BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

PLACEMENT: CONSENT
PRESET:
TITLE: A RESOLUTION REGARDING RELEASE OF UNITY OF TITLE AND ADOPTION OF NEW UNITY OF TITLE FOR RFP HOLDINGS, LLC

AGENDA ITEM DATES:

<table>
<thead>
<tr>
<th>MEETING DATE:</th>
<th>COUNTY ATTORNEY:</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/9/2017</td>
<td>4/17/2017</td>
</tr>
<tr>
<td>COMPLETED DATE:</td>
<td>ASSISTANT COUNTY ADMINISTRATOR:</td>
</tr>
<tr>
<td>4/27/2017</td>
<td>4/24/2017</td>
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</tbody>
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REQUESTED BY: DEPARTMENT: PREPARED BY:

<table>
<thead>
<tr>
<th>Name: RFP Holdings, LLC</th>
<th>Growth Management</th>
<th>Richard Lawton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Terence P. McCarthy McCarthy, Summers et al</td>
<td>Planner II</td>
<td></td>
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</tbody>
</table>

Procedures: None

EXECUTIVE SUMMARY:

A request for the Board of County Commissioners to replace the existing Unity of Title for RFP Holdings, LLC with a new Unity of Title for the purpose of correcting an error in the legal description.

APPROVAL:

LEG
ACA
CA

BACKGROUND/RELATED STRATEGIC GOAL:

RFP Holdings, LLC, was approved on July 20, 2004, for final site plan for an office and flex-space warehouse development as recorded in Official Records Book 1936, Page 409. In fulfillment of the development order the applicant provided the Unity of Title, recorded in Official Records Book 1936, Page 413.
There is an error in the legal description in the Unity of Title for Lot 7. The legal description calls out a lot that is not within the original development order. “Lot 7, Treasure Coast Commerce Center,” is not part of “The Ellipse” for which the Unity of Title was created. The error was discovered when the property owner attempted to sell Lot 7, Treasure Coast Commerce Center, and found that it was unified with the development order for The Ellipse.

The attached resolution releases the Unity of Title recorded in Official Records Book 1936, Page 413 and replaces it with the new Unity of Title with the correct legal description for the lots within The Ellipse, as shown as Exhibit A attached to the resolution.

ISSUES:
The Unity of Title states that it can only be released by the Board of County Commissioners. The attached resolution releases the Unity of Title recorded in Official Records Book 1936, Page 413 and replaces it with a new Unity of Title attached to the resolution as Exhibit A.

LEGAL SUFFICIENCY REVIEW:
This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

RECOMMENDED ACTION:
RECOMMENDATION
Move that the Board approve the resolution to release the existing Unity of Title and replace it with a new Unity of Title.

ALTERNATIVE RECOMMENDATIONS
1. Pull this item from the Consent Agenda.
2. Request additional information from the applicant, and continue the item to a date certain.
3. Deny the resolution.

FISCAL IMPACT:
RECOMMENDATION
Staff report.

ALTERNATIVE RECOMMENDATIONS
Staff report.

DOCUMENT(S) REQUIRING ACTION:

- [ ] Budget Transfer / Amendment
- [ ] Grant / Application
- [ ] Notice
- [ ] Ordinance
- [ ] Chair Letter
- [ ] Contract / Agreement
- [ ] Resolution
- [ ] Other:

ROUTING:

- [ ] ADM
- [ ] BLD
- [ ] CDD
- [ ] COM
- [ ] ENG
- [ ] FRD
- [ ] GMD
- [ ] GSD
- [ ] ITS
- [ ] LIB
- [ ] MCA
- [ ] MPO
- [ ] PRD
- [ ] USD
- [X] CA
- [X] ACA
- [X] LEG
March 9, 2017

VIA HAND-DELIVERY
Richard Lawton
Planner II
Martin County Growth Management Department
2401 SE Monterey Road
Stuart, FL 34996

Re:  Unity of Title from RFP Holdings, LLC to Martin County dated December 22, 2003, recorded in Officials Records Book 1936 at Page 413, of the Public Records of Martin County, Florida (the “Unity of Title”)

Dear Rich:

In accordance with our recent telephone conversation, I am writing in regard to the Unity of Title, as referenced above (copy attached). You will note that Exhibit “A” to the Unity of Title encumbers Lot 5, the Ellipse, Lot 6, the Ellipse, Lot 7, Treasure Coast Commerce Center, and Lot 8, the Ellipse. I believe you will find that a quick review of the Plat of the Ellipse, the Plat of Treasure Commerce Center and the aerial photographs of the two (2) sites will quickly reveal that Lot 7 of Treasure Coast Commerce Center are not contiguous with Lots 5, 6 and 8 of the Ellipse. Obviously, the inclusion of Lot 7 in the Unity of Title was an error; it should have been Lot 7 of the Ellipse.

The owner of Lot 7 of Treasure Coast Commerce Center, TCCC Holdings, LLC, is in the process of selling said Lot 7, and a search of the title reveals the Unity of Title. Needless to say, TCCC Holdings, LLC is anxious to release Lot 7 of Treasure Coast Commerce Center in order to complete its sale. The owner of Lot 7 of the Ellipse, RFP Holdings, LLC, is happy to grant to Martin County a new Unity of Title to encumber Lots 5, 6, 7 and 8 of the Ellipse which was clearly the intent of the Unity of Title.

I enclose herewith a proposed new Unity of Title from RFP Holdings, LLC intended to unify Lots 5, 6, 7 and 8 of the Ellipse. I also enclose a proposed a Partial Release of the Unity of Title.

This obvious error in the Unity of Title also carried over to the Development Order recorded in Official Records Book 2062, at Page 2070, of the Martin County, Florida Public Records (the “D/O”). I have enclosed herewith a copy of the D/O. I have also enclosed a proposed Amendment to Development Order revising the legal description in the same manner as the Unity of Title.
March 9, 2017
Page 2

I enclose herewith a check made payable to the County in the amount of $179.00, representing the application fee for this matter. Should you need additional information or documentation, please don't hesitate to call or write.

Very truly yours,

[Terence P. McCarthy]
TPM/dd
tpm@mccarthysummers.com

cc: Robert M. Schwartz, Esquire (Via E-Mail: bob@robertschwartzpa.com)
    Jennifer L. Williamson, Esquire (Via E-Mail: jlw@crarybuchanan.com)
UNITY OF TITLE

in consideration of the issuance of a permit to RFP Holdings LLC as "Owner(s)" for the construction of commercial property in Martin County, Florida, and for other good and valuable considerations, the undersigned hereby agree to restrict the use of lands described in Exhibit "A" attached hereto in the following manner:

1. That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised, or assigned separately except in its entirety as one plot or parcel of land.

2. The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land, and shall remain in full force and effect, and be binding upon the undersigned, their heirs and assigns until such time as the same may be released in writing by the Board of County Commissioners.

3. The undersigned further agrees that this instrument shall be recorded in the Public Records of Martin County.

Signed, acknowledged and notarized on this 22 day of December, 2003

Owner

Print Name: F.A. Pezzo
Title: UP

Attorney

Print Name: Rhett Keene
Title: President Manager

State of Florida County of Palm Beach

The foregoing instrument was acknowledged before me this 22 day of Dec, 2003 by Frank B. Pezzo (name of officer/agent and title) of RFP Holdings LLC (name of corporation), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He or she (she is personally known to me or ( ) has produced as identification and did ( ) did not ( ) take an oath.

Name printed:
State of Florida at large
My commission expires:

Note: if corporate seal is applied, only one witness is required; if not, 2 witnesses are required.
EXHIBIT A

TREASURE COAST COMMERCE CENTER LOTS 5, 6 & 8
LEGAL DESCRIPTION

Lot 5, ELLIPSE, according to the map or plat thereof as recorded in Plat
Book 11, Page 84, Public Records of Martin County, Florida.

Parcel Identification Number: 05-39-41-002-000-0005.0-80000

Lot 6, ELLIPSE, according to the map or plat thereof as recorded in Plat
Book 11, Page 84, Public Records of Martin County, Florida.

Parcel Identification Number: 05-39-41-002-000-0006.0-60000

Lot 7 of Section Three of the Plat of Treasure Coast Commerce Center Two
& Three according to the Plat thereof recorded in Plat Book 15, Page 65, of
the Public Records of Martin County, Florida.

Parcel Identification Number: 55-38-41-000-029-00080.00000 (parent
number) Cutout Parcel Identification Number: 55-38-41-290-003-00070

Lot 8, ELLIPSE, according to the map or plat thereof as recorded in Plat
Book 11, Page 84, Public Records of Martin County, Florida.

Parcel Identification Number: 05-39-41-002-000-0008.0-20000
March 24, 2017

VIA HAND-DELIVERY
Richard Lawton, GISP
Planner II
Martin County Growth Management Department
2401 SE Monterey Road
Stuart, FL 34996

Re:  Unity of Title from RFP Holdings to Martin County

Dear Richard:

Attached please find the original, executed proposed replacement of Unity of Title on this project.

Please advise should you need anything further.

Very truly yours,

Donna Dempsey, FRP
Paralegal to:  Terence P. McCarthy
dad@mccarthysummers.com

/s

Attachment

P:\DOCS\14607\14607.01\LTR\31L6108.DOCX 3/24/2017 12:33:48 PM
UNITY OF TITLE

In consideration of the issuance of a permit to RFP Holdings, LLC, as Owner(s) for the construction of commercial property in Martin County, Florida, and for other good and valuable considerations, the undersigned hereby agree to restrict use of lands described in Exhibit A attached hereto in the following manner:

Read carefully.
✓ Check Box 1. - if property is non-platted/non-condominium or
✓ Check Box 2. - if property is a platted subdivision or
✓ Check Box 3. - if property is a condominium, as applicable.

△ 1. Non-Platted/Non-Condominium. That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised, or assigned separately except in its entirety as one plot and parcel of land; with the sole exception being that a portion of said property may be sold, transferred, devised or assigned to any governmental entity.

OR

□ 2. Platted Subdivision (Non-Condominium). That said property shall be considered as one plat and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised, or assigned separately except in its entirety as one plot and parcel of land; however that (a) individual subdivision lots may be conveyed upon approval and recordation of the plat of ________________, (b) phases or portions of phases that comply with the requirements contained within the development orders may be conveyed separately upon final site plan approval of that phase or portion of a phase, (c) common elements, common open areas and developed recreation areas may be conveyed to a property owners’ association or other similar entity as deemed appropriate by the Board of County Commissioners, so long as such conveyance shall be subject to the express restriction that use of the subject property shall only be for the use described on the final site plan and plat, and (d) other portions of the subject property may be conveyed and used or maintained by governmental, environmental, charitable or other organizations or agencies for such purposes as the Board of County Commissioners may deem appropriate, with the sole exception being that a portion of said property may be sold, transferred, devised, or assigned to any governmental entity.

OR

□ 3. Condominium. That said property shall be developed as a condominium in which the underlying common elements shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land, with the sole exception being that if any of the condominium

DR-Form-601
Revised June 2009
units are developed as “land units” those parcels may be sold, transferred, devised or assigned subject to being part of the condominium and subject to the declaration of condominium pursuant to which they were established, or a portion of said property sold, transferred, devised, or assigned to any governmental entity.

4. The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land, and shall remain in full force and effect, and be binding upon the undersigned, their/its successors, heirs and assigns until such time as the same may be released in writing by the Martin County Board of County Commissioners.

5. The undersigned further agrees that this instrument shall be recorded in the Public Records of Martin County.

6. Nothing herein contained shall limit, in any manner, the Owner, or their successors or assigns, to mortgage or encumber the property or any part thereof.
Signed, acknowledged and notarized on this 23rd day of March, 2017.

WITNESSES:

[Signatures]

Owner(S):

RPF HOLDINGS, LLC, a Florida limited liability company
By: [Signature]

Print: Patricia Zammataro
Its: Manager

Owner(s) Address: P.O. Box 480577
Delray Beach, FL 33448

Note: If two owners are involved, two witnesses are required for each signature; the same 2 witnesses can be used for both signature and both signatures need to be notarized.

Note: Florida Statutes requires one of the following: corporate officer's signature attested by the corporate secretary and corporate seal applied; or, corporate seal applied and one witness; or corporate officer's signature and two witnesses.

STATE OF FLORIDA
COUNTY OF Palm Beach

I HEREBY CERTIFY that the foregoing Unity of Title was acknowledged before me this 23rd day of March, 2017, by Patricia Zammataro, Manager of RFP Holdings, LLC, a Florida limited liability company, on behalf of the Company. He or she ( ) is personally known to me or ( ) has produced ________________ as identification.

[Stamp]

Christine Procter

Name:
State of Florida at large
My commission expires: 8/16/2020

DR-Form-001
Revised June 2009
EXHIBIT "A"

Lot 5, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.

Lot 6, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.

Lot 7, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.

Lot 8, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.
BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

RESOLUTION NUMBER

A RESOLUTION REGARDING THE RELEASE OF UNITY OF TITLE AND SUBSTITUTION OF A NEW UNITY OF TITLE FOR RFP HOLDINGS, LLC

WHEREAS, this Board has made the following determinations of fact:
1. RFP Holdings, LLC, recorded a Unity of Title in conjunction with a final site plan for an office and flex-space warehouse development as recorded in Official Records Book 1936, Page 409.
2. The legal description attached to the recorded Unity of Title contains an error for the description of Lot 7.
3. RFP Holdings, LLC, has requested release of the Unity of Title recorded in Official Records Book 1936, Page 413, Public Records of Martin County, Florida, and to substitute it with the new Unity of Title and correct legal description.
4. This Board has considered such request at a public meeting on May 9, 2017.
5. At the public meeting, all interested parties were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:

1. The Unity of Title for RFP Holdings, LLC, as recorded in Official Records Book 1936, Page 413, Public Records of Martin County, Florida is hereby released.
2. The new Unity of Title for RFP Holdings, LLC, attached hereto as Exhibit A, is hereby approved.
3. This resolution shall be recorded in the Public Records of Martin County. A copy of this resolution shall be forwarded to the applicants by the Growth Management Department subsequent to recording.

DULY PASSED AND ADOPTED THIS 9TH DAY OF MAY, 2017.

ATTEST: BOARD OF COUNTY COMMISSIONERS
CAROLYN TIMMAN, CLERK OF THE CIRCUIT COURT AND COMPTROLLER
DOUG SMITH, CHAIRMAN

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

SARAH W. WOODS
COUNTY ATTORNEY
UNITY OF TITLE

In consideration of the issuance of a permit to RFP Holdings, LLC, as Owner(s) for the construction of commercial property in Martin County, Florida, and for other good and valuable considerations, the undersigned hereby agree to restrict use of lands described in Exhibit A attached hereto in the following manner:

Read carefully.
- Check Box 1. - if property is non-platted/non-condominium or
- Check Box 2. - if property is a platted subdivision or
- Check Box 3. - if property is a condominium, as applicable.

☑ 1. Non-Platted/Non-Condinium. That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised, or assigned separately except in its entirety as one plot and parcel of land; with the sole exception being that a portion of said property may be sold, transferred, devised or assigned to any governmental entity.

OR

☐ 2. Platted Subdivision (Non-Condinium). That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised, or assigned separately except in its entirety as one plot and parcel of land; however that (a) individual subdivision lots may be conveyed upon approval and recordation of the plat of_____________________, (b) phases or portions of phases that comply with the requirements contained within the development orders may be conveyed separately upon final site plan approval of that phase or portion of a phase, (c) common elements, common open areas and developed recreation areas may be conveyed to a property owners’ association or other similar entity as deemed appropriate by the Board of County Commissioners, so long as such conveyance shall be subject to the express restriction that use of the subject property shall only be for the use described on the final site plan and plat, and (d) other portions of the subject property may be conveyed and used or maintained by governmental, environmental, charitable or other organizations or agencies for such purposes as the Board of County Commissioners may deem appropriate, with the sole exception being that a portion of said property may be sold, transferred, devised, or assigned to any governmental entity.

OR

☐ 3. Condinium. That said property shall be developed as a condominium in which the underlying common elements shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land, with the sole exception being that if any of the condominium

DR-Form-001
Revised June 2009
units are developed as "land units" those parcels may be sold, transferred, devised or assigned subject to being part of the condominium and subject to the declaration of condominium pursuant to which they were established, or a portion of said property sold, transferred, devised, or assigned to any governmental entity.

4. The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land, and shall remain in full force and effect, and be binding upon the undersigned, their/its successors, heirs and assigns until such time as the same may be released in writing by the Martin County Board of County Commissioners.

5. The undersigned further agrees that this instrument shall be recorded in the Public Records of Martin County.

6. Nothing herein contained shall limit, in any manner, the Owner, or their successors or assigns, to mortgage or encumber the property or any part thereof.
Signed, acknowledged and notarized on this 23rd day of March, 2017.

WITNESSES:

Sign: [Signature]
Print: Robert M. Schwartz

Sign: [Signature]
Print: Christine Procter

OWNER(S):

RPF HOLDINGS, LLC, a Florida limited liability company
By: [Signature]
Print: Patricia Zammataro
Its: Manager

Owner(s) Address: P.O. Box 480577
Delray Beach, FL 33448

Note: If two owners are involved, two witnesses are required for each signature; the same 2 witnesses can be used for both signature and both signatures need to be notarized.

Note: Florida Statutes requires one of the following: corporate officer's signature attested by the corporate secretary and corporate seal applied; or, corporate seal applied and one witness; or corporate officer's signature and two witnesses.

STATE OF FLORIDA
COUNTY OF Palm Beach

I HEREBY CERTIFY that the foregoing Unity of Title was acknowledged before me this 23rd day of March, 2017, by Patricia Zammataro, Manager of RFP Holdings, LLC, a Florida limited liability company, on behalf of the Company. He or she ( ) is personally known to me or ( ) has produced __________________ as identification.

NOTARY PUBLIC

Name: Christine Procter
State of Florida at large
My commission expires: 8/16/2020
EXHIBIT "A"

Lot 5, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.

Lot 6, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.

Lot 7, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.

Lot 8, ELLIPSE, according to the map or plat thereof as recorded in Plat Book 11, Page 84, Public Records of Martin County, Florida.