

## MEMORANDUM

**TO:** Honorable Mayor and City Council Members

**FROM:** Elaine Wilson, Planning and Zoning Analyst II *ew*

**DATE:** April 3, 2008

**SUBJECT:** **Vacation of Orange City Knolls Subdivision including Rights-of-Way**

---

### **PURPOSE**

To approve the vacation of the lots and certain rights-of-way within the Orange City Knolls Subdivision.

### **BACKGROUND**

The subject property consists of a 12.36-acre parcel that is currently used for the Harty Tractor Service business operation. It is located on south side of East Rhode Island Avenue, approximately 477 feet east of Leavitt Avenue. The property owner, Thad Harty, has proposed building an industrial park on the subject property.

In 1987, Fred Hunt annexed a portion of the Orange City Knolls subdivision into the City limits. His property included a majority of the entire subdivision with the exception of three lots on the south side. In 1995, Mr. Hunt requested that his subdivision lots and platted rights-of-way be converted to acreage.

In January of this year the Council vacated three lots, the remaining section of Juanita Lane and a section of Elm Drive. The vacation was done in conjunction with the Chinchor Electric development on South Leavitt Avenue.

At the April 2, 2008 Planning Commission meeting, Commissioners voted unanimously to recommend that the City Council approve Ordinance No. 350.

If approved, Ordinance No. 350 will vacate the remainder of the Orange City Knolls subdivision. Attached is the vacation ordinance, as well as a staff report dated March 24, 2008.

### **RECOMMENDATION**

Staff recommends City Council approval of Ordinance No. 350, thereby vacating the remaining portions of the Orange City Knolls subdivision, Elm Street and Ridge Drive.

## **ORDINANCE NO. 350**

**AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, VACATING AND ABANDONING A CERTAIN PORTION OF THE ORANGE CITY KNOLLS SUBDIVISION PLAT AND RETURNING SAID PLAT TO ACREAGE, CONSISTING OF 12.36 ACRES, PARCEL #8014-01-04-0010, 8014-01-03-0010 AND 8014-00-03-0060, LOCATED IMMEDIATELY SOUTH OF RHODE ISLAND AVENUE, ORANGE CITY, FLORIDA; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

---

**WHEREAS**, Thad Harty of Harty Tractor Services, Inc. has requested approval to develop the Rhode Island Avenue Industrial Park on the parcels listed above, totaling 12.36 acres located immediately south of Rhode Island Avenue, and

**WHEREAS**, the 12.36 acre property proposed to be developed consists of 43 lots and two sections of platted right-of-way within Orange City Knolls subdivision, and

**WHEREAS**, it has been established that Thad Harty is the owner in fee simple of said real property, and all property taxes have been paid, and

**WHEREAS**, it is the City's desire to vacate the aforementioned said portion of the Orange City Heights subdivision, including two rights-of-way for the purpose of returning said subdivision lots to acreage, and

**WHEREAS**, Section 6.9 of the City's land development code allows that the owner of any land subdivided into lots may request to vacate the subdivision plat for the purpose of returning such land to acreage, and

**WHEREAS**, Section 6.9.2 of the City's land development code states that the City Council may order the vacation and reversion to acreage of all or any part of a subdivision within its jurisdiction, including the vacation of streets or other parcels of land dedicated for public purposes or any of such streets or other parcels by adoption of an ordinance, and

**WHEREAS**, Section 6.9.3 of the City's land development code states that City Council action shall be based on a finding by the City Council for the approval of subdivision plats that the proposed vacation and reversion to acreage of subdivided land conforms to the comprehensive plan and that the public health, safety, economy,

comfort, order, convenience and welfare will be promoted thereby, and that before acting on the proposal for vacation and reversion of subdivided land to acreage, the city council shall conduct a public hearing with due public notice, and

**WHEREAS**, Florida Statutes Chapter 177.101.(3) states that the governing body may return the property covered by such plat either in whole or in part to acreage, and

**WHEREAS**, On the \_\_\_\_\_ day of \_\_\_\_\_, 2008, the City Council held a public hearing to consider vacating and abandoning said portion of the Orange City Heights subdivision plat, lying within the City of Orange City, Florida,

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:**

**SECTION 1.** It is hereby determined that the property hereinafter described is no longer useful or needed as a subdivision, and it is in the public interest that said property be abandoned, vacated and closed as a subdivision and be from any and every public right, use, title and interest. The following described property be, and the same is hereby released and discharged of any and every public right, use, title and interest of the City of Orange City, for subdivision, and that said property shall revert to acreage. Said portion of Orange City Knolls identified as Lots 26 through 30, Block 3; a portion of Lots 6 through 14, Block 3; Lots 17 through 25, Block 3; and Lots 1 through 15, Block 4, said property described in Attachment A, and depicted on Attachment B, and attached hereto, is by reference incorporated herein.

**SECTION 2. CONFLICTS:** All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed, as well as any portion of the Official Zoning Map of the City of Orange City, Florida, in conflict herewith.

**SECTION 3. SEVERABILITY:** If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect upon adoption by the City Council of the City of Orange City, Florida.

**ROLL CALL VOTE AS FOLLOWS:**

First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

**ROLL CALL VOTE AS FOLLOWS:**

Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
William E. Reischmann, Jr., City Attorney

Return to  
Debbie Renner, City Clerk  
205 East Graves Avenue  
Orange City, Florida 32763-5299

**EXHIBIT A**

**LEGAL DESCRIPTION**

**LOT 1 EXC N 20 FT & LOTS 2 TO 15 INC BLK 4 & INC THE W 80 FT OF LOTS 10 THRU 14 & ALL LOTS 17 THRU 21 BLK 3 ORANGE CITY KNOLLS MB 23 PG 180 PER OR 4278 PG 4989**

**AND**

**E 80 FT LOTS 1 THRU 5 & INC LOTS 26 THRU 30 INC BLK 3 ORANGE CITY KNOLLS MB 23 PG 180 PER PG 4278 PG 4846**

**AND**

**E 80 FT LOTS 6 THRU 9 INC & ALL LOTS 22 THRU 25 INC BLK 3 ORANGE CITY KNOLLS MB 23 PG 180 PER OR 4520 PG 4249**

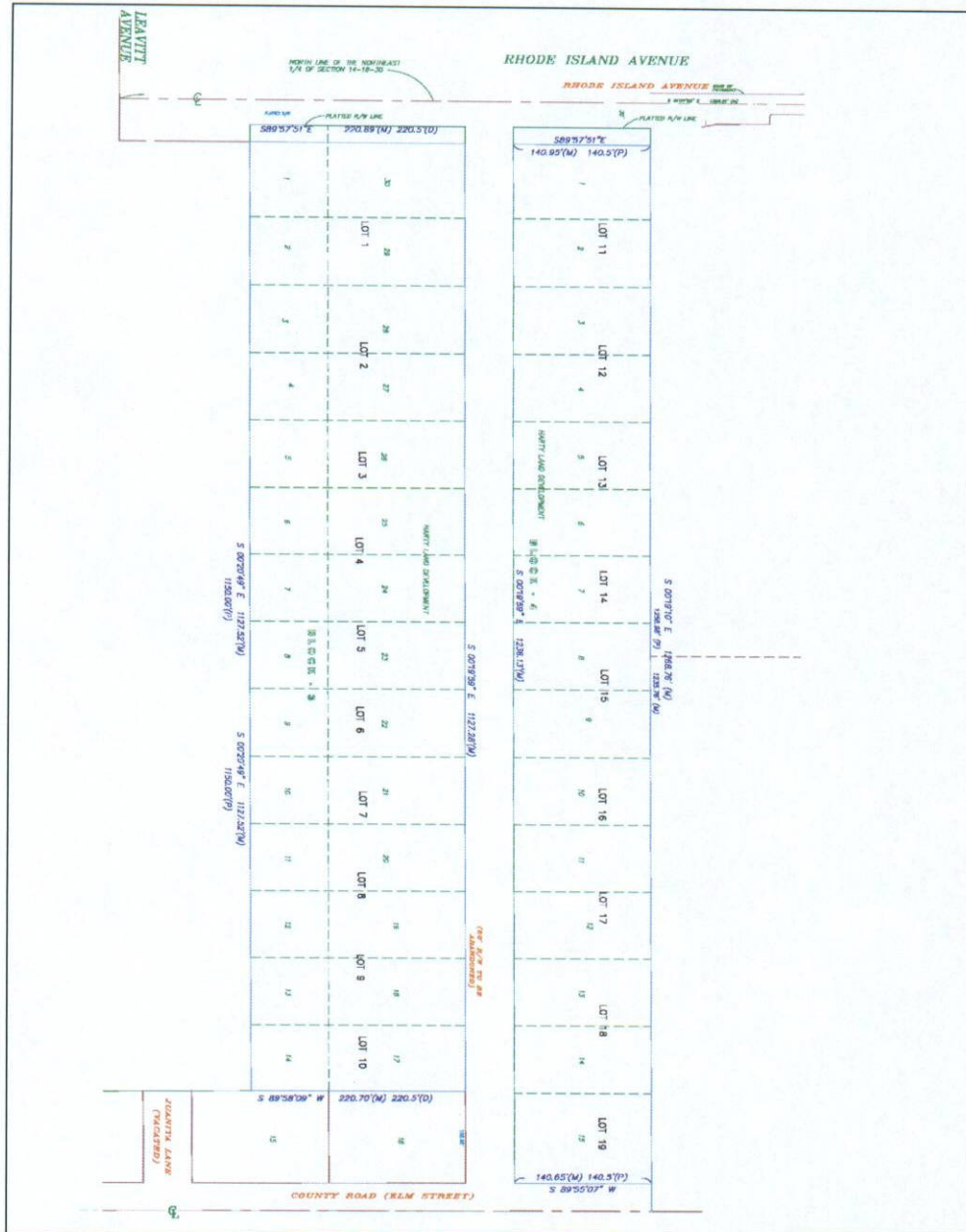
**AND**

**THAT CERTAIN PORTION OF ROAD KNOW AS "ELM DRIVE" AND PLATTED AS "COUNTY ROAD" AS SHOWN ON THE PLAT OF ORANGE CITY KNOLLS AS RECORDED IN MAP BOOK 23, PAGE 180, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LYING SOUTH OF THE SOUTHERLY LOT LINE OF LOT 15, BLOCK 4, AND EAST OF THE WESTERLY RIGHT OF WAY OF "RIDGE DRIVE" ALL OF SAID ORANGE CITY KNOLLS**

**AND**

**THAT CERTAIN PORTION OF ROAD KNOWN AND PLATTED AS "RIDGE DRIVE" AS SHOWN ON THE PLAT OF ORANGE CITY KNOLLS AS RECORDED IN MAP BOOK 23, PAGE 180, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LYING NORTH OF THE "COUNTY ROAD" AND SOUTH OF RHODE ISLAND AVENUE.**


# EXHIBIT B



# MEMORANDUM

**DATE:** March 24, 2008

**TO:** Chairman Seaman and members of the Planning Commission

**FROM:** Elaine Wilson, Planning & Zoning Analyst II 

**SUBJECT:** Vacation of Orange City Knolls Subdivision including Rights-of-Way

---

## BACKGROUND

In conjunction with the proposed Rhode Island Avenue Industrial Park, Staff is recommending the vacation of the remaining portion of the Orange City Knolls subdivision and rights-of-way.

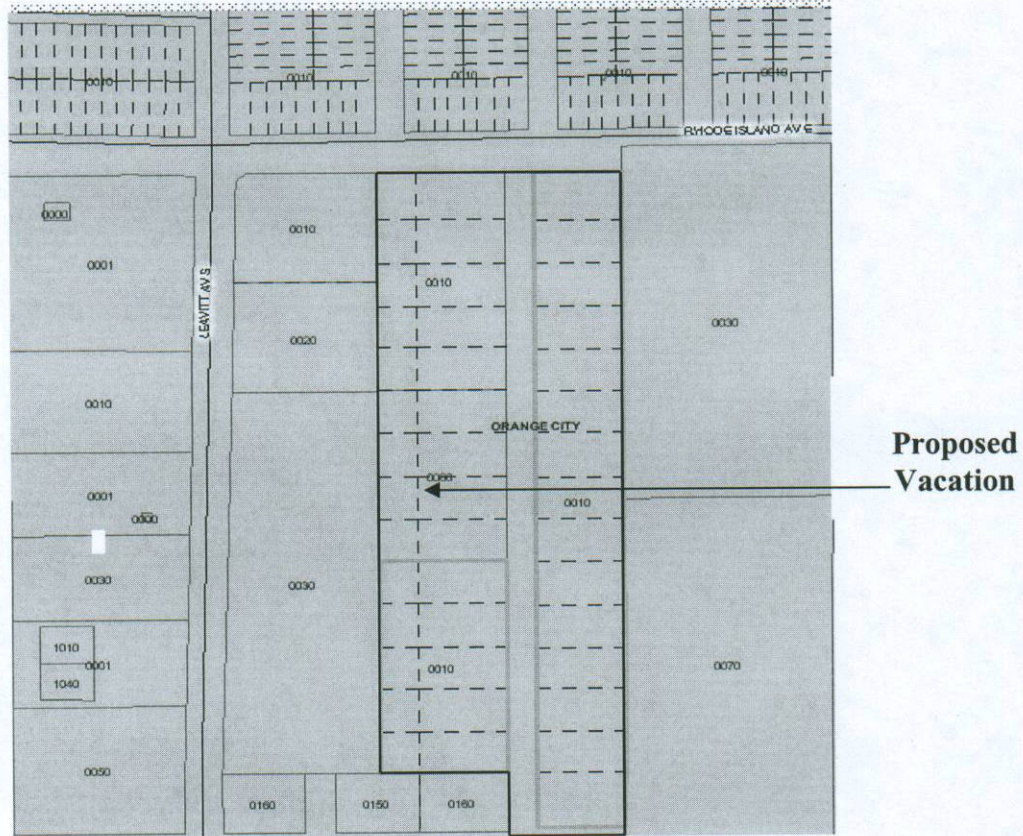
Orange City Knolls was created in 1956 as a residential subdivision. In 1987, Fred Hunt annexed a portion of the Orange City Knolls subdivision into the City limits. His property included most of the subdivision except for three lots on the south side. These lots were annexed in 1994. In 1995, Mr. Hunt requested that part of the subdivision be converted to acreage, and that Rolling Road and most of Juanita Lane be vacated. In exchange, he provided the ROW for South Leavitt Avenue, which was later paved.

The rights-of-way known as Elm Street and Ridge Drive were not vacated at that time. In January of this year the City Council approved the vacation of the section of Elm Street abutting the Chinchor Electric development project. The remaining section of Elm Street, approximately 200 feet, abuts the proposed Rhode Island Industrial Park.

The 50-foot ROW known as Ridge Drive connects Rhode Island Avenue and the Elm Street ROW. The Ridge Drive ROW currently serves as a driveway for Harty Tractor Service. The subject property and the majority of the surrounding parcels are zoned as Industrial Limited. Those parcels that are developed or have a development order are limited to industrial uses. No roadway connection is proposed between the industrial area and the residential development immediately to the south of the subject property. Therefore, the underlying Orange City Knolls subdivision will not be developed as residential properties. The City has no intention of paving and maintaining the ROW originally platted within the subdivision.

Mr. Harty intends to pave and use the Ridge Drive ROW as a driveway for the Rhode Island Industrial Park. As a private drive, the maintenance becomes the responsibility of the property owners, that the City's.

VICINITY MAP



RECOMMENDATION

The vacating a right-of-way is done by ordinance per the following:

Section 16.4. Vacating public rights-of-way, streets and easements.

A. It is the policy of the city council that public rights-of-way, streets and easements shall be preserved for the public benefit. Public rights-of-way, streets or easements may be vacated only when initiated by the city council or its agents. If initiated by a private entity or individual, an overriding public purpose and benefit must be clearly demonstrated. Final authority shall be vested with the city council.

Staff recommends that the Planning commission recommend that the City Council vacate the portion of Orange City Knolls subdivision including the remaining Elm Street ROW and the Ridge Drive ROW.

➔ The Commission may wish to take the following action:

Create a motion stating that the Planning Commission recommends to City Council the approval of Ord. #350 for the vacation of a section of Orange City Knolls Subdivision, including the rights-of-way.

1 on the adjacent property. She noted that the applicant's team was present to answer any questions.

2  
3 Commissioner Franklin asked whether this project would require Planning Commission approval or could  
4 be approved at the staff level. Ms. Wilson responded that it depended on the size. Mr. Murray said that  
5 staff has tried to place enough flexibility in the design and approvals so that the developer can respond  
6 almost instantly to a prospect showing interest in the location. He said that although the property is being  
7 divided into nineteen lots, realistically, a business owner could request that five or six of the lots be  
8 combined to place a 100,000 square foot building. He said the conceptals are included to provide the  
9 Commission with an idea of what the buildings will look like. Mr. Murray advise that if a proposed  
10 building is under 20,000 square feet, it would be approved by staff, and over that, it would come to the  
11 Commission.

12  
13 Hearing no further requests to comment, Chairman Seaman closed the public hearing.

14  
15 **Commissioner Franklin moved that the Planning Commission**  
16 **recommend City Council approval of Resolution No. 474-08 for the**  
17 **Rhode Island Avenue Industrial Park site plan with the stipulations as**  
18 **outlined in the briefing, second by Commissioner Weldon and passed by**  
19 **unanimous 5/0 roll call vote of the Commission.**

- 20  
21 6. **Review and Consideration** of a request for the vacation of Orange City Knolls Subdivision  
22 including right of way.

23  
24 Ms. Wilson came forward and stated that this item is a continuation of the last item. She said that this item  
25 will vacate the underlying subdivision including two rights of way. Ms. Wilson advised that one is Ridge  
26 Drive. She said that present plot plan was divided for residential use and that this property will never be  
27 residential. She further clarified that the property being vacated involves the remainder of Elm Street and  
28 Ridge. She said that the City is not interested in obtaining the private rights of way.

29  
30 **Commissioner Polgar moved that the Planning Commission recommends**  
31 **City Council approval of Ordinance No. 350 for the vacation of a section**  
32 **of the Orange City Knolls subdivision including the rights of way,**  
33 **seconded by Commissioner Franklin. Motion passed by unanimous 5/0**  
34 **roll call vote of the commission.**

- 35  
36 7. **Review And Consideration** of a request from All Pro Sports of a site plan for the approval of a  
37 recreation establishment to be located at 401 South Volusia Avenue identified as parcel number  
38 8011-08-25-0320.

39  
40 Ms. Drage asked that any ex parte communications regarding this matter be disclosed at this time.  
41 Commissioner Weldon stated that he has a contract with the developer and requested to be recused from  
42 this matter.

43  
44 Wendy Hickey, Planning & Zoning Analyst, came forward and noted that this company had come before  
45 the Commission in December requesting a conditional use which was granted with the stipulation that the  
46 site plan for a 10,000 square foot building be brought back to the Commission for approval. The company