

**INDIAN RIVER COUNTY, FLORIDA  
MEMORANDUM**

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**TO:** Board of County Commissioners

**THROUGH:** John A. Titkanich, Jr., County Administrator

**PREPARED BY:** Ryan Sweeney; Interim Assistant Community Development Director

**DATE:** June 27, 2023

**SUBJECT:** Pulte Home Company, LLC's Petition for Abandonment of a Public Access Easement

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It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of July 11, 2023.

**DESCRIPTION AND CONDITIONS:**

Pulte Home Company, LLC has petitioned for abandonment of a public access easement that is recorded in the Official Records of Indian River County, Book 2067, Page 1140. The subject instrument is technically an easement. However, it provides public access over a private road right-of-way, and was intended to function like a public road for access purposes. Therefore, in an abundance of caution, staff is processing the subject request by following the right-of-way abandonment procedures outlined in the County land development regulations (LDRs) and the Florida Statutes, which includes legal advertisement and a public hearing by the Board of County Commissioners (BCC).

As required by the County LDRs, prior to the Technical Review Committee (TRC) meeting at which the subject petition was reviewed, staff notified each property owner adjacent to the subject public access easement. Several interested parties participated in the project's TRC conference call, and staff answered a few general and/or procedural questions about the overall project. Additionally, all County divisions and utility providers having jurisdiction or potential interests have reviewed the abandonment request and support the request, subject to the immediate recording of a replacement easement.

At this time, the BCC shall conduct a public hearing, and consider the applicant's request to abandon the subject public access easement.

**ANALYSIS:**

At its regular meeting of July 14, 2005, the Planning and Zoning Commission (PZC) approved a conceptual site plan for 497 multi-family units and 90,000-130,000 square feet of commercial building area on a ±113 acre project site then known as Orchid Landing Village (see attachment 1). As part of that approval process, the developer agreed to provide public access around the perimeter of the overall project via a private "frontage" road. The original design would provide

public access via driveway connections to 82<sup>nd</sup> Street, US Highway 1, and State Road (SR) 510. In 2006, the overall project commenced construction, and the developer recorded the subject public access easement on August 14, 2006. However, project construction was ultimately abandoned during the economic downturn of 2008-2011.

At its regular meeting of October 28, 2021, the PZC approved a revised site plan for the residential portion of the overall project that is now known as Harbor Isle. The revised site plan reduced the overall number of units from 497 multi-family units to 270 single-family units. As a result of the reduction in units, the project was no longer required to connect 82<sup>nd</sup> Street. Also, the revised site plan included a slight shift in the alignment of the northern leg of the frontage road from US Highway 1 to SR 510. The Harbor Isle project is currently under construction, and is progressing toward final plat approval. Therefore, as a procedural clean-up item, the applicant is requesting the BCC to abandon the original public access easement. If abandoned, the applicant will immediately record a replacement public access easement over the north leg of the new frontage road.

Consistent with guidelines established by the BCC, this petition was reviewed by all County divisions and utility providers having jurisdiction or potential interests within the subject public access easement. Upon review, all reviewing departments recommended approval, to support the request for abandonment, subject to the immediate recording of a replacement easement. Also, the County Attorney's Office has reviewed and approved the attached abandonment resolution for legal form and sufficiency, as well as, the replacement easement.

#### **RECOMMENDATION:**

Staff recommends that the Board of County Commissioners abandon its rights to the subject public access easement, and authorize the chairman to execute the attached abandonment resolution, with the following condition:

1. The replacement easement shall be recorded immediately following the recording of the abandonment resolution.

#### **ATTACHMENTS:**

1. Location Map
2. Abandonment Resolution