


Prepared By:  
Martin County Growth Management Department  
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INSTR # 2613233  
OR BK 2900 PG 845  
(10 Pgs)  
RECORDED 01/05/2017 09:37:41 AM  
CAROLYN TIMMANN  
MARTIN COUNTY CLERK

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA  
DEVELOPMENT ORDER**

**RESOLUTION NUMBER 16-5.25**

**REGARDING A MAJOR DEVELOPMENT FINAL SITE PLAN APPROVAL  
FOR KENAI TC03 WTCF TOWER  
WITH A CERTIFICATE OF PUBLIC FACILITIES EXEMPTION]**

**WHEREAS,** this Board has made the following determinations of fact:

1. Kenai Properties, LLC and RG Towers, LLC ("Applicants") submitted an application for final site plan approval for the Kenai TC03 WTCF Tower project, located on lands legally described in Exhibit A, attached hereto.
2. Construction of a new tower within any future land use designation other than industrial or agricultural, except as otherwise provided in section 4.806., shall be reviewed as a major development pursuant to Section 4.793., LDR, Martin County, Fla. The lands legally described in Exhibit A are designated as High Density Residential on the future land use map.
3. Pursuant to Section 10.4.A.1., LDR, Martin County, Fla., major development final site plans for projects which have not received master site plan approval shall be reviewed by the LPA at a public hearing for compliance with the Comprehensive Plan, the LDR and the Code. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be recommended for approval by the LPA. After the conclusion of the public hearing, pursuant to Section 10.4.A.3., LDR, Martin County, Fla., the LPA shall issue a recommendation for approval, for approval with modifications or for denial.
4. With the Applicants' consent, this application was scheduled to be considered by the LPA at a public hearing on February 18, 2016, and was continued to March 17, 2016. A letter was received from the Applicants on March 1, 2017, agreeing to a second continuance of the LPA hearing to April 7, 2016.
5. The LPA considered the application at a public hearing on April 7, 2016. The Applicants' presentation on April 7, 2016, included materials that had not been previously submitted as part of the application or reviewed by staff and were therefore not considered in the staff recommendation for denial documented in the March 31, 2016, staff report. At the April 7, 2016, public hearing, an intervenor and a member of the public spoke in opposition to the approval of the application. At the conclusion of the public hearing, the LPA voted unanimously by a vote of 4-0 to support staff's recommendation of denial based on the fact that staff had not had an opportunity to review the



documentation presented on April 7, 2016. The LPA's recommendation has been forwarded to the Board of County Commissioners for its consideration.

6. Pursuant to Section 10.5.A.1., LDR, Martin County, Fla., major development final site plans for projects which have not received master site plan approval shall be considered by the BCC at a public hearing. At the conclusion of the public hearing, the BCC shall approve, approve with modifications or deny the development application, which shall constitute the final action of the BCC. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be approved.

7. The BCC held a public hearing on May 10, 2016, to consider the final site plan application for the Kenai TC03 WTCF Tower project. The Applicant agreed to extend the "shot clock" schedule and consented to the scheduling of this hearing.

8. At the May 10, 2016, public hearing, all interested persons were given an opportunity to be heard.

9. At the May 10, 2016, public hearing, the BCC considered the recommendation of the LPA.

10. The May 10, 2016, public hearing was continued to May 31, 2016, with the consent of the Applicants. At the May 10 and May 31, public hearings, the BCC considered the testimony and evidence presented by Martin County staff and the Applicants regarding the final site plan application for the Kenai TC03 WTCF Tower project. The BCC also considered testimony and evidence presented by the intervenors and other persons in opposition to the approval of the application as well as public comments in opposition to the approval of the application.

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

- A. The foregoing findings are incorporated herein.
- B. Pursuant to the requirements of Section 4.796.B.6., LDR, Martin County, Fla., towers and structure-mounted WTCFs within lands designated for residential use on the future land use map shall be stealth facilities. Because the lands legally described in Exhibit A are designated as High Density Residential on the future land use map, the Kenai TC03 Tower must be stealth. Pursuant to Section 4.792. Glossary, LDR, Martin County, Fla. stealth facility means any tower or WTCF which is designed to blend into the surrounding environment to the extent that an average person would be unaware of its presence as a tower or WTCF. Neither the Applicants nor any other person objected to the requirement that the Tower must be stealth nor to the County's definition of stealth.
- C. The Applicants proposed to construct a Tower in the design of a one-hundred twenty foot (120') monopine to blend into the surrounding environment as a pine tree. At the May 10, hearing, Martin County staff provided an opinion that the proposed 120' monopine tower would be too tall to blend into the environment and that the Applicants did not



propose sufficient landscaping so that equipment and other conditions at the base of the Tower would sufficiently blend into the environment.

D. At the May 10, hearing, Martin County staff suggested conditions, which if approved, may make the Tower and associated equipment stealth. At the May 10, hearing, the Applicants agreed to all the conditions proposed by Martin County staff, including reducing the height of the Tower to eighty feet (80') and adding more landscaping. The Applicants, Intervenor and Martin County staff agreed to address the limited question as to whether the proposed Tower and associated equipment would be stealth, which was addressed at the May 31, hearing.

E. Based on the application, testimony and other materials considered at the hearings, the Board finds that a Monopine Tower of a height no greater than eighty (80) feet above existing ground level, that meets the conditions set forth in this Resolution, which have been accepted by the Applicants, would sufficiently blend into the surrounding environment to the extent that an average person would be unaware of its presence as a tower or WTCF and thus would be a stealth facility. The Board approves the application as revised by the Applicants subject to the following conditions, which have been accepted by the Applicants:

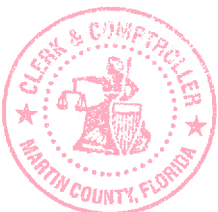
1. The Tower shall be constructed to no more than a maximum height of eighty (80) feet as determined by the vertical distance from the base elevation of the Tower site prior to construction to the highest point of the Tower, including all antennas and other attachments except lightning rods.

2. The project plan shall be modified to include additional landscaping and other necessary measures sufficient for the height of the fenced compound to screen from view ground equipment and structures from the surrounding residential properties and the adjoining street at the time of installation and anytime thereafter to ensure the facility remains consistent with the requirements for stealth in perpetuity, recognizing the gate and driveway to the compound cannot be obstructed with landscaping.

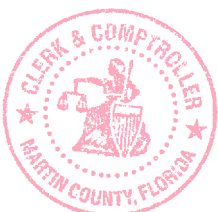
3. The project shall implement measures for noise mitigation from equipment and construction activities so as to comply with Martin County Code, including but not limited to, Section 67.306 of the Martin County Noise Control Ordinance, Article 10, Chapter 67.

4. The camouflaging faux branch materials shall be increased in size, density and vertical extent and/or living vegetation shall be increased in height or density such that:

- i. Visibility of the central monopole structure shall be camouflaged by the faux branches or living vegetation at the time of installation and anytime thereafter to ensure the facility remains consistent with the requirements for stealth in perpetuity, recognizing the gate and driveway to the compound cannot be obstructed with landscaping, and



- ii. Visibility of external appurtenances and portions thereof, including antennas and mounting equipment, shall be screened by faux branches or living vegetation to ensure the facility remains consistent with the requirements for stealth in perpetuity, recognizing the gate and driveway to the compound cannot be obstructed with landscaping.
5. The landscape plan that is to be modified and submitted shall include irrigation and maintenance requirements, above the minimum code requirements of Division 15, Article 4, LDR, Martin County, Fla., and subject to staff review and approval.
- F. Pursuant to Section 4.793, LDR, Martin County, Fla., no WTCF or tower shall be constructed, reconstructed, structurally altered or moved except pursuant to the provisions of Article 4, Division 18, Wireless Telecommunication Facilities, LDR, Martin County, Fla. and pursuant to a development order issued in accordance with Article 10, Development Review Procedures, LDR, Martin County, Fla.
- G. Upon submittal of an amended final site plan, including all code-required plans, reports or supporting analyses with revision for consistency with the amended proposal, demonstrating compliance with the conditions set forth herein and all other applicable provisions of Article 4, Division 18, Wireless Telecommunication Facilities, LDR, Martin County, Fla. and Article 10, Development Review Procedures, LDR, Martin County, Fla. as determined by County staff, the Kenai TC03 WTCF Tower application is approved. Development of the Kenai TC03 WTCF Tower project shall be in accordance with the amended final site plan and subject to the following additional conditions:
  1. The County or its designees shall have the right to inspect, upon reasonable notice to the owner and/or permittee, any WTCF or Tower for the purpose of determining compliance with Division 18 of the Martin County Land Development Regulations.
  2. Every five years, and within 90 days following a catastrophic act of nature or other emergency that may affect the structural integrity of a tower, the Tower owner or permittee shall file with the County Administrator a statement, sealed by a qualified professional engineer, licensed in the State of Florida, that an inspection has been completed and that the Tower has not been structurally compromised.
  3. The Tower owner or permittee will correct any deficiencies or remove the Tower within 90 days of receipt of a Notice from the County Administrator that the Tower is abandoned or declared unsafe in accordance with Section 4.803.B. and Section 4.803.D.
  4. The maximum height of the Tower, including any appurtenances, shall not exceed 80 feet in height (90.0' NAVD88). Any extension of the Tower or appurtenances, beyond the approved maximum 80-foot height is prohibited unless approved by the Martin County Board of County Commissioners.





5. In lieu of constructing a sidewalk, the Applicants shall pay the cost of construction within sixty (60) calendar days of the project approval. The cost of the construction is \$25 per linear foot; the frontage is 160 feet; therefore the total cost is \$4,000.
6. The thirty (30) foot right-of-way on SE Country Club Drive is to be conveyed to the County within sixty (60) days of the approval of the Final Site Plan.
- H. Approval of the development order is conditioned upon the Applicants' submittal of all required applicable state and federal permits and approval by the Growth Management Department (GMD) prior to the commencement of any construction.
- I. No permits for construction or development activity shall be issued until all required documents, plans and fees are received and approved as required by Section 10.9, LDR, Martin County, Fla., including, but not limited to, the following fees:
1. The balance of fees incurred by the consultant review as provided pursuant to Sec. 365.172(13) (b) 4, Florida Statutes.
  2. A bond in the amount of 110% of the estimated cost for removal of the monopole structure, as certified by the Engineer of Record.
- J. Failure to submit the required documents, plans and fees as required by Section 10.9, Land Development Regulations, Martin County, Fla., within sixty (60) days of the date of this Resolution shall render approval of the final site plan for Kenai TC03 WTCF Tower project null and void. If the Applicants do not comply with the terms and conditions established within this Resolution, the application shall be denied.
- K. This application is hereby determined to meet the requirements for and shall serve as a Certificate of Public Facilities Exemption as set forth in Section 5.32.B., LDR, Martin County, Fla.
- L. No land clearing is authorized prior to the mandatory pre-construction meeting for the project. Property corners and preservation areas shall be located by a licensed land surveyor and clearly marked in the field prior to the pre-construction meeting. Authorization for clearing to install erosion control devices and preserve barricades will be granted at the pre-construction meeting. No additional land clearing shall commence until a satisfactory inspection of the required control structures and barricades has been obtained. Authorization for the relocation of gopher tortoises within the development, as provided for on state agency permits, may be granted by the Growth Management Department upon review of required permit materials.
- M. All permits for the Kenai TC03 WTCF Tower final site plan must be obtained within one year, by May 31, 2017. Development of the entire project, including infrastructure and




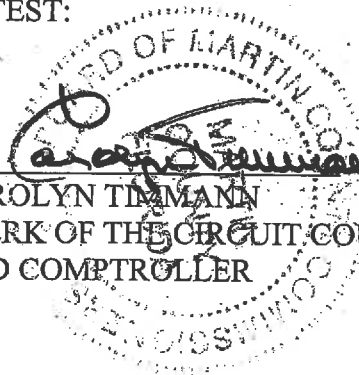
vertical construction, must be completed within two (2) years of final site plan approval, by May 31, 2018. The conditions for approval of the application set forth in this Resolution shall be incorporated within and set forth in any permits and other authorizations issued by the County. All remaining impact fees and capital facility charges shall be paid in full within sixty (60) days of approval, pursuant to Section 5.32.D.4.c.(3), LDR, Martin County, Fla.

- N. 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 31<sup>st</sup> DAY OF MAY, 2016.

ATTEST:


BY:   
CAROLYN TIMMANN  
CLERK OF THE CIRCUIT COURT  
AND COMPTROLLER



BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

BY:   
JOHN HADDOX, VICE CHAIR

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

FOR:   
MICHAEL D. DURHAM  
COUNTY ATTORNEY

ATTACHMENTS:

Exhibit A, Legal Description



**EXHIBIT A  
LEGAL DESCRIPTION**

**KENAI - TC 03**

**PARENT TRACT**

(PER OFFICIAL RECORD BOOK 2633, PAGE 1144 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA)

BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST ONE QUARTER (NE1/4) OF THE NORTHEAST ONE QUARTER (NE1/4) OF SAID SECTION 22-40-42, AND THE NORTH BOUNDARY OF SAID SECTION 22-40-42;

THENCE EASTERLY, ALONG THE NORTH BOUNDARY OF SAID SECTION 22-40-42, A DISTANCE OF 294 FEET TO A POINT;

THENCE, SOUTHERLY, PERPENDICULAR TO THE PREVIOUS LINE, 45 FEET TO A POINT;

THENCE, SOUTHWESTERLY, ALONG A LINE TURNED AT AN ANGLE OF 135°00'00" IN THE NORTHWEST QUADRANT FROM THE PREVIOUS LINE, 162.63 FEET TO A POINT;

THENCE, WESTERLY, ALONG A LINE PARALLEL WITH AND 160 FEET SOUTH OF THE NORTH BOUNDARY OF SAID SECTION 22-40-42, A DISTANCE OF 178.28 FEET, MORE OR LESS, TO THE WEST BOUNDARY OF THE NORTHEAST ONE QUARTER (NE1/4) OF THE NORTHEAST ONE QUARTER (NE1/4) OF SAID SECTION 22-40-42;

THENCE, NORTHERLY, ALONG SAID WEST BOUNDARY OF THE NORTHEAST ONE QUARTER (NE1/4) OF THE NORTHEAST ONE QUARTER (NE1/4) OF SAID SECTION 22-40-42, A DISTANCE OF 160 FEET TO THE POINT OF BEGINNING;

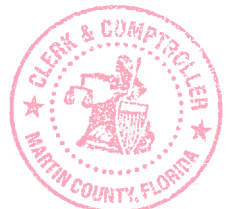
**RG TOWERS LEASE PARCEL**

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SECTION 22, TOWNSHIP 40 SOUTH, RANGE 42 EAST, MARTIN COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22 (FOUND NAIL & DISK - NO I.D.);

THENCE ON A GRID BEARING OF S89°48'00"E ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22, A DISTANCE OF 30.00 FEET;

THENCE CONTINUE S89°48'00"E CONTINUING ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22, A DISTANCE OF 60.00 FEET;



**EXHIBIT A  
LEGAL DESCRIPTION**

THENCE S00°03'00"E A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING;

THENCE S89°48'00"E A DISTANCE OF 60.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 40.00 FEET;

THENCE N89°48'00"W A DISTANCE OF 60.00 FEET;

THENCE N00°03'00"W A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN MARTIN COUNTY, FLORIDA  
CONTAINING 2,400.0 SQUARE FEET MORE OR LESS.

**RG TOWERS ACCESS AND UTILITY EASEMENT**

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST ONE-QUARTER (1/4)  
OF THE NORTHEAST ONE-QUARTER (1/4) OF SECTION 22, TOWNSHIP 40 SOUTH,  
RANGE 42 EAST, MARTIN COUNTY, FLORIDA, SAID PARCEL BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER  
(1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22 (FOUND NAIL &  
DISK - NO I.D.);

THENCE ON A GRID BEARING OF S89°48'00"E ALONG THE NORTH LINE OF THE  
NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF  
SAID SECTION 22, A DISTANCE OF 30.00 FEET;

THENCE CONTINUE S89°48'00"E CONTINUING ALONG THE NORTH LINE OF THE  
NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF  
SAID SECTION 22, A DISTANCE OF 60.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 100.00 FEET;

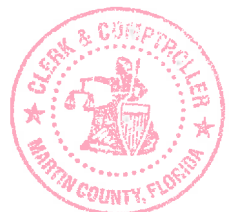
THENCE S89°48'00"E A DISTANCE OF 60.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 40.00 FEET;

THENCE N89°48'00"W A DISTANCE OF 60.00 FEET;

THENCE N00°03'00"W A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING;

THENCE N89°48'00"W A DISTANCE OF 60.00 FEET TO A POINT ON A LINE 30.00 FEET  
EAST OF AND PARALLEL WITH THE WEST LINE OF THE NORTHEAST ONE-  
QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22,





**EXHIBIT A  
LEGAL DESCRIPTION**

SAID LINE ALSO BEING THE PROPOSED EAST RIGHT-OF-WAY LINE OF S.E. COUNTRY CLUB DRIVE (PUBLIC RIGHT-OF-WAY);

THENCE N00°03'00"W ALONG SAID PARALLEL LINE AND PROPOSED EAST RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET;

THENCE S89°48'00"E A DISTANCE OF 60.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN MARTIN COUNTY, FLORIDA CONTAINING 1,200.0 SQUARE FEET MORE OR LESS.

**RIGHT-OF-WAY DEDICATION PARCEL**

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SECTION 22, TOWNSHIP 40 SOUTH, RANGE 42 EAST, MARTIN COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22 (FOUND NAIL & DISK - NO I.D.);

THENCE ON A GRID BEARING OF S89°48'00"E ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22, A DISTANCE OF 30.00 FEET TO A POINT ON A LINE 30.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22;

THENCE S00°03'00"E ALONG SAID PARALLEL LINE, A DISTANCE OF 160.00 FEET TO A POINT ON A LINE 160.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22;

THENCE N89°48'00"W ALONG SAID PARALLEL LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22 (FOUND NAIL & DISK - NO I.D.);

THENCE N00°03'00"W ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN MARTIN COUNTY, FLORIDA CONTAINING 4,800.0 SQUARE FEET MORE OR LESS.



EXHIBIT A  
LEGAL DESCRIPTION

**RG TOWERS LANDSCAPE BUFFER EASEMENT**

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SECTION 22, TOWNSHIP 40 SOUTH, RANGE 42 EAST, MARTIN COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22 (FOUND NAIL & DISK - NO I.D.);

THENCE ON A GRID BEARING OF S89°48'00"E ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22, A DISTANCE OF 30.00 FEET;

THENCE CONTINUE S89°48'00"E CONTINUING ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 22, A DISTANCE OF 60.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING;

THENCE S89°48'00"E A DISTANCE OF 60.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 40.00 FEET;

THENCE N89°48'00"W A DISTANCE OF 60.00 FEET;

THENCE N00°03'00"W A DISTANCE OF 10.00 FEET;

THENCE N89°48'00"W A DISTANCE OF 10.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 20.00 FEET;

THENCE S89°48'00"E A DISTANCE OF 80.00 FEET;

THENCE N00°03'00"W A DISTANCE OF 100.00 FEET;

THENCE N89°48'00"W A DISTANCE OF 80.00 FEET;

THENCE S00°03'00"E A DISTANCE OF 60.00 FEET;

THENCE S89°48'00"E A DISTANCE OF 10.00 FEET;

THENCE N00°03'00"W A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN MARTIN COUNTY, FLORIDA CONTAINING 5,400.0 SQUARE FEET MORE OR LESS.

STATE OF FLORIDA  
MARTIN COUNTY  
THIS IS TO CERTIFY THAT THE  
FOREGOING 10 PAGE(S) IS A TRUE  
AND CORRECT COPY OF THE ORIGINAL  
DOCUMENT AS FILED IN THIS OFFICE.  
CAROLYN THIMMANN, CLERK  
BY: JK D.C.  
DATE 07-15-2016

