

50-127

This Agreement, made and executed this 28th day of January, 1977, by and between Fontenelle Hills Co., Inc., a Nebraska corporation, herein called "Owner", and Sanitary and Improvement District No. 43 of Sarpy County, Nebraska, a municipal corporation, herein called "District".

WITNESSETH THAT:

WHEREAS Owner is the holder in fee simple of title to the following described real estate, to-wit:

Lots 9, 12, 13, 16, 17, 19, 38 through 50 inclusive, 60 through 68 inclusive, 88 through 101 inclusive, 135, 136, 146 through 177 inclusive, and 234, in Fontenelle, a Subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS District is a municipal corporation charged with the maintenance of capital improvements of a utilitarian nature for the public convenience and necessity within its boundaries, including but not limited to streets, roads and related facilities; and

WHEREAS the above described property lies within the boundaries of the aforesaid District; and

WHEREAS the above described lots, with the exception of Lots 38, 50, 60, 68, 88, 101, 135, 136, 146, 177 and 234, are presently lacking in a definitive means of access to dedicated public streets and are thus lacking in value to the Owner and lacking to the District in terms of the potential for generation of tax revenue; and

WHEREAS Owner has heretofore constructed upon portions of the aforesaid lots, at its expense, roadways for the common use, benefit and enjoyment of those persons who shall from time to time constitute the owners of said lots together with their guests, invitees, and such other persons as may from time to time lawfully use the same; and

WHEREAS Owner deems it necessary to provide for the continued maintenance of said roadways and to establish the rights and privileges of those persons who shall from time to time lawfully enter upon the same; and

Rec'd # 64000 ✓
A

WHEREAS District realizes the benefits to be derived by the District in terms of tax revenues in the event said lots are improved by the placement thereon of dwellings with the resultant increase in assessed valuation of said property;

NOW, THEREFORE, in consideration of mutual covenants and conditions contained herein and the mutual benefits to be gained thereby, the parties hereto agree as follows:

I

Grant of Easements

Owner hereby grants to District, for the mutual benefit of those persons who shall from time to time be the owners of one or more of the following described parcels or lots adjacent thereto and who shall have occasion to make use of the aforesaid roadways for access purposes, and for the family members, guests and invitees of the aforesaid owners and such other persons as shall make lawful use of the same, and the District does hereby accept from the Owner, perpetual easements for roadway purposes over and upon the following described portions of the following described lots in Fontenelle, a Subdivision as surveyed, platted and recorded in Sarpy County, Nebraska:

- (a) A strip of ground twenty feet (20') in width extending ten feet (10') either side of the common boundary line separating Lots 38 through 50 inclusive from Lots 60 through 68 inclusive, as shown on Exhibit "A" attached hereto;
- (b) A strip of ground twenty feet (20') in width extending ten feet (10') either side of the common boundary line separating Lots 88 through 94 inclusive from Lots 95 through 101 inclusive, as shown on Exhibit "B" attached hereto;
- (c) A strip of ground twenty feet (20') in width extending ten feet (10') either side of the common boundary line separating Lots 135 and 164 through 177 inclusive from Lots 146 through 148 inclusive, 155 through 163 inclusive and 136, and separating Lots 148 through 151 inclusive from Lots 153 through 155 inclusive (said strip also including a portion of Lot 152), as shown on Exhibit "C" attached hereto; and
- (d) A strip of ground twenty feet (20') in width in Lot 234, abutting Lots 1, 8, 9, 12, 13, 16, 17 and 19, as shown on Exhibit "D" attached hereto.

II

Covenant to Improve Lots

Owner shall henceforth commence construction of dwelling units and related improvements upon the aforesaid lots as conditions in the detached single family housing market dictate. The parties acknowledge that, absent such an easement agreement, the said lots would have, for all intents and purposes, remained unmarketable due the lack of a definitive means of access from dedicated public streets to the said lots, and the parties further acknowledge that the valuation of the lots in an improved stage shall be significantly increased as compared to the lots in their natural state, and that the District, through its taxation powers, shall enjoy greatly increased revenues from said lots as a result of the improvement thereof.

III

Covenant to Maintain Roadways

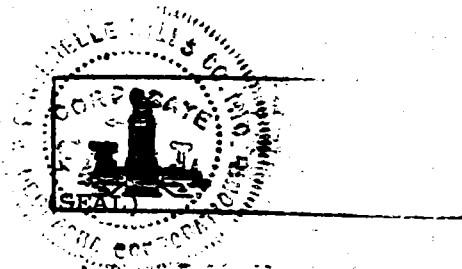
The District hereby covenants to maintain the aforesaid roadways and to do any and all things reasonably required in order to keep the roadways in a condition so as to provide a viable means of safe and convenient access from the lots subject to the easement and lots adjacent thereto to dedicated public streets. By way of example and not by way of limitation, District shall cause the surfaces of said roadways to be patched and repaired as required so as to remain free of chuckholes; shall cause fill material around and beneath the roadways to be kept in place or replaced as necessary so as to avoid excessive erosion and the likelihood of damage to the roadways therefrom; shall remove snow therefrom contemporaneously with removal of snow from dedicated public streets lying within the District; and shall spread gravel, salt or similar materials to minimize the hazards of ice on said roadways at such times as such materials shall be applied to dedicated public streets lying within the District.

IV

Parties Bound

This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto appear and do set their hands and seals on the date last aforesaid.



FONTENELLE HILLS CO., INC., a
Nebraska corporation,

By: *D. J. Henn*

President

Attest:

Robert K. Kula
Secretary

SANITARY AND IMPROVEMENT DISTRICT
NO. 43 OF SARPY COUNTY, NEBRASKA,
a municipal corporation,

By: _____

Chairman



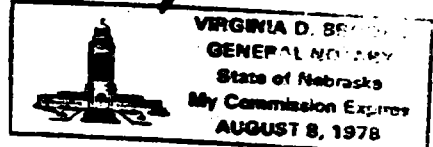
Attest:

D. J. Henn
Clerk

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

Before me, a notary public qualified in said county, personally came R. JOE DENNIS, President of FONTENELLE HILLS CO., INC., a Nebraska corporation, known to me to be the President and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on this 28th day of January, 1977.

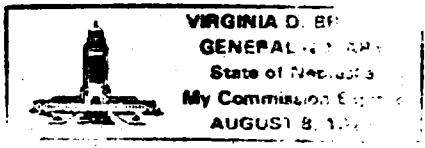


Virginia D. Bricker
Notary Public

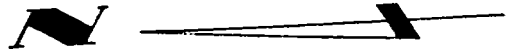
STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

Before me, a notary public qualified in said county, personally came WILLIAM H. FITZPATRICK, Chairman of SANITARY AND IMPROVEMENT DISTRICT NO. 43 OF SARPY COUNTY, NEBRASKA, a municipal corporation, known to me to be the Chairman and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on this 28th day of January, 1977.



Virginia D. Bricker
Notary Public



Scale: 1" = 100'

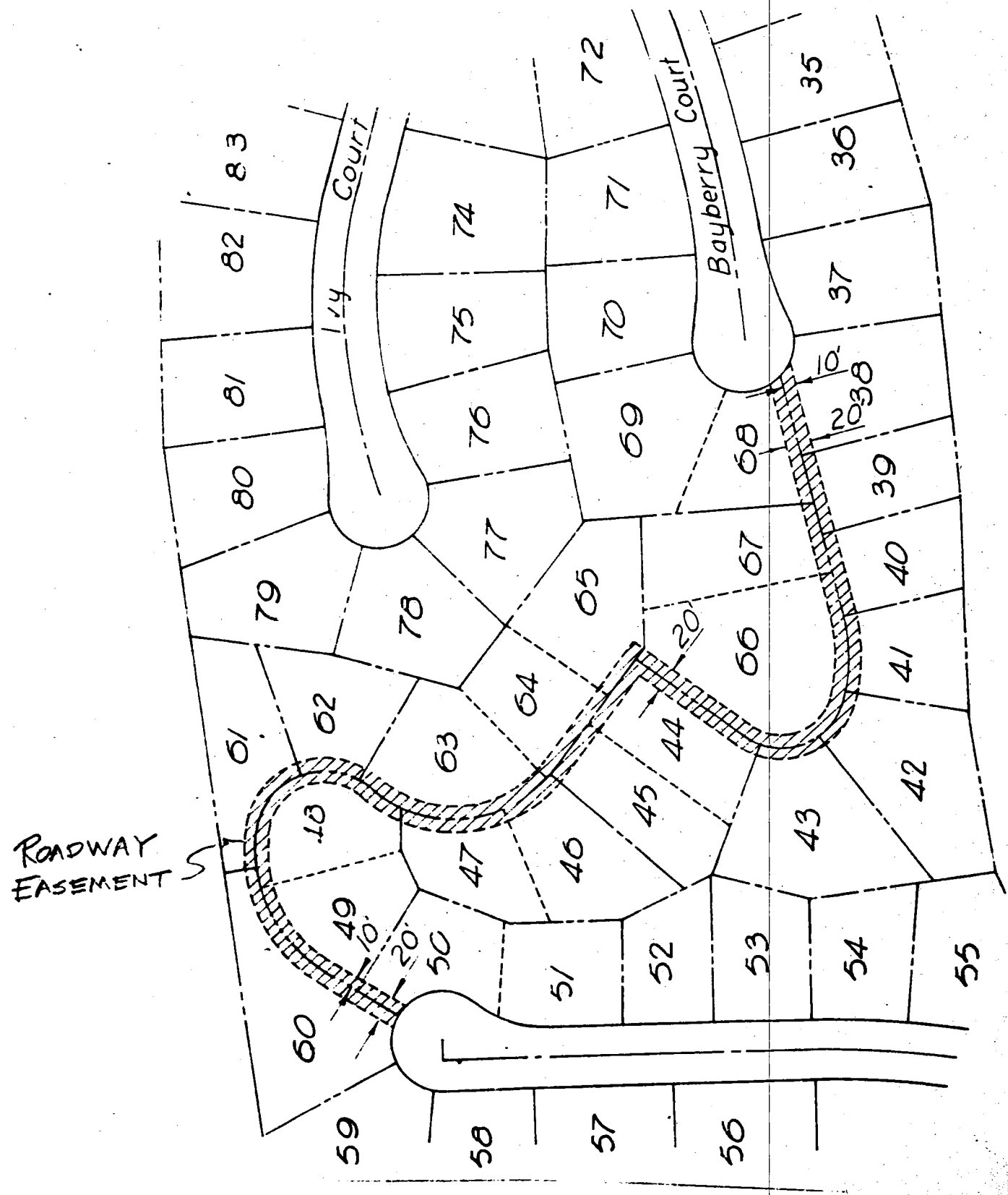


EXHIBIT "A"

SCHMID, FORD, MOONEY, FREDERICK & CAPORALE



Scale : 1" = 100'

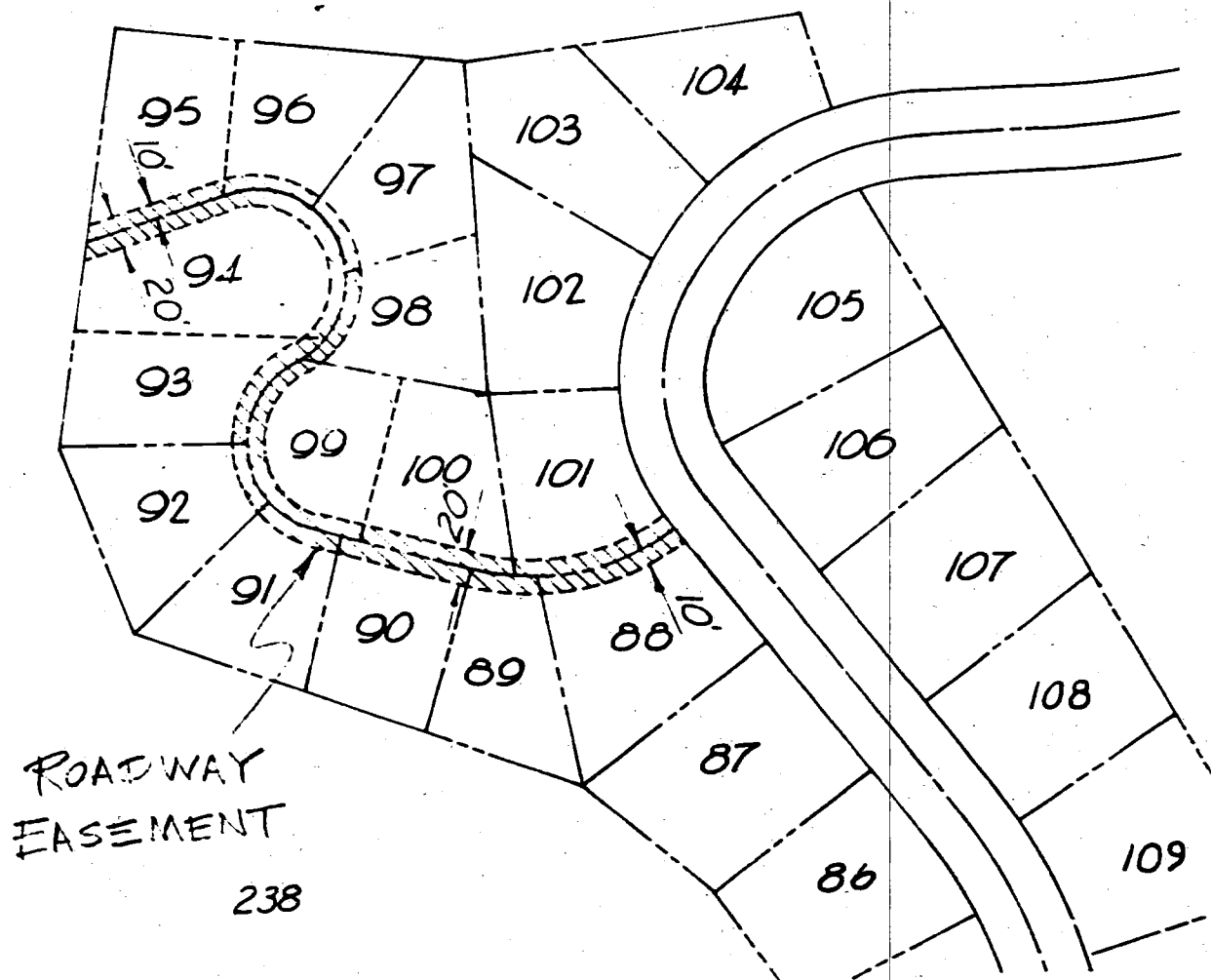


EXHIBIT "B"

SCHMID, FORD, MOONEY, FREDERICK & CAPORALE



Scale: 1" = 100'

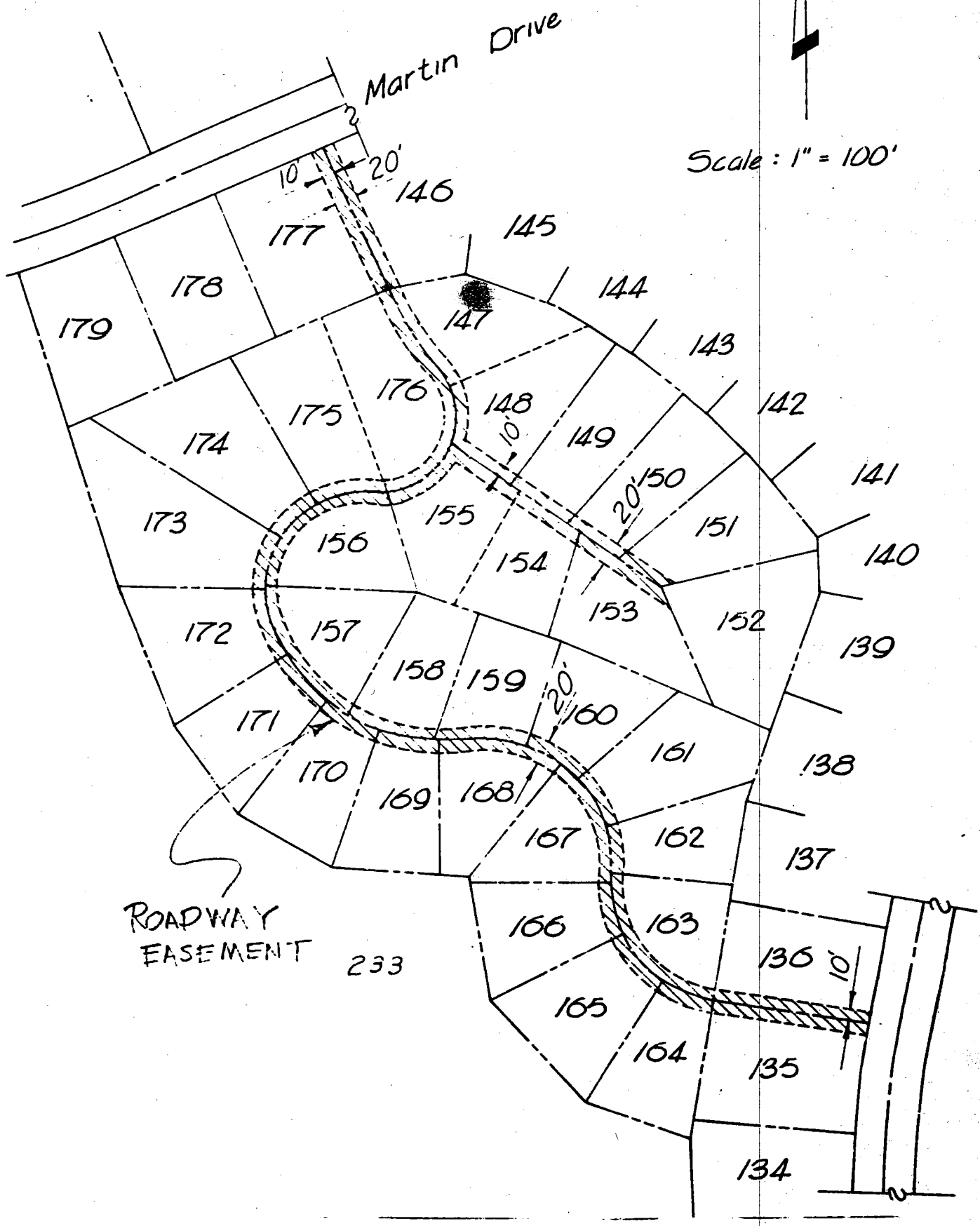


EXHIBIT "C"

SCHMID, FORD, MOONEY, FREDERICK & CAPORALE
ATTORNEYS AT LAW