



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 8/19/2008

SUBJECT: 08-35000007/PROPOSED TREE CONSERVATION EASEMENT VACATION – LOT 3, CARTER WOODS SUBDIVISION (1160 BUTTERMILK LANE; TAX PARCEL NO. 6307-16-00-0030)

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION

To approve Resolution #08-36, vacating an 18.00-foot diameter Tree Conservation Easement, center located on Lot 3 of the Carter Woods Subdivision, per the attached legal descriptions.

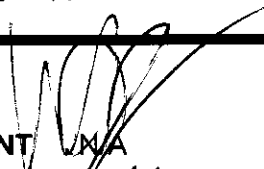



SUMMARY

The Community Development Department has received a request to vacate an 18.00-foot diameter Tree Conservation Easement, center located on Lot 3 of the Carter Woods Subdivision. The property owner has made this request to allow installation of a circular driveway for the single-family residence being constructed on the lot. Staff determined the tree to be healthy, however the canopy and branch structure is irregular due to the proximity of overhead electric lines (see attached photos). Staff is recommending approval of the easement vacation based on the potential hazard posed by the heavy limbs of the tree leaning at a pronounced angle over the house.

In the event the tree conservation easement vacation request is approved, a resolution and quit-claim deed have been prepared. If approved the applicant will be required to plant three (3) replacement trees or pay \$502.80 per replacement tree into the tree bank in lieu of planting replacement trees. The lot owner will also be required to maintain the minimum number of trees on site per the Land Development Code (LDC), which in this case, is five (5).

The easement vacation application and legal description have been reviewed for completeness and accuracy. City departments have reviewed this request and have provided the replacement tree requirements and tree bank amount to the applicant. The applicant is prepared to plant replacement trees if the easement vacation is approved.

ATTACHMENTS: Ordinance Resolution Budget Resolution
 Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD		Wayne Clark Director of Community Development	Date 
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date
CITY ATTORNEY		Approved as to Form and Legality	Date 8-8-08
CITY MANAGER		Approved Agenda Item For:	8/19/08

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Continued to Date Certain Approved with Modification

RESOLUTION NO. 08- 36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING TREE CONSERVATION EASEMENTS FOR LOT 3, CARTER WOODS SUBDIVISION; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A QUIT CLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, DALE W. ADCOCK and LELA RAE M. ADCOCK, husband and wife, are the record owners of Lot 3, CARTER WOODS SUBDIVISION, as recorded in Map Book 53, Page 14, Public Records of Volusia County, Florida, and have applied for the vacation of a tree conservation easement in connection with installation of a driveway for the single family residence to be constructed on the Lot 3; and

WHEREAS, the City Council of the City of Port Orange has the power and authority to vacate easements under constitutional home rule powers and Chapter 166, Florida Statutes; and

WHEREAS, the City Council of the City of Port Orange has determined that the easement to be vacated is not presently necessary and that vacation of the easement is consistent with the objectives of the City's tree protection requirements and it is in the best interest and welfare of the City of Port Orange and the citizens thereof to vacate and abandon the tree conservation easements as more particularly described herein below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The interest of the City of Port Orange, Volusia County, Florida, in the following described easement is hereby declared to be vacated and abandoned and any right, title and interest of the City of Port Orange and any public rights in and to the

easement hereby vacated are renounced and disclaimed. The easement to be vacated is more particularly described as follows:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. The Mayor and City Manager are hereby authorized and directed to execute Quit Claim Deeds to the afore-described property owners to effectuate the intent of this resolution.

Section 3. This resolution and the related quit claim deeds shall not be recorded until the following conditions are met:

A. DALE W. ADCOCK and LELA RAE M. ADCOCK, husband and wife, installs/plants three (3) new trees, each being of 4-inch caliper and 14 feet in height; or makes a cash contribution to the tree bank of \$502.80 per replacement tree, being a total contribution in the amount of \$1,508.40; and the City Landscape Architect delivers written verification of the installation/planting and proof of payment to the City Attorney.

Section 4. This resolution shall become effective immediately upon recording in the public records of Volusia County, Florida.

MAYOR ALLEN GREEN

ATTEST:

Kenneth W. Parker, City Manager

Adopted on the _____ day of _____, 2008.

Reviewed and Approved: 
City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

An 18.00-ft. in diameter Tree Conservation Easement located on Lot 3 of the Carter Woods Subdivision plat, as recorded in Map Book 53, Page 14, of the Public Records of Volusia County, Florida, being more particularly described as follows: Beginning at the northeasterly corner of said Lot 3, thence S69°38'29"W, a distance of 32.24 feet to the center of the 18.00-foot in diameter Tree Conservation Easement.

Prepared by
Linda D Johnson CP, RW-NAC
for City Attorney
Return to:
Records Clerk
1000 City Center Circle
Port Orange FL 32129-4144
A portion of Parcel No. 6307-16-00-0030

(Space Above This Line For Recording Data)

Quit-Claim Deed

This Indenture, made this _____ day of _____, 2008, between CITY OF PORT ORANGE, FLORIDA, a chartered municipal corporation, located in Volusia County, Florida, mailing address: 1000 City Center Circle, Port Orange FL 32129, Grantor, and DALE W. ADCOCK and LELA RAE M. ADCOCK, husband and wife, mailing address: 7539 Wheat Road, Jacksonville, FL 32244, Grantee.

Witnesseth: That the said Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said Grantor, in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit claim unto the said Grantee, his successors and assigns forever, all the right, title, interest, claim and demand which Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Volusia, State of Florida:

TREE CONSERVATION EASEMENT(s) granted to the City of Port Orange by virtue of subdivision plat map entitled, CARTER WOODS SUBDIVISION recorded at Map Book 53, Page 14, Public Records of Volusia County, Florida. Said easement being sometimes identified as a portion of Lot 3, parcel number **07-16-33-16-00-0030** located in Volusia County, Florida, more particularly described and graphically depicted on Exhibits "A-1" and "A-2," attached hereto and made a part hereof by reference, being a legal description and sketch of the easement area to be vacated ("Easement Released").

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or in equity to the only proper use, benefit and behoof of Grantee forever.

In Witness Whereof, Grantor has hereunto caused this Quit-Claim Deed to be executed under seal and on its behalf the day and year first above written.

Signed, sealed and delivered in our presence:

City of Port Orange, Florida
a Florida municipal corporation

Printed Witness Name: _____

By: _____
Allen Green, Mayor

Printed Witness Name: _____

(Witnesses as to Grantor/City)

Attest: _____
Kenneth W. Parker, City Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing Quit-Claim Deed was acknowledged before me this _____ day of _____, 2008, by Allen Green and Kenneth W. Parker, the Mayor and City Manager, respectively, who executed the foregoing Quit-Claim Deed on behalf of Grantor, **City of Port Orange, Florida**, a Florida municipal corporation, and they are: personally known to me.

Notary Public, State of Florida
Printed Name, Commission and Term Expiration Date:

This document has been prepared by the City of Port Orange without the benefit of title examination or survey and shall not constitute a waiver of compliance with local and general laws regulating the subject property.

EXHIBIT "A-1"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

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EXHIBIT "A-2"

SKETCH OF DESCRIPTION

CULLUM LAND SURVEYING INC.
 GREGG S. CULLUM
 PROFESSIONAL SURVEYOR & MAPPER #5095
 5899 S. WILLIAMSON BLVD.
 SUITE 1405
 PORT ORANGE, FLORIDA 32128
 386-761-7666
 (FAX) 386-761-7909

DATE AND LEILA RAE ADCOCK
 WALTER FOSTER III
 SUNTRUST
 OLSEN CUSTOM HOMES

CERTIFIED TO:
 NOT VALID UNLESS SIGNED BY A PROFESSIONAL
 SURVEYOR AND SEALED WITH AN
 EMBOSSED SEAL

JOB # 2007-194
DATE 10/10/07
SCALE 1" = 30'
DRAWN BY GSC
CHECKED BY GSC
FIELD BOOK/PAGE LOOSE
SHEET 1 OF 1

REVISIONS

NO.	DATE	DESCRIPTION
1	10/10/07	DATE OF FIELD SURVEY
2	10/10/07	IMPROVEMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3	10/10/07	THIS SURVEY IS BASED ON EXISTING FIELD MONUMENTATION.
4	10/10/07	NO UNDERGROUND UTILITIES WERE LOCATED EXCEPT AS SHOWN.
5	10/10/07	NO UNDERGROUND UTILITIES WERE LOCATED EXCEPT AS SHOWN.
6	10/10/07	BEARINGS REFERENCED TO THE SOUTH BOUNDARY LINE OF LOT 3, BEING N87°02'51" E.
7	10/10/07	NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL BASED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER.
8	10/10/07	THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF AN ABSTRACT. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN THAT COULD AFFECT THE PROPERTY THAT WOULD BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
9	10/10/07	LEGAL DESCRIPTION FURNISHED BY CLIENT.

LEGAL DESCRIPTION (AS FURNISHED):
 LOT NUMBER(S): 3
 BLOCK NUMBER: 3
 PARCEL(S): 14
 ADDRESS: BUTTERMILK LANE
 VULCAN COUNTY, FLORIDA

LEGEND / ABBREVIATIONS:

ASPH.	ASPHALT	FLA.D.	FLORIDA DEPARTMENT OF TRANSPORTATION
AL.	ALUMINUM SHED	F.F.	FRESH FLOOR ELEVATION
A.C.	AIR CONDITIONER	F.M.	FIELD MEASURED
A.V.	AR. UTILITIES	F.P.	FLORIDA POWER & LIGHT
B.W.	BUILDING	L.P.	LOCAL POWER
B.W.	BALCONY	L.R.	LOCAL ROAD
C.C.	CALCULATED	M.B.	METAL BOLT
C.L.F.	CHAIN LINK FENCE	M.L.	METAL
C.M.P.	CONCRETE MONUMENT	N.A.	NON-APPLICABLE
C.M.	CORRODED METAL	O.R.	OFFICIAL RECORDS BOOK
C.M.	CONCRETE	P.P.	PERMANENT CONTROL POINT
DESC.	DESCRIPTION	TYP.	TYPICAL

BOUNDARY SURVEY

SURVEYOR'S CERTIFICATION:
 I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AS SURVEYED IN THE FIELD UNDER MY SUPERVISION ON THE DATES SHOWN HEREON. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN FLORIDA STATUTES, CODE CHAPTER 401,17, AS AMENDED BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS, PUBLIC LAW NO. 10-10-07, AND THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS, PUBLIC LAW NO. 10-10-07, SUBJECT TO THE QUANTIFICATIONS NOTED HEREON.

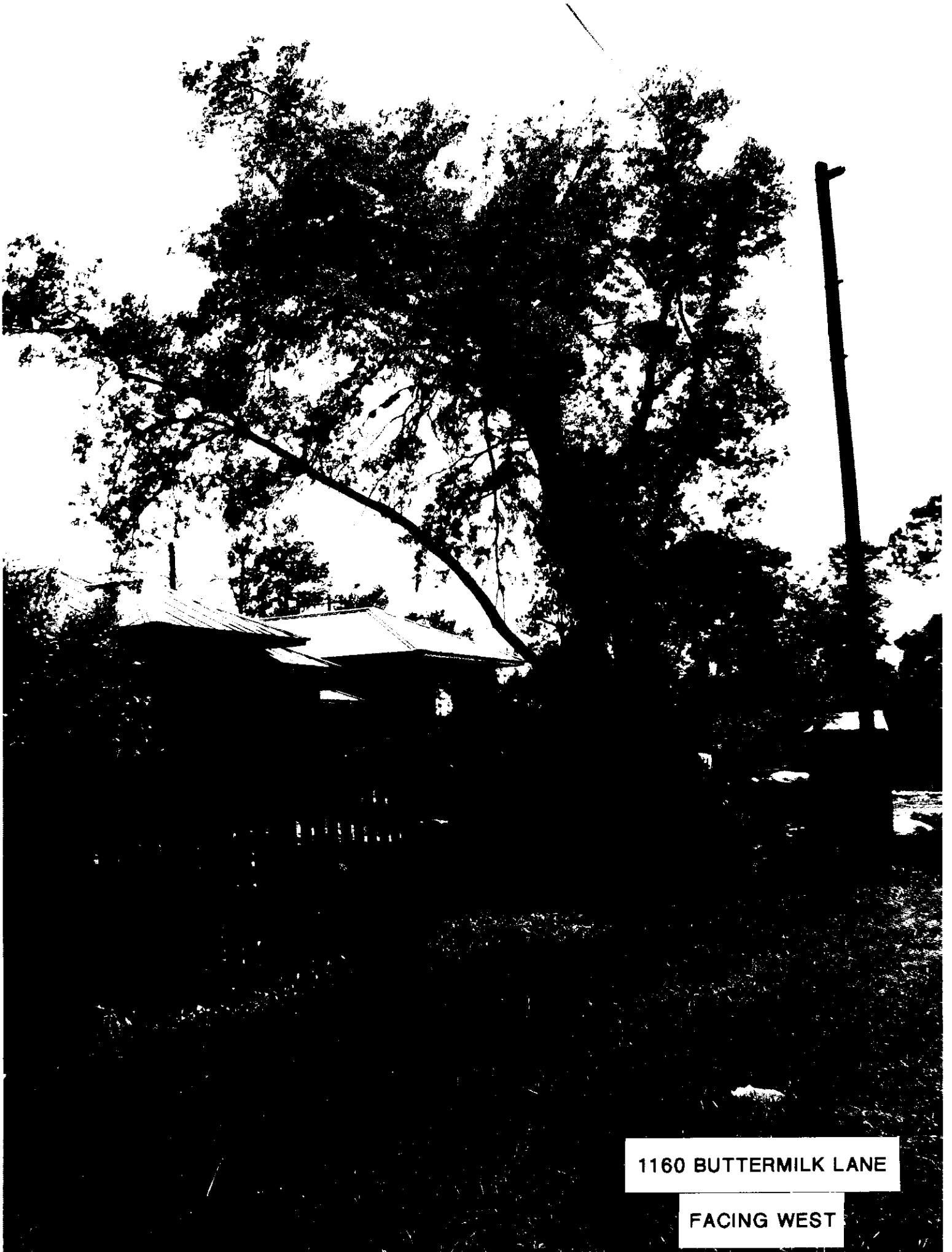
GREGG S. CULLUM P.S.M. #5095
 DATE: 10-10-07



1160 BUTTERMILK LANE



1160 BUTTERMILK LANE



1160 BUTTERMILK LANE

FACING WEST