

INDIAN RIVER COUNTY  
MEMORANDUM

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TO: Michael Zito  
Interim County Administrator

THROUGH: Phillip J. Matson, AICP  
Community Development Director

FROM: Rebeca Guerra, AICP, LEED-AP, CPD  
Chief, Environmental Planning & Code Enforcement

DATE: 2/27/2023

RE: Consideration of the Purchase of County-Owned Property to Remedy Private  
Encroachments on Lot 8, Block E, Unit L of Vero Lake Estates

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It is requested that the Board of County Commissioners formally consider the following information at the Board's regular meeting of March 7, 2023.

**DESCRIPTION AND CONDITIONS**

Nancy And Herb Schroer own residential property located at 7985 100<sup>th</sup> Avenue (Lot 9) in Indian River County. They are renting the property to tenants Christopher and Cathie Keller. On May 10, 2022, the County's Public Works Department identified possible unpermitted private encroachments on County-owned property in Vero Lake Estates. These encroachments included a fence, accessory structure, retaining wall, culvert, and driveway expansion all located within a drainage & utility easement.

On May 11, 2022, Code Enforcement staff issued a Notice of Violation and the case was brought before the Code Enforcement Board (CEB) on June 27, 2022, where the respondents were found to be in violation of the following: Section 312.06(1)(A) - Alteration of r-o-w without valid permit (placement of fill and structures in the r-o-w/easement without a permit or approval); Section 312.06(1)(B) - Illegal structure in County r-o-w or easement (construction of a fence, wall, driveway in the r-o-w/easement without a permit or approval); Section 312.06(1)(C) - Encroachment/Obstruction in r-o-w or easement (placement of fill, structures, and drainage improvements in the r-o-w/easement without a permit or approval); 105.1 FBC - No building permit, Violation of FL Building Code (construction of a fence, wall, driveway, and accessory building without required building permits); and Section 911.04(2)(C) - Zoning district use violation (construction of an accessory dwelling unit without site plan approval).

The tenants contacted the Public Works Director, Rich Szyrka, to determine if a portion of the County-owned property could be purchased to remedy the encroachments. On August 22, 2022, Mr. Szyrka agreed to this solution subject to the following steps/conditions being met:

- Hire a surveyor to provide a boundary, topographical, and existing conditions survey for 7985 100th Avenue and a boundary, topographical, and existing conditions survey for the adjacent County property.
- The owner/tenant will need to have the surveyor prepare a sketch and description of the property to be acquired from the County.

- Once the sketch and description are approved by the County, it will be necessary for the owner/tenant to hire a property appraisal company to provide the owner/tenant with an appraisal of the County property and the fair market value of the property that the owner/tenant will need to purchase.
- While the above is being accomplished, the following issues should be addressed in conjunction:
  - o Obtain building permits and final inspections for the existing fence and wall, and any portions of unpermitted driveway within the property limits.
  - o Obtain Declaration of Covenant approval for portions of the fence/wall that are located within the side yard easement.
  - o Obtain building permits and final inspections (or a C.O.) for the accessory building.
- Once all the above has been accomplished and all issues resolved, Staff will prepare an agenda item for the Indian River County Board of County Commissions to consider for the sale of the property necessary to address the above issues.

At this point, the tenants have completed the first step listed above: they contracted with a surveyor to provide a survey for 7985 100th Avenue (Lot 9) and the adjacent County-owned property (Lot 8). This survey is attached for the Commission's review. The survey verifies the encroachments, and identifies an approximate 6-to-7-foot strip of property which would need to be purchased to remedy the encroachments. Before asking the respondents to complete the additional steps listed above, staff is seeking the Board's direction on this matter.

### **RECOMMENDATION**

Staff recommends that the Board consider the purchase of a strip of County-owned property by a private resident to remedy the encroachments identified in this report, and provide conditional approval (subject to completing the steps outlined in this report), or denial, for the purchase.

### **ATTACHMENTS**

1. June 27, 2022, Order Finding Violation.
2. Survey of Lot 8 and Lot 9 of Vero Lake Estates Unit L, Block E.
3. Aerial map of Lot 8 and Lot 9 and eight County-owned lots in Vero Lake Estates.
4. Street-view photographs of 7985 100th Avenue dated December 2007 and September 2022.