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COMMISSION  
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March 16, 2011

GAI Project No.: A101241.03

Ms. Ann Cole

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Blvd.

Tallahassee, FL 32399-0850

100359-WS

**Subject: Docket #100359-WS – Staff Assisted Rate Case for Tymber Creek Utilities – Additional Information for Staff Consideration Regarding Tymber Creek Utilities’ Land Lease for Wastewater Disposal**

Dear Ms. Cole:

On behalf of Tymber Creek Utilities, Inc. (TCU), we request that the cost of recovery of land lease related to the wastewater percolation ponds be included in the rates to be approved by the FPSC in the above listed Docket.

The rent expense associated with the land lease discussed in the Staff Report dated March 8, 2011 included the original land for the Wastewater Treatment Facility (WWTF), one percolation pond and two lift stations. Subsequent to the original rate case application, the Florida Department of Environmental Protection (FDEP) required TCU to build new percolation ponds due to revised land application loading limitations and an updated setback requirement from Tymber Creek. Based on the new requirements, TCU hired Quentin L. Hampton Associates (QLH) to design, permit, and construct new percolation ponds on 3.6 acres not owned by TCU (See Figure 1). At that time, the options for TCU involved (1) building deep well injection, (2) purchasing plant capacity from City of Ormond Beach for existing customers, (3) purchasing/lease property remote to TCU. The first option was not chosen because of the complication and costs of permitting, construction, and operation related to deep well injection. The second option was not viable because it would require TCU to pay \$5,000,000 to the City of Ormond Beach for plant capacity charges. The third option was determined to be the highest cost option. Therefore, the lease of 3.6 acres immediately adjacent to the TCU WWTF was determined by the firm of QLH to be the least cost option (A copy of the Land Lease for this property is included in Attachment A). The land upon which the percolation ponds were built was appraised at \$175,000 per acre by Calhoun, Dreggors & Associates, Inc. (a copy of the report is included in Attachment B).

Based on this independent valuation, the lease payment should be approximately \$3,700 per month for TCU for the 99 year lease which started January 3, 2005, which is \$44,400 per year. This cost is 7.05% of the value of the property, which is an appropriate lease cost to the utility and this disposal option was the least cost option for TCU.

My professional opinion is that \$3,700 per month is reasonable considering the independent appraisal value. In our view, the Staff Report dated March 8, 2011 overlooked this lease amount in calculation of rent expense.

Therefore, we request FPSC to include the cost of recovery of \$3,700 per month in rate and charges.

Very truly yours,

**GAI Consultants, Inc.**



Gerald C. Hartman, P.E., BCEE, ASA  
Vice President

3/16/11  
P.E. # 27703

Attachments

- Attachment A Land Lease
- Attachment B Real Estate Appraisal Report
- Attachment C Page 1 of Cover Letter and Page 12 of Staff Report
- Attachment D FDEP Permit

- Cc: Patti Daniel (FPSC)  
Bart Fletcher (FPSC)  
Avy Smith (FPSC)  
Shannon Hudson (FPSC)  
Stanley Shirah  
Thomas Cloud, Esq.  
Robert Dodrill, CPA



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**ATTACHMENT A**

Modified 11/27/2010  
LAND LEASE

**THIS LAND LEASE** (the "Lease") is modified this 17th day of November, 2010, by and between. **J STANLEY SHIRAH** (the "Lessor"), 1951 W. Granada Blvd., Ormond Beach, Florida 32174, and **Tymber Creek Utilities, Incorporated**, a Florida Corporation (the Lessee), 1951 W. Granada Blvd. Ormond Beach, FL 32174

In consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

1. **DESCRIPTION OF PREMISES.** Lessor does hereby lease to Lessee the following premises for the conduct of Lessee's business as a utility and the Lessee's need for additional percolation/retention area as herein described:  
  
Vacant/Land owned by J. Stanley Shirah, located contiguous to Lessee's sewer treatment plant, approximately 3.6 acres for sewer plant effluent ponds.
2. **TERM.** This lease shall be for a term of one year renewable for 99 yrs from date of original lease January 3, 2005 so long as the terms herein are met by the Lessee and there is no change in use of the land commencing on January 1, 2011.
3. **USE.** Lessee shall use the leased premises on a non-exclusive basis as treated sewage effluent ponds in connection with its sewer plant, subject to the terms and conditions of this Lease, any modifications of use must be approved by Lessor along with a new lease agreement.
4. **RENT, UTILITIES AND TAXES.** For each of the first twelve months of the term, Lessee shall pay to Lessor, by the first day of each month, at Landlord's office, as rent for said premises for such month, the sum of **THREE THOUSAND SEVEN HUNDRED AND NO CENTS (\$3,700.00)** per month. Lessee shall also pay all sales tax applicable to Tenant in connection herewith. Furthermore, Lessee shall pay advalorem taxes as related to the property and maintain sufficient insurance to indemnify Lessor. Lessor shall be named on any pertinent insurance and must approve as sufficient. On the first day of each year the monthly rent shall increase five percent (5%) above previous year's rent or sixteen percent (16%) of ad valorem assessed value or ten percent (10%) of appraised value whichever is greater.
5. **MAINTENANCE.** Lessee shall be responsible for all maintenance and repair of the leased premises during the term of this Lease.
6. **PAYMENT OF TAXES.** Lessee shall pay a pro-rated share for all real estate taxes, assessments and charges which shall be assessed and levied upon the

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leased premises, or any part thereof, during the said term as they shall become due.

7. **LIABILITY INSURANCE.** Lessee shall maintain its own insurance, according to its own interests as they may appear, in conformity with generally accepted commercial practices; provided, however, that the limit on general liability insurance maintained by Lessee shall be for an amount of not less than **TWO MILLION DOLLARS (\$2,000,000)**.
8. **OBSERVANCE OF LAWS.** Lessee shall duly obey and comply with all public laws, ordinances, rules or regulations relating to the use of the leased premises. This Lease shall be governed by Florida Law.
9. **TERMINATION BY REASON OF DEFAULT.** In the event that either of the parties hereto shall fail to perform any covenant required to be performed by such party under the terms and provisions of the Lease, and such failure shall continue unremedied for a period of fifteen (15) days after the service of written notice upon such party by the other party serving such notice, at the expiration of such period of fifteen (15) days; provided, however, that such termination shall not relieve the party so failing from liability to the other party for such damages as may be suffered by reason of such failure. Non-payment of any amount due for a period of more than 15 days by Lessee shall constitute default and termination of this lease agreement.
10. **NOTICES.** All notices and demands to the parties shall be in writing and mailed by certified or registered mail, postage prepaid, to Lessee and Lessor at the address first set forth above, or to such other addresses as Lessee or Lessor may hereafter specify in writing.
11. **COST AND ATTORNEY'S FEES.** In the event of any legal or equitable proceeding arising hereunder, the prevailing party shall be entitled to an award of its litigation expenses, including reasonable attorney's fees and costs, against the losing party. Lessee shall pay any attorney fees regarding collection if any funds are due.
12. **ASSIGNMENT AND MODIFICATION.** None of the rights or obligations hereunder shall be assignable except by the Lessor or with the Lessor approval. Any modifications of this lease agreement will be at the discretion of the Lessor, upon written notice of forty five (45) days prior to modification.

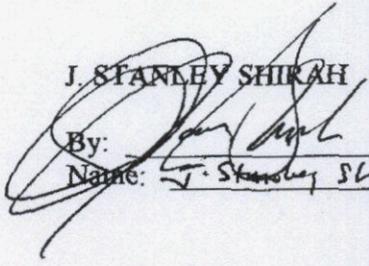
(This is the end of the rental agreement, signature sheet to follow)

IN WITNESS WHEREOF, the parties hereto have executed this Land Lease as of the date first above written.

LESSOR:

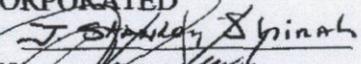
LESSEE:

J. STANLEY SHIRAH

By: 

Name: J. Stanley Shirah

TYMBER CREEK UTILITES,  
INCORPORATED

By: 

Name: J. Stanley Shirah

Title: Sign / Treas

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**ATTACHMENT B**

**Real Estate Appraisal Report  
of**

The Shirah Property  
Volusia County, Florida

**Prepared For**

Mr. J. Stanley Shirah  
1951 State Road 40  
Ormond Beach, Florida 32174

**Prepared By**

Calhoun, Dreggors & Associates, Inc.  
728 West Smith Street  
Orlando, Florida 32804

**Date of Valuation: December 1, 2009**

**Calhoun, Dreggors & Associates, Inc.**

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# Calhoun, Dreggors & Associates, Inc.

• Real Estate Appraisers & Consultants •

February 3, 2011

Mr. J. Stanley Shirah  
1951 State Road 40  
Ormond Beach, Florida 32174

**Re: Parcel No.:** 4125-00-00-0182  
**County:** Volusia  
**Owner:** J. Stanley Shirah

Dear Mr. Shirah:

Submitted herewith is a Summary Real Estate Appraisal on the above-captioned property. The subject property is located on the east side of Tymber Creek Road north of State Road 40 in Ormond Beach, Volusia County, Florida. The purpose of this report is to provide an opinion of the market value for the subject parcel.

Market value is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The source of the above market value definition is from The Dictionary of Real Estate Appraisal, 3<sup>rd</sup> Edition, Published by the Appraisal Institute, Page 222.

728 West Smith Street • Orlando, Florida 32804  
Tel (407) 835-3395 • Fax (407) 835-3393  
affiliated with Calhoun, Collister & Parham, Inc. of Tampa

Mr. J. Stanley Shirah  
February 3, 2011  
Page 2

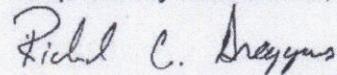
The undersigned hereby certifies that he has no past, present, or contemplated future interest in the property being valued. It is further certified that neither the employment to make the appraisal, nor the compensation therefore, is contingent on the values reported.

An inspection of the subject property has been made, and to the best of my knowledge and belief, the statements and opinions contained in this appraisal report are correct, subject to any further conditions specifically mentioned within the report.

The estimated market value of the property, as of December 1, 2009, is:

**ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS/ACRE  
(\$175,000/Acre)**

Respectfully Submitted,



Richard C. Dreggors, GAA  
State-Certified General  
Real Estate Appraiser  
RZ1628

**Calhoun, Dreggors & Associates, Inc.**

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## GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated. The legal description is assumed to be correct for the purposes of this report.
2. It is assumed there are no hidden or unapparent conditions of the property, subsoil, or structures that render the property more or less valuable unless stated within the appraisal report. The appraiser(s) assumes no liability for any hidden or unapparent conditions of the property. No responsibility is assumed for such conditions, or for arranging for engineering studies that may be required to discover them.
3. Possession of this report, or a copy thereof, does not carry with it the right of publication.
4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraisers are connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
5. This report is limited with regard to any additional facts and/or data which may become available subsequent to the date of report. The appraiser reserves the right to make adjustments and to update the value estimate as contained in this report.
6. The property is appraised as if free and clear of any and all liens or encumbrances unless otherwise stated.
7. Responsible ownership and competent property management are assumed.
8. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
9. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
10. It is assumed that all applicable zoning and land use regulations and restrictions have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report.
11. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or

renewed for any use on which the values estimates contained in this report are based.

12. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report.
13. The appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in the report. No responsibility is assumed for any environmental conditions or for any expertise or engineering knowledge required to discover them. The appraisers' descriptions and resulting comments are the result of the routine observations made during the appraisal process.
14. Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communication barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.

## SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Report Type: Summary

Location: The subject property is located on the east side of Tymber Creek Road approximately 200' south of Linville Road in Ormond Beach, Florida.

Owner: J. Stanley Shirah

Tax I.D. No.: 4125-00-00-0182

Date of Valuation: December 1, 2009

Property Rights Appraised: Fee Simple Estate

Site Data: The property represents a slightly irregular shaped tract of land containing 9.6 acres. The property has approximately 686' of frontage along the east side of Tymber Creek Road. All the property represents upland areas.

Improvement Data: The subject property is essentially vacant land. A portion of the property representing the easterly one-third, more or less, is improved with regulation pond/fluent spray fields associated with a package plant located east of the subject property. This portion of the property is cleared and sodded. There are no other improvements located on the property.

Zoning: Single Family Cluster & Townhome (R-4); Ormond Beach

Land Use Designation: Medium Density Residential (MDR)

Estimated Value: \$175,000/Acre

## IMPORTANT DEFINITIONS

**Appraisal** (noun) is the act or process of developing an opinion of value; an opinion of value (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.<sup>1</sup>

**Client** is the party or parties who engage an appraiser (by employment or contract) in a specific assignment.<sup>2</sup>

**Easement** is the interest in landed property conveying use, but not ownership, of a portion of that property.<sup>3</sup>

**Fee Simple** is defined as absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.<sup>4</sup>

**Highest and Best Use** (in appraising real property) is the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value.<sup>5</sup>

**Hypothetical Condition** is that which is contrary to what exists but is supposed for the purpose of analysis.<sup>6</sup>

**Intended Use** is the use or uses of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.<sup>7</sup>

**Intended User** is the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.<sup>8</sup>

**Jurisdictional Exception** is an assignment condition that voids the force of a part or parts of Uniform Standards of Professional Appraisal Practice (USPAP), when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.<sup>9</sup>

<sup>1</sup> *Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition, Published by The Appraisal Foundation, Page U-1.*

<sup>2</sup> *Ibid, Page U-2.*

<sup>3</sup> *The Dictionary of Real Estate Appraisal, 5<sup>th</sup> Edition, Published by the Appraisal Institute, Pages 63 and 246.*

<sup>4</sup> *The Appraisal of Real Estate, 13<sup>th</sup> Edition, Published by the Appraisal Institute, Page 111.*

<sup>5</sup> *Ibid, page 277.*

<sup>6</sup> *Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition, Published by The Appraisal Foundation, Page U-3.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

**Larger Parcel** (in condemnation) is the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use.<sup>10</sup> The larger parcel is sometimes referred to as the "parent tract". In Florida, the term "parent tract" is most often used in the appraisal process.

**Leased Fee Interests** is the lessor's, or landlord's, interest. A landlord holds specified rights that include the right of use and occupancy conveyed by lease to others. The rights of the lessor (the leased fee owner) and the lessee (leaseholder) are specified by contract terms contained within the lease. Although the specific details of leases vary, a leased fee generally provides the lessor with the following:

- Rent to be paid by the lessee under stipulated terms
- The right of repossession at the termination of the lease
- Default provisions
- The right of disposition, including the rights to sell, mortgage, or bequeath the property, subject to the lessee's rights, during the lease period.<sup>11</sup>

**Market Value** as used in eminent domain statute ordinarily means amount which would be paid for the property on the assessing date to a willing seller not compelled to sell, by a willing purchaser, not compelled to purchase, taking into consideration all uses to which the property is adapted and might reasonably be applied.<sup>12</sup>

**Remainder** (in condemnation) is that portion of a larger parcel remaining in the ownership of the property owner after a partial taking.<sup>13</sup>

**Replacement Cost** is the estimated cost to construct, at current prices as of the effective appraisal date, a substitute for the building being appraised, using modern materials and current standards, design, and layout.

**Reproduction Cost** is the estimated cost to construct, at current prices as of the effective date of the appraisal, an exact duplicate or replica of the building being appraised, using the same materials, construction standards, design, layout, and quality of workmanship and embodying all the deficiencies, superadequacies, and obsolescence of the subject building.<sup>14</sup>

**Restricted Use Appraisal Report** is a written report prepared under Standards Rule 2-2(c), 8-2(c), or 10-2(b).

<sup>10</sup> *The Dictionary of Real Estate Appraisal, 5<sup>th</sup> Edition, Published by the Appraisal Institute, Page 110.*

<sup>11</sup> *The Appraisal of Real Estate, 13<sup>th</sup> Edition, Published by the Appraisal Institute, Page 114.*

<sup>12</sup> *Florida State Road Dept. v. Stack, 231 So 2d 859, 860 (Fla., 1<sup>st</sup> DCA 1969).*

<sup>13</sup> *The Dictionary of Real Estate Appraisal, 5<sup>th</sup> Edition, Published by the Appraisal Institute, Page 166.*

<sup>14</sup> *Ibid, Page 169.*

**Self-Contained Appraisal Report** is a written report prepared under Standards Rule 2-2(a) or 8-2(a).

**Severance Damages** is the diminution of the market value of the remainder area, in case of a partial taking, which arises (a) by reason of the taking (severance), and/or (b) the construction of the improvements in the manner proposed.<sup>15</sup>

**Summary Appraisal Report** is a written report prepared under Standards Rule 2-2(b) or 8-2(b).

**Taking** is the acquisition of a parcel of land through condemnation.<sup>16</sup>

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<sup>15</sup> American Institute of Real Estate and the Society of Real Estate Appraisers, *Real Estate Appraisal Terminology*, rev. ed., Byrl N. Boyce, ed. (Cambridge, Mass.: Ballinger Publishing Company, 1981), Page 69.

<sup>16</sup> *The Dictionary of Real Estate Appraisal*, 5<sup>th</sup> Edition, Published by the Appraisal Institute, Page 193.

### **INTENDED USE OF THE APPRAISAL**

This appraisal report is prepared for the property owner J. Stanley Shirah. The intended users of this report are the client and his representatives. The use of this report by others is not intended by the appraiser. The intended use of this report is for the client and his representative for internal decision making purposes.

### **PURPOSE OF APPRAISAL**

The purpose of this appraisal report is to provide an opinion of the market value of the property as of the identified date.

### **DATE OF VALUE ESTIMATE**

The date of value estimate is as of December 1, 2009, which represents the date of the analysis of the market value as identified by the client for the property.

### **PROPERTY RIGHTS APPRAISED**

The property rights or interest valued is the undivided fee simple interest as if free and clear of all liens, mortgages encumbrances, and/or encroachments, unless otherwise provided herein.

### **LEGAL DESCRIPTION**

The legal description of the subject property can be found in the Addenda of this report.

### **SCOPE OF APPRAISAL**

The scope of this appraisal report is defined as the process of collecting, confirming, and reporting the data utilized to estimate the value of the subject property. In this particular instance, the appraiser is utilizing a Summary Appraisal report format, whereby the appraiser is providing a Summary report that contains all the data found in a Self-Contained Appraisal report, except for the amount of presentation.

The subject property represents an essentially vacant tract of land located on the east side of Tymber Creek Road approximately 200' south of Linville Road in the City of Ormond Beach. The property contains 9.6 acres and is slightly irregular in shape. The property has a land use designation of Medium Density Residential and is zoned for single family/townhome use by the City of Ormond Beach.

Since the subject property represents a vacant tract of land, the only appraisal technique considered applicable to estimate the value of the taking is the sales comparison approach to value. In order to estimate the value of the subject property utilizing the sales comparison approach, purchases of other vacant residential zoned properties in Volusia County have been considered. These sales will be discussed later in the appraisal with a complete write-up of the sales contained in the Addenda of the

appraisal. As a result, the cost and income approaches to value will not be utilized in the appraisal of the subject property.

Finally, in the preparation of this appraisal Ms. Courtney Abrams, Registered Trainee Appraiser No. RI23271, has also provided assistance in the appraisal of the property. Her assistance included an inspection of the subject property, researching sales in conjunction with Mr. Dreggors and researching documents relative to the sales and the subject property contained in the public records of Volusia County.

### **OWNERSHIP AND SALES HISTORY**

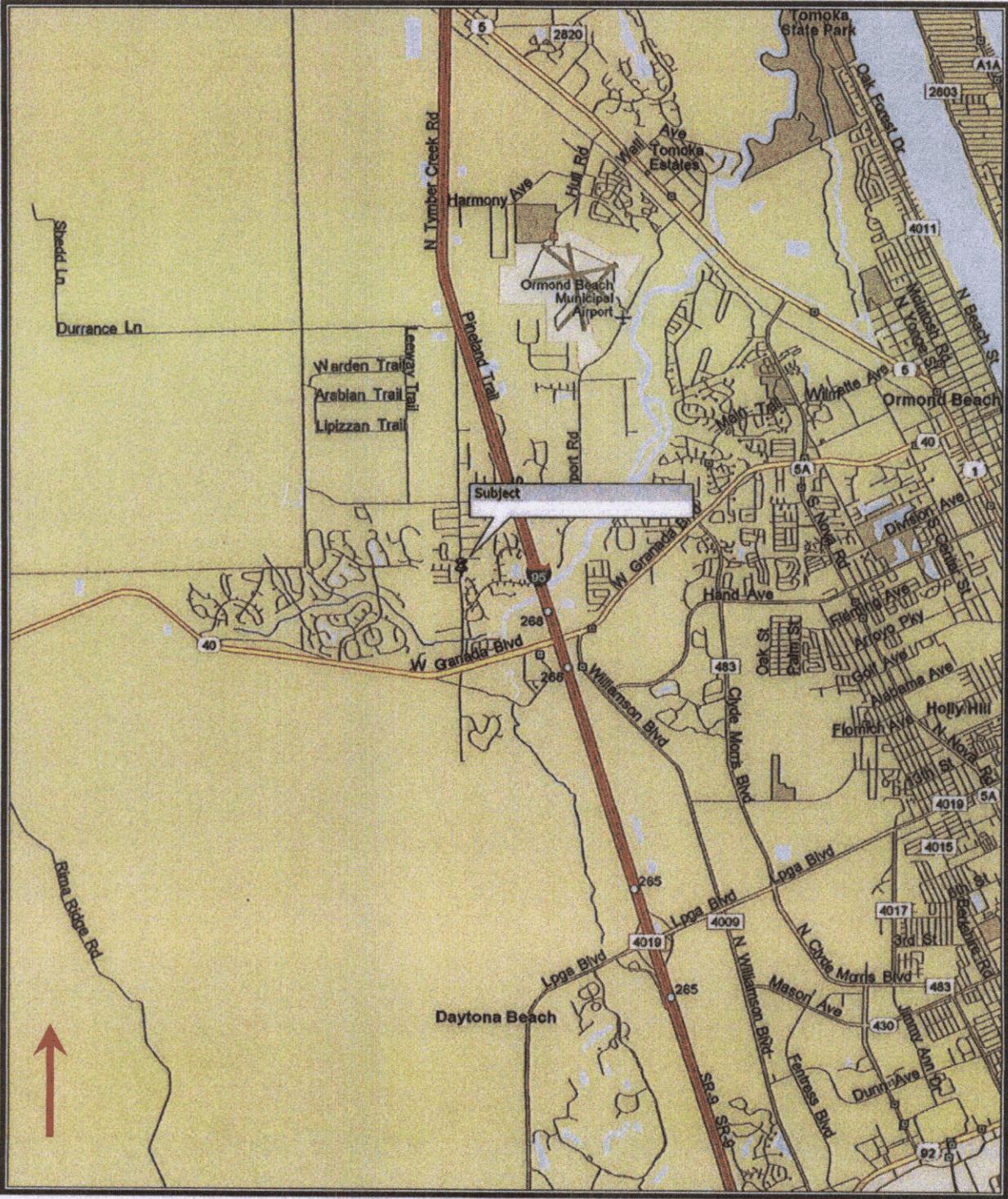
The ownership of the property is under J. Stanley Shirah. His tax mailing address is 1951 State Road 40, Ormond Beach, Florida, 32174. There have not been any arm's length sales of the subject property within three years prior to the valuation date. Furthermore, we are not aware at this time of any listings or pending contracts for the property.

The property was subject to a contract between Sheriff Guindi (Buyer) and J. Stanley Shirah (Seller). This contract was signed on September 1, 2005 and was for a purchase price of \$1,568,000. The property that was subject to the contract contained approximately 7 acres and contemplated development of 56 townhome units. The contract price was based upon a unit price of \$28,000 per potential townhome or \$224,000 per acre. The buyer made a \$5,000 deposit at the time of executing the contract and later deposited an additional \$50,000 for the property.

The contract also included an option to purchase the remaining land of approximately 3.0 acres immediately east of the property that was subject to this contract. This portion of the property is improved with the percolation ponds and would represent a future phase of a townhome development. This portion of the property also included a unit price of \$28,000 per unit (\$224,000/acre) and anticipated 24 multi-family units. This equated to a purchase price of \$672,000 for this area of the property.

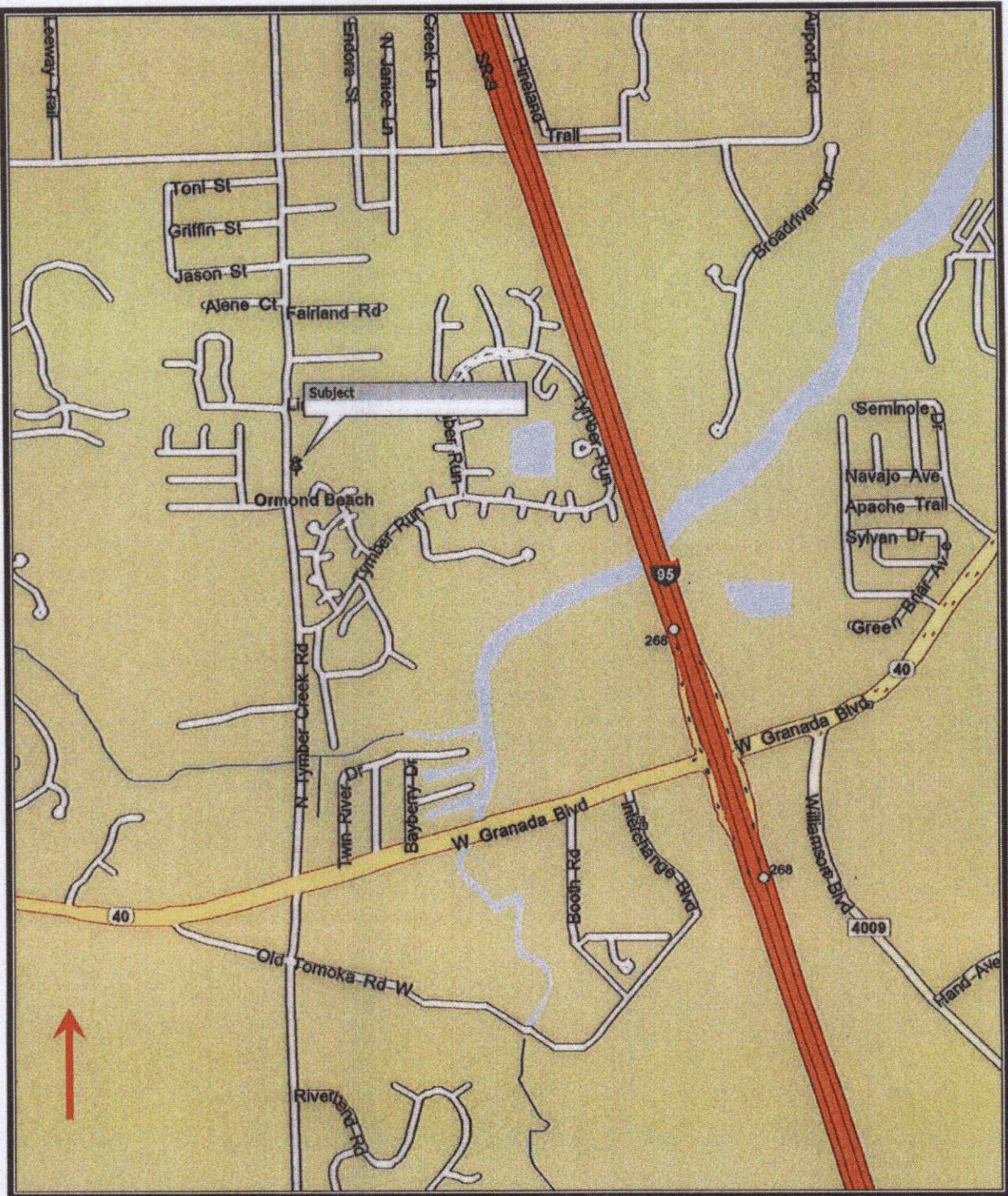
However, the buyer rescinded the contract when he became aware of the County's intention to acquire a part of the property for the Tymber Creek Road widening project. The seller was required to return the \$55,000 in deposits. The County informed the buyer Mr. Guindi in a letter dated March 17, 2009 of his ability to terminate the contract based upon the County's right-of-way manager's reading of the contract.

**GENERAL LOCATION MAP**



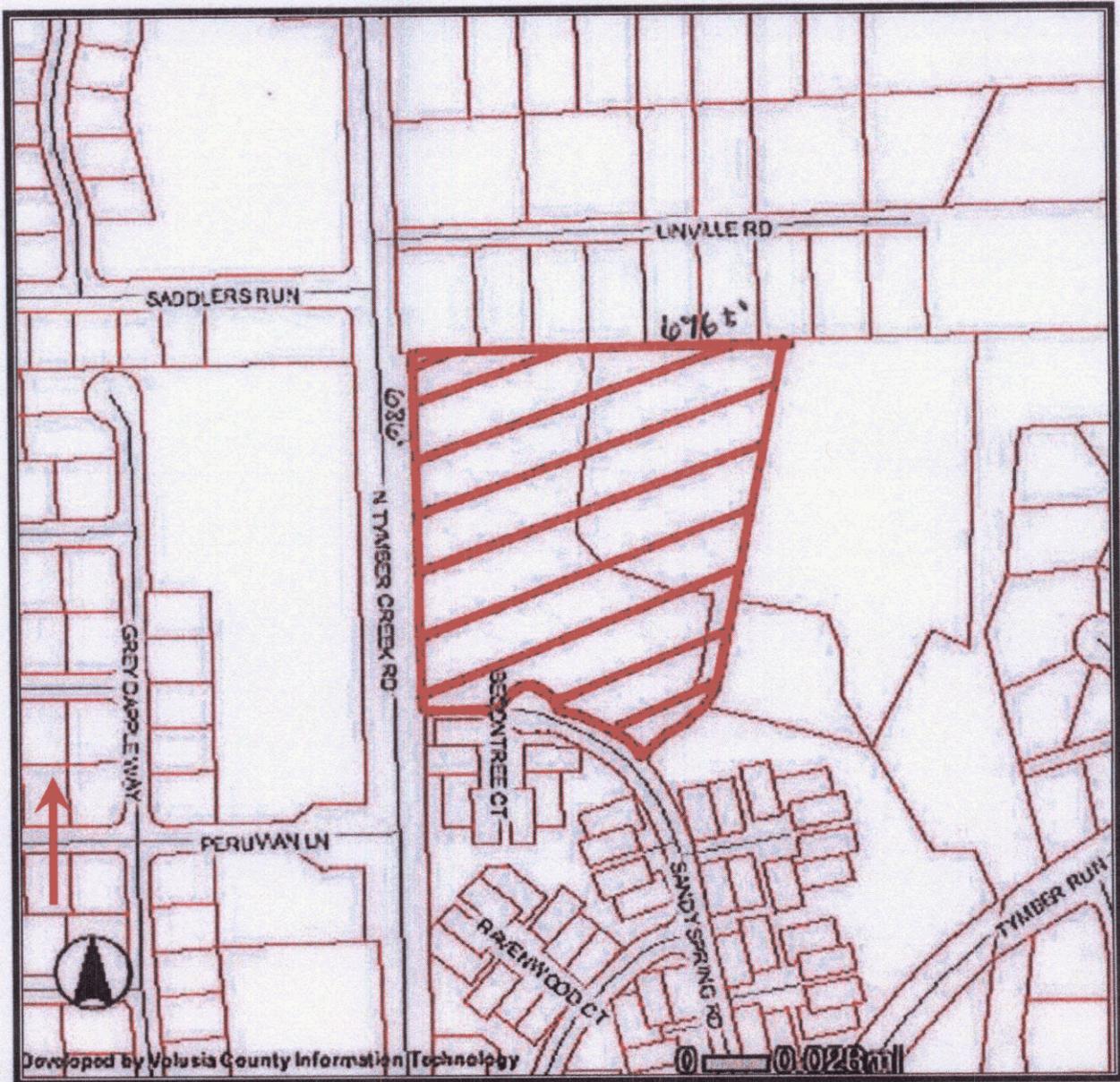
**Calhoun, Dreggers & Associates, Inc.**

**SITE LOCATION MAP**



**Calhoun, Dregors & Associates, Inc.**

TAX MAP



AERIAL PHOTOGRAPH



Calhoun, Dreggors & Associates, Inc.

## PROPERTY DESCRIPTION

### Location

The subject property is located on the east side of Tymber Creek Road approximately 200' south of Linville Road in Ormond Beach, Florida. The property is located west of Interstate 95 and north of State Road 40 in Volusia County.

### Street/Road Improvements

Tymber Creek Road represents a two-lane asphalt paved roadway. In certain areas it has curves, sidewalks, storm sewers and streetlights. In front of the subject property it only has drainage swales on the east and west sides.

### Land

As we discussed in the highest and best use analysis before the taking, the subject property is considered to represent one parent tract. The subject property consists of a slightly irregular shaped tract of land containing 9.6 acres. The property has 686' of frontage along the east side of Tymber Creek Road. The property also has approximately 289' of frontage along the north side of Sandy Spring Road. Sandy Spring Road represents a 50' wide platted road located within the Tymber Creek Phase One subdivision. This road is a dirt/gravel access road to the community's package plants and homeowner's RV and boat storage area. All the property consists of uplands. The front of the property facing Tymber Creek Road is wooded. The rear of the property has been cleared and improved with percolation ponds that are used in conjunction with the package plant and provides waste water service for the Tymber Creek Plan Unit Development.

### Encroachments/Easements/Restrictions

Titlework for the property has not been provided. However, based upon our review of the public records there do not appear to be any easements, encroachments or restrictions that would affect the value of the property.

### Site Improvements

The subject property as stated represents a wooded tract of land on the westerly two-thirds. The easterly one-third of the property has been cleared as result of the percolation ponds constructed in conjunction with the package plant located east of the parent tract. Some of the property has been cleared and small earthen berms have been constructed. As stated earlier, this area contains approximately 3.0 acres.

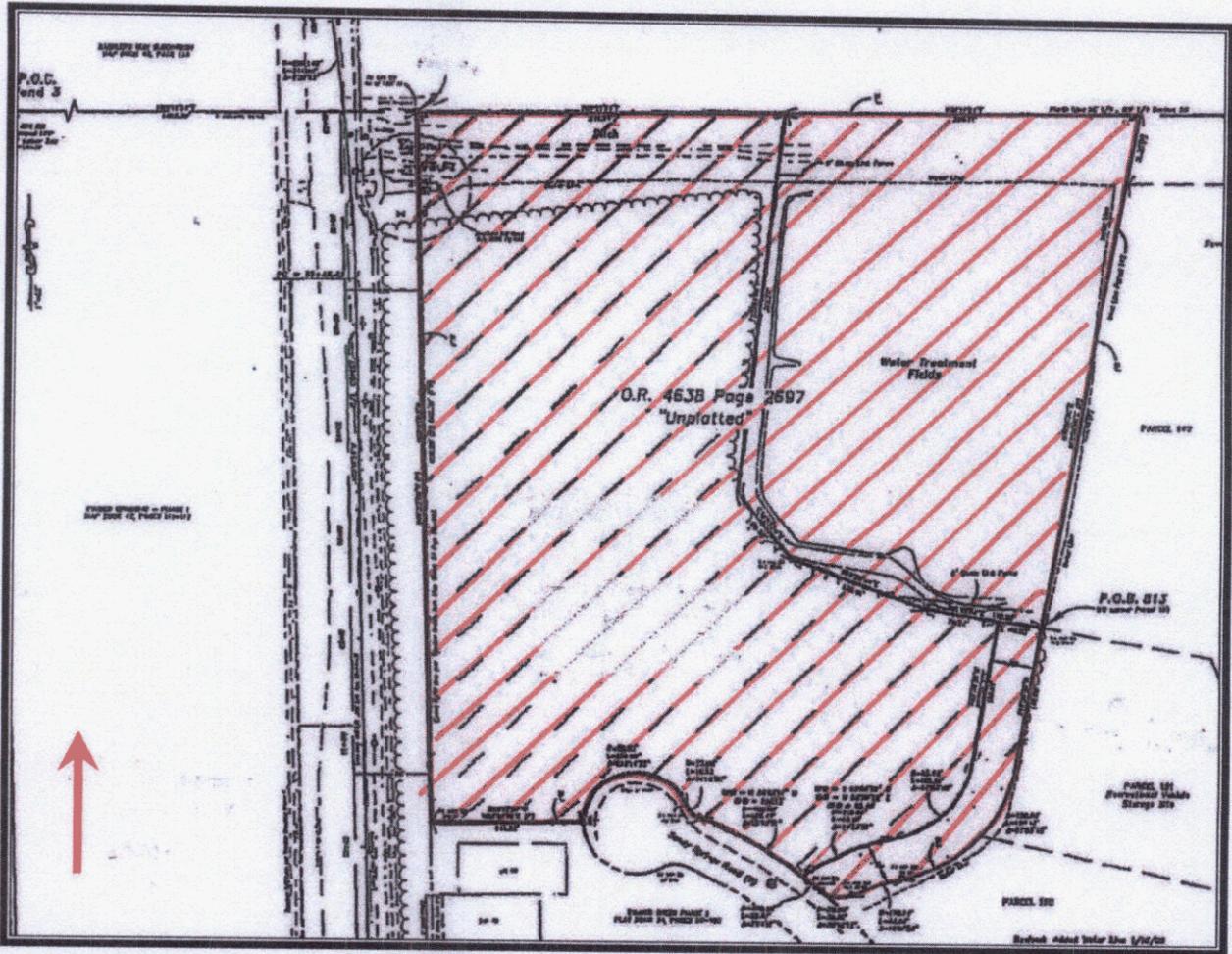
**Building Improvements**

The subject property has no vertical structures or buildings located on the property. A portion of the property is improved with percolation ponds associated with the wastewater plant on the adjoining land to the east.

**Utilities**

All public utilities are available to the site, including municipal water and sewer service.

# PROPERTY SKETCH



**SUBJECT PHOTOGRAPHS**



**The view looking south across Tymber Creek Road at the subject property's frontage along the east side of Tymber Creek Road. (Photo No. 1)**



**The view looking northeast from the west side of Tymber Creek Road at the subject property's frontage along the east side of Tymber Creek Road and the northwest corner of the property adjacent to Tymber Creek Road. (Photo No. 2)**

**SUBJECT PHOTOGRAPHS**



**The view looking northwest from the east side of the property at the percolation ponds and the remaining wooded areas of the subject property. (Photo No. 3)**



**The view looking southeast at the package plant that is located east of the subject property. (Photo No. 4)**

## ZONING/LAND USE

### Introduction

The subject property is zoned R-4 (Single Family Cluster and Townhouse District) by the City of Ormond Beach. The property also has a Medium Density Residential land use designation by the City. The zoning of the subject property is provided for medium density residential development including traditional single-family, cluster development, multi-family and townhouse development. There are four districts to help establish maximum density, limits and development standards depending on the type of development. Permitted uses include single-family and duplex uses. Duplex uses would also include cluster, townhouse and zero-lot line development. Special exceptions include places of worship and daycare uses. The following table summarizes the performance standards for the R-4 zoning district:

Regulation	Single-Family	Cluster	Patio	Zero-Lot Line	Multi-Family	Townhouse
Density (du/ac.)	5.05	6.7	6.89	8.71	8.0	6.31
Minimum Lot Size (Square Feet)	8,625	6,500	6,325	5,000	43,560	6,900
Minimum Lot Width (Feet)	75	65	55	50	125	60
Minimum Lot Depth (Feet)	115	None	115	None	None	115
Maximum Height (Feet)	30	30	30	30	30	30
Maximum Building Coverage (%)	35	35	35	35	35	35
Maximum Impervious Surface (%)	75	75	75	75	75	75
Setbacks (Feet):						
- Front	25	25	25	25	25	25
- Street Side	20	20	20	20	20	20
- Side (minimum)	8	8	8	0	10	15
- Sides (total)	20	20	20	20	N/A	N/A
- Rear	25	25	25	25	25	25
Parking Spaces/Unit	2	2	2	2	2	2
Buffer (Feet) Adjacent to:						
- Open Space	10					
- Medium Density Residential	None					
- Tymber Creek Rd	20					
Common Area Open Space	None	100 Square Feet/Unit	100 Square Feet/Unit	None	None	20%

The subject property as stated has a medium density residential land use designation under the City of Ormond Beach's future land use element. This land use designation permits a density from 4.3 to 12 dwelling units per acre. The surrounding land use designations to the subject are suburban low residential to the west, medium density residential to the south, urban low intensity to the north and open space/conservation to the east.

### **Analysis**

In addition to the zoning and land use designations as described above, the subject property is part of the Chimney Hill Development Regional Impact (DRI). This Chimney Hill DRI is also known as Tymber Creek. It was approved by the County and the Department of Community Affairs in 1974 for a total of 600 dwelling units. At the same time, a plan was submitted to Volusia County for a planned unit development for the property. This planned unit development was approved for 495 units in 1974 as well. A part of the planned unit development approvals, 100 multi-family dwelling units were approved to be developed on a ten acre site which included the subject property of this appraisal. In 1991, a total number of approved multi-family units was reduced from 100 to 85 units on an 8.85 acre parcel, a portion of which represents the subject property. This was done in order to accommodate the percolation ponds related to the wastewater package plant that services the Tymber Creek PUD. However, this amendment also permitted reinstatement of the 15 dwelling units upon abandonment of the percolation ponds.

The entire Tymber Creek PUD was annexed into the City of Ormond Beach in 1996. As of the date of valuation, 395 single family homes have been constructed. Pursuant to correspondence between the City and County and based upon the approved DRI, development of the subject property would be vested for 100 townhome units on the subject property which are exempt from current transportation concurrency requirements in the area.

Therefore, after reviewing the subject's zoning and land use designation as well as the approved PUD for the property, legally permissible development of the property would be for multi-family development consistent with previously approved plans for the Tymber Creek PUD.

## HIGHEST AND BEST USE

### Introduction

Land value is based on the premise of the highest and best use "as though vacant". There are four tests which are taken into consideration in developing an opinion of highest and best use. These four tests include an examination of those uses that are physically possible, legally permissible, financially feasible, and maximally productive. Each criterion is considered cumulatively and provides the analysis for the highest and best use of the property.

The physical characteristics of the land such as size, shape, location, and topography have been considered in estimating its highest and best use. In addition, this analysis also includes the impact of surrounding developments, existing zoning, access to major transportation routes, availability of utilities, current trends in the neighborhood, and the demand for this type of property in the market to estimate the highest and best use of the property being appraised.

The subject property represents a vacant tract of land for valuation purposes. As a result, the highest and best use analysis of the property only relates to the highest and best use of the land as vacant.

### Legally Permissible

The subject property is zoned R-4 (Single Family Cluster & Townhome Development) by the City of Ormond Beach. The property also has a medium density land use designation which allows a density between 4.3 and 12 dwelling units per acre. Finally, the property is part of the Chimney Tymber Creek PUD. The PUD, for this portion of the property, is approved for 100 dwelling units. This indicates a density of 10.4 units to the acre ( $100 \div 9.6$  acres). In addition to having an approved PUD plan in place, the property is "vested" transportation concurrencies for any development of the property with a residential use.

### Physically Possible

The parent tract that represents the entire ownership of Mr. Shirah is 9.6 acres. The land to the south of the property is developed with the single family Tymber Creek subdivision. There is a variety of uses along Tymber Creek Road; however, most are residential in nature.

Physically, the property could support a variety of uses. However, the most likely uses would be for those that are legally permitted which would be for medium density single family zero lot line homes or townhomes. In addition, all public utilities are available to the site and the property has vested concurrency with respect to transportation requirements.

### **Financially Feasible**

The Shirah property is located on the east side of Tymber Creek Road and is part of the Tymber Creek PUD. Tymber Creek represents an established single family subdivision located west of Interstate 95 and along the east side of Tymber Creek Road. The property is located in the City of Ormond Beach which is a desirable and preferred area of Volusia County.

The property consists of an approximately 9.6 acre vacant site that is approved for single family and townhome development as a part of the original Tymber Creek PUD. Uses along Tymber Creek Road primarily consists of rural residential which represent the historical uses and newer single family subdivisions and higher density residential development. Commercial development is primarily limited to the intersection of State Road 40 which is south of the subject property.

As described, the property is physically capable of supporting medium density townhome style development and has been approved and vested for such use as part of the Tymber Creek PUD. Therefore, in my opinion, the financially feasible use of the property would be for townhome development when ripe for this use.

### **Maximally Productive**

The maximally productive use of the property would be for future residential use consistent with the previously approved plans and the property's zoning and land use designations. Such use would represent the maximally productive use of the property when the property is right for development.

## **APPRAISAL METHODOLOGY**

### **Introduction**

The cost, sales comparison, and income capitalization approaches to value are the three traditional approaches to value. Each approach is briefly discussed with an explanation of the particular approach. At the end of this section, there is a discussion of the relevance of each approach to this valuation assignment.

### **Cost Approach**

The cost approach is an indication of value which combines the value of the land under the highest and best use, plus the depreciated replacement or reproduction cost of the improvements. Depreciation is the loss in value due to wear and tear, design and plan, or market area influences. The cost approach is based upon the principle of substitution which holds that a purchaser would most likely not pay more for a property than the cost of obtaining an equally desirable substitute site, plus the cost of replacing equally desirable and useful improvements thereon, assuming no costly delay is involved in making the substitution.

### **Sales Comparison Approach**

The sales comparison approach, or market approach, is a method of estimating value whereby the subject property is compared with similar properties that have sold recently. The information on typically comparable properties is used and comparisons are made to demonstrate a probable price at which the subject property would be sold if offered on the market.

Preferably, all properties are in the same area or in similar market areas. The sales comparison approach is a systematic procedure that reflects comparative properties and the price paid for said properties. The similarities and dissimilarities of each comparable are considered and weighed in comparison to the subject.

Within the sales comparison approach the sales are generally analyzed by a relevant unit of comparison (e.g., acre, square feet, front foot, multipliers) to develop a comparative analysis for each unit. The most market-oriented unit of comparison is used to reconcile a single value indication. The land valuation is based on the sales comparison approach and is discussed in the "Land Value" section of the report.

### **Income Approach**

In the income capitalization approach, the projected or current rental income for the property is shown with deductions for vacancy and collection losses and expenses. The estimated net operating income of the property is calculated. To support this net income estimate, operating statements of previous years and comparable properties may be reviewed along with available operating expense estimates. The applicable

capitalization method and appropriate overall capitalization rates are developed and used in computations to lead to an indication of value.

**Reconciliation**

The subject property represents a vacant tract of land for valuation purposes. The highest and best use of the property is for residential use. As a result, the only approach considered applicable to estimate the value of the property is the sales comparison approach. The cost and income approaches to value will not be utilized in the appraisal of the subject property.

## LAND VALUE ESTIMATE

### Introduction

The subject property is located on the east side of Tymber Creek Road about 200' south of Linville Road in Ormond Beach, Volusia County, Florida. The highest and best use of the property before the taking is for a multifamily development taking advantage of the subject property's physical and locational characteristics. The subject property has 9.6 acres of useable area.

Sales of similar residentially oriented tracts of vacant land were researched for comparison to the subject property. A complete write-up of each of the sales is contained in the Addenda of the appraisal report.

### Presentation of Sales

The following grid summarizes relevant information regarding the subject and sale properties considered in estimating the value of the subject. A detailed write-up of each of the sales is contained in the Addenda of the appraisal. In this particular instance, the relevant unit of comparison is estimated to be the price per acre of land area.

Sale No.	Location	Sale Date	Sale Price	Land Size	FLU	Price/ Acre
Subject	ES of Tymber Creek Rd., about 200' S of Linville Rd.; Ormond Beach, Volusia Co.	12/01/09	N/A	9.6 Ac.	Medium Density Residential	N/A
VR-103	NEC of Clyde Morris Blvd. & Strickland Range Rd; Daytona Beach, Volusia Co.	11/27/07 11/29/07	\$3,684,117	23.24 Ac.	Office Transitional	\$158,525
VR-105	SEC of Clyde Morris Blvd. & Big Tree Road; Daytona Beach, Volusia Co.	05/15/07	\$3,541,250	14.16 Ac.	L2 Residential & Low Intensity Commercial	\$250,088
VR-110	NS of Museum Blvd., about 280' W of Nova Rd. (SR 5A); Daytona Beach, Volusia Co.	11/10/06	\$525,000	3.23 Ac.	Level 1 Residential	\$162,539
177	SWC of Business Center Dr. & Southland Rd.; Ormond Beach, Volusia Co.	10/02/06	\$730,000	2.85 Ac.	Industrial/ Utilities	\$256,140

### Discussion of Sales

**Sale No. VR-103** is located on at the northeast corner of Clyde Morris Boulevard and Strickland Range Road in the City of Daytona Beach, Volusia County, Florida. This sale represents the purchase of two contiguous parcels that sold for \$3,684,117 on November 27<sup>th</sup> & 29<sup>th</sup>, 2007. The site is irregular in shape containing 23.24 gross acres.

**Calhoun, Dreggors & Associates, Inc.**

The property has a RPUD (Residential Planned Development) zoning designation by the City of Daytona Beach and an Office Transitional land use designation also by the City of Daytona Beach. All utilities were available at the time of sale. The property has been improved with a 288 unit apartment complex known as Integra Shores. This sale indicates a price paid per gross acre of \$158,525.

**Sale No. VR-105** is located at the southeast corner of Clyde Morris Boulevard and Big Tree Road in the City of Daytona Beach, Volusia County, Florida. This property sold on May 15, 2007 for \$3,541,250. The site is irregular in shape containing 14.16 gross acres. The property has a RA (Multi-Family) zoning designation by the City of Daytona Beach and a Low Intensity Commercial and Level 2 Residential land use designation also by the City of Daytona Beach. All utilities were available at the time of sale. The property has been improved with a 177 unit apartment complex known as Cape Morris Cove. This sale indicates a price paid per gross acre of \$250,088.

**Sale No. VR- 110** is located on the north side of Museum Boulevard about 280' west of Nova Road (SR 5A) in the City of Daytona Beach, Volusia County, Florida. The property sold on November 10, 2006 for \$525,000. The site is rectangular in shape containing 3.23 gross acres. The property has a RR (Multi-Family) zoning designation by the City of Daytona Beach and a Level 1 Residential land use designation also by the City of Daytona Beach. All utilities were available at the time of sale. The property remains vacant. This sale indicates a price paid per gross acre of \$162,539.

**Sale No. 177** is located at the southwest corner of Business Center Drive and Southland Road in the City of Ormond Beach, Volusia County, Florida. The property sold on October 2, 2006 for \$730,000. The site is rectangular in shape containing 2.85 gross acres. The property has an I-1 (Industrial) zoning designation by the City of Ormond Beach and an Industrial/Utilities land use designation also by the City of Ormond Beach. All utilities were available at the time of sale. The property is improved with a preschool/daycare building which is a permitted use in the subject's zoning. This sale indicates a price paid per gross acre of \$256,140.

### **Conclusions**

In order to estimate the value of the land as vacant, sales of other residentially oriented parcels of similar location and development potential as the subject have been considered. The subject property consists of 9.6 acres and has a highest and best use for a multifamily development. The sales provide a range from \$158,525 per acre to \$256,140 per acre. Therefore, after considering the various factors that influence value, it is estimated that the value of the subject property is \$175,000 per acre. This results in a value as follows:

$$9.6 \text{ Ac.} \times \$175,000/\text{Net Ac.} = \$1,680,000$$

## RECONCILIATION

The following summarizes the indicated value of the property from the three approaches to value:

Cost Approach	N/A
Sales Comparison Approach	\$175,000/Acre
Income Approach	N/A

The only approach considered applicable to estimate the value of the subject property is the sales comparison approach. The cost and income approaches to value were not considered in the analysis of the subject property since it represents a tract of vacant land for valuation purposes. The comparable sales considered in the sales comparison approach have been inspected, verified and analyzed and compared to the subject property. Based upon the sales and our analysis of other market data, the sales comparison approach is considered to provide a reliable value estimate for the subject property.

Therefore, based upon the sales comparison approach, the estimated value of the property as of December 1, 2009:

**\$175,000/Acre**

## EXPOSURE TIME

Based on market conditions as of the valuation date as well as our research into the market, it is estimated that a 12 to 18 months exposure period would be required to achieve the market value reported. This assumes a reasonable market exposure and asking price relative to the value reported.

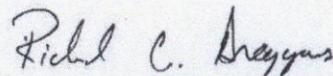
### ANALYSIS OF LAND RENTAL RATES

At the request of the owner, I have also conducted an analysis of land rental rates for vacant land in the Central Florida area. In order to estimate the rental rate for a parcel of vacant land, I have interviewed other property owners, real estate brokers and reviewed land leases for vacant land in the Central Florida area. Based upon my interviews and review of the available information, it is my opinion that a fair rental rate for vacant land would approximate 8% to 10% on an annual basis of the fee value of the property. Therefore, for the subject property, the estimated value of fair rental rate would be 8% to 10% of the fee value of the property which is \$175,000 per acre. This would represent an annual rent on a per acre basis for the property.

## CERTIFICATE OF APPRAISAL

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the *Uniform Standards of Professional Appraisal Practice*.
8. I have made a personal inspection of the property that is the subject of this report.
9. We have not prepared appraisal services of the subject property within the last three years.
10. The values reported herein do not include the valuation of mineral leases, unless expressly stated in the body of the report. The appraisers will value such leases only upon instruction to do so, as they are a separate conclusion.
11. The values reported herein assume no environmental contamination problems, unless otherwise noted in the appraisal report.
12. The undersigned has received professional real property appraisal assistance from Ms. Courtney Abrams, Registered Real Estate Trainee Appraiser No. RI23271. She is the only individual who has worked specifically with the undersigned on this appraisal, but other associates may have provided pertinent information when gathering data relating to various assignments. This does not include any other professional assistance involving other disciplines, which are summarized under the "Scope of Appraisal" portion of the report.
13. Estimates of the damage amounts, where applicable, are based on those damage elements considered to be compensable under Florida law. The appraiser assumes no responsibility for legal opinions, and has relied upon such opinions from legal counsel employed on the project.
14. The Appraisal Section of the National Association of Realtors requires maintaining State-Certification as a General Accredited Appraiser. Richard C. Dreggors, GAA is in compliance with that program.



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Richard C. Dreggors, GAA  
State-Certified General  
Real Estate Appraiser RZ1628

**Calhoun, Dreggors & Associates, Inc.**

**ACQUIRING DEED & LEGAL DESCRIPTION**  
**OF SUBJECT PROPERTY**

This instrument prepared by:  
Wells, Revis, Elton & Gardner, P.A.  
648 South Ridgewood Avenue  
Daytona Beach, FL 32114  
Parcel ID # 4124-05-00-4280



01/26/2001 14:27  
Doc stamps 1136.10  
(Transfer Amt \$ 162290)  
Instrument # 2001-015893  
Book = 4638  
Page = 2697

**WARRANTY DEED**

Made the 19<sup>th</sup> day of January 2001, by J.K. SHIRAH & SONS, INC., a corporation existing under the laws of the State of Florida, and having its principal place of business as 1951 State Road 40, Ormond Beach, Florida 32174, hereinafter called the "Grantor", to J. STANLEY SHIRAH, whose post office address is 1951 State Road 40, Ormond Beach, Florida 32174, hereinafter called "Grantee".

(Wherever used herein the terms "Grantor" and "Grantee" include singular and plural, all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

**WITNESSETH**, that the Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all the certain land situate in Volusia County, State of Florida, viz:

*Lot 428 TYMBER CREEK PHASE III, as per map recorded in Map Book 42,  
Pages 3 and 4, of the public records of Volusia County, Florida.*

} Not  
INCLUDED

*Also the legal description attached hereto and made a part hereof as Exhibit "A"*

SUBJECT to taxes for 2001 and subsequent years, easements and restrictions of record, if any.

**TO HAVE AND TO HOLD** the same in fee simple forever, together with the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining.

**AND** the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free and clear of all encumbrances, except taxes accruing subsequent to December 31, 2000.

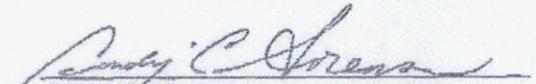
**IN WITNESS WHEREOF**, the said Grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

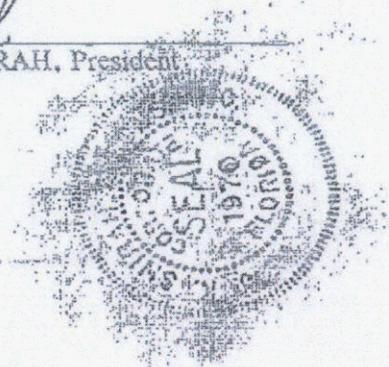
J.K. SHIRAH & SONS, INC., a Florida corp.

  
Nicole M. Blankenship

BY:

  
J. STANLEY SHIRAH, President

  
Cindy C. Sorensen



STATE OF FLORIDA     |  
                                  | SS  
COUNTY OF VOLUSIA   |

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared J. STANLEY SHIRAH, known to me to be the President of J. K. SHIRAH & SONS, INC., a Florida corporation, the corporation in whose name the foregoing instrument was executed, and that he acknowledged executing the same for such corporation, freely and voluntarily, under authority duly vested in him by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. Said person is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid, this 19<sup>th</sup> day of January, 2001.

  
Notary Public  
State of Florida at Large

RE. J.K. Shirah Deed

 Nicole M. Blankenship  
MY COMMISSION # CC815919 EXPIRES  
June 18, 2003  
BONDED THRU TROY FARM INSURANCE INC

EXHIBIT "A"

A PORTION OF THE EAST 1/2 OF THE WEST 1/2 OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 31 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE NORTH LINE OF SAID SECTION 25 AND THE EASTERLY RIGHT-OF-WAY LINE OF TYMBER CREEK ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING AS SHOWN ON THE RECORD PLAT OF TYMBER CREEK PHASE 1, AS RECORDED IN PLAT BOOK 34, PAGES 98-103, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE GO NORTH 88 DEGREES 33 MINUTES 07 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 25, A DISTANCE OF 670.25 FEET TO THE NORTHWEST CORNER OF PARCEL 142 (THE SEWAGE AND WATER TREATMENT PLANT SITE) OF SAID TYMBER CREEK PHASE 1; THENCE DEPARTING THE NORTH LINE OF SAID SECTION 25, GO ALONG THE BOUNDARY OF SAID TYMBER CREEK PHASE 1 THE FOLLOWING COURSES AND DISTANCES: SOUTH 10 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 648.87 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST AND HAVING A RADIUS OF 135.95 FEET; THENCE GO SOUTHWEST ALONG SAID CURVE HAVING A RADIUS OF 135.95 FEET, THROUGH A CENTRAL ANGLE OF 67 DEGREES 03 MINUTES 48 SECONDS, AN ARC DISTANCE OF 150.20 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHEAST AND HAVING A RADIUS OF 178.64 FEET; THENCE GO SOUTHWEST ALONG SAID CURVE HAVING A RADIUS OF 178.64 FEET, THROUGH A CENTRAL ANGLE OF 16 DEGREES 01 MINUTE 20 SECONDS, AN ARC DISTANCE OF 49.95 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTH AND HAVING A RADIUS OF 25.00 FEET; THENCE GO WEST ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 70 DEGREES 28 MINUTES 14 SECONDS, AN ARC DISTANCE OF 30.75 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST AND HAVING A RADIUS OF 400.00 FEET, SAID POINT BEING ON THE NORTHERLY LINE OF A 50 FOOT BASEMENT KNOWN AS SANDY SPRING ROAD; THENCE GO NORTHWEST ALONG SAID BASEMENT CURVE HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 18 DEGREES 55 MINUTES 08 SECONDS, AN ARC DISTANCE OF 132.08 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEAST AND HAVING A RADIUS OF 25.00 FEET; THENCE GO NORTHWEST ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 44 DEGREES 18 MINUTES 02 SECONDS, AN ARC DISTANCE OF 19.33 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTH AND HAVING A RADIUS OF 50.00 FEET; THENCE GO WEST ALONG SAID CURVE HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 158 DEGREES 14 MINUTES 26 SECONDS, AN ARC DISTANCE OF 138.09 FEET TO A POINT; THENCE DEPARTING SAID CURVE GO SOUTH 88 DEGREES 30 MINUTES 10 SECONDS WEST, A DISTANCE OF 141.82 FEET TO A POINT ON THE AFORESAID EASTERLY RIGHT-OF-WAY LINE OF TYMBER CREEK ROAD; THENCE GO NORTH 91 DEGREES 20 MINUTES 50 SECONDS WEST, A DISTANCE OF 686.89 FEET TO THE POINT OF BEGINNING. CONTAINING 9.6 ACRES MORE OR LESS.

Please Return To  
Walter E. Brown, Esq.  
Attorney at Law  
214 E. Broadway  
DeLand, Florida 32724

Recording Fee: \$  
Notary Seal  
Notary

**ZONING**

**SECTION 2-17: R-4: SINGLE-FAMILY MEDIUM RESIDENTIAL Zoning District**

**A. PURPOSE:** The purpose of the Single-Family Cluster & Townhouse (R-4) zoning district is to provide for a variety of dwelling units in a highly aesthetic setting. The zoning district attempts to establish an optimum living environment between indoor and outdoor living, to encourage the establishment of on-site recreation areas and open space, and cluster developments on small lots, while maintaining the maximum possible privacy for each unit through quality of design.

**B. DIMENSIONAL STANDARDS**

1. Type	2. Density (units per acre)	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Single-Family	5.05	30'	35%	75%	8,625 SF	75'	115'	25'	25'	8' total 20'	20'	30'
Cluster	6.70	30'	35%	75%	6,500 SF	65'	-	25'	25'	8' total 20'	20'	30'
Patio	6.89	30'	35%	75%	6,325 SF	55'	115'	25'	25'	8' total 20'	20'	30'
Zero-Lot-Line	8.71	30'	35%	75%	5,000 SF	50'	-	25'	25'	0', 20'	20'	30'
Multi-Family	8	30'	35%	75%	43,560 SF	125'	-	25'	25'	10'	20'	30'
Duplex	8.71	30'	35%	75%	10,000 SF	100'	-	30'	25'	20'	20'	30'
Triplex	8.7	30'	35%	75%	15,000 SF	150'	-	30'	25'	20'	20'	30'
Townhouse	6.31	30'	35%	75%	6,900 SF	60'	115'	25'	25'	15'	20'	30'

**C. PERMITTED USES**

1. Community Residential Home
2. Dwelling, Duplex
3. Dwelling, Single Family – Detached
4. Dwelling, Triplex
5. School, Public

**D. CONDITIONAL USES**

1. Adult Day Care Center
2. Adult Family Day Care
3. Assisted Living Facility
4. Cluster Subdivision, Single Family
5. Dwelling, Multi-family
6. Dwelling, Quadraplex
7. Family Day Care Home
8. Foster Home
9. Group Home
10. Nursing Home
11. Parks and Recreation Facilities, Private
12. Parks and Recreation Facilities, Public
13. Patio Subdivision
14. Public Facilities
15. Public Utilities
16. School, Private
17. Telecommunication Tower/Antennae, Camouflaged
18. Townhouses
19. Wind Energy System
20. Zero-Lot Line Subdivision

**E. SPECIAL EXCEPTION USES**

1. Bed and Breakfast Inn
2. Child Care Facility
3. Historic Preservation Mixed Use
4. House of Worship

**F. OTHER STANDARDS**

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Use of dwelling units for Transient Lodging is prohibited in order to protect and maintain the residential character of the zoning district.
5. Single-family residential buildings shall have the following minimum floor area:

Zone Suffix	1-Story	Split Level	2-Story
A	1,500 SF	1,800 SF	2,100 SF
B	1,350 SF	1,650 SF	2,000 SF
C	1,150 SF	1,400 SF	1,750 SF

6. Multi-family, duplex and triplex residential dwelling units shall have the following minimum square footage per bedroom:

One = 750 SF	Three = 1,050 SF
Two = 900 SF	Each Additional Bedroom = 150 SF

**G. PERMITTED ACCESSORY USES:** Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

**H. SPECIAL STANDARDS:**

**Nonconformance:** Single-family residential lots located within this district and having a minimum lot area of 7,500 square feet, a minimum width of 75', and are located in areas of the City where established street patterns and lot configurations are generally consistent with the 75' / 7,500 square foot standard, shall be deemed to be conforming lots, subject to the setback and buffer requirements of Ordinance 78-35, as existed on December 31, 1991. Parcels within such districts may be divided into lots having minimum lot areas of 7,500 square feet and minimum widths of 75', provided the structure on each lot meets the setback and buffer requirements of Ordinance 78-35. However, where the recorded plat or Covenants indicate front yards in excess of current City standards for principal buildings, said plat or Covenants shall first be properly amended prior to the issuance of a building permit.

**Approved Plats:** Setbacks that are less restrictive than the standards listed above are acceptable, provided that they are either shown on the approved plat or a less restrictive standard was in place at the time of recording the original plat.

**FUTURE LAND USE**

**FUTURE LAND USE ELEMENT  
GOALS, OBJECTIVES AND POLICIES**

---

**POLICY 1.1.4.**

Encourage innovative design measures for new residential developments and ensure that adequate provision is made for neighborhood facilities suitable to the type of development proposed.

**POLICY 1.1.5.**

Provide the opportunity, through zoning and other land use controls, for the development of a variety of housing types (i.e., single-family, duplex, townhouse, multi-family) in both conventional, planned unit and cluster type developments, that will meet the varied needs of the citizens of Ormond Beach.

**POLICY 1.1.6.**

Continuously review and modify development and building regulations to provide for sound residential environments and quality housing.

**POLICY 1.1.7.**

Promote the use of the SLDR District in the outlying areas of the City including future annexations and ensure that the goals of the SLDR land use category are achieved, by strictly enforcing the SR District regulations, limiting development to the holding capacity of the site and protecting the natural ecological systems.

**POLICY 1.1.8.**

Allow the adequate density of development as specified for each land use category in the Future Land Use Map and Land Use Plan Section of this Element in a manner consistent with the Conservation Element and evacuation plans.

- Rural Estate/Agriculture (REA): Residential areas with rural character. Maximum density allowed: 1 unit per 5 acres.
- Rural Residential (RR): Residential areas with semi-rural character in close proximity to urban facilities and services. Maximum density allowed: 1 unit per 2.5. acres.
- Suburban Low Density Residential (SLDR): Residential uses in the outlying suburban areas of the City where the intensity of development is approximately 20% to 30% less than in the urban core. Maximum potential densities to be determined on a case-by-case basis based on site specific conditions, ranging from 0.2 to 6 units per acre.
- Low Density Residential (LDR): Single-family detached residential. Maximum density allowed: 4.3 units per acre.
- Medium Density Residential (MDR): This category allows the development of duplex, townhouse and multi-family projects which emphasize open space and maintain a low profile, thus maximizing the compatibility with single-family areas. Maximum densities range between 4.3 and 12 units per acre. (As amended by Ordinance 94-37, adopted on

**FUTURE LAND USE ELEMENT  
GOALS, OBJECTIVES AND POLICIES**

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May 17, 1994.) Existing manufactured home parks developed prior to the adoption of the Comprehensive Plan (July 3, 1990) will be considered as Medium Density Residential, even though the units per acre may be higher than that normally allowed in medium density. (As amended by Ordinance 93-55, adopted on December 21, 1993.)

- High Density Residential (HDR): Areas of the City suitable for the development of multi-family residential structures at densities of 10 units per acre or higher.

**POLICY 1.1.9.**

In calculating maximum potential densities for any given parcel of property, such calculations shall be exclusive of that portion of the property, which is considered to be submerged lands.

**POLICY 1.1.10.**

Medium and high density multi-family residential development shall be encouraged near employment centers with convenient access to public recreational facilities, the thoroughfare system and mass transit routes.

**POLICY 1.1.11.**

Provide opportunities for housing geared to lower income families and the elderly in close proximity to shopping areas, mass transit facilities, convenient shopping, hospitals and recreational opportunities by designating these "opportunity" areas as Medium Density Residential on the Future Land Use Map.

**POLICY 1.1.12.**

Encourage medium density multi-family residential development within the CBD and in areas where excessive commercial uses currently occur. Generally maintain the current density ranges in the core City while providing for lower density development in the perimeter areas of the City.

**POLICY 1.1.13.**

Manufactured home communities shall be located in areas presently dominated by manufactured home use, or in areas that can be developed for such use without having a negative impact on other uses. Except where needed to meet specific low-income demands, manufactured homes on individual lots shall not be allowed.

**POLICY 1.1.14.**

The City shall continue to implement its Community Development Block Grant Program to improve the general quality of existing viable, but deteriorating neighborhoods, and remove blighting influences, in accordance with the programs described in the Housing Element. Building and housing codes shall be strictly enforced to help prevent or eliminate urban blight.

**TABLE 2-2: FUTURE LAND USE MAP DESIGNATIONS AND  
COMPATIBLE ZONING DISTRICTS**

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Activity Center	Planned Mixed Use Development (PMUD)
Recreation Open Space & Conservation	Special Environmental (SE)
Rural Estate/Agriculture (REA)	Rural Estate Agriculture (REA)
Rural Residential (RR)	Rural Residential (RR)
Suburban Low Density Residential (SLDR)	Suburban Residential (SR) Planned Residential Development (PRD)
Low Density Residential (LDR)	Residential Estate (R-1) Single Family Low Density (R-2) Single Family Low-Medium Density (R-2.5) Single Family Medium Density (R-3) Planned Residential Development (PRD)
Medium Density Residential (MDR)	Single Family Medium Density (R-3) Neighborhood Preservation (NP) Single Family Cluster & Townhouse (R-4) Multi-Family Medium Density (R-5) Manufactured/Mobile Home (T-1) Manufactured Home (T-2) Planned Residential Development (PRD)
High Density Residential (HDR)	Manufactured/Mobile Home (T-1) Multi-Family Medium-High Density (R-6) Planned Residential Development (PRD)
Professional Office/Hospital	Professional Office – Hospital (B-1) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)
General Commercial	Neighborhood Commercial (B-2) Reserved (B-3) Central Business (B-4) Commercial (B-8) Planned Business Development (PBD)
Tourist Commercial	Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Planned Residential Development (PRD) Planned Business Development (PBD)
Heavy Commercial	Service Commercial (B-5) Planned Business Development (PBD)
Industrial/Utilities	Light Industrial (I-1) Reserved (I-2) Planned Industrial Development (PID)

**LAND SALES**

**Location:** Northeast corner of Clyde Morris Blvd. & Strickland Range Road; Daytona Beach, Volusia County.

<b>TRANSACTION</b>	<b>Grantor:</b>	Consolidated-Tomoka Land Co. & Fairlawn Associates			
	<b>Grantee:</b>	Integra Shores, LLC			
	<b>O.R. Book:</b>	6162	<b>Page:</b>	3456-3462	
			<b>Stamps:</b>	\$25,788.82*	
	<b>Tax I.D. No.:</b>	32-14-32-00-00-0016		<b>Consideration:</b>	\$3,684,117*
	<b>Sale Conditions:</b>	Arm's Length Transaction		<b>Date:</b>	<u>November 27, 2007</u>
					<u>November 29, 2007</u>
	<b>Improvements Since Purchase:</b>	288 unit apartment complex		<b>Unit Price:</b>	
				Per Ac.:	\$158,525
	<b>Financing:</b>	Cash to Seller's Position		Per S.F.:	\$ 3.64
			Per F.F.:	\$	
<b>Legal:</b>	Lengthy Legal, See Attached		Per Unit:	\$	
			<b>Instrument:</b>	<u>Warranty Deed</u>	
			<b>Prepared By:</b>	<u>Daniel T. O'Keefe, Esq.</u> <u>Robert F. Apgar, Esq.</u>	
<b>LAND</b>	<b>Size:</b>	23.24 Ac.*		<b>Shape:</b>	Irregular
	<b>Dimensions:</b>	See Sketch			
	<b>Street/Road:</b>	Clyde Morris Blvd. is a four-lane asphalt paved road with center turn lanes and sidewalks. Strickland Range Road is a two-lane asphalt paved road with sidewalks.			
	<b>Zoning:</b>	RPUD (City of Daytona Beach)	<b>Zoning Title:</b>	Residential Planned Development	
	<b>Comp. Plan Designation:</b>	Office Transitional (City of Daytona Beach)			
	<b>Utilities:</b>	All public utilities are available.			
	<b>Access:</b>	The property is accessible via its 1,234±' of frontage along Strickland Range Road and via its 725' of frontage along Clyde Morris Blvd.			
	<b>Topography:</b>	The property is generally level and about 3-5' above road grade.			
<b>Other Features:</b>	The property contains 4.10 acres of wetlands of which 2 acres are impacted.				
<b>REMARKS</b>	The property is known as Integra Shores luxury apartments. The property is subject to restrictive covenants recorded in Volusia Office Records Book 6162, Page 3462.				
	This property had no entitlements at the date of sale.				
	*This sale represents the purchase of two contiguous parcels by Integra Shores, LLC from two separate deeds.				

LEGAL DESCRIPTION

**A portion of Section 32, Township 14 South, Range 32 East, Volusia County, Florida, being more particularly described as follows:**

**BEGIN at the intersection of the Easterly right of way line of the 140 foot wide right of way of Clyde Morris Boulevard, as described in Official Records Book 2360, Page 224, of the Public Records of Volusia County, Florida and the South line of said Section 32; thence run North 19°34'25" West, along said Easterly right of way line, a distance of 826.02 feet, more or less, to a point of intersection with the Westerly projection of the South line of Block 56; thence departing said right of way line run South 75°27'00" East along said projection and along the Southerly line of Blocks 56, 55 and 54, of FAIRLAWN AT DAYTONA, as recorded in Map Book 10, Page 78 of the Public Records of Volusia County, Florida, a distance of 1294.58 feet, more or less; thence run South 87°29'21" East, along the South line of Block 54 a distance of 241 .07 feet, more or less, to a point, said point being on the East line of the West 1/2 of the Southeast 1/4 of said Section 32; thence run South 00°27'11" East, a distance of 431 .97 feet more or less, to a point, said point being on the South line of said Section 32 and the Northerly line of Flomich Avenue Extension, as described in Official Records Book 367, Page 68, Public Records of Volusia County, Florida, a/k/a Strickland Range Road; thence run South 89°30'18" West along said line, a distance of 1220.62 feet, more or less, to a point, said point being on the Easterly right of way line of Clyde Morris Boulevard and the POINT OF BEGINNING.**

**Parcel #1**

**All of Blocks 52 and 53; All of Block 54, EXCEPT Lots 1 and 2, FAIRLAWN AT DAYTONA, according to the plat thereof recorded in Map Book 10, Page 78, of the Public Records of Volusia County, Florida.**

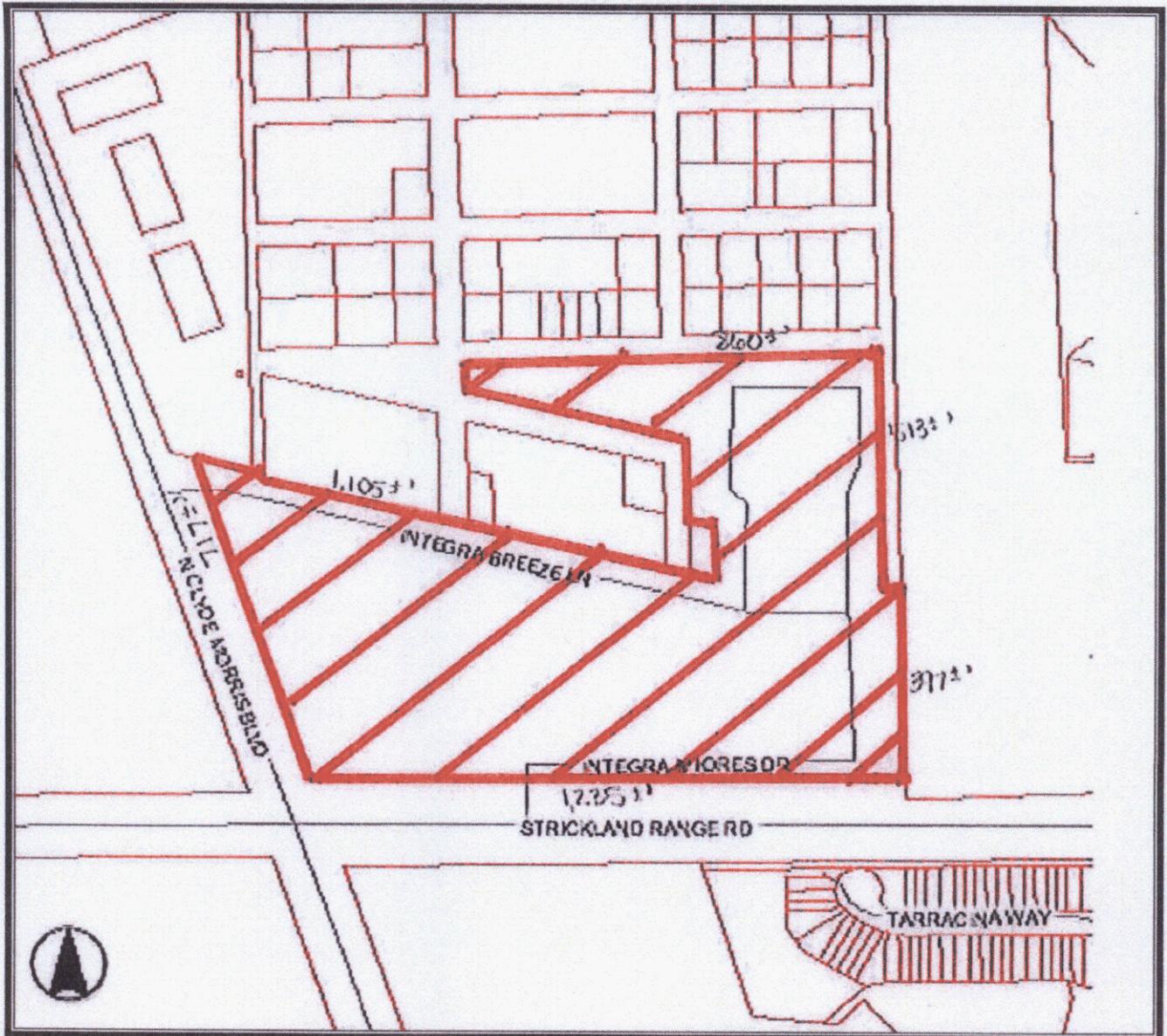
**TOGETHER WITH:****Parcel #1-A**

**That portion of the 50-foot right-of-way for Elm Street as shown on FAIRLAWN AT DAYTONA, according to the plat thereof, as recorded in Map Book 10 at Page 78 of the Public Records of Volusia County, Florida, lying between Blocks 52 and 53, bounded on the north by Tomoka Court and bounded on the south by Tomoka Avenue.**

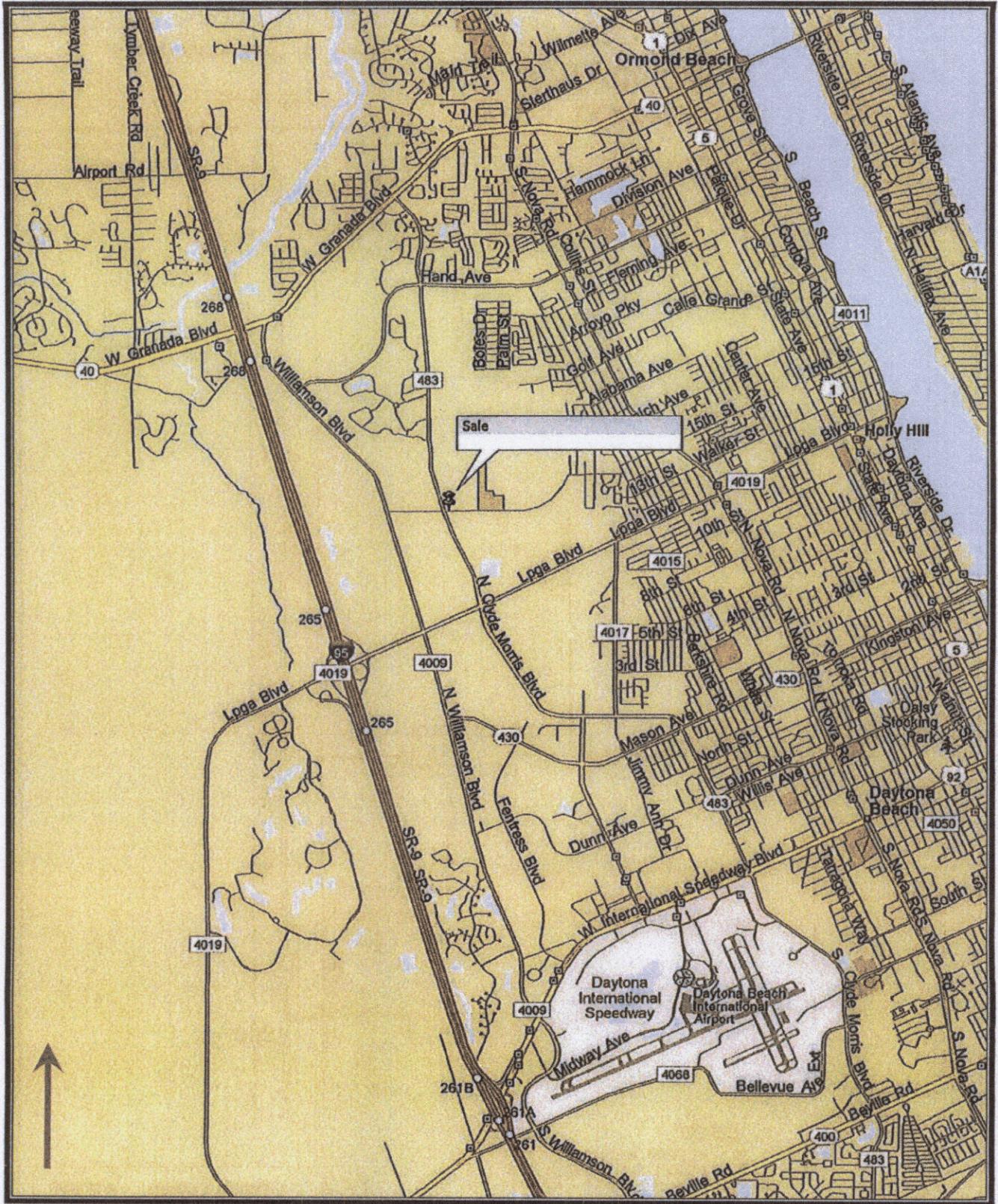
**TOGETHER WITH:****Parcel #1-B**

**That portion of the 50-foot right-of-way for Tomoka Avenue lying between Blocks 53 and 54, bounded on the west by Elm Street and bounded on the east by a line 50.00 feet west of, as measured at right angles, and parallel with the east line of said FAIRLAWN AT DAYTONA.**

**SITE SKETCH**



LOCATION MAP



Vacant Residential Land

**Location:** Southeast corner of Clyde Morris Blvd. & Big Tree Road and the southeast corner of Big Tree Road and Old Kings Road; Daytona Beach, Volusia County.

<b>TRANSACTION</b>	<b>Grantor:</b>	DCS of Newark Enterprises, Inc.			
	<b>Grantee:</b>	Southern LHC, LLC			
	<b>O.R. Book:</b>	6066	<b>Page:</b>	957	
			<b>Stamps:</b>	\$24,788.75	
	<b>Tax I.D. No.:</b>	Multiple		<b>Consideration:</b>	<u>\$3,541,250</u>
	<b>Sale Conditions:</b>	Arm's Length Transaction		<b>Date:</b>	<u>May 15, 2007</u>
	<b>Improvements Since Purchase:</b>	177 unit apartment complex		<b>Unit Price:</b>	
			Per Ac.:	<u>\$250,088</u>	
	<b>Financing:</b>	Cash to Seller's Position		Per S.F.:	<u>\$ 5.74</u>
			Per F.F.:	<u>\$</u>	
<b>Legal:</b>	Lengthy Legal, See Attached		Per Unit:	<u>\$</u>	
		<b>Instrument:</b>	<u>Warranty Deed</u>		
		<b>Prepared By:</b>	<u>J. Sam Owens, Esq.</u>		
<b>LAND</b>	<b>Size:</b>	616,810 SF (14.16 Ac.)	<b>Shape:</b>	Irregular	
	<b>Dimensions:</b>	See Sketch			
	<b>Street/Road:</b>	Clyde Morris Blvd. is a four-lane asphalt paved road with center turn lanes, sidewalks, streetlights and drainage swales. Big Tree Road is a two-lane asphalt paved road with sidewalks and streetlights. Old Kings Road is a two-lane asphalt paved road with sidewalks.			
	<b>Zoning:</b>	RA (City of Daytona Beach)	<b>Zoning Title:</b>	Multi-Family	
	<b>Comp. Plan Designation:</b>	Low Intensity Commercial & Level 2 Residential (City of Daytona Beach)			
	<b>Utilities:</b>	All public utilities are available.			
	<b>Access:</b>	The property is accessible via its 580+ <sup>'</sup> of frontage along Clyde Morris Blvd. and via its 800+ <sup>'</sup> of frontage along Old Kings Road.			
	<b>Topography:</b>	The property is generally level and at road grade.			
	<b>Other Features:</b>	The portion of the property east of Old Kings Road remains wooded.			
	<b>REMARKS</b>	The property has been improved as Cape Morris Cove apartments.			
According to the deed, the grantee is specifically prohibited from planning or rezoning any portion of the property (other than the 1.83 acre parcel at the corner of Big Tree Road and Clyde Morris Blvd.) for commercial or any other use other than multi-family with a maximum density of 20 units per acre, for a period of 25 years.					

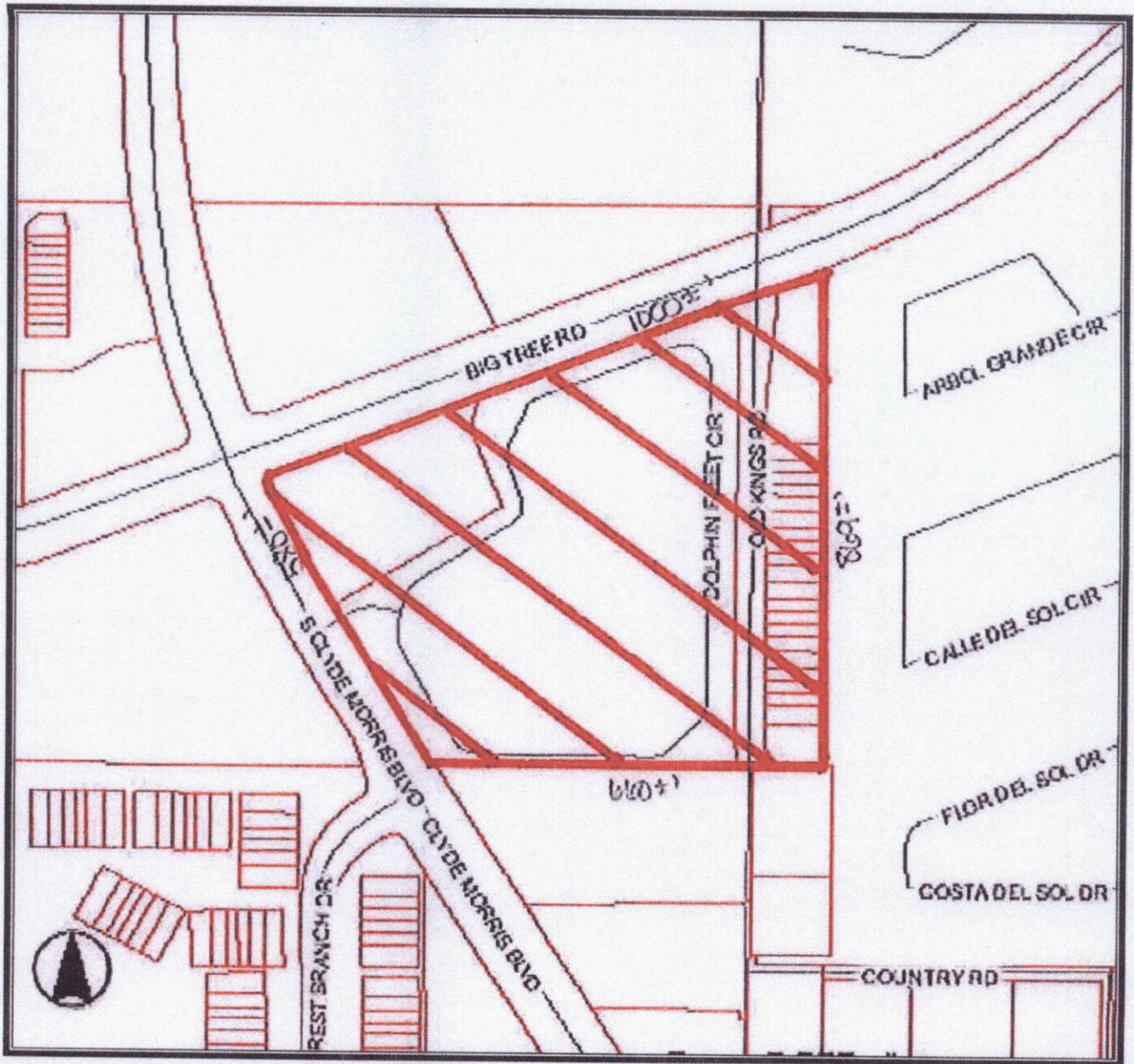
LEGAL DESCRIPTION

A portion of Government Lot 6, Section 31, Township 15 South, Range 33 East, Volusia County, Florida, described as follows:

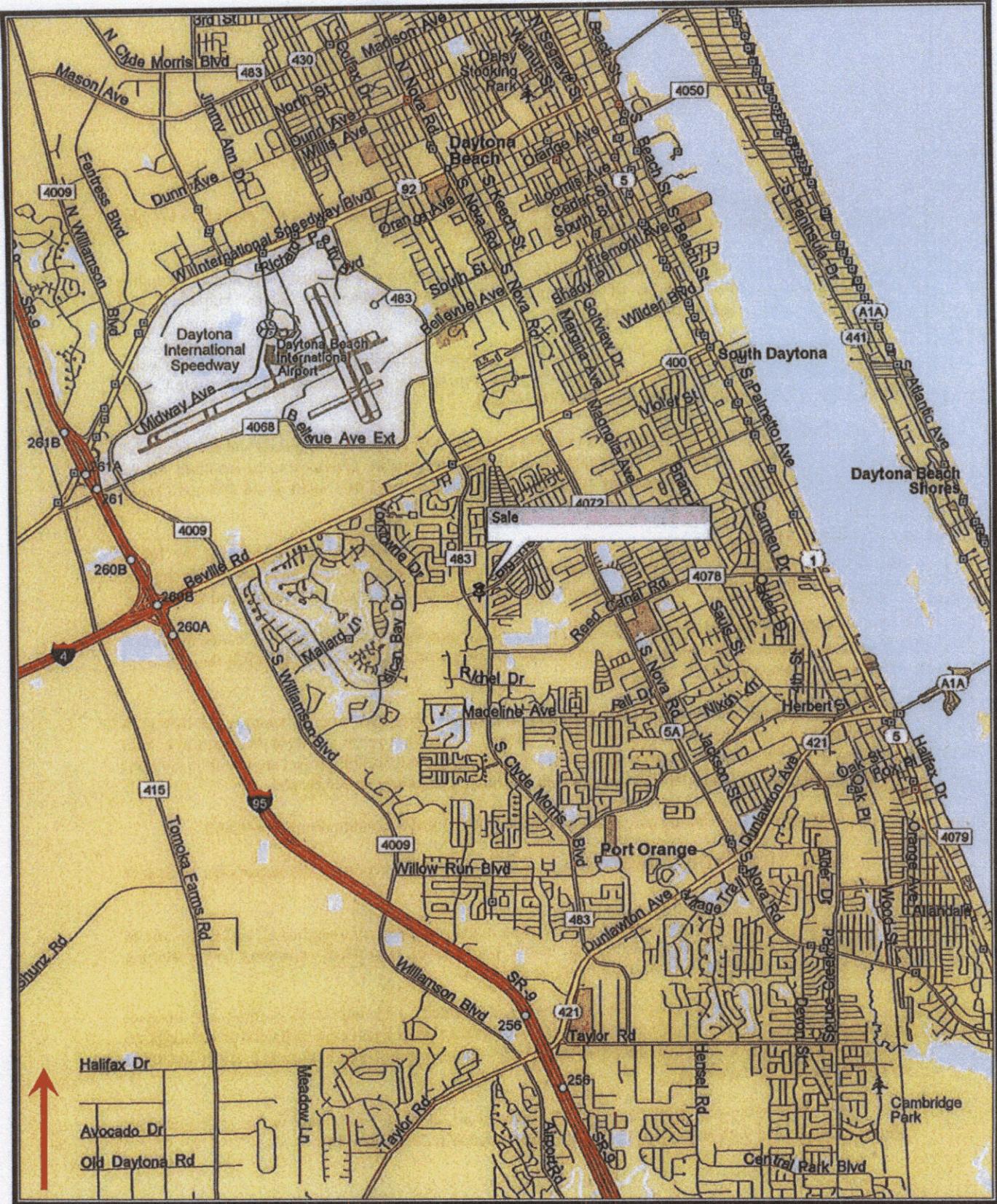
From the Southwest corner of said Section 31, run North  $01^{\circ}25'09''$  West along the West line of said Section 31, a distance of 1651.78 feet; thence departing said line, run South  $88^{\circ}45'19''$  East parallel with the South line of said Section 31, a distance of 2106.58 feet to the POINT OF BEGINNING; thence continue South  $88^{\circ}45'19''$  East a distance of 639.96 feet to the East line of said Government Lot 6; thence North  $00^{\circ}20'05''$  West along said East line a distance of 926.65 feet to the Southerly right of way line of Big Tree Road, a 100 foot wide right of way, as described in Official Records Book 2493, Page 1835, of the Public Records of Volusia County, Florida, and a point on the arc of a curve, concave Northwest, having a radius of 1959.86 feet, a central angle of  $01^{\circ}24'07''$ , and a chord bearing of South  $68^{\circ}20'16''$  West, thence run Westerly along the arc of said right of way line, a distance of 47.96 feet; thence South  $69^{\circ}02'20''$  West along said right of way line a distance of 964.33 feet to the Easterly right of way line of Clyde Morris Boulevard, a 100 foot right of way, as described in Official Records Book 1031, Page 447, of the Public Records of Volusia County, Florida, and a point on the arc of a curve, concave Northeast, having a radius of 1859.48 feet, a central angle of  $9^{\circ}04'02''$ , and a chord bearing of South  $27^{\circ}02'03''$  East; thence run Southerly along the arc of said curve and said right of way line a distance of 294.27 feet; thence South  $31^{\circ}34'00''$  East along said right of way line a distance of 338.27 feet to the POINT OF BEGINNING.

Containing 14.16 acres, more or less.

SITE SKETCH



LOCATION MAP



Vacant Residential Land

**Location:** North side of Museum Blvd., about 280' west of Nova Road (S.R. 5A); Daytona Beach, Volusia County.

<b>TRANSACTION</b>	<b>Grantor:</b>	Gladys R. Brown & Irene R. Gordon		
	<b>Grantee:</b>	Coach Plaza of Museum Blvd., LLC		
	<b>O.R. Book:</b>	5953	<b>Page:</b> 3752	<b>Stamps:</b> \$3,675.00
	<b>Tax I.D. No.:</b>	39-15-33-01-38-0200		<b>Consideration:</b> <u>\$525,000</u>
	<b>Sale Conditions:</b>	Arm's Length Transaction		<b>Date:</b> <u>November 10, 2006</u>
	<b>Improvements Since Purchase:</b>	None		<b>Unit Price:</b>
	<b>Financing:</b>	Cash to Seller's Position		Per Ac.: <u>\$162,539</u>
	<b>Legal:</b>	Lengthy Legal, See Attached		Per S.F.: <u>\$ 3.73</u>
<b>LAND</b>	<b>Size:</b>	140,849 SF (3.23 Ac.)	<b>Shape:</b>	Rectangular
	<b>Dimensions:</b>	See Sketch		
	<b>Street/Road:</b>	Museum Blvd. is a two-lane asphalt paved road.		
	<b>Zoning:</b>	RR (City of Daytona Beach)	<b>Zoning Title:</b>	Multi-Family
	<b>Comp. Plan Designation:</b>	Level 1 Residential (City of Daytona Beach)		
	<b>Utilities:</b>	All public utilities are available.		
	<b>Access:</b>	The property is accessible via its 430' of frontage along Museum Blvd.		
	<b>Topography:</b>	The property is generally level and at road grade.		
<b>REMARKS</b>	<b>Other Features:</b>	The property is wooded with native vegetation.		

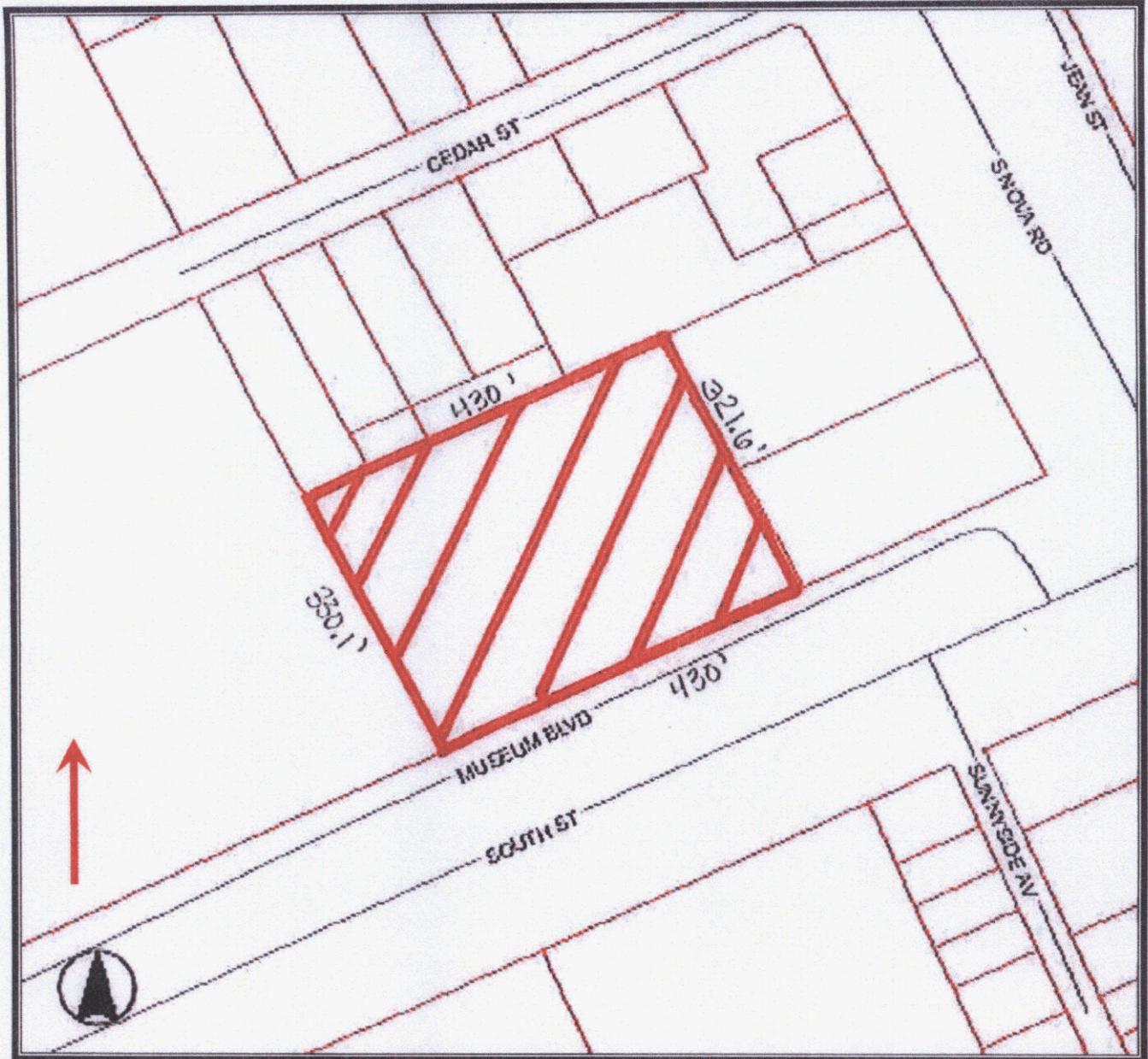
LEGAL DESCRIPTION

THE SOUTH 330 FEET OF THE NORTH 4240.4 FEET MEASURED ON THE EAST LINE OF THE WEST 430 FEET OF THE EAST 730 FEET MEASURED ON THE SOUTH LINE OF BLOCKS 38 AND 39, HODGMAN'S MAP OF DAYTONA RECORDED IN MAP BOOK 2, PAGE 82, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA LYING SOUTH OF VOLUSIA AVENUE (INTERNATIONAL SPEEDWAY BLVD.) AND WEST OF MAIN CANAL RIGHT OF WAY.

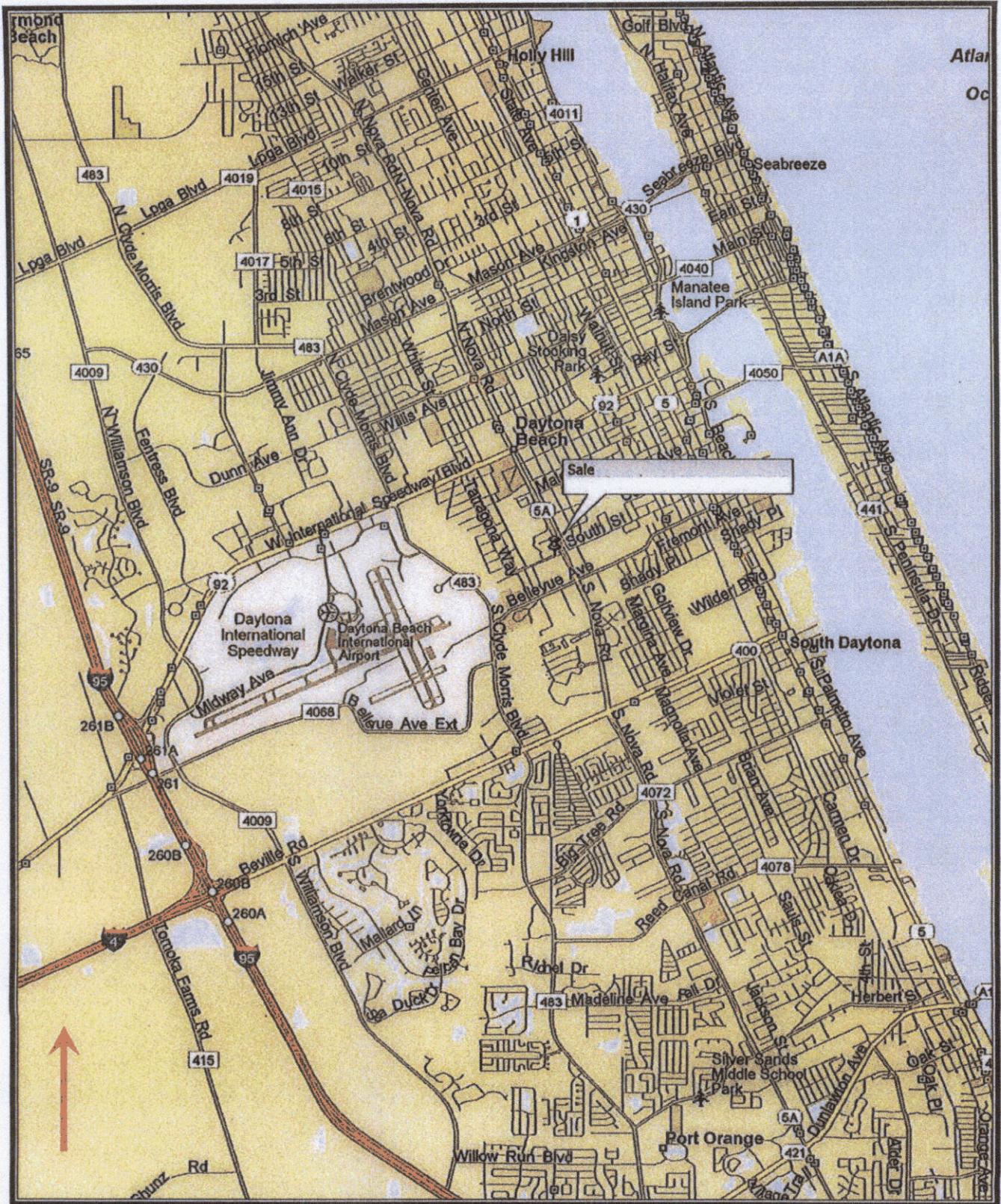
**PREVIOUSLY DESCRIBED AS FOLLOWS:**

THAT PORTION OF TUSCAWILLA PARK AS RECORDED IN MAP BOOK 10, PAGE 192, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF MAIN CANAL, HAVING A 125 FOOT RIGHT-OF-WAY, SAID POINT BEING LOCATED 4091.4 FEET SOUTH OF THE SOUTHERLY RIGHT-OF-WAY OF VOLUSIA AVENUE AS MEASURED ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID MAIN CANAL; THENCE CONTINUING SOUTH 26 DEGREES 49 MINUTES 25 SECONDS EAST ALONG THE WEST LINE OF THE MAIN CANAL RIGHT-OF-WAY, 149 FEET TO THE NORTH LINE OF THE NAVY CANAL RIGHT-OF-WAY; THENCE SOUTH 84 DEGREES 28 MINUTES WEST ALONG THE NORTH LINE OF THE NAVY CANAL 300 FEET TO A POINT BEING THE POINT OF BEGINNING OF THE PROPERTY HEREINAFTER DESCRIBED; THENCE FROM SAID POINT OF BEGINNING SOUTH 84 DEGREES 28 MINUTES WEST ALONG SAID NORTH LINE OF NAVY CANAL 430 FEET TO A POINT; THENCE NORTH 26 DEGREES 49 MINUTES 25 SECONDS WEST ALONG THE EAST LINE OF CITY PARK PROPERTY 330.1 FEET TO A POINT; THENCE NORTH 65 DEGREES 5 MINUTES 45 SECONDS EAST 430 FEET TO A POINT; THENCE SOUTH 26 DEGREES 49 MINUTES 25 SECONDS EAST 321.8 FEET TO THE PLACE OF BEGINNING.

**SITE SKETCH**



LOCATION MAP

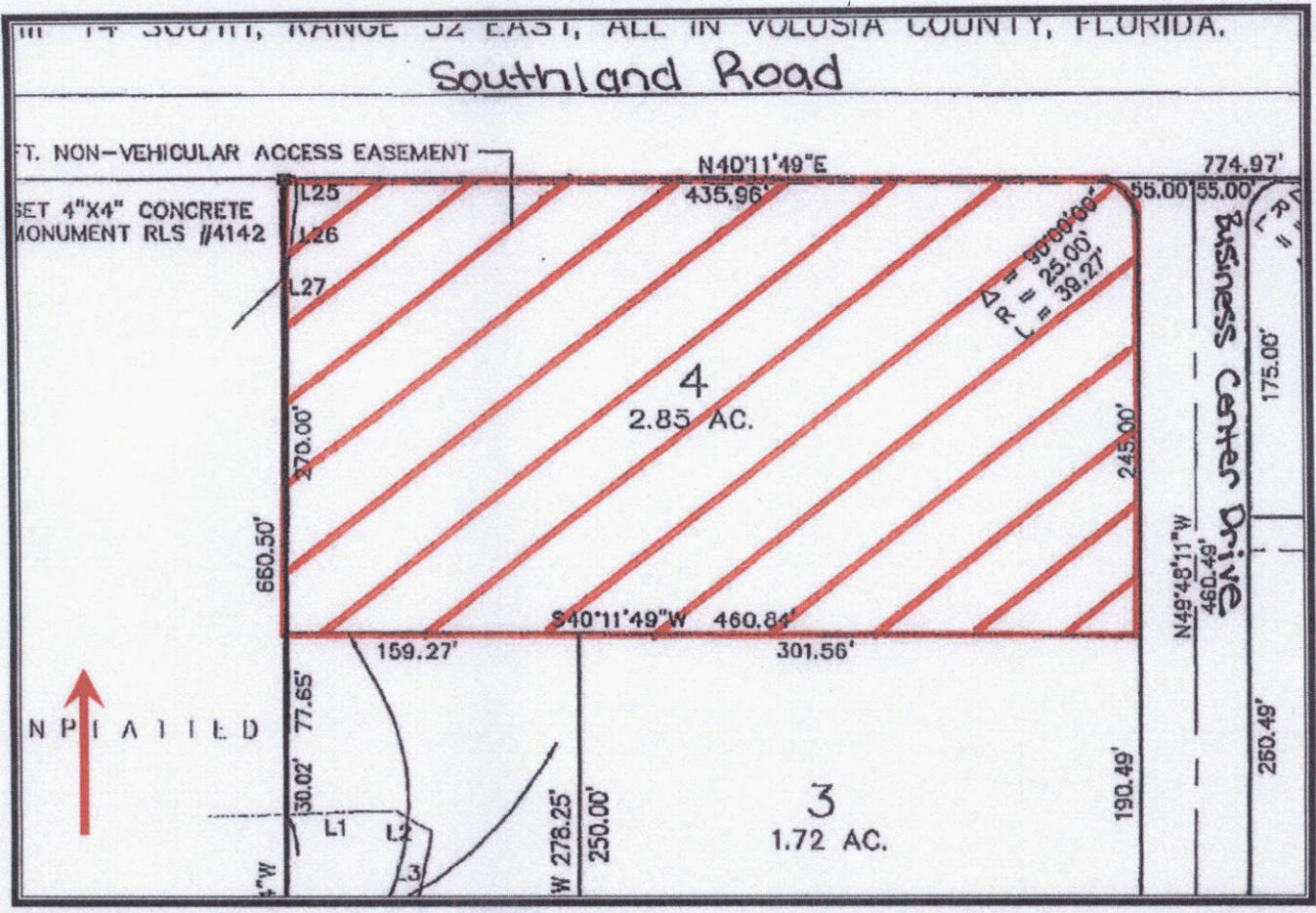


Vacant Residential Land

**Location:** Southwest corner of Business Center Drive and Southland Road; Ormond Beach, Volusia County.

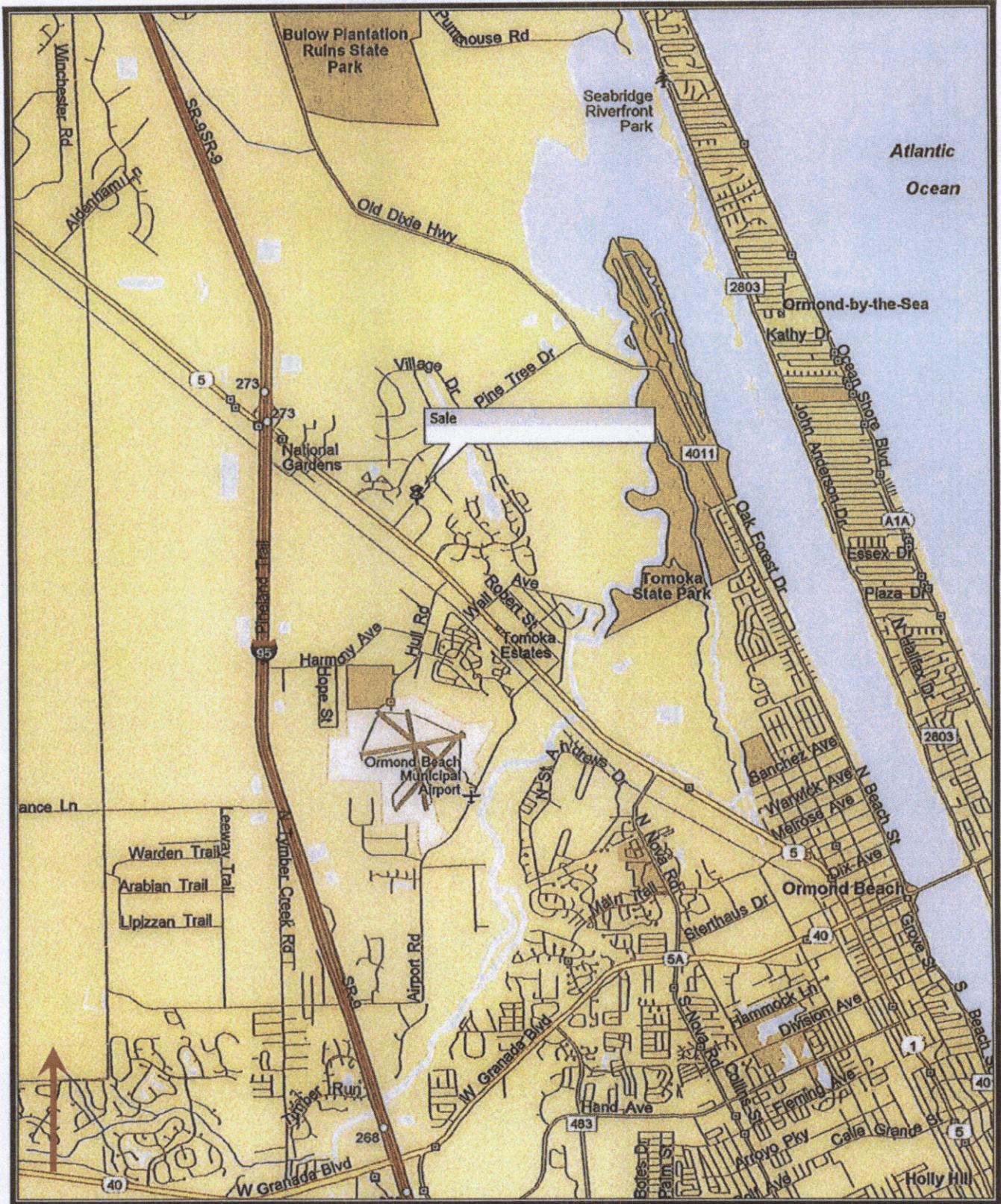
<b>TRANSACTION</b>	<b>Grantor:</b>	160 Business Center, LLC		
	<b>Grantee:</b>	Richard H. Wallsmith, LLC		
	<b>O.R. Book:</b>	5926	<b>Page:</b> 4981	
	<b>Tax I.D. No.:</b>	31-13-32-10-00-0040		
	<b>Sale Conditions:</b>	Arm's Length Transaction		
	<b>Improvements Since Purchase:</b>	Kidsko Preschool & Daycare		
	<b>Financing:</b>	Cash to Seller's Position		
	<b>Legal:</b>	Lot 4, Ormond Business Center; Plat Book 46, Page 127		
		<b>Stamps:</b>	\$5,110.00	
		<b>Consideration:</b>	<u>\$730,000</u>	
	<b>Date:</b>	<u>October 2, 2006</u>		
	<b>Unit Price:</b>			
	Per Ac.:	<u>\$ 256,140</u>		
	Per S.F.:	<u>\$ 5.88</u>		
	Per F.F.:	<u>\$</u>		
	Per Unit:	<u>\$</u>		
	<b>Instrument:</b>	<u>Warranty Deed</u>		
	<b>Prepared By:</b>	<u>Douglas A. Daniels, P.A.</u>		
<b>LAND</b>	<b>Size:</b>	124,146 SF (2.85 Ac.)	<b>Shape:</b> Rectangular	
	<b>Dimensions:</b>	See Sketch		
	<b>Street/Road:</b>	Business Center Drive is a two-lane asphalt paved road with streetlights. Southland Road is a two-lane asphalt paved road with streetlights.		
	<b>Zoning:</b>	I-1(City of Ormond Beach)	<b>Zoning Title:</b> Industrial	
	<b>Comp. Plan Designation:</b>	Industrial/Utilities (City of Ormond Beach)		
	<b>Utilities:</b>	All public utilities are available.		
	<b>Access:</b>	The property is accessible via its 245' of frontage along Business Center Drive.		
	<b>Topography:</b>	The property is generally level and about 1' above road grade.		
	<b>Other Features:</b>	The property consists of all usable uplands.		
<b>REMARKS</b>	The property is subject to the Declaration of Covenants, Conditions & Restrictions recorded in Volusia County Official Record Book 4283, Page 383.			
	This property previously sold on July 7, 2004 for \$391,000 according to Volusia County Public Records Book 5358, Page 3474. This indicates on an annual appreciation rate of 39%.			

SITE SKETCH



Vacant Residential Land

LOCATION MAP



Vacant Residential Land

**QUALIFICATIONS AND BACKGROUND**

**QUALIFICATIONS**  
**(RICHARD C. DREGGORS)**

**Scope of Appraisal Services:**

Richard C. Dreggors has over 21 years of real estate appraisal experience, which has been oriented toward eminent domain matters. His office is located in Orlando, Florida. Calhoun, Dreggors & Associates, Inc. has been involved in appraisal assignments from Tallahassee to Jacksonville, the Central Florida area around Orlando, and along the West Coast of the State.

Assignments range from the appraisal of vacant land and single-family homes to large industrial properties and shopping centers. Appraisal assignments also include the valuation of utility systems and solid waste facilities around the State. Many of these appraisal assignments include complicated appraisal problems that arise from eminent domain takings. Some of these problems include; loss of parking, loss of access, irregularly shaped remainders, roadway re-alignments and many other types of impacts.

Calhoun, Dreggors & Associates has appraised property for condemnors and individual property owners. Condemnor clients have included Florida Gas Transmission, Central Florida Pipeline Corporation and Gulfstream Natural Gas Systems. Other governmental clients have included Brevard County, Volusia County, Volusia County School Board, City of Sanford, City of Leesburg, City of Oakland, City of Kissimmee, City of Palm Coast, City of Winter Garden and the Orange County Public Library System. Property owner clients include; Southland Corporation (7-11), Circle K, Burger King, Wal-Mart, B.P. Oil, SunTrust Bank, Wachovia Bank, Bank of America, Colonial Bank and others. Mr. Dreggors has been qualified as an expert witness in most of the circuit courts around Central Florida.

**Education:**

- DeLand High School, DeLand, Florida, 1981
- Associates in Arts Degree, Daytona Beach Community College, Daytona Beach, Florida, 1984
- Bachelor of Science Degree (Real Estate), Florida State University, Tallahassee, Florida, 1987
- Certificate in Planning Studies, Florida State University, 1987

**Licenses:**

- State of Florida Registered Real Estate Broker No. BK482043
- State of Florida Certified General Real Estate Appraiser No. RZ1628

### **Designations:**

- GAA Designation (General Accredited Appraiser) with the National Association of Realtors ® (Member #2652)

### **Professional Affiliations:**

- Member of the Association of Eminent Domain Professionals
- Board of Directors Association of Eminent Domain Professionals (1993, 2001)
- Member of the National Association of Realtors ®
- Member of the Florida Association of Realtors ®
- Member of the Greater Orlando Association of Realtors ®
- Member of the Central Florida Commercial Real Estate Society
- Member of the Real Estate Appraisal Section of the National Association of Realtors ®
- Candidate with the American Society of Appraisers for the ASA designation

### **Employment Experience:**

Calhoun, Dreggors & Associates, Inc., Orlando, Florida  
July 1, 1994, to Present - President

Analyze and prepare appraisals for a variety of properties including vacant land, single-family homes, offices, retail buildings, warehouses, apartments and many other types of properties. Most appraisals were prepared relative to eminent domain proceedings involving these properties. Other types of appraisals and consulting assignments include property assessment challenges, utility systems and landfills.

Calhoun & Associates, Inc., Clearwater, Florida  
May, 1987 to June 30, 1994 - Associate Appraiser

Analyzed and prepared appraisal reports on various types of properties including vacant land, single-family homes, office, retail, industrial/warehouse, and special purpose properties. Assignments were done in conjunction with eminent domain proceedings on these properties.

Dreggors Construction, Inc., DeLand, Florida  
1977 to May, 1987 - Vice President

Responsible for supervision/scheduling for many types of single-family and small commercial projects.

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**ATTACHMENT C**

COMMISSIONERS:  
ART GRAHAM, CHAIRMAN  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL  
S. CURTIS KISER  
(850) 413-6199

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COMMISSION  
CLERK

## Public Service Commission

March 8, 2011

Mr. Stan Shirah  
Tymer Creek Utilities, Incorporated  
1951 W. Granada Boulevard  
Ormond Beach, Florida 32174

**Re: Staff-Assisted Rate Case for Tymer Creek Utilities, Incorporated in Volusia County,  
Docket No. 100359-WS**

Dear Mr. Shirah:

This will confirm that Commission staff will hold a customer meeting at the Ormond Beach Performing Arts Center on April 6, 2011, starting at 6:00 p.m. We ask that, if at all possible, you or another knowledgeable representative of the Utility attend the meeting in order to answer customer questions. The location of the meeting will be the:

Ormond Beach Performing Arts Center  
399 N. U.S. Hwy. 1  
Ormond Beach, FL 32174

A draft customer meeting notice is enclosed. Please note the date has been left blank so that you can fill in the date that the notice is sent to the customers. As required by Rule 25-22.0407(9)(b), Florida Administrative Code (F.A.C.), the utility shall provide, in writing, a customer meeting notice to all customers within its service area no less than 14 days and no more than 30 days prior to the date of a customer meeting.

Given that the Utility previously failed to mail out the customer notices, it is imperative that the Utility comply with the rule stated above. Please furnish me with a copy of the notice, as reproduced at the time it is distributed to your customers, together with a cover letter indicating the exact date(s) on which the notice was mailed or otherwise delivered to the customers. In addition, please provide a signed affidavit stating the date the customer meeting notice was mailed out. We have enclosed a sample cover letter, and affidavit for you to reference.

DOCUMENT NUMBER 01518

01518 MAR-9

FPSC-COMMISSION CLERK

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

with additional invoices for leak repairs totaling \$726. Staff has increased the amount reported for water by \$726 to reflect this amount. The Utility provided staff with an invoice for chlorine tank repairs of \$5,000. Staff has amortized the \$5,000 over 5 years, and increased this account by \$1,000 for wastewater. The Utility also provided staff with an invoice for videography of wastewater lines of \$5,000. Likewise, staff has amortized this amount over five years and increased this account by \$1,000 for wastewater. Steve Fryson, the meter reader for Tymber Creek, has requested a \$25 increase in his \$175 monthly fee. Staff believes this amount is reasonable. Accordingly, staff has increased this account by \$300 for water (\$25 x 12 months). Staff has also increased this account by \$300 for wastewater based on invoices for leak repairs completed by Steve Fryson. The Utility's contract water operator, Steve Woodman requested a \$100 increase in his monthly fee due to increased DEP monitoring requirements. Mr. Woodman's current monthly fee is \$500. Staff has increased this account by \$1,200 (\$600 x 12 months - \$500 x 12 months) to reflect Mr. Woodman's fee. Finally, staff has amortized the cost of a \$1,300 fence installation over 5 years and increased this account by \$260. Staff net adjustments to this account result in an increase of \$2,226 (\$726 + \$300 + \$1,200) for water and \$27,856 (\$25,296 + \$1,000 + \$1,000 + \$300 + \$260) for wastewater. Staff recommends contractual services – other expense of \$14,651 (\$12,425 + \$2,226) for water and \$36,647 (\$8,791 + \$27,856) for wastewater.

Rents (640/740) – The Utility recorded \$3,662 for water and \$17,082 for wastewater in this account. Based on the audit report, Tymber Creek's total office rent is \$7,324. Tymber Creek recorded \$3,662 for both water and wastewater for office rent. As previously stated, staff believes a 25 percent allocation to water and 75 percent allocation to wastewater is appropriate. This results in office rent of \$1,831 for water and \$5,493 for wastewater. Accordingly, staff has decreased the amount reported for office rent by \$1,831 for water and increased wastewater by \$1,831. Tymber Creek recorded \$13,420 for land rent. In the Utility's last rate case, the Commission determined the appropriate rent amount for land should be the annual rate of return, based on the Utility's current capital structure, times the original cost of the land in service.<sup>5</sup> The original cost of the land in service is \$49,432, and based on the Utility's current capital structure, the rate of return is 7.77 percent. Accordingly, the appropriate land rent is \$3,841 (\$49,432 x 7.77 percent). Therefore, staff has decreased this account for wastewater by \$9,579 to reflect the appropriate land rent. After the completion of the audit, the Utility submitted an invoice for an excavation rental of \$405. Staff has increased this account by \$405 for water to reflect this amount. Staff recommends rent expense of \$2,236 for water (\$3,662 - \$1,831 + \$405) for water and \$9,334 (\$17,082 + \$1,831 - \$9,579) for wastewater. **Agreed**

**Update to reflect FDEP required leased percolation pond site**

**Original Parcels Only**

Transportation Expenses (650) – Tymber Creek recorded \$260 for water in this account. The Utility's records substantiated a transportation expense of \$182 for water. Accordingly, staff has decreased this account by \$78. Staff recommends transportation expense of \$182 for water.

Insurance Expenses (655/755) – The Utility recorded \$100 for water and \$2,300 for wastewater in this account. Staff has allocated 50 percent to each system and increased water by \$1,100 and decreased wastewater by \$1,100 for this account. Staff recommends insurance expense of \$1,200 for water and \$1,200 for wastewater.

<sup>5</sup> See Order No. PSC-04-1264-PAA-SU, at p. 10.

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**ATTACHMENT D**



# Florida Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

## STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERMIT

**PERMITTEE:**  
Tymber Creek Utilities

**RESPONSIBLE OFFICIAL:**  
Mr J Stanley Shirah  
1951 SR 40  
Ormond Beach, Florida 32174  
(386) 672-9815

**PERMIT NUMBER:** FLA011193-003  
**FILE NUMBER:** FLA011193-003-DW2P  
**ISSUANCE DATE:** August 16, 2010  
**EXPIRATION DATE:** August 11, 2015

### FACILITY:

Tymber Creek WWTF  
1951 SR 40 (Off of Sand Spring)  
Ormond Beach, FL 32174  
Volusia County  
Latitude: 29°15' 54.58" N Longitude: 81°7' 37.39" W

This permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and applicable rules of the Florida Administrative Code (F.A.C.). This permit does not constitute authorization to discharge wastewater other than as expressly stated in this permit. The above named permittee is hereby authorized to operate the facilities in accordance with the documents attached hereto and specifically described as follows:

### WASTEWATER TREATMENT:

An existing 0.131 million gallon per day (mgd) annual average daily flow (AADF) permitted capacity extended aeration domestic wastewater treatment plant consisting of flow equalization, influent screening, aeration, secondary clarification, filtration, chlorination, and aerobic digestion of residuals.

### REUSE OR DISPOSAL:

**Land Application R-001:** An existing 0.131 MGD annual average daily flow permitted capacity rapid infiltration basin (RIB) system. R-001 is a reuse system which consists of five rapid infiltration basins with a total wetted area of 2.18 acres having a capacity of 0.131 MGD located approximately at latitude 29°15' 57" N, longitude 81°7' 40" W.

**IN ACCORDANCE WITH:** The limitations, monitoring requirements, and other conditions set forth in this cover sheet and Part I through Part IX on pages 1 through 17 of this permit.

**Note: Pond #5, part of original parcels included 0.33 acres wetted area.  
Ponds #1, #2, #3, and #4 required by permit include 1.85 acres wetted area of 3.6 acres total area.  
- GCH**

PERMITTEE: Tymber Creek Utilities  
 FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
 EXPIRATION DATE: August 11, 2015

**I. RECLAIMED WATER AND EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**A. Reuse and Land Application Systems**

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to direct reclaimed water to Reuse System R-001. Such reclaimed water shall be limited and monitored by the permittee as specified below and reported in accordance with condition I.B.7.:

Parameter	Units	Max/Min	Reclaimed Water Limitations		Monitoring Requirements			Notes
			Limit	Statistical Basis	Frequency of Monitoring	Sample Type	Monitoring Site Number	
Flow (flow to R-001)	MGD	Max Max	0.131 Report	Annual Average Monthly Average	5 Days/Week	Recording Flow Meter with Totalizer	FLW-1	See I.A.3
BOD, Carbonaceous 5 day, 20C	mg/L	Max Max Max Max	20.0 30.0 45.0 60.0	Annual Average Monthly Average Weekly Average Single Sample	Bi-weekly; every 2 weeks	8-hr FPC	EFA-1	
Solids, Total Suspended	mg/L	Max	5.0	Single Sample	4 Days/Week	Grab	EFA-1	
Coliform, Fecal	#/100mL	Max	25	Single Sample	4 Days/Week	Grab	EFA-1	
Coliform, Fecal, % less than detection	percent	Min	75	Monthly Total	4 Days/Week	Calculated	EFA-1	See I.A.4
pH	s.u.	Min Max	6.0 8.5	Single Sample Single Sample	5 Days/Week	Grab	EFA-1	
Chlorine, Total Residual (For Disinfection)	mg/L	Min	1.0	Single Sample	5 Days/Week	Grab	EFA-1	See I.A.5
Nitrogen, Nitrate, Total (as N)	mg/L	Max	12.0	Single Sample	Bi-weekly; every 2 weeks	8-hr FPC	EFA-1	
Nitrogen, Total	mg/L	Max	Report	Single Sample	Bi-weekly; every 2 weeks	8-hr FPC	EFA-1	
Phosphorus, Total (as P)	mg/L	Max	Report	Single Sample	Bi-weekly; every 2 weeks	8-hr FPC	EFA-1	

PERMITTEE: Tymber Creek Utilities  
FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
EXPIRATION DATE: August 11, 2015

2. Reclaimed water samples shall be taken at the monitoring site locations listed in Permit Condition I.A.1. and as described below:

Monitoring Site Number	Description of Monitoring Site
FLW-1	Flow meter and V-notch weir in stilling well
EFA-1	Chlorine contact chamber effluent
EFB-1	Filter effluent prior to chlorination

3. A recording flow meter with totalizer shall be utilized to measure flow and calibrated at least once every 12 months. [62-601.200(17) and .500(6)]
4. To report the "% less than detection," count the number of fecal coliform observations that were less than detection, divide by the total number of fecal coliform observations in the month, and multiply by 100% (round to the nearest integer). [62-600.440(5)(f)]
5. Total residual chlorine must be maintained for a minimum contact time of 15 minutes based on peak hourly flow. [62-610.510, 62-600.440(4)(b) and (5)(b)]

PERMITTEE: Tymber Creek Utilities  
 FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
 EXPIRATION DATE: August 11, 2015

**B. Other Limitations and Monitoring and Reporting Requirements**

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the treatment facility shall be limited and monitored by the permittee as specified below and reported in accordance with condition I.B.7.:

Parameter	Units	Max/Min	Limitations		Monitoring Requirements			Notes
			Limit	Statistical Basis	Frequency of Analysis	Sample Type	Monitoring Site Number	
Flow (flow thru plant)	MGD	Max Max Max	0.131 Report Report	Annual Average Monthly Average Quarterly Average	5 Days/Week	Recording Flow Meter with Totalizer	FLW-1	See I.B.4
Percent Capacity, (TMADF/Permitted Capacity) x 100	percent	Max	Report	Monthly Average	Monthly	Calculated	FLW-1	
BOD, Carbonaceous 5 day, 20C (Influent)	mg/L	Max	Report	Single Sample	Bi-weekly; every 2 weeks	8-hr FPC	INF-1	See I.B.3
Solids, Total Suspended (Influent)	mg/L	Max	Report	Single Sample	Bi-weekly; every 2 weeks	8-hr FPC	INF-1	See I.B.3

PERMITTEE: Tymber Creek Utilities  
FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
EXPIRATION DATE: August 11, 2015

2. Samples shall be taken at the monitoring site locations listed in Permit Condition I.B.1. and as described below:

Monitoring Site Number	Description of Monitoring Site
FLW-1	Flow meter and V-notch weir in stilling well
INF-1	Raw influent to surge tank

3. Influent samples shall be collected so that they do not contain digester supernatant or return activated sludge, or any other plant process recycled waters. [62-601.500(4)]
4. A recording flow meter with totalizer shall be utilized to measure flow and calibrated at least once every 12 months. [62-601.200(17) and .500(6)]
5. The sample collection, analytical test methods and method detection limits (MDLs) applicable to this permit shall be conducted using a sufficiently sensitive method to ensure compliance with applicable water quality standards and effluent limitations and shall be in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate. The list of Department established analytical methods, and corresponding MDLs (method detection limits) and PQLs (practical quantitation limits), which is titled "FAC 62-4 MDL/PQL Table (April 26, 2006)" is available at <http://www.dep.state.fl.us/labs/library/index.htm>. The MDLs and PQLs as described in this list shall constitute the minimum acceptable MDL/PQL values and the Department shall not accept results for which the laboratory's MDLs or PQLs are greater than those described above unless alternate MDLs and/or PQLs have been specifically approved by the Department for this permit. Any method included in the list may be used for reporting as long as it meets the following requirements:
- The laboratory's reported MDL and PQL values for the particular method must be equal or less than the corresponding method values specified in the Department's approved MDL and PQL list;
  - The laboratory reported MDL for the specific parameter is less than or equal to the permit limit or the applicable water quality criteria, if any, stated in Chapter 62-302, F.A.C. Parameters that are listed as "report only" in the permit shall use methods that provide an MDL, which is equal to or less than the applicable water quality criteria stated in 62-302, F.A.C.; and
  - If the MDLs for all methods available in the approved list are above the stated permit limit or applicable water quality criteria for that parameter, then the method with the lowest stated MDL shall be used.

When the analytical results are below method detection or practical quantitation limits, the permittee shall report the actual laboratory MDL and/or PQL values for the analyses that were performed following the instructions on the applicable discharge monitoring report.

Where necessary, the permittee may request approval of alternate methods or for alternative MDLs or PQLs for any approved analytical method. Approval of alternate laboratory MDLs or PQLs are not necessary if the laboratory reported MDLs and PQLs are less than or equal to the permit limit or the applicable water quality criteria, if any, stated in Chapter 62-302, F.A.C. Approval of an analytical method not included in the above-referenced list is not necessary if the analytical method is approved in accordance with 40 CFR 136 or deemed acceptable by the Department. [62-4.246, 62-160]

6. The permittee shall provide safe access points for obtaining representative influent, reclaimed water, and effluent samples which are required by this permit. [62-601.500(5)]

PERMITTEE: Tymber Creek Utilities  
 FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
 EXPIRATION DATE: August 11, 2015

7. Monitoring requirements under this permit are effective on the first day of the second month following permit issuance. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any. During the period of operation authorized by this permit, the permittee shall complete and submit to the Department Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e. monthly, toxicity, quarterly, semiannual, annual, etc.) indicated on the DMR forms attached to this permit. Monitoring results for each monitoring period shall be submitted in accordance with the associated DMR due dates below.

REPORT Type on DMR	Monitoring Period	Due Date
Monthly or Toxicity	first day of month - last day of month	28 <sup>th</sup> day of following month
Quarterly	January 1 - March 31 April 1 - June 30 July 1 - September 30 October 1 - December 31	April 28 July 28 October 28 January 28
Semiannual	January 1 - June 30 July 1 - December 30	July 28 January 28
Annual	January 1 - December 31	January 28

DMRs shall be submitted for each required monitoring period including months of no discharge. The permittee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the Department's Central District Office at the address specified in Permit Condition I.B.10. by the twenty-eighth (28th) of the month following the month of operation.

*[62-620.610(18)][62-601.300(1),(2), and (3)]*

8. During the period of operation authorized by this permit, reclaimed water or effluent shall be monitored annually for the primary and secondary drinking water standards contained in Chapter 62-550, F.A.C., (except for asbestos, color, odor, and corrosivity). These monitoring results shall be reported to the Department annually on the DMR. During years when a permit is not renewed, a certification stating that no new non-domestic wastewater dischargers have been added to the collection system since the last reclaimed water or effluent analysis was conducted may be submitted in lieu of the report. The annual reclaimed water or effluent analysis report or the certification shall be completed and submitted in a timely manner so as to be received by the Department's Central District Office by June 28 of each year. Approved analytical methods identified in Rule 62-620.100(3)(j), F.A.C., shall be used for the analysis. If no method is included for a parameter, methods specified in Chapter 62-550, F.A.C., shall be used. *[62-601.300(4)][62-601.500(3)][62-610.300(4)]*
9. The permittee shall submit an Annual Reuse Report using DEP Form 62-610.300(4)(a)2. on or before January 1 of each year. *[62-610.870(3)]*
10. Unless specified otherwise in this permit, all reports and other information required by this permit, including 24-hour notifications, shall be submitted to or reported to, as appropriate, the Department's Central District Office at the address specified below:

Florida Department of Environmental Protection Central District Office  
 3319 Maguire Blvd Suite 232  
 Orlando, Florida 32803-3767

Phone Number - (407)894-7555  
 FAX Number - (850)412-0496  
 (All FAX copies and e-mails shall be followed by original copies.)

*[62-620.305]*

11. All reports and other information shall be signed in accordance with the requirements of Rule 62-620.305, F.A.C. *[62-620.305]*

PERMITTEE: Tymber Creek Utilities  
FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
EXPIRATION DATE: August 11, 2015

## II. RESIDUALS MANAGEMENT REQUIREMENTS

1. The method of residuals use or disposal by this facility is transport to American Bioclean and Rainbow Ranch or disposal in a Class I or II solid waste landfill. Transportation of the residuals to an alternative residuals management facility does not require a permit modification. However, use of an alternative residuals management facility requires the submittal of a copy of the agreement pursuant to Rule 62-640.880(1)(c), F.A.C., along with a written notification to the Department at least 30 days before transport of the residuals. *[62-620,320(6),62-640.880(1)]*
2. The permittee shall be responsible for proper treatment, management, use, and land application or disposal of its residuals. *[62-640.300(5)]*
3. The permittee shall not be held responsible for treatment, management, use, or land application violations that occur after its residuals have been accepted by a permitted residuals management facility with which the source facility has an agreement in accordance with Rule 62-640.880(1)(c), F.A.C., for further treatment, management, use or land application. *[62-640.300(5)]*
4. Disposal of residuals, septage, and other solids in a solid waste disposal facility, or disposal by placement on land for purposes other than soil conditioning or fertilization, such as at a monofill, surface impoundment, waste pile, or dedicated site, shall be in accordance with the requirements of Chapter 62-701, F.A.C. *[62-640.100(6)(k)3&4]*
5. If the permittee intends to accept residuals from other facilities, a permit revision is required pursuant to Rule 62-640.880(2)(d), F.A.C. *[62-640.880(2)(d)]*
6. The permittee shall keep hauling records to track the transport of residuals between facilities. The hauling records shall contain the following information:

Source Facility	Residuals Management Facility or Treatment Facility
1. Date and Time Shipped	1. Date and Time Received
2. Amount of Residuals Shipped	2. Amount of Residuals Received
3. Degree of Treatment (if applicable)	3. Name and ID Number of Source Facility
4. Name and ID Number of Residuals Management Facility or Treatment Facility	4. Signature of Hauler
5. Signature of Responsible Party at Source Facility	5. Signature of Responsible Party at Residuals Management Facility or Treatment Facility
6. Signature of Hauler and Name of Hauling Firm	

These records shall be kept for five years and shall be made available for inspection upon request by the Department. A copy of the hauling records information maintained by the source facility shall be provided upon delivery of the residuals to the residuals management facility or treatment facility. The permittee shall report to the Department within 24 hours of discovery any discrepancy in the quantity of residuals leaving the source facility and arriving at the residuals management facility or treatment facility.

*[62-640.880(4)]*

7. Storage of residuals or other solids at the permitted facility shall require prior written notification to the Department. *[62-640.300(4)]*

PERMITTEE: Tymber Creek Utilities  
 FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
 EXPIRATION DATE: August 11, 2015

**III. GROUND WATER REQUIREMENTS**

**A. Construction Requirements**

Section Construction Requirements does not apply to this facility.

**B. Operational Requirements**

1. For the Part IV Public Access system, all ground water quality criteria specified in Chapter 62-520, F.A.C., shall be met at the edge of the zone of discharge. For major users of reclaimed water (i.e., using 0.1 MGD or more), the zone of discharge shall extend horizontally 100 feet from the application site or to user's site property line, whichever is less, and vertically to the base of the surficial aquifer. For other users, the zone of discharge shall extend horizontally to the boundary of the general service area identified in the attached map and vertically to the base of the surficial aquifer. [62-520.200(26)] [62-520.465]
2. The ground water minimum criteria specified in Rule 62-520.400 F.A.C., shall be met within the zone of discharge. [62-520.400 and 62-520.420(4)]
3. During the period of operation authorized by this permit, the permittee shall sample ground water in accordance with this permit and the approved ground water monitoring plan prepared in accordance with Rule 62-520.600, F.A.C. [62-520.600][62-610.463]
4. The following monitoring wells shall be sampled quarterly. Sampling must be reasonably spaced to be representative of potentially changing conditions.

Facility Well Name	Monitoring Location Site Number	WAFR ID #	GMS#	Well Type	Depth (Feet)	Aquifer Monitored	New or Existing
<b>Ponds Site</b>							
MW-1	MWB-1	7662	3064A16061	Background	15	Surficial	Existing
MW-2	MWC-2	7661	3064A16062	Compliance	15	Surficial	Existing
MW-3R*	MWC-3R*	7660	3064A16063	Compliance	15	Surficial	Existing
MW-4	MWC-4	7659	3064A16064	Compliance	15	Surficial	Existing
MW-5	MWC-5	7658	3064A16065	Compliance	10	Surficial	Existing
MW-6	MWC-6	7657	3064A16066	Compliance	15	Surficial	Existing

\* Original compliance well MWC-3 was repeatedly reported DRY and hence replaced by MWC-3R. MWC-3R was installed on January 11, 2010. The WAFR ID (WAFR # 7660) will remain same.  
 MWB = Background Well; MWC = Compliance Well

[62-520.600][62-610.463]

5. The following parameters shall be analyzed for each of the monitoring well(s) identified in Permit Condition(s) III. B. 4:

Parameter	Compliance Well Limit	Units	Sample Type	Monitoring Frequency
Water Level Relative to Feet, NGVD	Report	Feet	In Situ	Quarterly
Nitrogen, Nitrate, Total (as N)	10	mg/L	Grab	Quarterly
Solids, Total Dissolved (TDS)	500	mg/L	Grab	Quarterly
Chloride (as Cl)	250	mg/L	Grab	Quarterly
Coliform, Fecal	4	#/100ML	Grab	Quarterly
pH	6.5-8.5	SU	Grab	Quarterly
Turbidity, Field - Nephelometric	Report	NTU	Grab	Quarterly

[62-520.600(11)(b)] [62-601.300(3), 62-601.700, and Figure 3 of 62-601][62-601.300(6)] [62-520.300(9)]

PERMITTEE: Tymber Creek Utilities  
FACILITY: Tymber Creek

PERMIT NUMBER: FLA011193-003  
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6. If the concentration for any constituent listed in Permit Condition III. B. 5. in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative natural background quality shall be the prevailing standard. [62-520.420(2)]
7. In accordance with Part D of Form 62-620.910(10), water levels shall be recorded before evacuating wells for sample collection. Elevation references shall include the top of the well casing and land surface at each well site (Feet, NGVD) at a precision of plus or minus 0.01 foot. [62-520.600(11)(C)] [62-610.463(3)(a)]
8. Ground water monitoring wells shall be purged prior to sampling to obtain representative samples. [62-601.700(5)] [62-160.210]
9. Analyses shall be conducted on unfiltered samples, unless filtered samples have been approved by the Department's Central District, Ground Water Section as being more representative of ground water conditions. [62-520.310(5)]
10. Ground water monitoring parameters shall be analyzed in accordance with Chapter 62-601, F.A.C. [62-620.610(18)]
11. Ground water monitoring test results shall be submitted on Part D of Form 62-620.910(10). A completed Certification Page shall accompany each quarter of monitoring data. For reuse or land application projects, the quarterly ground water monitoring results shall be submitted with the DMR as shown in the following schedule. [62-520.600(10) and (11)(b)] [62-601.300(3), 62.601.700, and Figure 3 of 62-601] [62-620.610(18)]

SAMPLE PERIOD	REPORT DUE DATE
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

12. If any monitoring well becomes damaged or cannot be sampled for some reason, the permittee shall notify the Department's Central District, Ground Water Section immediately and a written report shall follow within seven days detailing the circumstances and remedial measures taken or proposed. Repair or replacement of monitoring wells shall be approved in advance by the Department's Central District, Ground Water Section. [62-520.600][62-4.070(3)]
13. The Permittee shall provide verbal notice to the Department's Central District, Ground Water Section as soon as practical after discovery of a sinkhole within an area for the management or application of wastewater, wastewater residuals (sludges), or reclaimed water. The Permittee shall immediately implement measures appropriate to control the entry of contaminants, and shall detail these measures to the Department's Central District, Ground Water Section in a written report within 7 days of the sinkhole discovery. [62-4.070(3)]

#### IV. ADDITIONAL REUSE AND LAND APPLICATION REQUIREMENTS

##### A. Part IV Rapid Infiltration Basins

1. Advisory signs shall be posted around the site boundaries to designate the nature of the project area. [62-610.518]
2. The maximum annual average loading rate to the five rapid infiltration basins with a total wetted area of 2.18 acres shall be limited to 2.2 inches per day (as applied to the entire bottom area). [62-610.523(3)]
3. The five rapid infiltration basins with a total wetted area of 2.18 acres normally shall be loaded for 7 days and shall be rested for 7 days. Infiltration ponds, basins, or trenches shall be allowed to dry during the resting portion of the cycle. [62-610.523(4)]

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4. Rapid infiltration basins shall be routinely maintained to control vegetation growth and to maintain percolation capability by scarification or removal of deposited solids. Basin bottoms shall be maintained to be level. [62-610.523(6) and (7)]
5. Routine aquatic weed control and regular maintenance of storage pond embankments and access areas are required. [62-610.514 and 62-610.414]
6. Overflows from emergency discharge facilities on storage ponds or on infiltration ponds, basins, or trenches shall be reported as abnormal events in accordance with Permit Condition IX.20. [62-610.800(9)]

## V. OPERATION AND MAINTENANCE REQUIREMENTS

### A. Staffing Requirements

1. During the period of operation authorized by this permit, the wastewater facilities shall be operated under the supervision of a(n) operator(s) certified in accordance with Chapter 62-602, F.A.C. In accordance with Chapter 62-699, F.A.C., this facility is a Category III, Class C facility and, at a minimum, operators with appropriate certification must be on the site as follows:

A Class C or higher operator 1/2 hour/day for 5 days/week and one visit each weekend. The lead/chief operator must be a Class C operator, or higher.

2. An operator meeting the lead/chief operator class for the plant shall be available during all periods of plant operation. "Available" means able to be contacted as needed to initiate the appropriate action in a timely manner. [62-699.311(1)]

### B. Capacity Analysis Report and Operation and Maintenance Performance Report Requirements

1. The application to renew this permit shall include an updated capacity analysis report prepared in accordance with Rule 62-600.405, F.A.C. [62-600.405(5)]
2. The application to renew this permit shall include a detailed operation and maintenance performance report prepared in accordance with Rule 62-600.735, F.A.C. [62-600.735(1)]

### C. Recordkeeping Requirements

1. The permittee shall maintain the following records and make them available for inspection on the site of the permitted facility.
  - a. Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, including, if applicable, a copy of the laboratory certification showing the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;
  - b. Copies of all reports required by the permit for at least three years from the date the report was prepared;
  - c. Records of all data, including reports and documents, used to complete the application for the permit for at least three years from the date the application was filed;
  - d. Monitoring information, including a copy of the laboratory certification showing the laboratory certification number, related to the residuals use and disposal activities for the time period set forth in Chapter 62-640, F.A.C., for at least three years from the date of sampling or measurement;
  - e. A copy of the current permit;
  - f. A copy of the current operation and maintenance manual as required by Chapter 62-600, F.A.C.;
  - g. A copy of any required record drawings;
  - h. Copies of the licenses of the current certified operators; and

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- i. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date of the logs or schedules. The logs shall, at a minimum, include identification of the plant; the signature and license number of the operator(s) and the signature of the person(s) making any entries; date and time in and out; specific operation and maintenance activities, including any preventive maintenance or repairs made or requested; results of tests performed and samples taken, unless documented on a laboratory sheet; and notation of any notification or reporting completed in accordance with Rule 62-602.650(3), F.A.C. The logs shall be maintained on-site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed.

[62-620.350, 62-602.650]

## VI. SCHEDULES

1. The following improvement actions shall be completed according to the following schedule:

Improvement Action	Completion Date
1. Fix the monitoring wells to correct concrete pads, install outer protective casings, and notify the Department of the completion in writing.	November 15, 2010
2. Perform leakage test of force main from the last lift station to the treatment plant, fix any leaks, and re-test until satisfactory (200 gallons per inch of pipe diameter per mile per day using minimum positive head of 2 feet for water test, or per ASTM F-1417 for plastic pipe for air test). Notify the Department of completion in writing.	November 15, 2010
3. Repair the Phase 1 collection system piping, where there is evidence of water intrusion, infiltration, or inflow to, by grouting, etc., and notify the Department of the completion in writing	November 15, 2010
4. Compare rainfall and total flow through the treatment plant.	Through January 2011
5. Evaluate the efficacy of the filtration system monthly, change the filter media if there are any TSS violations after January 2010, and notify the Department of all actions in writing	February 28, 2011
6. Provide an engineering report summarizing the results of items 2-5 above.	February 28, 2011
7. Identify and correct any additional infiltration problems based on the engineering report required in item #6, above, and notify Department in writing of completion.	April 15, 2011

[62-620.320(6)]

2. If the permittee wishes to continue operation of this wastewater facility after the expiration date of this permit, the permittee shall submit an application for renewal no later than one-hundred and eighty days (180) prior to the expiration date of this permit. Application shall be made using the appropriate forms listed in Rule 62-620.910, F.A.C., including submittal of the appropriate processing fee set forth in Rule 62-4.050, F.A.C. [62-620.335(1) and (2)]

## VII. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS

1. This facility is not required to have a pretreatment program at this time. [62-625.500]

## VIII. OTHER SPECIFIC CONDITIONS

1. The permittee shall comply with all conditions and requirements for reuse contained in their consumptive use permit issued by the Water Management District, if such requirements are consistent with Department rules. [62-610.800(10)]

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2. In the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affects neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the permitted facilities) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department. Additionally, the treatment, management, use or land application of residuals shall not cause a violation of the odor prohibition in Rule 62-296.320(2), F.A.C. [62-600.410(8) and 62-640.400(6)]
3. The deliberate introduction of stormwater in any amount into collection/transmission systems designed solely for the introduction (and conveyance) of domestic/industrial wastewater; or the deliberate introduction of stormwater into collection/transmission systems designed for the introduction or conveyance of combinations of storm and domestic/industrial wastewater in amounts which may reduce the efficiency of pollutant removal by the treatment plant is prohibited, except as provided by Rule 62-610.472, F.A.C. [62-604.130(3)]
4. Collection/transmission system overflows shall be reported to the Department in accordance with Permit Condition IX. 20. [62-604.550] [62-620.610(20)]
5. The operating authority of a collection/transmission system and the permittee of a treatment plant are prohibited from accepting connections of wastewater discharges which have not received necessary pretreatment or which contain materials or pollutants (other than normal domestic wastewater constituents):
  - a. Which may cause fire or explosion hazards; or
  - b. Which may cause excessive corrosion or other deterioration of wastewater facilities due to chemical action or pH levels; or
  - c. Which are solid or viscous and obstruct flow or otherwise interfere with wastewater facility operations or treatment; or
  - d. Which result in the wastewater temperature at the introduction of the treatment plant exceeding 40°C or otherwise inhibiting treatment; or
  - e. Which result in the presence of toxic gases, vapors, or fumes that may cause worker health and safety problems.[62-604.130(5)]
6. The treatment facility, storage ponds for Part II systems, rapid infiltration basins, and/or infiltration trenches shall be enclosed with a fence or otherwise provided with features to discourage the entry of animals and unauthorized persons. [62-610.518(1) and 62-600.400(2)(b)]
7. Screenings and grit removed from the wastewater facilities shall be collected in suitable containers and hauled to a Department approved Class I landfill or to a landfill approved by the Department for receipt/disposal of screenings and grit. [62-701.300(1)(a)]
8. Where required by Chapter 471 or Chapter 492, F.S., applicable portions of reports that must be submitted under this permit shall be signed and sealed by a professional engineer or a professional geologist, as appropriate. [62-620.310(4)]
9. The permittee shall provide verbal notice to the Department's Central District Office as soon as practical after discovery of a sinkhole or other karst feature within an area for the management or application of wastewater, wastewater residuals (sludges), or reclaimed water. The permittee shall immediately implement measures appropriate to control the entry of contaminants, and shall detail these measures to the Department's Central District Office in a written report within 7 days of the sinkhole discovery. [62-620.320(6)]

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10. The permittee shall provide adequate notice to the Department of the following:
- Any new introduction of pollutants into the facility from an industrial discharger which would be subject to Chapter 403, F.S., and the requirements of Chapter 62-620, F.A.C., if it were directly discharging those pollutants; and
  - Any substantial change in the volume or character of pollutants being introduced into that facility by a source which was identified in the permit application and known to be discharging at the time the permit was issued.

Adequate notice shall include information on the quality and quantity of effluent introduced into the facility and any anticipated impact of the change on the quantity or quality of effluent or reclaimed water to be discharged from the facility.

*[62-620.625(2)]*

#### **IX. GENERAL CONDITIONS**

- The terms, conditions, requirements, limitations, and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, Florida Statutes. Any permit noncompliance constitutes a violation of Chapter 403, Florida Statutes, and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1)]*
- This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviations from the approved drawings, exhibits, specifications, or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2)]*
- As provided in subsection 403.087(7), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. *[62-620.610(3)]*
- This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4)]*
- This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-620.610(5)]*
- If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee shall apply for and obtain a new permit. *[62-620.610(6)]*
- The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. *[62-620.610(7)]*
- This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. *[62-620.610(8)]*

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9. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:
  - a. Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;
  - b. Have access to and copy any records that shall be kept under the conditions of this permit;
  - c. Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and
  - d. Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.

*[62-620.610(9)]*
10. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, F.S., or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. *[62-620.610(10)]*
11. When requested by the Department, the permittee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department. *[62-620.610(11)]*
12. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard. *[62-620.610(12)]*
13. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. *[62-620.610(13)]*
14. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. *[62-620.610(14)]*
15. The permittee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility or activity and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment. *[62-620.610(15)]*

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16. The permittee shall apply for a revision to the Department permit in accordance with Rules 62-620.300, F.A.C., and the Department of Environmental Protection Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with Rule 62-620.325(2), F.A.C., for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in Rule 62-620.300, F.A.C. [62-620.610(16)]
17. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:
- A description of the anticipated noncompliance;
  - The period of the anticipated noncompliance, including dates and times; and
  - Steps being taken to prevent future occurrence of the noncompliance.
- [62-620.610(17)]
18. Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246 and Chapters 62-160, 62-601, and 62-610, F.A.C., and 40 CFR 136, as appropriate.
- Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10), or as specified elsewhere in the permit.
  - If the permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
  - Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.
  - Except as specifically provided in Rule 62-160.300, F.A.C., any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health Environmental Laboratory Certification Program (DOH ELCP). Such certification shall be for the matrix, test method and analyte(s) being measured to comply with this permit. For domestic wastewater facilities, testing for parameters listed in Rule 62-160.300(4), F.A.C., shall be conducted under the direction of a certified operator.
  - Field activities including on-site tests and sample collection shall follow the applicable standard operating procedures described in DEP-SOP-001/01 adopted by reference in Chapter 62-160, F.A.C.
  - Alternate field procedures and laboratory methods may be used where they have been approved in accordance with Rules 62-160.220, and 62-160.330, F.A.C.
- [62-620.610(18)]
19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. [62-620.610(19)]
20. The permittee shall report to the Department's Central District Office any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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- a. The following shall be included as information which must be reported within 24 hours under this condition:
  - (1) Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
  - (2) Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
  - (3) Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
  - (4) Any unauthorized discharge to surface or ground waters.
- b. Oral reports as required by this subsection shall be provided as follows:
  - (1) For unauthorized releases or spills of treated or untreated wastewater reported pursuant to subparagraph (a)4. that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:
    - (a) Name, address, and telephone number of person reporting;
    - (b) Name, address, and telephone number of permittee or responsible person for the discharge;
    - (c) Date and time of the discharge and status of discharge (ongoing or ceased);
    - (d) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
    - (e) Estimated amount of the discharge;
    - (f) Location or address of the discharge;
    - (g) Source and cause of the discharge;
    - (h) Whether the discharge was contained on-site, and cleanup actions taken to date;
    - (i) Description of area affected by the discharge, including name of water body affected, if any; and
    - (j) Other persons or agencies contacted.
  - (2) Oral reports, not otherwise required to be provided pursuant to subparagraph b.1 above, shall be provided to the Department's Central District Office within 24 hours from the time the permittee becomes aware of the circumstances.
- c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department's Central District Office shall waive the written report.

*[62-620.610(20)]*

21. The permittee shall report all instances of noncompliance not reported under Permit Conditions IX.17., IX.18., or IX.19. of this permit at the time monitoring reports are submitted. This report shall contain the same information required by Permit Condition IX.20. of this permit. *[62-620.610(21)]*

22. Bypass Provisions.

- a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment works.
- b. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
  - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (3) The permittee submitted notices as required under Permit Condition IX.22.b. of this permit.

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- c. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Permit Condition IX.20. of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- d. The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in Permit Condition IX.22.a.1. through 3. of this permit.
- e. A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Permit Condition IX.22.a. through c. of this permit.

[62-620.610(22)]

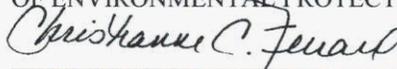
23. Upset Provisions.

- a. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee.
  - (1) An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation.
  - (2) An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of upset provisions of Rule 62-620.610, F.A.C., are met.
- b. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (2) The permitted facility was at the time being properly operated;
  - (3) The permittee submitted notice of the upset as required in Permit Condition IX.20. of this permit; and
  - (4) The permittee complied with any remedial measures required under Permit Condition IX.5. of this permit.
- c. In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.
- d. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.

[62-620.610(23)]

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Christianne C. Ferraro, P.E.  
Program Administrator  
Water Facilities

Date: August 16, 2010

Attachment(s):  
Discharge Monitoring Report