



City of Pembroke Pines



Frank C. Ortis, Mayor
Carl Shechter, Vice-Mayor
Charles F. Dodge, City Manager

Angelo Castillo, Commissioner
Jay Schwartz, Commissioner
Iris A. Siple, Commissioner

INTER-OFFICE CORRESPONDENCE

MEMORANDUM NO. 2016-154

TO: Charles F. Dodge, City Manager

CC: Marty Gayeski, Deputy City Manager
Shawn Denton, Public Services Director
Michael Stamm, Director of Planning & Economic Development
Karl M. Kennedy, P.E., City Engineer

FROM: Samuel S. Goren, City Attorney *SSG*
Jacob G. Horowitz, Assistant City Attorney *JGH*

DATE: August 9, 2016

RE: City of Pembroke Pines ("City") / Road Vacation – A portion of SW 136th Avenue,
Pembroke Pines (the "Property")

On May 19, 2016, Mr. George Beckhart, Vice President of Century Village Pembroke Pines, inquired of you, and the City, after conversing with Commissioner Castillo, regarding the availability of the above referenced public right of way located in the City and adjacent to Century Village. In Mr. Beckhart's email, he specifically indicated the following:

Century Village Inquiry

1. Century Village would like to acquire the Property at what he refers to as "a nominal fee";

2. The land is currently paved or partially paved as a roadway. Century Village through Pines Master Management, Inc. would like to build a walking park on the right-of-way in the nature of a linear park. In doing so, Century Village would add City required tree canopy and a small vehicle parking area for residents to park their vehicles and to access the park area;
3. There is also discussion regarding the possibility of adding a supplementary entrance to Century Village at Pembroke Road and Southwest 136th Avenue;
4. Further, the Property would be used primarily for a park which would include other amenities making it attractive for Century Village residents to use after its acquisition.

History of the Property

You and I have conferred. After receiving Mr. Beckhart's request, we set about to perform the required legal research to respond to the inquiry of Mr. Beckhart, and primarily of Commissioner Castillo.

- I. Our first goal was to review past actions of the City Commission affecting right of way on Southwest 136th Avenue. Our research revealed the following:
 1. The City Commission adopted Resolution 2544 (attached as Exhibit "A") on March 4, 1998 legally vacating, closing and abandoning certain road right of way defined in the Resolution existing on 136th Avenue, reserving a perpetual utility easement to the City but otherwise legally relinquishing the City's ownership interest in the right of way on both sides of the therein vacated property;
 2. On June 3, 1998, the City Commission also approved a First Amendment to Land Use Agreement (attached as Exhibit "B") by and between the City and Newcen Communities, Inc. ("Newcen"). This Amendment modified the original Land Use Agreement between the same parties dated March 4, 1998 which essentially provided for the vacation and abandonment of certain described portions of Southwest 136th Avenue with the intent that the abutting owners in the after condition Newcen would convey portions of the vacated right of way to several charitable institutions (attached as Exhibit C").
 3. Based upon the foregoing, the vacation and abandonment was legally perfected; Newcen conveyed certain portions of the vacated right of way to the charitable

institutions; both charitable institutions designed and constructed facilities on the conveyed property, and both continue in operation to date;

4. Within the First Amendment there is a continuing commitment that in the event either one of the charitable institutions ceases to operate for a period greater than six (6) months that the affected property would revert to Newcen which would then be required forthwith to convey the legal title to that portion of the right-of-way, back to the City.

Assigned Tasks

- II. Our office requested, and our City Engineer assisted, in the preparation of a sketch and legal description of the Property. A copy of which is attached as Exhibit "D" and is the subject matter of Mr. Beckhart's request.

Further, once our office received the sketch and legal description, we ordered certain title evidence to determine ownership of the Property and the adjacent ownerships in the event that the City Commission were to elect to similarly vacate and abandon the Property as it did in 1998:

- (a) We determined that the City, is in fact the Owner of the Property in accordance with that certain Ownership and Encumbrance Report from Attorneys' Title Fund Services, LLC dated July 25, 2016; and
- (b) We also determined that CVP Community Center, Inc., a Florida for profit corporation ("CVP") is in fact the Owner of the abutting lands under several BCPA folio numbers which were revealed in the title evidence.

Conclusion and Legal Options

- III. Based upon the foregoing and our legal research in the matters described herein, the City, subject to City Commission public review and approval, has several options in response to Mr. Beckhart's request:
- 1. The City could value the Property and sell the same to CVP at an appraised value under the City Charter;

2. The City could vacate and abandon the Property thereby relegating ownership to CVP, without any future commitment for the design and construction of the linear park; or
3. The City could negotiate with CVP in an attempt to enter into a similar Land Use Agreement with CVP to require as a condition of vacation, that CVP design and build a linear park for the use and benefit of the residents of Century Village at their sole cost and expense, but subject to a reversion to the City in the event that the park were abandoned for a period of excess of six (6) months.

To the extent that our office can assist you and City staff in analyzing and evaluating Mr. Beckhart's request, please allow us the opportunity to assist you further.

SSG/kml
Enclosures

PROPOSED RESOLUTION 98-R-08

RESOLUTION NO. 2544

A RESOLUTION OF THE CITY OF PEMBROKE PINES, FLORIDA, VACATING, CLOSING, AND ABANDONING THE ROAD RIGHT-OF-WAY FOR EXISTING SW 136TH AVENUE DESCRIBED IN THE SURVEY SKETCH & LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A"; RESERVING UNTO THE CITY OF PEMBROKE PINES A UTILITY EASEMENT FOR THAT PORTION OF THE ROAD RIGHT-OF-WAY VACATED AND CLOSED; PROVIDING FOR COMPLIANCE WITH THE LAND USE AGREEMENT BY AND BETWEEN THE CITY AND NEWCEN COMMUNITITES, INC.; PROVIDING FOR RECORDATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Pembroke Pines, Florida deems it to be in the best interest of the citizens and residents of the City to abandon, vacate and close that certain portion of the road right-of-way for SW 136 Avenue more particularly described in **Exhibit "A"** attached hereto; and

WHEREAS, the City Commission has determined that it is in the best interest of the residents and citizens of the City to reserve unto the City a perpetual utility easement over, through, and under that certain portion of the road right-of-way for SW 136 Avenue more particularly described in **Exhibit "A"** attached hereto;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, THAT:

Page 1 of 4

CCM 3-4-98#
760185.PPARESO.98R-08

DEFERRED ITEM
Return Document To
Business Operations

EXHIBIT "A"

BK28918PG0101

PROPOSED RESOLUTION 98-R-08

RESOLUTION NO. 2544

1 **Section 1.** The foregoing "WHEREAS" clauses are true and correct and
2 hereby ratified and confirmed by the City Commission. All exhibits attached hereto are
3 hereby incorporated herein.

4 **Section 2.** The City Commission of the City of Pembroke Pines, Florida
5 does hereby abandon, vacate and close the road right-of-way for SW 136 Avenue legally
6 described in the survey sketch and description attached hereto as **Exhibit "A"** and
7 incorporated herein.

8 **Section 3.** The City Commission does hereby reserve unto the City
9 forever a perpetual utility easement in, to, over, through, under, and across that certain
10 portion of SW 136 Avenue more particularly described in **Exhibit "A"** attached hereto.
11 The easement reserved is more particularly described as the right and privilege of the City
12 to construct, install, maintain, operate, inspect, and repair any and all water lines, sewer
13 lines, force mains, pump stations and such other improvements that the City, in its sole
14 discretion, deems necessary over, through, under, or across the tract of land more
15 particularly described in **Exhibit "A"**, with the right and privilege of entering upon said
16 land for the purpose of maintaining, operating and repairing such utility improvements,
17 together with the rights, easements, privileges and appurtenances in or to said land, which
18 may be required for the full enjoyment of the rights herein reserved. No buildings,
19 fences, walls or other structures or obstructions shall be erected, placed, or otherwise

PROPOSED RESOLUTION 98-R-08

RESOLUTION NO. 2544

1 located upon, under, in, over, or through the easement reserved herein, unless approved
2 by the City of Pembroke Pines.

3 **Section 4.** It is the intent of the City Commission that upon vacation of
4 this property by the City pursuant to this Resolution, the vacated property shall be
5 conveyed by NewCen Communities, Inc. in accordance with the terms, conditions, and
6 provisions of the Land Use Agreement by and between the City and NewCen
7 Communities, Inc. as approved by the City Commission on December 17, 1997. Should
8 the recipient(s) of this property fail to use the property for the charitable purpose for
9 which it is being conveyed, title and possession of the property shall revert back to the
10 City.

11 **Section 5.** The reservation and restrictions contained in this Resolution,
12 including all benefits and burdens, are not personal, but shall run with the land and shall
13 be binding upon and inure to the benefit of the City of Pembroke Pines and the owner(s)
14 of the real property where the reserved utility easement lies.

15 **Section 6.** The City Commission hereby directs the City Clerk to record
16 this resolution in the public records of Broward County, Florida.

17 **Section 7.** All resolutions or parts of resolutions in conflict herewith are
18 hereby repealed to the extent of such conflict.

19 **Section 8.** If any clause, section, other part or application of this
20 Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid,

PROPOSED RESOLUTION 98-R-08

RESOLUTION NO. 2544

in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 9.

This Resolution shall become effective immediately upon its passage and adoption, however, implementation shall be conditional upon the terms, conditions, provisions of the Land Use Agreement between the City and NewCen Communities, Inc. as approved by the City Commission on December 17, 1997.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA ON THIS 4 DAY OF MARCH, 1998.

CITY OF PEMBROKE PINES, FLORIDA

By: _____

MAYOR ALEX G. FEKETE

ATTEST:

Eileen M. Tesh
EILEEN M. TESH
CITY CLERK

FEKETE:

AYE

ARMSTRONG:

AYE

FIORENDINO:

AYE

ORTIS

AYE

THIBAUT:

AYE

Proposed by commission

I HEREBY CERTIFY that I
have approved the form
of this Resolution.

Samuel S. Goren
SAMUEL S. GOREN, CITY ATTORNEY

PROPOSED SW 136 AVE VACATION

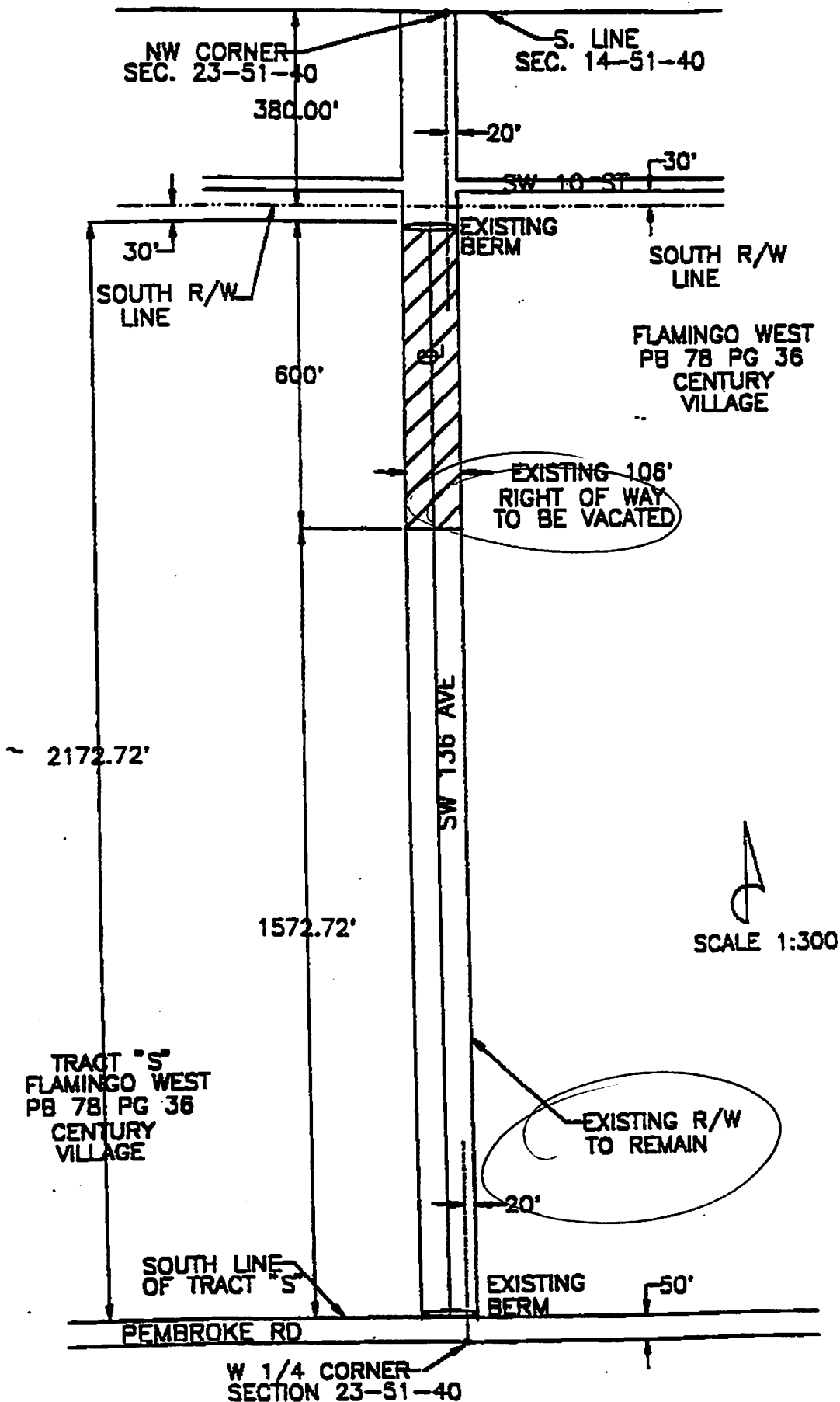


EXHIBIT "A"

8K28918PGD105

SKETCH & DESCRIPTION

THAT PORTION OF S.W. 136TH AVENUE, BEING A 106 FOOT RIGHT-OF-WAY, LYING SOUTH OF A LINE THAT IS 30.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF S.W. 10TH STREET EXTENDED WESTERLY AND LYING NORTH OF A LINE THAT IS 630.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF S.W. 10TH STREET EXTENDED WESTERLY. ALL AS SHOWN ON THE PLAT OF "FLAMINGO WEST" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 78, PAGE 36 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING AND BEING IN THE CITY OF PEMBROKE PINES, BROWARD COUNTY, FLORIDA, AND CONTAINING 63,600 SQUARE FEET (1.46 ACRES) MORE OR LESS.

BK28918PG0106

S U N - S E N T I N E L
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, DADE COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/DADE
BEFORE THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED

[Signature] WHO ON OATH SAYS THAT
HE/SHE IS A FULLY AUTHORIZED REPRESENTATIVE OF THE
CLASSIFIED DEPARTMENT OF THE SUN-SENTINEL, DAILY
NEWSPAPER PUBLISHED IN BROWARD/PALM BEACH/DADE COUNTY,
FLORIDA THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A

NOTICE OF PUBLIC HEARING

IN THE MATTER OF

SW 136 AVENUE

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN
THE ISSUES OF
C , 02/17, 1 X

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A
NEWSPAPER PUBLISHED IN SAID BROWARD/PALM BEACH/DADE
COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS HERETOFO
BEEN CONTINUOUSLY PUBLISHED IN SAID BROWARD/PALM BEACH/DADE
COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND
CLASS MATTER AT THE POST OFFICE IN FORT LAUDERDALE, IN SA
BROWARD COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT
PRECEDING THE FIRST PUBLICATION OF THE ATTACHED COPY OF
ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT HE/SHE HAS
NEITHER PAID NOR PROMISED ANY PERSON, FIRM OR CORPORATION
ANY DISCOUNT, REBATE, COMMISSION OR REFUND FOR THE PURPOSE
OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID
NEWSPAPER.

[Signature]
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 17 DAY OF FEBRUARY
A.D. 1998

[Signature]
(SIGNATURE OF NOTARY PUBLIC)

BARBARA STRICKLAND
Notary Public - State of Florida
My Commission Expires Jul 24, 2000
Commission # CC 571307

(NAME OF NOTARY TYPED, PRINTED OR STAMPED)

PERSONALLY KNOWN OR

PRODUCED IDENTIFICATION

NOTICE OF
PUBLIC HEARING
NOTICE IS HEREBY
GIVEN that the City Com-
mission of the City of Pem-
broke Pines, Florida, will
hold a Public Hearing on
Wednesday, March 4, 1998
at 7:00 PM in the City Com-
mission Chambers, Pem-
broke Pines Municipal Cen-
ter, 10100 Pines Boulevard,
Pembroke Pines, Florida
33026.

The purpose of this hear-
ing is to consider vacating
and closing SW 136 Avenue
road right-of-way from a
point 80 feet south of Tract
P to a point 680 feet south
of Tract P, containing 1.46
acres more or less.

All interested parties may
appear at said place and
time to be heard and to pre-
sent their views or objec-
tions, or may submit them in
writing to the City Clerk,
10100 Pines Boulevard,
Pembroke Pines, Florida
33026 on or before the date
and time of the hearing.

Persons with disabilities
requiring accommodations
in order to participate
should contact the City
Clerk at 435-6501 at least
24 hours in advance to re-
quest such accommodation.

207 CITY OF PEMBROKE
PINES, FLORIDA

/s/Eileen M. Tesh,
CMC/AAC
City Clerk

Any person who decides
to appeal any decision
made by the City Commis-
sion with respect to the
matter considered at this
hearing will need a record of
the proceedings, and for
such purpose, may need to
ensure that a verbatim re-
cord of the proceedings is
made which record includes
the testimony and evidence
upon which the appeal is to
be based.

February 17, 1998

RECORDED IN THE OFFICIAL RECORDS BOOK
OF BROWARD COUNTY, FLORIDA
COUNTY ADMINISTRATOR

EXHIBIT "A"

8K28918PG10J

S U N - S E N T I N E L
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, DADE COUNTY, FLORIDA

STATE OF FLORIDA

COUNTY OF BROWARD/PALM BEACH/DADE

BEFORE THE UNDERSIGNED AUTHORITY PERSONALLY APPEAR

..... WHO ON OATH SAYS THAT
HE/SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE
CLASSIFIED DEPARTMENT OF THE SUN-SENTINEL, DAILY
NEWSPAPER PUBLISHED IN BROWARD/PALM BEACH/DADE COUNT
FLORIDA THAT THE ATTACHED COPY OF ADVERTISEMENT, EEI

NOTICE

IN THE MATTER OF

RESOLUTION NO. 2544

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER
THE ISSUES OF
C , 06/18, 1 X

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS
NEWSPAPER PUBLISHED IN SAID BROWARD/PALM BEACH/DADE
COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS HER
BEEN CONTINUOUSLY PUBLISHED IN SAID BROWARD/PALM BEACH/DADE
COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS S
CLASS MATTER AT THE POST OFFICE IN FORT LAUDERDALE,
BROWARD COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NE
PRECEDING THE FIRST PUBLICATION OF THE ATTACHED COPY
ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT HE/SHE
NEITHER PAID NOR PROMISED ANY PERSON, FIRM OR CORPORA
ANY DISCOUNT, REBATE, COMMISSION OR REFUND FOR THE P
OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SA
NEWSPAPER.

.....
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 18 DAY OF JUNE
A.D. 1998

.....
(SIGNATURE OF NOTARY PUBLIC)



Tara L. Bezdek
MY COMMISSION # 00638935 EXPIRES
July 20, 2001
BONDED THRU TRACY FAIR INSURANCE, INC.

.....
(NAME OF NOTARY TYPED, PRINTED OR STAMPED)

PERSONALLY KNOWN OR

PRODUCED IDENTIFICATION

NOTICE
PROPOSED RESOLUTION 98-R-08
RESOLUTION NO. 2544

A RESOLUTION OF THE CITY OF PEMBROKE PINES,
FLORIDA, VACATING, CLOSING, AND ABANDONING
THE ROAD RIGHT-OF-WAY FOR EXISTING SW 138TH
AVENUE DESCRIBED IN THE SURVEY SKETCH & LEGAL
DESCRIPTION ATTACHED HERETO AND MADE A PART

HEREOF AS EXHIBIT "A", RESERVING UNTO THE CITY
OF PEMBROKE PINES A UTILITY EASEMENT FOR THAT
PORTION OF THE ROAD RIGHT-OF-WAY VACATED AND
CLOSED, PROVIDING FOR COMPLIANCE WITH THE
LAND USE AGREEMENT BY AND BETWEEN THE CITY
AND NEWCEN COMMUNITIES, INC.; PROVIDING FOR
RECORDATION; PROVIDING FOR CONFLICTS; PROVID-
ING FOR SEVERABILITY; PROVIDING FOR AN EFFECT-
IVE DATE.

WHEREAS, the City Commission of the City of Pem-
broke Pines, Florida deems it to be in the best interest of
the citizens and residents of the City to abandon, vacate
and close that certain portion of the road right-of-way for
SW 138 Avenue more particularly described in Exhibit "A"
attached hereto; and

WHEREAS, the City Commission has determined that it
is in the best interest of the residents and citizens of the
City to reserve unto the City a perpetual utility easement
over, through, and under that certain portion of the road
right-of-way for SW 138 Avenue more particularly de-
scribed in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY
COMMISSION OF THE CITY OF PEMBROKE PINES,
FLORIDA, THAT:

Section 1. The foregoing "WHEREAS" clauses are true
and correct and hereby ratified and confirmed by the City
Commission. All exhibits attached hereto are hereby incor-
porated herein.

Section 2. The City Commission of the City of Pembroke
Pines, Florida does hereby abandon, vacate and close the
road right-of-way for SW 138 Avenue legally described in
the survey sketch and description attached hereto as Ex-
hibit "A" and incorporated herein.

Section 3. The City Commission does hereby reserve
unto the City forever a perpetual utility easement in, to,
over, through, under, and across that certain portion of SW
138 Avenue more particularly described in Exhibit "A" at-
tached hereto.

The easement reserved is more particularly described as
the right and privilege of the City to construct, install,
maintain, operate, inspect, and repair any and all water
lines, sewer lines, force mains pump stations and such
other improvements that the City, in its sole discretion,
deems necessary over, through, under, or across the tract
of land more particularly described in Exhibit "A", with the
right and privilege of entering upon said land for the pur-
pose of maintaining, operating and repairing such utility
improvements, together with the rights, easements, privi-
leges and appurtenances in or to said land, which may be
required for the full enjoyment of the rights herein re-
served. No buildings, fences, walls or other structures or
obstructions shall be erected, placed, or otherwise located
upon, under, in, over, or through the easement reserved
herein, unless approved by the City of Pembroke Pines.

Section 4. It is the intent of the City Commission that
upon vacation of this property by the City pursuant to this
Resolution, the vacated property shall be conveyed by
NewCen Communities, Inc. in accordance with the terms,
conditions, and provisions of the Land Use Agreement by
and between the City and NewCen Communities, Inc. as
approved by the City Commission on December 17, 1997.
Should the recipient(s) of this property fail to use the
property for the charitable purpose for which it is being
conveyed, title and possession of the property shall revert
back to the City.

Section 5. The reservation and restrictions contained in
this Resolution, including all benefits and burdens, are nor
personal, but shall run with the land and shall be binding
upon and inure to the benefit of the City of Pembroke
Pines and the owner(s) of the real property where the
reserved utility easement lies.

Section 6. The City Commission hereby directs the City
Clerk to record this resolution in the public records of
Broward County, Florida.

Section 7. All resolutions or parts of resolutions in con-
flict herewith are hereby repealed to the extent of such
conflict.

Section 8. If any clause, section, other part of applica-
tion of this Resolution is held by any court of competent
jurisdiction to be unconstitutional or invalid, in part or
application, it shall not affect the validity of the remaining
portions or applications of this Resolution.

Section 9. This Resolution shall become effective imme-
diately upon its passage and adoption, however, implemen-
tation shall be conditional upon the terms, conditions,
provisions of the Land Use Agreement between the City
and NewCen Communities, Inc. as approved by the City
Commission on December 17, 1997.

PASSED AND ADOPTED BY THE CITY COMMISSION
OF THE CITY OF PEMBROKE PINES, FLORIDA ON THIS 4
DAY OF MARCH, 1998.

CITY OF PEMBROKE PINES, FLORIDA
By: s/MAYOR ALEX G. FEKETE
ATTEST: s/EILEEN M. TESH, CITY CLERK
Proposed by commission

FEKETE: AYE
ARMSTRONG: AYE
FLORENDINO: AYE
ORTIS: AYE
THIBAUT: AYE

I HEREBY CERTIFY that I have approved the form of this
Resolution.

/s/SAMUEL S. GOREN, CITY ATTORNEY
June 18, 1998

AGREEMENT CHECKLIST FORM

AGREEMENT TOPIC	NEWCEN COMMUNITIES INC
DATE OF AGREEMENT	5/13/98
DATE OF EXPIRATION	
COMMISSION MINUTES PERTAINING TO AGREEMENT	3/4/98 ITEM NO. 1 4/15/98 ITEM NO. 16 6/3/98 ITEM NO. 13
ORIGINAL SIGNATURE	YRS
MICROFILMED	
AGREEMENT NUMBER	1229/98
SPECIAL CONDITIONS/ REQUIREMENTS OF AGREEMENT	

Meeting Date:

06/03/98

AGENDA REQUEST FORM
City of Pembroke Pines

Agenda Item N

18

TITLE:

VACATION OF 136TH AVENUE

REQUESTED ACTION:

MOTION TO RATIFY RESOLUTION NO. 2544 PREVIOUSLY ADOPTED ON MARCH 4, 1998.

SUMMARY EXPLANATION & BACKGROUND:

1. Resolution No. 2544 was adopted by the City Commission on March 4, 1998. Due to unresolved issues, Resolution No. 2544 was never signed.
2. These issues have now been resolved and the Resolution should be ratified and signed.
3. Additionally, the area to be vacated has been increased to better accommodate the needs of the organizations.
4. Recommend ratification of Resolution No. 2544.

EXHIBITS (LIST):

1. Resolution No. 2544 previously adopted with revised exhibit.

PREPARED BY:

Name: Assistant City Manager

SOURCE OF ADDITIONAL INFORMATION:

Name: Paul Wattles 435-6506

Recommended For Approval By:


Charles F. Dodge, City Manager

Commission Action:

Motion Passed. 6/3/98.

City Manager


City Clerk

Meeting Date:

04/15/98

AGENDA REQUEST FORM
City of Pembroke Pines

Agenda Item N

16

TITLE:

AMENDMENT TO LAND USE AMENDMENT

REQUESTED ACTION:

MOTION TO APPROVE FIRST AMENDMENT TO LAND USE AGREEMENT BETWEEN THE CITY AND NEWCEN COMMUNITIES.

SUMMARY EXPLANATION & BACKGROUND:

1. The Land Use Agreement adopted on March 4, 1998 provided for the vacation of unused right-of-way to Newcen Communities, Inc.
2. The Agreement further provided that Newcen Communities would deed the vacated land to a charitable organization.
3. The attached amendment provides that the land must be improved within two (2) years or the land will revert to Newcen Communities.
4. This amendment to the Land Use Agreement provides for Newcen to deed the land back to the City if not used for the purpose envisioned in the Land Use Agreement.

EXHIBITS (LIST):

1. Land Use Agreement approved March 4, 1998.
2. Proposed first amendment to the Land Use Agreement.

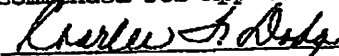
PREPARED BY:

Name: Assistant City Manager

SOURCE OF ADDITIONAL INFORMATION:

Name: Paul Wattles 435-6506

Recommended For Approval By:


Charles F. Dodge, City Manager

Commission Action:

Motion Passed. 4/15/98.


City Manager


City Clerk

Meeting Date:

03/04/98

AGENDA REQUEST FORM
City of Pembroke Pines

Agenda Item N

1

TITLE:

PROPOSED RESOLUTION NO. 98-R-08

REQUESTED ACTION:

MOTION TO ADOPT PROPOSED RESOLUTION NO. 98-R-08.

SUMMARY EXPLANATION & BACKGROUND:

1. The land use agreement, approved by the City Commission on December 17, 1997, provides for vacation of a portion of the 136th Avenue ROW.
2. The attached Proposed Resolution No. 98-R-08 vacates this property.
3. Newcen has agreed to deed the vacated area to two religious groups for their use.
4. Recommend adoption of Proposed Resolution No. 98-R-08.

EXHIBITS (LIST):

1. The land use agreement approved by the City Commission on December 17, 1997, provides for vacation of a portion of the 136th Avenue ROW.
2. The attached Proposed Resolution No. 98-R-08 vacates this property.

PREPARED BY:

SOURCE OF ADDITIONAL INFORMATION:

Name: Assistant City Manager

Name: Paul K. Wattles

Recommended For Approval By:

Charles F. Dodge
Charles F. Dodge, City Manager

Commission Action: Motion Passed. Permanent Resolution No. 2544. 3/4/98.

CP
City Manager

Robert M. Smith
City Clerk

**FIRST AMENDMENT
TO LAND USE AGREEMENT**

THIS IS A FIRST AMENDMENT TO THE LAND USE AGREEMENT (the "Land Use Agreement"), dated the 13th day of MAY, 1998, between:

THE CITY OF PEMBROKE PINES, FLORIDA, a municipal corporation
("City")

and

NEWCEN COMMUNITIES, INC., a Florida corporation ("Developer").

WHEREAS, the parties entered into a Land Use Agreement on or about March 4, 1998;
and

WHEREAS, the Land Use Agreement provides for the City to vacate a portion of Southwest 136th Avenue as more particularly described in Exhibit "C" to the Land Use Agreement (the "Subject Area"); and

WHEREAS, the Land Use Agreement also provides that upon vacation of the Subject Area by the City, the Developer shall convey the Subject Area to certain charitable organizations; and

WHEREAS, the parties have agreed to amend the Land Use Agreement;

W I T N E S S E T H :

NOW, THEREFORE, IN CONSIDERATION of the mutual terms and conditions, promises, covenants and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

Section 2. The parties hereto agree to amend the Land Use Agreement by adding Paragraph 3.3.1 of the Land Use Agreement as follows:

The parties hereto covenant and agree that each of the deeds conveying the Subject Area by the Developer to the enumerated charitable organizations shall provide for the reversion of the Subject Area to the Developer, with all restrictions and covenants running with the land, should the charitable organizations cease

using the Subject Area for charitable purposes for a period greater than six (6) months or fail to improve the Subject Area within two (2) years. The parties further agree that upon the prospective reversion of the Subject Area to the Developer, the Developer shall forthwith convey the Subject Area to the City for right-of-way, with all restrictions and covenants running with the land thereto appertaining.

Section 3. The Land Use Agreement shall otherwise remain in full force and effect, except as specifically amended herein.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

ATTEST:

Eileen Tesh
EILEEN TESH, CITY CLERK

CITY OF PEMBROKE PINES

BY: Alex G. Fekete
MAYOR ALEX G. FEKETE

APPROVED AS TO FORM.

Samuel S. Goren 5/13/98
SAMUEL S. GOREN, CITY ATTORNEY

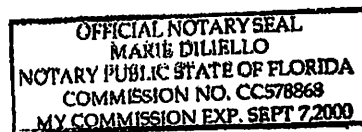
STATE OF FLORIDA)

COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized by law in this State to administer oaths and take acknowledgments, personally appeared Alex G. Fekete, as Mayor of the CITY OF PEMBROKE PINES, FLORIDA, to be known to be the person described in and who executed the foregoing instrument and acknowledged (s)he executed the foregoing Agreement as the proper officials of City of Pembroke Pine for the use and purposes mentioned in therein.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 13 day of May, 1998.

Marie D. Liello
NOTARY PUBLIC
MARIE D. LIELO
Print Name



My Commission Expires:

WITNESSES:

Anita Press
ANITA PRESS
Print Name

NEWCEN COMMUNITIES, INC.

BY: [Signature]

Linda Seidman
LINDA SEIDMAN
Print Name

STATE OF FLORIDA)

COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Harold Cohen, as Vice Pres of NEWCEN COMMUNITIES, INC., and to be known to be the person described in and who executed the foregoing instrument and acknowledged (s)he executed the foregoing Agreement as the proper officials of Newcen Communities, Inc., for the use and purposes mentioned in therein.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 13th day of May, 1998.

Ellen Bass
NOTARY PUBLIC

Ellen Bass
Print Name

My Commission Expires:



ELLEN BASS
COMMISSION # CC 654091
EXPIRES AUG 2, 2001
BONDED THRU
ATLANTIC BONDING CO., INC.

LAND USE AGREEMENT

THIS LAND USE AGREEMENT ("Agreement") is made and entered into this 4 day of MARCH, 1998, by and between NEWCEN COMMUNITIES, INC., a Florida corporation ("Developer"), with an address at 13460 SW 10th Street, Pembroke Pines Florida, 33027, and the CITY OF PEMBROKE PINES, a municipal corporation of the State of Florida ("City"), with an address at 10100 Pines Blvd., Pembroke Pines, FL 33025.

WITNESSETH:

WHEREAS, Developer is the owner of certain real property (commonly and collectively referred to as Century Village at Pembroke Pines) located in Pembroke Pines, Broward County, Florida ("Property");

WHEREAS, a portion of TRACT "J" of the Property, the legal description of which is attached as Exhibit "A", is currently being used as professional offices and a Temple for the exclusive benefit and use of the residents of the Property;

WHEREAS, Developer wishes to develop a portion of TRACT "J" of the Property as a one hundred (100) unit Adult Living Facility (ALF) and a four (4) story office building which will be occupied by professional office and retail uses for the benefit and use of the residents of the Property, and a three thousand (3,000) net square foot area within the office building ("City Area") for the exclusive use of the City to serve the residents of the Property (collectively, the "Proposed Development");

WHEREAS, subsequent to the execution of the Agreement, the Parties intend to execute a Lease for the City Area with lease payments of One Dollar (\$1.00) per year; and

WHEREAS, the Developer is requesting the City to allocate one hundred (100) reserve units to accommodate the proposed ALF and the City desires to allocate such units for the ALF;

NOW, THEREFORE, for and in consideration of mutual benefits and the public interest and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

2. Authority. This Agreement is entered into under authority of the Florida Constitution (including Article VIII, Section 2(b) thereof), the general powers conferred upon municipalities by statute and otherwise (including Chapter 166, Florida Statutes), the City's Charter, and the City's Code of Ordinances.

3. Permitted Land Uses.

3.1 TRACT "J". Developer and the City agree and acknowledge that a portion of TRACT "J" of the Property can be utilized for a one hundred (100) unit ALF in accordance with City Resolution No. 2536 and a four (4) story office building which will be occupied by professional offices and retail uses for the exclusive benefit and use of the residents of the Property. The City hereby agrees to allocate one hundred (100) reserve units to enable development of a portion of the Property with an ALF. Developer and the City further agree and acknowledge that a three-thousand (3,000) net square foot area within the four (4) story office building shall be reserved for the exclusive use by the City for the benefit of the residents of the Property. The parties agree that the City area will be provided to the City with completed ceiling, floor and walls exclusive of, without limitation, sound systems, a kitchen or any other specialty equipment and shall be ready for occupancy as evidenced by a Certificate of Occupancy.

3.2 Tract "A." The City has reviewed and hereby accepts the attached conceptual plan reflecting the proposed access to Tract A attached hereto as Exhibit "B."

3.3 Southwest 136th Avenue. The City hereby agrees to initiate an application to vacate the portion of Southwest 136th Avenue, more particularly described in Exhibit "C" ("Subject Area"). Upon approving such application and upon becoming effective, the Subject Area shall be conveyed to Pines Jewish Center and Young Israel of Pembroke Pines for their joint usage. Notwithstanding anything contained herein to the contrary, the City expressly reserves a utility easement over the Subject Area. In the event existing utilities require relocation, the then owner of the Subject Area shall coordinate with the City to relocate such existing utilities and provide the City with an adequate alternate utility easement.

3.4 Release of Restriction. The Developer hereby agrees to execute a release ("Release") of that limitation in that certain Special Warranty Deed by F.W.D.C., Inc., to the City of Pembroke Pines recorded in Official Record Book 12373, Page 232 ("Deed") prohibiting the City from granting the use of, alienating or otherwise disposing of any interest in the land described therein, either in whole or part, by conveyance, assignment, lease, use agreement, license, or any other agreement to allow City to lease a portion of the property which is the subject of the Deed for the purpose of installation of a cellular facility. The form of Release is attached as Exhibit "D", attached hereto and incorporated herein. Developer shall execute the Release within seven (7) days of approval of this Agreement.

4. Effective Date. This Agreement shall be effective upon the date on which the last of the parties executes this Agreement.

5. Due Diligence. The City and Developer further covenant that they shall immediately commence all reasonable actions necessary to fulfill their obligations herein and shall diligently pursue the same throughout the existence of this Agreement.

6. Effective Covenants. The burdens of the Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest of the parties to this Agreement.

7. Miscellaneous.

(a) Entire Agreement. This Agreement sets forth all of the promises, covenants, agreements, conditions, and understandings between the parties hereto, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

(b) Pronouns. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine and neuter, and singular or plural, as the identity of the party may require.

(c) Severability. The invalidity of any provision hereof shall in no way affect or invalidate the remainder of the Agreement.

(d) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one in the same instrument.

(e) Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceeding arising between the parties in any manner pertaining to this Agreement shall, to the extent permitted by law, be held in Broward County, Florida.

(f) Binding Effect. The obligations imposed pursuant to this Agreement upon the Developer, the City and/or the Property shall be binding upon and enforceable by and against the parties thereto, their personal representatives, heirs, successors, grantees and assigns.

(g) Attorneys' Fees. Should either party hereto bring an action against the other to enforce the terms and provisions hereof, then the party prevailing in said action shall be entitled to a judgment against the other for his reasonable attorneys' fees and costs at both the trial and appellate levels.

(h) Modification. This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

CITY:

CITY OF PEMBROKE PINES, a Florida
municipal corporationBy: Alex G. Fekete

City Manager

4 day of March, 1998

WITNESSES:

TERRI L. SCARVETTI
Print Name: TERRI L. SCARVETTIPATRICIA A. ATKINSON
Print Name: PATRICIA A. ATKINSON

ATTEST:

John W. Ju
City Clerk

APPROVED AS TO FORM:

By: Julie Blake
City AttorneySTATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by ALEX G. FEKETE, MAYOR, as City Manager of the City of Pembroke Pines, a Florida municipal corporation, on behalf of the City, freely and voluntarily under authority duly vested in him/her by said municipal corporation and that seal affixed thereto is the true corporate seal of said municipal corporation. He/She is personally known to me or has produced _____ as identification.

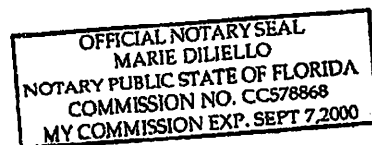
WITNESS my hand and official seal in the County and State last aforesaid this 4 day of MARCH, 1997.

Marie Diliello
NOTARY PUBLIC, STATE OF FLORIDA

(SEAL)

Print Name: MARIE DILIELLO
Commission No.: _____

My commission expires:



LAND USE AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES AND NEWCEN COMMUNITIES, INC.

DEVELOPER:

NEWCEN COMMUNITIES, INC., a Florida corporation

WITNESSES:

Linda Seidman
Print Name: LINDA SEIDMAN
Anita Press
Print Name: ANITA PRESS

By: [Signature]
Print Name: Harold Cohen
Title: V.P.
(Seal)

STATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 2nd day of March, 1998, by Harold Cohen as Vice President of Newcen Communities, Inc., a Florida corporation on behalf of said corporation. He ~~or she~~ is personally known to me or has produced _____ as identification, ~~or is known to me personally.~~

Ellen Bass
NOTARY PUBLIC, STATE OF FLORIDA

(SEAL)

Print Name: Ellen Bass
Commission No.: _____

My commission expires:

NOTARY PUBLIC
STATE OF FLORIDA
ELLEN BASS
COMMISSION # CC 654091
EXPIRES AUG 2, 2001
BONDED THRU
ATLANTIC BONDING CO., INC.

SKETCH OF THE ADMINISTRATION BUILDING AT CENTURY VILLAGE PEMBROKE DESCRIPTION

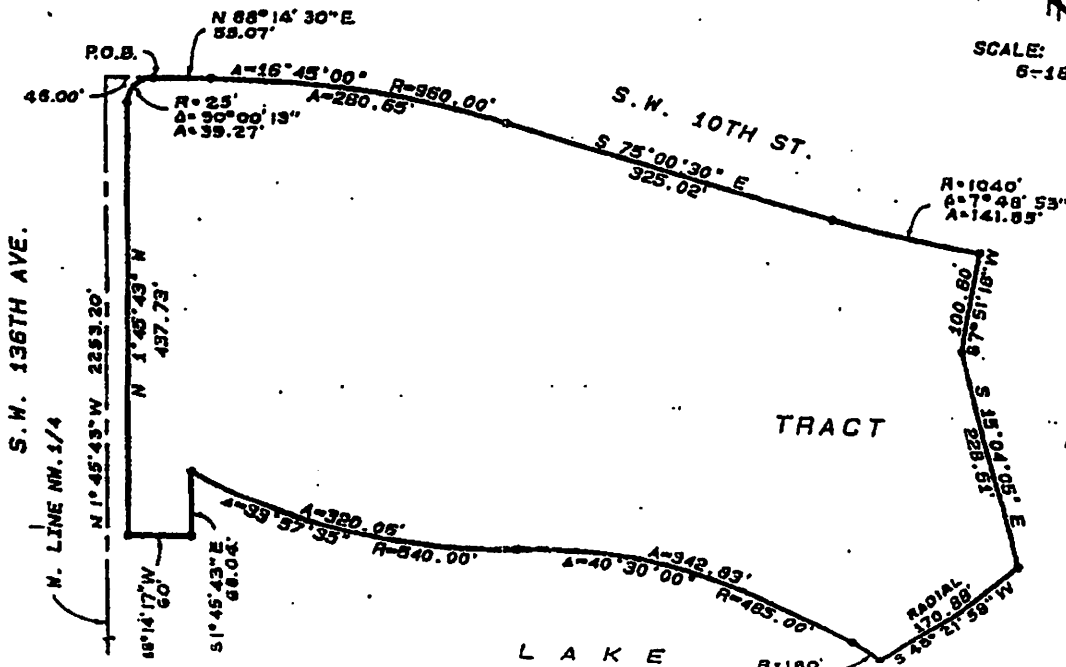
That portion of Tract J, according to the plat of FLAMINGO WEST, as recorded in Plat Book 78 at Page 36 of the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of the Northwest 1/4 of Section 23, Township 51 South, Range 40 East; thence run North 01°45'44" West (on a grid bearing) 2253.20 feet along the West line of said Northwest 1/4; thence run North 88°14'30" East 45 feet to the Point of Beginning; thence continue North 88°14'30" East 55.07 feet along a line also forming the Northerly boundary of said Tract J to a point of curvature of a curve to the right; thence along said Northerly boundary on the arc of said curve to the right, having a radius of 280.65 feet and a central angle of 16°45'00", run Southeasterly 280.65 feet to a point of tangency; thence run South 75°00'30" East 325.02 feet along said Northerly boundary being the tangent extended to a point of curvature of a curve to the left; thence along said Northerly boundary on the arc of said curve to the left, having a radius of 1040 feet and a central angle of 07°48'53", run Southeasterly 141.85 feet; thence run South 07°51'18" West 100.60 feet; thence run South 15°04'05" East 228.51 feet; thence run South 48°21'58" West 170.88 feet to an intersection with the arc of a curve running Northwest to the left; thence along the arc of said curve to the left (the Southwesterly projection of the last described being radial to said curve) also forming the Southerly boundary of said Tract J, having a radius of 160 feet and a central angle of 12°23'02", run Northwest 34.58 feet to a point of compound curvature; thence along said Southerly boundary on the arc of a curve to the left, having a radius of 485 feet and a central angle of 40°30'00", run Northwest 342.83 feet to a point of reverse curvature; thence along said Southerly boundary on the arc of a curve to the right, having a radius of 540 feet and a central angle of 33°57'35", run Northwest 320.06 feet to a point of intersection; thence run South 01°45'43" West 68.04 feet along said Southerly boundary to a point of intersection; thence run South 88°14'17" West 60 feet along said Southerly boundary to an intersection with the Westerly boundary of said Tract J; thence run North 01°45'43" West 437.73 feet along said Westerly boundary to a point of curvature of a curve to the right; thence along the arc of said curve to the right, having a radius of 25 feet and a central angle of 90°00'13", run Northeasterly 39.27 feet to the Point of Beginning.

Said lands situate in the City of Pembroke Pines, Broward County, Florida and containing 7.879 acres, more or less.

C.C. WINNINGHAM CORPORATION - LB # 46
1040 NORTH EAST 45TH STREET
OAKLAND PARK, FLORIDA 33334

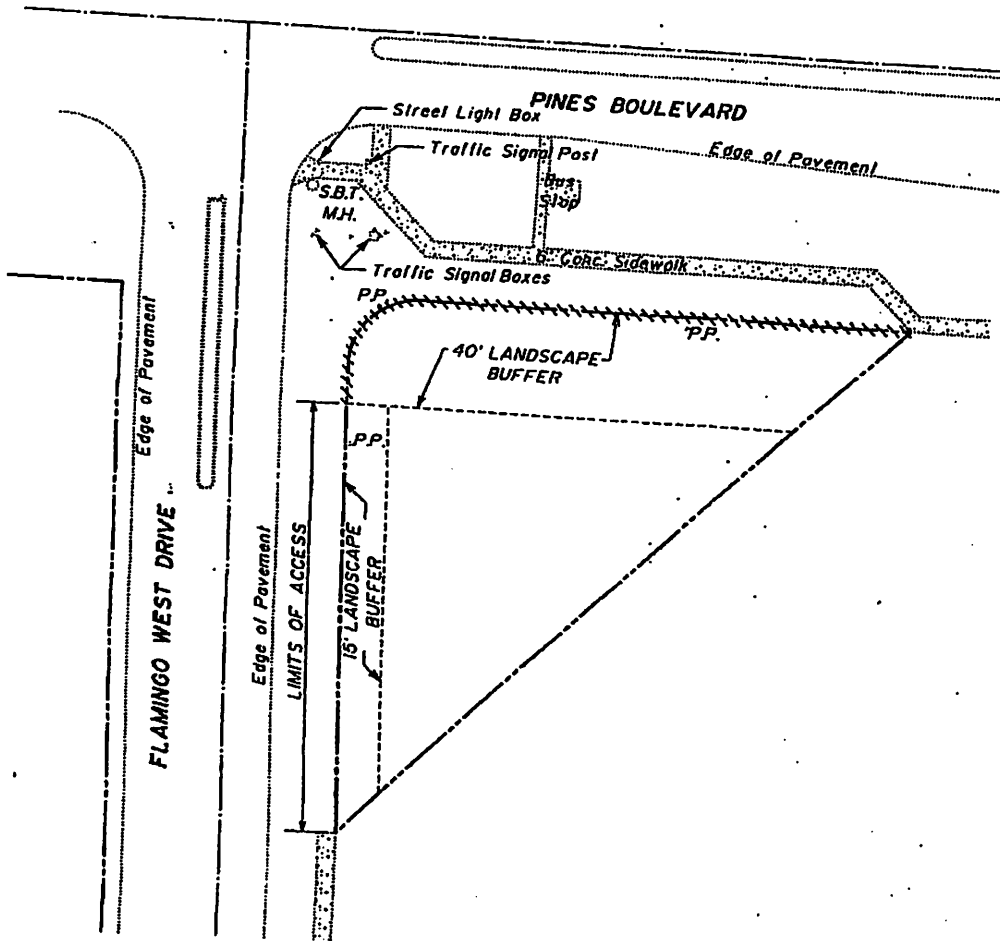
BY: Charlie C. Winningham II
Charlie C. Winningham II - PSM 1580



EXHIBIT

B'

N
SCALE: 1" = 30'



PARCEL AT FLAMINGO & PINES
FOR EYES OPTICAL COMPANY

WINNINGHAM & RADLEY, INC.
ENGINEERS - PLANNERS - SURVEYORS

PROPERTY
PLAN

DRAWN:	DATE:	PROJECT NUMBER	SHEET
CHECKED:	DATE:	97539	1 OF 1

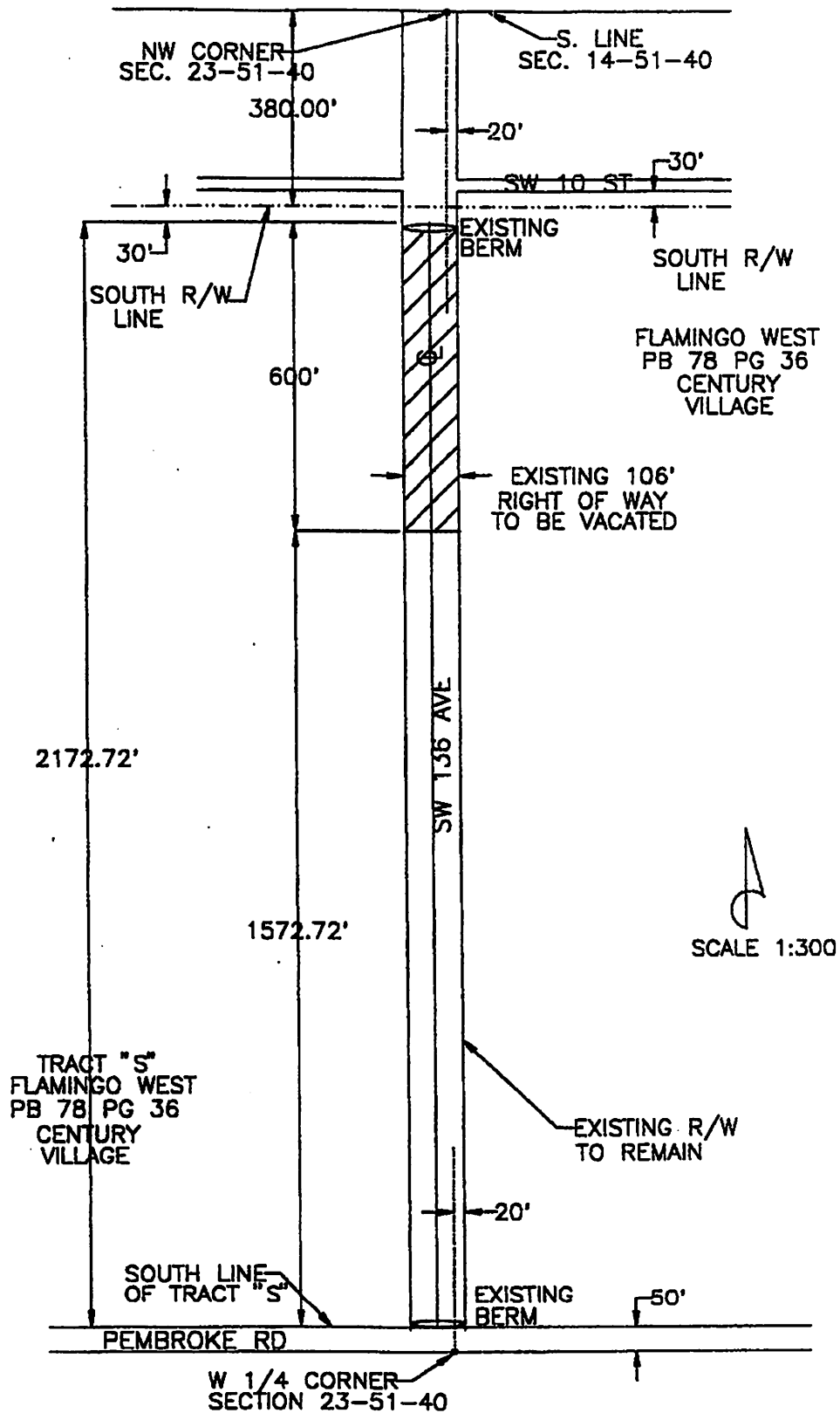
C:\97539\property plan.dgn Dec. 03 1997 11:38:13

SKETCH & DESCRIPTION

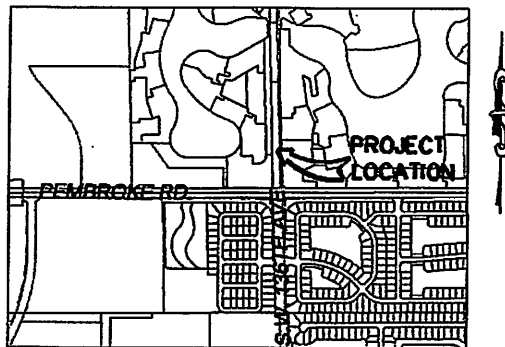
THAT PORTION OF S.W. 136TH AVENUE, BEING A 106 FOOT RIGHT-OF-WAY, LYING SOUTH OF A LINE THAT IS 30.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF S.W. 10TH STREET EXTENDED WESTERLY AND LYING NORTH OF A LINE THAT IS 630.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF S.W. 10TH STREET EXTENDED WESTERLY. ALL AS SHOWN ON THE PLAT OF "FLAMINGO WEST" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 78, PAGE 36 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING AND BEING IN THE CITY OF PEMBROKE PINES, BROWARD COUNTY, FLORIDA, AND CONTAINING 63,600 SQUARE FEET (1.46 ACRES) MORE OR LESS.

PROPOSED SW 136 AVE VACATION

C



**SKETCH & DESCRIPTION
PORTION OF S.W. 136TH AVENUE
FLAMINGO WEST, P.G. 78, PG. 36, B.C.R.
PEMBROKE PINES, FLORIDA**



LOCATION MAP

LEGAL DESCRIPTION:

THAT PORTION OF S.W. 136TH AVENUE, BEING A 106 FOOT RIGHT-OF-WAY AS SHOWN ON THE PLAT OF FLAMINGO WEST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 78, PAGE 36, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BOUNDED ON THE NORTH BY A LINE BEING 1385.84 FEET SOUTH OF THE NORTH LINE OF SECTION 22, TOWNSHIP 51 SOUTH, RANGE 40 EAST AND THE NORTH LINE OF SECTION 23, TOWNSHIP 51 SOUTH, RANGE 40 EAST AND BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF PEMBROKE ROAD AS SHOWN ON THE SAID PLAT OF FLAMINGO WEST.

SAID LANDS SITUATE WITHIN THE CITY OF PEMBROKE PINES, BROWARD COUNTY, FLORIDA, CONTAINING 2.94 ACRES, MORE OR LESS.

NOTES

1. Not valid without the signature and original raised seal of a Florida Licensed Surveyor & Mapper
2. Bearings shown hereon are assumed and referenced to the plat of FLAMINGO WEST, Plat Book 78, Page 36, B.C.R..
3. Calvin, Giordano & Associates, Inc. Certificate of Authorization Number is LB #6791.

CERTIFICATE

I, Steven M. Watts, do hereby certify that this Map of Sketch and Description was done under my direct supervision and is accurate and correct to the best of my knowledge and belief. I further state that this Sketch & Description is completed in accordance with the Standards of Practice requirements for Surveying and Mapping as stated in Rule 5J-17 of the Florida Administrative Code, pursuant to Florida Statutes, Chapter 472.027.

Signature _____

Steven M. Watts, PSM
Professional Surveyor and Mapper
Florida Registration No. 4588
Calvin, Giordano & Associates, Inc.

EXHIBIT "D"

THIS IS NOT A SURVEY



Calvin, Giordano & Associates, Inc.
EXCEPTIONAL SOLUTIONS™
1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316
Phone: 954.921.7781 • Fax: 954.921.8807

**ROAD VACATION
S.W. 136TH AVENUE
PEMBROKE PINES, FLORIDA**

SCALE
1"=300'
DATE
07/12/2016

PROJECT NO.
91-0134
CAD FILE

SHEET
1
OF
2

