

Meeting Date: 04/ 28/ 2015

Agenda Item 2

Consent Ordinance Resolution Consideration Workshop

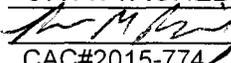
SHORT TITLE OR MOTION: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ACCEPTING A CONVEYANCE OF REAL PROPERTY FROM RACETRAC PETROLEUM, INC TO THE CITY OF POMPANO BEACH; PROVIDING AN EFFECTIVE DATE.

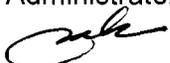
Summary of Purpose and Why:

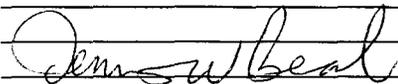
The applicant has obtained site plan approval for the property located at 599 West Atlantic Boulevard (PZ Number: 13-12000001, Folio: 484235650020). As a condition of approval, the applicant is required to dedicate the north 20 feet of the property for NW 2 Street. Included herein is the deed and the appropriate exhibits for the said right-of-way dedication.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Racetrac Petroleum Inc
- (2) Primary staff contact: Jae Eun Kim/ Robin Bird Ext. 7778
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE OR ATTACHED MEMO NUMBER
Dev. Services	03/23/2015	Approval	
City Attorney	03/26/2015		CAC#2015-774 

Advisory Board
 Public Works Administrator
 City Manager 



ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1 st Reading	1st Reading	Results:	Results:
2 nd Reading			



City Attorney's Communication #2015-774
March 26, 2015

TO: Jae Eun Kim, Planner
FROM: Gordon B. Linn, City Attorney
RE: Resolution – Right-of-Way Dedication / RaceTrac, 599 W. Atlantic Blvd.

As requested in your memorandum received in our office on March 25, 2015, Department of Development Services Memorandum No. 15-156, the following form of Resolution, relative to the above-referenced matter, has been prepared and is attached:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ACCEPTING CONVEYANCE OF REAL PROPERTY FROM RACETRAC PETROLEUM, INC. TO THE CITY OF POMPANO BEACH; PROVIDING AN EFFECTIVE DATE.

Please feel free to contact me if I may be of further assistance.

GORDON B. LINN

/jrm
l:cor/dev-srv/2015-774

Attachment

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ACCEPTING CONVEYANCE OF REAL PROPERTY FROM RACETRAC PETROLEUM, INC. TO THE CITY OF POMPANO BEACH; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Racetrac Petroleum, Inc. is willing to convey to the City of Pompano Beach certain real property via Warranty Deed (For Right-of-Way Purposes); and

WHEREAS, the City Commission has determined that the best interests of the public will be served by accepting and acquiring the rights being conveyed by the Warranty Deed; now, therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the City of Pompano Beach accepts the conveyances of real property from Racetrac Petroleum, Inc. dated February 23, 2015, a copy of which is attached hereto and incorporated by reference as if set forth in full.

SECTION 2. That it is the determination of the City Commission of the City of Pompano Beach, Florida, that the acquisition of the aforesaid property is for a public purpose, to wit: future right-of-way.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2015.

LAMAR FISHER, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK

Prepared by and Return to:

Richard G. Coker, Esq.
Coker & Feiner
1404 South Andrews Avenue
Fort Lauderdale, FL 33316-1840

WARRANTY DEED
(FOR RIGHT-OF-WAY PURPOSES)

THIS INDENTURE, made this 23 day of February, 2015, between RACETRAC PETROLEUM, INC., a Georgia corporation,, whose post office address is 3225 Cumberland Blvd., Atlanta, GA 30339, hereinafter called "GRANTOR", and The CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, whose post office address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33061, hereinafter called "GRANTEE" (wherever used herein the terms "GRANTOR" and "GRANTEE" shall indicate both singular and plural, as the context requires.)

WITNESSETH: That GRANTOR, for and in consideration of the sum of Ten (\$10.00) Dollars, and other valuable considerations, receipt of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto GRANTEE, its successors and assigns forever, all that certain land situate in Broward County, State of Florida, described as follows, to-wit:

See attached Exhibit "A" attached hereto and made a part hereof ("Right of Way Property")

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the SELLER hereby covenants with BUYER that SELLER is lawfully seized of said Right of Way Property, and SELLER hereby fully warrants the title to said Right of Way Property and will defend same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, GRANTOR has hereunto set its hand and seal the date first above written.

Signed, sealed and delivered in the presence of:

RACETRAC PETROLEUM, INC., a Georgia corporation

[Signature]
Signature

By: [Signature]
Printed Name: DILL MILAM
Its: PRESIDENT

DANIEL BROWN
Printed Name

[Signature]
Signature

DREW CUMMINGS
Printed Name

STATE OF GEORGIA :
COUNTY OF Cobb :

The foregoing instrument was acknowledged before me on this 23rd day of February, 2015, by Bill Milam, as the President, on behalf of the company, who is personally known to me or did produce the following identification:



[Signature]
Signature of Notary or Officer

Notarial Seal (stamped in black ink)
OR

Kristina M. Longfellow
Printed Name of Notary Public

Law Offices
COKER & FEINER
1404 South Andrews Avenue
Fort Lauderdale, FL 33316-1840

Telephone: (954) 761-3636
Facsimile: (954) 761-1818

Richard G. Coker, Jr., P.A.
Rod A. Feiner

rgcoker@coker-feiner.com
rafeiner@coker-feiner.com
www.coker-feiner.com

March 13, 2015

Ms. Jae Eun Kim, PLA
Planner
City of Pompano Beach
100 West Atlantic Blvd
Pompano Beach, FL 33061

Re: Racetrac Petroleum Development Agreement and Warranty Deed – NW 6
Avenue and Atlantic Blvd.

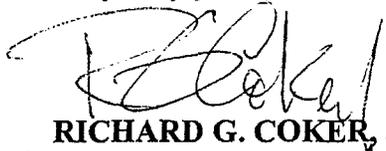
Dear Jae:

In accordance with the terms of Development Order No. 13-12000001 issued for this project, a Development Agreement executed by Racetrac Petroleum, Inc. and its mortgagee is being submitted to you for acceptance and execution by the City Commission. The Development Order and the Development Agreement require the dedication of 20 feet of right of way for NW 2nd Street prior to the issuance of a building permit for the redevelopment of the existing Racetrac convenience store and gas station. A Warranty Deed for Right of Way Purposes is also being submitted to the City for acceptance along with an opinion of title.

As provided in the Development Agreement and the Development Order, Racetrac is required to dedicate an additional 10 feet of right of way for NW 2nd Street upon the occurrence of certain conditions.

Thank you for your consideration of this matter.

Very truly yours,



RICHARD G. COKER, JR.
For the Firm

LEGAL DESCRIPTION
for 20' RIGHT OF WAY DEDICATION

LEGAL DESCRIPTION:

BEING A PORTION OF PARCEL 'A', MAPLES PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 142, PAGE 46 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID PARCEL 'A'; THENCE NORTH 88°48'39" EAST, ALONG THE NORTH LINE OF SAID PARCEL 'A', A DISTANCE OF 309.64 FEET; THENCE SOUTH 00°41'26" EAST, A DISTANCE OF 20.00 FEET; THENCE SOUTH 88°48'39" WEST, A DISTANCE OF 309.37 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL 'A' AND EAST RIGHT OF WAY LINE OF NW 6th AVENUE; THENCE NORTH 01°26'22" WEST, ALONG SAID LINE, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 6190.10 SQUARE FEET,

NOTES:

1. THIS SKETCH OF LEGAL DESCRIPTION DOES NOT REPRESENT A BOUNDARY SURVEY.
2. THE BEARING BASE OF THIS SKETCH OF LEGAL DESCRIPTION IS S.89°15'01"W. ALONG THE NORTH RIGHT OF WAY LINE OF WEST ATLANTIC BOULEVARD.
3. THE INFORMATION WAS PROVIDED BY "RACETRAC PETROLEUM, INC."
4. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

SURVEYORS CERTIFICATION:

I HEREBY CERTIFY THAT THE "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AND MAPPERS IN CHAPTER J5-17, FLORIDA STATUTES, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. SURVEY MAP AND REPORT OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.


ROBERT BLOOMSTER JR.
PROFESSIONAL LAND SURVEYOR
NO. 4134 STATE OF FLORIDA

BLOOMSTER PROFESSIONAL LAND SURVEYORS, INC. <small>FLORIDA L.B. # 6018</small>
641 NORTHEAST SPENCER STREET JENSEN BEACH, FLORIDA 34957 PHONE 772-334-0868

SHEET 1 OF 2
SCALE: 1" = 60'
DATE: 10/2/14
F.B. SKETCH
JOB NO. 11760
REVISIONS

SKETCH TO ACCOMPANY LEGAL DESCRIPTION PREPARED FOR: RACETRAC PETROLEUM, INC. SITE LOCATED: 599 WEST ATLANTIC BOULEVARD POMPANO BEACH, BROWARD COUNTY, FLORIDA

BEVILL & SAXON'S COLORED ADDITION TO POMPANO
PLAT BOOK 3, PAGE 2
BROWARD COUNTY RECORDS

POINT OF BEGINNING
NW CORNER OF PARCEL 'A'
N.88°48'39"E. 309.64'

N.01°26'22"W. 20.00' NORTH LINE OF PARCEL 'A'
20' R/W DEDICATION S.00°41'26"E. 20.00'

S.88°48'39"W. 309.37'

N.88°33'50"E. 5.00'

S.01°26'22"E. 20.00'

S.88°33'50"W. 5.00'

S.19°52'13"E. 31.62'

S.01°26'10"E. 5.71'

N01°26'22"W 135.39'

N.63°03'38"E. 11.08'

ORIGINAL WEST LINE OF PARCEL 'A'

EAST R/W LINE

N01°26'22"W 104.31'

30'

N.46°05'41"W. 42.17'

NORTH RIGHT OF WAY LINE

S.89°15'01"W. 275.13'

WEST ATLANTIC BOULEVARD (S.R. 814)

(O.R.B. 2296, PG. 748)

(O.R.B. 14290, PG. 1)

BROWARD COUNTY RECORDS

CENTERLINE OF PLATTED RIGHT OF WAY

F.D.O.T. R/W SECTION 86130-2512

SOUTH LINE OF SECTION 35-48-42

SHEET 2 OF 2 (SCALE: 1"= 60')
NOT VALID WITHOUT SHEET 1 OF 2

SKETCH OF DESCRIPTION for 20' RIGHT OF WAY DEDICATION

F.D.O.T. = FLORIDA DEPARTMENT OF TRANSPORTATION
R/W = RIGHT OF WAY
O.R.B. = OFFICIAL RECORDS BOOK

BLOOMSTER
PROFESSIONAL LAND
SURVEYORS, INC.
FLORIDA L.B. # 6018

641 NORTHEAST SPENCER STREET
JENSEN BEACH, FLORIDA 34957
PHONE 772-334-0868

N.W. 5th AVENUE
PLAT BOOK 3, PAGE 2
BROWARD COUNTY RECORDS

S00°41'26"E 338.36'



166.5'
NOT TO SCALE

EAST LINE OF S.W. 1/4 OF S.W. 1/4 OF SECTION 35-48-42

N.W. 6th AVENUE

EAST R/W LINE

ORIGINAL WEST LINE OF PARCEL 'A'

EAST R/W LINE

30'

71.82'

37.62'

**CONSENT AND RELEASE OF MORTGAGEE TO CONVEYANCE OF
RIGHT-OF-WAY**

BankUnited, FSB (hereinafter referred to as "Mortgagee") is the owner and holder of that certain Mortgage and Security Agreement made by Racetrac Petroleum, Inc., a Georgia corporation to BankUnited, FSB, recorded October 2, 2002 in OR Book 33879, Page 66 of the Public Records of Broward County, Florida (hereinafter referred to as the "Mortgage"), said Mortgage affecting the Right of Way Property more fully described in the attached Warranty Deed for Right-of-Way Purposes (hereinafter referred to as the "Conveyance").

Mortgagee hereby consents to the conveyance of the Right of Way Property and releases the Right of Way Property from the lien of said mortgage and any and all instruments of security incident to said Mortgage and all right, title and interest of Mortgagee in the Right of Way Property described in the Conveyance is hereby quitclaimed and released. The foregoing shall not limit or release the lien of the Mortgage with respect to any other property subject thereto.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be executed in its name this 18th day of February, 2015.

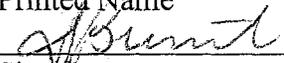
WITNESSES:



Signature

Anisley Lobo

Printed Name



Signature

Delia Benoit

Printed Name

BankUnited, NA


By: Charles J. Klenk

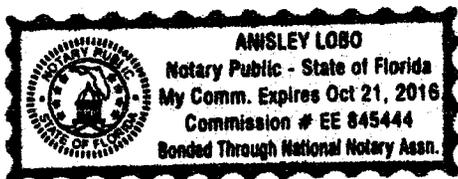
Title: Senior Vice President

STATE OF FLORIDA :
COUNTY OF MIAMI-DADE :

The foregoing instrument was acknowledged before me this 18th day of February, 2015 by Charles J. Klenk, SVP he/ is personally known to me or produced _____ as identification and did not take an oath.



Signature of Notary Public
My Commission Expires:



Oswald & Oswald, P.L.

ATTORNEYS AT LAW
222 S. WESTMONTE DRIVE, SUITE 210
ALTAMONTE SPRINGS, FLORIDA 32714

TELEPHONE (407) 647-3738
FAX (407) 647-6283

Douglas W. Oswald, Esq.

oswaldlaw@cfl.rr.com

October 29, 2014

City of Pompano Beach
100 W. Atlantic Blvd.
Pompano Beach, FL 33060
Attn: Paola West
Principal Planner

Re: Attorney's Title Opinion – 20 Foot Right-of-Way Parcel to be conveyed by RaceTrac to the City of Pompano Beach

To Whom It May Concern:

With the understanding that this Opinion of Title is furnished to the City of Pompano Beach as a requirement of its acceptance of the right-of-way dedication referenced above. It is hereby certified that I have examined the public records covering the period from the beginning to the October 8, 2014 at 8:00 a.m. for the property described in attached Exhibit "A" (the "Property") and I recognize that the City is relying on this opinion with regard to this conveyance. RaceTrac Petroleum, Inc. is the Owner of the Property pursuant to deeds recorded in Book 21693, Page 557 and Book 28989, Page 1285. The Property is encumbered by the following liens or encumbrances, to wit:

1. Taxes and assessments for the year 2014 and subsequent years, which are not yet due and payable. Taxes for the year 2013 have been paid.
2. Plat of Maples Plat recorded August 6, 1987 in Plat Book 142, Page 46.
3. Restrictive Covenant from Maples Properties, Inc. recorded January 28, 1994 in Book 21693, Page 560.
4. Declaration of Restrictions and Covenants recorded November 13, 1998 in Book 28989, Page 1288.
5. Agreement by and between Broward County and RaceTrac Petroleum, Inc. relating to Nonvehicular Access Lines recorded February 25, 2000 in Book 30284, Page 892.

6. Access Easement to Approved Opening in favor of Broward County, a political subdivision of the State of Florida recorded March 2, 2000 in Book 30301, Page 1012.
7. Ingress/Egress Easement Agreement by and between Racetrac Petroleum, Inc. and Mr. Squeaky Car Wash, Inc. recorded July 5, 2005 in Book 39992, Page 1058.
8. Mortgage and Security Agreement executed by Racetrac Petroleum, Inc. in favor of BankUnlimited, FSB recorded October 2, 2002 in Book 33879, Page 66; Assignment of Leases and Rents recorded October 2, 2002 in Book 33879, Page 93; Partial Release of Mortgage recorded September 20, 2004 in Book 38215, Page 1420 and July 5, 2005 in Book 39992, Page 1045; UCC Financing Statement recorded October 2, 2002 in Book 33879, Page 105; Continuation of UCC recorded August 17, 2007 in Book 44495, Page 1669 and June 5, 2012 in Book 48803, Page 1540.

Oswald & Oswald, P.L.

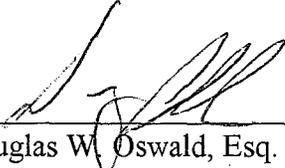
By: 
Douglas W. Oswald, Esq.

EXHIBIT "A"

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