

APPEAL 14-CC-29 AND 14-CC 30 DENIALS

Presented by:
Susan F. Petrovich

 Brownstein Hyatt
Farber Schreck

3140 EUCALYPTUS HILL ROAD AND 740 ARCADY HAVE SEPARATE HISTORIES

- These 2 parcels were created
- separately and each is a separate
- legal parcel – 2 Certificates.
- Mr. Hawker and Ms. Philippides purchased the land based upon a good faith belief that they were purchasing two legal parcels.
- Your Board can do the right thing or the wrong thing today.

- The right thing is to grant the appeal so Mr. Hawker and Ms. Philippides can complete their lotline adjustment, increasing the square footage of 740 Arcady Road and eliminating the zoning violation that the County has declared.

3140 AND 740 WERE CREATED SEPARATELY AND WERE NEVER MERGED

- Solomon deeded 3140 Eucalyptus Hill Road to Paulson, by grant deed recorded 10/21/1955 – Instrument No. 19012, Book 1342, Page 101.

SD 1342-101

STATE OF CALIFORNIA
COUNTY OF _____

Sept. Barbara

On _____ October 24, 1954
before me, the undersigned a Notary Public in and for said County and State, personally appeared _____
My Commission Expires _____

Witness my hand and seal this _____ day of _____ 1954

My Commission Expires _____

PHOTOCOPIED BY _____ ORDERED BY _____ JAMES C. FOWLER,
Deputy County Recorder

RECORDED AT REQUEST OF
Security Title Insurance Co.
227 21 1855 2031-144
SD 1342-101
OFFICIAL RECORDS
COUNTY OF _____, CALIF.
1954

RECORDED AT REQUEST OF
Security Title Insurance Co.
227 21 1855 2031-144
SD 1342-101
OFFICIAL RECORDS
COUNTY OF _____, CALIF.
1954

STAMPS IN THIS SPACE 101717-C-6P

Joint Tenancy Grant Deed

18.A.1.6.05

FRANK S. SOLOMON and HELEN G. SOLOMON, husband and wife,

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Do hereby Grant To _____ T. PAULSON and EUTH N. PAULSON, husband and wife,
As Joint Tenants
the real property in the _____
County of _____ State of California, described as follows:

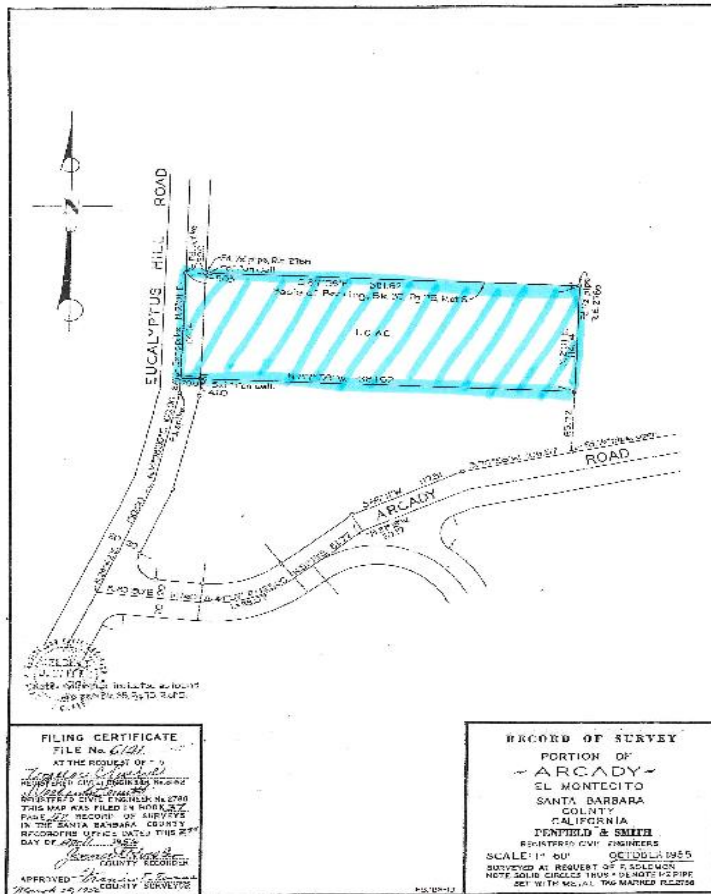
That certain parcel of land in the County of Santa Barbara, State of California, described as follows:

Beginning at a 1/2 inch survey pipe set in the westerly line of the parcel of land described in the deed from Allan L. Sims, et ux., to Frank S. Solomon, et ux., recorded June 7, 1954, as Instrument No. 6802 in Book 1244, page 269, of Official Records, records of said County, said 1/2 inch survey pipe being set at the southwest corner of the parcel of land described in the deed from Frank S. Solomon, et ux., to Dennis G. Kartz, et ux., recorded March 15, 1955 as Instrument No. 4909 in Book 1304, page 187, of Official Records records of said County, thence 1st, north 87°59' east along the southerly line of said Kartz tract of land (at 361.62 a 1/2 inch survey pipe set in the west line of Eucalyptus Hill Road) 381.62 feet to the southwest corner of said Kartz tract of land, being a point in the westerly line of said Eucalyptus Hill Road; thence 2nd, south 2°01' west along the centerline of Eucalyptus Hill Road 124.14 feet to a point; thence 3rd, south 87°59' east at right angles 381.62 feet to a 1/2 inch survey pipe set in the westerly line of said Solomon tract of land from which the southwest corner of said Solomon tract of land bears south 2°01' west 65.72 feet distant; thence 4th, north 2°01' east along said westerly line 124.14 feet to the point of beginning.

Subject to easements, conditions, restrictions, reservations, rights, rights of way and assessments of record, if any.

-2-
H. J. S.

3140 ON 1955 RECORD OF SURVEY



BK. 37 PG. 52

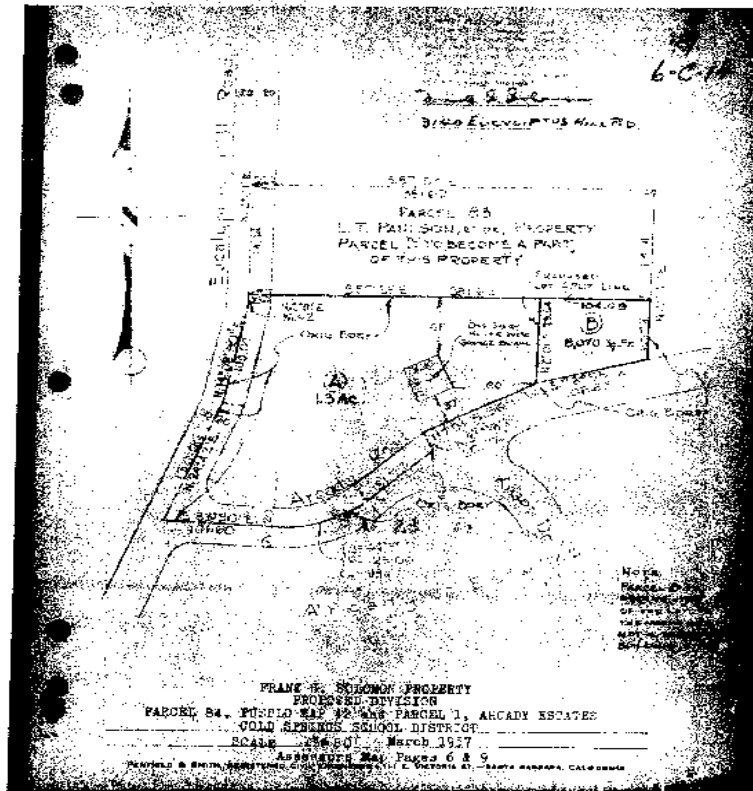
740 ARCADY ROAD CREATION

- 740 Arcady was created by a County approved lot split followed by a deed from Solomon to Paulson recorded 5/7/1957. This lot is a separate legal parcel and, contrary to staff's contention, has never been merged under any statutory or case law – ask staff what law creates a merger process by a sketch on a Land Use Rider application or by calling out two separate parcels in a deed.
- The sole legal authority mandates issuing both of these certificates.

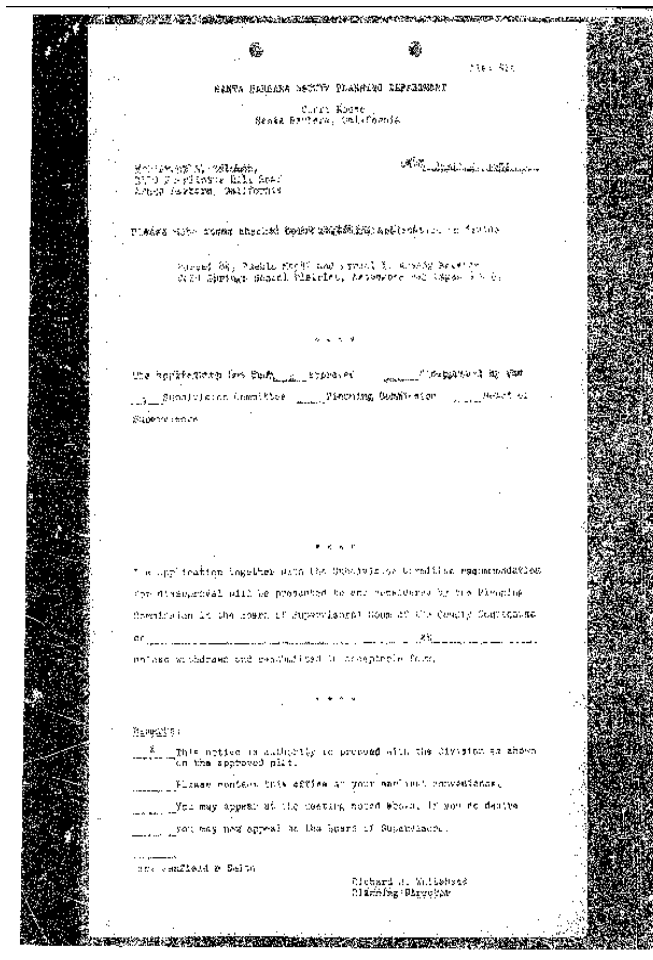
740 ARCADY HISTORY IN THE PUBLIC RECORD

- 4/4/1957 Action Letter –
 - Solomon is the sole applicant
 - Paulson is not named or involved in application
 - NO CONDITIONS stated in Action Letter
 - The Action Letter is the sole legal notice to the world of the County's official action
 - Subdivision Committee action was final and Solomon timely recorded the deed needed to complete the lot split.

SOLOMON LOT SPLIT PROPOSAL



COUNTY OFFICIAL APPROVAL



1911 to 1910	1910 to 1909	1909 to 1908
Part of Lot 84	1911-12 John W. Paulson et al	1910-11 1911-12
Remainder of Lot 84	1911-12 Frank S. Sullivan et al	1910-11 1911-12
Part of Lot 102	1911-12 John W. Paulson et al	1910-11 1911-12
Remainder of Lot 102	1911-12 Robert A. Gilbert et al	1910-11 1911-12
Part of Lot 74	1911-12 John W. Paulson et al	1910-11 1911-12
Remainder of Lot 74	1911-12 George R. Jones	1910-11 1911-12
Part of Lot 17		1911-12 John W. Paulson et al
Remainder of Lot 17		1911-12 Robert A. Gilbert et al
Part of Lot 101		1911-12 John W. Paulson et al
Remainder of Lot 101		1911-12 John W. Paulson et al
Part of Lot 14		1911-12 John W. Paulson et al
Remainder of Lot 14		1911-12 John W. Paulson et al

1911 to 1910	1910 to 1909	1909 to 1908
Part of Lot 102	1911-12 John W. Paulson et al	1910-11 1911-12
Remainder of Lot 102	1911-12 Robert A. Gilbert et al	1910-11 1911-12
Part of Lot 74	1911-12 John W. Paulson et al	1910-11 1911-12
Remainder of Lot 74	1911-12 George R. Jones	1910-11 1911-12
Part of Lot 17		1911-12 John W. Paulson et al
Remainder of Lot 17		1911-12 Robert A. Gilbert et al
Part of Lot 101		1911-12 John W. Paulson et al
Remainder of Lot 101		1911-12 John W. Paulson et al
Part of Lot 14		1911-12 John W. Paulson et al
Remainder of Lot 14		1911-12 John W. Paulson et al

Priority	MAIL ROOM
Approved by	

NAME	(1) LOT BLK /A	(2) DATE OF NOTICE	(3) DENIED	(4) CONC. APPR.	(5) APPR.	(6) NOT RECORDED AS APPR.	(7) APPROPRIATE DECL. NO. (BY AL)
K. K. THOMPSON	333	3/27/57					75-201-03
JOHN B. MARTINO	334	2/27/57					75-201-02
MERRITT C. BAUER	335	2/27/57					75-201-06
DELL + DAMRON	336	2/7/57					5-340-04
W.M. J. WILCOX	337	3/13/57					11-250-17
ALLAN W. CAMPBELL	338	4/11/57					57-10-13
FRANK M. FLOYD	339	3/7/57					155-4025
F.C. VONHANSSEN	400	3/7/57					65-0024
A.E. PEAN	401	3/15/57					7-000-09
MINION OIL CO.	402	4/8/57					11-200-53
R.A. GILBERT	403	4/3/57					20-20-02
J.M. PALMISTE	404	3/10/57					7-240-08
F.T. GUTSHALL, JR.	405	3/24/57					51-40-02
CARRIE E. OSBORN	406	3/13/57					55-20-50
GOVERNOR LAND CO.	407	3/25/57					15-10-41A
DEAN S. FLECK	408	3/28/57					6-000-05
ROY E. THOMPSON	409	4/12/57					75-201-02
W.M. B. MCKILLOP	410	3/28/57					141-150-10
G.B. CORNELIUS	411	4/6/57					39-07-01
GVERNOR CALDWELL	412	4/10/57					23-200-05
	413	4/4/57					5-200-03
FRANK S. SOLOMON	414	4/4/57					15-200-01
DEAN DILLMAN, JR.	415	4/8/57					13-000-20
ALDO L. HANLY	416	4/6/57					59-001-03
ROBT. A. DOELL	417	4/4/57					5-200-03
LOUISE CHARLES	418	4/11/57					157-02-02
C. R. MARSHALL	419	4/29/57					65-200-01
HENRY BERSON	420	4/10/57					11-050-05
A. L. PERRIN	421	4/8/57					59-200-06
GEO. A. MOOREHEAD	422	3/25/57					61-240-17
EMMER H. WHITMAN	423	4/11/57					155-102-10
W.M. J. WILCOX	424	4/26/57					11-201-17

APPLICABLE ORDINANCES

- **Ord. 786: “Maps filed for the purpose of reverting subdivided land to acreage shall be so designated on the title sheet by an appropriate note containing the words ‘MAP OF VACATION’ followed by ‘REVERSION TO ACREAGE.’”**
- This is the ordinance that the County would have used if it intended to require the newly created parcel to be merged with Paulson’s property. That would take an additional map process. The Subdivision Committee had no authority to require a merger of lots by any process other than this ordinance. They had no authority over Paulson.

APPLICABLE ORDINANCES

- **Ord. 791: “The Subdivision Committee shall approve the plat whenever all of the following conditions obtain: (a) The division conforms to all applicable zoning and subdivision regulations of the county of Santa Barbara pertaining to size of lots, shape and dimension of lots,. . .”**
- **“A division of land shall be deemed to have been completed for the purposes of this ordinance when a deed has been recorded in the office of the County Recorder.”**
- **Plat must be signed by the legal owner or his authorized agent, stating that he/she is applying for approval of the division of the property shown.**

PAULSON'S PROPERTY WAS NEVER SHOWN ON THE PLAT

- Solomon is the only one who signed the plat as owner.
- Only Solomon's property was the subject of the lot split.
- The deed from Solomon to Paulson included no conditions of record.
- The condition that the County Surveyor claims was imposed appears nowhere of record – not in any recorded document, not in the Action Letter, not in the County's Lot Split Record Book – all indicate that the lot split was not conditioned.

COUNTY'S LOT SPLIT RECORD BOOK

Prepared By	DATE	CHK
Approved By		

NAME	(1) LOT SPLIT NO.	(2) DATE OF NOTICE	(3) DENIED	(4) APPR. APPR.	(5) NOT RECORDED AS APPR.	(6) RES. PERSON'S RES. NO. (BY AL)
K. K. THOMPSON	393	2/27/57				75-201-02
JOHN S. MARTINO	394	2/27/57				75-201-02
MERRITT C. BAUER	395	2/27/57				75-201-02
EMEL L. DARRON	396	2/27/57				5-340-24
W.M. J. WILCOX	397	3/15/57				11-550-17
ALLAN W. CAMBERN	398	4/11/57				57-16-13
FRANK M. FLOYD	399	3/7/57				155-4625
F.C. JOHANSEN	400	2/27/57				25-03232
A.E. PEAU	401	3/15/57				7-262-39
UNION OIL CO.	402	4/2/57				11-200-53
R.A. GILBERT	403	4/2/57				22-130-32
L.M. PHILLIPS	404	3/20/57				7-540-02
F.T. GUTSALL, JR.	405	3/2/57				51-242-02
SARIE E. OZBORN	406	3/2/57				59-23-50
GOVERNOR LAND CO.	407	3/28/57				1-180-114
IRVING L. EICK	408	3/28/57				61-262-05
ROY E. THOMPSON	409	4/12/57				75-251-02
W.M. B. McKILLOP	410	3/28/57				44-153-10
G.P. CORNELIUS	411	4/6/57				39-071-01
LAVERNE CALDWELL	412	4/10/57				25-250-05
	413	4/4/57				5-22-03
FRANK S. SOLOMON	414	4/4/57				13-100-20
DEAN DILMAN, JR.	415	4/5/57				13-100-20
ALB. L. HANLY	416	4/6/57				139-051-02
ROBT. A. DOELL	417	4/4/57				5-220-03
LOUISE CHARLES	418	4/11/57				157-072-02
C. R. MARSHAL	419	4/23/57				63-25001
HENRY BENSON	420	4/12/57				11-050-02
A. L. PERSIN	421	4/15/57				59-220-05
GEO. A. WOFFREY	422	3/27/57				61-240-17
ELMER H. WHITING	423	4/11/57				55-130-10
W.M. B. McKILLOP	424	4/23/57				21-33-17

DEED OF 740 - SOLOMON TO PAULSON

BOOK 1444 PAGE 436

8750

PLACE NECESSARY REVENUE STAMPS IN THIS SPACE

8750

PROCESSED BY
I.R.T. 198

Joint Tenancy Grant Deed

(Individuals)

FRANK S. SOLOMON and ELEANOR G. SOLOMON, husband and wife

(GRANTOR - GRANITORS)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged

Do hereby Grant To: LOUIS F. PAULSON and EDITH M. PAULSON, his wife

As Joint Tenants

the real property to the City of Santa Barbara

Santa Barbara State of California, described as follows:

This portion of the Outside Pueblo Lands of the City of Santa Barbara, located in El Estero de San Marcos, in the County of Santa Barbara, State of California, described as follows:

Beginning at a 1/2 inch survey pipe set at the southeast corner of a tract of land described in the deed to Louis F. Paulson, et al., recorded October 21, 1957 on Instrument No. 15084 in Book 1342, page 101 of Official Records, records of said County, said point also being on the east line of a tract of land described in the deed to Frank S. Solomon, et al., recorded June 17, 1958 on Instrument No. 5409 in Book 1276, page 231 of Official Records, records of said County.

Thence 1st, south 2° 01' west along the east line of said Solomon tract, 65.75 feet to a 1/2 inch survey pipe set on the northerly line of Arday Road, thence 2nd, south 70° 50' west along the northerly line of said road, 100.87 feet to a 1/2 inch survey pipe set at an angle point in said road, thence 3rd, north 2° 01' west leaving the northerly line of said road, 89.94 feet to a point in the south line of the tract of land described in said deed to Paulson heretofore mentioned, thence 4th, south 87° 59' west along said south line, 101.07 feet to the point of beginning.

EXEMPT to mortgages, conditions, restrictions, rights, right of ways and easements of record, if any.

Dated May 1, 1967

Witness my hand and seal this 1st day of May, 1967.

LOUIS F. PAULSON
EDITH M. PAULSON

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA

May 1, 1967

I, the undersigned, a Notary Public in and for said County and State, personally appeared FRANK S. SOLOMON and ELEANOR G. SOLOMON

known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes and consideration therein expressed.

WITNESS my hand and seal this 1st day of May, 1967.

NOTARY PUBLIC
My Commission Expires Dec. 27, 1968

PHOTOSTATED BY James H. ...

RECORDED BY James G. Paulson, Deputy Recorder

WHEN RECORDED PLEASE MAIL THIS INSTRUMENT TO
Mr. and Mrs. Louis Paulson
3125 Pipeline Avenue, Ojai, Calif.

ORDER NO. 110007

EXEMPT FROM RECORDING

8750

RECORDED AT REQUEST OF
Shirley H. Insurance Co.
May 7 1967 8:28 A.M.
BOOK 1444 PAGE 436
OFFICIAL RECORDS
COUNTY OF SANTA BARBARA, CALIF.
JAMES G. PAULSON, Notary Public
MAY 1 1967

DEED FROM PAULSON TO COX

COUNTY OF SAN DIEGO
 DEED RECORDS
 20122 of 100
 Fee \$2.80
 WILLIAM J. COX JR.
 GRANT DEED
 WILLIAM J. COX JR., a married man,
 of the County of San Diego,
 do hereby certify that the following is a true and correct copy of the original deed as recorded in the County of San Diego, California:
 Those portions of the Official Public Books of the City of Escondido, located in Escondido (as defined) in the County of San Diego, State of California, described as follows:
 PART I: Beginning at a 1/2 inch survey pipe set in the easterly line of the parcel of land described in the deed from Louis T. Paulson, et ux, to Frank B. Solopow, et ux, recorded June 7, 1954 in Book 1200, page 113 of Official Records, records of said County, 354 1/2 inch survey pipe being set at the southeast corner of the parcel of land described in the deed from Frank B. Solopow, et ux, to Louis T. Paulson, et ux, recorded March 10, 1955 as Instrument No. 6709 in Book 1200, page 107 of Official Records, records of said County; thence N1/4 E 79' west along the southerly line of said parcel of land (at 151.62 feet) to a 1/2 inch survey pipe set in the east line of Eucliydas Hill Road; thence S 76.02 east to the southwest corner of said parcel of land, being a point in the easterly line of said Eucliydas Hill Road; thence S 76.02 east along the easterly line of said Eucliydas Hill Road 114.14 feet to a corner thence N 74.00 south 57.03 feet to a pipe being set at a 1/2 inch survey pipe set in the easterly line of said Solopow parcel of land from which the southerly corner of said Solopow parcel of land being about 2.01' east 64.72 feet to a pipe being set in the east line of said parcel, line 114.14 feet to the point of beginning.
 PART II: Beginning at a 1/2 inch survey pipe set at the southwest corner of a parcel of land described in the deed of Louis T. Paulson, et ux, recorded October 21, 1955 as Instrument No. 33064 in Book 1200, page 113 of Official Records, records of said County, said point also being on the east line of a tract of land described in the deed to Frank B. Solopow, et ux, recorded June 7, 1954 as Instrument No. 5403 in Book 1200, page 749 of Official Records, records of said County; thence N 74.00 east along the east line of said Solopow tract, 69.72 feet to a 1/2 inch survey pipe set on the westerly line of said road; thence S 74.00 south 78.33' west along the westerly line of said road, 100.00 feet to a 1/2 inch survey pipe set at a point in said road; thence S 74.00 south 2.01' west along the westerly line of the tract of land described in said deed to Paulson hereinafter mentioned; thence S 74.00 south 57.03' east along said south line, 64.72 feet to the point of beginning.

1965

DEEDS FROM COX

RECORDING REQUESTED BY:
Fidelity National Title Company
P.O. Box 12 430 402 437-30
Lucasville, OH 44840-0437-30
Title No: 12-430-402437-30

When Recorded Mail Document
and Tax Statement To:
Mr. Craig Jon Hawker/Mrs. Athena Philippides
1420 Greenwath Place
Santa Barbara, CA 93108

2012-0076767

Recorded REC FEE 10.00
Official Records 18.00
County of Santa Barbara
County Clerk's Office
Date of Recd 10/11/12

DEED 14-104-5012 PAGE 1 OF 2

APN: 012-191-12

SPACE ABOVE THIS LINE FOR RECORDERS USE

GRANT DEED

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$1,094.50
 computed on full value of property conveyed, or
 computed on full value less value of liens or encumbrances remaining at time of sale,
 Unincorporated Area

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, William J. Cox, Jr., Trustee of the William J. Cox, Jr. Living Trust

hereby GRANT(S) to Craig Jon Hawker and Athena Philippides, husband and wife as community property the following described real property in the County of Santa Barbara, State of California:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: October 11, 2012

State of California
County of Santa Barbara

On 10-11-2012 before me, Notary Public
of Santa Barbara
(here insert name and title of the officer), personally appeared

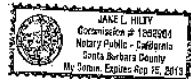
The William J. Cox, Jr. Living Trust
By William J. Cox, Jr.
Trustee

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)



MAR. TAX STATEMENTS AS DIRECTED ABOVE

FD-312 (Rev. 12/07)
(9022) (11/03) (Rev. 07-11)

GRANT DEED

RECORDING REQUESTED BY
CONGRESSIONAL & MILSON

97-074259 : Rec Fee 7.00
: Check 7.00

Recorded :
Official Record :
County of :
Santa Barbara :
Kathleen A Pettit :
Recorder :
10-Nov-12 : Pg 2

Title Only No. :
Cover No. :

Quitclaim Deed

This conveyance is to a Trust, not subject to a sale,

The undersigned declares that he/she/they are not a(n) _____
 completed on the full value of the real property conveyed, or
 computed on full value less value of liens or encumbrances remaining at time of sale, or
 unincorporated Area

FOR A VALUABLE CONSIDERATION, receipt of which is acknowledged

William J. Cox, Jr.

Trustee of the William J. Cox, Jr. Living Trust

conveyed to the community property of Santa Barbara
and Inglewood

commonly described as 749 Arroyo Road, Santa Barbara, California
and legally described as per Exhibit "A".

A.P.N.: 012-191-12

Date 11-16-12

William J. Cox, Jr.

STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

On this 16th day of November, 2012, I, Notary Public, do hereby certify that the within instrument was duly executed by the person(s) named therein.

Witness my hand and official seal.

Signature _____



MAR. TAX STATEMENTS AS DIRECTED ABOVE

FD-312 (Rev. 12/07)
(9022) (11/03) (Rev. 07-11)

GRANT DEED

Survey No.: 12-420402437-SW
Locate No.: OPRM10942-09-2-0014 0420402437
Title No.: 12-420402437-SA

EXHIBIT "A"

These portions of the Outside Pueblo Lands of the City of Santa Barbara, located in El Muñisillo (so-called), in the County of Santa Barbara, State of California, described as follows:

Parcel One:

Beginning at a 1/2 inch survey pipe set in the Easterly line of the parcel of land described in the deed from Allen L. Simms, et ux., to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, Page 289, of Official Records, records of said County, said 1/2 inch survey pipe being set at the Southeast corner of the parcel of land described in the deed from Frank S. Solomon, et ux. to Dennis G. Karzag, et ux., recorded March 16, 1955 as Instrument No. 4909 in Book 1204, Page 187 of Official Records, records of said County;

thence 1st, North 87°59' West along the Southerly line of said Karzag tract of land (at 361.63 feet a 1/2 inch survey pipe set in the east line of Eucalyptus Hill Road), 381.62 feet to the Southwest corner of said Karzag tract of land, being a point in the centerline of said Eucalyptus Hill Road;

thence 2nd, South 2°01' West along the centerline of Eucalyptus Hill Road, 114.14 feet to a point;

thence 3rd, South 87°59' East at right angles, 381.62 feet to a 1/2 inch survey pipe set in the Easterly line of said Solomon tract of land, from which the Southeast corner of said Solomon tract of land bears South 2°01' West, 65.72 feet distant;

thence 4th, North 2°01' East along said Easterly line, 114.14 feet to the point of beginning.

Parcel Two:

Beginning at a 1/2 inch survey pipe set at the Southeast corner of a tract of land described in the deed to Louis T. Paulson, et ux., recorded October 21, 1955 as Instrument No. 19044 in Book 1342, Page 101 of Official Records, records of said County, said point also being on the East line of a tract of land described in the deed to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, Page 289 of Official Records, records of said County;

thence 1st, South 2°01' West along the East line of said Solomon tract, 65.72 feet to a 1/2 inch survey pipe set on the Northerly line of Arcady Road;

thence 2nd, South 78°55' West along the Northerly line of said road, 106.87 feet to a 1/2 inch survey pipe set at an angle point in said road;

thence 3rd, North 2°01' East leaving the Northerly line of said road, 89.94 feet to a point in the South line of the tract of land described in said deed to Paulson, hereinabove mentioned;

thence 4th, South 87°59' East along said South line, 104.09 feet to the point of beginning.

APN: D13-191-12

EXHIBIT "B"

These portions of the Outside Pueblo Lands of the City of Santa Barbara, located in El Muñisillo (so-called), in the County of Santa Barbara, State of California, described as follows:

PARCEL ONE: Beginning at a 1/2 inch survey pipe set in the easterly line of the parcel of land described in the deed from Allen L. Simms, et ux., to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, page 289, of Official Records, records of said County, said 1/2 inch survey pipe being set at the southeast corner of the parcel of land described in the deed from Frank S. Solomon, et ux., to Dennis G. Karzag, et ux., recorded March 16, 1955 as Instrument No. 4909 in Book 1204, page 187 of Official Records, records of said County; thence 1st, north 87° 59' west along the southerly line of said Karzag tract of land (at 361.62 feet a 1/2 inch survey pipe set in the east line of Eucalyptus Hill Road) 381.62 feet to the southwest corner of said Karzag tract of land, being a point in the centerline of said Eucalyptus Hill Road; thence 2nd, south 2° 01' west along the centerline of Eucalyptus Hill Road 114.14 feet to a point; thence 3rd, south 87° 59' east at right angles 381.62 feet to a 1/2 inch survey pipe set in the easterly line of said Solomon tract of land from which the southeast corner of said Solomon tract of land bears south 2° 01' west 65.72 feet distant; thence 4th, north 2° 01' east along said easterly line 114.14 feet to the point of beginning.

PARCEL TWO: Beginning at a 1/2 inch survey pipe set at the southeast corner of a tract of land described in the deed to Louis T. Paulson, et ux., recorded October 21, 1955 as Instrument No. 19044 in Book 1342, page 101 of Official Records, records of said County, said point also being on the east line of a tract of land described in the deed to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, page 289 of Official Records, records of said County; thence 1st, south 2° 01' west along the east line of said Solomon tract, 65.72 feet to a 1/2 inch survey pipe set on the northerly line of Arcady Road; thence 2nd, south 78° 55' west along the northerly line of said road, 106.87 feet to a 1/2 inch survey pipe set at an angle point in said road; thence 3rd, north 2° 01' east leaving the northerly line of said road, 89.94 feet to a point in the south line of the tract of land described in said deed to Paulson hereinabove mentioned; thence 4th, south 87° 59' east along said south line, 104.09 feet to the point of beginning.

STAFF'S ALLEGATIONS ARE CONTRARY TO LAW

- Ord. 791 –a land division intended to result in a conveyance to a neighbor is not exempt from conforming to minimum lot size –Here is the entire language of the section excerpted by staff in their presentation:
- Ord. 791 (III)(2)(f): **“Any existing or new street, intended for or serving as the principal means of vehicular access to the property shown on the plat, has a minimum width of forty (40) feet . . . Provided, however, when the purpose of the division is to convey land to an abutting owner, the only condition that shall be required as a basis for approval shall be those set forth in Subsection (a) of this section.”**

STAFF'S ALLEGATIONS ARE CONTRARY TO LAW

- Conditions of approval – there were none of record.
- Land Use Rider application simply shows the entire land holding at the time and no ordinance or law makes that a merger. It's a sketch and inaccurate.
- The 740 lot was separately deeded to Paulson without condition – common ownership of two legal parcels is not a merger.

STAFF'S ALLEGATIONS ARE CONTRARY TO LAW

- Civil Code Section 1093:
- “[I]ndividual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one previously separate and distinct legal description [] does not operate in any manner to alter or affect the separate and distinct nature of the real property”

STAFF'S ALLEGATIONS ARE CONTRARY TO LAW

- 740 Arcady now has a County-approved structure so if your Board prefers to make the building permit a basis for granting the certificate of compliance for that parcel, you have the grounds to do so.
- There is no legal basis for denying these 2 certificates

STAFF'S ALLEGATIONS ARE CONTRARY TO LAW

- The zoning ordinance of the time had a 20,000 square foot parcel size at the time the Subdivision Committee approved the lot split, but Parcel B wasn't even that large.
- The Subdivision Committee's decision, right or wrong, was final unless the Planning Commission reversed it during its next hearing or within 40 days. It elected not to do so.
- The public record shows that the Paulson property was 2 separate parcels and that is how they and their successor deeded it.

FAILURE TO ISSUE THE CERTIFICATES SUBMITS THE COUNTY TO LIABILITY

- The Morehart case and the Hawker cases both provide valuable precedents – and lessons – regarding the County's insistent that mergers have occurred of legal parcels.
- The County must act consistent with the law, not disregard it.
- The law is clear – there is no basis for asserting a merger in this case.
- Both certificates must be granted under the law.

CONCLUSIONS

- 740 Arcady and 3140 Eucalyptus Hill Road originated as separate legal parcels.
- There is nothing in the record to reflect any action, under the law, that would change their status as separate and legal.
- If staff can quote such a law, let's hear it.
- The applicants relied on there being 2 separate parcels when they purchased.
- There is no legal ground for asserting merger.
- 740 is developed with a single family home so a certificate can be granted on those grounds.

CONCLUSIONS

- Whatever grounds the Board elects, we ask that you direct your staff to issue these two (2) certificates of compliance without delay.
- We ask that the Board also assert the common sense exemption from CEQA – issuance of certificates of compliance is ministerial, not discretionary, so not subject to CEQA.