



Staff Report

File #: TMP-1937

PLANNING COMMISSION MEETING DATE:

July 17, 2023

SUBJECT:

PLANNING COMMISSION RESOLUTION PC23-5046 RECOMMENDING TO CITY COUNCIL THE SUMMARY VACATION AND ABANDONMENT OF A PORTION OF THE SLOPE EASEMENT ALONG LAS POSAS ROAD GRANTED BY DOCUMENT 88-590995 ON 11/17/1988, WITHIN THE BOUNDARY OF TENTATIVE SUBDIVISION MAP TSM21-0003 FOR MERITAGE GRAN VISTA

CASE NUMBERS:

Summary Vacation VAC 23-0011

Recommendation

APPROVE Resolution PC 23-5046 (VAC23-0011) recommending to City Council the summary vacation and abandonment of a portion of the Slope Easement along Las Posas Road granted by Document 88-590995 on 11/17/1988, within the boundary of Tentative Subdivision Map TSM21-0003 for the Meritage Gran Vista project.

Board or Commission Action

On June 5, 2023, Planning Commission considered the Meritage Gran Vista project and recommended to City Council approval of the project including Environmental Impact Report (EIR22-002), Specific Plan (SP21-0003), General Plan Amendment (GPA21-0007), Rezone (R21-0003), Multi-Family Site Development Plan Review (MFSDP21-0001) And Tentative Subdivision Map (TSM21-0003). The proposed summary vacation of slope easement was depicted on TSM21-0003 as recommended by Planning Commission for approval and as approved by City Council on June 27, 2023.

Background

On June 27, 2023, City Council approved the Meritage Gran Vista project. The project allows for the development of 120 multi-family residential dwelling units on a vacant and roughly 7.6-acre site located north of West Mission Road and west of the intersection of Las Posas and Palm Road (Vicinity Map in Attachment A). The proposed development consists of 16 residential buildings with three-story townhomes, recreational areas, community garden, dog park, bioretention areas, and associated parking. The slope easement along the property frontage to Las Posas Road was granted on 11/17/1988 as Document 88-590995 and is proposed for summary vacation (Attachment B).

Discussion

File #:TMP-1937

CSHC 8333(c) permits the legislative body of a local agency to summarily vacate a public service easement if the easement has been superseded by relocation or determined to be excess by the easement holder, and there are no public facilities within the easement. Staff has determined that the Slope Easement to be vacated is in excess, and no public facilities within the easement would be affected by the vacation.

In accordance with California Streets and Highways Code (CSHC) Section 8313 and Government Code Section 65402, the local planning agency is required to consider the proposed vacation action and to report on its conformance with the adopted General Plan. Staff reviewed the limits of the proposed vacation of public service easement and found that it is not needed for public use, and that the vacation and abandonment of the public service easement would be consistent with the General Plan.

Following Planning Commission action, the proposed vacation and abandonment of public service easement can be considered by the City Council. If City Council orders the vacation and abandonment, the vacated public service easement will remove an encumbrance on the property and allow use of the area by the proposed development.

Environmental Review

The proposed vacation and abandonment of the public service easement is within the scope of the Environmental Impact Report (EIR) for Meritage Gran Vista which is in accordance with the California Environmental Quality Act (CEQA) Section 15162. On June 27, 2023, City Council certified Final Environmental Impact Report (FEIR22-002) (SCH No. 2022040440). Further, the proposed vacation and abandonment is deemed Categorical Exempt pursuant to Section 15305 Class 5 (Minor Alterations in Land Use Limitations), in that this is a minor realignment of right-of-way.

Public Comment

No public comments were received during the processing of this vacation application.

Attachments

- A. Vicinity Map: Meritage Gran Vista
- B. Aerial Easement Exhibit: Portion of Slope Easement granted by Document 88-590995

Adopting Resolutions:

1. Resolution PC 23-5046 (VAC23-0011)

Prepared by:

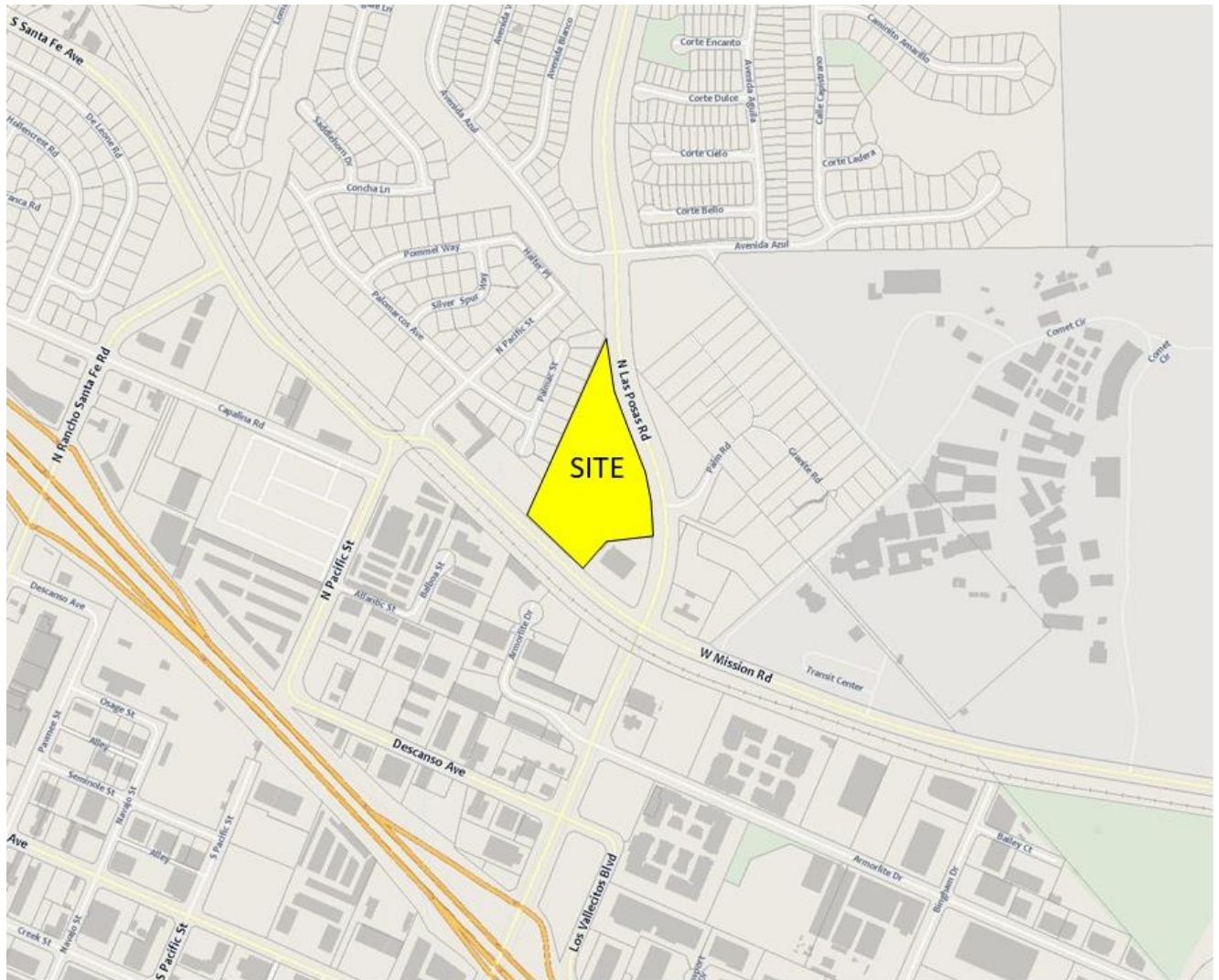
Stephanie Kellar, Deputy City Engineer

Submitted/Approved by:

Joseph Farace, Planning Division Director

File #:TMP-1937

ATTACHMENT A
Vicinity Map




Project No.: EIR22-002, SP21-0003, GPA21-0007, R21-0003, MFSDP21-0001, and TSM21-0003

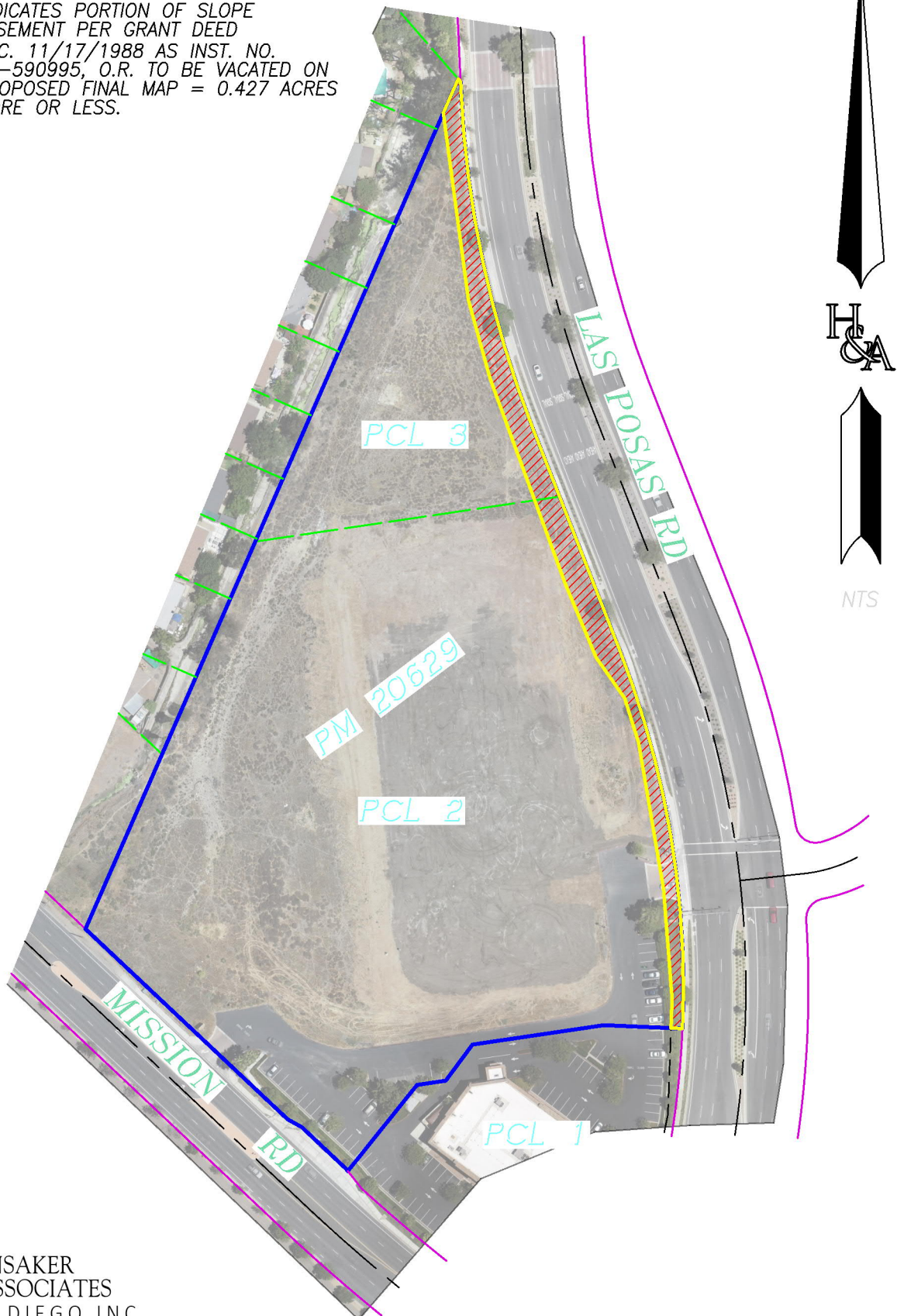
Location: West of the intersection of Las Posas Road and Palm Road

APN: 219-121-15-00 and 219-121-16-00

EXHIBIT DEPICTING PROPOSED VACATION
TO BE EXECUTED ON FINAL MAP

LEGEND

 INDICATES PORTION OF SLOPE
EASEMENT PER GRANT DEED
REC. 11/17/1988 AS INST. NO.
88-590995, O.R. TO BE VACATED ON
PROPOSED FINAL MAP = 0.427 ACRES
MORE OR LESS.



HUNSAKER
& ASSOCIATES
SAN DIEGO, INC.

9707 Waples Street (858)558-4500
San Diego, CA 92121

RESOLUTION PC 23-5046

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS
RECOMMENDING TO CITY COUNCIL THE SUMMARY VACATION AND
ABANDONMENT OF THE SLOPE EASEMENT ALONG LAS POSAS ROAD GRANTED
BY DOCUMENT 88-590995 ON 11/17/1988, WITHIN THE BOUNDARY OF TENTATIVE
SUBDIVISION MAP TSM21-0003 FOR MERITAGE GRAN VISTA

VAC 23-0011
Meritage Homes

Brief Legal Description: Refer to Exhibits A and B

WHEREAS, staff considered a request for the vacation and abandonment of the Slope Easement along Las Posas Road within the boundary of Tentative Subdivision Map TSM21-0003 for Meritage Gran Vista; the Slope Easement to be vacated more particularly described in Exhibits A and B; and

WHEREAS, the slope easement was granted by Document 1988-590995 recorded November 17, 1988 in the Office of the County Recorder of San Diego County; and

WHEREAS, Streets and Highways Code Section 8333(c) expressly permits the legislative body of a local agency to summarily vacate a public service easement if the easement has been determined to be excess by the easement holder, and there are no other public facilities within the easement; and

WHEREAS, the portion of public service easement to be vacated and abandoned is excess; and

WHEREAS, the proposed vacation of the subject public service easement would have no effect on existing improvements or easements; and

WHEREAS, vacation and abandonment of the public service easement as proposed would remove the encumbrances from the title, thereby allowing the affected property owner to improve the affected portions of the property; and

WHEREAS, in accordance with Streets and Highways Code Section 8313 and Government Code Section 65402, the local planning agency is required to consider the proposed vacation action and to report on the conformity with the adopted General Plan; and

WHEREAS, on at a regularly-scheduled and duly noticed meeting held on July 17, 2023, the Planning Commission did consider the proposed summary vacation of public service easement; and

WHEREAS, the Planning Commission did review and consider an Environmental Impact Report (FEIR22-002) (SCH No. 2022040440) for said request pursuant to the California Environmental Quality Act (CEQA).

NOW, THEREFORE, the Planning Commission does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The Planning Commission hereby recommends that the City Council approve the summary vacation of this public service easement as described and depicted on the attached Exhibits A and B, incorporated by reference and made a part of this Resolution as though fully set forth herein.
- C. The Planning Commission's decision is based on the following findings and determinations:
 - 1. The proposed public service easement vacation is consistent with the City's General Plan.
 - 2. The proposed public service easement vacation complies with the objectives of the adopted City-wide Land Use Policy Plan.
 - 3. The affected public service easement is hereby determined to be excess.
 - 4. The proposed public service easement vacation would have no effect on existing improvements or easements.
 - 5. The proposed public service easement vacation will not be detrimental to public health, safety, and welfare.
 - 6. All requirements of California Environmental Quality Act (CEQA) have been met in that the proposed street vacations will not have a significant effect on the environment, as reviewed and analyzed in the Environmental Impact Report (FEIR22-002) (SCH No. 2022040440).
- D. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the applicant/developer or its contractors, subcontractors, agents, employees

or other persons acting on applicant/developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. The applicant/developer further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 17th day of July, 2023 by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Christopher Carroll, Chairman

ATTEST:

Gina Jackson, Senior Office Specialist

Exhibit(s):

Exhibit A – Street Vacation Legal Description

Exhibit B – Plat of Street Vacation

EXHIBIT "A"
LEGAL DESCRIPTION OF SLOPE EASEMENT VACATION

ALL THAT PORTION OF THE SLOPE EASEMENT AS DESCRIBED IN THAT CERTAIN GRANT DEED TO THE CITY OF SAN MARCOS PER DOCUMENT RECORDED NOVEMBER 17, 1988 AS INSTRUMENT NO. 88-590995 OF OFFICIAL RECORDS, LYING WITHIN PARCELS 2 AND 3 OF PARCEL MAP NO. 20629, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 13, 2009.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 0.427 ACRES, MORE OR LESS.

 5-15-2023
JIMMY J. ELMORE P.L.S. 8483
HUNSAKER & ASSOCIATES SAN DIEGO, INC.

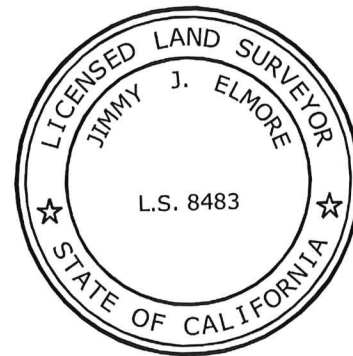
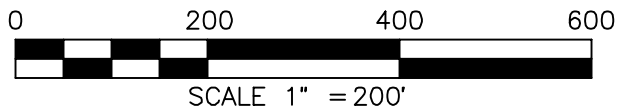
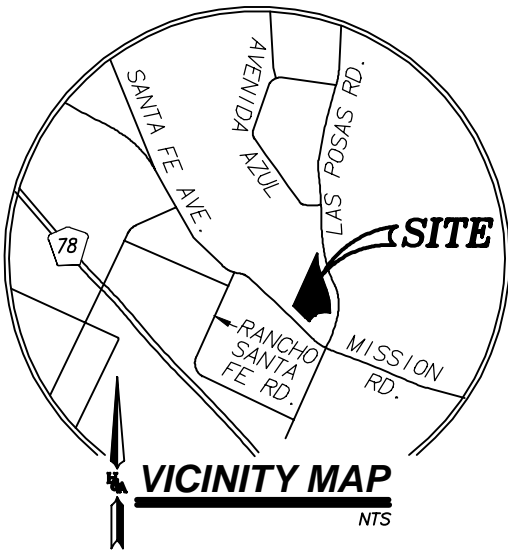


EXHIBIT "B"

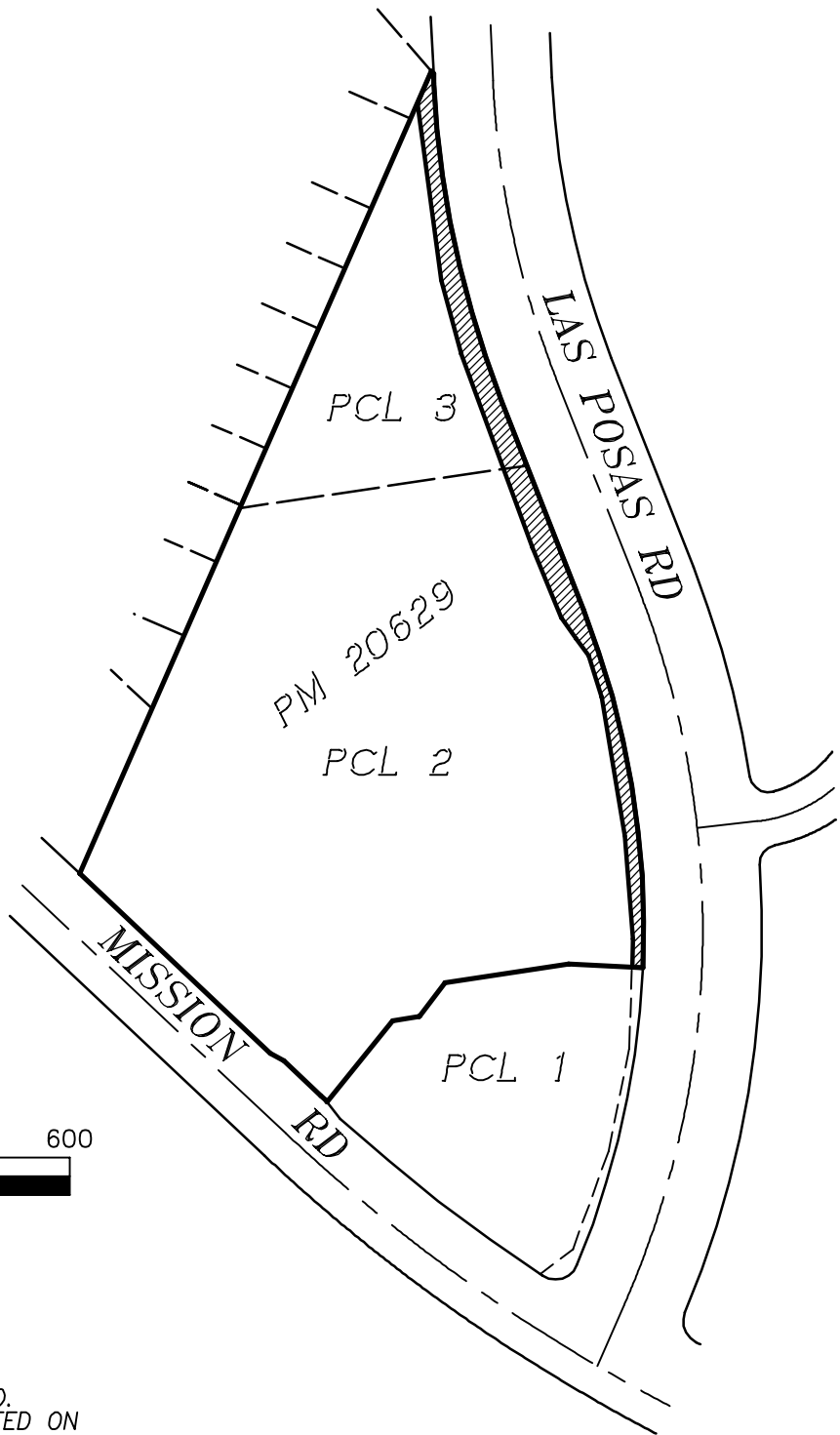
SHEET 1 OF 1 SHEETS



LEGEND



INDICATES PORTION OF SLOPE
EASEMENT PER GRANT DEED
REC. 11/17/1988 AS INST. NO.
88-590995, O.R. TO BE VACATED ON
PROPOSED FINAL MAP = 0.427 ACRES
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