

ENGINEER'S REPORT

for

**FALLON CROSSING
GEOLOGIC HAZARD ABATEMENT DISTRICT
DUBLIN, CALIFORNIA**

(Revised October 19, 2011)

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ENGINEER'S REPORT

FALLON CROSSING GEOLOGIC HAZARD ABATEMENT DISTRICT
(Pursuant to the Public Resources Code of the State of California, Section 26500 et seq
and Article XIID of the California Constitution)

CERTIFICATION OF FILING

This report is presented at the direction of the GHAD Board of Directors. The GHAD is intended to provide monitoring and maintenance of improvements related to geologic hazard management within the Fallon Crossing GHAD and to levy and collect assessments in order to perform its activities.

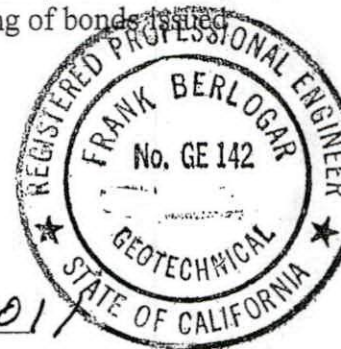
The improvements which are the subject of this report are defined as any activity necessary or incidental to the prevention, mitigation, abatement, or control of a geologic hazard, construction, maintenance, repair, or operation of improvements; or the issuance and servicing of bonds issued to finance any of the foregoing (Section 26505)

The undersigned respectfully submits the enclosed Engineer's Report.

Berlogar Stevens & Associates

By:  _____, GE 142

Date: 10/19/2011

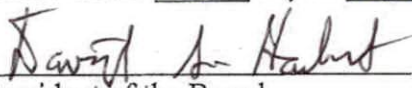


I hereby certify that the enclosed Engineer's Report was filed on the 1ST day of NOVEMBER 2011.



Clerk of the Board
Fallon Crossing Geologic Hazard Abatement District
Dublin, California

I hereby certify that the enclosed Engineer's Report was approved and confirmed by the GHAD Board on the 20th day of DECEMBER 2011



President of the Board
Fallon Crossing Geologic Hazard Abatement District
Dublin, California

APPROVED _____

ENGINEER'S REPORT

for

FALLON CROSSING GEOLOGIC HAZARD ABATEMENT DISTRICT

for the

ESTABLISHMENT OF AN ASSESSMENT LIMIT

I. INTRODUCTION

On August 16, 2011, the City Council of the City of Dublin adopted Resolution No. 147-11 approving the formation of the Fallon Crossing Geologic Hazard Abatement District ("GHAD") pursuant to the provisions of the California Public Resources Code, Division 17, Section 26500 et seq. In addition, the City Council approved the Plan of Control ("POC"), prepared by Berlogar Stevens & Associates and dated May 25, 2011, describing the duties and obligations of the GHAD.

II. BACKGROUND

As part of the City's approval of Tract 7617, the Fallon Crossings development, the project proponent was required to create a Geologic Hazard Abatement District encompassing the entire project site prior to filing of the first final map for the project. As state above, the GHAD has been formed and now assessment levels, adequate to fund the immediate and future obligations of the GHAD, must be established prior to the filing of a final map.

This Engineer's Report ("Report") has been prepared in order to establish the assessment levels for fiscal year 2011-12. The Report and the proposed assessments have been prepared pursuant to the Public Resources Code of the State of California, Section 26500 et seq and Article XIIIID of the California Constitution)

Following submittal of this Report to the GHAD Board of Directors ("Board") for approval, the Board may call for an assessment ballot proceeding and public hearing on the proposed levying of assessments for the proposed improvements and services. If it is determined at the public

hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the Board may take action to approve the levy of assessment for fiscal year 2011-12.

III. LEGISLATIVE ANALYSIS

Proposition 218

Proposition 218, the Right to Vote on Taxes Act, was approved by the voters of California on November 6, 1996, and is now Article XIIC and XIID of the California Constitution. Proposition 218 provides for a ballot election by affected property owners to approve assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property. The GHAD's proposed assessments will be balloted and approved by the affected property owners in accordance with Proposition 218.

Silicon Valley Taxpayers Assoc., Inc. V Santa Clara County Open Space Authority

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. vs. Santa Clara County Open Space Authority ("SVTA") case. This ruling is the most significant court case in further legally clarifying the significant assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special benefits to property, not general benefits.
- The services and/or improvements funded by assessments must be clearly defined.
- Assessment districts must be drawn to contain all parcels that receive a special benefit from a proposed public improvement or service.
- Assessments paid in the assessment district must be proportional to the special benefit received by each such parcel from the improvements and services funded by the assessment.

This Engineer's Report and the process used to establish these proposed assessments for fiscal year 2011-12 are consistent with SVTA decision and with the requirements of Articles XIIC and XIID of the California Constitution based upon the following factors:

1. The GHAD is narrowly drawn to include only the properties that receive special benefit from the proposed improvements and services. That is, the GHAD boundary is coincident with that of the project boundary and only properties within the project boundary receive special benefits from the assessments.
2. The services and improvements funded by the assessments are located within the GHAD boundary and are clearly described in the GHAD Plan of Control.
3. Due to their proximity to the assessed parcels, the improvements and services financed with assessment revenues benefit the properties in the GHAD in a manner different in kind from the benefit that other parcels of real property in the City derive from such improvements and services, and the benefits conferred on such property in the GHAD are more extensive than a general increase in property values.
4. Since all of the assessed properties within the GHAD are similar in size and use (single family detached houses), the special benefit received and the assessment levied are equal for each assessed property. Thus, zones of benefit are not required and the assessment revenue derived from real property in the GHAD is expended only on services in the GHAD.

Dahms v. Downtown Pomona Property

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms, the Court upheld an assessment that was 100% special benefit (i.e., 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property within the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

Bonander v. Town of Tiburon

ON December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessment on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

Beutz v. County of Riverside

ON May 25, 2010, the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside appeal. This decision overturned an assessment for park maintenance in Widlomer, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

Compliance with Current Law

This Engineer's Report is consistent with the requirements of Articles XIII C and XIII D of the California Constitution and with the SVTA decision because the improvements to be funded are clearly defined, the improvements are directly available to and will directly benefit property in the GHAD and the improvement and services provide a direct advantage to property in the GHAD that would not be received in absence of the assessments.

This Engineer's Report is consistent with Beutz and Dahms because the improvements and services will directly benefit property in the GHAD and there are no general benefits associated with the improvements and services that would be received any property outside of the GHAD. The Engineer's Report is consistent with Bonander because the assessments have been apportioned based upon the overall costs of the improvements and services and the proportional special benefit to each property.

IV. GEOLOGIC HAZARD ABATEMENT DISTRICT BOUNDARIES

The boundaries of the Fallon Crossing GHAD coincide with the boundaries of 66.5 acre, Tract 7617, Fallon Crossing, and include 47.01 acres of open space land within the Fallon Crossing

property as well as a 0.22-acre maintenance easement between the Fallon Crossing and adjacent Silvera Ranch developments. The Legal description and Plats of the areas of GHAD responsibility are attached as Exhibits B and C, respectively.

V. GHAD ACTIVITIES AND OPERATIONS

Activities and operations performed by the Fallon Crossing GHAD shall be those necessary or incidental for the prevention, mitigation, abatement or control of geologic hazards described in the Plan of Control. This will include construction, maintenance, repair, or operation of any site improvement. Additionally, the GHAD shall issue and service bonds to fund the GHAD operations.

The GHAD shall provide administration and review of the improvements within the budgeted items including the following:

1. Overseeing GHAD activities and operations.
2. In coordination with the Alameda County Assessors office, the GHAD shall set annual assessments to be levied on the property tax rolls.
3. Retaining technical consultants to perform GHAD monitoring in accordance with the Plan of Control.
4. Performing the GHAD maintenance activities in accordance with the Plan of Control, including:
 - Sediment removal, maintenance and/or repair of concrete lined V-ditches and drainage inlets,
 - Erosion and sedimentation repair,
 - Vegetation control including mowing, thinning and revegetation,
 - Slope stabilization, including landslide repairs,
 - Sediment removal from ponds and basins,
 - Subdrain outfall maintenance,
 - Creek bank maintenance,

- Geotechnical instrument monitoring (if installed in the future),
 - Open space monitoring.
5. Preparation of annual GHAD budgets and evaluating assessment levies.

VI. DESCRIPTION OF THE IMPROVEMENTS TO BE MAINTAINED BY THE GHAD

The GHAD-maintained improvements are described in the Fallon Crossing Plan of Control dated February 17, 2011. In general, these improvements include water quality facilities; drainage systems, including concrete v-ditches in open space and on the hillsides; open-space storm drain inlets and outlets; subdrains in open space and creek corridors; two ponds; reconstructed slopes within the open space area; and access roadways.

VII. ASSESSMENT METHOD

GHAD operations are to be funded in perpetuity through assessments paid by the residences located within the GHAD. The GHAD operations and maintenance of site improvements is considered to provide equal special benefit to all assessed properties located within the Fallon Crossing GHAD. In addition, all of the properties to be assessed are approximately equal in size and value. Therefore, annual assessments shall be levied equally on each individual property located within the Fallon Crossing GHAD beginning the first year after building permits have been approved and issued for that parcel. The assessments are to be levied in coordination with the County Assessors Office.

Discussion of Benefit

In summary, the assessments can only be levied based upon special benefit to property. The following benefit categories summarize the types of special benefit to residential lots resulting from the installation, maintenance, and servicing of the improvements to be provided with the assessment proceeds. These categories of special benefit are derived in part from the statutes passed by the California Legislature and other studies. These types of special benefit are summarized as follows:

- Creation of individual lots for residential use that, in absence of the services and improvements to be funded by the assessments, would not be created.
- Improved utility and usability of property.
- Improved safety of property.
- Enhanced visual experience and desirability of the area.
- Protection of views, scenery and other resource values and environmental benefits enjoyed by residents and guests and preservation of public assets maintained by the City and GHAD.
- Moderation of temperatures, dust control, and other environmental benefits.

These benefit factor, when applied to the property within the GHAD, specifically increase the utility of the property within the GHAD. For instance, the assessments will provide funding to maintain drainage and other facilities that, lacking such funding, would fail to work properly and lead to extensive property damage within the GHAD. Moreover, funding for the maintenance and servicing of these improvements is a City-imposed project condition of approval that is needed to mitigate negative impacts of this development on the City. Without the GHAD, this condition could not be satisfied and the new homes could not be constructed. This is another special benefit to the properties in the GHAD.

General versus Special Benefit

The proceeds from the assessments would be used to fund the maintenance obligations and the operations of the GHAD. In absence of assessments, a condition of the development approval could not be met and home construction within the project could be denied. The creation of residential lots and approval for the construction of homes is the overriding clear and distinct special benefit conferred exclusively on the properties within the GHAD. Moreover, benefits to the public at large, if any, will be offset by benefits residents with the GHAD receive from the use of other similar public facilities not funded by the GHAD. Therefore, the assessment solely provide special benefit to property within the GHAD (100% special benefit) over and above the general benefits conferred to the public at large or properties outside of the GHAD.

VIII. ESTIMATED ANNUAL GHAD ASSESSMENT

Based on the estimated expenses for on-going operations, and allowing for larger (approximately \$100,000) geologic event at 10-year intervals, a budget was prepared for the purpose of estimating initial assessment levels (Exhibit A). In order to establish a reasonable reserve in the early years of the Fallon Crossing GHAD, there will be an initial deferral of GHAD expenses as described in the Plan of Control for the Fallon Crossing development.

The Engineer recommends an annual assessment limit for the Fallon Crossing development of \$995 per detached single residential unit Fiscal Year 2011/2012 dollars. The proposed initial assessment level of \$995 for detached single family units will be adjusted annually to reflect the percentage change in the San Francisco-Oakland-San Jose Consumers Price Index (CPI) for All Urban Consumers. The assessment level will be adjusted for inflation annually to reflect the percentage change in the San Francisco-Oakland-San Jose Consumer Price Index for All Urban Consumers as of the preceding December plus 0.5 percent.

EXHIBIT A

Fallon Crossing GHAD Budget

EXHIBIT A

GHAD BUDGET, FALLON CROSSING

ASSUMPTIONS

Single-Family Residential Units	106
Annual Assessment per Single-Family Unit	\$995
Annual Adjustment in Assessment	2.0%
Inflation	2.0%
Investment Earnings	2.0%
Frequency of Large-Scale Repair (years)	10
Cost of Large-Scale Repair (current \$)	\$100,000

ESTIMATED ANNUAL EXPENSES IN 2011/2012 DOLLARS

Administration, Legal, Insurance & Accounting	\$29,040
Professional Services - Site Monitoring	\$9,000
Maintenance and Operation	\$29,603
Erosion Protection	\$16,000
Major Repairs (Annualized)	\$10,000
Reserve Accumulation	<u>\$11,827</u>
TOTAL	<u>\$105,470</u>

CASH FLOW

FISCAL YEAR (STARTING JULY 1)	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Cumulative Equivalent Units	17	47	77	106	106
A. INCOME					
Assessment	16,915	47,934	80,445	113,380	116,017
B. PROJECTED EXPENSES					
1. Administration and Accounting	6,000	7,000	7,500	31,218	31,998
County Fees	200	233	267	300	308
2. Professional Services	--	3,000	6,000	9,675	9,917
3. Maintenance & Operation	--	13,000	21,200	31,823	32,619
4. Erosion Protection	--	5,000	12,200	17,200	17,630
5. Major Repair	--	--	--	--	--
SUBTOTAL - EXPENSES	6,200	28,233	47,167	90,216	92,472
RESERVE	10715	19,701	33,278	23,164	23,545
EARNINGS	--	214	612	1,290	1,779
CUMULATIVE RESERVE	10,715	30,630	64,520	88,974	114,298

EXHIBIT B

Legal Description

Standard Pacific Corporation
City of Dublin
County of Alameda

Exhibit "B"
Legal Description
GHAD Parcel 1

Real property situate in the City of Dublin, County of Alameda, State of California,
described as follows:

Being a portion of the Parcel described in the deed recorded on April 14, 2005 to
Standard Pacific Corporation in Document No. 2005146527, Official Records of the
County of Alameda, State of California, described as follows:

Beginning at the northeastern corner of said Parcel; thence along the eastern line of said
Parcel, South 01°04'38" West, 1264.53 feet to the southern line of said Parcel; thence
South 60°19'01" West, 133.52 feet; thence North 83°40'59" West, 135.30 feet; thence
North 64°10'59" West, 528.00 feet; thence North 87°10'59" West, 473.88 feet; thence,
South 34°49'01" West, 576.18 feet; thence North 89°25'59" West, 725.18 feet to a non-
tangent curve to the right having a radial which bears South 69°08'38" West, a radius of
1066.00 feet, a delta of 17°39'41"; thence leaving said southern line, northwesterly along
said curve an arc length of 328.59 feet; thence North 03°11'41" West, 121.68; thence
North 33°23'01" East, 83.52; thence North 13°02'00" West, 227.15 feet to the
northwestern line of said parcel; thence along said northwestern line, North 31°01'01"
East, 953.44 feet to the northwest corner of said Parcel; thence along the northern line of
said Parcel, South 89°20'13" East, 1866.04 feet to the Point of Beginning.

Containing 66.4 Acres ±


Charles Sellman L.S. 5186

09-23-2008
Date



Pfeiffer Ranch Investors II Inc
City of Dublin
County of Alameda

Exhibit "B"
Legal Description
GHAD Parcel 2

Real property situate in the City of Dublin, County of Alameda, State of California,
described as follows:

Being a portion of Lot "A3" as shown on the map entitled "Tract 7441" filed in Book 279
of Maps at Page 68, Records of the County of Alameda, State of California, described as
follows:

Beginning at an angle point on the northern line of said Lot, said point being the
southwestern terminus of the course shown as "N34°49'01"E 576.18"; thence, South
44°22'05" West, 50.43 feet to a non-tangent curve to the right having a radial which bears
South 32°49'52" West, a radius of 25.00 feet, a delta of 11°32'13"; thence, northwesterly
along said curve an arc length of 5.03 feet; thence North 45°37'55" West, 48.12 feet to
said northern line; thence along said northern line, South 89°25'59" East, 73.60 to the
Point of Beginning.

Containing .03 Acres ±


Charles Sellman L.S. 5186

09-23-2008
Date



Pfeiffer Ranch Investors II Inc
City of Dublin
County of Alameda

Exhibit "B"
Legal Description
GHAD Parcel 3

Real property situate in the City of Dublin, County of Alameda, State of California,
described as follows:

Being Lot "A4" as shown on the map entitled "Tract 7441" filed in Book 279 of Maps at
Page 68, Records of the County of Alameda, State of California, described as follows:

Containing .01 Acres ±



Charles Sellman L.S. 5186

09-23-2008

Date

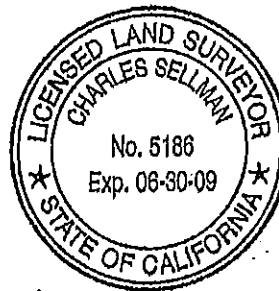


EXHIBIT C

GHAD Boundary

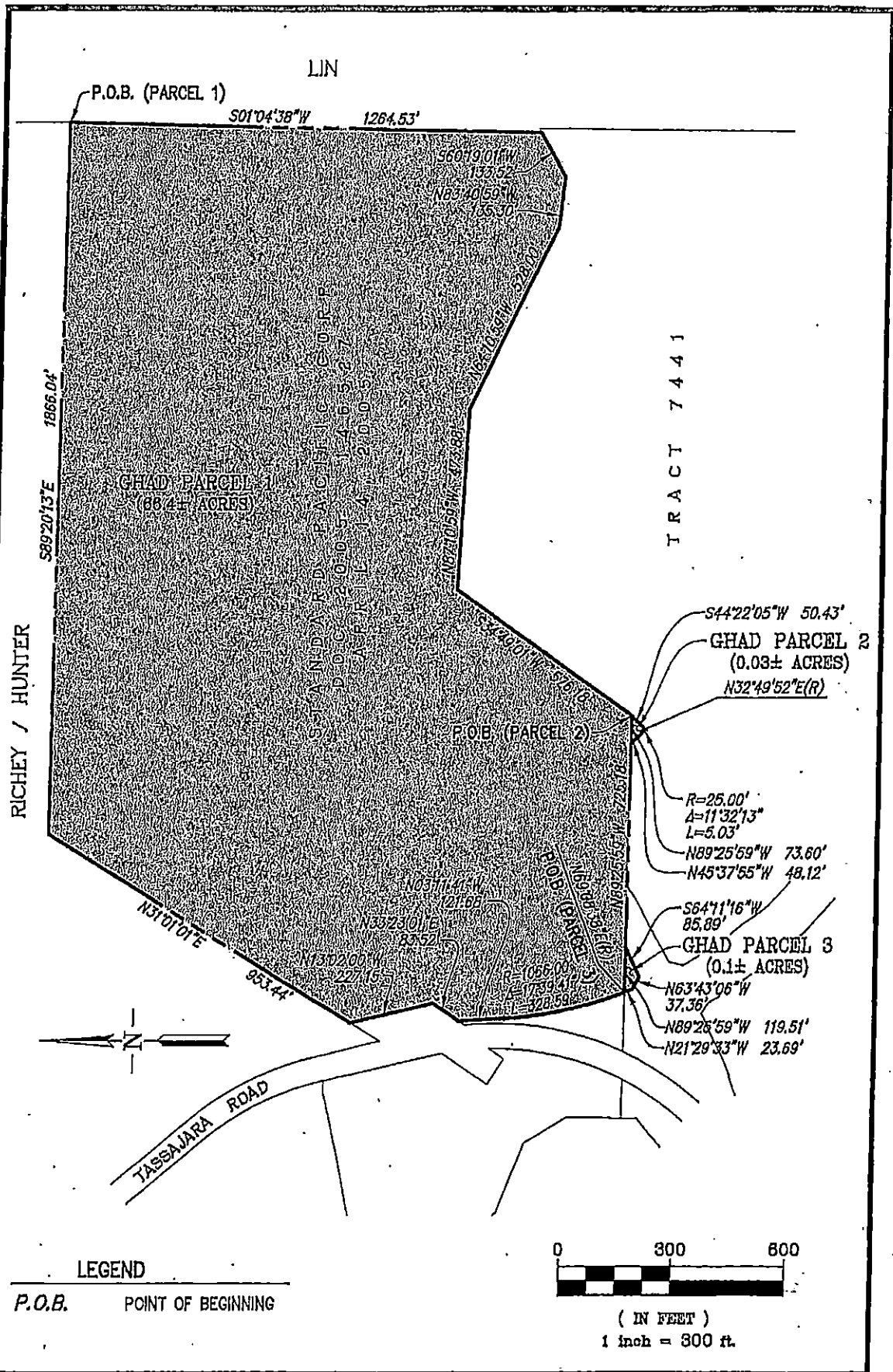


EXHIBIT C
PLAT TO ACCOMPANY LEGAL DESCRIPTION
FOR
GHAD

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RJA
RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
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 PHONE: (925) 227-9100 FAX: (925) 227-9300

SCALE:
 AS SHOWN

DATE:
 09/23/03

JOB NO.:
 031005