



AGENDA REPORT
October 9, 2018

Approval Re: Public Sidewalk Easement Agreement for Additional Easement Area Within the Trasona at Addison Village - Phase 3 Subdivision with Viera Builders, Inc. and The Viera Company- District 4.

SUBJECT:

Approval Re: Public Sidewalk Easement Agreement for Additional Easement Area Within the Trasona at Addison Village - Phase 3 Subdivision with Viera Builders, Inc. and The Viera Company- District 4.

FISCAL IMPACT:

Fiscal impact: FY 2018-2019: No impact
FY 2019-2020: No impact

DEPT/OFFICE:

Public Works

REQUESTED ACTION:

It is requested that the Board of County Commissioners approve and accept a Public Sidewalk Easement Agreement from Viera Builders, Inc. and The Viera Company, Inc.

SUMMARY EXPLANATION and BACKGROUND:

The subject property is located in Section 17, Township 26 South, Range 36 East.

The Plat of Trasona at Addison Village Subdivision, Phase 3 is recorded in Plat Book 62, Page 48-54, Public records of Brevard County. (Plat approved and accepted by the Board of County Commissioners on July 12, 2016.)

The Developer constructed the sidewalk outside of the dedicated sidewalk easement on lot #3. The County is requesting an additional easement area to accommodate the sidewalk.

Viera Builders, Inc. and the Viera Company, Inc., as the Community Declarant, and Wells Fargo Bank, National Association, as the Mortgagee, are joining in the execution of this agreement to evidence their consent to the granting of the additional sidewalk easement in favor of Brevard County.

Land Acquisition Policies and Procedures require approval and acceptance by the Board of County Commissioners for all easements and agreements.

ATTACHMENTS:

Description

- **Trasona Sidewalk Easement Documents**

BOARD OF COUNTY COMMISSIONERS

AGENDA: PUBLIC SIDEWALK EASEMENT AGREEMENT-TRASONA SUBDIVISION
AT ADDISON VILLAGE, PHASE 3, IN FAVOR OF BREVARD COUNTY
FROM VIERA BUILDERS, INC. - DISTRICT 4

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION

AGENCY CONTACT: BLAISE M. MANCINI, LAND ACQUISITION SPECIALIST

CONTACT PHONE: 321-690-6847 (52886)

	<u>REVIEW</u>		
	<u>APPROVE</u>	<u>DISAPPROVE</u>	<u>DATE</u>
<u>LAND ACQUISITION</u> Dan P. Jones, Supervisor		_____	<u>9/11/18</u>
<u>COUNTY ATTORNEY</u> Jad Brewer, Assistant County Attorney		_____	<u>9/11/18</u>

AGENDA DUE DATE: September 25, 2018 for the **October 9, 2018 Board Meeting**

PLEASE CALL: DEBBIE CRUZ, LAND ACQUISITION SECRETARY AT 690-6847 WHEN
READY FOR PICK UP. THANK YOU.



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

October 10, 2018

MEMORANDUM

TO: Dan Jones, Interim Public Works Director

RE: Item F.6., Approval of Public Sidewalk Easement Agreement for Additional Easement Area Within the Trasona at Addison Village – Phase 3 Subdivision with Viera Builders, Inc. and The Viera Company, Inc.

The Board of County Commissioners, in regular session on October 9, 2018, accepted a Public Sidewalk Easement Agreement from Viera Builders, Inc., and The Viera Company, Inc.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

THIS INSTRUMENT PREPARED BY
AND TO BE RETURNED TO:
Benjamin E. Wilson, Esq.
The Viera Company
7380 Murrell Road, Suite 201
Viera, FL 32940
(321) 242-1200

**PUBLIC SIDEWALK EASEMENT AGREEMENT
(TRASONA NEIGHBORHOOD AREA)**

THIS PUBLIC SIDEWALK EASEMENT AGREEMENT (this “**Agreement**”) is dated as of the 30th day of August 2018, by THE VIERA COMPANY, a Florida corporation (“**Neighborhood Declarant**”) in favor of BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (the “**County**”). The effective date of this Agreement shall be the date that this Agreement is recorded in the Public Records of Brevard County, Florida (the “**Effective Date**”).

RECITALS:

WHEREAS, Neighborhood Declarant is the “Neighborhood Declarant” under that certain Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona West Neighborhood Area recorded on December 9, 2015 in Official Records Book 7509, Page 103, of the Public Records of Brevard County, Florida, as amended by that certain First Amendment to Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona West Neighborhood Area recorded on May 16, 2016 in Official Records Book 7616, Page 1950, of the Public Records of Brevard County, Florida, and as further amended by that certain Second Amendment to Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona West Neighborhood Area recorded on May 3, 2017 in Official Records Book 7881, Page 237, of the Public Records of Brevard County, Florida (collectively, the “**Declaration**”);

WHEREAS, under Article IX, Section 3, of the Declaration, Neighborhood Declarant has the right to grant such other, further, and additional easements as may be reasonably necessary or desirable, in Neighborhood Declarant’s sole discretion, for the future orderly development of the Neighborhood in accordance with the objectives and purposes set forth in the Declaration, including, but not limited to, utility, drainage, road right-of-way, or signage easements, subject only to the approval of the Community Declarant;

WHEREAS, pursuant to Article IX, Section 3, of the Declaration, Neighborhood Declarant desires to grant an additional public sidewalk easement over and across a portion of the following Unit (the “**Affected Unit**”) to the County, as more particularly provided in this Agreement:

Lot 3, Block OO, TRASONA AT ADDISON VILLAGE - PHASE THREE, according to the plat thereof recorded in Plat Book 62, Pages 48-54, of the Public Records of Brevard County, Florida (the "Plat");

WHEREAS, Viera Builders, Inc., a Florida corporation ("Viera Builders"), as owner of the Affected Unit, is joining in the execution of this Agreement to evidence its consent to the granting of such public sidewalk easement over and across portions of the Affected Unit and the provisions of this Agreement;

WHEREAS, The Viera Company, a Florida corporation, as the "Community Declarant" under the Declaration (the "Community Declarant"), is joining in the execution of this Agreement to evidence its consent to the granting of such public sidewalk easement over and across portions of the Affected Unit and the provisions of this Agreement; and

WHEREAS, Wells Fargo Bank, National Association, a national banking association (the "Mortgagee") is the holder of a mortgage interest in the Affected Unit and is joining in the execution of this Agreement to evidence its consent to the granting of such public sidewalk easement over and across portions of the Affected Unit and the provisions of this Agreement.

NOW, THEREFORE, Neighborhood Declarant hereby agrees as follows:

1. RECITALS: The above recitals are true and correct, and are incorporated into this Agreement by this reference

2. ADDITIONAL PUBLIC SIDEWALK EASEMENT ACROSS THE AFFECTED UNIT: Neighborhood Declarant hereby grants a perpetual public sidewalk easement in favor of the County over and across over the portions of the Affected Unit as more particularly set forth in EXHIBIT A attached hereto and incorporated (the "Sidewalk Areas") for public sidewalk purposes, together with easement rights of ingress and egress in favor of the County over the area of the Affected Unit between the public street right-of-way adjacent to the Affected Unit and the Sidewalk Areas for the sole purpose of maintaining and repairing the Sidewalk Areas and all sidewalk improvements within the Sidewalk Areas (said improvements being the "Sidewalk" and said easements collectively being the "Additional Sidewalk Easement"). The Additional Sidewalk Easement is in addition to the public sidewalk easement granted to the County in the Plat. The County shall be responsible, at the County's sole cost and expense, for maintaining and repairing the Sidewalk. Notwithstanding the foregoing, the County shall not be responsible, obligated, or required to construct the Sidewalk, in whole or in part, and the County shall not be responsible for the repair or replacement of any irrigation facilities or landscaping within the area comprising the Additional Sidewalk Easement, including any that may be damaged as a result of the maintenance and repair of the Sidewalk by the County. The granting of the Additional Sidewalk Easement is further evidenced by that certain third amendment to the Declaration to be recorded in the Public Records of Brevard County, Florida, immediately after the recording of this Agreement.

3. JOINDER: Viera Builders, as owner of the Affected Unit, the Community Declarant, and the Mortgagee, as holder of a mortgage interest in the Affected Unit, are joining in the execution of this Agreement to evidence their consent to the granting of the Additional Sidewalk Easement and the provisions of this Agreement.

4. COUNTERPARTS: This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, Neighborhood Declarant has executed this Agreement as of the date set forth above.

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Charlene R. Spangler
Print Name: Charlene R. Spangler

NEIGHBORHOOD DECLARANT:

THE VIERA COMPANY,
a Florida corporation

By: Todd J. Pokrywa
Name: Todd J. Pokrywa
Title: Sr. Vice President

Address: 7380 Murrell Road, Suite 201
Viera, Florida 32940

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me on the 30th day of August, 2018 by Todd J. Pokrywa, as Sr. Vice President of The Viera Company, a Florida corporation, on behalf of the corporation, who is personally known to me.

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Notary Public: State of Florida
Commission No.: GG-146829
My Commission Expires: 10/10/2021



BENJAMIN E WILSON
Commission # GG 146829
Expires October 10, 2021
Bonded Thru Budget Notary Services

(JOINDERS BEGIN ON THE FOLLOWING PAGE.)

JOINDER

(VIERA BUILDERS)

Viera Builders hereby joins in the execution of this Agreement for the purpose of consenting to the terms and conditions of this Agreement.

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Charlene R. Spangler
Print Name: Charlene R. Spangler

VIERA BUILDERS:

VIERA BUILDERS, INC.,
a Florida corporation

By: [Signature]
Name: William M. Moore
Title: Vice President/COO

Address: 7380 Murrell Road, Suite 202
Viera, Florida 32940

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me on the 30th day of August, 2018 by William M. Moore, as Vice President/COO of Viera Builders, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me.



BENJAMIN E WILSON
Commission # GG 146829
Expires October 10, 2021
Bonded Thru Budget Notary Services

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Notary Public: State of Florida
Commission No.: GG 146829
My Commission Expires: 10/10/2021

JOINDER

(COMMUNITY DECLARANT)

The Community Declarant hereby joins in the execution of this Agreement for the purpose of consenting to the terms and conditions of this Agreement

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Charlene R. Spangler
Print Name: Charlene R. Spangler

COMMUNITY DECLARANT:

THE VIERA COMPANY,
a Florida corporation
By: [Signature]
Name: Todd J. Pokrywa
Title: Sr. Vice President
Address: 7380 Murrell Road, Suite 201
Viera, Florida 32940

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me on the 30th day of August, 2018 by Todd J. Pokrywa, as Sr. Vice President of The Viera Company, a Florida corporation, on behalf of the corporation, who is personally known to me.



BENJAMIN E WILSON
Commission # GG 146829
Expires October 10, 2021
Bonded Thru Budget Notary Services

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Notary Public: State of Florida
Commission No.: GG 146829
My Commission Expires: 10/10/2021

JOINDER

(MORTGAGEE)

The Mortgagee hereby joins in the execution of this Amendment for the purpose of consenting to the terms and conditions of this Amendment

WITNESSES:

MORTGAGEE:

Niketa Swain
Print Name: Niketa Swain

Ashlee Berto
Print Name: Ashlee Berto

WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association

By: Andrew
Name: Andrew Bearden
Title: Vice President

Address: 171 17th Street NW
Atlanta, Georgia 30363

STATE OF FLORIDA Georgia (nc)
COUNTY OF BREVARD COB (nc)

The foregoing instrument was acknowledged before me on the 27th day of August, 2018 by Andrew Bearden, as Vice President of Wells Fargo Bank, National Association, a national banking association, on behalf of the entity, who () is personally known to me or () has produced a Driver's License as proof of identification.



Morena Canty
Print Name: Morena Canty
Notary Public:
Commission No.:
My Commission Expires: 10/21/2019

EXHIBIT A

DESCRIPTION OF THE SIDEWALK AREAS

LEGAL DESCRIPTION

EXHIBIT A

PARCEL 801

PARENT PARCEL ID NUMBER: 26-36-17-25-00-3
 PURPOSE: SIDEWALK EASEMENT
 (THIS IS NOT A SURVEY)

SHEET 1 OF 2
 NOT VALID WITHOUT
 SHEET 2 OF 2

LEGAL DESCRIPTION: Parcel 801, Sidewalk Easement (By Surveyor)

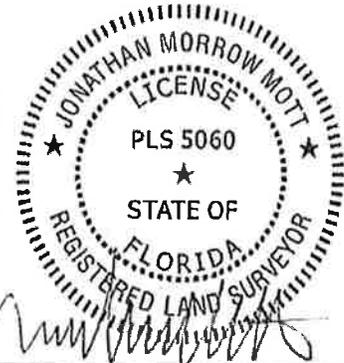
A portion of Lot 3, Block OO, Trasona at Addison Village Phase Three, according to the plat thereof, as recorded in Plat Book 62, Pages 48 through 54, of the Public Records of Brevard County, Florida, and being more particularly described as follows:

Commence at the Southeast corner of said Lot 3, said point being the point of curvature of a circular curve concave to the South, having a radius of 225.00 feet, and a central angle of 00°50'12"; thence from a tangent bearing of S 74°05'33" W run Westerly along the arc of a circular curve and the South line of said Lot 3, arc distance of 3.29 feet, to the **POINT-OF-BEGINNING**; thence continue Westerly along said South line of Lot 3, and circular curve concave to the South, having a radius of 225.00 Feet, and a central angle of 02°04'34", an arc distance of 8.15 Feet to the point of curvature of a non tangent circular curve concave to the South, having a radius of 94.00 Feet, and a central angle of 12°28'34"; thence from a tangent bearing of North 82°43'47" West, run Westerly along the arc of said curve an arc distance of 20.47 Feet to the South line of a 7 foot wide Public Sidewalk Easement per said Trasona at Addison Village Phase Three, and the point of curvature of a non tangent circular curve concave to the South, having a radius of 894.00 Feet, and a central angle of 01°48'42"; thence from a tangent bearing of North 84°47'23" East, run Easterly along said South line of the Public Sidewalk Easement, and the arc of said curve an arc distance of 28.27 Feet to the **POINT-OF-BEGINNING**.

Containing 21 Square Feet of land more or less.

SURVEYOR'S NOTES

- Easements and Rights-of-Way shown hereon, except as called for by the Plat, only include those provided to the surveyor. The surveyor has made no search of the Public Records for such.
- Bearings shown hereon are referred to an assumed value of N 00°00'00" E for the East line of Lot 3, Block OO. Said bearing is assumed is identical with the Plat of record.
- This sketch and description was prepared without the benefit of a Title Opinion or Ownership and Encumbrance Report.



PREPARED FOR AND CERTIFIED TO:
 VIERA BUILDERS, INC.
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

JONATHAN M. MOTT, PLS NO. 5060
 NOT VALID UNLESS SIGNED AND SEALED

WILLIAM MOTT LAND SURVEYING INC.

3159 ALZANTE CIRCLE, SUITE 103
 MELBOURNE, FLORIDA 32940-7329
 PHONE (321) 751-4444 FAX (321) 751-4445

LEGEND:
 R.B. = REFERENCE BEARING
 O.R.B. = OFFICIAL RECORDS BOOK
 D.B. = DEED BOOK
 P.B. = PLAT BOOK NT = NON TANGENT
 PG. = PAGE PC = POINT OF CURVATURE
 R/W = RIGHT-OF-WAY
 L/T = LINE TABLE TAG
 C/T = CURVE TABLE TAG
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT

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DRAWN BY: J.M.M.	PROJECT NO: 218-0084	REV. 08/27/18	PER COMMENTS	SECTION 17
CHECKED BY: W.A.M.	DRAWING NAME:	DATE	DESCRIPTION	TOWNSHIP 26 SOUTH
DATE: 07/09/18	00-3 SIDEWALK ESMT.DWG	DATE	DESCRIPTION	RANGE 36 EAST

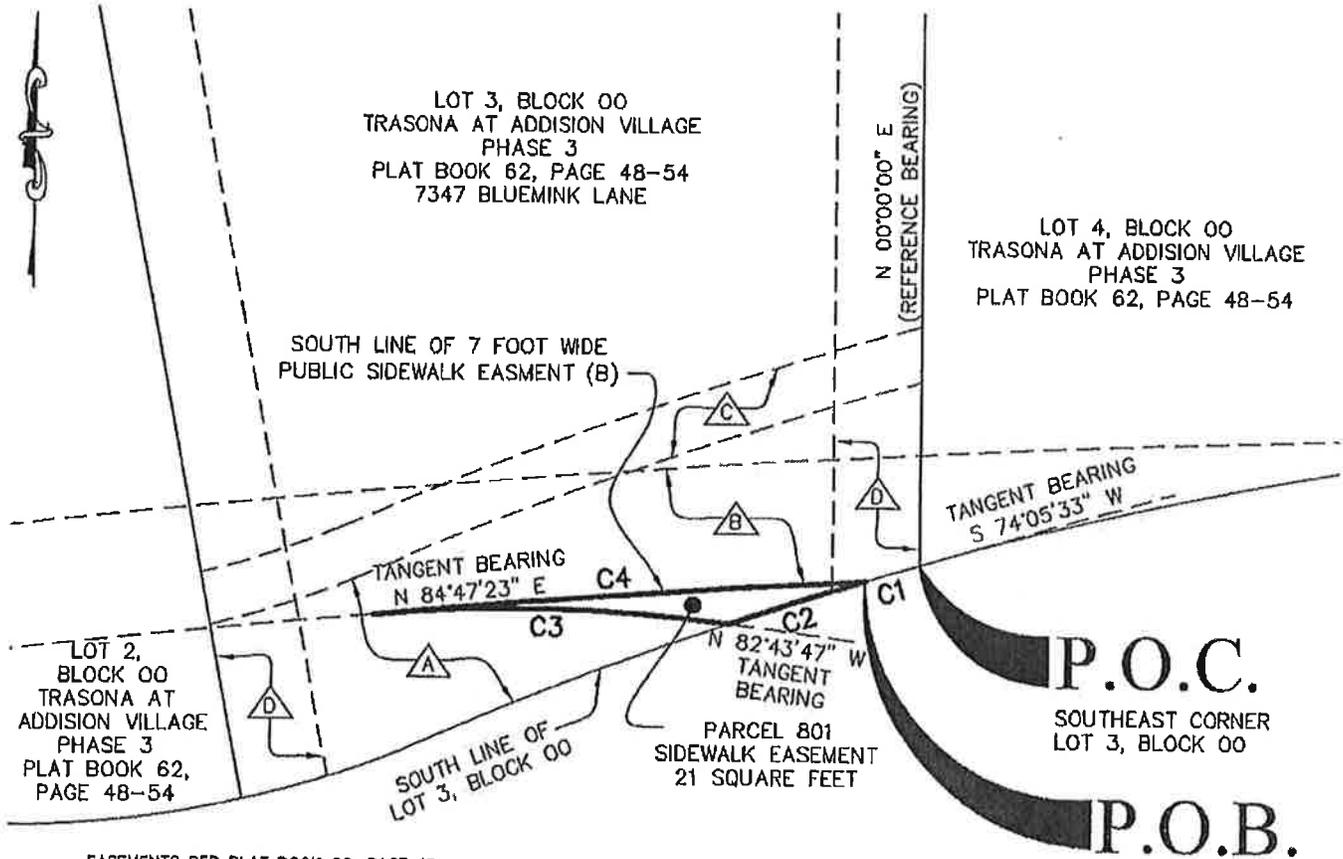
SKETCH OF DESCRIPTION

EXHIBIT A

PARCEL 801

PARENT PARCEL ID NUMBER: 26-36-17-25-00-3
 PURPOSE: SIDEWALK EASEMENT
 (THIS IS NOT A SURVEY)

SHEET 2 OF 2
 NOT VALID WITHOUT THE LEGAL
 DESCRIPTION ON SHEET 1 OF 2



EASEMENTS PER PLAT BOOK 62, PAGE 48

- ▲ 10 FOOT WIDE PERPETUAL NON-EXCLUSIVE PUBLIC UTILITY EASEMENT.
- ▲ 7 FOOT WIDE PUBLIC SIDEWALK EASEMENT
- ▲ 3 FOOT WIDE PERPETUAL NON-EXCLUSIVE PRIVATE IRRIGATION MAIN EASEMENT.
- ▲ 5 FOOT WIDE PERPETUAL PUBLIC UTILITY EASEMENT AND 5 FOOT WIDE PERPETUAL NON-EXCLUSIVE PRIVATE DRAINAGE EASEMENT.

Bluemink Lane
 50' PUBLIC ROAD RIGHT-OF-WAY
 PER PLAT BOOK 62, PAGE 48

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	225.00'	0°50'12"	3.29'	3.29'	S 73°40'26" W
C2	225.00'	2°04'34"	8.15'	8.15'	S 72°13'03" W
C3	94.00'	12°28'34"	20.47'	20.43'	N 88°58'04" W
C4	894.00'	1°48'42"	28.27'	28.27'	N 85°41'44" E

PREPARED BY: WILLIAM MOTT LAND SURVEYING, INC.
 SECTION 17, TOWNSHIP 26 SOUTH, RANGE 36 EAST

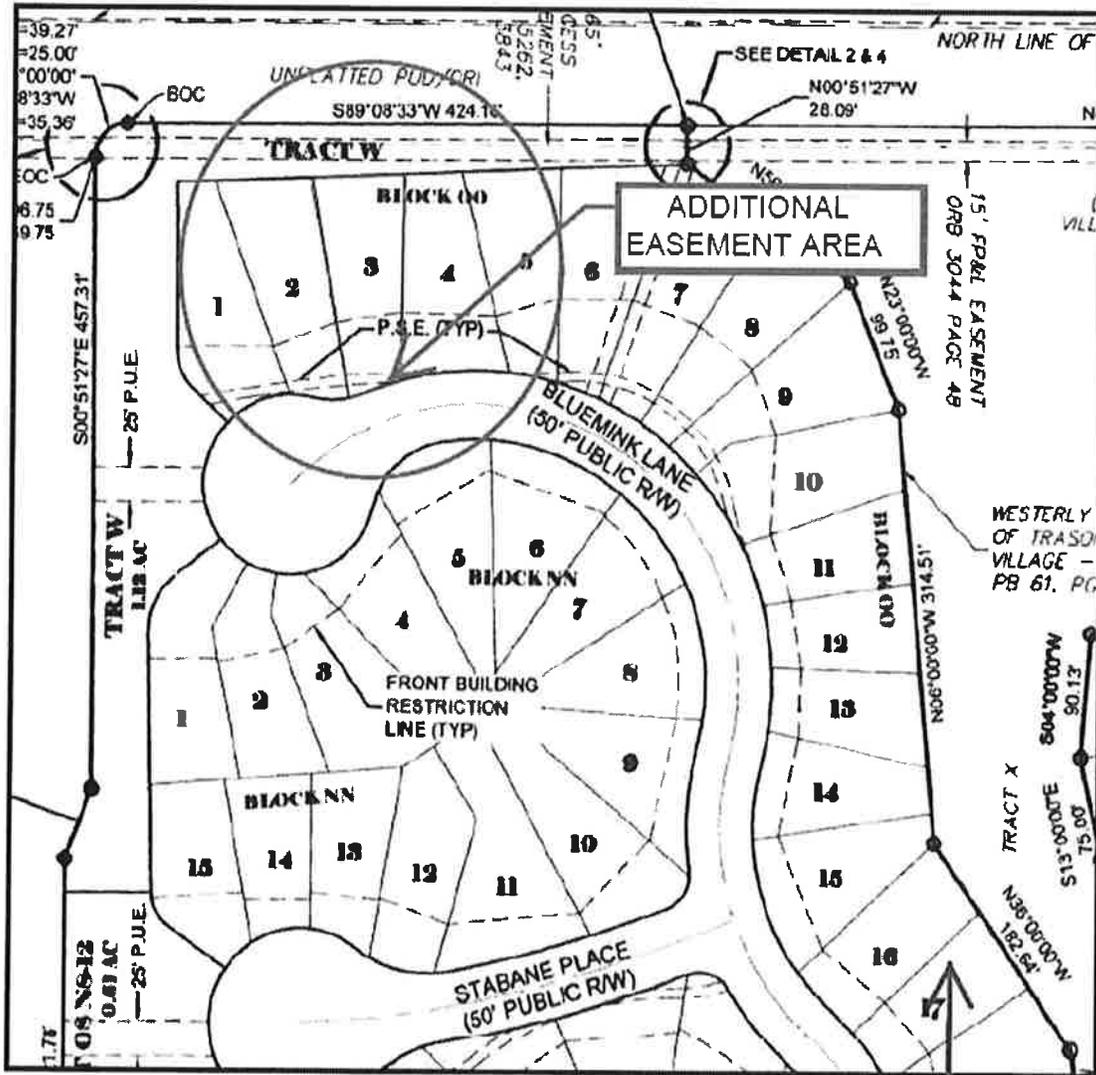
SCALE: 1" = 10'
 PROJECT NO. 218-0084

LOCATION MAP

SEC:17 TWP:26 RNG:36 DISTRICT: 4

STREET NAME: BLUEMINK LANE

OWNER'S NAME: VIERA BUILDERS INC. AND THE VIERA COMPANY, INC.



NORTH