

From: [Mary Holden](#)
To: [Sherry Kirsch](#)
Cc: [Daniel Smith](#)
Subject: FW: LV 25-000138 - Roman/Doolan - Survey Issue Resolved
Date: Monday, October 27, 2025 9:11:01 AM
Attachments: [image002.png](#)
[22.0068.04-336 Colonial Ave-396-MB12 Dig Sign.pdf](#)
[Survey 2002 Scan2025-10-22_115227.pdf](#)
[Re Easement.msg](#)
[1373854745112207103.pdf](#)
[image003.png](#)

Sherry,

Please see the email below and attachments. Please make the below email part of the record and include in the packet going to Planning Board. Also, please include the following survey's as he has requested: titled 22.0068.04-336 Colonial Ave-396-MB12 Dig Sign.pdf and Survey 2002 Scan2025-10-22_115227.pdf

Thanks

Respectfully,

Mary P. Holden

Mary P. Holden, Planning Manager
City of Marco Island
50 Bald Eagle Dr.
Marco Island, FL 34145
239-389-3975

NEW FEMA FLOOD INSURANCE RATE MAPS ARE IN EFFECT:

[https://marco.maps.arcgis.com/home/webmap/viewer.html?](https://marco.maps.arcgis.com/home/webmap/viewer.html?webmap=e7c5ba49b0e5449f9e600680be2e1b75)

[webmap=e7c5ba49b0e5449f9e600680be2e1b75](https://marco.maps.arcgis.com/home/webmap/viewer.html?webmap=e7c5ba49b0e5449f9e600680be2e1b75) - 2024

[https://marco.maps.arcgis.com/apps/Compare/index.html?](https://marco.maps.arcgis.com/apps/Compare/index.html?appid=2e0adf52e0df4e0cb67cc9e6687207f3)

[appid=2e0adf52e0df4e0cb67cc9e6687207f3](https://marco.maps.arcgis.com/apps/Compare/index.html?appid=2e0adf52e0df4e0cb67cc9e6687207f3) – comparison map 2012 and 2024



From: Zach Lombardo <zlombardo@wpl-legal.com>

Sent: Friday, October 24, 2025 5:50 PM

To: Mary Holden <mholden@cityofmarcoisland.com>; David N. Tolces <dtolces@wsh-law.com>

Cc: Logan Wardlow <lwardlow@wpl-legal.com>; Kaitlin Chylinski <kchylinski@wpl-legal.com>

Subject: LV 25-000138 - Roman/Doolan - Survey Issue Resolved

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mary and David,

Regarding the vacation of Chipley St, I spoke with the surveyor, David Holman, who created the survey that was presented by staff at the October Planning Board Meeting. Mr. Holman confirmed he created the survey when he worked at Trigo and Associates. He no longer works there and requested I work directly with Trigo and Associates, email attached. Accordingly, I worked with the survey company, Trigo and Associates, specifically John Trigo, who reviewed the matter and reissued the survey for 336 Colonial, attached. For completeness, also attached is that firm's survey for the East lot, 348 Colonial.

This reissued survey confirms there is no easement along the side lot line of 336 Colonial consistent with the plat and my representations at the October Planning Board hearing. I am requesting this updated survey be added to the review packet along with the 2002 survey for 336 so that the file has surveys for both of the lots as performed by Trigo and Associates, as well as the overall survey prepared by Grady Minor that is in the application packet.

Consistent with the revised survey, my clients are requesting that no utility easement be requested as a condition of approval.

First, before the incorrect survey was reviewed by staff, this was not a condition of approval.

Second, the City's standard by which vacations are reviewed is: "no present necessity, or reasonably foreseeable necessity". There is no present necessity or reasonably foreseeable necessity as clearly shown by the letters of no objection provided by the utility companies. "Local governing bodies do not have unbridled discretion to do what they want or believe is justified; instead, upon a showing of the statutory requirements (and, if applicable, local code-based requirements), the Commission has a legal responsibility to grant the vacation request unless they prove non-compliance with applicable law. As our supreme court has said: 'To deny a plat application, a local government agency must show by competent substantial evidence that the application does not meet the published criteria.' *Broward Cnty. v. G.B.V. Int'l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001)." *Blair Nurseries, Inc. v. Baker Cty.*, 199 So. 3d 534, 537 (Fla. 1st DCA 2016). This is different that a utility easement vacation because the City does not have a utility easement and thus would be conditioning approval by requiring an easement in contravention of the aforementioned and quoted case law.

Third, to condition this approval on the provision of an unnecessary easement runs contrary to all four policies of the Property Rights Element of the City of Marco Island 2040 Comprehensive Plan, which are:

Policy 1.1.1 The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 1.1.2 The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 1.1.3 The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1.1.4 The right of a property owner to dispose of his or her property through sale or gift or any lawful means of conveyance.

Fourth, because one condition of approval that my clients do not object to is that the vacated portions of real property shall be held in unity of title with the existing lots, the City and any utility already has sufficient access rights to provide utilities because there are already existing houses that are currently being served by utilities, including the City.

Thank you for your attention to this matter. If additional information would be helpful, please let me know.

Zachary W. Lombardo, B.C.S. | Partner

Woodward, Pires & Lombardo, P.A.

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& LOMBARDO, P.A.
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