

RESOLUTION NO. 2002- 69

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE EXECUTION OF THE RELEASE OF PHOSPHATE, MINERALS, METALS AND PETROLEUM RESERVATIONS AND RELEASE OF RELATED RIGHTS OF ENTRY AND EXPLORATION AS SET FORTH IN COUNTY DEED

WHEREAS, in Resolution No. 2002-64 the Board of County Commissioners approved an exchange of real property in which a County Deed conveys certain property to Cobblestone Village at St. Augustine, L.L.C., attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, pursuant to Florida Statute Section 270.11(3) there has been a written request from Cobblestone Village at St. Augustine, L.L.C., attached hereto as Exhibit "B", incorporated by reference and made a part hereof, to release the mineral reservations reserved in said County Deed; and

WHEREAS, Cobblestone has requested a separate document be executed, attached hereto as Exhibit "C", incorporated by reference and made a part hereof, to release said mineral reservations; and

WHEREAS, with the said mineral reservations, and in particular the right to mine and develop, is a cloud on the title to the property which could prevent Cobblestone Village from obtaining financing and/or incorporating the property into its proposed commercial shopping center.

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 form to Release of Phosphate, Minerals, Metals and Petroleum Reservations and Release of Related Rights of Entry and Exploration and authorizes the Chairman of the Board to execute the form.

Section 2. The Clerk is instructed to record the original Release of Phosphate, Minerals, Metals and Petroleum Reservations and Release of Related Rights of Entry and Exploration in the Public Records of St. Johns County, Florida, following the recording of the County Deed described herein.

PASSED AND ADOPTED, this 23rd day of April, 2002.

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

By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

By: Patricia DeGrande
Deputy Clerk

RENDITION DATE 04-23-02



Exhibit "A" to Resolution

This Instrument Prepared By:
St. Johns County
4020 Lewis Speedway
St. Augustine, Florida 32084

COUNTY DEED

THIS DEED, made without warranty of title or warranty of method of conveyance, this ____ day of _____, 2002, by **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is County Administration Building, 4020 Lewis Speedway, St. Augustine, Florida 32084, hereinafter "Grantor", to **COBBLESTONE VILLAGE AT ST. AUGUSTINE, LLC**, a Florida limited liability company, whose address is 6148 Lee Highway, Chattanooga, Tennessee 37421-6511, hereinafter "Grantee". (Wherever used herein the term "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and their successors, and assigns of organizations).

WITNESSETH;

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, receipt and sufficiency being hereby acknowledged, hereby grants, bargains, sells, forever unto said Grantee, all that certain land, situate, lying and being in the County of St. Johns, State of Florida and more particularly described below. Pursuant to Florida law Section 125:411(3) F.S., this deed conveys only the interest in said land the Grantor has of the date of this conveyance, to wit:

SEE EXHIBIT "A", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF (THE "PROPERTY")

Parcel Account Number 098490-0060

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

THIS COUNTY DEED is subject to the following non-exclusive list of exceptions:

- a. Special taxes and assessments, confirmed or unconfirmed, for improvements not yet completed, if any;
- b. Any state of facts which a good and accurate survey or inspection of the premises might reveal;
- c. Federal, State, local government (County or City), development, construction, zoning and building laws or ordinances, rules, regulations and resolutions;
- d. Rights, if any, of the public in any portion of the premises which may fall within any public street, way or alley;

- e. All acts of the Grantee occurring prior to, or subsequent to the date of this instrument;
- f. Agreements, conditions, covenants, reservations, restrictions, and servitude of record;
- g. Easements and rights of way of record.

RESERVING UNTO THE GRANTOR, its successors and/or assigns an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals and metals that are may be in, on, or under the said land and an undivided one-half interest in all petroleum that is or may be in, or on, or under said land with the privilege to mine and develop the same.

RESERVING UNTO THE GRANTOR, an easement to continue to access, maintain and use the drainage pond on said land until adequate replacement drainage is provided to the Grantor by the Grantee.

IN WITNESS WHEREOF the said Grantor has caused the presents to be executed in its name by its Board of County Commissioners acting by the Chairman of the Board, the day and year aforesaid.

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

BY: _____
_____, Chairman

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this ____ day of _____, 2002, by _____, Chairman of the Board of County Commissioners of St. Johns County, Florida, on behalf of the Board, who is personally known to me.

Notary Public State of Florida
My Commission Expires: _____

Exhibit "A" to County Deed

A part of the Southeast $\frac{1}{4}$ of Section 25, Township 7 South, Range 29 East, together with a part of Section 30, Township 7 South, Range 30 East, St. Johns County, Florida. Being a part of those lands described in Official Records Book 388, Page 196 of the Public Records of said County, and more particularly described as follows:

Commence at the Northeast corner of the Southeast $\frac{1}{4}$ of Section 25; thence South $80^{\circ} 21' 43''$ East along the South line of those lands described in Official Records Book 99, Page 349, a distance of 48.34 feet to the East line of said Section 30; thence South $00^{\circ} 26' 35''$ East along said East line, a distance of 452.35 feet to the Point of Beginning; thence South $89^{\circ} 33' 25''$ West, a distance of 100.00 feet; thence South $00^{\circ} 26' 35''$ East, a distance of 300.00 feet; thence North $89^{\circ} 03' 25''$ East, a distance of 100.00 feet; thence North $00^{\circ} 26' 35''$ West along the aforementioned East line of Section 30, a distance of 300.00 feet to the Point of Beginning and Point of Terminus.

Exhibit "B" to Resolution
UPCHURCH, BAILEY AND UPCHURCH, P.A.

ATTORNEYS AT LAW

Established 1925

JOHN D. BAILEY, JR.
FRANK D. UPCHURCH III
TRACY WILSON UPCHURCH
SIDNEY F. ANSBACHER
KATHERINE GAERTNER JONES
MICHAEL A. SIRAGUSA
STEPHEN A. FAUSTINI

780 North Ponce de Leon Boulevard
St. Augustine, Florida 32084

Telephone (904) 829-9066
Facsimile (904) 825-4862

Please reply to:
Post Office Drawer 3007
St. Augustine, Florida 32085-3007

OF COUNSEL:

HAMILTON D. UPCHURCH
FRANK D. UPCHURCH, JR.

FRANK D. UPCHURCH, SR.
(1894-1986)

April 3, 2002

VIA FACSIMILE
(904) 823-2507

Mr. Ben W. Adams, Jr., County Administrator
St. Johns County, Florida
4020 Lewis Speedway
St. Augustine, Florida 32084

Re: Exchange of Real Properties Between St. Johns County,
Florida (the "County") and Cobblestone Village at St.
Augustine, L.L.C., a Florida Limited Liability Company
Our File No. 6-02-032

Dear Mr. Adams:

On behalf of our client, Cobblestone Village at St. Augustine, L.L.C. ("Cobblestone Village"), and pursuant to Section 270.11(3), Florida Statutes (2001), we respectfully request the County release the reserved interest in all phosphate, minerals, metals and petroleum, contained in the County Deed proposed to be executed by the County and delivered to Cobblestone Village in exchange for the property rights and easements to be granted by Cobblestone Village to the County. The reasons which justify the release of the reserved interest in any such phosphate, minerals, metals and petroleum are:

1. Cobblestone Village is acquiring the property for the purpose of developing the property, together with other surrounding properties, into a commercial shopping center;
2. The property is a small parcel (approximately 7/10th's of an acre), and is located in an area of the County in which it is highly unlikely that exploration, mining and development of minerals or petroleum rights would ever be attempted;

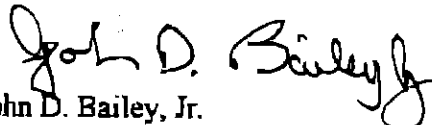
Mr. Ben W. Adams, Jr., County Administrator
St. Johns County, Florida
April 3, 2002
Page Two

3. Geo-technical tests of surrounding properties performed by Cobblestone Village indicate that no such phosphate, minerals or petroleum is present; and
4. The presence of said reserved interest and, in particular, the right to enter upon the property and mine and develop, is a cloud on the title to the property which could prevent Cobblestone Village from obtaining financing and/or incorporating the property into its proposed commercial shopping center.

If this request to release the reserved interest is granted, the release can be accomplished by a separate document. The transaction documents would then include the County Deed previously proposed, which includes the reserved interest, and a separate release executed by the County releasing the reserved interest. It is my understanding that Laurie Braddock of the Real Estate Department will prepare and circulate a proposed release to all interested parties prior to the April 9th hearing before the Board of County Commissioners.

Please give me a call if you or any member of your staff has any questions concerning our request.

Sincerely yours,


John D. Bailey, Jr.

JDBjr/gb

cc: Ms. Mary Ann Blount, Real Estate Officer (via facsimile)
Daniel J. Bosanko, Esquire (via facsimile)
Ms. Laurie Braddock (via facsimile)
Mr. Geoffrey Smith (via hand delivery)

Exhibit "C" to Resolution

Prepared by:
St. Johns County
4020 Lewis Speedway
St. Augustine, Florida 32084

BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA

RELEASE OF
PHOSPHATE, MINERALS, METALS AND PETROLEUM RESERVATIONS
AND
RELEASE OF RELATED RIGHTS OF ENTRY AND EXPLORATION

THIS RELEASE is made and given this ____ day of _____, 2002, by **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida ("County").

WITNESSETH:

WHEREAS, the County by County Deed dated _____, 2002, as recorded or to be recorded in the public records of St. Johns County, Florida, conveyed to Cobblestone Village At St. Augustine, LLC, a Florida limited liability company, the lands described on attached Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, pursuant to Section 270.11(1), F.S. the County reserved certain phosphate, mineral, metals and petroleum rights; and

WHEREAS, pursuant to Section 270.11(3), F.S. Cobblestone Village At St. Augustine, LLC petitioned the County for a release of said reservation which petition the County has approved.

KNOWN ALL MEN BY THESE PRESENTS: That the County, for and in consideration of mutual benefits, has released and by these presents does release unto the fee simple owners of record, their successors, heirs and assigns, the following reservation, to wit:

"RESERVING UNTO THE GRANTOR, its successors and/or assigns an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals and metals that are or may be in, on, or under the said land and an undivided one-half interest in all petroleum that is or may be in, or on, or under said land with the privilege to mine and develop the same."

Insofar as said reservation affects the property as described on attached Exhibit "A".

IN WITNESS WHEREOF, the County has caused this Release to be executed in its name by its Board of County Commissioners acting by the Chairman of the Board, the day and year aforesaid.

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

By: _____
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

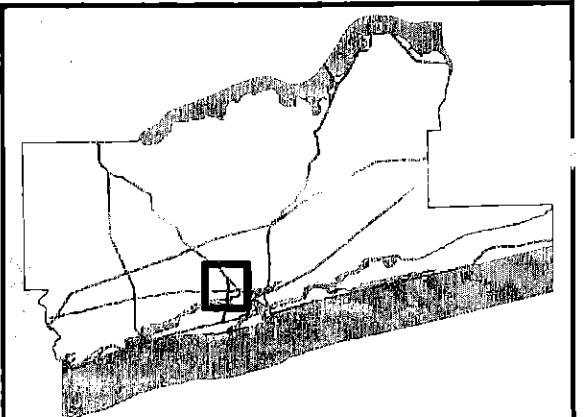
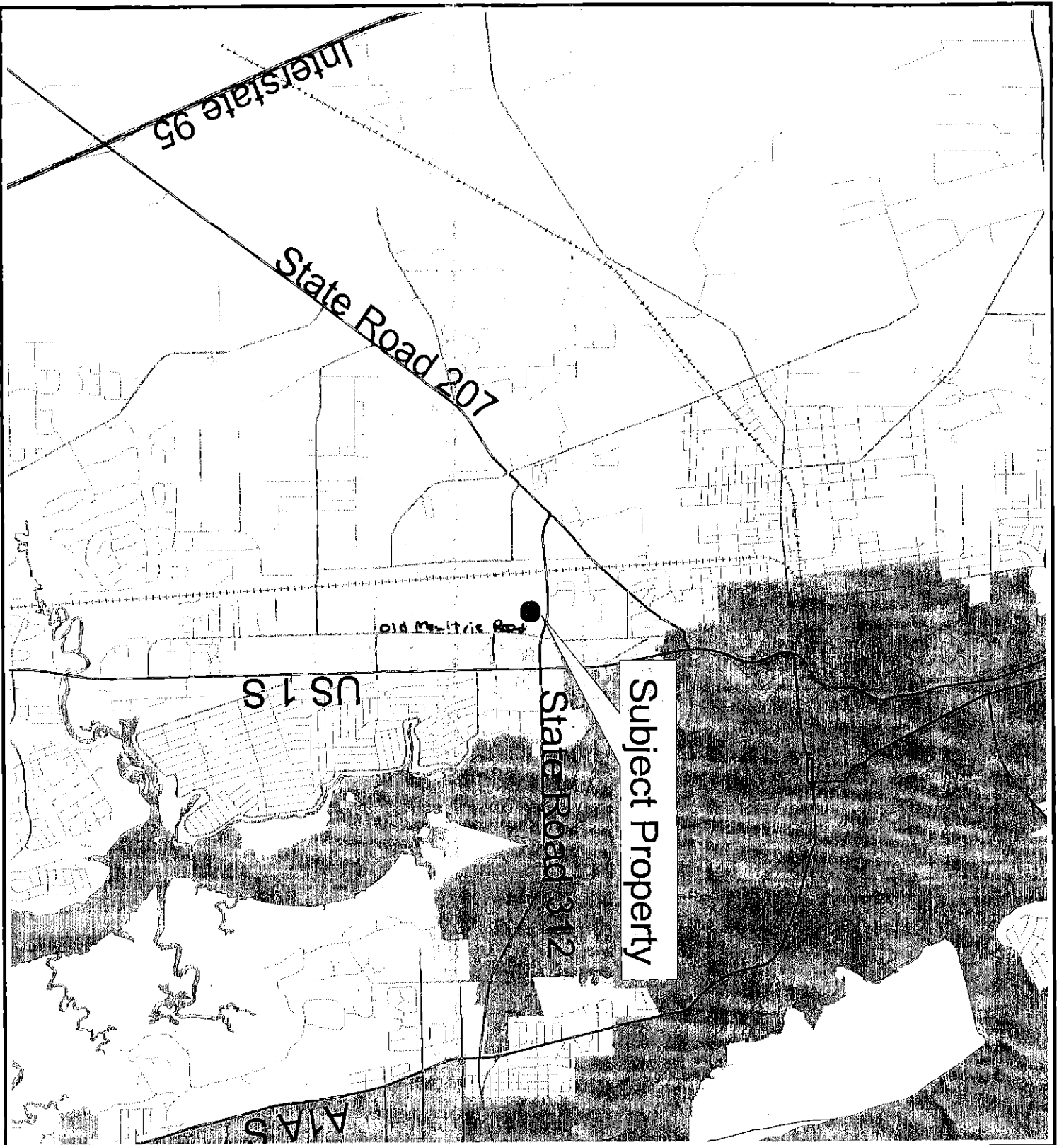
The foregoing instrument was acknowledged before me this _____ day of _____, 2002, by James E. Bryant, Chairman of the Board of County Commissioners of St. Johns County, Florida, on behalf of the Board, who is personally know to me.

Notary Public
My Commission Expires: _____

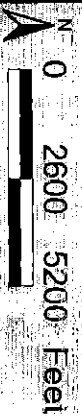
Exhibit "A"

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Project Location Map



Map Prepared: Mar 28, 2002
 Depicts: General Project Boundary

Cobblestone Shopping Center Property Exchange



St. Johns County
 Public Works Department
 Real Estate Division