

**INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM**

TO: Michael Zito, Interim County Administrator

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

FROM: Andrew Sechen, Land Acquisition Specialist

SUBJECT: Acquisition of Right-Of-Way for Aviation Boulevard and US-1 Improvements from Myron and Davene Madsen

DATE: April 8, 2023

DESCRIPTION AND CONDITIONS

Myron and Davene Madsen (the Madsens) are the owners of 4 parcels of property totaling 0.66-acre located on the southeast corner of U.S. Highway 1 and 32nd Street as shown below as *Figure 1*.

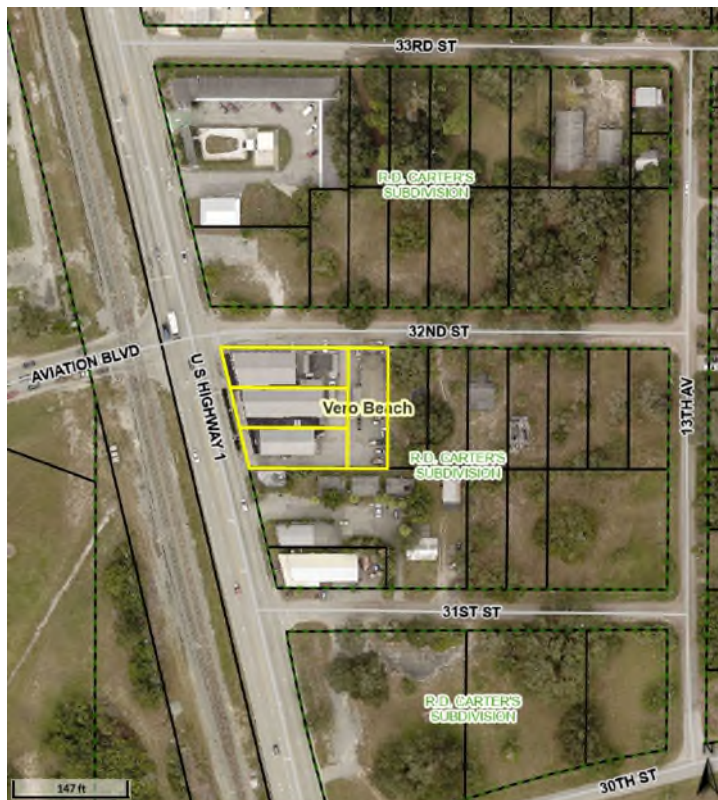


Figure 1. Madsen property aerial photo

The parcels are zoned RM-10/12 Residential Multi-Family 10 to 12 units per acre and C-1B General Commercial Trades + Services. These properties are rectangular in shape along U.S. Highway 1 with a total of 203 feet of frontage and are a total of 567 feet deep and lie within the unincorporated County.

The Madsens purchased these properties in July 1st, 1981 and May 11th, 1984. The improvements located within the area of take consist of:

- A 6-total room with 1-bathroom single family home
- A carport and patron parking lot with connections to U.S. Highway 1 and 32nd Street
- A closed porch and canopy
- A 12,235 square feet store previously operating as Mike's Cut Rate Furniture

Please see the sketch and legal description attached to the Agreement to Purchase and Sell Real Estate that is included with this memorandum.

The Madsens operated Mike's Cut Rate Furniture from this location for many years. The business recently closed and the website and telephone numbers are no longer working. Shortly after the business closed, the Property was listed for sale by Lambert Commercial Real Estate, Inc. Seeing that the property was listed for sale and knowing that it will be needed in the plans to expand Aviation Boulevard in the future, staff decided to use its real estate agent, Collier's International to negotiate this purchase.

On November 2, 2021, Collier's International Florida, LLC, (Collier's) and the County entered into an agreement for Collier's to act as the County's real estate company in order to purchase and sell real estate and to act as County's Agent to purchase and sell property. The agreement with Collier's contained a provision for Collier's to use an agent as the potential buyer instead of the County. Staff reasoned that using an Agent in some situations might enable the County to get a fair purchase price and negotiate the terms of the transaction at arm's length for purchase of the Property.

On [date] Collier's, using CREC Capital, LLC, a Florida limited liability company, as the buyer and acting as the County's Agent, entered into an Agreement to Purchase, Sell, and Lease Real Estate Between CREC Capital And/Or Assigns And Myron Madsen Jr. & Davene Madsen (Agreement) for purchase of the four parcels of real estate depicted in Figure 1. The Agreement, signed by CREC and the Madsens is attached to this memo. It is the intent of CREC to assign to the County all of the terms and conditions of the Agreement dated [date]. Also attached to this memo is an Assignment of Agreement to Purchase, Sell, and Lease Real Estate Between CREC Capital And/Or Assigns And Myron Madsen Jr & Davene Madsen ("Assignment"). If the Board votes to purchase the property and authorizes the Chair to sign the Agreement, staff will also ask the Board to approve the Assignment and authorize the Chair to sign the Assignment. At that time, County will step into the shoes of CREC and participate as a party to the Agreement, relieving CREC of its duties and obligations under the Agreement.

One of the terms of the Agreement is to deposit \$25,000 into escrow as down payment. CREC has already deposited the money into escrow and under the terms of the Assignment with CREC, the County would replace CREC's \$25,000 escrow deposit with County funds, thus relieving CREC of any further duties as to this transaction. After the County completes its inspection of the buildings, the Agreement calls for another \$50,000 deposit to be made and held in escrow. Both payments will be credited to the County at closing. Barry Segal, Esq. is representing the Madsens.

Ron Lambert was the broker hired by Mr. Madsen and listed the Property as a whole at \$1,100,000. The County obtained an appraisal from Armfield and Wagner that estimates the value of the Property to be \$1,000,000. A copy of this appraisal report is available for review at the Public Works Department. Through negotiations with Mr. Madsen’s attorney and broker after offering \$700,000.00 and then \$900,000.00, the parties agreed to the listed price to the Board of \$1,100,000 in the full and final amount, including all attorney’s fees and listing costs.

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.

STAFF RECOMMENDATION: Staff recommends the Board approve the Agreement to Purchase and Sell Real Estate for the Madsen’s property and approve the Assignment of Agreement to Purchase, Sell, and Lease Real Estate Between CREC Capital And/Or Assigns And Myron Madsen Jr & Davene Madsen and authorize the Chairman to execute the documents on behalf of the Board. Staff also requests the Board to authorize the Office of Budget and Management to request written checks, if needed for the amounts of \$25,000 and \$50,000 for escrow payment.

FUNDING: Funding in the amount of \$1,100,000 for this acquisition is budgeted and available from Traffic Impact Fees /District 2 Aviation Boulevard Extension US-1 to 37th Street and to 41st Street in Account # 10215141-066120-22010.

Account Name	Account No.	Amount
Aviation Boulevard Extension US-1 to 37 th Street and to 41 st Street	10215141-066120-22010	\$1,100,000

Attachments: Agreement to Purchase and Sell Real Estate with Exhibits
Assignment of Agreement to Purchase, Sell, and Lease Real Estate

Copies to: Collier’s
CREC Capital, LLC,
8124 Los Pinos Boulevard Coral Gables, FL 33134

APPROVED AGENDA ITEM FOR: April 18, 2023