

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

607B



FROM: TLMA - Planning Department

SUBMITTAL DATE:
October 28, 2010

SUBJECT: TENTATIVE PARCEL MAP NO. 31653, Applicant: Jurjen & Janke Vanderwal - First Supervisorial District - Cajalco Zoning Area - Lake Mathews/Woodcrest Area Plan: Rural Community: Very Low Density Residential (RC-VLDR) (1 Acre Minimum) - Location: Located on the north end of Andrea Court, between Cedar Street and Wood Road - 4.09 Acres - R-A-1 Zone - Pursuant to Ordinance No. 348, Riverside County Land Use Ordinance, and Ordinance No. 460, Riverside County Subdivision Ordinance, the project is a Schedule "H" subdivision of 4.09 acres into 4 parcels.

RECOMMENDED MOTION:

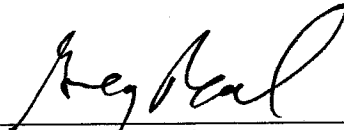
RECEIVE AND FILE The Notice of Decision for the above referenced case acted on by the Planning Director on October 18, 2010.

The Planning Department recommended Denial; and,
THE PLANNING DIRECTOR:

DENIED TENTATIVE PARCEL MAP NO. 31653, based upon the findings and conclusions incorporated in the staff report.

BACKGROUND:

This project was approved at Director's Hearing on June 13, 2005 and received and filed at the Board of Supervisors on September 13, 2005.



Carolyn Syms Luna
Planning Director

Greg Neal, Deputy Director for

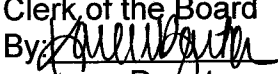
Initials:
CSL:vc
DM

(continued on attached page)

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter of approval is received and filed as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: November 9, 2010
xc: Planning, Applicant

Kecia Harper-Ihem
Clerk of the Board
By 
Deputy

Prev. Agn. Ref.

District: First

Agenda Number:

1.2

REVIEWED BY EXECUTIVE OFFICE

DATE

10/28/10

Tina Grande

Departmental Concurrence

Dep't Recomm.: Policy
Per Exec. Ofc.: Policy
 Consent
 Consent

The Honorable Board of Supervisors
Re: TENTATIVE PARCEL MAP NO. 31653
Page 2 of 2

On August 10, 2010, the Superior Court of California, County of Riverside, found that Tentative Parcel Map No. 31653 violates the Subdivision Map Act and ordered the County of Riverside to deny the original application for Tentative Parcel Map No. 31653.

COUNTY OF RIVERSIDE TRANSPORTATION AND LAND MANAGEMENT AGENCY

Planning Department

Carolyn Syms Luna · Director

Original Negative Declaration/Notice of
Termination was routed to County
Clerks for posting on.

NOTICE OF EXEMPTION

11/10/10 Date kb Initial

TO: Office of Planning and Research (OPR) P.O. Box 3044 Sacramento, CA 95812-3044
 County of Riverside County Clerk

FROM: Riverside County Planning Department
 4080 Lemon Street, 9th Floor P. O. Box 1409 Riverside, CA 92502-1409
 38686 El Cerrito Road Palm Desert, CA 92201

Project Title/Case No.: Tentative Parcel Map No. 31653

Project Location: In the unincorporated area of Riverside County, more specifically located in the Lake Matthews/Woodcrest Area Plan of Western Riverside County, at the north end of Andrea Court, between Cedar Street and Wood Road.

Project Description: Tentative Parcel Map No. 31653 is a proposal to subdivide 4.09 acres into four parcels.

Name of Public Agency Approving Project: Riverside County Planning Department

Project Sponsor: Vanderwal, Jurjen and Janke

Exempt Status: (Check one)

- | | |
|---|---|
| <input type="checkbox"/> Ministerial (Sec. 21080(b)(1); 15268) | <input type="checkbox"/> Categorical Exemption (____) |
| <input type="checkbox"/> Declared Emergency (Sec. 21080(b)(3); 15269(a)) | <input checked="" type="checkbox"/> Statutory Exemption (15270) |
| <input type="checkbox"/> Emergency Project (Sec. 21080(b)(4); 15269 (b)(c)) | <input type="checkbox"/> Other: _____ |

Reasons why project is exempt: The project proposal meets the criteria for exemption pursuant to CEQA section 15270—Projects Which are Disapproved, which states: 15270 (a) "CEQA does not apply to projects which a public agency rejects or disapproves."

Larry Ross, Principal Planner 951-955-3585

County Contact Person

Phone Number

[Signature] Principal Planner September 29, 2010

Signature

Title

Date

Date Received for Filing and Posting at OPR: _____

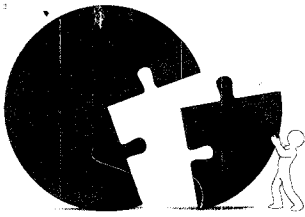
Revised: 3/15/10: Y:\Planning Master Forms\Templates\CEQA Forms\NOE Form.docx

Please charge deposit fee case#: ZEA

ZCFG No.

- FREE POSTING per Ca. Govt. Code 6103 and 27383

FOR COUNTY CLERK'S USE ONLY



RIVERSIDE COUNTY
PLANNING DEPARTMENT

Carolyn Syms Luna
Director

607B

DATE: October 28, 2010

TO: Clerk of the Board of Supervisors

FROM: Planning Department - Riverside Office

SUBJECT: TENTATIVE PARCEL MAP NO. 31653

(Charge your time to these case numbers)

The attached item(s) require the following action(s) by the Board of Supervisors:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Place on Administrative Action (Receive & File; EOT) | <input type="checkbox"/> Set for Hearing (Legislative Action Required; CZ, GPA, SP, SPA) |
| <input type="checkbox"/> Labels provided If Set For Hearing | <input type="checkbox"/> Publish in Newspaper: |
| <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day | **SELECT Advertisement** |
| <input type="checkbox"/> Place on Consent Calendar | <input type="checkbox"/> CEQA Exempt |
| <input type="checkbox"/> Place on Policy Calendar (Resolutions; Ordinances; PNC) | <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day |
| <input type="checkbox"/> Place on Section Initiation Proceeding (GPIP) | <input type="checkbox"/> Notify Property Owners (app/agencies/property owner labels provided) |
| | Controversial: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |

Designate Newspaper used by Planning Department for Notice of Hearing:
(1st and 5th Dist) Press Enterprise

Need Director's signature by 10/28/10
Please schedule on the November 9, 2010 BOS Agenda

Documents to be sent to County Clerk's Office for Posting within five days:
Notice of Exemption
Fish & Game Receipt (CFG Free Posting per Ca. Govt. Code 6103 and 27383)

Riverside Office · 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-3157

Desert Office · 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

Agenda Item No.: 4.3
Area Plan: Lake Matthews/Woodcrest
Supervisory District: First
Project Planner: Larry Ross
Director's Hearing: October 18, 2010

TENTATIVE PARCEL MAP NO. 31653
CEQA Exempt
Applicant: Vanderwal, Jurjen and Janke
Engineer/Rep.: Anacal Engineering Co.

COUNTY OF RIVERSIDE PLANNING DEPARTMENT STAFF REPORT

PROJECT DESCRIPTION AND LOCATION:

TENTATIVE PARCEL MAP NO. 31653 is a proposal to subdivide 4.09 acres into four parcels.

This project is located in the Lake Matthews/Woodcrest Area Plan of Western Riverside County. This project is located at the north end of Andrea Court, between Cedar Street and Wood Road.

BACKGROUND

This project was approved at Director's Hearing on June 13, 2005, and received and filed at the Board of Supervisors on September 13, 2005.

On August 10, 2010, the Superior Court of California, County of Riverside, found that Tentative Parcel Map No. 31653 violates the Subdivision Map Act and ordered the County of Riverside to deny the original application for Tentative Parcel Map No. 31653.

The project is being brought to the Director's Hearing in order to comply with the Court's order.

SUMMARY OF FINDINGS:

- | | |
|-----------------------------------|---|
| 1. Existing Land Use (Ex. #1): | Vacant |
| 2. Surrounding Land Use (Ex. #1): | Very Low Density Residential-Rural Commercial (VLDR-RC) |
| 3. Existing Zoning (Ex. #3): | Residential Agricultural one-acre minimum (R-A-1) |
| 4. Surrounding Zoning (Ex. #3): | Residential Agricultural one-acre minimum (R-A-1) |
| 5. General Plan Designation: | Land Use: Very Low Density Residential--Rural Commercial (VLDR-RC) |
| 6. Project Data: | Total Acreage: 4.09
Total Proposed Lots: 4
Proposed Min. Lot Size: 1 acre |
| 7. Environmental Concerns: | Exempt pursuant to CEQA Guidelines Section 15270(a) |

RECOMMENDATIONS:

DENIAL of TENTATIVE PARCEL MAP NO. 31653, based upon the findings and conclusions incorporated in the staff report.

CONCLUSIONS:

1. The proposed project violates the Subdivision Map Act.
2. The proposed project does not comply with the requirements of Ordinance No. 460.
3. The proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15270(a).

FINDINGS: The following findings are in addition to those incorporated in the summary of findings, which is incorporated herein by reference.

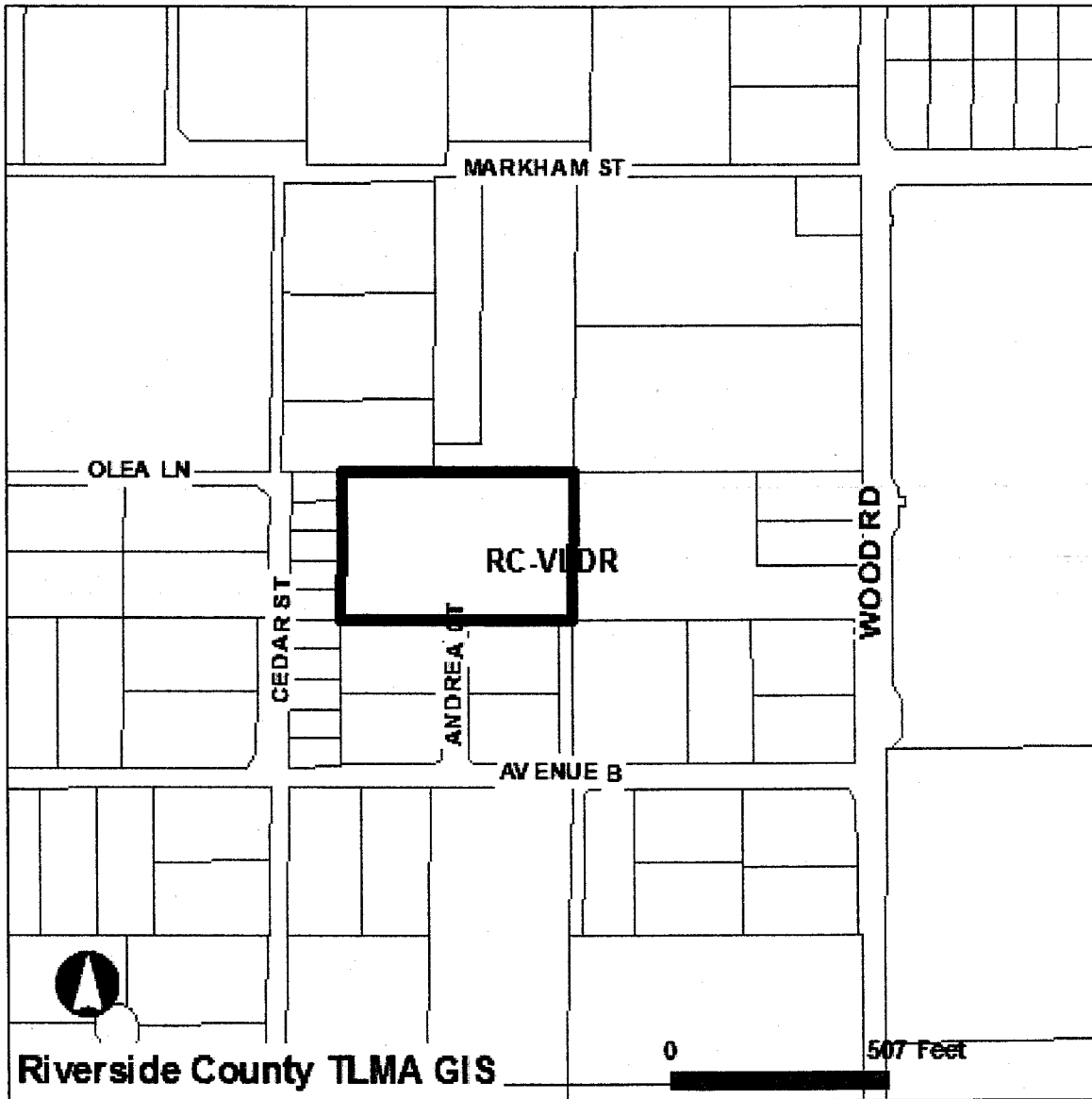
1. The project site is designated Very Low Density Residential--Rural Commercial (VLDR-RC).
2. The project site is surrounded by properties, which are designated Very Low Density Residential--Rural Commercial (VLDR-RC).
3. The zoning for the project site is Residential Agricultural one-acre minimum (R-A-1).
4. The proposed project would create 4 schedule "G" lots with a minimum lot size of 1.0 acre.
5. This project is not located within a Criteria Area of the Multi-Species Habitat Conservation Plan.
6. According to Section 7.1 of Ordinance No. 460, a tentative map shall be denied if it does not meet all requirements of Ordinance No. 460.
7. Section 4.5 of Ordinance No. 460 provides that no person shall make any land division of real property located in the unincorporated area of the County of Riverside, except in accordance with the provisions of the Subdivision Map Act.
8. In Jay Vanderwal v. County of Riverside, RIC 520218, the Superior Court did each of the following: found that Tentative Parcel Map No. 31653 violates the Subdivision Map Act for the reasons set forth in the Court's order, which is attached hereto and incorporated herein by this reference; found that the County's 2005 approval of Tentative Parcel Map No. 31653 is null and void; and ordered the County to deny the original application for Tentative Parcel Map No. 31653.
9. The proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15270(a) which provides that "CEQA does not apply to projects which a public agency rejects or disapproves."

INFORMATIONAL ITEMS:

1. As of this writing, no letters, in support or opposition have been received
2. The project site is not located within:
 - a. A dam inundation area;
 - b. A General Plan hazardous fire area;
 - c. An Alquist-Priolo earthquake fault hazard study zone; or
 - d. An airport-influence area
3. The project site is located within:
 - a. City of Riverside Sphere of Influence;

- b. The boundaries of the Val Verde Unified School District;
 - c. A Stephen's kangaroo rat fee area;
 - d. A Mt. Palomar lighting regulation zone (Zone B 43.75 miles); and
 - e. Lake Mathews/Woodcrest Area Plan.
4. The subject site is currently designated as Assessor's Parcel Numbers 321-030-021.

RIVERSIDE COUNTY GIS



Selected parcel(s):
321-030-021

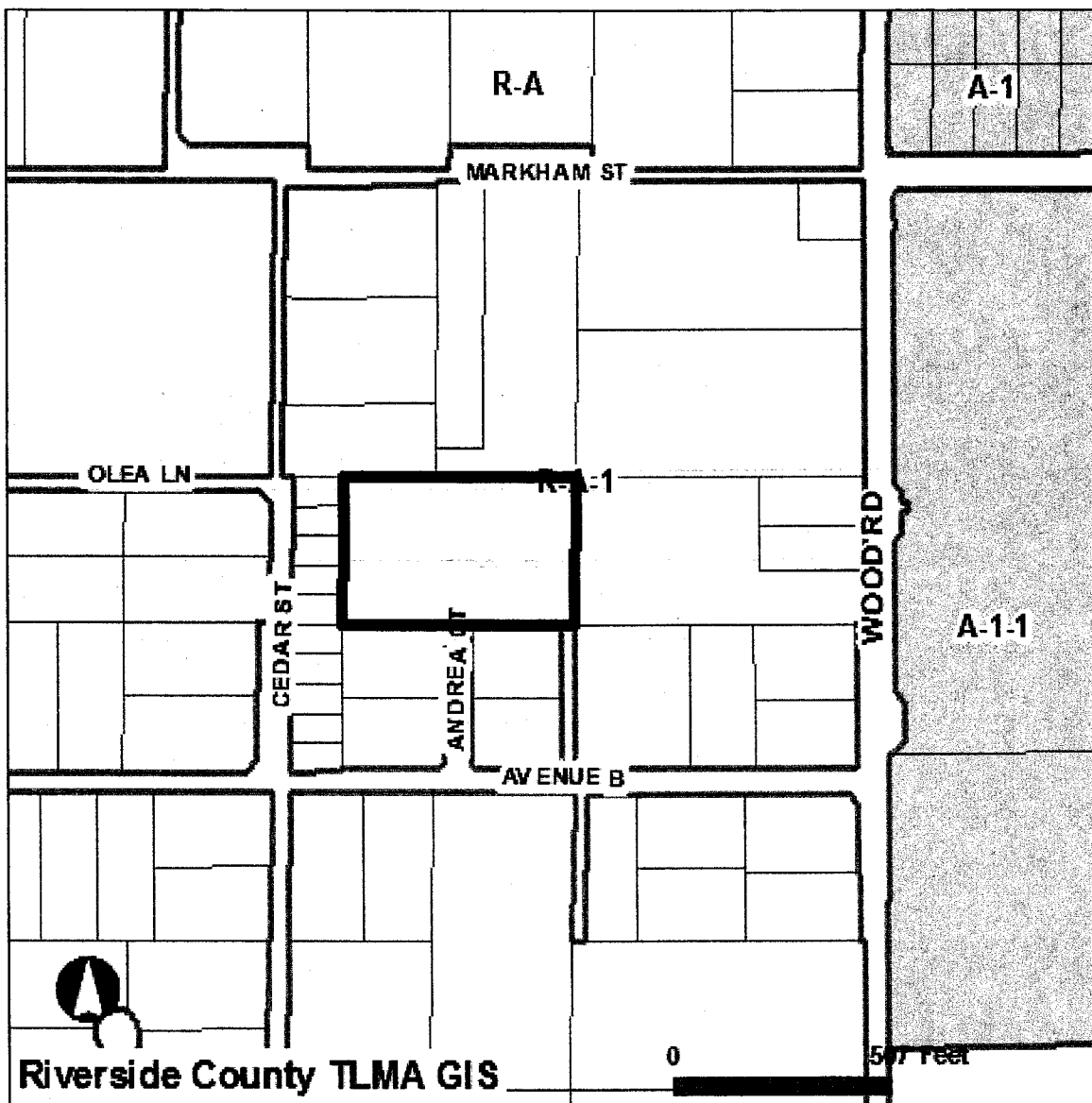
IMPORTANT

Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON...Wed Oct 20 09:16:39 2010

Version 100826

RIVERSIDE COUNTY GIS



Riverside County TLMA GIS

Selected parcel(s):
321-030-021

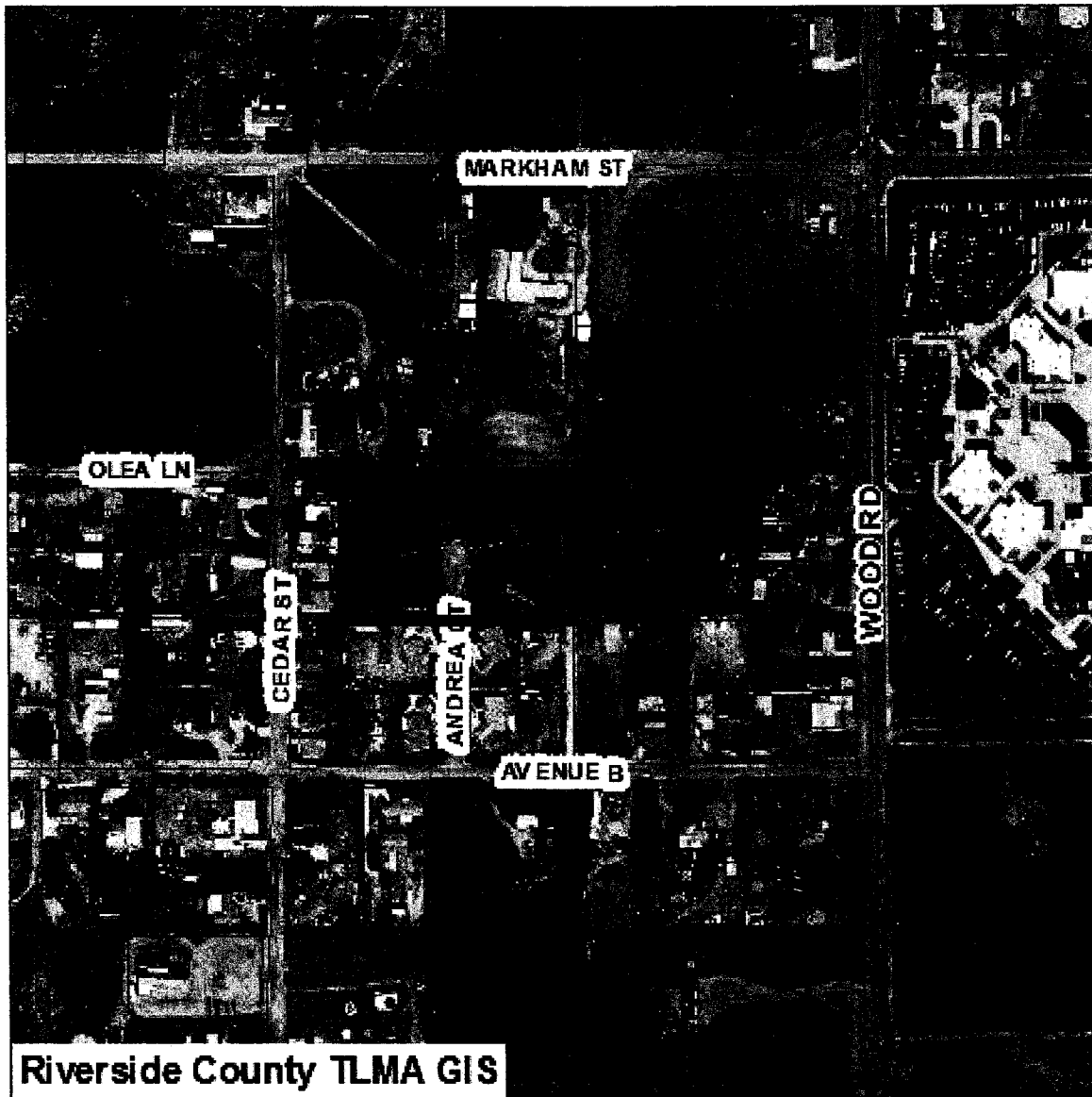
IMPORTANT

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REPORT PRINTED ON...Wed Oct 20 09:16:05 2010

Version 100826

RIVERSIDE COUNTY GIS



Selected parcel(s):
321-030-021

IMPORTANT

Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON...Wed Oct 20 09:11:49 2010

Version 100826

FAMILY RESIDENCE
321-030-011

FAMILY RESIDENCE

1-030-012

MILLY RESIDENCE

1-030-013

FAMILY RESIDENCE

030-014

MILLY RESIDENCE

030-015

MILLY RESIDENCE

030-016

MILLY RESIDENCE

030-017

PARCEL MAP NO. 25448

SINGLE FAMILY RESIDENCE
APN/ 321-030-022

SINGLE FAMILY RESIDENCE
APN 321-030-022

REA COURT

SULLIVAN LANE

AREA
1.01 ACRES GROSS
0.97 ACRES NET

INFLTRATION BASIN
RIP RAP ENERGY DISSIPATOR

PARCEL 3

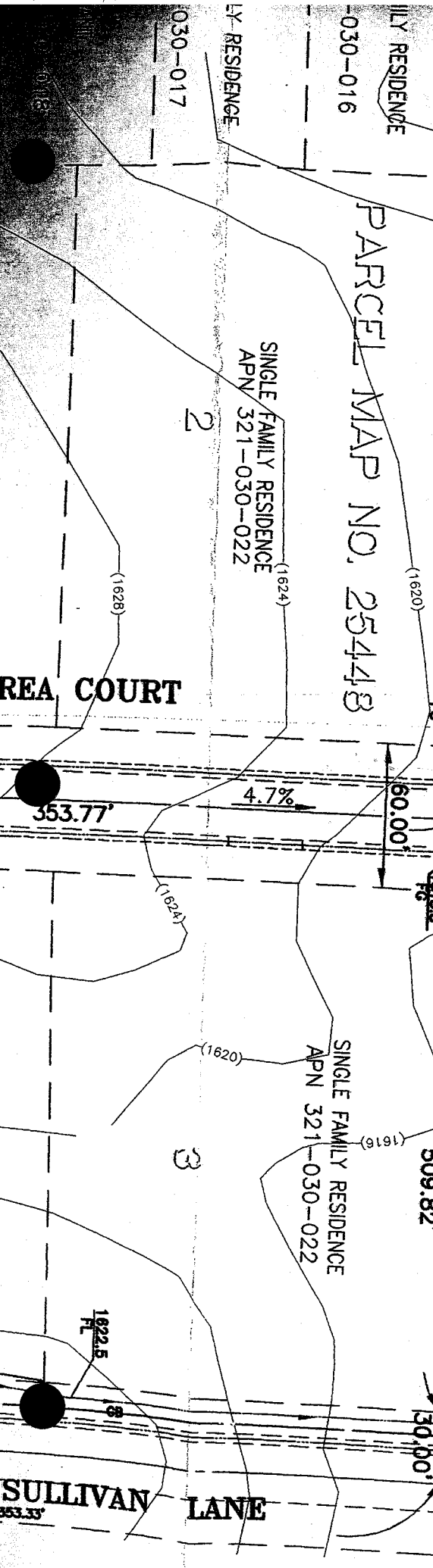
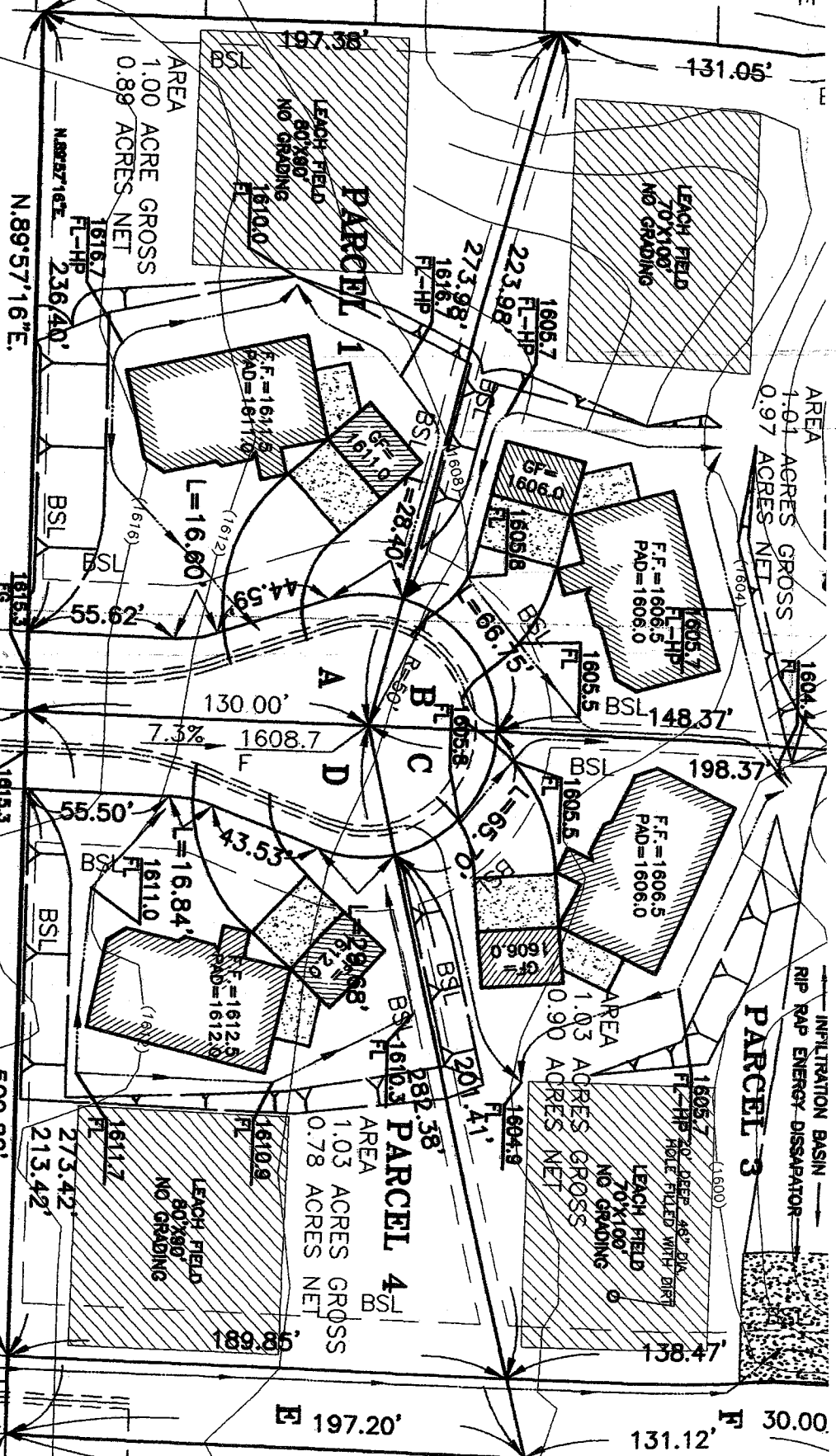
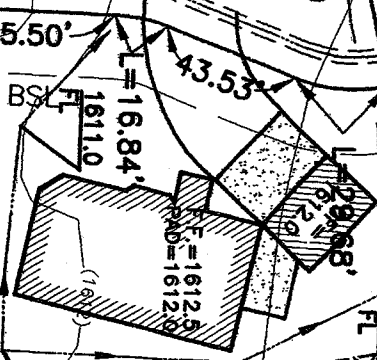
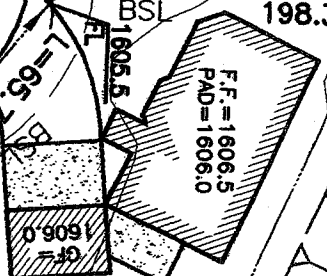
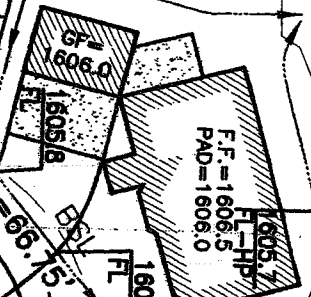
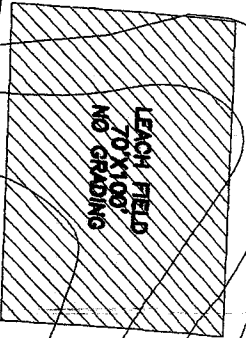
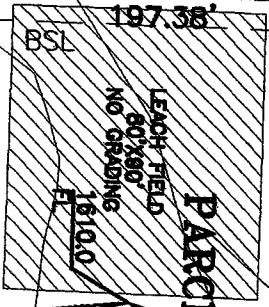
AREA
1.03 ACRES GROSS
0.90 ACRES NET

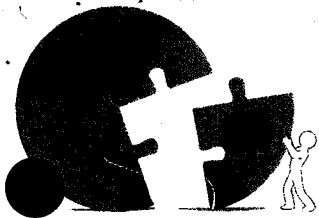
AREA
1.03 ACRES GROSS
0.78 ACRES NET

PARCEL 4

AREA
1.00 ACRES GROSS
0.89 ACRES NET

PARCEL 1





Carolyn Syms Luna
Director

RIVERSIDE COUNTY
PLANNING DEPARTMENT

Memorandum

DATE: October 18, 2010
TO: Planning Director
FROM: Larry Ross, Principal Planner
RE: **Director's Hearing item 4.3 - PM31653**

Attached is a letter from the applicant in opposition to the re-hearing of this project. Principal objection in letter is his opinion that the previous actions were final, and this hearing is not necessary.

Y:\Planning Master Forms\Templates\Letterhead Memo 2008-Formatted.doc

Riverside Office · 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-3157

Desert Office · 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7555

J. Vanderwal
325 Holmwood Drive
Newport Beach, CA 92663

Tel: (949) 631-4984
Fax: (949) 631-4998

October 9, 2010

Larry Ross,
Riverside County Planning Department
P.O. box, 1409,
Riverside, CA 92502-1409

By Certified Mail

Subject Tent. PM31653

Dear Mr. Ross,

With a planning staff report on file that the applicant had earlier been involved in a contiguous parcel, the project's tentative PM31653 was approved by the Planning Director in 2005, and nobody appealed in the legal prescribed period thereafter, and on Sept. 13, 2005, the Board of Supervisors received, stamped and filed this project, after which also nobody appealed this action within the legally prescribed appeal period, which made the Board's decision final.

Riverside County's Ordinance 460, Section 1.2.D. states that:
"The Board's actions shall be final with no further right of appeal".

Ten months after the project's appeal period had expired, the imminent recordation of PM31653 got stopped by a deputy county counsel on the grounds that the applicant had earlier been involved in a contiguous parcel.

At that point the Planning Director should right then have rejected the county counsel's interference, citing the "No right of appeal" statement of the Board's action shown above, but nothing was done.

By ignoring this "no right of appeal" statement it's of all people the county counsel who accused the applicant who had received the approvals, instead of the Planning Director and the Board of Supervisors who had issued the approvals, of having violated the Subdivision Map Act.

Three years after after the initial approvals of 2005, in 2008, the Planning Director issued an Extension of Time letter for Tent. PM31653, and he also stated there in that 'the Director's decision is final'.

Summarising the above approvals:

- 1...July, 2005, by the Planning Director.
- 2...Sept. 2005, by the Board of Supervisors.
- 3...Sept. 2008, by the Planning Director. who's decision is FINAL.

In view of all of these approvals it is unnecessary to have yet another meeting that is scheduled for October 18, 2010, and I will not be there, because attached hereto is legal proof that side by side parcel maps by the same owner are permitted, see the Subdivision Map Act §66463.1, Multiple Parcel Maps.

With regards,


Jay Vanderwal

cc.

- Randall K. Johnson, Attorney
- The Board of Supervisors

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING has been scheduled, pursuant to Riverside County Subdivision Ordinance No. 460, before the RIVERSIDE COUNTY DIRECTOR'S HEARING to consider the project shown below:

TENTATIVE PARCEL MAP NO. 31653, is an application submitted by Vanderwal, Jurjen & Janke for property located in the Cajalco Zoning Area, First Supervisorial District, and more generally located on the north end of Andrea Court, between Cedar Street and Wood Road - 4.09 Acres - R-A-1 Zone - Pursuant to Ordinance No. 348, Riverside County Land Use Ordinance, and Ordinance No. 460, Riverside County Subdivision Ordinance, the project is a Schedule "H" subdivision of 4.09 acres into 4 parcels. (Quasi-Judicial)

TIME OF HEARING: 1:30 or as soon as possible thereafter.
DATE OF HEARING: October 18, 2010
PLACE OF HEARING: 4080 LEMON STREET
1st FLOOR CONFERENCE ROOM 2A
RIVERSIDE, CALIFORNIA 92501

For further information regarding this project, please contact Larry Ross, Principal Planner at 951 955-3585 or e-mail lross@rctlma.org, or go to the County Planning Department's Director's Hearing agenda web page at www.tlma.co.riverside.ca.us/planning/pc.html

The Riverside County Planning Department has recommended DENIAL of above-described application, and is therefore not recommending any California Environmental Quality Act (CEQA) action. The Planning Director will consider the proposed application at the public hearing.

The case file for the proposed project may be viewed Monday through Thursday, from 8:00 A.M. to 5:00 P.M. at the Planning Department office, located at 4080 Lemon St. 9th Floor, Riverside, CA 92501.

Any person wishing to comment on the proposed project may do so in writing between the date of this notice and the public hearing; or, may appear and be heard at the time and place noted above. All comments received prior to the public hearing will be submitted to the Planning Director, and the Planning Director will consider such comments, in addition to any oral testimony, before making a decision on the proposed project.

If this project is challenged in court, the issues may be limited to those raised at the public hearing, described in this notice, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing. Be advised that as a result of public hearings and comment, the Planning Director may amend, in whole or in part, the proposed project. Accordingly, the designations, development standards, design or improvements, or any properties or lands within the boundaries of the proposed project, may be changed in a way other than specifically proposed.

Please send all written correspondence to:

RIVERSIDE COUNTY PLANNING DEPARTMENT
Attn: Larry Ross
P.O. Box 1409, Riverside, CA 92502-1409

J. Vanderwal
325 Holmwood Drive
Newport Beach, CA 92663

Tel: (949) 631-4984
Fax: (949) 631-4996

October 9, 2010

All members of the
Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

VIA CERTIFIED MAIL

Subject: Tentative PM31653

Dear Supervisors,

It is now more than four years ago that a deputy county counsel stopped my tentative parcel map 31653 from getting recorded.

For more than these four years my attorney and I have attempted everything to resolve this.

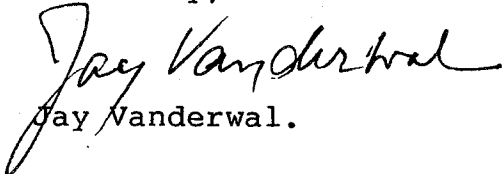
THE COUNTY COUNSEL'S OFFICE

By not letting to get this map recorded they actually are accusing you and the planning director of having made a big mistake when you approved this project.

The enclosed letters that I wrote prove otherwise.

Please, clean up this mess, your reputations are at stake.

Sincerely,


Jay Vanderwal.

PS: I wrote this myself, my attorney is on vacation,
and he could not be reached.

66463.1. Multiple parcel maps

Multiple parcel maps filed pursuant to Section 66426 relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map if either condition is satisfied:

- (a) The subdivider, at the time the tentative map is filed, provides a written notice to the advisory agency or the local agency of the subdivider's intention to file multiple parcel maps on the tentative map.
- (b) After filing of the tentative map, the local agency and the subdivider concur in the filing of multiple parcel maps.

In providing the notice specified in subdivision (a), the subdivider shall not be required to define the number or configuration of the proposed multiple parcel maps. The filing of a parcel map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the tentative map. The right of the subdivider to file multiple parcel maps shall not limit the authority of the local agency to impose reasonable conditions relating to the filing of multiple parcel maps.

[Added, Chapter 907, Statutes of 1991]

Subdivision Map Act

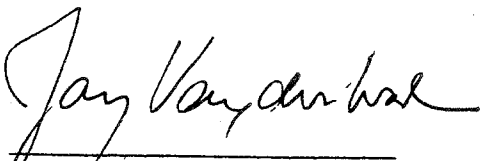
THE COUNTY'S USE OF §66463.1, MULTIPLE PARCEL MAPS.

When the owner's application for his first 4-unit PM25448 on the south parcel of two contiguous parcels was being processed through the various county departments, the county knew through recorded documents of the contiguous ownership of the north parcel. Both parcels had been issued a Certificate of Compliance in 1991, and in 1993 there was a Grant Deed recorded between daughter and parents.

Tentative PM25448 needed as access to all four of its planned units a short driveway, going north from Avenue B. However, because the plan was to develop an identical 4-unit parcel map on the north parcel, a 60 ft Right of Way was needed for an access road, going north from Ave. B to the north parcel, as specified by the county's Transportation Dept.

In addition to that, the county's Fire Department dictated the design of a cul de sac at the end of its access road that would enable a large firetruck to turn around without having to back up. The county Planning Department concurred with the plan, and with that design already shown on the drawings, PM25448 got recorded.

Thereafter the north parcel was processed as Tentative PM31653, and proof of the county's acceptance of another parcel map on the north parcel can be found in a computer entry by the manager of the county's Public works Department that temporarily stops and later releases the processing of tentative PM31653 till remedial flood control construction had been completed in the area.



JAY VANDERWAL OCT. 9, 2010

Attached hereto a copy of
recorded PARCEL MAP 25448

UNINCORPORATED TERRITORY OF RIVERSIDE COUNTY, STATE OF CAL.

BEING A DIVISION OF A PORTION OF PARCEL 11 OF RECORD OF SURVEY ON FILE IN BOOK 9, PAGE 66, RECORDS OF RIVERSIDE COUNTY, SECTION 6, T. 4 S., R. 4 W., IN RANCHO EL SOBRANTE DE SAN JACINTO.

ANACAL ENGINEERING CO.

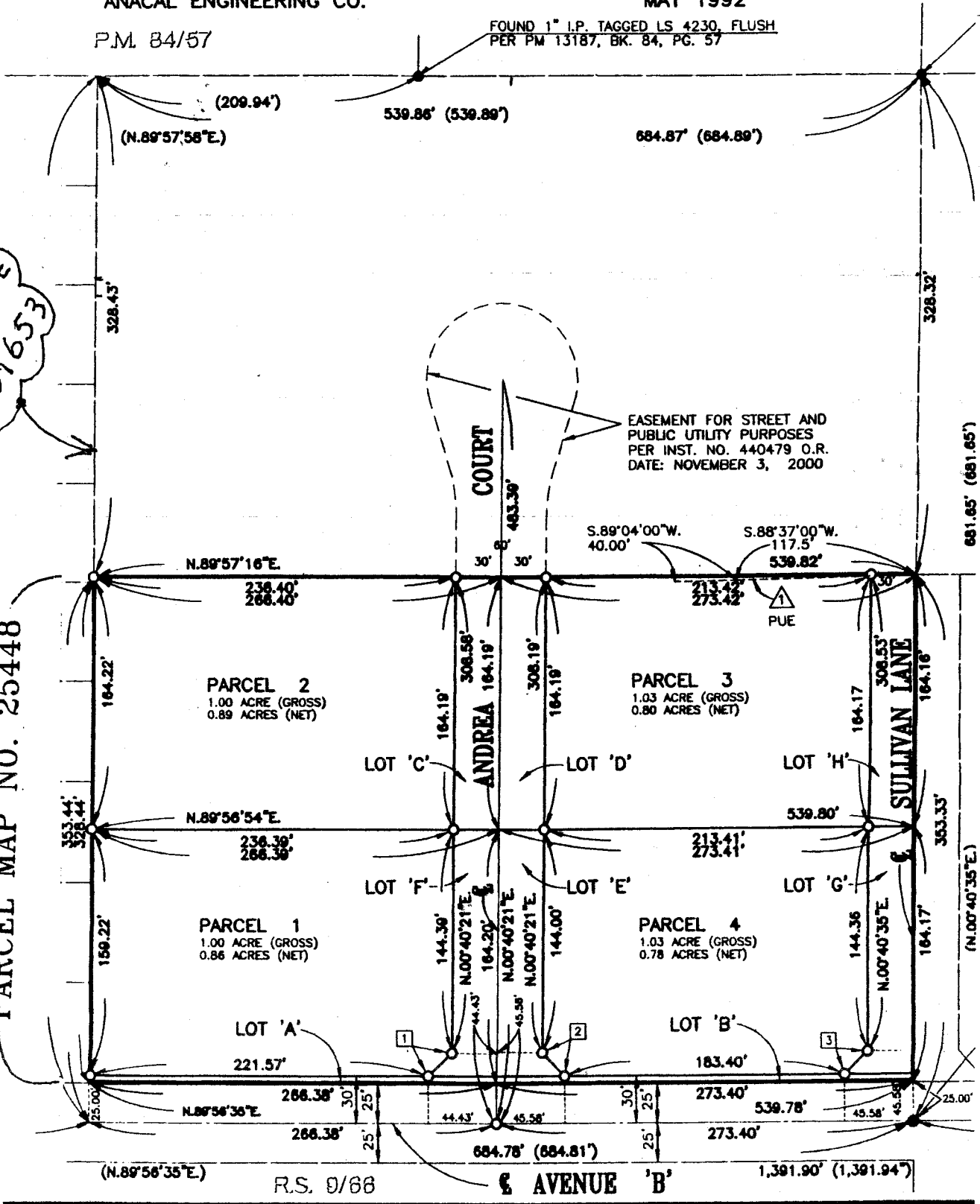
MAY 1992

P.M. 84/57

FOUND 1" I.P. TAGGED LS 4230, FLUSH PER PM 13187, BK. 84, PG. 57

FUTURE
PM 31653

PARCEL MAP NO. 25448



RYD AUG 12 2010

(Exempt from Filing Fees Pursuant to Govt. Code § 6103)

DPH

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG 12 2010

REC

RB

FILED
AUG 12 2010
R

1 PAMELA J. WALLS, County Counsel (SBN 123446)
2 L. ALEXANDRA FONG, Deputy County Counsel (SBN 208404)
3 3960 Orange Street, Fifth Floor
4 Riverside, CA 92501-3674
5 Telephone: (951) 955-6300
6 Facsimile: (951) 955-6363
7 ccwatson@co.riverside.ca.us

8 Attorneys for County of Riverside and Board of Supervisors for the
9 County of Riverside (erroneously sued as "Riverside County Board
10 of Supervisors")

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF RIVERSIDE

13 JAY VANDERWAL,
14 Petitioners,

15 v.

16 COUNTY OF RIVERSIDE, A POLITICAL
17 SUBDIVISION OF THE STATE OF
18 CALIFORNIA, RIVERSIDE COUNTY
19 BOARD OF SUPERVISORS, and DOES 1
20 through 100, Inclusive,
21 Respondents.

Case No. RIC 520218

~~PROPOSED~~ ORDER RE: PETITION FOR WRIT OF MANDATE

Hearing Information

DATE: July 23, 2010
TIME: 10:00 a.m.
DEPT: 8
JUDGE: Honorable Bernard J. Schwartz

Petition Filed: February 20, 2009

22 This matter came on for hearing on July 23, 2010. Johnson & Associates, APLC, Randall K.
23 Johnson appeared on behalf of Petitioner, Jay Vanderwal. Office of Riverside County Counsel, L.
24 Alexandra Fong, Deputy County Counsel, appeared on behalf of Respondents, County of Riverside and
25 the Board of Supervisors for the County of Riverside.

26 The Court, having considered the arguments presented by counsel in their briefs and in oral
27 argument, rules:

28 In this mandamus proceeding, Petitioner Jay Vanderwal ("Petitioner") seeks a writ of mandate,
ordering County of Riverside ("County") and its Board of Supervisors ("Board of Supervisors")
(collectively "Respondents") to record tentative parcel map number 31653.

1 I. *Standard of Review*

2 Petitioner is seeking a "traditional mandamus" review pursuant to *Code of Civil Procedure* §
3 1085. In this type of proceeding, the trial court's review is limited to whether the agency exceeded its
4 proper authority, used unfair procedures, or acted in a manner that was arbitrary, capricious, or entirely
5 lacking in evidentiary support. *Weinberg v. Cedars-Sinai Medical Center*, 119 Cal.App.4th 1098, 1108
6 (1994).

7 There are two basic requirements for a traditional writ of mandate to issue: (1) a clear, present and
8 usually ministerial duty on the part of the Respondent; (2) a clear, present and beneficial right in the
9 Petitioner to the performance of that duty. *American Federation of State, County and Municipal*
10 *Employees v. Metropolitan Water District of Southern California*, 126 Cal.App.4th 247, 261-262 (2005).

11 II. *The Subdivision Map Act*

12 The Subdivision Map Act vests in a city or county the power to regulate the control, design and
13 improvement of subdivisions within its borders. *Government Code* § 66411. The subdivision is defined
14 by statute as the division by any subdivider of any unit or units of improved or unimproved land, or any
15 portion thereof showing on the latest equalized county assessment roll as a unit or contiguous units for the
16 purposes of sale, lease or financing, whether immediate or future. *Government Code* § 66424.

17 Because of the complexities that can develop when a subdivision involves five or more parcels,
18 the Subdivision Map Act requires a two-step procedure. First, the approval of a tentative map followed
19 by approval of a final subdivision map by the local agency. The general rule is that the tentative and final
20 maps are required for all subdivisions creating five or more parcels. *Government Code* § 66424.

21 When counting parcels to determine whether a final map or parcel map is required, all previous
22 subdivisions by the same subdivider are included. *Bright v. Board of Supervisors*, 66 Cal.App.3d 191,
23 194-195 (1977). Thus, a subdivider cannot evade tentative and final map requirements, under
24 *Government Code* § 66426, by making successive divisions of four or fewer parcels.

25 Division of real property by independent action of successive and different owners is not treated as
26 a single division in ascertaining the number of parcels. A successive division of land into four or fewer
27 parcels, called quartering, by different but related owners, is treated as a single division. Thus, for
28

1 example, a Subdivision Map Act violation can be found if the original owner of quartered real property
2 financed the sale of parcels, quartered, developed and sold by the new owners.

3 III. *Tentative Parcel Map 31653 Violates the Subdivision Map Act*

4 In 1989, Petitioner and his daughter obtained an ownership interest in two adjoining parcels, the
5 south and north properties. They transferred interest in the parcels between each other for several years.
6 In 1992, a parcel map for the south property was approved and the property was divided into four parcels.
7 In 2003, Petitioner and his daughter filed an application for a parcel map to divide the north property into
8 four parcels. In 2005, the tentative parcel map was conditionally approved.

9 There is no dispute that County approved the tentative parcel map. However, the tentative parcel
10 map fails to comply with the Subdivision Map Act and could not be approved. A tentative tract map was
11 required because all previous subdivisions by the Petitioner should have been counted in determining
12 whether a parcel or tract map was required. Because the Petitioner previously subdivided the south
13 property, these parcels should have been counted for purposes of determining the type of map required.
14 Since the south property had four parcels and Petitioner was seeking to divide the north property into four
15 parcels, a tentative and final tract map should have been used.

16 Petitioner requests the Court to order the County to record what, in essence, is an invalid tentative
17 parcel map. Any attempt to waive the requirements of the Subdivision Map Act would be invalid,
18 regardless of how it is done. *Sixells, LLC v. Cannery Business Park*, 170 Cal.App.4th 648, 654 (2008).
19 Thus, the petition must be denied.

20 Even if a tentative parcel map was proper and could somehow be deemed a tentative tract map,
21 Petitioner has presented no evidence that he has submitted a final tract map to the County for approval
22 and recordation.

23 The Government Code provides a specific process for how final maps are presented to the
24 government agency to be approved and recorded. The final map must be filed with the legislative body
25 before the tentative map expires. *Government Code* § 66452.6. The county surveyor has twenty days to
26 complete and file a certificate or statement with the legislative body. *Government Code* § 66442. Once
27 the surveyor certifies that the final map substantially conforms to the true tentative map and complies with
28 all Subdivision Map Act provisions and local ordinances applicable at the time the tentative map was

1 approved, the legislative body has no discretion to deny approval of the final map. *Government Code* §
2 66458.

3 Here, Petitioner has submitted no evidence that he has filed the final map with the County for its
4 approval and recording. Thus, despite the fact that the tentative parcel map was improperly approved, the
5 county surveyor cannot ever certify that the tentative parcel map is in substantial compliance because it
6 does not comply with the Subdivision Map Act. Accordingly, the Court would then deny the petition for
7 writ of mandate.

8 IV. *Conclusion*

9 The Court finds that tentative parcel map 31653 violates the Subdivision Map Act for the reasons
10 set forth above. Although the tentative parcel map was approved by the County and its Board of
11 Supervisors in September 2005, said approval is null and void. The petition for writ of mandate,
12 requesting the Court order County to record its tentative parcel map, is DENIED.

13 As an alternate form of relief, Petitioner has requested the Court order the County to approve or
14 deny the original application. As tentative parcel map 31653 violates the Subdivision Map Act, it cannot
15 be approved. Therefore, the petition for writ of mandate, requesting the Court order County to deny the
16 original application, is GRANTED. County shall issue its denial within thirty (30) days of the July 23,
17 2010 hearing.

18 IT IS SO ORDERED.

19
20 DATED:

8/10/10



Honorable Bernard J. Schwartz
Judge of the Riverside Superior Court

21
22
23 Approved by:

24
25
26 _____
Randall K. Johnson
Counsel for Petitioner

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING has been scheduled, pursuant to Riverside County Subdivision Ordinance No. 460, before the RIVERSIDE COUNTY DIRECTOR'S HEARING to consider the project shown below:

TENTATIVE PARCEL MAP NO. 31653, is an application submitted by Vanderwal, Jurjen & Janke for property located in the Cajalco Zoning Area, First Supervisorial District, and more generally located on the north end of Andrea Court, between Cedar Street and Wood Road - 4.09 Acres - R-A-1 Zone – Pursuant to Ordinance No. 348, Riverside County Land Use Ordinance, and Ordinance No. 460, Riverside County Subdivision Ordinance, the project is a Schedule "H" subdivision of 4.09 acres into 4 parcels. (Quasi-Judicial)

TIME OF HEARING: 1:30 or as soon as possible thereafter.
DATE OF HEARING: October 18, 2010
PLACE OF HEARING: 4080 LEMON STREET
1st FLOOR CONFERENCE ROOM 2A
RIVERSIDE, CALIFORNIA 92501

For further information regarding this project, please contact Larry Ross, Principal Planner at 951 955-3585 or e-mail lross@rctlma.org, or go to the County Planning Department's Director's Hearing agenda web page at www.tlma.co.riverside.ca.us/planning/pc.html

The Riverside County Planning Department has recommended DENIAL of above-described application, and is therefore not recommending any California Environmental Quality Act (CEQA) action. The Planning Director will consider the proposed application at the public hearing.

The case file for the proposed project may be viewed Monday through Thursday, from 8:00 A.M. to 5:00 P.M. at the Planning Department office, located at 4080 Lemon St. 9th Floor, Riverside, CA 92501.

Any person wishing to comment on the proposed project may do so in writing between the date of this notice and the public hearing; or, may appear and be heard at the time and place noted above. All comments received prior to the public hearing will be submitted to the Planning Director, and the Planning Director will consider such comments, in addition to any oral testimony, before making a decision on the proposed project.

If this project is challenged in court, the issues may be limited to those raised at the public hearing, described in this notice, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing. Be advised that as a result of public hearings and comment, the Planning Director may amend, in whole or in part, the proposed project. Accordingly, the designations, development standards, design or improvements, or any properties or lands within the boundaries of the proposed project, may be changed in a way other than specifically proposed.

Please send all written correspondence to:

RIVERSIDE COUNTY PLANNING DEPARTMENT
Attn: Larry Ross
P.O. Box 1409, Riverside, CA 92502-1409

September 30, 2010

RE: Legal Notice
PLANNING DIRECTOR HEARING

ATTN: Legals Department

Attached, please find a notice of public hearing to appear one time only in the Press Enterprise on Wednesday October 6, 2010 in order to comply with County Ordinance.

Please compose this legal advertisement without any indentations, and the composed copy should fill a complete block inch.

Kindly furnish our office with the affidavits of publication in duplicate and your bill in triplicate. Should you have any questions, please contact Desiree Bowie at (951) 955-0222.

Regards,

RIVERSIDE COUNTY PLANNING DEPARTMENT
Ron Goldman, Planning Director

Desiree Bowie, Interim Planning Commission Secretary
dbowie@rctlma.org

Attached: Legal ad(s)

Transportation Dept.
Stop # 1080

Environmental Health
Stop# 3613

Flood Control
Stop# 2990

Fire Department
Stop# 2240

Building & Safety - Grading
Stop# 2715

Building & Safety - John Vasquez
Stop # 2715

Geologist
Stop# 1070

Biologist
Stop# 1070

Sheriff's Department
Stop# 1450

Riverside County Waste Dept.
Stop# 2950

Supervisor Buster
Stop# 1001

Commissioner Roth
Stop# 1070

EDA
Stop# 1330

Regional Parks & Rec. District
Stop # 2970

Val Verde Unified School District
975 West Morgan Street

Riverside Ca 92521-0418

Riverside Ca 92507-3884

Regional Parks & Open Space
Stop# 2970

Agency Labels for PM31653
D. Mares 9/2/10

Anaheim, Ca 92807



APN: 321030003 ASMT: 321030003
EARL C LOCKHART
VELMA R LOCKHART
4971 MAYMONT DR
LOS ANGELES CA 90043

APN: 321030007 ASMT: 321030007
JAMES C AMER
ELIZABETH A AMER
18765 MARKHAM ST
RIVERSIDE CA. 92508

APN: 321030008 ASMT: 321030008
RANDY J HARRIS
18805 MARKHAM ST
RIVERSIDE CA. 92508

APN: 321030010 ASMT: 321030010
JAMES O ARCHER
18101 WOOD RD
PERRIS CA. 92570

APN: 321030011 ASMT: 321030011
PAUL VINCENT RODRIGUEZ
18120 CEDAR ST
PERRIS CA. 92570

APN: 321030012 ASMT: 321030012
CYNTHIA L HENSON
18130 CEDAR ST
PERRIS CA. 92570

APN: 321030013 ASMT: 321030013
BENJAMIN VILLALTA
18180 CEDAR ST
PERRIS CA. 92570

APN: 321030014 ASMT: 321030014
DENNIS OWEN STOUT
18160 CEDAR ST
PERRIS CA. 92570

APN: 321030015 ASMT: 321030015
JOSE PILAR FLORES
ROSALINA FLORES
18170 CEDAR ST
PERRIS CA. 92570

APN: 321030016 ASMT: 321030016
PATRICIA DIANE DORSETT
C/O PATRICIA STERN
P O BOX 870
RUNNING SPRINGS CA 92382

APN: 321030017 ASMT: 321030017
RICHARD WATTS
18200 CEDAR ST
PERRIS CA. 92570

APN: 321030018 ASMT: 321030018
MICHAEL M MEEKS
RURAL ROUTE 2 BOX 415
SAN LUIS OBISPO CA 93405

APN: 321030019 ASMT: 321030019
JORDON SMITH
DANIELLE SMITH
18240 CEDAR ST
PERRIS CA. 92570

APN: 321030020 ASMT: 321030020
MIN KI CHUN
18248 CEDAR ST
PERRIS CA. 92570

APN: 321030021 ASMT: 321030021
JURJEN VANDERWAL
JANKE VANDERWAL
C/O JAY VANDERWAL
325 HOLMWOOD DR
NEWPORT BEACH CA 92663

APN: 321030023 ASMT: 321030023
ROBERT R HARVEY
AUSTRALIA HARVEY
18171 WOOD RD
PERRIS CA. 92570

APN: 321030024 ASMT: 321030024
SARA A HAYES
18131 WOOD RD
PERRIS CA. 92570

APN: 321030025 ASMT: 321030025
LUIS FERNANDO ZAPIEN
18155 WOOD RD
PERRIS CA. 92570

APN: 321030030 ASMT: 321030030
JAMES R TERRIERE
ROSEMARIE TERRIERE
18880 AVENUE B
PERRIS CA. 92570

APN: 321030031 ASMT: 321030031
ALBERT P BOCTOR
APRIL D BOCTOR
18906 AVENUE B
PERRIS CA. 92570

APN: 321030032 ASMT: 321030032
JOYCE LEE APARIJO
TOMMY NUNEZ
18205 WOOD RD
PERRIS CA. 92570

APN: 321030033 ASMT: 321030033
JERRY CONANT
LYNDA CONANT
P O BOX 7908
RIVERSIDE CA 92513

APN: 321030034 ASMT: 321030034
JOSE H MONTERO
VICTORIA MONTERO
6742 RIDGESIDE DR
RIVERSIDE CA 92506

APN: 321030035 ASMT: 321030035
JOSEPH S DORMAN
SHARON M DORMAN
16579 BEN CT
RIVERSIDE CA 92504

APN: 321030036 ASMT: 321030036
JUAN CRUZ
ALVARO CRUZ
18080 CEDAR ST
PERRIS CA. 92570

APN: 321030042 ASMT: 321030042
SIMON ROBLES
18525 OLEA LN
PERRIS CA. 92570

APN: 321030043 ASMT: 321030043
CHRIS A AZNAR
18125 CEDAR ST
PERRIS CA. 92570

APN: 321030044 ASMT: 321030044
JEAN C MISKAM
24155 VIA OCTAVO
MURRIETA CA 92562

APN: 321030045 ASMT: 321030045
BRUCE C RAUCH
CATHERINE E RAUCH
18175 CEDAR ST
PERRIS CA. 92570

APN: 321030047 ASMT: 321030047
CLAUDIO SALDANA
ROSA SALDANA
18550 AVENUE B
PERRIS CA. 92570

APN: 321030048 ASMT: 321030048
CURTIS L PARKER
18225 CEDAR ST
PERRIS CA. 92570

APN: 321030049 ASMT: 321030049
THOMAS PATTON
JANICE EILEEN PATTON
18245 CEDAR ST
PERRIS CA. 92570

APN: 321030050 ASMT: 321030050
RITO JASSO
18227 ANDREA CT
PERRIS CA. 92570

APN: 321030051 ASMT: 321030051
AJJ DEV
C/O JURJEN VANDERWAL
18199 ANDREA CT
PERRIS CA. 92570

APN: 321030052 ASMT: 321030052
KELLY ZAMORA
ALBERT ZAMORA
18194 ANDREA CT
PERRIS CA. 92570

APN: 321030053 ASMT: 321030053
PATRICK LANNOO
KRISTEN LANNOO
18222 ANDREA CT
PERRIS CA. 92570

APN: 321030054 ASMT: 321030054
WMWD
C/O JEFFREY SIMS
P O BOX 5286
RIVERSIDE CA 92517

APN: 321040012 ASMT: 321040012
LUZ MARGARITA GARCIA
18260 CEDAR ST
PERRIS CA. 92570

APN: 321040013 ASMT: 321040013
VERNA SOUZA
THOMAS SOUZA
18725 AVENUE B
PERRIS CA. 92570

APN: 321040015 ASMT: 321040015
PAGE BASIL ELAM ESTATE OF
BASIL JOHN PAGE
C/O THERON PAGE
18781 AVENUE B
PERRIS CA. 92570

APN: 321040030 ASMT: 321040030
RONALD W PARIMORE
LOIS E PARIMORE
18261 AVENUE B
PERRIS CA 92570

APN: 321040037 ASMT: 321040037
RANDALL A GRAY
JANA L GRAY
18591 AVENUE B
PERRIS CA. 92570

APN: 321040038 ASMT: 321040038
DAVID GOMEZ ORNELAS
MARY C ORNELAS
18251 CEDAR ST
PERRIS CA. 92570

APN: 321040039 ASMT: 321040039
RICHARD L GARBETT
JARRIS S GARBETT
18289 CEDAR ST
PERRIS CA. 92570

APN: 321040044 ASMT: 321040044
VERNA COLEMAN SHARPLEY
19510 VAN BUREN BLV STE F3
RIVERSIDE CA 92508

APN: 321040051 ASMT: 321040051
DAVID A SCHOLZ
CLARA M SCHOLZ
18561 BERT RD
RIVERSIDE CA 92508

Transportation Dept.
Stop # 1080

Environmental Health
Stop# 3613

Flood Control
Stop# 2990

Fire Department
Stop# 2240

Building & Safety - Grading
Stop# 2715

Building & Safety – John Vasquez
Stop # 2715

Geologist
Stop# 1070

Biologist
Stop# 1070

Sheriff's Department
Stop# 1450

Riverside County Waste Dept.
Stop# 2950

Supervisor Buster
Stop# 1001

Commissioner Roth
Stop# 1070

EDA
Stop# 1330

Regional Parks & Rec. District
Stop # 2970

Val Verde Unified School District
975 West Morgan Street
Perris Ca 92571

Western Municipal Water District
450 Alessandro
Riverside Ca 92508-2449

Southern Ca Edison Company
2244 Walnut Grove Ave. #312
P.O. Box 800
Rosemead Ca 91770-0800

Southern Ca Gas Company
Ken Soversn
1981 Lugonia Avenue
P.O. Box 3003 SC 8031

CA Dept of Fish and Game
Leslie MacNair
4775 Bird Farm Road
Chino Hills, Ca 91709

Caltrans #8
464 West Fourth Street
6th floor MS 726
San Bernardino Ca 92401-1400
Eastern Information Center
Department of Anthropology
University of California
Riverside Ca 92521-0418

US Fish & Wildlife Service
6010 Hidden Valley Road
Carlsbad Ca 92009

US Postal Service
Growth Mgmt. Coordinator
San Bernardino MSC Mail Facility
San Bernardino Ca 92403-9334

Riverside Transit Agency
Michael McCoy
1825 Third Street
Riverside Ca 92507-3884

SBC
MaryAnn Cassidy
3939 East Coronado 2nd floor
Anaheim, Ca 92807

Regional Parks & Open Space
Stop# 2970

Agency Labels for PM31653
D. Mares 9/2/10

PUBLIC HEARING NOTICE LABELS CERTIFICATION FORM

I, David Mares, certify that on 9/29/10,
Print name Date

the attached property owner's list was prepared by:

David Mares for the following project, PM 31653,
Print Company Name and/or Individual's Name Project case number(s)

using a radius distance of _____ feet, pursuant to application requirements furnished by the Riverside County Planning Department. Said list is a complete and true compilation of the project applicant, the applicant's engineer/representative, if any, the owner(s) of the subject property, the school district or districts within whose boundary the subject project is located, every City within one mile of the subject property or within whose sphere of influence the subject property is located, if any, and, all other property owners within a 600 foot radius around the subject property, and all contiguously owned properties, if any, or if that area yields less than 25 different owners, all property owners within a notification area expanded to yield a minimum of 25 different owners, to a maximum area of 2,400 feet from the project boundaries, based upon the latest equalized assessment rolls. If the property is a subdivision with identified off-site access/improvements, said list includes a complete and true compilation of the names and mailing addresses of the owners of all the property that is adjacent to the proposed off-site improvement/alignment.

I further certify that the information field is true and correct to the best of my knowledge.

Name: David Mares

Title/Registration: Principal Planner

Address: 4080 Lemon Street

Address: _____

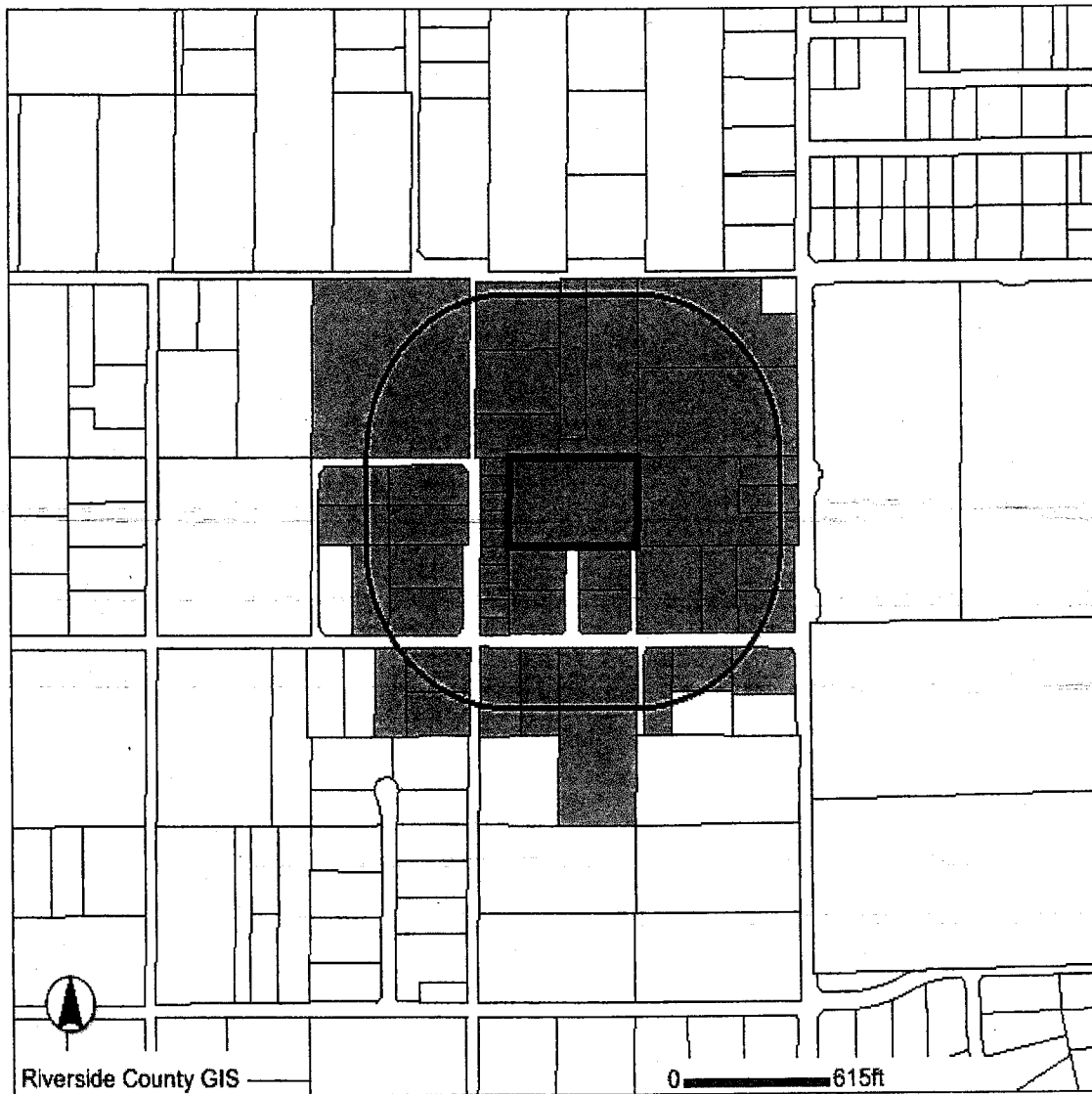
City: Riverside State: Ca Zip: 92562

Telephone No.: (951) 955-07 Fax No.: ()

E-Mail: DMares@RTLMA.org

Case No.: _____

PM31653



Selected parcel(s):

321-030-003	321-030-007	321-030-008	321-030-010	321-030-011	321-030-012	321-030-013
321-030-014	321-030-015	321-030-016	321-030-017	321-030-018	321-030-019	321-030-020
321-030-021	321-030-023	321-030-024	321-030-025	321-030-030	321-030-031	321-030-032
321-030-033	321-030-034	321-030-035	321-030-036	321-030-042	321-030-043	321-030-044
321-030-045	321-030-047	321-030-048	321-030-049	321-030-050	321-030-051	321-030-052
321-030-053	321-030-054	321-040-012	321-040-013	321-040-015	321-040-030	321-040-037
		321-040-038	321-040-039	321-040-044	321-040-051	

IMPORTANT

This information is made available through the Riverside County Geographic Information System. The information is for reference purposes only. It is intended to be used as base level information only and is not intended to replace any recorded documents or other public records. Contact appropriate County Department or Agency if necessary. Reference to recorded documents and public records may be necessary and is advisable.

MAP PRINTED ON...09/29/2010