

RESOLUTION NO. 06-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING A PORTION OF PLATTED DRAINAGE EASEMENT FOR LOT 6, HICKORY PARK SUBDIVISION; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A QUIT CLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Donald S. Heaton Jr. and Nikki R. Heaton, husband and wife, are the record owners of Lot 6, Hickory Park Subdivision, according to the map recorded in Map Book 41, Page 180, Public Records of Volusia County, Florida, and have applied for the vacation of a portion of a drainage and utility easement in order to provide for proposed construction of a swimming pool, deck and screen enclosure; and

WHEREAS, the applicants have complied with the requirements of Section 177.101(4), Florida Statutes; and

WHEREAS, the City Council of the City of Port Orange has the power and authority to vacate easements under constitutional home rule powers Chapter 166 and Chapter



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 8/15/06

SUBJECT: 06-350000003/PROPOSED EASEMENT VACATION – HICKORY PARK SUBDIVISION, LOT 6 (485 NEWTON ROAD; TAX PARCEL NO. 6327-04-00-0060)

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION

To approve Resolution #06-79, vacating the southerly 5.00 feet of the northerly rear yard 10.00-foot wide Drainage and Utility Easement located on Lot 6 of the Hickory Park Subdivision, per the attached legal description.

SUMMARY

The Community Development Department has received a request to vacate a portion of the northerly rear yard 10.00-foot wide Drainage and Utility Easement located on Lot 6 of the Hickory Park Subdivision. The property owners have made this request in connection with a proposed pool, deck, and screen enclosure to be constructed in to the easement. The easement vacation

PREPARED BY: CITY ATTORNEY
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129

Parcel No. 6327-04-00-0060

This document has been prepared by the City of Port Orange without the benefit of title examination or survey, and shall not constitute a waiver of compliance with local and general laws regulating the subject property.

QUIT CLAIM DEED

THIS INDENTURE, made this _____ day of _____, 2006, between THE CITY OF PORT ORANGE, a Florida municipality, of the County of Volusia and State of Florida, Grantor, and DONALD S. HEATON JR and NIKKI R. HEATON, husband and wife, whose permanent address is 485 Newton Road, Port Orange, Florida 32127, Grantees.

WITNESSETH, that the said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid by the said Grantees, the receipt whereof is hereby acknowledged, has remised, released and quit claimed, and by these presents does remise, release and quit claim unto the said Grantees, and Grantees' heirs and assigns forever, all the right, title, interest, claim and demand which the said Grantor has in and to the following described land, situate, lying and being in Volusia County, Florida, to-wit:

See Exhibit "A", attached hereto and made a part hereof.

By accepting the above-described Quit Claim Deed, the Grantees, for themselves, their successors and assigns, agree that the City shall have the continued right to perform maintenance within the drainage easement of record; and further, accept full and sole responsibility for any damage that the maintenance or that the storm water drainage may cause to any private improvements placed or constructed within the said drainage way.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatever of the said Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantees, their heirs and assigns forever.

IN WITNESS WHEREOF, the said Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered
in our presence:

CITY OF PORT ORANGE,
a Florida municipality

By: _____
Mayor Allen Green

Witnesses

ATTEST: _____
Kenneth W. Parker,
City Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by Allen Green and Kenneth W. Parker, as Mayor and City Manager, respectively, of the City of Port Orange, a Florida municipality, on behalf of said city. They are personally known to me.

Notary Public, State of
Florida at Large

Commission No. _____

C:\Legal\QCD\hickory park lot 6.wpd

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

The southerly 5.00 feet of the northerly 10.00-foot wide Drainage and Utility Easement, except the easterly 17.00 feet and westerly 28.00 feet thereof, located on Lot 6 of the Hickory Park Subdivision plat, as recorded in Map Book 41, Page 180, of the Public Records of Volusia County (485 Newton Road; Tax Parcel No. 6327-04-00-0060).



Case No.: 06-350000003

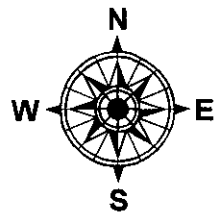
Applicant: Donald S. Heaton, Jr. and Nikki R. Heaton, Property Owners

Location: Lot 6, Hickory Park Subdivision (485 Newton Road)

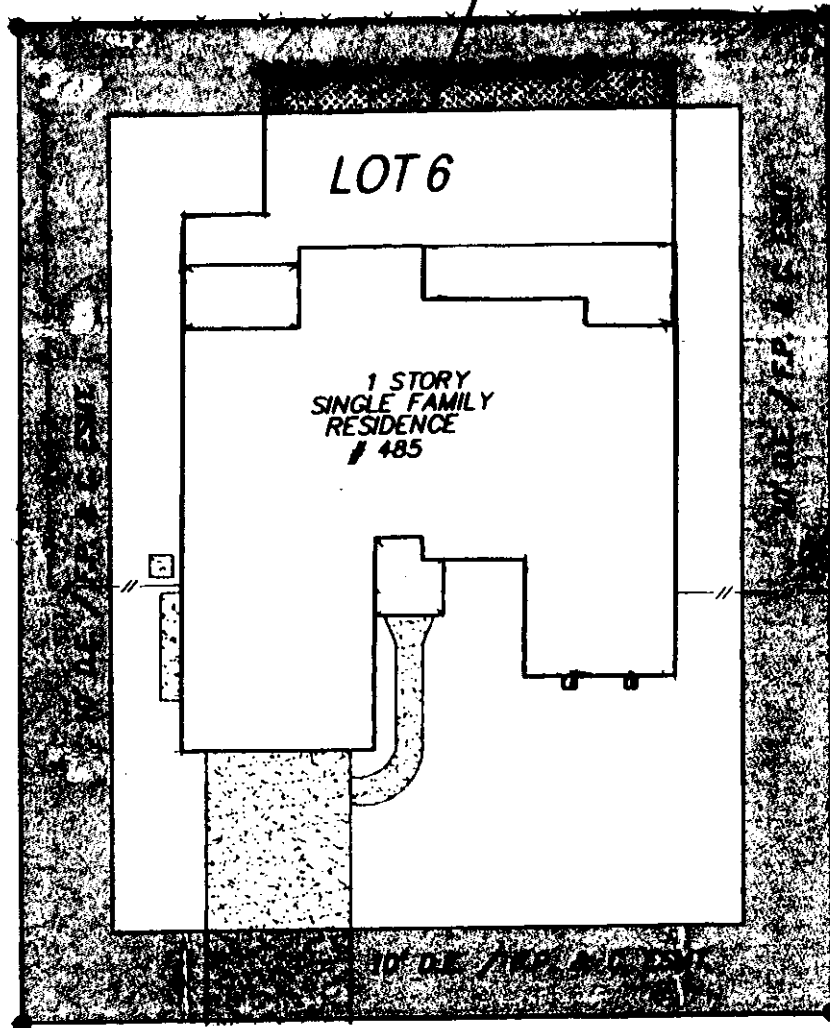
Requested Action: To vacate a portion of the northerly rear yard 10.00' wide Drainage and Utility Easement located on Lot 6 of the Hickory Park Subdivision



Location Map
CITY OF PORT ORANGE
 DEPARTMENT OF COMMUNITY DEVELOPMENT



PROPOSED EASEMENT VACATION



Case No.: 06-350000003

Applicant: Donald S. Heaton, Jr. and Nikki R. Heaton, Property Owners

Location: Lot 6, Hickory Park Subdivision
(485 Newton Road)

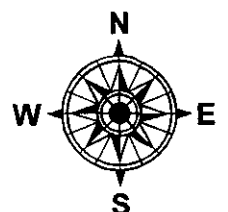
Requested Action: To vacate a portion of the northerly rear yard 10.00' wide Drainage and Utility Easement located on Lot 6 of the Hickory Park Subdivision



Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT



12/04/2003 09:27 AM
Doc stamps 1207.50
(Transfer Amt \$ 172500)
Instrument# 2003-305447
Book: 5218
Page: 2315
Diane M. Matousek
Volusia County, Clerk of Court

Return to: Marilea Reese
Name: SOUTHERN TITLE HOLDING COMPANY, LLC.
Address: 801 BEVILLE ROAD, SUITE 201
SOUTH DAYTONA, Florida 32119

This Instrument Prepared:
Marilea Reese
SOUTHERN TITLE HOLDING COMPANY, LLC.
801 BEVILLE ROAD, SUITE 201
SOUTH DAYTONA, Florida 32119

as a necessary incident to the fulfillment of conditions
contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s):
6327-04-00-0060
Grantee(s) S.S.#(s):
File No: DB0312045

WARRANTY DEED

This Warranty Deed Made the 1st day of December, 2003, by **ROBERT FARRAR AND** INTHAWA T. FARRAR HUSBAND AND WIFE, hereinafter called the grantor, whose post office address is: 417 Wilson Ave Daytona Bch, Fl 32114

to **DONALD S. HEATON JR and NIKKI R. HEATON, HUSBAND AND WIFE** whose post office address is: 485 NEWTON RD., PORT ORANGE, FL 32127 hereinafter called the grantee,

WITNESSETH: That said grantor, for and in consideration of the sum of \$10.00 Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Volusia County, Florida, viz:

LOT 6, HICKORY PARK SUBDIVISION, ACCORDING TO THE MAP RECORDED IN MAP BOOK 41, PAGE 180, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

The property is the homestead of the Grantor(s).
TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **DECEMBER 31, 2003**, reservations, restrictions and easements of record, if any.
(The terms "grantor" and "grantee" herein shall be construed to include all genders and singular or plural as the context indicates.)

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Signature: Dianne Tingley
Printed Name: DIANNE TINGLEY

Robert Farrar
ROBERT FARRAR

Witness Signature: Intthawa T. Farrar
Printed Name: INTHAWA T. FARRAR

Witness Signature: Marilea Reese
Printed Name: MARILEA J. REESE

Witness Signature: _____
Printed Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 1st day of December, 2003, by **ROBERT FARRAR**, and INTHAWA T. FARRAR who is/are personally known to me or who has/have produced driver license(s) as identification.

My Commission Expires:

Marilea Reese
MARILEA J. REESE
Notary Public
Serial Number



Marilea J. Reese
MY COMMISSION # DD195253 EXPIRES
March 21, 2007
BONDED THRU TROY FARM INSURANCE, INC.

SOUTHERN TITLE

BellSouth Telecommunications, Inc.
900 North Nova Road
Daytona Beach, FL 32117

July 10, 2006

City of Port Orange
Community Development Department
1000 City Center Circle
Port Orange, Florida 32129

**RE: PARTIAL RELEASE OF EASEMENT HICKORY PARK, LOT 6 485 NEWTON RD,
PARCELS # 6327-04-00-0060**

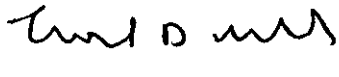
Dear Sir,

In regard to the request for the partial release of the drainage and utility easement on parcel #6327-04-00-0060 please accept this letter as our notification of agreement to relinquish all rights we may have to a portion of this easement as described below:

The southerly 5.00 feet of the northerly 10.00 foot wide Drainage and Utility Easement, except the 17.00 feet westerly and 28.00 feet thereof, located on Lot 6 of the Hickory Park Subdivision plat as recorded in Map Book 41, Page 180, of the Public Records of Volusia County.

If you have any questions please contact Rebecca S. Cochrane @ 386 252 0662.

Sincerely,


For

Peter W. Hassett
BellSouth Telecommunications Inc.

Cc: Donald Heaton Jr
485 Newton Rd
Port Orange, Fl 32127

RECEIVED
JUL 14 2006
Community
Development Dept.

1475 S. Nova Road
Daytona Beach, Florida 32114
Tel 386-760-9950
Fax 386-248-0514



July 10, 2006

Chip Glor
City of Port Orange
Community Development Dept.
1000 City Center Circle
Port Orange, FL 32129

**RE: Proposed Easement Vacate: Hickory Park, Lot 6, Newton Road
Parcel#: 6327-04-00-0060**

Gentlemen:

This letter is in response to a request to Bright House Networks to vacate the above referenced utility easement as described in Legal Description within attached Exhibit "A".

We have reviewed the request and find that we do not presently maintain cable plant in this easement and have no plans to utilize it in the future. **Bright House Networks has no objection to the vacation of this easement.**

If you have any questions regarding this, please contact the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Tina Iannone".

Tina Iannone
Construction Supervisor
386-760-9941 ext 7216

RECEIVED

JUL 12 2006

**Community
Development Dept.**



PEOPLES GAS

RECEIVED

JUN 08 2006

Community Development Dept.

Release of Easement

PEOPLES GAS SYSTEM, INC. having its principle place of business at 1722 Ridgewood Avenue, Holly Hill, Volusia County, Florida, for and in consideration of certain benefits accruing to it, does hereby release and cancel all of its right, title, interest, claim, easement and demand, if any, it may have in, over, above, under, and across the public utility easement shown in the Hickory Park Subdivision, a subdivision according to the plat thereof recorded in Plat Book 41, page 180, of the public records of Volusia County, Florida being more particularly described as follows:

The southerly 5.00 feet of the northerly 10.00 feet wide Drainage and Utility Easement, except the easterly 17.00 feet and westerly 28.00 feet thereof, located on lot 6 of the Hickory Park Subdivision plat, as recorded in Map Book 41, page 180, of the Public Records of Volusia County, Florida.

Physical Address - 485 Newton Road
Port Orange, FL
Tax Parcel No. 6327-04-00-0060

This release applies only to that public utility easement hereinabove specifically described and in no way affects other lands covered by said public utility right-of-way.

WITNESS: Brooke Stone

By: George C. Smith

DATE: 6/6/06

George C. Smith
Construction Coordinator

STATE OF FLORIDA, COUNTY OF VOLUSIA

I hereby certify that on this day, before me, personally appeared George C. Smith, and known to me to be the person described in and who executed the foregoing instrument of the corporation names therein, and acknowledged before me that they executed the same in the name and on behalf of said corporation.

WITNESS MY HAND AND OFFICIAL SEAL IN THE COUNTY AND STATE AFORESAID THIS 6th day of June, 2006

My Commission Expires: May 26, 08

Joni M. Murray
Commission #DD323920
Expires: May 26, 2008
Notary Public
State of Florida
at Large



June 6, 2006

TO:
CITY OF PORT ORANGE
COMMUNITY DEVELOPMENT DEPT.
1000 CITY CENTER CIR.
PORT ORANGE , FL 32129

Re: Easement Vacation
Lot: 6
Address: 485 NEWTON RD
Subd: HICKORY PARK
Map book 41 page 180, public records of Volusia County, Florida
Tax Parcel: 6327-04-00-0060

Please be advised that FPL does not object to the 5.00 foot partial vacation of the platted 10' utility easement described as follows. The southerly 5.00 feet of the northerly 10.00 feet wide Drainage and Utility Easement , except the easterly 17.00 feet and westerly 28.00 feet thereof, located on lot 6 of the Hickory Park Subdivision plat, as recorded in map book 41, page 180, of the Public Records of Volusia County, Florida (485 Newton Road: Tax parcel 6327-04-00-0060).

If you have any questions regarding this matter, please contact Wayne A Wagner, FPL's local representative at 322-3464.

Thank you,

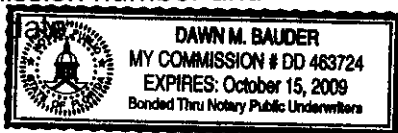
Bill Water

Construction Supervisor

STATE OF FLORIDA AND COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 7th day of June, 2006 by Bill Water who is personally known to me and did not take an oath.

My Commission number and expiration



Dawn M. Bauder

Notary Public, Signature



CITY OF PORT ORANGE

Department of Community Development
Engineering Division

CASE NO. <u>06-35000003</u>
DATE APPLICATION RECEIVED <u>6/2/06</u>

1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129 (386) 506-5600 FAX: (386) 506-5699

EASEMENT VACATION APPLICATION

Property Owner: DONALD + NEKKE HEATON

Address: 485 NEWTON RD. PORT ORANGE, FL 32127

Phone: 386-788-6477

Applicant's Name (if other than owner): SAME AS OWNER

Address: SAME Phone: SAME

Property Address/Location: SAME

Subdivision Name: HICKORY PARK

Lot Number(s): LOT (6) Parcel No.: 6327-04-00-0060

Legal Description of proposed easement vacation: _____

Purpose for proposed easement vacation: HOME IMPROVEMENT PROJECT

NEW IN GROUND POOL and Screen enclosure

- REQUIRED ATTACHMENTS**
1. Sealed property survey showing all structures, easements, area of proposed easement vacation;
 2. Legal description of proposed easement vacation;
 3. Copy of recorded deed for the property;
 4. Application/recording fee of \$250 (payable to the City of Port Orange); and
 5. Completed application form (signatures required on reverse side of application form)

Applicant's Signature: _____ Date: _____

I HEREBY GRANT AUTHORIZATION FOR THE ABOVE LISTED APPLICANT TO ACT IN MY BEHALF:

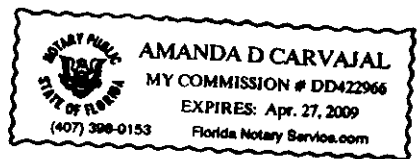
Owner's Signature: _____ Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 2nd of June 2006 by Donald & Nikki Heaton, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Amanda D. Carvajal
(Signature)
AMANDA D. CARVAJAL
(Name of Notary typed, printed or stamped)

Notary Public, Commission No. DD422966



→ DONALD S. HEATON JR.
Donald S. Heaton Jr.
ALSO KNOWN AS
DONALD C. HEATON JR.
Donald C. Heaton Jr.
Nikki R. Heaton
Nikki R. Heaton