



Montecito Sanitary District

1042 Monte Cristo Lane
Santa Barbara, CA 93108

A Public Service Agency

Phone: (805) 969-4200
www.montsan.org

AGENDA

For the Special Meeting of the Board on:

March 20, 2024

The regular meeting of the Governing Board will begin at **1:30 p.m. on March 20, 2024** in the District's Board Room at 1042 Monte Cristo Lane, Santa Barbara, CA 93108.

Additionally, Director Ohlmann will be attending the meeting at 1633 North Harvest Dance Road, Jackson, WY 83001.

The public may attend the meeting in person or participate remotely via Zoom using the following virtual meeting details:

By visiting: <https://us02web.zoom.us/j/84974709723>

Or by calling: 1-669-900-6833

Meeting ID: 849 7470 9723

1. CALL TO ORDER

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. PRESIDENT'S REPORT

D. AGENDA CHANGES/DELETIONS

2. PUBLIC COMMENT

Public comment on items only on the agenda is **limited to 3 minutes** and is at the discretion of the Board President. For further instructions, please see [Instructions for Public Comment](#) on the District's website.

3. DISTRICT BUSINESS ITEMS

A. ORDINANCE NO. 23 – EASEMENT ENCROACHMENT

It is recommended that the Board consider:

- i) Adopting Ordinance No. 23 – Easement Encroachment; and
- ii) Take any such additional, related action that may be desirable.

4. ITEMS FOR FUTURE AGENDAS

The next regularly scheduled Board meeting will be held on March 28, 2024 at 12:00 pm.

5. ADJOURNMENT

This agenda was posted on the District website, and at the Montecito Sanitary District Bulletin Board in accordance with the requirements of the Brown Act. Attested by:



Stephen Williams

District Administrator/Clerk of the Board

ADA – The Americans with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in, or denied the benefits of, the District's programs, services or activities because of any disability. If you need special assistance to participate in this meeting, please contact the District Office at 969-4200. Notification at least twenty-four (24) hours prior to the meeting will enable the District to make appropriate arrangements.



Montecito Sanitary District

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MONTECITO SANITARY DISTRICT

STAFF REPORT – 3

DATE: March 20, 2024
TO: BOARD OF DIRECTORS
FROM: John Weigold, General Manager
Aleks R. Giragosian, General Counsel
SUBJECT: Ordinance No. 23 – Easement Encroachment

RECOMMENDATION:

It is recommended the Board consider:

- i) Adopting Ordinance No. 23 – Easement Encroachment.

DISCUSSION:

The Board discussed and adopted Ordinance No. 22 – Easement Encroachment Ordinance at its July 13, 2023 Regular Meeting, and the Board discussed adopting staff recommended changes to Ordinance No. 22 at its March 14, 2024 meeting.

Since the adoption of Ordinance No. 22, Staff has struggled to execute the policy as the Board outlined due to various issues with several properties in the District. Staff recommends that the Boards consider adopting Ordinance 23 incorporating the redline changes in Attachment A.

ATTACHMENTS: **Attachment A** - Ordinance No. 23 - Easement Encroachment – Redline Version
Attachment B – Ordinance No. 23 – Easement Encroachment – Clean Version
Attachment C – Ordinance No. 22 – Easement Encroachment
Attachment D – 1970-05-13 MSD Easement Example
Attachment E – 705707 Park Lane – MSD Exhibit Easement Example

ORDINANCE NO. ~~23~~³²

ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MONTECITO SANITARY DISTRICT
ESTABLISHING POLICIES AND STANDARDS
FOR DISTRICT EASEMENTS AND REGULATING
EASEMENT ENCROACHMENTS

WHEREAS, the Montecito Sanitary District (“District”) is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq;

WHEREAS, under Health and Safety Code section 6514, the District may acquire “such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the board are necessary or proper to the exercise of its powers, and particularly for the purpose of permitting ingress to and egress from such real or personal property, ... ”;

WHEREAS, Health and Safety Code sections 6521 and 6491.3 authorize the Board of the District to make and enforce all necessary and proper regulations and ordinances for all other sanitary purposes not in conflict with the laws of the state of California; ~~and~~

WHEREAS, on July 13, 2023, the Board adopted Ordinance No. 22, establishing policies and standards for District easements and regulating easement encroachments; and

WHEREAS, the Board desires to rescind and replace Ordinance No. 22 with this Ordinance to establish a refined set of policies and standards. ~~of the District desires to adopt regulations to protect its easements.~~

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Definitions. For purposes of this Ordinance, the following terms have the meaning specified below:

2.1 “District ~~F~~facilities” means pipelines, manholes, pump stations, or any other structures, equipment and machinery, including appurtenances to them, which are used to collect, convey, treat, dispose of and reuse wastewater.

2.2. “Easement” means a property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; “easement” includes, “reserve,” “right of way,” “sewer reserve,” and “utility reserve.”

2.3. “Property Owner” means the fee owner or leaseholder of the servient tenement to the District’s easement.

2.4. “Significant ~~I~~nterference” means, with respect to encroachments on District easements, a use or condition that does or has the potential ~~to damage or~~ to inhibit access to District facilities, particularly relating to vehicle access. ~~to District facilities or that does or has the potential to negatively impact the District’s use of the easement for its intended purposes. Some uses and conditions that do not pose a significant interference include lawns, flowerbeds, loose paving stones, and similar landscaping features.~~ A Some uses or conditions that do pose a Significant Interference may include, but isare not limited to,

MSD Ordinance No. 232

Re: ~~Easements and~~ Easement Encroachments

swimming pools, permanent decks, retaining walls, recreational courts, trees, ~~heavy brush and vegetation,~~ gates, ~~fences, and utility infrastructure,~~ ~~and paving.~~

The determination regarding whether an activity or condition constitutes a Significant Interference shall be made by the General Manager, ~~which shall be consistent with this Ordinance.~~

2.5 “Unwarranted Liability” means, with respect to encroachments on District easements, a use or condition that does or has the potential to: (1) result in significant expense related to replacement or restoration as a consequence of the District accessing its easement or (2) damage the District’s infrastructure. An Unwarranted Liability may include, but is not limited to, heavy brush and vegetation, lawns, flowerbeds, and hardscapes.

The determination regarding whether an activity or condition constitutes an Unwarranted Liability shall be made by the General Manager.

SECTION 3. Unauthorized Encroachments. It is unlawful for any person to:

3.1. Cause, permit, or maintain an unauthorized encroachment on a District easement that results in a Significant Interference ~~or Unwarranted Liability to~~with the District’s easement rights or District’s facilities, including limiting vehicle access.

3.2. Cause, permit, or maintain any activity or condition off or outside a District easement that causes, whether directly or indirectly, a Significant Interference ~~or Unwarranted Liability to~~with the District’s easement rights.

SECTION 4. Authorized Encroachments.

4.1 A property owner may make use of the land over which the District has an easement if the use or condition does not violate Section 3 of this Ordinance.

4.2 Notwithstanding Section 4.1, the District may enter into a license agreement with a property owner whereby a Significant Interference or Unwarranted Liability may be maintained for a limited duration or indefinitely, subject to its removal and repair or replacement, at the property owner’s expense upon termination of the license agreement.

SECTION 5. Removal & Restoration of Improvements Disturbed by District Activities. Whenever the District’s reasonable use of the easement to construct, reconstruct, renew, alter, operate, maintain, inspect, repair, or replace District facilities results in the need for the property owner’s improvements to the real property to be removed or disturbed, the following provisions apply:

5.1 The District shall, at the expense of the District, replace or restore the improvements in kind which are not a Significant Interference or Unwarranted Liability under this Ordinance, upon the completion of the District’s activities.

5.2 If the encroachment is authorized pursuant to a license agreement and the license agreement does not specify otherwise, the property owner shall, at no expense to the District, be responsible for restoring the encroaching improvements.

5.3 A Significant Interference or Unwarranted Liability ~~unauthorized encroachments~~ shall be removed by the property owner at his or her expense ~~and shall not be restored by the District.~~ Removal shall be performed promptly after notice from the District. If the encroachment has not been removed ~~with~~in a reasonable time after notice, or if the urgency of the District’s easement activities requires, the District may remove the encroachment itself, and the removal costs will be charged to the property owner.

MSD Ordinance No. 232
Re: ~~Easements and~~ Easement Encroachments

SECTION 6. District Remedies. The remedies granted to the District in this Ordinance are in addition to any other rights and remedies that are available under prior regulations or otherwise afforded by law, and the District is entitled to exercise any and all such rights and to charge property owners for the costs of such remedies either serially or cumulatively, as determined by the District.

SECTION 7. CEQA. This action is not a project for purposes of 15 CCR 15378(b)(5) in that It is an administrative activity that will not result in direct or indirect physical changes in the environment.

SECTION 8. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

SECTION 9. Severability. If any section of this Ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether any particular section is held invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this ~~2013~~th day of ~~March~~~~July~~, 202~~4~~~~3~~, by the following vote:

AYES: ~~Directors Hogan, Johnson, Martin, Ohlmann, and Barrett~~
NAYS: ~~None~~
ABSTAIN: ~~None~~
ABSENT: ~~None~~



Ellwood T. Barrett II
President of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ATTEST:

Stephen Williams
Clerk of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ORDINANCE NO. 23

**ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MONTECITO SANITARY DISTRICT
ESTABLISHING POLICIES AND STANDARDS
FOR DISTRICT EASEMENTS AND REGULATING
EASEMENT ENCROACHMENTS**

WHEREAS, the Montecito Sanitary District (“District”) is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq;

WHEREAS, under Health and Safety Code section 6514, the District may acquire “such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the board are necessary or proper to the exercise of its powers, and particularly for the purpose of permitting ingress to and egress from such real or personal property, ... ”;

WHEREAS, Health and Safety Code sections 6521 and 6491.3 authorize the Board of the District to make and enforce all necessary and proper regulations and ordinances for all other sanitary purposes not in conflict with the laws of the state of California;

WHEREAS, on July 13, 2023, the Board adopted Ordinance No. 22, establishing policies and standards for District easements and regulating easement encroachments; and

WHEREAS, the Board desires to rescind and replace Ordinance No. 22 with this Ordinance to establish a refined set of policies and standards.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Definitions. For purposes of this Ordinance, the following terms have the meaning specified below:

2.1 “District Facilities” means pipelines, manholes, pump stations, or any other structures, equipment and machinery, including appurtenances to them, which are used to collect, convey, treat, dispose of and reuse wastewater.

2.2. “Easement” means a property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; “easement” includes, “reserve,” “right of way,” “sewer reserve,” and “utility reserve.”

2.3. “Property Owner” means the fee owner or leaseholder of the servient tenement to the District’s easement.

2.4. “Significant Interference” means, with respect to encroachments on District easements, a use or condition that does or has the potential to inhibit access to District facilities, particularly relating to vehicle access. A Significant Interference may include, but is not limited to, swimming pools, permanent decks, retaining walls, recreational courts, trees, gates, fences, and utility infrastructure.

The determination regarding whether an activity or condition constitutes a Significant Interference shall be made by the General Manager.

MSD Ordinance No. 23
Re: Easement Encroachments

2.5 “Unwarranted Liability” means, with respect to encroachments on District easements, a use or condition that does or has the potential to: (1) result in significant expense related to replacement or restoration as a consequence of the District accessing its easement or (2) damage the District’s infrastructure. An Unwarranted Liability may include, but is not limited to, heavy brush and vegetation, lawns, flowerbeds, and hardscapes.

The determination regarding whether an activity or condition constitutes an Unwarranted Liability shall be made by the General Manager.

SECTION 3. Unauthorized Encroachments. It is unlawful for any person to:

3.1. Cause, permit, or maintain an unauthorized encroachment on a District easement that results in a Significant Interference or Unwarranted Liability to the District’s easement rights or District’s facilities, including limiting vehicle access.

3.2. Cause, permit, or maintain any activity or condition off or outside a District easement that causes, whether directly or indirectly, a Significant Interference or Unwarranted Liability to the District’s easement rights.

SECTION 4. Authorized Encroachments.

4.1 A property owner may make use of the land over which the District has an easement if the use or condition does not violate Section 3 of this Ordinance.

4.2 Notwithstanding Section 4.1, the District may enter into a license agreement with a property owner whereby a Significant Interference or Unwarranted Liability may be maintained for a limited duration or indefinitely, subject to its removal and repair or replacement, at the property owner’s expense upon termination of the license agreement.

SECTION 5. Removal & Restoration of Improvements Disturbed by District Activities.

Whenever the District’s reasonable use of the easement to construct, reconstruct, renew, alter, operate, maintain, inspect, repair, or replace District facilities results in the need for the property owner’s improvements to the real property to be removed or disturbed, the following provisions apply:

5.1 The District shall, at the expense of the District, replace or restore the improvements in kind which are not a Significant Interference or Unwarranted Liability under this Ordinance, upon the completion of the District’s activities.

5.2 If the encroachment is authorized pursuant to a license agreement and the license agreement does not specify otherwise, the property owner shall, at no expense to the District, be responsible for restoring the encroaching improvements.

5.3 A Significant Interference or Unwarranted Liability shall be removed by the property owner at his or her expense. Removal shall be performed promptly after notice from the District. If the encroachment has not been removed within a reasonable time after notice, or if the urgency of the District’s easement activities requires, the District may remove the encroachment itself, and the removal costs will be charged to the property owner.

SECTION 6. District Remedies. The remedies granted to the District in this Ordinance are in addition to any other rights and remedies that are available under prior regulations or otherwise afforded by law, and the District is entitled to exercise any and all such rights and to charge property owners for the costs of such remedies either serially or cumulatively, as determined by the District.

SECTION 7. CEQA. This action is not a project for purposes of 15 CCR 15378(b)(5) in that It is

MSD Ordinance No. 23
Re: Easement Encroachments

an administrative activity that will not result in direct or indirect physical changes in the environment.

SECTION 8. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

SECTION 9. Severability. If any section of this Ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether any particular section is held invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this 20th day of March, 2024, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:



ATTEST:

Ellwood T. Barrett II
President of the Board of Directors of the
MONTECITO SANITARY DISTRICT

Stephen Williams
Clerk of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ORDINANCE NO. 22

**ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MONTECITO SANITARY DISTRICT
ESTABLISHING POLICIES AND STANDARDS
FOR DISTRICT EASEMENTS AND REGULATING
EASEMENT ENCROACHMENTS**

WHEREAS, the Montecito Sanitary District (“District”) is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq;

WHEREAS, under Health and Safety Code section 6514, the District may acquire “such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the board are necessary or proper to the exercise of its powers, and particularly for the purpose of permitting ingress to and egress from such real or personal property, ... ”;

WHEREAS, Health and Safety Code sections 6521 and 6491.3 authorize the Board of the District to make and enforce all necessary and proper regulations and ordinances for all other sanitary purposes not in conflict with the laws of the state of California; and

WHEREAS, the Board of the District desires to adopt regulations to protect its easements.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Definitions. For purposes of this Ordinance, the following terms have the meaning specified below:

2.1 “District facilities” means pipelines, pump stations, or any other structures, equipment and machinery, including appurtenances to them, which are used to collect, convey, treat, dispose of and reuse wastewater.

2.2. “Easement” means a property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; “easement” includes, “reserve,” “right of way,” “sewer reserve,” and “utility reserve.”

2.3. “Property Owner” means the fee owner or leaseholder of the servient tenement to the District’s easement.

2.4. “Significant interference” means, with respect to encroachments on District easements, a use or condition that does or has the potential to damage or to inhibit access to District facilities or that does or has the potential to negatively impact the District’s use of the easement for its intended purposes. Some uses and conditions that do not pose a significant interference include lawns, flowerbeds, loose paving stones, and similar landscaping features. Some uses or conditions that do pose a significant interference include swimming pools, permanent decks, retaining walls, trees, heavy brush and vegetation, gates, fences, and paving. The determination regarding whether an activity or condition constitutes a significant interference shall be made by the General Manager, which shall be consistent with this Ordinance.

SECTION 3. Unauthorized Encroachments. It is unlawful for any person to:

3.1. Cause, permit, or maintain an unauthorized encroachment on a District easement that results

MSD Ordinance No. 22
Re: Easements and Easement Encroachments

in a significant interference with the District's easement rights or District's facilities;

3.2. Cause, permit, or maintain any activity or condition off or outside a District easement that causes, whether directly or indirectly, a significant interference with the District's easement rights.

SECTION 4. Authorized Encroachments. A property owner may make use of the land over which the District has an easement if the use or condition does not violate Section 3 of this Ordinance.

SECTION 5. Removal & Restoration of Improvements Disturbed by District Activities. Whenever the District's reasonable use of the easement to construct, reconstruct, renew, alter, operate, maintain, inspect, repair, or replace District facilities results in the need for the property owner's improvements to the real property to be removed or disturbed, the unauthorized encroachments shall be removed by the property owner at his or her expense and shall not be restored by the District. Removal shall be performed promptly after notice from the District. If the encroachment has not been removed with a reasonable time after notice, or if the urgency of the District's easement activities requires, the District may remove the encroachment itself, and the removal costs will be charged to the property owner.

SECTION 6. District Remedies. The remedies granted to the District in this Ordinance are in addition to any other rights and remedies that are available under prior regulations or otherwise afforded by law, and the District is entitled to exercise any and all such rights and to charge property owners for the costs of such remedies either serially or cumulatively, as determined by the District.

SECTION 7. CEQA. This action is not a project for purposes of 15 CCR 15378(b)(5) in that It is an administrative activity that will not result in direct or indirect physical changes in the environment.

SECTION 8. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

SECTION 9. Severability. If any section of this Ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether any particular section is held invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this 13th day of July, 2023, by the following vote:

AYES: Directors Hogan, Johnson, Martin, Ohlmann, and Barrett
NAYS: None
ABSTAIN: None
ABSENT: None



Ellwood T. Barrett II
President of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ATTEST:

Stephen Williams
Clerk of the Board of Directors of the
MONTECITO SANITARY DISTRICT

RECORDING REQUESTED BY

15092

BOOK 2311 PAGE 498

WHEN RECORDED MAIL TO

RECORDED AT REQUEST OF
Montecito Sanitary District

BOOK 2311 PAGE 498

JUN 11 4 31 PM '70

OFFICIAL RECORDS
SANTA BARBARA CO., CALIF.
RITA VAN BUSKIRK, RECORDER

NO FEE

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

RAY R. CONNERS and FRANCES L. CONNERS, husband and wife
as tenants in common

do hereby GRANT to MONTECITO SANITARY DISTRICT, County of Santa Barbara, State of California, an easement and right of way for sewer purposes, and the right to lay, construct, maintain, reconstruct, use and operate a Sewer Pipe Line over, through and across that certain real property situated in the County of Santa Barbara, State of California as described below:

The southerly seventeen (17) feet of the tract of land described in Parcel One of the deed from Crocker-Anglo National Bank and Mary E. Hamilton to Ray R. Connors, et ux., recorded October 15, 1963 as Instrument No. 43947 in Book 2017, Page 156 of Official Records, records of said County.

Together with all sanitary sewer lines, structures and appurtenances located within the hereinbefore described parcel of land.

15092

together with the right of ingress and egress to the property served by said pipe line over and across said easement and right of way above described, for any and all purposes in connection with the operation, maintenance and inspection of the District facilities located in said easement or in any adjoining easement.

PROVIDED, however, that this conveyance is made under and subject to the following conditions, which the Grantee, by the acceptance of said right of way, agrees to keep and perform, to wit:

That the said Grantee will restore and replace the surface of the ground and improvements over the above mentioned right of way and will repair any and all damage to the property of the Grantor above or adjoining the said right of way which is injured or damaged in the construction or maintenance of the said Sewer Pipe Line.

Together with the right to enter upon and to pass and repass over and along said easement and right of way and to deposit tools, implements, and other materials by said District, its officers, agents, and employees, and by any contractor, his agents and employees, engaged by said District whenever and wherever necessary for the purposes above set forth.

It is understood that each undersigned grantor grants only that portion of the above described land in which said grantor has an interest.

Dated: May 13 1970

WITNESS:

[Handwritten signatures]

STATE OF CALIFORNIA
COUNTY OF Santa Barbara

On May 13 1970
before me, the undersigned, a Notary Public in and for said County and State, personally appeared

Ray C. Conners and
Deanna A. Conners

known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument and acknowledged that they executed the same

(Seal) Alma Z. Lutz
ALMA Z. LUTZ, NOTARY PUBLIC
My Commission Expires July 16, 1971

(His name (notary) shall be typed or legibly printed)
(Sec. 8205 - Government Code 1959)
Notary Public in and for said County and State
My Commission Expires _____

FOR _____

Search _____ Parcel _____

INDEXED
SERIALIZED
FILED
MAY 13 1970
SANTA BARBARA COUNTY

NOTE: CORPORATION AND WITNESS ACKNOWLEDGEMENT FORMS ON REVERSE SIDE.

15002

STATE OF CALIFORNIA)
COUNTY OF.....) SS.

On this.....day of....., 19....., before me, the undersigned, a Notary Public in and for said County and State, personally appeared..... known to me to be the.....

President, and..... known to me to be the..... Secretary of the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

(Notary Signature line)

(Seal)

("His name (notary's) shall be typed or legibly printed")
(Sec. 8203 - Government Code 1959)
Notary Public in and for said County and State

(Witness)
STATE OF CALIFORNIA)
COUNTY OF.....) SS.

My Commission Expires.....

On..... before me, the undersigned, a Notary Public in and for said County and State, personally appeared..... personally known to me to be the person whose name is subscribed to the within instrument, as a Witness thereto, who being by me duly sworn, deposes and says:

That..... resides in..... and that..... was present and saw..... personally known to..... to be the same person... described in and whose name..... subscribed to the within and annexed instrument as..... Part..... thereto, execute and deliver the same, and..... acknowledged to said affiant that..... executed the same, and that said affiant subscribed..... name thereto as a Witness WITNESS my hand and official seal.

(Seal) (Notary Signature line)

("His name (notary's) shall be typed or legibly printed")
(Sec. 8203 - Government Code 1959)
Notary Public in and for said County and State

My Commission Expires.....

APPROVED:

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed or grant to the MONTECITO SANITARY DISTRICT, a governmental agency, is hereby accepted under authority of the Governing Board of said District by Resolution dated September 26, 1960, and the Grantee consents to the recordation thereof by its duly authorized officer.

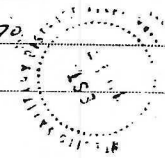
As to execution:

By *Robert M. Jones*
Special District Counsel

Dated 5-25-70
By *[Signature]*

As to description:

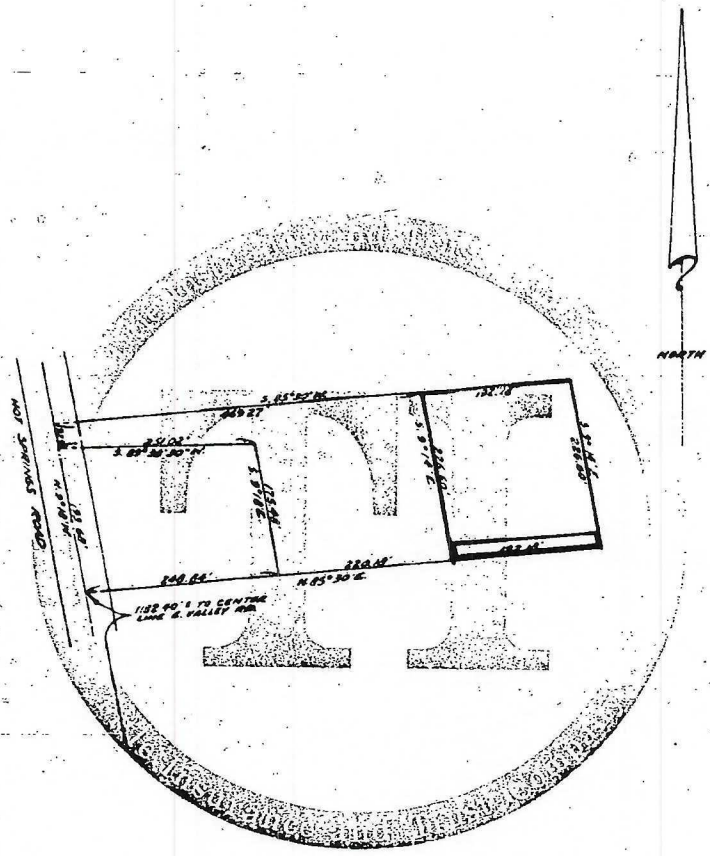
By *Jerry D. Smith*
District Engineer



15092

ENC. 2311 PAGE 501

VC



SEE: COLOR - PATTERN BOOK



This is not a survey of the land but is compiled for information by the Title Insurance and Trust Company from data shown by the official records.

/// / END OF DOCUMENT / / /

Recording Requested By &
When Recorded Return To:

MONTECITO SANITARY DISTRICT
1042 Monte Cristo Lane
Santa Barbara, CA 93108
(805) 969-4200

705 Park Lane, Santa Barbara, CA 93108

APN: 007-090-024

NO FEE FOR RECORDING
Government Code Section 6103 and 27383

LICENSE AGREEMENT

AGREEMENT made as of the ___ day of _____, 2017 by and between MONTECITO SANITARY DISTRICT ("District"), 1923 Act Sanitary District formed pursuant to the laws of the State of California and PETER R. MELNICK, TRUSTEE OF THE PETER R. MELNICK REVOCABLE TRUST DATED DECEMBER 15, 2016 ("Owner").

RECITALS:

- A. Owner is the owner of certain improved real property described as PARCEL ONE as shown on legal description "Exhibit "A" attached hereto (the "Premises").
- B. District is the owner of an easement for sewer purposes over and under Owner's Real Property, which easement was granted to the District recorded in Book 2013 Page 486 of Official Records, of Santa Barbara County, State of California (the "Easement").
- C. Pursuant to said Easement, District has constructed an eight-inch (8") sewer main line in said Easement, which line is part of District's collection system.
- D. Owner desires to encroach upon a portion of said Easement for the purpose of constructing landscaping and hardscaping (the "Improvements") as depicted on Exhibit "B" attached hereto and incorporated herein by this reference.

In consideration of the foregoing recitals,

IT IS THEREFORE AGREED AS FOLLOWS:

The foregoing recitals are true.

1. LICENSE: District hereby grants to Owner a revocable license to encroach upon that part of its Easement' to the extent and for the purpose of constructing the above mentioned Improvements.

LICENSE AGREEMENT

APN: 007-090-024

2. NOTICE OF EXERCISE OF RIGHTS: Pursuant to the terms and provisions of the Easement, District has certain rights, included among which is the right to enter upon the Easement for all purposes in connection with the repair, maintenance and replacement of said eight-inch sewer line.
3. REIMBURSEMENT: Owner shall reimburse the District for any and all reasonable extra expenses which District may hereinafter incur, including the cost to realign the sewer system if additional easements are required, or in exercising its easement rights by reason of said encroachment. Owner shall promptly remit to District the amount thereof, upon demand of District.
4. ADDITIONAL EASEMENTS: Owner shall also grant District such additional easements as may be required for any realignment of the sewer system on account of said encroachment, and the exercising by District of its easement rights. In addition, Owner consents and agrees to allow the right of reasonable ingress and egress over and across the Premises to the Easement.
5. RELEASE: Notwithstanding anything contrary contained in said Easement, Owner hereby releases and hold harmless District from any and all claims, demands, actions, or liability for damages to subject Improvements which may result from either the operation, maintenance, repair or replacement of the eight-inch (8") sewer main, or any other activity allowed the District pursuant to the terms of said Easement. Owner shall protect, indemnify and hold District harmless for any injuries or claims of injuries arising out of Owner's construction of said Improvements and the subsequent use and maintenance of said Improvements.
6. EFFECT OF LICENSE ON EASEMENT: Except as herein modified, the District Easement shall remain the same. Should any conditions regarding the repair, maintenance, replacement or additions to the District's facilities require the termination or revocation of this License, the District may terminate and revoke this license, and require Owner to remove said encroachment at Owner's sole expense. District may exercise such rights by the giving of written notice to Owner requiring any encroachment to be removed within ninety (90) days. Said notice shall be deemed complete when it has either been delivered personally to Owner of the Premises or placed in the United States mail addressed to Owner at the current address of the Premises being 707 Park Lane, Santa Barbara, CA 93108. In the event that Owner fails to completely remove said encroachment within the time set forth in said notice, District may, without further notice to Owner, remove said encroachment at Owner's expense.
7. SCOPE OF AGREEMENT: This is the whole agreement of the parties. This agreement may not be modified except in writing executed by both parties. This agreement shall bind and inure to the benefit of the heirs, successors and assigns of the parties.

Should Owner transfer or convey the Premises, any subsequent owner shall be responsible for the duties and obligations set forth in this agreement. The duties and obligations of this agreement shall run with the land, and the acceptance of any transfer or conveyance by any subsequent owner shall constitute an assumption of the duties and obligations of this agreement. District may, at any time and at District's sole option, require Owner to maintain adequate liability insurance in order to protect District from all claims.

LICENSE AGREEMENT
APN: 007-090-024

8. RECORDATION: Upon the execution of this agreement, Owner shall pay to District a processing fee of \$5,000.00 for the administrative handling of this agreement. District shall place this license Agreement of record in the Official Records of the County of Santa Barbara, California.

Executed in counterparts as of the date hereinabove set forth.

MONTECITO SANITARY DISTRICT

Date: _____

By: _____
Board President

ATTEST:

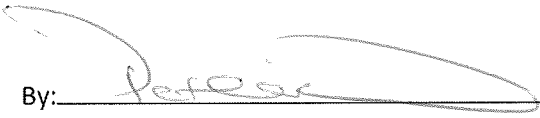
By: _____
Board Secretary

OWNER:

THE PETER R. MELNICK REVOCABLE TRUST DATED DECEMBER 15, 2016

(Seal)

Date: 7/26/2017

By: 
Peter R. Melnick, Trustee

Page 3

Note: This License will be recorded; the signing must be acknowledged by a notary

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

STATE OF CALIFORNIA)

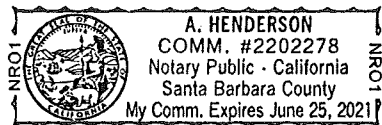
: ss.

COUNTY OF SANTA BARBARA)

On this 26th day of July 2017, before me A. Henderson a Notary Public, personally appeared PETER MELNICK who proved to me on the basis of satisfactory evidence to be the person(s) whose name(es) 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 signatures(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. (Seal)



LICENSE AGREEMENT
APN: 007-090-024

EXHIBIT A

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 007-080-024

PARCEL ONE:

A portion of the Outside Pueblo Lands of the City of Santa Barbara, in the County of Santa Barbara, State of California, described as follows:

Beginning at a 3/4 inch survey pipe set in the Southerly line of the land conveyed by the County National Bank and Trust Company, Trustee, et al. to Martin Bonato, et ux. by deed dated March 31, 1943, and recorded in Book 670, Page 140 of Official Records, records of Santa Barbara County, California from which an iron spike set in the pavement at the most Southeasterly corner bears North 89°53'10" East, 39.22 feet;

thence South 89°53'10" West along the said Southerly line, and also the Northerly line of the land conveyed to Herbert G. Day, et ux. by deed recorded in Book 475, Page 300 of Official Records, 251.30 feet to an old 3/4 inch survey pipe set at an angle point;

thence North 25°30' West along the Easterly line of the said Day property, 132.70 feet to a 3/4 inch survey pipe;

thence North 53°05' East, 188.54 feet to a 3/4 inch survey pipe;

thence South 40°03'10" East, 124.00 feet to a 3/4 inch survey pipe;

thence South 30°52'10" East 103.85 feet to a 3/4 inch survey pipe;

thence South 26°56'10" East, 54.36 feet to the point of beginning.

Parcel One above described is shown on map of survey filed in Book 30, Page 152 of Record of Surveys in the Office of the County Recorder of said County.

PARCEL TWO:

An easement or right of way for road and public utilities purposes and for ingress and egress as set forth in a deed to Anna Belle Todd recorded on April 20, 1951 as Instrument No. 6323 in Book 985, Page 470 of Official Records over, under, upon or through a strip of land being a portion of the Outside Pueblo Lands of the City of Santa Barbara, described as follows:

Beginning at a 3/4 inch survey pipe set in the Southerly line of the land conveyed by the County National Bank and Trust Company, Trustee, et al. to the Martin Bonato, et ux. by deed dated March 31, 1943 and recorded in Book 570, Page 140 of Official Records, records of Santa Barbara County, California, from which an iron spike set in the pavement at the most Southeasterly corner bears North 89°53'10" East, 39.22 feet;

thence North 89°53'10" East along the Southerly line of said land, 39.22 feet to an iron spike located at the most Southeasterly corner of the said Bonato property;

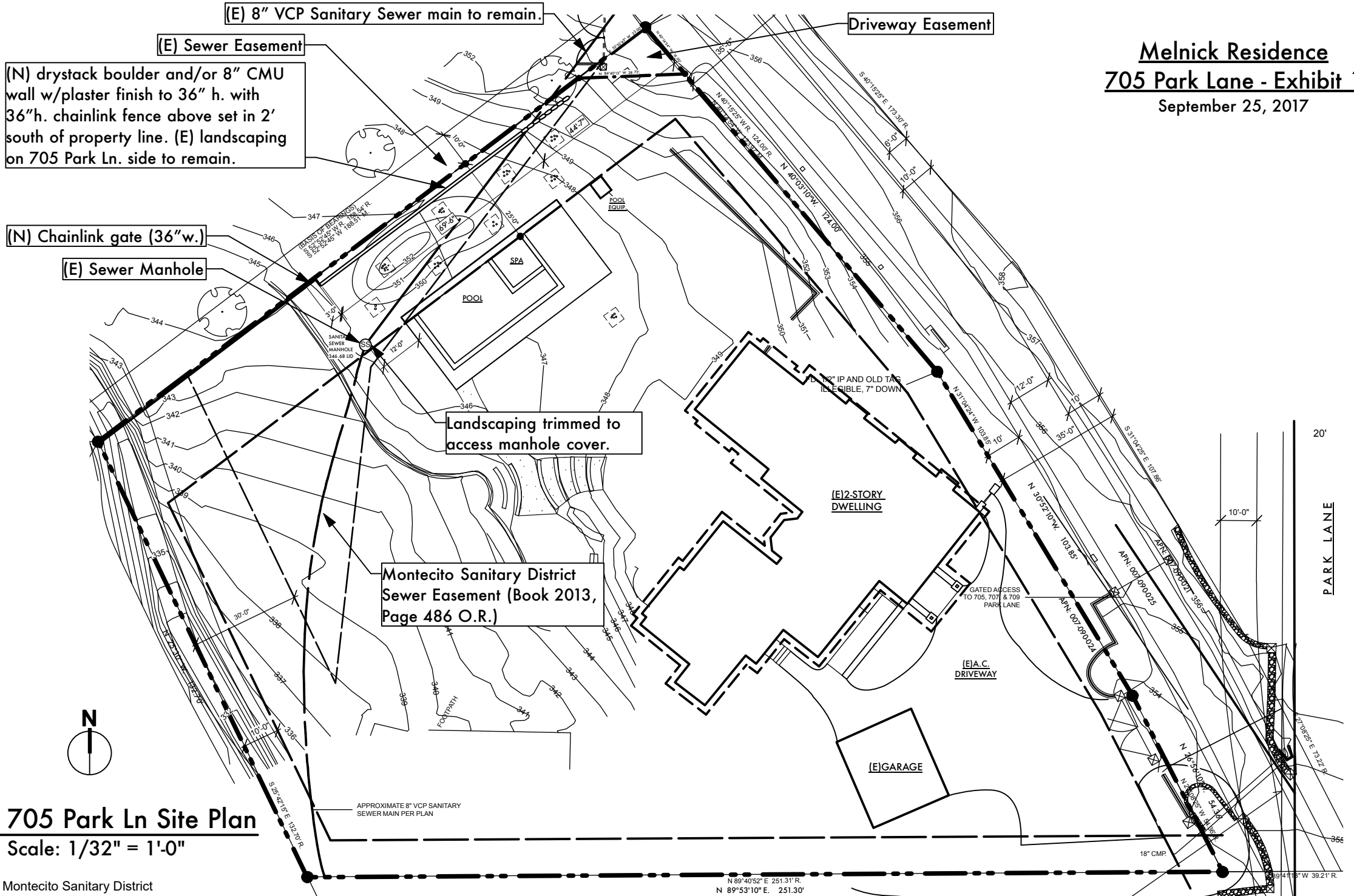
thence North 26°56'10" West, 50.16 feet to a 3/4 inch survey pipe set on the Westerly line of Park Lane;

thence South 53°03'50" West at right angles, 35.00 feet to a point in the above mentioned 6th course;

thence South 26°56'10" East at right angles, along the said 6th course, 32.47 feet to the point of beginning.

134446177.1

Melnick Residence
705 Park Lane - Exhibit 1
 September 25, 2017



(E) 8" VCP Sanitary Sewer main to remain.

(E) Sewer Easement

(N) drystack boulder and/or 8" CMU wall w/plaster finish to 36" h. with 36" h. chainlink fence above set in 2' south of property line. (E) landscaping on 705 Park Ln. side to remain.

Driveway Easement

(N) Chainlink gate (36" w.)

(E) Sewer Manhole

Landscaping trimmed to access manhole cover.

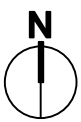
Montecito Sanitary District Sewer Easement (Book 2013, Page 486 O.R.)

(E) 2-STORY DWELLING

(E) A.C. DRIVEWAY

(E) GARAGE

APPROXIMATE 8" VCP SANITARY SEWER MAIN PER PLAN

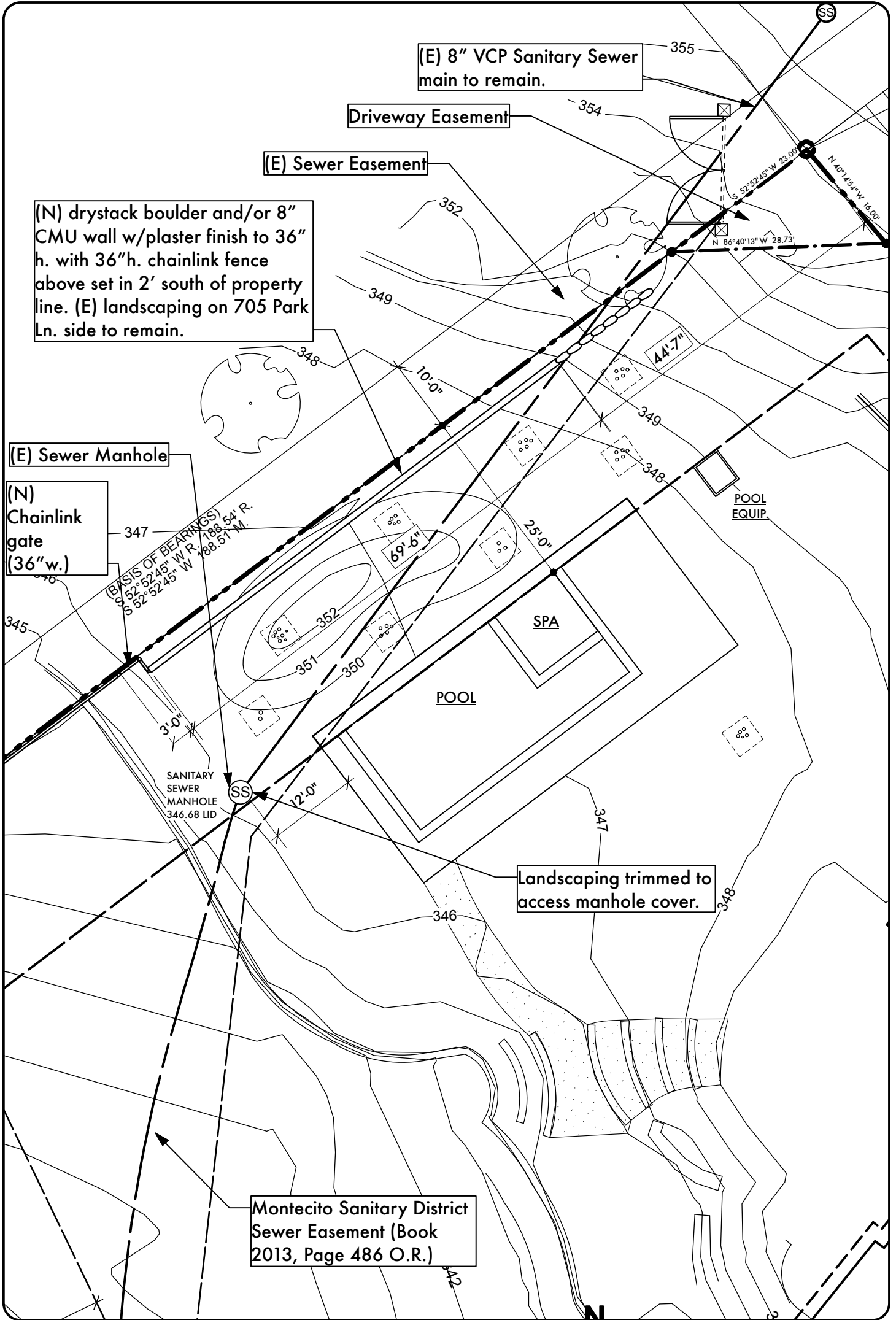


1 705 Park Ln Site Plan
 Scale: 1/32" = 1'-0"

N 89° 40' 52" E 251.31' R.
 N 89° 53' 10" E. 251.30'

Melnick Residence
705 Park Lane - Exhibit 2

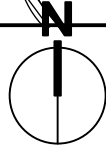
September 25, 2017



1

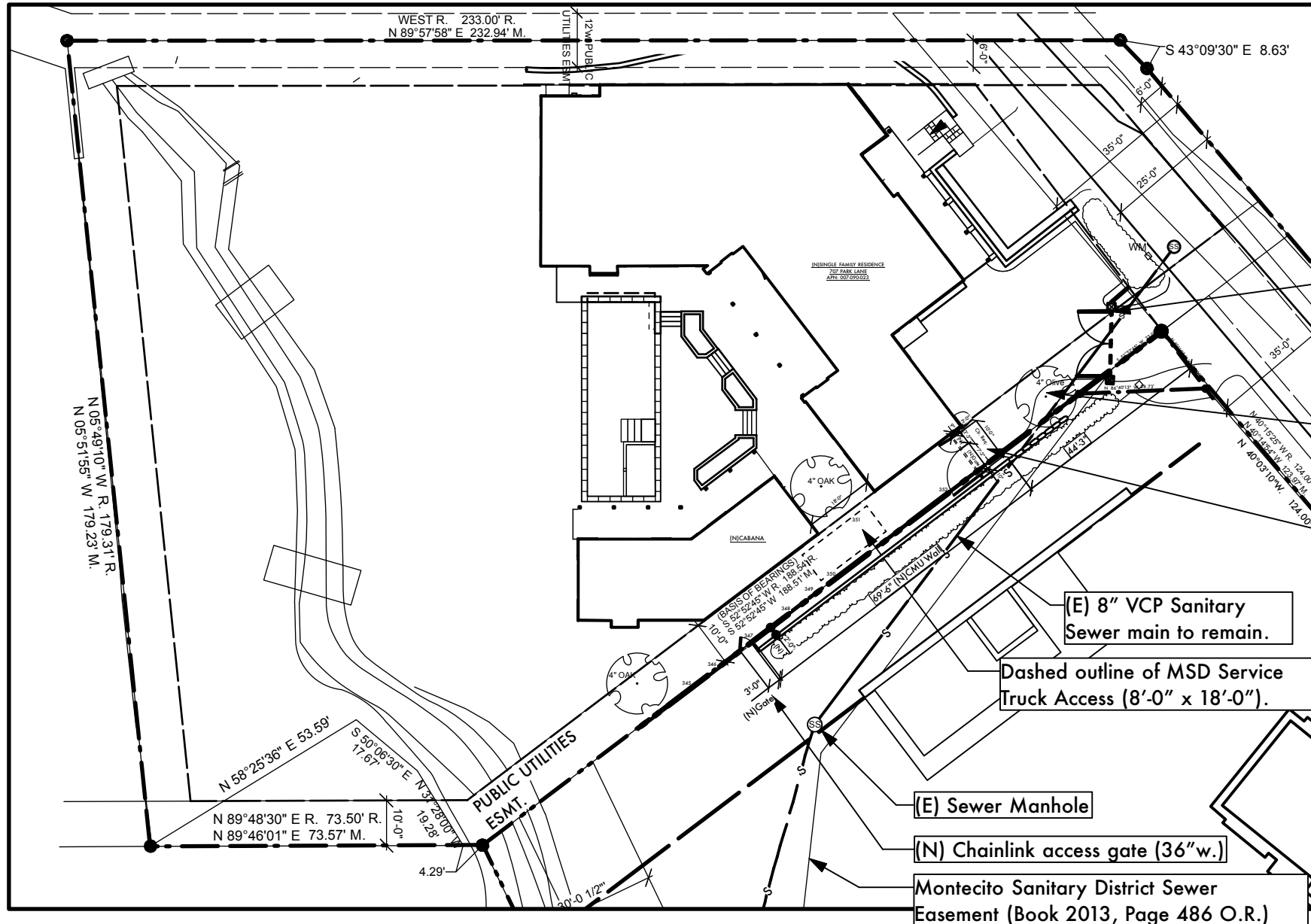
705 Park Lane Partial Site Plan

Scale: 1/16" = 1'-0"



New Residence
707 Park Lane -
Exhibit 1

September 25, 2017



(N) Wood plank gate
 (13'-10" w. x 7'-0" h.).

(N) Olive tree. Branches
 allow 10'-0" h. truck to
 drive under.

(N) Wood plank gate to
 provide 10'-0" clear when
 open (39" w. primary leaf/
 7'-3" w. secondary leaf).

(E) 8" VCP Sanitary
 Sewer main to remain.

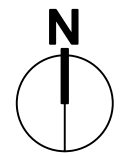
Dashed outline of MSD Service
 Truck Access (8'-0" x 18'-0").

(E) Sewer Manhole

(N) Chainlink access gate (36" w.)

Montecito Sanitary District Sewer
 Easement (Book 2013, Page 486 O.R.)

1 **707 Park Lane Site Plan**
 Scale: 1/32" = 1'-0"





L. Paul Cook
7/24/17

7-24-17

70727 PARK LANE APN: 07-090-023

RES. PATIOS, IMPROVEMENTS, LANDSCAPING, IRRIGATION, WALLS AND FENCING EASEMENT INST. NO. 2000-9766 O.R.

FD. 1/2" IP & OLD SQUARE TAG ILLEGIBLE

10' SEWER EASEMENT TO MONTECITO SANITARY DISTRICT BOOK 1824, PAGE 424 O.R.

SEWER EASEMENT TO MONTECITO SANITARY DISTRICT PER BOOK 2013, PAGE 486 O.R. (VARIABLE DIMENSIONS)

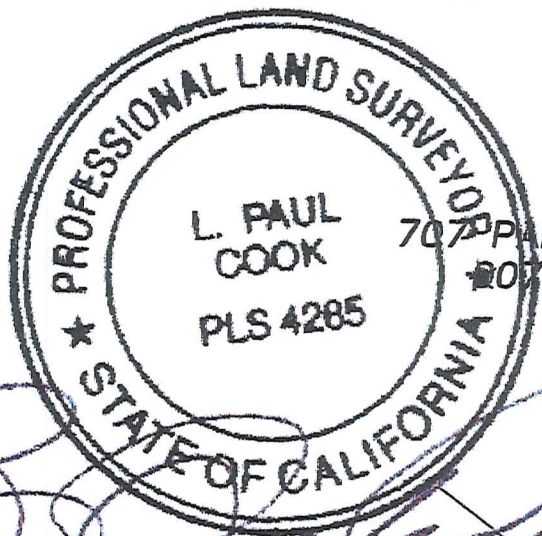
10' SEWER EASEMENT TO MONTECITO SANITARY DISTRICT, BOOK 1851, PAGE 944 O.R.

Not to 1"=10' scale

REVISIONS:	NUMBER	DATE	DESCRIPTION
▽		JULY 21, 2017	ADD TREES WITHIN SEWER EASEMENT

N 89°40'55" E 32.64'

Scale 1"=10'



707 PARK LANE APN: 007-090-023

10" MULTI-STEM OAK
2"+4"+8"

15" MULTI-STEM OAK
6"+5"+5"+3"+3"

16" MULTI-STEM OLIVE
5"+4"+4"+4"+3"+3"

9" MULTI-STEM OAK
5"+5"+2"

10' SEWER EASEMENT
MONTECITO SANITARY
BOOK 1851, PAGE

12" MULTI-STEM OLIVE
5"+5"+4"+3"+2"
MULTI-STEM OAK
5x5"+2x3"

MULTI-STEM OAK
5"+6"

SANITARY SEWER
MANHOLE
346.68 LID

SEWER EASEMENT TO MONTECITO
SANITARY DISTRICT PER
BOOK 2013, PAGE 486 O.R.
(VARIABLE DIMENSIONS)

OAK IS BROKEN
& SPRAWLS TO
NORTH-EAST

8" OAK
5" OAK
4" OAK

12+12" OAKS

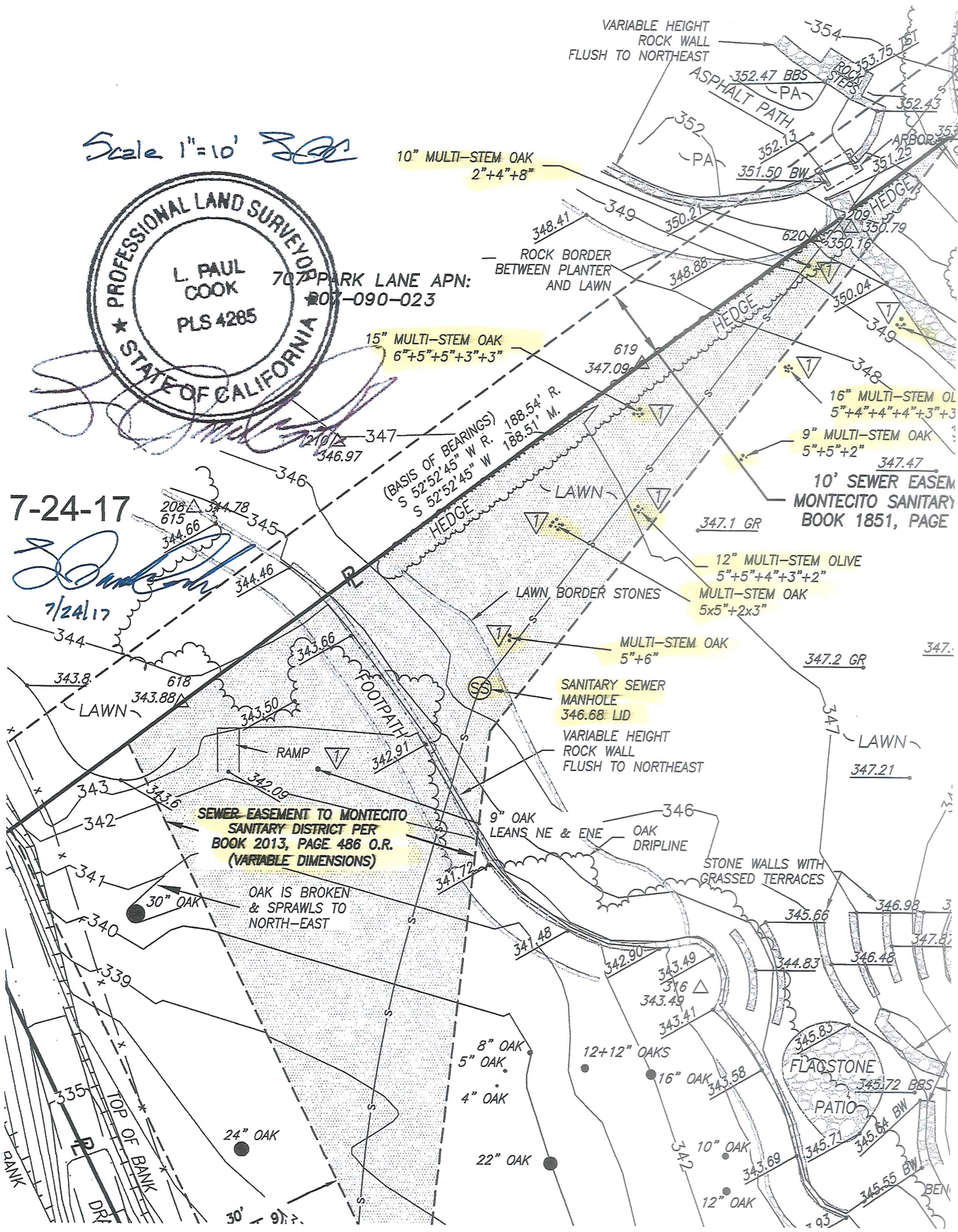
16" OAK

22" OAK

10" OAK

12" OAK

FLAGSTONE
PATIO



7-24-17

Handwritten signature and date 7/24/17