servicer is the Plaintiff and the holder of the Note).

All conditions precedent to accelerate the debt have been satisfied by Plaintiff.

Plaintiff established that its mortgage lien is superior to that of all Defendants' interests.

Plaintiff established the amount of debt due.

Plaintiff established costs it has disbursed and entitlement to collect.

Plaintiff established attorney's fees and entitlement to collect.

Magistrate has reviewed the proposed Uniform Final Judgment of Foreclosure and confirms its accuracy.

Other: Stipulated by the parties with a 120 day  
sale date. Lost Note - Indemnification language added to  
judgment

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to Fla.R.Civ.Pro. 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

**IT IS THEREFORE RECOMMENDED** that the Uniform Final Judgment of Foreclosure attached hereto  be entered by the Circuit Court or  NOT be entered by the Circuit Court.

**REPORTED AND RECOMMENDED**, in Sarasota, Sarasota County, Florida this  
12<sup>th</sup> day of Dec, 2013.

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

**COPY**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA  
CIVIL ACTION

**JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION,**

**Plaintiff,**

**NC** **CASE NO. 58-2009-CA-001104**  
**vs.** **DIVISION C**

SPACE FOR RECORDING ONLY F.S. §695.26

**STEPHEN A SPENCER; JPMORGAN  
CHASE BANK, NATIONAL ASSOCIATION  
SUCCESSOR BY MERGER TO BANK  
ONE, NATIONAL ASSOCIATION, AS  
TRUSTEE OF CENTEX HOME EQUITY  
LOAN TRUST 2000-B UNDER THE  
POOLING AND SERVICING  
AGREEMENT DATED AS OF 06/01/2000;  
SOUTH GATE COMMUNITY  
ASSOCIATION, INC**

**Defendant(s).**

**UNIFORM FINAL JUDGMENT**

*This form substantially complies with Form 1.996, adopted by the Florida Supreme Court  
February 11, 2010, SC09-1579; form published in 12<sup>th</sup> Circuit on 4-5-10.*

THIS action was tried before the Court on December 12, 2013. On the evidence presented

IT IS ORDERED AND ADJUDGED that:

1. Plaintiff, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION 7255 Baymeadows Way, Jacksonville, FL 32256, is due

Description	Amount
Unpaid principal balance due on the notes secured by the mortgage foreclosed as of 12/12/2013	\$38,999.61

**COPY**

Interest on the Note and Mortgage From 12/15/2008 to 12/12/2013	10,710.80
PRE-ACCELERATED LATE CHARGES	177.93
Title Search	175.00
Title Examination	150.00
Property Taxes for the year(s)	6,232.97
Insurance	7,483.38
Property Inspections (s)	458.85
Filing Fee	347.50
Service of Process 1 Service of Process @ \$55.00 3 SERVICE OF PROCESS @ \$45.00 2 SERVICE OF PROCESS @ \$40.00	270.00
SUSPENSE BALANCE	-145.92
ESCROW CREDIT	-569.45
CERTIFIED COPY EXPENSE	6.00
CLERK OF COURT PROCESSING COST	12.50
E-FILING COST	6.00
<b>GRAND TOTAL</b>	<b>\$64,315.17</b>

that shall bear interest at the rate established by Florida Statute

2. Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in SARASOTA County, Florida:

**LOT 11, BLOCK 9, SOUTH GATE, UNIT 2, AS PER PLAT THEREOF  
RECORDED IN PLAT BOOK 7, PAGES 93 AND 93A, OF THE PUBLIC  
RECORDS OF SARASOTA COUNTY, FLORIDA.**

**A/K/A 2309 GOLDENROD STREETSARASOTA, FL 34239**

COPY

3. If the total sum with interest at the rate described in paragraph 1 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale as set forth below to the highest bidder for cash, except as prescribed in paragraph 4, in accordance with section 45.031, Florida Statutes, using the following method:

Sales Information	Date (Clerk Inserts)	Time	Location
Sarasota County	April 11, 2014	9:00 a.m.	Foreclosure sales conducted via Internet: www.sarasota.realforeclose.com
Manatee County		11:00 a.m.	Foreclosure sales conducted via Internet: www.manatee.realforeclose.com
DeSoto County		11:00 a.m.	DeSoto County Courthouse 115 Oak Street Arcadia, Florida 34266 www.desotoclerk.com

4. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, the clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full.

5. On filing the certificate of title the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 1 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

6 On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title. **NOTICE: Issuance of a writ of possession does not exempt plaintiff from complying with federal law requiring notice to tenants residing on foreclosed property. To insure compliance with federal law, Plaintiff should consult with counsel before serving the writ of possession.**

COPY

7. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a supplemental complaint to add an omitted party or remedy other defects post-judgment ~~and a deficiency judgment~~, if Plaintiff is not limited to *in rem* stay relief in an active bankruptcy case and/or if borrower(s) has not been discharged in bankruptcy or constructively served, together with additional attorney's fees, if appropriate.

8. **Additions. Modifications or Changes to Standard Form**

Any additions, modifications or changes to the provisions above may only be set forth in this paragraph.

a. *The Court finds, based upon the affidavits presented and upon inquiry of counsel for the Plaintiff, that a flat-rate attorney fee of \$0.00 is appropriate. PLAINTIFF'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to Florida Patient's Compensation Fund v. Rowe, 472 So.2d 1145 (Fla. 1985).*

b. If Plaintiff is the purchaser, the bid may be assigned without further Order of this Court.

c. If plaintiff is not limited to *in rem* stay relief in an active bankruptcy case and /or if borrower(s) has not been discharged in bankruptcy or constructively served, together with additional attorney's fees, if appropriate.

d. Any Homeowner Association assessments which are owed are subject to the Association's rights pursuant to Florida Statute 720.3085 (2008.)

e. The Mortgage Note is hereby re-established pursuant Section 673.3091, Florida Statutes.

f. Plaintiff agrees to hold Defendant Spencer harmless and agrees to indemnify Defendant from any loss he may incur by reason of claim by any other person or entity to enforce the lost note.

**COPY**

9. **NOTICE PURSUANT TO § 45.031, FLORIDA STATUTES (2006).**

**If this property is sold at public auction, there may be additional money from the sale after payment of persons who are entitled to be paid from the sale proceeds**

**pursuant to this Final Judgment.**

**If you are a subordinate lienholder claiming a right to funds remaining after the sale, you must file a claim with the Clerk no later than sixty (60) days after the sale. If you fail to file a claim, you will not be entitled to any remaining funds.**

**If you are the property owner, you may claim these funds yourself. You are not required to have a lawyer or any other representation and you do not have to assign your rights to anyone else in order for you to claim any money to which you are entitled. Please check with the Clerk of Court for your county within ten (10) days after the sale to see if there is additional money from the foreclosure sale that the clerk has in the registry of the Court.**

<b>Sarasota County Clerk of Court</b>	<b>Manatee County Clerk of Court</b>	<b>DeSoto County Clerk of Court</b>
2000 Main Street Sarasota, Florida 34237 (941) 861-7400 www.sarasotaclerk.com	1115 Manatee Ave W Bradenton, FL 34205 (941) 749-1800 www.manateeclerk.com	115 East Oak Street Arcadia, FL 34266 (863) 993-4876 www.desotoclerk.com

**COPY**

**If you decide to sell your home or hire someone to help you claim the additional money, you should read very carefully all papers you are required to sign, ask someone else, preferably an attorney who is not related to the person offering help to you, to make sure that you understand what you are signing and that you are not transferring your property or the equity in your property without the proper information. If you cannot afford to pay an attorney, you may contact the local legal services listed below to see if you qualify financially for their services. If they cannot assist you, they may be able to refer you to a local bar referral agency or suggest other options. If you choose to contact one of the services listed below, you should do so as soon as possible after the receipt of this notice.**

<b>Sarasota County</b>	<b>Manatee County</b>	<b>DeSoto County</b>
<b>Legal Aid of Manasota Sarasota Office</b> 1900 Main Street, Suite 302 Sarasota, Florida 34236 (941) 366-0038 <b>Venice Office</b> 7810 South Tamiami Trail Suite A6 Venice, Florida 34293	<b>Legal Aid of Manasota</b> 1101 6 <sup>th</sup> Avenue West Bradenton, Florida 34205 (941) 747-1628 <a href="http://www.gulfcoastlegal.org">www.gulfcoastlegal.org</a> <hr/> <b>Gulfcoast Legal Service</b> 430 12 <sup>th</sup> Street West Bradenton, Florida 34205	Fla. Rural Legal Service 3210 Cleveland Avenue, Suite A Ft. Meyers, Florida 33901 (800) 476-8937 <a href="http://www.flrs.org">www.flrs.org</a>

**DONE AND ORDERED** in Chambers in SARASOTA County, Florida, this  
 \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 KIMBERLY BONNER  
 Circuit Judge, Twelfth Judicial Circuit  
 58-2009-CA-001104 NC

*Copies furnished to all parties on the attached Service List.*

COPY

## Service List

Ronald R Wolfe & Associates, P.L.  
PO Box 25018  
Tampa, FL 33622-5018

STEPHEN A SPENCER  
2309 Goldenrod Street  
Sarasota, FL 34239

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BANK  
ONE, NATIONAL ASSOCIATION, AS TRUSTEE OF CENTEX HOME EQUITY LOAN TRUST  
2000-B UNDER THE POOLING AND SERVICING AGREEMENT DATED AS OF 06/01/2000  
C/o Ct Corporation System (fl)  
1200 S. Pine Island Road  
Plantation, FL 33324

SOUTH GATE COMMUNITY ASSOCIATION, INC  
BESWICK, DANIEL E OFC MGR  
3145 SOUTH GATE CIRCLE  
SARASOTA, FL 34239-5515

Case Number: 58-2009-CA-001104 NC

COPY

SUNTRUST MORTGAGE INC v. DIAN WOLFE, ET AL.

COPY

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT #2014023729 3 PG

03/03/2014 11:56:53 AM

KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA

SARASOTA COUNTY, FLORIDA  
CIVIL COURTS Receipt # 1715611

SUNTRUST MORTGAGE INC  
Plaintiff(s)

Doc Stamp-Mort: \$0.00  
Doc Stamp-Deed: \$0.00  
Intang. Tax: \$0.00

v.

Case Number: 2010CA8995  
Division: A

DIAN WOLFE, ET AL  
Defendant(s).

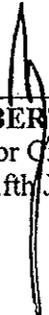
**ORDER ADOPTING RECOMMENDED ORDER**

THIS CAUSE came before the Court on the Recommended Order of Magistrate, filed by Magistrate James Toale, and the undersigned, having considered the findings and recommendation contained therein, it is hereby,

**ORDERED AND ADJUDGED that:**

1. The Recommended Order of Magistrate, entered on February 4, 2014, a copy of which is attached hereto, is ratified and approved.
2. The parties are ordered to abide by all of the findings and recommendations contained in the Recommended Order of Magistrate, and the Court hereby adopts each and every finding and recommendation therein as the Order of this Court.

**DONE AND ORDERED** in Chambers at Sarasota, Sarasota County, Florida on this 26 day of February, 2014.

  
\_\_\_\_\_  
**ROBERT B BENNETT JR**  
Senior Circuit Judge  
Twelfth Judicial Circuit

*Copies furnished to parties listed on attached service list*

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

Suntrust Mortgage, Inc.  
Plaintiff

CASE NO.: 2010 CA 8995-NC

vs

Dian Wolfe  
Defendant

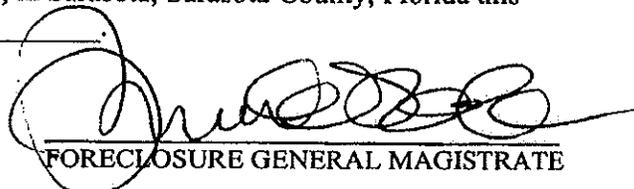
**RECOMMENDED ORDER ON MOTION**

This cause came before the Foreclosure Magistrate on the ~~Defendant's~~ Plaintiff's Motion to Dissolve Lis Pendens and Release the Original documents. and having heard argument, the Magistrate makes these findings and recommendations:

1. Granted
2. The clerk is directed to return the original document to the plaintiff's law firm.

Unless checked, the parties have not waived their right to file exceptions to the content of the Magistrate's Recommended Order, and pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents. **IF YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE MAGISTRATE, YOU MUST FILE EXCEPTIONS IN ACCORDANCE WITH FLORIDA RULE OF CIVIL PROCEDURE 1.490(i). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.**

4 REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this February, 2014 day of

  
FORECLOSURE GENERAL MAGISTRATE

*Plaintiff is responsible for serving the recommended order on all parties.*

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

**SERVICE LIST**  
**2010CA8995**

AMY W KENYON ESQ  
7345 INTERNATIONAL PL STE 108  
SARASOTA FL 34240  
ATTORNEY FOR DEFENDANT(S) DIAN WOLFE & JAMES H CRAIG

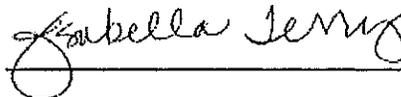
LOUDRES CLERGE ESQ  
CHOICE LEGAL GROUP  
1800 NW 49TH ST STE 120  
FORT LAUDERDALE FL 33309  
ATTORNEY FOR PLAINTIFF

DAVID A MITCHELL  
HIDDEN OAKS ESTATES ASSOCIATION  
22 S LINKS AVE STE 300  
SARASOTA FL 34236

SUNTRUST BANK  
SUNTRUST LEGAL DEPT  
200 S ORANGE AVE TOWER 9  
ORLANDO FL 32801

JAMES H CRAIG  
4751 STONE RIDGE TR  
SARASOTA FL 34232

UNKNOWN TENANT(S)  
4751 STONE RIDGE TR  
SARASOTA FL 34232



Isabella Terry  
Foreclosure Case Manager

**COPY**

**JAMES B. NUTER v. HAMPTON-MUHAMED**

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JAMES B. NUTRA  
Plaintiff

CASE NO.: 2012-CA-008672 NC

VS

HAMPTON - MUHAMMAD  
Defendant

RECOMMENDED ORDER ON MOTION

This cause came before the Foreclosure Magistrate on <sup>SEPTEMBER 27, 2013,</sup> ~~the Defendant's/Plaintiff's Motion to~~

and having heard argument, the Magistrate makes these findings and recommendations:

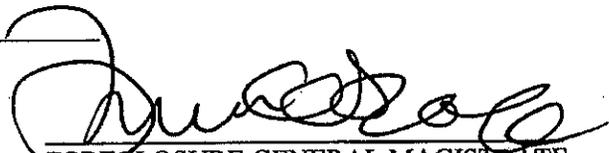
TRIAL SET FOR 11/13/13 IS HEREBY CANCELLED.

A MOTIONS HEARING IS SET FOR NOVEMBER 1, 2013  
AT 2 P.M.

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this

27<sup>th</sup> day of Sept., 20 13

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JAMES B. NUTTER  
Plaintiff

CASE NO.: 2012-CA-008672 NC

vs

HAMPTON-MUHAMED  
Defendant

RECOMMENDED ORDER ON MOTION

This cause came before the Foreclosure Magistrate on the Defendant's <sup>INITIAL</sup> Plaintiff's Motion to  
FOR EX PARTE ORDER TO COMPEL DISCOVERY,  
and having heard argument, the Magistrate makes these findings and recommendations:

THE MOTION IS HEREBY GRANTED. PLAINTIFF TO  
PROVIDE RESPONSE TO DEFENDANT'S FIRST REQUEST  
FOR PRODUCTION AND FIRST REQUEST FOR  
INTERROGATORIES WITHIN 30 DAYS FROM THE  
DATE OF THIS ORDER.

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this  
27<sup>th</sup> day of Sept., 2013

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JAMES B. NUTER  
Plaintiff

CASE NO.: 2012-CA-008672 NC

vs

HAMPTON-MUHAMMED  
Defendant

RECOMMENDED ORDER ON MOTION

This cause came before the Foreclosure Magistrate on the Defendant's/Plaintiff's Motion to  
DEEM ADMISSIONS ADMITTED

and having heard argument, the Magistrate makes these findings and recommendations:

THE MOTION IS HEREBY DENIED.

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this  
27<sup>th</sup> day of Sept., 2013.

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JAMES B. NUTTER  
Plaintiff

CASE NO.: 2012-CA-008672 NC

VS

HAMPTON - MUHAMMED  
Defendant

RECOMMENDED ORDER ON MOTION

This cause came before the Foreclosure Magistrate on the Defendant's Plaintiff's Motion to  
ENFORCE LITIGANT'S RIGHTS FOR FAILURE TO ANSWER SUBPOENA  
and having heard argument, the Magistrate makes these findings and recommendations:

GRANTED IN PART. PLAINTIFF TO FILE ORIGINAL  
NOTE AND MORTGAGE WITHIN 10 DAYS OF THE DATE  
OF THIS ORDER.

CONTINUED IN PART. ALL OTHER PARTS OF THE MOTION  
TO BE HEARD AT A LATER DATE

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this

27<sup>th</sup> day of Sept., 2013

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

**COPY**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JAMES B. NUTTER  
Plaintiff

CASE NO.: 2012-CA-008672 NC

vs

HADJTON - MUHAMMED  
Defendant

**RECOMMENDED ORDER ON MOTION**

ONE TENUS  
This cause came before the Foreclosure Magistrate on the Defendant's/Plaintiff's Motion to  
MOTION TO STRIKE MOTION FOR ORDER TO STRIKE AFFIDAVIT  
AND QUASH SERVICE OF SUMMONS  
and having heard argument, the Magistrate makes these findings and recommendations:

THE ONE TENUS MOTION IS HEREBY GRANTED.

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this  
27<sup>th</sup> day of Sept., 2013

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

JAMES D NUTRA  
Plaintiff

CASE NO.: 2012-CA-008672 NC

vs

HAMPTON - MUHAMED  
Defendant

**RECOMMENDED ORDER ON MOTION**

This cause came before the Foreclosure Magistrate on the Defendant's Plaintiff's Motion to

STRIKE AFFIDAVIT FOR LACK OF SERVICE ON UNKNOWN  
SPOUSE OF SHERRIE HAMPTON - MUHAMED  
and having heard argument, the Magistrate makes these findings and recommendations:

THE MOTION IS HEREBY DENIED

If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to rule 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

REPORTED AND RECOMMENDED, in Sarasota, Sarasota County, Florida this

27<sup>th</sup> day of Sept., 2013

  
FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by: \_\_\_\_\_, DC

**COPY**

Copies to:

Ronald R. Wolfe & Associates, P.L.  
P.O. Box 25018  
Tampa, FL 33622-5018

Unknown Spouse of Sherrie Hampton-Muhaned N/K/A Luoy Muhamed  
4329 Donerrail Drive  
Snellville, GA 30039

Tenant #1  
4163 Palau Drive  
Sarasota, FL 34241

Tenant #2  
4163 Palau Drive  
Sarasota, FL 34241

Sherrie Hampton-Muhaned A/K/A Sherri Hampton Muhamed A/K/A Sherrie L.  
Hampton, as an Heir of the Estate of Kenneth R. Sutherland A/K/A Kenneth Robert  
Sutherland A/K/A Kenneth Sutherland, Deceased  
6343 Walden Drive Southeast  
Olympia, WA 98513

Sherrie Hampton-Muhaned, as a Personal Representative of the Estate of Kenneth R.  
Sutherland A/K/A Kenneth Robert Sutherland A/K/A Kenneth Sutherland, Deceased  
c/o Alexander G. Paderewski, Esq.  
1834 Main St.  
Sarasota, FL 34236

Sherrie Hampton-Muhaned  
4329 Donerrail Drive  
Snellville, GA 30039

COPY

SUNTRUST MORTGAGE, INC. v. KENT R DIGIOVANNI, ET AL.

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA

SUNTRUST MORTGAGE, INC. ,  
Plaintiff(s),

v.

Case Number: 2009-CA-018816  
Circuit Civil – Division C

KENT R DIGIOVANNI, ET AL  
Defendant(s),

---

**ORDER ADOPTING RECOMMENDED ORDER**

THIS CAUSE came before the Court on the Recommended Order of Magistrate, filed by Magistrate James Toale, and the undersigned, having considered the findings and recommendation contained therein, it is hereby,

**ORDERED AND ADJUDGED** that:

1. The Recommended Order of Magistrate, entered on October 9, 2013 a copy of which is attached hereto, is ratified and approved.
2. The parties are ordered to abide by all of the findings and recommendations contained in the Recommended Order of Magistrate, and the Court hereby adopts each and every finding and recommendation therein as the Order of this Court.

**DONE AND ORDERED** in Chambers at Sarasota, Sarasota County, Florida on this 24 day of October 2013.

  
Circuit Judge

COPY

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY

SUNTRUST MORTGAGE  
Plaintiff

CASE NO.: 2009 CA 018816

vs.

KENT R. DIGIOVANNI, ET AL  
Defendant

REPORT AND RECOMMENDED ORDER FROM TRIAL

This cause came before the Foreclosure General Magistrate for trial, and having taken evidence or heard testimony, the Magistrate makes these findings and recommendations (check all that apply):

**FINDINGS OF FACT:**

The Magistrate and the Court have jurisdiction of the subject matter and the parties.

Plaintiff has standing to bring this action.

Present at trial: Plaintiff \_\_\_\_\_ Represented by: Dave Altier  
Defendant(s) \_\_\_\_\_ Represented by: \_\_\_\_\_

All parties were properly served and noticed. Borrower:  personal \_\_\_ constructive.

Testimony was given by: Judith A. Galan

Plaintiff filed the original Promissory Note and Mortgage with the clerk of court.

Exhibits entered into evidence: Promissory Note ; Other Mortgage, Notice of Default,

\_\_\_ If the holder of the Note or the person otherwise entitled to enforce the Note has delegated authority for Plaintiff to bring the action on its behalf, or for the servicer of the loan to testify at trial, evidence of that delegated authority has been introduced into evidence (does not apply when servicer is the Plaintiff and the holder of the Note).

All conditions precedent to accelerate the debt have been satisfied by Plaintiff.

Plaintiff established that its mortgage lien is superior to that of all Defendants' interests.

Plaintiff established the amount of debt due.

Plaintiff established costs it has disbursed and entitlement to collect.

Plaintiff established attorney's fees and entitlement to collect.

Magistrate has reviewed the proposed Uniform Final Judgment of Foreclosure and confirms its accuracy.

Other: Last Note - Indemnification language in the Judgment

\_\_\_ If checked, the parties to this cause have waived their right to file exceptions to the content of the Magistrate's Recommended Order. Otherwise, pursuant to Fla.R.Civ.Pro. 1.490(h), the parties have ten (10) days from the date of service of this Recommended Order to serve exceptions to its contents.

**IT IS THEREFORE RECOMMENDED** that the Uniform Final Judgment of Foreclosure attached hereto  be entered by the Circuit Court or \_\_\_ NOT be entered by the Circuit Court.

**REPORTED AND RECOMMENDED**, in Sarasota, Sarasota County, Florida this

9 day of Oct, 2013.

FORECLOSURE GENERAL MAGISTRATE

Copies furnished to:  
Plaintiff \_\_\_\_\_  
Defendant \_\_\_\_\_  
Other \_\_\_\_\_

Filed In Open Court  
this \_\_\_ day of \_\_\_, 20\_\_\_  
by: \_\_\_\_\_, DC

**COPY**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN AND FOR SARASOTA COUNTY,  
FLORIDA, CIVIL ACTION

SUNTRUST MORTGAGE, INC.,

CASE NO: 2009-CA-018816 NC

Plaintiff

vs.

KENT R DIGIOVANNI, et al.

Defendant(s)

**UNIFORM FINAL JUDGMENT OF MORTGAGE FORECLOSURE**

This form substantially complies with Form 1.996, adopted by the Florida Supreme Court February 11, 2010, SC09-1579; form published in 12th Circuit on 4-5-10.

THIS action was tried before the Court. On the evidence presented:

IT IS ORDERED AND ADJUDGED that:

1. Plaintiff, SUNTRUST MORTGAGE, INC., 1001 Semmes Avenue, Richmond, VA 23224, is due:

Description	Amount
Principal	\$280,000.00
Interest	\$64,897.18
Late Charges	\$218.76
<b>Title Search Expenses</b>	\$150.00
Attorney Trial Fees \$1,750.00	\$2,412.50
Attorney Uncontested Fees \$662.50	
<b>Court Costs</b>	
Filing Additional Defendants:	\$10.00
<b>Escrow Breakdown</b>	
County Tax	\$5,293.49
Hazard Insurance	\$30,276.20
Flood Insurance	\$10,474.75
Windstorm Insurance	\$1,369.25
<b>Additional Fees</b>	
Property Inspections	\$577.00
Property Preservation	\$7,260.50
<b>TOTAL</b>	<b>\$402,939.63</b>

That shall bear interest at the rate of 4.75% a year.

2. Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in Sarasota County, Florida:

COPY

**LOT 7, BLOCK "C", TOWNS END SHORES, AS PER PLAT THEREOF  
RECORDED IN PLAT BOOK 5, PAGE 28, OF THE PUBLIC RECORDS OF  
SARASOTA COUNTY, FLORIDA**

**also known as: 120 SHORELAND DR, SARASOTA, FL 34229**

3. If the total sum with interest at the rate described in paragraph 1 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale as set forth below to the highest bidder for cash, except as prescribed in paragraph 45, in accordance with section 45.031, Florida Statutes, using the following method:

Sales Information	Date (Clerk Inserts)	Time	Location
Sarasota County		9:00 am or as soon as possible thereafter	Foreclosure sales conducted via Internet: <a href="http://www.sarasota.realforeclose.com">www.sarasota.realforeclose.com</a>
Manatee County		11:00 am or as soon as possible thereafter	Foreclosure sales conducted via Internet: <a href="http://www.manatee.realforeclose.com">www.manatee.realforeclose.com</a>
Desoto County		11:00 am or as soon as possible thereafter	DeSoto County Courthouse 115 Oak Street Arcadia, Florida 34266 <a href="http://www.desotoclerk.com">www.desotoclerk.com</a>

4. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, the clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full.

5. On filing the certificate of title the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 1 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

6. On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title.

**NOTICE: Issuance of a writ of possession does not exempt plaintiff from complying with federal law requiring notice to tenants residing on foreclosed property. To insure compliance with federal law, Plaintiff should consult with counsel before serving the writ of possession.**

COPY

7. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment, to allow for supplemental complaint to add an omitted party post-judgment, alter, amend, modify or vacate judgment, and correct, amend, or vacate Certificate of Title.

**8. Additions, Modifications or Changes to Standard Form**

Any additions, modifications or changes to the provisions above may only be set forth in this paragraph.

- a. *Plaintiff's Count I to Re-establish Lost Promissory*
- b. *Note and Mortgage is Granted Plaintiff shall*
- c. *Indemnity and hold Defendants harmless from enforcement*
- d. *of the lost promissory note*
- e.

**NOTICE PURSUANT TO § 45.031, FLORIDA STATUTES (2006).**

If this property is sold at public auction, there may be additional money from the sale after payment of persons who are entitled to be paid from the sale proceeds pursuant to this Final Judgment.

If you are a subordinate lienholder claiming a right to funds remaining after the sale, you must file a claim with the Clerk no later than sixty (60) days after the sale. If you fail to file a claim, you will not be entitled to any remaining funds.

If the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the following additional language applies:

If you are the property owner, you may claim these funds yourself. You are not required to have a lawyer or any other representation and you do not have to assign your rights to anyone else in order for you to claim any money to which you are entitled. Please check with the Clerk of Court for your county within ten (10) days after the sale to see if there is additional money from the foreclosure sale that the clerk has in the registry of the Court.

Sarasota County Clerk of Court	Manatee County Clerk of Court	DeSoto County Clerk of Court
2000 Main Street Sarasota, FL 34237 (941) 861-7400 www.sarasotaclerk.com	1115 Manatee Avenue West Bradenton, FL 34205 (941) 749-1800 www.manateeclerk.com	115 East Oak Street Arcadia, FL 34266 (863) 993-4876 www.desotoclerk.com

If you decide to sell your home or hire someone to help you claim the additional money, you should read very carefully all papers you are required to sign, ask someone else, preferably an attorney who is not related to the person offering help to you, to make sure that you understand what you are signing and that you are not transferring your property or the equity in your property without the proper information. If you cannot afford to pay an attorney, you may contact the local legal services listed below to see if you qualify financially for their services. If they cannot assist you, they may be able to refer you to a local bar referral agency or suggest other options. If you choose to contact one of the services listed below, you should do so as soon as possible after the receipt of this notice.

**COPY**

Sarasota County	Manatee County	DeSoto County
<p><b>Legal Aid of Manasota Sarasota Office</b>                      1900 Main Street, Suite 302 Sarasota,                      FL 34236                      (941) 366-0038</p> <p><b>Venice Office</b>                      7810 South Tamiami Trail ,Suite A6                      Venice, FL 34293                      (941) 492-4631</p>	<p><b>Legal Aid of Manasota</b>                      1101 6th Avenue West                      Bradenton, FL 34205                      (941) 747-1628</p>	<p><b>Fla. Rural Legal Services</b>                      3210 Cleveland Avenue                      Suite A                      Fort Myers, FL 33901                      (800) 476-8937  <a href="http://www.flrs.org">www.flrs.org</a></p>
<p><b>Gulfcoast Legal Services</b>                      1750 17th Street, Bldg. 1 Sarasota, FL                      34236                      (941) 366-1746 <a href="http://www.gulfcoastlegal.org">www.gulfcoastlegal.org</a></p>	<p><b>Gulfcoast Legal Services</b>                      430 12th Street West                      Bradenton, FL 34205                      (941) 746-6151  <a href="http://www.gulfcoastlegal.org">www.gulfcoastlegal.org</a></p>	

DONE AND ORDERED in Chambers in Sarasota County, Florida, this \_\_\_\_\_ day of October, 2013.

\_\_\_\_\_  
 CIRCUIT JUDGE

Copies Furnished To:  
 FLORIDA FORECLOSURE ATTORNEYS, PLLC  
 4855 Technology Way, Suite 500  
 Boca Raton, FL 33431  
 and  
 All Persons on attached Service List  
 Plaintiff: SUNTRUST MORTGAGE, INC.  
 Address of Plaintiff: 1001 SEMMES AVENUE  
 MAIL CODE RVW3014  
 RICHMOND, VA 23224

COPY

**SERVICE LIST**

**SUNTRUST MORTGAGE, INC.**

vs.

**KENT R DIGIOVANNI**

KENT R DIGIOVANNI  
120 SHORELAND DR  
OSPREY, FL 34229

DORIS DIGIOVANNI  
120 SHORELAND DR  
SARASOTA, FL 34229

SUNTRUST BANK  
303 Peachtree Street, Northeast  
Atlanta, GA 30308

COPY

SARASOTA COUNTY, FLORIDA v. EDWARD ELIOPOULOS

CASE NO. 2011-065  
CMV NO. CP-10-47  
PID# 0473-12-0005  
CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA )  
Petitioner )  
vs. Edward Eliopoulos )  
Respondent(s) )



**FINAL ORDER FINDING NO VIOLATION**

This cause came before me on the 25 day of March, 2011, and on the evidence presented I find the following facts have been established in this cause:

On 2007, a significant nuisance/invasive plant removal event occurred on site. The Respondent agreed to and carried out a Restoration Plan dated March 16, 2007. Sarasota County currently alleges that additional prohibited removal activities have since occurred on site. However, the evidence presented at the hearing is insufficient to find that the property was disturbed by mechanical removal or other prohibited forms.

I accordingly find in favor of the Respondent(s) in this action and by this Order, this case shall be deemed concluded without prejudice to the Petitioner.

ORDERED this 25 day of March, 2011.

Sarasota County Code Enforcement  
Special Magistrate

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_  
By: \_\_\_\_\_  
Date: \_\_\_\_\_

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_ certified mail/return receipt requested or X service during the meeting this 25 day of March, 2011.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

  
Deputy Clerk

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILES IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS DATE 3/28/2011  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: [Signature]  
DEPUTY CLERK

White Copy: Clerk's Office

Yellow Copy: Respondent

Pink Copy: Code Official

51710000 500489 1301

BOARD RELUCIOUS FILED FOR REC'D  
KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

COPY

SARASOTA COUNTY, FLORIDA v. BERRY & KATHIE HOLLAND, HOLLAND LANDSCAPE & TREE SVC.

CASE NO. 2006-453  
CMV NO. CZ-06-3210

CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner

vs Berry + Rathie Holland  
Holland Landscape + Tree Svc.  
Respondent(s)



2006 OCT 24 01:35 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
TFERNANDEZ Receipt#843602

**COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on October 20, 2006, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located at 440 Statman Lane, Osprey, FL  
PID # 001491-11-0005 is operating a landscape/tree service/  
land clearing business on property not properly zoned for  
these activities.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2. + 7.1.3.b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

diligently pursue locating and moving  
the business to an alternative site during  
the next 90 days. All parties shall reconvene  
after 90 days to discuss the status of the  
relocation.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 9th day of Feb., 2007 at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

Sarasota County Code Enforcement Special Magistrate

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or  service during the meeting this 20 day of October, 2006.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

Deputy Clerk

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL FILED  
IN THIS OFFICE WITNESS MY HAND AND OFFICE  
SEAL THIS DATE 10/20/06  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY  
COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY   
DEPUTY CLERK

WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

51310101 Licenses-Permits-Fees

301

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2007133746 1 PG  
2007 AUG 27 09:26 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#957409

CASE NO. 2006-453  
CMV NO. CZ-06-3210

CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner )  
vs. Holland Landscape Tree Service )  
Berry - Kathie Holland )  
Respondent(s)



4 COMPLIANCE ORDER & NOTICE OF PENALTY HEARING 2007133746

This cause came for public hearing before me on August 24, 2007, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

FINDINGS OF FACT

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005 is operating a landscaping tree service and lawn cleaning business on the subject property not zoned for the activities.

Based upon the foregoing findings of fact, I conclude as a matter of law that: Respondent is in violation of Sarasota County Code, Section 5.1.1.b + 5.1.2 + 7.1.3.b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

Continue to pursue full and development approval on newly acquired property in order to relocate said business during the preceding 90 days.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the TBD day of Jan 2008 at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order.  
HEARING PROCEDURES ON REVERSE SIDE.

*[Signature]*  
Sarasota County Code Enforcement Special Magistrate  
CERTIFICATE OF SERVICE BY CLERK  
I hereby certify that a true copy of the foregoing Order has been furnished to Respondent by either certified mail/return receipt requested or service during the meeting this 24 day of August, 2007.

PERSONAL SERVICE BY CODE OFFICIAL

To: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILES IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS DATE 8-24-07  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: *[Signature]*  
DEPUTY CLERK

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
*[Signature]*  
Deputy Clerk

51310101  
500489  
License-Permits-Fees  
301

BOARD RECORDS  
FILED FOR SERVICE  
2007 AUG 24 11:34



CASE NO. 2006-453  
CMV NO. CZ-06-3210



RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2008020878 1 PG  
2008 FEB 13 06:29 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
CEAGLETO Receipt#1014381

**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner )  
vs. Holland Landscaping + Tree Svc.)  
Berry + Kathy Holland )  
Respondent(s)

**6<sup>th</sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on February 8, 2007, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005  
See previous 5 orders

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2; 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

find an alternative end temporary location to store semis and dump trucks within 100 days. In addition, Respondent shall continue to process special exception and site and development applications during the next 90 days.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 11 day of April, 2008, at 9:00 A.M. or as soon thereafter as possible, at the following location:

**Sarasota County Administration Center**  
**Commission Chambers, 1<sup>st</sup> Floor**  
**1660 Ringling Boulevard**  
**Sarasota, Florida**

**R.L. Anderson Administration Center**  
**Commission Chambers, 1<sup>st</sup> Floor**  
**4000 S. Tamiami Trail**  
**Venice, Florida**

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_

By: \_\_\_\_\_  
STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILES IN THIS OFFICE WITNESS MY HAND AND OFFICIAL SEAL THIS DATE 2-12-08  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA

BY: Deborah Skiffen  
DEPUTY CLERK

Sarasota County Code Enforcement Special Magistrate

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or  service during the meeting this 8 day of February, 2008.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

Deborah Skiffen  
Deputy Clerk

WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

51310101 Licenses-Permits-Fees V 301 500489

BOARD OF COUNTY COMMISSIONERS  
SARASOTA COUNTY, FLORIDA  
2008 FEB 13 06:29 PM

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2008051517 1 PG  
2008 APR 16 01:21 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
CEAGLETO Receipt#1036933

CASE NO. 2006-453  
CMV NO. CR-06-3210



CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner )  
vs. )  
Holland Landscape - Tree Svc. )  
Berry + Kathy Holland )  
Respondent(s)

<sup>7<sup>th</sup></sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING

This cause came for public hearing before me on April 11, 2008, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

FINDINGS OF FACT

The property located at 440 Shotgun Lane, Osprey PID# 0149-11-0005  
See previous orders.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2; 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

Stop a zoning administrator's determination on all alleged grandfathered use of the property within 60 days. All previous orders are still in effect.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 13 day of June, 2008, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

PERSONAL SERVICE BY CODE OFFICIAL

To: \_\_\_\_\_

STATE OF FLORIDA )  
COUNTY OF SARASOTA )  
I HEREBY CERTIFY THAT THE FOREGOING IS A )  
TRUE AND CORRECT COPY OF THE ORIGINAL FILED )  
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL )

SEAL THIS DATE 4-11-08  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
OFFICIAL CLERK TO THE BOARD OF COUNTY )  
COMMISSIONERS, SARASOTA COUNTY, FLORIDA )  
BY Deborah Steffen  
DEPUTY CLERK

Sarasota County Code Enforcement Special Magistrate  
CERTIFICATE OF SERVICE BY CLERK

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either certified mail return receipt requested or A service during the meeting this day of April, 2008.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

Deborah Steffen  
Deputy Clerk

BOARD RECORDS  
FILED FOR RECORD  
APR 11 11:11 AM '08  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

51310101 Licenses-Permits-Fees 304

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2007024460 1 PG  
2007 FEB 13 11:00 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
GBURCH Receipt#884066



CASE NO. 2006-453  
CMV NO. 07-06-3210

**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner )  
vs. Berry + Kathie Holland )  
Holland Landscape + Tree Svc. )  
Respondent(s)

**2d COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on February 9, 2007, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane, Osprey Fl. PID # 0149-11-0005  
Respondent has admitted violation.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b + 5.1.2 + 7.1.3.b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:  
relocate & move business within 90 days to an appropriately zoned location.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 4 day of MAY, 2007, at 9:00 A.M. or as soon thereafter as possible, at the following location:

**Sarasota County Administration Center**  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

**R.L. Anderson Administration Center**  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

Susan Chapman  
Sarasota County Code Enforcement Special Magistrate

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_

By: \_\_\_\_\_

DATE HEREBY CERTIFIED THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE WITH MY HAND AND OFFICIAL SEAL THIS DATE 2/19/07  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: Deborah Staffer  
DEPUTY CLERK

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or X service during the meeting this 9th day of February, 2007.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
Deborah Staffer  
Deputy Clerk

WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

51310101  
500489  
License-Permits-Fees

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2008084405 1 PG  
2008 JUN 18 05:24 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
ASAMS Receipt#1059942

CASE NO. 2006-453  
CMV NO. 0206-3210

**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner )  
vs )  
Holland Landscapes + Tree Service )  
Berry + Kathy Holland )  
Respondent(s)



**8<sup>th</sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on June 13, 2008, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005  
See previous orders.

Based upon the foregoing findings of fact, I conclude as a matter of law that:  
Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2; 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:  
Seek a ~~response~~ response to the zoning interpretation determination letter submitted to the County on June 12, 2008. All prior orders are still in effect.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 8 day of Aug, 2008, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order.  
**HEARING PROCEDURES ON REVERSE SIDE.**

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_  
STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE WITH MY HAND AND OFFICIAL SEAL THIS DATE 13-08  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
Dorothy Shaffer  
CLERK P.I.D.# \_\_\_\_\_

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or  service during the meeting this 13 day of June, 2008.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
Dorothy Shaffer  
Deputy Clerk

2008 JUN 13 PM 36  
BOARD RECORDS  
FILED FOR RECORDS  
SEE

500489  
51310101  
Licenses-Permits-Fees

CASE NO. 2006-453  
CMV NO. CX-06-3210



RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2007074382-15 PG50  
2007 MAY 08 11:52 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
CBETHEL Receipt#917863

**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner )  
vs Berry & Kathie Holland )  
Holland Landscape & Tree Service )  
Respondent(s)

**COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on May 4, 2007, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane Osprey FL PID#0149-11-0005 is operating a landscaping and land clearing business on the subject property, not zoned for these activities.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b + 5.1.2 + 7.1.3.b. Based upon the findings of fact and conclusions of law, and upon consideration, it is therefore ORDERED that Respondent shall:

cease all prohibited landscaping/land clearing activities and re-locate subject business within 90 days

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 24th day of August, 2007, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. HEARING PROCEDURES ON REVERSE SIDE.

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_

By: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL

SEAL THIS DATE 5-7-07  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: D. Shaffer  
DEPUTY CLERK

[Signature]  
Sarasota County Code Enforcement Special Magistrate

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or  service during the meeting this 4 day of May, 2007.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

[Signature]  
Deputy Clerk

500489 Licenses-Permits-Fees  
51310101

BOARD RECORDS  
FILED FOR RECORD  
MAY - 7 AM '07  
SEE

CASE NO. 2006-453  
CMV NO. CZ-06-3210



RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2008110051 1 PG  
2008 AUG 12 05:48 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
CEAGLETO Receipt#1078457

**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner  
vs.  
Holland Landscape + Tree Service  
Berry + Kathy Holland  
Respondent(s)

**9<sup>th</sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on August 8, 2008, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Ln. Osprey FL PID# D149-11-0005  
See previous orders

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2; 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:  
Continue to seek a response to the zoning interpretation determination letter by October 9, 2008. All prior orders are still in effect.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 10<sup>th</sup> day of Oct, 2008, at 9:00 A.M. or as soon thereafter as possible, at the following location:

**Sarasota County Administration Center**  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

**R.L. Anderson Administration Center**  
Commission Chambers, 1<sup>st</sup> Floor  
4006 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order.  
**HEARING PROCEDURES ON REVERSE SIDE.**

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_  
By: \_\_\_\_\_

**CERTIFICATE OF SERVICE BY CLERK:**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or  service during the meeting this 8 day of August, 2008.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

David Sheffer  
Deputy Clerk

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE WITNESS MY HAND AND OFFICIAL SEAL THIS DATE 8-11-08  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT EX OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY David Sheffer  
DEPUTY CLERK

WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

200808  
Licenses-Permits-Fees ✓ 301  
21310101

2008 AUG 14  
KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
BOARD RECORDS  
FILED FOR RECORD

CASE NO. 2006-453  
CMV NO. CZ-06-3210

INSTRUMENT # 2008136140 1 PG

2008 OCT 13 09:47 AM

CODE ENFORCEMENT SPECIAL MAGISTRATE

KAREN E. RUSHING

CLERK OF THE CIRCUIT COURT

SARASOTA COUNTY, FLORIDA, Petitioner

SARASOTA COUNTY, FLORIDA

vs.

Holland Landscape + Tree Service  
Barry + Kathy Holland

Respondent(s)

Receipt #1097255

*necessary to establish  
that a non-conforming  
use exists at the  
subject property.*

**COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on October 10, 2008, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005  
See previous orders.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2; 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

continue to seek a response to the zoning interpretation determination letter by November 7, 2008. The Respondent shall meet with the zoning administrator office and the office of county attorney within 40 days to discuss options for implementation.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 7th day of Nov, 2008, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

*[Signature]*  
Sarasota County Code Enforcement Special Magistrate

**PERSONAL SERVICE BY CODE OFFICIAL**

To:

By:



2008136140

STATE OF FLORIDA)  
COUNTY OF SARASOTA)  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILES IN THIS OFFICE WITNESS MY HAND AND OFFICIAL SEAL THIS DATE 10/10/08

KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA

BY *[Signature]*  
OFFICIAL KEYBOARD RECORDS

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either certified mail/return receipt requested or service during the meeting this 10 day of October, 2008.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

*[Signature]*  
Deputy Clerk

51310101 Licenses-Permits-Fees

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2007133746 1 PG  
2007 AUG 27 09:26 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#957409

CASE NO. 2006-453  
CMV NO. CZ-06-3210

**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner  
vs. Holland Landscape + Tree Service  
Berry - Kathie Holland  
Respondent(s)



**COMPLIANCE ORDER & NOTICE OF PENALTY HEARING 2007133746**

This cause came for public hearing before me on August 24, 2007, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005  
is operating a landscaper, tree service and land  
clearing business on the subject property not zoned  
for the activities

Based upon the foregoing findings of fact, I conclude as a matter of law that:  
Respondent is in violation of Sarasota County Code, Section 5.1.1.b + 5.1.2 + 7.1.3.b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

Continue to pursue all land development approval  
on newly acquired property in order to relocate  
said business during the preceding 90 days

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the TBD day of Jan 2008 at 9:00 A.M. or as soon thereafter as possible, at the following location:

**Sarasota County Administration Center**  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

**R.L. Anderson Administration Center**  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order.  
**HEARING PROCEDURES ON REVERSE SIDE.**

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL FILED  
IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL  
SEAL THIS DATE 8-24-07  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY  
COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: [Signature]  
DEPUTY CLERK

[Signature]  
Sarasota County Code Enforcement Special Magistrate

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent by either \_\_\_\_\_ certified mail/return receipt requested or  service during the meeting this 24 day of August, 2007.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
[Signature]  
Deputy Clerk

WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

51310101 500489 Licenses-Permits-Fees 301

2007 AUG 27 PM 3:34  
BOARD RECORDS  
FILED FOR PUBLIC RECORDS  
SEE

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2008147596 1 PG  
2008 NOV 10 11:21 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
CEAGLETO Receipt#1105824

CASE NO. 2006-453  
CMV NO. 07-06-3210



**CODE ENFORCEMENT SPECIAL MAGISTRATE**

SARASOTA COUNTY, FLORIDA, Petitioner )

vs. Holland Landscape + Tree Service  
Barry & Kathy Holland  
Respondent(s)

**COMPLIANCE ORDER & NOTICE OF PENALTY HEARING**

This cause came for public hearing before me on November 7, 2008, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

**FINDINGS OF FACT**

The property located @ 440 Shotgun Lane Osprey Fl PID# 0149-11-0065  
See previous orders.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b; 5.1.2; 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:  
Continue to pursue administrative remedies through the Office of the Zoning Administrator. All previous orders shall remain in effect.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 6 day of Feb, 2009 at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

BOARD RECORDS  
FILED FOR RECORD  
NOV 7 PM 2:11  
SARASOTA COUNTY

Sarasota County Code Enforcement Special Magistrate

**PERSONAL SERVICE BY CODE OFFICIAL**

To: \_\_\_\_\_

By: \_\_\_\_\_

STATE OF FLORIDA,  
COUNTY OF SARASOTA)  
I HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL FILES  
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL

SEAL THIS DATE 11-7-08  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX OFFICIO CLERK TO THE BOARD OF COUNTY  
COMMISSIONERS, SARASOTA COUNTY, FLORIDA

BY: Deborah Shaffer  
Deputy Clerk

**CERTIFICATE OF SERVICE BY CLERK**

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or \_\_\_\_\_ service during the meeting this 7 day of November, 2008.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

Deborah Shaffer  
Deputy Clerk

YELLOW - RESPONDENT

PINK - OFFICIAL

50489  
51310101  
Business-Permits-Fees  
301

CASE NO. 2006-453  
CMV NO. CT-06-3210

CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner

vs. Holland Landscape + Tree Svc  
Berry + Kathie Holland  
Respondent(s)

May be approved on behalf of  
the Respondent to relocate the  
more intensive uses of the  
current business. by Feb 6, 2008  
Morning operation of truck traffic  
shall be limited to 7:45 and 8:15 am

5<sup>th</sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING

This cause came for public hearing before me on January 11, 2008, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

FINDINGS OF FACT

The property located @ 440 Shotgun Lane Osprey FL PID#0149-11-0005 is operating a landscaping tree service and land cleanup business on the subject property not zoned for these activities

Based upon the foregoing findings of fact, I conclude as a matter of law that: 5.1.1.5/5.1.2/7.1.3b

Respondent is in violation of Sarasota County Code, Section 5.1.1.5/5.1.2/7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

Continue to pursue file and development and zoning approvals on newly acquired property in order to relocate the business. The Respondent and County officials shall schedule and attend a meeting with the zoning administrator to discuss any temporary relief that

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 14<sup>th</sup> day of Feb, 2008, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

BOARD RECORDS  
FILED FOR RECORD  
JAN 14 PM 2:00  
SARASOTA COUNTY, FLORIDA

Sarasota County Code Enforcement Special Magistrate  
CERTIFICATE OF SERVICE BY CLERK

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either certified mail/return receipt requested or service during the meeting this 11 day of January. RECORDED IN OFFICIAL RECORDS

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
JAN 15 10:06 AM  
KAREN E. RUSHING  
Deputy Clerk  
SARASOTA COUNTY, FLORIDA  
Receipt #1003826

PERSONAL SERVICE BY CODE OFFICIAL

To: \_\_\_\_\_  
By: \_\_\_\_\_  
Date: 1-14-2008  
STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS DATE  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: [Signature]  
DEPUTY CLERK



WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

51310101  
500489  
License-Permits-Fees



**SARASOTA COUNTY**  
"Dedicated to Quality Service"

COPY

May 15, 2009

James E. Toale, Esquire  
Bowman, George, Scheb & Toale, P.A.  
2750 Ringling Boulevard, Suite 3  
Sarasota, FL 34237

Subject: Board of Zoning Appeals  
Appeal Request #09 901401 ZZ  
440 Shotgun Lane  
PID #0149-11-0005

Dear Mr. Toale:

This is to inform you that the Board of Zoning Appeals heard an appeal to the Zoning Administrator's decision for the subject property during their regularly scheduled meeting on Monday, May 11, 2009. The Board of Zoning Appeals made a motion to approve the request to determine the current use of the property as a landscape contractor/plant nursery as a nonconforming use. The vote was four to three to approve the motion. Therefore, the Zoning Administrator's interpretation that the use on this parcel is nonconforming was overturned and the appeal request has been approved.

If you should have any further questions or concerns, please do not hesitate to contact this office.

Sincerely,

  
Tina Crawford, AICP  
Zoning Administrator

cc: Berry R. and Kathie A. Holland, property owners

CASE NO. 2006-453  
CMV NO. 02-06-3210

CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner

vs. Holland Landscape + Tree Service  
Barry + Kathy Holland  
Respondent(s)



12<sup>th</sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING 2009065737

This cause came for public hearing before me on May 29, 2009, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

FINDINGS OF FACT

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005  
see previous orders

Based upon the foregoing findings of fact, I conclude as a matter of law that: 5.1.1.6; 5.1.2 + 7.1.3b

Respondent is in violation of Sarasota County Code, Section 5.1.1.6; 5.1.2 + 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

Meet with County officials and prepare a stipulated settlement. Failure to do so will result in all sales at issue that would establish the pubic use as a valid non-conforming use by July 7, 2009.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 10<sup>th</sup> day of July, 2009, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

FILED FOR RECORDS  
BOARD RECORDS  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FL  
2009 JUN 1 11:31 AM

Sarasota County Code Enforcement Special Magistrate

CERTIFICATE OF SERVICE BY CLERK

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either X certified mail/return receipt requested or X service during the meeting this 29 day of May, 2009.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

Deborah Shaffer  
Deputy Clerk

PERSONAL SERVICE BY CODE OFFICIAL

To: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILES IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS DATE: 6-1-2009

KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: [Signature]  
DEPUTY CLERK

500489 Licenses-Permits-Fees 301 51310101

CASE NO. 2006-453  
CMV NO. CZ-06-3210

CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner

vs.  
Holland Landscape + Tree Service  
Barry + Kathy Holland  
Respondent(s)



13<sup>th</sup> COMPLIANCE ORDER & NOTICE OF PENALTY HEARING

This cause came for public hearing before me on July 10, 2009, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

FINDINGS OF FACT

The property located @ 440 Shotgun Lane, Osprey FL PID# 0149-11-0005  
See previous orders.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b, 5.1.2 ~ 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:

continue to negotiate terms of a stipulated settlement  
order the next 30 days.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 14<sup>th</sup> day of Aug, 2009, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

*[Signature]*  
Sarasota County Code Enforcement Special Magistrate

PERSONAL SERVICE BY CODE OFFICIAL

To: \_\_\_\_\_  
By: \_\_\_\_\_

CERTIFICATE OF SERVICE BY CLERK

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or X service during the meeting this 10 day of July, 2009.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

*[Signature]*  
Deputy Clerk

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE WITH MY HAND AND OFFICIAL SEAL THIS DATE: 7-13-09  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
*[Signature]*  
DEPUTY CLERK

500489  
51310101  
Licenses-Permits-Fees

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2009103163 1 PG  
2009 AUG 20 10:26 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#1194805

CASE NO. 2006-453  
CMV NO. CZ-06-3210

CODE ENFORCEMENT SPECIAL MAGISTRATE

SARASOTA COUNTY, FLORIDA, Petitioner

vs. Holland Landscape + Tree Service  
Barry + Kathy Holland  
Respondent(s)



14 COMPLIANCE ORDER & NOTICE OF PENALTY HEARING

This cause came for public hearing before me on August 17, 2009, after due notice to Respondent, and after receiving testimony and evidence, I hereby find as follows:

FINDINGS OF FACT

The property located @ 440 Shotgun Lane Osprey FL PID# 0149-11-0005  
See previous orders.

Based upon the foregoing findings of fact, I conclude as a matter of law that:

Respondent is in violation of Sarasota County Code, Section 5.1.1.b, 5.1.2 + 7.1.3b. Based upon the findings of fact and conclusions of law, and upon consideration, it is thereupon ORDERED that Respondent shall:  
continue to negotiate terms of Settlement Agreement  
over next 14 days.

ORDERED that failure to comply with this Order may cause the Code Enforcement Special Magistrate to impose upon the Respondent(s) a fine generally not to exceed \$250.00 per day for each day that any first violation continues past the date set for compliance with this Order. However, the Special Magistrate may impose a fine up to \$1,000.00 per day for a first violation upon consideration of the potential harm to the public or the environment threatened by continued noncompliance and the amount of the fine necessary to discourage the continuing violation. Such Order Assessing an Administrative Fine shall be filed in the Public Records of Sarasota County, Florida, and shall thereafter constitute a lien as prescribed by Chapter 162, Florida Statutes, and Sarasota County Code, Section 2-349.

ORDERED that a hearing before the Code Enforcement Special Magistrate is scheduled for the 20<sup>th</sup> day of Aug., 2009, at 9:00 A.M. or as soon thereafter as possible, at the following location:

Sarasota County Administration Center  
Commission Chambers, 1<sup>st</sup> Floor  
1660 Ringling Boulevard  
Sarasota, Florida

R.L. Anderson Administration Center,  
Commission Chambers, 1<sup>st</sup> Floor  
4000 S. Tamiami Trail  
Venice, Florida

for the purpose of determining whether a fine should be imposed upon you for failure to comply with this Order. SEE HEARING PROCEDURES ON REVERSE SIDE.

PERSONAL SERVICE BY CODE OFFICIAL

To: \_\_\_\_\_  
By: \_\_\_\_\_

CERTIFICATE OF SERVICE BY CLERK

I hereby certify that a true copy of the foregoing Order has been furnished to Respondent, by either \_\_\_\_\_ certified mail/return receipt requested or X service during the meeting this 17 day of August, 2009.

KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

Deborah Shoff  
Deputy Clerk

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS DATE: 8-17-09  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA  
BY: Deborah Shoff  
DEPUTY CLERK

WHITE - BOARD RECORDS

YELLOW - RESPONDENT

PINK - OFFICIAL

500489 Licenses-Permits-Fees 301

51310101

BOARD RECORDS FILED FOR RECORD AUG 17 2009 KAREN E. RUSHING CLERK OF CIRCUIT COURT SARASOTA COUNTY, FLORIDA

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2009118816 1 PG  
2009 SEP 28 09:31 AM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#1206107

SARASOTA COUNTY  
CODE ENFORCEMENT

SARASOTA COUNTY

VS.

CASE NO. 2006-453

HOLLAND LANDSCAPE &  
TREE SERVICE, INC.,  
BERRY R. AND KATHIE A.  
HOLLAND



BOARD RECORDS  
FILED FOR RECORD  
SEP 25 11:31  
KAREN E. RUSHING  
CLERK OF CIRCUIT COURT  
SARASOTA COUNTY, FL

ORDER ON PARTIES' SETTLEMENT AGREEMENT

THIS CAUSE having come before the Special Magistrate upon the submission of the parties' settlement agreement, which shall operate as a motion requesting the Special Magistrate affirm the settlement agreement and take the actions requested therein, and the Special Magistrate being fully advised in the premises, it is:

ORDERED AND ADJUDGED that the parties' settlement agreement is accepted.

DONE AND ORDERED in Sarasota County, Florida this 25<sup>th</sup> day of September

\_\_\_\_\_, 2009.

Code Enforcement Special Magistrate

Conformed copies to:  
David Pearce, Esq., Assistant County Attorney  
James E. Toale, Esq.

500489  
Licenses-Permits-Fees ✓ 301

51310101

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2009110017-0-000  
INSTRUMENT # 2007110017-0-000  
2009 SEP 28 09:31 AM  
KAREN E. RUSHING  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#1206107

SARASOTA COUNTY CODE ENFORCEMENT  
SPECIAL MAGISTRATE

SARASOTA COUNTY

VS.

CASE NO. 2006-453

HOLLAND LANDSCAPE &  
TREE SERVICE, INC.,  
BERRY R. AND KATHIE A.  
HOLLAND



SETTLEMENT AGREEMENT AND STIPULATION FOR ORDER

This Settlement Agreement ("Agreement") is made and entered into between Sarasota County ("County Representatives") and Holland Landscape & Tree Service, Inc. and Berry R. Holland and Kathie A. Holland ("Holland") to resolve this Code Enforcement case, filed by the County against Holland, and alleging a use not allowed in the zoning district within unincorporated Sarasota County. The parties agree as follows:

1. Berry R. Holland and Kathie A. Holland are the fee simple owners of a parcel of land in Section 11, Township 38 South, Range 18 East, Sarasota County, ("Property") whose legal description is:

Commence at the Northwest corner of the East one-half of the SE ¼ of the NW1/4; thence South 0°48'24" East 350.54 feet; thence North 89°46'47" East 299.85 feet for a Point of Beginning; thence North 89°46'47" East 320.53 feet; thence South 0°04'54" East 285.39 feet; thence South 89°46'47" West 320.53 feet; thence North 0°04'54" West 285.39 feet to the Point of Beginning. Containing 2.1 acres more or less.

The Property is located within unincorporated Sarasota County. The Sarasota County Parcel ID number for the Property is: 0149-11-0005. At this time, improvements on the Property are shown on attached site plan sketch labeled Exhibit "A."

2. Sarasota County is a governmental entity with jurisdiction over this matter under Article VIII, Chapter 2, Sarasota County Code (the Code Enforcement Code), and Chapter 162, Florida Statutes.

3. The County alleged that Holland conducted a landscape/nursery business which was not a permitted use or otherwise allowed under sections of its Zoning Code. Holland disputes this violation. Holland requested a zoning determination from the Zoning Administrator that a nursery business was located on the Property prior to November 11, 1975. The Zoning Administrator issued a determination that such a business did not exist prior to that date. Holland appealed that decision to the Board of Zoning Appeals. At its regularly scheduled meeting on May 11, 2009, the Board of Zoning Appeals made the determination that the current use of the Property as a landscape contractor/plant nursery is a nonconforming use.

4. The parties stipulate to the entry of a Final Order by the Code Enforcement Special Magistrate incorporating the terms of this Agreement as a Compliance Order (the "Final Order"). Pursuant to Section 2-349 of the Sarasota County Code of Ordinances, the Code Enforcement Special Magistrate shall have the power to schedule a penalty hearing in the event that the Holland does not comply with the terms of the Final Order. As with any other Code Enforcement order, the Final Order shall be binding on the Property and Berry R. Holland and Kathie A. Holland's successors and assigns to it.

5. The Property is shown on Exhibit "A," attached hereto. Holland may not expand or make other improvements to the site other than those depicted on the Exhibit "A" site plan. Holland may park and deploy no more than the following schedule of equipment, trucks, and trailers:

- 3 tractors for the installation of plants and trees
- 3 skid steers for mulching and installation of plants and trees
- 5 stake body trucks with a G.V.W. up to 36,000 pounds used for installation of landscape
- 3 light trucks
- 4 trailers for hauling equipment and landscape materials

6. Holland shall operate its landscape contractor business only Monday through Friday from the hours of 7:00 a.m. to 5:00 p.m. Holland shall make all efforts to schedule their delivery of materials during their hours of operation.

7. No maintenance of vehicles or equipment shall be performed on the Property.

8. Should the Property be sold or transferred to anyone other than a Holland family member, the nonconforming use as a landscape contractor/plant nursery shall cease and the use shall become any use permitted under the Zoning Code in place at that time.

9. It is understood that this Settlement Agreement resolves the sole issue of the size and scope of the landscape contractor/plant nursery use as a nonconforming use, and does not grant any permission, or assure or imply any development rights, permits, or orders. Any subsequent development of the Property shall be subject to and comply with any statutes, rules, and ordinances applicable thereto.

10. The parties recognize and acknowledge that the terms and conditions of this Agreement, to be effective, must be approved by the representatives of the County identified below and Holland, and then approved and incorporated into a Final Order of the Code Enforcement Special Magistrate, which will be recorded in the Official Records. Violation of the terms of this Agreement will then constitute a violation of the Final Order, and, after notice, may be enforced through a penalty order entered by the Special Magistrate after a penalty hearing. The parties further agree that this Agreement

and any and all discussions had in relation thereto are settlement discussions. In the event this Proposed Settlement Agreement is not executed by all of the parties, or not approved by the Special Magistrate as a Final Order, neither this Agreement, nor any discussions had in relation thereto, shall be admissible in any legal proceeding.

11. Any modifications of this Agreement must be in writing and signed by representatives of both parties.

12. Each party shall bear its own costs and attorneys' fees associated with this case.

DATED this 10<sup>th</sup> day of August, 2009.

Respondents:

Holland Landscape & Tree Service, Inc.

By: [Signature]  
Sheldon Holland, Vice President

[Signature]  
Berry R. Holland

[Signature]  
Kathie A. Holland

[Signature]

James E. Toale, Esquire  
Attorney for Holland Landscape & Tree Service, Inc.,  
Berry R. Holland and Kathie A. Holland

[Signature]  
Kim D. Webster

[Signature]  
Kim D. Webster  
8-10-09

NOTARY PUBLIC-STATE OF FLORIDA  
Kim D. Webster  
Commission # DD718414  
Expires: NOV. 13, 2011  
BONDED THRU ATLANTIC BONDING CO., INC.

For the County:

[Signature]

Tina Crawford, AICP  
Zoning Administrator

[Signature]

David M. Pearce  
Assistant County Attorney

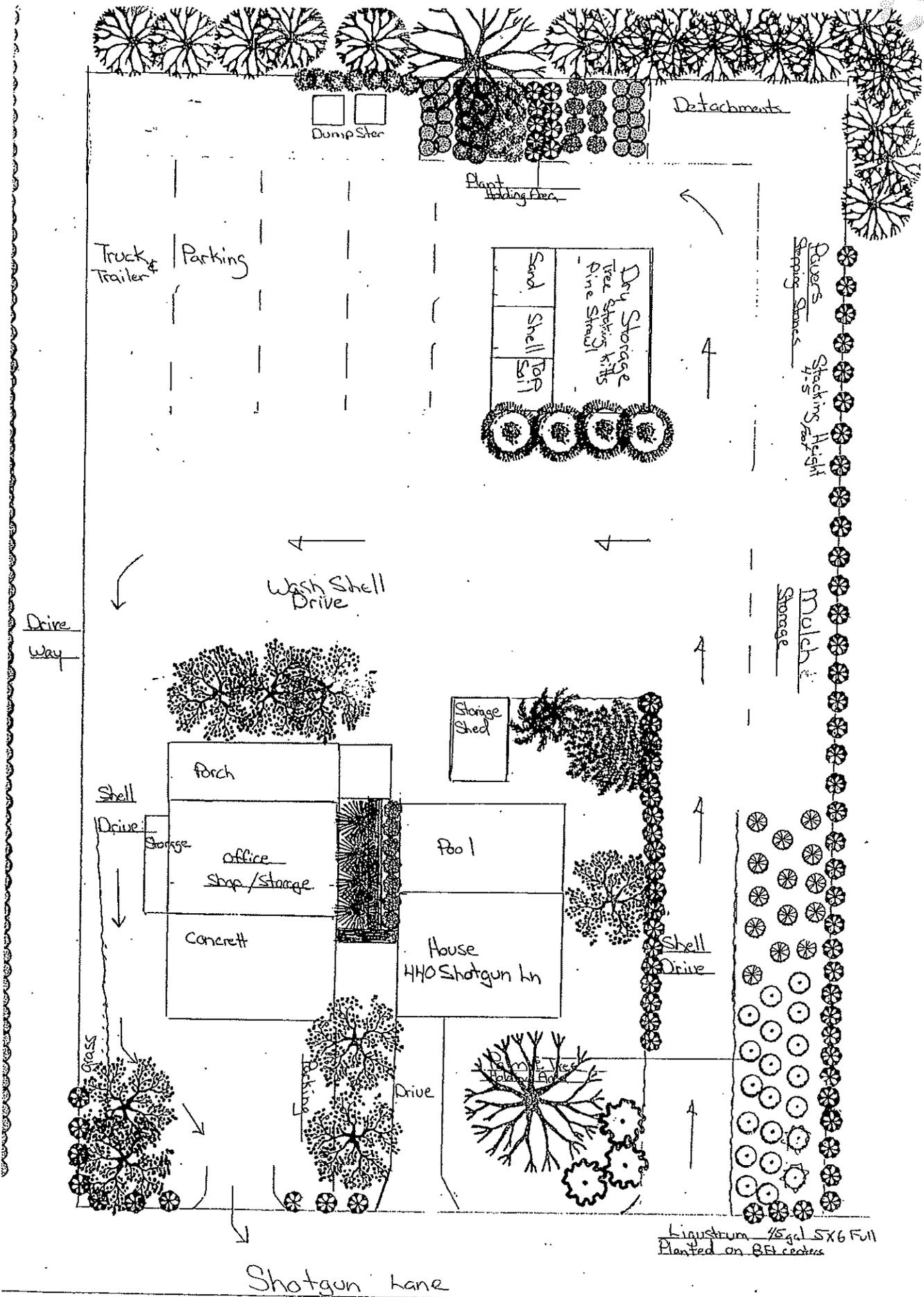
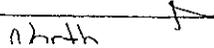
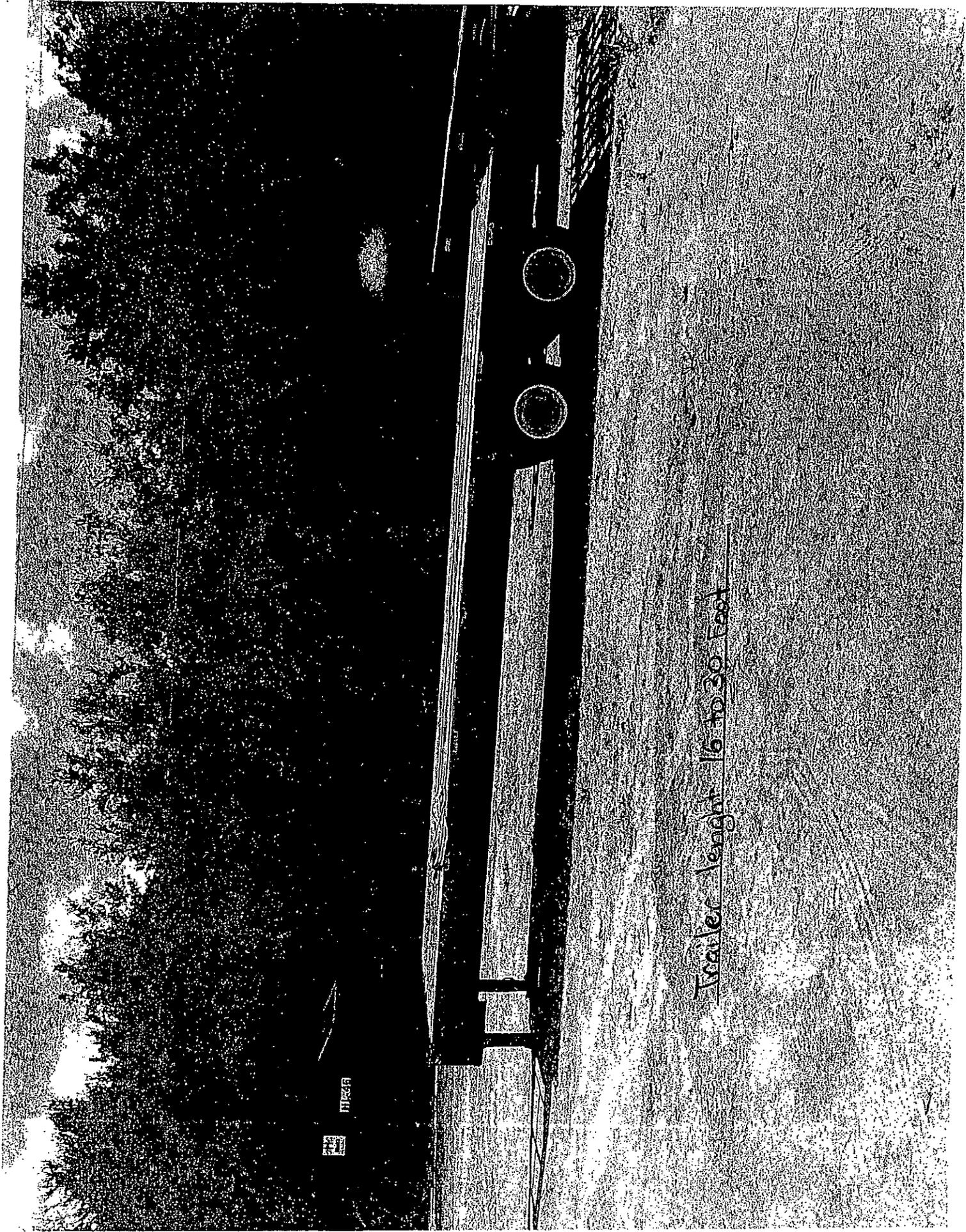


EXHIBIT "A"





1000  
1000

Trailer Length 16 to 30 Feet



Truck 6YKJ 36000

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL FILED  
IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT  
IN SARASOTA COUNTY, FLORIDA, ON THIS DATE  
MAY 19 1992  
BY: J. O. STEPHENSON  
DEPUTY CLERK

SPECIAL MAGISTRATE CASE NO. 2006-453  
CODE CASE NO. CZ-09-3210  
CODE ENFORCEMENT SPECIAL MAGISTRATE  
SARASOTA COUNTY, FLORIDA

RECORDED IN OFFICIAL RECORDS  
RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2009125711 1 PG  
2009 OCT 12 03:57 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#1210586

Petitioner

v.

Berry R. & Kathie A. Holland  
Holland Landscape & Tree Service  
440 Shotgun Lane  
Osprey, FL 34229



Respondent

Address of Violation:  
440 Shotgun Lane, Osprey, FL PID # 0149-11-0005

**CERTIFICATE OF COMPLIANCE**

I, Robert W. Lepley & Catherine Nucifora, certify that we have personally inspected the premises at the location referenced above and find that the Respondent is now in full compliance as of October 7, 2009.

*[Signature]*  
CODE ENFORCEMENT OFFICER

*[Signature]*  
CODE ENFORCEMENT OFFICER

DATE  
10/7/09

**ORDER OF SPECIAL MAGISTRATE**

**DISMISSAL - Before the Hearing** - As the violations set forth in the Affidavit of Violation have been corrected prior to the entry of a Compliance Order, this cause is hereby dismissed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,

Sarasota County Code Enforcement Special Magistrate

**COMPLIANCE - Following the Order** - As the Respondent has complied with the Special Magistrate's Compliance Order dated September 25, 2009, the above Certificate of Compliance is hereby entered into the record.

Dated this 9 day of October, 2009.

Sarasota County Code Enforcement Special Magistrate

**COMPLIANCE - Stay Penalty Order** - As the Respondent has complied with the Special Magistrate's Compliance order entered in this matter, the Penalty Order dated \_\_\_\_\_ is hereby stayed as of \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,

Sarasota County Code Enforcement Special Magistrate

STATE OF FLORIDA  
COUNTY OF SARASOTA  
I HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL FILES  
IN THIS OFFICE WITNESSED BY HAND AND OFFICIAL

SEAL THIS DATE 10/9/09  
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT  
EX-OFFICIO CLERK TO THE BOARD OF COUNTY  
COMMISSIONERS, SARASOTA COUNTY, FLORIDA

BY *[Signature]*  
DEPUTY CLERK

500489 ✓ 301  
Licenses-Permits-Fees

51310101

2009 OCT -9 PM 4:34  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY  
BOARD RECORDS  
FILED FOR RECORD

COPY

**ORDINANCE NO. 07-4721**

## ORDINANCE NO. 07-4721

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA TO REZONE A PARCEL OF REAL PROPERTY LOCATED ON THE SOUTH SIDE OF SYLVAN DRIVE WITH STREET ADDRESSES OF 1114, 1124 AND 1140 SYLVAN DRIVE FROM THE RESIDENTIAL SINGLE FAMILY-2 (RSF-2) ZONE DISTRICT TO THE RESIDENTIAL MULTIPLE FAMILY-1 (RMF-1) ZONE DISTRICT; APPROVING SITE PLAN APPLICATION NO. 06-SP-32 TO ALLOW CONSTRUCTION OF THREE BUILDINGS CONSISTING OF TWO RESIDENTIAL CONDOMINIUM UNITS PER BUILDING WITH TWO STORIES OF LIVING SPACE OVER ONE LEVEL OF PARKING PLUS A SEPARATE TWO STORY CLUB HOUSE BUILDING PLUS OFF STREET PARKING AS WELL AS THREE DOCKS ALONG WHITAKER BAYOU WITH A TOTAL OF SIX BOAT SLIPS; ALL AS MORE PARTICULARLY SET FORTH HEREIN; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bayou By The Bay, LLC, a Florida limited liability company as the fee simple owner of the subject property through James Toale, Esquire as its agent, all hereinafter collectively referred to as Applicant, has filed Application No. 06-RE-15 requesting a rezoning of said property from the Residential Single Family – 2 (RSF-2) Zone District to the Residential Multiple Family – 1 (RMF-1) Zone District; and

WHEREAS, Applicant has also filed Site Plan Application No. 06-SP-32 to permit construction of three buildings consisting of two residential condominium units per building with two stories of living space over one level of parking plus a separate two story club house building plus off street parking as well as three docks along Whitaker Bayou with a total of six boat slips upon the real property described herein; and

WHEREAS, Section IV-1102 (b), Zoning Code (2002) provides that the City Commission may accept the performance of conditions voluntarily offered by an Applicant in connection with an application for rezoning; and

WHEREAS, Applicant has proffered a condition relative to Rezone Application No. 06-RE-15 which would limit the development of the property described herein to the improvements depicted in Site Plan Application No. 06-SP-32; and

WHEREAS, Rezone Application No. 06-RE-15 shall be considered in accordance with the requirements and procedures set forth in Article IV, Division 11, of the Zoning Code (2002 edition) pertaining to rezoning; and

WHEREAS, Site Plan Application No. 06-SP-32 shall be considered according to the requirements and procedures set forth in Article IV, Division 5 of the Zoning Code (2002 edition) pertaining to site plans; and

WHEREAS, the Planning Board, acting in its capacity as the Local Planning Agency has held a duly noticed public hearing pertaining to Rezone Application No. 06-RE-15 and Site Plan Application No. 06-SP-32 on January 10, 2007; and

WHEREAS, the Planning Board, acting in its capacity as the Local Planning Agency has considered the written staff analysis and the testimony at the public hearing and specifically finds that Rezone Application No. 06-RE-15 and Site Plan Application No. 06-SP-32 satisfy the standards for review set forth in Section IV-1106 and IV-506, Zoning Code (2002 edition) and is consistent with the Sarasota City Plan (1998) and hereby recommends approval to the City Commission; and

WHEREAS, the City Commission has held a duly noticed public hearing pertaining to Rezone Application No. 06-RE-15 and Site Plan Application No. 06-SP-32 on \_\_\_\_\_, 2007.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The following described real property located in the corporate limits of the City of Sarasota, Sarasota County:

Lots 5 through 10, inclusive, Block 8, Sylvan Shores, according to the map or plat thereof as recorded in Plat Book 1, Pages 141 and 141A, Public Records of Sarasota County, Florida.

This is Parcel I.D. No. 2006-09-0010 located at 1114 Sylvan Drive plus Parcel I.D. No. 2006-09-0009 located at 1124 Sylvan Drive plus Parcel I.D. No. 2006-09-0006 located at 1140 Sylvan Drive.

is hereby reclassified from the Residential Single Family – 2 (RSF-2) Zone District to the Residential Multiple Family – 1 (RMF-1) Zone District and the Official Zoning Map of the City of Sarasota is amended accordingly, subject to all of the terms and conditions set out below.

Section 2. This rezoning is granted pursuant to Article IV, Division 11, of the Zoning Code (2002 edition) pertaining to rezoning and shall be subject to all of the terms, requirements and limitations thereof.

Section 3. Site Plan Approval is hereby granted as requested by Application No. 06-SP-32. The real property subject to the Site Plan approval is as follows:

Lots 5 through 10, inclusive, Block 8, Sylvan Shores, according to the map or plat thereof as recorded in Plat Book 1, Pages 141 and 141A, Public Records of Sarasota County, Florida.

This is Parcel I.D. No. 2006-09-0010 located at 1114 Sylvan Drive plus Parcel I.D. No. 2006-09-0009 located at 1124 Sylvan Drive plus Parcel I.D. No. 2006-09-0006 located at 1140 Sylvan Drive.

Section 4. Approvals granted by this Ordinance are expressly conditioned upon the location and construction of the proposed development in conformity with the site plan presented under Application No. 06-SP-32. The Site Plan and all related development and construction plans shall be in compliance with the plans labeled Bayou By The Bay and date stamped received by the Planning and Redevelopment Department on January 4, 2007.

Section 5. The approvals granted by this Ordinance with regard to Rezone Application No. 06-RE-15 and Site Plan Application No. 06-SP-32 are subject to the following conditions:

- A. The development of the rezoned property shall proceed only in conformity with the Site Plan filed with Application No. 06-SP-32. The Site Plan and all related development and construction plans for the new buildings shall be in compliance with the plans labeled Bayou By The Bay and date stamped received January 4, 2007 by the Planning and Redevelopment Department. All final building plans shall be subject to a full review for compliance with applicable codes and development approvals by the Director of Building, Zoning and Code Compliance.
- B. Prior to the issuance of the first building permit, the Applicant shall submit a plat consolidation to the Department of Building, Zoning and Code Compliance.
- C. As a condition precedent to issuance of a building permit allowing construction of three docks along Whitaker Bayou with a total of six boat slips, as depicted in Site Plan Application No. 06-SP-32, Applicant shall obtain any and all regulatory permits and approvals required to construct such docks. This shall include approval by the Florida Department of Environmental Protection as well as any other relevant agency. Additionally, Applicant shall establish a right to occupy the submerged lands within which said docks will be constructed.

: Section 6. This Ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

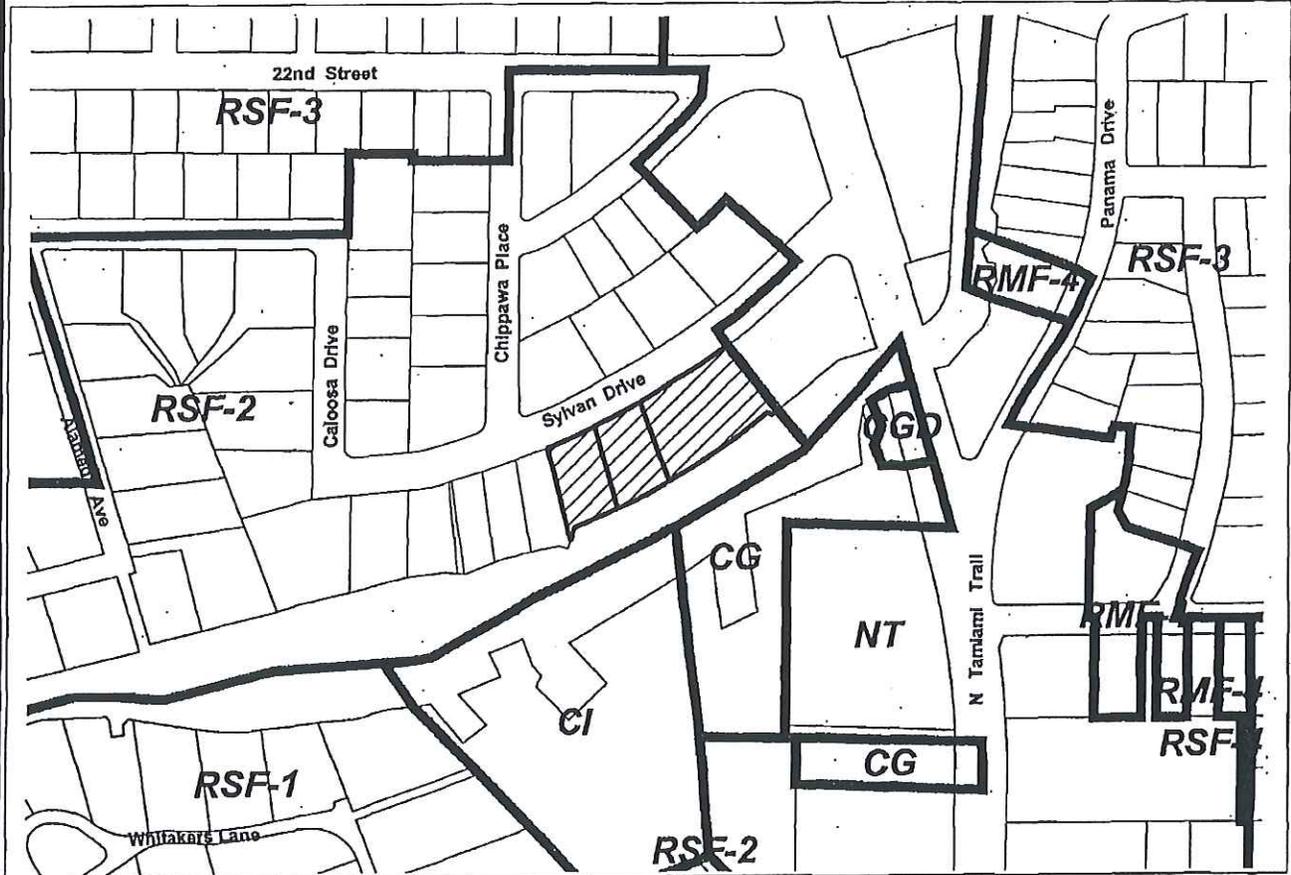
PASSED on second reading and finally adopted this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Fredd "Glossie" Atkins, Mayor

ATTEST:

\_\_\_\_\_  
City Auditor and Clerk

wcityatty/mac/pn/ord-07-4721/1/11/07



## ZONING/SUBDIVISION MAP

### PETITION NO. 06-SP-32, 06-RE-15



Source: Zoning Q.S.  
Map 17

 Project Site

By: Planning & Redevelopment Dept.  
Date: December 19, 2006

Zone Districts:

- CG - Commercial, General
- CI - Commercial, Intensive
- NT - North Trail
- OCD - Office Community District
- RMF-4 - Residential, Multi-family (18 units/acre)
- RSF-1 - Residential, Single-family (2.9 units/acre)
- RSF-2 - Residential, Single-family (4.3 units/acre)
- RSF-3 - Residential, Single-family (5.8 units/acre)
- RSF-4 - Residential, Single-family (8.7 units/acre)



COPY

**Re: Whitaker Views Subdivision**

**ORDINANCE NO. 04-4563**

COPY



January 12, 2006

Jim Toale  
2750 Ringling Blvd. Ste. 3  
Sarasota, FL 34236

Re: Whitaker Views Subdivision, 04-SUB-02, 04-SP-29 and 04-SV-03

Dear Mr. De Loach and Mr. Toale,

Enclosed please find a copy of the approved site plan for your development, Whitaker Views. Also enclosed is City of Sarasota Ordinance No. 04-4563 approving the street vacation which was adopted December 12, 2005 as well as two Planning Board/Local Planning Agency resolutions approving the Subdivision plat and the site plan respectively.

Please contact Ms. Gretchen Schneider, at (941) 954-4156 if you have additional questions or require further information.

Thank you,

Susan Montgomery  
Senior Planning Technician

Enclosures

Cc: Billy Robinson, City Auditor and Clerk  
Bob Luedeka, Zoning Analyst

## ORDINANCE NO. 04-4563

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA TO CONDITIONALLY VACATE A CERTAIN PLATTED BUT UNIMPROVED 15 FOOT WIDE RIGHT OF WAY LOCATED EASTERLY OF THE INTERSECTION OF PALMETTO LANE AND WHITAKERS LANE, BOUNDED ON THE SOUTH BY LOTS 21 AND 22, AND BOUNDED ON THE NORTH BY LOTS 23 AND 24, TAHITI PARK, PLAT BOOK 4, PAGE 88, LOCATED BETWEEN 1700 PALMETTO LANE AND 1728 PALMETTO LANE, ALL AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Whitaker Views, LLC, a Florida Limited Liability Company, as fee simple owner of the contiguous real property, through its agent, James E. Toale, Esq., hereinafter collectively referred to as the Applicant, has petitioned the City Commission of the City of Sarasota by Application No. 04-SV-03 to close and vacate a certain platted but unimproved 15 foot wide right of way located easterly of the intersection of Palmetto Lane and Whitakers Lane, bounded on the south by Lots 21 and 22 and bounded on the north by Lots 23 and 24, Tahiti Park, Plat Book 4, Page 88, located between 1700 Palmetto Lane and 1728 Palmetto Lane, all as is more particularly described herein; and

WHEREAS, the Planning Board, acting in its capacity as the Local Planning Agency held a duly noticed public hearing pertaining to Street Vacation Application No. 04-SV-03 on May 11, 2005; and

WHEREAS, the Planning Board has considered Street Vacation Application No. 04-SV-03 and has found the requested street vacation to be consistent with the Standards for Review in Section IV-1306, Zoning Code (2002); and

WHEREAS, the City Commission has held a duly noticed public hearing on the 20th day of June, 2005 and received the recommendation of the Planning Board and the written staff analysis, as well as having received additional public testimony and has determined that:

- A. The area of public right-of-way described herein provides no benefit to the general public as it is unimproved and is not used by the general public.
- B. There is no necessary rearrangement of streets, rights-of-way, easements or non-fee interests which will be required to secure a regular and harmonious system for traffic circulation if the area of public right-of-way described herein is vacated.

- C. The area of public right-of-way described herein has not been improved. Furthermore, it is not envisioned that the area of right-of-way described herein will be improved in the future as it does not meet current City standards and as it dead ends into unplatted land adjacent to the property of Applicant. Any necessary utility, ingress and egress easements will be provided as a condition precedent to second reading of this Ordinance.
- D. The vacation of public right-of-way described herein is proposed in conjunction with Subdivision Application No. 04-SUB-02 and Minor Conditional Use Application No.04-MCU-05 and Site Plan Application No. 04-SP-29 so as to facilitate creation of a residential subdivision with four community boat docks.
- E. Based upon all of the foregoing, as well as the public testimony, and because of the conditions precedent to second reading of this Ordinance set forth herein, and based upon the conditions of associated Applications No. 04-SUB-02, 04-MCU-05 and 04-SP-29, the City Commission hereby finds that the proposed vacation of the area of public right-of-way described herein is in the public interest;

thus concluding that Street Vacation Application No. 04-SV-03 would serve the public interest.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. That certain platted but unimproved 15 foot wide right-of-way located easterly of the intersection of Palmetto Lane and Whitakers Lane, bounded on the south by Lots 21 and 22 and bounded on the north by Lots 23 and 24, Tahiti Park, Plat Book 4, Page 88, located between 1700 Palmetto Lane and 1728 Palmetto Lane as shown and depicted in the sketch and legal description attached hereto and incorporated by reference herein as Exhibit A shall be and the same is hereby closed, vacated and discontinued.

Section 2. The vacation of public right-of-way herein shall be subject to the following conditions precedent;

- A. The Applicant shall execute and record in the Official Records of Sarasota County a Utility Easement in favor of the City of Sarasota, Florida for the purposes of maintaining and repairing any

existing potable water, sanitary sewer, reuse water or storm water facilities within the portion of right of way proposed to be vacated. Alternatively, the Applicant may present written evidence that the City of Sarasota, Florida has no facilities within the portions of public rights-of-way proposed to be vacated. In the event that the Applicant's plans for development of the vacated portion of right of way requires the relocation of any of the above-described facilities, then all of the expenses of construction, including design costs for relocation, shall be borne by Applicant. The design and location of the potable water, sanitary sewer, reuse water and storm water facilities shall be subject to the approval of the City of Sarasota, Florida. The Applicant shall execute a Utility Easement in favor of the City of Sarasota, Florida for the purpose of maintaining and repairing the re-located potable water, sanitary sewer, reuse water and storm water facilities. Performance of this condition shall be accomplished in accordance with the requirements of all applicable codes and ordinances of the City of Sarasota, Florida and with the requirements of any department of the City which would process the permit for utility relocation. The execution and recording of the utility easement required by this subsection shall be accomplished as a condition precedent to second reading of this street vacation ordinance.

- B. The Applicant shall execute and record in the Official Records of Sarasota County a Utility Easement in favor of the Florida Power and Light Company for the purposes of maintaining and repairing any existing electrical facilities within the portion of right of way proposed to be vacated. Alternatively, the Applicant may present written evidence that Florida Power and Light Company has no facilities within the portions of public rights-of-way proposed to be vacated. In the event that the Applicant's plans for development of the vacated portion of right of way requires the relocation of any of the above-described facilities, then all of the expenses of construction, including design costs for relocation, shall be borne by Applicant. The design and location of the electrical facilities shall be subject to the approval of the City of Sarasota, Florida. The Applicant shall execute a Utility Easement in favor of Florida Power and Light Company for the purpose of maintaining and repairing the re-located electrical facilities. Performance of this condition shall be accomplished in accordance with the requirements of all applicable codes and ordinances of the City of Sarasota, Florida and with the requirements of any department of the City which would process the permit for utility relocation. The execution and recording of the utility easement required by this subsection shall be accomplished as a condition precedent to second reading of this street vacation ordinance.

- C. The Applicant shall execute and record in the Official Records of Sarasota County a Utility Easement in favor of Verizon Florida for the purposes of maintaining and repairing any existing telephone facilities within the portion of right of way proposed to be vacated. Alternatively, the Applicant may present written evidence that Verizon Florida has no facilities within the portions of public rights-of-way proposed to be vacated. In the event that the Applicant's plans for development of the vacated portion of right of way requires the relocation of any of the above-described facilities, then all of the expenses of construction, including design costs for relocation, shall be borne by Applicant. The design and location of the telephone facilities shall be subject to the approval of the City of Sarasota, Florida. The Applicant shall execute a Utility Easement in favor of Verizon Florida for the purpose of maintaining and repairing the re-located telephone facilities. Performance of this condition shall be accomplished in accordance with the requirements of all applicable codes and ordinances of the City of Sarasota, Florida and with the requirements of any department of the City which would process the permit for utility relocation. The execution and recording of the utility easement required by this subsection shall be accomplished as a condition precedent to second reading of this street vacation ordinance.
- D. The Applicant shall execute and record in the Official Records of Sarasota County a Utility Easement in favor of Comcast Cablevision of Southwest Florida for the purposes of maintaining and repairing any existing cable television facilities within the portion of right of way proposed to be vacated. Alternatively, the Applicant may present written evidence that Comcast Cablevision of Southwest Florida has no facilities within the portions of public rights-of-way proposed to be vacated. In the event that the Applicant's plans for development of the vacated portion of right of way requires the relocation of any of the above-described facilities, then all of the expenses of construction, including design costs for relocation, shall be borne by Applicant. The design and location of the cable television facilities shall be subject to the approval of the City of Sarasota, Florida. The Applicant shall execute a Utility Easement in favor of Comcast Cablevision of Southwest Florida for the purpose of maintaining and repairing the re-located cable television facilities. Performance of this condition shall be accomplished in accordance with the requirements of all applicable codes and ordinances of the City of Sarasota, Florida and with the requirements of any department of the City which would process the permit for utility relocation. The execution and recording of the utility easement required by this subsection shall

be accomplished as a condition precedent to second reading of this street vacation ordinance.

- E. The Applicant shall execute and record in the Official Records of Sarasota County a Utility Easement in favor of TECO/Peoples Gas for the purposes of maintaining and repairing any existing gas facilities within the portion of right of way proposed to be vacated. Alternatively, the Applicant may present written evidence that TECO/Peoples Gas has no facilities within the portions of public rights-of-way proposed to be vacated. In the event that the Applicant's plans for development of the vacated portion of right of way requires the relocation of any of the above-described facilities, then all of the expenses of construction, including design costs for relocation, shall be borne by Applicant. The design and location of the gas facilities shall be subject to the approval of the City of Sarasota, Florida. The Applicant shall execute a Utility Easement in favor of TECO/Peoples Gas for the purpose of maintaining and repairing the re-located gas facilities. Performance of this condition shall be accomplished in accordance with the requirements of all applicable codes and ordinances of the City of Sarasota, Florida and with the requirements of any department of the City which would process the permit for utility relocation. The execution and recording of the utility easement required by this subsection shall be accomplished as a condition precedent to second reading of this street vacation ordinance.
- F. The Applicant shall execute an Ingress and Egress Easement for the private road depicted in the site plan approved in Site Plan Application No. 04-SP-29 which will allow emergency and other public vehicles ingress and egress to and from the lots located within the Whitaker Views subdivision. The fully-executed original Ingress and Egress Easement shall be provided to the office of the City Attorney to be held in escrow. The City Attorney's Office shall be authorized to record the original Ingress and Egress Easement in the Official Records of Sarasota County at such time as the first building permit is issued for the Whitaker Views subdivision depicted in Site Plan Application No. 04-SP-29 and Subdivision Application No. 04-SUB-02. The execution and provision to the City Attorney's Office of the original Ingress and Egress Easement shall be accomplished as a condition precedent to second reading of this street vacation ordinance.
- G. The Applicant shall execute an Agreement to Create Easement for MURT which will allow the City to construct the MURT within the 50 foot wide easement area depicted in Site Plan Application No. 04-SP-29. In the event the City constructs the MURT through

the easement area depicted in Site Plan Application No. 04-SP-29, Applicant covenants to allow the general public unobstructed access to the MURT area within the easement area depicted in Site Plan Application No. 04-SP-29. The fully executed original Agreement to Create Easement for MURT shall be provided to the Office of the City Attorney to be held in escrow. The City Attorney's office shall be authorized to record the original Agreement in the Official Records of Sarasota County at such time as the first building permit is issued for the Whitaker Views Subdivision depicted in Site Plan Application No. 04-SP-29 and Subdivision Application No. 04-SUB-02. The execution and provision to the City Attorney's office of the original Agreement shall be accomplished as a condition precedent to second reading of this Street Vacation Ordinance. The Agreement shall provide that should the MURT not be routed or created at the eastern and western terminus of the easement area depicted in Site Plan Application No. 04-SP-29 prior to July 1, 2012, the Agreement to Create Easement for MURT shall terminate and expire.

Section 3. Should any section, sentence, clause, part or provision of this Ordinance be declared invalid or unenforceable, by a court of competent jurisdiction, the same shall not affect the validity of this Ordinance as a whole, or any part hereof other than the part declared to be invalid. Said provision declared to be invalid shall be deemed severed from the remaining provisions of this Ordinance.

Section 4. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

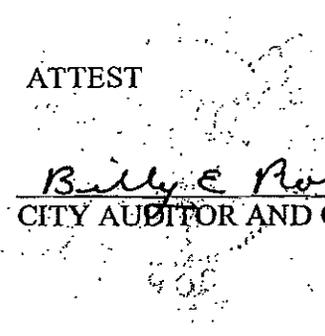
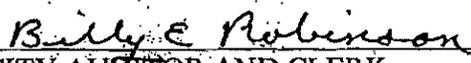
Section 5. This Ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida, this 6th day of September, 2005.

PASSED on second reading and finally adopted this 12th day of December, 2005.

  
\_\_\_\_\_  
Mary Anne Servian, Mayor

ATTEST

  
  
\_\_\_\_\_  
CITY AUDITOR AND CLERK

wcityatty/mac/pn/ordinance/04-4563/12/13/05

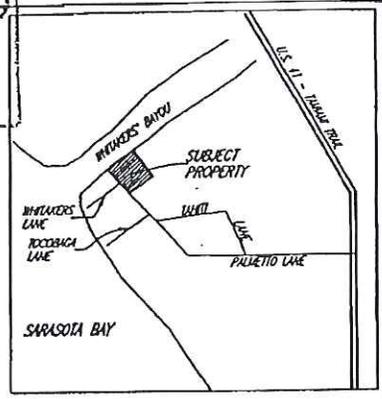
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LEGAL DESCRIPTION

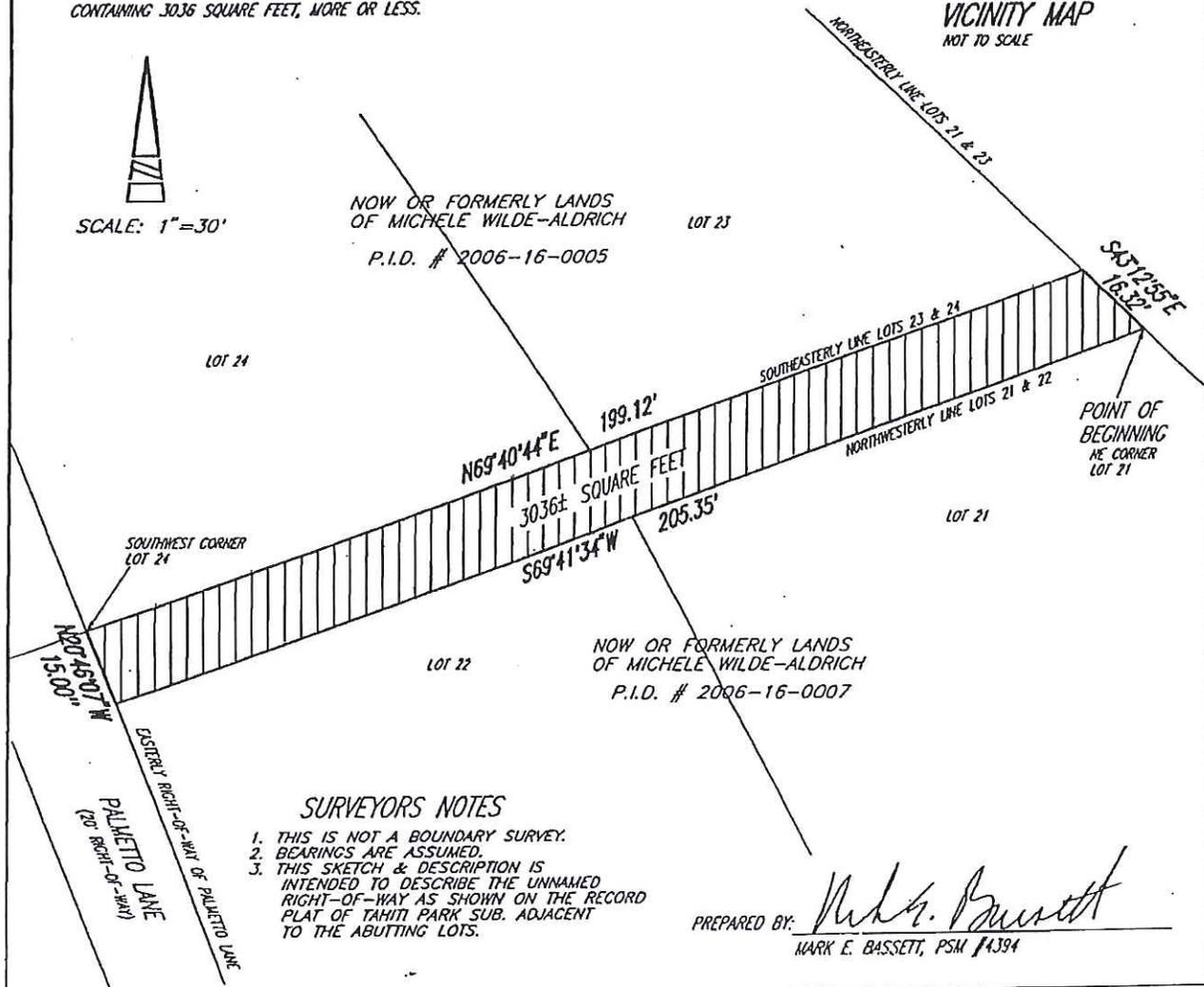
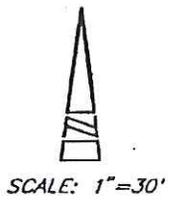
A STRIP OF LAND BEING A PORTION OF UNIMPROVED 15 FOOT RIGHT-OF-WAY LYING BETWEEN LOTS 21, 22, 23, & 24, TAHITI PARK, AS PER THE PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 88, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 21 OF THE AFOREMENTIONED TAHITI PARK; THENCE S69°41'34"W, ALONG THE NORTHWESTERLY LINE OF LOTS 21 & 22, 205.35 FEET TO THE EASTERLY RIGHT-OF-WAY OF PALMETTO LANE (20' RIGHT-OF-WAY); THENCE N20°46'07"W, ALONG SAID RIGHT-OF-WAY, 15.00 FEET TO THE SOUTHWEST CORNER OF LOT 24; THENCE LEAVING SAID RIGHT-OF-WAY, AND ALONG THE SOUTHEASTERLY LINE OF LOT 23 & 24, N69°40'44"E, 199.12 FEET TO THE NORTHEASTERLY LINE OF LOTS 21 & 23; THENCE S43°12'55"E, ALONG SAID NORTHEASTERLY LINE, 16.32 FEET TO THE POINT OF BEGINNING.

CONTAINING 3036 SQUARE FEET, MORE OR LESS.



VICINITY MAP  
 NOT TO SCALE



SURVEYORS NOTES

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS ARE ASSUMED.
3. THIS SKETCH & DESCRIPTION IS INTENDED TO DESCRIBE THE UNNAMED RIGHT-OF-WAY AS SHOWN ON THE RECORD PLAT OF TAHITI PARK SUB. ADJACENT TO THE ABUTTING LOTS.

PREPARED BY: *Mark E. Bassett*  
 MARK E. BASSETT, PSM #4394

DATE 2/18/04 DWN BY T.P. CHK BY MEB SCALE N.T.S. PROJECT NO: 120-2004	REVISIONS   	<p align="center"><b>MARK E. BASSETT</b>                  LAND SURVEYING &amp; MAPPING, INC.                  L.B. # 7023</p> <p align="center">4017 BEE RIDGE ROAD, SUITE B-SARASOTA, FL 34233                  PHONE (941) 921-9794 FAX (941) 922-1866</p>	SKETCH & LEGAL DESCRIPTION FOR UNNAMED RIGHT-OF-WAY TAHITI PARK SUBDIVISION
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## RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF SARASOTA, FLORIDA RECOMMENDING APPROVAL OF THE FINAL SUBDIVISION PLAT SUBMITTED WITH APPLICATION NO. 04-SUB-02 DEPICTING A FOUR LOT SINGLE FAMILY SUBDIVISION TO BE KNOWN AS WHITAKER VIEWS LOCATED ON PROPERTY IN THE RESIDENTIAL SINGLE FAMILY - 1 (RSF-1) ZONE DISTRICT; SETTING FORTH CONDITIONS OF THE PLANNING BOARD'S RECOMMENDATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Paul Eisenbarth and Whitaker Views, LLC, as the fee simple owners of the real property described in Subdivision Plat Application No. 04-SUB-02, through their agent James E. Toale, Esquire, hereinafter collectively referred to as the Applicant, have filed Subdivision Plat Application No. 04-SUB-02 in order to obtain approval of a final subdivision plat; and

WHEREAS, Subdivision Plat Application No. 04-SUB-02 depicts a proposed four lot single family subdivision to be constructed upon certain property in the Residential Single Family - 1 District (RSF-1) Zone District (hereinafter referred to as the Subdivision); and

WHEREAS, The Planning Board, acting in its capacity as the Local Planning Agency, has received the recommendation of the Planning staff to grant Subdivision Plat Application No. 04-SUB-02 with conditions as detailed in the Planning Staff Report dated April 25, 2005; and

WHEREAS, The Planning Board, acting as the Local Planning Agency, has held a duly noticed public hearing pertaining to Subdivision Plat Application No. 04-SUB-02 on May 11, 2005; and

WHEREAS, The Planning Board, acting in its capacity as the Local Planning Agency, after conducting a duly noticed public hearing, has found Subdivision Plat Application No. 04-SUB-02 consistent with the City of Sarasota Tree Protection Ordinance and found said Application satisfies the applicable standards for review in the Zoning Code and Engineering Design Criteria Manual for final subdivision plats and recommended approval of said Application with conditions, as detailed in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The final subdivision plat submitted with Application No. 04-SUB-02 for the construction of a four lot single family subdivision proposed to be constructed on the real property described below is hereby recommended for approval, subject to the conditions recited in Section 2 below:

Lots 20, 21, 22, 23 and 24, TAHITI PARK, according to the map or plat thereof as recorded in Plat Book 4, Page 88 of the Public Records of Sarasota County, Florida.

The above-referenced parcel of real property is referred to by the Sarasota County Property Appraiser's office as Parcel I.D. Nos 2006-16-0005; 2006-16-0007; and 2006-16-0009. The above referenced parcel of real property shall hereinafter be referred to as the Property.

Section 2. The recommendation for approval of Subdivision Plat Application No. 04-SUB-02 is subject to the following conditions:

- A. The site plan and all related development and construction plans shall be in compliance with those labeled Whitaker Views Site Development Plan date stamped as received by the Planning and Redevelopment Department on April 27, 2005, except that the location of the two dock fingers for the four boat docks shall be as depicted on the Site Plan sheet date stamped as received by the Planning and Redevelopment Department on September 27, 2005. All final construction plans shall be subject to full review for compliance with applicable codes and development approvals by the Director of Building, Zoning and Code Compliance.
- B. Prior to the issuance of the first building permit for the Whitaker Views Subdivision pursuant to Application No. 04-SUB-02 or 04-SP-29, Applicant shall record in the Official Records of Sarasota County, Florida an Easement Agreement to the benefit of the City of Sarasota, Florida for the 50 foot wide private ingress/egress driveway depicted in said Applications. The Easement Agreement shall allow access for emergency and other public vehicles to the 50 foot wide easement area shown in Application No. 04-SP-29. This shall include public vehicles necessary for stormwater maintenance of the stormwater ditch on real property located to the east of and adjacent to the Property.

- C. The Applicant shall execute an Agreement to Create Easement for MURT which will allow the City to construct the MURT within the 50 foot wide easement area depicted in Site Plan Application No. 04-SP-29. In the event the City constructs the MURT through the easement area depicted in Site Plan Application No. 04-SP-29, Applicant covenants to allow the general public unobstructed access to the MURT area within the easement area depicted in Site Plan Application No. 04-SP-29. The fully executed original Agreement shall be provided to the Office of the City Attorney to be held in escrow. The City Attorney's office shall be authorized to record the original Agreement in the Official Records of Sarasota County at such time as the first building permit is issued for the Whitaker Views Subdivision depicted in Site Plan Application No. 04-SP-29 and Subdivision Application No. 04-SUB-02. The Agreement shall provide that should the MURT not be routed or created at the eastern and western terminus of the easement area depicted in Site Plan Application No. 04-SP-29 prior to July 1, 2012, the Agreement to Create Easement for MURT shall terminate and expire.
- D. Prior to the issuance of the first building permit for the Whitaker Views Subdivision pursuant to Application No. 04-SUB-02 or 04-SP-29, Applicant shall record in the Official Records of Sarasota County, Florida the Declaration of Restrictions for Whitaker Views.
- E. Prior to the issuance of the first building permit for each of the four lots depicted within the Whitaker Views Subdivision pursuant to Application No. 04-SUB-02 and 04-SP-29, Applicant shall submit a site landscaping plan to the Director of Building, Zoning and Code Compliance for review and approval. The site landscaping plan shall depict the trees to be preserved, relocated or removed with regard to the specific lot within the Whitaker Views Subdivision.
- F. As a condition precedent to the issuance of the first building permit within the Whitaker Views Subdivision pursuant to Application No. 04-SUB-02 or 04-SP-29, the Applicant shall obtain an exemption and/or approval from the Florida State Department of Environmental Protection with regard to the seawall depicted within said applications. The seawall shall not exceed five feet in elevation above mean low water.
- G. All construction on lots in the Whitaker Views Subdivision shall comply with the requirements of Article VI, Section VI-102.u.(1) and (2), Zoning Code (2002 edition) regarding maximum height and daylight plane regulations for single family dwellings.

Section 3. This Resolution shall take effect immediately upon adoption.

## RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF SARASOTA, FLORIDA GRANTING MINOR CONDITIONAL USE APPLICATION NO. 04-MCU-05 AND SITE PLAN APPLICATION NO. 04-SP-29 TO ALLOW FOUR COMMUNITY BOAT DOCKS TO BE LOCATED WITHIN THE NEWLY CREATED WHITAKER VIEWS SUBDIVISION AT 1650, 1700 AND 1728 PALMETTO LANE SAID COMMUNITY BOAT DOCKS BEING A MINOR CONDITIONAL USE ON THE PROPERTY LOCATED IN THE RESIDENTIAL SINGLE FAMILY - 1 DISTRICT (RSF-1) ZONE DISTRICT; PROVIDING FOR CONDITIONS OF APPROVAL AND PROVIDING THAT SAID MINOR CONDITIONAL USE IS REQUIRED TO BE CONSTRUCTED AND DEVELOPED AND LOCATED IN ACCORDANCE WITH THE SITE PLAN SUBMITTED WITH APPLICATION NO 04-SP-29; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Paul Eisenbarth and Whitaker Views, LLC, a Florida limited liability company, as fee simple owners, through their agent, James E. Toale, Esquire (hereinafter collectively referred to as the Applicant) have filed Minor Conditional Use Application No. 04-MCU-05 to allow four community boat docks within the newly created Whitaker Views Subdivision contained in Site Plan Application No. 04-SP-29 located at 1650, 1700 and 1728 Palmetto Lane in the Residential Single Family - 1 District (RSF-1) Zone District; and

WHEREAS, The Planning Board, acting in its capacity as the Local Planning Agency, has received the recommendation of the Planning staff to grant Minor Conditional Use Application No. 04-MCU-05 and Site Plan Application No. 04-SP-29 with conditions as detailed in the Planning staff report dated April 25, 2005; and

WHEREAS, The Planning Board, acting as the Local Planning Agency has found Applications No. 04-MCU-05 and 04-SP-29 consistent with the Sarasota City Plan (1998), the Tree Protection Ordinance and has found the Applications to satisfy the applicable Standards for Review in the Zoning Code and hereby grants the Applications, subject to the conditions set forth herein; and

WHEREAS, Section IV-904 (a) (1) Zoning Code (2002 ed.) provides that action taken by the Planning Board to grant a Minor Conditional Use or to grant a Minor Conditional Use with conditions shall be documented in the form of a Resolution containing a legal description of the real property to which the Minor Conditional Use applies, together with the terms of the Minor Conditional Use and any additional conditions imposed; and

WHEREAS, By the adoption of this Resolution, the Planning Board has satisfied the requirements of the aforementioned Section IV-904 (a)(1); and

WHEREAS, The Planning Board, acting as the Local Planning Agency, after conducting a duly noticed public hearing, hereby grants Minor Conditional Use Application No. 04-MCU-05 and Site Plan Application No. 04-SP-29 as more particularly set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF SARASOTA, FLORIDA:

Section 1. This Resolution applies to that certain real property commonly known as 1650, 1700 and 1728 Palmetto Lane, more particularly described as follows:

Lots 20, 21, 22, 23 and 24, TAHITI PARK, according to the map or plat thereof as recorded in Plat Book 4, Page 88 of the Public Records of Sarasota County, Florida.

The above-referenced parcel of real property is referred to by the Sarasota County Property Appraiser's office as Parcel I.D. Nos 2006-16-0005; 2006-16-0007; 2006-16-0009. The above referenced parcel of real property shall hereinafter be referred to as the Property. There is hereby granted for the Property a minor conditional use to allow four community boat docks to serve the Property. Said boat docks are permitted as a minor conditional use in the Residential Single Family - 1 District (RSF-1) Zone District. Application Nos. 04-MCU-06 and 04-SP-29 are hereby approved.

Section 2. The grant by the Planning Board regarding Minor Conditional Use Application No. 04-MCU-05 and Site Plan Application No. 04-SP-29 is subject to the following conditions:

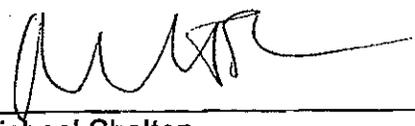
- A. The site plan and all related development and construction plans shall be in compliance with those labeled Whitaker Views Site Development Plan date stamped as received by the Planning and Redevelopment Department on April 27, 2005, except that the location of the two dock fingers for the four boat docks shall be as depicted on the Site Plan sheet date stamped as received by the Planning and Redevelopment

Department on September 27, 2005. All final construction plans shall be subject to full review for compliance with applicable codes and development approvals by the Director of Building, Zoning and Code Compliance. The number and location of the community boat docks shall be as depicted on Site Plan Application No. 04-SP-29.

- B. As a condition precedent to the issuance of the first building permit for the Whitaker Views Subdivision as depicted in Site Plan Application No. 04-SP-29, Applicant shall demonstrate to the City that all easements depicted on said site plan have been recorded in the Official Records of Sarasota County either through dedication on the Plat of Whitaker Views Subdivision itself or through recording of separate easements. The 15 foot wide utility easement to be granted to the City of Sarasota shall be through recording of a separate easement document. The easements depicted on Site Plan Application No. 04-SP-29 include, but are not limited to utility and drainage easements as well as the six foot wide community dock access easement by which owners within the Whitaker Views Subdivision shall obtain access to the community boat docks.

Section 3. This Resolution shall take effect immediately upon adoption.

ADOPTED by the Planning Board as the Local Planning Agency of the City of Sarasota, Florida at the Planning Board meeting of May 11, 2005.



\_\_\_\_\_  
Michael Shelton  
Chairman of the Planning Board/Local  
Planning Agency

ATTEST:



\_\_\_\_\_  
Jane Robinson, Secretary  
Planning Board/Director of  
Planning and Redevelopment

