

14. Ordinance 2024-53, vacating a portion of the side and rear public utility and drainage easements located within Lot 4, Block 2408, Port Malabar Unit 45 (Case VE-9-2024, Eric and Cynthia Marrero), first reading.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Valentino Perez, Public Works Director

DATE: September 19, 2024

RE: Ordinance 2024-53, vacating a portion of the side and rear public utility and drainage easements located within Lot 4, Block 2408, Port Malabar Unit 45 (Case VE-9-2024, Eric and Cynthia Marrero), first reading.

SUMMARY:

Vacation of Easement is requested to vacate the Westerly 8 feet of the Easterly 20-foot Public Utilities & Drainage Easement, and the Northerly 8 feet of the Southerly 20-foot Public Utility & Drainage Easement, less the Westerly 6-foot Public Utility & Drainage Easements, thereof containing 1,816 square feet or 0.04 acres, more or less, of Lot 4, Block 2408, Port Malabar Unit 45, according to the Plat thereof, as Recorded in Plat Book 22, Pages 3-23, of the Public Records of Brevard County, Florida. For the construction of a metal garage in the side yard and to protect existing mature pool privacy landscaping in the backyard.

REQUESTING DEPARTMENTS:

Public Works

FISCAL IMPACT:

None.

STAFF RECOMMENDATION:

Staff recommends approval of the vacating of easement.

ATTACHMENTS:

1. Staff Report Package with legal ad
2. Proposed Ordinance



DATE: September 19, 2024
CASE #: VE-9-2024

PUBLIC WORKS DEPARTMENT STAFF REPORT

REQUEST TO VACATE EASEMENT

PROPOSAL: Vacation of Easement is requested to vacate the Westerly 8 feet of the Easterly 20-foot Public Utilities & Drainage Easement, and the Northerly 8 feet of the Southerly 20-foot Public Utility & Drainage Easement, less the Westerly 6-foot Public Utility & Drainage Easements, thereof containing 1,816 square feet or 0.04 acres, more or less, of Lot 4, Block 2408, Port Malabar Unit 45, according to the Plat thereof, as Recorded in Plat Book 22, Pages 3-23, of the Public Records of Brevard County, Florida. For the construction of a metal garage in the side yard and to protect existing mature pool privacy landscaping in the backyard.

LOCATION: 290 Naylor Street SE
(Lot 4, Block 2408, Port Malabar Unit 45)

APPLICANT: Eric Anthony Marrero and Cynthia Ann Marrero

SITE DATA

PRESENT ZONING: RE – Estate Residential

AREA OF VACATING: 1,816 square feet, more or less

ADJACENT ZONING & LAND USE:
N RE – Estate Residential
E RE – Estate Residential
S RE – Estate Residential
W RE – Estate Residential

STAFF ANALYSIS:

Vacation of Public Utility and Drainage Easement of a portion of Lot 4, Block 2408, Port Malabar Unit 45, according to the Plat thereof, as Recorded in Plat Book 22, Pages 3-23, of the Public Records of Brevard County, Florida, and being more particularly described as follows: Commence at the North corner of said Lot 4 and run South 47°23'26" West along the Southerly right-of-way line of Naylor Street, a distance of 12.00 feet to the point of beginning of the herein described easement; thence South 42°36'34" East, a distance of 113.00 feet; thence South 47°23'26" West, a distance of 122.00 feet; thence North 42°36'34" West, a distance of 8.00 feet; thence North 47°23'26" East, a distance of 114.00 feet; thence North 42°36'34" West, a distance of 105.00 feet to the Southerly right-of-way line of Naylor Street; thence North 47°23'26" East along said right-of-way line, a distance of 8.00 feet to the point of beginning. Containing 1,816 square feet or 0.04 acres, more or less. For the construction of a metal garage in the side yard and to protect mature pool privacy landscaping in the backyard.

Florida Power and Light, AT&T, Spectrum, Florida City Gas, 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 5 feet, along city owned canals, and the next 3 feet (8' vacation, preserving 12' easement) on a case-by-case basis, if there are no obvious issues of conflict.

Staff has no adverse comments regarding removal of the Westerly 8 feet of the Easterly 20-foot Public Utilities & Drainage Easement, and the Northerly 8 feet of the Southerly 20-foot Public Utility & Drainage Easement, less the Westerly 6-foot Public Utility & Drainage Easements, thereof containing 1,816 square feet or 0.04 acres, more or less, of Lot 4, Block 2408, Port Malabar Unit 45, according to the Plat thereof, as Recorded in Plat Book 22, Pages 3-23, of the Public Records of Brevard County, Florida. For the construction of a metal garage in the side yard and to protect existing mature pool privacy landscaping in the backyard.

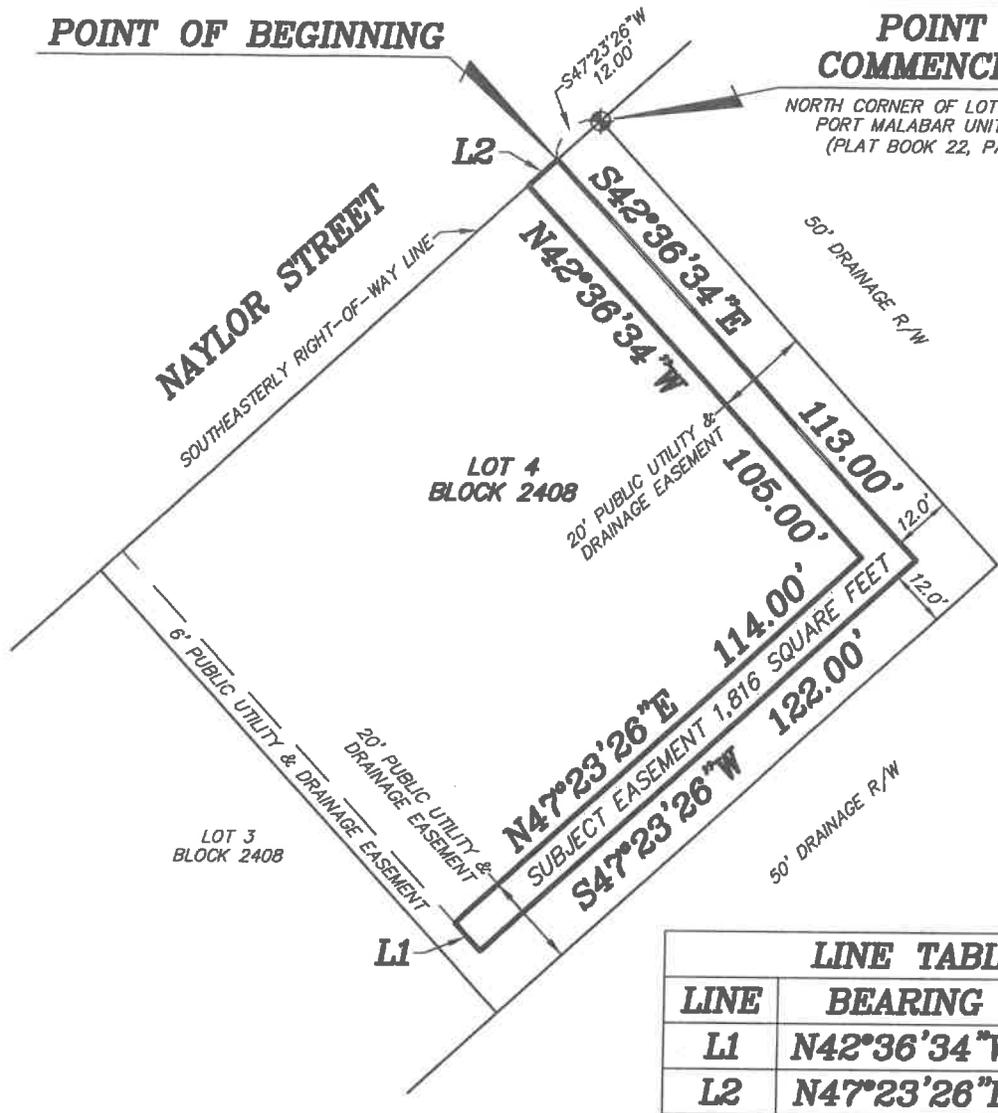
STAFF RECOMMENDATION:

Staff recommends approval of the vacating of easement.

POINT OF BEGINNING

POINT OF COMMENCEMENT

NORTH CORNER OF LOT 4, BLOCK 2408,
PORT MALABAR UNIT FORTY FIVE
(PLAT BOOK 22, PAGES 3-23)



DESCRIPTION: A PORTION OF A 20 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING WITHIN LOT 4, BLOCK 2408, PORT MALABAR UNIT FORTY FIVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGES 3-23, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH CORNER OF SAID LOT 4 AND RUN SOUTH 47°23'26" WEST ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF NAYLOR STREET, A DISTANCE OF 12.00 FEET TO THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED EASEMENT; THENCE SOUTH 42°36'34" EAST, A DISTANCE OF 113.00 FEET; THENCE SOUTH 47°23'26" WEST, A DISTANCE OF 122.00 FEET; THENCE NORTH 42°36'34" WEST, A DISTANCE OF 8.00 FEET; THENCE NORTH 47°23'26" EAST, A DISTANCE OF 114.00 FEET; THENCE NORTH 42°36'34" WEST, A DISTANCE OF 105.00 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF NAYLOR STREET; THENCE NORTH 47°23'26" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 8.00 FEET TO THE **POINT OF BEGINNING**. CONTAINING 1,816 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION

1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.

SHEET 1 OF 1

JOB # 49959

ANDREW W. POWSHOK
P.L.S. No. 5383

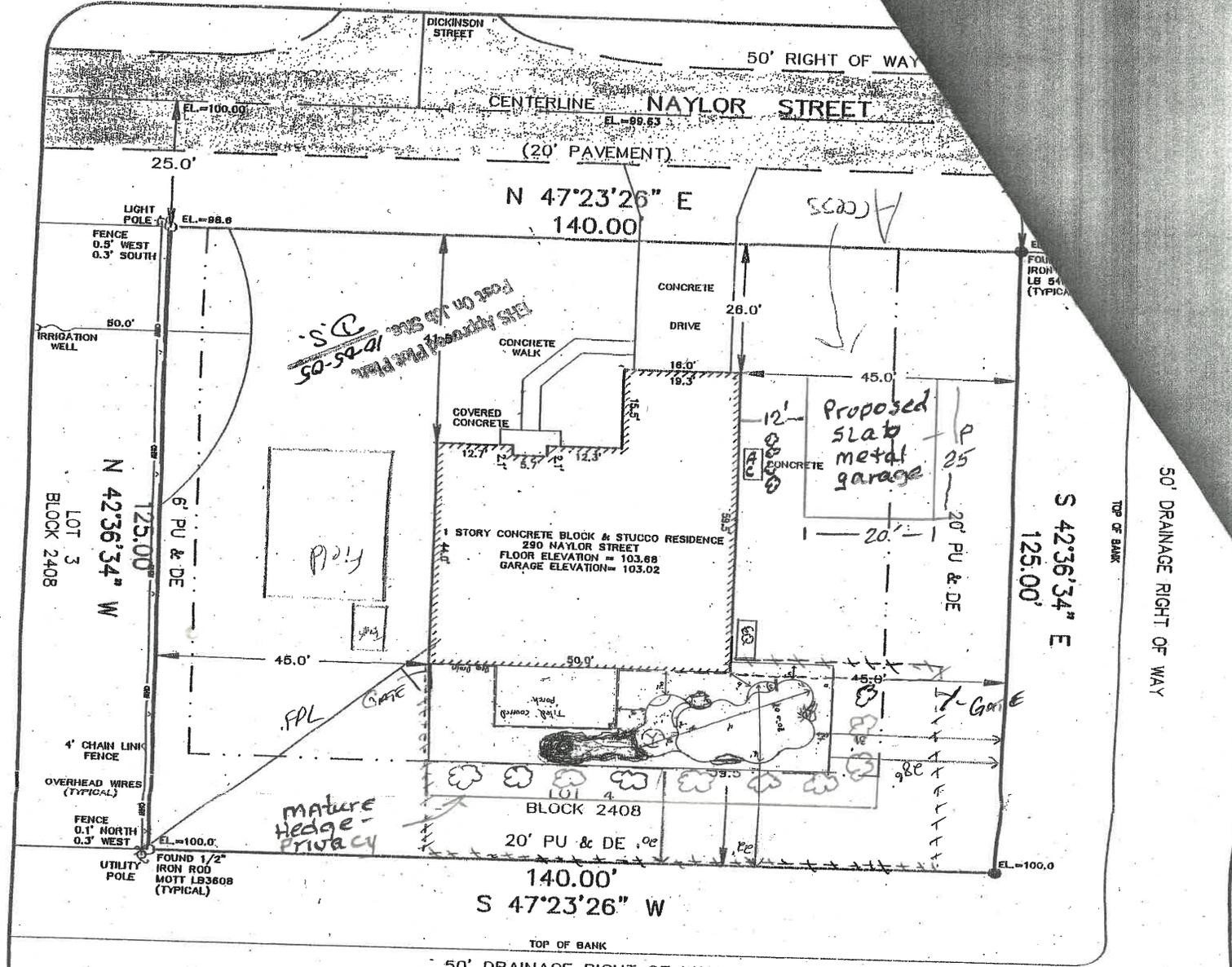
3970 MINTON ROAD
WEST MELBOURNE, FL. 32904
(321) 768-8110

DATE: 08-05-24
SECTION 30, TOWNSHIP 28S, RANGE 37E

L.B. #6623

SCALE: 1" = 40'





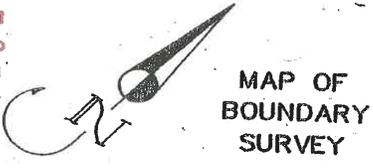
ALSO CERTIFIED TO:
 ERIC & CYNTHIA MARRERO
 CORNERSTONE HOME MORTGAGE CORPORATION
 BDR TITLE CORPORATION
 FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NY

Pool
 APPROVED FOR
 ZONING 11/7/98
J. Chandler

05-15851

DESCRIPTION
 LOT 4, BLOCK 2408, PORT MALABAR UNIT FORTY FIVE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 22, PAGES 13 THRU 23 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

- NOTES:**
- 1.) BEARINGS BASED ON THE ASSUMPTION THAT THE CENTERLINE OF NAYLOR STREET BEARS N 47°23'26" E PER PLAT OF PORT MALABAR UNIT FORTY FIVE.
 - 2.) ELEVATIONS "EL.=100.00" BASED ON ASSUMED DATUM.
 - 3.) LOT DIMENSIONS ARE AS PLATTED(P) AND SURVEYED(S) UNLESS OTHERWISE NOTED.
 - 4.) PROPERTY LIES WITHIN SECTION 30, TOWNSHIP 28 SOUTH, RANGE 37 EAST.
 - 5.) PU & DE DENOTES PUBLIC UTILITIES AND DRAINAGE FACILITIES EASEMENT



WJS WILLIAM J. SUITER
 LAND SURVEYING, INC.

REVISIONS
PLOT PLAN 8-20-98
FOUNDATION 10-22-98
FINAL SURVEY 12-11-98

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

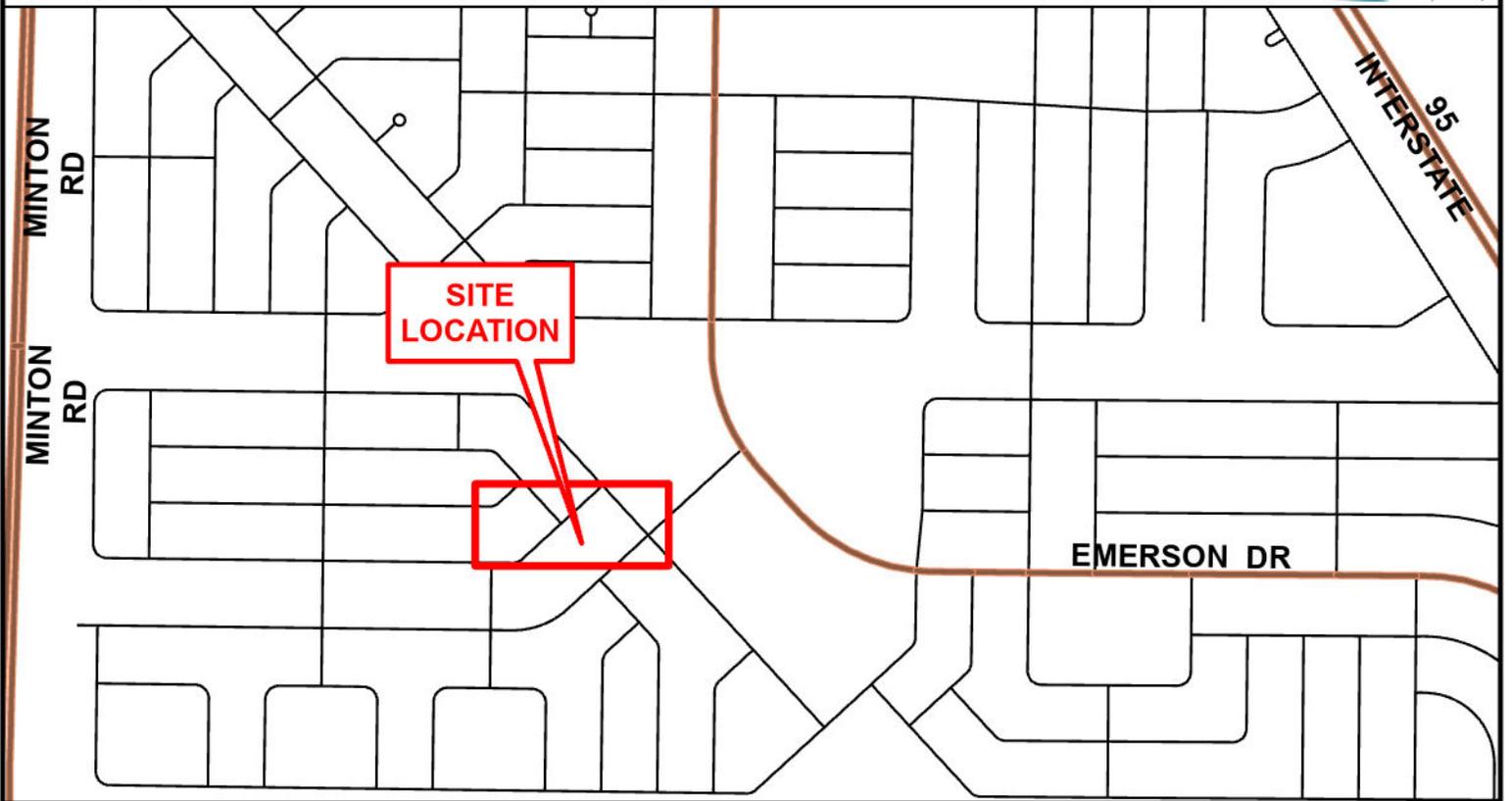
THIS DRAWING NOT VALID WITHOUT AN EMBOSSED SEAL

PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE
 WILLIAM J. SUITER FLORIDA CERTIFICATE NO. 4210
 CERTIFICATE OF AUTHORIZATION #LB 5419
 COPYRIGHT © 1998 WILLIAM J. SUITER LAND SURVEYING, INC. ALL RIGHTS RESERVED

1712 CANOVA STREET SE. (407) 728-0593
 PALM BAY, FLORIDA 32909 FAX (407) 729-6773

FLOOD ZONE X FLOOD INSURANCE RATE MAP NUMBER 12009C0520E

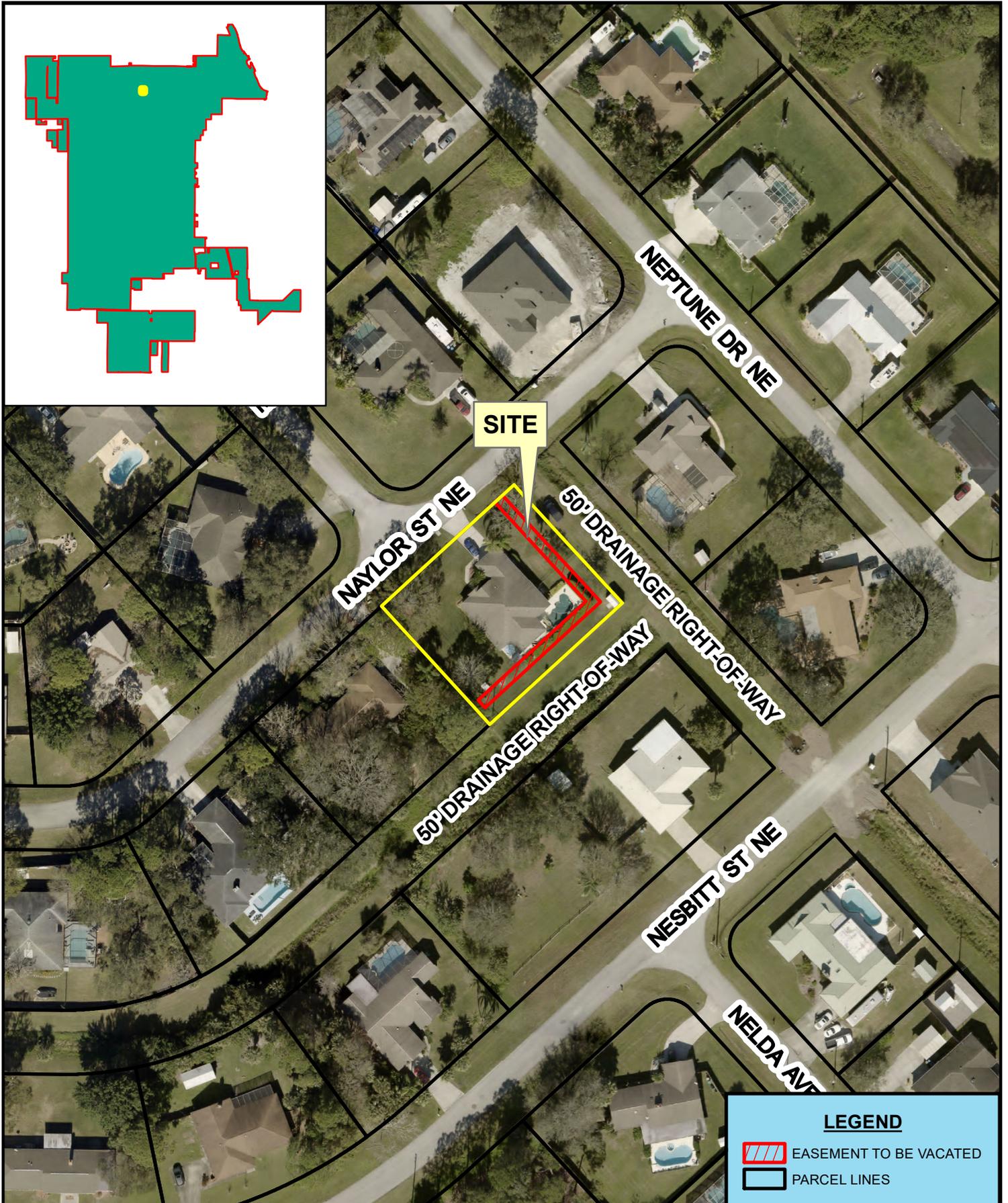
LOCATION MAP



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 August 23, 2024.

VE-9-2024

0 25 50 100 Feet
1 Inch = 100 Feet



SITE

NAYLOR ST NE

NEPTUNE DR NE

50' DRAINAGE RIGHT-OF-WAY

50' DRAINAGE RIGHT-OF-WAY

NESBITT ST NE

NELDA AVE

LEGEND

-  EASEMENT TO BE VACATED
-  PARCEL LINES

LOCATION MAP
VE-9-2024



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 August 23, 2024.

0 25 50 100
Feet
1 inch = 100 feet



Florida

PO Box 631244 Cincinnati, OH 45263-1244

GANNETT

AFFIDAVIT OF PUBLICATION

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

STATE OF WISCONSIN, COUNTY OF BROWN

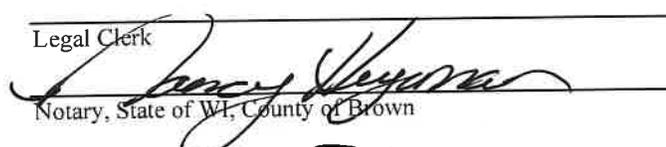
Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Advertising Representative of the Florida Today, a daily newspaper published in Brevard County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of Public Notices, was published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

08/28/2024

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 08/28/2024



Legal Clerk

Notary, State of WI, County of Brown
5.15.27

My commission expires

Publication Cost: \$101.36
Tax Amount: \$0.00
Payment Cost: \$101.36
Order No: 10507575 # of Copies: 1
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**NANCY HEYRMAN
Notary Public
State of Wisconsin**

AD#10507575 8/28/2024

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 September 19, 2024, 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 -9-2024

Vacation of Easement is requested to vacate the Westerly 8 feet of the Easterly 20-foot Public Utilities & Drainage Easement, and the Northerly 8 feet of the Southernly 20-foot Public Utilities & Drainage Easement, less the Westerly 6 foot Public Utilities & Drainage Easement, containing 1,816 square feet or 0.04 acres, more or less, of Lot 4, Block 2408, Port Malabar Unit 45, according to the Plat thereof, as Recorded in Plat Book 22, Pages 3 - 23, of the Public Records of Brevard County, Florida. For construction of a metal garage in the side yard and to protect existing mature pool privacy landscaping 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.

Valentino Perez
Palm Bay Public Works Director

RECEIVED

SEP 04 2024

CITY OF PALM BAY
PUBLIC WORKS

ORDINANCE 2024-53

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE REAR AND SIDE TWENTY (20) FOOT PUBLIC UTILITY AND DRAINAGE EASEMENTS, LOCATED WITHIN LOT 4, BLOCK 2408, PORT MALABAR UNIT 45, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 22, PAGE 12, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Eric Anthony and Cynthia Ann Marrero 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 179.047, Palm Bay Code of Ordinances, hereby vacates and abandons a portion of the rear and side public utility and drainage easements located within Lot 4, Block 2408, Port Malabar Unit 45, according to the plat thereof as recorded in Plat Book 22, Page 12, of the Public Records of Brevard County, Florida, Section 30, Township 28S, Range 37E, being more particularly described as follows:

Commencing at the North corner of said Lot 4 and run S 47°23'26" W along the Southerly right-of-way line of Naylor Street, a distance of 12.00 feet to the point of

beginning of the herein described easement; thence S 42°36'34" E, a distance of 113.00 feet; thence S 47°23'26" W, a distance of 122.00 feet; thence N 42°36'34" W, a distance of 8.00 feet; thence N 47°23'26" E, a distance of 114.00 feet; thence N 42°36'34" W, a distance of 105.00 feet to the Southerly right-of-way line of Naylor Street; thence N 47°23'26" E along said right-of-way line, a distance of 8.00 feet to the point of beginning; containing 1,816 square feet or 0.04 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 2024- , held on , 2024; and read in title only and duly enacted at Meeting 2024- , held on , 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: Eric and Cynthia Marrero
Case: VE-9-2024

cc: Applicant
Case File
Brevard County Recording