

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
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# Th13a



**Prepared March 5, 2008 (for March 6, 2008 hearing)**

**To:** Commissioners and Interested Persons  
**From:** Dan Carl, District Manager  
Mike Watson, Coastal Planner  
**Subject:** **STAFF REPORT ADDENDUM for Th13a**  
**Appeal A-3-MRB-06-064 (Colmer, Black Hill Villas)**

In the time since the release of the above-referenced staff report, staff has identified some minor corrections that will help clarify and make explicit certain aspects of the staff recommendation. These corrections do not alter the fundamental parameters of the staff recommendation, rather they merely clarify certain aspects of it related to LCP-required habitat protection.

In addition, staff received a letter from the Applicant dated February 29, 2008 after the staff report was released (see letter attached as Exhibit 1). In that letter, the Applicant suggests that there are omissions and mischaracterization of facts in the staff report that could affect the outcome of the appeal. Staff does not concur, and this addendum responds to the Applicant's contentions.

Finally, Commissioner ex parte disclosure documents were inadvertently omitted from the staff report that was distributed, and these ex parte disclosures are attached to this addendum as Exhibit 2.

Accordingly, the staff report is modified to include the Applicant's letter as staff report Exhibit 10, and to include the Commissioner ex parte disclosure documents as staff report Exhibit 11. Other staff report modifications are identified below. Where applicable, text in underline format indicates text to be added, and text in ~~strike through~~ format indicates text to be deleted.

## A. Minor Staff Report Clarifications

### 1. Buffer Distances

Although it is explicit in the findings of the staff report and it is identified on Exhibit 6, the special conditions do not explicitly identify the required buffer distances applicable to the identified ESHA/Stream Habitat Area and the Black Hill Natural Area. As described clearly in the findings, the buffer distance for the ESHA/Stream Habitat Area is 100 feet and the buffer distance for the Black Hill Natural Area is 40 feet. Staff believes that the findings and conditions are clear when read together in this respect, but that the special conditions would be clearer if they included explicit references to these LCP required distances where the relevant development limitations are identified. Accordingly, parts (a) and (c) of Special Condition 1 are revised as follows:

- (a) ESHA/Stream Habitat Area and Buffer. No development, as defined by LCP Section 17.12.199, shall occur within the 100-foot ESHA/Stream Habitat Area and Buffer (see Exhibit 6) except for: (1) subdivision necessary to create a single parcel consisting of the ESHA/Stream Habitat Area and Buffer area; (2) habitat restoration, enhancement, and management consistent with this permit (see special condition 3); and (3) the minimum amount of road access development necessary to provide ingress/egress to the Development Area (see Exhibit 6) provided such road access is located as far south as possible, and is no wider than 28 feet if it includes a sidewalk and no wider than 24 feet if it does not.

...

- (c) Black Hill Natural Area Buffer. Development within the 40-foot Black Hill Natural Area Buffer (see Exhibit 6) shall be limited to roads, lawns, landscaping, fences, and residentially-related uses and development of a similar nature that do not themselves require a defensible fire safety zone. Development that requires a defensible fire safety zone, including but not limited to single family dwellings and garages, shall be prohibited within the Black Hill Natural Area Buffer.

## **2. Non-Native and Invasive Plant Prohibition; Local Stock Required**

The staff recommendation is that non-native and invasive plant species be prohibited on the subject site, and that only native plant species from local stock be used on the site. This follows by virtue of the findings and Special Conditions 3 (requiring ESHA/stream and buffer restoration) and 4 (requiring removal and control of non-native exotic plants). However, this aspect of the staff recommendation could be made clearer in the special conditions. Accordingly, Special Condition 2(f) is revised as follows:

- (f) Landscaping and Irrigation Details. Final Plans shall include landscape and irrigation parameters prepared by a licensed Landscape Architect that shall identify all plant materials (size, species, quantity), all irrigation systems, and all proposed maintenance. All plants used on site shall be native species from local stock appropriate to the Black Hill area. Non-native and/or invasive plant species shall be prohibited. All plant materials shall be selected to be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. The landscape plans shall ensure that all structures are screened from public views as much as possible, including through the use of upper canopy trees, and including to meet the requirements of subsection (e) above. The landscape plans shall also be designed to protect and enhance native plant communities on and adjacent to the site, including required restoration and enhancement areas, and to provide a transitional buffer between native habitat areas and authorized development. Landscaping (at maturity) shall also be capable of screening and camouflaging all residential development as seen from off site. All landscaped areas and fences on the project site shall be continuously maintained by the permittee; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition. Non-native and/or invasive plant species shall not be allowed to persist

on the site (see also Special Condition 4). The planting of non-native and/or invasive plant species, such as those listed on the California Invasive Plant Council's Inventory of Invasive Plants, is prohibited.

### **3. See-Through Railings and Partitions Prohibited**

In order to protect raptors and other avian species from colliding with see-through (e.g., glass, plastic, etc.) patio or deck railings or partitions, the following requirement is added as part (j) of Special Condition 2:

- (j) See-Through Railings and Partitions Prohibited. See-through (e.g., glass, plastic, etc.) patio or deck railings, partitions, and similar structures shall be prohibited on the site.

## **B. Response to Applicant's February 29, 2008 Letter**

The Applicant's February 29, 2008 letter is attached as Exhibit 1. The responses below are organized in the same numerical framework as in the Applicant's letter, and taken in the same order.

### **1. Applicant Contention 1**

The Applicant contends that the staff report mischaracterizes prior tree removal activities as occurring without benefit of a permit. The Applicant further contends that the tree removal was authorized by the City of Morro Bay pursuant to its tree removal guidelines, and that compensatory mitigation should not be required. In support of his contentions, the Applicant attaches a copy of a February 25, 2008 email transmittal from Mike Prater in the City of Morro Bay's Public Services Department.

The removal of trees in and adjacent to the riparian corridor is development and requires a coastal development permit (CDP) pursuant to the City's LCP (LCP Section 17.58). Staff is unaware of any CDP having been approved for any such activities, and the Applicant doesn't purport to identify any such CDP. With respect to the City guidelines referenced in the City's recent email, Staff contacted the City to better understand the relevance of any such guidelines. Staff learned that although there was a proposal to amend the current tree removal policies (which require a CDP for tree removal and have been in effect since 1995) with such guidelines that would allow certain types of tree removal without a permit, the proposal was never adopted by the City and was never considered by the Commission. As a result, any such guidelines are not directive, and do not somehow supersede the LCP's CDP requirements.

With respect to the concept of compensatory mitigation, the staff recommendation is that the ESHA/stream buffer area be restored as required by the LCP, including by LCP LUP Policy 11.14. This is required by the LCP for any incursion into the required buffer (as would be the case with respect to the project road access) and it is required "where riparian vegetation has been previously removed" (LUP Policy 11.14), as is the case with the subject prior tree removal.

See primarily staff report pages 25 and 33. Thus, although it is compensatory in that respect, the restoration is required to fulfill LCP stream buffer requirements, and not as a response to an enforcement issue, as inferred by the Applicant.

## **2. Applicant Contention 2**

The Applicant contends that the conditions of approval will require the approval of a new subdivision map (and that the staff report should disclose this); that Special Conditions 1(a) and 1(b) require two new lots to be created; and that the creation of new parcels is unnecessary.

It is true that recommended conditions of approval will require a new subdivision map in order to respond to the revised developable area and the required buffers. While this is not explicitly referenced in the staff report, it is clearly understood as the outcome of the LCP required project revisions. It is not uncommon to require revised subdivision configuration (and new maps) as a result of a discretionary approval such as this, and it is also not uncommon to omit explicit reference to same. Staff intends the Final Plans condition (Special Condition 2, see pages 8 through 11) to serve as the procedural mechanism for signing off the final subdivision map consistent with the terms and conditions of the CDP.

With respect to the contention that Special Conditions 1(a) and 1(b) require two new lots for an ESHA/Stream parcel and a Raptor Habitat Area parcel, such claim is inaccurate. Special Conditions 1(a) and 1(b) prohibit most development in these areas for habitat protection purposes (see staff report pages 7 through 8). Because subdivision constitutes development, these special conditions provide a limited subdivision exception should the Applicant desire to demarcate these habitat areas and buffers as separate parcels as a means to better protect these resources and better configure/manage the approved project, including in terms of future sales. However, subdivision in these areas is not required by the special conditions.

## **3. Applicant Contention 3**

The Applicant contends that the staff report inaccurately portrays City fire rules as requiring a minimum 30 foot fire safety buffer.

During staff report preparation, Staff talked with several representatives of the City Fire Department, and these representatives indicated that the City had adopted the 2001 International Fire Code, which includes among other fire safety mitigations and standards, a minimum 30-foot defensible space requirement for all new development. It is unclear to what the Applicant refers when he indicates that the City is unaware of these requirements because it is City staff who informed Staff of these requirements in the first place.

More importantly, the LCP does not identify a specific fire safety buffer distance. Rather, there are a range of responses that could be found appropriate in this case to meet the LCP's fire hazard avoidance policies (including LCP Policy 9.01). Cal-Fire identifies a minimum 100-foot buffer, the City identifies the aforementioned 30-foot buffer, and State Parks identifies a

minimum 40-foot buffer. With recent legislative changes and enhanced concern for ensuring adequate fire safety in new development, the trend over time with such buffering rules has been moving towards larger and larger buffers/defensible space requirements, and there is little to indicate that this trend will change in the future. Given these facts, and in this case, Staff believes that the recommended 40-foot buffer distance and the complementary fire safety mitigations (sprinklers, fire resistant construction, fire hydrants, masonry wall, etc.) are adequate to meet the LCP in this respect. Although a 100-foot fire safety buffer would provide greater hazard avoidance, and greater protection to State Parks Black Hill nature preserve, a 40-foot buffer in this case meets (non-LCP) guidance associated with City and State Parks' standards, and seems reasonable for this site. (See primarily staff report pages 37 through 40 for more information on this point.)

#### **4. Applicant Contention 4**

The Applicant contends that the staff report identifies degradation of views towards the Morro Bay Estuary as an issue, and that the proposed residential development does not affect views towards the Estuary.

The staff report makes clear that the public viewshed issue in question is not the view of the Morro Bay Estuary, but rather it is the visual impact of the proposed residential development against the backdrop of the Black Hill Natural Area portion of Morro Bay State Park as seen from northbound Highway One (see primarily staff report pages 33 through 37). The staff report reference to the Morro Bay Estuary on page 3 (as referenced by the Applicant's letter) is in reference to the direction of the Highway 1 view in question as opposed to the view itself. In other words, the view from northbound Highway 1 is toward the Black Hill Natural Area and the Estuary as that is the direction of the view. Staff did not and does not intend to imply that the project detracts from Estuary proper views, and the staff report is clear in this respect.

#### **5. Applicant Contention 5**

The Applicant contends that the staff report fails to disclose that the recommended conditions would prohibit housing development on the lower parcel, and that there is an existing house on this property.

The staff report clearly identifies that there are two existing single-family residential structures and one small accessory structure on the subject site (see staff report page 17). As further described, the Applicant's proposal is to remove these structures and construct new residences in a different configuration on the parcels. Staff estimates that the existing structure in question is approximately 120 feet from the top of the stream bank, well outside the LCP required 100-foot ESHA/stream buffer area. In that respect, it is not clear to what the Applicant is referring when he indicates that the conditions would prohibit housing "on the lower parcel" and whether the Applicant means to infer that the conditions would prohibit the existing housing. Although it is not relevant to the current CDP decision because the proposal is to demolish the existing residential structures to allow for expanded residential development, it appears that the existing

structures would be outside of the LCP-required ESHA/stream buffer area. More importantly, the staff report clearly discloses that development would not be allowed under the LCP within the LCP required ESHA/stream buffer.

## **6. Applicant Contention 6**

The Applicant contends that the staff report's description of the on-site stream channel should disclose the stream's National Wetland Inventory (NWI) classification as Palustrine, Scrub-Scrub, Temporarily Flooded, Excavated (PSSAx).

Staff believes that the stream is adequately described in the staff report in terms of its physical attributes, function, and value to the extent necessary for a CDP decision on this site under the LCP (see primarily staff report pages 21 through 24). Staff, including the Commission's staff biologist, have reviewed the relevant documentation regarding the stream, have visited the site, and have determined the area to be a stream ESHA pursuant to the LCP. It is not clear that the NWI classification provides any additional detail on that point, but the Applicant's observation as to its inclusion in the NWI is noted.

On the NWI point, Staff notes that there has not been a formal wetland delineation prepared for this site. It is clear that the site's upland areas are not a wetland, and that the only on-site areas which might delineate as wetland are in the stream corridor proper. In that respect, there were some wetland indicator species identified near the stream itself (see staff report pages 21 through 22), but that is not unusual inasmuch as most stream corridors can also delineate as wetlands. Any stream areas that are also wetlands are protected to the same degree by the LCP, and further delineation would not serve to better protect these resources as the LCP's ESHA/stream policies protect these resources to the same degree whether they are also wetland or not (including LCP Policies 11.01, 11.02, 11.06, 11.14, 11.18, XII.C., etc.).

## **7. Applicant Contention 7**

The Applicant contends that the staff report's description of the origins of the stream channel is incorrect. The Applicant further contends that the actual origins of the stream channel are from a small drainage area to the northwest of the site, on the north side of Highway 1.

The staff report conclusions regarding the origins of the stream are based on the materials in the administrative record, including aerial photographs and topography maps, and Staff's inspection of the site and the area on two separate occasions. Staff acknowledges that, in the past, runoff from the upper watershed above Morro Bay and north of Highway 1 was directed into the stream channel at the base of the Black Hill Natural Area. However, the drainage characteristics were significantly altered with the construction of the new four-lane Highway 1 in the early 1960's. From that time on, water from that upper watershed north of the Highway appears to have been redirected east to a culvert at the intersection of Highway 1 and South Bay Boulevard and away from the Applicant's property. At the same time, there is little doubt that surface runoff and groundwater from the northeastern flank of the Black Hill Natural Area continues to contribute

to the stream flows that concentrate and flow into the unnamed tributary to Chorro Creek that extends along the base of the Black Hill Natural Area and then across the Applicant's property and into Chorro Creek, as described in the staff report (see primarily staff report pages 21 through 24).

More important than the stream's origins is that there exists a stream that extends across the Applicant's property, that this stream is ESHA under the LCP, and that a 100-foot buffer is required by the LCP. As noted in item 6 above, Staff, including the Commission's staff biologist, have reviewed the relevant documentation regarding the stream, have visited the site, and the facts indicate that the area is a stream ESHA pursuant to the LCP to which the LCP's required 100-foot setback applies. Thus, although there are a variety of inputs to this on-site stream, including the vast Black Hill Natural Area at the base of which it lies, the more important LCP point is that the stream is present at this location, as is clearly articulated in the staff report.

# COLMER CONSTRUCTION

5000 Parkway Calabasas • Suite 110 • Calabasas • California 91302 • (818) 222-5666 • FAX (818) 222-5668 • EMAIL COLMER32@sbeglobal.net

February 29, 2008

Mr. Michael Watson  
California Coastal Commission  
725 Front Street  
Suite 300  
Santa Cruz, CA 95060-4508

**RECEIVED**

FEB 29 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

RE: Appeal A-3-MRB-06-064  
Black Hill Villas

Dear Mr. Watson:

This staff report contains omissions and mischaracterization of facts that could affect the outcome of the appeal. The following corrections to the report should be made by Coastal staff prior to the hearing:

1. The staff report infers the applicant removed trees from the property without the proper CDP. Coastal Commission staff is aware that the City of Morro Bay, the authority for granting the tree removal permit, authorized the removal of trees by the applicant and its prior owner under City guidelines. The City guidelines allowed up to 4 trees to be removed per parcel per year administratively, without a formal application. The City did require approval of a consultant's, "Raptor Activity Study and Recommendations" prior to each tree removal request. The Coastal staff report states "compensatory mitigation" is required for this inferred enforcement issue<sup>1</sup>. Exhibit 1 provides the City's explanation. Compensatory mitigation should not be required.
2. The Coastal staff report should disclose that to comply with the Coastal Commission Conditions of Approval a new subdivision map will be required. The approved tentative tract map is subdivided with 17 residential lots and one open space lot. Coastal Commission Conditions 1 (a) and 1 (b) require two additional new lots for an ESHA/Stream Habitat parcel and a Raptor Habitat Area parcel. The creation of new parcels is in our opinion unnecessary.
3. "City fire rules require a minimum 30-foot buffer." Page 2 – Paragraph 4. The City Planning Department and City Fire Department have no knowledge of any such buffer requirements.

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<sup>1</sup> Page 32 paragraph 4



4. Page 3 – Paragraph 2 states that the residential development will degrade views towards the Morro Bay Estuary. This development does not affect views towards the Estuary..
5. The Staff report fails to disclose its Conditions prohibit housing development on the lower parcel and there is an existing house on this property.
6. Page 21 – Description of the Stream Channel should disclose the stream's National Wetland Inventory classification. The stream channel that crosses the property is classified as a PSSAx (Palustrine, Scrub – Scrub, Temporarily Flooded, Excavated) stream in the National Wetlands Inventory. The functions and values of this type of stream/wetland are typically not very high.
7. The staff report's description of the origins of the stream channel on Pg. 21 in our opinion is incorrect (*The stream slopes from its origins in the Black Hill Natural Area across the subject property and then under South Bay Boulevard towards Chorro Flats and into the Chorro Creek watershed, one of the largest contributors to the Morro Bay Estuary*) and Pg. 22 (*The origins of the stream channel are found in the upper slopes of the Black Hill Natural Area*). The origins of the stream channel are from a small drainage area to the northwest of the site, on the north side of State Highway 1. This is clearly shown on the USGS 7.5 minute quadrangle map, the NWI map, and on aerial photographs of the area. (Current configuration probably most clearly seen in the 1963 aerial.) The staff report makes it seem like there the stream origin is in ESHA within the Black Hill Natural Area. It is not. Much of the runoff from the upper slopes of the Black Hill Natural Area is directed east toward South Bay Boulevard by a small ridge located midway up the slope. The channel definitely receives runoff from a portion of the northern flank of Black Hill. There are no well-defined channels that run north through the Black Hill Natural Area down into the channel. There are shallow swales (vegetated with upland plants) in a few locations.

Sincerely,



Wayne Colmer

**Exhibit 1**

**From:** Michael Prater [mailto:]  
**Sent:** Monday, February 25, 2008 12:25 PM  
**To:** Wayne Colmer  
**Cc:** Michael Watson  
**Subject:** Black Hill Villas vegetation removal

Mr. Colmer,

In reference to your inquiry about removal of trees for subject property prior to permit processes for subdivision. Our understanding is that 16 trees were removed during a two-year period, which included Blue Gum trees. At the time of removal the City operated under the authorization to remove 4 trees per year per lot. It is the City's understanding removal of these 16 trees followed the guidelines and no permit was necessary.

Mike

Mike Prater, Planning Manager  
Public Services Department  
955 Shasta Ave.  
Morro Bay, Ca 93442  
Tel: (805) 772-6211 Fax: (805) 772-6268  
mprater@morro-bay.ca.us

EX PARTE - COLMER

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FEB 27 2008

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CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS

CALIFORNIA  
COASTAL COMMISSION

Date and time of communication: 2.27.08 10:30 AM

Location of communication: S.L.O. COUNTY GOV. OFFICE  
(If communication was sent by mail or  
facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication: MORGAN RAFFERTY & JEFF PIENACK

Identity of person(s) receiving communication: COMMISSIONER ACHAPJAIN

Name or description of project: SEE ATTACHED

Description of content of communication:  
(If communication included written material, attach a copy of the complete text of the written material.)  
SEE ATTACHED

2.27.08  
Date

  
Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

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FEB 27 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Ex-Parte Meeting with Commissioner Achadjian

RE: March 2008 Coastal Commission Meeting

Attendees:Morgan Rafferty, Executive Director, ECOSLO  
Jeff Pienack, Chapter Chair, San Luis Bay Chapter, Surfrider

Date: February 27, 2008

ISSUES:

Thursday, March 6.

**Th7b- A-6-CII-08-019, City of Carlsbad**

The dredging, improving and long-term maintenance of portions of Agua Hedionda and Calavera Creeks for flood control enhancement purposes. The portion of the project in the Coastal Zone is the portion of Agua Hedionda Creek from the El Camino Real Bridge to the downstream side of Cannon Road Bridge.

## Issues for consideration:

- Impacts to environmentally sensitive habitat (ESHA) and wetlands
- Inconsistency with approved 1994 Master Drainage Plan
- 

We urge SUPPORT of Staff recommendation for finding of Substantial Issue

**Th11b- City of Pismo Beach LCP Major Amendment Number 1-07 (Kendall/Five Cities Drive Rezone).**

We urge SUPPORT of Staff recommendation

**Th13a- A-3-MRB-06-064, Black Hill Villas, City of Morro Bay.**

Subdivision of two parcels (totaling 3.17 acres) into 17 residential parcels and one common area parcel; removal of two existing residential structures; grading and site preparation for new residential sites and new access roads; construction of roads, utility infrastructure, and 17 residential units.

## Issues for consideration:

- Protection of environmentally sensitive habitat (ESHA) and wetlands
- Inconsistent with certified LCP

**CCC Exhibit 2**  
**(page 2 of 5 pages)**

- Viewshed Protection
- Set back issues
- Landform Alteration

All of these issues are addressed in staff recommended to ensure that the project protects coastal resources consistent with the requirements of the certified LCP. \

We urge SUPPORT of Staff recommendation

**Th13b- 3-06-065, Ocean View Plaza**

Mixed use project consisting of: 87,362 sq. ft. of retail and retail support use, including 30,000 sq. ft. of restaurant use; 38 market-rate condominiums, 13 inclusionary housing units; 8,408 sq. ft. of coastal/community use; 377 parking spaces; construction of an onsite desalination plant; rehabilitation of the San Xavier Fish Reduction Plant as a history center with an adjacent history plaza; replication of a utility bridge; and development of a community park.

Issues for consideration:

- Public access
- Coastal views
- Landform alteration
- Water quality
- Historic Resources

Of particular concern:

The Coastal Act requires that new development be located in existing developed areas with adequate public services and where it will not have significant adverse effects on coastal resources:

*Section 30250(a): New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...*

This policy is directly applicable to the project because it is located in an already developed area – the highly urbanized City of Monterey – that is struggling with serious limitations on adequate public water supplies.

Because the applicant is proposing an alternative water supply outside of the current public service system for the City of Monterey, Section 30254 of the Coastal Act also is applicable. It provides for new or expanded public works facilities and states:

*30254. New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; . . .*

*Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned*

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JUL 31 2007

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

RECEIVED

JUL 31 2007

CALIFORNIA COASTAL COMMISSION

Name or description of project, LCP, etc.:

Appeal A-3-MAB-06-64 (Colmer)

Date and time of receipt of communication:

July 26, 2007 12:15 P.M.

Location of communication:

San Jose, CA

Type of communication (letter, facsimile, etc.):

Personal meeting

Person(s) initiating communication:

David Neish

Person(s) receiving communication:

Pat Kuer

Detailed substantive description of content of communication: (Attach a copy of the complete text of any written material received.)

A presentation by applicants representative was provided of a proposed 17 unit Subdivision in Marina Bay, CA. The representative discussed (2) issues. First that CCC staff was suggesting a setback of 100 ft from a creek when as because the property was located in a Urban Area where a minimum 50 ft setback was required. The urban designation is in compliance with the City Zoning and the Certified LCP. Second that CCC staff was suggesting the creation of wetland where the applicant contends a wetland doesn't exist.

Date 7/30/07

Signature of Commissioner [Signature]

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

CCC Exhibit 2

If communication occurred less than seven days before hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

✓ DD rpt  
CL  
DC  
MW

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NOV 13 2007

# FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

CALIFORNIA COASTAL COMMISSION

Name or description of project, LPC, etc.: A-3-MRB-06-064 (Colmer-Morro Bay)

Date and time of receipt of communication: 11/6/07 (5:00 PM)

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.): Personal Meeting

Person(s) initiating communication: David B. Neish

Person(s) receiving communication: Dan Secord

RECEIVED  
NOV 13 2007  
CALIFORNIA COASTAL COMMISSION  
CENTRAL COAST AREA

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

Representative of the applicant presented the past history of communications with CCC staff since January 2007. Discussion included setback recommendation by CCC staff of 100+ feet from streambed and 100+ feet from State Park boundary line that would basically render the proposed 17 lot subdivision economically unviable. It was indicated that the applicant was going to investigate a redesign that might allow for the opportunity for CCC staff to look at other options for the proposed residential development. This would likely create the need for a postponement for the November hearing.

11-12-07  
Date

*Dan Secord*  
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out:---

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication... If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.