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**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

FROM: Robert A. McMillan  
County Attorney

DATE: September 5, 2003

SUBJECT: County Deed and Conservation Easement from John and Mala Barrett to Seminole County

John and Mala Barrett are the owners of Lots 3 and 4, Mills Landing, PB 45/80. The property is located on Lake Mills Road.

When the property was platted in 1992 the Barretts recorded a separate warranty deed (ORB 2466/537-540) and a conservation easement (ORB 2466/541-544) in favor of the County over different parts of the property. The deed covers approximately 1.2 acres and the easement covers approximately .9 acres. A similar deed was obtained from the owners of the adjacent parcel at around the same time. Approximately a year ago Circuit Court found that the acceptance of that deed constituted a taking and ordered the property to be deeded back to the property owner.

Recently, the attorney representing the Barretts contacted the County Attorney and requested that the County release the easement on Barrett parcel. Planning and Development has reviewed the matter and have no objection to releasing the deeded easements as the property covered is on the rear of a single residential lot and adequate protection of the nature of the property is provided by the platted easements and current development regulations. Staff asked for and the Barretts have agreed to provide a release of any claims they might have in exchange for the County deed. If the Board approves the request, this matter will be concluded without any cost or expense to the County and no exposure to future litigation regarding this matter.

Staff recommends the Board authorize the Chairman to execute a county deed for the property covered by the warranty deed and adopt the attached resolution releasing the conservation easement in order to amicably conclude this matter.

RESOLUTION NO. 2003-R-\_\_\_\_\_

SEMINOLE COUNTY, FLORIDA

THE FOLLOWING RESOLUTION WAS ADOPTED AT THE  
REGULAR MEETING OF THE BOARD OF COUNTY  
COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA ON THE  
\_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

WHEREAS, by document recorded in Official Records Book 2466 at pages 541 through 544, John and Mala Barrett and D. Ray Fore and Shelvy J. Fore conveyed a conservation easement to Seminole County over a portion of lots 3 and 4, LAKE MILLS, as shown in Plat Book 45 at page 80 (the "Conservation Easement"); and

WHEREAS, the Board of County Commissioners has concluded that the Conservation Easement was recorded in error.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Seminole County as follows:

**Section 1. Release of Rights Under Conservation Easement.** The Board of County Commissioners hereby releases the property described in that certain conveyance dated May 5, 1992 and recorded in Official Record Book 2466 at pages 541 through 544, Public Records of Seminole County from the conservation easement imposed by conveyance. The

Property Appraiser's Parcel numbers are 28-21-32-506-0000-0030, 28-21-32-506-0000-0040 and 28-21-32-506-0000-004A.

**Section 2. Receipt of Release and Recording of Resolution.** The effectiveness of this resolution is conditioned upon receipt of a release of all claims from John and Mala Barrett. Upon receipt of such a release, the Clerk of the Board is authorized and directed to provide a certified copy of this resolution to Mr. and Mrs. Barrett for recording in the public records of Seminole County. Recording of a certified copy of this resolution shall be deemed prima facie evidence of the delivery of such a release and satisfaction of the condition imposed by this paragraph.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

Clerk to the Board of County  
Commissioners of Seminole  
County, Florida.

Date: \_\_\_\_\_