

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 276-15

Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: 9/21/2015

Re: Berlekamp Plat 3 Lot 303 - Easement Release (Case #15-172)

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibits to Resolution/Ordinance

Supporting documentation includes: Plats and Plans

Executive Summary

Approval of the easement release would allow the City to vacate an existing access easement once replacement easements are granted and a replacement access road is constructed.

Discussion

A Civil Group (agent) is requesting, on behalf of Rock Creek Properties (owner) and A-Tomik Building Partnership (contract purchaser), the release of two existing access easements on Lot 303 that are necessary to permit the City Sewer Utility access to an existing sanitary pump station located in the rear corner of the property.

The contract purchaser has submitted plans to construct a building on the site that would conflict with the current location of the access easements and the existing road, which can be seen on the attached "Site Plan" and in the aerial photo to the right, respectively. The applicant has agreed to grant new access easements and to construct a new access road to the pump station.

Staff has reviewed the new access easement and roadway design and does not object to either. If the easement release is approved by Council it will not become effective until the applicant completes construction of the new access road to City specifications and the easement dedications are accepted by the City. Once these items are addressed, the easement release will effectively vacate the current access easements, and the applicant may proceed with the construction of the proposed new building on the lot.



It should be noted that the applicant has identified the easements being requested for release as two

City of Columbia

701 East Broadway, Columbia, Missouri 65201



separate tracts - Tract 1 and Tract 2 (see attached "Easement Release"). Tract 1 is shown on the most recent replat of the lot and is not in question. However, according to the applicant, the easement identified as Tract 2 was previously submitted to the City but never accepted and recorded. In order to ensure that no encumbrance remains on the property, the applicant is proposing to vacate the easement identified as Tract 2, even though it may not exist.

All relevant staff has reviewed the requested easement release and recommend approval.

Fiscal Impact

Short-Term Impact: None.

Long-Term Impact: None.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Not Applicable

Suggested Council Action

Approval of the easement release for Lot 303 of Berlekamp Subdivision Plat 3.

Legislative History

Ord 18988 (4/17/06): Approved Replat of Berlekamp Subdivision Plat No. 1; dedicated access easement

Department Approved

City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 276-15

AN ORDINANCE

authorizing the release of access easements on Lot 303 within Berlekamp Subdivision Plat 3 located on the west side of Paris Road and north of U.S. Highway 63; authorizing execution of an easement release conveyance; directing the City Clerk to have the conveyance recorded; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council finds and determines that certain access easements on Lot 303 within Berlekamp Subdivision Plat 3 located on the west side of Paris Road and north of U.S. Highway 63 used for the sole purpose of accessing a sanitary pump station, more particularly described as follows:

TRACT 1

A tract of land located in Lot 303 of Berlekamp Subdivision Plat 3, as recorded in Book 3697, Page 31, and being a portion of the 30 foot access road easement for sanitary pump station as shown on the Replat of Berlekamp Subdivision Plat No. 1, as recorded in Plat Book 40, Page 44, records of Boone County, Missouri, and being more particularly described as follows:

Commencing at the northeast corner of said Lot 303; Thence along the southeasterly line of said Lot 303, S 24°30'50" W, 150.34 feet to the Point of Beginning;

Thence continuing along said southeasterly line, S 24°30'50" W, 67.51 feet; Thence leaving said southeasterly line and along the southwesterly outer boundary line of the said 30 foot access road easement for the following six (6) calls; Thence along a 75.00-foot radius curve to the right, 125.94 feet, the chord being N 58°08'40" W, 111.68 feet; Thence N 10°02'20" W, 115.50 feet; Thence along a 35.00-foot radius curve to the left 16.85 feet, the chord being N 23°49'45" W, 16.69 feet; Thence N 37°37'10" W, 118.04 feet; Thence along a 35.00-foot radius curve to the left 17.13 feet, the chord being N 51°38'30" W, 16.96 feet; Thence N 65°39'50" W, 47.83 feet; Thence leaving said outer boundary line, N 24°20'10" E, 30.00 feet to a point on the northeasterly outer boundary line of said 30 foot access road easement; Thence along the said northeasterly outer boundary line for the following seven (7) calls;

Thence S 65°39'50" E, 47.83 feet; Thence along a 65.00-foot radius curve to the right 31.82 feet, the chord being S 51°38'30"E, 31.50 feet; Thence S 37°37'10" E, 118.04 feet; Thence along a 65.00-foot radius curve to the right 31.29 feet, the chord being S 23°49'45" E, 30.99 feet; Thence S 10°02'20" E, 115.50 feet; Thence along a 45.00-foot radius curve to the left 108.51 feet, the chord being S 79°07'05" E, 84.07 feet; Thence along a 65.00-foot radius reverse curve to the right 17.03 feet, the chord being N 39°18'25" E, 16.98 feet to the point of beginning and containing 13,460 square feet.

Bearing are based on the Berlekamp Subdivision Plat 3.

TRACT 2

A tract of land located in Lot 303 of Berlekamp Subdivision Plat 3, as recorded in Book 3697, Page 31, records of Boone County, Missouri, and being a portion of the unrecorded Easement for Road Access, dedicated by Rock Creek Properties, LLC to the City of Columbia, dated September 8, 2010 and being more particularly described as follows:

Commencing at the northeast corner of said Lot 303; Thence along the southeasterly line of said Lot 303, S 24°30'50" W, 146.90 feet; Thence leaving said southeasterly line N 65°29'10" W, 47.90 feet; Thence S 63°04'25" W, 95.18 feet; Thence N 65°39'50" W, 21.59 feet to the Point of Beginning;

Thence N 65°39'50" W, 31.42 feet; Thence N 07°04'15" E, 137.11 feet; Thence N 74°43'35" E, 32.44 feet; Thence S 07°04'15" W, 158.77 feet to the point of beginning and containing 4440 square feet.

Bearing are based on the Berlekamp Subdivision Plat 3.

will be in excess and surplus to the needs of the City upon construction of a new access road and dedication of new easements allowing access to said sanitary pump station.

SECTION 2. The City Manager is hereby authorized to execute an easement release conveyance. The form and content of the easement release shall be substantially in the same form as set forth in "Attachment A" attached hereto.

SECTION 3. The City Clerk is hereby authorized and directed to have the easement release conveyance recorded in the office of the Boone County Recorder of Deeds.

SECTION 4. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2015.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

EASEMENT RELEASE

THIS EASEMENT RELEASE is hereby executed this _____ day of _____, 2015, by the City of Columbia, Missouri, a Missouri municipal corporation ("**Releasor**"), whose address for purposes of this instrument is 701 E. Broadway, Columbia, Missouri, which term "Releasor" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of Releasor:

WITNESSETH:

WHEREAS, Releasor is the holder of certain rights and easements to access a sanitary pump station granted in a tract of land located in Lot 303 of Berlekamp Subdivision Plat 3, as recorded in Book 3697, Page 31 of the records of the Boone County Recorder of Deeds (the "**Easements**"), as described on **Exhibit A** attached hereto and incorporated herein by reference; and

WHEREAS, Releasor has determined that upon dedication and acceptance of new easements allowing the Releasor to access its sanitary pump station located on Lot 303 of Berlekamp Subdivision Plat 3, the Easements are no longer required to serve the public purposes for which the Easements were acquired, and the release of the Easements will be of public benefit in facilitating the redevelopment of the servient estate.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor does release, vacate, and disclaim all of its rights, title and interests in the Easements, which are hereby vacated and terminated and of no further force and effect; provided however, this easement release shall only be effective upon the conveyance by the property owner and acceptance by the City of Columbia of a new easement allowing the City right of access to its sanitary pump station located on said Lot 303, the sufficiency of which and acceptance of such shall be in the sole discretion of the City.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Releasor has executed this Easement Release as of the date and year first above written.

RELEASOR:

CITY OF COLUMBIA, MISSOURI

By: _____
Name: Mike Matthes
Title: City Manager

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this _____ day of _____, 2015, before me personally appeared Mike Matthes, who, upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is City Manager for the **CITY OF COLUMBIA, MISSOURI** and that he has executed this document on behalf of said entity as the free act and deed of said entity, and that he is duly empowered by said entity to execute this document on said entity's behalf.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at my office in Columbia, Missouri, the day and year first above written.

_____, Notary Public
Commissioned in Boone County, MO

My commission expires _____.

EXHIBIT A (to Easement Release)

Legal Description of Easements

TRACT 1

A tract of land located in Lot 303 of Berlekamp Subdivision Plat 3, as recorded in Book 3697, Page 31, and being a portion of the 30 foot access road easement for sanitary pump station as shown on the Replat of Berlekamp Subdivision Plat No. 1, as recorded in Plat Book 40, Page 44, records of Boone County, Missouri, and being more particularly described as follows:

Commencing at the northeast corner of said Lot 303; Thence along the southeasterly line of said Lot 303, S 24°30'50" W, 150.34 feet to the Point of Beginning;

Thence continuing along said southeasterly line, S 24°30'50" W, 67.51 feet; Thence leaving said southeasterly line and along the southwesterly outer boundary line of the said 30 foot access road easement for the following six (6) calls; Thence along a 75.00-foot radius curve to the right, 125.94 feet, the chord being N 58°08'40" W, 111.68 feet; Thence N 10°02'20" W, 115.50 feet; Thence along a 35.00-foot radius curve to the left 16.85 feet, the chord being N 23°49'45" W, 16.69 feet; Thence N 37°37'10" W, 118.04 feet; Thence along a 35.00-foot radius curve to the left 17.13 feet, the chord being N 51°38'30" W, 16.96 feet; Thence N 65°39'50" W, 47.83 feet; Thence leaving said outer boundary line, N 24°20'10" E, 30.00 feet to a point on the northeasterly outer boundary line of said 30 foot access road easement; Thence along the said northeasterly outer boundary line for the following seven (7) calls; Thence S 65°39'50" E, 47.83 feet; Thence along a 65.00-foot radius curve to the right 31.82 feet, the chord being S 51°38'30" E, 31.50 feet; Thence S 37°37'10" E, 118.04 feet; Thence along a 65.00-foot radius curve to the right 31.29 feet, the chord being S 23°49'45" E, 30.99 feet; Thence S 10°02'20" E, 115.50 feet; Thence along a 45.00-foot radius curve to the left 108.51 feet, the chord being S 79°07'05" E, 84.07 feet; Thence along a 65.00-foot radius reverse curve to the right 17.03 feet, the chord being N 39°18'25" E, 16.98 feet to the point of beginning and containing 13,460 square feet.

Bearing are based on the Berlekamp Subdivision Plat 3.

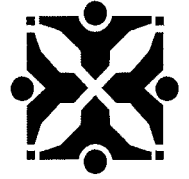
TRACT 2

A tract of land located in Lot 303 of Berlekamp Subdivision Plat 3, as recorded in Book 3697, Page 31, records of Boone County, Missouri, and being a portion of the unrecorded Easement for Road Access, dedicated by Rock Creek Properties, LLC to the City of Columbia, dated September 8, 2010 and being more particularly described as follows:

Commencing at the northeast corner of said Lot 303; Thence along the southeasterly line of said Lot 303, S 24°30'50" W, 146.90 feet; Thence leaving said southeasterly line N 65°29'10" W, 47.90 feet; Thence S 63°04'25" W, 95.18 feet; Thence N 65°39'50" W, 21.59 feet to the Point of Beginning;

Thence N 65°39'50" W, 31.42 feet; Thence N 07°04'15" E, 137.11 feet; Thence N 74°43'35" E, 32.44 feet; Thence S 07°04'15" W, 158.77 feet to the point of beginning and containing 4440 square feet.

Bearing are based on the Berlekamp Subdivision Plat 3.



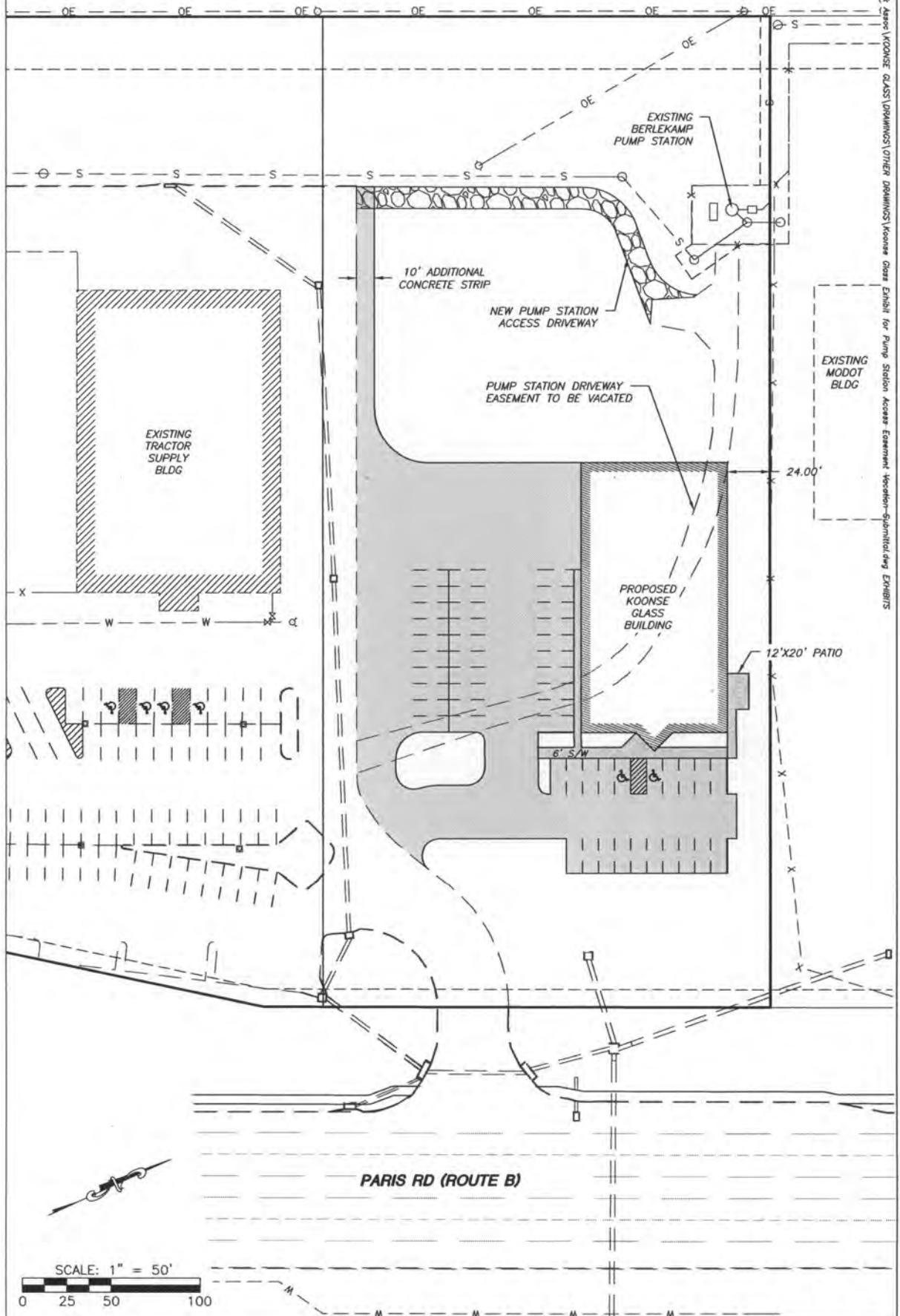
SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Plats and Plans

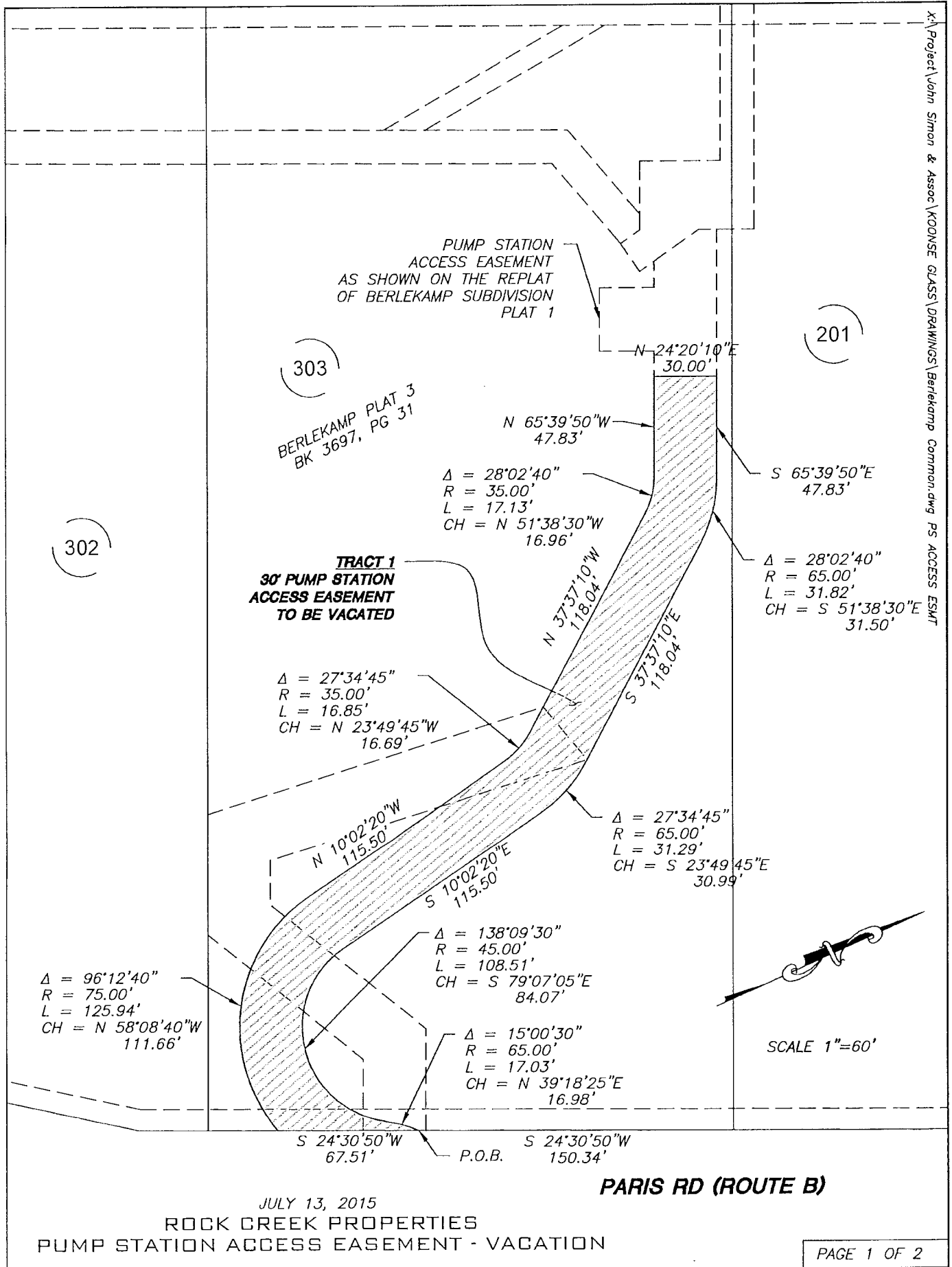
SITE PLAN

KOONSE GLASS
LOT 303
BERLEKAMP PLAT 3

K:\Project\John Simon & Koonse\Koonse Glass\Drawings\Other Drawings\Koonse Glass Exhibit for Pump Station Access Easement\Vertical.dwg EXHIBITS

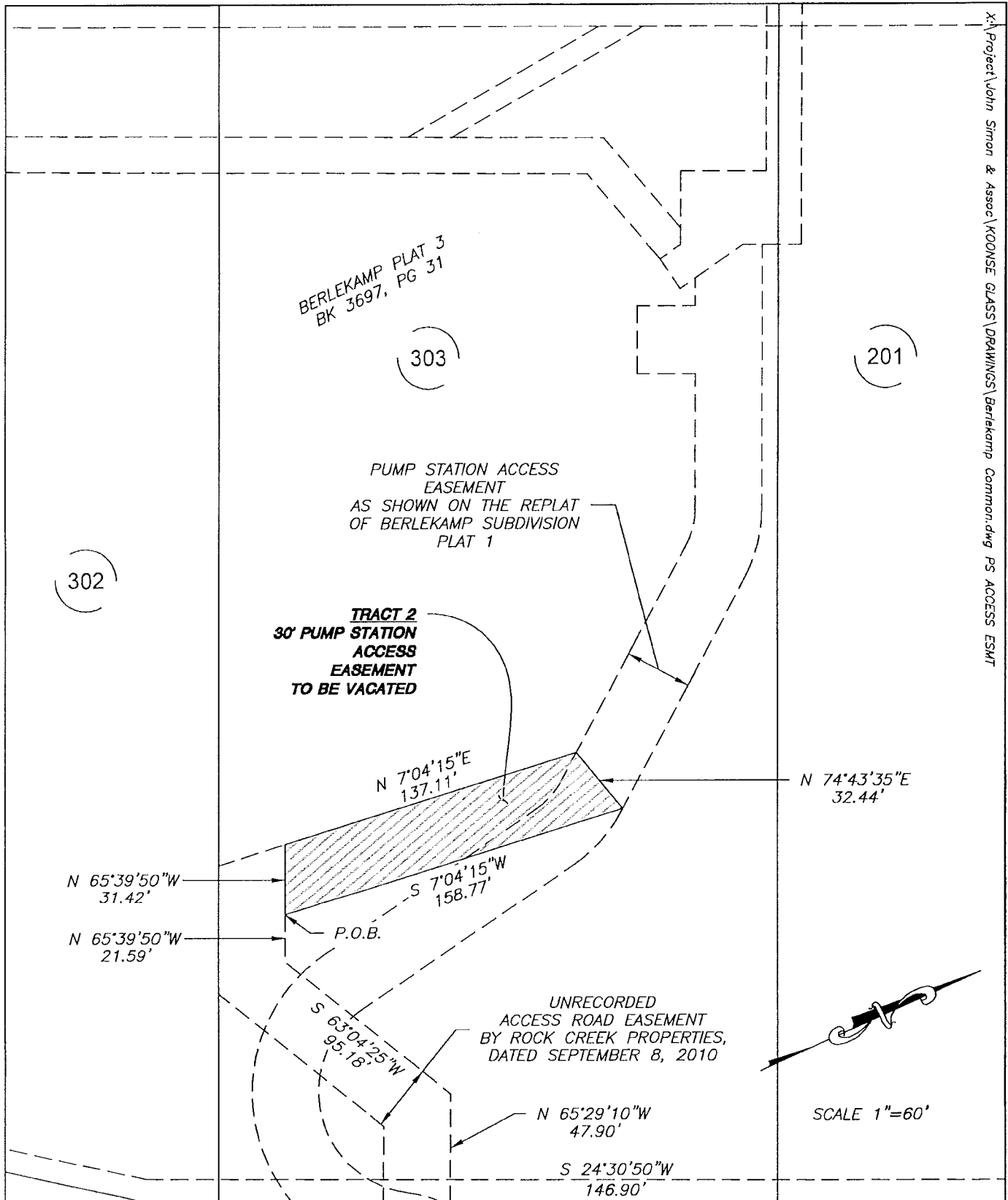


EASEMENT RELEASE TRACT 1



EASEMENT RELEASE TRACT 2

X:\Project\John Simon & Assoc\KOUNSE GLASS\DRAWINGS\Berlekamp Common.dwg PS ACCESS ESMT



PARIS RD (ROUTE B)

JULY 13, 2015
ROCK CREEK PROPERTIES
PUMP STATION ACCESS EASEMENT - VACATION