



Office of *County Attorney's Matters 12/14/2021*
INDIAN RIVER COUNTY
ATTORNEY

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

MEMORANDUM

TO: The Board of County Commissioners

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

FROM: William K. DeBaal, Deputy County Attorney

DATE: December 8, 2021

SUBJECT: Acquisition of Right-Of-Way from Christine L. Ford for Phase II of 66th Avenue Improvements – 7825 66th Avenue, Parcel 126

Christine Ford (Mrs. Ford) is the owner of a 7.35 acre improved ranchette home site on the west side of 66th Avenue, lying south of 81st Street as shown below as *Figure 1*.

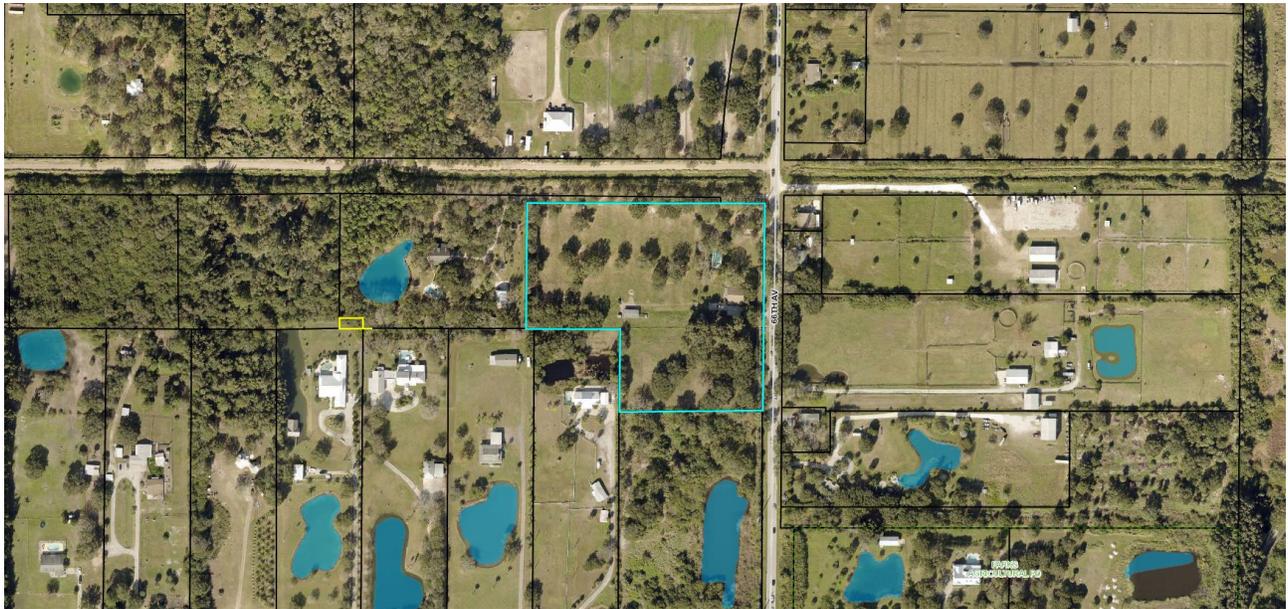


Figure 1. Ford property aerial photo

The parcel is zoned A-1, Agricultural up to one residential unit per five acres and lies outside of the Urban Services Boundary. This property is roughly rectangular in shape with 588 feet of frontage along 66th Avenue and is 670 feet deep at its deepest point. The County needs to acquire 1.76 acres from Mrs. Ford, consisting of the east 130 feet of the parent tract. There are improvements located within the area of take consisting of:

- A 3-bedroom, 2-bath wood frame single family home

- A 30 by 20 -foot concrete swimming pool and spa
- Numerous mature oak and palm trees
- 130' concrete driveway with connections to 66th Avenue and to car port
- A 30 x 12' bunkhouse single story structure
- Extensive landscaping and fencing

Please see the sketch and legal description attached to the Agreement that is included with this memorandum. The County's appraisal for Parcel 126 was performed by Armfield & Wagner. A 2017 appraisal assigned value for the partial take of \$375,000. A copy of the appraisal is available for review at the Board of County Commissioners Office. The appraisal used the comparable sales approach in establishing a value for the land and improvements within the area of take. The comparable sales method is the most common method used in valuating real estate. However, the replacement cost approach to value a home is also used when the home has unique characteristics that would not be addressed using the comparable sales method. The Ford residence has wide plank wood flooring, pecky cypress paneling, stone fire place, solid wood doors and other features not commonly found in more modern Florida homes.

In order to reach a fair settlement with Mrs. Ford, an appraiser and a general contractor were hired to do a replacement cost estimate of the Ford home. In a report dated September 24, 2021, Haynes Valuation Services, LLC, estimated the replacement cost of the residential improvements to be \$755,700. A copy of this report is available for review at the Board of County Commissioners Office. Through negotiations with Mrs. Ford's attorney, Raymer McGuire, the \$755,700 is the full settlement amount, including severance damages, purchase of the 1.76 acres of property, and all improvements located within the area of take. Mrs. Ford will be given one year of extended possession at no cost so she will be able to complete her plan of construction a new residence on the remainder parcel. The County would pay the remaining terms of the settlement as follows:

- Appraisal fees in the amount of \$2,887.00 to Calhoun, Dreggors & Associates, Inc.
- Contractor fees in the amount of \$2,700.00 to Ovation Construction, Inc.
- Replacement cost and valuation fees to Haynes Valuation Services, LLC, in the amount of \$5,775.00.
- Civil engineering fees to M.E.I. Civil, LLC, in the amount of \$1,084.13
- Attorney's fees in the amount of \$45,342.00 representing 6% of the purchase price to Maguire Eminent Domain, P.A.

The total of the costs for this settlement are \$12,446.13. The total cost of the settlement to the County is \$813,488.13.

By accepting the settlement and purchasing the property in advance of filing a lawsuit, staff is attempting to save on expert witness fees incurred by both the County and Mrs. Ford. As noted in the past, expert witness fees for both parties often exceed \$100,000 by the time the suit is ready for trial, not inclusive of legal fees incurred by Mrs. Ford and the County. Pursuant to state statutes, the County is responsible for reasonable expert witness fees of Mrs. Ford, as well as attorney's fees for her counsel. The County has incurred significant savings by not having to hire our trial attorney and witnesses: appraiser, engineer, landscape architect and land planner.

Since the parties reached the Agreement to Purchase and Sell Real Estate ("Agreement" attached) through negotiations with the attorneys, this Agreement settles the case in full; business damages, severance damages, payment to the property owner for the area of take, cost to cure for the improvements that are in the area of take, experts' costs, and attorney's fees.

Ford memo to BCC Parcel 126

December 9, 2021

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STAFF RECOMMENDATION: Staff recommends the Board approve the Agreement to Purchase and Sell Real Estate for Mrs. Ford's property and authorize the Chairman to execute the document on behalf of the Board.

FUNDING: Funding in the amount of \$813,488.13 for the acquisition is budgeted and available from Traffic Impact Fees/District I/ROW/66th Ave/69th Street – 85th Street, Account # 10215141-066120-16009.

Attachments: Agreement to Purchase and Sell Real Estate with attachments

Copy to: Raymer McGuire, Esq.
