Memorandum MIAMI-DADE COUNTY

Date: December 7, 2010

Agenda Item No. 5(G)

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Road Closing Petition P-860
Sections: 4 & 5-52-40
NW 97 Avenue, from Florida Turnpike (State Road No. 821) to NW 202 Street; NW 102 Avenue, from NW 186 Street to NW 202 Street; and NW 194 Street, from NW 97 Avenue to NW 107 Avenue
Commission District: 12

Recommendation
It is recommended that the Board of County Commissioners (Board) grant the attached Road Closing Petition following a public hearing. The Miami-Dade County Departments of Planning and Zoning, Public Works, Water and Sewer and Fire Rescue have no objection to these rights-of-way being closed.

Scope
This road closing is located within Commission District 12.

Fiscal Impact/Funding Source
The estimated value of these rights-of-way, based on the Property Appraiser's Office assessment of the adjacent properties, is approximately $294,320. However, several of the abutting properties are exempt by the State from paying taxes. If these rights-of-way are closed and vacated, the portions of land that are not exempt will be placed on the tax roll, generating an estimated $708 per year in additional property taxes. The total fee for all the rights-of-way included in this road closing is $30,232.

Track Record/Monitor
Not Applicable

Background
The property owners abutting NW 97 Avenue, from Florida Turnpike (State Road No. 821) to NW 202 Street; NW 102 Avenue, from NW 186 Street to NW 202 Street; and NW 194 Street, from NW 97 Avenue to NW 107 Avenue, have joined in signing the petition to close these rights-of-way in order to incorporate the areas into their properties. The rights-of-way requested to be closed are located within an area designated as a "Rockmining Overlay Zoning Area" and has never been improved or maintained by Miami-Dade County.

The subject rights-of-way were dedicated in 1911, by the plat of "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION No. 1", as recorded in Plat Book 2, Page 17; in 1913, by the plat of CHAMBERS LAND COMPANY SUBDIVISION, as recorded in Plat Book 2, Page 27, both of the Public Records of Miami-Dade County, Florida. The area surrounding the subject rights-of-way is zoned GU (Interim District).

Assistant County Manager

Note: The Clerk is directed to publish notice of a public hearing on a Road Closing Petition in a newspaper of general circulation in Miami-Dade County, one (1) time, at least two (2) weeks prior to the date of said public hearing in conformity with the statutory requirements.

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: December 7, 2010

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 5(G)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(G)
12-7-10

RESOLUTION NO. _____

RESOLUTION GRANTING PETITION TO CLOSE NW 97 AVENUE, FROM FLORIDA TURNPIKE (STATE ROAD NO. 821) TO NW 202 STREET; NW 102 AVENUE, FROM NW 186 STREET TO NW 202 STREET; AND NW 194 STREET, FROM NW 97 AVENUE TO NW 107 AVENUE (ROAD CLOSING PETITION NO. P-860)

WHEREAS, the County Commission held a public hearing to consider a petition to close NW 97 Avenue, from Florida Turnpike (State Road No. 821) to NW 202 Street; NW 102 Avenue, from NW 186 Street to NW 202 Street; and NW 194 Street, from NW 97 Avenue to NW 107 Avenue, as outlined in the accompanying petition and memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, (1) that the avenues, roads, highways or other places used for travel as described in the attached petition are hereby vacated, abandoned and closed, all rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed; (2) it is found that the action will serve a public purpose and benefit the public without violating private property rights; (3) that the procedure utilized in the adoption of this resolution is expressly ratified and approved; and (4) the Clerk is hereby directed to publish notice of the adoption of this resolution one time within thirty (30) days hereafter in a newspaper of general circulation of Miami-Dade County.

The foregoing was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Lynda Bell
Audrey M. Edmonson	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairman thereupon declared the resolution duly passed and adopted this 7th day of December, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

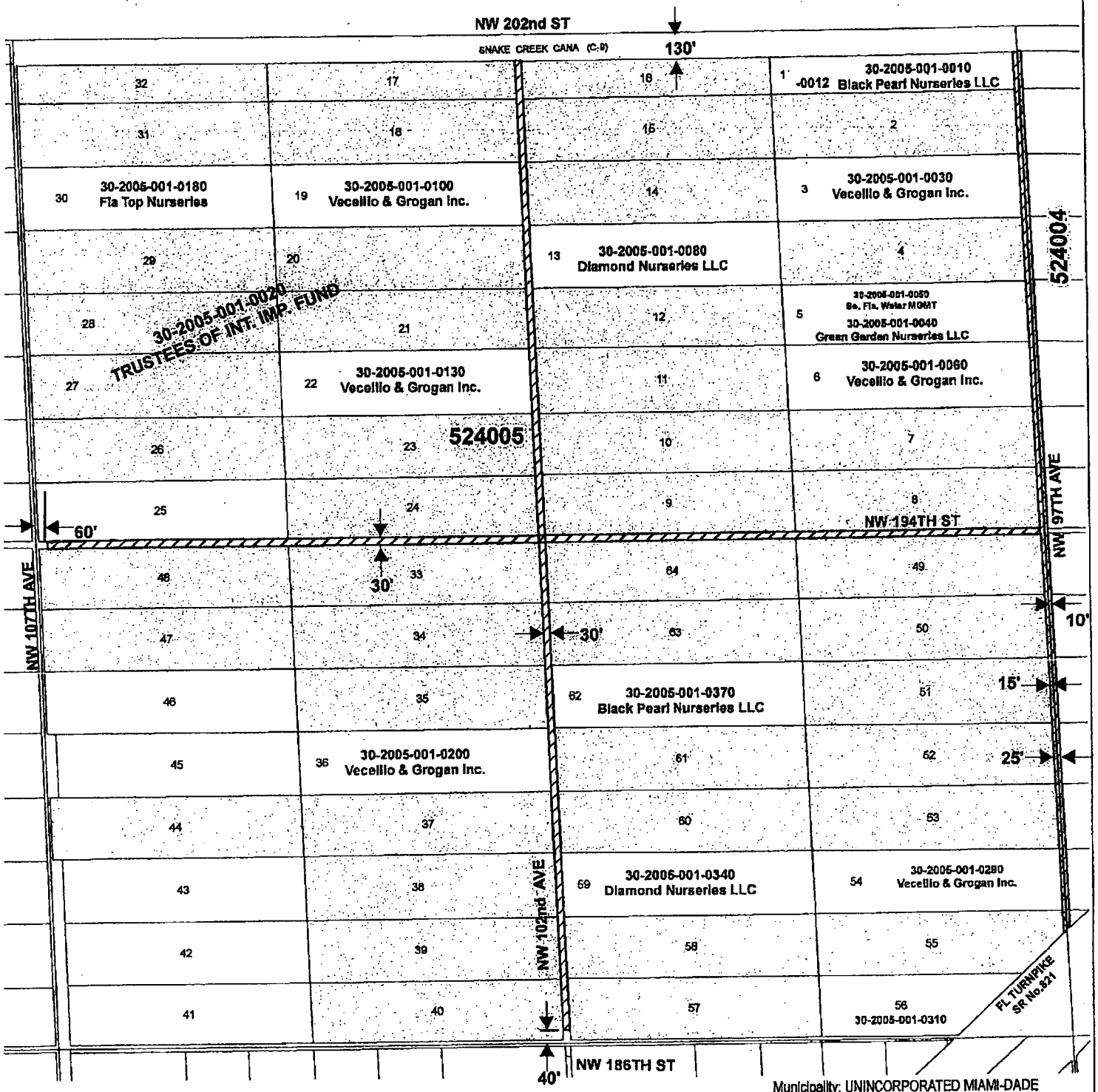
By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Alex S. Bokor

Location Map

SECTIONS 04 & 05 TOWNSHIP 52 S RANGE 40 E



Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Jose " Pepe" Diaz, 12
Miami-Dade County Mayor Carlos Alvarez

Legend

- Road Closing
- TRUSTEES OF INT. IMP. FUND

P-860

NORTH

Date: September 01, 2010
Prepared By: Yazmin Morano

PETITION TO CLOSE ROAD

TO: Board of County Commissioners
Miami-Dade County, Florida

The undersigned, pursuant to Sections 336.09 – 336.12 Florida Statutes, hereby petitions the Board of County Commissioners to vacate, abandon, discontinue and close existing public streets, roads, highway, or other place used for travel, or a portion thereof, and to renounce and disclaim any right of the County and the public in and to any land in connection therewith; or to renounce and disclaim any right of County and the public in and to certain land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes; or to renounce and disclaim any right of the County and the public in and to certain land delineated on recorded map or plat as a street, alleyway, road or highway.

The undersigned hereby certify:

1. LEGAL DESCRIPTION: The complete and accurate legal description of the road, right-of-way sought to be closed is as follows:

NW 194th STREET RIGHT-OF-WAY VACATION:

The south 15 feet of the North ½ and the north 15 feet of the South ½ of Section **5**, Township **52** South, Range **40** East, in FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida, less the west 60 feet thereof.

NW 97th AVENUE RIGHT-OF-WAY VACATION:

The west 10 feet of Section **4**, Township **52** South, Range **40** East, Miami-Dade County, Florida, bounded on the north by a line 130 feet south of and parallel with the north line of said Section 4, and bounded on the south by the northwesterly right-of-way line of Florida's Turnpike Homestead Extension (State Road No. 821).

And

The east 15 feet of Section **5**, Township **52** South, Range **40** East, Miami-Dade County, Florida, bounded on the north by a line 130 feet south of and parallel with the north line of said Section **5**, and bounded on the south by the northwesterly right-of-way line of Florida's Turnpike Homestead Extension (State Road No. 821).

NW 102nd AVENUE RIGHT-OF-WAY VACATION:

The west 15 feet of the East ½ and the east 15 feet of the West ½ of Section **5**, Township **52** South, Range **40** East, Miami-Dade County, Florida, less the north 130 feet and less the south 40 feet thereof.

2. PUBLIC INTEREST IN ROAD: The title or interest of the county and the Public in and to the above described road, right-of-way was acquired and is evidenced in the following manner:

Portions were dedicated in 1913, by the plat of CHAMBERS LAND COMPANY SUBDIVISION, as recorded in Plat Book 2, Page 27; and in 1911, by the plat of FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION No. 1, as recorded in Plat Book 2, Page 17, both of the Public Records of Miami-Dade County, Florida.

3. ATTACH SKETCH: Attached hereto is a sketch showing the above described right-of-way and its location and relation to surrounding properties.

4. ABUTTING PROPERTY OWNERS: the following constitutes a complete and accurate schedule of all owners of property abutting upon the above described right-of-way.

PRINT NAME	FOLIO NO.	ADDRESS
Vecellio and Grogan Inc.	30-2005-001-0030 30-2005-001-0060 30-2005-001-0290 30-2005-001-0100 30-2005-001-0130 30-2005-001-0200	101 Sansburys Way, West Palm Beach, Fl 33411
Black Pearl Nurseries, LLC	30-2005-001-0010 30-2005-001-0370	P.O. Box 4587 West Palm Beach, Fl 33402
TRS of II Fund	30-2005-001-0020	3900 Commonwealth Blvd. Tallahassee, Fl 32399
Green Garden Nurseries, LLC	30-2005-001-0040	800 SE Monterey Commons Blvd. #200, Stuart, FL 34996
South Florida Water Management District	30-2005-001-0050 30-2004-000-0045 30-2005-001-0160	P.O. Box 24680 West Palm Beach, FL 33416
Diamond Nurseries, LLC	30-2005-001-0080 30-2005-001-0340	800 SE Monterey Commons Blvd. #200, Stuart, FL 34996

5. ACCESS TO OTHER PROPERTY: The undersigned certify that in the event this petition is granted no other property owners will be prevented from access to and from their property and no other property owners in the vicinity will be adversely affected.

6. GROUNDS FOR REQUESTING PETITION AND PROPOSED USE FOR THE LAND BY THIS REQUEST: The undersigned submits as a grounds and reasons in support of this petition the following (state in detail, why petition should be granted):

These dedicated rights-of-way are located in an area that has been designated as the Rockmining Overlay Zoning Area (the "ROZA"). Rock mining and activities ancillary to rock mining are historic uses in this area, are presently being conducted in the ROZA, and will continue to be conducted in the ROZA for the foreseeable future.

The dedicated rights-of-way requested for vacation are not necessary for access to non-rock mining properties.

7. Signatures of **all** abutting property owners attached:

Respectfully submitted,

SIGNATURE	ADDRESS

See signature sheet attached:

97th Avenue
(Between Sections 4
and 5)

Print Name	Folio No.	Address	Signature
Black Pearl Nurseries, LLC	30-2005-001-0010	P.O. Box 4587 West Palm Beach, Fl 33402	Stephanie Neff Adm. Manager
TRS OF II Fund	30-2005-001-0020	3900 Commonwealth Blvd., Tallahassee, FL 32399	Stephanie Neff Adm. Manager
Vecellio and Grogan Inc.	30-2005-001-0030; 30-2005-001-0060; 30-2005-001-0290	101 Sansburys Way, West Palm Beach, FL 33411	Jim Hurley President
Green Garden Nurseries, LLC	30-2005-001-0040	800 SE Monterey Commons Blvd., # 200, Stuart, FL 34996	Stephanie Neff Adm. Manager
South Florida Water Management District	30-2005-001-0050; 30-2004-000-0045	P.O. Box 24680 West Palm Beach, Fl 33416	Stephanie Neff Adm. Manager

Print Name	Folio No.	Address	Signature
Black Pearl Nurseries, LLC	30-2005-001-0370	P.O. Box 4587 West Palm Beach, Fl 33402	Stephanie Mulf, Manager
Vecellio and Grogan Inc.	30-2005-001-0100; 30-2005-001-0130; 30-2005-001-0200	101 Sansburys Way, West Palm Beach, FL 33411	Tim Hurley, President
South Florida Water Management District	30-2005-001-0160	P.O. Box 24680 West Palm Beach, Fl 33416	

Print Name	Folio No.	Address	Signature
South Florida Water Management District	30-2004-000-0045 30-2005-001-0160	P.O. Box 24680 West Palm Beach, Fl 33416	

P-860

NW 102 AVE.

Print Name	Folio No.	Address	Signature
Diamond Nurseries, LLC	30-2005-001-0080; 30-2005-001-0340	800 SE Monterey Commons Blvd., # 200, Stuart, FL 34996	Stephane Neff

Attorney for Petitioner

Address:_____
Signature of Attorney not required)

STATE OF FLORIDA)
) SS
PALM BEACH COUNTY)

BEFORE ME, the undersigned authority, personally appeared Leo A. Vecellio, Jr. who first by me duly sworn, deposes and says that he is one of the petitioners named in and who signed the foregoing petition; that he is duly authorized to make this verification for and on behalf of all petitioners; that he/she has read the foregoing petition and that the statements therein contained are true.

Leo A Vecellio Jr
(Signature of Petitioner)

Sworn and subscribed to before me this

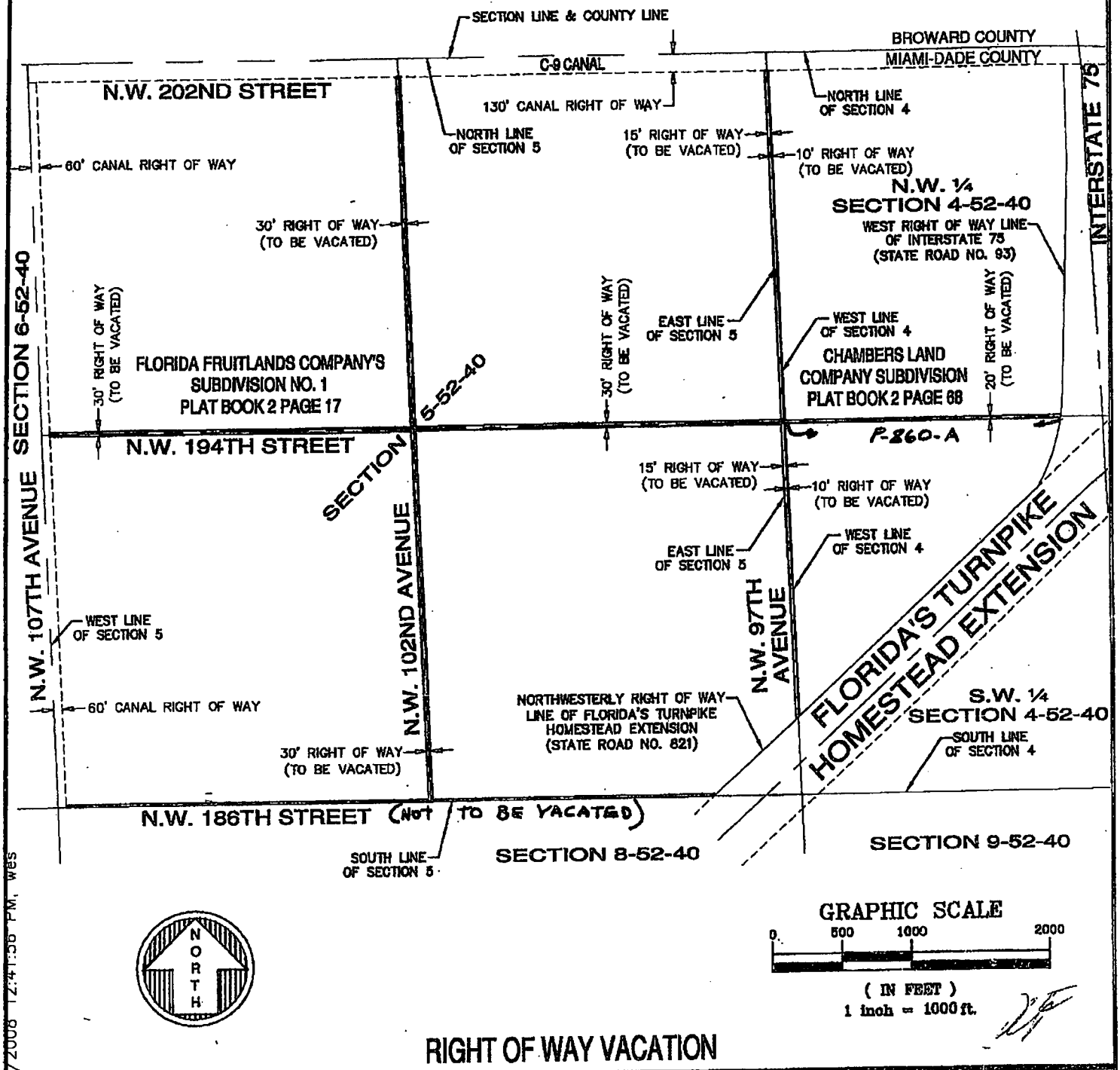
14 day of June 2010

Notary Public State of Florida

DIANNE C. BRADLEY
MY COMMISSION EXPIRES
JUN 13, 2011
#DD 650169
Bonded thru
Notary Public Underwriters
NOTARY PUBLIC STATE OF FLORIDA

My Commission Expires: _____

EXHIBIT "A"



RIGHT OF WAY VACATION

Drawn By	WLO	SKETCH OF DESCRIPTION	Date 2/28/2008
Cad. No.	070422	FORTIN, LEAVY, SKILES, INC.	Scale 1"=1000'
Ref. Dwg.	3006-099	CONSULTING ENGINEERS, SURVEYORS & MAPPERS	Job. No. 070422
		FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653	Dwg. No. 1007-052
Plotted:	3/5/08 12:40a	180 Northeast 168th. Street / North Miami Beach, Florida. 33162	Sheet
		Phone: 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com	

K:\DWG\070422.DWG 3/5/2008 12:41:56 PM, wes

ADDENDUM TO PETITION TO CLOSE ROAD

THIS ADDENDUM IS MADE AS OF THE 4th DAY OF August, 2010, by: Vecellio and Grogan, Inc.; Black Pearl Nurseries, LLC; Green Garden Nurseries, LLC; South Florida Water Management District; Diamond Nurseries, LLC; and Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (the "Undersigned" and "Applicants").

WHEREAS, the Undersigned as Applicants did heretofore file a Petition to Close Roads with Miami-Dade County, Florida, covering certain roads located within Miami-Dade County, Florida, the terms and provisions of such Petition to Close Roads dated May 7, 2008 are incorporated herein by reference; and

WHEREAS, upon the granting of such Petition to Close Roads it is possible that certain parcels may become landlocked and require ingress and egress through other parcels; and

WHEREAS, Applicants wish to supplement said Petition to Close Roads;

NOW, THEREFORE, in consideration of the premises, the Applicants acknowledge the following:

1. This Addendum shall be deemed to be part of, and to supplement, the Petition to Close Roads and takes precedence over any possible contrary provisions of such Petition;

2. Applicants consent to the recording of the Petition including this Addendum, along with recording of the Resolution when passed by Miami-Dade County approving said road closing, in the Public Records of Miami-Dade County, Florida; and

3. Applicants understand that should any parcel be landlocked by virtue of the granting of the Petition to Close Roads, the owners of the landlocked parcels may require ingress and egress access over the non-landlocked parcels in the most efficient and expedient manner under the law of Statutory Way of Necessity or Implied Grant of Way of Necessity, as applicable. Provided, however, that should any such easement of necessity be over Tracts owned by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (the "State") or the South Florida Water Management District ("District"), the State or the District, as applicable, shall have the right to charge and receive all applicable fees in accordance with the applicable laws and administrative rules and regulations.

[SIGNATURE PAGE FOLLOWS]

[Signature Page to Addendum to Petition to Close Road]

VECELLIO AND GROGAN, INC.,
a West Virginia Corporation

Address: 2251 ROBERT C BYRD DRIVE
BECKLEY WV 25801

By: Jim Hurley

Its President-Quarries

STATE OF FLORIDA)
COUNTY OF MIAMI DADE) SS.:

The foregoing instrument was acknowledged before me by Jim Hurley the President-Quarries of Vecellio and Grogan, Inc., a West Virginia Corporation, personally known to me or produced _____, as identification and who acknowledged the foregoing instrument for the purposes therein contained, and acknowledged that he was authorized to execute said instrument on behalf of the Corporation.

Witness my signature and official seal this 29 day of MAR, 2010.

D C Bradley
Signature
Notary Public-State of West Virginia

My Commission Expires: 7/13/11

DIANNE C. BRADLEY
MY COMMISSION EXPIRES
July 13, 2011
#DD 650169
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

MIA 180,596,416v3 3-8-10

[Signature Page to Addendum to Petition to Close Road]

BLACK PEARL NURSERIES, LLC,
a Delaware Limited Liability Company

By: Stephanie Melfi

Its ~~General~~ Manager

Address: P.O. Box 4587
West Palm Beach, FL 33402

STATE OF FLORIDA)
COUNTY OF MIAMI DADE) SS.:

The foregoing instrument was acknowledged before me by Stephanie Melfi, the MANAGER of Black Pearl Nurseries, LLC, a Delaware Limited Liability Company, personally known to me or produced _____, as identification and who acknowledged the foregoing instrument for the purposes therein contained, and acknowledged that he was authorized to execute said instrument on behalf of the Company.

Witness my signature and official seal this 28 day of April, 2010.

Francine E. Hines
Signature
Notary Public-State of Florida

My Commission Expires April 2, 2011

FRANCINE E. HINES
MY COMMISSION # DD 658142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,596,416v3 3-26-10

[Signature Page to Addendum to Petition to Close Road]

GREEN GARDEN NURSERIES, LLC,
A Delaware Limited Liability Company

By: Stephanie Melfi

Its Manager

Address: 101 Sansbury's Way
West Palm Beach, FL 33416

STATE OF FLORIDA)
COUNTY OF MIAMI DADE) SS.:

The foregoing instrument was acknowledged before me by STEPHANIE MELFI, the MANAGER of Green Garden Nurseries, LLC, a Delaware Limited Liability Company, personally known to me or produced _____, as identification and who acknowledged the foregoing instrument for the purposes therein contained, and acknowledged that he was authorized to execute said instrument on behalf of the Company.

Witness my signature and official seal this 28 day of APRIL, 2010.

Francine E. Hines

Signature
Notary Public-State of Florida

My Commission Expires: April 2, 2011

FRANCINE E. HINES
MY COMMISSION # DD 658142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,596,416v3 3-26-10

[Signature Page to Addendum to Petition to Close Road]

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT OF THE STATE OF FLORIDA

By: _____
Ruth Clements, Department Director
Land Acquisition

Address:
SFWMD
3301 Gun Club Road
West Palm Beach, FL 33416

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.:

The foregoing instrument was acknowledged before me by Ruth Clements, Department Director Land Acquisition, to me personally known ~~or produced~~ _____ ~~as identification and~~ who acknowledged the foregoing instrument for the purposes therein contained, and acknowledged that he was authorized to execute said instrument on behalf of the South Florida Water Management District.

Witness my signature and official seal this 4 day of August 2010, in the County and State aforesaid.

Candy Borrelli
Signature
Notary Public-State of Florida

My Commission Expires: 9/12/13

CANDY BORRELLI
Notary Public - State of Florida
My Comm. Expires Sep 12, 2013
Commission # DD 899943
Bonded Through National Notary Assn.

MIA 180,596,416v4 4-27-10

[Signature Page to Addendum to Petition to Close Road]

DIAMOND NURSERIES, LLC,
A Delaware Limited Liability Company

By: Stephanie Melf
Its Manager

Address: 101 Sansbury's Way
West Palm Beach, FL 33416

STATE OF FLORIDA)
COUNTY OF MIAMI DADE) SS.:

The foregoing instrument was acknowledged before me by Stephanie Melf, the MANAGER of Diamond Nurseries, LLC, a Delaware Limited Liability Company, personally known to me or produced _____, as identification and who acknowledged the foregoing instrument for the purposes therein contained, and acknowledged that he was authorized to execute said instrument on behalf of the Company.

Witness my signature and official seal this 26 day of April, 2010.

Francine E Hines
Signature
Notary Public-State of Florida

My Commission Expires April 2, 2011

FRANCINE E. HINES
MY COMMISSION # DD 658142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,596,416v3 3-26-10

[Signature Page to Addendum to Petition to Close Road]

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

Witness

Suzanne Lane
Print/Type Witness Name

Witness

Terry Johnson
Print/Type Witness Name

By: _____ (SEAL)
Deborah Poppell, Director
DIVISION OF STATE LANDS,
STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 17th day of August, 2010, by Deborah Poppell, as Director, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

Notary Public, State of Florida
LUIS G. LOCKETT
Commission DD 818021
Expires September 19, 2012
Bonded Thru Troy Fain Insurance 800-385-7019

Print/Type Notary Name
Commission Number:
Commission Expires:

This instrument was prepared by or under the supervision of:

Name: Javier F. Aviñó, Esq.
Address: 1221 Brickell Avenue
Miami, Florida 33131

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owners, (the "Owner"), hold the fee simple title to the land, described in Exhibit "A," attached hereto, (the "Property"), and
bars

WHEREAS, Owner have filed a petition with Miami-Dade County, (the "County"), to close and vacate the public right-of-way abutting the Property (the "Application"), as depicted in Exhibit "B", attached hereto, and

WHEREAS, Owner wishes to ensure the County that the right-of-way closure will not create an obstacle to access to certain portions of the Property, and

THEREFORE, Owner freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the Property:

Restricted Use of Property. In the event that the property is discontinued from being used for rock mining or its ancillary uses and the Owners redevelop their site in such a manner in which they are precluded from access to a public right of way, the Owners, their heirs, successors and assigns, shall permit such right of way access, either by easement or private road, as may be required to permit the ingress to and egress thereto in a form acceptable to the then Owners.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County through its Board of County Commissioners.

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by Miami-Dade County through its Board of County Commissioners.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Public Works Department or Planning and Zoning Department or the successor of said departments, or in the absence of such directors by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the County retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

Owner. The term Owner shall include the Owner, and its heirs, successors and assigns.

[Execution Pages Follow]

(Space reserved for Clerk)

ACKNOWLEDGMENT CORPORATION

Signed, witnessed, executed and acknowledged on this 11th day of June, 2009.

IN WITNESS WHEREOF, Vecellio and Grogan, Inc. (Corporate name) has caused these presents to be signed in its name by its proper officials.

Witnesses:

Signature

Jennifer A. Rekinski
Print Name

Signature

Terry Jo Basher
Print Name

Vecellio and Grogan, Inc.
Name of Corporation
Address: 2251 Robert C. Byrd Dr
Beckley, WV 25801

By Jim Hurley
(President, Vice-President or CEO*)

Print Name: Jim Hurley
[*Note: All others require attachment of original corporate resolution of authorization]

STATE OF FLORIDA COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by Jim Hurley (Name) the VICE President (Title) of Vecellio and Grogan Inc. (Corporation Name) corporation, on behalf of the corporation.

He/She is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 11th day of June, 2009, in the County and State aforesaid.

Signature

Francine E. Hines
Print Name

Notary Public-State of Florida
My Commission Expires April 2, 2011

FRANCINE E. HINES
MY COMMISSION # DD 658142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,265,170v3 3-25-09

(Space reserved for Clerk)

ACKNOWLEDGMENT LIMITED LIABILITY COMPANY

Signed, witnessed, executed and acknowledged on this 10 day of September, 2010.

IN WITNESS WHEREOF, Black Pearl Nurseries, LLC (Corporate name) has caused these presents to be signed in its name by its proper officials.

Witnesses:

Signature

Dana L Hatcher
Print Name

Signature

ROBIN HAMERMAN
Print Name

Black Pearl Nurseries, LLC
Name of LLC
Address:

By
(Managing Member*)

Print Name: Stephanie Melfi
[*Note: All others require attachment of original corporate resolution of authorization]

STATE OF FLORIDA **COUNTY OF** PALM BEACH

The foregoing instrument was acknowledged before me by STEPHANIE MELFI (Name) the MANAGING MEMBER (Title) of BLACK PEARL NURSERIES (Name) LLC, on behalf of the LLC.

He/She is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 10th day of SEPTEMBER, 2010, in the County and State aforesaid.

Signature

FRANCINE E. HINES
Print Name

Notary Public-State of FLORIDA
My Commission Expires: APRIL 2, 2011

FRANCINE E. HINES
MY COMMISSION # DD 658142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,265,170v3 3-25-09

(Space reserved for Clerk)

ACKNOWLEDGMENT LIMITED LIABILITY COMPANY

Signed, witnessed, executed and acknowledged on this 11th day of June, 2009.

IN WITNESS WHEREOF, Green Garden Nurseries, LLC (Corporate name) has caused these presents to be signed in its name by its proper officials.

Witnesses:

Signature

Jennifer A. Reklinski

Print Name

Signature

Terry Jo Basher

Print Name

Green Garden Nurseries, LLC

Name of LLC

Address: 800 S.E. Monterey Commons Blvd, Suite 200 Stuart, FL 34996

By

(Managing Member*)

Print Name: Stephanie Melfi

[*Note: All others require attachment of original corporate resolution of authorization]

STATE OF FLORIDA **COUNTY OF** PALM BEACH

The foregoing instrument was acknowledged before me by STEPHANIE MELFI (Name) the Manager (Title) of Green Garden Nurseries LLC (Name), on behalf of the LLC.

He/She is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 11th day of June, in the County and State aforesaid.

Signature

FRANCINE E. HINES

Print Name

Notary Public-State of FLORIDA

My Commission Expires: April 2, 2011

FRANCINE E. HINES
MY COMMISSION # DD 858142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,265,170v3 3-25-09

(Space reserved for Clerk)

ACKNOWLEDGMENT LIMITED LIABILITY COMPANY

Signed, witnessed, executed and acknowledged on this 11th day of June, 2009.

IN WITNESS WHEREOF, Diamond Nurseries, LLC (Corporate name) has caused these presents to be signed in its name by its proper officials.

Witnesses:

Signature

Jennifer A. Rekinski

Print Name

Signature

Terry Jo Basher

Print Name

Diamond Nurseries, LLC

Name of LLC

Address:

800 SE Monterey Commons Blvd.

Suite 200

Stuart, FL 34996

By

(Managing Member*)

Print Name: Stephanie Melfi

[*Note: All others require attachment of original corporate resolution of authorization]

STATE OF FLORIDA **COUNTY OF** Palm Beach

The foregoing instrument was acknowledged before me by Stephanie Melfi (Name) the Manager (Title) of Diamond Nurseries (Name) LLC, on behalf of the LLC.

He/~~She is~~ personally known to me or has produced _____, as identification.

Witness my signature and official seal this 11th day of June, 2009, in the County and State aforesaid.

Signature

Francine E. Hines

Print Name

Notary Public-State of Florida

My Commission Expires: April 2, 2011

FRANCINE E.
MY COMMISSION
EXPIRES: Ap
Bonded Thru Notary Pu

FRANCINE E. HINES
MY COMMISSION # DD 658142
EXPIRES: April 2, 2011
Bonded Thru Notary Public Underwriters

MIA 180,265,170v3 3-25-09

EXHIBIT "A"

LEGAL DESCRIPTION:

NW 194th STREET RIGHT-OF-WAY VACATION:

The south 15 feet of the North ½ and the north 15 feet of the South ½ of Section **5**, Township **52** South, Range **40** East, in FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida, less the west 60 feet thereof.

NW 97th AVENUE RIGHT-OF-WAY VACATION:

The west 10 feet of Section **4**, Township **52** South, Range **40** East, Miami-Dade County, Florida, bounded on the north by a line 130 feet south of and parallel with the north line of said Section 4, and bounded on the south by the northwesterly right-of-way line of Florida's Turnpike Homestead Extension (State Road No. 821).

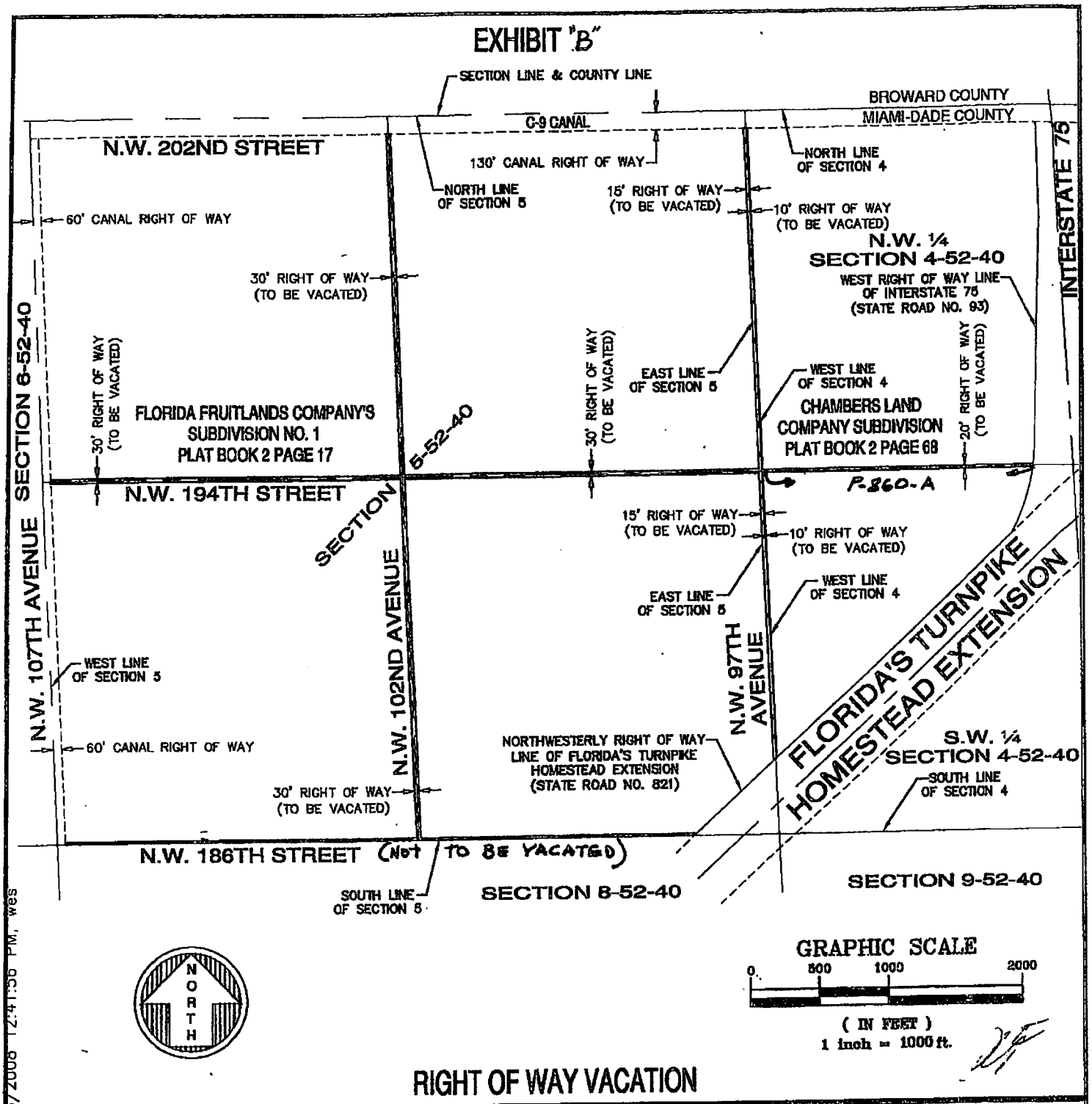
And

The east 15 feet of Section **5**, Township **52** South, Range **40** East, Miami-Dade County, Florida, bounded on the north by a line 130 feet south of and parallel with the north line of said Section **5**, and bounded on the south by the northwesterly right-of-way line of Florida's Turnpike Homestead Extension (State Road No. 821).

NW 102nd AVENUE RIGHT-OF-WAY VACATION:

The west 15 feet of the East ½ and the east 15 feet of the West ½ of Section **5**, Township **52** South, Range **40** East, Miami-Dade County, Florida, less the north 130 feet and less the south 40 feet thereof.

EXHIBIT "B"



RIGHT OF WAY VACATION

Drawn By WLO	SKETCH OF DESCRIPTION		Date 2/28/2008
Cad. No. 070422	FORTIN, LEAVY, SKILES, INC.		Scale 1"=1000'
Ref. Dwg. 3006-099	CONSULTING ENGINEERS, SURVEYORS & MAPPERS		Job. No. 070422
	FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653		Dwg. No. 1007-052
Plotted: 3/5/08 12:40a	180 Northeast 168th. Street / North Miami Beach, Florida. 33162		Sheet
	Phone: 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com		

K:\DWG\1007\1007-052.dwg 3/5/2008 12:41:56 PM, wes