

LAND USE SERVICES DEPARTMENT Planning Division PLANNING COMMISSION STAFF REPORT



HEARING DATE:

July 17, 2014

Project Description

AGENDA ITEM NO: 2 Vicinity Map



APN: 3071-071-15*

APPLICANT: County of San Bernardino

PROPOSAL: Tract Map 18943, a reversion to acreage

for Tract Map 17231, pursuant to the California Subdivision Map Act (Government Code § 66499.11 et seq.) and the San Bernardino County Code (§

87.04.070 et seq.).

COMMUNITY: Baldy Mesa/1st Supervisorial District

LOCATION: Bounded by Braceo Street, Sunset Road, Joshua Road, and the California Aqueduct.

PROJECT NO. P201400067

STAFF: Gregory Bennett, Staff Analyst II



Hearing Notices Sent on: May 21, 2014 Report Prepared By: Gregory Bennett, Staff Analyst

PC Field Inspection Date: April 29, 2014 Field Inspected by: Commissioner Coleman

SITE DESCRIPTION: Parcel Size: 23 acres

Terrain: Relatively flat

Vegetation: Disturbed land, with scattered Mojave scrub vegetation.

SURROUNDING LAND DESCRIPTION

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
SITE	Vacant	Rural Living (RL)
North	Single-Family Residences	Rural Living (RL)
South	California Aqueduct	Not Applicable
East	Vacant	Rural Living (RL)
West	Single-Family Residences	Rural Living (RL)

AGENCY COMMENT

City Sphere of Influence:City of VictorvilleN/AWater Service:Baldy Mesa Water DistrictN/ASeptic/Sewer Service:SepticN/A

STAFF RECOMMENDATION: That the Planning Commission **Recommends** that the Board of Supervisors Approve the Reversion to Acreage. Recommendations to the Board of Supervisors are not subject to appeal.

VICINITY MAP



AERIAL VIEW



LAND USE ZONING DISTRICT MAP



PROJECT SITE DESCRIPTION:

The project site is bounded by Braceo Street, Sunset Road, Joshua Road, and is located just north the California Aqueduct. The site is in the unincorporated area of Baldy Mesa, in the First Supervisorial District, and is within the City of Victorville Sphere of Influence. The land use zoning designation of the site is Rural Living (RL), and single-family residences border the site to the north and west.

BACKGROUND:

Tentative Tract Map 17231 was approved by Land Use Services on July 20, 2005, for the creation of nine residential lots on 23 acres, for lot sales only. The conditions of approval were revised on August 15, 2007 to change the project from lot sales to developer build-out. The final map for Tract 17231 was approved by the Board of Supervisors (Board) on November 20, 2007 (Item No. 23), and recorded on November 21, 2007. The property is currently owned by Real Estate Diversified Funds I, LLC (Principal).

ANALYSIS:

<u>Securities and Subdivision Agreements.</u> Upon acceptance of the final map for Tract 17231, the Board also accepted the road and drainage and water performance agreements and securities, in the amounts of \$152,000 (Bond) and \$84,000 (Bond), respectively, to guarantee the required construction of the road and drainage and water improvements for Tract 17231.

The Principal originally agreed to complete the required road and drainage and water improvements for Tract 17231 by November 20, 2009. The County sent several default notices to the Principal with requests to bring the agreement to current status. However, the Principal did not provide the County with the required documentation and securities to maintain the agreement. A letter from the Principal, dated July 26, 2013, requested an additional six month extension to implement a plan to comply with the County's requirements. The County's ability to take legal action on the road and drainage and water improvements had an expiration date of November 20, 2013, pursuant to California Code of Civil Procedure Section 337.

On October 22, 2013 (Item No. 16), the Board took the following actions: 1. Directed the Land Use Services Department and the Public Works Department to initiate foreclosure on the agreements and securities for Tract 17231 in the Baldy Mesa area for the road and drainage performance security in the amount of \$152,000 (Bond) and the water performance security in the amount of \$84,000 (Bond); 2. Authorized County Counsel to file an action against Principal and the surety, SureTec Insurance Company (Surety), to collect sufficient monies to pay for any damage incurred by the County as a result of the Principal's breach of the road and drainage and water improvement agreements; and 3. Directed staff to initiate reversion to acreage proceedings for Tract 17231 pursuant to the California Subdivision Map Act (Government Code §66499.11 et seq.) and the San Bernardino County Code (§87.04.070 et seq.).

On November 19, 2013, the County filed its lawsuit against the Principal and the Surety to foreclose the bonds, thus satisfying Board directives 1 and 2. Since filing the lawsuit, County

Counsel has been in contact with the Surety as well as the Principal, and both Surety and Principal are in support of the reversion of Tract Map 17231 to acreage.

This action is a part of the process required to fulfill Board directive 3. The County Surveyor has obtained all information necessary to accomplish the proposed reversion to acreage, including evidence of title to the real property within Tract 17231 and evidence sufficient to enable the Board to make all of the determinations and findings required by Government Code section 66499.16. More specifically, the County Surveyor obtained a Preliminary Title Report from Stewart Title, dated December 5, 2013, and determined that no lots shown in Tract 17231 have been sold within five years from the date such map was filed for record. In addition, Land Use Services has obtained other pertinent information which may be necessary for a determination to revert the property to acreage, including, but not limited to, information necessary for compliance with the California Environmental Quality Act (CEQA). The County Surveyor has prepared a final map which delineates the reversion to acreage, including the vacation of dedicated right-of-way required under Tract 17231. Finally, the County Surveyor and the Director of Land Use Services will prepare a report accounting for all costs incurred by the County in the processing of the reversion to acreage, as well as fees and deposits to be returned to the current owner of the property upon release of the securities, after deduction of the costs to be recovered by the County for processing the reversion the acreage.

According to County Code section 87.04.070(b), a hearing on the proposed reversion to acreage must first be scheduled before the Planning Commission. The Planning Commission renders its decision on the reversion to acreage map in the form of a written recommendation to the Board.

<u>CEQA Compliance</u>. The Project does not include any physical changes to the Project site. Reversions to acreage are exempt from the provisions of CEQA pursuant to section 15305 (c), Minor Alterations in Land Use Limitations, and, therefore, it is the determination of Staff that this project will not have a significant effect on the environment and a Notice of Exemption will be filed.

RECOMMENDATION: That the Planning Commission recommend the following actions to the Board of Supervisors:

- A) APPROVE the Reversion to Acreage by Final Map;
- B) APPROVE Tract Map 18943 for the purpose of reverting to acreage Tract 17231, which consists of nine Rural Living residential lots on 23 acres;
- **C)** ADOPT the Findings as contained in the staff report; and
- **D) DIRECT** staff to file a Notice of Exemption.

Attachments:

Exhibit A: Findings

Exhibit B: Approved Board Item
Exhibit C: Tract Map 18943
Exhibit D: Tract Map 17231

EXHIBIT A

Findings

FINDINGS: Reversion to Acreage per section 66499.16 of the Subdivision Map Act.

- 1. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes because all the dedication to be vacated do not provide legal or physical access to properties that are not a part of the Reversion to Acreage.
- 2. No lots shown on the final map or parcel map have been sold within five years from the date such map filed for record.

EXHIBIT B

Approved Board Item

REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, CALIFORNIA AND RECORD OF ACTION

October 22, 2013

FROM:

TOM HUDSON, Director

Land Use Services Department

GERRY NEWCOMBE, Director Public Works Department

SUBJECT:

INITIATE FORECLOSURE ON IMPROVEMENT AGREEMENTS AND PERFORMANCE SECURITIES; INITIATE REVERSION TO ACREAGE PROCEEDINGS TRACT 17231 BALDY MESA AREA; SUBDIVIDER/PRINCIPAL: REAL ESTATE DIVERSIFIED FUNDS I, LLC

RECOMMENDATION(S)

- 1. Initiate foreclosure proceedings on the following agreements and securities for Tract 17231, in the Baldy Mesa area:
 - a. Road and drainage performance security in the amount of \$152,000 (Bond).

b. Water improvement performance security in the amount of \$84,000 (Bond).

- 2. Authorize County Counsel to file an action against the agreement subdivider/principal, Real Estate Diversified Funds I, LLC, 15461 Ash Street, Hesperia, CA 92345 (Principal) and the surety, SureTec Insurance Company (Surety) to collect sufficient monies to pay for any damage incurred by County as a result of Principal's breach of the road and drainage and water improvement agreements.
- 3. Initiate reversion to acreage proceedings for Tract 17231 pursuant to the California Subdivision Map Act (Government Code sections 66499.11 et seq.) and the San Bernardino County Code (County Code sections 87.04.070 et seq.).

(Presenter: Gia Kim, Assistant Director, 252-5105)

BOARD OF SUPERVISORS COUNTY GOALS AND OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Ensure Development of a Well-Planned, Balanced, and Sustainable County. Maintain Public Safety.

FINANCIAL IMPACT

Approval of this item will not result in the use of any additional Discretionary General Funding (Net County Cost). It is anticipated that all costs associated with this item will be reimbursed by the foreclosed securities (\$152,000 - Bond for road and drainage performance security and/or \$84,000 - Bond for water improvement performance security).

Page 1 of 3

cc: jll	LUSD-Hudson; Kirn; Palos PW-Newcombe; Herrin CAO-Brown File - TM 17231 w/ map 10/31/13	Record of Action of the Board of Supervisors APPROVED (CONSENT CALENDAR) COUNTY OF SAN BERNARDINO Board of Supervisors
		MOTION SECOND AYE AYE AYE 4 5
		LAURA H. WELCH, CLERK OF THE BOARD
	ITEM 16	DATED: October 22, 2013

Rev 7-1-13

INITIATE FORECLOSURE ON IMPROVEMENT AGREEMENTS AND PERFORMANCE SECURITIES; INITIATE REVERSION TO ACREAGE PROCEEDINGS TRACT 17231 BALDY MESA AREA; SUBDIVIDER/PRINCIPAL: REAL ESTATE DIVERSIFIED FUNDS I, LLC **OCTOBER 22. 2013** PAGE 2 OF 3

BACKGROUND INFORMATION

Approval of this item will initiate foreclosure proceedings on the road and drainage and water improvement performance securities, and the underlying improvement agreements for Tract 17231. This action is necessary as Principal is currently in default under the terms of the road and drainage and water improvement agreements and performance securities.

The original tract conditions were approved by Land Use Services on July 20, 2005, for the creation of nine residential lots for lot sales only on 23 acres. The tract conditions were revised and approved by Land Use Services on August 15, 2007, to change from lot sales to developer build-out. The existing property has not been disturbed and is currently owned by Real Estate Diversified Funds I, LLC.

On November 20, 2007 (Item No. 23), the Board accepted the road and drainage as well as water performance agreements and securities, in the amounts of \$152,000 (Bond) and \$84,000 (Bond), respectively, to guarantee the required construction of the road and drainage and water improvements for Tract 17231, located north of the California Aqueduct between Braceo Street and Joshua Road in the Baldy Mesa area. The final map for Tract 17231 recorded on November 21, 2007 in Book 331 of Maps, pages 4 through 6.

The Principal originally agreed to complete the required road and drainage, and water improvements for Tract 17231 by November 20, 2009. The County has sent several default notices to the Principal with requests to bring the agreement to current status. However, the Principal has not responded with the required documentation and securities to maintain the agreement. A letter dated July 26, 2013, from the Principal, indicates that the Principal wishes an additional six month extension to implement a plan to comply with the County's requirements. The County's ability to take legal action on the road and drainage and water improvement agreements expires on November 20, 2013, pursuant to California Code of Civil Procedure Section 337. As of this date, none of the required road and drainage and water improvements have been started, according to the approved plan.

Approval of Recommendation No. 1 initiates foreclosure on the road and drainage as well as the water improvement agreements and performance securities. Approval of Recommendation No. 2 authorizes County Counsel to file an action against the Principal and the Surety to collect sufficient monies to pay for any damages incurred by the County as a result of Principal's breach of the road and drainage and water improvement agreements. Approval of Recommendation No. 3 will initiate reversion to acreage proceedings for Tract 17231 pursuant to the California Subdivision Map Act (Government Code sections 66499.11 et seq.) and the San Bernardino County Code (County Code sections 87.04.070 et seq.) which is the first step in the process of investigating and then holding public hearings on the decision of whether to revert the property to acreage (that is, restore the property to its previous configuration before Tract 17231 was recorded). It is necessary to emphasize that the initiation of reversion to acreage proceedings does not approve a reversion to acreage of Tract 17231.

INITIATE FORECLOSURE ON IMPROVEMENT AGREEMENTS AND PERFORMANCE SECURITIES; INITIATE REVERSION TO ACREAGE PROCEEDINGS TRACT 17231 BALDY MESA AREA; SUBDIVIDER/PRINCIPAL: REAL ESTATE DIVERSIFIED FUNDS I, LLC OCTOBER 22, 2013 PAGE 3 OF 3

If the Board authorizes the initiation of reversion to acreage proceedings, the County Surveyor will obtain all information necessary to accomplish the proposed reversion, including evidence of title to the real property within Tract 17231 and evidence sufficient to enable the Board to make all of the determinations and findings required by Government Code section 66499.16. In addition, the County Surveyor will obtain other pertinent information which may be necessary for a determination to revert the property to acreage, including, but not limited to, information necessary for California Environmental Quality Act purposes. The County Surveyor will also prepare a final map which delineates the reversion to acreage, including the vacation of dedications which had been required under Tract 17231. Finally, the County Surveyor and the Director of the Land Use Services Department will prepare a report delineating an accounting of all costs incurred by the County in the processing of the revision to acreage which shall be recovered from the securities identified in this item and a report delineating the return of fees and deposits to the current owner of the property and the release of securities minus the fees to be recovered by the County for processing the reversion to acreage.

According to County Code section 87.04.070(b), a hearing on the proposed reversion to acreage must first be scheduled before the Planning Commission. The Planning Commission renders its decision on the reversion to acreage map in the form of a written recommendation to the Board. Upon receipt of the recommendation of the Planning Commission, the Board holds a public hearing. The Board may approve the reversion to acreage map only if it finds that all of the findings required by Government Code section 66499.16 are true. Public notice will be provided for both hearings as required by the Subdivision Map Act and the County Code. If the Board ultimately approves the reversion to acreage, the map is then delivered to the County Surveyor and takes effect after it is recorded.

REVIEW BY OTHERS

This item has been reviewed by Land Use Services (Josue Palos, Administrative Supervisor, 387-0295) on September 30, 2013, Department of Public Works (Thomas P. Herrin, County Surveyor, 387-8149) on September 30, 2013, County Counsel (Scott M. Runyan, Deputy County Counsel, 387-5455) on September 30, 2013, Finance (Jessica Brown, Administrative Analyst, 387-4919) on October 3, 2013 and Finance & Administration (Mary Jane Olhasso, Assistant Executive Officer – Finance & Administration, 387-4599) on October 7, 2013.

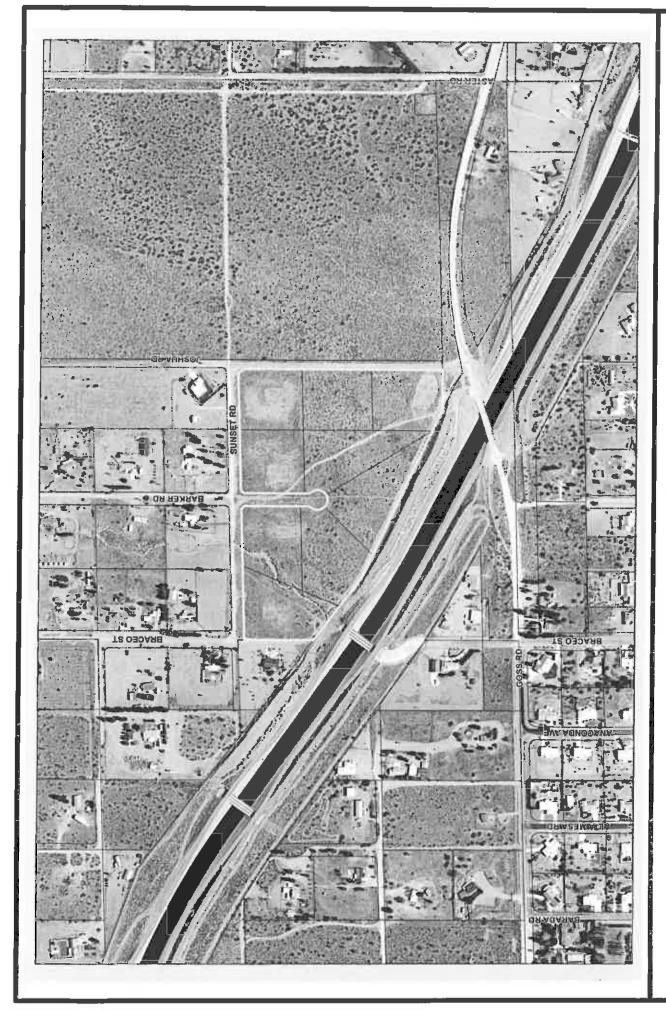


EXHIBIT C

Tract Map 18943

SHEET 1 OF 2

TRACT MAP 18943

BEING A REVERSION TO ACREAGE OF TRACT MAP 17231, RECORDED IN BOOK 331 OF TRACT MAPS, PAGES 4-6, INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

NOVEMBER, 2013

OWNER'S STATEMENT WE HEREBY STATE WE ARE ALL AND THE ONLY PARTIES HAVING ANY RECORD TITLE	SURVEYOR'S STATEMENT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED
INTEREST IN THE LAND SUBDIVIDED AS SHOWN ON THIS MAP, AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP.	UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUITEMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF COUNTY OF SAN BERNARDINO – LAND USE SERVICES ON OCTOBER, 2013
REAL ESTATE DIVERSIFIED FUND 1, LLC.	I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN
TOM HOUTS GENERAL MANAGER	THOSE POSITIONS BEFORE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.
	DATE GOVERNMENT OF THE PROPERTY OF THE PROPERT
NOTARY ACKNOWLEDGMENT	JOHN C. DODRILL, DEPUTY COUNTY SURVEYOR PLS 7806 EXPIRES 12/31/15
BTATE OF CALIFORNIA	TE OF CI
COUNTY OF SAN BERNARDINO	
IN BEFORE ME, NOTARY PUBLIC PERSONALLY APPEARED NOTARY PUBLIC PERSONALLY APPEARED HO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED OME THAT HE EXECUTED THE SAME IN HIS AUTHORIZED CAPACITY, AND THAT BY HIS SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.	
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.	COUNTY SURVEYOR'S STATEMENT
NAME PRINTED SIGNATURE:	I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP. AND THAT THE SUBDIVISION SHOWN THEREON IS SUBSTANTIALLY
NY COMMISSION EXPIRES:	THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THERETO, AND THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND DIVISION 7 OF THE SAN BERNARDINO COUNTY CODE HAVE BEEN COMPLIED WITH AND I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.
	DATE
	THOMAS P. HERRIN, COUNTY SURVEYOR COUNTY OF SAN BERNARDINO
	PLS 8062 EXPIRES 12/31/2015
SIGNATURE OMISSION:	
HE FOLLOWING SIGNATURES HAVE BEEN OMITTED PURSUANT TO SECTION 66436 F THE SUBDIVISION MAP ACT:	
THE SIGNATURE OF AN OFFICER OF THE UNITED STATES OF AMERICA, THE OWNERS OF ANY VESTED AND ACCRUDE WATER RIGHTS FOR MINING, AGRICULTURAL, MANUFACTURING, OR OTHER PURPOSE, AND RIGHTS TO DITCHES AND RESERVOIRS JSED IN CONNECTION WITH SUCH WATER RIGHTS, AS MAY BE RECOGNIZED AND ACKNOWLEDGED BY THE LOCAL CUSTOMS, LAWS AND DECISIONS OF COURTS, AND A RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES; AS DISCLOSED BY DOCUMENT RECORDED JUNE 20, 1918 IN BOOK "L" OF PATENTS PAGE 71, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY. ITS INTEREST CANNOT RIPEN INTO A FEE. SAID RESERVATION COVERS	
COUNTY. ITS INTEREST CANNOT RIPEN INTO A FEE. SAID RESERVATION COVERS THE ENTIRE AREA BEING SUBDIVIDED.	ACCEPTANCE AND ABANDONMENT CERTIFICATE
	I HEREBY CERTIFY THAT THE BOARD OF SUPERVISORS, OF THE COUNTY OF SAN BERNARDINO DULY APPROVED THE ANNEXED MAP OF TRACT 18943. IT IS HEREBY FURTHER CERTIFIED, PURSUANT TO SECTION 66434 (g) OF THE GOVERNMENT CODE, THAT THE RECORDATION OF THIS FINAL MAP CONSTITUTE ABANDONMENT OF THAT OFFER OF DEDICATION OF BARKER ROAD, LYING SOUT OF SUNSET ROAD, AS ACQUIRED BY THE COUNTY OF SAN BERNARDINO ON NOV 21, 2007 BY TRACT 17231, FILED IN BOOK 331 OF TRACT MAPS, PAGES 4-
	INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

SAN BERNARDINO COUNTY RECORDER'S CERTIFICATE THIS MAP HAS BEEN FILED UNDER DOCUMENT NUMBER______, THIS_DAY OF ______, 2014, AT _____, M. IN BOOK_______OF TRACT MAPS AT PAGE_____, AT THE REQUEST OF _____.

DENNIS DRAEGER ASSESSOR-RECORDER-CLERK COUNTY OF SAN BERNARDINO

LAURA H. WELCH CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERARDINO

SHEET 2 OF 2

TRACT MAP 18943

BEING A REVERSION TO ACREAGE OF TRACT MAP 17231, RECORDED IN BOOK 331 OF TRACT MAPS, PAGES 4-6, INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA. NOVEMBER, 2013

EASEMENT NOTES

= INDICATES AN EASEMENT, 20 FEET IN WIDTH FOR WATER PIPELINES, IN FAVOR OF BALDY MESA COUNTY WATER DISTRICT, RECORDED SEPTEMBER 27, 1968, IN BOOK 7101, PAGE 637, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY.

= SAN BERNARDINO COUTNY DRAINAGE EASEMENT PER TRACT MAP 17231 BOOK 331, PAGES 4-6, INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY.

BASIS OF BEARINGS

THE NORTHERLY LINE OF SUNSET ROAD AS SHOWN ON TRACT 17231, MAP BOOK 331, PAGES 4-6 RECORD'S OF SAN BERNARDINO COUNTY BEING: N88 *58 '31 "E.

SURVEYOR'S NOTES

- = FD 1" IP WITH PLUG & TAG "LS 5091" IN TOP PER TRACT 17231 MB 331/4-6. UNLESS OTHERWISE NOTED.
- () = RECORD & MEASURED PER TRACT 17231 MB 331/ 4-6.

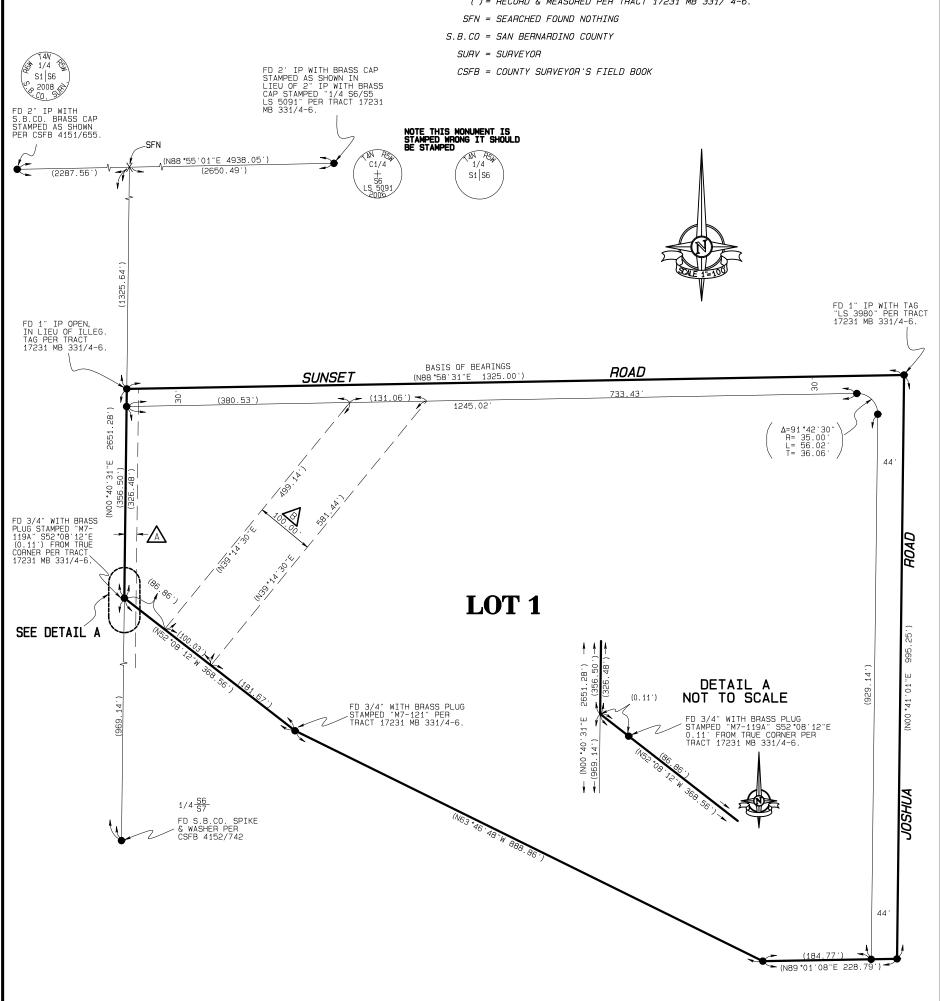


EXHIBIT D

Tract Map 17231

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