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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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VENTURA, CA 93001
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Hearing Opened: 5/9/00
49th Day:
Staff: G. Timm
Staff Report: 7/26/00
Hearing Date: 8/8/00
Commission Action:



RECORD PACKET COPY

STAFF REPORT: APPEAL
De Novo Hearing

LOCAL GOVERNMENT: County of Ventura

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-VNT-00-078

APPLICANT: Vern Bauman

APPELLANTS: Commissioners Wan and Nava; Raffi Cohen and Astra Investments Capital, LLC

PROJECT LOCATION: South of Pacific View Road and West of Deer Creek Road, Santa Monica Mountains, Ventura County

PROJECT DESCRIPTION: Legalization of an illegally subdivided 10 acre parcel by issuance of a Conditional Certificate of Compliance and Tentative Parcel Map.

SUBSTANTIVE FILE DOCUMENTS: County of Ventura Notice of Final Decision for Planned Development Permit 1811, CCC-9904 & PM-5203 and attached Staff Report & Recommendations; County of Ventura Certified Local Coastal Program (Land Use Plan & Coastal Zoning Ordinance).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the proposed project on the basis that the project, as approved by the County, does not conform to the applicable policies contained in the Certified Local Coastal Program (Land Use Plan and Zoning Ordinance Policies) for Ventura County relative to demonstrating the ability to develop the site in the future. No analysis or evidence was provided relative to geologic stability of the site, location of a building pad or envelope, the availability or water and sewage disposal facilities, grading necessary for site development and road access, legal road easement and minimum lot size. Although the County made findings relative to the above-cited issues it deferred future determination of consistency until the building permit stage of development. The LCP requires that such determinations and findings be made prior to approval of any development, including the creation of a new lot by subdivision.

PRIOR COMMISSION ACTION

The Commission found that Substantial Issue exists with respect to the grounds on which the appeal was filed – inconsistency with applicable policies and related zoning standards of the County's certified LCP at the June 13, 2000 Commission Meeting. The applicable standard of review for the Commission to consider at the de novo hearing is whether the proposed development is in conformity with the applicable policies contained in the certified Local Coastal Program for Ventura County.

STAFF NOTE – CORRESPONDENCE

As indicated above the staff recommendation for denial is based in large part on the basis that minimal or no evidence or analysis was provided relative to future development of the lot which would be created or legalized by the proposed land division. The County found that it was appropriate to defer such site-specific determinations relative to geologic stability, the availability of water, septic system capability, road and pad grading to the building permit stage. However, the LCP requires and the Commission has required in numerous past permit actions that such evidence and analysis be submitted prior to approval of any land division including the legalization of a lot pursuant to a Certificate of Compliance. Commission staff has requested site-specific information relative to future developability of the lot from the applicant but the applicant has not responded to the requests.

Correspondence has been received from the County of Ventura in which it is argued that a Conditional Certificate of Compliance is not "development" within the meaning of the Coastal Act or the County's Zoning Ordinance. (Exhibit 8). The Coastal Zoning Ordinance, however, contains the Coastal Act's definition of development. The Coastal Act defines "development" to include subdivision pursuant to the Subdivision Map Act ... and any other division of land, including lot splits," (Section 30106). Because the applicant's lot was created by an illegal subdivision of land, the applicant's proposal to legalize creation of the lot at this time constitutes a division of land, which is "development" under the Coastal Act. Accordingly, the proposed development requires a Coastal Development Permit under the Coastal Act. To obtain approval of a Coastal Development Permit, the proposed development must be found to be consistent with all applicable provisions of the County's certified LCP, which was certified in 1983. Further, staff notes that the County has processed the Conditional Certificate of Compliance through the issuance of a Coastal Development Permit and the County's Staff Report and Recommendation characterizes the development as a "subdivision" of land under the State Subdivision Map Act.

Mr. Paul Betoulier, who has entered into an escrow agreement to purchase the property from the applicant, has submitted additional information and

correspondence. Mr. Betoulier has submitted copies of septic system and water well tests from three adjacent properties, evidence pertaining to a legal road easement to the project lot (exhibit 7), and a letter from a biologist stating that the project site contains no evidence of *marcescent dudleya* was found on the property (exhibit 12). Other correspondence received from Mr. Betoulier is attached to the staff report in the exhibit section. None of the information submitted by Mr. Betoulier is sufficient to make a site-specific determination relative to future development of the project site or the availability of legal road access to the site, however.

STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. A-4-VNT-00-078 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the certified Local Coastal Program for the County of Ventura. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The proposed project consists of the legalization of an illegally created ten-acre lot by approval of a Conditional Certificate of Compliance, Tentative Parcel Map and Planned Development Permit. The site is located south of Pacific View Drive and west of Deer Creek Road in the Santa Monica Mountains. The site is located on a generally steep, south facing slope within the upper reach of an unnamed canyon and below a significant ridgeline in the Santa Monica Mountains. The site contains a flat area that has been identified as a future

building site for a single-family dwelling and guest unit. No development of the site is proposed by this application although the intent of the application is to legalize the parcel for future development. Vegetation on the site consists of Chamise-Laurel Sumac Chaparral and Coastal Sage Scrub intermixed with deer weed, yucca, and bunch grasses. No riparian habitat or other Environmentally Sensitive Habitat has been identified on the project site.

Surrounding parcels range in size from 10 to over 400 acres. There are scattered residential structures in the immediate area, some of which are visible from portions of the subject site. The Coastal Land Use Plan Map designation for the site is Open Space and the Coastal Zoning Classification is C-O-S-M (Coastal Open Space – Santa Monica Mountains Overlay) Zone. The minimum lot size permitted in the C-O-S Zone is 10 acres, however, in some areas of the Santa Monica Mountains minimum lots sizes of 40 to 100 acres are required based on water availability, access, slope, geologic and fire hazards. Further, the Overlay requires application of a slope/density formula to determine the minimum lot size for newly proposed lots. Figure 31 in the certified Land Use Plan generally categorizes the area of the subject site as containing slopes greater than 25 percent. For slopes with average slopes of greater than 25 percent the minimum lot size is 40 acres for instance. The County did not apply the slope/density formula analysis to the proposed new lot nor did the County approval contain a site-specific analysis of water availability, percolation rates, geologic hazards or road access.

The applicant's lot resulted from an illegal subdivision that the County determined occurred in 1968. (See grant deed, Exhibit 5) Based on the Assessor's map, it appears that one forty acre lot was divided by grant deeds into four, square 10 acre parcels, including the applicant's lot. The applicant, Verne Bauman, and Cherie Bauman, originally acquired the property in 1977. However, in 1988, the Baumans granted the property to James V. Berry. (See grant deed, Exhibit 6). Subsequently, the property was transferred back to the current owners, Verne Bauman and Cherie Hanley (formerly Cherie Bauman). This transfer apparently occurred some time between 1995 and 1998. Coastal Commission staff sent a letter to Mr. Bauman in 1982 informing him that the lot was illegally subdivided and that all subdivisions of land require a Coastal Development Permit. The County has submitted evidence that two of the four lots created by the illegal subdivision have previously been issued Conditional Certificates of Compliance and a Notice of Final Action was sent to the Commission for each approval. Both Notices, however, were erroneously described as "not appealable to the Coastal Commission".

Pursuant to Government Code section 66499.35(b), when a property owner requests a certificate of compliance for a lot that was illegally created, the County may impose all conditions that would have been applicable under the local ordinances in effect at the time the applicant acquired the lot. If the current

owner was the one who created the illegal lot, the County may impose all conditions applicable to current land divisions at the time the conditional certificate of compliance is issued. Furthermore, Government Code Section 66499.34 provides:

"No local agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or has resulted from a division, in violation of the provisions of this division or of the provisions of local ordinances enacted pursuant to this division if it finds that development of such real property is contrary to the public health or the public safety ..."

Therefore, for the reasons provided above, the Commission finds that the proposed land division does constitute development which has occurred subsequent to the effective date of the Coastal Act and certification of the County LCP and is subject to conformance with the policies and provisions of the County's Local Coastal Program.

B. Consistency with Local Coastal Program Policies – Standard of Review

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development approved by a Coastal County which is not designated as the principal permitted use in a land use category, such as the proposed project). In this case, the proposed development has been previously appealed to the Commission, which found, during a public hearing on June 13, 2000, that a substantial issue was raised.

As a "de novo" application, the standard of review for the proposed development is the policies and provisions of the County of Ventura Local Coastal Program (LCP) which was certified by the Commission on April 28, 1983. Further, the Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County of Ventura LCP as guiding policies. The LCP consistency issues raised by the proposed development are discussed in the following sections.

C. Certified Land Use Plan Policies

The preamble to the certified Coastal Area Plan (Land Use Plan) states that "all components ... are intended to be consistent with the provisions of the California Coastal Act of 1976. Any ambiguities in the General Plan, as they apply to the

Coastal Zone, including the Coastal Area Plan, shall be resolved in favor of the interpretation most likely to implement the mandated goals, policies and programs of the Coastal Act."

The Introduction to the Coastal Area Plan provides a description of each land use designation and the principal permitted uses for each. The following description is provided for the *Open Space* land use designation, which is applicable to the proposed development:

Open Space: The purpose of this designation is to provide for the preservation and enhancement of valuable natural and environmental resources while allowing reasonable and compatible uses of the land. Also to protect public safety through the management of hazardous areas such as flood plains, fire prone areas, or landslide prone areas. *Principal Permitted uses are one dwelling unit per parcel*, agricultural uses as listed as principal permitted uses in "Agricultural" designation, and passive recreational uses that do not alter physical features beyond a minimal degree and do not involve structures. Minimum lot size in the "Open Space" designation is 10 acres. (Emphasis added.)

The Ventura County Coastal Area Plan is divided into three geographic sub-areas, the North Coast, the Central Coast, and the South Coast. Each sub-area contains a separate set of policies applicable to only that specific area. The location of the proposed development is within the South Coast sub-area. The South Coast encompasses some 18,600 acres along its 13-mile length, including approximately 7 miles of the coastal Santa Monica Mountains. The South Coast sub-area component of the LCP Coastal Area Plan is divided into several sections corresponding with specific (Coastal Act) issue topics that are relevant to that area.

The LCP Coastal Area Plan describes the South Coast sub-area as containing numerous environmentally sensitive habitat areas. Therefore, a special *Santa Monica Mountains (M) Overlay Zone* has been applied to most of the mountainous areas in recognition that the "Santa Monica Mountains are a coastal resource of statewide and national significance." The Coastal Area Plan notes that the mountains provide habitat for several unique, rare or endangered plant and animal species that may be easily damaged by human activities. The LCP requires a case-by-case consideration of potential habitat impacts for projects proposed in the Overlay Zone.

Section D of the Environmentally Sensitive Habitat section of the South Coast sub-area applies to the Santa Monica Mountains Overlay Zone. The LCP describes the Santa Monica Mountains in this area as follows:

The Santa Monica Mountains contains some of the most significant inland habitats in the County's coastal Zone. Many creeks and streams with their riparian corridors, coastal dunes, and rare native bunchgrass and giant coreopsis can be found in the mountains. In addition, grasslands, chaparral, and oak woodlands are found.

Some of these sensitive habitats are mapped, but others occur in several small areas throughout the mountains, making them impractical to accurately map.

The stated objective of this section of the LCP is "to preserve and protect the upland habitats of the Santa Monica Mountains." The following policies, contained in the ESH section, are applicable to the proposed development:

3. All new development shall be sited and designed to avoid adverse impacts on sensitive environmental habitats.
4. Where possible for subdivision and undeveloped contiguous lots, construction and / or improvements of driveways / accessways which would increase access to the subject area or adjacent areas shall be permitted only when it has been determined that environmental resources in the area will not be adversely impacted by the increased access. Grading cuts shall be minimized by combining the accessways of adjacent property owners to a single road where possible. The intent is to reduce the number of direct ingress-egress points off public routes and to reduce grading. At stream crossings, driveway access for nearby residences shall be combined. Hillside roads and driveways shall be as narrow as feasible and follow natural contours.
5. Development dependent upon a water well shall be approved only if such well would not either individually or cumulatively cause adverse impacts on affected riparian areas or other coastal resources.
6. All proposals for land divisions in the Santa Monica Mountains shall be evaluated to assure that any future development will be consistent with the development policies contained in this plan. Where potential development cannot occur consistent with the development policies contained in this plan, the request for division shall be denied. Environmental assessments shall accompany tentative map applications and shall evaluate the ecological resources within and adjacent to the site and the consistency of the proposed division and development with the standards of the Local Coastal Program.

- All applications shall identify future building envelopes and shall be identified on the final map. ...
- All identified environmentally sensitive habitat areas and / or slopes over 30 % shall be permanently maintained in their natural state through an easement or other appropriate means and shall be recorded on the final tract or parcel map or on a grant deed as a deed restriction submitted with the final map. Development shall not be permitted in areas over 30 % slope.

The *Hazards* section of the certified Land Use Plan states that "the severe and rugged terrain of the Santa Monica Mountains present considerable hazards and constraints to new development. ... Severe slopes not only have the potential for instability and erosion, but may also serve as constraints to the proper functioning of water and septic systems. An additional concern in this area is access, especially emergency access in case of fire or other disasters."

This section also notes that the Santa Monica Mountains contain highly expansive soils, which, taken "together with the steep topography, tend to increase the frequency of slope failure and erosion." These potential erosion hazards are further impacted by "grading, increased irrigation or septic runoff." In recognizing the "Open Space" Land Use designation and the minimum lot size of 10 acres, the Hazards Section further provides that "in some areas ... 40-100 acre minimum lot sizes are justified based on water availability, access, slope, geologic and fire hazards."

The following policies are applicable to the proposed development:

2. New development shall be suited and designed to minimize risks to life and property in areas of high geologic, flood and fire hazards.
3. All new development will be evaluated for its impacts to, and from, geologic hazards ..., flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.
7. The South Coast portion of the Santa Monica Mountains requires special attention and the following formula and minimum lot sizes will be utilized as new land divisions are proposed in the "Open Space" ... designation.

Policy 7 goes on to provide the slope / density formula to compute the average slope of property proposed to be subdivided and a table used to determine the minimum lot size for new lots based on the average slope. For example, lots with an average slope of over 25 percent are subject to a minimum size of 40 acres. (See Section 8175 in the Coastal Zoning Ordinance discussed below.)

The *Public Works* section of the certified LUP states that "public service capacities for sewer, water and roads are severely limited in the South Coast sub-area." The LUP notes that water to residents of the mountains is provided by individually owned well sites. The adequacy of water availability for mountain areas is determined by "on-site inspection by the Environmental Health Division of the County." Sewage disposal in the mountains is provided by individual septic tank systems permitted through the Environmental Health Division also.

Policy 3 in the Public Works section states:

3. New development in the Santa Monica Mountains should be self-sufficient with respect to sanitation and water and should not require the extension of growth inducing services. Development outside of the established "Existing Community" area shall not directly or indirectly cause the extension of public services (roads, sewer, water, etc.) into an Open Space area. The County shall make the finding for each individual development requiring sanitary facilities and potable water that said private services will be able to adequately serve the development over its normal lifespan.

The *Locating and Planning New Development* section of the LUP also recognizes the water and septic system limitations in the mountains. Policy 2 states:

2. Consistent with the environmental characteristics and limited service capacities of the Santa Monica Mountains area, only very low density development as prescribed by the "Open Space" designation will be allowed in the Santa Monica Mountains. *The slope / density formula found in the "Hazards" section will be utilized to determine the minimum lot size of any proposed land division. (Emphasis added)*

D. Certified Coastal Zoning Ordinance Policies

The certified Coastal Zoning Ordinance contains standards and policies to implement the Land Use Plan. Article 3 of the Zoning Ordinance establishes the purpose of each zone designation. Zones, which are applicable to the proposed development, include:

Section 8173-1 - *Coastal Open Space (C-O-S) Zone* -The purpose of this zone is to provide for the preservation, maintenance, and enhancement of natural and recreational resources in the coastal areas of the County while allowing reasonable and compatible uses of the land.

Section 8173-13 - *Santa Monica Mountains (M) Overlay Zone* -The Santa Monica Mountains are a unique coastal resource of statewide and national significance. The mountains provide habitats for several unique, rare, or endangered plant and animal species. These habitats can be easily damaged by human activities; therefore, the mountains require specific protective measures. The purpose of this overlay zone is to provide these specific protective measures.

Article 4, Section 8174 provides a matrix to identify the permitted uses and type of permit required by specific zone and use. Among the permitted uses in the C-O-S Zone are single-family dwellings and land divisions. As previously indicated, single-family dwellings are considered a Principal Permitted Use in the LCP while land divisions are not. This section also references further restrictions on uses for properties located within the Santa Monica Mountains (M) Overlay Zone.

Article 5, Section 8175 provides development standards for specific zones. The minimum lot area in the C-O-S Zone is 10 acres, however, land divisions are subject to the slope / density formula for determining the minimum lot area. Once the average slope has been computed the minimum lot size is established as follows:

0% - 15%	10 acres
15.1% - 20%	20 acres
20.1% -25%	30 acres
25.1% - 35%	40 acres
Over 35%	100 acres

Section 8177-4 of the Coastal Zoning Ordinance establishes the Standards and Procedures for the Santa Monica Mountains (M) Overlay Zone. Relative to permit findings, Section 8177-4.1 states "no application for development in the Santa Monica Mountains overlay zone shall be approved unless all of the following written findings, as applicable, are made by the approving authority." Those required findings, applicable to the proposed development, include:

8177-4.1.1 – Private services for each individual development requiring potable water will be able to serve the development adequately over its normal lifespan.

8177-4.1.2 – When a water well is necessary to serve the development, the applicant shall be required to do a test well and provide data relative to depth of water, geologic structure, production capacities, degree of drawdown etc. ...

8177-4.1.3 – All need for sewage disposal over the life span of the development will be satisfied by existing sewer service to the immediate

area or by location of septic facilities on-site consistent with other applicable provisions of the LCP.

8177-4.1.4 – Development outside of the established "Community" area shall not directly or indirectly cause the extension of public services (roads, sewers, water etc.) into an open space area.

Applicable development standards include the following:

8177-4.2.3 – Construction and / or improvements of driveways or accessways which would increase access to any property shall be permitted only when it has been determined that environmental resources in the area will not be adversely impacted by the increased access. Grading cuts shall be minimized by combining the accessways of adjacent property owners to a single road where possible. The intent is to reduce the number of direct ingress-egress points from public roads and to reduce grading. ...

8177-4.2.4 – All proposals for land divisions in the Santa Monica Mountains shall be evaluated to assure that any future development will be consistent with the development policies contained in the LCP Land Use Plan. Where potential development cannot occur consistent with the LCP, the request for division shall be denied. Environmental assessments shall accompany tentative map applications and shall evaluate the ecological resources within and adjacent to the site and the consistency of the proposed division and development with the standards of the LCP. In addition, the following shall apply:

- a. Future building envelopes shall be identified on all applications and on the final subdivision map.
- b. All identified environmentally sensitive habitat areas and / or slopes over 30 percent shall be permanently maintained in their natural state through an easement or deed restriction which shall be recorded on the final map, or on a grant deed as a deed restriction submitted with the final map. Development shall not be permitted in areas over 30 percent slope.

Section 8178-4 of the Zoning Ordinance provides for the mitigation of potential hazards associated with development. The following policies are applicable to the proposed development:

8178-4.1 – All new development shall be evaluated for potential impacts to, and from, geologic hazards (including seismic hazards, landslides, expansive soils, subsidence, etc.), flood hazards and fire hazards. New development shall be sited and designed to minimize risks to life and

property in areas such as floodplains, bluffs, 20% or greater slopes, or shorelines, where such hazards may exist. ... Feasible mitigation measures shall be required where necessary.

8178-4.2 – If the available data indicates that a new development as proposed will not assure stability and structural integrity and minimize risks to life and property in areas of potential hazards, or will create or contribute significantly to erosion or geologic instability, then the County shall require the preparation of an engineering geology report at the applicant's expense.

...

E. County Findings for Approval and Required Special Conditions – Conformance with Certified Local Coastal Program

Several issues are raised by the County's approval of the proposed project relative to conformance with applicable policies contained in the certified LCP. These issues include:

- Identification of a building envelope.
- Grading required for future residential development of site.
- Environmental assessment of site required for land division.
- Application of Santa Monica Mountains (M) Overlay Zone requirements including the slope / density formula to determine minimum lot size.
- Percolation test results or septic system capability analysis for future sewage disposal.
- Availability of potable water to serve future development.
- Hazards and constraints associated with future development of the subject parcel (and the remaining 10-acre parcel) relative to geologic stability, steep slopes and erosion, and wildfires.
- Evidence of legal road easement across adjacent properties.

In its approval of a Conditional Certificate of Compliance and tentative Parcel Map to legalize the illegally created lot the County found that the proposed project is consistent with the intent and provisions of its Local Coastal Program. However, the County made numerous findings based on assumptions rather than site-specific analysis. Further, the County attached several special conditions which, in effect, deferred determination of consistency with several applicable LCP (LUP and Zoning) policies to the future permitting stage for residential

development on the site. Findings and special conditions required by the County that are applicable to the issues raised in the appeal and the conformance of those findings and / or required special conditions with the certified LCP are discussed below.

The County found that "the proposed project is compatible with the current General Plan, Local Coastal Plan and Zoning Ordinance" because the "10-acre lot met the zoning requirements for lot size at the time of the illegal subdivision." (The illegal subdivision occurred in 1968 prior to passage of the Coastal Act and the certification of the LCP.) The County determined that the lot was exempt from any requirements to meet current minimum lot size restrictions which require parcels of "10 acres or greater" based on the application of the present Coastal Open Space Land Use Plan and Zoning designation including the slope / density formula and other policies required by the Santa Monica Mountains (M) Overlay Zone.

As discussed above in the Project Description and Background Section, the Commission does not agree with the County's rationale that the lot does not have to meet current LUP and Zoning requirements. The applicant initially acquired the lot in 1977 (after the effective date of the Coastal Act), subsequently sold the lot to another party in 1988 and reacquired the parcel in 1998 through foreclosure sale. Further, Commission staff informed the applicant that the lot was illegally subdivided and that a Coastal Development Permit was required in 1982. (See exhibit 8). As previously indicated, pursuant to Government Code section 66499.35(b) when a property owner requests a certificate of compliance for a lot that was illegally created, the County may impose all conditions that would have been applicable in effect at the time the lot was acquired.

Therefore, because the County applied standards which existed for lot size requirements in 1968 when the lot was illegally created rather than requirements in existence at the time the applicant acquired the property (the Coastal Act and the certified LCP), the Commission finds that the project, as approved by the County, is not consistent with the intent and provisions of the County's Local Coastal Program.

The County found that the project was consistent with the intent and provisions of policies requiring the protection of Environmentally Sensitive Habitat because "the current application does not include any development of the parcel, therefore, no impacts are expected as a result of this project." The finding stated that "any future development will require additional review as stated in the conditions of approval." In other words, the County did not analyze potential future impacts and consistency with applicable LCP policies of future residential development arising out of the land division to legalize the 10-acre lot. The County deferred any determination of LCP consistency with applicable resource protection policies until the future building permit stage of development.

Specifically, the County did not apply the current applicable C-O-S-M (Coastal Open Space – Santa Monica Mountains Overlay) Land Use Plan designation and corresponding Zoning Ordinance designations (8173-1 & 8173-13) which establishes a minimum lot size of 10 acres but also establishes the slope / density formula and other protective policies which could increase the minimum lot size significantly.

The County did not make findings or deferred its determination relative to the following policies:

LUP Policy 3 and Zoning Ordinance Policy 8178-4.1 which requires that "new development shall be sited and designed to avoid adverse impacts ...";

Policy 4 and corresponding Zoning Ordinance Policy 8177-4.2.3 which requires that accessways for subdivisions and undeveloped lots minimize grading and other potential impacts;

Policy 5 and Zoning Policies 8177-4.1 and 4.2 which requires a test well and evidence of potable water prior to approval, and;

Policy 6 and Zoning Policies 8177-4.2.4(a) & (b) which requires that land divisions in the Santa Monica Mountains assure that any future development is consistent with all applicable development policies, that environmental assessments (of the site) accompany tentative map applications, that all applications "shall identify future building envelopes ...", and that all identified environmentally sensitive habitat and / or slopes over 30% shall be permanently maintained in open space through a recorded easement.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as approved by the County, does not conform to the referenced applicable policies and provisions of the County's certified Local Coastal Program.

Relative to Hazards the County approval states that "the Public Works Agency has determined that there will be no adverse impacts ... as there are no known faults or landslides on the project site." The findings state that "the proposed project will be required to meet all Public Works Agency requirements to develop, prior to issuance of a building permit." The County did not require a site-specific geotechnical report, water well test or percolation test for on-site septic system and made no site specific finding other than to defer any determination to the building permit stage although the LUP, as discussed above, notes that the Santa Monica Mountains terrain "present considerable hazards and constraints to new development", the "potential for instability and erosion", and constraints to "proper functioning of water and septic systems."

The County failed to make site-specific findings other than to defer its determination relative to the following *Hazards* policies:

Policy 2 and corresponding Zoning Policy 8178-4.1 which requires that new development shall be designed to minimize risks to life and property in areas of high geologic, flood and fire hazards.

Policy 3 and Zoning Policy 8178-4.2, which requires that all new development, be evaluated for its impacts to, and from, geologic, flood and fire hazards.

Policy 7 and Zoning Policy 8175 which requires application of the slope / density formula to property proposed to be subdivided in order to determine the minimum lot size.

Therefore, for the reasons provided above, the Commission finds that the proposed development, as approved by the County, does not conform to the applicable Hazards policies and provisions of the County's certified LCP.

The County deferred final determination concerning consistency with *Public Works* policies to the building permit stage of development although the LUP recognizes the severe limitations of sewer, water and road capacities in the Santa Monica Mountains. Public Works Policy 3 requires that "new development in the Santa Monica Mountains should be self-sufficient" and that "the County shall make the finding for each individual development requiring sanitary facilities and potable water that said private services will be able to adequately serve the development over its normal lifespan."

The County deferred ultimate findings relative to grading and future development of a building pad and access road to serve the site. The County made general findings that the site is physically suitable for the type and density of development proposed although no site development plans were submitted by the applicant or analyzed by the County. The construction of a future access road and the associated grading are particularly important since the majority of the lot is very steep and the access road may have to traverse several hundred feet across two private properties and steep slopes to reach the flatter portions of the site. The County found that "the proposed subdivision has either record title to or a contractual right to acquire title to all rights-of-way necessary to provide any proposed off-site access from the proposed subdivision to the nearest public road." This easement is in dispute and is the subject of litigation, however.

An easement has been provided to the Commission staff that was recorded in 1961 and that is alleged to grant a right of access from Deer Creek Road to the applicant's proposed lot across property owned by Cohen/Astra Investments.

This easement is attached as Exhibit 7. A recent map that shows the location of the proposed access road is attached as Exhibit 7 also. The proposed access route extends west from Deer Creek Road (a public road), across the Cohen/Astra Investments lot, to the 10-acre lot (#42) adjacent to the applicant's proposed 10-acre lot (#31). (This adjacent 10-acre lot was previously part of the same 40-acre lot as the applicant's proposed lot). The proposed access road must also cross the adjacent 10-acre lot (#42). Although Exhibit 7 shows a road across lot #42, no road currently exists. There is an existing narrow road extending west from Deer Creek Road onto the Cohen/Astra Investments property; however, this road does not continue all the way across the property to lot #42.

Pacific View Road, which is also shown on Exhibit 7, is a private road. Pacific View Road crosses property adjacent to the applicant's proposed lot (and north of the proposed lot). The owner of this property has indicated that he is not willing to grant an easement allowing use of Pacific View Road for access to the applicant's proposed lot.

The 1961 easement that is alleged to grant access to the applicant's proposed lot from Deer Creek Road does not contain a metes and bounds description of the location of the easement. Generally, an easement contains a metes and bounds description, which fixes the exact location of the easement on the ground.

Furthermore, the language of the easement is confusing and unclear. The 1961 easement grants "a perpetual right of way from Pacific View Road ... thirty (30) feet wide over and along the present road and through above described property...." (Exhibit 7). Mr. Betouliere, who is in escrow and seeking to purchase the proposed lot from the applicant, alleges that the "present road" referred to in the easement is now Deer Creek Road, a public road. He also alleges that the easement grants a right to cross from Deer Creek Road "through" the property now owned by Cohen/Astra Investments, to access the 40 acre lot to the west that includes the applicant's proposed lot. The Commission staff has not received evidence to confirm this interpretation.

Cohen/Astra Investments have asserted that the 1961 easement does not create a valid right to cross their property to access the applicant's proposed lot. Due to the absence of a metes and bounds description, and the confusing language of the easement, there are questions regarding the validity of the easement. The Commission staff has been informed that a quiet title action was filed in state court in May 2000, seeking a determination of the easement's validity. Until this court action is resolved or settled, the Commission cannot find that there is legal access to the applicant's proposed lot. Until the question of legal access is resolved, the Commission cannot find that creating the proposed lot is consistent with the LCP.

Furthermore, for the reasons discussed above, the Commission finds that the proposed development, as approved by the County, does not conform to the applicable Public Works policies and provisions of the County's certified LCP.

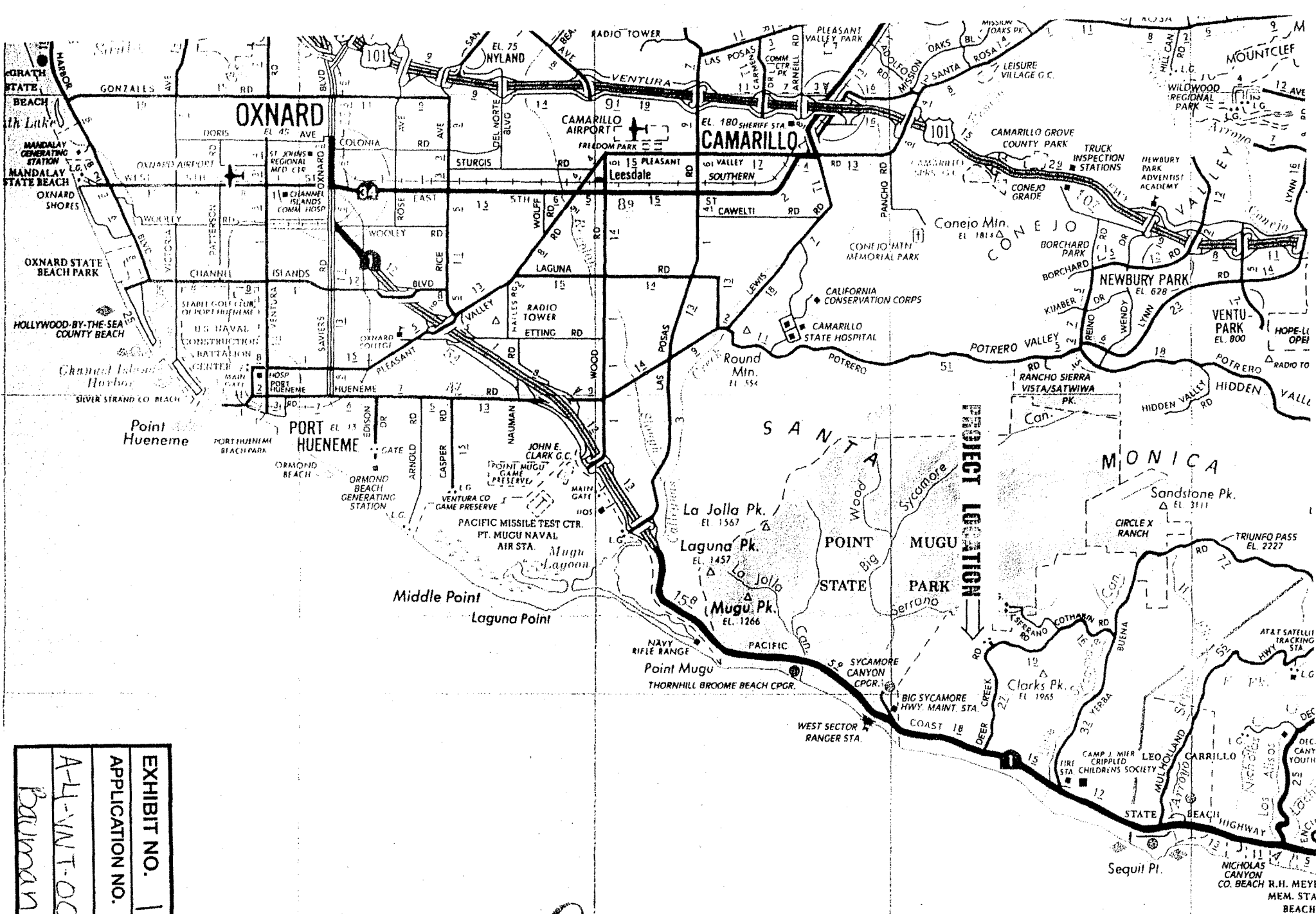
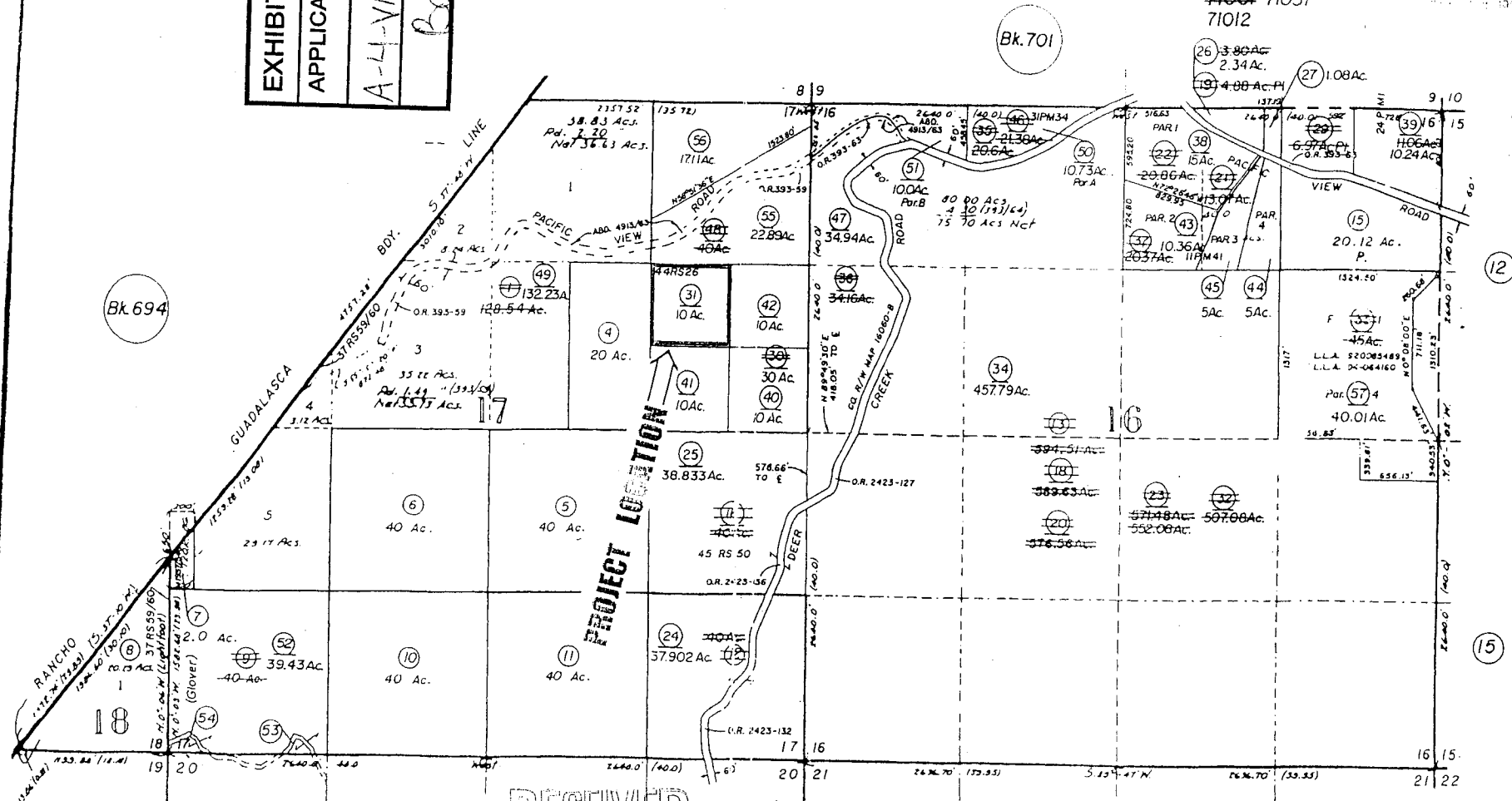


EXHIBIT NO. 2
APPLICATION NO.
A-4-VNT-00-078
Bauman

SEC. 16, 17 & 18 T. 1 S., R. 20 W. S. B. B. & M.

Tax Rate Area
71001 71037
71012

700-01
SEP 19 1999



RECEIVED

MAR 24 2000

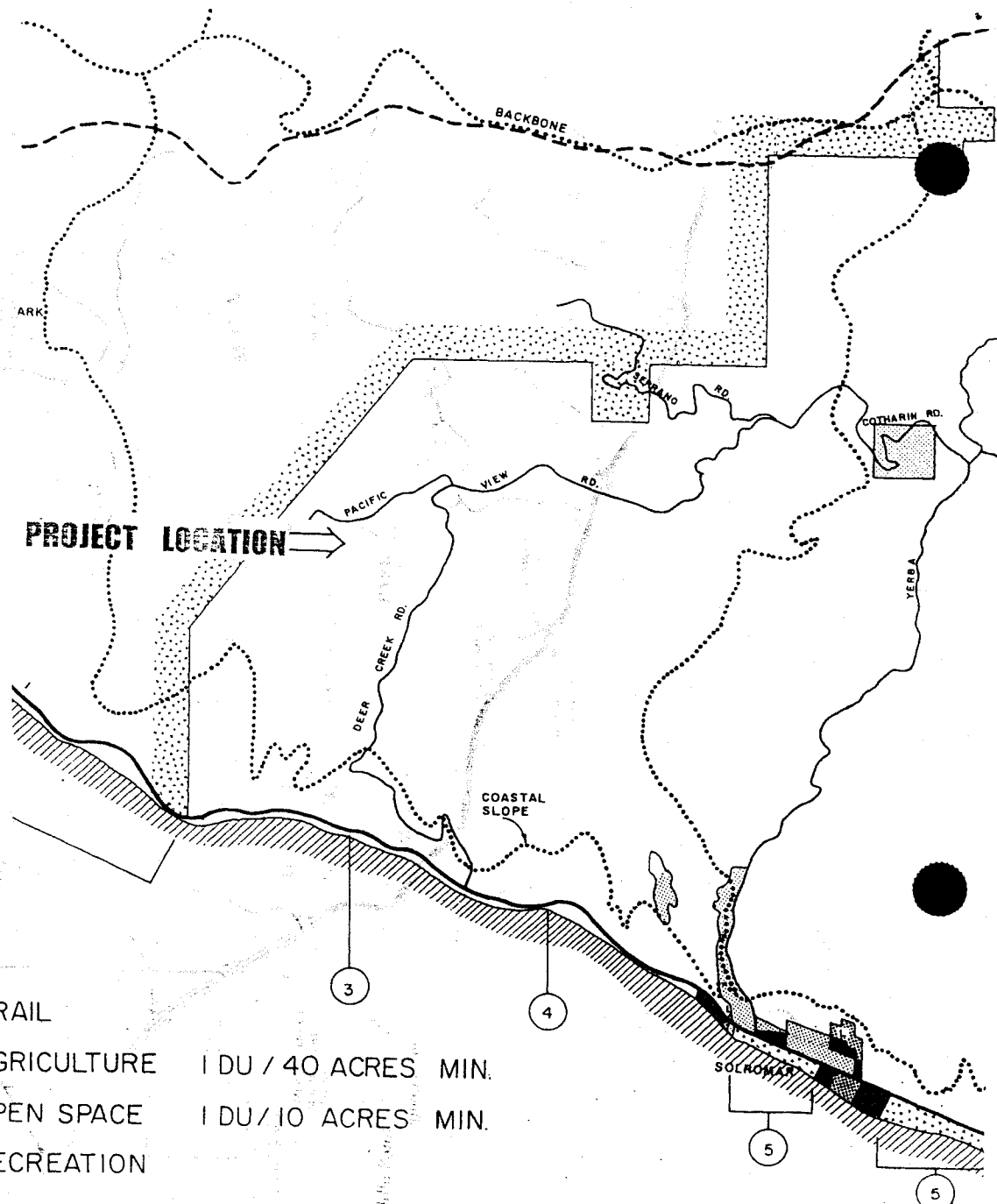
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

NOTE: ASSESSOR PARCELS SHOWN - THIS PAGE
DO NOT NECESSARILY CONSTITUTE LEGAL LOTS.
CHECK WITH COUNTY SURVEYOR'S OFFICE OR
PLANNING DIVISION TO VERIFY

Assessor's Map Bk.700, Pg.01
County of Ventura, Calif.
ZONE C-O-S(M)

NOTE- Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles
Assessor's Mineral Numbers Shown in Squares

EXHIBIT "3"



- TRAIL
- AGRICULTURE 1 DU / 40 ACRES MIN.
- OPEN SPACE 1 DU / 10 ACRES MIN.
- RECREATION
- RURAL 1 DU / 2 ACRE MIN.
- LOW 1-2 DU / ACRE
- MEDIUM 2.1-6 DU / ACRE
- HIGH 6.1- 36 DU / ACRE
- COMMERCIAL
- INDUSTRIAL
- STABLE URBAN BOUNDARY
- CITY LIMIT LINE
- (4) ACCESS POINTS (see Area Plan text Fig. 29)

LAND USE PLAN

county of ventura local coastal program
resource management agency planning division

EXHIBIT NO. 3
APPLICATION NO.
A 4-VNT-00-078
Bauman

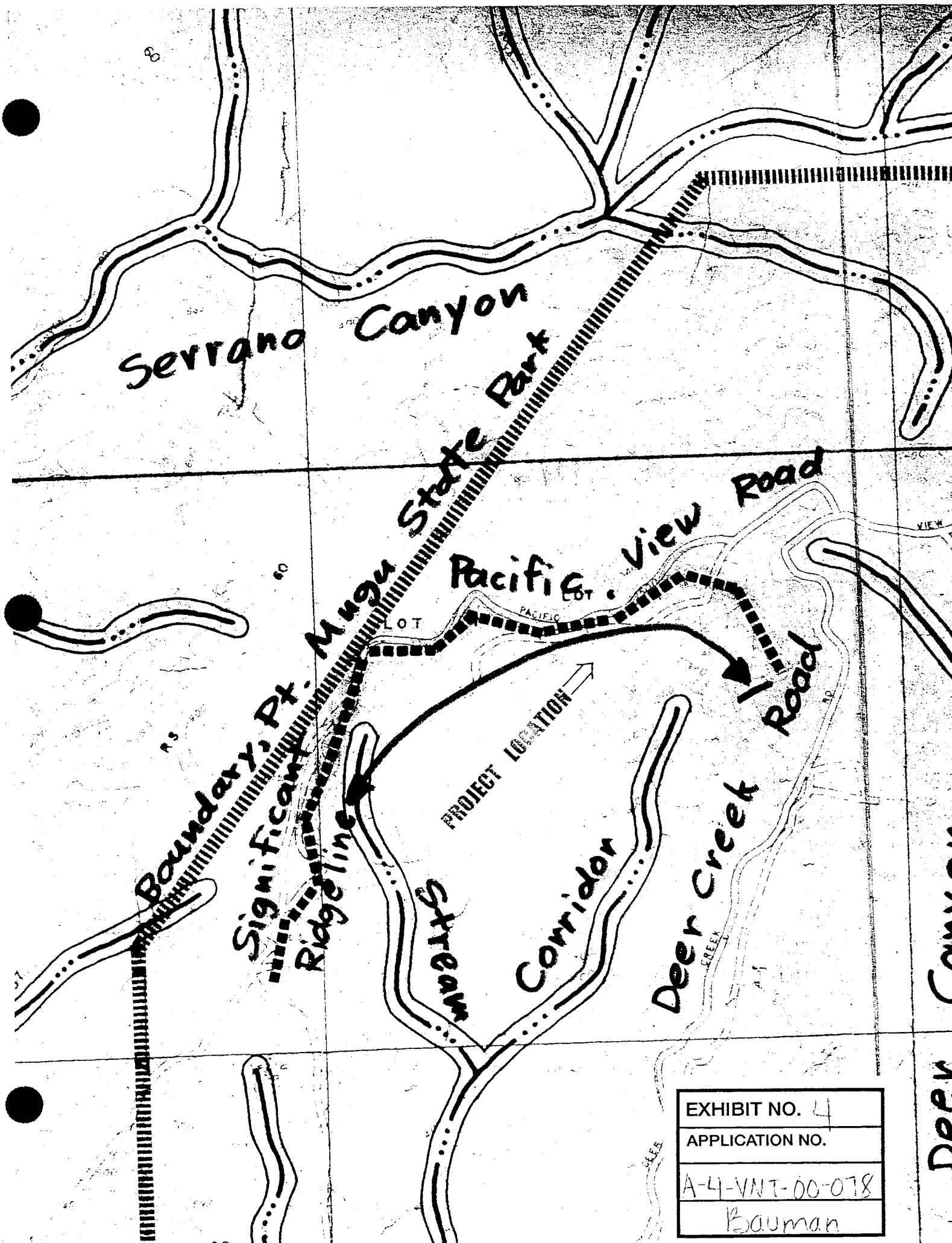


EXHIBIT NO. 4

APPLICATION NO.

A-4-VNT-00-078

Bauman

RECORDING REQUESTED BY

BOOK 3284 PAGE 283

16360

RECORDED AT REQUEST OF
TITLE INSURANCE & TRUST CO.
AT 8:00 AM
OFFICIAL RECORDS VENTURA COUNTY

CODE # - /

APR - 1 1968

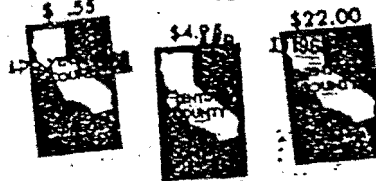
BOOK 3284 PAGE 283

FEE
\$2.80
2

Mr. & Mrs. Robert T. Holbrook
1102-A Idaho Avenue
Santa Monica, California 90403

ROEBROOK, ROBERT T. & CAROLINE C.
1102-A Idaho Avenue
Santa Monica, California 90403

SPACE ABOVE THIS LINE FOR ORDER'S USE



Grant Deed

After LRS \$22.50 Above

TS 400 (4-77)

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
ORLANDO J. ALIBERTI and CATHERINE C. ALIBERTI, husband and wife, as to an undivided 1/2 interest, and YKILLIE M. CONSTABLE, a widow, as to an undivided 1/2 interest
hereby GRANT(S) to ROBERT T. HOLBROOK and CAROLINE C. HOLBROOK, husband and wife as community property

the following described real property in the
County of Ventura, State of California:

PER THE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AND MARKED AS EXHIBIT "A" CONSISTING OF ONE PAGE:

Robert T. Holbrook and Caroline C. Holbrook, husband and wife, hereby accept the interest conveyed to them as community property.

Robert T. Holbrook Caroline C. Holbrook
Robert T. Holbrook Caroline C. Holbrook

RECEIVED

APR 24 2000

Dated: March 12, 1968

STATE OF CALIFORNIA
COUNTY OF Los Angeles
On March 14, 1968 before me, the undersigned, a Notary Public in and for said State, personally appeared
Catherine C. Aliberti,
Orlando J. Aliberti and
Yellie M. Constable

known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

Witness my hand and official seal.
Adele P. Stricker
Adele P. Stricker, Notary Public
in and for said County and State
My Commission Expires April 7, 1969

Catherine C. Aliberti
Orlando J. Aliberti
Yellie M. Constable
Catherine C. Aliberti
Orlando J. Aliberti
Yellie M. Constable

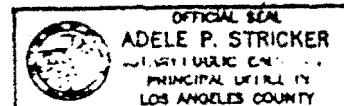


EXHIBIT NO. 5
APPLICATION NO.
A-4-VNT-00-028
Bauman

Title Order No. 245164-82 Escrow or Loan No. 2-20686-4 Parcel II

MAK TAX STATEMENTS AS DIRECTED ABOVE

PARCEL I:

THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, ACCORDING THE OFFICIAL PLAT OF THE SURVEY OF SAID LAND FILED IN THE DISTRICT LAND OFFICE ON APRIL 10, 1900.

RESERVING UNTO THE GRANTORS HEREIN AN EASEMENT FOR INGRESS AND EGRESS, PIPE LINES AND POLE LINES OVER A 30 FOOT STRIP.

EXCEPT ONE-HALF OF THE OIL, GAS AND MINERAL RIGHTS IN, AND TO SAID LAND AS RESERVED BY HALL, MARQUARDT & CO., A PARTNERSHIP, IN DEED RECORDED MARCH 4, 1958 AS DOCUMENT NO. 9072 IN BOOK 1595 PAGE 222 OF OFFICIAL RECORDS.

PARCEL II:

AN EASEMENT FOR INGRESS AND EGRESS, PIPE LINES AND POLE LINES OVER A 30 FOOT STRIP WITHIN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF THE LAND FILED IN THE DISTRICT LAND OFFICE ON APRIL 10, 1900.

PARCEL III:

AN EASEMENT FOR INGRESS AND EGRESS, PIPE LINES AND POLE LINES OVER THAT CERTAIN 30 FOOT STRIP LYING WITHIN THE WEST HALF OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, AS PER PLAT OF THE SURVEY OF LAND FILED IN THE DISTRICT LAND OFFICE ON APRIL 10, 1900 AND AS SAID 30 FOOT STRIP EXISTED ON OCTOBER 24, 1961.

Exhibit 'A'

RECORDED
INDEXED
OFFICE OF THE COUNTY CLERK
SAN BERNARDINO COUNTY, CALIFORNIA

END OF RECORDED DOCUMENT

RECORDED AT THE REQUEST OF
CHICAGO TITLE CO., INC.

RECORDING REQUESTED BY

AND WHEN RECORDED, THIS DEED AND ALL OTHERS ON MATTERS SHOWN
BELOW MAIL TAX STATEMENT TO:

James V. Berry
552 Rosecrans Ave.
Manhattan Beach CA 90266

MAIL TAX STATEMENTS TO

Same as above

1710-1Y

TITLE SEARCH NO.

RECORD NO.

SPACE ABOVE THIS LINE FOR RECORDEE'S USE

86-116105
Recorded
Official Records
County of
Ventura
Richard D. Dean
Recorder
8:00am 15-Aug-88

Rec Fee 7.00
DOC 165.00
PCO 20.00
SUR 10.00
Total 202.00

FF 2

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX IS \$ 165.00

- ☒ computed on full value of property conveyed, or
☐ computed on full value less value of liens or encumbrances remaining at time of sale.
☐ unincorporated area, AND

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Verne W. Bauman and Cherie A. Bauman, as tenants in common

hereby GRANT(s) to
James Vernon Berry, a single man

the following described real property in the unincorporated area
County of VENTURA, State of California:

Legal description is attached hereto and made a part hereof.

Dated May 26, 1988

STATE OF CALIFORNIA
COUNTY OF Ventura SS.

On this 26th day of May, in the year 88
before me, the undersigned, a Notary Public in and for said State, personally
appeared Verne W. Bauman and Cherie A. Bauman
☐ personally known to me
☒ proved to me on the basis of satisfactory evidence
to be the person whose name is subscribed to this instrument,
and acknowledged to me that he (she or they) executed it.

Signature

Christine Pancoast

NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

Verne W. Bauman
Verne W. Bauman
Cherie A. Bauman
Cherie A. Bauman



(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE.

EXHIBIT NO. 6
APPLICATION NO.

A-4-VNT-00-078
Bauman

98053-A
AP 200-010-210

98053-A
DESCRIPTION

DESCRIPTION

PARCEL 1:

The Northwest quarter of the Southeast quarter of the Northeast quarter of Section 17, Township 1 South, Range 20 West, San Bernardino Meridian, according to the Official Plat thereof.

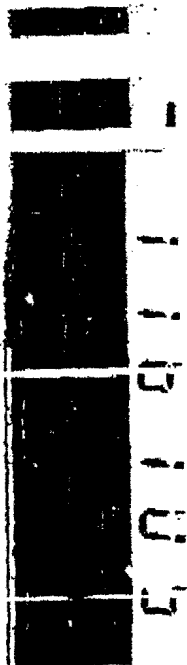
EXCEPT one-half of the oil, gas and mineral rights in, and to said land as reserved by Hall, Marquardt & Co., a Partnership, in deed recorded March 4, 1958 as Document No. 9072 in Book 1595 Page 222 of Official Records.

PARCEL 2:

An easement for ingress and egress, pipe lines and pole lines over a 30 foot strip within the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 17, Township 1 South, Range 20 West, San Bernardino Meridian, according to the Official Plat thereof.

PARCEL 3:

An easement for ingress and egress, pipe lines and pole lines over that certain 30 foot strip lying within the West half of the Northwest quarter and the Northwest quarter of the Southwest quarter of Section 16, Township 1 South, Range 20 West, San Bernardino Meridian, according to the Official Plat thereof, and as said 30 foot strip existed on October 24, 1961.



RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

J. J. MAJORSACK
36999 PACIFIC COAST HIGHWAY
MALIBU, CALIFORNIA

47775

RECORDED AT REQUEST OF
TITLE INSURANCE & TRUST CO.
AT 8:00 A. M.
OFFICIAL RECORDS VENTURA COUNTY
NOV 1 - 1961

1001 2066 PAGE 378

Robert L. Hummer
RECORDER

FEE
\$2.80
2

SPACE ABOVE THIS LINE FOR RECORDER'S USE

177391-1

EASEMENT

GENERAL

THIS AGREEMENT, made and entered into this twenty-fourth day of
October, 1961, by and between Monte Harrington

of Los Angeles, California
party of the first part, which expression shall include his, her or their heirs, executors, administrators, agents or assigns where the context so requires or admits, and
Joseph F. Cleary and Mary Ann Cleary, husband and wife and
Ralph H. Penner and Barbara G. Penner, husband and wife of

....., party of the second
part, which expression includes his, her or their heirs, executors, administrators, agents or
assigns where the context so requires or admits,

WITNESSETH:

WHEREAS, the party of the first part owns and has title to that real estate and real property
located in

County of Ventura, State of California, described
as follows: West 1/2 of the Northwest 1/4 and Northwest 1/4 of the Southwest 1/4
of Section 16, Township 1 South, Range 20 West, S.B.B. & M.

APR 24 2000

AND WHEREAS, the party of the second part desires *

*(Insert here nature and type of easement, right-of-way or right desired by second party)
a perpetual right of way and easement for ingress and egress from
Pacific View Road into and for the benefit of the property located
in Ventura County, California described as follows: Southeast 1/4 of
Northeast 1/4 of Section 17, Township 1 South, Range 20 West, S.B.B.
& M. owned by Joseph F. Cleary and Mary Ann Cleary, husband and wife;
and Northeast 1/4 of Southeast 1/4 of Section 17, Township 1 South, Range
20 West, S.B.B. & M. owned by Ralph H. Penner and Barbara G. Penner,
husband and wife

Now, THEREFORE, it is hereby agreed as follows:

The said party of the first part does hereby grant, assign and set over to the said party of the
second part: a perpetual right of way from Pacific View Road for the
*(Insert here nature and type of easement, right-of-way or right granted to second party)
property located in Ventura County, California owned by Parties of the
Second Part hereinabove described, thirty (30) feet wide over and along
the present road and through above described property of First Party
with the right to lay and maintain a pipe line for the transportation
of water, sewage, oil and gas and erect, and maintain and operate a
telephone and/or electric power line on, over and through said land.

The said party of the first part shall fully use and enjoy the aforesaid premises, except as to
the rights herein granted; and the said party of the second part hereby agrees to hold and
save the said party of the first part harmless from any and all damage arising from his use

EXHIBIT NO. 7

APPLICATION NO.

A-4-VNT-00-078

Bauman

of the right, easement and right-of-way herein granted and agrees to pay any damage or damages which may arise to the property, premises, or rights of the said party of the first part through second party's use, occupation and possession of the rights herein granted.

To HAVE AND TO HOLD the said easement, right and right-of-way unto the said party of the second part, his successors or assigns for a period of FOREVER

and under the specific conditions, restrictions and considerations as follows:

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this

~~day~~ 24th day of October, 1961

Monte Harrington



APR 24 2000

MELVIN D. HATCHER
NOTARY PUBLIC
SANTA ANITA COUNTY DISTRICT

STATE OF CALIFORNIA,

County of Los Angeles

AS

On October 24th 1961 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Monte Harrington

known to me, to be the person whose name has been subscribed to the within Instrument, and acknowledged to me that he executed the same.

Witness my hand and official seal.

Melvin D. Hatcher
Notary Public in and for said County and State
MELVIN D. HATCHER, Notary Public
San and Santa Clara Counties
My Commission Expires July 1, 1969

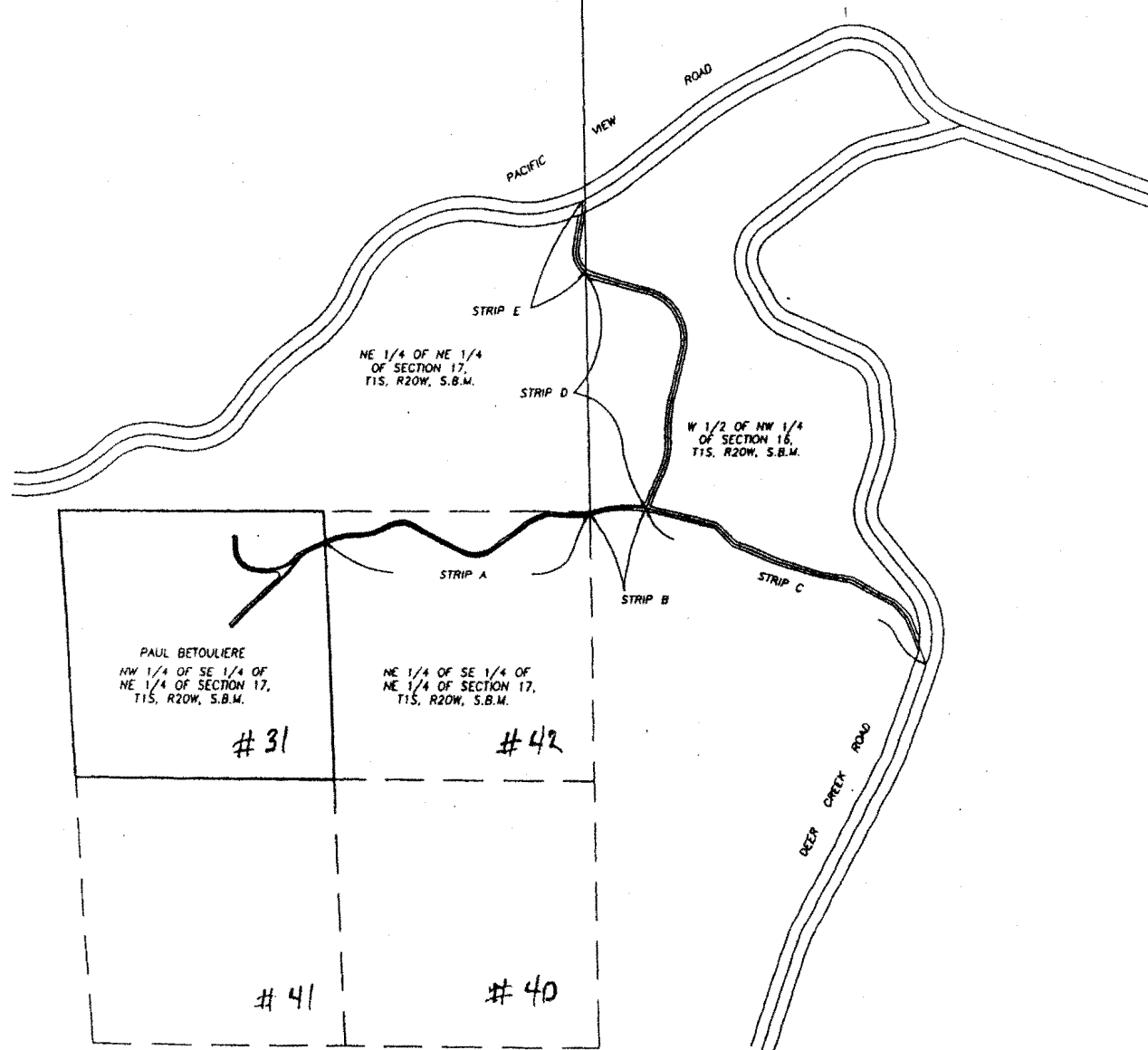
This standard form covers most usual problems in the field indicated. Before you sign, read it all in all details, and make changes proper to your transaction. Consult a lawyer if you doubt the form's fitness for your purpose.

END OF RECORDED DOCUMENT

200 0 200 400



GRAPHIC SCALE 1" = 200'



ACCESS TO THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER
OF THE NORTHEAST QUARTER OF SECTION 17,
TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN

IN THE UNINCORPORATED TERRITORY OF THE
COUNTY OF VENTURA STATE OF CALIFORNIA

FEBRUARY 14, 2000 SHEET 1 OF 1



Gary P. Salmen, PLS 5018
license expires 12/31/01

G. P. SALMEN & ASSOCIATES
119 FIGUEROA ST.
VENTURA, CALIFORNIA 93001
(805) 653-7411

RESOURCE MANAGEMENT AGENCY
county of ventura

Planning Division

Keith A. Turner
Director

RECEIVED

JUL 18 2000

July 17, 2000

Charles Damm, Senior Deputy Director
South Central Coast Area Office
89 South California Street, Suite 200
Ventura, California 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 8
APPLICATION NO.
A-4-VNT-00-078
Bauman

Dear Mr. Damm:

Subject: Coastal Appeal No. A-4-VNT-00-078 (Bauman) Set for August
2000 Coastal Commission De Novo Hearing

Almost three months have passed since your meeting with County staff members on April 26, 2000, and I felt that a follow up letter would be appropriate as the above referenced appeal is scheduled for the Commission's August meeting in Huntington Beach. ***Please include this letter and the attached packet in the Staff Report being prepared for this appeal.***

The County of Ventura has previously sent you and the Commissioners a considerable amount of information concerning this appeal of a County approved Conditional Certificate of Compliance (CC of C No. 9904). My letter of April 26, 2000, referencing the Commission's and County's historical treatment of similar properties and property owners, supplied a detailed account of Land Division and Development and Historical Treatment with regard to the County's consistency in processing CC of Cs over the last 18 years. Additionally on May 16, 2000, County Counsel, through Assistant Counsel James Thonis, provided you with legal authorities supporting the position that a Conditional Certificate of Compliance was not "development" within the meaning of the Coastal Act or the County's Coastal Zoning Ordinance.

None of this information was included in the Commissions May 25, 2000 staff report, nor has the information we supplied generated any response to the County of Ventura from the local Coastal staff. On June 7, 2000, I wrote another letter to the Members of the California Coastal Commission, parts of which I will repeat here as well as attach:

A Conditional Certificate of Compliance merely "legalizes" for sale, lease or finance (not development) a parcel that was illegally created sometime in the past. Understanding that a Conditional Certificate of Compliance is not "development" causes all of the purported "substantial issues" mentioned in the Commission's Staff Report to fall away. The County has successfully processed

more than 40 Conditional Certificates of Compliance in the Santa Monica Mountains during the last 18 years and the County has not previously heard from the Coastal Commission staff prior to this case. Nothing in our process has changed. In fairness to this applicant, and others to follow, if the Commission believes our Certified Local Coastal Plan and Zoning Ordinance are somehow deficient, the Commission should notify the County directly and not place the burden of perceived procedural changes on the back of individual projects. This apparent changing of the rules at the end of the County's process jeopardizes the Commission's and County's credibility with local applicants.

Please review the following historical actions relevant to this project:

1. In 1982 the California Coastal Commission wrote two letters to Mr. Verne Bauman stating that his parcel was illegal and suggested that Mr. Bauman acquire a CC of C from the County of Ventura. No time limit was noted in the letters.
2. A precedent was established in 1994 when the County of Ventura issued CC of Cs and Coastal Planned Development Permits to the sister 10-acre parcels 41 and 42 that are contained within the same parent 40-acre unit that includes applicant Bauman's parcel 31. These were approved without the application of the slope density formula or appeal from the Coastal Commission.
3. The fact that the Coastal staff's original site visit was to the wrong property caused numerous inaccuracies in the May 25, 2000 Staff Report. Mr. Timm, Mr. Ainsworth and Mr. Betz visited the correct property on June 28, 2000. I understand that they found the property was not surrounded by "open space" and that, indeed, the area has numerous single-family homes within view.
4. The rare and endangered flower *dudleya marcescens* was not found on the subject property in a biologic review conducted by the eminent Dr. Collins on June 20, 2000.
5. The Coastal staff report of May 25, 2000, states that the project area is characterized as containing existing landslide zones and high landslide/mudslide hazard zones. The geology report of the contiguous neighbor parcel to the north of applicant Bauman's parcel, states that "this area is grossly stable, containing no landslide or mudslide danger."
6. The Commission staff is creating issues and requesting elements of development such as road design, geology reports, and water quantity and quality reports and sanitary capability in order to support its appeal. All of

these important requests and issues would be appropriately resolved during a subsequent Coastal Planned Development permit process.

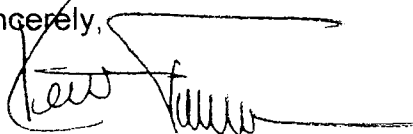
7. Applicant Bauman has not initiated the process of acquiring a Coastal Planned Development permit with the County of Ventura. The original purpose of Mr. Bauman's acquiring a CC of C was to facilitate the sale of his property by following whatever procedures were necessary to accomplish that goal of selling a "legal" parcel.

It is for these reasons and on the principle of fairness that the County of Ventura feels that this is an excellent opportunity for the local Coastal staff to recommend to the Commission that it deny its appeal of applicant Bauman's CC of C.

The County of Ventura believes that applicants already involved in the CC of C process or who have approved but unrecorded projects should be allowed to reach legal lot status without obstruction. If the future holds a possibility of recommended procedural changes by the Commission for the Local Coastal Program, the County of Ventura and its future applicants deserve advanced notice.

If you have questions concerning the above information, please feel free to contact Nancy Butler Francis, Coastal Administrative Officer and Manager, Land Use Permits Section, at 805.654.2461.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Turner', with a long horizontal line extending to the right.

Keith Turner, Planning Director

Attachment

C (w/o attachment): James W. Thonis
Vern Bauman
Merle Betz
Paul Betouliere

RESOURCE MANAGEMENT AGENCY
county of ventura

Planning Division

Keith A. Turner
Director

June 7, 2000

Item TU 20a (Tuesday, June 13, 2000)
Permit No.: A-4-VNT-00-078
KEITH TURNER, PLANNING DIRECTOR,
COUNTY OF VENTURA

Members, California Coastal Commission

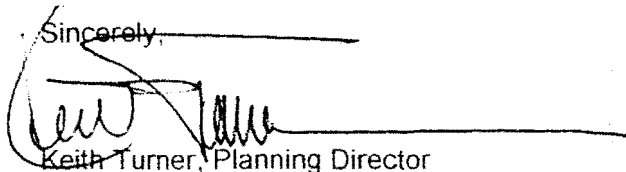
Subject: Information Omitted from Coastal Commission Staff Report

After reviewing the staff report prepared by the Commission's staff for the above referenced appeal, I was incredulous to discover that a letter I prepared, and had hand-delivered to the district office staff well in advance of the preparation of the report, had not been included in the information provided you for review. The attached letter to Chair Sara Wan, dated April 26, 2000, outlines two major points critical to evaluating the appeal.

1. The issuance of a **Conditional Certificate of Compliance** is not "development" within the meaning of the Coastal Act, nor is it a subdivision "creating" a new developable parcel. A Conditional Certificate of Compliance merely "legalizes" for sale, lease or finance a parcel that was illegally created sometime in the past. Understanding that a Conditional Certificate of Compliance is not "development" causes all the purported "substantial issues" to fall away. At the time that development is actually requested, all the "substantial issues" will be addressed as part of the County's review under our certified Local Coastal Plan and Coastal Zoning Ordinance.
2. The County has successfully processed more than 40 Conditional Certificates of Compliance in the Santa Monica Mountains during the last 18 years and the County has not previously heard from Coastal Commission staff prior to this case. Nothing in our process has changed. In fairness to this applicant, and others to follow, if the Commission believes our Certified Coastal Plan and Zoning Ordinance are somehow deficient, the Commission should notify the County directly and not place the burden of perceived procedural changes on the back of individual projects. This apparent changing of the rules at the end of the County's process jeopardizes the Commission's and County's credibility with local applicants.

If you have any questions, please feel free to contact Nancy Butler Francis, Manager, Land Use Permits Section, at 805.654.2461.

Sincerely,



Keith Turner, Planning Director

Enclosures: Letter to Chair, Sara Wan (4/26/00)
Ventura County Coastal Staff Report for CCC-9904
C: Coastal Commission Staff, South Central Coast District Office

Attachment



April 26, 2000

Sara Wan, Chair
California Coastal Commission
1045 Fremont Street, #2000
San Francisco, CA 94105-2219

Hand Delivered to South Central District

Subject: Appeal No. A-4-VNT-00-037, filed April 7, 2000, South Central District;
Unnumbered Appeal by Raffi Cohen, filed April 7, 2000
APN 700-0-010-315
CCC-9904, PD 1811

Dear Commissioners:

Preliminarily, this letter is written to object to the manner in which this appeal has been filed. The appeal relates to property in the area designated by the Ventura County Zoning Ordinance for the Coastal Zone (hereafter the "Coastal Zoning Ordinance") as a "non-appealable area". Moreover, it is impossible to decipher which appellants relate to which appeal file. There are two handwritten appeal forms, one signed by the Chair of the Commission, and one signed by "Raffi Cohen." Raffi Cohen has no standing to appeal to the Commission, not having raised any appealable issues at the county level, and not having appealed to the appropriate county Commissions or Board. His name appears on the formal Commission Notification of Appeal, but his handwritten form indicates no assigned number, decision appealed from or other critical information necessary to perfect the appeal. The handwritten form signed by Chair Wan and Commissioner Nava indicates the appeal number utilized above, while the formal notice (mailed to the "County of Ventura" and not received until April 25, 2000) bears Appeal No. A-4-00-78.

On a substantive level, the appeal misapplies the term "land division" and "development", errs in the critical focus dates, and is inconsistent with the Commission's and the County's historical treatment of similar properties and property owners.

Land Divisions/Development

Apparently, the appeal is primarily based on the concept arising out of Coastal Zoning Ordinance Sec. 8177-4.2.4 that "land divisions" (the actual Code language is "proposed land divisions") shall be evaluated for consistency with other policies of the Local Coastal Program-Land Use Plan. The appeal observes that 30% slopes must be left in natural state and an easement imposed to ensure the restriction is maintained. New development is to ensure the preservation of unique vegetation; is to maintain minimum lot size; is to have sanitary facilities reasonably available; and must have potable water, all possible problems for this property.

The County does not disagree with the Appeal's proposition. It must be confined, however, to "land divisions" or "new development." This project is neither.

The illegal lot in question was created by conveyance long before the passage of the Coastal Act, by deed recorded April 1, 1968 in Book 3284, Page 283 of Official Records, rather than 1978 as stated in the appeal (see enclosed parent deed and creating deed). The subject parcel *met* the minimum lot size in effect at the time it was created (see County's Coastal Staff Report, C, Background). The zoning in effect at the time was the "Rural Agricultural, 5 acre" ("R-A 5Ac") Zone. The applicant, Verne Bauman, owned the property at the time prior to the adoption of the County's LCP when the General Plan designated the site as "Open Space" and the zoning was "R-A 5Ac".

The issuance of a Conditional Certificate of Compliance (CC of C) clearly does not effect or permit a division of land, it merely legalizes a procedurally faulty division which has already occurred. The mere issuance of an appropriately conditioned certificate is not "development". To construe the term "development" differently would result in a conflict between the Subdivision Map Act and the Coastal Act. Government Code Sec. 66499.35 *mandates* issuance of the certificate under the circumstances presented in this case.

It is the County's duty to issue CC of Cs based on the requirements established in the Subdivision Map Act and local subdivision ordinance. The legislature saw fit to give relief to "innocent purchasers" of illegal lots through the CC of C process and discretion to the local agency regarding conditions of development. The concerns raised in the appeal are more properly raised at the time the permit or other grant of approval for development of such property is issued by the local agency (Government Code Section 66499.35(b), last sentence). It is precisely for that reason that the Conditions imposed by the County with this CC of C are addressed to that issue.

The instances where the County imposes a lot size requirement (including slope density) on an illegal lot in the Coastal Zone B Santa Monica Mountains, as

California Coastal Commission
April 26, 2000
page 3

excerpted from our Policy and Procedures Manual, P/P 4.1, Permit Processing Procedure, Conditional Certificates of Compliance, are:

1. Where the illegal lot did not meet the lot size requirement of the Zoning Ordinance and General Plan designation at the time the lot was created.
2. Where the illegal subdivider is the current owner of record of the lot in question.
3. Where the innocent purchaser has been advised of the lot's illegality as well as the imposition of the lot size requirement if the lot is resold without a remedy.

None of these instances are met in the subject case.

Historical Treatment

The subjects raised by the appeal and this response are not new to our respective agencies. Although it is difficult to track with precision all of the similar cases in which these issues were raised and resolved, a letter was sent to this very applicant, Verne W. Bauman, by the Coastal Commission, South Central Coast District, Violations Coordinator, dated March 30, 1982, which incorrectly stated that he was in violation of the Coastal Act for owning an illegal lot (the subject lot) without a coastal permit, citing (again) a lot creation date that is incorrect. The Commission staff responded they would wait for more information from the County, and the matter was dropped once the facts were known (copies of letters attached).

The County has been consistently processing CC of Cs over the last 18 years, at least, without impediment until now. The illegal lots to the east, southeast and south of the subject lot were created from the same parent parcel, years after Mr. Bauman's lot was created. They all have been remedied and two of them have approved Coastal Plan development permits. It is discriminatory to treat the subject case in a different manner for no reason unique to this property. In preparing this response, staff counted over two dozen CC of Cs approved by the County in the Coastal Zone, Santa Monica Mountains, sent to your staff with no comment and no appeals filed.

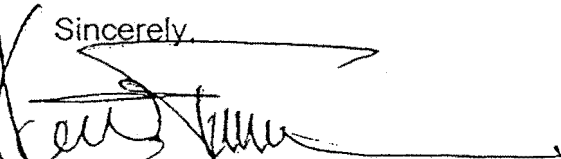
Finally, while at the true development stage on this parcel is when these important issues should be raised, it should be observed that once a CC of C B Parcel Map records, if there is no lot size condition, it shall not be imposed by the County at a later time. Coastal Zoning Ordinance (Section 8182-9) allows permitted uses on a non-conforming size lot if the lot is a legal lot. Once the lot is "legalized" the

California Coastal Commission
April 26, 2000
page 4

discretionary permit processing proceeds as it would on any single legal lot in the Coastal Zone.

Because the appeal is predicated on a misunderstanding of the terms "division" and "development" as applied to this application, relies upon an erroneous date of subdivision post-dating the Coastal Act, and is inconsistent with the Commission's and the County's historical treatment of similar properties and property owners, it is strongly recommended that the appeal be denied. Should the appealing Commissioners be persuaded by this letter, it would be more expeditious for the appeal to be withdrawn.

Sincerely,



Keith Turner, Director
Planning Division

Enclosures.

C: Robert R. Orellana, Assistant County Counsel
James W. Thonis, Assistant County Counsel
Gary Timm, Assistant District Director, CCC, So. Central Coast Area Office
Nancy Francis, Manager, Residential Land Use Permits Section
Debbie Morrisset, Case Planner, CCC-9904
Verne Bauman, Applicant for CCC-9904
Distribution List for CCC-9904 (County reviewing agencies)

700-010-17

61220

BOOK 2848 PAGE 235

Recording Requested By

Recording Requested by
TITLE INSURANCE & TRUST CO. (TI)

When Recorded Mail To

Mr. and Mrs. O. J. Aliberti
307-25th St.
Santa Monica, California

Exem. No. 1106-123 Order No. 219718 (Ord.)

RECORDED AT REQUEST OF
TITLE INSURANCE & TRUST CO.
AT 8:00 A.M.
OFFICIAL RECORDS VENTURA COUNTY

AUG 23 1965

BOOK 2848 PAGE 235 FEE
RECORDED \$2.80
2

Space above this line for Recorder's use

PLACE INTERNAL REVENUE STAMPS HERE

I.R.S. \$66.00

Grant Deed

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CHARLES R. SIEVERS AND CAROL J. SIEVERS, husband and wife, and JOSEPH P. CLEARY AND MARY ANN CLEARY, husband and wife,-----

do hereby grant to ORLANDO J. ALIBERTI AND CATHERINE C. ALIBERTI, husband and wife,
as COMMUNITY PROPERTY-----

the said property is in the _____ County of VENTURA

State of California, described as:

PER LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF:

PARCEL I: = 700-010-31

The Northwest quarter of the Southeast quarter of the Northeast quarter of Section 17, Township 1 South, Range 20 West, San Bernardino meridian, according to the official plat of the survey of said land filed in the District Land Office on April 10, 1900.

EXCEPT one-half the oil, gas and mineral rights in, and to said land as reserved by Hall, Marquardt & Co., a partnership, in deed recorded March 4, 1958, as Document No. 9072 in Book 1595 page 222 of Official Records.

PARCEL II: = 700-010-41

The Southwest quarter of the Southeast quarter of the Northeast quarter of Section 17, Township 1 South, Range 20 West, San Bernardino meridian, according to the official plat of the survey of the land filed in the District Land Office on April 10, 1900.

EXCEPT one-half the oil, gas and mineral rights in and to said land as reserved by Hall, Marquardt & Co., a partnership, in deed recorded March 4, 1958, as Document No. 9072 in Book 1595 page 222 of Official Records.

PARCEL III: 700-010-42

The Northeast quarter of the Southeast quarter of the Northeast quarter of Section 17, Township 1 South, Range 20 West, San Bernardino meridian, according to the official plat of the survey of said land filed in the District Land Office on April 10, 1900.

EXCEPT one-half the oil, gas and mineral rights in and to said land as reserved by Hall, Marquardt & Co., a partnership, in deed recorded March 4, 1958, as Document No. 9072 in Book 1595 page 222 of Official Records.

PARCEL IV:

An easement for ingress and egress, pipe lines and pole lines over that certain 30 foot strip lying within the west half of the northwest quarter of the northwest quarter of the southwest quarter of Section 16, Township 1 South, Range 20 West, San Bernardino meridian as per plat of the survey of land filed in the District Land Office on April 10, 1900, and as said 30 foot strip existed on October 24, 1961.

PARCEL V: 700-010-40

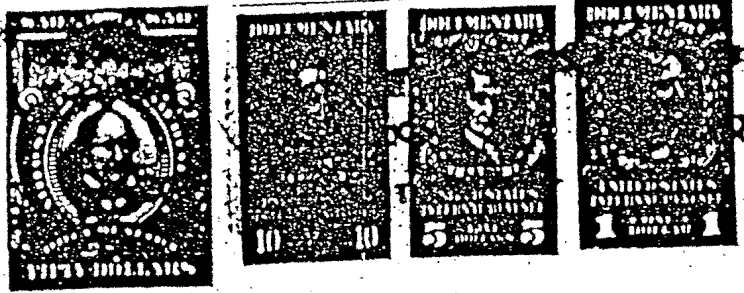
The Southeast quarter of the Southeast quarter of the Northeast quarter of Section 17, Township 1 South, Range 20 West, San Bernardino meridian, according to the official plat of the survey of said land filed in the District Land Office on April 10, 1900.

EXCEPT one-half the oil, gas and mineral rights in and to said land as reserved by Hall, Marquardt & Co., a partnership, in deed recorded March 4, 1958, as Document No. 9072 in Book 1595 page 222 of Official Records.

PARCEL VI:

An easement for ingress and egress, pipe lines and pole lines over that certain 30 foot strip lying within the west half of the northwest quarter of the northwest quarter of the southwest quarter of Section 16, Township 1 South, Range 20 West, San Bernardino meridian as per plat of the survey of land filed in the District Land Office on April 10, 1900, and as said 30 foot strip existed on October 24, 1961.

✓ C.R.
✓ C.P.
x J.B.
x M.A.C.



Dated: August 5, 1965

Charles R. Sievers
 Charles R. Sievers
Carol J. Sievers
 Carol J. Sievers

Joseph P. Cleary
 Joseph P. Cleary
Mary Ann Cleary
 Mary Ann Cleary

STATE OF CALIFORNIA,

County of LOS ANGELES

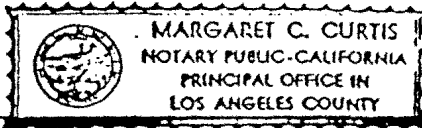
SS.

(INDIVIDUAL ACKNOWLEDGMENT)

On August 18, 1965, before me, the undersigned, a Notary Public in and for said State, personally appeared
 Charles R. Sievers and Carol J. Sievers; Joseph P. Cleary and Mary Ann Cleary,

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.

WITNESS MY HAND AND OFFICIAL SEAL
 (Notarial Seal).



Margaret C. Curtis
 (Notary's Signature)
 MARGARET C. CURTIS
 (Print or type Notary's name)

My Commission Expires March 9, 1968

END OF RECORDED DOCUMENT

RECORDING REQUESTED BY

AND WHEN RECORDING MAIL TO

Name Mr. & Mrs. Robert T. Holbrook
Address 1102-A Idaho Avenue
City & State Santa Monica, California 90403

MAIL THE STATEMENT TO

Name HOLBROOK, ROBERT T. & CAROLINE C.
Address 1102-A Idaho Avenue
City & State Santa Monica, California 90403

16360

RECORDED AT REQUEST OF
TITLE INSURANCE & TRUST CO.
AT 8:00 A.M.
OFFICIAL RECORDS VENTURA COUNTY

APR - 1 1968

BOOK 3284 PAGE 283

Robert T. Holbrook RECORDER

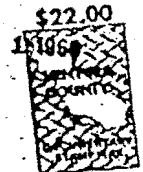
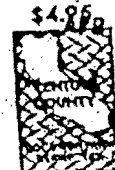
SPACE ABOVE THIS LINE FOR ORDER'S USE

BOOK 3284 PAGE 283

700-010-31

CODE #-1

FEE
\$2.80
2



Grant Deed

ATTIX I.R.S. \$27.50 ABOVE

TO 400 C (10-67)

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
ORLANDO J. ALIBERTI and CATHERINE C. ALIBERTI, husband and wife, as to an undivided 1/2 interest, and NELLIE M. CONSTABLE, a widow, as to an undivided 1/2 interest

hereby GRANT(S) to ROBERT T. HOLBROOK and CAROLINE C. HOLBROOK, husband and wife as community property

the following described real property in the
County of Ventura, State of California:

PER THE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AND MARKED
AS EXHIBIT "A" CONSISTING OF ONE PAGE:

Robert T. Holbrook and Caroline C. Holbrook, husband and wife, hereby accept
the interest conveyed to them as community property.

Robert T. Holbrook
Robert T. Holbrook

Caroline C. Holbrook
Caroline C. Holbrook

Dated March 12, 1968

STATE OF CALIFORNIA }
COUNTY OF Los Angeles } SS.

On March 14, 1968 before me, the undersigned, a Notary Public in and for said State, personally appeared
Catherine C. Aliberti,
Orlando J. Aliberti and
Nellie M. Constable

known to me
to be the persons whose names are subscribed to the within
instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

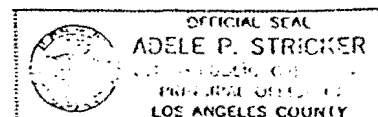
Signature Adele P. Stricker

ADELE P. STRICKER, Notary Public
In and for said County and State

My Commission Expires June 7, 1969

Catherine C. Aliberti
Catherine C. Aliberti
Orlando J. Aliberti
Orlando J. Aliberti

Nellie M. Constable
Nellie M. Constable



(This area for official notarial seal)

Title Order No. 245164-BR

Easement or Loan No. 2-20686-A Parcel II

PARCEL I: = 700-010-31

THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, ACCORDING THE OFFICIAL PLAT OF THE SURVEY OF SAID LAND FILED IN THE DISTRICT LAND OFFICE ON APRIL 10, 1900.

RESERVING UNTO THE GRANTORS HEREIN AN EASEMENT FOR INGRESS AND EGRESS, PIPE LINES AND POLE LINES OVER A 30 FOOT STRIP.

EXCEPT ONE-HALF OF THE OIL, GAS AND MINERAL RIGHTS IN, AND TO SAID LAND AS RESERVED BY HALL, MARQUARDT & CO., A PARTNERSHIP, IN DEED RECORDED MARCH 4, 1958 AS DOCUMENT NO. 9072 IN BOOK 1595 PAGE 222 OF OFFICIAL RECORDS.

PARCEL II:

AN EASEMENT FOR INGRESS AND EGRESS, PIPE LINES AND POLE LINES OVER A 30 FOOT STRIP WITHIN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF THE LAND FILED IN THE DISTRICT LAND OFFICE ON APRIL 10, 1900.

PARCEL III:

AN EASEMENT FOR INGRESS AND EGRESS, PIPE LINES AND POLE LINES OVER THAT CERTAIN 30 FOOT STRIP LYING WITHIN THE WEST HALF OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 1 SOUTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, AS PER PLAT OF THE SURVEY OF LAND FILED IN THE DISTRICT LAND OFFICE ON APRIL 10, 1900 AND AS SAID 30 FOOT STRIP EXISTED ON OCTOBER 24, 1961.

Exhibit 'A'

MG

State of California, Edmund G. Brown Jr., Governor

California Coastal Commission
SOUTH CENTRAL COAST DISTRICT
735 State Street, (805) 963-6871
Balboa Building, Suite 612
Santa Barbara, CA 93101

April 16, 1982

APR 21 9 43 AM '82

RESOURCE
MANAGEMENT
AGENCY

Mr. & Mrs. Verne Bauman
887 Conestoga Circle
Newberry Park, CA 91320

Dear Mr. & Mrs. Bauman:

Thank you for supplying the information we requested about your property at Deer Creek Road. I have talked to Myrna Garrison today to reaffirm my understanding of the County's position in this matter. Myrna told me that the County Counsel is investigating this matter to determine the legality of your parcel. Until this information is available, we will defer from further comment. We will keep you informed of their decision.

Sincerely,

Cheri Kantor

Cheri Kantor
Violations Coordinator

CK/rt

cc: Myrna Garrison



State of California, Edmund G. Brown Jr., Governor

California Coastal Commission
SOUTH CENTRAL COAST DISTRICT
745 State Street, (805) 963-6871
Balboa Building, Suite 612
Santa Barbara, CA 93101

March 30, 1982

Verne W. Bauman
887 Conestogo Circle
Newbury Park, CA

Re: Property at Deer Creek Road (APN: 700-010-315)

Dear Mr. Bauman:

It has come to our attention that you are the owner of parcel #700-010-315 that was illegally subdivided and sold to you on July 5, 1977. The Coastal Act of 1976 defines "development" activity to include the subdivision of land pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code). All development activity requires a Coastal Development Permit after local approvals have been obtained.

Please be advised that without an approved Coastal Development Permit you are in violation of the Coastal Act. Those in violation of this requirement are subject to court action and/or a fine of \$10,000, plus an additional fine of not less than \$50 nor more than \$5,000 for each day a violation occurs. (PRC Section 30820-23).

We are aware that the County of Ventura is requesting that you apply for a conditional certificate of compliance for your illegal subdivision. Once you have obtained this approval you will need to submit the enclosed application form to this office.

We would like to resolve this matter with as little legal involvement as possible. If you have any questions, please call this office at 963-6871.

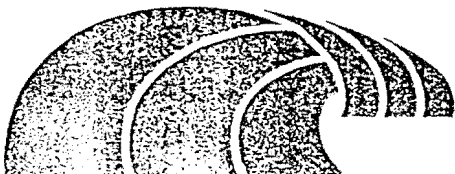
Very truly yours,

Cheri Kantor

Cheri Kantor
Violations Coordinator

CR/rt
Enclosure

cc: Myrna Garrison, Planning Division
Joe Hanna, Public Works
Steve Brown, Legal Staff



NOTICE OF FINAL DECISION

California Coastal Commission
89 South California St., Suite- 200
San Buenaventura, CA 93001

On March 6, 2000, Planning Director approved Planned Development Permit 1811 for CCC-9904 (PM-5203). That decision is now final, and will be effective at the end of the appeal period if no appeals are filed. The permit is described as follows:

Applicant Name and Address: Vern Bauman, 2930 Fall River Circle, Thousand Oaks, Ca 91362

Project Location: Pacific View Road off Deer Creek Road southwest of the intersection, Santa Monica Mountains, Ventura County

Date Filed: August 3, 1999

Description of Request: To legalize a 10-acre illegal lot within the Coastal Zone by the recording of the Conditional Certificate of Compliance 9904 Parcel Map 5203 and the imposition of conditions (Exhibit "A") prior to development, PD 1811 is assigned for purposes of processing this permit within the Coastal Zone.

Findings: The findings specified by Section 8181-3.5 of the County Coastal Zoning Ordinance have been made for the proposed project it is consistent with the Ordinance and with the Land Use Element of the Local Coastal Program, see the attached staff report.

Conditions: See Attached Exhibit "2".

Appeal Period: March 6, 2000 through March 16, 2000

County Appeals: If you disagree with the Planning Director regarding the outcome of this application, you may appeal the decision to the Planning Commission. This project is not appealable to the California Coastal Commission; therefore, a County fee will be charged to process an appeal of the decision on this project.

Any inquiries regarding this Notice of Final Decision should be directed to Debbie Morrisset at (805) 654-3635.

Date: March 8, 2000

NBFranis
Nancy Butler Francis
Coastal Administrative Officer

VENTURA COUNTY
COASTAL ADMINISTRATIVE HEARING
STAFF REPORT AND RECOMMENDATIONS
Hearing date March 2, 2000

SUBJECT:

Conditional Certificate of Compliance No.9904 (Tentative PM-5203) and
Coastal Planned Development Permit-1811

APPLICANT /PROPERTY OWNER:

Verne W. Bauman
2930 Fall River Circle
Thousand Oaks, Ca 91362

A. REQUEST:

The applicant is requesting a Conditional Certificate of Compliance (CCC-9904) to remedy an illegal subdivision. To do so requires concurrent approval of the CCC application and accompanying Parcel Map (PM-5203). Because the project is located in the Coastal Zone, A Planned Development Permit (PD-1811) is required for purposes of processing.

B. LOCATION AND PARCEL NUMBER:

The project site is southwest of the intersection of Pacific View Road and Deer Creek Road in the Santa Monica Mountains area of Ventura County. The Assessor's parcel number is 700-0-010-310, (see Exhibit "3").

C. BACKGROUND:

The present owners acquired the 10-acre illegal parcel in July of 1998 through a foreclosure sale, and are now requesting a permit to legalize that parcel. The lot appears to have been created when the parcel was conveyed with only a grant deed in April 1968. Because a Parcel Map was required to subdivide property at that time, the conveyance of the parcel by grant deed created an "illegally" subdivided parcel. The current property owner submitted the applications necessary to remedy the situation and legalize the lot (CCC-9904, PM-5203, and PD-1811). Since the applicants are "innocent purchasers", and the lot met the minimum lot area requirement in 1968, the lot is not required to meet the minimum lot area of the current zoning category, which requires parcels of "10 acres or greater".

D. GENERAL PLAN AND ZONING:

General Plan Land Use Map Designation: OPEN SPACE

Coastal Area Plan Land Use Map Designation: OPEN SPACE

Coastal Zoning Classification: "C-O-S-M" (COASTAL OPEN SPACE, SANTA MONICA MOUNTAINS OVERLAY) ZONE.

E. EVIDENCE AND PROPOSED PERMIT FINDINGS:

Certain findings specified by Section 8181-3.5 of the County Coastal Zoning Ordinance must be made to determine that the proposed project is consistent with the Ordinance and with the Land Use Element of the Local Coastal Program. The proposed findings and the project information and evidence to either support or reject them are presented below:

1. Proposed Finding: The project is consistent with the intent and provisions of the County Local Coastal Program.

Evidence:

- (a) General Plan and Zoning: The proposed project is compatible with the current General Plan, Local Coastal Plan and Zoning Ordinance. The existing 10-acre lot met the zoning requirements for lot size at the time of the illegal subdivision. Therefore, the lot is exempt from the requirements for meeting current lot size requirements which requires parcels of "10 acres or greater".

- (b) Protection of Environmentally Sensitive Habitats: The project site occurs on a steep, south facing slope in a highland area of the Santa Monica Mountains. The current vegetation consists of Chamise-Laurel Sumac Chaparral with Coastal Sage Scrub, intermixed with annual grasses and forbs as ground cover. The current application does not include any development of the parcel therefore no impacts are expected as a result of this project. However, any future development will require additional review as stated in the conditions of approval (Exhibit "2").
- (c) Protection of Archaeological and Paleontological Resources: A preliminary Cultural Resources Search of Records was performed by the UCLA Institute of Archaeology. Their report states that the parcel was partially surveyed in 1985 and 1992 and that there are four recorded sites within ¼ to ½ mile of the subject parcel. Due to the presence of the recorded sites, cultural resources are considered likely in the vicinity. Therefore, this office will require that a Phase I archaeological survey be conducted prior to any earth moving (construction) activities on site.

The project site is not in a location known for paleontological resources, therefore no impacts to paleontological resources is expected.
- (d) Recreation and Access: The proposed project site is not adjacent to any Federal, State, or County parkland. However, the project description was sent to the parks for review. As of the date of this staff report no comments have been received. Therefore, there will be no impact from the proposed project on recreation or access thereto.
- (e) Preservation of Agricultural Lands: The proposed project site is not located on or near an agriculture preserve or prime soils area. The project will not have an impact on the preservation of agriculture lands or land use plan policies relating to agricultural uses.
- (f) Protection of Public and Property from Naturally-Occurring and Human-Induced Hazards: The Public Works Agency has determined that there will be no adverse impacts relative to the proposed project from naturally-occurring and/or human-induced hazards as there are no known faults or landslides on the project site.
- (g) Protection of Property from Beach Erosion: The project site is not located in an area of beach erosion. The project site is approximately five miles inland at an average elevation of 1,400 feet; therefore no protection from beach erosion is required.
- (h) Consistency with Public Works Policies: The proposed project will be required to meet all Public Works Agency requirements to develop, prior to issuance of a building permit. In addition, no Public Works facilities will be affected by the proposed project.

2. Proposed Finding: The project is compatible with the character of surrounding development.

Evidence: The surrounding parcels range in size from 10 to 457 acres. Some of the lots are developed with single family residences. As the proposed project is to legalize a single parcel for future residential development, it will be compatible with the surrounding development.

3. Proposed Finding: The project will not be obnoxious or harmful, or impair the utility of neighboring property or uses:

Evidence: The proposed legalization of a 10 acre lot will not be obnoxious or harmful, or impair the utility of neighboring property or uses. No development is associated with this permit, and any future development would be residential in nature and therefore compatible with surrounding development.

4. Proposed Finding: The project will not be detrimental to the public interest, health, safety, convenience or welfare.

Evidence: The proposed project to legalize a 10 acre lot will not be detrimental to the public interest, health, safety, convenience or welfare. No development is associated with this permit. However, any future development would be residential in nature and therefore compatible with surrounding development.

F. COUNTY ORDINANCE CODE COMPLIANCE:

Based upon the information and evidence presented above, this application with the attached conditions, meets the requirements of Section 8181-3.5 of the County Coastal Zoning Ordinance and County Coastal Plan. The proposed Conditional Certificate of Compliance is consistent with the intent and provisions of the County's Local Coastal Program. The legalized lot will not have an impact upon environmentally sensitive habitats, coastal recreation or access, nor will it have an impact upon neighboring property or uses. The lot met the zoning standards for lot size at the time of the subdivision and is therefore allowed in the C-O-S(M) zone. In addition, any future development of the parcel will require modification of Pd-1811 or approval of a new Planned Development Permit from the County.

G. EVIDENCE AND PROPOSED FINDINGS REGARDING SUBDIVISION MAP ACT AND COUNTY SUBDIVISION ORDINANCE:

Certain findings must be made in order to determine that the proposed project is consistent with the State Subdivision Map Act and the County Ordinance Code. These findings, the project information and evidence to support them, are presented below.

I. Proposed Findings: The Tentative Map design and improvements are consistent with applicable zoning and general plan.

Evidence:

- (a) Zoning Consistence: Existing zoning on the subject property is Coastal Open Space "Santa Monica Mountains Overlay Zone ("C-O-S-(M)"). This zoning is consistent with the Ventura County General Plan and with the Local Coastal Plan. The design of the proposed subdivision (to legalize a single 10 acre parcel) is similarly consistent with the Ventura County General Plan and Ventura County Ordinance Code. The "C-O-S-(M)" zone allows lots as small as 10 acres per single family dwelling, (with the implementation of the slope density formula). The proposed lot is comparable in size to existing lots in the area supports a finding that the proposed density was appropriate. Therefore, the proposed (single lot) subdivision is consistent with the Local Coastal Plan and with "R-B" zone.

(b) Consistency With General Plan Policies:

- (1) Fire Protection: The Ventura County Fire Department has reviewed the proposed project. The project site is in a high fire hazard area. The site will be conditioned to meet all of the Fire Department requirements prior to development of the parcel. Therefore, adequate fire protection services will be available in the project area.
- (2) Law Enforcement: The Sheriff's Department has reviewed the proposed project and has concluded that it can serve the project. Therefore, adequate police protection is available in the project area.
- (3) Education: The project is located within the Ventura Unified School District. The developer may be required to pay fees for temporary school facilities prior to the issuance of building permits. Therefore, adequate educational facilities are available to satisfy education needs of children from the project area.
- (4) Grading (Cuts and Fills): No grading is proposed for this project. Any future grading will have to be reviewed and approved by the

Planning division and Public Works Department to ensure compliance with County ordinances.

2. Proposed Finding: The site is physically suitable for the proposed type and density of development.

Evidence:

- (a) Existing Natural Features and Land Use: The property is a site with varied topography. However, there are no natural features or land use constraints that would preclude development of the site.
- (b) Drainage: The area is not known to have drainage problems of a regional significance. Therefore the ability to provide adequate drainage facilities makes this site suitable for the type and density of development being proposed.
- (c) Traffic Circulation: The proposed project may increase the average daily traffic on the area's roads. Therefore, the amount of traffic produced by the project is compatible with the type of development and density.

3. Proposed Finding: The project will not cause substantial environmental damage.

Evidence: The proposed project legalizes a previously subdivided undeveloped property. Such projects are generally small in scale, and even though located in and environmentally sensitive area (Santa Monica Mountains) any development of this legalized parcel will require a Planned Development Permit. Such permits are discretionary and insure that any development will have a less than significant environmental impact.

4. Proposed Finding: The project will not cause serious public health problems.

Water and Sanitation: The proposed project, to legalize an illegally subdivided parcel, proposes no "development" of the parcel at this time. However, this project will have conditions placed on it to advise future applicants that any development must meet all requirements for water and sanitation. Therefore, this project will not cause serious health problems.

5. Proposed Finding: The project will not conflict with public easements or waterways.

Evidence: The proposed project does not front on the shoreline. Therefore, the proposed subdivision would not conflict with established public easements or waterways, nor in any way impede public use of, or access to, the beach.

6. Proposed Finding: The project will not discharge waste into an existing community sewer system in violation of law.

Evidence: The proposed project does not include development or any waste discharge.

Based upon the information and findings presented above, this application, with the attached Conditions, meets the requirements of the County Subdivision Map Act.

- H. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE: State law requires that an Initial Study (environmental evaluation) be conducted to determine if this project could significantly affect the environment. Based on the findings contained in the attached Initial Study, it has been determined that this project could have a significant effect on the environment but mitigation measures are available which would reduce the impacts to less than significant levels. Therefore, a Mitigated Negative Declaration (MND) has been prepared and the applicant has agreed to implement the mitigation measures. A Mitigated Negative Declaration (Exhibit "5") was prepared and posted for review from January 25, 2000 to February 14, 2000. No comments or responses were received.

- I. JURISDICTIONAL COMMENTS: The project was distributed to the appropriate and concerned agencies with jurisdiction in the Santa Monica Mountains, as of the date of this document none of the agencies have responded.
- J. PUBLIC COMMENTS: All property owners within 300' of the proposed project parcel and all residents within 100' of the subject parcel were notified by US Mail of the proposed project. As of the date of this document no comments have been received.

RECOMMENDED ACTION:

1. CERTIFY that you have read and considered the information contained in the MND, and that it reflects the independent judgement and analysis of the County; and
2. FIND that on the basis of the entire record (including the initial study and comments received) that there is no substantial evidence that the project will have a significant effect on the environment; and
3. APPROVE the attached MND (Exhibit "5"); and
4. ADOPT the proposed findings and approve Conditional Certificate of Compliance 9904, and Tentative PM-5203, along with PD-1811, subject to the conditions in Exhibit "2".

Prepared by: Debbie Morrisset

Debbie Morrisset
Case Planner

Attachments:

- Exhibit "2" - Conditions of Approval
- Exhibit "3" - Location Map (Assessor Parcel Map)
- Exhibit "4" - Parcel Map
- Exhibit "5" - Mitigated Negative Declaration

Project and conditions X approved or _____ denied on
March 6, 2000

NB Francis
Nancy Butler Francis, Manager
Land Use Permits Section
Coastal Administrative Officer
_____ ka nf

☐ CAPITOL OFFICE:
STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0037
(916) 319-2037
FAX: (916) 319-2137

☐ STRICT OFFICE:
221 E. DAILY DRIVE #7
CAMARILLO, CA 93010
(805) 987-5195
FAX: (805) 484-0853

EMAIL: assemblymember.strickland@asm.ca.gov

Assembly
California Legislature



TONY STRICKLAND

ASSEMBLYMAN, THIRTY-SEVENTH DISTRICT

COMMITTEES:
CO-CHAIRMAN
LEGISLATIVE ETHICS
VICE-CHAIRMAN
HEALTH

MEMBER
BUDGET
INSURANCE

June 8, 2000

Sara Wan, Chairwoman
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

Dear Chairwoman Wan:

I am writing on behalf of Mr. Verne Bauman regarding your appeal to his Conditional Certificate of Compliance No: 9904, which has been approved by the County of Ventura.

The information Mr. Bauman has provided my office indicates that he received the property in question prior to the instation of the Coastal Act of 1976, qualifying him for immunity similar to that granted to adjacent Parcels 41 and 42 in 1994. Mr. Bauman claims his rights are endowed by the provisions of the Subdivision Map Act, and he cites Government Code Section 66499.35b, because it states, "A local agency may, as a condition to granting a certificate of compliance, impose any conditions which would have been applicable to the division of the property at the time [the] applicant acquired his or her interest therein."

It is for these reasons that I urge you to reconsider your opposition to Conditional Certificate of Compliance No: 9904, joining the County of Ventura in identifying Mr. Bauman with "innocent purchaser status."

Thank you for your consideration. If you have any questions, please feel free to contact Chris Wangsaporn in my District Office at (805) 987-5195.

Sincerely,

TONY STRICKLAND
Assemblyman, 37th District

TS: rc

EXHIBIT NO. 9
APPLICATION NO.
A-4-VNT-00-078
Bauman

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641 - 0142



July 13, 2000

Mr. Verne W. Bauman
2930 Fall River Circle
Thousand Oaks, CA. 91362

EXHIBIT NO. 10
APPLICATION NO.
A-4-VNT-00-078
Bauman

Re: A-4-VNT-00-078, appeal of permit to legalize 10 acre parcel by issuance of conditional Certificate of Compliance.

Dear Mr. Bauman:

On June 13, 2000 the Coastal Commission found that the above referenced appeal of a permit issued by the County of Ventura raised Substantial Issue with respect to the project's conformance to the applicable policies of the County's certified Local Coastal Program (LCP). Once substantial issue is found the Commission is required to hold a *denovo* public hearing on the merits of the project. Commission staff has tentatively scheduled this matter for the Commission's agenda at the August 8-11 hearing in Huntington Beach.

A primary issue which the Commission must consider concerns the developability of the subject 10 acre parcel. In order to find that a parcel is consistent with the Coastal Act or, in this case, the certified LCP, the Commission must have evidence that it is geologically stable, that adequate water, sewage treatment, and access is available to serve future development of the parcel. In addition, it is necessary to know the extent and quantity of grading that will be required to create a building pad and road access to the pad. This information has not been provided to Commission staff.

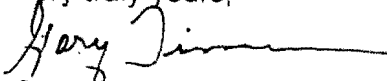
Specifically, we are requesting that you submit any information which addresses geologic stability, percolation rates, water availability and legal access to the subject site. Such information includes site specific geotechnical reports, percolation tests, water well tests, evidence of a legal road or driveway easement to the parcel, and grading plans for the road and building pad.

Should you wish to provide this information we also request that you waive any applicable deadlines relative to the scheduling of a hearing before the Commission. In order for this matter to be heard by the Commission at the August 8-11 meeting it would be necessary to complete a staff recommendation by July 21. So that staff would have adequate time to analyze any information you submit it would be preferable to schedule this matter for the Commission's October 10-13 meeting in Oceanside at the earliest.

Verne Bauman
July 13, 2000

Please let us know whether you intend to provide the requested additional information and to waive the applicable time limits. We would appreciate your response at your earliest convenience. You may call me at 805-641-0142 if you have any questions or wish to discuss this matter further.

Very truly yours,


Gary Timm
District Manager

CC. County of Ventura
Paul Betouliere

NEWTON KALMAN

Attorney at Law

EXHIBIT NO. 11
APPLICATION NO.
A-4-VNT-00-078
Bauman

April 17, 2000

Honorable Commissioners
Of The California Coastal Commission
45 Fremont Street #2000
San Francisco, CA 94105-2219

Attention: Sara Wan and Pedro Nava

Re: Appeal No. A-4-VNT-00-37
Planned Development Permit 1811 for CCC-9904 (PM-5203)

Honorable Commissioners,

I have been retained by Paul Betouliere and Susan Betouliere as their attorney to represent them in connection with all matters relating to the above-numbered appeal to the California Coastal Commission.

Mr. and Mrs. Betouliere have entered into a sales escrow agreement with Verne W. Bauman and Cheri A. Hanley, whereby Mr. Bauman and Ms. Hanley have agreed to sell Parcel 31, Assessor's Parcel Number: 700-0-010-315 to my clients, Mr. and Mrs. Betouliere, who have agreed to buy said property.

By the terms of the sales escrow agreement, the sellers, Verne Bauman and Ms. Hanley have acknowledged that they have agreed to cooperate in expediting the completion of the Certificate of Compliance.

Mr. Verne Bauman has previously made the application for the Conditional Certificate of Compliance to the County of Ventura Planning Department. Mr. Verne Bauman is hereafter in this letter referred to as the "Applicant."

The legal rights of the applicant, Verne Bauman, as the innocent purchaser are mandated by Ventura County policy. Mr. Bauman's in-laws, Mr. and Mrs. Robert Holbrook, received this property on April 1, 1968 and they retain their status under the innocent purchaser protection afforded by Ventura County policy.

On July 5, 1977, applicants Mr. and Mrs. Verne Bauman were given this property, Parcel 31, as a "gift of love and affection" by Mrs. Baumans' parents, Mr. and Mrs. Holbrook, who thereby acquired the status of innocent purchaser with the acquisition of this gift.

In 1968 and 1977, these family members, Holbrook and Bauman respectively, had and have to this day, protection afforded as innocent purchasers under Ventura County policy, which mandates that innocent purchasers are allowed to follow the rules of the day. The acquisition of Parcel 31 by the Baumans by gift from the Holbrooks predates the creation of the California Coastal Commission and its implementation of the Local Coastal Program Zoning Ordinances. The rules of the day, whereby the applicants were and are protected by and through Ventura County policy, allow for a minimum lot size of 10 acres.

The California Coastal Commission has previously approved the legal status on the two adjacent ten-acre parcels, APN: 700-0-010-425 and APN: 700-0-010-415. Parcels 42, 41 and Parcel 31 is part of the same underlying 40-acre parent parcel, and has approved without exception more than 40 previous attempts whereby the County of Ventura has used the same formula, during the past 15 years, to create a legal lot with "innocent purchaser" status, as provided for under State Law and/or Ventura County policy.

This appeal by the California Coastal Commission makes reference to the following sections from its Local Coastal Program Zoning Ordinance:

Sections: 8177-4.2.4

8177-4.2.4b.

8177-4.2.1

8177-4.2.2a

8177-4.1.3

8177-4.1.1

8177-4.1.2

Said LCP Ordinances and noted sections are not relevant to and do not pertain to and/or affect the legal rights afforded by State Law, and/or Ventura County policy, to the present applicant, Mr. Verne Bauman.

Any attempt of the California Coastal Commission to add additional conditions to the Conditional Certificate of Compliance Number- 9904 must necessarily violate the Civil Rights and Land Use Rights of the applicant, Mr. Verne Bauman, and will destroy the utility and salability of Parcel 31, a 10 acre lot.

Page 3

I request your cooperation, courtesy and kind consideration, and that you review the information provided herein. I respectfully request that the California Coastal Commission remove its' Appeal No: A-4-VNT-00-37 from the previously approved County of Ventura Conditional Certificate of Compliance Number 9904.

Sincerely,

NEWTON KALMAN

cc: County of Ventura
Land Use Permits Section
Nancy Butler Francis, Manager

California Coastal Commission
Mr. Merle Betz

Verne Bauman



California Lutheran University

60 West Olsen Road
Thousand Oaks, California 91360-2700
805/492-2411

Department of Biology

June 21, 2000

Bill Gorham
ENSR
1220 Avenida Acaso
Camarillo, CA 93012

Dear Bill,

Upon request, I visited Parcel no. 5293, located southwest of the intersection of Deer Creek Road and Pacific View Road on June 20, 2000. There was some concern that the marcescent dudleya (*Dudleya cymosa* ssp. *marcescens*) which is federally threatened and listed by the State as rare might be on the property. There is a small rock outcrop on the property which was thought to be a possible habitat.

No *Dudleya cymosa* ssp. *marcescens* was found on the rock outcrop or anywhere on the property. Because this is the blooming time for the marcescent dudleya, if it had been present on the property, it would have been visible and in bloom. A related species, *Dudleya lanceolata*, was observed on neighboring property, but not the federally threatened *Dudleya cymosa* ssp. *marcescens*. Because not even *Dudleya lanceolata* was on the property in question, it is likely that the southern exposure is not appropriate for the growth of dudleya.

In conclusion, because the marcescent dudleya was not observed during the most recent survey, it can be reliably stated that it does not occur on Parcel no. 5293.

Sincerely,

Barbara J. Collins, Ph.D.
Professor of Biology

EXHIBIT NO.	12
APPLICATION NO.	
A-4-VNT-00-078	
Bauman	

EXHIBIT NO. 13
APPLICATION NO.
A4-VNT-00-078
Bauman

RECEIVED

JUL 10 2000

BETOULIERE

P.O. Box 806
TOPANGA, CA. 90290

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

PHONE: (310) 204-2049 ~ E-MAIL: betouliere@dellnet.com

June 30, 2000

Re: A4-VNT-00-078
APN: 700-010-315

Mr. Gary Timm
California Coastal Commission
South Central Coast Area
89 South California St., 2nd. Floor
Ventura, CA. 93001

SUMMARY of SITE VISIT

Dear Mr. Timm,

It was a pleasure meeting with you, Mr. Betz and Mr. Ainsworth at the property on June 28th. I thought that before I forget, I should write down the elements of our meeting and request that you respond if anything is not accurate.

We drove west from Deer Creek Road along the vacated Pacific View Road up to the area of our meeting. Walking along the ridge we reached a spot where looking south we observed, below the ridge, the north-west corner mark of the subject 10-acre Parcel 31. Standing in this area, situated along the ridge and westward, is an area of open space. Looking west and south, from this spot, we saw meadows and steep valleys. Looking to the east we saw a mountain, about 200 feet above the ridge, which contains the buildable area of the subject property and Mr. Dick Clark's single family home.

Mr. Betz explained that his previous site visit was to this lower area of open space with no visible houses. Specifically, the area of the 132-acre Parcel 49 and the 20-acre Parcel 4.

Our meeting began at this north west corner of the subject property. I explained by looking at the Assessors Parcel Map, that the 22-acres of land north and east of this point belongs to Dick Clark's Parcel 55 and that all lands for several miles to the west, both north and south belongs to Lee Mansdorf.

Maps were shown of the easement from Deer Creek Road into the subject property. Historical information regarding the 1961 easement, Harrington to Cleary, burdening the Raffi Cohen property was reviewed.

A brief summary was given of the possible intentions of developers Raffi Cohen and Lee Mansdorf. It is my understanding that Lee Mansdorf's properties are land locked and do not have access through the vacated section of Pacific View Road. This would explain Mr. Mansdorf's need to connect his land to Raffi Cohen's land that borders Deer Creek Road. Parcel 31 may be the key to developing the 1300-acres of open space that is west of the subject property. This would also be a reasonable motive for Mr. Bauman's attempt to cancel our escrow and sell to Mr. Cohen and Mr. Mansdorf for a higher price.

We walked to the top of the subject property Parcel 31, onto an area that is flat to gently sloping and about 1/3 -acre in size. The selected site by the County of Ventura Planning Department for a possible single family home could be on the west side of this area to protect our neighbors view corridor. A building site could be created so that a single story, possible future home, would not be or only be barely visible from any public road. We then walked along the trail of the possible driveway alignment, down and around towards the east and through Parcel 42, the Michael Howard easement. The area of our March 22, 2000 geologic and soils study was observed, as was the backhoe's scraped route up to the geotechnical site.

We arrived at the north-east survey point of Parcel 42 and crossed onto the land of Raffi Cohen. We walked 104 feet through the mustard weeds of the previously scraped area of Raffi Cohen's Parcel 47. We then walked east along Raffi Cohen's dirt and chip seal driveway, past the two-story barn/residence, which leads to Deer Creek Road. Returning in reverse along the above described driveway alignment, Mr. Ainsworth commented and agreed that a reasonable amount of material was moved in our effort to safely bring a backhoe to the study site. We then veered along the trail to the southwest at the fork and curved around the mountain to a lower area of about 1/8-acre of the subject property, also gently sloping. This is an area, about 100 feet below the possible single family home site where a guest unit/garage could be located, also without being seen or barely being seen from Deer Creek Road.

The following was requested of me in order for the Coastal staff to provide a report, which could recommend the removal of the appeal to the Commissioners of the Coastal Commission.

1. Aerial photos 12-6-99 and 11-21-89 showing subject area.
 2. A geologic report addressing the driveway, the slope stability for the driveway and suitability of the subject site for the possible future building.
 3. The civil engineers design of the driveway alignment with the cubic yardage of material to be removed for the driveway.
 4. A satisfactory percolation test performed on the subject property.
 5. Percolation reports from contiguous properties: Parcel 41, Parcel 42 and Parcel 50.
 6. Water well reports from contiguous properties: Parcel 41, Parcel 42 and Parcel 50.
 7. Letters to and from Mr. Dick Clark requesting and being denied an easement to use the Dick Clark driveway to access the subject property.
 8. The 1991 easement, Rinaldi to Howard, granting access to the lower three sister 10-acre parcels on the lower dirt road.
- Notice: Mrs. Sandy Goldberg Esq. requested items 9, 10 and 11 on 6-30-00.
9. Map from Civil Engineer showing the proposed driveway alignment.
 10. Legal description of easements along the proposed driveway alignments, prepared by Gary Salmen Land Survey.
 11. Topo map of subject property, compiled by photogrametric methods, dated 12-6-99.

Thank you for reviewing this information, it is as accurate as I can remember.



Paul Betouliere

PS. See page 3 for printed information submitted at the site visit.

Note: The following items were given to Mr. Betz at the site visit.

1. Biology report dated June 21, 2000, no *Dudleya* found on subject property.
- 2. Easement deed, Harrington to Cleary, recorded Nov. 1, 1961
3. Ventura County 1970 Topo Map, showing the old road as described in the 1961-easement granted by Monte Harrington.
4. Grant Deed, Aliberti to Holbrook (Bauman's in-laws) Note: Exhibit "A" Parcel 2 is for easement over Parcel 42.
5. Geoplan geology memo March 9, 2000 for study on Parcel 42.
6. County of Ventura permission for geologic testing not to exceed 50 cu. yds. of material moved, dated March 15, 2000.
7. Consent to off-site Construction, for grading on Parcel 42, dated 10-13-99
- 8. Salmen Land Survey map showing driveway alignment, dated February 14, 2000.
9. Assessors Parcel Maps 1961, 1963, 1968 and the present map.

June 30, 2000

Dear Mr. Timm,

Attached please find my letter to Mr. Dick Clark and his response back to me.

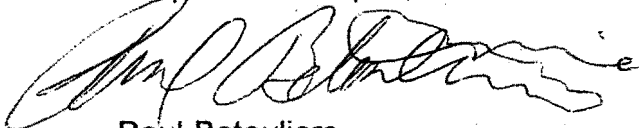
Mr. Clark and I spoke by phone prior to my letter, dated March 26, 1998. In this phone conversation on March 25, 1998 I asked Mr. Clark if he would grant an easement to me to drive part way up his private driveway in order to access the 10-acre APN 700-010-315.

Mr. Clark refused saying that he did not want to share his driveway and wanted his total and exclusive privacy.

Please request of applicant Bauman his letters to and from Mr. Clark that I understand also express a similar request and response.

These four letters together should provide ample proof that an alternate entrance into the Bauman property is not available through the property of Mr. Dick Clark. The recorded easement from 1961 of Harrington for the benefit of the Bauman property is the correct and natural choice of connecting the Bauman property to the public right of way now known as Deer Creek Road.

I hope this is helpful,



Paul Betouliere

cc. Mrs. Sandy Goldberg Esq.

EXHIBIT NO. 14
APPLICATION NO.
A-4-VNT-00-078
Bauman

RECEIVED

JUL 10 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

3003 W Olive Ave
Burbank 91505
818-841-3003

Karl

March 26, 1998

Dear Mr. Clark,

It was a pleasure speaking with you yesterday about Pacific View. Having grown up in the Santa Monica Mountains I am well aware of the pain and joy of having neighbors. As an artist, I, like you, yearn for solitude and appreciate your position of wanting 100,000 acres to wrap around your home.

If you would only meet me sometime on the front 10 acre parcel you might realize that my goal is to build a very humble single story home for my family. I would be willing to work with you and position my home so that your privacy and view would not be sacrificed in any way.

I'm sure that you would find my family and I to be kind and respectful neighbors. With good planning we could both share the same inspiring views.

Thank you again for your time.

Sincerely,



Paul Betouliere
P.O.Box 806
Topanga, CA 90290
(310) 455-4033

RECEIVED

JUL 10 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

March 31, 1998

I just received your nice note, Paul, regarding your Pacific View property.

I'm sure you would be good neighbors; however, as I said to you earlier, the reason we put our house in this isolated spot, was because we wanted to be surrounded by thousands of acres of wilderness. We're not anti-social, but do need to "get away from it all" on occasion.

I hope you understand.

Sincerely,



DICK CLARK

DC:kc

Mr. Paul Betouliere
P. O. Box 806
Topanga, Calif. 90290

RECEIVED

JUL 10 2000

CALIFORNIA
COAST & COMMISSION
SOUTH CENTRAL COAST DISTRICT

productions, Inc.

3003 WEST CHINE AVE. BURBANK, CA 91501
(818) 338-1111 FAX (818) 338-1111

dick clark



(818) 881-2063

GEOPLAN, Inc.
consulting engineering geologists

18432 OXNARD STREET
TARZANA, CALIF. 91356

John D. Merrill, President

July 24, 2000

Gary Timm
California Coastal Commission
89 S. California Street, Suite 200
Ventura, California 93001

re: Coastal Appeal A4-VNT-0-078
Parcels 42 and 31, N $\frac{1}{2}$, SE $\frac{1}{4}$,
NE $\frac{1}{4}$, S17, T1S, R20W, SBBM

Dear Mr. Timm:

Geoplan has been hired by Mr. Paul Betouliere to conduct a preliminary analysis of the ability of Parcel 31 to support a single family home to be served by a private sewage disposal system and a domestic water well. Sites for these facilities have been identified and are known to meet County standards.

In is the opinion of Geoplan that Parcel 31 contains several sites suitable for development and that each site is grossly stable.

A preliminary geotechnical study was conducted on adjacent Parcel 42 on March 22, 2000 to determine the steepness of safe slopes along the proposed driveway. The purpose being that a steeper roadcut would create the least environmental disruption.

Geotechnical and geologic data from that study and from observations of historical roadcuts in this area support the

EXHIBIT NO. 15

APPLICATION NO.

A4-VNT-00-078

Bauman

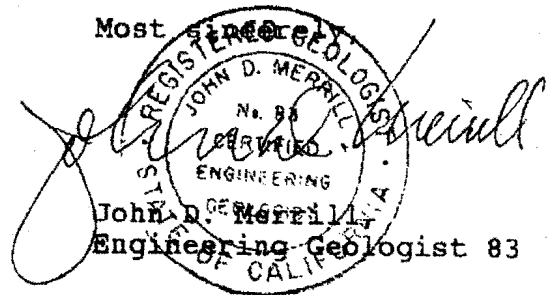
GEOPLAN, Inc.
CONSULTING ENGINEERING GEOLOGISTS

Page 2
July 24, 2000
California Coastal Commission

opinion that a road to subject Parcel 31 could be engineered with minimal environmental impact.

Thank you for your attention.

Most sincerely,


John D. Merrill
Engineering Geologist 83

JDM/b