



Office of Consent 01/17/2023
INDIAN RIVER COUNTY
ATTORNEY

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MEMORANDUM

TO: Board of County Commissioners

THROUGH: Richard B. Szyrka, P.E., Public Works Director

FROM: William K. DeBaal, Deputy County Attorney

DATE: January 9, 2023

SUBJECT: Approval of Mediated Settlement Agreement with
Stephen and Shelly Ryan, 6775 66th Avenue, Vero Beach

I. Introduction. The following information is submitted for consideration by the Board of County Commissioners (Board) in approving an Amendment to the Mediated Settlement Agreement with Stephen and Shelly Ryan associated with the construction of 66th Avenue between 49th and 69th Streets (Project) in Indian River County.

Stephen and Shelly Ryan own a 3.76-acre parcel of property located at 6775 66th Avenue. This property is the Ryans' homestead and lies on the west side of 66th Avenue and south of 69th Street. This site is rectangular in shape with 334.1 feet of frontage along 66th Avenue. The property is located outside the urban service boundary and is zoned A-1 Agricultural. The parcel contains a 3-bedroom, 2-bath, 2,510-square foot custom brick/concrete block house built in 1996. In 2011, the County purchased 0.966 acres from the Ryans for the 66th Avenue Project. The house and other buildings are located on the western portion of the property and were not within the area of take. An aerial photo of the property is attached to this memorandum.

Improvements located within the part taken consisted of a brick decorative fence, irrigation, landscaping and driveways. In designing the layout of their property, the Ryan's utilized the natural landscape buffer along 66th Avenue so their home could not be easily seen from the road. As a result of the Project, much of the buffer was lost. The take amounted to be about 20% of the Ryans' property.

II. Background. The County filed a lawsuit in eminent domain against the Ryans and the case proceeded to mediation. A Mediated Settlement Agreement was reached and

approved by the Board on March 1, 2011. The terms of the Agreement were as follows:

- The County would pay the Ryans the sum of \$202,500 in full and final settlement for title to the 0.966-acre right-of-way property.
- At the time of construction, the County's contractor will provide two 24-foot driveway connections to the Ryan property at the locations of the existing driveways.
- At the time of construction, the County's contractor will install an opaque landscape buffer within the first 17 feet of County owned right-of-way from the back of the sidewalk to the Ryans' property line.

Last year the Ryans approached the County about eliminating the opaque landscape buffer and instead, compensating the Ryans directly. In support of their offer, the Ryans supplied an estimate from a local landscape contractor to install a six-foot high Clusia hedge for \$21,000 using 30-gallon sized plants. The County's Project contractor had submitted a price of \$5,985.00 for 95 seven-gallon Clusia plants installed. After extended negotiations, the Ryans agreed to accept \$10,000 in full and final satisfaction of the elimination of the hedge. This will relieve the County from the duty of planting, watering, fertilizing and pruning the hedge in perpetuity.

VI. Recommendation. The County Attorney's Office recommends that the Board approve the Amendment to the Mediated Settlement Agreement and authorize the Chairman to execute the Amendment on behalf of the Board.

VII. Funding. Funding in the amount of \$10,000.00 is budgeted and available from Optional Sales Tax/ROW/66th Ave, 49th Street- 69th Street, Account # 31521441-066120-07806.

Attachments:

Aerial Photo of the Ryan property

Amendment to Mediated Settlement Agreement