



City Council Staff Report

Meeting Date: October 3, 2022

TO: City Council

FROM: Mary P. Holden, Senior Planner

DATE: September 19, 2022

RE: Utility Easement Vacation, LV-21-000234, 984 Birch Court, Planning Board Recommendation

PROJECT DESCRIPTION:

The request is to vacate the six-foot utility and drainage easements along each side of the common lot line of 984 Birch Court and 976 Birch Court, Marco Island. No other utility and drainage easements are being requested to be vacated. The application, survey, and utility permissions are attached.

PLANNING BOARD SUMMARY AND RECOMMENDATIONS

The Planning Board held a public hearing and considered this request at their September 2, 2022 meeting. There were no public comments or discussion. The Planning Board voted 7-0 to forward a recommendation of approval.

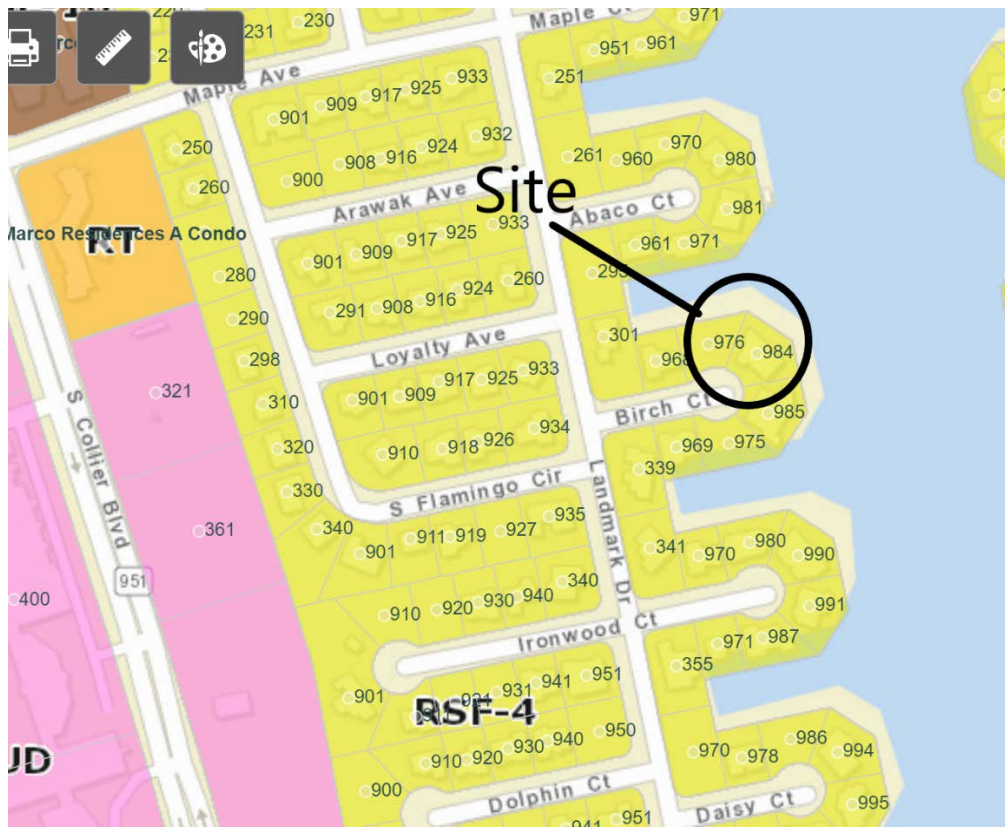
PETITIONERS/OWNER:

Charles David and Caroline Ann McBane	
217 Carroll Rd.	984 and 976 Birch Court
Fort Wayne, IN 46845	Marco Island, FL 34145

PROJECT INFORMATION:

984 Birch Court and 976 Birch Court
Lot 4, Block 188, Marco Beach Unit 7, Lot 3, Block 188, Marco Beach Unit 7
Parcel No.: 57651920003 and 57651880004
Zoning: RSF-4

SUBJECT PARCEL ZONING:



SUBJECT PARCEL AERIAL:



STAFF ANALYSIS:

These lots have not been combined for tax purposes only and that will be a conditional of approval. As a reminder, combining for tax purposes only does not automatically vacate utility or drainage easements. Utility easements may only be vacated when the various utility companies have given up their right to use that easement and City Council approves the request.

The applicant sent a letter to each adjacent neighbor, and we received a letter from one adjacent neighbor. We have received a letter of no objection from the utilities except for Comcast. Marco Island Utilities has conditioned their approval by retaining a ten (10) foot square (five on each lot) portion of the utility easements that begins at the front property lines extending ten feet into the property.

As with other utility vacation requests, the applicants must record a unity of title with Collier County, as advised by our attorney, Mr. Gabriel. This document basically ties the two lots together and prevents issues down the road. Such issues can be construction of an accessory structure on the other lot and then selling that lot with just the accessory structure. The same is true if a dock was constructed on the lot not containing the primary structure and then selling that lot. The unity of title prevents such situations, legally tying the two lots together.

STAFF RECOMMENDATION:

Staff recommends the Planning Board approve this request contingent upon the below conditions:

1. The lots are combined for tax purposes only with Collier County Assessor.
2. A unity of title is filed with Collier County and a copy provided to Staff before the City Council meeting.
3. A ten (10) foot square portion of the utility easement shall remain in place. The location will be 10 feet behind the front property line along 984 and 976 Birch Court and five feet on both sides of the common property line.
4. Comcast provide a no objection letter prior to the City Council meeting.
5. The Owner/Developer is solely responsible for any and all costs associated with this Drainage and Utility Easement vacation, including but not limited to the following:
 - a. Property surveys;
 - b. Professional design fees;
 - c. Permit costs;
 - d. Preparation and recording of new deeds and this resolution, including and attorney fees;
 - e. Removal, replacing or relocation of any utilities (if applicable);
 - f. Removal of existing ground cover;
 - g. Fill, loam and seed; and
 - h. Disposal of any and all construction debris including any and all infrastructure which may exist within the utility easement.