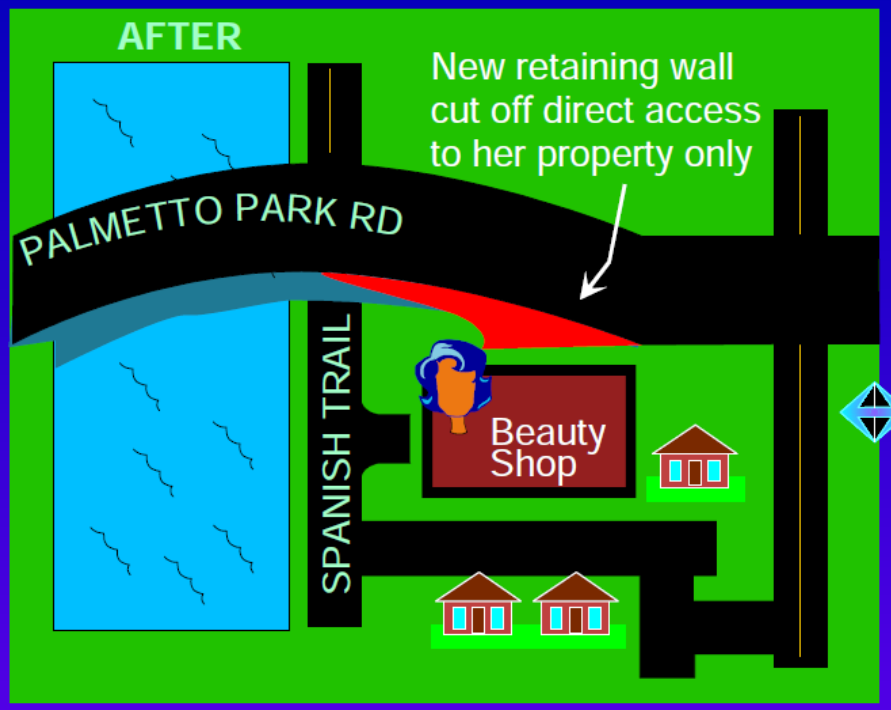
TESSLER

- Beauty shop in home.
- Retaining wall eliminated direct access to Palmetto Park Road.
- Sign no longer visible from Palmetto Park Road.
- Customers required to travel 600 yards through residential neighborhood.

Palm Beach County v. Tessler, 538 So. 2d 846 (Fla. 1989)



TESSLER

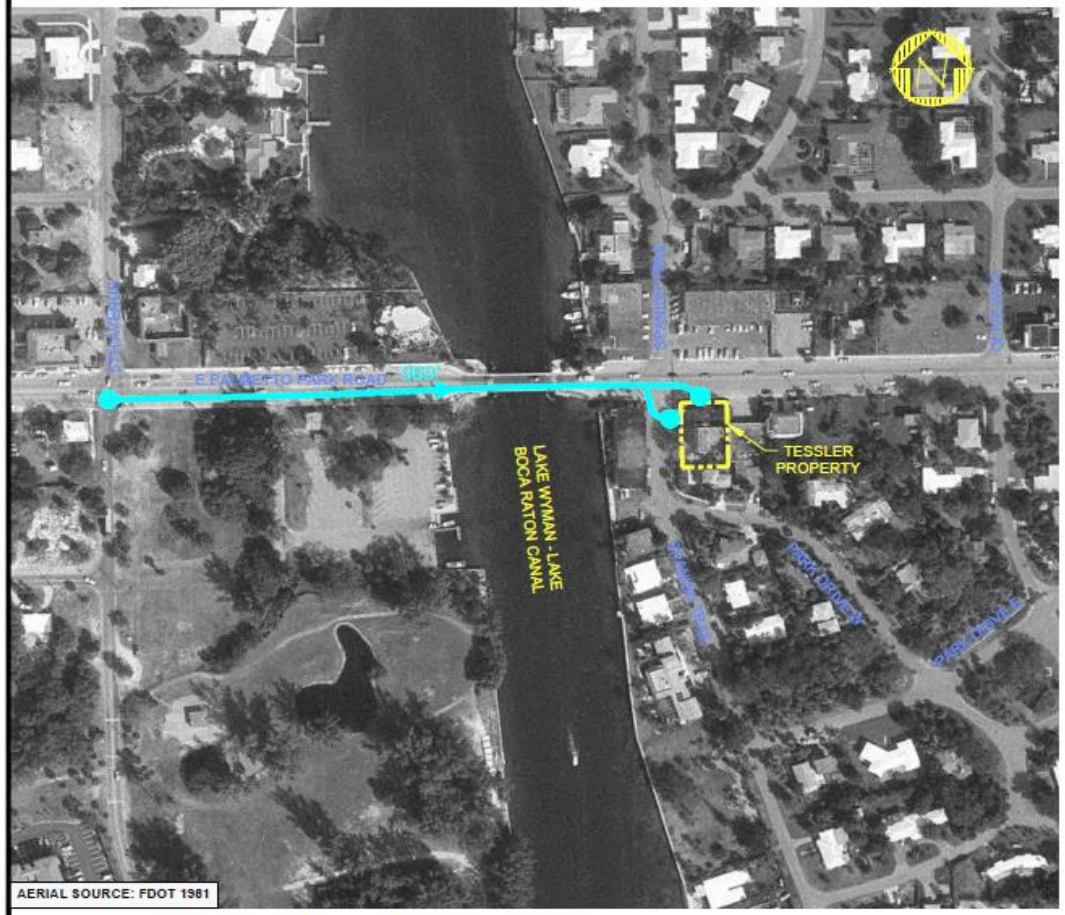
COURT: A taking occurred

- When governmental action causes a substantial loss of access to one's property, even though there is no physical appropriation of the property itself, there is a right to be compensated. A complete loss of access is not necessary, but access must be substantially diminished.

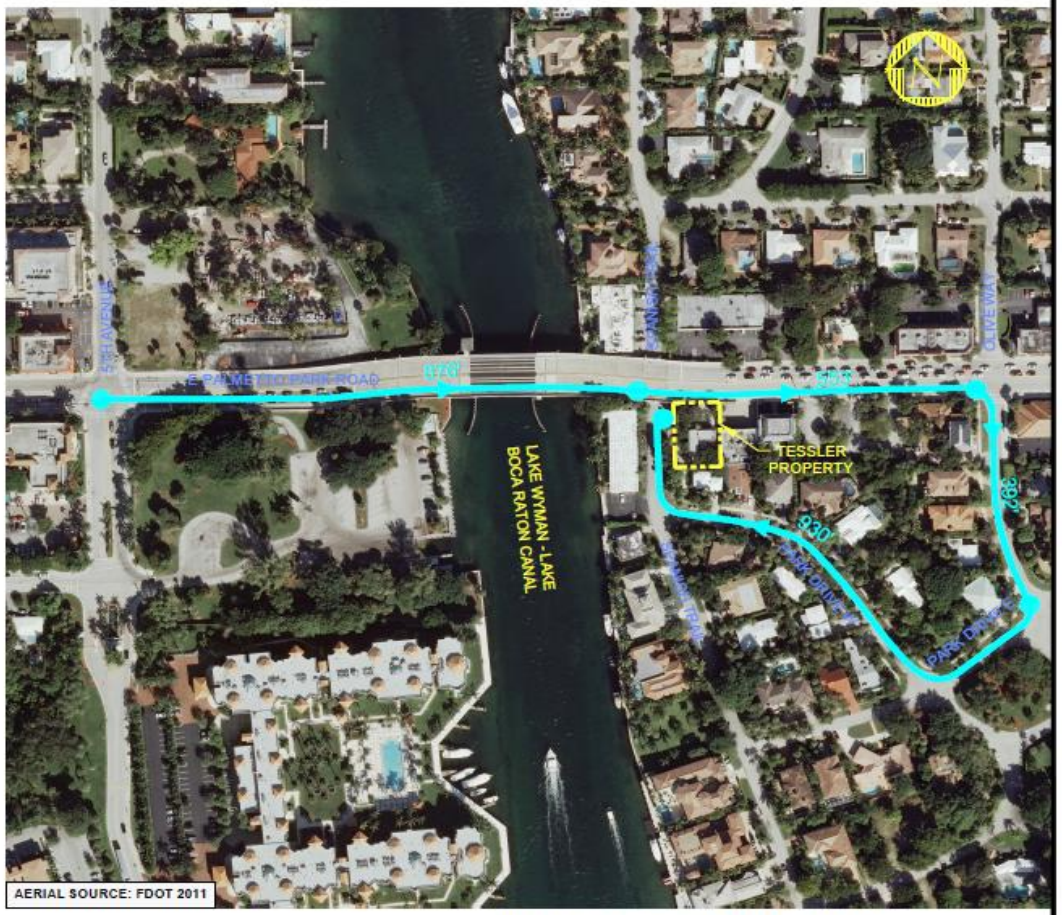
- The loss of the most convienient access is not compensable where other suitable access continues to exist.

Palm Beach County v. Tessler, 538 So. 2d 846 (Fla. 1989)

TESSLER ACCESS



BEFORE CONDITION



AFTER CONDITION

DISTANCE SUMMARY:

FROM	TO	DISTANCE BEFORE	DISTANCE AFTER
5TH AVE	SUBJECT	969'	2,749'

KREIDER

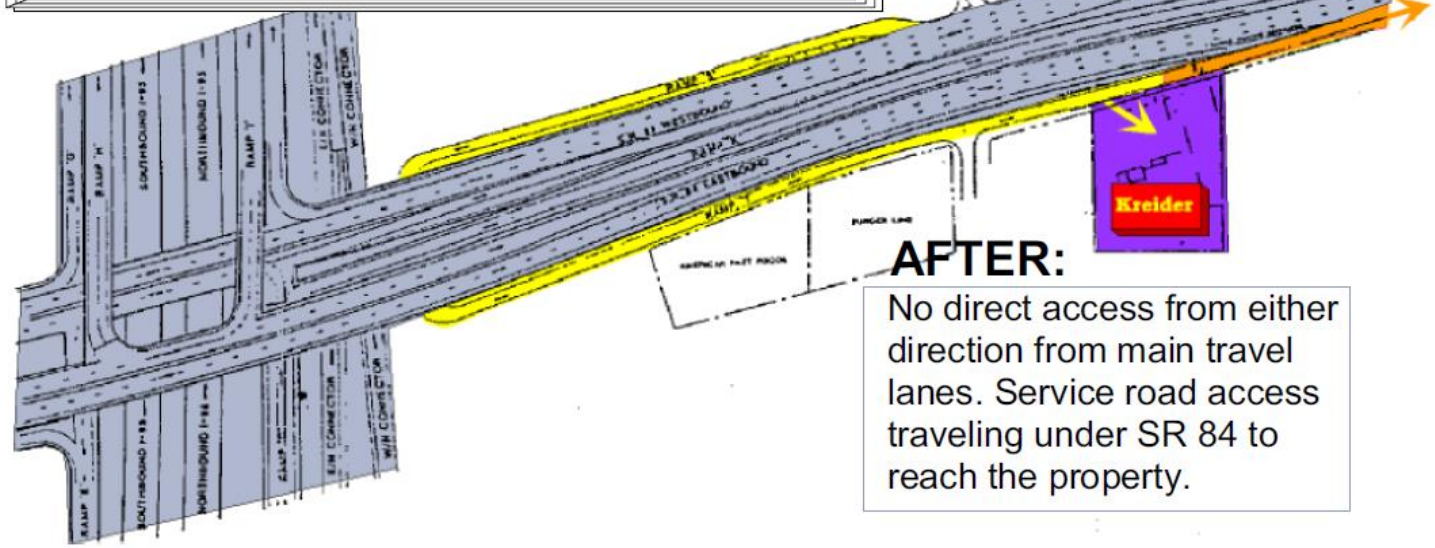
BEFORE:
Direct access to eastbound traffic; u-turn within short distance for westbound

Reconstruction elevated SR 84 several feet above Kreider's truck/rv rental business which included a new one way service road & a concrete retaining wall between SR 84 and the property.

KREIDER

COURT:

Right of direct access was substantially diminished. Measured by time, distance, and difficulty in navigation, new access is more burdensome than in *Tessler*. Property is "hardly" visible from SR 84.

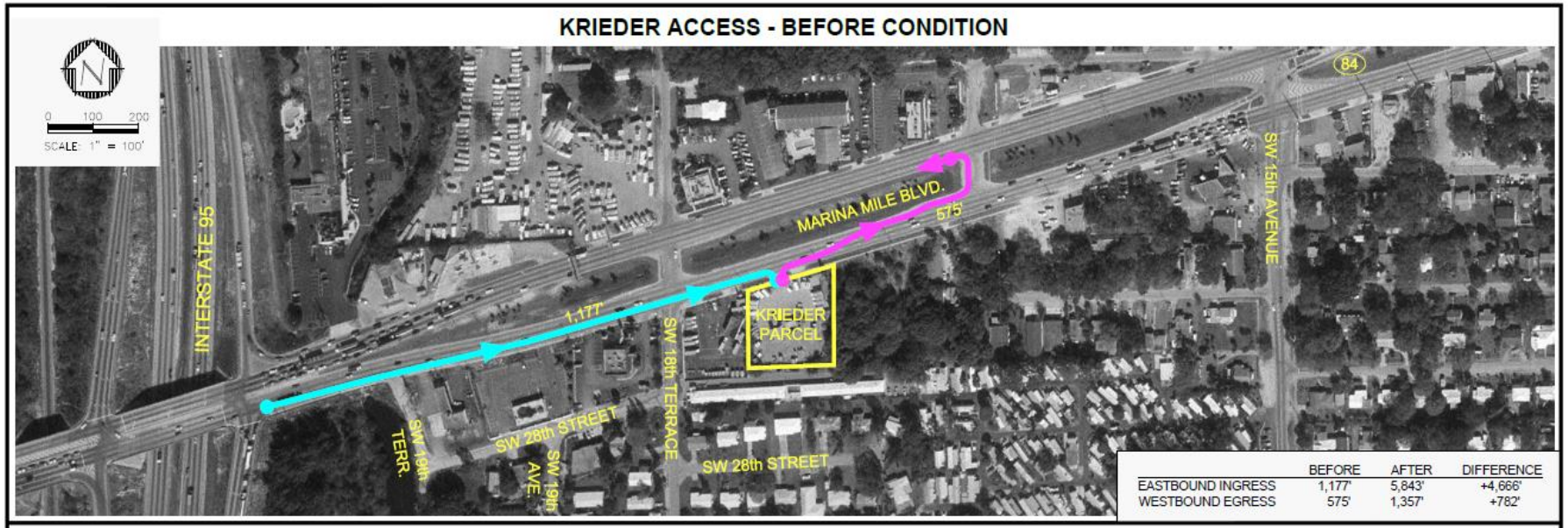


AFTER:

No direct access from either direction from main travel lanes. Service road access traveling under SR 84 to reach the property.

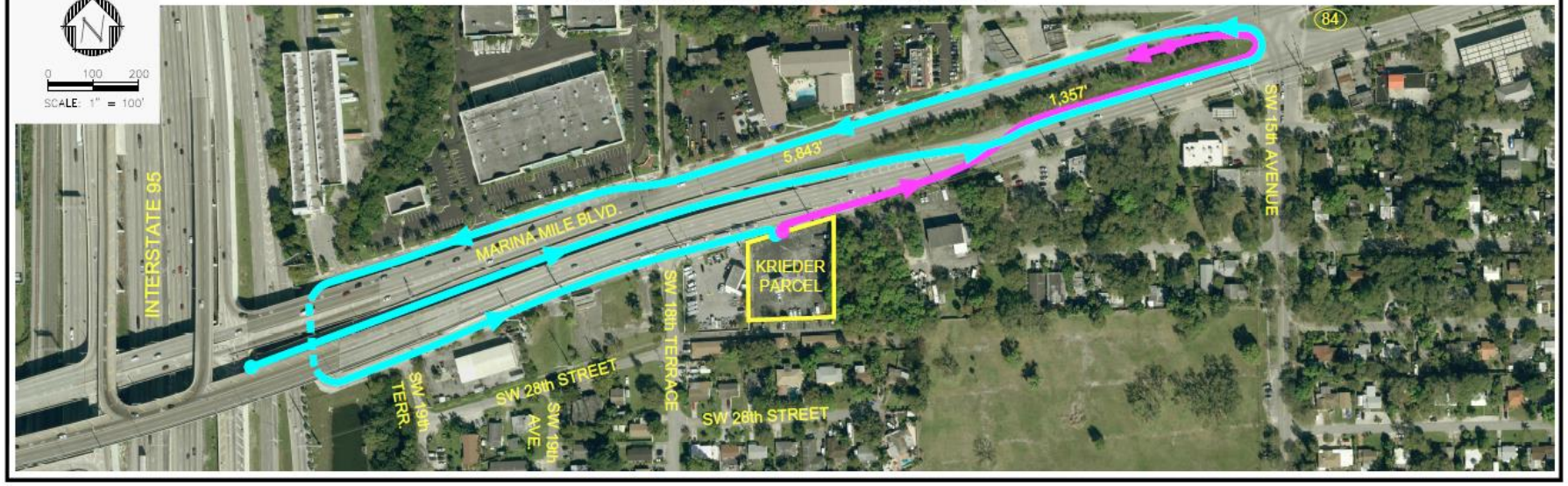
FDOT v. Kreider, (Fla. 4th DCA 1995)
(Rehearing and request for certification pending based upon *Rubano*)

KRIEDER ACCESS - BEFORE CONDITION

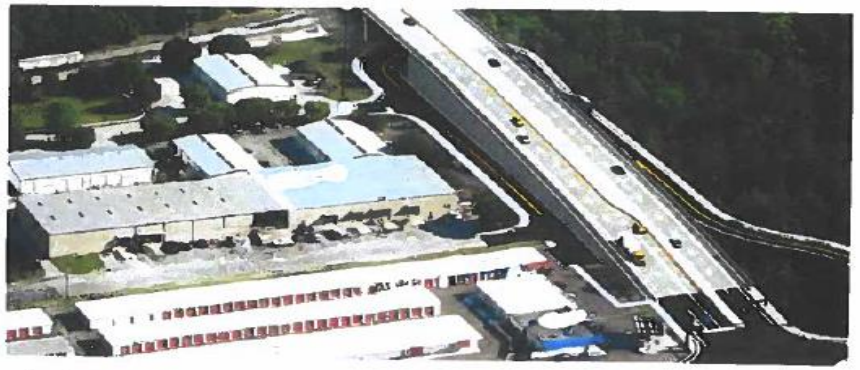


	BEFORE	AFTER	DIFFERENCE
EASTBOUND INGRESS	1,177'	5,843'	+4,666'
WESTBOUND EGRESS	575'	1,357'	+782'

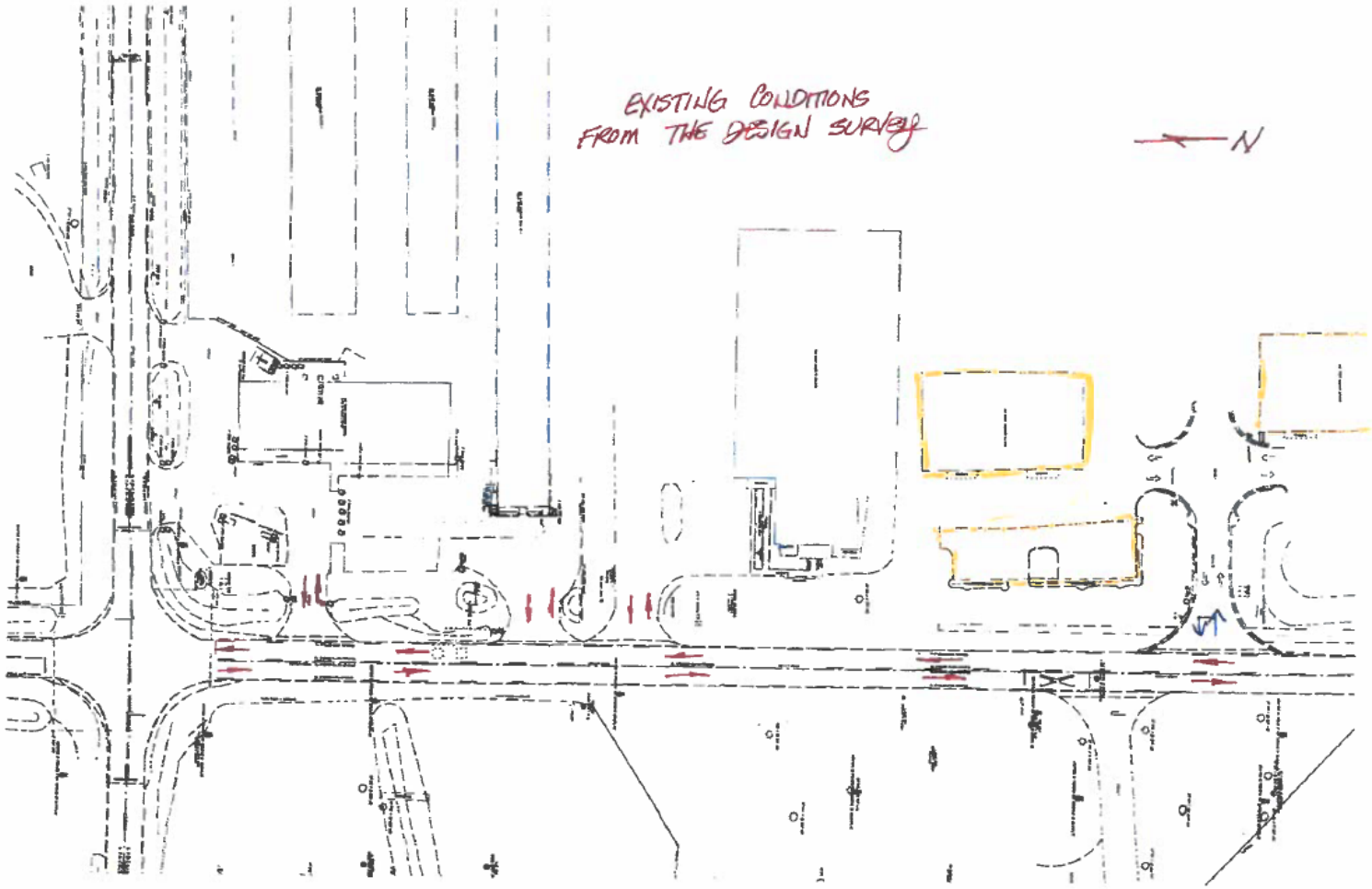
KRIEDER ACCESS - AFTER CONDITION



So this is If people want to enter off of they just turn left or right depending on which direction they are going. They can see it and there is no guessing on how to get there.



In the after, is no longer fronting as it did in the before. It's abutter's right of access to has been destroyed. Traveling southbound, instead of simply turning right when you reach driveway, you have to drive past the location and know to turn left at the upcoming intersection and then turn left again and then go under No longer an impulse destination. People can not simply drive by and see something they want and stop to get it. Traffic flow has not merely been diverted. Instead has been severed from the property, elevated and relocated and replaced with a road to nowhere. That is a Tessier/Kreider taking of access.


EXISTING CONDITIONS
FROM THE DESIGN SURVEY
N

POND 36-2B
POND 36-2C
ACCESS ROAD_SE
ACCESS ROAD_SE