



BOARD OF COUNTY COMMISSIONERS

DATE: August 18, 2015
AGENDA ITEM NO. 36

Consent Agenda ☐

Regular Agenda ☐

Public Hearing ☒

County Administrator's Signature:

Subject:

Legislative Petition to Vacate a Portion of Right-of-Way (ROW) per §336.09, Florida Statutes (2015.)

Submitted By: James Bushert
12875 Harbor View Drive
Seminole, Florida 33776

File No.: 1444

Department:

Real Estate Management
Public Works

Staff Member Responsible:

Andrew W. Pupke, Director
Troy Tinch, Division Manager

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) CONSIDER GRANTING THE PETITION TO VACATE AND/OR RELEASE A PORTION OF THE RIGHT-OF-WAY, RETAIN A UTILITY EASEMENT OVER THE PROPERTY, AND IF GRANTED, ADOPT THE ATTACHED RESOLUTION PURSUANT TO FLORIDA STATE STATUTE 336.09, AND AUTHORIZE THE CLERK TO ATTEST AND RECORD THE RESOLUTION IN THE PUBLIC RECORDS OF PINELLAS COUNTY.

Summary Explanation/Background:

The subject petition seeks to vacate a four (4) foot portion of the right of way (ROW) known as Harbor View Drive in the Harborview No. 1 Subdivision in Section 29/30/15.

This matter was previously heard by the Board on March 18, 2014, and was denied because of public opposition to the public ROW vacation. At that time, the Board requested the Petitioner to remove the shed that is located in the ROW and the gate that is blocking the ROW.

Staff has confirmed that the gate no longer blocks the ROW and that the owner has not removed the shed. The owner maintains that the shed sits on a private driveway and is not in the ROW. Based on visual inspection, staff opines that the shed does sit in the ROW, but cannot confirm without expending County funds for a survey. The disputed shed location is a separate issue from this ROW vacation request, but is included here because of previous Board direction.

Each resident with adjoining property to Harbor View Drive has been granted a non-exclusive ingress/egress easement over the public ROW, but continued to permit public access to the ROW. The easement is recorded in Official Records Book 6987, Page 1190 and in the Warranty Deed in Official Records Book 15869, Page 2027 dated July 3, 2007.

The petitioner is the owner of the property that borders the ROW. The vacation/release of this ROW will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

A utility easement over the vacated property will be retained.

Appropriate staff members from Parks, Public Works Engineering and Planning 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, Public Works Engineering & Technical Support, Progress Energy (Distribution), Progress Energy (Transmission), and Verizon.

The Petition was properly advertised in accordance with Florida State 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 owners have paid a \$750 filing fee, including advertising cost.

Exhibits/Attachments Attached:

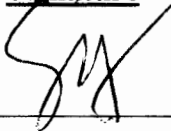

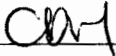

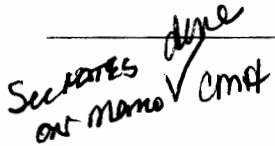
Contract Review Transmittal
Petition to Vacate
Notification List
Resolution
Location Map

CONTRACT REVIEW TRANSMITTAL SLIP**PROJECT: James Bushert****TYPE: Legislative Petition to Vacate a portion of ROW****Date: 6/29/2015 ESTIMATED EXPENDITURE/REVENUE:****\$ 0.00****(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.

<u>Review Authority</u>	<u>Review Date</u>	<u>Review Signature</u>	<u>Comments Included/Addressed Initial & Date</u>
Real Property Div. (Sean Griffin)	<u>7/20/15</u>		
Real Est. Mgmt (Andrew Pupke)	<u>07/15/15</u>		
DEI (Tom Farrand)	<u>6/30/15</u>	<u>Approved in CATS</u>	
Legal (Chelsea Hardy)	<u>7/29/15</u>		
County Admin. (Paul Sacco)	<u>7/30/15</u>		

- ☐ Release/Termination/Amendment
☐ FS 177.101 - Vacation
☒ FS 336.09/10/12 - ROW
☒ Advertisement to Board Records
☒ Scheduled Board Date
☒ Complies with Section 8 Real Estate Procedures 3.2.2 Notification

Please return to Real Estate Management Department, Real Property Division by , 2015
 All inquiries should be made to CYNTHIA HARRIS at telephone extension 43773 or 4-3672.

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

PETITION TO VACATE, PUBLIC RIGHTS-OF-WAY OR ALLEYS

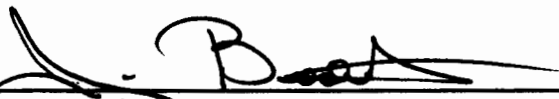
Comes now your Petitioners, James Bushert
Name of Petitioner

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:


James Bushert

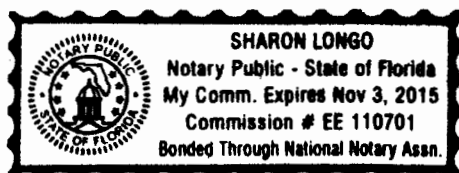
STATE OF FLORIDA
COUNTY OF PINELLAS

Sworn to (or affirmed) and subscribed before me this 20th day of July, 2015,
by James Bushert. He is personally known to me, or has produced _____ as
identification, and who did (did not) take an oath.

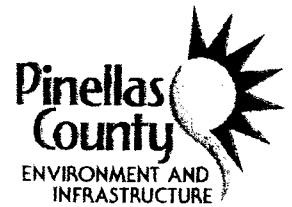
NOTARY
SEAL

NOTARY Sharon Longo
Print Name Sharon Longo

My Commission Expires: _____ Commission Number: _____



PINELLAS COUNTY
DEPARTMENT OF ENVIRONMENT AND INFRASTRUCTURE
DIVISION OF ENGINEERING AND TECHNICAL SUPPORT
SURVEY AND MAPPING SECTION
22211 U.S. HIGHWAY 19 N.
CLEARWATER, FLORIDA 33765-2328



SECTION(S) 29 , TOWNSHIP 30 SOUTH, RANGE 15 EAST

Additions or deletions by other than the Professional Land Surveyor in responsible charge is prohibited.
Land Description is invalid without signature and/or embossed seal of the Professional Land Surveyor

DESCRIPTION

A strip of land know as Harbor View Drive being in that portion of the Fractional Southeast 1/4 of Section 29, Township 30 South, Range 15 East, Pinellas County, Florida bounded as follows: On the North by the South line of Lots 42, 43 and 44, Harbor View No. 1 according to Plat Book H6, Page 4, Public Records of Hillsborough County, Florida, of which Pinellas County, Florida was formerly a part; on the South by the South line of the Southeast 1/4 of said Section 29; on the West by the Southerly extension of the Westerly line of Lot 42 of said Harbor View No. 1; on the East by the Southerly extension of Easterly line of the West 38 feet of Lot 44 of said Harbor View No. 1, and being more particularly described as follows:

Beginning at the Southwest corner of Lot 42 of Harbor View No. 1; thence Easterly along the Southerly line of said Lots 42, 43 and 44, South 88° 47' 54" East, a distance of 159.16 feet; thence South 00° 29' 11" West, along the Southerly extension of the Easterly line of the West 38 feet of Lot 44 a distance of 4.48 feet; thence North 88° 43' 04" West, along the South line of the Southeast 1/4 of said Section 29 a distance of 159.16 feet; thence North 00° 28' 08" East, along the Southerly extension of the West line of Lot 42 Harbor View No. 1, a distance of 4.25 feet to the Point of Beginning.

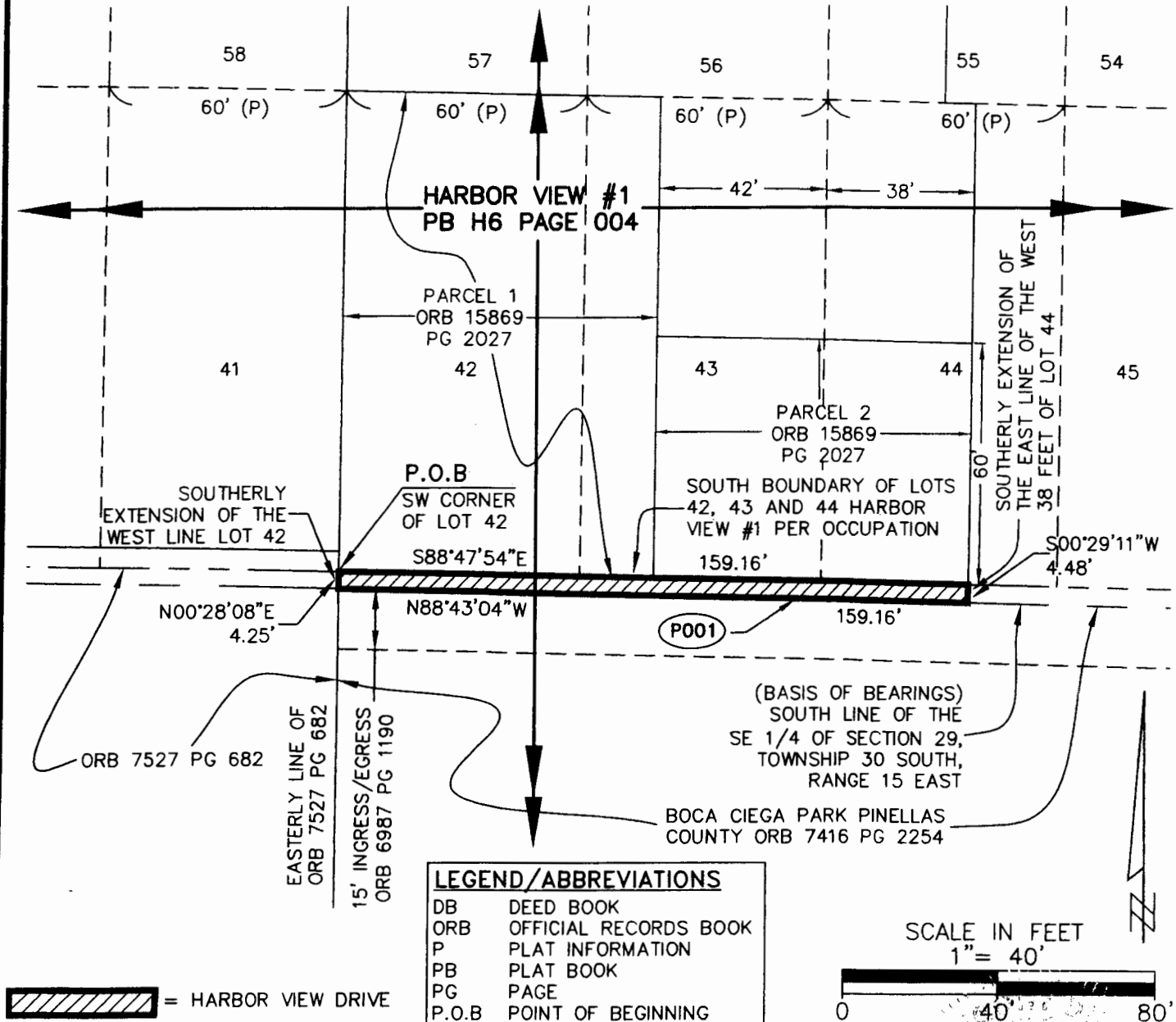
PARCEL CONTAINING: 694 square feet or 0.016 acres more or less.

BASIS OF BEARING: Bearings indicated are based on the south line of the Southeast 1/4 of Section 29, Township 30 South, Range 15 East, Pinellas County, Florida, being North 88° 43' 04" West as depicted on the Pinellas County Topographic Survey of Harbor View Drive, Survey File Number 1175.

Subject to other easements, restrictions, or reservations of record, if any.

DESCRIPTION NOT COMPLETE
WITHOUT SKETCH

SECTION(S) 29, TOWNSHIP 30 SOUTH, RANGE 15 EAST
SKETCH--NOT A SURVEY



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CALCULATED BY:	The above Sketch and/or Land description was prepared under my supervision and is true and correct to the best of my knowledge and belief.
GD	
CHECKED BY:	By: Pinellas County Survey and Mapping Section
SZ	
S.F.N.:	DATE 12/20/2013
1175	GRIGORY DUQUE, PROFESSIONAL SURVEYOR AND MAPPER LICENSE NUMBER: 6647 STATE OF FLORIDA, PHONE # (727) 464-8904

SEAL

EXHIBIT A

Parcel No.: P001

SHEET 2 OF 2

SECTION(S) 29, TOWNSHIP 30 SOUTH, RANGE 15 EAST

PINELLAS COUNTY MAP



SCALE IN FEET 1" = 300'



PARTIAL VACATION OF
HARBOR VIEW DRIVE
from LOT 42 WEST
to LOT 44 EAST

EXHIBIT
NOT A SURVEY
PARCEL P001
EXHIBIT_P001.dwg

DATE: 11/15/2013
PHOTOGRAPHY DATE: 01/2011
SURVEY FILE NO.: 1175
SHEET 01 OF 01

PROPERTY OWNER COURTESY NOTIFICATION LIST FOR FILE #1444

PETITIONER

JAMES BUSHERT
12875 HARBOR VIEW DRIVE
SEMINOLE, FL 33776

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

RICH, JEFFREY J
RICH, SHEILAH D
12834 POINSETTIA AVE
SEMINOLE, FL 33776-4317

MILLER, ROY W
12869 POINSETTIA AVE
SEMINOLE, FL 33776-4318

12884 POINSETTIA AVE
SEMINOLE, FL 33776-4317

PINELLAS COUNTY
ATTN: PARKS DEPT
315 COURT ST
CLEARWATER, FL 33756-5165

FANSLER, RICHARD
12942 HARBOR VIEW DR
SEMINOLE, FL 33776-4300

HEALY, JASON M
12820 POINSETTIA AVE
SEMINOLE, FL 33776-4317

KEANE, DAVID C
KEANE, JEANNINE M
12893 POINSETTIA AVE
SEMINOLE, FL 33776-4318

MC WHORTER, LINDA S B
MC WHORTER, MICHAEL C
12881 POINSETTIA AVE
SEMINOLE, FL 33776-4318

ZORN, ZACHARY R
12825 HARBOR VIEW DR
SEMINOLE, FL 33776-4323

SMITH, STEVEN K
SMITH, ANN W
12890 POINSETTIA AVE
SEMINOLE, FL 33776-4317

BROWN, BRUCE
BROWN, SANDRA M
7007 129TH ST
SEMINOLE, FL 33776-4327

TRIPP, JASON
TRIPP, JAMIE
12852 POINSETTIA AVE
SEMINOLE, FL 33776-4317

PARR, DENNIS L
12851 POINSETTIA AVE
SEMINOLE, FL 33776-4318

12868 POINSETTIA AVE
SEMINOLE, FL 33776-4317

KATES, JAMES P
KATES, MERRY R
12930 HARBOR VIEW DR
SEMINOLE, FL 33776-4300

FUCHS, JOSEPH
FUCHS, EVA
247 176TH AVE E
REDINGTON SHORES, FL 33708-1220

LIMMER-GARCIA, SIMONE
GARCIA, ROBERT P
12835 HARBOR VIEW DR
SEMINOLE, FL 33776-4323

HOUSH GHOVAEE
NORTHSIDE ENGINEERING SERVICES
300 SOUTH BELCHER ROAD
CLEARWATER, FLORIDA 33765

FUSSNER, WILLIAM
FUSSNER, SANDRA
12805 POINSETTIA AVE
SEMINOLE, FL 33776-4318

TRIPP, GEORGE
TRIPP, JENNIFER
12810 POINSETTIA AVE
SEMINOLE, FL 33776-4317

BROWER, ALFRED
BROWER, JANET
12833 POINSETTIA AVE
SEMINOLE, FLORIDA 33776

HEALY, WILDA
12819 POINSETTIA AVE
SEMINOLE, FL 33776-4318

RESOLUTION NO. _____

**RESOLUTION VACATING A PORTION OF HARBOR VIEW
DRIVE, HARBOR VIEW NO. 1 LOT 42 PLAT BOOK 0H6 PAGE 4
IN SECTION 29-30-15, RESERVING A UTILITY EASEMENT
OVER THE VACATED AREA.**

**WHEREAS, James Bushert, 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 has 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, a utility easement will be reserved over the entire vacated area; and

**WHEREAS, the Petitioners have 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
OFFICE OF COUNTY ATTORNEY
BY
ATTORNEY**

PINELLAS COUNTY
DEPARTMENT OF ENVIRONMENT AND INFRASTRUCTURE
DIVISION OF ENGINEERING AND TECHNICAL SUPPORT
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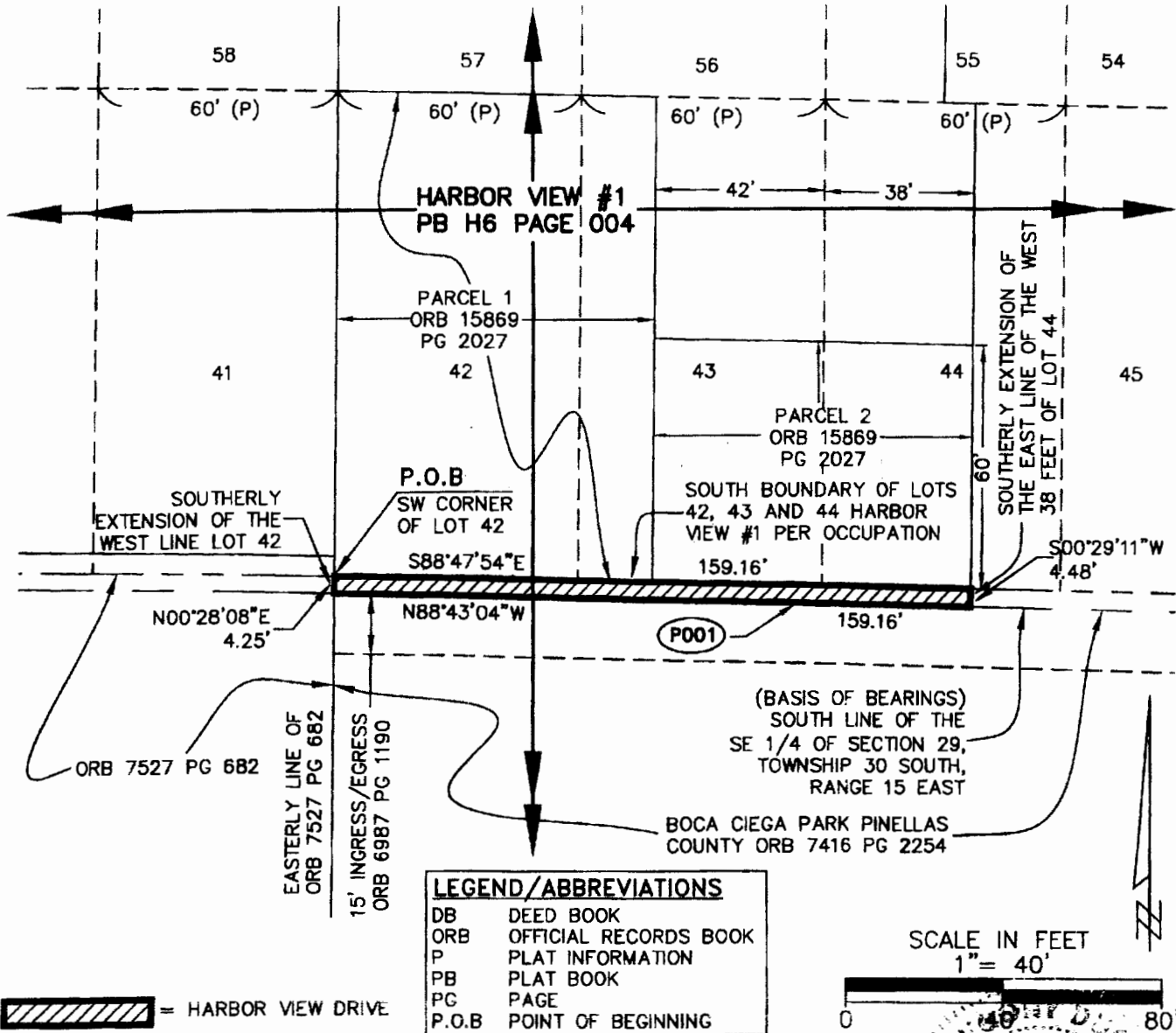
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CALCULATED BY: GD	The above Sketch and/or Land description was prepared under my supervision and is true and correct to the best of my knowledge and belief. By: Pinellas County Survey and Mapping Section <i>Gregory Duque</i> DATE <u>12/20/2013</u> GREGORY DUQUE, PROFESSIONAL SURVEYOR AND MAPPER LICENSE NUMBER: 6647 STATE OF FLORIDA, PHONE # (727) 464-8904
CHECKED BY: SZ	
S.F.N.:	
1175	

SECTION(S) 29, TOWNSHIP 30 SOUTH, RANGE 15 EAST

PINELLAS COUNTY MAP



SCALE IN FEET 1" = 300'



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from LOT 42 WEST
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EXHIBIT
NOT A SURVEY
PARCEL P001

EXHIBIT_P001.dwg

DATE: 11/15/2013

PHOTOGRAPHY DATE: 01/2011

SURVEY FILE NO.: 1175

SHEET 01 OF 01

Petition to Vacate

File No.: 1444



Map & Subject(s) are for
Reference Only
NOT TO SCALE

Pinellas County
Real Estate Management
Real Property Division