



City of North Port

RESOLUTION NO. 2021-R-55

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AUTHORIZING SETTLEMENT OF A FORFEITURE ACTION IN SARASOTA COUNTY CIRCUIT COURT CASE NO. 2020-CA-4734, REGARDING SEIZURE AND FORFEITURE OF THE REAL PROPERTY LOCATED AT 1867 CLARINET AVENUE, NORTH PORT, FLORIDA, AND DESCRIBED AS LOTS 11 AND 16, BLOCK 1644, 33RD ADDITION TO PORT CHARLOTTE SUBDIVISION, SARASOTA COUNTY PROPERTY APPRAISER PARCEL IDENTIFICATION NUMBER 1137164411; ACCEPTING OWNERSHIP OF THE PROPERTY; AUTHORIZING SALE OF THE PROPERTY; INCORPORATING RECITALS; PROVIDING FOR FILING OF DOCUMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 4, 2020, the City filed a Complaint for Forfeiture in Sarasota County Circuit Court Case No. 2020-CA-4734, alleging the real property located at 1867 Clarinet Avenue, North Port (the "Property") was used in violation of the Florida Contraband Forfeiture Act; and

WHEREAS, the Property owner and the City desire to settle this litigation; and

WHEREAS, pursuant to Instrument No. 2016075765 of the Official Records of the Sarasota County Clerk of the Circuit Court ("Mortgage Lien"), the Grata Chan Trust holds a mortgage lien secured by Lot 11, Block 1644, 33rd Addition to Port Charlotte; and

WHEREAS, according to the mortgage holder, as of October 2021, the payoff amount of the Mortgage Lien is approximately \$56,500.00; and

WHEREAS, an informal title search conducted by the City revealed no additional liens, except a city lien in the amount of \$5,267.00 for a code enforcement action; and

WHEREAS, according to the Sarasota County Property Appraiser, the Property has a 2021 assessed value of \$275,500.00; and

WHEREAS, the Property owner has agreed to transfer ownership of the Property to the City of North Port, provided that upon selling the Property, the City resolves the amounts owed under the mortgage lien; and

WHEREAS, Florida Statutes Section 932.7055(1)(b) requires that real property obtained in a forfeiture must be sold in a commercially reasonable manner after appraisal by listing the property on the market; and

WHEREAS, Ordinance No. 2015-43, Section 3 provides that all claims made by the City in an amount exceeding \$100,000 will be presented to the City Commission for discussion and authorization to settle.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – INCORPORATION OF RECITALS

1.01 The above recitals are true and correct and are incorporated in this resolution by reference.

SECTION 2 – RESOLUTION

2.01 The City Commission authorizes the City Manager to enter into the Contraband Forfeiture Agreement attached as Exhibit A and to settle Sarasota County Circuit Court Case No. 2020-CA-4734 in exchange for full title to the real property bearing Sarasota County Property Appraiser parcel identification number 1137164411, located on 1867 Clarinet Avenue in the City of North Port, and legally described as:

Lots 11 and 16, Block 1644, 33rd Addition to Port Charlotte Subdivision, according to the Plat recorded in Plat Book 15, Page 17 of the Official Records of the Sarasota County Clerk of the Circuit Court.

Relevant portions of the plat are attached as Exhibit B.

2.02 Transfer of ownership from the current owner of the Property to the City of North Port shall be made via Warranty Deed, or another instrument acceptable to the City Attorney. The City recognizes that the Property will be transferred subject to all outstanding liens, including the Mortgage Lien.

2.03 After documentation transferring ownership to the City is final, the City Commission authorizes and directs the City Manager or designee to sell the Property in accordance with the Florida Contraband Forfeiture Act; to use proceeds to satisfy all liens on the Property, including the Mortgage Lien; and to designate all remaining proceeds as forfeiture funds.

2.04 The City Commission authorizes the City Manager or designee to execute all documents and to perform all other actions delegable by law that are necessary to effectuate this settlement, property transfer, property sale, and lien payoffs.

2.05 All identified exhibits are incorporated in this resolution by reference.

SECTION 3 – FILING OF DOCUMENTS

3.01 After the settlement documents are signed, the City Clerk is directed to file a certified copy of this resolution with the Sarasota County Clerk of the Circuit Court to be duly recorded in the official records of the county.

3.02 The City Clerk is directed to record the fully executed original Warranty Deed with the Sarasota County Clerk of the Circuit Court to be duly recorded in the official records of the county, concurrent with the recording of this resolution.

3.03 The City will pay the applicable recording fees to the Sarasota County Clerk of the Circuit Court.

SECTION 4 – CONFLICTS

4.01 In the event of any conflict between the provisions of this resolution and any other resolution, in whole or in part, the provisions of this resolution will prevail to the extent of the conflict.

SECTION 5 – SEVERABILITY

5.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this resolution is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the resolution.

SECTION 6 – EFFECTIVE DATE

6.01 This resolution takes effect immediately.

ADOPTED by the City Commission of the City of North Port, Florida, in public session on November 23, 2021.

CITY OF NORTH PORT, FLORIDA

PETE EMRICH
MAYOR

ATTEST

HEATHER TAYLOR, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY

EXHIBIT A



**NORTH PORT POLICE DEPARTMENT
CRIMINAL INVESTIGATION BUREAU
Contraband Forfeiture Agreement
(Forfeiture of Property)**

This Agreement is made between the City of North Port, Florida, through its Police Department (hereinafter called the "Department") and Leandro Enrique Mojena Peralta, D.O.B. 04/22/1979, (the "Claimant"), who is represented by counsel. The parties agree on this ___ day of October 2021 to enter into this settlement agreement ("Agreement") and desire to be bound by the mutual promises and agreements contained herein as follows:

RECITALS

WHEREAS, the Claimant understands that the Department has the right to initiate a forfeiture action under Sections 932.701 – 932.7062, Florida Statutes, (the "Florida Contraband Forfeiture Act") in relation to the property which is described in this Agreement; and

WHEREAS, the Claimant understands that if the Department were unable to satisfy its burden of proof at the trial in the action filed under the Florida Contraband Forfeiture Act, the Claimant would be entitled to the return of his property; and

WHEREAS, the Claimant understands that as a result of entering into the instant Agreement, the Department will ask the Court to dismiss the action filed in Case No.: 2020-CA-4734 under the Florida Contraband Forfeiture Act, and the Claimant is waiving any right to the protection of that Act, or the findings which may result from a trial under the Act; and

WHEREAS, the Claimant understands that he has the right to challenge the seizure of his property as being in violation of his rights under the United States and the Florida Constitutions; and

WHEREAS, the Claimant agrees that by entering into the instant Agreement, the Claimant is waiving any right which he may otherwise have to raise such challenges; and

WHEREAS, the Department has seized the following real property: Lot 11 & Lot 16 Block 1644 33rd Addition to Port Charlotte, a Subdivision according to the Plat thereof, as recorded in Plat Book 15, Page 17 of the Public Records of Sarasota County, Florida (the "**Property**"); and

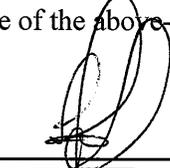
WHEREAS, prior to the seizure of the aforementioned Property by the Department, which seizure occurred on or about the 21st day of October 2020, Claimant was the owner of said Property.

NOW THEREFORE, in consideration of the Department not exercising its rights in a forfeiture cause of action in Sarasota County Circuit Court, and to avoid the cost, delay, and uncertainty of litigation to all parties, the Department and the Claimant hereby agree:

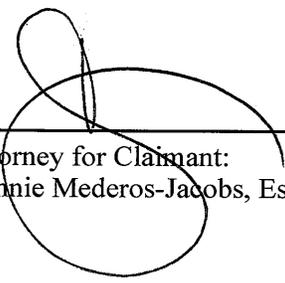
1. The recitals contained herein are true and accurate.
2. Claimant owes the Grata Chan Trust approximately \$56,500.00 via a Promissory Note secured by Lot 11, Block 1644 33rd Addition to Port Charlotte, a Subdivision according to the Plat thereof, as recorded in Plat Book 15, Page 17 of the Public Records of Sarasota County, Florida. The City of North Port agrees to resolve the amounts owed under the Promissory Note upon sale of the Property, absolving Claimant's obligations under the Promissory Note.
3. In consideration of the above, the Claimant will waive any and all claims he may have to the Property related to this seizure and any of the related criminal charges. Claimant agrees that all claims, rights, title, and ownership to the Property vests in the City of North Port, Florida.
4. **Claimant represents to the Department that all statements in this Agreement are true and further**

agrees to hold harmless and indemnify the Department and all its officers, employees, agents or servants from any and all damages, actions, suits, claims or demands of whatsoever kind made by or on behalf of any person as the result of the Department seizing the above described Property, retaining the Property, or giving possession of the Settlement Amount to Claimant, including, but not limited to, court costs and reasonable attorneys' fees.

5. Each party releases the other from any and all claims of any kind whatsoever arising out of the seizure, storage, release and care of the Property that is the subject of this Agreement.
6. The Claimant is represented by counsel in this matter, who has read this Agreement and explained the contents therein to the Claimant, who further acknowledges that he has freely and voluntarily agreed to enter into this Agreement.
7. If any portion of this Agreement is found to be invalid, unenforceable, or otherwise defective by any court or other body having adjudicative powers, the other provisions of this Agreement shall remain in full force and effect. The parties agree that in the event of litigation in any way related to this Agreement, that venue shall be in Sarasota County, Florida.
8. If any legal action must be taken to enforce this Agreement, the prevailing party shall recover its legal fees and costs associated with enforcement of the Agreement. The non-prevailing party agrees to payment of such fees.
9. The provisions of this Agreement represent the totality of the terms agreed upon by the parties. No prior or present agreements or representations, whether written or oral, shall be binding upon the Department and the Claimant unless included in this Agreement.
10. Claimant agrees and understands that this Agreement does not resolve or have any impact or effect upon the prosecution or resolution of any pending criminal charge or case arising from the arrest from which the seizure of the above-identified Property was made.



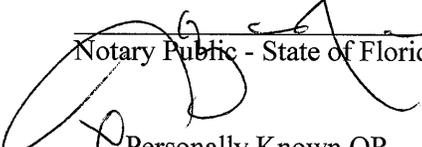
Claimant: Leandro Enrique Mojena Peralta



Attorney for Claimant:
Connie Mederos-Jacobs, Esquire

STATE OF FLORIDA
COUNTY OF Mandatee

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 5th day of NOV 2021, by Leandro E. Mojena Peralta



Notary Public - State of Florida

Personally Known OR Produced Identification
Type of Identification Produced _____

(Signatures continued on next page)



CITY OF NORTH PORT

Jason Yarborough, ICMA-CM
City Manager

Date

ATTEST

Heather Taylor, CMC
City Clerk

APPROVED AS TO FORM AND CORRECTNESS

Amber L. Slayton
City Attorney

North Port Police Department

Date

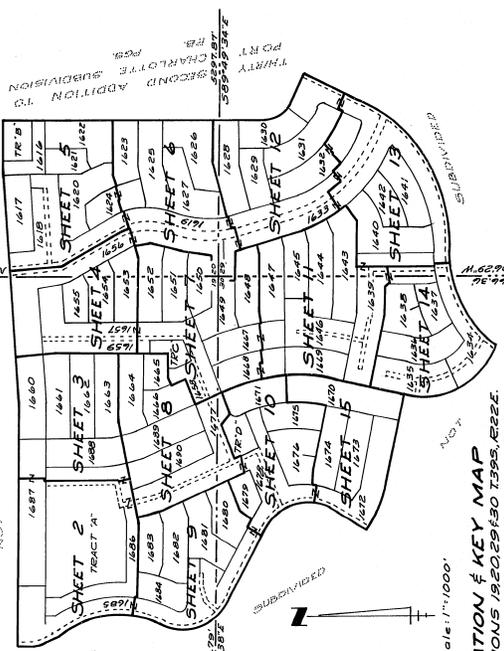
EXHIBIT B

THIRTY-THIRD ADDITION TO PORT CHARLOTTE SUBDIVISION
 A SUBDIVISION OF PORTIONS OF SECTIONS 19, 20, 29 AND 30, TWP 30 SOUTH, RGE. 22 EAST, CITY OF NORTH PORT CHARLOTTE SARASOTA COUNTY, FLORIDA

DESCRIPTION

COMMENCING at the Northeast Corner of Section 29, Township 30 South, Range 22 East; thence N89°49'34"W, along the North Line of said Section 29, 3504.95 feet to the POINT OF BEGINNING; thence South 53°27'33" East to a point of curve; thence Southwesterly and South-easterly along the arc of a circular curve to the left having a radius of 400 feet, a central angle of 68°15'24", for a distance of 458.19 feet to a point of tangency; thence S61°04'45" East, 342.66 feet; thence S54°47'56"W, 873.16 feet to a point of curve; thence Southwesterly along the arc of a circular curve to the right having a radius of 180 feet, a central angle of 110°10'42", for a distance of 181.10 feet to a point of tangency; thence S58°36'41" W, 422.23 feet to a point of curve; thence Southwesterly along the arc of a circular curve to the left having a radius of 1200 feet, a central angle of 52°25'33", for a distance of 1099.00 feet; thence N58°44'11"W, 125.33 feet to a point of curve; thence Northwesterly and Northerly along the arc of a circular curve to the right having a radius of 1000 feet, a central angle of 70°19'02", for a distance of 1127.29 feet to a point of tangency; thence N11°34'55"E, 512.27 feet; thence N78°25'05"W, 1123.07 feet to a point of curve; thence Northwesterly along the arc of a circular curve to the right having a radius of 800 feet, a central angle of 18°04'28", for a distance of 227.34 feet; to a point of tangency; thence N60°20'43"W, 268.84 feet; thence N23°19'17"E, 415 feet to a point of curve; thence Northwesterly, Northerly and Northwesterly along the arc of a circular curve to the left having a radius of 600 feet, a central angle of 102°20'43", for a distance of 981.81 feet to a point of curve; thence Northwesterly, Northerly and Northwesterly along the arc of a circular curve to the right having a radius of 600 feet, a central angle of 89°52'20", for a distance of 911.99 feet to a point of curve; thence Northwesterly, Northerly and Northwesterly along the arc of a circular curve to the left having a radius of 1200 feet, a central angle of 54°31'23", for a distance of 1162.87 feet to a point of tangency; thence N28°46'45"W, 347.64 feet to a point of curve; thence Northwesterly and Northerly along the arc of a circular curve to the right having a radius of 400 feet, a central angle of 28°46'45", for a distance of 480.92 feet to a point of tangency; thence North, 160 feet; thence East, 269.56 feet to a point of curve; thence Northwesterly along the arc of a circular curve to the left having a radius of 1000 feet, a central angle of 101°10'42", for a distance of 1000 feet to a point of tangency; thence N88°22'13"E, 2608.23 feet to a point of curve; thence Northwesterly along the arc of a circular curve to the right having a radius of 1000 feet, a central angle of 04°37'47", for a distance of 80.80 feet to a point of tangency; thence East 459.58 feet; thence South 267°23'36" feet to the POINT OF BEGINNING.

All land lying and being in Sarasota County, Florida and containing 558.20 Acres more or less.



LOCATION OF KEY MAP SECTIONS 19, 20, 29 AND 30, TWP 30 SOUTH, RGE. 22 EAST, SARASOTA COUNTY, FLORIDA

DRAWN BY: J.E.C. S.P.
 CHECKED BY: J.B.
 APPROVED BY:

CERTIFICATE OF DEDICATION

STATE OF FLORIDA as GENERAL DEVELOPMENT CORPORATION, a Delaware Corporation, authorized to do business in the State of Florida, by its duly elected President, E. U. Mackle, and its duly elected Secretary, E. U. Mackle, and FLORIDA WEST COAST LAND COMPANY, a Florida Corporation, duly organized and existing under the laws of the State of Florida, do hereby dedicate to the public use of the State of Florida, the following described property, to-wit: A certain lot or lots situated in the City of North Port, Sarasota County, Florida, bounded by the Avenues, Boulevards, Courts, Drives, Lanes, Streets, Terraces, Easels, Waterways and Drainage Rights-of-Way, as shown or described on this plat to the use of the general public forever.

The Easements hereinafter expressly reserved to GENERAL DEVELOPMENT CORPORATION and FLORIDA WEST COAST LAND COMPANY, their affiliates, successors or assigns, for the purposes expressed: a 20 foot maintenance easement at the lot line abutting to each lot and a 6 foot easement of each side lot line for the installation and maintenance of underground and overhead utilities and for surface drainage by swale or under-ground pipe for any purpose consistent with the development of said building site, shall remain in full force and effect and shall not be subject to termination or expiration, and the outside boundaries of said building site shall remain in full force and effect.

IN WITNESS WHEREOF: GENERAL DEVELOPMENT CORPORATION has caused these presents to be executed by its President and attested by its Secretary and FLORIDA WEST COAST LAND COMPANY has caused these presents to be executed by its Vice President and attested by its Secretary by and with the authority of their Boards of Directors, this 12 day of May, 1961.

GENERAL DEVELOPMENT CORPORATION
 By: E. U. Mackle Secretary
 Attest: E. U. Mackle Secretary

FLORIDA WEST COAST LAND COMPANY
 By: E. U. Mackle Secretary
 Attest: E. U. Mackle Secretary

STATE OF FLORIDA as Before me, the undersigned Notary Public, personally appeared E. U. Mackle of COUNTY OF DADE as President and E. U. Mackle, Secretary of GENERAL DEVELOPMENT CORPORATION a Delaware Corporation authorized to do business in the State of Florida and E. U. Mackle, Vice President and E. U. Mackle, Secretary of FLORIDA WEST COAST LAND COMPANY a Florida Corporation, to me well known to be the individuals described in and who executed the foregoing Certificate of Dedication, and that they each duly acknowledged before me that they executed the same as such officers for, and on behalf of said corporations.

WITNESS my hand and official seal at Dade County, Florida, this 12 day of May, 1961.

My Commission expires: 1963

Notary Public State of Florida of large

CERTIFICATE OF SURVEYOR

I HEREBY CERTIFY, That the attached plat entitled THIRTY-THIRD ADDITION TO PORT CHARLOTTE SUBDIVISION is a true and correct representation of the lands as recently surveyed and platted under my direction; also that permanent reference monuments have been set in accordance with Section 7, Chapter 122, Laws of the State of Florida.

Dated this 8 day of May AD 1961.

W. A. Wynne
 Registered Land Surveyor No. 6245
 State of Florida

CERTIFICATE OF APPROVAL OF CITY COMMISSION

STATE OF FLORIDA as It is hereby certified that this plat has been officially approved for record by the City Commission of the City of North Port, Charlotte Sarasota County, Florida, this 12 day of JUNE AD 1961.

City Clerk: Geo. P. Pender Mayor: W. A. Wynne

CERTIFICATE OF APPROVAL OF COUNTY COMMISSION

STATE OF FLORIDA as It is hereby certified that this plat has been officially approved for record by the Board of County Commissioners of Sarasota County, Florida, this 12 day of JUNE AD 1961.

Chairman: W. A. Wynne
 Board of County Commissioners

CERTIFICATE OF APPROVAL OF COUNTY CLERK

STATE OF FLORIDA as I, W. A. Wynne, County Clerk of Sarasota County, Florida, hereby certify that this plat has been examined and that it complies in form with all the requirements of the laws of Florida pertaining to maps and plats and this plat has been filed for record in Plat Book 13 of Pages 17 through 17 A, Public Records of Sarasota County, Florida, this 6 day of July A.D. 1961.

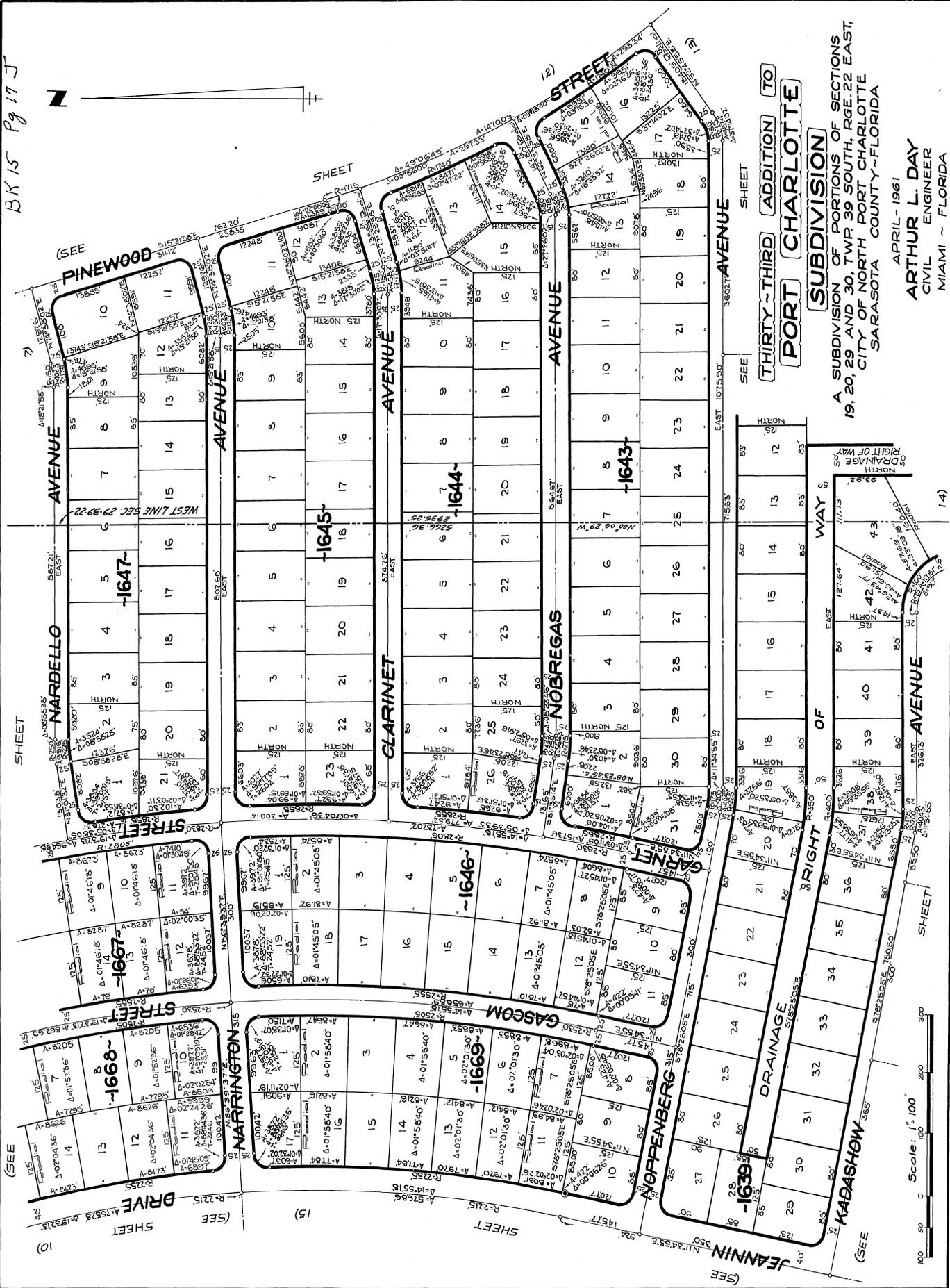
W. A. Wynne
 County Clerk
 Sarasota County, Florida

ENGINEER'S NOTE

--- Indicates Permanent Reference Monuments. Dimensions shown left on to indicate extension of black lines extended unless otherwise indicated. All radii are 25 feet unless otherwise indicated. Basis of bearing system is assumed for computation purposes.

APRIL - 1961
ARTHUR L. DAY
 CIVIL ENGINEER
 MIAMI - FLORIDA

SHEET 1 OF 15 SHEETS
 1784 TOTAL LOTS



THIRTY-THIRD ADDITION TO
PORT CHARLOTTE
 SUBDIVISION

A SUBDIVISION OF PORTIONS OF SECTIONS
 19, 20, 29 AND 30, TWP 39 SOUTH, RGE. 22 EAST,
 CITY OF NORTH PORT CHARLOTTE
 SARASOTA COUNTY-FLORIDA

APRIL - 1961
ARTHUR L. DAY
 CIVIL ENGINEER
 MIAMI - FLORIDA

CALCULATED BY: E.L.M.
 DRAWN BY: G.A.
 CHECKED BY: J.B.
 APPROVED BY:

Scale: 1" = 100'