

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT
APPLICATION FOR WAIVER OF MINIMUM REQUIRED ROAD FRONTAGE
ORDINANCE 2016-0154 (WRF-16-21)

APRIL 5, 2016

Location: 4017 Livingston Road
Between Old St. Augustine Road and
Pine Acres Road

Real Estate Number: 155770-0200 and the east 30 feet of 155762-0100

Waiver Sought: Reduce minimum required road frontage from 48
feet required to 30 feet proposed for development of
a single-family home.

Present Zoning District: Residential Low Density – 60 (RLD-60)

Current Land Use Category: Low Density Residential (LDR)

Planning District: Southeast, District 3

Planning Commissioner: Daniel Blanchard

City Council Representative: The Honorable Matt Schellenberg, District 6

Owner: Charles E. Hillyer, Manager
Liv Road Investment of Jax, LLC
11576 San Jose Boulevard
Jacksonville, Florida 32223

Staff Recommendation: **APPROVE with condition**

GENERAL INFORMATION

Application for Waiver of Minimum Required Road Frontage **Ordinance-2016-0154 (WRF-16-21)** seeks to reduce the minimum required road frontage from 48 feet required to 30 feet to permit the development of a new single-family residence on the subject property. The property was previously landlocked until the east 30 feet of parcel number 155762-0100 (lying to the south) was recently deeded to the owner in order to provide access to Livingston Road. That

access is partially obstructed by a tree and existing septic system that previously was envisioned as staying with the previous owner, which would have left an available access width of 23 feet wide at its most constrained point (original request). The revised legal description stipulates an accessway width of 30 feet. The acquisition of the 30 feet wide accessway obtained from Parcel number 155762-0100 does not create a non-conforming lot in that it is zoned RLD-60 and the remaining lot width (after divestment of the 30 feet access) is 84 feet remaining.

The subject property under consideration consists of the 2.05 acre base property plus accessway of 0.13 acres for a total area of approximately 2.2 acres. The property is located within the Urban Development Area.

DEFINITION

According to Section 656.1601 of the Zoning Code, the term waiver means a relaxation of the Zoning Code minimum distance requirements for liquor license locations, pursuant to Section 656.805 of the Zoning Code, and for minimum street frontage, pursuant to Section 656.407 of the Zoning Code. Waivers of Road Frontage are authorized to be granted by the City Council pursuant to the criteria set forth in Section 656.133(b) of the Zoning Code.

STANDARDS, CRITERIA AND FINDINGS

Pursuant to the provisions of Section 656.133(d) of the Zoning Code, a waiver for minimum required street frontage may be granted if the City Council makes a positive finding based on substantial, competent evidence that the application meets all of the following criteria:

- (i) *Are there practical or economic difficulties in carrying out the strict letter of the regulation?*

Yes. The property is developable in other respects. A residential dwelling unit is otherwise permitted on the property since the property has the minimum required site area required by code for nearly a dozen single family units. However, the site has been landlocked from access to a public street, thus severely limiting site functionality and future subdivision potential. The lack of frontage on a public roadway makes the lot otherwise undevelopable according to the strict letter of the regulation (Section 656.704).

- (ii) *Is the request based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations)?*

No. Grant of the request would allow for construction of one single family dwelling unit, meeting the minimum lot area requirements and pertinent development standards. The two acre parcel is designated for Low Density Residential land use by the 2030 Comprehensive Plan: Future Land Use Element. Approval of this request will allow development to the highest and best use of the property.

The Code of Subdivision Regulations would require an additional formal review for partitioning of a parcel into three or more lots. This application does not contemplate subdivision of the property.

- (iii) *Will the proposed waiver substantially diminish property values in, or alter the essential character of the area surrounding the site and will the waiver substantially interfere with or injure the rights of others?*

No. Section 656.137 of the City of Jacksonville Code of Ordinances requires notice to all property owners holding property within 350 feet of the subject property. As previously discussed, access will be via a proposed driveway through a newly acquired 30 feet wide accessway leading to Livingston Road.

The essential character of the area is unaffected by the size, use and development pattern of the property relative to the size of surrounding properties.

- (iv) *Is there a valid and effective easement for adequate vehicular access connected to a public street maintained by the City or an approved private street?*

Yes. There is 30 feet of frontage directly on Livingston Road. That provides access and ingress for emergency services, code enforcement officers, solid waste collection, utility providers and other members of the public who have legitimate interest in access to the property.

- (v) *Will the proposed waiver be detrimental to the public health, safety or welfare, and result in additional expense, the creation of nuisances or conflict with any other applicable law?*

No. The proposed waiver will not be detrimental to the public health, safety, or welfare. The site can be accessed via Livingston Road. The development of the site will be required to comply with the Land Development Procedures Manual.

RECOMMENDATION

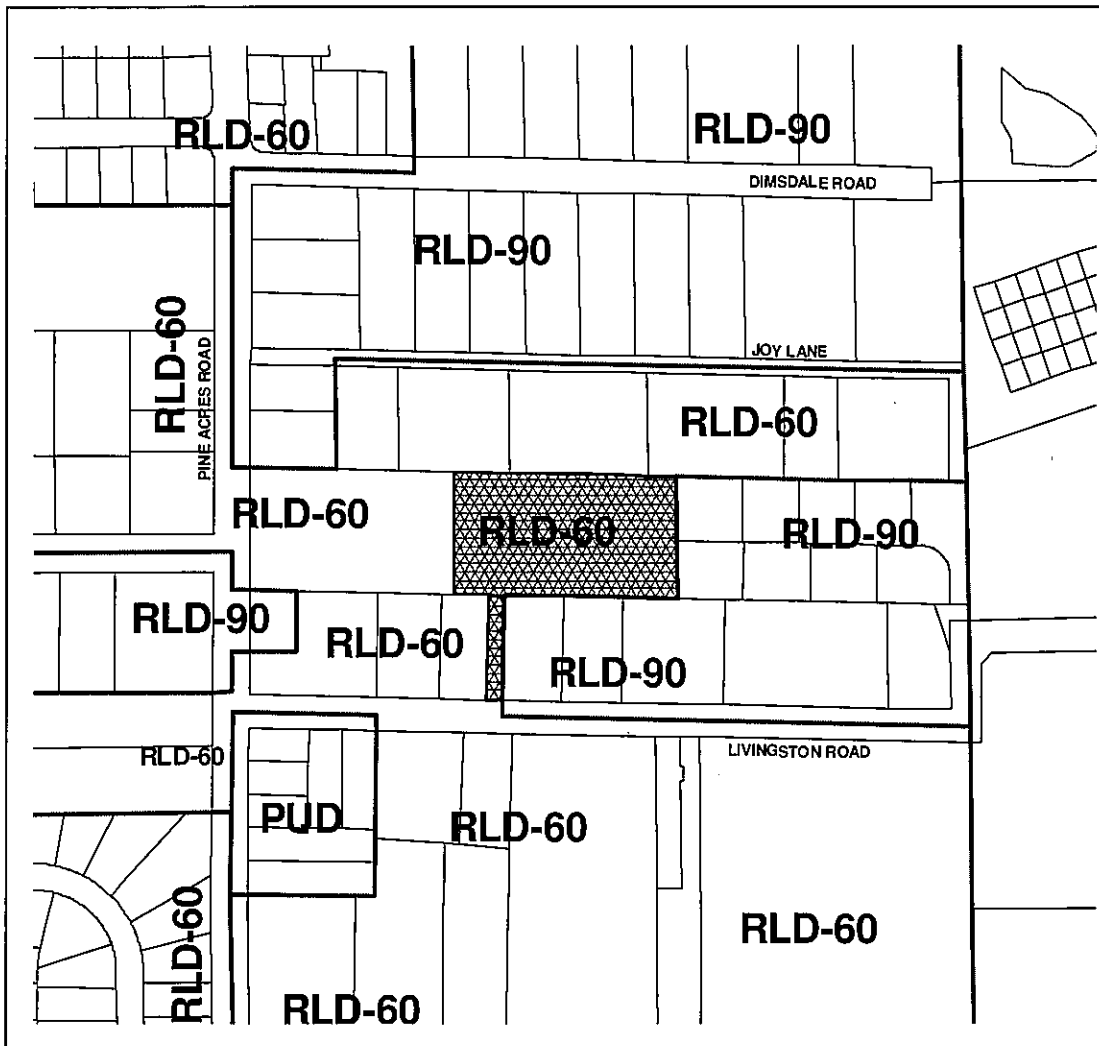
Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for Waiver of Minimum Required Road Frontage **Ordinance 2016-0154 (WRF-16-21)** be **APPROVED** with the following exhibit:

1. **Revised legal description dated March 16, 2016.**
2. **The property address shall be clearly displayed at the point of access pursuant to Section 745.103 (b) and (e), Ordinance Code.**

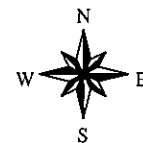
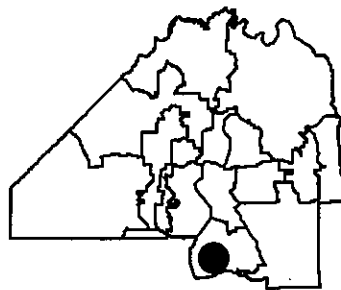
SUPPLEMENTAL INFORMATION



Figure 1. Subject property viewed looking north from Livingston Road showing access driveway and with notice sign posted.



REQUEST SOUGHT:



0 100 Feet

COUNCIL DISTRICT:

6

APPLICATION NUMBER:

WRF-2015-0021

Exhibit 2

APPLICATION FOR WAIVER OF MINIMUM REQUIRED ROAD FRONTAGE

Application No. <u>WRF- 15-21</u>
Set for Public Hearing on:
Notice of Violation:

This application must be typed or printed in black ink and submitted in person with three (3) other copies, for a total of four (4) copies.

Planning and Development Department
Zoning Section
Ed Ball Building
214 North Hogan Street, 2nd Floor
Jacksonville, Florida 32202

FOR INFORMATION REGARDING THIS FORM, CALL: (904) 255-8300.

For Official Use Only				
1. Date Submitted: <u>12-8</u>	2. Date Filed: <u>12-29-15</u>	3. Current Zoning District(s): <u>RLD-60</u>	4. Future Land Use Map Category (FLUMs) <u>LDR</u>	5. Applicable Section of Ordinance Code:
6. LUZ Public Hearing Date: ___ / ___ / ___		7. City Council Public Hearing Date: ___ / ___ / ___		
8. Neighborhood Association <u>NONE</u>				
9. Number of Signs to be Posted <u>1</u>				

TO BE COMPLETED BY APPLICANT

10. Complete Property Address: <u>4017 LIVINGSTON RD</u> <u>JACKSONVILLE, FL 32257</u> <u>155770-0200</u>	13. Between Streets: <u>PINE ACRES RD</u> and <u>OLD ST AUGUSTINE RD</u>
11. Real Estate Number: <u>155759-0000</u>	
12. Date lot was recorded: <u>JULY 10, 1933</u>	
14. Waiver Sought: Reduce Required Minimum Road Frontage from <u>48'</u> feet to <u>23'</u> feet.	
15. In whose name will the exception be granted? <u>LIV RD INVESTMENT OF JAX, LLC</u>	
16. Land Area (1/100 Acres): <u>2.2 ACRES</u>	
17. Utility Services Provider	
Well: _____	Septic: <input checked="" type="checkbox"/>
City Water: <input checked="" type="checkbox"/>	City Sewer: _____

* * * NOTICE TO OWNER/AGENT * * *

Section 656.101(i), Ordinance Code, defines a waiver as "a relaxation of the Zoning Code minimum street frontage requirements, pursuant to Section 656.407, Ordinance Code. Section 656.133 (b) 1 through 5, Ordinance Code, provides that with respect to action upon applications for Waivers, the City Council shall grant a waiver for reduction of the minimum requirements for road frontage, if the Council makes a positive finding based upon substantial, competent evidence that the application meets all of the following five (5) criteria:

18. Provide answers to the following questions pertaining to the standards and criteria. You may attach a separate sheet if necessary. (Please note that failure by the applicant to adequately substantiate the need for the exception and to meet the criteria set forth below may result in a denial).

- (i) There are practical or economic difficulties in carrying out the strict letter of the regulation;
THE NEIGHBORING PARCEL'S SEPTIC TANK AND DRAINFIELD ARE LOCATED WITHIN THE FIRST 18' OF THE 48' REQUIREMENT. A 30' DRIVEWAY ACCESS WILL AVOID CREATING A HANDSHIP.
- (ii) The request is not based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations):

CORRECT

(iii) The proposed waiver will not substantially diminish property values in, nor alter the essential character of the area surrounding the site and will not substantially interfere with or injure the rights of others whose property would be affected by the waiver;

CORRECT

(iv) There is a valid and effective easement for adequate vehicular access connected to a public street which is maintained by the City or approved private street;

CORRECT

(v) The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law.

CORRECT

19. Attachments - One of each of the following should be included in each copy of the application, providing for four (4) complete copies. All copies, with the exception of the 2 required large site plans, should be on 8 1/2" x 11" paper.

- Survey (as required by the Current Planning Section)
- Site Plan as required per instructions. (2 copies on 8 1/2" x 11" and 2 copies on 11 x 17 or larger)
- Letter of Authorization for Agent/Applicant is required if application is made by any person other than the property owner. N/A
- Legal description, may be either lot and block or metes and bounds, including real estate assessment number(s) of the subject property
- Proof of valid and effective easement for access to the property.

***** NOTICE TO OWNER / AGENT *****

Please review your application. All spaces noted as "TO BE COMPLETED BY APPLICANT" must be filled in for the application to be accepted.

No application will be accepted as "Complete and filed" until all the requested information has been supplied and the required fee has been paid. The acceptance of an application as being complete does not guarantee its approval by the Planning Commission. You (or your agent) must be present at the public hearing.

The required signs must be posted on the property within five (5) working days after the filing of this application. The sign(s) must remain posted and maintained until a final determination has been made on the application. **Proof of notice publication must be submitted to the Current Planning Division, Planning and Development Department, Ed Ball Building, 214 North Hogan Street Suite 300, Jacksonville, Florida 32202, (904) 255-7800 PRIOR TO THE HEARING.**

Also, an agent's letter of authorization must be attached if the application is not signed by the owner of record and also if someone attends the meeting on the applicant's behalf without prior authorization.

<p align="center">FILING FEES</p> <p>RESIDENTIAL DISTRICTS..... \$785.00 985.00</p> <p>NON-RESIDENTIAL DISTRICTS..... \$785.00 927.00</p> <p align="right">\$1009.00</p>	<p>NOTIFICATION COSTS: \$7.00 PER ADDRESSEE</p> <p>ADVERTISING COSTS: BILLED TO OWNER/AGENT</p>
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***** Applications filed to correct existing zoning violations are subject to a double fee. *****

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND the information contained in this application, that I am the owner or authorized agent for the owner with authority to make this application, and that all of the information contained in this application, including the attachments, is true and correct to the best of my knowledge.

PLEASE PRINT:

<p>Name and address of Owner(s)</p> <p>Name: <u>CHARLES HILLIER, MOR</u></p> <p>Address: <u>11576 SAN JOSE BLVD</u></p> <p><u>J</u></p> <p>City: <u>JACKSONVILLE,</u></p> <p>State: <u>FL</u> Zip: <u>32223</u></p> <p>Email: <u>CHARLIE.HILLIER@C.FRONTAGE.COM</u></p> <p>Daytime Telephone: <u>904-509-3170</u></p> <p><u>[Signature]</u> SIGNATURE OF OWNER(S)</p> <p><u>LIV RD INVESTMENTS TAX, LLC</u> SIGNATURE OF OWNER(S)</p>	<p>Name and address of Authorized Agent(s)</p> <p>Name: _____</p> <p>Address: _____</p> <p>City: _____</p> <p>State: _____ Zip: _____</p> <p>Email: _____</p> <p>Daytime Telephone: _____</p> <p>_____ SIGNATURE OF AUTHORIZED AGENT(S)</p>
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Letter of Authorization for Agent is required if application is made by any person other than the property owner. Also, a larger scale drawing may be required for commercially zoned property with an existing structure or otherwise as required by the Planning and Development Department's Zoning Section.

REVISED LEGAL DESCRIPTION

PARCEL 1 :

PART OF GOVERNMENT LOT 16, SECTION 5, TOWNSHIP 4 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SECTION 5; THENCE NORTH 01 DEGREES 54 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 330.60 FEET TO A POINT WHICH IS THE CENTER LINE OF A ROAD; THENCE SOUTH 89 DEGREES 40 MINUTES 00 SECONDS WEST ALONG THE CENTER LINE OF SAID ROAD FOR A DISTANCE OF 836.876 FEET TO A POINT; THENCE NORTH 01 DEGREES 54 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 30.00 FEET TO A POINT OF BEGINNING; THENCE CONTINUING ALONG THE LAST PROCEEDING COURSE WHICH IS NORTH 01 DEGREES 54 MINUTES 00 SECONDS WEST A DISTANCE OF 191.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 40 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 30.00 FEET TO A POINT; THENCE SOUTH 01 DEGREES 54 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 191.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 40 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING, SAID LAND BEING A PART OF THAT PROPERTY CONVEYED TO ROGER HARTLEY BY THE HEIRS OF FREDERICK L. HARTLEY, DECEASED, BY A DEED EXECUTED JULY 10, 1933 AND RECORDED IN DEED BOOK 781, PAGE 444 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

PARCEL 2 :

PART OF GOVERNMENT LOT 16, SECTION 5, TOWNSHIP 4 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 27 EAST, AND RUNNING 551.00 FEET NORTH ALONG THE EAST LINE OF SAID SECTION 5, THENCE WESTERLY AT RIGHT ANGLES 526.00 FEET, TO A POINT OF BEGINNING; EXTENDING THENCE WESTERLY 400.00 FEET, THENCE NORTH 221.00 FEET, THENCE EASTERLY 400.00 FEET, THENCE SOUTH 221.00 FEET, TO POINT OF BEGINNING; BEING THE WEST 400.00 FEET OF THE EAST 926.00 FEET OF THAT CERTAIN PARCEL OF LAND IN ABOVE SECTION 5, HERETOFORE DEEDED TO ELMER HARTLEY, BY DEED RECORDED IN DEED BOOK 662, PAGE 333, CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

March 16, 2016



THIS INSTRUMENT PREPARED BY AND RETURN TO:
John Gullett

Title America Real Estate Closings, Inc.
10448 Old Saint Augustine Road
Jacksonville, FL 32257
904.262.6400w

FILE: **T32127**

Property Appraisers Parcel Identification (Folio) Numbers:
155759-0000

SALE PRICE: \$76,500.00

SPACE ABOVE THIS LINE FOR RECORDING DATA

WARRANTY DEED

THIS WARRANTY DEED, made the 1st day of December, 2014 by

LIV RD INVESTMENTS OF JAX, LLC, A Florida Limited Liability Company,

whose post office address is 1305 Marlee Road, St Johns, FL 32259 herein called the Grantor, to

Sarah Fineran and Stephen Fineran, wife and husband

whose post office address is 4011 Livingston Road, Jacksonville, FL 32257, hereinafter called the Grantee:
(Whatever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in Duval County, State of Florida, viz.:

See Exhibit "A" attached hereto and by reference made a part hereof.

Subject to easements, restrictions and reservations of record and to taxes for the year 2015 and thereafter.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining,

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2014.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

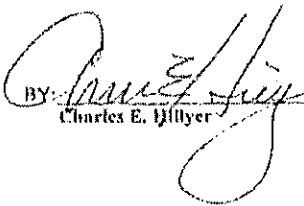
Witness #1 Signature

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name


**LIV RD INVESTMENTS OF JAX, LLC,
A Florida Limited Liability Company**

BY:  **MANAGER**
Charles E. Hillyer

**STATE OF FLORIDA
COUNTY OF Duval**

The foregoing instrument was acknowledged before me this 1st day of December, 2014 by Charles E. Hillyer, Managing Member of LIV RD INVESTMENTS OF JAX, LLC, A Florida Limited Liability Company on behalf of the company. He is personally known to me or has produced _____ as identification.

SEAL



Notary Signature

My Commission Expires:

Printed Notary Signature

Prepared by and return to:
Title America Real Estate Closings, Inc.
10448 Old Saint Augustine Road
Jacksonville, FL 32257
File Number: T32127
Folio Number: 155759-0000

CORPORATE OWNER/SELLER AFFIDAVIT

The undersigned, as Managing Member of LIV RD INVESTMENTS OF JAX, LLC, A Florida Limited Liability Co., (hereinafter Affiant) being first duly sworn, deposes and says that Affiant has personal knowledge of the following facts:

1. I am the Managing Member of LIV RD INVESTMENTS OF JAX, LLC, A Florida Limited Liability Co. hereinafter referred to as "Entity".
2. That Entity is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and the Income Tax Regulations under the Internal Revenue Code).
3. That Entity's U.S. employer Identification Number is: _____
4. The Entity's Office Address is: 1305 Marlee Road, St Johns, FL 32259.
5. That Entity owns the property described as follows:

See Exhibit "A" attached hereto and by reference made a part hereof.

And it's possession thereof has been peaceable and undisturbed and the title to said property has never been disputed or questioned to my knowledge, nor do I know of any facts by reason of which the title to, or possession of said property might be disputed or questioned, or by reason of which any claim to any said property might be asserted adversely to LIV RD INVESTMENTS OF JAX, LLC, A Florida Limited Liability Co..

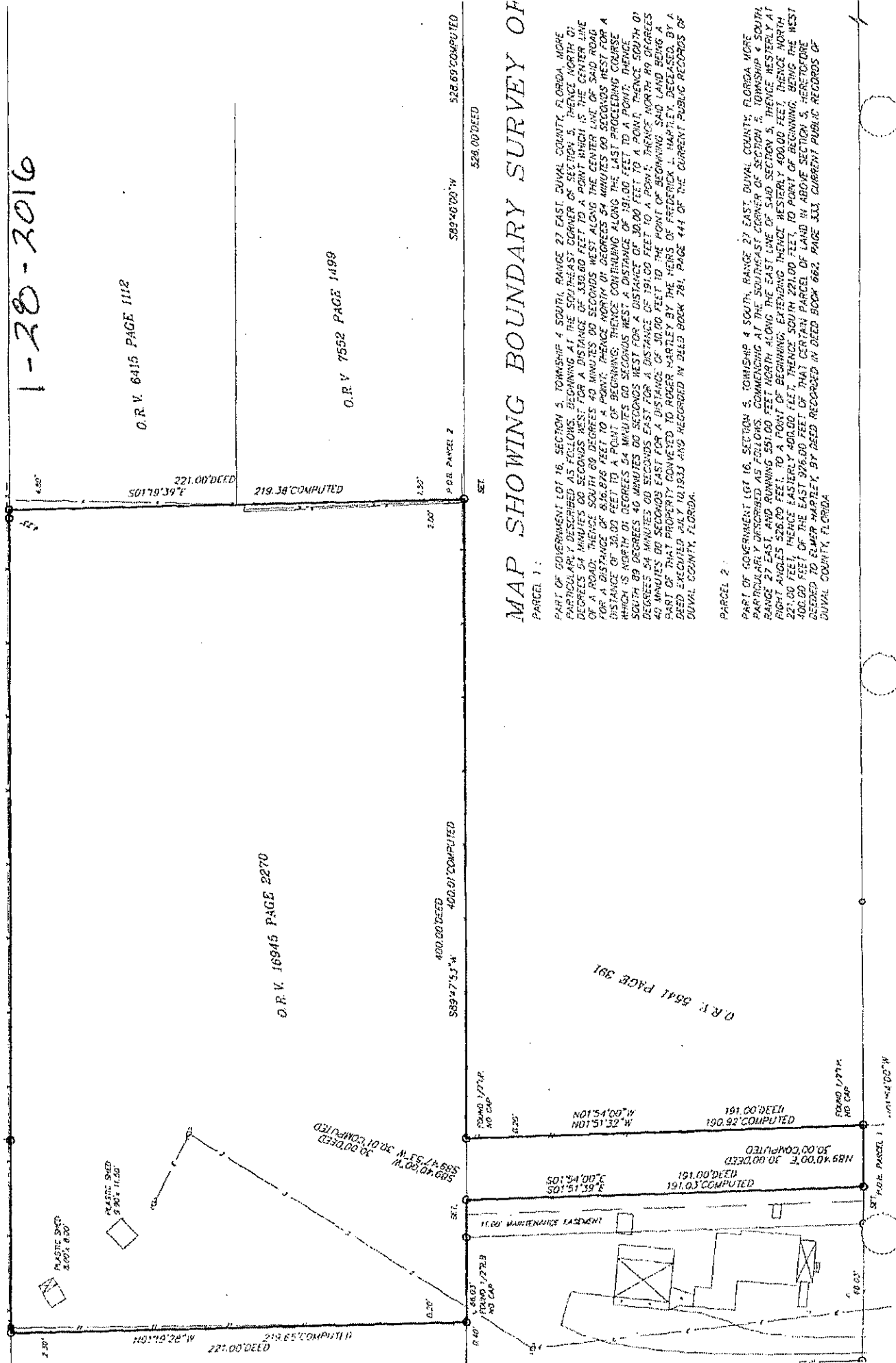
6. There are no tenancies, leases or occupants.
7. No proceeding in any bankruptcy or receivership have ever been instituted by or against Entity, and we have never made an assignment for the benefit of creditors.
8. I know of no action or proceedings relating to said property which is now pending in any State or Federal Court in the United States, nor do we know of any State or Federal Judgment or any Federal Lien of any kind or nature whatsoever, which now constitutes or could constitute a lien or charge upon the subject property.
9. there are no judgments against us unpaid or unsatisfied of record, IRS liens and/or State Revenue Liens in any court of this State or of the United States and said property, as far as we know is free from all lenses, mortgages and other liens and encumbrances except as disclosed in Commitment No. T32127.

NORTH
SCALE 1" = 200'

1-28-2016

O.R.V. 6415 PAGE 1112

O.R.V. 7552 PAGE 1499



MAP SHOWING BOUNDARY SURVEY OF

PART OF GOVERNMENT LOT 16, SECTION 5, TOWNSHIP 4 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, BEGINNING AT THE SOUTHEAST CORNER OF SECTION 5, THENCE NORTH 07 DEGREES 54 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 336.60 FEET TO A POINT WHICH IS THE CENTER LINE OF A ROAD; THENCE SOUTH 89 DEGREES 40 MINUTES 40 SECONDS WEST ALONG THE CENTER LINE OF SAID ROAD FOR A DISTANCE OF 616.878 FEET TO A POINT; THENCE NORTH 01 DEGREES 54 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 38.00 FEET TO A POINT OF BEGINNING; THENCE CONTINUING ALONG THE LAST PRECEDING COURSE WHICH IS NORTH 01 DEGREES 54 MINUTES 00 SECONDS WEST A DISTANCE OF 191.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 40 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 30.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 40 MINUTES 40 SECONDS EAST FOR A DISTANCE OF 191.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 40 MINUTES 40 SECONDS EAST FOR A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING. SAID LAND BEING A PART OF THAT PROPERTY CONVEYED TO ROGER HARTLEY BY THE HEIRS OF FREDERICK L. HARTLEY, DECEASED, BY A DEED EXECUTED JULY 10, 1933 AND RECORDED IN DEED BOOK 781, PAGE 441 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

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