

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a Public Hearing to adopt a Petition to Vacate a 12-foot and 6-foot wide public utility easement, and a 10-foot wide drainage easement located at 359 & 369 East North Shore Drive, North Fort Myers, Florida. (Case No. VAC2002-00033)

WHY ACTION IS NECESSARY: To address an existing building addition encroachment into the easement. **The vacation of this easement will not alter existing drainage and/or utility conditions and the easement is not necessary to accommodate any future drainage and/or utility requirements.**

WHAT ACTION ACCOMPLISHES: Vacates the Drainage and Public Utility Easements.

2. DEPARTMENTAL CATEGORY: 04
COMMISSION DISTRICT #: 4

5:00 #1

3. MEETING DATE:
09-23-2003

4. AGENDA:
_____ CONSENT
_____ ADMINISTRATIVE
_____ APPEALS
 PUBLIC
_____ WALK ON
_____ TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)
 STATUTE F.S. Ch. 177
_____ ORDINANCE
 ADMIN. CODE 13-1
_____ OTHER

6. REQUESTOR OF INFORMATION:
A. COMMISSIONER
B. DEPARTMENT Community Development
C. DIVISION Development Services
BY: *[Signature]* 9/10/03
Peter J. Eckenrode, Director

7. BACKGROUND:

The Board of County Commissioners has adopted a Resolution to set a Public Hearing for 5:00 PM on **September 23, 2003.**

LOCATION: Petition No. VAC2002-00033 proposes to vacate the following easements on Lots 7 and 8 within the platted subdivision of Port Edison as recorded in Plat Book 11, Page 19 of the official records of Lee County, Florida:

- 1) A 12 foot wide public utility easement centered on the line between Lots 7 & 8;
- 2) A 6 foot wide public utility easement along the southwesterly lot line of Lot 7
- 3) A 10 foot wide drainage easement centered on the line between Lots 7 & 8;

Less and except the following for all three easements: The Westerly 10' thereof adjacent to North Shore Drive.

The site is located at 359 & 369 East North Shore Drive, North Fort Myers, Florida in Section 1, Township 44 South, Range 24 East.

Documentation pertaining to this Petition to Vacate is available for viewing at the Office of Lee Cares.

There are no objections to this Petition to Vacate. Staff recommends adoption of this resolution.

Attached to this Blue sheet is the Resolution with exhibits.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services Risk			G County Manager
<i>[Signature]</i>	N/A	N/A	N/A	<i>[Signature]</i> 2-10-03	<i>[Signature]</i> 9/10/03	<i>[Signature]</i> 9/11/03	<i>[Signature]</i> 9/11/03	<i>[Signature]</i> 9-16-03

10. COMMISSION ACTION:
_____ APPROVED
_____ DENIED
_____ DEFERRED
_____ OTHER

Rec. by CoAtty
Date: 9/10/03
Time: 9:30 am
Forwarded To:
Co. Admin.
9/10/03 10AM

RECEIVED BY
COUNTY ADMIN:
9/10
11:15 am
COUNTY ADMIN
FORWARDED TO:
9/10/03
4:45 pm

THIS INSTRUMENT PREPARED BY:

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

RESOLUTION NO. _____ FOR PETITION TO VACATE

Case Number: **VAC2002-00033**

WHEREAS, Petitioners, **CLIFFORD WILCOXEN & KEITH STENGEL** 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 easement, plat or portion of a plat legally described in the attached Exhibit "A"; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing on this Petition to Vacate at **5:00 P.M. on the 23rd of September, 2003**; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate was entered into the minutes of the County Commission Meeting; 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 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. VAC2002-00033 is hereby granted.
2. The public's interest in the easement, plat or portion of a plat 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 23rd of September, 2003.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

Deputy Clerk Signature

Chairman Signature

Please Print Name

Please Print Name

LEE COUNTY
SOUTHWEST FLORIDA
APPROVED AS TO FORM

County Attorney Signature

Please Print Name

EXHIBIT "A"

**Petition to Vacate
Drainage and Utility Easements
For
Parcel Strap #01-44-24-04-00000.0070
and #01-44-24-04-00000.0080**

**Legal Description
Petition to Vacate
VAC2002-00033**

Vacating drainage and utility easements on a portion of property within Port Edison Subdivision, Section 01, Township 44 South, Range 24 East, as recorded in Plat Book 11, pages 19 and 20 of the public records of Lee County, Florida, and being more particularly described as follows:

A 6.00 foot wide public utility easement located northeasterly of the southwesterly lot line of Lot 7; less 10 feet adjacent to East North Shore Drive;

A 12.00 foot wide public utility easement centered on the lot line common to Lots 7 and 8; less 10 feet adjacent to East North Shore Drive and;

A 10.00 foot wide drainage easement centered on the lot line common to Lots 7 and 8.

EXHIBIT "B"

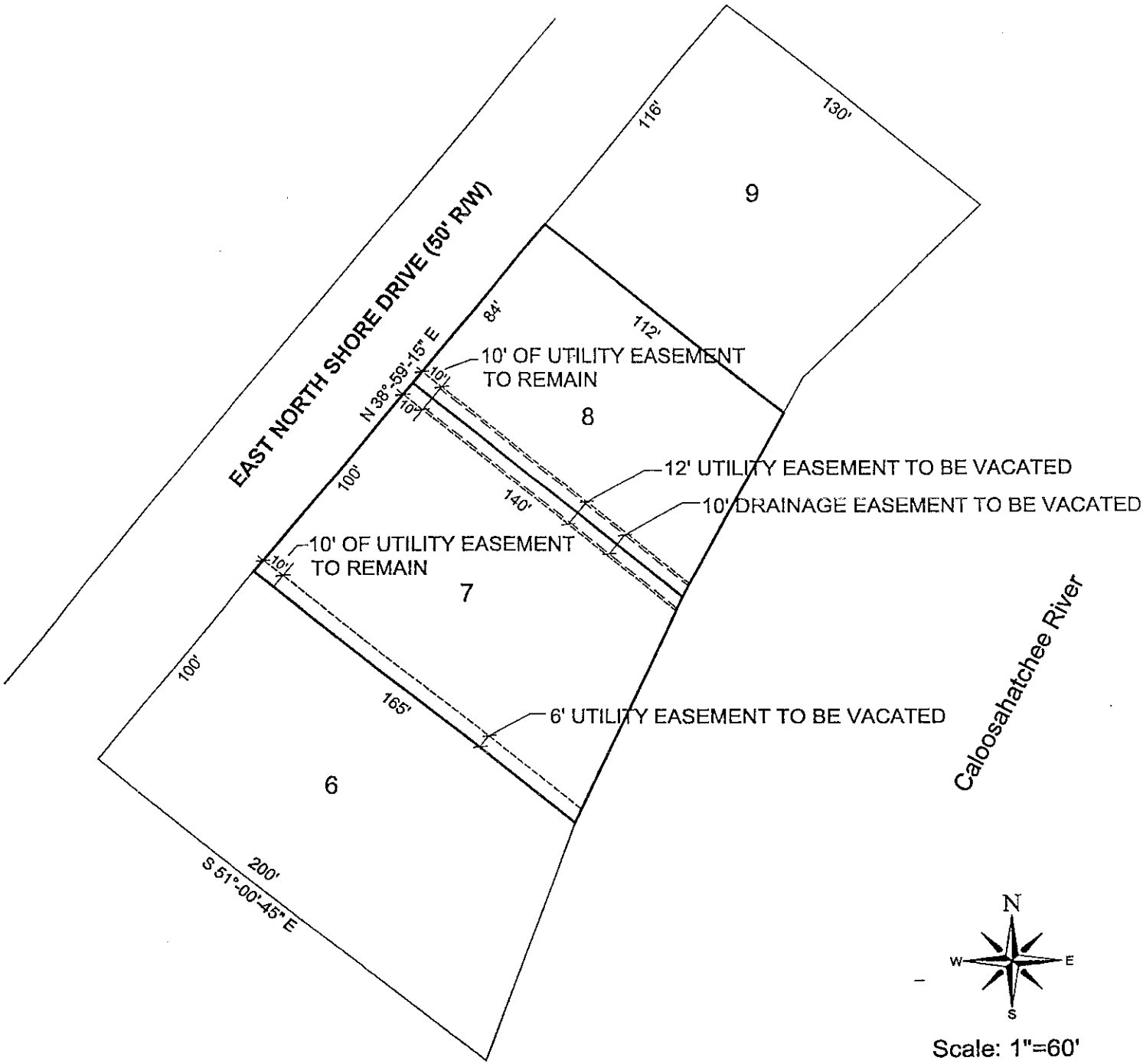
SKETCH OF DRAINAGE AND UTILITY EASEMENTS TO BE VACATED

PARCEL STRAP #01-44-24-04-00000.0070
and STRAP #01-44-24-04-00000.0080

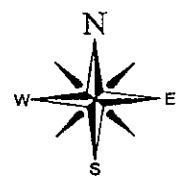
Owners: Keith Stengel - Lot 7
and Clifford Wilcoxon - Lot 8

Section 01, Township 44 South, Range 24 East
Port Edison Subdivision

Plat Book 11, Page 19 and 20, public records of Lee County, Florida



Caloosahatchee River



Scale: 1"=60'

Petition to Vacate
VAC2002-00033

From: John Fredyma
To: Blackburn, Don; Eckenrode, Pete
Date: 8/26/03 10:31AM
Subject: PTV VAC2002-00033 Wilcoxon & Stengel

Gentlemen,

This item went to the BOCC on their Consent Agenda today. Had I realized this, I would have pulled the item.

This case was "deferred indefinitely" back in April. **There should have been a new Blue Sheet to send it forward, along with another opportunity to review the case for sufficiency.** The reason it was pulled the first time was because the consultant had not provided all of the necessary documents, though she represented that she had. (That's a nice way of saying there appears to have been an intentional misrepresentation by the consultant.)

In any event, I have since reviewed the package after the fact, and find it to be sufficient, so the BOCC action to send it to public hearing on 9-23-03 can stand. However, there is still an issue with the replacement easement.

Please be sure you have the original of the replacement drainage easement, **and also be sure the replacement easement includes a sketch to supplement the legal description.** I have not signed off on approving the replacement easement, and I will not do so without there being a sketch attached to the document.

Thanks.

John

CC: Geren, Patricia; Lawson, Margaret