



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 11/7/06

SUBJECT: 06-350000005/PROPOSED EASEMENT VACATION – WILLOW RUN – UNIT VII SUBDIVISION, LOT 13 (1086 WILLOW WOOD DRIVE; TAX PARCEL NO. 6317-09-00-0130)

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION

To approve Resolution #06-107 vacating the northerly 4.00 feet of the southerly rear yard 10.00-foot wide Drainage and Utility Easement located on Lot 13 of the Willow Run – Unit VII Subdivision, per the attached legal description.

SUMMARY

The Community Development Department has received a request to vacate a portion of the southerly rear yard 10.00-foot wide Drainage and Utility Easement located on Lot 13 of the Willow Run – Unit VII 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>D. W. Wells</i>	Submitted	<i>10/31/06</i>	Date
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements		Date
CITY ATTORNEY	<i>B. J. Kat</i>	Approved as to Form and Legality		Date <i>10-30-06</i>
CITY MANAGER	<i>[Signature]</i>	Approved Agenda Item For:	<i>11/7/06</i>	

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Continued to Date Certain Approved with Modification

RESOLUTION NO. 06-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING A PORTION OF PLATTED DRAINAGE EASEMENT FOR LOT 13, WILLOW RUN - UNIT 7 SUBDIVISION; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A QUIT CLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, William D. Simpson and Angela Simpson, husband and wife, are the record owners of Lot 13, Willow Run - Unit 7 Subdivision, according to the map recorded in Map Book 40, Page 192, 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 northerly 4.00 feet of the southerly 10.00 feet wide Drainage and Utility Easement, except the easterly 50.5 feet and westerly 7.50 feet thereof, located on Lot 13 of the Willow Run - Unit VII subdivision plat, as recorded in Map Book 40, Page 192, of the Public Records of Volusia County, Florida (1086 Willow Wood Drive; Tax Parcel No. 6317-09-00-0130).

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

Parcel No. 6317-09-00-0130

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 WILLIAM D. SIMPSON and ANGELA SIMPSON, husband and wife, whose permanent address is 1086 Willow Wood Drive, Port Orange, Florida 32129, 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\willow run lot 13.wpd

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

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(Transfer Amt \$ 208000)
Instrument# 2005-193381 # 1
Book : 5604
Page : 1728

Prepared by
Susan Frazier, an employee of
Associated Land Title Group, Inc.
555 West Granada Boulevard, Suite H-12
Ormond Beach, Florida 32174
(386) 673-6114

Return to: Grantee

File No.: 1061-871764

WARRANTY DEED

This indenture made on **July 08, 2005** A.D., by

James Middleton, an unmarried man

whose address is: **449 Victoria Drive, Port Orange, FL 32129**
hereinafter called the "grantor", to

William D. Simpson and Angela Simpson, husband and wife

whose address is: **1086 Willow Wood Drive, Port Orange, FL 32119**
hereinafter called the "grantee":

(Which terms "Grantor" and "Grantee" shall include singular or plural, corporation or individual, and either sex, and shall include heirs, legal representatives, successors and assigns of the same)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) 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**, to-wit:

Lot 13, WILLOW RUN-UNIT 7, according to the plat thereof as recorded in Map Book 40, Page(s) 192, of the Public Records of Volusia County, Florida.

Parcel Identification Number: **6317-09-00-0130**

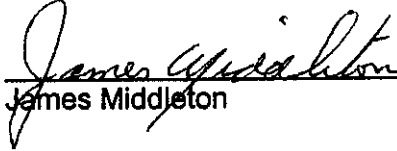
Subject to all reservations, covenants, conditions, restrictions and easements of record and to all applicable zoning ordinances and/or restrictions imposed by governmental authorities, if any.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any way 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 31st of 2004.

In Witness Whereof, the grantor has hereunto set their hand(s) and seal(s) the day and year first above written.


James Middleton

Signed, sealed and delivered in our presence:

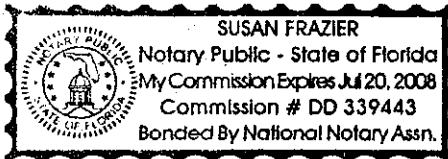

Witness Signature
Print Name: SUSAN FRAZIER

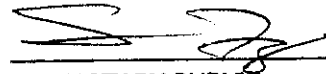

Witness Signature
Print Name: Julie Thompson

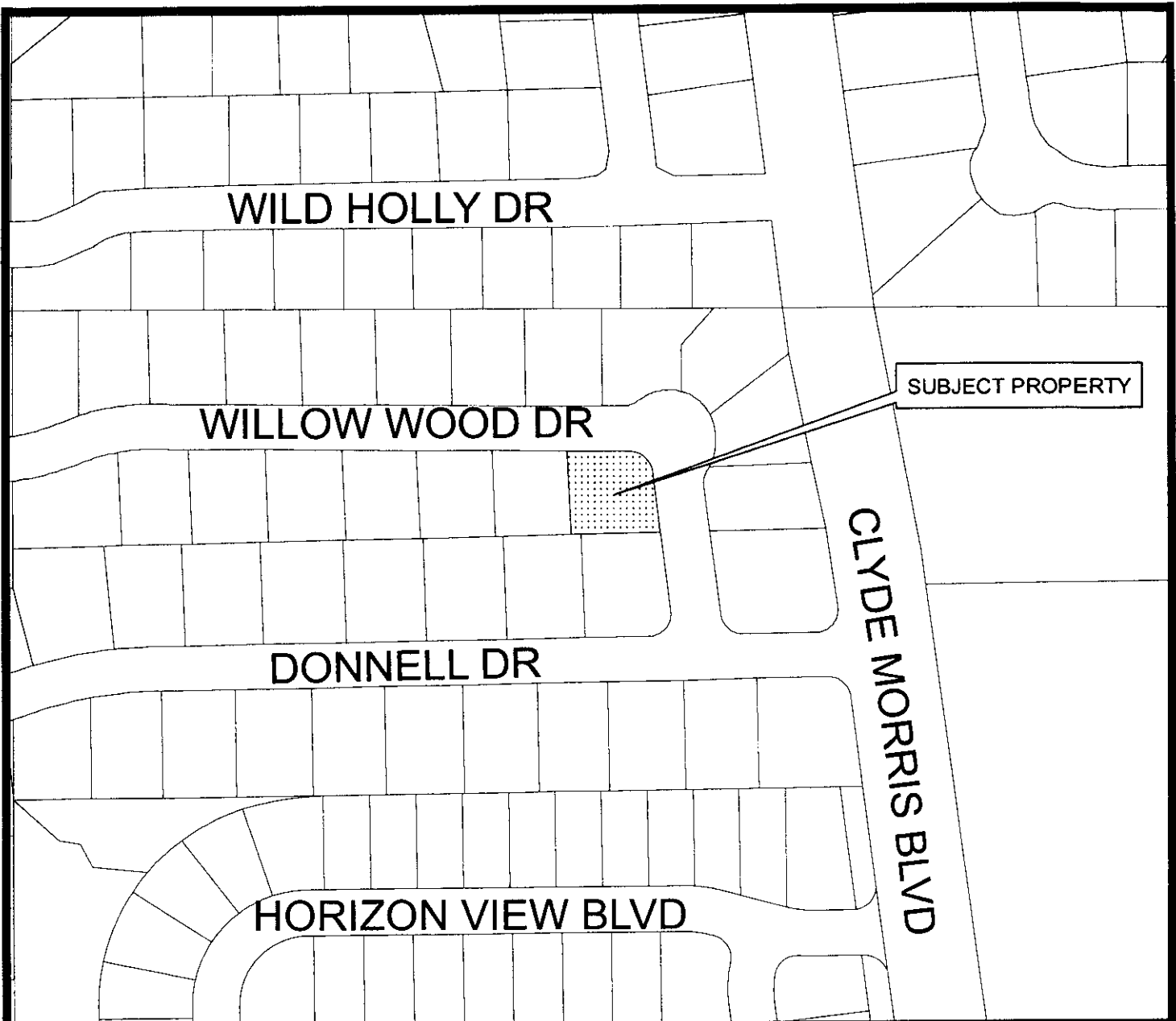
State of **FL**

County of **Volusia**

The Foregoing Instrument Was Acknowledged before me on **July 08, 2005**, by **James Middleton, an unmarried man** who is/are personally known to me or who has/have produced a valid driver's license as identification.




NOTARY PUBLIC
Notary Print Name _____
My Commission Expires: _____



Case No.: 06-350000005

Applicant: Walter Lash, Artesian Pools, on behalf of William Simpson and Angela Simpson, Property Owners

Location: Lot 13, Willow Run - Unit VII Subdivision (1086 Willow Wood Drive)

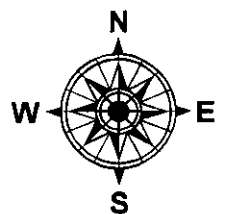
Requested Action: To vacate a portion of the southerly rear yard 10.00' wide Drainage and Utility Easement located on Lot 13 of the Willow Run - Unit VII Subdivision

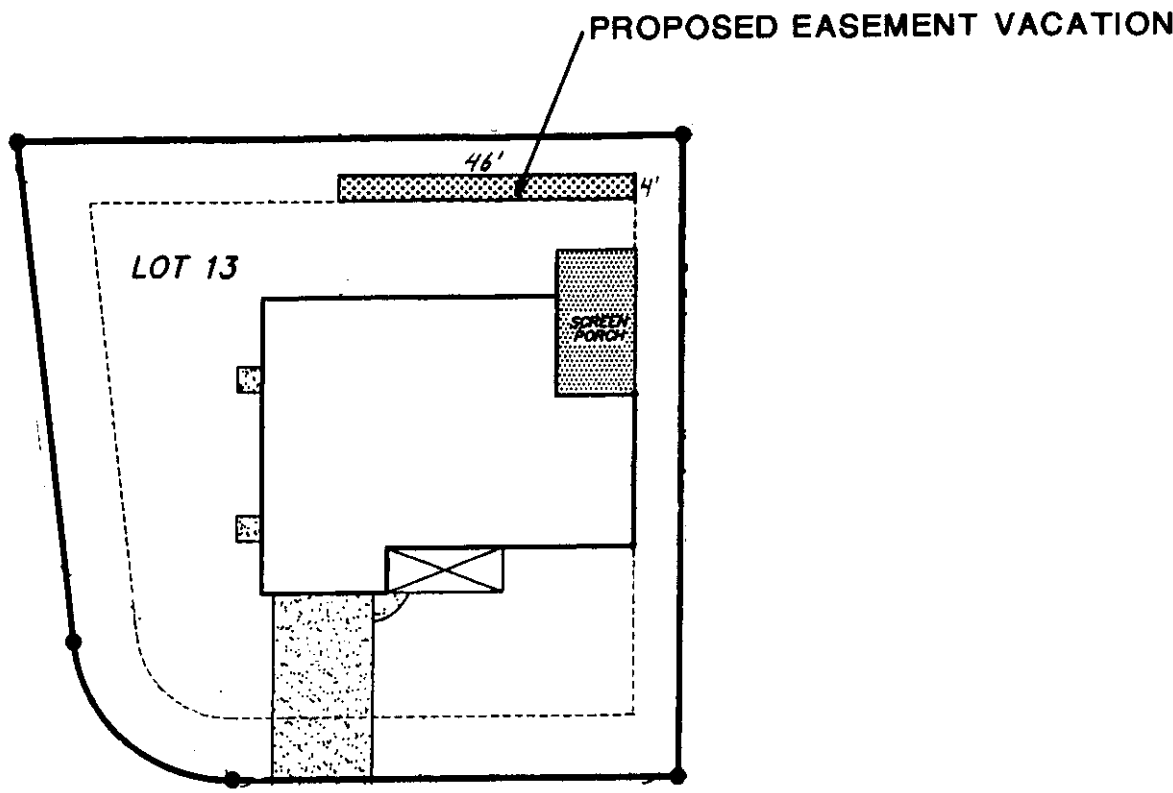


Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





Case No.: 06-350000005

Applicant: Walter Lash, Artesian Pools, on behalf of William Simpson and Angela Simpson, Property Owners

Location: Lot 13, Willow Run - Unit VII Subdivision (1086 Willow Wood Drive)

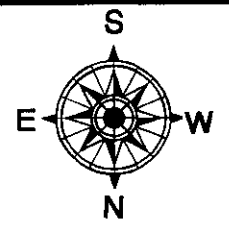
Requested Action: To vacate a portion of the southerly rear yard 10.00' wide Drainage and Utility Easement located on Lot 13 of the Willow Run - Unit VII Subdivision



Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





September 05, 2006

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

Re: Easement Vacation
Lot: 13
Address: 1086 Willow Wood Dr
Subd: Willow Run – Unit VII
Map book 40 page 192, public records of Volusia County, Florida
Tax Parcel: 6307-09-00-0130

Please be advised that FPL does not object to the 4.00 foot partial vacation of the platted 10' utility easement described as follows. The northerly 4.00 feet of the southerly 10.00 feet wide Drainage and Utility Easement , except the easterly 50.5 feet and westerly 7.50.00 feet thereof, located on lot 13 of the Willow Run – Unit VII Subdivision plat, as recorded in map book 40, page 192, of the Public Records of Volusia County, Florida (1086 Willow Wood Dr : Tax parcel 6307-09-00-0130).

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

Thank you,

Bill Watier

Construction Supervisor

STATE OF FLORIDA AND COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 11th day of September, 2006 by Bill Watier 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 Willow Run-Unit VII Subdivision Plat being more particularly described as follows:

The northerly 4.00 feet of the southerly 10.00 feet wide Drainage and Utility Easement, except the easterly 50.5 feet and westerly 7.50 feet thereof, located on lot 13 of the Willow Run - Unit VII Subdivision Plat, as recorded in Map Book 40, page 192, of the Public Records of Volusia County, Florida.

Physical Address - 1086 Willow Wood Drive
Port Orange, FL
Tax Parcel # 6317-09-00-0130

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
George C. Smith
Construction Coordinator

DATE: 10/04/06

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 4th day of October, 2006



Joni M. Murray
Commission #DD323920
Expires: May 26, 2008
Bonded Thru
Atlanta Bonding Co., Inc.

My Commission Expires: MAY 26, 08

Joni M. Murray
Notary Public, State of
Florida at Large



BellSouth Telecommunications, Inc.
900 N. Nova Rd
Daytona Beach, FL 32117

Office 386 254-2936
Fax 386 252-7121

October 6, 2006

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

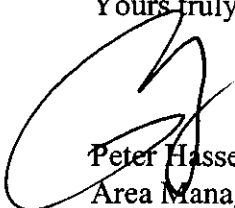
Re: Partial release of easement 1086 Willow Wood Dr.

Dear Sirs,

In regard to the request for the partial release of easement at 1086 Willow Wood Dr; as shown on the attached drawing, please accept this letter as our notification of agreement to relinquish all rights that we have to this portion of the easement.

If you have any further questions, please call Rebecca Cochrane at 386-252-0662

Yours truly,

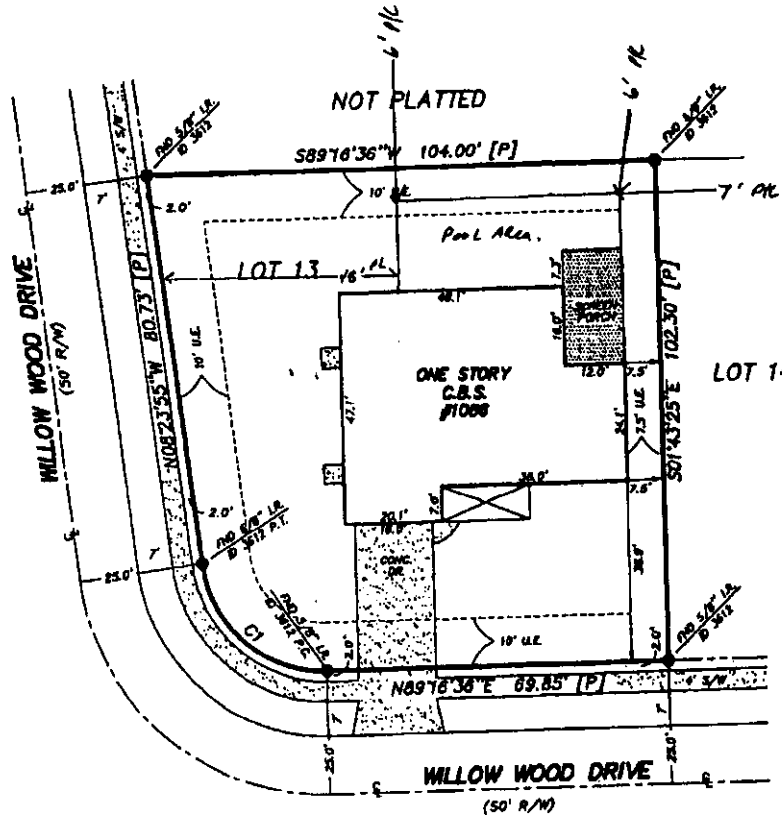


Peter Hassett
Area Manager

BOUNDARY SURVEY

LEGAL DESCRIPTION: LOT 13, WILLOW RUN-UNIT 7, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 40, PAGE(S) 192, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

SCALE: 1"=30'



RIGHT-OF-WAY LINE	CENTERLINE	BUILDING SETBACK LINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	OVERHEAD UTILITY LINES
A/C - AIR CONDITIONER A - CENTRAL ANGLE C.B. - CONCRETE BLOCK STRUCTURE C.E.S. - CONCRETE EASEMENT C.M.U. - CONCRETE MASONRY UNIT CONC. - CONCRETE CONV. - CONCRETE C.P.P. - CONCRETE POWER POLE D - DEED D.E. - DRAINAGE EASEMENT E - EAST ENT - ENTRANCE F.F.E. - FINISHED FLOOR ELEVATION FND - FOUND ID - IDENTIFICATION	LP. - IRON PIPE I.R. - IRON ROD L - ARC LENGTH L.B. - LAND SURVEYING BUSINESS L.P. - LANDING PAD L.S. - LAND SURVEYOR M - MEASURED N - NORTH MAD - NAIL AND DISK # - NUMBER P - PLAT P.C. - POINT OF CURVATURE P.C.P. - PERMANENT CONTROL POINT P.L. - PROPERTY LINE P.O.B. - POINT OF BEGINNING P.O.C. - POINT OF COMMENCEMENT	P.O.L. - POINT ON LINE P.R.C. - POINT OF REVERSE CURVE P.R.M. - PERMANENT REFERENCE MONUMENT P.T. - POINT OF TANGENT R - RADIIUS R/W - RIGHT OF WAY RAD - RADIAL S/W - SIDEWALK S - SOUTH STY. - STORY U.E. - UTILITY EASEMENT W - WEST W.F.S. - WOOD FRAME STRUCTURE W.M. - WATER METER W.P.P. - WOOD POWER POLE	LEGEND X - FOUND "X" OUT IN CONC. O - SET 1/2" REBAR AND CAP PER § 5144 ● - FOUND PROPERTY CORNER ○ - 4" x 4" CONCRETE MONUMENT ○ - WELL ○ - GAS METER ○ - FIRE HYDRANT ⊗ - COVERED AREA ■ - CONCRETE			

DRAWN BY: FM	CHECKED BY: NM
IDENTIFIED TO: BILLY AND ANGIE SIMPSON WACHOVIA BANK, NATIONAL ASSOCIATION ASSOCIATED LAND TITLE GROUP, INC. FIRST AMERICAN TITLE INS. CO.	
COMMUNITY NO: 120313	PANEL: 0507
SHEET: G	F.I.R.M. DATE: 04/15/02
FLOOD ZONE: X	FIELD DATE: 06/30/05
SURVEY NO: 11083	

BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF WILLOW WOOD DRIVE BEING N89°16'36"E PER PLAT

Long Surveying, Inc.

"Specializing in Residential Surveying"

101 N. Country Club Road, Suite 220
 Lake Mary, FL 32746
 Office 407-330-9717 or 407-330-9716
 Fax 407-330-9775
 WWW.LONGSURVEYING.COM

NOTES:
 1) This survey is based on the legal description as provided by the Client.
 2) This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land.
 3) Do not reconstruct property lines from building lines.
 4) No lotting or overhangs have been located except as shown.
 5) No improvements or utilities have been located except as shown.
 6) This survey is not valid without the signature and the original related seal of a Florida Licensed Survey and Mapper.

Declaration: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.087, Florida Statute.

Jan M. Sheppard P.S.M. No. 5144

211 St. Joe Plaza Drive
Palm Coast, FL 32164



August 30, 2006

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

**RE: Proposed Easement Vacate: Willow Run; Parcel ID#: 631709000130
1086 Willow Wood Drive, Port Orange, Fl.**

Gentlemen:

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

We have reviewed the request and find that we presently maintain cable plant in the Southerly six feet of this easement.

Bright House Networks has no objection to the vacation of the Northerly four feet of this easement.

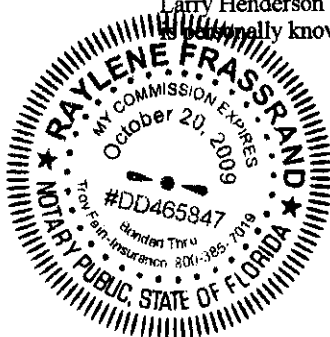
If you have any questions regarding this, please contact the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Larry Henderson".

Larry Henderson
Construction Manager
386-446-1420

Larry Henderson acknowledged the foregoing instrument before me this 30th day, August 2006. He is personally known to me, and did not take an oath.



Signature A handwritten signature in black ink that reads "Raylene Frassrand".
Raylene Frassrand

RECEIVED

SEP 07 2006

**Community
Development Dept.**

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

The northerly 4.00 feet of the southerly 10.00 feet wide Drainage and Utility Easement, except the easterly 50.5 feet and westerly 7.50 feet thereof, located on Lot 13 of the Willow Run - Unit VII subdivision plat, as recorded in Map Book 40, Page 192, of the Public Records of Volusia County, Florida (1086 Willow Wood Drive; Tax Parcel No. 6317-09-00-0130).



CITY OF PORT ORANGE

Department of Community Development
Engineering Division

CASE NO. <u>06-35000005</u>
DATE APPLICATION RECEIVED <u>9/13/06</u>

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

EASEMENT VACATION APPLICATION

Property Owner: William Simpson and Angela Simpson

Address: 1086 Willow wood Dr. Port Orange FL 32129

Phone: 761-3654

Applicant's Name (if other than owner): WALTER Lash

Address: 762 S. Nara Rd. DB FL 32114 Phone: 386-258-8641

Property Address/Location: 1086 Willow wood Dr. Port Orange FL 32129

Division Name: Willow Run

Lot Number(s): 13 Parcel No.: 6317-09-00-0130

Legal Description of proposed easement vacation: SEE ATTACHMENT

Purpose for proposed easement vacation: TO BUILD A IN GROUND SWIMMING POOL w/ 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: [Signature] Date: 8/12/06

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

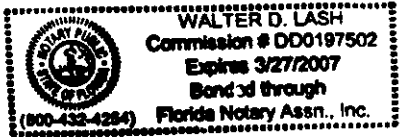
Owner's Signature: [Signature] Date: 8/12/06
Angela Simpson 8/13/06

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this AUGUST 12th by William Simpson who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

[Signature] Notary Public, Commission No. _____
(Signature)

(Name of Notary typed, printed or stamped)





MEMORANDUM

TO: Richard W. Wells, AICP, Director of Community Development

FROM: Michael Hill, P.E., Community Development Engineer *A.*

SUBJECT: CITY COUNCIL AGENDA ITEM - 06-350000005/PROPOSED EASEMENT VACATION – WILLOW RUN – UNIT VII SUBDIVISION, LOT 13 (1086 WILLOW WOOD DRIVE; TAX PARCEL NO. 6317-09-00-0130)

DATE: October 30, 2006

The above referenced report is provided for your review and approval for the November 7, 2006 City Council meeting. This request is being processed in accordance with our routine easement vacation application process.

Attachments
CKG/ckg

cc: Chip Glor, Engineer