

2. Ordinance 2025-21, vacating a portion of the twenty (20) foot wide drainage right-of-way lying north of Lots 7 and 20, and lying south of Lots 8 and 19, Block 2051, Port Malabar Unit 46, as recorded in Plat Book 22, Pages 58-74, of the Public Records of Brevard County, Florida (0.057 acres, more or less) (Case VRW-1-2025, Phillip and Kristi Silver), 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 2025-21, vacating the east half of the twenty (20) foot wide drainage right-of-way lying north of Lots 7 and 20, and lying south of Lots 8 and 19, Block 2051, Port Malabar Unit 46, as recorded in Plat Book 22, Pages 58-74, of the Public Records of Brevard County, Florida (0.057 acres, more or less) (Case VRW-1-2025, Phillip and Kristi Silver), 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.

The purpose of requesting the vacation of the drainage right-of-way is to be able to put a fence over the drainage right-of-way that separates Lots 19 & 20, Block 2051, properties for which the applicant owns. Chapter 172 of the Palm Bay Code of Ordinances allows for the fencing of easements, but not for the fencing over rights-of-way. The applicant owns Lots 8, 19, & 20, with the drainage right-of-way separating Lots 19 & 20.

At Regular City Council Meeting 2024-17, held on August 1, 2024, Council adopted Resolution 2024-25 granting a Right-of-Way Use Permit and a License Agreement to pipe in the drainage right-of-way, at the applicant's expense. The pipe was installed, inspected, and Right-of-Way Use Permit PW24-0115 was closed on January 31, 2025. The City will reserve a Public Utilities and Drainage Easement over the vacated portion of the 20-foot-wide drainage right-of-way.

### REQUESTING DEPARTMENT:

Public Works

### FISCAL IMPACT:

None.

Honorable Mayor and Members of the City Council

Legislative Memorandum

Page | 2

**STAFF RECOMMENDATION:**

Staff recommends approval of the vacation VRW-1-2025, with the city reserving a Public Utilities and Drainage Easement over the vacated portion of the 20-foot-wide drainage right-of-way.

**ATTACHMENTS:**

1. Staff Report Package
2. Draft Ordinance



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Honorable Mayor and Members of the City Council

Legislative Memorandum

Page | 2

**STAFF RECOMMENDATION:**

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**ATTACHMENTS:**

1. Staff Report Package
2. Draft Ordinance



DATE: May 1, 2025  
CASE #: VRW-1-2025

# PUBLIC WORKS DEPARTMENT STAFF REPORT

## REQUEST TO VACATE STREET RIGHTS-OF-WAY

**PROPOSAL:** Vacation of Drainage Right-of-Way is requested to vacate the East ½ of the 20' wide Drainage Right-of-Way lying North of Lots 7 & 20, and lying South of Lots 8 & 19, Block 2051, Port Malabar Unit Forty Six, Plat Book 22, Pages 58-74, of the Public Records of Brevard County, Florida.

**LOCATION:** Parcel ID's: 29-37-28-KQ-2051-19 & 29-37-28-KQ-2051-20

**APPLICANT:** Phillip L. Silver & Kristi J. Silver

### SITE DATA

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

**AREA OF VACATING:** 0.057 Acres +/-

**ADJACENT ZONING & LAND USE:**

N	RS-2 – Single Family Residential
E	IU – Institutional Use (City Property)
S	RS-2 – Single Family Residential
W	RS-2 – Single Family Residential

### STAFF ANALYSIS:

The purpose of requesting the vacation of the drainage right-of-way is to be able to put a fence over the drainage right-of-way that separates Lots 19 & 20, Block 2051, which the applicant owns. The current city code allows for the fencing of easements, but not for the fencing over right-of-ways. The applicant owns Lots 8, 19, & 20, with the drainage right-of-way separating

Lots 19 & 20. The applicant previously applied for a Right-of-Way Use permit and was granted a License Agreement to pipe in the drainage right-of-way, at the applicant's expense, at Regular City Council Meeting 2024-17, held on August 1, 2024, per Resolution 2024-25. The pipe was installed, inspected, and Right-of-Way Use Permit PW24-0115 was closed, on January 31, 2025. The city reserves a Public Utilities and Drainage Easement over the vacated portion of the 20-foot-wide drainage right-of-way.

AT&T, Spectrum, Florida City Gas, and Florida Power & Light have no objections to the request.

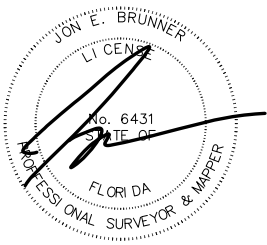
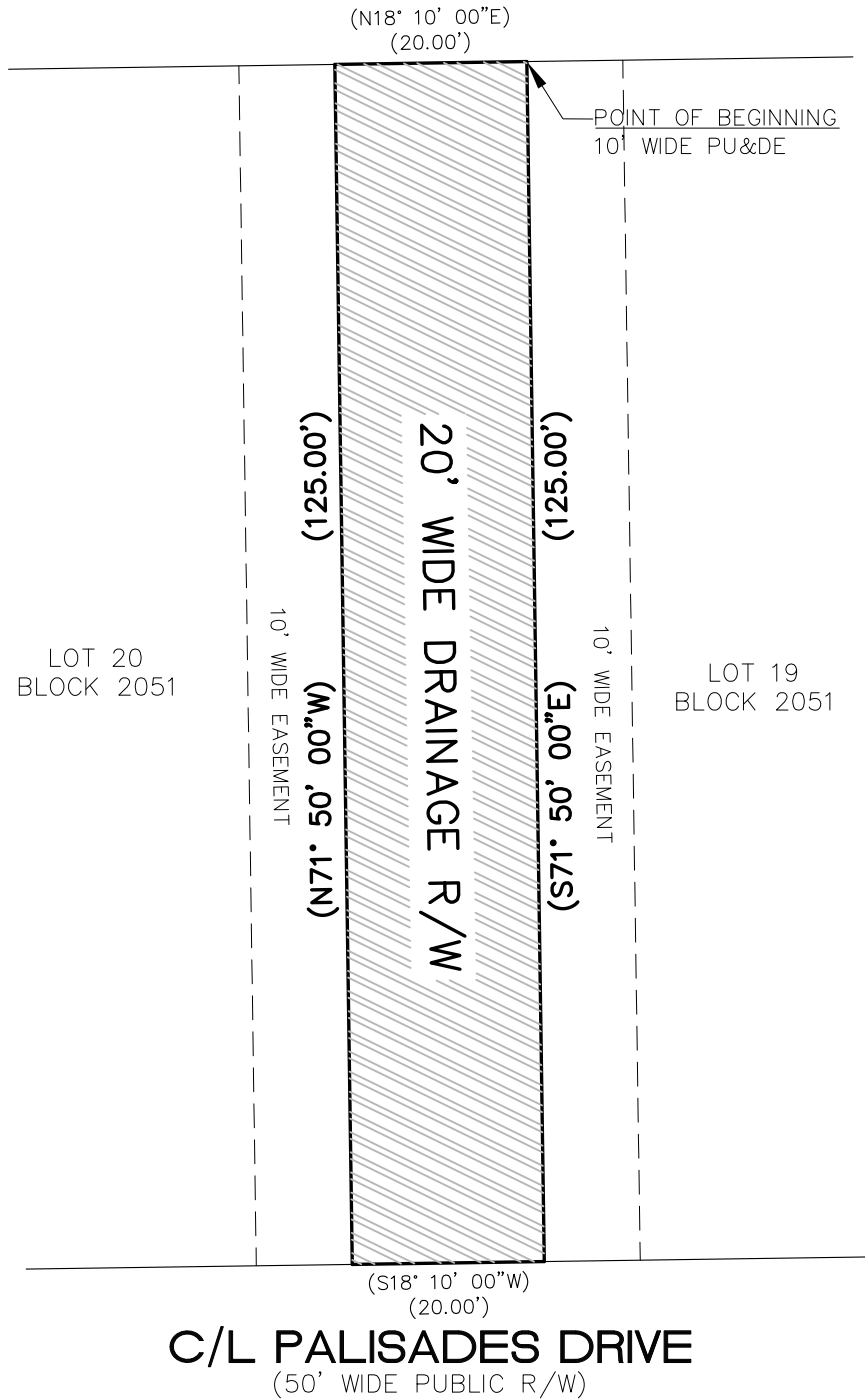
The City of Palm Bay's Departments have no objections to the request.

**STAFF RECOMMENDATION:**

Staff recommends approval of the vacation of the East ½ of the 20-foot-wide drainage right-of-way, with the city reserving a Public Utilities and Drainage Easement over the vacated portion of the 20-foot-wide drainage right-of-way.

# MAP OF EASEMENT

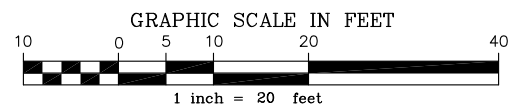
THIS IS NOT A SURVEY OF THE SUBJECT PROPERTY



## DESCRIPTION

BEGINNING AT THE WESTERLY CORNER OF LOT 19, BLOCK 2051, PROCEED THENCE S 71°50'00"E FOR A DISTANCE OF 125.00 FEET; THENCE S 18°10'00" W, FOR A DISTANCE OF 20.00 FEET; THENCE N 71°50'00" W, FOR A DISTANCE OF 125.00 FEET; THENCE N 18°10'00" E, FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING, BEING A PORTION OF THE 20' WIDE DRAINAGE RIGHT OF WAY AS SHOWN ON THE PLAT OF PORT MALABAR UNIT 46, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGES 58 THROUGH 74, INCLUSIVE, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

JON E. BRUNNER, FLORIDA PSM 6431  
STATE OF FLORIDA



F.B/P.	DATE: 1/30/25
DRAWN BY: JEB	SCALE: 1"=20'
CHECKED BY: JEB	DWG. # 314-23

**BRUNNER  
HAGEN**

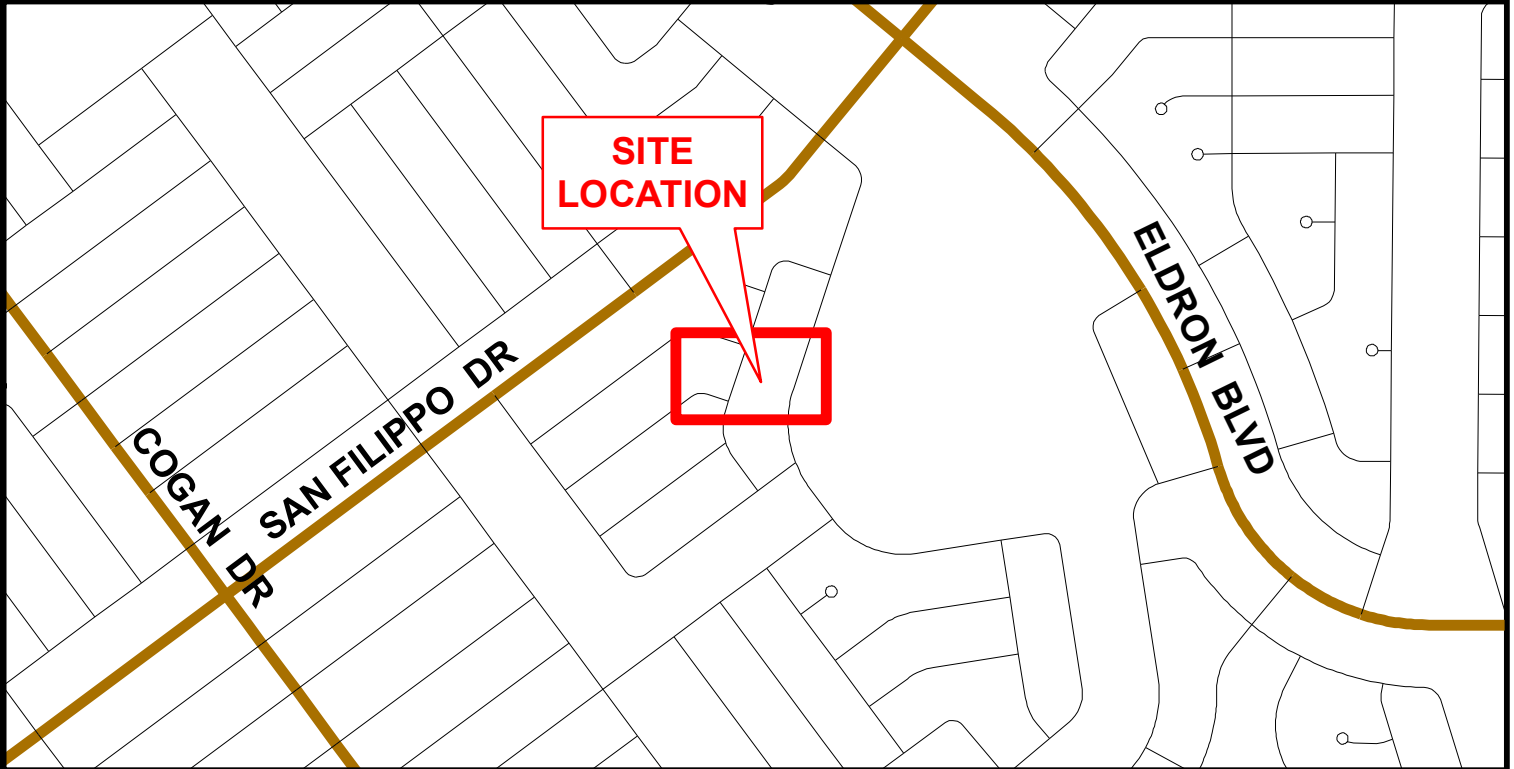
801 Carolin Street Melbourne, FL 32901  
8175 S. Virginia St. No. 850 Reno, NV 89511  
phone (321)728-1961 info@brunner-hagen.com

LAND SURVEYORS  
CONSULTING ENGINEERS

SEC. 28  
TWP. 29 S.  
RNG. 37 E.



# LOCATION MAP

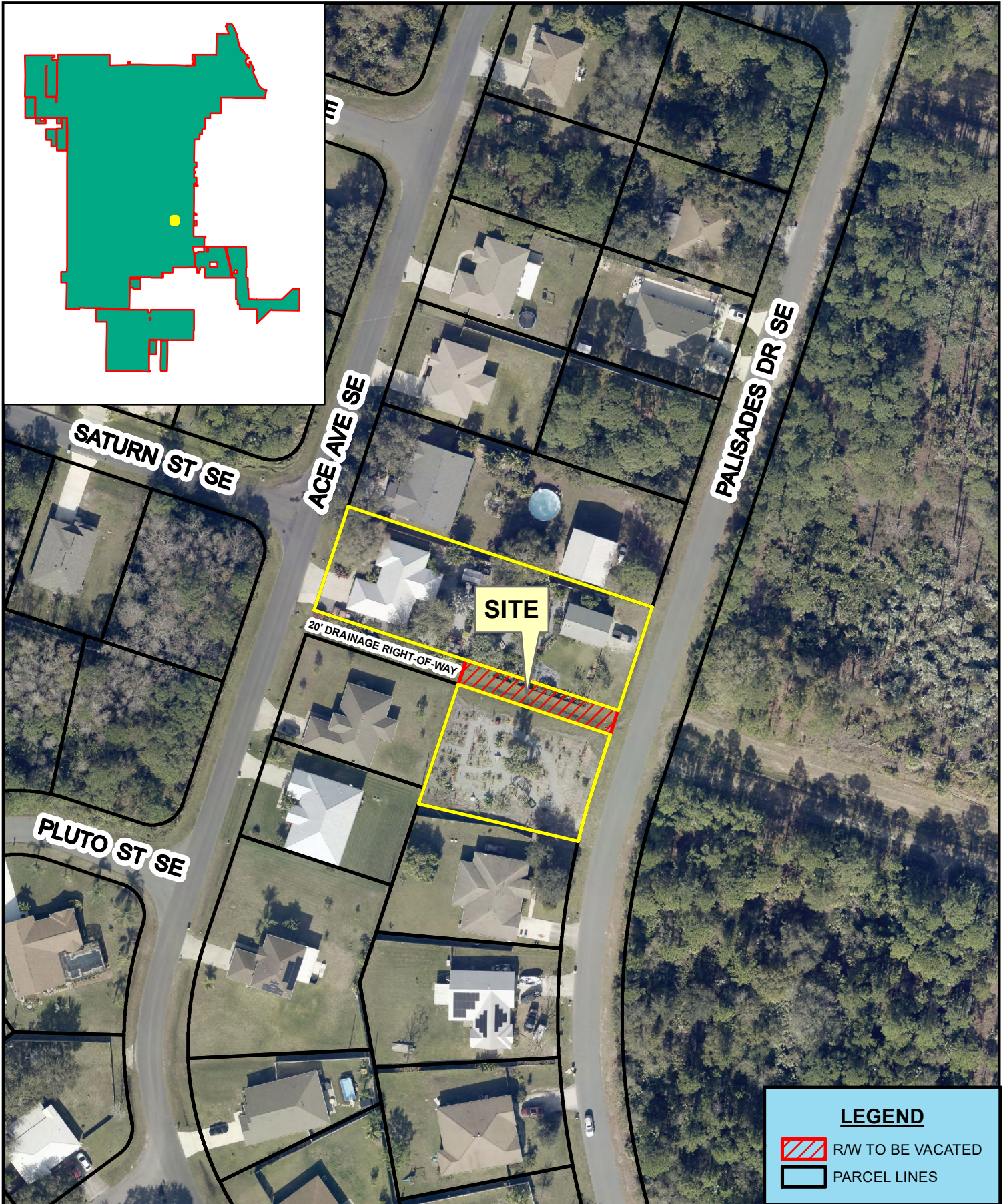


Map is for illustrative purposes only!  
Not to be construed as binding or a survey.  
Map created by the City of Palm Bay  
Public Works Department (RSD), on April 17, 2025.

## VRW-1-2025

0 25 50 100 Feet  
1 inch = 100 feet





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# LOCATION MAP VRW-1-2025

0 25 50 100  
Feet  
1 inch = 100 feet



**RESOLUTION 2024-25**

**A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, GRANTING A REVOCABLE LICENSE TO PHILIP L. SILVER PERMITTING THE INSTALLATION AND MAINTENANCE OF A DRAINAGE PIPE WITH CLEAN-OUT TEE WITHIN A 20-FOOT-WIDE DRAINAGE RIGHT-OF-WAY; WHICH RIGHT-OF-WAY IS LOCATED NORTH OF LOTS 7 AND 20, SOUTH OF LOTS 8 AND 19, BLOCK 2051, PORT MALABAR UNIT 46; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Philip L. Silver is the owner of the property located at 2641 Ace Avenue SE, Palm Bay, Florida, 32909 ("Property"), and

**WHEREAS**, Phillip L. Silver has requested to the City of Palm Bay, Florida, the granting of a revocable license to allow for the installation and maintenance of a drainage pipe with clean-out tee within a public drainage right-of-way on the Property, and

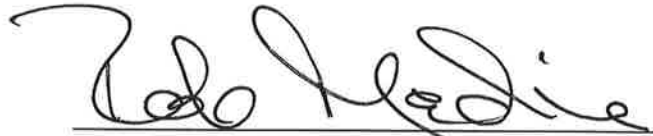
**WHEREAS**, the granting of a revocable license to allow for the installation and maintenance of a drainage pipe with clean-out tee within the public drainage right-of-way shall not in any manner affect utility equipment or services already installed in the drainage right-of-way or the right to thereafter maintain and operate the equipment and services in the drainage right-of-way.

**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 hereby grants a revocable license to Phillip L. Silver over the City's public drainage right-of-way to allow for the installation and maintenance of a drainage pipe with clean-out tee as described in the License Agreement, attached hereto and incorporated herein as Exhibit 'A'.

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

This resolution was duly enacted at Meeting 2024-17, of the City Council of the City of Palm Bay, Brevard County, Florida, held on August 1, 2024.

  
Rob Medina, MAYOR

ATTEST:

  
Terese M. Jones, CITY CLERK

Reviewed by CAO: PDS

Applicant: Philip L. Silver  
Case: LA-1-2024

cc: Brevard County Recording  
Applicant  
Case File

**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

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 Govt Public Notices, was published on the publicly accessible website of Brevard County, Florida, or in a newspaper by print in the issues of, on:

04/01/2025

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

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 04/01/2025

Legal Clerk

  
Notary, State of WI, County of Brown

5.15.27

My commission expires

Publication Cost:	\$80.66	
Tax Amount:	\$0.00	
Payment Cost:	\$80.66	
Order No:	11171028	# of Copies:
Customer No:	1127256	1
PO #:	Case 1-2024 Vacating	

**THIS IS NOT AN INVOICE!**

*Please do not use this form for payment remittance.*

NANCY HEYRMAN  
Notary Public  
State of Wisconsin

ad# 11171028 04/01/25

**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 Right-of-Way -1-2024**

**Vacation of Drainage Right-of-Way is requested to vacate the East 1/2 of a 20-foot-wide Drainage Right-of-Way lying North of Lots 7 & 20 and South of Lots 8 & 19, Block 2051, as recorded in Port Malabar Unit Forty Six, Plat Book 22, Pages 58 - 74, of the Public Records of Brevard County, Florida.**

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



DATE: May 1, 2025

CASE #: VRW-1-2025

# PUBLIC WORKS DEPARTMENT STAFF REPORT

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**PROPOSAL:** Vacation of Drainage Right-of-Way is requested to vacate the East ½ of the 20' wide Drainage Right-of-Way lying North of Lots 7 & 20, and lying South of Lots 8 & 19, Block 2051, Port Malabar Unit Forty Six, Plat Book 22, Pages 58-74, of the Public Records of Brevard County, Florida.

**LOCATION:** Parcel ID's: 29-37-28-KQ-2051-19 & 29-37-28-KQ-2051-20

**APPLICANT:** Phillip L. Silver & Kristi J. Silver

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### STAFF ANALYSIS:

The purpose of requesting the vacation of the drainage right-of-way is to be able to put a fence over the drainage right-of-way that separates Lots 19 & 20, Block 2051, which the applicant owns. The current city code allows for the fencing of easements, but not for the fencing over right-of-ways. The applicant owns Lots 8, 19, & 20, with the drainage right-of-way separating

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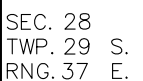
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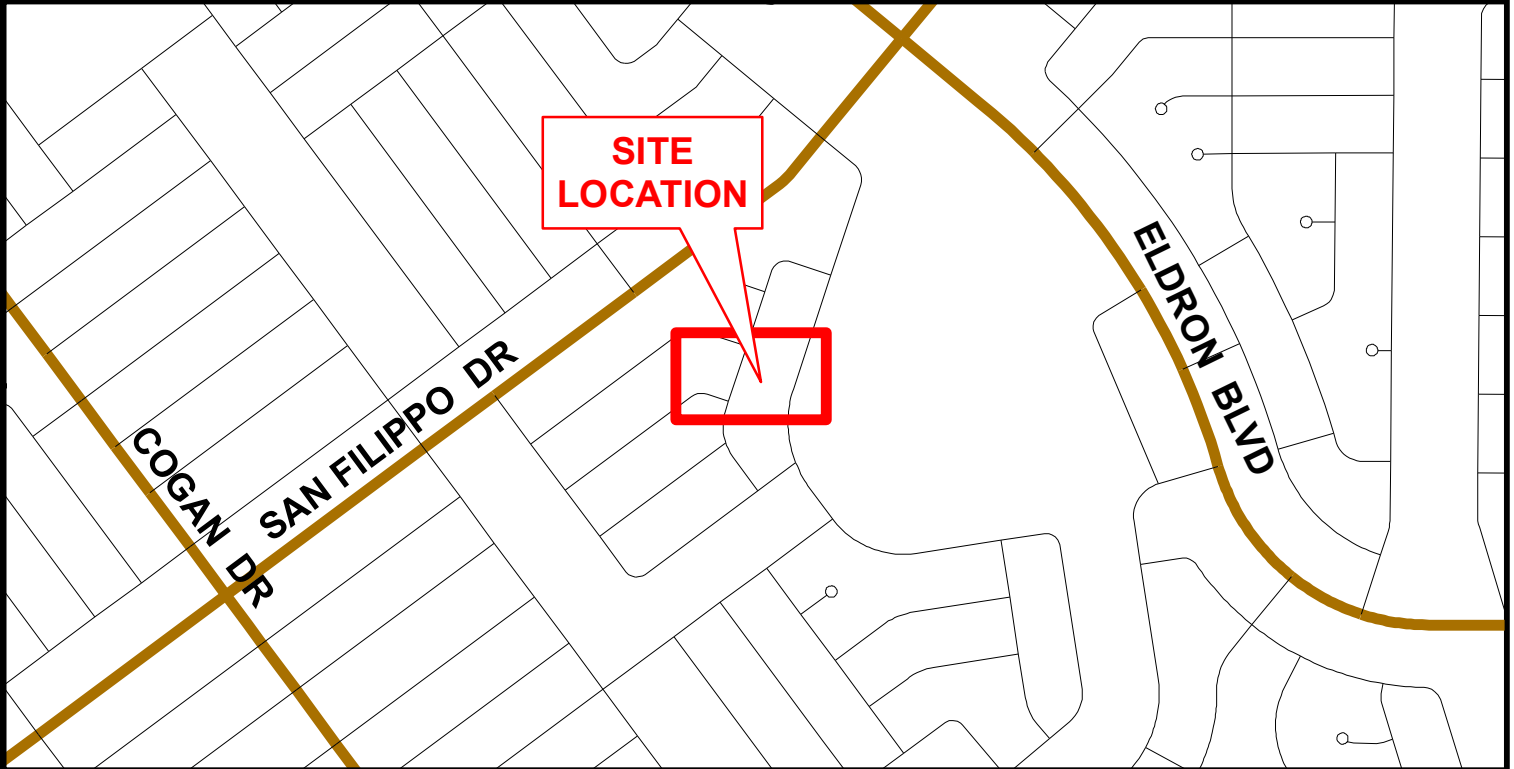
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THIS IS NOT A SURVEY OF THE SUBJECT PROPERTY





# LOCATION MAP

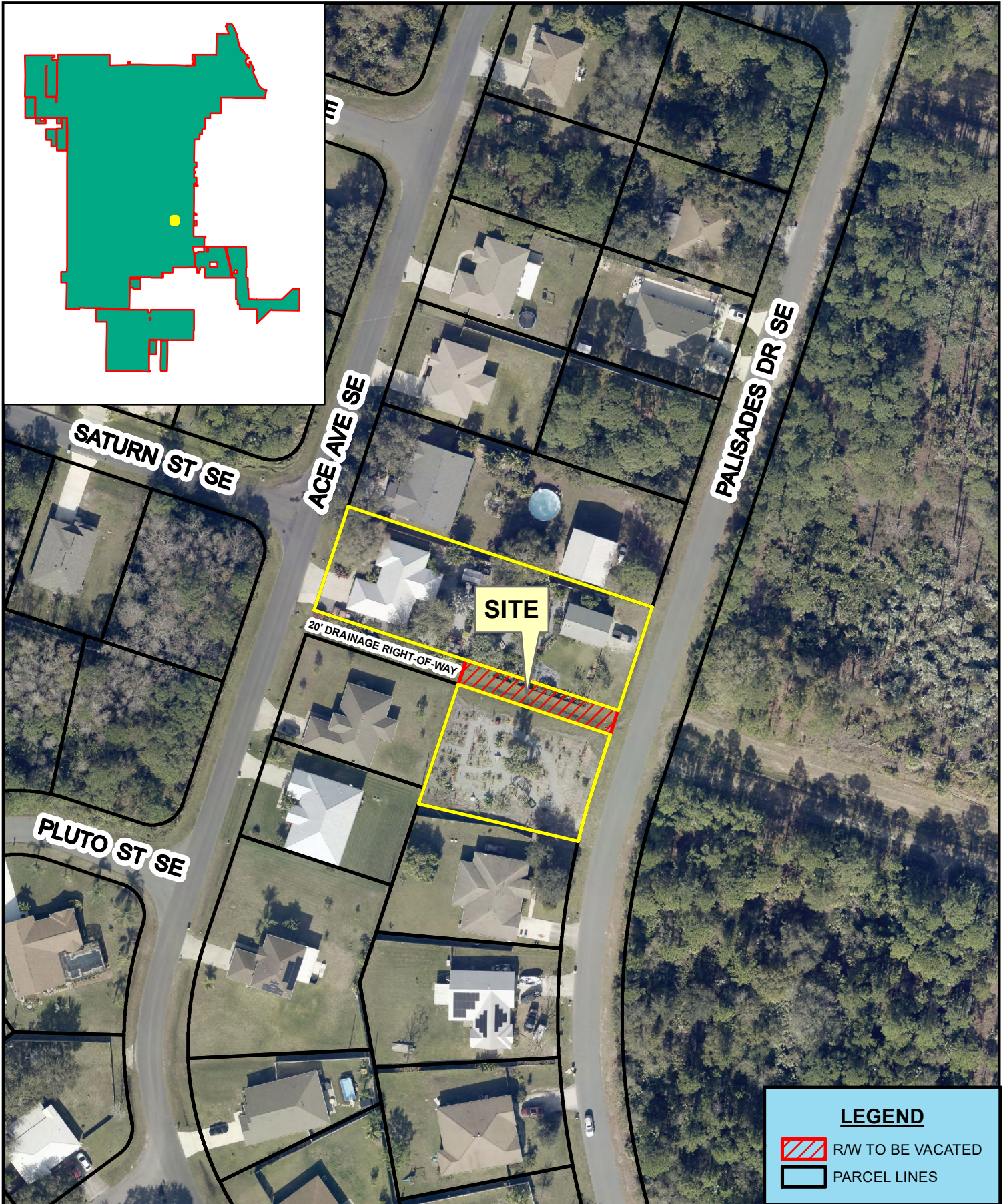


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Map created by the City of Palm Bay  
Public Works Department (RSD), on April 17, 2025.

## VRW-1-2025

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1 inch = 100 feet





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# LOCATION MAP VRW-1-2025

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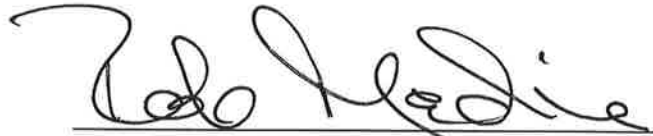
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**SECTION 2.** The provisions within this resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting 2024-17, of the City Council of the City of Palm Bay, Brevard County, Florida, held on August 1, 2024.

  
Rob Medina, MAYOR

ATTEST:

  
Terese M. Jones, CITY CLERK

Reviewed by CAO: PDS

Applicant: Philip L. Silver  
Case: LA-1-2024

cc: Brevard County Recording  
Applicant  
Case File

**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

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 Govt Public Notices, was published on the publicly accessible website of Brevard County, Florida, or in a newspaper by print in the issues of, on:

04/01/2025

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

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 04/01/2025

Legal Clerk

  
Notary, State of WI, County of Brown

5.15.27

My commission expires

Publication Cost:	\$80.66	
Tax Amount:	\$0.00	
Payment Cost:	\$80.66	
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Customer No:	1127256	1
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NANCY HEYRMAN  
Notary Public  
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Christeen Sullivan  
Palm Bay Interim  
Public Works Director

## **ORDINANCE 2025-21**

**AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE 20 FOOT WIDE DRAINAGE RIGHT-OF-WAY, LYING NORTH OF LOTS 7 AND 20, AND LYING SOUTH OF LOTS 8 AND 19, BLOCK 2051, PORT MALABAR UNIT 46, AS RECORDED IN PLAT BOOK 22, PAGES 58-74, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Phillip and Kristi Silver have requested the City of Palm Bay, Florida, to vacate a portion of the drainage right-of-way lying North of Lots 7 and 20, and lying South of Lots 8 and 19, Block 2051, Port Malabar Unit 46, which portions are legally described herein, and

**WHEREAS**, the City Council finds as follows: (1) the vacation of said drainage right-of-way is consistent with the Infrastructure Element of the City's Comprehensive Plan; (2) the city reserves a 20 foot wide Public Utilities and Drainage Easement over the vacated portion of the drainage right-of-way; (3) the vacation does not jeopardize the current or future location of any utility; and (4) the vacation is not detrimental to the public interest.

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

**SECTION 1.** Pursuant to Section 172.071, Palm Bay Code of Ordinance, the City of Palm Bay hereby vacates a portion of the drainage right-of-way, while at the same time reserving a Public Utilities and Drainage Easement, lying North of Lots 7 and 20, and lying South of Lots 8 and 19, Block 2051, Port Malabar Unit 46, as recorded in Plat Book 22, Pages 58-74, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Beginning at the Westerly corner of Lot 19, Block 2051, proceed thence S 71°50'00" E for a distance of 125.00 feet; Thence S 18°10'00" W, for a distance of 20.00 feet, Thence N 71°50'00" W, for a distance of 125.00 feet; Thence N 18°10'00" E, for a distance of 20.00 feet to the Point of Beginning, being a portion of the 20' wide drainage right-of-way as shown on the Plat of Port Malabar Unit Forty Six, according to the plat thereof, recorded in Plat Book 22, pages 58 through 74, inclusive, of the public records of Brevard County Florida. Containing 2,500 square feet or 0.057 acres, more or less.

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: Phillip and Kristi Silver

Case: VRW-1-2025

cc: Brevard County Recording  
Applicant  
Case File

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ATTEST:

\_\_\_\_\_  
Terese M. Jones, CITY CLERK

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

Applicant: Phillip and Kristi Silver

Case: VRW-1-2025

cc: Brevard County Recording  
Applicant  
Case File