

1. Ordinance 2025-20, vacating a portion of the rear public utility and drainage easement located within Lot 2, Block 416, Port Malabar Unit 10 (Case VE-3-2025, Leonard and LaVernice Miller), final reading.



## LEGISLATIVE MEMORANDUM

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

**FROM:** Matthew Morton, City Manager

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

**DATE:** May 15, 2025

**RE:** Ordinance 2025-20, vacating a portion of the rear public utility and drainage easement located within Lot 2, Block 416, Port Malabar Unit 10 (Case VE-3-2025, Leonard and LaVernice Miller), final reading.

### SUMMARY:

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

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 721 square feet or 0.017 acres, more or less, of Lot 2, Block 416, Port Malabar Unit 10, according to the Plat thereof, as Recorded in Plat Book 15, Pages 10 - 19, of the Public Records of Brevard County, Florida. For the construction of a swimming pool with a screen cage in the backyard.

### REQUESTING DEPARTMENT:

Public Works

### FISCAL IMPACT:

None.

### STAFF RECOMMENDATION:

Staff recommends approval of the vacating of easement.

### ATTACHMENTS:

1. Staff Report Package
2. Ordinance Draft



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### ATTACHMENTS:

1. Staff Report Package
2. Ordinance Draft



DATE: May 1, 2025

CASE #: VE-3-2025

# **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 721 square feet or 0.017 acres, more or less, of Lot 2, Block 416, Port Malabar Unit 10, according to the Plat thereof, as Recorded in Plat Book 15, Pages 10 - 19, of the Public Records of Brevard County, Florida. For the construction of a swimming pool with a screen cage in the backyard.

**LOCATION:** 515 Ellington Avenue SE  
(Lot 2, Block 416, Port Malabar Unit 10)

**APPLICANT:** Leonard & LaVernice Miller

## **SITE DATA**

**PRESENT ZONING:** RS-2 – Single Family Residential

**AREA OF VACATING:** 721 square feet, more or less

<b>ADJACENT ZONING</b>	<b>N</b>	RS-2 – Single-Family Residential
<b>&amp; LAND USE:</b>	<b>E</b>	50' Wide Drainage Right-Of-Way
	<b>S</b>	RS-2 – Single-Family Residential
	<b>W</b>	RS-2 – Single-Family Residential

**STAFF ANALYSIS:**

Vacation of Public Utilities and Drainage Easement of a portion of Lot 2, Block 416, Port Malabar Unit 10, according to the Plat thereof, as Recorded in Plat Book 15, Pages 10 – 19, 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 2, Block 416. Containing 721 square feet or 0.017 acres, more or less. For the construction of a swimming pool with a screen cage in the backyard.

Florida Power and Light, AT&T, and Spectrum 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, 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 721 square feet or 0.017 acres, more or less, of Lot 2, Block 416, Port Malabar Unit 10, according to the Plat thereof, as Recorded in Plat Book 15, Pages 10 - 19, of the Public Records of Brevard County, Florida. For the construction of a swimming pool in the backyard.

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Staff recommends approval of the vacating of easement.

# LEGAL DESCRIPTION

SHEET 1 OF 2

SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST

NOT VALID WITHOUT THE SKETCH  
ON SHEET 2 OF 2

PARENT PARCEL ID: 29-37-05-GK-416-2  
PURPOSE: VACATE PORTION OF EASEMENT

## LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF LOT 2, BLOCK 416 PORT MALABAR UNIT TEN ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGES 10 THRU 19 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF THE EAST 20.00 FEET, LESS THE NORTH AND SOUTH 6.00 FEET OF SAID LOT 2.  
CONTAINING 721 SQUARE FEET.

## SURVEYORS NOTES:

- 1.) BEARINGS BASED ON THE ASSUMPTION THAT THE NORTH LINE OF BLOCK 416 BEARS N88°51'16"E PER PLAT OF PORT MALABAR UNIT TEN.
- 2.) PROPERTY LIES WITHIN SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST.
- 3.) PU & DE DENOTES PUBLIC UTILITIES AND DRAINAGE FACILITIES EASEMENT.



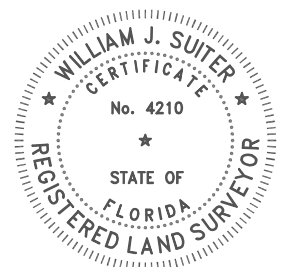
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PREPARED FOR: LEONARD MILLER  
LAVERNICE MILLER

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PROFESSIONAL SURVEYOR AND MAPPER IN  
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CERTIFICATE OF AUTHORIZATION #LB 5419

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PREPARED BY: WILLIAM J. SUITER LAND SURVEYING, INC.

ADDRESS: 1849 CANOVA STREET SE, PALM BAY, FLORIDA 32909

PHONE: (321) 728-0553

DATE: 3-12-2025

SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST

DRAWING NO. 20-52VE

## SKETCH OF DESCRIPTION

SHEET 2 OF 2

SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST

NOT VALID WITHOUT THE LEGAL  
DESCRIPTION ON SHEET 1 OF 2

JUPITER BOULEVARD

SOUTH RIGHT OF WAY LINE  
NORTH LINE BLOCK 416  
S88°51'16"E



SCALE 1" = 30'  
THIS IS NOT A SURVEY

NOT TO SCALE  
101.76'(P)  
101.88'(S)

LOT 1  
BLOCK 416

125.00'  
N89°43'52"E  
6' PU & DE

10.00'  
N89°43'52"E

50' RIGHT OF WAY—OPEN  
ELLINGTON AVENUE

N00°16'08"W  
84.00'(P)  
84.10'(S)

LOT 2  
BLOCK 416  
515 ELLINGTON AVENUE SE  
PALM BAY, FL 32909

72.00'(P)  
72.10'(S)  
N00°16'08"W

20'  
SUBJECT  
PROPERTY

20' PU & DE  
10'

S00°16'08"E  
84.00'(P)  
84.10'(S)

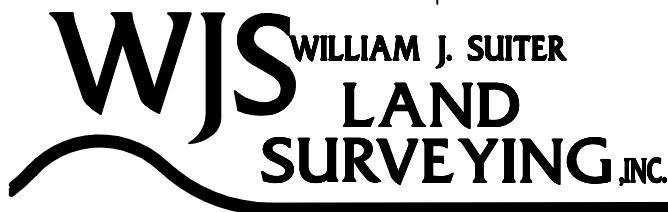
50' DRAINAGE RIGHT OF WAY

6' PU & DE  
S89°43'52"W  
125.00'

LOT 3  
BLOCK 416

10.00'  
S89°43'52"W

72.00'(P)  
72.10'(S)  
S00°16'08"E



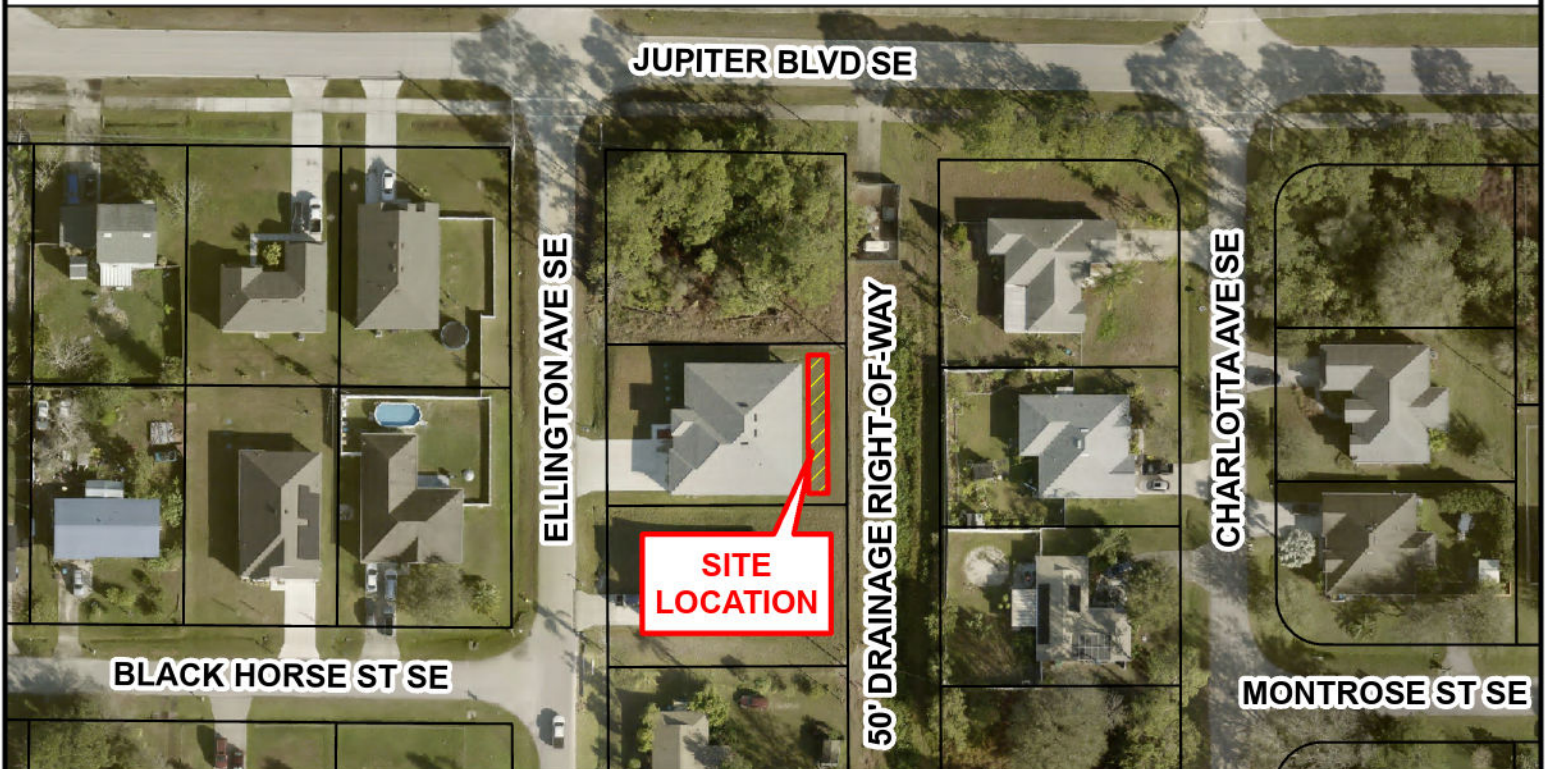
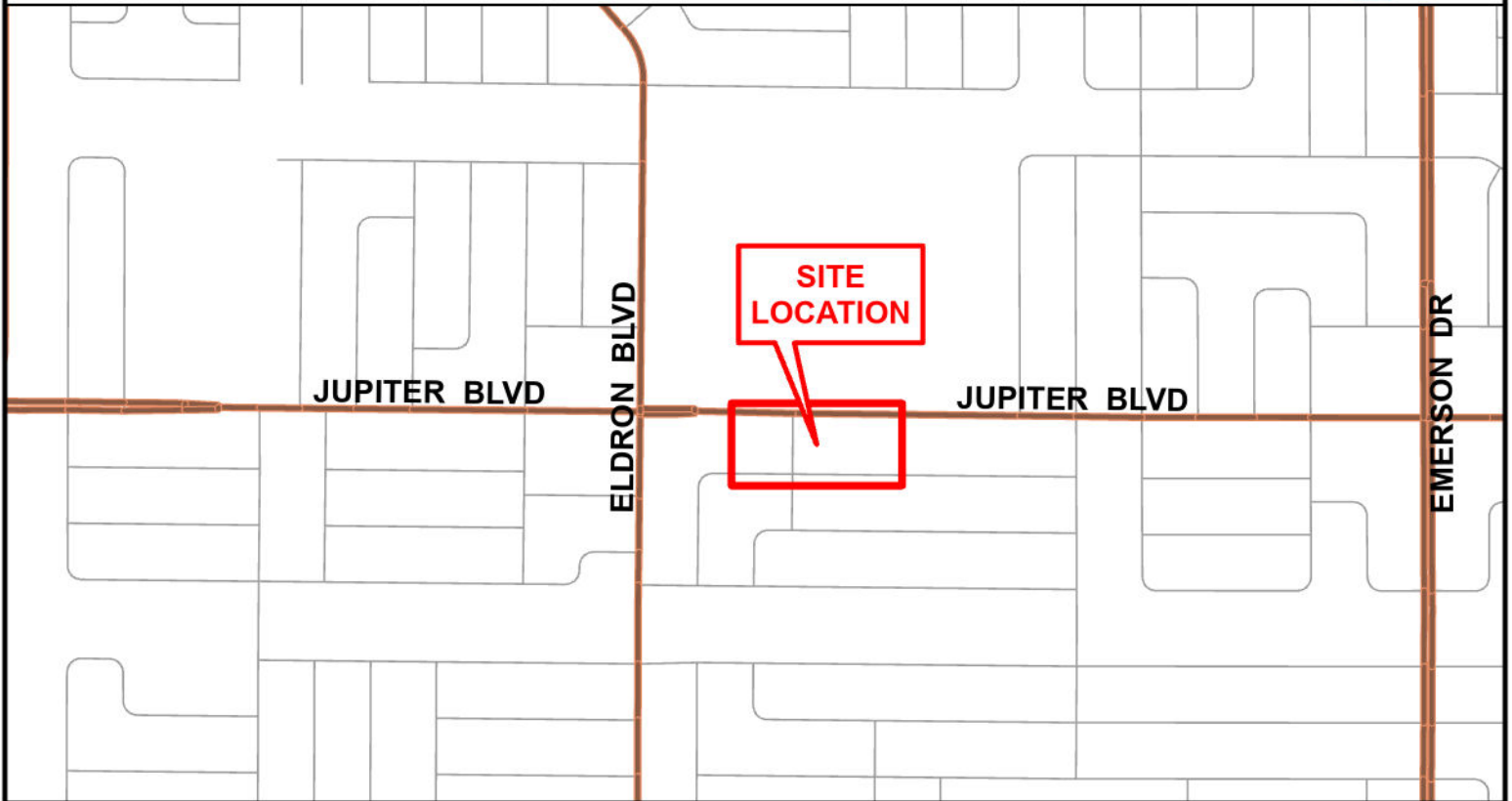
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PROJECT NO.: 20-52VE

PREPARED BY: WILLIAM J. SUITER  
LAND SURVEYING, INC.

SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST

# LOCATION MAP

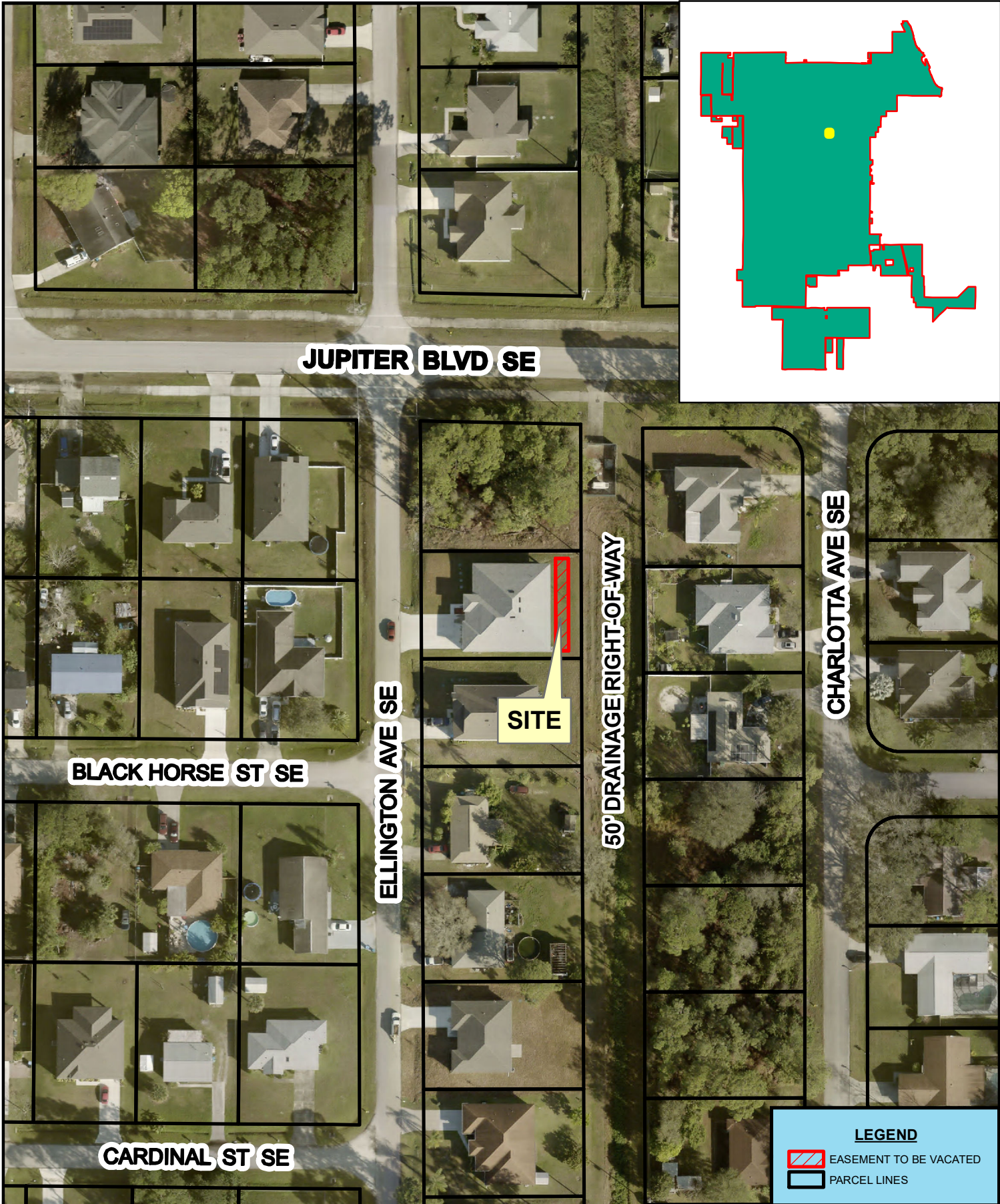


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Map created by the City of Palm Bay  
Public Works Department (RSD), on March 19, 2025.

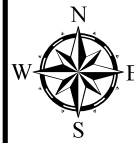
## VE-3-2024

0 25 50 100 Feet  
1 Inch = 100 Feet





**LOCATION MAP**  
**VE-3-2025**

  
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0 25 50 100  
Feet  
1 inch = 100 feet

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APR 01 2025

CITY OF PALM BAY  
PUBLIC WORKS

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Florida

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PO Box 631244 Cincinnati, OH 45263-1244

**AFFIDAVIT OF PUBLICATION**

CITY OF PALM BAY  
attn: Accounts Payable  
City Of Palm Bay  
120 Malabar Rd Se  
Palm Bay FL 32907-3009

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03/24/2025

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Legal Clerk

Notary, State of WI, County of Brown

5.19.27

My commission expires

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Notary Public  
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AD#11148391 3/24/2025

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 May 1, 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 -3-2025

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 721 square feet or 0.017 acres, more or less, of Lot 2, Block 416, Port Malabar Unit 10, according to the Plat thereof, as Recorded in Plat Book 15, Pages 10 - 19, of the Public Records of Brevard County, Florida. For construction of a swimming pool with pool screen cage in the back yard.

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Christeen Sullivan  
Palm Bay Interim Public Works  
Director





DATE: May 1, 2025

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PARENT PARCEL ID: 29-37-05-GK-416-2  
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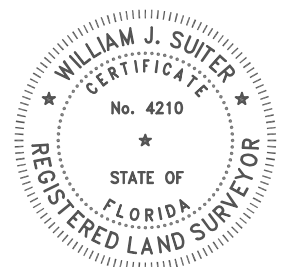
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PREPARED FOR: LEONARD MILLER  
LAVERNICE MILLER

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ELECTRONIC DOCUMENTS ONLY. THIS DOCUMENT  
HAS BEEN DIGITALLY SIGNED AND SEALED.

PROFESSIONAL SURVEYOR AND MAPPER IN  
RESPONSIBLE CHARGE  
WILLIAM J. SUITER  
FLORIDA CERTIFICATE NO. 4210  
CERTIFICATE OF AUTHORIZATION #LB 5419

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PREPARED BY: WILLIAM J. SUITER LAND SURVEYING, INC.

ADDRESS: 1849 CANOVA STREET SE, PALM BAY, FLORIDA 32909

PHONE: (321) 728-0553

DATE: 3-12-2025

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DRAWING NO. 20-52VE

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N89°43'52"E  
6' PU & DE

10.00'  
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50' RIGHT OF WAY—OPEN  
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PALM BAY, FL 32909

72.00'(P)  
72.10'(S)  
N00°16'08"W

SUBJECT  
PROPERTY

20' PU & DE  
10'

S00°16'08"E  
84.00'(P)  
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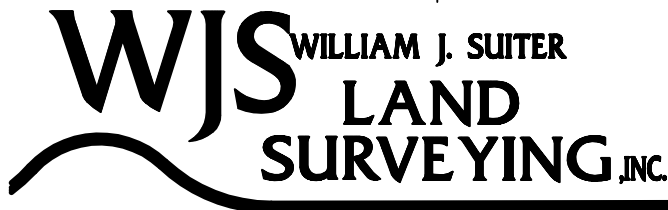
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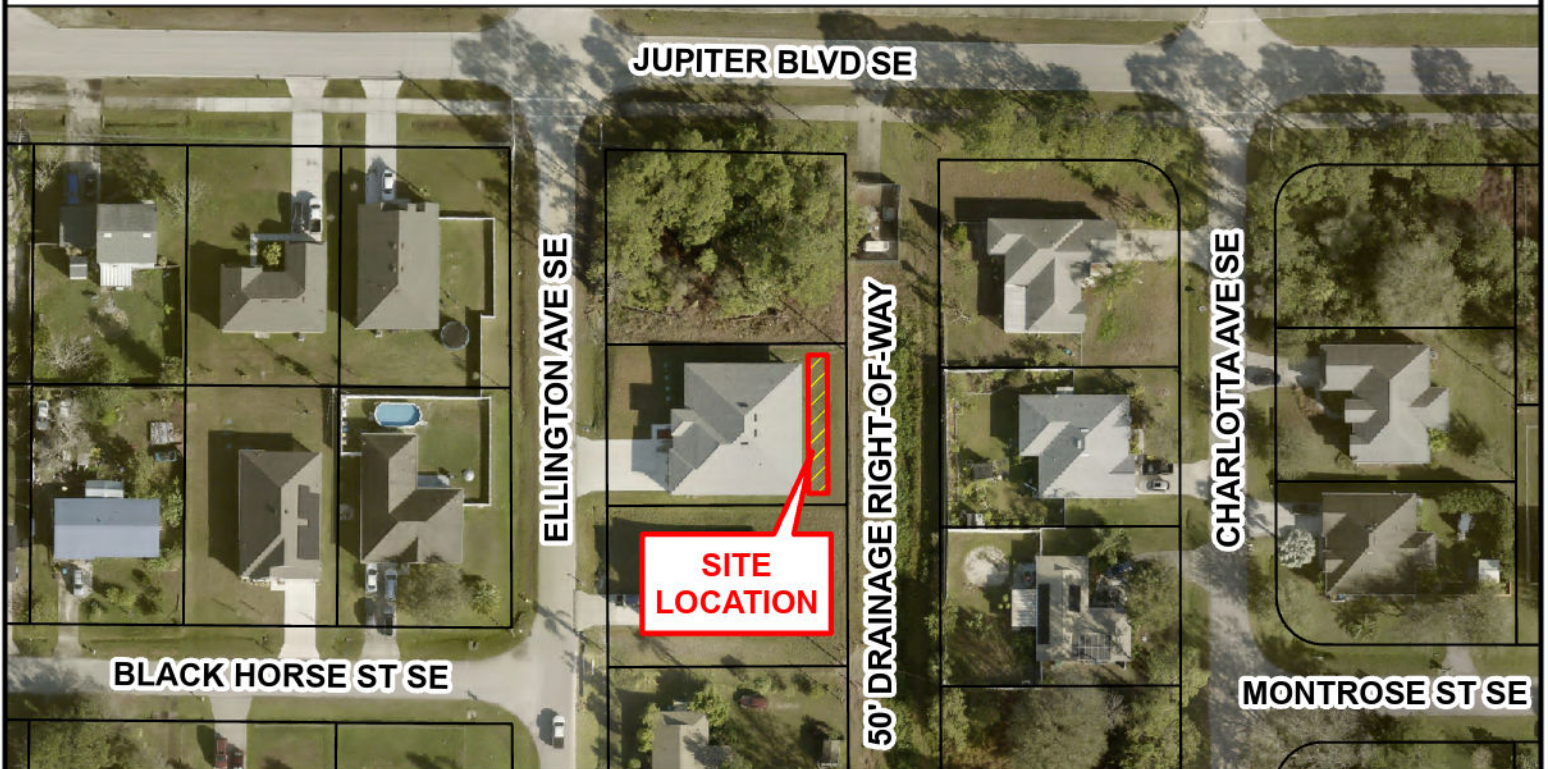
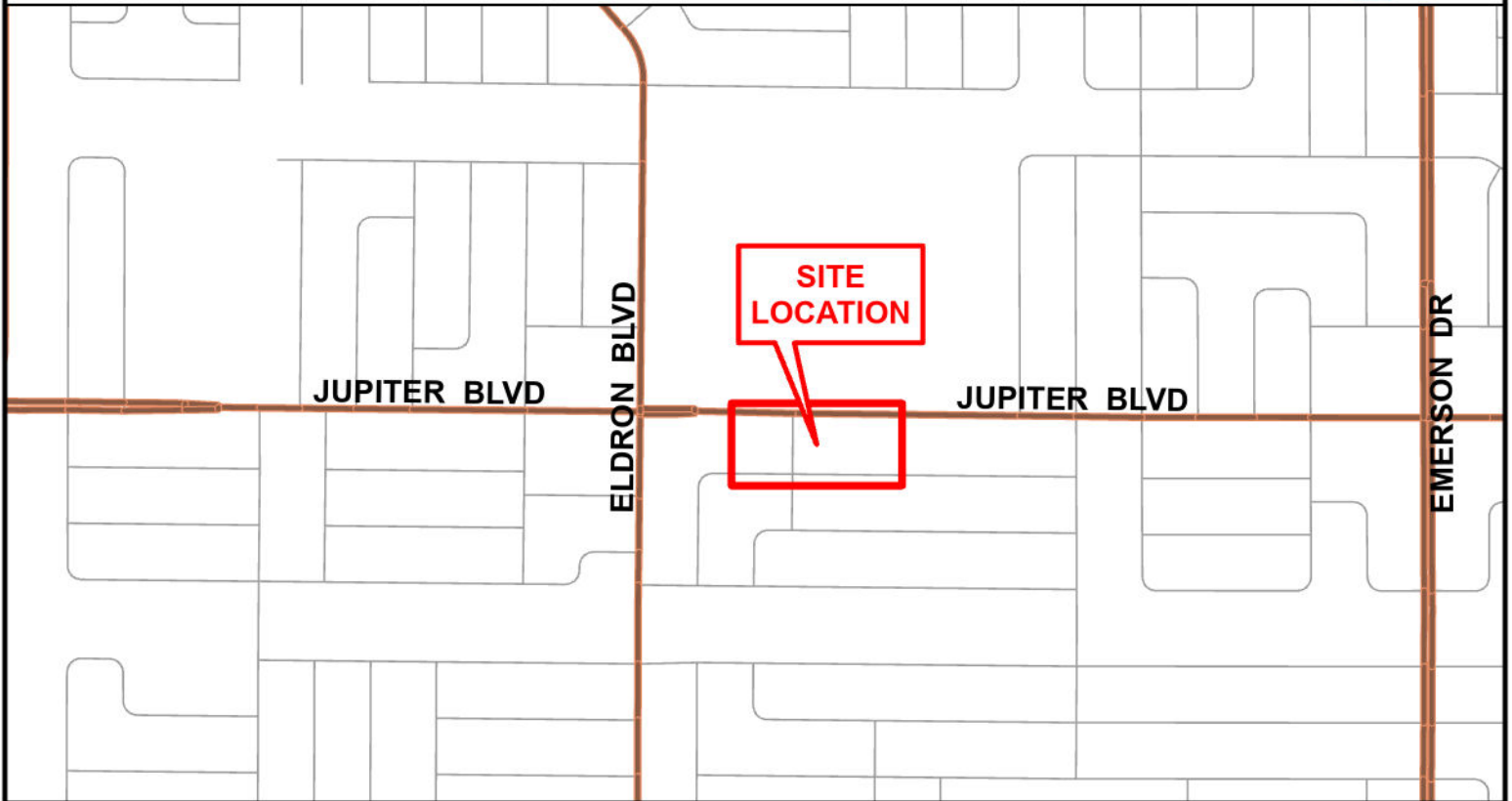
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PROJECT NO.: 20-52VE

PREPARED BY: WILLIAM J. SUITER  
LAND SURVEYING, INC.

SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST

# LOCATION MAP

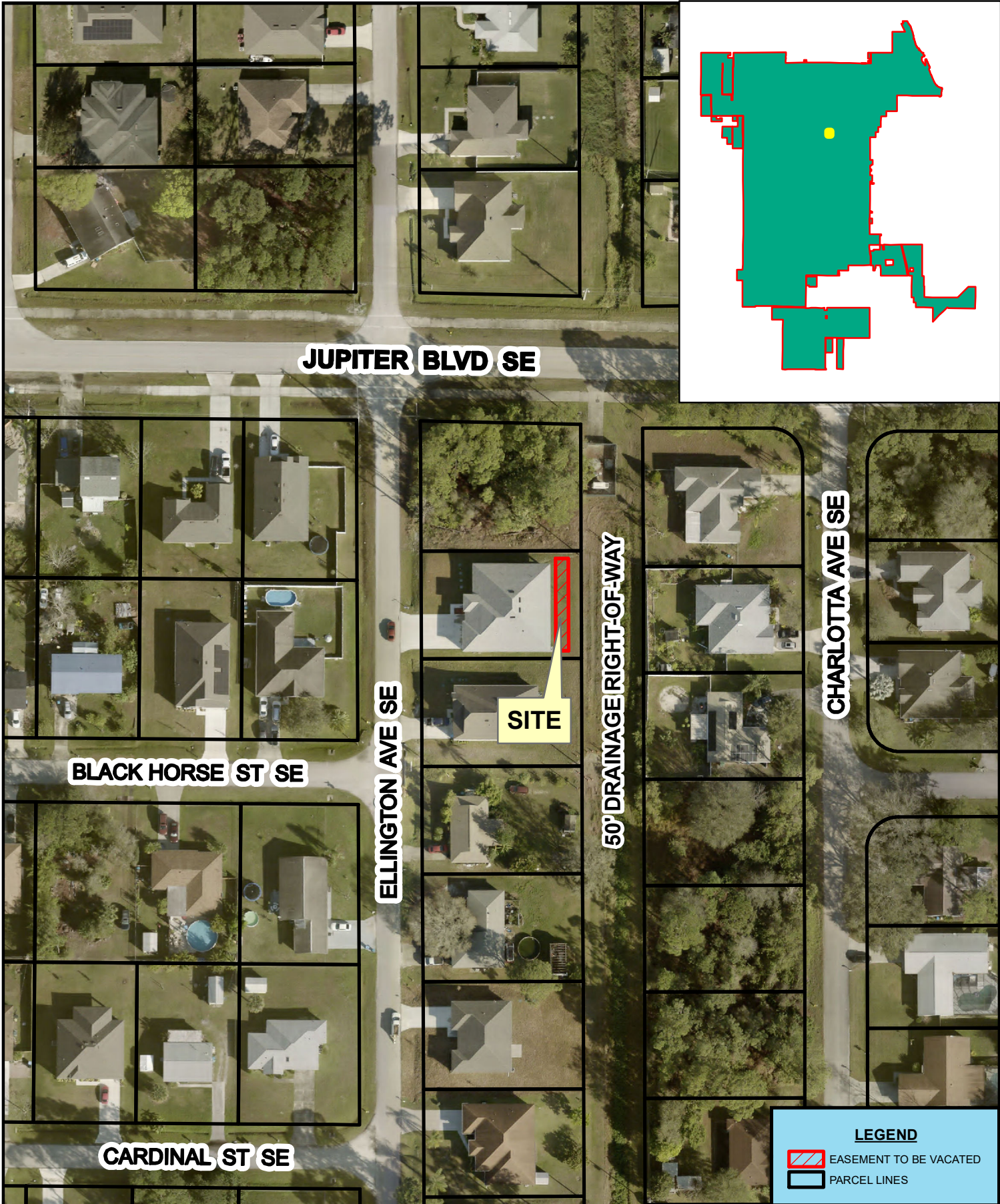


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Public Works Department (RSD), on March 19, 2025.

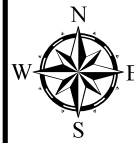
## VE-3-2024

0 25 50 100 Feet  
1 Inch = 100 Feet





**LOCATION MAP**  
**VE-3-2025**

  
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0 25 50 100  
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APR 01 2025

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PUBLIC WORKS

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PO Box 631244 Cincinnati, OH 45263-1244

**AFFIDAVIT OF PUBLICATION**

CITY OF PALM BAY  
attn: Accounts Payable  
City Of Palm Bay  
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Palm Bay FL 32907-3009

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Advertising Representative of the Florida Today, a daily newspaper published in Brevard County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of Public Notices, was published on the publicly accessible website of Brevard County, Florida, or in a newspaper by print in the issues of, on:

03/24/2025

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

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Legal Clerk

Notary, State of WI, County of Brown

5.19.27

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NANCY HEYRMAN  
Notary Public  
State of Wisconsin

AD#11148391 3/24/2025

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NOTICE OF PUBLIC HEARING  
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Christeen Sullivan  
Palm Bay Interim Public Works  
Director

## **ORDINANCE 2025-20**

**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 2, BLOCK 416, PORT MALABAR UNIT 10, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGE 17, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Lenoard and LaVernice Miller have 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 103.03, Palm Bay Code of Ordinances, hereby vacates and abandons a portion of the rear public utility and drainage easement located within Lot 2, Block 416, Port Malabar Unit 10, according to the plat thereof as recorded in Plat Book 15, Page 17, of the Public Records of Brevard County, Florida, Section 5, Township 29S, Range 37E, 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 2, Block 416, Port Malabar Unit 10,

according to the Plat thereof, as Recorded in Plat Book 15, Pages 10-19, of the Public Records of Brevard County, Florida; containing 720 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-XX, held on \_\_\_\_\_, 2025; and read in title only and duly enacted at Meeting 2025-XX, held on \_\_\_\_\_, 2025.

---

Rob Medina, MAYOR

ATTEST:

---

Terese M. Jones, CITY CLERK

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

Applicant: Lenoard and LaVernice Miller  
Case: VE-3-2025

cc: Brevard County Recording  
Applicant  
Case File

## **ORDINANCE 2025-20**

**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 2, BLOCK 416, PORT MALABAR UNIT 10, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGE 17, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Lenoard and LaVernice Miller have 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 103.03, Palm Bay Code of Ordinances, hereby vacates and abandons a portion of the rear public utility and drainage easement located within Lot 2, Block 416, Port Malabar Unit 10, according to the plat thereof as recorded in Plat Book 15, Page 17, of the Public Records of Brevard County, Florida, Section 5, Township 29S, Range 37E, 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 2, Block 416, Port Malabar Unit 10,

according to the Plat thereof, as Recorded in Plat Book 15, Pages 10-19, of the Public Records of Brevard County, Florida; containing 720 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-XX, held on \_\_\_\_\_, 2025; and read in title only and duly enacted at Meeting 2025-XX, held on \_\_\_\_\_, 2025.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK

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

Applicant: Lenoard and LaVernice Miller  
Case: VE-3-2025

cc: Brevard County Recording  
Applicant  
Case File