

THIS INSTRUMENT PREPARED BY:

Department of Community Development
Development Services Division
1500 Monroe Street
Fort Myers Florida 33901

INSTR# 2024000254595, Pages 4
DocType: GOV, Recorded: 9/11/2024 at 3:51 PM
Kevin C. Karnes, Lee County Clerk of the Court & Comptroller
Rec Fees: \$35.50

Deputy Clerk SELY
#1

RESOLUTION NO. 24-09-05 FOR PETITION TO VACATE

Case Number: VAC2023-00002

WHEREAS, Petitioners **Justin G. Ballard and Lauri A. Ballard, Trustees of the Justin G. Ballard Revocable Trust and the Lauri A. Ballard Revocable Trust** in accordance with Florida Statute (F.S.) Chapter 177 and Lee County Administrative Code (LCAC) 13-1, filed a Petition to Vacate the public's interest in the easements legally described in the attached Exhibit "A"; and

WHEREAS, the Board of County Commissioners of Lee County, Florida considered this Petition to Vacate on the 3rd day of September, 2024; and

WHEREAS, a legally sufficient Proof of Publication regarding the Notice of Intent on this Petition to Vacate was provided to the Clerk of Court; and the original said Proof of Publication is attached as Exhibit "C"; and

WHEREAS, the Petitioner(s) has fee simple title ownership to the underlying land sought to be vacated; and

WHEREAS, the Petitioner(s) has provided proof that all applicable state and county taxes have been paid; and

WHEREAS, Petitioner(s) did provide notice to all affected property owners (if any) concerning the intent of the Petition to Vacate in accordance with LCAC 13-1; and

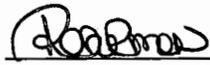
WHEREAS, the letters of review and recommendation provided by the various governmental and utility entities indicate that granting the Petition to Vacate will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

NOW therefore be it resolved by the Board of County Commissioners as follows:

1. Petition to Vacate No. VAC2023-00002 is hereby granted.
 2. The public's interest in the easements legally described in Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated.
 3. This Resolution will become effective upon recording of a fully executed copy in the public records of Lee County, Florida.

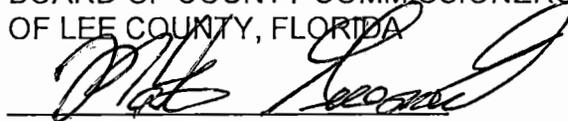
This Resolution passed by voice and entered into the minutes of the Board of County Commissioners of Lee County, Florida, this 3rd day of September, 2024 .

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT



Deputy Clerk Signature

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA



Chair Signature



Approved as to Form for the
Reliance of Lee County Only



County Attorney Signature

ION AS PER STARNES SURVEYING, INC.

Exhibit A & Exhibit B

VACATED

10 FOOT WIDE UTILITY EASEMENT AS DEPICTED ON LOT 23, BERT'S BAYSHORE MANOR
S RECORDED IN PLAT BOOK 9 AT PAGE 121 OF THE PUBLIC RECORDS OF LEE COUNTY,
MORE PARTICULARLY DESCRIBED AS FOLLOWS.

AT THE SOUTHEAST CORNER OF SAID LOT 23; THENCE RUN NORTH ALONG THE EAST
T 23 FOR 10.00 FEET; THENCE RUN WEST ALONG THE NORTH LINE OF SAID
ED 10 FOOT WIDE UTILITY EASEMENT FOR 11.39 FEET TO THE POINT OF BEGINNING.

NT OF BEGINNING RUN S.10°00'19"W. ALONG A ROOF EAVE OF A PAVILION FOR 3.28
UN N.79°52'13"W. ALONG SAID EAVE FOR 1.00 FEET; THENCE RUN S.10°00'19"W.
SE OF A POOL DECK AND RAILING FOR 1.30 FEET; THENCE RUN N.79°52'13"W. ALONG
K AND RAILING FOR 24.64 FEET TO THE NORTH EDGE OF SAID AFOREMENTIONED
ENT; THENCE RUN EAST FOR 26.04 FEET TO THE POINT OF BEGINNING.

CONTAINS 57 SQUARE FEET.



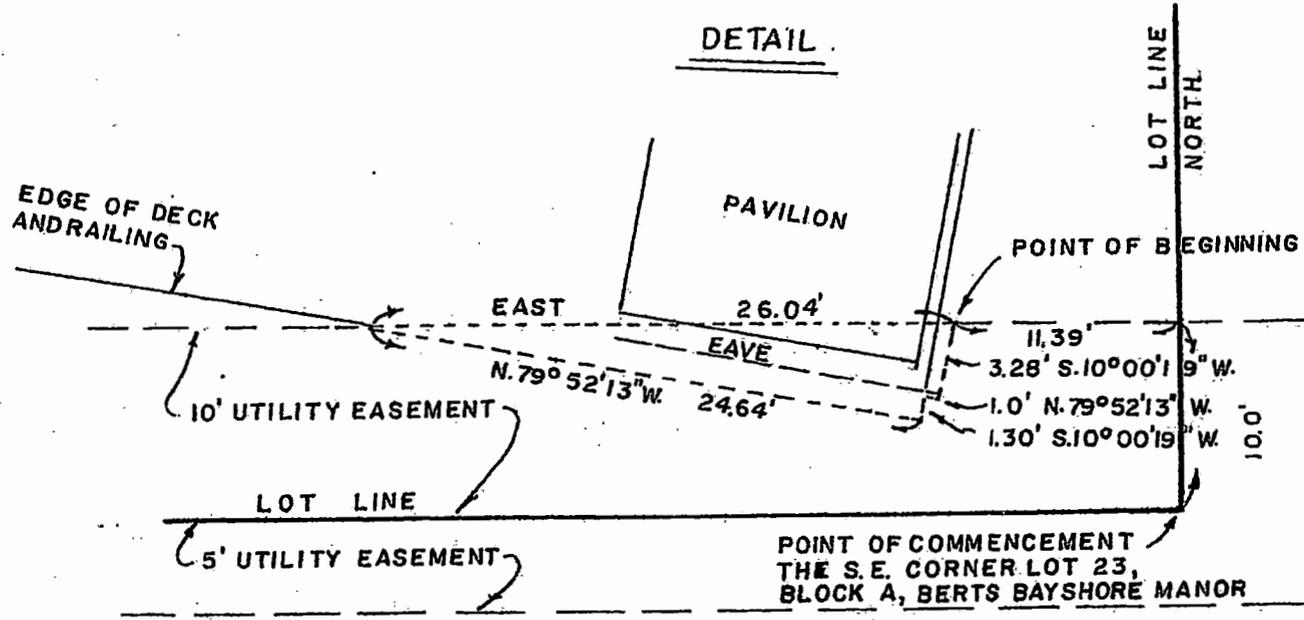
I HEREBY CERTIFY THAT THE SURVEY HEREON WAS MADE UNDER
MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY
KNOWLEDGE AND BELIEF. I DO NOT CERTIFY THAT THE ZONING
REQUIREMENTS HAVE BEEN MET. I ALSO CERTIFY THAT THIS
SURVEY HEREON MEETS THE MINIMUM TECHNICAL STANDARDS
FOR LAND SURVEYING IN THE STATE OF FLORIDA, AS SET FORTH IN
SECTION 472.027, FLORIDA STATUTES AND ACCORDING TO
CHAPTER 3, § 17.050, 17.051, 17.052 F.A.C.

James R. Starnes
REGISTERED LAND SURVEYOR P.L.S. # 4869
STATE OF FLORIDA JAMES R. STARNES

NOTE: THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE
ORIGINAL, RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.



SCALE: 1" = 10'



- LEGEND
1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
 2. FD - FOUND
 3. N - NORTH
 4. S - SOUTH
 5. E - EAST
 6. W - WEST
 7. C.M. - CONCRETE MONUMENT
 8. C - CENTERLINE
 9. I.D. - IRON DISC
 10. I.M. - IRON MARK
 11. EL. - ELEVATION
 12. R.O.W. - RIGHT OF WAY
 13. U.T.S. - UNITED TELEPHONE SYSTEM
 14. C.B. - CATCH BASIN
 15. F.P.A.L. - FLORIDA POWER AND LIGHT
 16. P.O.B. - POINT OF BEGINNING
 17. P.O.C. - POINT OF COMMENCEMENT
 18. P.R.M. - PERMANENT REFERENCE POINT
 19. P.C.P. - PERMANENT CONTROL POINT
 20. P.U.E. - PUBLIC UTILITY EASEMENT
 21. CALC. - CALCULATED
 22. MEAS. - MEASURED
 23. PRO. - PROJECTIONS
 24. STARNES #4 REBAR - A #4 REBAR AND METAL CAP, STAMPED STARNES.
 25. STARNES C.M. - A CONCRETE MONUMENT WITH A METAL PLATE, STAMPED STARNES.
 26. CONC. - CONCRETE
 27. N.G.V.D. - NATIONAL GEODESIC VERTICAL DATUM
 28. M.H.T. - MEAN HIGH TIDE
 29. Δ - DELTA
- NOTE: UNDER GROUND IMPROVEMENTS THAT ARE NOT NOT SHOWN, IF ANY WERE NOT LOCATED.
NOTE: WETLAND AREAS MAY EXIST, THAT ARE NOT SHOWN HEREON.

Exhibit C



PO Box 631244 Cincinnati, OH 45263-1244

AFFIDAVIT OF PUBLICATION

Colleen Bennett
Lcbs-Dept Of Comm Development-D
1500 MONROE ST
Fort Myers FL 33901

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 News-Press, a daily newspaper published at Fort Myers in Lee 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 Lee County, Florida, or in a newspaper by print in the issues of, on:

08/19/2024, 08/27/2024

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 08/27/2024

Shelley Horne

Legal Clerk
Nicole Jacobs

Notary, State of WI, County of Brown
8-21-24

My commission expires

Publication Cost: \$379.00
Tax Amount: \$0.00
Payment Cost: \$379.00
Order No: 10482020 # of Copies:
Customer No: 1124450 1
PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

NOTICE OF INTENT FOR PETITION TO VACATE
Case Number: VAC2023-00002
Notice is hereby given that on the 3rd day of September 2024 at 9:30 a.m. in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider and take action on a Petition vacating the public's interest in the easement, plat or portion of a plat legally described as follows:
A portion of the 10' Public Utility easement running along the south side of Lot 23, of that certain Plat of Bert's Bayshore Manor, A Subdivision of Part of the Southwest 1/4 of Section 36, Township 43 South, Range 24 East, as recorded in Plat Book 9, Page 121 of the Public Records of Lee County, Florida. (Strap # 36-43-24-01-0000A.0230)
Interested parties may appear in person or through a representative and be heard with respect to the Petition to Vacate.

Anyone wishing to appeal the decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

A copy of the Petition to Vacate is on file in the Office of Lee County Community Development, 1500 Monroe Street, Fort Myers, Florida, 33902-0398. The Office may be reached at (239) 533-8585.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Raphaela Morais-Peroba, ((239) 533-8782, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.
10482020 Aug. 19, 27, 2024

NICOLE JACOBS
Notary Public
State of Wisconsin

Deputy Clerk SELY
#2

THIS INSTRUMENT PREPARED BY
AND RETURN TO:

Eric J. Brooks, Esq.
Law Offices of Mark R. Komray, Esq., PLLC
1882 N. Tamiami Trail #3434
Fort Myers, FL 33918

Strap No: 36-43-24-01-0000A.0230

Property Address: 337 Lakeview Dr.
North Fort Myers, FL 33917

EASEMENT HOLD HARMLESS AGREEMENT

This Easement Hold Harmless Agreement (the "Hold Harmless Agreement") is made on June 24, 2024 by and between Lee County, a political subdivision of the State of Florida, whose address is 1500 Monroe Street, Fort Myers, FL 33901 ("County"), and Justin G. Ballard and Lauri A. Ballard, Trustees of the Justin G. Ballard Revocable Trust U/A dated June 24, 2022, and Lauri A. Ballard and Justin G. Ballard, Trustees of the Lauri A. Ballard Revocable Trust U/A dated June 24, 2022, collectively with an address of 337 Lakeview Drive, North Fort Myers, Florida 33917 (collectively, "Owner").

WHEREAS, Owner is the fee title holder to the property located in Lee County, Florida, and specifically described in Exhibit "A" (the "Subject Property");

WHEREAS, County has an easement over a portion of the Subject Property described in Exhibit "A", specifically a 10-foot wide utility easement running east-west along the southern boundary of the Subject Property (the "Easement"), as depicted in the Boundary Survey prepared by Starnes Surveying, Inc. and dated August 5, 2022, a copy of which is attached hereto as Exhibit "B";

WHEREAS, Owner constructed a pool, spa, and pool deck (the "Pool Deck") at the Subject Property under Lee County permit number POL2021-00125;

WHEREAS, the southeast corner of the Pool Deck as constructed extends into the Easement (see Exhibit "B");

WHEREAS, the Pool Deck as constructed will interfere with the County's easement rights as it pertains to the Easement; and

WHEREAS, the County does not object to the location of the Pool Deck as constructed, including its encroachment into the Easement, on the condition that Owner: (i) satisfactorily modify the structure of the Pool Deck to supplement the foundation of the Pool Deck where it encroaches into the Easement; and (ii) furnish the County with the instant Hold Harmless Agreement under which Owner agrees to hold the County harmless for any damage to the Pool Deck caused by the County's use and/or maintenance of the Easement, including but not limited

to the future repair, removal, and/or replacement of drainage piping or structures located within the Easement.

NOW THEREFORE, in consideration of the mutual covenants contained in this Hold Harmless Agreement and such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. So long as the Owner modifies the structure of the Pool Deck to supplement the foundation of the Pool Deck where it encroaches into the Easement to the County's satisfaction, County consents to the location of the Pool Deck as constructed, including its partial encroachment into the Easement.

B. Owner agrees to perpetually maintain the Pool Deck at no cost to the County. Owner is required to perform all such maintenance at its expense.

C. Owner agrees to construct no future improvements which would further encroach into the Easement.

D. Owner acknowledges that, after the date of this Hold Harmless Agreement and in perpetuity, County will have to take such actions as County deems necessary or advisable to maintain the Easement, and such actions may include the repair, removal, and/or replacement of drainage piping and/or drainage structures located within the Easement now or in the future (collectively, "County's Maintenance Activity").

E. Owner acknowledges that County's Maintenance Activity may cause damage to the Pool Deck and that County will have no liability nor duty to repair any damage caused to the pool deck by virtue of County's Maintenance Activity.

F. Owner agrees to hold the County, its officers, agents, contractors, consultants, and employees, harmless from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description related to or arising from damage to the Pool Deck actually or allegedly caused by the County's Maintenance Activity ("Pool Deck Damage Claims").

G. Owner releases and forever waives any such Pool Deck Damage Claims against County, whether known or unknown, arising at any time, whether prior or subsequent to the date of this Hold Harmless Agreement. Owner shall be solely responsible for repairing any damage to the Pool Deck or needed associated improvements occasioned by the County's Maintenance Activity and all costs thereof.

H. This Hold Harmless Agreement runs with the Subject Property described in Exhibit "A" and as such, will be recorded in the Public Records of Lee County by Owner.

I. This Hold Harmless Agreement is binding upon, and inures to the benefit of the parties, their respective legal representatives, successors and assigns.

J. A transfer of title to the Subject Property described in Exhibit "A" carries with it

the responsibility for compliance with this Hold Harmless Agreement as though the Hold Harmless Agreement were a covenant on the Subject Property.

K. This Agreement will be construed and enforced in accordance with Florida law.

L. This Hold Harmless constitutes the entire agreement between the parties with respect to the subject matter hereof and may not be modified except by written agreement executed with the same formality.

In witness of the above, the parties execute this Agreement.

WITNESSES:

Signature: [Handwritten Signature]
Name: JESSICA FORVITA

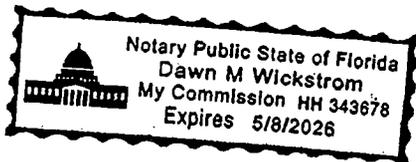
Signature: [Handwritten Signature]
Name: SHIRLEY FOWLER

OWNER:

Signature: [Handwritten Signature]
Name: Justin G. Ballard, as Trustee of the Justin G. Ballard Revocable Trust U/A dated June 24, 2022, and as Trustee of the Lauri A. Ballard Revocable Trust U/A dated June 24, 2022

STATE OF FLORIDA
COUNTY OF LEE

The foregoing Hold Harmless Agreement was acknowledged before me this 26 day of June 2024 by Justin G. Ballard. He is personally known to me or has produced _____ as identification.



[Handwritten Signature]
Notary Signature

Dawn m. Wickstrom
Printed Name

EXHIBIT "A"

Lot 23, Block A, BERT'S BAYSHORE MANOR SUBDIVISION, as recorded in Plat Book 9, Page 121, Public Records of Lee County, Florida, and that Part of Lot 22, Block A of said BERT'S BAYSHORE MANOR SUBDIVISION described as follows:

Commencing at the Southwest corner of Lot 22, Block A, said point being on the boundary line of Tamiami Estates Subdivision and Bert's Bayshore Manor; thence run North 25 feet to the South boundary of Lake Marie; thence run East along the South boundary of Lake Marie, a distance of 235 Feet; thence continue along the South boundary of said Lake Marie, projected East, to the Southeast side of Lot 22, Block A, of said Bert's Bayshore Manor Subdivision; thence Southwesterly along the Easterly boundary of said Lot 22 to the South boundary of said Bert's Bayshore Manor Subdivision; thence West along the South boundary of said Lot 22 a distance of 235 feet, more or less, to the Point of Beginning; said lot also being described as the South 25 feet of Lot 22 of Bert's Bayshore Manor Subdivision, as recorded in Plat Book 9, Page 121, Public Records of Lee County, Florida.

EXHIBIT "B"

SHEET 1 OF 2

FOR: DATE: 8-5-22 PHONE: (239) 543-3328

STARRS SURVEYING, INC. L.A. 0728 SURVEYING, ENGINEERING, LAND PLANNING 18311 QUINCY RD. FT. MITCHELL, FL 33917

BOUNDARY SURVEY FIELD BOOKS: 232 W.C. NUMBER PAGE 5749 6684

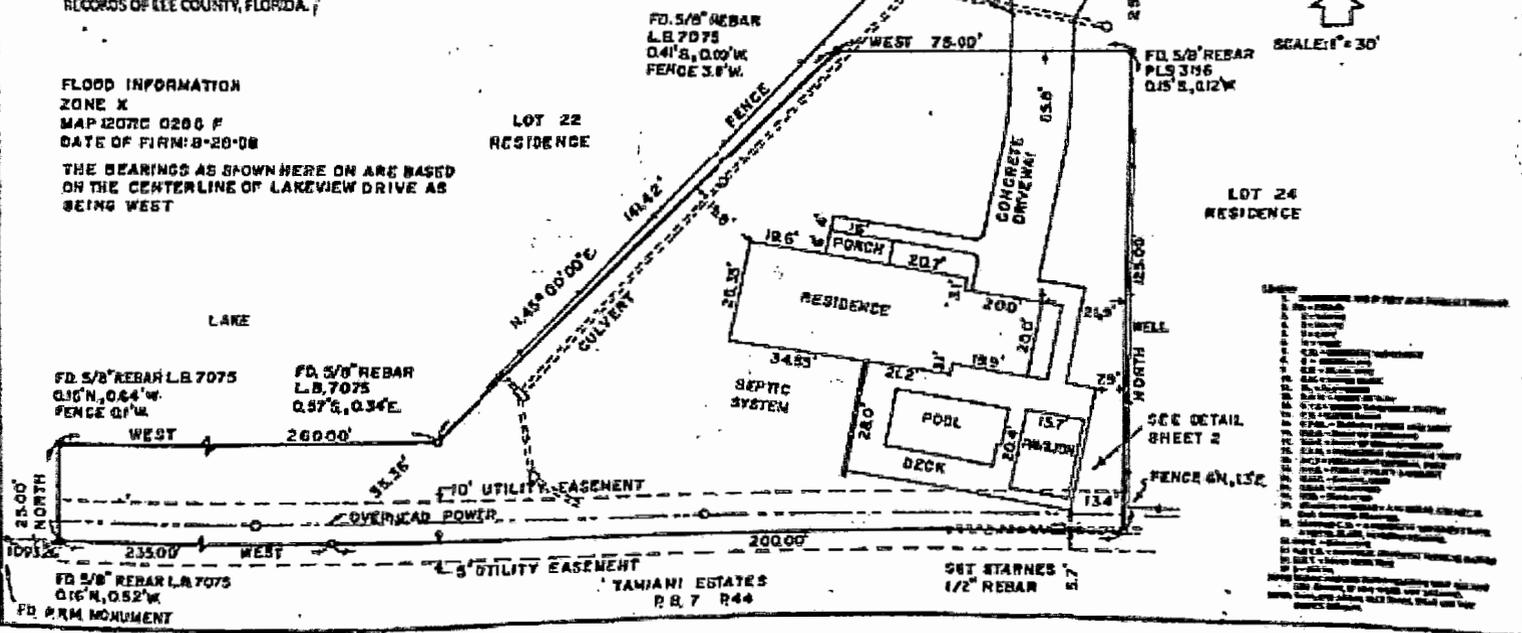
LEGAL DESCRIPTION AS PER INST. 201200000219

LOT 23, BLOCK A, BERT'S BAYSHORE MANOR SUBDIVISION, AS RECORDED IN PLAT BOOK 9, PAGE 121, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND THAT PART OF LOT 22, BLOCK A OF SAID BERT'S BAYSHORE MANOR SUBDIVISION DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 22, BLOCK A, SAID POINT BEING ON THE BOUNDARY OF TAMIANI ESTATES SUBDIVISION AND BERT'S BAYSHORE MANOR; THENCE RUN NORTH 25 FEET TO THE SOUTH BOUNDARY OF LAKE MARIE; THENCE RUN EAST ALONG THE SOUTH BOUNDARY OF LAKE MARIE, A DISTANCE OF 235 FEET; THENCE CONTINUE ALONG THE SOUTH BOUNDARY OF SAID LAKE MARIE, PROJECTED EAST, TO THE SOUTHEAST SIDE OF LOT 22, BLOCK A, OF SAID BERT'S BAYSHORE MANOR SUBDIVISION; THENCE SOUTHWESTERLY ALONG THE EASTERLY BOUNDARY OF SAID LOT 22 TO THE SOUTH BOUNDARY OF SAID BERT'S BAYSHORE MANOR SUBDIVISION; THENCE WEST ALONG THE SOUTH BOUNDARY OF SAID LOT 22 A DISTANCE OF 235 FEET, MORE OR LESS, TO THE POINT OF BEGINNING; SAID LOT ALSO BEING DESCRIBED AS THE SOUTH 25 FEET OF LOT 22 OF BERT'S BAYSHORE MANOR SUBDIVISION, AS RECORDED IN PLAT BOOK 9, PAGE 121, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FLOOD INFORMATION
 ZONE X
 MAP 207C 0200 F
 DATE OF FIRM: 8-20-08

THE BEARINGS AS SHOWN HERE ON ARE BASED ON THE CENTERLINE OF LAKEVIEW DRIVE AS BEING WEST



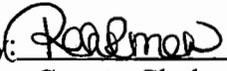
I HEREBY CERTIFY THAT THE SURVEY HEREON WAS MADE UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF I DO NOT CONVEY THAT THE ABOVE REPRESENTS HAVE BEEN MET. I ALSO CERTIFY THAT THE SURVEY HEREON MEETS THE MINIMUM TECHNICAL REQUIREMENTS FOLLOWS THE RULES OF PRACTICE AS SET FORTH IN SECTION 463.01, FLORIDA STATUTES AND ACCORDING TO CHAPTER 12000, F.S. 12000.02.

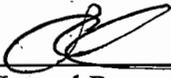
James P. Starnes
 REGISTERED LAND SURVEYOR P.L.C. # 4889
 STATE OF FLORIDA JAMES P. STARNES

NOTE: THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

ATTEST:

LEE COUNTY, FLORIDA

By: 
County Clerk

By: 
Natural Resources Department



APPROVED AS TO FORM

By: 
County Attorney

AGENDA ITEM REPORT

DATE: September 3, 2024
DEPARTMENT: Community Development
REQUESTER: Mikki Rozdolski
TITLE: Approve Petition to Vacate at 337 Lakeview Drive, North Fort Myers

I. MOTION REQUESTED

Case No. VAC2023-00002. Adopt a resolution approving vacation of the public interest in a portion of the 10-foot Public Utility easement running along the south side of Lot 23, of that certain Plat of Bert's Bayshore Manor, A Subdivision of Part of the Southwest ¼ of Section 36, Township 43 South, Range 24 East, as recorded in Plat Book 9, Page 121 of the Public Records of Lee County, Florida. (Strap # 36-43-24-01-0000A.0230)

II. ITEM SUMMARY

Extinguishes the public interest in a portion of the unimproved public utility easement along the rear lot line of Lot 23 of the platted lot at 337 Lakeview Drive in North Fort Myers. This action will remove encumbrances to allow for a pool deck. There were no objections from the public utility providers and all affected property owners have been notified.

III. BACKGROUND AND IMPLICATIONS OF ACTION

- A) Board Action and Other History
Florida Statute 177, Lee County Administrative Code 13-1
- B) Policy Issues
- C) BoCC Goals
- D) Analysis
The completed Petition to Vacate, VAC2023-00002, was submitted by Petitioners Justin and Lauri Ballard who propose to remove encumbrances in order to allow for approval of a pool deck that was constructed in a portion of the easement to be vacated. Staff has reviewed the Petition to Vacate, VAC2023-00002, together with letters of no objection from Public Utility Providers.
Public Utility Providers have no objection to the requested vacation and all affected property owners have been notified. Lee County Natural Resources has requested a hold harmless agreement to be recorded at the time of the Resolution adoption recording. The Applicant has provided the requested, executed, hold harmless agreement. Said agreement is to be held in trust by Development Services staff and recorded at the time of the Resolution recording.
The vacation of the portion of the above-referenced platted easement will not alter existing drainage or utility conditions.
- E) Options

IV. FINANCIAL INFORMATION

A)	Current year dollar amount of item:	No funding required.
B)	Is this item approved in the current budget?	N/A
C)	Is this a revenue or expense item?	N/A
D)	Is this Discretionary or Mandatory?	N/A
E)	Will this item impact future budgets? If yes, please include reasons in III(D) above.	No
F)	Fund: Program: Project:	

	Account Strings:	
G)	Fund Type?	N/A
H)	Comments:	

V. RECOMMENDATION

Approve

VI. TIMING/IMPLEMENTATION

VII. FOLLOW UP

ATTACHMENTS:

Description	Upload Date	Type
Vicinity Map	8/13/2024	Backup Material
VAC2023-00002 PTV	8/13/2024	Backup Material
Signed Hold Harmless Agreement	8/13/2024	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Community Development	Rozdolski, Mikki	Approved	8/21/2024 - 9:54 AM
Budget Services	Henkel, Anne	Approved	8/21/2024 - 10:47 AM
Budget Services	Winton, Peter	Approved	8/21/2024 - 4:13 PM