

COUNCIL AGENDA: APRIL 2, 2013

SUBJECT: INTENT TO VACATE EASEMENTS FOR TEMPORARY TURN AROUND AND TEMPORARY DRAINAGE RESERVOIR RELATED TO THE DEVELOPMENT OF SUMMIT HERITAGE VILLAS SUBDIVISION (Nicholson & Smee)

SOURCE: Public Works Department - Engineering Division

COMMENT: The City is pursuing easement vacations for a temporary turn around and temporary drainage reservoir. These easements are generally located west of Mathew Street and south of Olive Avenue along Clare Avenue and the future Lombardi Street alignment, respectively. The easements were necessary for the orderly development of the Nazarene Church at the southwest corner of Mathew Street and Olive Avenue. Construction of Clare Avenue during the development of the church property and the dedication of Clare Avenue to the City for public streets and underground utilities ends the need for these easements. With the required enlargement of the temporary drainage reservoir a new easement will be dedicated to the City of Porterville with the processing of the Summit Heritage Villas Subdivision map. The City has authority to vacate these easements under Section 8320, Part 3, Division 9, of the Streets and Highways Code of the State of California.

Staff believes that there are no problems with any reversionary rights since these easements are in favor of the City of Porterville. Abandonment of these easements does not affect other agencies or other utility companies.

RECOMMENDATION: That the City Council:

1. Pass a Resolution of Intent to Vacate Easements dedicated to the City of Porterville by document numbers 2008-0018995 and 2009-0022948 recorded March 14, 2008 and April 17, 2009 respectively in the Office of the Tulare County Recorder; and
2. Set the Council Meeting of May 7, 2013, or as soon thereafter, as the time and place for a public hearing.

ATTACHMENTS: Resolution
Recorded Documents
Easement Vacation Legal Descriptions
Locator Map

P:\PUBWORKS\GENERAL\COUNCIL\INTENT TO VACATE EASEMENTS RELATED TO SUMMIT HERITAGE VILLAS-NICHOLSON & SMEE - 2013-04-02.DOC

Dir BS Appropriated/Funded MP CM J

Item No. 4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE AND CLOSE TO PUBLIC USE EASEMENTS
FOR TEMPORARY TURN AROUND AND TEMPORARY DRAINAGE RESERVOIR

SECTION 1: The Council of the City of Porterville, California, pursuant to Division 9, Part 3, Section 8320, of Streets and Highways Code of the State of California, does hereby resolve as follows, to-wit:

That it is the intention of the Council of the City of Porterville to vacate, abandon, and close to public use those certain easements for temporary turn around and temporary drainage reservoir in the City of Porterville, County of Tulare, State of California, and known as easements no longer necessary due to the orderly development of Summit Heritage Villas Subdivision, of which easements are generally located within the northerly portion of said proposed development.

SECTION 2: A map or plan of said public easements intended to be vacated, abandoned and closed to public use is on file in the office of the City Clerk of the City of Porterville, reference to which is hereby made.

SECTION 3: That the public convenience and necessity requires the reservation of easements and rights of way for structures enumerated, if any, in Section 8340 of the California Streets and Highways Code.

SECTION 4: Notice is further given that on Tuesday, the 7th day of May, 2013, at 6:30 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers in the City Hall in the City of Porterville, at 291 North Main Street, is hereby fixed for the time and place for hearing any objections to the vacation, abandonment and closing to public use of said easements way.

PASSED, APPROVED AND ADOPTED this 2nd day of April, 2013.

Virginia R. Gurrola, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
DEED AND TAX STATEMENTS TO:

City of Porterville
291 N. Main St.
Porterville, CA 93257

*Free
CONF*

2008-0018995

Recorded | REC FEE 0.00
Official Records |
County of | CONFIRMED COPY N 0.00
Tulare |
GREGORY B. HARDCASTLE |
Clerk Recorder |
LC
02:01PM 14-Mar-2008 | Page 1 of 4

4
C

NO FEE PURSUANT TO GOVERNMENT
SECTION 27383

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EASEMENT DEED

Atlas Sheet	Section	Township	Range	Street/Avenue
G 3	33	T21S	R27E	Clare Avenue

PORTERVILLE CHURCH OF THE NAZARENE, GARY M. SMEE and DEBORAH A. SMEE, Trustees of the Gary M. Smee and Deborah A. Smee Living Trust and DARYL C. NICHOLSON and VICTORIA M. NICHOLSON, Trustees of the Daryl C. Nicholson and Victoria M. Nicholson Trust Agreement dated October 1, 1990, GRANT to the CITY OF PORTERVILLE, a Municipal Corporation, an EASEMENT for the use, maintenance, repair and replacement of a temporary turn around, upon, over, across and within that certain real property in the City of Porterville, County of Tulare, State of California, described as follows:

SEE EXHIBIT "A", LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF,
CONSISTING OF ONE (1) PAGE

Number

Dated this 30 day of January, 2008

Gary M. Smee
Gary M. Smee, Trustee

Daryl C. Nicholson
Daryl C. Nicholson, Trustee

Deborah A. Smee
Deborah A. Smee, Trustee

Victoria M. Nicholson
Victoria M. Nicholson, Trustee

Porterville Church of the Nazarene

By Mark Pitcher
Mark Pitcher, President

STATE OF CALIFORNIA }
County of Tulare } SS

PERSONAL ACKNOWLEDGMENT

On this the 30 day of January, 2008, before me, Bev Schlitz, notary public,
Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared Gary M. Smee, Deborah A. Smee, Daryl C. Nicholson, Victoria M. Nicholson, Mark Pitcher
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



(Notary Public's signature in and for said County and State)

Bev Schlitz

(for notary seal or stamp)

THIS IS TO CERTIFY, That pursuant to the authority conferred by City of Porterville, Ordinance No. 1590, adopted February 20, 2001, the undersigned, on behalf of the public and City Council of the City of Porterville consents to the acceptance for public purposes the real property described in the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of February, 2008

Michael K. Reed
Michael K. Reed, PLS #7514, City Engineer

Exhibit "A"

That portion of the East half of the Northwest quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Commencing at a point in the East line of said Northwest quarter, said point being South 00°32'34" West, 805.39 feet of the Northeast corner of said Northwest quarter;

Thence, North 89°27'26" West, 678.00 feet to the Southwest corner of Parcel B per deed recorded April 21, 2006 as Document No. 2006-0042455 of Official Records and the TRUE POINT OF BEGINNING of the Parcel to be described;

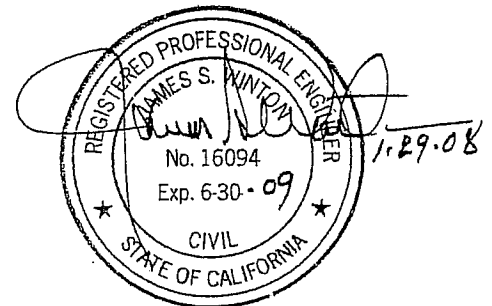
Thence, South 00°32'34" West, 15.00 feet;

Thence, North 89°27'26" West, 79.64 feet;

Thence, North 00°32'34" East, 90.00 feet;

Thence, South 89°27'26" East, 79.64 feet;

Thence, South 00°32'34" West, 75.00 feet to the TRUE POINT OF BEGINNING.



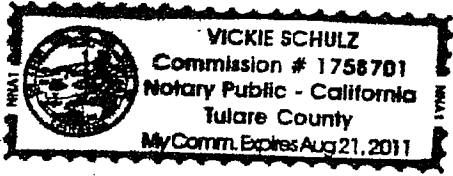
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Tulare

On 2-6-08 before me, Vickie Schulz, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Michael K. Reed
Name(s) of Signer(s)



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

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

WITNESS my hand and official seal.

Signature Vickie Schulz
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Easement Deed

Document Date: 1-30-08 Number of Pages: 3

Signer(s) Other Than Named Above: G. Smee, D. Smee, D. Nicholson, V. Nicholson & M. Ritchie

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____



**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
DEED AND TAX STATEMENTS TO:**

City of Porterville
291 N. Main St.
Porterville, CA 93257

*Fee
copy*

2009-0022948

Recorded REC FEE 0.00
Official Records
County of CONFORMED COPY 0.00
Tulare
GREGORY B. HARDCASTLE
Clerk Recorder

*5
R3*

01:38PM 17-Apr-2009 RS
Page 1 of 5

NO FEE PURSUANT TO GOVERNMENT
SECTION 27383

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EASEMENT DEED

Atlas Sheet	Section	Township	Range	Street/Avenue
G 3	33	T21S	R27E	Lombardi St

PORTERVILLE CHURCH OF THE NAZARENE, GARY M. SMEE and DEBORAH A. SMEE, Trustees of the Gary M. Sme and Deborah A. Sme Living Trust and DARYL C. NICHOLSON and VICTORIA M. NICHOLSON, Trustees of the Daryl C. Nicholson and Victoria M. Nicholson Trust Agreement dated October 1, 1990, GRANT to the CITY OF PORTERVILLE, a Municipal Corporation, an EASEMENT for the **use, maintenance, repair and replacement of a temporary drainage reservoir**, upon, over, across and within that certain real property in the City of Porterville, County of Tulare, State of California, described as follows:

SEE EXHIBIT "A", LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF,
CONSISTING OF ONE (1) PAGE

Number

Dated this 20 day of March, 2009

Gary M. Smee
Gary M. Smee, Trustee

Daryl C. Nicholson
Daryl C. Nicholson, Trustee

Deborah A. Smee
Deborah A. Smee, Trustee

Victoria M. Nicholson
Victoria M. Nicholson, Trustee

Porterville Church of the Nazarene

By Mark Pitcher
Mark Pitcher, President

STATE OF CALIFORNIA }
County of TULARE } SS

PERSONAL ACKNOWLEDGMENT

On this the 20th day of MARCH, 2009, before me, BRENDA DONOHUE, NOTARY PUBLIC
Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared GARY M. SMEE
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Brenda Donohue
(Notary Public's signature in and for said County and State)



(for notary seal or stamp)

THIS IS TO CERTIFY, That pursuant to the authority conferred by City of Porterville, Ordinance No. 1590, adopted February 20, 2001, the undersigned, on behalf of the public and City Council of the City of Porterville consents to the acceptance for public purposes the real property described in the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand
this 24th day of March, 2009

Michael K. Reed
Michael K. Reed, City Engineer, PLS #7514

State of CALIFORNIA
County of TULARE

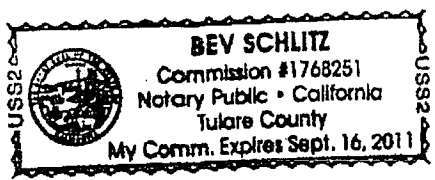
On March 23, 2009 before me,
BEV SCHLITZ**, Notary Public (here insert name and title of the officer),
personally appeared VICTORIA M. NICHOLSON AND DARYL C. NICHOLSON AND DEBORAH A. SMEE AND MARK
PITCHER**,

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

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

WITNESS my hand and official seal.

Signature *Bev Schlitz* (Seal)



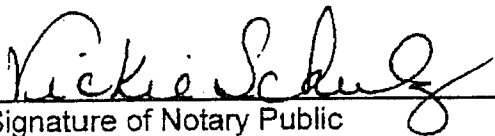
State of California
County of Tulare ss.

On March 24, 2009, before me, Vickie Schulz, a notary public, personally appeared Michael K. Reed, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

SEAL



Signature of Notary Public

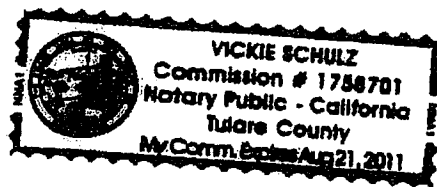


Exhibit "A"

That portion of the East half of the Northwest quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian in the City of Porterville, County of Tulare, State of California also being a portion of Parcel 2 and of Parcel 3 of Lot Line Adjustment 20-2007 per Resolution No. 559 recorded December 10, 2007 as Document No. 2007-0106407, Tulare County Records, described as follows:

Commencing at the Northeast corner of Lot 43 of Summit Estates, Phase One per map recorded in Book 42, page 48 of Maps in the Office of the County Recorder of said County;

Thence, North $00^{\circ}32'34''$ East, 11.58 feet;

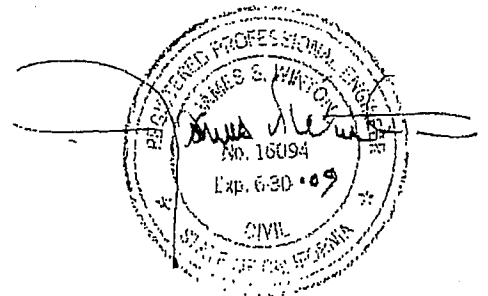
Thence, Northerly along a tangent 880.00 foot radius curve concave to the East, through a central angle of $13^{\circ}02'29''$, an arc distance of 200.30 feet to the TRUE POINT OF BEGINNING of the parcel to be described;

Thence, South $76^{\circ}24'57''$ East, 60.00 feet;

Thence, North $14^{\circ}48'03''$ East, 125.00 feet;

Thence, North $76^{\circ}24'57''$ West, 60.00 feet;

Thence, South $14^{\circ}48'03''$ West, 125.00 feet to the TRUE POINT OF BEGINNING.



LEGAL DESCRIPTION

Easement Vacation

Parcel 1 - Temporary Turn Around

That portion of the East half of the Northwest quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

COMMENCING AT a point in the East line of said Northwest quarter, said point being South 00°32'34" West, 805.39 feet of the Northeast corner of said Northwest quarter;

THENCE, North 89°27'26" West, 678.00 feet, to the Southwest corner of Parcel B per deed recorded April 21, 2006 as Document No. 2006-0042455 of Official Records and the **POINT OF BEGINNING** of the parcel to be described;

THENCE, South 00°32'34" West, 15.00 feet;

THENCE, North 89°27'26" West, 79.64 feet;

THENCE, North 00°32'34" East, 90.00 feet;

THENCE, South 89°27'26" East, 79.64 feet;

THENCE, South 00°32'34" West, 75.00 feet, to the **POINT OF BEGINNING**.

Parcel 2 - Temporary Drainage Reservoir

That portion of the East half of the Northwest quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California also being a portion of Parcel 2 and of Parcel 3 of Lot Line Adjustment 20-2007 per Resolution No. 559 recorded December 10, 2007 as Document No. 2007-0106407, Tulare County Records, described as follows:

COMMENCING AT the Northeast corner of Lot 43 of Summit Estates, Phase One per map recorded in Book 42, page 48 of Maps in the Office of the County Recorder of said County;

THENCE, North 00°32'34" East, 11.58 feet;

THENCE, Northerly along a tangent 880.00 foot radius curve concave to the East, through a central angle of 13°02'29", an arc distance of 200.30 feet to the **POINT OF BEGINNING** of the parcel to be described;

THENCE, South $76^{\circ}24'57''$ East, 60.00 feet;

THENCE, North $14^{\circ}48'03''$ East, 125.00 feet;

THENCE, North $76^{\circ}24'57''$ West, 60.00 feet;

THENCE, South $14^{\circ}48'03''$ West, 125.00 feet, to the **POINT OF BEGINNING**.

END OF DESCRIPTION

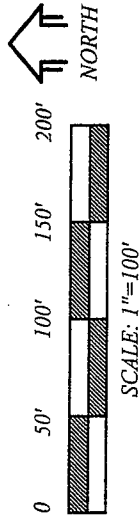
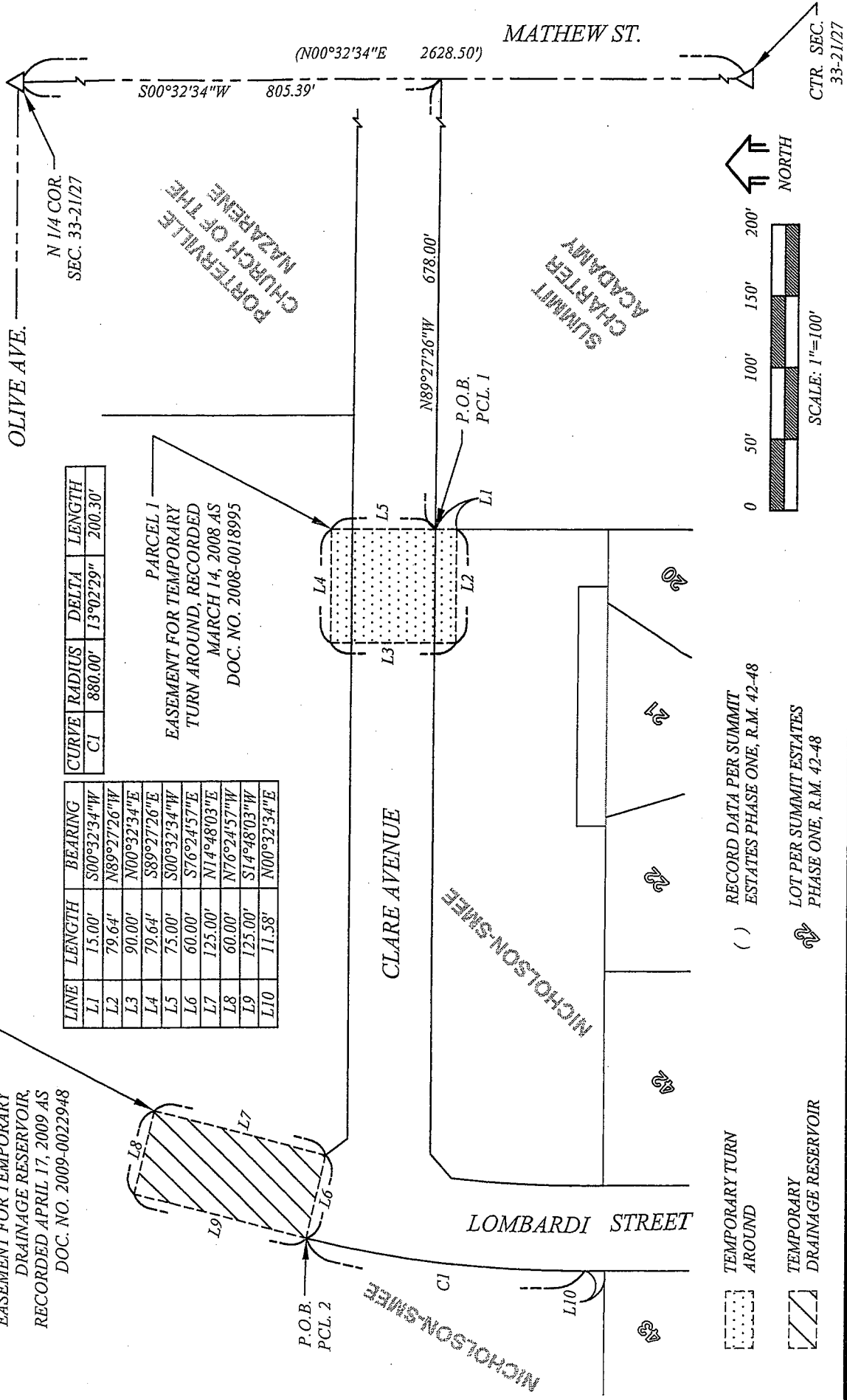
MAP OF EASEMENT VACATION

PARCEL 2
EASEMENT FOR TEMPORARY
DRAINAGE RESERVOIR
RECORDED APRIL 17, 2009 AS
DOC. NO. 2009-0022948

LINE	LENGTH	BEARING
L1	15.00'	S00°32'34"W
L2	79.64'	N89°27'26"W
L3	90.00'	N00°32'34"E
L4	79.64'	S89°27'26"E
L5	75.00'	S00°32'34"W
L6	60.00'	S76°24'57"E
L7	125.00'	N14°48'03"E
L8	60.00'	N76°24'57"W
L9	125.00'	S14°48'03"W
L10	71.58'	N00°32'34"E

CURVE	RADIUS	DELTA	LENGTH
CI	880.00'	13°02'29"	200.30'

PARCEL 1
EASEMENT FOR TEMPORARY
TURN AROUND, RECORDED
MARCH 14, 2008 AS
DOC. NO. 2008-0018995



- () RECORD DATA PER SUMMIT ESTATES PHASE ONE, R.M. 42-48
- ⤴ LOT PER SUMMIT ESTATES PHASE ONE, R.M. 42-48
- ▤ TEMPORARY TURN AROUND
- ▨ TEMPORARY DRAINAGE RESERVOIR

OWNERS: NICHOLSON TRUST & MELMIKE, LP
 APNS: 259-340-008 & 009
 259-350-026
 DRAWN BY: FM
 CHC'K BY: DB

City of Porterville
 291 N. MAIN ST.
 PORTERVILLE, CA. 93257
 539 782-7462

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.