

Neighborhood Response to Applicants Summary
Community Workshop to discuss the proposed Right-of-Way (ROW) vacation
referred to as Marlin Drive ROW – **January 10, 2023**

Subject: Summary of Minutes for Marlin Drive ROW Vacation – Community Workshop – November 29, 2022, 5:30 PM Held at City Hall Annex – SRQ Media Studio, 1565 First Street, Sarasota, FL 34236

Below the applicant’s responses are additional neighborhood comments to the applicant’s responses that were heard at the subject meeting but were not recorded:

Application No. 23-CW-01

A Community Workshop was held to discuss the proposed Right-of-Way (ROW) vacation located between 4815 Eastchester Drive and 4907 Eastchester Drive (PID#’s 2001-11-0087 and 2001-14-0077) referred to as Marlin Drive ROW. The subject Right-of- Way is currently a dead-end, vacant, unimproved Right-of-Way, not currently used by the City as a street ROW, because there is no thoroughfare.

Through this vacation, the applicants seek to end the security issues of homeless vagrants/drug use, health issues of breeding mosquitoes, beautify the landscape, and relieve the City of the responsibilities of this unused ROW.

Additional Comments to Applicant’s misleading vacation wording above (and was addressed at the meeting):
We live within the City limits and everyone experiences homeless vagrant/drug use, and health issues of breeding mosquitoes. Beautification is subjective and the IBSSA (not the city) has taken responsibility of the ROW which has been considered a “neighborhood pocket park” for over 25 years.

The applicants provided an overview of the proposal.
Below are the non-verbatim summary minutes of the discussion:

Questions/Comments

Kevin Spence requested that the meeting be thrown out on technicalities of the workshop notice that went out, claiming that the workshop notice used misleading language (that the city had no objection to this ROW vacation application), and that the area of land called “unimproved” is a false statement.

Applicant Responses

A draft of the Workshop notice was reviewed by the City Planning Dept. before mailing. The letter intended to convey that the required utility companies, including City of Sarasota Utilities Dept., had no objection to this ROW vacation application, and that the City had confirmed the applicants’ legal right to pursue the vacation. It was not meant to imply that the city had already approved the vacation itself. The applicants apologized for any confusion and explained that the Community Workshop is the first step in the process, and no application can be submitted before a Community Workshop is held.

The City explained that the term “Unimproved” is the technical definition of any ROW which has not been improved for the purposes for which it was intended. The applicant used this term, as directed by the City.

Additional Comments to Applicant Responses:
It was the city who removed the original asphalt from the site in order to allow the neighborhood to make the stormwater run-off and nature trail improvements.

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Questions/Comments

Kevin Spence stated that using “jungle patch” is pejorative language used to describe the area and felt this was an untruthful description of the area.

Applicant Responses

The applicant explained that reference to the “jungle patch” was meant as a descriptor, reflecting the current status of the area, as it is heavily overgrown and has been for over a decade.

Additional Comments to Applicant Responses:

The term “jungle patch” that is used to describe the site is misleading for the following reasons:

1. Our community experienced two hurricanes in the past 6 months. Because the storm debris was not removed on the property, the site still reflects the landscape damage that we all experienced due to the storms.
2. The applicant to the south has insisted that the subject site remain in a “wild” status for many years. This fact was confirmed by several neighbors present at the meeting.
3. The applicant to the north (who confirmed she was given the “Stewart” role in maintaining the neighborhood pocket park) never requested public assistance to maintain the site. The majority of neighbors present at the meeting raised their hand when asked if they would assist to clean the park debris.

Questions/Comments

Kevin Spence read a letter from Indian Beach Sapphire Shores Association (IBSSA) current president stating that applicants were notified at the time they purchased their properties of the historical use of this area as a nature conservation area.

Applicant Responses

Neither applicant was informed prior to purchasing their properties of any prior uses of the ROW. Their closing documents do not mention it. All applicants were later made aware of a volunteer effort to plant this area with natives, but until now, none were aware of any grants. Previous owners of 4907 told the north side applicants that they could apply to the City to reacquire it, and they purchased their property understanding that they had this right. When the south side applicant purchased her property in 2011, the ROW was already completely grown over.

Additional Comments to Applicant Responses:

The applicant’s response above is inaccurate. They state above that they could apply to the city to “reacquire it” as though the ROW was theirs from the start. The Marlin Conservation Square ROW property was originally platted to be part of Marlin Street evidenced by an historical plat (attached hereto). The applicant’s properties were to sit at the corner of Eastchester and Marlin, until Brywill Circle was platted at which time Marlin became a dead-end street. The applicants are attempting to take public land that has been used as a neighborhood pocket park for over 25 years. Applicant from the north admitted knowing that a sign was located on the subject property when they purchased their personal property and it read “Marlin Conservation Square”. The south side property owner has for many years instructed many neighbors to not trim any vegetation on the ROW as she preferred the “wild look”. Many neighbors made comments that they were made to feel “unwelcome” by the southern applicant when they attempted to assist with site trimming.

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Questions/Comments

The IBSSA letter states that this vacation would be a breach of contract with IBSSA and the City regarding the use of this area.

Applicant Responses

Neither the applicants nor the City are aware of any existing contract or breach. The applicants are fee simple title holders to the property, and the City has an unimproved ROW easement that overlays their property. The applicants attempted multiple times to work with IBSSA on the maintenance, and in 2019 IBSSA Greenspace chair communicated to applicants that IBSSA Greenspace committee would not be maintaining the area, because they only work on true “public spaces.” He said that he informed the IBSSA Board of this in early 2018.

He provided applicants with information on private ownership of public easements. No contracts were ever mentioned. Applicants acknowledged that it must have been a lovely native planting demonstration at one time (22 years ago), initiated by a volunteer group of neighbors, IBSSA, and a small educational grant, but it has not been maintained by volunteers as any sort of demonstration garden for over a decade and has not been maintained by the City, as they have no use for it. Thus, it has not been maintained by any parties other than the applicants themselves for at least 10 years.

Additional Comments to Applicant Responses:

No evidence of the alleged information or conversations were produced by applicants. When asked if applicants ever submitted an ad in the neighborhood newsletter seeking assistance in the maintenance of the Marlin Conservation Square ROW, the answer was no. When asked if a sign was ever placed on the site requesting assistance in the maintenance of the site, the answer was no. Almost every neighbor in attendance of the meeting indicated they would help to clean up and maintain the public park.

Questions/Comments

The IBSSA letter states that a grant that was obtained by Southwest Florida Water Management District (SWFWMD) was given ‘in public trust that this area would remain in public control for the purpose of ground water recharge’

Applicant Responses

Applicants were just informed of the grant given to IBSSA (year 2000) and requested details. Applicants are aware of a previous "native plant demonstration" here with native plants fed by a rainwater catchment. The area is completely overgrown, with no recognizable footprint of the former plantings. Applicants are interested in understanding more about ground water recharge and how they can maintain this feature, if beneficial. The applicants intend to restore this area and utilize native plantings and eco- friendly methods, so they will be maintaining the original intention of this past volunteer effort, and thus don't see a conflict.

Additional Comments to Applicant Responses:

The applicant said that, “with the additional land from the vacated ROW, the co-applicant at 4815 Eastchester would be “entitled” to, and planned to, sub-divide her current lot and build another home.” While unquestionably extremely financially valuable to the co-applicant at 4815 Eastchester, vacating a public asset for the private benefit of one individual is not an appropriate use of public resources. Marlin Conservation Square provides important public benefits, including storm water management, wildlife conservation, and a small oasis of biodiversity amongst the developed lots that overwhelmingly predominate in the neighborhood. Public time and funding have gone into creating and maintaining Marlin Conservation Square with the intent and understanding that it would remain a public asset, not be turned over for private financial gain.

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Continued: The reality is that once the land is in private hands, the homeowners are not subject to any constraints beyond the existing building/zoning code. **Eastchester and Marlin Drive has NO storm water drainage systems,** making the existence of Marlin Conservation Square even more critical to the properties located to the west (which sit at a lower elevation.) These properties already experience serious storm water issues during the rainy season, and vacation of the ROW can only worsen this situation.

Questions/Comments

Would the applicants consider any other resolution than vacation?

Applicant Responses

Not at this point. The applicants seek security, privacy, and a beautified space. They are happy to maintain beneficial elements of previous volunteer efforts, cultivating with native plants, etc. upon vacation.

Additional Comments to Applicant Responses:

Eliminating the Marlin Conservation Square catch basin would be short-sighted climate planning, and will likely cause additional harm to properties along Brywill Circle.

Questions/Comments

A concern was raised by Denise Scheineson, stating s h e b e l i e v e s that the area serves as a stormwater retention area relieving the flooding which happens on Brywill Circle, and she showed a photo of flooding on Brywill that happened during the recent hurricane.

Applicant Responses

Applicants are unaware if / how this area provides relief for widespread flooding on an adjacent street (Brywill Circle) and assume this would be addressed by the city's stormwater management department. Jono Miller spoke up: he checked, and the ROW is not currently listed as part of the City's stormwater management infrastructure. This type of flooding appears to be part of a larger stormwater management issue which needs to be addressed independently of this small area. No storm sewers are being eliminated by the vacation, as no roadways are affected.

Additional Comments to Applicant Responses:

Evidence of roadway flooding was shown at the meeting (and attached hereto). Brywill Circle floods just west of Marlin Conservation Square and does so regularly. Brywill street flooding is directly related to Marlin and Eastchesters storm water run-off and it must be addressed and prioritized. Marlin Conservation Square was in fact created in 2000 with the assistance of Southwest Florida Waste Water Management who provided IBSSA a grant in the amount of \$3,625 in an effort to slow water runoff. Attached hereto is page 23 of the Southwest Florida Waste Water Management Community Affairs Department FY 2000 final report where it labels Marlin Conservation Square as a "Pocket Park" and provides an explanation of our goals and accomplishments which includes flood prevention.

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Questions/Comments

Denise Scheineson raised her concern to lose this public green space, as there were few in the neighborhood.

Applicant Responses

This area is not a public green space. It is heavily overgrown and has been for many years. Plantings done by neighbors (year 2000) were not maintained, and despite multiple opportunities, IBSSA/Greenspace hasn't maintained it, and communicated that they wouldn't maintain it, stating that it wasn't a public green space. This evidences that volunteer-based maintenance is not a reliable solution. The applicants believe that through this vacation, maintenance and security problems will be resolved for themselves, the neighborhood, and the city.

Additional Comments to Applicant Responses:

For the animals, birds, and insects that call Marlin Conservation Square home and for many IBSSA residents, the undeveloped property represents a tiny island of ecological diversity that is valuable precisely because it has somewhat escaped human intervention. The IBSSA neighborhood has plenty of fenced/walled, highly landscaped properties that may be lovely for their owners to look at, but offer little to the general public or to our natural neighbors. Marlin Conservation Square simply was not assigned new caregivers. Due to the heightened awareness of and appreciation for Marlin Conservation Square, many neighbors have stepped forward and are willing to provide their personal time to maintain the Square for all to enjoy into the future.

Questions/Comments

Why didn't the applicant reach out to IBSSA to request help prior to applying to vacate?

Applicant Responses

Applicant reiterated that they reached out multiple times and were told by the IBSSA Greenspace Committee Chair that IBSSA was not going to be helping maintain this area. See more complete responses above.

Additional Comments to Applicant Responses:

Already mentioned above, no evidence of any correspondence was provided backing up the alleged position of the greenspace (now beautification) committee chair. Further, as explained above the applicants did nothing to promote the need for assistance within the neighborhood. The fact is that the applicants discouraged the maintenance of the site in order for it to remain upkept. Caregivers to maintain Marlin Conservation Square are available and look forward to the opportunity to create a space for walkers, dog walkers, families and visiting guests to once again enjoy this rare gem of beautiful, natural space within our lovely neighborhood. The beautification goal can be achieved and this valuable asset will remain in the public domain.

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Questions/Comments

Would the applicants be willing to meet with IBSSA to discuss further?

Applicant Responses

The applicants hesitated, because they said the antagonism in the room was not conducive to collaboration and that previous attempts to collaborate with IBSSA were met with disinterest. The applicants expressed surprise at the current antagonistic response and did not understand why there was suddenly renewed interest. The applicant spoke with the current IBSSA president (2020) about ROW maintenance & security issues and their eventual plans for a vacation. So, IBSSA was aware, but at no point did IBSSA (or anyone else) contact any of the applicants to offer maintenance help or to discuss. At this time, the applicants do not feel the area can be properly maintained by volunteers, because interest comes and goes, it is hard work, and there are competing values and goals. The applicants feel they can resolve safety issues and maintain it better through vacation, while relieving the city of any liability and management for an area that they don't need or utilize.

Additional Comments to Applicant Responses:

It is clear that the northern applicant purchased their property in 2017 for the sole purpose of taking this land from the community. Not mentioned within their minutes was their expressed need for privacy. The southern applicant plans to build a new home on the gained frontage. They are only interested in creating private land that will be behind a wall prohibiting anyone else from using public greenspace. The addition of a new home will cause even more burden to the adjacent neighbors with the additional hard surfaces. The applicants did not receive antagonistic responses, mainly because those present were unable to speak due to the applicants not allowing a "discussion".

Questions/Comments

Jono Miller acknowledged the security issues and suggested that the city/neighborhood should consider accepting the applicants' desire to secure it from public access to ensure safety, but conditional upon the ground water recharge issues being maintained.

Applicant Responses

The applicant stated that their concern about safety/vagrancy issues in the ROW extends to the neighborhood, as there are elderly and single women who live on this street and in the surrounding areas. The applicants stated that they recently found a backpack of crowbars and break-in tools stashed in the ROW, which the police came to remove. The applicants were worried this was stowed to later break into local cars/houses.

Additional Comments to Applicant Responses:

Random strangers showing up at our front doors and on our property is a fact of life in the City of Sarasota. Residents of Brywill Circle had two auto thefts occur since 2020 and a bike was stolen from the side of a gated home. Installation of fencing is a deterrent. Adding motion detection lighting and cameras can also enhance home protection. The homeowners are not subject to any constraints beyond the existing building/zoning code if the site is privatized. Eastchester and Marlin Drive has no storm water drainage systems, making the existence of Marlin Conservation Square even more critical to the properties located to the west (which sit at a lower elevation.) These properties already experience serious storm water issues during the rainy season, and vacation of the ROW can only worsen this situation.

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Questions/Comments

Jono Miller commented that true ownership needs to be clarified.

Applicant Responses

The applicants hold fee simple title to the property which the unimproved ROW encumbers. The city has confirmed this.

Additional Comments to Applicant Responses:

Additional research is needed on this subject. Based upon this historical plat (attached hereto) it appears that Marlin ROW was not intended to be continuance to the applicant's personal parcels. The current status might give them the right to request vacation of the ROW; however, the IBSSA neighborhood has utilized the ROW for over 25 years as a neighborhood pocket park/public space and the neighborhood has rights too. Based upon those present the site was not abandoned and a committee has been formed to begin rejuvenating the space back into a rain water "catch basin" and nature trail.

Questions/Comments

Jono Miller stated that the City has no records of the ROW being part of the city's stormwater management system. He feels this should be addressed and that this area should retain benefits of ground water recharge per the educational grant issued by SWFWMD.

Applicant Responses

The applicants thanked Jono for his input and reiterated that they are interested in learning more about groundwater issues and how they can do to maintain groundwater recharge, upon vacation.

Additional Comments to Applicant Responses

The homeowners are not subject to any constraints beyond the existing building/zoning code if the site is privatized.

Questions/Comments

Someone asked about the possibility of a conservation easement.

Applicant Responses

Applicants are not aware of what that would entail. More information is needed.

Additional Comments to Applicant Responses

Additional research is needed on this subject.

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Questions/Comments

Jesse White asked if the Marlin Conservation Sign that they placed there years ago was still there.

Applicant Responses

There was an old illegible sign that was deteriorating and eventually fell apart, 3-4 years ago.

Additional Comments to Applicant Responses

Applicant from the north admitted knowing that a sign was located on the subject property when they purchased their personal property and it read “Marlin Conservation Square.” In addition to the sign is a bench where neighbors sit and visit the neighborhood greenspace. Said bench still exists.

Questions/Comments

Someone asked if there are plans to develop this area.

Applicant Responses

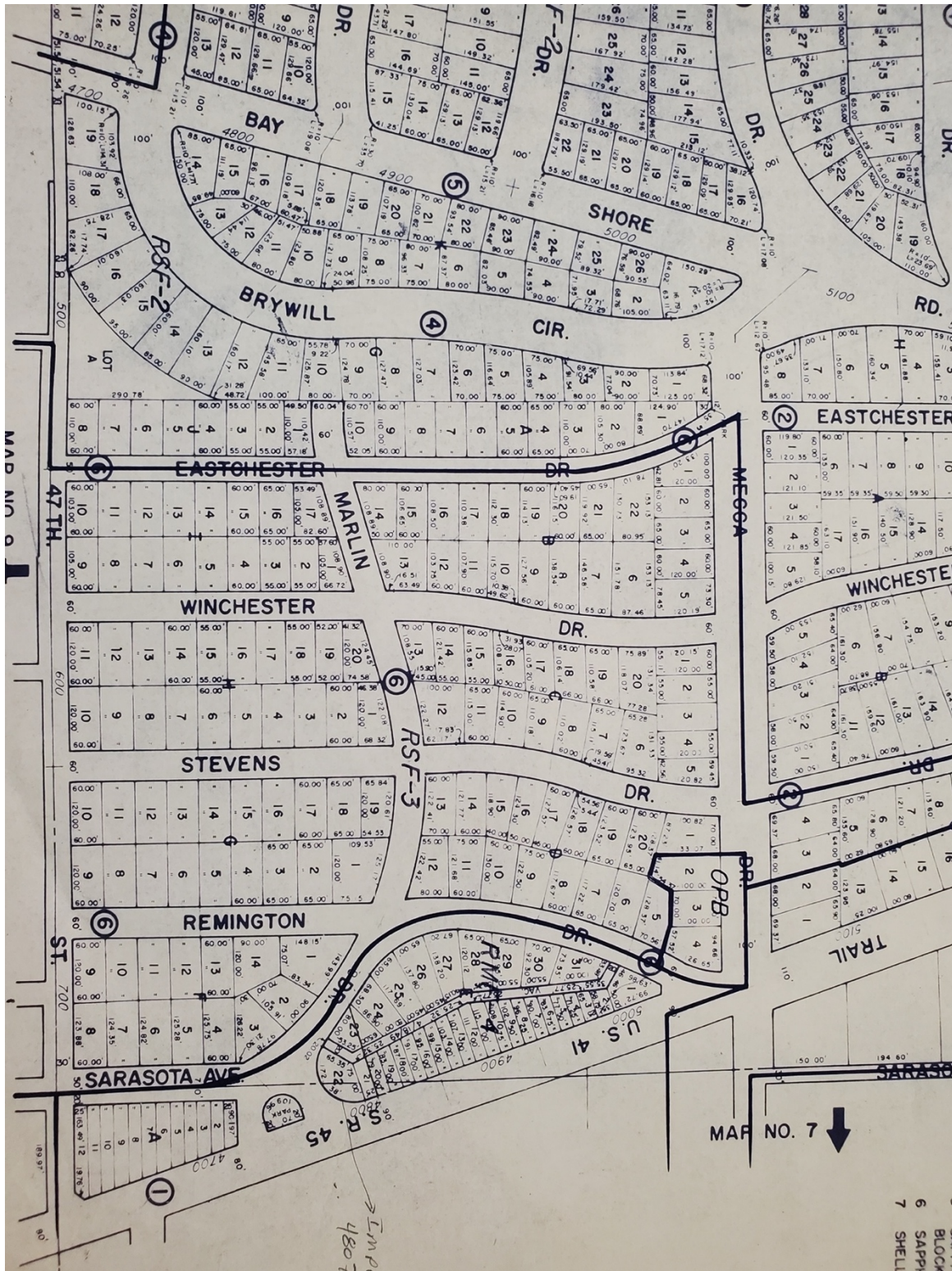
There are no current plans to build. The north side applicant responded that due to the required FPL easements and setbacks, they would have virtually no space to build. The south side applicant responded that they have no current plans to build and have not done feasibility studies. It would require a significant review and approval process. Any future developments would be approved by the city, and mature trees within the ROW will limit development there. Both applicants seek to clear away decades-old debris and invasive species, preserve the mature tree canopy, and maximize privacy between their houses. Importantly, they all seek to secure the area from homeless/campers for their personal safety. Their plan is to keep a lush green landscape, maintained in an eco-friendly way. No plans for paving or grass lawns. They're happy to keep the ground penetrable for groundwater recharge. The applicants are nature lovers who will work in harmony with the natural environment during their stewardship of this area.

Additional Comments to Applicant Responses

The applicant to the south admitted the desire to build a home on the newly acquired land that would provide them the needed frontage to meet building code. Doing so will negatively affect the water run-off already causing harm on the properties to the west of Marlin and Eastchester. Mosquito issues was a top complaint and the reason for needing control of the ROW. The storm water run-off “catch basin” was addressed as the cause of the issue because “it holds water”. It is clear that the original neighborhood purpose for creating Marlin Conservation Square (flood prevention) is not compatible with the applicant’s future vision of the site. The 25 plus years of neighborhood ownership needs to be respected. Caregivers to maintain Marlin Conservation Square are available and look forward to the opportunity to create a space for walkers, dog walkers, families and visiting guests to once again enjoy this rare gem of beautiful, natural space within our lovely neighborhood. The beautification goal can be achieved and this valuable asset will remain in the public domain.

Please note that a comment was omitted from the meeting minutes where it was stated that the neighborhood will collect petitions against the vacation of the neighborhood pocket park if applicants move forward with their request to take the public land ROW. Also omitted were the efforts of the neighborhood to ask the city to dedicate the public ROW known as Marlin Conservation Square into an official and permanent public space for conservation, native plant demonstration, ground water infiltration and storm water management. A formal request to Planning and/or the City Commission is in process.

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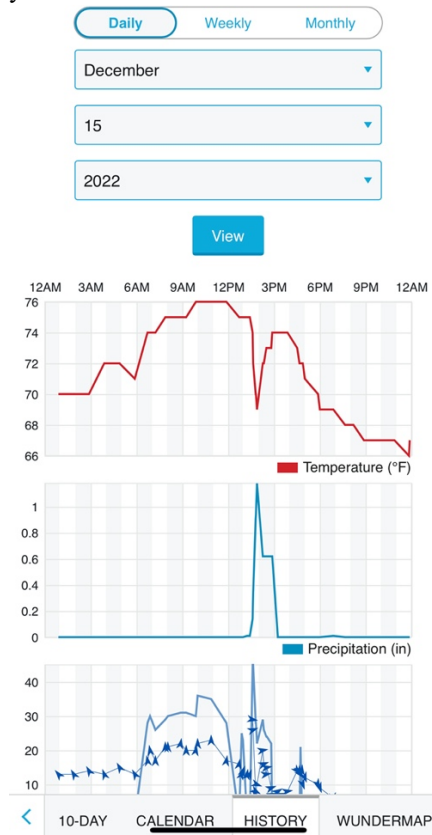


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Photo of storm water run-off that is experienced on a regular basis on Brywill Circle just west of Marlin Conservation Circle.



Flooding occurs after less than a 2” rain which recently occurred on 12/15/22:



FY2000

Education

Work Plan
Final Reports

04335

Southwest Florida
Water Management District



*Communications and
Community Affairs Department*

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**Community Education Grants —
Pocket Park – Groundwater Recharge Demonstration
Fiscal Year 2000 Final Report**

Project Manager: Phoenix McKinney

Description: Presented by the Indian Beach Sapphire Shores Association, project plans to remove exotic vegetation at abandoned city right-of-way and replace with natives to slow runoff and increase quality of water flowing across the site.

Budget: \$3,625 (Manasota)

Goals:

- To be able to identify and remove exotic vegetation.
- The project will allow the renovated park to be an example of a natural preservation system.

Accomplishments:

- Participants were directly involved in learning about the need for water capture in residential landscapes and in the identification and benefits of planting natives for water conservation, flood prevention, and habitat production.
- Information will be disseminated in a newsletter this fall to 1,200 homes.
- Project transformed an abandoned city right-of-way choked with Brazilian peppers and other exotics into a natural landscape contoured to increase water infiltration and planted with Florida native plants.