

ORDINANCE NO. 2019-08

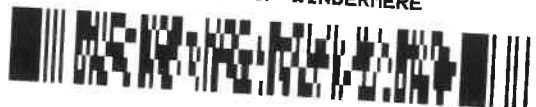
AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, VACATING A PORTION OF WEST 1ST AVENUE AND PINE STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; RESERVING UNTO THE TOWN OF WINDERMERE A 15-FOOT UTILITY EASTMENT ALONG THE VACATED CENTERLINE OF WEST 1ST AVENUE WITHIN THE PORTION OF THE VACATED PORTION OF WEST 1ST AVENUE AND PINE STREET; CONVEYING FEE SIMPLE OWNERSHIP OF THE VACATED PROPERTY TO FERNANDO AZPURUA, OWNER OF 92 PINE STREET; PROVIDING FINDINGS, SEVERABILITY, AND AN EFFECTIVE DATE

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF WINDERMERE, FLORIDA;

Section 1. Legislative Findings and Intent.

- (1) On April 10, 1967, the Town Council approved a resolution, which did not include a sketch or survey, recorded in the Orange County Public Records in O.R. Book 1637, Page 622, that vacated a portion of West 1st Avenue. See Exhibit "A".
- (2) On November 27, 2002, 92 Pine Street was purchased by Raymond and Jacquelyn Smith, and a survey was provided as part of the closing, reflecting the 1967 resolution vacation ("Original"). The "Original" survey is provided in Exhibit "B".
- (3) Since 2002, the Smith's assumed based on the "Original" survey, and the mapping of the property by the Orange County Property Appraiser, and the issuance of a building permit by the Town for the installation of a fence on the property, that their property ownership included the area depicted in Exhibit "B".
- (4) On April 15, 2019, the Smith's sold 92 Pine Street to Fernando Azpurua, and a survey was provided as part of the closing reflecting the 1967 resolution vacation ("New"). The 2019 "New" survey is provided in Exhibit "C".
- (5) In review and comparison of the "Original and "New" surveys, it was determined that the "New" survey reflects a different application of the 1967 vacation resolution than the "Original" survey.
- (6) The discrepancies in the "Original" and "New" surveys have placed a cloud on the title for 92 Pine Street.

DOC# 2020026640
01/14/2020 12:31:22 PM Page 1 of 8
Rec Fee: \$69.50
Phil Diamond, Comptroller
Orange County, FL
MB - Ret To: TOWN OF WINDERMERE



- (7) To remove any uncertainty and clear up any discrepancy between the “Original” and “New” surveys, an additional right-of-way vacation is required to clearly vacate the area in dispute.
- (8) The portion of West 1st Avenue and Pine Street to be vacated under this ordinance is shown in Exhibit “D”. After vacation of the area in Exhibit “D”, the vacated property ownership is conveyed to Fernando Azpurua, owner of 92 Pine Street.
- (9) The Town has reviewed the request to vacate the right-of-way as shown in Exhibit “D” and finds that the vacation meets the requirements for vacation of Town right-of-way provided in Section 6.02.03(d) of the Town’s Land Development Code.
- (10) The Town reserves a 15-foot utility easement along the centerline of the vacated portion of West 1st Avenue, which is an extension of the existing 15 foot easement within the area vacated in 1967.
- (11) The Town has home rule power to vacate streets or portions thereof and the Town Council has determined that the portion of the right-of-way of West 1st Avenue and Pine Street, as shown in Exhibit “D”, is not needed as Town right-of-way; however, the Town reserves a 15-foot utility easement along the centerline of the vacated portion of West 1st Avenue.

Section 2. Vacation of Right-of-Way. The Town Council hereby approves the vacation of the portion of right-of-way on a portion of West 1st Avenue and Pine Street as provided in Exhibit “D”. Fee simple ownership of the property hereby reverts to Fernando Azpurua, owner of 92 Pine Street.

Section 3. Reservation of Utility Easement. The Town Council hereby reserves a 15-foot utility easement, seven and one-half (7.5) feet along each side of the centerline of the vacated portion of West 1st Avenue.

Section 4. Severability. If any section, sentence, clause or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.


Section 5. Effective Date. This Ordinance shall become effective immediately upon its enactment.

APPROVED AND ADOPTED by the Town Council of the Town of Windermere on the 18th day of December, 2019.

Town of Windermere, Florida
By: Town Council

By: 
Jim O'Brien, Mayor

Attest:


Dorothy Burkhalter, MMC, FCRM
Town Clerk

First Reading: November 12, 2019
Second Reading: December 18, 2019



Exhibit "A"

135923 RECORDED
MAY 29 12 19 PM 1967
O.R. 1637 PG 622

425
PH

RESOLUTION

The Windermere Town Council, upon motion duly made and seconded, resolved to abandon the following described property:

En
m

That portion of the unopened street known as First Avenue, lying West of Pine Street and extending to the shore line of Wausson Bay; bordered on the South by Lots 26C and 27C, and on the North by Lot 28C, according to the plat of WINDERMERE CLUB COMPANY, as recorded in Plat Book "6", Pages 36 through 39, public records of Orange County, Florida.

AND THEREFORE, by virtue of the action of the Town Council of Windermere, Fla. did abandon all of said Town's interest in the above described property except that the Town reserves a fifteen foot easement for all utility purposes, seven and one-half feet of which shall be on either side of the center line of such street.

Theodore S. Johnson
Theodore S. Johnson, Mayor

6

ATTEST:

Jean Gutzger
Jean Gutzger, Town Clerk
April 10, 1967

Town of Windermere
Windermere Florida
1967

"Exhibit B" "Original Survey"

SWEARDLOFF & FERRY

370 Waymont Court · Lake Mary, FL 32746 · Voice 407.688.7631 · Fax 407.688.7691

Beginning at the Northeastly corner of Lot 28C, run South 73 degrees West 100 feet, thence South 22 degrees West 83.77 feet; thence South 73 degrees West 90 feet; thence South 16 degrees West 40 feet to the Shoreline, Southeastly along Shoreline to South line of Lot 28C; thence North 73 degrees East to the West right-of-way of Pine Street North to the Point of Beginning and 60 foot vacated right-of-way on the South, PLAT OF WINDERMERE, according to the plat thereof, as recorded in Plat Book G, Pages 36-39, of the Public Records of Orange County, Florida.

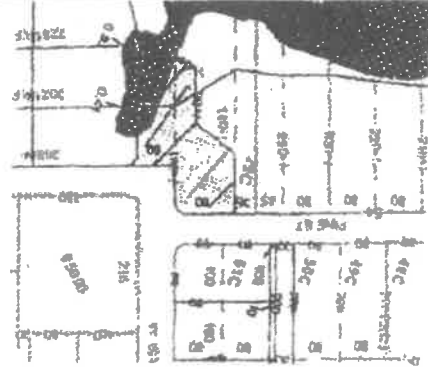
Community number: 120381 Panel: 0385

Suffix: E.F.L.R.M. Date: 12/6/2000 Flood Zone: X

Date of field work: 11/25/2002 Completion Date: 11/25/2002

Revised Legal: 12/3/2002 Revised Map: 3/14/2007 (Survey NOT Updated)

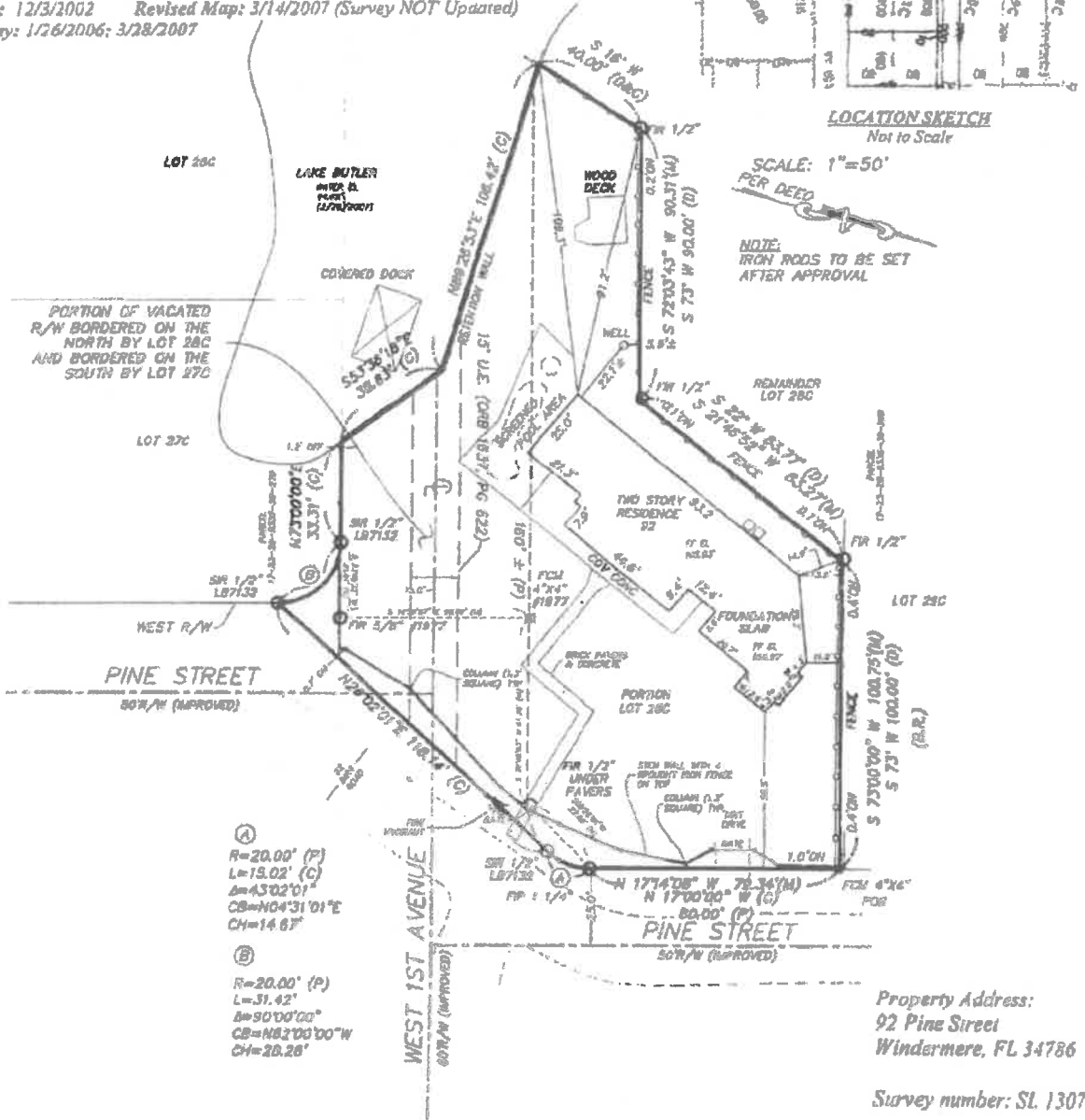
Updated Survey: 1/26/2006; 3/28/2007



LOCATION SKETCH
Not to Scale

SCALE: 1"=50'

NOTE:
IRON RODS TO BE SET
AFTER APPROVAL



Property Address:
92 Pine Street
Windermere, FL 34786

Survey number: SL 13074

LEGEND

- Wood Fence
- Wire Fence
- LI Chain Link Fence
- Found Nail
- JKC Concrete
- Field Measured
- Clear
- KCR Encroachment
- Centerline

- W/M Water Meter
- TEL Telephone Facility
- Covered Area
- B.R. Bearing Reference
- Ch Chord
- RAD Radial
- A/C Air Conditioner
- B.M. Bench Mark
- C Calculated

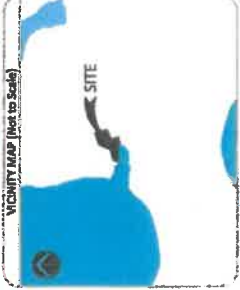
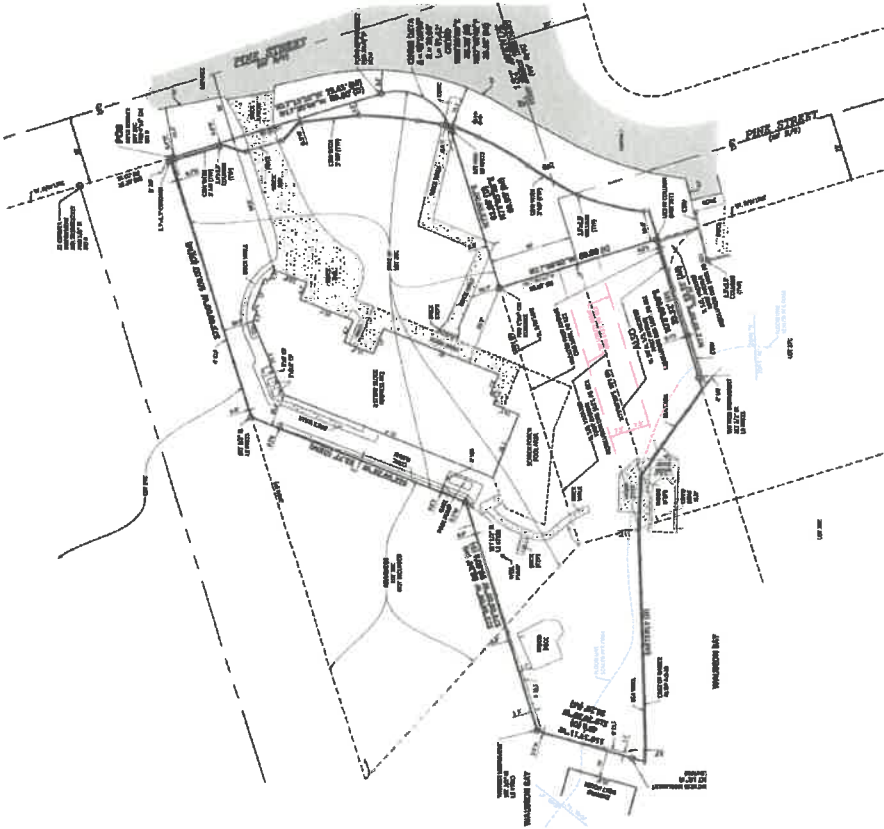
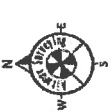
- N.T.S. Not to Scale
- O.R. Official Records
- D.R.B. Official Records Book
- P.C.P. Permanent Control Point
- P.R.M. Permanent Reference Monument
- PG Page
- P.V.M.F. Pavement
- E.O.P. Edge of Pavement
- P.B. Plat Book

GENERAL NOTES

1. Legal description provided by others
2. The lands shown herein were not abstracted for easements or other recorded encumbrances not shown on the plat
3. Underground portions of footings, foundations or other improvements were not located.
4. Wall ties are to the face of the wall
5. Only visible encroachments located
12. FLOOD ZONE DETERMINATIONS ARE PROVIDED AS A COUNTEYS ONLY, AND ARE DERIVED FROM THE BEST SOURCES AVAILABLE TO THE SURVEYOR. THIS INFORMATION SHOULD NOT BE RELIED UPON FOR FLOOD INSURANCE PURPOSES, AND MAY DIFFER FROM INFORMATION PROVIDED BY OTHERS.
13. Septic tank and/or drain/field locations are

Exhibit "C" "New Survey"

BOUNDARY AND LOCATION SURVEY



LEGEND

Property boundaries shown on this survey are indicated by solid lines. Easements shown on this survey are indicated by dashed lines. Utility lines shown on this survey are indicated by dotted lines. Survey markers shown on this survey are indicated by circles with an 'X' inside. Other markers shown on this survey are indicated by circles with a dot inside. Bearings are shown in degrees, minutes, and seconds. Distances are shown in feet and inches.

DESCRIPTION:

THIS SURVEY WAS MADE FOR THE PURPOSE OF RECORDING THE BOUNDARY AND LOCATION OF THE LAND SHOWN ON THE ACQUISITION DEED RECORDED IN PUBLIC BOOK # 19924, PAGE 38, OF THE PUBLIC RECORDS OF DUNDEE COUNTY, FLORIDA, IN CONNECTION WITH THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS OF THE SURVEYING AND MAPPING BOARD OF THE STATE OF FLORIDA. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS OF THE SURVEYING AND MAPPING BOARD OF THE STATE OF FLORIDA. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS OF THE SURVEYING AND MAPPING BOARD OF THE STATE OF FLORIDA.

ALSO:

THE SOUTH 1/2 OF SECTION 14 OF TOWNSHIP 31 SOUTH, RANGE 18 WEST OF RANGE STREET, FOR THE EAST 1/2 OF SECTION 14, ACCORDING TO PUBLIC BOOK # 19924, PAGE 38, OF THE PUBLIC RECORDS OF DUNDEE COUNTY, FLORIDA.

GENERAL SURVEY NOTES:

1. THIS SURVEY WAS MADE FOR THE PURPOSE OF RECORDING THE BOUNDARY AND LOCATION OF THE LAND SHOWN ON THE ACQUISITION DEED RECORDED IN PUBLIC BOOK # 19924, PAGE 38, OF THE PUBLIC RECORDS OF DUNDEE COUNTY, FLORIDA.
2. THIS SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS OF THE SURVEYING AND MAPPING BOARD OF THE STATE OF FLORIDA.
3. THE SURVEYOR HAS NOT PERSONALLY LOCATED THE POINTS OF THE BOUNDARIES SHOWN ON THIS SURVEY. HE HAS CONDUCTED A VISUAL INSPECTION OF THE AREA AND HAS FOUND THAT THE POINTS OF THE BOUNDARIES SHOWN ON THIS SURVEY ARE IN SUBSTANTIAL AGREEMENT WITH THE POINTS OF THE BOUNDARIES SHOWN ON THE ACQUISITION DEED RECORDED IN PUBLIC BOOK # 19924, PAGE 38, OF THE PUBLIC RECORDS OF DUNDEE COUNTY, FLORIDA.
4. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE AREA TO DETERMINE IF THERE ARE ANY OBSTRUCTIONS TO THE SURVEYING WORK.
5. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE AREA TO DETERMINE IF THERE ARE ANY ENCUMBRANCES ON THE LAND SHOWN ON THIS SURVEY.
6. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE AREA TO DETERMINE IF THERE ARE ANY ADVERSE CLAIMS TO THE LAND SHOWN ON THIS SURVEY.
7. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE AREA TO DETERMINE IF THERE ARE ANY OTHER MATTERS THAT MAY AFFECT THE SURVEYING WORK.
8. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE AREA TO DETERMINE IF THERE ARE ANY OTHER MATTERS THAT MAY AFFECT THE SURVEYING WORK.

Altamex Surveying
 42 Pine Street
 Washington Blvd
 Dundee, FL 34788

REVISIONS

NO.	DATE	DESCRIPTION

DATE: 08/20/2025
 DRAWN BY: J.S.M.
 CHECKED BY: J.S.M.
 SCALE: AS SHOWN
 PROJECT NO.: 2025-001

REGISTERED PROFESSIONAL SURVEYOR
 LICENSE NO. 12000
 EXPIRES 08/20/2028

SHEET 1 OF 1

Prepared for:
 RAYMOND SMITH AND JACQUELINE SMITH;
 FERNANDO AZPURUA;
 OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY;
 LABOVITZ LAW FIRM, P.A.

This Survey is "As Shown" without the signature and the original record of this Survey. The Surveyor and his/her employees shall be responsible for the accuracy of the information shown on this Survey. The Surveyor shall not be liable for any errors or omissions on this Survey. The Surveyor shall not be liable for any claims or damages arising from this Survey. The Surveyor shall not be liable for any claims or damages arising from this Survey. The Surveyor shall not be liable for any claims or damages arising from this Survey. The Surveyor shall not be liable for any claims or damages arising from this Survey.

SKETCH OF DESCRIPTION

SHEET 1 OF 2

Exhibit "D" " Area to be Vacated"

LEGAL DESCRIPTION:

A PORTION OF THE WESTERLY INTERSECTION OF W. 1ST AVENUE (FORMERLY FIRST AVENUE) AND PINE STREET, PER THE PLAT OF WINDERMERE, AS RECORDED IN PLAT LOOK "G", PAGES 36 THRU 39, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 28C, PLAT OF WINDERMERE, AS RECORDED IN PLAT LOOK "G", PAGES 36 THRU 39, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, RUN THENCE S17°00'00"E ALONG THE EAST LINE OF SAID LOT 28C, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF PINE STREET, A DISTANCE OF 80.00 FEET TO A POINT OF CURVATURE ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 20.00 FEET, A CHORD BEARING OF S23°46'56"W, A CHORD DISTANCE OF 26.13 FEET, RUN THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 81°33'51", A DISTANCE OF 28.47 FEET FOR A POINT OF BEGINNING, SAID POINT BEING A NON-TANGENT POINT ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 85.30 FEET, A CHORD BEARING OF S26°34'31"W, A CHORD DISTANCE OF 34.42 FEET, RUN THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 23°16'58", A DISTANCE OF 34.66 FEET TO A POINT OF REVERSE CURVATURE ON A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 75.00 FEET, A CHORD BEARING OF S20°52'53"W, A CHORD DISTANCE OF 44.69 FEET, RUN THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°40'15", A DISTANCE OF 45.38 FEET TO A POINT OF NON-TANGENCY ON THE NORTHEASTERLY EXTENSION OF THE NORTHERLY LINE OF LOT 27C, SAID PLAT OF WINDERMERE; THENCE S73°00'00"W ALONG SAID NORTHEASTERLY EXTENSION, A DISTANCE OF 12.76 FEET TO A POINT ON THE EASTERLY LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1637, PAGE 622, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N17°00'00"W ALONG SAID EASTERLY LINE, A DISTANCE OF 60.00 FEET TO THE NORTHEAST CORNER OF SAID LANDS, SAID POINT BEING A POINT ON THE SOUTHERLY LINE OF SAID LOT 28C; THENCE N73°00'00"E ALONG SAID SOUTHERLY LINE OF SAID LOT 28C, A DISTANCE OF 61.00 FEET TO A POINT OF CURVATURE ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 20.00 FEET, A CHORD BEARING OF N68°46'56"E, A CHORD DISTANCE OF 2.94 FEET, RUN THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID SOUTHERLY LINE OF LOT 28C, THROUGH A CENTRAL ANGLE OF 08°26'09", A DISTANCE OF 2.94 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,158 SQUARE FEET OR 0.0450 ACRES MORE OR LESS.



JOB #903090
CF #ORG-G-36LOT28C-SOD
DATE: 9/23/19
SCALE: 1" = 20'
DRAWN BY: SAH

CERTIFIED TO:
Labovitz Law Firm, P.A.

LEGEND	
⊗	- CENTERLINE
CBW	- CONCRETE BLOCK WALL
CLF	- CHAIN LINK FENCE
CM	- CONCRETE MONUMENT
CONC	- CONCRETE
COVD	- COVERED
CW	- CONCRETE WALKWAY
A	- CENTRAL ANGLE
(D)	- DESCRIBED
DB	- DEED BOOK
DE	- DRAINAGE EASEMENT
DW	- DRIVEWAY
EP	- EDGE OF PAVEMENT
ESMT	- EASEMENT
FH	- FIRE HYDRANT
FFE	- FINISHED FLOOR ELEVATION
FND	- FOUND
INST	- INSTRUMENT NUMBER
IP	- IRON PIPE
IR	- IRON ROD
L	- ARC LENGTH
(M)	- MEASURED
MF	- METAL FENCE
N&D	- NAIL AND DISK
NR	- NON-RADIAL
NT	- NON-TANGENT
ORB	- OFFICIAL RECORDS BOOK
OW	- OVERHEAD WIRE
(P)	- PLAT
PB	- PLAT BOOK
PC	- POINT OF CURVATURE
PG	- PAGE
PRC	- POINT OF REVERSE CURVATURE
POB	- POINT OF BEGINNING
POC	- POINT OF COMMENCEMENT
R/W	- RIGHT OF WAY
R	- RADIUS
TR	- TELEPHONE RISER
TYP	- TYPICAL
UE	- UTILITY EASEMENT
UP	- UTILITY POLE
#	- NUMBER

REVISIONS

GENERAL NOTES:

- Bearing structure based on East line of Lot 28C being: S17°00'00"E
- This surveyor has not made a search of the public records for any dedications, limitations, restrictions or easements other than shown hereon.
- This Sketch of Description has been made for the exclusive use of the entities prepared for, heron and does not extend to any unnamed parties.
- This Sketch of Description is not a Survey.
- This Sketch is "Not Valid" without the signature and the original raised seal of this Florida licensed Surveyor and Mapper, unless provided with electronic signature with the ability to validate. (See: www.altamaxsurveying.com for instructions on signature validation). The seal appearing on this document was authorized by signing Professional Surveyor and Mapper on the Date of the electronic signature.

Altamax Surveying
910 Belle Avenue, Suite 1140
Casselberry, FL 32708
Phone: 407-677-0200
Licensed Business No. 7833
www.altamaxsurveying.com

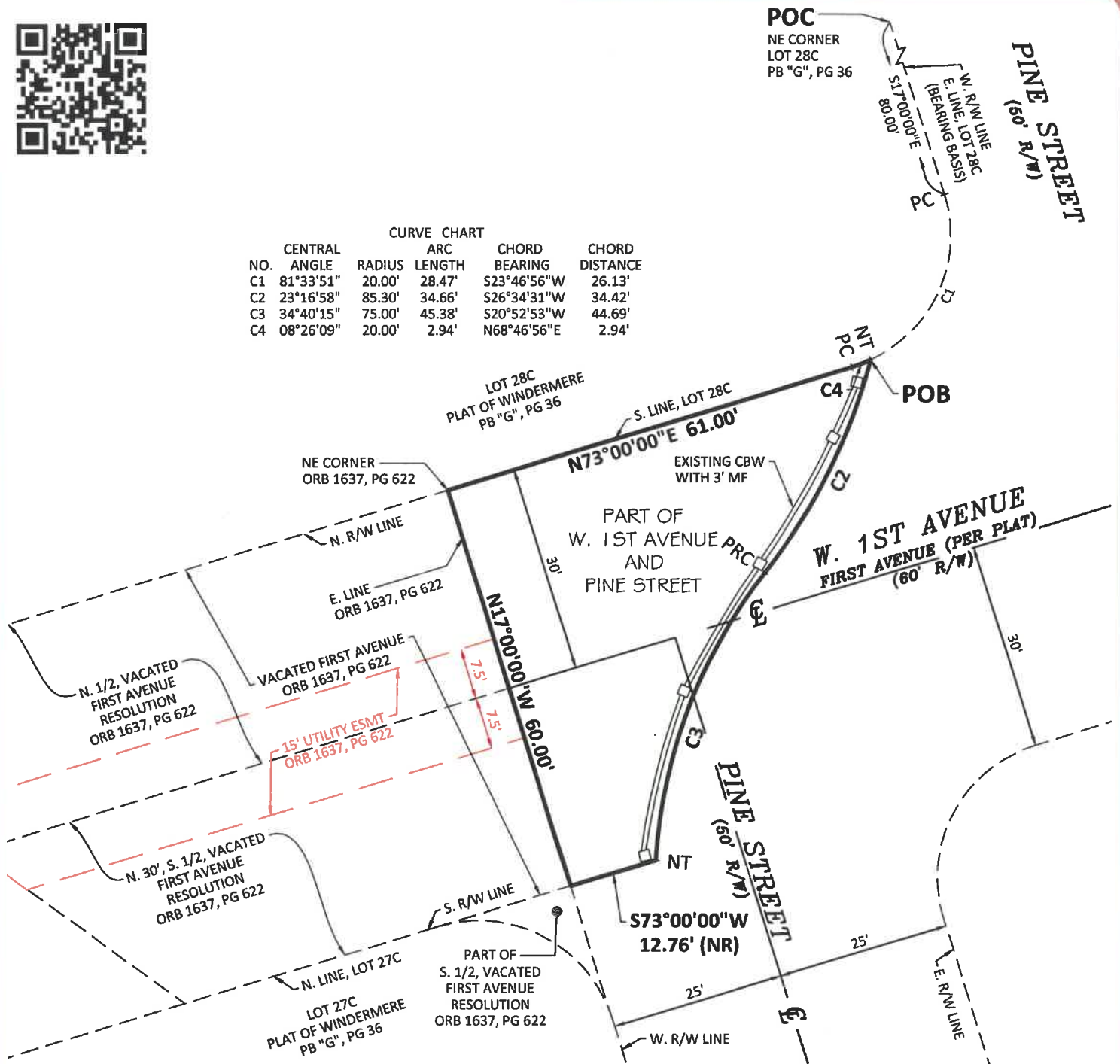
James D. Bray PSM 6507

SKETCH OF DESCRIPTION

SHEET 2 OF 2



CURVE CHART					
NO.	CENTRAL ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD DISTANCE
C1	81°33'51"	20.00'	28.47'	S23°46'56"W	26.13'
C2	23°16'58"	85.30'	34.66'	S26°34'31"W	34.42'
C3	34°40'15"	75.00'	45.38'	S20°52'53"W	44.69'
C4	08°26'09"	20.00'	2.94'	N68°46'56"E	2.94'



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GRAPHIC SCALE

