

Prepared by & Return to: Ned M. Barnes
1009 N. Lake Park Blvd., Suite C-2
Carolina Beach, NC 28428

STATE OF NORTH CAROLINA

**DECLARATION OF WITHDRAWAL OF
EASEMENT AND DEED OF EASEMENT**

COUNTY OF NEW HANOVER

PID: RO8807-005-004-000
EXCISE TAX: NTC

THIS DECLARATION OF WITHDRAWAL OF EASEMENT AND DEED OF EASEMENT, entered into this ____ day January of 2021 by and between Elisabeth M. Struckell and Kathryn C. Maney, *add address* (hereinafter “Struckell and Maney”); Oceana Owners Association, Inc. a North Carolina nonprofit corporation, 1628 Doctors Circle Wilmington, NC 28401 (hereinafter “Oceana”) and The Town of Carolina Beach, a North Carolina municipal corporation (hereinafter “Town of Carolina Beach”).

WITNESSETH

A. Withdrawal of Easement

THAT, WHEREAS, Struckell and Maney are the owners of the real property known as Lot 2, of Oceana (hereinafter “Lot 2”), said real property being more commonly known as 402 Oceana Way, Carolina Beach, NC 28428, as shown on Map Book 33, at Pages 336 and 337 in the New Hanover County Registry. Said real property being acquired by Struckell and Maney in Deed Book 4129, at Page 735 in the New Hanover County Registry; and

WHEREAS, Lot 2 is burdened by two (2) separate ten foot (10’) Utility Easements (hereinafter “Utility Easements”), said easements being depicted on a Map entitled, “Utility Easement for Oceana” dated March 2, 1994 and being recorded in Map Book 33, at Page 337 of the New Hanover County Registry, said Map being attached hereto and incorporated herein by reference as Exhibit “A”, the same also being shown on Map Book 33, at Page 347, New Hanover County Registry; and

WHEREAS, Oceana is the purported grantee of said Utility Easements burdening Lot 2, by virtue of that Deed of Easement recorded in Book 5971, at Page 890 in the New Hanover County Registry, or alternatively, by dedication of easement depicted on Map Book 33, and Page 337 of the New Hanover County Registry; and

WHEREAS, the Town of Carolina Beach is also a purported grantee of said Utility Easements by dedication of easement depicted on Map Book 33, and Page 337 of the New Hanover County Registry

WHEREAS, since the date of their creation, said Utility Easements have not been used for the purposes of installing, maintaining or operating any water, sanitary sewer, or storm sewer lines utilities of any nature or kind; and

WHEREAS, by entering into this Declaration of Withdrawal of Easement it is the intent of Struckell and Maney, Oceana, and the Town of Carolina Beach to terminate, withdraw and abandon said Utility Easements, as shown on Exhibit "B" entitled "Exhibit for Abandonment of Easements and Dedication of Easement for Kathryn C. Maney and Elisabeth M. Struckell" which is attached hereto and incorporated herein by reference, such that Struckell and Maney, their heirs, successors and assigns, and successors in title shall own Lot 2 free and clear of any interest in, or right to use said Utility Easements by Oceana, their heirs, successors and assigns and successors in title; and

WHEREAS, Oceana and the Town of Carolina Beach join in this Declaration of Withdrawal of Easement for the purpose of terminating, withdrawing, and abandoning any right and interest, if any, they may have in and to the Utility Easements, but make no representations or warranties of any kind with respect to their rights in and to said Utility Easements and further make no warranties, express or implied as to title to the easement interest referenced herein; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned does hereby file and cause to be recorded in the Office of the Register of Deeds of New Hanover County, this Declaration, hereby terminating, withdrawing and abandoning the above referenced Easements.

B. Deed of Utility Easement

This DEED OF EASEMENT created the day and year first above written and entered into between Elisabeth M. Struckell and Kathryn C. Maney, *add address* (hereinafter "Grantor") and The Town of Carolina Beach a North Carolina municipal corporation (hereinafter "Grantee").

For and in consideration of the sum of Ten Dollars (10.00) and other valuable consideration paid by the Grantee to the Grantor, receipt of which is hereby acknowledged, the Grantor has bargained, sold and conveyed and by these presents does hereby grant, bargain, sell, and convey unto Grantee, its successors and assigns the right privilege and easement, over, through under and

upon the lands and premises hereinafter described for the purpose of constructing, installing, inspecting, maintaining, repairing, removing, extending, improving, preserving and/or operating certain private utilities, including, but not limited to sanitary sewer lines, water lines, pipes, valves, and other related facilities and appurtenances, said premises being a certain parcel or tract of land located in the Town of Carolina Beach, New Hanover County, North Carolina, and more particularly described as:

BEING ALL of Lot 2 of Oceana as shown on the map or plat thereof recorded in Map Book 33 at Pages 336 and 337, in the New Hanover County Registry, reference to which is hereby made for a more particular description.

Said Easement Area being more particularly described in the Legal Description for 10' Utility Easement attached hereto and incorporated herein by reference as Exhibit "C", the same Easement Area being depicted on Exhibit "B".

The above described is that property conveyed to Grantor by deed recorded in Deed Book 4129, Page 735, of the New Hanover County Registry.

TO HAVE AND TO HOLD said Utility Easement to GRANTEE, its successors and assigns, forever. This Easement hereby granted is appurtenant and runs with the Property now owned by the GRANTOR.

The GRANTEE shall at all times have the right to keep the Easement Area clear of all buildings and structures, debris, trees, shrubs, bushes, stumps, roots, undergrowth, or other vegetation as will in its reasonable judgment interfere with the purposes of this Easement. The GRANTOR expressly promises and agrees not to construct or allow to be constructed on the Easement Area, any building, structure, or other improvement, and further promises not to plant or allow to be planted any trees, shrubs, bushes, undergrowth or vegetation, or to otherwise permit encroachment or interference with GRANTEE's rights hereunder. GRANTEE shall have no right to store equipment or vehicles within the Easement Area. GRANTEE shall use its best efforts to restore the Easement Area to its previous condition within seven days of the completion of work in the Easement Area. GRANTOR and GRANTEE agree that GRANTEE shall have the right, but not the obligation, to authorize additional improvements to the Easement Area, such authorization to be evidenced by a writing signed by the GRANTOR and GRANTEE.

The GRANTEE further covenants that it shall release, indemnify, and forever discharge for itself, its successors and assigns GRANTOR, their heirs, successors, and assigns from any and all claims, actions, causes of action, demands, rights, damages, and compensations whatsoever, or other liability, including attorneys fees, occasioned by negligence, or otherwise which the undersigned GRANTEE or any of its officers, agents, contractors or employees may now have or which may hereafter accrue as a result of constructing, installing, inspecting, maintaining, repairing, removing, extending, improving, preserving and/or operating certain private utilities upon the easement area contemplated herein.

The GRANTOR reserves the right to grant easements to other parties within the easement areas as shown on Exhibit "B" which is attached hereto and incorporated herein by

reference so long as such easements do not interfere with the GRANTEE'S use of the easement areas and the rights granted herein.

Said GRANTOR covenants and warrants that it is lawfully seized and possessed of the property described above; and that is has good right and lawful authority to convey said Easement for the purposes herein expressed; and that said GRANTOR for its successors and assigns covenant that it will warrant and defend said easement against any and all claims and demands whatsoever.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and seals to this Declaration of Withdrawal of Easement, this the ____ day of January, 2021.

Oceana Owners Association, Inc. a North Carolina nonprofit corporation

_____(SEAL)
By: _____, President

The Town of Carolina Beach, a North Carolina municipal corporation

_____(SEAL)
By: _____

_____(SEAL)
KATHRYN C. MANEY

_____(SEAL)
ELISABETH M. STRUCKELL

[The rest of this page is intentionally left blank]

STATE OF _____
COUNTY OF _____

I, _____ a Notary Public in and for the said County and State do hereby certify that _____ personally appeared before me this day and acknowledged that he is the **President of Oceana Owners Association Inc., a North Carolina nonprofit corporation**, and that he as President, being authorized to do so, executed the foregoing instrument on behalf of the nonprofit corporation.

WITNESS, my hand and official stamp or seal this ____ day of January, 2021.

Notary Public

[SEAL]

My Commission Expires: _____

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal, the day and year first above written.

Grantor:

KATHRYN C. MANEY (SEAL)

ELISABETH M. STRUCKELL (SEAL)

Spouses....

Grantee:

**The Town of Carolina Beach, a North
Carolina municipal corporation**

By: (SEAL)

(add notary)

STATE OF _____
COUNTY OF _____

I, _____ a Notary Public in and for the said County and State do hereby certify that **KATHRYN C. MANEY** and _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS, my hand and official stamp or seal this ____ day of January, 2021.

Notary Public

[SEAL]

My Commission Expires: _____

STATE OF _____
COUNTY OF _____

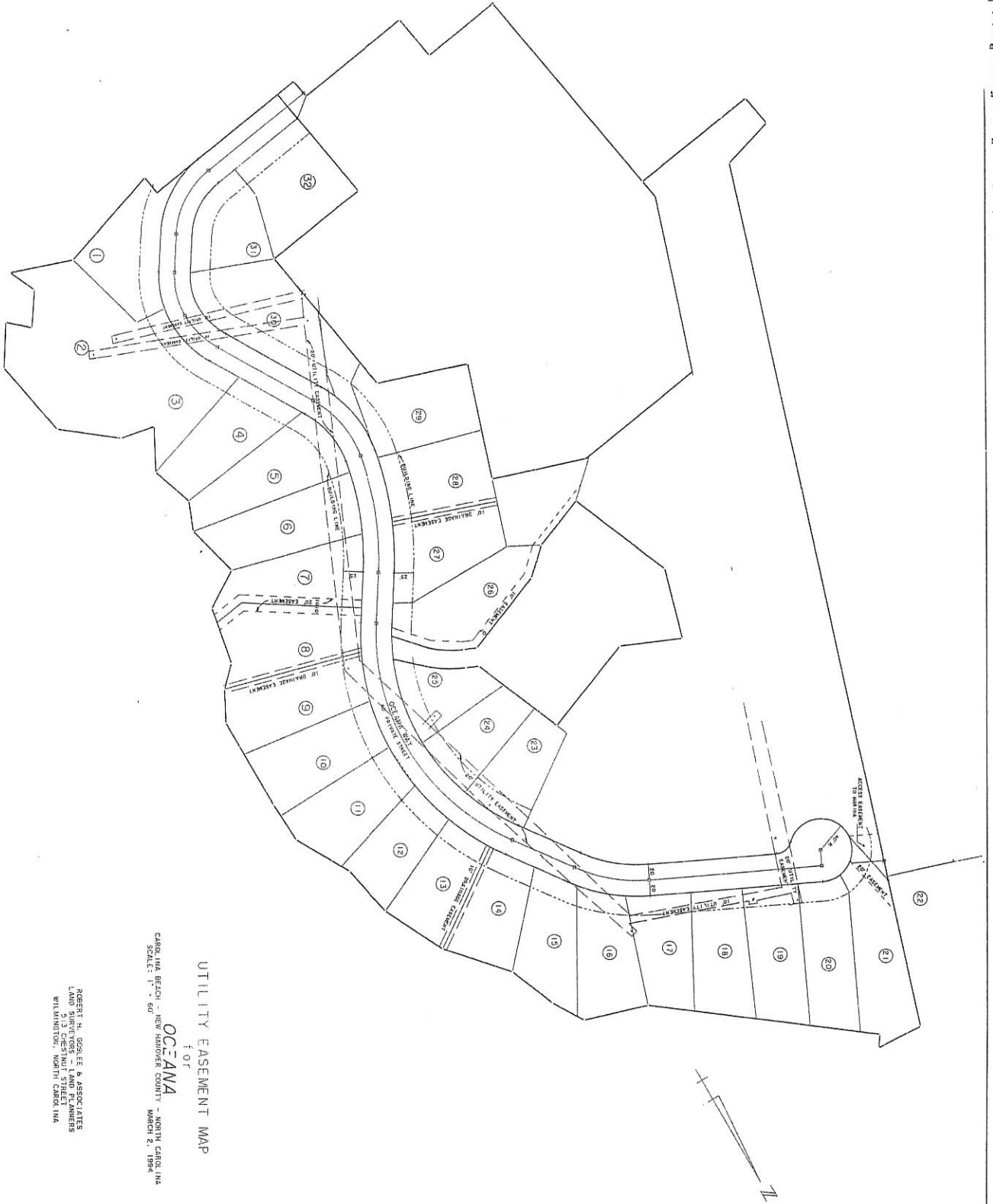
I, _____ a Notary Public in and for the said County and State do hereby certify that **ELISABETH M. STRUCKELL** and _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS, my hand and official stamp or seal this ____ day of January, 2021.

Notary Public

[SEAL]

My Commission Expires: _____



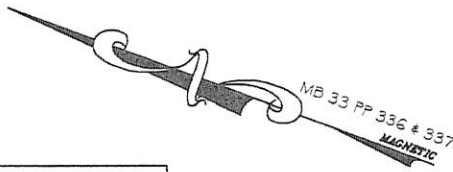
UTILITY EASEMENT MAP

FOR
OCEANA
CAROLINA BEACH, NEW HARBOR COUNTY, NORTH CAROLINA
SCALE: 1" = 60'
MARCH 2, 1994

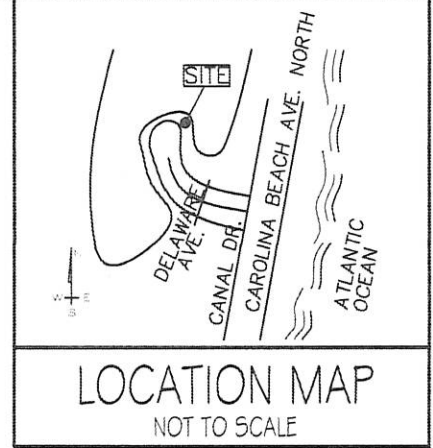
ROBERT H. GOSLEE & ASSOCIATES
LAND SURVEYORS, ENGINEERS AND ESTATE PLANNERS
WILMINGTON, NORTH CAROLINA

Map Book 33 Page 337

"THIS MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEW FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS."



LINE/CURVE TABLE			
LINE	LENGTH	BEARING	RADIUS
L1 (CHORD-TIE)	30.33	S10°35'23"E	131.78
L2	8.93	S72°24'54"E	N/A
L3	10.00	S17°35'06"W	N/A
L4	5.46	N72°24'54"W	N/A
L5 (CHORD)	1.92'	N00°23'16"E	121.28
L6 (CHORD)	8.66	N01°56'57"W	131.78



- LEGEND**
- = EXISTING IRON PIPE
 - ⊙ = CENTERLINE
 - = CONCRETE MONUMENT
 - = EXISTING IRON ROD
 - △ = COMPUTED POINT
 - ⊕ = SANITARY SEWER MANHOLE

SURVEY REFERENCE
 MAP BOOK 33 PAGES 336-337
 DEED BOOK 4129 PAGE 735
 DEED BOOK 1755 PAGE 613

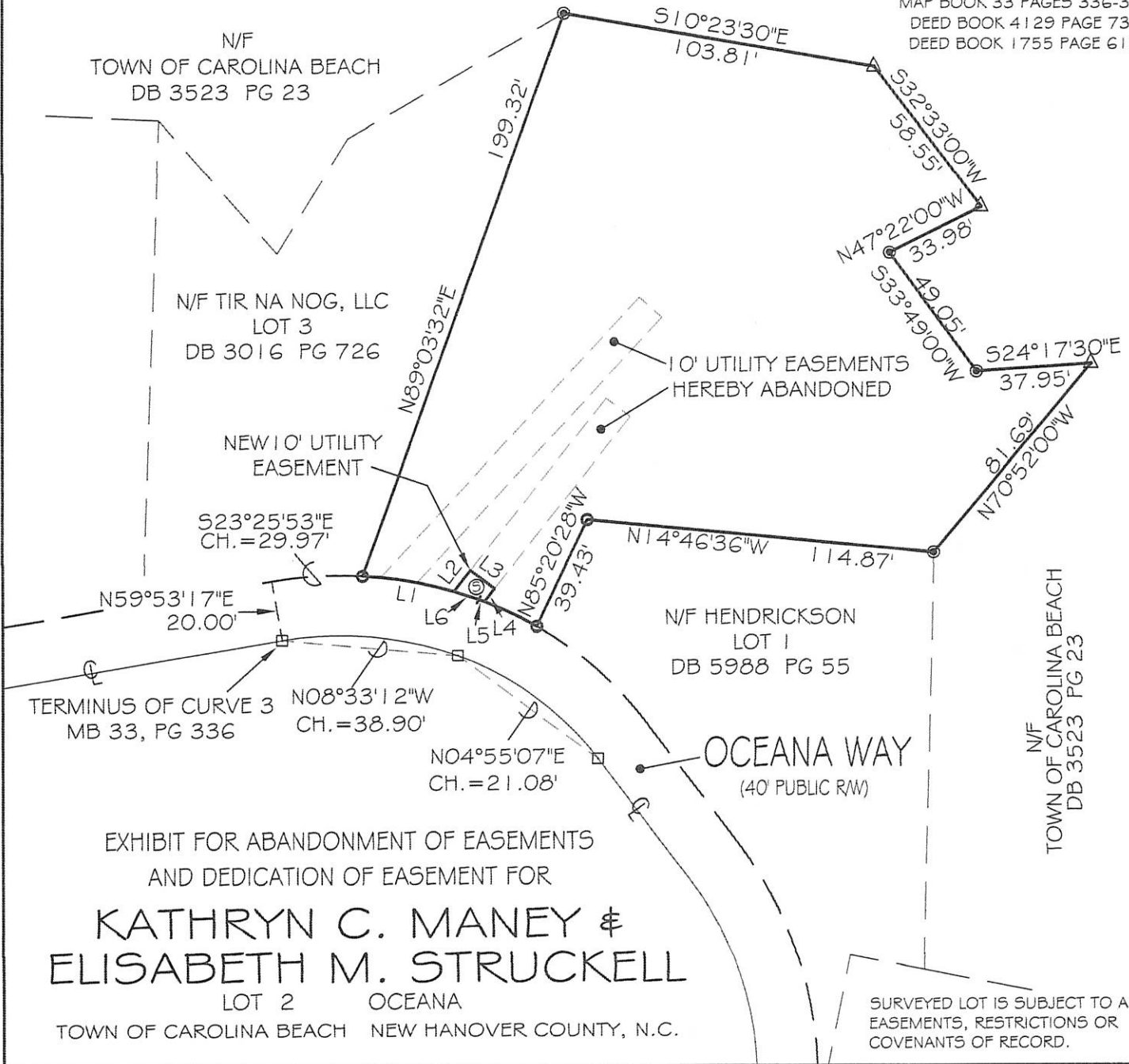
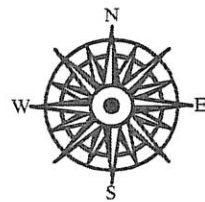
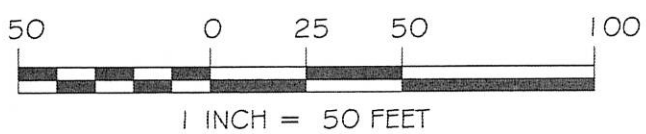


EXHIBIT FOR ABANDONMENT OF EASEMENTS AND DEDICATION OF EASEMENT FOR
KATHRYN C. MANEY & ELISABETH M. STRUCKELL
 LOT 2 OCEANA
 TOWN OF CAROLINA BEACH NEW HANOVER COUNTY, N.C.

SURVEYED LOT IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS OR COVENANTS OF RECORD.

S:\LAND PROJECTS\OCEANA SECTION 1 LOT 2\dwg\402 OCEANA WAY BOUNDARY.dwg

JANUARY 7, 2021



PATRICK C. BRISTOW
 LAND SURVEYING, PC
 181 SOUND VIEW DRIVE
 WILMINGTON, NC 28409
 PHONE : (910) 471-9998
 E-MAIL : pat@bristowsurveying.com
 FIRM LICENSURE NO. C-3071

Exhibit "C"

Patrick C. Bristow Land Surveying, PC
4113-A Oleander Drive
Wilmington, NC 28403

Description for 10 foot wide utility easement

A tract of land located in the town of Carolina Beach, New Hanover County, North Carolina being a portion of that property located at 402 Oceana Way, Carolina Beach, North Carolina, said property being designated as New Hanover County Parcel ID Number R08807-005-004-000 and being described in a deed to Elisabeth M. Struckell and Kathryn C. Maney recorded in deed book 4129, page 735 of the New Hanover County register of deeds office, the herein above referenced portion of said tract being more particularly described as follows: beginning at a point in the eastern right of way line of Oceana Way, said point being located North 59 degrees 53 minutes 17 seconds East 20.00 feet, South 23 degrees 25 minutes 53 seconds East, a chord distance of 29.27 feet and South 10 degrees 35 minutes 23 seconds East, a chord distance of 30.33 feet from a concrete monument marking the northern terminus of Curve 3 as shown on a map of "Oceana" recorded in map book 33, pages 336 and 337 of the New Hanover County register of deeds office, thence from the beginning point South 72 degrees 24 minutes 54 seconds East 8.93 feet, thence South 17 degrees 35 minutes 06 seconds West 10.00 feet, thence North 72 degrees 24 minutes 54 seconds West 5.46 feet to a point in the eastern right of way line of Oceana Way, thence with said right of way line following a curve to the left or northwest, said curve having a radius of 121.28 feet to a point of compound curve located North 00 degrees 23 minutes 16 seconds East, a chord distance of 1.92 feet from the preceding point, thence following another curve to the left or northwest, said curve having a radius of 131.78 feet to a point located North 01 degrees 56 minutes 57 seconds West, a chord distance of 8.66 feet from the preceding point, the point of beginning, the above described easement containing 71 square feet and encompassing an existing sanitary sewer manhole lying in or on the above referenced parcel, just east of the right of way of Oceana Way.



Patrick C. Bristow

01/07/2021