

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
City of San Luis Obispo
City Clerk's Office
990 Palm Street
San Luis Obispo, CA 93401-3249

Official Records
San Luis Obispo Co.
Julie L. Rodewald
Recorder
Oct 09, 1998
Time: 11:28

[11]

NF -1	0.00
TOTAL	0.00

OPEN SPACE, DRAINAGE AND BICYCLE/PEDESTRIAN ACCESS EASEMENT

This indenture, made and entered into this 15th day of September, 1998, by and between Acacia Creek, LLC, a California Limited Liability Company, hereinafter called "owner", and the CITY OF SAN LUIS OBISPO, a municipal corporation of the State of California, hereinafter called "City".

WITNESSETH

WHEREAS, Owner possesses certain property situated within the City of San Luis Obispo, as described in Exhibit "A", attached hereto and made a part of this easement by reference, commonly known as 3450 Broad Street (Assessors Parcel Number: 053-221-026).

WHEREAS, the subject property has certain natural scenic beauty and existing openness, as well as public value for non-vehicular access, more particularly described in Exhibit "B" attached hereto and made a part of this easement by reference; and

WHEREAS, an irrevocable offer of dedication of an open space easement, including provision for non-vehicular access to accommodate a bicycle path and pedestrian access, was required as a condition of the City's approval of the Acacia Creek Commercial Center; and

WHEREAS, both Owner and City desire to preserve, conserve, and enhance for the public benefit and the natural scenic beauty and existing openness, natural condition and present state of use of the subject property; and

WHEREAS, both owner and City wish to make available the public values of the site for non-vehicular access; and

WHEREAS, the Owner has offered to dedicate the subject easement to preserve the site's scenic beauty and existing openness by restricting Owner's use of and activities on subject property through the imposition of a perpetual open space and non-vehicular access easement with conditions hereinafter expressed; and

WHEREAS, the Owner is willing to grant said easement on the subject property, as part of a development approval.

D1487

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NOW THEREFORE, in consideration of the subject property and in compliance with Chapter 6.6 of Part I of Division 1 of Title 5 of the Government Code of the State of California commencing with Section 51070, and in further consideration of the mutual promises, covenants and the conditions herein contained and of the substantial public benefits to be derived therefrom, the parties agree as follows:

1. Owner hereby grants to City, an open space, drainage and bicycle/pedestrian access easement over the subject property. Said grant of easement conveys to City, an estate and interest in the subject property. The nature, character and the extent of the open space easement is as described below, and results from the restrictions hereby imposed upon the use of the subject property by Owner. To that end, and for the purpose of accomplishing the intent of the parties hereto, Owner covenants on behalf of itself, its heirs, successors and assigns, with the City, its heirs, successors and assigns, to do and refrain from doing severally and collectively upon the subject property, the various acts hereinafter mentioned.
2. The bicycle/pedestrian access referenced in this easement includes a 10-foot (3.3 meters) wide Class I bicycle path along the southeastern edge of Acacia Creek to accommodate both bicyclists and pedestrians.
3. The restrictions hereby imposed upon the use of the open space portion of the subject property by Owner and the acts which owner shall refrain from doing upon the subject property are, and shall be, as follows:
 - a. No structures will be placed or erected upon said premises. If desired, see-through fencing appropriate to open space preservation may be allowed if approved by the city's Architectural Review Commission.
 - b. No signs, billboards, similar structures or devices, or advertising of any kind or nature shall be located on or within the subject property.
 - c. Owners shall not plant nor permit to be planted any vegetation upon the subject property, except as may be associated with riparian corridor restoration, erosion control, fire protection, soil stabilization, or as allowed and approved by the City's Community Development Director and Natural Resources Manager. Any such vegetation shall be native riparian.
 - d. Except for the construction and maintenance of the proposed bicycle path and any future planned and City-endorsed trails within the open space area, the general topography of the subject property shall be preserved in its natural condition.
 - e. No extraction of surface or subsurface natural resources shall be allowed.
 - f. No removal of natural vegetation shall be allowed except for fire

Open Space Easement and Agreement
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protection, elimination of dead growth or riparian corridor restoration as directed and approved by the Community Development Director and Natural Resources Manager.

- g. No use of said described premises which will or does materially alter the landscape or other attractive scenic features of said premises other than those above specified shall be done or suffered.
- 4. This easement shall remain in effect in perpetuity.
- 5. The City shall have the right to construct, or reconstruct, public trails and related improvements reasonably necessary for the public use and consignment of the open space easement, and be responsible for the maintenance thereof.
- 6. This grant may not be abandoned by the City except pursuant to all of the provisions of Section 51093 of the Government Code of the State of California.
- 7. This grant of open space easement, as specified in Section 51096 of the Government Code of the State of California, upon execution and acceptance in accordance with Chapter 6.6 of Part 1 of Division 1 of Title 5 of the Government Code of the State of California commencing with Section 51070, shall be deemed to be an enforceable restriction within the meaning of Article XIII, Section 8 of the Constitution of the State of California.
- 8. Land uses permitted or reserved to the owner by this grant shall be subject to the ordinances of City regulating the use of land.
- 9. The City shall have the right of access to remove any drainage obstructions as needed to provide for the conveyance of creek flows, subject to the review and approval of other agencies with regulatory control over work done in the riparian corridor, specifically the State Department of Fish and Game and the U.S. Army Corps of Engineers.
- 10. The terms contained herein shall be binding on the parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this document on the day and year first above written.

ALL SIGNATURES MUST BE NOTARIZED

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Acacia Creek, LLC

9/22/98

Owner Patrick N. Smith date
Manager

Acacia Creek, LLC

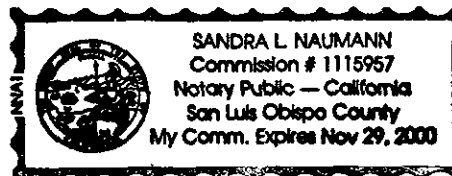
Owner Alex N. Pananides date
Manager

City of San Luis Obispo by
Community Development Director

State of California }
County of San Luis Obispo }

On September 22, 1998, before me, Sandra L. Naumann, Notary Public, personally appeared Patrick N. Smith (x) personally known to me - or - () 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 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.
Witness my hand and official seal.

Notary Public



Capacity claimed by signer(s):

() individual(s) () corporation (x) partnership () attorney-in-fact () political agency

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Page 5

Santa Barbara Bank & Trust

Bruce I. Wennerstrom

By: Bruce I. Wennerstrom
Its: Senior Vice President

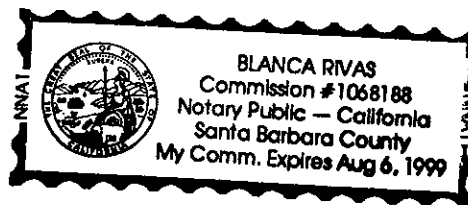
STATE OF CALIFORNIA)

COUNTY OF SANTA BARBARA) ss.

On 9/15/98, before me, BLANCA RIVAS, Notary Public,
personally appeared BRUCE I. WENNERSTROM personally known to me (or 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.

WITNESS my hand and official seal.


Blanca Rivas
Signature of Notary

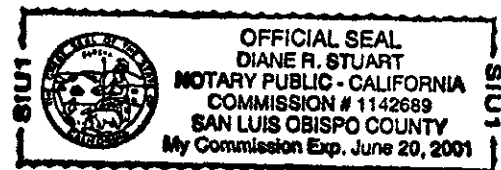


State of California }
County of San Luis Obispo }

On October 2, 1998, before me, Diane R. Stuart, Notary Public, personally appeared **Arnold B. Jonas**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.


Diane R. Stuart, Notary Public

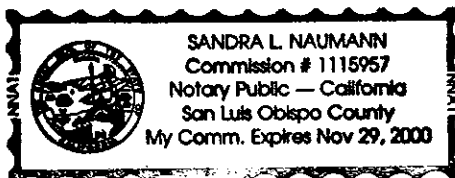


Capacity claimed by signer(s): Political Agency

Open Space, Drainage and Bicycle/Pedestrian Access Easement at 3450 Broad Street

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENTState of CaliforniaCounty of Santa BarbaraOn September 25, 1998 before me, Sandra L. Naumann, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"personally appeared Alex N. Pananides
NAME(S) OF SIGNER(S)

☒ personally known to me - **OR** - ☐ 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.



WITNESS my hand and official seal.

SIGNATURE OF NOTARY
OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☒ OTHER: Manager (LLC)

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(IES)

Acacia Creek, LLC**DESCRIPTION OF ATTACHED DOCUMENT**Open Space, Drainage and Bicycle/
Pedestrian Access Easement

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

September 15, 1998

DATE OF DOCUMENT

Patrick N. Smith and the City of
San Luis Obispo Community Devl. Dir.

SIGNER(S) OTHER THAN NAMED ABOVE

Exhibit "A"**Open Space and Bikeway Easement**

File no: 273.05

September 16, 1998

An Open Space and bikeway easement over a portion of Lot 88 of San Luis Obispo Suburban Tract in the City of San Luis Obispo, County of San Luis Obispo, State of California, as shown on the map filed in Book 1 of Licensed Surveys at page 92 in the County Records Office of said County, also being the land described in the deed recorded in Volume 2862 of Official Records at Page 567 in said County Records Office, described as follows:

Commencing at a 2" iron pipe tagged "RCE 30412" at the southwest corner of said land, as shown on the Record of Survey filed in Book 75 of Licensed Surveys at page 58 in said County Records, said point being on the easterly right of way of California State Highway 227 as shown on said Record of Survey; thence along said easterly right of way, north 17° 26' 45" west 69.34 feet to the True Point of Beginning; thence leaving said easterly right of way, the following courses:

north 05° 16' 55" east 58.25 feet to the beginning of a curve concave to the east having a radius of 22.00 feet and a central angle of 11° 53' 47";
 northerly along the arc of said curve 4.57 feet;
 north 17° 10' 42" east 71.46 feet to the beginning of a curve concave to the east having a radius of 24.00 feet and a central angle of 5° 25' 33";
 northerly along the arc of said curve 2.27 feet;
 north 22° 36' 15" east 93.51 feet to the beginning of a curve concave to the east having a radius of 24.00 feet and a central angle of 7° 46' 04";
 northeasterly along the arc of said curve 3.25 feet;
 north 30° 22' 19" east 17.35 feet;
 north 24° 02' 08" east 8.94 feet to the beginning of a curve concave to the west having a radius of 44.00 feet and a central angle of 15° 44' 47";
 northerly along the arc of said curve 12.09 feet;
 north 08° 17' 21" east 42.32 feet to the beginning of a curve concave to the west having a radius of 25.00 feet and a central angle of 27° 35' 34";
 northerly along the arc of said curve 12.04 feet;
 north 19° 18' 13" west 38.91 feet to the beginning of a curve concave to the southeast having a radius of 24.00 feet and a central angle of 54° 57' 22";
 northeasterly along the arc of said curve 23.02 feet;
 north 35° 39' 09" east 17.56 feet to the beginning of a curve concave to the south having a radius of 24.00 feet and a central angle of 23° 46' 32";
 easterly along the arc of said curve 9.96 feet;
 north 59° 25' 41" east 35.61 feet to the beginning of a curve concave to the north having a radius of 36.00 feet and a central angle of 5° 50' 32";
 easterly along the arc of said curve 3.67 feet;
 north 53° 35' 09" east 47.97 feet to a point on the westerly right of way of the Pacific Coast Railroad also being 30 feet westerly of the center line of Sacramento Drive

Exhibit "A"**Open Space and Bikeway Easement**

File no: 273.05

September 16, 1998

as shown on said Record of Survey; thence along said westerly line, north 46° 05' 25" west 74.39 feet to a point on the northerly line of said land; thence along said northerly line the following courses:

south 23° 23' 23" west 82.54 feet;

south 58° 23' 23" west 61.41 feet;

south 46° 12' 18" west 11.47 feet;

south 37° 53' 23" west 128.10 feet;

south 01° 39' 30" west 78.42 feet a point on said easterly highway right of way;

thence along said right of way south 17° 26' 45" east 204.60 feet; to the True Point of Beginning.

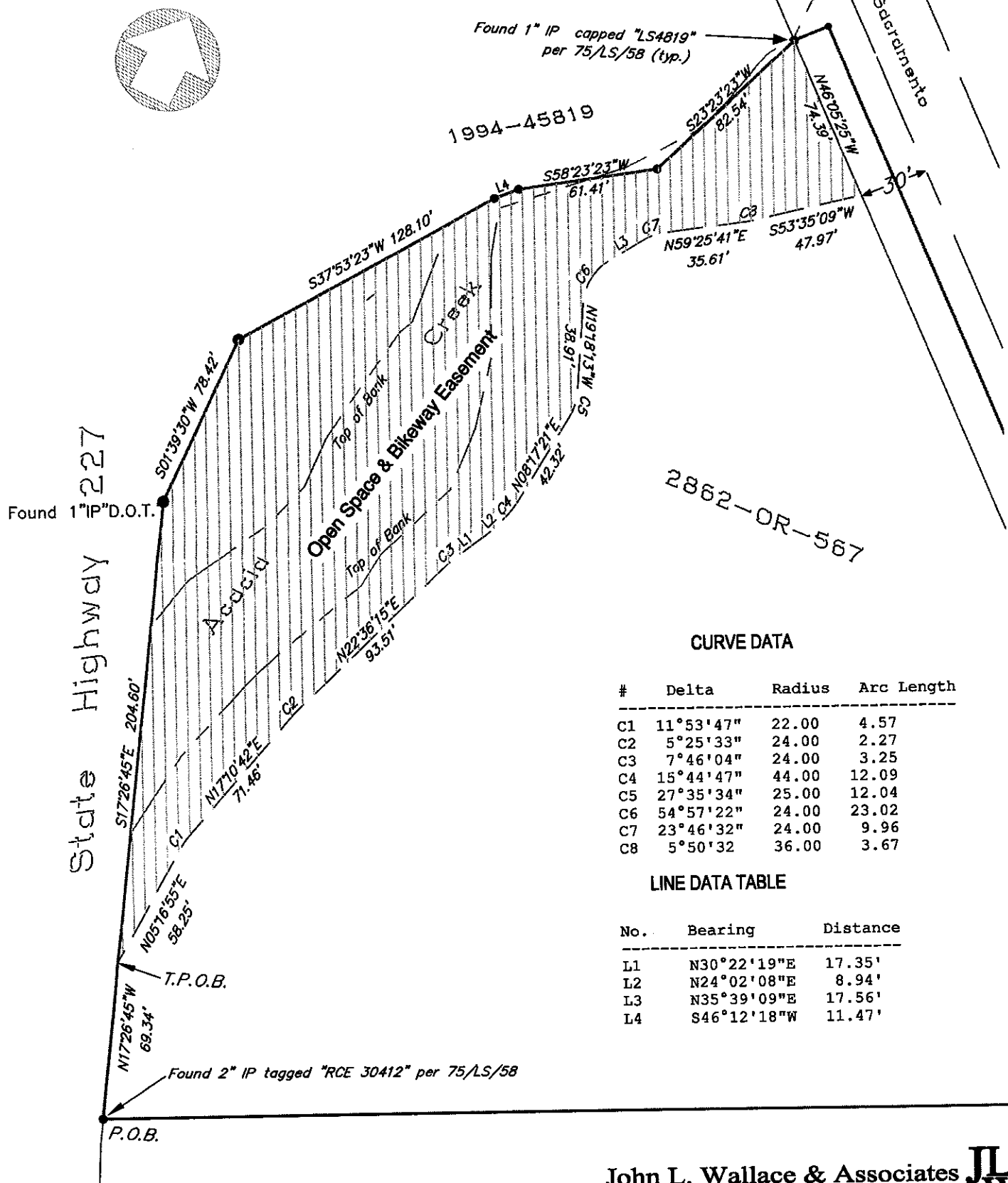
Containing 0.8 acres more or less.

Said easement is shown on the attached exhibit "B"



Tom Mastin LS 4819 Exp 9/2000

Exhibit "B"



CURVE DATA

#	Delta	Radius	Arc Length
C1	11°53'47"	22.00	4.57
C2	5°25'33"	24.00	2.27
C3	7°46'04"	24.00	3.25
C4	15°44'47"	44.00	12.09
C5	27°35'34"	25.00	12.04
C6	54°57'22"	24.00	23.02
C7	23°46'32"	24.00	9.96
C8	5°50'32"	36.00	3.67

LINE DATA TABLE

No.	Bearing	Distance
L1	N30°22'19"E	17.35'
L2	N24°02'08"E	8.94'
L3	N35°39'09"E	17.56'
L4	S46°12'18"W	11.47'

John L. Wallace & Associates **JLWA**

CERTIFICATE OF ACCEPTANCE

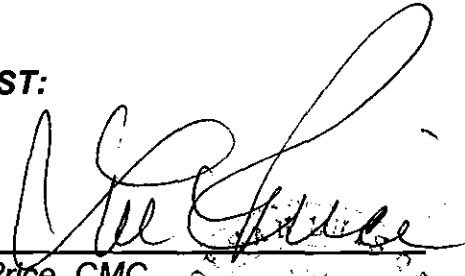
THIS IS TO CERTIFY that the interest in real property conveyed by the OPEN SPACE, DRAINAGE AND BICYCLE/PEDESTRIAN ACCESS EASEMENT dated September 15, 1998 from Acacia creek, LLC, a California Limited Liability Company , to the CITY OF SAN LUIS OBISPO, a Political Corporation, is hereby accepted by the undersigned officer on behalf of the City Council pursuant to authority conferred by Resolution No. 5370 (1984 Series) recorded June 15, 1984 in Volume 2604, Official Records, Page 878, San Luis Obispo County, California and the Grantee consents to recordation thereof by its duly authorized officer or his agent.

Date: October 7, 1998

CITY OF SAN LUIS OBISPO

By: 
Mayor Allen K. Settle

ATTEST:

By: 
Lee Price, CMC
City Clerk



END OF DOCUMENT