



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 8/19/08

SUBJECT: 08-350000005/PROPOSED EASEMENT VACATION – WOODLAKE SUBDIVISION, LOT 161 (4621 BARNACLE DRIVE; TAX PARCEL NO. 6309-24-00-1610)

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION


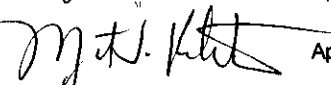

To approve Resolution #~~08-33~~, vacating the northerly 5.00 feet of the southerly rear yard 10.00-foot wide Utility and Drainage Installation and Maintenance Easement located on Lot 161 of the Woodlake Subdivision, per the attached legal description.

SUMMARY

The Community Development Department has received a request to vacate a portion of the southerly rear yard 10.00-foot wide Utility and Drainage Installation and Maintenance Easement located on Lot 161 of the Woodlake Subdivision. Artesian Pools, applicant on behalf of the property owner, has made this request in connection with a proposed pool deck and screened pool enclosure to be constructed in to the easement.

The easement vacation application and legal description have been reviewed for completeness and accuracy. Franchise Utility Company release letters have been obtained for the area described in the attached legal description (Exhibit "A"). City departments have reviewed this request with respect to City Codes and possible effects to adjacent properties and have no outstanding concerns. Total allowable lot coverage has not been exceeded and enough easement area will remain for necessary drainage. 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		Submitted	Date <u>8/8/08</u>
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date
CITY ATTORNEY		Approved as to Form and Legality	Date <u>8-8-08</u>
CITY MANAGER		Approved Agenda Item For:	<u>8/19/08</u>

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

RESOLUTION NO. 08-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING A PORTION OF PLATTED DRAINAGE AND UTILITY EASEMENT FOR LOT 161, WOODLAKE SUBDIVISION; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A QUIT CLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Idella F. McManus, is the record owner of Lot 161, Woodlake Subdivision, according to the map or plat thereof, as recorded in Map Book 42, Page 33, Public Records of Volusia County, Florida, and has applied for the vacation of a portion of a drainage and utility easement in order to provide for the construction of proposed pool deck and screened enclosure; and

WHEREAS, the applicant has 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, (the "Property Owners") agree that the City shall have the continued right to perform maintenance within the drainage easement of record; and further, the Property Owners 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 vacated area.

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

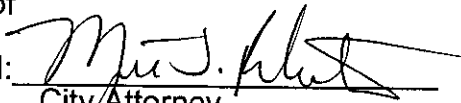
MAYOR ALLEN GREEN

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 5.00 feet of the southerly 10.00-foot wide Utility and Drainage Installation and Maintenance Easement, except the easterly 6.00 feet and westerly 9.50 feet thereof, located on Lot 161 of the Woodlake Subdivision, as recorded in Map Book 42, Pages 33 and 34, of the Public Records of Volusia County, Florida (4621 Barnacle Drive; Tax Parcel No. 6309-24-00-1610).

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

Parcel No. 6309-24-00-1610

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 _____, 2008, between the CITY OF PORT ORANGE, a Florida municipality, of the County of Volusia and State of Florida, Grantor, and **IDELLA F. McMANUS, a single woman**, whose permanent address is: 4621 Barnacle Drive, Port Orange, FL 32127, Grantee.

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 Grantee, 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 Grantee, and Grantee's 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.

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 Grantee, his heirs and assigns forever.

By accepting the above-described Quit Claim Deed, the Grantee, their successors and assigns, agree that the City shall have the continued right to perform maintenance within the drainage easement of record; and further the Grantee 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 property described in Exhibit "A".

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 _____, 2008, 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\woodlake sub lot 161 es vac.wpd

EXHIBIT "A"

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09/12/1996 10:26
Doc stamps 525.00
(Transfer Amt \$ 75000)
Instrument # 96155668
Book: 4138
Page: 1677

This Instrument Prepared by: Debra Price,
An Officer of Associated Land Title Group, Inc. (357),
632 Dunlawton, Suite C, Port Orange, FL 32127,
For Purposes of Title Ins.
File # 357-2111A
Parcel ID # 6309-24-00-1610

Warranty Deed

(The terms "grantor" and "grantee" herein shall be construed to include all genders and singular or plural as the context indicates.)

Made September 10, 1996, BETWEEN

Nancy L. Gerson f/k/a Nancy L. Lau joined by her spouse Charles Scott Gerson whose post office address is 4605 Sandy Creek Drive Nashville, TN 37221 of the County of Davidson, State of TN, grantor, and

Idella F. McManus, a single woman (SS#: 574-16-0722) whose post office address is 4621 Barnacle Drive Port Orange, Florida 32127 of the County of Volusia, State of FL, grantee,

WITNESSETH: That the said grantor, for and in consideration of the sum of Ten (\$10.00) Dollars, and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs, successors and assigns forever, the following described land, situate, lying and being in Volusia County, Florida to-wit:

Lot 161, WOODLAKE SUBDIVISION, according to the map or plat thereof, as recorded in Map Book 42, page 33, of the Public Records of Volusia County, Florida.

Subject to easements and restrictions of record, if any, which are specifically not extended or reimposed hereby. Subject to 1996 taxes and assessments.

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

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

Signed, sealed and delivered in the presence of:

Philip W. Russell
Witness Signature

Nancy L. Gerson / Nancy L. Lau
Nancy L. Gerson f/k/a Nancy L. Lau

Philip W. Russell
PLEASE PRINT OR TYPE NAME AS IT APPEARS

Charles Scott Gerson
Charles Scott Gerson

Mitchell Lynch
Witness Signature

Mitchell Lynch
PLEASE PRINT OR TYPE NAME AS IT APPEARS

STATE OF Tennessee

COUNTY OF Davidson

I HEREBY CERTIFY, that on September 9, 1996, before me personally appeared Nancy L. Gerson f/k/a Nancy L. Lau joined by her spouse Charles Scott Gerson who are personally known to me or have produced the identification identified below, who are the persons described in and who executed the foregoing instrument, and who after being duly sworn say that the execution hereof is their free act and deed for the uses and purposes herein mentioned.

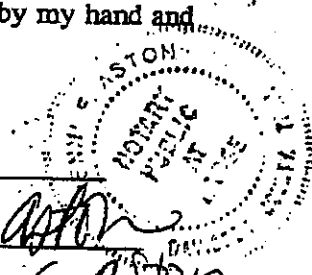
SWORN TO AND SUBSCRIBED before me the undersigned Notary Public by my hand and official seal, the day and year last aforesaid.

() To me personally known () Identified by Driver's License () Identified by _____

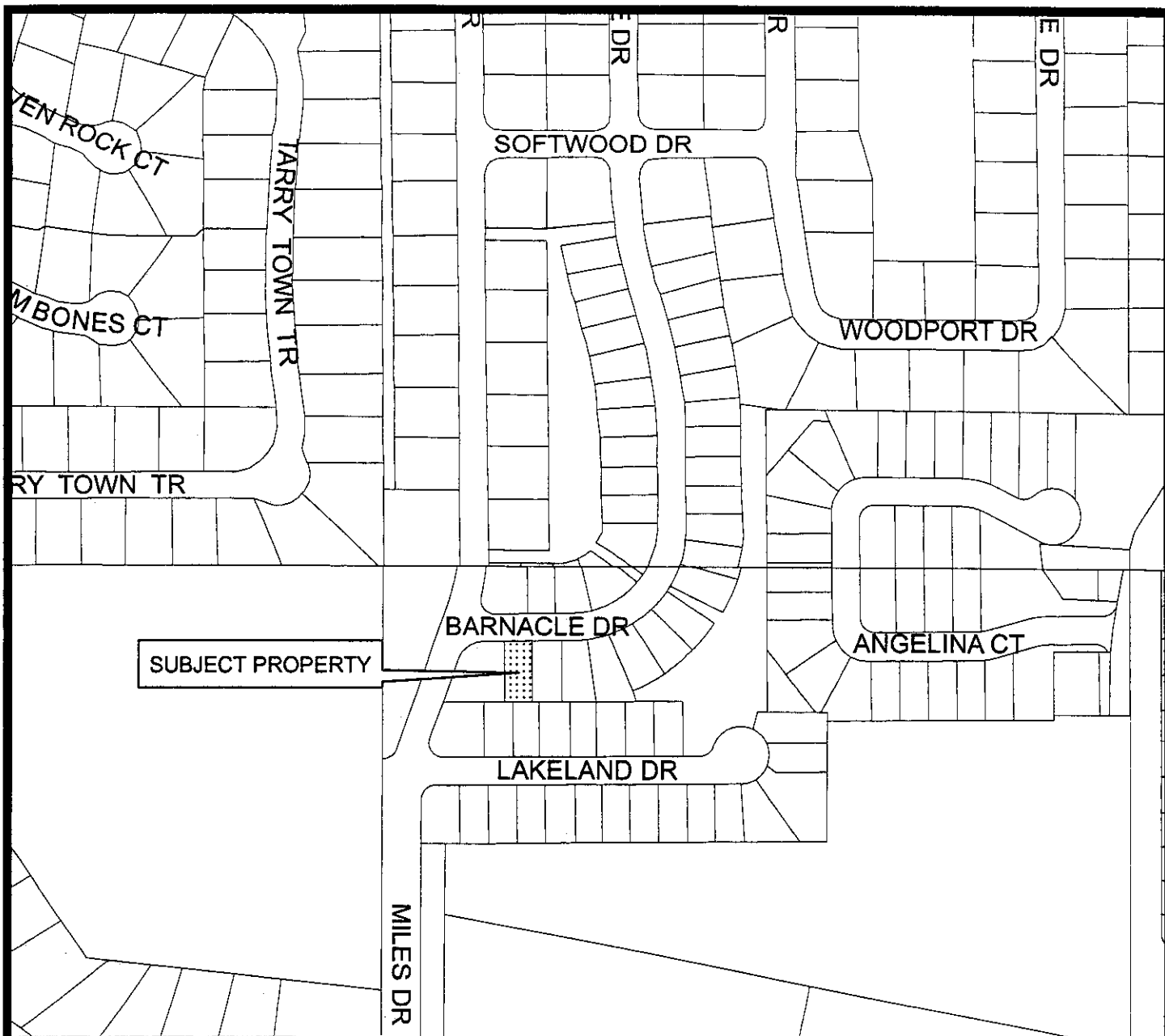
My Commission Expires MAR. 27, 1999

My Commission Expires: _____

Commission No.: _____



Jenni E. Aston
Notary Public
JENNI E. ASTON
PLEASE PRINT OR TYPE NAME AS IT APPEARS



Case No.: 08-350000005

Applicant: Brian Cobb, Artesian Pools on behalf of Idella F. McManus, property owner

Location: Lot 161, Woodlake Subdivision (4621 Barnacle Drive)

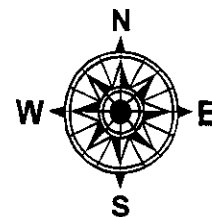
Requested Action: To vacate a portion of the southerly rear yard 10.00' wide Utility and Drainage Installation and Maintenance Easement located on Lot 161 of the Woodlake Subdivision



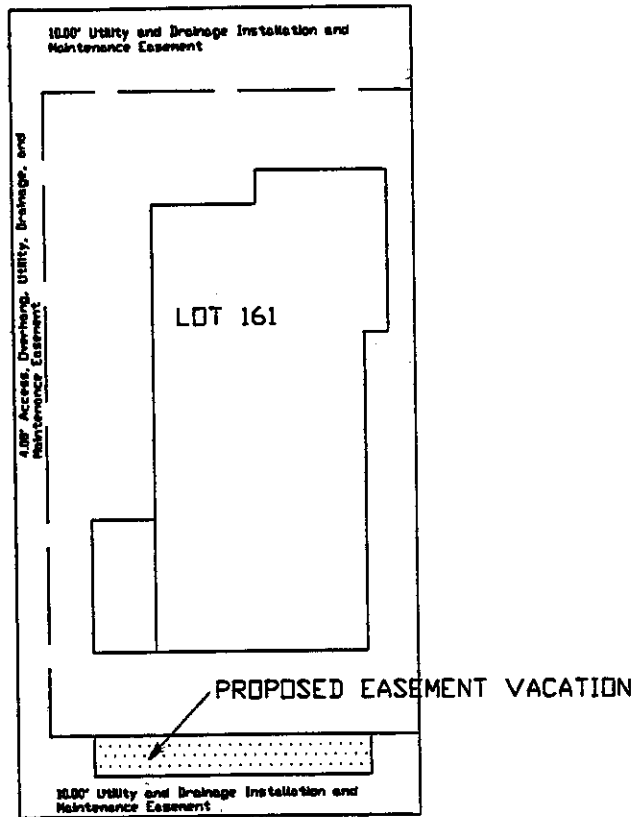
Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT



BARNACLE DRIVE



Case No.: 08-350000005

Applicant: Brian Cobb, Artesian Pools on behalf of Idella F. McManus, property owner

Location: Lot 161, Woodlake Subdivision (4621 Barnacle Drive)

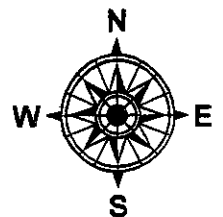
Requested Action: To vacate a portion of the southerly rear yard 10.00' wide Utility and Drainage Installation and Maintenance Easement located on Lot 161 of the Woodlake Subdivision

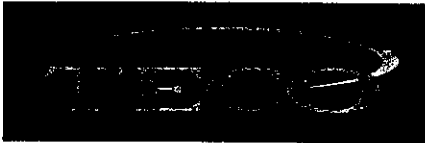


Location Map

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





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 those portions of the 10.00 feet wide Utility Easement located in the Woodlake Subdivision being more particularly described as follows:

The northerly 5.00 feet of the southerly 10.00 feet wide Utility and Drainage Installation and Maintenance Easement, except the easterly 6.00 feet and westerly 9.50 feet thereof, located on Lot 161 of the Woodlake Subdivision, as recorded in Map Book 42, pages 33 and 34, of the Public Records of Volusia County, Florida (4621 Barnacle Drive; Tax Parcel No. 6309-24-00-1610).

WITNESS: [Signature]

By: [Signature]

George C. Smith
Construction Coordinator

DATE: June 20, 2008

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 20th day of June, 2008.

My Commission Expires: May 26, 2012





July 2, 2008

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

Re: Easement Vacation
Lot: 161
Address: 4621 Barnacle Dr
Subd: Woodlake Subdivision
Map book 42 page 33 & 34, public records of Volusia County, Florida
Tax Parcel: 6309-24-00-1610

Please be advised that FPL does not object to the northerly 5.00 feet of the southerly 10.00 feet wide vacation of the utility and drainage installation and maintenance easement, except the easterly 6.00 feet and westerly 9.50 feet thereof, located on lot 161 of the Woodlake Subdivision, as recorded Map book 42 page 33 & 34, public records of Volusia County, Florida (4621 Barnacle Dr: Tax parcel 6309-24-00-1610).

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

Thank you,

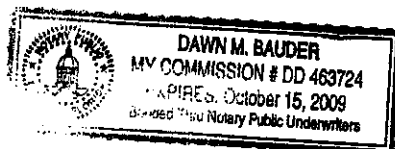
Bill Water

Construction Supervisor

STATE OF FLORIDA AND COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 1st day of July, 2008 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



AT&T Southeast. – Network Planning
Northeast Florida District

900 N. Nova Rd.
Daytona Beach, FL 32117

June 30, 2008

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

Re: Proposed Easement Vacation: *Lot 161 Woodlake
4621 Barnacle DR
Port Orange, FL 32127
Tax ID NO: 6309-24-00-1610*

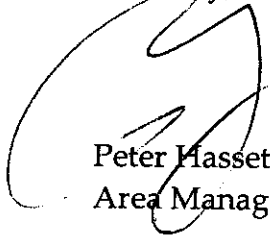
To whom it may concern,

In regard to the request for the vacation of this property on Barnacle DR in Port Orange, Florida; as shown on the attached documents, please accept this letter as our notification of agreement to relinquish all rights that we have to this portion of the utility easement and drainage installation and maintenance easement.

Since there are no telecommunication facilities in this portion of this property, and no further requirements foreseen, we respectfully release it from use and right of AT&T.

If you have any further questions, please contact Michael J. Moore at 386-254-8550.

Sincerely,



Peter Hassett
Area Manager

211 St. Joe Plaza Drive
Palm Coast, FL 32164

July 30, 2008

**bright
house**
NETWORKS



Artesian Pools
Attn: Brian Cobb
762 South Nova Road
Daytona Beach, FL 32114

**RE: Easement Vacate Request: Lot 161 Woodlake
4621 Barnacle Dr.
Port Orange, FL 32127
Tax Id: 6309-24-00-1610**

Dear Mr.Cobb:

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 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.

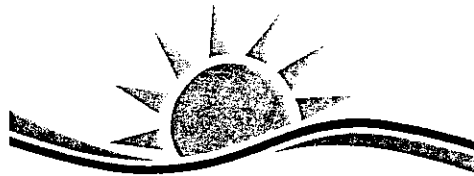
Sincerely,

Larry Henderson
Construction Manager
386-446-1420

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AREA TO BE VACATED

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Volusia County FLORIDA

FINANCIAL AND ADMINISTRATIVE SERVICES

Revenue • Ad Valorem Tax

123 W. Indiana Avenue • Room 103 • DeLand, Florida 32720

(386) 736-5938 • FAX (386) 822-5729

www.volusia.org

CERTIFICATION

DATE: 06/23/08

PARCEL: 6309-24-00-1610

LEGAL: LOT 161 WOODLAKE SUB MB 42 PGS 33 & 34 OR 1677 TO 1678

PROPERTY OWNER: Idella F McManus

PROPERTY ADDRESS: 4621 Barnacle Port Orange

I hereby certify that there are no delinquent or unpaid real estate taxes against or due on the lands described above as required by Section 197.192 of the Florida Statutes.

By: 
Revenue Specialist



CITY OF PORT ORANGE

Department of Community Development
Engineering Division

CASE NO.
08-350000005
DATE APPLICATION RECEIVED
6/17/08

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

EASEMENT VACATION APPLICATION

Property Owner: Idella McManus

Address: 4621 Barnacle Dr
Port Orange, FL 32127 Phone: 295-3755

Applicant's Name (if other than owner): Brian Cobb / Artesian Pools

Address: 762 S. Nova Rd Daytona Beach 32114 Phone: 258-8641 / 405-4009 ^{cell}

Property Address/Location: 4621 Barnacle Dr Port Orange

Subdivision Name: Woodlake

Lot Number(s): 161 Parcel No.: 689-24-00-1610

Legal Description of proposed easement vacation: See Attached

Purpose for proposed easement vacation: In ground swimming 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: [Signature] Date: 6/6/08

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

Owner's Signature: [Signature] Date: 6/6/08

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 6th day of June 2008 by Idella McManus, who is personally known to me or who has produced DC as identification and who did (did not) take an oath.

[Signature] Notary Public, Commission No. DD0518337

(Name of Notary typed, printed or stamped)

