

**From:** [Mattas, Steven](#)  
**To:** [Soichet, Emmanuelle](#)  
**Subject:** FW: Summary - Kinross Drive  
**Date:** Monday, May 18, 2020 3:59:34 PM  
**Attachments:** [Summary - Request to City to Execute.pdf](#)

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**From:** Nancy Troche <nancy.troche@msrlegal.com>  
**Sent:** Monday, May 18, 2020 10:44 AM  
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**Cc:** Wilson Wendt <wilson.wendt@msrlegal.com>  
**Subject:** Summary - Kinross Drive [IWOV-iManage.FID1021924]

[EXTERNAL E-MAIL]

This email is sent at the request of Wilson F. Wendt. Any replies may be directed to [wilson.wendt@msrlegal.com](mailto:wilson.wendt@msrlegal.com).

**Nancy Troche | Miller Starr Regalia**

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**MILLER STARR REGALIA CONFIDENTIAL COMMUNICATION**

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**SUMMARY: REQUEST TO CITY TO EXECUTE  
IRREVOCABLE OFFER TO DEDICATE RIGHT OF WAY**

A. Subdivision 4006, Heather Farms:

1. Final Map (attached) was approved May 18, 1970 by the Walnut Creek City Council and filed with the County Recorder on June 11, 1970. The Final Map created Lot A, a 1' wide by 50' long strip at the end of Kinross Drive (the "Right of Way Strip") as shown on Sheet 7.

2. Tentative Map was approved by the Planning Commission in May 1970. Staff has been unable to locate records of the approval but it seems possible that a condition to the approval of the Final Map was the conveyance of the Right of Way Strip, in fee, to the City.

3. A Grant Deed (attached) was recorded July 24, 1970, conveying the Right of Way Strip to the City. That Grant Deed was accepted by action of the City Council on July 20, 1970.

4. Public Purpose: The City had to have a public purpose in acquiring the Right of Way Strip. It's not clear if the General Plan in 1970 had a policy to ensure future compliance with a policy prohibiting through street access in the development of the adjoining property in the unincorporated area of the County of Contra Costa (the "County Property"). The 1989 General Plan contained in the list of Street Recommendations and Improvements: "Kinross Drive shall not be connected to Seven Hills Ranch Road." The current General Plan, adopted in 2006, in Policy 4.2 carries forward that direction by discouraging through traffic on local streets and collectors that would increase traffic in City residential neighborhoods.

**NOTE: The City purpose could not have been to control or direct the entitlement processing on the County Property (beyond ensuring that the Public Street, Kinross Drive, was not connected to Seven Hills Ranch Road). That would have been an invalid and illegal public purpose.**

B. Proposed Offer of Dedication:

1. Completion of Actions Started in 1970: Since it was never intended by the City to retain ownership of the Right of Way Strip, the Offer provides a way to complete that course of action. When the conditions are satisfied (a covenant recorded by the owner of the County Property, guarantying in perpetuity that Kinross Drive will not be connected to Seven Hills Ranch Road), then the City will accept the previously recorded offer and create all of the Kinross Drive right of way in the City as a public street. This satisfies the purpose and intent of the City in acquiring the Right of Way Strip.

2. Approval of Development on County Property: The land use entitlement processing will be performed by the County and they will have full and complete discretion to deny any project and to fully mitigate all environmental impacts.

C. No Further CEQA Analysis is Needed for the City to Execute and Record This Offer:

1. The Offer is part of an ongoing project approved by the City in May and June 1970, prior to the enactment of CEQA. Guidelines Section 15621. *Nacimiento Regional Water Management Advisory Commission v. County of Monterey* (1993) 15 Cal.App.4th 200; *Environmental Law Fund, Inc. v. Town of Corte Madera* (1975) 49 Cal.App.3d 158.

2. Execution of the Offer is a ministerial approval exempt pursuant to Guidelines Section 15378; Public Resources Code Section 21080(b)(1). *Sierra Club v. County of Sonoma* (2017) 11 Cal.App.5th 11. The only discretionary action involved in Subdivision 4006 approval was the approval of the tentative map by the Planning Commission. The Offer is simply carrying out a previously approved condition of approval that remains to be implemented.

3. Not a Project. Public Resources Code Section 21065 and Guidelines Section 15378 defines a “project” for which environmental review is required. The execution of the offer is, expressly not a project because it cannot directly or indirectly cause a physical change in the environment. Nor is it an essential part of a larger project, the development of the County Property. That development will be approved by the County (not the City) and the County retains the right and obligation to analyze all impacts of that development and to deny or fully mitigate for impacts. All the City is doing is ensuring that when the development of the County Property is entitled the General Plan Policy against connecting Kinross Drive to Seven Hills Ranch Road is implemented as intended when Subdivision 4006 was approved. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116; *Delaware Tetra Technologies, Inc. v. County of San Bernardino* (2016) 247 Cal.App.4th 352; *Saltonstall v. City of Sacramento* (2015) 234 Cal.App.4th 549; *Cedar Fair L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150; *McCloud Citizens v. McCloud Community Services District* (2007) 147 Cal.App.4th 181.

**OWNER'S CERTIFICATE**

THE UNDERSIGNED, BEING THE PARTIES HAVING A RECORD TITLE INTEREST IN THE LANDS DELINEATED AND EMBRACED WITHIN THE RED LINES UPON THIS MAP DO HEREBY CONSENT TO THE MAKING AND RECORDECTION OF THE SAME; AND WE DO HEREBY DECLARE TO PUBLIC USE THESE PORTIONS OF SAID LANDS DESIGNATED ON SAID MAP AS WARDENS DRAIN AND KENNEDY DRAIN.

AND THE UNDERSIGNED HEREBY DECLARE FOR PUBLIC USE EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF STORM DRAINS AND THEIR APPURTENANCES IN, UNDER, OVER, ALONG AND ACROSS THOSE STRIPS OF LAND DESIGNATED AS "STORM DRAIN EASEMENTS" OR "S.D.E." AS SHOWN ON SAID MAP WITHIN SAID SUBDIVISION.

BOUNTABLE SAVINGS AND LOAN ASSOCIATION, A CALIFORNIA CORPORATION

BY Calvin J. ... Robert ...  
 Sec'y. Res. Sec'y.



STATE OF CALIFORNIA  
 COUNTY OF

ON THE 15th DAY OF MAY, 1970, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED C. J. ... AND LAVONNE ... KNOWN BY ME TO BE THE Authorized Officers OF BOUNTABLE SAVINGS AND LOAN ASSOCIATION, THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT AND THE OFFICIALS AND EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION THEREIN NAMED, AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS 15th DAY OF MAY, 1970.



NOTARY PUBLIC IN AND FOR SAID COUNTY & STATE

**CITY ENGINEER'S CERTIFICATE**

I, HOWARD E. WEALE, CITY ENGINEER OF THE CITY OF WALNUT CREEK, HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP CAPTULED SUBDIVISION MAP, THAT SAID SUBDIVISION AS SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE LOCATION MAP, AND ANY APPROVED ALTERNATIONS THEREOF AS APPROVED BY THE CITY OF WALNUT CREEK PLANNING COMMISSION ON FEBRUARY 24, 1970, THAT ALL THE PROVISIONS OF THE STATE AND LOCAL ORDINANCES GOVERNING THE FILING OF SUBDIVISION MAPS HAVE BEEN COMPLIED WITH, AND I AM SATISFIED THAT THE SAME IS TECHNICALLY CORRECT.

DATED 18 May, 1970  
Howard E. Weale  
 CITY ENGINEER

**CITY PLANNING COMMISSION'S CERTIFICATE**

I HEREBY CERTIFY THAT THE PLANNING COMMISSION OF THE CITY OF WALNUT CREEK, COUNTY OF CONTRA COSTA, CALIFORNIA, HAS APPROVED THE TENTATIVE MAP OF THIS SUBDIVISION UPON WHICH THIS FINAL MAP IS BASED.

DATED MAY 24, 1970  
Robert ...  
 SECRETARY OF THE PLANNING COMMISSION

A SOIL REPORT HAS BEEN PREPARED FOR THIS SUBDIVISION BY THE FIRM OF SOIL MECHANICS AND FOUNDATION ENGINEERS, INC., DATED AUGUST 1968.

**ENGINEER'S CERTIFICATE**

I, THEODORE C. FAIRFIELD, HEREBY CERTIFY THAT I AM A REGISTERED CIVIL ENGINEER OF THE STATE OF CALIFORNIA; THAT THIS MAP, CONSISTING OF SEVEN SHEETS CORRECTLY REPRESENTS A SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF OCTOBER 1965, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT ALL THE MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN; THAT THEIR POSITIONS ARE CORRECTLY SHOWN AND THAT SAID MONUMENTS ARE SUFFICIENT TO INABLE THE SURVEY TO BE RETRACED; THAT THE AREA IS 129.508 ACRES, MORE OR LESS.

DATED 5-18-70  
Theodore C. Fairfield  
 THEODORE C. FAIRFIELD, E.C.E., 13,108

**CITY CLERK'S CERTIFICATE**

I, THE UNDERSIGNED, ANDREW C. ..., CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF WALNUT CREEK, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THIS MAP, CONSISTING OF SEVEN SHEETS, AND ENTITLED SUBDIVISION MAP, WAS PRESENTED TO SAID COUNCIL, AS PROVIDED BY LAW AS A Final Map AT A MEETING HELD ON THE 15th DAY OF MAY, 1970, AND THAT SAID COUNCIL DID THEREUPON APPROVE SAID MAP AND DID NOT ACCEPT ON BEHALF OF THE PUBLIC ANY OF THE STREETS, ROADS, AVENUES, EASEMENTS, OR WALKWAYS SHOWN THEREUPON AS DEDICATED TO PUBLIC USE.

I FURTHER CERTIFY THAT ALL BONDS AS REQUIRED BY LAW TO ACCOMPANY THE WITHIN FINAL MAP HAVE BEEN APPROVED BY THE CITY COUNCIL OF THE CITY OF WALNUT CREEK AND ARE FILED IN MY OFFICE.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS 15th DAY OF MAY, 1970.  
 DATED 5-20-70, 1970.

Andrew C. ...  
 CITY CLERK OF THE CITY OF WALNUT CREEK, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

**COUNTY CLERK'S CERTIFICATE**

I, H. T. ..., CLERK OF THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT ALL BONDS AS REQUIRED BY LAW TO ACCOMPANY THE WITHIN MAP HAVE BEEN APPROVED BY SAID BOARD OF SUPERVISORS AND ARE FILED IN MY OFFICE.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS 9th DAY OF JUNE, 1970.

H. T. ...  
 COUNTY CLERK AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA  
Gene D. ...  
 DEPUTY CLERK

**COUNTY RECORDER'S CERTIFICATE**

THE MAP ENTITLED SUBDIVISION MAP IS HEREBY ACCEPTED FOR RECORDECTION UNDER A CLEAR TITLE AS PER LETTER OF TITLE MADE BY TRANSAMERICA TITLE INSURANCE CO. DATED THE 11th DAY OF MAY, 1970, AND AFTER EXAMINING THE SAME, I DEEM THAT SAID MAP COMPLIES IN ALL RESPECTS WITH THE PROVISIONS OF STATE LAWS AND LOCAL ORDINANCES GOVERNING THE FILING OF SUBDIVISION MAPS.

W. T. ...  
 COUNTY RECORDER IN AND FOR THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA  
Robt. V. ...  
 DEPUTY COUNTY RECORDER

RECORDED AT THE REQUEST OF TRANSAMERICA TITLE INSURANCE CO., AT 11 a.m. ON THE 11th DAY OF MAY, 1970, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

W. T. ...  
 COUNTY RECORDER IN AND FOR THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA  
Robt. V. ...  
 DEPUTY COUNTY RECORDER

# SUBDIVISION 4006 HEATHER FARMS

BEING A PORTION OF THE  
 SAN MIGUEL RANCHO  
 CITY OF WALNUT CREEK, CALIFORNIA

MacKay & Somp  
 CIVIL ENGINEERS  
 PLEASANTON, CALIFORNIA.

MAR 04 1970  
 SHEET 1 OF 7 SHEETS

ADJACENT OWNERS		OWNERS	
OWNER	RECORDATION	OWNER	RECORDATION
1 C. MCCLM, JR.	496-06-641	2 W. SHUMFIELD	250-06-142
3 J. B. WATKINS	3034-06-2-040	4 W. L. WICKSTEAD	510-06-197
5 M. L. ELBERT	428-06-478	6 H. T. BRADSHAW, JR.	480-06-206
7 P. A. BELTMANSON	404-06-161	8 E. E. COLLINS	504-06-047
9 W. C. BOUTSON	488-06-405	10 C. GALT	450-06-011
11 W. J. COLTIS	526-06-014		

SHEET INDEX	
LOT NO.	SHEET NO.
1	3
2	3
3	7
4	4
5	5
6	5
7	5
8	6
9	6
10	1
11	1
12	7
13	7



**BASIS OF BEARINGS**

California Coordinate System, Zone 10  
 The bearing of the monument line of Ygnacio Valley Road, 1870192, as shown on the Record of Survey recorded in Book 38 of L.S.M. page 21, Contra Costa County Records, is the basis of bearings shown herein.

**LEGEND & NOTES**

- 1" - 1/4" Iron pipe and P.C.E. Tap #12 13648 set.
  - 2" - 1/4" Iron pipe and P.C.E. Tap #12 13648 found.
  - 3" - Standard Contra Costa County monument found.
  - 4" - 1/4" Iron pipe and P.C.E. Tap #12 13648 found or set at all boundary corners and all lot corners as indicated on Sheet 3, 4, 5, 6 and 7.
  - 5" - Standard City of Walnut Creek monument hole set.
- The red border delineates the boundary of the land subdivided by this map.

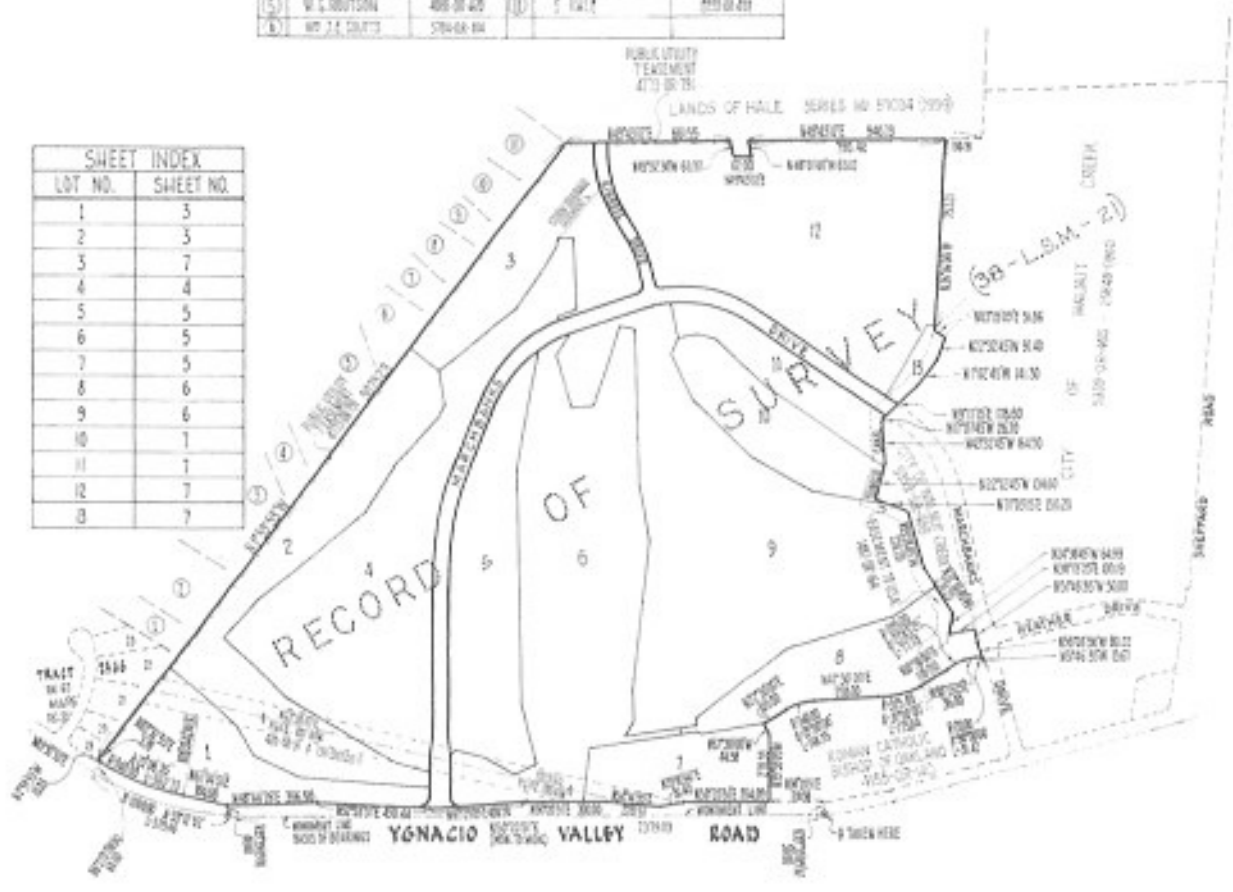
**BOUNDARY & INDEX SHEET**

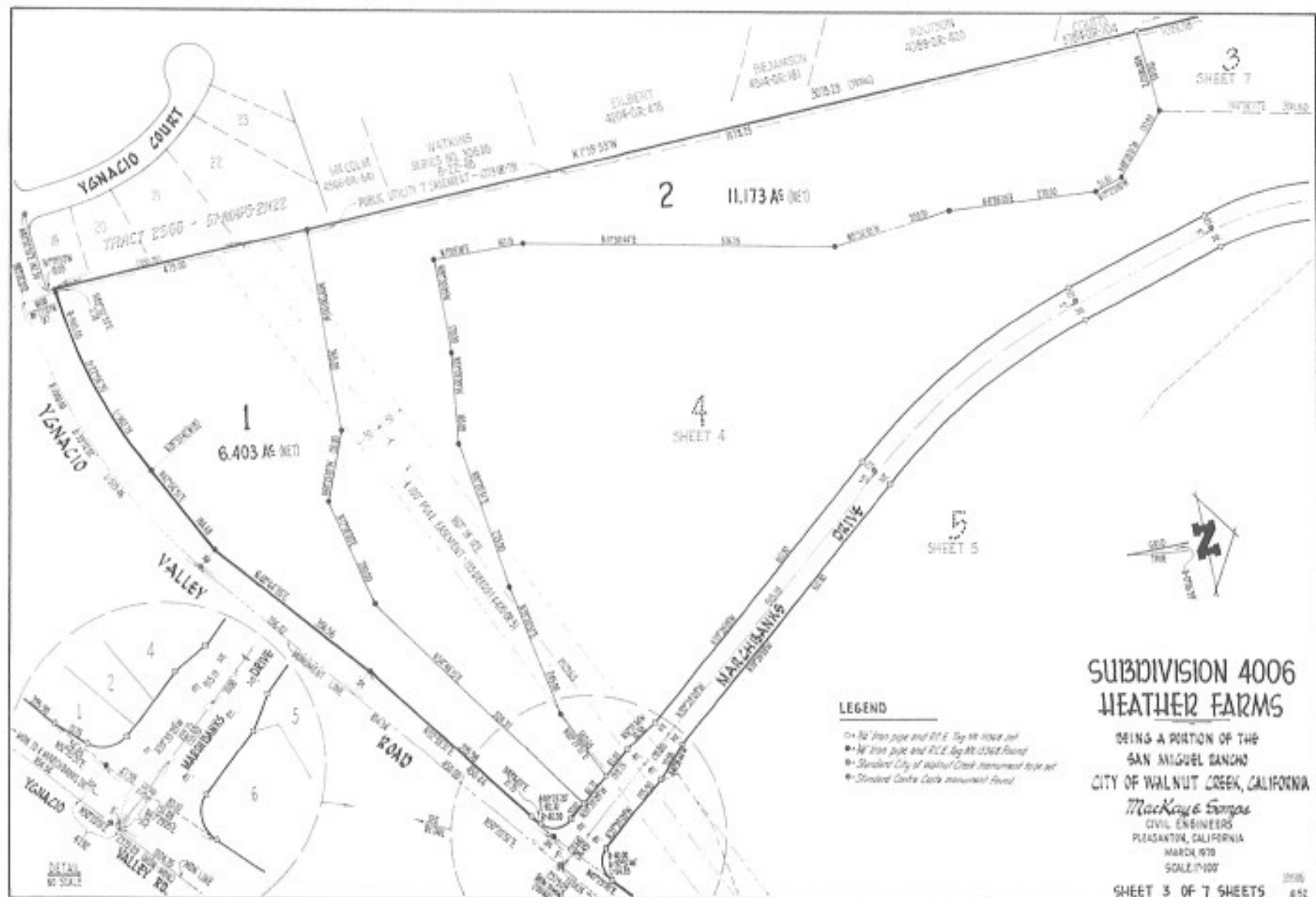
**SUBDIVISION 4006 HEATHER FARMS**

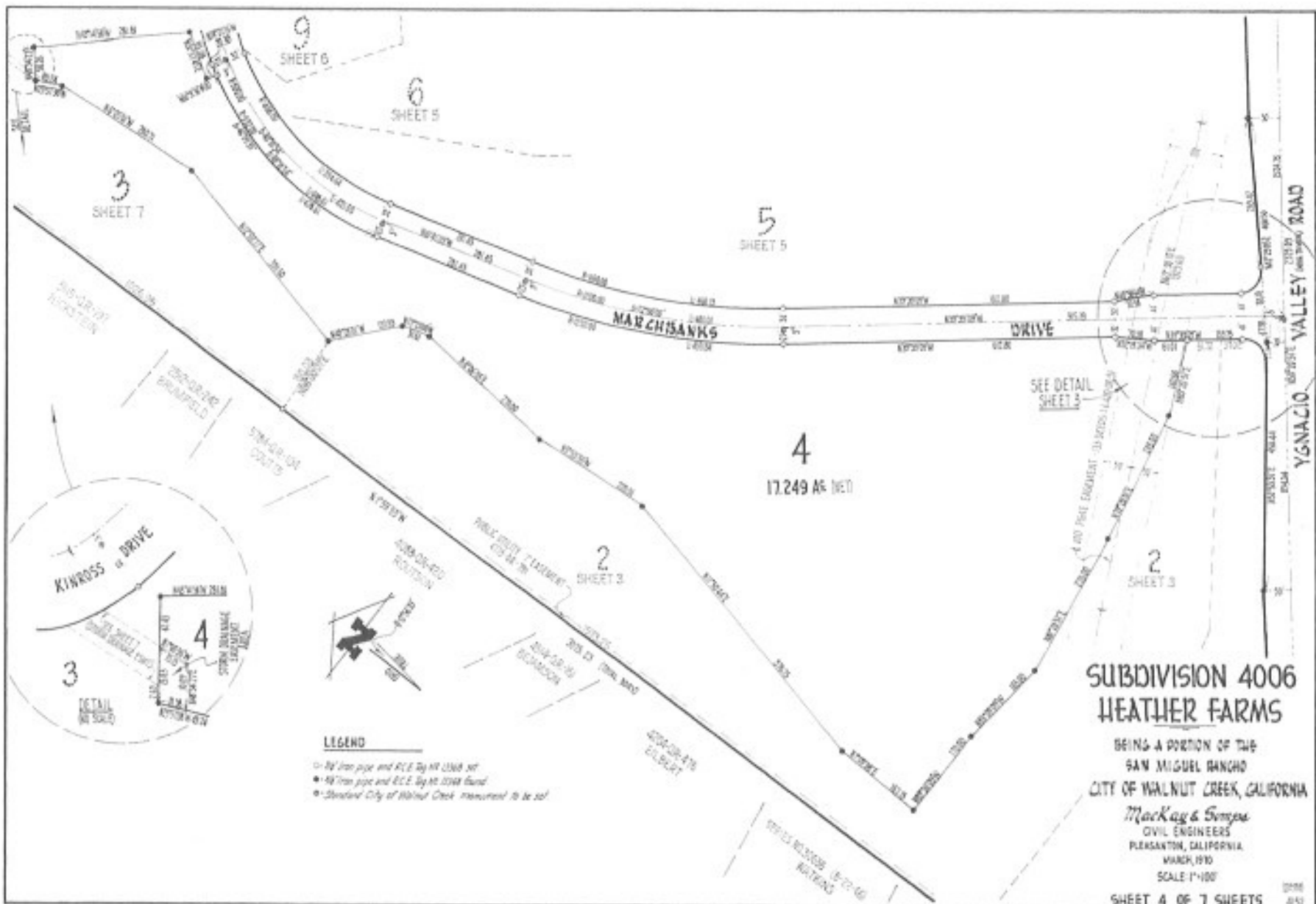
BEING A PORTION OF THE SAN MIGUEL RANCHO CITY OF WALNUT CREEK, CALIFORNIA

*Mackay & Samps*  
 CIVIL ENGINEERS  
 PLEASANTON, CALIFORNIA  
 MARCH, 1970  
 SCALE 1"=500'

SHEET 2 OF 7 SHEETS







5  
SHEET 5

3  
SHEET 7

9  
SHEET 6

6  
SHEET 5

4  
17.249 AC. NET

2  
SHEET 3

2  
SHEET 3

VALLEY VIEW ROAD  
YGNACIO VALLEY ROAD

**SUBDIVISION 4006  
HEATHER FARMS**

BEING A PORTION OF THE  
SAN MIGUEL RANCHO  
CITY OF WALNUT CREEK, CALIFORNIA

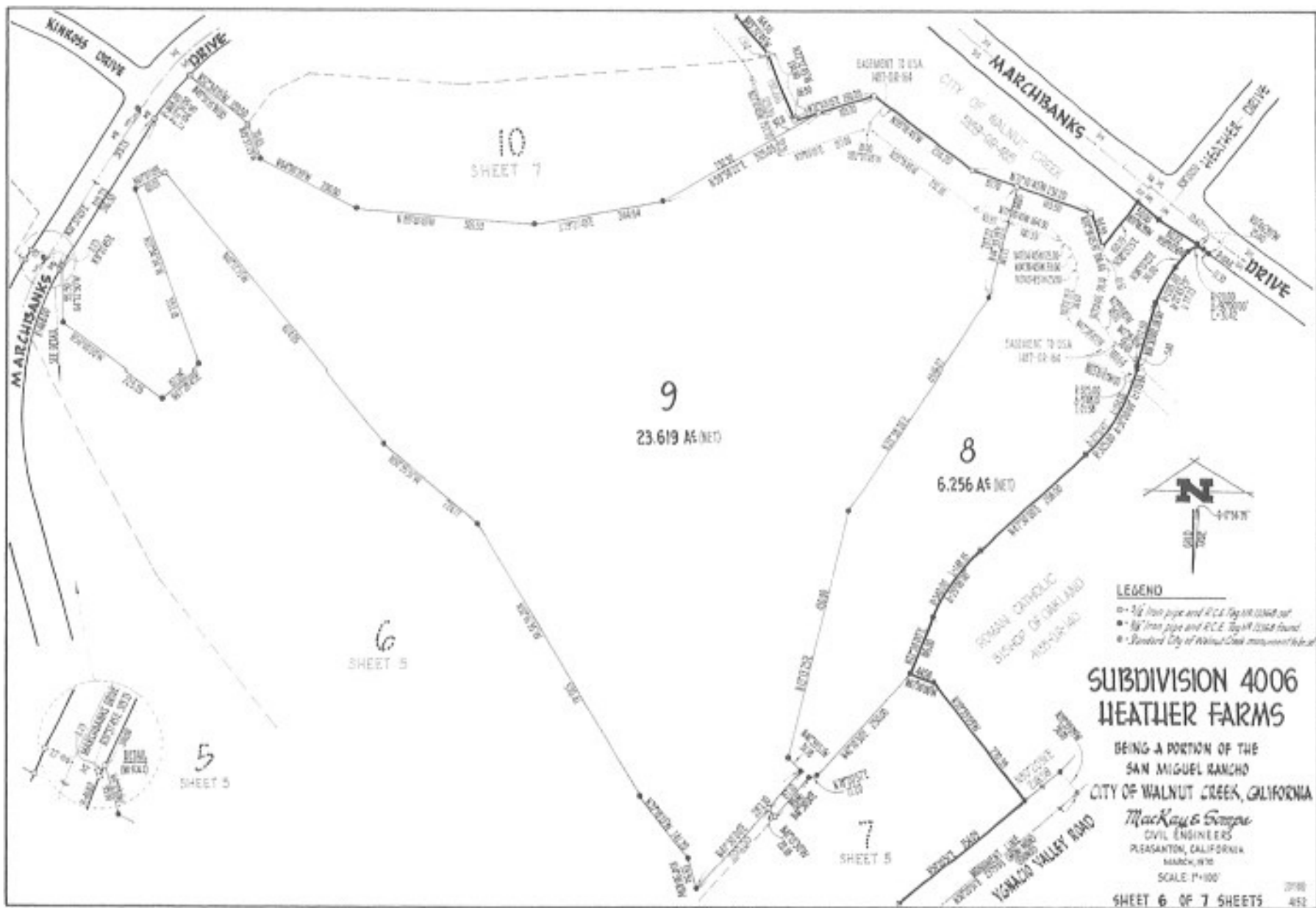
*McKay & Samps*  
CIVIL ENGINEERS  
PLEASANTON, CALIFORNIA  
MARCH, 1910  
SCALE 1"=100'

SHEET 4 OF 7 SHEETS

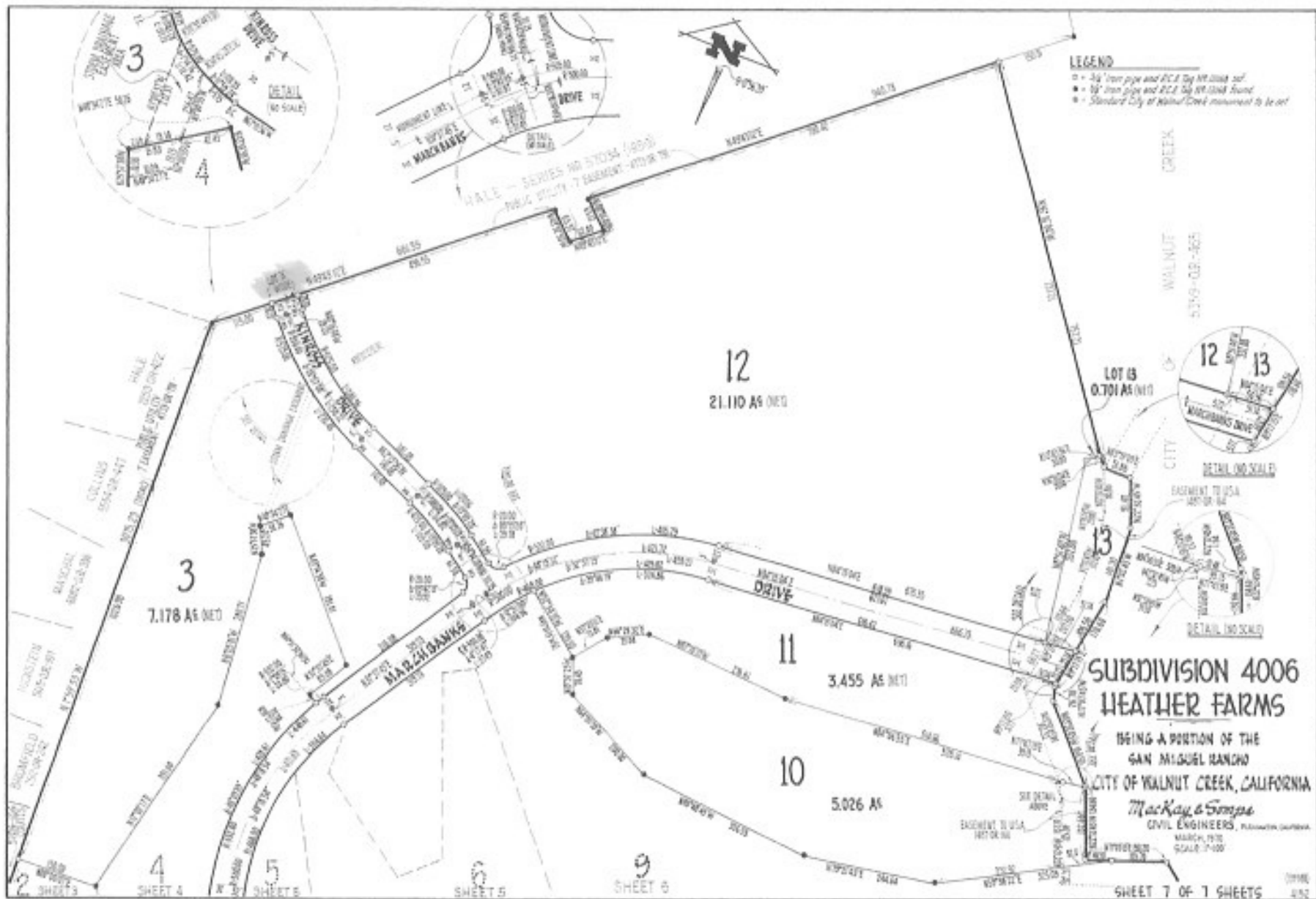
**LEGEND**

- 6" Iron pipe and P.C.E. By M. L. 2568 '07
- 4" Iron pipe and P.C.E. By M. L. 2568 '07
- Standard City of Walnut Creek. Intended to be set









**LEGEND**

- 4" Iron pipe and F.C. 2 Day 100 lb. steel
- 12" Iron pipe and F.C. 2 Day 100 lb. steel
- Standard City of Walnut Creek monument to be set

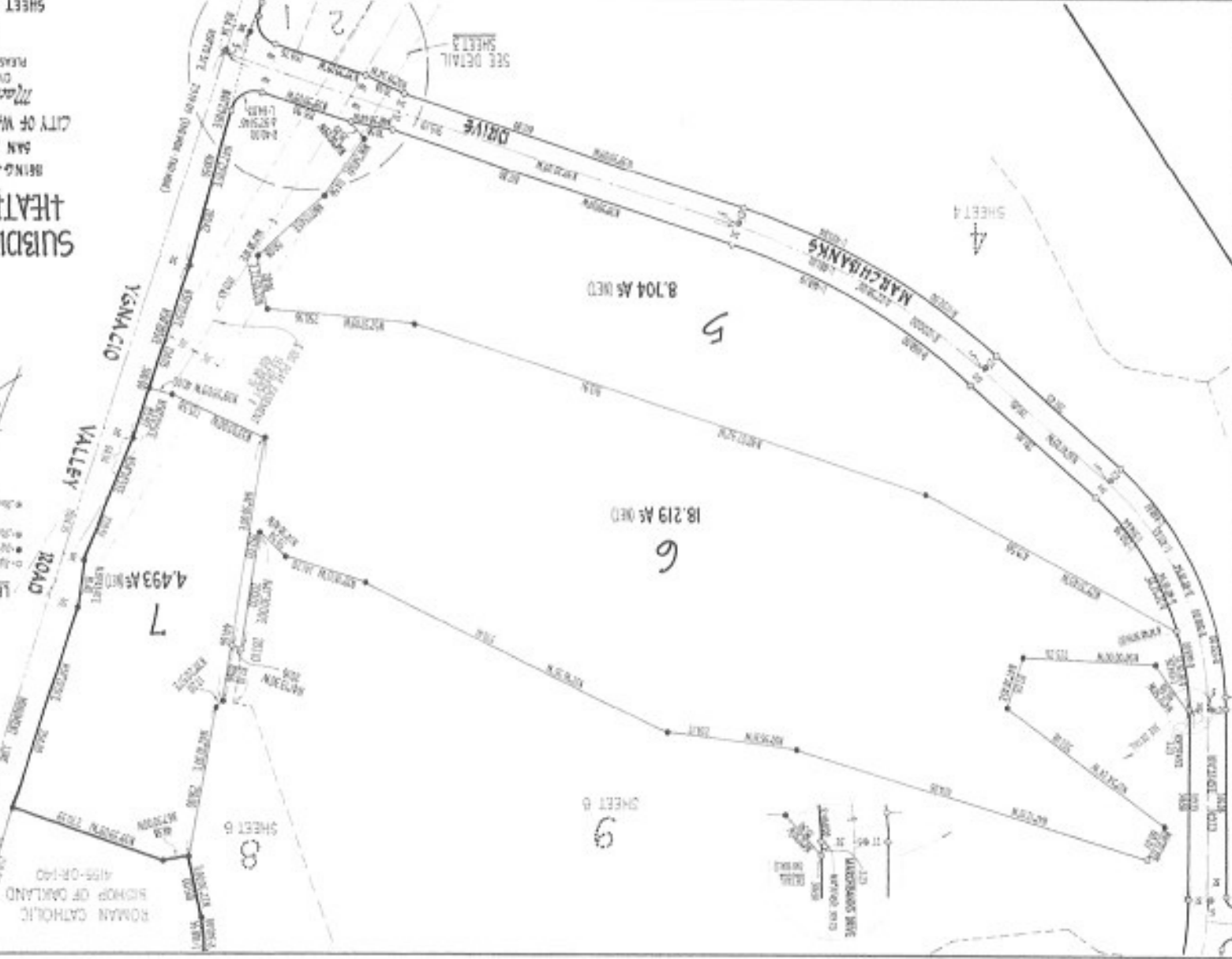
**SUBDIVISION 4006  
LEATHER FARMS**

BEING A PORTION OF THE  
SAN MIGUEL RANCHO  
CITY OF WALNUT CREEK, CALIFORNIA

*MacKay & Sempé*  
CIVIL ENGINEERS, PLACENTIA, CALIFORNIA  
MARCH, 1978  
SCALE 1" = 100'

**SUBDIVISION 4006  
THEATER FARMS**  
BEING A PORTION OF THE  
SAN ANGELO BARLAND  
CITY OF WALNUT CREEK, CALIFORNIA  
*Mark & Senga*  
CIVIL ENGINEERS  
PLEASANTON, CALIFORNIA  
MAP NO. 100  
SCALE 1"=80'  
SHEET 5 OF 7 SHEETS

**LEGEND**  
• To top line and E.C. & top of road  
• To top line and E.C. & top of side line  
• To top line and E.C. & top of road  
• To top line and E.C. & top of road  
• To top line and E.C. & top of road  
• To top line and E.C. & top of road



nos 6179 no 501

This is to certify that the interest in real property conveyed by the  
said grant of agreement dated July 26, 1922  
Seaside, Oregon and Loan Association  
to the City of Seaside, Oregon, a political corporation and governmental  
entity, is hereby accepted by order of the City Council of the City of  
Seaside, Oregon on July 26, 1922 and the grantee consents to  
recognition thereof by its duly authorized officers.

DATED: July 26, 1922

*Charles B. ...*  
City Clerk

• END OF DOCUMENT •

ACCEPTANCE

RECORDING REQUESTED BY ( )

57041  
JUL 24 1970

6178 REC 500  
RECORDED AT REGULAR RATE

AND WHERE RECORDED AS TO

City of Walnut Creek

City of Walnut Creek  
TO JUL 24 1970 36

OFFICIAL RECORDS  
COUNTY CLERK OF CALIF.  
S.T. FALGOUT, RECORDER  
FEE \$

Official

MAP, TAX STATEMENT IS

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRANSFER TAX \$

### GRANT DEED INCORPORATION

(Form No. 32437)

By the instrument dated MAY 14, 1970 for a valid encumbrance

EQUITABLE SAVINGS AND LOAN ASSOCIATION, a California corporation.

Truly GRANTS

CITY OF WALNUT CREEK,

the following described real property to the use of Walnut Creek, County of Contra Costa

City of Walnut Creek

Lot 147, Map of Subdivision 4004, filed June 11, 1970, Map Book 24, Page 22, Contra Costa County Records.

EQUITABLE SAVINGS AND LOAN  
ASSOCIATION, a California corporation.

*[Signature]*  
*[Signature]*  
Not. Sec.

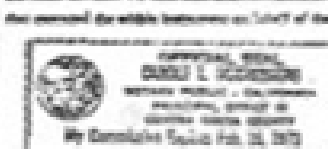
REAL PROPERTY

STATE OF CALIFORNIA

County of CONTRA COSTA

County of Contra Costa

By Mr. [Signature] Clerk of the Corporation



Notary Signature: *[Signature]*  
Notary Public for the State of California

MAIL TAX STATEMENTS AS DIRECTED ABOVE

NO CONSIDERATION *Charles A. [Signature]*