

#5



2005-0042114

RECORDING REQUESTED BY AND
PLEASE RETURN TO:

Clerk, Board of Supervisors for the
County of Napa 1195 Third Street,
Room 310 Napa, California 94559

Recorded		REC FEE	.00
Official Records		CCN1-NO	.00
County Of		CCN2-NO	.00
NAPA			
JOHN TUTEUR			
Recorder			

01:34PM 14-Oct-2005 | LS
Page 1 of 9

Exempt from recording fees, Gov.
Code § 27383

A PORTION OF APNs 057-130-012 and 028

**AVIGATION AND HAZARD
EASEMENT DEED**

FOR GOOD AND SUFFICIENT CONSIDERATION, the receipt of which is hereby acknowledged, **AMERICAN CANYON BUSINESS PARK, LLC, a California Limited Liability Company** ("Grantor"), hereby grants to the COUNTY OF NAPA ("Grantee"), a political subdivision of the State of California, an easement and right-of-way ("said easement") appurtenant to the Napa County Airport ("the airport") for the unobstructed passage of aircraft in the airspace within those imaginary approach, transition, horizontal and conical zones, as defined and described in Chapter 11.08 of the Napa County Code and depicted on those diagrams attached hereto as Exhibits "A", "B", and "C", and incorporated by reference herein. The Grantor and the airport have determined that the Grantor's property is within Zone D as set forth in the attached Exhibit "C". Zone D prohibits improvements which are taller than 150 feet above the airport elevation of 33 feet. In the event of discrepancy between Chapter 11.08 and said Exhibits, the text of the former shall govern. For the purpose of this instrument, the term "aircraft" shall refer to any contrivance, by whomsoever owned or operated, which is designed or used for navigation in the air.

Said easement extends over all of the following real property ("the property") owned by Grantor, which is illustrated on Exhibit "D" attached hereto and incorporated by reference herein:

All that certain real property situated in the City of American Canyon, County of Napa, State of California, described as follows:

A portion of Parcel One and a portion of Parcel Two as said parcels are described in the Grant Deed to Steven A. Giovannoni, a single man recorded August 15, 1997 under Recorder's Document series 1997-018814, Official Records of Napa County, and a portion of the parcel of land described in the Grant Deed to Lawrence and Diane Giovannoni, Trustees, recorded April 21, 2000 under Recorder's Document Series 2000-0009865, Official Records of Napa County, being a parcel of real property particularly described as follows:

Commencing at the southeastern corner of said parcel of land of Lawrence and Diane Giovannoni, Trustees, i.e., "Parcel 3" as said parcel is shown on the map entitled "Record of Survey Map of Property of Louis Cassayre, Et Ux" filed June 30, 1961 in Book 8 of Surveys at

Page 9 in the office of the County Recorder of Napa County; thence North 89° 16' 12" West along the southern line of said parcel of land as said line is shown on Map No. 5394, filed in Book 34 of Surveys at Pages 88 through 90 in the office of the County Recorder of Napa County, and along the westerly extension thereof, a distance of 408.78 feet; thence North 0° 48' 38" East, 256.00 feet to the northern line of said "Parcel 3"; thence South 89° 16' 12" East along said northern line, 408.78 feet to the northeastern corner of said "Parcel 3"; thence South 00° 48' 38" West along the eastern line of said "Parcel 3", 256.00 feet to the Point of Commencement.

Also known as a portion of Assessor's Parcel Numbers 057-130-012 and 028.

In the event of discrepancy between the foregoing description of the property and the map set forth in Exhibit "D", the foregoing description shall govern.

Said easement includes the right to cause noise, vibrations, fumes, dust, and the emission of fuel particles by the operation of aircraft in the airspace and on the ground, but shall not include the right of any aircraft to dump or otherwise release onto the property any non-combusted fuel or other hazardous substances.

Said easement and right-of-way also includes the continuing right of Grantee to prevent the erection or growth upon the property and permit the removal of any building, structure, tree, or other object extending into the prohibited airspace to the extent and with the exceptions described in Chapter 11.12 of Title 11 of the Napa County Code, together with the right of ingress to, egress from, and passage over the property for the purpose of exercising said rights.

Grantor hereby covenants:

1. That during the life of said easement it will not erect or permit the erection or growth of, or permit to remain upon said property any building, structure, tree, or other object extending into said prohibited airspace, except to the extent permitted by Chapter 11.12 of Title 11 of the Napa County Code.

2. That within a reasonable time after written notice from Grantee to Grantor which specifies with particularity the interfering use, it will discontinue or modify to the reasonable satisfaction of the County the use of the property in any manner that in the reasonable opinion of the County: creates electrical interference with radio communication between any installation upon the airport and aircraft operating in or around the airport; interferes with the ability of the operators of such aircraft to distinguish between airport lights and other lights; impairs visibility in the vicinity of the airport; or otherwise endangers the landing, take off, or maneuvering of aircraft in or around the airport.

3. That it hereby fully waives and releases any right to any cause of action that it has or may have in the future against Grantee arising out of noise, vibrations, fumes, dust or the emission of fuel particles that may be caused by the operation of aircraft in or around the airport, other than release onto the property of non-combusted fuel or other hazardous substances.

Grantor expressly reserves all rights and privileges in said property that may be exercised and enjoyed without interference with said easement and the foregoing covenants.

This grant of easement shall not operate to deprive the Grantor, his successors or assigns, of any rights which any of them may from time to time have against any carrier, private operator or the County of Napa in relation to negligent or unlawful operation of aircraft or the airport.

This grant of easement and all rights, covenants, waivers, and reservations pertaining thereto or reserved therefrom shall bind Grantor and its heirs, executors, administrators, successors and assigns, and shall inure to the Grantee, its successors and assigns, for the use and benefit of the public until such time as the airport shall cease to be used for public airport purposes.

DATED this 30 day of August, 2005.

By: 

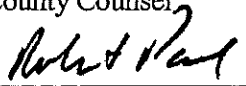
Name: Mark Walther

Title: Manager

AMERICAN CANYON BUSINESS PARK, LLC

"Grantor"

APPROVED AS TO FORM:
ROBERT WESTMEYER,
Napa County Counsel

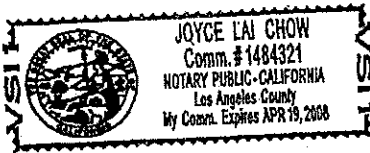
By 

Date 9-13-05

NOTARIZATIONS

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

On August 30, 2005, before me, Joyce Lai Chow, personally appeared YANKIANG HUANG, personally known, to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.


Notary Public

STATE OF CALIFORNIA)
COUNTY OF NAPA) ss.

On _____, _____, before me, _____, personally appeared _____, personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.

Notary Public

A PORTION OF APNs 057-130-012 and 028

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by that certain AVIGATION AND HAZARD EASEMENT DEED dated August 30, 2005, from AMERICAN CANYON BUSINESS PARK, LLC, a California Limited Liability Company, to the COUNTY OF NAPA, a political subdivision of the State of California, is hereby accepted by order of the Board of Supervisors of said County of Napa on October 4, 2005, and Grantee consents to recordation thereof by its duly authorized officer.

Dated

Diane Dillon

SEAL AFFIXED

DIANE DILLON, CHAIR of the Board of Supervisors of the County of Napa, State of California

Attest:

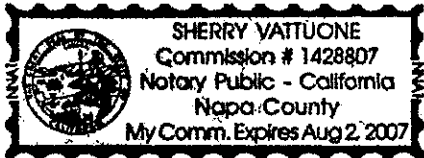
Pamela Miller

PAMELA MILLER, Clerk of the Board of Supervisors

STATE OF CALIFORNIA)
COUNTY OF NAPA) ss.

On October 4, 2005, before me, *Sherry Vattuone*, personally appeared ~~Diane Dillon~~ personally known to me - OR - ~~I~~ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her 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.



Sherry Vattuone
Notary Public

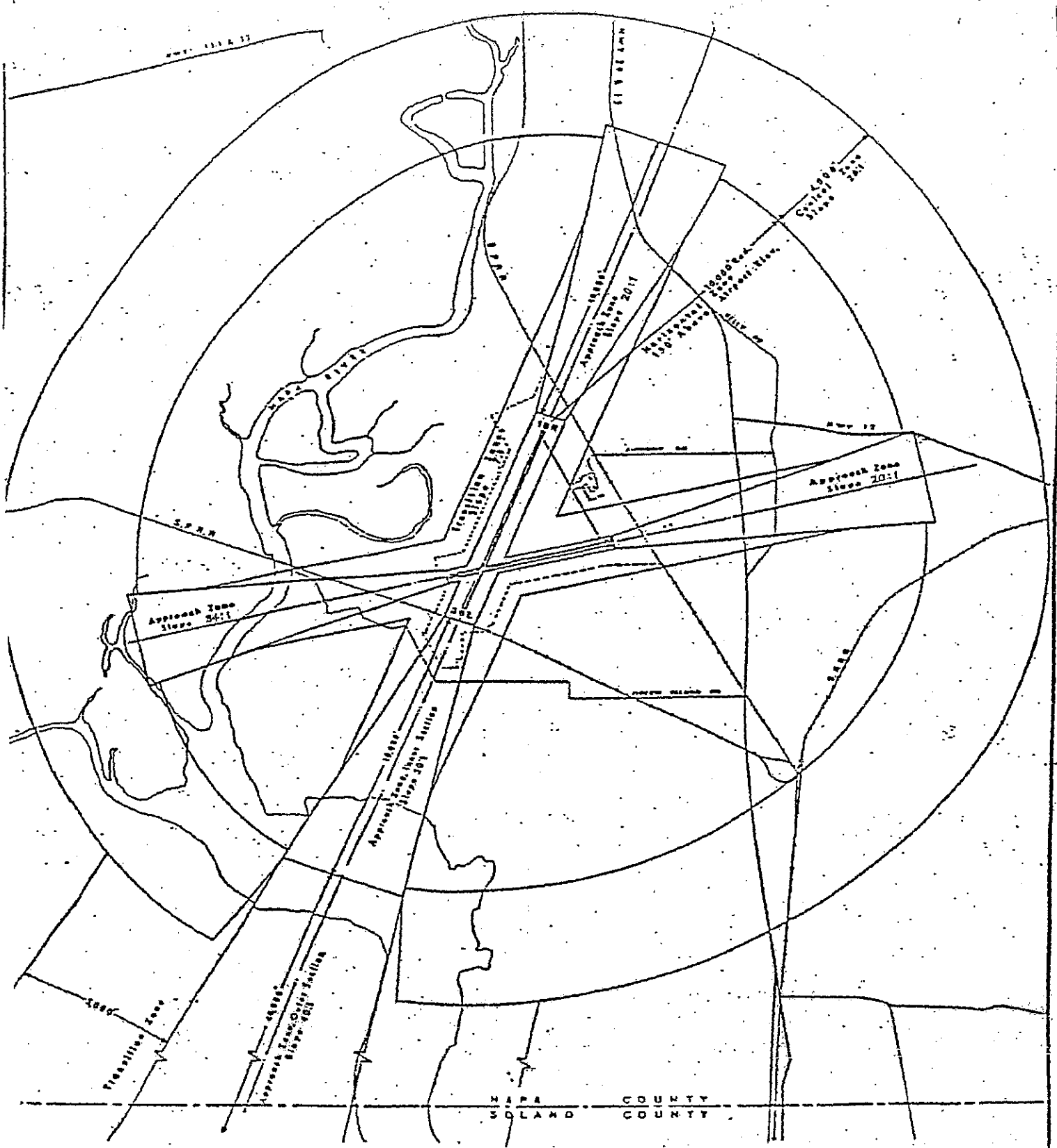


Exhibit "A"

NAPA COUNTY AIRPORT SAFETY ZONE

August, 1995

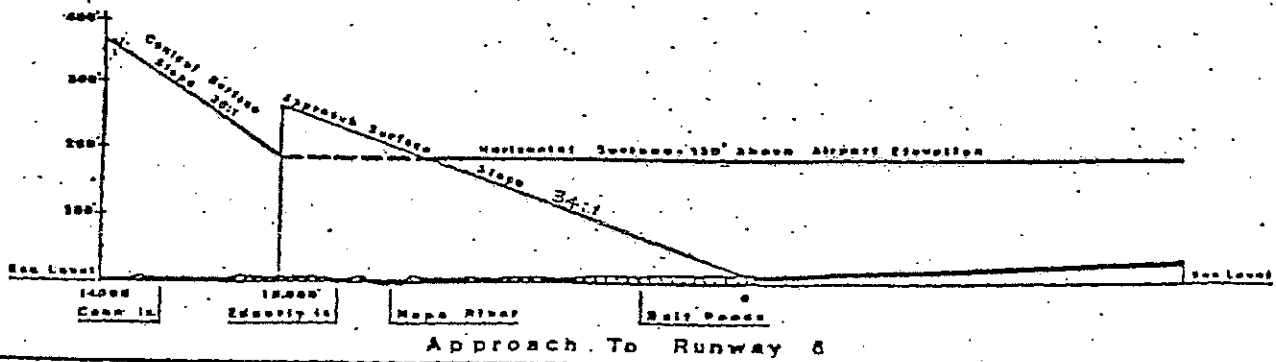
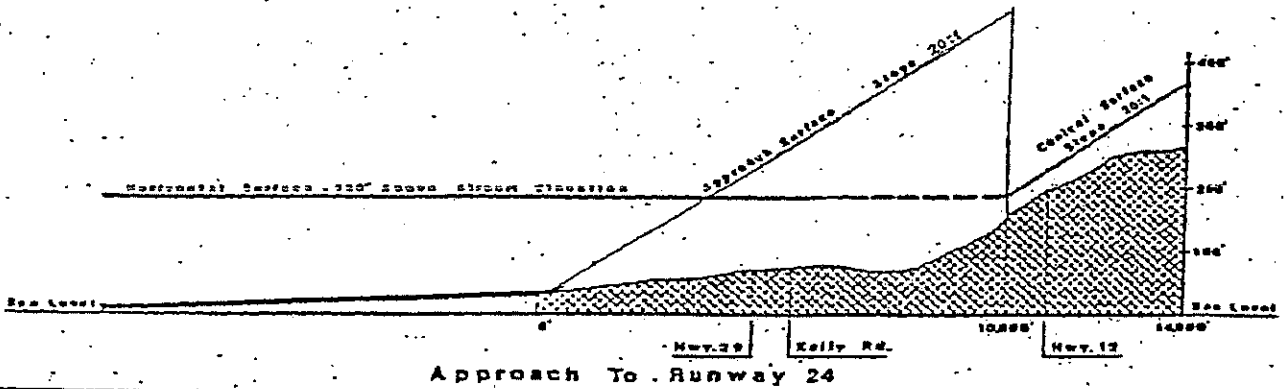
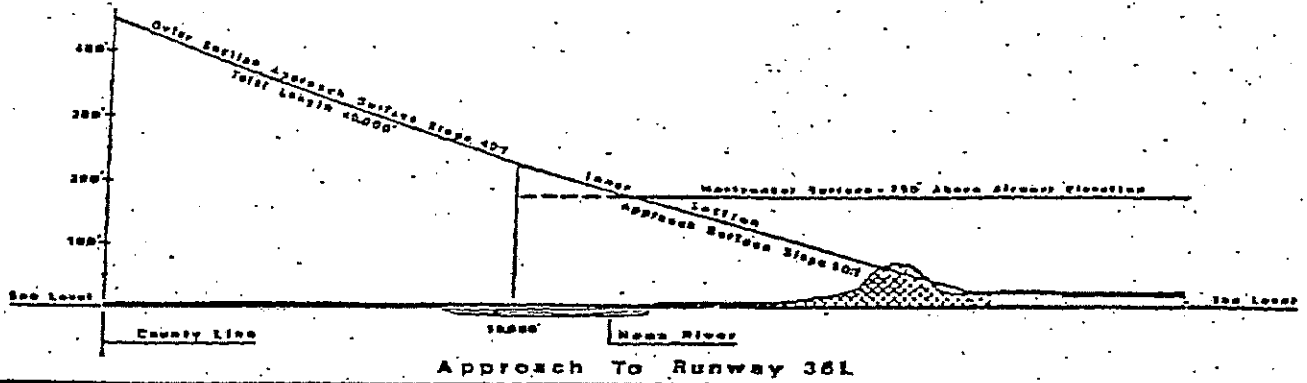
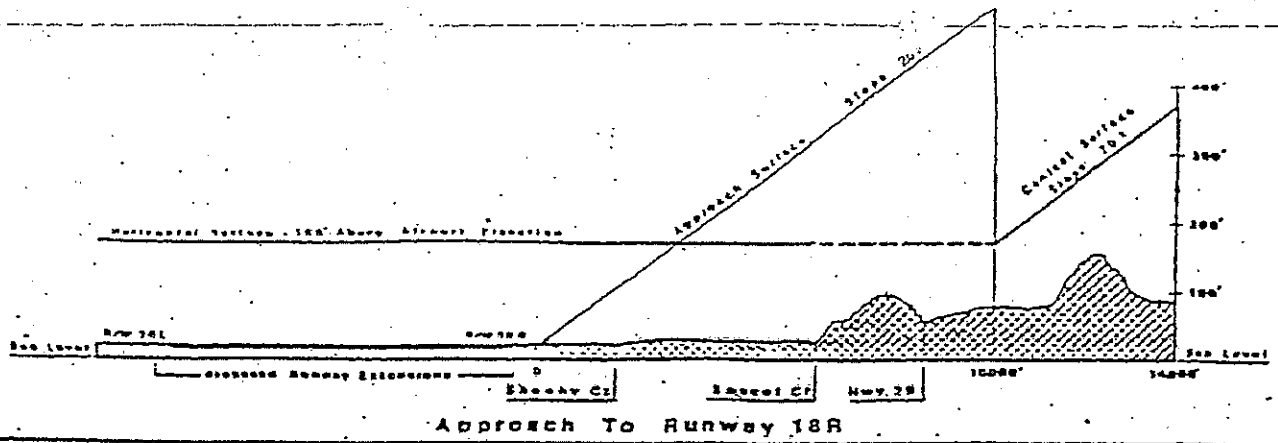
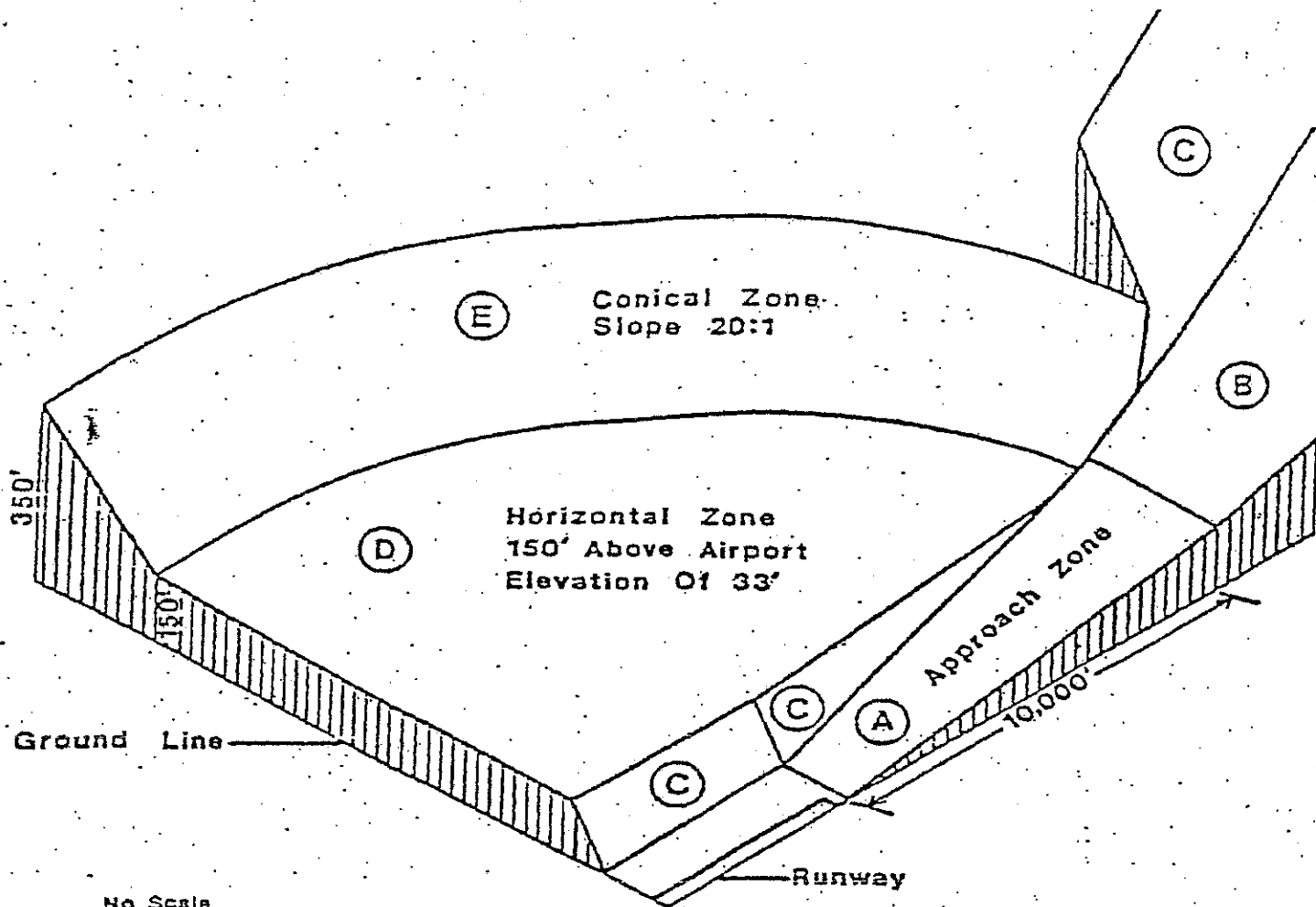


Exhibit "B"

APPROACH ZONE CROSS SECTIONS

August, 1995



No Scale

- A - PRECISION INSTRUMENT APPROACH ZONE - SLOPE 50:1.
NON-PRECISION INSTRUMENT APPROACH ZONE - SLOPE 34:1.
- B - OUTER SECTION EXTENDS 40,000' AND FLARES TO 16,000' IN WIDTH - THIS APPLIES ONLY TO RUNWAY 36 L TO THE SOUTH - SLOPE 40:1.
- C - TRANSITION ZONES - SLOPE 7:1 - EXTENDS 5,000' FROM EDGE OF OUTER SECTION.
- D - HORIZONTAL ZONE EXTENDS 10,000' FROM END OF RUNWAYS.
- E - CONICAL ZONE EXTENDS 4,000' FROM EDGE OF HORIZONTAL ZONE.

Exhibit "C"

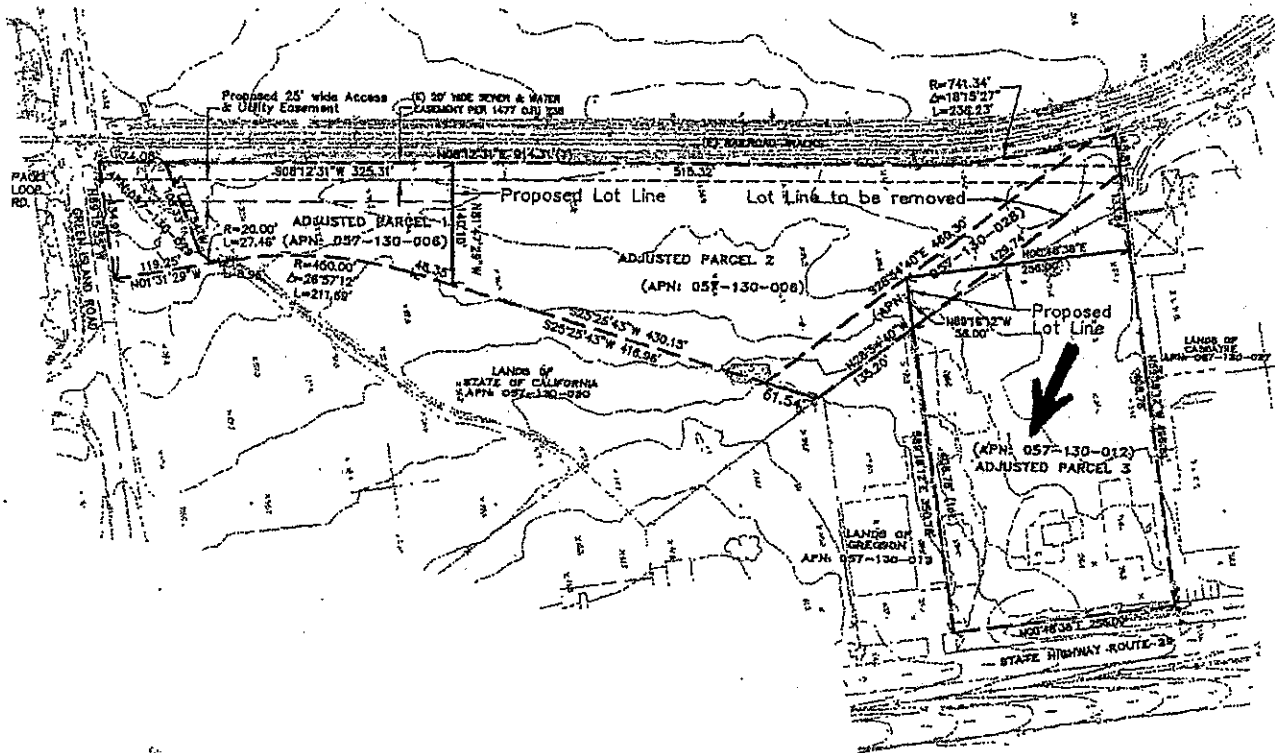
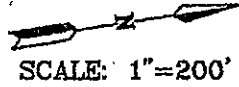
ISOMETRIC VIEW OF AIRPORT SAFETY ZONES

LOT LINE ADJUSTMENT MAP

City Of American Canyon, California

A.P.Nos. 057-130-006, 012 & 028

April 13, 2004



NOTES - (see map above)

- Existing Parcel Lines shown as dashed lines
- Proposed Parcel Lines shown as solid lines

CHAUDHARY & ASSOCIATES, INC.

ENGINEERS SURVEYORS INSPECTORS

851 NAPA VALLEY CORPORATE WAY, SUITE G
NAPA, CALIFORNIA 94558

Tel: (707) 255-2729 FAX: (707) 256-5021 WWW.CHAUDHARY.COM

EXHIBIT D