

State of Rhode Island and Providence Plantations
COASTAL RESOURCES MANAGEMENT COUNCIL

60 DAVIS STREET
PROVIDENCE, R.I. 02908

DATE: July 8, 1981

FILE NO: _____

To Whom It May Concern:

Attention is invited to the provisions of Section 42-35-15 of the Administrative Procedures Act whereby a final decision in a contested case may be subject to judicial review provided a complaint is filed in the Superior Court of Providence County within thirty (30) days after the mailing of the decision. This thirty (30) day period for the Town of North Kingstown, R.O.W. #16 ca: expires on August 10, 1981


CHAIRMAN

COASTAL RESOURCES MANAGEMENT COUNCIL

DECISION

TOWN OF NORTH KINGSTOWN:

A PARCEL OF LAND BOUNDED ON THE NORTHERLY SIDE BY PROPERTY OF REGINALD G. AND HARRIET S. ROCKWELL, ON THE EASTERLY SIDE BY LOOP DRIVE, ON THE WESTERLY SIDE BY WICKFORD COVE, AND ON THE SOUTHERLY SIDE BY PROPERTY OF REGINALD G. AND HARRIET S. ROCKWELL. THIS PARCEL CONSISTS OF APPROXIMATELY 4,880 SQUARE FEET.

A duly appointed Subcommittee of the Coastal Resources Management Council held public hearings pursuant to the Administrative Procedures Act on March 6, 1979 and April 17, 1979 at the North Kingstown High School, North Kingstown, Rhode Island. At the time, evidence was submitted and comments were received from interested parties. In addition, the Coastal Resources Management Council received a title report from Attorney Domenic A. Mosca, Jr., of 65 West Main Street, North Kingstown, Rhode Island. Further, a legal description and survey was drawn for the Council by the engineering firm of R. C. Cournoyer and Associates of Slatersville, Rhode Island. An appraisal was received from Anthony Giordano of Westerly, Rhode Island.

After deliberation upon the evidence, testimony and the entire record pending before it, the Subcommittee did not make a recommendation to the full Council.

Thereafter, the entire Council at a meeting held on February 2, 1981 at the North Kingstown High School, North Kingstown, Rhode Island and at a meeting held on February 24, 1981 at the State House, Providence, Rhode Island took under consideration the record, the evidence therein and the report of the Subcommittee and after careful deliberation upon the same and after a roll call vote that all the evidence, record and report of the Subcommittee so submitted were read by the members of the Council, the entire Council hereby finds:

FINDINGS OF FACT:

1. Evidence presented at the Subcommittee hearing by the title attorney indicated that deed descriptions refer to plat of Sherman Farm recorded in Plat Book 4 at Page 503. These deeds descriptions describe beachways as delineated on the plat of Sherman Farm.
2. Evidence at the Subcommittee and the full Council hearing by the Director of Public Works for the Town of North Kingstown indicated that the Town considers this a public road and in fact does maintain it.
3. Evidence presented at the Subcommittee hearing indicated that there was public usage of this parcel by the general public.
4. The title opinion, the report of the appraiser and the report of the engineer, all reviewed by the Council's legal counsel established that the aforesaid parcel has been dedicated publicly as a right-of-way.

CONCLUSIONS OF LAW:

1. The Coastal Resources Management Council has been granted jurisdiction to designate public right-of-ways by reason of Title 46, Chapter 23 of the General Laws of the State of Rhode Island, as amended.
2. In accordance with the Rhode Island Supreme Court case of Robidoux vs. Pelletier,

391 A2d 1150, there has been an acceptance and dedication of this parcel as a public road.

3. The records reflect that the evidentiary burdens of proof as set forth by the right-of-way Subcommittee regulations have in fact been met for the designation of this right-of-way.

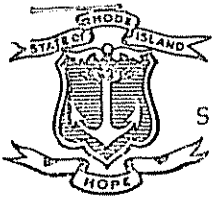
4. The evidence as submitted by the title attorney, the appraiser and the engineer and reviewed by the Council's legal counsel established that this parcel is a public right-of-way by dedication and usage.

As a result of these Findings of Fact and Conclusions of Law, the Council hereby designates this right-of-way as a public right-of-way and assigns the following Coastal Resources Management Council right-of-way designation number "E-7".

By the Council,

John A. Lyons
Chairman

DATED:



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

60 Davis Street
Providence, R.I. 02908

25 November 1981

Honorable Robert F. Burns
Secretary of State
219 State House
Providence, R.I. 02903

Dear Mr. Secretary:

In accordance with Chapter 46-23-6 (E), the Coastal Resources Management Council has designated the attached Rights of Way in the Town of North Kingstown, as public rights of ways and submits same to you for recording.

Very truly yours,

John A. Lyons, Chairman
Coastal Resources Management Council

JAL/drc



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
PUBLIC RIGHT-OF-WAY TO THE TIDAL WATER AREAS OF THE STATE

The Rhode Island Coastal Resources Management Council, in accordance with Chapter 46-23-6 (E) has designated the below described parcel of land in the Town of North Kingstown, State of Rhode Island as a public right-of-way to the tidal water areas of the State.

A certain lot or parcel of land situated on the westerly end of Loop Drive in the Town of North Kingstown, County of Washington, State of Rhode Island, more particularly bounded and described as follows:-

Beginning at said most northwesterly end of Loop Drive, said point being the most northeasterly corner of the parcel hereby described;-

thence: S 28° - 22' - 51" E, along said westerly end of Loop Drive, forty (40.00) feet to land of Reginald G. and Harriet S. Rockwell;-

thence: S 61° - 37' - 09" W, along said Rockwell land one hundred twenty one (121.0+) feet, plus or minus to the Mean High Water Line of Wickford Cove;-

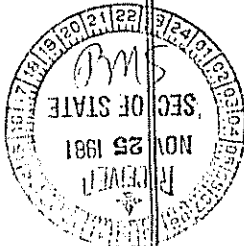
thence: Northwesterly along said Mean High Water Line forty and seven tenths (40.7+) feet, plus or minus to other land of said Reginald G. and Harriet S. Rockwell;-

thence: N 61° - 37' - 09" E, along other land of said Rockwell thirty seven (37.0+) feet, plus or minus to an iron rod;-

thence: Continuing on the same bearing along said Rockwell land eighty five and forty three one hundredths (85.43) feet to the point of beginning.

Containing 4,880 square feet or 0.112 acres.

WITNESS my hand on this 25TH day of August, 1981.



John A. Lyons
JOHN A. LYONS, CHAIRMAN
COASTAL RESOURCES MANAGEMENT COUNCIL

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In *PROVIDENCE* on the 25TH day of August, 1981, before me personally appeared JOHN A. LYONS, Chairman of the Coastal Resources Management Council, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument, by him executed, to be his free act and deed individually and the free act and deed of the Coastal Resources Management Council.

Charles J. Sullivan
NOTARY PUBLIC

RECEIVED FOR RECORD LAND EVIDENCE DEED
9-24-1981
TOWN CLERK OF THE
TOWN OF NORTH KINGSTOWN

0709

At 9:45 A.M.
Sept 27, 1981

Charles J. Sullivan
Notary Public

Title Examiner's Conclusion:

The highway of Steamboat Avenue was established as a town highway from Beach Street to Narragansett Bay. A deed reference for same may be found in Land Evidence Book 4 at Page 466, recorded on November 30, 1896.

NUMBER 14

Location: Assessor's Plat 92. Located along the eastern boundary of Lot 47 leading from Phillips Street south towards Wickford Cove and Loop Drive.

Title Examiner's Conclusion:

It does not appear from the Land Evidence Records of the Town of North Kingstown that this road or driftway ever attained the status of a public road. The only reference appearing in said Land Evidence Records is to a driftway in deeds for Lot 46 in 1953; none before or prior to this reference.

NUMBERS 15 AND 16

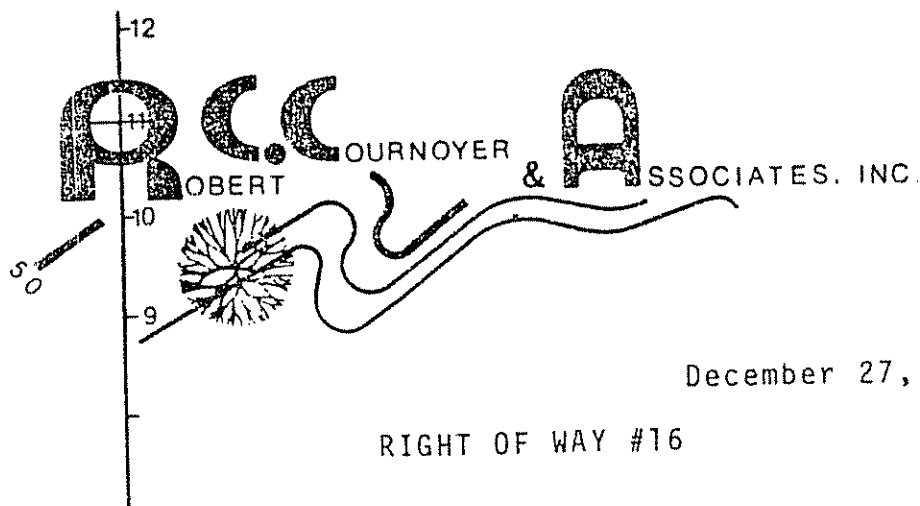
Location of #15: Assessor's Plat 92. Located off Loop Drive between Lots 9 and 8.

Location of #16: Assessor's Plat 92. Located at the western tip of Loop Drive between Lots 16 and 17.

Title Examiner's Conclusion:

Adjacent deed descriptions refer to plat of Sherman Farm recorded in Plat Book 4 at Page 503. The above-described beachways are delineated on the plat of Sherman Farm.

As a result of same, it is the opinion of this office that said beachways are public right-of-ways.



A certain lot or parcel of land situated on the westerly end of Loop Drive in the Town of North Kingstown, County of Washington State of Rhode Island, more particularly bounded and described as follows:-

Beginning at said most northwesterly end of Loop Drive, said point being the most northeasterly corner of the parcel hereby described:-

thence: S 28° - 22' - 51" E, along said westerly end of Loop Drive, forty (40.00) feet to land of Reginald G. and Harriet S. Rockwell;-

thence: S 61° - 37' - 09" W, along said Rockwell land one hundred twenty one (121.0+) feet, plus or minus to the Mean High Water Line of Wickford Cove;-

thence: Northwesterly along said Mean High Water Line forty and seven tenths (40.7+) feet, plus or minus to other land of said Reginald G. and Harriet S. Rockwell;-

thence: N 61° - 37' - 09" E, along other land of said Rockwell thirty seven (37.0+) feet, plus or minus to an iron rod;-

thence: Continuing on the same bearing along said Rockwell land eighty five and forty three one hundredths (85.43) feet to the point of beginning.

Containing 4,880 square feet or 0.112 acres.

Physical Description - Accessable with stone wall extending onto northeasterly protion of parcel.

TOWN OF NORTH KINGSTOWN, Right-of-Way No. 16

A parcel of land situated on the westerly end of Loop Drive in the Town of North Kingstown located between Lots 16 and 17 on Assessor's Plat 22. This parcel is approximately forty feet wide and one hundred twenty-one feet in length.

The title attorney for Coastal Resources Management Council stated the following opinion about this Right-of-Way.

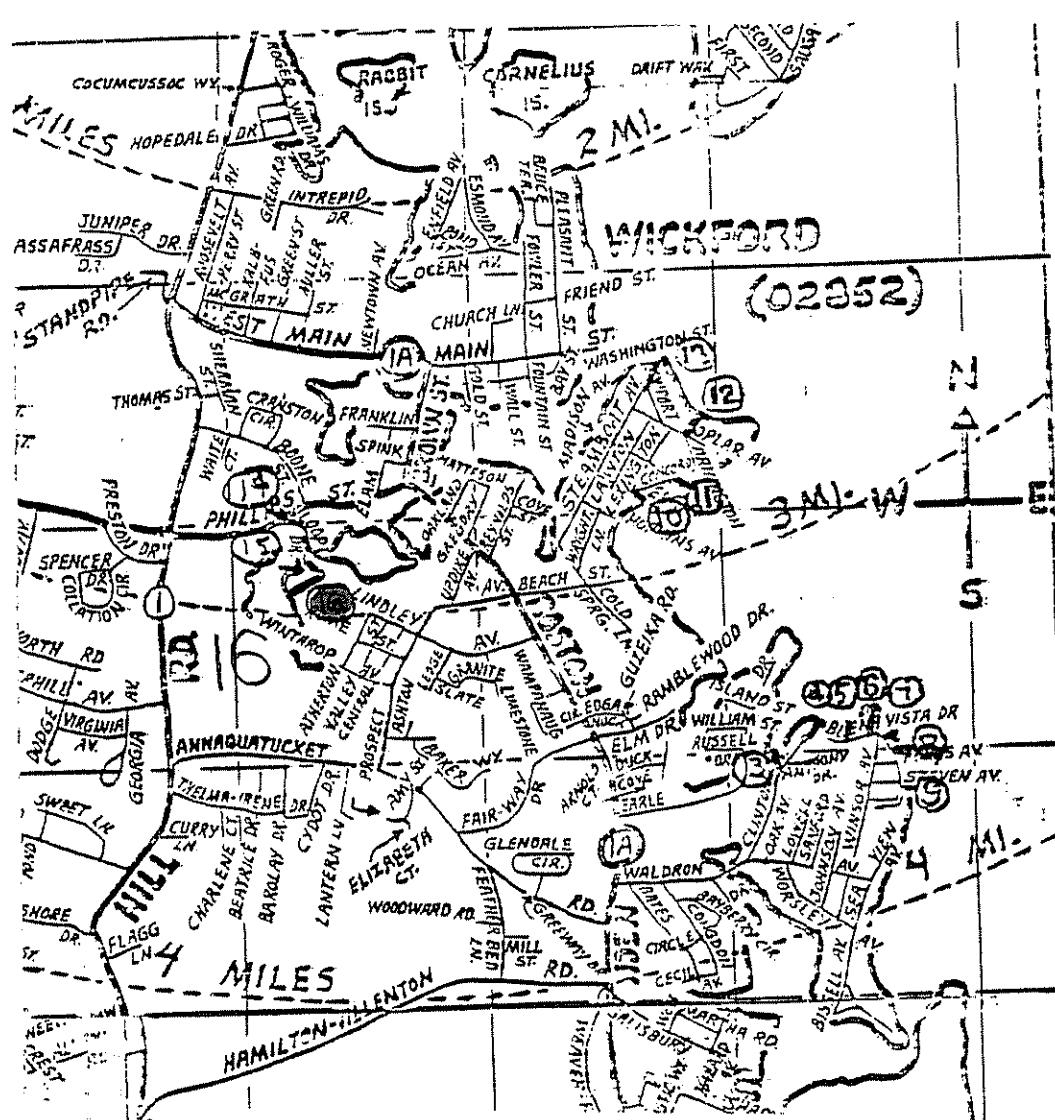
Adjacent deed descriptions refer to plat of Sherman Farm recorded in Plat Book 4 at Page 503. The above-described beachways are delineated on plat of Sherman Farm.

As a result of same, it is the opinion of this office that said beachways are public right-of-ways.

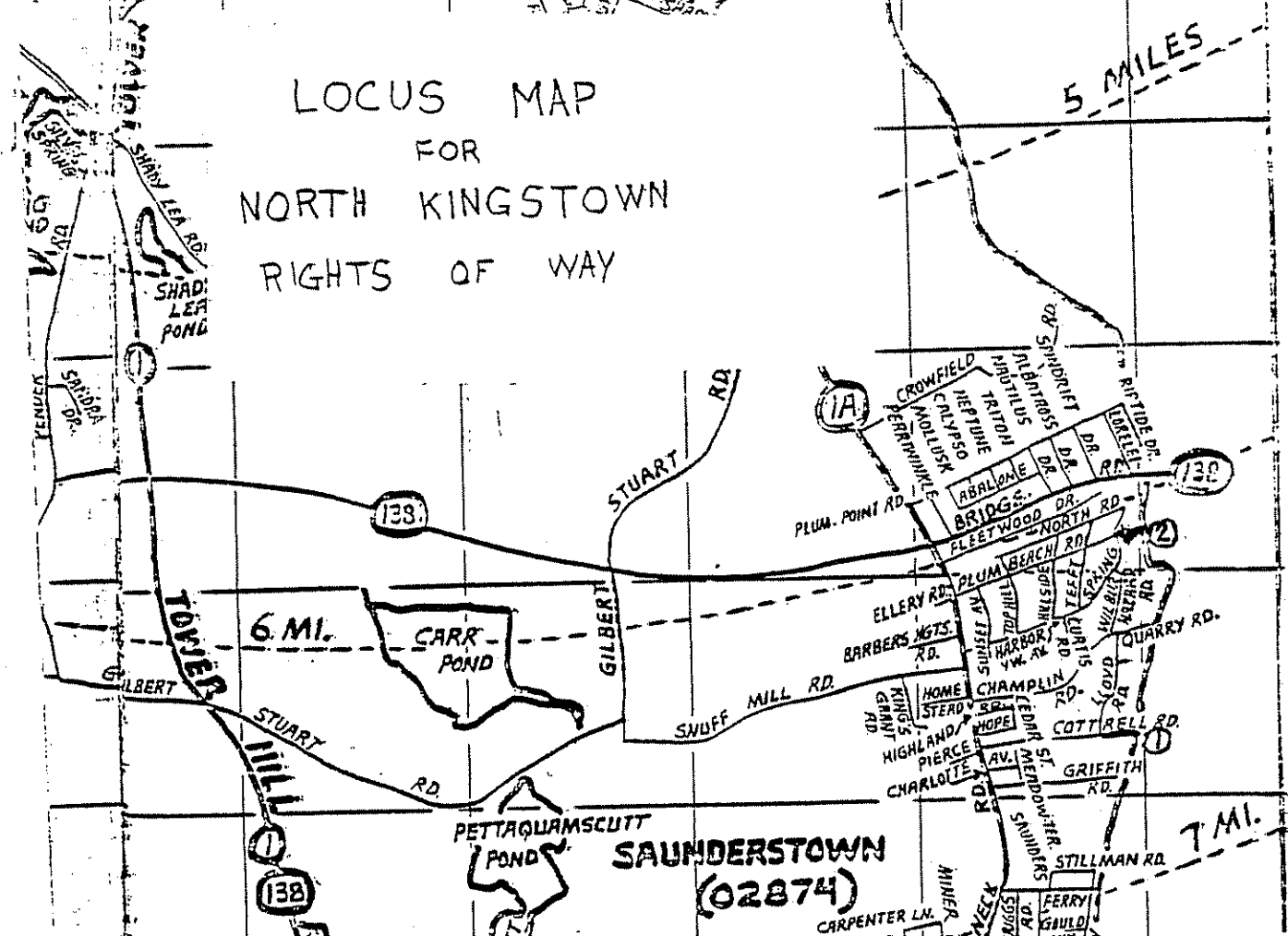
Our Supreme Court has recently held in the case of Robideux vs. Pellerier 391 A 2d 1150 that, "Dedication of private property to the public is, of course, an exceptional and unusual method by which a landowner passes to another an interest in his property...in order for there to be an effective dedication, two elements must exist; 1. A manifest intent by the landowner to dedicate the land in question called incipient dedication or offer to dedicate, and; 2. An acceptance by the public either by public use or by official action to accept same on behalf of the municipality...In certain cases, however, the recorded plat is all that is needed to disclose the landowner's dedicatory intent..." Clearly as can be seen from the title certificate, there does exist a recorded plat, which based upon the evidence presented at the public hearing may be all that is needed to disclose a dedicatory intent.

As far as the second element, that is acceptance by the public, it must be clearly shown, either by testimony, evidence or documentation.

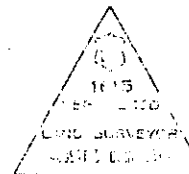
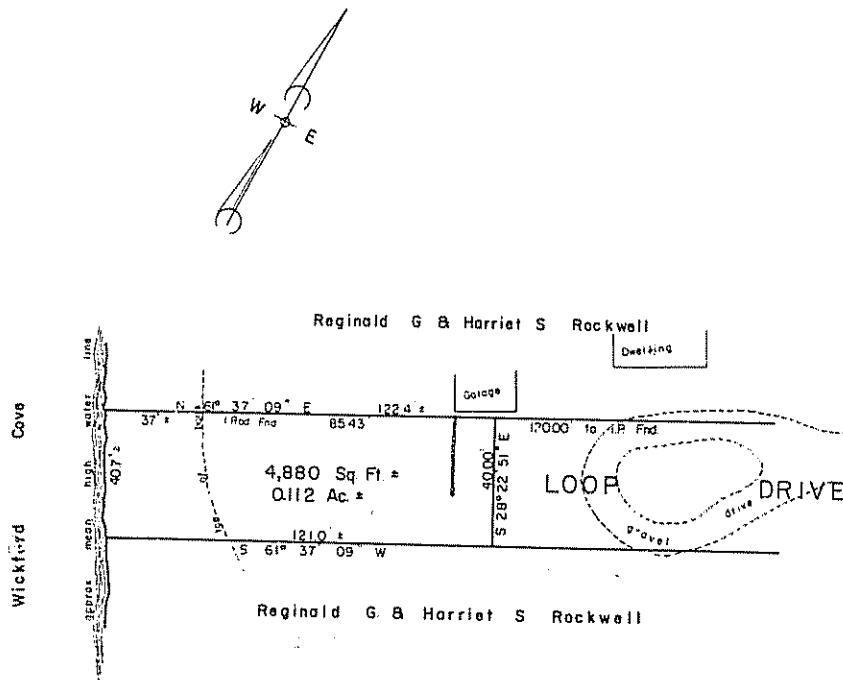
Although there was some testimony relative to access to this parcel of property, there was no testimony at the public hearings relative to usage of this right-of-way. Therefore, until or unless we receive such testimony, it would seem that we are unable to make a determination on this right-of-way.



LOCUS MAP
FOR
NORTH KINGSTOWN
RIGHTS OF WAY



Right of Way 16
(Portion of Loop Dr)
Assessors Plat 92



Public Right of Way
Prepared for
The Coastal Resource
Management Council
Sub-Committee on Rights of Way
North Kingstown, Rhode Island
December, 1979
Scale: 1 Inch Equals 30 Feet
ROBERT C COURNOYER & ASSOCIATES, INC.
CONSULTING ENGINEERS AND LAND SURVEYORS
11 MAIN STREET
SLATERVILLE RHODE ISLAND 02876

PUBLIC RIGHT-OF-WAYS

TOWN OF NORTH KINGSTOWN, RHODE ISLAND

FROM: Domenic A. Mosca, Jr.
Attorney at Law
65 West Main Street
North Kingstown, RI 02852
1-295-5323

TO: Coastal Resources Management Council
Right-of-Ways Subcommittee
83 Park Street
Providence, RI 02903

NUMBER 1 *

Location: Assessor's Plat Number 19. This right-of-way runs the length of Cottrell Road which intersects and is bounded on the west by Boston Neck Road and on the east by Narragansett Bay.

Title Examiner's Conclusion:

Cottrell Road was dedicated as a public highway in Land Evidence Book 60 at Page 180 of the Land Evidence Records of the Town of North Kingstown. There is a deed reservation referencing a 50 foot width of land from Narragansett Bay to the adjoining lots of Cottrell Farm for use of the residents of said Cottrell Farm. This reservation is contained in a deed recorded in Book 47 at Page 422 of the Land Evidence Records of the Town of North Kingstown.

It is the conclusion of this office that the public has a right-of-way to the latter described beach area at the end of Cottrell Road. The width should be at least 40 feet. See sketch attached in Appendix referred to as Sketch Number 1.

*Right-of-ways are enumerated in accordance with those listed in a Public Right-of-Way Evaluation for the Town of North Kingstown, which was provided this office. The locations of each right-of-way, as delineated in this report, also coincide with the locations listed in the Public Right-of-Way Evaluation.

NUMBER 2

Location: Assessor's Plat Number 41. This right-of-way runs the length of Plum Beach Road, which intersects and is bounded on the west by Boston Neck Road and on the east by Narragansett Bay.

Title Examiner's Conclusion:

Plum Beach Road was dedicated as a public highway on June 9, 1913. The Land Evidence Records of the Town of North Kingstown evidence same in Land Evidence Book 47 at Page 403. It is the conclusion of this office that Plum Beach Road is a public right-of-way to Narragansett Bay. The width is 50 feet to a wider area at the curve near the shore. A deed recorded in Land Evidence Book 47 at Page 404 from the owners of Plum Beach Road to the Town of North Kingstown stipulates that the land shall revert to the original grantors if the strip of land granted ceases to be used for public highway purposes, and it appears that they, the grantors, could claim ownership. It appears that the parking lot of the Plum Beach Club encroaches upon the public right-of-way. The Town Engineer of the Town of North Kingstown reports that Plum Beach Road is a public road and is available to the public from Boston Neck Road to Narragansett Bay. The report of this office indicates that the roadway ends in the parking area of the Plum Beach Club.

NUMBERS 3 THROUGH 9

Location of #3: Assessor's Plat 89. This is one of a series of right of ways termed beachways. It is located off Clinton Drive between Lots 95 and 96.

Location of #4: Assessor's Plat 89. This is one of a series of right of ways termed beachways. It is located between Lots 86 and 85 running off Clinton Drive.

Location of #5: Assessor's Plat 89. This is one of a series of right of ways termed beachways. It is located between Lots 77 and 33 running off Buena Vista Drive.

Location of #6: Assessor's Plat 89. This is one of a series of beachways. It is located between Lots 25 and 26 off Buena Vista Drive.

Location of #7: Assessor's Plat 89. This is one of a series of beachways. It is located between Lots 24 and 25 off Buena Vista Drive.

Location of #8: Assessor's Plat 89. One of a series of beachways.
It is located between lots 17 and 18 off Buena Vista Drive.

Location of #9: Assessor's Plat 89. One of a series of beachways.
It is located between lots 7 and 8 off Buena Vista Drive.

Conclusion of Title Examiner:

Beachways Numbered 7 and 6, running between lots 96 and 95 and lots 85 and 86 respectively, on Assessor's Plat 89 are public rights-of-way to Narragansett Bay. A description in Land Evidence Book 65 at Page 32 contained in the Land Evidence Records of the Town of North Kingstown states, "Subject to rights of the public to travel over Clinton Drive to the waters of Narragansett Bay as shown on Wild Goose Point Plat". At the time that this plat was recorded, Clinton Drive led to Anthony Drive and ended. Two beachways open off Clinton Drive, Numbers 7 and 6 respectively. The beach area bordering on Narragansett Bay and lot numbers 87, 86, 80 and 81 on Assessor's Plat 89 is reserved "for the use of owners upon the plat and subject to seaweed privileges of others". Clinton Drive, Anthony Drive and Buena Vista Drive are dedicated public roads. However, there is no note of the beachways in the description referencing the acceptance of these roads, but beachways numbered 6 and 7 are recorded on the plat for road dedication purposes. However, the beachways are not listed in the description for the dedication of Buena Vista Drive.

NUMBER 10

Location: Assessor's Plat 91. Located at the eastern end of Elgin Avenue between lots 216 and 96.

Conclusion of Title Examiner:

Elgin Avenue is a public right of way to Narragansett Bay. Elgin Avenue was originally platted on "Poplar Point Plat, Belonging to Herbert C. Caleff, March, 1922". Said plat is referred to in Plat Book 2 at Page 86. Deeds to adjacent lots 95 and 96 on Assessor's Plat 91 refer to the Poplar Point Plat for legal descriptions. Lot 216 describes its border from Narragansett Bay as Elgin Road. A deed recorded in Land Evidence Book 52 at Page 225 of the Land Evidence Records of the Town of North Kingstown refers to Elgin Avenue and further refers to a deed in Land Evidence Book 47 at Page 17 in which Elgin Avenue is described as a public street by any person owning land abutting thereon. The Town Engineer reports that the Town currently maintains the road and has done so for a substantial period of time.

NUMBER 11

Location: Assessor's Plat 91. Located off Concord Avenue at the southern tip of Madison Avenue between Lots 102 and 103.

Title Examiner's Conclusion:

Land Evidence Records of the Town of North Kingstown do not evidence the fact that Concord Avenue was dedicated as a public road. No utilities easements have been granted by the residents of said Concord Avenue which would tend to evidence the fact that it retained a private as opposed to a public status. A deed recorded in Land Evidence Book 58 at Page 131 makes reference to a passway 10 feet in width and approximately 126 feet long.

It would be the opinion of this office that if the Town of North Kingstown maintains this road, coupled with the fact that no easements were granted to the utility companies referencing said road, that the road would have a public status as opposed to a private status.

NUMBER 12

Location: Assessor's Plat 91. Located at the junction of Arlington and Poplar Avenues; bounded by Lots 215 and 110.

Title Examiner's Conclusion:

A right-of-way exists at the intersection of Arlington and Poplar Avenues, due to the fact that Poplar Avenue has attained the status of a public road. A petition by owners to create a town road of Newport Avenue and Poplar Avenue in the Poplar Point Plat was originally put forward by the owners of abutting properties. According to the Records of the Town of North Kingstown, the matter was discussed at a Town Council Meeting of January 9, 1939 and was continued. No further action was ever taken.

NUMBER 13

Location: Assessor's Plat 91. Located at the northern tip of Steamboat Avenue between Lots 123 and 124.

Title Examiner's Conclusion:

The highway of Steamboat Avenue was established as a town highway from Beach Street to Narragansett Bay. A deed reference for same may be found in Land Evidence Book 4 at Page 466, recorded on November 30, 1896.

NUMBER 14

Location: Assessor's Plat 92. Located along the eastern boundary of Lot 47 leading from Phillips Street south towards Wickford Cove and Loop Drive.

Title Examiner's Conclusion:

It does not appear from the Land Evidence Records of the Town of North Kingstown that this road or driftway ever attained the status of a public road. The only reference appearing in said Land Evidence Records is to a driftway in deeds for Lot 46 in 1953; none before or prior to this reference.

NUMBERS 15 AND 16

Location of #15: Assessor's Plat 92. Located off Loop Drive between Lots 9 and 8.

Location of #16: Assessor's Plat 92. Located at the western tip of Loop Drive between Lots 16 and 17.

Title Examiner's Conclusion:

Adjacent deed descriptions refer to plat of Sherman Farm recorded in Plat Book 4 at Page 503. The above-described beachways are delineated on the plat of Sherman Farm.

As a result of same, it is the opinion of this office that said beachways are public right-of-ways.

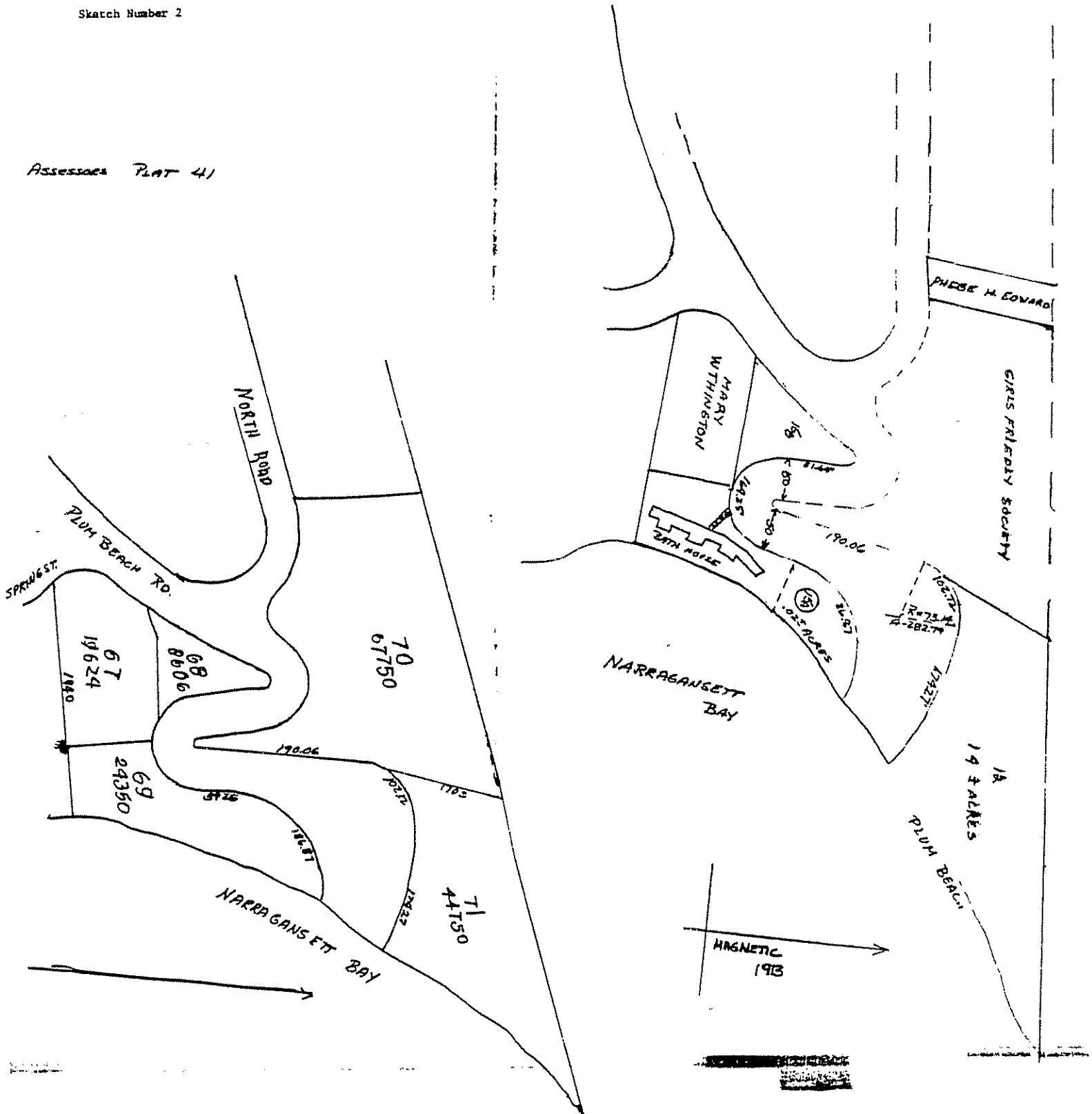
A P P E N D I X

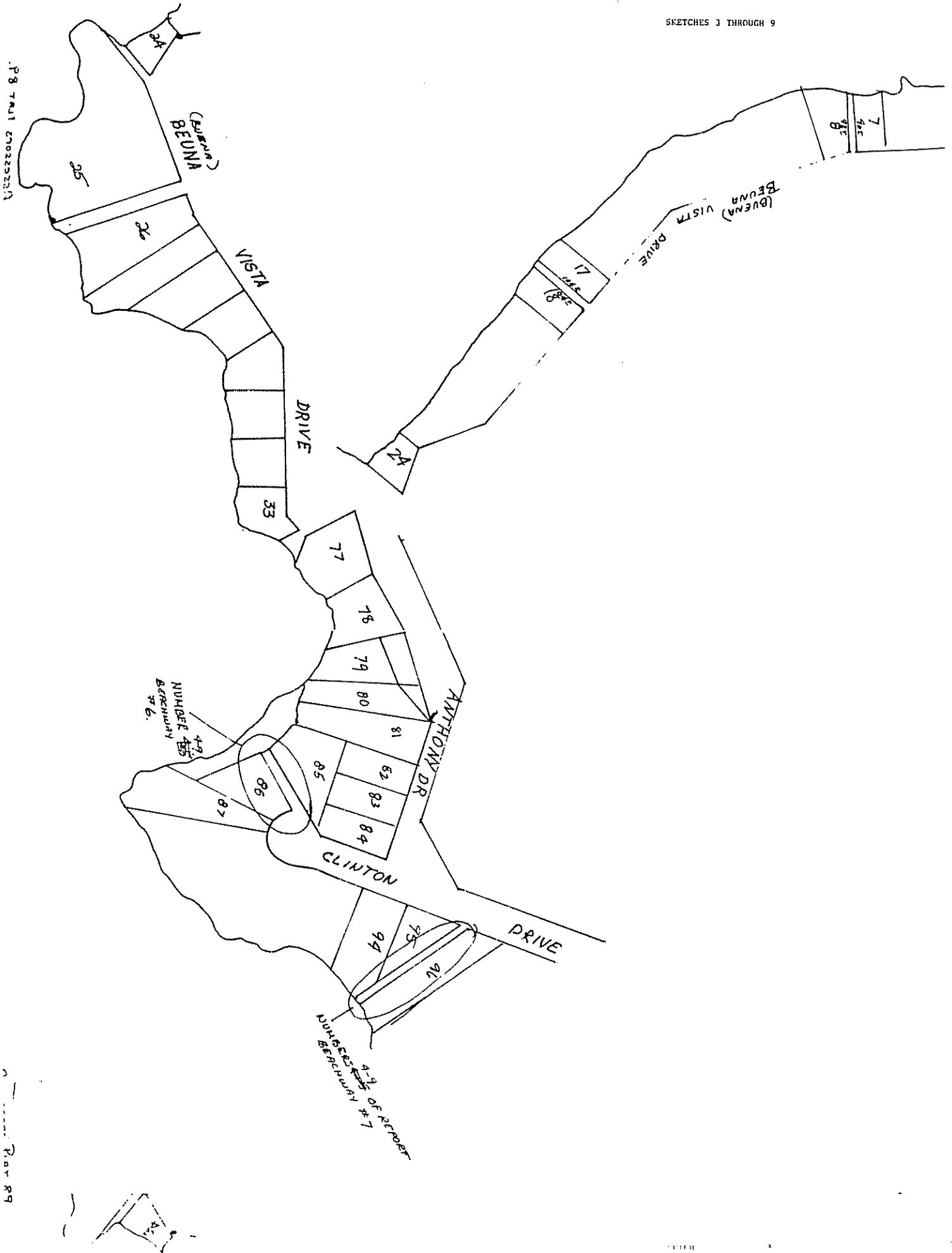
This Appendix contains sketches of the right-of-ways discussed in the within Title Survey, numbered in accordance with the numbers assigned to said right-of-ways.

PLAT OF BARBER'S HEIGHT
JAN 14, 1924

Sketch Number 2

Assessors PLAT 41

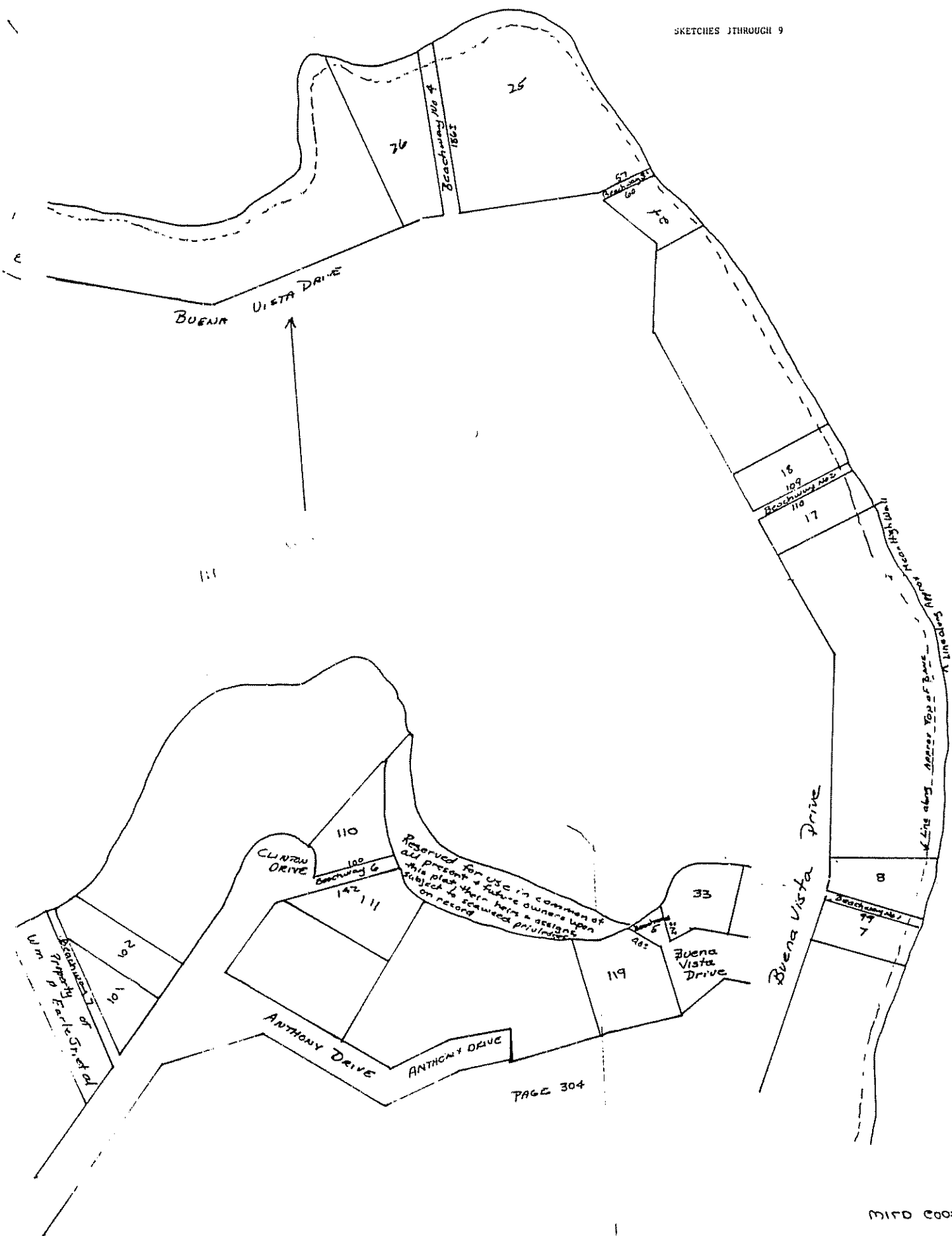


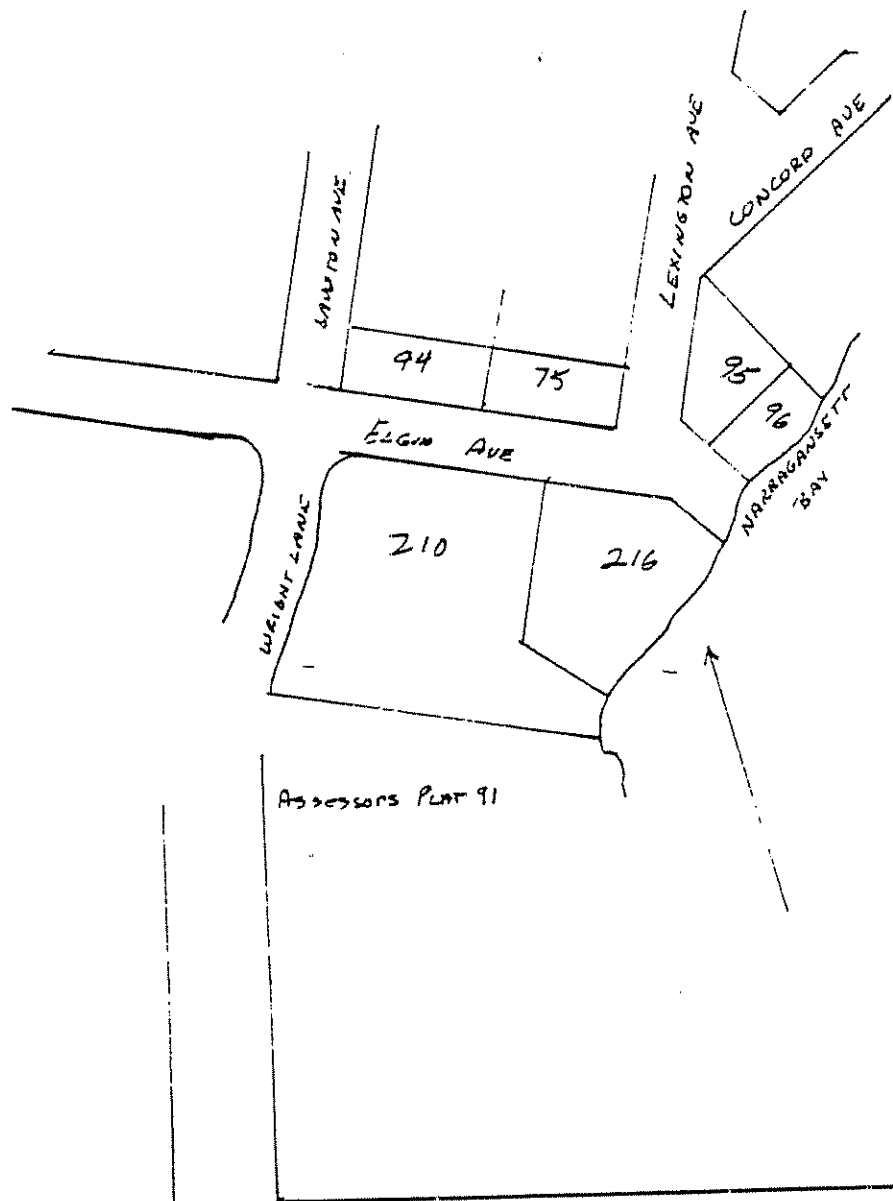


P8 TAIL CROZSSIN

PLAN 89

SKETCHES 1 THROUGH 9





Sketch Number 10

PLAT BOOK 2
PAGE 84

POPULAR POINT PLAT
belonging to Herbert C. Calaf

3/22

