

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a Public Hearing to adopt a Petition to Vacate a portion of the HealthPark Circle Road Right-of-Way and Public Utility Easement within HealthPark Florida, Fort Myers, Florida 33908 (Case No. VAC2003-00047) and authorize the Chairman to accept the donation of a replacement ~~of~~ Perpetual Public Utility Easement Grant.

WHY ACTION IS NECESSARY: To construct a gate at the entrance to a proposed residential subdivision. **The proposed vacation will not alter traffic conditions nor impact existing utilities. Neither the right-of-way or utility easements are required to accommodate future traffic or utility requirements.** With respect to the replacement public utility easement, the Board must accept all real estate conveyances to the Lee County.

WHAT ACTION ACCOMPLISHES: Vacates the Right-of-Way and Public Utility Easement and provides a necessary replacement easement to facilitate the requested vacation.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 1

04
5:00 #1

3. MEETING DATE:
03-09-2004

4. AGENDA:

- _____ CONSENT
- _____ ADMINISTRATIVE
- _____ APPEALS
- PUBLIC
- _____ WALK ON
- _____ TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE F.S. Ch. 177 (PTV) & 125 (PUE)

_____ ORDINANCE

ADMIN. CODE 13-1 (PTV)

_____ OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT Community Development

C. DIVISION Development Services

BY: *[Signature]* 2-20-04

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 March 9th, 2004.

LOCATION: The most westerly 308.76 feet of Tract T (HealthPark Circle). A tract of land lying in Section 33, Township 45 South, Range 24 East, as shown on the plat of Phase I-F, HealthPark Florida West as recorded in Plat Book 53 at Pages 81 through 90, of the Public Records of Lee County, Florida. The strap number is 33-45-24-04-00T00.0000

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.

The Petitioner has provided a replacement utility easement in favor of the county, which easement will held in trust by the county pending the outcome of the public hearing on the requested petition. The Petitioner will pay the necessary costs of recording the replacement easement.

Staff recommends adoption of this resolution and the acceptance of the replacement public utility easement.

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 <i>[Signature]</i> 2/23/04				G County Manager
					QA	OM	Risk	GC	
<i>[Signature]</i> G/bbs	N/A	N/A	N/A	<i>[Signature]</i> Resour 2-20-04	<i>[Signature]</i> 2/23/04	<i>[Signature]</i> 2/23/04	<i>[Signature]</i> 2/22/04	<i>[Signature]</i> 2/23/04	<i>[Signature]</i>

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

Rec. by CoAtty
Date: 2-20-04
Time: 4:30

[Signature]
2/23/04 10AM

RECEIVED BY
COUNTY ADMIN: *[Signature]*
2/23/04
11:20am SLT
COUNTY ADMIN
FORWARDED TO:
2/25/04
840am

[Handwritten mark]

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: VAC2003-00047

WHEREAS, Petitioner Lee Health Ventures, Inc.
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 on the March 9th, 2004 ; 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. VAC2003-00047 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 _____ .

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"
VAC2003-00047

April 4, 2003

DESCRIPTION

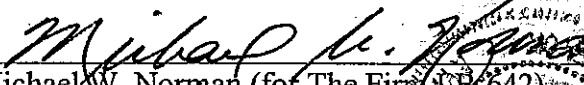
**PART OF TRACT "T" PHASE I-F
HEALTHPARK FLORIDA WEST
SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA**

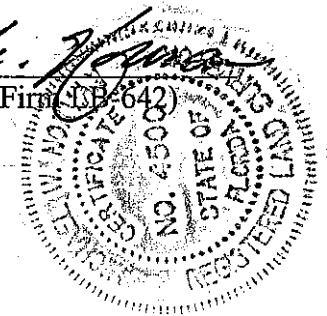
A tract or parcel of land lying in Section 33, Township 45 South, Range 24 East being a part of Tract "T" as shown on the plat of Phase I-F, HealthPark Florida West as recorded in Plat Book 53 at Pages 81 through 90, Public Records of Lee County, Florida, which tract or parcel is described as follows:

From the southwest corner of Tract "T" as shown on said Phase I-F, HealthPark Florida West Plat run N 28° 26' 16" W along the southwesterly line of said Tract "T" (HealthPark Circle) for 100.00 feet to the northwest corner of said Tract "T"; thence run N 61° 33' 44" E along the north line of said Tract "T" for 308.76 feet; thence run S 28° 26' 16" E departing said north line for 100.00 feet to an intersection with the south line of said Tract "T"; thence run S 61° 33' 44" W along the south line of said Tract "T" for 308.76 feet to the Point of Beginning. Parcel contains 30,875 square feet (0.71 acres), more or less.

~~SUBJECT TO easements, restrictions and reservations of record.~~

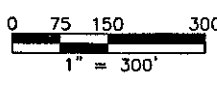
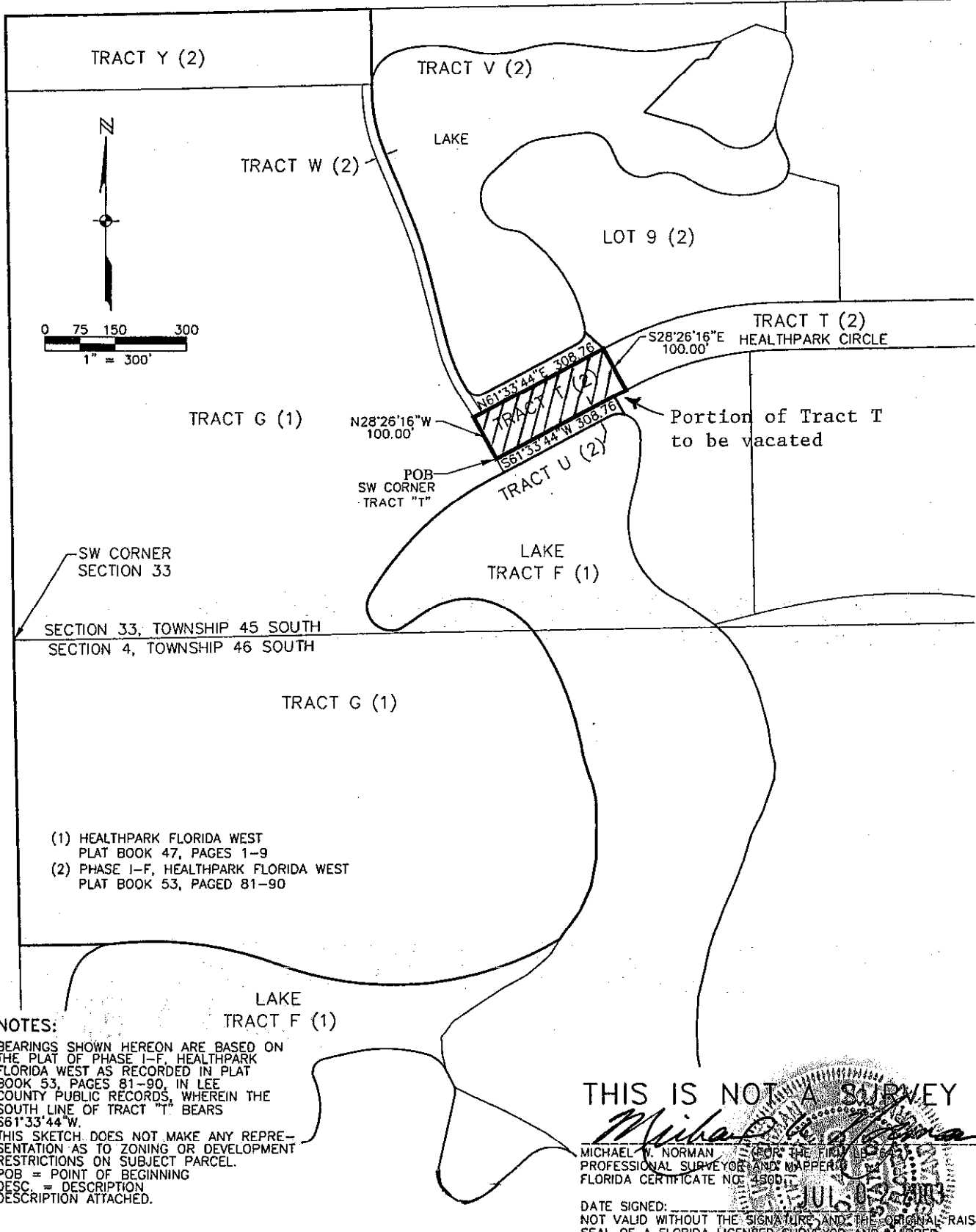
Bearings hereinabove mentioned are based on Plat of Phase I-F, HealthPark Florida West as recorded in Plat Book 53 at Pages 81 through 90, Public Records of Lee County, Florida wherein the south line of Tract "T" as shown on said plat bears S 61° 33' 41" W.


Michael W. Norman (for The Firm) (KB-642)
Professional Land Surveyor
Florida Certificate No. 4500



20033882/Description 040403

EXHIBIT "B"
VAC2003-00047



SECTION 33, TOWNSHIP 45 SOUTH
SECTION 4, TOWNSHIP 46 SOUTH

- (1) HEALTHPARK FLORIDA WEST
PLAT BOOK 47, PAGES 1-9
- (2) PHASE I-F, HEALTHPARK FLORIDA WEST
PLAT BOOK 53, PAGES 81-90

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE PLAT OF PHASE I-F, HEALTHPARK FLORIDA WEST AS RECORDED IN PLAT BOOK 53, PAGES 81-90, IN LEE COUNTY PUBLIC RECORDS, WHEREIN THE SOUTH LINE OF TRACT "T" BEARS S61°33'44"W.
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL.
3. POB = POINT OF BEGINNING
4. DESC. = DESCRIPTION
5. DESCRIPTION ATTACHED.

THIS IS NOT A SURVEY

Michael W. Norman
MICHAEL W. NORMAN

PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 450017

DATE SIGNED: JUL 02 2003
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

S:\033882\SKETCH.dwg (Sheet1) KLL Jul 02, 2003 - 4:00pm

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (941) 334-0046
FAX (941) 334-3661
E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY
DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
04/03/03	20033882	33-45-24	1" = 300'	1 OF 1

This Instrument Prepared By:
Lee County Utilities
1500 Monroe Street – 3rd Floor
Fort Myers, Florida 33901

PERPETUAL PUBLIC UTILITY EASEMENT GRANT

THIS INDENTURE is made and entered into this 20 day of AUGUST, 20 03, by and between Lee Health Ventures, Inc., Owner, hereinafter referred to as GRANTOR(S), and LEE COUNTY, hereinafter referred to as GRANTEE.

WITNESSETH:

1. For and in consideration of the sum of TEN DOLLAR (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged and accepted, GRANTOR hereby grants, bargains, sells and transfers to the GRANTEE, its successors and assigns, a perpetual public utility easement situated in Lee County, Florida, located and described as set forth in Exhibit "A", attached hereto and made a part hereof.

2. GRANTEE, its successors, appointees and assigns, are granted the right, privilege, and authority to construct, replace, renew, extend and maintain a wastewater collection and/or water distribution system, together with, but not limited to, all necessary service connections, manholes, valves, fire hydrants, lift stations and appurtenances, to be located on, under, across and through the easement which is located on the property described (Exhibit "A"), with the additional right, privilege and authority to remove, replace, repair and enlarge said system, and to trim and remove roots, trees, shrubs, bushes and plants, and remove fences or other improvements which may affect the operation of lines, mains and/or facilities.

3. The public utility easement shall not be limited to any particular diameter size or type and/or number of connections to other water/sewer mains for providing water/sewer service to this and any adjacent properties. The total area of this public utility easement is to be reserved for utility lines, mains, or appurtenant facilities and for any landscaping (excluding trees), walkways, roadways, drainage ways, or similar uses. Houses, fences, buildings, carports, garages, storage sheds, overhangs, or any other structures or portions of structures shall not be constructed on or placed within this easement at any time, present or future, by GRANTOR, or its heirs, successors or assigns.

4. Title to the utilities constructed and/or placed hereunder by GRANTEE or its agents shall remain in the GRANTEE, GRANTEE's successors, appointees, and/or assigns.

5. Subject to any pre-existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and

telephone and cable television lines covering the land herein described, GRANTOR(S) covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to sell and convey it, and that the said property is free of any and all liens and encumbrances, except as herein stated, and accordingly, GRANTOR(S) will forever defend the title and terms of this said easement and the quiet possession thereof by GRANTEE against all claims and demands of all other entities.

6. GRANTOR(S), its heirs, successors or assigns, shall assume all liability for any consequential damages to any houses, fences, buildings, carports, garages, storage sheds, overhangs, or any other structures or portions of structures subsequently constructed by GRANTOR(S) in violation of paragraph 3 within the above easement, which result from the required activities of the GRANTEE for any construction, maintenance or repairs to the utilities location within the above-described easement.

7. GRANTEE will be liable for money damages in tort for any injury to or loss of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the GRANTEE while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be found to be liable in accordance with the general laws of the State of Florida, and subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

8. GRANTEE shall have reasonable right of access across GRANTOR's property for the purposes of reaching the described easement (Exhibit "A") on either paved or unpaved surfaces. Any damage to GRANTOR's property or permitted improvements thereon as the result of such access to the described easement or the construction, maintenance, or repairs located within the described easement shall be restored by GRANTEE, to the condition in which it existed prior to the damage as is reasonably practicable. GRANTEE agrees to coordinate each activity within the easement premises in advance with the manager of the U. S. Postal Service, so as not to interfere with Postal Service operations.

9. By acceptance of this easement, the GRANTEE assumes no responsibility for ownership or maintenance of any associated roads. The easement is strictly for utility purposes. If GRANTEE fails to utilize the granted easement (Exhibit "A", hereto) for the purposes as set out herein and for the time as set out in Section 255.22, Florida Statutes, then this easement shall be extinguished pursuant to law.

10. This easement shall be binding upon the parties hereto, their successors in interest and any assigns.

August 12, 2003

DESCRIPTION**UTILITY EASEMENT
HEALTHPARK FLORIDA WEST
SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA**

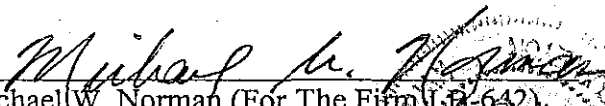
A tract or parcel of land lying in Section 33, Township 45 South, Range 24 East, Lee County, Florida being a part of Tract "T" as shown on the Plat of Phase I-F, HealthPark Florida West as recorded in Plat Book 53 at Pages 81 through 90, Public Records of Lee County, Florida, and a part of Tract "G" as shown on the Plat of HealthPark Florida West as recorded in Plat Book 47 at Pages 1 through 9 said Public Records which tract or parcel is described as follows:

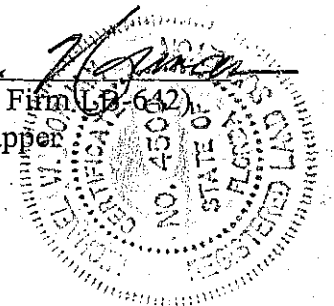
From the northwest corner of said Tract "T" (HealthPark Circle) 100.00 feet wide, run N 61° 33' 44" E along the north line of said Tract "T", being the northerly right-of-way line of HealthPark Circle for 308.76 feet; thence run S 28° 26' 16" E departing said north right-of-way line for 100.00 feet to an intersection with the southerly right-of-way line of said HealthPark Circle, being the south line of said Tract "T"; thence run S 61° 33' 44" W along the south line of said Tract "T" and its westerly prolongation for 323.18 feet; thence run S 28° 26' 16" E for 20.00 feet; thence run S 61° 33' 44" W for 35.00 feet; thence run N 28° 26' 16" W for 120.00 feet to an intersection with the westerly prolongation of the north line of said Tract "T"; thence run N 61° 33' 44" E along said prolongation for 49.42 feet to the Point of Beginning

Parcel contains 36,518 square feet, more or less.

~~SUBJECT TO easements, restrictions and reservations of record.~~

Bearings hereinabove mentioned are based on the Plat of Phase I-F, HealthPark Florida West as recorded in Plat Book 53 at Pages 81 through 90, Public Records of Lee County, Florida wherein the south line of Tract "T" bears S 61° 33' 44" W.


Michael W. Norman (For The Firm L.B. 642)
Professional Surveyor and Mapper
Florida Certificate No. 4500



20033872/Utility Easement 081203