



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 8/15/06

SUBJECT: 05-350000020/PROPOSED EASEMENT VACATION – THE VINEYARDS
PHASE I SUBDIVISION, LOT 28 (1487 SURREY PARK DRIVE; TAX PARCEL NO.
6319-18-00-0280)

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION

To approve Resolution #06-80, vacating the southeasterly 5.00 feet of the northwesterly rear yard 10.00-foot wide Drainage and Utility Easement located on Lot 28 of The Vineyards Phase I Subdivision, per the attached legal description.

SUMMARY

The Community Development Department has received a request to vacate a portion of the northwesterly rear yard 10.00-foot wide Drainage and Utility Easement located on Lot 28 of The Vineyards Phase I 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 application and legal description have been reviewed for completeness and accuracy. Total allowable lot coverage has not been exceeded and enough easement area will remain for necessary drainage. City departments have reviewed this request and have no outstanding concerns. There are no currently planned drainage or utility improvements proposed for this area in the future. The easement may be vacated, as described in the attached Exhibit "A", to the extent that it is not being used.

ATTACHMENTS: Ordinance Resolution Budget Resolution

Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD	<i>R. W. Wells</i>	Submitted	Date	<i>8/4/06</i>
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date	
CITY ATTORNEY	<i>M. J. Roberts</i>	Approved as to Form and Legality	Date	<i>8-3-06</i>
CITY MANAGER	<i>[Signature]</i>	Approved Agenda Item For:		<i>8/15/06</i>

COUNCIL ACTION: Approved as Recommended Disapproved

Tabled Indefinitely Continued to Date Certain Approved with Modification

RESOLUTION NO. 06-80

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING A PORTION OF PLATTED DRAINAGE EASEMENT FOR LOT 28, THE VINEYARDS - PHASE I SUBDIVISION; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A QUIT CLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Daniel Bicksler and Marie Bicksler, husband and wife, are the record owners of Lot 28, The Vineyards - Phase I, according to the plat thereof recorded in Map Book 45, Pages 120 and 121, 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 177, Florida Statutes; and

WHEREAS, the City Council of the City of Port Orange has determined that the portion of the easement to be vacated is not presently in use and that adjoining and neighboring owners of property will not be adversely affected by the vacation of a portion of the easement and it is in the best interest and welfare of the City of Port Orange and the citizens thereof to vacate and abandon the portion of the drainage and utility easement as more particularly described hereinbelow.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The interest of the City of Port Orange, Volusia County, Florida, in the following described easement is hereby declared to be vacated and abandoned and any

right, title and interest of the City of Port Orange and any public rights in and to the easements hereby vacated are renounced and disclaimed. The portion of the platted easement to be vacated is more particularly described as follows:

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

Section 2. The Mayor and City Manager are hereby authorized and directed to execute a Quit Claim Deed to the aforescribed property to effectuate the intent of this resolution.

Section 3. By accepting the above-described Quit Claim Deed, the applicants, 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.

Section 4. This resolution shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Kenneth W. Parker, City Manager

Adopted on the day of

Reviewed and Approved: 
City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

The southeasterly 5.00 feet of the northwesterly 10.00-foot wide Drainage and Utility Easement, except the northeasterly 15.00 feet and southwesterly 15.00 feet thereof, located on Lot 28 of The Vineyards – Phase I subdivision, as recorded in Map Book 45, Page 120 and Page 121, of the Public Records of Volusia County, Florida (1487 Surrey Park Drive; Tax Parcel No. 6319-18-00-0280).

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

Parcel No. 6319-18-00-0280

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 DANIEL BICKSLER and MARIE BICKSLER, husband and wife, whose permanent address is 1487 Surrey Park Drive, 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:

Witnesses

CITY OF PORT ORANGE,
a Florida municipality

By: _____
Mayor Allen Green

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

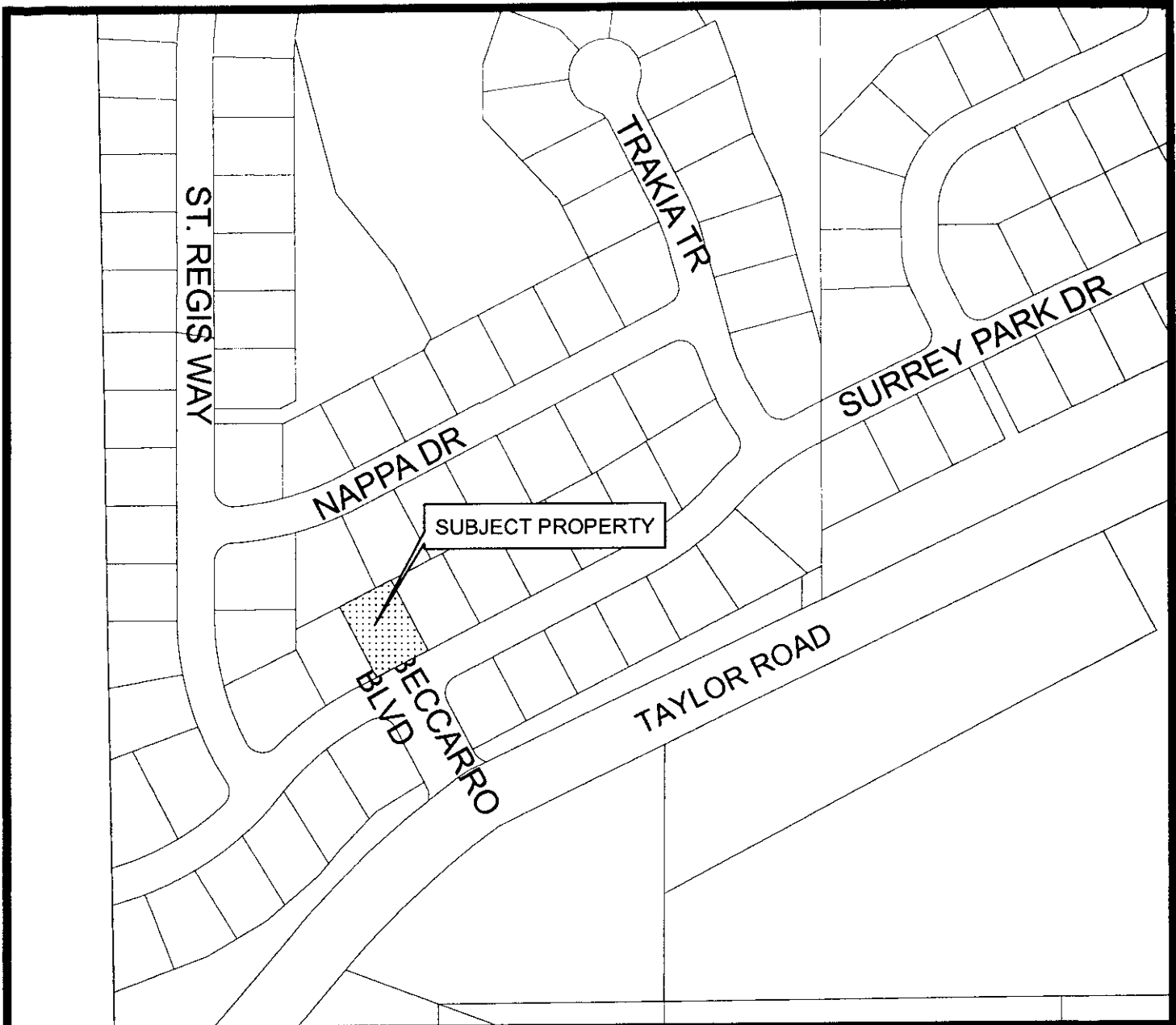
Commission No. _____

C:\Legal\QCD\vineyards lot 28.wpd

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

The southeasterly 5.00 feet of the northwesterly 10.00-foot wide Drainage and Utility Easement, except the northeasterly 15.00 feet and southwesterly 15.00 feet thereof, located on Lot 28 of The Vineyards – Phase I subdivision, as recorded in Map Book 45, Page 120 and Page 121, of the Public Records of Volusia County, Florida (1487 Surrey Park Drive; Tax Parcel No. 6319-18-00-0280).



Case No.: 05-350000020

Applicant: Daniel Bicksler and Marie Bicksler,
Property Owners

Location: Lot 28, The Vineyards, Phase I
Subdivision (1487 Surrey Park
Drive)

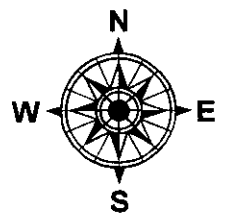
Requested Action: To vacate a portion of the
northwesterly rear yard
10.00'-wide Drainage and
Utility Easement located
on Lot 28 of The
Vineyards Phase I
Subdivision

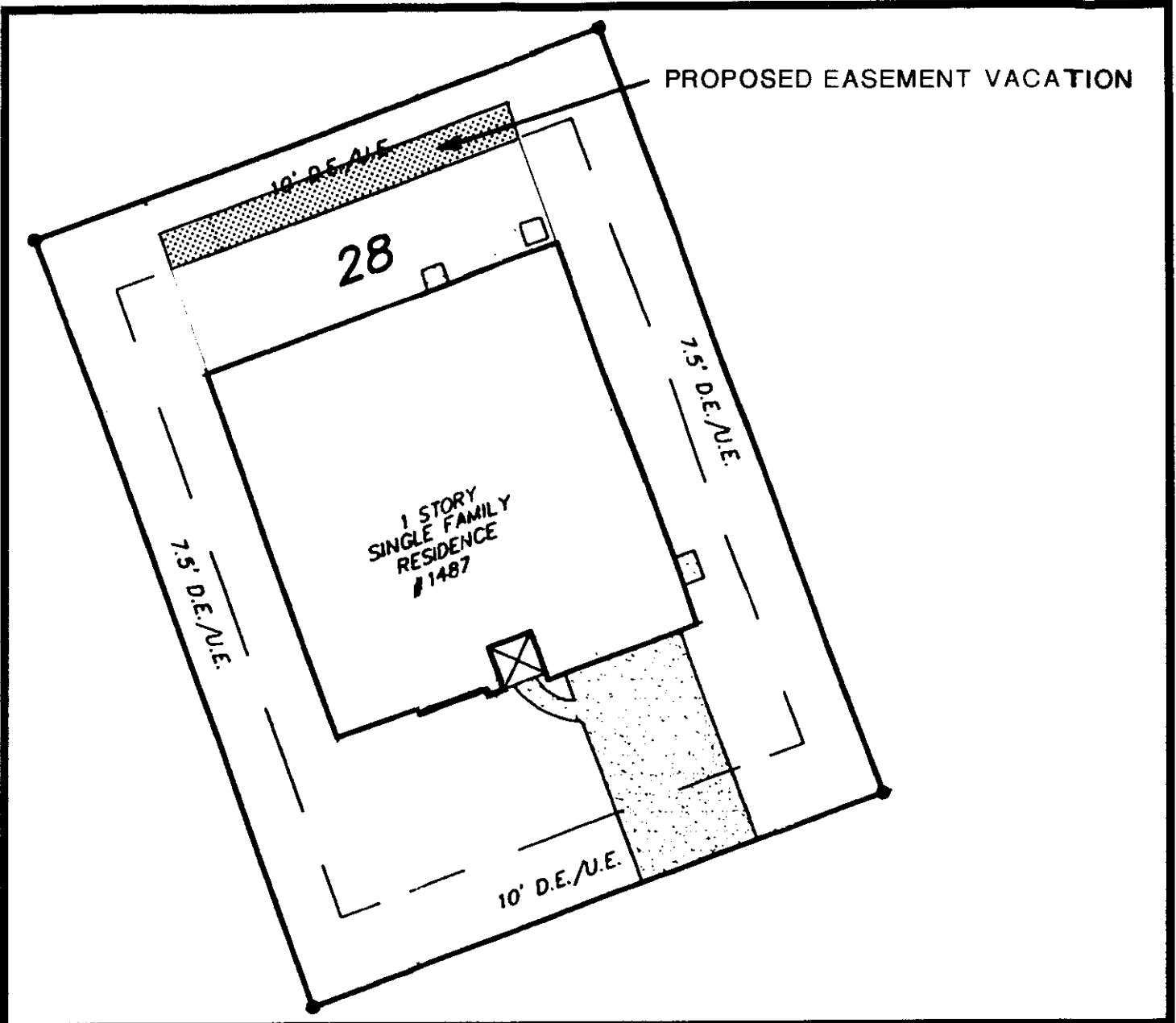


Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





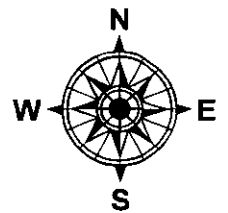
Case No.: 05-350000020	Requested Action: To vacate a portion of the northwesterly rear yard 10.00'-wide Drainage and Utility Easement located on Lot 28 of The Vineyards Phase I Subdivision
Applicant: Daniel Bicksler and Marie Bicksler, Property Owners	
Location: Lot 28, The Vineyards, Phase I Subdivision (1487 Surrey Park Drive)	



Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT



07/10/2002 09:19
Doc stamps 1085.00
(Transfer Amt \$ 155000)
Instrument # 2002-153793
Book: 4892
Page: 2364
Diane M. Matousek
Volusia County, Clerk of Court

Return to: Tracey L. Crotty
Name: Southern Title of Central Florida, LLC.
Address: 2335 BEVILLE ROAD
DAYTONA BEACH, Florida 32119

This Instrument Prepared:
Tracey L. Crotty
Southern Title of Central Florida, LLC.
2335 BEVILLE ROAD
DAYTONA BEACH, 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):
6319-18-00-0280
Grantee(s) S.S.#(s):
File No: DB0210285

WARRANTY DEED

This Warranty Deed Made the 18th day of June, 2002, by FERNANDO AGUILERA JR. and ESTELA M. AGUILERA, HUSBAND AND WIFE, hereinafter called the grantor, whose post office address is: 1920 PALOMA WAY, ARLINGTON, Texas 76006

to DANIEL BICKSLER and MARIE BICKSLER, HUSBAND AND WIFE, whose post office address is: 1487 SURREY PARK DRIVE, PORT ORANGE, Florida 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 28, THE VINEYARDS- PHASE I, ACCORDING TO PLAT THEREOF AS RECORDED IN MAP BOOK 45, PAGES 120 AND 121, 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, 2001, 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: Gay D. Smith Fernando Aguilera Jr.
Printed Name: Gay D. Smith FERNANDO AGUILERA JR.

Witness Signature: Vicente Haro Estela M. Aguilera
Printed Name: Vicente Haro ESTELA M. AGUILERA

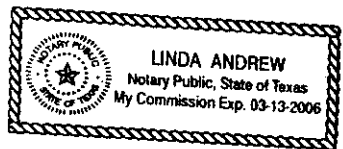
Witness Signature: Vicente Haro
Printed Name: _____

Witness Signature: _____
Printed Name: _____

STATE OF Texas
COUNTY OF Dallas

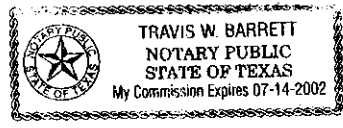
The foregoing instrument was acknowledged before me this 18th day of June, 2002, by FERNANDO AGUILERA JR. and ESTELA M. AGUILERA, HUSBAND AND WIFE, who is/are personally known to me or who has/have produced driver license(s) as identification.

My Commission Expires:
03/13/06



Linda Andrew
Printed Name: Linda Andrew
Notary Public
Serial Number 01114745-B

SUBSCRIBED AND SWORN BEFORE ME
THIS 18 DAY OF June 2002
Travis W. Barrett
NOTARY PUBLIC



SOUTHERN TITLE



JAN. 05, 2006

City of Port Orange
Community Development Dept.
1000 City Center Cir.
Port Orange, FL 32129

Re: Easement Vacation
Lot: 28
Subd: Vineyards Subdivision

Please be advised that FPL does not object to the partial vacation of the platted rear 10' utility easement described as follows:

THE SOUTHEREASTERLY 5.00 FEET OF THE NORTHWESTERLY 10.00 FEET WIDE DRAINAGE AND UTILITY EASEMENT, EXCEPT THE NORTHEASTERLY 15.00 FEET AND SOUTHWESTERLY 15.00 FEET THEROF, LOCATED ON LOT 28 OF THE VINEYARDS – PHASE 1 SUBDIVISION, AS RECORDED IN MAP BOOK 45, PAGE 120 AND PAGE 121, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA (1487 SURREY PARK DRIVE : TAX PARCEL NO 6319-18-00-0280).

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

RECEIVED

JAN 17 2006

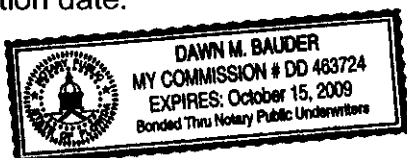
Community
Development Dept.

The foregoing instrument was acknowledged before me this 9th day of January, 2006 by Bill WATER who is personally known to me and did not take an oath.

My Commission number and expiration date:

Dawn M. Bauder

Notary Public, Signature





PEOPLES GAS

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 Vineyards-Phase I Subdivision, a subdivision according to the plat thereof recorded in Map Book 45, page 120 and 121, of the public records of Volusia County, Florida being more particularly described as follows:

The southeasterly 5.00 feet of the northwesterly 10.00 - feet wide Drainage and Utility Easement, except the northeasterly 15.00 feet and southwesterly 15.00 feet thereof, located on Lot 28 of The Vineyards - Phase I subdivision, as recorded in Map Book 45, Page 120 and Page 121, of the Public Records of Volusia County, Florida.

Physical Address - 1487 Surrey Park Rd.
Port Orange, Florida
Tax Parcel No. 6319-18-00-0280

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: Jimothy C. Sugar

By: George C. Smith

DATE: 12-14-05

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 14th day of December, 2005.

My Commission Expires: MAY 26, 08



Joni M. Murray
Commission #DD323920
Expires: May 26, 2008
Bonded Thru

Atlantic Bonding Co., Inc.
Notary Public, State of
Florida at Large

Joni M. Murray

RECEIVED

DEC 15 2005

Community
Development Dept.

PEOPLES GAS
1722 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117
AN EQUAL OPPORTUNITY COMPANY

PHONE: 1-877-832-6747
FAX: (386) 671-2251
HTTP://WWW.TECOENERGY.COM

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

January 13, 2006

Marie Bicksler
1487 Surrey Park Drive
Port Orange, Florida 32124

RE: Release of easement Parcel # 6319-18-00-0280

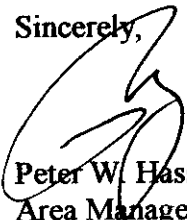
To Whom It May Concern:

BellSouth respectfully releases any and all rights of the utility easement exactly as described:

The southeasterly 5.00 feet of the northwesterly rear yard 10.00 feet wide Drainage and Utility Easement, except the northeasterly 15.00 feet and southwesterly 15.00 feet thereof, located on Lot 28 of the Vineyards- Phase I, subdivision as recorded in Map Book 45, Page 120, and Page 121, of the Public Records of Volusia County, Florida.

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

Sincerely,



Peter W. Hassett
Area Manager

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

The southeasterly 5.00 feet of the northwesterly 10.00-foot wide Drainage and Utility Easement, except the northeasterly 15.00 feet and southwesterly 15.00 feet thereof, located on Lot 28 of The Vineyards – Phase I subdivision, as recorded in Map Book 45, Page 120 and Page 121, of the Public Records of Volusia County, Florida (1487 Surrey Park Drive; Tax Parcel No. 6319-18-00-0280).



CITY OF PORT ORANGE

Department of Community Development
Engineering Division

CASE NO. <u>05-350000020</u>
DATE APPLICATION RECEIVED <u>12/6/05</u>

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

EASEMENT VACATION APPLICATION

Property Owner: Daniel Bickster and Marie Bickster

Address: 14877 Surrey Park Dr.

Port Orange, Fl. 32128 Phone: (386) 756-6473
M-299 1622

Applicant's Name (if other than owner): _____

Address: _____ Phone: _____

Property Address/Location: _____

Subdivision Name: The Vineyards - Phase I

Lot Number(s): 28 Parcel No.: 6319-18-00-0280

Legal Description of proposed easement vacation: _____
See Attached

Purpose for proposed easement vacation: pool & screen

- ### 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: *Marie Bickler* Date: 11/21/05

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

Owner's Signature: *Marie Bickler* Date: 11/21/05

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 11/21/05 by Marie Bickler/Dan Bickler, who is personally known to me or who has produced personally known as identification and who did (did not) take an oath.

Melisa Gates Notary Public, Commission No. DD 235673
(Signature)
Melisa Gates
(Name of Notary typed, printed or stamped)

