

**BOARD OF COUNTY COMMISSIONERS**

DATE: August 20, 2013  
AGENDA ITEM NO. 32

Consent Agenda ☐

Regular Agenda ☐

Public Hearing ☒

**County Administrator's Signature:**

**Subject:**

Legislative Petition to Vacate a Portion of ROW per §336.09, Florida Statutes, (2013.)

Submitted By: Capon Corporation  
Property Address: 1209 N Florida Avenue  
Tarpon Springs, Florida 34689  
File No.: 1431

**Department:**

Real Estate Management

**Staff Member Responsible:**

Paul S. Sacco, Director

**Recommended Action:**

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BCC) CONSIDER THE PETITION TO VACATE, AND ADOPT THE ATTACHED RESOLUTION PURSUANT TO FLORIDA STATUTE 336.09, AND AUTHORIZE THE CLERK TO RECORD THE RESOLUTION IN THE PUBLIC RECORDS OF PINELLAS COUNTY.

**Summary Explanation/Background:**

This petition was previously heard by the Board of County Commissioners on August 6, 2013. The City of Tarpon Springs had objected to a portion of the requested vacation. At that hearing the Board of County Commissioners approved the request to vacate the portion of right of way not objected to by the City which is located west of Lot 23 and east of Lot 1. The approval of the remaining portion of the subject right of way vacation was deferred to the August 20, 2013 meeting. Staff was asked to determine if a vacation of the adjacent northern 15 feet of right of way had previously occurred. Staff and the City of Tarpon Springs have both determined that no such vacation happened. Upon further review of the Plat, it appears that the 15 feet in question was never a part of the plat known as Tampa and Tarpon Springs Land Company, Plat Book H1, Page 116.

The petitioner is the owner of record of that portion of the plat that is requested to be vacated. The vacation of this portion of the plat will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

Appropriate staff members reviewed the subject area and determined the vacation would not have an adverse effect on the remaining easement area. Letters of No Objection have been received from Bright House, Knology, DEI-Engineering & Technical Support, Progress Energy (Distribution), Progress Energy (Transmission), and Verizon.

The Petition was properly advertised in accordance with Florida Statute 336.09 and additionally notice was mailed by the Clerk of the Court to the adjacent property owners and nearby residents. The Deputy Clerk will report any citizen support or opposition to the BCC.

**Fiscal Impact/Cost/Revenue Summary:**

The owner has paid a \$690 filing fee, plus advertising cost of \$60.

**Exhibits/Attachments Attached:**

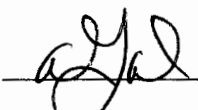
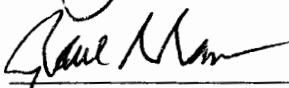

Contract Review Transmittal  
Letter from City of Tarpon Ssprings  
Petition to Vacate  
Notification List  
Resolution  
Location Map

**CONTRACT REVIEW TRANSMITTAL SLIP****PROJECT: Capon Corporation, John Mills, President****TYPE: Legislative Petition to Vacate a portion of ROW****Date: 6/4/2013****ESTIMATED EXPENDITURE/REVENUE:****\$ 750.00****(Circle appropriate choice above.)**

In accordance with the policy guide for Contract Administration, the attached documents are submitted for your review and suggested comments and/or changes.

- **To assist other reviewers in this process, please mark your comments and/or suggested changes directly upon the document itself in RED INK.**

Upon completion of your review, please complete the Contract Review Transmittal Slip below and call **464-3672** at so that it can be picked up and taken to the next Review Authority on the list.

<b><u>Review Authority</u></b>	<b><u>Review Date</u></b>	<b><u>Review Signature</u></b>	<b>Comments Included/Addressed <u>Initial &amp; Date</u></b>
Real Property Div. (Dave DelMonte)	<u>6-26-13</u>		<u>ajal 8-13-13</u>
Real Est. Mgmt (Paul Sacco)	<u>6/28/13</u>		
DEI (Tom Farrand)	<u>6/25/2013</u>	<u>Approved in CATS</u>	
Legal (Michael Zas)	<u>7/1/13</u>	<u>M Zas</u>	
County Admin. (Mark Woodard)	<u>7/3/13</u>		

\_\_\_\_ Release/Termination/Amendment

\_\_\_\_ FS 177.101 - Vacation

X FS 336.09/10/12 - ROW

X Advertisement to Board Records

X Scheduled Board Date

X Complies with Section 8 Real Estate Procedures 3.2.2 Notification

Please return to Real Estate Management Department, Real Property Division by                     , 2013  
All inquiries should be made to CYNTHIA HARRIS at telephone extension 43773 or 4-3672.



OFFICE OF  
CITY MANAGER

# *City of Tarpon Springs, Florida*

324 E. PINE STREET  
P.O. BOX 5004  
TARPON SPRINGS, FL 34688-5004  
(727) 938-3711

August 12, 2013

Robert LaSala, County Administrator  
315 Court Street  
Clearwater, FL 33756

RE: Petition to Vacate Submitted by Capon Corp; 2nd Public Hearing on 8/20/2013

Dear Mr. LaSala:

Please let me begin by thanking you and the Pinellas County Board of Commissioners for deferring action on the portion of the above referenced vacation request that directly affects the City of Tarpon Springs. As stated in our previous letter, the City strongly objects to vacating this remaining portion of right of way for reasons explained below.

1. The Transportation Element of the City of Tarpon Springs Comprehensive Plan identifies the above described rights of way proposed to be vacated as a potential future road corridor on our 2025 Future Traffic Lanes Map (copy attached). This corridor has been identified as a potential east-west connector road since adoption of the 1980 Comprehensive Plan (See Attachments A&B). Initially, the City intends to explore this corridor as a bike/ped connection.
2. The rights of way may be needed to provide for the future expansion of City utilities, including potential future drainage improvements. We have known drainage challenges in the area and this may be a usable corridor for additional drainage features. Given the wetlands, directional boring technology advances either now or in the future could make this a viable option.

During the 1<sup>st</sup> public hearing it was erroneously concluded that the City must have previously vacated our interest in the platted right of way. Subsequently, it has been determined that most of the City's golf course property is un-platted land therefore nothing has been "given up". The remaining portion that is part of the Tampa and Tarpon Springs Land Company Plat is being researched by the City Clerk's Office for evidence of vacation. To date, no records have been produced to indicate that the City has ever vacated their portion of the platted rights of way. The property appraiser maps actually indicate that the right of way has not been vacated (see Attachment C). Regardless of whether the right of way has been vacated, the City retains ownership of the property and has the ability dedicate it as right of way as necessary for a road project in the future. In recognition of the need (as identified in the MPO Long Range Plan 2010) to extend the Curlew Place (C.R. 80) corridor, the city dedicated in 1989 the south 15' of Lot 42, Tampa and Tarpon Springs Land Company plat, as of right of way for the extension of Curlew Place (see Attachment D). This dedication appears to be in addition to the pre-existing 15' created by the original plat.

Even if it appears to not be readily usable now as a roadway corridor, we should owe it to the public that the right-of-way be reserved for the future. Especially in a strategic east-west

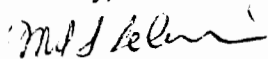
transportation corridor which are very limited in the City. Vacating the right of way may require the City to purchase right of way in the future at a substantial cost to the City tax payers.

It seems that that the burden of proof should be on the requestor as to why a potentially valuable access reservation for the benefit of the PUBLIC would be essentially given away to a private party *for the sole reason to gain a few units of density for a project that the Pinellas County Board of Commissioners has not even reviewed and approved.* At best, action to vacate this right of way is premature.

There is little difference between this situation and the extension of Meres Blvd. from US Alt. 19 to US Highway 19, which also crosses a significant wetlands area (850'). That roadway (also in the City's Comprehensive Plan since 1980) has been engineered and a funding / construction plan established concurrent with future development of the Meres Town Center site. To simply dismiss a similar long standing element of the City's Comprehensive Plan is short sighted and, I submit, if it were in the County's Comprehensive Plan, the County would not support this vacation request.

In closing, the City of Tarpon Springs respectfully requests that the County provide the same level of respect to the City's Comprehensive Plan as the County's plan and deny the requested vacation.

Sincerely,



Mark G. LeCouris  
City Manager

Attachments (4)

cc: Cynthia Harris, Pinellas County Real Estate (sent via email)

SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS  
OF PINELLAS COUNTY, FLORIDA

PETITION TO VACATE, PUBLIC RIGHT OF WAY OR ALLEYS

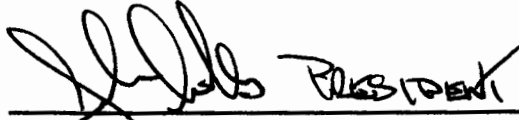
Comes now your Petitioners, Capon Corporation, John Mills, President  
Name of Petitioner

and respectfully requests this Honorable Board of County Commissioners to adopt a resolution vacating:

Lands described in legal description attached  
hereto and by this reference made a part hereof.

Your petitioner represent that: 1) the petitioner own the fee simple title to the whole or that portion of the plat (easement) that is sought to be vacated; 2) the vacation request herein will not cause injury to any surrounding property or property owners, and that the above described property does not now serve and is not needed for any public purpose; 3) the interest of the public will not be adversely affected by this vacation, nor will such vacation affect the ownership, or the right of convenient access, of persons owning any other parts of said subdivision.

I hereby swear and/or affirm that the forgoing statements are true:

  
\_\_\_\_\_  
John Mills, President  
Capon Corporation

STATE OF FLORIDA  
COUNTY OF PINELLAS

Sworn to (or affirmed) and subscribed before me this 10 day of June, 2013,  
by John Mills, President, Capon Corporation. He is personally known to me, or has produced \_\_\_\_\_  
as identification, and who did (did not) take an oath.



NOTARY  
SEAL

NOTARY  
Print Name

  
\_\_\_\_\_  
Trudi Tackett

My Commission Expires: 7/22/2014

Commission Number: EE011091



SURVEYING AND MAPPING

11911 South Curley Street  
San Antonio, Florida 33576  
(352) 588-2768 FAX: (352) 588-2713

We hereby certify that the description shown hereon is a true and correct representation of our knowledge and belief, and was prepared in accordance with the laws and regulations of the State of Florida, and the rules and regulations of the Board of Professional Surveyors, Florida, Chapter 472, Florida Statutes.

NO. 5586  
For the State of Florida, I, Christopher Johnson, a duly Licensed Professional Surveyor, do hereby certify that the above described property is the property of the State of Florida, and is not subject to any other claim or interest.

Corner monuments shown in this sketch are in accordance with the provisions of the Florida Statutes.

Improvements, if any, have not been located in conjunction with the preparation of this drawing.

This sketch is for graphic illustration only, and does not represent a field survey.

Descriptions created per this sketch.

No instruments of record reflecting easements, rights-of-way and/or ownership were furnished to the undersigned except as shown. The undersigned makes no other guarantees or representations regarding information shown hereon pertaining to easements, rights-of-way, setback lines, agreements, reservations, or other matters.

Bearings are assumed, based on the North boundary of the Northwest 1/4 of Section 24, Township 27 South, Range 15 East, Pinellas County, Florida. Said line bears S.89°40'54"E.

## DESCRIPTION:

That portion of right-of-way lying North of Lots 21, 22 and 23, in Section 24, Township 27 South, Range 15 East, AND that portion of right-of-way lying North of Lot 1 in Section 23, Township 27 South, Range 15 East, all of TAMPA & TARPON SPRINGS LAND COMPANY, as per the map or plat thereof, recorded in Plat Book H1, Page 116, of the public records of Pinellas County, Florida, and being more particularly described as follows:

For a POINT OF BEGINNING commence at the Northwest corner of said Section 24; thence along the North boundary of the Northwest 1/4 of said Section 24, S.89°40'54"E., a distance of 1,376.72 feet to the Northerly prolongation of the East boundary of aforementioned Lot 21, in said Section 24; thence along said Northerly prolongation, S.00°47'04"W., a distance of 15.00 feet to the Northeast corner of said Lot 21; thence along the North boundaries of said Lots 21, 22 and 23, and the Westerly prolongation thereof, in Section 24, and continuing along the North boundary of said Lot 1, and the Easterly prolongation thereof, in Section 23, N.89°40'54"W., a distance of 1,826.22 feet to the Northwest corner of said Lot 1; thence along the Northerly prolongation of said Lot 1, N.03°09'16"E., a distance of 15.02 feet to the North boundary of the Northeast 1/4 of said Section 23; thence along the North boundary of the Northeast 1/4 of said Section 23, S.89°40'54"E., a distance of 448.87 feet to the POINT OF BEGINNING. Containing 0.63 acres, more or less.

Reviewed by:

Date:

8/13/13

501-1431

SHEET 1 OF 2  
SEE SHEET 2 FOR  
SKETCH

8/12/13 DESCRIPTION and SKETCH RR

EAST-WEST  
RIGHT-OF-WAY  
TO BE VACATED

PREPARED FOR  
Pinellas County  
Real Estate Management

JOB NO. 12151A02.00001 CHKD BY: CHX

SHEET 2 OF 2  
SEE SHEET 1 FOR  
DESCRIPTION

**D JOHNSON**  
**ASSOCIATES**  
**SURVEYING AND MAPPING**  
11911 South Curley Street  
San Antonio, Florida 33576  
(352) 588-2788 FAX: (352) 588-2713



PROPERTY OWNER COURTESY NOTIFICATION LIST FOR FILE #1431

PETITIONER

CAPON CORPORATION  
JOHN MILLS, PRESIDENT  
1209 NORTH FLORIDA AVENUE  
TARPON SPRINGS, FLORIDA 34689

ADJACENT PROPERTY OWNERS

NOTIFICATION LETTER SENT TO THESE OWNERS  
BY THE CLERK OF THE CIRCUIT COURT – BCC RECORDS DIVISION

REAL PROPERTY DIVISION  
ATTN: CYNTHIA M. HARRIS  
509 EAST AVENUE S  
CLEARWATER, FL 33756

CAPON CORP  
1209 N FLORIDA AVE  
TARPON SPRINGS, FL 34689-2003

SOBON, DOROTA  
SOBON, ARKADIUSZ  
419 DENISE ST  
TARPON SPRINGS, FL 34689-1969

FINNAN, MICHAEL J  
FINNAN, WENDIE  
431 DENISE ST  
TARPON SPRINGS, FL 34689-1969

MUELLER, THORSTEN  
MUELLER, NOZOMI  
427 DENISE ST  
TARPON SPRINGS, FL 34689-1969

TARPON SPRINGS, CITY OF  
C/O TARPON SPRINGS GOLF CLUB  
PO BOX 5004  
TARPON SPRINGS, FL 34688-5004

GERRITY, CHRISTOPHER  
GERRITY, MARY A  
423 DENISE ST  
TARPON SPRINGS, FL 34689-1969

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION VACATING THAT PORTION OF RIGHT OF WAY  
LYING NORTH OF LOTS 21, 22 AND 23 AND THAT PORTION  
LYING NORTH OF LOT 1 IN SECTION 24-27-15 AND 23-27-15,  
TAMPA & TARPON SPRINGS LAND COMPANY, PLAT BOOK  
H1, PAGE 116.**

**WHEREAS, the Capon Corporation, has petitioned this Board of County  
Commissioners to vacate the following described property:**

**Lands described in legal description attached hereto  
and by this reference made a part hereof; and**

**WHEREAS, the Petitioner is the apparent owner of record of the portion of the plat  
requested to be vacated, and have shown that the vacation of such portion of the plat will  
not affect the ownership or right of convenient access of persons owning other parts of the  
subdivision; and**

**WHEREAS, the Petitioner has shown that the requested vacation will not cause  
injury to surrounding property owners and is not needed for any public purpose; and**

**WHEREAS, the publisher's affidavit, showing compliance with the notice  
requirements of Chapter 336.10 of the Florida Statutes, has been received by the Board of  
County Commissioners.**

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Pinellas County, Florida, in regular session duly assembled on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the above described property and plat be, and the same are hereby vacated, insofar as this Board of County Commissioners has the authority to do so, pursuant to 336.09, Florida Statutes.

**BE IT FURTHER RESOLVED** that this resolution and the proof of publication of the notice of public hearing, and the proof of publication of the notice of adoption hereof, be recorded in the deed records of Pinellas County, Florida.

Commissioner \_\_\_\_\_ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner \_\_\_\_\_ and upon roll call, the vote was:

**AYES:**

**NAYS:**

**ABSENT AND NOT VOTING:**

APPROVED AS TO FORM

By \_\_\_\_\_

County Attorney

# DESCRIPTION:

That portion of right-of-way lying North of Lots 21, 22 and 23, in Section 24, Township 27 South, Range 15 East, AND that portion of right-of-way lying North of Lot 1 in Section 23, Township 27 South, Range 15 East, all of TAMPA & TARPON SPRINGS LAND COMPANY, as per the map or plat thereof, recorded in Plat Book H1, Page 116, of the public records of Pinellas County, Florida, and being more particularly described as follows:

For a POINT OF BEGINNING commence at the Northwest corner of said Section 24; thence along the North boundary of the Northwest 1/4 of said Section 24, S.89°40'54"E., a distance of 1,376.72 feet to the Northerly prolongation of the East boundary of aforementioned Lot 21, in said Section 24; thence along said Northerly prolongation, S.00°47'04"W., a distance of 15.00 feet to the Northeast corner of said Lot 21; thence along the North boundaries of said Lots 21, 22 and 23, and the Westerly prolongation thereof, in Section 24, and continuing along the North boundary of said Lot 1, and the Easterly prolongation thereof, in Section 23, N.89°40'54"W., a distance of 1,826.22 feet to the Northwest corner of said Lot 1; thence along the Northerly prolongation of said Lot 1, N.03°09'16"E., a distance of 15.02 feet to the North boundary of the Northeast 1/4 of said Section 23; thence along the North boundary of the Northeast 1/4 of said Section 23, S.89°40'54"E., a distance of 448.87 feet to the POINT OF BEGINNING.  
Containing 0.63 acres, more or less.

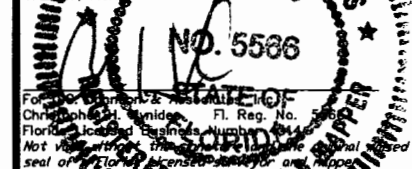
SHEET 1 OF 2  
SEE SHEET 2 FOR  
SKETCH



SURVEYING AND MAPPING

11911 South Curley Street  
San Antonio, Florida 33576  
(352) 588-2768 FAX: (352) 588-2713

We hereby certify that the legal description shown hereon is true and correct to the best of our knowledge and belief, and was prepared in accordance with the Florida Professional Standards, Chapter 47, Florida Statutes, and the Florida Board of Professional Surveyors, Chapter 47, Florida Statutes.



Corner monuments of this drawing in conjunction with the preparation of this drawing.

Improvements, if any, have not been located in conjunction with the preparation of this drawing.

This sketch is for graphic illustration only, and does not represent a field survey.

Descriptions created per this sketch.

No instruments of record reflecting easements, rights-of-way and/or ownership were furnished to the undersigned except as shown. The undersigned makes no other guarantees or representations regarding information shown hereon pertaining to easements, rights-of-way, setback lines, agreements, reservations, or other matters.

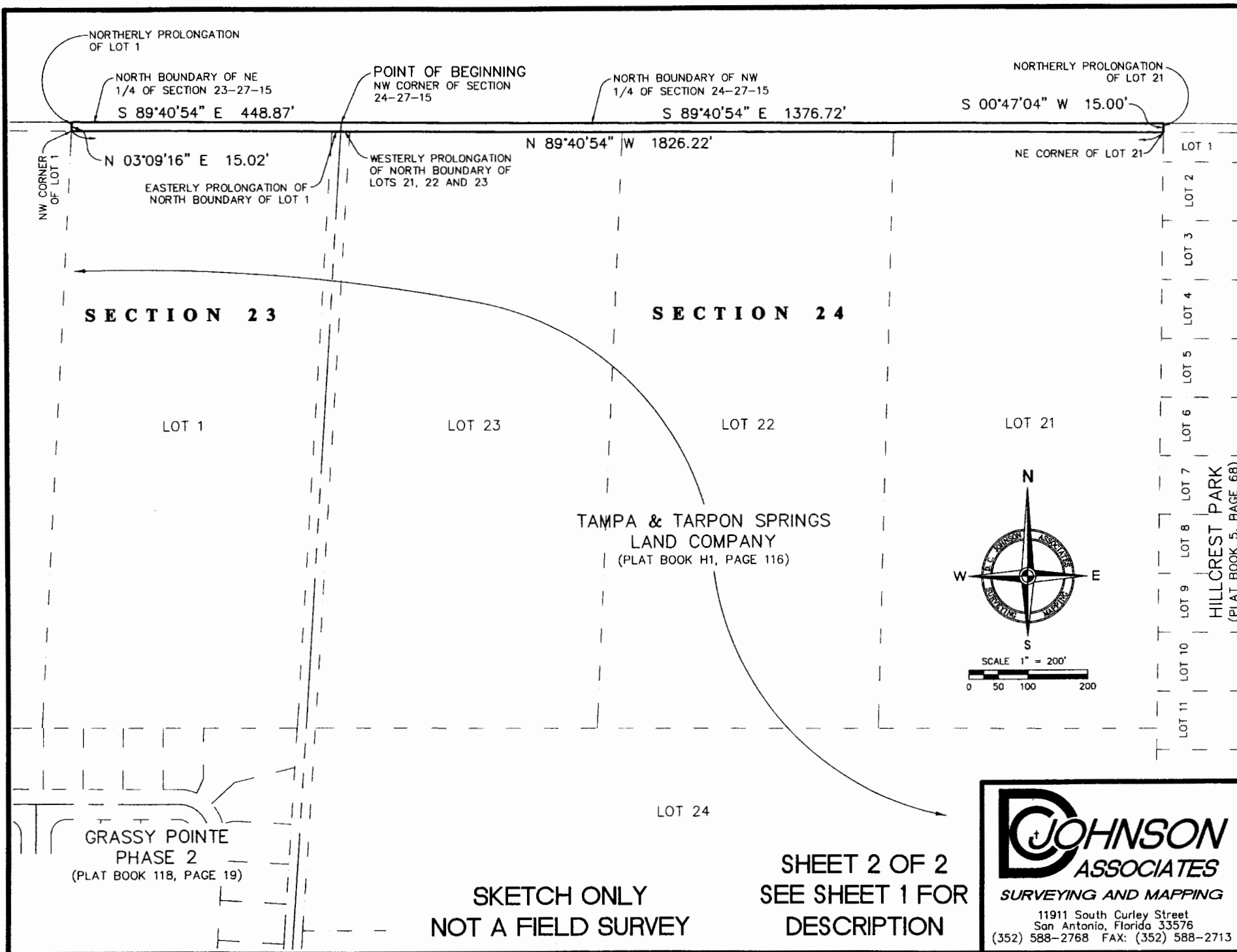
Bearings are assumed, based on the North boundary of the Northwest 1/4 of Section 24, Township 27 South, Range 15 East, Pinellas County, Florida. Said line bears S.89°40'54"E.

8/12/13 DESCRIPTION and SKETCH RR

EAST-WEST  
RIGHT-OF-WAY  
TO BE VACATED

PREPARED FOR  
Pinellas County  
Real Estate Management

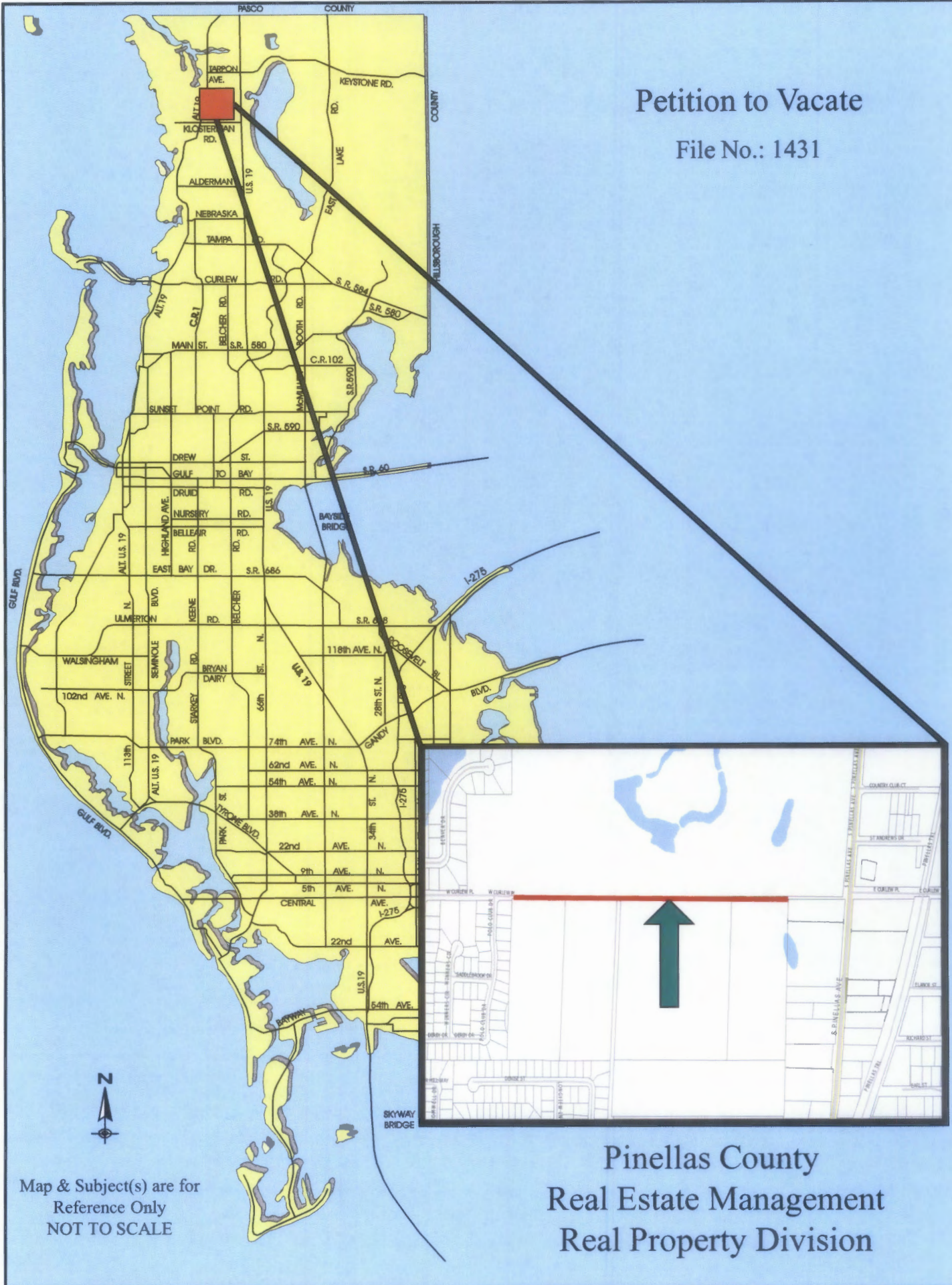
JOB NO. 12151A02.00001 CHKD BY: CHX





# Petition to Vacate

File No.: 1431



Pinellas County  
Real Estate Management  
Real Property Division