



BOARD OF ZONING ADJUSTMENTS (BOA)

Wayne R. Coment-District 2
Vacant-District 4

Martin J. Lewis-District 3
Thomas C. Yonge-District 5

Christopher H. Marine, Chairman-District 1

The Board of Zoning Adjustments will meet at **3:00 p.m. ON MONDAY, October 12, 2009**, in **County Commission Chambers** of the County Administration Building, 1840 25th Street, Vero Beach

- ITEM #1 Election of Chairman and Vice Chairman
- ITEM #2 Approval of Minutes from April 16, 2007 Meeting
- ITEM#3 Request by Walter M. White Construction Company for a Side Yard Setback Variance of Less Than 1 Foot for Lots 2, 4, 5, 7, 10, and 11 in Block C of Eagle Trace due to Survey Errors, Located in the RS-6 Zoning District [VAR-09-12-01/99070209-64435].
- ITEM #4 Planning Director's Matters
- ITEM #5 Chairman's Matters
- ITEM #6 Attorney's Matters

ANYONE WHO MAY WISH TO APPEAL ANY DECISION WHICH MAY BE MADE AT THIS MEETING WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH INCLUDES THE TESTIMONY AND EVIDENCE ON WHICH THE APPEAL IS BASED.

ANYONE WHO NEEDS A SPECIAL ACCOMMODATION FOR THIS MEETING MUST CONTACT THE COUNTY'S AMERICANS WITH DISABILITIES ACT (ADA) COORDINATOR AT 772-226-1223 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING.



BOARD OF ZONING ADJUSTMENTS (BZA)

BZA MINUTES

Monday, April 16, 2007

County Commissioner Chambers

1840 25th Street

Vero Beach, FL 32960-3365

MEMBERS PRESENT:

Wayne Coment, Vice Chairman	District 2 Appointee
Fred Plair	District 3 Appointee
Ralph Lindsey	District 4 Appointee

MEMBERS NOT PRESENT:

Christopher Marine, Chairman	District 1 Appointee
Dr. Stephen Faherty	District 5 Appointee

OTHERS PRESENT:

William DeBraal	Assistant County Attorney
Stan Boling	Planning Director
Reta Smith	Recording Secretary

(NOTE: The following is a summary with emphasis on motions and decisions requiring action. An audio recording of the meeting can be heard at www.irc.gov/Boards/BZA/2007.htm.)

1. Vice-Chairman Coment called the meeting to order.
2. Election of Chairman and Vice-Chairman

ON MOTION BY Mr. Coment and **SECONDED BY** Mr. Lindsey, the Board voted unanimously (3-0) to elect Mr. Plair as Chairman of the Board of Zoning Adjustments for 2007.

ON MOTION BY Mr. Lindsey and **SECONDED BY** Mr. Plair, the Board voted unanimously (3-0) to elect Mr. Coment as Vice-Chairman of the Board of Zoning Adjustments for 2007.

3. Approval of Minutes from February 22, 2006

ON MOTION BY Mr. Coment and **SECONDED BY** Mr. Lindsey, the Board voted unanimously (3-0) to approve the minutes, as submitted, of the meeting of February 22, 2006.

4. **CONTINUED from February 22, 2006 hearing:** Request by Dr. and Mrs. Michael Flax for a Variance to Construct a Larger, Replacement Residence Seaward of the County Dune Stabilization Setback Line (DSSL) on lot 11, Block A, Summerplace Subdivision Unit 1 (1801 East Shell Lane), Located in the RS-6 Zoning District {2004120373-52571}.

Ms. Smith swore in those who were to testify at today's hearing.

Mr. Boling recapped a continuance had been granted to allow the applicant an opportunity to amend proposed plans and further address concerns raised during the February 22, 2006 BZA meeting. He reviewed his memorandum dated April 10, 2007, and information contained in the backup (copy on file) and reviewed the eight criteria the BZA had to consider in regard to the amended variance request.

Mr. Boling showed a comparison of what had changed since the February 22, 2006 meeting and what the proposed footprint was at this time (copy on file.) He concluded it was staff's position that granting the amended variance request would not affect or advance construction of a third floor element and consideration of the variance did not involve interpreting, applying, or enforcing a private deed restriction; and staff recommended the Board approve the amended variance request.

A discussion ensued regarding heights and setbacks.

Mr. Bruce Barkett, Attorney for the applicant, stated they were asking for less of an encroachment on the DSSL than the home that had existed on the site prior to the hurricane, and maintained the applicant had worked diligently towards a compromise. He pointed out the applicant had a handicapped child and the home had to be built especially to accommodate the boy and his caretaker's needs.

Mr. John Olson, Architect, pointed out the uniqueness of the subject property and detailed the changes that had been made in the plans since the previous presentation.

Mr. Bill Schabot of Seaside Construction, submitted into evidence photographs of existing three story homes in the Summerplace subdivision.

Mr. Stewart Greenberg, representing the applicant, contended the local opposition to the proposed home was because of the applicants' religion.

Mrs. Elizabeth Miller Fox, 1920 Barefoot Place, stated she was a member of the Architectural Review Committee at Summerplace, and submitted a sworn affidavit stating the plans were not approved and the letter stating they were approved was false testimony. She discussed the covenants of the Summerplace Improvement Association, and noted three homes had been approved as stilt homes without principal living areas on the ground floor.

Mr. Coment asked Mr. Boling if the BZA had an authority to interpret or enforce private covenants or architectural review boards. Mr. Boling responded the County did not have standing to interpret or enforce private deed restrictions. Attorney DeBraal agreed, saying it was up to the individual homeowners to police their own restrictions. Mr. Coment thought the height of the building was a non-issue for the Board and should not come into play as the variance request was concerned unless it affected the required setbacks.

Mrs. Ruth Myers, 9480 Frangipani Drive, stated the Summerplace Improvement Association only covered two and one half streets and the rest of the neighborhood did not have an association with covenants so if three story houses did exist it was their fault. She read from and submitted a memorandum dated April 16, 2007 with her comments regarding the criteria the Board had to consider.

Discussion followed.

Mr. Michael Bakinowski, 1821 Shell Lane, stated he was the adjacent property owner and submitted information and pictures into evidence. He maintained the applicant did not meet the eight criteria and talked about erosion, the seawall at Summerplace and the DSSL, and urged the Board not to grant the variance.

ON MOTION BY Mr. Lindsey and **SECONDED BY** Mr. Comment, the Board voted unanimously (3-0) to approve the variance request.

5. Planning Director's Matters
None

6. Chairman's Matters
None

7. Attorney's Matters
None

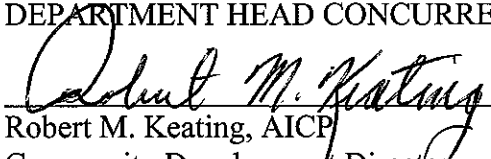
8. **ON MOTION BY** Mr. Coment and **SECONDED BY** Mr. Lindsey, the Board voted unanimously (3-0) to adjourn the meeting. 3:15 p.m.

NOTE: Mr. Lindsey stated it had been a pleasure serving but found it necessary to resign from the board.

INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM

TO: Honorable Members of the Board of Zoning Adjustments

DEPARTMENT HEAD CONCURRENCE:


Robert M. Keating, AICP
Community Development Director

FROM: Stan Boling, AICP
Planning Director

DATE: September 29, 2009

SUBJECT: Request by Walter M. White Construction Company for a Side Yard Setback Variance of Less Than 1 Foot for Lots 2, 4, 5, 7, 10, and 11 in Block C of Eagle Trace Unit 1 Subdivision due to Survey Errors [99070209/VAR-09-12-01]

It is requested that the data herein presented be given formal consideration by the Board of Zoning Adjustments at its meeting of October 12, 2009.

DESCRIPTION AND CONDITIONS:

Walter M. White, on behalf of the owners of Lots 2, 4, 5, 7, 10, and 11 Block C, Eagle Trace Unit 1 Subdivision, has submitted a request for a small side yard setback variance for each of the existing residences located on the six referenced lots to make the existing residences legally conforming to zoning setback requirements, as built.

The subject properties are zoned RS-6 (Residential Single-Family up to 6 units/acre), and are legally described as follows:

"Lots 2, 4, 5, 7, 10 and 11, Block C; A REPLAT OF EAGLE TRACE SUBDIVISION, Plat Book 17, Page 34, A.K.A. EAGLE TRACE UNIT 1, according to the plat thereof recorded in Plat Book 19, Pages 12, 13, and 14, of the Public Records of Indian River County, Florida."

The variances are requested to make six existing residences legal and conforming with respect to side yard setback requirements. The requested variances are as follows:

Lot 2:	South side yard variance:	0.46 feet
Lot 4:	South side yard variance:	0.37 feet
Lot 5:	South side yard variance:	0.48 feet
Lot 7:	South side yard variance:	0.56 feet
Lot 10:	South side yard variance:	0.62 feet
Lot 11:	South side yard variance:	0.71 feet

Eagle Trace Unit 1 is a conventional single-family subdivision replatted in 2005. Within the last few years, the residences on the 6 subject lots were developed under the county's normal building permit process. That process included submission of a formboard survey by a registered surveyor. Prior to construction on each of the 6 lots, surveyor Daniel Talbott submitted a formboard showing that the proposed residence would meet all required RS-6 setbacks. Because the formboard surveys depicted setback compliance, construction on each lot was allowed to proceed. Recently, lot owners and county staff discovered that Mr. Talbott's formboard surveys had a common error in Block C that affected conformance with the side yard setback on each of the 6 subject lots. At this time, Mr. Talbott is no longer licensed as a surveyor, and he does not appear to be able to provide any resolution of the setback encroachments. To resolve the setback non-conformities, the applicant seeks Board of Zoning Adjustments (BOA) approval of the requested variances.

The BOA is now to consider the request and approve, approve with conditions, or deny the requested variances.

ANALYSIS:

Over 20 years ago, the county adopted formboard survey regulations for new residential homes and commercial buildings. Those regulations require submission of a formboard survey prior to commencement of construction. The formboard survey, which is required to be prepared by a registered land surveyor, depicts setbacks from property lines to formboards set up on the construction site. Prior to construction being allowed to proceed (e.g. pouring of foundation slab or vertical construction), formboard surveys are checked by staff for setback compliance. If the formboard survey depicts setback encroachments, then staff rejects the survey, and the builder is required to adjust the formboards and submit a new survey that depicts setback compliance.

For new construction, the county's formboard survey requirements have reduced setback problems to practically zero. The rare exception includes the subject case, where a surveyor's common error for formboard surveys in Block C of Eagle Trace Unit 1 resulted in fully constructed residences with minor side yard setback encroachments. After staff was informed of a setback encroachment on Lot 10 via receipt of a recent William Zentz survey, County Surveyor Michael O'Brien reviewed survey information from Mr. Zentz, reviewed Mr. Talbott's formboard surveys, and had county survey work performed in Block C. Mr. O'Brien concluded that Mr. Zentz's survey work was correct, that there are minor setback encroachments on the 6 subject lots, and that Mr. Talbott's formboard surveys were in error.

In the past, a survey error was the basis of at least one variance request granted by the BOA. In June of 1999, the BOA voted unanimously to grant a 2.8' side setback variance for a residence that was built in 1994 based on an erroneous formboard survey. In that case, a surveyor had mis-interpreted ambiguous survey monumentation for the Beachside subdivision. Staff considers the subject variance request to be similar, because it is based upon a surveying error that is peculiar to a specific subdivision. Therefore, it is staff's position that there is a BOA precedent for granting the subject requested variances.

During discussions with affected parties, staff recommended that the applicant coordinate with the owners of all 6 lots and submit a single application for the variances needed to cure all setback encroachments within Block C, Eagle Trace Unit 1. Based on staff's recommendation, the applicant obtained authorization from the owners of the subject lots, provided new survey information on all 6 lots, and filed a single application for all 6 requested variances. Staff's position is that each of the 6 lots share the same circumstances and should be treated equally with respect to variance consideration. Therefore, the 6 requested variances should be considered as a whole.

To grant the variances requested, the BOA must conclude that the circumstances and conditions related to the proposed setback encroachments are unique. Such conclusions must be guided by findings based upon review of the request in light of the eight variance criteria contained in section 902.09(6)(a) of the land development regulations (LDRs). No variance may be granted unless the Board finds that the request satisfies all eight of the following criteria.

1. **Special Condition.** That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;
2. **Action of Applicant.** That the special conditions and circumstances do not result from the actions of the applicant or illegal acts of previous property owners;
3. **Special Privilege.** That granting the variance requested will not confer on the applicant any special privilege that is denied by the regulation to other lands, buildings, or structures in the same zoning district;
4. **Unnecessary Hardship.** That literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the regulations and would constitute an unnecessary and undue hardship upon the applicant;
5. **Minimum Variance Necessary.** That the variance granted is the minimum necessary in order to make possible the reasonable use of the land, building, or structure;
6. **Purpose and Intent Compliance.** That the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and the Indian River County comprehensive plan;
7. **Detriment to Public Welfare.** That such variance will not be injurious to the surrounding area or otherwise be detrimental to the public welfare; and
8. **Reasonable Use.** That the property cannot be put to a reasonable use which fully complies with the requirements of this ordinance.

It is staff's position that the eight criteria are satisfied by the request. Staff's evaluation is as follows:

1. **Special Condition:** The residences on each of the 6 subject lots were properly permitted and constructed based on a common Block C survey error that resulted in side yard setback encroachments. The survey error is not common to other lots in the RS-6 district and, therefore, constitutes a special condition.
2. **Action of Applicant:** Actions of the applicant, lot owners, and builders did not create the side yard setback encroachments. Rather, it was errors from one surveyor that resulted in the encroachments.
3. **Special Privilege:** Granting the requested variances would not result in a special privilege that would allow development more extensive than normal on the 6 subject lots. To ensure that granting the variances would not be used for any future structures, the BOA should attach a special condition, such as the condition included in staff's recommendation at the end of this report, to any variance approval.

4. **Unnecessary Hardship:** Strict application of side yard setback requirements would require physical alternation of the 6 existing residences to bring them into compliance. Based on previous BOA action on a similar 1999 variance request, the requested variances should be considered necessary for a reasonable resolution of setback problems caused by a surveying error.
5. **Minimum Variance Necessary:** The requested variances are minor in scale and are adequate to address the setback encroachment of the existing residences only. The variance approval condition recommended by staff at the end of this report, if approved, will ensure that the variances granted are the minimum necessary to accommodate the existing residences.
6. **Purpose and Intent Compliance:** The nature of the requested variances is to resolve minor setback encroachments caused by a survey error that was common to the 6 subject lots. It is the intent of the county's variance regulations and BOA practice to grant the minimum variance necessary to provide relief in such circumstances.
7. **Detriment to Public Welfare:** No physical change to existing residences will result from granting the requested variances. Therefore, granting the variances will not create additional adverse or detrimental impacts.
8. **Reasonable Use:** The requested variances, under the special circumstances of this request, are needed to continue the reasonable use of the existing residences of the 6 subject lots.

Staff's conclusion is that the setback encroachments are minor, that the encroachments are the result of Mr. Talbott's survey errors, and that there are no reasonable solutions to cure the existing encroachments other than by granting the requested variances. It is also staff's conclusion that the variances should be granted with the recommended condition to ensure that they apply to the existing residences only, and that all future construction will comply with applicable zoning district setback requirements.

RECOMMENDATION:

Staff recommends that the Board of Zoning Adjustments grant the following variances for Lots 2, 4, 5, 7, 10, and 11, Block C, Replat of Eagle trace Unit 1:

Lot 2:	South side yard variance:	0.46 feet
Lot 4:	South side yard variance:	0.37 feet
Lot 5:	South side yard variance:	0.48 feet
Lot 7:	South side yard variance:	0.56 feet
Lot 10:	South side yard variance:	0.62 feet
Lot 11:	South side yard variance:	0.71 feet

with the following condition:

1. That the variance apply only to the existing residences and that future additions and additional structures on the subject 6 lots, permitted after October 12, 2009, shall conform to applicable zoning district setback requirements.

ATTACHMENTS:

1. Application and Related Materials
2. Location Map
3. LDR Section 902.08 and 902.09

APPLICATION FOR VARIANCE CONSIDERATION
INDIAN RIVER COUNTY
BOARD OF ADJUSTMENT AND APPEALS



VAR-09-12-01

NAME: Walter M. White (Co. 007 Hackney) DATE: 8/16/09

ADDRESS: 3920 N.E. Sugarhill Ave., Loxley Beach, FL

TELEPHONE: (772) 334-5819 FAX #: (772) 334-3551

E-MAIL ADDRESS: WWhite7727@gmail.com

LEGAL DESCRIPTION: Lots 2, 4, 5, 7, 10, 11 Block C, Eagle Trace

49070209-64435

In being considered for a variance, the Board of Adjustment and Appeals is required by law, (LDR Section 902.09) to consider the following questions as criteria for granting a variance:

1. Is your situation due to unique circumstances not created by you or illegal acts of previous owners? Explain such circumstances:

Yes. Erroneous surveys were provided by Tabbot Surveying of which none of the property owners were aware.

2. Do special conditions and circumstances exist which are peculiar to your land or structure and which are not applicable to other lands or structures in the same zoning district? Explain such conditions or circumstances:

Yes (as far as we know). The sideyard setback encroachments in Block C may be an anomaly in Eagle Trace and in that zoning district as we haven't heard of other similar encroachments. We surveyed lot 54A (5685 W.P.) and it was in compliance.

3. Would literal interpretation of the provisions of the Ordinance deprive you of rights commonly enjoyed by other property owners in the same zoning district? Explain such rights:

Yes. Three of the properties are already occupied. Literal interpretation of the Ordinance would deprive the innocent property owners of clear titles.

4. A variance, as requested, will not permit, establish or enlarge any use or structure which is not permitted in the district. Does your request meet this requirement?

Yes. Sideyard setback (all under 1') variance only.

5. Is the variance the minimum necessary to make possible the reasonable use of land, building, or structure? Explain how the minimum was determined.

Yes. Determination was originally made by an independent surveyor and later confirmed by Indian River Co. surveyor. A variance is the only recourse at this point in time for the property owners to gain clear title.

6. How would granting the variance request be in harmony with the comprehensive plan and land development regulations?

Because the variance only involves sideyard setbacks (all under 1') and roof structures, streets, or utilities it would be of no consequence to the comp. plan and land development regulations.

7. Would granting the variance be injurious to the surrounding area or be detrimental to the public welfare? Explain.

No. See # 6

8. Can the property be put to a reasonable use without the granting of the variance? Explain.

Yes & No. Yes the owner's can still enjoy the use of their property without the variance but the hardship would be in selling their property in the future.

If you can clearly answer yes to the above questions, you are eligible to be considered for a variance and you may submit the application.

The variance request is as follows: lots 2,4,5,7,10,11 in Block C, of Eagle Trace have sidewalk setbacks encroachments of up to 1' (see surveys) which needs to be "accepted" via a variance.

The variance is necessary for the following reasons: The variance is necessary so the affected property owner's can freely market and sell their properties as necessary.

Four copies of the plot plan of the lot and variance requested shall be attached to the application and shall include the criteria listed below:

- a. Exact dimensions and locations of existing buildings and structures.
- b. Exact Dimensions and locations of all proposed additions.
- c. Required setbacks
- d. Location of all existing easements
- e. Clearly delineate the specific variances requested

The plot plan shall be on 24" X 36" sheet unless a previous plan has been filed with the Zoning Department.

Please provide names and addresses of all property owners abutting your property:

see attached list.

An \$800.00 fee shall accompany this application.

I certify that there are stakes in the ground showing the corners of the structure for which the variance is requested (if applicable).

Copy of a deed or other proof of ownership of the property for which the variance is requested shall accompany this application.

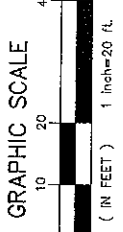
I certify that the statements in this application are true to the best of my knowledge

[Signature]
(Applicant)

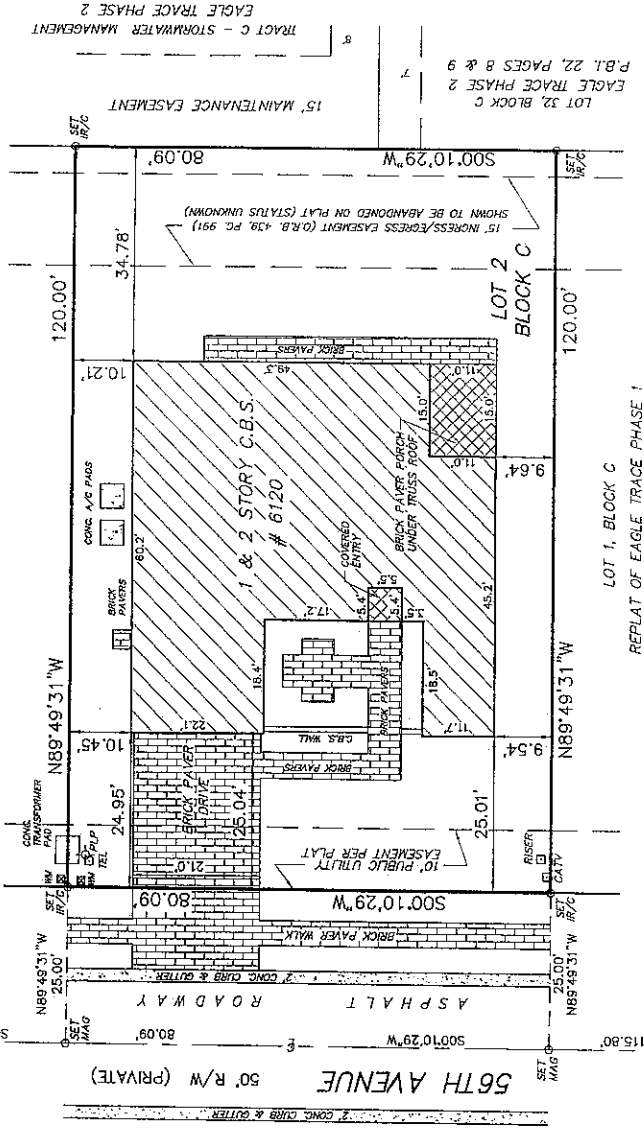
- Legal Check
- Agent Authorization
- Fee Paid
- Plot Plan Complete
- Dimensions Field Check
- Stakes
- Property Owners Check
- Eligibility, Hardship Etc.

62nd PLACE

50' R/W (PRIVATE)
FIND PUNCH HOLE
IN M.H. RM



BEARING BASIS FOR THIS
SURVEY PER PLAT



Map Of Survey
Lot 2, Block C

© COPYRIGHT 2009, WILLIAM B. ZENTZ & ASSOCIATES, INC.
William B. Zentz & Associates, Inc.
Professional Surveying & Mapping
CERTIFICATE OF AUTHORIZATION (LF) No. 6840
684 Old Dixie Highway
Vero Beach, FL 32962
Phone: (772) 567-1752
Fax: (772) 567-1751



INTERSECTION REPRODUCED FROM
STRADDLERS ON M.H. RM

61st PLACE 50' R/W (PRIVATE)

SURVYORS SIGNATURE & SEAL
NOTE: THIS SURVEY IS CERTIFIED AS TO THE DATE OF
THE FIELD SURVEY, NOT THE SIGNATURE DATE.

William B. Zentz
WILLIAM B. ZENTZ, PLS.
REGISTERED LAND SURVEYOR No. 5276
STATE OF FLORIDA
DATE 8/28/09

Boundary Survey
for
623 Partners, LLC

DRAWN BY W.B.Z.
BOOK/PAGE MISC 97/1
FIELD SURVEY DATE 8/26/09
JOB No. 101-468

- LEGEND**
- P.B.L.=PLAT BOOK INDIAN RIVER COUNTY RECORDS
 - SET IR/O=SET 5/8" DIAMETER IRON ROD
 - W/CAP STAMPED "WBZ-LB 6840"
 - C.B.S.=CONCRETE BLOCK STRUCTURE
 - RCP=REINFORCED CONCRETE PIPE
 - SET MAG=SET MAG NAIL
 - IR=IRON ROD
 - CONC.=CONCRETE
 - CL=CONCRETE CURB
 - MAN=MANHOLE
 - MAG=MAGNETIC NAIL
 - PK/D=PK NAIL W/DISK
 - A/C=AR CONDITIONING
 - CONC.=CONCRETE
 - FND=FOUND
 - R/W=RIGHT OF WAY
 - E=CENTERLINE
 - M.H.=MANHOLE

- SYMBOLS LEGEND**
- RM = WATER METER
 - CATV = CABLE TV RISER BOX
 - TEL = TELEPHONE RISER BOX
 - MAN = CONCRETE MANHOLE
 - CO = CLEANOUT
 - PLP = PLASTIC LIGHT POLE

Legal Description

Lot 2, Block C, A REPLAT OF EAGLE TRACE SUBDIVISION
PB 17, PG 34 A.K.A. EAGLE TRACE UNIT 1, according to the
Plat thereof, as recorded in Plat Book 19, Pages 12, 13 and 14,
of the Public Records of Indian River County, Florida.

Notes :

1. Lands shown hereon were not abstracted for rights-of-way, easements of record or ownership.
2. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
3. Survey site lies in Flood Zone "X" per Flood Insurance Rate Map no. 12061C0089 E, dated May 4, 1989.
4. Underground utilities and improvements were not located.
5. All boundary measurements shown are consistent with platted dimensions unless otherwise noted.

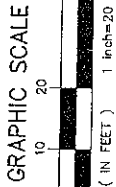
TRACT C - STORMWATER MANAGEMENT
EAGLE TRACE PHASE 2
P.B.L. 22, PAGES 8 & 9

LOT 32 BLOCK C
EAGLE TRACE PHASE 2
P.B.L. 22, PAGES 8 & 9

LOT 31 BLOCK C
EAGLE TRACE PHASE 2
P.B.L. 22, PAGES 8 & 9

15' MAINTENANCE EASEMENT

62nd PLACE
50' R/W (PRIVATE)
FND. PUNCH HOLE
IN M.H. RM
BEARING BASIS FOR THIS
SURVEY PER PLAT



- SYMBOLS LEGEND**
- WM = WATER METER
 - CATV □ = CABLE TV RISER BOX
 - TEL □ = TELEPHONE RISER BOX
 - SAN. M.H. ○ = SANITARY MANHOLE
 - CO ● = CLEANOUT

- LEGEND**
- P.B.L.=PLAT BOOK INDIAN RIVER COUNTY RECORDS
 - SET IR/C=SET 5/8" DIAMETER IRON ROD
 - #/CAP=STAMPED "NB2-LB 8840"
 - CONC=CONCRETE BLOCK STRUCTURE
 - SET IR/C=SET 5/8" DIAMETER IRON ROD
 - SET MAG=SET MAG NAIL
 - IR/C=IRON ROD WITH CAP
 - C.M.=CONCRETE MONUMENT
 - MAG=MAGNETIC NAIL
 - CONC=CONCRETE
 - CONC=CONCRETE
 - FND.=FOUND
 - R/W=RIGHT OF WAY
 - ±=CENTERLINE
 - M.H.=MANHOLE

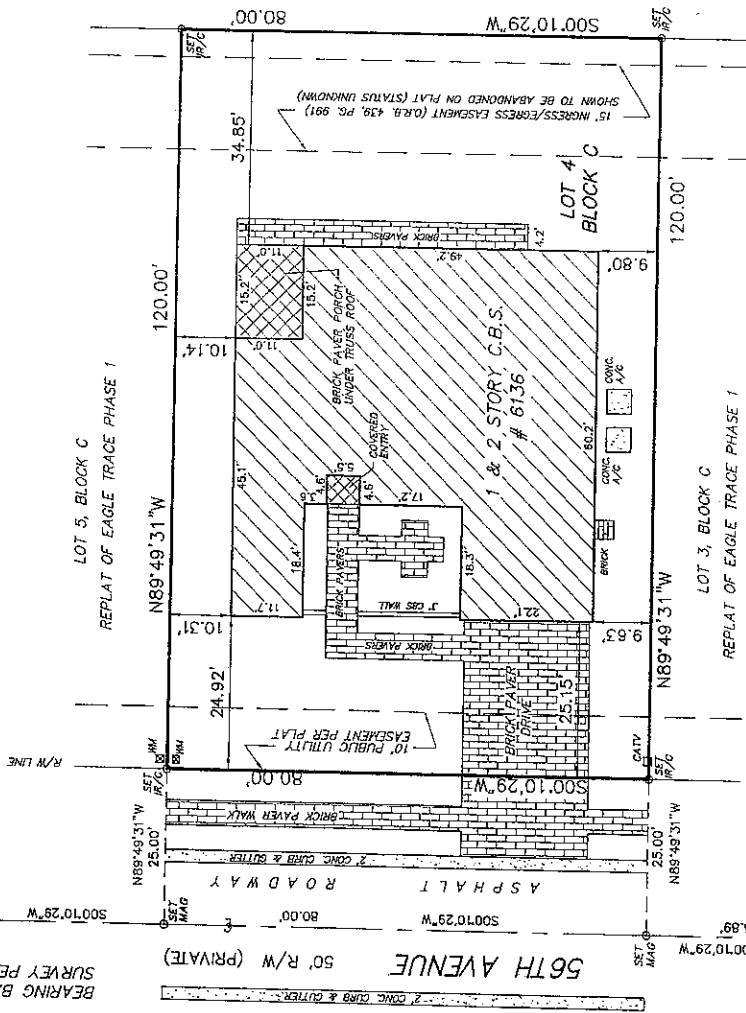
Legal Description

Lot 4, Block C, A REPLAT OF EAGLE TRACE SUBDIVISION
PB 17, PG 34 A.K.A. EAGLE TRACE UNIT 1, according to the
Plat thereof, as recorded in Plat Book 19, Pages 12, 13 and 14,
of the Public Records of Indian River County, Florida.

Notes :

1. Lands shown hereon were not abstracted for rights-of-way, easements of record or ownership.
2. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
3. Survey site lies in Flood Zone "X" per Flood Insurance Rate Map no. 12081C0089 E, dated May 4, 1989.
4. Underground utilities and improvements were not located.
5. All boundary measurements shown are consistent with plotted dimensions unless otherwise noted.

TRACT C - STORMWATER MANAGEMENT
EAGLE TRACE PHASE 2
P.B.L. 22, PAGES 8 & 9



Map Of Survey

Lot 4, Block C

SURVEYORS SIGNATURE & SEAL
NOTE: THIS SURVEY IS CERTIFIED AS TO THE DATE OF THE FIELD SURVEY, NOT THE SIGNATURE DATE.

WILLIAM B. ZENTZ, P.L.S.
REGISTERED LAND SURVEYOR No. 5276
STATE OF FLORIDA

[Signature]
DATE 8/28/09

© COPYRIGHT 2009, WILLIAM B. ZENTZ & ASSOCIATES, INC.
William B. Zentz & Associates, Inc.
Professional Surveying & Mapping
CERTIFICATE OF AUTHORIZATION (L#) No. 6840
654 Old Dixie Highway
Vero Beach, FL 32982
Phone: (772) 567-7552
Fax: (772) 567-1751



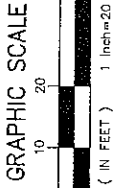
Boundary Survey

for

623 Partners, LLC

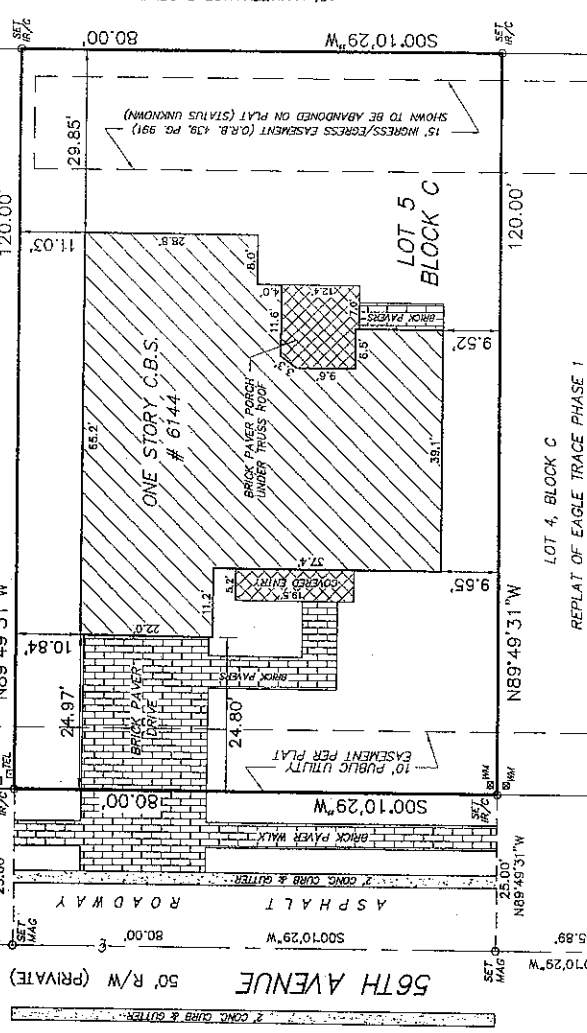
61ST PLACE 50' R/W (PRIVATE)

DRAWN BY W.B.Z.
BOOK/PAGE MISC. 97/1
FIELD SURVEY DATE 8/26/09
JOB No. 101-468



- SYMBOLS LEGEND**
- WM ☒ = WATER METER
 - CTV □ = CABLE TV RISER BOX
 - TEL □ = TELEPHONE RISER BOX
 - SAK ○ = SANITARY MANHOLE
 - A.H. ○ = CLEANOUT

- LEGEND**
- P.B.L. = PLAT BOOK INDIAN RIVER COUNTY RECORDS
 - SET IR/C=SET 5/8" QUARTER ROUND ROD
 - W/CAP = CONCRETE BLOCK STRUCTURE
 - C.B.S. = CONCRETE BLOCK STRUCTURE
 - RCP = REINFORCED CONCRETE PIPE
 - SET MAG=SET MAG NAIL
 - IR/C= IRON ROD WITH CAP
 - W/CONV = CONCRETE FOUNDATION
 - MAG=MANHOLE NAIL
 - PK/DISK = IRON NAIL W/DISK
 - A/C= AIR CONDITIONING
 - CONC= CONCRETE
 - W/CONV = CONCRETE FOUNDATION
 - R/W= RIGHT OF WAY
 - C= CENTERLINE
 - M.H.= MANHOLE



TRACT C - STORMWATER MANAGEMENT
EAGLE TRACE PHASE 2
P.B.L. 22, PAGES 8 & 9

Legal Description

Lot 5, Block C, A REPLAT OF EAGLE TRACE SUBDIVISION PB 17, PG 34 A.K.A. EAGLE TRACE UNIT 1, according to the Plat thereof, as recorded in Plat Book 19, Pages 12, 13 and 14, of the Public Records of Indian River County, Florida.

Notes :

1. Lands shown hereon were not abstracted for rights-of-way, easements of record or ownership.
2. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
3. Survey site lies in Flood Zone "X", per Flood Insurance Rate Map no. 12061C0089 E, dated May 4, 1989.
4. Underground utilities and improvements were not located.
5. All boundary measurements shown are consistent with platted dimensions unless otherwise noted.

Map Of Survey

Lot 5, Block C

SURVEYORS SIGNATURE & SEAL
NOTE: THIS SURVEY IS CERTIFIED AS TO THE DATE OF THE FIELD SURVEY, NOT THE SIGNATURE DATE.

WILLIAM B. ZENTZ, P.L.S.
REGISTERED LAND SURVEYOR No. 5276
STATE OF FLORIDA
DATE 8/26/09

© COPYRIGHT 2009, WILLIAM B. ZENTZ & ASSOCIATES, INC.
William B. Zentz & Associates, Inc.
Professional Surveying & Mapping
CERTIFICATE OF AUTHORIZATION (LB) No. 6840
684 Old Dixie Highway
Vero Beach, FL 32962
Phone: (772) 567-7552
Fax: (772) 567-1751



Boundary Survey

for

623 Partners, LLC

DRAWN BY W.B.Z.	BOOK/PAGE MISC 97/1	FIELD SURVEY DATE 8/26/09	JOB No. 101-468
--------------------	------------------------	------------------------------	--------------------

62nd PLACE

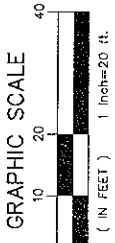
50' R/W (PRIVATE)
PVC BUNDSY HOLE
IN M.H. RM

BEARING BASIS FOR THIS SURVEY PER PLAT

56TH AVENUE
50' R/W (PRIVATE)

INTERSECTION REPRODUCED FROM STRADDLERS ON M.H. RM

51st PLACE 50' R/W (PRIVATE)



- SYMBOLS LEGEND**
- WM □ - WATER METER
 - CATY □ - CABLE TV RISER BOX
 - TEL □ - TELEPHONE RISER BOX
 - SAN □ - SANITARY MANHOLE
 - CO ● - CLEANOUT

LEGEND

- P.B.L. PLAT BOOK INDIAN RIVER COUNTY RECORDS
- WATER IRON ROD
- CONCRETE BLOCK STRUCTURE
- C.B.S. - CONCRETE BLOCK STRUCTURE
- RCF - REINFORCED CONCRETE PIPE
- SET MAG - SET MAG NAIL
- IR/C - IRON ROD WITH CAP
- C.M. - CONCRETE MONUMENT
- PK/OP - PILE WITH W/DRISK
- A/C - AIR CONDITIONING
- CONC - CONCRETE
- FIN. - FOUND
- M. - METER
- C - CENTERLINE
- M.H. - MANHOLE

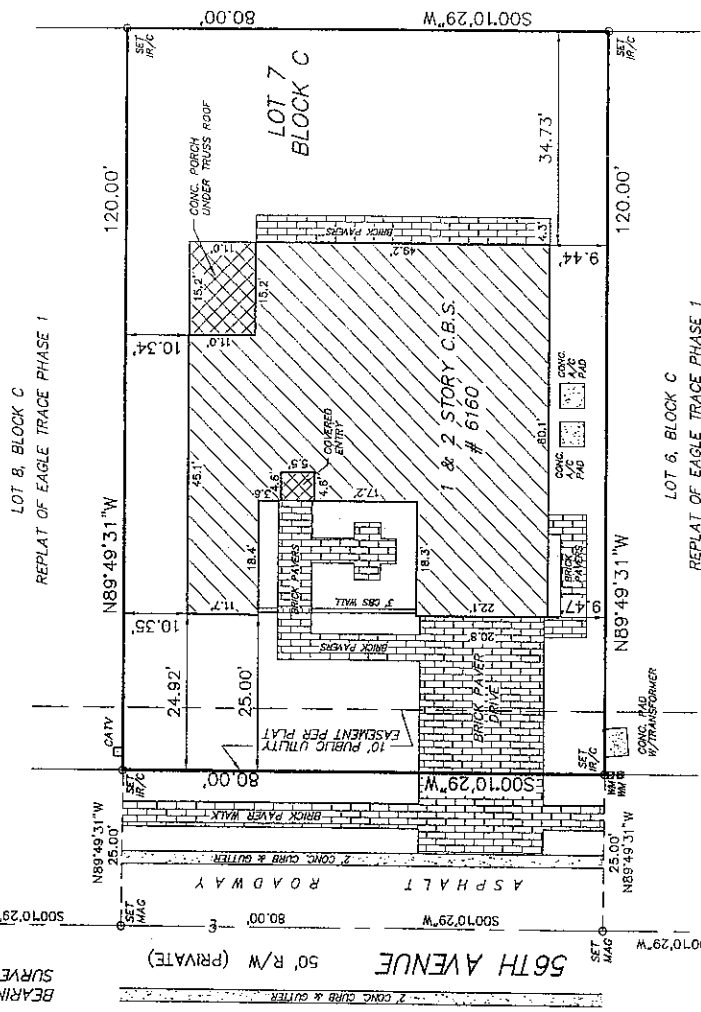
Legal Description

Lot 7, Block C, A REPLAT OF EAGLE TRACE SUBDIVISION PB 17, PG 34 A.K.A. EAGLE TRACE UNIT 1, according to the Plat thereof, as recorded in Plat Book 19, Pages 12, 13 and 14, of the Public Records of Indian River County, Florida.

Notes :

1. Lands shown hereon were not abstracted for rights-of-way, easements of record or ownership.
2. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
3. Survey site lies in Flood Zone "X" per Flood Insurance Rate Map no. 12061C0089 E, dated May 4, 1989.
4. Underground utilities and improvements were not located.
5. All boundary measurements shown are consistent with platted dimensions unless otherwise noted.

TRACT C - STORMWATER MANAGEMENT
EAGLE TRACE PHASE 2
P.B.L. 22, PAGES 8 & 9



Map Of Survey

Lot 7, Block C

SURVYORS SIGNATURE & SEAL
NOTE: THIS SURVEY IS CERTIFIED AS TO THE DATE OF THE FIELD SURVEY, NOT THE SIGNATURE DATE.

WZ
WILLIAM B. ZENTZ, PLS.
REGISTERED LAND SURVEYOR No. 5276
STATE OF FLORIDA

© COPYRIGHT 2008, WILLIAM B. ZENTZ & ASSOCIATES, INC.
William B. Zentz & Associates, Inc.
Professional Surveying & Mapping

CERTIFICATE OF AUTHORIZATION (LB) No. 6840
684 Old Dixie Highway
Vero Beach, FL 32962
Phone: (772) 567-7552
Fax: (772) 567-1751

Boundary Survey
for
623 Partners, LLC

DRAWN BY
W.B.Z.

BOOK/PAGE
MISC 97/1

FIELD SURVEY DATE
8/26/09

JOB No.
101-468

- SYMBOLS LEGEND**
- WM = WATER METER
 - CATY = CABLE TV RISER BOX
 - TEL = TELEPHONE RISER BOX
 - PK/PK = SANITARY MANHOLE
 - CO = CLEANDOUT
- LEGEND**
- P.B.L.-PLAT BOOK INDIAN RIVER COUNTY RECORDS
 - SET R/C=SET 1/8" DIAMETER IRON ROD
 - W/CAP STAMPED "W82-LB 6840"
 - C.B.S.=CONCRETE BLOCK STRUCTURE
 - RCP=REINFORCED CONCRETE PIPE
 - SET MAG=SET MAG NAIL
 - C/C=CONCRETE CURB
 - C/A=CONCRETE MONUMENT
 - MAG=MAGNETIC NAIL
 - PK/PK=PK NAIL W/DISK
 - A/C=AIR CONDITIONING
 - CONC=CONCRETE
 - R/W=RIGHT OF WAY
 - E=CENTERLINE
 - M.H.=MANHOLE

Legal Description

Lot 10, Block C, A REPLAT OF EAGLE TRACE SUBDIVISION PB 17, PG 34 A.K.A. EAGLE TRACE UNIT 1, according to the Plat thereof, as recorded in Plat Book 19, Pages 12, 13 and 14, of the Public Records of Indian River County, Florida.

Notes :

1. Lands shown hereon were not abstracted for rights-of-way, easements of record or ownership.
2. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
3. Survey site lies in Flood Zone "X" per Flood Insurance Rate Map no. 12061C0089 E, dated May 4, 1989.
4. Underground utilities and improvements were not located.
5. All boundary measurements shown are consistent with platted dimensions unless otherwise noted.

Certified To :

- John Bigelow & Karen Bigelow
- Island Title Agency, LLC
- Commonwealth Land Title Insurance Company

Map Of Survey

SURVEYORS SIGNATURE & SEAL
 NOTE: THIS SURVEY IS CERTIFIED AS OF THE DATE OF THE FIELD SURVEY, NOT THE SIGNATURE DATE.

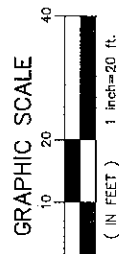
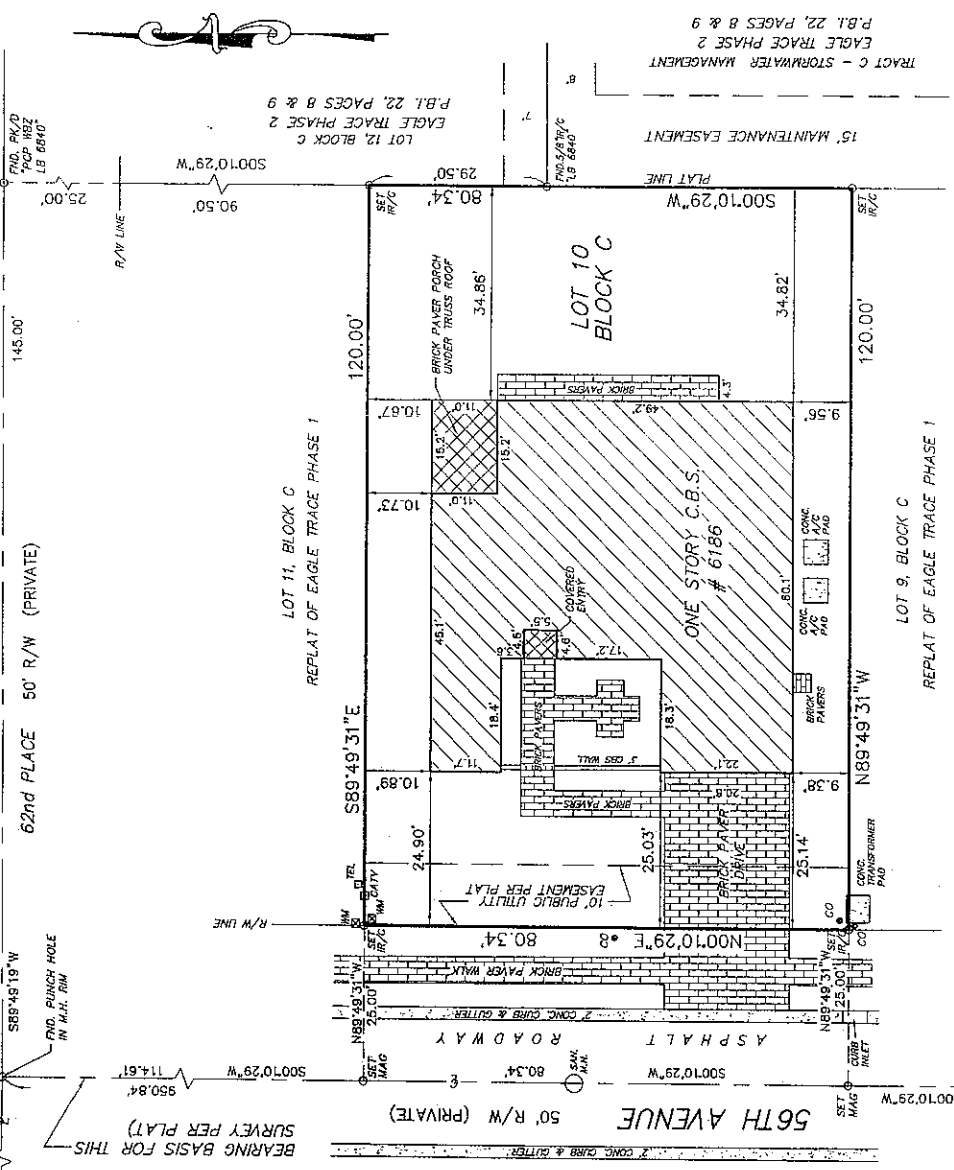
WILLIAM B. ZENTZ, REGISTERED LAND SURVEYOR No. 5276 STATE OF FLORIDA
 DATE 8/28/09

© COPYRIGHT 2009, WILLIAM B. ZENTZ & ASSOCIATES, INC.
William B. Zentz & Associates, Inc.
 Professional Surveying & Mapping
 CERTIFICATE OF AUTHORIZATION (LE) No. 6840
 684 Old Dixie Highway
 Vero Beach, FL 32982
 Phone: (772) 567-7552
 Fax: (772) 567-1751



Boundary Survey
 for
John & Karen Bigelow

DRAWN BY W.B.Z.
 BOOK/PAGE MISC 96/54
 FIELD SURVEY DATE 6/23/09
 JOB No. 101-468



INTERSECTION REPRODUCED FROM STRADDLERS ON M.H. R/W

61ST PLACE 50' R/W (PRIVATE)

SYMBOLS LEGEND

HW □ = WATER METER
 CATV □ = CABLE TV RISER BOX
 TEL □ = TELEPHONE RISER BOX
 SAK ○ = SANITARY MANHOLE
 CO ● = CLEANOUT

LEGEND

NGVD '29-NATIONAL GEODETIC VERTICAL DATUM OF 1929
 PBL-PLAT BOOK INDIAN RIVER COUNTY RECORDS
 SET 18/1/2-SET 5/8" DIAMETER IRON ROD
 W/CAP STAMPED "WB2-LB 6840"
 C.B.S.-CONCRETE BLOCK STRUCTURE
 RCP-REINFORCED CONCRETE PIPE
 []-PROPOSED SPOT ELEVATION
 ---= DRAINAGE PATH
 ---= EXISTING SPOT ELEVATION
 B.M.-ELEVATION BENCHMARK
 F.F.E.-FINISH FLOOR ELEVATION
 IR/C-IRON ROD WITH CAP
 C.M.-CONCRETE MONUMENT
 S.K./P.K. NAIL W/ DISK
 A/C-AR CORRODING
 CONC.-CONCRETE
 P.W.-PIPE OF WAX
 C-CENTERLINE
 M.H.-MANHOLE
 EL.-ELEVATION
 RADIUS
 L-ARC LENGTH

ELEVATION NOTE:
 ELEVATIONS SHOWN HEREON ARE IN FEET, REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929, BASED ON THE FOLLOWING BENCHMARKS PROVIDED BY INDIAN RIVER COUNTY SURVEY DEPT.:
 "BM 18" (BLANCHARD-65/11), ELEV.=24.78
 "BM 18" (BLANCHARD 65/10), ELEV.=23.25

Legal Description

Lot 11, Block C, A REPLAT OF EAGLE TRACE SUBDIVISION PB 17, PG 34 A.K.A. EAGLE TRACE UNIT 1, according to the Plat thereof, as recorded in Plat Book 19, Pages 12, 13 and 14, of the Public Records of Indian River County, Florida.

Notes :

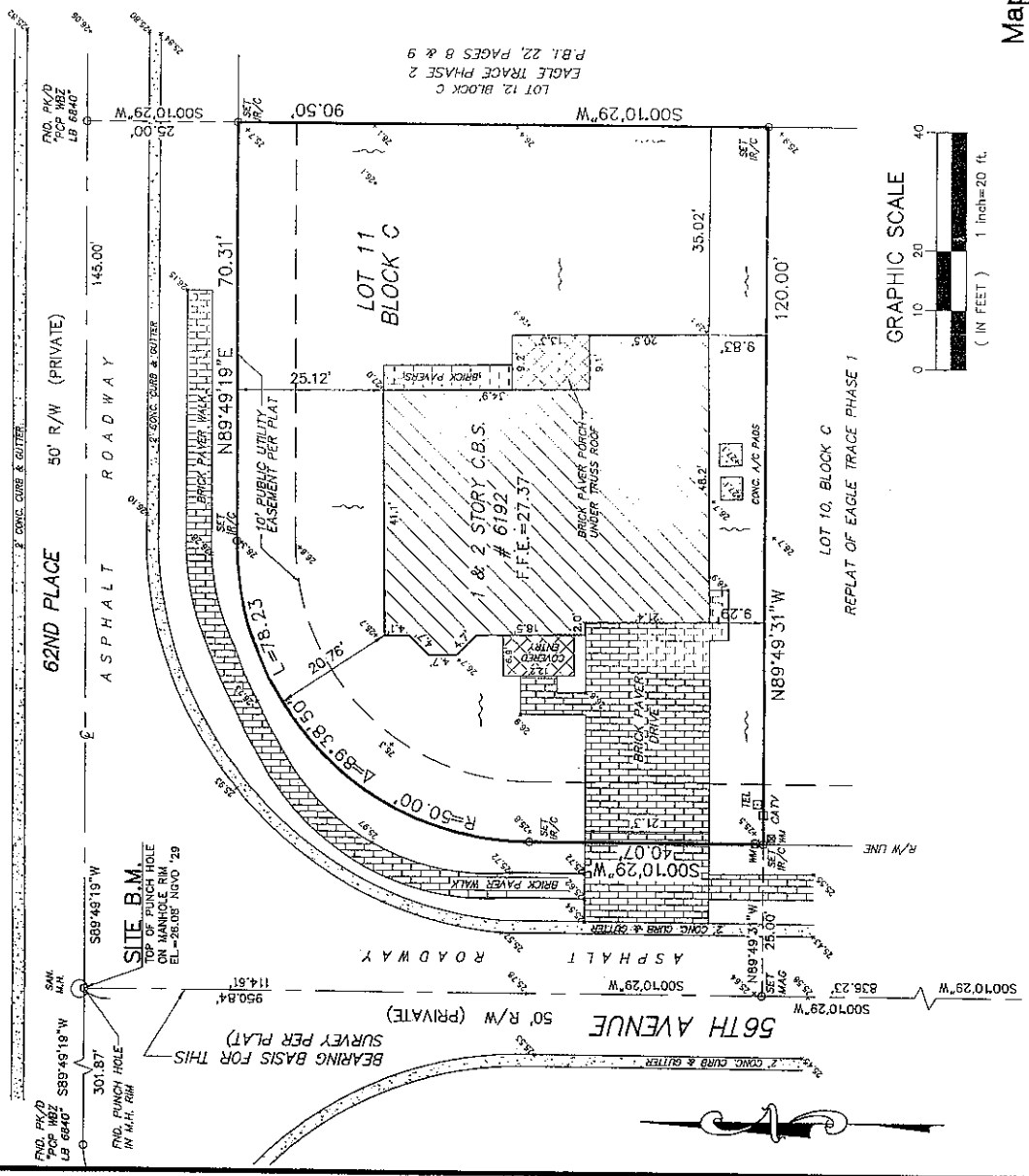
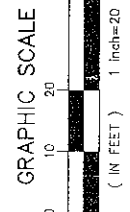
1. Lands shown hereon were not abstracted for rights-of-way, easements of record or ownership.
2. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
3. Survey site lies in Flood Zone "X" per Flood Insurance Rate Map no. 12061C0089 E, dated May 4, 1989.
4. Underground utilities and improvements were not located.
5. All boundary measurements shown are consistent with platted dimensions unless otherwise noted.

Map Of Survey

SURVEYORS SIGNATURE & SEAL
 NOTE: THIS SURVEY IS CERTIFIED AS TO THE DATE OF THE FIELD SURVEY, NOT THE SIGNATURE DATE.

WILLIAM B. ZENTZ, P.L.S.
 REGISTERED LAND SURVEYOR No. 5276
 STATE OF FLORIDA
 DATE 8/27/09

© COPYRIGHT 2009, WILLIAM B. ZENTZ & ASSOCIATES, INC.
William B. Zentz & Associates, Inc.
 Professional Surveying & Mapping
 CERTIFICATE OF AUTHORIZATION (CB) No. 6840
 684 Old Dixie Highway
 Vero Beach, FL 32962
 Phone: (772) 567-7552
 Fax: (772) 567-1751



INTERSECTION REPRODUCED FROM STRADDLERS ON M.H. BM

61ST PLACE (PRIVATE)
 50' R/W

56TH AVENUE
 50' R/W (PRIVATE)

LOT 10, BLOCK C
 REPLAT OF EAGLE TRACE PHASE 1

LOT 11, BLOCK C

EAGLE TRACE PHASE 2
 P.B.L. 22, PAGES 8 & 9

62ND PLACE
 50' R/W (PRIVATE)

61ST PLACE (PRIVATE)
 50' R/W

61ST PLACE (PRIVATE)
 50' R/W

62ND PLACE
 50' R/W (PRIVATE)

63RD PLACE
 50' R/W (PRIVATE)

64TH PLACE
 50' R/W (PRIVATE)

65TH PLACE
 50' R/W (PRIVATE)

66TH PLACE
 50' R/W (PRIVATE)

67TH PLACE
 50' R/W (PRIVATE)

68TH PLACE
 50' R/W (PRIVATE)

69TH PLACE
 50' R/W (PRIVATE)

70TH PLACE
 50' R/W (PRIVATE)

71ST PLACE
 50' R/W (PRIVATE)

72ND PLACE
 50' R/W (PRIVATE)

73RD PLACE
 50' R/W (PRIVATE)

74TH PLACE
 50' R/W (PRIVATE)

75TH PLACE
 50' R/W (PRIVATE)

76TH PLACE
 50' R/W (PRIVATE)

77TH PLACE
 50' R/W (PRIVATE)

78TH PLACE
 50' R/W (PRIVATE)

79TH PLACE
 50' R/W (PRIVATE)

80TH PLACE
 50' R/W (PRIVATE)

81ST PLACE
 50' R/W (PRIVATE)

82ND PLACE
 50' R/W (PRIVATE)

83RD PLACE
 50' R/W (PRIVATE)

84TH PLACE
 50' R/W (PRIVATE)

85TH PLACE
 50' R/W (PRIVATE)

86TH PLACE
 50' R/W (PRIVATE)

87TH PLACE
 50' R/W (PRIVATE)

88TH PLACE
 50' R/W (PRIVATE)

89TH PLACE
 50' R/W (PRIVATE)

90TH PLACE
 50' R/W (PRIVATE)

91ST PLACE
 50' R/W (PRIVATE)

92ND PLACE
 50' R/W (PRIVATE)

93RD PLACE
 50' R/W (PRIVATE)

94TH PLACE
 50' R/W (PRIVATE)

95TH PLACE
 50' R/W (PRIVATE)

96TH PLACE
 50' R/W (PRIVATE)

97TH PLACE
 50' R/W (PRIVATE)

98TH PLACE
 50' R/W (PRIVATE)

99TH PLACE
 50' R/W (PRIVATE)

100TH PLACE
 50' R/W (PRIVATE)

101ST PLACE
 50' R/W (PRIVATE)

102ND PLACE
 50' R/W (PRIVATE)

103RD PLACE
 50' R/W (PRIVATE)

104TH PLACE
 50' R/W (PRIVATE)

105TH PLACE
 50' R/W (PRIVATE)

106TH PLACE
 50' R/W (PRIVATE)

107TH PLACE
 50' R/W (PRIVATE)

108TH PLACE
 50' R/W (PRIVATE)

109TH PLACE
 50' R/W (PRIVATE)

110TH PLACE
 50' R/W (PRIVATE)

111TH PLACE
 50' R/W (PRIVATE)

112TH PLACE
 50' R/W (PRIVATE)

113TH PLACE
 50' R/W (PRIVATE)

114TH PLACE
 50' R/W (PRIVATE)

115TH PLACE
 50' R/W (PRIVATE)

116TH PLACE
 50' R/W (PRIVATE)

117TH PLACE
 50' R/W (PRIVATE)

118TH PLACE
 50' R/W (PRIVATE)

119TH PLACE
 50' R/W (PRIVATE)

120TH PLACE
 50' R/W (PRIVATE)

121ST PLACE
 50' R/W (PRIVATE)

122ND PLACE
 50' R/W (PRIVATE)

123RD PLACE
 50' R/W (PRIVATE)

124TH PLACE
 50' R/W (PRIVATE)

125TH PLACE
 50' R/W (PRIVATE)

126TH PLACE
 50' R/W (PRIVATE)

127TH PLACE
 50' R/W (PRIVATE)

128TH PLACE
 50' R/W (PRIVATE)

129TH PLACE
 50' R/W (PRIVATE)

130TH PLACE
 50' R/W (PRIVATE)

131ST PLACE
 50' R/W (PRIVATE)

132ND PLACE
 50' R/W (PRIVATE)

133RD PLACE
 50' R/W (PRIVATE)

134TH PLACE
 50' R/W (PRIVATE)

135TH PLACE
 50' R/W (PRIVATE)

136TH PLACE
 50' R/W (PRIVATE)

137TH PLACE
 50' R/W (PRIVATE)

138TH PLACE
 50' R/W (PRIVATE)

139TH PLACE
 50' R/W (PRIVATE)

140TH PLACE
 50' R/W (PRIVATE)

141ST PLACE
 50' R/W (PRIVATE)

142ND PLACE
 50' R/W (PRIVATE)

143RD PLACE
 50' R/W (PRIVATE)

144TH PLACE
 50' R/W (PRIVATE)

145TH PLACE
 50' R/W (PRIVATE)

146TH PLACE
 50' R/W (PRIVATE)

147TH PLACE
 50' R/W (PRIVATE)

148TH PLACE
 50' R/W (PRIVATE)

149TH PLACE
 50' R/W (PRIVATE)

150TH PLACE
 50' R/W (PRIVATE)

151ST PLACE
 50' R/W (PRIVATE)

152ND PLACE
 50' R/W (PRIVATE)

153RD PLACE
 50' R/W (PRIVATE)

154TH PLACE
 50' R/W (PRIVATE)

155TH PLACE
 50' R/W (PRIVATE)

156TH PLACE
 50' R/W (PRIVATE)

157TH PLACE
 50' R/W (PRIVATE)

158TH PLACE
 50' R/W (PRIVATE)

159TH PLACE
 50' R/W (PRIVATE)

160TH PLACE
 50' R/W (PRIVATE)

161ST PLACE
 50' R/W (PRIVATE)

162ND PLACE
 50' R/W (PRIVATE)

163RD PLACE
 50' R/W (PRIVATE)

164TH PLACE
 50' R/W (PRIVATE)

165TH PLACE
 50' R/W (PRIVATE)

166TH PLACE
 50' R/W (PRIVATE)

167TH PLACE
 50' R/W (PRIVATE)

168TH PLACE
 50' R/W (PRIVATE)

169TH PLACE
 50' R/W (PRIVATE)

170TH PLACE
 50' R/W (PRIVATE)

171ST PLACE
 50' R/W (PRIVATE)

172ND PLACE
 50' R/W (PRIVATE)

173RD PLACE
 50' R/W (PRIVATE)

174TH PLACE
 50' R/W (PRIVATE)

175TH PLACE
 50' R/W (PRIVATE)

176TH PLACE
 50' R/W (PRIVATE)

177TH PLACE
 50' R/W (PRIVATE)

178TH PLACE
 50' R/W (PRIVATE)

179TH PLACE
 50' R/W (PRIVATE)

180TH PLACE
 50' R/W (PRIVATE)

181ST PLACE
 50' R/W (PRIVATE)

182ND PLACE
 50' R/W (PRIVATE)

183RD PLACE
 50' R/W (PRIVATE)

184TH PLACE
 50' R/W (PRIVATE)

185TH PLACE
 50' R/W (PRIVATE)

186TH PLACE
 50' R/W (PRIVATE)

187TH PLACE
 50' R/W (PRIVATE)

188TH PLACE
 50' R/W (PRIVATE)

189TH PLACE
 50' R/W (PRIVATE)

190TH PLACE
 50' R/W (PRIVATE)

191ST PLACE
 50' R/W (PRIVATE)

192ND PLACE
 50' R/W (PRIVATE)

193RD PLACE
 50' R/W (PRIVATE)

194TH PLACE
 50' R/W (PRIVATE)

195TH PLACE
 50' R/W (PRIVATE)

196TH PLACE
 50' R/W (PRIVATE)

197TH PLACE
 50' R/W (PRIVATE)

198TH PLACE
 50' R/W (PRIVATE)

199TH PLACE
 50' R/W (PRIVATE)

200TH PLACE
 50' R/W (PRIVATE)

201ST PLACE
 50' R/W (PRIVATE)

202ND PLACE
 50' R/W (PRIVATE)

203RD PLACE
 50' R/W (PRIVATE)

204TH PLACE
 50' R/W (PRIVATE)

205TH PLACE
 50' R/W (PRIVATE)

206TH PLACE
 50' R/W (PRIVATE)

207TH PLACE
 50' R/W (PRIVATE)

208TH PLACE
 50' R/W (PRIVATE)

209TH PLACE
 50' R/W (PRIVATE)

210TH PLACE
 50' R/W (PRIVATE)

211ST PLACE
 50' R/W (PRIVATE)

212ND PLACE
 50' R/W (PRIVATE)

213RD PLACE
 50' R/W (PRIVATE)

214TH PLACE
 50' R/W (PRIVATE)

215TH PLACE
 50' R/W (PRIVATE)

216TH PLACE
 50' R/W (PRIVATE)

217TH PLACE
 50' R/W (PRIVATE)

218TH PLACE
 50' R/W (PRIVATE)

219TH PLACE
 50' R/W (PRIVATE)

220TH PLACE
 50' R/W (PRIVATE)

221ST PLACE
 50' R/W (PRIVATE)

222ND PLACE
 50' R/W (PRIVATE)

223RD PLACE
 50' R/W (PRIVATE)

224TH PLACE
 50' R/W (PRIVATE)

225TH PLACE
 50' R/W (PRIVATE)

226TH PLACE
 50' R/W (PRIVATE)

227TH PLACE
 50' R/W (PRIVATE)

228TH PLACE
 50' R/W (PRIVATE)

229TH PLACE
 50' R/W (PRIVATE)

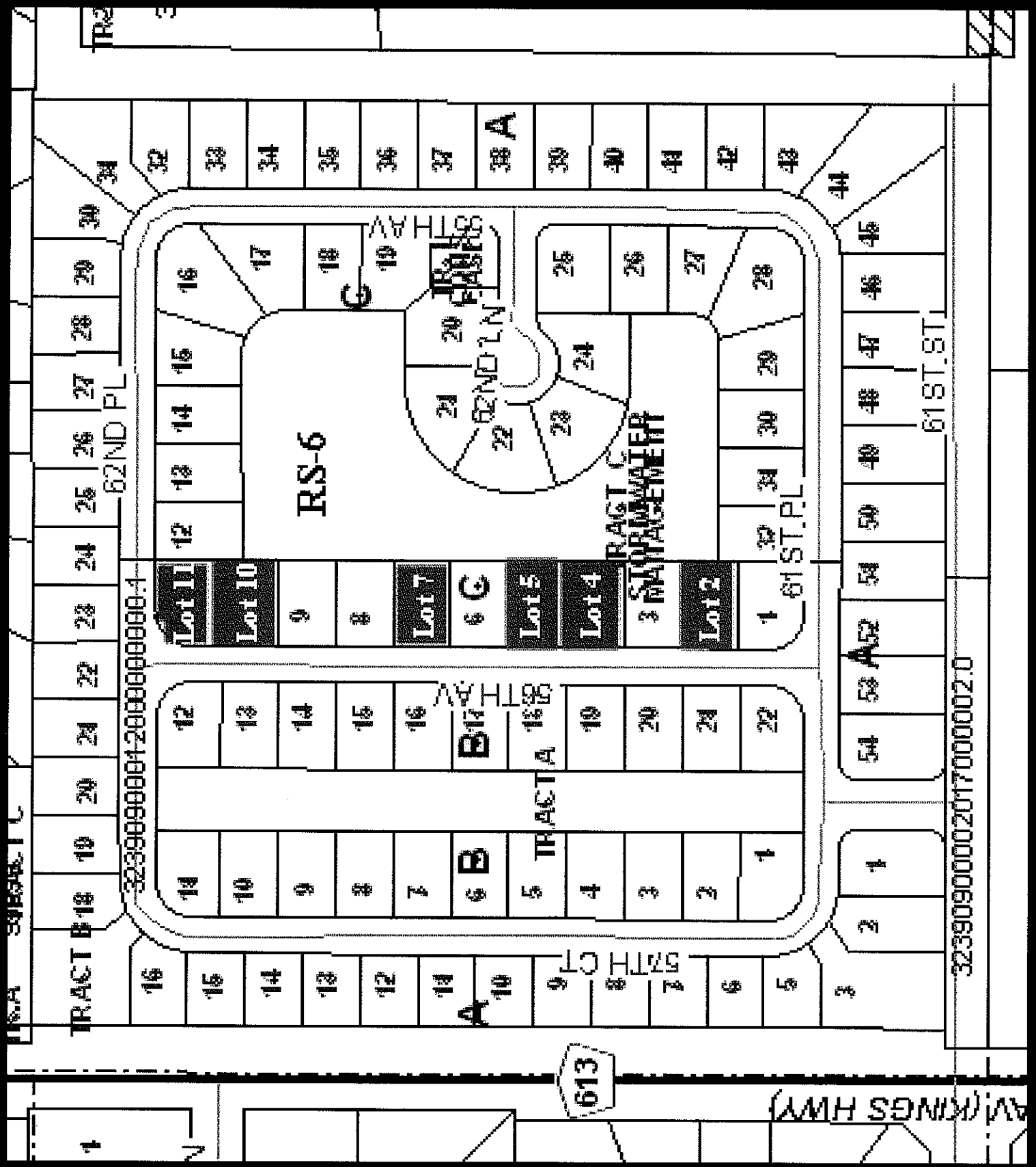
230TH PLACE
 50' R/W (PRIVATE)

231ST PLACE
 50' R/W (PRIVATE)

232ND PLACE
 50' R/W (PRIVATE)

233RD PLACE
 50' R/W (PRIVATE)

234TH PLACE
 50' R/W (PRIVATE)



Section 902.08. Role of board of adjustment.

(1) The board of adjustment shall receive and consider applications for variances from the terms of the county's land development regulations and shall grant such variances as will not be contrary to the public interest, pursuant to the procedures and requirements of the variance section of the land development regulations, section 902.09.

(2) The board shall have and exercise the powers specified in F.S. § 333.10, relating to airport zoning regulations, under rules consistent with said section and with the Code of Indian River County.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 92-11, § 16, 4-22-92)

Section 902.09. Variances.

(1) *Purpose and intent.* This section is established to provide procedures for reviewing variances by the board of adjustment. A variance runs with the land and is a departure from the dimensional or numerical or other technical requirements of the land development regulations where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant or his predecessors in title, a literal enforcement of the land development regulations would result in an unnecessary and undue hardship.

(2) *Approving authority.* The board of adjustment is hereby authorized to grant variances in accordance with the provisions of this section and can attach conditions to variances granted.

(3) *Type of variance to be allowed.* The board of adjustment shall have the authority to grant the following variances:

- (a) A variance from the yard area requirements of any zoning district where there are unusual and practical difficulties in carrying out these provisions due to an irregular shape of the lot, topography, or other conditions, provided such variation will not seriously impact any adjoining property or the general welfare.
- (b) Other technical variances that occur when an owner or authorized agent can show that a strict application of the terms of the land development regulations relating to the use of the land will impose unusual and unique difficulties, but not loss of monetary value alone.
- (c) De-minimus setback variance. A de-minimus setback variance can be granted automatically at the staff level, under certain circumstances, without board approval. This applies in the following circumstances where the setback variance:
 - 1. Is for a structure properly permitted where no form-board survey was required;
 - 2. Is for 0.5 feet or less from the setback required at the time the structure was constructed or erected on the site; and
 - 3. Is from property line(s) which have not been altered so as to cause or increase

the nonconformity.

(4) *When variances are not allowed.*

- (a) No variance shall be granted which would permit the establishment or expansion of a use in a zone or district in which such use is not permitted by these land development regulations, or any use expressly or by implication prohibited by the terms of these land development regulations for said district.
- (b) No variances shall be granted which would permit the establishment or expansion of a special exception use in any zoning district without the approval required in the special exception section, and including specific land use criteria.
- (c) No variance shall be granted which would permit the establishment or expansion of a use requiring an administrative permit in any zoning district without the approval required in the administrative permit section, and including specific land use criteria.
- (d) No variance shall be granted which relates in any way to a nonconforming use, except as allowed in the nonconformities section.
- (e) No variance shall be granted which modifies any definitions contained within these land development regulations.
- (f) No variance shall be granted which would in any way result in any increase in density above that permitted in the applicable zoning district regulations.

(5) *Procedures.*

- (a) Any property owner may apply for a variance after a decision by the community development director that an existing property condition or a development proposal of such property owner does not comply with the provisions of these land development regulations.
- (b) The applicant must file an application for a variance along with the appropriate fee payable to Indian River County with the planning division. The application shall be in a form approved by the community development director and shall contain the following information:
 - 1. Identification of the specific provisions of these land development regulations from which a variance is sought.
 - 2. The nature and extent of the variance sought; an explanation why it is necessary; and the basis for the variance under section 902.09(3)(a) or (b).
 - 3. The grounds relied upon to justify the proposed variance.
 - 4. A legal description of the property, a copy of the warranty deed for the property, and a detailed plot plan of the property.

- (c) On all proceedings held before the board of adjustment, the staff of the planning division shall review the application and file a recommendation on each item. Such recommendation shall be transmitted to the board of adjustment prior to final action on any item before the board of adjustment, and shall be part of the record of the application.
- (d) Notice of the variance, in writing, shall be mailed by the planning division to the owners of all land which abuts the property upon which a variance is sought, at least seven (7) days prior to the hearing. The property appraiser's address for said owners shall be used in sending all such notices. The notice shall contain the name of the applicant for the variance, a description of the land sufficient to identify it, a description of the variance requested, as well as the date, time and place of the hearing.
- (6) *Review by the board of adjustment.*
 - (a) In order to authorize any variance from the terms of these land development regulations, the board of adjustment shall determine that the application for variance is complete, that the public hearing has been held with the required notice and that the opportunity has been given for the aggrieved parties to appear and be heard in person or be represented by an attorney at law, or other authorized representatives. The board of adjustment shall also find that all of the following facts exist before granting a variance:
 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district.
 2. That the special conditions and circumstances do not result from the actions of the applicant or illegal acts of previous property owners.
 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the regulation to other lands, buildings, or structures in the same zoning district.
 4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the regulations and would constitute an unnecessary and undue hardship upon the applicant.
 5. That the variance granted is the minimum necessary in order to make possible the reasonable use of the land, building, or structure.
 6. That the granting of the variance will be in harmony with the general purpose and intent of the land development regulations, and the Indian River County Comprehensive Plan.
 7. That such variance will not be injurious to the surrounding area or otherwise be detrimental to public welfare.

8. That the property cannot be put to a reasonable use in a manner which fully complies with the requirements of these land development regulations.

(b) The following regulations also apply to the authorization of a variance:

1. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and non-permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

2. No application or request may be reheard or reconsidered unless otherwise directed by a court of competent jurisdiction, or unless new circumstances or information can be presented with a new application.

(c) In granting any variance, the board of adjustment may make the authorization of the variance conditional upon such alternate and additional restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the purpose and intent of this chapter and consistency with the Indian River County Comprehensive Plan. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

Such conditions restrictions, stipulations, and safeguards may include, but are not limited to, time within which the action for which the variance is sought shall be begun or completed or both; the establishment of screening and/or buffering techniques; and provision for extensions or renewals.

(7) *Decision.* The board of adjustment shall approve, approve with conditions, or deny the application, furnishing the applicant a written statement of the reasons for any denial.

(Ord. No. 90-16, § 1, 9-11-90)