

RESOLUTION NUMBER 3779

A RESOLUTION OF THE CITY OF PERRIS, CALIFORNIA, FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY IN FEE LOCATED AT THE WEST SIDE OF INDIAN AVENUE JUST NORTH OF OLEANDER AVENUE (APNS: 302-020-013 AND 302-020-028), IN THE CITY OF PERRIS, CALIFORNIA FOR ROAD IMPROVEMENTS

WHEREAS, for the public purposes set forth herein, the City of Perris, California, is authorized to acquire property through the exercise of eminent domain pursuant to Section 19 of Article 1 of the California Constitution, Sections 1240.010 through 1240.050 and Sections 1240.410 through 1240.430 of the California Code of Civil Procedure, and Government Code §§ 37350, 37353, 37350.5 and 40404; and

WHEREAS, the “Project” for the purposes of this acquisition consists of the Oleander Avenue street widening project in the vicinity of Indian Avenue and uses appurtenant thereto (referred to herein as the “Project”); and

WHEREAS, in order to carry out and make effective the principal purpose of the Project, it is necessary for the City of Perris to acquire a fee interest in portions of certain privately-owned pieces of real property for street right-of-way purposes. The property at issue is referred to as Assessor’s Parcel Nos. 302-020-013 and 302-020-028, located on the west side of Indian Avenue just north of Oleander Avenue, in the City of Perris, as more particularly described in Exhibit “A” attached hereto and incorporated by this reference (hereinafter, collectively, the “Property”), located as depicted on the diagram attached hereto as Exhibit “B”, which is incorporated by this reference; and

WHEREAS, on or about August 21, 2006, the City made a written offer to acquire a fee interest in the Property to the record owner of the Property at an amount that was not less than the appraised fair market value in compliance with Government Code § 7267.2(a), and the owner of the Property has not accepted said offer or otherwise conveyed the interests in the Property to the City as of the date of this Resolution; and

WHEREAS, on September 12, 2006, a Notice of Intention to Adopt a Resolution of Necessity for Acquisition of Certain Real Property Identified as Assessor’s Parcel Nos. 302-020-013 and 302-020-028 (a copy of which is attached hereto as Exhibit “C” and incorporated by this reference) was personally served on all persons whose names appear on the last equalized County Assessment Roll as having an ownership interest in the Property, and to the address appearing on said Roll, which Notice of Hearing advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein;

WHEREAS, the hearing set out in said Notice of Hearing was held on September 26, 2006, at the time and place stated therein, and all interested parties were given an opportunity to be heard on the following matters:

- A. Whether the public interest and necessity require the Project;
- B. Whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury;
- C. Whether the Property is necessary for the Project;
- D. Whether the offer meeting the requirements of Government Code Section 7267.2 has been given; and
- E. Whether all other prerequisites for the exercise of eminent domain to acquire the Property have been met.

WHEREAS, the City Council, as a result of such hearing, has determined that the public health, safety, and welfare require the City to acquire a fee interest in the Property for the stated purposes; and

WHEREAS, the Project for which the Property is sought has previously been reviewed under applicable environmental procedures conducted by the City;

NOW, THEREFORE, BE IT RESOLVED that the City Council, hereby does find, determine, and declare based upon evidence presented to it as follows:

Section 1. The facts and conclusions referenced in this Resolution, and the findings made by the City Council herein, are supported by substantial evidence contained in the record of this proceeding.

Section 2. The property to be acquired consists of a fee interest for a street right-of-way purposes and uses appurtenant to in the properties located within the City of Perris, County of Riverside, State of California, which are located on the west side of Indian Avenue just north of Oleander Avenue, Assessor's Parcel Nos. 302-020-013 and 302-020-028, and more specifically described above and in Exhibit "A".

Section 3. That the public interest, convenience, and necessity require the acquisition by the City of a fee interest for a street right-of-way purposes and uses appurtenant to in the Property. The Project will relieve congestion and increase traffic flow through the Project area. The Property is located within the boundaries of the City of Perris and will improve traffic safety, provide a means of access to the properties located adjacent to the Project, and will provide an identity to this revitalized area and enhance property values. The Project is planned and located in a manner which will be the most compatible with the greatest public good and the least private injury. The taking of the fee interest in said Property as described above is

necessary for the Project because the Project cannot be constructed without the Property and the acquisition is authorized by Section 19 of Article 1 of the California Constitution, Section 1230.010, *et seq.*, and Section 1240.410, *et seq.*, of the California Code of Civil Procedure, and Sections 37350, 37350.5, 37353, and 40404 of the Government Code.

Section 4. The offer required by Government Code Section 7267.2 has been made to the owner of record of the Property, by way of letter dated August 21, 2006, and the City has pursued negotiations thereafter, and negotiations with the owner of the fee interest in the Property have not been successful.

Section 5. The Project was one portion of a "project" (as defined by the California Environmental Quality Act) which was the subject of a Negative Declaration, prepared and filed with the County Clerk of Riverside on February 3, 2005, pursuant to Section 15280 of the California Environmental Quality Act.

Section 6. The City hereby declares its intent to acquire a fee interest in the Property described in Exhibit "A" in the City's name in accordance with the provisions of the law of the State of California and finds that all conditions, statutory requirements and prerequisites to the exercise of eminent domain to acquire the Property described herein have been complied with by the City.

Section 7. The law firm of Aleshire & Wynder, LLP, is hereby authorized and directed to prepare, institute, and prosecute in the name of the City such proceedings, in the Court having proper jurisdiction thereof, as may be necessary for the acquisition of a fee interest in the Property in accordance with the provisions of the California Eminent Domain Law and the Constitution of California. Said counsel are also authorized and directed to obtain any necessary order of the Court granting the City the right of immediate possession and occupancy of the Property.

ADOPTED, SIGNED and APPROVED this 26th day of September, 2006.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Judy L. Haughney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 3779 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 26th day of September, 2006, and that it was so adopted by the following called vote:

AYES: Yarbrough, Landers, Motte, Rogers, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Judy L. Haughney

EXHIBIT "A-1"
(RESOLUTION NUMBER 3779)

A DEDICATION FOR STREET PURPOSES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION

THAT PORTION OF THE NORTH ½ OF LOT 1 IN BLOCK 3 OF RIVERSIDE TRACT, AS SHOWN BY A MAP ON FILE IN BOOK 14, PAGE 668 OF MAPS, RECORDS OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF INDIAN AVENUE AND OLEANDER AVENUE;

THENCE NORTH 00° 32' 51" EAST ALONG SAID CENTERLINE OF INDIAN AVENUE, 317.05 FEET;

THENCE NORTH 89° 27' 09" WEST, 30.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID INDIAN AVENUE, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 32' 51" EAST ALONG SAID RIGHT-OF-WAY LINE, 55.00 FEET;

THENCE NORTH 89° 28' 02" WEST, 17.00 FEET;

THENCE SOUTH 00° 32' 51" WEST, 44.12 FEET;

THENCE SOUTH 42° 12' 30" WEST, 14.80 FEET;

THENCE SOUTH 89° 28' 02" EAST, 27.03 TO THE TRUE POINT OF BEGINNING.

THE AREA OF THIS DEDICATION IS 990 SQUARE FEET MORE OR LESS.

EXHIBIT "A-2"
(RESOLUTION NUMBER 3779)

**A DEDICATION FOR STREET PURPOSES,
MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

LEGAL DESCRIPTION

THAT PORTION OF LOT 2 IN BLOCK 3 OF RIVERSIDE TRACT, AS SHOWN BY A MAP ON FILE IN BOOK 14, PAGE 668 OF MAPS, RECORDS OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF INDIAN AVENUE AND OLEANDER AVENUE;

THENCE NORTH 89° 23' 55" WEST ALONG SAID CENTERLINE OF OLEANDER AVENUE, 659.66 FEET;

THENCE NORTH 00° 36' 05" EAST, 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID OLEANDER AVENUE, SAID POINT BEING THE TRUE POINT OF BEGINNING;

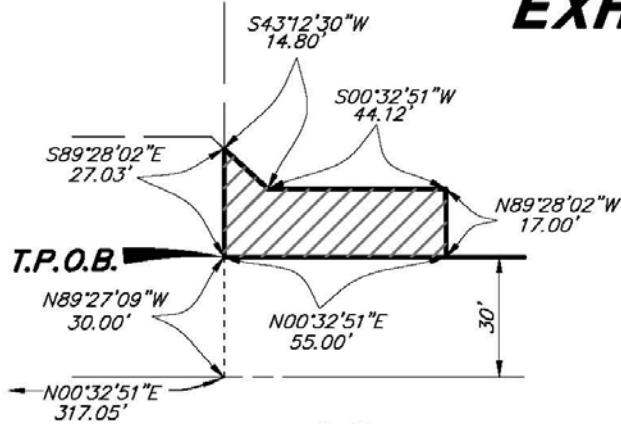
THENCE NORTH 89° 23' 55" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 170.12 FEET;

THENCE NORTH 84° 53' 27" EAST, 170.94 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT;

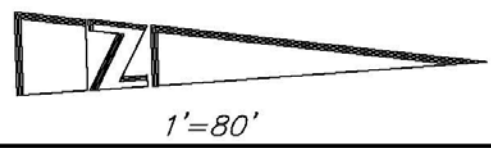
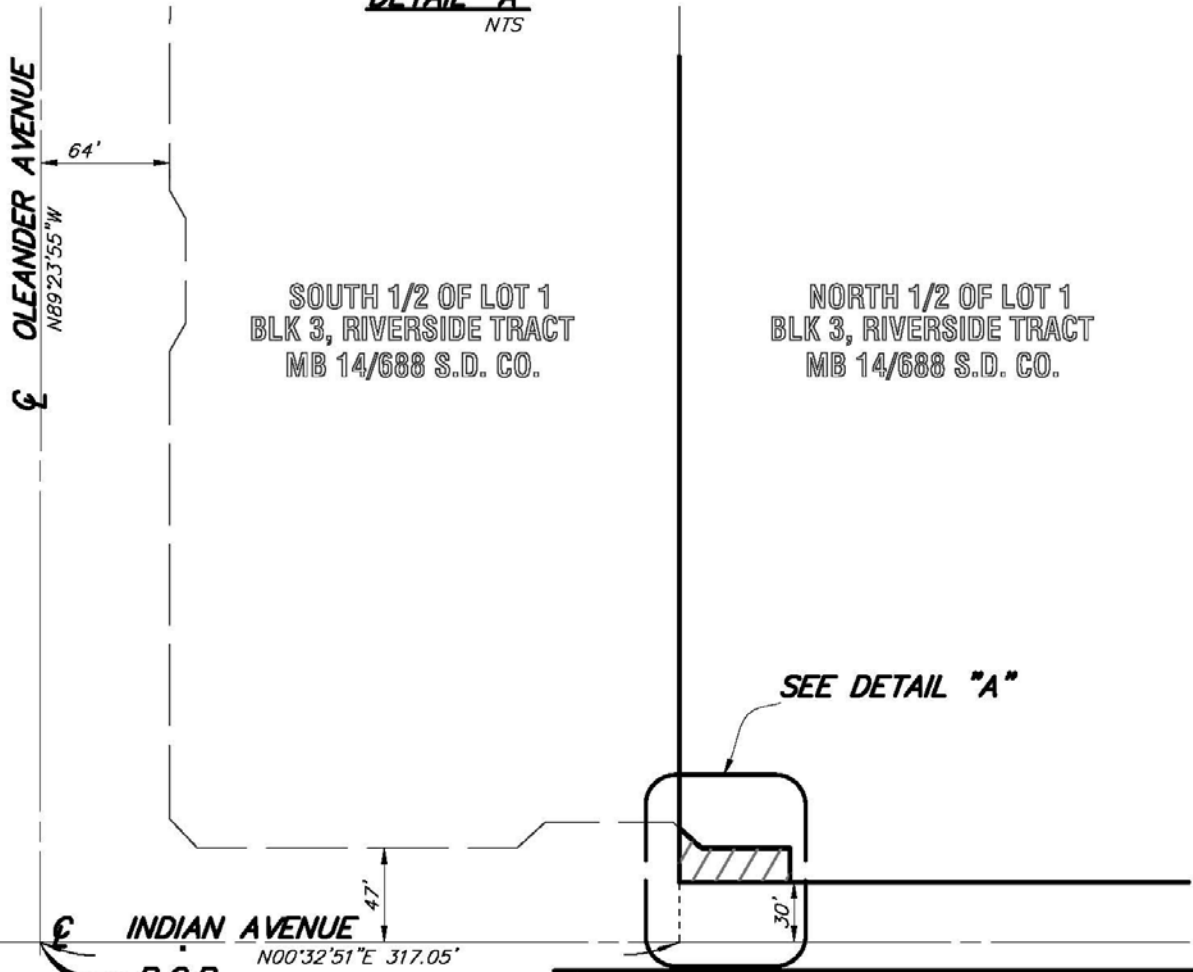
THENCE SOUTH 00° 31' 27" WEST ALONG SAID EASTERLY LINE, 17.00 FEET TO THE TRUE POINT OF BEGINNING.

THE AREA OF THIS DEDICATION IS 1,446 SQUARE FEET (0.03 ACRES) MORE OR LESS.

EXHIBIT "B"

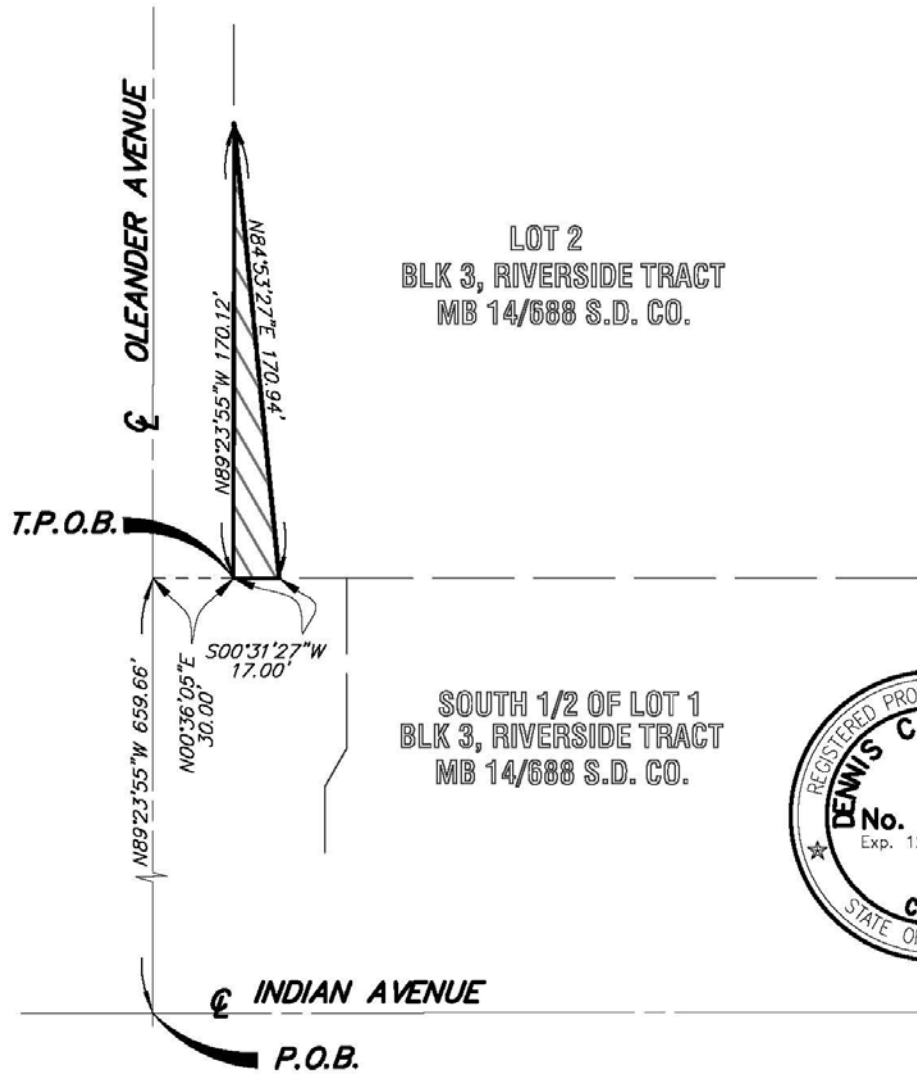


DETAIL "A"
NTS



LAND DEVELOPMENT DESIGN CORPORATION		2313 E. Philadelphia St., Ste. F ONTARIO, CA 91761 (909) 930-1466 FAX (909) 930-1468	
PLANNING • CIVIL • SURVEYING			
DATE: 06/23/06	SCALE: 1' = 80'	SHEET: 1 OF 1	JOB NO. 4006
			STREET DEDICATION

EXHIBIT "B"



1"=60'

LAND DEVELOPMENT DESIGN CORPORATION		2313 E. Philadelphia St., Ste. F ONTARIO, CA 91761 (909) 930-1466 FAX (909) 930-1468		
		PLANNING • CIVIL • SURVEYING		
DATE: 6/23/06	SCALE: 1"=60'	SHEET: 1 OF 1	JOB NO. 4006	STREET DEDICATION



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WYNDER, LLP**
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Phone 949.223.1170
Fax 949.223.1180

9/12/2006

SENDER'S E-MAIL:
CLOPEZ@AWATTORNEYS.COM

NOTICE OF INTENTION TO ADOPT A
RESOLUTION OF NECESSITY FOR ACQUISITION
OF CERTAIN REAL PROPERTY IDENTIFIED AS
ASSESSOR PARCEL NOS. 302-020-013 AND 302-020-028

VIA CERTIFIED MAIL

Stephen Herring
670 Silver Spur Rd. #227
Rolling Hills Estates, CA 90274

This notice is given to you under requirements of California Code of Civil Procedure Section 1245.235. This notice concerns a portion of that certain real property identified as Assessor's Parcel Nos. 302-020-013 and 302-020-028 in the City of Perris. The City of Perris ("City") has been investigating the acquisition of a fee interest in a portion of this property for a road improvement project ("Project"). You were previously contacted by an appraiser retained by the City and given an opportunity to accompany the appraiser on an inspection of the property.

California Code of Civil Procedure Section 1240.030 provides that the power of eminent domain may be exercised to acquire property for a proposed public project if the following conditions are established:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The property sought to be acquired is necessary for the project;
- D. The offer required by Section 7267.2 of the Government Code has been made to the owner of record.

01006/0017/46030.02

Exhibit "C"



Stephen Herring
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This notice is to inform you that the City will be asked to decide if the above conditions are met concerning the City's acquisition of the above-referenced property as described above. This meeting will be held at or about 6:00 p.m. on September 26, 2006, in the City Council chambers located at 101 North "D" Street, Perris, California 92570. If these conditions are met, the City will be asked to adopt a resolution of necessity, which is a prerequisite for the initiation of eminent domain proceedings to acquire a fee interest in the property.

For your information and convenience, a description of the interests being sought is attached to this notice as Exhibits "A1" and "A2." If you would like further information regarding the Project, please contact Hector Apodaca with the City of Perris at (951) 943-6111.

Please be advised that you are entitled to appear and be heard on any of the matters encompassed within the resolution, specifically those matters listed above, and whether the City has the legal right and has followed the procedures required to acquire the property by eminent domain.

Please note that if you wish to legally challenge any action taken by the adoption of a resolution of necessity, any of the findings or matters included within it or any of the actions taken pursuant to it, you may be limited in court to raising only those issues raised at the resolution of necessity hearing, or in written correspondence delivered to the City at, or prior to the hearing on this matter.

The City must adopt a resolution of necessity before an eminent domain proceeding can commence. Within six (6) months after the adoption of a resolution of necessity, the City may commence eminent domain proceedings in the Consolidated Superior and Municipal Courts of Riverside County. In any such proceeding, the court will be asked to determine the amount of just compensation to which you may be entitled in the event the property is taken in eminent domain.

Neither the pendency of the City's consideration of the resolution of necessity, nor the initiation of formal eminent domain proceedings, in any way prevents further negotiations from occurring for the acquisition of your property, and the City will be most willing to continue negotiations.



Stephen Herring
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If you have any comments or questions, please do not hesitate to contact me at (949) 1170. Thank you for your cooperation in this matter.

Very truly yours,

ALESHIRE & WYNDER, LLP

A handwritten signature in black ink, appearing to read 'C Lopez', with a long horizontal flourish extending to the right.

Christy Marie Lopez

Enclosure

EXHIBIT "A1"

A DEDICATION FOR STREET PURPOSES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION

THAT PORTION OF THE NORTH ½ OF LOT 1 IN BLOCK 3 OF RIVERSIDE TRACT, AS SHOWN BY A MAP ON FILE IN BOOK 14, PAGE 668 OF MAPS, RECORDS OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF INDIAN AVENUE AND OLEANDER AVENUE;

THENCE NORTH 00° 32' 51" EAST ALONG SAID CENTERLINE OF INDIAN AVENUE, 317.05 FEET;

THENCE NORTH 89° 27' 09" WEST, 30.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID INDIAN AVENUE, SAID POINT BEING THE **TRUE POINT OF BEGINNING**;

THENCE NORTH 00° 32' 51" EAST ALONG SAID RIGHT-OF-WAY LINE, 55.00 FEET;

THENCE NORTH 89° 28' 02" WEST, 17.00 FEET;

THENCE SOUTH 00° 32' 51" WEST, 34.12 FEET;

THENCE SOUTH 42° 57' 15" WEST, 28.28 FEET;

THENCE SOUTH 89° 28' 02" EAST, 36.07 TO THE **TRUE POINT OF BEGINNING**.

THE AREA OF THIS DEDICATION IS 1,134 SQUARE FEET (0.03 ACRES) MORE OR LESS.



EXHIBIT "A2"

A DEDICATION FOR STREET PURPOSES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION

THAT PORTION OF LOT 2 IN BLOCK 3 OF RIVERSIDE TRACT, AS SHOWN BY A MAP ON FILE IN BOOK 14, PAGE 668 OF MAPS, RECORDS OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF INDIAN AVENUE AND OLEANDER AVENUE;

THENCE NORTH $89^{\circ} 23' 55''$ WEST ALONG SAID CENTERLINE OF OLEANDER AVENUE, 659.66 FEET;

THENCE NORTH $00^{\circ} 36' 05''$ EAST, 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID OLEANDER AVENUE, SAID POINT BEING THE **TRUE POINT OF BEGINNING**;

THENCE NORTH $89^{\circ} 23' 55''$ WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 170.1 FEET;

THENCE NORTH $84^{\circ} 53' 27''$ EAST, 152.80 FEET;

THENCE NORTH $00^{\circ} 36' 05''$ EAST, 17.21 FEET;

THENCE NORTH $52^{\circ} 29' 46''$ EAST, 22.89 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT;

THENCE SOUTH $00^{\circ} 31' 27''$ WEST ALONG SAID EASTERLY LINE, 46.55 FEET TO THE **TRUE POINT OF BEGINNING**.

THE AREA OF THIS DEDICATION IS 1,869 SQUARE FEET (0.04 ACRES) MORE OR LESS.



