



CITY COUNCIL STAFF REPORT

DATE: March 3, 2010

CONSENT CALENDAR

SUBJECT: COMMENT LETTER TO BUREAU OF INDIAN AFFAIRS ON APPLICATION FOR "LAND ACQUISITION" BY THE AGUA CALIENTE BAND OF CAHUILLA INDIANS FOR 5.31 ACRES IN WHITEWATER RANCH (INTERSTATE 10 AND HIGHWAY 111)

FROM: David H. Ready, City Manager

BY: Planning Department

SUMMARY

The Agua Caliente Band of Cahuilla Indians (Tribe) has requested that 5.3 acres of land in the Whitewater Ranch at the intersection of Interstate 10 and Highway 111 be acquired "in trust". The Bureau of Indian Affairs (BIA) is processing the application and is seeking comments from affected agencies. Staff has prepared the attached comment letter for consideration by the City Council.

RECOMMENDATION:

Authorize the Mayor to sign the attached comment letter.

STAFF ANALYSIS:

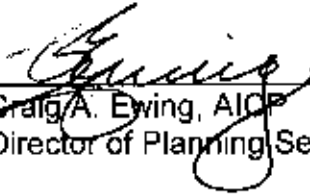
On February 8, 2010, the City received a notice from the Bureau of Indian Affairs that it is processing an application filed by the Tribe to have certain property in the Whitewater Ranch accepted "into trust" by the US for the tribe. This action would not move the land into the Tribe's reservation, but would make the property subject to the Land Use Coordination Agreement between the Tribe and the City as an "exempt" property (similar to the Spa Hotel and Casino and other Tribal trust properties.) It should also be noted that the application is for "non-gaming" purposes.

The notice from the BIA invites comment on the application and staff has proposed the attached letter for Council consideration. As the Tribe moves forward to develop the property, staff believes that the site warrants a focused effort of the City to partner with the Tribe on the provision of public services.

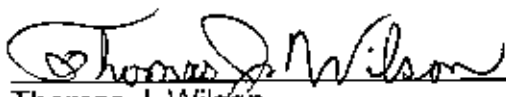
ITEM NO. 7.6.

FISCAL IMPACT:

Acceptance of the land "into trust" would cause of loss of current property tax revenue, approximately \$650 per year. After development of the properties, the loss of property due to its "into trust" status would increase.



Craig A. Ewing, AICP
Director of Planning Services



Thomas J. Wilson
Assistant City Manager, Dev't Svcs

David H. Ready
City Manager

Attached: Draft Comment Letter
BIA Notice of Land Acquisition Application; February 1, 2010



City of Palm Springs

Stephen P. Pougnet, Mayor

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262
Tel: (760) 323-8200 • Fax: (760) 323-8282 • Web: www.palmspringsca.gov

March 3, 2010

Lorrae Russell, Realty Specialist
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Land Acquisition: Agua Caliente Band of Cahuilla Indians; APN 522-030-008; "Mitchell Property"; 5.31 Acres

Dear Ms. Russell,

As Mayor of the City of Palm Springs and on behalf of the Palm Springs City Council, I am pleased to offer the City's support for the application to accept "into trust" the above-referenced property for the Agua Caliente Band of Cahuilla Indians (Tribe). The City and the Tribe have a long-standing cooperative relationship regarding the development of Tribal lands and this application offers a significant opportunity to carry that relationship into the future.

The Tribe's success in bringing the highest and best use to its lands bodes well for the proposed property. Presently, the City provides only minimal services to the undeveloped site. As the land is developed, the City and the Tribe will provide a variety of support services, which the Council anticipates will be undertaken in the same cooperative spirit as has occurred throughout the Reservation.

We appreciate your attention to this comment letter and look forward to your favorable action on the Tribe's application.

Sincerely,

Stephen P. Pougnet
Mayor

cc: Richard Milanovich, Chair, Agua Caliente Band of Cahuilla Indians
Tribal Council, Agua Caliente Band of Cahuilla Indians



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

FEB 1 - 2010

Notice of (Non-Gaming) Land Acquisition Application

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10, notice is given of the application filed by the Agua Caliente Band of Cahuilla Indians (Tribe) to have real property accepted "into trust" for said applicant by the United States of America. The determination whether to acquire this property "in trust" will be made in the exercise of discretionary authority which is vested in the Secretary of the Interior, or his authorized representative, U.S. Department of the Interior. To assist us in the exercise of that discretion, we invite your comments on the proposed acquisition. In order for the Secretary to assess the impact of the removal of the subject property from the tax rolls, and if applicable to your organization, we also request that you provide the following information:

- (1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;
- (2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;
- (3) Any government services that are currently provided to the property by your organization; and
- (4) If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning.

We are providing the following information regarding this application:

Applicant:

Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation,
California

Legal Land Description/Site Location:

Parcel 1:

That portion of the northeast quarter of the northeast quarter of Section 16, Township 3 South, Range 3 East, San Bernardino Base and Meridian, Official Records of Riverside County, California, lying Northerly of the Northerly right-of-way line of the Union Pacific Railroad.

**TAKE PRIDE
IN AMERICA** 

Excepting therefrom all oil, gas, oil shale, coal, phosphate, sodium, gold, silver and all other mineral deposits contained in said land and except also the State of California and persons authorized by the State, the right to drill for and extract such deposits of oil, and gas, or gas, and to prospect for, mine and remove such deposits of other minerals from said land and to occupy and use so much of the surface of said land as may be required therefore, upon compliance with the conditions and subject to the provisions and limitations of the Act of the Legislature approved March 24, 1938 (Chapter 5 Statutes of California, 1938 extra session) as set forth in the patent from the State of California to John Louis Elkins recorded February 10, 1939, in Book 405, Page 333 of Official Records of said County.

Also excepting therefrom that portion conveyed to the State of California by Deed recorded September 11, 1964 in Book 3797, Page 469 as instrument No. 11075, Official Records.

Also excepting therefrom that portion conveyed to the State of California by Deed recorded January 26, 1966 as instrument No. 9218, Official Records.

522-030-008

Project Description/Proposed Land Use:

The subject property consists of a parcel of land, encompassing approximately 5.31 acres more or less, commonly referred to as the "Mitchell" property and Assessor's Parcel Number: 522-030-008. The parcel is within the exterior boundaries of the Agua Caliente Reservation, and is contiguous to trust lands.

Currently, the property is vacant. Although, this property has potential for exceptional commercial development, there are no specific plans for this property.

Current Use/Taxes and Zoning:

Assessed property taxes for 2008-2009:

-- 522-030-008 - \$655.54

Existing Easements/Encumbrances:

See attached Schedule B

As indicated above, the purpose for seeking your comments regarding the proposed trust land acquisition is to obtain sufficient data that would enable an analysis of the potential

impact on local/state government, which may result from the removal of the subject property from the tax roll and local jurisdiction.

This notice does not constitute, or replace, a notice that might be issued for the purpose of compliance with the National Environmental Policy Act of 1969.

Your written comments should be addressed to the Bureau of Indian Affairs at the address at the top of this notice. Any comments received within thirty days of your receipt of this notice will be considered and made a part of our record. You may be granted an extension of time to furnish comments, provided you submit a written justification requesting such an extension within thirty days of receipt of this letter. An extension of ten to thirty days may be granted. Copies of all comments will additionally be provided to the applicant. You will be notified of the decision to approve or deny the application.

If any party receiving this notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy of this notice to said party or timely provide our office with the name and address of said party.

A copy of the application, excluding any documentation exempted under the Freedom of Information Act, is available for review at the above address. A request to make an appointment to review the application, or questions regarding the application, may be directed to Lorrae Russell, Realty Specialist, at (916) 978-6071.

Sincerely,


Acting Regional Director

Enclosures

cc: Distribution List

DISTRIBUTION LIST

cc: BY CERTIFIED MAIL – RETURN RECEIPTS REQUESTED TO:

California State Clearinghouse – 7004 2510 0001 5639 5297
Office of Planning and Research
State of California
P.O. Box 3044
Sacramento, CA 95814

Andrea Lynn Hoch, Legal Affairs Secretary – 7004 2510 0001 5639 5303
Office of the Governor
State Capitol Building
Sacramento, CA 95814

Ms. Sara J. Drake, Deputy Attorney General – 7004 2510 0001 5639 5310
State of California
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

James Peterson, District Director – 7004 2510 0001 5639 5327
Office of U.S. Senator Feinstein
750 "B" Street, Suite 1030
San Diego, CA 92101

Riverside County Board of Supervisors – 7004 2510 0001 5639 5334
County Administrative Center
4080 Lemon Street, 14th Floor
Riverside, CA 92501

County of Riverside – 7004 2510 0001 5639 5341
Office of the Assessor
4080 Lemon Street
Riverside, CA 92502-2204

County of Riverside – 7004 2510 0001 5639 5358
Planning Department
4080 Lemon Street 9th Floor
Riverside, CA 92501

Riverside County Treasurer & Tax Collector – 7004 2510 0001 5639 5365
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Office of the Mayor – 7004 2510 0001 5639 5372
City of Palm Springs
P.O. Box 2743
Palm Springs, CA 92263

City of Palm Springs Planning Department – 7004 2510 0001 5639 5389
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263

Palm Springs Police Department – 7004 2510 0001 5639 5396
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263

Palm Springs Fire Department – 7004 2510 0001 5639 5402
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263

Chairperson – 7004 2510 0001 5639 5419
Augustine Band of Mission Indians
P.O. Box 846
Coachella, CA 92236

Chairperson – 7004 2510 0001 5639 5198
Cabazon Band of Mission Indians
84-245 Indio Springs Drive
Indio, CA 92201

Chairperson – 7004 2510 0001 5639 5204
Cahuilla Band of Mission Indians
P.O. Box 391760
Anza, CA 92539-1760

Chairperson – 7004 2510 0001 5639 5211
Morongo Band of Cahuilla Mission Indians
11581 Potrero Road
Banning, CA 92220

Chairperson – 7004 2510 0001 5639 5228
Pechanga Band of Luiseno Indians
P.O. Box 1477
Temecula, CA 92593

Chairperson – 7004 2510 0001 5639 5235
Ramona Band of Mission Indians
P.O. Box 391372
Anza, CA 92539

Chairperson – 7004 2510 0001 5639 5242
Santa Rosa Band of Mission Indians
P.O. Box 609
Hemet, CA 92546

Chairperson – 7004 2510 0001 5639 5259
Torres-Martinez Desert Cahuilla Indians
P.O. Box 1160
Thermal, CA 92274

Chairperson – 7004 2510 0001 5639 5266
Soboba Band of Luiseno Indians
P.O. Box 487
San Jacinto, CA 92581

Regular Mail:

Superintendent
Bureau of Indian Affairs
Palm Springs Agency
P.O. Box 2245
Palm Springs, CA 92263

SCHEDULE B - SECTION II**EXCEPTIONS**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

A. Property taxes, including any assessments collected with taxes, for the fiscal year 2008 - 2009 that are a lien not yet due.

B. Property taxes, for the fiscal year 2007 - 2008 are paid. For proration purposes the amounts are:

1 st Installment:	\$320.44 Paid
2 nd Installment:	\$320.44 Paid
Code Area:	011-079

Assessors Parcel Number: 522-030-008-6

C. Property taxes, including any assessments collected with taxes, for the fiscal year 2008 - 2009

1 st Installment:	\$327.77
Penalty:	\$32.77 (Due after December 10)
2 nd Installment:	\$327.77
Penalty and Cost:	\$42.77 (Due after April 10)
Homeowners Exemption:	\$None
Code Area:	011-079

Assessors Parcel Number: 522-030-008-6

D. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Part 0.5, Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring prior to date of policy.

1. The right of C.E. Lapp, F.K. Simonds and L.S. Preston, or their successors or assigns, to convey ~~five hundred inches of water by ditch, flume or pipe-line across said property, together with other~~ property, and water being diverted from Snow Creek in Section 32, Township 3, South, Range 3 East, San Bernardino base and meridian, as contained in water location recorded July 31, 1908 in Book 2, Page 216 of water locations, Riverside County Records.

SCHEDULE B – SECTION II
(continued)

2. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
(No representation is made as to the present ownership of said easement)

In Favor of: Metropolitan Water District of Southern California
Purpose: public utilities
Recorded: December 21, 1933 in Book 146, Page 581, of Official Records
Affects: That portion of said land as described in the document attached hereto.

3. A reservation in the people of the absolute right to fish, and a right of way in favor of the United States for ditches or canals constructed by their authority, as provided in the Patent from the State of California, recorded February 10, 1939 in Book 405, Page 333, Official Records.

4. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
(No representation is made as to the present ownership of said easement)

In Favor of: Southern Pacific Pipe Lines Inc., a corporation
Purpose: Pipe lines
Recorded: July 20, 1955 in Book 1768, Page 555, Official Records
Affects: That portion of said land as described in the document attached hereto.

5. A waiver in favor of the State of California of any claims for damage to said land by reason of the location of a public highway contiguous thereto as contained in Deeds, recorded September 11, 1964 in Book 3797, Page 469, as Instrument No. 110705 and recorded January 26, 1966 as Instrument No. 9218, both of Official Records.

6. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
(No representation is made as to the present ownership of said easement)

In Favor of: California Water & Telephone Company
Purpose: public utilities
Recorded: November 22, 1966 as Instrument No. 1966-113139 of Official Records
Affects: That portion of said land as described in the document attached hereto.

7. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
(No representation is made as to the present ownership of said easement)

In Favor of: Williams Communications, Inc., d/b/a in California as VYVX, Inc., a Delaware corporation
Purpose: public utilities, ingress, egress
Recorded: March 16, 2000 as Instrument No. 2000-095996 of Official Records
Affects: That portion of said land as described in the document attached hereto.

SCHEDULE B – SECTION II
(continued)

8. An easement for the purpose shown below and rights incidental thereto as set forth in a document. (No representation is made as to the present ownership of said easement)

In Favor of:	Union Pacific Railroad Company
Purpose:	Railroad trackage and ingress, egress
Recorded:	August 23, 2001 as Instrument No. <u>2001-00407996</u> of Official Records
Affects:	That portion of said land as described in the document attached hereto.

9. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
10. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
11. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
12. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown in the public records.
13. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceeding by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
14. Any facts, rights, interests or claims which may be disclosed by the records of the Bureau of Indian Affairs.
15. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

SCHEDULE B – SECTION II
(continued)

Note: The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance coverage.

Note: Notwithstanding anything to the contrary in this Commitment, if the policy to be issued is other than an ALTA Owner's Policy (6/17/06) or ALTA Loan Policy (6/17/06), the policy may not contain an arbitration clause, or the terms of the arbitration clause may be different from those set forth in this Commitment. If the policy does contain an arbitration clause, and the Amount of Insurance is less than the amount, if any, set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.

END OF SCHEDULE B

SEC. 16 9 T. 3S. R. 3E
CITY OF PALM SPRINGS

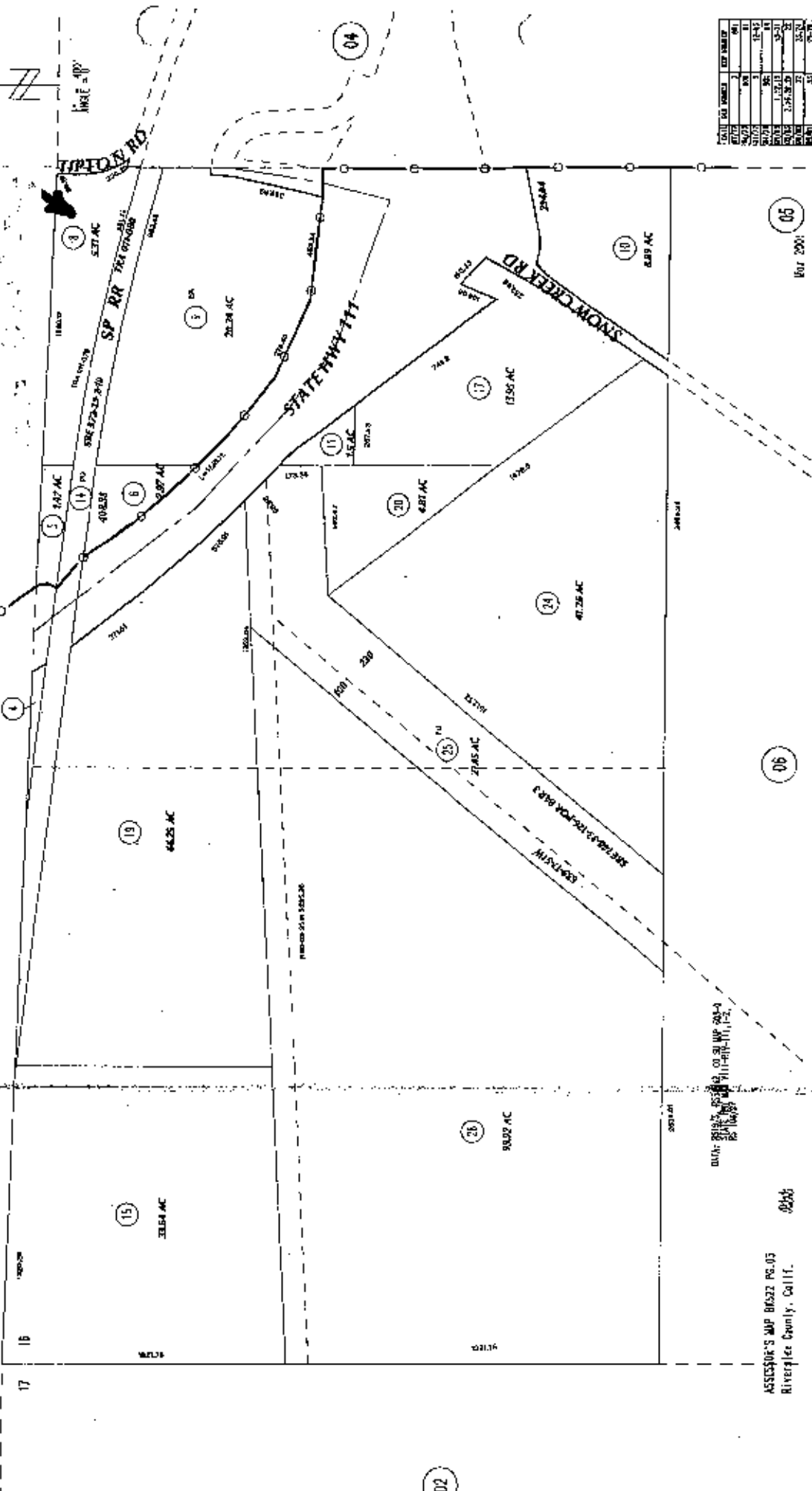
522-03
24-08-10

T.R.A. 055-019
011-080
055-031
011-079

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSISTANT'S OFFICE MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

516
47

517
32



TRACT	SQ. FT.	AC.	PER. VALUE
1	1,000,000	22.96	459,200
2	1,000,000	22.96	459,200
3	1,000,000	22.96	459,200
4	1,000,000	22.96	459,200
5	1,000,000	22.96	459,200
6	1,000,000	22.96	459,200
7	1,000,000	22.96	459,200
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38	1,000,000	22.96	459,200
39	1,000,000	22.96	459,200
40	1,000,000	22.96	459,200

05
Rev 2001
APR 05 2001

ASSISOR'S MAP B6522 PG-03
Riverside County, Calif.

OWNER: 281527, 281528, 281529, 281530, 281531, 281532, 281533, 281534, 281535, 281536, 281537, 281538, 281539, 281540, 281541, 281542, 281543, 281544, 281545, 281546, 281547, 281548, 281549, 281550, 281551, 281552, 281553, 281554, 281555, 281556, 281557, 281558, 281559, 281560, 281561, 281562, 281563, 281564, 281565, 281566, 281567, 281568, 281569, 281570, 281571, 281572, 281573, 281574, 281575, 281576, 281577, 281578, 281579, 281580, 281581, 281582, 281583, 281584, 281585, 281586, 281587, 281588, 281589, 281590, 281591, 281592, 281593, 281594, 281595, 281596, 281597, 281598, 281599, 281600, 281601, 281602, 281603, 281604, 281605, 281606, 281607, 281608, 281609, 281610, 281611, 281612, 281613, 281614, 281615, 281616, 281617, 281618, 281619, 281620, 281621, 281622, 281623, 281624, 281625, 281626, 281627, 281628, 281629, 281630, 281631, 281632, 281633, 281634, 281635, 281636, 281637, 281638, 281639, 281640, 281641, 281642, 281643, 281644, 281645, 281646, 281647, 281648, 281649, 281650, 281651, 281652, 281653, 281654, 281655, 281656, 281657, 281658, 281659, 281660, 281661, 281662, 281663, 281664, 281665, 281666, 281667, 281668, 281669, 281670, 281671, 281672, 281673, 281674, 281675, 281676, 281677, 281678, 281679, 281680, 281681, 281682, 281683, 281684, 281685, 281686, 281687, 281688, 281689, 281690, 281691, 281692, 281693, 281694, 281695, 281696, 281697, 281698, 281699, 281700, 281701, 281702, 281703, 281704, 281705, 281706, 281707, 281708, 281709, 281710, 281711, 281712, 281713, 281714, 281715, 281716, 281717, 281718, 281719, 281720, 281721, 281722, 281723, 281724, 281725, 281726, 281727, 281728, 281729, 281730, 281731, 281732, 281733, 281734, 281735, 281736, 281737, 281738, 281739, 281740, 281741, 281742, 281743, 281744, 281745, 281746, 281747, 281748, 281749, 281750, 281751, 281752, 281753, 281754, 281755, 281756, 281757, 281758, 281759, 281760, 281761, 281762, 281763, 281764, 281765, 281766, 281767, 281768, 281769, 281770, 281771, 281772, 281773, 281774, 281775, 281776, 281777, 281778, 281779, 281780, 281781, 281782, 281783, 281784, 281785, 281786, 281787, 281788, 281789, 281790, 281791, 281792, 281793, 281794, 281795, 281796, 281797, 281798, 281799, 281800, 281801, 281802, 281803, 281804, 281805, 281806, 281807, 281808, 281809, 281810, 281811, 281812, 281813, 281814, 281815, 281816, 281817, 281818, 281819, 281820, 281821, 281822, 281823, 281824, 281825, 281826, 281827, 281828, 281829, 281830, 281831, 281832, 281833, 281834, 281835, 281836, 281837, 281838, 281839, 281840, 281841, 281842, 281843, 281844, 281845, 281846, 281847, 281848, 281849, 281850, 281851, 281852, 281853, 281854, 281855, 281856, 281857, 281858, 281859, 281860, 281861, 281862, 281863, 281864, 281865, 281866, 281867, 281868, 281869, 281870, 281871, 281872, 281873, 281874, 281875, 281876, 281877, 281878, 281879, 281880, 281881, 281882, 281883, 281884, 281885, 281886, 281887, 281888, 281889, 281890, 281891, 281892, 281893, 281894, 281895, 281896, 281897, 281898, 281899, 281900, 281901, 281902, 281903, 281904, 281905, 281906, 281907, 281908, 281909, 281910, 281911, 281912, 281913, 281914, 281915, 281916, 281917, 281918, 281919, 281920, 281921, 281922, 281923, 281924, 281925, 281926, 281927, 281928, 281929, 281930, 281931, 281932, 281933, 281934, 281935, 281936, 281937, 281938, 281939, 281940, 281941, 281942, 281943, 281944, 281945, 281946, 281947, 281948, 281949, 281950, 281951, 281952, 281953, 281954, 281955, 281956, 281957, 281958, 281959, 281960, 281961, 281962, 281963, 281964, 281965, 281966, 281967, 281968, 281969, 281970, 281971, 281972, 281973, 281974, 281975, 281976, 281977, 281978, 281979, 281980, 281981, 281982, 281983, 281984, 281985, 281986, 281987, 281988, 281989, 281990, 281991, 281992, 281993, 281994, 281995, 281996, 281997, 281998, 281999, 282000