



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.1.

12/20/2022

### Subject:

**Petition to Vacate**, Re: Public Right-of-Way- Elm Street - "June Park" Plat Book 4, Page 4 - Melbourne - Thomas Q. Downey - District 5

### Fiscal Impact:

The petitioners are charged \$640. These fees are deposited in Fund 0002-30265 revenue account for vacatings.

### Dept/Office:

Public Works Department - Surveying & Mapping

### Requested Action:

It is requested that the Board of County Commissioners (BOCC) conduct a public hearing to consider vacating part of a public right-of-way, "June Park" in Section 12, Township 28 South, Range 36 East. If approved, it is requested that the Board authorize the Chair to sign the attached Resolution approving the vacating and accept the drainage easement over the vacated area.

### Summary Explanation and Background:

Florida Statutes, Section 336.09 and Brevard County Article II, Section 86-36, provide a method for the Board of County Commissioners to vacate and abandon unused rights-of-way and easements. The petitioner owns Lots 16-18, 23-29, Block 12, and lots 16-29, Block 13, and is requesting the vacating of a 40.00-foot-wide portion of public right-of-way on Elm Street. This will allow for the addition of an existing house to remain and become compliant with zoning setbacks. The petitioner has agreed to dedicate a 40-foot drainage easement to Brevard County over the entire right-of-way. The right-of-way to be vacated contains 1000.00 square feet, more or less. The property is located in Melbourne South of Highway 192 and West of Minton Road

December 5, 2022, the legal notice was advertised in Florida Today informing the public of the date a public hearing would be held to consider the vacating. All pertinent county agencies and public utility companies have been notified. At this time, no objections have been received, provided a 40-foot drainage easement is dedicated for the existing drainage on Elm Street.

Name: Amber.Holley@brevardfl.gov Phone: Ext. 58346

### Clerk to the Board Instructions:

Advertise Approved Resolution Notice and Record Vacating Resolution Documents as one resolution type document which in sequence includes the approved/signed resolution, the proof of publication of the public hearing notice and the proof of publication of the adopted resolution notice.



January 10, 2023

**MEMORANDUM**

**TO:** Marc Bernath, Public Works Director    Attn: Amber Holley

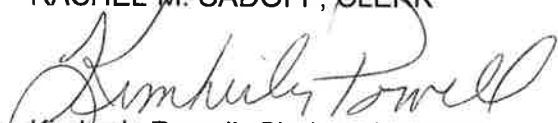
**RE:** Advertising Bills for Resolution Vacating a Portion of a Public Right-of-Way, Known as Elm Street, in Plat "June Park" Subdivision, Melbourne, Lying in Section 12, Township 28 South, Range 36 East

Enclosed for your necessary action are copies of the advertising bills for Resolution No. 22-170, vacating a portion of a public right-of-way, known as Elm Street, in plat "June Park" subdivision, Melbourne, lying in Section 12, Township 28 South, Range 36 East, as petitioned by Thomas Q. Downey. Said Resolution was adopted by the Board of County Commissioners, in regular session on December 20, 2022.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/sm

Encls. (2)



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

January 10, 2023

Thomas Q. Downey  
3690 Milwaukee Ave.  
Melbourne, FL 32904

Dear Sir/Madam:

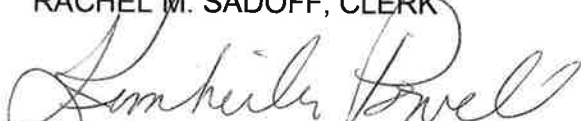
Re: Resolution Vacating a Portion of a Public Right-of-Way, Known as Elm Street, in Plat "June Park" Subdivision, Melbourne, Lying in Section 12, Township 28 South, Range 36 East

The Board of County Commissioners, in regular session on December 20, 2022, adopted Resolution No. 2022-170, vacating a portion of a public right-of-way, known as Elm Street, in plat "June Park" subdivision, Melbourne, lying in Section 12, Township 28 South, Range 36 East, as petitioned by you. Said Resolution has been recorded in ORBK 9693, Pages 598 through 606. Enclosed is a certified copy of the recorded Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

cc: Amber Holley, Public Works

**Resolution 2022 - 170**

**Vacating a portion of a public right-of-way, known as Elm Street, in plat "June Park" Subdivision,  
Melbourne, Florida, lying in Section 12, Township 28 South, Range 36 East**

WHEREAS, pursuant to Article II, Section 86-36, Brevard County Code, a petition has been filed by **THOMAS Q. DOWNEY** with the Board of County Commissioners to vacate a public right-of-way in Brevard County, Florida, described as follows:

**SEE ATTACHED BOUNDARY SURVEY**

WHEREAS, the vacating action will in no way affect any private easements which may also be present in the existing public easement(s) or public right-of-way, nor does this action guarantee or transfer title.

WHEREAS, notice of the public hearing before the Board of County Commissioners was published one time in the TODAY Newspaper, a newspaper of general circulation in Brevard County, Florida, prior to the public hearing; and

WHEREAS, the Board finds that vacating the public right-of-way(s) will not be detrimental to Brevard County or the public.

THEREFORE BE IT RESOLVED that said public right-of-way(s) are hereby vacated by Brevard County; and this vacating action releases, renounces, and disclaims any right, title or interest Brevard County may possess over the property at issue, and shall not be deemed to warrant any right, title, interest or to represent any state of facts concerning the same. Pursuant to Section 177.101(5), Florida Statutes, the vacating shall not become effective until a certified copy of this resolution is filed in the offices of the Clerk of Courts and recorded in the Public Records of Brevard County.

DONE, ORDERED AND ADOPTED, in regular session, this 20<sup>TH</sup> day of December, 2022 A.D.

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

ATTEST:

  
Rachel Sadoff, Clerk

  
Rita Pritchett, Chair

As approved by the Board on:  
December 20, 2022

# BOUNDARY SURVEY

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST

PARCEL ID#

PURPOSE  
OF SURVEY: VACATE RIGHT OF WAY.

SHEET 1 OF 2  
NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2

## LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS. CONTAINING 1000± SQUARE FEET OR 0.02± ACRE.

## SURVEYORS NOTES:

1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS, RIGHT-OF-WAY, RESERVATION, AGREEMENTS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
2. ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
3. DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
4. ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 5J17-6.003(1)(B) F.A.C.)
5. PURSUANT TO FLORIDA LAW (F.A.C. 5J17-6.003(17)) THIS SURVEY IS BASED ON A CLOSED TRAVERSE.
6. USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
7. ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
8. BEARINGS BASED ON NORTH LINE OF MILWAUKEE AVE. BEING S87°16'12"W (ASSUMED).
9. LOT DIMENSIONS AND BEARINGS ARE RECORD AND MEASURED UNLESS OTHERWISE NOTED.
10. SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SEPARATION.
11. NORTH ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH, IT IS FOR APPROXIMATE POSITION ONLY.
12. ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "OPEN TO TRAVEL" BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
13. HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (SIGNS, INLETS, VALVES, MAILBOXES, POWER POLES, DRIVEWAYS, CULVERTS, AND SIMILAR FEATURES) HAVE A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
14. VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, PAVEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
15. THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, ND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
16. THE EXPECTED USE OF THE LAND IS RESIDENTIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 7,500 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.

## LEGEND:

- |                                       |  |
|---------------------------------------|--|
| B.S.L. = BUILDING SETBACK LINE        | N.A.V.D. = NORTH AMERICAN VERTICAL DATUM                           |
| T.O.B. = APPROX. TOP OF BANK          | N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM                        |
| N.T.S. = NOT TO SCALE                 | ⊗ = CLEANOUT   |
| O/S = OFFSET                          | ⊙ = WATER METER  |
| L.F.E. = LOWEST FLOOR ELEVATION       | ⊕ = ELECTRIC METER/HANDHOLE  |
| G.F.E. = GARAGE FLOOR ELEVATION       | ⊞ = SANITARY SEWER MANHOLE   |
| F.F.E. = FINISHED FLOOR ELEVATION     | ⊟ = STORM SEWER MANHOLE  |
| O.R.B. = OFFICIAL RECORDS BOOK        | ⊠ = TELEPHONE MANHOLE/HANDHOLE                                     |
| P.B. = PLAT BOOK                      | ⊡ = TELEPHONE RISER  |
| D.B. = DEED BOOK                      | ⊢ = CABLE TELEVISION RISER   |
| P.G. = PAGE                           | ⊣ = GAS VALVE  |
| P.V.C. = POLYVINYL CHLORIDE           | ⊤ = RECLAIM WATER METER  |
| C.M.P. = CORRUGATED METAL PIPE        | ⊥ = GAS SERVICE  |
| R.C.P. = REINFORCED CONCRETE PIPE     | ⊦ = WATER VALVE IN 2' x 2' CONC.                                   |
| C.P.P. = CORRUGATED PLASTIC PIPE      | ⊧ = WATER VALVE  |
| INV. = INVERT EL = ELEVATION          | ⊨ = FIRE HYDRANT   |
| F.Z.L. = FLOOD ZONE LINE              | ⊩ = POWER POLE   |
| S.B.M. = SITE BENCH MARK              | ⊪ = LIGHT POLE   |
| P.C.P. = PERMANENT CONTROL POINT      | ⊫ = GUY ANCHOR   |
| P.O.C. = POINT OF COMMENCEMENT        | ⊬ = FENCE  |
| P.O.B. = POINT OF BEGINNING           | ⊭ = OVERHEAD WIRE (O.H.W.)   |
| P.T. = POINT OF TANGENCY              | ⊮ = APPROXIMATE SEPTIC TANK  |
| P.R.M. = PERMANENT REFERENCE MONUMENT | ⊯ = UNDER MAIN ROOF  |
| R.P. = RADIUS POINT                   | ● = WELL   |
| P.C. = POINT OF CURVATURE             | ○ = IRON MARKER FOUND - SEE DESCRIPTION                            |
| P.C.C. = POINT OF COMPOUND CURVATURE  | ○ = 1/2" IRON ROD WITH PLASTIC CAP MARKED "K.A. SMITH LB 7426" SET |
| P.R.C. = POINT OF REVERSE CURVATURE   | ■ = 4" x 4" CONC. MONUMENT FOUND - SEE DESCRIPTION                 |
| Δ = DELTA (CENTRAL ANGLE)             | □ = 4" x 4" CONC. MONUMENT MARKED "K.A. SMITH LB 7426" SET         |
| R = RADIUS                            | ▲ = NAIL & DISK FOUND - SEE DESCRIPTION                            |
| A = ARC                               | △ = SET MAGNETIC NAIL  |
| T = TANGENT                           | ○ = HUB & TACK SET   |
| (R) = RECORD                          |  |
| (M) = MEASURED                        |  |
| (C) = CALCULATED                      |  |
| (D) = DEED                            |  |
| NO I.D. = NO IDENTIFICATION           |  |
| C.B.S. = CONCRETE BLOCK & STUCCO      |  |
| F.P. & L. = FLORIDA POWER AND LIGHT   |  |
| RES. = RESIDENCE                      |  |
| PROP. = PROPOSED                      |  |
| TX = TRANSFORMER                      |  |
| CONC. = CONCRETE (TYP.) = TYPICAL     |  |
| APPROX. = APPROXIMATE                 |  |
| E.O.P. = EDGE OF PAVEMENT             |  |
| T.O.S. = APPROX. TOE OF SLOPE         |  |
| E.O.W. = APPROX. EDGE OF WATER        |  |

PREPARED BY:

**SMITH & Associates**  
SURVEYING &  
MAPPING, INC.

1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(327)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYINGFL@GMAIL.COM



KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
(NOT VALID UNLESS SIGNED AND SEALED)

PREPARED FOR: THOMAS Q. DOWNEY

CERTIFY TO: BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

DRAWN BY: A. TEJADA

CHECKED BY: KAS

DRAWING NO. 21-KAS

SECTION 12

DATE: JULY 31, 2022

SHEET 1 OF 2

REVISIONS AUG. 15, 2022

TOWNSHIP 28 SOUTH  
RANGE 36 EAST

# BOUNDARY SURVEY

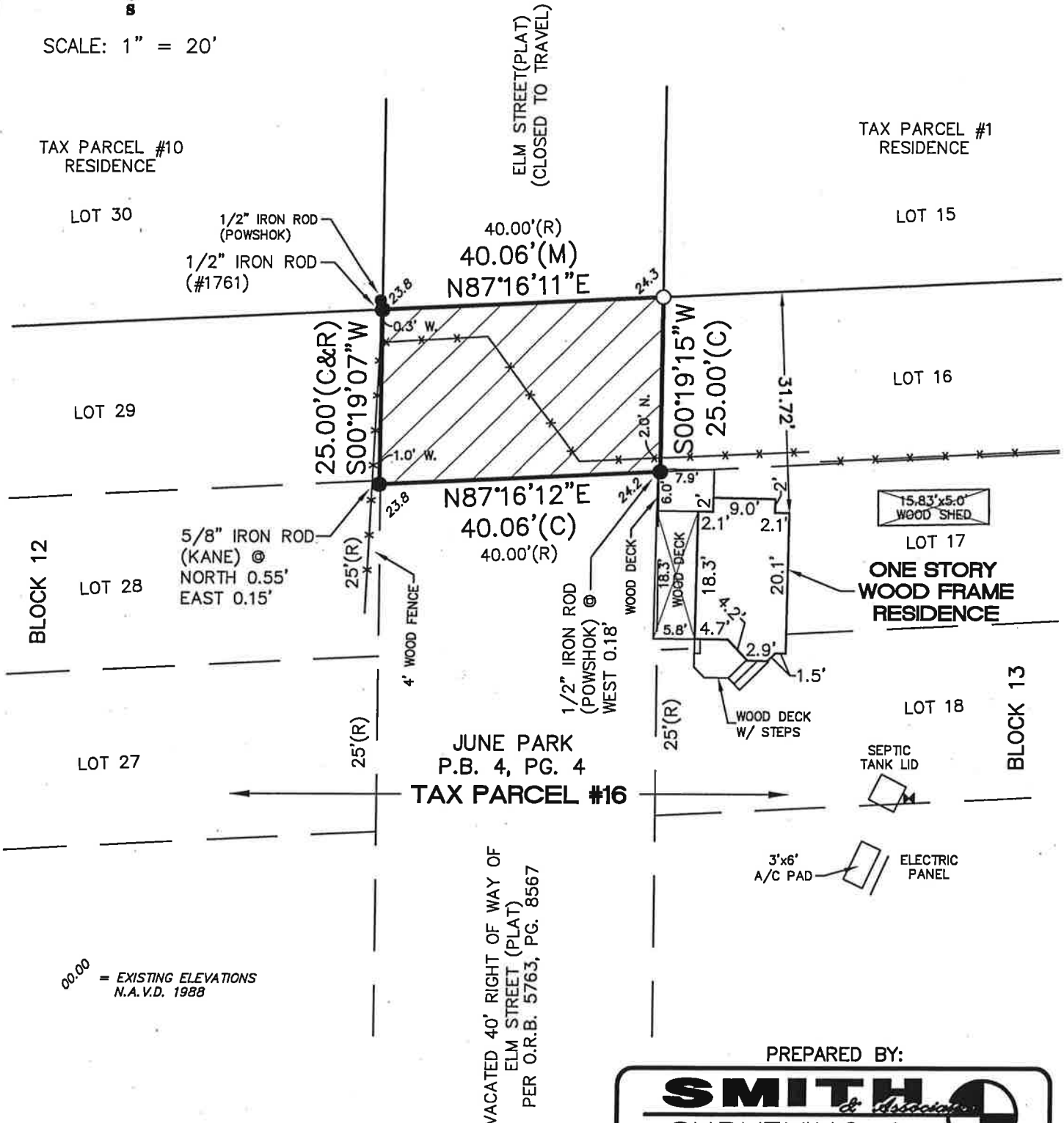
SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST



SCALE: 1" = 20'

SHEET 2 OF 2

NOT VALID WITHOUT THE LEGAL  
DESCRIPTION ON SHEET 1 OF 2



00.00 = EXISTING ELEVATIONS  
N.A.V.D. 1988

VACATED 40' RIGHT OF WAY OF  
ELM STREET (PLAT)  
PER O.R.B. 5763, PG. 8567

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYING @ AOL.COM

DRAWING NO. 21-KAS

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST





Amber Holley  
BREVARD CTY PUBLIC WORKS DEPT  
2725 JUDGE FRAN JAMIESON WAY  
BLDG A 220  
VIERA, FL, 32940

**STATE OF WISCONSIN COUNTY OF BROWN:**

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY**, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

**Notice Public Hearing**

as published in **FLORIDA TODAY** in the issue(s) dated:  
or by publication on the newspaper's website, if authorized,  
on

**12/05/2022**

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 5th of December 2022, by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

My commission expires

Publication Cost: \$204.12

Ad No: 0005504678

Customer No: BRE-6BR327

This is not an invoice

# of Affidavits 1

AD#5504678, 12/5/2022  
LEGAL NOTICE  
NOTICE FOR THE VACATING OF A 40.0 FT. WIDE PUBLIC RIGHT-OF-WAY (ELM STREET), PLAT "JUNE PARK" IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST, MELBOURNE, FL.  
NOTICE IS HEREBY GIVEN that pursuant to Chapter 336.09, Florida Statutes, and Chapter 86, Article II, Section 86-36, Brevard County Code, a petition has been filed by THOMAS Q. DOWNEY with the Board of County Commissioners of Brevard County, Florida, to request vacating the following described property, to wit:  
A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS, CONTAINING 1000± SQUARE FEET OR 0.02± ACRE. PREPARED BY: KEVIN A. SMITH, PSM.  
The Board of County Commissioners will hold a public hearing to determine the advisability of such vacating of the above-described easement at 9:00 A.M. on December 20, 2022, at the Brevard County Government Center Board Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida, at which time and place all those for or against the same may be heard before final action is taken.  
Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to the vacating, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.  
Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.  
The needs of hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

MARIAH VERHAGEN  
Notary Public  
State of Wisconsin



JAN - 6.2023

Received

Amber Holley  
BREVARD CTY PUBLIC WORKS DEPT  
2725 JUDGE FRAN JAMIESON WAY  
BLDG A 220  
VIERA, FL, 32940

STATE OF WISCONSIN COUNTY OF BROWN:  
Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY**, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

**Legal Notices**

as published in **FLORIDA TODAY** in the issue(s) dated:  
or by publication on the newspaper's website, if authorized,  
on

**12/29/2022**

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 29th of December 2022, by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

My commission expires

Publication Cost: \$130.38

Ad No: 0005537105

Customer No: BRE-6BR327

This is not an invoice

# of Affidavits 1

Ad#5537105 12/29/2022  
LEGAL NOTICE

RESOLUTION VACATING A PORTION OF A PUBLIC RIGHT-OF-WAY, KNOWN AS ELM STREET, IN PLAT "JUNE PARK" SUBDIVISION, MELBOURNE, LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST - THOMAS Q. DOWNEY

TO WHOM IT MAY CONCERN:  
NOTICE IS HEREBY GIVEN that on the 20th of December, 2022, the Board of County Commissioners of Brevard County, Florida, adopted a Resolution vacating a portion of a public right-of-way, known as Elm Street, in plat "June Park" subdivision, Melbourne, lying in Section 12, Township 28 South, Range 36 East as petitioned by Thomas Q. Downey

**LEGAL DESCRIPTION:**

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS, CONTAINING 1000+ SQUARE FEET OR 0.02+ ACRE. PREPARED BY: KEVIN A. SMITH, PSM.

The Board further renounced and disclaimed any right of the County in and to said public right-of-way.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA  
RACHEL M. SADOFF, CLERK  
BY: Kimberly Powell, Clerk to the Board

NICOLE JACOBS  
Notary Public  
State of Wisconsin



Prepared by and return to: Andrew Malach  
Public Works Department, Land Acquisition  
2725 Judge Fran Jamieson Way, A204, Viera, Florida 32940  
A portion of Interest in: Elm Street, S12, T28S, R36E

CFN 2023004683, OR BK 9693 PAGE 603,  
Recorded 01/09/2023 at 03:17 PM, Rachel M. Sadoff,  
Clerk of Courts, Brevard County  
# Pgs:4

### **DRAINAGE EASEMENT**

**THIS INDENTURE**, made this 16<sup>th</sup> day of November, 2022, between Thomas Q. Downey, whose address is 3690 Milwaukee Avenue, Melbourne, FL 32904, as the first party, and Brevard County, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, as the second party, for the use and benefit of Brevard County, Florida.

**WITNESSETH** that the first party, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is acknowledged, grants unto the second party, its successors and assigns, a perpetual easement commencing on the above date for the purposes of constructing, reconstructing, reconfiguring, and maintaining drainage facilities and other allied uses pertaining thereto, over, under, upon, above, and through the following lands:

The land affected by the granting of the easement is located in Section 12, Township 28 South, Range 36 East, Brevard County, Florida, and being more particularly described as follows:

### **SEE LEGAL DESCRIPTION ATTACHED HERETO AS "EXHIBIT A"**

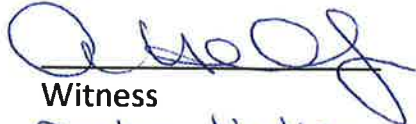
Including the right of ingress and egress onto the easement area as may be necessary for the full use and enjoyment by the second party of its easement. The first party shall have full use and enjoyment of the easement area but shall not make any improvements within the easement area which will conflict or interfere with the easement granted herein.


**TO HAVE AND TO HOLD** said easement unto Brevard County, a political subdivision of the State of Florida, and to its successors and/or assigns. The first party does covenant with the second party that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.


(Signatures and Notary on next page)

**IN WITNESS WHEREOF**, the first party has caused this easement to be executed, the day and year first above written.

Signed, sealed and delivered in the presence of:

  
Witness  
Amber Holley  
Print Name

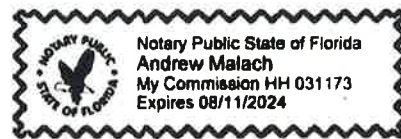
  
Thomas Q. Downey

  
Witness  
Andrew Malach  
Print Name

STATE OF FLORIDA  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization on this 18 day of November, 2022, by Thomas Q. Downey. Is ☐ personally known or ☒ produced FL. DL as identification.

  
Notary Signature  
SEAL



# SKETCH & DESCRIPTION

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST  
(NOT A BOUNDARY SURVEY)

EXHIBIT "A"  
SHEET 1 OF 2  
NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2

PARCEL #800

PURPOSE OF SKETCH & LEGAL DESCRIPTION:  
DRAINAGE EASEMENT

## LEGAL DESCRIPTION (PARCEL #800, DRAINAGE EASEMENT, (PREPARED BY SURVEYOR):

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS. CONTAINING 1000± SQUARE FEET OR 0.02± ACRE.

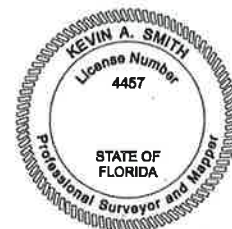
## SURVEYORS NOTES:

1. SEE BOUNDARY SURVEY (VACATE RIGHT OF WAY) PER SMITH & ASSOCIATES SURVEYING & MAPPING, INC. DATED JULY 31, 2022, DRAWING NO. 21-KAS.
2. BEARINGS BASED ON THE NORTHERLY RIGHT OF WAY LINE OF MILWAUKEE AVENUE BEING S87°16'12"W (ASSUMED).

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYINGFL@GMAIL.COM



KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
(NOT VALID UNLESS SIGNED AND SEALED)

PREPARED FOR: THOMAS Q. DOWNEY

CERTIFY TO: BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

DRAWN BY: A. TEJADA

CHECKED BY: KAS

DRAWING NO. 21-KAS  
REVISIONS OCT. 10, 2022

SECTION 12  
TOWNSHIP 28 SOUTH  
RANGE 36 EAST

DATE: SEPT. 8, 2022

SHEET 1 OF 2

# SKETCH & DESCRIPTION

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST  
(NOT A BOUNDARY SURVEY)

PARCEL #800

PURPOSE OF SKETCH & LEGAL DESCRIPTION:  
DRAINAGE EASEMENT

EXHIBIT "A"  
SHEET 2 OF 2

NOT VALID WITHOUT THE LEGAL  
DESCRIPTION ON SHEET 1 OF 2



SCALE: 1" = 20'

TAX PARCEL 28-36-12-25-12-10  
(O.R.B. 7682, PG. 947)  
RESIDENCE

LOT 30

1/2" IRON ROD  
(#1761)

40.06  
N87°16'11"E

1/2" IRON ROD  
(SMITH LB 7426)

LOT 15

TAX PARCEL 28-36-12-25-13-1  
(O.R.B. 3610, PG. 2435)  
RESIDENCE

LOT 29

25.00'  
S00°19'07"W

**PARCEL #800  
DRAINAGE  
EASEMENT**  
1000 SQUARE FEET  
0.02 ACRE

25.00'  
S00°19'15"W

LOT 16

BLOCK 12

5/8" IRON ROD  
(KANE) @  
NORTH 0.55'  
EAST 0.15'

40.06'  
N87°16'12"E

15.83'x5.0'  
WOOD SHED

LOT 17

**ONE STORY  
WOOD FRAME  
RESIDENCE**

LOT 28

1/2" IRON ROD  
(POWSHOK) @  
WEST 0.18'

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

WOOD DECK

LOT 27

JUNE PARK  
PLAT BOOK 4, PAGE 4

**TAX PARCEL  
28-36-12-25-16**  
(O.R.B. 3467, PG. 2713)

SEPTIC TANK LID

LOT 18

BLOCK 13

3'x6'  
A/C PAD

ELECTRIC PANEL

O.R.B. = OFFICIAL RECORDS BOOK  
PG. = PAGE

PREPARED BY:

**SMITH & Associates**  
SURVEYING &  
MAPPING, INC.



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYING @ AOL.COM

DRAWING NO. 21-KAS

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST

VACATED 40' RIGHT OF WAY OF  
ELM STREET (PLAT)  
PER O.R.B. 5763, PG. 8567  
& DRAINAGE EASEMENT  
PER O.R.B. 5763, PG. 8634

# Brevard County Property Appraiser Detail Sheet

Account 2802363  
 Owners DOWNEY, THOMAS Q  
 Mailing Address 3690 MILWAUKEE AVE MELBOURNE FL 32904  
 Site Address 3690 MILWAUKEE AVE MELBOURNE FL 32904  
 Parcel ID 28-36-12-25-12-16  
 Property Use 0110 - SINGLE FAMILY RESIDENCE  
 Exemptions HEX1 - HOMESTEAD FIRST  
 HEX2 - HOMESTEAD ADDITIONAL  
 Taxing District 5300 - UNINCORP DISTRICT 5  
 Total Acres 1.59  
 Subdivision JUNE PARK  
 Site Code 0001 - NO OTHER CODE APPL.  
 Plat Book/Page 0004/0004  
 Land Description  
 JUNE PARK LOTS 16 THRU 18,23 THRU 29 BLK 12 &  
 LOTS 16 THRU 29 BLK 13 & PT OF VACATED ELM  
 ST AS DESC IN ORB 5763 PG 8567

## VALUE SUMMARY

| Category                  | 2022      | 2021      | 2020      |
|---------------------------|-----------|-----------|-----------|
| Market Value              | \$330,510 | \$244,520 | \$222,720 |
| Agricultural Land Value   | \$0       | \$0       | \$0       |
| Assessed Value Non-School | \$143,510 | \$118,460 | \$116,830 |
| Assessed Value School     | \$143,510 | \$118,460 | \$116,830 |
| Homestead Exemption       | \$25,000  | \$25,000  | \$25,000  |
| Additional Homestead      | \$25,000  | \$25,000  | \$25,000  |
| Other Exemptions          | \$0       | \$0       | \$0       |
| Taxable Value Non-School  | \$93,510  | \$68,460  | \$66,830  |
| Taxable Value School      | \$118,510 | \$93,460  | \$91,830  |

## SALES/TRANSFERS

| Date       | Price    | Type | Parcel | Deed      |
|------------|----------|------|--------|-----------|
| 03/06/2007 | --       | RD   | --     | 5763/8567 |
| 03/30/1995 | \$24,500 | WD   | --     | 3467/2173 |
| 11/01/1973 | \$4,500  | --   | --     | 1394/0145 |

## Vicinity Map

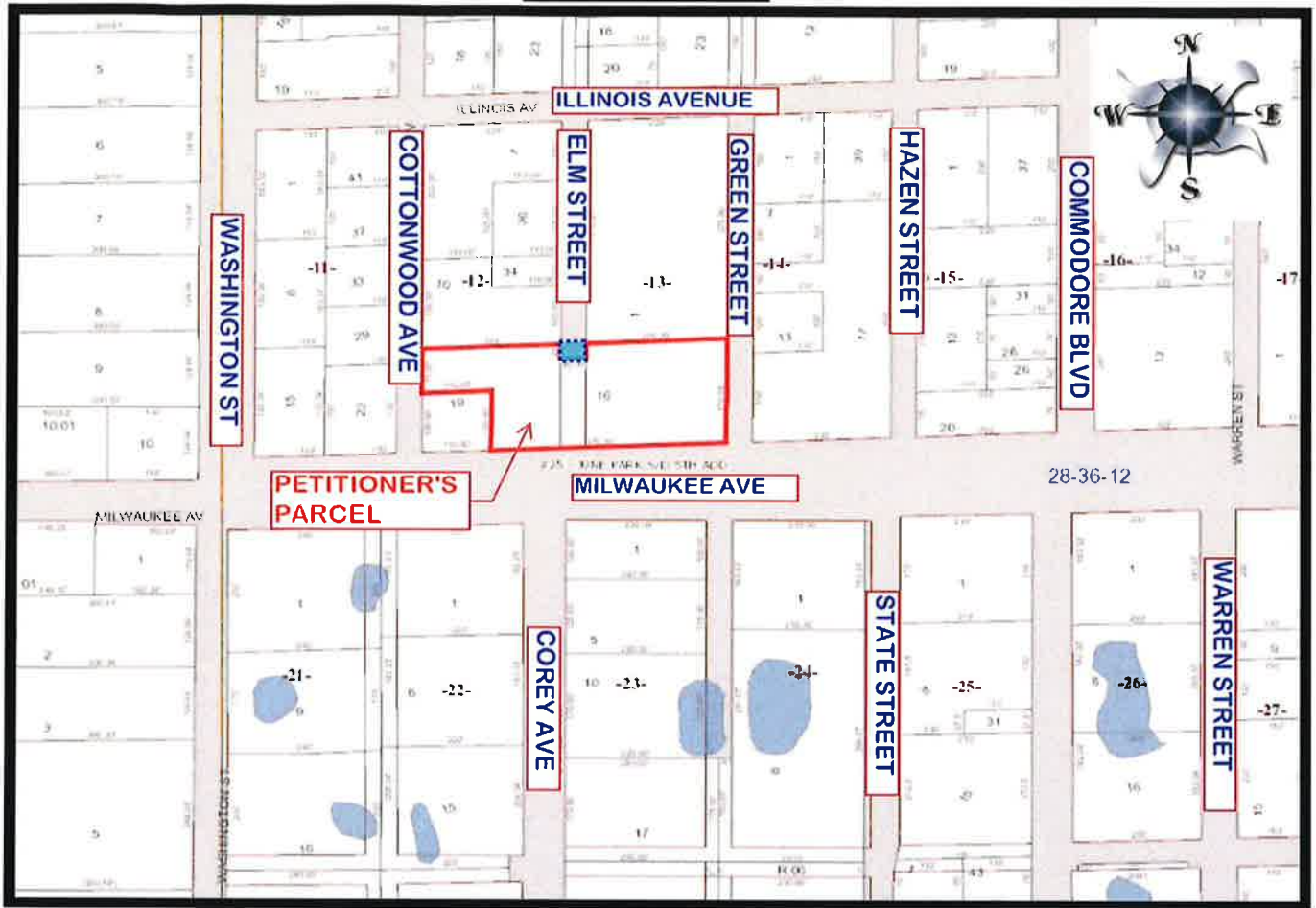


Figure 1: Map of Elm Street, June Park, Melbourne, Florida, 32904.

Thomas Q. Downey – Elm Street –  
Melbourne, FL, 32904 – Plat of “June Park” –  
Plat Book 4, Page 4 – Section 12, Township 28  
South, Range 36 East – District 5 – Proposed  
Vacating of a 40.0-foot-wide portion of a  
Public Right-of-Way



## Aerial Map



Figure 2: Aerial Map of Elm Street, June Park, Melbourne, Florida, 32904.

Thomas Q. Downey – Elm Street –  
Melbourne, FL, 32904 – Plat of “June Park” –  
Plat Book 4, Page 4 – Section 12, Township 28  
South, Range 36 East – District 5 – Proposed  
Vacating of a 40.0-foot-wide portion of a  
Public Right-of-Way

# Plat Reference

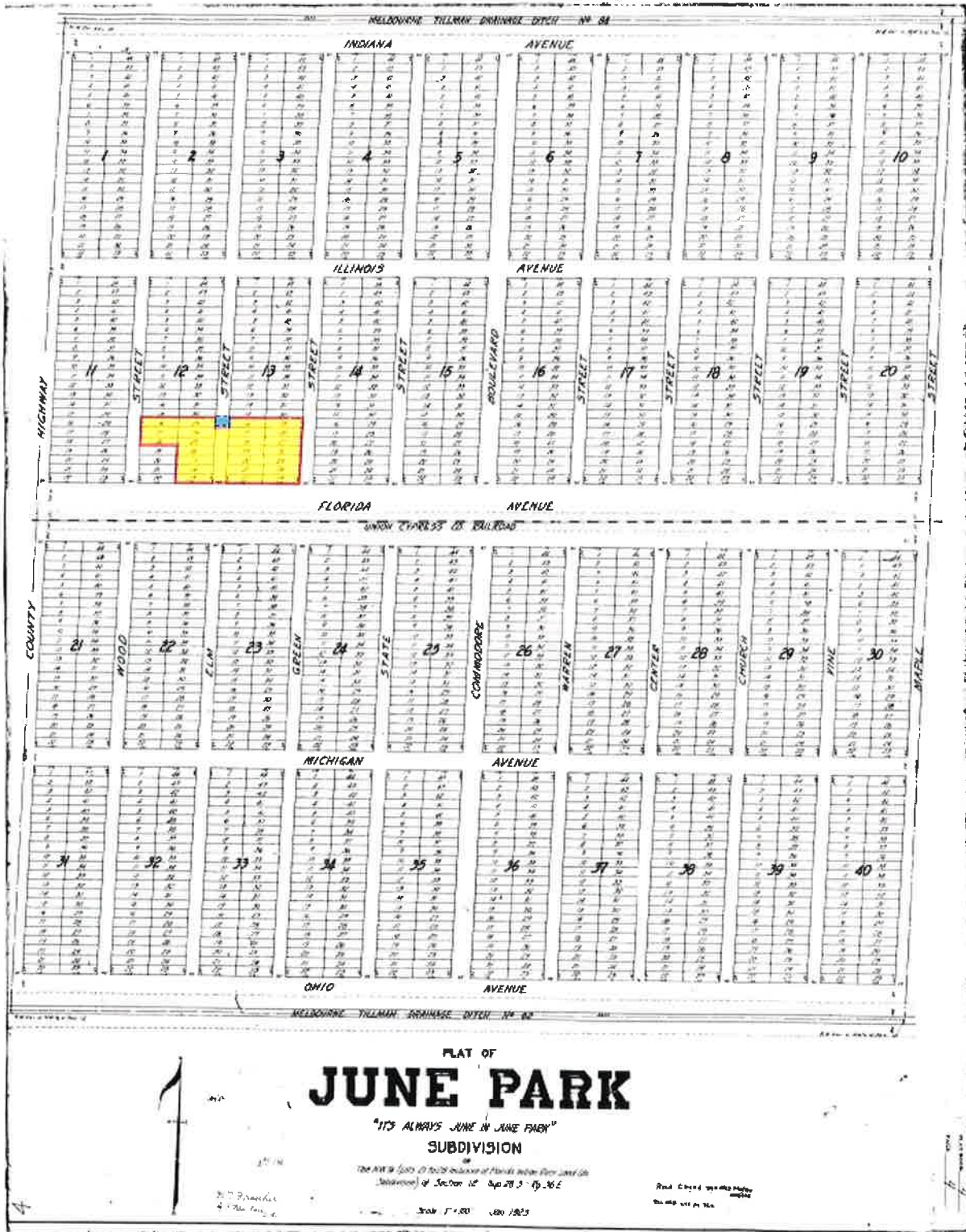


Figure 3: Copy of plat map "June Park" dedicated to Brevard County on January 1925.



# Petitioner's Sketch & Description Sheet 1 of 2

## BOUNDARY SURVEY

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST

PARCEL ID#

PURPOSE  
OF SURVEY: VACATE RIGHT OF WAY.

SHEET 1 OF 2  
NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2

### LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS. CONTAINING 1000± SQUARE FEET OR 0.02± ACRE.

### SURVEYORS NOTES:

1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS. RIGHT-OF-WAY, RESERVATION, AGREEMENTS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
2. ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
3. DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
4. ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 5J17-6.003(1)(B) F.A.C.)
5. PURSUANT TO FLORIDA LAW (F.A.C. 5J17-6.003(17)) THIS SURVEY IS BASED ON A CLOSED TRAVERSE.
6. USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
7. ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
8. BEARINGS BASED ON NORTH LINE OF MILWAUKEE AVE. BEING S87°18'12"W (ASSUMED).
9. LOT DIMENSIONS AND BEARINGS ARE RECORDED AND MEASURED UNLESS OTHERWISE NOTED.
10. SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SEPARATION.
11. NORTH ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH. IT IS FOR APPROXIMATE POSITION ONLY.
12. ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "OPEN TO TRAVEL" BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
13. HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (SIGNS, INLETS, VALVES, MAILBOXES, POWER POLES, DRIVEWAYS, CULVERTS, AND SIMILAR FEATURES) HAVE A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
14. VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, PAVEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
15. THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY. NO IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
16. THE EXPECTED USE OF THE LAND IS RESIDENTIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 7,500 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.

### LEGEND:

- |                                       |   |
|---------------------------------------|---|
| B.S.L. = BUILDING SETBACK LINE        | N.A.V.D. = NORTH AMERICAN VERTICAL DATUM                            |
| T.O.S. = APPROX. TOP OF BANK          | N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM                         |
| N.T.S. = NOT TO SCALE                 | CL = CLEARCUT   |
| O/S = OFFSET                          | W = WATER METER   |
| L.F.E. = LOWEST FLOOR ELEVATION       | E = ELECTRIC METER/HANDHOLE   |
| G.F.E. = GARAGE FLOOR ELEVATION       | SS = SANITARY SEWER MANHOLE   |
| F.F.E. = FINISHED FLOOR ELEVATION     | ST = STORM SEWER MANHOLE  |
| O.R.B. = OFFICIAL RECORDS BOOK        | TM = TELEPHONE MANHOLE/HANDHOLE                                     |
| P.B. = PLAT BOOK                      | TR = TELEPHONE RISER  |
| PG. = PAGE                            | TV = CABLE TELEVISION RISER   |
| P.V.C. = POLYVINYL CHLORIDE           | GV = GAS VALVE  |
| C.M.P. = CORRUGATED METAL PIPE        | RWM = RECLAIM WATER METER   |
| R.C.P. = REINFORCED CONCRETE PIPE     | GS = GAS SERVICE  |
| C.P.P. = CORRUGATED PLASTIC PIPE      | WV = WATER VALVE IN 2" x 2" CONC.                                   |
| INV. = INVERT                         | W = WATER VALVE   |
| F.Z.L. = FLOOD ZONE LINE              | PH = FIRE HYDRANT   |
| S.B.M. = SITE BENCH MARK              | P = POWER POLE  |
| P.C.P. = PERMANENT CONTROL POINT      | L = LIGHT POLE  |
| P.O.C. = POINT OF COMMENCEMENT        | GA = GUY ANCHOR   |
| P.O.B. = POINT OF BEGINNING           | F = FENCE   |
| P.T. = POINT OF TANGENCY              | OW = OVERHEAD WIRE (D.H.W.)   |
| P.R.M. = PERMANENT REFERENCE MONUMENT | ST = APPROXIMATE SEPTIC TANK  |
| R.P. = RADIUS POINT                   | U = UNDER GROUND  |
| P.C. = POINT OF CURVATURE             | W = WELL  |
| P.C.C. = POINT OF COMPOUND CURVATURE  | WM = IRON MARKER FOUND - SEE DESCRIPTION                            |
| P.R.C. = POINT OF REVERSE CURVATURE   | W1 = 1/2" IRON ROD WITH PLASTIC CAP MARKED "K.A. SMITH LB 7426" SET |
| D = DELTA (CENTRAL ANGLE)             | W2 = 4" x 4" CONC. MONUMENT FOUND - SEE DESCRIPTION                 |
| R = RADIUS                            | W3 = 4" x 4" CONC. MONUMENT MARKED "K.A. SMITH LB 7426" SET         |
| A = ARC                               | W4 = MAIL & BOX FOUND - SEE DESCRIPTION                             |
| T = TANGENT                           | W5 = SET MAGNETIC NAIL  |
| (R) = RECORD                          | W6 = HUB & TACK SET   |
| (M) = MEASURED                        |   |
| (C) = CALCULATED                      |   |
| (D) = DEED                            |   |
| NO ID. = NO IDENTIFICATION            |   |
| S.B.S. = CONCRETE BLOCK & STUCCO      |   |
| F.P. & L. = FLORIDA POWER AND LIGHT   |   |
| RES. = RESIDENCE                      |   |
| PROP. = PROPOSED                      |   |
| TX = TRANSFORMER                      |   |
| CONC. = CONCRETE (TYP.) = TYPICAL     |   |
| APPROX. = APPROXIMATE                 |   |
| E.O.P. = EDGE OF PAVEMENT             |   |
| T.O.S. = APPROX. TOP OF SLOPE         |   |
| E.O.W. = APPROX. EDGE OF WATER        |   |

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(321)724-2940 Indian River(772)588-3228 Fax(321)951-4878  
E-MAIL: SMITHSURVEYINGFL@GMAIL.COM



KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
(NOT VALID UNLESS SIGNED AND SEALED)

PREPARED FOR: THOMAS Q. DOWNEY

CERTIFY TO: BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

DRAWN BY: A. TEJADA

CHECKED BY: KAS

DRAWING NO. 21-KAS

SECTION 12

DATE: JULY 31, 2022

SHEET 1 OF 2

REVISIONS AUG. 15, 2022

TOWNSHIP 28 SOUTH

RANGE 36 EAST

Figure 4: Boundary Survey. Sheet 1 of 2. Section 12, Township 28 South, Range 36 East.

## Petitioner's Sketch & Description Sheet 2 of 2

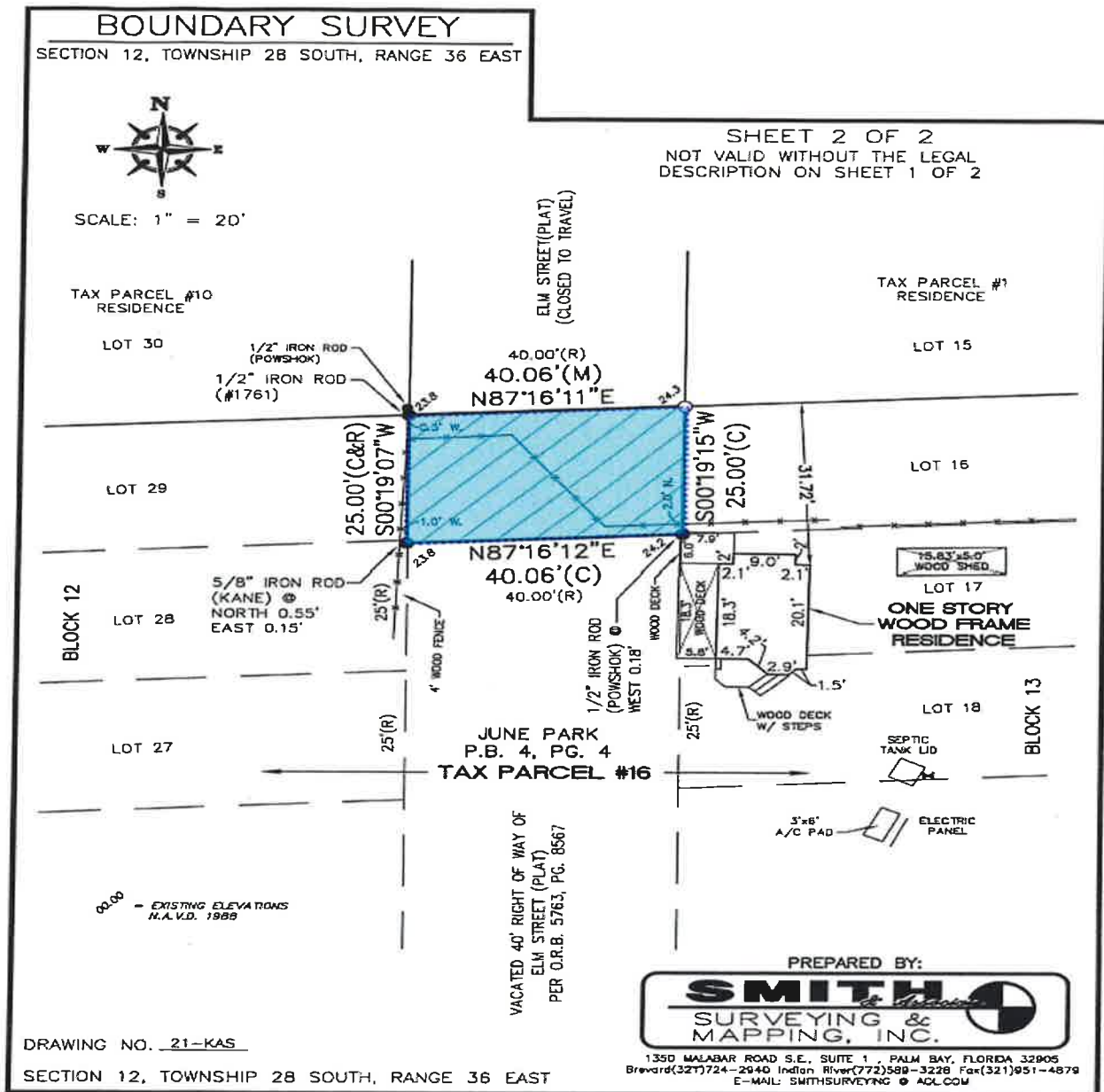


Figure 5: Boundary Survey. Sheet 2 of 2. Section 12, Township 28 South, Range 36 East.

The boundary survey illustrates a 40.00-foot-wide portion of a public right-of-way (Elm Street) lying between Blocks 12 & 13, June Park, Melbourne, Florida. The coordinate of the North line depicted is as follows. North boundary – North 87°16'11" East 40.06'; East boundary – South 00°19'15" West 25.00'; South boundary – South 87°16'12" East 40.06'; West boundary – North 00°19'07" West 25.00'. Prepared by: Kevin A. Smith, Project NO: 21-KAS.

# Petitioner's Parcel Boundary Survey

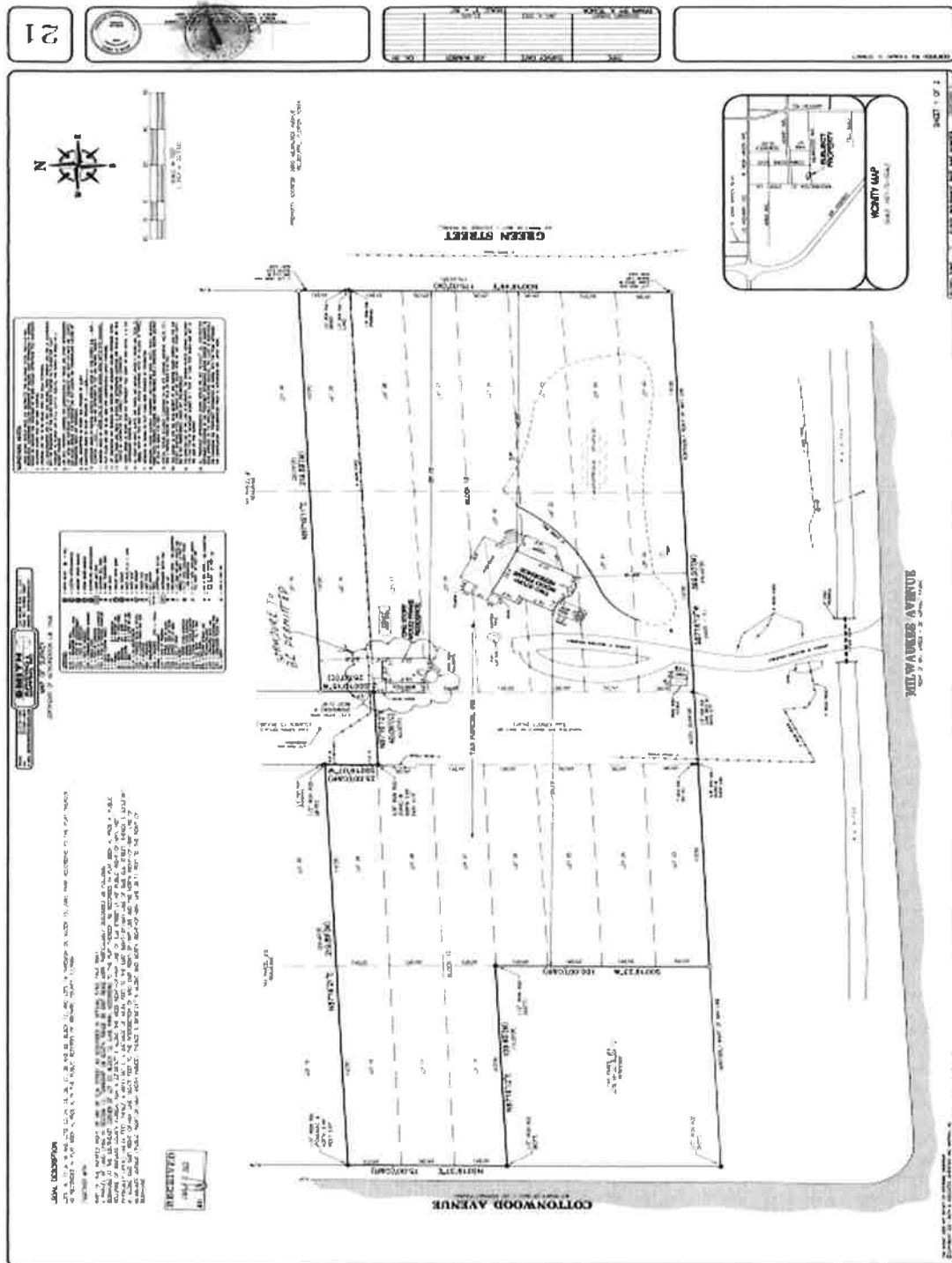


Figure 6: Boundary survey of 3690 Milwaukee Ave., Melbourne, FL 32904.

The boundary survey illustrates the home and addition for petitioner Thomas Q. Downey at 3690 Milwaukee Ave, Melbourne, Florida, 32904.

## Comment Sheet

Applicant: Downey (Elm Street)

Updated by: Amber Holley 20220826 at 14:30 hours

| Utilities         | Notified | Received | Approved | Remarks       |
|-------------------|----------|----------|----------|---------------|
| FL City Gas Co    | 20220818 | 2022     | Yes      | No Objections |
| FL Power & Light  | 20220818 | 2022     | Yes      | No Objections |
| At&t              | 20220818 | 20220822 | Yes      | No Objections |
| Charter/Spectrum  | 20220818 | 20220819 | Yes      | No Objections |
| Florida Gas Tran. | 20220818 | 20220819 | Yes      | No Objections |
| City of Melbourne | 20220818 | 20220826 | Yes      | No objections |

| County Staff     | Notified | Received | Approved | Remarks                                    |
|------------------|----------|----------|----------|--|
| Road & Bridge    | 20220818 | 20220824 | Yes      | No Objections if providing a drainage esmt |
| Land Planning    | 20220818 | 20220826 | Yes      | No objections                              |
| Utility Services | 20220818 | 20220819 | Yes      | No objections                              |
| Storm Water      | 20220818 | 20220818 | Yes      | No Objections                              |
| Zoning           | 20220818 | 20220826 | Yes      | No objections                              |
| Land Acquisition | 20220818 | 20220819 | Yes      | No objections                              |
| Fire Dept        | 20220818 | 20220819 | Yes      | No Objection                               |
| Traffic Eng      | 20220818 | 20220819 | Yes      | No Objections                              |



## Public Hearing Legal Advertisement

AD#5504678, 12/5/2022

### LEGAL NOTICE

**NOTICE FOR THE VACATING OF A 40.0 FT. WIDE PUBLIC RIGHT-OF-WAY (ELM STREET), PLAT "JUNE PARK" IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST, MELBOURNE, FL**

NOTICE IS HEREBY GIVEN that pursuant to Chapter 336.09, Florida Statutes, and Chapter 86, Article II, Section 86-36, Brevard County Code, a petition has been filed by **THOMAS Q. DOWNEY** with the Board of County Commissioners of Brevard County, Florida, to request vacating the following described property, to wit:

**A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS. CONTAINING 1000± SQUARE FEET OR 0.02± ACRE. PREPARED BY: KEVIN A. SMITH, PSM.**

The Board of County Commissioners will hold a public hearing to determine the advisability of such vacating of the above-described easement at **9:00 A.M. on December 20, 2022**, at the Brevard County Government Center Board Room, Building C., 2725 Judge Fran Jamieson Way, Viera, Florida, at which time and place all those for or against the same may be heard before final action is taken.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to the vacating, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

Figure 7: Copy of public hearing advertisement as published on December 5, 2022. See next page for full text.

## Legal Notice Text

### LEGAL NOTICE

#### **NOTICE FOR THE VACATING OF A 40.0 FT. WIDE PUBLIC RIGHT-OF-WAY (ELM STREET), PLAT "JUNE PARK" IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST, MELBOURNE, FL**

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Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

Prepared by and return to: Andrew Malach  
Public Works Department, Land Acquisition  
2725 Judge Fran Jamieson Way, A204, Viera, Florida 32940  
A portion of interest in: Elm Street, S12, T28S, R36E

### **DRAINAGE EASEMENT**

**THIS INDENTURE**, made this 16<sup>th</sup> day of November, 2022, between Thomas Q. Downey, whose address is 3690 Milwaukee Avenue, Melbourne, FL 32904, as the first party, and Brevard County, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, as the second party, for the use and benefit of Brevard County, Florida.

**WITNESSETH** that the first party, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is acknowledged, grants unto the second party, its successors and assigns, a perpetual easement commencing on the above date for the purposes of constructing, reconstructing, reconfiguring, and maintaining drainage facilities and other allied uses pertaining thereto, over, under, upon, above, and through the following lands:

The land affected by the granting of the easement is located in Section 12, Township 28 South, Range 36 East, Brevard County, Florida, and being more particularly described as follows:

### **SEE LEGAL DESCRIPTION ATTACHED HERETO AS "EXHIBIT A"**

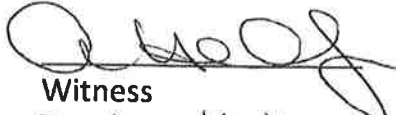
Including the right of ingress and egress onto the easement area as may be necessary for the full use and enjoyment by the second party of its easement. The first party shall have full use and enjoyment of the easement area but shall not make any improvements within the easement area which will conflict or interfere with the easement granted herein.


**TO HAVE AND TO HOLD** said easement unto Brevard County, a political subdivision of the State of Florida, and to its successors and/or assigns. The first party does covenant with the second party that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.


(Signatures and Notary on next page)

IN WITNESS WHEREOF, the first party has caused this easement to be executed, the day and year first above written.

Signed, sealed and delivered in the presence of:

  
Witness  
Amber Holley  
Print Name

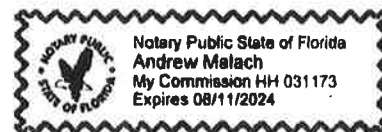
  
Thomas Q. Downey

  
Witness  
Andrew Malach  
Print Name

STATE OF FLORIDA  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization on this 18 day of November, 2022, by Thomas Q. Downey. Is ☐ personally known or ☒ produced FL. DL as identification.

  
Notary Signature  
SEAL



# SKETCH & DESCRIPTION

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST  
(NOT A BOUNDARY SURVEY)

PARCEL #800

PURPOSE OF SKETCH & LEGAL DESCRIPTION:  
DRAINAGE EASEMENT

EXHIBIT "A"  
SHEET 1 OF 2  
NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2

## LEGAL DESCRIPTION (PARCEL #800, DRAINAGE EASEMENT, (PREPARED BY SURVEYOR):

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF ELM STREET (A 40' PUBLIC RIGHT OF WAY) LYING EAST OF LOT 29, BLOCK 12 AND WEST OF LOT 16, BLOCK 13, "JUNE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH LIES NORTHERLY OF AND CONTIGUOUS WITH THE NORTH LINE OF THAT PORTION OF THE VACATED RIGHT-OF-WAY OF ELM STREET AS RECORDED IN OFFICIAL RECORDS BOOK 5763, PAGE 8567 OF SAID PUBLIC RECORDS. CONTAINING 1000± SQUARE FEET OR 0.02± ACRE.

## SURVEYORS NOTES:

1. SEE BOUNDARY SURVEY (VACATE RIGHT OF WAY) PER SMITH & ASSOCIATES SURVEYING & MAPPING, INC. DATED JULY 31, 2022, DRAWING NO. 21-KAS.
2. BEARINGS BASED ON THE NORTHERLY RIGHT OF WAY LINE OF MILWAUKEE AVENUE BEING S87°16'12"W (ASSUMED).



PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYINGFL@GMAIL.COM

KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
(NOT VALID UNLESS SIGNED AND SEALED)

PREPARED FOR: THOMAS Q. DOWNEY CERTIFY TO: BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

DRAWN BY: A. TEJADA

CHECKED BY: KAS

DRAWING NO. 21-KAS

SECTION 12

DATE: SEPT. 8, 2022

SHEET 1 OF 2

REVISIONS OCT. 10, 2022

TOWNSHIP 28 SOUTH

RANGE 36 EAST

# SKETCH & DESCRIPTION

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST  
(NOT A BOUNDARY SURVEY)

PARCEL #800

PURPOSE OF SKETCH & LEGAL DESCRIPTION:  
DRAINAGE EASEMENT

EXHIBIT "A"  
SHEET 2 OF 2

NOT VALID WITHOUT THE LEGAL  
DESCRIPTION ON SHEET 1 OF 2



SCALE: 1" = 20'

TAX PARCEL 28-36-12-25-12-10  
(O.R.B. 7682, PG. 947)  
RESIDENCE

LOT 30

1/2" IRON ROD  
(#1761)

40.06  
N87°16'11"E

1/2" IRON ROD  
(SMITH LB 7426)

LOT 15

TAX PARCEL 28-36-12-25-13-1  
(O.R.B. 3610, PG. 2435)  
RESIDENCE

LOT 29

25.00'  
S00°19'07"W

**PARCEL #800  
DRAINAGE  
EASEMENT**  
1000 SQUARE FEET  
0.02 ACRE

25.00'  
S00°19'15"W

LOT 16

BLOCK 12

LOT 28

5/8" IRON ROD  
(KANE) @  
NORTH 0.55'  
EAST 0.15'

40.06'  
N87°16'12"E

1/2" IRON ROD  
(POWSHOK) @  
WEST 0.18'

WOOD DECK

15.83'x5.0'  
WOOD SHED

LOT 17  
**ONE STORY  
WOOD FRAME  
RESIDENCE**

LOT 27

JUNE PARK  
PLAT BOOK 4, PAGE 4

**TAX PARCEL**  
**28-36-12-25-16**  
(O.R.B. 3467, PG. 2713)

SEPTIC  
TANK LID

LOT 18

BLOCK 13

3'x6'  
A/C PAD

ELECTRIC  
PANEL

O.R.B. = OFFICIAL RECORDS BOOK  
PG. = PAGE

VACATED 40' RIGHT OF WAY OF  
ELM STREET (PLAT)  
PER O.R.B. 5763, PG. 8567  
& DRAINAGE EASEMENT  
PER O.R.B. 5763, PG. 8634

PREPARED BY:

**SMITH & Associates**  
SURVEYING &  
MAPPING, INC.

1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32905  
Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYING @ AOL.COM

DRAWING NO. 21-KAS

SECTION 12, TOWNSHIP 28 SOUTH, RANGE 36 EAST