

TAB 4



City of Palmetto Agenda Item

Meeting Date

12/10/12

Presenter: Lorraine Lyn

Department: Planning

Title:

**Riviera Walk West - West side of Haben Boulevard
Partial Release of 20' Utility Easement
PRE 2012-01**

This is a request for Partial release of a 20 foot utility easement along the eastern border of Parcel 2580010409, the smaller of two parcels in the approved GDP 06-876 for Riviera Walk West. The purpose of this request is to have unencumbered access to the area for potential wetland mitigation for the approved planned community. The planned community of Riviera Walk West consists of two parcels which were rezoned to PD-H and granted GDP approval on February 27, 2006. Riviera Walk West was approved for 60 townhouse units on 6.4 acres at a density of 9.4 du/ac and is located within the CRA. The approved site plan/GDP shows most of the smaller parcel is proposed for retention.

The City surveyor indicated that the original, 1982 easement was specific to the City of Palmetto for sewer, drainage, water lines and lift stations and found no evidence that it extended any further in any direction. The City Attorney's Office also requested and reviewed an attorney's title opinion related to the property lying under the easement area to be extinguished and determined this request to be a partial release of easement, not a vacation of a platted easement dedicated to the public, requiring a different approval process.

The proposed partial release of easement is consistent with Policy 2.10.2. below as the subject easement is not required by the City for future utility infrastructure or stormwater needs. In addition, the proposed action is found to be in the best interest of the general public, it does not violate individual property rights and is in accordance with the City's ordinances, Comprehensive Plan, administrative policies including applicable sections of Policy 04-04 and applicable state law and regulations.

Policy 2.10.2: The City shall not vacate public rights-of-way until it has been determined that the right-of-way is not required for future mobility, utility infrastructure, or stormwater needs.

Staff recommends APPROVAL of the proposed partial release of a 20' utility easement as it is consistent with the earlier approvals for Riviera Walk West, including GDP 06-876.

Budgeted Amount:	\$0.00	Budget Page No(s):		Available Amount:	\$0.00	Expenditure Amount:	\$0.00
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Additional Budgetary Information:

Funding Source(s):		Sufficient Funds Available:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Amendment Required:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Source:	
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City Attorney Reviewed:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Advisory Board Recommendation:	<input type="checkbox"/> For <input type="checkbox"/> Against <input checked="" type="checkbox"/> N/A	Consistent With:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Palmetto 2030 Comprehensive Plan
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Potential Motion/ Direction Requested:

I move to APPROVE the proposed Partial Release of a 20' Utility Easement for Riviera Walk West.

Staff Contact:	Lorraine Lyn	City Planner	723-4580 Ext. 2135
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Attachments: Staff report

Staff Report
Riviera Walk West - Haben Boulevard
Partial Release of Easement
PRE 2012-01

REQUEST:

Partial release of a 20 foot utility easement along the eastern border of Parcel 2580010409, the smaller of two parcels in the approved GDP 06-876 for Riviera Walk West. The purpose of this request is to have unencumbered access to the area for potential wetland mitigation for the approved planned community.

OWNERS: Riviera West, LLC

PARCEL NUMBER/SIZE OF RIVIERA WALK W PROPERTIES

1. PID # 2580010509/5.63 acres (per Property Appraiser)
2. PID # 2580010409/0.9 acres (per Property Appraiser)

PLAN/ZONING/EXISTING USE OF SUBJECT PROPERTIES

1. PID # 2580010509/PC/PD-H (GDP 06-876)/vacant land
2. PID # 2580010409/RES-10/PD-H (GDP 06-876)/vacant land

PLAN/ZONING/EXISTING USES OF SURROUNDING AREA

North: City RES-10 & County IL/City PD-MU & County LM/single-family residential and vacant land
South: PC/PD-H/Residential-Courtney assisted living facility
East: PC/PD-MU/School-Manatee School of the Arts
West: RES-10/MHP-1/Residential-Colonial Mobile Home Park

BACKGROUND

The proposed partial release of easement is located on the eastern border of the smaller parcel which is approximately 200' by 200'. The planned community of Riviera Walk West consists of two parcels which were rezoned to PD-H and granted GDP approval on February 27, 2006. Riviera Walk West was approved for 60 townhouse units on 6.4 acres at a density of 9.4 du/ac and is located within the CRA. The approved site plan/GDP shows most of the smaller parcel is proposed for retention.

A utility easement vacation request was made in 2007 and a letter from staff indicated that the City's inspection of the site and showed that the subject easement does not contain any utility or other infrastructure needed to serve the adjacent land other than those lands contained by Riviera Walk West. The Riviera Walk West construction plans show that water utility lines are to be constructed outside the subject easement and the applicant is willing to forgo use of the easement for utility purposes.

ANALYSIS

The Code defines Easement as any strip of land created for public or private utilities, drainage, sanitation or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude. The City surveyor indicated that the original, 1982 easement was specific to the City of Palmetto for sewer, drainage, water lines and lift stations and found no evidence that it extended

any further in any direction.

Florida Power and Light, Bright House, Manatee County, the City's surveyor and North River Fire District have no objections to the proposed partial release of easement. Based on the information provided, there are no existing public facilities or utilities within the easement which is not needed in the short or long term.

Future Land Use Element

The subject property is designated Planned Community (PC) used to designate those areas where mixed or multi-use projects are proposed due to existing development patterns, the availability of adequate public facilities, and market demands. The Planned Community land use category requires a planned development zoning. Riviera Walk West is zoned PD-H.

Administrative Policy 04-04

The proposed partial release of easement is consistent with Policy 2.10.2. below as the subject easement is not required by the City for future utility infrastructure or stormwater needs. In addition, the proposed action is found to be in the best interest of the general public, it does not violate individual property rights and is in accordance with the City's ordinances, Comprehensive Plan, administrative policies including applicable sections of Policy 04-04 and applicable state law and regulations.

***Policy 2.10.2:** The City shall not vacate public rights-of-way until it has been determined that the right-of-way is not required for future mobility, utility infrastructure, or stormwater needs.*

The City Attorney's Office also requested and reviewed an attorney's title opinion related to the property lying under the easement area to be extinguished and determined this request to be a partial release of easement, not a vacation of a platted easement dedicated to the public, requiring a different approval process.

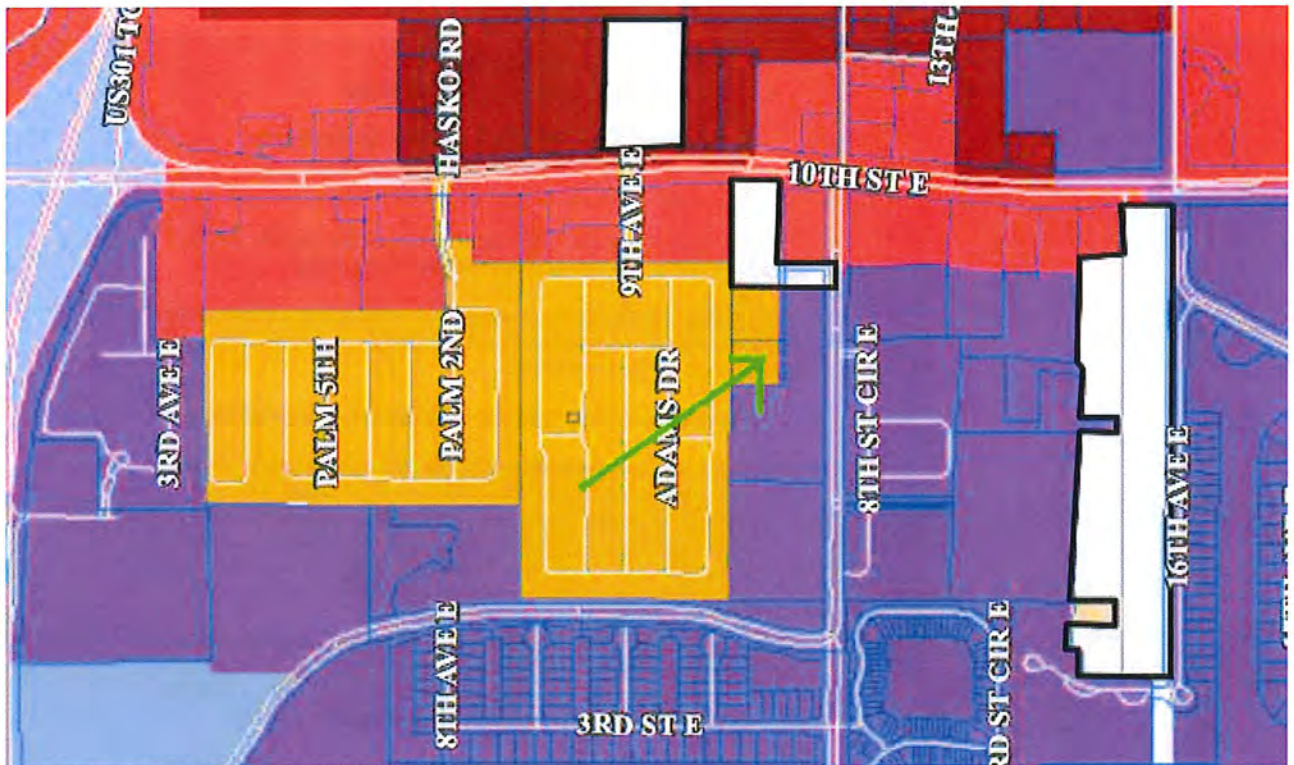
STAFF RECOMMENDATION:

The proposed partial release of easement is to have unencumbered access to an area for potential wetland mitigation in an approved planned community. Staff recommends APPROVAL of the proposed partial release of a 20' utility easement as it is consistent with the earlier approvals for Riviera Walk West, including GDP 06-876.

CITY COMMISSION ACTION

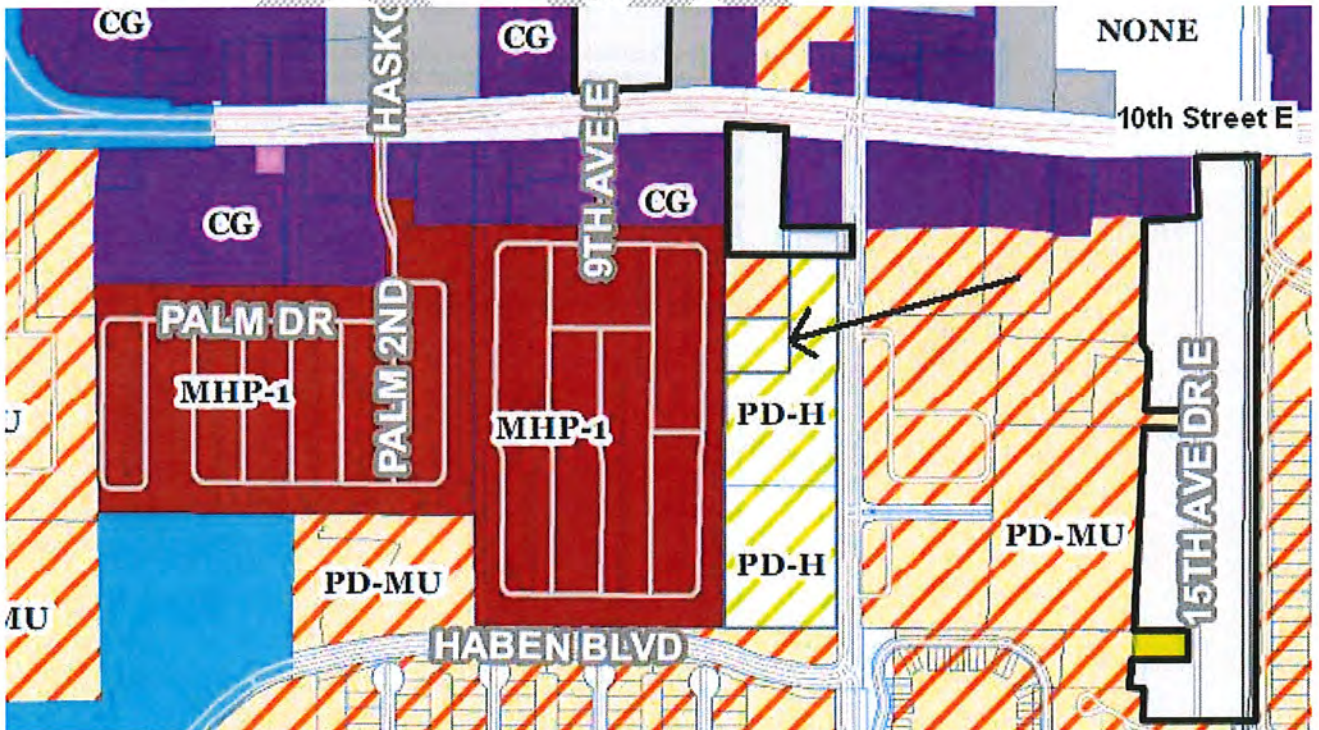
The City Commission shall APPROVE, APPROVE WITH CONDITIONS or DENY the proposed partial release of easement.

FUTURE LAND USE PLAN



Riviera Walk West = PC & RES-10

ZONING



Riviera Walk West = PD-H

City of Palmetto
Administrative Policy 04-04

VACATION OF STREETS, ALLEYS, EASEMENTS,
RIGHT-OF-WAYS OR CANALS

The City Commission's authority to grant vacation requests shall be guided by the following Palmetto Comprehensive Plan Policy:

Policy 2.10.3: The City shall not vacate public right-of-way until it has been determined that the right-of-way is not required for future mobility, utility infrastructure, or storm water needs.


The following guidelines implementing the above policy shall apply:

1. Unless expressly permitted herein, the City shall not vacate, abandon, discontinue or close any existing public street, alleyway, road, highway, easement, canal or portion thereof, or any land delineated on any recorded map or plat as a street, alleyway, road, highway, canal or other place used for vehicular travel, or renounce or disclaim any right of the City or the public in and to any land in connection therewith.
2. Unless expressly permitted herein, the City shall not vacate, abandon, renounce or disclaim any right of the City or the public in and to any land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road, or highway purposes.
3. Unless expressly authorized by the appropriate governmental agency, or as otherwise provided by law, the City shall not vacate, renounce or disclaim any right of the City or the public in and to land constituting or acquired for a state or federal highway.
4. The City Commission may grant a vacation request where it determines that granting the vacation is necessary to resolve an illegality or inequity created by some action or inaction of the City. Example: if the City erroneously permits a portion of a house to be built in a right-of-way and, for the purposes of transfer of ownership of the house, the owner of the house subsequently requests that the City vacate that portion of right-of-way on which the house is located, The City Commission may grant the vacation.
5. The City shall not grant a vacation request for the sole purpose of relieving the City of its obligation to maintain the subject property. It

is the responsibility of the City to maintain public property to the extent that such property will not constitute a nuisance to surrounding neighborhoods.

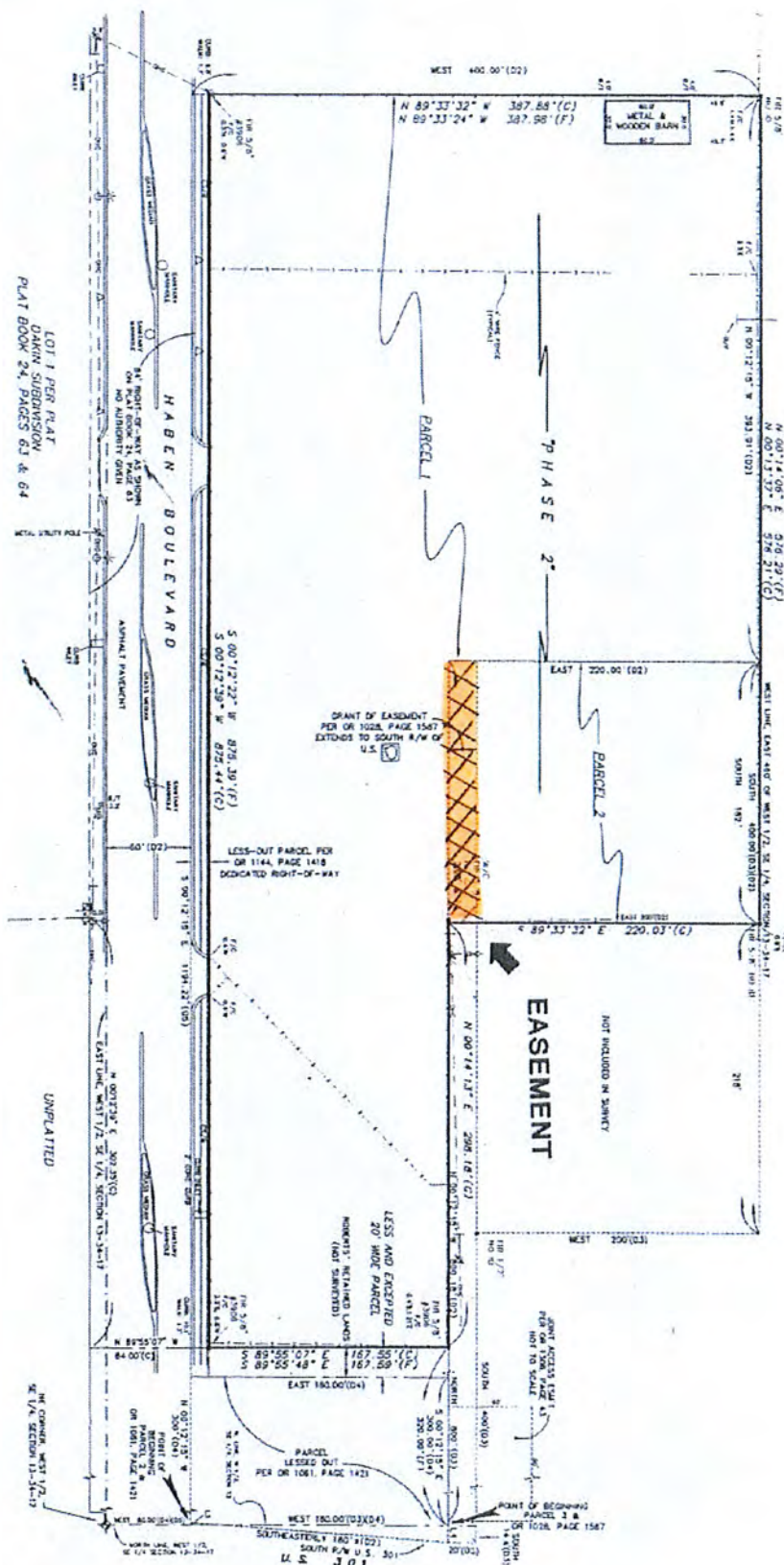
6. In implementing Policy 2.10.3, reprinted above, the City Commission shall interpret the term "future mobility" to include the potential future use of the City's unimproved alleyways as linear parks for recreational purposes to meet stipulations of the City's Comprehensive Plan. In accordance with the City of Palmetto's Comprehensive Plan, the City shall ascertain the extent of connectivity between the unimproved alleyways and neighborhood parks. At the direction of the Public Works Director, staff may develop and propose a plan to improve such unimproved alleyways for neighborhood use.
7. The City Commission shall not grant a vacation request for the sole reason that more than one, or all, adjacent landowners have submitted or assented to the request. Example: Where a group of adjacent landowners requests a vacation so that they may construct improvements on the land to be vacated, the City shall not grant the vacation. (As an alternate course of action, the City may choose to construct the improvements and, where authorized by ordinance and/or applicable law, to fund such improvements by assessing the owners of property benefited by the improvements.)
8. Notwithstanding anything to the contrary contained herein, the City Commission shall not grant a vacation request unless it finds that such action is in the best interest of the general public, does not violate individual property rights and is in accordance with the City's ordinances, comprehensive plan, administrative policies, and applicable state law and regulations.

Approved by City Commission December 6, 2004.


J. E. Fred, Jr.
City Clerk

THE 100TH 102.0 FEET OF THE FOLLOWING DESCRIBED PARCEL

RIVIERA WALK WEST 20' UTILITY EASEMENT 2012



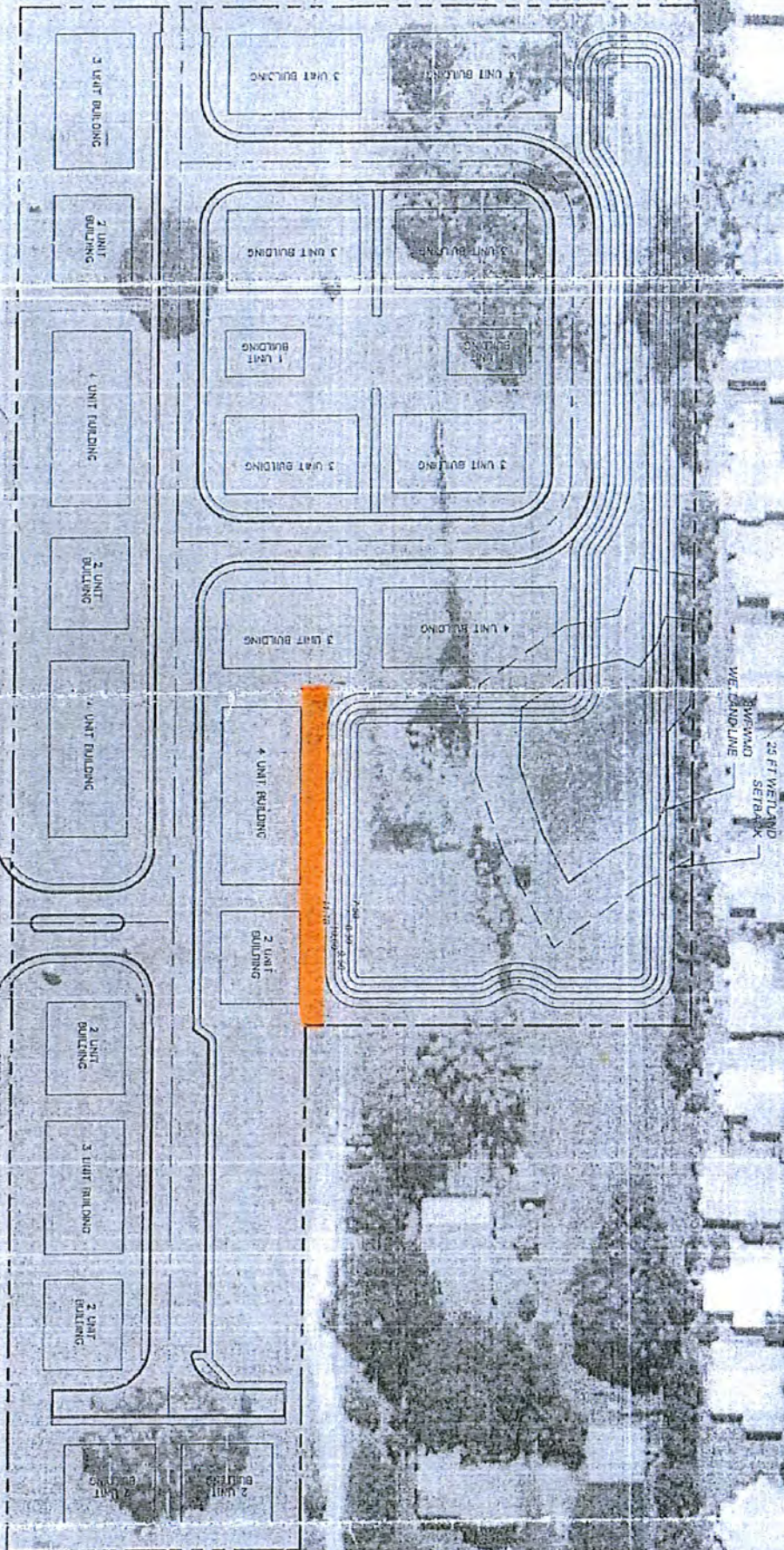
LOT 1 PER PLAT
DAKIN SUBDIVISION
PLAT BOOK 24, PAGES 63 & 64

UNPLATED

22 1/4 SECTION 13-34-1

[illegible]

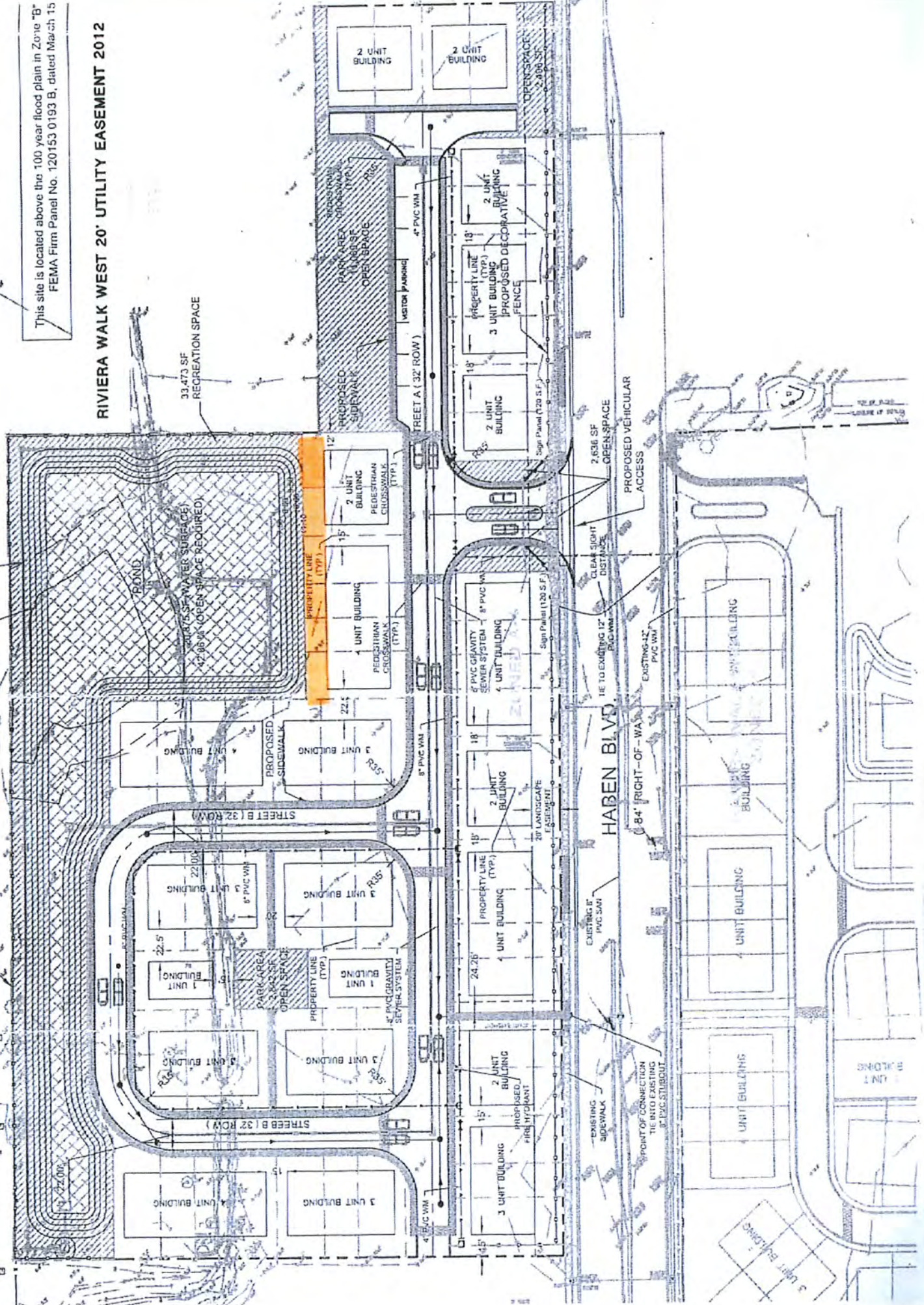
RIVIERA WALK WEST 20' UTILITY EASEMENT 2012



HABEN BLVD.
(84' RIGHT-OF-WAY)

This site is located above the 100 year flood plain in Zone "B"
FEMA Firm Panel No. 120153 0193 B, dated March 15

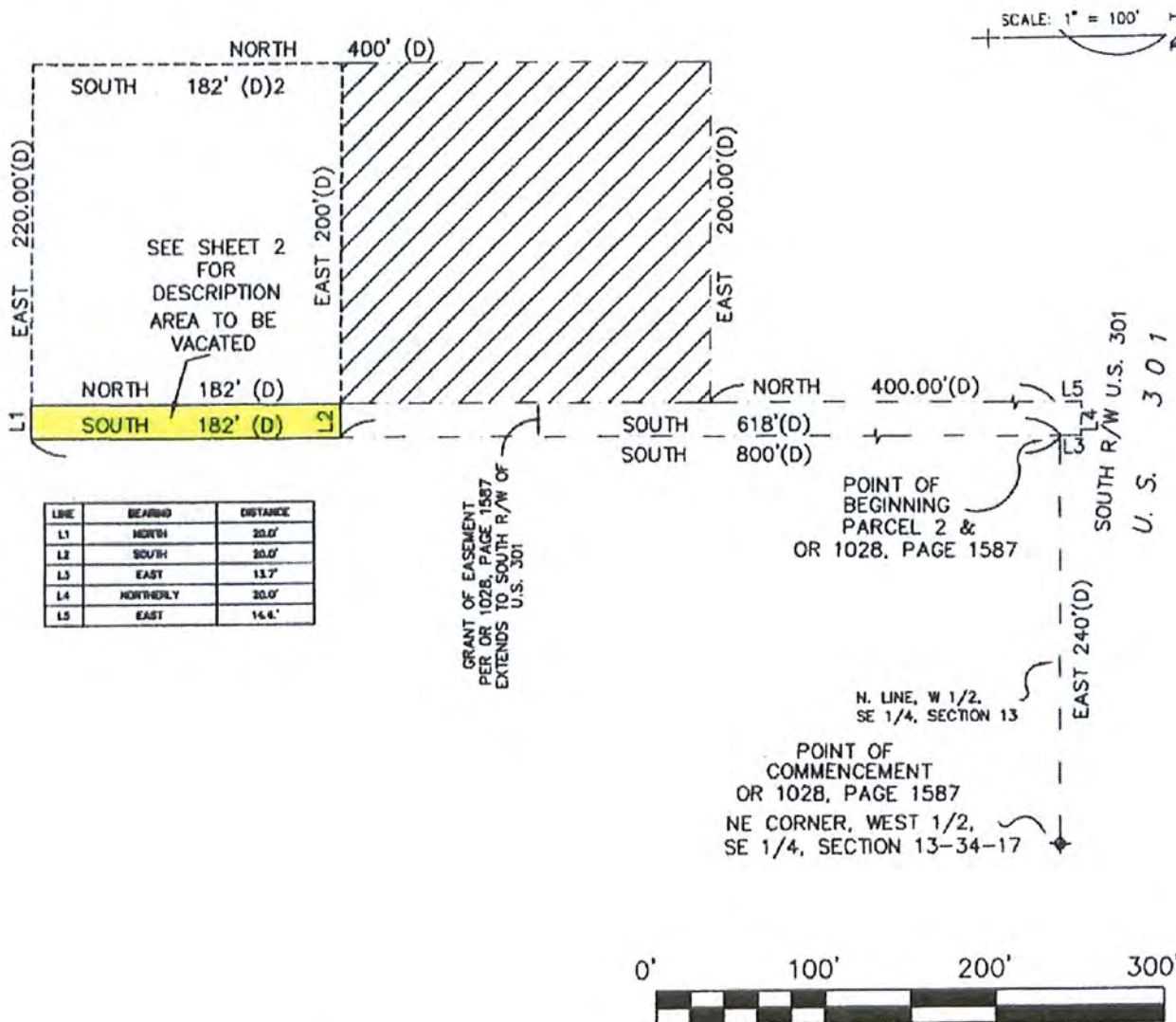
RIVIERA WALK WEST 20' UTILITY EASEMENT 2012



SKETCH & LEGAL
A PORTION OF
SECTION 13, TOWNSHIP 34 SOUTH, RANGE 17 EAST
MANATEE COUNTY, FLORIDA.

SEC. 13, TWP. 34 S, RNG. 17 E.

BEARING BASIS: WEST ASSUMED ON WEST 1/2 OF THE
SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE
17 EAST



Project Number: 30246

Square Feet: 3640 ±

SHEET 1 OF 2

LEGEND:

(C)= CALCULATED DATA, (D)= DEED DATA, (M)= MEASURED DATA, (P)= PLAT DATA, CL= CENTERLINE, A/C= AIR CONDITIONER, B/C= BACK OF CURB, C/S= CONCRETE SLAB, CH= CHORD, CHB= CHORD BEARING, CLF= CHAIN LINK FENCE, CONC= CONCRETE, COV= COVERED, E/P= EDGE OF PAVEMENT, ESM'T= EASEMENT, F/C= FENCE CORNER, FCM= FOUND CONCRETE MONUMENT, FIP= FOUND IRON PIPE, FIR= FOUND IRON ROD, FN&D= FOUND NAIL & DISK, FPP= FOUND PINCHED PIPE, LFE= LOWEST FLOOR ELEVATION, MAS= MASONRY, OR= OFFICIAL RECORD BOOK, PB= PLAT BOOK, PCP= PERMANENT CONTROL POINT, PRM= PERMANENT REFERENCE MONUMENT, R/W= RIGHT OF WAY, R= RADIUS, SIR= SET 1/2" IRON ROD & CAP No. 4493, SN&D= SET NAIL & DISK, TBM= TEMPORARY BENCHMARK, U/P= UTILITY POLE, W/F= WOOD FENCE



JOHN R. BEACH & ASSOCIATES, INC.
SURVEYORS AND MAPPERS
911 WEST ST. PETERSBURG DRIVE
OLDSMAR, FLORIDA 34677
(813) 854-1276 FAX (813) 855-8370

Drawn By:

CWC

Checked By:

JRB

Scale:

1"=100'

NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER

Date: 09/06/2012

JOHN R. BEACH
FLORIDA REG. LAND SURVEYOR No. 2984

DATE
09/06/2012
LB#4493

Revisions: