

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: McCurdy Center, Ltd.

Case No. 2007-064VW

**ORDER GRANTING PETITION FOR WAIVER OF RULES 67-48.004(14);
67-48.004(1)(A); F.A.C. (2005); PART II.A.2.A.(1) AND (2) OF THE 2005
UNIVERSAL APPLICATION INSTRUCTIONS; AND A CHANGE IN
DEVELOPMENT SITE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on December 7, 2007, pursuant to a "Petition for Waiver of Rule 67-48.004(14) and Rule 67-48.004(1)(a) and Part II.A.2.A.(1) and (2) of the Universal Application Instructions for a Change in the Identity of the Petitioner's Developer and the Petitioner's Ownership Structure; and a Change in Development Site" filed by McCurdy Center, Ltd. ("Petitioner") on November 6, 2007. Notice of the Petition was published in Volume 33, Number 46, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

A. Green /DATE: 12-10-07

2. During the 2005 Universal Cycle, McCurdy Center, Ltd., (“Petitioner”) applied for and was awarded competitive low-income housing tax credits (“Housing Credits”) and a State Apartment Incentive Loan (“SAIL”) to finance the construction of McCurdy Center (the “Development”) located in Belle Glade County.

3. Rule 67-48.004(1)(a), Florida Administrative Code (2005), provides in pertinent part:

(1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.

(a) The Universal Application Package or UA1016 (Rev. 1-05) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation’s Website under the 2005 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC Program(s).

4. Rule 67-48.004(14)(b), Florida Administrative Code (2005), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional

information. Any attempted changes to these items will not be accepted. Those items are as follows:

...(b) Identity of each Developer, including all co-Developers;

5. Rule 67-48.004(14)(e), Florida Administrative Code (2005), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(e) Site for the Development;

6. Part II.A.2.a.(1) and (2), of the 2005 Universal Application Instructions provides in pertinent part:

(1) If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.

(2) If applying for MMRB, SAIL, or HOME, the Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. Replacement of the Applicant or a

material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes after loan closing will require Board approval.

7. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

8. Petitioner requests a variance or waiver to the above provisions to allow Greater Miami Neighborhoods, Inc. to withdraw as co-Developer of the project and also for its wholly-owned subsidiary, GMN McCurdy, Inc., to withdraw as co-General Partner of the Development. The Petition further requests that Landmark Development Corporation be added as co-Developer of the Development.
9. The requested change would result in Landmark Development Corporation and McCurdy Senior Housing Corporation serving as co-Developers and McCurdy Center GP, Inc. serving as the sole General Partner (a 0.01% interest) of the Applicant entity.

10. Petitioner further requests a waiver of Rule 67-48.004(14)(e), F.A.C. (2005) to allow a change in Development site to allow a possible future transfer of unnecessary portions of the Project site. Petitioner has demonstrated that it originally intended a single-phase Project at the time it submitted its Application. However, it has later determined that a multi-phase development could be developed. Petitioner wishes to construct the Development on tract A and outparcel the unnecessary tracts B, C, and D, all of which are more particularly described on the survey attached hereto as Exhibit "A" and incorporated herein by reference.

11. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner has demonstrated that Greater Miami Neighborhoods, Inc. and GMN McCurdy, Inc., its wholly owned subsidiary are experiencing financial and operational difficulties and are in the process of reorganizing and winding up its business operations, and is therefore unable to fulfill its obligations to the Development. Without the waiver, Petitioner cannot complete construction of the Development. Permitting this change in Development would also serve the underlying purpose of the statute.

12. The Board further finds that strict application of Rule 67-48.004(14)(e), F.A.C. (2005) would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner has demonstrated that its request for change in the Site for the Development would not affect the original scoring of its Application; Petitioner has submitted a new Surveyor Certification supporting this fact. The Board finds that permitting this change would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rules 67-48.004(14), 67-48.004(1)(a), Florida Administrative Code (2005), and Part II.A.2.A.(1) and (2) of the 2005 Universal Application Instructions, is hereby **GRANTED**, to allow Petitioner to change its ownership and developer structure by allowing Greater Miami Neighborhoods, Inc. to withdraw as co-Developer and GMN McCurdy, Inc. to withdraw as co-General Partner. Further, Petitioner's request to waive the above requirements is hereby **GRANTED**, to allow Petitioner to add Landmark Development Corporation as co-Developer. Finally, Petitioner's request to change the site for the Development is hereby **GRANTED**, to allow the Development to be developed on the tract identified by the survey attached to its Petition, which is a portion of originally contemplated tract.

DONE and ORDERED this 7th day of December, 2007.

Florida Housing Finance Corporation

By: *Lynn M. Stutz*
Chair

Copies furnished to:

Wellington H. Meffert II
General Counsel
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Tallahassee, Florida 32301-1329



Debbie Blinderman
Deputy Development Officer
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Derek Helms
Multifamily Loans Administrator
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227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Gary J. Cohen, Esq.
Shutts & Bowen, LLP
201 South Biscayne Blvd., Suite 1500
Miami, FL 33131

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.

OVERALL PARCEL

A PARCEL OF LAND IN STATE LOT 28, SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT ON THE EAST LINE OF SAID LOT 28, SAID POINT BEING THE CENTERLINE INTERSECTION OF SOUTHWEST AVENUE C PLACE AND SOUTHWEST 10TH STREET IN THE CITY OF BELLE GLADE; THENCE NORTH 0°07'10" W 85.64 FEET ALONG THE EAST LINE OF SAID LOT 28; THENCE SOUTH 88°56'00" WEST 25.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 0°07'10"EAST 83.98 FEET ALONG A LINE 25.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID STATE LOT 28; THENCE SOUTH 89°57'21" WEST 166.02 FEET; THENCE SOUTH 0°01'14" WEST 211.57 FEET; THENCE NORTH 89°57'21" EAST 166.54 FEET; THENCE SOUTH 0°07'10" EAST 184.63 FEET TO A POINT ON A LINE 45 FEET NORTH OF, MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, SAID LINE BEING THE SAME AS THE CENTERLINE OF SOUTHWEST AVENUE E, NOW KNOWN AS MARTIN LUTHER KING JR. BOULEVARD; THENCE NORTH 89°59'44" WEST 417.12 FEET ALONG SAID LINE PARALLEL WITH AND 45 FEET NORTH OF THE SOUTH LINE OF SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST; THENCE NORTH 0°09'59" WEST 290.47 FEET ALONG A LINE PARALLEL WITH THE WEST LINE OF STATE LOT 28; THENCE SOUTH 88°56'00" WEST 35.02 FEET; THENCE NORTH 0°09'59" WEST 81.12 FEET ALONG A LINE PARALLEL WITH THE WESTLINE OF STATE LOT 28; THENCE SOUTH 88°56'00" WEST 157.00 FEET TO A LINE PARALLEL WITH AND 25 FEET EAST OF THE WESTLINE OF SAID STATE LOT 28; THENCE NORTH 0°09'59" WEST 271.19 FEET ALONG SAID LINE PARALLEL WITH AND 25 FEET EAST OF THE WEST LINE OF STATE LOT 28; THENCE SOUTH 89°59'44" EAST 609.64 FEET TO A LINE 25 FEET WEST OF MEASURED AT RIGHT ANGLES TO THE EAST LINE OF STATE LOT 28; THENCE SOUTH 0°07'10" EAST 159.02 FEET ALONG SAID LINE PARALLEL WITH AND 25 WEST OF THE EAST LINE STATE LOT 28, TO THE POINT OF BEGINNING.

LESS THAT CERTAIN PARCEL OF LAND DEEDED TO THE STATE ROAD DEPARTMENT OF FLORIDA RECORDED IN OFFICIAL RECORD BOOK 268, PAGE 420

THE ABOVE DESCRIBED OVERALL PARCEL CONTAINS 286,123 SQUARE FEET OR 6.5685 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

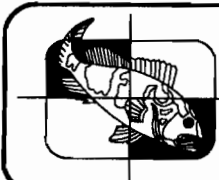
1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO ABSTRACT OF THE PUBLIC RECORDS FOR EASEMENTS OR RIGHTS-OF-WAY WAS PROVIDED TO OR CONDUCTED BY THIS OFFICE.
3. THIS DESCRIPTION AND SKETCH CONSISTS OF 2 PAGES AND IS NOT COMPLETE WITHOUT ALL PAGES.
4. ALL BEARINGS ARE BASED UPON AN ASSUMED BEARING OF NORTH 00°07'10" WEST ALONG THE EAST LINE OF STATE LOT 28, TOWNSHIP 43 SOUTH, RANGE 37 EAST, BELLE GLADE, PALM BEACH COUNTY, FLORIDA.
5. THIS IS NOT A SURVEY.

CERTIFICATION:

I HEREBY CERTIFY THAT THIS DESCRIPTION AND SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA, AS APPLICABLE TO LEGAL DESCRIPTIONS, SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

W. L. FISH & COMPANY, INC.

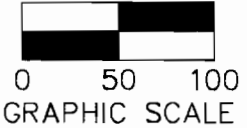
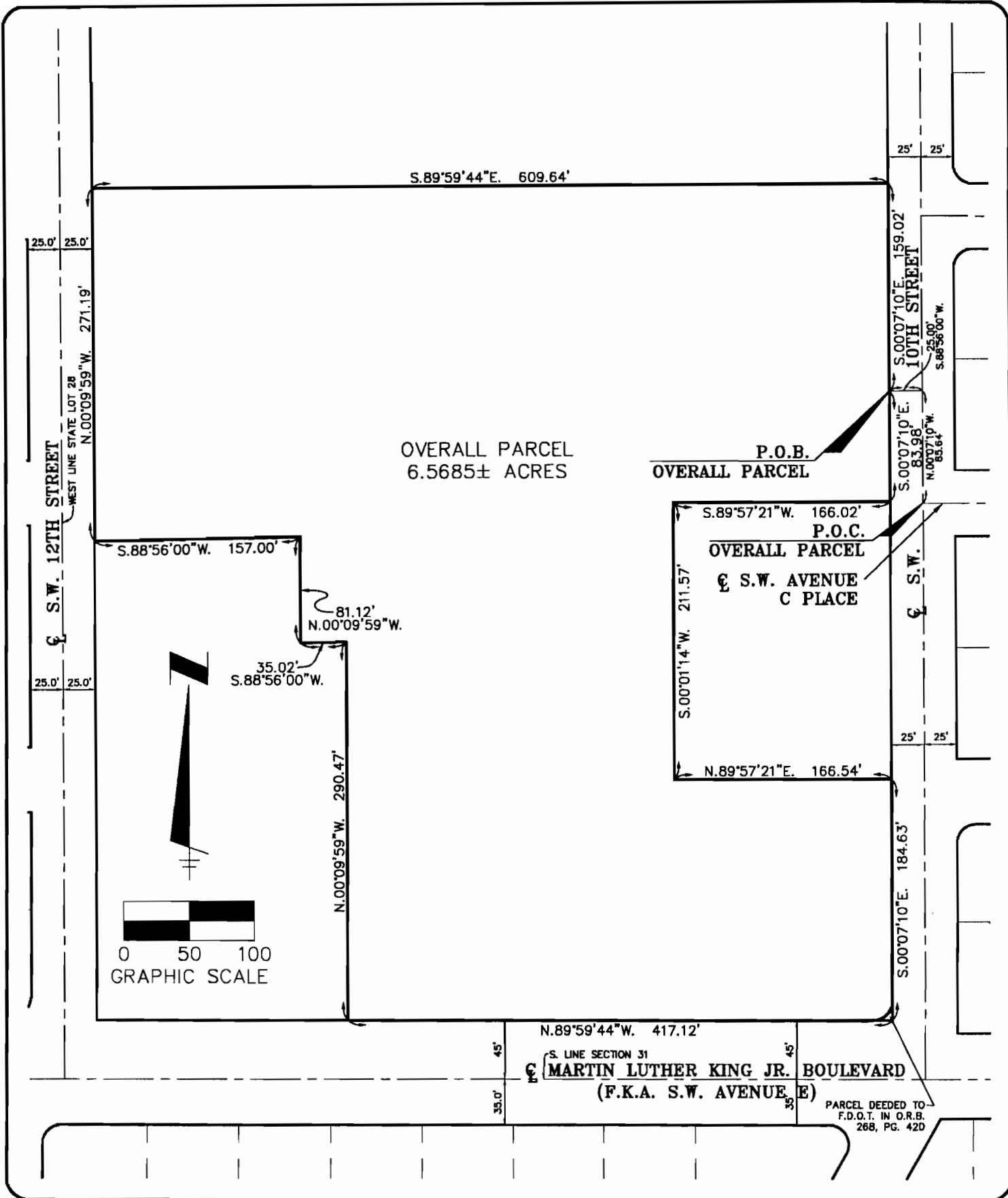
BY: WAYNE LARRY FISH
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA STATE REG. NO. 3238



W.L.FISH & COMPANY
PROFESSIONAL SURVEYORS & MAPPERS
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WEST PALM BEACH, FLORIDA 33407
(561)615-9266 L.B. 6216 Fax: (561)615-9270
E-mail: mappers@wlfish.com

**McCURDY CENTER
OVERALL PARCEL**

DRAWN:	W.B.H.	DATE:	11/05/07	SHEET
CHECKED:	W.L. FISH	JOB#	2006-087	NO. 1 OF 2



W.L.FISH & COMPANY^{PC}
 PROFESSIONAL SURVEYORS & MAPPERS
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**McCURDY CENTER
 OVERALL PARCEL**

DRAWN:	W.B.H.	DATE:	11/05/07	SHEET
CHECKED:	W.L. FISH	JOB#	2006-087	NO. 2 OF 2

McCURDY CENTER TRACT A - OVERALL PARCEL LESS TRACTS B, C & D

OVERALL PARCEL

A PARCEL OF LAND IN STATE LOT 28, SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT ON THE EAST LINE OF SAID LOT 28, SAID POINT BEING THE CENTERLINE INTERSECTION OF SOUTHWEST AVENUE C PLACE AND SOUTHWEST 10TH STREET IN THE CITY OF BELLE GLADE; THENCE NORTH 0°07'10" W 85.64 FEET ALONG THE EAST LINE OF SAID LOT 28; THENCE SOUTH 88°56'00" WEST 25.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 0°07'10" EAST 83.98 FEET ALONG A LINE 25.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID STATE LOT 28; THENCE SOUTH 89°57'21" WEST 166.02 FEET; THENCE SOUTH 0°01'14" WEST 211.57 FEET; THENCE NORTH 89°57'21" EAST 166.54 FEET; THENCE SOUTH 0°07'10" EAST 184.63 FEET TO A POINT ON A LINE 45 FEET NORTH OF, MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, SAID LINE BEING THE SAME AS THE CENTERLINE OF SOUTHWEST AVENUE E, NOW KNOWN AS MARTIN LUTHER KING JR. BOULEVARD; THENCE NORTH 89°59'44" WEST 417.12 FEET ALONG SAID LINE PARALLEL WITH AND 45 FEET NORTH OF THE SOUTH LINE OF SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST; THENCE NORTH 0°09'59" WEST 290.47 FEET ALONG A LINE PARALLEL WITH THE WEST LINE OF STATE LOT 28; THENCE SOUTH 88°56'00" WEST 35.02 FEET; THENCE NORTH 0°09'59" WEST 81.12 FEET ALONG A LINE PARALLEL WITH THE WEST LINE OF STATE LOT 28; THENCE SOUTH 88°56'00" WEST 157.00 FEET TO A LINE PARALLEL WITH AND 25 FEET EAST OF THE WEST LINE OF SAID STATE LOT 28; THENCE NORTH 0°09'59" WEST 271.19 FEET ALONG SAID LINE PARALLEL WITH AND 25 FEET EAST OF THE WEST LINE OF STATE LOT 28; THENCE SOUTH 89°59'44" EAST 609.64 FEET TO A LINE 25 FEET WEST OF MEASURED AT RIGHT ANGLES TO THE EAST LINE OF STATE LOT 28; THENCE SOUTH 0°07'10" EAST 159.02 FEET ALONG SAID LINE PARALLEL WITH AND 25 WEST OF THE EAST LINE STATE LOT 28, TO THE POINT OF BEGINNING.

LESS THAT CERTAIN PARCEL OF LAND DEEDED TO THE STATE ROAD DEPARTMENT OF FLORIDA RECORDED IN OFFICIAL RECORD BOOK 268, PAGE 420

THE ABOVE DESCRIBED OVERALL PARCEL CONTAINS 286,123 SQUARE FEET OR 6.5685 ACRES, MORE OR LESS.

LESS AND EXCEPT THEREFROM THE FOLLOWING 3 PARCELS:

TRACT B

A PARCEL OF LAND IN STATE LOT 28, SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT ON THE EAST LINE OF SAID LOT 28, SAID POINT BEING THE CENTERLINE INTERSECTION OF SOUTHWEST AVENUE C PLACE AND SOUTHWEST 10TH STREET IN THE CITY OF BELLE GLADE; THENCE NORTH 00°07'10" WEST 85.64 FEET ALONG THE EAST LINE OF SAID LOT 28; THENCE SOUTH 88°56'00" WEST 25.00 TO THE WEST RIGHT-OF-WAY LINE OF S.W. 10TH STREET, BEING A LINE 25.00 FEET WEST OF AND PARALLEL WITH SAID EAST LINE; THENCE NORTH 00°07'10" EAST 6.29 FEET, ALONG SAID RIGHT-OF-WAY LINE, TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 89°52'50" WEST 60.69 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 110.00 FEET; THENCE SOUTHWESTERLY 51.02 FEET, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°34'35" TO THE END OF SAID CURVE; THENCE SOUTH 63°18'15" WEST 59.37 FEET TO A LINE 163.00 WEST OF AND PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE; THENCE NORTH 00°07'10" WEST 128.26 FEET, ALONG SAID PARALLEL LINE; THENCE SOUTH 89°59'45" EAST 163.00 FEET TO SAID WEST RIGHT-OF-WAY LINE; THENCE SOUTH 00°07'10" EAST 89.73 FEET, ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT B CONTAINS 16163 SQUARE FEET OR 0.3711 ACRES, MORE OR LESS.



W.L.FISH & COMPANY

PROFESSIONAL SURVEYORS & MAPPERS

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**McCURDY CENTER TRACT A
OVERALL PARCEL LESS
TRACTS B, C & D**

DRAWN:	W.B.H.	DATE:	11/05/07	SHEET
CHECKED:	W.L. FISH	JOB#	2006-087	NO. 1 OF 4

TRACT C

A PARCEL OF LAND IN STATE LOT 28, SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT ON THE EAST LINE OF SAID LOT 28, SAID POINT BEING THE CENTERLINE INTERSECTION OF SOUTHWEST AVENUE C PLACE AND SOUTHWEST 10TH STREET IN THE CITY OF BELLE GLADE; THENCE SOUTH 00°07'10" EAST 119.14 FEET ALONG THE EAST LINE OF SAID LOT 28; THENCE NORTH 89°58'46" WEST 241.31 FEET TO THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 00°01'14" WEST 62.00 FEET; THENCE NORTH 89°58'46" WEST 130.39 FEET; THENCE NORTH 58°19'41" WEST 29.94 FEET; THENCE NORTH 00°09'59" WEST 46.29 FEET; THENCE SOUTH 89°58'46" EAST 156.03 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TRACT C CONTAINS 9468 SQUARE FEET OR 0.2173 ACRES, MORE OR LESS.

TRACT D

A PARCEL OF LAND IN STATE LOT 28, SECTION 31, TOWNSHIP 43 SOUTH, RANGE 37 EAST, CITY OF BELLE GLADE, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

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THE ABOVE DESCRIBED TRACT D CONTAINS 30729 SQUARE FEET OR 0.7055 ACRES, MORE OR LESS.

THE TOTAL AREA OF THE HEREIN DESCRIBED TRACT A CONTAINS 229,763 SQUARE FEET OR 5.2746 ACRES, MORE OR LESS.



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**McCURDY CENTER TRACT A
OVERALL PARCEL LESS
TRACTS B, C & D**

DRAWN:	W.B.H.	DATE:	11/05/07	SHEET	
CHECKED:	W.L. FISH	JOB#	2006-087	NO.	2 OF 4

SURVEYOR'S NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
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W. L. FISH & COMPANY, INC.

BY: WAYNE LARRY FISH
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA STATE REG. NO. 3238



W.L.FISH & COMPANY^{INC.}

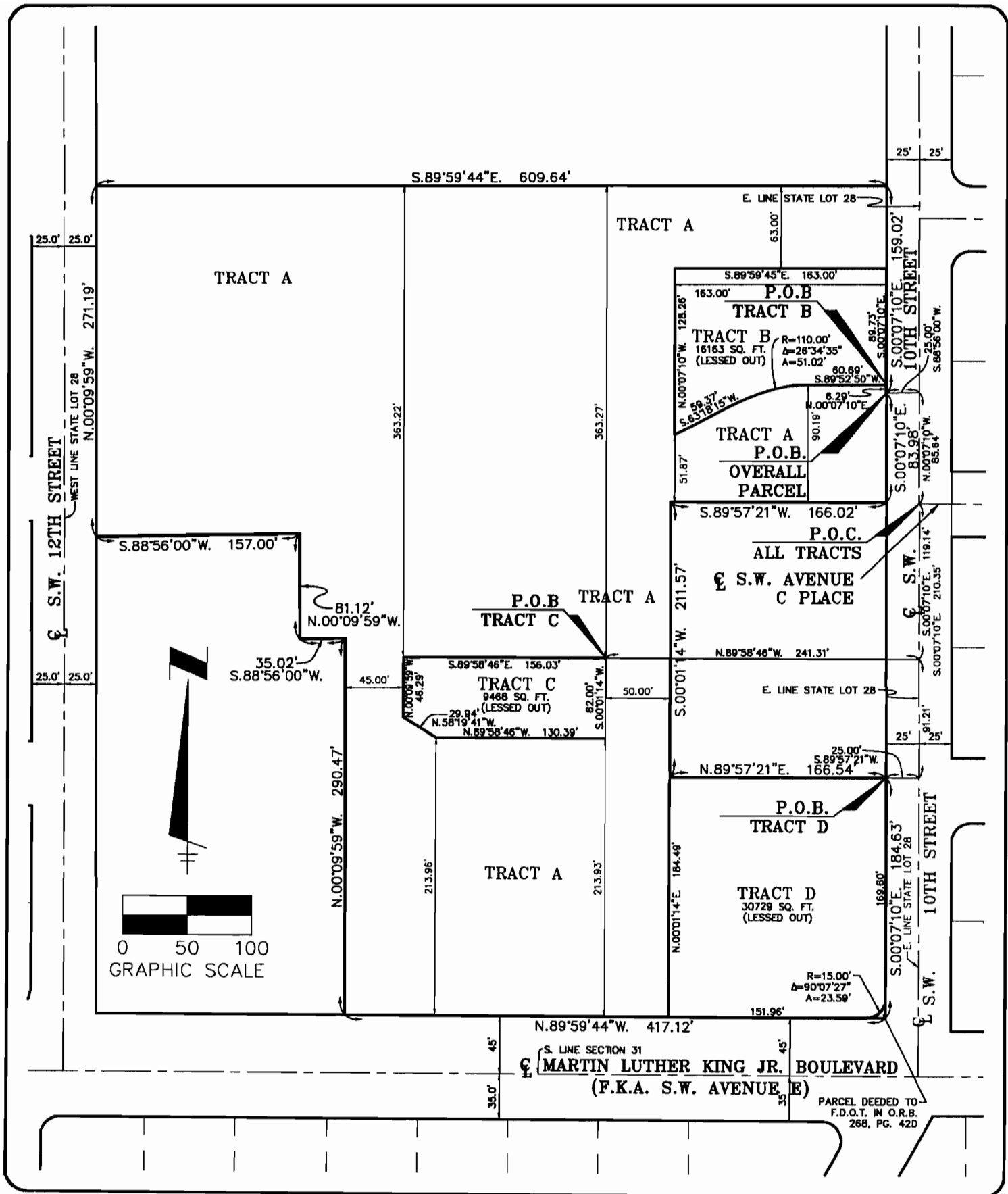
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**McCURDY CENTER TRACT A
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DRAWN: W.B.H.	DATE: 11/05/07	SHEET
CHECKED: W.L. FISH	JOB# 2006-087	NO. 3 OF 4



PARCEL DEEDED TO
 F.D.O.T. IN O.R.B.
 268, PG. 42D



W.L. FISH & COMPANY
 PROFESSIONAL SURVEYORS & MAPPERS
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**McCURDY CENTER TRACT A
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