

WELCOME TO LAS VARAS AND EDWARDS RANCHES



Board of Supervisors Hearing, April 17, 2012

**Brownstein | Hyatt
Farber | Schreck**









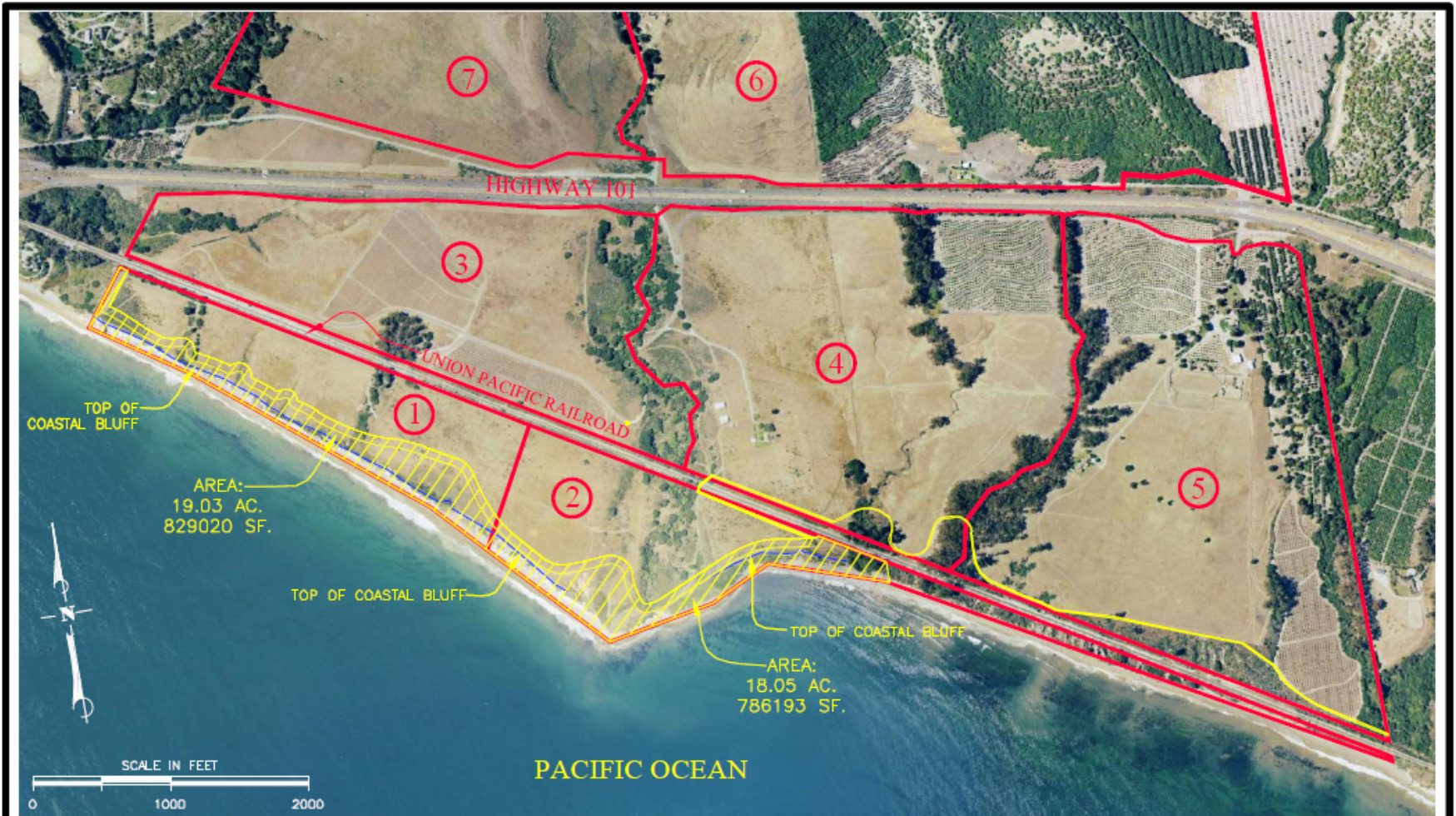
History

- Doheny family purchased the ranches in 1967 and 1969 -- operated as a combined, viable agricultural enterprise ever since
- Tim Doheny wanted to keep the ranches together and devised this project to address his unique estate planning needs
- Contrary to Mr. Chytalo's claim, the applicant's motive isn't part of the project description for environmental review, doesn't require analysis.

- Tim Doheny wanted to offer trails but had to control public access to protect the agricultural operation. His foresight also protects vast areas of sensitive habitat.
- 3 projects analyzed as 1 but still separated by fee – railroad and highway
- Staff report error – there are 3 buildable parcels South of railroad – eastern one is small but buildable. Project results in fewer lots.
- Relevant to nexus but not decisive to issue

Trail Alternatives

- Each alternative results in loss of productive agricultural land.
- All alternatives result in sensitive resource impacts.
- PRC § 30210 – recreational opportunities shall be provided consistent with the need to protect rights of private property owners and natural resource areas.
- PRC §30212(a) – public access shall be provided except where agriculture would be adversely affected.



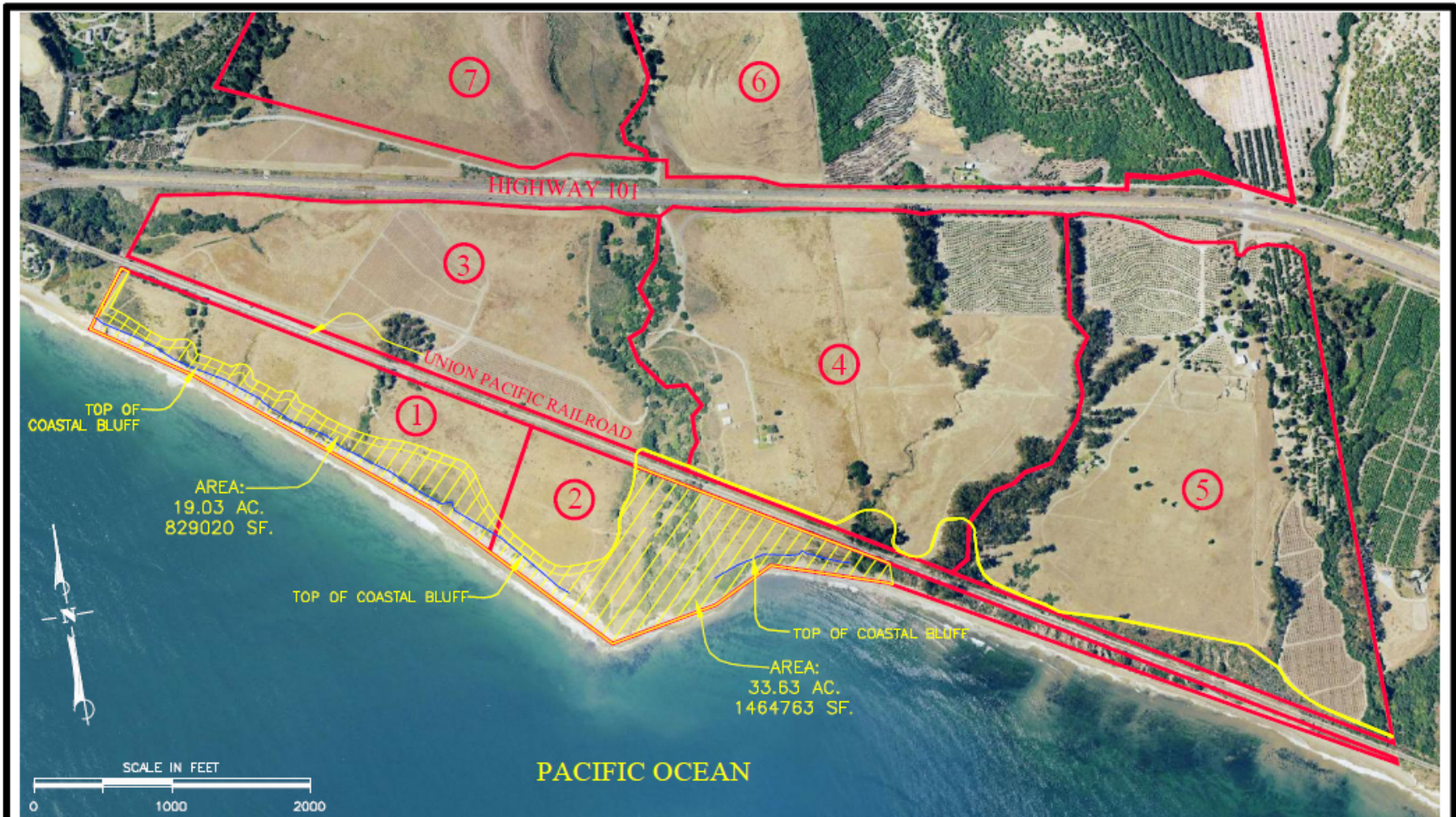
3 WEST CARRILLO STREET
 SUITE 205
 SANTA BARBARA, CA 93101
 (805) 962-4611

P.N. 01-022.01

TRAIL EXHIBIT MAP
ALTERNATE 1
LAS VARAS RANCH

SANTA BARBARA COUNTY, CALIFORNIA

SCALE 1" = 1000'



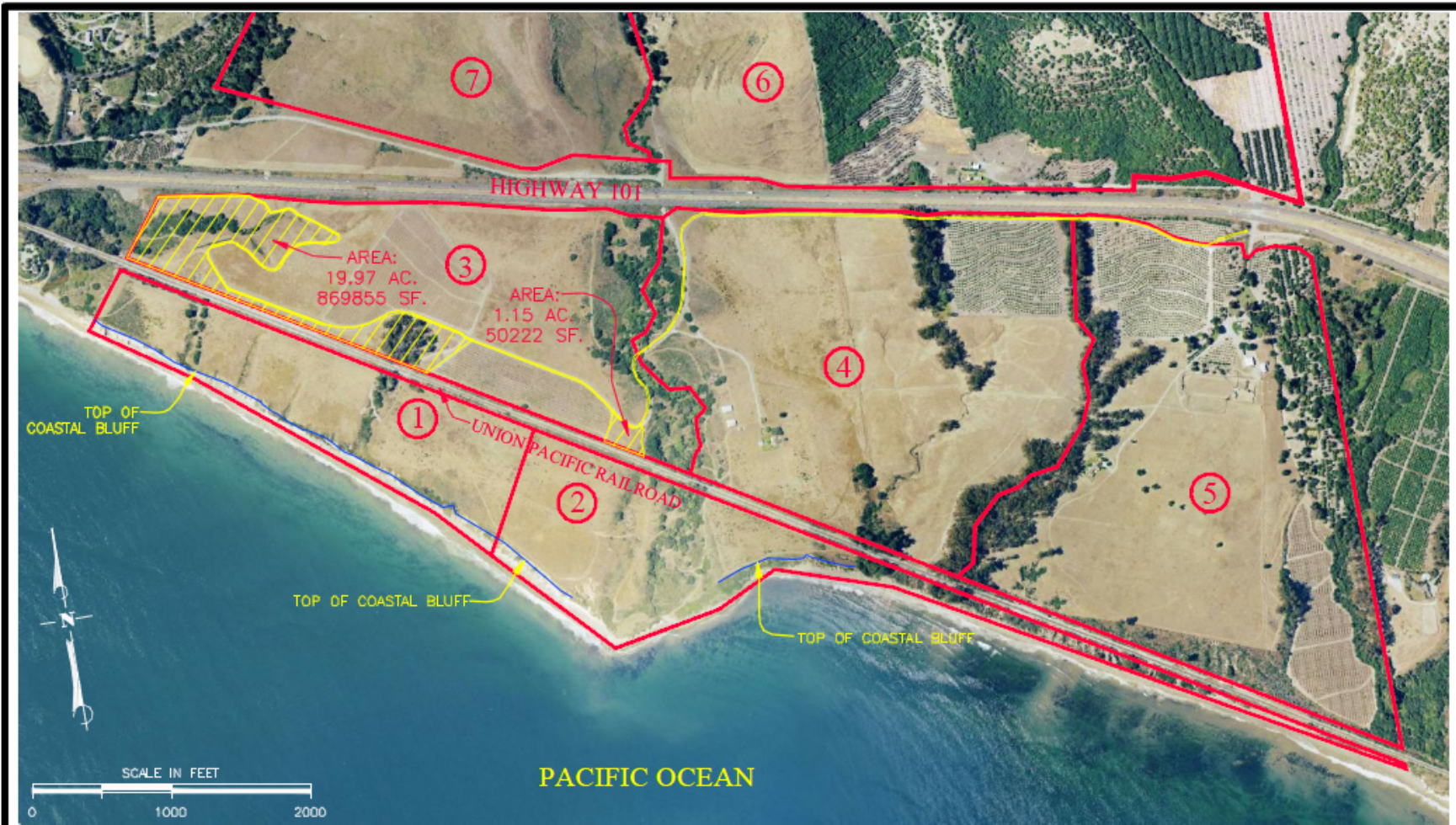
3 WEST CARRILLO STREET
SUITE 205
SANTA BARBARA, CA 93101
(805) 962-4611

P.N. 01-022.01

**TRAIL EXHIBIT MAP
ALTERNATE 2
LAS VARAS RANCH**

SANTA BARBARA COUNTY, CALIFORNIA

SCALE 1" = 1000'



3 WEST CARRILLO STREET
 SUITE 205
 SANTA BARBARA, CA 93101
 (805) 962-4611

P.N. 01-022.01

**TRAIL EXHIBIT MAP
 TRAUTWEIN PROPOSAL
 LAS VARAS RANCH**

SANTA BARBARA COUNTY, CALIFORNIA

SCALE 1" = 1000'

PUBLIC & TRAILS DON'T MIX

- Cows with calves are skittish & protective.
- Young calves will flee from people & dogs, running into and through fences.
- Calves are small enough to slip between wires when frightened but the cows are not, resulting in separation of mother and calf.
- Calves eat plastic & die
- A cow disturbed during calving will flee, which can injure her and the calf.



NO NEXUS

- South of railroad – only a lot line adjustment & merger
- Opposition proposal -- heaviest burden on these parcels – lost pasture, lost privacy, lost security
- No nexus between a lot line adjustment/merger and the exaction of any trail on these parcels.
- This isn't just any public trail – it's a network of trails that gut the pastureland and destroy the pristine & fragile natural habitats.

RAILROAD BRIDGES

- Required deck height –25 feet above tracks.
- This is a rural area but bridges must meet minimum standards for safety and for pedestrian use.
- Bridges over the tracks are inappropriate in this remote setting and would be visible from the highway and the beach.







NO POLICY BASIS FOR EXACTION

- Proposed alternative trails don't mitigate any environmental impact of the project
- Red herring – claim that a small group of surfers, friends of Doheny family members, who take pride in running off anyone who isn't part of their elite group, represent an existing public recreational use.
- They aren't the general public, don't want change that would make access easier to the general public. They enforce exclusivity.

COASTAL TRAILS ACT

- Does not require that Coastal Trail be as close to the ocean as possible. Trail “to the extent feasible, should be constructed along the state’s coastline.” Should be constructed in a manner that is consistent with the protection of coastal resources.
- SHALL be constructed in a manner that demonstrates respect for property rights, proximity to residential uses, and protection of property owner privacy.

- LCP Policy 7-25 – trails imposed shall be on parcel where project is proposed.
- The only project proposed that will increase the number of lots is between the highway and railroad, not along the bluff.
- Even if the project between the highway and railroad were of sufficient burden to public resources to justify a trail exaction (it isn't), the offered parking area and vertical trail are more than enough under the law.

CASE LAW

- County of Orange v. Chandler-Sherman Corp. – long term beach use by groups of people rarely larger than 15 who use it precisely because it's isolated, remote and lightly used. It does not constitute a public recreational area.
- Nollan – must have “essential nexus.”
- Dolan -- Must have “rough proportionality” between easement exacted and burden of project on recreational resources.

CASE LAW

- Project South of railroad – no nexus whatsoever between project and recreational resources. Already 3 buildable lots, including the 2 over which surfers cross from railroad.
- Owner could stop these surfers from reaching Edwards Point at any time unless they use only the area below mean high tide.
- Proposal provides safe access to Edwards Point for everyone, not just a select group.

NOLLAN ANALYSIS

- County policies indicate a definite desire for public coastal trails.
- Nollan court says this isn't a legitimate public interest if exacted by condition against applicant's will.
- Must have a willing donor or it's an unfair imposition of a public burden upon an individual property owner.
- More egregious where owner offers 3 trails.

NOLLAN ANALYSIS

- Even if the County can deny any of these 3 projects without violating due process (acting arbitrarily and capriciously), the exaction must further the end advanced as justification for the denial.
- There is no logical link between the applicant's refusal to offer trails, different from the ones she & her husband chose, and any legal and logical grounds for denying approval of these 3 projects.

DOLAN ANALYSIS

- In addition to an essential nexus, required by Nollan in 1984, Dolan in 1994 requires that there be a rough proportionality between the project impacts and the exaction.
- What the opposition wants – trails that destroy native habitat, intrude into the heart of the ranch, confiscate huge chunks of pasture land, and in the case of EDC's proposal, take over the main ranch road – isn't remotely proportional to potential recreational impacts of the project.

DOLAN ANALYSIS

- The Supreme Court's test of rough proportionality requires specific findings identifying the precise degree to which existing recreational trails are impacted by the project and linking those impacts to the exaction.
- The Supreme Court has become even more conservative since 1994 when it decided Dolan.
- We suggest two additional tests:
 - Fundamental fairness
 - Will the public get to enjoy *any* trails on this property in the foreseeable future if the opposition prevails?

- We don't believe that the County can meet either the Nollan or Dolan test.
- We do know that the applicant has been incredibly generous by offering 3 trails.
- The applicant absolutely will not accept any of the alternative trail easements.
- The inevitable result –
 - No project, no trails
 - No project, guests at Edwards Point no longer will be welcome
 - Litigation -- the applicant will not accept alternative routes