

## ORDINANCE NO. 07- 36

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, CREATING THE UTOPIA OF MARION COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING FOR THE ESTABLISHMENT AND NAME OF THE DISTRICT, TO BE KNOWN AS UTOPIA OF MARION COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR THE LEGAL DESCRIPTION; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; PROVIDING FOR POWERS; PROVIDING FOR APPLICABILITY OF CHAPTER 190, FLORIDA STATUTES, AND ALL OTHER APPLICABLE STATUTES, ORDINANCES, RULES AND REGULATIONS; PROVIDING FOR NO MARION COUNTY OBLIGATIONS; PROVIDING FOR NO LIMITATION ON MARION COUNTY POWERS; PROVIDING FOR DISCLOSURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Chapter 190, Florida Statutes, the "Uniform Community Development District Act of 1980"(the "Act"), and specifically Section 190.005, "Establishment of district" at subsection 190.005(2) and Marion County Ordinance 97-10 set forth the exclusive and uniform method for the establishment of an independent community development district of less than one thousand (1,000) acres in Marion County, Florida; and

**WHEREAS**, Section 190.005(2), Florida Statutes, requires a petition for the establishment of a community development district to be filed with the County Commission, which petition is required to include certain information as required in Section 190.005(1)(a) and said petition is required to be considered at a public hearing conducted by the County Commission in accordance with the requirements and procedures of Section 190.005(1)(d); and

**WHEREAS**, a petition for the establishment of the Utopia of Marion Community Development District, which included a statement of estimated regulatory costs and the other information required in Section 190.005(1)(a), hereinafter referred to as the "Petition", was submitted by Ecclestone Signature Homes of Marion, LLC, a Florida Limited Liability Corporation and considered at a public hearing on December 18, 2007; and

Certified A True Copy  
of 8 page document  
this 14th day of Jan, 2008  
DAVID R. ELLSPERMANN  
Clerk of Court  
BY C. Y. Bonarauto D.C.

**WHEREAS**, the petition sets forth the external boundaries of the District, and

**WHEREAS**, on December 18, 2007, the Board of County Commissioners conducted a public hearing to receive public comment and to consider the factors set forth in Section 190.005(1)(e), Florida Statutes, to make a determination to grant or deny the Petition for the establishment of Utopia of Marion Community Development District; and

**WHEREAS**, Section 190.005(2), Florida Statutes, authorizes the Board of County Commissioners to exercise its legislative discretion and enact an ordinance granting the petition for the establishment of a community development district to be known as Utopia of Marion Community Development District, and

**WHEREAS**, the petition to establish Utopia of Marion Community Development District provides the area of land within the District is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developable as one functional interrelated community, now therefore

**BE IT ORDAINED** by the Board of County Commissioners of Marion County, Florida:

**SECTION 1. ESTABLISHMENT AND NAME OF DISTRICT.** The petition for the establishment of the "Utopia of Marion Community Development District" is hereby granted and there is hereby established pursuant to the provisions of Section 190.005(2), Florida Statutes, a community development district which shall be known as the "Utopia of Marion Community Development District" (the "District").

**SECTION 2. LEGAL DESCRIPTION.** The external boundaries of the District are legally described in *Exhibit A*, attached hereto and incorporated herein. A map reflecting the external boundaries of the District is attached hereto as *Exhibit B*.

**SECTION 3. FINDING OF FACT.** Pursuant to Section 190.005(2), Florida Statutes, the Board of County Commissioners hereby adopts the following findings of fact at the public hearing on the Petition to establish the District:

- A. All statements contained within the Petition are true and correct and all statements set forth in the preamble to this ordinance are true and correct.
- B. The creation of the District is not inconsistent with applicable elements or portions of the State of Florida Comprehensive Plan set out in Chapter 187, Florida Statutes and the Marion County Comprehensive Plan, adopted in Ordinance No. 92-3, as amended.
- C. The area of land within the District is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developable as one functional interrelated community.

- D. The District is the best alternative available for delivering community development services and facilities to the area that will be served by the District.
- E. The community development services and facilities of the District will not be incompatible with the capability and uses of existing local and regional community development services and facilities.
- F. The area to be served by the District is amenable to separate special district government.

#### **SECTION 4. BOARD OF SUPERVISORS.**

- A. The initial five (5) members of the Board of Supervisors of the District shall be the following individuals: E. Llwyd Ecclestone, III, Roy T. Boyd, III, Jon Rapaport, L. Hall Robertson, Jr., and Larry Young.
- B. The Board of Supervisors of the District shall exercise all powers granted to the District pursuant to Chapter 190, Florida Statutes, consistent with all applicable governmental laws, rules and regulations.

#### **SECTION 5. POWERS.**

- A. The District shall have, and the Board of Supervisors of the District may exercise, all the general powers of a community development district granted by Chapter 190, Florida Statutes, as amended from time to time consistent with all applicable governmental laws, rules and regulations.
- B. The District shall have, and the Board of Supervisors of the District is hereby specifically authorized to exercise, the specific special powers provided in Section 190.012(1), 2(a) and 2(d) Florida Statutes, as amended from time to time consistent with all applicable governmental laws, rules and regulations.
- C. The creation of an independent community development district is not a development order within the meaning of Chapter 380, Florida Statutes. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of land within this community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. The District shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the Marion County.

- D. Prior to any development within the District, District shall enter into a Standard Potable Water and Wastewater Development Agreement with Marion County Utilities for the provision of water and wastewater facilities. The District shall pay all fees and charges as set forth in said Agreement and shall abide by all terms and conditions therein including, but not limited to, constructing or acquiring the water and wastewater facilities in accordance with Marion County Land Development Code and Marion County Utilities Manual; providing the County with appropriate easements for said facilities; and providing the County with a deed to said water and wastewater facilities at no cost to the County. Marion County's Utilities Department shall operate and maintain said water and wastewater facilities and provide water and wastewater service upon receipt of all fees and charges, upon completion of construction and upon receipt of said deed.

**SECTION 6. COMPLIANCE WITH LAWS AND ORDINANCES.** The District shall comply with Chapter 190, Florida Statutes, and all applicable federal, state and regional laws, statutes, rules and regulations and all applicable provisions of the Marion County Comprehensive Plan, Land Development Code provisions, ordinances, rules and regulations.

**SECTION 7. NO MARION COUNTY OBLIGATION.** No debt, obligation or duty of the District shall constitute a debt, obligation, duty or burden of or on Marion County.

**SECTION 8. NO LIMITATION ON MARION COUNTY POWERS.** Establishment of the District in no way limits Marion County in the exercise of its powers or authority as provided for in Chapter 125, Florida Statutes, and other Florida statutes upon the property within the District.

**SECTION 9. REQUIRED DISCLOSURE.** The District shall comply with the disclosure of public financing and disclosure to purchaser requirements set forth in Section 190.009 and 190.048, Florida Statutes, as amended from time to time. The District shall comply with the notice of establishment requirements of Section 190.0485, Florida Statutes.

**SECTION 10. SEVERABILITY.** It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 11. REPEAL.** All Ordinances or parts of Ordinances which are in conflict with the Ordinance are hereby repealed.

**SECTION 12. EFFECTIVE DATE.** A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the Office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this Ordinance shall take effect in accordance with Section 125.66(2), Florida Statutes.

**DULY ADOPTED** in regular session by the Board of County Commissioners of Marion County this 18<sup>th</sup> day of December, 2007.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, FLORIDA**

  
\_\_\_\_\_  
DAVID R. ELLSPERMANN, CLERK

  
\_\_\_\_\_  
CHARLIE STONE, CHAIRMAN

RECEIVED NOTICE FROM SECRETARY  
OF STATE ON DECEMBER 31, 2007 THAT  
ORDINANCE WAS FILED ON DECEMBER  
27, 2007.

EXHIBIT "A"

**UTOPIA OF MARION COMMUNITY DEVELOPMENT DISTRICT  
CONTAINING 340.64 ACRES, MORE OR LESS**

LEGAL DESCRIPTION

THOSE LANDS LYING IN SECTIONS 20 AND 29, TOWNSHIP 17 SOUTH, RANGE 23 EAST, MARION COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

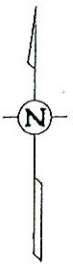
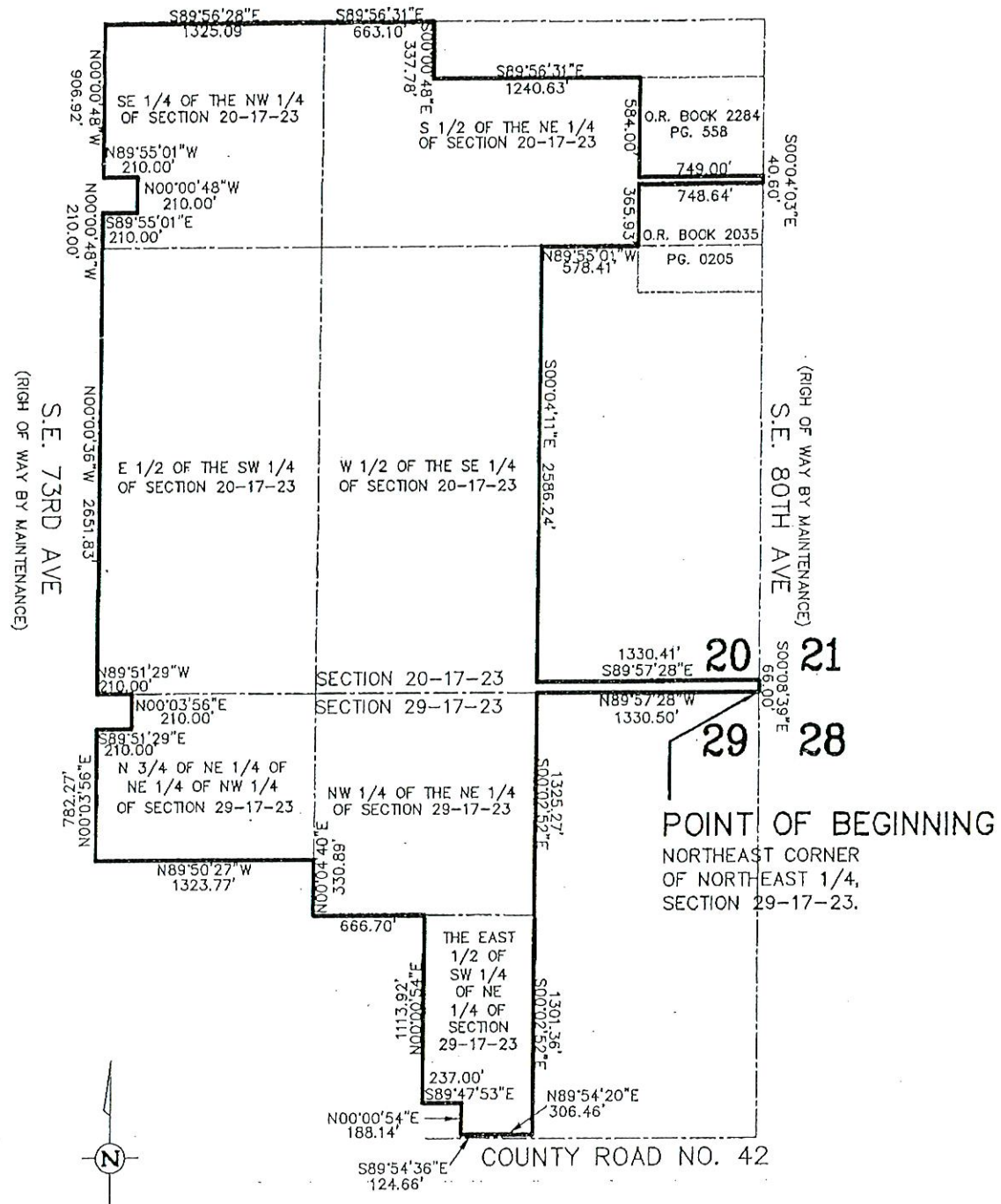
BEGIN AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 29; THENCE N89°57'28"W, ALONG THE NORTH LINE THEREOF, FOR A DISTANCE OF 1,330.50 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 29; THENCE S00°02'52"E, FOR A DISTANCE OF 1,325.27 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4 ; THENCE CONTINUE S00°02'52"E, ALONG THE EAST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4, FOR A DISTANCE OF 1,301.25 FEET TO THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD NO. 42; THENCE S89°54'20"W, ALONG SAID NORTH RIGHT OF WAY LINE FOR A DISTANCE OF 306.46 FEET; THENCE CONTINUE ALONG SAID NORTH RIGHT OF WAY LINE, N89°54'36"W; FOR A DISTANCE OF 124.66 FEET TO THE EAST LINE OF THE WEST 237.00 FEET OF SAID EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE N00°00'54"E, ALONG SAID EAST LINE, FOR A DISTANCE OF 188.14 FEET TO THE NORTH LINE OF THE SOUTH 210.00 FEET OF SAID EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE N89°47'53"W, ALONG SAID NORTH LINE, FOR A DISTANCE OF 237.00 FEET TO THE WEST LINE OF SAID EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE N00°00'54"E, ALONG SAID WEST LINE, FOR A DISTANCE OF 1,113.92 FEET TO THE NORTHWEST CORNER OF SAID EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE N89°53'05"W, ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 29, FOR A DISTANCE OF 666.70 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE N00°04'40"E, ALONG THE WEST LINE OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, FOR A DISTANCE OF 330.89 FEET TO THE SOUTHEAST CORNER OF THE NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 29; THENCE N89°50'27"W, ALONG THE SOUTH LINE OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4, FOR A DISTANCE OF 1,323.77 FEET TO THE SOUTHWEST CORNER OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE N00°03'56"E, ALONG THE WEST LINE OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4, FOR A DISTANCE OF 782.27 FEET TO THE SOUTH LINE OF THE NORTH 210.00 FEET OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE S89°51'29"E, ALONG SAID SOUTH LINE, FOR A DISTANCE OF 210.00 FEET TO THE EAST LINE OF THE WEST 210.00 FEET OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE N00°03'56"E, ALONG SAID EAST LINE, FOR A DISTANCE OF 210.00 FEET TO THE NORTH LINE OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE N89°51'29"W, ALONG SAID NORTH LINE, FOR A DISTANCE OF 210.00 FEET TO THE NORTHWEST CORNER OF SAID NORTH 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 ; THENCE N00°00'36"W, ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF AFORESAID SECTION 20, FOR A DISTANCE OF 2,651.83 FEET TO THE NORTHWEST CORNER OF SAID EAST

EXHIBIT "A"  
(continued)

1/2 OF THE SOUTHWEST 1/4; THENCE N00°00'48"W, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, FOR A DISTANCE OF 210.00 FEET TO THE SOUTH LINE OF THE NORTH 210.00 FEET OF THE SOUTH 420.00 FEET OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE S89°55'01"E, ALONG SAID SOUTH LINE, 210.00 FEET TO THE EAST LINE OF THE WEST 210.00 FEET OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE N00°00'48"W, ALONG SAID EAST LINE, 210.00 FEET TO THE NORTH LINE OF THE NORTH 210.00 FEET OF THE SOUTH 420.00 FEET OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE N89°55'01"W, ALONG SAID NORTH LINE, 210.00 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE N00°00'48"W, ALONG SAID WEST LINE, 906.92 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE S89°56'28"E, ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4, FOR A DISTANCE OF 1,325.09 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE S89°56'31"E, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 20, FOR A DISTANCE OF 663.10 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE EAST 3/4 OF THE NORTHEAST 1/4 OF SAID SECTION 20; THENCE S00°00'45"E, ALONG THE WEST LINE OF SAID SOUTH 1/2 OF THE EAST 3/4 OF THE NORTHEAST 1/4, FOR A DISTANCE OF 337.78 FEET TO THE NORTH LINE OF THE SOUTH 990.00 FEET OF SAID NORTHEAST 1/4 ; THENCE S89°55'01"E, ALONG A LINE PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST 1/4 OF SECTION 20, FOR A DISTANCE OF 1,240.63 FEET TO THE WEST BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2284, PAGE 558, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE SOUTHERLY ALONG SAID WEST BOUNDARY, FOR A DISTANCE OF 584.00 FEET TO THE SOUTH BOUNDARY OF SAID LANDS; THENCE EASTERLY ALONG SAID SOUTH BOUNDARY, FOR A DISTANCE OF 749.00 FEET TO THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 20; THENCE S00°04'03"E, ALONG SAID EAST LINE, FOR A DISTANCE OF 40.60 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2035, PAGE 0205, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE WESTERLY ALONG SAID EASTERLY EXTENSION AND ALONG SAID NORTH BOUNDARY, FOR A DISTANCE OF 748.64 FEET, TO THE NORTHWEST CORNER OF SAID LANDS; THENCE SOUTHERLY ALONG THE WEST BOUNDARY OF SAID LANDS, FOR A DISTANCE OF 365.93 FEET TO THE SOUTH LINE OF SAID NORTHEAST 1/4 OF SECTION 20; THENCE DEPARTING THE WEST BOUNDARY OF SAID LANDS, N89°55'01"W, ALONG SAID SOUTH LINE OF THE NORTHEAST 1/4, FOR A DISTANCE OF 578.41 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 20; THENCE S00°04'11"E, ALONG SAID EAST LINE OF SAID WEST 1/2, FOR A DISTANCE OF 2,586.24 FEET TO THE NORTH LINE OF THE SOUTH 66.00 FEET OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 20; THENCE S89°57'28"E, ALONG SAID NORTH LINE, 1,330.41 FEET TO THE EAST LINE OF SAID SOUTHWEST 1/4; THENCE S00°08'39"E, ALONG SAID EAST LINE, 66.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT ANY PORTION THEREOF LYING WITHIN THE RIGHTS OF WAY FOR COUNTY ROADS S.E. 73RD AVENUE AND S.E. 80TH AVENUE.

# UTOPIA OF MARION COMMUNITY DEVELOPMENT DISTRICT 340.64 ACRES, MORE OR LESS



SCALE 1"=1000'

**FORNER  
BARLEY**  
AND ASSOCIATES, INC.

- ▲ ENGINEERS
- ▲ SURVEYORS
- ▲ PLANNERS
- LB 4709

4450 N.E. 83rd ROAD - WILDWOOD, FL 31765 - (352) 753-3114