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COUNTY OF SANTA BARBARA  
CLERK OF THE  
BOARD OF SUPERVISORS

February 22, 2018

Susan F. Petrovich  
Attorney at Law  
805.882.1405 tel  
805.965.4333 fax  
SPetrovich@bhfs.com

Board of Supervisors  
County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, CA 93101

RE: Applicant Response to Staff Recommendation for Denial of Coastal Land Use Plan Amendment/Rezone, Variance, and Coastal Development Permit for Jeffrey O'Neil Residence – 2551 Wallace Avenue, APN 005-250-001

Dear Honorable Supervisors:

Jeff O'Neil submitted the application before you in the summer of 2008. Given that the proposed house was intended to replace a partially demolished house, on an existing legal lot where Jeff had lived for many years (first as a tenant, then as an owner), one would think that this should have been a simple application, despite the project location in the Coastal Zone.

The original wood-construction house on the site was built in the late 1800's<sup>1</sup> and had becoming increasingly dilapidated as a result of age and weather by 2008. On the north, the existing house encroached into the road right of way that is known variously as "Finney Street" and "Wallace Avenue." On the attached Summerland subdivision map, the street actually has no name but is clearly depicted running through the center of Lot 39. During all of the years of his residency in this house, Jeff has used the existing Wallace/Finney as his access (we will call access road "Wallace Avenue" since the County assigned the house the address 2550 Wallace Avenue, Summerland, California and the Coastal Plan policies referring to this area use that street name). His planned, and partially constructed, new house lies entirely within his lot and not in the road right of way. The existing encroaching wall will be removed during that construction.

As you know, Brownstein Hyatt Farber Schreck has been representing Jeff O'Neil throughout most of the application process and we submit this letter on his behalf.

This letter further supplements the appeal dated October 3, 2014, and the supplement thereto dated October 29, 2015, copies of which are attached for your convenience.

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<sup>1</sup> See attached historical report that puts the original house construction at circa 1890.

In 2015, the issue before your Board regarding the O'Neil application<sup>2</sup> was the denial of this project, including a CDP for the house, a variance for parking, a comprehensive plan amendment, and a rezone, on the grounds of lack of access to the site. County staff urged termination of Jeff O'Neil's application process because they claimed he lacked legal or actual access. Your Board declined to do so and directed staff to complete processing and return with findings for approval of the project.

Access remains the primary basis for staff's denial recommendation today, despite your Board having indicated in 2015 that you were satisfied that there WAS adequate access to the site.

At substantial expense to Mr. O'Neil, the project now has completed conceptual review by the South County Board of Architectural Review (SBAR) and has undergone environmental review, which included commissioning extensive studies regarding the stability of the coastal bluff upon which the O'Neil is located, including detailed investigation of the potential bluff retreat rate at this site and a site hazard analysis. Working with the Coastal Commission staff, County staff also has developed additional conditions to insulate the County from liability should the bluff fail in the future.

We object to certain of the proposed project conditions and describe those objections below. Staff proposes detailed findings for denial and cursory findings for approval. We include with this letter red-lining of staff's draft findings for approval because we are not satisfied that their draft findings are as complete as they could and should be. We also believe that there is no factual basis for staff's findings for denial. We address the findings in more detail below.

The conclusion of the geologists engaged to study this project is that the house in its proposed location will be stable and will meet the Coastal Commission's (and County's) setback requirements from the bluff. Jeff O'Neil seeks a variance because the lot is too small to accommodate both the house and a garage, although there is adequate room for the required spaces, uncovered. Jeff O'Neil has been parking his car outside his residence for many years so uncovered parking is not an issue for him. Because he has no neighbors and the parking vehicles won't be visible from Highway 101, uncovered parking shouldn't be an issue for anyone else.

**County Staff Stated Bases for Denial Are Unsupportable and Contrary to Evidence**

After all of the additional work and conditioning, we were disappointed to see that the County staff continues to recommend denial on the following bases:

1. Lack of adequate access.

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<sup>2</sup> The Board of Supervisors hearing was November 3, 2015.

2. Inadequate setback from coastal bluff..
3. Lack of easements to extend sewer service.
4. Lack of basis for finding to support parking variance.

We submit that none of the grounds stated by staff have merit:

1. **Access** – at your last hearing, we submitted ample evidence of the existence of adequate access and we submit additional information below. Since then, we have discovered additional evidence, described in more detail below. We also direction to Coastal Plan Policy 7-9, which expressly refers to the beach and bluff “south of Wallace Avenue.” The County and Coastal Commission clearly acknowledged the existence of Wallace Avenue when they adopted this policy.<sup>3</sup> In contrast, the staff report provides no evidence that either supports their position or counters our evidence. Not only is there adequate physical access, as demonstrated by the existing and historic road depicted in the attached photographs, but we provide ample evidence of legal access below.

2. **Inadequate bluff setback** – The County’s Coastal Land Use Plan incorporates policies applicable to site development. Policy 3-4 provides that “In areas of new development,” structures shall be set back a safe distance from the edge of bluff, with a 75-year setback being the minimum, “unless such standard will make a lot unbuildable, in which case the standard of 50 years **shall** be used.” The use of the qualifier, “in areas of new development,” indicates that this requirement isn’t applicable where, as here, the applicant is replacing a pre-existing home with a new one. In short, this is not an area of new development. Requiring the 75-year setback would render the lot unbuildable. Despite the inapplicability of the stated setback requirement to this replacement project, Jeff O’Neil has met and exceeded the 50-year setback. The retreat rate for the coastal bluff for the O’Neil property has been estimated at an average of 0.36 feet per year (Evaluation of Bluff Stability and Seacliff Retreat, Michael Hoover, January 6, 2012). This retreat rate results in a 75-year setback of 27 feet and a 50-year setback of 18 feet. The O’Neil house will be no closer than 24 feet from the bluff. Therefore, the proposed replacement house exceeds the setback required by the policy and is legally adequate. It is false and misleading to claim to the contrary when there is no evidence to support that claim.

3. **Lack of sewer easement** – the Summerland Sanitary plant takes its access in precisely the same way that Jeff O’Neil’s house takes access – by using Wallace Avenue, also sometimes known as Finney Street, a public street that crosses

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<sup>3</sup> The Santa Barbara County Coastal Plan includes multiple references to Wallace Avenue, including Table 3-5 (Summary of LCP access and Recreation Proposals), Table 3-6 (Proposed Acquisitions: County and State), and Policy 7-9.

the railroad tracks and runs to the east across the frontage of Jeff O'Neil's parcel. As such, no easement is required, only an encroachment permit from the County. The Summerland Sanitary District has issued a "Can and Will Serve" letter for this project (copy attached) and the proposed sewer line will follow the same general route as the existing water line serving the property.

The staff's current position regarding this project is remarkable, given past history. We refer you to the attached staff memorandum dated 5/24/1996 regarding the proposed issuance of a CDP to restore a damaged waterline serving the O'Neil property and located in the same portion of Wallace Avenue where the sewer line will be sited. It's clear from the memo that County staff then viewed Wallace Avenue as being a public right of way, yet today it does not. The memo also expresses staff's position that the REC zoning was "inadvertent" and "it would not be fair for the County to rigidly enforce the nonconforming restrictions." Today, they are urging you to do the opposite.

But we attach more evidence to support our position that Wallace/Finney always has been, and continues to be, a public roadway:

11/12/1965 letter from Road Commissioner Leland Steward stating that "the County has maintained a County road north of lots 27-39 in Block 39. This has been a gravel road and lies within the area quit-claimed to the Railroad. It is possible that the County now holds only a prescriptive road right of way in Block 39." [Note: Mr. Steward describes the roadway as gravel, but the County has asphalted it since 1965 to within a few feet of the O'Neil west property line. From that point eastward, it continues to be surfaced with gravel.]

3/12/1996 Public Works memo to Scott McGolpin, correctly identifying Wallace/Finney as "an unnamed avenue from the railroad to East End Park at block 39." The memo concludes that the County has rights to use the 60-foot wide road easement and notes that County Parks installed the fence along the edge of the roadway. It also concludes that the Recycling Center (on Wallace/Finney) "lies both on the SPRR property and our right of way." This concept of shared use is consistent with the railroad's view that Wallace/Finney is a "franchise" area that is shared by the County, the public, and the railroad – and, in the O'Neil case, by Jeff O'Neil and the preceding owners of his property. Why would County Parks install a fence if Wallace Avenue were not a County road? The County doesn't make a practice of improving private property at taxpayer expense.

8/14/1996 County of Santa Barbara Department of Transportation plans for paving and designating the public parking area for Wallace/Finney. If this is not a public roadway, what was the County doing paving it and creating public parking?

4. **Lack of basis for parking variance** – the staff is really stretching on this one. Article II, Section 35-173.2.2 states, "*Where, because of unusual circumstances*

*applicable to the lot such as size, shape, topography, location or surroundings, the strict application of the zoning regulations to land, buildings and structures would deprive such property of privileges enjoyed by other property in the vicinity with identical zoning, variances may be granted except that: a. In no case shall a variance be granted to permit a use or activity which is not otherwise permitted in the district in which the property is situated. b. In no case shall a variance from the procedural regulations of this Article be granted. c. In no case shall a variance from the required number of parking spaces be granted as provided in Section 35-76, Medium Density Student Residential, Section 35-77, High Density Student Residential, and Section 35-102A, Single Family Restricted Overlay District.”* None of the stated exceptions apply, provided that the County completes the rezone that will restore this property’s residential zoning. All evidence supports a conclusion that this is a seriously constrained lot that has been a residential site for over 100 years and has been Jeff O’Neil’s home for decades. For example, the existing home encroaches onto Wallace Avenue; the total lot size is 0.01 acre, with a coastal bluff on the south (and the related structural setback described above); and Wallace Avenue and the UPRR tracks on the north. The railroad owns the parcels on the east and the west. If any property qualifies for a variance, it is this one.

**The Main Issue – Staff’s Position that the Site Has No Access Is Contrary to All Evidence**

The staff bases its position upon a short memorandum written by a County employee, who is **not** a licensed surveyor, based upon inadequate evidence. That memorandum, dated 11/17/2005 (copy attached, including Exhibit A map), is inconsistent with all available evidence and is directly contrary to the position historically taken by the County. We also attach an enlargement of the portion of the Exhibit A map depicting Wallace Avenue.

The County of Santa Barbara has never owned any of the streets in Summerland. The County of Santa Barbara, at best, had an easement over the road serving the O’Neil parcel. Ordinance 247 references the proposed railroad right of way line change as being, “as shown on a Map of a part of said townsite of Summerland . . . which is annexed and marked Exhibit A.” Although there was no Exhibit A attached to Ordinance 247 in the County records, we were able to find a copy of Exhibit A published, with Ordinance 247, by the local newspaper of the time. Exhibit A shows the railroad line running at a diagonal to Wallace/Finney, thereby leaving a full half-width or more of street easement along the frontage of the O’Neil property. Possibly, Mr. Cullison did not have access to the Exhibit A map when he wrote his memo, because the map belies his conclusion that **all** of the Unnamed Access (now Wallace Avenue) went to the railroad. In addition, his memorandum characterizes the supposed conveyance of the Unnamed Access as being by “quitclaim.”

First, regardless of what Ordinance 247 says, an ordinance is not a "quitclaim." It was not recorded. It did not convey title. The Ordinance describes the conveyance as a "right of way," which in common parlance is an easement, not a fee in any event.

Second, if seen as a quitclaim or conveyance of an easement, Ordinance 247 did not comply with State-mandated requirements for vacating a public street, so it could not have "given away" the street, whether it was a fee or an easement. *Breidert v. Southern Pacific Company* (1964) 61 Cal.2d 659.

Third, the County had no legal authority to convey to the railroad an easement over a public street being utilized by a private property. *Brown v. Board of Supervisors* (1899) 124 Cal. 274. When the Board adopted Ordinance 247, the O'Neil property was privately owned and developed with a residence built over 10 years earlier. Wallace Avenue was its sole access. Even if the County ceases to maintain a public street, it remains an easement for private property owners that it serves. More to the point, California law doesn't allow a city or county to deprive a property owner of the use and access to the public street system without being liable for a taking of the private property. California Streets and Highways Code Section 8330.

Fourth, the County had, at most, only an easement over Wallace Avenue when the Board adopted Ordinance 247 because Ordinance 125, adopted by the County in 1890, did not include an offer of dedication over the Unnamed Access that is now called Wallace/Finney. In addition, Ordinance 125 was adopted AFTER Williams no longer owned the streets and other public areas of Summerland. He had no legal authority to convey any interest in this land to the County, in fee or by easement. The attached deed recorded 8/9/1890 from H.L. Williams to Balch, Barnett and Meginness proves it (we also attach a typed version of the relevant portion of the deed for easier reading). By this deed, Williams created a trust to own the streets, parks, and other public places in Summerland so those public places would be held for the benefit of the public. Balch, Barnett and Meginness were the trustees of this trust. From the date of this deed forward, only the trust owned the streets and other public places in Summerland. Williams did not and the County did not.

On 9/25/1890, the Board of Supervisors adopted Ordinance 125 (copy attached), whereby County accepted the offer of dedication from Williams, did not include the road now known as Wallace Avenue. At the time, Williams did not own any of the Summerland streets that he offered to the County – he had conveyed all of this land to the trust over a month earlier. As you can see from looking at the map attached to the Williams deed to the trust ("Williams Trust Map"), the road that has provided access to the O'Neil parcel and residence since the 1800's had no name in 1890, so we will call it "Unnamed Access". Over the years it has been referred to as "Wallace Avenue" and as "Finney Street." The name "Wallace Avenue" currently is used for this street, but not on the Williams Map and not by the County when it purported to accept dedication of the

Summerland streets. Wallace Avenue in the Williams Map and on the Ord. 125 map was located entirely north of Railroad Avenue, with both Wallace Avenue and Railroad Avenue running north of East End Park.

Ordinance 125 expressly exempts Unnamed Access from the acceptance of the offer of dedication, even in the final clean-up language (bottom of P. 3 to top of P. 4) that provides for inclusion of intersecting lines and alleys running through the center of Blocks 9 through 37 and Blocks 41 through 43, **but not through Block 39**. Jeff O'Neil's property comprises Lots 27, 28, and 29 of Block 39. Therefore, the County of Santa Barbara was never offered Unnamed Access and never accepted the offer of dedication of Unnamed Access. This road is and always has been the property of a trust.

On 1/9/1901, the County adopted Ordinance 247. As noted above, the line demarcating the "conveyance" to the railroad doesn't include all of Wallace Avenue because it cuts diagonally through the middle of what is now called Wallace Avenue. This same line appears on a blow-up of this area on the Lease Map that UPRR provided to Jeff O'Neil when he leased a portion of neighboring railroad-owned parcels, also attached. This line also shows clearly on Records of Survey recorded by various surveyors over the years, listed below and attached.

County records demonstrate that the County has used the current Wallace Avenue for decades, maintaining it and allowing the public to traverse it and, most often in current times, to park and access the ramp to the Summerland Beach, a wide, sandy beach that stretches to the east and west and lies between the O'Neil property and the ocean. Although there currently is no asphalt on the portion of Wallace Avenue that runs along the O'Neil property frontage, it is paved with gravel that provides all-weather access. Attached historic photographs demonstrate that the road existed and was used historically.

What follows is a summary of the various exhibits, attached to this letter, that demonstrate the history of the current Wallace Avenue as a County road and of the position of former County Counsels regarding this road:

9/23/1907 – attached Deed from Becker (as Administratrix of H.L. Williams Estate) to Southern Pacific Railroad Company recorded, conveying property on the north side of Unnamed Access ***in Block 39*** (in Attachment 16 and also an attachment to our appeal). We attach the Becker deed for land owned by the H.L. Williams Estate, ***located in Block 39, that identifies and uses the "County Road" through Block 39 – Unnamed Access – as a reference point. In fact, the County Road is described as dividing Block 39 and as forming the south property line of the land being granted. This demonstrates that, in 1907, the representative of the Williams Estate knew that Unnamed Access still existed and regarded it as a County Road.***

5/1927 – attached Petition for Appointment of Trustees and Order Appointing Trustees – attached. County staff incorrectly states that the Williams deed only conveyed the temple site to Balch, Barnett and Meginness in fee simple. As can be seen from the attached 1927 Petition and Order, the trustees (who presumably were in communication with, and friends of, H.L. Williams and would better know his intentions than we should presume to know today) understood that the deed conveyed the “fee simple estate of, in and to, the streets, lanes, alleys, parks and places, in the Town of Summerland, in said deed fully described, to have and to hold the same for the benefit of said Town of Summerland, to be administered by said trustees, as in said Deed of Trust provided (a certified copy of the Williams Deed was filed with the court contemporaneously with the Petition), and to be held by them until said Town of Summerland should be incorporated under the laws of this State.”

2/24/1977 – attached County Counsel letter concerning Finney Street, concluding that the County holds only an easement and not a fee simple ownership interest in Summerland streets.

6/20/1988 – attached County Resource Management Director letter to Board of Supervisors recommending a fee waiver to process a LCP amendment for the O’Neil property, to change from REC to Single Family Residential with Design Review Overlay. “his existing [Recreation] zoning appears to have been inadvertently assigned to this developed parcel.” “Since the Recreation zoning assigned to this parcel would not allow the owner to complete his plans to reconstruct a new dwelling, staff would support approval of a fee waiver to process the Local Coastal Plan Amendment.”

1996 – Union Pacific leases property on both sides of O’Neil parcel to Jeff O’Neil and attaches a plot plan. The attached plot plan depicts the railroad’s franchise area and shows the remaining half-width of County Road along the frontage of the O’Neil parcels.

4/1997 – County issues CDP for waterline replacement in Unnamed Access, calling it “Finney Street.” Attached CDP with site plan depicting the County road extending easterly along the frontage of Jeff O’Neil’s parcel, the roadway within which the proposed sewer line will lie. Please note the finding in the CDP that states that “It was not the intent and purpose of the rezoning to zone the parcel as REC.”

11/30/2007 – attached Deputy Director of Planning & Development letter advising that there is no “significant potential for a viable recreation use of this small lot,” and that the consensus of a meeting between County and Coastal Commission staff resulted in a consensus that “a rezone and Local Coastal Plan amendment, to change the designated use of this parcel from Recreation to Residential, is feasible. Coastal Commission staff indicated initial support of a potential rezone and LCP amendment for this unique parcel and situation.” Based on this letter, and earlier indications from staff to Jeff O’Neil that



the Recreation zoning was a mistake for this privately owned, residentially developed parcel, Jeff O'Neil started this 8-year process.

**Records of Survey and Other Evidence Demonstrating Continued Existence of Wallace Avenue**

4/30/1920 – attached Flournoy Record of Survey Map of H.L. Williams Estate land, Book 12 Page 89. This record of survey, particularly the attached enlargement of the relevant portion, depicts the boundary of the land that was the subject of Ordinance 247 and demonstrates that the dedication *excluded* the road half-width along the frontage of the parcels now owned by Jeff O'Neil. Flournoy was, and continues to be, one of the most respected of the surveyors ever in this County.

1926 – Southern Pacific "Right of Way and Track Map" and accompanying "Schedule of Property" listing and depiction of holding No. 15 – characterized as "Perpetual Franchise" received Jan. 9, 1901, per "Ord. 247." This schedule clearly depicts the same line showing the south side of the railroad's claimed property in the same location that Flournoy shows on his survey.

1/24/1952 – attached Record of Survey of Lots 27, 28, & 28, Block 39, Harold Sumida, Book 31, Page 53, Records of Survey, County of Santa Barbara, showing encroachment of existing house into road right of way and showing all of Wallace Avenue still in existence.

11/2/9/1963 – attached Record of Survey for Lots 30 to 39, Block 39, Book 63, Page 4, showing the full width of Wallace Avenue in existence and the diagonal line that represents the railroad right of way. Note the width of Wallace Avenue that remains south of the railroad and along the O'Neil property frontage.

11/12/1965 – Road Commissioner Leland Steward letter re County maintaining Wallace Avenue in Block 3, aka Finney Street, since 1965 and claiming an prescriptive easement, and mentioning the closing of the railroad crossing (shown in the attached aerial photograph) at Greenwell Avenue to the east of the O'Neil property. [Note: Mr. Steward describes the roadway as gravel, but the County has asphalted it since 1965 to within a few feet of the O'Neil west property line. From there, it continues to be gravel.]

1968 County Assessor's map showing O'Neil property and Wallace Avenue.

1977 Southern Pacific plan for "Proposed Finney Street Crossing" with 100' wide railroad right of way and depicting Wallace/Finney as a dotted line. O'Neil property is just to the east of this map. Wallace /Finney continues to the east.

Current photographs of Wallace Avenue in vicinity of O'Neil property.

**Aerial photographs of the O'Neil property, Showing "Wallace Avenue" Lying North of and Abutting the O'Neil property**

1947 -- shows O'Neil house and "Wallace Avenue," which continues past O'Neil to the east and crosses the railroad tracks to connect to Greenwell. Note the oil derricks along the beach to the west.

1972 -- Wallace Avenue clearly depicted, proceeding far east of O'Neil property.

1987 -- because of angle of photograph, Wallace Avenue is visible but barely.

2002 -- Wallace Avenue highly visible.

2013 -- Wallace Avenue highly visible and parked white vehicle of beach-goers visible at west end. Ramp to beach angles to the west just below the vehicle.

Finally, we enclose the historical report on this property, prepared by Ronald L. Nye, Ph.D.

**Zoning this Property Solely for Recreation Was an Error that the County Must Remedy**

For reasons unknown, the County zoned Jeff O'Neil's property from residential to the Recreation zone district, which allows for the following limited uses (none of which would allow Jeff to use his property or to realize his reasonable economic expectations for the property that is his home):

"The purpose of this district is to provide open space for various forms of outdoor recreation of either a public or private nature. The intent is to encourage outdoor recreational uses which will protect and enhance areas which have both active and passive recreation potential because of their beauty and natural features. Such development should offer recreational uses which compliment and are appropriate to the area because of these features."

Permitted uses include "outdoor public and/or private recreational uses, e.g., parks, campgrounds, recreational vehicle accommodations, and riding, hiking, biking and walking trails, golf courses, structures and facilities required to support the recreational activities, e.g., parking areas, corrals and stabling areas, water and sanitary facilities, boat launching facilities, ranger stations, and limited concession facilities."

The only residential structures allowed are for a caretaker and with a Minor CUP. Staff has taken the position that Jeff O'Neil's residence cannot qualify because the caretaker must be a person who is caretaking a legitimate recreational facility on the property.

**The County Never Had Fee Simple Ownership of Summerland Roads, the Unnamed Access Road (Wallace/Finney) Was Not Included in the Offer of Dedication from Williams to the County, but the County Has Used and Maintained, and Has Encouraged the Public to Use, Wallace/Finney So It Has Acquired a Prescriptive Easement of this Shared Road, which Runs Along the Frontage of the O'Neil Parcel**

As noted above, in 1901, the County had no authority to give away any part of Unnamed Access because it wasn't included in the Ordinance 125 acceptance of the offer of dedication. In any event, the evidence in the record indicates that the railroad regards this as a shared road, a "perpetual franchise." Even if that were not true, the evidence also demonstrates that the County has used, maintained, and has encouraged the public to use Wallace/Finney for well over the 5-year period required for a prescriptive easement. Leland Steward so opined in 1965 and we have presented evidence that the County has paved the roadway and has constructed a fence to protect the public.

The fee simple owner to all of the Summerland streets, the trust, was in full operation from 1890 until at least through 1955, when the Santa Barbara Superior Court entered an Order in Case No. 10332, authorizing the trustees to execute an easement to the Summerland Sanitary District for the installation, construction, maintenance, repair and replacement of a sewer system in the public streets shown on the map of the "Town of Summerland recorded in the Office of the County Recorder of said County in Rack 1, as Map 2, and as offered for dedication for public use and as accepted for public use as shown by Ordinance of the County of Santa Barbara No. 125, dated October 16, 1890." Early in its ownership of the public streets and parks, the Trust collected rents from various utilities for their installation of pipes in Summerland streets, but by 1955 it is clear that the trust no longer was charging for that privilege and, instead, was granting easements for public service installations. The Superior Court order confirms the Court's conclusion that the trust was the fee owner of the Summerland streets and had the power to grant an easement beneath and through them for sewer lines. We attach complete records of the trust's activity with the Superior Court.

We also have pointed out that Ordinance No. 125 explicitly excluded Unnamed Access, incorporating specific named street segments and referencing intersecting alleys, but excluding the access road through Block 39.

Even assuming, *arguendo*, that the County had some sort of ownership interest in Unnamed Access in 1890 when it adopted Ordinance No. 125, it only purported to give away the northerly half of Unnamed Access to the railroad. On the basis of the maps and Records of Survey that we have presented, and the County's maintenance of the roadway, it is obvious that the County has always intended that Wallace Avenue be a public road and has taken steps to ensure that the public is entitled to use it. This includes the half-width of Wallace that remains today along the entire frontage of the O'Neil property.

**Revised Redlined Findings for Approval, General Plan and Article II Consistency Analyses**

We enclose redlined Findings for Approval (Attachment 5 to Staff Report), and redlined changes to the General Plan Consistency Analysis (Attachment 10 to Staff Report) and the Article II Consistency Analysis (Attachment 11 to Staff Report) because, in our opinion, the versions of these documents submitted by staff are inadequate and inaccurate. For example, in their submittals, the staff consistently fails to provide a comprehensive list of the reasons why the property isn't suitable for recreational use, most particularly completely deleting any mention of the existing public road that provides access. In fact, the findings and the consistency analyses completely ignore the fact that the property has access. As a further example, the staff report findings and consistency analyses fail to mention that there is part of an existing historical house on the property that is over 100 years old, that the property historically has been used for residential purposes and has long had an address on Wallace Avenue, that there is public parking on Wallace/Finney, that the prior zoning of the property was Residential, and that Jeff O'Neil has agreed to conditions that would preclude installation of shoreline protective devices at the toe of the bluff and that would relieve the County of liability in the event of bluff failure. Of particular concern is staff's failure to explain in detail why the REC designation is not mandated by Coastal Plan policies and that adequate coastal access exists just west on Wallace Avenue in the form of an asphalt-paved ramp to a wide sandy beach.

For that reason, we urge the Board to adopt the modified findings and consistency analyses attached.

**Staff's Proposed Conditions Raise Major Issues**

Condition No. 5, restricting construction hours, is inappropriate where, as here, there are no nearby sensitive receptors. The longer the permitted hours of construction, the more quickly construction can be completed and Jeff O'Neil can resume living in his home.

Condition No. 12 and Condition No. 13 should be combined to avoid potential inconsistency and ambiguity. We have combined them in our redline.

Condition No. 20 has the wrong expiration event – the permit should be valid for one year following its effective date. If anyone appeals the Board's action, it would result in months of delay awaiting Coastal Commission review and the one-year life, measured from Board action, would expire before construction could begin.

Condition No. 23 is completely inappropriate in light of the fact that there is no evidence in the record that the O'Neil property is located on railroad property. It also is impossible to accomplish with because the railroad is notorious for not providing a response to any

request. Why would they provide consent for development on private property? This is a staff attempt to torpedo this project. It is arbitrary, unreasonable, and capricious.

**Conclusion**

The primary issue raised by County staff regarding this project is access. We have provided overwhelming evidence that Jeff O'Neil has legal and physical access to his parcel. Staff also has proposed findings for approval and two consistency analyses that do not recite all relevant evidence in the record supporting the decision to approve, and has suggested conditions worded so that they are certain to prevent the ultimate construction of this project. We urge you to approve the project in its entirety and adopt the redlined versions of these documents rather than those proposed by staff.

Jeff O'Neil has suffered without his home for far too many years. He has satisfied all County requirements for approval.

Sincerely,



Susan F. Petrovich

Enclosures: Summerland Subdivision Map  
BHFS letter, dated 10/3/14, submitted as part of appeal  
BHFS letter, dated 10/29/15 submitted as addendum to appeal  
Sanitary District 7/29/2015 can & will serve letter  
County Memo dated 5/24/1996 re waterline replacement Summerland  
1965 Leland Steward, County Road Commissioner, Letter  
1996 Public Works memo to Scott McGolpin  
1996 County Dept. of Transportation plans  
2005 Cullison memo interpreting Ordinance No. 247  
Ordinance No. 247, Exhibit A enlargement  
Ordinance No. 125  
Brownstein Hyatt Farber Schreck letter to Planning Commission 8/7/2015  
Ordinance 247 w/Exhibit A  
Deed from Williams to Trust  
Typed version of the relevant language from the deed, conveying streets to the Trust  
1967 Becker and other Deeds  
1927 Petition and Order In the Matter of the Trust Created by H.L. Williams  
1977 County Counsel letter  
1988 Resource Management Director letter to Board  
Map from SPRR lease of landscape area to O'Neil

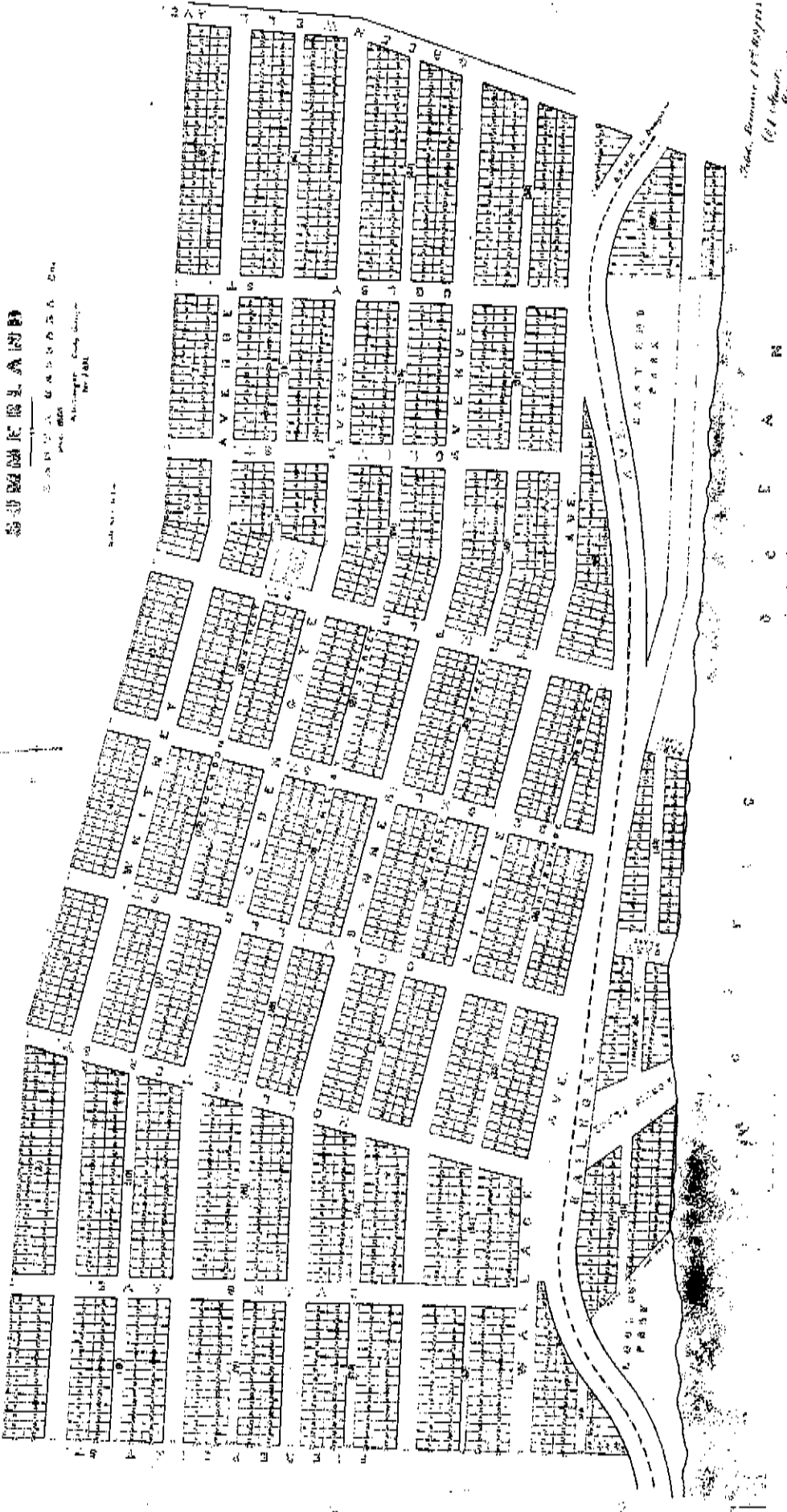
1997 County issued CDP for waterline in access road to O'Neil  
2007 Deputy Director Ward Letter re no viable recreational use  
1920 Record of Survey for Williams Estate  
1926 SPRR Right of Way and Track Map/Schedule of Property  
1952 Record of Survey, Sumida property  
1963 Record of Survey  
1968 County Assessor Map  
1976 County/Caltrans plan, Wallace RR crossing  
1977 SPRR Finney Street crossing map  
Current photographs of Wallace Avenue  
Aerial Photographs of Wallace Avenue and O'Neil property:  
    1947  
    1972  
    2002  
    2013  
Nye 2009 historical report  
Redlined Revised Documents:  
    Findings in Support of Approval of Project  
    General Plan Consistency Discussion  
    Article II Coastal Zoning Ordinance Consistency Analysis  
    Conditions of Approval

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A. H. 1918

W. H. B. & C. O. S. S. A. Co.  
PLAT 1918

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SCALE 1/4" = 10'



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(City of Seattle)  
City of Seattle

W. H. B. & C. O. S. S. A. Co.  
PLAT 1918

October 3, 2014

Patsy Stadelman Price, AICP  
Land Use Planner  
805.882.1424 tel  
805.965.4333 fax  
PPrice@bhfs.com

Santa Barbara County Planning Commission  
123 E. Anapamu Street  
Santa Barbara, CA 93101

RE: Appeal of Incompleteness Determination for O'Neil Residence  
2551 Wallace Avenue, APN 005-250-001  
Case No. 08CDH-000-00040, 12VAR-00000-00003

Dear Chair Blough and Honorable Members of the Planning Commission:

Brownstein Hyatt Farber Schreck represents Jeffrey O'Neil regarding his application for re-construction of a residence on his property at 2551 Wallace Avenue in Summerland (Property or O'Neil Property). This letter sets forth the grounds for our appeal of the Planning Director's determination of application incompleteness for the above referenced Coastal Development Permit (CDP) and Variance applications pursuant to Article II Section 35-182.4.

### **Background**

On behalf of Mr. O'Neil, On November 13, 2008, we filed an application for a CDP to demolish an approximately 1,450 square foot existing dwelling on Mr. O'Neil's Property and construct a new approximately 2,000 square foot dwelling in its place. This is small parcel, only 4,500 square feet; located on a bluff top; and surrounded by land owned by Union Pacific Railroad Company, which is zoned TC (Transportation Corridor). Despite the fact that a house has existed on the Property for approximately 124 years, and the fact that the Property has had no known recreational use, past or present, the Property was assigned a zoning and land use designation of REC (Recreation).<sup>1</sup> We applied for a Local Coastal Plan amendment and a rezone to change the land use and zoning designations to Residential/7-R-1 to allow the existing residential use of the Property to continue. Access to the property is provided via Wallace Avenue (sometimes referred to as Finney Street). The pave surfacing on Wallace Avenue ends approximately 40 feet west of Mr. O'Neil's Property, but the roadway continues as an unpaved road adjacent to the northern boundary line of the

<sup>1</sup> County documents indicate the REC land use and zoning designations appear "to have been inadvertently assigned to this developed parcel." (See enclosed D. Guzman letter to Board of Supervisors, June 14, 1988; Internal County staff memo, May 24, 1996; and D. Ward letter to S. Petrovich, November 30, 2007.)



Property and further eastward. County Sheriff's deputies historically have used, and continue to use, this road to patrol the beach below and land lying easterly of the O'Neil Property.

For the past six years, we have worked with Planning and Development and County Counsel staff to address numerous issues necessary for a complete project application for this Property. However, we remain at an impasse regarding the status of access to the Property. Per the Planning & Development Department's September 24, 2014 Determination of Application Incompleteness, "direct legal title to access for the subject parcel has not been demonstrated in a sufficient manner for the County to make the required finding for Land Use Policy 4."

We completed an extensive investigation of the legal status of Wallace Avenue, including engaging the services of an experienced title researcher to conduct an in-depth analysis of County records, title plant records, recorded documents, and railroad company records. We also sought additional information through contacts at the Railroad. Based upon this research, we concluded that there is adequate legal access to the O'Neil Property. We first submitted our analysis and supporting documentation to County staff on January 31, 2012 and have since provided additional details and discussed the issue with staff on numerous occasions. While Deputy County Counsel Rachel Van Mullem stated at a meeting on October 8, 2012, that staff concurred that Wallace Avenue/Finney Street extends from the north side of the railroad tracks easterly to the northwest corner of the O'Neil Property, staff continues to contend that the public road ends at this point and thus does not provide access to the O'Neil Property. County Counsel also contends that the County of Santa Barbara deeded the roadway that serves the O'Neil Property to the railroad many years ago. Despite further discussions and our presentation of additional evidence, staff continues to contend that the information provided and conclusions drawn are not adequate for the application to be deemed complete. The specific grounds for our appeal of this determination are provided below.

### **Grounds for Appeal**

The Director's determination that the applicant has not demonstrated that the Property has adequate access and thus the project application is incomplete is contrary to applicable law. Further, County staff has provided no factual or legal basis for this conclusion and no evidence that refutes the information we provided, which demonstrates that the streets in Summerland, including the segment of Wallace Avenue extending across the northern boundary of the O'Neil Property, are owned in fee by a trust and the County has only an easement for public purposes. As such, the County has never had the legal authority to quitclaim title to Wallace/Finney on behalf of the public and most particularly contrary to Mr. O'Neil's right of access. Further, the residence on the Property has existed since approximately 1890. Even a quitclaim of the County's rights could not operate to extinguish the rights of a private property

owner whose residence is, and has been, provided access from Wallace/Finney. California Streets and Highways Code Section 8330 prohibits a local agency from summarily vacating a street if it will cut off all access to a person's property. No provision of the Streets and Highways Code allows a local agency to summarily vacate a street where the street currently serves an adjacent property.

Our findings are as follows and referenced documents are enclosed:

1. In a memo from the County Surveyor's office to Mr. O'Neil dated November 17, 2005, Mr. Todd Cullison opined that the portion of Wallace Avenue (aka Finney Street) adjacent to the O'Neil Property has ceased to be a County right of way. This opinion was based upon an alleged "quitclaim" to Southern Pacific Railroad Company (now Union Pacific Railroad Company) on January 9, 1901, cited in Santa Barbara County Ordinance No. 247.

2. Based upon the records that we have uncovered, we disagree with that opinion. We have reviewed Ordinance No. 247 carefully, as has the title researcher, and we both conclude that Ordinance No. 247 is too ambiguous to be characterized as a quitclaim to Southern Pacific of *this* portion of Wallace Avenue.

3. Even if the County had attempted to quitclaim this portion of Wallace Avenue through Ordinance No. 247, based upon a series of recorded deeds pre-dating Ordinance No. 247, we conclude that the County lacked the legal authority to grant title to Wallace/Finney to the railroad or anyone else. At the time of Ordinance No. 247, the County and railroad were working together to relocate the railroad to accommodate highway improvements, but there is no indication that the roadway serving the O'Neil Property was subsumed by the new highway or the railroad tracks as some other streets were. To the contrary, this stretch of roadway remains in place and has been serving the O'Neil Property since at least the 1890s when the original house was constructed.<sup>2</sup>

4. The exhibit map referred to in Ordinance No. 247 shows Wallace Avenue extending eastward, adjacent to the northern boundary of the Property to the eastern edge of the Town of Summerland. Although the railroad tracks are shown crossing this road, that occurs at a location east of the access serving the O'Neil Property. Enough of Wallace Avenue remains to provide safe access to the O'Neil Property. In short, the portions of the right of way not occupied by the tracks remained as public roadway available for public use. That intent is reflected in the various maps that we enclose, including the Assessor's Map showing Wallace Avenue running between the tracks and the O'Neil Property.

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<sup>2</sup> See Historical Assessment Letter Report for 2551 Wallace Avenue prepared by Ronald Nye, Ph.D., dated February 3, 2009, previously submitted to Planning & Development.

5. The history of Summerland streets pre-dating Ordinance No. 247 is as follows:

(a) H.L. Williams filed a Rack Map with the County of Santa Barbara Recorder on December 18, 1888, showing all of the intended lots, two large parks, streets, and a railroad route through the City of Summerland. The depiction of the streets on this Rack Map is noteworthy because the streets are shown as separate landholdings, with each lot boundary ending at the edge of each street, rather than lot lines extending to the middle of each street. This depiction indicates an intent that the streets be under separate ownership, in fee, not easements over portions of the privately-held lots. This intent is confirmed by subsequent events.

(b) H.L. Williams executed an instrument creating a trust, naming Edward T. Balch, Joseph Barnett, and W.H. Meginness as trustees, to "dedicate unto public use all those portions of said property as surveyed on the ground [on the map of the City of Summerland filed in 1888 by County Surveyor A.S. Cooper] . . . and give, grant, and dedicate unto public use all those portions of said real property as surveyed upon the ground, and marked and laid out on the Map of said survey hereunto attached, . . . parks, streets, squares, avenues, places, lanes and alleys [excepting mineral rights and mines and reserving to Williams and his heirs the right to enter and extract minerals and the right of entry with the public to transport same, without damaging the vegetation and improvements on the public streets, or public sewers, drains, utility pipes, etc.], together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the rents issues and profits thereof. To have and to hold thereafter for the use and benefit of the public and the citizens (sic) residents and inhabitants of said City of Summerland to be governed and controlled hereafter by the authorities." This instrument was recorded by Edward T. Balch on August 9, 1890.

(c) A common law dedication, such as that made by Williams, requires an acceptance by the public entity to which it is offered. The form of such acceptance can be express or implied. One of the methods of acceptance that has the greatest weight is the acceptance by way of ordinance, making the express acceptance a formal, official act. *Eureka v. Armstrong*, 83 Cal. 623. On September 25, 1890, the Board of Supervisors adopted Ordinance No. 125, which was just such an acceptance, reciting that, "H.L. Williams of the county of Santa Barbara, the owner of the Ortega Rancho has heretofore subdivided all that portion of said Ortega Rancho situated in the county of Santa Barbara, State of California as particularly bounded and described in a certain deed of gift and trust, executed by the said H.L. Williams to Edward t. Balch, Joseph Barnett and W.H. Meginness, and a written dedication to public use dated on the 8th day of august 1890, and duly recorded in the office of the County Recorder of Santa Barbara County, on the ninth day of August 1890, in book 27 of Deeds page 615 et. seq." The ordinance names the streets (including Wallace Avenue) designated on the map. The ordinance states, "And whereas, the said H.L.

Williams has now presented to this Board in open session thereof said original written dedication of said avenues, streets, places, parks, lanes and alleys and the same has been accepted by this Board for and in behalf of the public, and said dedication made by the said Williams has been accepted and received." The order of recordation of title through the Grant Deed to the trust on August 9, followed by the County's acceptance the offer of dedication to the public (not to the County) on September 25 demonstrates that that Williams dedicated the streets to public use and the fee interest in the property to the named trust, and that the County Board of Supervisors was aware of the limited extent of the property right – an easement – that the County received.

(d) The trust was in full operation from 1890 through 1955, when the Santa Barbara Superior Court entered an Order in Case No. 10332, authorizing the then-current trustees to execute an easement to the Summerland Sanitary District for the installation, construction, maintenance, repair and replacement of a sewer system in the public streets shown on the map of the "Town of Summerland recorded in the Office of the County Recorder of said County in Rack 1, as Map 2, and as offered for dedication for public use and as accepted for public use as shown by Ordinance of the County of Santa Barbara No. 125, dated October 16, 1890." Early in its ownership of the public streets and parks, the Trust collected rents from various utilities for their installation of pipes in Summerland streets, but by 1955 it is clear that the trust no longer was charging for that privilege and, instead, was granting easements for public service installations. The Superior Court order confirms the Court's conclusion that the trust was the fee owner of the Summerland streets and had the power to grant an easement beneath and through them for sewer lines. The Superior Court records make it clear that the trust was active from its formation through the 1950's, with various trustees seeking court approval for a wide range of activities pertaining to its duty to protect the lands placed in its care for the benefit of the public and petitioning for a change in trustees as the former ones moved, died, or wished to resign. We have found nothing in the public record or the Court files to indicate that the trust has terminated or that its fee ownership of the streets, alleys and other public areas shown on the Summerland map were conveyed to the County.

From these records, it is clear that the trust continues to own fee title to the streets and parks shown on the 1888 map and that the County has a right of way for public purposes only. What also is clear from these documents is that Williams acknowledges the existence of a railroad right of way and depicts the location of that right of way along what is shown as "Railroad Avenue" on the 1888 map. We presume that the railroad had such a right of way but have not researched it. We know from Walker A. Tompkins' historical book entitled, *The Yankee Bararēnos*, that the railroad section through Summerland was completed in 1887. The railroad location depicted on the 1888 survey map for the City of Summerland is a substantial distance north of the O'Neil Property.

6. We have located a series of deeds that we believe accurately reflect the railroad's ownership in the area of Wallace Avenue adjacent to the O'Neil Property. The descriptions make it clear that the Property owned by the railroad was on both sides of Wallace Avenue and that the street named Wallace Avenue is located along the north side of Block 39 (the block in which the O'Neil Property is located):

(a) Becker to Southern Pacific Railroad Company (SPRC), recorded 9/23/1907 at Book 118, Page 107 of Deeds – this deed conveyed in fee a chunk of block 39, the southerly line of which is the northerly line of Wallace Avenue, which is identified as "the County road." If Wallace Avenue already had been deeded to SPRC, this deed would not be calling it the County road over six years later.

(b) Clerbois, et al. to SPRC, recorded 5/11/1945, at Book 649, Page 253 of Official Records – this deed conveyed in fee a portion of Block 39 south of Wallace Avenue, such that the northerly line of the grant represents the southerly line of "Wallace Avenue." This time, it's not just called the "County road" but is identified as "Wallace Avenue as shown on said Map of Summerland." If SPRC were the owner, it would have ceased to be Wallace Avenue.

(c) Becker to SPRC, recorded 11/24/1945, at Book 665, Page 74 of Official Records – this deed conveyed in fee yet another portion of Block 39 south of Wallace Avenue, such that the northerly line of the grant represents the southerly line of "Wallace Avenue as shown on said Map of Summerland."

(d) Donaldson to SPRC, recorded 11/24/1945, at Book 668, Page 375 of Official Records – this deed conveyed in fee yet another portion of Block 39 south of Wallace Avenue, such that the northerly line of the grant represents the southerly line of "Wallace Avenue as shown on said Map of Summerland."

7. Additional evidence in the County's files further confirms our interpretation of Ordinance No. 247 vis-à-vis this portion of Wallace/Finney. The street segment itself, extending adjacent to the northern boundary of the O'Neil Property and further eastward, is shown on many County maps in Public Works' possession as a public roadway, post-dating Ordinance No. 247. These include:

(a) A survey map dated April 1920 showing the road extending through Block 39;

(b) A record of survey approved by the County Surveyor on January 17, 1952 showing Wallace Avenue extending adjacent to the northern boundary of the O'Neil Property;

(c) A map prepared for the County and Caltrans in 1976 showing the relationship between the railroad right of way, Highway 101, and Finney Street, which was approved by Leland Steward, then the County's Director of Transportation;

(d) A Southern Pacific Railroad easement to the County dated August 30, 1976 which also shows Wallace/Finney extending eastward;

(e) A Southern Pacific Railroad map which is not dated but includes references to documents as recently as 1945, and shows the "County Road" running immediately adjacent to the northern boundary of the Property and extending to easterly to the edge of the map where a notation indicates "To Los Angeles."<sup>3</sup>

8. The nature of the railroad's right of way is irrelevant to its current operations. It would be maintaining its tracks and operations the same on a fee ownership as on an easement in this narrow location. What *is* relevant is the fact that the railroad isn't occupying the portion of Wallace/Finney which provides, and historically continuously has provided, access to the O'Neil Property. Although a former owner of the railroad apparently believed that it had some kind of exclusive right that allowed it to install a gate across Wallace/Finney, that gate is now left standing open and the road remains available for public use. Indeed, the Santa Barbara County Sheriff's deputies travel over this road to roust trespassers and scoundrels from the land lying easterly of the O'Neil Property.

9. Further, internal and external County correspondence recognizes the County's interest in Wallace/Finney is an easement. This includes:

(a) A letter dated November 12, 1965 from Leland Steward, then County Road Commissioner, to Universal Oil Corporation, then owner of Lots 30-39 of Block 39 (the property immediately east of the O'Neil Property which are Lots 27-29) stating that despite the County's action taken by Ordinance No. 247, the County has maintained a County road north of Lots 27-39 in Block 39 and that "[i]t is possible that the County now holds only a prescriptive road right of way in Block 39;"

(b) An internal memo from Assistant County Counsel Dana Smith to Robert Scott in the Planning Department dated February 24, 1977 stating his opinion that as of 1890, the County had an easement in the street shown as Finney Street on the original record of survey map;

(c) An internal Public Works memo from W.H. Vachon to Scott McGolpin dated March 12, 1996, relying on the opinion in the February 24, 1977 County Counsel memo regarding the status of Finney Street as an easement and reiterating "[w]e have rights to use the 60 foot easement" and further stating "Finney Street provides access to the home owners at the east end."<sup>4</sup>

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<sup>3</sup> On several of the above referenced maps, the railroad tracks are shown crossing Wallace Avenue. However, that occurs at a location east of the access serving the O'Neil Property leaving sufficient width adjacent to the O'Neil Property for safe access.

<sup>4</sup> The O'Neil Property was at the time of the memo and remains the only residence at the east end of Finney Street/Wallace Avenue.

## Conclusion

We believe that we have demonstrated that Wallace/Finney remains a publicly dedicated roadway, even if it may be shared by the public and the railroad. Although the County doesn't appear to maintain the roadway east of the paved section lying west of the O'Neil Property, the road exists and is used for public safety purposes and by Jeff O'Neil to access his Property.

Because the overwhelming evidence in the recorded documents and other County files indicates that this portion of Wallace Avenue was, and continues to be, a public street, it provides adequate legal access to the O'Neil Property to meet the requirements of Coastal Plan Policy 2-6 and the Required Finding per Article II Coastal Zoning Ordinance Section 35-60.5. The County subjects itself to liability for an unconstitutional taking if it continues to deny that access exists because the County refuses to accept the application for re-construction of Mr. O'Neil's home, depriving him of reasonable use of his property, based upon the alleged lack of access.

Therefore, we respectfully request that the Planning Commission overturn the Director's determination of application incompleteness and direct staff to complete processing of the project application.

Thank you for your consideration of this appeal.

Sincerely,



Patsy Stadelman Price, AICP

Enclosures: Supporting Documents (see attached index)

October 29, 2015

Susan F. Petrovich  
Attorney at Law  
805.882.1405 tel  
805.965.4333 fax  
SPetrovich@bhfs.com

Board of Supervisors  
County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, CA 93101

RE: Applicant Response to Recommendation for Summary Denial of O'Neil  
Residence – 2551 Wallace Avenue, APN 005-250-001

Dear Honorable Supervisors:

This letter provides a supplement to the applicant's appeal (filed before staff announced that they were going to proceed with a summary denial recommendation) and a response to the contentions in the staff report. Please note that this is simply an appeal from the County staff's conclusion that it could not deem the application complete because of the access issue. The applicant hereby objects to any other issue being raised in this summary proceeding.

The Planning Commission has never considered the full merits of this project because, pending appeal of the staff's refusal to deem the application complete, the Permit Streamlining Act caused the application to be deemed complete by operation of law. The BAR has not completed its conceptual review of the project, solely because of the access issue and the procedural glitch.

This is not an appeal from a full and fair hearing on the project merits, yet the staff presentation just posted online approaches this hearing as if complete project review had occurred. It has not. We are here to resolve the access issue, pure and simple. Until now, the applicant hasn't even had an opportunity to respond to the alleged geologic constraints, yet the staff presentation characterizes the riprap area between the ocean and the existing residence as a "Geologic Hazard Issue."

To date, the County has denied Jeff O'Neil substantive due process and we request that your Board remedy that by granting the appeal and directing the staff to process this application fairly and reasonably.



**Issues Identified in Staff Report**

The staff report raises the following issues in support of its recommendation that your Board deny Jeff O'Neil's appeal:

1. Lack of adequate public services, specifically sewer service.
2. Lack of legal access.
3. Geologic constraints and deficient expert report addressing same.
4. Inconsistency with County policies, specifically the lack of sewer and the impact on visual resources.

We address first the tangential allegations so we all can turn our attention to the only issue on appeal – the allegation that this property lacks legal access.

Regarding the lack of sewer service, we attach a letter from the Sanitary District confirming that it is prepared to provide sewer service to this property. Anticipating the staff's response that there's no legal way to site the sewer line to serve the O'Neil parcel, we suggest that this issue pertains to the road at issue and discussed in detail below.

We also ask you to review the attached Noel Langle memorandum dated 5/24/1996 regarding the proposed issuance of a CDP to restore a damaged waterline serving the O'Neil property and located in the same portion of Wallace Avenue that the sewer line would share. In prior years, County staff clearly viewed Wallace Avenue as being in existence and being a public right of way, yet today it does not. Mr. Langle explains that the REC zoning was "inadvertent" and "it would not be fair for the County to rigidly enforce the nonconforming restrictions." We concur.

Regarding the alleged geologic constraints and staff's position that the expert reports submitted by the applicant are deficient, we refer you to our letter to the County Planning Commission on 8/7/2015 (attached, see P. 4), that explains that the peer reviewer upon whose comments the staff bases its position failed to contact the geologist and ignored information in the Fugro report that is part of Attachment G to Attachment 3 of your staff report. The applicant was unaware of the communication breakdown and the resulting erroneous conclusion by the peer reviewer shortly before the Planning Commission hearing on summary denial, at which time access was the issue. You will note that the Planning Commission made no findings on geology. There was no time to have the geologist and engineer provide the clarification that the peer reviewer could have obtained through a simple telephone call. We enclose the engineer's report with stamp and signature and a supplemental report from geologist Michael Hoover, addressing all of the peer reviewer's issues and supporting the geologic stability of the O'Neil building site and the bluff setback. That is not an issue.

Regarding the visual resource issue, this is not an issue on summary denial. Nonetheless, your staff has made it an issue by including in the staff report an erroneous exhibit that purports to depict the difference between the existing and proposed O'Neil residences and the 15-foot height limit. The staff report also fails to acknowledge the reality that the mature eucalyptus trees have blocked the ocean view across this site from Highway 101, from the railroad, and from Summerland for decades, and the existing house has blocked it since the 1800's, long before view protection policies were adopted. The trees would block that view even if there were no house on this property. In any event, this issue is more appropriately addressed after the BAR has completed its process and the applicant has had an opportunity to be fully heard on the issue at the Planning Commission, after the application has been deemed complete.

Regarding the issue of consistency with County policies, raising this issue is inappropriate and premature. This, too, requires a full hearing before the Planning Commission on the project merits. **This is a summary proceeding to address the issue of access, which leads to a decision as to whether or not the staff has acted properly in refusing to further process the application because they believe the application remains incomplete due to lack of access.** To treat this as an appeal on the merits of the CDP would be a denial of substantive and procedural due process.

We turn now to the discussion of legal access. Our letters to the staff and Planning Commission address this issue with great detail, but we note that some of these letters have not been included in your record. We have reviewed historic documents that highlight the basis for our position, and include select documents as attachments for your review.

#### **Important Gaps in History Presented by Staff Report**

For the purpose of this analysis, we will refer to the map attached to the deed recorded 8/9/1890 from H.L. Williams to Balch, Barnett and Meginness as the Williams Map. By this deed, Williams created a trust to own the streets, parks, and other public places in Summerland so those public places would be held for the benefit of the public.

The staff fails to include in its chronology several important events and facts:

9/25/1890 – Ord. 125, whereby County accepted the offer of dedication from Williams, did not include the road now known as Wallace Avenue. As you can see from looking at the Williams Map and the map attached to Ord. 125 (Attachment 10 to staff report), the road that has provided access to the O'Neil parcel and residence since the 1800's had no name for the purposes of creating the Summerland public streets, so we will call it "Unnamed Access". The name "Wallace Avenue" has been used for this street from time to time, but not in the Williams Map and not by the County when it purported to accept dedication of the Summerland streets. Wallace Avenue in the Williams Map and on the Ord. 125 map was located entirely north of Railroad Avenue, with both Wallace Avenue

and Railroad Avenue running north of East End Park. Ord. 125 expressly exempts Unnamed Access from the acceptance of the offer of dedication, even in the final clean-up language (bottom of P. 3 to top of P. 4) that provides for inclusion of intersecting lines and alleys running through the center of Blocks 9 through 37 and Blocks 41 through 43, **but not through Block 39**. Jeff O'Neil's property comprises Lots 27, 28, and 29 of Block 39. Therefore, the County of Santa Barbara never accepted the offer of dedication of Unnamed Access. This road is and always has been the property of a trust, of which Balch, Barton and Meginness were the initial trustees, set up to hold fee simple ownership of all streets, roads, parks, and other public places within what the Williams maps call the City of Summerland.

1/91/1901 – Ord. 247 map – the line of demarcation, delineating the area being “quitclaimed” by the County to the railroad for relocation of the tracks, cuts through the middle of Unnamed Access and leaves an entire ½-width of Unnamed Access (called “County Road” on the railroad maps) intact along Jeff O'Neil's property frontage. The staff is incorrect in concluding that this road vanishes when it reaches the northwest corner of the O'Neil property. This same line appears on a blow-up of this area on the Lease Map that is Attachment 14 to your staff report. In fact, staff offers no evidence whatsoever to support its conclusion that the road ceased to exist.

9/23/1907 – attached Deed from Becker (as Administratrix of H.L. Williams Estate) to Southern Pacific Railroad Company recorded, conveying property on the north side of Unnamed Access **in Block 39** (in Attachment 16 and also an attachment to our appeal). We attach the Becker deed for land owned by the H.L. Williams Estate, **located in Block 39**, that identifies and uses the “County Road” through Block 39 – Unnamed Access -- as a reference point. In fact, the County Road is described as dividing Block 39 and as forming the south property line of the land being granted. This demonstrates that, in 1907, the representative of the Williams Estate knew that Unnamed Access still existed and regarded it as a County Road.

4/1920 – attached Survey Map of H.L. Williams Estate beachfront – this record of survey depicts the boundary of the land “quitclaimed” to SPRR by the County and demonstrates that the dedication **excluded** the road half-width along the frontage of the parcels now owned by Jeff O'Neil.

5/1927 – attached Petition for Appointment of Trustees and Order Appointing Trustees – attached. County staff incorrectly states that the Williams deed only conveyed the temple site to Balch, Barnett and Meginness in fee simple. As can be seen from the attached 1927 Petition and Order, the trustees (who presumably were in communication with, and friends of, H.L. Williams and would better know his intentions than we should presume to know today) understood that the deed conveyed the “fee simple estate of, in and to, the streets, lanes, alleys, parks and places, in the Town of Summerland, in said deed fully described, to have and to hold the same for the benefit of said Town of Summerland, to

be administered by said trustees, as in said Deed of Trust provided (a certified copy of the Williams Deed was filed with the court contemporaneously with the Petition), and to be held by them until said Town of Summerland should be incorporated under the laws of this State."

11/12/1965 – attached County Road Commissioner letter, identifying the Ord. 247 and noting that the County may have released its rights in 1901 but is still maintaining a County Road "north of lots 27-39 in Block 39."

2/24/1977 – attached County Counsel letter concerning Finney Street, contending that the County holds only an easement and not a fee simple ownership interest in Summerland streets.

6/20/1988 – attached County Resource Management Director letter to Board of Supervisors recommending a fee waiver to process a LCP amendment for the O'Neil property, to change from REC to Single Family Residential with Design Review Overlay. "his existing [Recreation] zoning appears to have been inadvertently assigned to this developed parcel." "Since the Recreation zoning assigned to this parcel would not allow the owner to complete his plans to reconstruct a new dwelling, staff would support approval of a fee waiver to process the Local Coastal Plan Amendment."

1996 – Union Pacific leases property on both sides of O'Neil parcel to Jeff O'Neil and attaches a plot plan. The attached plot plan shows the remaining half-width of County Road along the frontage of the O'Neil parcels.

4/1997 – County issues CDP for waterline replacement in Unnamed Access, calling it "Finney Street." Attached CDP with site plan depicting the County road extending easterly along the frontage of Jeff O'Neil's parcel, the roadway within which the proposed sewer line will lie. Please note the finding in the CDP that states that "It was not the intent and purpose of the rezoning to zone the parcel as REC."

11/30/2007 – attached Deputy Director of Planning & Development letter advising that there is no "significant potential for a viable recreation use of this small lot," and that the consensus of a meeting between County and Coastal Commission staff resulted in a consensus that "a rezone and Local Coastal Plan amendment, to change the designated use of this parcel from Recreation to Residential, is feasible. Coastal Commission staff indicated initial support of a potential rezone and LCP amendment for this unique parcel and situation." Based on this letter, and earlier indications from staff to Jeff O'Neil that the Recreation zoning was a mistake for this privately owned, residentially developed parcel, Jeff O'Neil started this 8-year process.

Finally, we enclose the historical report on this property, prepared by Ronald L. Nye, Ph.D.

**Zoning this Property Solely for Recreation Was an Error that the County Must Remedy**

The record speaks for itself. For reasons unknown to the applicant, the County zoned Jeff O'Neil's property to the Recreation zone district, which allows for the following limited uses (none of which would allow Jeff to use his property or to realize his reasonable economic expectations for the property that is his home):

"The purpose of this district is to provide open space for various forms of outdoor recreation of either a public or private nature. The intent is to encourage outdoor recreational uses which will protect and enhance areas which have both active and passive recreation potential because of their beauty and natural features. Such development should offer recreational uses which compliment and are appropriate to the area because of these features."

Permitted uses include "outdoor public and/or private recreational uses, e.g., parks, campgrounds, recreational vehicle accommodations, and riding, hiking, biking and walking trails, golf courses, structures and facilities required to support the recreational activities, e.g., parking areas, corrals and stabling areas, water and sanitary facilities, boat launching facilities, ranger stations, and limited concession facilities."

The only residential structures allowed are for a caretaker and with a Minor CUP. Staff has taken the position that Jeff O'Neil's residence cannot qualify because the caretaker must be a person who is caretaking a legitimate recreational facility on the property.

**The County Process Is Not Serving the Public and Is Mistreating Mr. O'Neil**

Jeff O'Neil simply wants to rebuild his house so he can resume a normal life and enjoy his property.

The Recreation zoning rendered Jeff's then-existing residence non-conforming. When he tried to build a new residence, he was told that he could do so only via a rezone of his property. Now the staff contends, without demonstrating any evidence in support, that he doesn't have legal access so he can't even do that. And, staff contends, your Board should summarily deny his application because of potential blockage of the ocean view by a structure that is only slightly taller than the existing residence and located in a grove of towering eucalyptus trees.

**The County Does Not Have Fee Simple Ownership of Summerland Roads and Has No Granted Easement Over the Unnamed Access Road Serving the O'Neil Parcel**

The County staff position regarding legal access to the O'Neil parcel is incorrect. We have presented evidence of a trust that owns fee simple title to Unnamed Access, the

road that provides unimpeded access to and along the frontage of Jeff's parcel. In 1901, the County had no authority to give away any part of Unnamed Access. It held neither fee simple title nor an easement to that road.

The trust was in full operation from 1890 until at least through 1955, when the Santa Barbara Superior Court entered an Order in Case No. 10332, authorizing the trustees to execute an easement to the Summerland Sanitary District for the installation, construction, maintenance, repair and replacement of a sewer system in the public streets shown on the map of the "Town of Summerland recorded in the Office of the County Recorder of said County in Rack 1, as Map 2, and as offered for dedication for public use and as accepted for public use as shown by Ordinance of the County of Santa Barbara No. 125, dated October 16, 1890." Early in its ownership of the public streets and parks, the Trust collected rents from various utilities for their installation of pipes in Summerland streets, but by 1955 it is clear that the trust no longer was charging for that privilege and, instead, was granting easements for public service installations. The Superior Court order confirms the Court's conclusion that the trust was the fee owner of the Summerland streets and had the power to grant an easement beneath and through them for sewer lines.

We also have pointed out that Ordinance No. 125 explicitly excluded Unnamed Access, incorporating specific named street segments and referencing intersecting alleys, but excluding the access road through Block 39.

From those documents, it appears to be clear that the County has no granted right to Unnamed Access. But your Board doesn't have to make that finding to grant Jeff O'Neil justice. Even assuming, *arguendo*, that the County had some sort of ownership interest in Unnamed Access in 1890 when it adopted Ordinance No. 125, it only purported to give away the northerly half of Unnamed Access to the railroad. On the basis of the maps we have presented, particularly the 1920 Record of Survey, it should be obvious that the County **did not** quitclaim to the railroad the southerly half of Unnamed Access and later documents confirm that the public road along the frontage of Jeff's lot remains. The railroad's own map showing the land area leased to Jeff concurs – it shows the angled line running through Unnamed Access that delineates the portion of the former road retained by the County. Please compare it to the 1920 Record of Survey. It's the same line, except that the Record of Survey is more detailed and accurate.

**Conclusion**

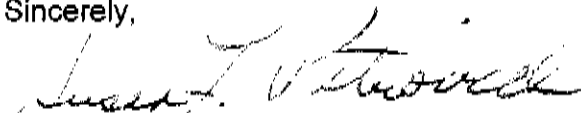
This appeal was filed in response to staff's determination that, despite years of processing and hundreds of thousands of dollars in consulting and expert fees, Jeff O'Neil's application was incomplete and would never be complete because of the lack of legal access to his residence.

In its staff report and presentation, County staff has greatly extended the scope of the appeal. The applicant objects to that extension. The issue on appeal is not consistency with County policies. There has been no BAR input on that issue. Staff is only just receiving from the applicant additional geologic information in response to an eleventh-hour revelation from staff (just before the Planning Commission hearing) that the peer reviewer hired to review the reports submitted had "questions" and needed clarification. Your Board is not in a position to make any finding or take any position regarding geologic issues. The same is true for visual resources.

The sole issue at hand is that of legal access. We have provided overwhelming evidence that Jeff O'Neil does have legal access to his parcel. We urge your Board to direct staff that the evidence demonstrates that Jeff O'Neil has legal access to his parcel, including for the sewer line, and that staff should stop running him and his team in circles and process his application fairly and without any more delay.

Eight years is far too long for a property owner, whose property was mistakenly rezoned for a non-residential use, to have to wait for approval of a reconstruction of his home. The building site is not the lower Ninth Ward of New Orleans, but it certainly looks that way.

Sincerely,



Susan F. Petrovich

Enclosures: Summerland Sanitary District 7/29/2015 can & will serve letter

Langle Memo dated 5/24/1996 re waterline replacement

Brownstein Hyatt Farber Schreck letter to Planning Commission 8/7/2015  
Petition and Order In the Matter of the Trust Created by H.L. Williams

Michael F. Hoover 10/23/2015 Letter

Hetherington Engineering, Inc. September 24, 2014 Review Response and Engineer's Stamp with Signature

1907 Deed from H.L. Williams Estate to SPRR, identifying County Road

1920 Survey Map of H.L. Williams Estate lands

1927 Petition and Order regarding Trust that owns streets, parks, etc.

1965 County Road Commissioner Letter

1977 County Counsel letter re County easement in Summerland streets

1988 Resource Management Director Guzman Letter

1996 Union Pacific lease plot plan

1997 County issued CDP for waterline in access road to O'Neil

2007 Deputy Director Ward Letter re no viable recreational use

2009 Ronald L. Nye, Ph.D., Historical Assessment





July 29, 2015

**Subject: SEWER SERVICE AVAILABILITY LETTER**

APN : 005-250-001  
ADDRESS : 2551 Wallace Avenue

The property referenced above at 2551 Wallace Avenue, APN# (005-250-001), is within the boundaries of the Summerland Sanitary District (SSD).

Sewer capacity of one (1) Single Family Dwelling in District facilities is presently available to serve the property, and is expected to be available to serve the property if it is connected to the District sewer system pursuant to a District Sewer Service Connection Permit within one year from the date of this letter. The District makes no representation concerning sewer capacity beyond the period stated above.

In order to secure a District Sewer Service Connection Permit for the property, it will be necessary to comply with all District requirements for the issuance of a Connection Permit including payment of all required fees. In addition, sewer connection must comply with the District's standard specifications for sewer construction.

Please confirm your acceptance of the terms and conditions outlined herein by signing the statement below.

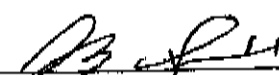
Sincerely,

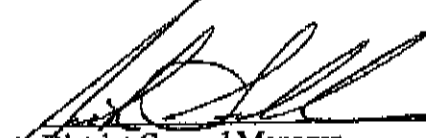
SUMMERLAND SANITARY DISTRICT

TO: SUMMERLAND SANITARY DISTRICT

RE: APN 005-210-001

We hereby confirm our acceptance of the terms and conditions outlined in this Sewer Availability Letter. This Sewer Service Availability Letter is valid for one year from date of issue.

  
\_\_\_\_\_  
Signature of Owner or their agent.

  
\_\_\_\_\_  
District General Manager

Date 7.29.15

Date 7/29/2015

Phone Number 969.1971

805.969.4344 • 805.969.5794 • P.O. Box 417 • Summerland, CA • 93067 •

# Summerland Sanitary District Sewer/Connection Permit

Date July 29, 2015

Address 2551 Wallace Avenue

Assessor's Parcel No 005-250-001

Purpose of Permit \_\_\_\_\_

◆◆◆ (If septic to sewer -- see Note 4 on page 2.) ◆◆◆

No. of Dwelling Units on Property 1 SSD

Commercial \_\_\_\_\_

Property Owner Jeff O'Neil

Address 2551 Wallace Avenue, P.O. Box 508

Summerland, CA 93067

Phone (805) 969-1971 \_\_\_\_\_

Contractor \_\_\_\_\_

Phone ( ) \_\_\_\_\_

**CONNECTION DATA**

Line \_\_\_\_\_ Manhole # \_\_\_\_\_

Other: \_\_\_\_\_

Plan Check Fee:	\$ _____
Sewer Availability/ Will Serve Letter:	\$ <u>25</u>
Connection Fee:	\$ <u>11,325.08</u>
Permit Fee:	\$ _____
Inspection Fee:	\$ <u>500</u>
Annexation Fee:	\$ _____
Other Fees:	\$ _____
Construction Inspection Fee:	\$ _____
SSD Standard Spec's Manual:	\$ _____
Other Fees:	\$ _____
<b>TOTAL FEES</b>	<b>\$ <u>11,850.08</u></b>

Receipt # \_\_\_\_\_

Paid by:  Cash  Check # 1789, 1788, 1790

By [Signature]  
Michael J. Sullivan, General Manager SSD

**SEWER LATERAL INSPECTION REQUIREMENTS**

Summerland Sanitary District has specific requirements for the installation of the sewer mains, laterals and building sewers. Refer to "Summerland Sanitary District Procedural and Standard Specifications for Construction of Sanitary Sewers" for requirements and construction details. District inspection is required for any installation or repair between the sewer main and the owner's property line clean-out. The County Building Department has inspection jurisdiction within the property.

The following inspections are mandatory to obtain occupancy:

- 1) Verify serviceable condition of existing wye or lateral.
- 2) Inspection of the connection to existing wye or lateral
- 3) Trench alignment, sand bedding and installed pipe. (Note: Yellow sand is not District approved material for bedding or pipe zone.)
- 4) Final inspection of completed installation with concrete cleanout boxes with metal covers and back-flow prevention devices (if required) set to final grade.

**24-HOUR ADVANCE NOTICE IS REQUIRED  
FOR MOST INSPECTIONS  
(805) 969-4344**

**CERTIFICATION PERMIT IS VALID FOR ONE YEAR**

I hereby certify that I am the owner, or the duly authorized agent of the owner, and I agree to comply with all Ordinances, Rules and Regulations of the Summerland Sanitary District, Santa Barbara County, and all laws of the State of California, as they affect the sewer service to be provided pursuant to this permit.

Failure to complete the work under this permit, following written notice to the Owner, the District will have the right to have the work completed at the owner's expense.

By signing below I have read and understand the requirements of this permit.

Signed [Signature]

Name Printed Jeffrey S. O'Neil

Company \_\_\_\_\_

Phone (805) 969-1971

# Memorandum

**Date:** May 24, 1988  
**To:** Marta  
**From:** Noel  
**Subject:** 2551 Wallace Avenue, Summerland  
**CC:** Anne



---

Please call Ben Welner (965-1790) and inform him of the following:

1. I have looked into the situation regarding the REC zoning of the property and have decided since this action was apparently "inadvertent" (see letter from Dianne Guzman dated June 14, 1988) that it would not be fair for the County to rigidly enforce the nonconforming restrictions as they would apply to the existing residence (FYI, the matter of the fee waiver was dropped by the applicant on June 27, 1988).
2. Therefore, the applicant may apply for the necessary permits. The project involves development within the appeals jurisdiction of the Coastal Zone; this project does not qualify for any of the exemptions under Sec. 35-169.2. Thus, a CDP is required, and because of the location within the appeals jurisdiction, a SUP is also required.
3. If the residence is currently occupied, then we could process an application for an emergency permit, followed later by the SUP and CDP. This will cost the applicant additional fees, but will allow water service to be restored more quickly.

November 12, 1965

Universal Oil Corporation  
11728 Wilshire Boulevard, Room 607  
Los Angeles, California 90025

Attention: Mr. Harold Edelstein, President

Gentlemen:

This will acknowledge your letter of October 29, 1965, concerning access to your property in Block 39, Town of Summerland.

A review of the records indicates that the Board of Supervisors of Santa Barbara County by Ordinance No. 247 dated January 9, 1901, "remised, released, and quit-claimed" to the Southern Pacific Railroad Company all rights to Wallace Avenue in Block 39.

It is apparent, however, that subsequent to that action, the County has maintained a County road north of lots 27-39 in Block 39. It is identified as Finney Street in the Road Department's files. This has been a gravel road and lies within the area quit-claimed to the Railroad. It is possible that the County now holds only a prescriptive road right of way in Block 39.

It is presumed that you are cognizant that the California Highway Commission has budgeted for the development of the U. S. 101 highway through Summerland and to Carpinteria as a full freeway. This construction will cause the closing of the railroad crossing at Greenwell Avenue (being the east edge of Block 39).

Yours very truly,

Leland R. Steward  
Road Commissioner

LRS:mt

cc: County Surveyor

# MEMORANDUM



## PUBLIC WORKS DEPARTMENT ENGINEERING & CONSTRUCTION SECTION

*Date:* March 12, 1996  
*To:* Scott McGolpin  
*From:* W. H. Vachon  
*Subject:* Finney Street Easements

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Below is the information that we have on Finney Road. The attached drawings and maps are highlighted to show the development of Finney Street. No contracts were attempted to determine the use of areas outside of our easements.

**BACKGROUND:** The 1888 Summerland City Map shows an unnamed Finney Street in blocks 41, 42, and 43; plus an unnamed avenue from the railroad to East End Park at block 39. The rights of way are 40 feet and 60 feet respectively. The Finney Street in blocks 41, 42, and 43 were vacated by the County between 1951 and 1989. In 1966, CALTRANS changed ramps in the Summerland area and their plan shows the existing Finney Street from Wallace Avenue through East End Park to block 39. Finney Street provides access to the home owners at the east end.

A February 1977 County Counsel opinion to the Planning Department on the Status of Finney Street in Summerland states the County has only an easement for Finney Street. The adjoining land owners have interest to the centerline of the easement. SPRR owns the land both sides of the easement.

**DISCUSSION:** We have rights to the use the 60 foot easement and in my opinion any work outside of that easement requires SPRR permits. Any discussion of the use of the area as a park requires discussion with County Counsel, Parks Department, SPRR, and Supervisor Schwartz.

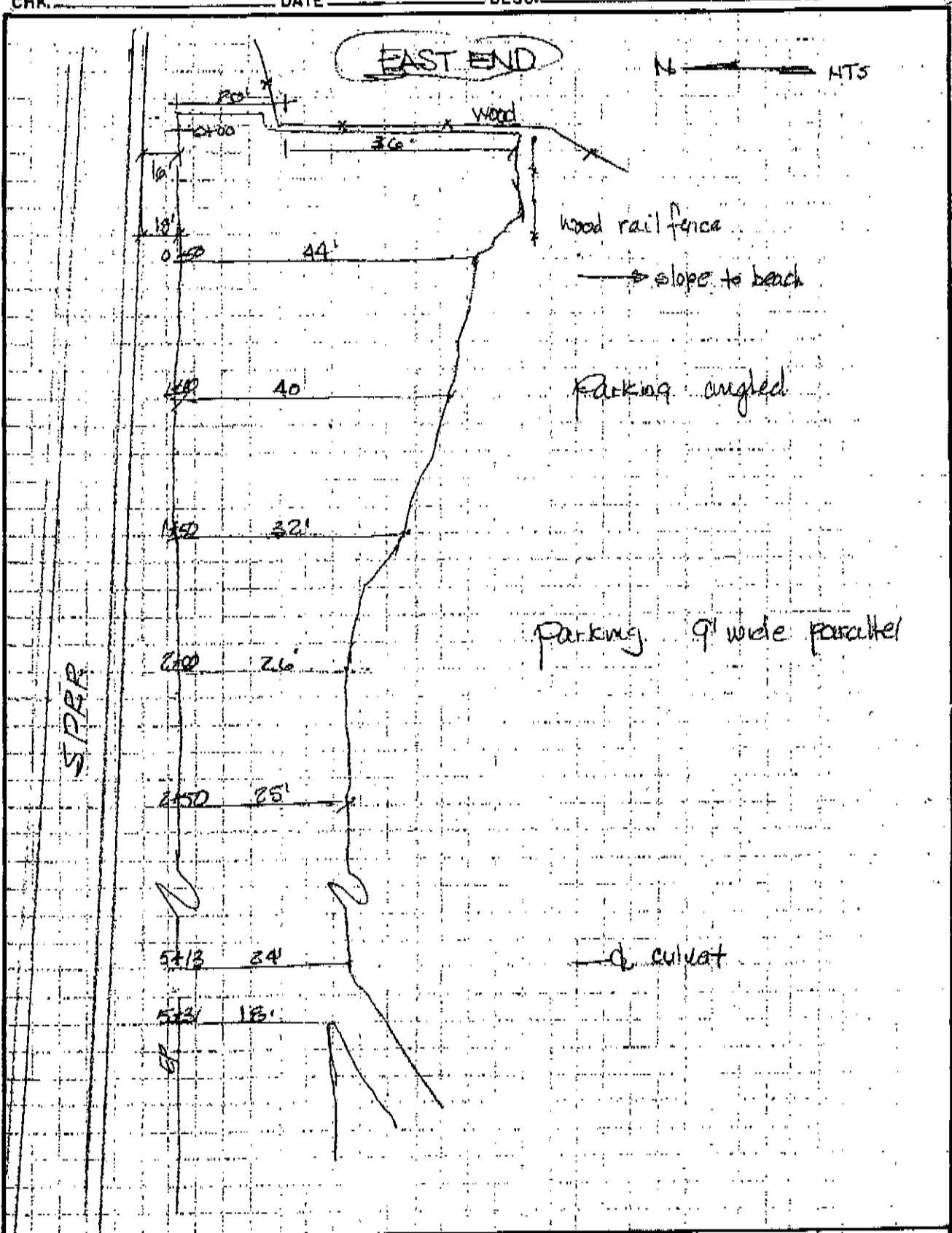
Other issues are the present condition of the road and the Summerland Recycle center. Red Adelson said that he told the Parks Department that they were responsible for repairs caused by the 1993 storm. Parks installed the fence along the top of the slip out. As for the Summerland Recycle Center; Tom Johnson is checking the records of an encroachment permit for this facility; which lies both on SPRR property and our right of way.

cc: Red Adelson

DEPARTMENT OF TRANSPORTATION

COUNTY OF SANTA BARBARA

QUANTITY-CALCULATION SHEET



QUANTITY IN BOX CARRIED TO SUMMARY SHEET

*County of Santa Barbara  
Public Works Department*

***Office of the County Surveyor***

123 E. Anapamu Street  
Santa Barbara, California  
(805) 568-3020 FAX (805) 568-3318

*Michael B. Emmons, County Surveyor*

**TRANSMITTAL**

DATE: November 17, 2005  
TO: Jeffrey S. O'Neil phone 969-1971  
FROM: Todd B. Cullison phone 568-3023  
RE: Wallace Avenue (a.k.a. Finney Street) Right-of-Way

According to available information, the portion of Wallace Avenue (a.k.a. Finney Street) in question (adjacent to APN 005-250-002) is no longer a county road right-of-way. This portion of the road right-of-way was quit-claimed to the Southern Pacific Railroad Company on January 9, 1901 per Santa Barbara County Ordinance. The officially maintained portion of Wallace Avenue (a.k.a. Finney Street) ends westerly of APN 005-250-001. Record documentation for this determination includes the following:

Santa Barbara County Ordinance No. 247—  
Filed in the County Surveyor's Office

Official Map of the City of Summerland—  
Filed as Rack 1 Map 2 of the County Surveyor's Office

This information is based on research of available recorded documents, maps, and indices. Physical positions on the ground cannot be determined without a field survey to locate record monumentation. This is not a legal opinion.

Please feel free to contact me if you have any questions.

Sincerely,  
Todd B. Cullison  
tcullis@cosbpw.net

Before the Board of Supervisors of the County of Santa Barbara,  
State of California.

In the Matter of Accepting the Dedication of Streets and  
Public Places in the Town of Summerland.

The Board of Supervisors of the County of Santa Barbara, do  
ordain as follows:

That whereas, H.L. Williams of the County of Santa Barbara, the  
owner of the Ortega Rancho has heretofore subdivided all that  
portion of said Ortega Rancho situated in the County of  
Santa Barbara, State of California as particularly bounded and  
described in a certain deed of gift and trust executed by the  
said H.L. Williams to Edward T. Balch, Joseph Bennett and W.R.  
Meglinness, and a written dedication to public use dated on the  
8th day of August 1890, and duly recorded in the office of the  
County Recorder of Santa Barbara County, on the ninth day of  
August 1890, in Book 27 of Deeds page 615 et seq. And whereas,  
he caused said premises to be accurately surveyed, platted  
and mapped and laid out thereon a town site called and known  
as the town of Summerland and subdivided the same into lots  
and blocks and laid out a portion thereof as public streets,  
avenues and places and set apart certain other portion thereof  
as parks, which are accurately represented in a survey and  
map thereof made by A.S. Cooper, County Surveyor and marked  
"City of Summerland, Santa Barbara Co, California 1888",  
A.S. Cooper Co. Surveyor", a copy of which said map is  
attached to and made a part of said deed of trust and  
dedication and is recorded in said recorders office in said  
Book No. 27 of Deeds on page 619.



And whereas: the said W.H. Williams has laid out upon the ground and has designated upon said map the following named street, avenues, places and parks to-wit; Whitney Avenue, Golden Gate Avenue, Banner Avenue, Lillie Avenue, Wallace Avenue, Railroad Avenue, Greenwell Avenue, Beach Drive, Pierpont Street, Evans Street, Hollister Street, Colville Street, Beighle Street, Temple Street, Olive Street, and Alcott Street, Lookout Place, Morris Place, Carey Place, Lookout Park and East End Park, and certain intersecting lanes, alleys and places as more fully appear on said map. And whereas, the said H.L. Williams has now presented to this Board in open session thereof said original written dedication of said avenues, streets, places, parks, lanes and alleys and the same has been accepted by this Board for and in the behalf of the public, and said dedication made by the said Williams has been accepted and received. Now, therefore the Board of Supervisors of the County of Santa Barbara, do ordain as follows: That the following named avenues, streets, places, parks and alleys and lanes, as the same appear upon said map be and they are hereby declared laid out, erected, established and ordained to be public highways, roads, streets, alleys, lanes, places and parks, of the town of Summerland in the County of Santa Barbara, State of California, named and described as follows: Whitney Avenue, from Pierpont Street to Greenwell Avenue, Golden Gate Avenue from Pierpont Street to Greenwell Avenue, Banner Avenue from Pierpont Street to Greenwell Avenue, <sup>Lilly Ave, from Pierpont St. to Greenwell Ave,</sup> Wallace Avenue from Pierpont Street to its connection with Lilly Avenue,

Railroad Avenue from Pierpont Street to Greenwell Avenue to, along and parallel with the track of the Southern Pacific Railroad, Pierpont Street from the line of the Southern Pacific Railroad, and Railroad Avenue to the Northern boundary line of the town of Summerland, Hollister Street from the line of Wallace Avenue, to the northern boundary line of the town of Summerland, Colville Street, ~~from~~ <sup>Wallace Avenue to the northern boundary</sup> line of the town of Summerland, Reigle Street from the line of the Southern Pacific Railroad to the northern boundary line of the town of Summerland, Temple Street from the line of the Southern Pacific Railroad to the northern boundary line of the town of Summerland. Olive Street from the line of Lillie Avenue to the northern boundary line of the town of Summerland, Alcott Street from the line of Lillie Avenue, to the northern boundary line of the town of Summerland, Greenwell Avenue from Beach Drive to the northern line of the town of Summerland, Lookout Place, along the westerly face of Block 42 of the town of Summerland, Morris Place from Beach Drive to the Southern Pacific Railroad between Blocks 41 and 42 of the Town of Summerland, Darcy Place, from Beach Drive to the Southern Pacific Railroad between Block 42 and Block 43 of the town of Summerland, Park Place from Beach Drive, to Railroad Avenue along the easterly side of Block 43 of the town of Summerland, Beach Drive along the Ocean Shore from Pierpont Street to Greenwell Avenue, Lookout Park bounded by Railroad Avenue, Lookout Place and Beach Drive, East End Park, bounded by Railroad Avenue, Block 39, Beach Drive and Park Place, and intersecting lines and alleys running through the centers of <sup>the</sup> Block of said town ~~is~~ numbered from 9 to 37 inclusive, and numbers 41 and 42.

and 43 of said town of Summerland, as the same appears upon the said map herein above referred to.

This ordinance shall take effect and be in force on and after October fifteenth, A.D.1890, and a copy thereof shall be printed and published in Santa Barbara Independent, a newspaper printed and published in said Santa Barbara County, for at least one week before said date.

Passed and adopted this 25th day of September, A.D.1890.

H.G.Crane, Chairman

of the Board of Supervisors.

Attest: F.L.Kellogg, Clerk.

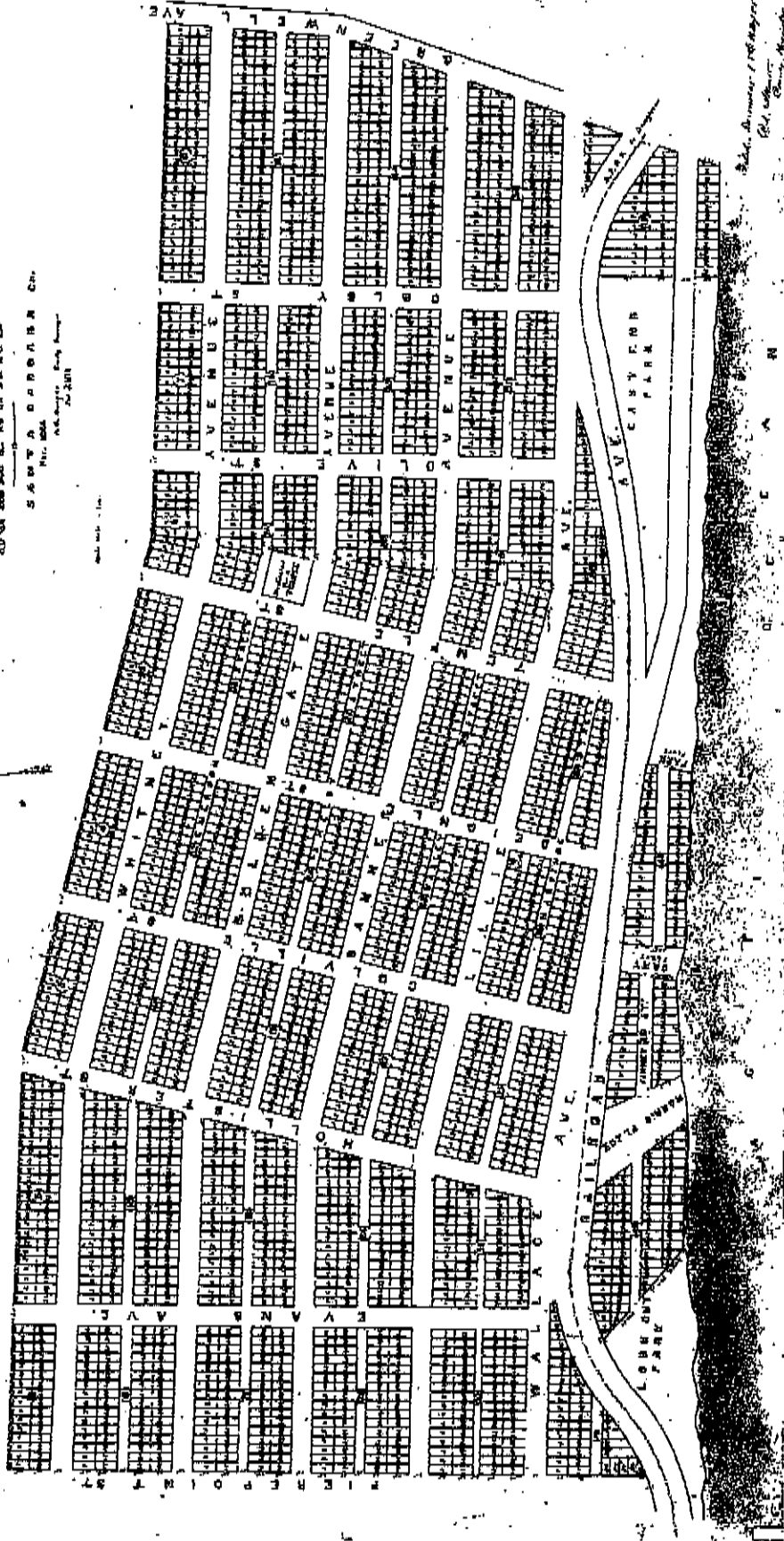
(Seal)

Filed Sept. 25, 1890

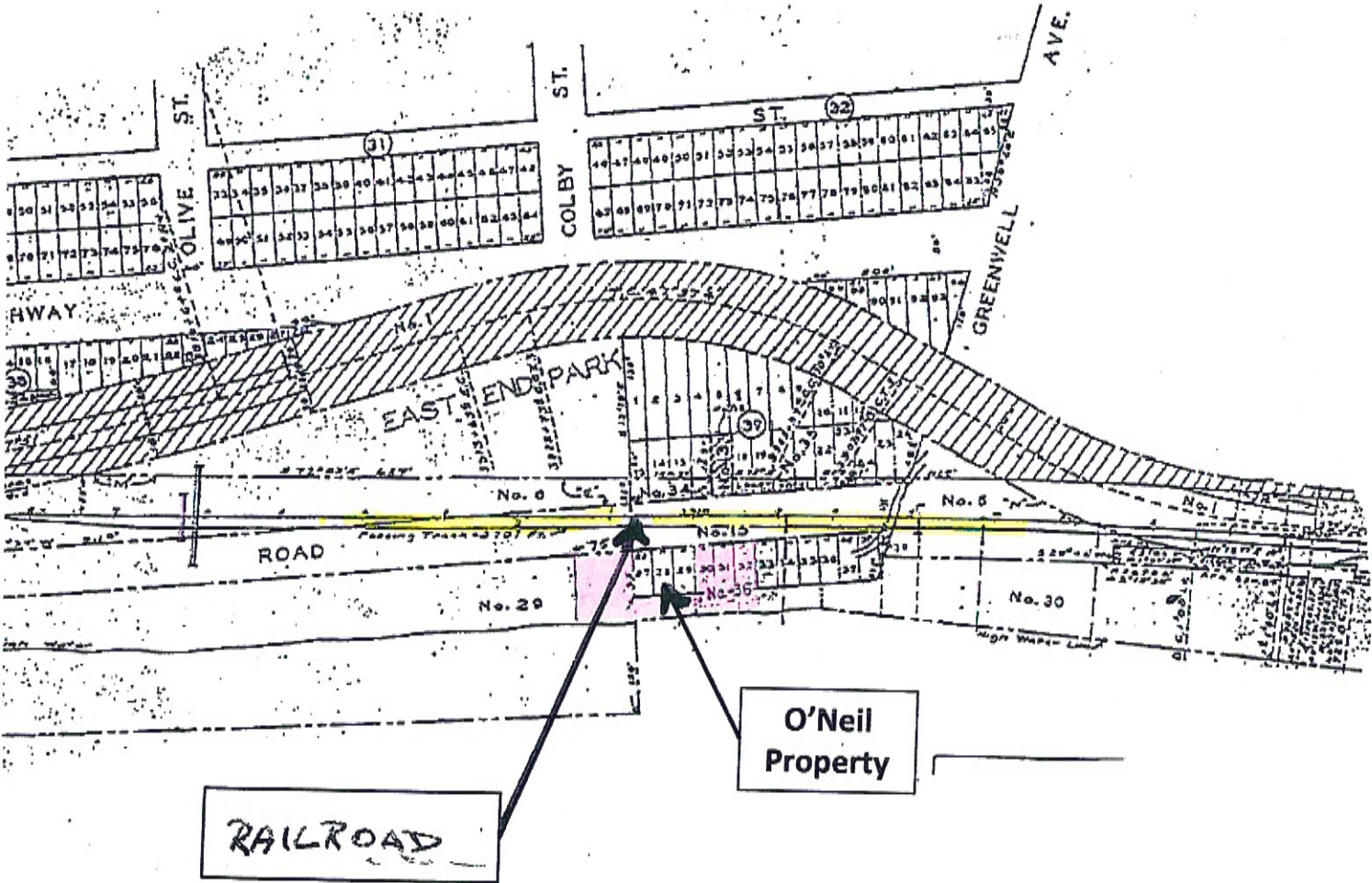
F.L.Kellogg, Clerk.

CITY  
**SUMMERLAND**

SOUTHWEST CORNER CO.  
PHILADELPHIA  
ARCHITECTS, ENGINEERS  
20 2ND ST.

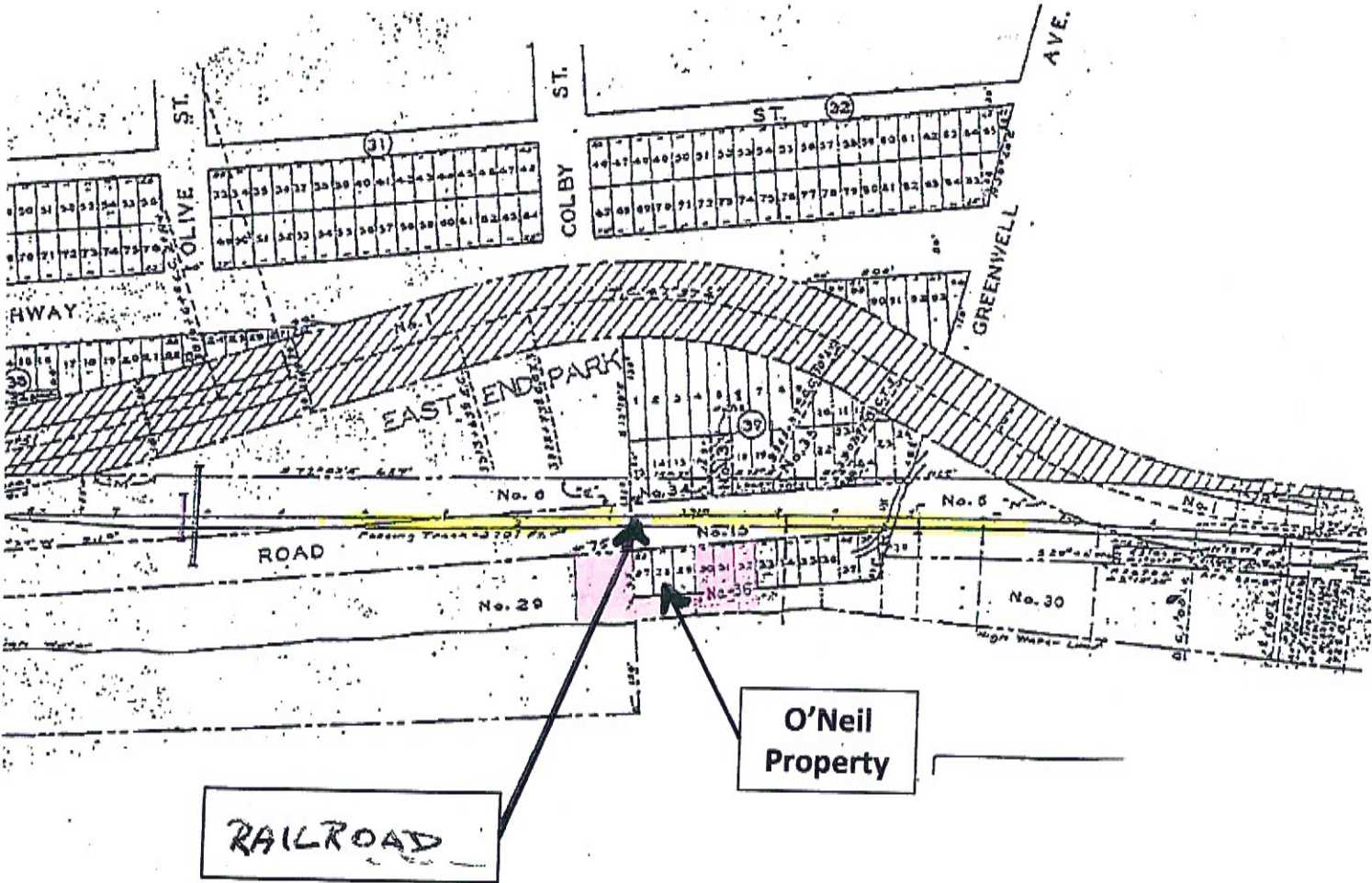


Block, Summerland / Philadelphia  
City of Philadelphia, Pennsylvania



RAILROAD

O'Neil Property



August 7, 2015

Susan F. Petrovich  
Attorney at Law  
805.882.1405 tel  
805.965.4333 fax  
SPetrovich@bhfs.com

**VIA EMAIL TO DVILLALO@CO.SANTA-BARBARA.CA.US**

Santa Barbara County Planning Commission  
c/o David Villalobos, Secretary  
123 East Anapamu Street  
Santa Barbara, CA 93101

RE: O'Neil Residence -- Variance, General Plan Amendment and Rezone -- Item #1  
on August 12, 2015 Agenda

Dear Honorable Commissioners:

Brownstein Hyatt Farber Schreck represents applicant Jeffery S. O'Neil, owner of the property known as 2551 Wallace Avenue (sometimes referred to as Finney Street), Summerland, California. We are grateful for the opportunity to present this project to your Commission so you can consider the propriety of the County's refusal to allow Mr. O'Neil to complete the partially-constructed residence on his property.

Our appeal letter, already included with the staff report, pretty much describes Mr. O'Neil's position, but the staff has raised additional issues for which clarification is in order.

This property has been under private ownership throughout recorded history. It is not and never has been property of the County of Santa Barbara or of the general public. To designate it as Recreational when it has no history of recreational use was absurd and unjustified legally or as sound land use planning. Please see the enclosed February 3, 2009 letter from historian Ron Nye, describing the residential use of the property since 1890, which was about the time that Williams filed the Rack Map for the City of Summerland.

Staff for the County and the Coastal Commission met with the appellant's representatives on November 27, 2007 and concurred.<sup>1</sup> The O'Neil parcel, which is very small (0.10

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<sup>1</sup> See letter dated November 30, 2007 from Dave Ward to me, enclosed with our appeal, agreeing that "Taking the history of this specific property and all of the site constraints

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

acres), is located at the end of a dead-end road that is narrow and has no cul-de-sac. There is no public recreational use to which this uniquely-site little parcel could be put. For this reason, the staff advised us during that meeting that a redesignation of the property to Residential was "feasible." The zoning of the parcel to Recreation clearly was the first in a line of consecutive steps that, with a decision to deny the applicant's appeal, will constitute an unconstitutional taking of this property without just compensation.

Incredibly, the staff's recommendation for denial is based upon a 2005 memorandum from an employee of the County Surveyor's Office, concluding that Wallace Avenue, aka Finney Street, was no longer a County road right of way by reason of a 1901 "quitclaim" to Southern Pacific Railroad Company "per Santa Barbara County Ordinance." Not having been written by an attorney, the memorandum fails to explain how an ordinance morphed into a quitclaim deed. The sole documentation upon which the memorandum is based is the 1901 ordinance, which references various points on an unreadable map that shows Wallace Avenue continuing to exist between the railroad and the O'Neil property, and the Rack Map for the City of Summerland that shows Wallace Avenue running along the northern boundary of the O'Neil parcels.

The O'Neil property has been developed with a single family residence for approximately 125 years, including the time period immediately before and after the County's adoption of the ordinance referenced in the 2005 memorandum. During this time, Wallace Avenue has crossed the railroad tracks at an at-grade crossing that now has the standard warning lights and cross-arms that you see within the City of Santa Barbara and elsewhere throughout the State. As you can see from our appeal letter and the many maps and diagrams accompanying the letter, Wallace Avenue has been recognized as still existing on (i) railroad maps; (ii) County maps, and (iii) legal descriptions in recorded deeds. We enclose a copy of the Rack Map for the City of Summerland for your reference. We also enclose our letter dated January 31, 2012, explaining the road access issue in detail. As of that date, we were unable to locate the exhibit map described in the ordinance in any County records. With additional research, we found a copy of the ordinance published in the newspaper, but the map is nearly illegible and still depicts Wallace Avenue in the location used by Mr. O'Neil to this day.

In short, this property has no history or suitability for public recreation. It is residential and not only has legal, but actual physical, access via Wallace Avenue/Finney Street.

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into consideration, it seems unlikely that there is significant potential for a viable recreation use on this small lot."

**The Staff Report Claim of Inconsistency with County Policies Requiring Adequate Access Is Unfounded Because Mr. O'Neil Has Access and Denying that Reality Is a Sham.**

This property currently has, and always has had, unimpeded access. The access road is only partially paved, but it continues to exist and, as noted in our appeal letter, is used by law enforcement as well by Mr. O'Neil. Notwithstanding County Counsel's claim that Wallace Avenue mysteriously ends right at the O'Neil property line, Mr. O'Neil drives through his gate and into his property using Wallace Avenue. In fact, the County of Santa Barbara never had legal authority to cede the ownership and public use of any part of Wallace Avenue to the railroad company. Any attempt to do so would be ultra vires – beyond the County's powers. California Streets and Highways Code section 8330 prohibits a local agency from summarily vacating a street if it will cut off access to a person's real property.

If a city or county takes an action that has the effect of denying a person access to his or her property, it is a taking that requires compensation. That is a basic principle confirmed in countless California court decisions, including from the Supreme Court. Here, the County staff is asking you to take an action denying recognition of Mr. O'Neil's existing access for the purpose of preventing him from re-building his home – a fundamental property right. In so doing, staff is asking your Commission to be a party to an unconstitutional act. We ask that you think carefully before agreeing to participate in such an act.

We contend that the intent of the position espoused in the staff report IS to deny Mr. O'Neil his property and to prevent him from using it for the land use to which it historically has been put. In short, the purpose of the denial is to commit an act that purposely denies this man a fundamental right to use and enjoy his property.

**The Staff Report Claim of Inconsistency with County Policies Requiring Adequate Sewer Service Ignores Mr. O'Neil's Sewer Service Availability Letter.**

We enclose a copy of the letter, for which we retain the original in our files, dated July 29, 2015, proving that the Summerland Sanitary District is ready, willing, and able to provide Mr. O'Neil's property with sewer service upon submittal of an application for same.

We also draw your attention to the May 24, 1996 memorandum, attached to our appeal letter, from Noel Langle of what is now Planning & Development, discussing the issuance of a permit to restore a damaged water line, located in Wallace Avenue – the same portion of Wallace Avenue where the proposed sewer line would be sited. It is both strange and convenient that Wallace Avenue was sufficient to site a waterline in the mid-1990's but now it is unavailable to Mr. O'Neil to site his sewer line, which will run straight to the Summerland Sanitary District facility.



It is equally odd that County staff currently admits that Wallace Avenue, a public street, runs right to the corner of the O'Neil property but contends that he nonetheless cannot connect his sewer line to the public street at that corner. In short, we continue to believe that the staff's position lacks both legal and practical support.

**Access and Sewer Are the only Bases for the Staff's Determination of Application Incompleteness and, by law, the Application Is Now Deemed Complete. The Staff's Attempt to Add Geologic Issues As a Basis for Denial Is Belated and a Last-Minute Attempt to Create New Grounds for Denial.**

We enclose the staff's September 24, 2014 letter, stating the grounds for finding the application incomplete. Those grounds are lack of access to a public road and to sewer service. As explained above, neither of these grounds is valid.

To fortify staff's attempt to prevent Mr. O'Neil from re-building his home, the staff report now claims that a geologist has concluded that, from the geologic report submitted by Michael Hoover for Mr. O'Neil, it cannot be determined which setback standard should be used to minimize erosion and ensure that the structure is safe. The report in question is dated July 2, 2015 and the author never talked with or submitted questions to Michael Hoover. The reviewer also chose to ignore important components of the October 21, 2003 Fugro report referenced in the peer review.

When we submitted the supposed "peer review" upon which the staff relies to Mr. Hoover, his response was that, professionally and ethically, when one licensed geotech professional reviews the work of another, the reviewer makes contact with the author of the study being reviewed and asks any unresolved questions so issues can be clarified. He also said that he would have answered all of these questions if they had called. These peer reviewers chose to raise questions in their report rather than calling Mr. Hoover to ask them. Their conclusions regarding the impact of erosion and wave action on the O'Neil bluff are based upon the assumption that the bluff is of fill material that is "loose and easily erodible." That is not based on the peer reviewer's own study of the bluff and is directly refuted by Hoover, who indicates that the bluff is fortified by riprap. This is the same riprap described (with photographic support) in the 2003 Fugro report (e.g., Page 4 of the Fugro report states "riprap slope protection was observed at the toe of the bluff . . . beneath the existing residence at the eastern end of Wallace Avenue"). Note that Fugro had no problem identifying and using Wallace Avenue when it conducted its field study.

The O'Neil house designs address erosion attributable to surface water runoff by capturing and controlled drainage. Section 35-67 of the Coastal Zoning Ordinance states: "In areas of new development, above-ground structures shall be set back a sufficient distance from the bluff edge to be safe from threat of bluff erosion for a minimum of 75 years, unless such standard will make the lot unbuildable, in which case a

standard of 50 years shall be used.” This parcel is not an “area of new development” so the policy doesn’t apply. Even if it did, it is clear which setback applies and that the policy does not intend to render a lot unbuildable. The staff’s improper application of this policy to this project provides further evidence of the intent to deprive Mr. O’Neil of his constitutional right to build his home. By the way, the house has ample setback, particularly in light of the riprap at the bluff toe.

***The Visual Impact of the Proposed O’Neil House Cannot Be the Basis for Refusing to Rezone the Property for Residential Use.***

The staff report asks your Commission to conclude that the O’Neil property should not be zoned from recreation to residential because of generally worded visual resource policies. The staff report states that “conversion of the property from recreational to residential zoning in a highly visible area with the potential to block public views would not be consistent with sound planning practices or general community welfare.” This sounds like a communist manifesto when applied to a property used for residential purposes before the community of Summerland was even constructed. Summerland was largely a tent camp when the O’Neil home was built!

More relevant, none of cited policies prohibit the construction of a residence on this property, which is what happens if Mr. O’Neil is denied the rezone.

***Conclusion***

Your Commission is being asked to adopt findings based upon a staff report that fails to explain how you, having sworn to uphold the Constitution of the United States of America, can take an action to deny a property owner the right to use his property for the same use to which it has been put for over 100 years and, instead, to impose a land use designation for which the property is unsuited and that makes the property unusable by its owner. We ask that you let your conscience be your guide.

Sincerely,

Susan F. Petrovich

Ordinance No. 247.

In the Matter of the Petition of the Southern Pacific Railroad Company, a corporation, for a right of way along, over, upon and across certain public parks, streets, roads, places, and avenues in the Town-site of Summerland in the County of Santa Barbara, in the State of California.

The Board of Supervisors of the County of Santa Barbara in the State of California, do hereby enact and ordain as follows, to-wit: Whereas, the Southern Pacific Railroad Company, a corporation, ~~long since located the line of its railroad company, a corporation,~~ long since located the line of its railroad through the town-site of Summerland, in the County of Santa Barbara, in the State of California, and thereupon constructed and has ever since maintained and operated the same as so located; And whereas it appears that said location of the line of said railroad through said Town-site of Summerland can be improved and the directors of said Southern Pacific Railroad Company, have caused a new and relocated line to be surveyed and marked by stakes upon the ground through said Townsite of Summerland and have determined to change said former location of said railroad and have altered and changed the same and have determined that said new and relocated line through said town-site of Summerland shall be the line of location of said railroad upon which the same shall be finally constructed; and whereas certain strips or tracts of land now constituting certain parks; streets, roads, places and avenues, of said Townsite of Summerland are necessary for the right of way of said railroad as so relocated as aforesaid; And whereas said strip or tracts of land are founded and described as follows: ,to-wit; First commencing at the eastern limits of

of said Town-site of Summerland at the westerly boundary line of Greenwell Avenue in said town-site at or near engineer's survey station No. 3907 plus 477, of line change D-13 $\frac{1}{2}$  as shown on a Map of a part of said townsite of Summerland and of said located and relocated lines of said railroad which is hereto annexed and marked Exhibit A; thence running in a westerly direction and intersecting the southerly boundary line of East End Park", in said Town-site at or near engineers' survey station No. 3812 plus 65 of said line change D. 13 $\frac{1}{2}$  as shown on said map; and thence continuing in a westerly direction to point of intersection with the southerly boundary line of the present right of way of said southern pacific railroad at or near engineer survey station No. 3914, plus 87 of said line change D. 13 $\frac{1}{2}$  as shown on said Map, including the whole of the street, roads or avenue running in an easterly and westerly direction through Block No. 39 of said Town-site of Summerland, and all of said East End Park lying south of a line drawn on the north side of said line change D. 13 $\frac{1}{2}$  as shown on said map and parallel to said line change D 13 $\frac{1}{2}$  and distant fifty(50)feet therefrom, Second. A strip of land twenty(20)feet wide along the north side of "Morris Place" in said town-site of Summerland, and constituing a part of said Morris Place as shown on said Map, third all of that part of Lock Out Park, in said town-site of Summerland lying north of the south line of Lots two(2) to seventeen(17)both inclusive in Block forty one(41) of said Town-site as the south line is produced westerly to an intersection with the south line of the present right of way of the Southern Pacific Railroad as shown on said map, and whereas said map is so

Ordinance No. 247.

far as said town-site of Summerland and the parks, streets, roads, places and avenues thereof appear thereon is a copy of a part of the map entitled "City of Summerland, Santa Barbara Co., California, A.S.Cooper Co.Surveyor" which was filed in the office of the Recorder of said County of Santa Barbara in Book 1 and numbered 2 on the 18th day of December 1888, and a copy whereof is recorded at the foot of an Instrument of Dedication unto public use of said parks, streets, roads, places and avenues bearing date on the 8th day of August, 1890, and recorded in said Recorder's office in Book 27 of Deeds at page 615 on the 9th day of August 1890, Now therefore, a right of way for said new and relocated line of said railroad and for the construction, maintenance and operation thereof along, over upon and across said three strips or tracts of land and all and every of them is hereby remised, released and quitclaimed to said Southern Pacific Railroad Company, its successors and assigns forever. And this ordinance shall take effect and be in force on from and after the 1st day of February 1901, and before said date the same shall be published with the names of the members of this Board voting for and against the same for at least one week in The Morning Press, a newspaper published in said County of Santa Barbara.

Passed and enacted and adopted this 9th day of Jan'y, 1901.

E.C.Tallent,

Chairman of the Board of Supervisors of the County  
of Santa Barbara in the State of California.

Attest: (Seal).

G.A.Hunt, Clerk.

(Page No.) 664.

*Must be published this Ord.*



H. L. Williams  
to  
Edward S. Balch et al

Know all men by these presents that, whereas I, H. L. Williams, of the County of Santa Barbara State of California have heretofore subdivided all that portion of the Ortega Rancho, situated in the County of Santa Barbara State of California, about five miles east of the City of Santa Barbara, particularly bounded and described as follows:

Commencing at the South East Corner of Block No 39 of the Town of Summerland as laid out, at a redwood post 4x4 inches square and buried two feet in the earth and two feet thereof exposed and situated on the edge of a steep bluff on the shore of the Pacific Ocean, thence North 31 East, crossing the right of way of the Southern Pacific Rail Road Company and then following the westerly line of Greenwell Avenue as laid out on the Town plat of Ortega <1105> eleven hundred and five feet to a post at the Northeast corner of Block No. 24 of the Town of Summerland, thence N. 16. E. along the said westerly line of said Greenwell Avenue four hundred and eighty <480> feet to a post at the North East corner of Block No. 8, of said Town of Summerland, thence North 76 1/2 W. fourteen hundred and thirty three <1433> feet to a post on the north line of Block No. 6, of said town of Summerland; thence north 64 W. fourteen hundred and sixty nine <1469> feet to a post at the Northwest corner of Block No 3 of said Town of Summerland; thence N. 76 1/2 W. Twelve hundred and one <1201> feet to a post on the westerly line of Pierpont Street as laid out on the map, of said town of Summerland; thence South 13 1/2 E Eighteen hundred and sixty feet, more or less <1860> crossing the right of way of the Southern Pacific Rail Road to a point on the edge of a steep bluff on the shore of the Pacific Ocean where a redwood post 4x4 inches square, 4 feet long and two feet buried in the ground at the westerly corner of Lookout Park, as laid out and designated on said map, thence in an easterly direction along the edge of said bluff and the South line of said Lookout Park to a stake at the Southwest corner of Block No 41 of the Town of Summerland; thence along the South boundary line of said Block No. 41, to a post at the Southeast

corner thereof thence in an easterly direction to a point  
at the south westerly corner of Block No 42 of said Town  
thence in an easterly direction along the south boundary  
line of said Block No 42 to the North East corner thereof  
thence, in an easterly direction to a point at the South  
West corner of Block No 43 of said Town of Summerland.  
thence in an easterly direction along the south boundary  
line of said Block No 43 to the Southeastly corner thereof  
at a point set on the westerly side of Park Place thence  
in an easterly direction following the edge of said bluff  
and on the South boundary line of East End Park as laid  
out on said map to the South West corner of Block  
No 49 of said Town of Summerland thence along the  
Southern boundary line of said Block No 39 to the South  
east corner thereof being the point of beginning and  
caused the premises above described to be accurately surveyed  
platted and mapped and have laid out thereon a town-  
site, called and known as the City of Summerland and  
subdivided the same into Lots and Blocks, and laid out a  
portion thereof, as public streets, avenues, and places, and  
set apart certain other portions thereof to certain public  
purposes, and established certain parks thereon, as may  
be fully <sup>and the same may</sup> ascertained from the map representing said  
survey, which map was made by H. S. Cooper, County Surveyor,  
and is marked "City of Summerland, Santa Barbara  
Co. 1888, by H. S. Cooper County Surveyor" a copy of  
which map is herewith attached and made a part  
hereof. And whereas I desire and intend to devote  
certain portions of said premises to certain special  
uses and objects and to <sup>dedicate certain other</sup>  
portions to public use and in order that said dedica-  
tion may be complete and perpetuated of record and in  
order to carry out my designs and intentions. Now therefore  
I the said E. S. Williams in consideration of the sum  
of one dollar, to me in hand paid the receipt whereof  
is hereby acknowledged and for other good and valuable  
considerations thereunto me moving, do hereby give grant  
convey and confirm unto Edward J. Balch, Joseph  
Barnett and Wm. Mejinnes of Summerland in the  
said County of Santa Barbara, State of said, all  
that certain lot or parcel <sup>lands</sup> of situated in said  
Summerland, and mapped upon said map, dedi-  
cated for a temple and bounded and described as



follows:

Commencing at the southwest corner of Block No. 14 at the intersection of the north line of Golden Gate Avenue with the east line of Temple Street; thence along the said north line of Golden Gate Avenue in an easterly direction one hundred and twenty five (125) feet; thence at right angle in a northerly direction one hundred and twenty (120) feet to the South line of Emerson Street; thence at right angles in a westerly direction along said South line of said Emerson Street One hundred and twenty five (125) feet to the east line of Temple Street; thence at right angles in a southerly direction along said easterly line of said Temple Street one hundred and twenty feet (120) feet to the place of beginning; in trust for the establishment of and as a site for, the building of a Spiritual Temple to be by them held until the establishment of an organized society in said City of Sumnerland, devoted to the promotion of Spiritualism, whereupon said Trustees hereinabove named shall upon the written request of myself or of my successor or successors in title convey said land and premises to the governing board or body, of said society or to one or more Trustees whom said society may appoint, subject to such conditions and limitations only. I have and do hold unto the said Edward Walsh, Joseph Barnett and W. H. MeGINNESS and the survivors or survivors of them, as joint tenants to the uses and upon the trusts within the power and provisions hereinbefore expressed and declared concerning the same.

And I the said W. L. Williams hereby also give grant, and dedicate unto public use all those portions of said real property as surveyed upon the ground, and marked and laid out on the Map of said survey herunto attached, as appears marked, designated and laid out thereon as and for parks, streets squares avenues, places, lanes and alleys, saving and excepting out of the same all mines and minerals, and the fee simple absolute estate, of, in and to all gas or gases, oil or oils, petroleum, asphaltum and other kindred mineral substances, and all gypsum, clay, chert and all other valuable mineral substances that may exist thereon; and also excepting and reserving unto me and my heirs, successors, and assigns, and my

their servants and agents, the sole and exclusive right to enter thereon for the sole purpose of developing, mining, exploiting, obtaining, removing and disposing of said substances and the right to erect machinery, sink wells, bore, tunnel, dig for, work on, and remove the same from the said premises and every part thereof, together with the right of way with the public over, through and across the same and all parts of said premises for the purpose of going to and coming from said works, transporting machinery, implements and supplies for said works and to carry on said enterprise and of removing said substances and of transporting the same to market, and the right to lay pipes to and to conduct oil and gas over, through, from and across, said premises and every part thereof, and to take the usual necessary and convenient means therefor, and the right of transferring to my and their grantees the same rights as herein reserved and not to destroy or injure any improvements, plants, trees, herbage or other natural or artificial crop or vegetation growing or being upon said premises or the public streets, public sewers, drains, gas, water or other pipes or appliances used or existing; or that maybe laid out or established thereon; without making just compensation for such damage, injury or destruction; and not to unnecessarily injure, deface or destroy the surface of said premises. Together with all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, and the rents issues and profits thereof. To have and to hold thereafter for the use and benefit of the public and the citizens, residents and inhabitants of said City of Sumnerland to be governed and controlled hereafter by the duly constituted public authorities. In witness whereof, the said H. L. Williams have hereunto set my hand and seal this Eighth day of August 1890.

State of California }  
 County of Clark } H. L. Williams (Ed)

In this Eighth day of August in the year one thousand eight hundred and ninety, before me Joseph J. Sedaney a Notary Public in and for said County residing therein duly commissioned and sworn personally appeared H. L. Williams known to me to be the person described in whose name is subscribed to

and who executed the within instrument and he acknowledged to me that he executed the same. In witness whereof I have hereunto set my hand and affixed my official seal at my office, in the City and County of Santa Barbara the day and year in this certificate first above written.

Material Real

Joseph J. DeLaney  
Notary Public

MAIN STREET & AVENUES 60 Feet Wide

STREETS BETWEEN BLOCKS 30 Feet Wide

LOTS 25 or 60 Feet

PACIFIC OCEAN



CITY RESERVE

CITY OF  
SUMMITTOWN  
SANTA BARBARA CO. CALIFORNIA 1888

ASSESSOR & CO. SURVEYOR



## H.L. WILLIAMS DEED TO BALCH ET AL. IN TRUST

"And whereas I desire and intend to devote certain portions of said premises to certain special uses and objects and to dedicate certain other portions to public use and in order that said dedication may be complete and perpetuated of record and in order to carry out my designs and intentions. Now therefore the said H.L. Williams in consideration of the sum of one dollar, to me in hand paid the receipt whereof is hereby acknowledged and for other good and valuable considerations thereunto me moving, do hereby give, grant convey and confirm unto Edward T. Balch, Joseph Barnett and W.H. Meginness of Summerland in the said County of Santa Barbara, State aforesaid, all that certain lot or parcel of land situated in said Summerland and marked upon said map, "Dedicated for a Temple" and bounded and described as follows: [legal description follows].

And I the said H.L. Williams hereby also give, grant, and dedicate unto public use all those portions of said real property as surveyed upon the ground and marked and laid out on the Map of said survey hereunto attached, as appears marked, designated and laid out thereon as and for parks, streets, squares, avenues, places, lanes and alleys, saving and excepting out of the same all mines and minerals [what follows for many lines is a description of the reservation of rights for Williams and his heirs to enter and use the described areas for mineral extraction and access for that purpose]. To have and to hold thereafter for the use and benefit of the public and the citizens, residents and inhabitants of said City of Summerland to be governed and controlled hereafter by the duly constituted public authorities."

STATE OF CALIFORNIA }  
 County of Los Angeles }  
 On this 5th day of April in the year one thousand nine hundred and six, before me, O.E. Gilhousan, a Notary Public in and for said County, residing therein, duly commissioned and sworn, personally appeared Collie D. Stewart (married) known to me to be the person whose name is subscribed to the within instrument, and he acknowledged to me that she executed the same.

Witness my hand and official seal.

O.E. Gilhousan, Notary Public  
 in and for said County.

(Notarial Seal.)

RECORDED at request of Peter S. ... at ... o'clock ... 1907

By ... County Recorder

118 / 107  
 205

Property  
 N.E.  
 Emily Wallace  
 in Block 39

AGNES S. BECKER  
 Administratrix  
 -to-  
 SOUTHERN PACIFIC RAILROAD  
 COMPANY AN INCORPORATED

THIS INSTRUMENT was made the twenty-seventh day of May in the year one thousand nine hundred and seven between Agnes S. Becker, as administratrix of the estate of Henry L. Williams, deceased, the party of the first part, and the Southern Pacific Railroad Company, a corporation, duly organized and existing under the laws of the State of California, the party of the second part.

WITNESSES: That ... the Superior Court of the County of Santa Barbara, California, did on the 28th day of July, 1906, in the matter of the estate of Henry L. Williams, deceased, make an order authorizing and directing the party of the first part to sell as private sale the real property ... and thereafter and in conformity with the said order the party of the first part advertised the said property for sale in accordance with law and thereupon and on the 28th day of March, 1907, the party of the second part purchased from the party of the first part all of said property for the sum in the aggregate of four hundred dollars and has paid to the party of the second part said price therefor; and

Whereas, thereafter the party of the first part made a return of her proceedings upon said sale and thereupon and on the 29th day of July, 1907, the Superior Court of the County of Santa Barbara made its order in the matter of said estate, confirming said sale and authorizing and empowering the party of the first part to execute the proper conveyance therefor; a duly certified copy of which order of confirmation was duly recorded in the office of the County Recorder of Santa Barbara County on the 30th day of July, 1907; and

Whereas, in order to correct certain errors in description in said return and order of confirmation, the said court did, on the 19th day of August, 1907, make its amended decree confirming said sale, which amended decree was duly filed by the Clerk of said Court on the 19th day of August, 1907, *in* *pro* *hinc* *in* of July 29th, 1907, and a certified copy of said decree was duly recorded in the office of the County Recorder of Santa Barbara County of August 23rd, 1907, in Book 115 at page 144, to which orders of confirmation as on file and of record reference is hereby made.

NOW, THEREFORE, in consideration of the purchase price of the said lot of four hundred dollars paid by the party of the second part to the party of the first part, the receipt of which is hereby acknowledged, the party of the first part hereby grants, bargains, sells, conveys and confirms unto the party of the second part, its successors and assigns, all the right, title, interest and estate of the said Henry L. Williams at the time of his death, and all the right, title, interest that the estate of said decedent may have acquired by

North Coast Road - Intersected Road

operation of law or otherwise, other than or in addition to that of the said decedent at the time of his death; in and to all those certain lots, pieces or parcels of land all situated, lying and being in the townsite of Summerland, in the county of Santa Barbara, in the state of California, as said townsite of Summerland is shown on this certain map and map titled "City of Summerland, Santa Barbara Co., Cal., J.S. Copper, Co. Surveyor", numbered 770 (2) and filed in book one (1) in the office of the Recorder of said county, on the 16th day of December, 1888; said pieces of land being severally bounded and particularly described as follows, to-wit:

1. Commencing at the point where the center line of the new Southern Pacific Railroad as relocated and reconstructed in the year of our Lord 1901, and now operated, intersects the south boundary line of the former and original right of way of the Southern Pacific Railroad, said south boundary line of right of way being parallel with the center line of said railroad as constructed and operated prior to the year 1900, and distant fifty (50) feet at right angles southerly therefrom, thence running easterly along said south boundary line of right of way to a point distant fifty (50) feet at right angles, north-easterly, from said center line of new railroad; thence running south-easterly parallel with said center line of new railroad and at a uniform distance of fifty (50) feet at right angles north-easterly therefrom, to an intersection with the west boundary line of block number thirty nine (39) of said townsite of Summerland, as shown on said map; thence running southerly along the west boundary line of said block to an intersection with the north boundary line of the County road, which crosses said block and divides the same into two portions; thence running westerly along said north line of said County road to an intersection with said center line of new railroad; thence continuing westerly along said north line of said County road and following the angles thereof, to an intersection with the aforesaid south boundary line of original right of way of Southern Pacific Railroad, and thence running easterly along said south boundary line of right of way and following the curvatures thereof to said point of beginning; being a part of East 2nd Park of said townsite of Summerland as shown on said map and containing an area of 2.41 acres of land, more or less.

Wallace  
E. ...  
of the grant

2. Commencing at the point where the west boundary line of block number forty-two (42) of said townsite of Summerland, as shown on said map, intersects said south boundary line of original right of way of the Southern Pacific Railroad; thence running southerly along said west boundary line to a point distant fifty (50) feet at right angles, southerly, from said center line of new railroad; thence running westerly parallel with said center line and at a uniform distance of fifty (50) feet at right angles, southerly, therefrom to an intersection with the north-east boundary line of block number forty-one (41) of said townsite of Summerland, as shown on said map; thence running north-westerly, along said north-east boundary line, to an intersection with said south boundary line of original right of way; and thence running easterly along said south boundary line of original right of way to said point of commencement, being a part of Morris Place in said townsite of Summerland, as shown on said map, and containing an area of one-tenth (1/10) of an acre of land, more or less.

3. Commencing at the point on the south-west boundary line of block number forty-one (41) of said townsite of Summerland, as shown on said map, distant fifty (50) feet at right angles southerly from the center line of said new railroad; thence running westerly, parallel with said center line and at a uniform distance of fifty (50) feet at right angles southerly therefrom, to an intersection with the aforesaid south boundary line of original right of way of Southern Pacific Railroad and thence running north-easterly along said south

boundary line and following the curvature thereof to the intersection of said south boundary line with said south-west boundary line of said Block impact forty-one (41) and thence south westerly along said south-west boundary line to said point of commencement, being a part of the north-easterly corner of Lotcut Park of said township of Summerland, as shown on said map, and containing an area of eighteen one-hundredths (.18) of an acre of land, more or less.

Also, all that certain lot, piece or parcel of land situate, lying and being in the Ortega Rancho in the county of Santa Barbara, in the state of California, and bounded and particularly described as follows, to-wit:

Commencing at the point where the center line of the new Southern Pacific Railroad as relocated and reconstructed in the year 1901, and now operated, intersects the east boundary line of land claimed by the estate of Henry L. Williams, deceased, in said Ortega Rancho, said east line being also the east boundary line of the town of Summerland, thence westerly running along said west boundary line to a point distant fifty (50) feet at right angles northerly from said center line; thence running easterly, parallel with said center line and at a uniform distance of fifty (50) feet at right angles therefrom, to an intersection with the east boundary line of said land of said Henry L. Williams, estate; thence running north westerly along said east boundary line to an intersection with the south boundary line of the original right of way of the Southern Pacific Railroad, said south boundary of right of way being parallel with and fifty (50) feet at right angles southerly from the center line of said railroad as constructed and operated prior to the year 1900; thence running westerly along said south boundary line of right of way, crossing said center line of new and reconstructed railroad to a point distant fifty (50) feet at right angles northerly from said center line of new relocated railroad; thence running westerly, parallel with said east and west line of new railroad and at a uniform distance of fifty (50) feet at right angles therefrom to the aforesaid west boundary line of said land of Williams, estate, and thence running southerly along said west line to said point of commencement, containing an area of 1.34 acres of land, more or less.

TO HAVE AND TO HOLD, all and singular the above described premises unto the party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF, the party of the first part has hereunto set her hand and seal the day and year first above written.

AGNES S. BECKER, (Seal)  
As administratrix of the estate of Henry L. Williams, deceased.

STATE OF CALIFORNIA }  
County of Santa Barbara } ss. On this 28th day of August, in the year nineteen hundred and seven, before me, Harry W. Teague, a Notary Public in and for the County of Santa Barbara, personally appeared Agnes S. Becker, administratrix of the estate of Henry L. Williams, deceased, known to me to be the person whose name is subscribed to the within instrument, and she acknowledged to me that she executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the County of Santa Barbara, the day and year in this certificate first above written.

(Notarial Seal)

Harry W. Teague,  
Notary Public  
in and for the County of Santa  
Barbara, State of California.

RECORDED at request of Cantfield & Sverbock, at 55 minutes 10 o'clock, P. M. Sep 23 1907.  
MARC BRADLEY, County Recorder.  
By A. M. [Signature]  
County Recorder.

Official Record 649

in and for said County and State, personally appeared L. Dexter Parkhill, known to be the Vice President, and DAVID C. ... SECURITY TITLE INSURANCE AND GUARANTEE COMPANY, TRUSTEE, the corporation that executed the within instrument, and known to be ... the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same as such trustee.

WITNESS my hand and official seal this day and year in this specified first above written.

(NONARIAL SEAL)

J. F. VAN DEN BERG

County Public In and for said County and State.

RECORDED AT REQUEST OF Security Title Insurance and Guarante Co., Jan 12, 1945 at 56 min past 8 o'clock A.M.

File No. 5126  
Y. COVARRUBIAS  
Compared by: M. COVARRUBIAS  
CAROL (BETH) M. OLSON, ET AL.

County Recorder  
Office of the County Recorder  
Office of the County Recorder  
Office of the County Recorder  
Office of the County Recorder

SOUTHERN PACIFIC RAILROAD COMPANY

THIS INSTRUMENT, made this 26th day of September, 1944, between MORLEY D. MORGAN, also known as W. D. MORGAN, LUCILE MORGAN, his wife, NAOMI M. MORGAN, also known as NAOMI MORGAN, EVA M. DAVIS, CAROL M. OLSON, also known as BETT OLSON, and also known as CAROL OLSON, CAROL HECKER BUDS, formerly CAROL HECKER BUDS, ROSCOE M. HANSEN and EDWARD F. FLAKEMORE, Trust Parties, and SOUTHERN PACIFIC RAILROAD COMPANY, a corporation of the State of California, Arizona and New Mexico, second party,

WITNESSES:

That said first parties, for and in consideration of the sum of Ten (10) Dollars, lawful money of the United States of America, to them paid by the said second party, the receipt whereof is hereby acknowledged, do by these presents selling, release and convey in quiet claim, unto the said second party, and to its successors and assigns, (as the separate property of said first parties), an undivided six eighths (6/8) interest in and to all those certain piece or parcels of land situate in the County of Santa Barbara, State of California, in Ortega Rancho as shown on map recorded in Book 2, page 20, of Maps in the Office of the County Recorder of said County, being all that certain parcel of land therein described in the deed dated June 1, 1923 from Henry L. Williams Jr. to James S. Becker recorded September 12, 1923 in Book 222, page 369 of Deeds, records of said County and a portion of that certain parcel of land secondly described in said deed to James S. Becker, more particularly described as follows:

Parcel No. 1:

Beginning at the southeast corner of the Lillis Property which is situated on what is known as Beach Craft below the black line of the town of Summerland and running thence in an easterly direction along said southerly line of the town of Summerland to the southwest corner of Lot 27 in Block 59 of said town of Summerland; thence southerly 150 feet, more or less, to high water mark; thence westerly along high water mark to a point opposite the easterly line of the Lillis property; thence northerly 150 feet, more or less, to the point of beginning.

Parcel No. 2:

That portion of the town of Summerland in the County of Santa Barbara, State of California, as shown on map recorded in Book 2, Map 2, in the office of the County

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Block 39



*from the South for Walker*

Recorder of said County, described as follows:

Beginning at the southwest corner of Lot 27, in Block 39 of said Town of Sumnerland, as shown on said map; thence westerly along the southerly line of said town of Sumnerland, as described in deed from E. L. Williams to Edward T. Balch et al., recorded in Book 27 of Deeds, at page 615, records of said County, to the northeast corner of property conveyed to James B. Lillis by deed from E. L. Williams dated July 1, 1897, recorded in Book 55 at page 56 of Deeds, records of said County; thence northerly along the prolongation of the east line of said land conveyed to Lillis, to the intersection of such prolongation with the south line of Wallace Avenue as shown on said Map of the Town of Sumnerland; thence easterly along said south line of Wallace Avenue to the northwest corner of said Lot 27, in Block 39; thence southerly along the west line of said Lot 27 to the point of beginning.

Parcel No. 3:

That portion of the Rancho Ortega in the County of Santa Barbara, State of California, described as follows:

Beginning at the southwest corner of Lot 27 of Block 39 of the Town of Sumnerland, according to the official map thereof recorded in Book 1, Map 2, in the office of the County Recorder of said County; thence running easterly along the south line of said Block 39 to the southeast corner of said block as shown on said map; thence northerly along the east line of said block to the intersection thereof with the east southerly line of the designed right of way of the Southern Pacific Railroad Company; thence westerly along said east southerly line of said designed right of way to the intersection thereof with the north westerly line of said Ortega Rancho; in said north westerly line is established or recorded thence northerly along said easterly line to high water mark of the Pacific Ocean; thence westerly along the said line of high water mark to the intersection thereof with the prolongation southerly of the west line of said Lot 27, said prolongation being the east line of said parcel, as partly described in deed from E. L. Williams, Jr., to Agnes S. Baker, recorded in Book 222 of Deeds at page 385, records of said County; thence northerly along said prolongation and said east line of said last-mentioned parcel to the point of beginning; thence thereupon the land between the south line of Lots 30, 31, 32, 33, 34 and 35 of Block 39 of said Town of Sumnerland and high water mark of the Pacific Ocean, lying between the prolongation southerly of the west line of said Lot 30, and the prolongation southerly of the east line of said Lot 35.

EXCEPTING from the operation of this conveyance and reserving unto the parties of the first part all minerals in, under and upon said premises above described, including petroleum and other hydrocarbon substances, together with the right of the parties of the first part, their heirs or assigns, to erect derricks and other structures and to install all necessary machinery to bore wells and otherwise extract such mineral substances and to remove the same from said premises, provided, however, that such derricks and other structures do not interfere with the use of the above described property for railroad purposes by the party of the second part.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto in anywise appertaining, and the reversions and revertsions, remainders and remainder, rents, issues and profits thereof.

DO HAVE AND DO HOLD all and singular the said premises, together with the appurtenances, unto the said second party, and to its successors and assigns forever.

IN WITNESS WHEREOF, the said first parties have executed these presents this day

*Pat. No. 2,277,843*

Official  
Record  
649

and your name above written.

CAROL (NEE) E. GIERBOLD  
FRANK M. DAVIS  
MARGARET W. MORGAN  
RACHEL W. MORGAN  
LEONIE MORGAN  
GARDEN BECKER BUDDS FORGAY, CAROL BECKER HARRIS  
ROCCO PLANTAMURA  
EDWARD F. PLANTAMURA

STATE OF CALIFORNIA )  
County of Santa Barbara ) ss.

On this 26th day of September, 1941, before me, HARRY W. C. ROSS, a Notary Public in and for said County and State, personally appeared Verolay D. Morgan, also known as W. W. Morgan, Leullie Morgan, Rachel W. Morgan, also known as Rachel Morgan, Frank M. Davis, and Carol E. Gierbold, also known as Carl Gierbold, and also known as Carol Gierbold, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

WITNESS my hand and notarial seal.  
(NOTARIAL SEAL)

HARRY W. C. ROSS  
Notary Public in and for said County and State

STATE OF CALIFORNIA )  
County of Monterey ) ss.

On this 29th day of September in the year one thousand nine hundred and forty one before me, MARK WILLIS, Notary Public in and for the County of Monterey, State of California, residing therein, duly commissioned and sworn, personally appeared Garden Becker Budds, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the said County of Monterey the day and year in this certificate first above written.  
(NOTARIAL SEAL)

MARK WILLIS  
Notary Public in and for the said County of Monterey  
State of California  
My Commission Expires November 26, 1945

STATE OF CALIFORNIA )  
County of Los Angeles ) ss.

On this 4th day of October, in the year nineteen hundred and forty one before me, C. E. WILSON, a Notary Public in and for the said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Edward F. Plantamura, personally known to me to be the person whose name are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said County the day and year in this certificate first above written.  
(NOTARIAL SEAL)

C. E. WILSON  
Notary Public in and for the said County  
of California  
My Commission Expires July 20, 1947

RECORDED AT REQUEST OF Security Title Insurance and Guaranty Co., MAR 14, 1945 AT 5:30 P.M.  
page 5 o'clock A.M.

Filed for Record  
Signed by: J. P. ...  
(C. P. ...)

WILLIS GOVARNICHAS, County Recorder  
Deputy Recorder

CLARENCE E. TEST, ED. W.

TO

GEORGE W. TEST, DE. W.

(USPS 89-90 Canceled  
SECURITY T. E. & G. CO.  
NOV 24 1945)

In Consideration of TEN AND NO/100 DOLLAR CLARENCE E. TEST and MARGUERITE M. TEST, his wife do hereby Grant to GEORGE W. TEST and FRANCIS A. TEST, husband and wife as joint tenants all that Real Property situate in the City of Santa Barbara County Santa Barbara, State of California, Described as follows:

That portion of Lot Eighteen (18) of the Outside Public Land of the State of Santa Barbara, in the County of Santa Barbara, State of California, described as follows: Beginning at Station No. 15 on the center line of a forty (40) foot street conveyed by Clarence E. Test to The First National Bank of Santa Barbara, a corporation organized in the office of the Recorder of the County of Santa Barbara, State of California on the 21st day of March, 1927, in Book 151 of Official Records, at page 27, thence North 0° 46' West, following along the center line of said forty (40) foot street, and 157.77 feet to a point from which a 1/8 inch survey pipe bears south 82° 15' West 20.60 feet to a second point from which a 1/8 inch survey pipe bears south 82° 15' West 297.05 feet to a 1/2 inch survey pipe, thence 3rd, south 02° 10' East 115.70 feet to a 1/2 inch survey pipe, thence 4th, north 88° 00' East 297.05 feet to the point of beginning.

Witness our hands this 7th day of November, 1945

CLARENCE E. TEST

MARGUERITE M. TEST

STATE OF CALIFORNIA )  
County of Santa Barbara ) ss.

On this 7th day of November, 1945, before me, L. Dexter Barward, a Notary Public in and for said County and State, personally appeared Clarence E. Test and Marguerite M. Test, husband and wife known to be to be the persons identified in and acknowledged and subscribed to the within instrument, and acknowledged that they executed the same.

WITNESSE my hand and official seal the day and year in this certificate first above written.

(NOTARIAL SEAL)

L. DEXTER BARWARD

Notary Public in and for said County and State.

RECORDED AT REQUEST OF Security Title Insurance and Guaranty Co., Nov. 24, 1945 at 45 Min. Night 5 o'clock A.M.

File No. 13214

IRIS COVARRUBIAS, County Recorder

Copied by: L. ANNIE COVARRUBIAS

Deputy Recorder

665/191 ac

ANITA S. BECKER

TO

SOUTHERN PACIFIC RAILROAD COMPANY

REC- 6-31-44 ; FILE (55215/570-05)

(USPS 81,10 Canceled  
SECURITY T. E. & G. CO.  
NOV 24 1945 N.)

RR Property  
Ball  
Anita  
Becker

73217  
11-24-1945

THIS INSTRUMENT, made this 17th day of July, 1945, between ANITA S. BECKER, widow of George Alfred Becker, Deceased, of Palo Alto, California, and the SOUTHERN PACIFIC RAILROAD COMPANY, a Corporation of the State of California, and the said second party;

Witnessed that said first party, for and in consideration of the sum of Ten (10) Dollars, lawful money of the United States of America, to her paid by the said second party, the

Official  
Record  
665

receipt whereof is hereby acknowledged. Cessary, whose presents remain. Along the former  
acquire into the said second party, and to the successors and assigns (as the separate  
property of George Artron Becker, deceased), an undivided one-eighth (1/8) interest in  
and to all those certain pieces of parcels of land situated in the County of Santa Barbara,  
State of California, in Ortega Rancho as shown on map recorded in Book 1, page 40 of Vols  
in the Office of County Recorder of said County, being all that certain parcel of land first  
described in the deed dated June 1, 1923, from Henry D. Williams, Jr. to George Becker,  
recorded September 12, 1925, in Book 222, page 369 of Deeds, records of said County, and  
a portion of that certain parcel of land secondly described in said deed to Agnes S. Becker  
more particularly described as follows:

Parcel No. 1:

Beginning at the northeast corner of the Lillis property which is situated on  
what is known as Beach Drive below the beach line of the Town of Summerland, the survey  
thence in an easterly direction along said southerly line of the Town of Summerland to  
the southwest corner of Lot 27 in Block 39 of said Town of Summerland; thence southerly 250  
feet, more or less, to high water mark; thence westerly along high water mark to a point  
opposite the westerly line of the Lillis property; thence northerly 150 feet, more or less,  
to the point of beginning.

Parcel No. 2:

That portion of the Town of Summerland, in the County of Santa Barbara, State of  
California, as shown on map recorded in Book 2, Map B, in the Office of the County Recorder  
of said County, described as follows:

Beginning at the southwest corner of Lot 27, in Block 39 of said Town of Summerland  
as shown on said map; thence westerly along said southerly line of said Town of Summerland  
as described in deed from H. L. Williams to Edward W. Selig et al., recorded in Book 17 of  
Deeds, at page 515, records of said County, to the northerly corner of Block 39  
to James S. Lillis by deed from H. L. Williams dated July 1, 1927, recorded in Book 25 of  
Deeds, page 56 of Deeds, records of said County; thence northerly along the prolongation of the  
east line of said land conveyed to Lillis, to the intersection of such prolongation with  
the south line of Wallace Avenue, as shown on said Map of the Town of Summerland; thence  
easterly along said south line of Wallace Avenue to the northwest corner of said Lot 27,  
in Block 39; thence southerly along the west line of said Lot 27 to the point of beginning.

Parcel No. 3:

That portion of the Rancho Ortega in the County of Santa Barbara, State of California,  
described as follows:

Beginning at the southwest corner of Lot 27 of Block 39 of the Town of Summerland,  
according to the official map whereof recorded in Book 1, Map B, in the Office of the County  
Recorder of said County; thence running easterly along the south line of said Block 39 to  
the southeast corner of said block as shown on said map; thence northerly along the  
back line of said block to the intersection thereof with the most southerly line of the  
dedicated right of way of the Southern Pacific Railroad Company; thence easterly along said  
most southerly line of said Block 39 to the intersection thereof with the most  
easterly line of said Ortega Rancho, as said most easterly line is established or located  
thence southerly along said easterly line to high water mark of the Pacific Ocean; thence  
westerly along the said line of high water mark to the intersection thereof with the  
prolongation southerly of the west line of said Lot 27, said prolongation being the east  
line of the parcel first described in deed from H. L. Williams, Jr. to Agnes S. Becker,  
recorded in Book 222 of Deeds at page 369, records of said County; thence southerly along

*Handwritten notes:*  
Lillis  
Wallace

*Handwritten notes:*  
Conveyed to  
Book 29

*Handwritten notes:*  
10 property  
Wallace  
Block 39

said prolongation and said east line of said line... EXCEPTING therefrom the land between the south line of Lots 30, 31, 32, 33, 34 and 35 of Block 33 of said town of Sausalito and high water mark of the Pacific Ocean, lying between the prolongation southerly of the west line of said Lot 30, and the prolongation southerly of the east line of said Lot 35.

EXCEPTING from the operation of this conveyance and reserving unto the party of the first part all minerals in, under and upon said premises above described, including petroleum and other hydrocarbon sub-stances, together with the right of the party of the first part, her heirs or assigns, to erect derricks and other structures and to install all necessary machinery to bore wells and otherwise extract such mineral substances and to remove the same from said premises, provided, however, that such derricks and other structures do not interfere with the use of the above described premises for railroad purposes by the party of the second part.

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereto in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances unto the said second party, and to its successors and assigns forever.

IN WITNESS WHEREOF, the said first party has executed these presents the day and year first above written.

ANITA S. BECKER

Description Correct:

C. J. ASHBE  
for Chief Engineer

Correct as to Corporate Officer

S. L. CAWLEY  
Validation Officer

Form Approved:

E. D. CROCKER  
Attorney

WITNESSES FOR CALIFORNIA,  
City and County of San Francisco } ss.

On this 12th day of September in the year one thousand nine hundred and forty five, before me, JAMES S. MUEVEY, a Notary Public, in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared Anita S. Becker known to me to be the person whose name is attached to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, as my office in the City and County of San Francisco, State of California, the day and year in this Certificate first above written.

(NOTARIAL SEAL)

JAMES S. MUEVEY

Notary Public, in and for the City and County of San Francisco, State of California.

My commission expires October 7, 1946.

RECORDED AT REQUEST OF Security Title Insurance and Guarantee Co., Nov. 24, 1945, at 10:15 a.m. page 8 o'clock P.M.

File No. 13217

Compared by: J. M. HULL  
J. SOVARRUBIAS

J. SOVARRUBIAS, County Recorder

J. M. HULL, Deputy Recorder

Official Record 668

north 0217' east 12 feet, thence south 89°43' east 172.35 feet to the west line of the land described in deed to J. G. Robertson, recorded in Book 116 of Deeds, at page 359, corner of said abutty; thence south 0°27' west 55.55 feet, thence north 89°43' east 110.17 feet to the point of beginning.

Together with the right to use in common with the Grantors herein the right of way as a means of ingress and egress over the following described parcel of land:

Beginning at a point north 0°17' east 85.99 feet and south 89°43' east 80 feet from the southwest corner of said lot 22, and running thence north 89°43' east 326.15 feet; thence north 0°17' east 241.75 feet; thence north 89°43' west 12 feet; thence north 0°17' west 171.36 feet to the beginning of a curve to the left having a radius of 225 feet; thence along the arc of said curve 88.75 feet to the end thereof; thence north 89°43' west 202.64 feet; thence south 0°17' west 28 feet to the point of beginning.

WITNESS our hands this 18th day of September, 1945

J. F. VAN DEN BERG  
DOROTHY I. SHERRIKER

STATE OF CALIFORNIA,  
County of Santa Barbara, ss.

On this 18th day of September, 1945, before me, J. F. Van Den Berg, a Notary Public in and for said County and State, personally appeared Max D. Spangler, a married man and Dorothy I. Sherrick, his wife, known to me to be the persons referred to in the above named instrument and subscribed to and within instrument, and acknowledged that they executed the said instrument as their free and voluntary act and deed.

WITNESS my hand and official seal the day and year in this certificate first above written.  
(NOTARIAL SEAL) J. F. VAN DEN BERG  
Notary Public in and for said County and State

RECORDED AT REQUEST OF Seawing Title Insurance and Guaranty Co., Nov. 24, 1945, at 10:15 a.m. per S. Stanley K. H.

File No. 13512  
Copied by C. Covarrubias  
D. Covarrubias  
SANTA BARBARA COUNTY RECORDER  
Dorothy I. Sherrick

GERALD DONALDSON  
TO  
SOUTHERN PACIFIC RAILROAD COMPANY

(OURS \$1.00 Cancelled)  
(AGENCY FEE \$5.00)  
NOV 22 1945

RECORDED  
11/23/45  
Wallace F. Finney  
Black 33

668/375  
or  
73210  
27-197

THIS INSTRUMENT, made this 2 day of October, 1948, between GERALD DONALDSON, a widower, of 48 Midwood St., Brooklyn, New York, first party, and SOUTHERN PACIFIC RAILROAD COMPANY, a corporation of the states of California, Arizona and New Mexico, second party;

WITNESSETH:  
That said first party, for and in consideration of the sum of Ten (10) Dollars, lawful money of the United States of America, to him paid by the said second party, who receipt whereof is hereby acknowledged, deed by those parties unto, release and convey unto the said second party, and to its successors and assigns, an undivided one-eighth (1/8) interest in and to all those certain pieces or parcels of land situated in the County of Santa Barbara, State of California, in Grange Range known as and recorded in Book 1, page 20, of Maps in the Office of County Recorder of said County, being all that certain parcel of land firstly described in the deed dated June 1, 1925, from Henry L. Williams, Jr. to Agnes S. Becker, recorded September 12, 1925, in Book 222, page 389, of Deeds,

See to both sides of Wallace

records of said county and a portion of that, certain parcel of land, secondly described in said deed to Agnes S. Becker, more particularly described as follows:

Parcel No. 1:

Beginning at the northeast corner of the Millie property which is situated on what is known as Beach Drive below the block line of the Town of Summerland, and running thence in an easterly direction along said southerly line of the Town of Summerland to the southeast corner of Lot 27 in Block 39 of said Town of Summerland thence southerly 150 feet, more or less, to high water mark; thence westerly along high water mark to a point opposite the southerly line of the Millie property; thence northerly 150 feet, more or less, to the point of beginning.

Parcel No. 2:

That portion of the Town of Summerland, in the County of Santa Barbara, State of California, as shown on map recorded in Book 2, Map 2, in the office of the County Recorder of said County, described as follows:

Beginning at the southwest corner of Lot 27 in Block 39 of said Town of Summerland, as shown on said map; thence westerly along the southerly line of said Town of Summerland, as described in deed from E. L. Williams to Edward G. Balch et al., recorded in Book 2, Deeds, at page 618, records of said County, to the northeast corner of property conveyed to James B. Miller by deed from E. L. Williams dated July 1, 1897, recorded in Book 55 at page 86 of Deeds, records of said County; thence northerly along the prolongation of the east line of said land conveyed to Miller, to the intersection of such prolongation with the south line of Wallace Avenue as shown on said map of the Town of Summerland; thence easterly along said south line of Wallace Avenue to the northwest corner of said Lot 27 in Block 39; thence southerly along the west line of said Lot 27 to the point of beginning.

old property of Bill Wallace Tanner in Block 39

Parcel No. 3:

That portion of the Rancho Ortega in the County of Santa Barbara, State of California, described as follows:

Beginning at the southwest corner of Lot 27 of Block 39 of the Town of Summerland, according to the official map thereof recorded in Book 1, Map 2, in the office of the County Recorder of said County; thence running easterly along the north line of said Block 39 to the southeast corner of said block as shown on said map; thence northeasterly along the east line of said block to the intersection thereof with the east southerly line of the design right of way of the Southern Pacific Railroad Company; thence easterly along said east southerly line of said design right of way to the intersection thereof with the west easterly line of said Rancho Ortega; as said west easterly line is established of record; thence southerly along said easterly line to high water mark of the Pacific Ocean; thence westerly along the said line of high water mark to the intersection thereof with the prolongation northerly of the west line of said Lot 27, said prolongation being the east line of the parcel firstly described in deed from E. L. Williams, Jr. to Agnes S. Becker, recorded in Book 227 of Deeds at page 588, records of said County; thence northerly along said prolongation and said east line of said land mentioned parcel to the point of beginning. EXCEPTING therefrom the land between the south line of Lots 30, 31, 32, 33, 34 and 35 of Block 39 of said Town of Summerland and high water mark of the Pacific Ocean, lying between the prolongation northerly of the west line of said Lot 30, and the prolongation southerly of the east line of said Lot 35.

EXCEPTING from the operation of this conveyance and reserving unto the party of the first part all minerals in, under and upon said premises above described, including

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petroleum and other hydrocarbon substances, together with the right of the said first party, his heirs or assigns, to erect derricks and other machinery and to install all necessary machinery to bore wells and otherwise extract and remove substances and to remove the same from said premises, provided however that such derrick and other well work shall be done with the use of the above described property for purposes intended by the party or the second party.

TOGETHER with all and singular the covenants, conditions and warranties therein contained or in anywise appertaining, and the reservation and exceptions, covenants and warranties herein set forth and profits thereon.

TO HAVE AND TO HOLD all and singular the said premises, covenants and appertaining unto the said second party, and to its successors and assigns forever.

IN WITNESS WHEREOF, the said first party has executed these presents this day and year first above written.

GERALD DONALDSON

Description Correctly  
C. J. Fanning  
N.Y.C. For Chief Engineer  
Correct as to Corporate Order  
E. L. O'Leary  
Valuation Officer  
Form Approved:  
E. G. Crocker  
A.W.C. Attorney

STATE OF New York } ss.  
COUNTY OF NEW YORK }

ON THIS 11th day of October, 1935, before me, M. JAY WEIN, a Notary Public in and for said County and State, personally appeared Gerald Donaldson, ss. known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

WITNESSES by hand and official seal.  
(NOTARIAL SEAL)

M. JAY WEIN  
Notary Public in and for said County and State.  
M. JAY WEIN  
Notary Public, Kings County  
Kings Co. File No. 100-517 Reg. No. 387-2-2  
N. Y. Co. File No. 322 Reg. No. 384-2-2  
Commission Expires March 30, 1936

State of New York, } ss. 1  
County of New York, }

I, ARCHIBALD H. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the said being a Court of Record having by law a seal of office, do hereby certify that M. JAY WEIN, whose name is subscribed to the within deposition, certificate of acknowledgment or proof, was at the time of making the same a NOTARY PUBLIC acting in and for said County, duly commissioned and sworn, and qualified to act as such, that he has filed in the Clerk's office of the County of New York a certificate of his appointment and qualification as a Notary Public for the County of Kings with his self-proclaimed name, that an individual public he was duly authorized by the laws of the State of New York to protect, advise, to take and certify depositions, to administer oaths and affirmations, to take affidavits and certify the same, to deposit or prove of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State, and further, that I am well acquainted with the

No. 54250 Form 3



Handwriting of such Robert Wells, or have been made the signature of such officer with such autograph signature filed in my office, and believe that the signature on the said instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 7 day of Nov 1945.

ARCHIBALD R. WATSON  
County Clerk and Clerk of the Superior Court, San Luis Obispo County

(NEW YORK SEAL)

RECORDED AT REQUEST OF County, Title Insurance and Guaranty Co., Nov. 20, 1945 at 2:15 PM. Sheet 5 of 10 Sheet A. M.

This JOVANNETAS County Recorder  
By *[Signature]* Deputy Recorder

File No. 13212  
Computed By *[Signature]*

IN THE JUSTICES COURT  
OF

SAN LUIS OBISPO JUDICIAL TOWNSHIP, COUNTY OF SAN LUIS OBISPO  
STATE OF CALIFORNIA

George Andre, et al  
vs  
John M. Asvedo, also known as  
JOHN M. ASVEDO

No. 5091  
ABSTRACT OF JUDGMENT

Before A. E. MALLAGE, Justice of the Peace of SAN LUIS OBISPO Judicial Township, County of San Luis Obispo, State of California, on the 16th day of November, 1945  
Judgment entered for Plaintiff, George Andre, et al, against Defendant, J. M. Asvedo also known as John M. Asvedo, the sum of Eighty-nine & 50/100 Dollars (\$89.50), on the 16th day of June, 1945

I HEREBY give the foregoing as a correct abstract of a judgment rendered in said action in Justice Court San Luis Obispo Township, County of San Luis Obispo, State of California as appears by Civil Booklet #17 at page 48

(SEAL OF JUSTICES COURT)  
(SAN LUIS OBISPO JUDICIAL TOWNSHIP)

A. E. MALLAGE  
Justice of the Peace of said Township

RECORDED AT REQUEST OF George L. Andre et al 20 min. Sheet 5 of 10 Sheet A. M., Nov. 21, 1945  
File No. 13250

This JOVANNETAS County Recorder  
By *[Signature]* Deputy Recorder

Computed By *[Signature]*

B. J. CUNNINGHAM, ET AL  
vs  
C. C. CUNDENHAM

NOTICE OF EXTENDED SALE AND TRANSFER

TO WHOM IT MAY CONCERN:  
NOTICE IS HEREBY GIVEN that B. J. Cunningham and Mrs Cunningham, his wife, of Buellton, California, intend to sell, transfer and assign to C. C. CUNDENHAM, of Buellton, California, all the good, grade or restaurant, consisting of beer, wine, cigarettes,

5 Under Approving Account  
7 Trustee  
5 Decease

In the Superior Court of the County of Santa Barbara,  
State of California.

In the Matter of the Trust  
Created by E. L. Williams for the  
Town of Sumnerland.

**PETITION FOR APPOINTMENT OF SURVEYORS**

To the Honorable the Superior Court of the  
County of Santa Barbara, State of California.

Your petitioners, E. F. & Irene Williams,  
Married, respectfully represent:

1. That prior to the 8th day of January, 1900,  
now deceased subdivided a portion of the  
in the County of Santa Barbara, State of California,  
miles east of the City of Santa Barbara, and  
of said ranches to be surveyed, platted and  
site laid out thereon known as the City of  
land, and subdivided the same into lots and  
out a portion thereof as public parks, streets,  
places, and set apart other portions for  
designated upon a map of said ranches made by  
County Surveyor of said County of Santa Barbara,  
City of Sumnerland, Santa Barbara Co., 1898, by  
Cooper, County Surveyor and recorded in book  
page 215 in the Office of the County Recorder  
of Santa Barbara.

-1-

1            2. That on said 8th day of August, 1890, the said  
2 Williams, deceased, in order to carry out his expressed  
3 intention to dedicate said portion of said ranch to  
4 use as a townsite granted, conveyed, and confirmed to  
5 T. Balch, Joseph Barnett, and W. H. Meginness all those  
6 portions of said real property marked and designated upon  
7 said map as parks, streets, sidewalks, avenues, places, lanes  
8 and alleys for the use and benefit of the public and the citizens  
9 residents, and inhabitants of said City of Summerland, to be  
10 governed and controlled thereafter by the duly constituted public  
11 authorities, saving and excepting all mines and minerals, gases,  
12 oils, asphaltum, clays, gypsum and other mineral substances  
13 existing therein which were expressly reserved to said grantor  
14 his heirs and assigns.

15  
16            3. That said Trustees, Edward E. Balch, Joseph Barnett,  
17 and W. H. Meginness are deceased; that no successors in the  
18 administration of said trust have been appointed; that said  
19 declaration of trust does not provide any method of appointment of  
20 such successors, and that by reason of said vacant trusteeship  
21 said failure in said declaration of trust to provide a practical  
22 method of appointment the duty of appointing trustees to fill  
23 said vacancy devolves upon the Court, as provided by Section 1207  
24 of the Civil Code of the State of California.

25  
26            4. That on the 16th day of June, 1910, the Board of Super-  
27 visors of the County of Santa Barbara, in a petition of the  
28 Summerland Chamber of Commerce accepted, established, and declared  
29 the streets and alleys of said town of Summerland to be public  
30 highway in Road District No. 1, First Township, County of  
31

1 Santa Barbara, State of California, and assumed the management  
2 and control of the trust.

3  
4  
5 5. That your petitioners do not question the legal  
6 or the expediency, of the assumption by said Board of Super-  
7 visors of such management, and control, but they respectfully  
8 represent that said Town of Summerland was at all times mentioned  
9 herein, and now is, an unincorporated town, and that no legal  
10 constituted body has, or claims, authority to administer the  
11 said trust as to the parks and public places, or to hold the  
12 same for the use and benefit of the citizens, residents, and  
13 inhabitants of said Town of Summerland.

14  
15 6. That the appointment of trustees to fill the  
16 ~~vacancies~~ vacancy aforesaid is necessary to prevent said  
17 trust from falling and defeating the benevolent purpose of  
18 the trust.

19  
20 7. That your petitioners are residents and property  
21 holders of said Town of Summerland and interested in its  
22 growth and prosperity, and that they are able, willing, and  
23 ready to administer said trust according to said declaration  
24 of trust and the orders of this Court.

25  
26 8. WHEREFORE your petitioners pray that the Court  
27 exercise the power conferred by Section 1807 of the Civil Code  
28 of the State of California and appoint three trustees to ad-  
29 minister said trust, your petitioners respectfully preferring their  
30 services in such capacity in behalf of said Town of Summerland.

31  
32 J. C. Houston  
Attorney for Petitioners.

C. P. Peterson  
G. E. Fink  
W. G. B. Smith

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State of California }  
County of Santa Barbara. } SR.

E. F. Stevens, C. E. Fisk, and ~~W. H. Hendricks~~ W. H. Hendricks  
being first duly sworn, each for himself deposes and says  
That he is the petitioner in the above entitled action,  
he has read the foregoing petition and knows the contents  
thereof; and that the same is true of his own knowledge,  
except as to matters therein stated on his information or belief  
and that as to such matters he believes it to be true.

E. F. Stevens  
C. E. Fisk  
W. H. Hendricks

Subscribed and sworn to before me  
this 19<sup>th</sup> day of June, 1917.

John C. Benton  
Notary Public in and for the  
County of Santa Barbara, State of  
California.

by W. H. Hendricks  
Subscribed and sworn to before me this  
20<sup>th</sup> day of July 1917  
John C. Benton Notary Public

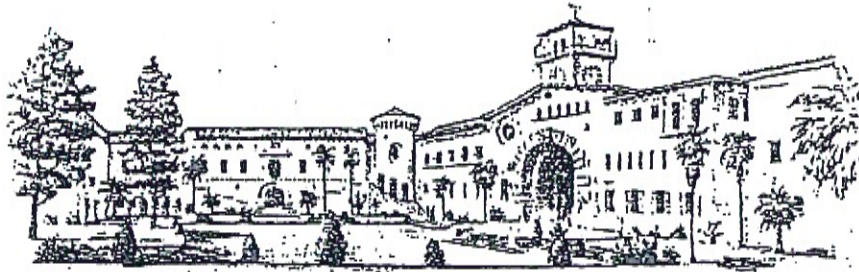
STATE OF CALIFORNIA  
COUNTY COUNSEL  
SANTA BARBARA COUNTY

GEORGE P. KADING  
County Counsel

105 E. Anapamu St.  
Santa Barbara, Calif. 93101  
Telephone 966-1611

ROBERT D. CURIEL  
Chief Assistant

DANA D. SMITH  
Assistant



DEPUTIES.

Susan Trescher  
Marvin Levine  
Don H. Vickers  
Bruce Wm. Dodds  
William R. Allen  
C. William Altman  
Melbourne B. Weddle

February 24, 1977

MEMO TO: Robert Scott  
Planning Department

FROM: Dana D. Smith  
Assistant County Counsel

RE: Status of Finney Street in Summerland



The facts concerning the above-referenced matter appear to be as follows:

The owner and subdivider of the Town of Summerland, Mr. H. L. Williams, offered to grant to the County of Santa Barbara all of the streets shown on a survey map of Summerland on June 20, 1888. Although this offer did not specifically name Finney Street, the language appears to have been broad enough to include it. The County Board of Supervisors, by Ordinance No. 125, filed September 25, 1890, accepted the offer of H. L. Williams, again without Finney Street, but with general language as to intersecting lanes, etc., which would include Finney Street.

At the time, Political Code Section 2631 was in effect. This section provided, in essence, that whenever a public entity took land for a highway, it acquired only an easement, regardless of the language used in the conveyance offer and acceptance thereof. Accordingly, as of 1890, the County had, in my opinion, an easement known as Finney Street, as shown on the original Record of Survey Map.

Subsequently, Finney Street was relocated southerly of its original location and the previously existing right of way for Finney Street was duly abandoned by the Board by Resolution No. 10226, dated April 2, 1951.

Accordingly, the presumptions of Civil Code Section 1112 and Code of Civil Procedure Section 2077, subsection five, would apply and each of the lots shown as bordering on the original right of way of Finney Street would have their boundary lines extended to the

Memo to: Robert Scott  
Planning Department  
February 24, 1977  
Page 2

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center of the original right of way. It should be noted, however, that H. L. Williams reserved all mineral rights in the streets and the right to put up machinery to extract minerals in these streets. This is a matter of concern to the property owner only.

Political Code Section 2631 later became Section 905 of the Streets and Highways Code and was repealed in 1961. The repealing statute allowed agencies claiming any interest, other than an easement in streets, one year from the date of repeal to bring suit to establish such rights. If any such agency failed to bring such suit (and we did not as to Finney Street), then the agency was forever foreclosed from claiming any interest greater than an easement for public road purposes. Any possible private easement rights in lot owners would seem to have lapsed by the passage of time since 1951.

Since the new right of way for the relocated Finney Street was acquired prior to 1961, it would appear that this was necessarily an easement also under Streets and Highways Code Section 905 and the ownership of lots bordering on relocated Finney Street would accordingly extend to the center of the new right of way easement under the Civil Code and Code of Civil Procedure sections cited above.

GEORGE P. KADING  
COUNTY COUNSEL

  
By DANA D. SMITH  
ASSISTANT COUNTY COUNSEL

DDS:bc

DiAnne Burton, AICP Director

Agenda date: June 20, 1998

June 14, 1998

1 week continuance

The Honorable Board of Supervisors  
County of Santa Barbara  
108 E. Anapamu St.  
Santa Barbara, CA 93101

RE: Rezoning request, Fee Waiver for APN 5-250-01, L. Tom Jacobs  
(continued from May 15 B/S agenda)

2551 Wallace Avenue

Dear Supervisors:

Recommendation:

That your board authorize a fee waiver to process a Local Coastal Plan Amendment for APN 5-250-01. This would entail a land use designation change and rezoning from Recreation [REC] to Single Family Residential, 7,000 sq. ft. minimum lot size with a Design Review overlay [7-R-1-D]. It is not recommended that your board approve the request to remove the View Corridor overlay for this parcel.

Discussion:

This parcel is currently developed with a single family home, and is presently zoned Recreation, with a View Corridor overlay. This existing zoning appears to have been inadvertently assigned to this developed parcel, and will have to be rezoned to a residential designation (7-R-1-D) before the property owner can complete his plans to demolish the existing house and construct a new one. Since the Recreation zoning assigned to this parcel would not allow the owner to reconstruct a new dwelling, staff would support approval of a fee waiver to process the Local Coastal Plan Amendment. These applications could be incorporated into the Coastal Special Use Permit process, so that one environmental document could be written for both the Local Coastal Plan Amendment and the proposed new dwelling. Therefore, the costs of the joint environmental review could be shared by the County and the property owner.

As an alternative to a blanket fee waiver for the Local Coastal Plan Amendments, the Board of Supervisors could waive only the RMD deposit, with fixed departmental fees (\$606) to be met by the applicant. Although the

123 E. Anapamu Street, Santa Barbara, CA 93101  
PHONE (805) 568-2000 FAX (805) 568-2522



applicant has also requested a removal of the View Corridor overlay. staff believe that this overlay should remain intact, to restrict future building height on this highly visible parcel. New house construction immediately to the west of this parcel has a similar zoning restriction.

Fiscal Impact:

If your Board chooses to waive all fees for the processing of the Local Coastal Plan Amendments, the approximate County costs would be \$2,606. Of this cost, \$606 is fixed departmental fees and \$2000 is the costs incurred by the Resource Management Department for labor, noticing costs, administrative costs, etc. (RMD staff time for environmental review, staff reports, Coastal Commission procedures, etc. are included in the \$2000 estimate, and is an average amount based on processing minor Local Coastal Plan Amendments).

The Board may choose to waive only the RMD costs of \$2,000. Fees for the application to demolish the existing structure and construct a new dwelling would not be waived, and is not included in the above cost analysis.

Staff Contact:

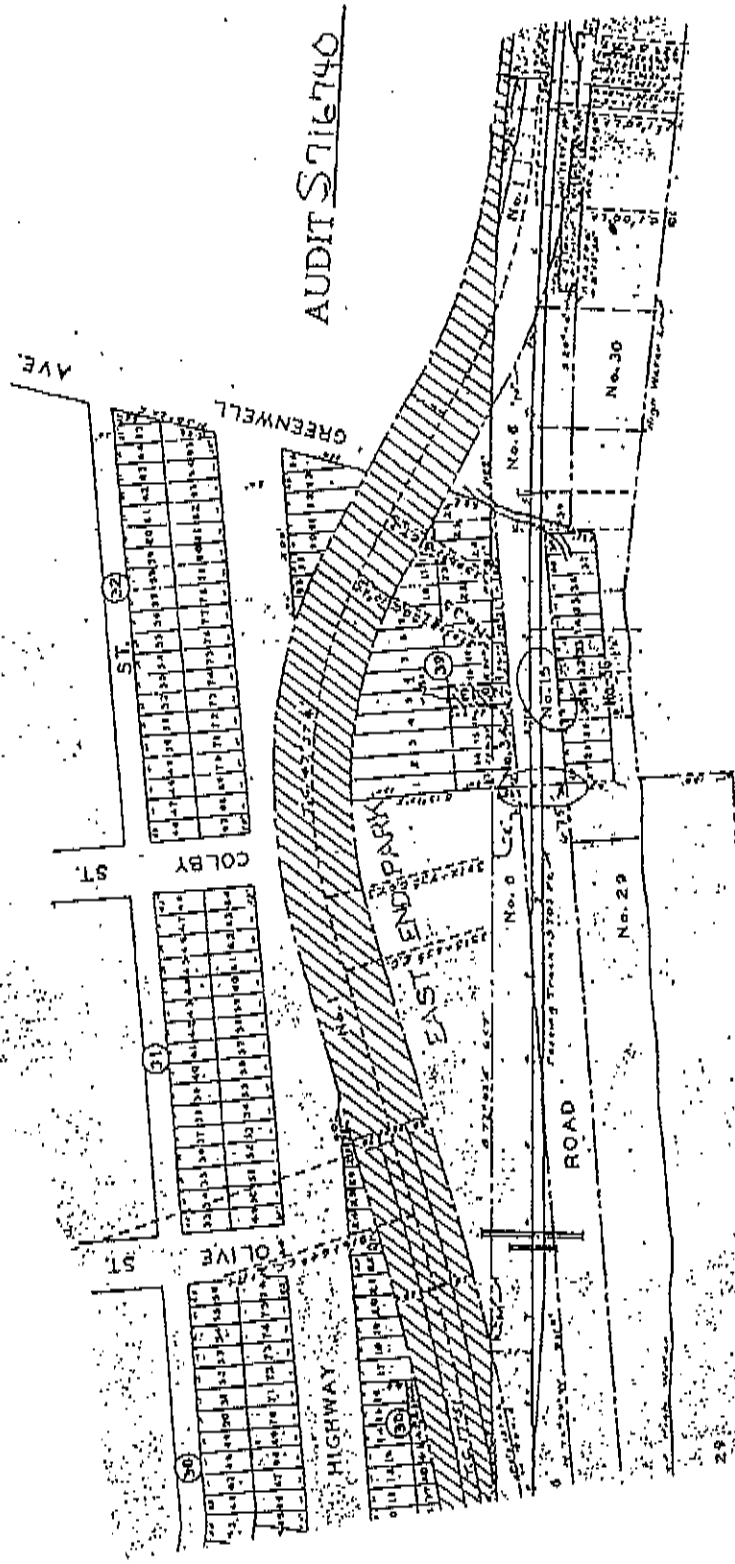
Suzanne Konchan, x2073

Respectfully submitted,



DIANNE GUZMAN, RCP  
Director, Resource Management Department

DG:SSK:JEM:jem:3847P



AUDIT 5716740

Southern Pacific Lines	
REAL ESTATE DEPT. - WESTERN REGION/SOUTH	
Summers 1400	
Lease To	
JEFFREY O'NEIL	
SCALE 1"=200'	
VAL. DEC. 47	SHEET 4
PLAT NO. E	MAP 3764
DATE 12-12-95	SHEET NO. 1
REVISED TO	FILE GRANTOR

— LEASE AREA

**TO:** Noel Langle  
Zoning Administrator

**FROM:** Hollee King Brunsky  
Planner

**DATE:** April 16, 1997

**RE:** 97-CDP-013 H ; O'Neil Grading for Water Line;  
(2551 Wallace Avenue)



**OWNER:** Jeffrey O'Neil  
P.O. Box 1174  
Summerland, CA 93067

**AGENT:** Ben Wiener  
814 Presidio Avenue  
Santa Barbara, CA 93101

**CASE NUMBER:** 97-CDP-013 H

**APN:** 005-250-001 (2551 Wallace Ave.); 005-240-011 (Summerland Sanitary District); and County road right-of-way (Finney Street)

**PROJECT TERMINUS ADDRESS:** 2551 Wallace Avenue

**LOCATION:** Utility line located along Finney Street, south of Wallace Avenue, in the Summerland area, First Supervisorial District.

**REQUEST:**

A request of the owner's agent, Ben Wiener, to consider case number 97-CDP-013 H for a Coastal Development Permit under Section 35-169.5, in the REC Zone District under Article II to validate the grading of a trench for a 1½ inch water line permitted on an emergency basis under 96-EMP-002.

Application Filed:	February 10, 1997
Application Complete:	March 17, 1997
Notice of Intent to Waive Hearing:	March 24, 1997
ZA Decision Date Scheduled:	April 16, 1997
Processing Deadline:	3 months from the NOE

#### RECOMMENDATION AND PROCEDURES:

Follow the procedures outlined below and conditionally approve 97-CDP-013 H marked "Officially Accepted, County of Santa Barbara April 16, 1997 Zoning Administrator Exhibit #1", based upon the project's consistency with the Comprehensive Plan including the Coastal Land Use Plan and based on the ability to make the required findings.

The Zoning Administrator's motion should include the following:

1. Adopt the required findings for the project specified in Attachment A of this staff report, including CEQA findings, and adopt the CEQA exemption as specified in Attachment C of this staff report.
2. Approve 97-CDP-013 H and the Conditions of Approval as included in Attachment B.

Refer back to staff if the Zoning Administrator takes other than the recommended action for appropriate findings and conditions.

#### JURISDICTION:

The project is located within the County's Geographic Appeals Jurisdiction. Pursuant to Section 35-169.5, of the Coastal Zoning Ordinance, "the Zoning Administrator, at a noticed public hearing, may either approve, conditionally approve, or deny the request." The requirement for a public hearing may be waived pursuant to Section 35-169.11, of the Coastal Zoning Ordinance, provided that the criteria for the waiver are met and no written request for a public hearing is requested.

The project was considered to be minor in nature and qualified for a hearing waiver. Notice to the affected neighbors was sent on March 24, 1997. No requests for a public hearing were received for this project within the 15 working-day notice period; therefore the public hearing may be waived. Additionally, no public comments were received for this project.

Under Article II, Section 35-171, Emergency Permits, when an emergency action is warranted and the requirements of a Coastal Development Permit may be deferred and the Director may grant an Emergency Permit. However, the issuance of the Emergency Permit does not constitute an entitlement to the erection of permanent structures. The request for a valid Coastal Development Permit for the erection of the permanent waterline is required for the Emergency Permit construction to be fully permitted.

### **PROJECT DESCRIPTION:**

This is a request for a Coastal Development Permit to validate the Emergency Permit (96-EMP-002) which was approved for grading of approximately 50 cubic yards for a 6 inch wide, 32 inch deep, 1,000 foot long trench to house a 1½ inch water line. As this is a follow-up permit to that emergency work and the project is now completed, no new grading or construction will take place as a result of this specific request. The installed waterline installed begins at a water meter located at approximately the northwestern property line of the Summerland Sanitary District, Finney Street and runs easterly, parallel to the northerly line of the Summerland Sanitary District property and under Finney Street, terminating at the north-easterly portion of the O'Neil property. A road encroachment permit for the waterline was issued by the County Roads Department at the time of the emergency permit grading.

### **BACKGROUND INFORMATION:**

The waterline permitted by 96-EMP-002 is located in a County road right-of-way along Finney Street. The construction of the waterline was an urgent matter as the residents required water service for the property at 2551 Wallace Avenue and the existing waterline had failed. The subject parcel is made up of three legal parcels from the Town of Summerland Land Division, Block 39, Lots 27, 28, and 29, recorded in the County Recorder's Office, Rack 1, Map 2.

### **PROJECT ANALYSIS:**

#### **Environmental Review**

The project is recommended to be found exempt from environmental review pursuant to the California Environmental Quality Act Guidelines §15302(c) which exempts the replacement or reconstruction of existing utility systems. See Attachment C, Notice of Exemption.

#### **Consistency with Comprehensive/Coastal Plan**

As discussed in the attached findings (Attachment A) of this staff report for April 16, 1997, and incorporated herein by reference, the proposed project has been found to be consistent with the Comprehensive including the all applicable Coastal Land Use Plan policies, and the Goleta Community Plan.

#### **Consistency with Article II, Coastal Zoning Ordinance**

As discussed in the attached findings (Attachment A) of this staff report for April 16, 1997, and incorporated herein by reference, the proposed project has been found to be consistent with the Article II, Coastal Zoning Ordinance, and is consistent with the requirements for the R-1 Zone District (see findings). Therefore, the project is consistent with this finding.

O'Neil Grading: 97-CDP-013 H  
Zoning Administrator Decision Date: 4/16/97  
Page 4

**Subdivision/Development Review Committee**

The proposed project was reviewed by the County Roads Department. A road encroachment permit was approved for the installation of the waterline along the County road right-of-way on Finney Street.

**ATTACHMENTS:**

- A. Findings**
  - B. Draft Coastal Development Permit with Conditions**
  - C. Exemption**
  - D. Site Plan**
- Emergency Permit, 96-EMP-002**

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## **ATTACHMENT A: FINDINGS**

### **1.0 CEQA FINDINGS**

Find that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15302(c) which exempts the replacement or reconstruction of existing utility systems.

### **2.0 ADMINISTRATIVE FINDINGS**

**2.1. Pursuant to Section 35-169.6.2. of the Article II Zoning Ordinance, a Coastal Development Permit within a Geographic Appeals Area shall only be issued if all of the following findings are made:**

**2.1.1. *Those findings specified in Section 35-169.6.1.:***

**2.1.1.1. *That the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of Article II and/or the project falls within the limited exception allowed under Section 35-161.7.***

The project is consistent with the applicable policies of the Comprehensive Plan, including the Coastal Land Use, and Summerland Community Plans. The existing residence has all existing services available now that the waterline has been reconstructed. The imposition of the standard condition to stop or redirect earthwork in the event any archeological resources are found was imposed on the emergency permit. No archeological artifacts or remains were found at the time of project construction. There was minor vegetation removal for this project, and native bunchgrass seed was used to replant the graded areas.

The project parcel is located in the REC Zone District of Article II, Coastal Zoning Ordinance. Prior to 1968, the parcel was previously zoned 7-R-1-D; however, a rezoning of the lot at that time inadvertently zoned the parcel to REC, requiring any type of construction to obtain an approved Development Plan prior to zoning clearance. As historical documents indicate, it was not the intent and purpose of the rezoning to zone the parcel as REC. Therefore, a determination was made by the Department that the parcel and the associated permitted uses should be consistent with the intent and purpose of the R-1 Zone District. The waterline is in the road right-of-way along Finney Street and is in the Transportation Corridor Overlay District. The underground waterline is consistent with the requirements of the Article II Zoning Ordinance.

**2.1.1.2. That the proposed development is located on a legally created lot.**

The project site is a legally created lot. The project site was created by the Town of Summerland Land Division, Block 39, Lots 27, 28, and 29 recorded in the County Recorder's Office, Rack 1, Map 2. Therefore, the project is consistent with this finding.

**2.1.1.3. That the subject property is in compliance with all laws, rules, and regulations pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of Article II, and such zoning enforcement fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures under Section 35-160 et seq.**

The subject property is in compliance with the laws, regulations, and rules pertaining to zoning uses, subdivisions, setbacks, and all other applicable provisions of Article II. Therefore, the project is consistent with this finding.

**2.1.2. That the development does not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.**

The waterline is underground and does not obstruct public views from any public road or from a public recreation area to and along the coast. Therefore, the project is consistent with this finding.

**2.1.3. That the development is compatible with the established physical scale of the area.**

Development of the waterline is underground, is minor in nature and does not alter the physical scale area. Therefore, the project is consistent with this finding.

**2.1.4. The development is in conformance with the public access and recreation policies of Article II and the Coastal Land Use Plan.**

The proposed waterline would not conflict or affect any public access or recreation policies. The waterline was installed in a trench and recovered with soil and re-seeded. Therefore, the project is consistent with this finding.





## County of Santa Barbara Planning and Development

John Baker, Director

Dianne Black, Director Development Services

John McInnes, Director Long Range Planning

November 30, 2007

Susan Petrovich  
Hatch & Parent  
21 E. Carrillo Street  
Santa Barbara, CA 93101

RE: 2551 Wallace Avenue, Summerland  
Assessor's Parcel Number 005-250-001

Dear Ms. Petrovich:

At a meeting with Coastal Commission staff and Santa Barbara County staff on November 27, 2007, the possibility of rezoning the parcel at 2551 Wallace Avenue was discussed. As you know, 2551 Wallace Avenue (Assessor's Parcel Number 005-250-001) is zoned REC (Recreation) and has a Coastal Land Use Plan designation of "Recreation/Open Space." A residence was constructed on the subject parcel several decades ago and was considered a legal non-conforming structure, until a Building Violation was opened on March 20, 2007 for demolition and work done without a permit by the owner, Jeff O'Neil. The parcel is small in size, approximately 4,356 square feet. The property is also constrained by the adjacent railroad and appurtenant easements, and Highway 101 to the north. Both are a constant source of noise and a potential safety hazard, since the property must be accessed from Wallace Avenue by crossing over a railroad easement. Taking the history of this specific property and all of the site constraints into consideration, it seems unlikely that there is significant potential for a viable recreation use on this small lot.

For these reasons, the consensus at the meeting was that a rezone and Local Coastal Plan amendment, to change the designated use of this parcel from Recreation to Residential, is feasible. Coastal Commission staff indicated initial support of a potential rezone and LCP amendment for this unique parcel and situation.

If the property owner decides to pursue residential development on this property, the next step is to submit applications for a Rezone and a General Plan Amendment, to change the designated use of the subject parcel from Recreation to Residential. Please note that one of the components of the submittal should be justification for and evidence supporting the lack of a viable recreation use on the parcel, based upon the regulations contained in the Coastal Land Use Plan (CLUP) and the implementing Coastal Zoning Ordinance (Article II). Alternatively, you may first submit for a Planner Consultation, to assist you in gathering information on the property, and answer any initial questions you may have. The necessary forms can be found at [www.sbcountyplanning.org](http://www.sbcountyplanning.org), or may be obtained at the Zoning Counter.

Development Review  
Building & Safety  
Energy, Administration  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
Phone: (805) 568-2000  
FAX: (805) 568-2030

Long Range Planning  
30 E. Figueroa St. 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101  
Phone: (805) 568-3380  
FAX: (805) 568-2076

Building & Safety  
185 West Hwy 246, Ste 101  
Buellton, CA 93427  
Phone: (805) 686-5020  
FAX: (805) 686-5028

Development Review  
Building & Safety  
Agricultural Planning  
624 W. Foster Road  
Santa Maria, CA 93485  
Phone: (805) 934-6250  
FAX: (805) 934-6258

Ms. Susan Petrovich  
November 30, 2007  
Page 2 of 2

If you have any questions regarding this unique situation and the available options, please contact me at (805) 568-2520. If you have any questions regarding the specific permit or consultation application requirements, please contact the Zoning Counter staff at (805) 568-2090. Thank you.

Sincerely,



Dave Ward  
Deputy Director  
Development Review, South  
Planning & Development  
County of Santa Barbara

cc: Jeffrey O'Neil, P.O. Box 1174, Summedland, CA 93067-1174  
Coastal Commission Staff:  
Shana Gray, 89 South California Street, Suite 200, Ventura, CA 93001  
Gary Timm, 89 South California Street, Suite 200, Ventura, CA 93001  
Steve Hudson, 89 South California Street, Suite 200, Ventura, CA 93001  
John Baker, Director, Planning & Development  
Diame Black, Director of Development Services, Planning & Development  
June Pujio, Supervising Planner, Planning & Development  
Julie Harris, Planner III, Planning & Development  
Selena Buoni, Planner II, Planning & Development  
Records Management, P&D

TOWN OF SUMMERLAND

GREENWELL BAY

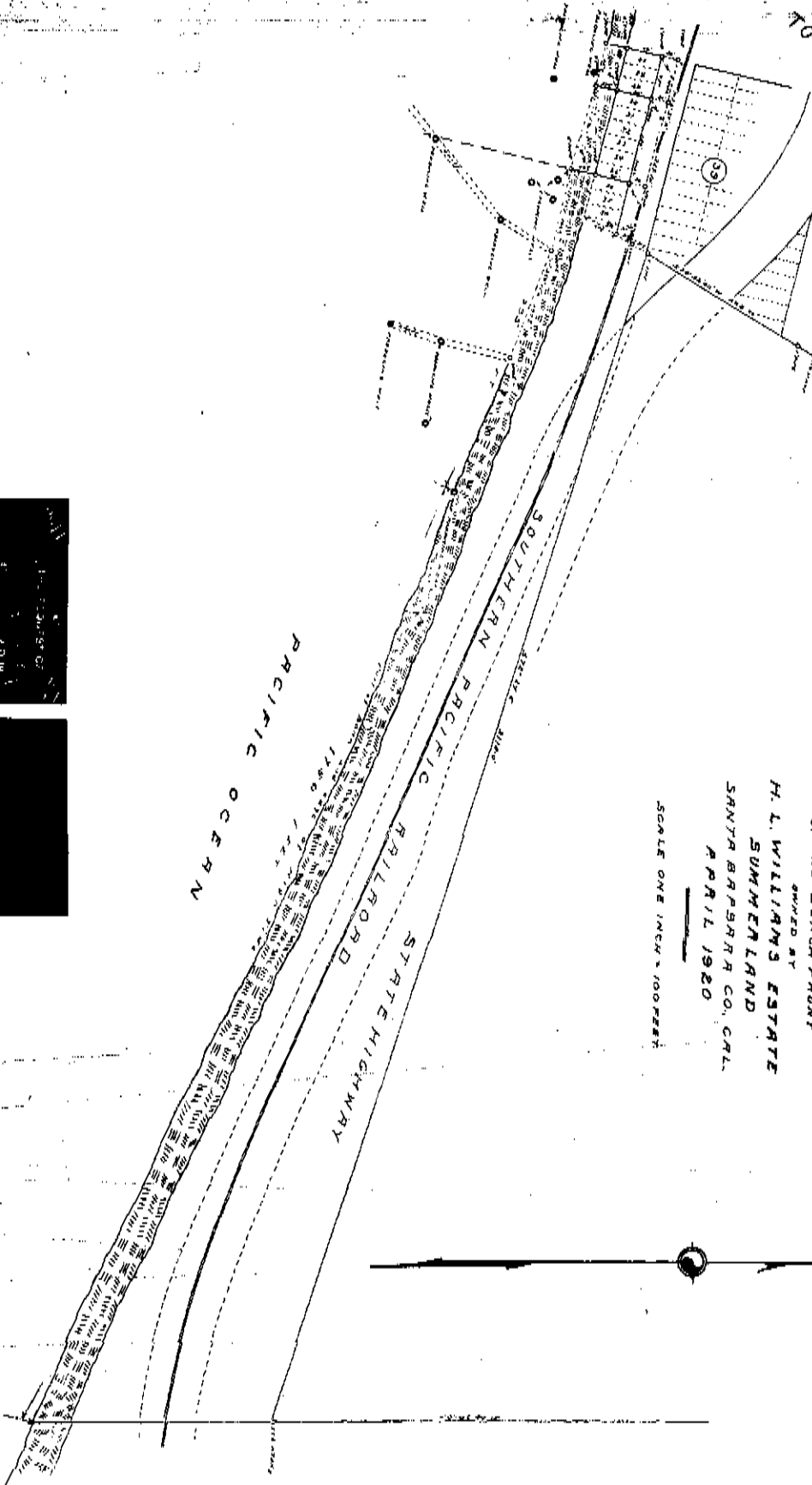
PACIFIC OCEAN

SOUTHERN PACIFIC RAILROAD  
STATE HIGHWAY

M.R.P.

SURVEY MADE BY REFUGENCY  
OF THE BEACH FRONT  
OWNED BY  
H. L. WILLIAMS'S ESTATE  
SUMMERLAND  
SANTA BARBARA CO., CAL.  
APRIL 1920

SCALE ONE INCH = 100 FEET





STATE BOARD OF EQUALIZATION  
LAND IDENTIFICATION MAP  
S.O.E. MAP NO. 872 - 42 - 4E

# RIGHT OF WAY AND TRACK MAP

MAIN LINE

## SOUTHERN PACIFIC RAILROAD COMPANY

OPERATED BY

## SOUTHERN PACIFIC COMPANY

LOS ANGELES DIVISION SANTA BARBARA COUNTY, CALIFORNIA  
FROM STATION 3999+28 TO STATION 3900+00

Scale: 1 inch = 200 feet

(9/11)

VALUATION DEPARTMENT  
SAN FRANCISCO, CALIFORNIA



SCHEDULE OF PROPERTY

NO	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUSTOMERS	AREA SQ FT Acres	REMARKS	
5	J. Miller et al	S P P Co	O.C. Deed	May 27 1907	7577-250	Mar 4 1907	1443	2004	See Note No. 16
6	A. Becker, Anna H. Williams Estate Santa Barbara Co et al H. Williams et al The Commercial Bank H. Williams Estate Mrs. McNeekin et al American Beet Sugar Co H. Williams H. Williams O.C. Mc Gavin H. Williams	S P P Co	O.C. Deed Deed Judgment Judgment Deed Deed Deed Deed Deed Deed	Aug 27 1907 Jul 29 1907 May 9 1910 May 6 1909 Aug 27 1908 Aug 19 1907 Nov 22 1906 Apr 22 1904 Mar 28 1904 Mar 3 1903 Jun 23 1903 Jun 21 1907	14807 10776 12343 12596 31407 19444 14547 39426 97390 97390 59350	Mar 23 1907 Jul 30 1907 May 11 1910 Nov 9 1909 Sep 2 1908 Aug 23 1907 Nov 26 1906 Mar 16 1904 Apr 3 1904 Nov 14 1904 Nov 14 1904 Mar 14 1907	9145 14874 10473 11499 11499 30672 10436 2444 15723 15985 2907	305 2452	3109 ac acquired shown as Part of Cont Map 5 Confirms next above Confirms deed 30622 below Some land is dead 9745 below Releases next above Confirms 24 above See Note No. 3 No. 2 0.157 ac eq. 0.029 ac incl. in Part shown by D Traded to S P P Co by deed 10074 below
7	H. Williams	Southern Pacific Co	O.C. Deed	Mar 28 1904	76541	Apr 3 1904	2444	5140	
8	O.C. Mc Gavin	Southern Pacific Co	O.C. Deed	Mar 3 1903	97390	Nov 14 1904	15723	3006	
9	H. Williams	S P P Co	O.C. Deed	Jun 23 1903	97390	Nov 14 1904	15985	6055	
10							2907	5052	
11									
12	Flamber	S P P Co	O.C. Deed	Mar 19 1901	76471	Mar 19 1901	1443	2004	
13	H. Williams	S P Branch Ry Co	Release	Jul 1 1887	1518	Jul 2 1887	2731	7935	
14	Co of Santa Barbara	S P Branch Ry Co	O.C. Deed	Jan 5 1901	13447	Apr 7 1907	2712	7330	
15	Leitch et al	S P Branch Ry Co	O.C. Deed	Apr 2 1887	15450	Apr 14 1887	2224	3330	
16	C. Fernald	B Rogers	O.C. Deed	Apr 2 1887	16106	Jul 19 1887	2277	300	
17	S P P Co	S P Branch Ry Co	O.C. Deed	Oct 24 1901	79750	Oct 27 1901	2637	3937	
18	J.L. DeLoach et al	S P P Co	O.C. Deed	Jul 2 1887	16406	Jul 19 1887	2277	300	
19	A.P. Ruiz Agr.	S P Branch Ry Co	O.C. Deed	Dec 21 1900	75357	Dec 21 1900	2467	330	
20	L.P. Rodriguez et al	S P Branch Ry Co	O.C. Deed	Mar 23 1902	63428	Jun 6 1907	14508	506	
21	J.G. Smith	S P Branch Ry Co	O.C. Deed	May 6 1902	16406	Jul 2 1887	2233	440	
22	E.N. Whelan	S P P Co	O.C. Deed	Apr 8 1908	76592	Apr 10 1908	2446	440	
23	H. Williams et al	S P P Co	O.C. Deed	Oct 11 1904	79263	Oct 23 1904	2463	31861	
24	F.N. Sutherland		O.C.	Sept 24 1907	84251	Sept 24 1907	2476		
25	Strome Co., Wilson		O.C.	June 1 1901	77326	June 11 1901	15882		
26	J.C. Wilson		O.C.	July 27 1903	81711	Jul 27 1903	15886		
27	Board of Directors of the Monterey County Water Dist	S P Co & S P R Co.	Resolution	June 12 1927	Mar 6 - P 383	July 14 1927	37673		
28	Southern Pacific Co	Southern Pacific R R Co	H & S. deed	July 14 1927	DR 128-7433	July 27 1927	36824		
29	County of Santa Barbara	S P Co	FRANCHISE Agreement	June 22 1917			1235	510	
30	S P R Co. and S P Co	State of California	Agreement	Dec 3 1928			37495		
31	State of California	County of Santa Barbara	Agreement	July 23 1928			19604		
32	Sumner et al	S P R Co (part)	Memorandum	May 18 1929	DR 180-558	Aug 19 1930	DR 839		
33	Sumner et al	S P R Co (part)	Memorandum	Aug 21 1933	207-350	Aug 22 1933	19374		



3912+7

6.C.C.T3.

35 3910+77? S1376

No.15

No.13

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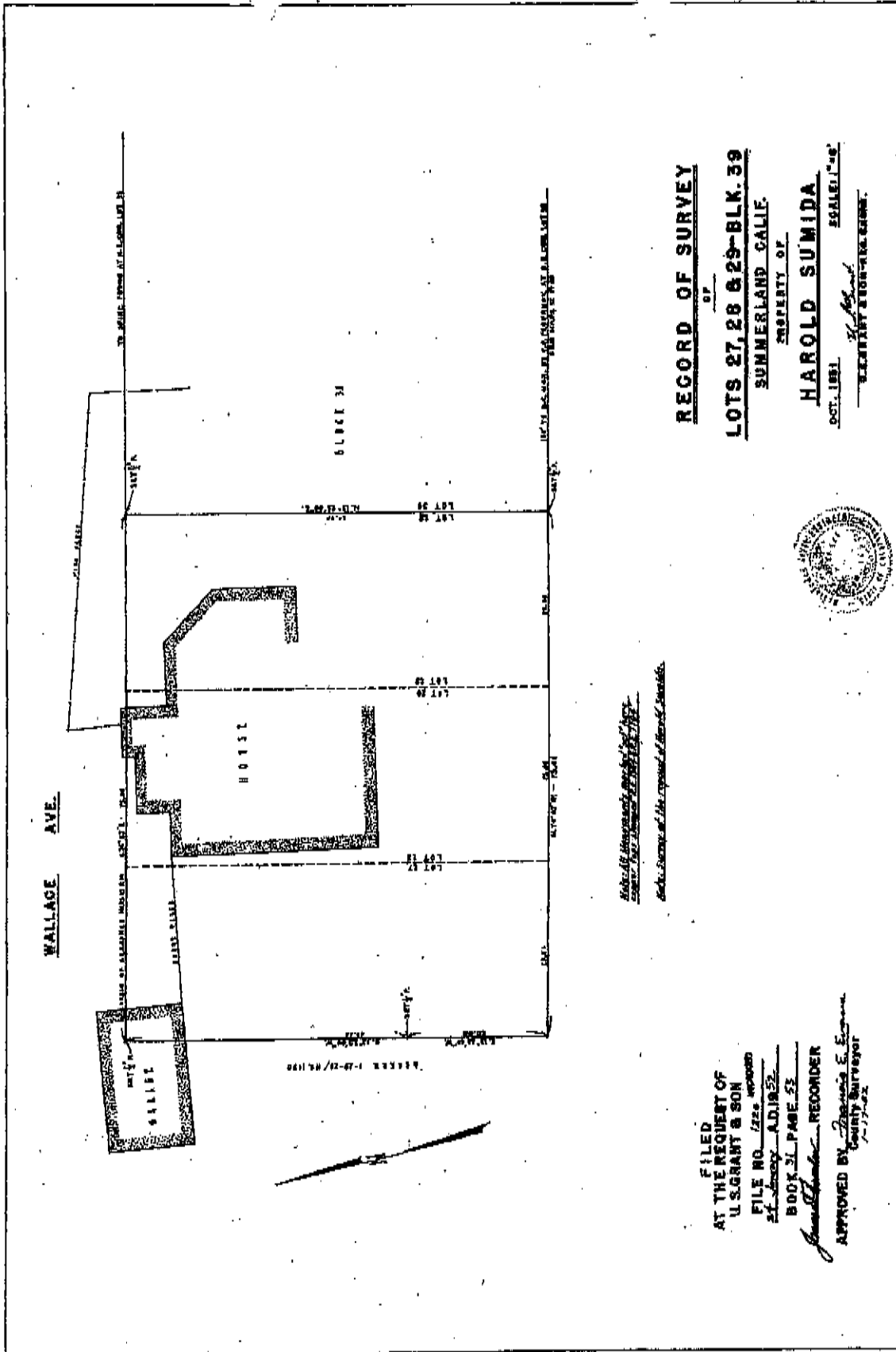
GREEN

DL 3906+

TC 3° 52'

EC  
Barang  
EC  
CT 1/2

PA...



**RECORD OF SURVEY**

OF  
**LOTS 27, 28 & 29-BLK. 39**  
**SUMMERLAND CALLE.**

PROPERTY OF  
**HAROLD SUMIDA**

OCT. 1951  
 SCALE: 1" = 40'  
 SECRETARY & REGISTER GENERAL



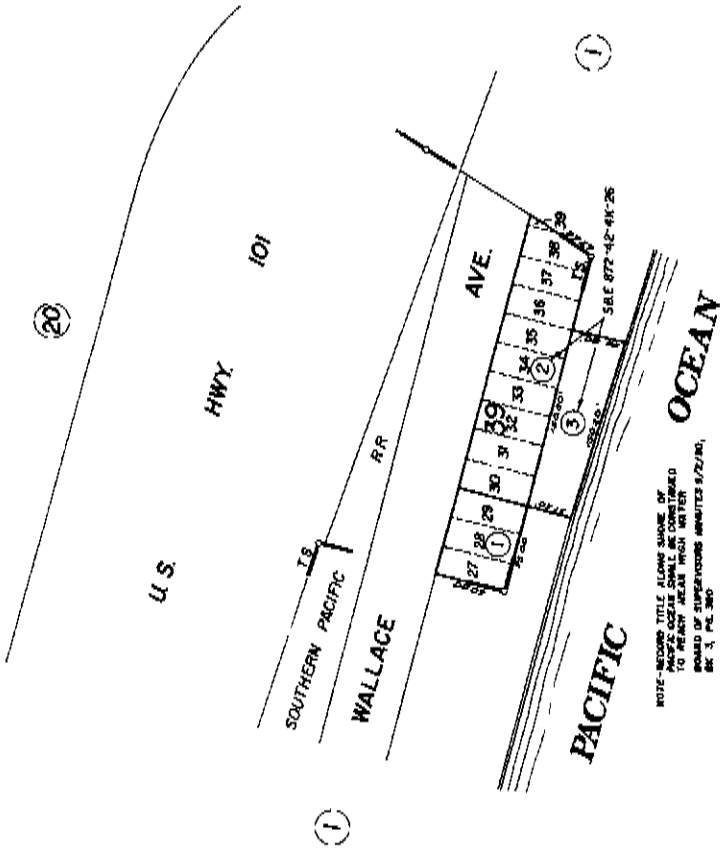
*Indicate the boundaries of the property of Harold Sumida.*

FILED  
 AT THE REQUEST OF  
 U.S. GRANT & SON  
 FILE NO. 1222-10000  
 BY JERRY A. D. 10-22-51  
 BOOK 31 PAGE 53  
 REORDER  
 APPROVED BY *[Signature]*  
 County Surveyor



PUEBLO LANDS

5 - 25



Town of Summerland

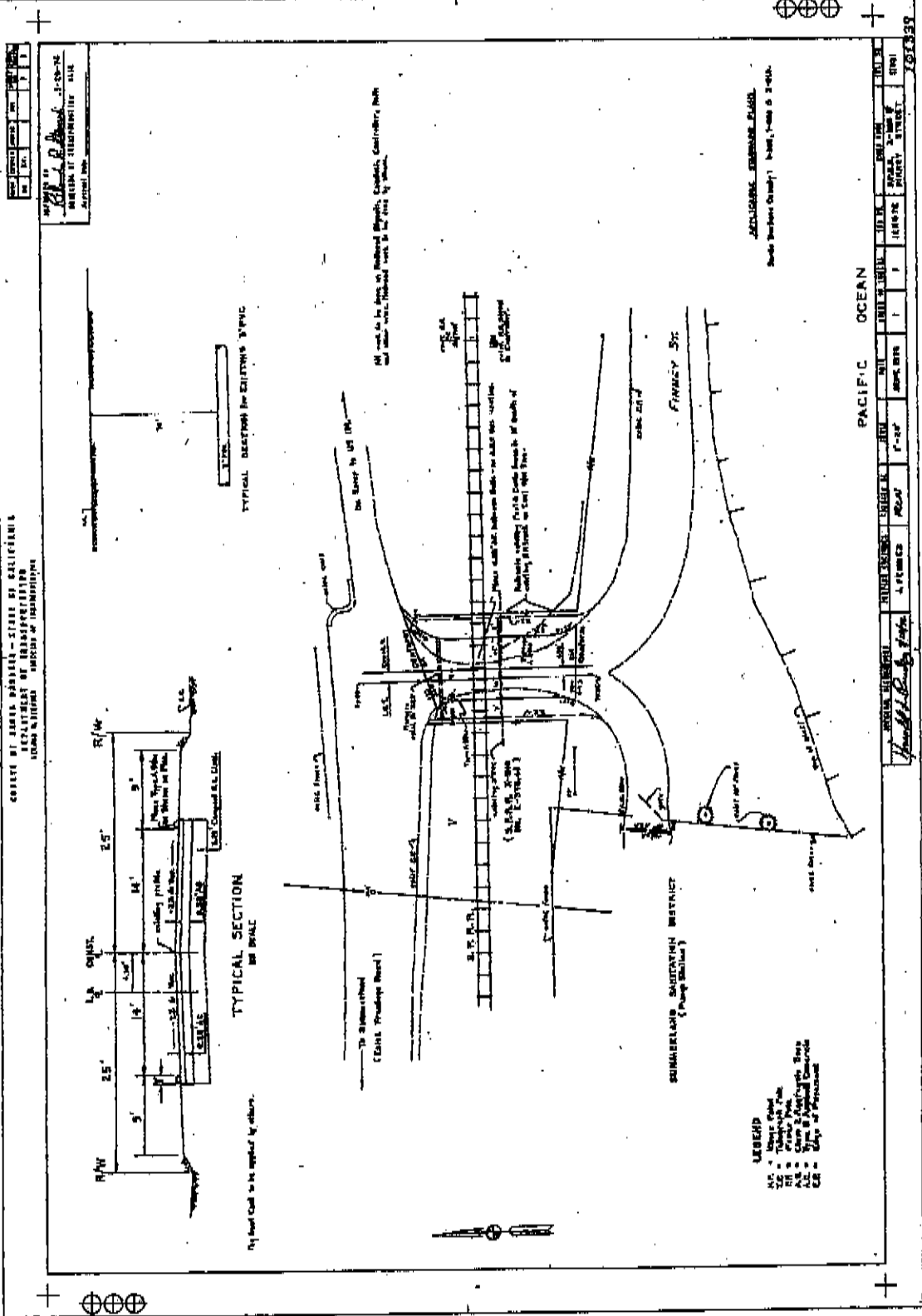
Assessor's Map Bk. 5 - Pg. 25  
County of Santa Barbara, Calif.

5/68 S.E. 42's

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

# 1976 County/CalTrans Plan of Finney/Mallace RR Crossing

1976



COUNTY OF SANTA BARBARA - STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
ROAD & HIGHWAY DIVISION OF TRANSPORTATION

M. R. B. B. B.  
REGISTERED PROFESSIONAL ENGINEER  
No. 10014  
SANTA BARBARA COUNTY

PACIFIC OCEAN

- LEGEND**
- HC - Street Curb
  - UC - Utility Curb
  - AS - Asphalt Surface
  - AS - Concrete Surface
  - CS - Edge of Pavement

ADDITIONAL STANDARD PLANS  
See Section 0401, 0402, 0403, 0404, 0405, 0406, 0407, 0408, 0409, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0419, 0420, 0421, 0422, 0423, 0424, 0425, 0426, 0427, 0428, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441, 0442, 0443, 0444, 0445, 0446, 0447, 0448, 0449, 0450, 0451, 0452, 0453, 0454, 0455, 0456, 0457, 0458, 0459, 0460, 0461, 0462, 0463, 0464, 0465, 0466, 0467, 0468, 0469, 0470, 0471, 0472, 0473, 0474, 0475, 0476, 0477, 0478, 0479, 0480, 0481, 0482, 0483, 0484, 0485, 0486, 0487, 0488, 0489, 0490, 0491, 0492, 0493, 0494, 0495, 0496, 0497, 0498, 0499, 0500

PROJECT NO.	DATE	SCALE	SHEET NO.	TOTAL SHEETS
1976-04	1976	AS SHOWN	10	10

RECORD OF SURVEY

BLOCK 39

LOTS 30 TO 39

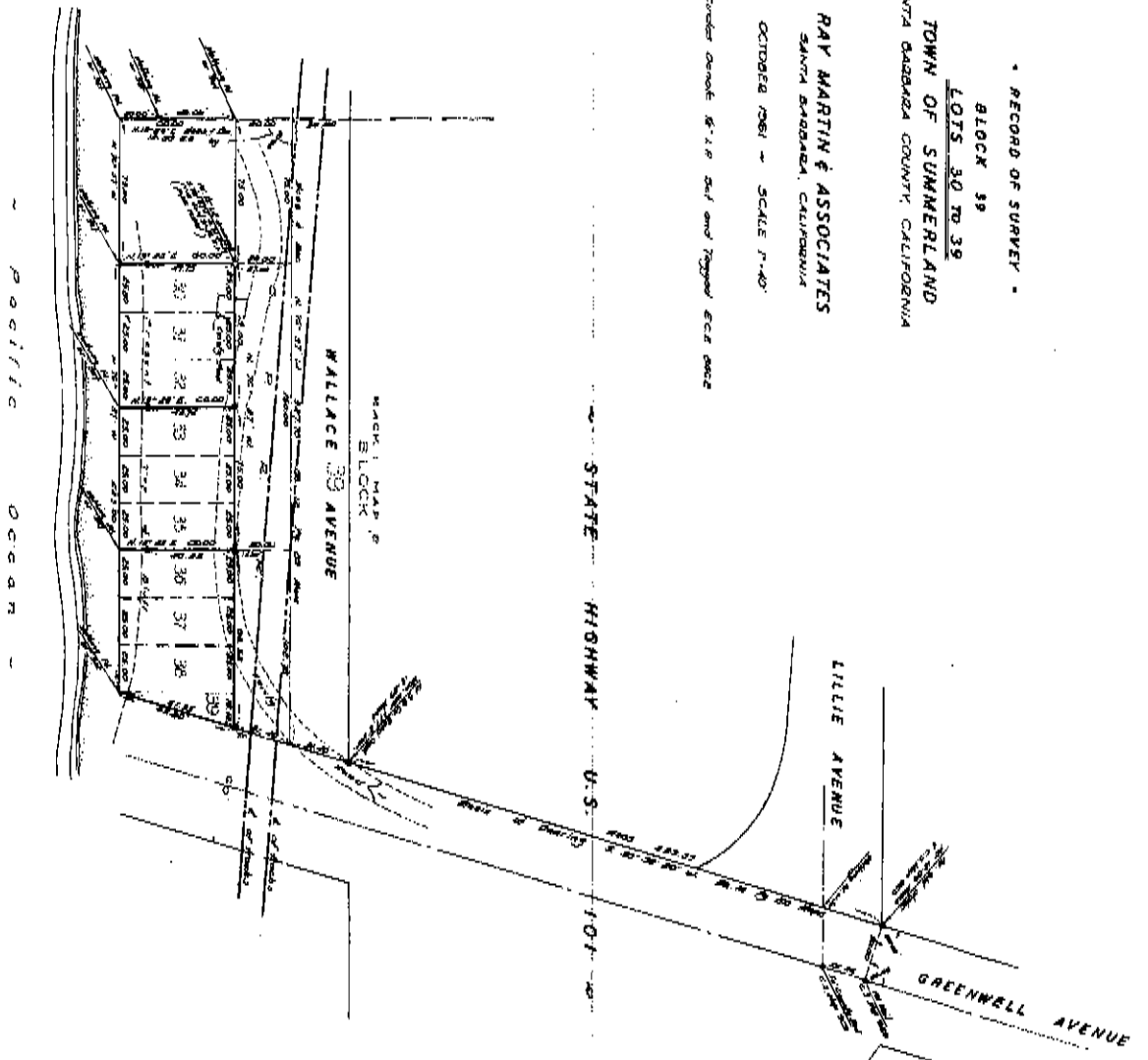
TOWN OF SUMMERLAND  
SANTA BARBARA COUNTY, CALIFORNIA

RAY MARTIN & ASSOCIATES

SANTA BARBARA, CALIFORNIA

OCTOBER 1961 - SCALE 1"=40'

Said Corner denote 6" x 12" nail and Tinned edge steel



SUPERVISOR'S CERTIFICATE

This map represents a survey made by me or under my direction in compliance with the requirements of Chapter 15, Division 5, of the Statutes and Regulations Code of the Republic of Santa Barbara in October 1961.

*Signature of Supervisor*  
Supervisor of Santa Barbara County

RECORDER'S CERTIFICATE

Filed this 29th day of November 1961 at 12:38 p. m. Book 63 of Page 4 of Record of Surveys of the Republic of Santa Barbara, Republic of California Civil Engineer File No 82151, Fee \$5.00

James G. Fowler  
County Recorder  
by *Signature of Assistant*, Assistant

COUNTY SUPERVISOR'S CERTIFICATE

This map has been examined for conformity with the requirements of Chapter 15, Division 5 of the Statutes and Regulations Code of the Republic of Santa Barbara.

*Signature of County Supervisor*  
County Supervisor

SOUTH

1977 Plan of Finney/Mallard  
RR Crossing - S P R R

ON RAMP →

PRIVATE ROAD CROSSING WITH 2 EXTRA LIGHTS  
LL N° 19 SIGNAL

376 38 E STONE ARCH  
R.F. 2820+50

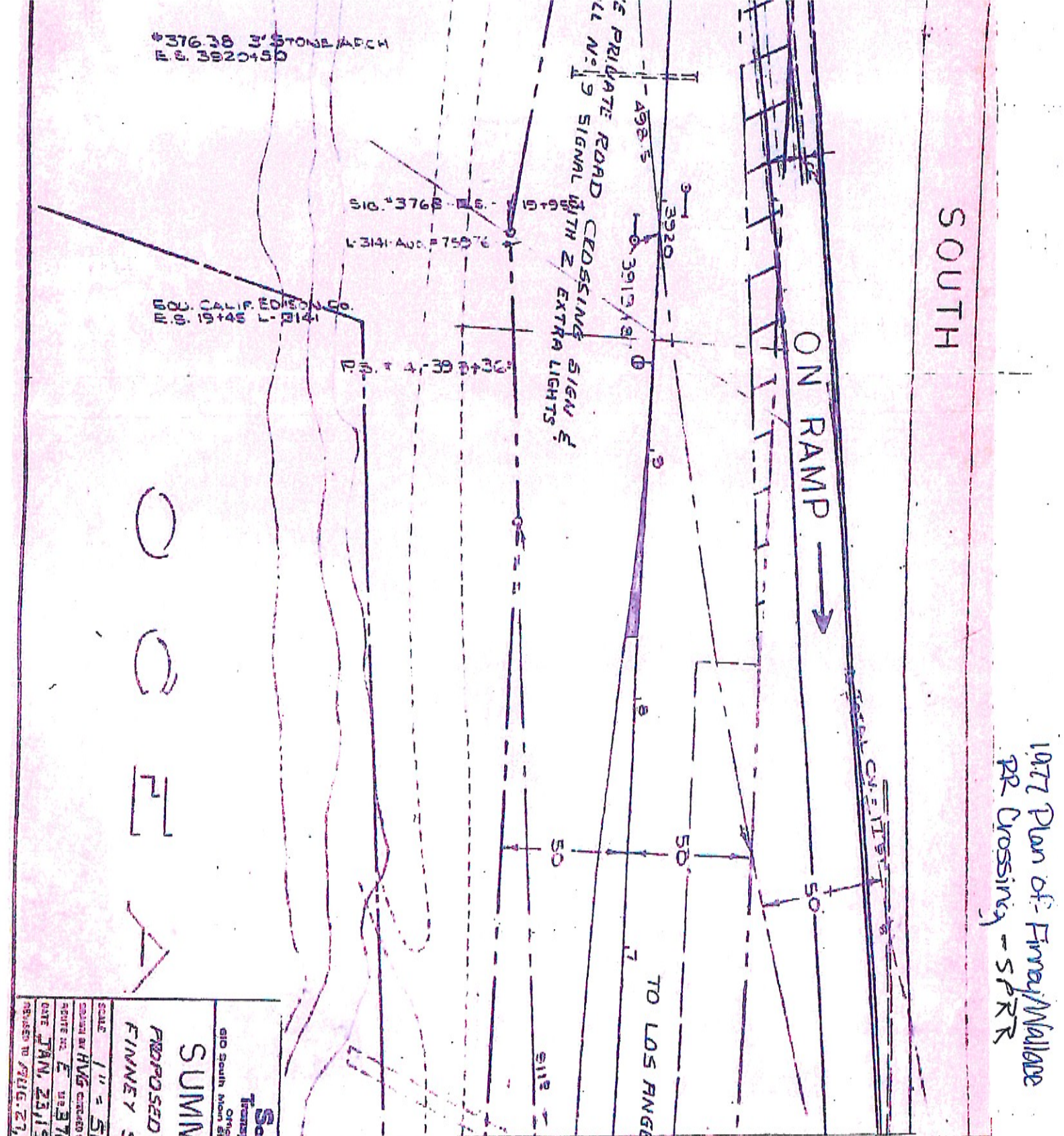
SIC. 3768  
L 3141-ADD. 75976

1141-1  
141+51.00  
141+51.00

OFFICE

**S&T**  
Trainers  
Office  
610 South Main St.  
**SUMNER**  
PROPOSED  
FINNEY S

SCALE 1" = 50'  
DRAWN BY HVG CHECKED BY  
ROUTE NO. E 98 376  
DATE JAN. 25, 1978  
REVISED TO AUG. 27,



FRONTAGE

ROAD

TO SAN FRANCISCO

SOUTHERN CALIFORNIA GAS & ELECTRIC CO. L-17244

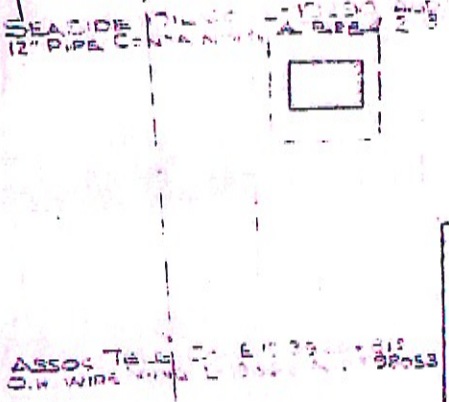
UNRECORDED SOLD TO STATE

EASEMENT BY PRESCRIPTION TO COUNTY OF SANTA BARBARA FOR WALLACE AVE-DESB AND

LEGEND

- SOU. PAC. CO. PROPERTY LINES
- RED - NEW WORK
- YELLOW - REMOVE
- EASEMENT TO COUNTY OF SANTA BARBARA

SUMMERS DI PUN



1 A B C D E F G

HIGHWAY 101

SOUTH

VIEW CONDITIONS  
900' 50' 150'

ON RAMP →

BIT 49 7.55' (L-24814)

INSTALL N° 9 SIGNAL WITH  
EXTRA LIGHT 2

34273 EXTEND DRAINAGE  
PIRE BY OTHERS

REMOVE PRIVATE ROAD  
INSTALL N° 9 SIGNAL WITH 2  
EXTRA LIGHTS

IND SANITATION  
TRICT  
STATION

PROPOSED FINNEY STREET  
(FORMER  
150 R. PVT. KING M.F. 376.41)  
SUGGESTED CROSSING N° E-376.41

SO. CALIF. EDISON CO. DIST. W. BR. KING  
P.S. 3921+00' L-17433 160' 21' 21'

376.38 B. STONE ARCH  
P.S. 3920+50

SO. CALIF. EDISON CO.  
P.S. 3944+00' L-17141

100' 800' 510'

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I









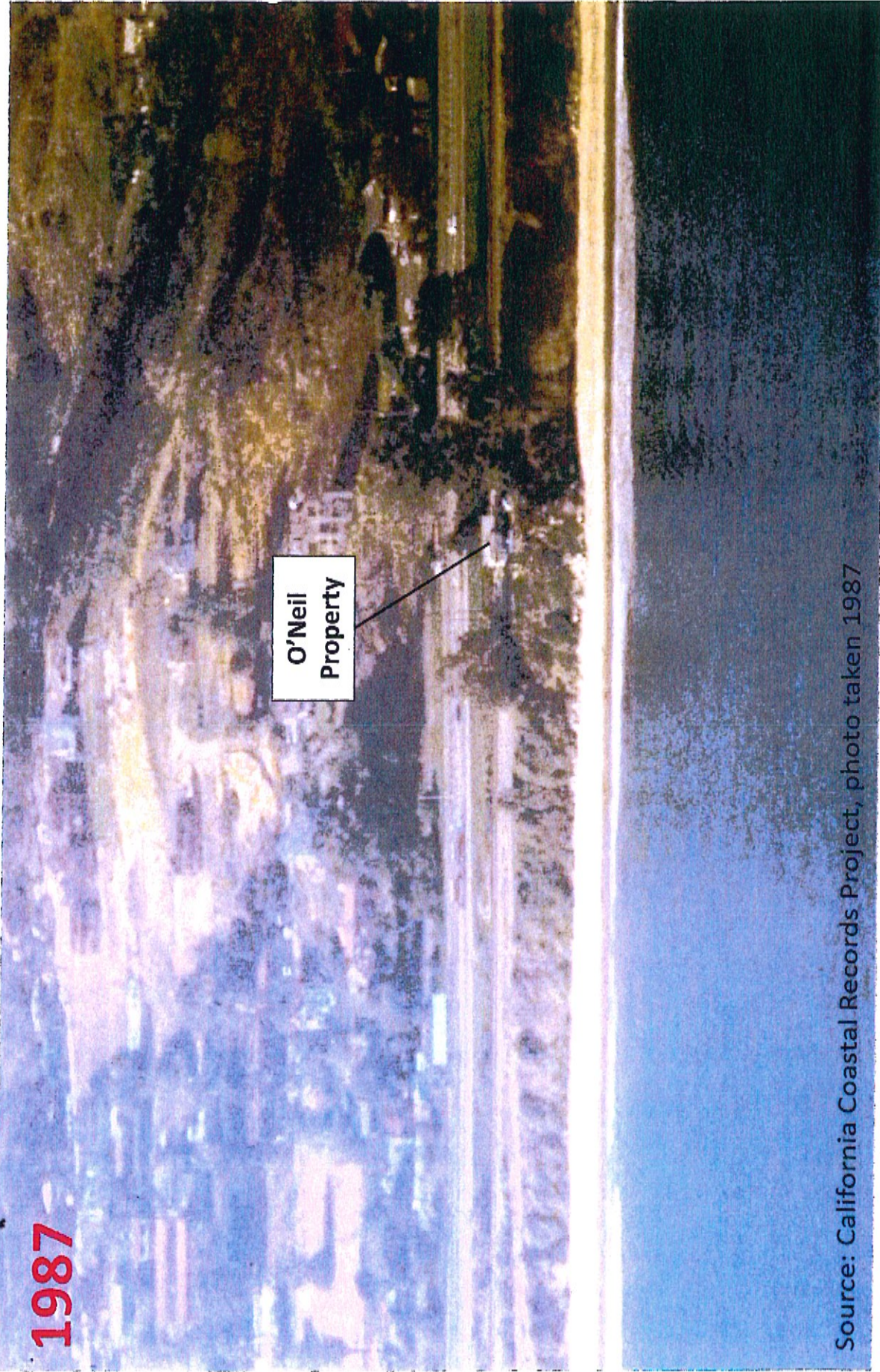


1972



Source: California Coastal Records Project, photo taken 1972

1987



O'Neil  
Property

Source: California Coastal Records Project, photo taken 1987



2002

O'Neil  
Property

Source: California Coastal Records photo taken 2002

2013



Source: California Coastal Records Project, photo taken 2013

**Ronald L. Nye, Ph.D.**  
Historian

February 3, 2009

Mr. Jeffrey S. O'Neil  
P.O. Box 1174  
Summerland, CA 93067

**Re: Letter Report Historical Assessment: 2551 Wallace Avenue, Summerland,  
CA – APN 005-250-001**

Dear Mr. O'Neil:

The purpose of this Letter Report Historical Assessment is to determine whether the residence that was nearly completely demolished in 2006 is historically or architecturally significant under Santa Barbara County guidelines, and if so, whether the proposed project would or already has caused any potentially significant impacts to a historic resource. The property owner has already demolished most of the original residence and proposes to demolish the rest of it and erect a new residence in the same location. The scope of work for this assessment encompassed a site visit, limited historical research, interviews, document analysis and the preparation of this report. Research included a review of County Planning and Development Department address files, local history materials located at the Gledhill Library and photographs provided by the property owner.

Field Inventory

Based on a review of photographs taken in 2006, the study residence, prior to its nearly complete demolition, was a small irregularly shaped building that had been thoroughly altered after it was built about 1890. The cottage could not be said to resemble any particular architectural style. All exterior building materials appeared to be approximately twenty to thirty years old. Its roof was cross-gabled with several shed roofed extensions and had composition shingle roofing material. The cottage featured horizontal wood plank siding and its south, west and north elevations were punctuated by large single-pane plate glass windows. Double single-pane glass doors with wood framing were located on the south and north elevations. A wood plank deck extended from the south elevation and wrapped to some extent around the southeast and southwest corners of the house. Presently only a portion of the north elevation wall and a smaller segment of the west elevation wall remain from the building that existed in 2006. Adjacent to these remnants, on their south side, is the property owner's partially-built new residence. A small garage converted to living quarters is located a few feet to the east of the new building. The garage appears to be about twenty to thirty years old.

### Building History

The original small study house and an adjacent small building on its east side are visible in an early undated photograph of the Summerland coast. The photograph, however, does not show the numerous oil derricks and other industrial facilities that sprouted along the shore in the 1890s.<sup>1</sup> This would indicate that the study building was probably built about 1890, prior to the town's oil boom. The oil industry thrived until the mid-1920s and transformed Summerland from a small Spiritualist religious colony to a working class oil town. Local historians referred to the house as "Cliff Cottage" and stated that it was occupied by a Mr. Phelps and his family during the late 1890s and early 1900s. Mr. Phelps, according to these sources, was the first superintendent of the Duquesne Oil Company, which operated a wharf and oil wells in the shallow waters just south of the cottage. Information on the house's owners and occupants before and after the Phelps family is sketchy, but it is thought that the property was rented in the 1920s.<sup>2</sup> A more recent historian refers to the house as both "Cliff Cottage" and the B. M. Bussey house although the identity of Bussey is not revealed.<sup>3</sup> The 1930 edition of the Sanborn Map of Summerland depicts the study cottage as a single-story, irregularly-shaped building with a large wrap-around porch on its west elevation. A smaller rectangular-shaped dwelling is located very close to it on its east side.<sup>4</sup>

According to the present property owner, Harold Sumida owned and occupied the former residence with his family from approximately 1947 to 1963. Albert and Elizabeth Baka owned it next, from about 1963 to 1981. The configuration of the former cottage in aerial photographs from 1973 and 1979 resembles the building as it appears in the 2006 photographs.<sup>5</sup> In contrast, the shape and massing of the cottage depicted in the c.1890 photograph and the 1930 Sanborn Map are completely different from the building that appears in the aerial photographs from the 1970s. By 1930, it would appear, the original c.1890 building had been significantly altered, and by the 1970s, it had been radically changed again. The small dwelling adjacent to the cottage shown on the 1930 Sanborn Map is not visible in the aerial photographs. On the west side of the cottage, however, according to the same photographs, a small gable-roofed garage is shown. This garage no longer exists. Jeffery O'Neil, who purchased the study property about 1996, demolished all but portions of the north and west exterior walls of the cottage in 2006.

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<sup>1</sup> David F. Myrick, "Summerland: The First Decade," *Noticias* (Winter 1988), 72.

<sup>2</sup> Opal Lambert, et al., "Historic Buildings of Summerland, Ca.," 1976, 11, 25 and map, on file at the Gledhill Library.

<sup>3</sup> Myrick, 72.

<sup>4</sup> Sanborn Fire Insurance Co., Summerland, California, 1930 edition, on file at the Santa Barbara Public Library.

<sup>5</sup> Pacific Western Aerial Surveys, November 6, 1973 and January 27, 1979.



### Significance Criteria

According to County of Santa Barbara guidelines<sup>6</sup>, to qualify as a significant historical resource, a property must:

- A) Possess integrity of location, design, workmanship, material, and/or setting.
- B) Generally, but not in all cases, be at least fifty years old.
- C) Demonstrate one or more of the following association-related criteria:
  - 1. Be associated with an event, movement, organization or person that/who has made an important contribution to the community, state or nation.
  - 2. Was designed or built by an architect, engineer, builder, artist or other designer who has made an important contribution to the community, state or nation.
  - 3. Is associated with a particular architectural style or building type important to the community, state or nation.
  - 4. Embodies elements demonstrating a) outstanding attention to design, detail, craftsmanship, or b) outstanding use of a particular structural material, surface materials or method of construction or technology.
  - 5. Is associated with a traditional way of life important to an ethnic, national, racial or social group, or to the community at large.
  - 6. Illustrates broad patterns of cultural, social, political, economic or industrial history.
  - 7. Is a feature (i.e., structure, building, structural element, object, tree, garden, etc.) or a cluster of features that convey a sense of time and place that is important to the community, state or nation.
  - 8. Is able to yield information important to the community or is relevant to the scholarly study of history, historical archaeology, ethnography, folklore or cultural geography.

To evaluate a resource, each of the above elements is assessed and given a significance ranking, from 1 through 3 and E, corresponding to the terms low (1), good (2), high (3), and exceptional (E). Each element is ranked separately. The overall level or threshold of significance is determined by the average of its individual rankings.

The resultant level of significance is used to determine what treatment a resource should be given within the planning process. An exceptional rating in any element indicates that the resource should receive special consideration, usually preservation, in the planning process. A good or high rating indicates that the resource is significant, and should be recognized, but not necessarily through preservation. A low rating indicates that the resource is not considered significant for planning purposes.

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<sup>6</sup> "County of Santa Barbara, Resource Management Department, Cultural Resource Guidelines, Historic Resources Element," Revised, January 1993.

Assessment of Historical Significance

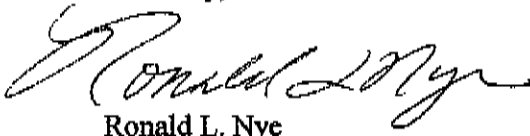
The County of Santa Barbara criteria for significance were applied to the former beach cottage on Wallace Avenue. The building, now almost completely demolished, was found to possess no historical or architectural significance. The following significance assessment of the former cottage was based on a review of several color photographs taken of it in 2006 prior to its demolition. The building rated low in historical integrity because its many alterations over the years resulted in its total transformation and destroyed its integrity of design, materials and workmanship. It earned a high score in age due to its approximate age of 100 years or older. The building rated low in the association with an event or person criterion. This is because none of its known owners or occupants is recognized as historically significant. The building also had a distant association with the noteworthy oil boom in Summerland because its significant alterations prevented it from conveying the historical period of c.1890-1925. The cottage rated a low in designer because its architect, if it had one, is unknown. Likewise, it scored low in architectural style because it did not have a discernable style and no longer possessed its original vernacular cottage style. It earned a low score in construction and materials because very little, if any, original construction methods or materials were evident in 2006. The cottage's alterations, which virtually eliminated its historical architectural elements, precluded its association with a broad historical theme and its ability to convey an historical time and place. It thus rated a low score in these two criteria. The criteria dealing with traditional lifeways and ability to yield important cultural information are not applicable to this property. In summary, the former cottage earned a low overall significance rating and was therefore not a historic resource under County guidelines.

Proposed Project Impact Assessment

The proposed project demolished nearly the entire former cottage in 2006 and would remove the few remaining remnants of it and erect a new residence on the site. This study has found that the former building did not qualify as historically or architecturally significant under County of Santa Barbara guidelines. Since neither the former cottage nor its remnants were or are historic resources, no potential impacts, as defined by CEQA, would occur as a result of the proposed project.

Thank you this opportunity, and please call if you have any questions.

Sincerely,



Ronald L. Nye

cc. Patsy Stadelman

## ATTACHMENT-5: FINDINGS OF APPROVAL

### 1.0 CEQA FINDINGS

#### 1.1 CEQA EXEMPTION

The Board of Supervisors finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15265, 15301(l)(1), and 15303(a). Please see Attachment-7, Notice of Exemption for approval, to the Board Letter dated January 9, 2018. Of additional relevance is that the proposed residence will replace a prior residence, now partially demolished, that has been located in approximately the same location as the proposed for over 100 years.

### 2.0 ADMINISTRATIVE FINDINGS

#### 2.1 GENERAL PLAN AMENDMENT FINDINGS

**Government Code Section 65358 requires a General Plan amendment to be in the public interest. The General Plan amendment is in the public interest for the following reasons:**

A single family dwelling was constructed on the subject property in 1900. That dwelling became non-conforming in 1984 due to a re-designation of the property for recreational uses. The current property owner resided in said dwelling for a number of years and, in 2007, demolished the dwelling and initiated construction of a new one in its place. In order to allow redevelopment of a single-family dwelling on the subject property, the proposed General Plan Amendment is required to change the land use designation of the property from Recreation/Open Space to Residential, as a single family dwelling is not a permitted use on lands designated Recreation/Open Space.

The subject parcel is not well suited to recreational use. The site is a small 0.10 acre (4,356 square foot) property isolated amongst generally vacant parcels owned by the railroad, with the parcel bordering the north of the subject property developed with UPRR railroad tracks. ~~Moreover the site is separated from the beach by a steep coastal bluff.~~ Therefore the property does not provide the potential for high quality recreational opportunities. The development site is on a steep, high bluff well above the sandy beach below, with no trail or staircase connecting the two. The County access road serving the residence and site largely is devoted to public use, including parking, to access the public Summerland Beach lying below the site. The road narrows to driveway width along the frontage of the site. In addition, Lookout Park, located approximately 0.45 miles west of the subject property, currently provides safe public beach access, parking, picnic tables, restrooms and children's playground amenities.

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It is in the interest of the public for a resident of the community to be allowed to redevelop a residence on property under their ownership, which was historically used for residential purposes, and for a privately owned property to not be maintained with a Recreation/Open Space land use designation when the property is not well-suited for recreational use. Therefore, this finding can be made.

## 2.2 ARTICLE II COASTAL ZONING ORDINANCE FINDINGS

### 2.2.1 AMENDMENT TO ARTICLE II OR ZONING MAP AMENDMENT (REZONE) FINDINGS

**A. Findings required for Approval or Conditional Approval of a Rezone or Ordinance Amendment.** In compliance with Section 35-180.6 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Rezone or Zoning Ordinance amendment, the decision-maker shall first make all of the following findings:

#### 1. The request is in the interests of the general community welfare.

The subject property ~~was historically~~ has been developed with a single family residence for over 100 years, and the current property owner has resided resided in said residence (first as a tenant and subsequently as the owner) for ~~a number~~ over 20 years. ~~Because the zoning was changed without the current owner's knowledge or consent from residential to recreational (REC) and because the REC zoning does not allow for a privately-owned single family residence, the~~ order to allow redevelopment of a current single-family dwelling cannot be redeveloped on the subject property; without the proposed a Rezone is required to change the zoning of the property from REC to 7-R-1. A privately-owned single family residence is permitted, as residential uses are not permitted in the REC zone district while they are specifically contemplated in the R-1 zone.

The subject parcel is ~~not well-suited to~~ inappropriate for the REC designation and for recreational uses. ~~Although access is present, it is partially on a driveway more suited to a single family home than to public use. The site property is a small 0.10 acre (4,356 square foot) property parcel isolated amongst generally vacant parcels owned by the railroad, with the parcel bordering the access road to the subject property being north of the subject property developed with bordered on the north by the UPRR railroad tracks. Moreover the site~~ The property is located well above the sandy beach, being separated is separated from the beach by a steep coastal bluff with no existing trail or staircase connecting the two. Therefore the property does not provide the potential for high quality public or private recreational opportunities. The County access road serving the residence largely is devoted to public use, including parking, to access the public Summerland Beach lying below the site. In addition, Lookout Park, located

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approximately 0.45 miles from the subject property, currently provides safe public beach access, parking, picnic tables, restrooms and children's playground amenities.

It is in the interest of the general community welfare for a resident of the community to be allowed to redevelop a residence on property under their ownership, which particularly where, as here, the parcel was historically developed and used for residential purposes, was being used for private residential purposes at the time that the REC zoning designation was applied, and where the REC zoning doesn't allow for a privately owned residence, and where property to not be maintained with recreational zoning when the property is not well-suited/unsuitable for recreational uses. Therefore, this finding can be made.

**2. The request is consistent with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of the State planning and zoning laws, and this Article.**

As discussed in Attachment 10 (Policy Consistency Analysis) and Attachment 11 (Ordinance Consistency Analysis), to the Board Letter dated January 9, 2018, and incorporated herein by reference, with approval of the General Plan Amendment and Rezone, and as conditioned, the project would be consistent with the Comprehensive Plan, including the Coastal Land Use Plan and the Summerland Community Plan, as well as with the requirements of the Article II Coastal Zoning Ordinance. The proposed rezone of the property to 7-R-1 is consistent with the current and historical residential use and development of the property and with proposed land use designation change to Residential-4.6 units/acre as both allow residential use on relatively small sized parcels. Consequently, the project is consistent with State planning and zoning laws. Therefore, this finding can be made.

**3. The request is consistent with good zoning and planning practices.**

The subject property was historically developed with and used for private single family residence etial purposes and the current property owner resided in said residence for a number of over 20 years. In order to allow redevelopment of a single-family dwelling on the subject property, a Rezone is required to change the zoning of the property from REC to 7-R-1.

The subject parcel is not well-suited to recreational use. Although access is present, it is on a driveway more suited to a single family home than to public use. The property is a small 0.10 acre (4,356 square foot) parcel isolated amongst generally vacant parcels owned by the railroad, with the access road to the subject property being bordered on the north by the UPRR railroad tracks. The property is located well above the sandy beach, being separated from the beach by a steep

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coastal bluff with no existing trail or staircase connecting the two. The site is a small 0.10 acre (4,356 square foot) property isolated amongst generally vacant parcels owned by the railroad, with the parcel bordering the north of the subject property developed with UPRR railroad tracks. Moreover, the site is separated from the beach by a steep coastal bluff with no trail or staircase connecting the two. Therefore the property does not provide the potential for high-quality public or private recreational opportunities. --The County access road serving the residence largely is devoted to public use, including parking, to access the public Summerland Beach lying below the site. In addition, Lookout Park, located approximately 0.45 miles from the subject property, currently provides a public beach access, parking, picnic tables, restrooms and children's playground amenities.

It is consistent with good zoning and planning practices ~~for~~ to allow continued private residential use of a property that has been used for private residential purposes for over 100 years (many of those years with a non-conforming residence), and it is inconsistent with good zoning and planning practices for a privately owned property to ~~not be maintained with~~ bear a recreational zoning designation when the property is ~~not well-suited~~ inappropriate for recreational use but has proven to be suited to private residential use. Therefore, this finding can be made.

## 2.2.2 VARIANCE FINDINGS

A. Findings required for all Variances. In compliance with Section 35-173.6 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Variance the decision-maker shall first make all of the following findings:

1. Because of special circumstances applicable to the property, including but not limited to size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

As discussed in Attachments 10 and 11 of the January 9, 2018 Board Letter, and incorporated herein by reference, this finding can be made. The special circumstances applicable to the property relate to its size, location, topography and surroundings. The property is relatively small, at 0.10 acres in size, and is constrained by a coastal bluff and required bluff-top setback to the south. In addition, the property is constrained by Wallace Avenue/Finney Street and the UPRR tracks to the north. Following With final approval of the proposed rezone, the property will be zoned 7-R-1. The majority of other 7-R-1 zone district parcels are not as small as .10 acres in size in combination with being located adjacent to a coastal bluff and a County road and UPRR tracks. Therefore,

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special circumstances are applicable to this property such that, without a variance, the property owner would be deprived of privileges enjoyed by other property in the vicinity. T, therefore and this finding can be made.

- 2. The granting of the variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.**

The project includes a variance from the parking and setback regulations in compliance with Section 35-173 of the Article II Coastal Zoning Ordinance on property zoned 7-R-1, to allow: a north setback of 2 feet 4 inches instead of the required 10 feet; an east setback of 8 feet instead of the required 10 feet; and, zero uncovered parking spaces instead of the required 2 uncovered parking spaces. Approval of the setback and parking variance requests will not constitute a grant of special privileges, as the property is constrained by unique circumstances, such as size, limiting available development area, and as a number of variances have previously been granted for constrained residentially zoned properties within the Summerland community, and as the property historically has been used for the purposes allowed by the variance. For example, Case No. 09VAR-00000-00001 granted a front setback variance for a duplex on property zoned 10-R-2 (reducing the required 16 foot setback by 1 foot) and 13VAR-00000-00003 reduced the required 10 foot setback by 8 feet (resulting in a 2 foot setback) for a residence on property zoned 7-R-1. Therefore, this finding can be made.

- 3. That the granting of the variance will not be in conflict with the intent and purpose of this Article or the adopted Santa Barbara County Coastal Land Use Plan.**

The property is currently zoned REC (Recreation) and is proposed to be rezoned to 7-R-1 (single-family residential). Pursuant to Article II, Section 35-71.1, the purpose of the R-1/E-1 zone district is *"to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of [the] district to protect the residential characteristics of an area and to promote a suitable environment for family life."* As discussed in Attachment-10 (Policy Consistency Analysis) and Attachment-11 (Ordinance Consistency Analysis), to the Board Letter dated January 9, 2018, and incorporated herein by reference, the project (including the Coastal Development Permit, Variance, General Plan Amendment, and Rezone) is consistent with the requirements of the Article II Coastal Zoning Ordinance and with the Comprehensive Plan, including the Coastal Land Use Plan and Summerland Community Plan. Specifically, the Policy Consistency analysis finds that adequate services are available to serve the subject property (as conditioned), and that the proposed home will be sufficiently set back from the adjacent bluff to preserve the safety of the home for 50 years, and that feasible

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~~construction measures will ensure that noise levels will not exceed acceptable limits for residents living on-site. Therefore the granting of the setback and parking variance requests will not be in conflict with the intent and purpose of Article II or the Coastal Land Use Plan.~~

**4. The applicant agrees in writing to comply with all conditions imposed by the County.**

Prior to issuance of the Coastal Development Permit, the applicant shall be required to sign the permit agreeing to comply with all conditions of approval that have been imposed by the County. Therefore, this finding can be made.

**2.2.3 COASTAL DEVELOPMENT PERMIT FINDINGS**

**A. Findings required for all Coastal Development Permits. In compliance with Section 35-60.5 of the Article II Coastal Zoning Ordinance, prior to issuance of a Coastal Development Permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.**

Water service for the site will be provided by the Montecito Water District. The Montecito Water District provided a Certificate of Water Service Availability dated August 14, 2015 and an existing waterline located within an ~~existing easement~~ County access road, known as Wallace Avenue and Finney Street, currently (and historically) provides water service to the site. Sanitary service will be provided by the Summerland Sanitary District, located nearby on the same County access road. The Summerland Sanitary District provided a "Can and Will Serve" letter dated July 31, 2017. The letter specifies that the property owner is responsible for complying with all District requirements for a connection permit. Condition 20 (Attachment-6 to this Board letter) requires that prior to issuance of the Coastal Development Permit, the applicant update the project site plan to indicate the location of the proposed sewer line and sewer line easement and provide written confirmation from the Summerland Sanitary District that the updated plans and project have complied with all District requirements for connection. Pursuant to evidence provided by the applicant, access is provided by the an unnamed County access road via known as Wallace Avenue, sometimes referred to as Finney Street. The County has assigned to the residence and site the address of 2551 Wallace Avenue, Summerland. Historic documents presented by the applicant pertaining to the unnamed County access road are included as Attachments 16 and 17 of Attachment-15 to the Board Letter dated January 9, 2018 and by further evidence included in the applicant's counsel updated letter to the Board for this hearing. Fire Service will be provided by the Carpinteria-Summerland Fire District and police services will be provided by the County Sheriff. Therefore, this finding can be made.

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**B. Findings required for Coastal Development Permit applications subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission. In compliance with Section 35-169.5.3 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission the decision-maker shall first make all of the following findings:**

1. **The proposed development conforms:**
  - a. **To the applicable provisions of the Comprehensive Plan, including the Coastal Land Use Plan;**
  - b. **The applicable provisions of this Article or the project falls within the limited exceptions allowed in compliance with Section 161 (Nonconforming Use of Land, Buildings and Structures).**

As discussed in Attachment-10 (Policy Consistency Analysis) and Attachment-11 (Ordinance Consistency Analysis), to the Board Letter dated January 9, 2018, and incorporated herein by reference, the project is consistent with the requirements of the Comprehensive Plan, including the Coastal Land Use Plan and the Summerland Community Plan, and with the Article II Coastal Zoning Ordinance. Therefore, this finding can be made.

2. **The proposed development is located on a legally created lot.**

The subject property is shown as Lots 27, 28, and 29 in Block 39 of the Town of Summerland, in the County of Santa Barbara, State of California, as per Rack No. 1, Map No. 2 in the office of the Recorder of said County. Together, these three lots comprise a single legal parcel that is, and for over 100 years has been, developed with an occupied privately-owned single family residence. Therefore, this finding can be made.

3. **The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).**

In 2007, the unpermitted demolition of ~~all but one wall~~ a large portion of the historical nonconforming residence and the initiation of construction of a new

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two-story residence on the subject property resulted in the creation of Building Violation Case No. 07BDV-00000-00020. The partially built, unpermitted residence continues to exist on-site. The proposed project will change the land use designation and zoning of the parcel from REC to 7-R-1 residential to allow for single family dwelling use. Additionally, ~~it~~ the rezone will permit allow for completion of demolition of the existing historical and the unpermitted new dwelling and construction of a new single family dwelling, thereby rectifying the existing violation and bringing the subject property into compliance with the provisions of the Article II Coastal Zoning Ordinance. To date, all applicable processing and enforcement fees have been paid. Therefore, this finding can be made.

**4. The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.**

The site is located along an approximately 4,000 foot stretch of Highway 101 containing, for the most part, broad unobstructed ocean views. The area south of the highway, and containing the subject property, is within a view corridor overlay. The subject property is notable due to its existing mature trees and shrubs that partially screen the site from public view, but, and is partially visible from Lillie Ave. (Lillie Ave, bike trail, sidewalk), Greenwell Ave. at Lillie, and from Highway 101 North and South. From these vantage points, the proposed two-story residence will partially block views of the ocean, as did the historic residence, and as evidenced by its the existing partially demolished historic building and as evidenced by its the existing partially demolished historic building. However, the proposed residence is only 55 feet in length, which is approximately 1% of the currently available 4,000 foot long public ocean viewing area along this stretch of highway. In addition, the residence will be framed and partially obstructed by the existing mature trees and shrubs located on-site that already create a brief view blockage of the ocean as seen from the highway. The residence will not block public views up and down the beach and, given the height of the bluff which already dominates views to the north, it will not block mountain views from the beach. Finally, the South Board of Architectural Review (BAR) indicated that they "[Accept] the height as proposed in exceedence of view corridor height limitations for good design," and that the project "will add to the character of the area." Please see Attachment-12 of the Board Letter dated January 9, 2018 for the full BAR meeting minutes. Therefore, this finding can be made.

**5. The proposed development will be compatible with the established physical scale of the area.**

The subject property is surrounded on all sides by the County road to the north and UPRR owned property to the north, south, east and west that is either undeveloped, or developed with railroad tracks, or is sandy beach. A small shed

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is located on the UPRR parcel to the east of the subject property. The subject property contains trees and shrubs and for over 100 years has had a single family residence. Consequently, the physical scale of the area is defined by open space, a single family residence, and existing vegetation ~~rather than structures~~. The proposed residence is below the height of the tallest surrounding vegetation and therefore the proposed development will be compatible with the established physical scale of the area, and this finding can be made.

6. **The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.**

The development site is on a steep, high bluff well above the sandy beach below, with no trail or staircase connecting the two. The County access road serving the residence largely is devoted to public use, including parking, to access the public Summerland Beach lying below the site. Lookout Park, located approximately 0.45 miles from the subject property, currently provides safe public beach access, parking, picnic tables, restrooms and children's playground amenities. Therefore, public access is already available in close proximity to the project site, and so a new access easement on the subject property is not needed would be necessary or useful to the public. In addition, as discussed under the recreation discussion in Attachment 10 of the January 9, 2018 Board letter, and incorporated herein by reference, the project will comply with all applicable public access and recreation policies of the Comprehensive Plan including the Coastal Land Use Plan. Therefore this finding can be made.

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**Attachment-10**

**Comprehensive Plan Consistency Discussion**

The consistency analysis discussion below pertains to the project as a whole, including the Coastal Development Permit, Variance, General Plan Amendment and Rezone.

REQUIREMENT	DISCUSSION
<b>Services</b>	
<p><b>Coastal Plan Policy 2-6:</b> Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan. Where an affordable housing project is proposed pursuant to the Affordable Housing Overlay regulations, special needs housing or other affordable housing projects which include at least 50% of the total number of units for affordable housing or 30% of the total number of units affordable at the very low income level are to be served by entities that require can-and-will-serve letters, such projects shall be presumed to be consistent with the water and sewer service requirements of this policy if the project has, or is conditioned to obtain all necessary can-and-will-serve letters at the time of final map recordation, or if no map, prior to issuance of land use permits.</p>	<p><b>Consistent:</b> Water service for the site would be provided by the Montecito Water District. The Montecito Water District provided a Certificate of Water Service Availability dated August 14, 2015 and an existing waterline located within an <del>existing easement</del> <u>the existing County access road, known as Wallace Avenue or Finney Street, currently (and historically)</u> provides water service to the site. Sanitary service would be provided by the Summerland Sanitary District, <u>located nearby on the same County access road.</u> The Summerland Sanitary District provided a "Sewer Service Availability" letter dated July 31, 2017. The letter specifies that the property owner is responsible for complying with all District requirements for a connection permit. Condition 20 (Attachment-6 to this Board letter) requires that prior to issuance of the Coastal Development Permit, the applicant update the project site plan to indicate the location of the proposed sewer line and sewer <del>line easement</del> <u>encroachment permit or other easement document</u> and provide written confirmation from the Summerland Sanitary District that the updated plans and project have complied with all District requirements for connection. Pursuant to the applicant, access is provided by <del>an unnamed access road via</del> <u>Wallace Avenue, also sometimes called Finney Street. The County has assigned to the residence and property the address of 2551 Wallace Avenue, Summerland. Historic documents pertaining to the unnamed access</u></p>

	<p>read Wallace Avenue are included as Attachments 16 and 17 of Attachment-15 (Board Agenda Letter dated November 13, 2015) to the Board letter dated January 9, 2018 and in the applicant's counsel's updated letter to the Board in preparation for this hearing. Fire Service would be provided by the Carpinteria-Summerland Fire District and police services would be provided by the County Sheriff.</p> <p>With regard to the The General Plan Amendment and Rezone request (GPA/RZN), it would be consistent with applicable policies and with the general community welfare to allow conversion of property from recreational to residential status (its status before the REC designation was applied) where adequate services are available to serve the proposed residential site, as discussed above.</p>
<b>Geologic Processes</b>	
<p><b>Coastal Plan Policy 3-4:</b> In areas of new development, above-ground structures shall be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such standard will make a lot unbuildable, in which case a standard of 50 years shall be used. The County shall determine the required setback. A geologic report shall be required by the County in order to make this determination.</p> <p><b>Coastal Plan Policy 3-5:</b> Within the required blufftop setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish property drainage or to install landscaping, and minor improvements, i.e., patios and fences that do not impact bluff stability, may be permitted. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and</p>	<p><b>Consistent:</b> The retreat rate for the coastal bluff adjacent to the subject property has been estimated at an average of 0.36 feet per year (Evaluation of Bluff Stability and Seacliff Retreat, Michael Hoover, January 6, 2012). Over 75 years, this retreat rate results in a setback of 27 feet. However, a 27 foot setback would result in an only 27 by 55 foot (1,485 square foot) area within which a home could be built, and a 27 foot bluff setback would extend to the middle of the proposed structure making the proposed residence unbuildable. In addition justification for the reduced setback, the project geologist has commented that the toe of the bluff adjacent to the subject property has greater protection than other seacliffs within the area. Specifically, fill material at the bluff base (placed in 2001) contains "concrete and boulders that protect the toe of the slope from wave attack to a greater degree than most undisturbed (natural) sea cliffs in this area" (Response to Comments, Michael</p>

percolating water.

**Coastal Plan Policy 3-6:** Development and activity of any kind beyond the required blufftop setback shall be constructed to insure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself.

**Coastal Plan Policy 3-7:** No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.

**Summerland Community Plan Policy GEO-S-3:** All new development on ocean bluff-top property shall be carefully designed to minimize erosion and sea cliff retreat and to avoid the need for shoreline protection devices in the future.

**Summerland Community Plan Action GEO-S-3.1:** The County shall require all development proposed to be located on ocean bluff top property to perform a site specific analysis, prior to project review and approval, by a registered or certified geologist to determine the extent of the hazards (including bluff retreat) on the project site. Recommendations indicated in the analysis required by RMD shall be implemented.

Hoover, July 28, 2016). ~~Therefore~~Because Policy 3-4 provides for the use of a 50-year bluff setback ~~where imposition of a 75-year bluff setback would make the parcel unbuildable~~, a standard of 50 years has been used, resulting in a required blufftop setback of 18 feet. The proposed project would be setback 24 feet from the bluff edge and would therefore meet and exceed the 18 foot/50 year setback. ~~No~~The project includes no development is ~~proposed~~ on the bluff face and all proposed vegetation within the blufftop setback is proposed to be drought tolerant. The proposed grading and drainage plan shows that drainage would be directed away from the bluff face and to an on-site trench drain where it would infiltrate on-site, so the project drainage will not contribute to erosion of the bluff face or the stability of the bluff.

In addition to the bluff stability analysis discussed above, and to conform to Summerland Community Plan Action GEO-S-3.1, a "Coastal Hazard & Wave Runup Study," was prepared by GeoSoils, Inc. (2016), a qualified geologist, to analyze the effects of sea-level rise and wave run-up on the subject property. The study ~~found~~concluded that wave run-up will not reach the structure even under the highest level sea-level rise estimate at 75 years. In addition, the project has been conditioned (condition 4) to comply with the requirements ~~of suggested~~by the project geologist.

The applicant has consented to conditions that would preclude installation of shoreline protection devices at the toe of the bluff in the future.

~~With regard to the~~The General Plan Amendment and Rezone request (GPA/RZN), it would be consistent with applicable policies

	<p>and with the general community welfare for development on a proposed residential lot to be sited and designed in a manner consistent with geologic protection policies. Consistency with applicable geologic policies is discussed in greater detail above.</p>
<p><b>Noise</b></p>	
<p><b>Summerland Community Plan Policy N-S-1:</b> Interior noise-sensitive uses (i.e., residential and lodging facilities, educational facilities, public meeting places and others specified in the Noise Element) shall be protected to minimize significant noise impacts.</p>	<p><b>Consistent:</b> The subject property is located adjacent to <u>immediately south of Highway 101 and UPRR on the north and immediately north of the Pacific Ocean on the south</u>. A noise study was prepared for the proposed project by a <u>qualified expert</u> (Matthew McDuffee, Acentech, May 15, 2009). The study found that noise levels would have the potential to exceed the County threshold of 65 dB(A) exterior/45 dB(A) interior. The study found noise levels of 67 Ldn dB(A) on-site and states, "the reason that the noise level exceeds the criteria is because of the sound level contribution from the waves on the Pacific Ocean." In order to reduce interior noise to levels to acceptable limits, the study provides recommendations for the use of "sound-proof" windows. Exterior use areas south of the proposed residence are buffered by the house to reduce exterior noise from HWY 101 and UPRR. Exterior use areas are not proposed between the house and railroad tracks. The study identifies that while the ocean is a primary contributing factor to noise levels on-site, the sound "emanating from the ocean [is] a pleasant addition to the property's atmosphere." Condition 6 requires compliance with the recommendations of the noise study. With incorporation of this condition, the project would be consistent with applicable noise policies.</p>
<p><b>Summerland Community Plan Action N-S-1.2:</b> For discretionary projects meeting the definition of a noise sensitive land use as defined in the Noise Element of the Santa Barbara Comprehensive Plan (Page 58) and which: 1) is located between U.S. Highway 101 on the south and the east-west line defined by Golden Gate Avenue to the north, or 2) is located south of U.S Highway 101, shall be subject to an acoustic evaluation. The evaluation should include a study of the ambient noise level, determination of the CNEL at the site and an analysis of the architectural design requirements to ensure compliance with the County of Santa Barbara Noise Threshold Criteria for indoor areas in the DER Thresholds Manual. Where feasible and desirable, design shall also consider noise levels for outdoor living areas. The evaluation should be prepared by a professionally registered engineer with a specialty in environmental acoustics.</p>	<p>With regard to the <u>The General Plan Amendment and Rezone request (GPA/RZN)</u>, it would be consistent with applicable policies and general community welfare to allow</p>

	<p>conversion of property from recreational to residential status (its status before the REC designation was applied) where feasible design measures can be implemented to reduce noise exposure to acceptable limits. Consistency with applicable geologic policies is discussed in greater detail above.</p>
<b>Recreation</b>	
<p><b>Coastal Plan Policy 7-9:</b> Additional opportunities for coastal access and recreation shall be provided in the Summerland planning area. Parking, picnic tables, bike racks, and restrooms shall be provided where appropriate.</p> <p><b>Coastal Plan Policy 7-9 Implementing Action (a):</b> The County shall acquire the beach and bluff area south of Wallace Avenue. The parking area shall be landscaped, and measures taken to minimize further erosion along the bluffs and railroad embankment. Paths to the parking area shall be well defined.</p> <p><b>Coastal Act Policy 30222:</b> The use of private lands suitable for visitor-serving commercial recreation facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.</p>	<p><b>Consistent:</b> While the current land use and zoning of the lot designate it for recreation, and although Coastal Plan Policy 7-9 mandates that additional public parking, picnic tables, bike racks and restrooms be provided in Summerland, the policy doesn't directly address this site and this site is not suitable for those purposes. Its small size (a total of 4,356 square feet), conflicting surrounding zoning and land uses ("Transportation Corridor" and UPRR tracks), its location on a high, steep bluff, as well as its isolation from the beach by a steep coastal bluff because no trail or staircase connects the project site to the beach below, not to mention its private ownership by the owner of the existing (if partially demolishe) residence limit the preclude public or private recreational opportunities for the lot on the site. The Policy 7-9 identifies the beach and bluff area south of Wallace Avenue for acquisition, but it doesn't specify this site as being the intended area for the acquisition described. In fact, most of the land south of Wallace Avenue, including the sandy beach, is owned by UPRR and might be available for acquisition on mutually agreeable terms, particularly the beach area. The railroad-owned bluff top area likewise is isolated from the beach by the high, steep bluff. Wallace Avenue, the County access road serving the O'Neil residence and site largely is devoted to public use, including parking, to access the public Summerland Beach lying below the site and narrows to driveway width along the</p>

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	<p>parcel frontage. In addition, Lookout Park, located approximately .45 miles from the subject property, currently provides <u>safe beach access</u> (including walkable access along the beach to the area below the subject lot) parking, picnic tables, restrooms, and children's playground amenities. Because the property is not well-suited to <u>suitable for public or private recreational development or use</u> and because existing nearby facilities already provide recreational amenities, the project site does not warrant visitor-serving commercial recreational use as a priority over private residential development in the manner envisioned by Coastal Act Policy 30222.</p> <p>With regard to the <u>The General Plan Amendment and Rezone request (GPA/RZN)</u>, it would be consistent with applicable recreation policies and in the interest of general community welfare to allow continued residential use of a privately owned property (via approval of GPA and RZN), particularly when the property is not well-suited for <u>public and private recreational use</u> (as discussed above).</p>
<b>Visual Resources</b>	
<p><b>Coastal Act Policy 30251:</b> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.</p> <p><b>Coastal Plan Policy 4-9:</b> Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway #101,</p>	<p><b>Consistent:</b> The site is located within an approximately 4,000 foot long stretch of Highway 101 containing, for the most part, broad unobstructed ocean views, and is within a view corridor overlay. The project (including the General Plan Amendment, Rezone, Coastal Development Permit and Variance) are located on a property that is notable due to for its existing <u>partially-demolished house that has been heavily covered by graffiti</u>, mature trees and shrubs and is <u>visible</u> visibility from Lillie Ave. (Lillie Ave, bike trail, sidewalk), Greenwell Ave. at Lillie, and from Highway 101 North and South. From these vantage points, the proposed two-story residence, like</p>

<p>and shall be clustered to the maximum extent feasible.</p> <p><b>Coastal Plan Policy 4-5:</b> In addition to that required for safety, further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Bluff top structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.</p> <p><b>Summerland Community Plan Policy VIS-S-3:</b> Public views from Summerland to the ocean and from the Highway to the foothills shall be protected and enhanced.</p>	<p><del>the current partially-demolished residence,</del> would partially block views of the ocean as evidenced by its <del>current</del> <u>the partially demolished historic residence and partially constructed state replacement residence.</u> However, the proposed residence is only 55 feet in length, which is approximately 1% of the 4,000 foot long public ocean viewing area along this stretch of highway. In addition, the <u>proposed residence</u> would be framed and partially obstructed by the existing mature trees and shrubs located on-site that already create a brief view blockage of the ocean as seen from the highway. The <u>proposed residence</u> would not block public views up and down the beach and, given the height of the bluff <del>which that</del> already dominates views north, would not block mountain views from the beach. Finally, the South Board of Architectural Review (BAR) indicated that they "[Accept] the height as proposed in <del>exceedence</del> of view corridor height limitations for good design," and that the project "will add to the character of the area." Please see Attachment-12 to the Board Letter dated January 9, 2018 for the full BAR meeting minutes.</p>
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## Attachment-11 Article II Coastal Zoning Ordinance Consistency Analysis

### Zoning Designation

The subject 0.10-acre property is currently zoned REC (Recreation) and is proposed to be rezoned to 7-R-1 (Single-Family Residential, 7,000 square foot/.16-acre minimum lot size) under the requested Rezone. Prior to its rezone to REC, the property was residentially zoned and, since prior to 1900, it was developed with and used for residential purposes. With regard to REC zoned parcels, Article II Section 35-89.1 states, *"The purpose of this district is to provide open space for various forms of outdoor recreation of either a public or private nature. The intent is to encourage outdoor recreational uses which will protect and enhance areas which have both active and passive recreation potential because of their beauty and natural features. Such development should offer recreational uses which compliment [sic] and are appropriate to the area because of these features."* While the property is coastal adjacent and therefore possesses aesthetic beauty associated with natural features consistent with the REC zone designation, it is also significantly constrained by factors which that make the property unsuited to high-quality public or private recreational use. Specifically, the lot's small size (a total of 4,356 square feet), conflicting surrounding zoning and land uses ("Transportation Corridor" and UPRR tracks), and its isolation from the beach by a steep coastal bluff limit the recreational opportunities for the lot, and its current and historic private ownership, occupancy, residence, and use for residential purposes.

With regard to R-1 zoned parcels, Article II Section 35-71.1 states, *"The purpose of this district is to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of this district to protect the residential characteristics of an area and to promote a suitable environment for family life."* The Rezone would convert the property to 7-R-1 such that it would be consistent with the proposed use of the parcel for single-family residential use and with its use and zoning prior to being rezoned to REC. While the 0.10-acre property is below the minimum lot area (7,000 square feet/.16 acres) for the 7-R-1 zone, the rezone is acceptable from this perspective because the subject property is an existing legal lot of record, historically developed and occupied for residential purposes, and because Article II, Section 35-71.6.2 states *"a dwelling may be located upon a lot with less area than required in Section 35-71.6.1 unless such lot is a fraction lot."* The subject lot is not a fraction lot. It comprises three (3) Williams Summerland lots that were consolidated into a single lot with a house and associated landscaping and improvements. In addition, 7-R-1 is the zone district with the lowest acreage requirement of all the County's zone districts and is therefore the most appropriate residential zoning designation to use for the request.

### Services

Article II Section 35-60.5 states, *"Prior to issuance of a Coastal Development Permit, the County shall make the finding, based on information provided by environmental documents, staff*

*analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated on the Land Use Plan or zoning maps."*

Water service for the site historically has been provided to the residence on the site and will be provided by the Montecito Water District. The Montecito Water District provided a Certificate of Water Service Availability dated August 14, 2015 and an existing waterline located within an existing easement~~the existing County Road, known as Wallace Avenue or Finney Street,~~ provides water service to the site. Sanitary service will be provided by the Summerland Sanitary District, located nearby on the same County Road. The Summerland Sanitary District provided a "Can and Will Serve" letter dated July 31, 2017. The letter specifies that the property owner is responsible for complying with all District requirements for a connection permit. Condition 20 (Attachment-6 to the Board Letter dated January 9, 2018) requires that prior to issuance of the Coastal Development Permit, the applicant update the project site plan to indicate the location of the proposed sewer line and sewer line~~County encroachment permit or other~~ easement and provide written confirmation from the Summerland Sanitary District that the updated plans and project have complied with all District requirements for connection. Pursuant to the applicant, access is provided by an unnamed-existing County access road ~~via-known as Wallace Avenue or Finney Street.~~ The house and property have been issued an address of 2551 Wallace Avenue, Summerland, by the County. Historic documents presented by the applicant pertaining to the unnamed access road~~Wallace Avenue~~ are included as Attachments 16 and 17 of Attachment-15 to the Board Letter dated January 9, 2018 and the applicant's updated letter to the Board in preparation for this hearing. Fire Service will be provided by the Carpinteria-Summerland Fire District and police services will be provided by the County Sherriff. Therefore, the project is consistent with this ordinance requirement.

## **Height**

Article II Coastal Zoning Ordinance View Corridor Overlay District Section 35-96.3 states,

*"The Board of Architectural Review shall approve the plans if it finds conformance with the following standards:*

- a. Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway 101, and shall be clustered to the maximum extent feasible.*
- b. Building height shall not exceed 15 feet above average finished grades, unless an increase in height would facilitate clustering of development and result in greater view protection, or a height in excess of 15 feet would not impact public views to the ocean, in which case the height limitations of the base zone district shall apply."*

The proposed residence is 22 ft 3 inches in height with 31 foot 6 inch tower. Pursuant to Section Article II Section 35-96.3, the Board of Architectural Review (BAR) may provide approval for

the project to exceed the view corridor height limit and pursuant to Article II Section 35-127.A.3, "*Chimneys, church spires, elevator, minor mechanical and stair housings, flag poles, noncommercial antennas, towers, vents, and similar structures which are not used for human activity may be up to 50 feet in height in all zone districts where such excess heights are not prohibited by Section 35-96 (VC - View Corridor Overlay District).*" The Board of Architectural Review (BAR) reviewed the project on seven separate occasions and specifically considered the applicant's request to exceed the view corridor height limitation for the 22 ft 3 inch residence with 31 foot 6 inch tower (which is not used for human activity within the portion exceeding the zone district height limit). On February 3, 2017 the BAR indicated that they "[Accept] the height as proposed in exceedence of view corridor height limitations for good design," and that the project "will add to the character of the area."

### **Setback and Parking Variance**

The project is subject to a minimum 10 foot setback on all sides due to the fact that it is an interior lot (see Article II Section 35-126.3 for interior lot setback standards.) The project meets this requirement with a 10 foot western side setback and approximately 23 foot south/front setback. The project includes a request for a Variance from the parking and setback regulations to allow: a rear setback of 2 feet 4 inches instead of the required 10 feet; a side setback of 8 feet instead of the required 10 feet; and, zero uncovered parking spaces instead of the required 2 uncovered parking spaces. The existing house encroaches into the existing public road, Wallace Avenue. The proposed house will eliminate this encroachment.

With regard to Variance requests, Article II, Section 35-173.2.2 (applicability) states,

*"Where, because of unusual circumstances applicable to the lot such as size, shape, topography, location or surroundings, the strict application of the zoning regulations to land, buildings and structures would deprive such property of privileges enjoyed by other property in the vicinity with identical zoning, variances may be granted except that:*

- a. In no case shall a variance be granted to permit a use or activity which is not otherwise permitted in the district in which the property is situated.*
- b. In no case shall a variance from the procedural regulations of this Article be granted.*
- c. In no case shall a variance from the required number of parking spaces be granted as provided in Section 35-76, Medium Density Student Residential, Section 35-77, High Density Student Residential, and Section 35-102A, Single Family Restricted Overlay District."*

The unusual circumstances applicable to the property relate to its size, location, topography and surroundings. The property is relatively small, at 0.10 acres in size, and is constrained by a coastal bluff and required bluff-top setback to the south. In addition, the property is constrained by Wallace Avenue and the UPRR tracks to the north. Following rezone of the property from REC to 7-R-1, construction of a residence would be a permitted use/activity, and therefore the project would be compliant with Article II, Section 35-173.2.2.a. Consistent with Article II, Sections 35-173.2.2.b and c, no request for a variance from procedural regulations is proposed

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and the request for a reduction in parking spaces is not for a property located within the Medium or High Density Student Residential Overlay District. Please refer to Attachment-5 (Findings of Approval) to the January 9, 2017 Board Letter for an analysis of the required findings for approval of a variance pursuant to Article II Section 35-173.6.

**ATTACHMENT 6: CONDITIONS OF APPROVAL**

**Project Description**

1. **Proj Des-01 Project Description:** This Permit is based upon and limited to compliance with the project description, hearing exhibits, project plans and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

The proposed project includes a request for a Coastal Development Permit, Variance, General Plan Amendment and Rezone. The proposed Coastal Development Permit is for after-the-fact approval of the demolition of a 1,443 square foot residence, demolition of the existing, unpermitted, partially-constructed residence, and the construction of a new ~~2,284~~2,218 square foot residence. The proposed Variance is a request to allow a north setback of 2 feet 4 inches instead of the required 10 feet, a east setback of 8 feet instead of the required 10 feet, and zero uncovered parking spaces instead of the required 2 uncovered parking spaces. The proposed General Plan Amendment requests a Local Coastal Plan Amendment to change the land use designation of the property from Recreation/Open Space to Residential and the proposed Rezone requests a change in the zoning of the property from REC to 7-R-1.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

2. **Proj Des-02 Project Conformity:** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

**Conditions By Issue Area**

3. **Aest-06 Building Materials:** Natural building materials and colors compatible with surrounding terrain (earth-tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences.  
PLAN REQUIREMENT: Materials shall be denoted on building plans.  
TIMING: Structures shall be painted prior to Final Building Inspection Clearance.

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MONITORING: P&D compliance monitoring staff shall inspect prior to Final Building Inspection Clearance.

4. **Compliance with Geologic Recommendations:** The engineered structural and foundational plans submitted to building and Safety (B&S) shall comply with the recommendations of the following studies (and any required future studies): 1) Evaluation of Bluff Stability and Seacliff Retreat, Michael Hoover, January 6, 2012; 2) Response to Comments, Michael Hoover, July 28, 2016; 3) Coastal Hazard & Wave Runup Study, GeoSoils, Inc. 2016; 4) County of Santa Barbara Coastal Engineering Review, Geodynamics, Inc. November 17, 2016.

The plans shall incorporate specific final recommendations from the reports referenced above, in particular, the plans shall incorporate plan check comments as required by the County of Santa Barbara Coastal Engineering Review, Geodynamics, Inc. November 17, 2016. In addition, the applicant shall submit a certification from the project engineer (Michael Hoover) confirming that the final project plans conform to their engineering recommendations

**PLAN REQUIREMENTS:** The Owner/Applicant shall submit the plans and engineers certification for B&S review and approval as a part of the building permit submittal set. Elements of the approved study shall be reflected on grading and building plans as required.

**TIMING:** The Owner/Applicant shall submit plans and engineers certification prior to grading/building permit issuance.

**MONITORING:** Grading and building inspectors shall ensure compliance in the field.

- ~~5. **Noise 02 Construction Hours:** The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m. Monday through Friday.~~

~~No construction shall occur on weekends or State holidays. Non noise generating interior construction activities such as plumbing, electrical, drywall and painting (which does not include the use of compressors, tile saws, or other noise-generating equipment) are not subject to these restrictions.~~

~~Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein.~~

~~**PLAN REQUIREMENTS:** The Owner/Applicant shall provide and post a sign stating these restrictions at all construction site entries.~~

~~**TIMING:** Signs shall be posted prior to commencement of construction and maintained throughout construction.~~

~~**MONITORING:** The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre construction meeting. Building inspectors and permit compliance staff shall spot check and respond to complaints.~~

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6. **Noise-03 Noise Study:** The project shall comply with the requirements and recommendations of the onsite noise study (Matthew McDuffee, Acentech, May 15, 2009) as follows:

-Windows on the north, west and east sides of the structure shall have a minimum STC 35 rating.

-Windows on the south side of the structure shall have a minimum STC 27 rating.

**PLAN REQUIREMENTS:** All construction techniques and recommendations of the noise study shall be incorporated into design of the project and detailed on building plans.

**MONITORING:** Building inspectors shall ensure that all noise control measures have been built or incorporated according to the approved plans. If an acoustical survey is required, P&D compliance monitoring staff will ensure recommended levels have been reached prior to Final Building Inspection Clearance.

7. **Stormwater Control Plan:** Prior to Coastal Development Permit issuance, the applicant shall submit a Tier 1 Stormwater Control Plan to P&D and Project Cleanwater staff. Timing. The applicant shall obtain approval from Project Cleanwater staff prior to CDH issuance.

8. **WatCons-03 Water Conservation in Landscaping:** The project is subject to the California Water Conservation in Landscaping requirements. Prior to issuance of the CDH, the owner shall fill out, obtain the stamp of the appropriate licensed professional, sign, and submit to P&D a Residential Water Authorization Supplemental application or Water Efficient Landscape Ordinance Supplemental application, as appropriate to the size of the landscape area.

**TIMING:** The supplemental application shall be completed, stamped, signed, and submitted to P&D prior to issuance of the CDH. The landscape and irrigation shall be installed per plan prior to Final Building Inspection Clearance.

**MONITORING:** Permit Compliance shall check in the field prior to Final Building Inspection Clearance.

**PLAN REQUIREMENTS:** The Owner/Applicant shall depict the California Water Conservation in Landscaping supplemental application landscape plans on building plans.

### **County Rules and Regulations**

9. **DIMF-24d DIMF Fees-Fire:** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid.

The total Fire DIMF amount is currently estimated to be \$3,748 (September 2017). This is based on a project type of a single family dwelling and a project size of 2,218 square feet.

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TIMING: Fire DIMFs shall be paid to the County Fire Department prior to Final Building Permit Inspection and shall be based on the fee schedules in effect when paid, which may increase at the beginning of each fiscal year (July 1st).

- 10. DIMF-24e DIMF Fees-Parks:** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid.

The total Parks DIMF amount is currently estimated to be \$1,318 (September 2017). This is based on a project type of [single family dwelling and a project size of 2,218 square feet.

TIMING: Parks DIMFs shall be paid to the County Parks Department prior to Final Building Permit Inspection and shall be based on the fee schedules in effect when paid, which may increase at the beginning of each fiscal year (July 1st).

- 11. DIMF-24g DIMF Fees-Transportation:** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid.

The total DIMF amount for Transportation is currently estimated to be \$1,173 (September 2017). This is based on a project type of single family dwelling and a project size of 2,218 square feet. TIMING: Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to Final Building Permit Inspection and shall be based on the fee schedules in effect when paid, which may increase at the beginning of each fiscal year (July 1st).

- 12. ~~Rules-02 Effective Date Appealable to CCC:~~** ~~The Coastal Development Permit with Variance shall become effective upon the expiration of the applicable appeal period provided an appeal has not been filed. If an appeal has been filed, the planning permit shall not be deemed effective until final action by the review authority on the appeal, including action by the California Coastal Commission if the planning permit is appealed to the Coastal Commission. [ARTICLE II § 35-169].~~

- 13. Rules-04 Additional Approvals Required:** ~~Approval of this~~This Coastal Development Permit is shall not be deemed approved unless and until~~subject to~~ the California Coastal Commission approves the required Rezone and Coastal Plan Amendment. [Article II § 35-169.4.3.j.] The Coastal Development Permit shall become effective upon the final action by the Coastal Commission on the Rezone and Coastal Plan Amendment, and if an appeal of the Coastal Development Permit with Variance has been filed, the Coastal Commission's final action on the appeal.

- 14. Rules-05 Acceptance of Conditions:** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.

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**15. Rules-10 CDP Expiration-No CUP or DVP:**

The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the effective date of action by the Board of Supervisors the permit. Prior to the expiration of the approval, the

review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

**16. Rules-29 Other Dept Conditions:** Compliance with Departmental/Division letters required as follows:

1. Air Pollution Control District dated December 15, 2017;
2. Summerland Sanitary District dated July 31, 2017
3. Carpinteria-Summerland Fire Department dated January 20, 2009;
4. Montecito Water District dated August 14, 2015.

**17. Rules-31 Mitigation Monitoring Required:** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:

- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
- b. Sign a separate Agreement to Pay for compliance monitoring costs and remit a security deposit prior to Coastal Development Permit issuance as authorized by ordinance and fee schedules. Compliance monitoring costs will be invoiced monthly, and may include costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute. Monthly invoices shall be paid by the due date noted on the invoice;
- c. Note the following on each page of grading and building plans "This project is subject to Condition Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval.
- d. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.

**18. Rules-33 Indemnity and Separation:** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or

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employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

**Other**

**19. Correct Plans:** Prior to issuance of the Coastal Development Permit, all elements of the project plans that show proposed construction (fencing, hardscape, etc.) on adjacent parcels that are not owned by the property owner/applicant shall be deleted from the project plans. Timing: Corrected plans, acceptable to P&D staff, shall be submitted prior to CDH issuance.

**20. Sewer Line:** Prior to Coastal Development Permit issuance the applicant shall update the project site plan to indicate the location of the proposed sewer line and sewer line easement and any associated grading. In addition, the applicant shall provide written confirmation from the Summerland Sanitary District that the updated plans and project have complied with all District requirements for connection. Timing: The updated plans and District confirmation shall be provided to P&D staff prior to CDH issuance.

**21. Special Condition 4 Sign Restriction:** Applicant and Applicant's successors in title shall post no signs on the property subject to this permit that (a) explicitly or implicitly indicate that the portion of the sandy beach located adjacent to the subject property is private or otherwise not open to the public; or , (b) contains similar messages that attempt to prohibit public use of the portion of the sandy beach located adjacent to the subject property. In no instance shall Applicant or Applicant's successor in title post signs that read "Private Beach" or "Private Property" seaward of the property. Prior to posting any sign other than one that identifies the street address and owner's name, the Applicant or Applicant's successor in title shall submit the content of the proposed signs to the County for review and approval.

**22. Special Condition 5 Public Rights:** A.  
The County's approval of this permit shall not constitute a waiver of any public rights that may exist on the subject property. Applicant and Applicant's successors in title shall not use this permit as evidence of a waiver of any public rights that may exist on the subject property now or in the future.

B. This permit does not authorize the permitted development to physically interfere with any public access rights that may exist on the subject property now or in the future.

~~23. UPRR Authorization:~~ Prior to Coastal Development Permit issuance, the applicant/owner shall either 1) obtain approval from Union Pacific Railroad (UPRR)

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~~for all project elements within the UPRR right of way; or 2) revise the project to remove all project elements from the UPRR right of way.~~ Timing: Proof of UPRR

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~~approval, in written form, of all project elements within the UPRR right of way or revised plans removing all project elements from the right of way shall be submitted to P&D staff prior CDH issuance.~~

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