MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MASTER CODE ENFORCEMENT HEARING
August 28, 2002

Present: Kenneth Spillias, Town Attorney; Kathleen M. Dailey, Town Manager; Karen Hancsak, Town Clerk; Director Edward Hillery, and Sgt. Andrews.

Meeting called to order at 10:00 A.M.

A. The minutes of July 09, 2002 were adopted.

Special Master Torcivia explained that this was an informal hearing and rules of evidence were not required, however, the Town may have exhibits that a respondent has the right to make objections to. She added that the Town would present their case and she would render a decision and issue a Final Order since the respondent was not present.

At this point all individuals that were prepared to give testimony were sworn in. Since the court reporter for Case No. CE2002-06 had not yet arrived Special Master Torcivia advised that she would address Case No. 2002-08 and 09 first.

B. VIOLATIONS

CASE NO. CE2002-08

Mercard Credit Services Corp., 118 ½ SE 7th Ave., Delray Beach FL 33483-5243
RE: 27 Hudson Ave. or legally described as Part of Lots 15 and 16 (less the N. 87.86'), Block 6, Boynton Beach Park Subdivision
NATURE OF VIOLATION
Violate Section 34-6 of the Town Code of Ordinances by permitting the grass to grow in excess of 12 inches on the property

The respondent was not present.

Atty Spillias advised that CE2002-08 and CE2002-09 were actually companion cases as the properties are located side by side and are owned by the same individual.

Special Master Torcivia accepted the following evidence as Town exhibits: the Affidavit and Notice of Violation, receipt for certified mail and the executed return receipt by Jeff Young for the Certified Letter as #1, the lot violation letter by the Town dated May 22, 2002 as #2, the Property Appraiser information showing the owner/address as #3, and 2 photographs (1 dated 8/1/02 and 1 dated 8/28/02).

Sgt. Andrews advised that he and Lt. Katz had responded to a complaint of overgrown grass on Aug. 1, 2002 and had noticed that it appeared to have not been mowed since the

initial May 22, 2002 letter and took 2 photographs. He added that on this date he went to the lot and noticed that it still had not been mowed and took 1 photograph.

Sgt. Andrews advised that he was notified by someone representing himself as the owner of both properties (George Liddy) that they had just gotten back in town and was not aware of any notice. Atty Spillias commented that this is continual problem with this lot and added that it causes aesthetic and health hazard problems for the neighbors.

Special Master Torcivia advised that she was finding violation and the property must be brought into compliance by Sept. 1, 2002 failing which would constitute a $100 daily fine because it is a continuous problem.

CASE NO. CE2002-09

Green Machine Development corp. 200 MacFarlane Drive #405, Delray Beach FL 33483
RE: North 87.86' of Lots 15 and 16, Block 6, Boynton Beach Park
NATURE OF VIOLATION
Violate Section 34-6 of the Town Code of Ordinances by permitting the grass to grow in excess of 12 inches on the property

Respondent was not present.

Atty Spillias commented that the town has not received the return notice to which Special Master Torcivia advised that she would proceed if the town could show that the notice was sent. After observing the document she advised that she found that proper notice was given and the respondent chose not to get it.

Special Master Torcivia accepted the following evidence as Town exhibits: the Property Appraiser information showing the owner and address as #1, the executed green card from the May 22, 2002 letter signed by M. Ranco with the letter and incident report as #2, the certified mail receipt and letter of notice dated Aug. 2, 2002 as #3; and 3 photographs (2 taken on Aug. 1, 2002 and 1 taken Aug. 28, 2002) as #4.

Sgt. Andrews again advised that he spoke with the owner and reiterated his conversation.

Special Master Torcivia advised that she was finding violation and the property must be brought into compliance by Sept. 1, 2002 failing which would constitute a $100 daily fine because it is a continuous problem.

CASE NO. CE2002-06

William Morris, 2 Coconut Lane, Ocean Ridge, FL 33435
RE: 2 Coconut Lane or legally described as Lot 3, Block 2, Boynton Beach Park Subdivision
NATURE OF VIOLATION

Violate Section 34-1 of the Town Code of Ordinances by obstructing a right of way, thus creating a nuisance. The obstructions are two fences placed across the right of way and are running to the wall of the property on the other side of the right of way. The fence was never properly permitted (building permit)

Sandra Morrison, spouse of Mr. Morris, and their attorney, Richard Levenstein were present.

Atty Levenstein thanked everyone for rescheduling the meeting. He advised that this hearing was based on a fence that is located across the ROW. He commented that his client was first notified in Aug. 2001 of this violation and requested to appear before the Town Commission to request a license to allow the obstruction. Subsequent to that meeting the ROW obstructions were discussed at the Sept. and Oct. 2001 meetings with no further discussion or action until June 2002 when the Commission directed staff to issue a Notice of Violation to his client based on a complaint from a neighbor regarding access to the west side of his wall which is now enclosed by the fence. He added that Mr. Morris offered to provide access, however, the neighbor voiced his complaint to the Commission instead and hence the Notice of Violation. He distributed a copy of a portion of the transcript of the Aug. 5, 2002 which advised that the Commission directed the Planning & Zoning Commission to complete a comprehensive report on the ROW's located in town with Hudson Ave. and Coconut Lane being addressed first. He added that he was respectfully requesting to continue this meeting to a later date based on that meeting. Atty Levenstein commented that he felt that his clients were singled out because other property owners with obstructions are status quo until the determination is completed.

Special Master Torcivia questioned what type of fence is there. She was advised that it was a chain link fence with a removable fence in the front.

Atty Spillias summarized the history of the ROW discussions and Ordinance 528 regarding the issuance of a license to obstruct a ROW. He stated that a few property owners responded to this ordinance, however, most did not. He advised that the Town has not taken an unsolicited or proactive action to this matter. He concurred with Atty Levenstein regarding the two neighbors being involved in a dispute and that the Commission had directed the staff to issue a Notice of Violation and if not brought into compliance then a hearing would be held. He added that subsequent to that the Commission did direct the P & Z to review and make recommendations on the various ROW's in town and report back to the Commission no later than Dec. 15, 2002. Atty Spillias stated that he could not take a position for the Town and their next meeting wasn't until Sept. 10, 2002.

Special Master Torcivia clarified the location on the zoning map and questioned whether the property in question was deeded to the town. She was advised that it was platted but

has never been used and there are utility lines located within it. Atty Spillias commented that one of the concerns of the opposite neighbor is that utility companies do not have access for any necessary repairs.

Special Master Torcivia stated that she felt this was more of an administrative decision for the Town Commission and it could be discriminatory if she made a decision regarding this one obstruction. She therefore decided that she would withhold any decision today and would not find violation; however, a status hearing would be set for Jan. 14, 2003 if the Commission decides not to relinquish this ROW.

C. Adjournment

The meeting was adjourned at approximately 11:10 AM.

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Town Clerk