



CITY OF BUELLTON

CITY COUNCIL AGENDA

**Regular Meeting of November 12, 2015 at 6:00 p.m.
City Council Chambers, 140 West Highway 246
Buellton, California**

Materials related to an item on this agenda, as well as materials submitted to the City Council after distribution of the agenda packet, are available for public inspection in the Office of the City Clerk, located at 107 West Highway 246, during normal business hours.

CALL TO ORDER

Mayor Holly Sierra

PLEDGE OF ALLEGIANCE

ROLL CALL

Council Members Dan Baumann, John Connolly, Leo Elovitz, Vice Mayor Ed Andrisek, and Mayor Holly Sierra

REORDERING OF AGENDA

PUBLIC COMMENTS

Speaker Slip to be completed and turned in to the City Clerk prior to commencement of meeting. Any person may address the Council on any subject pertaining to City business, including all items on the agenda not listed as a Public Hearing, including the Consent Agenda and Closed Session. Limited to three (3) minutes per speaker. By law, no action may be taken at this meeting on matters raised during Public Comments not included on this agenda.

CONSENT CALENDAR

(ACTION)

The following items are considered routine and non-controversial and are scheduled for consideration as a group. Any Council Member, the City Attorney, or the City Manager may request that an item be withdrawn from the Consent Agenda to allow for full discussion. Members of the Public may speak on Consent Agenda items during the Public Comment period.

- 1. Minutes of October 22, 2015 Regular City Council Meeting**
- 2. List of Claims to be Approved/Ratified for Payment to Date for Fiscal Year 2015-16**

PRESENTATIONS

PUBLIC HEARINGS**(POSSIBLE ACTION)****3. Live Oaks Lanes Appeals – Request for Continuance**

Resolution No. 15-26 – “A Resolution of the City Council of the City of Buellton, California, Denying the Appeals and Approving the Mitigated Negative Declaration (15-MND-01) and Mitigation Monitoring and Reporting Program for the Live Oak Lanes Project Which Includes a Bowling Alley/Entertainment Center and Warehouse Facility on 5.08 Acres Located at 39 and 41 Industrial Way, Assessor’s Parcel Numbers 099-690-045 and 099-690-046”

Resolution No. 15-27 – “A Resolution of the City Council of the City of Buellton, California, Denying the Appeals and Approving the Final Development Plan (13-FDP-03), Lot Line Adjustment (13-LLA-02) and Conditional Use Permit (13-CUP-02) for the Live Oak Lanes Project, Which Includes a Bowling Alley/Entertainment Center and Warehouse Facility on 5.08 Acres Located at 39 and 41 Industrial Way, Assessor’s Parcel Numbers 099-690-045 and 099-690-046”

❖ *(Staff Contact: City Manager Marc Bierdzinski)*

COUNCIL MEMBER COMMENTS**COUNCIL ITEMS****WRITTEN COMMUNICATIONS**

Written communications are included in the agenda packets. Any Council Member, the City Manager or City Attorney may request that a written communication be read into the record.

COMMITTEE REPORTS

This Agenda listing is the opportunity for Council Members to give verbal Committee Reports on any meetings recently held for which the Council Members are the City representatives thereto.

BUSINESS ITEMS**(POSSIBLE ACTION)****4. Briefing Regarding Storm Preparations for El Nino**

❖ *(Staff Contact: Public Works Director Rose Hess)*

CITY MANAGER’S REPORT**CLOSED SESSION ITEMS****(POSSIBLE ACTION)****5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation based on existing facts and circumstances pursuant to Government Code section 54956.9(d)(2) – one case

ADJOURNMENT

The next meeting of the City Council will be held on Thursday, December 10, 2015 at 6:00 p.m.

CITY OF BUELLTON

CITY COUNCIL MEETING MINUTES
Regular Meeting of October 22, 2015
City Council Chambers, 140 West Highway 246
Buellton, California

CALL TO ORDER

Mayor Holly Sierra called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Council Members Dan Baumann, John Connolly Leo Elovitz, Vice Mayor Ed Andrisek, and Mayor Holly Sierra

Staff: City Manager Marc Bierdzinski, City Attorney Steve McEwen, Finance Director Carolyn Galloway-Cooper, Station Commander Lt. Shawn O'Grady, Public Works Director Rose Hess, and City Clerk Linda Reid

REORDERING OF AGENDA

None

PUBLIC COMMENTS

Mary Conway, representing the Santa Ynez Valley Youth Coalition, stated that National Red Ribbon Week starts on October 23 and thanked the Council for their support.

Lew Adkins, Buellton, discussed the vehicle opening next to Albertsons and stated that the pavement is being damaged by vehicles due to the slope.

Mike Dana, Buellton, stated he's concerned about the direction the City is headed.

Kathy Vreeland, Executive Director of the Buellton Chamber of Commerce and Visitors Bureau announced several upcoming events in Buellton.

CONSENT CALENDAR

- 1. Minutes of October 8, 2015 Regular City Council Meeting**
- 2. List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2015-16**
- 3. Revenue and Expenditure Reports through September 30, 2015**
- 4. Financial Report for First Quarter Ending September 30, 2015**
- 5. Acceptance and Filing of Stormwater Management Program Annual Report**
- 6. Filing of an Amended 2015-16 Claim with the Santa Barbara County Association of Governments (SBCAG) for State Transit Assistance (STA) Fund 2014-15 Apportionments**

MOTION:

Motion by Vice Mayor Andrisek, seconded by Council Member Elovitz, approving Consent Calendar Items 1 through 6 as listed.

VOTE:

Motion passed by a roll call vote of 5-0.

Council Member Baumann – Yes

Council Member Connolly – Yes

Council Member Elovitz – Yes

Vice Mayor Andrisek – Yes

Mayor Sierra – Yes

- 7. City Manager Approval of Amplified Music at Events on Private Property**

The City Council discussed City Manager approval of amplified events and clarified that all new events will be brought before the Council for public comment and approval.

MOTION:

Motion by Mayor Sierra, seconded by Council Member Baumann, approving Consent Calendar Item 7 as listed.

VOTE:

Motion passed by a voice vote of 5-0.

Council Member Baumann – Yes

Council Member Connolly – Yes

Council Member Elovitz – Yes

Vice Mayor Andrisek – Yes

Mayor Sierra – Yes

PRESENTATIONS

8. Proclamation Honoring Friends of the Library Week

Mayor Sierra presented a proclamation to Judith Dale honoring Friends of the Library Week and thanked the Friends of the Buellton Library for their support. Judith Dale thanked the Council and staff for supporting the library.

PUBLIC HEARINGS

9. Ordinance No. 15-02 – “An Ordinance of the City Council of the City of Buellton, California, Revising Title 19 (Zoning) of the Buellton Municipal Code (15-ZOA-01) by Adding Regulations Regarding a Definition of a Fast Food Restaurant and Locational Restrictions for Fast Food Restaurants” (Introduction and First Reading – Continued from September 10, 2015)

STAFF REPORT:

City Manager Bierdzinski requested a continuance of this item to the Council meeting of December 10, 2015, so that staff can review the letter from Susan Petrovich dated October 20, 2015.

SPEAKERS/DISCUSSION:

Susan Petrovich, representing Dr. Buell, provided information as to why the Council should not approve Ordinance No. 15-02.

Pete Robertson, Santa Ynez, spoke against the approval of Ordinance No. 15-02.

Kathy Vreeland, Buellton, spoke against the approval of Ordinance No. 15-02.

Peggy Brierton, Buellton, spoke in support of Ordinance No. 15-02.

MOTION:

Motion by Vice Mayor Andrisek, seconded by Council Member Elovitz continuing the Public Hearing regarding this item to the Council meeting of December 10, 2015.

VOTE:

Motion passed by a roll call vote of 5-0.

Council Member Baumann - Yes

Council Member Connolly - Yes

Council Member Elovitz - Yes

Vice Mayor Andrisek - Yes

Mayor Sierra - Yes

COUNCIL MEMBER COMMENTS/ITEMS

Council Member Elovitz thanked staff for presenting the Avenue of Flags workshop and said it was a major step towards redefining the Avenue of Flags.

Vice Mayor Andrisek stated he would like to see how a smaller city would revitalize its downtown area.

Council Member Baumann stated the presentation was well done and inspired conversation about what to do with the Avenue of Flags.

Mayor Sierra stated the Avenue of Flags presentation was good and she liked the suggested uses for the medians.

WRITTEN COMMUNICATIONS

None

COMMITTEE REPORTS

Vice Mayor Andrisek announced that he attended the Central Coast Water Authority (CCWA) Board Meeting and provided an oral report regarding the meeting.

Mayor Sierra announced that she attended the board meetings for Santa Barbara County Association of Governments (SBCAG) and Air Pollution Control District (APCD) and provided oral reports regarding the meetings.

Mayor Sierra announced that she attended a meeting of the Central Coast Collaborative on Homelessness and provided an oral report regarding the meeting.

BUSINESS ITEMS

10. Highway 246 Sidewalk Project - Consideration of Approval of Caltrans Cooperative Agreement

RECOMMENDATION:

That the City Council authorize the City Manager to execute the Caltrans Cooperative Agreement.

STAFF REPORT:

Public Works Director Hess presented the staff report.

DOCUMENTS:

Staff Report with attachments as listed in the staff report.

SPEAKERS/DISCUSSION:

Kathy DiGrazia, representing Caltrans, discussed the proposed sidewalk project and construction timing. She stated the project is on schedule for award of contract by October 2016.

Lew Adkins, Buellton, asked whether the north side handicap improvements have been included in the project. Ms. DiGrazia confirmed the north side improvements are included in the plans.

MOTION:

Motion by Council Member Elovitz, seconded by Vice Mayor Andrisek, authorizing the City Manager and City Attorney to execute the Caltrans Cooperative Agreement.

VOTE:

Motion passed by a roll call vote of 5-0.

Council Member Baumann - Yes

Council Member Connolly - Yes

Council Member Elovitz - Yes

Vice Mayor Andrisek - Yes

Mayor Sierra – Yes

11. Approval of Internet Services to Support Live Video Streaming of Council Meetings**RECOMMENDATION:**

That the City Council authorize the installation of internet service for the Council Chambers and bring back a budget adjustment at the mid-year budget review.

STAFF REPORT:

Public Works Director Hess presented the staff report.

DISCUSSION:

The City Council discussed the following issues:

- Why the Blackgold internet service was not available for City use
- Benefit of internet service in the Council Chambers
- Staff will explore wireless hotspots in the future

MOTION:

Motion by Council Member Elovitz, seconded by Vice Mayor Andrisek, authorizing the installation of internet service for the Council Chambers and bring back a budget adjustment at the mid-year budget review.

VOTE:

Motion passed by a roll call vote of 5-0.

Council Member Baumann - Yes

Council Member Connolly - Yes

Council Member Elovitz - Yes

Vice Mayor Andrisek - Yes

Mayor Sierra – Yes

12. Medical Marijuana Update and Discussion**RECOMMENDATION:**

That the City Council discuss the new medical marijuana legislation and provide direction to City staff and the City Attorney on the need for revising the City's existing medical marijuana ordinance.

STAFF REPORT:

City Attorney McEwen presented the staff report.

DOCUMENTS:

Staff Report with attachments as listed in the staff report.

SPEAKERS/DISCUSSION:

Mary Conway, representing the Santa Ynez Valley Youth Coalition, discussed the ease of accessing medical marijuana and asked the Council to be proactive in restricting availability to the drug in order to protect children.

The City Council discussed the following issues:

- How the new legislation pertains to a certain strain of marijuana that contains lower levels of THC which helps children who suffer from seizures
- Adding mobile delivery prohibition to the ordinance

DIRECTION:

The City Council agreed by consensus to direct staff to work with City Attorney McEwen to revise the City's medical marijuana ordinance to be compliant with current legislation and include a prohibition of mobile deliveries.

13. **Resolution No. 15-28 – “A Resolution of the City Council of the City of Buellton, California, Approving the Quitclaim of Certain Portions of Excess Street Right-of-Way Easement West of Industrial Way and Located on the Properties of Assessor’s Parcel Numbers (APN) 099-820-011 and 099-820-012 and Accepting the New Street Right-of-Way Easement Located on the Properties of APN 099-820-011 and 099-820-012”**

CONFLICT OF INTEREST:

Vice Mayor Andrisek announced that he has a conflict with Item 13 due to the proximity of his residence and left the dais at 7:21 p.m.

RECOMMENDATION:

That the City Council approve Resolution No. 15-28.

STAFF REPORT:

Public Works Director Hess presented the staff report.

DOCUMENTS:

Staff Report with attachments as listed in the staff report.

MOTION:

Motion by Council Member Connolly, seconded by Council Member Elovitz approving Resolution No. 15-28 – “A Resolution of the City Council of the City of Buellton, California, Approving the Quitclaim of Certain Portions of Excess Street Right-of-Way Easement West of Industrial Way and Located on the Properties of Assessor’s Parcel Numbers (APN) 099-820-011 and 099-820-012 and Accepting the New Street Right-of-Way Easement Located on the Properties of APN 099-820-011 and 099-820-012”

VOTE:

Motion passed by a roll call vote of 4-0.

Council Member Baumann – Yes

Council Member Connolly – Yes

Council Member Elovitz – Yes

Mayor Sierra – Yes

Vice Mayor Andrisek returned to the dais at 7:40 p.m.

CITY MANAGER'S REPORT

City Manager Bierdzinski provided an informational report to the City Council.

CLOSED SESSION ITEMS

- 14. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Government Code Section 54956.9(a))
City of Buellton, et al. v. Michael Cohen, as Director, etc.; California Court of
Appeal Case No. C076121**

The City Council met in closed session to discuss existing litigation. No reportable action was taken.

- 15. Closed Session - California Government Code Section 54957 regarding: PUBLIC
EMPLOYEE PERFORMANCE EVALUATION (SIX MONTH REVIEW)
Title: City Manager**

The City Council met in closed session to discuss the City Manager's performance evaluation. No reportable action was taken.

ADJOURNMENT

Mayor Sierra adjourned the regular meeting at 9:50 p.m. The next regular meeting of the City Council will be held on Thursday, November 12, 2015 at 6:00 p.m.

Holly Sierra
Mayor

ATTEST:

Linda Reid
City Clerk

BACK-UP/SUPPORT DATA IS AVAILABLE FOR COUNCIL REVIEW IN CITY HALL

The following is a list of claims to be ratified and approved for payment by the City Council at the **November 12, 2015** Council Meeting.

Listed below is a brief summary of the attached claims:

EXHIBIT A *	A/P Packet 00041	\$	369,832.77	(4 pages)
	A/P Packet 00040	\$	12,188.38	(2 pages)
	Total Packets:	\$	<u>382,021.15</u>	

EXHIBIT B		\$	<u>56,000.22</u>	
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Staff Payroll	10/15/2015	\$	38,992.50	
Special Payroll	10/19/2015	\$	1,233.16	
Council Payroll	10/30/2015	\$	2,267.40	
Staff Payroll	10/30/2015	\$	38,515.09	

Total Payroll:		\$	<u>81,008.15</u>	
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TOTAL AMOUNT OF CLAIMS:		\$	<u>519,029.52</u>	
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- * The A/P Packets above will be approved on Council Agenda date of 11/12/15.
 Checks to be signed on 11/12/2015 relate to A/P Packet 00041.
 Check previously signed by staff to avoid late fees relate to A/P Packet 00040.

Payments via Electronic Fund Transfer (EFT):

ETS (Credit Card service charges)	11/2/15	45.84
Bank Fees	10/30/15	117.20
DCP - AUL	10/28/15	11,027.73
Payroll Taxes - Staff	10/26/15	54.14
Bank Fees	10/26/15	10.00
Payroll Taxes - Staff	10/23/15	12,339.85
Bank Fees	10/23/15	10.00
ETS (Credit Card Equipment)	10/19/15	676.50
Bank Fees	10/19/15	10.00
Cal Pers - PEPR	10/14/15	1,203.96
Cal Pers - Medical	10/14/15	15,332.84
Cal Pers - Classic	10/14/15	14,144.20
Hartford	10/14/15	418.93
Aflac	10/13/15	609.03
Total		\$ 56,000.22



Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 001 - General Fund					
CalPERS LONG-TERM CARE P	INV0000694	10/30/2015	Long Term Care	001-22166	84.25
KOSMONT & ASSOCIATES, IN	0003	10/14/2015	9/1-9/30 - Econ. Dev. Service	001-565-60800	4,167.80
OLIVERA'S REPAIR, INC	101116	10/21/2015	10/21 - Smog Check 1997 Fo	001-558-60270	30.00
OLIVERA'S REPAIR, INC	101129	10/21/2015	10/21 - Smog check - 2003 F	001-558-60270	21.67
OLIVERA'S REPAIR, INC	101133	10/21/2015	10/21 - Auto Maint. - 2010 F	001-558-60270	65.00
OLIVERA'S REPAIR, INC	101169	10/22/2015	10/22 - Smog check - 2008 F	001-511-60270	65.00
DATAARC, LLC	1476	10/05/2015	3/27/15 - Archiving- Eng. dra	001-558-60800	851.57
D.L. ELECTRIC, INC.	15-644	10/23/2015	9/15 - Electrical svcs. library	001-558-60250	3,995.00
SB CO SHERIFF'S DEPARTME	16-093	10/19/2015	9/30 - 10/10 - O.T. charges	001-501-60800	830.86
SB CO SHERIFF'S DEPARTME	16-096	10/21/2015	11/15 - Contract Services	001-501-60800	141,252.00
BURKE, WILLIAMS & SORENS	193828 & 193829	10/20/2015	10/15 - Retainer	001-404-60840	8,911.50
QUALITY CODE PUBLISHING,	2015-376	10/20/2015	10/15 - Supplement - Muni C	001-403-60012	1,187.83
TYLER BUSINESS FORMS	213271	10/14/2015	10/13 - Window envelopes f	001-410-61130	127.86
ACCOUNTEMPS	44113138	10/08/2015	Thru 10/2 - M. Atterbery	001-420-60800	86.85
ACCOUNTEMPS	44158543	10/14/2015	Thru 10/9 - S. Zamora	001-420-60800	1,297.65
ACCOUNTEMPS	44158544	10/14/2015	Thru 10/9 - K. Miller	001-420-60800	1,163.60
ACCOUNTEMPS	44167318	10/15/2015	Thru 10/9 - B. Hernandez	001-420-60800	334.54
DEMCO, INC.	5716420	10/16/2015	10/16 - Paladin furniture for	001-558-73500	414.50
COASTAL COPY, LP	635569	10/21/2015	8/16-9/15 - Cont. ovrg. - Lind	001-401-61130	35.06
COASTAL COPY, LP	635570	10/20/2015	9/1-9/30 - Cont. ovrg. - copie	001-511-61130	80.20
COASTAL COPY, LP	635640	10/20/2015	9/16-10/15 - Cont. ovrg. CH/	001-410-61130	569.03
COASTAL COPY, LP	635980	10/21/2015	9/16-10/15 - Cont. ovrg. - Lin	001-410-61130	30.86
G E CAPITAL	63637065	10/18/2015	12/1 - 12/31 - Rec. Ctr. copie	001-511-67140	150.12
MNS ENGINEERS, INC.	66174	10/23/2015	9/15 - City Engineer/public w	001-557-60800	5,421.67
MNS ENGINEERS, INC.	66176	10/23/2015	9/15 - City Storm Water Mg	001-551-60800	20,885.00
MNS ENGINEERS, INC.	66178	10/23/2015	10/23 - City/Misc. Planning S	001-565-60830	2,900.00
MNS ENGINEERS, INC.	66179	10/23/2015	10/23 - Small Permits	001-557-67265	860.00
MNS ENGINEERS, INC.	66180	10/23/2015	10/23 - Crossroads Ctr. @ th	001-22416	20,890.00
MNS ENGINEERS, INC.	66182	10/23/2015	10/23 - 2nd Street Chumash	001-22416	3,375.00
MNS ENGINEERS, INC.	66184	10/23/2015	10/23 - Neighborhood Park	001-22416	375.00
MNS ENGINEERS, INC.	66185	10/23/2015	10/23 - Hampton Inn #90019	001-22416	5,310.00
MNS ENGINEERS, INC.	66186	10/23/2015	10/23 - Industrial Way Road	001-22416	587.50
MNS ENGINEERS, INC.	66188	10/23/2015	10/23 - Village Townhomes #	001-22416	8,520.00
MNS ENGINEERS, INC.	66190	10/23/2015	10/23 - Tilton Engineering D	001-22416	500.00
MNS ENGINEERS, INC.	66192	10/23/2015	10/23 - Poor Development #	001-22416	3,250.00
STAPLES CONTRACT & COM	7002015943	10/21/2015	10/21/15 - Supplies #700201	001-410-61130	99.01
STAPLES CONTRACT & COM	7002018054	10/23/2015	10/23/15 - Supplies #700201	001-420-61130	361.79
STAPLES CONTRACT & COM	7002018055	10/23/2015	10/23/15	001-420-61130	383.39
STAPLES CONTRACT & COM	7702009238	10/15/2015	10/15 - Supplies #70020092	001-511-61130	201.42
STAPLES CONTRACT & COM	7702009238	10/15/2015	10/15 - Supplies #70020092	001-558-61130	27.59
MICHAEL J. GREEN	INV0000745	10/18/2015	10/18 - Tool reimbursement	001-558-61127	11.95
HOLLY SIERRA	INV0000746	10/09/2015	9/30-10/2 - Leage of CA Citie	001-401-60710	341.52
ARTHRITIS FOUNDATION, IN	INV0000767	10/22/2015	10/1 & 10/2 - Refund - CCC B	001-22418	5,100.00
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-410-61241	1,173.36
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-501-61241	623.92
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-510-61241	574.61
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-550-61241	3,201.19
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-552-61241	77.06
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-556-61241	935.91
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	001-565-61241	251.38
KURT GREER	INV0000783	10/30/2015	10/29 - Boots for K. Greer	001-558-60131	66.67
ED ANDRISEK	INV0000787	10/17/2015	9/22-9/25 - CA JPIA Risk Mg	001-401-60710	350.98
ED ANDRISEK	INV0000788	10/17/2015	9/29-10/2 - CA LOCC 2015 A	001-401-60710	295.20

Expense Approval Register

Packet: APPKT00041 - 11/12/15

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
BURKE, WILLIAMS & SORENS	INV0000813	10/20/2015	10/20 - Live Oaks #90015	001-22416	8,296.70
BURKE, WILLIAMS & SORENS	INV0000814	10/20/2015	10/20 - Eminent Doman	001-404-60840	25.70
BURKE, WILLIAMS & SORENS	INV0000815	10/20/2015	10/20 - Dept. of Fin. Lawsuit	001-404-60840	791.20
BURKE, WILLIAMS & SORENS	INV0000816	10/20/2015	10/20 - Appeal of Bowling All	001-22416	331.20
BURKE, WILLIAMS & SORENS	INV0000817	10/20/2015	10/20 - Appeal of Bowling All	001-22416	238.80
Fund 001 - General Fund Total:					262,387.47
Fund: 005 - Sewer Fund					
OLIVERA'S REPAIR, INC	101116	10/21/2015	10/21 - Smog Check 1997 Fo	005-701-60270	30.00
OLIVERA'S REPAIR, INC	101129	10/21/2015	10/21 - Smog check - 2003 F	005-701-60270	21.67
DATAARC, LLC	1476	10/05/2015	3/27/15 - Archiving- Eng. dra	005-701-60800	851.57
PRAXAIR DISTRIBUTION, INC.	54032968	10/20/2015	10/20 - Acetylene & tanks	005-701-61111	138.09
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	005-701-61241	11,132.32
KURT GREER	INV0000783	10/30/2015	10/29 - Boots for K. Greer	005-701-60131	66.67
FLUID RESOURCE MANAGE	W12508	10/20/2015	1/30/15 - SCADA - Flowmete	005-701-60250	800.40
Fund 005 - Sewer Fund Total:					13,040.72
Fund: 020 - Water Fund					
OLIVERA'S REPAIR, INC	101116	10/21/2015	10/21 - Smog Check 1997 Fo	020-601-60270	30.00
OLIVERA'S REPAIR, INC	101129	10/21/2015	10/21 - Smog check - 2003 F	020-601-60270	21.66
DATAARC, LLC	1476	10/05/2015	3/27/15 - Archiving- Eng. dra	020-601-60800	851.57
MATT-CHLOR, INC.	15796	09/30/2015	9/22 - Drop shipment	020-601-60250	196.44
MNS ENGINEERS, INC.	66177	10/23/2015	9/15 - City/Update water	020-601-60830	645.00
MNS ENGINEERS, INC.	66183	10/23/2015	Water Model	020-601-60830	9,357.50
MNS ENGINEERS, INC.	66187	10/23/2015	10/23 - Backflow Prevention	020-601-60830	7,915.00
USA BLUEBOOK	780195	10/19/2015	10/19 - WWTP supplies	020-601-61111	85.56
FRED H. BELEN JR. dba	800	10/23/2015	10/23 - Plumbing rep. parts	020-601-60250	122.76
JAKE KALKOWSKI	INV0000779	10/23/2015	10/23 - Waterwise landscap	020-601-74100	750.00
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	020-601-61241	17,219.60
KURT GREER	INV0000783	10/30/2015	10/29 - Boots for K. Greer	020-601-60131	66.66
Fund 020 - Water Fund Total:					37,261.75
Fund: 029 - Transportation Planning					
MNS ENGINEERS, INC.	66175	10/23/2015	9/15 - City/Transportation pl	029-557-60800	9,380.50
Fund 029 - Transportation Planning Total:					9,380.50
Fund: 051 - Successor Agency Proj Fund					
P G & E	INV0000780	10/15/2015	8/6-8/31 - Summary Billing	051-566-61241	146.19
Fund 051 - Successor Agency Proj Fund Total:					146.19
Fund: 092 - Capital Improvement Proj Fund					
TYLER TECHNOLOGIES, INC.	025-136804	09/30/2015	9/15 - Go Live Assitance	092-203-74100	5,569.36
MNS ENGINEERS, INC.	66181	10/23/2015	10/23 - Reservoir 1 & 2 Roof	092-602-74100	3,417.50
MNS ENGINEERS, INC.	66189	10/23/2015	10/23 - 14/15 Road Maint. &	092-310-74100	29,134.28
MNS ENGINEERS, INC.	66191	10/23/2015	10/23 - Backwash Reclamati	092-603-74100	6,067.50
MNS ENGINEERS, INC.	66193	10/23/2015	10/23 - Recycled Water Prog	092-611-74100	3,427.50
Fund 092 - Capital Improvement Proj Fund Total:					47,616.14
Grand Total:					369,832.77

Report Summary

Fund Summary

Fund	Expense Amount
001 - General Fund	262,387.47
005 - Sewer Fund	13,040.72
020 - Water Fund	37,261.75
029 - Transportation Planning	9,380.50
051 - Successor Agency Proj Fund	146.19
092 - Capital Improvement Proj Fund	47,616.14
Grand Total:	369,832.77

Account Summary

Account Number	Account Name	Expense Amount
001-22166	Long-Term Care Deducti	84.25
001-22416	Developer Deposit	51,674.20
001-22418	Special Event Deposit	5,100.00
001-401-60710	Travel & Training	987.70
001-401-61130	Office Supplies	35.06
001-403-60012	Code Updates	1,187.83
001-404-60840	Contract Services-Legal	9,728.40
001-410-61130	Office Supplies	826.76
001-410-61241	Utilities - Electric	1,173.36
001-420-60800	Contract Services	2,882.64
001-420-61130	Office Supplies	745.18
001-501-60800	Contract Services	142,082.86
001-501-61241	Utilities - Electric	623.92
001-510-61241	Utilities - Electric	574.61
001-511-60270	Maintenance-Vehicles	65.00
001-511-61130	Office Supplies	281.62
001-511-67140	Buellton Recreation Pro	150.12
001-550-61241	Utilities - Electric	3,201.19
001-551-60800	Contract Services	20,885.00
001-552-61241	Utilities - Electric	77.06
001-556-61241	Utilities - Electric	935.91
001-557-60800	Contract Services	5,421.67
001-557-67265	Development Permit Pro	860.00
001-558-60131	Laundry / Uniforms	66.67
001-558-60250	Maintenance / Repair	3,995.00
001-558-60270	Maintenance - Vehicles	116.67
001-558-60800	Contract Services	851.57
001-558-61127	Tools	11.95
001-558-61130	Office Supplies	27.59
001-558-73500	Equipment	414.50
001-565-60800	Contract Services	4,167.80
001-565-60830	Contract Services-Engine	2,900.00
001-565-61241	Utilities - Electric	251.38
005-701-60131	Laundry / Uniforms	66.67
005-701-60250	Maintenance / Repair	800.40
005-701-60270	Maintenance - Vehicles	51.67
005-701-60800	Contract Services	851.57
005-701-61111	Chemicals / Analysis	138.09
005-701-61241	Utilities - Electric	11,132.32
020-601-60131	Laundry / Uniforms	66.66
020-601-60250	Maintenance / Repair	319.20
020-601-60270	Maintenance - Vehicles	51.66
020-601-60800	Contract Services	851.57
020-601-60830	Contract Services-Engine	17,917.50
020-601-61111	Chemicals / Analysis	85.56
020-601-61241	Utilities - Electric	17,219.60
020-601-74100	Improvements	750.00

Account Summary

Account Number	Account Name	Expense Amount
029-557-60800	Contract Services	9,380.50
051-566-61241	Utilities - Electric	146.19
092-203-74100	Improvements	5,569.36
092-310-74100	Improvements	29,134.28
092-602-74100	Improvements	3,417.50
092-603-74100	Improvements	6,067.50
092-611-74100	Recycled Water Progra	3,427.50
	Grand Total:	369,832.77

Project Account Summary

Project Account Key	Expense Amount
None	318,158.57
90010070	20,890.00
90013070	3,375.00
90015070	8,296.70
90017070	375.00
90019070	5,310.00
90021070	8,520.00
90024070	500.00
90025070	3,837.50
90029070	331.20
90031070	238.80
	Grand Total:
	369,832.77



Expense Approval Register

Packet: APPKT00040 - 11/5/15

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 001 - General Fund					
CHANNEL COUNTIES DIVISIO	INV0000818	11/02/2015	11/13 - LOCC-Channel Co. Di	001-401-60710	70.00
FIRST NATIONAL BANK OF O	INV0000819	10/20/2015	Thru 10/20/15 - K. Abello (xx	001-511-60250	43.19
FIRST NATIONAL BANK OF O	INV0000819	10/20/2015	Thru 10/20/15 - K. Abello (xx	001-511-60252	443.76
FIRST NATIONAL BANK OF O	INV0000819	10/20/2015	Thru 10/20/15 - K. Abello (xx	001-511-60800	49.97
FIRST NATIONAL BANK OF O	INV0000819	10/20/2015	Thru 10/20/15 - K. Abello (xx	001-511-67140	519.15
FIRST NATIONAL BANK OF O	INV0000820	10/20/2015	Thru 10/20 - E. Andrisek (xxx	001-401-60710	1,991.42
FIRST NATIONAL BANK OF O	INV0000821	10/20/2015	Thru 10/20 - M. Bierzinski (x	001-402-60710	586.35
FIRST NATIONAL BANK OF O	INV0000821	10/20/2015	Thru 10/20 - M. Bierzinski (x	001-410-60210	100.00
FIRST NATIONAL BANK OF O	INV0000821	10/20/2015	Thru 10/20 - M. Bierzinski (x	001-565-61130	369.66
FIRST NATIONAL BANK OF O	INV0000822	10/20/2015	Thru 10/20 - L. Elovitz (xxxx-	001-410-60900	444.77
FIRST NATIONAL BANK OF O	INV0000823	10/20/2015	Thru 10/20 - C. Galloway-Co	001-420-60900	101.48
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	001-558-60210	79.19
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	001-558-60710	479.59
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	001-558-61130	22.29
FIRST NATIONAL BANK OF O	INV0000825	10/20/2015	Thru 10/20 - B. Knecht (xxxx-	001-511-60250	130.07
FIRST NATIONAL BANK OF O	INV0000825	10/20/2015	Thru 10/20 - B. Knecht (xxxx-	001-511-61130	19.21
FIRST NATIONAL BANK OF O	INV0000825	10/20/2015	Thru 10/20 - L. Reid (xxxx-89	001-511-67140	139.84
FIRST NATIONAL BANK OF O	INV0000826	10/20/2015	Thru 10/20 - L. Reid (xxxx-89	001-401-60900	6.45
FIRST NATIONAL BANK OF O	INV0000826	10/20/2015	Thru 10/20 - L. Reid (xxxx-89	001-410-60900	60.31
FIRST NATIONAL BANK OF O	INV0000826	10/20/2015	Thru 10/20 - L. Reid (xxxx-89	001-420-60900	199.00
FIRST NATIONAL BANK OF O	INV0000827	10/20/2015	Thru 10/20 - H. Sierra (xxxx-	001-401-60710	749.88
FIRST NATIONAL BANK OF O	INV0000827	10/20/2015	Thru 10/20 - H. Sierra (xxxx-	001-401-60900	10.00
Fund 001 - General Fund Total:					6,615.58
Fund: 005 - Sewer Fund					
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	005-701-60210	25.29
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	005-701-60710	479.59
Fund 005 - Sewer Fund Total:					504.88
Fund: 020 - Water Fund					
STEPHEN L. HARPER dba	409548	10/21/2015	10/12 - Tested 23 Backflow d	020-601-60800	2,890.00
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	020-601-60210	25.30
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	020-601-60710	479.58
FIRST NATIONAL BANK OF O	INV0000824	10/20/2015	Thru 10/20 - R. Hess (xxxx-73	020-601-60710	250.00
Fund 020 - Water Fund Total:					3,644.88
Fund: 092 - Capital Improvement Proj Fund					
FIRST NATIONAL BANK OF O	INV0000823	10/20/2015	Thru 10/20 - C. Galloway-Co	092-203-74100	1,423.04
Fund 092 - Capital Improvement Proj Fund Total:					1,423.04
Grand Total:					12,188.38

Report Summary

Fund Summary

Fund	Expense Amount
001 - General Fund	6,615.58
005 - Sewer Fund	504.88
020 - Water Fund	3,644.88
092 - Capital Improvement Proj Fund	1,423.04
Grand Total:	12,188.38

Account Summary

Account Number	Account Name	Expense Amount
001-401-60710	Travel & Training	2,811.30
001-401-60900	Miscellaneous	16.45
001-402-60710	Travel & Training	586.35
001-410-60210	Computer Maintenance	100.00
001-410-60900	Miscellaneous	505.08
001-420-60900	Miscellaneous	300.48
001-511-60250	Maintenance/Repair	173.26
001-511-60252	Maintenance/Repair-Joi	443.76
001-511-60800	Contract Services	49.97
001-511-61130	Office Supplies	19.21
001-511-67140	Buelltton Recreation Pro	658.99
001-558-60210	Computer Maintenance	79.19
001-558-60710	Travel & Training	479.59
001-558-61130	Office Supplies	22.29
001-565-61130	Office Supplies	369.66
005-701-60210	Computer Maintenance	25.29
005-701-60710	Travel & Training	479.59
020-601-60210	Computer Maintenance	25.30
020-601-60710	Travel & Training	729.58
020-601-60800	Contract Services	2,890.00
092-203-74100	Improvements	1,423.04
Grand Total:	12,188.38	

Project Account Summary

Project Account Key	Expense Amount
None	12,188.38
Grand Total:	12,188.38

CITY OF BUELLTON
City Council Agenda Staff Report

City Manager Review: MPB
Council Agenda Item No.: 3

To: The Honorable Mayor and City Council

From: Marc Bierdzinski, City Manager

Meeting Date: November 12, 2015

Subject: Live Oaks Lanes Appeals – Request for Continuance

Resolution No. 15-26 – “A Resolution of the City Council of the City of Buellton, California, Denying the Appeals and Approving the Mitigated Negative Declaration (15-MND-01) and Mitigation Monitoring and Reporting Program for the Live Oak Lanes Project Which includes a Bowling Alley/Entertainment Center and Warehouse Facility on 5.08 Acres Located at 39 and 41 Industrial Way, Assessor’s Parcel Numbers 099-690-045 and 099-690-046”

Resolution No. 15-27 – “A Resolution of the City Council of the City of Buellton, California, Denying the Appeals and Approving the Final Development Plan (13-FDP-03), Lot Line Adjustment (13-LLA-02), and Conditional Use Permit (13-CUP-02) for the Live Oak Lanes Project, Which includes a Bowling Alley/Entertainment Center and Warehouse Facility on 5.08 Acres Located at 39 and 41 Industrial Way, Assessor’s Parcel Numbers 099-690-045 and 099-690-046”

BACKGROUND

Two appeals were filed on the Planning Commission’s September 15, 2015, approval of the Live Oak Lanes project. The two appeals are included as Attachments 1 and 2 and were filed in accordance with the timelines prescribed by the Municipal Code. After review of the two appeals with the City Attorney and the attorney for the project proponent, staff is requesting a continuance of the appeals in order to adequately review and respond to the points in the appeal letters. Staff feels the additional time would allow for a thorough and detailed response so as to be fair to both sides.

Therefore, staff recommends that the City Council open the public hearing and then continue the open public hearing to the January 28, 2016, City Council meeting. However, if any members of the public wish to speak on November 12, the City Council should allow them to do so.

RECOMMENDATION

Staff recommends that the City Council open the public hearing and then continue the open public hearing to the January 28, 2016, City Council meeting.

ATTACHMENTS

Attachment 1 – Appeal Letter from Babak Naficy on behalf of Matt Stoecker
Attachment 2 – Appeal Letter from Dylan K. Johnson on behalf of Terravant



**PROJECT APPLICATION FORM
CITY OF BUELLTON
PLANNING DEPARTMENT**

Received

**SEP 28 2015
CITY OF BUELLTON**

PROJECT LOCATION 39 and 41 Industrial Way
(Address)

099-690-045

SITE ZONING _____ SITE ASSESSOR'S PARCEL NO. 099-690-046

PROJECT DESCRIPTION Approvals of: Resolution No. 15-08 – Mitigated Negative Declaration (15-MND-01) and Resolution No. 15-09 Final Development Plan (13-FDP-03), Lot Line Adjustment (13-LLA-02) and Conditional Use Permit (13-CUP-02) (15-AP-03)

(Attach additional sheets (if necessary))

**PERMITS AND APPROVAL
REQUESTED**

- | | |
|--|--|
| <input type="checkbox"/> ANNEXATION | <input type="checkbox"/> VARIANCE |
| <input type="checkbox"/> GENERAL PLAN AMENDMENT/REZONING | <input type="checkbox"/> SUBDIVISION (TENTATIVE TRACT MAP) |
| <input type="checkbox"/> SPECIFIC PLAN | <input type="checkbox"/> SUBDIVISION (TENTATIVE PARCEL MAP) |
| <input type="checkbox"/> ZONING ORDINANCE TEXT AMENDMENT | <input type="checkbox"/> CONDOMINIUM CONVERSION |
| <input type="checkbox"/> FINAL DEVELOPMENT PLAN | <input type="checkbox"/> ZONING CLEARANCE |
| <input type="checkbox"/> PRELIMINARY DEVELOPMENT PLAN | <input type="checkbox"/> CONCEPTUAL REVIEW |
| <input type="checkbox"/> DEVELOPMENT PLAN MODIFICATION | <input type="checkbox"/> LAND USE EXEMPTION |
| <input type="checkbox"/> CONDITIONAL USE PERMIT | <input type="checkbox"/> SIGN APPROVAL |
| <input type="checkbox"/> MINOR USE PERMIT | <input type="checkbox"/> TEMPORARY USE PERMIT/SPECIAL EVENTS |
| <input type="checkbox"/> USE PERMIT MODIFICATION | <input checked="" type="checkbox"/> APPEAL |
| <input type="checkbox"/> LOT LINE ADJUSTMENT | <input type="checkbox"/> OTHER |
| <input type="checkbox"/> SECONDARY DWELLING UNIT | <input type="checkbox"/> HOME OCCUPATION |

The City charges 100% of its costs of processing to the applicant. Prior to receiving any permits, applicant shall reimburse City for all processing costs. The City will review the application for completeness and will notify the applicant within 30 days of submittal of a complete or incomplete application.

AUTHORIZATION: I, Matt Stoecker, HEREBY AUTHORIZE Babak Naficy TO ACT AS MY AGENT AND TO BIND ME IN ALL MATTERS CONCERNING THIS APPLICATION.

AGGRIEVED PARTY CONTACT INFORMATION

Name Matt Stoecker *(Please Print)*
Phone 650-380-2065
Address P.O. Box 2062, Santa Barbara, CA 93120
E-mail Matt@StoeckerEcological.com

(Signature) 9-25-15
Aggrieved Party Signature *(Required)* Date

I HEREBY DECLARE THAT I AM THE APPLICANT, OWNER, LESSEE, OR ATTORNEY OF THE OWNER, AGENT, OR PERSON WITH THE POWER OF ATTORNEY FROM THE OWNER OF THE ABOVE PROPERTY INVOLVED IN THIS APPLICATION, AND THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE.

THIS DECLARATION IS ALSO INTENDED TO APPLY TO ALL TRANSACTIONS WITH THE SANTA BARBARA COUNTY PLANNING AND DEVELOPMENT DEPARTMENT RELATED TO BUILDING PERMIT ISSUANCE.

AGENT CONTACT INFORMATION

Name Babak Naficy *(Please Print)*
Phone 805-393-0020
Address 1040 Canal Street, San Luis Obispo, CA 93401
E-mail baficy@ecological.com

(Signature)
Applicant Signature Date

Notes and observations (Information regarding disciplinary actions listed on the back of this form)

By SPECIAL AGENT
Approved by: _____
Project Planning Department Head
CDO Application Received

CITY OF BUELLTON

AGREEMENT FOR PAYMENT OF PROJECT APPLICATION PROCESSING FEES

(Note – This Agreement not needed for Zoning Clearance or Land Use Exemption)

FILL OUT COMPLETELY
TYPE OR PRINT

1. ~~Property Owner:~~ Appellant
2. Agent:
- Name: Matt Stoecker Name: Babak Naficy
- Mailing Address: P.O. Box 2062 Mailing Address: 1504 Marsh Street
- Santa Barbara CA 93120 San Luis Obispo CA 93401
(city) (state) (zip) (city) (state) (zip)
- Phone: 650-380-2965 Phone: 805-593-0926
3. Party responsible for payment: (check one) OWNER AGENT OTHER
(If other is checked fill out below)
- Name: _____
- Mailing Address: _____
- (city) (state) (zip)
4. Project address: 39 and 41 Industrial Way 5. APN: 099-690-045 / 099-690-046
6. Application/file reference number: Resolutions 15-08 & 15-09 regarding Live Oak Lanes Project

As the responsible person or party, I hereby agree that the administrative, file storage and material costs incurred in the processing of the applications for the above referenced project will be paid to the City of Buellton. I understand that the deposit I am herewith submitting is for average processing costs and that any additional amount will be billed to me directly. I agree that such additional fees will be paid either: (1) prior to the hearing on the applications, if required by the City at that time and/or, (2) prior to the issuance of a final land use clearance by the City. In the event I withdraw the application, I understand that I will be billed for any outstanding amount, which I agree to pay within thirty (30) days of the billing notice. If not paid within thirty (30) days any amount due the City will bear interest at the highest legal rate. I agree to pay any attorney's fees incurred by the City in collecting said fees. I also understand that if the deposit amount has not been exceeded, I will receive a refund of the remaining amount.

Signed: Babak Naficy

Date: 9-25-2015

(check one): Owner Agent Other



Received

SEP 28 2015

CITY OF BUELLTON

September 25, 2015

Via U.S. Mail and Email

City Clerk
Buellton City Council
107 West Highway 246
Buellton, CA 93427
lindar@cityofbuellton.com

RE: Appeal from the Planning Commission's September 17, 2015 approval of a Mitigated Negative Declaration for the Live Oak Lanes Project (Resolution No. 15-08) and approval of a Final Development Plan (13-FDP-03) and Conditional Use Permit (13-CUP-02) etc. for the same project (Resolution No. 15-09).

This office has been retained to represent Matt Stoecker, a concerned neighbor, on whose behalf I submit this appeal from the Planning Commission's approval of a Mitigated Negative Declaration (MND) (Resolution No. 15-08), and Final Development Plan (FDP) and Conditional Use Permit (CUP) for the Live Oak Lane Project (Resolution No. 15-09), also referred to as the Family Entertainment Center. The project consists of an almost 50,000 square foot Bowling Alley and related facilities, 18,470 sq.ft warehouse facility, as well as landscaping, parking and roadways.

Appellant contends the City has failed to comply with the California Environmental Quality Act ("CEQA"). In particular, appellant contends:

1. The MND fails to adequately describe the project and the project setting.

In particular, the MND

- a. fails to adequately project the quantity of stormwater the project is expected to generate,
- b. fails to describe the stormwater discharge outlet that would convey stormwater from the offsite detention basin to the Santa Ynez River, which is just south of the project site, or
- c. fails to describe the ownership status of the off-site detention basin and falsely claims the project is legally entitled to direct excess stormwater flows to this detention basin across and from there across the neighboring property to the Santa Ynez River,
- d. fails to adequately describe the gross and net capacity of the project's on and off-site detention basins
- e. in part because the City failed to conduct adequate special-status species surveys, the MND fails to adequately describe the full range of protected

1504 Marsh Street
San Luis Obispo
California 93401

ph: 805.593.0926
fax: 805.593.0946

babaknaficy@sbcglobal.net

and special-status species that may be impacted by the construction and operation of the project

- f. The MND claims the project will only include non-amplified outdoor music, but the project description and conditions of approval do not specifically prohibit amplified music.

2. The MND fails to adequately analyze project impacts

The MND is inadequate because it fails to adequately analyze the project's potentially significant impacts, including but not limited to the following:

- a. The MND fails to adequately analyze the project's impact on sensitive species, including those species associated with the riparian habitat along the Santa Ynez River immediately south of the project site. The potentially affected species include but are not limited to least Bell's vireo, southwestern willow fly-catcher, Southwestern Pond turtle, multiple species of bats (including pallid bats), southern steelhead and California red-legged frog. The MND fails to adequately consider whether the construction and operation of the project would impact these species and their habitat by, for example,
 - i. degrading water quality and habitat quality as a result of increased stormwater flows and/or erosion
 - ii. increased noise and vibration associated with both the construction and operation of the project. The MND's analysis is limited to considering impact on human receptors.
 - iii. increased light associated with the operation of the project.
 - iv. increased traffic as a result of both construction and operation of the project
- b. The MND fails to adequately analyze the project's impact on geology and soils by failing to analyze the impact associated with the increased stormwater flows caused by the construction of the project
- c. The MND fails to adequately analyze project impacts on hydrology associated with the increased stormwater flows that are likely to substantially alter drainage patterns in the Santa Ynez River and cause both erosion and siltation off and on-site.

3. The MND fails to describe and the County fails to require adequate and lawful mitigation measures

The MND includes a number of mitigation measures that are inadequate and unlawful as a matter of law, including the following

- a. Condition of Approval 33 requires the applicant to prepare post-approval hydrological studies in order to analyze pre and post-construction flood conditions and make recommendations for addressing on and off-site "flood issues." This mitigation measure violates CEQA because it amounts to impermissible deferral of mitigation measures, it is too vague, does not include adequate performance standards and does not commit the City and the applicant to adequately reducing erosion and water degradation issues potentially caused by stormwater flows from

the project site. This mitigation measure is unlawful also because without any discussion or substantial evidence, it assumes that designing stormwater conveyances based on 25 year rain events adequately addresses the project's potentially significant hydrology/soil/erosion impacts.

- b. Condition of Approval 57(b)(9) prohibits any person from creating noise levels that exceed noise limits set by Buellton Municipal Code "when measured on any receiving property." This mitigation measure is inadequate to ensure noise levels do not harm on protected species including California red-legged frog, least Bell's vireo or southwestern willow fly-catcher in the Santa Ynez River corridor. Likewise, this mitigation measure is inadequate in that it fails to consider whether the noise levels set by the City's Municipal Code are adequately protective of the biological resources that could be affected by noise from the Project.

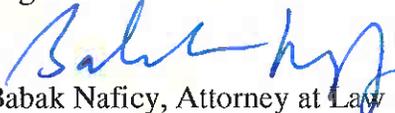
The City must prepare an EIR

Appellant also contends the City violated CEQA by failing to prepare an Environmental Impact Report ("EIR") for this project. An EIR is required because substantial evidence in the record, including expert comments from regulatory agencies (U.S. Fish and Wildlife Service, California Dept. of Fish and Wildlife) and Matt Stoecker, supports a fair argument that the project may cause a significant impact on biological resources. The record shows, moreover, that substantial evidence does not support the MND's conclusion that the Project will not have a significant impact on hydrology/soils/erosion. The evidence in the record shows the project will likely significantly increase stormwater runoff from the site, which in turn will spill over the neighboring parcel to the south and from there flow to the Santa Ynez River. This process will likely cause substantial erosion, adverse impacts on riparian habitat along the River and corresponding impact on hydrology and water quality.

Appellant specifically reserves the right to supplement this appeal letter prior to the City Council's appeal hearing.

Please do not hesitate to contact me should you have any questions.

Regards


Babak Naficy, Attorney at Law

Encl. Check in the amount of \$660

cc. Matt Stoecker



PROJECT APPLICATION FORM CITY OF BUELLTON PLANNING DEPARTMENT

RECEIVED

SEP 28 2015

CITY OF BUELLTON
Planning Department

PROJECT LOCATION Appeal of Live Oak Lanes Project
(Address)

SITE ZONING Industrial SITE ASSESSOR'S PARCEL NO. 099-690-045, -046

PROJECT DESCRIPTION Entertainment and Warehouse Complex

(15-AP-04)

(Attach additional sheets if necessary)

PERMITS AND APPROVAL REQUESTED

- | | |
|--|--|
| <p><input type="checkbox"/> ANNEXATION</p> <p><input type="checkbox"/> GENERAL PLAN AMENDMENT/REZONING</p> <p><input type="checkbox"/> SPECIFIC PLAN</p> <p><input type="checkbox"/> ZONING ORDINANCE TEXT AMENDMENT</p> <p><input type="checkbox"/> FINAL DEVELOPMENT PLAN</p> <p><input type="checkbox"/> PRELIMINARY DEVELOPMENT PLAN</p> <p><input type="checkbox"/> DEVELOPMENT PLAN MODIFICATION</p> <p><input type="checkbox"/> CONDITIONAL USE PERMIT</p> <p><input type="checkbox"/> MINOR USE PERMIT</p> <p><input type="checkbox"/> USE PERMIT MODIFICATION</p> <p><input type="checkbox"/> LOT LINE ADJUSTMENT</p> <p><input type="checkbox"/> SECONDARY DWELLING UNIT</p> | <p><input type="checkbox"/> VARIANCE</p> <p><input type="checkbox"/> SUBDIVISION (TENTATIVE TRACT MAP)</p> <p><input type="checkbox"/> SUBDIVISION (TENTATIVE PARCEL MAP)</p> <p><input type="checkbox"/> CONDOMINIUM CONVERSION</p> <p><input type="checkbox"/> ZONING CLEARANCE</p> <p><input type="checkbox"/> CONCEPTUAL REVIEW</p> <p><input type="checkbox"/> LAND USE EXEMPTION</p> <p><input type="checkbox"/> SIGN APPROVAL</p> <p><input type="checkbox"/> TEMPORARY USE PERMIT/SPECIAL EVENTS</p> <p><input checked="" type="checkbox"/> APPEAL</p> <p><input type="checkbox"/> OTHER</p> <p><input type="checkbox"/> HOME OCCUPATION</p> |
|--|--|

The City charges 100% of its costs of processing to the applicant. Prior to receiving any permits, applicant shall reimburse City for all processing costs. The City will review the application for completeness and will notify the applicant within 30 days of submittal of a complete or incomplete application.

AUTHORIZATION: I, Lew Eisaguirre, HEREBY AUTHORIZE Brownstein Hyatt Farber Schreck, LLP TO ~~REPRESENT AND ACT FOR ME~~ REPRESENT ME IN ALL MATTERS CONCERNING THIS APPLICATION.

PROPERTY OWNER CONTACT INFORMATION

Name Lew Eisaguirre (Please Print)
 Phone (805) 686-9409
 Address 35 Industrial Way, Buellton, CA 93427
 E-Mail lew@terravant.com

Property Owner Signature (Required) Date 9/25/15

I DECLARE THAT I AM THE APPLICANT, OWNER, LESSEE, OR ATTORNEY OF THE OWNER, AGENT, OR PERSON WITH THE POWER OF ATTORNEY FROM THE OWNER OF THE ABOVE PROPERTY INVOLVED IN THIS APPLICATION, AND THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE.

THIS DECLARATION IS ALSO INTENDED TO APPLY TO ALL TRANSACTIONS WITH THE SANTA BARBARA COUNTY PLANNING AND DEVELOPMENT DEPARTMENT RELATED TO BUILDING PERMIT ISSUANCE.

AGENT CONTACT INFORMATION

Name Dylan Johnson, Esq. (Please Print)
 Phone (805) 882-1413
 Address Brownstein Hyatt Farber Schreck, LLP
1020 State Street, Santa Barbara, CA 93101
 E-Mail djohnson@bhfs.com

Applicant Signature Date 9/25/15

Please see important information regarding **Disability Access Laws** on the back of this form.

OFFICIAL USE ONLY

Application Fee/ Deposit Received: 9/20/15 12718

Payment Processing Agreement Recd: 9/20/15 9660-

C&D Application Received: N/A

RECEIVED

SEP 28 2015

CITY OF BUELLTON
Planning Department

CITY OF BUELLTON

AGREEMENT FOR PAYMENT OF PROJECT APPLICATION PROCESSING FEES

(Note – This Agreement not needed for Zoning Clearance or Land Use Exemption)

FILL OUT COMPLETELY
TYPE OR PRINT

- | | |
|--|--|
| 1. Property Owner: | 2. Agent: |
| Name: <u>Terravant Wine Company</u> | Name: <u>Dylan Johnson</u> |
| Mailing Address: <u>35 Industrial Way</u> | Mailing Address: <u>1020 State Street</u> |
| <u>Buellton</u> <u>CA</u> <u>93427</u> | <u>Santa Barbara</u> <u>CA</u> <u>93101</u> |
| (city) (state) (zip) | (city) (state) (zip) |
| Phone: <u>(805) 686-9400</u> | Phone: <u>(805) 882-1413</u> |

3. Party responsible for payment: (check one) OWNER AGENT OTHER
(If other is checked fill out below)
- Name: _____
- Mailing Address: _____
- _____ (city) _____ (state) _____ (zip)

4. Project address: Appeal of Live Oak Lanes project 5. APN: 099-690-045, 099-690-046

6. Application/file reference number: _____

As the responsible person or party, I hereby agree that the administrative, file storage and material costs incurred in the processing of the applications for the above referenced project will be paid to the City of Buellton. I understand that the deposit I am herewith submitting is for average processing costs and that any additional amount will be billed to me directly. I agree that such additional fees will be paid either: (1) prior to the hearing on the applications, if required by the City at that time and/or, (2) prior to the issuance of a final land use clearance by the City. In the event I withdraw the application, I understand that I will be billed for any outstanding amount, which I agree to pay within thirty (30) days of the billing notice. If not paid within thirty (30) days any amount due the City will bear interest at the highest legal rate. I agree to pay any attorney's fees incurred by the City in collecting said fees. I also understand that if the deposit amount has not been exceeded, I will receive a refund of the remaining amount.

Signed: *[Signature]* Date: 9/25/15

(check one): Owner Agent Other





September 25, 2015

Dylan K. Johnson
Attorney at Law
805.882.1413 tel
805.965.4333 fax
djohnson@bhfs.com

VIA HAND DELIVERY AND E-MAIL

City Council for the City of Buellton
Attn: City Manager Marc Bierdzinski
P.O. Box 1819
Buellton, CA 93427
marcb@cityofbuellton.com

RE: Appeal of Approvals for Live Oak Lanes Project

To the City Council:

Brownstein Hyatt Farber Schreck presents this appeal letter on behalf of its client Terravant Wine Company ("Terravant") pursuant to Buellton Municipal Code ("Municipal Code") Section 19.10.130.B. By this letter, Terravant appeals to the City Council the Live Oak Lanes project ("Project"), which was approved by the Planning Commission on September 17, 2015 pursuant to Resolution Nos. 15-08 and 15-09.

Terravant owns property located adjacent to the Project, at 35 Industrial Way ("Terravant Property").¹ The Project as approved interferes with access to Terravant's Property and includes invalid drainage onto Terravant's Property. The Mitigated Negative Declaration ("MND") for the project also contains a number of errors and omissions, and is insufficient because the Project presents a number of significant impacts. An Environmental Impact Report ("EIR") must be prepared for the Project.

For these reasons, as explained in further detail below, Terravant requests that the City Council: (1) vacate the Planning Commission's approval of Resolution Nos. 15-08 and 15-09, (2) direct staff and the applicant to prepare an Environmental Impact Report for the Project, (3) require the applicant to resolve access issues with Terravant and demonstrate valid drainage before the City will reconsider the Project, and (4) require the applicant to reach a cost-sharing agreement with other users of the sewer lift station serving area parcels before the City will reconsider the Project.

Background

The proposed Project is a 49,790 square foot family entertainment center consisting of a bowling alley, arcade, sports bar with lounge and outdoor deck, party and meeting rooms, and office space. The Project will also include a lighted 5-stall batting cage and bocce ball courts, as well as an 18,470 square foot warehouse.²

¹ The Terravant Property is designated as Assessor Parcel Nos. 099-690-044 and 099-690-039.

² Revised Draft, Initial Study/Mitigated Negative Declaration for the Live Oak Lanes Project, 15-MND-01, dated August 12, 2015 (hereinafter, "MND"), p. 4.

1020 State Street
Santa Barbara, CA 93101-2711
main 805.963.7000

The Project will be constructed on two parcels located directly to the northwest of the Terravant Property.³ Terravant maintains and operates a winery facility and restaurant on its property. Commercial trucks and vehicles regularly access the rear of the Terravant facility by way of the road that runs along the rear of the Terravant facility ("Operations Area"). See attached Exhibit A.

As proposed, the Project will direct employee and truck traffic from Industrial Way to turn right on the road in front of Figueroa Mountain, then to turn left on the road running along the rear of Ascendant Spirits and Terravant, and finally to turn right into the Project at the southwest corner of the Project property. See Exhibit A. Employee and truck traffic will exit in the same manner. This path of travel will bring Project employee and truck traffic into direct conflict with the commercial traffic currently servicing the Terravant facility, which creates a serious safety hazard.

The Project also proposes to bring 711 customer trips in the same general path of travel, though not through the Operations Area. See Exhibit A. But nothing would prevent customers from accidentally entering the Operations Area.

The Project plans also show the Project draining stormwater across the southern property line, on both the west and east sides of the property, into a detention pond located on Terravant's Parcel No. 099-690-039. See attached Exhibit A. The City owns an easement to use the detention pond for drainage from City facilities pursuant to a grant by the former owner of the Terravant Property. The easement was created to allow the City to drain City stormwater from Industrial Way onto the Parcel No. 099-690-039. The Project possesses no right by easement or otherwise to drain directly onto the Terravant Property.

As explained below, due to the access and drainage issues, and deficiencies in the environmental review, the Project is inconsistent with the Municipal Code and is in error.

Authority for Appeal

The Buellton Municipal Code Section 19.10.130 provides that decisions of the Planning Commission may be appealed to the City Council within 10 days of the decision by any interested person adversely affected by the decision. The Planning Commission approved the Project on September 17 and this letter was filed on September 25.

The appellant must state specifically how the decision is inconsistent with the purposes of Title 19, Zoning, or otherwise in error.⁴ The approval of the Project by the Planning Commission is inconsistent with the City's zoning code and in error for the following reasons.

Grounds for Appeal

1. Vehicle Access and Circulation

As explained in detail in the memorandum attached as Exhibit B, Terravant has the sole right to the Operations Area through its long continued use of the property and Project traffic may not interfere with their rights.

In December 2014, Terravant and the applicant and owner of the Project, agreed through their attorneys to the terms of a lot line adjustment agreement (see correspondence attached as Exhibit C) to resolve the

³ The parcels for the Project are designated as Assessor Parcel Nos. 099-690-045 and 099-690-046.

⁴ Municipal Code § 19.10.130.B.2.

access and public safety issues. However, since that time, the applicant has not consulted with Terravant and has refused to complete the lot line adjustment agreement.

City staff addressed the access issue in cursory fashion in its staff report for the Project, stating on page 12 under "Compatibility" that the "applicant and Terravant still need to work out easement details" and that there would be "shared access." This one statement without any enforceable conditions is wholly inadequate to address the significant problem presented by the Project's proposed circulation pattern.

The Project should not have been approved prior to the resolution of this access issue. A project cannot be approved without adequate access. The traffic analysis in the MND is also in error because it does not analyze the effects of customer traffic conflicting with heavy commercial traffic to the Terravant facility (see discussion in Section 3.A.). The City Council should require the applicant to resolve the access issue prior to project approval and the City should prepare an EIR that accurately analyzes any remaining access issues.

2. Drainage

The applicant intends to drain stormwater from the Project directly onto the detention basin located on property owned by Terravant. The applicant has no right to drain onto Terravant's property.

The Project plans show storm water draining across the Project's southern property line, on both the eastern and western sides of the property, into the neighboring detention basin located on property owned by Terravant, designated by the County as Assessor Parcel No. 099-690-39.⁵ ("Terravant Parcel"). Neither the City nor the Project has an easement to drain in the manner proposed.

The Project plans show an "Existing Drainage Easement" running along the western side of the property in the path of the planned drainage. But this is deceptive. While there is an existing drainage easement in this area, it is a private drainage easement benefitting only the property to the north of the Project property.⁶ The Project has no right to use this private easement granted to another property.

A "Variable Width Public Drainage and Storm Water Detention Easement" in the vicinity of the proposed drainage granted to the City in 2000 by Instrument No. 2000-0069655⁷ was later vacated by Parcel Map 31,035.⁸ The Parcel Map states in the lower left corner: "The 10' wide Public Drainage Easement and the variable width Public Drainage and Storm Drain Water Detention Easement per (R) and per Inst. No.s 2000-0069655 & 2001-0002993 O.R. were abandoned hereon per Section 66434(g) of the State Subdivision Map Act." The Parcel Map does not display any other drainage easements in the vicinity of the Project's proposed drainage.⁹

⁵ See highlighted parcel on Assessor Parcel Map, attached as Exhibit D and Exhibit A, "Detention Basin."

⁶ Per Parcel Map 31,019, the drainage easement benefits Parcel 1, the property to the north of the Project property. See highlighted language on Parcel Map 31,019, attached as Exhibit E.

⁷ Inst. No. 2000-0069655 is attached hereto as Exhibit F. We have highlighted the variable width easement for reference on the map attached as Exhibit A to the Instrument.

⁸ Parcel Map 31,035 is attached hereto as Exhibit G.

⁹ Furthermore, this easement granted in 2000 was granted only to the City, not to the Project property, and did not allow drainage onto the Terravant Parcel. See map attached as Exhibit A to Exhibit E of this letter. The arrows delineate the extent of the easement and they do not show drainage being permitted onto the Terravant Parcel. The intent of this easement document seems to have been to create the detention basin on a portion of Parcel 3 of Map 31,019. Sometime later the City evidently decided to move the detention basin to the Terravant Parcel, Parcel 4 of Map 31,019.

In 2006, Buellton Industrial Partners II, LLC, granted the City an easement on the Terravant Parcel to construct a detention basin to receive storm water drainage from Industrial Way.¹⁰ For ease of understanding, we have attached as Exhibit I a map with the City's current drainage easement shown in highlighting.

The easement to the City did not grant any rights to drain from any other parcels located adjacent to the Terravant Parcel and did not grant rights to any third parties to drain directly into the Terravant Parcel. A public utility easement such as this drainage easement is not an easement for public use. "Public utility easements, by their express terms, define the class of persons who have an interest or right in the use of the easement, and these easements do not extend rights to the public in general..."¹¹ The court of appeal has also held in an unpublished case that where a town acquired a public utility easement for public use, the plaintiff had no private right as an individual landowner to use the easement to install a sewer connection.¹²

The 2006 drainage easement grants drainage rights solely to the City and not to the public at large or any individual member. Therefore, only the City may drain stormwater from City facilities into the Terravant Parcel through the easement running from Industrial Way. There is no right for the Project to drain its private stormwater directly into the Terravant Parcel.

The Project plans and the MND, which also assumes drainage in the manner proposed on the plans, are both in error. The Project has not demonstrated the required drainage and cannot be approved until drainage has been secured. The City Council should require the applicant to secure valid drainage prior to project approval and the City should prepare an EIR that accurately analyzes the proposed drainage.

3. Environmental Analysis

The California Environmental Quality Act ("CEQA") strongly favors the preparation of an EIR by setting a low threshold for when an EIR is required.¹³ If a project may cause a significant effect on the environment, the agency must prepare an EIR.¹⁴ A project may have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact.¹⁵ An agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that the project may have a significant effect on the environment.¹⁶

The following constitutes substantial evidence supporting a fair argument that the project may have a significant effect on the environment.

¹⁰ The easement agreement is Inst. No. 2006-0035314, attached hereto as Exhibit H. Note that the description of the easement references both Parcel Maps 31,019 and 31,035, but attaches only map 31,019. Map 31,019 is the controlling map for the Terravant Parcel, but Map 31,019 has been superseded by Map 31,035 as to the parcels owned by Live Oak Lanes. Parcel Four on Parcel Map 31,019 is the Terravant Parcel on which the detention basin is located. The portion of Parcels One and Two of Parcel Map 31,035 described in the easement as being a 20' wide strip of land shown as "20' wide Public Drainage Easement to the City of Buellton per this map" runs along the southeastern edge of the Terravant property and the property just to the north. See Exhibit I for a highlighted map of the City's easement.

¹¹ *Cnty. of Sacramento v. Pac. Gas & Elec. Co.* (1987) 193 Cal.App.3d 300, 313.

¹² See *Almon v. Way*, Cal.App.Unpub, LEXIS 7988, Oct. 1, 2007, at *27.

¹³ Practice Under the California Environmental Quality Act (2d ed. Cal. CEB), § 6.37.

¹⁴ Pub Res C §§21100, 21151; 14 Cal. Code Regs. § 15064(a)(1), (f)(1).

¹⁵ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83 n.16; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309.

¹⁶ *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of "B" St. v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002.

A. Traffic/Transportation, Circulation, Land Use Compatibility

The project proposes to direct trucks and employee traffic along the eastern property line, directly through Terravant's Operations Area. See Exhibit A. Terravant has heavy truck traffic entering and exiting, and performing wide turns, in this location. It is not safe for employee traffic to be located in such proximity to the truck traffic serving Terravant and the proposed industrial development. Additionally, there is no barrier to prevent patrons of the Project from using the same path of travel, which poses a serious safety concern.

Furthermore, Project employee, truck *and* customer traffic will be entering and exiting the Project by way of the same road over which Terravant also owns an easement. See Exhibit A, "Terravant Easement." Terravant uses this easement area on a regular basis for truck and forklift traffic. Placing an additional 711 customer traffic trips in the same path of travel as commercial and industrial traffic presents serious safety concerns.

Appendix G of the CEQA Guidelines requires the environmental document to analyze whether the project would substantially increase hazards due to a design feature or incompatible uses. The safety issues posed by the intended design and traffic circulation plan represent a significant impact that requires analysis in an EIR.

Appendix G also requires the environmental document to analyze whether the project will conflict with any applicable land use plan, policy, or regulation adopted to avoid or mitigate environmental effects. The City's General Plan provides that new development shall incorporate a balanced circulation network that provides safe, multi-route access for vehicles, bicycles, and pedestrians.¹⁷ Again, the proposed circulation plan poses a significant safety risk that would conflict with the General Plan, among other policies and regulations of the City pertaining to public safety and traffic hazards.

Finally, the traffic analysis does not contain an analysis of peak A.M. trips and does not explain why A.M. trips were excluded. Presumably employees and trucks will be accessing the Project site during the A.M. hours.

The proposed circulation plan for the Project was not analyzed at all in the MND and creates the potential for significant impacts to traffic and safety. An EIR must be prepared for the Project that adequately analyzes the impacts of circulation plan and includes peak A.M. trips.

B. Floodplain/Clean Water Act

The MND provides that the project is not located within the U.S. Army Corps of Engineers' permitting jurisdiction because it is outside the high water mark of the Santa Ynez River. However, the definition of "Waters of the U.S." subject to Army Corps jurisdiction was recently revised by new regulation of the U.S. E.P.A. and Army Corps. Waters of the U.S. now include all waters located within the 100-year floodplain of a water used for interstate commerce, interstate waters, and territorial seas.¹⁸ Due to the size and importance of the Santa Ynez River, it is likely that it would be considered a water of the U.S. Since the site is within the 100-year floodplain of the River, it would likely be subject to the permitting jurisdiction of the U.S. Army Corps of Engineers.

Appendix G requires that the environmental document analyze whether the project would violate any water quality standards or otherwise substantially degrade water quality. The Project is likely located within Army Corps jurisdiction and within an area considered a water of the U.S. Therefore, it has the potential to violate

¹⁷ General Plan, Policy L-11.

¹⁸ 80 Fed. Reg. 124, June 29, 2015, p. 37105.

water quality standards or degrade water quality through construction and operations within the 100-year floodplain of the Santa Ynez River. This is a potentially significant impact that requires preparation of an EIR. The EIR must also list any permit that would be required by the Army Corps for construction and operations within a water of the U.S.

C. Flood Hazards

The MND states that the project is located within the 100-year floodplain of the Santa Ynez River, which places it in a flood hazard zone, and that the project will change the floodplain by adding 13,628 CY of fill. Appendix G provides that the environmental document must analyze the impacts of placing structures within a 100-year flood hazard area that would impede or redirect flood flows. Therefore, the Project presents the potential for a significant impact from redirecting flood flows.

Despite this potential significant impact, the MND concludes that there is no significant impact because Public Works is requiring a hydraulic and hydrologic study demonstrating no adverse impacts to upstream properties.¹⁹ This mitigation measure is improper deferred mitigation. A proper mitigation measure includes enforceable standards to mitigate impacts.²⁰ This vague requirement to obtain a study demonstrating no impacts contains no enforceable standards to ensure that the study is performed accurately and reasonably.

Appendix G also requires that the environmental document analyze whether the project will expose people or structures to a significant risk of loss, injury or death involving flooding as a result of failure of a levee or dam. The MND reports that the Project site is located within a dam failure hazard area, but states simply that this is not considered a significant impact because the project is commercial and has limited patronage.²¹ This statement is conclusory and does not qualify as an analysis of the significant impact of placing patrons and employees of the Project in a flood hazard area. An EIR must be prepared to analyze this potentially significant impact.

4. Error in MND Regarding Required Permits/Approvals

The MND states that only a Lot Line Adjustment, CUP, and Final Development Plan are required for the project. But the noise section states that additional permits may be required to hold outdoor events that are analyzed in the MND.²²

The project description must include a list of permits and approvals required to implement the project.²³ The MND is deficient for failure to include in the project description other permits that would be required to hold outdoor events. Outdoor events are certainly contemplated by the applicant as they are analyzed in the noise section of the MND. The EIR for the Project must include all required permits and approvals.

5. Findings

The Planning Commission's findings for approval of the Project, as stated in Resolution No. 15-09, are not supported by the evidence, as follows.

¹⁹ MND, p. 34.

²⁰ See Practice Under the California Environmental Quality Act (2d ed. Cal. CEB), § 14.2.

²¹ MND, p. 34.

²² MND, p. 43.

²³ CEQA Guidelines § 15124(d)(1)(B).

A. Final Development Plan

Finding No. 1: *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of development proposed because the project site is appropriately designated for such uses under the City's General Plan, zoning is consistent, and the proposed site improvements and conditions of approval allow for adequate circulation around and through the site.*

The Project site is not adequate to accommodate a project of this intensity. The surrounding roads and alleys will not accommodate the additional 711 estimated daily trips from this Project. As explained above, the circulation plan for the Project presents serious problems through interference with Terravant's neighboring use. The site is undeveloped and located next to a variety of habitat types that will be damaged by the level of noise and light pollution created by the Project. Finally, the site is zoned Industrial Manufacturing and has a General Plan designation of Industrial Manufacturing and Open Space. General Plan policy L-34 states that "Industrial development shall be encouraged ... on Industrial Way." Only a small percentage of the Project is industrial. An entertainment facility is completely inconsistent with an industrial designation. The City has not and cannot make the necessary findings to demonstrate that a family and tourist entertainment business is compatible with industrial use.

Finding No. 2: *No adverse impacts have been identified with this project through the incorporation of the mitigation measures from the Mitigated Negative Declaration that have been made conditions of approval.*

The Project presents a number of adverse impacts, as explained above. An EIR must be prepared for the Project.

Finding No. 3: *That streets and are adequate and properly designed pursuant to the requirements of the City Engineer. The Fire Department has approved the circulation system from a Fire Department perspective.*

As explained above, the local streets are wholly inadequate to serve the Project.

Finding No. 5: *That the Project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will be compatible with the surrounding area. The Project site is zoned for industrial uses, and surrounding land uses are also industrial. The proposed Project is expected to be compatible with the surrounding area.*

The Project is not compatible with Industrial zoning for the area or the surrounding industrial uses. The circulation plan places employee and truck traffic for the Project, and potentially customer traffic, in direct conflict with commercial traffic serving the Terravant facility. This presents a significant safety problem. Furthermore, the roads in the area cannot accommodate the amount of trips that the Project will generate.

Finding No. 6: *That the project is in conformance with the applicable provisions of Title 19 of the Municipal Code and the General Plan. With imposition of the conditions of approval, the project complies with both the General Plan and Title 19 (Zoning).*

The Project is inconsistent with Title 19 in that it does not have adequate access, it does not have storm water drainage, it is inconsistent with the zoning and General Plan designations for the site, and presents a number of environmental issues as explained above.

B. Lot Line Adjustment

Finding No. 1: *The lot line adjustment is consistent with the general plan, zoning ordinance, and subdivision ordinance with respect to parcel design, minimum lot area, environmental quality, and public health and*

safety criteria and other applicable municipal code and state law provisions relating to real property divisions, which is equal to or better than the position of the existing lots before adjustment.

As described above, the Project is inconsistent with the zoning and General Plan designations for the site, it presents a public safety problem with respect to traffic and circulation, and will impact the environment in a number of ways.

C. Conditional Use Permit

Finding No. 1: *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of proposed development, and that the conditions as included would ensure the project's consistency with the intent of the City's zoning, while protecting the health, safety and welfare of those using the facility as well as City residents in general.*

The Project site is not adequate to accommodate a project of this intensity. The surrounding roads will not accommodate the 711 estimated new daily trips from the Project. As explained above, the circulation plan for the Project presents serious problems through interference with Terravant's neighboring use and presents safety problems. Finally, the Project is inconsistent with the zoning and General Plan designations for the site.

Finding No. 2: *No adverse impacts have been identified with this project through the incorporation of the mitigation measures from the Mitigated Negative Declaration that have been made conditions of approval.*

The Project presents a number of potentially significant impacts, as explained above. An EIR must be prepared for the Project.

Finding No. 3: *That streets are adequate and properly designed pursuant to the requirements of the City Engineer. The Fire Department has approved the circulation system from a Fire Department perspective.*

As explained above, the local streets are wholly inadequate to serve the Project.

Finding No. 5: *That the Project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will be compatible with the surrounding area. The Project site is zoned for industrial uses, and surrounding land uses are also industrial. The proposed Project is expected to be compatible with the surrounding area.*

The Project is not compatible with Industrial zoning for the area or the surrounding industrial uses. The circulation plan places employee and truck traffic for the Project, and potentially customer traffic, in direct conflict with commercial traffic serving the Terravant facility. This presents a significant safety problem. Furthermore, the roads in the area cannot accommodate the amount of trips that the Project will generate.

Finding No. 6: *That the project is in conformance with the applicable provisions of Title 19 of the Municipal Code and the General Plan. With imposition of the conditions of approval, the project complies with both the General Plan and Title 19 (Zoning).*

The Project is inconsistent with Title 19 in that it does not have adequate access, it does not have storm water drainage, it is inconsistent with the zoning and General Plan designation for the site, and presents a number of environmental issues as explained above.

6. Other Inconsistencies and Issues

A. Third Warehouse Door

The staff report for the Project states that the warehouse will have two overhead doors while the plans clearly show three.²⁴ The one to the south of the grain silo is located in an area that will create traffic jams. If a truck pulls up to load or unload from this door, it will obstruct the flow of employee and truck traffic to the entrance to the Project site, as well as trucks servicing the Terravant facility at the Operations Area. The Planning Commission was misinformed about this aspect of the Project.

B. Lift Station

At the September 17 hearing, the Planning Commission modified condition no. 39 of the Conditions of Approval for the Final Development Plan, Lot Line Adjustment, and Conditional Use Permit. Condition no. 39 pertains to a sewer lift station that serves several properties in the area and is currently being maintained by Terravant. The condition requires the applicant to enter into agreements for the maintenance, service and operations of the lift station. At the hearing, the Commission modified the condition to require that the agreements would provide for cost-sharing between the applicant and other properties in the area using the lift station. In response, the applicant stated at the hearing that if any other property owners disagreed with the cost-sharing arrangement she includes in the agreements, she would simply disconnect their service.

The applicant has no right to disconnect other property owners from the lift station. The wording of condition no. 39 was left ambiguous at the hearing. The City Council should require the applicant to come to an agreement on cost-sharing with all property owners currently utilizing the lift station prior to reconsidering approval of the Project, and that the applicant has no right to disconnect any property owner from the lift station.

Conclusion

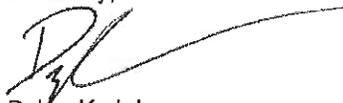
On the bases set forth above, Terravant requests that the City Council take the following actions:

1. Vacate Resolution Nos. 15-08 and 15-09 adopted by the Planning Commission, which includes vacating the Commission's approval of the Final Development Plan, Lot Line Adjustment, and Conditional Use Permit for the Project
2. Direct City staff to prepare an EIR for the Project that adequately addresses all issues raised in this appeal before the Project is reconsidered
3. Direct that the applicant do the following before the City will reconsider the Project:
 - a. Resolve access issues caused by employees and trucks entering the Project through Terravant's Operations Area by coming to an appropriate agreement with Terravant or changing the circulation plan to avoid Terravant's Operations Area
 - b. Secure valid drainage for stormwater by coming to an agreement with Terravant for use of its property or by avoiding draining onto Terravant's property

²⁴ Staff Report dated September 17, 2015, p. 10.

4. Direct the applicant that, prior to reconsideration of the Project, she must reach an agreement on cost-sharing with all property owners currently utilizing the lift station for maintenance, service and operations of the lift station

Sincerely,



Dylan K. Johnson

CC:

Mayor Sierra
hollys@cityofbuellton.com
Council Member Andrisek
eda1248@comcast.net
Council Member Baumann
danb@cityofbuellton.com
Council Member Connolly
jconnolly@syvuhdsd.org
Council Member Elovitz
lelovitz@gmail.com

Attachments:

Exhibits A - I
016231\0003\13376495.1

EXHIBIT A

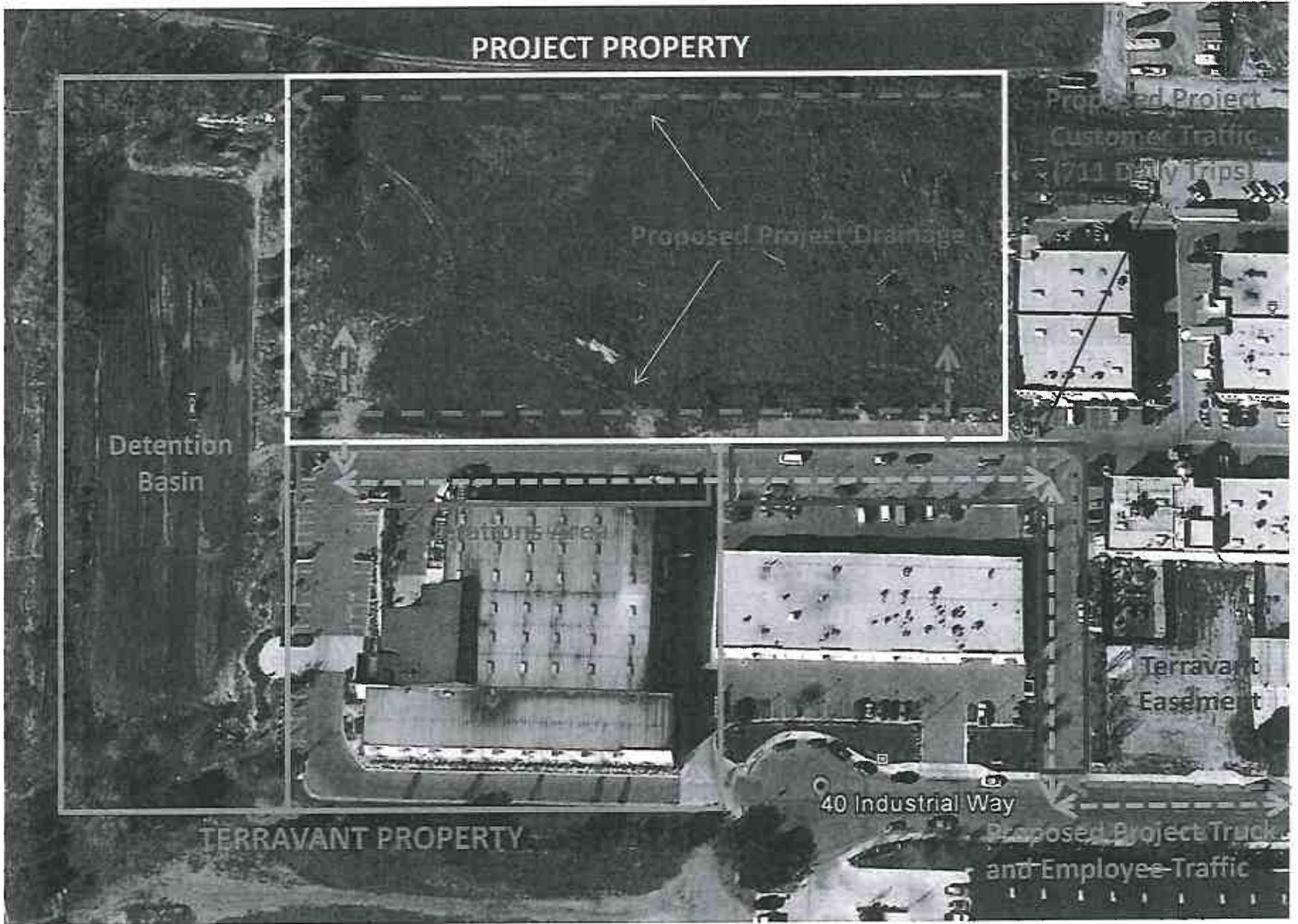


EXHIBIT B

July 3, 2014

Beth Collins-Burgard
Attorney at Law
805.882.1419 tel
805.965.4333 fax
BCollins@bhfs.com

**CONFIDENTIAL SETTLEMENT COMMUNICATION
EVID. CODE § 1152, ET SEQ.**

VIA E-MAIL

Ms. Carol Leshler-Peterson
980 Old Ranch Road
Solvang, CA 93463

RE: Easement On Paved Area of Your Property and Your Proposed Live Oak Lanes Project (Case Nos. 12-MND-03, 13-FDP-03, 13-LLA-02, 13-CUP-02)

Dear Ms. Leshler-Peterson:

Brownstein Hyatt Farber Schreck represents Terravant Wine Company with respect to its property at 35 and 70 Industrial Way in Buellton (Terravant Property). We are writing this letter to alert you to a serious legal conflict that has arisen between you and Terravant in hopes that we can resolve the situation amicably. If we cannot however Terravant will be forced to pursue all the legal remedies available in order to ensure continued uninterrupted use of the paved operations area at the back of its building, a portion which is located on your property.

I. Factual Background: The Operations Area on Your Property Was Built for the Benefit of Terravant and Terravant Has Used the Area Without Interruption Since 2008

As you know, the Terravant Property is immediately adjacent to your property and the proposed Live Oak Lanes Project (Project). The buildings and associated facilities and asphalt were constructed in 2008 (hereinafter referred to as Terravant Development). Terravant has been using the Terravant Development since that time. In fact, the Terravant Property hosts the largest industrial operation in the City of Buellton. It has over 100 employees and is on track to produce nearly 500,000 cases of wine this year for over 150 customers.

The Terravant Property was developed as a build-to-suit project. During the build-out it became evident that additional paved area would be needed behind the Terravant building to allow sufficient area for all the necessary operations – loading, unloading, and other industrial wine-related activities such as staging and cleaning of tanks and other materials, piping of waste from the waste treatment plant into tanker trucks, unloading of hoppers full of grapes to be processed, and placement of a back-up generator and a large crane. This "Operations Area," located at the rear of the building, parallel to the property line, hosts active loading and unloading of many tractor trailers including tankers full of bulk wine, trailers loaded with finished cases, 24 ton condole trailers loaded full of grapes and dump truck loads full of grape skins to be trucked away. To assist with loading and unloading, there is also significant forklift and worker activity and

1020 State Street
Santa Barbara, CA 93101-2711
main 805.963.7000

at times, temporary placement of various goods. This activity is even more intensive and can run 24-hours a day during harvest season.

Since both your property and the Terravant Property were initially supposed to be part of the same project, and there was not enough room for all the Operations Area on the Terravant Property, it was agreed by the City, Terravant, and the property owner of the parcels at the time that some of the Operations Area would be located on your property, for the benefit of the Terravant Development. Significant cost and effort was put into developing the area, including installation of underground piping and other utilities, import of approximately five feet of fill, compacting that fill, and placement of asphalt material. Terravant paid for those improvements, initially through its lease and then later again when it purchased the property.

This Operations Area was developed for the benefit of the Terravant Property. It has always been used by the Terravant Property. This is evident from review of an aerial photo of the two properties side by side. All the improvements are clearly part and parcel to the Terravant operation. (See enclosure.) They are not related to any use on your property and were not developed for the benefit of your property. Terravant was always intended to have uninterrupted use and control of this area and has always had uninterrupted use and control of this area. In fact, there are often lines of trucks or temporary storage of tanks and other equipment that block access through the area.

When you purchased the property you were not only aware of Terravant's use of the property, you acknowledged that Terravant had an ongoing right to continue to use the property. The prior owners of the property also knew of Terravant's use and acknowledged that Terravant had the right to continue to use the property. Just as Terravant paid more for its property because of their use of the Operations Area on your property, you paid less for your property because of Terravant's use of a portion of your property.

II. The Current Design of the Live Oaks Lane Project Will Significantly Interfere with Terravant's Uninterrupted Use of its Operations Area and Will Pose Significant Risks to the Public, Terravant's Business, and the Businesses of Terravant's Customers

Terravant is entitled to continued, uninterrupted use of its Operations Area. Terravant's use of the area cannot be blocked or interfered with in any way. The circulation plan for your Proposed Live Oak Lanes Project ("Project") will interfere with Terravant's use of its property.

First, if the access through the Operations Area is required for your Project's circulation, then Terravant's operations, which sometimes block the access through the area, will be limited. Second, the environmental analysis for the Project estimates and analyzes 695 average daily trips to your Project. The proposed circulation plan has these visitors exiting from your property and driving right through the heart of Terravant's Operations Area. These trips will include cars full of families, children and teenagers. Pedestrians and cyclists are also likely to use the driveway to exit your property. These people will be driving, walking, and cycling right into an industrial area where tractor trailer trucks will be maneuvering into and out of Terravant's loading dock, where dangerous chemicals and alcoholic beverages will be handled, and where many other industrial and potentially dangerous activities will be occurring. Mixing the public with these industrial activities is inappropriate. This not only puts the public at risk, but it puts our workers who will be driving forklifts and unloading and loading merchandise at significant risk. It also puts our customers and their employees at risk. Put simply, this is a *huge* safety hazard.

III. Due to the Significant Risks Posed by Your Current Circulation Plan, Terravant Will Need to Pursue All Potential Legal Remedies Against You and Your Project Unless You Change Your Project to Segregate the Uses and Ensure Our Uninterrupted Use of the Operations Area

Although we appreciate that you have made some improvements in your Project that move circulation into the parking lot away from our Operations Area, the revised plan does not address the most critical issue – segregating these two completely incompatible uses. Unfortunately, given the incredibly high risks posed to the public and to Terravant's business and customers, until your Project is modified to address this central issue, Terravant will be forced to pursue all possible legal remedies against you and your Project, including (a) potential real property and business claims and (b) potential land use and California Environmental Quality Act (CEQA) claims against any project approval you receive from the City that fails to adequately separate our two incompatible uses.

A. Potential Real Property and Business Claims

Terravant can gain a fee interest or surface easement over your property under various real property theories. These legal doctrines include the following: implied easement doctrine (Civ. Code § 1104; *Kytasty v. Godwin* (1980) 102 Cal.App.3d 762); good faith improver (see Code Civ. Proc. §§ 871.1-871.7); prescription and adverse possession (*Aaron v. Dunham* (2006) 137 Cal.App.4th 1244; Code Civ. Proc. §§ 322-24); equitable easement doctrine (*Applegate v. Ota* (1983) 146 Cal.App.3d 702); and reformation of title documents (Civ. Code §§ 3399-3402).

For example, Civil Code 1104 establishes the implied easement doctrine and provides that "[a] transfer of real property passes all easements attached thereto, and creates in favor thereof an easement to use other real property of the person whose estate is transferred in the same manner and to the same extent as such property was obviously and permanently used by the person whose estate is transferred, for the benefit thereof, at the time when the transfer was agreed upon or completed." In *Orr v. Kirk* (1950) 100 Cal.App.2d 678, 681, the Court of Appeal identifies the "elements necessary to create a 'quasi easement' or grant by implication, upon severance of unity of ownership in an estate, are: (1) a separation of title (which implies unity of ownership at some former time as the foundation of the right); (2) necessity that before separation takes place the use which gives rise to the easement shall be so long continued and obvious as to show it was meant to be permanent; and (3) the easement must be reasonably necessary to the beneficial enjoyment of the land granted." (See *Kytasty v. Godwin* (1980) 102 Cal.App.3d 762, 768.)

All of the elements of an implied easement exist here. Terravant's use of your property has always been obvious and reasonably necessary for the beneficial enjoyment and use of Terravant's property. As in *Kytasty v. Godwin*, where the Court of Appeal granted a 60 foot road easement by implication, Terravant is entitled to an easement by implication on the paved portion of your property. (*Kytasty v. Godwin* (1980) 102 Cal.App.3d 762, 771 ["Kytasty was well aware of the existence of the road, having used it herself. While she did not travel its full length, she knew it was passable and was thus put on notice an easement existed as a servitude on the property she was buying. We conclude the implied easement given to Mathews is a servitude on the property she acquired."].)

Furthermore, you have always known of Terravant's use of the Operations Area on your property. You knew before you purchased the property and you acknowledged Terravant's right to continued use of the property before and after your purchase, but now you are proposing to interrupt that use. Terravant has reasonably relied on your prior representations and has continued to build its business with this Operations Area at its heart. Terravant has made representations to customers that the area is open and available for their uninterrupted use. Any interference by you of that use by Terravant and its customers constitutes unfair business practices (common law and Bus. and Prof. Code § 17200) and given your historic

representations you are now estopped from interfering with Terravant's use of its Operations Area. If you continue to threaten to interfere with Terravant's use of this area, it can bring these claims against you.

B. *Potential Land Use and CEQA Claims*

The City has analyzed potential environmental impacts of your proposed Project with a mitigated negative declaration (MND). This analysis falls short in a number of ways. As you may know, the standard of review for MNDs under CEQA (the fair argument standard) is very unfavorable because CEQA encourages the use of more thorough environmental analyses for projects – environmental impact reports (EIRs). Specifically, if substantial evidence supports a fair argument that a project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83 n. 16.)

This fair argument standard is very different from the standard normally followed by public agencies in their decision making. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. (See *Practice Under California Environmental Quality Act* § 6.37 (2d Cal. CEB) [citing *California Administrative Hearing Practice* § 7.51 (2d Cal. CEB)].) The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. (*Id.* [citing *Friends of "B" St. v. City of Hayward* (1980) 106 Cal.App.3d 988].) This is evidenced by the fact that a recent study of 95 published opinions from 1997 to 2012 showed that opponents successfully overturned negative declarations in CEQA litigation in approximately 60 percent of the cases. (*Analysis of Recent Challenges to Environmental Impact Reports* (2012) Holland & Knight.)

The MND fails the fair argument standard on a number of fronts, including the following: (1) The MND fails to analyze potential vehicle and pedestrian conflicts that will result from the newly revised site plan; (2) The MND fails to describe and adequately analyze the proposed outdoor concert and event use; (3) The MND's trip generation analysis does not account for trips generated by the restaurant and bar; (4) The MND's traffic analysis improperly assumes and analyzes only local trips while the market area needed to support a bowling alley is much larger; (5) The proposed parking does not comply with the Municipal Code requirements; and (6) the MND's land use analysis fails to fully analyze the huge incompatibility between the two uses and the related conflicts which result, especially given the current design. These failures in the very least trigger recirculation of the MND. However, since the land use, hazards, and traffic impacts of the current design cannot be mitigated, the City must prepare an EIR before approving a project with this design.

IV. **Conclusion**

Terravant does not want to have to pursue costly litigation to enforce its rights over this property and to protect itself and the public from the hazards posed by your currently proposed plan. We hope that once you have had a chance to discuss these issues with legal counsel you will realize the severity of these potential claims and issues and work with us to avoid potential litigation.

Ms. Leshar-Peterson
July 3, 2014
Page 5

Please feel free to have your legal representative contact me and discuss any of the following issues. We remain hopeful that we can resolve this without litigation.

Sincerely,

A handwritten signature in black ink that reads "Beth Collins-Burgard". The signature is written in a cursive style with a large, looped initial "B".

Beth Collins-Burgard

BYB:mrh

Enclosure

016231\0003\11422753.2

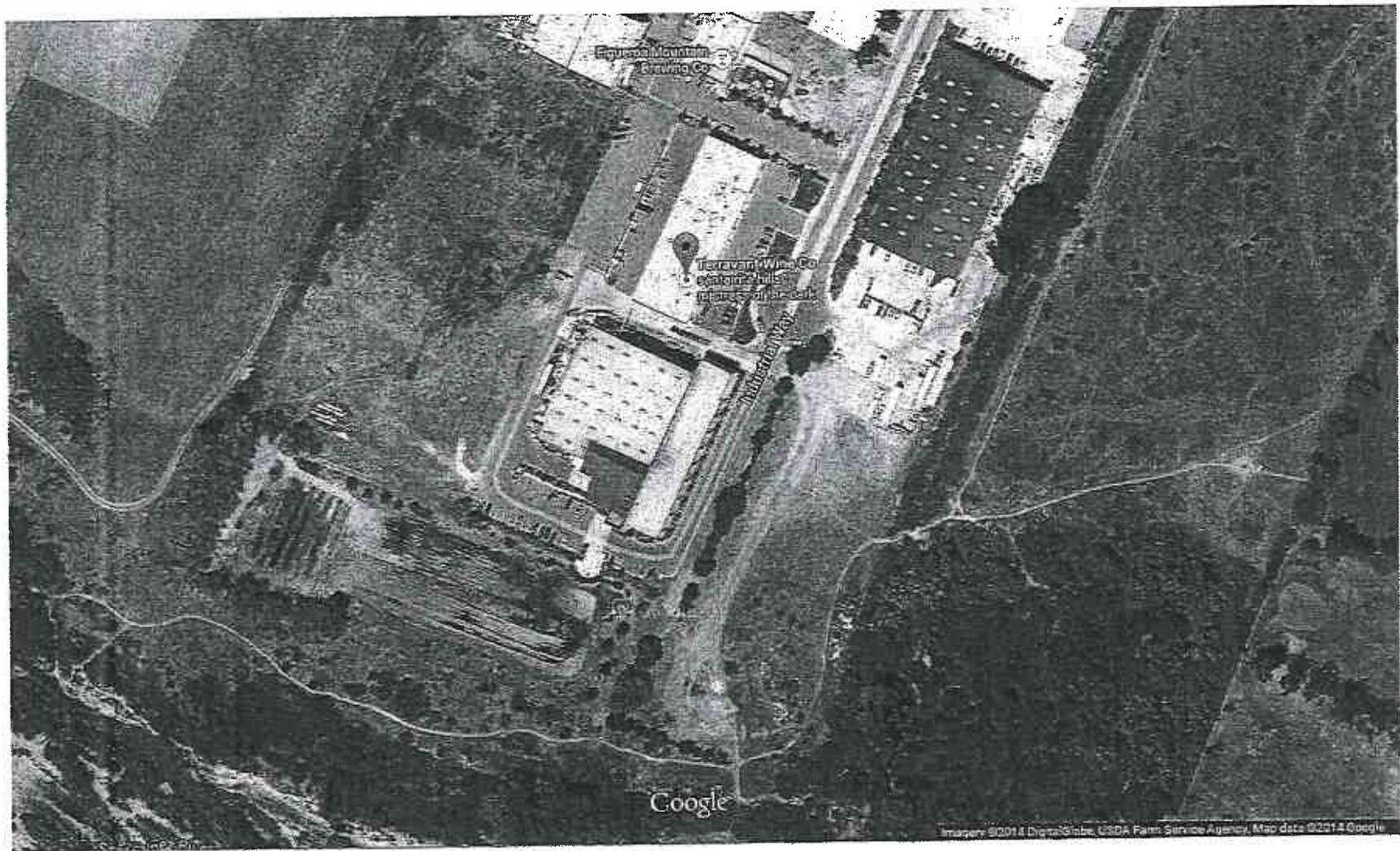


EXHIBIT C

HALME & CLARK
ATTORNEYS AND COUNSELORS AT LAW

PAUL O. HALME
GREGORY S. CLARK

e-mail poh@halmeandclark.com
e-mail greg@halmeandclark.com

650 ALAMO PINTADO ROAD, SUITE 301
POST OFFICE BOX 665
SOLVANG, CALIFORNIA 93464-0665
TELEPHONE (805) 688-6225
FACSIMILE (805) 688-8984

November 25, 2014

CONFIDENTIAL SETTLEMENT COMMUNICATION
EVIDENCE CODE SECTION 1152, ET SEQ.
Transmitted by e-mail to: BCollins@bhfs.com

Beth Collins-Burgard
Attorney At Law
Brownstein Hyatt Farber Schreck
1020 State Street
Santa Barbara, CA 93101-2711

Re: Live Oak Lanes/Terravant

Dear Ms. Collins-Burgard:

I met with Carol Petersen last week and she related to me the efforts expended by the parties to attempt to reach a mutually-agreeable resolution of the pending easement/traffic issues.

In a good faith effort to resolve this matter, my client proposes that she grant, by means of a lot line adjustment, an 18' wide by 342.6' long fee interest located parallel to your client's westerly property line. Such an act would eliminate the exclusive/non-exclusive easement dispute as well as fully-address the safety issues asserted by your client. The lot line adjustment would be pursued at my client's expense.

As consideration for such fee interest, my client would require written agreement providing in part as follows:

- (1) Payment of One Hundred Fifty Thousand Dollars (\$150,000) to my client with Fifty Thousand Dollars (\$50,000) deposited in an escrow upon execution of this agreement with the balance of the consideration paid prior to recording of the lot line adjustment; and
- (2) support of my client's project

My client's offer will remain open for acceptance on or before 5:00 p.m. PST on December 2, 2014. I would be pleased to respond to any questions or concerns regarding this matter and I will look forward to hearing from you.

Yours very truly,

HALME & CLARK


Gregory S. Clark
GSC/aic

cc: Carol Petersen (via e-mail)
Sid Goldstien, P.E. (via e-mail)

TERRAVANT

WINE COMPANY

December 2, 2014

Greg Clark
Attorneys and Counselors at Law
650 Alamo Pintado Road, Suite 301
PO Box 665
Solvang, CA 93464
Telephone (805)688-6225

Re: Live Oak Lanes

Dear Mr. Clark:

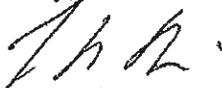
This is in response to your client's proposal. Please note that we have not retained Brownstein Hyatt on this matter pending outcome of this resolution.

We are in agreement with the proposed terms with the exception of the following:

- 1) The payment amount of approximately \$24 per square foot is nearly double the current fair market value of comparable property. This is in light of the fact that our position is that we have already provided fair value and are entitled to the land. However, in a good faith effort to resolve this matter we propose a payment of \$100,000 with 33% in an escrow as proposed.
- 2) We have reviewed the required length of the fee interest with Sid Goldstein and calculate that total required length to be 357.6'.

Thank you for your consideration.

Sincerely,



Lew Eisaguirre

CC: Beth Collins- Burgard
Attorney at Law
Brownstein Hyatt Farber Schreck
1020 State Street
Santa Barbara, CA 93101-2711



HALME & CLARK
ATTORNEYS AND COUNSELORS AT LAW

PAUL O. HALME
GREGORY S. CLARK

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POST OFFICE BOX 665
SOLVANG, CALIFORNIA 93464-0665
TELEPHONE (805) 688-6225
FACSIMILE (805) 688-8984
E-MAIL greg@halmeandclark.com

December 4, 2014

CONFIDENTIAL SETTLEMENT
COMMUNICATION EVIDENCE CODE
SECTION 1152, ET. SEQ.

Lew Eisaguirre
Terravant Wine Company
35 Industrial Way
Buellton, CA 93427

TRANSMITTED BY E-MAIL TO
lew@terravant.com AND BY U.S. MAIL

Re: Live Oak Lanes / Terravant

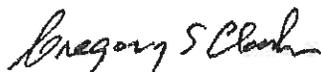
Dear Mr. Eisaguirre:

This will acknowledge receipt and review of your December 2, 2014 counter settlement proposal by both Carol and I.

It is my understanding that you desire an extension of the fee interest to 357.6'. I am informed that granting of the fee interest will cause Carol additional expense to develop the driveway along the entire strip. Additional fill will be needed since her driveway will be pushed to the west down the slope. It is estimated such added cost is in the \$35,000.00 to \$40,000.00 range. With acceptance of your proposal Carol will lose two (2) parking spaces. Moreover, Carol is absorbing the cost of the lot line adjustment and expenses associated with redesign and delay. Nonetheless, Carol will agree to grant the 15' extension you desire providing payment of \$165,000.00 and acceptance of the other terms set forth in my November 25, 2014 correspondence to Beth Collins - Burgard, Attorney at Law including execution of a written agreement by both parties on or before December 19, 2014.

This settlement offer will remain open for response on or before 5:00PM PST on December 9, 2014.

Yours Very Truly,
HALME & CLARK



Gregory S. Clark
GSC/bec

cc. Carol Peterson (via e-mail)
Sid Goldstien, P.E. (via e-mail)

January 9, 2015

Beth Collins-Burgard
Attorney at Law
805.882.1419 tel
805.965.4333 fax
BCollins@bhfs.com

VIA E-MAIL (GREG@HALMEANDCLARK.COM) AND U.S. MAIL

Gregory S. Clark, Esq.
Halme & Clark
P.O. Box 665
Solvang, CA 93464-0665

RE: Live Oaks Lanes/Terravant

Dear Mr. Clark:

Mr. Eisaguirre has asked me to represent him in this matter again. He has asked me to reach out to you in hopes that we may be able to come to a resolution of the conflict between our clients. I have reviewed your correspondence and various emails in this matter and, frankly, it looks to me as if the parties are very close, if not in complete agreement, as to the terms of a potential settlement. I believe the terms would be as follows:

- (1) In settlement of the exclusive/non-exclusive easement dispute and concerns about safety issues associated with the Terravant loading area, by way of lot line adjustment your client will transfer an 18 feet wide by 357.6 feet long fee interest located parallel to the shared property line (Terravant's westerly property line).
- (2) Payment of One Hundred Sixty-Five Thousand Dollars (\$165,000) from Terravant to Carol Petersen at recording of the grant deeds reflecting the lot line adjustment.
- (3) Deposit of Fifty-Five Thousand Dollars (\$55,000) in escrow upon execution of this agreement to show good faith, although payment of any amount will only occur upon recording of the grant deeds reflecting the lot line adjustment.
- (4) Inclusion of the lot line adjustment in the application for and approval of the Live Oaks Lanes project.
- (5) Terravant will support the proposed Live Oaks Lanes project.

1020 State Street
Santa Barbara, CA 93101-2711
tel: 805.963.7000

Gregory S. Clark, Esq.
January 9, 2015
Page 2

Please let me know if you disagree with these terms or if you believe I have misstated them.

I look forward to speaking with you.

Sincerely,

Handwritten signature of Beth Collins-Burgard in cursive script.

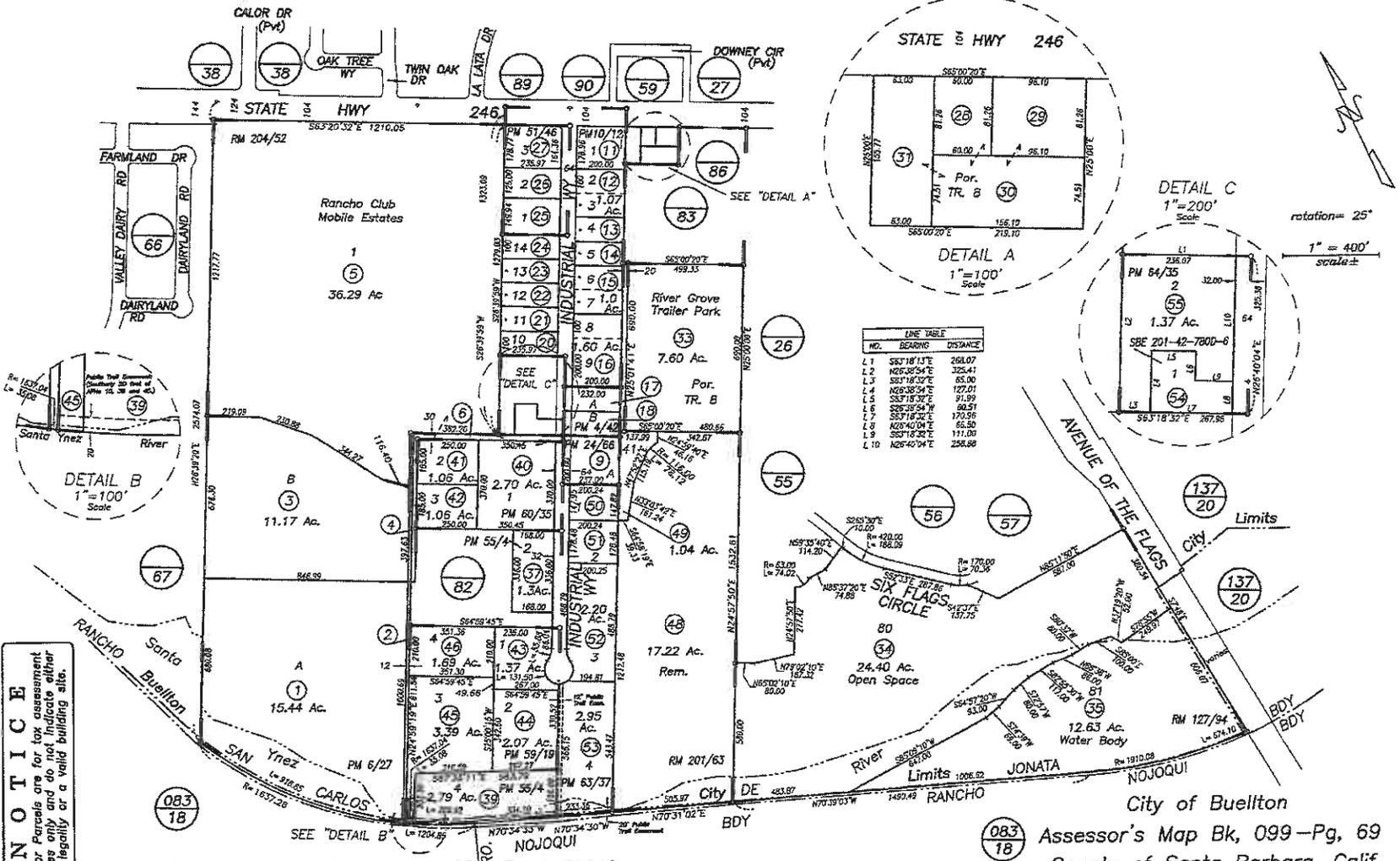
Beth Collins-Burgard

016231\0003\11814478.1

EXHIBIT D

POR. RANCHO SAN CARLOS DE JONATA

099-69



12/22/2008 R.M. Bk. 204, Pg. 52-53, Tract 31048
 03/01/2006 R.M. Bk. 201, Pg. 63-67, Tract 31040
 04/09/1985 R.M. Bk. 127, Pg. 94-98, Tract 13533 Unit 1
 04/08/1910 R.M. Bk. 5, Pg. 54, Tract "Rancho San Carlos de Jonata"

City of Buellton
 Assessor's Map Bk, 099-Pg, 69
 County of Santa Barbara, Calif.

12/13 19 into 54 & 55

EXHIBIT E

Parcel Map No. 31,019 being a division of Lot 2, P.M. No. 11763, per 12/PM/91, lying in the City of Buellton, County of Santa Barbara, State of California

Owner's Statement

I, the undersigned, hereby state that I am the owner of, or have an interest in, the land included within the subdivision shown on the annexed map and that I am the only person whose consent is necessary to pass a clear title to said land. I consent to the preparation and recordation of said map and subdivision as shown within the colored border lines. I hereby offer to dedicate the easements shown hereon for the purposes set forth. I also hereby offer to the City of Buellton the street shown hereon as Industrial Way for public street purposes.

Petersen Properties, a General Partnership

John E. Petersen
John E. Petersen, General Partner

Notary

State of California

County of Santa Barbara SS

On October 16, 2000, before me, Lynette C. Pailorera, personally appeared John E. Petersen

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lynette C. Pailorera Lynette C. Pailorera
Signature of Notary Public Name Printed

A Notary Public for Santa Barbara County, CA

My Commission expires 5-17 2002

Clerk of the Board's Statement

I, Michael F. Brown, Clerk of the Board of Supervisors of Santa Barbara County, do hereby state that pursuant to Government Code, Section 66404 (State Subdivision Map Act), that the certificates and deposits required under Government Code, Section 66492 and Section 66493 on the property within this subdivision have been filed and made.

Michael F. Brown
Clerk of the Board of Supervisors
of Santa Barbara County

By Christina Thomas
Deputy

Date: November 13, 2000

(Seal)

Signature Omissions

Signatures of the following assessment holders have been omitted pursuant to Section 66438(a)(3)(A)(i) of the Subdivision Map Act, as their interest cannot ripen into fee title.

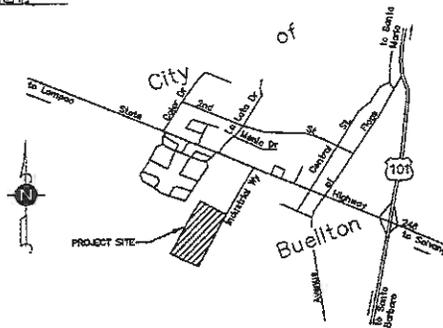
Eduardo de la Cuesta et al., per 123/Deeds/443
Salvang Cement Products, Inc. a corporation, per 2137/O.R./1271
Southern Counties Gas Company of California per 2285/O.R./974
Valley Mobile Park Investments, a Limited Partnership per 2389/O.R./786
County of Santa Barbara per instrument No. 86-45657, O.R., recorded July 25, 1989
Pacific Gas and Electric Co. and General Telephone Co., per instrument No. 87-11801, O.R., recorded February 13, 1987

Note

This map is subject to certain conditions and information included in a "NOTICE" and recorded concurrently as instrument No. _____ O.R., recorded _____ 2 _____

Vicinity Map

Not to Scale



Surveyor's Statement

This map was prepared by me or under my direction and is based on a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of John Petersen in June 2000. I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any. All monuments are of the character shown and occupy the positions indicated. Said monuments are sufficient to enable the survey to be retraced.

Jed B. Blake dated October 12, 2000
Jed B. Blake, PLS 4786
License Expiration Date September 30, 2004



City Engineer's Statement

On behalf of MNS Engineers, Inc. City Engineer for the City of Buellton, I hereby state that I have examined this map and that all provisions of the Subdivision Map Act and Local Ordinances have been complied with and that I am satisfied that this map is technically correct, and that the Parcel Map as shown is substantially the same as it appeared on the Tentative Map and any approved alteration thereof.

By Mark E. Reinhardt
MNS Engineers, Inc.
City Engineer for the City of Buellton

Oct 17, 2000
Dated

Mark E. Reinhardt PLS 6392
License Expiration Date: 12-31-2002



City Clerk's Statement

I hereby state that the City Council of the City of Buellton, by minute action of the 26 day of October 2000 approved this map and accepted on behalf of the public, any easements or real property offered for dedication on this map for public use in conformity with the terms of the offer of dedication.

Christina Thomas
City Clerk 11-1-00
Date

Sheet 1 of 2 Sheets

County Recorder's Statement

Filed this 13th day of November 2000, at 2:00 p.m. in Book 55 of Parcel Maps of Pages 4 thru 5 at the request of Blake Land Surveys.

Fee \$10.00
Kenneth A. Pettit
County Clerk-Recorder-Assessor
by: Abner Brink
Deputy





Blake Land Surveys
 250 Industrial Way, Suite "C"
 P.O. Box 866, Buellton, CA 93427
 Tel 805-469-2054
Est. 1960 PLS 4786

Legends & Notes

- Denotes Found Monument as Described
 - Denotes set 1" LP. & 1-1/8" B.C. (PLS 4786)
 - ⊙ Denotes set Survey Mark Nail and Washer stamped (PLS 4786)
 - (R) Denotes record per P.M. 11763, 12/PM/91
 - (R-1) Denotes record per P.M. 11305, 7/PM/90
 - CF Denotes Calculated From
 - (Red) Denotes Rodical Bearing
 - M Denotes Measured
- Dimensions shown for Iron Pipes is to the inside diameter
 Basis of Bearings is the Southwesterly line of Lot 2 of
 P.M. 11763 shown as N 24°59'19" E on (R)
 P.U. Denotes Public Utility

*Parcel Map No. 31,019 being a division
 of Lot 2, P.M. No. 11763, per 12/PM/91,
 lying in the City of Buellton, County of
 Santa Barbara, State of California*

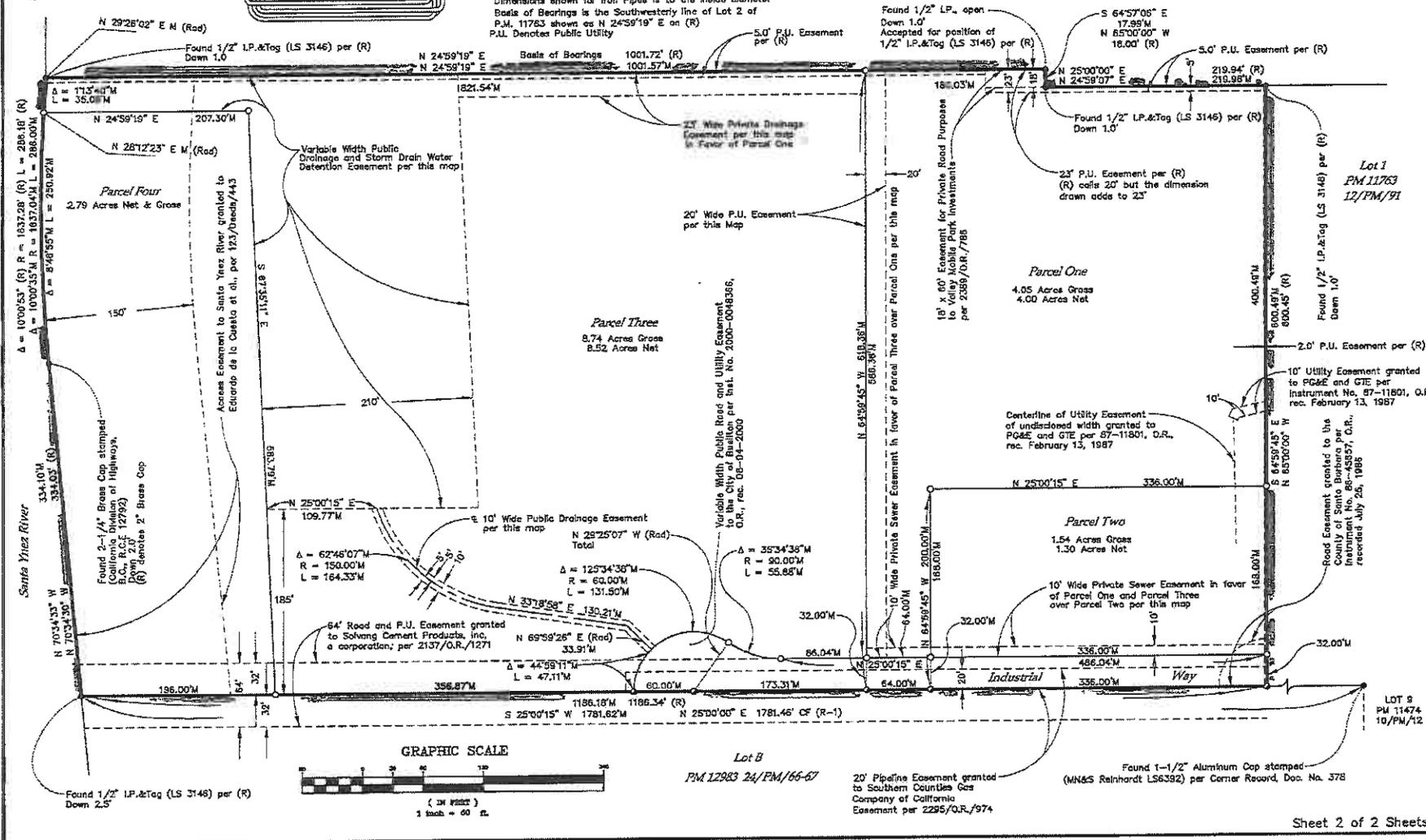


EXHIBIT F

water drainage facilities located on Grantor's property outside the road right of way. Grantee agrees to assume responsibility for maintaining the portions of the storm water drainage facilities located within the road right of way at Grantee's sole expense.

For all purposes herein, the term "Grantor" includes Petersen Properties and its heirs, successors in interest, and assigns.

Executed this 2nd day of ~~October~~ ^{November}, 2000, at Buellton, California.

GRANTOR:
PETERSEN PROPERTIES, a California General Partner

By Edwina V. Petersen General Partner
By John Elliott Petersen General Partner

Attachment:
Exhibit "A" - Legal Description of Basement Area on Grantor's Property

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

On NOVEMBER 2, 2000 before me, CATHERINE A. PARR, Notary Public, personally appeared, JOHN ELLIOTT PETERSEN, ANNE MARIE HENDRICK, AND EDWINA ELLIOTT PETERSEN

personally known to me OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in his/~~her~~ their authorized capacity(ies), and that by his/~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Catherine A. Parr
(SIGNATURE OF NOTARY)

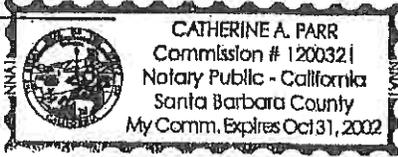


EXHIBIT "A"

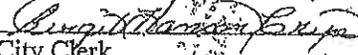
That portion of Parcel Three of Parcel Map 31,019 in the City of Buellton filed in Parcel Map Book 55, Pages 4 & 5 in the office of the County Recorder, County of Santa Barbara, State of California, being a variable width area of land shown as "Variable Width Public Drainage and Storm Drain Water Detention Easement" and a 10 foot strip of land shown as "10' Wide Public Drainage Easement" on said map.

**CERTIFICATE OF ACCEPTANCE
AND CONSENT TO RECORDATION OF
EASEMENT GRANT DEED**

This is to certify that the interest in real property conveyed by, and the maintenance responsibility set forth in, the Easement Grant Deed dated Nov. 2, 2000 from Petersen Properties, a California General Partnership, to the City of Buellton, a municipal corporation of the State of California, is hereby accepted by the undersigned City Clerk on behalf of the City Council, pursuant to the action of the City Council at its meeting of OCT. 26, 2000 and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: Nov. 2, 2000

City of Buellton

By 
City Clerk



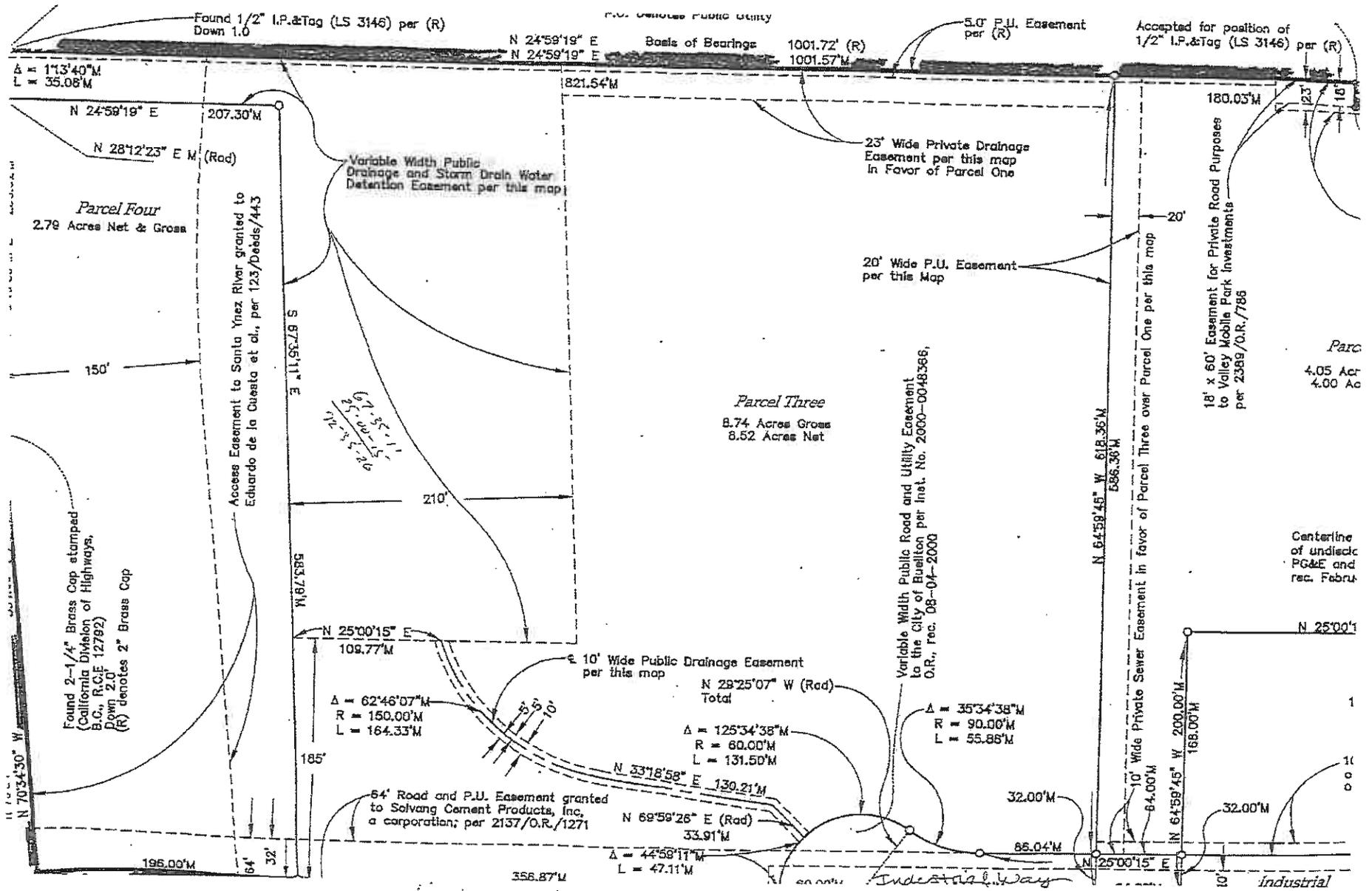


EXHIBIT G

Owner's Statement

I, the undersigned, hereby state that I am the owner of, or have an interest in, the land included within the subdivision shown on the annexed map and that I am the only person whose consent is necessary to pass a clear title to said land. I consent to the preparation and recording of said map and subdivision as shown within the distinctive border lines.

I hereby offer to dedicate the easements shown hereon for the purposes set forth. I also hereby offer to the City of Buellton the 20' wide Public Drainage Easement and 20' wide Public Water Easement shown hereon.

Buellton Industrial Partners II, LLC, a California Limited Liability Company

Tom Davidson
Tom Davidson, Managing Partner
Date: 10-27-2005

Beneficiary's Statement

First Bank and Trust as beneficiary under a Deed of Trust recorded December 9, 2003 as Instrument No. 2003-0165702 of Official Records of the County of Santa Barbara.

Timothy A. Marne
Name: Timothy A. Marne
Name Printed: Timothy A. Marne
Title: Regional President
Volkerius Kraschit
Name: Volkerius Kraschit
Name Printed: Volkerius Kraschit
Title: Vice-President

Notary Statement

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA

On this the 27 day of October, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared

Timothy A. Marne
Volkerius Kraschit

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal:

Signature: Vicky F. Wetzel
Printed: Vicky F. Wetzel
My Commission Expires: 4/6/06
Principal office located in County of: Santa Barbara
Commission #: 1349891

Signature Omissions:

The signatures of the following easement holders have been omitted pursuant to section 66436(a)(3)(A)(i) of the Government Code (State Subdivision Map Act):

- Eduardo de la Cuesta et al., per 123/Deeds/443
- Solvang Cement Products, Inc., a corporation, per 2137/O.R./1271
- Southern Counties Gas Company of California per 2225/O.R./974
- City of Buellton per Inst. No. 95-059981 O.R., rec. October 26, 1995
- City of Buellton, a Municipal Corporation per Inst. No. 2000-0048368, O.R., Inst. No. 2000-0089655, O.R., and Inst. No. 2001-0002993, O.R.
- Peterson Properties, a General Partnership per Inst. No. 2000-0078420, O.R.
- William P. Ryan and Lori M. Ryan, husband and wife, as community property per Inst. No. 2001-0080788, O.R. and Inst. No. 2001-0080802, O.R.

Parcel Map No. 31,035 being a division of Parcel 3, P.M. No. 31,019, per 55/PM/4-5, as filed in the Office of the County Recorder lying in the City of Buellton, County of Santa Barbara, State of California

Notary Statement

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA

On this the 27 day of Oct, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared

Tom Davidson

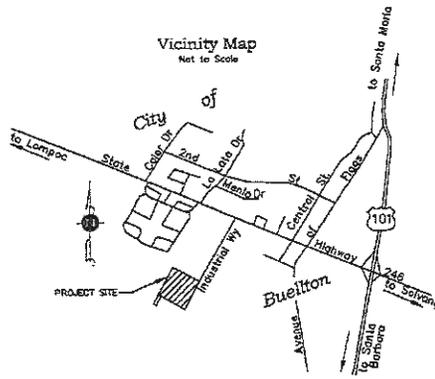
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal:

Signature: Nancy Byrum
Printed: Nancy Byrum
My Commission Expires: SEPT. 2, 2007
Principal office located in County of: Santa Barbara
Commission #: 1437545



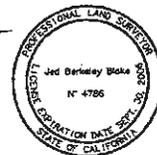
Note: This map is subject to certain conditions and information included in a "Notice" and recorded concurrently as Inst. No. 2005-0118427 O.R.



Surveyor's Statement

This map was prepared by me or under my direction and is based on a field survey in conformance with the requirements of the Subdivision Map Act and local ordinances at the request of Tom Davidson in March 2004. I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any. All monuments are of the character shown and occupy the positions indicated. Said monuments are sufficient to enable the survey to be retraced.

Jed B. Blake
Jed B. Blake, PLS 4786
License Expires Sept. 30, 2006
Dated: 10-27-2005



City Engineer's Statement

On behalf of MNS Engineers, Inc., City Engineer for the City of Buellton, I hereby state that I have examined this map and that all provisions of the Subdivision Map Act and Local Ordinances have been complied with and that I am satisfied that this map is technically correct and that the subdivision as shown is substantially the same as it appeared on the tentative map and any approved iterations thereof.

By: Mark E. Reinhardt
MNS Engineers, Inc.
Engineer for the City of Buellton
Mark E. Reinhardt, PLS 6392
License Expiration Date: 12/31/06
Date: 10-31-05



City Clerk's Statement

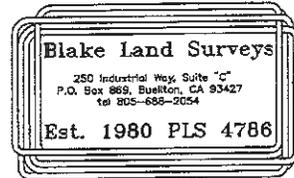
I hereby state that the City Council of the City of Buellton, by minute action on the 24 day of December, 2005, approved this map and accepted on behalf of the public, the easements as shown on this map for public use in conformity with the terms of the offer of dedication and that they also abandoned the 10' wide Public Drainage Easement and the Variable Width Public Drainage and Storm Drain Water Detention Easement that were created by P.M. No. 31019, 55/PM/4-5 per Section 66434(g) of the Subdivision Map Act.

Regina Hanna
City Clerk
Date: 11-10-05

Clerk of the Board Statement

I, Michael F. Brown, Clerk of the Board of Supervisors of Santa Barbara County, do hereby state that pursuant to government code, Section 66464 (State Subdivision Map Act) that the certificates and deposits required under government code, section 68482 and section 66493 on the property within this subdivision have been filed and made.

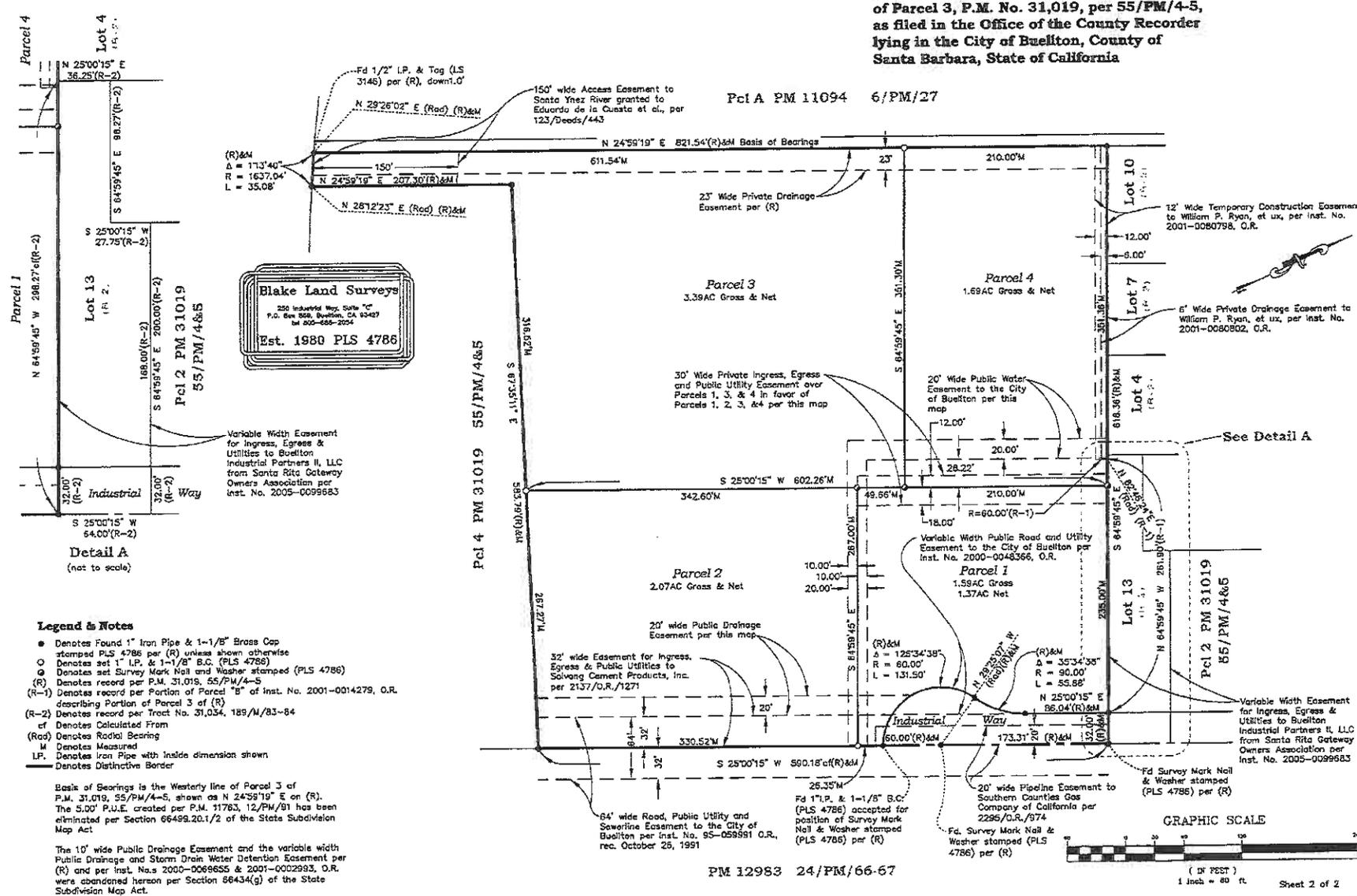
Michael F. Brown
Clerk of the Board of Supervisors
Michael F. Brown
By: Michael F. Brown
Deputy
Date: 11-14-05



Sheet 1 of 2
County Recorder's Statement
Filed this 2nd day of November, 2005 at 11:45 AM in Book 22 of Parcel Maps at pages 19 through 22, at the request of Blake Land Surveys.
Fee: \$10
Joseph E. Holland
County Clerk-Recorder-Assessor
By: Beverly Curran
Deputy

APN 099-690-038

Parcel Map No. 31,035 being a division of Parcel 3, P.M. No. 31,019, per 55/PM/4-5, as filed in the Office of the County Recorder lying in the City of Buellton, County of Santa Barbara, State of California

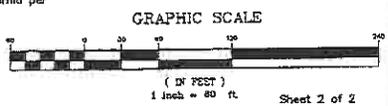


Blake Land Surveys
 250 Industrial Way, Suite "C"
 P.O. Box 826, Buellton, CA 93427
 Tel 805-485-2024
 Est. 1980 PLS 4786

- Legend & Notes**
- Denotes Found 1" Iron Pipe & 1-1/8" Brass Cap stamped PLS 4786 per (R) unless shown otherwise
 - Denotes set 1" LP, & 1-1/8" S.C. (PLS 4786)
 - Denotes set Survey Mark Nail and Washer stamped (PLS 4786)
 - (R) Denotes record per P.M. 31,019, 55/PM/4-5
 - (R-1) Denotes record per Portion of Parcel "B" of Inst. No. 2001-0014279, O.R. describing Portion of Parcel 3 of (R)
 - (R-2) Denotes record per Tract No. 31,034, 189/M/83-84
 - of Denotes Calculated From
 - (Rad) Denotes Radial Bearing
 - M Denotes Measured
 - LP Denotes Iron Pipe with inside dimension shown
 - Denotes Distinctive Border

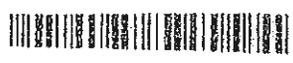
Basis of Bearings is the Westerly line of Parcel 3 of P.M. 31,019, 55/PM/4-5, shown as N 24°59'19" E on (R). The 5.00' P.U.E. created per P.M. 11763, 12/PM/81 has been eliminated per Section 66499.20.1/2 of the State Subdivision Map Act.

The 10' wide Public Drainage Easement and the variable width Public Drainage and Storm Drain Water Detention Easement per (R) and per Inst. Nos. 2000-0069655 & 2001-0002993, O.R. were abandoned hereon per Section 86434(g) of the State Subdivision Map Act.



APN 099-690-038

EXHIBIT H



2006-0035314

Recording Requested by:
CITY OF BUELLTON

Recorded
Official Records
County Of
SANTA BARBARA
JOSEPH E. HOLLAND
Recorder

REC FEE .00

When Recorded Mail to:

06:02AM 02-May-2006 Xrv Page 1 of 5

CITY OF BUELLTON
P.O. Box 1819
Buellton, CA 93427

5 free rec

No Fee Per Government Code 6103 APN's 99-690-038 & 039

GRANT OF EASEMENT (STORM WATER DRAINAGE)

Buellton Industrial Partners II, LLC (hereinafter referred to as "Grantor"), hereby grants to the City of Buellton, a municipal corporation, within the County of Santa Barbara and State of California, and its successors and assigns (hereinafter referred to as Grantee"), an easement and right of way to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect, and remove at any time and from time to time storm water drainage facilities, including underground piping, above ground channel, and a detention basin (hereinafter referred to as "systems") and to deposit tools, implements, and other materials, and other appurtenant fixtures and equipment necessary or useful for storm water collection in, on, over, under, across, and along that certain real property described in Exhibit "A" attached hereto and incorporated by reference herein.

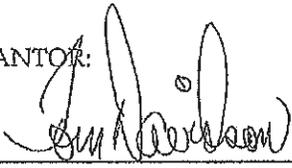
Grantor agrees for themselves, their heirs and assigns, not to erect, place or maintain, nor to permit the erection, placement or maintenance of any building, planter boxes, deep rooting trees, earth fill or other structures, including walls or fences with continuous footings on the above described real property. The Grantee and its contractors, agents and employees shall have the right to trim or cut tree roots as may endanger or interfere with said systems and shall have free access to said systems and very part thereof, at all times, for the purpose of exercising the rights herein granted; provided, however, that in making any excavation on the above described property of the Grantor, the Grantee shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground to as near the same condition as it was prior to such excavation as is practicable.

As a condition of Grantor granting this Deed and of Grantee accepting this Deed, Grantor and Grantee agree that Grantee shall have no responsibility or obligation for maintenance of any portion of the storm water drainage facilities located on Grantor's property outside the road right of way. Grantor agrees to assume responsibility for maintaining the portions of the storm water drainage facilities located on Grantor's property outside the road right of way at Grantor's sole expense. Grantor agrees to indemnify, defend and hold Grantee harmless from any claims, liability, damage, demand, cost, expense or attorney's fees incurred by Grantee as a result of injury to any person and damage to property arising or resulting from Grantor's failure to maintain the portions of the storm water drainage facilities located on Grantor's property outside the road right of way. Grantee agrees to assume responsibility for maintaining the portions of the storm water drainage facilities located within the road right of way at Grantee's sole expense.

For all purposes herein, the term "Grantor" includes Buellton Industrial Partners II, LLC and its heirs, successors in interest and assigns.

Executed this 1st day of MARCH, 2006, at Buellton, California.

GRANTOR:

By: 

Tom Davidson, Managing Partner
Buellton Industrial Partners II, LLC

Attach Notary Statement

Attachment: Exhibit "A" – Legal Description

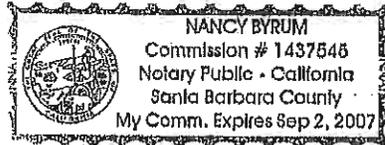
ALL PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA }
COUNTY OF Santa Barbara } ss.

On March 1, 2006 before me, Nancy Byrum
Notary Public personally appeared
Tom Davidson

personally known to me (or proved to me on the basis of satisfactory evidence) to be the ~~person(s)~~ whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature

Nancy Byrum

(NOTARY SEAL)

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE **MUST** BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT.

Title of Document Type _____
Number of Pages _____ Date of Document _____
Signer(s) Other Than Named Above _____

CERTIFICATE OF ACCEPTANCE
AND CONSENT TO RECORDATION OF
EASEMENT GRANT DEED

This is to certify that the interest in real property conveyed by the Easement Grant Deed dated MARCH 1, 2006 from Buellton Industrial Partners II, LLC to the City of Buellton, a municipal corporation of the State of California, is hereby accepted by the undersigned City Clerk on behalf of the City Council, pursuant to the action of the City Council at its meeting of MARCH 9, 2006 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: MARCH 16, 2006

City of Buellton

by Steven L. Thompson
City Clerk

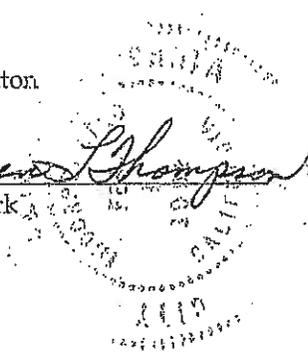


EXHIBIT "A"

Legal Description

That portion of Parcels One and Two of Parcel Map 31,035 in the City of Buellton filed in Parcel Map Book 59, Pages 19 and 20 in the office of the County Recorder, County of Santa Barbara, State of California, being a 20' wide strip of land shown as "20' wide Public Drainage Easement to the City of Buellton per this map" on said map.

And all of Parcel Four as shown on Parcel Map 31019 filed in Parcel Map Book 55, Pages 4 and 5 in the office of the County Recorder, County of Santa Barbara, State of California.

Parcel Map No. 31,019 being a division of Lot 2, P.M. No. 11763, per 12/PM/91, lying in the City of Buellton, County of Santa Barbara, State of California

Owner's Statement

I, the undersigned, hereby state that I am the owner of, or have an interest in, the land included within the subdivision shown on the annexed map and that I am the only person whose consent is necessary to pass a clear title to said land. I consent to the preparation and recording of said map and subdivision as shown within the colored border lines. I hereby offer to dedicate the easements shown hereon for the purposes set forth. I also hereby offer to the City of Buellton the street shown hereon as industrial way for public street purposes.

Petersen Properties, a General Partnership

John E. Petersen
John E. Petersen, General Partner

Notary

State of California SS
County of Santa Barbara

On October 14, 2002, before me, Lynette C. Pallares, personally appeared John E. Petersen

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lynette C. Pallares Lynette C. Pallares
Signature of Notary Public Name Printed

A Notary Public for Santa Barbara County, CA
My Commission expires 5-17 2008.

Clerk of the Board's Statement

I, Michael F. Brown, Clerk of the Board of Supervisors of Santa Barbara County, do hereby state that pursuant to Government Code, Section 66464 (State Subdivision Map Act), that the certificates and deposits required under Government Code, Section 66492 and Section 66493 on the property within this subdivision have been filed and made.

Michael F. Brown
Clerk of the Board of Supervisors
of Santa Barbara County

Christina J. Hume
Deputy

Date October 13, 2002
(Sec)

Signature Omissions

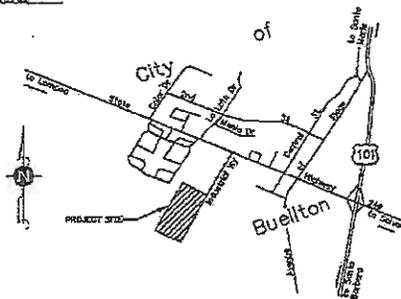
Signatures of the following assessment holders have been omitted pursuant to Section 66438(c)(3)(A)(i) of the Subdivision Map Act, as their interest cannot ripen into fee title:

- Eduardo de la Cruz et al., per 123/Deeds/443
- Solveng Cement Products, Inc., a corporation, per 2137/O.R./1271
- Southern California Gas Company of California per 2205/O.R./874
- Volley Mobile Park Investments, a Limited Partnership per 2189/O.R./788
- County of Santa Barbara per Instrument No. 98-42637, O.R., recorded July 25, 1988
- Pacific Gas and Electric Co. and General Telephone Co., per Instrument No. 87-11001, O.R., recorded February 13, 1987

Note

This map is subject to certain conditions and information included in a "NOTICE" and recorded concurrently as Instrument No. 2, O.R., recorded _____

Vicinity Map
Not to Scale



Surveyor's Statement

This map was prepared by me or under my direction and is based on a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance of the request of John Petersen in June 2000. I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any. All monuments are of the character shown and occupy the positions indicated. Said monuments are sufficient to enable the survey to be retraced.

Joe B. Blake dated October 12, 2002
Joe B. Blake, PLS 4786
License Expiration Date September 30, 2004



City Engineer's Statement

On behalf of MNS Engineers, Inc. City Engineer for the City of Buellton, I hereby state that I have examined this map and that all provisions of the Subdivision Map Act and Local Ordinances have been complied with and that I am satisfied that this map is technically correct, and that the parcel map as shown is substantially the same as appeared on the Tentative Map and any approved alteration thereof.

By: MNS Engineers, Inc. Oct 17, 2002
Date

MNS Engineers, Inc.
City Engineer for the City of Buellton
Mark E. Reinhardt PLS 9392
License Expiration Date: 12-31-2002

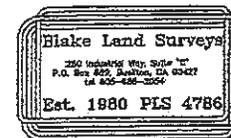


City Clerk's Statement

I hereby state that the City Council of the City of Buellton, by minute action of the 16 day of October, 2002, approved this map and accepted on behalf of the public, any assessments or real property offered for dedication on this map for public use in conformity with the terms of the offer of dedication.

August Thomas G. Gajjar 11-1-02
City Clerk Date

Sheet 1 of 2 Sheets



County Recorder's Statement
Filed this 13th day of November, 2002 at 11:45 P.M. in Book 55 of Parcel Maps at Pages 1 thru 2 at the request of Blake Land Surveys.
Fee \$10.00
Kenneth A. Pettit
County Clerk-Recorder-Assessor
by: Abner Britton
Deputy

11-1-02

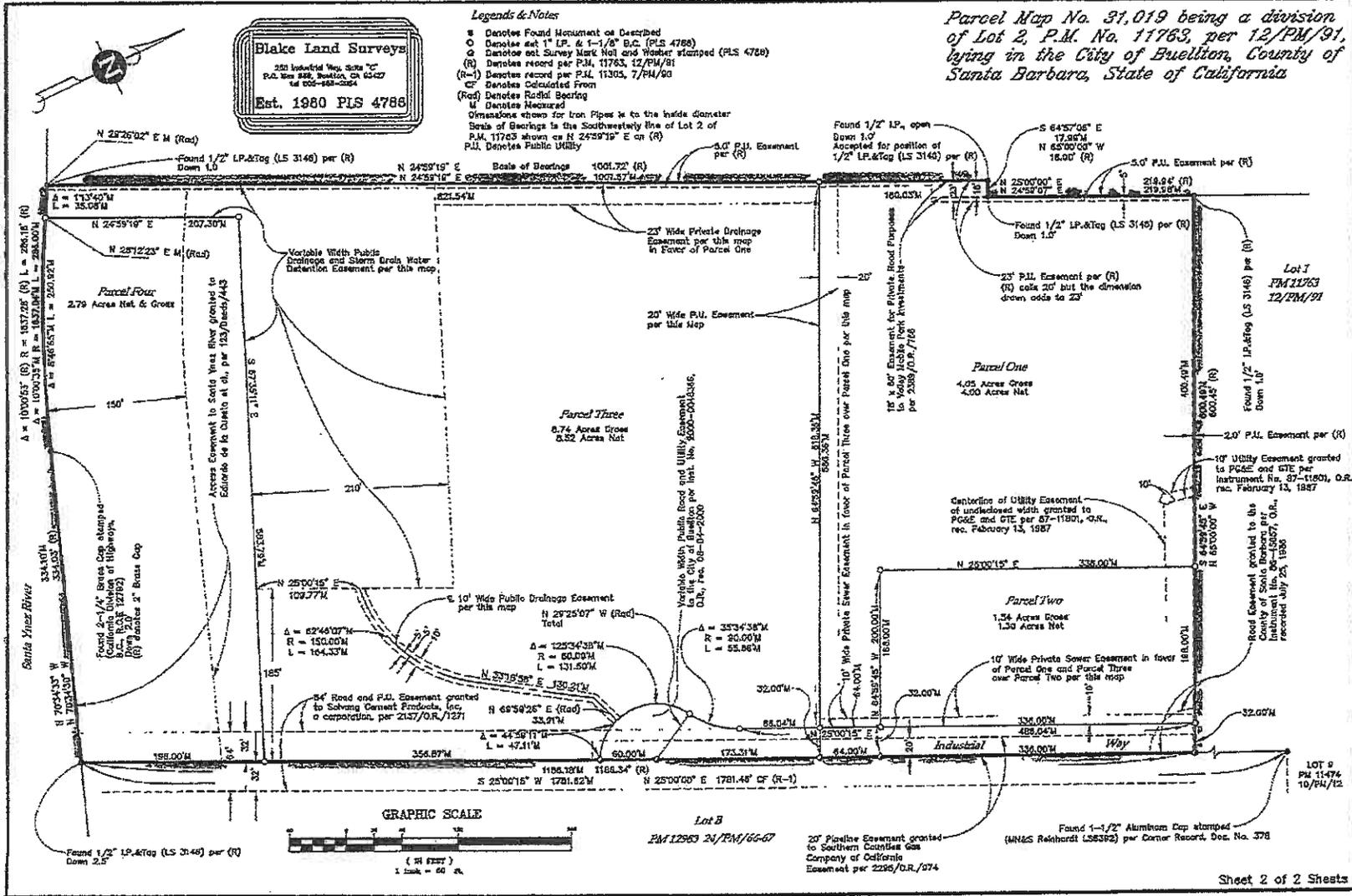


EXHIBIT I

Plat of Exhibit "A" being a portion of Parcel Four P. M. No. 31019 per 55/PM/04 & 05 as filed in the Office of the County Recorder, lying in the City of Buellton, County of Santa Barbara, State of California

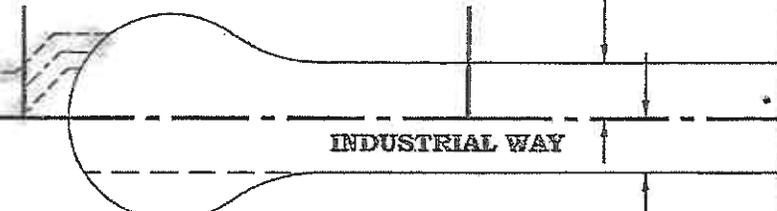
Pcl. 3, PM # 31035
59/PM/19 & 20

Pcl. 4, PM # 31035
59/PM/19 & 20

Pcl. 4, PM # 31019
55/PM/4 & 5

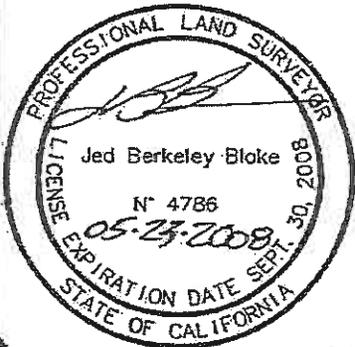
Pcl. 2, PM # 31035
59/PM/19 & 20

Pcl. 1, PM # 31035
59/PM/19 & 20



INDUSTRIAL WAY

PARCEL ONE OF THIS LEGAL DESCRIPTION



GRAPHIC SCALE

(IN FEET)
1 inch = 100 ft.

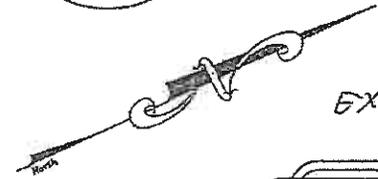


EXHIBIT B - APN - 099-490-039

STORM DRAIN

Blake Land Surveys
 250 Industrial Way, Suite "C"
 P.O. Box 869, Buellton, CA 93427
 tel 805-688-2054
 Est. 1980 PLS 4786