

5. Ordinance 2025-12, vacating a portion of the rear public utility and drainage easement located within Lot 15, Block 1500, Port Malabar Unit 31 (Case VE-2-2025, David B. Kleist II), first reading.



## LEGISLATIVE MEMORANDUM

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

**FROM:** Scott Morgan, Interim City Manager

**THRU:** Christeen Sullivan, Interim Public Works Director

**DATE:** March 6, 2025

**RE:** Ordinance 2025-12, vacating a portion of the rear public utility and drainage easement located within Lot 15, Block 1500, Port Malabar Unit 31 (Case VE-2-2025, David B. Kleist II), first reading.

### **SUMMARY:**

Vacation of Easement is requested to vacate the West 10 feet of the East 20-foot Public Utilities & Drainage Easement, less the North and South 6-foot Public Utilities & Drainage Easements thereof, containing 680 square feet or 0.016 acres, more or less, of Lot 15, Block 1500, Port Malabar Unit 31, according to the Plat thereof, as Recorded in Plat Book 17, Pages 22 - 33, of the Public Records of Brevard County, Florida. For the construction of a swimming pool in the backyard at 2473 Hagoplan Avenue SW.

### **REQUESTING DEPARTMENT:**

Public Works

### **FISCAL IMPACT:**

None.

### **STAFF RECOMMENDATION:**

Motion to approve the vacating of easement, VE-2-2025.

### **ATTACHMENTS:**

1. Staff Report Package
2. Ordinance



DATE: March 6, 2025

CASE #: VE-2-2025

# PUBLIC WORKS DEPARTMENT STAFF REPORT

## REQUEST TO VACATE EASEMENT

**PROPOSAL:** Vacation of Easement is requested to vacate the West 10 feet of the East 20-foot Public Utilities & Drainage Easement, less the North and South 6-foot Public Utilities & Drainage Easements thereof, containing 680 square feet or 0.016 acres, more or less, of Lot 15, Block 1500, Port Malabar Unit 31, according to the Plat thereof, as Recorded in Plat Book 17, Pages 22 - 33, of the Public Records of Brevard County, Florida. For the construction of a swimming pool in the backyard.

**LOCATION:** 2473 Hagoplan Avenue SW  
(Lot 15, Block 1500, Port Malabar Unit 31)

**APPLICANT:** David B Kleist II

### SITE DATA

**PRESENT ZONING:** SRE – Suburban Residential Estate

**AREA OF VACATING:** 680 square feet, more or less

**ADJACENT ZONING  
& LAND USE:**

<b>N</b>	SRE – Suburban Residential Estate
<b>E</b>	Melbourne-Tillman Water Control District Canal No. 14
<b>S</b>	SRE – Suburban Residential Estate
<b>W</b>	SRE – Suburban Residential Estate

**STAFF ANALYSIS:**

Vacation of Public Utilities and Drainage Easement of a portion of Lot 15, Block 1500, Port Malabar Unit 31, according to the Plat thereof, as Recorded in Plat Book 17, Pages 22 – 33, of the Public Records of Brevard County, Florida, and being more particularly described as follows: The West 10.00 feet of the East 20.00 foot wide Public Utilities and Drainage Easement, less and except the North and South 6.00 foot wide side easements thereof, lying within said Lot 15, Block 1500. Containing 680 square feet or 0.016 acres, more or less. For the construction of a swimming pool in the backyard.

Florida Power and Light, AT&T, Spectrum, and Melbourne-Tillman have no objections to the vacating request.

The City of Palm Bay's Departments have the following comments relating to the vacating request. It should be noted that city policy allows for the approval of a vacation request for the first 10 feet, along Melbourne-Tillman Water Control District (MTWCD) owned canals, if there are no obvious issues of conflict.

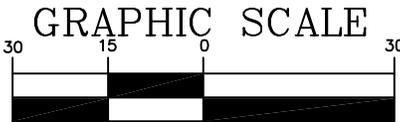
Staff has no adverse comments regarding removal of the West 10 feet of the East 20-foot Public Utilities & Drainage Easement, less the North and South 6-foot Public Utility & Drainage Easements thereof, containing 680 square feet or 0.016 acres, more or less, of Lot 15, Block 1500, Port Malabar Unit 31, according to the Plat thereof, as Recorded in Plat Book 17, Pages 22 - 33, of the Public Records of Brevard County, Florida. For the construction of a swimming pool in the backyard.

**STAFF RECOMMENDATION:**

Staff recommends approval of the vacating of easement.

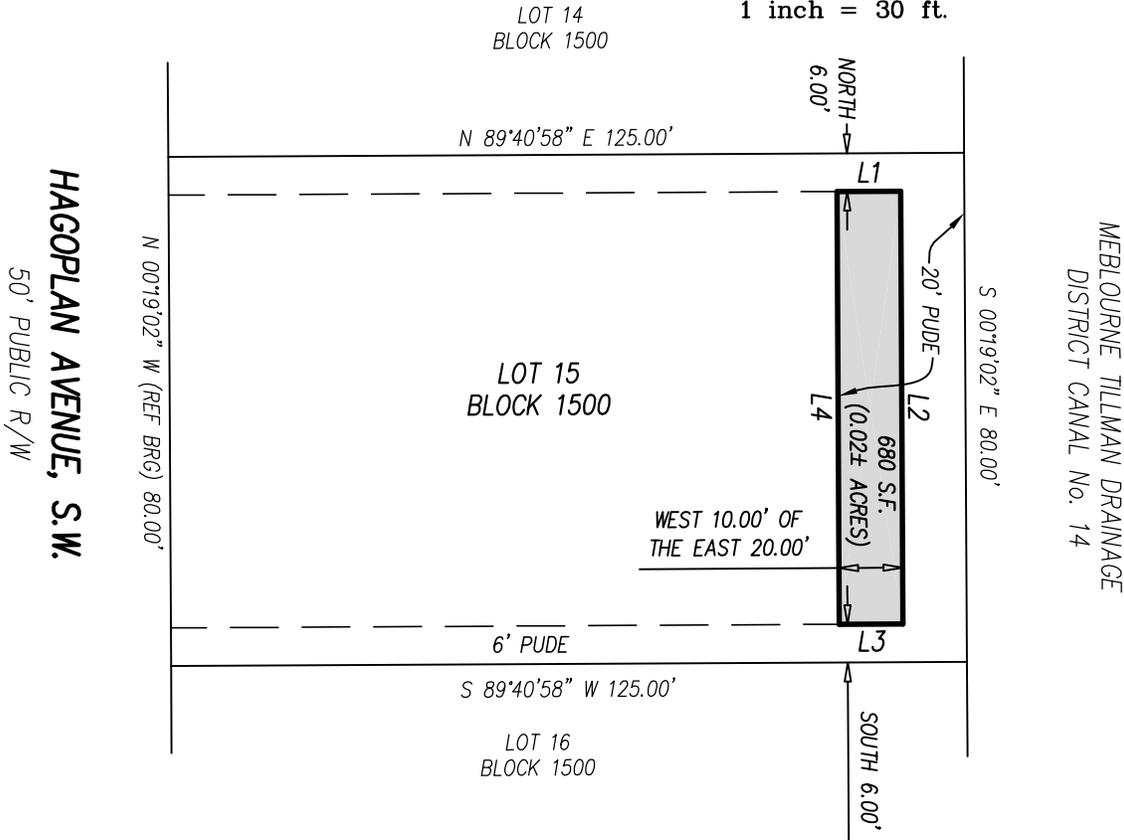
# SKETCH OF DESCRIPTION

PURPOSE: PARTIAL VACATION OF EASEMENT



( IN FEET )  
1 inch = 30 ft.

EXHIBIT "A"  
NOT A SURVEY



LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°40'58"E	10.00'
L2	S00°19'02"E	68.00'
L3	S89°40'58"W	10.00'
L4	N00°19'02"W	68.00'



**LEGAL DESCRIPTION: (PREPARED BY SURVEYOR)**

A PORTION OF A 20.00 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING WITHIN LOT 15, BLOCK 1500, PORT MALABAR UNIT THIRTY ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 17, PAGES 22-33, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE WEST 10.00 FEET OF THE EAST 20.00 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT, LESS AND EXCEPT THE NORTH AND SOUTH 6.00 FOOT WIDE SIDE EASEMENTS THEREOF LYING WITH SAID LOT 15, BLOCK 1500. CONTAINING 680 SQUARE FEET (0.02 ACRES) MORE OR LESS.

**SURVEYOR'S NOTES:**

- BEARINGS BASED ON THE EAST R/W LINE BEING N 00°19'02" W (SEE SKETCH)
- THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL, OR THE DIGITAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**LEGEND:**

- BRG = BEARING
- PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
- REF = REFERENCE
- R/W = RIGHT OF WAY
- S.F. = SQUARE FEET

PREPARED FOR AND CERTIFIED TO:  
DAVID KLEIST

10/21/2024 | 11:27 AM PDT

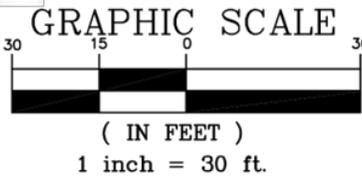
PREPARED BY: **Kane Surveying, Inc.**  
FLORIDA LICENSED BUSINESS No. LB 7838  
505 DISTRIBUTION DRIVE  
MELBOURNE, FLORIDA 32904  
(321) 676-0427

*Joel Seymour*  
JOEL A. SEYMOUR, LS 6133  
PROFESSIONAL SURVEYOR & MAPPER  
NOT VALID UNLESS SIGNED AND SEALED

DRAWN BY: JED	PROJECT NO. 31117	REVISIONS:	DATE:
DATE: 10/17/24	DRAWING: PM31/L14B1500		

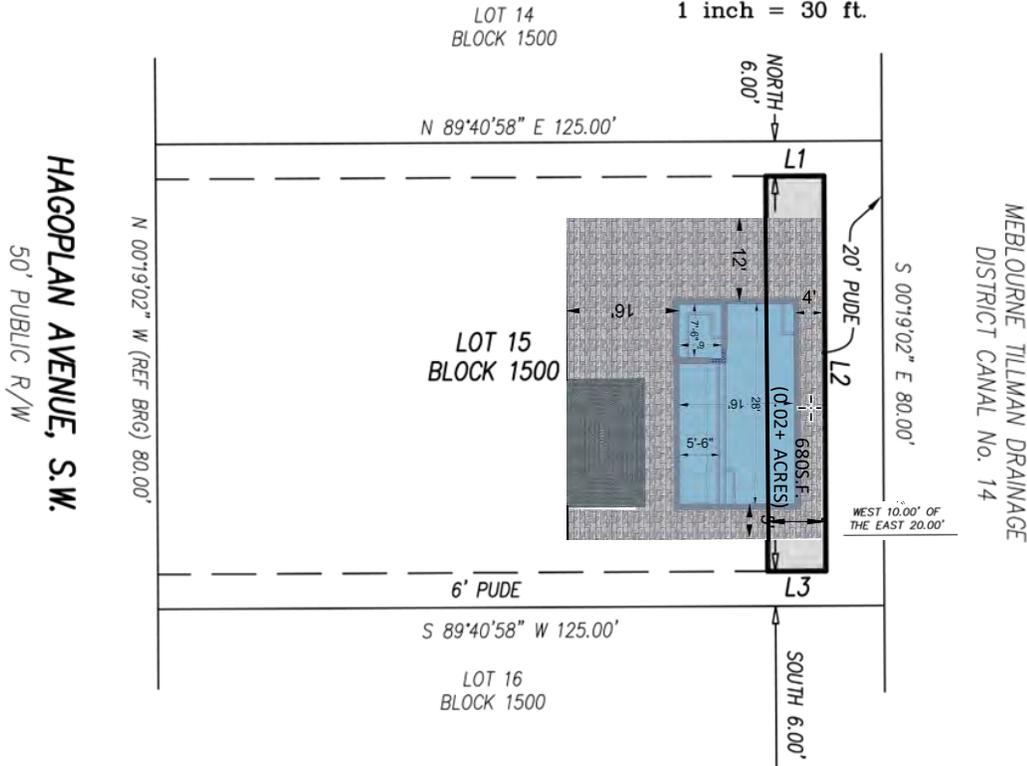
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PREPARED FOR AND CERTIFIED TO:  
DAVID KLEIST

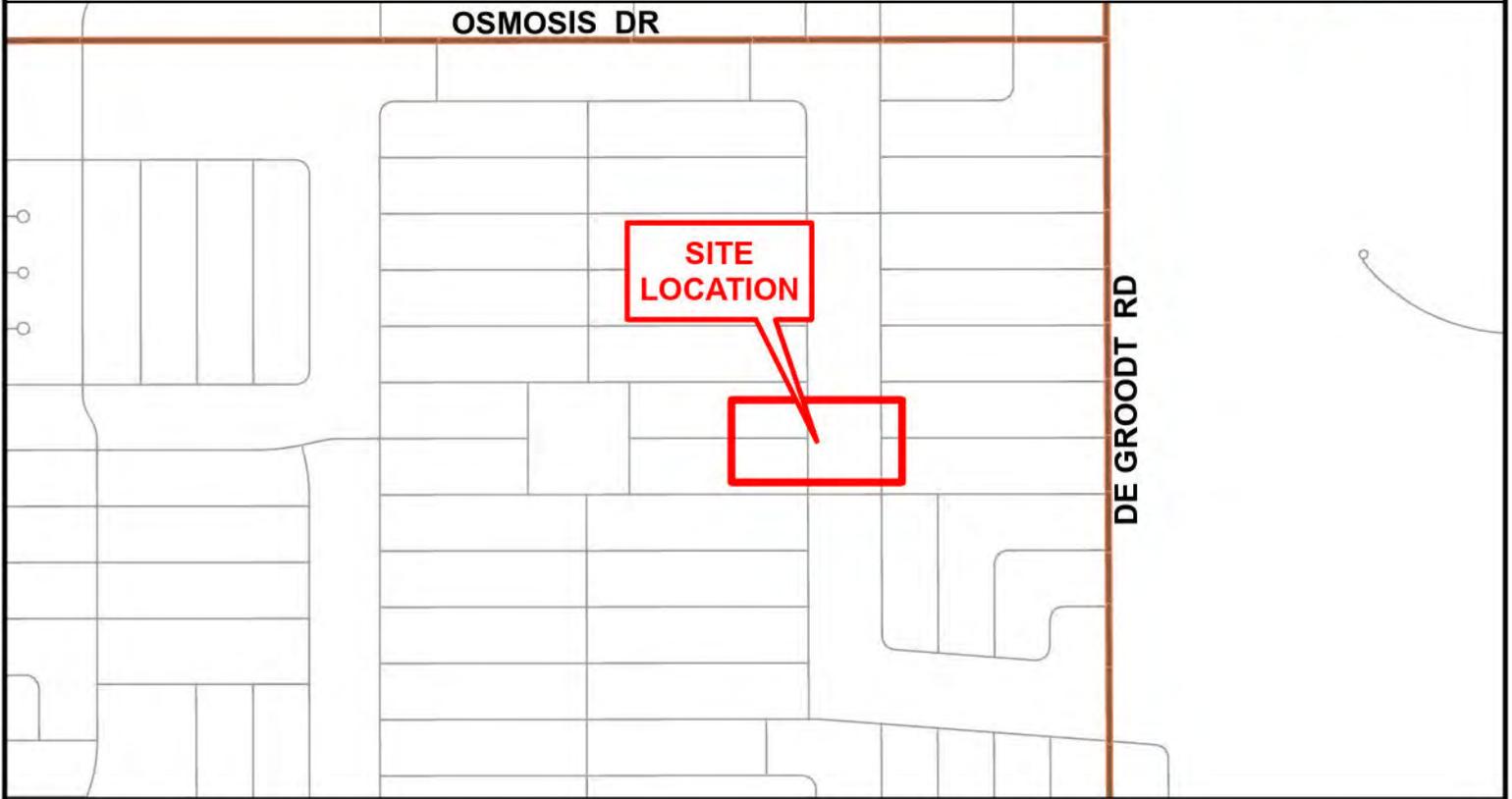
10/21/2024 | 11:27 AM PDT

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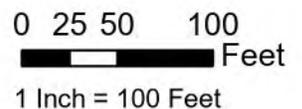
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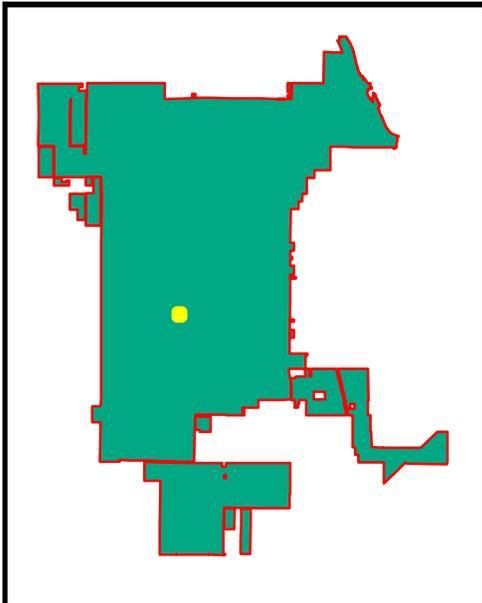
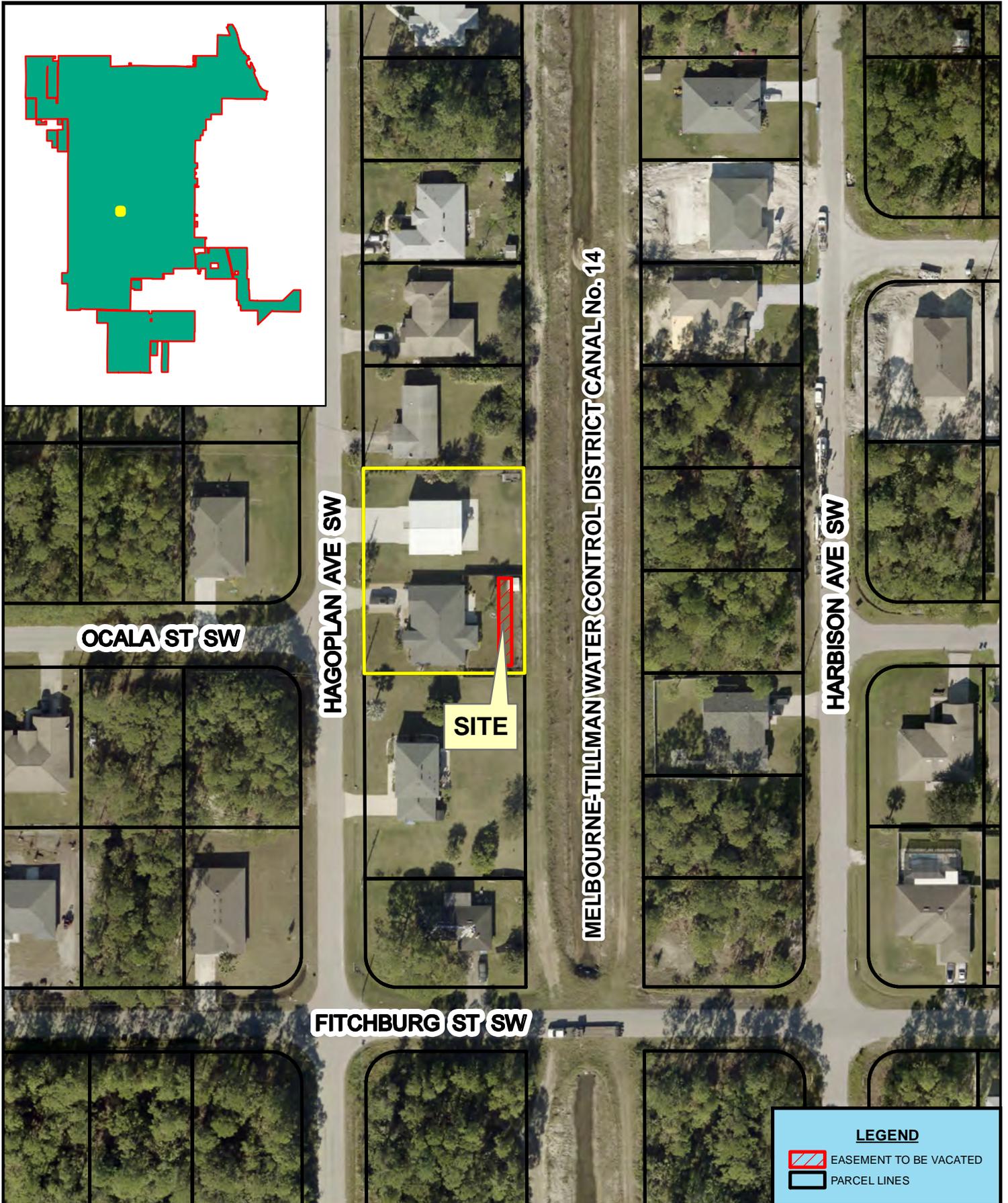
# LOCATION MAP



Map is for illustrative purposes only!  
Not to be construed as binding or a survey.  
Map created by the City of Palm Bay  
Public Works Department (RSD), on January 24, 2025.

## VE-2-2024





**LEGEND**

-  EASEMENT TO BE VACATED
-  PARCEL LINES


 Map is for illustrative purposes only!  
 Not to be construed as binding or a survey.  
 Map created by the City of Palm Bay  
 Public Works Department (RSD), on January 24, 2025.

# LOCATION MAP

## VE-2-2025

0 25 50 100  
 Feet  
 1 inch = 100 feet



Florida

PO Box 631244 Cincinnati, OH 45263-1244

GANNETT

**AFFIDAVIT OF PUBLICATION**

Richard "Scott" Dexter Public Works Department  
Scott Dexter  
City of Palm Bay Public Works Dept.  
1050 Malabar Rd. SW  
Palm Bay FL 32907

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02/10/2025

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Legal Clerk  
*Nancy Heyrman*  
\_\_\_\_\_  
Notary, State of WI, County of Brown  
5.19.27

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State of Wisconsin**

Ad#11022346 02/10/2025  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING  
Notice is hereby given that City Council of the City of Palm Bay will hold a public hearing on March 6, 2025, at 6:00 p.m. at the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida to consider application requesting vacation of the following described properties:

**1. Case No. Vacating Easement -2-2025**

Vacation of Easement is requested to vacate the West 10 feet of the East 20-foot Public Utilities & Drainage Easement, less the North and South 6 foot Public Utilities & Drainage Easements, containing 680 square feet or 0.02 acres, more or less, of Lot 15, Block 1500, Port Malabar Unit 31, according to the Plat thereof, as Recorded in Plat Book 17, Pages 22 - 33, of the Public Records of Brevard County, Florida. For construction of a swimming pool with decking in the back yard.

If an individual decides to appeal any decision made by City Council with respect to any matter considered at these meetings, a record of the proceedings will be required, and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.  
Christeen Sullivan  
Palm Bay Interim Public Works Director

## ORDINANCE 2025-12

**AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE REAR TWENTY (20) FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT, LOCATED WITHIN LOT 15, BLOCK 1500, PORT MALABAR UNIT 31, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, PAGE 32, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, David B. Kleist II has requested the City of Palm Bay, Florida, to vacate a portion of a certain public utility and drainage easement, which portion is legally described herein, and

**WHEREAS**, the vacation and abandonment of said portion of the public utility and drainage easement shall not in any manner affect utility equipment or services already installed in the easement or the right to thereafter maintain and operate the equipment and services in the easement.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA**, as follows:

**SECTION 1.** The City Council of the City of Palm Bay, pursuant to Section 179.047, Palm Bay Code of Ordinances, hereby vacates and abandons a portion of the rear public utility and drainage easement located within Lot 15, Block 1500, Port Malabar Unit 31, according to the plat thereof as recorded in Plat Book 17, Page 32, of the Public Records of Brevard County, Florida, Section 25, Township 29S, Range 36E, being more particularly described as follows:

The West 10.00 feet of the East 20.00 foot Public Utility and Drainage Easement, less and except the North and South 6.00 foot wide side Public Utility and Drainage Easements thereof, lying within said Lot 1, Block 1500, Port Malabar Unit Thirty One, according to the Plat thereof, as Recorded in Plat Book 17, Pages 22-33, of the Public Records of Brevard County, Florida; containing 680 square feet or 0.02 acres, more or less.

**SECTION 2.** The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2025- , held on , 2025; and read in title only and duly enacted at Meeting 2025- , held on , 2025.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK

Reviewed by CAO: \_\_\_\_\_

Applicant: David B. Kleist II  
Case: VE-2-2025

cc: Brevard County Recording  
Applicant  
Case File