

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



DATE: October 17, 2024  
CASE #: VE-11-2024

# 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 & LAND USE:**  
N RS-2 – Single Family Residential  
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.

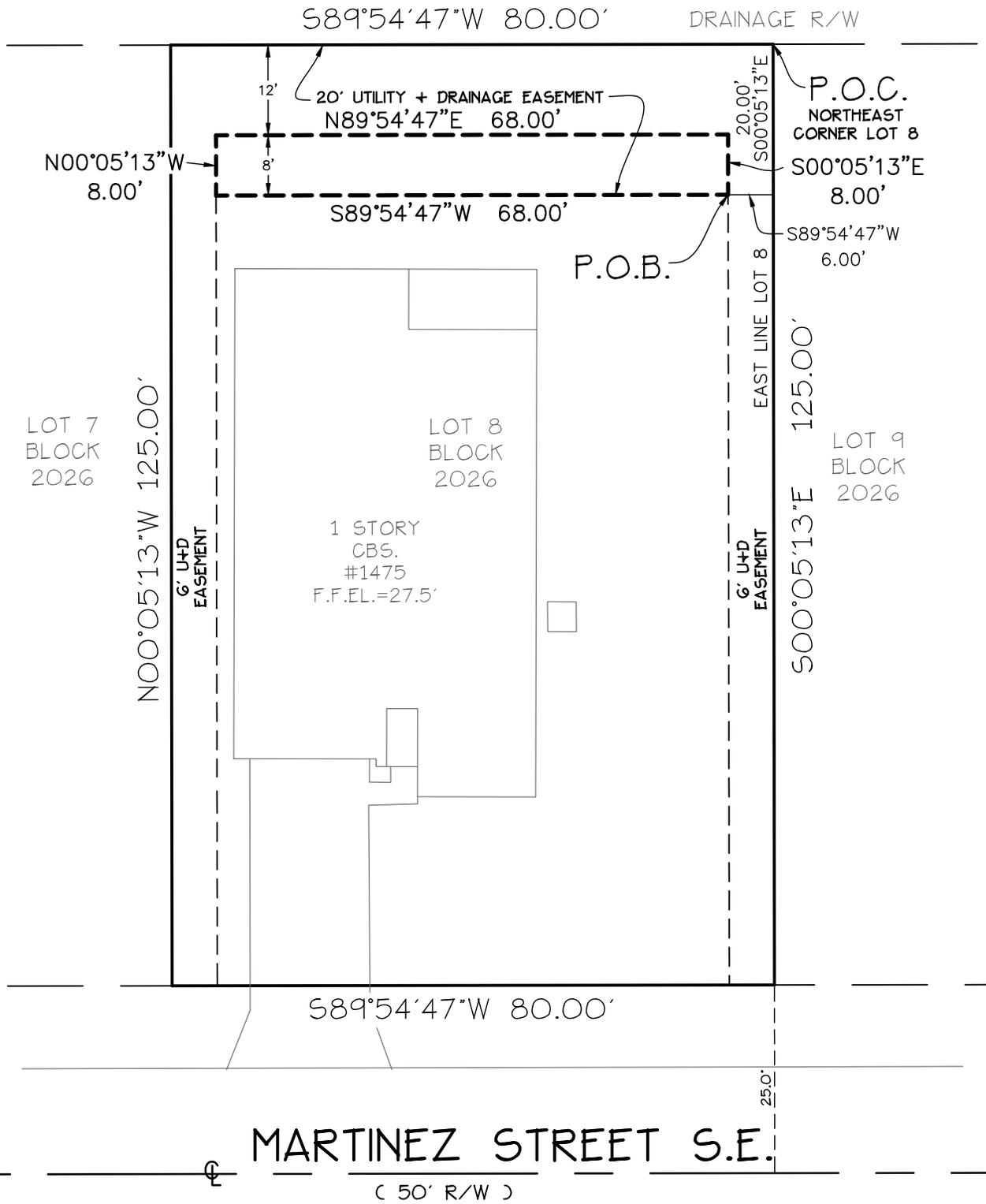
The City of Palm Bay's Departments have the following comments relating to the vacating request. It should be noted that city policy allows for the approval of a vacation request for the first 5 feet, along city owned canals, and the next 3 feet (8' vacation, preserving 12' easement) on a case-by-case 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



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

SHEET 1 OF 2



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

**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** DATE  
 PROFESSIONAL SURVEYOR & MAPPER  
 FLORIDA REGISTRATION NO 4416

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.I.C.	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



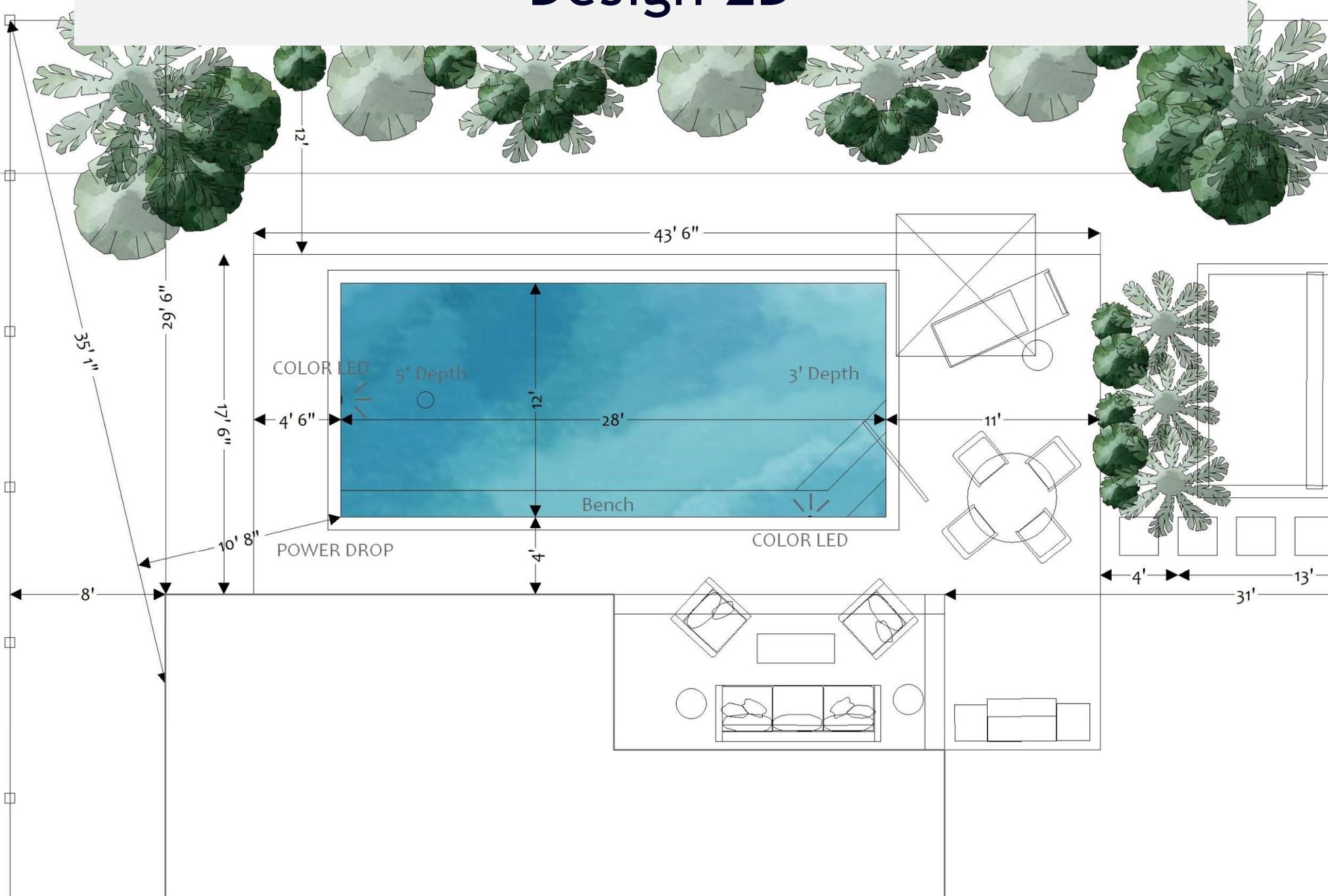
ENGINEERING & SURVEYING, LLC.  
2345 14TH AVE, SUITE #3  
VERO BEACH, FL 32960  
PHONE: (772) 569-5505  
L.B. NO. 8351

**PARTIAL EASEMENT VACATION**

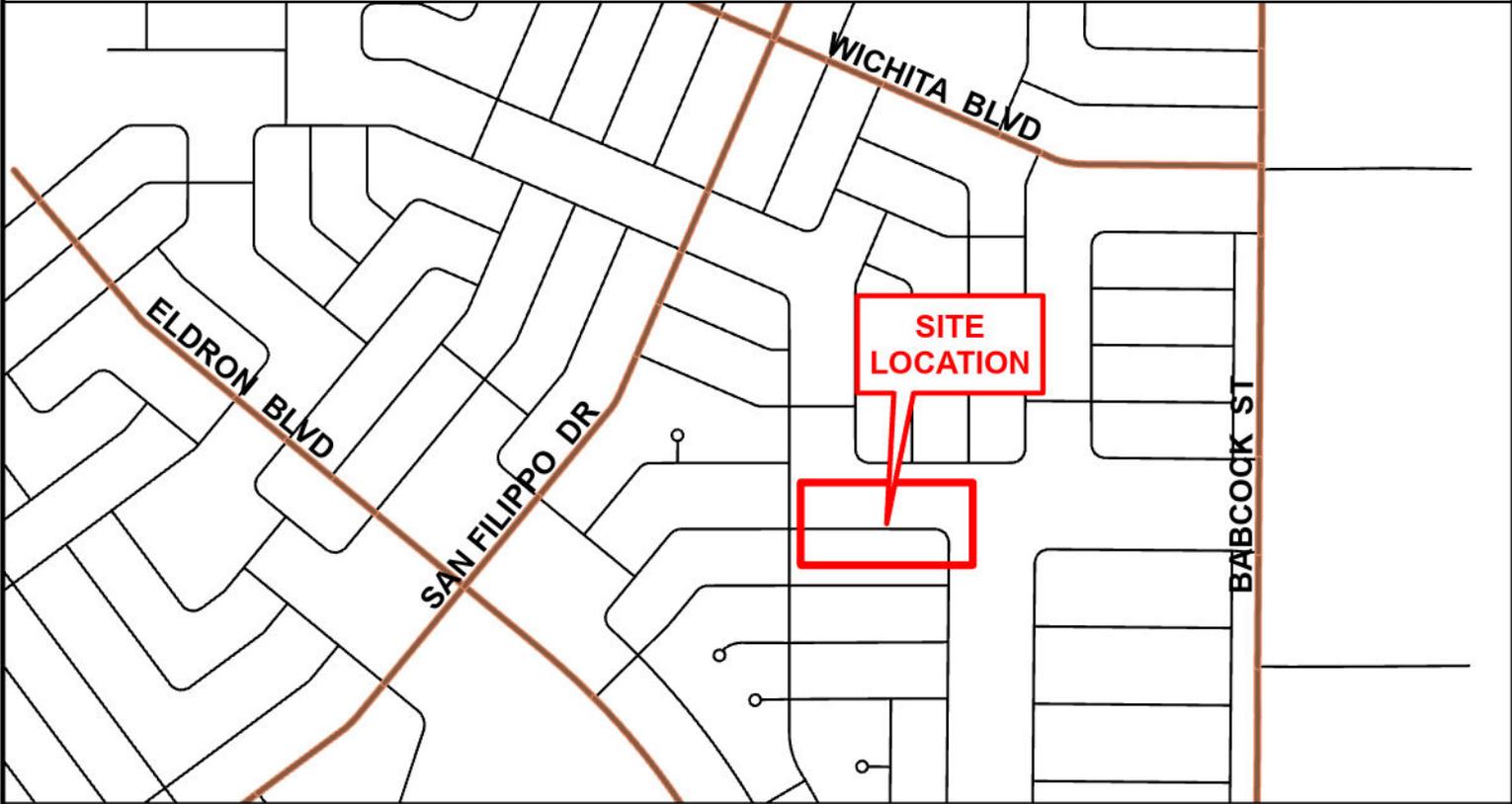
PROJECT No.:	22-2315
DRAWN BY:	PCS
CHECKED BY:	WEH
DATE:	7/11/24
SCALE:	N/A

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

# Design 2D

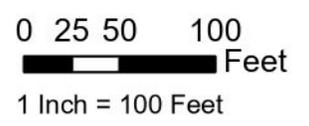


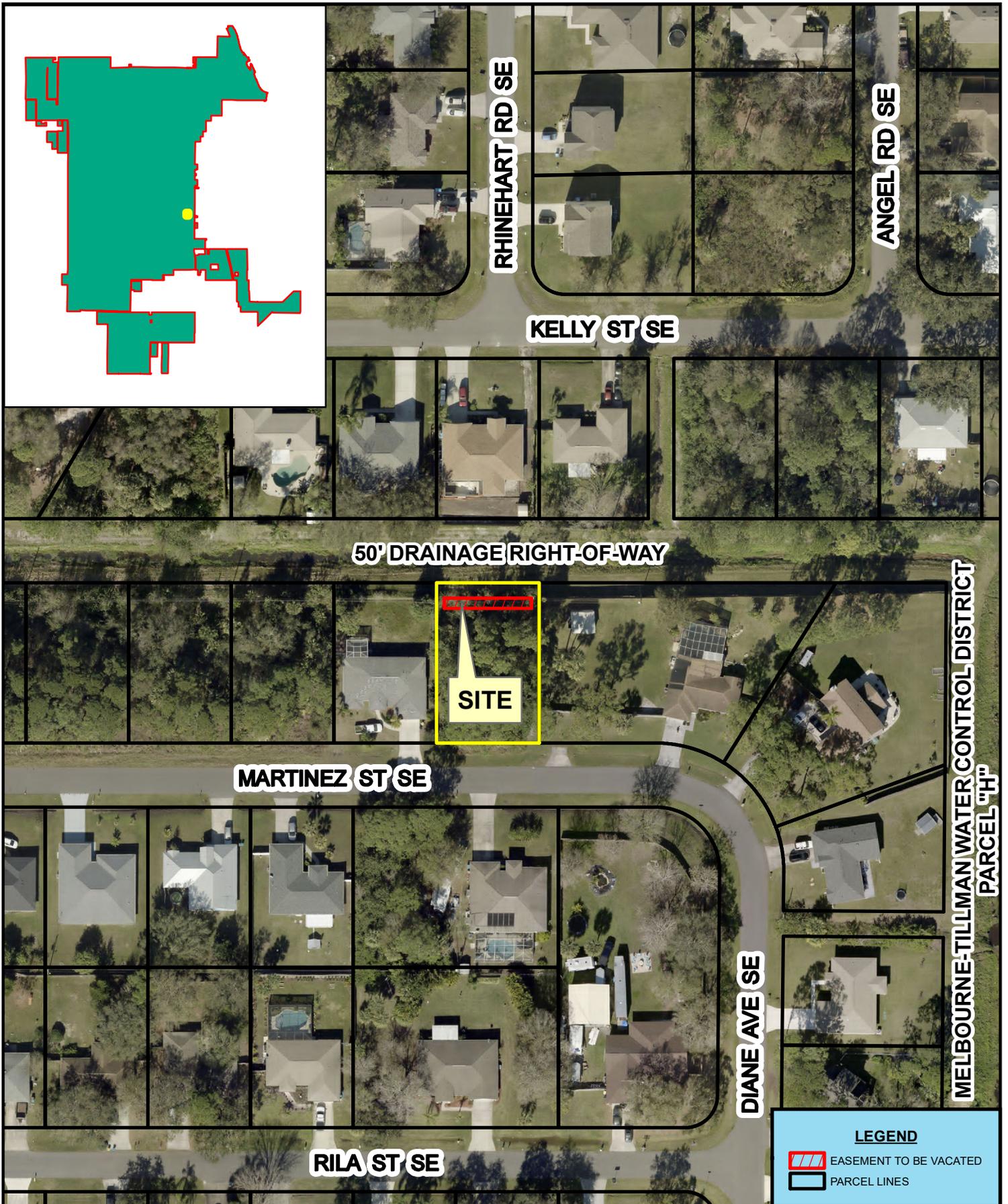
# LOCATION MAP



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





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.

# LOCATION MAP

## VE-11-2024

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

Ad#10595492 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

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:

09/25/2024

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 09/25/2024

Legal Clerk

Notary, State of WI, County of Brown

8-21-24

My commission expires

Publication Cost: \$91.01  
Tax Amount: \$0.00  
Payment Cost: \$91.01  
Order No: 10595492 # of Copies:  
Customer No: 1127256 1  
PO #: VE 11-2024

**THIS IS NOT AN INVOICE!**

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

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