



Office of

Attorney's Matters 12/8/2020

**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
Susan J. Prado, Assistant county Attorney

MEMORANDUM

TO: Board of County Commissioners

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

FROM: William K. DeBaal, Deputy County Attorney

DATE: December 1, 2020

SUBJECT: Approval of Agreed Order of Take for a Parcel of Right-Of-Way Located at 6600 65th Street, Vero Beach, FL 32967 Owned by Harish and Deepti Sadhwani

Harish and Deepti Sadhwani own a 19.54 acre parcel of property located at 6600 65th Street. The property is located at the northwest corner of 66th Avenue and 65th Street. This site is rectangular in shape with 1,309 feet of frontage along 66th Avenue and is 652 feet deep. The property is located outside the urban service boundary and is zoned A-1, Agricultural, up to one unit per five acres. The property is improved with 3 strand barbed wire fencing. There are no structures on the property. The Sadhwanis purchased this property back in 2004 for \$760,000, or approximately \$38,900 per acre.

In order to accommodate the planned improvements to 66th Avenue, the County needs to acquire approximately 7.86 acres from the Sadhwanis, 5.28 acres will be used for right-of-way and 2.58 acres will be used for a stormwater retention pond. The only site improvements lying within the area of take is the fencing. A aerial photo of the parent parcel, and a sketch and legal description of the right-of-way and pond parcels are attached to this memorandum.

A recent appraisal establishes the value of the entire parcel at \$450,570. The partial taking was valued at \$184,000. Severance damages may apply as the take will result in a 40% reduction to the size of the property. A copy of the appraisal is available for review at the Board of County Commissioners' office.

On July 14, 2020, the Board approved an Unconditional Offer to purchase the necessary

right-of-way from the Sadhwanis at a price of \$211,600 and the entire parcel at a price of \$518,156. On the same date, the Board approved a Resolution of Necessity for acquisition of the parcel, authorized staff and outside counsel to use the power of eminent domain and approved filing a lawsuit to take the property. The Resolution of Necessity and the Unconditional Offer must both be approved by the Board were sent to the landowner prior to suit being filed. After waiting the statutory 30 days after service of the Unconditional Offer and Resolution, suit was filed in Circuit Court in Indian River County on October 1, 2020.

The County's outside counsel, William Doney, filed a motion for an Order of Take and had it set for a hearing. Prior to the hearing, staff began negotiating with the Sadhwanis and their attorney, David Holloway, as they objected to the Order of Take. The Sadhwani's claimed that the County's offer was based on an appraisal that was not a good faith estimate of the value of the property. They also challenged the validity of the road plans and the corridor study. Mr. Doney, with the concurrence of staff, negotiated an Agreed Order of Take for the needed 7.86 acres. That Agreed Order of Take is attached to this memo and is presented for Board consideration and approval.

To summarize the Agreed Order of Take, the County will pay \$314,264 to the Sadhwanis for the pond site and right-of-way property. The County will install one 14' wide concrete driveway at the western side of the property on 65th Street at the time of construction of the Phase 1 66th Avenue Project. Additionally, at the time of construction of the 65th Street section of the project, the County will install a 12-inch outfall pipe from the Sadhwani parcel to the canal on the south side of 65th Street. Installation of the outfall pipe during construction will serve two purposes. First, it will reduce any claim for damages due to flooding or drainage problems to the remainder parcel in the after condition. Second, it will eliminate the need for an open cut trench to 65th Street for installation of the pipe at a later date. The cost of the driveway is estimated to be \$3,500 and the cost of installation of the outfall pipe approximately \$10,000. A memorandum from Mr. Doney in support of the Agreed Order of Take is attached to this memo.

Recent purchases or similar sized parcels include the following:

- April 2019 the County purchased 13.78 acres from a parent tract of 56.23 acres (24.5% taken) of unimproved property on the west side of 66th Avenue between 61st and 65th Streets at a price of \$42,500 per acre for \$585,650 together with 12.5% severance damages of \$225,515 for a total cost to acquire of \$811,165.
- The County previously purchased the entire 18.59 acre Miami Block parcel at the southwest corner of 66th Avenue and 69th Street for \$655,298.00 (\$35,250 per acre).

- February 2020 the County bought 2.05 acres and an access easement on the northeast corner of 66th Avenue and 61st Street for \$110,000 that contained large pecan trees.
- February 2017, the County purchased the 18.72 acre Greene property located at the northeast corner of 66th Avenue and 53rd Street for a future stormwater park for \$558,900 (\$29,855 per acre) which was an arm's length transaction without the threat of eminent domain and was the basis of the Unconditional Offer to the Sadhwanis.

The Agreed Order of Take will not be admissible in evidence should the matter proceed to trial. Thus, the County would be free to argue that the value of the property is less than the \$314,264 amount, if the County so desires. Staff is mindful that this settlement amount, with the included improvements, is near the top amount paid for property along Phase I 66th Avenue Project. As this matter proceeds to court ordered mediation and trial, the County is not obligated to significantly increase this settlement amount.

Funding: Funding in the amount of \$314,264 is budgeted and available from Traffic Impact Fees/District 2/ROW/66th Ave, 49th Street- 69th Street, Account # 10215241-066120-07806.

Recommendation: Staff recommends the Board approve the Agreed Order of Take to acquire the necessary right-of-way and pond site from the Sadhwanis at a price of \$314,264 and authorize the Chairman to execute the Agreed Order of Take.

Attachments: Aerial photo of parent parcel; sketch/legal of right-of-way and pond parcels
Agreed Order of Take
Memorandum from William Doney, Esq.

Copies to: William Doney, Esq.
David Holloway, Esq.