

RESOLUTION 24-190

A RESOLUTION VACATING A 12-FOOT WIDE UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY THE FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND APPROVING A NEW UTILITY EASEMENT AS A REPLACEMENT EASEMENT TO BE LOCATED ON REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN CLERK TO RECORD THIS RESOLUTION AND THE NEW UTILITY EASEMENT; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the property owner, the Fort Myers Beach Art Association, has requested vacation of a 12-foot-wide utility easement located on its property at 3030 Shell Mound Boulevard, Fort Myers Beach. Exhibit A shows the location of the existing easement; and

WHEREAS, the Fort Myers Beach Art Association has offered to voluntarily have the vacated easement relocated to the southern property boundary as a new replacement utility easement to ensure continued utility access by the Town. Exhibit B shows the approximate location of the new replacement utility easement; and

WHEREAS, vacation and relocation of the existing utility easement on the Fort Myers Beach Art Association's property would allow for the redevelopment of the real property; and

WHEREAS, the existing utility easement was granted to Lee County in 1958 when the land was platted and the Town acquired the easement upon incorporation; and

WHEREAS, Section 2-539 of the Fort Myers Beach Code of Ordinances provides guidelines and criteria for review of requests to vacate any Town streets, alleys, easements, or subdivision plats; and

WHEREAS, the Town has no utilities under the existing easement and letters of no objection have been obtained from private utility companies; and

WHEREAS, a public hearing was held before the Local Planning Agency ("LPA") on September 3, 2024, and after providing the applicant, staff, and the public an opportunity to present testimony and evidence, the LPA voted 7 to 0 finding the request to be consistent with the Town of Fort Myers Beach Comprehensive Plan and recommending approval of the vacation request, subject to final review of a proposed new relocation and replacement utility easement by the Town Attorney; and

WHEREAS, notice to current property owners within 500 feet was provided more than 15 days prior to the hearing before the Town Council on October 28th, 2024 and the Town Clerk has received an Affidavit of Mailing as required by Section 2-538(b); and

WHEREAS, adoption of this Resolution is in the best interest of the Town.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby approves the vacation of the existing utility easement, as more particularly described in Exhibit A, finding that the criteria in Section 2-539 of the Fort Myers Beach Code of Ordinances is satisfied. More specifically, that:

1. There is no future likelihood that the easement will be needed by the Town or otherwise conflict with the Town's future utility infrastructure management; and

2. the applicant has provided a comparable replacement utility easement at no cost to the Town;

Section 3. The vacation of the existing utility easement is contingent on 1) delivery of a new 6-foot-wide replacement utility easement to the Town in the approximate area shown on Exhibit B, subject to terms and conditions and approval as to form and sufficiency by the Town Attorney; and 2) subordination of any existing mortgage or other encumbrance on the area where the new replacement utility easement is located.

Section 4. The Town Clerk is directed to record this Resolution with its exhibits, any needed subordinations or other documents, upon delivery of the new replacement utility easement in the Official Records of Lee County, Florida.

Section 5. The Mayor is authorized to sign any and all documents needed to implement the direction and approvals contained in this Resolution.

Section 6. This Resolution shall take effect upon the date of recording of the documents referenced herein.

The foregoing Resolution was adopted by the Town Council upon a motion by Councilor King and seconded by Councilor Woodson, and upon being put to roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 28th day of October 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers

Dan Allers (Nov 1, 2024 07:59 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker (Nov 2, 2024 09:51 EDT)

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

Nancy Stuparich

Nancy Stuparich (Nov 1, 2024 22:12 EDT)

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 31st day of October 2024.

Attachments:

Exhibit A- Survey of Location Existing Easement

Exhibit B- Sketch of Area for Replacement Easement

Exhibit A

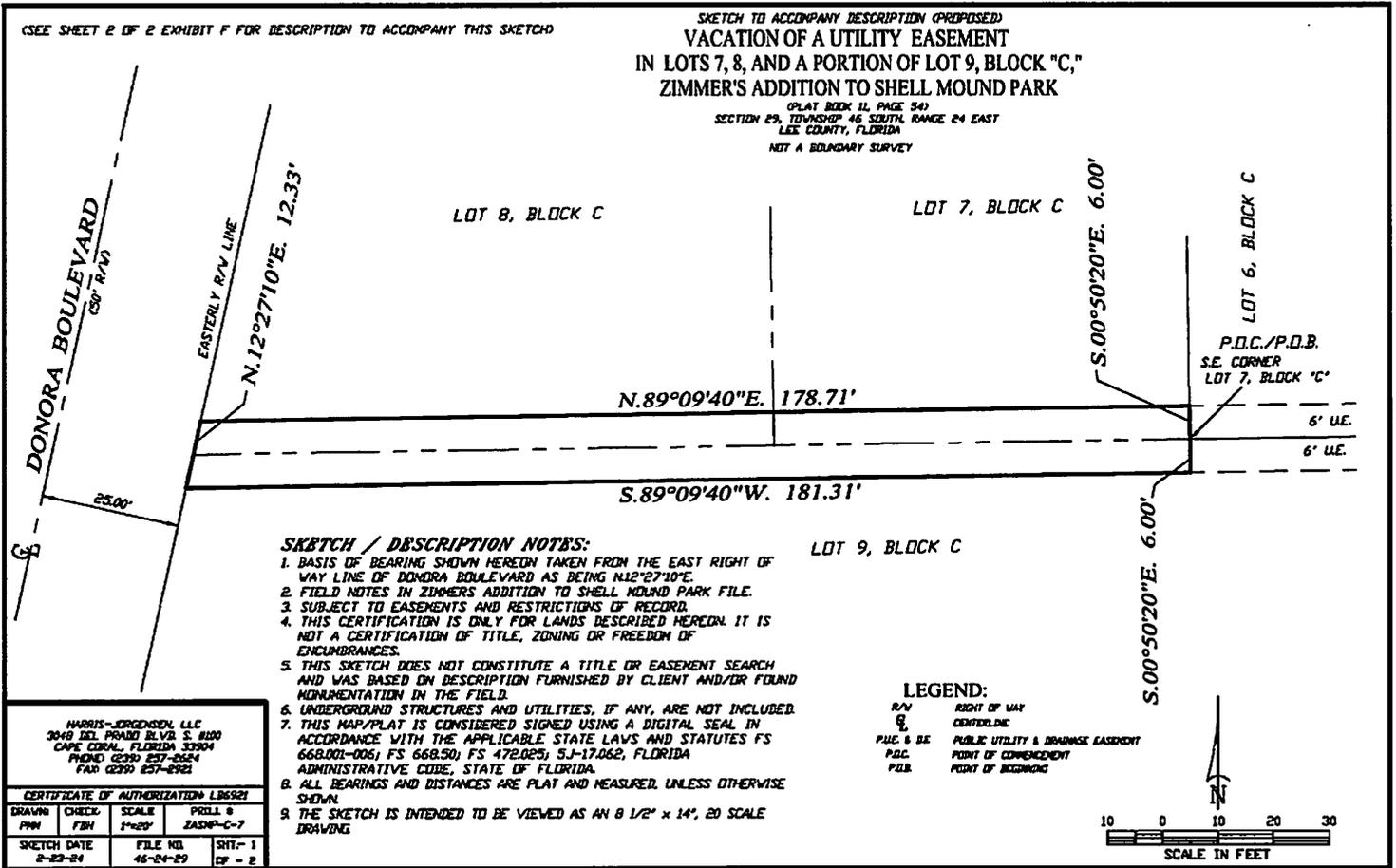
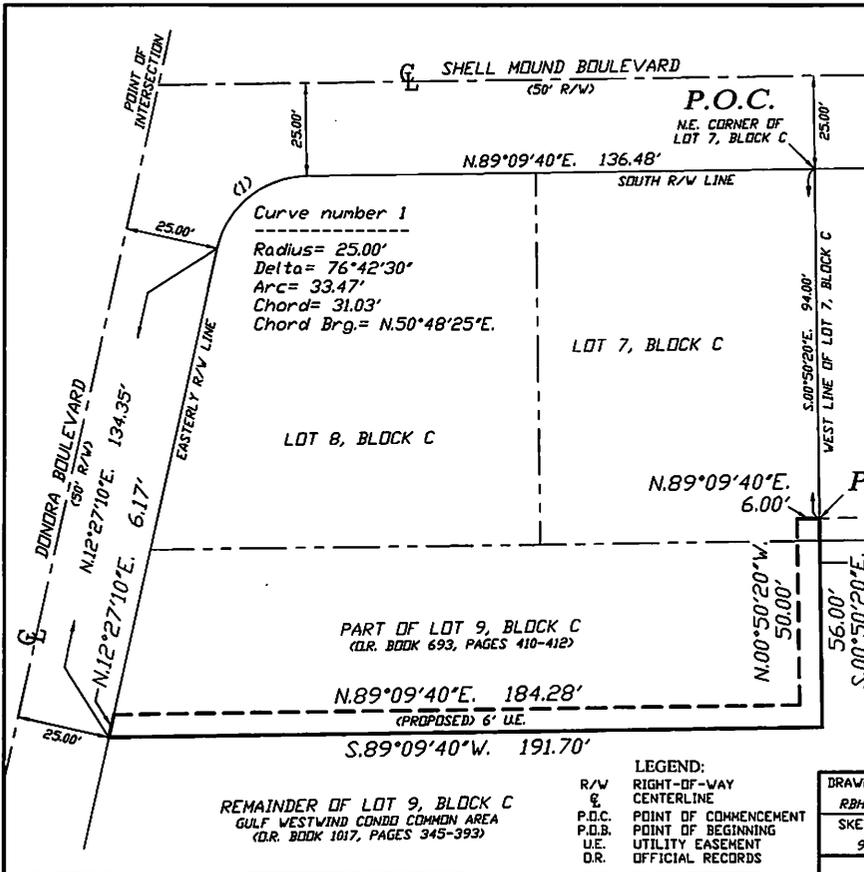


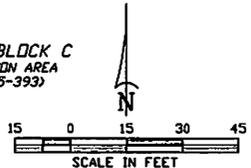
Exhibit B



SKETCH TO ACCOMPANY DESCRIPTION
 (PROPOSED)
**6 FOOT UTILITY EASEMENT,
 LYING IN A PORTION OF
 LOT 7 & A PART OF LOT 9,
 BLOCK C,
 ZIMMER'S ADDITION TO
 SHELL MOUND PARK,**
 (PLAT BOOK 11, PAGE 54 & D.R. BDK 693, PAGES 410-412)
 SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA
**SEE EXHIBIT "A",
 SHEET 2 OF 2 FOR DESCRIPTION**
THIS IS NOT A BOUNDARY SURVEY

- SKETCH / DESCRIPTION NOTES:
1. BASIS OF BEARINGS SHOWN HEREIN TAKEN FROM THE EASTERLY RIGHT-OF-WAY LINE OF DONDRA BOULEVARD, AS BEING N89°09'40"E.
 2. FIELD NOTES IN ZIMMER'S ADDITION TO SHELL MOUND PARK.
 3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREIN. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
 5. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
 6. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 30 SCALE DRAWING.

REMAINDER OF LOT 9, BLOCK C
 GULF WESTWIND CONDO COMMON AREA
 (C.R. BDK 1017, PAGES 345-393)



LEGEND:
 R/W RIGHT-OF-WAY
 C CENTERLINE
 P.O.C. POINT OF COMMENCEMENT
 P.O.B. POINT OF BEGINNING
 U.E. UTILITY EASEMENT
 D.R. OFFICIAL RECORDS

REMAINDER OF LOT 9, BLOCK C
 GULF WESTWIND CONDO COMMON AREA
 (C.R. BDK 1017, PAGES 345-393)

SHEET 1 OF 2

DRAWN: RBH	CHECK: PHM	SCALE: 1"=30'	PROJ. #: ZASMP-C-7	HARRIS-JORGENSEN, L.L.C. 3048 DEL PRADO BLVD S., SUITE 100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
SKETCH DATE: 9/26/24	FILE NO. 46-24-29	SHT.- 1 OF - 2		

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

DESCRIPTION TO ACCOMPANY SKETCH
EXHIBIT "A"

(PROPOSED)
**6 FOOT UTILITY EASEMENT,
LYING IN A PORTION OF
LOT 7 & A PART OF LOT 9, BLOCK C,
ZIMMER'S ADDITION TO
SHELL MOUND PARK,**

(PLAT BOOK 11, PAGE 54 & D.R. BOOK 693, PAGES 410-412)
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

A PLOT OR PARCEL OF LAND LYING IN A PORTION OF LOT 7, BLOCK C, ZIMMER'S ADDITION TO SHELL MOUND PARK, AS RECORDED IN PLAT BOOK 11, PAGE 54, AND A PART OF LOT 9, BLOCK C, ZIMMER'S ADDITION TO SHELL MOUND PARK, AS RECORDED IN OFFICIAL RECORDS BOOK 693, PAGE 410 PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PLOT OR PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE AFORESAID LOT 7, BLOCK C; THENCE RUN S.00°50'20"E. ALONG THE EAST LINE OF SAID LOT 7, FOR 94.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE S.00°50'20"E., FOR 56.00 FEET; THENCE RUN S.89°09'40"W. TO A POINT ALONG THE EASTERLY RIGHT OF WAY LINE OF DONORA BOULEVARD (50.00 FEET WIDE), FOR 191.70 FEET; THENCE RUN N.12°27'10"E. ALONG SAID RIGHT OF WAY, FOR 6.17 FEET; THENCE RUN N.89°09'40"E., FOR 184.28 FEET; THENCE RUN N.00°50'20"W., FOR 50.00 FEET; THENCE RUN N.89°09'40"E., FOR 6.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING 1,446 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE AFORESAID EASTERLY RIGHT OF WAY LINE OF DONORA BOULEVARD, AS BEING N.12°27'10"E.

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER, LS6515
SEPTEMBER 26, 2024

THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL
IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND
STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062,
FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.

Exhibit A

