

TAB 5

**Town of Lake Park Town Commission
Agenda Request Form**

Meeting Date: August 4, 2004

Agenda Item No. _____

- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> Ordinance on Second Reading | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> DISCUSSION |
| <input type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> BID/RFP AWARD |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: | |

SUBJECT: Abandoning a portion of Jasmine Drive, in the Town of Lake Park, effective upon and subject to the performance of certain conditions established by the Town Commission.

RECOMMENDED MOTION/ACTION: Staff is recommending approval of the resolution authorizing the abandonment which shall be effective upon fulfillment of conditions of approval as set forth in the resolution.

Approved by Town Manager *Jo Douglas Payne* Date: 7/30/04

Originating Department: Clerks Office	Costs: \$ Funding Source: Acct. #	
Department Review: <input checked="" type="checkbox"/> City Attorney <i>MB</i> <input type="checkbox"/> Community Affairs <i>N/A</i> <input type="checkbox"/> Community Development <i>N/A</i>	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Department _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input checked="" type="checkbox"/> Town Clerk <i>SLT</i> <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: <input checked="" type="checkbox"/> Not Required <i>SLT</i>	Finance Director Approval:	Attachments:

Summary Explanation/Background: Abandoning a portion of Jasmine Drive, in the Town of Lake Park, effective upon and subject to the performance of certain conditions established by the Town Commission. Staff is recommending approval of the resolution authorizing the abandonment which shall be effective upon fulfillment of conditions of approval as set forth in the resolution.

Jasmine Drive Request for Abandonment

Earl Stewart Toyota is requesting abandonment of the Jasmine Drive right-of-way from Lakeshore Drive west to the U.S. Highway One right-of-way. The abandonment encompasses 21,275 SF (.49 acres) of existing public right-of-way. This existing right-of-way was originally a part of the Kelsey City Plat. (See attached legal description by Donald D. Daniels).

The subject property known as Jasmine Drive will be incorporated into the adjacent properties, Earl Stewart Toyota to the north and the Journey's Inn property to the south. Earl Stewart Toyota currently has a contract for purchase of the Journey's Inn property. The proposed use of the requested abandoned property will be to incorporate it initially into an interim use on the south property (Journey's Inn). It is the intent of the petitioner to eventually combine all three properties into the P.U.D. which would expand the Earl Stewart Toyota automobile dealership. It is further intended that if the abandonment is approved by the Town of Lake Park and the interim use is approved, the Journey's Inn motel use will be removed.

As everyone is aware, the elimination of the Journey's Inn would be a major benefit not only to the adjacent neighborhoods but also to the Town of Lake Park. The Inn has had a major impact on both the Town of Lake Park public services as well as the Palm Beach County Sheriff's office. Since October 1, 2001 through June, 2004, there have been 1,052 calls to the police requesting assistance at the Journey's Inn of Lake Park. Calls for police assistance have included assaults, burglaries, larceny, stolen cars, rape, child abuse, and other felony cases.

A second major benefit to the Town of Lake Park would be the additional property value and shared revenues that the abandoned property would provide as well as the elimination of liability and maintenance costs associated with this property. The average assessed value of land adjacent to the right-of-way is \$25.43 per square foot when developed. The assessed value of the .49 acre property will be \$541,023.25.

Other benefits to the Town of Lake Park will include increased sales tax revenue with both an interim use on the property and the end use of an expanded auto dealership which has high sales price items. There will also be a reduction in trips generated from a change to auto dealership. The trip generation rate is much less than the Inn (motel) use. Redevelopment of the overall area will also add to the visual aesthetics of this area of U.S. Highway One and Lakeshore Drive. New buildings and increased landscape will accomplish this benefit.

LAW OFFICES OF
M. RICHARD SAPIR, P.A.

SUITE 400
712 U.S. HIGHWAY ONE
NORTH PALM BEACH, FL 33408

M. RICHARD SAPIR
mrs@fcohenlaw.com

OF COUNSEL:
COHEN, NORRIS, SCHERER, WEINBERGER & WOLMER

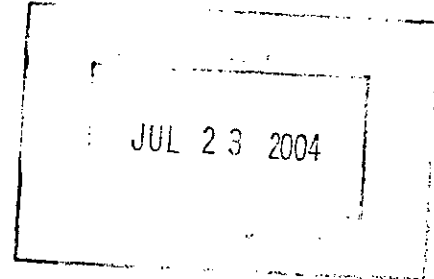
TELEPHONE: (561) 844-3600
FACSIMILE: (561) 881-9950

July 23, 2004

Via Hand Delivery

Mayor and Commission
Town of Lake Park
c/o Lake Park Town Hall
535 Park Avenue
Lake Park, Florida 33403

Re: Earl Stewart Toyota/Jasmine Drive



Honorable Mayor and Commission Members:

On behalf of our client, Earl Stewart Toyota, we hope to keep you fully advised of the status of our request as it progresses. Presently, the matter is scheduled to be heard again at the Commission meeting on August 4, 2004. In this regard, enclosed herewith please find a copy of a draft Resolution of Abandonment, which I received from the Town Attorney. The Resolution should also contemplate a phased expansion of the auto dealership onto the adjoining property, and we would request five years be used as a time line, but otherwise find the Resolution acceptable.

We believe it important that you further understand our client's need to secure the abandonment of Jasmine Drive in conjunction with its potential purchase of the Journey's Inn property. Franchise regulations under which Toyota and other automotive dealerships operate allow a dealer to expand onto contiguous property without objection from other franchised dealers or the Toyota manufacturer or distributor. This exemption from objection only applies to contiguous property. Should a franchised dealer seek to expand on property across a public street, other franchised dealers, the Toyota manufacturer and the Toyota distributor all have the opportunity to object. Such objections are routinely filed by competing dealers and often substantially delay or impede the expanding dealer's request to go forward.

As you are aware from prior discussions, this automotive dealer has been pressured by Toyota to move his entire operation west of I-95. The dealer has resisted such pressures and, with your help, obtained his franchisor's approval to expand the existing dealership, thereby securing the future of the dealership within the Town. Toyota will again require expansion in the foreseeable future, as the market may dictate. Should this automotive dealer not have contiguous property available to accommodate such expansion pressures, Toyota will likely require that they relocate, forcing them to leave the Town of Lake Park.

The dealer's hope is to effect the abandonment of Jasmine Drive at this time, rather than some future date, to ensure the necessary contiguity. One way this could be accomplished would be through an amendment to the existing Earl Stewart Toyota P.U.D., previously approved by the Commission. That P.U.D. would be expanded to include both the portion of Jasmine Drive to be abandoned (Parcel A) and the Journey's Inn property (Parcel B). Parcel A would be abandoned upon amendment of the P.U.D. and incorporated for use in the property owner's existing automotive dealership. Parcel B, the site of the existing Journey's Inn, would remain as existing, until approved for a future use. The property owner could commit to initiate an application for such future use within a short time following approval of the P.U.D. and abandonment of Jasmine Drive.

The abandonment would result in an immediate, substantial cash payment by the property owner to the Town and would likewise increase the area of the dealership, further enhancing the Town's tax base. Traffic studies have been performed and conclude the abandonment will not have a significant impact on traffic. Utility installations on the abandoned portion of Jasmine Drive right-of-way would remain as existing until such time as the property owner and the utility agree to relocate facilities. This can be accomplished by granting easements to the utility providers in the abandoned roadway, simultaneously with the abandonment. This procedure has been used in other situations and is approved by Seacoast and the other utilities.

In discussing the potential "boat and trailer storage" use, the Council has mistakenly analogized to the marine facilities on U.S. Highway One in Riviera Beach, around the vicinity of Silver Beach Road. We would respectfully point out that those facilities are retail boat sales operations. They seek to display boats for sale to the public and drive-by traffic and arrange their sites for display purposes. Please note that "boat sales" is a use permitted by right in the C-1 district. Neither is the "boat and trailer storage" use a "boat yard," as Council implied in discussions. A "boat yard" is a facility where boats are serviced and/or repaired, also a use permitted by right in the C-1 zone, according to your code.

The "boat and trailer storage" use contemplated is an entirely different concept. There is no incentive to display boats and trailers, but rather to keep them secure and hidden from view to the greatest extent possible. Extensive landscaping is contemplated around the perimeter of such a facility. Unlike a boat sales facility, the boat and trailer storage use would be most active during weekend and off-peak hours. The impacts caused by such a use would be generally limited. Only the persons owning boats and trailers stored at the facility would have occasion to access the property. Drive-by traffic, transients and general members of the public would have no reason to enter.

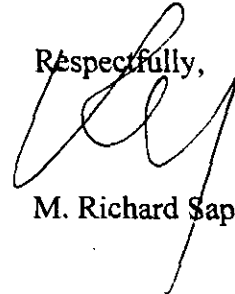
We have attached a preliminary elevation to assist you in envisioning the look of trailer and boat storage use. If such a use is objectionable to the majority of Council, the

property owner could continue to run the facility as a motel and transition it to any of the permitted uses including boat sales. The Petitioner is under the impression, however, that the boat and trailer storage use would assist the Town, helping to ensure the success of the newly expanded marina, which presently suffers from inadequate boat and trailer storage and parking. Additional potential negative impacts, such as noise and lighting, could be mitigated and substantially lessened for such a facility compared to a motel or boat sales facility.

We would greatly appreciate the opportunity to discuss these issues with each of you personally, and request a meeting as soon as possible at a time convenient to you. I will remain in touch with you to schedule the meeting.

Thank you for your consideration in this matter.

Respectfully,



M. Richard Sapir

MRS:mac
Enclosures

cc (w/enc): Honorable Mayor Paul Castro
Honorable Vice Mayor G. Chuck Balius
Honorable Commissioner Paul Garretson
Honorable Commissioner Jeff Carey
Honorable Commissioner Ed Daly
Thomas J. Baird, Esq. (via email, w/o enc.)
Mr. J. Douglas Drymon, Town Manager

cc (w/o enc): Mr. Earl D. Stewart, Jr. (via email)
Mr. William Reichel (via email)
Mr. George Gentile (via email)



TYPICAL BUFFER ELEVATION

RESOLUTION NO. ____-2004

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ABANDONING A PORTION OF THE EXISTING RIGHT OF WAY KNOWN AS EAST JASMINE DRIVE, EFFECTIVE UPON AND SUBJECT TO THE PERFORMANCE OF CERTAIN CONDITIONS ESTABLISHED BY THE TOWN COMMISSION.

WHEREAS, the Town of Lake Park ("Town"), is the owner of certain real property, the legal description of which is attached hereto and incorporated herein as **Exhibit "A"** (the "subject property"); and

WHEREAS, the subject property is a roadway known as East Jasmine Drive; and

WHEREAS, Earl Stewart Toyota ("Stewart") owns certain real property, which is adjacent to and immediately north of the subject property; and

WHEREAS, Stewart proposes to acquire certain real property, which is adjacent to and immediately south of the subject property, said property now known as Journey's Inn; and

WHEREAS, Stewart has filed an application seeking the abandonment of a portion of the existing right of way known as East Jasmine Drive; and

WHEREAS, the Town Commission supports the abandonment of a portion the existing right of way known as East Jasmine Drive provided Stewart complies with certain conditions specified by the Town Commission.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:

Section 1: The whereas clauses are incorporated herein as true and correct findings of fact and conclusions of law of the Town Commission.

Section 2. The Town Commission hereby approves the abandonment subject to the conditions contained in Section 3 herein below.

Section 3. Approval of the abandonment for the subject property by the Town Commission shall be subject to the following conditions:

1. Stewart shall cause to be removed the reversionary clause recorded against the subject property, which upon abandonment of the subject property as a public road, would vest title to Bankers Life, its successors or assigns.

2. Stewart shall obtain any and all appropriate amendments to the Town's Comprehensive Plan and land development regulations such that the subject property and the Journey's Inn property can be operated as an automobile dealership within three years from the effective date of this Resolution.

3. After obtaining any and all necessary amendments to the Town's Comprehensive Plan and land development regulations from the Town Commission to operate a car dealership upon the subject property, and the Journey's Inn property, the Town shall execute and record such instruments as may be necessary to abandon a portion of the existing right of way known as East Jasmine Drive, vesting title to the subject property to Stewart.

Section 4. This Resolution shall become effective upon adoption.

The foregoing RESOLUTION was offered by Commissioner _____, who moved its approval. The motion was seconded by Commissioner _____, and being put to a vote, the result was as follows:

MAYOR PAUL CASTRO
VICE MAYOR CHUCK BALIUS
COMMISSIONER PAUL GARRETSON
COMMISSIONER ED DALY
COMMISSIONER JEFF CAREY

PUBLISHED IN THE PALM BEACH POST THIS ___ DAY OF _____, 2004

The Mayor thereupon declared Resolution No. _____ duly passed and adopted this day of August, 2004.

TOWN OF LAKE PARK, FLORIDA

BY: _____
Mayor Paul Castro

ATTEST:

Approved as to form and legal sufficiency

Stephanie Thomas
Interim Town Clerk

Thomas J. Baird, Town Attorney

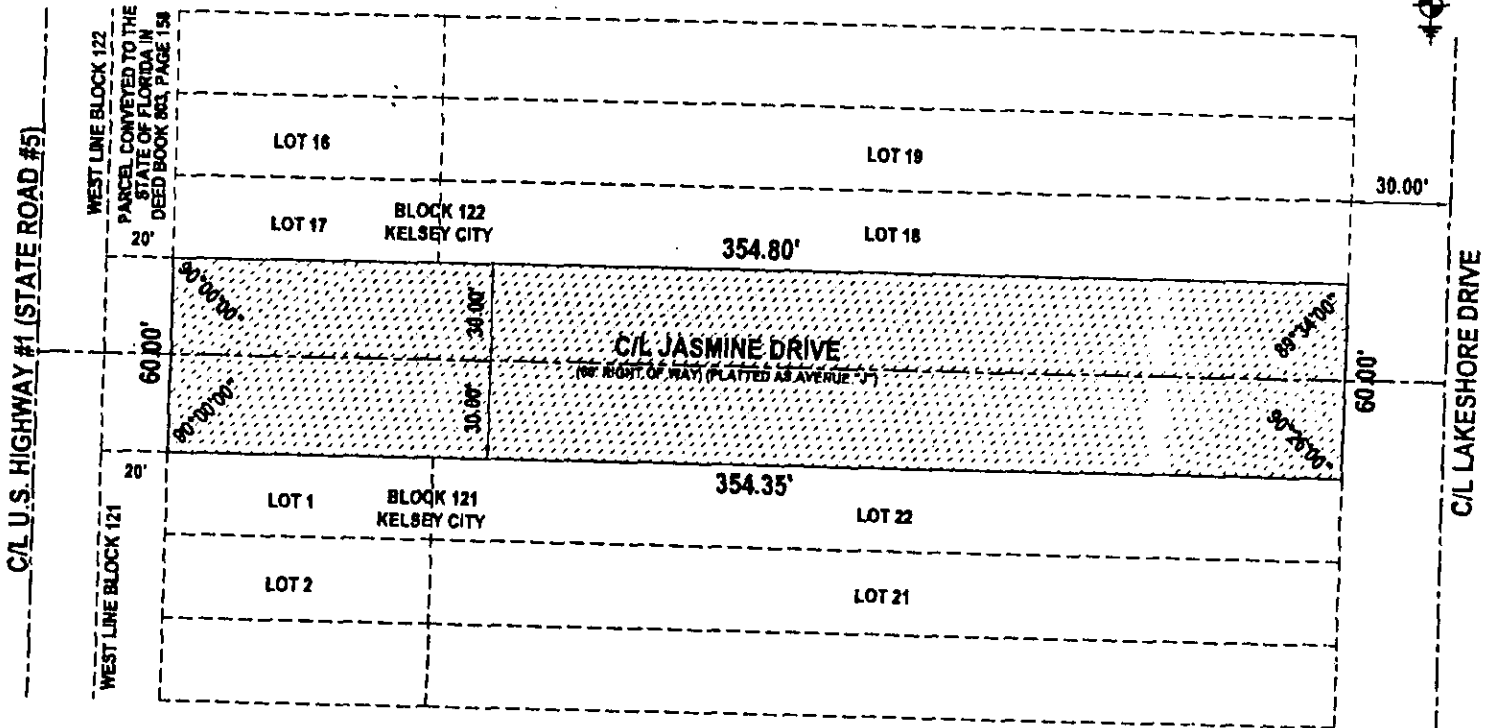
(Town Seal)

LEGAL DESCRIPTION (Proposed Jasmine Drive Abandonment)

A portion of the existing right of way known as Jasmine Drive and shown as Avenue "J", KELSEY CITY, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, at Plat Book 8, Pages 15 and 35, and more particularly described as follows:

Bounded on the South by the North line of Block 121, said KELSEY CITY; Bounded on the North by the South line of Block 122, said KELSEY CITY; Bounded on the East by the West right of way line of Lake Shore Drive (a 60 foot right of way), said Kelsey City; Bounded on the West by the East right of way line of U.S. Highway # 1 (State Road # 5) as conveyed to the State of Florida in Deed Book 803, Page 158, Public Records of Palm Beach County.

CONTAINING IN ALL, 21,275 SQ. FT. AND/OR 0.49 ACRES.



THIS SKETCH IS NOT A SURVEY

Donald D. Daniels

SHEET 1 OF 1

THIS INSTRUMENT WAS PREPARED BY:
 IN THE OFFICES OF DONALD D. DANIELS, INC.
 FLORIDA CERTIFICATE L.B. NO. 4165
 725 NORTH A1A SUITE C111
 JUPITER, FL 33477 PHONE (561) 747-9894

DONALD D. DANIELS
 PROFESSIONAL SURVEYOR & MAPPER
 FLORIDA CERTIFICATE NO. 2608

SCALE: 1"=60'

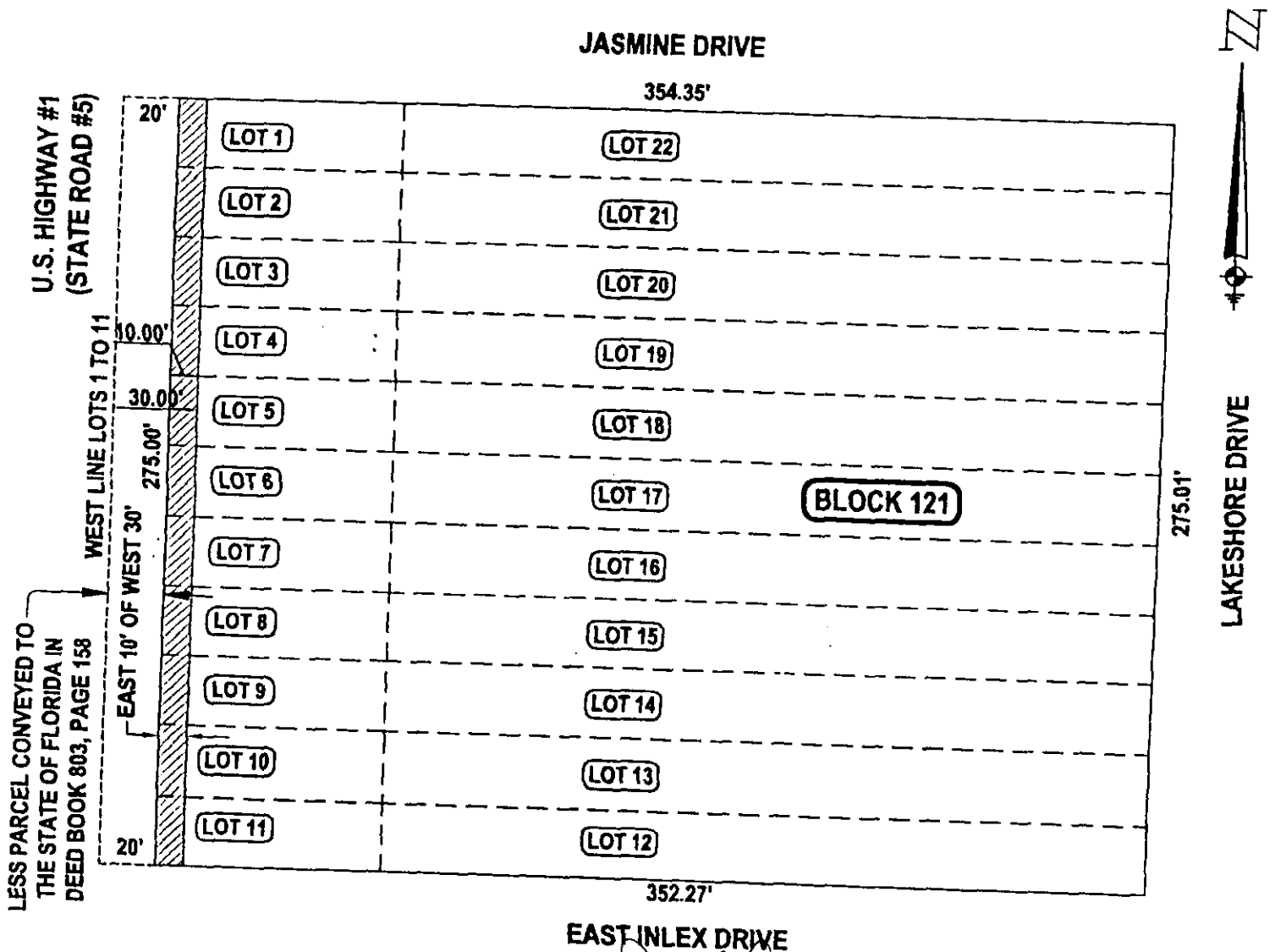
DWG. NUMBER: 95-147.8

DATE: JUNE 18, 2004



LEGAL DESCRIPTION (proposed Bellsouth Easement)

The East 10 feet of the West 30 of Lots 1 through 11, inclusive, Block 121, KELSEY CITY, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, at Plat Book 8, Pages 15 and 35. (KELSEY CITY IS NOW KNOWN AS LAKE PARK)



THIS SKETCH IS NOT A SURVEY

Donald D. Daniels

SHEET 1 OF 1

D
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 JUPITER, FL 33477 PHONE (561) 747-9894

DONALD D. DANIELS
 PROFESSIONAL SURVEYOR & MAPPER
 FLORIDA CERTIFICATE NO. 2608

SCALE: 1"=60'

DWG. NUMBER: 95-147.7

DATE: JUNE 18, 2004

Row

36-43-42-20-01-042-0010 VAN HORN HUBERT & LEONA M H & LEONA M VAN HORN TR HLDR 118 E JASMINE DR WEST PALM BEACH FL 33403-2824	ACRES- 0 VALUE-159384 TAXBL-84558 BLDG-120709 LAND-38675	SALE INST- WD PRICE-100 DATE-7/1/1998 BOOK-10512 PAGE-1671	MTG- PUSE-0100 TAXDIST-36401 NAV-00300,00336 EXC-HX	KELSEY CITY	LTS 1 TO 3 INC BLK 42
36-43-42-20-01-042-0180 MORRIS MARK 123 E ILEX DR WEST PALM BEACH FL 33403 - 2821	ACRES- 0 VALUE-162061 TAXBL-102656 BLDG-123386 LAND-38675	SALE INST- WD PRICE-104000 DATE-11/18/1999 BOOK-11473 PAGE-1602	MTG- PUSE-0100 TAXDIST-36401 NAV-00300,00336 EXC-HX,HX	KELSEY CITY	LTS 18 TO 20 INC BLK 42
36-43-42-20-01-042-0210 TRIM ENDLESS INC 3030 CASTLE PINES DR DULUTH GA 30097 - 2041	ACRES- 0 VALUE-0 TAXBL-153952 BLDG-93952 LAND-60000	SALE INST- QC PRICE-100 DATE-12/15/1998 BOOK-10837 PAGE-0530	MTG- PUSE-1100 TAXDIST-36401 NAV-00300,00336 EXC-	KELSEY CITY	LTS 21 & 22 BLK 42
36-43-42-20-01-042-0230 NEW ROCHELLE PLAZA 309 NORTH AVE NEW ROCHELLE NY 10801-4112	ACRES- 0 VALUE-0 TAXBL-465091 BLDG-228841 LAND-236250	SALE INST- WD PRICE-775000 DATE-12/1/1986 BOOK-05125 PAGE-1257	MTG- PUSE-2700 TAXDIST-36401 NAV-00300,00336 EXC-	KELSEY CITY	LTS 23 TO 31 INC BLK 42
36-43-42-20-01-043-0010 JEAN BAPTISTE MARIA A & 41 E KALMIA DR LAKE PARK FL 33403 - 2827	ACRES- 0 VALUE-107593 TAXBL-59265 BLDG-12743 LAND-34850	SALE INST- WD PRICE-91000 DATE-6/29/2001 BOOK-12730 PAGE-1396	MTG- T28 PUSE-0100 TAXDIST-36401 NAV-00300,00336 EXC-HX,HX	KELSEY CITY	LTS 1 & 2 BLK 43
36-43-42-20-01-043-0180 MORGAN DOROTHY I 123 E JASMINE DR WEST PALM BEACH FL 33403-2823	ACRES- 0 VALUE-157908 TAXBL-0 BLDG-119233 LAND-38675	SALE INST- 00 PRICE-68500 DATE-1/1/1979 BOOK-03086 PAGE-1454	MTG- PUSE-0100 TAXDIST-36401 NAV-00300,00336 EXC-07VD	KELSEY CITY	LTS 18 TO 20 INC BLK 43
36-43-42-20-01-043-0210 MOSLER WARREN B PO BOX 31041 WEST PALM BEACH FL 33420 - 1041	ACRES- 0 VALUE-0 TAXBL-153681 BLDG-43406 LAND-110285	SALE INST- WD PRICE-335000 DATE-2/24/2003 BOOK-14847 PAGE-493	MTG- PUSE-2700 TAXDIST-36401 NAV-00300,00336 EXC-	KELSEY CITY FT/BLK 43	LTS 21 TO 25 INC /LESS W 35
36-43-42-20-01-043-0211 MOSLER WARREN B PO BOX 31041 WEST PALM BEACH FL 33420 - 1041	ACRES- 0 VALUE-0 TAXBL-32015 BLDG-3245 LAND-28770	SALE INST- WD PRICE-335000 DATE-2/24/2003 BOOK-14847 PAGE-493	MTG- PUSE-2800 TAXDIST-36401 NAV-00336 EXC-	KELSEY CITY BLK 43	W 35 FT OF LTS 21 TO 25 INC
36-43-42-20-01-043-0260 SIL FIR CORP 3017 EXCHANGE CT # C WEST PALM BEACH FL 33409-4032	ACRES- 0 VALUE-0 TAXBL-429692 BLDG-272192 LAND-157500	SALE INST- WD PRICE-39400 DATE-2/1/1986 BOOK-04827 PAGE-1239	MTG- PUSE-2100 TAXDIST-36401 NAV-00300,00336 EXC-	KELSEY CITY	LOTS 26 TO 31 INC BLK 43

<u>36-43-42-20-01-121-0010</u> JOURNEYS INN LAKE PARK 1025 N FEDERAL HWY LAKE PARK FL FL 33403	ACRES- 0 VALUE-0 TAXBL-1350000 BLDG-0 LAND-0	SALE INST- WD PRICE-1160000 DATE-2/2/1999 BOOK-10940 PAGE-0576	MTG- F92 PUSE-3900 TAXDIST-36401 NAV-00300,00336 EXC-	KELSEY CITY LTS 1 TO 11 INC./LESS W 20 FT RD RW/ & LTS 12 TO 22 INC BLK 121
<u>36-43-42-21-00-002-0010</u> BAY REACH DEVELOPMENT LLC 307 S 21ST AVE HOLLYWOOD FL 33020 - 5011	ACRES- 11.22 VALUE-0 TAXBL-15600000 BLDG-0 LAND-0	SALE INST- WD PRICE-19550000 DATE-2/25/2004 BOOK-16646 PAGE-1189	MTG- PUSE-0300 TAXDIST-36401 NAV-00300,00336 EXC-	21-42-43, GOVLT 2 E OF LAKE SHORE DR & N OF ELY EXT OF CENTER LI OF AVE J & TR IN TRSDEED OR543P339 (LESS PT OF PL
<u>36-43-42-21-00-002-0030</u> NEW PLAN 31 LP APT 901 LAKE SHORE DR LAKE PARK FL 33403 - 2825	ACRES- 0 VALUE-0 TAXBL-9000000 BLDG-0 LAND-0	SALE INST- QC PRICE-1 DATE-5/9/2001 BOOK-12618 PAGE-1378	MTG- PUSE-0300 TAXDIST-36401 NAV-00300,00336 EXC-	21-42-43, PT OF GOV LT 2 E OF LAKE SHORE DR LYG BET ELY EXTENSIONS OF S LINE OF AVE J & NORTH LINE OF AVE H EXTENDED
<u>36-43-42-21-00-002-0060</u> COHEN SUSAN 1415 N ASTOR ST CHICAGO IL 60610-1622	ACRES- 0 VALUE-0 TAXBL-42400 BLDG-0 LAND-42400	SALE INST- PRICE- DATE- BOOK- PAGE-	MTG- PUSE-0000 TAXDIST-36401 NAV-00336 EXC-	21-42-43, THPT OF GOV LT 2 E OF LAKE SHORE DR LYG BET THE CENTER LI & SOUTH LI OF AVE J EXTENDED
<u>36-43-42-21-27-000-0000</u> EARL STEWART LLC 1215 N FEDERAL HWY LAKE PARK FL 33403	ACRES- 4.47 VALUE-0 TAXBL-2095721 BLDG-539689 LAND-1556032	SALE INST- WD PRICE-10 DATE-11/18/2003 BOOK-16222 PAGE-240	MTG- PUSE-2700 TAXDIST-36401 NAV-00300,00336 EXC-	STEWART TOYOTA ALL OF PLAT

11 12 18 19 23 24

00-003-0020

GARY R. NIKOLITIS, CFA SCALE: 1" = 200' 06-09-2004
PALM BEACH COUNTY LOCATION:
PROPERTY APPRAISER Rng 43E - Twp 42S - Sec 20

Key: 0 - 300

NOTES:



