

Agenda Item #: 4B

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

=====  
**Meeting Date:** February 24, 2009 [ ] **Consent** [ ] **Regular**  
[ ] **Workshop** [X] **Public Hearing**

**Department:**

**Submitted By:** Engineering and Public Works  
**Submitted For:** Land Development Division

=====  
**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to adopt: A Resolution renouncing and disclaiming any public interest in portions of the 30 foot wide and 50 foot wide strips for road, dyke(sic) and ditch purposes, in Blocks 10, 11, 16 and 17, Palm Beach Farms Company Plat No. 3, as recorded in Plat Book 2, Pages 45-52, Public Records of Palm Beach County, Florida. These roads are also known as portions of Dillman Road, Whippoorwill Way and Whippoorwill Boulevard.

**SUMMARY:** This petition site is located west of Lyons Road and north of Forest Hill Boulevard. Whippoorwill Lakes Property Owners Association as well as Dillrun Estates Regency Homes wants to increase security within their communities. Privatizing these roads will allow the construction of a security gate within the portion of Dillman Road to be abandoned.

District 6(PK)

**Background and Policy Issues:** The Board of County Commissioners, at their meeting on July 12, 2005, in conjunction with the Municipal Street Taxing Unit (MSTU) for Dillman Road, directed the Engineering Department to proceed with renouncing and disclaiming any public interest in portions of Dillman Road, Whippoorwill Way and Whippoorwill Boulevard at such time the reconstruction of Dillman Road was completed. This construction is now complete. By approving this request all of the roads in the Whippoorwill Estates development will be under the control and jurisdiction of the Whippoorwill Lakes Property Owners Association (WLPOA).

(Continued on Page 3)

**Attachments:**

1. Location Sketch
2. Resolution with Legal Description and Sketch
3. Utility Easements (FPL, Bellsouth, PBCWU)
4. Grant of Ingress and Egress Easement

=====  
**Recommended by:** \_\_\_\_\_

**Division Director**

**Date**

**Approved by:** \_\_\_\_\_

**County Engineer**

**Date**

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	=====	=====	=====	=====	=====
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No.: Fund \_\_\_\_\_ Agency \_\_\_\_\_ Org. \_\_\_\_\_ Object \_\_\_\_\_  
 Program \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

No additional fiscal impact as a result of this item.

**C. Departmental Fiscal Review:** \_\_\_\_\_ *[Signature]*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

*[Signature]* 2-5-09  
 OFMB *[Signature]* SW CN  
 2/5 2/4/09

*[Signature]* 2/6/09  
 Contract Dev. and Control

**B. Legal Sufficiency:**

*[Signature]* 2/6/09  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Division Director

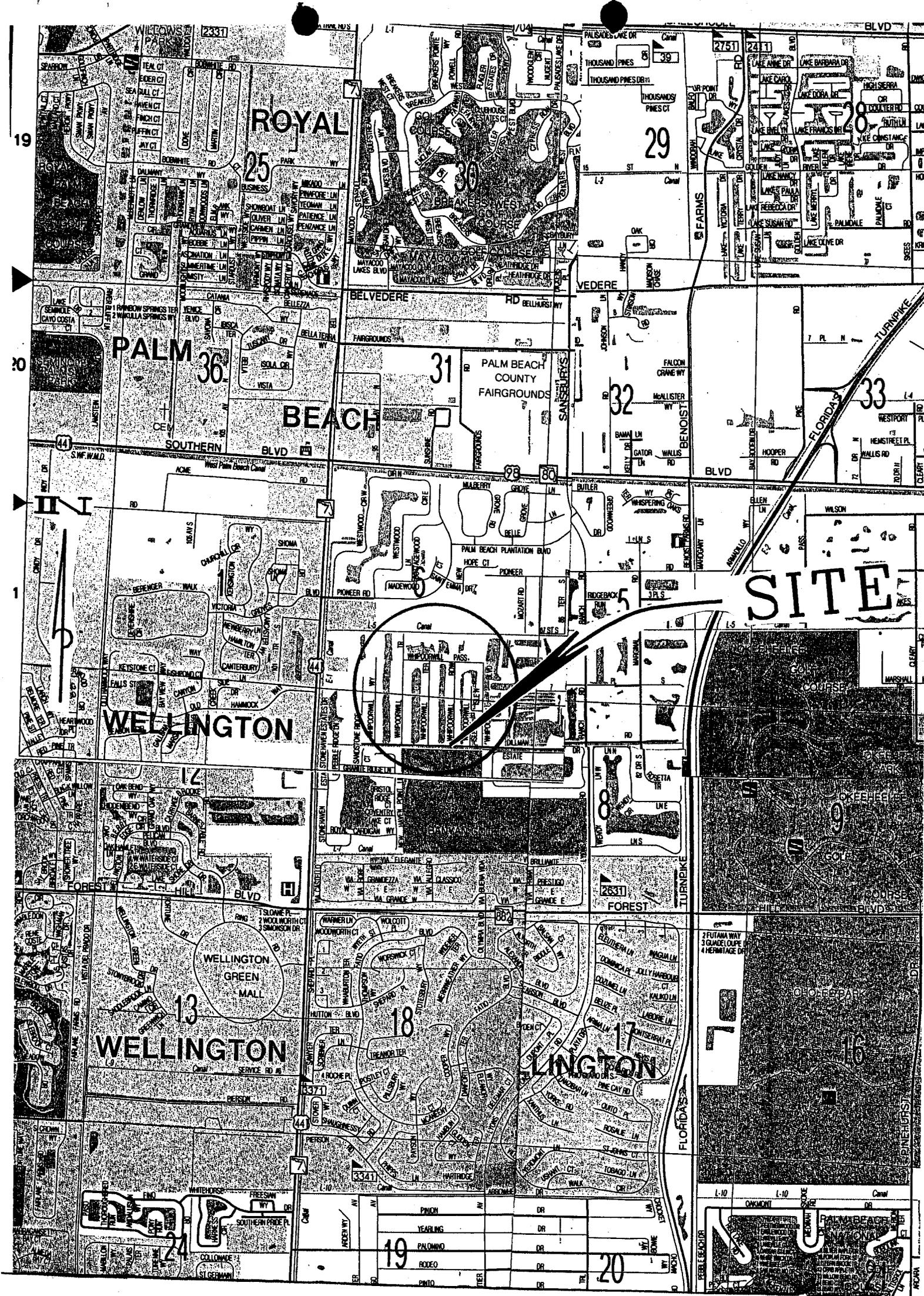
This summary is not to be used as a basis for payment.

**Background and Policy Issues:** (Continued from Page 1)

The WLPOA has amended their Property Owners documents to include the control, jurisdiction and maintenance of all these roads. There are five property owners who are not part of WLPOA whose access could possibly be effected. WLPOA has also provided a Grant of Ingress and Egress Easement over Dillman Road, Whippoorwill Way and Whippoorwill Boulevard to these five property owners.

Utility service providers have no objection to the privatization of these roads because easements have been provided and will be recorded simultaneously with this abandonment (see attached easements).

**Privilege Fee Statement:** In accordance with the exemption in the Right-of-Way Abandonment and Plat Vacation Ordinance 86-18, as amended by Ordinance No. 2002-034, governmental agencies are exempt from the privilege fee.



ABANDONMENT OF PORTIONS OF CERTAIN ROAD RIGHTS OF WAY  
 WITHIN PALM BEACH FARMS PLAT NO. 3  
 (DILLMAN ROAD, WHIPPOORWILL WAY, WHIPPOORWILL BOULEVARD)

LOCATION SKETCH

RESOLUTION NO. R-2009-\_\_\_\_\_

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, RENOUNCING AND DISCLAIMING ANY PUBLIC INTEREST IN PORTIONS OF THE 30 FOOT WIDE AND 50 FOOT WIDE STRIPS FOR ROAD, DYKE AND DITCH PURPOSES, IN BLOCKS 10, 11, 16 AND 17, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45-52, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. THESE ROADS ARE ALSO KNOWN AS PORTIONS OF DILLMAN ROAD, WHIPPOORWILL WAY AND WHIPPOORWILL BOULEVARD.

**WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida, pursuant to authority in Section 336.09, Florida Statutes, and Ordinance No. 86-18 known as the Palm Beach County Right-of-Way Abandonment and Plat Vacation Ordinance, as amended, and the petition of the County Engineer, called a public hearing to be held in the County Commissioners' Chambers, at the Governmental Office Complex, West Palm Beach, Florida, on February 24, 2009, to consider and determine whether or not Palm Beach County would renounce and disclaim any right or interest of the County to those certain portions of Dillman Road, Whippoorwill Way and Whippoorwill Boulevard; and

**WHEREAS**, in accordance with Ordinance No. 86-18, as amended, notice of the holding of such meeting was duly published in the Palm Beach Post on February 8, 2009; and

RESOLUTION NO. R-2009-\_\_\_\_\_

**WHEREAS**, the Whippoorwill Lakes Property Owners Association has amended their Declaration of Protective Covenants, stating that said Association will maintain and repair said roads; and

**WHEREAS**, the Whippoorwill Lakes Property Owners Association has provided a grant of Ingress and Egress Easement to the following properties:

Jeffrey and Elizabeth Kugler 00-42-43-27-05-010-0281

Jeffrey and Elizabeth Kugler 00-42-43-27-05-010-0421

Joseph Van Ness 00-42-43-27-05-010-0261

Cheval Properties, Inc. 00-42-43-27-05-010-0270

San Messina Cove Community 00-42-44-07-07-005-0000

**WHEREAS**, Utility Easements have been provided to Palm Beach County Water Utilities, AT&T and Florida Power & Light, and said easements will be recorded simultaneously with this resolution; and

**WHEREAS**, this Board did hold said hearing as advertised and determined that such action will not materially interfere with the County Road System and will not deprive any person of a reasonable means of ingress and egress from at least one County, State or Federal highway.

RESOLUTION NO. R-2009-\_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are hereby reaffirmed and ratified.
2. This Board does hereby renounce and disclaim any right or interest of Palm Beach County and the Public in and to those road rights-of-way, more fully described in the legal description and sketch attached hereto and made a part hereof.
3. Utility Easements will be recorded simultaneously with this abandonment.
4. Per the amended Declaration of Protective Covenants of the Whippoorwill Lakes Property Owners Association, said Association will be responsible for the maintenance and repair of these subject roads to be abandoned.
5. Notice of the adoption of this Resolution shall be published once in the Palm Beach Post within thirty (30) days of the date of adoption of this Resolution in accordance with Section 336.10, Florida Statutes and Ordinance No. 86-18.

RESOLUTION NO. R-2009-\_\_\_\_\_

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman  
Commissioner Burt Aaronson, Vice Chairman  
Commissioner Karen T. Marcus  
Commissioner Shelley Vana  
District 4  
Commissioner Jess R. Santamaria  
Commissioner Addie L. Green

The Chair thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

PALM BEACH COUNTY, FLORIDA BY  
ITS BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk & Comptroller

BY: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY: \_\_\_\_\_  
County Attorney

Legal Description and Sketch

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF THE 30 FOOT AND 50 FOOT STRIPS FOR ROAD, DYKE AND DITCH PURPOSES IN BLOCKS 10, 11, 16 AND 17, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45-54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTIONS 6 AND 7, TOWNSHIP 44 SOUTH, RANGE 42 EAST, MORE PARTICULARLY DESCRIBED AS:

WHIPPOORWILL WAY

THE 30 FOOT ROAD, DYKE OR DITCH BETWEEN TRACT 34, TRACT 43 AND 48 AND TRACT 35, TRACT 42 AND 49, SAID BLOCK 10

THE 30 FOOT BY 30 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 34, 35, 42 AND 43, SAID BLOCK 10

WHIPPOORWILL BOULEVARD

THE 50 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 38, 39 AND 52, SAID BLOCK 10 AND TRACTS 41, 56 AND 57, SAID BLOCK 11

THE 30 FOOT BY 50 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 38 AND 39, SAID BLOCK 10 AND TRACTS 41 AND 56, SAID BLOCK 11

DILLMAN ROAD

THE 50 FOOT ROAD, DYKE OR DITCH BOUNDED ON THE WEST BY THE SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 48, SAID BLOCK 10 AND THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 5, SAID BLOCK 17, ON THE NORTH BY THE SOUTH LINE OF TRACTS 49 THROUGH 52, SAID BLOCK 10 AND TRACT 57, SAID BLOCK 11, ON THE EAST BY THE SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 57, SAID BLOCK 11 AND THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 8, SAID BLOCK 16 AND ON THE SOUTH BY THE NORTH LINE OF TRACTS 1 THROUGH 4, SAID BLOCK 17 AND THE NORTH LINE OF TRACT 8, SAID BLOCK 16.

ROAD, DYKE OR DITCHES CONTAIN 7.571 ACRES MORE OR LESS.

NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THIS INSTRUMENT WAS PREPARED BY NORMAN J. HOWARD, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, 160 AUSTRALIAN AVENUE, SUITE 405, WEST PALM BEACH, FLORIDA, 33406.

*N. Howard*  
 \_\_\_\_\_  
 NORMAN J. HOWARD, P.S.M.  
 FLORIDA CERTIFICATE NO. 5776

3-29-07  
 DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

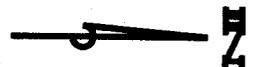
PROJECT NO. 2006005-06  
 SHEET NO. 2  
 SHEET 1

PROJECT: WHIPPOORWILL ESTATES ABANDONMENT DESCRIPTION SKETCH  
 DESIGN FILE NAME: S-1-06-2462.DGN  
 DRAWING NO.: S-1-06-2462

NO.	REVISION	BY	DATE
1	ADD ALL OF TRACT 34 & 35	N.J.H.	3/29/07

SCALE: 1" = 400'  
 APPROVED: N.J.H.  
 DRAWN: E.A.O.  
 CHECKED: W.C.E.  
 DATE DRAWN: 01/26/06  
 FIELD BOOK NO.:

PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS  
  
 ENGINEERING SERVICES  
 160 AUSTRALIAN AVENUE  
 WEST PALM BEACH, FL 33406

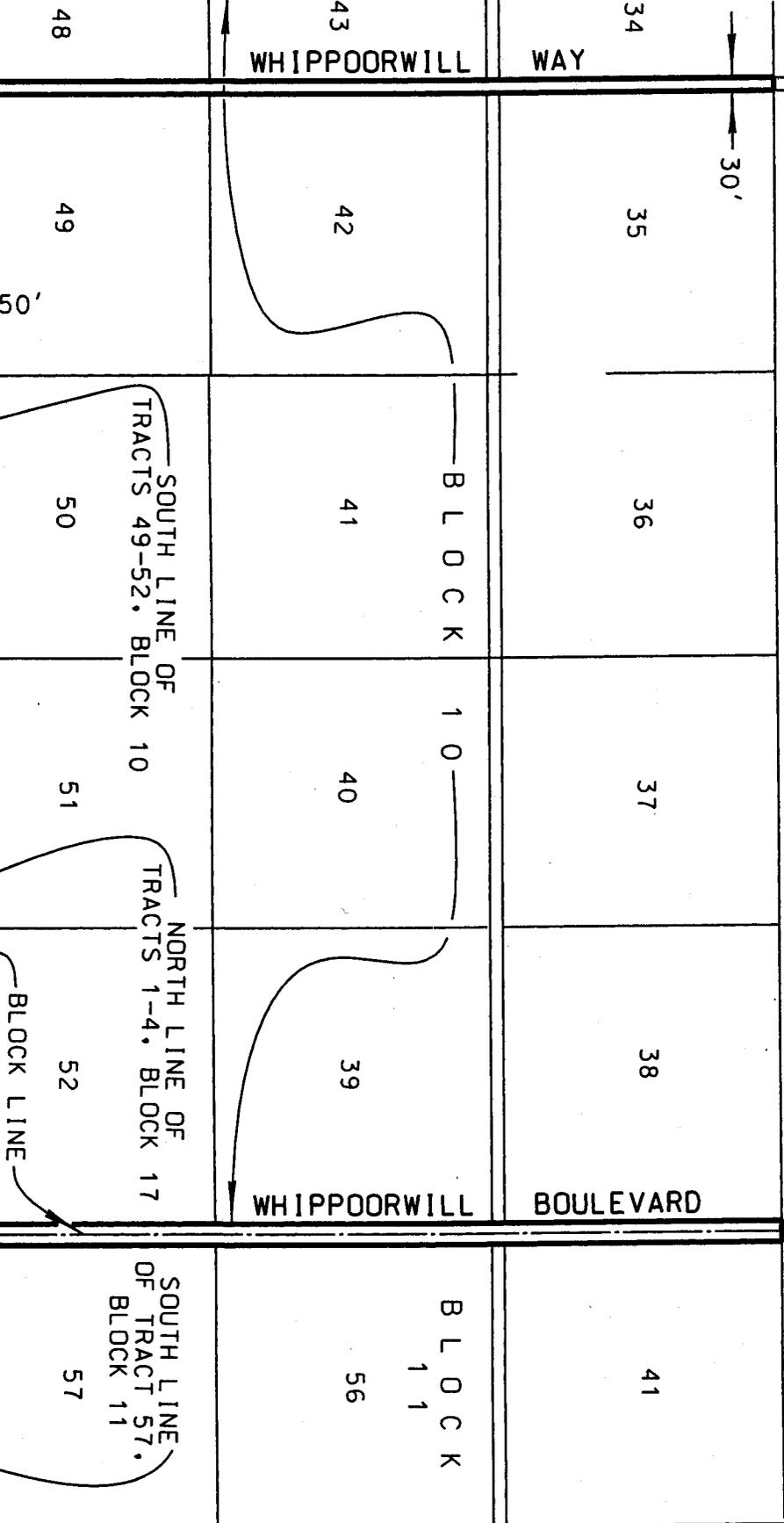


SCALE: 1" = 400'

SECTIONS 6 & 7, TOWNSHIP  
44 SOUTH, RANGE 42 EAST  
PALM BEACH FARMS  
COMPANY PLAT NO. 3  
PLAT BOOK 2, PAGES 45-54

THIS IS NOT A SURVEY

SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 48, BLOCK 10 &  
THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 5, BLOCK 17



SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 57, BLOCK 11 &  
THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 8, BLOCK 16

PREPARED BY/RETURN TO:  
Alan J. Ciklin, Esq.  
Casey Ciklin Lubitz Martens & O'Connell  
515 N. Flagler Dr., Suite 1700  
West Palm Beach, Florida 33401  
Phone: (561) 832-5900

**EASEMENT**

THIS EASEMENT is made, granted and entered into this 31 day of July, 2008 by WHIPPOORWILL LAKES PROPERTY OWNERS' ASSOCIATION, INC., (hereinafter referred to as "Grantor"), whose address is c/o Davenport Property Management, 6620 Lake Worth Rd., Suite F, Lake Worth, FL 33467, to FLORIDA POWER & LIGHT COMPANY (hereinafter referred to as "Grantee"), whose address is 21400 Powerline Rd., Boca Raton, Florida 33433.

**WITNESSETH**

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual easement which shall permit Grantee authority to enter upon the property of the Grantor at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect communication cables, terminals and appurtenances in, on, over, under and across the easement premises. The easement hereby granted covers a strip of land lying, situate and being in Palm Beach County, Florida, and being more particularly described as follows:

See attached Exhibit A

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal as of the date first above written.

**WITNESSES:**

Signed, sealed and delivered  
in the presence of:

Esther Lopez, LCAM  
Witness Signature

ESTHER LOPEZ  
Print Name

Kristina Grogg  
Witness Signature

Kristina Grogg  
Print Name

**GRANTOR:**

WHIPPOORWILL HOMEOWNERS  
ASSOCIATION, INC

By: [Signature]  
Signature

Print Name: MARK PIGNATO

**NOTARY CERTIFICATE**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 31 day of July, 2008, by Mark Pignato, as President of Whippoorwill Lakes Property Owners' Association, Inc., who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires: August 16, 2008

Sheila A. O'Neil

Typed, Printed or Stamped Name of Notary

[Signature]  
Notary Signature

NOTARY PUBLIC-STATE OF FLORIDA  
Sheila A. O'Neil  
Commission # DD347178  
Expires: AUG. 16, 2008  
BONDED THRU ATLANTIC BONDING CO., INC.

EXHIBIT "A"

LEGAL DESCRIPTION

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WHIPPOORWILL BOULEVARD

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ROAD, DYKE OR DITCHES CONTAIN 7.571 ACRES MORE OR LESS.

NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THIS INSTRUMENT WAS PREPARED BY NORMAN J. HOWARD, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, 160 AUSTRALIAN AVENUE, SUITE 405, WEST PALM BEACH, FLORIDA, 33406.

*N. Howard*  
NORMAN J. HOWARD, P.S.M.  
FLORIDA CERTIFICATE NO. 5776

1-11-08  
DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

2006005-01	SHEET 1 OF 2	PROJECT:	WHIPPOORWILL ESTATES UTILITY EASEMENT DESCRIPTION SKETCH	REVISION	DATE		PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS  ENGINEERING SERVICES  160 AUSTRALIAN AVENUE WEST PALM BEACH, FLORIDA
		DESIGN FILE NO.	S-1-06-2455 DCN	REVISION	1 REVISE LENGTH		

SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 48, BLOCK 10 &  
THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 5, BLOCK 17

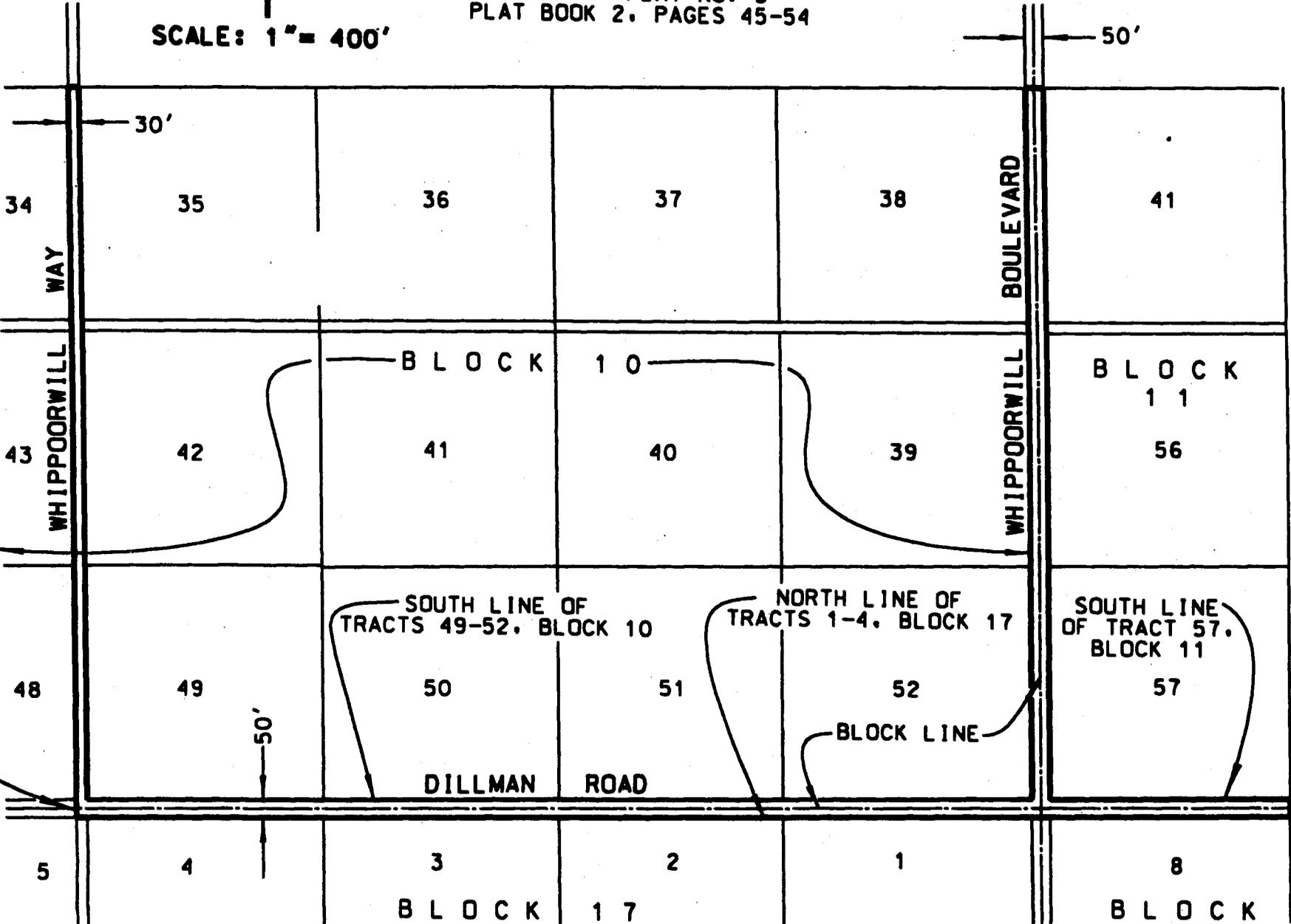


SCALE: 1" = 400'

SECTIONS 6 & 7, TOWNSHIP  
44 SOUTH, RANGE 42 EAST

THIS IS NOT A SURVEY

PALM BEACH FARMS  
COMPANY PLAT NO. 3  
PLAT BOOK 2, PAGES 45-54



SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 57, BLOCK 11 &  
THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 8, BLOCK 16

PREPARED BY/RETURN TO:  
Alan J. Ciklin, Esq.  
Casey Ciklin Lubitz Martens & O'Connell  
515 N. Flagler Dr., Suite 1700  
West Palm Beach, Florida 33401  
Phone: (561) 832-5900

EASEMENT

THIS EASEMENT is made, granted and entered into this 31 day of July, 2008 by WHIPPOORWILL LAKES PROPERTY OWNERS' ASSOCIATION, INC., (hereinafter referred to as "Grantor"), whose address is c/o Davenport Property Management, 6620 Lake Worth Rd., Suite F, Lake Worth, FL 33467, to BELLSOUTH TELECOMMUNICATIONS, INC. (hereinafter referred to as "Grantee"), whose address is Engineering Department, 2021 South Military Trail, West Palm Beach, Florida 33415.

WITNESSETH

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual easement which shall permit Grantee authority to enter upon the property of the Grantor at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect communication cables, terminals and appurtenances in, on, over, under and across the easement premises. The easement hereby granted covers a strip of land lying, situate and being in Palm Beach County, Florida, and being more particularly described as follows:

See attached Exhibit A

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal as of the date first above written.

WITNESSES:

Signed, sealed and delivered  
in the presence of:

Esther Lopez, LCRM  
Witness Signature

ESTHER LOPEZ  
Print Name

Kristina Grogg  
Witness Signature

Kristina Grogg  
Print Name

GRANTOR:

WHIPPOORWILL HOMEOWNERS  
ASSOCIATION, INC

By: [Signature]  
Signature

Print Name: MARK PIGNATO

NOTARY CERTIFICATE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 31 day of July, 2008, by Mark Pignato, as President of Whippoorwill Lakes Property Owners' Association, Inc., who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires August 16, 2008

Sheila A. O'Neil  
Typed, Printed or Stamped Name of Notary

[Signature]  
Notary Signature

NOTARY PUBLIC-STATE OF FLORIDA  
Sheila A. O'Neil  
Commission # DD347178  
Expires: AUG. 16, 2008  
BONDED THROUGH ATLANTIC BONDING CO, INC.

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WHIPPOORWILL BOULEVARD

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NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THIS INSTRUMENT WAS PREPARED BY NORMAN J. HOWARD, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, 160 AUSTRALIAN AVENUE, SUITE 405, WEST PALM BEACH, FLORIDA, 33406.

Norman J. Howard  
NORMAN J. HOWARD, P.S.M.  
FLORIDA CERTIFICATE NO. 5776

1-11-08  
DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

2006005-06

2

PROJECT: <b>WHIPPOORWILL ESTATES UTILITY EASEMENT DESCRIPTION SKETCH</b>	
ISSUED FILE NO: S-1-06-2466.DGN	ISSUED BY: S-1-06-2466

REVISION	BY	DATE
1 REVISE LENGTH		

**PALM BEACH COUNTY  
ENGINEERING AND PUBLIC WORKS  
ENGINEERING SERVICES**



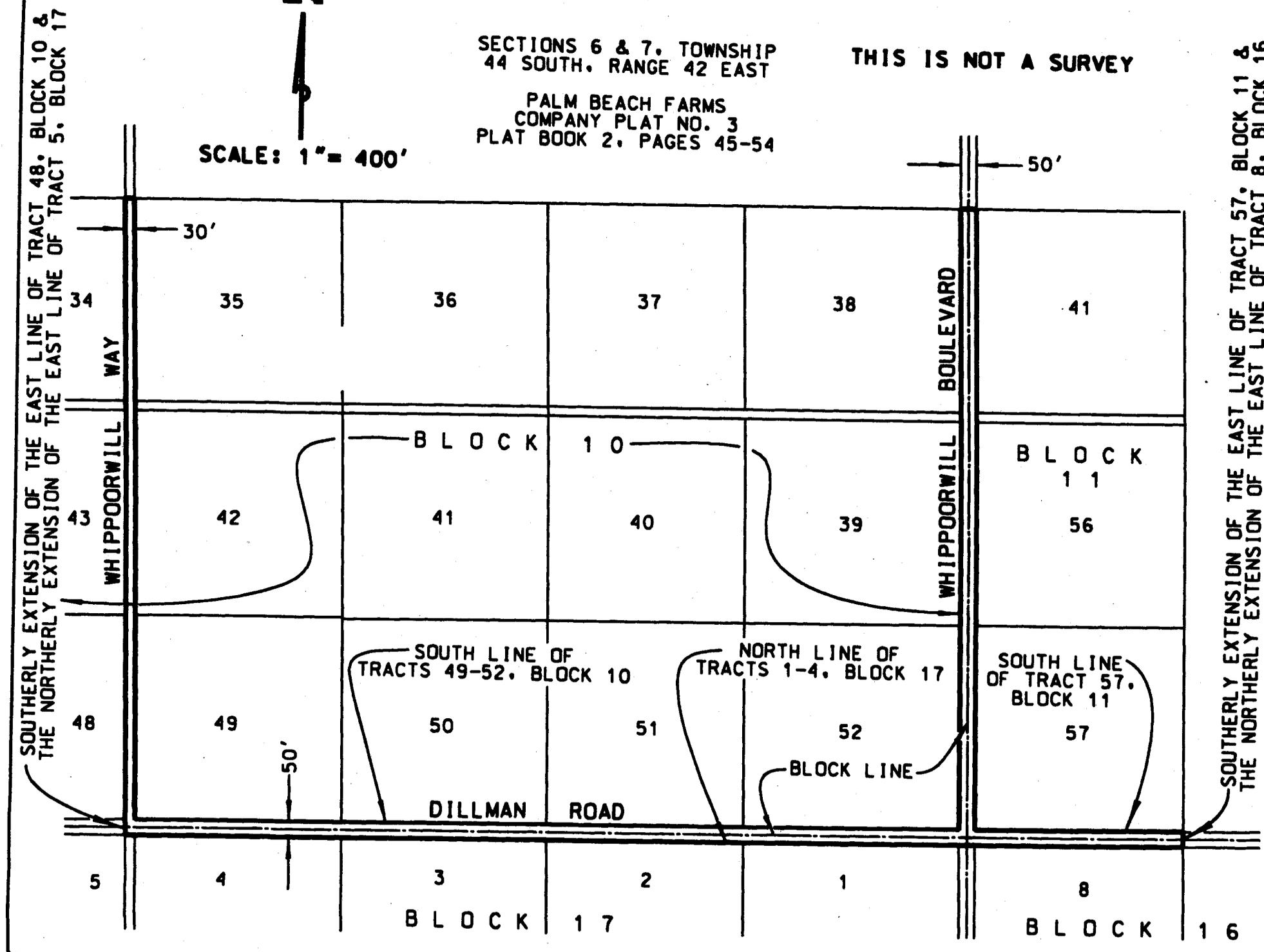
160 AUSTRALIAN AVENUE  
WEST PALM BEACH, FL 33411

SECTIONS 6 & 7, TOWNSHIP  
44 SOUTH, RANGE 42 EAST

THIS IS NOT A SURVEY

PALM BEACH FARMS  
COMPANY PLAT NO. 3  
PLAT BOOK 2, PAGES 45-54

SCALE: 1" = 400'



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SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 57, BLOCK 11 &  
THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 8, BLOCK 16

PLAT BOOK 2, PAGES 45-54

Prepared by and Return to:  
Palm Beach County Water Utilities Department  
P.O. Box 16097 Attn: Engineering Div.  
West Palm Beach, Florida 33416-6097

#### UTILITY EASEMENT

THIS EASEMENT is made, granted and entered into this 16 day of January, 2009 by WHIPPOORWILL LAKES PROPERTY OWNERS' ASSOCIATION, INC., (hereinafter referred to as "Grantor"), whose address is c/o Davenport Property Management, 6620 Lake Worth Rd., Suite F, Lake Worth, FL 33467, to PALM BEACH COUNTY (hereinafter referred to as "Grantee"), whose address is c/o Water Utilities Department, P.O. Box 16097, West Palm Beach, Florida 33416-6097.

#### WITNESSETH

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual utility easement which shall permit Grantee authority to enter upon the property of the Grantor at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water, reclaimed water and/or wastewater lines and appurtenant facilities and equipment in, on, over, under and across the easement premises. This utility easement or portion thereof can also be utilized for a wastewater pump station and may be fenced in for access control purposes. The easement hereby granted covers a strip of land lying, situate and being in Palm Beach County, Florida, and being more particularly described as follows:

**SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF**

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal as of the date first above written.

**WITNESSES:**

Signed, sealed and delivered  
in the presence of:

*[Signature]*  
Witness Signature  
JOHN WISNEFSKI

Print Name  
Maureen Barber

Witness Signature  
MARLEEN BARBER

Print Name

**GRANTOR:**

WHIPPOORWILL LAKES PROPERTY  
OWNERS' ASSOCIATION, INC

By: *[Signature]*  
Tim Sargent, Treasurer

**NOTARY CERTIFICATE**

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this 16 day of January, 2009, by Tim Sargent, as Treasurer of Whippoorwill Lakes Property Owners' Association, Inc., who is personally known to me or who has produced drivers license as identification.

My Commission Expires:

*[Signature]*  
Notary Signature

Typed, Printed or Stamped Name of Notary



EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF THE 30 FOOT AND 50 FOOT STRIPS FOR ROAD, DYKE AND DITCH PURPOSES IN BLOCKS 10, 11, 16 AND 17, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45-54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTIONS 6 AND 7, TOWNSHIP 44 SOUTH, RANGE 42 EAST, MORE PARTICULARLY DESCRIBED AS:

WHIPPOORWILL WAY

THE 30 FOOT ROAD, DYKE OR DITCH BETWEEN TRACT 34, TRACT 43 AND 48 AND TRACT 35, TRACT 42 AND 49, SAID BLOCK 10

THE 30 FOOT BY 30 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 34, 35, 42 AND 43, SAID BLOCK 10

WHIPPOORWILL BOULEVARD

THE 50 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 38, 39 AND 52, SAID BLOCK 10 AND TRACTS 41, 56 AND 57, SAID BLOCK 11

THE 30 FOOT BY 50 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 38 AND 39, SAID BLOCK 10 AND TRACTS 41 AND 56, SAID BLOCK 11

DILLMAN ROAD

THE 50 FOOT ROAD, DYKE OR DITCH BOUNDED ON THE WEST BY THE SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 48, SAID BLOCK 10 AND THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 5, SAID BLOCK 17, ON THE NORTH BY THE SOUTH LINE OF TRACTS 49 THROUGH 52, SAID BLOCK 10 AND TRACT 57, SAID BLOCK 11, ON THE EAST BY THE SOUTHERLY EXTENSION OF THE EAST LINE OF TRACT 57, SAID BLOCK 11 AND THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT 8, SAID BLOCK 16 AND ON THE SOUTH BY THE NORTH LINE OF TRACTS 1 THROUGH 4, SAID BLOCK 17 AND THE NORTH LINE OF TRACT 8, SAID BLOCK 16.

ROAD, DYKE OR DITCHES CONTAIN 7.571 ACRES MORE OR LESS.

NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THIS INSTRUMENT WAS PREPARED BY NORMAN J. HOWARD, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, 160 AUSTRALIAN AVENUE, SUITE 405, WEST PALM BEACH, FLORIDA, 33406.

Norman J. Howard  
NORMAN J. HOWARD, P.S.M.  
FLORIDA CERTIFICATE NO. 5776

1-11-08  
DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

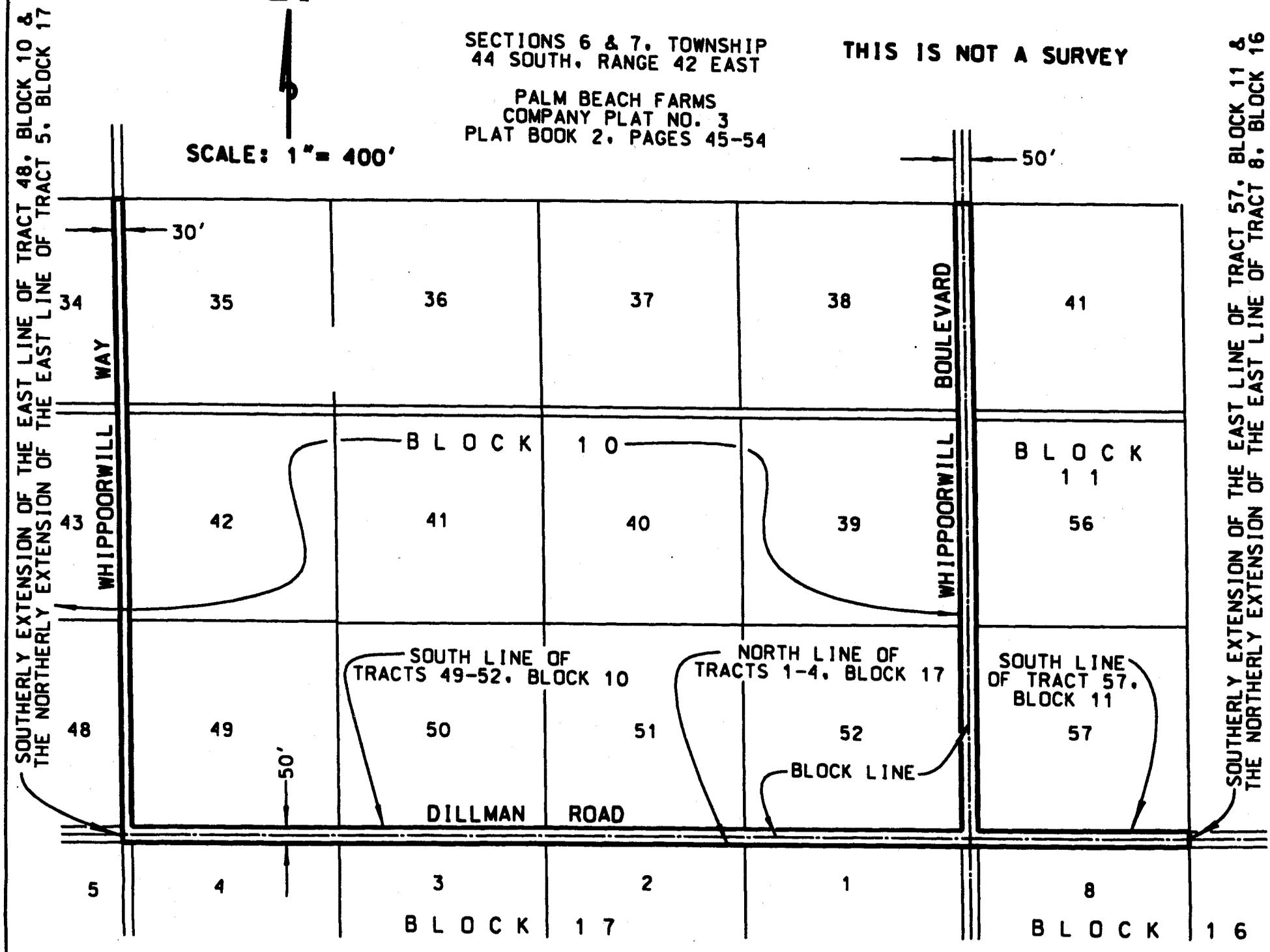
2006005-C	2	1	PROJECT:	WHIPPOORWILL ESTATES	REVISION	OF DATE	PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS
			DESCRIPTION SKETCH	1 REVISE LENGTH		ENGINEERING SERVICES	
DESIGN FILE NO.				PROJECT NO.	DATE	BY	160 AUSTRALIAN AVENUE WEST PALM BEACH, FL. 33406

SECTIONS 6 & 7, TOWNSHIP  
44 SOUTH, RANGE 42 EAST

THIS IS NOT A SURVEY

PALM BEACH FARMS  
COMPANY PLAT NO. 3  
PLAT BOOK 2, PAGES 45-54

SCALE: 1" = 400'



PREPARED BY/RETURN TO:  
Alan J. Ciklin, Esq.  
Casey Ciklin Lubitz Martens & O'Connell  
515 N. Flagler Dr., Suite 1700  
West Palm Beach, Florida 33401  
Phone: (561) 832-5900

**GRANT OF INGRESS AND EGRESS EASEMENT**

THIS EASEMENT is made, granted and entered into this 31 day of July, 2008, by WHIPPOORWILL LAKES PROPERTY OWNERS' ASSOCIATION, INC. a Florida not-for-profit corporation, whose post office address is, c/o Davenport Property Management, 6620 Lake Worth Rd., Suite F, Lake Worth, FL 33467 (hereinafter referred to as "Grantor"), to the owners of the property described on Exhibit "A" hereto, hereinafter called the grantees.

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) paid by Grantees and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, subject to the condition set forth below, to the Grantees, their successor, assigns, grantees, licenses, invitees, mortgagees, tenants, family members and guests, a non-exclusive easement for ingress and egress on, across and over the land legally described on Exhibit "B" attached hereto and made a part hereof (the "Easement Area").

Grantor reserves the right to install a security gate upon the Easement Area. Grantor shall provide Grantees with any applicable access codes or electronic devices allowing access through the gate. The rights and privileges described herein shall run with the land constituting the Easement Area.

IN WITNESS WHEREOF, Grantor has executed this instrument the day and year first above written.

Signed, sealed and delivered  
in the presence of:

Esther Lopez, ICAM  
Print Name: ESTHER LOPEZ

Kristina Grogg  
Print Name: Kristina Grogg

WHIPPOORWILL LAKE  
HOMEOWNERS ASSOCIATION, INC.

By: [Signature]  
President

By: [Signature]  
Secretary

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

Sworn to, acknowledged and subscribed before me this 31 day of July, 2008, by Mark Pignato, as President of Whippoorwill Lakes Property Owners' Association, Inc., who has produced \_\_\_\_\_ as identification, or is personally known to me to be the person described in and who have executed the foregoing instrument and have acknowledged that the contents therein are true and correct to the best of their knowledge and belief.

(NOTARY SEAL)

NOTARY PUBLIC-STATE OF FLORIDA  
Sheila A. O'Neil  
Commission # DD347178  
Expires: AUG. 16, 2008  
BONDED THRU ATLANTIC BONDING CO., INC.

[Signature]  
Print Name: Sheila A. O'Neil  
STATE OF FLORIDA  
My Commission Expires: August 16, 2008

**EXHIBIT "A"**

**GRANTEE'S PROPERTY**

**Parcel 1 (Presently owned by Jeffrey L. Kugler):** -00-42-43-27-05-010-0421  
PALM BEACH FARMS CO., PLAT NO. 3, NORTH ¼ OF WEST ½ OF TRACT 42, BLOCK  
10 A/K/A LOT 8, PHASE I WHIPPOORWILL LAKES UNRECORDED & SOUTH ½ OF  
ABANDED 30 FOOT ROAD LYING NORTH OF & ADJACENT THERETO

**Parcel 2 (Presently owned by Jeffrey L. Kugler):** -00-42-43-27-05-010-0281  
PALM BEACH FARMS CO., PLAT NO. 3, TRACT 28 (LESS E ½), 30 FT WIDE STRIP  
LYING BETWEEN TRACTS 28 & 29, TRACTS 29 & 30, NORTHERLY POINT OF TRACTS  
33 & 34 IN O.R.B. 1920, PAGE 319, WEST ½ OF TRACT 35 & NORTH ½ 30 FOOT STRIP  
LYING SOUTH OF & ADJACENT TO BLOCK 10

**Parcel 3 (Presently owned by Joseph Van Ness):** -00-42-43-27-05-010-0261  
Tract 26, Block 10, PALM BEACH FARMS CO., PLAT NO. 3, A SUBDIVISION AS  
RECORDED IN PLAT BOOK 2, PAGES 45-54 OF THE PUBLIC RECORDS OF PALM  
BEACH COUNTY, FLORIDA

**Parcel 4 (Presently owned by Cheval Properties, Inc.):** -00-42-43-27-05-010-0270  
TRACT 27, BLOCK 10, PALM BEACH FARMS CO., PLAT NO. 3, A SUBDIVISION AS  
RECORDED IN PLAT BOOK 2, PAGES 45-54 OF THE PUBLIC RECORDS OF PALM  
BEACH COUNTY, FLORIDA

**Parcel 5 (Presently owned by San Messina Cove Community Association, Inc.):**  
TRACT A, B, C, D, E, BT-1, BT-2, F AND THE INCOMPATIBILITY BUFFER, ALL AS  
SHOWN ON THE PLAT OF DILLRUN ESTATES AS RECORDED IN PLAT BOOK 109,  
PAGE 9 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

00-42-44-07-07-005-0000

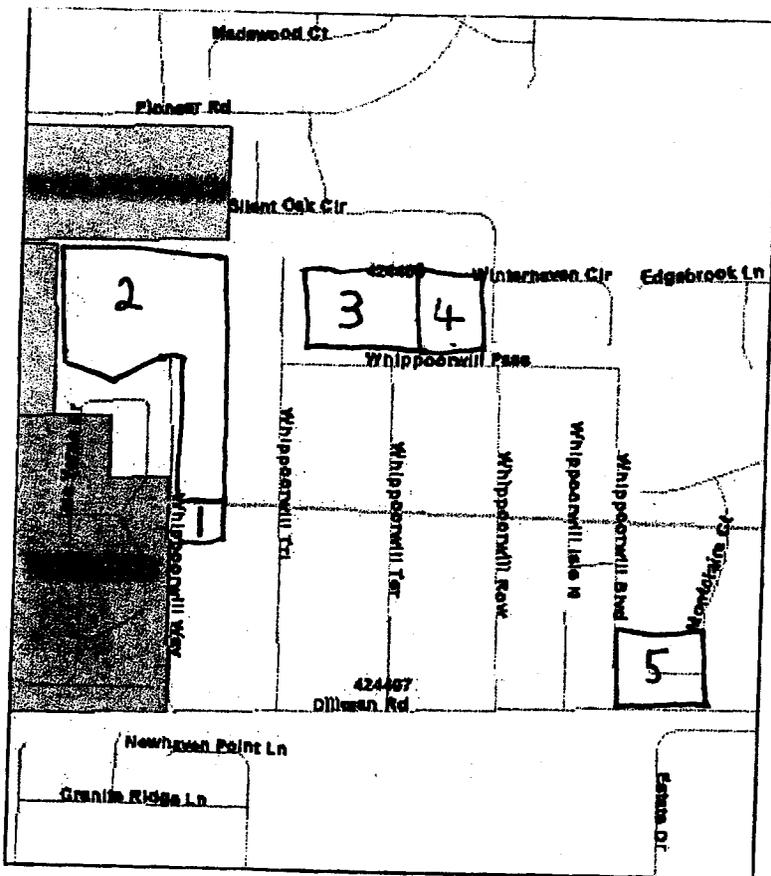


Exhibit A

EXHIBIT "g"

LEGAL DESCRIPTION

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WHIPPOORWILL BOULEVARD

THE 50 FOOT ROAD, DYKE OR DITCH BETWEEN TRACTS 38, 39 AND 52, SAID BLOCK 10 AND TRACTS 41, 56, AND 57, SAID BLOCK 11

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THIS INSTRUMENT WAS PREPARED BY NORMAN J. HOWARD, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, 160 AUSTRALIAN AVENUE, SUITE 405, WEST PALM BEACH, FLORIDA, 33406.

*N. Howard*

NORMAN J. HOWARD, P.S.M.  
FLORIDA CERTIFICATE NO. 5776

3-29-07

DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PROJECT NO. 2006005-06	SECTION	1
	REVISION	2
PROJECT: WHIPPOORWILL ESTATES ABANDONMENT DESCRIPTION SKETCH		
SECTION FILE NAME	DRAWING NO.	
S-1-06-2462.DGN	S-1-06-2462	
DATE: 01/26/06	TRACT: 405	REVISION: 1
BY: N.J.H.	ADD ALL OF TRACT 34 & 35	DATE: 3-29-07
C.A.D.:		
N.C.E.:		



**PALM BEACH COUNTY**  
ENGINEERING AND PUBLIC WORKS  
**ENGINEERING SERVICES**  
160 AUSTRALIAN AVENUE  
WEST PALM BEACH, FL 33406

SECTIONS 6 & 7, TOWNSHIP  
44 SOUTH, RANGE 42 EAST

THIS IS NOT A SURVEY

PALM BEACH FARMS  
COMPANY PLAT NO. 3  
PLAT BOOK 2, PAGES 45-54

SCALE: 1" = 400'

