

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5260  
FAX (415) 904- 5400



# Th 11a

## MEMORANDUM

Date: February 3, 2009

To: Commissioners and Interested Parties

From: Charles Lester, Deputy Director  
Ruby Pap, North Central Coast District Manager  
Tiffany S. Tauber, Coastal Program Analyst

Subject: **Addendum to Commission Meeting for Thursday, February 5, 2009, North Central District Item Th 11a, Application No. A-2-SMC-07-001 (Sterling)**

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### STAFF NOTE

This addendum makes certain changes and additions to three of the eleven special conditions contained in the staff recommendation dated January 23, 2009, including Special Condition Nos. 2, 4, and 11 to: (1) clarify that “agricultural production activities” referenced in Special Condition No. 2 includes the existing cattle grazing operation currently occurring on the site; (2) allow for leasing of the site for agricultural activities to occur at or below market rate; (3) add in technical recordation requirements that had inadvertently been omitted; (4) replace the language of Special Condition No. 4 with the correct language requiring recordation of a deed restriction, and (5) clarify that the prohibition on the extension of public services required by Special Condition No. 11 applies specifically to water and sewer services.

Text to be deleted is shown in ~~striketrough~~ and text to be added appears in **bold double-underline**.

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**I. CHANGES TO SPECIAL CONDITIONS OF THE STAFF RECOMMENDATION**

A. *Special Condition No. 2 shall be revised as follows:*

**2. Agricultural Use**

A. No development, as defined in Section 30106 of the Coastal Act shall occur outside of the development envelope approved pursuant to Special Condition No. 1 and generally depicted as the “Proposed South Building Site” in Exhibit 5 except for:

1. Agricultural production activities defined as “activities that are directly related to the cultivation of agricultural commodities for sale.” **Such activities include the existing cattle grazing operation currently occurring on the site.** Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material.
2. Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds, except that no structures shall be located within any wetlands, streams, riparian corridor, sensitive habitat areas and shall maintain a 100-foot buffer from these areas. For riparian areas, the buffer shall be measured from the limit of riparian vegetation or the high water point if no riparian vegetation exists. For wetlands, the buffer shall be measured from the outermost line of wetland vegetation.
3. Underground utilities.
4. Farm labor housing, if approved by the Coastal Commission as an amendment to this coastal development permit.
5. A fire engine turnaround and access road extending from San Juan Avenue to the south building site in the southeastern corner of the property as authorized by this permit and shown on Exhibit 5.
6. Two 5,000 gallon water tanks as authorized by this permit and depicted on Exhibit 5.
7. The septic system, including septic tanks and leachfield, authorized by this permit.

B. All areas of the Property, (except for: (1) the 10,000 square foot development envelope specified in Special Condition No. 1, (2) the areas excepted by Subsection 2(A)(5) – (7); and (3) the existing fire engine turnaround and portion of San Juan Avenue on the southern portion of the property as shown on Exhibit 5,) and the existing gravel road that extends from San Juan Avenue to the north and west of El Granada Creek as shown on Exhibit 5, shall at all times be maintained in active agricultural use. Agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for commercial purposes. **Such activities include the existing cattle grazing operations currently occurring on the**

site. The Permittees may satisfy this requirement either by engaging in good faith in agriculture at a commercial scale and/or by leasing the area of the Property other than those areas excepted above, in whole or in part, to a farm operator for commercial agricultural use. The terms of any lease agreement for purposes of this condition shall be based at or below ~~on the~~ current market rate for comparable agricultural land in the region and shall reflect a good faith effort on the part of the Permittees to maintain continued agricultural use of the property. The Permittees shall be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.

**C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants shall dedicate an agricultural conservation easement to a public agency or private association approved by the Executive Director (hereinafter referred to as the “Grantee”). The agricultural conservation easement shall be for the purposes of implementing the requirements of Paragraphs A and B above. Such easement shall be located over the entire parcel except for the areas excepted by subsection B above. The recorded document shall include metes and bounds legal descriptions and graphic depictions prepared by a licensed surveyor of both the applicants’ entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The easement deed shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The easement deed shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria stated above. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.

**D.** In the event that the applicant can demonstrate, in writing, that they have exercised their best efforts to diligently search for a grantee but an acceptable Grantee cannot be identified, the applicant may in the alternative execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural conservation easement consistent with the purposes and requirements described above. The recorded document shall include metes and bounds legal descriptions and graphic depictions prepared by a licensed surveyor of both the applicants’ entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria stated above. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.

- E. The landowners shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowners' compliance with the terms of this condition. Such information may include a written report describing current uses and changes in uses (including residential uses). The written report and any other required information shall be provided as needed upon the request of the Executive Director and/or Grantee, in a form as shall be reasonably required by same. If the landowner enters into a lease agreement with a farm operator for any portion of the property, a copy of the lease agreement may also be required as further documentation of compliance with this condition.
- F. If circumstances arise in the future beyond the control of the landowner or operator that render continued agricultural production on the property infeasible, the easement may be converted to an open space easement upon Commission certification of an amendment to the LCP changing the land use designation of the parcel to Open Space in accordance with all applicable policies of the certified LUP and the Coastal Act, and the requirements of Paragraph B above may be extinguished upon Commission approval of an amendment to this coastal development permit.

*B. Special Condition No. 4 shall be revised as follows:*

#### **4. Deed Restriction**

~~By acceptance of this permit, the Permittees acknowledge and agree: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittees and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are or in any way related to the property that is the subject of this permit.~~

**PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-2-SMC-07-001, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the**

**entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.**

*C. Special Condition No. 11 shall be revised as follows:*

**11. No Public Services**

Extension of public **water and sewer** services to the parcel is prohibited.

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# Th 11a

Filed:	January 8, 2007
49 <sup>th</sup> Day:	February 26, 2007
SI Hearing Date :	February 15, 2007
Staff:	T.S.Tauber
Staff Report:	January 23, 2009
Hearing Date:	February 5, 2009

## **STAFF REPORT: APPEAL DE NOVO HEARING**

**APPEAL NO.:** A-2-SMC-07-001

**APPLICANT:** Dan and Denise Sterling

**LOCAL GOVERNMENT:** San Mateo County

**LOCAL DECISION:** Approval with Conditions

**PROJECT LOCATION:** 300 San Juan Avenue, approximately ½-mile east of the coast and just east of the developed area of El Granada on rural lands in the unincorporated midcoast area of San Mateo County (APN 047-320-060).

**PROJECT DESCRIPTION:** New residential development on a 143-acre Planned Agriculture Development (PAD) zoned parcel, including: (1) construction of a 6,456-square-foot single family residence with an attached garage; (2) conversion of an agricultural well to domestic use; (3) installation of up to seven water storage tanks for fire suppression; (4) installation of a septic system; (5) construction and grading of a private access driveway from the end of San Juan Avenue to the house site; (6) grading of approximately 690 cubic yards of combined cut and fill associated with the

driveway/turnaround, house and water tanks; (7) removal of eight significant trees (5 Blue Gum eucalyptus and 3 Monterey pine trees) to accommodate the access drive/turnaround and house site; and (8) authorization for use of an existing mobile home as temporary housing during project construction

APPELLANTS: Commissioners Patrick Kruer and Meg Caldwell

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

STAFF RECOMMENDATION: Approval with Conditions

### **Summary of Staff Recommendation De Novo: Approval with Conditions**

On February 15, 2007 the Commission found that the appeal of San Mateo County's approval of the applicants' proposed project raised a substantial issue with respect to the grounds on which it was filed. The Commission continued the de novo portion of the appeal hearing because the Commission did not have sufficient information to determine the development's consistency with the agricultural resource policies and other applicable policies of the certified LCP. The applicant submitted some, but not all, of the requested information after the Commission found substantial issue. The applicant did not submit the agricultural viability and conversion analysis required by LCP Policies 1.8 and 5.10, such as a detailed economic analysis of agricultural trends in the vicinity of the property, a thorough economic analysis of all potential agriculture for the site and how this could be tied into the agricultural economy of San Mateo County, and a quantitative analysis of how the proposed residence would affect assessment costs and hence the potential for existing and future agriculture on the parcel. On October 17, 2008, the applicants submitted a letter from their attorney, stating an intention to file an action under Code of Civil Procedure Section 1085 to mandate a hearing by the Coastal Commission. In response to this letter and despite having received incomplete information from the applicants, Commission staff informed the applicant that they would schedule the de novo portion of the appeal hearing at the Commission's February 2009 meeting. This staff report represents the staff's recommendation to the Commission for action on the proposed Sterling project. The standard of review for the proposed project is the San Mateo County Local Coastal Program (LCP).

Applicant proposes new residential development on a 143-acre Planned Agriculture Development (PAD) zoned parcel, including construction of a 6,456-square-foot single family residence with an attached garage, conversion of an agricultural well to domestic use and other ancillary uses. The applicant also proposes to continue grazing on the parcel, which consists mostly of non-prime grazing lands and approximately 10 acres of prime soils suitable for row-crops.

Pursuant to the LCP, a new home on PAD lands is a conditional use, and land suitable for agricultural can only be converted to such a use if it is determined that (1) all agriculturally

unsuitable lands on the parcel have been developed or determined to be undevelopable; (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act; (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses; (4) The productivity of any adjacent agricultural lands is not diminished; and (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality. In addition new development in rural areas is allowed only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

As analyzed in this report, the applicant has not met the burden of proof to make the required LCP findings for their proposed residential use on agricultural lands. In particular, the applicant has failed to show how the proposed residential use will ensure that agricultural production is not diminished, thereby resulting in significant adverse direct and cumulative impacts on the agricultural lands and economy of the San Mateo County coastside. As the Commission has found in other recent similar cases in the County, the proliferation of non-agricultural residential development in agricultural areas results in increased conflict between land uses, land speculation and increased costs for agriculture, and other adverse impacts. Specifically, construction of a large-scale residential estate at this property would permanently alter the present focus on agricultural use of the property. The source of real estate market value of the property would shift to reflect the new residential development. Future purchases of the property would necessarily tend to be made by individuals or entities with a primary interest in the seaside estate, and with the financial resources to acquire the property at its heightened real estate market price. Farmers or farming businesses with a primary aim of agricultural crop production or cattle grazing would be much less able to acquire the property for agricultural use. There would also be the prospect that a future purchaser of the property would find the agricultural operation, with its dust, odors, noise, pesticide use, etc., not sufficiently compatible with optimum residential estate living. Finally, agriculture is feasible on the applicant's parcel, and thus the *conversion* of agricultural lands to residential development is not permitted. Denial of the project is a feasible alternative, and would not deprive the applicant of economic use of the property, either through continued grazing, or through other agricultural pursuits allowed under the LCP.

However, another feasible alternative that can be found consistent with the LCP, is to approve the development with an affirmative agricultural easement that will ensure that the property remains in production and that the residence would support the agricultural use of the site. In conjunction with other provisions to protect agriculture on the property, including a right-to-farm restriction, adequate buffers, clustering of development and minimized development footprint, staff recommends that the Commission find that an affirmative commitment to agriculture will mean that agricultural lands will not be impermissibly converted as the agricultural easement will directly support the continued operation of agriculture on the site and ensure that the proposed residence does not adversely affect the agricultural resources, or the economic viability of agricultural operations in the area. Thus, but for the affirmative guarantee that the property will remain in agriculture and that the residence will support, rather than adversely affect, the agricultural resources and economy of the area, the Commission could not find the project consistent with LUP policy 1.8 and LUP policy 5.10, which requires that land suitable for



agriculture remain in production and that land not be converted to conditional uses (residential) if continued agricultural use is feasible, which it is in this case. Other conditions are recommended to address potential impacts to sensitive species and riparian resources, water quality, hazards avoidance, and other issues.

**The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 4.**

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**List of Exhibits:**

1. Regional Location Map
2. Site Location Map
3. Site Constraints Map
4. Site Plan
5. Plot Plan
6. Floor Plans
7. Elevations
8. Agricultural Land Management Plan
9. Applicant Correspondence
10. Geologic Hazards Letter
11. Farm Bureau/NRCS Correspondence
12. San Mateo Agriculture LCP Policies
13. County Conditions of Approval
14. Previous San Mateo County CDPs for Single Family Residences on PAD Lands with Land Valuation Comparisons
15. Pending projects on PAD Land

**Appendices**

Appendix A: Substantive File Documents

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**I. STAFF RECOMMENDATION, MOTION, AND RESOLUTION ON DE NOVO**

The staff recommends that the Commission approve the coastal development permit for the proposed project with conditions. The recommended conditions are required for the proposed project to comply with the agricultural and sensitive habitat protection policies of the LCP.

**Staff Recommendation**

The staff recommends conditional approval of Coastal Development Permit Application Number **A-2-SMC-07-001**.

## **Motion**

*I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-07-001 pursuant to the staff recommendation.*

## **Staff Recommendation of Approval**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

## **Resolution to Approve the Permit**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified San Mateo County LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **II. Standard Conditions**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **III. Special Conditions**

**1. Revised Plans**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Applicants shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be consistent with the following requirements:

- 1. Residential Location and Development Envelope.** All residential development (i.e., the residence, garage, impermeable pathways, turnarounds, courtyards, retaining walls, patios, decks, above-ground water tanks, etc.) except those developments listed in Special Condition No. 2(A)(5-9), shall be confined within an area of no greater than 10,000 square feet. The residential development envelope shall be sited in the southeastern portion of the property in the area identified as “Proposed South Building Site,” as generally depicted on Exhibit 4 and 5. The development envelope shall maintain a minimum 50-foot buffer from the predictable high water point of the perennial creek located west and north of the building site.
- 2. Other Grading/Utilities and Septic Line Area.** Following utility and septic system installation, all disturbed areas shall be contoured to mimic the natural topography of the site.
- 3. Building Materials.** Non-reflective, earth tone materials shall be used on all surfaces (siding, roofing, windows, chimney, gutters, etc.) to prevent the detection of glare or light reflection to ensure that the development blends well into the surrounding rural environment.
- 4. Landscaping Plan.** The landscape plan shall show the location, type, and sizes of all landscaping elements within the 10,000 square foot residential building envelope (there shall be no ornamentally landscaped areas outside of the residential building envelope). The plan shall assure that no plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California are used or allowed to persist on the site. The plan shall also ensure that no plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government is used.
- 5. Lighting.** There shall be no exterior night lighting around the residence, other than the minimum lighting necessary for pedestrian and vehicular safety purposes. All lighting fixtures shall be shielded so that neither the lamp nor the related reflectors are visible from public viewing areas.

**B.** The Permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally necessary.

**2. Agricultural Use**

A. No development, as defined in Section 30106 of the Coastal Act shall occur outside of the development envelope approved pursuant to Special Condition No. 1 and generally depicted as the “Proposed South Building Site” in Exhibit 4 and 5 except for:

1. Agricultural production activities defined as “activities that are directly related to the cultivation of agricultural commodities for sale. Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material.
2. Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds, except that no structures shall be located within any wetlands, streams, riparian corridor, sensitive habitat areas and shall maintain a 100-foot buffer from these areas. For riparian areas, the buffer shall be measured from the limit of riparian vegetation or the high water point if no riparian vegetation exists. For wetlands, the buffer shall be measured from the outermost line of wetland vegetation.
3. Underground utilities.
4. Farm labor housing, if approved by the Coastal Commission as an amendment to this coastal development permit.
5. A fire engine turnaround and access road extending from San Juan Avenue to the south building site in the southeastern corner of the property as authorized by this permit and shown on Exhibit 4 and 5.
6. Two 5,000 gallon water tanks as authorized by this permit and depicted on Exhibit 4 and 5.
7. The septic system, including septic tanks and leachfield, authorized by this permit.

**B.** All areas of the Property, (except for: (1) the 10,000 square foot development envelope specified in Special Condition No. 1, (2) the areas excepted by Subsection 2(A)(5) – (7); and (3) the existing fire engine turnaround and portion of San Juan Avenue on the southern portion of the property as shown on Exhibit 4 and 5,) and the existing gravel road that extends from San Juan Avenue to the north and west of El Granada Creek as shown on Exhibit 4, shall at all times be maintained in active agricultural use. Agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for commercial purposes. The Permittees may satisfy this requirement either by engaging in good faith in agriculture at a commercial scale and/or by leasing the area of the Property other than those areas excepted above, in whole or in part, to a farm operator for commercial agricultural use. The terms of any lease agreement for purposes of this condition shall be based on the current market rate for comparable agricultural land in the region and shall reflect a good faith effort on the part of the Permittees to maintain continued agricultural use of the property. The Permittees shall be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.

**C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall dedicate an agricultural conservation easement to a public agency or private association

approved by the Executive Director (hereinafter referred to as the “Grantee”). The agricultural conservation easement shall be for the purposes of implementing the requirements of Paragraphs A and B above. Such easement shall be located over the entire parcel except for the areas excepted by subsection B above. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria stated above. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.

**D.** In the event that the applicant can demonstrate, in writing, that they have exercised their best efforts to diligently search for a grantee but an acceptable Grantee cannot be identified, the applicant may in the alternative execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural conservation easement consistent with the purposes and requirements described above. The recorded document shall include legal descriptions of both the applicants’ entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

**E.** The landowners shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowners’ compliance with the terms of this condition. Such information may include a written report describing current uses and changes in uses (including residential uses). The written report and any other required information shall be provided as needed upon the request of the Executive Director and/or Grantee, in a form as shall be reasonably required by same. If the landowner enters into a lease agreement with a farm operator for any portion of the property, a copy of the lease agreement may also be required as further documentation of compliance with this condition.

**F.** If circumstances arise in the future beyond the control of the landowner or operator that render continued agricultural production on the property infeasible, the easement may be converted to an open space easement upon Commission certification of an amendment to the LCP changing the land use designation of the parcel to Open Space in accordance with all applicable policies of the certified LUP and the Coastal Act, and the requirements of Paragraph B above may be extinguished upon Commission approval of an amendment to this coastal development permit.

### **3. Right-to-Farm**

By acceptance of this permit, the Permittee acknowledges and agrees: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal,

necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittee and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are related to the normal and necessary agricultural land use and its impact to users of the property.

#### **4. Deed Restriction**

By acceptance of this permit, the Permittees acknowledge and agree: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittees and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are or in any way related to the property that is the subject of this permit.

#### **5. California Red-Legged Frog and San Francisco Garter Snake Avoidance Measures**

The following avoidance measures shall be implemented:

- A. No more than two-weeks prior to the commencement of any earth-moving activities on the site, a qualified biologist or biological monitor, approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Game, shall establish wildlife exclusion fences surrounding the entire building envelope, staging area, and anywhere the ground will be disturbed. A gate shall be installed to allow entrance/exit of construction vehicles and staff as needed, but it shall remain closed at all other times and overnight. Fencing shall be a minimum of 36 inches above ground level and buried 4-6 inches into the ground. Fencing shall have one-way escape funnels and shall remain intact for the entire duration of development activities. Fencing may be made of plywood or erosion mesh but shall not be made of orange construction fencing or anything with larger holes as this may trap listed species. Fencing shall be inspected for any rips or other malfunctions once per week by biological monitors during all phases of construction activity. Upon completion of the proposed project all traces of fencing should be removed and properly disposed of off-site.

- B. If applicable, after the establishment of fencing but prior to the start of any earth-moving activities, grass and vegetation within this area shall be removed via belt driven weedwacker to a two- to four-inch height.
- C. Immediately after grass clipping, the approved biological monitor shall perform pre-construction surveys of the area to determine if the California red-legged frog or San Francisco garter snake occur in or adjacent to the wildlife exclusion fencing. If any listed species are found, before any earth-moving activities may commence, the permittee shall consult with U.S. Fish & Wildlife Service to establish any additional avoidance measures designed to avoid take of these species. Pre-construction surveys shall be performed again immediately prior to the commencement of earth-moving activities to ensure the area is clear.
- D. The qualified biologist shall monitor all earth-moving activities occurring within 500 feet of the riparian and wetland habitats associated with El Granada Creek (aka Deer Creek) throughout the duration of the project;
- E. Prior to the start of any earth-moving activities on the site, the approved biologist shall conduct a worker education program. All workers, including, but not limited to earth-moving heavy equipment operators, shall be informed of the potential presence of the California red-legged frog or San Francisco garter snake, their protected status, work boundaries, and measures to be implemented to avoid the incidental take of frogs and/or snakes.
- F. If California red-legged frog or San Francisco garter snakes are observed before or during construction activities, all development activities shall cease until the applicant has consulted with the U.S. Fish & Wildlife Service to establish any additional avoidance measures designed to avoid take of these species. Under no circumstances shall anyone but a CDFG or USFWS approved biologist be allowed to handle these species.
- G. Heavy equipment operators and construction workers shall be informed of the location of wetland habitats, riparian habitats, and ephemeral drainages on the parcel and instructed to avoid entry into any wetland or riparian habitat areas on the parcel;
- H. During construction, all holes shall be covered at the end of each day to prevent California red-legged frog or San Francisco garter snake from taking cover in holes on the construction site;
- I. Food and food-related trash items associated with construction works shall be enclosed in sealed containers and regularly removed from the project site to deter potential predators of California red-legged frog or San Francisco garter snake;
- J. Pets shall not be permitted on the construction site; and
- K. All staging areas and all fueling and maintenance of vehicles and other equipment shall take place at least 100 feet from any wetland and riparian areas.

## **6. Nesting Raptor Avoidance Measures**

The following avoidance measures shall be implemented:

- A. Tree removal shall be conducted outside of the nesting season, which is from March 1 to August 31, if possible.
- B. If tree removal must occur during the nesting season, a pre-construction survey shall be conducted no more than 14 days prior to the commencement of tree removal by a qualified biologist with the ability to identify sensitive raptor species under a variety of field conditions in order to determine if sensitive raptor species are nesting in trees proposed for removal, or within 250 feet of the building envelope established pursuant to Special Condition 1. If pre-construction surveys identify nesting of sensitive raptor species, all tree removal and project construction shall cease until the young have fledged and are not nesting in the area for thirty (30) continuous days.
- C. If no indications of nesting sensitive raptor species are found during the initial survey, no additional surveys or mitigation is required, provided the tree removal and project construction commences within 14 days of completion of the survey, and provided the project does not extend into the commencement of the nesting season of the sensitive avian species;
- D. If more than 14 days have passed since completion of the initial survey and work has not commenced, or if it is determined that work will extend past the commencement of the nesting season, a new survey shall be conducted.

## **7. Implementation of Best Management Practices During Construction**

Appropriate best management practices shall be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook. These measures shall include: 1) limiting the extent of land disturbance to the minimum amount necessary to construct the project; 2) designating areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; 3) providing for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in any runoff from construction, staging, and storage/stockpile areas; 4) incorporating good construction housekeeping measures, including the use of dry cleanup measures whenever possible; 5) collecting and filtering cleanup water when dry cleanup methods are not feasible; 6) cleaning and refueling construction equipment at designated offsite maintenance areas, and; 7) the immediate clean-up of any leaks or spills. The construction areas shall be delineated with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.



**8. Post-Construction Stormwater Pollution Prevention Plan**

A. **PRIOR TO ISSUANCE OF THE PERMIT**, the applicants shall submit, for the review and approval of the Executive Director, a Post-Construction Stormwater Pollution Prevention Plan showing final drainage and runoff control measures. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of storm water leaving the developed site after completion of construction. The Post-Construction Stormwater Pollution Prevention Plan shall include, at a minimum, the BMPs specified below:

1. A pop-up drainage emitter system, or similar device shall be installed to conduct roof runoff from roof gutter systems and downspouts away from structural foundations and to disperse runoff in lawn or landscaped areas. Emitters shall be sized according to downspout and watershed (roof area) size. Pipe riser height shall be designed to create head sufficient enough to lift pop-up. Outfall and sheetflow shall be designed to disperse runoff onto vegetated areas or suitable landscaped.
2. Where possible, runoff from the driveway should be directed to impervious surfaces that allow for filtration.
3. Native or noninvasive drought-tolerant adapted vegetation shall be selected for landscaping, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
4. The final site plan shall show the finished grades and the locations of the drainage improvements, including downspouts and, where necessary, splashguards.

B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**9. Geotechnical Investigation Report & Project Plan Conformance**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, a geotechnical report prepared for the project by a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) that demonstrates that the approved development minimizes all geologic hazards and includes all necessary recommendations to assure the stability and structural integrity of the approved development; and

B. The applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or

Geotechnical Engineer) has reviewed and approved all final design, construction, and drainage plans and has certified that each of those plans is consistent with all recommendations specified in the geotechnical report required by subsection (A) above.

- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### **10. Removal of Existing Unpermitted Mobile Home**

With the acceptance of this coastal development permit and consistent with the project as proposed, the applicants agree that the existing mobile home and all associated accessory development, including, but not limited to, storage sheds, equipment, carports, satellite dish, etc., on the site, as generally depicted on Exhibit 4, shall be removed within one year of the issuance of this coastal development permit or within thirty (30) days of the applicants' receipt of the Certificate of Occupancy for the proposed residence from the County of San Mateo, whichever is less, to a site located outside the Coastal Zone or a site with a valid coastal development permit for the installation of the mobile home. Additional time may be granted by the Executive Director for good cause. Failure to comply with this requirement or any other aspect of the permit and its conditions may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

#### **11. No Public Services**

Extension of public services to the parcel is prohibited.

#### **12. Conditions Imposed By Local Government**

All previous conditions of approval imposed on the project by San Mateo County pursuant to an authority other than the California Coastal Act remain in effect (San Mateo County File Number PLN 2000-00812; see Exhibit 13).

### **IV. Findings and Declarations**

The Commission finds and declares as follows:

#### **1. Project Location & Site Description**

The proposed project is located at 300 San Juan Avenue in unincorporated El Granada of San Mateo County (APN 047-320-060). The subject property is located approximately ½ mile east of the coast just east of the developed area of El Granada on lands zoned Planned Agriculture District (PAD) (Exhibit 1). The property is bordered on the north and east by 4,200 acres of land

owned by the Peninsula Open Space Trust (POST), also zoned PAD, and on the south and west by single-family residential development within the town of El Granada (Exhibits 1 & 2).

The subject property is approximately 143 acres in size, and consists of coastal hillsides and valleys with moderate to steep slopes, sloping northwest from San Juan Avenue. The northern portions of the property are covered in brush, grasslands, and large stands of mature eucalyptus trees. The eastern portion of the property is bisected by El Granada Creek (aka Deer Creek), a perennial stream. An agricultural impoundment pond is located in the eastern portion of the site.

The site is designated as Agriculture in the County's Land Use Plan and is zoned PAD (Planned Agricultural District). Historically, dry pasture has been the predominant agricultural use of the site. Currently, approximately 40-50 acres of the site are used for grazing 10-head of cattle year-round. According to the local record, approximately ten acres of "prime agricultural lands" as defined by LUP Policy 5.1 (see below) are located along the floodplain of El Granada Creek (aka Deer Creek). The rest of the property constitutes "lands suitable for agriculture" as defined by LUP Policy 5.3, as existing and potential agricultural use, including dry farming and animal grazing, is feasible. The property is not under a Williamson Act contract.

The property is currently developed with three wells and an unpermitted mobile home with associated accessory development, including multiple storage structures. The mobile home and associated accessory development was placed on the site without any permits prior to purchase of the property by the applicants. The mobile home, which is serving as the applicants' current residence, is located in an area of designated prime agricultural land.

The subject property contains riparian sensitive habitat associated with El Granada Creek, and provides potential habitat for the California red-legged frog (CRLF) and San Francisco garter snake (SFGS). An agricultural impoundment pond is located approximately 525 feet northeast of the proposed building site just north of the creek channel. The pond is supported by subsurface flow year-round and drains into El Granada Creek via a small channel at the west end of the pond. The pond provides potential habitat for CRLF and SFGS. The pond is located behind an approximately 30-foot-high earthen dam. The site also contains Monterey pine and eucalyptus forest, which provides potential habitat for nesting raptors and monarch butterflies.

## **2. Local Government Action**

### December 3, 1999:

San Mateo County planning staff issues Dan Sterling a Certificate of Exclusion from coastal development permitting requirements for the drilling of one agricultural well on the property.

### November 16, 2000:

Dan and Denise Sterling apply to San Mateo County for a coastal development permit to subdivide a 152.89-acre parcel into four parcels, later revised to two parcels, 4.79 acres and 148.1 acres, conversion of three agricultural wells to domestic wells, construction of a new 6,456 square foot single-family residence on the larger of the two parcels, placement of seven water storage tanks for fire suppression and legalization of an existing mobile home as temporary housing during construction.

September 12, 2001:

San Mateo County planning staff issues Dan Sterling a Certificate of Exclusion from Coastal Development Permit requirements for the drilling of two agricultural wells on the property.

March 9, 2005:

San Mateo County Planning Commission considers a Planned Agricultural District (PAD) permit and Coastal Development Permit (CDP), a Minor Subdivision, certification of a Mitigated Negative Declaration to subdivide a 152.89-acre parcel into two parcels, 4.79 acres and 148.1 acres, conversion of three agricultural wells to domestic wells, construction of a new 6,456 square foot single-family residence on the larger of the two parcels, placement of seven water storage tanks for fire suppression and legalization of an existing mobile home as temporary housing during construction.

The Planning Commission continues the matter to April 27, 2005 in order to allow time for staff to prepare a supplemental staff report that included comments from the Agricultural Advisory Committee, an accurate prime soils base map based on County map resources, an updated and accurate constraints map, a map indicating the extent of the eucalyptus groves on the property, and information regarding the most accurate size of the parcel and potential plans for access to parcel B.

April 27, 2005:

Planning Commission re-considers the project described above and continues the matter to June 22, 2005 to allow for the applicants to submit a complete boundary survey prepared by a licensed surveyor, and for staff to identify alternate house sites for Parcel A, relative to the known and mapped constraints on the parcel, including a visual assessment as seen from Cabrillo Highway, and for planning staff to further review and confirm the compliance with all applicable PAD and LCP findings.

June 22, 2005:

Planning Commission continues the matter to July 13, 2005 to allow time for staff to further evaluate materials recently submitted by applicant, and to evaluate possible constraints that may be applied to the development of Parcel B and delineation of the building envelope.

July 13, 2005:

Planning Commission continues the matter to August 10, 2005 in order to allow time for staff to conduct further density analysis to ensure the proper number of density credits; review the property survey with the Department of Public Works to ensure that it fully and correctly describes the parcel; determine whether or not the Army Corps of Engineers will allow a water pipe to cross the creek; and determine the feasibility of placing a water line from the existing well (serving the mobile home) on project Parcel A, down to San Juan Ave. east of the creek and along and within the San Juan Ave. road right-of-way for an adequate distance until it can re-enter the parcel and connect to an alternative house site west of the creek.

August 10, 2005:

Planning Commission continues the matter to September 14, 2005 in order to allow time for the applicant to submit all revisions, and staff ample time to review revised plans against all applicable PAD, subdivision regulations, General Plan, and LCP Policies.

September 14, 2005:

Planning Commission denies the CDP, finding that the project does not comply with the San Mateo County LCP, particularly in regards to:

- a. "Locating and Planning New Development" Component Policy 1.8 (Land Uses and Development Densities in Rural Areas): The subdivision, particularly with regard to the location and configuration of Parcel B, poses potentially adverse visual impacts arising from its future but presently unknown development, as well as potential cumulative impacts on other coastal resources;
- b. "Agriculture" Component Policy 5.9 (Division of Land Suitable for Agriculture Designated as Agriculture): The subdivision particularly with regard to the location and configuration of Parcel B does not ensure that potential agricultural productivity would be protected.
- c. "Visual Resources" Component Policy 8.5 (Location of Development): The future development of proposed Parcel B poses potentially adverse visual impacts, both relative to its currently unknown but potential scale and character compared to nearby single-family development across San Juan Avenue, as well as visibility from points west within the Cabrillo Highway Scenic Corridor.

September 20, 2005:

The applicants appeal the Planning Commission's denial of the project to the San Mateo County Board of Supervisors.

February 22, 2006:

The applicants formally withdraw the minor subdivision portion of the project and retain the request for a single family residence on a 143-acre parcel, and resubmit an appeal of the Planning Commission's denial to the San Mateo County Board of Supervisors, based on the following:

- a. The new revised location (for the residence) is on non-prime soils and greater than 50 feet from Deer Creek.
- b. All necessary documentation of impacts from the revised location have been submitted, including: revised biological report, revised plot plan and elevations, grading, driveway and drainage plan, revised agricultural land management plan, septic plan, and other project data.
- c. The revised house location was designed to be in conformance with all San Mateo County requirements and has been reviewed by staff.
- d. The minor subdivision was eliminated from the project.
- e. As part of the revised application, the agricultural use will be restored on the portion of the property that contains prime soils and remove the existing house trailer.

December 12, 2006:

San Mateo County Board of Supervisors approve the revised project to convert an agricultural well to domestic use, construct a new 6,456 square foot single-family residence, placement of up to seven water storage tanks for fire suppression, installation of a septic system, construction and grade of a private access driveway, and legalization of an existing mobile home as temporary housing during construction.

The County's approval of the Coastal Development Permit finds that the project as conditioned conforms to the plans, policies, requirements and standards of the certified LCP, and conforms to the specific findings required by the policies of the certified LCP.

The County's approval is contingent upon 32 special conditions, as shown in Exhibit 13, including those special conditions required by the Planning Division, Building Inspection Section, Department of Public Works, Environmental Health Division, and County Fire/Half Moon Bay Fire Protection District. These conditions require, among other conditions: (4) the submittal of a detailed erosion and sediment control plan; (5) design and implementation of appropriate stormwater pollution control measures during construction and residential use; (7) that the driveway/turnaround be designed such that soil/root compaction of any nearby trees to be preserved is minimized and that runoff does not create erosion problems for adjacent trees, and that tree sapling removal is minimized; (8) the allowance for removal of eight significant trees, with tree replacement occurring at a 1:1 ratio for each tree removed, with 15-gallon sized trees of an indigenous species suitable to the local environment; (9) the submittal of a revegetation and landscape plan clearly depicting tree removal and replacement, to minimize visual impacts resulting from the construction of the driveway, turnaround, new residence, and water tanks as seen from adjacent properties; (10) that the construction area be isolated with exclusionary fencing to exclude California Red Legged Frog (CRLF) and San Francisco Garter Snake (SFGS); (11) preconstruction surveys for CRLF and SFGS and remove any vegetation that may provide cover or conceal these species; (12) the education of construction workers by a qualified biologist on procedures to identify CRLF and SFGS and what to do if found; (13) that a qualified biologist inspect the worksite at least 3 times per month and report to the Planning Division; (15) that at the time of building permit application, the applicant submit information to the building inspection section related to the septic system for review and approval by the environmental health division; (16) that natural colors and materials be used for the residence, and water tanks painted dark green, with a requirement to submit color/material samples at the time of application for a building permit; (18) that all utilities serving the project be placed underground; (19) that in the event the applicant wishes to convert the trailer to an affordable housing unit, then prior to the final building inspection approval of the main house, the applicant submit a CDP and PAD permit application.

### **3. Coastal Commission Appeal**

The Commission received the Notice of Final Local Action for the County's approval of the subject development on December 21, 2006. In accordance with the Commission's regulations, the 10-working-day appeal period ran from December 22, 2006 through January 8, 2007 (14 CCR Section 13110). The appellants (Commissioners Pat Kruer and Meg Caldwell) timely

submitted their appeal to the Commission office on January 8<sup>th</sup>, within 10 working days of receipt by the Commission of the Notice of Final Local Action.

On February 15, 2007, the Commission found that the appeal raised substantial issues under the agricultural protection policies of the San Mateo County LCP. The Commission continued the de novo portion of the appeal hearing because the Commission did not have sufficient information to determine the development's consistency with the relevant agricultural and other relevant policies of the certified LCP.

In an initial letter to the applicants dated March 15, 2007, Commission staff requested additional information required to determine the development's consistency with the relevant agricultural and other relevant policies of the certified LCP. The applicants submitted additional information in correspondence dated: October 29, 2007; May 29, 2008; September 10, 2008; and October 17, 2008 (see Exhibit 9).

Throughout the above referenced correspondence, the applicants generally characterize the proposed residential development as being located on the "proposed north building site" on the north side of El Granada Creek (aka Deer Creek) in the general footprint of the existing mobile home located on prime agricultural lands. The correspondence also refers to the "proposed south building site" located on the south side of El Granada Creek as an alternative building site for the proposed residence. As the applicants' correspondence contains numerous inconsistencies with regard to the proposed development location, Staff requested that the applicants submit clarification of the proposed project and proposed building site. The applicants' representative provided a letter dated January 15, 2009 stating, "*The proposed location is the south side of El Granada Creek with an alternative site on the north si[t]e of El Granada Creek*" (Exhibit 9). The applicants' letter dated January 15, 2009 also included a revised 2009 Agricultural Land Management Plan (Exhibit 8). The letter also confirmed that the proposed project involves removal of the existing unpermitted mobile home. The proposed project is described in detail below.

#### **4. Project Description**

The proposed project consists of (1) construction of a new 6,456-square-foot single family residence with an attached garage; (2) conversion of an agricultural well to domestic use; (3) installation of up to seven water storage tanks for fire suppression; (4) installation of a septic system; (5) construction and grading of a private access driveway from the end of San Juan Avenue to the house site; (6) grading of approximately 690 cubic yards of combined cut and fill associated with the driveway/turnaround, house and water tanks; (7) removal of eight significant trees (5 Blue Gum eucalyptus and 3 Monterey pine trees) to accommodate the access drive/turnaround and house site; and (8) authorization for use of an existing mobile home as temporary housing during project construction (Exhibits 4-8).

The applicants have prepared an Agricultural Land Management Plan as part of the proposed project (Exhibit 8). The plan proposes that upland areas of the property would remain available for the rotational grazing operation of approximately 10 head of cattle. The proposed project

also includes the removal of the existing unpermitted mobile home from an area of prime agricultural land following construction of the proposed new residence.

The proposed building site for the proposed new residence is shown as the “Proposed South Building Site” on Exhibit 4. The proposed residential development site is located in the southeastern portion of the property in a flat, open area dominated by non-native grassland surrounded on the west and east by stands of non-native Monterey pine and eucalyptus trees. The proposed building site is located approximately 100-feet from El Granada Creek. No development would occur within any sensitive habitat areas. The proposed building site is not visible from Cabrillo Highway or any other public vantage points. Access to the site would be via a driveway extension from San Juan Avenue.

As noted above, the applicants submitted a letter dated January 15, 2009 to clarify that the proposed development location is “*the south side of El Granada Creek*” (shown as “Proposed South Building Site” on Exhibit 9). The applicants further indicate that the north building site was considered based on a request by Commission staff to evaluate other potential building site alternatives. Although the applicants are proposing to locate the residence at the south building site, the applicants’ letter dated January 15, 2009 states that the north building site (shown as “Proposed North Building Site” on Exhibit 4) is “*acceptable to the Sterling’s since it would retain the south site in an undisturbed, natural state and would not require additional grading or utilities extensions to that area.*” However, the north building site would result in locating the residence on an area of prime agricultural land and therefore, is problematic with regard to consistency with LCP policies pertaining to conversion of prime agricultural land. Specifically, LUP Policy 5.8 requires, in applicable part, that conversion of prime agricultural land within a parcel to a conditionally permitted use (i.e., single-family residence pursuant to LUP Policy 5.5(b)) be prohibited unless it can be demonstrated that no alternative site exists for the use. Although the residential development proposed to be located on the south building site also raises issues of consistency with LCP policies regarding conversion of agricultural lands as discussed in detail in the findings below, the proposed south building site does not contain prime agricultural land. Therefore, as the south building site provides a clear alternative to locating the residence on prime agricultural land as required by LUP Policy 5.8, and, given that the applicants have proposed the south building site to locate the proposed residence, the “Proposed North Building Site” is not evaluated further as part of the proposed project.

## **5. Agricultural Resources/Locating New Development**

### **Significance of Agricultural Lands in San Mateo County**

The protection of agricultural land is a primary goal of the San Mateo County Local Coastal Program (LCP). Of the approximate 88,000 acres in the San Mateo County coastal zone, nearly 70% (approximately 61,000 acres) is zoned *Planned Agricultural District* (PAD). This land is either in active agricultural use or has the potential for such use. The total gross value of San Mateo County agriculture for 2007 was \$172,869,000 (this gross value does not reflect the cost of production). The total gross value, however, does not reflect the real impact agricultural production has on the local economy. For every dollar of agricultural production, a multiplier of 3.5 may be applied. Using this factor, the estimated economic impact of agriculture on San



Mateo County for 2007 was \$605,504,000.<sup>1</sup> Typical agricultural crops grown in San Mateo County include vegetable crops such as Brussels sprouts and artichokes, field crops such as beans and hay, fruit and nut crops, pumpkins, and floral and nursery crops. There are also significant grazing lands in the County. As discussed in more detail below, however, San Mateo County agriculture also is threatened by a decreasing amount of land available for agriculture, including a shortage of rental land, high land rental rates, and ranchette and urban development that leads to the loss of farms and farmland.<sup>2</sup>

## **Agricultural Policies of the San Mateo County LCP**

Agricultural lands are a finite resource for which the San Mateo LCP demands the highest level of protection. The San Mateo County LCP carries out the requirements of Coastal Act Sections 30241, 30242, and 30250, through strict land use and zoning policies. Together, the LCP's Agricultural Component and the PAD implementation regulations provide a comprehensive program that gives agricultural land uses and development a clear and overriding priority on the rural San Mateo County rural coastside. The LCP policies are designed to maintain the maximum amount of agricultural lands in agricultural production, concentrate development in existing urban areas and rural service centers, generally prohibit the subdivision of prime agricultural land, and severely limit the circumstances under which agricultural lands may be converted to non-agricultural uses.

To address the Coastal Act requirement to concentrate new urban development in existing developed areas and establish stable urban-rural boundaries, LUP Policy 1.16 defines the urban-rural boundary as a stable planning line, and requires the LCP maps to designate this line. LUP Policies 1.3 through 1.8 provide definitions for the urban and rural areas and specify the land uses and allowable development densities in urban and rural areas. LUP Policy 1.8(a) is a core policy for agriculture that implements Coastal Act Sections 30241 and 30242 by requiring that new development in rural areas be allowed *only* if it is demonstrated that it will not have significant impacts on coastal resources, nor diminish the ability to keep all prime agricultural lands and other lands suitable for agriculture in agricultural production.

In addition to the general urban-rural planning framework of the LCP, the policies of the LUP's Agriculture component closely map the Coastal Act. First, LUP Policies 5.1-5.4 define and require the designation of prime agricultural land and other land suitable for agriculture. The LCP definition of prime land is based on the Williamson Act, consistent with Coastal Act section 30113 (see below for detail). Second, LUP Policies 5.5-5.10 strictly limit the circumstances under which agricultural land can be subdivided or converted to non-agricultural land uses. The permitted and conditional land uses allowed on agricultural lands is also strictly limited (see Exhibit 12 for full policy text).

The LUP agricultural policies also are implemented by the PAD zoning regulations, which provide detailed regulations for new development proposed on PAD lands. Consistent with the

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<sup>1</sup> *San Mateo County 2007 Agricultural Report*. San Mateo County Department of Agriculture/Weights & Measures.

<sup>2</sup> *San Mateo County Agricultural Industry Profile & Strategic Farmland Maps, Final Report*. American Farmland Trust, 2004.

Coastal Act, LUP Policy 1.8(a), and the LUP Agricultural component, the purposes of the PAD regulations are:

*1) to preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses.*

LUP Policies 5.5(a) and 5.6(a) and corresponding Zoning Code Section 6352 specify the limited range of principal permitted uses that are allowable on prime agricultural lands and other lands suitable for agriculture. Significantly, all of the principally permitted uses are either agricultural production or are directly related to agricultural production or existing residential use on an agricultural parcel. New residential development, whether agriculturally related or not, is not a principally permitted use on either prime agricultural lands or other lands suitable for agriculture.

LUP Policies 5.5(b) and 5.6(b) and Zoning Code Section 6353 specify the conditionally permitted uses allowable on agricultural lands. Most of these conditionally permitted uses are uses that are ancillary to or supportive of agricultural production and are therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production. However, some of the conditionally permitted uses specified in the LUP and Zoning Code are not ancillary to or supportive of agricultural production, including oil and gas exploration and production, commercial woodlots and temporary storage of logs, and “single-family residences” (discussed in further detail below.) Similarly, on other lands suitable for agriculture, these uses plus multi-family affordable housing, public recreation/shoreline access trails, schools, fire stations, commercial recreation, aquaculture facilities, wineries, and timber harvesting are all conditionally permitted.

The LCP allowance for certain uses on agricultural lands that are not ancillary to or supportive of agricultural production derives from other overriding Coastal Act requirements that also apply to agricultural lands. First, the provision allowing oil and gas exploration and development is derived from Coastal Act Section 30260, which expressly overrides the coastal resource protection policies of the Coastal Act in specified circumstances to allow oil and gas development and other coastal-dependent industrial development in the coastal zone, even when inconsistent with other Coastal Act policies.<sup>3</sup>

Similarly, coastal access, recreation, and aquaculture are all priority uses under the Coastal Act, and the Coastal Act requires protection of timberlands. By allowing coastal access and recreation trails, commercial recreation, aquaculture, commercial woodlots, and temporary storage of logs on agricultural lands as conditionally permitted uses, the LCP strikes a balance

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<sup>3</sup> Section 30260 states that where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

between these Coastal Act priorities and the protection of agricultural lands. Consistent with Coastal Act Sections 30222, 30241 and 30242, the LCP gives precedence to agricultural land protection over these other Coastal Act priority uses on agricultural lands by specifying that these conditionally permitted uses may only be authorized on agricultural lands provided they meet the LCP requirements for conversion of agricultural land to non-agricultural land uses (see below).

## **LCP Agriculture Policies**

Applicable LCP Policies:

1.8 Land Uses and Development Densities in Rural Areas

- a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production. [emphasis added.]

5.3 Definition of Lands Suitable for Agriculture

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting. [emphasis added.]

5.4 Designation of Lands Suitable for Agriculture

Designate any parcel, which contains other lands suitable for agriculture, as Agriculture on the Local Coastal Program Land Use Plan Maps, subject to the following exceptions: urban areas, rural service centers, State Park lands existing as of the date of Land Use Plan certification, and solid waste disposal sites necessary for the health, safety and welfare of the County.

5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture

- a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-

*dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.*

*b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.*

#### 5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture

*a. Permit agriculture and agriculturally related development on land suitable for agriculture. Specifically allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and grazing growing, or pasturing livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single family residences.*

*b. Conditionally permit the following uses: (1) single family residences, (2) farm labor housing, (3) multiple family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production and storage, (12) facilities for the processing, storing, packaging, and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce. [**emphasis added.**]*

#### 5.8 Conversion of Prime Agricultural Land Designated as Agriculture

*a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated:*

*(1) That no alternative site exists for the use,*

*(2) Clearly defined buffer areas are provided between agricultural and non-*

*agricultural uses,*

*(3) The productivity of any adjacent agricultural land will not be diminished, and*

*(4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*

#### 5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

*a. Prohibits the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:*

- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
- (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;*
- (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;*
- (4) The productivity of any adjacent agricultural lands is not diminished;*
- (5) Public Service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality. [emphasis added.]*

#### 5.22 Protection of Agricultural Water Supplies

Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that:

- a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (2) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (a) on that parcel, or (b) on the larger property that was subdivided to create the new parcel, providing that a single well source may not serve more than four (4) new parcels.*
- b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.*
- c. All new non-agricultural parcels are severed from land bordering a stream and their deeds prohibit the transfer of riparian rights. [emphasis added.]*

*Zoning Code Section 6350. Purpose of the Planned Agricultural District*

*The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:*

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,*
- (c) developing available lands not suitable for agriculture before converting agricultural lands,*
- (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*
- (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.*

*Zoning Code Section 6353. Uses Permitted Subject to the Issuance of a Planned Agricultural Permit*

*The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in **Section 6355** of this ordinance.*

*Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore.*

...

*B. On Lands Suitable for Agriculture and Other Lands*  
*1. Single-family residences.*

*Zoning Code Section 6355. Substantive Criteria for Issuance of a Planned Agricultural Permit*

*It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:*

A. *General Criteria*

- 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.*
- 2. All development permitted on a site shall be clustered.*
- 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.*

F. *Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands*

*All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:*

- 1. all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
- 2. continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*
- 3. clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
- 4. the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
- 5. public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*
- 6. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable*

*neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied. [emphasis added.]*

**Note:** Please see Exhibit 12 for the full text of the certified San Mateo County Land Use Plan Agricultural policies and Locating and Planning New Development Policies and the certified PAD (Planned Agricultural District) zoning regulations.

Coastal Act Section 30005(a) provides that any coastal city or county may adopt and enforce additional regulations, not in conflict with the Coastal Act, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone.

Consistent with Coastal Act Section 30005(a), San Mateo County has adopted LUP Policies 1.8 and 5.10 as well as Coastal Zoning Code Section 6350, which set forth the purpose of the Planned Agricultural District, and require that the maximum amount of prime agricultural land *and all other lands suitable for agriculture* be kept in agricultural production. The San Mateo LCP thus protects the productivity of prime agricultural land and “all other lands suitable for agriculture” (as defined by LUP Policy 5.3) with equal stringency. Thus, as the LCP is the standard of review, the proposed single-family residence located on land suitable for agriculture is subject to the applicable agricultural policies of the certified LCP that require that any proposed use not diminish the ability to keep either the maximum amount of prime agricultural land in agricultural production or the maximum amount of land suitable for agriculture in agricultural production.

### **Purpose of Agricultural Land Use Designation and Zoning**

As cited above, the purpose of the Planned Agricultural District (PAD) as set forth in Coastal Zoning Code Section 6350 is to (1) preserve and foster *existing and potential* agricultural operations in San Mateo County in order to *keep the maximum amount* of prime agricultural land *and all other lands suitable for agriculture in agricultural production*, and (2) minimize conflicts between agricultural and non-agricultural land uses.

As noted above, LUP Policy 5.6(a) and corresponding Zoning Code Section 6352 specify the limited range of principal permitted uses that are allowable on prime agricultural lands and other lands suitable for agriculture. LUP Policy 5.6(a) states:

*Permit agriculture and agriculturally related development on land suitable for agriculture. Specifically allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and grazing growing, or pasturing livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3)*



*dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single family residences.*

Significantly, all of these principally permitted uses are either agricultural production or are directly related to agricultural production or existing residential use on an agricultural parcel. New residential development, whether agriculturally related or not, is not a principally permitted use on either prime agricultural lands or other lands suitable for agriculture.

LUP Policy 5.6(b) and Zoning Code Section 6353 specify the conditionally permitted uses allowable on agricultural lands. LUP Policy 5.6(b) states:

*Conditionally permit the following uses: (1) single family residences, (2) farm labor housing, (3) multiple family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production and storage, (12) facilities for the processing, storing, packaging, and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.*

Most of these conditionally permitted uses are uses that are ancillary to or supportive of agricultural production and are therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production.

### **Historical Background of Residences as Conditionally Permitted Use**

With respect to residential development, the LCP clearly provides for improvements to and maintenance of existing residences on PAD lands by designating such uses principally-permitted. New residential development, though, is a conditionally permitted use in the PAD zone, in recognition of the fact that residential development has the potential to undermine the protection of agricultural land by taking land out of agricultural production, and creating conflicts with agricultural uses, as well as the fact that residential development is neither a Coastal Act priority nor is there a provision in the Coastal Act that overrides the Coastal Act resource protection policies in favor of residential development.

The LCP's allowance for new residential development as a conditionally permitted use rather than a principally permitted use is further clarified by looking to the Commission's intent in the certification of the San Mateo County LCP. The Coastal Commission's findings for the certification of the County's LCP specifically address this issue, and state:

*The County has limited conditional use conversions of prime lands either to uses that are essential to farming (e.g., the farmer's personal residence, farm labor housing) or to public recreational use.*

As discussed in ~~section #~~ above, the San Mateo LCP protects prime agricultural land and “all other lands suitable for agriculture” with equal measure. New residential development is listed only as a conditionally permitted use on both prime agricultural lands (LUP Policy 5.5(b)) and lands suitable for agriculture (LUP Policy 5.6(b)). As expressed in this finding, the intent of the LCP is only to permit residential development on agricultural lands when the development is somehow integral to or essential to supporting farming on the land in question. Housing to support the farmer or farm labor housing would fall into this category. Allowing farmer or farm labor housing is supportive of continued agricultural use of agricultural land in that it allows the farmer to reduce costs and have direct access to the land being farmed. Thus, the LCP provides that a farmer's personal residence and farm labor housing may be permitted on agricultural lands as a conditional use when all other requirements of LUP Policies 1.8 and 5.10 and the PAD zoning district can be met. Restricting conversion of agricultural land to residential use for farmers or farm laborers provides consistency with LCP Policy 1.8(a) and LUP Policy 5.10 because it maintains the maximum amount of agricultural land in agricultural production. This interpretation is supported not only by the findings for the certification of the LCP agricultural policies, but it allows the LCP to be read as internally consistent because the development of farmer and farm labor housing is consistent with the LCP requirement to retain the maximum amount of agricultural lands in agricultural production.

Additional reasons for the conditional use designation for residential structures are rooted in the inherent incompatibility of residential and agricultural land uses. Typical incompatibility issues raised where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such incompatibilities can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses. As originally certified, the LCP specifically acknowledges these “inherent conflicts” between agricultural and residential land uses (LUP, pg. 5.25).

**Burden on Applicant to demonstrate that conditionally permitted use will not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production**

LCP Policy 1.8 and 5.10 require, among other things, that new development in rural areas be approved only if it is demonstrated that the development will not diminish the productivity or viability of agricultural land or the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production. As with all coastal development permit applications, it is the applicant's responsibility to demonstrate that their proposed development is consistent with all applicable provisions of the certified LCP. Additionally, Coastal Zoning

Code Section 6355 explicitly states, in part, that *“it shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any ...conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District as set forth in Section 6350.”* Thus, the burden is on the applicants to demonstrate that the proposed conditionally permitted single-family residential use will not diminish the productivity or viability of agricultural land or the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production.

Because the Commission had not previously been in a position to request information from the applicant needed to determine if the project can be found consistent with the LCP, the staff report in support of the Commission’s determination of substantial issue contained a list of some of the items that would be necessary in order for the Commission to conduct its de novo review of the application. This list included an agricultural viability and conversion analysis. Following the February 15, 2007 Commission hearing at which the Commission found that the appeal of San Mateo County’s approval of the proposed residential development raised a substantial issue of conformity with the provisions of the LCP regarding agriculture, Commission staff also requested additional information in a letter to the applicants dated March 15, 2007. Included in the items of information requested of the applicant in staff’s March 15, 2007 letter was Item #6, an Agricultural Viability and Conversion Analysis regarding the feasibility of continued or renewed agricultural use of the soils at the site, both for grazing and cultivation. The letter specifically requests that the analysis address (1) whether the proposed development will diminish the existing and potential productivity of adjacent agriculture both on and off the site and whether the development impairs agricultural viability, including an analysis of whether and how the viability of agricultural uses is severely limited by conflicts with urban uses; (2) the effect of the proposed conversion of the agricultural well on water supply for agriculture on and off-site; (3) whether continued or renewed agricultural use of the soils is feasible on both prime lands and other lands suitable for agriculture; (4) whether available lands not suitable for agriculture are developed before converting agricultural lands; and (5) whether and how the proposed development and agricultural management plan will protect agricultural viability on the property in perpetuity. These are items of evidence required by LUP Policies 1.8 and 5.10 and Zoning Regulations Section 6350, 6355, and 6361.

On October 29, 2007, the applicants submitted a response to staff’s March 15, 2007 letter. In response to the requested Agricultural Viability and Conversion Analysis, the applicants provided letters from Jim Howard and Richard Casale of the Natural Resources Conservation Service (NRCS), and a letter from Jack Olsen of the San Mateo County Farm Bureau (SMCFB) (Exhibit 11).

On December 3, 2007, Staff responded to the applicants’ October 29, 2007 submittal indicating that the information was still not adequate for Staff to complete an analysis of the proposed project’s consistency with the LCP. Specifically, in response to the letters submitted by the applicants in lieu of an Agricultural Viability and Conversion Analysis, Staff indicated that *“while the letters provide important opinions on the agricultural viability of the subject property, additional quantitative analysis is needed to determine the feasibility of continued or renewed agricultural use of the soils at the site, both for grazing and cultivation, and in order to evaluate the proposal for consistency with the agricultural protection policies of the LCP.”* Again, Staff

requested that the applicant provide the required analysis of items (1) – (5) listed above, using quantitative data, to demonstrate the project’s consistency with applicable agricultural LCP policies.

On May 29, 2008, the applicants submitted a response to Staff’s letter of December 3, 2007, which again failed to provide the requested quantitative analysis addressing points (1) – (5). Instead, the applicants (1) again referred to the previously submitted letters from the NRCS and the SMCFB, and (2) continued to generally reiterate that while no cultivation is proposed, cattle grazing would continue on the property as proposed in the applicants’ Agricultural Land Management Plan.

In a subsequent phone conversation between the applicant and Staff, Staff indicated that an adequate Agricultural Viability and Conversion Analysis, among other information, was still outstanding. In response, the applicants submitted a letter dated September 10, 2008, which again failed to provide the quantitative analysis of items (1) – (5) as outlined in Staff’s original request dated March 15, 2007, but continued to reiterate their previously stated position that the proposed project would not affect agricultural viability or result in conversion of agricultural lands to non-agricultural use because as proposed, cattle grazing would continue on the property.

On October 17, 2008, the applicants submitted a letter from their attorney, stating an intention to file an action under Code of Civil Procedure Section 1085 to mandate a hearing by the Coastal Commission. In response to this letter and despite having received incomplete information from the applicants, Commission staff informed the applicant that they would schedule the de novo portion of the appeal hearing at the Commission’s February 2009 meeting.

### **Impacts of Residential Development on Agricultural Land**

As discussed above, a core policy concern of the Coastal Act is the protection of coastal agriculture through the limitation of non-agricultural land uses on agricultural lands. The original Coastal Plan that formed the basis for the Coastal Act identified this concern, including the issue of land speculation and valuation that could effectively undermine the goal of maintaining agricultural lands. The Coastal Act evinces a concern for the protection of an area’s agricultural economy, and an assurance that increased assessments due to public services or non-agricultural development do not impair agriculture (30241; also 30241.5).

When the LUP for San Mateo County was certified, the Commission evaluated these issues within the specific context of the County. The LUP thus reflects a specific concern for the problem of maintaining agricultural land in production given the pressures of urban development and land speculation:

*Land costs, taxes, and production costs all affect the profitability of agricultural enterprise. Ultimately, they determine what is produced, or if anything can be produced on the land. The location of San Mateo County’s Coastside agricultural area is unique in that it is close to a major metropolitan area. It is therefore subject to urban growth pressures, including land speculation which normally precede suburbanization of an area.*

....

*The Coastside Economic Study, ... in 1976, found that values and prices for Coastside lands, particularly those thought to have potential for residential development, were escalating rapidly... For many Coastside agriculturalist, ... there appeared to be a real threat that escalating values and taxes would seriously threaten the viability of their enterprises.<sup>4</sup>*

The Commission has since addressed the concern for the trend towards development of large rural residential projects in other agricultural areas also, such as in the Periodic Review of the San Luis Obispo County LCP. In that case, the Commission adopted recommendations that the SLO County LCP be amended to establish stronger standards for non-agricultural residential development on agricultural lands, including performance standards for the size of development envelopes and other constraints that would better maintain lands in agricultural production (see Recommendation 5.8 of Commission's Adopted Periodic Review of SLO County LCP). Most recently, the Commission has also addressed issues surrounding large residential development on rural agricultural lands in San Mateo County in three appeals including: A-2-SMC-04-009 (Waddell), A-2-SMC-04-002 (Polacek), and A-2-SMC-06-021 (Chan).

In contrast to residential development that is incidental to and/or in support of agricultural production such as farmer and farm labor housing, the development of non-farming related single-family homes on agricultural lands is contrary to the goal of keeping agricultural lands in agricultural production. Given increasingly high housing costs, agricultural use cannot compete with the use of land for residential development even on a large un-subdivided farm parcel or ranch on the San Mateo County coast. The recent trend to develop large expensive homes on such properties exacerbates this problem by increasing the speculative value of these large parcels in the scenic rural areas as sites for such homes. The development resulting from these pressures is widely recognized as contributing to the loss of agricultural production on agricultural land in conflict with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production.

The loss of available lands for farming to residential development is now being recognized as a national trend and many states, including California have recently taken actions in attempt to curb this "rural sprawl." The American Farmland Trust views rural residential sprawl as a major threat to farm production stating:

*The majority of the Central Valley's population lives in urban areas totaling more than 1,236 square miles. Yet that number does not tell the full story. What are not counted are the rural-residential parcels. These residences, also known as "ranchettes," dot the rural landscape and affect everything from routine farming practices... a ranchette removes more farmland from agriculture than any higher density suburban dwelling.<sup>5</sup>*

And:

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<sup>4</sup> San Mateo County certified LUP, 5.14

<sup>5</sup> Ranchettes: The subtle Sprawl, A study of Rural Residential Development in California's Central Valley, AFT 2000.

*The subdivision of land into ranchettes fuels speculation that drives up the cost of land and eventually makes it unaffordable for commercial agricultural production. The proliferation of rural residences throughout agricultural areas also poses a very real risk, right-to-farm laws notwithstanding, that agricultural insurance premiums will rise and that farming practices may be further regulated to protect public health and safety. Thus, agricultural policy should also address the need to significantly reduce scattered, rural development.*

*Greater certainty about land use expectations is critical to both farmers and developers. Places to farm and places to build should be clearly delineated, mutually exclusive and consistently enforced... [This] will also insulate agricultural production from speculation and other pressures exerted by urban proximity, and encourage reinvestment in California agriculture to meet the demands of a changing global marketplace.<sup>6</sup>*

In its literature concerning agricultural conservation easements, as further discussed below, California FarmLink states:

*Agricultural conservation easements may also limit the size of any single-family house to be built on the property with the intent to ensure that the house will be used by a true farmer instead of a "gentleman" farmer. An owner predominantly depending on agricultural income will presumably not be able to afford a significantly larger than average size house (i.e. 4,000 sq. ft.). If such an estate home were built, a farmer looking to purchase the land in the future would be priced out of the market.*

The New Jersey Farmland Affordability/Availability Working Group observed:

*The viability of New Jersey's agricultural industry depends on ensuring that farmland is affordable and available to new and established farmers. If farmers don't have access to farmland they can't farm.*

*Under the State Agricultural Retention and Development Act, the investment of Public Funds is intended to preserve land and strengthen the viability of agriculture. Estate situations – where the landowner does not farm the land or only minimally farms it – run counter to that purpose. To maintain public confidence in the Farmland Preservation Program and ensure preserved farmland remains available and affordable to farmers, the issue of housing on preserved farms needs to be addressed.<sup>7</sup>*

Measures identified to address this issue include: (1) prohibiting all non-farm dwellings on agricultural lands, and (2) requiring agricultural conservation easements that ensure that land remains *in* agricultural use as opposed to simply remaining *available* for agricultural use. These measures have been adopted or are currently under consideration by many jurisdictions throughout the state and nation. As further discussed below, the Commission finds that such measures are necessary to ensure that the proposed development conforms to the agricultural protection requirements of the County's LCP.

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<sup>6</sup> Suggestions for an Agricultural Component of Governor Arnold Schwarzenegger's Smart Growth Initiative, AFT, May 2004.

<sup>7</sup> Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.

### **Strong Associates 2003 Marin County Agricultural Economics Analysis**

The impacts of high value residential development on the viability of agriculture and the ability to keep agricultural lands in production is specifically addressed in a 2003 study prepared for the Marin County Community Development Agency (Strong Associates Study)<sup>8</sup>. This study “analyzes the economic issues facing agriculture in Marin County with the primary focus on the impact of estate development on agricultural lands.” The study reviews an earlier study of Marin’s agricultural economy from 1973, analyzes current data regarding Marin agricultural production, costs, land values, etc., and evaluates five case studies identified by the Marin Planning Department where new homes are either proposed or have been recently constructed on agricultural parcels to determine to what extent the County’s efforts to preserve agricultural lands over the past 30 years have been successful and whether prior strategies for farmland protection remain effective.

There is little doubt that the same basic market forces and other factors analyzed in the Strong Associates Study of high value residential development in Marin County are relevant to understanding agricultural trends in San Mateo County. The study’s author states that residential estate development impacts agricultural viability in San Mateo County in the same way as it does in Marin County and that there is no reason not to apply the study’s findings and recommendations to San Mateo County.<sup>9</sup>

The key findings and recommendations of the Strong Associates Study include:

*“The major problem in 1973 was that agricultural lands were subject to speculation for subdivision into suburban housing. Today, the major issue is high value estate development. The concern, however, is similar—that land costs can be driven up beyond agriculture’s ability to pay, thus discouraging maintaining agricultural use.”*

*“What was not anticipated 30 years ago was that some landowners or buyers would use large agriculturally-zoned parcels essentially for estate development. High-value residential development keeps the large acreage intact, but it undermines the economics and the “will” to maintain agricultural use.”*

*“Today, the speculation is not so much for subdivision into suburban housing but is for high value estate development. The concerns are the same, however:*

- Land costs can be driven up beyond agriculture’s ability to pay for the taxes, insurance and maintenance costs associated with the land;*
- New estate owners may not be interested in making long-term investments in agricultural improvements, or even accommodating agricultural use; and*
- There can be land-use conflicts between non-agricultural residents and commercial agricultural operations.”*

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<sup>8</sup> Marin County Agricultural Economic Analysis, Final Report, Strong Associates November 2003

<sup>9</sup> Pers. comm. David Strong May 6, 2005.

*“Keeping land values (and thus costs) in balance with agricultural income is critical to maintaining long-term agricultural viability. Fortunately, this problem is being addressed at an early stage. Just as the County was able, through zoning and other policies and support efforts, to reduce land speculation for subdivision of agricultural lands, it is timely to develop approaches that will again protect and stabilize agricultural use from “gentrification” into non-productive estates.*

*County policy-makers should explore approaches to maintaining an “agriculturally friendly” ratio of land costs to lease income. Such approaches may include:*

- 1. Define a reasonable ratio of lease income to land related costs, including placing a ceiling on the value of non-agricultural improvements. The economic analysis above could be applied on an area-specific basis to determine income and cost factors in order to limit the impact of proposed new development, or an overall ceiling could be placed on the size of farm residences. The acceptable level is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence on a ranch.*
- 2. Other measures to enhance long-term agricultural viability could include installing agricultural improvements, such as water development... The landowner could also finance annual agriculture-related costs such as weed control, access roads, and fence maintenance.”*

David Strong, in his analysis concludes that: *“While these landowners may choose to sustain higher annual land costs for the benefits of their rural estate lifestyle, land holding costs in a range of 3 to 10 times the potential agricultural income will, in the long term, be a disincentive to continued agricultural operations.”*

The findings of the Strong report are further supported in a recent report: Paving Paradise A New Perspective on California Farmland Conversion. Again, the proliferation of residential development in agricultural areas is identified as a significant threat:

*... the spread of ranchettes is troublesome for reasons that go beyond the inefficient conversion of land. They tend to make agricultural production more difficult and expensive with demands that routine agricultural practices be curtailed or modified to protect the health and security of new neighbors. And they create an additional market demand for rural land that in many regions is inflating its price to a level above what commercial agriculture can pay and still remain economically viable. In this sense, ranchettes are like the bow wave created ahead of a ship; long before the ship itself hits, anything in its path will be swamped by the wave. It is important to look at each of these three key issues – the quality of farmland being converted, the efficiency of its conversion and the spread of rural ranchettes – to get a full appreciation of how farmland conversion is steadily eroding California’s agricultural capacity<sup>10</sup> [emphasis added]*

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<sup>10</sup> AFT, p.5.



Finally, some have identified further pressures on agriculture in the proximity “urban” non-agricultural development, that may be particularly compelling in a context of real estate speculation:

*As well as immediate impacts, there are also long-term consequences for agricultural operations located in areas of ongoing urbanization. Some writers refer to the “impermanence syndrome,” a term which takes in a variety of meanings, but generally suggests a high degree of uncertainty among farmers about their ability to continue productive operations in areas beset by rapid population increase and land use change. Anticipating either that they will have the chance to sell their land for development or that surrounding urbanization will restrict their farming activities farmers in such situations avoid continuing investment in their enterprises with capital improvements, new technologies, and management time and energy. This uncertainty about the future may in fact serve as a self-fulfilling prophesy, pushing landowners to seek development deals and thus accelerating the rate of farmland conversions in high growth areas. In the interim, much farmland may be idled or underutilized, production shifted from more to less intensively cultivated crops, and individual farm parcels bypassed or surrounded by development.<sup>11</sup>*

## **San Mateo County Trends**

### **AFT 2004 San Mateo County Agricultural Industry Study**

The American Farmland Trust (AFT) conducted a study in 2004 of San Mateo County agriculture under contract with the Peninsula Open Space Trust (POST), which reviewed among other things the economic and development pressures affecting agriculture in the County.<sup>12</sup> This study shows that over the past 25 years the county’s land in farms decreased 45 percent from 75,110 acres to 41,530 acres. Although the AFT Study does not differentiate between agricultural lands lost inside and outside of the coastal zone, much of the agricultural lands in San Mateo County are in the coastal zone and, according to POST, AFT’s findings are representative of the trends for San Mateo coastal agricultural lands.<sup>13</sup> These data suggest that implementation of the Coastal Act and LCP agricultural protection policies has not necessarily been effective in keeping the maximum amount of agricultural land in production.

The AFT Study also shows that the rate of decline in farmland acreage is increasing with a 28 percent reduction in both land in farms and average farm size during the period between 1992 and 2002. AFT attributes the loss of farmland in part to increased land costs, and states:

*“Not surprisingly, as land in farms declined, land values increased dramatically.”*

In addition to analyzing data from the U.S. Census of Agriculture and San Mateo County Agricultural Commission Crop Reports, AFT interviewed local farmers to gain insight about

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<sup>11</sup> Sokolow, California’s Edge Problem: Urban Impacts on Agriculture, p. 295.

<sup>12</sup> San Mateo County Agricultural Industry Profile & Strategic Farmland Maps - Final Report. July 30, 2004. American Farmland Trust.

<sup>13</sup> Pers. Comm Paul Ringgold, POST, May 9, 2005.

how farmers perceive these issues. According to AFT, the main challenges facing San Mateo County agriculture include: “(1) increased input costs; (2) shrinking markets; (3) stiff environmental regulations; and (4) decreasing land available for agriculture.”

Other findings of the AFT study include:

*“The farmer’s perception that land is too expensive to rent or purchase was born out by the data. Between 1978 and 2002, the estimated average value of land and buildings rose 290 percent to just over \$1.5 million.”*

*“Some farmers pointed to ranchette and urban development to explain the loss of farms and farmland.”*

*“The main challenges the farmers identified were environmental and economic. Farmers also pointed to the problems related to the shrinking agricultural land base—especially the fact that land is too expensive to rent. While some farmers blame public and private conservation organizations for reducing the amount of rental land, the problem is more likely driven by new development than open space protection.”*

Thus, according to the AFT Study, substantial San Mateo County farmland has been lost notwithstanding the Coastal Act and LCP agricultural protection policies that require the protection of the maximum amount of agricultural land in production. The study also shows that increased land cost is one of the main factors contributing to this loss of farmland and that increased land costs are due primarily to new development. The AFT Study cites farmers’ concerns regarding ranchette and urban development and asserts that new development is likely the chief factor driving high land costs.

Similar to the findings of AFT, US Department of Agriculture’s 2002 Census of Agriculture shows that the number of acres in farms of any kind in San Mateo County dropped from 58,140 acres to 41,530 acres. Pastureland in the County dropped from 40,224 acres in 1997 to 24,741 acres in 2002. The average per acre value of farmland remained quite steady during this period: in 1997 it was \$5,849/acre, and in 2002 was \$5,979/acre, an increase of only \$130/acre. Similarly, a report from Sustainable San Mateo County shows a 41% decline in the value, adjusted for inflation, of agricultural products in the County since 1997.<sup>14</sup>

Although many factors are in play, there has also been significant new residential development approved and constructed on San Mateo County coastal agricultural lands. The table in Exhibit 14 lists some of the projects that have been approved in recent years. The data clearly indicates the truism that when a house is placed upon land, the cost of the property increases significantly, all things being equal. The properties contained in the table are properties located in PAD zoned land for which a permit was sought and approved, usually for development of a single-family dwelling (SFD), other accessory structures and either a water storage tank or conversion of an agricultural well to domestic use. Based on the 12 properties for which pre and post construction data is available, the average property value per acre increased by over 400% after the residential

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<sup>14</sup> Sustainable San Mateo County 2008 Report, p.7.

improvements. Such changes in property value no doubt significantly change the market dynamics and thus opportunities for farmers to continue with agricultural operations.

### **Listing of Pending Residences**

In addition to the previously approved and developed residences on PAD lands, Commission staff is aware of at least six pending local San Mateo County coastal development permit applications involving the proposed construction of residential development on rural agricultural lands (CDP Application Nos. 2-SMC-02-210; 2-SMC-07-022; 2-SMC-08-038; 2-SMC-05-016; 2-SMC-07-195, and PLN 2009-00005) (Exhibit 15). As noted previously, the Commission has also recently acted on three appeals involving large residential development on agricultural lands in San Mateo County (A-2-SMC-04-009 (Waddell), A-2-SMC-04-002 (Polacek), and A-2-SMC-06-021 (Chan)) and has two other pending appeals (A-2-SMC-08-021 (Tomkat Ranch L.L.C) and A-2-SMC-07-035 (Ward-Sladek-Nerhan). Thus, the issues surrounding the conversion of rural agricultural lands from agricultural use to residential use are not limited to the proposed project. The growing trend toward developing large residences on rural agricultural lands, piecemeal development of domestic wells on agricultural lands in advance of large residential development applications, and subdivision of agricultural lands in San Mateo County is clearly evident in the number of previous and pending applications for these uses, thus further highlighting the significance of cumulative adverse impacts associated with development pressures that threaten the continued productivity and viability of agricultural lands in San Mateo County.

Finally, the County has specifically acknowledged this trend. In 2002, the San Mateo County Board of Supervisors directed County staff to develop a proposal for limiting the height and floor area of new single-family residences in the rural portion of the County's coastal zone. During their evaluation, County staff found that the size of new houses in the rural zoning districts increased from an average of 2,484 square feet in 1993 to 4,926 square feet 1998. In several reports to the County Agricultural Advisory Board and Planning Commission in 2002, County staff described the issue as follows:

*The principle intent of the PAD zoning district is preserve and foster existing and potential agricultural operations and minimize conflicts between existing agricultural and non-agricultural land uses. The PAD allows some non-agricultural uses, such as single-family residences, under strict conditions through the issuance of use permits.*

*The PAD does not foster or encourage the development of large, single-family residences for non-farm working families. Although, as documented, three have been proposed in the past year and several have been built since the PAD was established in 1980.*

County staff also determined that:

*General Plan policies and the Zoning Regulations provide strong justification to limit the size and height of single-family residences in order to minimize negative environmental effects on the preservation of agriculture and open space. They also provide strong justification to regulate the design of these residences.*

*The General Plan's Local Coastal Program policies in particular require that all development in the rural areas blend and harmonize with the natural environment so that it is subordinate and unobtrusive. It is debatable as to whether most of the large single-family residences that have been approved in the past ten years are as subordinate to the natural environment or as unobtrusive as possible.<sup>15</sup>*

Commission staff provided comments to the County in response to the proposed rural house size limit suggesting that in order to determine a size limit that would meet the requirements of the LCP the County should take into consideration the scale and character of existing residences in this area. However, the County did not complete this evaluation and never adopted a rural house size limit. Thus, although the County has expressed concern about the trend of large single-family home construction on agricultural lands and the negative effects of such development on continued agricultural use of such lands, it has not yet taken action to address this specific issue and a rural house size limit has not been established.

### **Project Site Constitutes Lands Suitable for Agriculture**

The subject 143-acre parcel is designated as Agriculture on the LCP Land Use Maps. Approximately 10 acres along the flood plain of El Granada Creek is designated Prime Agricultural Land. The remaining approximately 133 acres constitutes "Lands Suitable for Agriculture" pursuant to the definition set forth by LUP Policy 5.3. LUP Policy 5.3 defines "Lands Suitable for Agriculture" as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

According to information in the record, the subject property has been used for dry range cattle grazing for more than a century and dry pasture has been the predominant agricultural use of the site. The County's Initial Study pursuant to CEQA also states that "portions of the floodplain area had been used for crop production . . ."<sup>16</sup> The site is currently grazed by 10 head of cattle year round and has supported up to 30 head of cattle in the past. Grazing on some portions of the site is limited by steep, rocky slopes and overgrown or forested areas that provide little or no fodder.

Although steep slopes present a constraint to animal grazing in some portions of the property, use of the property for existing and potential grazing is clearly feasible. Information in the record suggests that limitations on pasture quality and quantity on the parcel could be improved with seeding, irrigation, and supplemental feeding, thereby furthering the feasibility of potential animal grazing throughout the property (R.D. Owen & Associates, 2004). As described in the applicant's Agricultural Management Plan in 2005:

*Soil, water, slope and climate conditions have always been suitable for dry range cattle grazing. Erosion hazard is low to moderate. Steep slopes limit livestock access to grazing in the canyon and along the ridges, however, there is still enough grazing land to support*

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<sup>15</sup> County of San Mateo, Environmental Services Agency Planning and Building Division. Memo from Planning Staff to Planning Commission dated June 25, 2002. County File Number PLN 2002-00327.

<sup>16</sup> Initial Study, p. 3.

*a small herd. Areas containing prime soils could also be used for cattle grazing , unless row crops are reintroduced. Water supply is more than adequate. The new wells provide abundant water for the proposed residential uses, without depleting resources needed for agriculture. Surface water is available year-round in the existing agricultural water impoundment.*

*... Based on water availability, it appears that row crops could be reintroduced, particularly in the area below the reservoir.<sup>17</sup>*

And later: “All conditions are favorable for continued livestock grazing...”<sup>18</sup> As more recently concluded by the NRCS, [rotational cattle grazing] is ... a responsible and appropriate use of the land.”<sup>19</sup>

Although the proposed south building site is not within the area of the property that is actively grazed currently, potential agricultural use of the proposed building site is feasible. The proposed building site is flat and thus, potential grazing in this area is feasible. Additionally, the proposed building site is in close proximity to the agricultural water impoundment, which provides the main source of water for cattle. As noted above, seeding and irrigation could enhance fodder and improve the feasibility of grazing in the area of the proposed building site. Thus, as there is no information in the record to suggest that potential animal grazing in the area of the proposed residential building site is not feasible, the subject parcel, including the proposed site of the residential development constitutes “lands suitable for agriculture” as defined by LUP Policy 5.3.

Furthermore, the Commission finds that LUP Policy 5.4 sets forth exceptions to the designation of lands which contain other lands suitable for agriculture, as being mapped Agriculture on the Local Coastal Program Land Use Plan Maps. These exceptions include: (1) urban areas, (2) rural service centers, (3) State Park lands existing as of the date of Land Use Plan certification, and (4) solid waste disposal sites necessary for the health, safety and welfare of the County. As none of these exceptions apply to the subject property, for all of the reasons discussed above, the Commission finds that the subject parcel, including the proposed site of the residential development constitutes “lands suitable for agriculture” as defined by LUP Policy 5.3.

### **Project Specific Impacts**

The applicants are proposing to construct an approximately 6,456-square-foot single-family residence and related development on an approximately 143-acre PAD parcel. Although the applicants have proposed an agricultural management plan, which would continue the current small-scale cattle grazing on portions of the parcel, the proposed project raises fundamental questions about the conversion of rural land from agriculture to residential use.

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<sup>17</sup> Agricultural Management Plan, 2005, p. 3.

<sup>18</sup> Id, p. 5.

<sup>19</sup> NRCS, September 5, 2007.

As outlined above, the certified LCP provides numerous policies for the protection of agricultural land in the rural areas of San Mateo County. As discussed above, the proposed building site is considered land suitable for agriculture as defined by LUP Policy 5.3 because potential agricultural use, specifically cattle grazing, is feasible at the site. It also appears from some information in the record that the row-cropping on the 10 acres of prime soils would be feasible.

As discussed earlier, the principal permitted use of the PAD-zoned land is agriculture and agriculturally related development, and conditional uses such as residential development that would convert agricultural lands to non-agricultural uses, as would this project, are prohibited unless all of the criteria specified in the LCP are satisfied. Thus, the proposed project is subject to LCP policies that require, in part, that the proposed conditional residential use not be approved unless continued or renewed agricultural use of the soils is not feasible; the use must not diminish the productivity or viability of agricultural land, or the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production, and must not impair agricultural viability, including by increased assessment costs. If any one of these findings cannot be made, then the proposed conditional use is prohibited. The Commission finds that the project as proposed has the potential to result in significant adverse impacts to agricultural resources both individually and cumulatively in a manner inconsistent with the requirements of the LCP as discussed below.

### **Direct Conflict Between Agriculture and Residential Uses**

As noted previously, non-agricultural residential development on agricultural land has the potential to result in direct conflicts due to the inherent incompatibility of residential and agricultural land uses. Typical incompatibility issues raised where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such incompatibilities can threaten continued agricultural production when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or on-going agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may pose a threat to non-agricultural uses, such as the proposed residential development. In this case, there is the prospect of a future purchaser of the property, having been attracted by the rural estate, and having invested significant financial resources to acquire residential amenities, could easily find the cattle grazing operation with its dust, odors, noise, pesticide, use, etc., not sufficiently compatible with his or her residential estate living.

That this potential conflict is a real concern in San Mateo County is born out by the County's recent adoption of a "right to farm" ordinance. Entitled, "Agricultural Awareness," the ordinance adopted by the Board of Supervisors in 2007 includes the following findings:

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- (a) *It is the declared policy of this County to conserve, protect and encourage agricultural operations on agricultural land within the County.*

*(b) The Board of Supervisors of San Mateo County finds that residential and commercial development adjacent to certain agricultural lands could lead to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and economic viability of the County's agricultural industry as a whole.*

The ordinance recognizes that “normal and routine agricultural operations can and may cause inconvenience and discomfort to adjacent property owners,” and establishes a disclosure requirement under certain circumstances.<sup>20</sup> The ordinance was a direct result of an Agricultural Summit held in the County in 2003, which addressed various issues concerning the protection of agriculture in the County, including the need to provide protections to agricultural operations from adjacent residential uses.<sup>21</sup>

### **Significant Adverse Cumulative Impacts**

The proposed non-agricultural residential development on land suitable for agriculture will result in significant adverse cumulative impacts to agricultural resources inconsistent with the requirements of LUP Policy 1.8, including by (1) diminishing the ability to keep agriculture land in production, and (2) impairing agricultural viability through changes in the valuation of agricultural lands.

#### **Proposed Project Will not Ensure that Ag Land Remains in Production**

The applicants have proposed an Agriculture Management Plan as part of the project that proposes to maintain the current cattle grazing operation on the property following construction of the proposed residential development. Despite the applicants' proposal to continue cattle grazing on the property, the project as proposed would not *ensure* that the maximum amount of other land suitable for agriculture is kept in agricultural production.

While it is the expressed intention of the applicants to continue agricultural use of the property, there is no proposed mechanism to guarantee that cattle grazing or other agricultural use of the property will persist. Without such mechanism in place, there is little incentive for the property owner to maintain the site in agricultural production once development of a non-agricultural residence occurs at the site. Even if there is an initial interest to maintain agricultural production on the property, such use may not be sustained over time, especially as the property changes ownership. Regardless of the intentions of the current property owners, future property owners may not be interested in making long-term investments in agricultural improvements, such as the maintenance of agricultural water supply, fencing, and roads necessary to ensure that the maximum amount of agricultural land is kept in agricultural production. Due to the high cost of developing and maintaining farm infrastructure, such improvements may only be feasible as long-term investments that are amortized over the life of the facility. As discussed below, estate development where the property value is based principally on the residential use rather than agricultural use discourages long-term investment in farm infrastructure and support facilities, thereby diminishing the ability to keep agriculture land in production.

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<sup>20</sup> San Mateo County Zoning Ordinances, Chapter 2.65 AGRICULTURAL AWARENESS.

<sup>21</sup> See, Proceedings, San Mateo County 2003 Agricultural Summit, February 28, 2003.

### **Proposed Project Will result in agricultural land being valued residentially**

The proposed construction of a large, non-agricultural residence on agricultural land poses significant cumulative adverse impacts to agricultural resources through the impairment of the viability of agricultural lands as a result of changes to the valuation of such lands. Placing a non-agricultural residential structure on PAD zoned lands as proposed, changes the nature of the land in a manner whereby the land would no longer be valued as agricultural land, but rather, would be valued as residential land. As agricultural lands become valued at residential market prices, farmers are increasingly priced out of lands necessary for agricultural production. As shown in the Strong Associates study referenced above, the speculative value of agricultural land for residential development is driven in large part by the demand for new high value residential development. Further, as shown in the AFT study referenced above, increased land cost - due primarily to new residential development - is one of the main factors contributing to the loss of farmland.

Given increasingly high housing costs, agricultural use cannot compete with the use of land for residential development even on a large un-subdivided farm parcel in rural San Mateo County such as the subject parcel. The recent trend to develop large expensive homes on such properties exacerbates this problem by increasing the speculative value of these large parcels in the scenic rural coast side as sites for such homes. Development of these high value homes contributes to the speculation for the use of other agricultural parcels on the San Mateo coast for similarly large homes, resulting in significant adverse cumulative impacts on the continued economic viability of agriculture throughout the County. These homes and associated development pressures in rural areas not only limit the total amount of land in agricultural production, but also increase the cost of land such that that new farmers are unable to purchase property, and existing farmers have economic incentives or are otherwise encouraged to sell their land to developers for non-agricultural development. In contrast, residential development that is incidental to and/or in support of agricultural production such as farmer and farm labor housing, supports land valuation consistent with the maintenance of agricultural uses.

Construction of the proposed non-agricultural residence on land suitable for agriculture would also reinforce the market incentives to develop similar new homes on agricultural properties, thereby diminishing the ability to keep agricultural lands in production and impairing the agricultural viability of the subject property and other PAD lands in San Mateo County in a manner that is inconsistent with LCP requirements.

### **Proposed Project Will result in cumulative impacts due to conflicts between agriculture and residential land uses**

Most significant, perhaps, as previously described, there is a significant on-going trend towards non-agricultural residential development on PAD lands. This includes identification and pursuit of certificates of compliance, to lay the foundation for residential development; the development of “agricultural wells” followed by conversion to domestic use (as was done in this case); and the proposed development of SFDs itself. The proliferation of non-agricultural residences in rural agricultural areas merely increases the conflicts and pressures on agriculture. In California, there



is evidence that this conflict is particularly pernicious with the “inefficient” land use pattern of ranchette development:

*The configuration of residential neighborhoods in edge areas also likely affects the extent of conflict. The larger the exposure or interface between farm activities and nonfarm residences, the more opportunity for problems. By implication, this is an argument for planning and residential design that confines urban development in relatively small blocks, as compared to a pattern of scattered homesites throughout an agricultural area.*<sup>22</sup>

In response to this trend, and in conjunction with right-to-farm requirements and other protections, affirmative agricultural easements have been dedicated to an agricultural land trust in conjunction with three San Mateo County coastal development permit applications approved by the Commission on appeal.

#### **Effect on Associated Businesses**

Furthermore, when lands suitable for agriculture are taken out of agricultural production, cumulative adverse impacts on the economic viability of agriculture extend beyond the loss of any particular agricultural land. For example, when there is less agricultural land in production, there is less likelihood that businesses that support agriculture, such as veterinarians and farm supply stores, will remain economically viable. The potential loss of agriculture-related businesses and services make it harder for the farmers in the area to operate, which in turn diminishes the ability to keep agricultural land in production.<sup>23</sup>

### **Failure of Applicant to Demonstrate that Residential Development Will Not Diminish Ag Viability or Productivity or Ability to Keep Ag Land in Production**

#### **Insufficiency of Evidence Provided by Applicant**

As with all coastal development permit applications, it is the applicant’s responsibility to demonstrate that their proposed development is consistent with all applicable provisions of the certified LCP. In addition, Coastal Zoning Code Section 6355 explicitly states, in part, that “*it shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any ...conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District as set forth in Section 6350.*” Thus, the burden is on the applicants to demonstrate that the proposed conditionally permitted single-family residential use will not diminish the productivity or viability of agricultural land, or the ability to keep all land suitable for agriculture in agricultural production as required, in part, by LCP Policy 1.8 and 5.10 and Coastal Zoning Code Section 6350.

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<sup>22</sup> Sokolow, “California’s Edge Problem: Urban Impacts on Agriculture,” in California Agriculture: Dimensions and Issues, edited by Jerry Siebert

<sup>23</sup> Personal Communication with David Strong, January 8, 2009.

As discussed above, Commission staff requested on multiple occasions, that the applicants submit an Agricultural Viability and Conversion Analysis to provide factual, quantitative evidence to demonstrate, in part, that the proposed conditionally permitted single-family residential use will not diminish the productivity or viability of agricultural land, or the ability to keep all land suitable for agriculture in agricultural production. Staff requested that the analysis specifically address (1) whether the proposed development will diminish the existing and potential productivity of adjacent agriculture both on and off the site and whether the development impairs agricultural viability, including an analysis of whether and how the viability of agricultural uses is severely limited by conflicts with urban uses; (2) the effect of the proposed conversion of the agricultural well on water supply for agriculture on and off-site; (3) whether continued or renewed agricultural use of the soils is feasible on both prime lands and other lands suitable for agriculture; (4) whether available lands not suitable for agriculture are developed before converting agricultural lands; and (5) whether and how the proposed development and agricultural management plan will protect agricultural viability on the property in perpetuity. This information is necessary to demonstrate the proposed project's consistency with the standards required in the LCP, including LUP Policies 1.8 and 5.10.

The applicants' responses (Exhibit 9) continually failed to specifically address all of the points listed in (1) – (5) above with the requested quantitative evidence. Rather, in response to the request for an Agricultural Viability and Conversion Analysis, the applicants generally assert that (1) existing cattle grazing would continue on the parcel per the proposed Agricultural Management Plan in a manner consistent with the carrying capacity of the grazing area, (2) the proposed residence would not be sited in an existing grazing area, and (3) there would be no change in water demand for agricultural use because there would be the same number of cows on the property.

Additionally, in response to staff's request to provide a quantitative Agricultural Viability and Conversion Analysis, the applicants provided letters from the Natural Resources Conservation Service (NRCS), and a letter from the San Mateo County Farm Bureau (SMCFB) (Exhibit 11). While these letters express general support of the applicants' proposed project based on qualitative assumptions and observations about the property, none of the letters provide quantitative data and analysis, such as a detailed economic analysis of agricultural trends in the vicinity of the property, a thorough economic analysis of all potential agriculture for the site and how this could be tied into the agricultural economy of San Mateo County, and a quantitative analysis of how the proposed residence would affect assessment costs and hence the potential for existing and future agriculture on the parcel. *In fact*, the letter from the SMCFB states that although the applicants' proposed Agricultural Land Management Plan specifies that the land will continue to be grazed, "*drought or other conditions may change and it is difficult to forecast the permanent use of the parcel for agriculture.*"

As stated above, the purpose of the agricultural land use designation and PAD zoning designation is to maintain the maximum amount of agricultural land in agricultural production. As such, the policies of the San Mateo County LCP strictly limit the conversion of agricultural lands to non-agricultural uses. Conversion of agricultural lands is prohibited unless the applicant provides factual evidence demonstrating that the development would meet the goals of the PAD zoning district and all of the criteria specified in LUP 1.8 and 5.10. In this case, the proposed

residential development does not meet the requirements of the LCP because the applicant has not provided evidence demonstrating that the development would maintain the maximum amount of agricultural land in agricultural production and that all of the criteria required to allow the conversion of agricultural land that are specified in LUP 1.8 and 5.10 have been met.

The Commission finds that construction of a large-scale residential estate at this property would permanently alter the present focus on agricultural use of the property. The source of real estate market value of the property would shift to reflect the new residential development. If the proposed project were built, future purchases of the property would necessarily tend to be made by individuals or entities with a primary interest in the seaside estate, and with the financial resources to acquire the property at its heightened real estate market price. Farmers or farming businesses with a primary aim of agricultural crop production or cattle grazing would be much less able to acquire the property for commercial agricultural use. There would also be the prospect that a future purchaser of the property would find the agricultural operation, with its dust, odors, noise, pesticide use, etc., not sufficiently compatible with optimum residential estate living.

The applicants have failed to provide factual evidence which demonstrates that the proposed conditionally permitted single-family residential use will not diminish the productivity or viability of agricultural land, or the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production as required, in part, by LCP Policy 1.8 and 5.10 and Coastal Zoning Code Section 6350. Thus, the Commission finds that the applicant has failed to demonstrate that the proposed project is consistent with the applicable agricultural policies of the LCP. Thus, as discussed below, the Commission finds that denial is a feasible alternative to the project as proposed.

## **Project Denial as Feasible Alternative**

### **Denial Leaves Property Owner with Principally permitted uses**

Denial of the proposed project would not eliminate all economically beneficial or productive use of the applicants' property or unreasonably limit the owners' reasonable investment backed expectations of the subject property. Denial of this permit request to construct a non-agricultural residence on agricultural land would still leave the applicants available alternatives to use the property in a manner that would be consistent with the policies of the LCP.

There is an existing use of the property that allows the applicants/owners to have economic use of the property without constructing the proposed single-family residence. The project site is currently leased for cattle grazing, which could continue whether or not the applicants construct the proposed residence on the property. In addition, after securing a coastal development permit from the County of San Mateo, the applicants could develop the property for any of the other principally permitted uses allowed on prime agricultural lands and land suitable for agriculture as set forth in LUP Policy 5.5(a) and 5.6(a), including greenhouse, nursery, cultivation, and nonresidential development customarily considered accessory to agricultural uses such as barns, equipment sheds, or stables.

Therefore, the Commission finds that feasible alternatives to the proposed project exist for the applicants to make economically beneficial or productive use of the property in a manner that would be consistent with the policies of the certified LCP.

### **Other Feasible Alternatives to Proposed Project**

As described below, the Commission finds that two other alternatives to denial of the project as proposed include (1) an LCP Amendment to rezone the parcel from an agricultural designation to a residential zoning designation, and (2) approval of the proposed project with conditions necessary to ensure that the residential development will not diminish agricultural viability or productivity, or the ability to keep all agricultural land in production, including a condition requiring an Affirmative Agriculture Easement.

#### **LCP Amendment**

The applicants could also work with the County to apply for an LCP Amendment as an alternative to the proposed non-agricultural residence on land suitable for agriculture. Should the applicants and the County choose to contend that the subject parcel should be rezoned from PAD designation to a residential designation, an LCP Amendment is the proper process through which to demonstrate that such a conversion would be consistent with the Coastal Act.

The Coastal Act contemplates that in conjunction with the identification of urban-rural boundaries, agricultural lands will be designated and restricted to agricultural land uses, unless a future LCP amendment is approved that allows the conversion of the land to non-agricultural uses. Coastal Act Section 30241.5 identifies a viability test for conversion of agricultural lands when conversion is an issue in any LCP or LCP amendment. The analysis required by Section 30241.5 to support conversion of agricultural lands must include an economic evaluation of the gross revenue and operational costs, excluding land values, of the crops in the geographic area of the proposed land conversion. When an LCP Amendment proposes a conversion of agricultural land on the urban periphery under the viability provisions of Section 30241(b), the viability tests of Section 30241.5 must be met.

#### **Approval with Conditions to Ensure that Residential Development Will Not Diminish Agricultural Viability or Productivity or Ability to Keep Agricultural Land in Production**

The Commission further finds that an alternative to the proposed non-agricultural residential development on land suitable for agriculture is approval of the proposed project with conditions necessary to ensure that the residential development will not diminish agricultural viability or productivity, or the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production. As discussed in detail below, the Commission finds that the proposed residential development could be approved consistent with the LCP only if conditioned, in part, to require an “Affirmative Agriculture Easement” to ensure that the agricultural land remains in agricultural production in perpetuity.

## **Affirmative Agricultural Easement**

### **Need for Affirmative Agricultural Easement**

As discussed above, the proposed non-agricultural residential development located on land suitable for agriculture would result in significant adverse individual and cumulative impacts that would diminish agricultural viability and productivity, and diminish the ability to keep all agricultural land in production inconsistent with LCP agriculture protection policies, including LUP Policy 1.8 and 5.10 and Coastal Zoning Code Section 6350.

Although the applicants propose to continue agricultural use of portions of the property in the form of cattle grazing, the project as proposed contains no assurance that cattle grazing, or any other agricultural use of the site, would be sustained over time, especially as the property changes ownership. Furthermore, as the proposed residential development is not intended for use as a farm house that would be essential and integral to the agricultural use of the site, there is little incentive for the current owners, or future owners, to continue cattle grazing or other agricultural uses of the property. The Commission finds that in order to approve the proposed residence, an affirmative agricultural easement must be imposed to ensure that the subject property would remain in active agricultural production.

Therefore, as an alternative to denial and in order to avoid a conversion contrary to the requirements of the LCP stated above, the Commission imposes Special Condition 2. Special Condition 2 requires the applicant to dedicate to an appropriate public or private entity acceptable to the Executive Director an agricultural conservation easement affecting all areas of the property outside of the approved development envelope other than the existing road and gravel driveway. The Commission finds that an affirmative agricultural easement on the property is necessary to ensure that these lands will remain in active agricultural use and ensure that the proposed residence does not diminish the ability to keep agricultural land in agricultural production as required by LUP Policies 1.8 and 5.10. Such easements have been dedicated to an agricultural land trust in conjunction with three San Mateo County coastal development permit applications approved by the Commission on appeal: (A-2-SMC-04-009 (Waddell), A-2-SMC-04-002 (Polacek), and A-2-SMC-06-021 (Chan).) (Exhibit 14.)

In the Agricultural Land Management Plan for the proposed Single Family Residence, the applicants state that they intend to keep grazing cattle on the property. The affirmative agricultural easement will help to ensure that these practices continue and that what the applicants start will be continued even if they choose to sell the property; the easement does not conflict with the applicant's stated desires and allows the Commission to find the project to be consistent with the LCP and with other conditionally permitted approvals on PAD zoned lands in San Mateo County.

Here, the applicants bought the 143 acre property in December 1996, well after the County's LUP and zoning regulations established the permitted uses of PAD-zoned land, for \$560,000, i.e. less than \$4,000 per acre for land that includes both prime and other lands suitable to agriculture. Permitting a conditional use on agricultural land by requiring that the remaining land be used for agriculture does not deprive the applicants of all economically beneficial use of the land, nor

does it render the land valueless, nor does it interfere with reasonable investment-backed expectations. In fact, just the opposite can be said: the easement requires that the land remain agriculturally productive, which will also assure that the agricultural viability of other land suitable for agriculture is not diminished.

While agricultural conservation easements typically *prohibit* development of agricultural land, they do not necessarily ensure that the land will continue to be farmed. This is because traditional easements do not contain mechanisms that require land to remain in active agricultural *production*. To accomplish this, an easement must include an *affirmative* farming requirement in addition to development prohibitions. Without a clause requiring continued agricultural use, an easement can only guarantee the protection of open space, but cannot guarantee the land will remain in agricultural use. In recognition of this shortcoming, affirmative farming clauses are included in agricultural conservation easements. The organization California FarmLink, which works with land trusts in the state to secure agricultural conservation easements and to match easement holders with farmers seeking available farmland, has developed a sample easement with such language. This sample easement was based in part on easements that are in place elsewhere in the state. FarmLink advocates the inclusion of affirmative farming requirement in agricultural conservation easements, stating:

*While many individuals who have signed agricultural conservation easements can rest easy with the thought that their land will be protected, they may have never considered the possibility that someone might someday buy the farm solely for the purpose of enjoying the views and the peace and quiet of a rural environment.*

The applicants are not required to permit the public on to their land; rather they are required to ensure that the land is continued to be used for agriculture consistent with its zoning. The applicants can do this either by farming the land themselves or by entering into a lease with a farmer, which will determine the extent and nature of that farmer's access. Special Condition 2 includes a provision allowing lands covered by an agricultural conservation easement to be converted to open space if changed circumstances beyond the control of the land owner or operator have rendered the property unusable for agriculture and upon certification of an LCP amendment changing the land use designation to open space. Accordingly, Special Condition 2 requires that the affirmative farming clause only remain in effect as long as agricultural use of the property is feasible.

Special Condition 2 will specifically address and directly offset the impacts of the proposed development to agricultural productivity by ensuring that such productivity is maintained on the property and by eliminating the impact the proposed residence would have on the productivity of other lands suitable for agricultural. Therefore, the Commission finds that a clear nexus exists between the nature of the requirements of Special Condition 2 and the nature of the significant adverse cumulative impacts to the agricultural lands and economy of Coastside San Mateo County caused by the proposed residential development.

The Commission further finds that the easement requirements of Special Condition 2 are also roughly proportional to the significant adverse cumulative impacts attributable to the proposed

residential development. If the easement was instead merely a passive easement, the productivity of land suitable for agriculture would be diminished as the “highest and best use” of land would be determined by the value of residence that can be built rather than the agricultural productivity of the land. Only as conditioned to include an affirmative agricultural easement can the Commission ensure that the property will remain in agricultural use and that the residence will support the agricultural use of the site. The affirmative agricultural easement will directly support the continued operation of agriculture on the parcel and ensure that the proposed residence does not reduce, restrict or adversely affect agricultural resources, or the economic viability of agricultural operations in the area. The proposed residential house will thereby be demonstrably secondary or subordinate to the agricultural use of the property, and the house will not overtake the character of the agricultural use. Allowing a residence on land suitable for agriculture where agricultural use is protected in perpetuity by an affirmative agricultural easement further ensures the continued viability of agricultural use of the property in that it allows the farmer to reduce costs and have direct access to the land being farmed. Furthermore, residential development that is clearly incidental to and/or in support of agricultural production, such as a farm house or farm labor housing on land protected by an affirmative agricultural easement, supports land valuation consistent with the maintenance of agricultural uses.

The Commission finds that only as conditioned to require an affirmative agricultural easement is the proposed project consistent with LCP policies requiring that the residential development not diminish agricultural viability or productivity, or the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production.

The applicant claims that the Commission cannot impose an affirmative agricultural easement because they are not proposing a subdivision of agricultural land and that therefore the provisions of LUP Policy 5.16, which require an agricultural easement as a condition of approval for *subdivisions* of agricultural land, are inapplicable to the proposed project. The Commission notes it is not imposing the affirmative agricultural easement pursuant to the provisions of LUP 5.16. The Commission is instead providing the applicant with a feasible alternative that can be found consistent with LUP policies 1.8 and 5.10. The Commission finds that the fact that LUP Policy 5.16 requires an agricultural easement be imposed as a condition of the subdivision of agricultural land does not eliminate its ability to impose an affirmative agricultural easement in order to meet otherwise applicable policies of the certified LCP. In this case, the affirmative agricultural easement is being imposed in order to approve a project that would otherwise not meet the requirements of LUP Policies 1.8 and 5.10.

Thus, the Commission finds that the proposed residential development as conditioned, would not constitute an impermissible conversion of land suitable for agricultural to non-agricultural use, as the residence would be integral to the continued agricultural use of the site and would not diminish agricultural viability and productivity, or diminish the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production as required by the LCP. Of particular importance, it is only by finding that the proposed development is not an impermissible conversion of agricultural land that it is allowable at all, as the record is clear that agricultural use of the property is feasible. Thus, but for the affirmative guarantee that the property will remain in agriculture and that the residence will support, rather than adversely affect, the agricultural resources and economy of the area, the Commission could not find the

project consistent with LUP policy 1.8 and LUP policy 5.10, which requires that land suitable for agriculture remain in production and that land not be converted to conditional uses (residential) if continued agricultural use is feasible, which it is in this case.

**Any Future Subdivision of the Project site is subject to same rules proposed house unable to meet; future subdivision only allowable consistent with all other applicable policies**

The applicants have indicated that they are opposed to recording an affirmative agricultural easement as required by Special Condition No. 2, asserting that to do so would preclude their ability to subdivide the property. While not a part of the proposed project currently before the Commission, the applicants have stated a desire to subdivide the property in the future to create at least one additional residential building site.

In their original coastal permit application to the County, the applicants' project involved, in part, subdividing the parcel to create two residential parcels. In 2005, the Planning Commission denied the applicants' request to subdivide the parcel based on an inconsistency of the proposed subdivision with several LCP policies. Specifically, the Planning Commission found that the proposed subdivision would be inconsistent with (1) LUP Policy 1.8 regarding land uses and development densities in rural areas, as the project would result in potential adverse visual impacts as well as potential cumulative impacts on other coastal resources, (2) LUP Policy 5.9 regarding the division of land suitable for agriculture, as the project would not ensure sure that potential agricultural productivity would be protected, and (3) LUP Policy 8.5, regarding locating development, as the project would result in potential adverse visual impacts associated with its scale, character incompatibility, and visibility from a designated scenic corridor.

Despite the County having previously denied the applicants' proposed subdivision of the property, and the applicants subsequent withdrawal of their proposal to subdivide the property in 2006 at the time the Board of Supervisors was considering the applicant's appeal of the Planning Commission denial, the applicants continue to claim that future subdivision of the property is possible based on a calculation of density credits performed by the County. However, any future proposal for a subdivision of the property would be subject to the same LCP provisions and criteria as the currently proposed residential development and would pose the same LCP inconsistencies regarding the protection of agricultural resources as those raised by the currently proposed project and discussed herein. Furthermore, even if a future subdivision proposal could be found consistent with the density credit provisions of the certified LCP, which provide only a maximum development potential, not an entitlement, any proposed subdivision would be subject to demonstrating consistency with all applicable LCP policies, including for example, policies regarding visual resources, protection of environmentally sensitive habitat areas, and geologic hazards as well as the agricultural policies discussed above. Given the significant development constraints on the property, including steep slopes, prime agricultural soils, sensitive habitats, designated flood plain, and scenic and visual resources, it is unlikely that a feasible site for additional residential development could be identified that would be consistent with all applicable LCP policies (Exhibit 3). In any event, the Commission finds that the applicants do not have an automatic right to approval of a subdivision regardless of whether the applicants have sufficient density credits to support an application for future subdivision of the property.



## **Development Envelope**

### **Clustered development**

Zoning Regulation Sections 6355(A)(1) and (2) require encroachment of all development upon lands suitable for agriculture to be minimized and require non-agricultural development on PAD zoned lands to be clustered. The proposed house site, required by Special Condition No. 1(A) to be sited in the southeastern portion of the property in the area identified as “Proposed South Building Site,” as generally depicted on Exhibit 4, generally clusters the residential development close to adjacent residential development near the southeast portion of the property. To meet the requirements of Zoning Code Section 6355(A)(1) and (2), the overall footprint of the proposed residence and all appurtenant non-agricultural development must also be confined to a specifically defined development envelope. The establishment of this residential development envelope is necessary to ensure that the residence and related development displace the minimal amount of agricultural land necessary and are incidental to agriculture, while still allowing a reasonable residential development.

Typical conforming lots in the residentially zoned areas of the San Mateo County coast range from 5,000 square feet to 10,000 square feet. The Commission finds that given the total size of the development site relative to the development envelope, a development envelope in the upper end of the range of lots in the residential zoning districts (10,000 square feet), would accommodate the residence, turnarounds, and other appurtenant development, and still achieve the LCP requirement to minimize the encroachment of development on agricultural lands. This 10,000-square-foot development envelope is slightly larger than the approximately 9,515-square-foot residential building footprint proposed by the applicant. Therefore, Special Condition No. 1(A) requires the proposed residential development (i.e., the residence, garage, impermeable pathways, turnarounds, courtyards, retaining walls, patios, decks, above-ground water tanks, etc.) be confined to a 10,000-square-foot development envelope. Pursuant to this condition, the 10,000-square-foot building envelope limit would not include the proposed fire engine turnaround and access road, septic system, and water tanks.

### **Agricultural buffers**

Clearly defined buffer areas between agricultural and non-agricultural uses are necessary because of the inherent incompatibility of residential and agricultural land uses as described above. As conditioned, the project will cluster development within a single area of the southeast portion of the site near the rural/urban boundary. This clustering will allow for the creation and maintenance of a clear buffer between the agricultural and non-agricultural uses of the site. Additionally, the location of the development within approximately 500 feet of the neighboring residential development will help to minimize impacts from agricultural operations to residential areas by clustering development in the same vicinity, making it easier to control dust, noise, and odors to surrounding residential areas.

## **Adequacy of Agricultural Infrastructure**

Agricultural production requires related improvements and support facilities such as irrigation systems and water supply facilities, fences for pasture management and pest control, equipment storage barns, etc. The development and maintenance of such facilities is a critical factor in maintaining the viability of agricultural lands and ensuring that agricultural lands remain in production. Such improvements can be very costly. For example, a new fence costs between \$3 and \$4 per linear foot, or \$261 to \$327 per acre. Because of the high cost of developing and maintaining farm infrastructure, such improvements may only be feasible as long-term investments that are amortized over the life of the facility. As discussed previously, estate development where the property value is based principally on the residential use rather than agricultural use may discourage long-term investment in farm infrastructure and support facilities. Property owners who do not rely on or are not actively engaged in commercial agriculture as their primary means of income do not have the same economic incentive as a farmer to make costly long-term investments necessary to support agricultural use of their property, and lessee farm operators are often reluctant to make such investments in land they do not own.<sup>24</sup>

The applicants indicate that the existing agricultural impoundment pond provides water for cattle grazing to supplement surface water sources and would continue to be available for agricultural use as part of the proposed project. The applicants further indicate that the existing wells other than the well proposed to be used to serve the residential development, would be available for agricultural purposes. However, there is no guarantee that either the applicant or a future property owner would maintain these facilities or ensure the availability of other necessary farm infrastructure improvements. Therefore, to ensure that the proposed development does not diminish the agricultural viability of the project site and to maintain the maximum amount of agricultural land in agricultural production, Special Condition No. 2 requires that the applicants and any successors in interest in the property be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.

## **Conversion of agricultural well**

LUP Policy 5.22 & Zoning Regulations Section 6355(B) require that before prime agricultural land or other land suitable for agriculture can be converted to a non-agricultural use, that the existence of an adequate and potable well water source on the parcel be demonstrated and that adequate and sufficient water supplies needed for agricultural production and sensitive habitat are not diminished.

The applicants submitted an evaluation dated September 9, 2008 entitled, “*Hydrologic Evaluation on Impact of Existing Well: 320 San Juan Avenue Property, El Granada, California*” to assess the adequacy of the proposed water source on the parcel and the potential for adverse

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<sup>24</sup> Marin County Agricultural Economic Analysis, Final Report, Strong Associates November 2003.  
Pers. Comm. Larry Jacobs, San Mateo County Farm Commission Chair, May 6, 2005.

impacts to agriculture and sensitive habitat from the proposed conversion of an agricultural well to domestic use pursuant to the requirements of LUP Policy 5.22 & Zoning Code Section 6355(B). According to the evaluation, certification of the well by the San Mateo County Environmental Health Department (EHD) confirms that the well has passed Environmental Health inspections for residential use, including chemical analysis. The certification by County EHD also confirms that the well passed the necessary EHD pump test demonstrating that the well can produce a minimum of 2.5 gallons per minute after the well has reached a stabilized rate. Thus, the proposed well is an adequate and potable well water source to serve the proposed residential development. Prior to occupancy of the residence, the applicant is required to obtain a permit from EHD to operate the well as a domestic water source.

The evaluation also analyzed the potential for the extraction of groundwater from the proposed well to impact surface waters or sensitive habitats. The evaluation assumes that the domestic use from the well totals 315 gallons per day throughout the year, or approximately 115,000 gallons per year. The analysis determines that this volume of water is about 0.05 percent of the total aquifer volume per year. Based on assumptions set forth in the analysis regarding the topography of the subject site, soil characteristics, infiltration rates, average annual rainfall, and extent of the underground aquifer, the analysis contends that only 0.4% of average annual rainfall would be required to infiltrate into the aquifer to offset discharge from the well. It is noted that the analysis is conservative in that it does not take into account the recharge from the septic system, or the introduction of groundwater into the aquifer from slope runoff. As the groundwater extraction from the proposed well to serve the residential development would have a negligible impact on the groundwater table and surface waters, the proposed well would not diminish water supplies needed for sensitive habitats.

Additionally, according to the hydrologic evaluation, the cattle grazed on the property drink only from surface water sources including the creek and pond. These sources are not augmented with pumped groundwater. Thus, the proposed use of an existing well for non-agricultural purposes would not diminish water supplies for agriculture or the surrounding watershed because the property has historically been dry-farmed and no irrigation is necessary to support the continued use of the site for cattle grazing. If irrigation were needed in the future, particularly for the prime soils, Special Condition No. 2 requires the owner to provide the necessary water infrastructure to the agricultural operation. As discussed previously, there is information in the record suggesting that the multiple wells on the property would provide adequate water for reintroducing irrigated row crops on the prime soils. As conditioned, the Commission finds that the development as conditioned is consistent with LUP Policy 5.22 and Zoning Regulations Section 6355(B).

### **Right to Farm**

As discussed above, conflicts may occur between residential and agricultural land uses when in close proximity. Typical conflicts where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such conflicts can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with

standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

To ensure that such conflicts do not impair the continued viability of agricultural production, Special Condition No. 3 provides notice consistent with LUP Policy 5.15 and Zoning Code Section 6361(D). To ensure that the conflicts between the proposed residential development and agricultural production on the project site and adjacent properties do not impair the continued viability of agricultural uses on these lands, Special Condition No. 4 requires the applicant to record a deed restriction acknowledging a right to farm the parcel.

### **Prevention of growth inducement and increased assessment costs.**

To address the required findings of 5.10 and 1.8, the extension of public services from the urban area to the property is prohibited by condition 11.

## **6. Sensitive Habitat**

### *Applicable Policies*

#### 7.1 Definition of Sensitive Habitats

*Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting rare and endangered species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.*

*Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.*

#### 7.3 Protection of Sensitive Habitats

- a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*
- b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

### 7.11 Establishment of Buffer Zones (Riparian)

- a. On both sides of riparian corridors, from the limit of riparian vegetation extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.*
- b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams...*

### 7.36 San Francisco Garter Snake

- a. Prevent any development where there is known to be a riparian or wetland location for the San Francisco garter snake with the following exceptions:  
(1) existing manmade impoundments smaller than one-half acre in surface, and (2) existing manmade impoundments greater than one-half acre in surface providing mitigation measures are taken to prevent disruption of no more than one half of the snakes known habitat in that location in accordance with recommendations from the State Department of Fish and Game.*
- b. Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.*

Numerous biological surveys have been conducted on the property dating back to 2001. These surveys have been conducted to document vegetation communities, and determine the presence of sensitive plant and animal species at the site. The subject property contains riparian sensitive habitat associated with El Granada Creek (aka Deer Creek) as defined by LUP Policy 7.1. As discussed further below, the project site provides potential sensitive habitat for (1) California red-legged frogs, (2) San Francisco garter snakes, (3) nesting raptors, and (4) monarch butterflies. No development would occur within sensitive habitat areas or potential sensitive habitat areas.

#### i. California red-legged frog

The California red-legged frog (CRLF) is a California species of special concern and a federally listed threatened species that has been observed on the subject site in the area of the impoundment pond. According to the biological report prepared by TRA Environmental Services, Inc. dated October 8, 2007, CRLF prefers pools or ponds 2 to 3 feet deep with still or slow moving water and dense emergent or shrubby vegetation for breeding. The frogs can also use a variety of habitats, including uplands within approximately 2 miles of breeding ponds when dispersing during the rainy season. Adult CRLFs were observed by biologists in the impoundment pond area during surveys conducted in June 2001 and again in May 2007.

According to the biological report, the U.S. Fish and Wildlife Service recommends a buffer zone of 300 to 500 feet or greater between development and potential breeding habitat for CRLF and San Francisco garter snake (discussed below). The proposed south building site is located approximately 525 feet from the impoundment pond. Thus, the proposed development would not have direct impacts on CRLF breeding habitat associated with the impoundment pond. However, the proposed development could potentially impact non-breeding dispersal CRLF habitat.

As CRLF have been documented at the site, appropriate avoidance and mitigation measures are necessary to ensure the protection of CRLF and its habitat. Therefore, the Commission imposes Special Condition No. 5, which requires implementation of protection and avoidance measures, including, in part, that (1) exclusionary fencing be installed around the building envelope and staging areas, (2) surveys be conducted prior to any earth-moving work, and (3) a qualified biologist, approved by the U.S. Fish and Wildlife Service and California Department of Fish and Game monitor all earth-moving activities for the presence of CRLF. The condition further requires that if CRLF are found on the site before or during construction activities, the applicant shall cease development and implement U.S. Fish and Wildlife Service recommended avoidance measures.

As conditioned, the Commission finds that the proposed project will be sited and designed to prevent adverse impacts that could significantly degrade California Red Legged Frog breeding and dispersal habitat, consistent with LUP Policy 7.3.

ii. San Francisco garter snake

The San Francisco garter snake (SFGS) is a state and federally listed endangered species that inhabits wetlands or grasslands near ponds, marshes, sloughs, and seasonal freshwater bodies. According to the biological report prepared by TRA Environmental Services, Inc. dated October 8, 2007, preferred habitat of SFGS is a densely vegetated pond near an open hillside for sunning and foraging. SFGS are generally associated with ponds or marshes that support large populations of tree frogs and/or red-legged frogs, which they prey upon. SFGS are known to aestivate in rodent burrows during summer months, and may hibernate in the winter in coastal locations.

According to the biological report, SFGS has been observed at four locations within five miles of the project site. Although the project site is not hydrologically connected to any of the sites where SFGS have been documented, the project site constitutes potential habitat for SFGS due to the impoundment pond and creek on the site and the presence of CRLF described above. The biological report indicates that the SFGS may use the property as a movement corridor along the length of El Granada Creek.

As cited above, LUP Policy 7.36 requires appropriate mitigation measures for the protection of SFGS habitat and migration corridors. The proposed south building site is located approximately 525 feet from the impoundment pond and approximately 100 feet from the centerline El Granada Creek and the proposed project does not involve any development within these potential SFGS

habitat areas. To ensure the protection of potential SFGS migration habitat as required by LUP Policy 7.36, the Commission imposes Special Condition No. 5, which requires protection and avoidance measures, including, in part, that (1) exclusionary fencing be installed around the building envelope and staging areas, (2) surveys be conducted prior to any earth-moving work, and (3) a qualified biologist, approved by the U.S. Fish and Wildlife Service and California Department of Fish and Game monitor all earth-moving activities for the presence of SFGS. The condition further requires that if SFGS are found on the site before or during construction activities, the applicant shall cease development and implement the U.S. Fish and Wildlife Service recommended avoidance measures.

As conditioned, the Commission finds that the proposed project will be sited and designed to present adverse impacts that could significantly degrade sensitive SFGS habitat, consistent with LUP Policy 7.36.

iii. Nesting raptors

The blue-gum eucalyptus and Monterey pine trees on site have some potential to provide nesting habitat for raptors such as red-shouldered hawk (*Buteo lineatus*), red-tailed hawk (*Buteo jamaicensis*), Cooper's hawk (*Accipiter cooperii*), sharp shinned hawk (*Accipiter striatus*), western screech owl (*Otus kennicottii*), great horned owl (*Bubo virginianus*), and others. According to a biological report prepared by TRA Environmental Sciences, Inc. dated October 8, 2007 most of the trees in the project area are pole-sized trees that do not have suitable structure for nesting raptors. No raptor nests were observed within the project area during surveys performed in 2005 or during surveys performed in March, April, and May of 2008.

The proposed project involves the removal of several eucalyptus and Monterey pine trees. Although nesting raptors have not been observed on the site pursuant to surveys conducted to date, raptors could establish nesting habitat at the site before construction of the project actually commences. The biological report recommends that tree removal work be conducted outside of the nesting season, which is from March 1 to August 31. The biological report further recommends that if tree removal is to occur during the nesting season, a pre-construction survey shall be conducted by a qualified biologist with the ability to identify local species under a variety of field conditions in order to determine if raptors are nesting in trees on or within 250 feet of the building envelope. Special Condition No. 6 imposes this recommendation to ensure the protection of potential nesting raptors present at the site prior to the commencement of any tree removal or project construction during the nesting season.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policies 7.3 regarding the protection of sensitive habitat.

iv. Monarch butterfly habitat

The monarch butterfly (*Danaus plexippus*) has no state or federal status, however the importance of protecting overwintering habitat for this migratory butterfly has been recognized, and impacts to this species can be considered significant under the California Environmental Quality Act (CEQA). Monarchs are a migrating species that complete lengthy migration routes over several

generations. The monarch overwintering season on the California coast is from October to November through late February/early March. The overwintering season is influenced by climate and can vary from year to year. Monarchs overwinter in eucalyptus and Monterey pine groves such as those present on the property. Monarch nectar plants include coyote brush, milk thistle, English ivy and garden plants, all of which are located on or near the site.

Multiple surveys for roosting monarch butterflies were performed on the property, the most recent of which were conducted between December 6, 2007 and February 7, 2008. According to a report prepared by TRA Environmental Sciences, Inc. dated February 7, 2008, no monarch roosts were observed during any of the surveys. A single, flying adult monarch was observed twice during two separate surveys. According to the biological report, had a roost been present within the survey area at either of the times a single monarch was seen, the roost would have also been observed. The construction of the proposed development at the south building site would require the removal of several eucalyptus and Monterey pine trees. However, due to the lack of roosting habitat at the site, the Commission finds that the proposed project, as conditioned, will be sited and designed to prevent adverse impacts that could significantly degrade monarch butterfly habitat, and is consistent with LUP Policy 7.3.

v. Riparian Habitat

El Granada Creek (aka Deer Creek), a perennial watercourse, runs along the eastern side of the property and contains riparian habitat along portions of the creek. According to the biological report prepared by TRA Environmental Services, Inc. dated October 8, 2007, the vegetation along the banks of the creek near the proposed south building site is dominated by non-native eucalyptus woodland and does not contain riparian vegetation along both sides of the creek. As cited above, LUP Policy 7.11(b) requires, where no riparian vegetation exists along both sides of riparian corridors, that buffer zones for perennial streams shall extend 50 feet from the predictable high water point. Consistent with this requirement, the proposed south building site is located more than 50 feet from the predictable high water mark.

The proposed development could result in potential adverse impacts to the riparian habitat and biological productivity of El Granada Creek from sedimentation or contaminated stormwater runoff, should sediment and other pollutants be allowed to leave the site.

To ensure that the proposed development would be compatible with the maintenance of biologic productivity of El Granada Creek and not otherwise result in significant degradation of sensitive riparian habitat, the Commission imposes Special Condition Nos. 7 and 8 requiring the implementation of Best Management Practices (BMPs) during construction and a post-construction Stormwater Pollution Prevention Plan (SWPPP) showing final drainage and runoff control measures, respectively. Construction BMPs required by Special Condition No. 7 include, for example, limiting the extent of land disturbance to the minimum amount necessary to construct the project, covering all material stockpiles, and installing sediment controls such as silt fences or temporary detention basins to intercept, filter, and remove sediments contained in any runoff from construction, staging, and storage/stockpile areas. The post-construction SWPPP is required by Special Condition No. 8 to incorporate structural and non-structural BMPs



designed to control the volume, velocity and pollutant load of storm water leaving the developed site after completion of construction.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policies 7.3 and 7.11, as the proposed development located adjacent to El Granada Creek would (1) be sited and designed to prevent impacts that could significantly degrade sensitive riparian habitat, (2) be compatible with the maintenance of biologic productivity of the habitat, and (3) provide the required buffer between the creek and the proposed development.

vi. Rare plant species

According to the biological report prepared by TRA Environmental Services, Inc. dated October 8, 2007, several rare plants were identified as having the potential to be present on the property including: Hickman's cinquefoil (*Potentilla hickmanii*), Franciscan onion (*Allium peninsulare* var. *franciscanum*), rose leptosiphon (*Leptosiphon rosaceus*), Choris's popcorn flower (*Plagiobothrys chorisainus*), San Francisco collinsia (*Collinsia multicolor*), and Franciscan thistle (*Cirsium franciscanum*).

Although potential habitat for the above listed species may be present on the 143-acre subject property, based on surveys of the proposed development site, no listed or rare plant species were observed. According to the biological report, the proposed south building site is densely covered with non-native invasive species, such as orchard grass and poison hemlock. The site has been heavily disturbed in the past and does not contain any native plant habitat, thereby limiting the potential for occurrence of special-status plants.

Therefore, the Commission finds that the proposed project, as conditioned, would not result in significant adverse impacts to listed or rare plant species, consistent with LUP Policy 7.3.

**7. Hazards**

Applicable LCP Policies:

9.9 Regulation of Development in Floodplains

...

*b. Development located within flood hazard areas shall employ the standards, limitations and controls contained in Chapter 35.5 of the San Mateo County Ordinance Code, Sections 8131, 8132 and 8133 of Chapter 2 and Section 8309 of Chapter 4, Division VII (Building Regulations), and applicable Subdivision Regulations.*

9.10 Geological Investigation of Building Sites

*Require the County Geologist or an independent consulting certified engineering geologist to review all building and grading permits in designated hazardous areas for evaluation of potential geotechnical problems and to review and approve all required investigations for*

*adequacy. As appropriate and where not already specifically required, require site specific geotechnical investigations to determine mitigation measures for the remedy of such hazards as may exist for structures of human occupancy and/or employment other than those considered accessory to agriculture as defined in Policy 5.6.*

*“Hazards areas” and “hazards” are defined as those geotechnical hazards shown on the current Geotechnical Hazards Synthesis Maps of the General Plan and the LCP Hazards Maps. A copy of the report of all geologic investigations required by the California Division of Mines and Geology shall be forwarded to that agency.*

### Geologic Hazards

The LCP Hazards Map indicates that the subject property is located within an area known for potential shallow landslides, among other potential hazards. The project record contains a preliminary soils report prepared by Charles H. Hartsog dated July 19, 2001. This preliminary soils report is outdated, as it was prepared for and submitted to the County as part of the applicants' original proposed project, which, at the time, involved a proposed subdivision of the property. The preliminary soils report addresses the location of the previously proposed lots located on the west side of the property. The report suggests that this area of the property is not subject to major slides, debris flows, surface rupture faulting, liquefaction, lateral spreading, etc. The report does indicate that due to the proximity of the Seal Cove and San Andreas faults, the site is subject to strong seismic ground motion. The report sets forth various construction recommendations regarding foundations, concrete and earth materials, grading and excavation, and drainage.

In response to Commission staff's request for updated information regarding potential geologic at the currently proposed house location, the applicants submitted a letter prepared by Sigma Prime Geosciences, Inc. dated October 8, 2007 (Exhibit 10). The letter states that, "*during our site visits [to the proposed south building site] we have evaluated the nearby hillsides and do not see landsliding as a potential hazard...*" and that "*there is no evidence of slope instability in the area.*" However, an updated geotechnical study has not yet been conducted to confirm these statements. The letter does state that, "*A geotechnical study will be performed when the final house site is selected, and we will address slope issues at that time, and will find that there is no hazard and no mitigation measures are required.*" Given that the preliminary soils report prepared in 2001 indicates that the property is subject to hazards associated with seismic ground motion and that certain construction and building material recommendations shall be adhered to, it is likely that similar hazards would be identified and associated mitigation measures would be necessary for the proposed development located within the general vicinity of the area addressed by the 2001 soils report. As an updated geotechnical study has not yet been prepared for the proposed project, Special Condition No. 9 requires the applicant to submit, prior to issuance of the permit, a copy of a geotechnical report prepared by a certified engineering geologist. The condition further requires that all final design and construction plans be consistent with any recommendations contained in the required geotechnical report and that the applicants undertake development in accordance with the approved final plans. As conditioned, the Commission finds that the proposed project is consistent with LUP Policy 9.10.

## Flood Hazards

According to information contained in the record, El Granada Creek (aka Deer Creek) and the impoundment pond have been identified as a flood hazard by FEMA. The identified flood hazard area falls within the riparian corridor buffer zone required by LUP Policy 7.11 and discussed in Finding 6 regarding Sensitive Habitat above. The proposed development is located approximately 100 feet from the predictable high water mark as required by LUP Policy 7.11 and thus, is located outside of the designated flood hazard area. Therefore, the proposed project is not subject to the *standards, limitations and controls* required by LUP Policy 9.9 cited above.

## **8. Unpermitted Development**

Development, including the placement of a mobile home and associated accessory development on prime agricultural land, has taken place without benefit of a coastal development permit. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies of the LCP and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implication of the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved.

## **9. California Environmental Quality Act (CEQA)**

The County Board of supervisors, as the lead agency, certified a Negative Declaration for residential development of the site in December of 2006. Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications 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 that would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. The staff report responds to all public comments regarding potential significant adverse effects of the project that were received prior to preparation of the staff report. The proposed project has been conditioned to be found consistent with the policies of the Coastal Act and to minimize or eliminate all significant adverse environmental effects. Mitigation measures have been imposed to (1) ensure the protection of sensitive species and environmentally sensitive habitats, (2) minimize and restrict encroachment of development into agricultural areas, and (3) protect and preserve the agricultural resources of the property. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts, which the development may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with Coastal Act requirements to conform to CEQA.

## **Appendix A**

### **Substantive File Documents**

2009 Agricultural Land Management Plan for Sterling Single Family Residence Project, 300 San Juan Avenue, El Granada – APN 047-320-060.

Natural Resources Conservation Service, Letter to Dan Sterling, August 25, 2005.

Natural Resources Conservation Service, Letter to Ruby Pap. Agricultural Viability Associated with Sterling Property, 320 San Juan Avenue, El Granada, San Mateo County, CA, September 5, 2007.

R.D. Owen and Associates. Development Feasibility Study for Minor Subdivision Proposal PLN 2000-0081: APN 047-320-060 300 San Juan Avenue, El Granada, CA. Prepared for Dan and Denise Sterling, March 2004.

San Mateo County Farm Bureau, Letter to Ruby Pap. Sterling project: San Juan, El Granada – Appeal No. A-2-SMC-07-001 Agricultural feasibility of subject property, October 2, 2007.

San Mateo County Health Department, Stan Low. Letter to Kerry Burke, October 4, 2007.

San Mateo County Health Department, Stanley S. Low. Letter to Kerry Burke, December 27, 2007.

Sigma Prime Geosciences, Inc., Letter to Ruby Pap, October 8, 2007.

Sigma Prime Geosciences, Inc., Hydrologic Evaluation on Impact of Existing Well: 320 San Juan Avenue Property, El Granada, California, September 9, 2008.

TRA Environmental Sciences, Inc., Monarch Butterfly Survey at Proposed South Building Site, February 7, 2008.

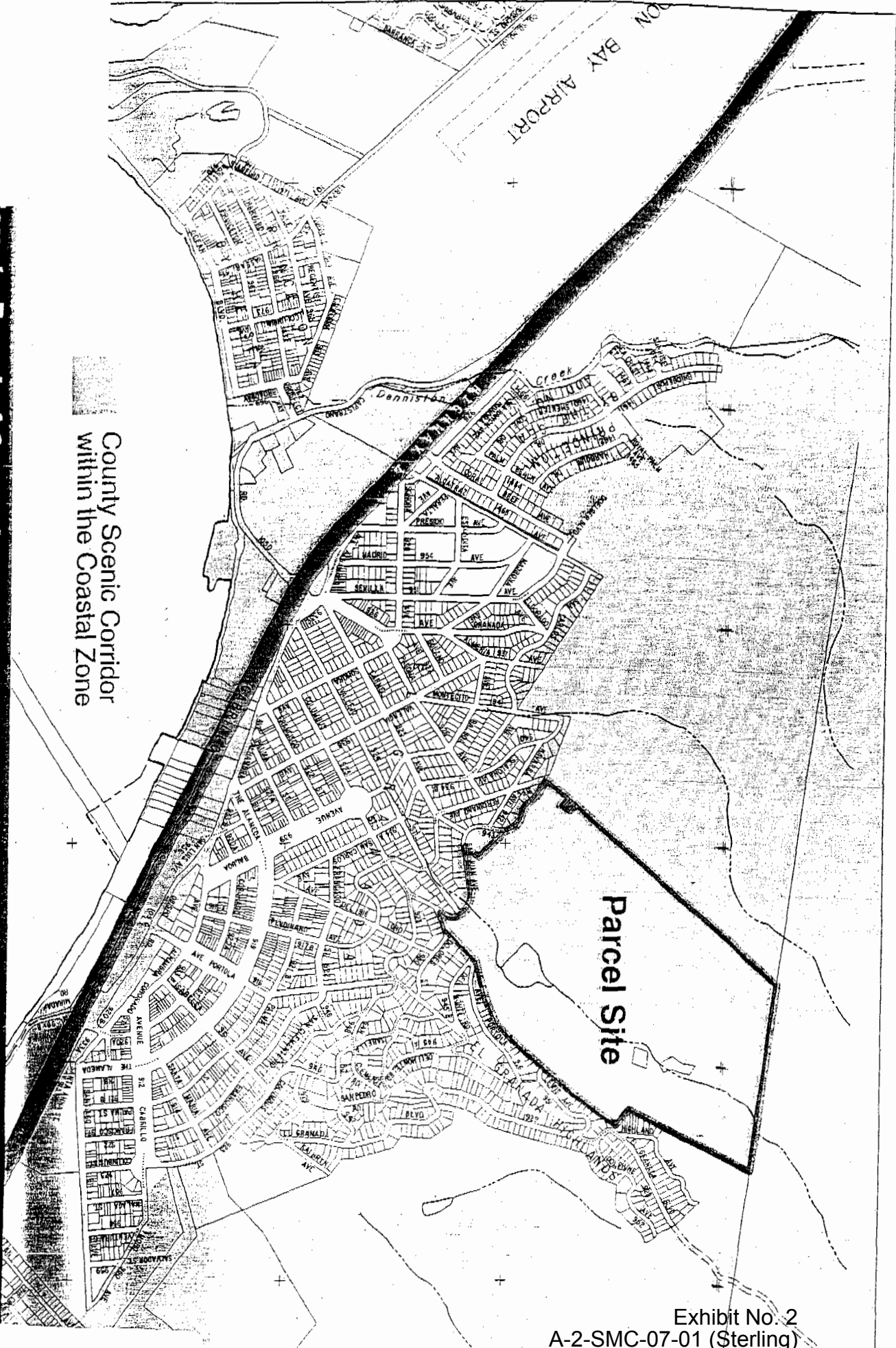
TRA Environmental Sciences, Inc., Bird Utilization Survey at Proposed South Building Site, April 19, 2008.

TRA Environmental Sciences, Inc., Biological resources at the proposed development locations, Sterling property, El Granada (APN 047-320-060), October 8, 2007.



Figure 1. Project location





**County Board of Supervisor Meeting**

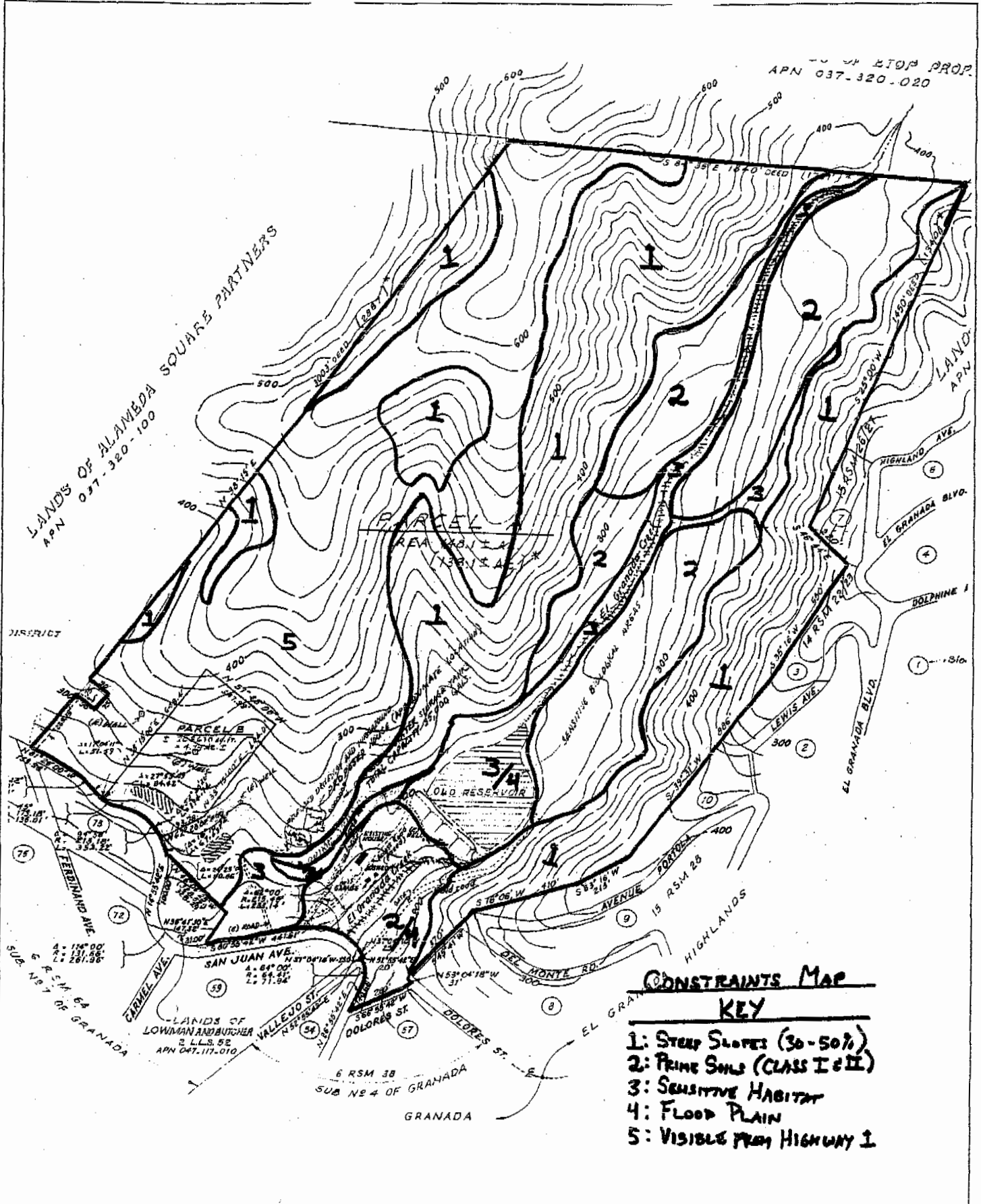
INT: Daniel and Denise Sterling

PLN 2000-00812

Attachment: **B**



Exhibit No. 2  
A-2-SMC-07-01 (Sterling)  
Site Location Map





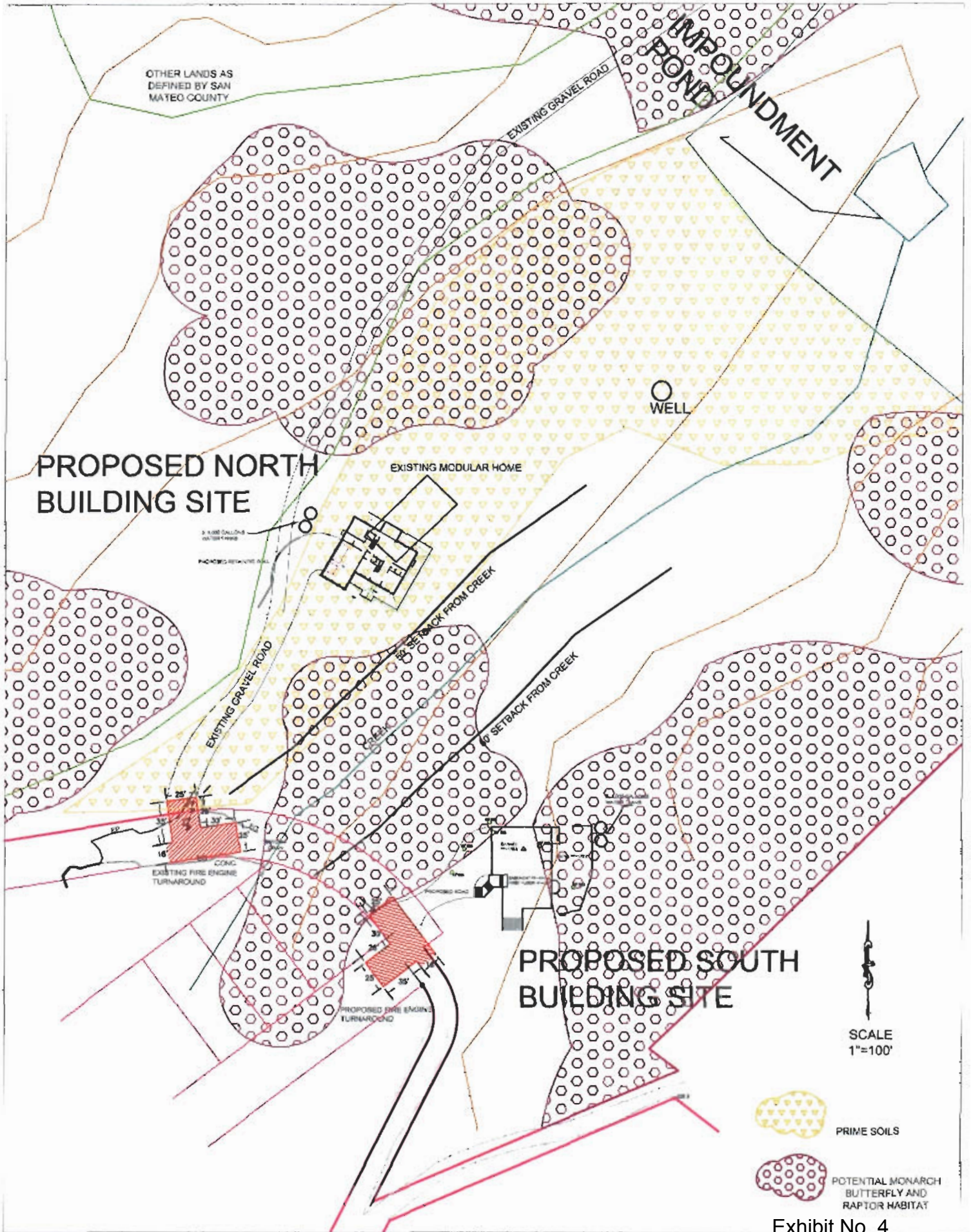


Exhibit No. 4  
 A-2-SMC-07-01 (Sterling)  
 Site Plan

12



# PLOT PLAN

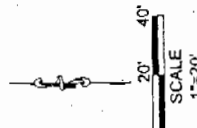
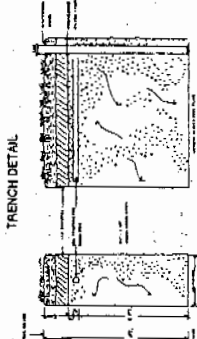
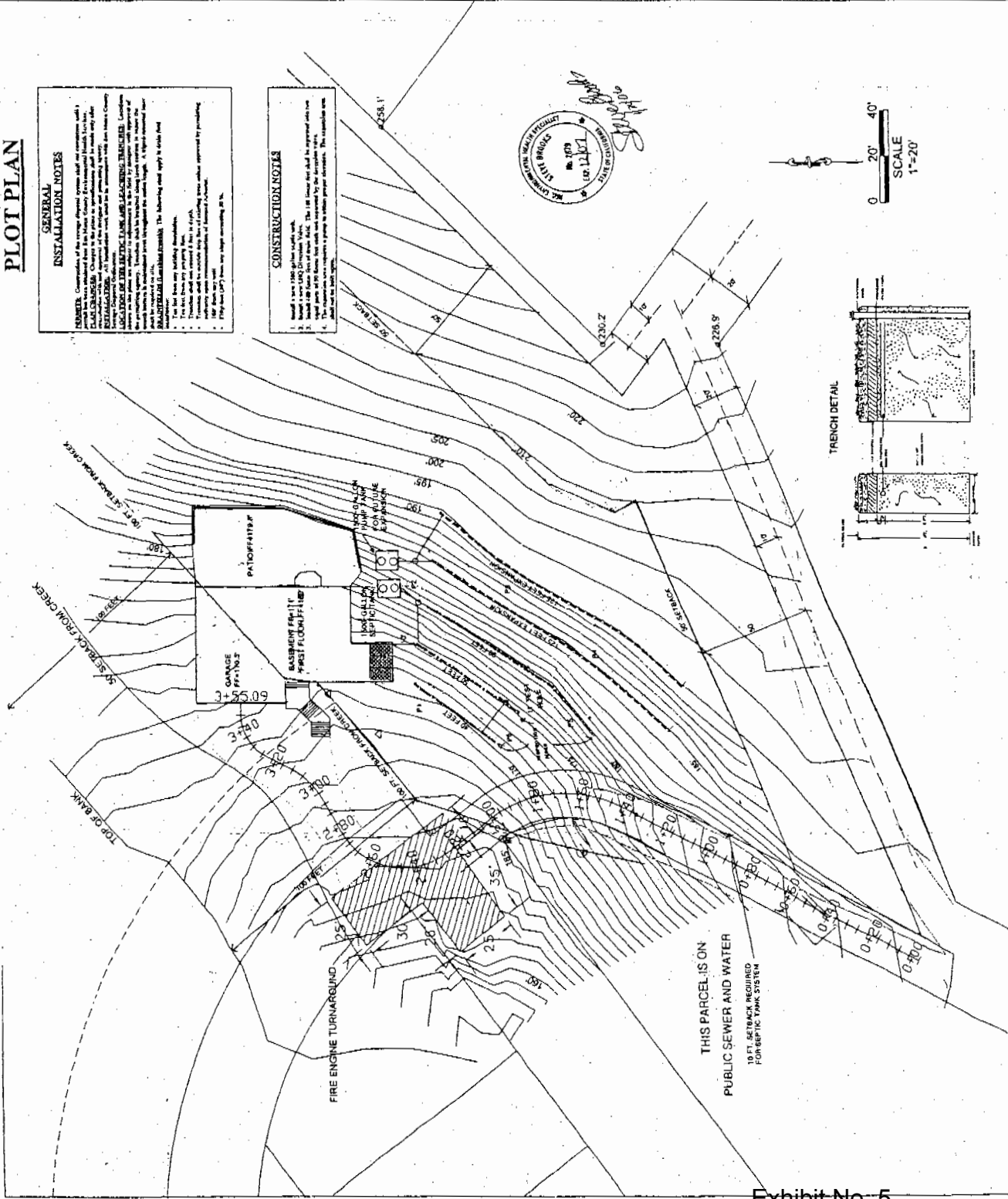
**GENERAL INSTALLATION NOTES**

OWNER: Client to be notified of any proposed changes to the plot plan. Changes to the plot plan shall be made in accordance with the following conditions:

- 1. All proposed changes shall be made in accordance with the following conditions:
- 2. All proposed changes shall be made in accordance with the following conditions:
- 3. All proposed changes shall be made in accordance with the following conditions:
- 4. All proposed changes shall be made in accordance with the following conditions:
- 5. All proposed changes shall be made in accordance with the following conditions:
- 6. All proposed changes shall be made in accordance with the following conditions:
- 7. All proposed changes shall be made in accordance with the following conditions:
- 8. All proposed changes shall be made in accordance with the following conditions:
- 9. All proposed changes shall be made in accordance with the following conditions:
- 10. All proposed changes shall be made in accordance with the following conditions:

**CONSTRUCTION NOTES**

1. All construction shall be in accordance with the following conditions:
2. All construction shall be in accordance with the following conditions:
3. All construction shall be in accordance with the following conditions:
4. All construction shall be in accordance with the following conditions:
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8. All construction shall be in accordance with the following conditions:
9. All construction shall be in accordance with the following conditions:
10. All construction shall be in accordance with the following conditions:



**PROPOSED CONSTRUCTION**

**SAN JUAN AVENUE**

**EL GRANADA, CALIFORNIA**

APN # 047-320-060

**LEGEND**

- ~ ~ ~ 1' contour
- ~ ~ ~ 2' contour

**GENERAL NOTES**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING CONDITIONS:
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING CONDITIONS:
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING CONDITIONS:
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**GENERAL NOTES**

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9. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING CONDITIONS:
10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING CONDITIONS:

**DATE:** 01-03-04

**PROJECTED BY:** CMC

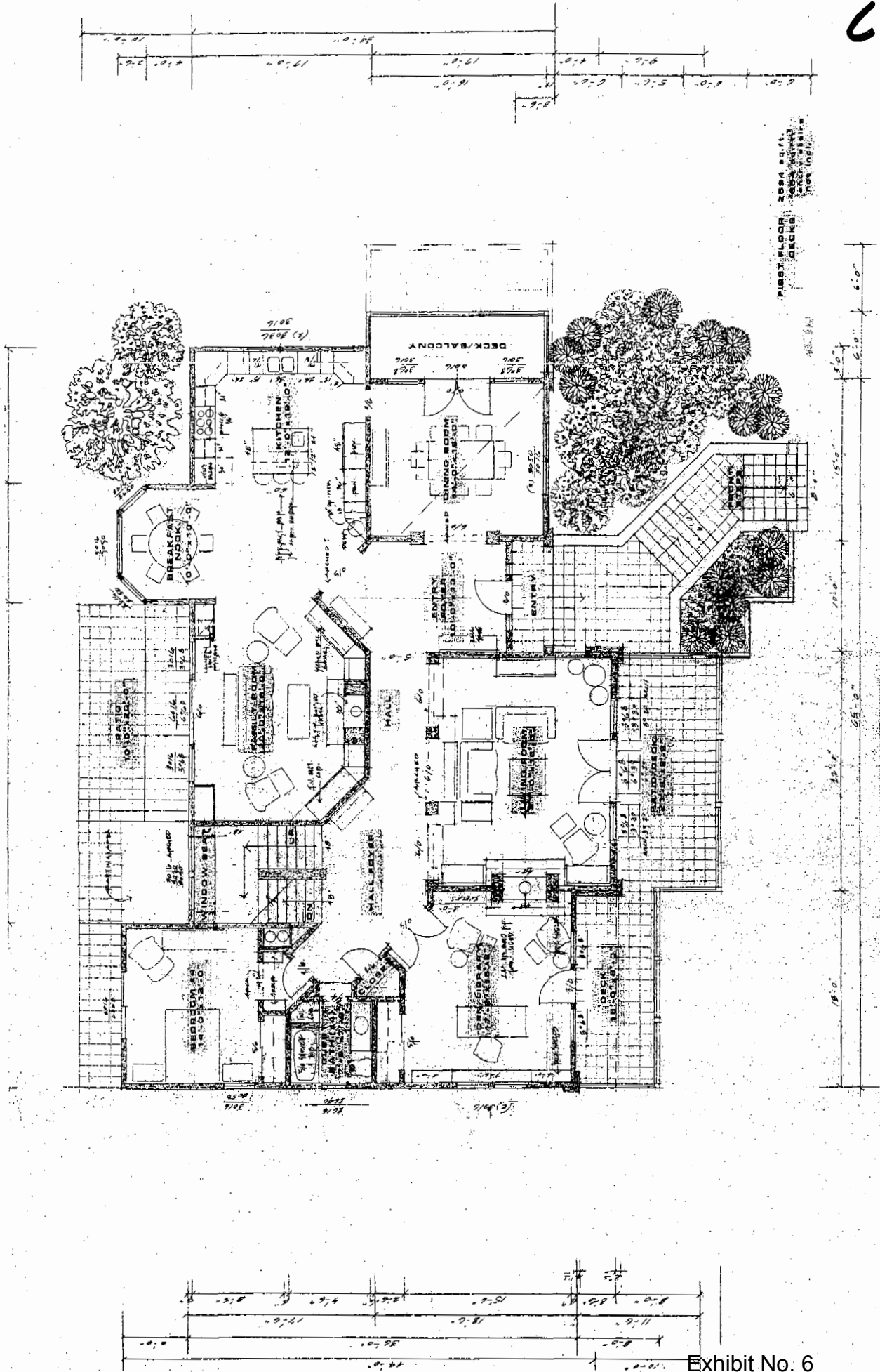
**DRAWN BY:** AZU

**CHECKED BY:** CMC

**SCALE:** 1"=20'

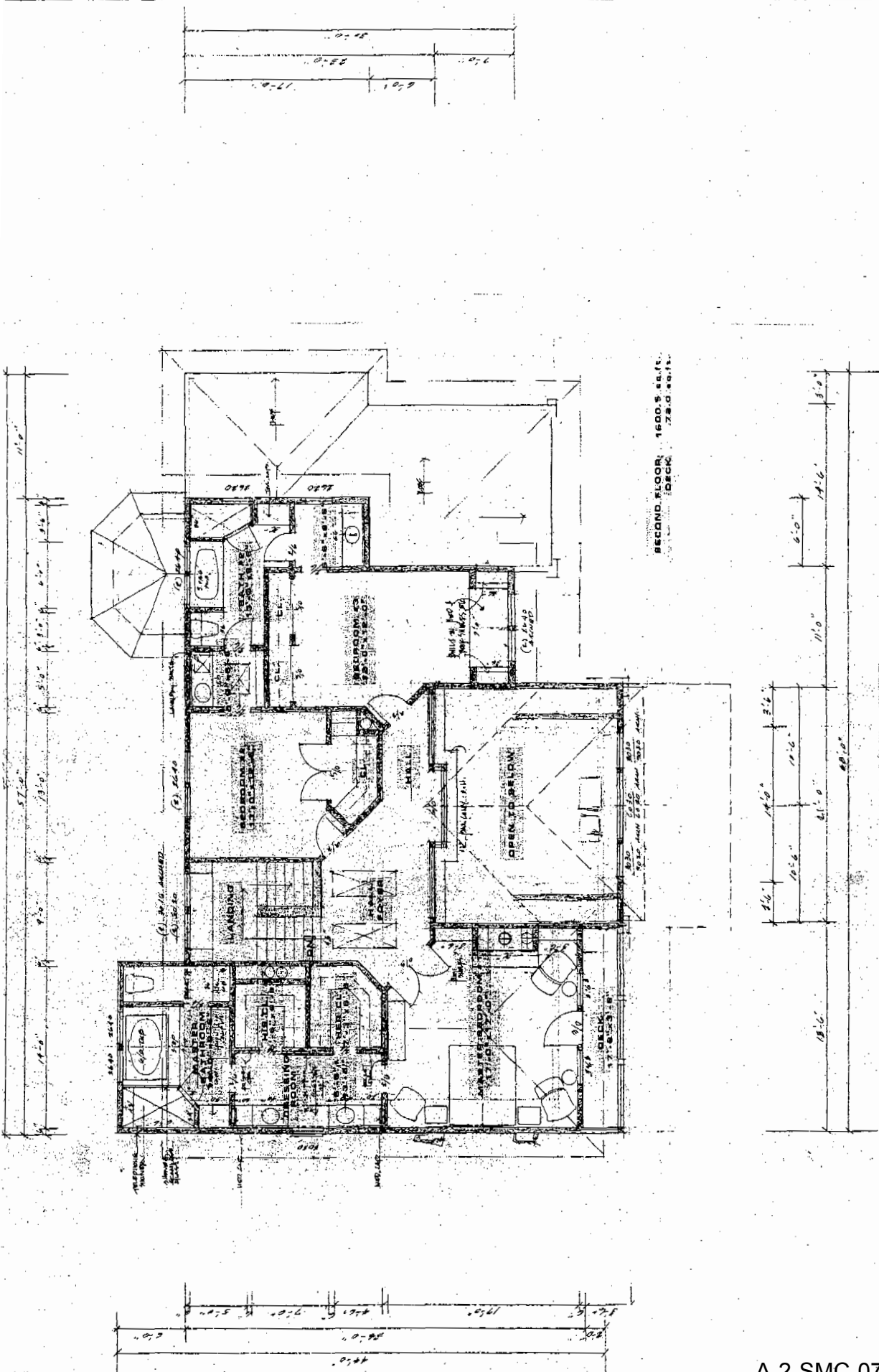
**SHEET:** SHE

6.



FIRST FLOOR PLAN

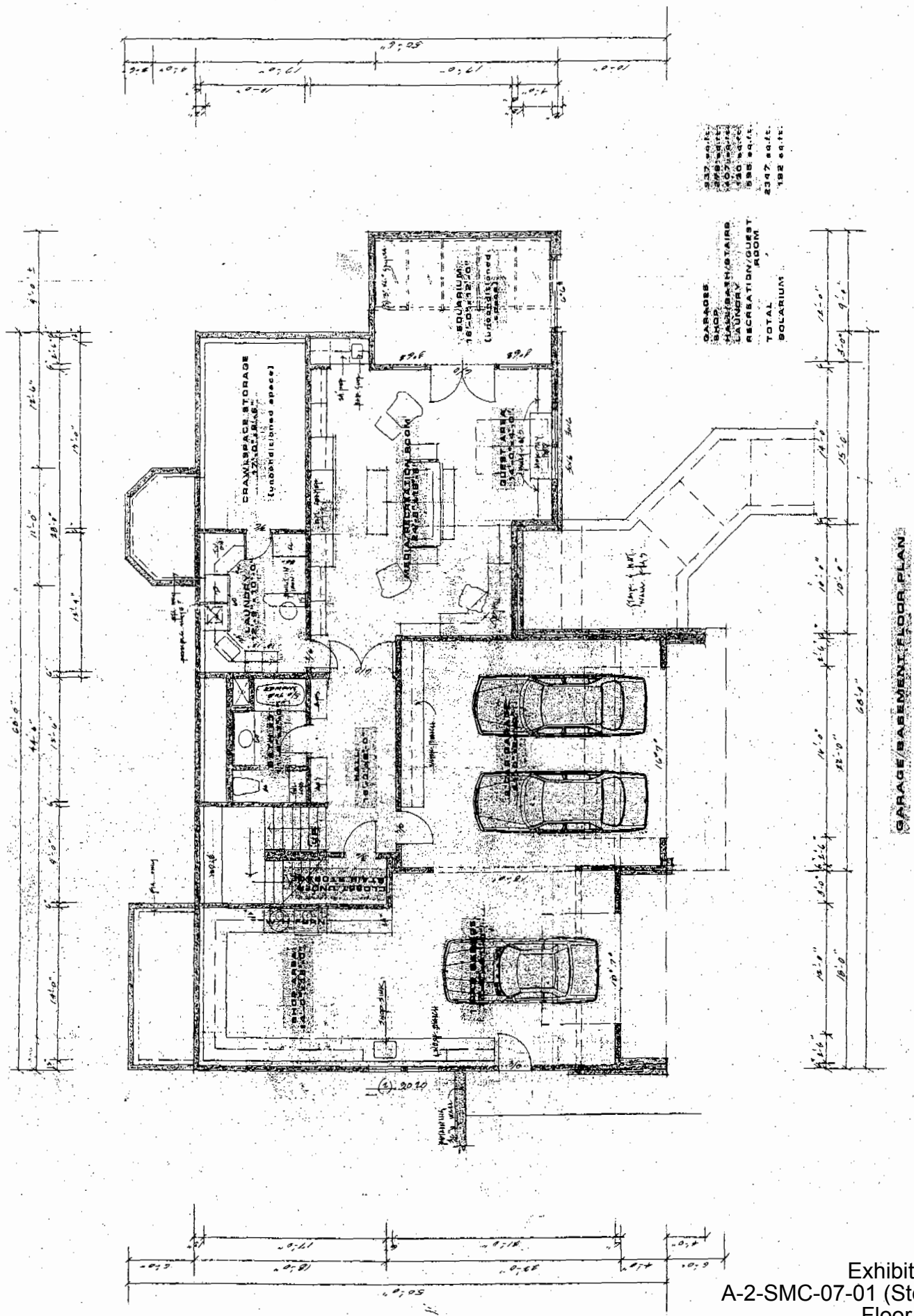
C.



SECOND FLOOR: 1600.5 sq.ft.  
 DECK: 728.0 sq.ft.

SECOND FLOOR PLAN

2.

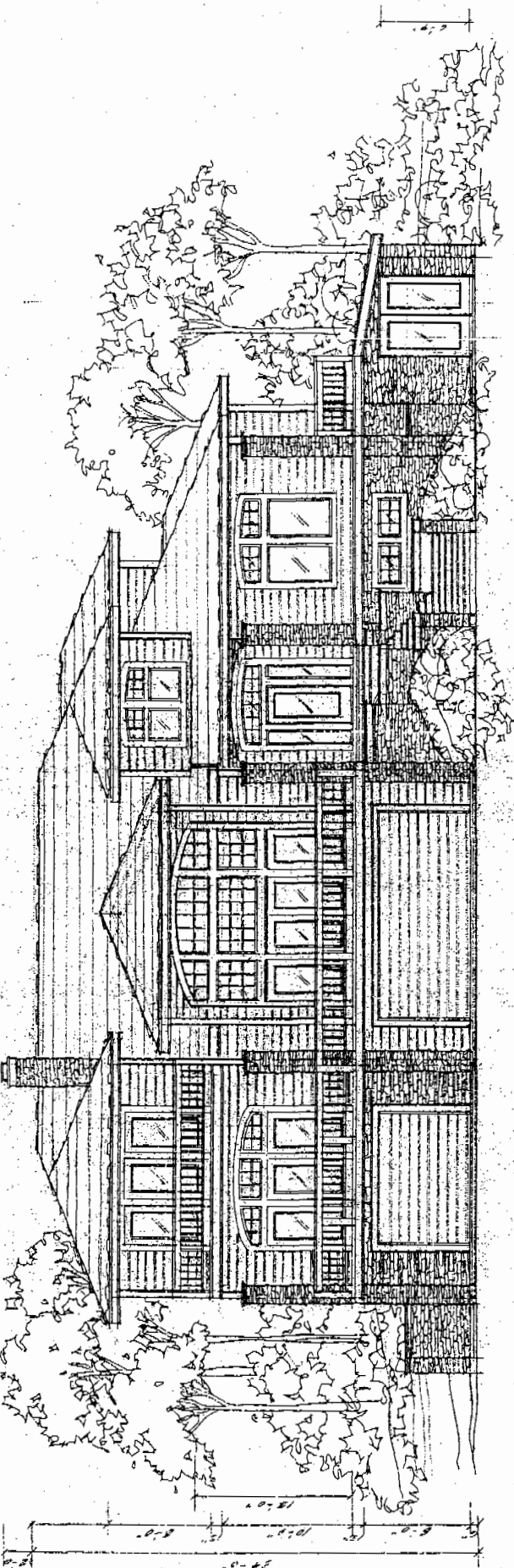


GARAGE	237 sq. ft.
SHOP	298 sq. ft.
HALLS/BATH/STAIRS	407 sq. ft.
LAUNDRY	120 sq. ft.
RECREATION/GUEST ROOM	588 sq. ft.
<b>TOTAL</b>	<b>2347 sq. ft.</b>
<b>SOLARIUM</b>	<b>182 sq. ft.</b>

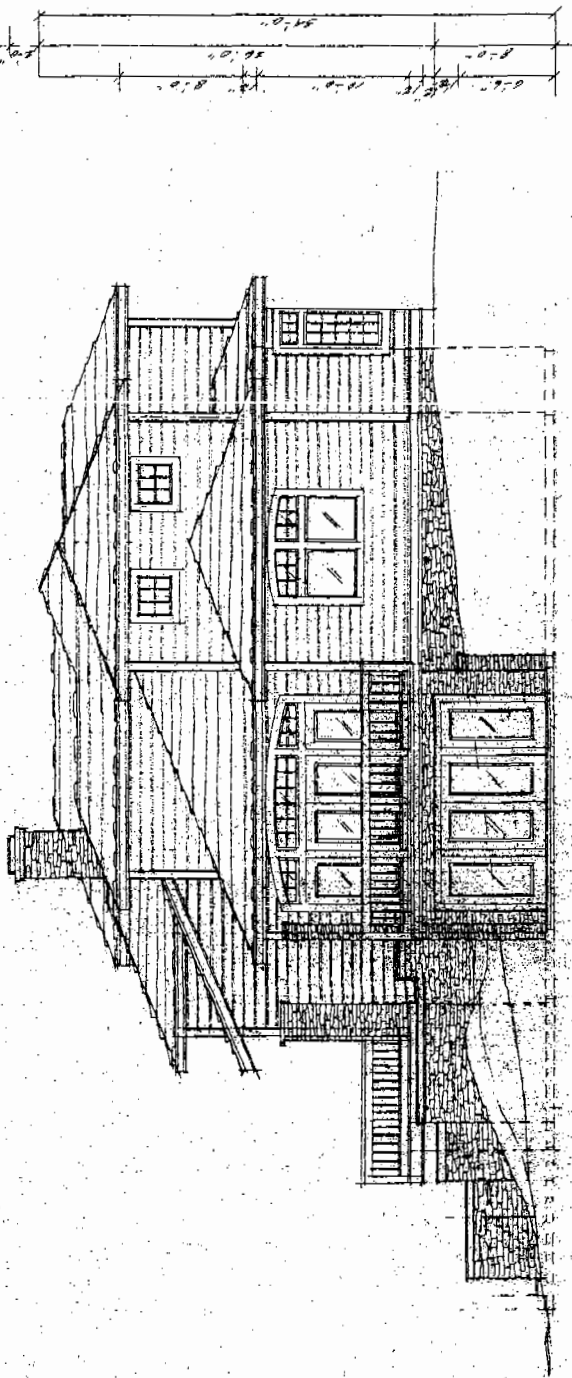
GARAGE	237 sq. ft.
SHOP	298 sq. ft.
HALLS/BATH/STAIRS	407 sq. ft.
LAUNDRY	120 sq. ft.
RECREATION/GUEST ROOM	588 sq. ft.
<b>TOTAL</b>	<b>2347 sq. ft.</b>
<b>SOLARIUM</b>	<b>182 sq. ft.</b>

GARAGE/BASEMENT FLOOR PLAN

6.



FRONT ELEVATION



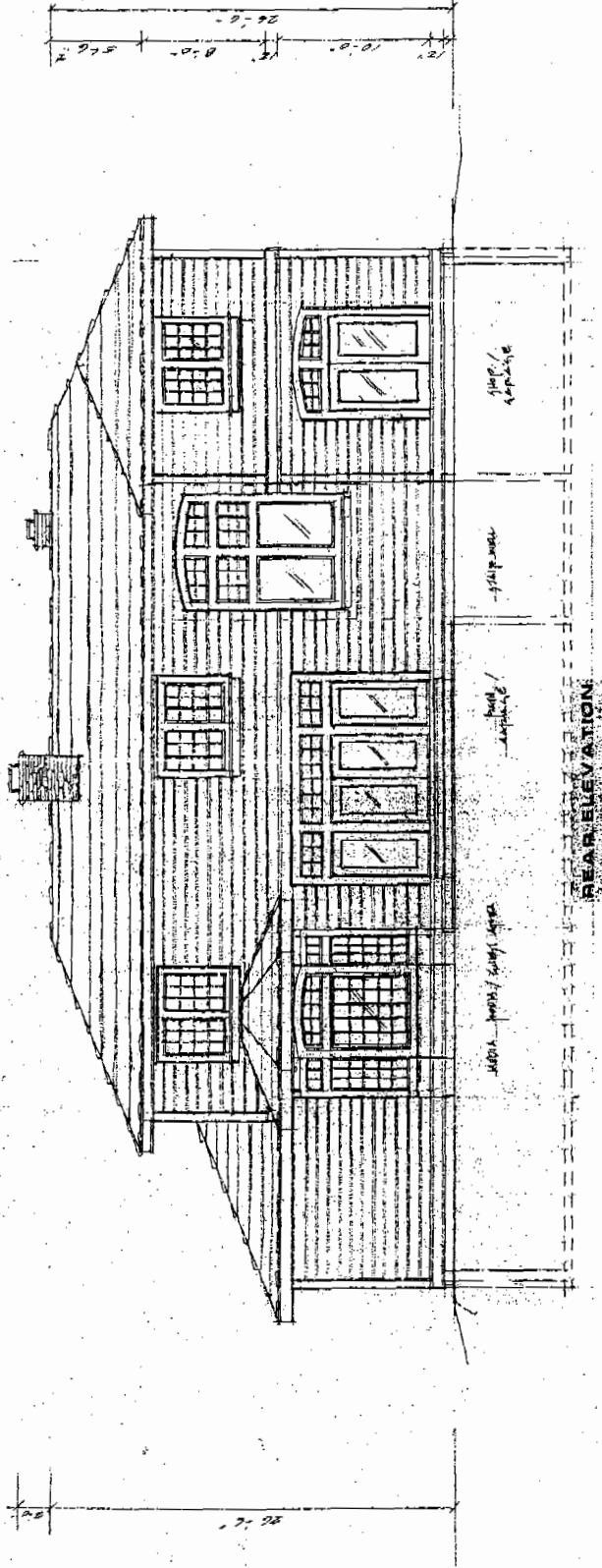
RIGHT SIDE ELEVATION

FIRST FLOOR	2836 sq. ft.
SECOND FLOOR	2047 sq. ft.
SUBTOTAL	4883 sq. ft.
GARAGE	2047 sq. ft.
STAIRWAY	683 sq. ft.
TOTAL	6830 sq. ft.
DECKS	432 sq. ft.
PORCHUM	182 sq. ft.

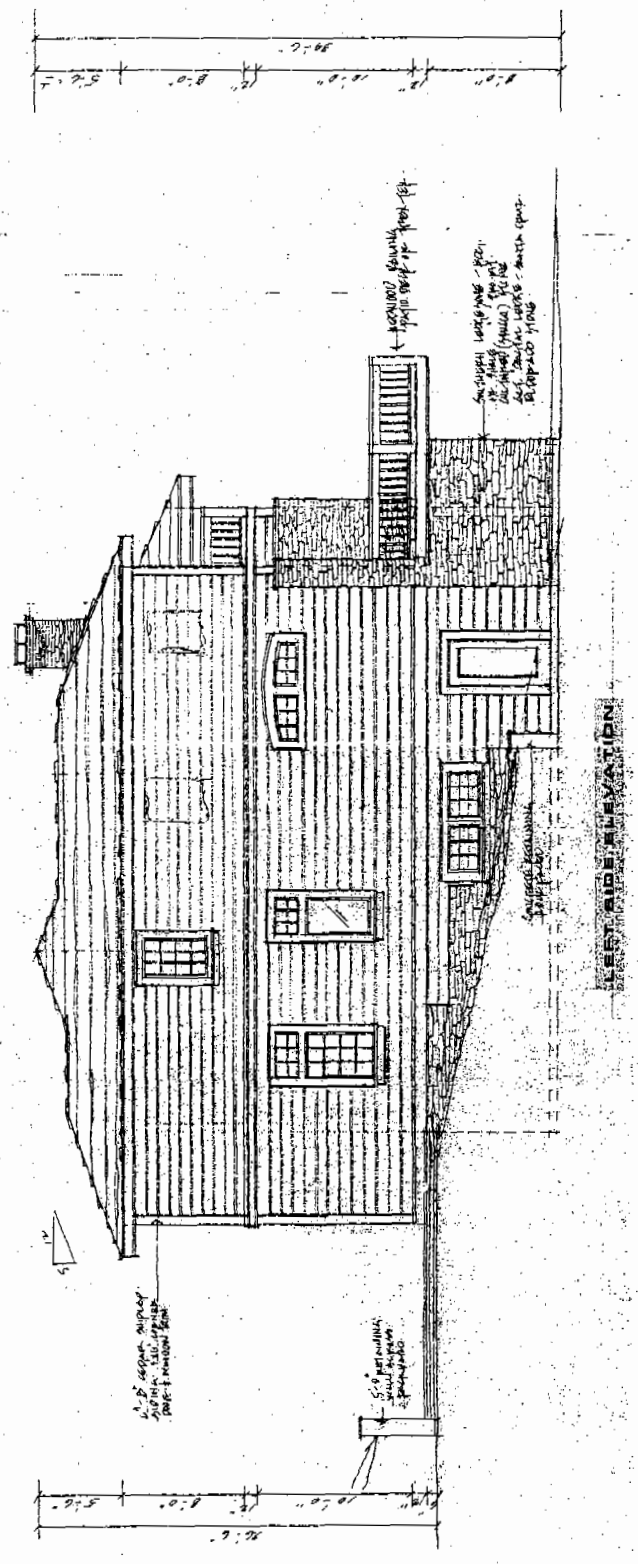
A-207-MC07-01 (Sterling)

Exhibit No. 7  
 Elevations  
 Page 1 of 2

7.



REAR ELEVATION



LEFT SIDE ELEVATION



### **Project Background:**

This planning application was originally filed in 2000 and included an application for a Minor Subdivision. Many revisions were made over the past several years. The 2009 Agricultural Land Management Plan is in response to the Coastal Commission appeal and issues raised in the March 2007 letter. The current application has two alternative locations for one proposed single-family residence, one on the south side of El Granada Creek and one alternative site on the north side of El Granada Creek. Neither site is within the historic or proposed grazing area for the cattle.

### **Site Description:**

This parcel is approximately 143 acres in size consisting mostly of steep slopes covered in shrubs. The vast majority of the property consists of non-prime soils. The grazing area is approximately 40 – 50 acres. A stock pond is located upland from the potential house sites and is utilized by the grazing cattle. The prime soils on the property are located on a narrow strip adjacent to portions of El Granada Creek. The existing mobile home was located on a small portion prime soils prior to ownership by the Sterling's. The south side of El Granada Creek consists of non-prime soils, but is a non-disturbed area requiring grading, tree removal, road development and utilities extensions. The alternative site on the north side of El Granada Creek would replace the existing mobile-home and require minimal site disturbance. Both sites are 50 feet from the riparian vegetation.

### **Existing Agricultural Operation:**

The parcel has historically been used for grazing. The Sterling family has maintained cattle grazing program on the property without overgrazing the upland area of the property and maintaining adequate setback from adjacent non-agricultural uses. The upland area of the property will remain available for the rotational grazing operation of approximately 10 head of cattle. The limited number of animals will ensure that the property is not overgrazed thereby maintaining natural habitat values and to avoid erosion of the steeper hillsides.

### **Proposed Agricultural Operation:**

The existing cattle grazing use will continue and be maintained on the upland portion of the property. Both potential house locations are in areas that have not been utilized for cattle grazing or cultivation. Either site will be not detrimental impact on agriculture since neither will involve areas of the existing cattle grazing operation. The majority of the property will remain unchanged and available for cattle grazing, the only change will be that the mobile-home will be removed and a single family residence will be constructed on either on the north or south side of El Granada Creek.

**McCracken & Byers LLP**

1920 LESLIE STREET  
SAN MATEO, CALIFORNIA 94403-1325  
TEL: (650) 377-4890  
FAX: (650) 377-4895

MICHAEL D. McCracken  
DAVID J. BYERS

TODD A. AANENSON

OF COUNSEL  
PATRICK M. K. RICHARDSON  
PARALEGAL  
JILL BRIGGS

October 17, 2008

**RECEIVED**

NOV 26 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Charles Lester, Senior Deputy Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2221

Re: APN : A-2-SMC-07-001, Dan and Denise Sterling

Dear Charles:

It was a pleasure to speak with you on November 20, 2008.

You stated in our telephone conversation that you were continuing to attempt to have this matter heard before the Coastal Commission at the February, 2009 hearing. You indicated that you had a new staff member, Tiffany Tauber, who would be working on this project. You also spoke of "approval with conditions". I trust those conditions do not prevent the actual development. I have indicated in the past that the Sterlings will certainly not agree to an agricultural easement since there is no subdivision of this property. As far as the Agricultural Land Management Plan - the one that the Coastal Commission has already received authored by Jack Olsen, the San Mateo County Farm Bureau Director, more than adequately meets the requirements of the Local Coastal Program.

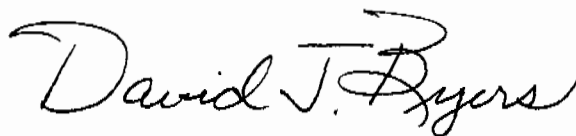
My clients Dan and Denise Sterling are simply attempting to build a house for them and their four children. There is no increase in the development on the site. Quite frankly, given that the proposed new house will go in the footprint of the existing manufactured house, it is difficult to see how any significant environmental effects on any protected Coastal resource could even occur.



I look forward to hearing from you that the staff is recommending the approval of this project to the Coastal Commission at the February hearing. If there are any significant condition issues, I request that you address them directly to me as soon as possible so that we can get them resolved.

Sincerely,

McCRACKEN & BYERS LLP

A handwritten signature in black ink that reads "David J. Byers". The signature is written in a cursive style with a large, stylized initial "D".

DAVID J. BYERS, ESQ.

DJB/jb

cc: Hope Alissa Schmeltzer, Esq., Chief Counsel - California Coastal Commission  
Dan & Denise Sterling  
Kerry Burke

**McCRACKEN & BYERS LLP**

1920 LESLIE STREET  
SAN MATEO, CALIFORNIA 94403-1325  
TEL: (650) 377-4890  
FAX: (650) 377-4895

**RECEIVED**

**DEC 31 2008**

CALIFORNIA  
COASTAL COMMISSION

OF COUNSEL  
**PATRICK M. K. RICHARDSON**

PARALEGAL  
**JILL BRIGGS**

**MICHAEL D. McCRACKEN**  
**DAVID J. BYERS**

**TODD A. AANENSON**

December 30, 2008

Charles Lester, Senior Deputy Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2221

Re: APN : A-2-SMC-07-001, Dan and Denise Sterling

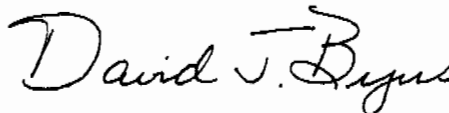
Dear Charles:

As you will recall, I threatened to sue the California Coastal Commission for its failure to place my clients', the Sterlings, matter before the Coastal Commission. You had stated in response that you would try to get this matter heard at the February 2009 hearing before the California Coastal Commission and indicated at least initially that there would be a positive staff report.

I am writing to inform you that I do have a significant law and motion matter on February 6, 2009, so if this matter is going to be heard in Orange County, I would appreciate it being scheduled on Wednesday, February 4<sup>th</sup> or Thursday, February 5<sup>th</sup>. I still look forward to hearing that this matter has been calendared for a hearing in February and also that the staff is recommending approval of the house. As you know, my client are simply trying to build a single family house for themselves and their 4 children, and this matter as been delayed unconscionably long.

Sincerely,

McCRACKEN & BYERS LLP



DAVID J. BYERS, ESQ.

DJB/jb

cc: Dan & Denise Sterling  
Kerry Burke

Kerry L. Burke  
650-726-1738 / BurkeLandUse@gmail.com

Ruby Pap  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94010

January 15, 2009

**Subject: Coastal Commission Appeal # A-2-SMC-07-001**

Dear Ms. Pap,

There were a few items of clarification regarding the Sterling project per a conversation yesterday afternoon with Tiffany of your staff. Listed below are the responses to each question. If there is any additional information required for your review please contact Dan Sterling or me at your earliest convenience.

**House location –**

The proposed location is the south side of El Granada Creek with an alternative site on the north site of El Granada Creek.

The alternative site was developed per a request of CCC staff, and is acceptable to the Sterling's since it would retain the south site in an undisturbed, natural state and would not require additional grading or utilities extensions to that area.

Either house site would be acceptable to the Sterling's.

**2009 Agricultural Land Management Plan**

The attached Agricultural Land Management Plan reflects the on-going cattle grazing operation. Neither house site is within the historic or proposed grazing area. The level of agricultural use on the property will remain unchanged with the completion of a single family home on either site.

**Existing mobile-home removal**

The existing mobile-home on the north side of El Granada Creek will be removed as a condition of occupancy for the south site, per San Mateo County.

If the north site is approved, it would be removed upon issuance of the building permit and not replaced. In either case the mobile-home will be removed from the site.

**House size**

The County approved house plans for the south site is for 6,456 square feet.

The property owner developed alternative plans for the north site for a house

The north site house is of an equivalent size.

The Sterling's and I appreciate all the recent efforts to get this item to hearing. Please send us a staff report as soon as it is available. Thank you very much.

Sincerely,

Kerry Burke

Cc: Dr. Charles Lester, CCC  
Dan and Denise Sterling  
David Byers

Exhibit No. 9  
A-2-SMC-07-01 (Sterling)  
Applicant Correspondence  
Page 4 of 8

**McCracken & Byers LLP**

1920 LESLIE STREET  
SAN MATEO, CALIFORNIA 94403-1325  
TEL: (650) 377-4890  
FAX: (650) 377-4895

**MICHAEL D. McCracken**  
**DAVID J. BYERS**

**TODD A. AANENSON**

OF COUNSEL  
**PATRICK M. K. RICHARDSON**  
PARALEGAL  
**JILL BRIGGS**

October 17, 2008

**RECEIVED**

NOV 26 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Charles Lester, Senior Deputy Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2221

Re: APN : A-2-SMC-07-001, Dan and Denise Sterling

Dear Charles:

It was a pleasure to speak with you on November 20, 2008.

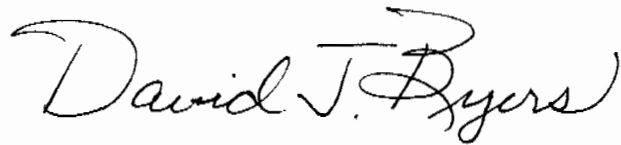
You stated in our telephone conversation that you were continuing to attempt to have this matter heard before the Coastal Commission at the February, 2009 hearing. You indicated that you had a new staff member, Tiffany Tauber, who would be working on this project. You also spoke of "approval with conditions". I trust those conditions do not prevent the actual development. I have indicated in the past that the Sterlings will certainly not agree to an agricultural easement since there is no subdivision of this property. As far as the Agricultural Land Management Plan - the one that the Coastal Commission has already received authored by Jack Olsen, the San Mateo County Farm Bureau Director, more than adequately meets the requirements of the Local Coastal Program.

My clients Dan and Denise Sterling are simply attempting to build a house for them and their four children. There is no increase in the development on the site. Quite frankly, given that the proposed new house will go in the footprint of the existing manufactured house, it is difficult to see how any significant environmental effects on any protected Coastal resource could even occur.

I look forward to hearing from you that the staff is recommending the approval of this project to the Coastal Commission at the February hearing. If there are any significant condition issues, I request that you address them directly to me as soon as possible so that we can get them resolved.

Sincerely,

McCRACKEN & BYERS LLP

A handwritten signature in black ink that reads "David J. Byers". The signature is written in a cursive style with a large, sweeping initial "D".

DAVID J. BYERS, ESQ.

DJB/jb

cc: Hope Alissa Schmeltzer, Esq., Chief Counsel - California Coastal Commission  
Dan & Denise Sterling  
Kerry Burke

Ruby - No.  
Central

**McCracken & Byers LLP**

1920 LESLIE STREET  
SAN MATEO, CALIFORNIA 94403-1325  
TEL: (650) 377-4890  
FAX: (650) 377-4895

**MICHAEL D. McCracken**  
**DAVID J. BYERS**

**TODD A. AANENSON**

OF COUNSEL  
**PATRICK M. K. RICHARDSON**  
PARALEGAL  
**JILL BRIGGS**

October 17, 2008

**RECEIVED**

NOV 04 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Mr. Peter Douglas  
Executive Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2221

**Re: APN : A-2-SMC-07-001, Dan and Denise Sterling**

Dear Peter:

For almost ten years now, Dan and Denise Sterling have attempted to secure permits to build a single house on the 142 acre parcel they own in San Mateo County. This home for them and their four children would replace an existing manufactured home on the site. I did not initially represent the Sterlings. I began representing them in 2006 and was able to secure a coastal development permit from the County of San Mateo to build their house. This matter was then appealed to the Coastal Commission by two Coastal Commissioners. On February 15, 2007 the Coastal Commission conducted a substantial issue hearing without allowing myself or my clients to speak after all seven of us flew to San Diego. The Coastal Commission found that there was a substantial issue.

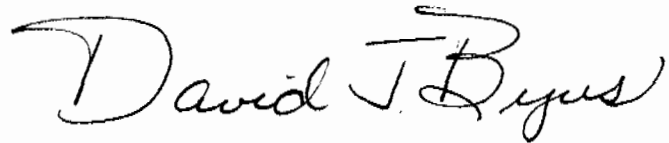
It is now October of 2008. My clients have submitted significant information to Ruby Pap to meet all of her requests. Information was submitted on October 26, 2007, May 29, 2008, and finally on September 10, 2008. Apparently, my clients' matter will not be in placed on the Commission's calendar because the Sterlings will not agree to an Agricultural Easement on the site. An Agricultural Easement is only required in the case of a subdivision under the County of San Mateo's Local Coastal Program § 5.16. The Sterlings are only proposing to replace a manufactured house where they live with their four children with a new house.

They will not agree to the imposition of this illegal condition. If the Coastal Commission is going to deny the Sterlings the right to build a single home on their 142 acres because they won't agree to an illegal condition, let the denial occur. Therefore, please schedule this matter

for hearing before the Coastal Commission in 2008. If I do not receive assurances from you within the next ten days, that it will be scheduled for a hearing in 2008, I will file an action under Code of Civil Procedure §1085 to mandate a hearing by the Coastal Commission.

Sincerely,

McCRACKEN & BYERS LLP

A handwritten signature in black ink that reads "David J. Byers". The signature is written in a cursive, flowing style.

DAVID J. BYERS, ESQ.

cc:

Hope Alissa Schmeltzer, Esq.  
Chief Counsel  
California Coastal Commission

Dan & Denise Sterling

Kerry Burke

DJB/mlam



Sigma Prime Geosciences, Inc.

October 8, 2007

Ruby Pap  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

re: Responses to Comments. File No. A-2-SMC-07-001; Sterling Property, San Juan Avenue, El Granada, California.

Dear Ms. Pap:

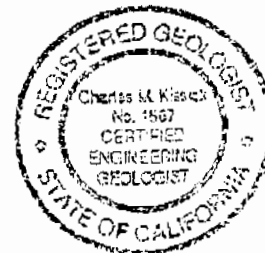
This letter is in response to Comment 7 in your letter dated March 15, 2006, in which you cite LCP Policy 9.10, which states that geologic hazards must be addressed. The LCP Hazard map that identifies the area as having a potential for shallow landslides is on a large scale and is meant to bring the possibility to the engineering geologist's attention. During our site visits we have evaluated the nearby hillsides and do not see landsliding as a potential hazard at either house site. There is no evidence of slope instability in the area. A geotechnical study will be performed when the final house site is selected, and we will address slope issues at that time, and will find that there is no hazard and no mitigation measures are required.

If you have any questions or further comments regarding the contents of this letter, please do not hesitate to call us at (650) 728-3590.

Yours,  
Sigma Prime Geosciences, Inc.

Charles Kissick, P.E., C.E.G.

cc: Dan Sterling  
Kerry Burke







Natural Resources Conservation Service  
625 Miramontes Street, Suite 103  
Half Moon Bay, CA 94019  
Phone (650) 726-4660  
Fax (650) 726-0494

**Helping People Help the Land**

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September 5, 2007

Ruby Pap  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

RE: Agricultural Viability Associated with Sterling Property, 320 San Juan Avenue, El Granada, San Mateo County, CA (Appeal No. A-2-SMC-07-001)

Dear Ruby,

I have been familiar with the Sterling property since August 23, 2005, when I assisted my predecessor, Rich Casale, in providing on-site technical assistance to Mr. Sterling. I visited the property a second time on August 2, 2007. I've also been following Appeal No. A-2-SMC-07-001 related to Mr. Sterling's property, as a non-voting member of the Agricultural Advisory Committee. I would like to provide the following input regarding Mr. Sterling's agricultural operation in hopes that it will assist you in your administration of this appeal.

Given the site conditions of the Sterling property (i.e. topography, soils, and hydrology) Mr. Sterling's current agricultural operation (rotational cattle grazing) is, in my assessment, responsible and appropriate use of the land. The small, narrow area of tillable land adjacent to the creek is likely too small to support a commercial cropping system. The cost of developing, operating, and maintaining irrigation infrastructure, and developing access to grow crops on small patches of ground makes crop production an infeasible activity on this parcel.

Neither proposed home site (north or south) would impede existing and proposed agricultural operations. However, from a general natural resource impacts perspective, replacement of the mobile home with a residence at the same site (north) appears to be the least detrimental alternative. The north site alternative would replace the existing mobile home on an area that has already been developed, and would involve no significant land clearing or excavation, nor conversion of existing resource uses.



Natural Resources Conservation Service  
625 Miramontes Street, Suite 103  
Half Moon Bay, CA 94019  
Phone (650) 726-4660  
Fax (650) 726-0494

Helping People Help the Land

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For additional information regarding Prime Farmland and on-site soils verification, please refer to my predecessor's enclosed letter. If you have any questions pertaining to this matter please do not hesitate to call.

The USDA is an equal opportunity provider and employer.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Howard".

Jim Howard  
District Conservationist

CC: Dan Sterling  
Rich Casale

Enclosure: Letter, Richard Casale, 8/25/2005



Natural Resources Conservation Service  
California State Office  
820 Bay Avenue, Suite 128  
Capitola, CA 95010  
(831) 475-1967  
(831) 475-3215 (Fax)

America's Conservation Agency

August 25, 2005

Dan Sterling  
P.O. Box 2795  
El Granada, California 94018

Dear Dan:

As a follow-up to my August 23, 2005 on-site visit to the property you own at 320 San Juan Avenue in El Granada, CA, I am happy to provide you with the following report. *Note: Jim Howard, District Conservationist, Half Moon Bay, was also present during this on-site visit.*

#### **NATURE OF REQUEST**

The property owner requested Natural Resources Conservation Service (NRCS) assistance to provide the USDA farmland designation for a proposed building site on the property. According to the landowner the site has already been determined by the County to be "Prime Agricultural Land" or "Prime Soils".

#### **SOILS INFORMATION**

The following soil is mapped in the proposed building site on the property: Denison loam (DmB), according to the San Mateo Area Soil Survey published by the USDA Natural Resources Conservation Service (formally the Soil Conservation Service), 1954. *Note: A soil sample was taken on site to a depth of 54" to verify the mapped soil type. The soil sample a deep, well drained, black soil and closely compared to the description of the Denison soil type in the Soil Survey. If the soil was something other than Denison loam, then the soil and landscape position of the site still had attributes of a Class II soil. No laboratory analysis was conducted on the sample taken.*

*Note: Soil Mapping done in San Mateo County was done utilizing a combination of field observations and aerial/topographic surveys. Although thousands of soil samples were taken and analyzed to determine exact soil types in the survey area, samples were not taken in every soil map delineation. Soils mapped in agricultural areas are likely to be more accurate than ones mapped in mountainous or developed areas. Areas less than about ten acres in size were mapped as the predominant soil type found in that ten acre area. The Soil Survey narrative does list other associated soils that might also be found in the mapped area. It is also possible that other unlisted soils may be present as well.*

*It is important to keep in mind that slope ranges for each soil mapping unit do not consider nearly level areas two or three acres in size. In addition, soil boundary lines on the small scale soil maps can be as much as 50 ft wide in the field and therefore, should be considered a zone rather than a line on the land.*

### **IMPORTANT FARMLAND INFORMATION**

According to the current criteria used by the United States Department of Agriculture (USDA) to classify Important Farmland, and the 2002 California Department of Conservation (DOC) Important Farmland Inventory (that used the USDA criteria), the entire Sterling property was mapped as either "Urban and Built up Lands" or "Other Lands" (lands which did not meet the criteria of "Important Farmland"), including all areas mapped as DmB. One of the proposed building sites mapped as DmB and designated as "Prime Agricultural Land" by the County is currently an open grassy field with a mobile home.

*Note: The Important Farmland Inventory Map was never intended to be used to make important land use decisions. Although much of the area designated as Important Farmland in San Mateo County was field verified by DOC and/or local agricultural agencies including NRCS some portions of the area were never field verified. Unverified areas were mapped according to the mapped soil information, present or historic use and from aerial photographs. If you would like to know more about the Farmland Mapping and Monitoring Program then you may want to contact the Department of Conservation in Sacramento (916-324-0850). The maps are updated every two years by the Department with local input from NRCS and other agricultural specialists.*

Many counties, such as San Mateo County, use NRCS's Land Capability Classification in combination with the Storie Index Rating in determining lands that should be protected from development or other non agricultural uses. Typically, Class I and II soils are considered to be "Prime Farmland" soils, and/or when Storie Index Ratings are 80 and above. It is important to note that NRCS no longer uses the Storie Index Rating or the Land Capability Classification system exclusively when determining Important Farmland designations. Under the current system used by USDA to determine Important Farmland categories Class III soils can actually be considered "Prime Farmland" if all "Prime Farmland" criteria is met regardless of the Storie Index Rating. Similarly, Class III soil that does not meet all the "Prime" criteria can be considered a soil of "Statewide Importance" if certain crops are grown and it meets "Statewide Importance" soil criteria.

The only soil on the property that has Storie Index Rating above 80 and Land Capability Class of I or II is Denison loam (mapping unit DmB) which has not been in agricultural use, if at all, in several decades. The Storie Index Rating is 81 and the Land Capability Class is Class II (2) for this soil.

## NRCS DETERMINATION

The narrow strip of land mapped as Denison loam (DmB) on the Sterling property, determined by the County to be "Prime Agricultural Land"/"Prime Soil", that is under consideration for use a potential building site does not meet the criteria of "Prime Farmland" used by the United States Department of Agriculture, Natural Resources Conservation Service, however, the site would meet the criteria for either "Unique Farmland" or "Lands of Statewide Importance" if these soils are used for the production of crops in the future. *Note: In order to be considered "Prime Farmland" by USDA the site must have a developed and reliable source of irrigation water. All the wells on the property produce 5 +/- gallons per minute, according to the landowner, an amount well below what is needed to produce a successful crop.*

Denison loam (DmB), although not considered nor mapped as "Prime Farmland" on the Sterling property, for the reasons stated above, does meet the USDA requirement to be determined "Prime Soil", regardless of the irrigation requirement. *Note: This soil type is mapped as "Prime Farmland" in other parts of the County where there is a dependable source of irrigation water and where crops are grown.*

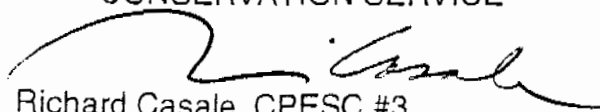
The major limitation of this site for agricultural use is water supply, however, there is not an irrigation water supply requirement for the site to be determined "Unique Farmland" or "Lands of Statewide Importance".

The Natural Resources Conservation Service is a federal, non-regulatory agency under the United States Department of Agriculture. Technical assistance is provided, free of charge, through a mutual agreement with the San Mateo County Resource Conservation District (RCD). NRCS services are provided without discrimination. NRCS is an equal opportunity employer and provider.

If you should have any questions regarding my field visit or any information contained in this report please do not hesitate to contact me. I have included an additional copy of the report for your use. If you should ever need the soil and water conservation services of our agency in the future please call on us.

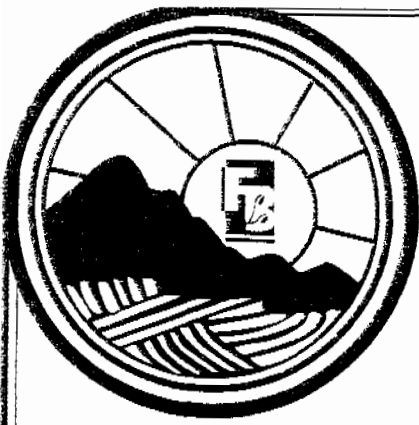
Sincerely,

USDA NATURAL RESOURCES  
CONSERVATION SERVICE



Richard Casale, CPESC #3  
District Conservationist

cc: Jim Howard, District Conservationist, NRCS, Half Moon Bay



# SAN MATEO COUNTY FARM BUREAU

765 MAIN STREET

HALF MOON BAY, CALIFORNIA 94019

PHONE (650) 726-4485

October 2, 2007

Ruby Pap  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco. CA 94105-2219

RE: Sterling project: San Juan, El Granada – Appeal No. A-2-SMC-07-001  
Agricultural feasibility of subject property

Dear Ms. Pap,

I have been aware of this project for several years while it was being processed in San Mateo County. This project has been revised from a minor subdivision to create 4 lots to the current application to replace the existing mobile home with a permanent home for the Sterling family.

The current proposal for one home on 142 acres was reviewed by and approved by the San Mateo County Agricultural Advisory Committee per the requirements of the certified Local Coastal Program. This Committee was established to provide technical input from the farming community on projects related to agriculture on the San Mateo County coastside. The charge of this Committee is to assist in the achievement to “preserve and foster existing and potential agricultural operations and to minimize conflicts between agricultural and non-agricultural land uses. This Committee reviewed the revised Sterling project and the Agricultural Land Management Plan. The San Mateo County Agricultural Advisory Committee endorsed this project and the on-going grazing operation.

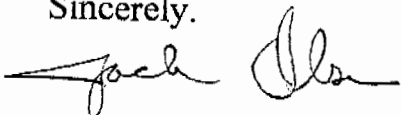
The Agricultural Advisory Committee recommendation to approve this project was upheld by the San Mateo County Board of Supervisors. The Committee’s review and recommendation dealt with all the appropriate agricultural policies and zoning requirement that deal with agricultural viability and conversion issues.

In response to your letter dated March 15, 2007, item # 6, my experience with San Mateo agriculture and knowledge of the project allows me to provide the following response to your concerns:

- 1) The project proposal of one replacement home will not diminish or impact existing for potential adjacent agricultural activity.
- 2) There is adequate water for the proposed residence and the on-going agricultural use given that the same intensity of use is proposed.
- 3) To my knowledge there was never any use of the small portion of prime soils on the site. The limited amount of soils that are in small pockets of land adjacent to the creek, the lack of adequate access and necessary farming infrastructure has not been pursued by others in the past for agricultural purposes and does not appear to meet the definition of "Feasible".
- 4) The current proposal for either the north or south home site has not been utilized for agriculture use. The Agricultural Advisory Committee endorsed replacement of the mobile home with a permanent home.
- 5) The required Agricultural Land Management Plan specifies how the land will continue to be grazed. Of course, if drought or other conditions change it may be difficult to forecast a permanent use of the parcel that will allow for the coexistence of agriculture and environmental stewardship.

In closing, the SMCFB Board of Directors authorized me to send this letter on their behalf. I respectfully submit that this project has been downsized to address the communities concerns and will not result in any change to the existing agricultural use or activity.

Sincerely,



Jack Olsen, Executive Administrator

## **AGRICULTURE COMPONENT**

The County will:

### **OPEN FIELD AGRICULTURE**

#### **\*5.1 Definition of Prime Agricultural Lands**

Define prime agricultural lands as:

- a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.
- b. All land which qualifies for rating 80-100 in the Storie Index Rating.
- c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.
- d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre.
- e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

#### **\*5.2 Designation of Prime Agricultural Lands**

Designate any parcel which contains prime agricultural lands as Agriculture on the Local Coastal Program Land Use Plan Map, subject to the following exceptions: State Park lands existing as of the date of Local Coastal Program certification, urban areas, rural service centers, and solid waste disposal sites necessary for the health, safety, and welfare of the County.



**\*5.3 Definition of Lands Suitable for Agriculture**

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

**\*5.4 Designation of Lands Suitable for Agriculture**

Designate any parcel, which contains other lands suitable for agriculture, as Agriculture on the Local Coastal Program Land Use Plan Maps, subject to the following exceptions: urban areas, rural service centers, State Park lands existing as of the date of Land Use Plan certification, and solid waste disposal sites necessary for the health, safety and welfare of the County.

**\*5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture**

- a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.
- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

**\*5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture**

- a. Permit agricultural and agriculturally related development on land suitable for agriculture. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump

houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.

- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, packaging and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

**\*5.7 Division of Prime Agricultural Land Designated as Agriculture**

- a. Prohibit the division of parcels consisting entirely of prime agricultural land.
- b. Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity would not be reduced.
- c. Prohibit the creation of new parcels whose only building site would be on prime agricultural land.

**\*5.8 Conversion of Prime Agricultural Land Designated as Agriculture**

- a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated:
  - (1) That no alternative site exists for the use,
  - (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses,
  - (3) The productivity of any adjacent agricultural land will not be diminished, and

- (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.
- b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency:
  - (1) To execute a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture, and
  - (2) Whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

\*5.9 Division of Land Suitable for Agriculture Designated as Agriculture

Prohibit the division of lands suitable for agriculture unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be reduced.

\*5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

- a. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:
  - (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;
  - (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;
  - (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;
  - (4) The productivity of any adjacent agricultural lands is not diminished;
  - (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.
- b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the

conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.

\*5.11 Maximum Density of Development Per Parcel

- a. Limit non-agricultural development densities to those permitted in rural areas of the Coastal Zone under the Locating and Planning New Development Component.
- b. Further, limit non-agricultural development densities to that amount which can be accommodated without adversely affecting the viability of agriculture.
- c. In any event, allow the use of one density credit on each legal parcel.
- d. A density credit bonus may only be allowed for the merger of contiguous parcels provided that (1) the density bonus is granted as part of a Coastal Development Permit, (2) a deed restriction is required as a condition of approval of that Coastal Development Permit, (3) the deed restriction requires that any subsequent land division of the merged property shall be consistent with all other applicable LCP policies, including Agriculture Component Policies, and shall result in at least one agricultural parcel whose area is greater than the largest parcel before consolidation, and (4) the Coastal Development Permit is not in effect until the deed restriction is recorded by the owner of the land. The maximum bonus shall be calculated by:
  - (1) Determining the total number of density credits on all parcels included in a master development plan; and
  - (2) Multiplying that total by 25% if the merger is entirely of parcels of 40 acres or less, or by 10% if some or all of the parcels combined are larger than 40 acres.

The merged parcel shall be entitled to the number of density credits on the separate parcels prior to merger plus the bonus calculated under this subsection. The total number of density credits may be used on the merged parcel. Once a parcel or portion of a parcel has been part of a merger for which bonus density credit has been given under this subsection, no bonus credit may be allowed for any subsequent merger involving that parcel or portion of a parcel.

- e. Density credits on parcels consisting entirely of prime agricultural land, or of prime agricultural land and land which is not developable under the Local Coastal Program, may be transferred to other parcels in the Coastal

Zone, provided that the entire parcel from which credits are transferred is restricted permanently to agricultural use by an easement granted to the County or other governmental agency. Credits transferred may not be used in scenic corridors or on prime agricultural lands; they may be used only in accordance with the policies and standards of the Local Coastal Program.

**\*5.12 Minimum Parcel Size for Agricultural Parcels**

Determine minimum parcel sizes on a case-by-case basis to ensure maximum existing or potential agricultural productivity.

**\*5.13 Minimum Parcel Size for Non-Agricultural Parcels**

- a. Determine minimum parcel size on a case-by-case basis to ensure that domestic well water and on-site sewage disposal requirements are met.
- b. Make all non-agricultural parcels as small as practicable (residential parcels may not exceed 5 acres) and cluster them in one or as few clusters as possible.

**\*5.14 Master Land Division Plan**

- a. In rural areas designated as Agriculture on the Local Coastal Program Land Use Plan Maps on March 25, 1986, require the filing of a Master Land Division Plan before the division of any parcel. The plan must demonstrate: (1) how the parcel will be ultimately divided, in accordance with permitted maximum density of development, and (2) which parcels will be used for agricultural and non-agricultural uses, if conversions to those uses are permitted. Division may occur in phases. All phased divisions must conform to the Master Land Division Plan.
- b. Exempt land divisions which solely provide affordable housing, as defined in Policy 3.7 on March 25, 1986, from the requirements in a.
- c. Limit the number of parcels created by a division to the number of density credits to which the parcel divided is entitled, prior to division, under Table 1.3 and Policy 5.11d. and e., except as authorized by Policy 3.27 on March 25, 1986.

**\*5.15 Mitigation of Land Use Conflicts**

- a. When a parcel on or adjacent to prime agricultural land or other land suitable for agriculture is subdivided for non-agricultural uses, require that the following statement be included, as a condition of approval, on all parcel and final maps and in each parcel deed:

“This subdivision is adjacent to property utilized for agricultural purposes. Residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise, and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations.”

- b. Require the clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses.
- c. Require that clearly defined buffer areas be provided between agricultural and non-agricultural uses.
- d. Require public agencies owning land next to agricultural operations to mitigate rodent, weed, insect, and disease infestation, if these problems have been identified by the County’s Agricultural Commissioner.

\*5.16 Easements on Agricultural Parcels

As a condition of approval of a Master Land Division Plan, require the applicant to grant to the County (and the County to accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture, and farm labor housing. The easement shall specify that, anytime after three (3) years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to Open Space.

Uses consistent with the definition of open space shall mean those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site’s natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to natural landforms.

**FLORICULTURE**

5.17 Definition of Floricultural Uses

- a. Define "soil-dependent" floricultural uses as those which require relocation on prime soil areas in order to obtain a growing medium.
- b. Define "non-soil-dependent" floricultural uses as floricultural uses, including greenhouses, which can be established on flat or gently sloping land and do not require locations on prime soils.

5.18 Location of Floricultural Uses

- a. Allow soil-dependent floriculture to locate on prime soils provided that a soil management plan is prepared showing how prime soils will be preserved and how they will be returned to their original condition when operations cease.
- b. Restrict non-soil-dependent floriculture greenhouses to non-prime soil areas on parcels with level to gentle sloping ground (less than 20% slope).

5.19 Development Standards of Floricultural Uses

- a. Allow existing floricultural operations and greenhouses, whether soil-dependent or independent, to expand on their existing sites or on adjacent sites in order to minimize capital expenditures, according to basic setback requirements of 30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located.

<u>Parcel Size</u>	<u>Basic Setback Requirements</u>
Less than 5 acres	30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located.
5 acres or more	30 feet from the right-of-way of any street and from the lot lines of the parcel on which the greenhouse is located.

- b. Prohibit greenhouse, hothouse, or accessory structures from locating closer than 50 feet from the boundary line of a lot in a residential zoning district.
- c. Require runoff impoundments so that total runoff shall not be greater than if the site were uncovered, unless the applicant can demonstrate that

increased runoff will not damage or be detrimental to downstream property owners.

- d. Require runoff containing fertilizers or pesticides be stored on site and not released to any perennial or intermittent stream, but disposed of according to standards established by the United States Environmental Protection Agency, and the State Regional Water Quality Control Board.
- e. Prohibit the use of herbicides or soil sterilants under any asphalt or concrete paving installed as part of a greenhouse development.
- f. Encourage new or expanded greenhouse operations to practice water conservation by one or more of the following methods: (1) recycling of irrigation water, (2) use of drip irrigation systems, (3) construction of small off-stream water reservoirs for water use during summer months, except where a sensitive habitat would be affected by reduced stream flow, and (4) other methods acceptable to the County.
- g. Apply the Design Review Ordinance regulations to greenhouse floriculture uses.
- h. Prohibit greenhouses from locating on ridges or hillcrests in order to prevent excessive grading and damage to hill silhouettes.
- i. Encourage new floricultural operations to use alternative energy systems and minimize reliance on oil and natural gas. Acceptable sources include, but are not limited to, solar energy and wind energy.
- j. Require on-site mitigation of adverse impacts for greenhouses located in or adjacent to urban areas.

#### 5.20 Agricultural Management Practices

- a. Encourage proper soil conservation techniques and proper grazing methods.
- b. Encourage the development of conservation plans on a watershed-by-watershed basis with the Soil Conservation Service.
- c. Require that compost, processing waste water, and other by products of agricultural activities be properly disposed of on land or through suitable sewage disposal systems, if available. Prohibit disposal in perennial or intermittent streams or sensitive habitats.



## **AGRICULTURAL WATER SUPPLIES**

### **5.21 Water Supply**

Establish strategies for increasing agricultural water supplies without endangering sensitive habitats.

### **\*5.22 Protection of Agricultural Water Supplies**

Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that:

- a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (2) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (a) on that parcel, or (b) on the larger property that was subdivided to create the new parcel, providing that a single well source may not serve more than four (4) new parcels.
- b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.
- c. All new non-agricultural parcels are severed from land bordering a stream and their deeds prohibit the transfer of riparian rights.

### **5.23 Priorities for Use of Agricultural Water Supplies**

Recommend to the California State Water Resources Control Board that when issuing permits for appropriate water rights they establish the following priorities:

- a. The protection of minimum stream flows as determined by the State Department of Fish and Game;
- b. New and existing agricultural operations;
- c. New and existing farm family and farm labor housing;
- d. Coastal-dependent uses;
- e. Public recreation and visitor-serving facilities;
- f. Other.

#### 5.24 Monitoring of Agricultural Water Supplies

- a. Request the California State Water Resources Control Board to provide the County with special notice of: (1) any water rights application involving a San Mateo County stream, (2) any petition for change in an existing water rights entitlement, and/or (3) any petition for extension of time to apply water to a beneficial use under an existing entitlement involving a San Mateo County stream.
- b. Review all such notices and protest any application or petition which is not in conformance with the LCP.

#### 5.25 Dam Construction

Permit on-stream dams in the South Coast when all the following criteria are met:

- a. In-stream flows adequate to support the maintenance of fish and wildlife habitats would be retained consistent with LUP Sensitive Habitat Policies and the concurrence of the California Department of Fish and Game.
- b. The capacity of the proposed dam would be consistent with demonstrated demand for agricultural purposes.
- c. All water developed by on-stream dam construction would be exclusively used for agricultural purposes and, if feasible, for domestic purposes within the rural service center of Pescadero as identified and defined in the LUP.
- d. For any dam proposed on Pescadero or Butano Creeks, a comprehensive hydrologic study and a marsh management plan have been prepared with the participation of the California Departments of Parks and Recreation, and Fish and Game, and in whose results those departments concur, demonstrating that the proposed dam would be compatible with maximum wildlife potential (Policy 7.21).

#### 5.26 Small Water Impoundments

- a. Encourage farmers, acting individually or as a group, to develop: (1) their own water supplies by utilizing small off-stream reservoirs which draw from winter stream flows or (2) dams on intermittent streams.
- b. Assist farmers to obtain subsidies for water development and assign priority for funding to the water-short watersheds which were evaluated in the Agricultural Water Supplies Background Report.

5.27 Floriculture Water Supplies

Require the allocation of future additional Mid-Coast water supplies to floriculture in accordance with the policies of the Public Works Component.

5.28 Monitoring of Wells

Request funding from the State to monitor selected wells throughout the Coastal Zone to provide data on long-term well yield and water quality for the purpose of utilizing such information in development review.

5.29 Permits for Water Impoundments

Require a grading permit for water impoundments according to the standards of review of the County's Excavating, Grading, Filling, and Clearing Ordinance.

**TAXATION**

5.30 Review and Cancellation of Williamson Act Lands

Review all Williamson Act contracts and agreements which were signed before 1976 to ensure that the lands contracted are consistent with the intent of the Williamson Act, the General Plan, the LCP, and present zoning; and file non-renewal notices on those not in conformity with the State Code and County policies.

**ROLE OF OTHER PUBLIC AGENCIES**

5.31 LAFCo Spheres of Influence

Request the Local Agency Formation Commission to exclude prime agricultural lands outside the urban boundary from designated spheres of influence.

5.32 Role of State Coastal Conservancy

- a. Encourage the Coastal Conservancy to acquire as a first priority prime agricultural lands within the urban boundary.
- b. Allow the Coastal Conservancy to exercise eminent domain powers to acquire parcels of prime agricultural lands one acre and larger in size located on the urban rural fringe, and otherwise threatened by conversion to non-agricultural uses.

5.33 Lease-Back of State Parks and Recreation Lands

- a. As a condition of permit approval, require the State, where legally feasible, to lease prime agricultural lands, and other land suitable to agriculture, determined to be feasible for agricultural use, which would not endanger an existing sensitive habitat, to active farm operators on terms compatible with recreational and any adjacent habitat use.
- b. Encourage the State to continue leasing prime agricultural land and other land suitable for agriculture prior to the issuance of any required permits.

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## **CHAPTER 21A. "PAD" DISTRICT** **(PLANNED AGRICULTURAL DISTRICT)**

**SECTION 6350. PURPOSE OF THE PLANNED AGRICULTURAL DISTRICT.** The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,
- (c) developing available lands not suitable for agriculture before converting agricultural lands,
- (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and
- (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

**SECTION 6351. DEFINITIONS.** For the purposes of this Chapter, certain terms used herein are defined as follows:

A. **Prime Agricultural Land**

- 1. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Compatibility Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.
- 2. All land which qualifies for rating 80-100 in the Storie Index Rating.

3. Land which supports livestock use for the production of food and fiber, and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.
4. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200 per acre.
5. Land which has returned from the production of an unprocessed agricultural plant product on an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsection (4) and (5) shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized Consumer Price Index.

B. Lands Suitable for Agriculture

Land other than Prime Agricultural Land on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

C. Other Lands

Any portion of a parcel in the Planned Agricultural District which does not meet the definition of Prime Agricultural Land or Lands Suitable for Agriculture.

D. Agriculture

Activities including, but not limited to, the cultivation of food, fiber, or flowers, and the grazing, growing or pasturing of livestock.

E. Uses Ancillary to Agriculture

Agricultural grading equipment supplies, agricultural rental supplies, topsoil stockpiling, and other similar uses determined to be appropriate by the Planning Director.

F. Non-Residential Development Customarily Considered Accessory to Agricultural Uses

Barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water

pollution control facilities for agricultural purposes, and other similar uses determined to be appropriate by the Planning Director.

G. Commercial Recreation

Country inns, commercial stables, riding academies, campgrounds, rod and gun clubs, private beaches, food/gasoline/telephone services, hostels, and other similar uses determined to be appropriate by the Planning Commission.

H. Public Recreation

Lands and facilities serving primarily a recreation function which are operated by public agencies or other non-profit organizations. Public recreation facilities include, but are not limited to, public beaches, parks, recreation areas, natural preserves, wild areas and trails.

I. Land Division

The creation of any new property line whether by subdivision or other means.

J. Density Credits

The maximum number of land divisions permitted for a parcel computed in accordance with Section 6356. Credits may be combined for uses on a single parcel if the number of land divisions permitted is reduced accordingly; however, only one credit shall be assigned to an agricultural parcel. Only one dwelling unit or non-agricultural use shall be permitted per parcel.

K. Feasible

Capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social, and technological factors.

L. Non-Agricultural Parcel

After a Master Land Division Plan has been approved, the parcels which may be used for non-agricultural purposes.

M. Agricultural Parcel

After a Master Land Division has been approved, the remaining, large residual parcel restricted to agricultural uses by an easement as specified in Section 6361B.

**SECTION 6352. USES PERMITTED.** The following uses are permitted in the PAD:

A. On Prime Agricultural Lands

1. Agriculture.
2. Non-residential development customarily considered accessory to agricultural uses.
3. Soil dependent greenhouses and nurseries provided that a soil management plan is prepared showing how open prime soils on the site will be preserved and how soils will be returned to their original condition when operations cease.
4. Temporary roadstands for seasonal sale of produce grown in San Mateo County providing that (1) sales activities are limited to less than a nine-month operating period per year, (2) all structures are of portable construction and shall be removed from the site within 10 days of the seasonal closure of the stand, (3) roadstand size shall be limited to 200 square feet and appearance, including signs, color and materials, is consistent with the policies of the certified LCP and meets the satisfaction of the Planning Director, and (4) access and parking requirements meet the satisfaction of the Director of Public Works, however, no impervious paving shall be required.
5. Repairs, alterations, and additions to existing single-family residences.
6. Keeping of pets in association with a one-family dwelling.
7. Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit.
8. Animal fanciers.

B. On Land Suitable for Agriculture and Other Lands

1. Agriculture.
2. Non-residential development customarily considered accessory to agricultural uses.
3. Dairies.
4. Greenhouses and nurseries.



5. Temporary roadstands for seasonal sale of produce grown in San Mateo County providing that (1) sales activities are limited to less than a nine-month operating period per year, (2) all structures are of portable construction and shall be removed from the site within 10 days of the seasonal closure of the stand, (3) roadstand size shall be limited to 200 square feet and appearance, including signs, color and materials, is consistent with the policies of the certified LCP and meets the satisfaction of the Planning Director, and (4) access and parking requirements meet the satisfaction of the Director of Public Works, however, no impervious paving shall be required.
6. Repairs, alterations, and additions to existing single-family residences.
7. Keeping of pets in association with a one-family dwelling.
8. Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit.
9. Animal fanciers.

**SECTION 6353. USES PERMITTED SUBJECT TO THE ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.** The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance.

Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore.

A. On Prime Agricultural Lands

1. Single-family residences.
2. Farm labor housing.
3. Public recreation/shoreline access trail (see Section 6355D.2).
4. Non-soil dependent greenhouses and nurseries if no alternative building site on the parcel exists.
5. Onshore oil and gas exploration, production, and minimum necessary related storage subject to the issuance of an oil well permit, except that no wells shall be located on prime soils.
6. Uses ancillary to agriculture.

7. Permanent roadstands for the sale of produce, providing that the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, and subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.
8. Facilities for the processing, storing, packaging, and shipping of agricultural products.
9. Commercial woodlots and temporary storage of logs.

B. On Lands Suitable for Agriculture and Other Lands

1. Single-family residences.
2. Farm labor housing.
3. Multi-family residences if for affordable housing.
4. Public recreation/shoreline access trail (see Section 6355D.3 and 4).
5. Schools.
6. Fire stations.
7. Commercial recreation.
8. Aquacultural activities.
9. Wineries, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.
10. Timber harvesting, commercial woodlots and log storage, providing that no commercial timber harvesting shall occur within 1,000 feet of any legal dwelling in existence on June 18, 1991, except under the following circumstances:
  - a. Timber harvesting operations for which all permits had been received on or before June 18, 1991, may complete operations in accordance with the terms and conditions of such permits.
  - b. Timber harvesting operations may occur within the 1,000-foot buffer zone with prior written approval of the owner of the affected dwelling, subject to the prior recordation of the statement specified in Section 6401.5.

- c. Normal forest maintenance may be conducted within the 1,000-foot buffer zone, but shall be limited to: (a) removing dead, dying, or diseased trees and snags; (b) salvaging downed wood; (c) cutting trees for the purposes of developing viewsheds or landscape aesthetics in accordance with other applicable provisions of this Part and of Division VII, San Mateo County Ordinance Code; or (d) clearing for firebreaks, in accordance with requirements of the County Fire Marshal or other applicable fire authority having jurisdiction.

Notwithstanding the above, access roads to the site of timber harvesting operations may be constructed, improved, and used within the 1,000-foot buffer zone. The limitation on harvesting within 1,000 feet of an existing dwelling shall not apply to a dwelling located on the parcel which is proposed for timber harvesting.

For the purpose of this section, the distance from a dwelling shall be measured along the surface of the ground.<sup>1</sup>

11. Onshore oil and gas exploration, production, and storage subject to the issuance of an oil well permit.
12. Facilities for the processing, storing, packaging, and shipping of agricultural products.
13. Uses ancillary to agriculture.
14. Kennels or catteries, subject to a kennel/cattery permit.
15. Scientific/technical research and test facilities, provided a Planned Agricultural Permit shall only be issued for this use upon the following findings:
  - a. That the use is of a low-intensity nature with minimum of permanent construction required, no permanent on-site personnel or permanent on-site vehicles.
  - b. That the nature of the operation requires an open, isolated, and radio frequency interference-free environment.
  - c. That no manufacturing or industrial activities are involved.

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<sup>1</sup>Not effective in the Coastal Zone unless and until certification without change by the California Coastal Commission. Certification had not occurred as of the reprinting date of this Chapter {July 1999}.

- d. That the size, location and design of any proposed facility as well as level of activity on the site are compatible with the policies of the Local Coastal Program.
  - e. That the proposed use does not impair existing or potential agricultural uses on the site or on surrounding properties. The applicant shall demonstrate how agriculture will not be impaired, including provisions for leasing portions of the site for agricultural uses.
  - f. That the proposed use or facility does not create a potential for any health or safety hazard.
  - g. That the applicant for such a facility shall describe the manner in which other users might be accommodated in sharing the proposed facility so as to avoid the duplication of such facilities in the future.
  - h. That the applicant demonstrate that no feasible sites exist in the RM, RM-CZ, TPZ, or TPZ-CZ zones for the proposed facility.
16. Permanent roadstands for the sale of produce, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.

**SECTION 6354. LAND DIVISIONS.** All land divisions permitted in the PAD are subject to the issuance of a Planned Agricultural Permit.

**SECTION 6355. SUBSTANTIVE CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.** It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria

- 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.
- 2. All development permitted on a site shall be clustered.
- 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

B. Water Supply Criteria

1. The existing availability of an adequate and potable well water source shall be demonstrated for all non-agricultural uses according to the following criteria: (a) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with Local Coastal Program Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (b) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (1) on that parcel, or (2) on the larger property that was subdivided to create the new parcel, provided that a single well water source may not serve more than four (4) new parcels.
2. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.
3. All new non-agricultural parcels are severed from land bordering a stream and their needs prohibit the transfer of riparian rights.

C. Criteria for the Division of Prime Agricultural Land

1. Prime Agricultural Land which covers an entire parcel shall not be divided.
2. Prime Agricultural Land within a parcel shall not be divided unless it can be demonstrated that existing or potential agricultural productivity of all resulting parcels would not be diminished.
3. Prime Agricultural Land within a parcel will not be divided when the only building site would be on such Prime Agricultural Land.

D. Criteria for the Conversion of Prime Agricultural Lands

1. General Criteria

Prime Agricultural Land within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless it can be demonstrated that:

- a. No alternative site exists on the parcel for the use,
- b. Clearly defined buffer areas are provided between agricultural and non-agricultural uses,
- c. The productivity of an adjacent agricultural land will not be diminished, and

- d. Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

2. Public Recreation Facilities Criteria

For a recreation facility on land owned by a public agency before the effective date of this ordinance, the following additional criteria applies:

- a. The agency, as a condition of approval of the Planned Agricultural Permit, executes a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture.
- b. The agency, whenever legally feasible, agrees to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

3. Agriculturally Related Uses Criteria

For uses ancillary to agriculture, facilities for the processing, storing packaging and shipping of agricultural products, and commercial woodlots and temporary storage of logs, the following additional criteria applies:

- a. The area of Prime Agricultural Land converted shall be as small as possible, and,
- b. In all cases, the area of Prime Agricultural Land converted shall not exceed 3 acres.

E. Criteria for the Division of Lands Suitable for Agriculture and Other Lands

Lands suitable for agriculture and other lands shall not be divided unless it can be demonstrated that existing or potential agricultural productivity of any resulting agricultural parcel would not be reduced.

F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands

All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:

- 1. all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and

2. continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and
3. clearly defined buffer areas are developed between agricultural and non-agricultural uses, and
4. the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and
5. public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.

**SECTION 6356. MAXIMUM DENSITY OF DEVELOPMENT.** In the Planned Agricultural District, for purposes of determining the maximum total number of density credits accumulated on any parcel, the following system shall be used:

The total parcel shall be compared against the criteria of this section in the order listed. Once considered under a criterion, a segment of the parcel shall not be considered under subsequent criteria. When the applicable criteria have been determined for each of the areas, any portion of the parcel which has not yet been assigned a maximum density accumulation shall be assigned a density of one density credit per 40 acres.

The sum of densities accrued under all applicable categories shall constitute the maximum density of development permissible under this section. If the fractional portion of the number of density credits allowed is equal to or greater than .5, the total number of density credits allowed shall be rounded up to the next whole density credit. If the fraction is less than .5, the fractional unit shall be deleted. All legal parcels shall accumulate at least one density credit.

Expanded or additional non-agricultural uses shall only be permitted on a parcel when there are enough density credits available to that parcel to meet the density credit requirements of this Section for both (a) existing uses, and (b) any expanded or additional uses, and only where such development meets all other applicable policies of the Local Coastal Program.

Amount of Development Allowed for Non-agricultural Uses, Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For new or expanded non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, one density credit shall be required for each 315 gallons, or fraction thereof, of average daily water use during the two months of highest water use in a year. This requirement applies to water use by or resulting from the non-agricultural use, including landscaping, swimming pools and all other appurtenant uses.

Residential Uses

For new or expanded residential uses, a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses).

Non-Agricultural Uses Except Visitor-Serving Uses

For non-agricultural uses, except visitor-serving uses, the amount of development allowed for each density credit in accordance with the requirements of this policy shall be the amount stated in Table 1.5 in the column headed "Number of Measuring Units Per Density Credit Based on Peak Daily Water Use With Conservation Fixtures."

Amount of Development Allowed for Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For new or expanded visitor-serving, commercial recreation, and public recreation uses, one density credit shall be required for the first 945 gallons, or fraction thereof, of average daily water use during the two months of highest water use in a year. One additional density credit shall be required for each 630 gallons, or fraction thereof, of average daily water use during the two months of highest water use in a year.

This requirement applies to water use by or resulting from the visitor-serving use, including landscaping, swimming pools and all other appurtenant uses. The 945-gallon water use allowance for one density credit may be applied one time only on a parcel.

For visitor-serving, commercial recreation, and public recreation uses listed in Table 1.5, the amount of development allowed for each density credit in accordance with the requirements of this policy shall be:

First Density Credit

For one density credit or the first density credit when multiple density credits are available, either 1 1/2 times the amount stated in Table 1.5 in the column headed "Number of Measuring Units Per Density Credit Based



on Peak Daily Water Use With Conservation Fixtures,” or the amount stated in that column and a residential dwelling unit associated with a visitor-serving facility that is occupied by the facility owner or operator.

#### Additional Density Credits

For each additional density credit, the amount stated in Table 1.5 in the column headed “Number of Measuring Units Per Density Credit Based on Peak Daily Water Use With Conservation Fixtures.”

For the purpose of this provision, “visitor-serving, commercial recreation, and public recreation uses” shall be only those lands and facilities listed in LCP Policies 11.1, 11.2 and 11.3, and only if those lands and facilities specifically enhance public opportunities for coastal recreation.

As an interim limit, no more than 600 visitor-serving lodging units may be approved in the rural Coastal Zone, as specified by LCP Policy 1.23.

The provisions of this section will not apply to agriculture, farm labor housing, a residential dwelling unit associated with a visitor-serving facility that is occupied by the facility owner or operator, or affordable housing to the extent authorized in Policy 3.23 of the Local Coastal Program on March 25, 1986, or other structures considered to be accessory to agriculture under the same ownership.

#### A. Prime Agricultural Lands

One density credit per 160 acres for that portion of a parcel which is prime agricultural land as defined in Section 6351 (i.e., the number of acres of Prime Agricultural Land divided by 160).

#### B. Lands With Landslide Susceptibility

One density credit per 160 acres for that portion of a parcel which lies within any of the three least stable categories (Categories V, VI and L) as shown on the U.S. Geological Survey Map MF 360, “Landslide Susceptibility in San Mateo County” or its current replacement (i.e., the number of acres of land susceptible to landslides divided by 160).

#### C. Land With Slope 50% or Greater

One density credit per 160 acres for that portion of a parcel which has a slope 50% or greater (i.e., the number of acres of land with a slope 50% or greater divided by 160).

D. Remote Lands

One density credit per 160 acres for that portion of a parcel over 1/2 mile from a public road that was an existing, all-weather through public road before the County Local Coastal Program was initially certified in November 1980 (i.e., the number of acres of remote land divided by 160).

E. Land With Slope 30% But Less Than 50%

One density credit per 80 acres for that portion of a parcel which has a slope 30% but less than 50% (i.e., the number of acres of land with a slope 30%, but less than 50% divided by 80).

F. Land Within Rift Zones or Active Faults

One density credit per 80 acres for that portion of a parcel which is located within the rift zone or zone of fractured rock of an active fault as defined by the U.S. Geological Survey and mapped on USGS Map MF 355, "Active faults, probably active faults, and associated fracture zones in San Mateo County," or its current replacement (i.e., the number of acres of land within rift zones or active faults divided by 80).

G. Lands Within Flood Hazard Areas

One density credit per 60 acres for that portion of a parcel falling within a 100-year floodplain as most recently defined by the Federal Emergency Management Agency, the U.S. Geological Survey, or the U.S. Army Corps of Engineers (i.e., the number of acres of land within the 100-year floodplain divided by 60).

H. Land With Slope 15% But Less Than 30%

One density credit per 60 acres for that portion of a parcel with a slope in excess of 15% but less than 30% (i.e., the number of acres of land with a slope 15%, but less than 30% divided by 60).

I. Land Within Agricultural Preserves or Exclusive Agricultural Districts

One density credit per 60 acres for that portion of a parcel within agricultural preserves or the exclusive Agricultural Districts as defined in the Resource Conservation Area Density Matrix policy on March 25, 1986 (i.e., the number of acres of land within Agricultural Preserves or Exclusive Agricultural Districts divided by 60).

J. All Other Lands

One density credit per 40 acres for that portion or portions of a parcel not within the above areas (i.e., the number of acres of all other land divided by 40).

If the same portion of a parcel is covered by two or more of the subsections A. and J., the density credit for that portion shall be calculated solely on the basis of the subsection which permits the least density credit.

**SECTION 6357. DENSITY BONUS AND TRANSFER.**

A. Consolidating Parcels

In addition to the maximum density of development permitted, bonus densities may be granted when contiguous parcels are combined to form a larger parcel, provided that the density bonus is granted in accordance with LCP Policy 5.11, including deed restriction requirements that any subsequent land division of the merged property shall result in at least one agricultural parcel whose area is greater than the largest parcel before consolidation. The bonus for a proposed combination shall be calculated by:

1. determining the total number of density credits on all parcels included in a master development plan, and
2. multiplying that total by 25% if the merger is entirely of parcels of 40 acres or less, or by 10% if some or all of the parcels combined are larger than 40 acres.

The merged parcel shall be entitled to the number of density credits allowed prior to merger, plus the bonus calculated under this subsection. Once a parcel or portion of a parcel has been granted bonus density credits as a result of a merger under this subsection, no additional bonus credit(s) may be granted for subsequent merger activities involving that parcel or a portion of that parcel.

B. Agricultural Water Improvements

In addition to the maximum density of development permitted, bonus density credit(s) shall be granted for development of new agricultural water storage capacity in accordance with the following table, upon determination by the Planning Commission and Agricultural Advisory Committee that such water capacity is needed, and will be utilized to provide water exclusively for agricultural cultivation or livestock operations. This provision shall apply to:

1. Construction of new water storage facilities, and,

2. Enlargement of existing water storage facilities (excluding maintenance/dredging activities).

<b>NEW STORAGE CAPACITY (acre-feet)</b>	<b>BONUS DENSITY (dwelling units)</b>
0 - 12.24	0.0
12.25 - 24.49	0.5
24.50 - 36.74	1.0
36.75 - 48.99	1.5
49.00 - 61.24	2.0
Greater than 61.25	Density allocated at above rate

Bonus density credits may be applied on-site, or transferred to another parcel within the rural Coastal Zone, upon determination by the Planning Commission that suitable sites are available on the recipient parcel in accordance with the policies and standards of the Local Coastal Program, providing that density credits are not used to convert Prime Agricultural Land, or locate development within scenic corridors. Frequency of density transfer shall not be limited, providing that each density transfer conforms with the requirements of this section, and appropriate processing fees are collected. At maximum four density credits, whether authorized by this section or other provisions of this Part, may be transferred to any recipient parcel unless otherwise determined by the Planning Commission that additional density would not overburden coastal resources. Should bonus density credits be transferred, deed restrictions must be recorded stating that: (1) the donor parcel has relinquished bonus density credit(s) acquired pursuant to this section, and thereby has voluntarily relinquished all development rights associated with the said density credit(s), and (2) in addition to allowable zoning, the recipient parcel is granted density credit(s) pursuant to this section.

The County shall maintain up to date records in the Planning Department of all bonus credits granted. Records shall indicate the number of bonus credits generated per parcel, and the location and use of the credits including those transferred to another parcel.

C. Prime Agricultural Land

Parcels consisting either entirely of Prime Agricultural Land or Prime Agricultural Land and land which is not developable under the Local Coastal Program, may

apply to transfer development density to another parcel within the rural Coastal Zone, east of Highway 1 only, provided that the entire donor parcel is restricted permanently to agricultural use by an easement granted to the County or other governmental agency, as elaborated below, and upon determination by Planning Commission that suitable sites are available on the recipient parcel in accordance with the policies and standards of the Local Coastal Program, providing that density credits are not used to convert Prime Agricultural Land, or locate development within scenic corridors. Frequency of density transfer shall not be limited, providing that each density transfer conforms with the requirements of this section, and appropriate processing fees are collected. At maximum four density credits whether authorized by this section or other provisions of this Part, may be transferred to any recipient parcel unless otherwise determined by the Planning Commission that additional density would not overburden coastal resources. Deed restrictions must be recorded stating that: (1) the donor parcel has voluntarily relinquished one density credit as determined by this ordinance, and (2) in addition to allowable zoning, the recipient parcel is granted density credit(s) pursuant to this section.

The County shall maintain up to date records in the Planning Department of all density transfer activities. Records shall identify the donor parcel and indicate the number of credits transferred. The location and use of transferred credits shall also be identified.

As a condition of approval for density credit transfer, the applicant shall grant to the County (and the County shall accept) an easement covering the entire donor parcel, containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture (as defined in Section 6351F of this ordinance) and farm labor housing. The covenant shall specify that, anytime after three years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon the finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to open space. Uses consistent with the definition of Open Space shall mean all those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site's natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to the natural landforms.

**SECTION 6358. MAXIMUM HEIGHT OF STRUCTURES.** In the Planned Agricultural District, no residential or commercial structure shall exceed three stories or 36 feet in

height, except as allowed by use permit provisions in Chapter 22, Article 2, Section 6405, of the San Mateo County Ordinance Code.

**SECTION 6359. MINIMUM YARDS.** In the absence of more restrictive provisions within this ordinance, the minimum yards required in the Planned Agricultural District shall be as follows:

A. Agricultural Development

Front: 30 feet

Side: 20 feet

Rear: 20 feet

B. Non-Agricultural Development

Front: 50 feet

Side: 20 feet

Rear: 20 feet

**SECTION 6360. PARCEL SIZE.** The parcel size in the PAD shall be in accordance with the following:

A. Agricultural Parcels

For any parcel created after the effective date of this ordinance which is to be used for agricultural purposes, the parcel size shall be as specified in the Planned Agricultural Permit issued pursuant to Section 6354 of this ordinance.

B. Non-Agricultural Parcels

For any parcel created after the effective date of this ordinance which is to be used for non-agricultural purposes, the parcel size shall be determined on a case-by-case basis to ensure that domestic well water and on-site sewage requirements are met. Non-agricultural parcels shall be as small as possible, and when used for residential purposes shall not exceed 5 acres. All non-agricultural parcels shall be clustered (in one or as few clusters as possible), and sited in locations most protective of existing and potential agricultural uses.

C. Parcels Created Before Ordinance Adoption

For any parcel legally created before adoption of this ordinance, minimum parcel size shall be determined in accordance with Section 6311 of the San Mateo County Ordinance Code.

**SECTION 6361. PROCEDURAL CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.**

A. Master Land Division Plan

Before any division of land, the applicant shall file a Master Land Division Plan demonstrating how the parcel will be ultimately divided according to maximum density of development permitted and which parcels will be used for agricultural and non-agricultural uses if conversions are permitted. Division for non-agricultural parcels shall be as small as practicable, not to exceed 5 acres when used for residential purposes, and shall ensure that minimum domestic well water and on-site sewage disposal area requirements are met. Division shall be permitted in phases, and all future divisions occurring on land for which a plan has been filed must conform to that plan. Master Land Division Plans shall not be required for land divisions which solely provide affordable housing, as defined by LCP Policy 3.7 on March 25, 1986.

B. Easements on Agricultural Parcels

After a Master Land Division Plan has been filed, and as a condition of approval thereof, the applicant shall grant to the County (and the County shall accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture (as defined in Section 6352C and D of this ordinance) and farm labor housing. The covenant shall specify that, anytime after three years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon the finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to open space. Uses consistent with the definition of Open Space shall mean all those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site's natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to the natural landforms.

C. Agricultural Land Management Plan

For parcels 20 acres or more in size before division or conversion, the applicant shall file an agricultural land management plan demonstrating how, if applicable, the agricultural productivity of the land will be fostered and preserved in accordance with the requirements of Sections 6350 and 6355 of this ordinance.

D. Map and Deed Notice

When a parcel on or adjacent to agricultural land is subdivided, the following statement shall be included as a condition of approval on all parcel and final maps and in each parcel deed.

This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

E. Findings

The County shall make findings with respect to each application for division or conversion of lands in the Planned Agricultural District. Such findings shall be in writing, based on fact, and shall set forth specific reasons why proposed division or conversion meets or fails to meet all applicable requirements of this ordinance.

**SECTION 6362. ESTABLISHMENT OF AN AGRICULTURAL ADVISORY COMMITTEE.** To assist in the achievement of the objectives of this ordinance, the Board has established an Agricultural Advisory Committee composed of farmers familiar with Coastside crops, agricultural experts, and representatives of the general public interest. Said Committee shall actively assist in the preservation of agriculture of the Coastside by advice and recommendation to the Planning Commission and the Board of Supervisors to achieve the objectives of this ordinance.

**SECTION 6363. ESTABLISHMENT AND APPLICATION OF PLANNED AGRICULTURAL DISTRICT.** Any parcel of land in the Coastal Zone which contains prime agricultural land and lands suitable for agriculture shall be included in the Planned Agricultural District. The Planned Agricultural District is hereby established and applied to the area depicted on the maps entitled "Planned Agricultural District Boundary," for the Mid-Coast and South Coast, both dated January 23, 1979, and on file in the offices of the County Planning Department.

(Chapter 21A, Sections 6350 through 6360 - Added by Ordinance No. 2614 - October 16, 1979)

(Chapter 21A, Sections 6350 through 6363 - Amended by Ordinance No. 2694 - December 16, 1980)

(Chapter 21A, Sections 6350 through 6363 - Repealed and Replaced Sections 6350 through 6363 by Ordinance No. 2780 - April 6, 1982)



COUNTY OF SAN MATEO  
ENVIRONMENTAL SERVICES AGENCY

**FINDINGS AND CONDITIONS OF APPROVAL**

Permit File Number: PLN 2000-00812      Board Meeting Date: December 12, 2006

Prepared By: Dave Holbrook, Senior Planner      For Adoption By: Board of Supervisors

**FINDINGS**

Regarding the Negative Declaration, Found:

1. That the Negative Declaration reflects the independent judgment of San Mateo County.
2. That the Negative Declaration is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines.
3. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project will have a significant effect on the environment.
4. That the mitigation measures, identified in the Negative Declaration and agreed to by the owners and placed as conditions on the project, have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with the California Public Resources Code Section 21081.6.

Regarding the Planned Agricultural District Permit, Found (as discussed in the staff report in Section A.6.c.):

5. That the encroachment of all development upon land which is suitable for agricultural use is minimized.
6. That all development permitted on-site is clustered.
7. That the proposed project conforms to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

8. That the proposed project meets the substantive criteria for the issuance of a PAD Permit.
9. That the existing availability of an adequate and potable on-site well water source for all non-agricultural uses is demonstrated.
10. That adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.
11. That all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable.
12. That continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.
13. That clearly defined buffer areas are developed between agricultural and non-agricultural uses.
14. That the productivity of any adjacent agricultural lands is not diminished, including the ability of land to sustain dry farming or animal grazing.
15. That public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
16. That for parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

Regarding the Coastal Development Permit, Found (as discussed in the staff report in Section A.5.):

17. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County LCP.
18. That the project conforms to the specific findings required by the policies of the San Mateo County LCP.

Regarding the Grading Permit, Found (as discussed in the staff report in Section A.7.):

19. That the granting of the permit will not have a significant adverse effect on the environment.
20. That the project conforms to the criteria of the Grading Regulations, including the standards referenced in Section 8605.
21. That the project is consistent with the General Plan.

**CONDITIONS OF APPROVAL**

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Board of Supervisors on December 12, 2006. Minor revisions or modifications to the project may be approved by the Community Development Director if they are consistent with the intent of and in substantial conformance with this approval.
2. The Coastal Development Permit, PAD Permit and Grading Permit are valid for one year from the date of approval, until December 12, 2007, on or before which time the applicant shall be issued a building permit. Any extension requests shall be submitted in writing at least sixty (60) days prior to the expiration date, with the applicable extension fee paid.
3. The applicant shall apply for and be issued a building permit prior to the start of construction of the residence and/or water tanks and develop in accordance with the approved plans as well as install all structures to current building codes.
4. The applicant shall submit a detailed erosion and sediment control plan to the Building Inspection Section for review and approval by the Planning Division prior to the issuance of a building or Grading Permit for the new residence, driveway/turnaround and/or water tanks. The plan shall show what types of measures will be included, where they will be installed, and how they will be installed and maintained throughout construction. All erosion control measures must be installed prior to any grading or construction activities beginning on-site.
5. Design and implement appropriate stormwater pollution control measures during construction and residential use. All stormwater control measures shall be clearly shown as part of any future submittal to the Building Inspection Section. The goal of the stormwater control plan is to minimize the amount of stormwater pollution into the existing water sources on-site such as the reservoir and associated freshwater marsh area.

6. The applicant shall submit two copies of the soils report to the Building Inspection Section upon submittal for a building permit for the new residence and prepare building permit plans in accordance with the recommendations outlined in that report.
7. The applicant shall design the driveway/turnaround to the proposed residence such that soil/root compaction of any nearby trees (to be preserved) is minimized, that runoff does not create erosion problems for adjacent trees, and that tree sapling removal is held to a minimum.
8. This approval includes the removal of the subject eight significant trees. Tree replacement shall occur with 15-gallon sized trees of an indigenous species suitable to this local environment, at a 1:1 ratio for each tree removed. The proposed location of the replacement trees shall be included and clearly indicated on the required revegetation plan, as stipulated in Condition Number 9.
9. At the time of application for a building permit, the applicant shall submit a revegetation and landscape plan for review and approval by the Planning Division. The plan shall include a site plan showing the areas to be disturbed and the types of vegetation that will be used to revegetate the areas, clearly indicating the location, size and species of the required replacement trees as required in Condition Number 8. The goal of the revegetation element of the plan is to minimize the visual impacts resulting from the construction of the driveway, turnaround, new residence, and water tanks as seen from adjacent properties. The goal of the landscaping element of the plan is to create a transition between the residence and the pre-existing characteristics of the site helping to blend the structure with its environment. All proposed plantings shall be native and of a type and size to continue to grow and provide this natural buffer. All approved and installed revegetation and landscaping shall be maintained for the life of the structure. Prior to a final inspection on the project, all denuded areas resulting from the construction activities shall be revegetated and landscaped in accordance with the approved plan.
10. The applicant shall isolate the construction area with a fence made of plywood, or other impenetrable material, and metal posts in order to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS). Fence materials shall be 4 feet tall with the bottom trenched 3-6 inches deep and covered with soil. This fence shall be maintained throughout the construction period.
11. The applicant shall have a qualified biologist conduct a pre-construction survey within the fenced off area for the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS) and remove any vegetation that may provide

cover or conceal these species.

12. The applicant shall have a qualified biologist brief construction workers on how to identify the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS). If any are found during work, they are to stop construction activities and contact both the San Mateo County Planning Division and the U.S. Fish and Wildlife Service.
13. The applicant shall have a qualified biologist inspect the work site at least three times per month to ensure the exclusion fence is not damaged and is functioning properly to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS). The applicant shall submit the findings of the biologist to the Planning Division throughout construction. Receipt of these findings shall be confirmed prior to a building permit final inspection by the Planning Division.
14. During the construction and grading, the applicant shall adhere to the Construction Noise Standards as stipulated in the County Noise Ordinance.
15. At the time of the building permit application, the applicant shall submit information to the Building Inspection Section related to the septic system for review and approval by the Environmental Health Division prior to the issuance of a building permit.
16. The applicant shall employ natural colors and materials for the proposed residence to help blend the proposed structure with the natural vegetative characteristics of the site. The water tanks shall be painted a dark green. Two copies of color/ material samples shall be submitted to the Building Inspection Section at the time of application for a building permit.
17. No project-related grading or land clearing is permitted until a Grading Permit hard card is issued from the Planning and Building Division and all erosion/sedimentation controls are fully implemented.
18. All utilities serving all project elements shall be placed underground from the nearest existing utility pole. No new utility poles are to be installed or shall be allowed.
19. In the event the applicant wishes to convert the existing trailer to an affordable housing unit, then prior to the final building inspection approval of the main house, the applicant shall submit the required Coastal development Permit and Planned Agricultural District permit for the proposed affordable housing unit for consideration before the Zoning Hearing Officer, and approval of the affordable housing contract by the Board of Supervisors.

20. By no later than February 28, 2007, the applicants shall have followed through with any required plans or other information as stipulated in the Building Inspection's "Pre-Site Inspection" letter dated September 3, 2002 and reflected in the building permit application (BLD 2003-01313) necessary to have the building permit issued and finalized, effectively legalizing the mobile structure currently inhabited by the applicants. In any event, the mobile home shall have been legalized prior to issuance of any project related building or grading permits on the subject property. Any deviation to this requirement may only be granted by the Community Development Director, in consultation with the Building Inspection Manager, upon submittal from the applicants – in writing – why this timetable cannot be met. In the event that the applicant is unable to obtain the necessary permits for affordable housing, as required under condition of approval number 19 above, the applicant shall obtain a demolition permit from the Building Inspection Section and remove the mobile within sixty (60) days of a decision on those permits from the project site.

#### Building Inspection Section

21. A site drainage plan will be required which can demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
22. Sediment and erosion control measures shall be installed prior to beginning any earth work. These controls shall be maintained through the entire project and permanent measures shall be installed prior to finalizing the permit.
23. All proposed water tanks shall be shown on the building plans, including elevations relative to surrounding and immediate topography.

#### Department of Public Works

24. Prior to the issuance of the building permit for the new residence, the applicant shall provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.
25. The applicant shall submit, for review by the Department of Public Works and the appropriate Fire District, a plan and profile of both the existing and the proposed access from the nearest "publicly" maintained roadway (San Juan Avenue or Columbus Avenue) to the proposed building site.
26. The provisions of San Mateo County Grading Ordinance shall govern all grading on and adjacent to this site. Unless exempted by the Grading Ordinance, the applicant may be required to apply for a Grading Permit upon completion of their review of the plans and should access construction be necessary.

27. The applicant shall submit a driveway "plan and profile" to the Department of Public Works, showing the driveway access to the parcel complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage.
28. The applicant shall submit detailed drawings and plans indicating the "source of" and the "installation location for" the undergrounding of all utilities.
29. No construction work within the County right-of-way shall begin until Public Works requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

Environmental Health Division

30. Prior to the issuance of a building permit, the applicant shall submit to the Planning and Building Department two copies of a site plan showing: topography and location of each percolation test holes for the proposed residence at a scale of 1 inch to 20 feet or larger.
31. Prior to issuance of a building permit, the applicant shall demonstrate to the satisfaction of Environmental Health an adequate water supply for domestic service.

County Fire/Half Moon Bay Fire Protection District

32. Prior to issuance of any project-related building or grading permits, the applicant shall comply with all requirements stipulated by the applicable Fire Authority regarding construction of the main house, access driveway and water storage tanks located on the private property.

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**Exhibit 14 - Previous San Mateo County CDPs for Single Family Residences on PAD Lands with Land Valuation Comparisons**

CCC ID #	Location APN(s)	Project Description	Prime or Land Suitable for Agriculture	Value of Property Prior to SFD Permit <sup>†</sup>	2008 Assessed Value of Improvements <sup>†</sup>	2008 Assessed Value of Land and Total Value <sup>§</sup>	Assessor's <sup>**</sup> Listed Use
2-SMC-00-080 (Hines)	Ranch Road West, Pescadero 087-080-060	4,315 sf SFD, 838 sf garage; 6,400 gal water storage tank	26.86 acres; LSA	\$245,000 3/28/97 (\$9,121/ac)	\$2,025,000	\$822,436 T=\$2,847,436 (\$106,010/ac)	SFR
2-SMC-01-076 (Deterling)	4000 Stage Rd., Pescadero 087-150-240 (12.97 acres), 087-150-250 (33.23 acres)*	3,812 sf SFD, 720 sf garage; 1000 ft. long driveway	45.7* acres; LSA	\$575,000 12/15/99 (\$12,582/ac)	\$1,193,859	\$181,493 T=\$1,375,352 (\$30,095/ac)	Ag. Pres.
1-SMC-97-315 (Turner)	5005 Stage Rd., San Gregorio, 087-230-020	Construct 3,890 sf SFD and 1,200 sf stable for horses	Prime/LSA - 40.28 acres	\$254,000 9/20/95 (\$6,300/ac)	N/A	\$5,975 (\$148/ac)	Vac. Ag. Pres
1-SMC-98-417 (Balopulos)	1180 Lobitos Creek, HMB 066-320-180	Construct 3,185 sf SFD (including 615 sf attached garage)	2.5 acres - LSA	N/A (Not Available)	\$550,000	\$1,400,000 T=\$1,950,000 (\$770,750/ac)	SFR
2-SMC-01-207 (Sullivan)	37 Frenchman's Creek Road, (Now 511 Frenchman's) HMB 048-320-010	Construct 2,779 sq. ft. SFD & 5,000 gallon water storage tank on a 62.5-acre PAD parcel; COC to confirm legality of parcel.	62.5 acres - LSA	\$400,000 10/24/97 (\$6,400/ac)	\$586,210	\$389,001 T=\$975,211 (\$15,603/ac)	SFR
2-SMC-02-033 (Martinson)	3200 Miramontes Point Road, HMB 066-100-070	Construct 4,475 sq. ft. SFD, 1,440 sq. ft. detached accessory structure, convert ag well.	22 acres - LSA	\$400,000 1/17/01 (\$19,500/ac)	N/A	\$458,873 (\$22,384/ac)	Dry Farm/ Pasture

\* Some property acreage appears to be different from when permit was sought. This will be noted by the asterisk, and the current acreage will be included with the APN, while the original acreage will be listed with the land description as stated in the project staff reports. Acreage value is calculated using current reported acreage.

† Market Sale Information gathered from Realquest.com.

‡ 2008 Assessed Value of Improvements and Land gathered from Realquest.com but also available from San Mateo County property tax online database.

§ 2008 Assessed Value of Improvements and Land gathered from Realquest.com but also available from San Mateo County property tax online database.

\*\* County Use from County Assessor as reported by Realquest.com.



CCCD #	Location APN(s)	Project Description	Prime or Land Suitable for Agriculture	Value of Property Prior to SFD Permit†	2008 Assessed Value of Improvements‡	2008 Assessed Value of Land and Total Value§	Assessor's Listed Use**
2-SMC-02-099 (Donovan)	270 Triple D Ranch Rd, HMB 066-330-210* (43.29 acres)	Construct 3,074 sq.ft. SFD, 616 sq. ft. garage, drill a domestic well	54.1* acres - LSA	N/A	N/A	\$6,395 (\$148/ac)	Vac. Ag. Pres
2-SMC-01-159 (Palmer)	321 Verde Road, HMB 066-320-170 (43.846* acres)	Construct 3,423 sq.ft. SFD, convert 2 existing dwellings to affordable housing; allow 5 horses to be kept on parcel	46* acres - LSA	\$772,500 11/26/97 (\$16,793/ac)	\$692,834	\$796,246 T = \$1,289,080 (\$29,397/ac)	SFR
2-SMC-00-189 (Anderson)	414 Dehoff Canyon Road, HMB 066-440-070	Construct 2,881 sf SFD; convert existing 950 sf SFD to affordable housing	LSA - 30 acres	N/A	\$504,462	\$408,026 T = \$912,488 (\$30,416/ac) Pending sale price of \$2,300,000	SFR
1-SMC-97-300 (Dixon)	2300 Stage Rd., Pescadero 087-120-040 (109.65 acres) 087-120-050 (94.70 acres) 087-130-010 (305 acres)*	Convert existing farm labor housing to non-farm labor (768 sf) SFD;	Prime/LSA - 503* acres	N/A	Only 087-130-010 has listed improvement at \$379,182	Land Value of 087-130-010 is \$1,583,164 T for this lot = \$1,962,346 (\$6,434/ac); (-\$6,040/ac for vacant parcels)	SFR
1-SMC-98-25 (Gardner)	615 Bean Hollow Road, Pescadero 086-201-140 7.45 acres*	Construct 3,000 sf SFD; convert ag well to domestic well.	Prime/LSA - 8.5* acres	\$330,000 7/01/97 (\$44,295/ac)	\$449,873	\$2,361,853 T = \$2,811,726 (\$377,413/ac)	SFR
A-2-SMC-00-028 (Blank)	4100 Cabrillo Hwy., Pescadero 089-221-090 7.45 acres*	Construct 15,780 sf SFD, horse stable, equipment barn, relocate farm labor housing, on 261-acre parcel	Prime/LSA - 261 acres	\$1,611,000 5/14/99 (\$6,172/ac)	\$3,606,924	\$1,922,780 T = \$5,529,704 (\$21,287/ac)	SFR
A-2-SMC-99-066 (Lee)	2050 Cabrillo Hwy., Pescadero 089-230-220	Construct 6,000 sf SFD on 84-acre parcel	Prime/LSA - 84 acres	\$883,000 3/05/99 (\$10,452/ac)	\$2,164,864	\$1,053,887 T = \$3,218,751 (\$38,100/ac)	SFR

CCC ID #	Location APN(s)	Project Description	Prime or Land Suitable for Agriculture	Value of Property Prior to SFD Permit <sup>1</sup>	2008 Assessed Value of Improvements <sup>2</sup>	2008 Assessed Value of Land and Total Value <sup>3</sup>	Assessor's Listed Use <sup>4</sup>
A-3-SMC-95-025 (Pellegrini)	1430 Audubon Ave., Montara 036-310-090	Construct 21,000 sf SFD on 10-acre PAD parcel.	Prime (10 acres), but no contiguous ag parcels; surrounded by smaller developed lots zoned R-1.	\$475,000 10/6/93 (\$46,116/ac)	\$1,475,551	\$614,652 T = \$2,090,203 (\$202,932/ac)	SFR
2-SMC-01-306 (Marsh)	333 Tunitas Creek Road, San Gregorio 066-340-090	Construct 2,655 sf SFD & 846 sf detached garage; convert ag well to domestic use	8 acres - Prime	\$280,000 9/15/98 (\$31,111/ac)	\$401,356	\$340,377 T=\$741,733 (\$82,418/ac)	SFR
2-SMC-99-351 (Templeton)	6225 Pescadero Creek Rd., Pescadero 088-090-050	Construct 2,300 sf SFD, 484 sf detached carport, 1,728 sf barn for horses.	3.6 acres - Prime	\$275,000 8/13/98 (\$76,389/ac)	\$600,000	\$600,000 T = \$1,200,000 (\$333,333/ac) Sold 9/15/04 for \$1,700,000 (\$472,222/ac)	SFR
2-SMC-99-367 (Muzzi)	2550 Pescadero Road, Pescadero 087-042-090	Construct 1,790 sf SFD & attached garage; add 1,056 sf trailer for farm labor housing; convert ag well for domestic use; legalize 5-acre parcel	4.92 acres - prime	\$165,000 1/14/94 (\$33,537/ac)	\$435,929	\$213,505 T = \$649,434 (\$131,999/ac)	SFR
1-SMC-98-303 (Peterson/Schabe)	11260 Cabrillo Hwy., Pescadero (just north of Bean Hollow Road)	Construct a 1,322 sf addition to an existing 2,674 sf SFD	No info on parcel size or soil type.				
2-SMC-02-212 (Lustig)	715 Bean Hollow Road 086-201-110	Addition to existing 2,576 sf SFD (including garage); after addition, total sf = 4,245 sf (including garage).	TPZ-CZ/PAD - 4.11 acres; no soil info	\$575,000 3/11/92 (\$139,903/ac)	\$920,673	\$488,356 T = \$1,409,029 (\$342,829/ac)	SFR
A-1-SMC-97-013 (Luchini)	17500 Cabrillo Hwy S., Half Moon Bay 066-081-080 (4.67 acres)*	Requested to construct 3,490 sf SFD (including garage) and 2,033 foot long driveway; approved for 3,140 sf house and garage; 4,000 sf building envelope.	Prime - 4.88* acres	N/A	\$906,188	\$544,107 T = \$1,450,295 (\$310,556/ac)	SFR

CCC ID #	Location APN(s)	Project Description	Prime or Land Suitable for Agriculture	Value of Property Prior to SFD Permit <sup>†</sup>	2008 Assessed Value of Improvements <sup>†</sup>	2008 Assessed Value of Land and Total Value <sup>§</sup>	Assessor's Listed Use <sup>**</sup>
A-2-SMC-04-009 (Waddell)	21960 Hwy 1 066-330-160	Construct 7,650 sf SFD and 3,000 sf barn; grade for road and convert ag well to domestic use. On appeal, CCC required Affirmative Agricultural Easement; restricted building envelope and height.	LSA- 153 acres	Sold in 1995 for \$450,000. (\$2,941/ac)  Sold to current owner on 12/19/01 for \$2,500,000. (\$16,340/ac)	N/A	\$58,568 (\$383/ac)	Vac. Ag. Pres.
A-2-SMC-04-009 (Polacek)	Bean Hollow Rd. 089-191-120	Construct 4,974 sf SFD with additional structures and development, including garage, greenhouse, and pool; grade for road and convert ag well to domestic use. On appeal, CCC required Affirmative Agricultural Easement; restricted building envelope; and required biological survey and plan; and stormwater plan.	LSA and Prime. 17.98 acres	\$750,000 12/19/00 (\$41,713/ac)	\$1,613,400	\$860,389 T= \$2,473,789 (\$137,586/ac)	Horticulture
(A-2-SMC-06-021) Chan	087-150-100	Construct 2,595 sf SFD, 960 sf garage, and other accessory development, certify domestic well. On appeal, CCC required Affirmative Agricultural Easement; restricting building envelope; protection of threatened and endangered species; and stormwater plan.	LSA-60.2 acres	\$1,195,000 2/9/05 (\$19,850/ac)	N/A	\$8,734 (\$145/ac)	Vac. Ag. Pres.

## Exhibit 15 - Pending Projects on PAD-Zoned Land in San Mateo County

CCC ID #	Location APN(s)	Project Description
2-SMC-02-210 (Cicornio)	4931 Pescadero Rd, Pescadero 087-110-030	SFR in PAD zone with density credit transfer.
2-SMC-07-022 (Liquid Sky Studios)	20075 Cabrillo Highway, San Gregorio 081-060-080	CDP, PAD Permit to drill up to 7 domestic wells & Certificate of Compliance Type B for 081-060-090. (see PLN2009-00005 for Certificate of Compliance Type A for two railroad parcels)***.
PLN2009-00005 (Liquid Sky Studios)	081-060-080 & portion of 081-060-090	2 Certificates of Compliance (Type A ) for 081-060-080 & a portion of 081-060-090
2-SMC-08-038 (Carl Hoffman Michael Turnrose)	between Tunitas Creek Road and Lobitos Creen Road, Half Moon Bay 066-300-030	Conditional Certificate of Compliance (Type B) & Coastal Development Permit & PAD Permit to legalize a 32-acre parcel, a 7.71-acre parcel, and a 12.3-acre parcel adjacent to 2800 Tunitas Creek Road.
2-SMC-05-016 (Paul McGregor Kendall G. Peterson Juliet Barrera)	Highway 1 Stage Road, San Gregorio 081-030-010	To construct a 4,888 sq.ft. residence (with attached 3-car garage) and 1,200 sq.ft. barn on PAD land; includes water tanks and access driveway. Approved domestic well exists.
2-SMC-07-195 (Fred Strathdee Don Sfarzo)	Highway 92, Half Moon Bay 056-330-50 056-330-60	CDP and PAD permit to construct a 5,597 sq.ft. single-family residence which involves a domestic well and grading in the amount of 10,700 cubic yards (8,200 cut and 2,500 fill) on a 2.3-acre parcel.
2-SMC-06-162 (Ann Hollingsworth / Catherine Carhart)	1043 Tunitas Creek Road, Half Moon Bay 081-070-100	To subdivide a 300+ acre parcel into 3 separate parcels: 1) 68 acres, 2) 149 acres, & 3) 74 acres.
2-SMC-08-084 (Tomkat Ranch, L.L.C.)	1374 Stage Coach Road, Pescadero 087-130-010	Construction of a new 4,450 sq.ft. 2-story residence with a 621 sq.ft. attached 2-car garage, install a septic system, and a 4,900-gallon domestic water storage tanks on a 305-acre parcel zoned PAD.