

**Butte County Planning Commission**  
**AGENDA REPORT – March 26, 2009**

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**Applicant:** Jared Alvarez

**Size:** +/-15.7 acres

**Owner:** Jared Alvarez

**Creation Deed/Date:** April 4, 1968

**Application File #:** DET09-0001

**Location:**

1/2 mile north of the intersection of Jordan Hill Rd. with Granite Ridge Road (private), 2.8 miles northwest of the intersection of Jordan Hill Road and Concow Road (County), 1/4 mile west of the Town of Paradise boundary.

**Request:**

Legal Lot Determination by Certificate of Compliance.

**General Plan:**

GOL Grazing and Open Land (eastern 2/3)  
FAR Foothill Area Residential (western 1/3)

**Project Planner:**

Steve Troester, Senior Planner

**Zoning:** FR-20 Foothill Recreational, 20-acre min.)

**Supervisorial District:** 1

**Zoning Date:** February 22, 1982

**Attachments:**

- A. Resolution
- B. Vicinity Map
- C. General Plan Zone Map

**APN:** 058-160-073

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**SUMMARY AND RECOMMENDATION:**

The subject property was originally created by deed recorded April 4, 1968. The parcel was created without access to a publicly maintained road (Jordan Hill Road) as required by the Butte County Subdivision Ordinance. Access to the property was provided by a later deed, recorded May 18, 1993 as Instrument #93-19971. The applicant is requesting a Certificate of Compliance. Staff recommends a determination that the action is categorically exempt from review under the California Environmental Quality Act (CEQA), and approval of this request for a Legal Lot Determination/Conditional Certificate of Compliance with findings and conditions.

**ANALYSIS:**

- The subject property was originally created by deed recorded April 4, 1968 in Book 1512 at pages 335 & 336. Butte County's first General Land Use Plan Map was adopted in 1966. On August 31, 1953 Butte County adopted Ordinance 475, establishing land use zones for

Butte County.

- The parcel was created prior to adoption of a General Plan (1979) in Butte County and current zoning district. The current FR-20 Foothill Recreational (20-acre min.) zoning was adopted on February 22, 1982.
- The parcel size of 15.7+/- acres is not consistent with the current FR-20 Foothill Recreational (20-acre min.) zone, which requires a twenty (20) acre minimum parcel size.
- The parcel is consistent with the current general plan land use designation of FAR Foothill Area Residential on the eastern +/-2/3 of the property, which designates a one (1) acre minimum parcel size as consistent zoning. However, the parcel is inconsistent with the GOL Grazing and Open Land general plan designation on the western +/-1/3 of the property, which designates a forty (40) acre minimum parcel size as consistent zoning.
- Future subdivision of the parcel is not feasible under existing zoning due to the existing parcel size.
- Regarding this application, the Division of Environmental Health determined that there is sufficient depth of soil and useable sewage disposal area to meet Appendix VII requirements. An exploratory well was drilled under Environmental Health Permit EHWS08-0062 and an adequate quantity of water has been proven.
- Regarding the issuance of a conditional certificate of compliance, although this parcel does not comply with the currently adopted zoning standard 20-acre minimum parcel size and access requirements, Butte County Code Section 20-167 (cited below in part) provides that:

“If the advisory agency determines that such real property does not comply with the provisions of the Subdivision Map Act or of this chapter, but that development of such real property would not be contrary to public health or the public safety, it shall grant a certificate of compliance. In such cases the Planning Commission may, as a condition of granting a certificate of compliance, and in order to protect the public health or the public safety, impose such conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property;.....”

- The parcel was created in 1968, prior to the adoption of the current 20 acre minimum zoning standard.
- When created, the parcel did not have approved access. Per County Code Section 20-128, the Certificate of Compliance is therefore conditioned to provide a 60’ access easement in compliance with current County Code. Per Section 20-167, the 60’-wide standard is the standard in effect at the time the parcel was acquired by the current owner. The Certificate of Compliance is also conditioned to provide two-way traversable access to the parcel from a publicly maintained road. This is the County’s minimum access standard.
- The project was reviewed by the Butte County Public Works Department, Environmental Health Division, Cal-Fire/Butte County, Agricultural Commissioner’s Office and the Assessor’s Office; none of which expressed any concerns that the granting of a Conditional Certificate of Compliance for the parcel would be detrimental to the health, safety and welfare of the surrounding area.

**CEQA ISSUES:**

This project has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) provisions under Public Resources Code Section 15303. This section exempts limited uses including one single-family residence and a second dwelling unit.

Construction of a single family residence and a second unit assumes the construction of a driveway to serve the home site.

**RESOLUTION \_\_\_ - \_\_\_**

**A RESOLUTION OF THE BUTTE COUNTY PLANNING COMMISSION APPROVING  
LEGAL LOT DETERMINATION DET09-0001**

WHEREAS, the Planning Commission has considered Legal Lot Determination DET09-0001 for Jared Alvarez, in accordance with Chapter 20, Section 160 of the Butte County Code on Assessor's Parcel Number 058-160-073; and

WHEREAS, the Planning Commission has determined a Conditional Certificate of Compliance as categorically exempt in accordance with the California Environmental Quality Act; and

WHEREAS, said Conditional Certificate of Compliance was referred to various affected public and private agencies, County departments, and referral agencies for review and comments; and

WHEREAS, a public meeting was held on March 26, 2009; and

WHEREAS, the Planning Commission has considered a report from the Planning Division.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission:

- I. Finds this project is categorically exempt from the California Environmental Quality Act (CEQA) provisions under 14 CCR Section 15303. Section 15303 exempts limited uses including one single-family residence and a second dwelling unit, a store, motel, office, restaurant or similar structure not exceeding 2,500 square feet in floor area and not involving substantial amounts of hazardous substances, utility improvements, and accessory structures, amongst other exemptions.
  - A. Because the project is exempt from the provisions of CEQA, the payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required.
  - B. The custodian of the record is the Department of Development Services. The location of the record is 7 County Center Drive, Oroville CA 95965.
- II. Makes the following findings and approves Conditional Certificates of Compliance DET09-0001, with the conditions set forth in the attachment (Exhibit A) to the resolution.
  - A. The parcel was created prior to adoption of a General Plan (1979) in Butte County. The current FR-20 Foothill Recreational (20-acre min.) zoning was adopted on February 22, 1982.
  - B. The parcel is not consistent with the parcel size requirement of the current zoning of FR-20 Foothill Recreational (20-acre min.) zone.
  - C. The parcel is consistent with the current general plan land use designation of FAR Foothill Area Residential, on the eastern +/- 2/3 of the property, which

designates a one (1) acre minimum parcel size as consistent zoning. However, the parcel is inconsistent with the GOL Grazing and Open Land general plan designation on the western +/-1/3 of the property, which designates a forty (40) acre minimum parcel size as consistent zoning.

- D. County Code Section 20-167 provides that although this parcel does not comply with the provisions of the current zoning of FR-20 Foothill Recreational, 20-acre min.), the Planning Commission finds that development of this parcel would not be contrary to public health or the public safety because adequate road access, septic capacity and water availability are provided.
- E. With the conditions required in Exhibit A to this resolution, issuance of the Conditional Certificate of Compliance for the parcel will not be detrimental to the health, safety and welfare of the surrounding area.

DULY PASSED AND ADOPTED this 26<sup>th</sup> day of March, 2009, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Fernando Marin, Chair  
Planning Commission  
County of Butte, State of California

ATTEST:

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TINA BONHAM, Secretary  
Planning Commission  
County of Butte, State of California

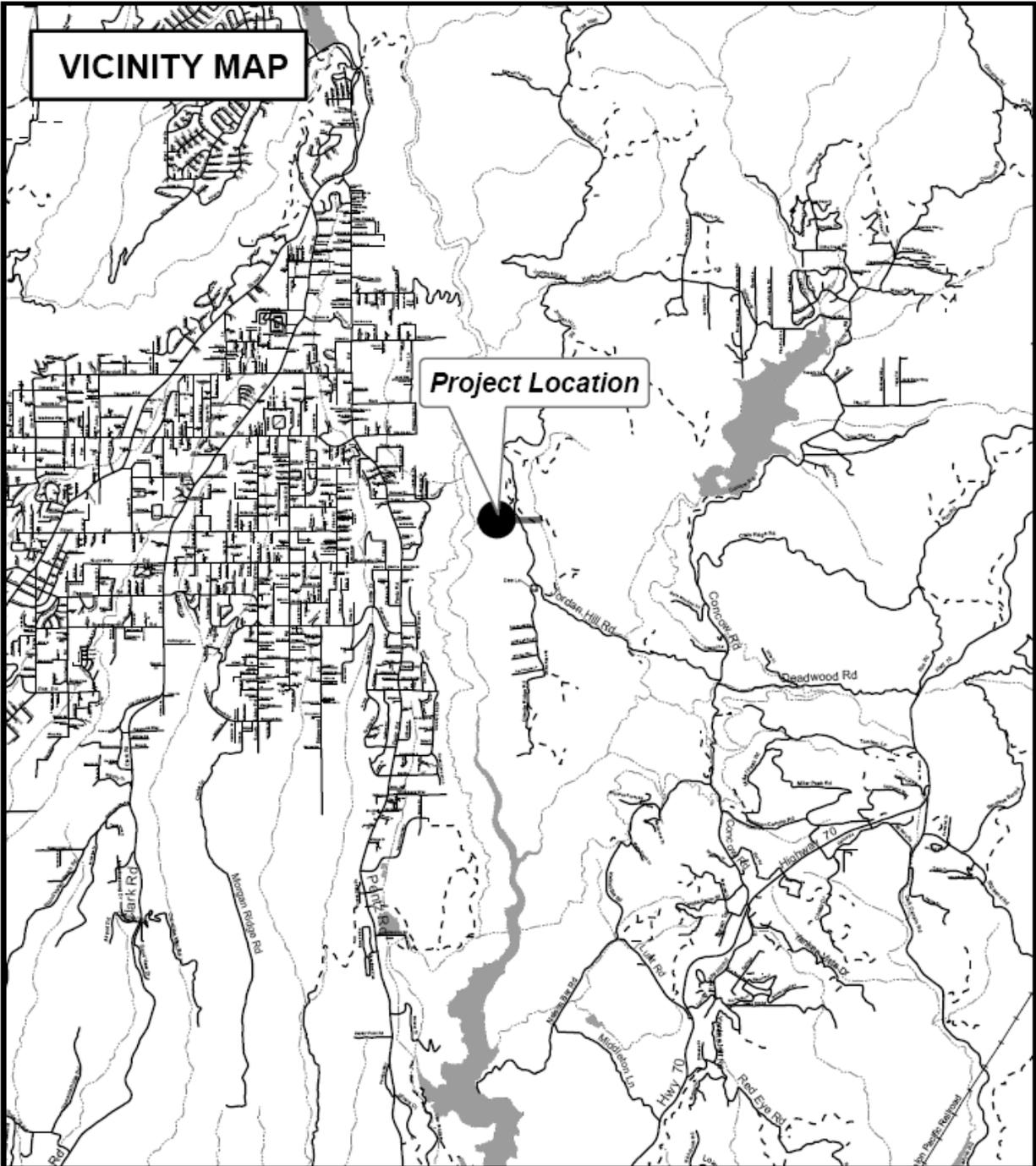
## **EXHIBIT A**

Legal Lot Determination/Conditional Certificate of Compliance, APN 058-160-073 (DET09-0001) for Jared Alvarez:

### **I. CONDITIONS OF APPROVAL:**

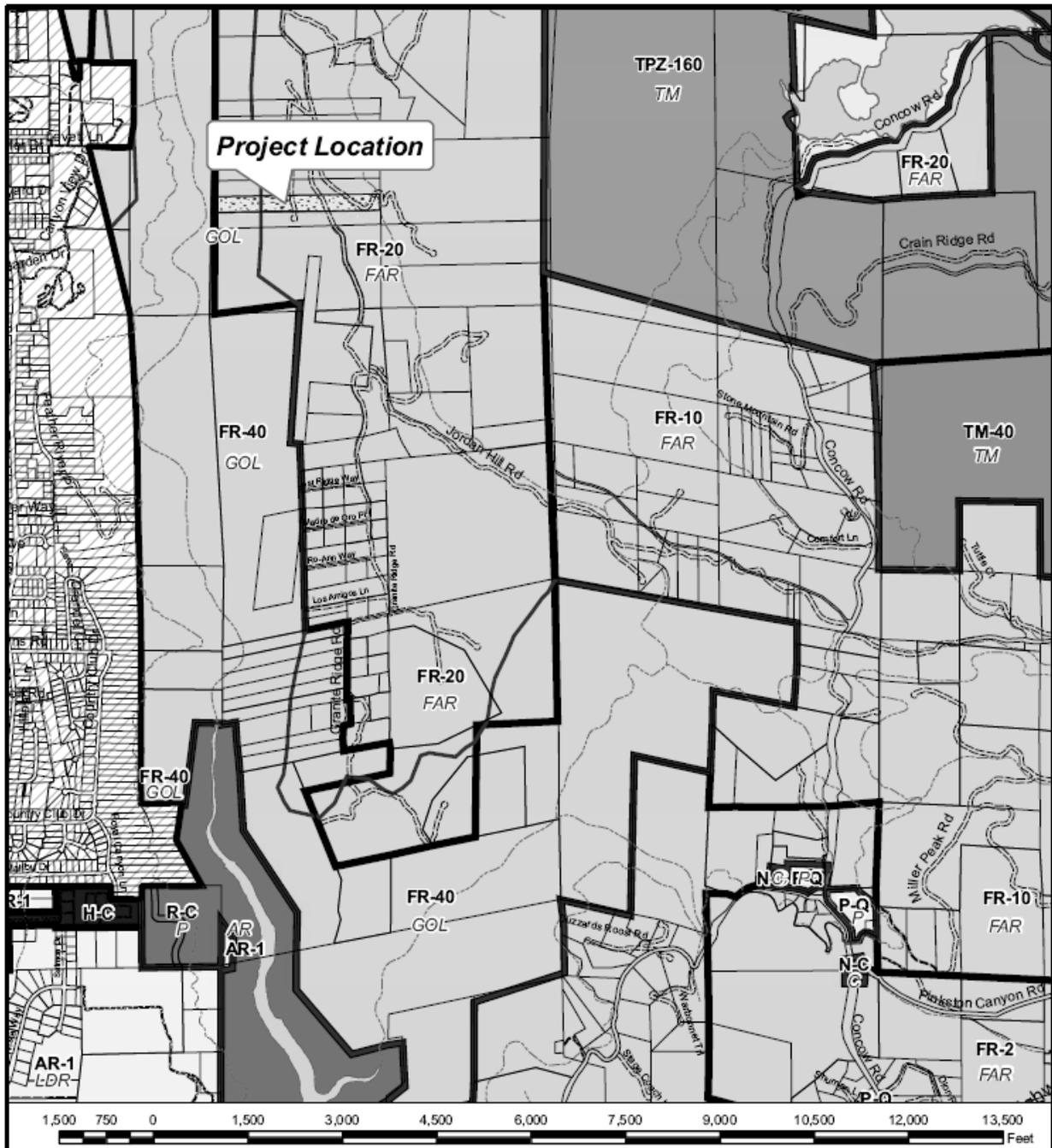
- 1) Pay the recording fee in effect at the time the Certificate of Compliance is recorded. The current fee is \$7.00 for the first sheet plus \$3.00 for each additional sheet. The estimated current cost for recording this Certificate is \$10.00 without conditions, \$13.00 with conditions. This cost estimate is based on 1 page notification (first sheet), 1 page of legal description attached as Exhibit "A", and 1 page of conditions attached as Exhibit "B".
- 2) Provide two-way traversable access to the parcel from a publicly maintained road or state highway as defined in the County Code.
- 3) Provide approved access to the parcel from a publicly maintained road or state highway in accordance with the County Code. Minimum easement width to be 60 feet.

- II.** If this entire matter or any finding, action or condition of this matter is appealed to the Board of Supervisors, the applicant or any other developer/operator other than the applicant agrees to defend, indemnify and hold the County of Butte harmless from liability or loss related to the approval of this project and agrees to sign an indemnification agreement in a form approved by County Counsel before the Board's appeal hearing. If the application is not appealed, this condition is deemed satisfied.



DET 09-0001  
058-160-073

# ALVAREZ



**BUTTE COUNTY PLANNING COMMISSION**

<b>Applicant:</b> Jared Alvarez	<b>Owner:</b> Same
<b>Hearing Date:</b> March 26, 2009 @ 9:00 a.m.	<b>Existing Zone:</b> FR-20 (Foothill Recreational, 20 acre min.)
<b>Request:</b> Legal Lot Determination on a 15.7+/- acre parcel created by deed without access to a County maintained road.	
<b>Assessor Parcel No:</b> 058-160-073	



Supervisory District #1

File: DET 09-0001

# Creation Deed

AND OTHER RECORDS MADE TO  
 NAME: John Rhone  
 679 Arimo Ave.  
 Oakland, California  
 DATE OF DEED: \_\_\_\_\_  
 Title Order No. \_\_\_\_\_ Escrow No. \_\_\_\_\_  
 SPACE ABOVE THIS LINE FOR RECORDER'S USE  
 NAME: "said as above"  
 ADDRESS: \_\_\_\_\_  
 CITY & STATE: \_\_\_\_\_  
 BUTTE COUNTY RECORDER  
 CLARK A. NELSON  
 COUNTY RECORDER  
 FEE  
 45770  
 \$2.40  
 \$5.50  
 BUTTE COUNTY  
 RECORDING STAMP

## Individual Grant Deed

FOR VALUE RECEIVED, IRENE BYERS, a married woman,  
 GRANT, as JOHN RHONE, as to an undivided 1/2 interest, as his sole and separate property; OSCAR RHONE, as to an undivided 1/2 interest, as his sole and separate property all that real property situated in the Unincorporated  
 County of Butte, State of California, described as follows:  
 A portion of the Southwest quarter of Section 17, Township 22 North, Range 4 East, M.D.B. & M., and more particularly described as follows:  
 Commencing at the Northwest corner of the South half of the North half of the North half of the Southwest quarter of said Section 17; thence South 1°26'09" West, 510.60 feet to the point of beginning for the parcel of land described herein; thence South 1°26'09" West along the West line of said Section 17, a distance of 255.34 feet; thence North 63°52'21" East, 2704.95 feet; thence North 2°11'33" East, 250.67 feet to a point that bears North 63°33'29" East from the point of beginning; thence South 63°58'29" West, 2708.05 feet to the point of beginning.  
 EXCEPTING THEREFROM 1/2 of all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable associated substances and fissionable materials on and under said land with right of access thereto.  
 TOGETHER WITH AND RESERVING THEREFROM an easement for roadway and public utility purposes over a strip of land 60 feet in width, for the Jordan Hill Road, the center line is described as follows:  
 Beginning at the Southeast corner of the North half of the Southwest quarter of Section 17, Township 22 North, Range 4 East, M.D.B. & M.; thence following along the Southerly boundary line of the North half of the Southwest quarter of said Section 17, South 88°46'12" West, 727.77 feet to the true point of beginning for the center line herein described; thence North 33°08'46" West, 5.67 feet; thence North 22°44'36" West, 542.45 feet; thence North 27°07'16" West, 303.72 feet; thence North 1°40'06" West, 222.01 feet to the intersection with the Northerly line of the South half of the North half of the North half of the Southwest quarter of said Section 17 and the end of said center line.  
 ALSO TOGETHER WITH AND RESERVING THEREFROM an easement for roadway and public utility purposes, to be used in conjunction with others, over a 60 foot strip of land lying 30 feet on each side of the following described center line:  
 Beginning at a point located as being North 2°11'33" East, 464.11 feet from the Southeast corner of the North half of the Southwest quarter of Section 17, Township 22 North, Range 4 East; thence North 19°23'55" West, 89.20 feet; thence South 89°44'14" West, 54.87 feet; thence South 6°30'44" West, 80.45 feet; thence South 32°32'10" West, 203.60 feet; thence South 82°51'34" West, 64.34 feet; thence North 62°28'56" East, 214.69 feet; thence North 48°44'43" West, 493.20 feet; thence North 25°58'09" West, 237.27 feet; thence North 6°22'16" West, 21.42 feet to a point on the North line of the South half of the North half of the North half of the Southwest quarter of said Section 17 and the end of said center line.

58-16-58 + 1/2 535657 out of 58-16-58  
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Dated March 12th 1968

*Irene Byers*

STATE OF CALIFORNIA

County of Butte } ss.

On March 12, 1968, before me, the undersigned,

a Notary Public, known and for said State, personally appeared \_\_\_\_\_

Irene Byers

known to me to be the person whose name is \_\_\_\_\_

subscribed to the within instrument, and acknowledged to me that

she executed the same.

*M. Virginia Lindsey*  
Notary Public

M. Virginia Lindsey

Name (Type or Printed)

END OF DOCUMENT

FOR NOTARY SEAL OR STAMP



M. VIRGINIA LINDSEY  
Notary Public - California  
County of Butte

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MAIL TAX STATEMENTS AS DIRECTED ABOVE

APR 4 1968  
45770