

RESOLUTION NO. 2002- 112

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A
LICENSE AGREEMENT AUTHORIZING USE OF A CERTAIN PUBLIC
RIGHT-OF-WAY OF OLEANDER DRIVE.**

WHEREAS, Steven R. Werninck and Mariann Werninck have requested a License Agreement for use of a portion of Oleander Drive as a driveway; and

WHEREAS, the County has determined the licensed area is not presently necessary for exclusive County or public purposes and has agreed to grant the Werninck's temporary use of said right-of-way as set forth in License Agreement attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, Oleander Drive is part of the plat of Big Cypress Subdivision recorded in Map Book 5, page 74 and the road is dedicated to the County per the plat, but is a non-maintained County right-of-way.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The Board hereby approves the terms of the License Agreement and authorizes the County Administrator to execute said Agreement.

Section 2. The Clerk is instructed to record the original License Agreement in the Official Records of St. Johns County, Florida, and mail executed copies of this Resolution and Agreement to Mr. & Mrs. Werninck.

PASSED AND ADOPTED, this 18th day of June, 2002.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA.**

BY: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

Patricia A. Strickland
Deputy Clerk



EXHIBIT "A" TO RESOLUTION

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made and executed this ____ day of _____, 2002, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 4020 Lewis Speedway, St. Augustine, Florida, 32095, hereinafter referred to as the "County", and **STEVEN R. WERNINCK and MARIANN WERNINCK**, hereinafter referred to as the "Licensee".

WHEREAS, the licensee has requested this License Agreement authorizing use of a certain public right of way of Oleander Drive for the use of a dirt driveway, and

WHEREAS, a portion of Oleander Drive being a sixty (60) foot right of way is located contiguous to their property and they are requesting to use approximately 10' x 100' for a driveway; and

WHEREAS, Oleander Drive is part of the plat of Big Cypress Subdivision recorded in Map Book 5, page 74 and the road is dedicated to the County per the plat, but is a non-maintained County right-of-way; and

WHEREAS, in consideration of the respective agreements of the parties herein contained, the County, does hereby license, without warranty, to the Licensee, the use of the right of way for driveway, more fully shown on attached Exhibit "A", by reference incorporated and made a part hereof, hereinafter the "Premises".

1. To use above described Premises for a term of ten (10) years, commencing on the date first above written. Said time shall be extended in ten (10) year increments, automatically for a total of up to fifty (50) years providing that neither party notifies the other in writing of intent not to accept such extension at least thirty (30) days prior to end of any said ten (10) year period. The Licensee paying therefore a fee of \$180.00 per year, payable annually.
2. Although the Licensee may enter and use the subject Premises for a driveway the Licensee shall not be in possession of the Premises. The County shall possess and otherwise control all aspects of use of the Premises. The license shall be non-exclusive and Licensee will allow the continuance of any use or access by the general public and the County, which have become customary on the Premises. Moreover, Licensee agrees to allow the County to grant any easement it deems appropriate during the period of this license that burdens the same Premises, so long as such easement does not substantially prevent Licensee intended use of the Premises for more than thirty (30) continuous days.

3. Licensee agrees to release the County from all liability and hold the County harmless for any and all zoning, building, use or other governmental restrictions, which may frustrate the intention of this license.
4. Licensee shall have the right to assign this license agreement, with written consent of the County (which consent shall not be unreasonably denied), provided any assignment shall fully bind Assignee as a successor Licensee.
5. Licensee shall restore the Premises to its original condition upon destruction or termination or expiration of this license, or any renewals, thereof.
6. The Licensee shall make no improvement to the subject Premises, except routine maintenance. The Licensee shall make no improvements to, or maintain the property, or rely on the use of these Premises in any way, which would make this License irrevocable.
7. The Licensee shall not be permitted to make or suffer any waste or unlawful improper or offensive use of Premises.
8. The County and its agents, servants, and employees shall have and hereby reserve their right and privilege, all reasonable times during the term of this license, to enter said Premises, to examine and inspect the same. The Licensee shall not cause or permit any use of the Premises for other than those uses specifically provided for in this license.
9. The Licensee, in consideration for the use of the Premises and the rate of payment herein provided for, does hereby release and discharge and further will indemnify and save harmless the County from any and all claims for personal injuries or property damages during the existence of this license, arising in any manner by virtue of the use or occupancy of such premises by the Licensee, that the Licensee does hereby further agree to indemnify and save harmless the County from liability for damage, injury or death to any person or persons arising out of the use of said property, or from the lack of keeping same in good repair and order, or from the negligent operation of same, or for any other cause for any nature whatsoever, provided such damage, injury or death is not due to County's own negligence.
10. If the Licensee shall fail to pay to County the license rental or any part thereof herein specified, and the same shall remain unpaid for sixty (60) days, or if Licensee shall fail to comply with or abide by any of the other provisions or stipulations in this license on its part, and such default continues for sixty (60) days, the County may, at its option, exercise any one or more of the following remedies:

- a. County may declare immediately due and payable the whole rent Remaining unpaid for the entire term covered by this license, and the same shall thereupon become immediately due and payable, anything herein to the contrary notwithstanding.
 - b. County may terminate this license and terminate the Licensee's use of said Premises.
11. The waiver of County of any such breach hereof on the part of the Licensee, or the indulgence by County as to the payment or time of payment of any installment of rent, or any time or from time to time shall not be deemed, held or construed as a waiver of any subsequent breach, or imply any further indulgence.
12. Notwithstanding any other provision of this license, the Licensee hereby releases any rights it has in regards to the coupling of this license with an interest, thus hereby allowing the County to revoke this license on sixty (60) days written notice to the Licensee, for any reason whatsoever, without further liability between the parties except as expressly and specifically provided for in this license. Upon such revocation the County shall repay to the Licensee all unused prorated portions of that year's license fee previously paid by its Licensee. The reasons for such cancellation may include, but are not limited to, increased public demand for use of the subject parking and/or disaster relief use of space. Upon such revocation, Licensee shall remove said sign and support structures within said sixty (60) day period.
13. Licensee reserves the right to terminate this license by giving the County a sixty (60) day notice in writing.
14. The execution of this License Agreement shall not constitute a waiver by either party hereto of any right or claim of right to the subject lands or to use the subject lands.
15. The driveway will be natural (dirt) so no permanent improvements will be made to the area. The road is part of Big Cypress Subdivision recorded in Map Book 5, page 74 the road is dedicated to the County per the plat but is a non-maintained County road and the County has no future plans on maintaining Oleander Drive.

MADE AND EXECUTED in duplicate the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA

Witness
As to Board of County Commissioners

BY: _____
Ben W. Adams, Jr.,
County Administrator

ATTEST: CHERYL STRICKLAND, Clerk
of Court

BY: _____
Deputy Clerk

Witness

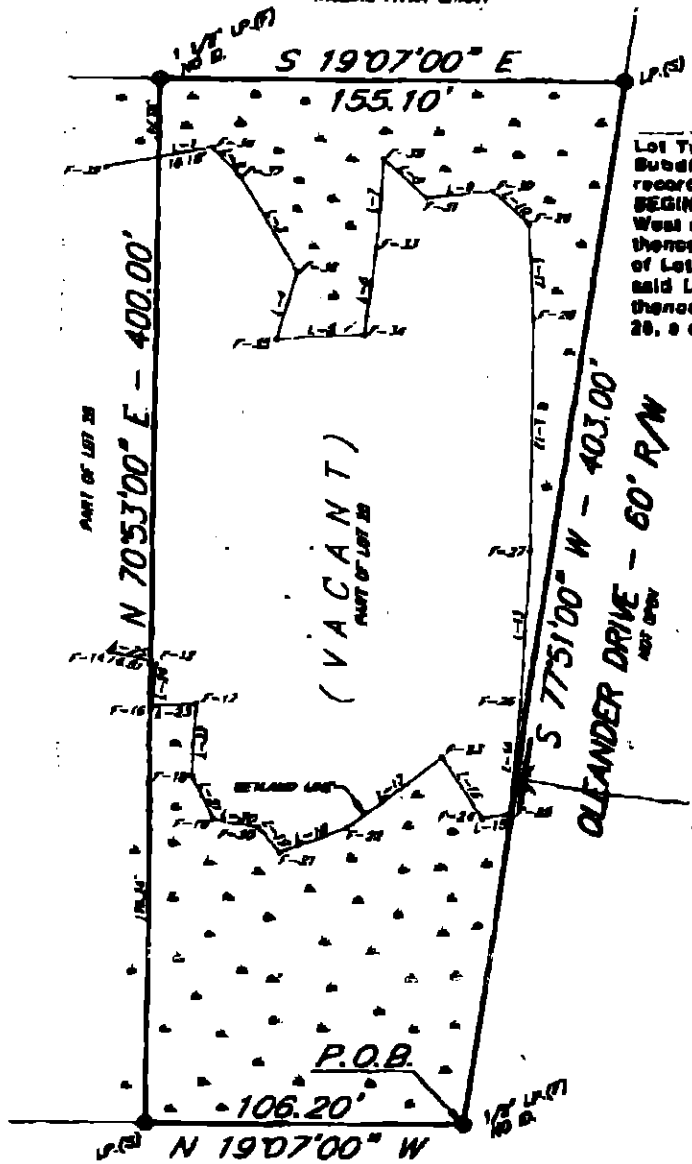
Steven R. Werninck

Witness

Mariann Werninck

MAP SHOWING BOUNDARY SURVEY OF

THOMAS FITZ GRANT



Lot Twenty-eight (28) (Except the North 400 feet thereof) in Big Cypress Subdivision, according to Plat recorded in Map Book 5, Page 74, public records of St. Johns County, Florida, more particularly described as follows: BEGIN at the Southwest corner of Lot 28; thence North 10 degrees 7 minutes West along the East line of North Cleander Drive, a distance of 106.20 feet thence North 70 degrees, 00 minutes East, a distance of 400 feet to East line of Lot 28; thence South 10 degrees, 7 minutes East along the East line of said Lot 28, a distance of 155.10 feet to the Southerly line of said Lot 28; thence South 77 degrees, 51 minutes West along Southerly line of said Lot 28, a distance of 403 feet to the POINT OF BEGINNING.

CERTIFIED TO: STEVEN R & MARIANN WERNINCK/FIDELITY NATIONAL TITLE INS CO/LAND TITLE OF AMERICA

Culvert

ROSCOE BOULEVARD NORTH
60' R/W

AREA = 1.2004 ACRES
OR 52,280 sq. ft.

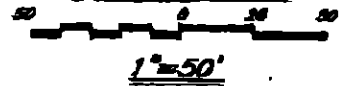
LEGEND

- LP(S) - 1/8" IRON PIN SET (L.S. 0072)
- P.O.B. - POINT OF BEGINNING
- LP(F) - IRON PIN FOUND
- BE - BENCHMARK
- R/W - RIGHT-OF-WAY
- SQ. FT. - SQUARE FEET
- N - NORTH
- S - SOUTH
- E - EAST
- W - WEST
- F - FLAG
- L - LINE

LINE DATA TABLE

S 31°01'20" E - 36.86'	L-10 S 24°28'14" W - 17.54'	L-19 N 89°50'04" E - 12.03'
S 31°00'10" W - 14.00'	L-11 S 07°31'21" W - 35.00'	L-20 S 08°11'20" E - 15.31'
S 48°52'28" W - 40.00'	L-12 S 20°30'30" W - 48.17'	L-21 S 07°13'47" W - 17.07'
S 04°52'31" W - 38.00'	L-13 S 23°00'04" W - 50.50'	L-22 N 23°00'00" E - 27.30'
S 21°27'30" E - 28.00'	L-14 S 25°27'20" W - 43.50'	L-23 N 24°20'00" E - 14.00'
N 77°00'00" E - 30.24'	L-15 N 20°00'00" W - 0.00'	L-24 N 24°53'00" E - 18.57'
N 23°34'45" E - 34.00'	L-16 N 40°30'00" E - 30.00'	L-25 N 08°20'00" W - 18.00'
S 21°35'30" W - 21.16'	L-17 N 80°50'10" W - 41.00'	
S 08°10'17" E - 22.38'	L-18 N 45°28'34" W - 23.07'	

GRAPHIC SCALE



DRAWN BY: [Name] CHECKED BY: [Name] DATE: [Date]

According to the Federal Emergency Management Agency (FEMA) map...



**ST. JOHNS COUNTY
PUBLIC WORKS DEPARTMENT**

1625 State Road 16
St. Augustine, Florida 32084

I N T E R O F F I C E M E M O R A N D U M

TO: Debbie Taylor, Real Estate Dept.
FROM: Harold Cooper, Road & Bridge Supervisor
SUBJECT: Oleander Drive
DATE: June 6, 2002

I have worked with the St. Johns County Road & Bridge Department for 32 years and the Road & Bridge Department maintained Oleander Drive up until the early 1990's. We stopped maintaining the road due to no residents living on the road, routine flooding/washing out, and high maintenance cost.

