

# BOARD OF COUNTY COMMISSIONERS

MANATEE COUNTY, FLORIDA



9:00 a.m.

REGULAR USE MEETING

January 24, 2012

## - AGENDA SUPPLEMENT -

### *ADDITIONS TO REGULAR AGENDA*

#### ATTORNEY

31. **Eminent Domain: 51<sup>st</sup> Avenue East Intersection Improvement Project** – Adopt Resolution R-12-034 determining purpose and necessity, and R-12-035 authorizing use of eminent domain “quick take” proceedings, for the acquisition of certain parcels of privately owned realty as related to the proposed improvements to the intersection of 51<sup>st</sup> Avenue East at 15<sup>th</sup> Street East

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b>	51 <sup>st</sup> Avenue East at 15 <sup>th</sup> Street East Intersection Improvement Project, Authorization to commence and to prosecute eminent domain proceedings regarding the proposed improvements	<b>TYPE AGENDA ITEM</b>	Regular
<b>DATE REQUESTED</b>	January 24, 2012	<b>DATE SUBMITTED/REVISED</b>	January 19, 2012
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	Property necessary for the right-of-way project will not be acquired by the County thus delaying or compromising the project.
<b>DEPARTMENT/DIVISION</b>	County Attorney's Office	<b>AUTHORIZED BY TITLE</b>	Tedd N. Williams, Jr. County Attorney
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Rodney C. Wade/Sandi Murphy Ext. 3750	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Rodney C. Wade Deputy County Attorney Ext. 3750
<b>ADMINISTRATIVE APPROVAL</b>		<i>John 1/19/12</i>	

**ACTION DESIRED**  
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

**FORM OF MOTIONS:**

1. **Adoption of Resolution R-12-034, determining public purpose and necessity for the acquisition of certain parcels of privately owned realty, as related to the proposed improvements to the intersection of 51st Avenue East at 15th Street East.**
2. **Adoption of Resolution R-12-035, authorizing the use of eminent domain "quick take" proceedings in the acquisition of certain parcels of privately owned realty, as related to the proposed improvements to the intersection of 51st Avenue East at 15<sup>th</sup> Street East.**

**ENABLING/REGULATING AUTHORITY**  
Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Chapters 73, 74, and 127, Florida Statutes

**BACKGROUND/DISCUSSION**

Manatee County proposes to improve the intersection of 51<sup>st</sup> Avenue East at 15<sup>th</sup> Street East. This project is a CIP-approved project.

The County has previously notified the fee owner of his rights and obligations pursuant to Florida Statutes § 73.015. The time period by which the County must wait in order to file suit has expired. The Property Acquisition Division has requested the County Attorney's Office to commence and prosecute eminent domain proceedings in order to acquire the remaining necessary interests.

The owner of the lands to be acquired are as follows:

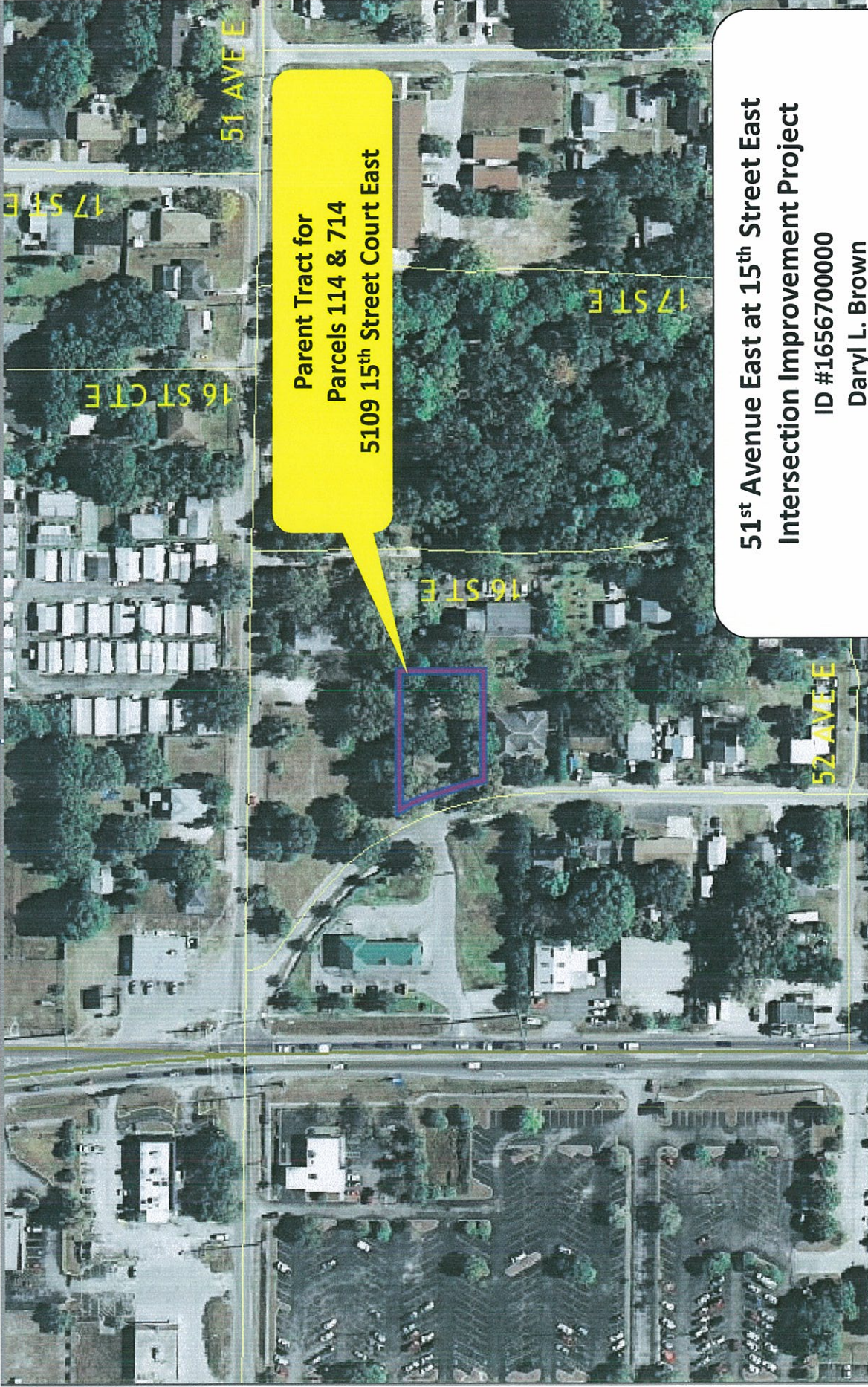
<u>PARCELS</u>	<u>OWNER</u>	<u>INTERESTS TO BE ACQUIRED</u>	<u>APPRAISED VALUE</u>
114	Daryl L. Brown	Fee Simple Interest	\$10,600

<b>714</b>	Daryl L. Brown Temporary Construction Easement for a period of three (3) years	\$100
<b>TOTAL</b>		<b>\$10,700</b>
Specific information on the appraised values of the various lands to be acquired can be provided at the time of presentation of this matter, if the Board so desires.		

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input type="checkbox"/>	<b>REVIEWED</b> Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials:     )
<input type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input checked="" type="checkbox"/>	<b>OTHER</b> This is a County Attorney item.

ATTACHMENTS: (List in order as attached)	INSTRUCTIONS TO BOARD RECORDS:		
1. Aerial Map  2. Proposed Resolutions R-12-034 and R-12-035, each with the attached legal descriptions/sketches.	Forward three (3) certified copies of each Resolution, with attachments, to Deputy County Attorney, Rodney C. Wade.  Forward one (1) approved copy of this Agenda Memo to Deputy County Attorney, Rodney C. Wade (rodney.wade@mymanatee.org).		
<b>COST:</b>	The eventual cost to Manatee County of condemning this land is unknown.	<b>SOURCE (ACCT # &amp; NAME):</b>	307-6029960 561000/6029960-0003 Gas Tax
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

- cc: Ron Schulhofer, Director, Public Works Department  
 Sia Mollanazar, P.E., Deputy Director, Engineering Services  
 Jeff Streitmatter, Interim Manager, Project Management Division  
 Vincent Canina, Senior Engineering Specialist, Project Management Division  
 Charlie H. Bishop, PMP, Director, Property Management Department  
 Joaquin Servia, Manager, Property Acquisition Division  
 Barbara Carter, SR/WA, Real Property Supervisor, Property Acquisition Division



Parent Tract for  
Parcels 114 & 714  
5109 15<sup>th</sup> Street Court East

**51<sup>st</sup> Avenue East at 15<sup>th</sup> Street East  
Intersection Improvement Project**  
ID #1656700000  
Daryl L. Brown  
Commissioner: Robin DiSabatino

**RESOLUTION R-12-034**

**A RESOLUTION OF NECESSITY AND FOR EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PUBLIC PURPOSE OF CONSTRUCTING, WIDENING, OR IMPROVING A PUBLIC STREET, ROAD, OR HIGHWAY AS PART OF THE PUBLIC ROAD SYSTEM IN MANATEE COUNTY, FLORIDA.**

**51<sup>ST</sup> AVENUE EAST AT 15<sup>TH</sup> STREET EAST  
INTERSECTION IMPROVEMENT PROJECT  
PARCELS 114 AND 714  
PROJECT NO. 6029960**

**WHEREAS**, Manatee County is a political subdivision of the State of Florida and is authorized under Chapters 73, 74, and 127, Florida Statutes, to acquire interests in privately owned lands which are necessary for the public use; and

**WHEREAS**, Manatee County has determined that 51<sup>st</sup> Avenue East at 15<sup>th</sup> Street East must be improved to relieve congestion and to safely accommodate vehicular traffic and that additional land is needed for the construction, reconstruction, widening, repairing, and maintaining of the road, and for other right-of-way purposes, including, but not limited to, sidewalks; streetlights, drainage, retention and utility facilities, and drainage ditches; and

**WHEREAS**, Manatee County has determined that it is necessary to acquire or utilize portions of property adjacent to or within the planned corridor of the above-described roads; and

**WHEREAS**, the owner of said land has been or may be unwilling or unable to sell the real property needed by Manatee County; and

**WHEREAS**, the construction of the project will be impeded unless the properties are acquired by Manatee County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA**, that the Manatee County Public

Works and Property Management Departments are authorized to employ the services of the County Attorney, or retained counsel assigned by the County Attorney, to commence and to prosecute eminent domain proceedings to acquire the necessary interests in the aforementioned properties, which properties are more particularly described in the Schedules which are attached hereto and made a part hereof (totaling 2 in number).

**BE IT FURTHER RESOLVED** that the Board of County Commissioners of Manatee County, Florida, after having considered safety of the public, cost of acquiring the right-of-way, alignment, long-term planning, and environmental factors in acquiring and utilizing the properties, hereby finds and determines that the acquisition of the following interests are necessary as to the real property described in the attached Schedules:

<u>Schedule No.</u>	<u>Parcel No.</u>	<u>Interests to be Acquired</u>
1.	114	Fee Simple Interest
2.	714	Temporary Construction Easement for a period of three (3) years

**ADOPTED** with a quorum present and voting this \_\_\_\_ day of January, 2012.

BOARD OF COUNTY COMMISSIONERS  
MANATEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

ATTEST: R. B. SHORE  
CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_  
Deputy Clerk

**SCHEDULE 1**

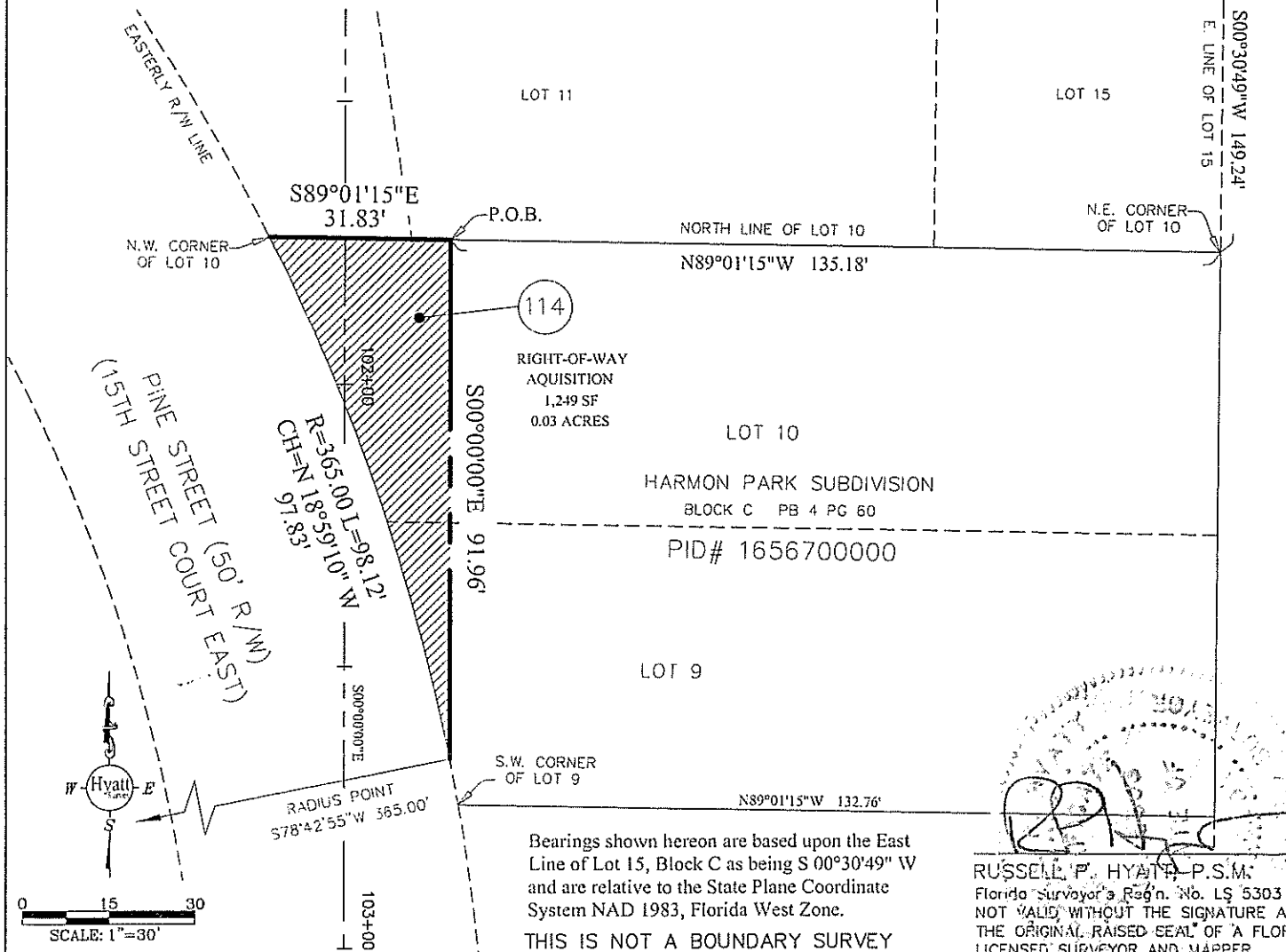
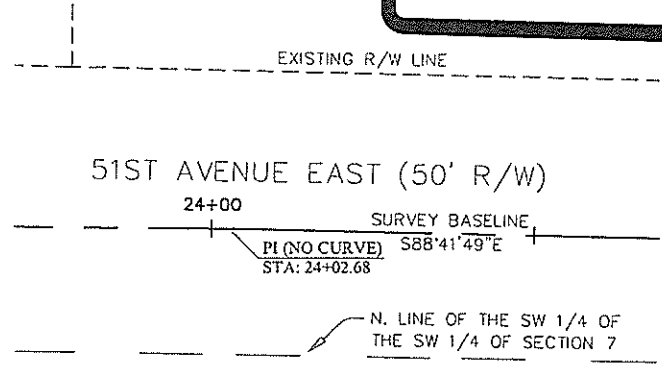
P.O.C. POINT OF COMMENCEMENT  
 P.O.B. POINT OF BEGINNING  
 OR OFFICIAL RECORDS R RADIUS  
 PB PLAT BOOK L ARC LENGTH  
 PG PAGE CH CHORD  
 SF SQUARE FEET  
 R/W RIGHT-OF-WAY

DESCRIPTION

COMMENCE AT THE NORTHEAST CORNER OF LOT 15 BLOCK C, AS SHOWN AND DESIGNATED ON A PLAT ENTITLED "HARMON PARK" RECORDED AMONG THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA IN PLAT BOOK 4, PAGE 60; THENCE ALONG THE EAST LINE OF SAID LOT 15, S 00°30'49" W, A DISTANCE OF 149.24 FEET TO THE NORTHEAST CORNER OF LOT 10, BLOCK C OF SAID "HARMON PARK"; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 10, N 89°01'15" W, A DISTANCE OF 135.18 FEET TO THE POINT OF BEGINNING;

THENCE THROUGH AND ACROSS SAID LOT 10, S 00°00'00" E, A DISTANCE OF 91.96 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF 15TH STREET COURT EAST ALSO KNOWN AS PINE STREET; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY BY A NON TANGENT CURVE CONCAVE WESTERLY WHOSE RADIUS POINT LIES S 78°42'55" W 365.00' AND HAS A CHORD OF N 18°59'10" W 97.83 FEET, AN ARC DISTANCE OF 98.12 FEET TO THE NORTHWEST CORNER OF SAID LOT 10; THENCE ALONG THE NORTH LINE OF SAID LOT 10, S 89°01'15" E, A DISTANCE OF 31.83 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 1,249 SQUARE FEET MORE OR LESS.



**RUSSELL P. HYATT, P.S.M.**  
 Florida Surveyor's Reg'n. No. LS 5303  
 NOT VALID WITHOUT THE SIGNATURE AND  
 THE ORIGINAL RAISED SEAL OF A FLORIDA  
 LICENSED SURVEYOR AND MAPPER.

RIGHT-OF-WAY TAKING #114  
 PARCEL ID#1656700000  
 MANATEE COUNTY, FLORIDA

**Hyatt Survey Services, Inc.**  
 Geographic Data Specialists  
 LB No.: 7203  
 11007 8th Avenue East Bradenton, Florida 34212  
 Phone (941) 748-4693 Fax (941) 744-1643

JOB NUMBER 09-1461	SECTION 7, TOWNSHIP 35 SOUTH, RANGE 18 EAST	SCALE 1"=30'	DATE 08/26/10	DRAWN BY CBW	FILE NAME RW S&D_114.dwg	SHEET 1 OF 1
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**SCHEDULE 2**

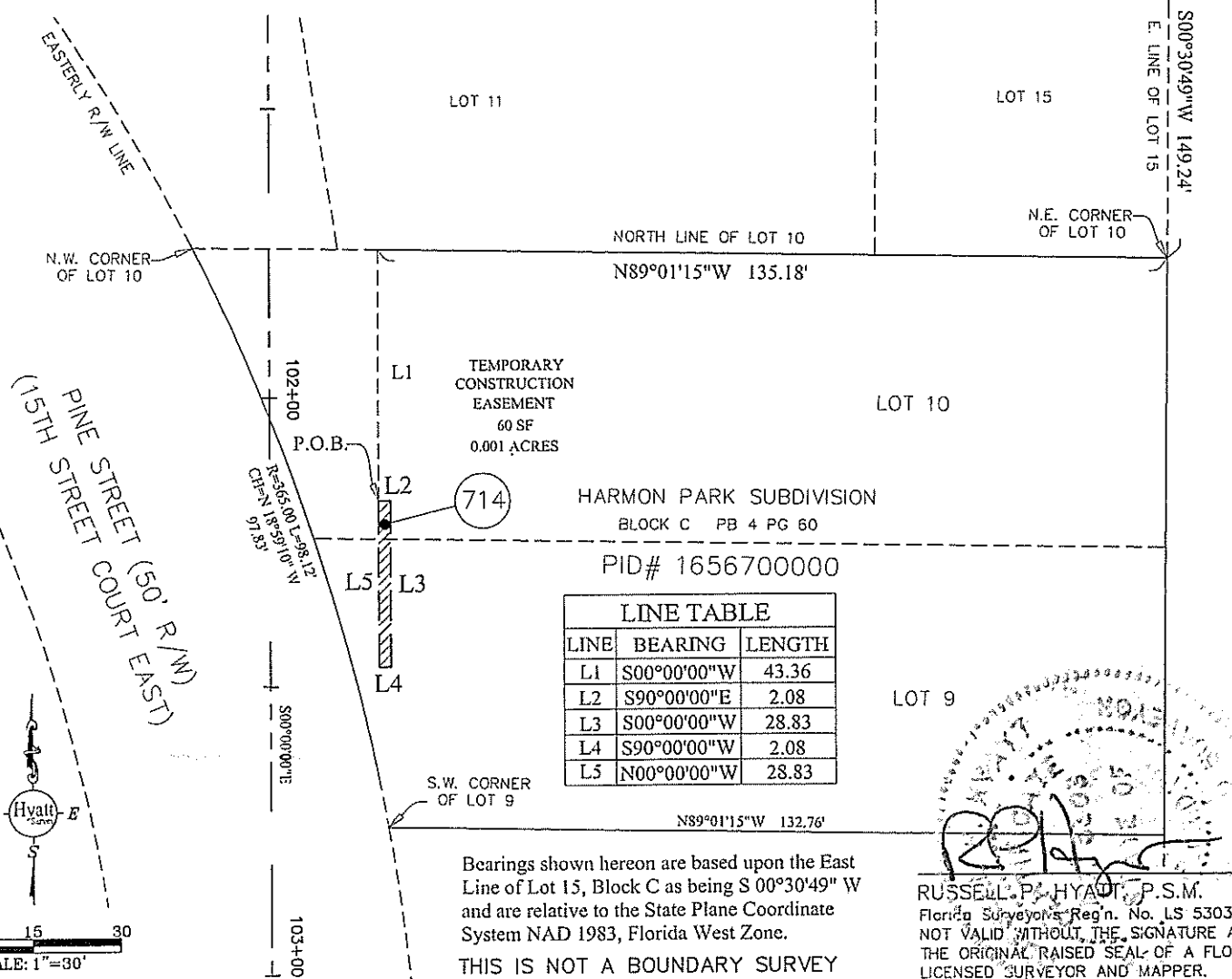
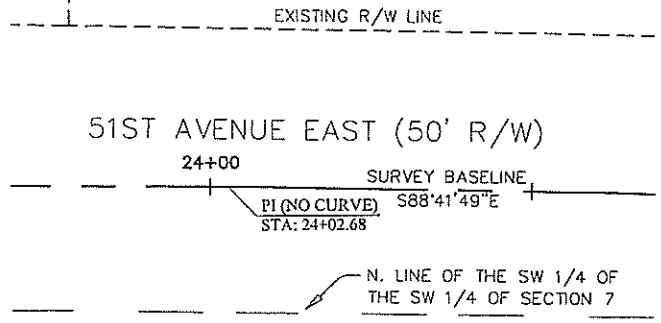
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THENCE THROUGH AND ACROSS SAID LOT 10, S 90°00'00" E, A DISTANCE OF 2.08 FEET.  
 THENCE THROUGH AND ACROSS LOT 9, BLOCK C OF SAID "HARMON PARK", S 00°00'00" W, A DISTANCE OF 28.83 FEET;  
 THENCE S 90°00'00" W, A DISTANCE OF 2.08 FEET;  
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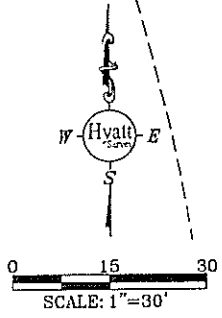
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LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°00'00"W	43.36
L2	S90°00'00"E	2.08
L3	S00°00'00"W	28.83
L4	S90°00'00"W	2.08
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Bearings shown hereon are based upon the East Line of Lot 15, Block C as being S 00°30'49" W and are relative to the State Plane Coordinate System NAD 1983, Florida West Zone.  
 THIS IS NOT A BOUNDARY SURVEY



TEMPORARY CONSTRUCTION EASEMENT #714  
 PARCEL ID#1656700000  
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**RESOLUTION R-12-035**

**A RESOLUTION AUTHORIZING USE OF “QUICK TAKING”  
CONDEMNATION PROCEEDINGS FOR THE PUBLIC USE  
AND PUBLIC PURPOSE OF CONSTRUCTING, WIDENING,  
OR IMPROVING A PUBLIC STREET, ROAD, OR HIGHWAY  
AS PART OF THE PUBLIC ROAD SYSTEM IN MANATEE  
COUNTY, FLORIDA; PROVIDING AN EFFECTIVE DATE.**

**51<sup>ST</sup> AVENUE EAST AT 15<sup>TH</sup> STREET EAST  
INTERSECTION IMPROVEMENT PROJECT  
PARCELS 114 AND 714  
PROJECT NO. 6029960**

**WHEREAS**, Manatee County, Florida, has made an effort to acquire certain property interests along or within the planned corridor of 51<sup>st</sup> Avenue East at 15<sup>th</sup> Street East by purchase from the owners; and

**WHEREAS**, the Board of County Commissioners has heretofore authorized the institution of eminent domain proceedings to acquire said properties, all as described and set out in Resolution R-12-034; and

**WHEREAS**, the Board of County Commissioners wishes to utilize “quick taking” condemnation proceedings.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA**, as follows that:

1. Manatee County is authorized to utilize “quick taking” eminent domain proceedings under Chapter 74, Florida Statutes, and all other applicable statutes, and that the Board of County Commissioners declares its intention to utilize such proceedings to acquire the necessary interests in the properties hereinafter described.

2. Manatee County cannot proceed with the necessary improvements to the intersection of 51<sup>st</sup> Avenue East at 15<sup>th</sup> Street East until it acquires title to the hereinafter-described properties.

3. Delay in acquiring the necessary interests and the resultant delay in construction will adversely affect the project.

4. Manatee County will diligently pursue and prosecute the eminent domain proceedings.

5. The properties to be taken are more particularly described in the Schedules which are attached hereto and made a part hereof (totaling 3 in number).

6. This Resolution shall take effect immediately upon its passage.

**ADOPTED** with a quorum present and voting this \_\_\_\_ day of January, 2012.

BOARD OF COUNTY COMMISSIONERS  
MANATEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

ATTEST: R. B. SHORE  
CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_  
Deputy Clerk

**SCHEDULE 1**

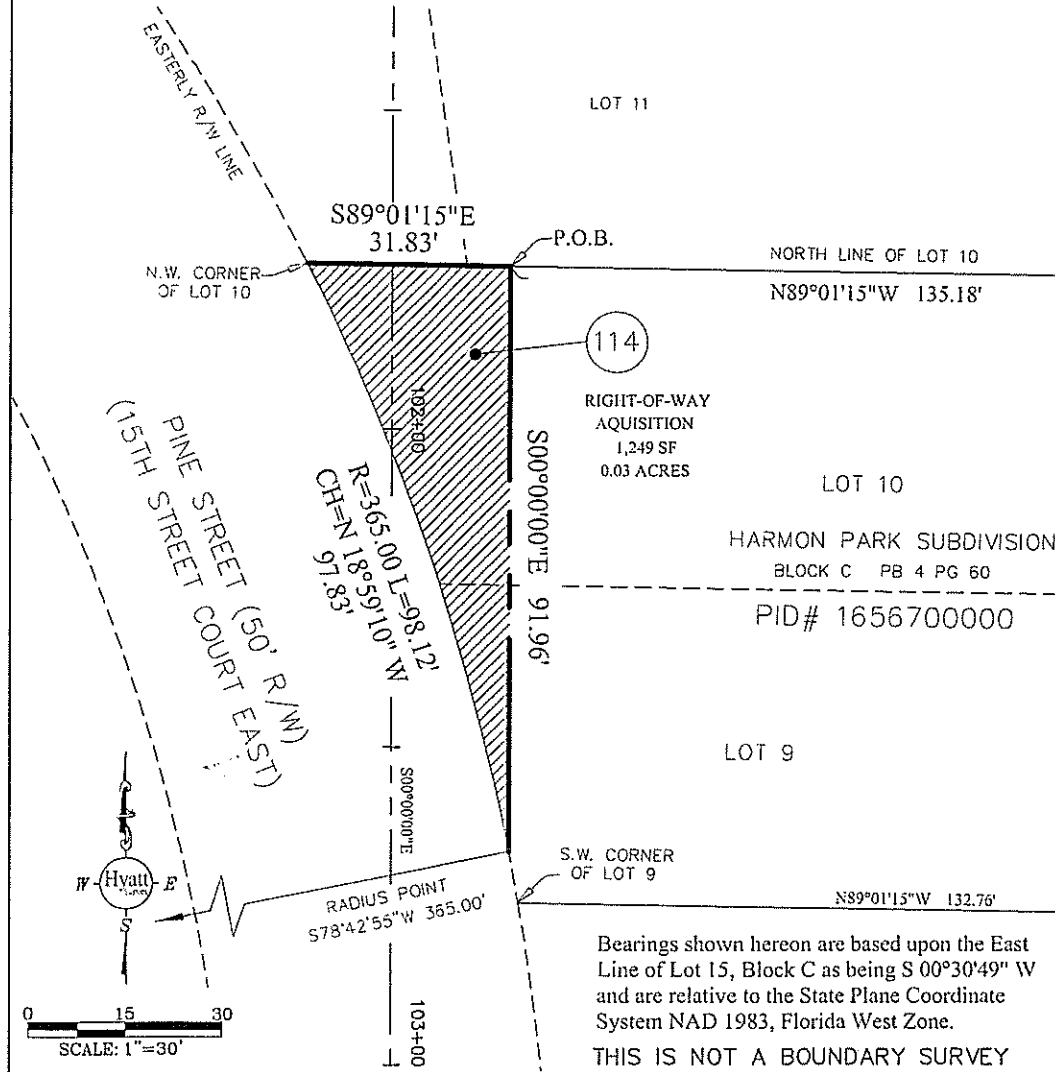
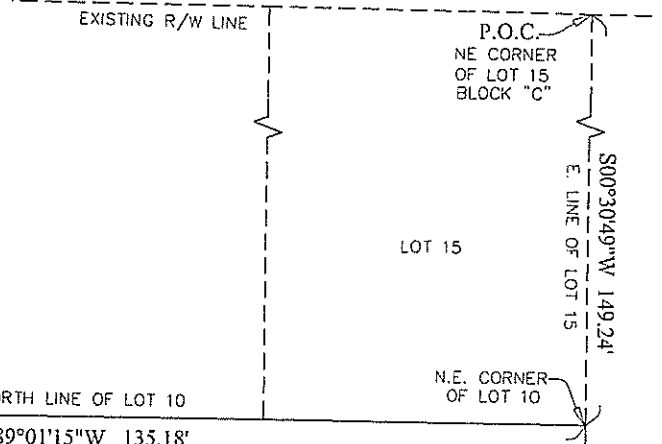
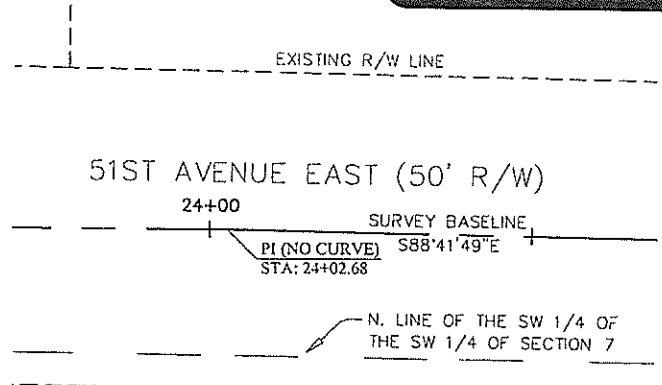
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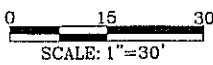
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*(Signature)*  
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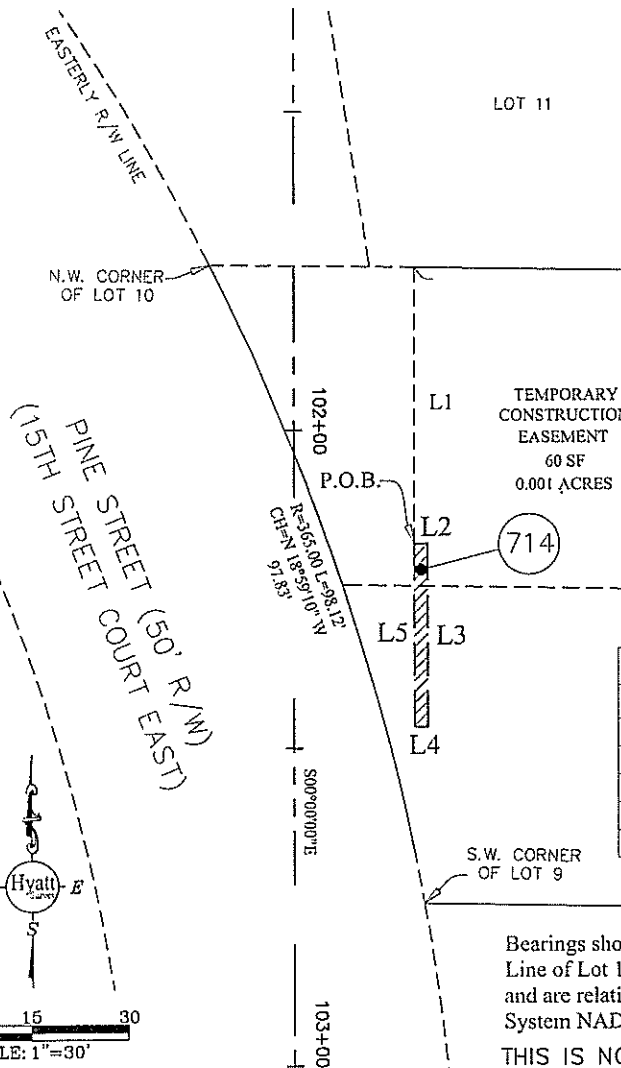
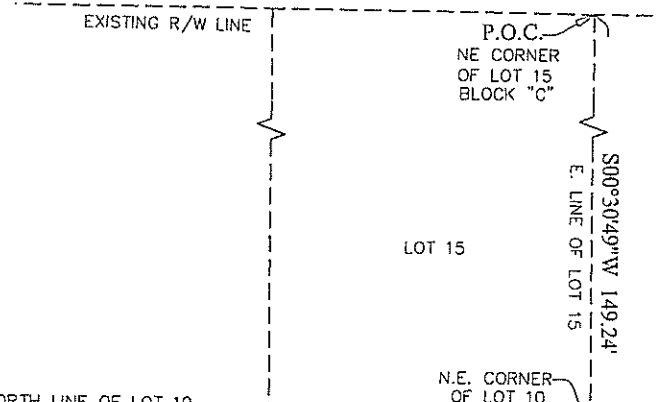
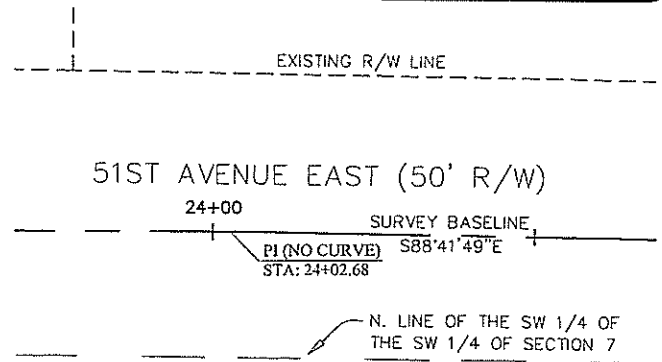
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