

5. Ordinance 2024-57, vacating a portion of the rear public utility and drainage easement located within Lot 8, Block 2026, Port Malabar Unit 46 (Case VE-11-2024, David and Traci McAbee), final reading.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Valentino Perez, Public Works Director

DATE: November 7, 2024

RE: Ordinance 2024-57, vacating a portion of the rear public utility and drainage easement located within Lot 8, Block 2026, Port Malabar Unit 46 (Case VE-11-2024, David and Traci McAbee), first 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 South 8 feet of the North 20-foot Public Utilities & Drainage Easement, less the East and West 6-foot Public Utility & Drainage Easements, thereof containing 544 square feet or 0.012 acres, more or less, of Lot 8, Block 2026, Port Malabar Unit 46, according to the Plat thereof, as Recorded in Plat Book 22, Pages 58 - 74, of the Public Records of Brevard County, Florida. For the construction of a swimming pool 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
2. Vacate of Easement Ordinance

PUBLIC WORKS DEPARTMENT STAFF REPORT

REQUEST TO VACATE EASEMENT

PROPOSAL: Vacation of Easement is requested to vacate the South 8 feet of the North 20-foot Public Utilities & Drainage Easement, less the East and West 6-foot Public Utility & Drainage Easements, thereof containing 544 square feet or 0.012 acres, more or less, of Lot 8, Block 2026, Port Malabar Unit 46, according to the Plat thereof, as Recorded in Plat Book 22, Pages 58 - 74, of the Public Records of Brevard County, Florida. For the construction of a swimming pool in the backyard.

LOCATION: 1475 Martinez Street SE
(Lot 8, Block 2026, Port Malabar Unit 46)

APPLICANT: David Christian McAbee and Traci Jean McAbee

SITE DATA

PRESENT ZONING: RS-2 – Single Family Residential

AREA OF VACATING: 544 square feet, more or less

ADJACENT ZONING	N	RS-2 – Single Family Residential
& LAND USE:	E	RS-2 – Single Family Residential
	S	RS-2 – Single Family Residential
	W	RS-2 – Single Family Residential

STAFF ANALYSIS:

Vacation of Public Utility and Drainage Easement of a portion of Lot 8, Block 2026, Port Malabar Unit 46, according to the Plat thereof, as Recorded in Plat Book 22, Pages 58 - 74, of the Public Records of Brevard County, Florida, and being more particularly described as follows: Commencing at the Northeast corner of said Lot 8, thence run South 00°05'13" East, along the East line of said Lot 8, a distance of 20.00 feet; thence departing said East line, South 89°54'47" West, a distance of 6.00 feet to the point of beginning. Thence, South 89°54'47" West, a distance of 68.00 feet; thence, North 00°05'13" West, a distance of 8.00 feet; thence North 89°54'47" East, a distance of 68.00 feet; thence South 00°05'13" East, a distance of 8.00 feet to the place and point of beginning. Containing 544 square feet or 0.012 acres, more or less. For the construction of a swimming pool in the backyard.

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

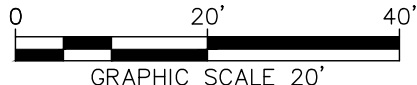
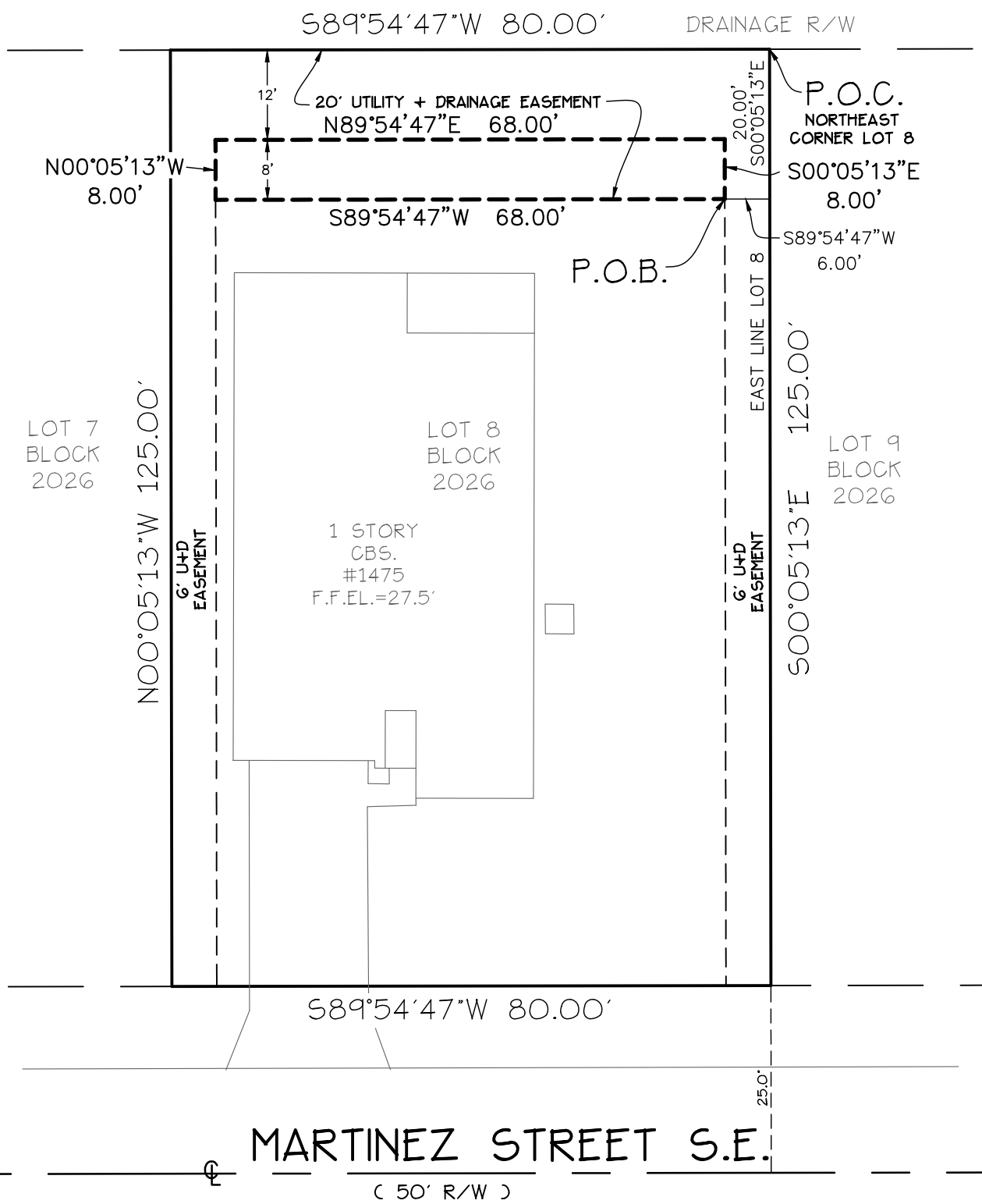
The City of Palm Bay's Departments have the following comments relating to the vacating request. It should be noted that city policy allows for the approval of a vacation request for the first 5 feet, along city owned canals, and the next 3 feet (8' vacation, preserving 12' easement) on a case-by-case basis, if there are no obvious issues of conflict.

Staff has no adverse comments regarding removal of the South 8 feet of the North 20-foot Public Utilities & Drainage Easement, less the East and West 6-foot Public Utility & Drainage Easements thereof, containing 544 square feet or 0.012 acres, more or less, of Lot 8, Block 2026, Port Malabar Unit 46, according to the Plat thereof, as Recorded in Plat Book 22, Pages 58 - 74, 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.

X:\SCANS\KMA-CAB-2022\2315 1475 MARTINEZ ST SE--ASPIRE AT PALM BAY\PLANS\22-2315 EASEMENT----->LAYOUT: LAYOUT1



GRAPHIC SCALE 20'

REVISIONS: 1. REVISED PER COMMENTS - PCS - 9/11/24
2. REVISED PER COMMENTS - PCS - 9/16/24

PARTIAL EASEMENT VACATION

PROJECT No.: 22-2315
DRAWN BY: PCS
CHECKED BY: WEH
DATE: 7/11/24
SCALE: 1"=20'

THIS SURVEY MAP AND REPORT OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR ELECTRONIC SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

WILLIAM E. HAYHURST
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA REGISTRATION NO 4416

DATE



ENGINEERING & SURVEYING, LLC.
2345 14TH AVE, SUITE #3
VERO BEACH, FL 32960
PHONE: (772) 569-5505
L.B. NO. 8351

LEGAL DESCRIPTION:

A PORTION OF LOT 8, BLOCK 2026, PORT MALABAR UNIT 46, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 22, PAGE 58 OF THE PUBLIC RECORDS OF BREVARD CO., FLORIDA. SAID LANDS LYING IN BREVARD CO., FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 8, THENCE, SOUTH 00°05'13" EAST, ALONG THE EAST LINE OF SAID LOT 8, A DISTANCE OF 20.00 FEET; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°54'47" WEST, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING. THENCE, SOUTH 89°54'47" WEST, A DISTANCE OF 68.00 FEET; THENCE, NORTH 00°05'13" WEST, A DISTANCE OF 8.00 FEET; THENCE, NORTH 89°54'47" EAST, A DISTANCE OF 68.00 FEET; THENCE, SOUTH 00°05'13" EAST, A DISTANCE OF 8.00 FEET TO THE PLACE AND POINT OF BEGINNING.

SAID LANDS CONTAIN 544 SQUARE FEET, MORE OR LESS.

LEGAL & SKETCH NOTES

1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY AND/OR EASEMENTS OF RECORD.
2. THIS LEGAL DESCRIPTION AND SKETCH IS CERTIFIED ONLY TO THE BELOW NAMED INDIVIDUALS.
3. LEGAL DESCRIPTION BY SURVEYOR.
4. NO STRUCTURES OR UTILITIES THAT ARE BENEATH THE SURFACE HAVE BEEN LOCATED.
5. THIS IS A SKETCH OF LEGAL DESCRIPTION ONLY, NOT A BOUNDARY SURVEY.
6. THE SCALE OF THIS DRAWING MAY HAVE BEEN DISTORTED DURING REPRODUCTION PROCESSES.

LEGEND OF ABBREVIATIONS

AVE.	AVENUE	N&D	NAIL & DISK
B.B.	BEARING BASE	N.	NORTH
B.M.	BENCH MARK	No.	NUMBER
CAP	5/8" IRON ROD & CAP STAMPED "KMA ENG & SURVEY LB 8351"	N.IC.	NOT INCLUDED
		ORB	OFFICIAL RECORDS BOOK
CMD	CONCRETE MONUMENT & DISK (AS NOTED)	PG.	PAGE
Ⓢ	CENTERLINE	PB	PLAT BOOK
C.M.	CONCRETE MONUMENT	PID	PARCEL IDENTIFICATION NUMBER
(D)	DEED	P.O.B.	POINT OF BEGINNING
D.B.	DEED BOOK	P.O.C.	POINT OF COMMENCEMENT
E.	EAST	PRM	PERMANENT REFERENCE MONUMENT
ESMT.	EASEMENT	R/W	RIGHT OF WAY
FND.	FOUND	S.	SOUTH
IP	IRON PIPE	SEC.	SECTION
IRC	IRON ROD & CAP AS NOTED	SQ.FT.	SQUARE FEET
L.	LENGTH	ST.	STREET
(M)	MEASURED	SUB.	SUBDIVISION
M.H.	MANHOLE	TR.	TRACT
M.H.W.L.	MEAN HIGH WATER LINE	TWSP.	TOWNSHIP
MON.	MONUMENT	W.	WEST
		●	MONUMENTATION AS NOTED



ENGINEERING & SURVEYING, LLC.

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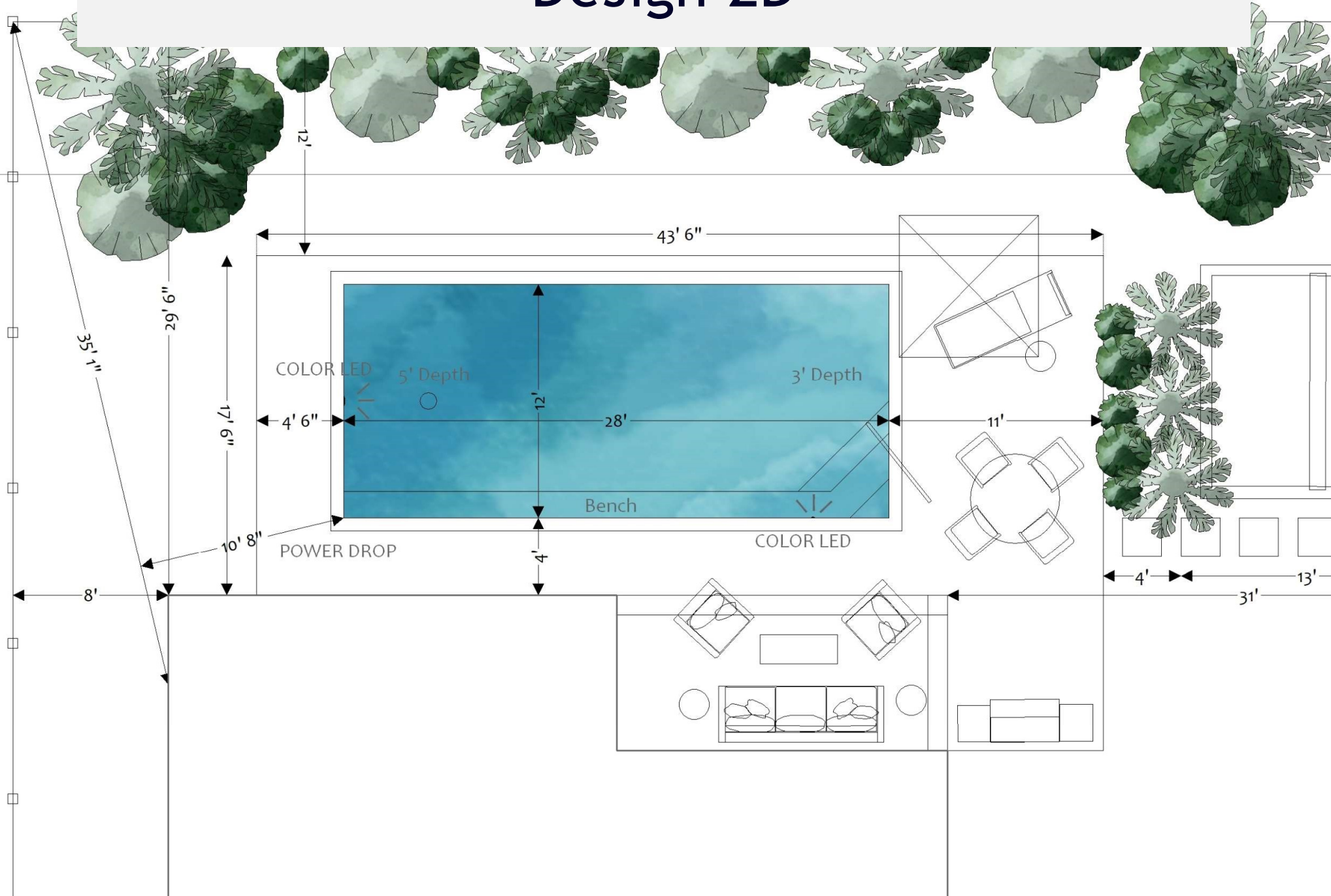
REVISIONS: 1. REVISED PER COMMENTS - PCS - 9/11/24
2. REVISED PER COMMENTS - PCS - 9/16/24

SHEET 2 OF 2

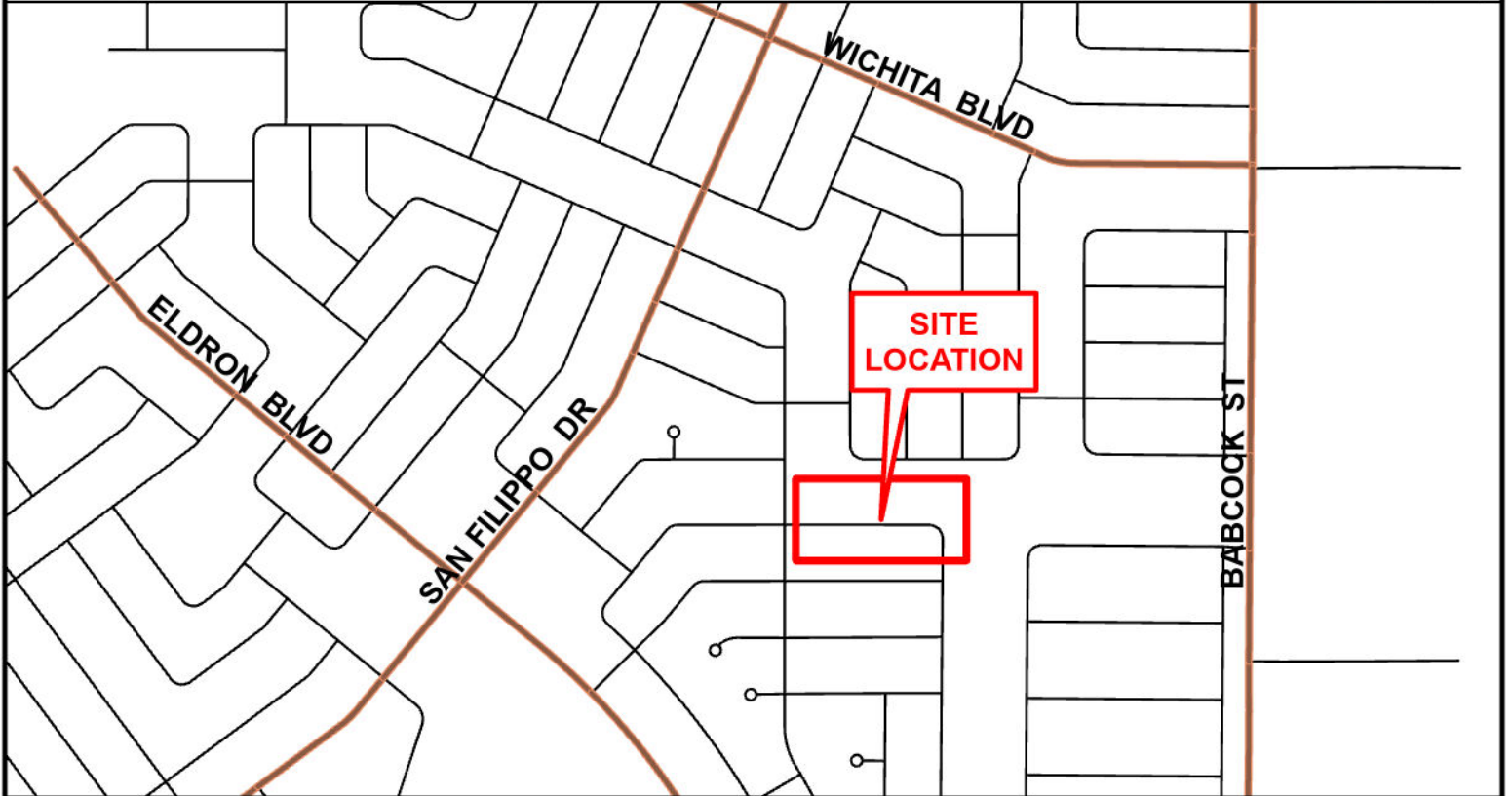
PARTIAL EASEMENT VACATION

PROJECT No.:	22-2315
DRAWN BY:	PCS
CHECKED BY:	WEH
DATE:	7/11/24
SCALE:	N/A

Design 2D



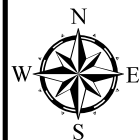
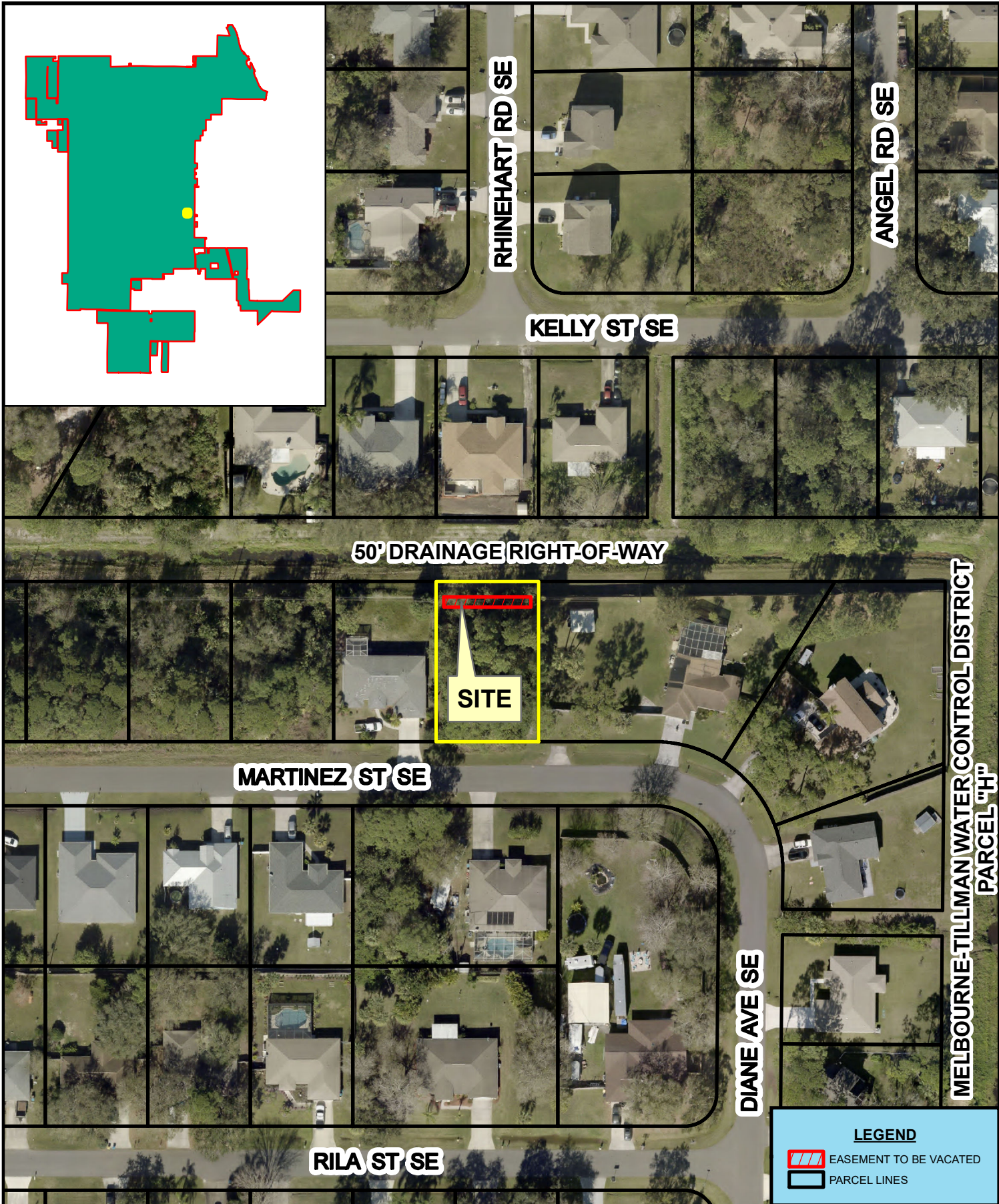
LOCATION MAP



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 September 20, 2024.

VE-11-2024

0 25 50 100 Feet
1 Inch = 100 Feet





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Not to be construed as binding or a survey.
Map created by the City of Palm Bay
Public Works Department (RSD), on September 20, 2024.

LOCATION MAP

VE-11-2024

LEGEND

 EASEMENT TO BE VACATED

 PARCEL LINES

0 25 50 100
Feet

1 inch = 100 feet



Florida

PO Box 631244 Cincinnati, OH 45263-1244

GANNETT

AFFIDAVIT OF PUBLICATION

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

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09/25/2024

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

My commission expires

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9/25/2024

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 October 17, 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 -11-2024

Vacation of Easement is requested to vacate the South 8 feet of the North 20-foot Public Utilities & Drainage Easement, less the East and West 6 foot Public Utilities & Drainage Easements, containing 544 square feet or 0.012 acres, more or less, of Lot 8, Block 2026, Port Malabar Unit 46, according to the Plat thereof, as Recorded in Plat Book 22, Pages 58 - 74, of the Public Records of Brevard County, Florida. For construction of a swimming pool 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

NICOLE JACOBS
Notary Public
State of Wisconsin

ORDINANCE 2024-57

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 8, BLOCK 2026, PORT MALABAR UNIT 46, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 22, PAGE 61, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, David Christian and Traci Jean McAbee 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, Code of Ordinances, City of Palm Bay, hereby vacates and abandons a portion of the rear public utility and drainage easement located within Lot 8, Block 2026, Port Malabar Unit 46, according to the plat thereof as recorded in Plat Book 22, Page 61, of the Public Records of Brevard County, Florida, Section 28, Township 29S, Range 37E, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 8, thence, South 00°05'13" East, along the East line of said Lot 8, a distance of 20.00 feet; Thence, departing said East line, South 89°54'47" West, a distance of 6.00 feet to the point of beginning.

Thence, South 89°54'47", a distance of 68.00 feet; Thence, North 00°05'13" West, a distance of 8.00 feet; Thence, North 89°54'47" East, a distance of 68.00 feet; Thence, South 00°05'13" East, a distance of 8.00 feet to the place and point of beginning; Containing 544 square feet or 0.012 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-XX, held on _____, 2024; and read in title only and duly enacted at Meeting 2024-XX, held on _____, 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: David and Traci McAbee
Case: VE-11-2024

cc: Brevard County Recording
Applicant
Case File