

Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of
County of Monterey

CRDAWN
2/07/2011
8:24:10

WHEN RECORDED MAIL TO:

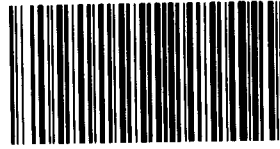
Clerk to the Board Office, 1st Floor

Monterey County Government Center

Salinas, CA 93901

DOCUMENT: **2011007343**

Titles: 1/ Pages: 20



Fees....

Taxes...

Other... _____

AMT PAID

THIS SPACE FOR RECORDER'S USE ONLY

**REVISED CONSERVATION AND SCENIC EASEMENT DEED
(INLAND)**

REF100046

Peter B. and Stephanie A. Harris, Grantor

When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
168 West Alisal St 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PC6101
Resolution No.: Minor Subdivision Com. 87-88
Owner Name: Peter and Stephanie Harris
Project Planner: Mike Novo
APN: 127-291-061-000

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF \$ 0
[] computed on the consideration or full value of
property conveyed, OR
[] computed on the consideration or full value less
value of liens and/or encumbrances remaining at
time of sale,
[] unincorporated area; and
[X] Exempt from transfer tax, Reason: Transfer to
a governmental entity



Signature of Declarant or Agent

REVISED CONSERVATION AND SCENIC EASEMENT DEED (INLAND)

THIS REVISED DEED made this 11th day of January, 2011, by and between Peter B. and Stephanie A. Harris as **Grantor**, and the *COUNTY OF MONTEREY*, a political subdivision of the State of California, as **Grantee**,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey County, California (hereinafter "***the property***"); and

WHEREAS, Grantor's predecessor in interest, Small Tower Development, Inc. a California Corporation (hereinafter "Small Tower"), entered into that certain Conservation and Scenic Easement Deed recorded November 9, 1988, at Reel 2297,

Page 93, Official Records of Monterey County (hereinafter "1988 Scenic Easement");
and

WHEREAS, the said land of said Grantor has certain natural scenic beauty and existing openness; and

WHEREAS, the Grantor and the Grantee continue to desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Grantor; and

WHEREAS, a discretionary development permit (Permit No. PC6101) was granted on August 13, 1987, by the Monterey County Minor Subdivision Committee pursuant to the Findings, Evidence and Conditions contained in Resolution No. 87-88, attached hereto as Exhibit "B" and hereby incorporated by reference, subject to the following condition number 4: "That a scenic easement be conveyed to the County over those portions of the property where the slope exceeds 30%. Scenic easement deed to be submitted to and approved by Director of Planning prior to filing of parcel map."

WHEREAS, the County, acting on behalf of the People of the State of California and in accordance with the Findings, Evidence and Conditions contained in Resolution No. 87-88 attached hereto as Exhibit "B" and hereby incorporated by reference, granted the discretionary development permit to Small Tower upon condition (hereinafter the "**Condition**") requiring inter alia, that Small Tower record a conservation and scenic easement over the property as shown in Exhibit "C" attached hereto and hereby incorporated by reference, and agree to restrict development on and use of the property so as to preserve the open space, scenic, and/or natural resource values present on the property and so as to prevent the adverse direct and cumulative effects on natural resources and public access to those resources which could occur if the property were not restricted in accordance with this easement; and

WHEREAS, Small Tower elected to comply with the Condition and executed and recorded the 1988 Scenic Easement that enabled it to undertake the development authorized by the Permit; and

WHEREAS, an easement to access the water tanks (hereinafter "access easement") located on the property was recorded as part of the parcel map that bisected a portion of the 1988 Scenic Easement; and

WHEREAS, the existing access easement is located within the recorded 1988 Scenic Easement, crossing steep slopes; and

WHEREAS, that access easement was too steep to be utilized and the water tanks were accessed instead by a meandering access road outside of the actual access easement, through the 1988 Scenic Easement; and

WHEREAS, the Grantors now desire to relocate an access road to water tanks on the property; and

WHEREAS, the access road is proposed to be relocated to an area where the terrain is gentler, providing less damage to the existing scenic and conservation easement from the use of the easement; and

WHEREAS, the proposed access road easement location has been reviewed by County staff and said easement location requires less grading, less vegetation removal, and will result in less disturbance to the scenic and conservation easement than the current alignment; and

WHEREAS, it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that said easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the scenic use as herein expressed of the said land, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of said property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, for and in consideration of the premises the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's said property the various acts hereinafter mentioned.

A. LAND SUBJECT TO EASEMENT. The land of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described in Exhibit "C", attached hereto, and made a part hereof.

B. RESTRICTIONS. The restrictions hereby imposed upon the use of said property by the Grantor and the acts which said Grantor shall refrain from doing upon the said property in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said described premises except an access road to water tanks along the alignment described in Exhibit D, including a fence along the easement's perimeter.

2. That no advertising of any kind or nature shall be located on or within said property.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon said premises, except landscaping, vegetable gardens, pasture, trees, and erosion control planting, associated with grading activities from access road construction, as approved by the Monterey County Planning Department.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, including the water tank access road described in B.1, above, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of said described property which will or does materially alter the landscape or other attractive scenic features of said land other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor:

1. The right to maintain all existing private roads, bridges, trails and structures upon said land, and the right to maintain, repair, or replace the existing water main.

2. The use and occupancy of said land not inconsistent with the conditions and restrictions herein imposed.

D. SUBJECT TO ORDINANCES. Land uses permitted or reserved to the Grantor by this instrument shall be subject to the ordinances of Grantee regulating the use of land.

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the property from

the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor. The public may enter onto the scenic easement area for scientific research purposes at times reasonably acceptable to the Grantor.

G. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the property contrary to the terms of this offer will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this grant of easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the property or any interest or easement created by this grant of easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this easement.

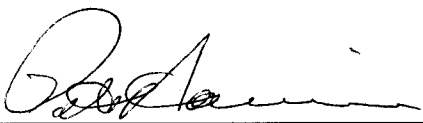
I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments,

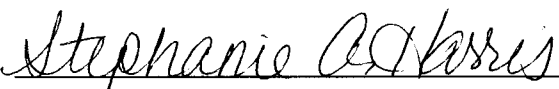
officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the property which would subject the Grantee to any liability occurring upon the land by virtue of the fact that the right of the Grantee to enter the land is strictly limited to preventing uses inconsistent with the interest granted, the property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the land for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

K. CONSTRUCTION OF VALIDITY. If any provision of this conservation and scenic easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this 27th day of December, 2010, at Prunedale, California.

Signed: 
Peter B. Harris, Grantor

Signed: 
Stephanie A. Harris, Grantor

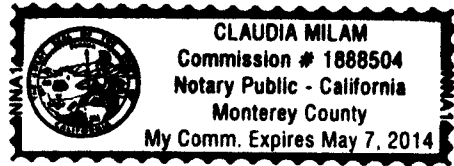
STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On Dec 27th 2010 before me, Claudia Milam, a Notary Public, personally appeared Peter B. Harris and Stephanie A. Harris, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Claudia Milam



(Seal)

STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

acceptance

This is to certify that the interest in real property conveyed by the deed or grant dated January 11, 2011 from Peter B. and Stephanie A. Harris to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on January 11, 2011 and the grantee consents to recordation thereof by its duly authorized officer.

DATED: 1-25-11 Jane B Parker
Chair, Monterey County Board of Supervisors

ATTEST:
DATED: 1-26-11 Gail T Borkowski
Gail T. Borkowski
Clerk of Said Board

Document Form/Content Acceptable:

Charles J. McKee, County Counsel
By: Cynthia L. Hasson
Type/Print Name: Cynthia L. Hasson
Deputy County Counsel

DATED: 12-28-10

RMA: Planning Department
By: Mike Novo
Type/Print Name: Mike Novo

DATED: December 29, 2010

That certain real property situate in the County of Monterey, State of California,
described as follows:

Parcels 1, 2, 3 and 4 as shown on that certain map filed the 9th day of November,
1988 in Volume 17 of Parcel Maps at page 137, Monterey
County Records

Exhibit A

Exhibit B
Minor Subdivision
Committee
Resolution 87-88

MINOR SUBDIVISION COMMITTEE
COUNTY OF MONTEREY, STATE OF CALIFORNIA

RESOLUTION NO. 87-88

MINOR SUBDIVISION NO. PC-6101

A.P.# 127-291-49

FINDINGS AND DECISION

In the matter of the request of Small Tower (PC-6101) for a Combined Development Permit pursuant to regulations established by local ordinance and state law, to allow 1) a minor subdivision to allow the division of a 10.4 acre parcel into four parcels of 2.6 acres each; 2) a use permit for addition to a water system; and 3) a use permit for a senior citizen's unit, located on Parcel A, Assessor's Map 18, Bolsa Nueva y Moro Cojo Rancho 10.45 acres, Prunedale Area, northwest of San Miguel Canyon Road at the terminus of Wilson Way, came on regularly for hearing before the Minor Subdivision Committee on August 13, 1987.

Said Minor Subdivision Committee, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. Finding: The tentative map for this minor subdivision application, the use permit for a senior citizen's unit and the use permit for the expansion of an existing water system, together with the provisions for design and improvement of the minor subdivision are consistent with the North County Area Plan. They are also consistent with other applicable policies of the General Plan.
Evidence: The North County Area Plan designates this parcel as "Low Density Residential, 2.5 Acre/Unit." The proposed minor subdivision is for the division of 10.45 acres into 4 parcels of 2.6 acres each for an overall density of 2.6 acres/unit.
2. Finding: The site of the proposed subdivision, senior citizen's unit and expansion of the existing water system is physically suitable for the type and density of development proposed.
Evidence: A slope/density analysis submitted for this property was reviewed by staff as part of the application and found to meet the slope/density requirements of the General Plan. The initial study prepared for this project indicates that no significant topographic, soils, or geologic constraints are known to exist which would preclude residential use as proposed by this minor subdivision. A geologic report was prepared by Edward A. Gribi, Consulting Geologist and will be referenced on the face of the recorded parcel map as required by Condition No.3. The report indicates that no significant geologic hazards exist on the site.
3. Finding: The design and improvement of the proposed subdivision, senior citizen's unit and expansion of the existing water system are not likely to cause significant environmental damage or substantially or avoidly injure fish or wildlife.

Evidence: As evidenced in the Initial Study, the proposed project is not adjacent to a wildlife use area, rare or endangered plant or animal habitat, or to any unique or fragile biotic community. Consequently, a Negative Declaration was filed for the project July 31, 1987.

4. Finding: The design and improvement of the proposed subdivision, senior citizen's unit and expansion of the existing water system will not cause serious public health problems.

Evidence: The acreage of the proposed parcels, the slope of the proposed building sites, and the nature of existing soils provides to the extent possible the best design for this project. The Health Department will review the proposed expansion of the water system and future septic systems on the proposed parcels to ensure adequate protection of public health.

5. Finding: In approving the proposed combined development permit, the Minor Subdivision Committee has balanced the housing needs of the County against the public service needs of its residents and available physical and environmental resources.

Evidence: The applicant is required, as a condition of approval, to comply with the Monterey County Inclusionary Housing Ordinance.

6. Finding: The establishment of the senior citizen's unit will not, under the circumstances of the particular application, be detrimental to the health, safety, peace, morals, comfort and general welfare of person residing or working in the neighborhood or to the general welfare of the County. The proposed senior citizen unit complies with all applicable requirements of Section 20.92.070A of the Monterey County Code (Zoning). Adequate sewage disposal and water supply facilities exist or are readily available to the site. The proposed senior citizen unit will not adversely impact traffic conditions in the area.

Evidence: Plans reviewed by the Planning staff indicated compliance with the Zoning Ordinance in Planning Commission file PC-6101. As evidenced by the Initial Study, the proposed senior citizen's unit will not adversely effect traffic conditions, water supply facilities, or sewage disposal.

7. Finding: Pursuant to Section 19.12.140 (M2) of the Monterey County Code, the Minor Subdivision Committee finds that the requirement for underground utilities in this minor subdivision would be unreasonable and impractical.

Evidence: The project involves division of land into 4 parcels of 2.6 acres each in a location that is heavily wooded, contains existing utility distribution poles and overhead lines and contains a significant amount of residential development. The existing vegetation, distribution poles and improvements on parcels 1 and 2 would make a requirement for underground utilities unreasonable and impractical.

8. Finding: The establishment, maintenance, or operation of this combined development permit which includes a minor subdivision, use permit for a senior citizen's unit and use permit for the expansion of the existing water system, will not be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed project or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- Evidence: This is evidenced by previous Findings 1 through 7.

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee that the Negative Declaration be adopted and that said Combined Development Permit be approved as shown on the attached sketch, subject to the following conditions:

1. Applicant shall comply with the requirements of the Inclusionary Housing Ordinance prior to filing of the parcel map.
2. That a note be placed on the parcel map indicating that "underground utility service drops are required in Parcels 3 and 4 of this subdivision in accordance with Chapter 19.12.140(M) Title 19 of the Monterey County Code." Such facilities shall be installed prior to filing a final parcel map. The note shall be located in a conspicuous manner, subject to the approval of the County Surveyor.
3. That a note be placed on the parcel map stating that "A geologic report has been prepared for this minor subdivision by Edward Gribi, Consulting Geologist, in July, 1987 and is on file at the Monterey County Planning Department. Recommendations contained in the report shall be followed in all subsequent development of the property." The note shall be located in a conspicuous manner, subject to the approval of the County Surveyor.
4. That a scenic easement be conveyed to the County over those portions of the property where the slope exceeds 30%. Scenic easement deed to be submitted to and approved by Director of Planning prior to filing of parcel map.
5. The property owner agrees as a condition of the approval of this Combined Development Permit which includes a minor subdivision and use permit, that it will pursuant to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for in Government Code Section 66499.37. An agreement to this effect shall be recorded concurrent with the filing of the parcel map. The County shall promptly notify the subdivider of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.

6. The applicant shall request in writing rezoning to an "R-1-B-6" zoning district prior to the filing of the parcel map.
7. Occupancy of the senior citizen's unit is limited to no more than two persons, one of which shall be at least 60 years of age, or handicapped.
8. Prior to issuance of a building permit, applicant shall submit for review and approval of the Zoning Administrator, and subsequent record, a deed restriction stating, "Occupancy of the senior citizen's unit is limited to no more than two persons, one of which shall be at least 60 years of age, or handicapped."
9. That no oak trees be removed for subdivision improvements, which measures 6" or more in diameter, measured 2' above ground level.
10. File parcel map delineating all existing and required easements or rights of way and monument new lines.
11. Provide improvement plans for the approval of the Director of Public Works and improve the 30' right of way to a width of 12' plus drainage control and improve the upper portion of the 60' right of way to a width of 18' plus drainage control. All improvements shall consist of 2" of A.C. over adequate baserock as determined by R-value test including a turnaround at the end adequate for emergency equipment.
12. Registered Civil Engineer shall file as built plans (originals) in Public Works Department with a letter certifying improvements have been made in conformance to improvement plans and local ordinance.
13. Thirty days prior to expiration date of the tentative parcel map, Step A (8 items) of the County Surveyor's Check Off List for parcel map processing shall be completed.
14. That all cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Building Inspection.
15. A letter must be submitted to the Director of Environmental Health from the operator of the water system indicating that they are willing to supply the five connections which are being requested.
16. The present concrete water tank must either be disconnected, replaced or repaired as approved by the Health Department.
17. The existing two wells must have sanitary seals installed.
18. The water system must obtain an amended permit from the Health Department.
19. A pump test must be performed to show sufficient water supply subject to the approval of the Director of Environmental Health.
20. The water system must be in compliance with Title 22, California Administrative Code subject to the approval of the Director of Environmental Health.

SMALL TOWER (PC-6101)
Page Five

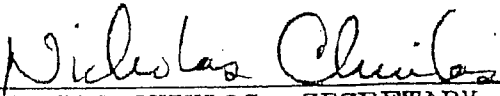
21. A note shall be placed on parcel map stating stormwater runoff caused by new construction shall be controlled in accordance with County Erosion Control Ordinance.
22. The developer shall apply for annexation of the property to Zone 9 of the Monterey County Flood Control and Water Conservation District.
23. That the access roadway be approved by the North County Fire Protection District.
24. That the hydrant location be approved by the North County Fire Protection District.

PASSED AND ADOPTED this 13th day of August, 1987, by the following vote:

Ayes: Chiulos, Knight, LeWarne, Lundquist, Stacy, Stallard, Stewart

Noes: None

Absent: None


NICHOLAS CHIULOS, SECRETARY

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON AUGUST 26, 1987

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEPTEMBER 5, 1987

UNLESS EXTENDED AS PROVIDED BY CHAPTER 19.32.130, TITLE 19 (SUBDIVISIONS), MONTEREY COUNTY CODE, THIS APPROVAL EXPIRES ON AUGUST 13, 1989 EXTENSION REQUESTS MUST BE MADE IN WRITING 30 DAYS PRIOR TO THE AFOREMENTIONED EXPIRATION DATE.

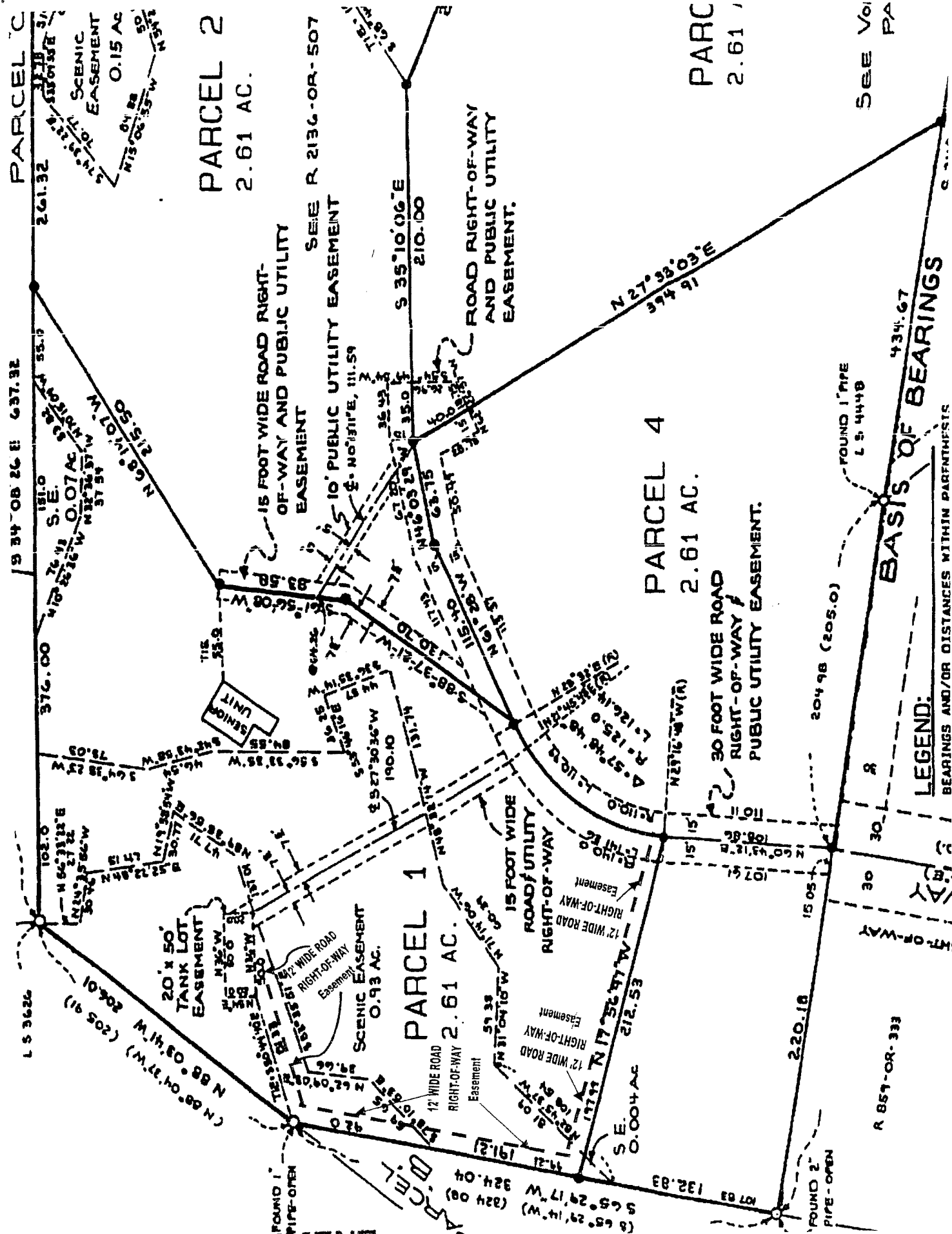
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Exhibit C
Scenic Easement Legal
Description

That certain real property situate in the County of Monterey, State of California,
described as follows:

That area designated as "scenic easement" as shown on that certain map filed the
9th day of November, 1988 in Volume 17 of Parcel Maps at page 137, Monterey
County Records

Exhibit D
Access Easement Exhibit



PARCEL C

PARCEL 2
2.61 AC.

PARCEL 4
2.61 AC.

PARC
2.61

SEE VOI
PA

END OF DOCUMENT

LEGEND:

BEARINGS AND/OR DISTANCES WITHIN PARENTHESES