

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO MERGE THE EXISTING TWO LOTS ON THE APPROXIMATELY 7.42-GROSS ACRE PROJECT SITE TO ONE LOT AND SUBDIVIDE INTO FIVE LOTS FOR THE DEVELOPMENT OF A MIXED-USE PROJECT INCLUDING ONE SIX-STORY MIXED USE BUILDING WITH GROUND FLOOR COMMERCIAL SPACE AND 239 MARKET-RATE MULTIFAMILY RESIDENTIAL UNITS AND ONE FIVE-STORY MULTIFAMILY RESIDENTIAL BUILDING WITH 89 AFFORDABLE HOUSING UNITS LOCATED NORTH OF BLOSSOM HILL ROAD, APPROXIMATELY 300 FEET EASTERLY OF CHESBRO AVENUE (605 BLOSSOM HILL ROAD)

FILE NO. T20-012

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on April 15, 2020, a concurrent application (File No. T20-012) was filed by the applicant, Melissa Durkin of Green Republic Blossom Hill LLC, on behalf of owner Santa Clara Valley Transportation Authority et al, with the City of San José for a Vesting Tentative Map to merge the existing two lots on the approximately 7.42-gross acre Project Site to one lot and subdivide into five lots and for the concurrent Special Use Permit application for the development of a mixed-use project including one six-story mixed use building with ground floor commercial space and 239 market-rate multifamily residential units and one five-story multifamily residential building with 89 affordable housing units, on that certain real property situated in the A Agriculture Zoning District and located north of Blossom Hill Road, approximately 300 feet easterly of Chesbro Avenue (605 Blossom Hill Road, San José, which real property is sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” and depicted in Exhibit "B," entitled “Plat Map,”

which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on July 13, 2022, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendations of the Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Vesting Tentative Lot Map T20-012 VTA Blossom Hill Station TOD" dated March 11, 2021, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

- 1. Site Description and Surrounding Uses.** The project site is located on the north side of Blossom Hill Road, approximately 300 feet easterly of Chesbro Avenue. The subject site is 7.42 acres and is currently developed with a 542-space surface parking lot to support the adjacent Santa Clara Valley Transportation Authority (VTA) Blossom Hill light rail station, VTA bus stop, landscaping and ornamental trees. The project site is bordered by State Route (SR) 85 to the north and the exit ramp to the east. The Blossom Hill VTA Station is also located to the north of the site, and the VTA light rail runs down the center of SR 85 with access to the Blossom Hill Station provided at the project site. Located south of the project site is Blossom Hill Road, a six-lane street divided by a median. Directly across Blossom Hill Road from the project site is Samaritan Medical Care Center, a medical office use. To the west is the Canoas Creek riparian area, and on the other side of the creek are one- and two-story single-family residences and a small retail commercial building facing Blossom Hill Road.
- 2. Project Description.** A Vesting Tentative Map to merge the existing two lots on the approximately 7.42-gross acre Project Site to one lot and subdivide into five lots. Lot 1 is the area that will be retained and reconfigured for VTA parking. After the subdivision, Lot 2 is the area reserved for the Canoas Creek trail, Lot 3 is the area for the multifamily affordable housing building, Lot 4 is the area for the mixed-use market-rate housing with ground-floor commercial, and Lot 5 is the area for the Transit Plaza, a privately owned and maintained public open space. A concurrent Special Use Permit to allow the development of 5.39 acres within the southern and eastern portions of the site with a Signature Project per Policy IP-5.10 of the San José General Plan, including the demolition of existing surface parking, the removal of 55 ordinance-size trees and 14 non-ordinance trees, and the construction of one six-story mixed use building with 13,590 square feet of commercial space and 239 market-rate multi-family residential units and one five-story multifamily residential building with 89 affordable housing units. Of the 89 units restricted for affordable housing (27%), 58 units (18%) are reserved for Extremely Low-Income households, 6 units (2%) are reserved for Very Low-Income households, and 23 units (7%) are reserved for Low-Income households, as defined in California Code Section 65915. The project also includes improvements to the Canoas Creek trail, adjacent to the west of the project site, and extended construction hours to allow construction to include Saturdays from 8:00 a.m. to 5:00 p.m. on an approximately 7.42-gross acre site located at 605 Blossom Hill Road.

3. **General Plan Conformance.** The project site has an Envision San José 2040 General Plan land use designation of Neighborhood/Community Commercial. This designation supports a very broad range of commercial activity that have strong connections to and provide services and amenities for the nearby community. This designation supports development projects up to 3.5 floor-area ratio (FAR). The project is also within the Blossom Hill Road/Cahalan Avenue Urban Village area, which does not yet have an adopted Urban Village Plan. At the moment, there is no identified timeline for the drafting and adoption of an Urban Village Plan for the area.

Analysis: The project includes a gross square footage of 508,539, which results in a 1.57 FAR, consistent with the FAR requirement. Residential and mixed-use projects are not permitted within the Neighborhood/Community Commercial land use designation unless the project meets Policy IP-5.10 for Signature Projects. The project is analyzed for consistency with the Signature Project Policy below.

Policy IP-5.10 Signature Project Analysis

The Signature Project policy allows residential and mixed-use projects to proceed ahead of an Urban Village Plan adoption if the project meets certain requirements related to residential density, project design, and the provision of employment space, parks and/or public and privately accessible open space on site. These requirements were updated in December 2021 to include additional requirement, but since the project submitted a complete Planning application prior to the adoption of the updated policy, the previous requirements apply, as follows:

- a. Incorporates job growth capacity above the average density of jobs per acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature Project that include housing, those portions incorporate housing density at or above the average density of dwelling units per acre planned for the entire Village Planning area.

Analysis: Per the General Plan Land Use Policy Chapter, within Growth Areas, new residential development is planned to occur at a density of at least 55 dwelling units per acre (DU/AC), which is the number where the City can provide services to new residential development without incurring additional costs for providing the new services. The project meets this criterion with 80.7 DU/AC for the mixed-use building and 90.8 DU/AC for the affordable multifamily residential building.

Based on the project site area, the development must provide at least 22,596 square feet of commercial area per this requirement. This is calculated using a rough estimate of 300 square feet per one job, which would result the creation of approximately 75 jobs. The project, with 13,590 square feet of commercial space, would create approximately 45 jobs and does not meet this criterion. However, the project applicant has requested a Density Bonus Incentive to reduce the required commercial square footage. The project has been deemed eligible for Density Bonus under State Law (Government Code Section 65915). Therefore, the

reduced commercial space is allowed as an incentive as described in the Density Bonus Section below.

- b. Includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.

Analysis: The Canoas Creek Trail improvements and on-site plaza and public open space areas include approximately 2.23 acres of public open space amenities and are consistent with this policy requirement, as follows:

- i. *Canoas Creek Trail Improvements: As previously described, as part of the proposed project, the existing eight-foot wide Valley Water gravel access road along Canoas Creek would be improved and extended to an approximately 0.6-mile, 10- to 12-foot-wide paved asphalt concrete pedestrian/bicycle trail between Blossom Hill Road and Martial Cottle Park. The trail would be located on the east side of Canoas Creek and would follow the natural slope of the land. Additionally, two trailhead plazas would be constructed on-site to mark the entrance of the trail at Blossom Hill Road and another in the northwest corner of the project site marking the direction to the Blossom Hill light rail station. The on-site trail improvements would cover approximately 28,000 square feet.*
 - ii. *On-Site Public Plaza and Open Space Areas: In addition to the Canoas Creek trail improvements, the project's outdoor public amenities include an 18,000 square foot transit plaza located at the entrance to the transit station, a 5,900 square foot public open space area, and a 22,800 square foot public path, as shown on Sheet L300 of the project plans. These open space and trail areas will be privately owned public amenity areas. With the exception of the Canoas Creek trail improvements, which will be maintained by the City of San José, all other open space areas will be privately maintained.*
- c. Achieves the pedestrian-friendly design guideline objectives identified within this General Plan.

Analysis: The project is consistent with the following General Plan Community Design objectives relating to pedestrian orientation:

- i. Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Per the project Landscape Plans, pedestrian areas will include shade trees, site wayfinding directional signs, sculptural seat walls, natural seating elements, architectural site lighting, specialty paving, interactive sculptural elements, and site furniture. The project will also install sidewalk seating along Blossom Hill Road in front of the ground floor commercial use. The project is consistent with this finding.

- ii. Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Mixed-Use Building – The building façade along Blossom Hill Road include windows and pedestrian entries facing the sidewalk, with active building ground floor uses facing the street. The frontage along the driveway includes awnings, windows, and pedestrian entrances facing the sidewalk. The façade materials are varied and include a combination of stone and smooth painted stucco, along with decorative metal garage screens with landscaped trellises.

Multifamily Residential Building – The building façade along Blossom Hill Road is similarly varied with stone, smooth painted stucco, and decorative mosaic tile materials. Windows, awnings, and pedestrian entrances face the street. The building includes active ground floor uses. The main pedestrian entry is arched for an inviting, architecturally pleasing pedestrian experience.

- iii. Policy CD-1.24: Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

All parts of the development are connected to each other with sidewalks, including the paseo, the creek improvements, the station entrance, and both buildings. The project also provides wayfinding signage for easy accessibility to all the components of the project. The sidewalks are lined with trees, seating, and lighting to provide safe, convenient, and accessible connections.

- iv. Policy CD-2.3: Create easily identifiable and accessible building entrances located on street frontages or paseos.

The main pedestrian entrances along the driveway at both buildings are prominent and identifiable to pedestrians, cyclists and motorists. As described above, the main pedestrian entrance of the mixed-use building is identified by a large awning on the corner of Blossom Hill Road and the project access driveway, and the main pedestrian entrance of the

multifamily residential building is identified by arched architectural features and a setback doorway for depth.

- d. Is planned and designed through a process that provided a substantive opportunity for input by interested community members.

Analysis: The City held a virtual Joint Environmental Scoping and Community Meeting on October 13, 2020. There were approximately 24 members of the public in attendance at the meeting. See the City Council Policy Consistency section below for additional information about issues discussed. In addition, there were multiple VTA Access Study outreach meetings with the community, including the following:

Community Meeting – Visioning: January 24, 2018

VTA Board Public Hearing: March 1, 2018

Community Meeting – Project Schedule: October 25, 2018

VTA Board Public Hearing – Program Approval: March 7, 2019

Community Meeting – Meet the Developer: May 15, 2019

Community Meeting – Update: September 9, 2020

VTA’s website includes project details and topics of discussion during each of the community meetings. The information can be found on VTA’s website: <https://www.vta.org/projects/blossom-hill-station-transit-oriented-development>. The project is consistent with this requirement.

- e. Demonstrates high-quality architectural, landscape and site design features.

Analysis: The City’s Planning Division urban design review staff reviewed and made specific recommendations regarding the architecture, landscaping, and site design features. These recommendations are discussed below. In addition, the project includes stucco and cast trim materials, which are not considered high-quality materials; however, they are standard quality, durable materials commonly used in new residential building exterior construction. The project is requesting the use of these materials as affordable alternatives under a Density Bonus Incentive Request. The project has been deemed eligible for Density Bonus under State Law (Government Code Section 65915). Therefore, the more affordable material alternatives are allowed as an incentive as described in the Density Bonus Section below.

- f. Is consistent with the recommendations of the City’s Architectural Review Committee or equivalent recommending body if the project is subject to review by such body.

Analysis: Planning Division urban design staff reviewed the project and provided several design recommendations addressing materials, façade details, and site

design features. In response, the project design was revised to include stone and limestone panels on the ground floor and smooth textured stucco on the upper floors, awnings in front of functional doors and louvers in front of windows, consistent and complimentary earth-tone colors, the incorporation of additional Mediterranean Traditional design elements, recessed windows to add visual interest and additional light and shadow, equally high-quality façade materials on the affordable building as the mixed-use building, and traditional Mediterranean-style sloped tile roofs.

To address specific site design features, the project was revised to remove a surface parking lot behind the affordable building, increase the depth of the commercial space in the mixed-use building, provide more prominent and identifiable pedestrian entries, provide additional open space along the creek, and the open space in front of the station entrance was redesigned to be contiguous.

Based on the above, the project is therefore consistent with Signature Project Policy IP-5.10.

General Plan Policies

In addition to the requirements of the Signature Project Policy IP-5.10, the project is also consistent with the following key General Plan policies:

- a. Major Strategy #3 - Focused Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified “Growth Areas” (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods.
- b. Growth Area Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified “Growth Areas” in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
- c. Commercial Lands Policy LU-4.3: Concentrate new commercial development in identified growth areas and other sites designated for commercial uses on the Land Use/Transportation Diagram. Allow new and expansion of existing commercial development within established neighborhoods when such development is appropriately located and designed.
- d. Public Transit Goal TR-3: Maximize use of existing and future public transportation services to increase ridership and decrease the use of private automobiles.
- e. Maximize Use of Public Transit Policy TR-3.4: Maintain and improve access to

transit stops and stations for mobility-challenged population groups such as youth, the disabled, and seniors.

Analysis for Major Strategy 3, Policy LU-2.1, Policy LU-4.3, Goal TR-3, and Policy TR-3.4: The project is within the Blossom Hill Road/Cahalan Avenue Urban Village area and is sited immediately adjacent to the Blossom Hill VTA light rail station. The project would provide a high intensity transit-oriented development on the subject site consistent with General Plan major strategy, and policies supporting focused growth and development near transit. High intensity development near transit maximizes land near transit and encourages the use of public transit while reducing vehicle miles traveled.

- 4. Zoning Ordinance Consistency.** The subject site is currently located in the A Agriculture Zoning District. However, California Assembly Bill 3194 (AB 3194) stipulates that a housing project located on a site that is consistent with the policies and objectives of the General Plan cannot be required to rezone, even if the existing zoning of the site is not consistent with the General Plan. Instead, the local agency shall evaluate the project and apply the zoning district that is consistent with the General Plan land use designation of the site. The CP Commercial Pedestrian District, which is the zone most in conformance with the General Plan designation is applied, which allows mixed residential/commercial development, for which consistency is analyzed below:

Land Uses

Pursuant to the Zoning Code Section 20.120.110, the CP Commercial Pedestrian Zoning District is a conforming zoning district to the Neighborhood/Community Commercial General Plan land use designation. The purpose of the CP Zoning District is to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. Per Table 20-90 of the Zoning Code, mixed-use residential/commercial uses are allowed in the CP Zoning District within an Urban Village Plan Area with the approval of a Special Use Permit.

Analysis: In the CP Commercial Pedestrian Zoning District within an Urban Village Plan Area, mixed-use residential/commercial projects are permitted with a Special Use Permit.

Development Regulations

The project conforms to the CP Commercial Pedestrian Zoning District development standards, beginning with Zoning Section 20.40.200, as discussed below.

- a. **Setbacks:** The following table illustrates the setbacks in the CP Zoning District found in Table 20-100.

CP Zoning District Requirement		Project (Building A)	Project (Building B)
Front	No minimum, 10 feet maximum	4 feet	9.2 feet
Side	None	26 feet	15 feet
Rear	25 feet minimum	27 feet	26 feet

Analysis: The project is consistent with the setback requirements.

- b. Height: The maximum height of new construction is 120 feet within Urban Village Plan boundaries per Section 20.85.020.E of the Zoning Code.

Analysis: The mixed-use building has a maximum of height of 75.5 feet and the affordable multifamily residential building has a maximum height of 61 feet, which is within the allowed height limit. The project is therefore consistent with the height requirements.

- c. Vehicle Parking: The number of vehicle parking spaces required for the ground-floor commercial use within the mixed-use building is one space per 400 square feet of net floor area (85 percent of gross square feet) per Section 20.90.220.C of the Zoning Code. Based on the gross commercial floor area of 13,590 square feet, the net floor area is 11,552 square feet, and the required parking for the commercial area is 29 spaces.

The number of vehicle parking spaces required for the residential portion of the mixed-use building and the affordable multifamily residential building is per the State Density Bonus Law. Per Section 65915(p) of the California Government Code, rental projects that are at least 11% affordable to very-low income within 1/2 mile of an accessible major transit stop have a vehicular parking space requirement of 0.5 space per unit. There are 239 units included in the mixed-use building and 89 units in the affordable multifamily residential building, which is a total of 328 units and results in a total parking requirement of 164 spaces.

Analysis: The project is required to provide a total of 29 spaces for commercial use and 164 spaces for residential use. The project includes 34 parking spaces for the commercial use and 364 spaces for the residential use. The project is consistent with the parking requirement in that it exceeds the parking requirements by 205 parking spaces.

- d. Bicycle Parking: The project is required to provide one bicycle space per 3,000 square feet of net commercial floor area and one space per four units of residential use. This results in four commercial bicycle spaces, 60 bicycle spaces for the mixed-use building, and 23 bicycle spaces for the affordable multifamily residential units required for the project.

For commercial spaces, at least eighty percent of the bicycle parking spaces shall be provided in short-term bicycle parking facilities and at most twenty percent shall be provided in long-term bicycle facilities. For residential units, bicycle parking

spaces shall consist of at least sixty percent long-term and at most forty percent short-term spaces. This calculates to three long-term spaces and one short-term space for the commercial use and 50 long-term spaces and 33 short-term spaces for the residential use for a total of 51 long-term spaces and 36 short-term spaces required.

Analysis: The project includes 232 long-term bicycle parking spaces within a secure bicycle storage room on the ground floor of the mixed-use building, and 75 short-term bicycle parking spaces provided on racks. The project is therefore consistent with the requirement.

- e. Loading Spaces: This project requires one loading space per Section 20.90.410 of the Zoning Code. The loading space must be ten feet wide, thirty feet long and fifteen feet high, exclusive of driveways for ingress and egress and maneuvering areas per Section 20.90.420.

Analysis: The project includes one loading space in front of the mixed-use building along the driveway. The loading space is 40 feet long by 12 feet wide and is at the curb with no structure above it. This meets the requirement for the loading space.

5. Subdivision Ordinance Consistency

Vesting Tentative Maps must be consistent with Title 19 – Subdivisions of the San Jose Municipal Code. The project is analyzed for consistency with the Subdivision Ordinance below:

Chapter 19.36 – Design Requirements

Section 19.36.170 – Except as lot areas or widths are set forth in other provisions of Title 19 or 20 of this Code, each lot shall contain a minimum area of not less than six thousand square feet each with an average width of not less than 55 feet.

Analysis: Lot areas range in size from 2.96 acres (Lot 4) to 0.39 acre (Lot 5). The width of the lots range from 377 feet (Lot 4) to 71 feet (Lot 5). The Vesting Tentative Map is consistent with the requirements.

Section 19.36.200.F - Each lot shall have frontage of not less than 55 feet on a street, except Lots which may have frontage on an approved street by means of a corridor not less than 20 feet wide and not more than 300 feet long, if the director shall, in the exercise of reasonable judgment, determine such frontage is advisable in view of the size, shape, use or physical or other conditions of the property proposed to be subdivided. Each such lot, exclusive of said corridor, shall be required to meet the minimum square footage required by the applicable zoning district. Not more than two such lots shall be so provided access by any one corridor.

Analysis: Lot 1 includes a 34-foot wide by 300-foot long corridor to Blossom Hill Road and is intended as a driveway to access the VTA parking lot adjacent to the light rail

station. Lot 5 is also accessed from this corridor, for a total of two lots. The Vesting Tentative Map is consistent with this requirement.

Section 19.36.220 – All lots fronting on a major street and all lots with approved double frontage shall have a minimum depth of 120 feet, except where the director finds that because of the design and/or improvements in such subdivision such lots having a lesser depth are satisfactory in such subdivisions.

Analysis: All lots are greater than 120 feet in depth. The project is consistent with this requirement.

6. State Density Bonus Law Consistency (Government Code Section 65915)

In order to qualify for the provisions of the State Density Bonus Law, a project must include at least 5% of the housing units as restricted for very-low income households or at least 10% of the units restricted for low-income or moderate-income households, as defined in California Code Section 65915. The project includes 89 of the total 328 units restricted for affordable housing (27%), including 58 units (18%) for Extremely Low-Income households, 6 units (2%) for Very Low-Income households, and 23 units (7%) for Low-Income households. The project is therefore eligible for the provisions of the density bonus, waivers, and incentives/concessions under the State Density Bonus Law.

Density Bonus: There is no maximum density limit in the General Plan designation. However, the project is eligible for incentives and waivers by including the required percentages of affordable units. The project does not include a request for an increase in density, but only needs to be eligible for a density bonus in order to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing.

Incentives: Projects that are eligible for a density bonus are also eligible to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing. Because the project is providing over 15% of the total units as extremely low-income and very low-income, the project qualifies for three incentives per Section d.2.c of Government Code Section 65915.

The project has therefore requested three incentives, as follows:

Incentive 1: Private Open Space.

The development standard pursuant to the Residential Design Guidelines, Chapter 10.A, requires a minimum of 60 square feet of private open space per unit, for a total of 19,680 square feet of private open space. The applicant has requested that the development standard be decreased to allow Building A to have 154 units with private open space for a total of approximately 11,693 square feet and allow for Building B to have no private open space.

More than 60% of the Affordable Housing units will be made available to households earning extremely low-incomes, half of which are to be set aside for tenants qualifying under Permanent Supportive Housing guidelines. Best practice within affordable and mixed-income communities is to encourage social integration and to discourage isolation. Common area open space is therefore encouraged, while conversely private patios/balconies are discouraged. The project incorporates significant common area open space amenities and features, as described in the General Plan Consistency section above

As described in the Density Bonus Request letter from the applicant dated November 19, 2021, the requested concession would reduce the average cost per unit from \$654,370 to \$636,941, resulting in a total reduction of \$17,429 per unit. Without the requested concession, the project is not viable and cannot be constructed.

As a result of the decreased costs, the project would be viable and can be constructed. Cost savings will go toward the affordability of the units. Therefore, the incentive request to decrease the required private open space from 19,680 square feet to 11,693 square feet results in actual and identifiable cost reductions and can be granted.

Incentive 2: Commercial Square Footage.

The development standard pursuant to General Plan Signature Project Policy IP-5.10, requirement #1, requires a total of 22,595 square feet of commercial area to be provided with the project. The applicant has requested that the development standard be reduced to 13,590 square feet of commercial space.

This incentive supports the economic viability of the Affordable Housing building and allows for an efficient mix of ground-floor common-area and supportive services.

As described in the Density Bonus Request letter from the applicant dated November 19, 2021, reducing the commercial square footage requirement would reduce the average cost per unit from \$730,994 to \$636,941, resulting in a total reduction of \$94,053 per unit. Without the requested concession, the project is not viable and cannot be constructed.

As a result of the decreased costs, the project would be viable and can be constructed. Cost savings will go toward the affordability of the units. Therefore, the incentive request to reduce the side setback results in actual and identifiable cost reductions and can be granted.

Incentive 3: High-Quality Materials.

The development standard pursuant to General Plan Signature Project Policy IP-5.10, requirement #5, requires high-quality architectural, landscape and site design features to be provided with the project. The applicant has requested that

the development standard be modified to allow lower cost material alternatives, including smooth-finish stucco and cast foam core trim materials, where the City would normally not allow these materials on primary elevations in a Signature Project.

The use of stucco or other standard-quality materials on the ground floor of the buildings would normally not be permitted in a Signature Project development, and stucco on the upper levels would be required to be a smooth-textured stucco. The project was modified from the original submittal to include a mix of stone paneling with a smooth-textured stucco on the first two floors. The stone paneling is placed on the most visible building elevations. Floors 3 through 5 include stucco but with a fine texture stucco finish, instead of a smooth-texture finish. The fine texture stucco finish provides a material change distinguishing the ground and second floor levels from the upper levels. The fine texture stucco finish is less likely to show imperfections/cracking, and when viewed from the ground level will not appear significantly different from a smooth finish.

Coated foam core trim is a standard quality material, and not considered a higher-quality material consistent with Signature Project criteria, such as cast concrete. The project design includes foam core trim as a lower-cost material that is used to reduce material weight while also being durable. A lightweight limestone material called New Cast Stone will be used for all trim on the first and second floors which has a thicker exterior coating than the composite core trim on the upper floors, as shown in the Final Plan Set (Exhibit H). This will ensure the most durable material is used where it comes into contact with people.

As described in the Density Bonus Request letter from the applicant dated November 19, 2021, reducing the high-quality materials requirement would reduce the average cost per unit from \$683,370 to \$636,941, resulting in a total reduction of \$46,429 per unit. Without the requested concession, the project is not viable and cannot be constructed.

As a result of the decreased costs, the project would be viable and can be constructed while maintaining affordability of the units. Therefore, the incentive request to reduce the requirement for high-quality materials results in actual and identifiable cost reductions and can be granted.

7. City Council Policy Consistency

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the project is considered to be a large development. Large development projects are required to provide Early Notification by website, email, postcard mailed to property owners and tenants within a 1,000-foot radius, and by on-site signage. Following City Council Policy 6-30, the required on-site sign has been

posted at the site since May 1, 2020, to inform the neighborhood of the project. A community meeting was held to discuss the project on, October 13, 2020 via Zoom webinar. Approximately 27 members of the public were in attendance for the meeting. Comments received during the community meeting and project review are discussed below in the Public Outreach section. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design

The purpose of the policy is for the protection, preservation and restoration of riparian habitat. The policy provides general guidelines for riparian corridor protection and requires a minimum 100-foot setback from a riparian corridor's top of bank or a vegetative edge, whichever is closest, to minimize intrusion into the riparian corridor, and allows consideration of reduced setbacks under limited circumstances. A riparian project is a project that requires approval of a development permit, that is within 300 feet of a riparian corridor's top of bank or vegetative edge, whichever is greater.

The project is required to be evaluated for conformance with this policy as it is proposing several uses within the minimum 100-foot setback to the adjacent Canoas Creek. As outlined in the policy, trails may enter the Riparian Corridor where necessary for continuity. Passive recreational uses have a 0-foot setback. Active recreational uses, roads, and new residential/commercial buildings must provide a minimum 100-foot setback. The active recreational uses adjacent to the affordable building is shown on the plans at a 35-foot setback from the riparian corridor boundary.

This determination was made based on the analysis of Section A below, which allows a reduced setback for small lower-order tributaries whose riparian influences do not extend the 100-foot setback and other criteria. The project is consistent with the 35-foot setback requirement from the riparian area.

Section A of the policy provides design guidance for riparian projects. Section A.2 states that a reduced setback may be considered under limited circumstances such as:

- a. Developments located within the boundaries of the Downtown area, as those boundaries are defined in the General Plan.
- b. Urban infill I locations where most properties are developed and are located on lots that are equal to or less than one (1) acre.

Analysis for 'a' and 'b': These criteria are not applicable to the project because the subject site is not located within Downtown and is a total of 7.24 acres.

- c. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback.

Analysis: Canoas Creek is a small lower order tributary. A technical memorandum was prepared for the project by Robin Carle of H.T. Harvey and Associates dated February 7, 2020. The memorandum documents the riparian corridor boundary as the top of the Canoas Creek channel at the adjacent Water District access road. The letter determined the 35-foot wide buffer is sufficient to protect the riparian corridor, since the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs.

- d. Sites with unique geometric characteristics and / or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.
- e. Pre-existing one- or two-family residential lots, or typical yard area, but only where a frontage road is infeasible to buffer Riparian Corridors from these and the Building Setbacks are consistent with all Riparian Corridor setback requirements.

Analysis for 'd' and 'e': These criteria are not applicable to the project as the site is not irregularly shaped, and the existing use of the site is a parking lot.

- f. Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new development will have significantly less environmental impacts on the Riparian Corridor than the existing development.

Analysis: The project's mixed-use development would be more intensive than the existing parking lot use and have a greater impact on the riparian corridor than the parking lot use. However, the project would include the following site improvements: 1) The existing parking lot is within 5 feet of the riparian edge. The parking lot consists of impervious pavement that covers the entire 7.42-acre project site, with the exception of parking lot trees planted throughout the project site. The project would comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. 2) The project would replace the non-native parking lot trees with native species which are more compatible with the riparian corridor than the existing use. 3) The existing parking lot includes 542 parking spaces that are accessible 24 hours per day and seven days per week. The project would direct all vehicular circulation to the podium parking garage. 4) As discussed below, although the construction and operation of the new building's active uses would be a distance of 35 feet from the riparian edge, per the EIR, the project would have a less than significant project-level environmental impact from the individual project-specific level. Furthermore, the project would be required to implement mitigation measures that would reduce impact from encroachment on riparian birds and habitat and would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community.

- g. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Analysis: As discussed above, the existing site is a paved parking lot with 542 parking spaces interspersed with non-native parking lot trees. The project would replace the parking lot trees with native trees within 100 feet of the riparian corridor, including an approximately 50-foot wide landscape strip with native vegetation adapted to the Santa Clara Valley watershed along the western edge of the site within the 35-foot riparian setback area, which helps enhance the riparian value.

- h. Recreational facilities deemed to be a critical need and for which alternative site locations are limited.

Analysis: Most of the area of the site that is encroaching into the 100-foot riparian setback are active recreational uses for the residents of the affordable housing building (Building B), such as a garden and a playground. These activities are a critical need for low-income families, and the nearest public park offering these amenities is over 1.25 miles away at Cahalan Park.

- i. Utility or equipment installations or replacements that involve no significant disturbance to the Riparian Corridor during construction and operation and generate only incidental human activity.

Analysis: This criterion is not applicable to the project, since there are no utility installations within the riparian corridor setback area.

- j. The existence of legal uses within the minimum setback.

Analysis: The existing 7.42-acre site is a legally paved parking lot used as an off-site parking establishment for the Valley Transportation Authority. Approximately 1.78 acres of the site is within the 100-foot riparian setback area, and approximately 0.85 acres will remain a parking lot for the Blossom Hill Transit Station.

- k. The extent to which meeting the required setback would result in demonstrable hardship (i.e. denies an owner any economically viable use of the land or adversely affects recognized real property interest).

- l. The extent to which meeting the minimum setback would require deviations from, exception to or variances from other established policies, legal requirements, or standards.

Analysis for 'k' and 'l': As stated above, most of the area within the 100-foot riparian setback would be used as common open space for the residents of the affordable housing building (Building B). The building itself is set back between 80 and 120 feet from the property line and between 55 and 95 feet from the riparian corridor. Because of the alignment with the intersection of Indian Avenue, the affordable housing building would need to be reduced in size to allow the full 100-feet of setback. However, as described above, the quality of riparian habitat is low and

does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs. The CP Commercial Pedestrian Zoning District has a minimum side setback of zero feet. No deviations from, exception to or variances from other established policies, legal requirements, or standards would be required.

To qualify for the reduced setback, the applicant may illustrate the existence of one or more of the conditions under Section A.3 of the Riparian Policy by a qualified biologist. A technical memorandum was prepared for the project by Robin Carle of H.T. Harvey and Associates dated February 7, 2020. The memorandum documents the riparian corridor boundary as the top of the Canoas Creek channel at the adjacent Water District access road. The findings described in the technical memorandum show the 35-foot wide buffer to be sufficient to protect the riparian corridor, since the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs. Based on the information provided by the qualified biologist, the project qualifies for a setback reduction due to the following circumstances under Section A.3:

- a. There is no reasonable alternative for the proposed Riparian Project that avoids or reduces the encroachment into the Setback Area.

Analysis: Most of the area within the 100-foot riparian setback would be used as common open space for the residents of the affordable housing building. The building itself is set back between 80 and 120 feet from the property line and between 55 and 95 feet from the riparian corridor. Because of the alignment with the intersection of Indian Avenue, the affordable housing building would need to be reduced in size to allow the full 100-feet of setback. Increasing the setback to active recreational uses would eliminate the garden, playground, and other active recreational uses included with the project for use by the residents of the affordable housing building. These activities are a critical need for low-income families, and the nearest public park offering these amenities is over 1.25 miles away at Cahalan Park.

- b. The reduced setback will not significantly reduce or adversely impact the Riparian Corridor.

Analysis: Based on the technical memorandum prepared for the project referenced above, the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs. The 35-foot setback is sufficient to protect the existing riparian corridor.

- c. The proposed uses are not fundamentally incompatible with riparian habitats.

Analysis: Section 1B of the City's Riparian Corridor Policy Study defines land uses that are incompatible with riparian systems to include uses which typically generate

littering and/or dumping, off-road vehicle use, removal of native vegetation, uses that create noxious odors or use, store, or create toxic materials, and uses that generate high volumes of vehicular traffic. Portions of the affordable housing building and the active recreational common open spaces area for use by the residents would be within the 100-foot riparian setback area, in addition to the Canoas Creek trail. There are no off-road vehicle uses proposed within this area. The project would not result in any of the uses defined to be fundamentally incompatible with riparian habitats and the project's land use does not typically result in any of the described incompatible land use categories. Permit conditions for the project require the site and its publicly-used areas to be maintained free of litter, refuse, and debris. Therefore, the project is not fundamentally incompatible with the riparian habitat.

- d. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the Setback Area.

Analysis: Canoas Creek is an engineered trapezoidal channel. The project will not result in stream bank erosion.

- e. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Analysis: Development of the project will not have negative effects on properties located adjacent or downstream. The project is required to comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. Stormwater will be treated locally then discharged to the existing storm drain systems. Therefore, the project would not be detrimental or injurious to adjacent and/or downstream properties.

Additionally, in a report dated January 28, 2022, H.T. Harvey & Associates prepared a Bird Collision Hazard Assessment to assess how birds might use resources on and around the project site, and the potential for avian collisions with the façades of the buildings, taking into account the applicant-proposed bird-safe design measures, the location of the proposed buildings relative to food or structural resources (such as vegetation along Canoas Creek) and presumed flight paths, the distance from the towers to those resources, the potential for vegetation to be reflected in the glass façades, and the existing conditions of the façades of other buildings in the vicinity.

The report concluded that the number of bird collisions on the site is low due to the low numbers of birds expected to occur on the site over the long term and the bird-safe design features included in the project design. Most bird strikes would be by resident species, including common, urban-adapted species that are widespread in urban, suburban, and (for many species) natural land use types throughout the San Francisco Bay area, as opposed to migrant birds. Since the project is consistent with

the Riparian Setback requirements and the Bird Safety requirements, the project is consistent with this finding.

8. California Environmental Quality Act.

A Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2020100005, was prepared for the Blossom Hill Station Project (SP20-012 and T20-012) in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The DEIR was circulated for public review and comment from March 10, 2022 through April 25, 2022.

An EIR was prepared because the analysis showed that the project would have a significant and unavoidable transportation impact.

Specifically, the project generated vehicle miles traveled (VMT) would exceed the City's threshold of 10.12 VMT per capita for residential uses in the area by 2.5 VMT per capita. The analysis showed that even with implementation of Mitigation Measure TRA-1.1 which would reduce the impact by 20 percent, the impact would remain above the threshold and therefore would be significant and unavoidable.

Mitigation measures were also developed to lessen the following significant impacts to less than significant levels: exposure of sensitive receptors to toxic air contaminants during construction, disturbance and/or destruction of nesting migratory birds during construction, potential impacts to unrecorded subsurface archaeological resources, exposure of construction workers to residual contamination from agricultural chemicals in the soil, and exposure of sensitive receptors to construction noise.

Standard Permit Conditions are also required to ensure that impacts do not occur during construction and operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, protection of nesting migratory birds, compliance with the Santa Clara Valley Habitat Plan, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the building, erosion control during construction activities, water quality impacts during construction, best management practices to control noise during construction, and achieving an interior noise level of less than 45 decibels (dBA DNL) after construction.

DEIR Recirculation Unnecessary

As previously stated, the Draft EIR was circulated for public review for 45 days consistent with CEQA Guidelines Section 15132, starting on March 10, 2022 and ending on April 25, 2022.

A First Amendment to the DEIR was prepared that provided responses to public comments submitted during the public circulation period and revisions to the text of the DEIR.

A total of eight comment letters were received. Staff responded to the comments and

questions in the First Amendment and none of the comments raised new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a). The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to a Draft EIR is not "significant" unless the Draft EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

Final EIR

The First Amendment was posted on the City's website on June 22, 2022 and all commenters were notified via email of the document's availability. The Draft Environmental Impact Report (DEIR) and First Amendment are available for public review on the City's website: <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs>.

The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project.

Statement of Overriding Considerations

The City Council made a Statement of Overriding Considerations to address the significant and unavoidable transportation impact related to project vehicle miles traveled (VMT) identified in the DEIR, and determined the following project benefits outweigh the impact:

- 328 housing units including 89 affordable housing units which would contribute to the City's need to provide affordable housing units at all AMI levels close to transit;
- 13,590 square feet of job-producing commercial space which would contribute to a vibrant transit plaza and amenities to the transit riders and immediate neighbors;
- Expansion of the City's trail and bike systems by connecting Blossom Hill Road to Martial Cottle Park;
- Improvements to the Blossom Hill Road and Blossom Avenue/CA-87 ramp intersection, including new ADA ramps which would minimize the risks of accidents and injuries to pedestrians and bicyclists by increasing visibility;
- Improvements to the Blossom Hill Road and Indian Avenue/project entry intersection, including new ADA ramps which would minimize the risks of accidents and injuries to pedestrians and bicyclists by increasing visibility;

- Improvements to Blossom Hill Road along the project frontage, including 15-foot wide sidewalk, Class IV bike lane, and a VTA bus stop, which would minimize the risks of accidents and injuries to pedestrians and bicyclists by increasing visibility; and
- Approximately 0.98 acre of on-site open space which capture precipitation and improves drainage, and provides a recreation space for residents

9. Permit Findings.

Vesting Tentative Map Findings. In accordance with San José Municipal Code (SJMC) Sections 19.12.130 and 19.12.220 and California Government Code Section 66474, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if the City Council makes any of the following findings:

- a. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
- b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density of development.
- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Based on review of the proposed subdivision, a Vesting Tentative Map to subdivide two lots into five lots for the development of a mixed-use project including ground floor commercial space, 239 market-rate residential housing units, and 89 affordable housing units on an approximately 7.42-gross acre site, the City Council of the City of San José does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan goals, policies, and land use designation, including the Signature Project Policy IP-5.10. The project also complies with the General Plan goals and policies related to Major Strategies, design, and Growth Areas, among others. The project site is physically suitable for the project and intensity because all project components are designed within the project site, and the trail improvements provide an amenity to the residents and community members.

Furthermore, the project site does not contain historic resources or sensitive habitats or wildlife.

Additionally, the site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plain. The project site, as well as the surrounding area, are currently developed with a surface parking lot and do not provide a natural habitat for either fish or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to provide a 15-foot wide sidewalk along Blossom Hill Road to include street trees within the public right-of-way, install a bike lane, and improve the intersections along the project frontage including signal modifications, ADA ramps, and crosswalks.

In accordance with the findings set forth above, a Vesting Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have granted this permit and determination except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
 - a. Acceptance of the Vesting Tentative Map by the Subdivider; and
 - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the City Council of the City of San José, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Vesting Tentative Map. The date of issuance is the date this Vesting Tentative Map is approved by the City Council. However, the Director of Planning, Building, and Code Enforcement may approve a Vesting Tentative Map Extension to extend the validity of this Vesting Tentative Map in accordance with Title 19.
3. **Development Rights - Vesting on Approval of Vesting Tentative Map.**
 - a. Per San José Municipal Code Section 19.13.070, the approval or conditional

approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

- b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
 - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
 - ii. The condition or denial is required, in order to comply with state or federal law.
- c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
 - i. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or lot maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those lots for which final maps or lot maps are not timely recorded.
 - ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.
 - iii. A Subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in 3.c.i. expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen (15) days.
 - iv. If the Subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
4. **Conformance to Plans.** The development of the site shall conform to the approved plans entitled, "Vesting Tentative Lot Map T20-012 VTA Blossom Hill Station TOD" dated March 11, 2021, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Vesting Tentative Map Plan Set."
5. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the

requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.

6. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Special Use Permit File No. SP20-012 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Special Use Permit for such lands automatically expires or for any reason ceases to be operative.
7. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
8. **Improvement Contract.** In the event the Subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code and shall provide the bonds and insurance mentioned therein.
9. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
10. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
11. **Conveyance of Easements.** Prior to recordation of the Final Map, the Subdivider shall offer to the City of San José a Covenant of Easement for joint use and emergency access purposes, in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across subject lots as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall inure to, all successors in interest to the affected real property.
12. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Vesting Tentative Map by Subdivider shall constitute acknowledgement of receipt of notice by Subdivider that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the

San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

13. Housing Conditions of Approval:

- a. The permittee has submitted an Affordable Housing Compliance Plan Application (Plan) and Processing Fee. Approval of the Plan is required prior to the development's planning application being deemed complete and prior to Planning's first approval.
 - i. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any lot or final map.
 - ii. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
 - iii. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
 - iv. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.
- b. For all Non-Residential development adding or constructing 5,000 square feet or more of new or additional floor area. An applicant is required to submit to the Housing Department, as part of its the application for First Approval the following: (a) Satisfaction Plan, (b) all attachments to the Satisfaction Plan and (c) the required application processing fee.
- c. Prior to the first to occur of the following: (a) approval of any final map, (b) approval of any lot map, or (c) issuance of any building permit for a rental residential development, if the subject project has been determined to be subject to the

Ordinance, the Inclusionary Housing Agreement must be recorded (senior to all deeds of trust) on the land including all lots needed to implement the project's residential uses and affordable housing obligation including contiguous property under common ownership and control.

- d. No Final Inspection Approval, Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units will be issued until all requirements of the Inclusionary Housing Agreement, Inclusionary Housing Ordinance and Guidelines are met.

14. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.

15. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.

16. **Conformance to Mitigation Monitoring and Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. _____.

17. **Standard Environmental Conditions.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

a. Air Quality

- i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
- ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.

- vii. Replant vegetation in disturbed areas as quickly as possible.
- viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- ix. Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measures Title 13, Section 2485 of the California Code of Regulations [CCR]). Provide clear signage for construction workers at all access points.
- x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

- i. The trees removed by the project would be replaced according to tree replacement ratios required by the City as provided in Table 1 below. Of the 69 trees on-site that would be removed, 55 trees would be replaced at a ratio 4:1 ratio and 14 trees would be replaced at a 2:1 ratio. As mentioned previously, there are eight native trees on and adjacent to the project site (including the area of the mixed-use development and trail improvements), however, none of these trees would be removed with the project. The total number of replacement trees required to be planted would be 248 trees. The project would plant a total of 87 replacement trees at 24-inch box size, 26 replacement trees at 36-inch box size, and 5 replacement trees at 60" box size, which is equivalent to 277 trees at 15-gallon size, which exceeds the City's Tree Replacement ratios.

Table 1: Tree Replacement Requirements				
Diameter of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12.1 inches or more ³	5:1	4:1	3:1	15-gallon container
6.1 – 12.1 inches	3:1	2:1	None	15-gallon container
Less than 6.1 inches	1:1	1:1	None	15-gallon container

¹ As measured 4.5 feet above ground level
² x:x = tree replacement to tree loss ratio
³ Ordinance-sized trees
Notes: Trees greater than or equal to 12.1 inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree is 12.1 inches in diameter.
One 24-inch box tree = Two 15-gallon trees.

If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
 - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
- ii. **Santa Clara Valley Habitat Plan.** The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The Permittee shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.

c. Cultural Resources

- i. Subsurface Cultural Resources. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- ii. Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Permittee shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - 1) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - 2) The MLD identified fails to make a recommendation; or
 - 3) The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
- iii. Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning

Building and Code Enforcement (PCBE) or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

c. Geology and Soils

- i. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- ii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- iii. The project site is within the State of California Seismic Hazard Zone of Required Investigation for Liquefaction. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist prior to the issuance of a grading permit. This report should include, but is not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The geotechnical investigation report shall be reviewed and approved by the Department of Public Works as part of the building permit review and entitlement process.
- iv. A design level geotechnical corrective plan must be set to be approved for a grading permit, if ground improvements to mitigate settlement, liquefaction, landslides, or other geologic hazards are recommended in the geotechnical report submitted for the project.
- v. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall

be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

d. Hydrology and Water Quality

The project would be required to implement the following best management practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:

- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
- viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- ix. The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- x. A Storm Water Permit will be administered by the State Water Resources Control Board. Prior to construction grading for the project land uses, the project proponent shall file a Notice of Intent to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures shall include, but are not limited to, the aforementioned RWQCB Best Management Practices.
- xi. The SWPPP shall be posted at the project site and shall be updated to reflect current site conditions.
- xii. When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the SWRCB. The NOT shall

document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

- e. **Noise.** The Permittee shall implement the following Standard Permit Conditions to minimize the impacts of construction-generated noise.
- i. Prior to the issuance of any building permit, the Permittee shall ensure all outdoor use areas achieve future exterior noise levels at or below the City's "normally acceptable" threshold of 60 dBA DNL at the center of the spaces where reasonably achievable. For common outdoor use areas where 60 dBA DNL is not reasonably achievable, measures shall be incorporated to achieve reasonable "conditionally acceptable" noise levels at the centers of the outdoor use spaces.
 - ii. The Permittee shall retain a qualified acoustical consultant to review the final site plan in order to determine specific noise reduction measures to meet the City's requirements. Noise reduction measures could include increased setbacks, using the building façades as noise barriers, the construction of traditional noise barriers, or a combination of these methods. The Permittee's retained qualified acoustical consultant shall prepare a detailed acoustical study during final building design to evaluate the land use compatibility of the common use outdoor spaces with the future noise environment at the site and to identify the necessary noise controls that are included in the design to meet the City's requirements. The study shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permit.
 - iii. The Permittee shall prepare final design plans that incorporate building design and acoustical treatments with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce ambient interior noise levels to 45 dBA DNL or lower and to achieve the instantaneous noise objective of 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms within the residential unit. The Permittee shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.
 - iv. Fenced Dog Walk: Construct a noise barrier or specially designed fence along the perimeter of the dog walk area. The barrier will be located around the perimeter of the dog walk, attaching to Building A at both ends. The barrier shall be continuous from grade to top, with no cracks or gaps, and be constructed from materials having a minimum surface density of 3 lbs/square foot (e.g., one-inch nominal thickness wood fence boards, ½-inch laminated glass, masonry block, or concrete masonry units (CMU)). Installation of an eight-foot

barrier would reduce future exterior noise levels to 65 dBA DNL which would be within the City's conditionally acceptable range for outdoor residential uses.

- v. Neighborhood Amenity Space (Building A): With partial shielding from the building, this use area would have an ambient noise level 65 dBA DNL. This is within the City's conditionally acceptable range and no additional noise attenuation is required. If, however, the City would require the outdoor use area to reduce noise levels an acceptable level of 60 dBA DNL, a 10-foot barrier enclosing the space shall be required.
- vi. Building B Amenity Space: With partial shielding from the building, this use area would have an ambient noise level 65 dBA DNL. This is within the City's conditionally acceptable range and no additional noise attenuation is required. If, however, the City would require the outdoor use area to reduce noise levels to an acceptable level of 60 dBA DNL, a six-foot barrier enclosing the space shall be required.
- vii. Deck Area Along the Eastern Façade of Building A: A barrier shall be constructed along the perimeter of the third-floor deck, attaching to the building at both ends. The barrier shall be continuous from grade to top, with no cracks or gaps, and be constructed from materials having a minimum surface density of 3 lbs/square foot. Material to be clear plexiglass or similar, or to be consistent with and complementary to the building color and materials.

To achieve 60 dBA DNL, a barrier height of 10 feet is required due to the direct line-of-sight to SR 85; however, this area is a relatively small space, and a barrier height of 10 feet would affect the aesthetic appeal. With the implementation of a six-foot barrier, noise levels would reduce to below 65 dBA DNL, which is within the range of "conditionally acceptable" noise levels.
- viii. Deck Area Along the Southern Façade of Building A: A six-foot barrier is required that enclosing the area. The barrier would reduce noise levels at this south-facing deck to below 60 dBA DNL.
- ix. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- x. Preliminary calculations indicate that residential units along the façades of Buildings A and B shall require windows and doors with the minimum STC ratings summarized in Table 5, as well as the incorporation of adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.

18. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the subdivider will be required to have satisfied all of

the following Public Works conditions as described in the Special Use Permit (SP20-012).

19. **Revocation, Suspension, Modification.** This Vesting Tentative Map may be revoked, suspended or modified by the City Council at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Vesting Tentative Map was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

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In accordance with the findings set forth above, a Vesting Tentative Map to use the subject property for said purpose specified above, subject to conditions, is hereby **approved**.

ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

BEING THAT PORTION OF THOSE CERTAIN LANDS DESCRIBED IN THE DEED TO JOE THUER AND JOSI THUER IN [BOOK 4747, PAGE 28 OF OFFICIAL RECORDS](#) OF SAID COUNTY, LYING WITHIN A PORTION OF THE RANCHO SANTA TERESA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE STATE OF CALIFORNIA "BHR1-LINE", BEING THE CONSTRUCTION CENTERLINE OF THE STATE OF CALIFORNIA ROUTE 85 BLOSSOM HILL AVENUE RAMP WITH THE STATE OF CALIFORNIA "BHR-LINE", BEING THE CONSTRUCTION CENTERLINE OF THE STATE OF CALIFORNIA ROUTE 85 BLOSSOM HILL ROAD OVER HEAD CROSSING, BOTH AS SHOWN ON THE SANTA CLARA COUNTY TRANSPORTATION AGENCY, GUADALUPE CORRIDOR PROJECT, BLOSSOM HILL PARK AND RIDE RIGHT OF WAY MAP, SHEET 4 OF 25, APPROVED NOVEMBER 21, 1989; THENCE ALONG SAID BHR1-LINE, NORTH 00° 08' 52" WEST 117.95 FEET; THENCE LEAVING SAID CENTERLINE, SOUTH 89° 51' 08" WEST 54.00 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE BEGINNING POINT OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1743.91 FEET, FROM WHICH THE RADIUS POINT BEARS NORTH 15° 12' 28" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15° 26' 18", AN ARC DISTANCE OF 469.90 FEET; THENCE NORTH 89° 46' 10" WEST 47.60 FEET, THENCE NORTH 69° 46' 10" WEST 26.31 FEET; THENCE NORTH 89° 46' 10" WEST 38.03 FEET TO A POINT IN THE CENTERLINE OF CANOAS CREEK, THAT CERTAIN 75.00 FOOT WIDE DRAINAGE EASEMENT AS SHOWN ON RECORD OF SURVEY FILED IN [BOOK 133 OF MAPS, PAGES 7-25](#), OFFICIAL RECORDS OF SAID SANTA CLARA COUNTY; THENCE ALONG SAID CENTERLINE, NORTH 09° 23' 23" WEST 781.43 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF STATE ROUTE 85 AS SHOWN ON RECORD OF SURVEY FILED IN [BOOK 732 PAGES 38-51](#), OFFICIAL RECORDS OF SAID SANTA CLARA COUNTY; THENCE ALONG SAID SOUTHWESTERLY LINE THE FOLLOWING COURSES: SOUTH 52° 52' 41" EAST 58.62 FEET; THENCE SOUTH 65° 07' 52" EAST 85.04 FEET; THENCE SOUTH 53° 15' 58" EAST 451.50 FEET; THENCE SOUTH 56° 14' 00" EAST 128.73 FEET TO THE BEGINNING POINT OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 246.00 FEET, FROM WHICH THE RADIUS POINT BEARS SOUTH 33° 46' 00" WEST; THENCE SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 56° 05' 08", AN ARC DISTANCE OF 240.80 FEET; THENCE SOUTH 00° 08' 52" EAST 102.74 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: BASIS OF BEARINGS FOR THE ABOVE DESCRIPTION IS THE CALIFORNIA COORDINATE SYSTEM OF 1927, (ZONE 3). THE DISTANCES SHOWN ARE GRID DISTANCES, AND SHOULD BE MULTIPLIED BY 1.0000478 TO OBTAIN GROUND LEVEL DISTANCES. THE INFORMATION SHOWN IS BASED ON A COMBINATION OF RECORD AND MEASURED DATA.

PARCEL TWO:

BEING A PORTION OF THE BLOSSOM HILL ROAD, FORMERLY DOWNER AVENUE, LYING WITHIN A PORTION OF THOSE CERTAIN LANDS DESCRIBED IN THE DEED TO JOE THUER AND JOSI THUER IN [BOOK 4747 PAGE 28 OF OFFICIAL RECORDS](#) OF SAID COUNTY, LYING WITHIN A PORTION OF THE RANCHO SANTA TERESA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE STATE OF CALIFORNIA "BHR1-LINE, BEING THE CONSTRUCTION CENTERLINE OF THE STATE OF CALIFORNIA ROUTE 85 BLOSSOM HILL AVENUE RAMP WITH THE STATE OF CALIFORNIA "BHR-LINE", BEING THE CONSTRUCTION CENTERLINE OF THE STATE OF CALIFORNIA ROUTE 85 BLOSSOM HILL ROAD OVER HEAD CROSSING, BOTH AS SHOWN ON THE SANTA CLARA COUNTY TRANSPORTATION AGENCY, GUADALUPE CORRIDOR PROJECT, BLOSSOM HILL PARK AND RIDE RIGHT OF WAY MAP, SHEET 4 OF 25, APPROVED NOVEMBER 21, 1989; THENCE ALONG SAID BHR1-LINE, NORTH 00° 08' 52" WEST 117.95 FEET; THENCE LEAVING SAID CENTERLINE,

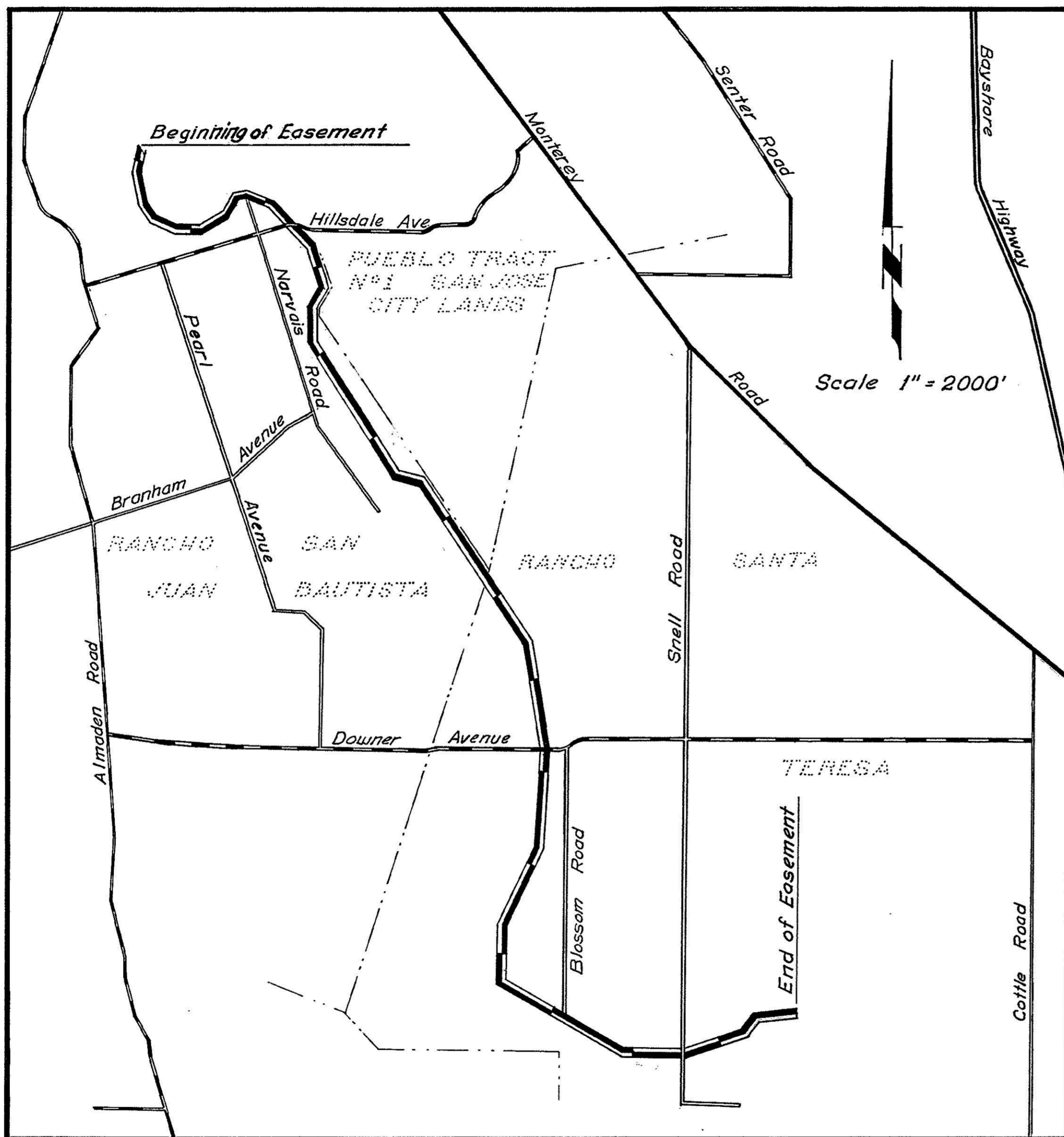
**EXHIBIT A
(Continued)**

SOUTH 89° 51' 08" WEST 54.00 FEET TO THE TRUE POINT OF BEGINNING, THENCE SOUTH 00° 08' 52" EAST 35.82 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 20.00 FEET, FROM WHICH THE RADIUS POINT BEARS SOUTH 89° 51' 08" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 31.42 FEET; THENCE SOUTH 89° 51' 08" WEST 220.70 FEET; THENCE NORTH 86° 08' 37" WEST 50.15 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1743.91 FEET, FROM WHICH THE RADIUS POINT BEARS NORTH 05° 29' 27" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 09° 43' 01", AN ARC DISTANCE OF 295.76 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: BASIS OF BEARINGS FOR THE ABOVE DESCRIPTION IS THE CALIFORNIA COORDINATE SYSTEM OF 1927, (ZONE 3). THE DISTANCES SHOWN ARE GRID DISTANCES, AND SHOULD BE MULTIPLIED BY 1.0000478 TO OBTAIN GROUND LEVEL DISTANCES. THE INFORMATION SHOWN IS BASED ON A COMBINATION OF RECORD AND MEASURED DATA.

[APN: 464-22-032](#)

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LOCATION MAP

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made under my direction in conformance with the requirements of Chapter 15 of Division 3 of the Business and Professions code at the request of Santa Clara County Flood Control and Water Conservation District in September, 1960.

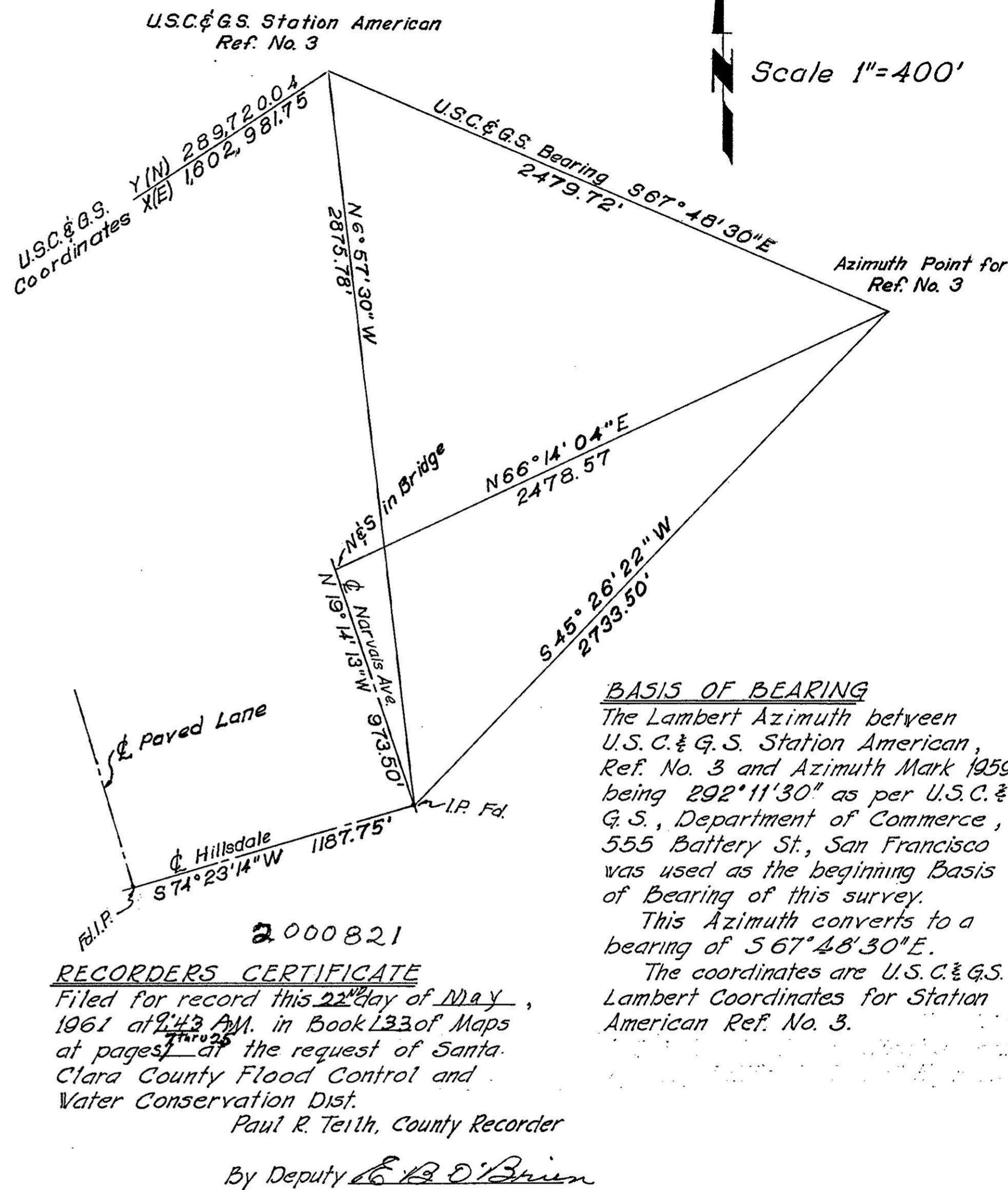
James T. Pott
County Surveyor, R.C.E. No. 9785

COUNTY SURVEYOR'S CERTIFICATE

This map has been examined for conformance with the requirements of Chapter 15 of Division 3 of the Business and Professions Code this 13th day of May 1961.

James T. Pott, County Surveyor

By Deputy *Joseph C. Sweeney*



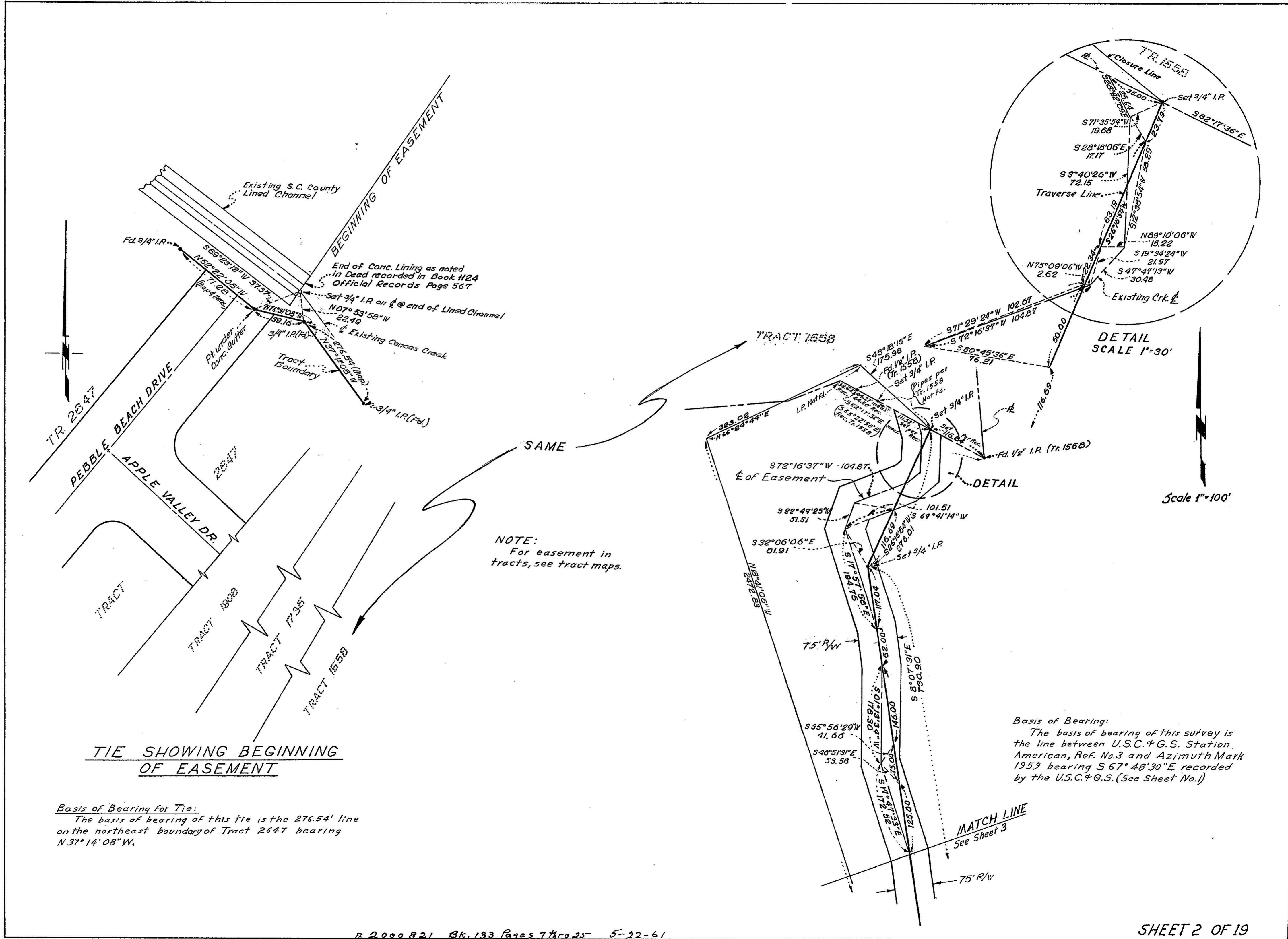
RECORD OF SURVEY

SHOWING THE DRAINAGE EASEMENT OF S. C. C. F. C. & W. C. D.

IN THE RANCHO SAN JUAN BAUTISTA RANCHO SANTA TERESA AND PUEBLO TRACT No. 1, SAN JOSE CITY LANDS DESCRIBED IN BOOK 4272 PAGE 639 OF SANTA CLARA COUNTY OFFICIAL RECORDS RECORDED ON DECEMBER 29, 1958.

SHEET 1 OF 19

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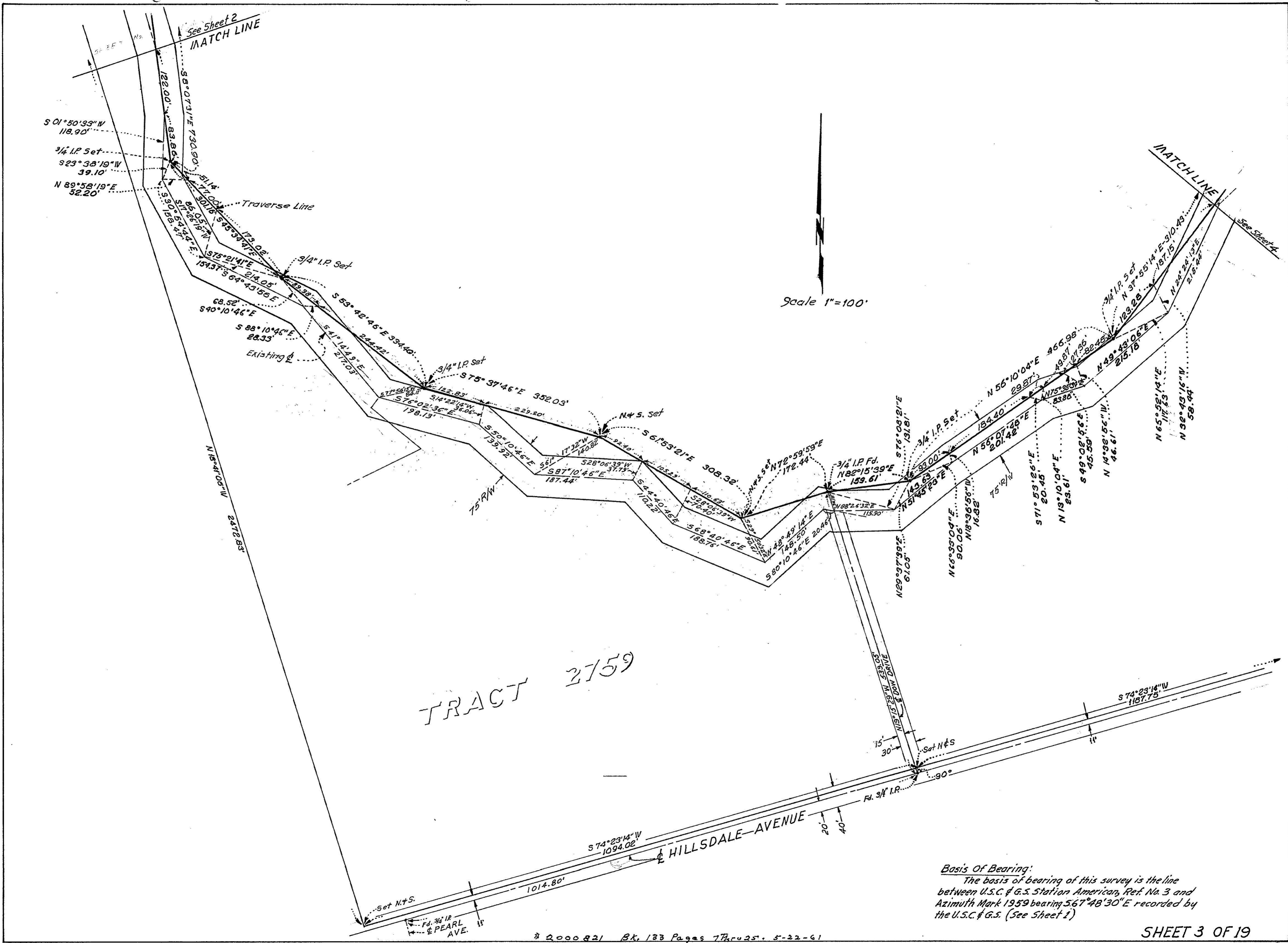
TIE SHOWING BEGINNING OF EASEMENT

Basis of Bearing for Tie:
 The basis of bearing of this tie is the 276.54' line on the northeast boundary of Tract 2647 bearing N 37° 14' 08" W.

NOTE:
 For easement in tracts, see tract maps.

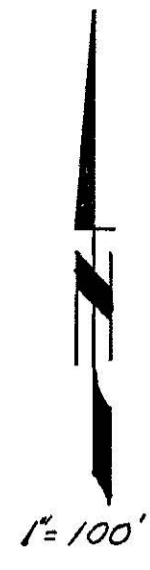
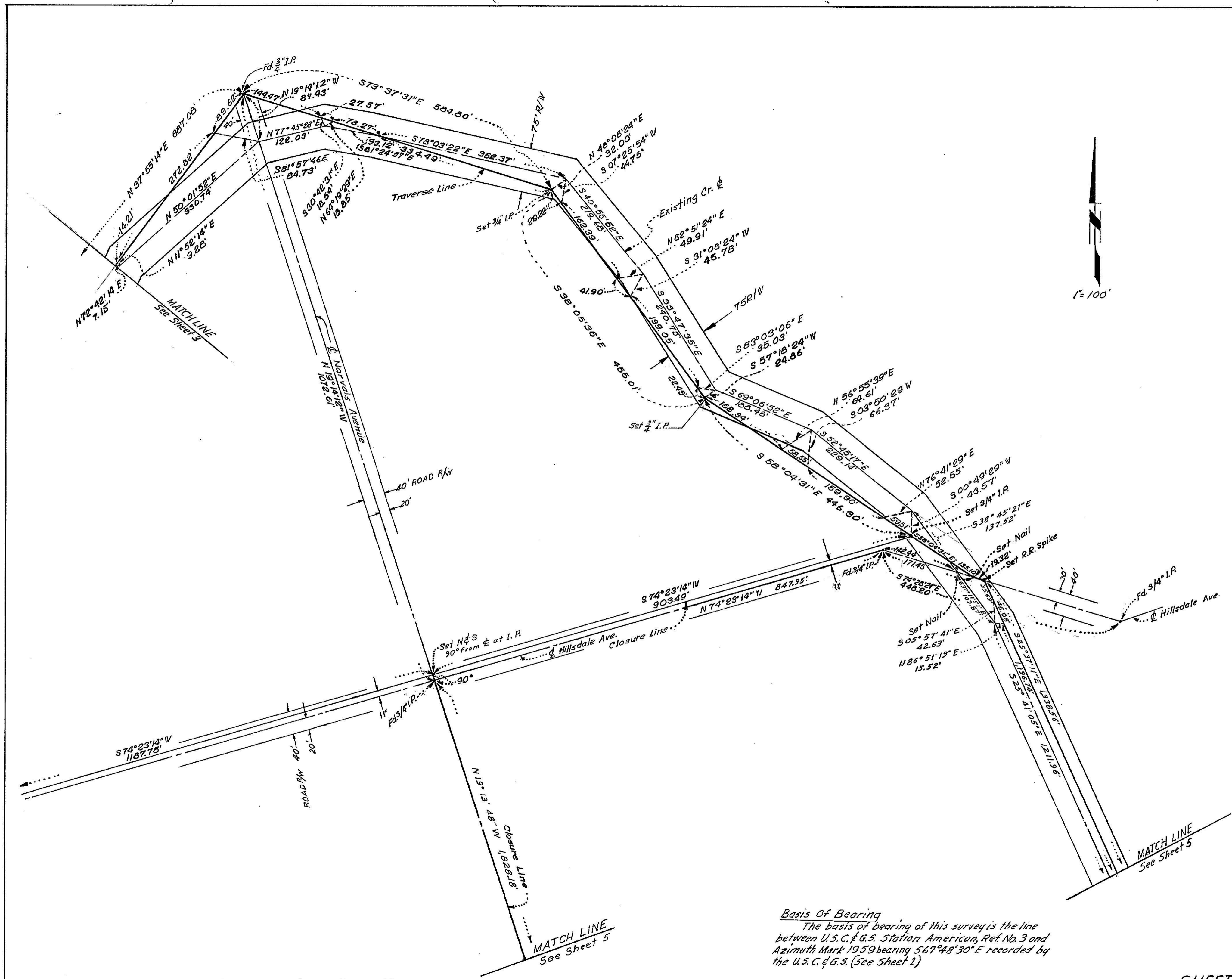
Basis of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No.3 and Azimuth Mark 1959 bearing S 67° 48' 30" E recorded by the U.S.C. & G.S. (See Sheet No.1)

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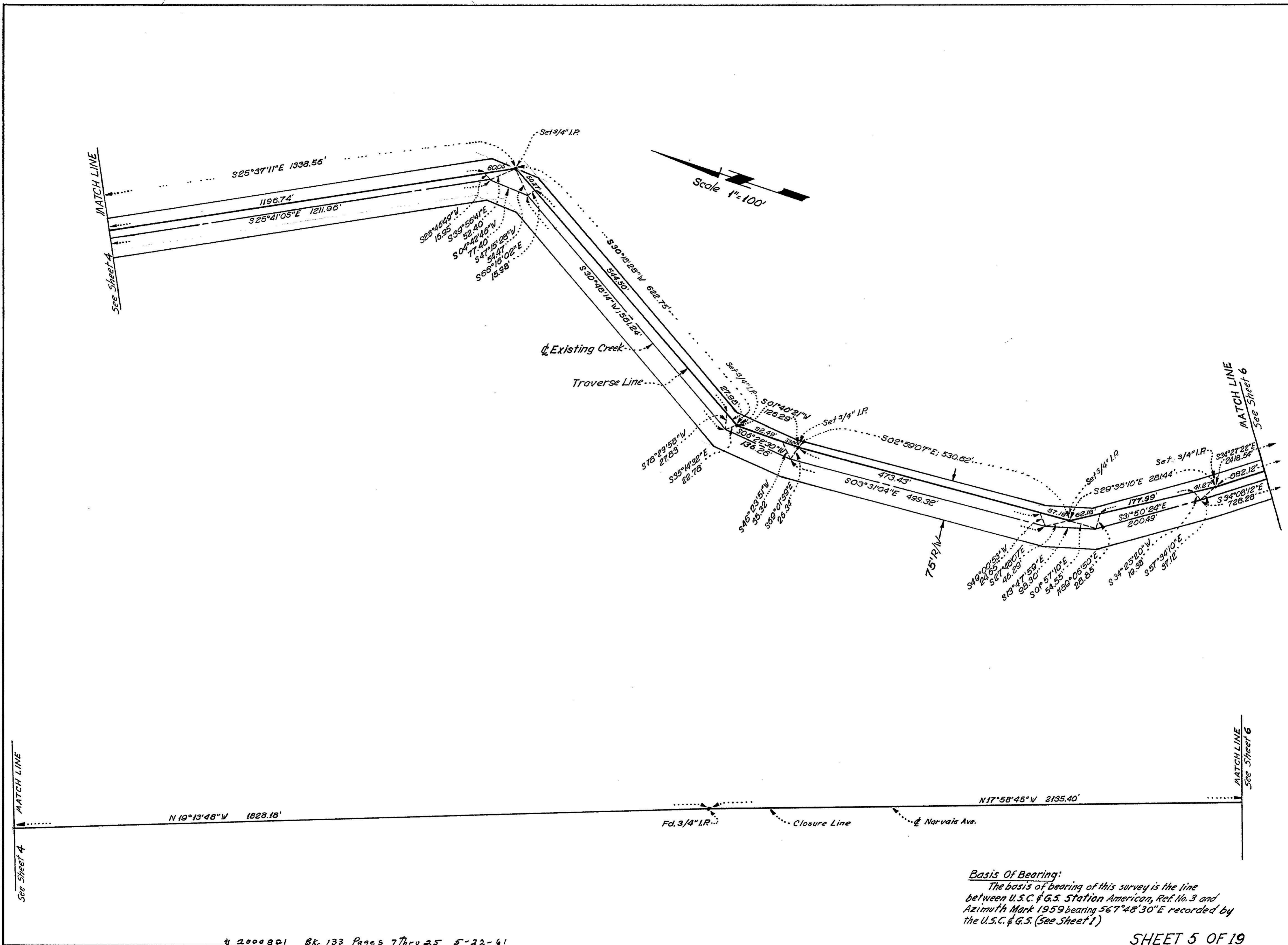
Basis Of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing 567° 48' 30" E recorded by the U.S.C. & G.S. (See Sheet 1)

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Basis Of Bearing
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing $567^{\circ}48'30''$ E recorded by the U.S.C. & G.S. (see Sheet 1)

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Basis of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing 56°7'48"30"E recorded by the U.S.C. & G.S. (See Sheet 1)

See Sheet 7
MATCH LINE

Traverse Line

Existing Creek

75' R/W

1382.91'

S 34° 11' 03" E 1382.91'

S 34° 27' 22" E 2418.54'

1/4 I.P.

15.18'

274.39'

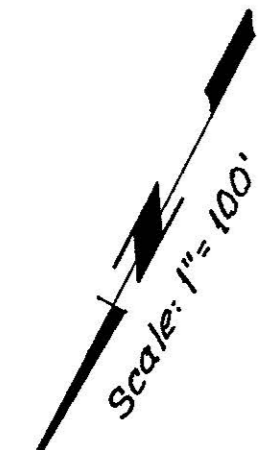
S 33° 43' 43" E 331.09'

3481'

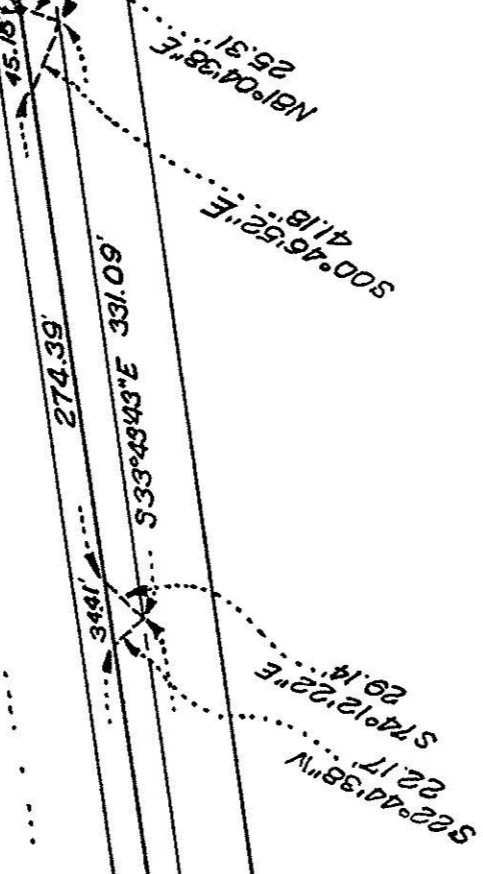
682.12'

S 34° 08' 12" E 723.28'

See Sheet 5
MATCH LINE



Scale: 1" = 100'



See Sheet 7
MATCH LINE

N 17° 58' 45" V 2135.40'

Narvais Ave.

N 23° 13' 19" V 404.96'

Closure Line

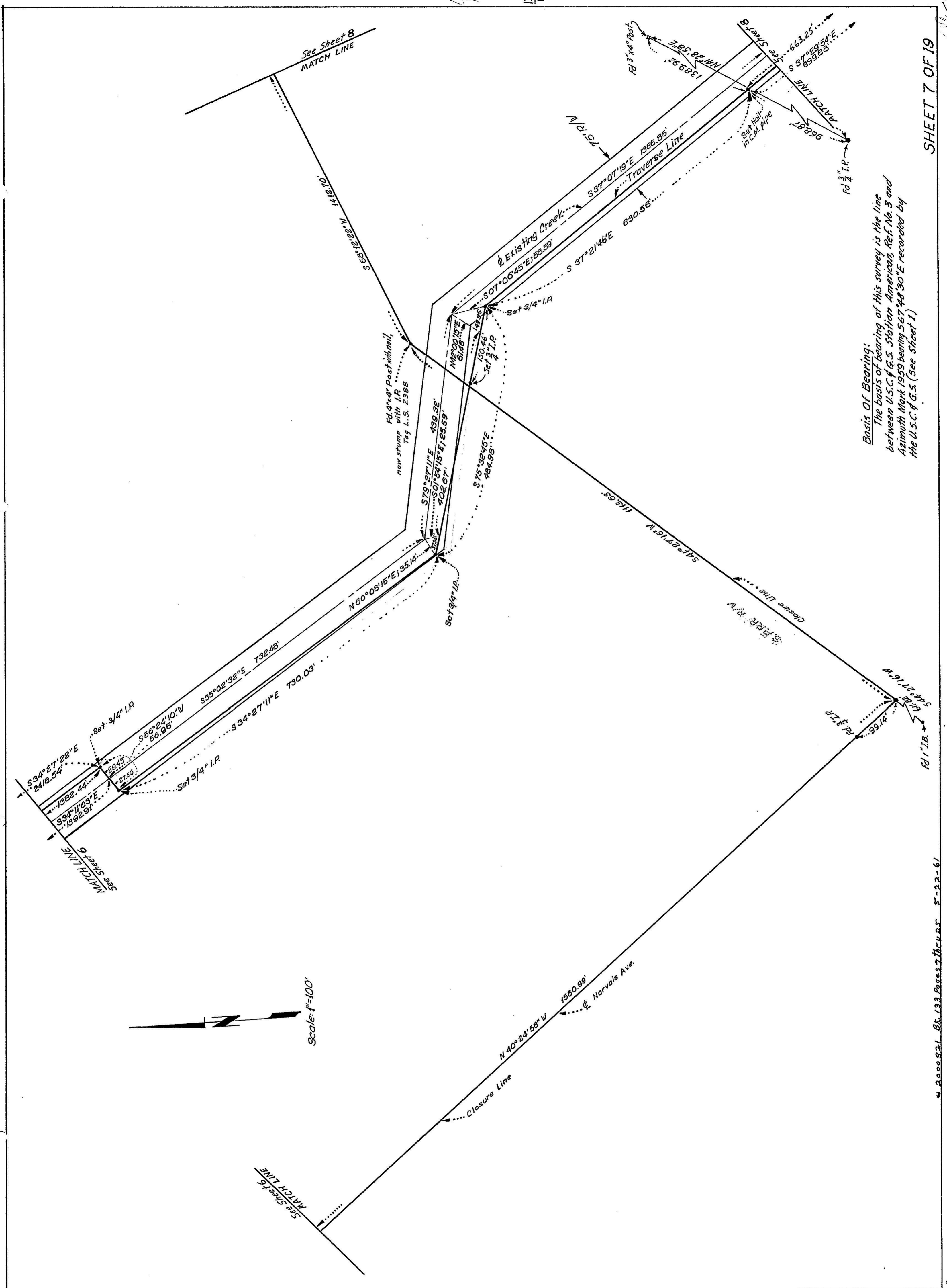
N 34° 03' 33" V 700.23'

N 140° 24' 58" W 1580.59'

See Sheet 5
MATCH LINE

Basis Of Bearing
The basis of bearing of this survey is the line
between U.S.C. & G.S. Station American, Ref. No. 3 and
Azimuth Mark 19559 bearing S 61° 48' 30" E recorded by
the U.S.C. & G.S. (See Sheet 1)

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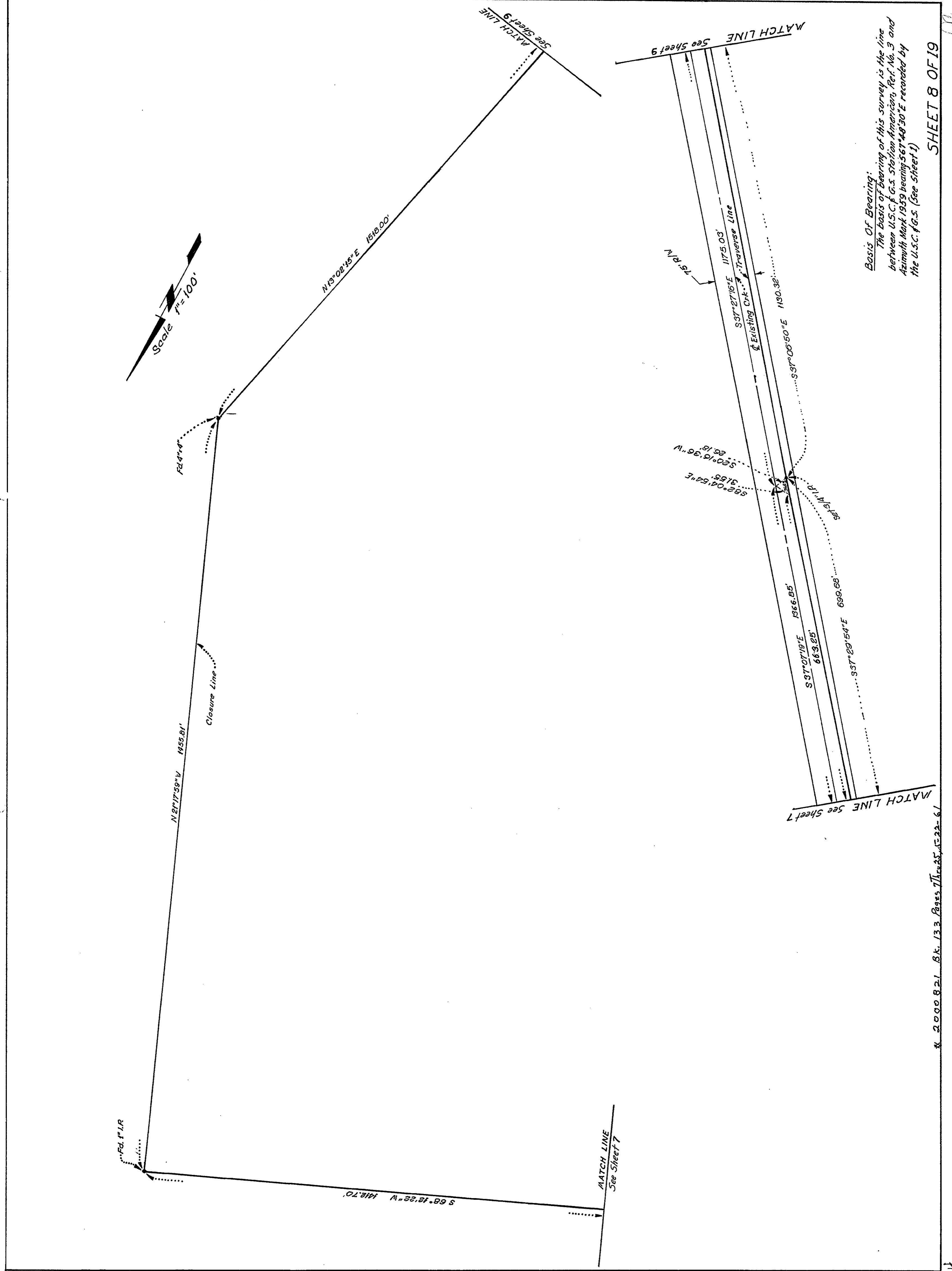


Basis Of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American Ref. No. 3 and Azimuth Mark 1959 bearing S 67° 48' 30" E recorded by the U.S.C. & G.S. (see Sheet 1)



4-2000821 Bl. 133 Pass. 7 H. L. S. 5-22-61

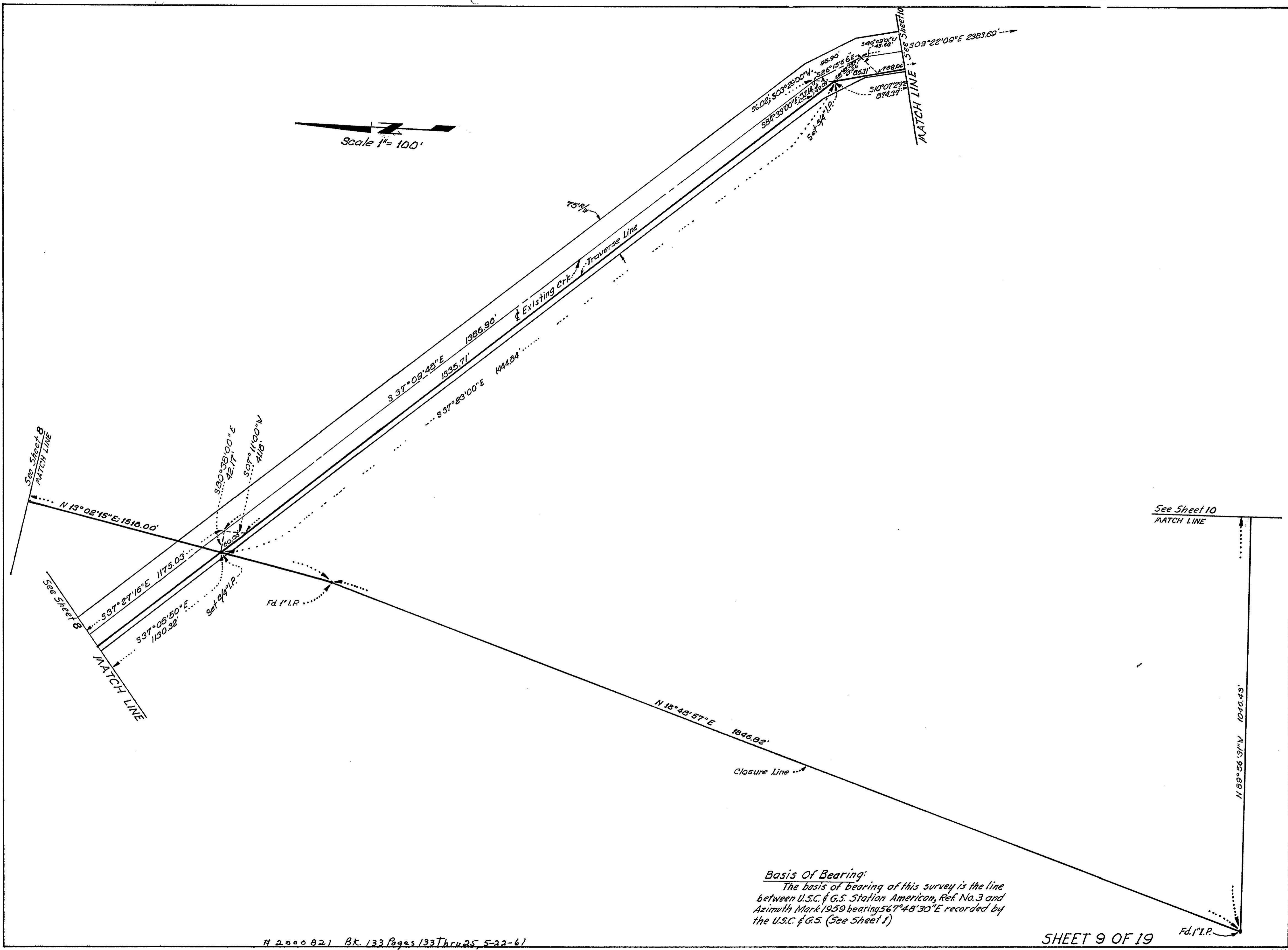
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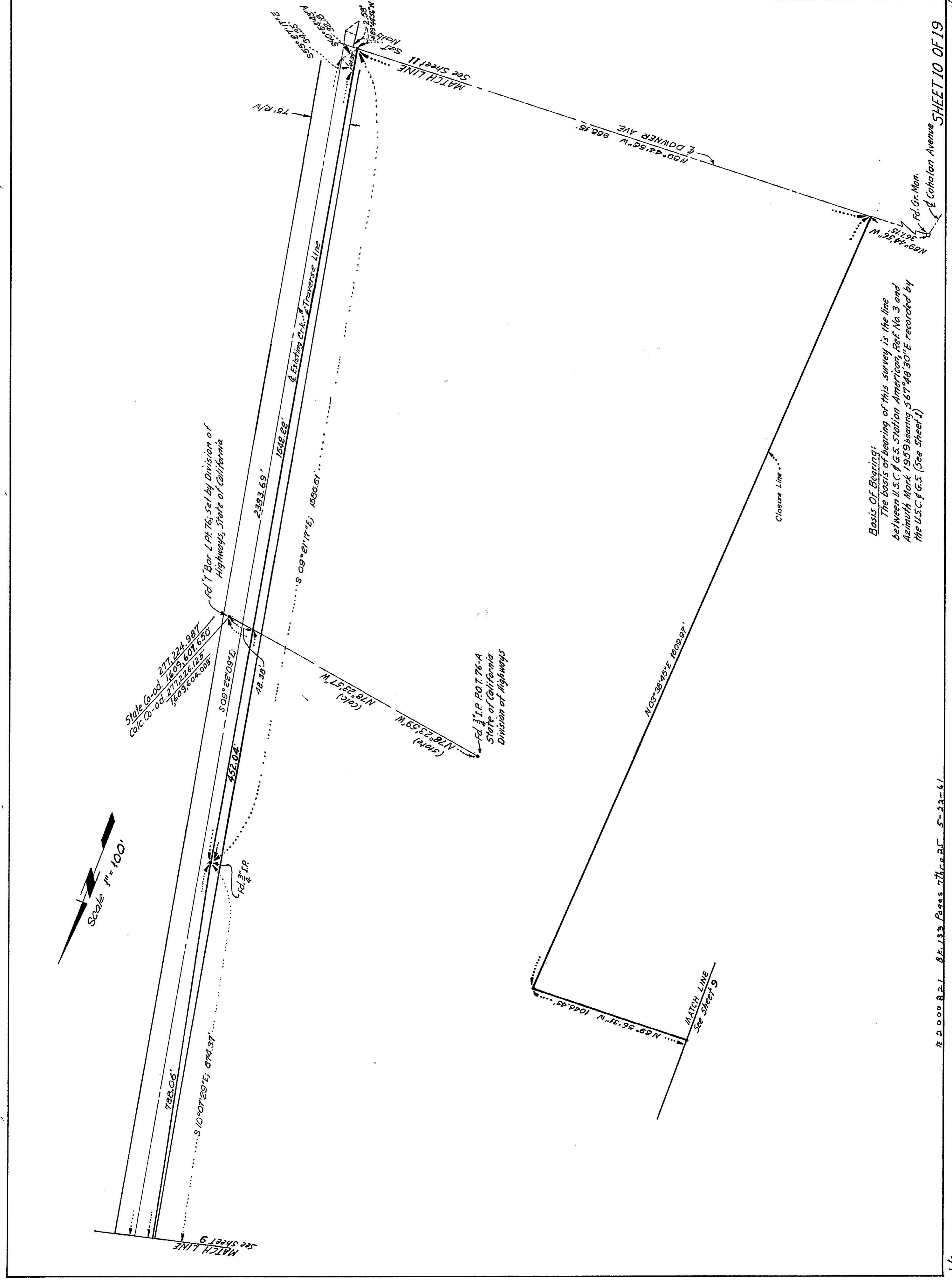
Basis Of Bearing:
 The basis of bearing of this survey is the line
 between U.S.C. & G.S. Station American, Ref. No. 3 and
 Azimuth Mark 1959 bearing 567° 48' 30" E recorded by
 the U.S.C. & G.S. (See Sheet 1)

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

This map/plot is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.



Basis of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing 567° 48' 30" E recorded by the U.S.C. & G.S. (See Sheet 1)



Basis Of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American Ref. No. 3 and Azimuth Mark 1959 bearing S 67° 48' 30" E recorded by the U.S.C. & G.S. (See Sheet 1)

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MATCH LINE
See Sheet 12

Fd 3/1 P Blossom Ave.

N 00° 15' 01" E 5772.30'

Closure Line

MATCH LINE
See Sheet 10

509° 31' 08" E 47.14'
598.53' N89° 44' 56" W

59° 20' 59" E 47.14'
59° 20' 59" E 47.14'
59° 20' 59" E 47.14'

SCALE 1" = 100'

ser/Nail
ser/Nail
2.58'
N89° 44' 56" W

S 03° 59' 32" W 1987.42'
1887.59'

1985.35'

Existing Crk. Traverse Line

75' R/W

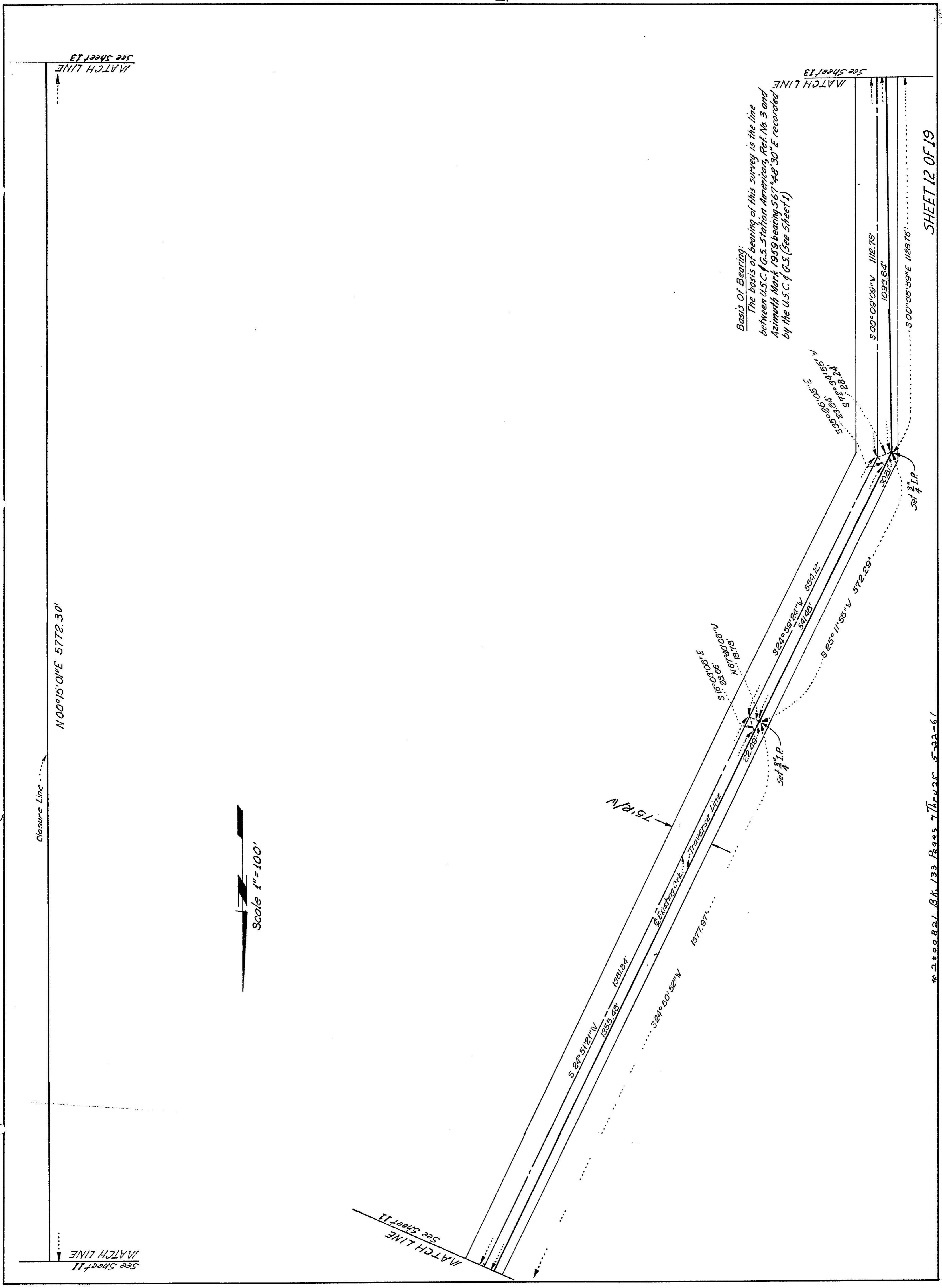
MATCH LINE
See Sheet 12
S 25° 11' 29" E 40.05'
N 79° 02' 59" W 19.34'
S 24° 51' 12" W 138.82'
N 12° 53' 48" W 133.33'
S 24° 51' 12" W 138.82'
N 79° 02' 59" W 19.34'
S 25° 11' 29" E 40.05'

Basis of Bearing:
The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing 567° 48' 30" E recorded by the U.S.C. & G.S. (See Sheet 1)

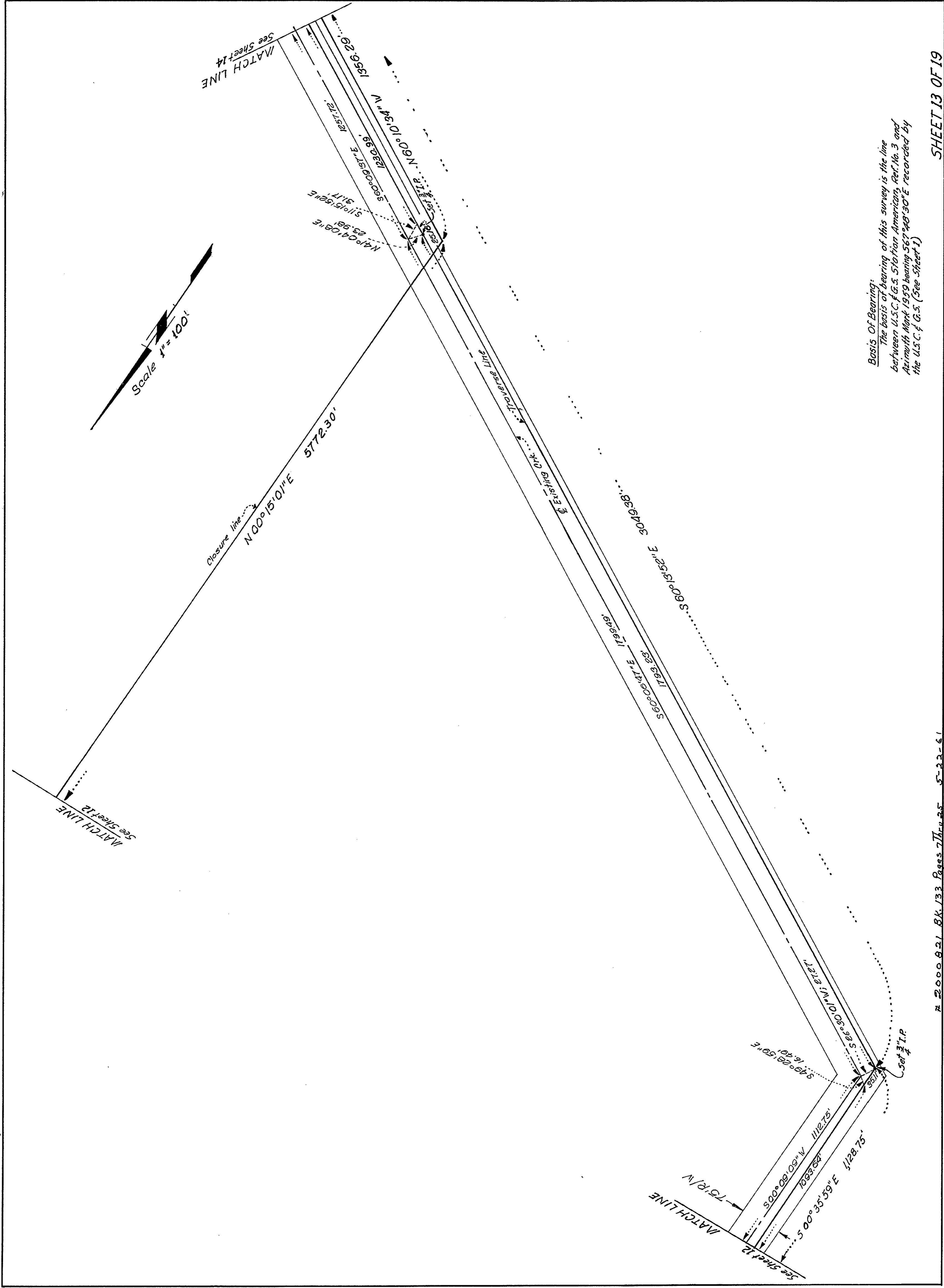
2000821 Bk. 133 Pages 7 Thru 25 5-22-61

SHEET 11 OF 19

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

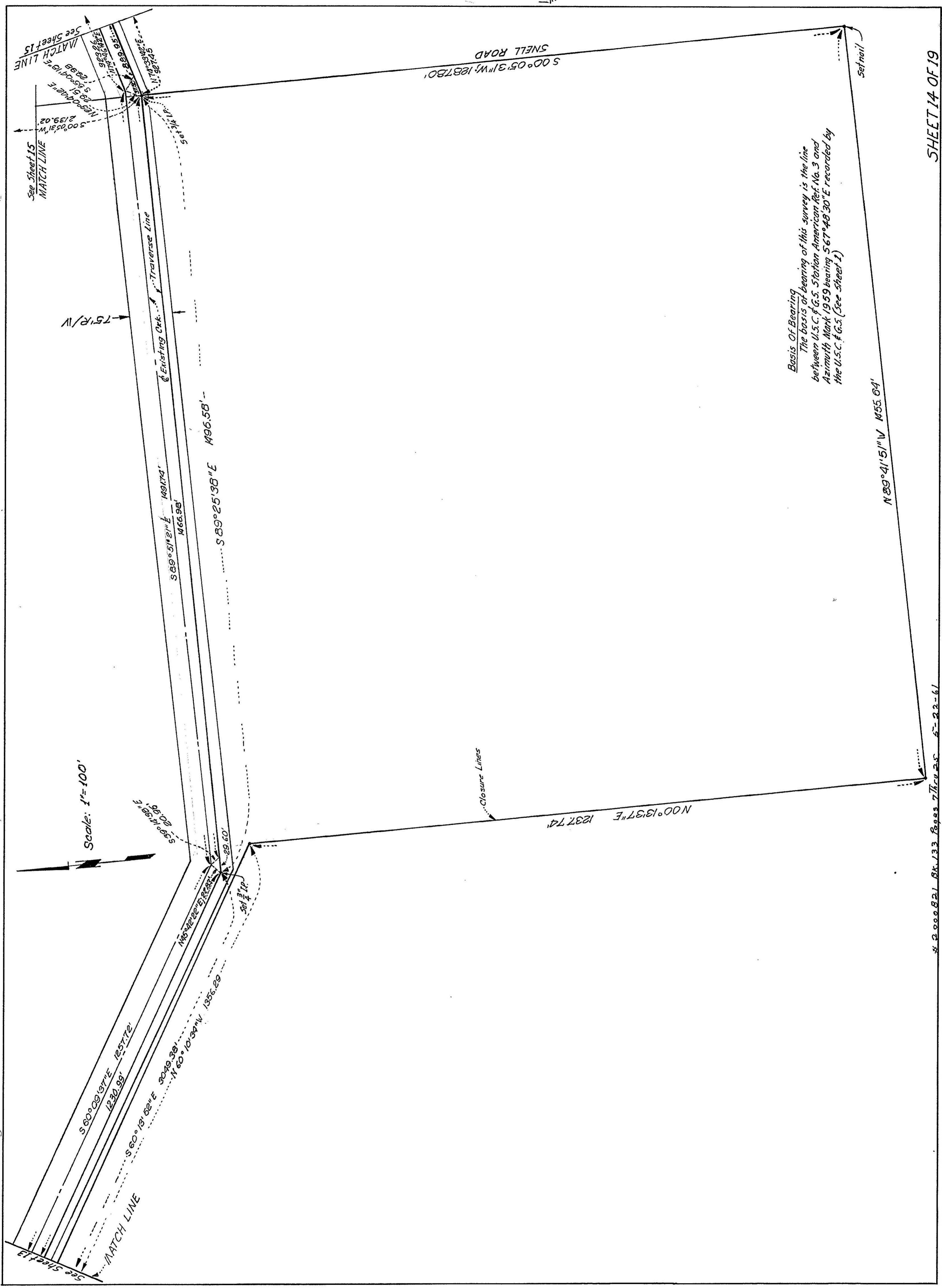


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Basis Of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station Americana, Ref. No. 3 and Azimuth Mark 1959 bearing S 67° 48' 30\"/>

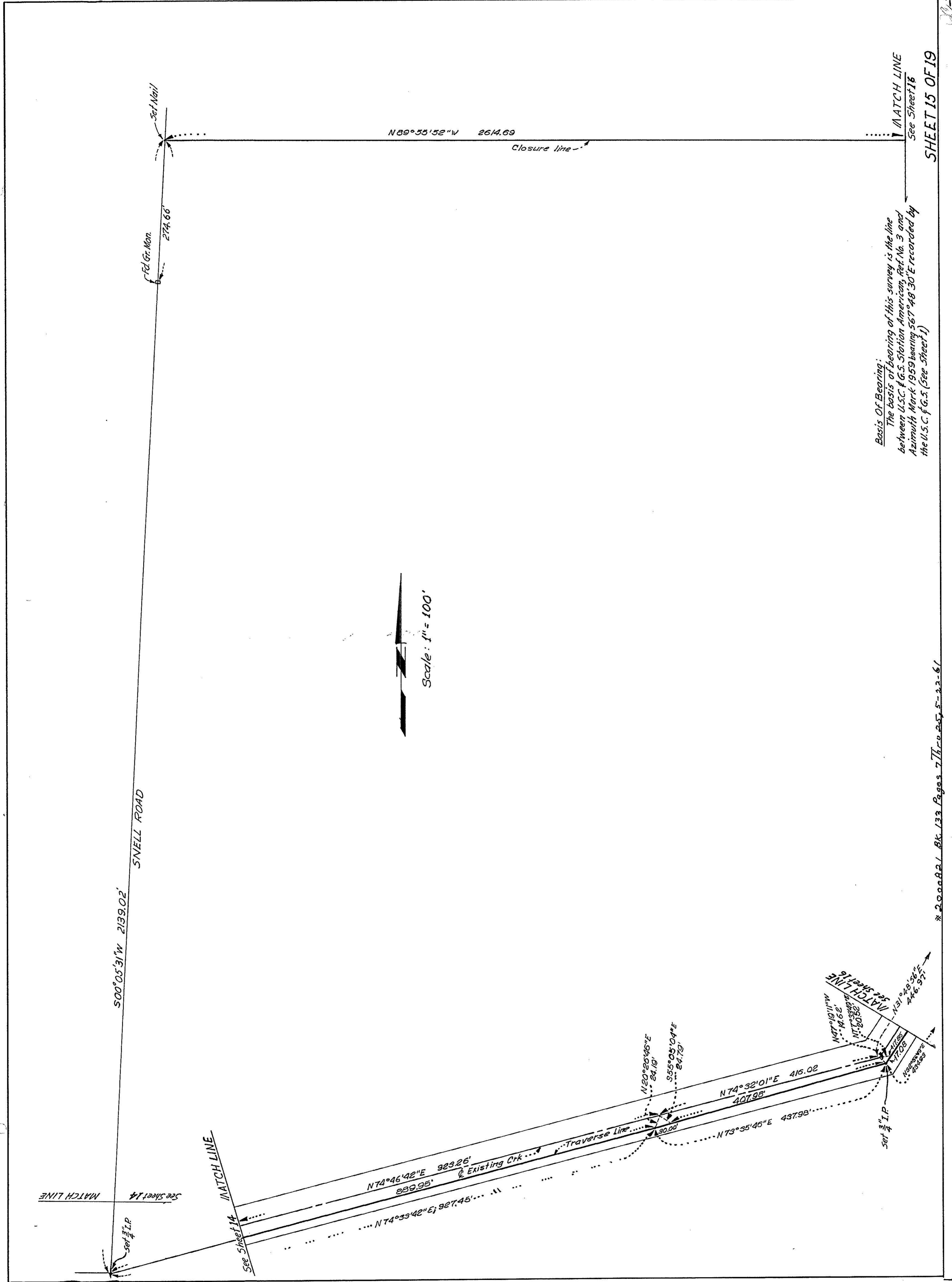
This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.



SHEET 14 OF 19

2 000 821 BK 133 Regs. 7/1/20 5-22-61

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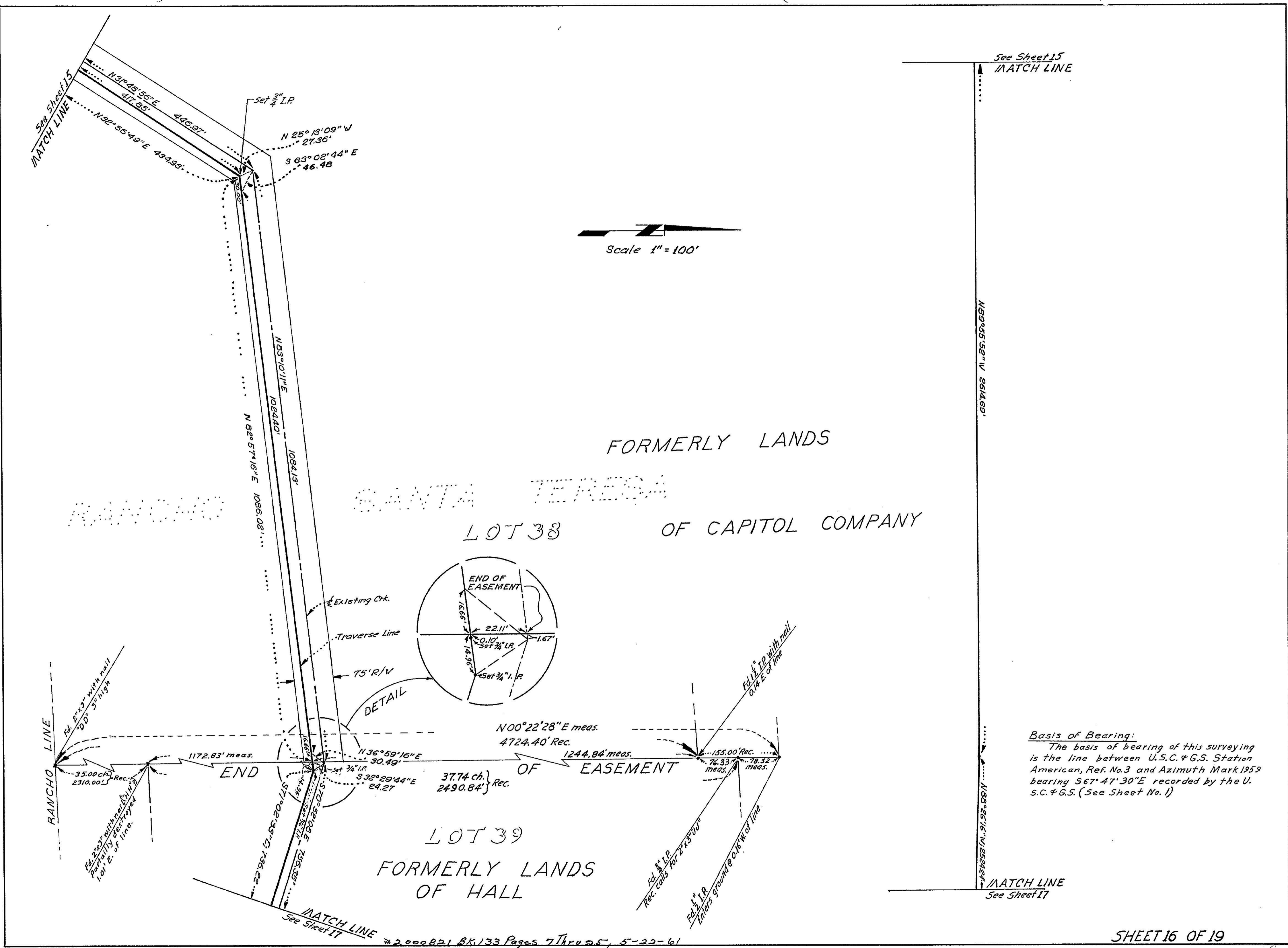
Basis Of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, ref. No. 3 and Azimuth Mark 1959 bearing $S67^{\circ}48'30''E$ recorded by the U.S.C. & G.S. (See Sheet 1)

* 2000021 Bk 133 Pgs 7 Trv 25.5-22.6/

SHEET 15 OF 19

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See Sheet 15
MATCH LINE



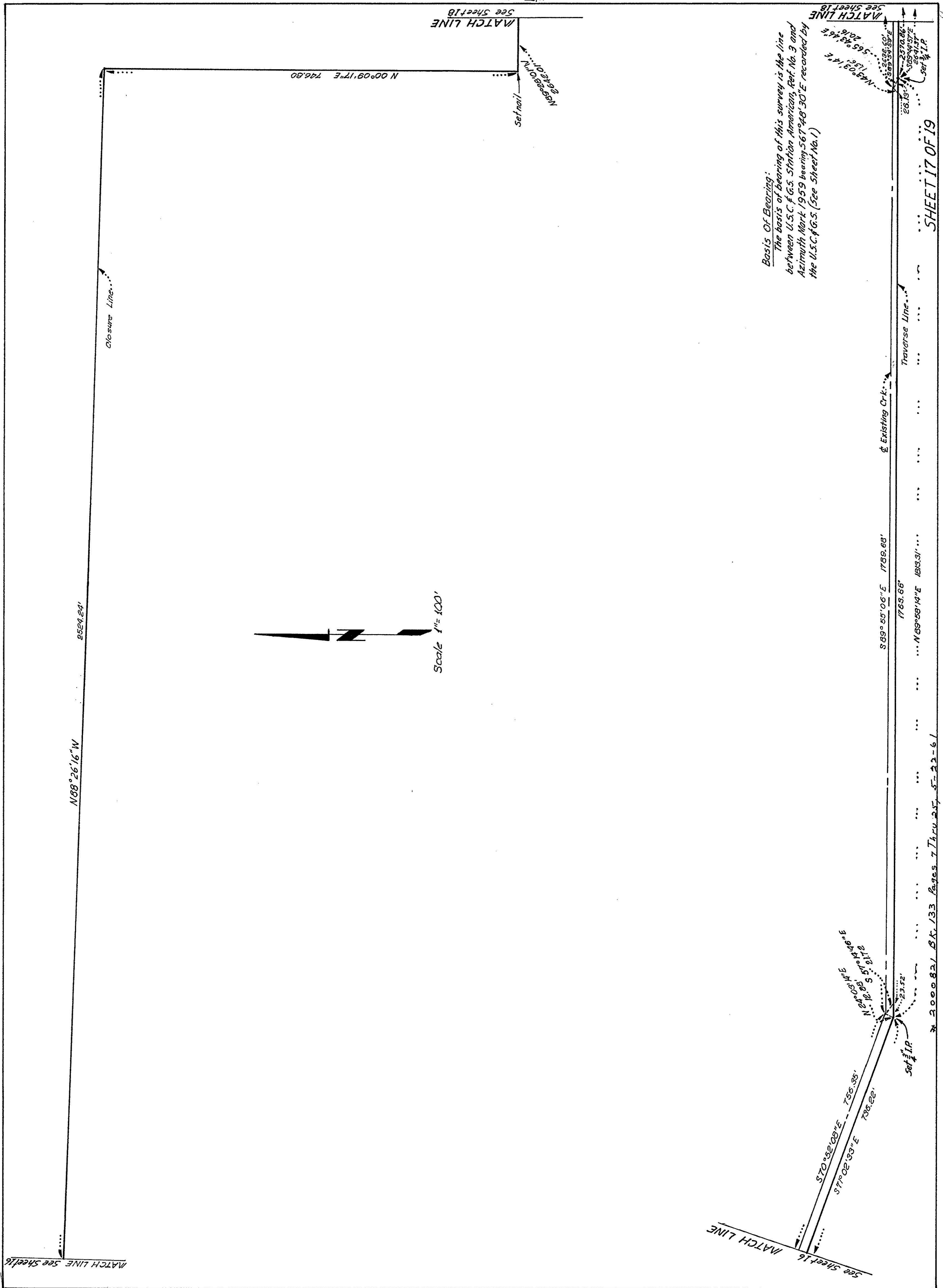
FORMERLY LANDS
SANTA TERESA
LOT 38
OF CAPITOL COMPANY

LOT 39
FORMERLY LANDS
OF HALL

N 89° 55' 52" W 2614.60'

MATCH LINE
See Sheet 17

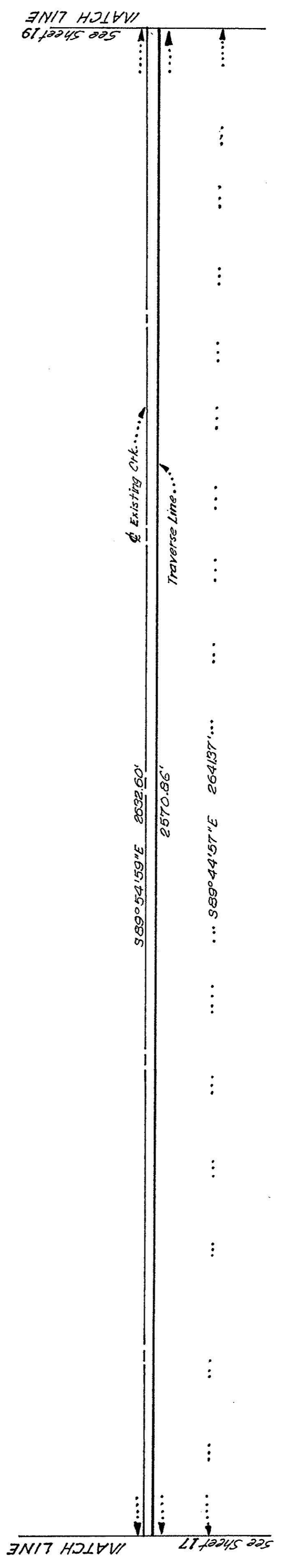
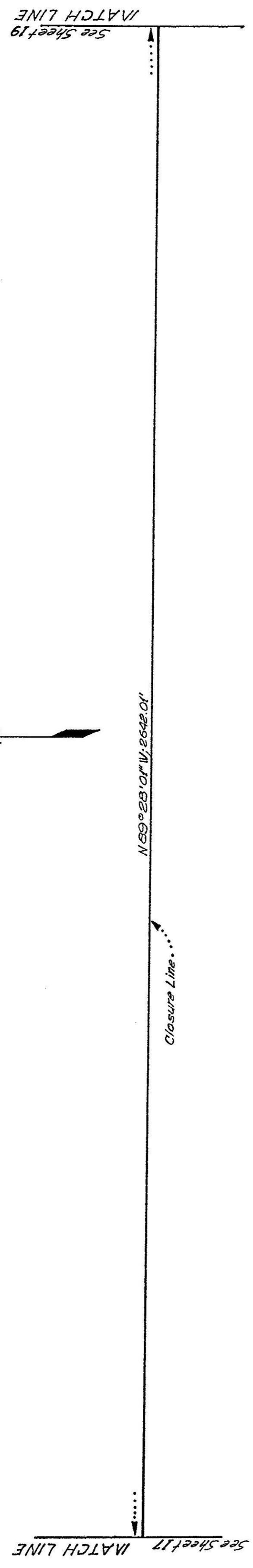
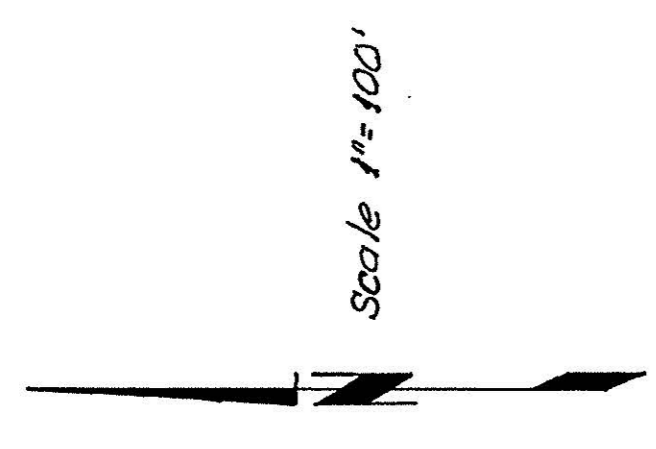
Basis of Bearing:
The basis of bearing of this surveying is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing 567° 47' 30" E recorded by the U.S.C. & G.S. (See Sheet No. 1)



SHEET 17 OF 19

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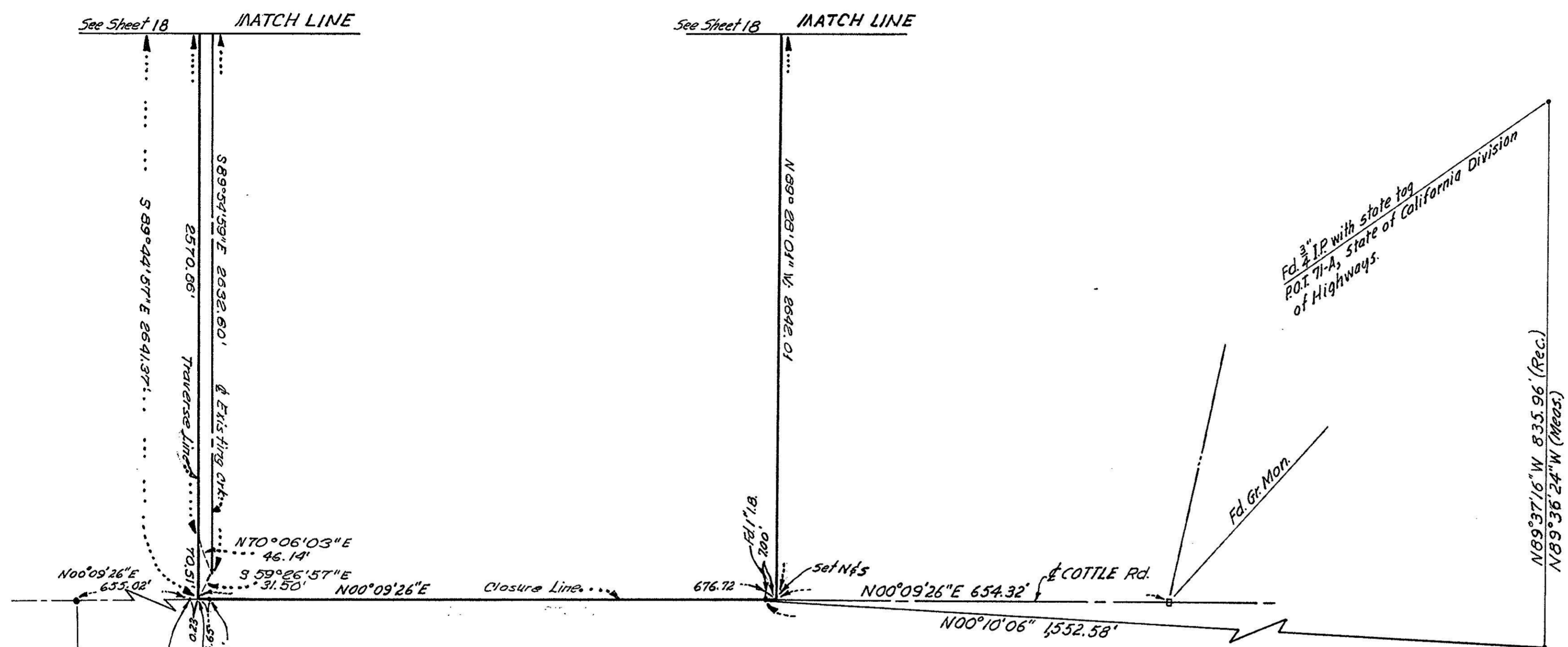
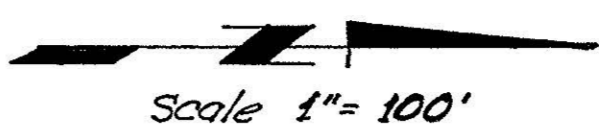
Basis Of Bearing:
 The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing S 67° 48' 30" E recorded by the U.S.C. & G.S. (See Sheet 1)

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Fd. State N&S L.Pt. 71, State of California, Division of Highways.		Calc. Coordinates	
4(n)	272, 550.613	4(n)	272, 550.613
x(e)	1,620, 732.198	x(e)	1,620, 732.198
Fd. State N&S L.Pt. 71, State of California, Division of Highways.		State Rec. Coordinates	
4(n)	272, 552.381	4(n)	272, 552.381
x(e)	1,620, 737.545	x(e)	1,620, 737.545

Basis of Bearing:
The basis of bearing of this survey is the line between U.S.C. & G.S. Station American, Ref. No. 3 and Azimuth Mark 1959 bearing 567°48'30"E recorded by the U.S.C. & G.S. (See Sheet No. 1)

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