



Interoffice Memorandum


APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS


BCC Mtg. Date: October 4, 2016

REAL ESTATE MANAGEMENT ITEM 8

DATE: September 15, 2016

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager 
Real Estate Management Division

FROM: Elizabeth Price Jackson, Senior Title Examiner 
Real Estate Management Division

CONTACT PERSON: Ann Caswell, Manager

DIVISION: Real Estate Management
Phone: (407) 836-7082

ACTION REQUESTED: APPROVAL OF UTILITY EASEMENT BETWEEN ORCHID BAY DEVELOPMENT, LLC AND ORANGE COUNTY, SUBORDINATION OF ENCUMBRANCE TO PROPERTY RIGHTS TO ORANGE COUNTY FROM SUNSHINE RESTAURANT MERGER SUB, LLC AND AUTHORIZATION TO RECORD INSTRUMENTS

PROJECT: IHOP – Orchid Bay NC OCU Permit: B15902141
OCU File #: 83227

District 1

PURPOSE: To provide for access, construction, operation, and maintenance of utility facilities as a requirement of development.

ITEMS: Utility Easement
Cost: Donation
Size: 375 square feet

Subordination of Encumbrance to Property Rights to Orange County

APPROVALS: Real Estate Management Division
Utilities Department

REMARKS: Grantor to pay all recording fees.

A file labeled "BCC Agenda Backup" containing a copy of this agenda item and all supporting documentation is in the top drawer of the BCC file cabinet in the supply room adjacent to Commissioner Thompson's office.

Project: IHOP – Orchid Bay NC OCU Permit: B15902141
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UTILITY EASEMENT

THIS INDENTURE, Made this 2 day of June, A.D. 2016, between Orchid Bay Development, LLC, a Florida limited liability company, whose address is 7932 W. Sand Lake Road, Suite 102, Orlando, Florida 32819, GRANTOR, and Orange County, a charter county and political subdivision of the state of Florida, whose address is P.O. Box 1393, Orlando, Florida 32802-1393, GRANTEE.

WITNESSETH, That the GRANTOR, in consideration of the sum of \$1.00 and other valuable considerations, paid by the GRANTEE, the receipt whereof is hereby acknowledged, does hereby give and grant to the GRANTEE and its assigns, a right-of-way and easement for utility purposes, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, water lines, wastewater lines, reclaimed water lines, and any other utility facilities over, under and upon the following described lands situate in Orange County aforesaid, to-wit:

SEE ATTACHED EXHIBIT "A"

Property Appraiser's Parcel Identification Number:

a portion of 13-24-28-6283-00-157

TO HAVE AND TO HOLD said right-of-way and easement unto said GRANTEE and its assigns forever.

THE GRANTEE herein and its assigns shall have the right to clear and keep clear all trees, undergrowth and other obstructions that may interfere with normal operation or maintenance of the utilities and any facilities placed thereon by the GRANTEE and its assigns, out of and away from the herein granted right-of-way, and the GRANTOR, its successors and assigns, agree not to build, construct, or create, nor permit others to build, construct, or create any buildings or other structures on the herein granted right-of-way that may interfere with the normal operation or maintenance of the utility facilities installed thereon.

GRANTEE may at any time increase its use of the easement, change the location of pipelines or other facilities within the boundaries of the easement right-of-way, or modify the size of existing pipelines or other improvements as it may determine in its sole discretion from time to time without paying any additional compensation to GRANTOR or GRANTOR'S heirs, successors, or assigns, provided GRANTEE does not expand its use of the easement beyond the easement boundaries described above.

GRANTEE'S obligation to restore landscaping shall be limited to an obligation to restore to Orange County landscaping standards for Orange County right-of-way and shall not include an obligation to restore to exotic or enhanced landscaping standards.

Project: IHOP – Orchid Bay NC OCU Permit: B15902141
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IN WITNESS WHEREOF, the GRANTOR has caused these presents to be executed in its name.

Signed, sealed and delivered

in the presence of:

Deni Davis

Witness

Deni DAVIS

Printed Name

Paul Seabiley

Witness

PAUL SEABILEY

Printed Name

Orchid Bay Development, LLC,
a Florida limited liability company

BY: Phoenicia Development, LLC,
a Florida limited liability company,
its Manager

BY: Harbco Development, LLC,
a Florida limited liability company,
its Manager

BY: A. Tom Harb
A. Tom Harb, Manager

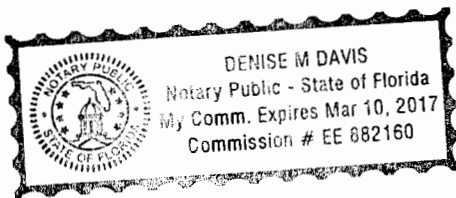
(Signature of TWO witnesses required by Florida law)

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 26 day of May, 2016
by A. Tom Harb, as Manager of Harbco Development, LLC, a Florida limited liability company, the sole
Manager of Phoenicia Development, LLC, a Florida limited liability company, the sole Manager of Orchid
Bay Development, LLC, a Florida limited liability company, on behalf of said limited liability company.
He ☒ is personally known to me or ☐ has produced _____ as
identification.

(Notary Seal)



Denise M. Davis
Notary Signature

DENISE M. DAVIS
Printed Notary Name

Notary Public in and for
the County and State aforesaid

My commission expires: 3/10/17

Project: IHOP – Orchid Bay NC OCU Permit: B15902141
OCU File #: 83227

IN WITNESS WHEREOF, the GRANTOR has caused these presents to be executed in its name.

Signed, sealed and delivered
in the presence of:

Deni Davis
Witness

Orchid Bay Development, LLC,
a Florida limited liability company

BY: Phoenicia Development, LLC,
a Florida limited liability company,
its Manager

BY: Harbco Development, LLC,
a Florida limited liability company,
its Manager

BY: Suzanne J. Harb
Suzanne J. Harb, Manager

Deni DAVIS
Printed Name

[Signature]
Witness

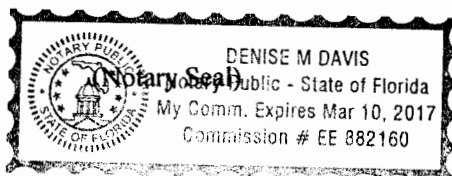
PAUL SEBAILEY
Printed Name

(Signature of TWO witnesses required by Florida law)

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 26 day of May, 2016
by Suzanne J. Harb, as Manager of Harbco Development, LLC, a Florida limited liability company, the
sole Manager of Phoenicia Development, LLC, a Florida limited liability company, the sole Manager of
Orchid Bay Development, LLC, a Florida limited liability company, on behalf of said limited liability
company. She ☒ is personally known to me or ☐ has produced
as identification.



Denise M. Davis
Notary Signature

Denise m. DAVIS
Printed Notary Name

This instrument prepared by:
E. Price Jackson, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida

Notary Public in and for
the County and State aforesaid

My commission expires: 3/10/17

Exhibit "A"

THIS IS NOT A SURVEY.

THERE MAY BE ADDITIONAL RESTRICTIONS AFFECTING THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

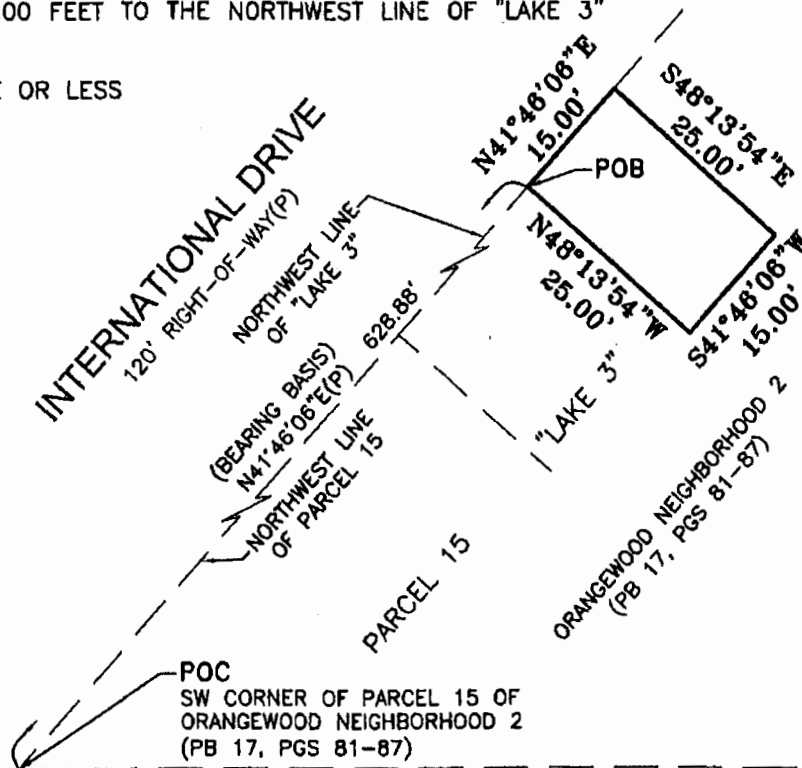
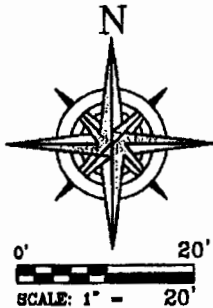
LEGAL DESCRIPTION:

SEC. 13, TWP. 24S., RNG. 28E.
ORANGE COUNTY, FLORIDA

A PORTION OF "LAKE 3" OF ORANGEWOOD NEIGHBORHOOD 2, AS RECORDED IN PLAT BOOK 17, PAGES 81 THROUGH 87, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LYING WITHIN SECTION 13, TOWNSHIP 24 SOUTH, RANGE 28 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF PARCEL 15 OF SAID ORANGEWOOD NEIGHBORHOOD 2; THENCE NORTH 41°46'06" EAST ALONG THE NORTHWEST LINE OF SAID PARCEL 15 AND "LAKE 3" RESPECTIVELY, A DISTANCE OF 628.88 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTHWEST LINE OF "LAKE 3", NORTH 41°46'06" EAST, A DISTANCE OF 15.00 FEET; THENCE DEPARTING SAID NORTHWEST LINE OF "LAKE 3", SOUTH 48°13'54" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 41°46'06" WEST, A DISTANCE OF 15.00 FEET; THENCE NORTH 48°13'54" WEST, A DISTANCE OF 25.00 FEET TO THE NORTHWEST LINE OF "LAKE 3" AND THE POINT OF BEGINNING.

CONTAINING 375 SQUARE FEET, MORE OR LESS



LEGEND

LB	LICENSED BUSINESS
No.	NUMBER
(P)	PLAT (PB 17, PG 81-87)
PB	PLAT BOOK
PG	PAGE/PAGES
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
PSM	PROFESSIONAL SURVEYOR & MAPPER
R/W	RIGHT-OF-WAY
RNG.	RANGE
SEC.	SECTION
SR	STATE ROAD
TWP.	TOWNSHIP

NOTES:

1. BEARINGS FOR THIS SKETCH & DESCRIPTION ARE BASED ON THE NORTHWEST LINE OF PARCEL 15 AND "LAKE 3", HAVING A BEARING OF NORTH 41°46'06" EAST, ACCORDING TO THE PLAT OF ORANGEWOOD NEIGHBORHOOD 2, AS RECORDED IN PLAT BOOK 17, PAGES 81 THROUGH 87, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED.
3. THIS SKETCH & DESCRIPTION IS BASED ON U.S. SURVEY FEET.
4. THIS LEGAL DESCRIPTION AND SKETCH WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND MAY BE SUBJECT TO EASEMENTS, RESTRICTIONS, RIGHTS-OF-WAY AND OTHER MATTERS OF RECORD. THE GEOMETRY AS DESCRIBED ON THE RECORDED DOCUMENTS AS NOTED HEREIN AND IS SUBJECT TO AN ACCURATE FIELD BOUNDARY SURVEY.
5. THIS SKETCH OF DESCRIPTION IS, IN ACCORDANCE WITH THE "MINIMUM TECHNICAL STANDARDS" AS REQUIRED BY CHAPTER 81G17-8 OF THE FLORIDA ADMINISTRATIVE CODE.

DEUEL & ASSOCIATES

CONSULTING ENGINEERS LAND SURVEYORS LAND PLANNERS

565 SOUTH HERCULES AVENUE
CLEARWATER, FL 33764
PH 727.822.4151 FAX 727.821.7255
WWW.DEUELENGINEERING.COM
CERTIFICATE OF AUTHORIZATION NUMBER 26320
LICENSED BUSINESS NUMBER 107

THIS DOCUMENT IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Dana A. Wyllie 9/28/2016
DANA A. WYLLIE, PSM, LS 5874

SKETCH OF DESCRIPTION
WATER UTILITY EASEMENT
IHOP - ORCHID BAY
INTERNATIONAL DRIVE

CITY OF ORLANDO

FLORIDA

WORK ORDER	2014-149
DATE:	4/28/2016
DRAWN:	LKC
SCALE:	1" = 20'
SHEET NO.	1 OF 1

OCT 04 2016

Project: IHOP – Orchid Bay NC OCU Permit: B15902141
OCU File #: 83227

SUBORDINATION OF ENCUMBRANCE TO PROPERTY RIGHTS TO ORANGE COUNTY

KNOW ALL MEN BY THESE PRESENTS: That Whereas, it is proposed by ORANGE COUNTY, a charter county and political subdivision of the state of Florida, whose address is P.O. Box 1393, Orlando, Florida 32802-1393, to locate, construct, maintain, and/or improve a utility easement, in Orange County, Florida; and,

WHEREAS, A portion of the lands involved and necessary to said project is subject to a Memorandum of Lease held by the undersigned; and,

WHEREAS, On behalf of ORANGE COUNTY, a request has been made for the undersigned to subordinate said encumbrance to the property rights of ORANGE COUNTY in and to the portion of the premises hereinafter described.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises and One Dollar and other good and valuable considerations, paid, receipt of which is hereby acknowledged, the undersigned subordinates said encumbrance as it has been or as may be modified and amended from time to time to the property rights of ORANGE COUNTY to locate, construct, maintain, and/or improve said project over, through, upon, and/or across the following described lands, being a portion of the encumbered premises in Orange County, Florida, to-wit:

SEE ATTACHED EXHIBIT "A"

Encumbrance:

Sunshine Restaurant Merger Sub, LLC
FROM: Orchid Bay Development, LLC
Memorandum of Lease filed November 24, 2015
Recorded in Official Records Book 11017, Page 4458
Public Records of Orange County, Florida

PROVIDED ALWAYS, NEVERTHELESS, and it is expressly understood and agreed that this instrument subordinates said encumbrance insofar as same affects the rights and privileges of ORANGE COUNTY, in its use of the land specifically above described for utility easement purposes only, and that nothing herein contained shall in any way affect, alter, impair, minimize, or diminish the effect of said encumbrance or the remedies at law or in equity for recovering thereon, or against the parties charged thereby, the full amount of all sums secured by and/or due under the same. It is further understood and agreed that in the event said above described premises are abandoned by ORANGE COUNTY and cease to be used for utility easement purposes that in such event the subordination of said encumbrance shall become of the same status with reference to such abandoned portion as if the subordination had never been made.

Project: IHOP – Orchid Bay NC OCU Permit: B15902141
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31st IN WITNESS WHEREOF, the said holder of said encumbrance has duly executed this instrument this
day of MAY, A.D. 2016.

Signed, sealed, and delivered
in the presence of:

Witness

PATRICK ANDERSON

Printed Name

[Signature]

Witness

Richard Butcher

Printed Name

Sunshine Restaurant Merger Sub, LLC
a Delaware limited liability company

BY: Sunshine Restaurant Partners, LP
a Delaware limited partnership,
its sole member and manager

BY: Sunshine Restaurant Partners GP, LLC,
a Georgia limited liability company
its general partner

BY: Sunshine Restaurant Holdings, LLC,
a Georgia limited liability company,
its sole member and manager

BY:

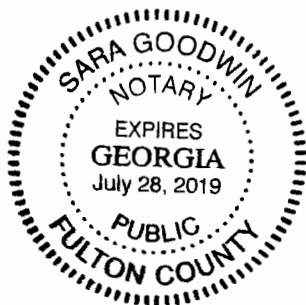
[Signature]
Karl Jaeger, Manager

(Signature of TWO witnesses required by Florida law)

STATE OF Georgia
COUNTY OF Fulton

The foregoing instrument was acknowledged before me this 31st day of May, 2016, by Karl Jaeger, as Manager of Sunshine Restaurant Holdings, LLC, a Georgia limited liability company, the sole member and manager of Sunshine Restaurant Partners GP, LLC, a Georgia limited liability company, the General Partner of Sunshine Restaurant Partners, LP, a Delaware limited partnership, sole member of Sunshine Restaurant Merger Sub, LLC, a Delaware limited liability company, on behalf of said limited liability company. He ☒ is personally known to me or ☐ has produced _____ as identification.

(Notary Seal)



[Signature]
Notary Signature

SARA GOODWIN
Printed Notary Name

Notary Public in and for
the County and State aforesaid

My commission expires: 7.28.19

This instrument prepared by:
E. Price Jackson, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida

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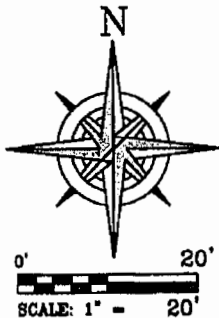
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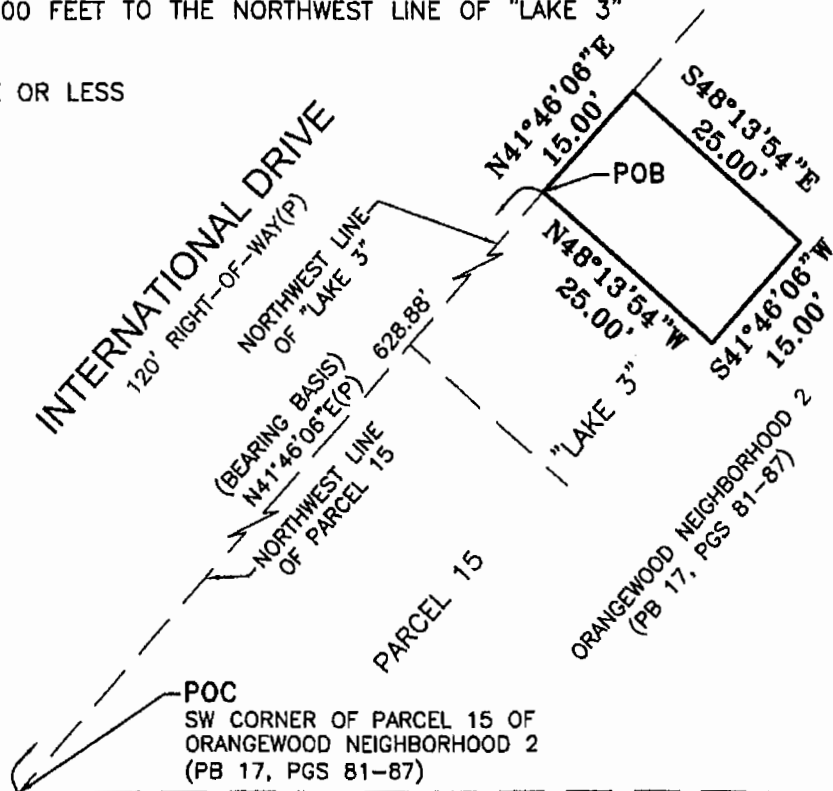


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Dana A. Wyllie 4/28/2016
DANA A. WYLLIE, PSM, LS 5874

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CITY OF ORLANDO

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