

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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# Th21g

Appeal Filed: 5/31/07  
 Substantial Issue Found: 7/9/07  
 Staff: Shana Gray - VTA  
 Staff Report: 10/22/08  
 Hearing Date: 11/13/08



## STAFF REPORT: APPEAL DE NOVO REVIEW

**LOCAL GOVERNMENT:** County of Santa Barbara  
**LOCAL DECISION:** Approval with Conditions  
**APPEAL NO.:** A-4-STB-07-052  
**APPLICANT:** HR52 Partnership, Contact Michael Parsons  
**APPELLANTS:** Commissioners Patrick Kruer and Sara Wan  
**PROJECT LOCATION:** Lot 52, Hollister Ranch, unincorporated Santa Barbara County (Assessor Parcel No. 083-680-003)

**PROJECT DESCRIPTION:** Construction of a 795 sq. ft. guest house maximum height 15.5 ft, 672 detached garage maximum height 15.5 ft, landscaping, and 433 cu. yds. of cut grading. The project also includes the installation of a 5,000 gallon water tank for potable water and fire response and widening and improvements to an approximately 1,040 ft. long existing unimproved ranch road/driveway, extending from Segundo Road to the project site, in order to meet Santa Barbara County Fire Department standards. In addition to the accessory structure and driveway improvements, the project further includes some improvements to Segundo Road which will include widening and paving portions of the road, and creating turnouts.

**MOTION & RESOLUTION:** Page 7

**SUMMARY OF STAFF RECOMMENDATION:** On June 9, 2007 the Commission determined that a substantial issue exists with respect to the appellants' assertions that the originally proposed two-story accessory structure and associated development is not consistent with the environmentally sensitive habitat area (ESHA), native grassland and oak woodland habitat policies of the County of Santa Barbara's certified Local Coastal Program (LCP). The project is now before the Commission (in a slightly modified form) for a de novo review of the merits of the project in relation to the LCP standards. Note, this item was scheduled and the staff report was circulated for consideration at the October 2008 Commission hearing. However, the item was postponed based on written request of the applicant as allowed for under Section 13073 of the Commission's regulations. The applicant has subsequently requested that the project be scheduled for the next available hearing without any proposed changes to the

project description. Therefore this report is the same staff report that was circulated for the October 2008 hearing.

Staff recommends **denial** of the proposed project. In February 2008, the Commission heard this project de novo and voted to continue the item in order for staff to work with the applicant to determine whether there is an alternative location for the guest house that would be consistent with the County's LCP and would not adversely impact environmentally sensitive habitat areas. Since the February portion of the hearing on this matter, the applicant has provided a conceptual revised project location for the proposed guest house and garage, approximately 300 feet south of the original project site that was approved by the County (Exhibit 4).

In August 2008, Commission biologist Dr. Jonna Engel visited the site along with the applicant's biologist, the County of Santa Barbara biologist, and an additional independent botanical expert to assess the plant communities on and around the subject knoll where the guest house is now proposed (Exhibit 8). The biologists determined that:

- The road spanning the knoll supports only ground level nubs of grass patches, and supports less than 10% cover of purple needlegrass.
- The northerly section of the knoll (including the previously proposed location of the guest house) consists of a large stand of native perennial grassland ESHA dominated by purple needlegrass.
- The southerly section of the knoll (where the guest house and garage are currently proposed), including either side of the disturbed road bed, is characterized by a mixed native plant community consisting of both native perennial grassland and coastal sage scrub.

Arguably, the new location proposed for the guest house is a more suitable location than the originally approved location, since the footprint of the guest house would now be located within the disturbed roadbed, rather than within the healthy stand of native perennial grassland identified by the biologists. However, even as revised, the location of the project in an area that has already experienced vegetation maintenance for the roadbed and therefore is not itself considered ESHA would result in significant adverse impacts to native grassland and coastal sage scrub as a result of: (1) fuel modification for the proposed guest house and garage structures and (2) widening and fuel modification associated with the driveway. Structures in this high fire hazard area will be required to have 100 ft of space around them maintained for fuel modification purposes, consisting of a 30-ft fire clearance zone and an additional 70-ft zone of selective vegetation thinning. Fuel clearance is required 10 feet from both edges of the proposed driveway. Native purple needlegrass may be mowed above the basal tuft for fuel modification purposes.

Native grassland is an environmentally sensitive habitat listed in the County's LCP and coastal sage scrub is listed as a native plant community in the ESHA overlay. The

native grassland and coastal sage scrub mixed community is so integrated as to be indistinguishable as distinct or separate communities. However, at a minimum, the LCP requires that development be sited, designed, and constructed to minimize impacts to native vegetation. And specifically for native grasslands, the LCP requires that development shall be sited and designed to protect native grassland areas. Further, LCP Policy 1-2 states that where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.

Since the Commission's February 2008 meeting, the applicant has provided revised road plans, approved by the Fire Department, which indicate that the five oak trees would no longer be removed in order to facilitate the widening and paving of portions of Segundo Road. However, the project includes the widening and paving of a portion of this access road underneath the canopy of a number of oak trees that are part of an oak woodland area. Oaks are sensitive to surrounding land uses, grading or excavation at or near the roots. Encroachments within the dripline or protected zone of an oak tree can result in significant adverse impacts. Soil compaction and/or pavement of areas within the protected zone can block the exchange of air and water through the soil to the roots and can have serious long term negative effects on the tree. Damage can often take years to become evident and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree. In order to ensure that oak trees are protected, the Commission has required, in past permit actions, that the encroachment of development into the root zone of oak trees be avoided unless there is no feasible alternative for the siting of development.

In this case, construction of a single family residence is nearing completion in a different area of the property (pursuant to separate County coastal development permit), more than 500 feet east of the proposed guest house site and nearly a one-mile drive between the two. Since the guest house will not be located in the same area as the primary residence, development on site would not be clustered in a manner that would serve to minimize the loss of native grassland and coastal sage scrub communities. The proposed location of the guest house requires use of a separate road and driveway to access the knoll on the western section of the property since the knoll is not accessible from the main residence.

The key facts, as further discussed in this staff report, are summarized below:

- ❖ Areas of native grasslands constitute environmentally sensitive habitat areas (ESHAs) in the County's certified Local Coastal Program (LCP).
- ❖ Coastal sage scrub is a native plant community afforded protection under the LCP.
- ❖ The proposed guest house will have both direct and indirect adverse impacts on the native grassland and coastal sage scrub communities on site, and potentially on oak woodland habitat as well.
- ❖ The expansion and fuel modification associated with the access driveway to the guest house will partially occur within native grassland ESHA.

- ❖ The proposed guest house constitutes a non-essential accessory use to the already existing agricultural and residential uses of the property. Therefore, in regard to the new proposed guest house, the “no project” alternative is considered feasible as it would not prevent the applicant from a reasonable economic use of the property.
- ❖ The applicants may explore other alternative locations on the site. For example, there may be opportunities for a guest house to be clustered in the developed area near the existing residence. This would cluster development, reduce additional fuel modification requirements and eliminate the need to construct additional roads.

The applicant does not agree with staff’s assessment of the impacts associated with a guest house on the knoll. For instance, the applicant indicates in his July 10, 2007 letter (Exhibit 5) regarding the original guest house location that the pre-existing driveway would not need to be enlarged in conjunction with the creation of the guest house and, in fact, would not be enlarged. This same driveway would be used for access to the revised guest house location as well. However, the project plans approved by the fire department indicate an existing road width of approximately 9 feet wide that would be widened to 12 feet, including a segment through the northerly area of native perennial grassland ESHA. Also, it does appear that the applicant would need to construct at least a portion of new road from the intersection of Segundo Road and the property boundary to the existing road.

In its July, 2007 letter, the applicant also argued that the guest house, in its then-proposed location, is clustered, given that all residential structures will be located within a 2-acre development envelope and the parcel is 107 acres in total size. Since the revised guest house location is roughly similar to the original location, the applicant’s arguments with regard to clustering would also remain similar. Staff disagrees with the applicant’s assertion that the guest house is clustered given that the residence is located up a steep slope approximately 500 feet (virtually an entire city block) away from the existing residence. It is notable that the certified LCP does not establish a 2-acre development envelope for residential development on agricultural parcels. The Mitigated Negative Declaration for this project indicates that the County’s Agricultural Preserve Advisory Committee found the project to be consistent with the Uniform Rules for Agricultural Preserves, which limits building sites to 3% of the total parcel or two acres, whichever is smaller. However, these Uniform Rules are not certified as part of the County’s LCP, do not ensure consistency with the LCP policies that do govern here, and are not a standard of review for this permit.

Furthermore, there are many benefits to clustering development in areas of ESHA, including utilizing shared access roads to minimize grading and landform alteration; overlapping fuel modification requirements; limiting habitat fragmentation; and minimizing impacts associated with the presence of human activity and disturbance such as noise, lighting, and other impacts. The proposed project would not provide these benefits and could not be considered clustered.

Additionally, the applicant has indicated that it would not be feasible to cluster the guest house in the area of the existing residence due to geologic instabilities, drainages, septic and future septic drywells, and requirements by the County's CDP to restore areas disturbed by construction of the primary residence. In order to evaluate the applicant's assertions that clustering a guest house near the main residence is infeasible due to geologic hazards, Commission geologist Dr. Mark Johnsson reviewed the materials provided by the applicant. Based on the available materials, Dr. Johnsson determined that while there is a reasonable claim that the siltstone unit, located on the slope between the knoll and main residence, is inherently less stable than the sandstone unit to the north, a guest house immediately south of the main residence would place it only at slightly more risk than the location of the main residence itself.

Regardless of the feasibility of locating a guest house near the main residence, the relative feasibility of alternative locations is not relevant to the Commission's determination to deny the guest house in its currently proposed location. As stated above, and further discussed in this report, the proposed guest house is accessory to the existing agricultural and residential uses already enjoyed at the site. Because the applicant already has an economic use of the property, the "no project" alternative is a feasible alternative as well, and it is an alternative that would avoid all impacts to native grassland and coastal sage scrub communities.

Staff concludes, based on the available information, that the applicant's assertion that geologic instabilities, drainages, septic and future septic drywells, and restoration requirements would preclude a guest house in the vicinity of the primary residence, is not supported. Staff recognizes and agrees that there are several constraints to locating a guest house in the vicinity of the primary residence that would need to be acknowledged, including required setbacks from oak trees, creek setbacks, and the location of the septic and future septic dry wells. To-date, however, no evidence has been presented to staff that poor soil conditions would render the entire area undevelopable. Additionally, staff has both reviewed the CDP for the primary residence and confirmed with County staff that there are no required restoration/mitigation areas in the vicinity of the existing residence, except a general requirement of the County's permit which required that areas disturbed during construction would be restored. This type of restoration does not preclude applications for future development in those areas.

However, even if it were determined that the area in front of the existing residence is not suitable for the guest house, that would not be a material fact in the consideration of the proposed project's consistency with the LCP.

In this case, the policies and provisions of the Santa Barbara County LCP constitute the standard of review for the proposed guest house. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP.

As proposed, the project would result in adverse impacts to native grassland and coastal sage scrub, and potentially oak woodlands. The proposed project cannot be found consistent with the applicable policies of the LCP and the Chapter Three policies of the Coastal Act. The motion and resolution to deny this project pursuant to the staff recommendation begins on **Page 7**.

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## EXHIBITS

- Exhibit 1.** Vicinity Map
  - Exhibit 2.** Location
  - Exhibit 3.** Parcel Map
  - Exhibit 4.** Revised Project Location
  - Exhibit 5.** Correspondence from Applicant
  - Exhibit 6.** Aerial Photograph
  - Exhibit 7.** Potential Development Area
  - Exhibit 8.** Biologist Memo and Revised Plant Community Map
  - Exhibit 9.** Ex Parte Communications
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**SUBSTANTIVE FILE DOCUMENTS:** County of Santa Barbara Local Coastal Program; Proposed Final Mitigated Negative Declaration, Hollister Ranch Parcel 52 (County of Santa Barbara, February 16, 2007); Letter to California Coastal Commission, Ventura Office, from Michael and Anne Parsons, dated July 10, 2007; Santa Barbara County Zoning Administrator, Coastal Zone Staff Report for the HR52 Partnership Guest House, dated March 16, 2007; Segundo Road and Driveway Plans Approved by the Santa Barbara County Fire Department, Fire Prevention Division, August 8, 2008;

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## **I. STANDARD OF REVIEW**

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project sites). In this case, the proposed development was appealed to the Commission, which found during a public meeting on June 9, 2007, that a substantial issue was raised.

For the Commission's "de novo" review of the application, the standard of review for the proposed development is, in part, the policies and provisions of the County of Santa Barbara Local Coastal Program. In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act with respect to public access and public recreation. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP.

## **II. STAFF RECOMMENDATION FOR DENIAL**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. A-4-STB-07-052 for the development as proposed by the applicant.*

### **STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Following the staff recommendation will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY THE PERMIT AMENDMENT:**

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of

the certified Local Coastal Program for the County of Santa Barbara and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the amended development on the environment.

### **III. FINDINGS AND DECLARATIONS FOR DENIAL**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION**

The proposed project includes the construction of a 795 sq. ft. guest house maximum height 15.5 ft, 672 detached garage maximum height 15.5 ft, landscaping, and 433 cu. yds. of cut grading. The project includes the installation of a 5,000 gallon water tank ,approximately 400-500 feet north of the revised guest house location, for potable water and fire response. Additionally, the project includes widening of and improvements to an approximately 1,040 ft. long existing ranch road/driveway to meet Fire Department standards. Under the revised project the guest house and garage would be single-story, detached structures.

In addition to the guest house and driveway improvements, the project includes improvements to Segundo Road (a private Hollister Ranch common road) as required by the County Fire Department. Access to the guest house would be taken via a private drive from Segundo Road. These improvements would include widening and paving portions of the road, and creating turnouts. (Aerial photographs of the project site are provided as Exhibit 6.)

In this case, because the proposed guest house would be located on a different part of the property than where the existing residence is located, the use of a second access road is required (Exhibit 6). Although the County's staff report and MND indicate that road improvements are necessary for an existing 300 ft. long access road, the report is unclear regarding from where the 300 feet is measured. The project plans indicate that there would be more than a 1,000 ft. (0.2 mile) distance from Segundo Road to the subject guest house along a partially existing ranch road/driveway. The project plans indicate that the existing on-site driveway to the proposed guest house location is approximately 9 feet in width. This 9-ft. width would be expanded into a proposed final driveway width of approximately 12 feet. The project plans indicate that the width of the direct impact area associated with the 12 foot wide driveway would actually be wider in some locations due to grading for the stabilization of the outboard slope.

Because the project is located in a high fire area, the project will require fuel modification within 100 feet of the proposed structure. The specific fuel modification requirements for this project, as provided in the County's approval, are as follows:

- Maintenance of a 100-foot wide fuel management area around the proposed dwelling. Clearance/thinning of brush and weeds would be required in this area.
  - Within the first 30-foot wide fuel modification zone, vegetation shall be removed completely with the exception of specimen trees which shall be limbed up to six feet in height. Grasslands within 30 feet of the guest house shall be mowed to 4-inches after going to seed and prior to May 1 of each year.
  - Within the 70-foot wide fuel modification zone, vegetation shall be selectively thinned. Native purple Needlegrass shall not be disturbed, or at most mowed above the basal tuft.
  - Vegetation to be removed shall be cut at the base of the stump, allowed to resprout, then maintained as a small shrub by periodic trimming. All vegetation removed shall be chipped on-site and used as mulch in areas of disturbed soils to reduce soil erosion.
- Clearance of brush and vegetation 10 feet from both edges of the proposed driveway.

## **B. BACKGROUND**

The subject parcel (Assessor Parcel No. 083-680-003, Exhibit 3) is located in Hollister Ranch and zoned *Agriculture*, minimum 320 acres (AG-II-320). The County's staff report indicates that the project site is currently used for cattle grazing as part of the larger Hollister Ranch grazing cooperative. A single-family residence was recently constructed in the eastern portion of the property along Agujas Creek. Access to the existing single-family residence is via Agujas Road and access to the proposed guest house is via Segundo Road.

The parcel is located in the north-central portion of Hollister Ranch, approximately seven miles west of Gaviota State Park and Highway 101 (Exhibits 1 and 2). Slopes on the parcel range from 10-40%, and slopes at the building site are approximately 5-30%.

Agujas Creek is an intermittent blue-line stream that borders the eastern portion of the parcel, forming an incised canyon perpendicular to the coastline and ultimately discharging to the Pacific Ocean. The project site is located approximately 600 feet west of Agujas Creek.

Soils within the proposed project site consist of a layer of colluvial material of silty sand and silty clay weathered Gaviota formation. The proposed building site is on a relatively flat knoll above the main residence. The topography drops off to the east and west of the project site at slopes greater than 30%.

Plant communities on the subject parcel consist of coast live oak woodland, California sagebrush, central maritime chaparral, coyote brush and native grasslands dominated by purple needlegrass.

The proposed guest house site is located within a designated high fire hazard area, meaning that there is a high probability that any new development on the proposed parcel would be exposed to a major wildfire. The steep topography, high fuel load, and frequency of “sundowner” winds create the potential for major wildfires.

## **C. PERMIT HISTORY**

### **1. Santa Barbara County**

On April 9, 2007, the Zoning Administrator of the County of Santa Barbara approved a coastal development permit (06CDH-00000-00036) for the project subject to 35 conditions of approval. The project originally approved by the County of Santa Barbara consisted of the construction of a new 1,578 sq. ft., two-story, accessory structure (795 sq. ft. guest house on the second floor with a 783 sq. ft. garage on the first floor), and associated retaining walls. The structure would have an “average height” of 14 feet - 6 inches, although the overall maximum height of the structure from finished grade to highest point of the roof would be approximately 28 ft. in height. An existing ranch road would be improved to Fire Department standards and would serve as the access driveway for the project. A 5,000 gallon water tank would be installed directly above the guesthouse in order to provide potable water and fire response. Improvements would be made to Segundo Road (a private Hollister Ranch common road) as required by the County Fire Department. The County approved the removal of five oak trees to facilitate such improvements. (The project has since been revised to avoid removal of any oak trees.) Approximately 800 cubic yards of grading would be required to prepare the site for development. The site would be served by a private water system, a private septic system and the County Fire Department. Access would be taken via a private drive from Segundo Road.

In its approval, the County required numerous measures to address impacts to biological resources such as flagging and/or fencing off sensitive areas during construction, having a biological monitor on site during construction, conducting pre- and post-construction biological surveys, restoring areas that are graded for utility trenches, requiring construction access and staging plans, and limiting exterior night lighting to low intensity, low glare design, and fully hooded to direct light downward.

The County ran a local appeal period for ten calendar days following the date of the Zoning Administrator’s decision. No local appeals were filed.

### **2. Coastal Commission**

Coastal Commission staff received the Notice of Final Action for the Zoning Administrator’s approval of the Coastal Development Permit (06CDH-00000-00036) on May 16, 2007. A 10 working day appeal period was set, extending to May 31, 2007. Appeals were received from Commissioners Patrick Kruer and Sara Wan on May 31, 2007.

On June 9, 2007 the Commission determined that a substantial issue exists with respect to the appellants' assertions that the proposed two-story accessory structure and associated development is not consistent with the environmentally sensitive habitat area (ESHA), native grassland and oak woodland habitat policies of the certified Local Coastal Program (LCP).

In February 2008, the Commission heard this project de novo and voted to continue the item in order for staff to work with the applicant to determine whether there is an alternative location for the guest house that would be consistent with the County's LCP and would not adversely impact environmentally sensitive habitat areas. Since the Commission's February meeting, the applicant has formally modified its proposal by providing a conceptual revised project location for the proposed guest house and garage, approximately 300 feet south of the original project site that was approved by the County (Exhibits 4 and 6). This revised location is the subject of the current de novo review.

### **3. Previous Permits for Development on Site**

The County authorized construction of an approximately 2,432 square foot primary residence with an attached garage of approximately 893 square feet on the subject property pursuant to Coastal Development Permit No. 02CDH-00000-00008 on March 7, 2005. The residence is nearly constructed.

## **D. ENVIRONMENTALLY SENSITIVE HABITAT**

### **1. Relevant Coastal Act and LCP Policies**

Policy 1-1:

*All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.*

Section 30107.5 of the Coastal Act and Article II, Section 35-58 of the certified LCP state:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30240 of the Coastal Act states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Policy 1-2 Resource Protection:

***Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.***

Policy 9-18 Native grassland:

***Development shall be sited and designed to protect native grassland areas.***

Policy 9-35 Native Plant Communities (e.g., coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species & other plants of special interest):

***Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.***

Policy 9-36 Native Plant Communities:

***When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.***

Sec. 35-53. Overlay District Designations and Applicability. (*in relevant part*):

***...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.***

Sec. 35-97.3. Identification of Newly Documented Sensitive Habitat Areas:

***If a newly documented environmentally sensitive habitat area, which is not included in the ESH Overlay District, is identified by the County on a lot or lots during application review, the provisions of Secs. 35-97.7. - 35-97.19. shall apply. The County will periodically update the application of the ESH Overlay District to incorporate these new habitat areas (including the 250 foot area around the habitat).***

Sec. 35-97.10. Development Standards for Native Grassland Habitats:

- 1. Grazing shall be managed to protect native grassland habitats.***
- 2. Development shall be sited and designed to protect native grassland areas.***

Sec. 35-97.18. Development Standards for Native Plant Community Habitats:

***Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.***

- 1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.***

**2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.**

Sec. 35-120. Guest Houses, Artist Studio, or Pool House/Cabana:

**1. Accessory structures used as guest houses, artist studios, or cabanas must conform to criteria set forth in this section and as defined by ordinance.**

**2. No guest house or artist studio shall be located on a lot containing less than one gross acre.**

**3. There shall not be more than one guest house or artist studio on any lot. There shall be not more than one cabana on any lot.**

**4. The floor area of such guest house, artist studio, or pool house/cabana shall not exceed 800 square feet; however, such structures may be attached to another accessory structure so that the total area of the combined structures exceeds 800 square feet, provided no interior access exists between the guest house, artist studio, or cabana and the other accessory structure.**

**5. No guest house, artist studio, or cabanas shall exceed a height of one story. Such story may be located above or below another accessory structure.**

**6. There shall be no kitchen or cooking facilities within a guest house, artist studio, or cabana. However, a wet bar may be provided, limited to the following features:**

**a. A counter area with a maximum length of 7 feet.**

**b. The counter area may include a bar sink and under counter refrigerator.**

**c. The counter area may include an overhead cupboard area not to exceed 7 feet in length.**

**d. The counter area shall be located against a wall or, if removed from the wall, it shall not create a space more than 4 feet in depth. The 7 foot counter shall be in one unit. The intent of this provision is to avoid creation of a kitchen room.**

**e. No cooking facilities shall be included in the wet bar area.**

**7. Guest house and cabanas may contain bathrooms as defined by ordinance. However, in artist studios, plumbing facilities shall be limited to those required for a wet bar, if provided, and/or a restroom. No bathing facilities shall be permitted in artist studios.**

**8. Guest houses, artist studios, or pool house/cabanas must conform to all of the setback regulations set forth in the applicable zone district for dwellings.**

**9. A guest house shall be used on a temporary basis only by the occupants of the main dwelling or their non-paying guests or servants and is not intended to be rented or let out, whether the compensation is paid directly or indirectly in money, goods,**

**wares, merchandise, or services. Temporary is defined as occupying the premises for no more than one hundred twenty (120) days in any twelve (12) month period.**

**10. Artist studios and cabanas shall not be used as temporary sleeping quarters, guest houses, or as a dwelling unit.**

**11. A Notice to Property Owner document shall be required to be recorded by the property owner prior to issuance of a Coastal Development Permit for any guest house, artist studio or cabanas, that specifies, at a minimum, the allowable uses of the structure.**

**12. A cabana may be approved in conjunction with a proposed pool or sport court (see definition of cabana), provided that occupancy of the building is simultaneous with completion of the pool or court. A cabana may also be approved on a lot that is directly adjacent to the beach.**

**13. A home occupation permit shall be required for all artist studios.**

**14. If an Attached or detached Residential Second Unit exists or has current approval on a parcel, a guest house or artist studio may not also be approved (see also Sec. 35-142.6.i).**

**15. Additional requirements, identified in Division 15 (Montecito Community Plan Overlay District), exist for parcels identified with the MON overlay zone.**

## **2. General Discussion**

Plant communities on the subject parcel consist of coast live oak woodland, California sagebrush, central maritime chaparral, coyote brush, coastal sage scrub, native grasslands dominated by purple needlegrass, and native grassland and coastal sage scrub mix.

Native perennial grasslands are now exceedingly rare<sup>1</sup>. In California, native grasslands once covered nearly 20 percent of the land area, but today are reduced to less than 0.1 percent<sup>2</sup>. Purple needlegrass (*Nasella pulchra*) is a native bunchgrass that is found throughout the subject site. The California Natural Diversity Database (CNDDDB) lists purple needlegrass habitat as a community needing priority monitoring and restoration. The CNDDDB considers grasslands with 10 percent or more cover by purple needlegrass to be significant, and recommends that these be protected as remnants of original California prairie.

Many raptors make use of grasslands for foraging because they provide essential habitat for small mammals and other prey. Grasslands adjacent to woodlands are particularly attractive to these birds of prey since they simultaneously offer perching and foraging habitat. Particularly noteworthy in this regard are the white-tailed kite, northern

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<sup>1</sup> Noss, R.F., E.T. LaRoe III and J.M. Scott. 1995. Endangered ecosystems of the United States: a preliminary assessment of loss and degradation. Biological Report 28. National Biological Service, U.S. Dept. of Interior.

<sup>2</sup> NPS 2000. op. cit.

harrier, sharp-shinned hawk, Cooper's hawk, red-shouldered hawk, red-tailed hawk, golden eagle, American kestrel, merlin, and prairie falcon<sup>3</sup>.

In the certified LCP, native grassland habitats are identified as unique, rare, and fragile habitats and specific policies are included in the LCP to provide protection of these resources.

In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LCP. Section 30240 of the Coastal Act, incorporated into the LCP, requires the protection of environmentally sensitive habitat areas against any significant disruption of habitat values, and no development may be permitted within ESHA except for uses that are dependent on the resource. Section 30240 further requires development adjacent to ESHA to be sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas. Section 30240 of the Coastal Act, as incorporated in the LCP, also requires that development adjacent to parks and recreation areas to be sited and designed to prevent impacts that would significantly degrade such areas.

The LCP policies applied together require siting and design measures to protect native grassland, oak woodland habitat, individual oak trees, and other native plant communities such as coastal sage scrub. LCP Policies 1-2, 9-18, 9-35, 9-36, and Coastal Act Section 30240, as incorporated by LCP Policy 1-1; and Zoning Ordinance Sections 35-97.7, 35.97.10 and 35-97.18 necessitate the adoption of all measures necessary to prevent impacts that would significantly degrade these sensitive resources. Specifically, Policy 9-18 states that development shall be sited and designed to protect native grassland areas. This policy does not provide an exception for situations where the impacts are "mitigated" or offset by improvements elsewhere. The courts have interpreted analogous Coastal Act provisions similarly. See, e.g., Bolsa Chica Land Trust v. Superior Court ("a literal reading of the statute protects *the area* . . . . the express terms of the statute do not provide that protection by treating [habitat] values as intangibles which can be moved from place to place to suit the needs of development"). Bolsa Chica (1999) 71 Cal. App. 4<sup>th</sup> 493, 507 (emphasis in original). Policy 9-35 requires that oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.

Native Plant Communities, including coastal sage scrub, chaparral, California native oak woodland, individual oak trees, endangered and rare plant species & other plants of special interest, are addressed under Policy 9-36. Policy 9-36 dictates that when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on

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<sup>3</sup> NPS 2000. op. cit.

native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

### **3. Project and Impacts**

According to the Mitigated Negative Declaration for this project, the project site has been historically grazed by cattle as part of the Hollister Ranch Cooperative cattle ranching operation, and as such, some sensitive habitat areas on site have already been moderately disturbed.

Specifically, site visits performed by the applicant's biologist and the County's staff biologist identified the following plant communities on the site:

#### **Flora:**

***Coast Live Oak Series dominated by coast live oak (Quercus agrifolia) and including Refugio manzanita (Arctostaphylos refugioensis) occurs primarily on the slope north of the guest house site, continues east down slope towards the residence under construction and along the ephemeral drainage adjacent to the lower portion of the existing access road. Coast Live Oaks are also present along portions of Segundo Road in the southern portion of the subject parcel.***

***Coyote Brush Series dominated by coyote brush and including California sagebrush (Artemisia californica) occurs primarily along the lower portion of the access road and along the lower portion of the eastern slope toward the residence under construction. Purple Needlegrass (Nasella pulchra) occurs within the openings adjacent to the larger, more dominant shrubs.***

***California Sagebrush Series dominated by California Sagebrush and including coast goldenbrush, California figwort (Scrophularia californica) and coyote brush occurs along the slopes surrounding the project site to the east, west and south.***

***Mixed Chaparral including lemonade berry (Rhus integrifolia), coyote brush, California sagebrush and Refugio Manzanita covers the rocky hillside northeast of the access road and the hillside north of and within a portion of the proposed building site. The mixed chaparral integrates with the coast live oak series.***

***Purple Needlegrass Series dominated by purple Needlegrass (Nasella pulchra) occurs within the proposed building site, driveway and hammerhead turnaround and along the ridge to the south of the proposed guest house. There are also patches of the purple Needlegrass series along the slopes to the east and west of the guest house ridge.***

As discussed previously, the revised project consists of the construction of a 795 sq. ft. guest house; 672 detached garage; landscaping; improvements to a 1,040 ft. long existing access driveway; improvements to Segundo Road; 5,000 gallon water tank; and 433 cu. yds. of cut grading.

In February 2008, the Commission heard this project de novo and voted to continue the item in order for staff to work with the applicant to determine whether there is an alternative location for the guest house that would be consistent with the County's LCP

and would not adversely impact environmentally sensitive habitat areas. Since the February Commission meeting, the applicant has provided a conceptual revised project location for the proposed guest house and garage, approximately 300 feet south of the original project site that was approved by the County (Exhibit 4).

In August 2008, Commission biologist Dr. Jonna Engel visited the site along with the applicant's biologist, the County of Santa Barbara biologist, and an additional independent botanical expert to assess the plant communities on and around the subject knoll where the guest house is now proposed (Exhibit 8). The biologists determined that:

- The road spanning the knoll supports only ground level mounds of grass patches, and supports less than 10% cover of purple needlegrass.
- The northerly section of the knoll (including the previously proposed location of the guest house) consists of a large stand of native perennial grassland and is ESHA dominated by purple needlegrass.
- The southerly section of the knoll (where the guest house and garage are currently proposed), including either side of the disturbed roadbed, is characterized by a mixed native plant community consisting of both native perennial grassland and coastal sage scrub.

Arguably, the new location proposed for the guest house is a more suitable location than the originally approved location, since the footprint of the guest house would now be located within the disturbed roadbed, rather than within the healthy stand of native perennial grassland identified by the biologists.

However, even as revised, the location of the project in an area that has already experienced vegetation maintenance for the roadbed would result in significant adverse impacts to native grassland and coastal sage scrub, from fuel modification requirements associated with the development as well as the necessary access improvements to the driveway. Structures in this high fire hazard area will be required to have 100 ft of fuel modification consisting of a 30-ft fire clearance zone and an additional 70-ft zone of selective vegetation thinning. Fuel clearance is required 10 feet from both edges of the proposed driveway. Native purple needlegrass may be mowed above the basal tuft for fuel modification purposes. The Fire Department also requires that the driveway from Segundo Road to the proposed structures be a minimum of 12 feet in width to accommodate emergency vehicles. In addition to widening the road to 12 feet width, the proposed project includes one turnout along the access driveway.

The revised project will have the following impacts to native grassland and coastal sage scrub communities:

- Fuel modification for the proposed revised guest house and garage structures would result in the complete removal of the native grassland and coastal sage scrub mixed habitat within 30 feet of each structure and vegetation thinning of

this habitat for an additional 70 feet from the structure. These represent permanent and on-going adverse impacts to these habitats.

- The width of the access driveway would be expanded from 9 feet to 12 feet. In addition to the width of the roadway itself, the project plans indicate that the impact area would actually be wider in some locations due to grading for the stabilization of the outboard slope. These driveway improvements would result in the direct removal of habitat adjacent to the roadway and would occur partially within the healthy stand of native perennial purple needlegrass ESHA and partially within the native grassland and coastal sage scrub mix identified by the biologists. This represents a permanent adverse impact to native grassland and coastal sage scrub habitats.
- The Santa Barbara County Fire Department also requires fuel clearance ten feet on each side of the proposed 12-ft driveway. This clearance would result in the direct removal of habitat adjacent to the roadway and would occur partially within the healthy stand of native perennial purple needlegrass ESHA and partially within the native grassland and coastal sage scrub mix identified by the biologists. This represents a permanent adverse impact to native grassland and coastal sage scrub habitats.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification would vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. Notwithstanding the need to protect structures from the risk of wildfire, fuel modification results in significant adverse impacts that are in excess of those directly related to the development itself. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned.

Obviously, native vegetation that is cleared and replaced with ornamental species, or substantially removed through selective thinning will be lost as habitat and watershed cover. Thinned areas will be greatly reduced in habitat value. Even where complete clearance of vegetation is not required, the natural habitat can be significantly impacted, and ultimately lost, particularly if such areas are subjected to supplemental water through irrigation. In coastal sage scrub habitat, the natural soil coverage of the canopies of individual plants provides shading and reduced soil temperatures. When these plants are thinned, the microclimate of the area will be affected, increasing soil temperatures, which can lead to loss of individual plants and the eventual conversion of the area to a dominance of different non-native plant species. The areas created by thinning between shrubs can be invaded by non-native grasses that can over time out-compete native species.

For example, undisturbed coastal sage scrub vegetation typical of coastal canyon slopes, ordinarily contains a variety of tree and shrub species with established root systems. Depending on the canopy coverage, these species may be accompanied by

understory species of lower profile. The established vegetative cover, including the leaf detritus and other mulch contributed by the native plants, slows rainfall runoff from canyon slopes and staunches silt flows that result from ordinary erosional processes. The native vegetation thereby limits the intrusion of sediments into downslope creeks. Accordingly, disturbed slopes where vegetation is either cleared or thinned are more directly exposed to rainfall runoff that can therefore wash canyon soils into down-gradient creeks. The resultant erosion reduces topsoil and steepens slopes, making revegetation increasingly difficult or creating ideal conditions for colonization by invasive, non-native species that supplant the native populations.

The cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Additionally, the number of local and long distance migrating birds and those species associated with the habitat will decrease due to habitat fragmentation while the abundance of urban-associated bird species will increase. The impact of fuel clearance is to greatly increase this edge-effect of fragmentation by expanding the amount of cleared area and “edge” many-fold.

Given that the entire area is designated as a high fire hazard, the 100-ft fuel modification requirements will be necessary for any combustible structures, including the proposed guest house and garage. As described above, this will necessarily have significant adverse impacts to the surrounding native vegetation.

The project plans indicate greater than a 1,000 ft. (0.2 mile) distance from Segundo Road to the subject guest house along a partially existing ranch road/driveway. The project plans indicate that the existing on-site driveway to the proposed guest house location is approximately 9 feet in width. This 9-ft. width would be expanded into a proposed final driveway width of approximately 12 feet. The project plans indicate that the width of the impact area associated with the 12 foot wide driveway would actually be wider in some locations due to grading for the stabilization of the outboard slope. Further, this access driveway runs through the healthy stand of purple needlegrass habitat as well as the native grass and coastal sage scrub mixed habitat. The widening, along with any associated grading to stabilize the outboard slope, and fuel modification would therefore result in the direct removal of habitat adjacent to the existing roadway.

Since the February 2008 hearing, the applicant has provided revised road plans, approved by the Fire Department, which indicate that the five oak trees would no longer be removed in order to facilitate the widening and paving of portions of Segundo Road. However, the project includes the widening and paving of a portion of this access road underneath the canopy of a number of oak trees that are part of an oak woodland area. The project plans indicate that the width of Segundo Road would be 12 feet wide, roughly the existing width of the road. However, the width of the impact area associated with the 12 foot wide road would be wider in some locations (measuring 15 to 18 feet in total width) to accommodate grading for the stabilization of the outboard slope. The project plans also show six turnouts along this approximate 0.5-mile stretch of Segundo Road.

Information provided by the applicant's arborist indicates that no trimming or limbing would be necessary for the proposed guest house because such work has already occurred to maintain fire department access along this existing ranch road. However, that does not necessarily mean that no oak trees will be adversely affected.

Oak trees are shallow-rooted and require air and water exchange near the surface. The root systems can be extensive, extending as much as 50 feet beyond the spread of the canopy, although the area within the "protected zone" (the area around an oak tree that is five feet outside the dripline or fifteen feet from the trunk, whichever is greater) is considered the critical root zone area. Oaks are sensitive to surrounding land uses, as well as grading or excavation at or near the roots. However, damage can often take years to become evident, and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree.

Encroachments into the protected zone of an oak tree can also result in significant adverse impacts. Changes in the level of soil around a tree can affect its health. Excavation can cut or severely damage roots and the addition of material affects the ability of the roots to obtain air or water. Soil compaction and/or pavement of areas within the protected zone will block the exchange of air and water through the soil to the roots and can have serious long term negative effects on the tree. In order to ensure that oak trees are protected, the Commission has required, in past permit actions, that the encroachment of structures into the root zones of oak trees be avoided unless there is no feasible alternative for the siting of development.

As stated above, the project includes the widening and paving of a portion of Segundo Road underneath the canopy of a number of oak trees that are part of an oak woodland area. These road improvements would encroach within the critical root zones of oak trees and may have significant adverse impacts to these trees.

Additionally, the Mitigated Negative Declaration (MND) prepared for this project indicates that there may be impacts to oak woodland habitat or manzanita in connection with the installation of the water tank for the guest house (guest house is now proposed to be relocated; however the water tank is not). Specifically, the MND concludes that the "installation of the proposed 5,000 gallon water tank upslope of the building site and fire clearance activities (100 foot clearance around the structure) have the potential to result in significant impacts to existing oak woodland habitat and individual Manzanita." The water tank is located approximately 400-500 feet north of the revised project location. Although the MND found that no individual oak trees are expected to be *removed* as a result of either construction of the guest house or the associated fuel modification, the MND found that an unspecified number of "individual trees could be limbed as part of the fire clearance activities." There is no further information in the County's record as to where limbing might be necessary. County Condition #9 indicates that the final location of the proposed 5,000 gallon water tank shall be adjusted, as necessary, to ensure complete avoidance of the existing coast live oak trees and Manzanita(s). It is unclear

where this water tank might eventually be located or what the potential impacts would be to oak woodlands or other sensitive habitats.

Further, impacts to habitat are not limited to removal itself. Construction of a guest house unit or second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, guest houses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The removal of habitat area for additional residential development and the increased presence of human activity on the site will result in impacts to the ESHA that will remain on the site through habitat fragmentation and disturbance through noise, lighting, and other impacts. Additionally, new development has the potential to adversely impact coastal water quality because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems. The proposed guest house location, in a separate portion of the property from the main residence, will result in new lighting, noise, and water quality impacts to native plant communities and environmentally sensitive habitats.

#### **4. Policy Consistency**

As discussed above, the proposed project will result in direct removal and thinning of native grassland and coastal sage scrub habitats, and road improvements will encroach within the driplines of a number of oak trees that are part of an oak woodland habitat.

Native grasslands constitute environmentally sensitive habitat areas (ESHAs) pursuant to the County's LCP. Section 30240 of the Coastal Act, incorporated into the LCP, requires the protection of environmentally sensitive habitat areas against any significant disruption of habitat values, and it prohibits development within ESHA except for uses that are dependent on the resource. Section 30240 further requires development adjacent to ESHA to be sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas.

The applicant proposes to construct a new guest house on the parcel, which would result in the loss of perennial native grassland ESHA as a result of driveway widening and fuel modification. Further the proposed development would significantly reduce the value of such habitat by locating a permanent driveway through the middle of the identified native grassland ESHA. Furthermore, the road itself as well as impacts such as lighting and noise associated with use of the proposed structures by humans and domestic animals serves to increase the fragmentation of habitat thereby reducing its value.

As residential development (including guest houses) does not have to be located within ESHAs to function, the Commission does not consider these uses to be dependent on ESHA resources. Application of Section 30240, as incorporated in the LCP, therefore

requires denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

Coastal sage scrub and oak woodlands are identified as protected native plant communities within the certified LCP ESHA overlay. The native grassland and coastal sage scrub mixed community is so integrated as to be indistinguishable as distinct or separate communities. However, at a minimum, the LCP requires that development be sited, designed, and constructed to minimize impacts to native vegetation. And specifically for native grasslands, the LCP requires that development shall be sited and designed to protect native grassland areas. Further, LCP Policy 1-2 states that where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.

LCP Policy 9-18 (and corresponding Zoning Code Section 35-97.10) states that development shall be sited and designed to protect native grassland areas. However, as described above, the accessory structure has been situated on the property in a manner that would result in the direct removal of native grassland and would further result in annual mowing of native grasslands, within the native grassland and coastal sage scrub mixed community, associated with the structure's fuel modification. These impacts are not consistent with the Policy 9-18 requirement to protect native grassland areas. This policy does not provide an exception for situations where the impacts are "mitigated" or offset by improvements elsewhere.

LCP Policy 9-36 provides standards for the protection of native plant communities including coastal sage scrub. With regard to coastal sage scrub, LCP Policy 9-36 provides that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In this case, the proposed project results in direct vegetation removal and vegetation thinning for fuel modification purposes within the native grassland and coastal sage scrub mixed habitat. In addition, the on-site driveway improvements and associated fuel modification requirements would result in the direct removal of habitat adjacent to the roadway, partially within the native grassland and coastal sage scrub mix community. This represents a permanent adverse impact to native grassland and coastal sage scrub habitats, inconsistent with LCP Policy 9-36.

LCP Policy 9-35 requires that oak trees, because they are particularly sensitive to environmental conditions, be protected. Additionally, protection of individual oak trees is addressed under LCP Policy 9-36, which states that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees. As stated above, the project includes the widening and paving of a portion of Segundo Road underneath the canopy of a number of oak trees that are part of an oak woodland area. These road improvements would encroach within the critical root zones of oak trees and may have significant adverse impacts to these trees. Further, the full extent of the impacts to oak trees was not addressed by the Mitigated Negative Declaration (MND)

for this project. The MND indicates that there may be additional impacts, not specifically identified, to oak trees as a result of fuel modification associated with the placement of the water tank. Therefore, the ancillary development necessary to establish the guest house would have direct impacts to oak trees inconsistent with LCP Policies 9-35 and 9-36.

Therefore, for the reasons discussed above, the Commission finds that the proposed development is inconsistent with LCP Policies 9-18, 9-35, 9-36, and Coastal Act Section 30240, as incorporated into the certified LCP. Furthermore, the Commission finds that the adverse effects of the proposed project could be avoided by a “no project” alternative or potentially by a clustered alternative.

As described in more detail below, there are potential alternatives that would avoid the impacts of the project on biological resources, such as the “no project” alternative or perhaps a clustered alternative.

## **E. ALTERNATIVES**

Although the Commission is denying a coastal development permit for the guest house as proposed, the Commission notes that the applicant is not barred from applying for a permit for an alternative project or otherwise pursuing an alternative proposal that would eliminate impacts to native grassland, coastal sage scrub, and oak trees.

The provisions of the LCP require implementation of alternatives that would avoid adverse impacts to these coastal resources, including the “no project” alternative, or clustered siting alternatives. As described previously, the project would result in significant adverse impacts to native grassland and coastal sage scrub communities, inconsistent with the LCP policies mentioned above. In its approval of the permit, the County did not analyze alternatives to reduce the impacts, either through alternative siting or the “no project” alternative. For example, there may be opportunities for a guest house to be clustered in the developed area near the existing residence.

The applicant has indicated that the revised location was selected because it “minimizes impacts of grading, paving, fuel modification, etc. on native plant communities.” And that “the degraded road and hammerhead area is the environmentally superior feasible location available on the 107 acre parcel.” Though the revised location is comparatively better than the originally proposed location, the revised location of this accessory structure remains inconsistent with the provisions of the LCP as detailed in this staff report. The applicant has further indicated that he is “amenable to adjusting and potentially expanding the onsite native grassland restoration area in order to restore and protect the highest quality native grasses and other important native habitat.” However, staff notes that restoration may often provide appropriate mitigation when impacts to habitat cannot be avoided. In this case, as discussed below, the impacts can be avoided by eliminating the guest house since it is an accessory structure or possibly minimized by clustering it with the existing development on the property.

The applicant asserts that they believe that the development, as proposed, would be “clustered” because the existing residence and new guest house would be located within a 2-acre development area. However, the certified LCP does not establish a 2-acre development envelope for residential development on agricultural parcels. The Mitigated Negative Declaration for this project indicates that the County’s Agricultural Preserve Advisory Committee found the project to be consistent with the Uniform Rules for Agricultural Preserves, which limits building sites to 3% of the total parcel or two acres, whichever is smaller. However, these Uniform Rules are not certified as part of the County’s LCP and are not a standard of review for this permit. Moreover, as is demonstrated by the analysis above, they do not ensure consistency of the project with the governing LCP policies.

The Commission finds that development of the proposed guest house in the proposed location on the subject parcel would not be clustered to reduce impacts, since the new guest house would be located up a steep slope approximately 500 feet away from the primary residence; and therefore would not utilize shared/overlapping fuel modification zones. Further, the proposed guest house requires improvements to a more than 1000 ft. long access road that would only serve the guest house. In terms of transportation distance, the proposed guest house is located approximately one mile from the main residence, via Agujas and Segundo Roads.

Siting the proposed guest house in a different area of the property that would actually cluster development would reduce additional fuel modification requirements and eliminate the need to construct additional roads. Clustering the proposed guest house in the same area of the site where the primary residence would be located, would allow for an overlap in fuel modification and brushing areas required for the primary residence and the proposed guest house, thereby reducing the total amount of vegetation removal required. Additionally, construction of a guest house adjacent to the primary residence (a “clustered” alternative) would eliminate the requirement to make improvements to the access road.

Based on the available information, it appears possible to locate the guest house near the existing residence (Exhibit 7). However, there are several constraints to additional development in the vicinity of the existing primary residence, including setbacks from oak trees, creek setbacks, and the location of the septic and future septic dry wells. Exhibit 7 illustrates these constraints and delineates a potential development area based on the known constraints. This location would provide the benefits of a “clustered” alternative by: utilizing a shared access road to minimize grading and landform alteration; overlapping fuel modification requirements; limiting habitat fragmentation; and minimizing impacts associated with the presence of human activity and disturbance such as noise, lighting, and other impacts.

The applicant has indicated that it would not be feasible to cluster the guest house in the area of the existing residence due to geologic instabilities, drainages, septic and future septic drywells, and requirements by the County’s CDP to restore areas disturbed by construction of the primary residence. It is true that there are several constraints to

locating a guest house in the vicinity of the primary residence that would need to be addressed, including required setbacks from oak trees, creek setbacks, and the location of the septic and future septic dry wells. To-date, however, no evidence has been presented to the Commission that poor soil conditions would render the entire area undevelopable. Additionally, staff has both reviewed the CDP for the primary residence and confirmed with County staff that there are no restoration/mitigation areas in the vicinity of the existing residence, except that areas disturbed during construction would be restored. This type of restoration does not preclude applications for future development in those areas.

In order to evaluate the applicant's assertions that clustering a guest house near the main residence is infeasible due to geologic hazards, Commission geologist Dr. Mark Johnsson reviewed the materials provided by the applicant. Based on the available materials, Dr. Johnsson determined that while there is a reasonable claim that the siltstone unit, located on the slope between the knoll and main residence, is inherently less stable than the sandstone unit to the north, a guest house immediately south of the main residence would place it only at slightly more risk than the location of the main residence itself.

The Commission recognizes that a clustered alternative in this location would not be the applicant's preferred alternative to maximize views from the residence nor would it likely be the applicant's preference to have the guest house in the immediate vicinity of the residence. However, these two concerns are not Coastal Act issues and are not facts material to the analysis of the project's consistency with the County LCP, which is the applicable standard of review and the basis for the Commission's action.

Moreover, even if it were to prove the case that there is no other alternative location on the site where a guest house could be constructed consistent with the provisions of the LCP, that would not alter the Commission's decision. As indicated above, the LCP requires a review of alternatives that would avoid adverse impacts to these coastal resources *including* the "no project" alternative.

The Commission finds that the "no project" alternative is a feasible alternative in this case for the reasons discussed below, and this alternative would entirely avoid the above impacts referenced adverse to these sensitive coastal resources. The project approved by the County is for a new guest house on a lot where a single family residence has already been previously approved by Santa Barbara County pursuant to Permit 02CDH-00000-00008. The existing single family residence constitutes the primary use for the subject property, and the new proposed guest house would constitute a non-essential accessory use.

Although it is true that Coastal Act Section 30010 and the Supreme Court decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886, may preclude the Commission from denying a proposal where such a project denial would deprive the owner/applicant of all economically viable use of the property, those authorities only apply in that narrow class of cases. While the applicant is entitled under

Section 30010 to an assurance that the Commission will not construe or implement the Coastal Act in such a way as to take their property without compensation, the Commission is obligated to apply that section and all other applicable sections in all other cases.

In this case, the County has previously approved other residential development on the subject site, including a single family residence east of the proposed guest house location, which is nearly constructed, and the Negative Declaration for the project indicates that the property is presently being utilized as part of the Hollister Ranch grazing cooperative. These uses indicate that the property already realizes an economically viable use. Further, the single family residence on the property has already resulted in the loss of ESHA within areas of the site. Construction of the new proposed accessory structure (guest house) would result in even greater loss of ESHA. Additionally, removal of habitat area for such residential development and the presence of human activity on the site will result in impacts to the ESHA that will remain on the site through habitat fragmentation and disturbance through noise, lighting, and other impacts.

Since a single family residence was previously approved by the County on the site and the Negative Declaration indicates that the property is presently part of the Hollister Ranch grazing cooperative, the applicant is already realizing a reasonable economic use of the property. Thus, in regards to the new proposed guest house, the “no project” alternative is considered feasible as it would not prevent the applicant from a reasonable economic use of the property. The “no project” alternative is an alternative that would avoid all impacts to native grassland and coastal sage scrub communities. While the denial of this permit does not preclude the applicant from pursuing other alternatives to site a guest house somewhere on the property that would not impact ESHA (such as a clustered alternative), the no project alternative remains a feasible alternative.

In summary, the proposed project would result in direct and indirect impacts to native grassland, coastal sage scrub, and oak woodland environmentally sensitive habitat areas, inconsistent with Section 30240 of the Coastal Act as incorporated by reference in the certified LCP; LCP Policies 9-18, 9-35, 9-36; and the corresponding Zoning Ordinance (Article II) Sections 35.97.10 and 35-97.18. The County approved the development on the basis of the following faulty assumptions: (1) the removal of purple needlegrass habitat is not significant removal of ESHA because it is below the County’s threshold of 0.25 acres (this cited threshold is not certified as part of the County’s LCP and is not a standard of review for this permit); (2) annual mowing is a temporary impact (the reality is that permanent, on-going maintenance associated with the structure is a permanent impact to the ESHA; and (3) the County did not address alternatives such as the “no project” alternative or alternative locations that would avoid impacts to ESHA.

For the above mentioned reasons, the Commission finds that the proposed project is not consistent with the certified LCP, and it is feasible to substantially reduce the

adverse effects on coastal resources by eliminating the project or possibly by addressing a clustered alternative in the area of the existing residence.

## **F. CEQA**

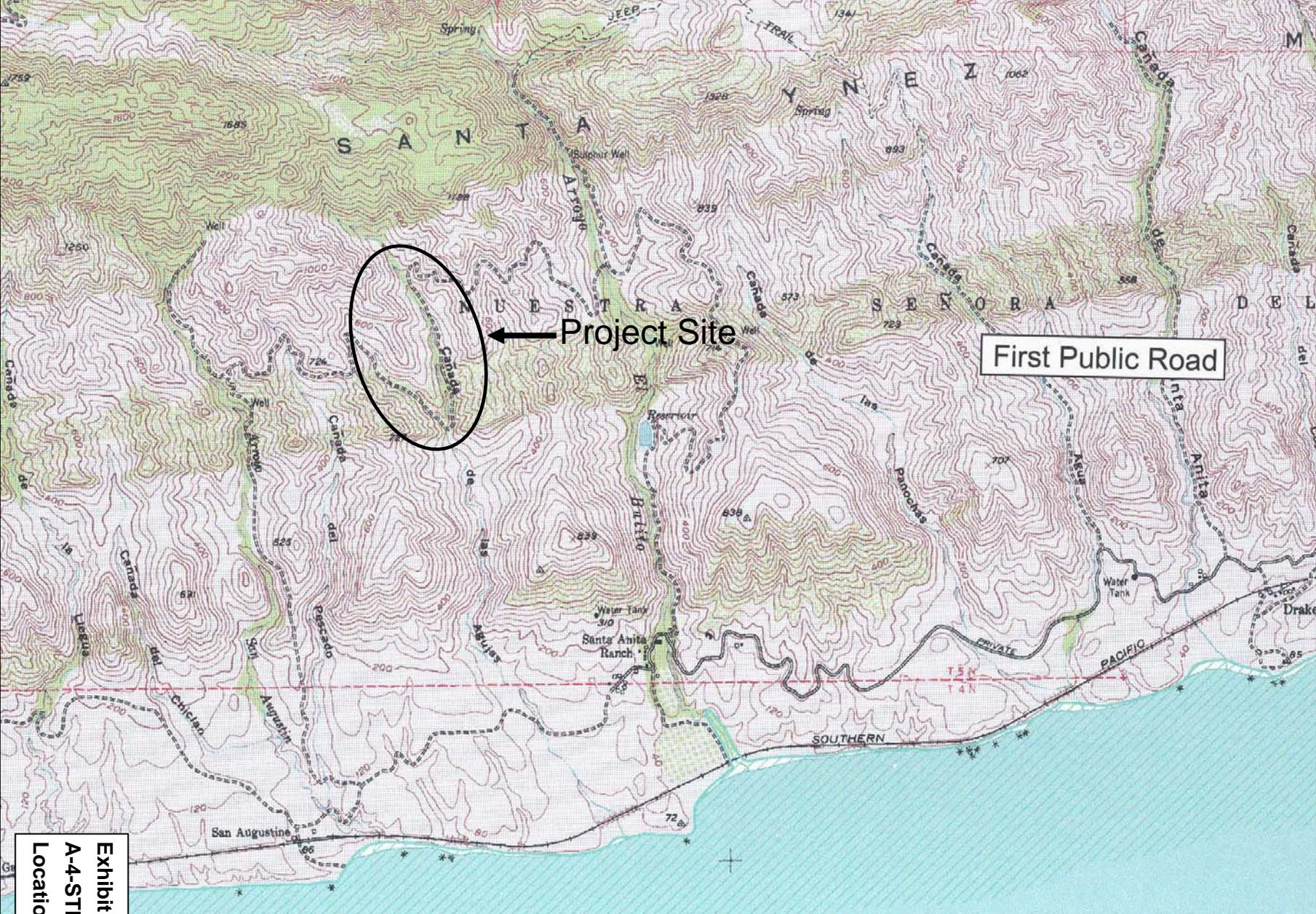
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission finds that the proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 and that there are feasible alternatives which would substantially reduce the project's adverse impacts on wetland and environmentally sensitive habitat areas. Therefore, the proposed project is determined to be inconsistent with CEQA, the LCP, and the policies of the Coastal Act.



**Project Location**

Exhibit 1  
A-4-STB-07-052  
Vicinity Map

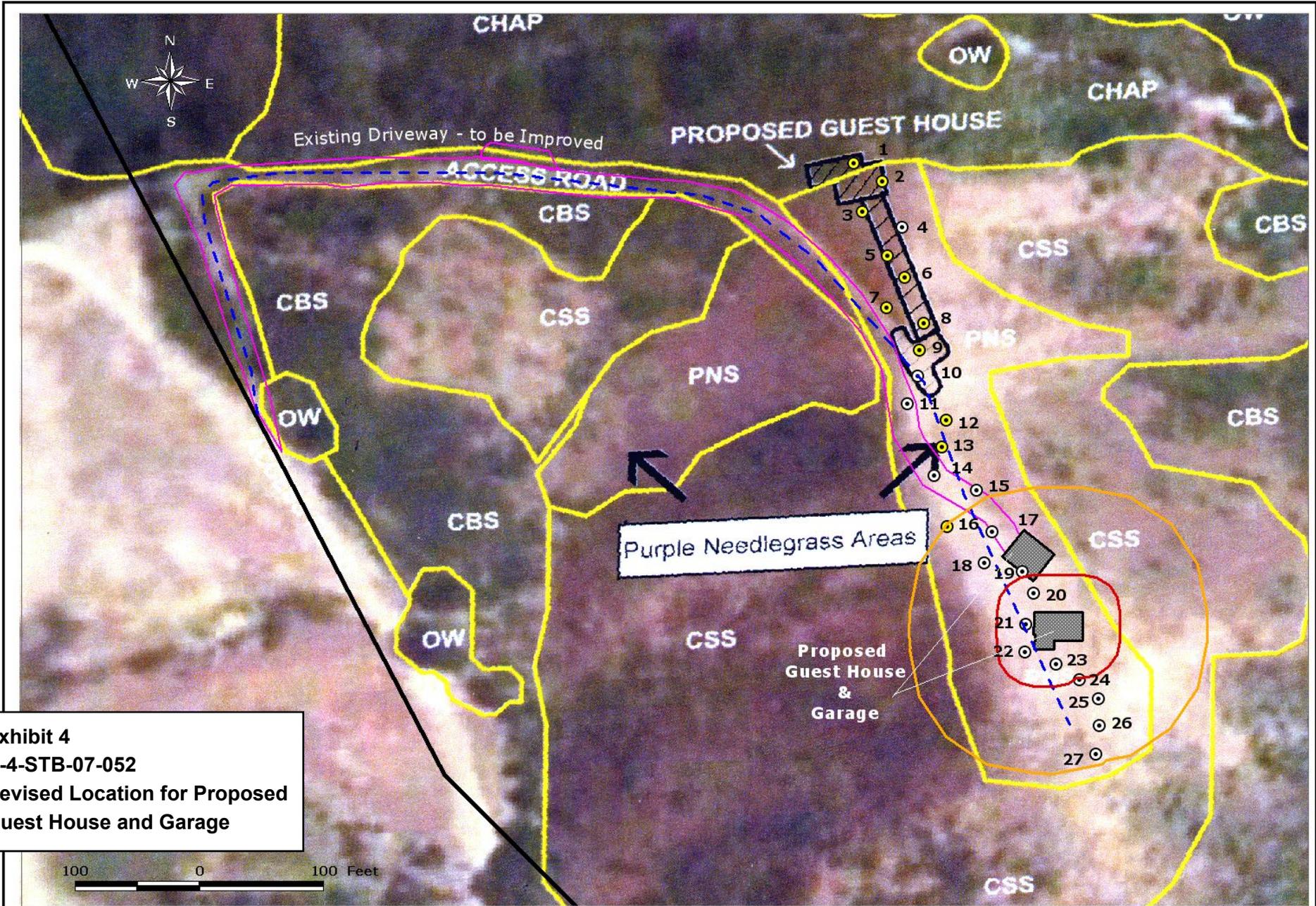


← Project Site

First Public Road

Exhibit 2  
A-4-STB-07-052  
Location





**Exhibit 4**  
**A-4-STB-07-052**  
**Revised Location for Proposed**  
**Guest House and Garage**

Native Grassland Sampling Point (N=27)

○ Nassella Pulchra less than 10% Cover or None

● Nassella Pulchra greater than 10% Cover (10-40%)

■ Proposed Guest House & Garage

▭ Proposed Driveway Improvement

▭ Existing Driveway (to be Improved)

▭ 30 ft. Fuel Modification Zone

▭ 100 ft. Selective Vegetation Thinning

▭ Hollister Ranch #52 Parcel Boundary

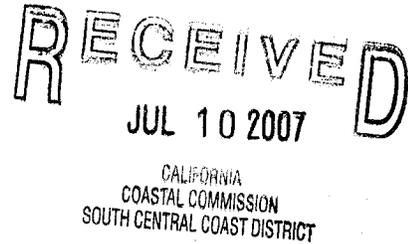
**Figure 1. Proposed Guest House**  
**Hollister Ranch #52**  
**Native Grassland Sampling**

**Michael and Anne Parsons  
49 Ashler Avenue  
Los Gatos, CA 95030  
(408) 621-8975 (cell)**

July 10, 2007

**Via California Overnight**

California Coastal Commission  
Attn: Steven M. Hudson and Shana Gray  
289 S. California Street, Suite 200  
Ventura, CA 93001



Re: Hollister Ranch #52 – Guest House  
(Appeal No. A-4-STB-07-052)

Dear Mr. Hudson and Ms. Gray:

As requested at the site visit on July 2, 2007, enclosed please find a site plan for the main house. As you will see from the plan, and as set forth below, the main house site is extremely constrained and the current, approved guest house site results in very few real impacts to the sensitive habitats.

**Main House Site**

As you will see from the enclosed plan, the main site is geographically constrained, which resulted in a much smaller main home than is typical in this area. Due to the smaller main home, a guest home on this parcel is very important. Of particular concerns are the set back requirements from the oak habitat, the dry wells (current and future requirements), and Agujas Creek, including its tributaries and drainage swales.

Geological Considerations. The main home was pushed North to its current location due to the poor soil conditions toward the South, closer to the creek. As you move South closer to the creek the soils become unstable. As you move North closer to the rock formations you are able to hit bedrock to support piers for a foundation. We are able to provide the Commission a letter from a soils engineer showing that the site in front of the main home is not suitable for building.

Riparian Considerations. At the site visit, we looked at locating the guest house just West of the existing fence; however, upon review of the enclosed plan you will see that an established tributary of Agujas Creek exists in this area. Further, there is a natural drainage swale that should not be disturbed and was avoided in siting the main home.

These considerations make it very difficult to locate any structure closer to the main house.

Exhibit 5  
A-4-STB-07-052  
Correspondence

## Approved Guest Home Site

The Approved Site Is "Clustered" While we understand that the Commission does not necessarily follow the "2-acre rule," we would like to point out that the total separation is only 1.8% of the total 107.7 acre parcel. We believe that this fully satisfies the objectives of clustering developments. Further, other County projects have taken a much more liberal interpretation of the clustering concept.

### The Impacts Are Avoided.

1. Please note that the County Fire Department requirements for a private drive are 12' wide, not 16' as noted in staff report. Thus, the pre-existing driveway would not have to be enlarged and would not result in any impacts to the habitat.

2. As we discussed, and as confirmed by field measurements, we are confident that no oak trees will need to be removed and no removal of limbs will be required. The County Fire Department has agreed that no trees need be removed if sufficient width is provided on Segundo Road. We have confirmed that "as-is" the road is at least 15' wide in all areas. The 16' requirement is only to provide a 12' road, with two 2-foot shoulders. The County Fire Department has allowed exceptions to this standard on other projects and we believe an exception will be made in this case as well. This will not jeopardize fire safety concerns.

3. The County Fire Department's brush clearance requirements are minimized due to the rock formation to the North of the guest home. Thus, the approved location will only result in minimal brush thinning to the West and East of the home in order to meet fire safety standards. This is a unique benefit of this site.

4. Please note that the approved landscape plan includes planting native grasses, restoring any disturbed grassland, and planting oak trees.. We did not propose to landscape with lawn or other non-native species. We believe the result will be a healthier native grassland habitat, including the .75 acre preservation area already dedicated.

In conclusion, we would like to thank you both for your willingness to work with us in an effort to achieve a resolution. To that end, we would be open to discussing other mitigation measures for the possible loss of .19 acre of native grasslands.

We have invested nearly \$75,000 in studies, reports, plans and fees on the approved guest house site. We truly believe it to be the best site on the entire parcel due to its historical use and disturbance in the cattle operations. In light of other developments (recent and historical), at the Hollister Ranch and Santa Barbara County and in light of the late stage of this project, we feel that requiring the guest home to be moved would be an arbitrary exercise of the Commission's powers. We look forward to hearing from you.

Very truly yours,



Michael and Anne Parsons





**Clustered Alternative  
Guest House Near  
Existing Residence**

**Main Residence**

*Segundo Road*

*Agujas*

*Agujas Road*



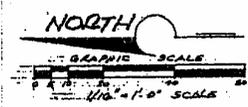
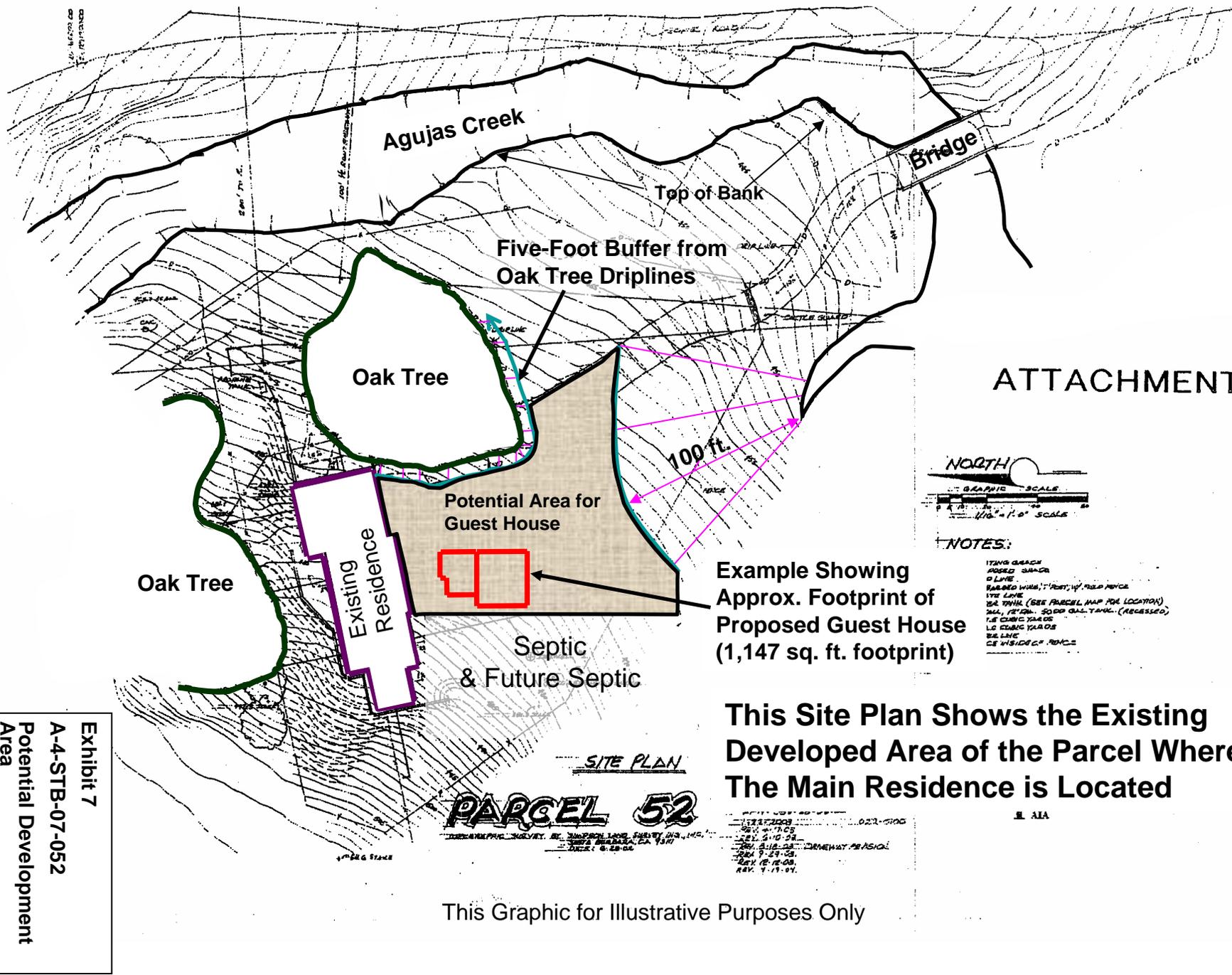
**REVISED Proposed  
Location for Guest House  
(Approximate)**

*Segundo Road*

**\*\* This Graphic Shows Approximate Locations of Development  
For Illustrative Purposes Only**

**Exhibit 6b  
A-4-STB-07-052  
Aerial Photograph of  
Project Site**

ATTACHMENT E



- NOTES:
- 1" LINE GRACE
  - 4" LINE SAND
  - 0 LINE
  - BARBED WIRE; 1" FEET; 1/4" RAIL FENCE
  - 1" LINE
  - 3/4" LINE (SEE PARCEL MAP FOR LOCATION)
  - 2" LINE (SEE PARCEL MAP FOR LOCATION)
  - 1/2" LINE (SEE PARCEL MAP FOR LOCATION)
  - 1/4" LINE (SEE PARCEL MAP FOR LOCATION)
  - 1/8" LINE (SEE PARCEL MAP FOR LOCATION)
  - 1/16" LINE (SEE PARCEL MAP FOR LOCATION)

Example Showing  
Approx. Footprint of  
Proposed Guest House  
(1,147 sq. ft. footprint)

This Site Plan Shows the Existing  
Developed Area of the Parcel Where  
The Main Residence is Located

SITE PLAN  
**PARCEL 52**  
SURVEYED BY: [Illegible]  
DATE: 6-28-04  
REV. 1-11-04

This Graphic for Illustrative Purposes Only

Exhibit 7  
A-4-STB-07-052  
Potential Development  
Area

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



## M E M O R A N D U M

FROM: Jonna D. Engel, Ph.D.  
Ecologist

TO: Shana Gray  
Supervisor, Planning and Regulation

SUBJECT: Hollister Ranch Parcel 52 – Botanical survey of knoll area

DATE: September 26, 2008

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## Documents reviewed:

Watershed Environmental Inc. May 30, 2008. Botanical/Grassland Survey of Parcel 52 Hollister Ranch (APN: 083-680-003). Prepared for Mr. Michael Parsons, 15700 Winchester Blvd. Los Gatos, CA 95030

Watershed Environmental Inc. May 5, 2008. Figure 1. Proposed Guest House, Hollister Ranch #52, Native Grassland Sampling

Watershed Environmental Inc. March 11, 2008. Grassland Sampling Data Form, Transect T-1

Padre Associates Inc. May 7, 2007. Spring Botanical Survey for the Hollister Ranch Parcel 52 Guest House, Hollister Ranch, California. Prepared for: Mr. Michael Parsons. Project No. 0202-0383

Padre Associates Inc. May 2007. Native Grassland Preserve Management Plan for the Parcel 52 Development (Guest House) Hollister Ranch, Santa Barbara County, California. Prepared for: Mr. Michael Parsons. Project No. 0202-0383

Padre Associates Inc. Oct. 16, 2006. Addendum to the Biological Resources Survey Report for Hollister Ranch Parcel 52, Hollister Ranch, California, Dated January 2004

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On Tuesday, August 12, 2008, I visited Parcel 52 on Hollister Ranch to visually assess the plant communities on and around a knoll west of the main residence where a guest house is proposed. I invited Steve Junak of the Santa Barbara Botanic Garden to accompany me as an independent botanical expert. Also along were Melissa Mooney, Santa Barbara County biologist, Mark de la Garza, Watershed Environmental Inc. biologist, Shana Gray, CCC Planning and Regulation Supervisor, Ted Harris and Jared Ficker of California Strategies, and Michael Parsons, property owner.

**Exhibit 8**  
**A-4-STB-07-052**  
**Dr. Engel September 26,**  
**2008 Memorandum**

To access the site we walked up a dirt road that, according to the applicant and based upon a 1974 aerial photo, has been in use since the 1970's for ranch operations and continues to be periodically bladed. The road runs down the center of the knoll and ends in a turn-around area. The day we visited, the area of road that first levels out on the knoll showed evidence of recent discing; there was no vegetation left; just bare dirt. This appeared to be associated with work involving installation of a power box on the knoll. This work included a six to eight foot cleared swath from the knoll to the main house.

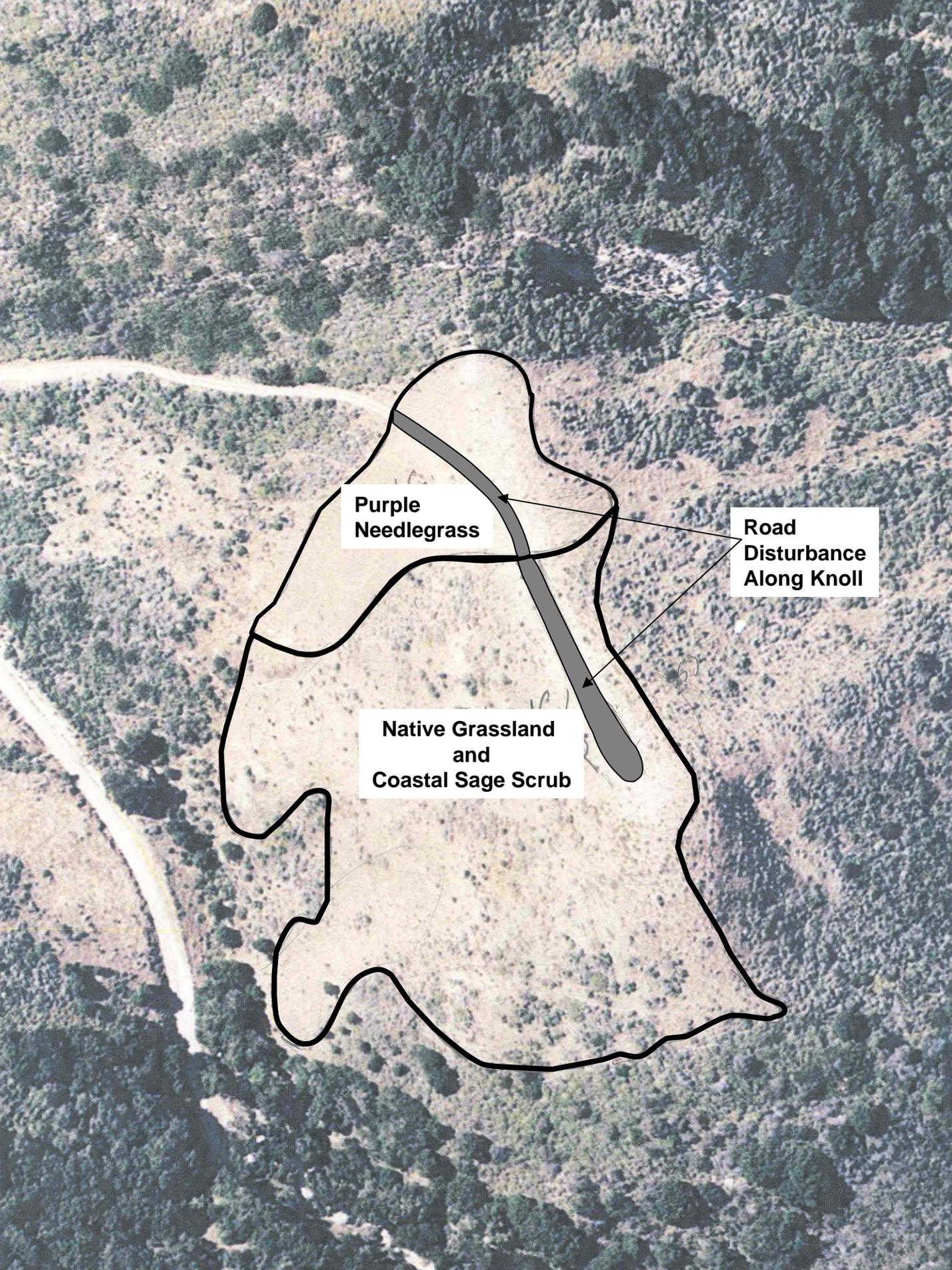
The section of road that initially tops the knoll bisects a patch of pristine native perennial grassland dominated by purple needlegrass. Purple needlegrass, *Nassella pulchra*, is native to California. The California Department of Fish and Game's Natural Diversity Data Base (CNNDDB) identifies valley needlegrass grassland as a rare plant community with a state rarity ranking of S3.1 (10,000 to 50,000 acres, very threatened) and a global rarity ranking of G1 (less than 2,000 acres). The CNDDDB plant community descriptions are based on Holland (1986). Holland describes valley needlegrass grassland as "a midheight (to 2 ft) grassland dominated by perennial tussock-forming *Stipa pulchra* (*Nassella pulchra*). Native and introduced annuals occur between the perennials, often actually exceeding the bunchgrasses in cover. Usually on fine-textured (often clay) soils....". The Santa Barbara County LCP recognizes purple needlegrass grassland as environmentally sensitive habitat or ESHA.

We spent several hours on site observing and identifying plant species and plant community patterns. The biologists concurred that the northerly section of the knoll identified as a "purple needlegrass series" by Padre Associates Inc. (May 7, 2007) and as "native grassland" by Watershed Environmental Inc. (May 30, 2008), is indeed a healthy stand of native perennial grassland ESHA dominated by purple needlegrass (see attached figure). This patch is approximately 50,000 square feet or a little more than an acre. The species we observed in this area included purple needlegrass, *Nassella pulchra*; succulent lupine, *Lupinus succulentus*; coastal goldenbush, *Isocoma mensiezii*; and several non-native species including non-native grasses, common vetch, *Vicia sativa* and scattered black mustard, *Brassica nigra*.

The road spanning the knoll is disturbed and supports only ground level nubs of grass patches. Recent use by ranch operations along the knoll was evidenced by the large number of cow droppings. Steve, Melissa and I concurred with Mark de la Garza's findings (Watershed Environmental Inc. May 30, 2008) that the disturbed road bed supports less than 10% cover of purple needlegrass.

We found that below (south of) the stand of native perennial grassland discussed above, and on either side of the disturbed road, is an area characterized by a mixed native plant community consisting of both native perennial grassland and coastal sage scrub species (see attached figure). While Padre (May 7, 2007) designated this area as purple needlegrass grassland, we found that the area is best described as an integration of native perennial grassland and native coastal sage scrub. The area was

not surveyed with the detail necessary to provide a habitat map but it consists of areas of native perennial grassland intermixed with coastal sage scrub species and areas of coastal sage scrub intermixed with native perennial grassland species. The size of this area is approximately 144,000 square feet or just over 3 acres. The native perennial grassland species we observed include purple needlegrass, *Nassella pulchra*; succulent lupine, *Lupinus succulentus*; and turkey mullein, *Eremocarpus setigerus*. The coastal sage scrub species we observed include California sagebrush, *Artemisia californica*, coastal goldenbush, *Isocoma mensiezii*, sawtooth goldenbush, *Hazardia squarrosa*, and lemonade berry, *Rhus integrifolia*. We also observed several non-native species including European grasses, black mustard, and common vetch. As discussed above, the Santa Barbara County LCP recognizes purple needlegrass grassland as environmentally sensitive habitat or ESHA. While coastal sage scrub is not specifically singled out as ESHA in the Santa Barbara County LCP, the ESHA overlay includes coastal sage scrub in its list of native plant communities. Therefore, this mixed native plant community totaling just over 3 acres is a native plant community afforded protection under the Santa Barbara County LCP.



**Purple  
Needlegrass**

**Road  
Disturbance  
Along Knoll**

**Native Grassland  
and  
Coastal Sage Scrub**

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

**PROJECT NAME:** Appeal No. A-4-STB 07-052 (HR 52 Partnership, Santa Barbara)

**Date & Time:** October 6, 2008

**Location:** Hollister Ranch lot 52

**Persons involved:** Jared Ficker, Michael Powers, and Mark de la Garza

**Commissioner receiving communication:** Dan Secord

**Description of the communications:**

I drove to the project site with Mr. Ficker, walked the site and received a description of the guest house (1,578 sq feet) and it's proposed placement on a degraded area of land (a graded turn around at the top of a hill West of the principal residence). The owner joined as did the environmental scientist and we observed the sparse vegetation remaining on the turn-around.

Signed: Dan B. Secord, M.D.



Exhibit 9  
A-4-STB-07-052  
Ex Parte Communications

## DISCLOSURE OF EX PARTE COMMUNICATIONS

**Name or description of project:** Appeal No. A-4-STB-07-052 HR52  
Partnership, Friday 9a  
**Date/time of receipt of communication:** October 6, 2008 @ 7:45pm  
**Location of communication:** Menlo Park  
**Type of communication:** Telephone  
**Person(s) initiating communication:** Rusty Arieas, California Strategies

**Detailed substantive description of content of communication:**

The applicant called me to discuss canceling our meeting. In the call we discussed a brief history of Hollister Ranch (a pre-coastal commission 133 parcel subdivision of a 14,400 acre ranch,) the great surf breaks (now closed to the public except for mean high-tide access,) and the numbers of families who can own a single 100 acre parcel (up to 3) and up to 12 guests per parcel.

Rusty mentioned, but did not discuss the specifics appeal issue – a guest cottage on a parcel, and said if the appeal wasn't postponed we'll reschedule our meeting.



\_\_\_\_\_  
Commissioner

Monday, October 6, 2008

\_\_\_\_\_  
Date

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