

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Th18f

Appeal Filed: 5/31/07
 Substantial Issue Found: 7/9/07
 Staff: Shana Gray - VTA
 Staff Report: 1/16/08
 Hearing Date: 2/7/08



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 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), 381 sq. ft. deck, landscaping, garden wall, 343 sq. ft. porch, retaining walls and 800 cu. yds. of 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 improvements to Segundo Road (a private Hollister Ranch common road) which will include the removal of five (5) oak trees.

MOTION & RESOLUTION: Page 6

SUMMARY OF STAFF RECOMMENDATION: 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).

Staff recommends **denial** of the proposed project. As proposed, the project would result in permanent adverse impacts to approximately 0.25 acres of native grassland habitat (including purple needle grass habitat), removal of five (5) oak trees, and may also result in an unspecified amount of trimming, limbing, or other modification to oak trees that are part of an oak woodland area. Additionally, a single family residence has recently been constructed in a different area of the property (pursuant to separate County coastal development permit). 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 sensitive habitat areas. Further, the proposed guesthouse is an accessory structure and therefore the “no project” alternative is a feasible alternative. Alternately, there may be a feasible building location (such as locating the primary residence and guest house together in a clustered location) that would result in fewer significant adverse impacts to sensitive habitat and which have not been analyzed.

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

- ❖ Native grasslands and oak woodlands constitute environmentally sensitive habitat areas (ESHA) in the County’s certified Local Coastal Program (LCP).
- ❖ The proposed guest house will have both direct and indirect adverse impacts on ESHA.
- ❖ The County’s LCP requires ESHA to be protected. Section 30240 of the Coastal Act, as incorporated in the LCP, requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values, and only uses dependent on those resources be allowed within those areas.
- ❖ 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 the guest house in the proposed location. For instance, the applicant indicates in his July 10, 2007 letter (Exhibit 7) that the Fire Department has agreed that no [oak] trees will need to be removed and no limbs removed if sufficient width is provided along Segundo Road. However, revised plans, approved by the Fire Department, have not been submitted which indicate that the five oak trees would no longer be removed. And while a revised approval from the Fire Department would be a step toward reducing impacts, the project would continue to have other ESHA impacts that are not consistent with the County’s LCP.

The applicant argues that the pre-existing driveway would not be enlarged. 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. 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.

The applicant also contends that the guest house, in its 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. 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 away from the existing residence and it appears to be feasible to cluster the proposed guest house adjacent to 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. These Uniform Rules are not certified as part of the County's LCP 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.

However, these assertions are not pertinent 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 therefore already has an economic use of the property, the "no project" alternative is a feasible alternative, and it is the alternative that would avoid all impacts to ESHA.

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. Based on the available information, staff believes that it would be possible to locate the guest house near the existing residence (Exhibit 9). A clustered alternative in this configuration would not be the applicant's preferred alternative to maximize views from the guest house nor would it likely be the applicant's preference to have the guest house in the immediate vicinity of the residence. However, these two issues are not Coastal Act issues and are not facts material to the analysis of the project's consistency with the County LCP.

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 was determined that the area in front of the existing residence is not suitable for the guest house, it is not a material fact in the consideration of the proposed project's consistency with the LCP. It is the applicant's responsibility to explore the potential alternatives. If no options are identified that would avoid impacts to ESHA, then a guest house would not be feasible on this property.

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.

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 6**.

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EXHIBITS

- Exhibit 1. Vicinity Map
 - Exhibit 2. Location
 - Exhibit 3. Parcel Map
 - Exhibit 4. Project Plans
 - Exhibit 5. Vegetation Map for Guest House Area
 - Exhibit 6. Site Photos
 - Exhibit 7. Correspondence from Applicant
 - Exhibit 8. Aerial Photograph With Approximate Development
 - Exhibit 9. Potential Development Area
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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;

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 hearing on June 9, 2007, that a substantial issue was raised.

As a "de novo" 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. Failure of this motion 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 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) , 381 sq. ft. deck, landscaping, garden wall, 343 sq. ft. porch, and retaining walls, and 800 cu. yds. of grading. The project includes the installation of a 5,000 gallon water tank for potable water and fire response and also includes widening and improvements to an approximately 1,040 ft. long existing ranch road/driveway to meet Fire Department standards.

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. Five oak trees would be removed to facilitate such improvements. Access to the guest house would be taken via a private drive from Segundo Road. (Project plans are shown in Exhibit 4; Aerial photographs of the project site are provided as Exhibit 8; Exhibit 6 provides photographs of the proposed guest house site and the area of the existing main residence.)

Prior to June 14, 2007, the County LCP's height requirements were measured in terms of "average height." In this case, the average height of the structure is 14 feet, 6 inches. This measurement is somewhat misleading in terms of understanding the overall height of the structure due to the methodology of calculating *average height* under the County's LCP. It is worth noting that the structure is two stories, built into the hillside with an overall maximum height of approximately 28 feet (i.e., the maximum height shown on the South elevation from finished grade to the top of the roof as shown in Exhibit 4).

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 8a). 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 where the 300 feet is measured from. 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.

Additionally, though the reduced copy of the floor plans indicate that the garage is 598 sq. ft., the full-size plans (dated March 26, 2007) received as part of the record do not match the reduced plans. The full-size plans indicate that the garage would be 783 sq. ft. Since the full-size plans appear to be more current and were the only full-size plans submitted as part of the official County record, the Commission is interpreting the plans to mean that the garage is proposed to be a total of 783 sq. ft.

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 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 in a southerly direction, 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 lies near the base of a prominent rocky ridge that slopes northward at over 30%. The topography also 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 as approved consists 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. Five oak trees would be removed to facilitate such improvements. 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.

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).

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 has been 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. 35-97.7. Conditions on Coastal Development Permits in ESH:

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the

proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.

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 ho8uses, 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

In the certified LCP, oak woodlands and 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. The certified LCP includes policies that require development adjacent to ESHA to be designed and located in a manner that will avoid adverse impacts to habitat resources, including measures such as setbacks, buffers,

grading and water quality controls. Additionally the LCP provides specific development standards by ESHA type.

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.

The LCP policies applied together require siting and design measures to protect native grassland, oak woodland habitat, and individual oak trees. 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 measures including siting the project with setbacks and buffers to prevent impacts which would 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. 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 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 project consists of the construction of a two-story accessory structure (795 sq. ft. guest house on the second floor with a 783 sq. ft. garage on the first floor), 381 sq. ft. deck, landscaping, garden wall, 343 sq. ft. porch, retaining walls; improvements to a 1,000 ft. long existing access driveway; improvements to Segundo Road; 5,000 gallon water tank; removal of five oak trees; and 800 cu. yds. of grading.

The Mitigated Negative Declaration for the project specifically states that (pg 7):

Implementation of the proposed project has the potential to cause a loss or disturbance, a reduction in the numbers or restriction in the range, and a reduction in the extent of diversity or quality of unique plant communities located on-site. Construction of the guest house, driveway and hammerhead turnaround would result in the permanent loss of approximately 0.19 acres of purple Needlegrass habitat (Padre Assoc., February 2007). . . . Also, temporary impacts due to fire clearance activities (annual mowing) would occur to approximately 0.06 acres of grasslands. In the long-term, the annual mowing would likely result in a benefit to the grassland within the fire clearance area by promoting more vigorous growth and greater relative density over time. However, due to the fact that the aerial extent of combined impacts (both permanent and temporary) equates to 0.25 acres (The County's threshold in this regard), the applicant would be required to preserve an area of approximately 0.75 acres of Purple Needlegrass located directly to the west of the guesthouse site

beyond required fire clearance activities, in perpetuity. 3 to 1 preservation on site would reduce impacts to less than significant.

Disturbance from utility trenching between the proposed guest house and residence under construction could impact the coyote brush scrub habitat. Further, 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 to chaparral habitat including individual Manzanita.

The use of heavy equipment during construction has the potential to impact additional purple Needlegrass, oak woodlands and Manzanita habitats if it is operated outside the project construction boundaries. Impacts are potentially significant.

As reported in the Mitigated Negative Declaration (MND) for this project, construction of the guest house would result in the permanent loss of 0.19 acres of purple needlegrass (*Nasella pulchra*) habitat (Exhibit 5), a native perennial grassland species, and an additional 0.06 acres would be impacted as a result of fuel modification. Although the MND indicates that the 0.06-acre impacted as a result of fuel modification is a temporary impact associated with annual mowing; the Commission finds that this is not a temporary impact since the grassland would be periodically impacted on an on-going, permanent basis. In its approval of this permit, the County found that the 0.25 acres of purple needlegrass habitat that would be permanently lost would be offset through the establishment of an on-site native grassland preserve on a 3:1 basis (0.75 acres restored). The preserve area would encompass an existing area of purple needlegrass. The County's approval did not require the preserve area to be restored but prohibited development and tilling of soil in perpetuity.

Further, it appears that the project would also result in additional impacts above the 0.25 acres recognized by the County. The County's calculation appears to only include impacts associated with fuel modification to the 30-foot fire clearance zone. However, County Condition of Approval #15 allows for future mowing of purple needlegrass beyond the 30-foot fire clearance zone. County Condition #15 states: "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." It does not appear that the impact from mowing beyond the 30-foot zone was analyzed or mitigated.

In addition to impacts to native grassland habitat, the MND identifies potential impacts to oak trees that are associated with an extensive oak woodland community. According to the Mitigated Negative Declaration, in order to provide adequate access to the guest house, the construction of road improvements on Segundo Road would be necessary which would result in the removal of five oak trees. There is no description of the improvements to Segundo Road (e.g., quantity of grading, extent of any road widening, paving, if applicable). 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 driveway 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, grading on the adjacent slopes, and installation of energy dissipators consisting of large rocks in three locations along Segundo Road. The County's reported that the modifications to Segundo Road are necessary to meet Fire Department requirements.

The project plans for the Segundo Road improvements show where the five oak trees are located that will be removed to facilitate road improvements. To address impacts associated with the removal of these oak trees, County Condition of Approval #13 requires an oak tree protection and replacement plan. As approved by the County, any protected trees which are removed, relocated and/or damaged (more than 20% encroachment into the critical root zone) shall be replaced on a 10:1 basis. However, it is not clear, based on the findings in the staff report, whether there are feasible alternatives to avoid or reduce adverse impacts to sensitive habitat (including the removal of 5 oak trees).

In addition, neither the Mitigated Negative Declaration (MND) nor the County's staff report quantify other impacts to oak trees such as trimming, limbing, or encroachment into the root zone or protected zones (5 feet from the dripline of the tree canopy). Although the MND indicates that potential impacts to oak trees will occur, it does not identify the location or extent of the other potential impacts or evaluate alternatives that would avoid or minimize these impacts. For instance with regard to the improvements to Segundo Road, the MND indicates that "potential construction-related impacts could impact several additional oak trees [beyond the removal of the five oak trees]"; however, there is no other information provided in the record regarding what these impacts involve.

Further, the MND reports that there may be impacts to oak woodland habitat in connection with the installation of the water tank for the guest house. 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." 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 also 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) located upslope of the proposed guest house. 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.

In its approval, the County required numerous other 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- biological surveys, restoring graded areas 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.

4. Policy Consistency

As discussed above, the proposed project will result in direct removal of native grassland habitat and oak trees. There may also be additional impacts to grassland as a result of fire clearance activities that were not considered because County Condition of Approval #15 appears to allow for the potential for the mowing of purple needlegrass beyond the 30-foot fire clearance zone. The MND also determined that there may be additional impacts to oak trees in relation to fire clearance activities associated with the guest house and there may be additional impacts to oak trees in connection with the road widening. Although the project includes mitigation of the impacts to native grassland and oak trees, the findings for approval failed to address potential feasible alternatives that would serve to avoid or reduce the impacts (including alternatives in design and location).

The policies and provisions of the County's LCP require the protection of environmentally sensitive habitat areas, including sensitive species, oak woodlands, and native grassland habitat. These policies require development adjacent to ESHA to be designed and located in a manner that will avoid adverse impacts to habitat resources (including measures such as setbacks and buffers to prevent impacts which would degrade these sensitive resources).

Native grasslands and oak woodlands 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 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, requires that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Section 30240, as incorporated in the LCP, restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a new guest house on the parcel, which would result in the loss of ESHA habitat area and vegetation within the guest house building pad and driveway areas, as well as within those areas where fuel modification would be required for fire protection purposes. As residential development (including guest houses) do 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, by itself, would require 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.

Specifically, 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 sited in a manner that would result in the direct removal of native grassland and would further result in annual mowing of native grasslands 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.

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 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. The full extent of the impacts to oak trees were not addressed by the Mitigated Negative Declaration (MND) for this project. However, at a minimum, the project description and project plans indicate that five oak trees would need to be removed along Segundo Road. The MND indicates that there may be additional, not specifically identified, oak trees as a result of fuel modification associated with the guest house structure and placement of the water tank. Therefore, the proposed guest house will 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 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 or pursuing an alternative proposal that would eliminate impacts to environmentally sensitive habitat areas. For example, there may be opportunities for a guest house to be clustered in the developed area near the existing residence.

The project would have significant impacts to environmentally sensitive habitat areas, including removal of purple needlegrass habitat 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, siting alternatives, and/or design alternatives.

The Commission finds that the "no project" alternative is a feasible alternative 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.

In addition, 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. These Uniform Rules are not certified as part of the County’s LCP and are not a standard of review for this permit.

Furthermore, the Commission finds that as approved by the County, development 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; and would require improvements to a 1000 ft. long access road that would only serve the guest house. In addition, the project would result in significant adverse impacts to native grassland and oak woodland environmentally sensitive habitat areas 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.

The Negative Declaration for the project indicates that the subject site and the surrounding area are predominantly vegetated with native grasses, including purple needle grass. Native grasslands constitute an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP, requires that “environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.” Section 30240, as incorporated in the LCP, restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a new guest house on the parcel, which would result in the loss of ESHA habitat area and vegetation within the guest house building pad and driveway areas, as well as within those areas where fuel modification would be required for fire protection purposes. As residential development (including guest houses) do 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, by itself, would require 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.

However, the Commission must also consider 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. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner that will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a “taking” was addressed by the U.S. Supreme Court in *Lucas v. South Carolina Coastal Council*. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow him or her to undertake the proposed project, and that project denial would deprive the owner/applicant of all economically viable use of the property, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law.

The Commission interprets Coastal Act Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant of all reasonable economic use of his or her property, the Commission may be required to allow some development even where an LCP policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, LCP policies, including, in this case, Section 30240 of the Coastal Act, as incorporated in the LCP, cannot be read to deny all economically beneficial or productive use of land because Section 30240, as incorporated in the LCP, cannot be interpreted to require the Commission or the local government to act in an unconstitutional manner.

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, this section does not authorize the Commission or local government to avoid application of the policies of the LCP, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to apply the requirements of the LCP. Therefore, in this situation, the Commission must still comply with Section 30240, as incorporated in the LCP, and other biological resource protection policies of the LCP by avoiding impacts that would disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without a taking of the property.

However, as previously discussed, the County has previously approved other residential development on the site, including a single family residence on the northern portion of the property, which has been constructed and is in use, 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.

Another alternative includes siting the proposed guest house in a different area of the property in order to cluster development, 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 9). 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 9 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. 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 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.

Staff 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.

Regardless, these assertions are not pertinent to the Commission's determination to deny the guest house in its currently proposed location. 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 is remains a feasible alternative.

In summary, the proposed project would result in direct and indirect impacts to native grassland 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 under 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. Note, 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; however, this assertion appears erroneous. 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 by addressing a clustered alternative in the area of the existing residence.

F. CEQA

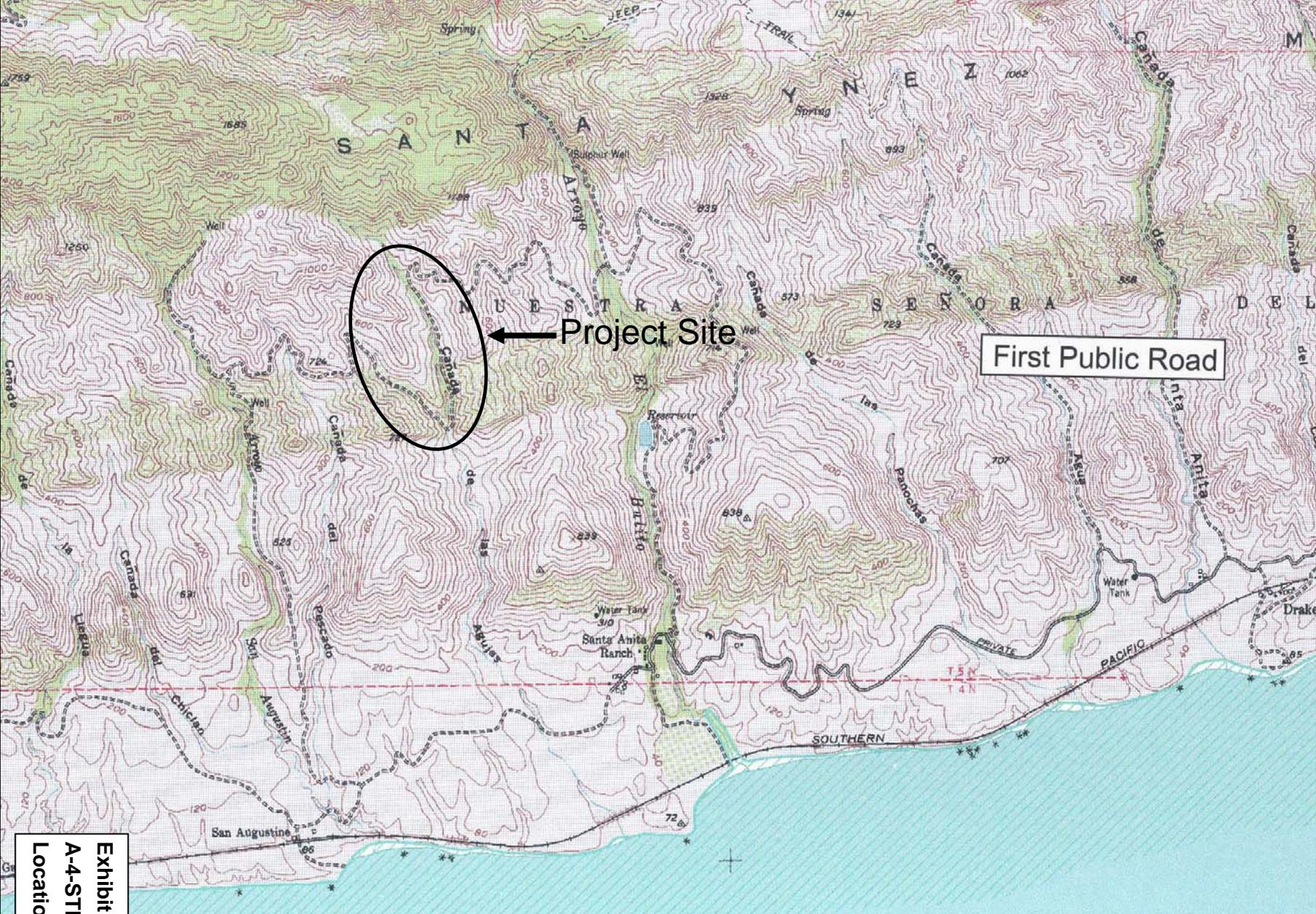
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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

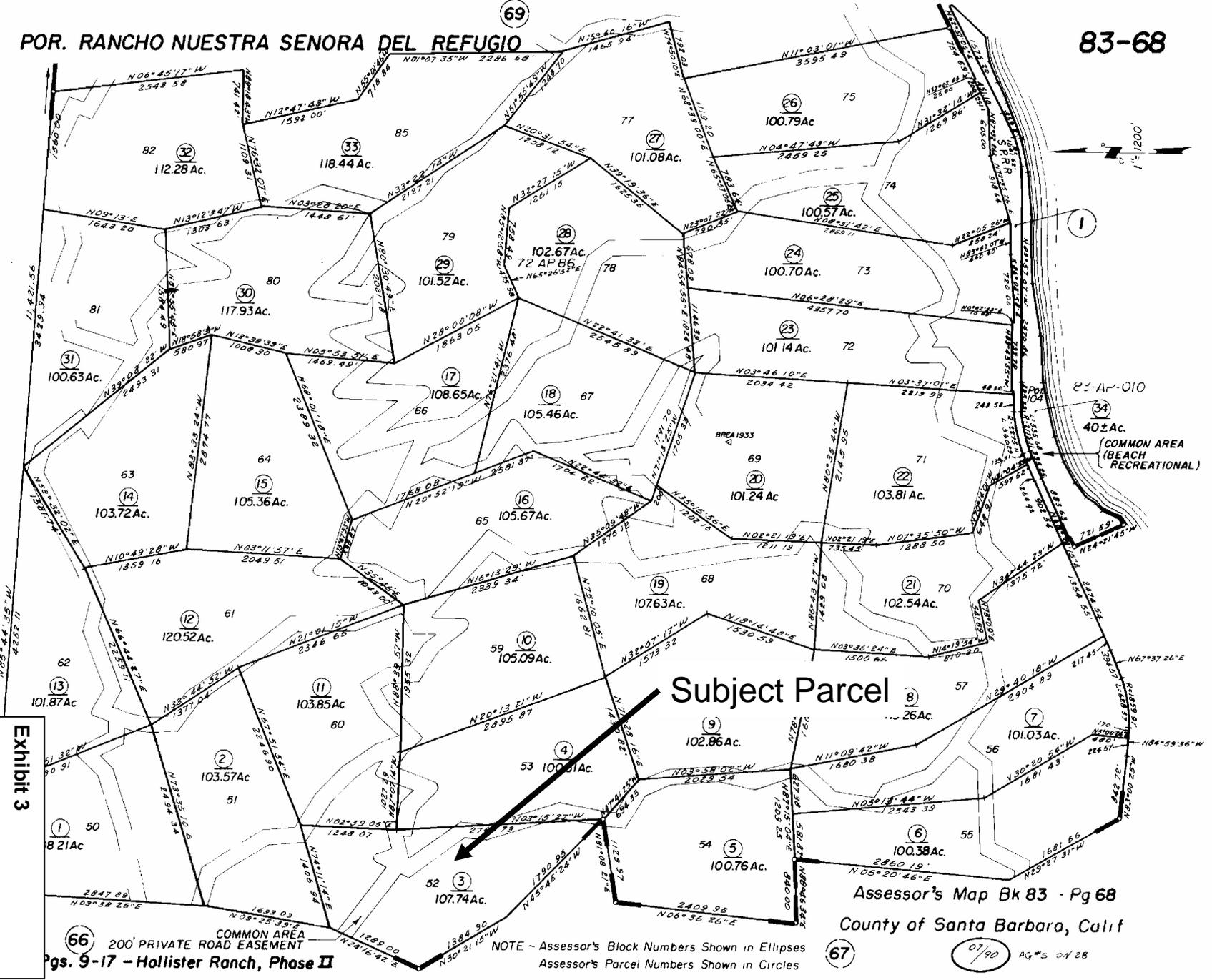
POR. RANCHO NUESTRA SEÑORA DEL REFUGIO

83-68

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Exhibit 3
A-4-STB-07-052
Parcel Map



66 200' PRIVATE ROAD EASEMENT
 COMMON AREA
 Pgs. 9-17 - Hollister Ranch, Phase II

NOTE - Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk 83 - Pg 68
 County of Santa Barbara, Calif

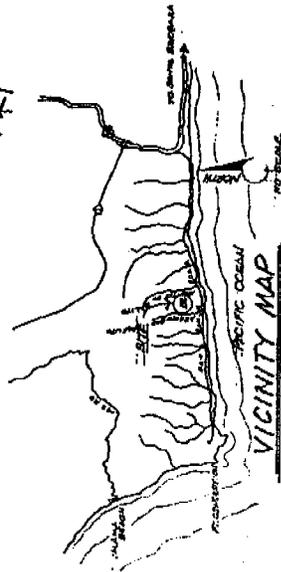
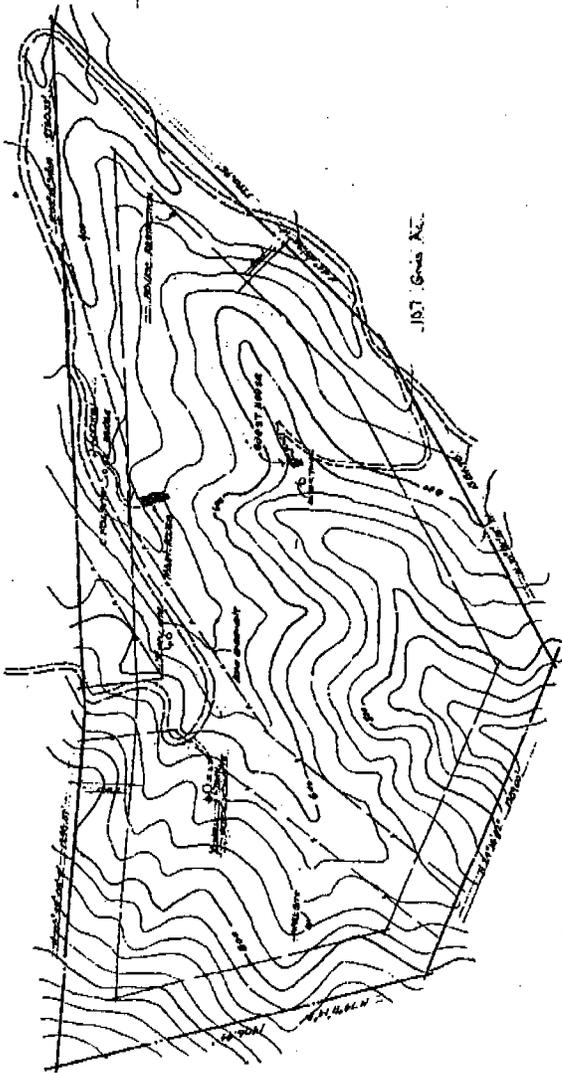
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07/90

AG'S 01/28

INDEX

- 1. PARCEL MAP
- 2. SITE & DESIGN RUN
- 3. SITE SECTIONS & NOTES
- 4. FLOOR PLAN
- 5. ELEVATIONS
- 6. ROOF PLAN



(DIMENSIONS FROM AIRBORNE PHOTO, PLAN 20-119, INCLUDING ADJACENT AREAS, COASTLINE)

PARCEL MAP

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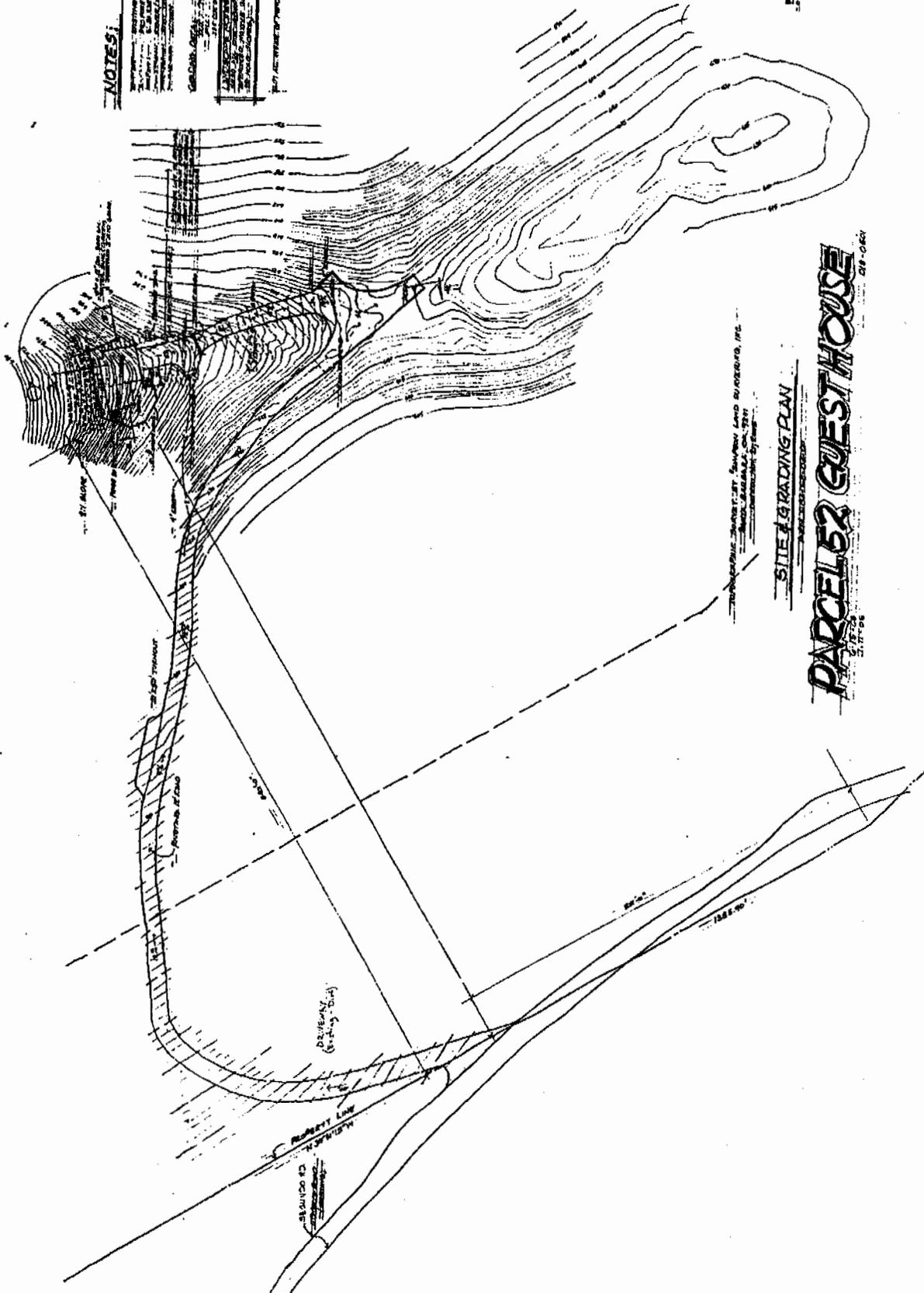
PARCEL 52 GUESTHOUSE

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NOTES:

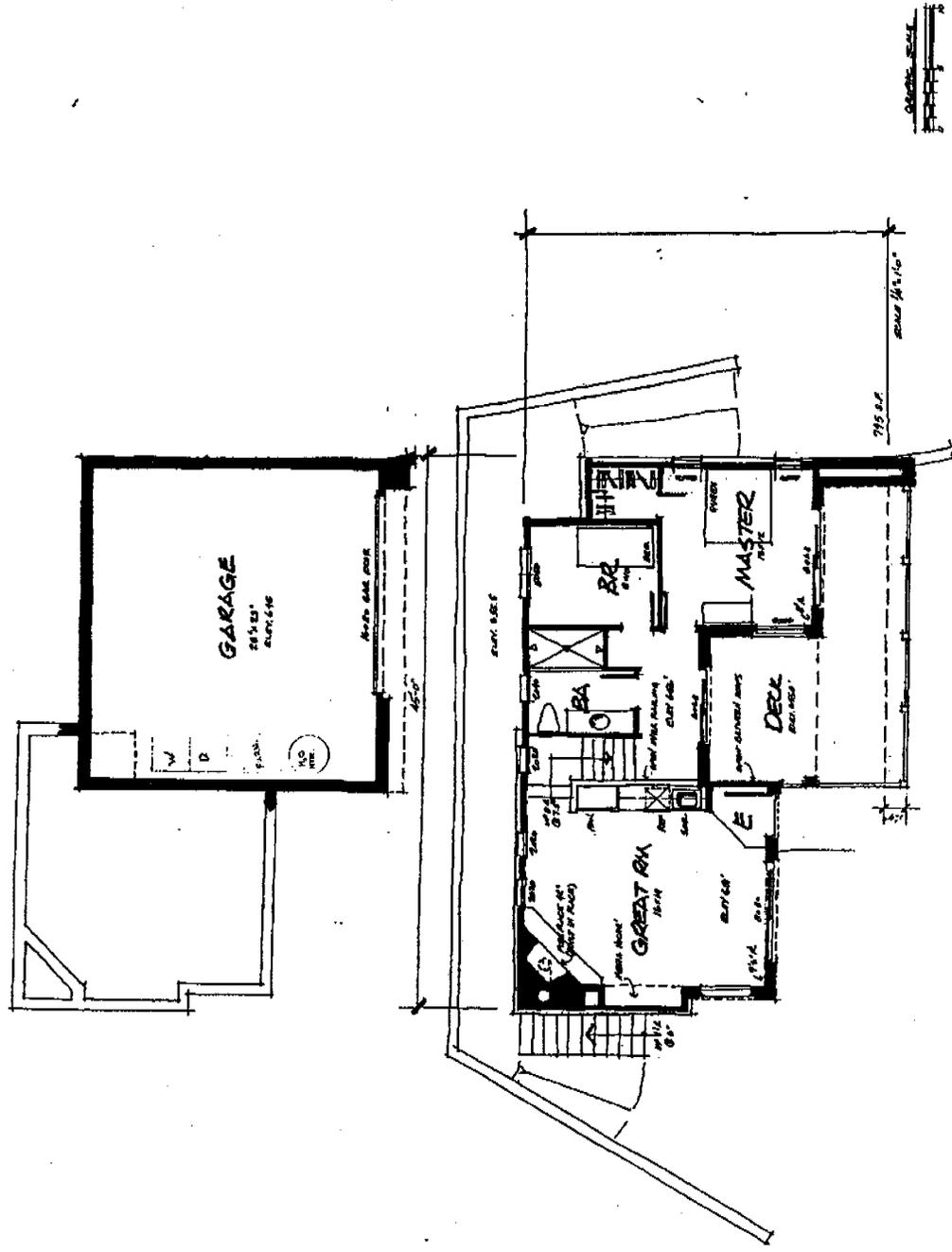
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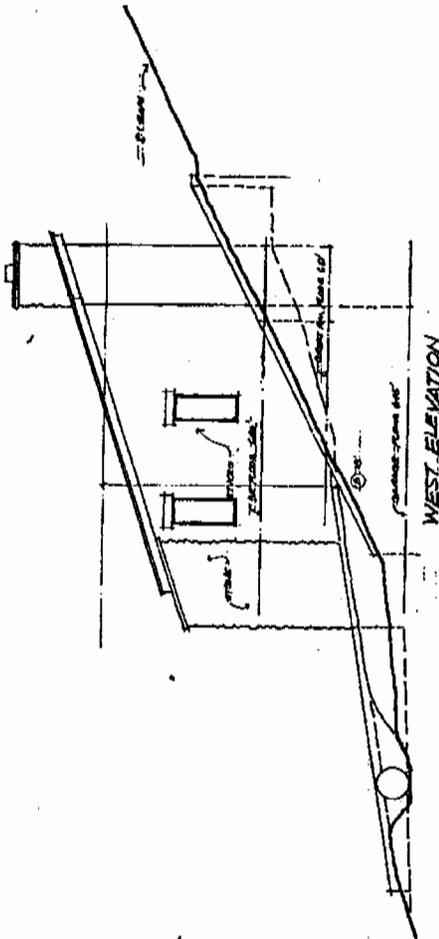
SITE GRADING PLAN

PARCELS GUEST HOUSE

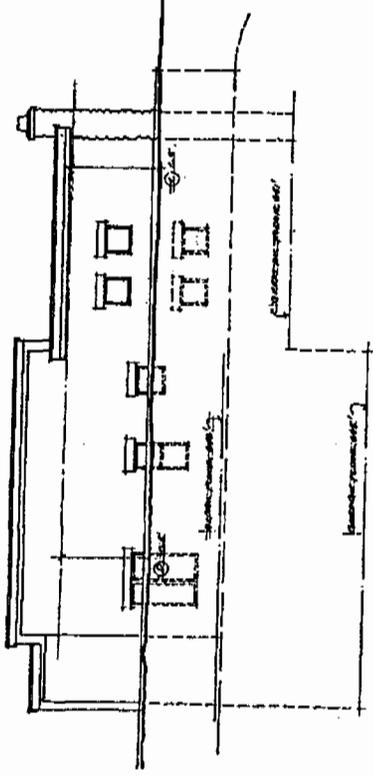
PROPOSED GRADING PLAN FOR PARCELS GUEST HOUSE, INC.
DATE: 10/15/2011
DRAWN BY: [Name]



FLOOR PLANS
JULY-1993-088-09-00
PARCEL 52 GUEST HOUSE
08/1/93

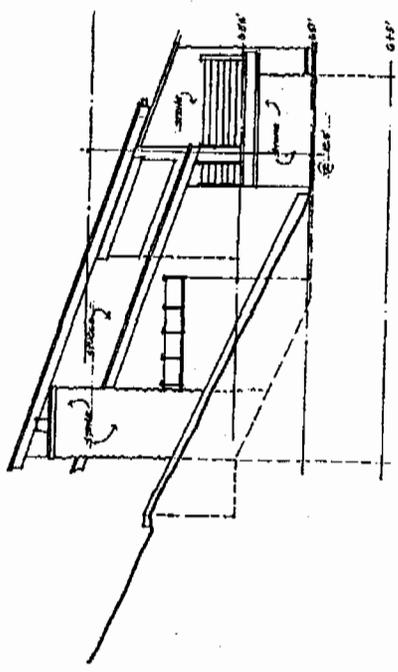


WEST ELEVATION

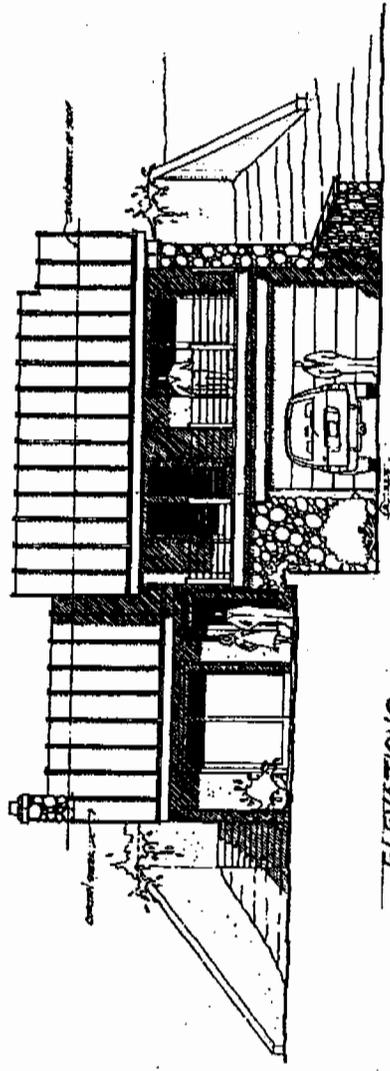


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EAST ELEVATION



SOUTH ELEVATION

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LEGEND
COVER TYPE CODES
 PNS - PURPLE NEEDLEGRASS SERIES
 CSS - CALIFORNIA SAGEBRUSH SERIES
 CBS - COYOTE BRUSH SERIES
 CHAP - CENTRAL MARITIME CHAPARRAL
 OW - COAST LIVE OAK WOODLAND
 RM - REFUGIO MANZANITA


NORTH
 SCALE: 1" = 150'
 APPROX.

VEGETATION COVER TYPES

Exhibit 5
 A-4-STB-07-052
 Vegetation At County-Approved
 Guest House Location



Figure 1. Proposed guest house location.



Figure 2. View of main residence (under construction) from the approximate location of the proposed guest house.



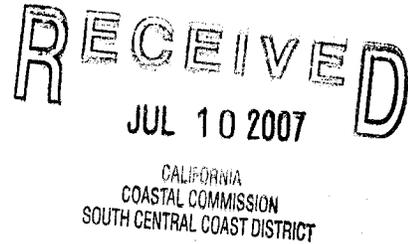
Figure 3. Area in front of the main residence allows for potential to cluster guest house with existing development.

**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 7 A-4-STB-07-052 Correspondence

Approved Guest Home Site

The Approved Site Is "Clustering" 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



**County-Approved
Location for Guest House**

Water
Tank

Utility Connection
To Guest House

**Existing
Residence**

**Clustered Alternative
Guest House Near
Existing Residence**

**Access Road / Driveway
To Guest House**

Segundo Road

Aguias

Exhibit 8b
A-4-STB-07-052
**Aerial Photograph of
Project Site**

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

