

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th7a



Prepared September 22, 2010 (for October 14, 2010 Hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, District Manager
Jonathan Bishop, Coastal Planner

Subject: **Appeal A-3-SLO-10-016 (Harmony Headlands State Park Parking Area).** Appeal by Dennis Schneider, Sharon Harris, Sharyn Schrick, Denise Emmick McLaughlan, and Sandra Emmick Bowman of a San Luis Obispo County decision granting a coastal development permit with conditions to the State of California Department of Parks and Recreation to formalize a 16-space public parking area, including to install an information kiosk, a fee collection tube, barrier bridge rails, and signage at Harmony Headlands State Park at 4500 Cabrillo Highway (Highway One) along the Harmony Coast between Cayucos and Cambria in the North Coast Planning Area of San Luis Obispo County. Appeal Filed: April 7, 2010. 49th Day: Waived.

Recommendation

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeal A-3-SLO-10-061 was filed. Staff recommends a **YES** vote on the following motion and resolution:

Motion and Resolution. I move that the Commission determine and resolve that Appeal Number A-3-SLO-10-061 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. By such action, the Coastal Commission declines to take jurisdiction over the coastal development permit (CDP) for this project, the County's action becomes final and effective, and any terms and conditions of the County's decision remain unchanged. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Findings

On March 2, 2010, San Luis Obispo County approved a CDP authorizing the California Department of Parks and Recreation (DPR) to formalize an approximately 4,000 square foot public parking area (with 16 parking spaces), including installing an information kiosk, a fee collection tube, barrier bridge rails, and signage for the purpose of improved public access at Harmony Headlands State Park at 4500 Cabrillo Highway (Highway One) along the Harmony Coast between Cayucos and Cambria, in the North Coast Planning Area of San Luis Obispo County (see notice of County's action in Exhibit 1). Pursuant to Coastal Act Section 30603 and LCP Section 23.01.043(c)(4), this approval is appealable to the Commission because the approved development is located between the first public road and the sea,



is within 100 feet of a coastal stream, is in a designated Sensitive Coastal Resource Area, and is not the principal permitted use in the Agriculture land use category that applies to the site. The Appellants contend that the County's approval is inconsistent with San Luis Obispo County Local Coastal Program (LCP) standards for sensitive resource areas (SRAs) and environmentally sensitive habitat areas (ESHAs), as well as standards related to agriculture, coastal watersheds, and visual and scenic resources (see full appeal document in Exhibit 2).

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.¹ Commission staff has analyzed the County's Final Local Action Notice for the development (Exhibit 1), the Appellants' contentions (Exhibit 2), the Applicant's response to the appeal (Exhibit 3), the relevant requirements of the LCP (Exhibit 4), and has visited the project site (see photos in Exhibit 5). The appeal raises no substantial issue with respect to conformance with the LCP, as explained below:

County-Approved Project

The County-approved project allows for DPR to formalize an existing informal parking area just off of Highway One (and in the Caltrans right-of-way) for public parking for visitors to access Harmony Headlands State Park (HHSP). The existing informal parking area consists of hard-pack and ruderal vegetation about 100 feet off of the highway, and it provides access into HHSP and to the Appellants' property, both through gates adjacent to the parking area. The parking area is generally separated from the immediate shoulder of Highway One by existing chest-high vegetation. DPR would level out this slightly uneven (but generally flat) area with permeable Class 2 road base, and would define 16 parking spaces within it for public parking to access HHSP through the DPR gate. The parking area would remain unpaved, and the parking spaces would be arranged so as to allow through access to both DPR's gate as well as the Appellants' gate. DPR would also add a small information kiosk, a fee collection tube (or "iron ranger"), and signage in the parking area, and would add railings along the existing small bridge² over Ellyslly Creek.³ The project would not include any lights, and would include minor vegetation planting to facilitate screening of the parking areas as seen from Highway One. See approved project information and description in Exhibit 1. See photos of the project area in Exhibit 5.

SRA

The County's LCP designates sensitive resource areas (SRAs) as a means to provide an additional level

¹ The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

² The existing bridge is approximately 8 feet wide, and about 20 feet long over the creek. Given the nature of the creek, the bridge is only a few feet above the creek bottom. The existing bridge is an old concrete bridge that currently lacks adequate rails or barriers along its side.

³ Ellyslly Creek runs along the base of the shoreline hills framing Highway One along the Harmony Coast, and the creek (and creek crossing) is located about 25-30 feet inside of the Park away from the parking area.



of protection to areas of known sensitive resources, including areas with known habitat values (like streams and creeks), important views, public accessways, etc.. The purpose of the SRA designation is to ensure that proposed development is sited and designed in such a manner as to protect the designated sensitive resources. The LCP includes a series of findings that must be made in order to approve a development project within an SRA (LCP Coastal Zone Land Use Ordinance (CZLUO) Section 23.07.164(e); see applicable LCP policies in Exhibit 4), including that: 1) the development will not create significant adverse effects on the natural features of the site that were the basis for the SRA designation, and will preserve and protect such features through the site design; 2) natural features and topography have been considered in the design and siting of all proposed physical improvements; 3) any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified resource; and 4) soil and subsoil conditions are suitable for excavation, and that site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff. In this case, the proposed project is located in an LCP-designated SRA that maps to the Ellyslly Creek stream/riparian corridor.

The Appellants contend that the County approved project fails to comply with the LCP's SRA provisions because there are other feasible locations for the parking area which would result in minimal disturbance of the property. The Appellants suggest that there are feasible locations on State Park property on either side of the existing Ellyslly Creek bridge that could better accommodate a public parking area, including using the existing bridge as a single lane access to an alternative parking area further inland within HHSP.⁴

The County found that the proposed parking location would have a minimal impact on the Ellyslly Creek SRA because it involves minimal improvements within an existing disturbed Caltrans right-of-way that is currently used for parking some 25-30 feet away from the upland edge of the Creek, and because other potential parking locations would have a greater impact to the Creek as well as other coastal resources. The County based its findings and conclusions largely on a biological analysis of siting alternatives conducted by the DPR.⁵ That report concludes that the project would not have any significant impacts on the environment, and that other parking locations could have significant impacts. The Commission concurs. Alternative locations within the Park (and across the bridge over Ellyslly Creek) would clearly result in additional adverse resource impacts. For example, to retrofit and widen the existing bridge to accommodate public vehicular access would result in additional impacts to the creek and its riparian corridor (e.g., from measures necessary to increase the capacity of the bridge, to provide space for vehicular as well as pedestrian lanes, etc.). The idea of bringing additional disturbance

⁴ There is an existing access road into HHSP that extends past the gate, over the existing bridge, and roughly a half-mile to an existing small building within the Park that was historically a residential structure. This access road is not open to the public (and would not be under the County's approval). Rather, it is used by DPR personnel for park management. The existing access road was historically the driveway access to the former residence, but now provides the primary pedestrian access into the Park from the informal parking area. Due to the configuration of the hills and site topography, the access road curves into the park in such a way that it enters into a protected area where the former residence sits that is not visible from Highway One.

⁵ By Vince Cicero, DPR Senior Environmental Scientist, dated May 26, 2009.



to the creek and SRA also runs contrary to the LCP's SRA provisions, and increasing vehicular use across the bridge could lead to additional such impacts as well. In addition, more interior parking areas within HHSP would require additional grading and vegetation removal to provide for the space needed to accommodate parking at the alternative locations suggested by the Appellants, and would likely necessitate widening of and other potential upgrades to (e.g., paving) the existing one-lane, unpaved, and currently fairly low-key access road itself.

Commission staff have visited the site on multiple occasions, most recently on August 12, 2010, and these site visits corroborate this finding, indicating that the least environmentally damaging feasible alternative to providing a more formalized parking area to facilitate public access to HHSP is the County-approved project. More interior (to the Park) parking locations would not only require bridge modifications that could adversely affect Creek habitat resources and lead to increased impacts from public vehicular access over the Creek, but more interior parking areas would compromise resource areas within the park, and would compromise the serenity and ambiance that is currently provided within the park absent parking. Conversely, the existing parking area is along the side of Highway One, and provides an appropriate spot to park as a jumping off location for exploring the Park itself. This set up ensures that Park users are buffered from vehicles coming and going for parking, and keeps the interior of the Park a quiet and reflective natural area.

The Appellants also cite CZLUO Section 23.07.174 specific to streams and riparian vegetation, and contend that alternative locations are available for parking further away from the creek. As described above, the proposed parking area is already informally used by the public for parking and access to the Park, and utilizing this existing disturbed area within the Caltrans right-of-way is the environmentally superior alternative to other suggested locations. Moving the parking area further away from the creek and into the interior of the park, as suggested by the Appellants, would result in additional stream habitat impacts and would not better protect the resource. It would also lead to Park resource impacts associated with a more interior site, as discussed above. Shifting the parking area towards the highway, as also suggested by the Appellants, would require additional grading, land clearing and vegetation removal. In addition, any shift closer to the Highway would result in increased visual impacts in this highly scenic area, and could lead to safety issues for both users of the parking area and Highway One motorists. Formalizing the use of the existing disturbed area already used for parking allows for parked cars to be screened by existing vegetation and will avoid additional incursions into the viewshed.

The proposed project is consistent with LCP SRA standards and required findings because the project has been sited and designed to limit and avoid resource impacts, and it will allow for public use of the site with minimal site disturbance that is focused in an area already disturbed and already used for parking. Use of the already disturbed area will avoid the need to clear additional vegetation, will avoid additional adverse impacts to the creek and its riparian corridor, and will avoid resource impacts associated with alternative suggested sites. The proposed site is relatively flat and is suitable for continued parking as proposed. Native landscaping along the edge of the parking area will act to delineate and separate the graveled parking area from the sensitive creek and riparian resource.



In short, the County-approved project has been sited and designed to make use of an existing disturbed area adjacent to Highway One that is already used for public parking and to avoid adverse coastal resource impacts. The County-approved project is consistent with the LCP's SRA requirements, and the Appellants' contentions in this regard do not raise a substantial issue.

ESHA

The Appellants contend that the project is inconsistent with two LCP ESHA policies for development adjacent to coastal streams and within the riparian buffer zone. The Appellants contend that there is no evidence to support the County's conclusion that the proposed project has the least environmental impact (ESHA Policy 21; see Exhibit 4), and further contend that a reduction of the LCP's 100-foot buffer requirement is not supported in the findings and conditions of approval (ESHA Policy 28; see Exhibit 4). Based on DPR's biological analysis of alternatives for siting the proposed project,⁶ the County found that the project results in the least environmental impact. DPR's analysis appears thorough and adequately evaluates alternatives and potential environmental impacts, and the Commission concurs with the County that the project is the least environmentally damaging feasible alternative, including for the reasons articulated in the preceding findings. Thus, the County's approval is consistent with LCP ESHA Policy 21.

With respect to LCP ESHA Policy 28, this policy requires a 100-foot buffer in rural areas unless a modification is requested and approved through the land use permit process. The Appellants' contention that the County did not make findings to support such a modification is inaccurate. In fact, the County made such findings (see County Findings N through Q on page 7 of Exhibit 1), and the parking area was allowed to be formalized in its existing location, some 25-30 feet from Ellysy Creek ESHA, pursuant to an LCP allowed modification. As detailed in the previous findings, such siting and design appropriately respects Creek habitat resources, and such reduced buffer is appropriate pursuant to LCP ESHA Policy 28. Thus, the County's approval appropriately addresses the ESHA protection policies of the LCP, and the Appellants' contentions in this regard do not raise a substantial issue.

Agriculture

LCP Agriculture Policy 1 requires the protection of coastal agriculture and requires that suitable agricultural lands be maintained or available for agricultural production. The Appellants contend that the project is inconsistent with this policy because the project will have a significant effect on the Appellants' adjacent agricultural lands that are accessed through the parking area from Highway One. The County's approval appropriately recognizes this access road issue, and the parking area would be configured in such a way as to avoid blocking the Appellants' gate. To reinforce this design measure, the County required appropriate signage be placed at the southern portion of the access road to warn the public not to block the Appellants' gate (see County Condition 7). In addition to the sign provisions, the County required that the permit be reviewed in one year to determine if the parking configuration is interfering with access of these neighboring properties (see County Condition 5). Thus, the County adequately addressed any issues having to do with the potential of the parking area to adversely affect

⁶ Id (DPR, 2009).



access to the Appellants' property, and by extension access to any agricultural operations present there.⁷ In fact, it is more likely that the County-approved project would be beneficial to adjacent agricultural uses as opposed to the other way around. To the extent that there is an existing conflict between informally parked cars and adjacent agricultural operations, this project will help to alleviate any such conflicts by formalizing public parking spaces, clearly demarcating areas where parking is prohibited, and providing through access corridors to the Appellants' gate. In sum, LCP agriculture protection issues have been adequately addressed by the County, and the Appellants' contentions in this regard do not raise a substantial issue.

Coastal Watersheds

With respect to coastal watersheds, the Appellants raise concerns about the placement of Class 2 base rock over the surface of the parking area. Specifically, the Appellants assert that grading of the site must be addressed, and they are concerned that placement of base rock surfacing increases the potential for erosion, in conflict with LCP Coastal Watershed Policies 7, 8, and 10 (see Exhibit 4). Contrary to assertions made by the Appellants, grading, drainage, and general water quality protection provisions of the LCP are adequately addressed in the County approval. In fact, the approved grading is minimal, and the placement of semi-permeable surface rock will only occur in already disturbed and partially graveled areas off the Highway One roadbed. Consistent with Policy 7, no grading will occur on slopes greater than 20%, as the site is already relatively flat and the scope and degree of grading is minimal. Consistent with Policy 8, the parking area will not be paved and existing runoff-patterns will not be altered. Application of a semi-pervious type road base on an already disturbed and hard compacted parking area will more likely improve the drainage situation, as surface runoff will be slowed and allowed to percolate into the soil before moving away from the parking area into the ruderal vegetation. The application of the approved permeable surfacing material is sufficient to address potential runoff issues associated with parked cars at this location. Thus, LCP watershed issues, including with respect to grading and drainage, have been adequately built into the project and addressed by the County approval, and the Appellants' contentions in this regard do not raise a substantial issue.

Visual and Scenic Resources

The Appellants contend that the project will adversely impact visual and scenic resources because the parking area and signage will be visible from Highway One. Specifically, the Appellants contend that there are feasible alternatives to the siting of the parking lot that would minimize visual impacts from the public view corridor and that the project should include mitigation measures to reduce the visual impact of the parking area. As discussed above, utilizing the existing disturbed area allows for parked cars to be setback from the Highway and screened by existing vegetation (and proposed additional vegetation) thereby avoiding additional incursions into the viewshed. Although the parking area and parked cars would be visible off of the Highway, such impact would be similar to the current viewshed situation, albeit there may be more cars parked once the parking area is formalized and users are made

⁷ The Commission is not aware of active agricultural operations at the Appellants' site, but in the past these agricultural lands have been deemed suitable for and used for grazing as opposed to row crops or some other more intense agricultural operations. The provisions of the County's approval to avoid conflicts between public parking users and agricultural use of the Appellants' properties are sufficient in this regard to address any potential agricultural conflicts associated with grazing and similar agricultural uses on the subject properties.



more aware it is available. The potential that additional cars would lead to visual impact issues is tempered by the existing and proposed vegetation screening. Signage would be low key and confined to the immediate parking lot area. Alternative sites interior to the Park could avoid cars parked in the Highway One viewshed, but use of these sites would lead to significant visual impacts within the Park, as discussed above, associated with an interior parking area and vehicular access to it. The County approval adequately addresses LCP visual and scenic resource protection provisions, and the Appellants' contentions in this regard do not raise a substantial issue.

Other Appellant Contentions

The Appellants raise a series of additional contentions, some of which do not appear to be LCP or Coastal Act public access and recreation contentions (and thus not valid appeal contentions). These additional contentions do not cite specific LCP inconsistencies based on specific LCP policies, and instead are primarily premised on the allegation that the County did not have adequate factual support to approve a CDP consistent with the requirements of the LCP, including with respect to LCP-required findings and including with respect to the County's conditions of approval. These contentions likewise do not raise substantial issues with respect to LCP conformance, including as follows:

- *“The level of detail that was submitted with the application and the lack of scale and inaccuracy of the site plan makes it impossible to make an objective evaluation of the scope of the project and to assess the impacts of the proposed project.”* On the contrary, the County-approved project clearly defined a specific project for which an LCP analysis was clearly possible (see Exhibit 1). According to the County appeal staff report, the site plan “does provide the information necessary to evaluate the project.” The County's approval, and coastal resource protection requirements under the LCP, did not suffer due to the level of detail and accuracy of DPR's proposal, and this contention does not raise a substantial issue.
- *“AGENCY REVIEW: Although Public Works requested a traffic study to determine if left hand channelization is warranted at the site, there was apparently no sight distance study prepared that would evaluate the safety of traffic congestion caused by vehicles waiting to make a left turn into the parking lot nor was there an analysis of how vehicles would maneuver if the parking lot was full.”* According to the County, it was determined that Caltrans was the ultimate authority regarding the relationship of the project to potential Highway One circulation issues, and deferred to Caltrans. The fact that Caltrans did not require a traffic study is not an LCP conformance question. Moreover, the parking area in question is (and will be per the project) fairly small, and Highway One in this area is fairly rural. It is not expected that formalizing the parking area will lead to significantly increased circulation problems related to ingress and egress, and this contention does not raise a substantial issue.
- *“FINDINGS: The Appellants believe that the following findings are flawed and not supported by the facts.”* The Appellants cite County findings A through F, L, and N in support of this contention (see pages 9 and 10 of the appeal contentions in Exhibit 2). As described previously, these additional contentions do not cite specific LCP inconsistencies based on specific LCP policies. In this case,



alleged CEQA inconsistencies in and of themselves are not valid appeal contentions, and thus not relevant to the substantial issue question before the Commission in this analysis. Likewise, General Plan Policy inconsistencies in and of themselves are not valid appeal contentions, and are not relevant to the substantial issue question before the Commission in this analysis. Other appeal contentions with respect to the County findings on emergency access to adjacent properties, traffic flows on Highway One, and conflicts with immediate neighborhood character and surrounding land uses also do not raise substantial issues. Findings regarding ESHA are thoroughly addressed in the County record and further discussed in this staff report. The County adequately addressed the relevant LCP conformance issues related to this project and has provided adequate factual and legal support in making their findings. Thus, a substantial issue is not raised with respect to the general broad brush contentions made by the Appellants regarding the County's adopted findings.

- “*CONDITIONS OF APPROVAL: The appellants believe that the following conditions of approval are flawed and not supported by the facts.*” The Appellants cite County conditions of approval 2 (site development), 4 (signage), and 6 (ongoing conditions) as lacking in this contention. Again, these additional contentions do not cite specific LCP inconsistencies based on specific LCP policies. As described in some detail in the preceding analysis, the County's adopted conditions of approval adequately and appropriately address the relevant LCP conformance issues related to this project. Thus, a substantial issue is not raised with respect to the general broad brush contentions made by the Applicant regarding the County's adopted conditions of approval.

Overall, the County has provided adequate factual and legal support for its decision that the approved development would be consistent with the applicable policies in the certified LCP (Exhibit 1). There are no significant coastal resources adversely affected by the decision, and no adverse precedent will be set for future interpretations of the LCP. Finally, the appeal does not raise issues of regional or statewide significance.

For the reasons stated above, the Commission finds that Appeal Number A-3-SLO-10-016 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified LCP and/or the public access policies of the Coastal Act.

Exhibits:

- Exhibit 1: San Luis Obispo County CDP decision
- Exhibit 2: Appeal of San Luis Obispo County's CDP decision
- Exhibit 3: State Park's response to Appeal
- Exhibit 4: Applicable San Luis Obispo County LCP policies
- Exhibit 5: Site Photos





SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

**FINAL LOCAL
ACTION NOTICE**
VICTOR HOLANDA, AICP
DIRECTOR
REFERENCE # 3-SLO-10-048
APPEAL PERIOD 3/24-4/7/2010

March 17, 2010

Doug Barker, District Services Manager
State of California
750 Hearst Castle Road
San Simeon, CA 93452

RECEIVED

MAR 23 2010

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: March 2, 2010

SUBJECT: County File No. – DRC 2008-00071
Minor Use Permit/Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Board of Supervisors, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission ten (10) working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established, or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

CCC Exhibit 1
(page 1 of 13 pages)

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months, or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact me at (805) 781-5713.

Sincerely,



KERRY BROWN
Coastal Planning and Permitting

cc: California Coastal Commission,
725 Front Street, Suite 300, Santa Cruz, California 95060
Dennis Schneider/Sharon Harris, 1510 Filaree Way, Arroyo Grande, CA 93420
Sharyn Schrick, Denise Emmick McLaughlan & Sandra Emmick Bowman,
Trustees, P.O. Box 458, Sun Valley, CA 91353
Marshall E. Ochylski, P.O. Box 14327, San Luis Obispo, CA 93406

(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: March 17, 2010

Enclosed: X Staff Report(s)
 X Resolution with Findings and Conditions

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

Tuesday, March 2, 2010

PRESENT: Supervisors Bruce S. Gibson, Adam Hill, K.H. 'Katcho' Achadjian, James R. Patterson
and Chairperson Frank Mecham

ABSENT: None

RESOLUTION NO. 2010-50

RESOLUTION MODIFYING THE DECISION OF HEARING OFFICER AND CONDITIONALLY APPROVING THE APPLICATION OF STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION FOR MINOR USE PERMIT /COASTAL DEVELOPMENT PERMIT DRC2008-00071

The following resolution is hereby offered and read:

WHEREAS, on December 4, 2009, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of the State of California Department of Parks and Recreation for Minor Use Permit / Coastal Development Permit DRC2008-00071 and

WHEREAS, Schneider, Harris, Schrick, McLaughlin, and Bowman has appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on March 2, 2010, and determination and decision was made on March 2, 2010; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be upheld in part and modify the decision of the Hearing Officer subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth herein above are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

3. That this project is found to be categorically exempt from the provisions of the California Environmental Quality Act under the provisions of California Code of Regulations, title 14, section 15303 and 15304 (class 3 and 4).

4. That the appeal filed by Schneider, Harris, Schrick, McLaughlin, and Bowman is hereby upheld in part and the decision of the Hearing Officer is modified and that the application of the State of California Department of Parks and Recreation for Minor Use Permit / Coastal Development Permit DRC2008-00071 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Gibson, seconded by Supervisor Patterson, and on the following roll call vote, to wit:

AYES: Supervisors: Gibson, Patterson, Hill, Achadjian, Chairperson Mecham
NOES: None
ABSENT: None

the foregoing resolution is hereby adopted.

Frank Mecham
Chairperson of the Board of Supervisors

ATTEST:

Julie L. Rodewald
Clerk of the Board of Supervisors

By: Annette Ramirez
Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel

By: /s/ James B. Orton
Deputy County Counsel

Dated: February 16, 2010

STATE OF CALIFORNIA)
SS.
COUNTY OF SAN LUIS OBISPO)

I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this March 10, 2010.

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors
By: Annette Ramirez Deputy Clerk

CCC Exhibit 1
(page 4 of 13 pages)

BOARD OF SUPERVISORS

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, March 2, 2010

PRESENT: Supervisors Bruce S. Gibson, Adam Hill, K.H. 'Katcho' Achadjian, James R. Patterson and Chairperson Frank Mecham

ABSENT: None

In the matter of **RESOLUTION NO. 2010-50:**

This is the time set for hearing to consider an appeal by Schneider, Harris, Schrick, McLaughlin and Bowman of the Planning Department Hearing Officer's approval of Minor Use Permit/Coastal Development Permit (DRC-2008-00071) to allow the State Department of Parks and Recreation to install a parking area and related facilities for Harmony Headlands State Park located between Cayucos and Cambria; 2nd District. This item was amended at the beginning of the meeting to rename "Exhibit A - Conditions of Approval" to "Exhibit B - Conditions of Approval."

Mr. Marshall Ochylski - Appellant's Representative, (powerpoint presentation); and Mr. Nick Franco - California State Parks District Superintendent, Applicant: speak.

Chairperson Mecham: opens the floor to public comment.

Ms. Mary Bettencourt - Land Conservancy Board Member, Mr. Pat Molnar, Mr. Dennis Schneider - Appellant, Ms. Denise McLaughlin - Appellant, and Sandra Bowman - Appellant: speak.

Mr. Franco and Mr. Ochylski: provide closing statements.

Thereafter, on motion of Supervisor Bruce S. Gibson, seconded by Supervisor James R. Patterson, and on the following roll call vote:

AYES: Supervisors: Bruce S. Gibson, James R. Patterson, Adam Hill, K.H. 'Katcho' Achadjian, Chairperson Frank Mecham

NOES: None

ABSENT: None

the Board amends Conditions of Approval on page C-2, 12 as follows: Condition #1, replace "(with 16 parking spaces)" to read "(with 16 parking spaces delineated by bumpers and curves)"; Condition #5 to read "the applicant shall establish enforceable towable no parking zones within the CalTrans right-of-way at the access road to the south to ensure visitors will not block or impede access to the neighboring properties to the south for customary agricultural and residential uses; and add a new Condition #12 to read "the applicant shall provide the County with the "as built" plans required by the CalTrans encroachment permit." Further, the Board partially upholds the appeal based on the Findings in Exhibit A and RESOLUTION NO. 2010-50, a resolution modifying the decision of Hearing Officer and conditionally approving the application of State of California Department of Parks and Recreation for Minor Use Permit/Coastal Development Permit DRC2008-00071, Adopted as amended.

STATE OF CALIFORNIA)
)
County of San Luis Obispo)

ss.

03/10/10 ar
cc: PL (2)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 10th day of March, 2010.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: _____

Deputy Clerk

CCC Exhibit 1
(page 5 of 13 pages)

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3 and 4) pursuant to CEQA Guidelines Section 15303 because the project consists of the construction and location of limited numbers of new, small facilities or structures, minor alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry purposes; included as "construction or installation of park facilities, such as kiosks, signs, and fencing and gate" in the Department of Parks and Recreation's list of exempt activities in accordance with CCR Section 15300.4.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the new park does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the new park (providing passive recreation) will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Highway 1, an arterial road constructed to a level able to handle any additional traffic associated with the project.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is adjacent to the coast and the project will provide access to the coastal waters and recreation areas.

Sensitive Resource Areas (SRA)

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the park will allow for passive recreation of the site, with minimum disturbance of the sensitive features. State Parks is utilizing the existing access road and disturbed area for parking.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements and the project will utilize existing roads and disturbed areas.
- J. Any proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because the project will utilize existing roads and disturbed areas.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.

Environmentally Sensitive Habitats

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat because the park will allow for passive recreation of the site and alternative locations for the parking area were analyzed to determine the least environmentally damaging project (meeting project objectives) and the environmentally superior alternative was chosen based on all environmental and land use site constraints.
- M. The proposed use will not significantly disrupt the habitat because State Parks will monitor use of the site and take protective measures as needed.

Streams and Riparian Vegetation

- N. The proposed project consists of the establishment of a State Park along Highway 1, which is an allowable use the parking area will be located adjacent to Ellysley creek, a mapped coastal stream. Alternative locations (for the parking area) were analyzed and were not feasible or were more environmentally damaging
- O. Adverse environmental effects have been mitigated to the maximum extent feasible based on implementation of the proposed restoration plan.
- P. The adjustment to the riparian setback is necessary to allow the project because alternative designs were considered and determined to be more environmentally damaging.
- Q. The adjustment to the riparian setback is the minimum that would allow for the project.

Archeological Sensitive Area

- R. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the project site was surveyed for resources and the project will not impact adjacent resources.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes installation of a 3,990 square foot parking area (with 16 parking spaces delineated by bumpers and curbs), signage (associated with the park), an information kiosk, barrier bridge rails, and an iron ranger fee collection tube, to allow public access and establishment of Harmony Headlands State Park.

Site Development

2. **Prior to commencement of construction activities**, project plans shall show all development consistent with the approved site plans and approved project description.
3. **Prior to commencement of construction activities**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Signage

4. The applicant shall provide signage at appropriate locations warning hikers of incompatibilities with cattle grazing.
5. The applicant shall establish enforceable towable no parking zones within the CalTrans right-of-way at the access road to the south to ensure visitors will not block or impede access to the neighboring properties to the south for customary agricultural and residential uses.

Encroachment Permit

6. **Prior to commencement of construction activities**, the applicant shall provide evidence of a CalTrans encroachment permit to the Department of Planning and Building.

Review of the Permit

7. The permit will be reviewed by the Planning Department Hearing Officer in a noticed public hearing one year from the approval date to review the operation of the park and conditions of approval to ensure that the operations (specifically parking of visitors) is not impeding access of the neighboring properties to the south.

On-going conditions of approval (valid for the life of the project)

8. All existing rights and remedies under recorded instruments, deeds of trusts, and easements affecting the subject CalTrans Right of Way will be assured and respected by State Parks.
9. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work

progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

10. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
11. The applicant shall as a condition of approval of this minor use permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit, or any other action by a third party relating to approval or implementation of this minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.
12. The applicant shall provide the County with as built plans as required by the Cal Trans encroachment permit

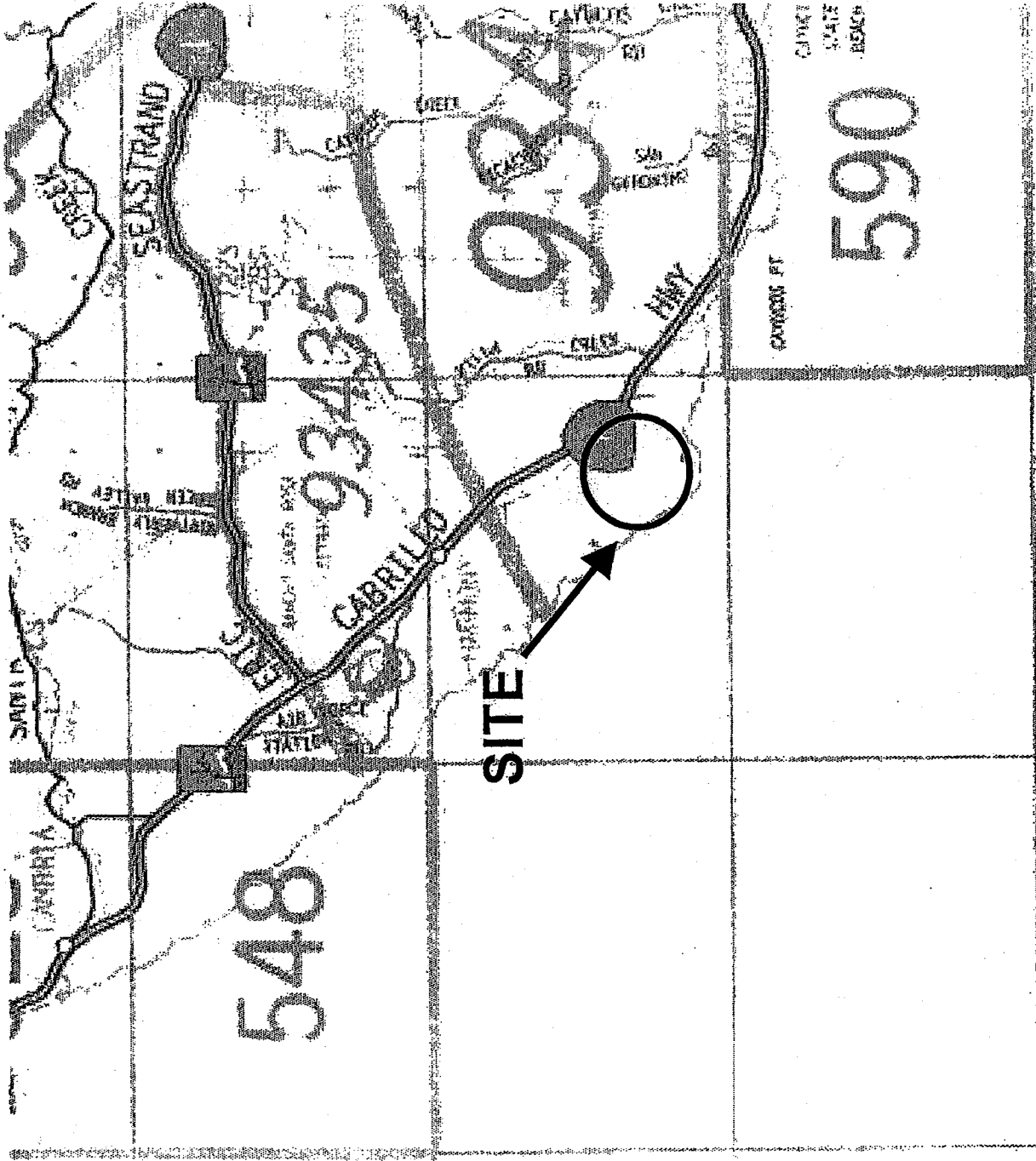


EXHIBIT
Vicinity Map



PROJECT
Minor Use Permit
CA State DRC2008-00071



CCC Exhibit 1
(page 1 of 13 pages)

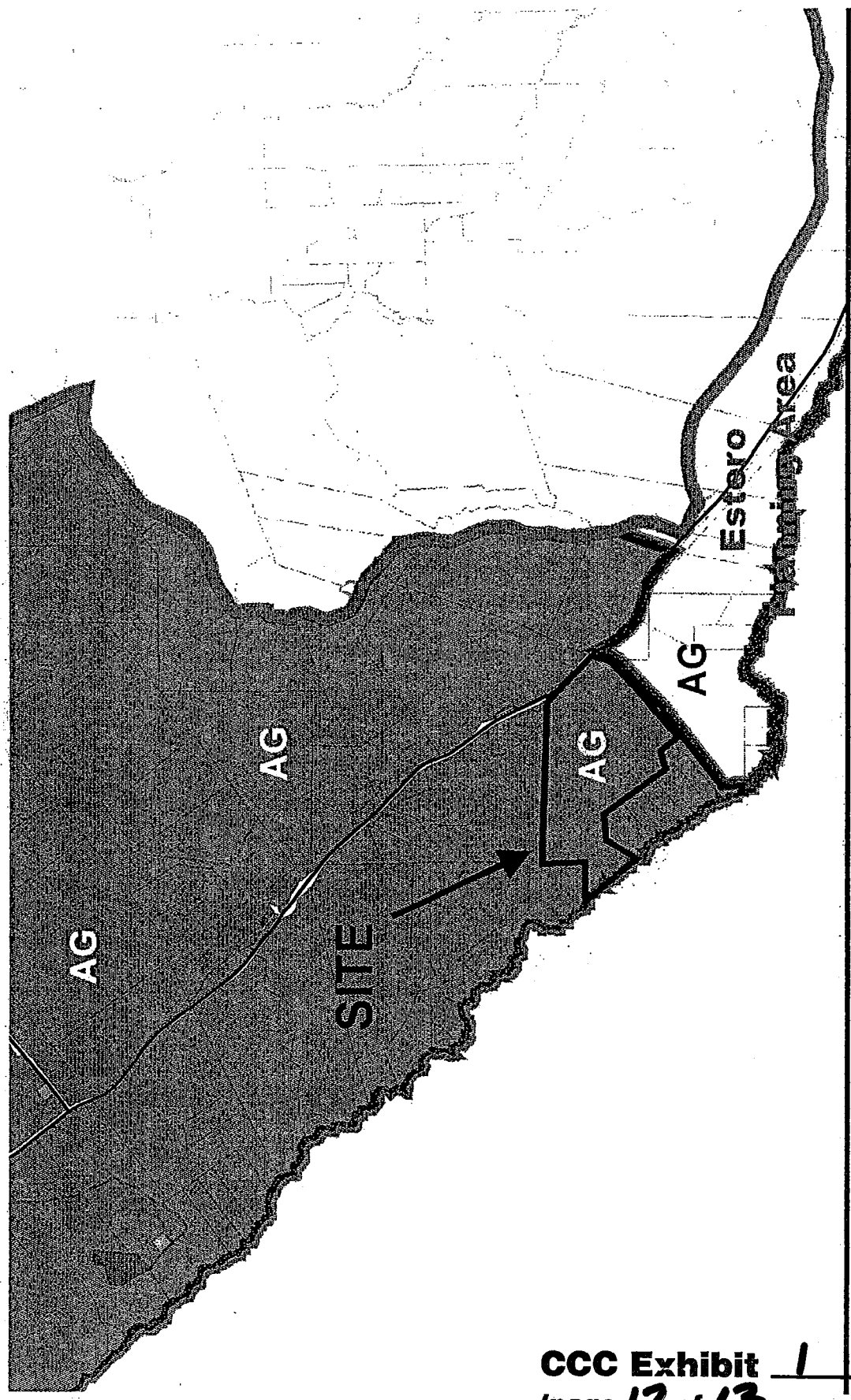
PROJECT

Minor Use Permit
CA State DRC2008-00071



EXHIBIT

Aerial Photograph



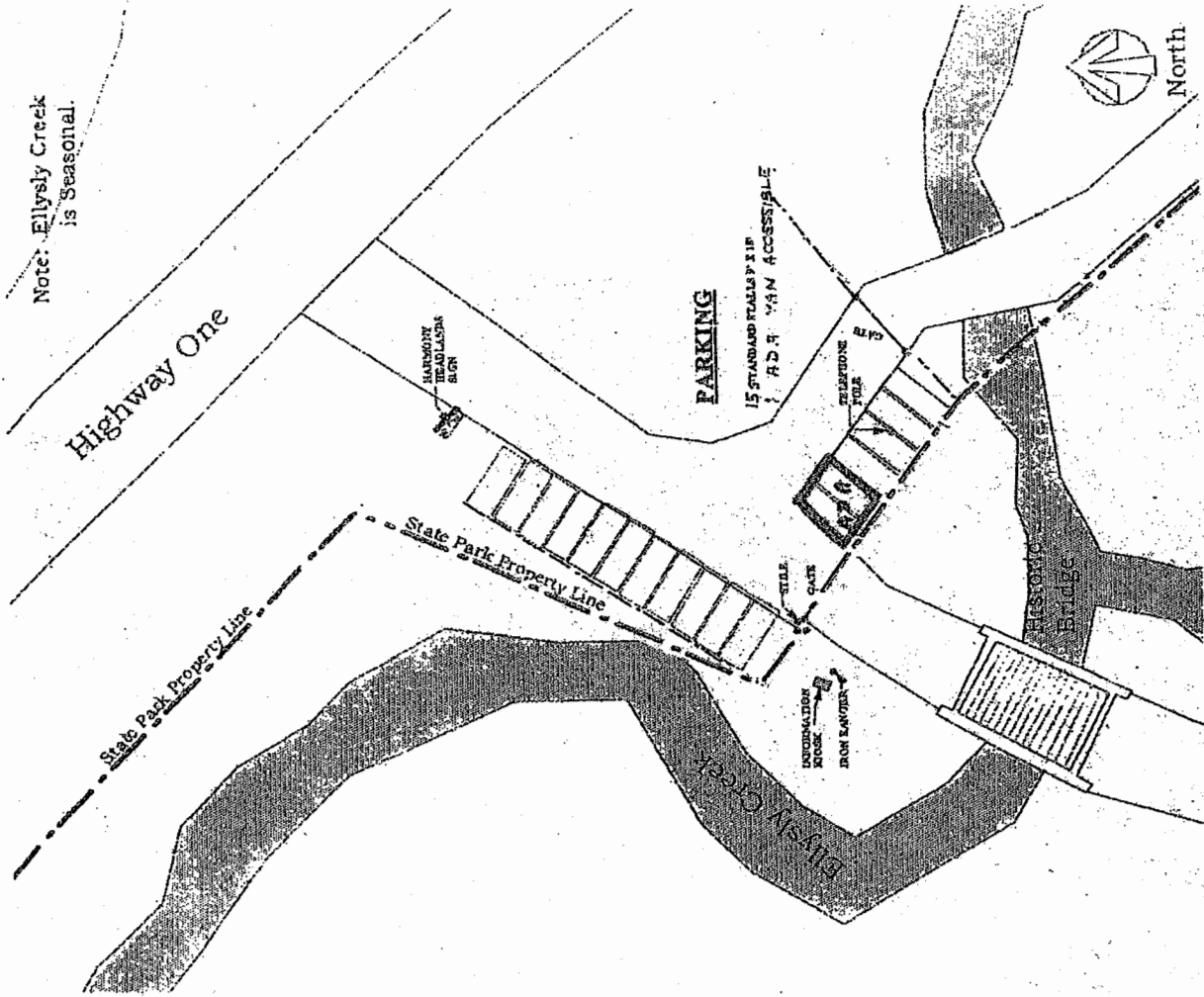
CCC Exhibit 1
(page 12 of 13 pages)

PROJECT Minor Use Permit
CA State DRC2008-00071



EXHIBIT Land Use Category Map

Note: Ellyly Creek is Seasonal.



CCC Exhibit 1
(page 13 of 13 pages)

EXHIBIT

Site Plan



PROJECT

Minor Use Permit
CA State DRC2008-00071

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4208
VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Schneider, Harris, Shrick, McLaughlin, and Bowman
Mailing Address: Please see attached Contact Information
City: _____ Zip Code: _____ Phone: _____

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Installation of a parking area in the Highway 1 right-of-way and related on-site facilities.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

4500 Cabrillo Highway (Highway 1) 4 miles South of the intersection of Highway 46 and Highway 1, 4.6 miles north of the community of Cayucos

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

| TO BE COMPLETED BY COMMISSION: | |
|---------------------------------------|-------|
| APPEAL NO: | _____ |
| DATE FILED: | _____ |
| DISTRICT: | _____ |

CCC Exhibit 2
(page 1 of 18 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: March 2, 2010

7. Local government's file number (if any): DRC2008-00071

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

State of California
Department of Parks and Recreation
Attention: Doug Barker
750 Hearst Castle Road
San Simeon, CA 93452

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Marshall E. Ochylski
The Law Office Of Marshall E. Ochylski
Post Office Box 14327
San Luis Obispo, CA 93406-4327

(2)

(3)

(4)

CCC Exhibit 2
(page 2 of 18 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached letter.

CCC Exhibit 2
(page 3 of 18 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Sharon Schrid, Denise McLaughlin, Sandra Bowen
Signature of Appellant(s) or Authorized Agent

Date: April 5, 2010

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Sharon Schrid, Denise McLaughlin, Sandra Bowen
Signature of Appellant(s)

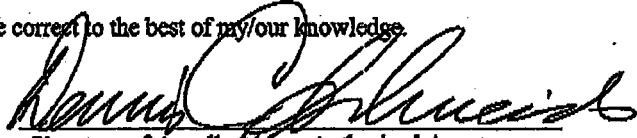
Date: April 5, 2010

CCC Exhibit 2
(page 4 of 18 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

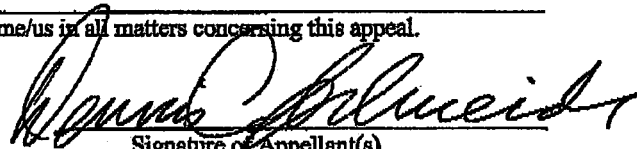
Date: April 5, 2010

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.


Signature of Appellant(s)

Date: April 5, 2010

The Law Office of Marshall E. Ochylski
Post Office Box 14327
1026 Palm Street, Suite 210
San Luis Obispo, California 93406

Telephone: (805) 544-4546
Facsimile: (805) 544-4594
E-mail: MOchylski@SLOlegal.com

Delivery via Email & Facsimile
Original to Follow

April 5, 2010

Mr. Jonathan Bishop
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: Permit Number: DRC2008-00071
Cayucos, California

Dear Mr. Bishop:

My clients, Dennis Schneider, Sharon Harris, Trustees of the Schneider Family Trust; and Sharyn Schrick, Denise Emmick McLaughlan, Sandra Emmick Bowman, Trustees of the SDS Family Trust, who are the owners of the real property identified as APN: 046-082-005, 008, 010, and 011 whose sole vehicular access is through the Cal Trans right-of-way at the same location proposed for the vehicular parking area are appealing the approval granted to DRC2008-00071 at the March 2, 2010 San Luis Obispo County Board of Supervisors' Hearing.

The level of detail that was submitted with the application and the lack of scale and inaccuracy of the site plan makes it impossible to make an objective evaluation of the scope of the project and to assess the impacts of the proposed project. (I have attached a copy of the "site plan" approved as a part of the permit (Exhibit A) as well an accurate drawing showing the exiting site conditions (Exhibit B) that clearly illustrates the degree of these inaccuracies.) The analysis of the project is further muddled when it shifts back and forth from a discussion of the project as parking area with attendant facilities to a discussion of formally establishing the site as Harmony Headlands State Park. This confusion is furthered by the fact that the parking area is not even located on the 748 acre parcel owned by State Parks but rather is located off-site in the Caltrans right-of-way.

Mr. Jonathan Bishop
DRC2008-00071
Cayucos, California
April 5, 2010

Specifically the appellants believe that the project does not conform to the following standards set forth in the certified Local Coastal Plan for the County of San Luis Obispo.

COASTAL ZONE LAND USE ORDINANCE:

23.07.160 - Sensitive Resource Area (SRA)

The proposed project is not consistent with the standards and findings required by this Ordinance section because there are other feasible locations for the location of the parking area which would result in minimal disturbance of the property. Although the staff report states that there are no other feasible locations for the parking area, there appear to be multiple alternative locations for the parking area. There are other feasible locations on the State Park property either before or after the bridge. Parking in this area was shown on the CC&R's required as a condition of the certificates of compliance for the lots prior to their purchase by the State so parking in this area is feasible. For unknown reasons, State Parks apparently discounted using the bridge as a single lane access to the parking area. A scaled site plan would have clearly shown that there are feasible alternative locations available.

Section 23.07.174 - Streams and Riparian Vegetation

Although the Staff Report states that State Parks considered several alternatives with regard to the parking area and that any location further in the park would require a far greater disturbance within 100 feet of the creek (to widen the road and bridge), there is no evidence to support that conclusion. In fact it appears that more parking could be provided on the State Parks property between the existing right-of-way line and the creek than could be provided in the right-of way without any greater disturbance. A scale drawing would clearly show that fact as well as demonstrate the proximity of alternate sites to the creek, including some alternative sites located outside of the required 100' buffer.

COASTAL PLAN POLICY DISCUSSION:

Environmentally Sensitive Habitats

Policy 21: Development in or Adjacent to a Coastal Stream. This policy requires that development shall be sited and designed to prevent and avoid impacts, however there is no evidence to support the staff conclusion that the proposed project has the least environmental impact.

Policy 28: Buffer Zone for Riparian Habitats. Although the Staff Report states that a 100 foot buffer is required in rural areas unless a modification is requested and approved through the development plan land use permit process. There is no finding or condition to support this modification.

Mr. Jonathan Bishop
DRC2008-00071
Cayucos, California
April 5, 2010

Agriculture

Policy 1: Maintaining Agricultural Lands. This policy requires that prime agricultural lands shall be maintained or available for agricultural production; however contrary to the conclusions in the staff report this project will have a significant effect on the adjacent agricultural lands that use the shared access road approach as their only access to Highway 1.

Coastal Watersheds

Policy 7: Siting of New Development. Although the staff report states that the project does not include grading, the placement of 4 to 6 inches of Class 2 base is grading by definition and must be addressed in the findings and conditions.

Policy 8: Timing of Construction and Grading. Although the staff report once again states that the project does not include land clearing or grading, the placement of 4 to 6 inches of Class 2 base is grading by definition and must be addressed in the findings and conditions.

Policy 10: Drainage Provisions. Although the staff report states that the project is utilizing existing disturbed areas and a gravel parking area to ensure there is no increase in erosion, the placement of 4 to 6 inches of Class 2 base certainly will increase the potential for erosion and must be addressed in the findings and conditions.

Visual and Scenic Resources

Policy 4: New Development in Rural Areas. This policy requires that new development shall be sited to minimize its visibility from public view corridors. As the staff report states the parking area and signage will be visible from Highway; however it fails to acknowledge that there are feasible alternatives to the siting of the parking lot that would minimize visual impact from the public view corridor. In the alternative, the approval should include mitigation measures to reduce the visual impact of the parking area.

AGENCY REVIEW:

Although Public Works requested a traffic study to determine if left hand channelization is warranted at the site, there was apparently no sight distance study prepared that would evaluate the safety of traffic congestion caused by vehicles waiting to make a left turn into the parking lot nor was there an analysis of how vehicles would maneuver is the parking lot was full.

Mr. Jonathan Bishop
DRC2008-00071
Cayucos, California
April 5, 2010

FINDINGS:

The appellants believe that the following findings are flawed and not supported by the facts.

CEQA Exemption

A. The staff report states that the project qualifies for a Categorical Exemption (Class 3 and 4) pursuant to CEQA Guidelines Section 15303 because the project consists of the construction and location of limited numbers of new, small facilities or structures, included in the Department of Parks and Recreation's list of exempt activities in accordance with CCR Section 15300.4. It is not clear that the proposed parking area qualifies for such a Categorical Exemption.

Minor Use Permit

B. The proposed project or use is not consistent with the San Luis Obispo County General Plan because even as conditioned the project is not consistent with all of the General Plan policies.

C. As conditioned, the proposed project or use does not satisfy all applicable provisions of Title 23 of the County Code.

D. The establishment and subsequent operation or conduct of the use will, because of the circumstances and conditions applied in the particular case, be detrimental to the adjacent property owners because the parking area will have a significant impact on their ability to access their property and the continuation of active agricultural operations on their property. The proposed parking area also has a demonstrable impact on emergency access, including CalFire and emergency medical services not only to, but also from, the adjacent parcels owned by the appellants.

E. The parking area will be inconsistent with the character of the immediate neighborhood and will seriously conflict with the surrounding lands and uses.

F. Because of sight distance concerns, it is not clear that the proposed project or use will not have a negative impact on the traffic flow on Highway 1.

Environmentally Sensitive Habitats

L. Although the staff report states that there will be no significant negative impact on the identified sensitive habitat because alternative locations for the parking area were analyzed to determine the least environmentally damaging project (meeting project objectives) and the environmentally superior alternative was chosen based on all

Mr. Jonathan Bishop
DRC2008-00071
Cayucos, California
April 5, 2010

environmental and land use site constraints, there is no evidence to support that conclusion. In fact given the lack of scale and inaccuracies on the site plan submitted with the application, there is no way to reach such a conclusion.

Streams and Riparian Vegetation

N. The staff report states that alternative locations (for the parking area) were analyzed and were not feasible or were more environmentally damaging, however once again given the lack of scale and inaccuracies on the site plan submitted with the application, there is no way to reach such a conclusion.

CONDITIONS OF APPROVAL:

The appellants believe that the following conditions of approval are flawed and not supported by the facts.

Site Development

2. This condition requires that prior to commencement of construction activities, project plans shall show all development consistent with the approved site plans and approved project description; however as clearly shown the approved site plans were not prepared to scale and are insufficient as a basis for construction plans.

Signage

4. The applicant shall provide signage at appropriate locations warning hikers of incompatibilities with cattle grazing will do nothing to address the impacts from the parking area on ongoing adjacent agricultural operations.

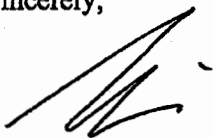
Ongoing Conditions of Approval (Valid for the Life of the Project)

6. This condition states that all existing rights and remedies under recorded instruments, deeds of trusts, and easements affecting the subject Caltrans Right of Way will be assured and respected by State Parks. The Right of Way Contract – State Highway (Exhibit C) grants the parties the right to operate the road approach. These rights need to be determined prior to the approval of a parking lot or any development affecting the access road approach. This condition is unclear and too nebulous to be enforceable.

Mr. Jonathan Bishop
DRC2008-00071
Cayucos, California
April 5, 2010

For the above reasons, and others, this appeal should be upheld and the approval of DRC2008-00071 as currently configured should be overturned.

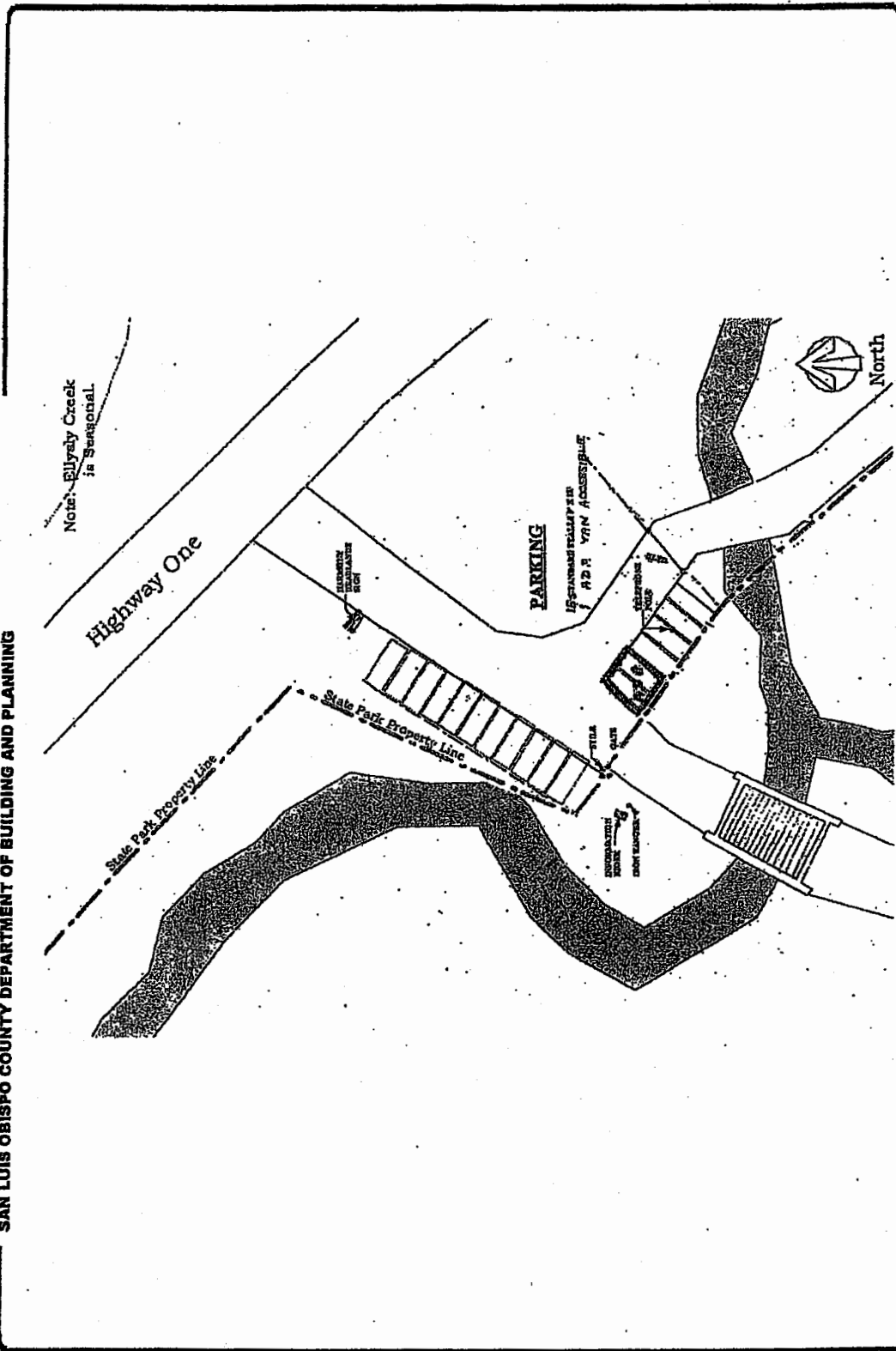
Sincerely,



Marshall E. Ochylski,
Attorney at Law

MEO/ec

cc: Dennis Schneider & Sharon Harris
Sharyn Schrick
Denise Emmick McLaughlan
Sandra Emmick Bowman



EXHIBIT

Site Plan



PROJECT

Minor Use Permit
CA State DRC2008-00071

C-2
EXHIBIT 22A

March 2, 2010

RIGHT OF WAY CONTRACT NO. 4775

FORM R/W-1

Gambria, California
 September 23, 1958

| Acct. | Dist. | COUNTY | ROUTE | SECTION | ALLOT. |
|-------|-------|--------|-------|---------|--------|
| | V | SIC | 56 | 1/210 | 567100 |

Station 439+90 to station 465+30

VERNON B. SOTO, ET AL
 Grantor

1958 Side of Highway

RIGHT OF WAY CONTRACT—STATE HIGHWAY

Document No. 219 in the form of a Grant Deed

covering the following described property:
~~more particularly described in the above~~
 numbered document.

APPROVED

MAR 2 6 1959
 HQ. R/W OFFICE

By [Signature]

has been executed and delivered to BARRETT H. ALLEN

Right of Way Agent of the State of California

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.

2. The State shall:

A. Pay the undersigned grantors the sum of \$2,279.00 for the property or interest therein as conveyed by Document No. 219 within sixty (60) days after date title to said property vests in, or is in escrow for, the State free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded), except:

(1) General and special taxes for the Fiscal Year 1958-59, a lien not yet payable.

C-2

EXHIBIT 24
 March 2, 2010

CCC Exhibit 2
 (page 14 of 18 pages)

- (2) Any adverse claim to any portion of Parcel 1 which has been created by artificial means or has accreted to such portion so created.
- (3) The right to erect and maintain three anchors, with the necessary wires and fixtures thereon, as granted to The Pacific Telephone and Telegraph Company by deed dated July 23, 1910, and recorded December 27, 1910, in Book 87 at Page 290 of Deeds.

It is understood and agreed upon by the parties that in the amount shown in Clause 2A above the sum of \$1,629.00 is the amount paid for land only.

B. Pay all escrow and recording fees incurred in this transaction, and, if title insurance is desired by the State, the premium charged therefor, and documentary stamp tax, if required.

This transaction will be handled through an escrow with the Title Insurance and Trust Company, San Luis Obispo, California

C. Install standard 5-strand barbed wire fence fastened to wooden posts spaced at 14-foot intervals along and immediately adjacent to the State highway right of way but within the State highway right of way and extending from left of Engineer's Station 439+80 to left of Engineer's Station 469+75. Install standard 14-foot metal drive gate and fencing as indicated on map referred to in Clause 4 following.

D. Deliver to grantees, Vernon E. Soto and Althea Soto, husband and wife, as joint tenants, as to an undivided one-half interest, and Andrew L. Soto, Jr. and Bennie Soto, husband and wife, as joint tenants, as to an undivided one-half interest, a good and sufficient Director's Deed, properly recorded, to the following described property, free and clear of all liens, encumbrances except taxes, if any, easements, restrictions and reservations of record which include general and special County taxes for the Fiscal Year 1957-58, rights of way and easements for public or private streets or highways as the same now exist, including a right of way for County road as granted to the County of San Luis Obispo by A. Muscio by deed recorded December 2, 1912, in Book 95, Page 352 of Deeds, and a right of way for public highway as granted to the County of San Luis Obispo by Dante Muscio, et al, recorded December 22, 1927, in Book 42, Page 320, Official Records; an unrecorded farming lease dated October 1, 1947, executed by Clarence E. Fellett and Edna B. Fellett as lessors and Donald S. Silagel as lessee for a term of 5 years from October 1, 1947, upon the terms, covenants and conditions therein provided. The lessors interest under said lease was assigned to W. W. Warren, a single man; and a right of way and incidents thereto for a public highway as granted to the County of San Luis Obispo by deed recorded August 27, 1956, in Book 859, Page 549, Official Records:

That portion of the Rancho San Geronimo as conveyed to the State of California by deed recorded December 22, 1958, in Volume 973 of Official Records at Page 206, records of said County lying southwesterly of the following described line:

Beginning at a point distant 3.00 feet from Station 444+88.84 B.C. on the centerline

C-2
25
March 2, 2010

of the Department of Public Works' Survey for State highway, Road V-SLO-56-C, as said centerline is delineated on the map filed in the State Highway Map Book, pages 516 to 541 inclusive, records of said County; thence from a tangent that bears N. 75° 11' 38" W., along a curve to the right with a radius of 1933 feet, through an angle of 47° 27' 18" for a distance of 1601.00 feet; thence N. 38° 12' 21" W., 303.21 feet; thence N. 18° 21' 42" W., 321.92 feet to a point distant S. 63° 14' 17" W., 145.00 feet from Engineer's Station 466+50 P.O.C. on the above said centerline.

EXCEPTING and RESERVING unto the State of California any and all rights of ingress to or egress from the land herein conveyed over and across the above line.

It is the purpose of the foregoing exception and reservation to provide that no easement of access, except as hereinabove provided, shall attach, or be appurtenant to the property hereby conveyed, by reason of the fact that the same abuts upon a State highway.

3. Any or all moneys payable under this Contract, up to and including the total amount of unpaid principal and interest on the note secured by Deed of Trust recorded February 15, 1951, in Book 597, Page 272, Official Records of San Luis Obispo County, together with penalty (if any) for payment in full in advance of maturity, shall, upon demand, be made payable to the beneficiary entitled thereunder; said beneficiary to furnish grantor with good and sufficient receipt showing said moneys credited against the indebtedness secured by said Deed of Trust.
4. Deliver to grantees, Vernon E. Soto and Althea Soto, husband and wife, as joint tenants, as to an undivided one-half interest, and Andrew L. Soto, Jr. and Bonnie Soto, husband and wife, as joint tenants, as to an undivided one-half interest, a Grant Deed properly recorded, to the property outlined in red on the map attached hereto and made a part hereof, subject to the restrictions as contained therein and such other covenants, conditions, liens, and restrictions that are of record.
5. Upon completion of the project designated as V-SLO-56-C and opening the same to public travel, there will be presented to the California Highway Commission customary form of resolution and favorable recommendation of the Division of Highways covering abandonment of the portion of the existing highway across the grantor's property superseded by the new construction.
6. It is understood and agreed that in addition to payment in full for the land, the amount shown in Clause 2A above includes payment in full for damages that may be created by the construction of the highway in the manner proposed.



DEPARTMENT OF PARKS AND RECREATION
San Luis Obispo Coast District
750 Hearst Castle Road
San Simeon, CA 93452
(805) 927-2119 telephone
(805) 927-2031 fax
dbarker@hearstcastle.com

Ruth Coleman, Director

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SEP 22 2010

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

September 22, 2010

Mr. Jonathan Bishop
Coastal Analyst
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

**Subject: Appeal Number A-3-SLO-10-016
California State Parks
Coastal Access - Harmony Headlands Trailhead & Parking Improvements**

Dear Mr. Bishop,

State Parks is submitting the following response to appeal number A-3-SLO-10-016 of approved minor use permit number DRC2008-00071 for minor improvements to the trail head and parking area at Harmony Headlands State Park.

We appreciate your inclusion of this response letter in your staff report for the benefit of the members of the California Coastal Commission. Consistent with the Local Coastal Plan's policy objective of **providing maximum public access to and along the shoreline**, this project will provide much needed improvements to the trail head and parking area currently used by county residents and visitors that access the coastal bluffs at Harmony Headlands State Park. This project provides the **only public coastal access** in the 11 mile stretch of land between Cambria to the north and Estero Bluffs State Park to the south. This trail facility will be an integral connector in the California Coastal Trail system between Cayucos and Cambria. The trail head serves day use hikers only, with no over night camping.

The appellant raises three primary issues: 1) alleged defects in the site plan, 2) project proximity within 100 feet of Ellyslly Creek, and 3) failure to consider alternatives.

With regard to the first issue, the site plan as amended is based on surveyed maps provided by Caltrans. Caltrans has reviewed the site plan and approved the design of the portion of the project that occupies the Caltrans Right of Way. Caltrans issued and renewed encroachment permit number 0509 NMC 0351 for the placement of parking bumpers and a park entrance sign in their Right of Way, respecting existing fence lines and boundary markers. The adjacent property owners that share boundaries in and around the parking area are Caltrans, State Parks, and Mr. Tahvildari, none of which have appealed the project or objected to the site plan or depiction of boundary lines on the site plan. The amended site plan was sufficiently detailed and accurate to allow County Planning and the Board of Supervisors to make an informed decision about the location of the parking area.

CCC Exhibit 3
(page 1 of 15 pages)

With regard to issue 2 raised by appellant and the project's proximity to an Environmentally Sensitive Habitat (within 100 feet of Ellyslly Creek), State Parks satisfied the requirements of §23.07.170 of the Coastal Zone Land Use Ordinance (CZLUO) by including with its application, a biological report dated May 26, 2009 (attached) which was approved by the County's Environmental Coordinator. The report concludes that the project will not have any significant impacts on the environment and that the project has been designed with full consideration of the identified sensitive resources, and as such, satisfies the requirements of the Coastal Zone Land Use Ordinance. The project is consistent with the biological continuance of the habitat. Therefore, Coastal Plan Policies 21 and 28 were met by the inclusion of the biological report and concurrence of the County Environmental Coordinator.

During the preparation of the biological report, Caltrans permit and environmental staff and the State Parks Senior Environmental Scientist reviewed the project for impacts to the creek and riparian zone from the placement of permeable road base (gravel) in the parking area. Conditions were placed on the project by Caltrans to ensure no adverse effect to the sensitive resource area. Some conditions include placement of landscape edging and ground cover, sufficiently set back from the creek banks, and native plantings. As a result, no residue from class 2 road base or from parked vehicles will enter the riparian area. State Parks Resource Ecologists have planted plots of native grasses adjacent to the trail head to restore native vegetation and establish a natural barrier between the trail head and creek. Staff have planted approximately 1 acre of purple needle grass and creeping wild rye, and have mowed and weeded the area to increase grassland cover, to make it more aesthetically pleasing, and to expand upland habitat for red legged frogs and western pond turtles.

The State Parks Senior Environmental Scientist determined in the biological report that visitors should be steered away from the riparian zone, creek, and sensitive resource area which is habitat to listed species including Western pond turtle and California red legged frog. Both objectives can be met by locating the parking lot in the existing, disturbed, informal parking area in the Caltrans Right of Way. Bridge approach rails will direct pedestrians from the parking area over the historic bridge and away from the riparian zone, directly to the trail head. These facts directly address compliance with §23.07.174 of the CZLUO and Coastal Plan Policy 21 raised by the appellant. With regard to Policy 28 and allowable exceptions to the 100 foot buffer from riparian habitats, permitted uses within the buffer strip include passive recreation uses and bridge approaches to cross a stream. The biological report is expert evidence to support the conclusion that the proposed project has the least environmental impact. In approving the minor use permit, the County Board of Supervisors made a factual finding in the attached "Exhibit A – Findings," paragraph L which states "There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat because the park will allow for passive recreation of the site and alternative locations for the parking area were analyzed to determine the least environmentally damaging project and the environmentally superior alternative was chosen based on all environmental and land use site constraints."

The third issue raised by the appellant is consideration of alternative locations for the parking area. With regards to §23.07.160 of the CZLUO, contrary to appellants contention that there are other feasible locations for placement of the parking area, the State Parks Historian determined that the historic bridge spanning Ellyslly Creek should not be utilized by visitor's vehicles, and that impacts to the historic structure should be minimized. In fact, the San Luis Obispo County Coastal Plan Policy 13 states that no vehicle traffic shall be permitted in wetlands, and state agencies may complete actions necessary to accomplish a permitted use within the wetland, provided that pedestrian traffic is regulated and incidental to the permitted use. Therefore, Policy 13 prohibits placement of the parking lot across Ellyslly Creek in the riparian zone or adjacent to the ponds and natural drainage swales on the property, which comprise the wetlands.

On page four of the biological report, several alternatives to the proposed project were considered, including "no project" and "alternate parking and entrance" alternatives. This biological report and expert opinion meets the requirements of Title 23 of the Local Coastal Plan §23.07.170 and is factual, expert evidence that alternatives were considered, and the environmentally superior alternative was adopted.

Finally, alternatives are only required if the project may cause **significant adverse effects**. This project qualified for a Categorical Exemption because it was determined to have **no significant adverse effects**, a finding which was also adopted by the County Planner and ratified by the County Board of Supervisors, and now Coastal Commission Staff have concurred. The categorical exemption was filed as a Notice of Exemption with the State Clearing House (SCH file number 2008128198) on December 15, 2008. The public comment period for the Notice of Exemption has expired and the requirements of CEQA have been met (CEQA ID number 8587).

With regard to Agriculture Policy 1, this project will have **no impact to adjacent agricultural lands**. Neighbors to the south of the State Park will continue to use their shared access driveway through the Caltrans Right of Way. Condition number 6 guarantees that legal access rights will not be impacted by approval of the project. No parking signs will be placed on the southern neighbor's access gate and along the approach to the access gate. No trespassing signs will be placed along the boundary fences on the boundaries of the State Park that abut agricultural land.

With regard to Coastal Watersheds Policies 7, 8, and 10, the placement of 4 to 6 inches of permeable class 2 road base (gravel) does not amount to "grading" and has been approved by Caltrans (the permitting authority) in the Right of Way. **A grading permit is not required**. Caltrans permitting and environmental staff and State Parks Senior Environmental Scientist concluded that placement of gravel in the parking lot would alleviate erosion and not result in contaminated runoff.

With regard to Visual and Scenic Resources Policy 4, no outdoor lighting will be incorporated in the plan. Harmony Headlands State Park is in a natural, undeveloped state, and the plan design is consistent with maintaining its natural character. Native plants are being utilized in the riparian zone restoration plan, and where appropriate, native plant screenings will be incorporated.

Mr. Jonathan Bishop, Coastal Analyst
Subject: Appeal Number A-3-SLO-10-016. California State Parks
Coastal Access - Harmony Headlands Trailhead & Parking Improvements
September 22, 2010
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With regard to the traffic study requested by County Public Works and reviewed and approved by Caltrans, with the concurrence of County staff, Mr. Robert Nunn, Caltrans Permits Engineer determined that **left turn channelization was not required**, based on approximately 1 mile of line of sight distance to the entrance when approaching from the north and approximately 1 mile line of sight distance when approaching from the south.

In summary, the decision of the San Luis Obispo County Board of Supervisors to conditionally approve the minor use permit was appropriate and supported by the factual record and documentation contained in the attached biological report and staff report's finding of no significant impact. With regard to the portion of the project, outside the Caltrans parking area and on State Park lands, and within the jurisdiction of Coastal Commission, the appellants have not objected to the design or location of the bridge hand rail, kiosk sign, or fee collection tube, and these items are consistent with the Local Coastal Plan. The CEQA notice of exemption (attached) was properly filed and noticed to the public, was not objected to by the appellant, and is final. All of the relevant provisions of Title 23 of the Coastal Zone Land Use Ordinance have been met, including §23.07.160, 164(b) and (e), and 170, evidenced by the inclusion of a biological report found to be acceptable by the County Planning Environmental Coordinator.

Finally and most importantly, this project will benefit the residents of San Luis Obispo County as well as out of area visitors, and provide much needed Coastal Access in an underserved area of the coast line. Thank you for the opportunity to provide this response to the subject appeal, and for including it in the Staff Report for the benefit of the members of the California Coastal Commission.

Very Truly Yours,



Douglas G. Barker, J.D.
District Services Manager
District Environmental Coordinator
Hearst Castle / California State Parks
San Luis Obispo Coast District
Telephone (805)927-2119
Facsimile (805)927-2031
E-Mail DBarker@HearstCastle.com

cc: Mr. Nicholas Franco, District Superintendent, California State Parks
Mr. Lee Otter, Transportation Planner, California Coastal Commission

Attachments: Biological Report, Vince Cicero, Senior Environmental Scientist
Exhibit A: Findings (by County Planning)
CEQA Notice of Exemption (State Clearing House Number 2008128198)

CCC Exhibit 3
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Ruth Coleman, Director

May 26, 2009

John Nall
Coastal Planning and Permitting
San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: DRC2008-00071 State Parks

Dear Mr. Nall:

This letter is in response to Kerry Brown's letter dated December 18th 2008 to Doug Barker regarding the proposed actions at Harmony Headlands State Park (HHSP). In that letter, Ms. Brown indicated the need for a biological report to address Coastal Zone Land Use Ordinance sections 23.07.164, 23.07.170 and 23.07.174. Ms. Brown subsequently informed us that you were the Environmental Coordinator that would be reviewing this permit application on behalf of the Environmental Division.

Although Harmony Headlands State Park is predominately characterized by grasslands and coastal scrub plant communities, there is also an abundance of rocky outcrops, fresh water habitats, and a long stretch of unique coastal bluffs. The interior valley, underlain by sandstone bedrock, supports a variety of wetland habitats. This property is distinctly influenced by the immediate proximity to the coast and the historical use of this land for grazing. While grazing has not actively taken place on this property for approximately ten years, grazing currently occurs on both border properties. Introduced non-native grasses and herbaceous plants dominate portions of the property. Despite the effects of human disturbance, the property is home to four rare plant species, provides refuge for native coastal prairie grasses, and supports an extensive emergent wetland.

A detailed HHSP natural resource inventory for the entire property was prepared in 2004 and is available online at http://www.siostateparks.com/general_park_info/resources/Harmony_Coast_State_Property_Resource_Inventory.pdf. (attached for your review).

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The cultural resources on the Harmony Property are a reflection of human interaction with the natural environment over millennia and a result of human adaptation to, and behavior within, the natural setting. Harmony Headlands State Park also has an interesting history of contemporary human occupation. Briefly, Robert Logan acquired the property now known as HHSP around 1883, probably at the time Roberto Villa was selling his land. His son, David Logan operated the ranch until 1901, when the land was again sold, this time to Joseph Righetti, a dairyman. In 1912, Joseph Righetti sold the land to Armando Storni. The Storni family operated a dairy on the property until the mid-1950s when changes in health standards in the dairy industry made it economically unfeasible for the family to continue the dairy business.

The Storni ranch property was sold three times between 1964 and 1975 when it was purchased by the Ormsby Group (investment group). The Ormsby group developed plans to subdivide the property into sixteen parcels with homesites. While this development was in the planning stages, the property was leased for cattle grazing. A Notice of Intent to issue Coastal Development permits for four of the parcels was approved in 2001. Ultimately the plan for subdivision did not materialize, and the Ormsby group sold the land to the American Land Conservancy who deeded it to California State Parks in 2003.

The following comments address coastal zone ordinance issues associated with the proposed project. In addition, reference is made to cultural issues associated with the site.

Response to Section 23.07.164 – Sensitive Resource Area

A notice of exemption has been issued (CEQA ID# 8587, SCH # 2008128198) by the State of California office of Planning and Research and is attached for your reference.

At the time of CEQA preparation it was noted that:

"The historic bridge over Ellysley creek and just inside the entrance gate is constructed of local rock and limited to one lane. CSP would develop a bridge hand/guard rail for this access to prevent any potential mishaps. The hand/guard rail would have to maintain the historic integrity and comply with construction standards, while providing a safe access route for the public."

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The purpose of the hand/guard rail is to prevent the general public from falling into, or entering, the creek, facilitate visitor access across the bridge and not straying into the creek itself, and help delineate the bridge edge for safe vehicular access for park operations and/or emergencies. The 61 foot long bridge railings and approach will guide visitors across the bridge and away from the habitat and is intended to act as a barrier between the public pathway and the sensitive resource area. The proposed measures will also provide protection to the historic structure.

Under CEQA environmental review the project was determined to be categorically exempt. Project implementation will cause minor alterations to the landscape and the proposed facilities are noted in the Department of Parks and Recreation's list of exempt activities (CCR § 15300.4). Based on the environmental review, including review under PRC 5024.5 (Cultural Resources), it has been determined that the proposed project would not have any significant impacts on the environment including the historic resources.

State Park staff have observed numerous Southwestern pond turtles and California red-legged frogs year round in the vicinity of the Ellysley Creek Bridge. Norman Scott and Galen Rathbun, local reptile biologists, noted that this area is most likely the source population for the rest of the HHSP California red-legged frog population.

All work to install the proposed bridge railing will be performed from on top of the historic bridge. No persons or equipment shall work from or within into the creek or associated riparian habitat. Site disturbance will consist of auguring twelve 8 inch diameter/36 inch deep holes into native soils outside the limits of the historic bridge for railing support posts. Work on the bridge will be monitored by a cultural specialist to ensure work is consistent with Secretary of Interior Standards for the protection of historic structures. No part of the bridge rail will be attached to the historic bridge structure. Additionally, biological monitors will also be present to ensure the protection and avoidance of sensitive natural resources.

The existing public parking area for HHSP consists of an area capped with Class 2 road base just outside the existing fence and park entrance. The parking area can accommodate up to twenty or more passenger vehicles. Parking is only allowed along the State Park fence lines. No parking is available along the neighboring property to the south. The proposal to delineate 16 parking spaces will help facilitate a more consistent parking pattern, allow visitors to park without blocking the neighboring driveway access, and will eliminate the need to park in vegetated areas or along the Highway One corridor. The proposed 16 parking spaces will be placed on the existing gravel parking

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lot and no additional grading or improvements will be implemented. To delineate parking spaces, concrete parking bumpers will be anchored into place with short lengths of rebar. The parking area will not be paved and existing run-off patterns will not be altered. Permeable class 2 road base will be placed in the parking area.

The project proposal includes the installation of an "Iron Ranger." This non-staffed facility will allow State Parks to collect a nominal entrance fee to assist with park operations, maintenance, and resource management activities. The approximately 36 inch tall Iron Ranger will be placed just inside the park entrance (on State Park property) installed on a concrete pad approximately 2' x 2' x 2' deep.

In addition to the bridge railing and Iron Ranger, the Department has proposed to install an information kiosk inside the existing fence, an entrance stile along the existing fence alignment, and a State Park entrance sign near the Highway One corridor. The installation of these features will, in part, consist of auguring approximately six 8-inch diameter by 2-3 foot deep holes for the support posts.

No clearing of vegetation will occur except for the installation of the Iron Ranger and the supporting post holes for signs, railing and entrance stile. At these sites, disturbed vegetation consists of herbaceous plant material.

As a result of the minimal disturbance to soil and ground cover, existing runoff patterns will not be altered.

Response to Section 23.07.170 – Environmentally Sensitive Habitats

The Department considered several alternatives to the proposed project including the following:

No Project. This alternative would continue with the existing conditions. A "No Project" alternative would not provide protection for natural and cultural resources, would not provide for public safety, and would not allow for the placement of standard park interpretive and regulatory signage at the entrance to the State Park.

Alternate Parking and Entrance. There are no alternative locations for HHSP visitors to park their vehicles. It was not considered feasible to allow vehicles to park along the Highway One corridor. No pullouts are available on the westerly side of the highway. Parking on the easterly side of the highway is limited and would not provide safe access to HHSP.

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Parking Lot Development within the Park Unit. This alternative was considered and would require the habitat disturbance through the construction of a new parking lot near the existing entrance within the 100 foot setback. Additionally, if parking was developed farther within the park, the single lane entrance road/trail would require widening for approximately one-half mile to accommodate two-way vehicular traffic. As an additional constraint, the entrance trail/road closely parallels an intermittent drainage.

Improvement of Existing Parking Lot and Access (preferred alternative). This alternative results in the least impact to natural and cultural resources while facilitating protection of sensitive resources (pursuant to CZLUO Section 23.07.172). The functional capacity of the wetland and adjoining upland habitat will not be altered.

The proposed improvements will occur within or directly adjacent to the existing parking area and entrance road/trail system. As these existing facilities are within 100 feet of Ellysley Creek, all proposed work will take place within the habitat setback for environmentally sensitive habitat. The distance from the creek to the northerly portion of the existing parking area/boundary fence ranges from 33 feet to 25 feet. On the southwestern corner of the parking lot, the distance from the corner fence post to the creek is approximately 25 feet. The distance from the ranch road gate to the bridge abutment is approximately 80 feet. There will be no expansion of the existing parking lot or change to the permeable parking lot surface. Existing runoff patterns will not be altered. Although there will be minor alterations to the land, disturbance to the site consists of excavating post holes for signage and interpretive displays, the bridge railing supports, the access "stile", and footing for the Iron Ranger. The project will not have a significant impact on habitat within or adjacent to the entrance area, and will not affect sediment delivery to Ellysley Creek or alter wetland function.

The project as submitted provides minimal disturbance to the site while providing for public safety, interpretation and information, and park operations. There will be no incursions or disturbance to existing natural and cultural resources. As stated, the proposed development is intended to aid the public in the use of the property by allowing consistent parking, facilitating the safe crossing of the historic bridge, providing information about the site, and providing an easy way to self register while visiting the park. The improvement to the bridge is intended to minimize the impacts to the historic feature itself and to the sensitive habitat by keeping the general public out. Additionally, the railing will be wide enough to accommodate emergency vehicles while delineating the outer edges of the historic structure.

When the Department acquired the property, the area in the vicinity of the bridge was characterized by numerous weedy plant species including black mustard, field mustard, poison hemlock, wild fennel, and periwinkle. Separate from this project, State Parks resource staff implemented a small scale restoration effort in the upland habitat

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adjoining Ellysley Creek in the vicinity of the park entrance. This ongoing project consists of controlling invasive/exotic plant species and restoring native plant species. To date, approximately 3000 grass plugs have been planted in previously disturbed and/or weedy areas. Additionally, approximately 50 shrubs and trees have been planted along the creek banks. The planting is intended to improve habitat in the vicinity of the bridge and parking areas, both aesthetically and functionally. The entire restoration site is approximately ½ acre in size on both side of the bridge, along Ellysley Creek and the un-named drainage extending west into the property. It may be of interest that approximately 21 grassland species can be located in the upland habitat near the park entrance. Within other areas of HHSP, the Department has implemented additional restoration activity, including the monitoring sensitive species and intertidal habitat. Ostensibly, the Department has been implementing restoration projects enhancing on-site, and parkwide, habitat values.

Response to 23.07.174 – Streams and Riparian Vegetation

The existing access road/trail crossing Ellysley Creek provides the only access into Harmony Headlands State Park. As per project alternatives considered by State Parks, no alternative (terrestrial) access to the 760 acre HHSP is feasible. Based on existing conditions, no alternate access is available to avoid minimum 100 foot setback limits as noted in CZLUO Section 23.07.170.

As previously stated, the project, and preferred alternative, proposes no additional grading, paving or installation of impervious surfaces, or disturbance of streamside vegetation.

The project also facilitates improvement to the California Coastal Trail System. The current proposed alignment for the trail system follows the Highway 1 corridor between Cambria and Estero Bluffs State Park. The existing coastal access trail in HHSP will provide an important access point to the ocean along this reach of coastline. Improvements to the park entrance will be consistent with the development of the California Coastal Trail.

California State Parks identified various project alternatives, analyzed potential impacts and constraints to the existing biological and cultural resources, and considered potential impacts to wetland habitat. Additionally, project analysis and environmental determination through CEQA found that the proposed project would not have any

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significant impacts on the environment. It is my professional opinion that the project has been designed with full consideration of the identified sensitive resources and satisfies the requirements of the California Coastal Act and Title 23 §23.07.160 of the Local Coastal Plan.

Thank you for your consideration. Please do not hesitate to contact me if you require additional information.

Sincerely,



Vincent G. Cicero
Senior Environmental Scientist

Attachment

cc: Nancy E. Orton, Supervising Planner
Nick Franco, District Superintendent
Juventino Ortiz III, Coastal Sector Superintendent
Doug Barker, District Services Manager

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3 and 4) pursuant to CEQA Guidelines Section 15303 because the project consists of the construction and location of limited numbers of new, small facilities or structures, minor alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry purposes; included as "construction or installation of park facilities, such as kiosks, signs, and fencing and gate" in the Department of Parks and Recreation's list of exempt activities in accordance with CCR Section 15300.4.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the new park does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the new park (providing passive recreation) will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Highway 1, an arterial road constructed to a level able to handle any additional traffic associated with the project.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is adjacent to the coast and the project will provide access to the coastal waters and recreation areas.

Sensitive Resource Areas (SRA)

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the park will allow for passive recreation of the site, with minimum disturbance of the sensitive features. State Parks is utilizing the existing access road and disturbed area for parking.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements and the project will utilize existing roads and disturbed areas.
- J. Any proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because the project will utilize existing roads and disturbed areas.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.

Environmentally Sensitive Habitats

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat because the park will allow for passive recreation of the site and alternative locations for the parking area were analyzed to determine the least environmentally damaging project (meeting project objectives) and the environmentally superior alternative was chosen based on all environmental and land use site constraints.
- M. The proposed use will not significantly disrupt the habitat because State Parks will monitor use of the site and take protective measures as needed.

Streams and Riparian Vegetation

- N. The proposed project consists of the establishment of a State Park along Highway 1, which is an allowable use the parking area will be located adjacent to Ellysley creek, a mapped coastal stream. Alternative locations (for the parking area) were analyzed and were not feasible or were more environmentally damaging.
- O. Adverse environmental effects have been mitigated to the maximum extent feasible based on implementation of the proposed restoration plan.
- P. The adjustment to the riparian setback is necessary to allow the project because alternative designs were considered and determined to be more environmentally damaging.
- Q. The adjustment to the riparian setback is the minimum that would allow for the project.

Archeological Sensitive Area

- R. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the project site was surveyed for resources and the project will not impact adjacent resources.

EXHIBIT A - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes installation of a 3,990 square foot parking area (with 16 parking spaces), signage (associated with the park), an information kiosk, barrier bridge rails, and an iron ranger fee collection tube, to allow public access and establishment of Harmony Headlands State Park.

Site Development

2. Prior to commencement of construction activities, project plans shall show all development consistent with the approved site plans and approved project description.
3. Prior to commencement of construction activities, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Signage

4. The applicant shall provide signage at appropriate locations warning hikers of incompatibilities with cattle grazing.

Encroachment Permit

5. Prior to commencement of construction activities, the applicant shall provide evidence of a CalTrans encroachment permit to the Department of Planning and Building.

On-going conditions of approval (valid for the life of the project)

6. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
7. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

CEQA ID# 8587

State of California
Department of Parks and Recreation

NOTICE OF EXEMPTION

2008128198

TO: Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

FROM: Department of Parks and Recreation,
1416 Ninth Street
P.O. Box 942896
Sacramento, CA 94296-0001

PROJECT TITLE: Park Entrance Improvements
LOCATION: Harmony Headlands State Park COUNTY: San Luis Obispo

DESCRIPTION OF THE NATURE AND PURPOSE OF PROJECT: Improve the entrance area at Harmony Headlands State Park to formalize existing visitor use. Work will install public facilities and safety equipment at the entrance, parking, trailheads, and the bridge spanning Elysly Creek. Specified facilities will meet accessibility requirements as stated in the "California State Parks Accessibility Guidelines." The project will include the following work:

- **Parking and Iron Ranger:** Designate fifteen standard parking spaces and one accessible van space in an existing parking area adjacent to Sea West Road. Place up to sixteen 6 foot (ft) pre-cast concrete parking bumpers on the hard-packed ground and anchor bumpers into the ground with 2.6 ft long steel rebar. Install an approximately 1 ft² by 3 ft high Iron Ranger fee collection tube alongside the information kiosk. Anchor iron ranger in the ground using a cement footing.
- **Signage:** Install a park unit entrance sign, information kiosk, and approximately 15 information, direction, and safety signs in the vicinity of the entrance area and trails. Mount signage on existing structures or, where necessary, install signage on posts anchored in the ground using cement footings. Kiosk will measure approximately 9 ft tall by 8 ft wide and signs will be no larger than up to 39 inches wide by 30 inches high.
- **Wheel Chair Accessible Entry Stile:** Install a pedestrian entry stile in the existing fence between the parking area and the trail head, immediately north of the existing vehicular gate. Remove three fence rails from the parking area fence and install a new seven foot wooden post in a 2 foot hole approximately 45 inches behind the fence line, midway between the existing fence posts, and set in concrete.
- **Bridge Barrier Fence:** Install two approximately 61 ft long by 4 ft high free-standing fences along the approaches and sides of the single lane bridge spanning Elysly Creek for visitor safety and to protect natural resources. Construct fences using galvanized steel tubing for vertical supports and fence railing anchored to a total of sixteen new concrete footings along the approaches and in loose fill over the bridge. Twelve concrete footings will be placed in bored holes along the approaches to the bridge and four concrete footings will be placed in the gravel fill over the bridge, not affixed to the structure.

Holes excavated for iron ranger and sign, gate, and bridge posts/footings will not exceed 3 ft deep by 2 ft wide. Soil will be backfilled or excess will be distributed in adjacent depressions or pot holes.


PUBLIC AGENCY APPROVING THE PROJECT: California Department of Parks and Recreation
NAME OF DIVISION OR DISTRICT CARRYING OUT THE PROJECT: San Luis Obispo Coast District
EXEMPT STATUS: Categorical Exemption Classes: 3 and 4 Sections: 15303 and 15304

REASONS WHY PROJECT IS EXEMPT: Project consists of the construction and location of limited numbers of new, small facilities or structures; minor alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry purposes; included as "construction or installation of park facilities, such as kiosks, signs, and fencing and gates" in the Department of Parks and Recreation's list of exempt activities in accordance with CCR § 15300.4.

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Nicholas Franco, District Superintendent
DATE 12/15/08

Applicable LCP Policies Cited

Sensitive Resource Area (SRA)

23.07.160 - Sensitive Resource Area (SRA):

The Sensitive Resource Area combining designation is applied by the Official Maps (Part III) of the Land Use Element to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of these combining designation standards is to require that proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection, and, where applicable, to satisfy the requirements of the California Coastal Act. The requirements of this title for Sensitive Resource Areas are organized into the following sections:

- 23.07.162 Applicability of Standards
- 23.07.164 SRA Permit and Processing Requirements
- 23.07.166 Minimum Site Design and Development Standards
- 23.07.170 Environmentally Sensitive Habitats
- 23.07.172 Wetlands
- 23.07.174 Streams and Riparian Vegetation
- 23.07.176 Terrestrial Habitat Protection
- 23.07.178 Marine Habitats

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e. Required findings: Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:

- (1) The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.
- (2) Natural features and topography have been considered in the design and siting of all proposed physical improvements.
- (3) Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- (4) The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.

23.07.174 - Streams and Riparian Vegetation:

Coastal streams and adjacent riparian areas are environmentally sensitive habitats. The provisions of this section are intended to preserve and protect the natural hydrological system and ecological functions of coastal streams.

a. Development adjacent to a coastal stream. Development adjacent to a coastal stream shall be sited and designed to protect the habitat and shall be compatible with the continuance of such habitat.

b. Limitation on streambed alteration: Channelization, dams or other substantial alteration of stream channels are limited to:

- (1) Necessary water supply projects, provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries and lakes. (A "necessary" water project is a project that is essential to protecting and/or maintaining public drinking water supplies, or to accommodate a principally permitted use as shown on Coastal Table "O" where there are no feasible alternatives.

(2) Flood control projects, including maintenance of existing flood control channels, where such protection is necessary for public safety or to protect existing commercial or residential structures, when no feasible alternative to streambed alteration is available;

(3) Construction of improvements to fish and wildlife habitat;

Streambed alterations shall not be conducted unless all applicable provisions of this title are met and if applicable, permit approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and California State Water Resources Control Board. In addition, every streambed alteration conducted pursuant to this title shall employ the best mitigation measures where feasible, including but not limited to:

- a. Avoiding the construction of hard bottoms;
- b. Using box culverts with natural beds rather than closed culverts to provide for better wildlife movement; and
- c. Pursuing directional drilling for pipes, cables, and conduits to avoid surface streambed disturbance.

c. Stream diversion structures: Structures that divert all or a portion of streamflow for any purpose, except for agricultural stock ponds with a capacity less than 10 acre-feet, shall be designed and located to not impede the movement of native fish or to reduce streamflow to a level that would significantly affect the production of fish and other stream organisms.

d. Riparian setbacks: New development shall be setback from the upland edge of riparian vegetation the maximum amount feasible. In the urban areas (inside the URL) this setback shall be a minimum of 50 feet. In the rural areas (outside the URL) this setback shall be a minimum of 100 feet. A larger setback will be preferable in both the urban and rural areas depending on parcel configuration, slope, vegetation types, habitat quality, water quality, and any other environmental consideration. These setback requirements do not apply to non-structural agricultural developments that incorporate adopted nest management practices in accordance with LUP Policy 26 for Environmentally Sensitive Habitats.

(1) Permitted uses within the setback: Permitted uses are limited to those specified in Section 23.07.172d(1) (for wetland setbacks), provided that the findings required by that section can be made. Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses.

All permitted development in or adjacent to streams, wetlands, and other aquatic habitats shall be designed and/or conditioned to prevent loss or disruption of the habitat, protect water quality, and maintain or enhance (when feasible) biological productivity. Design measures to be provided include, but are not limited to:

- (i) Flood control and other necessary instream work should be implemented in a manner that minimizes disturbance of natural drainage courses and vegetation.
- (ii) Drainage control methods should be incorporated into projects in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction.

(2) Riparian habitat setback adjustment: The minimum riparian setback may be adjusted through Minor Use Permit approval, but in no case shall structures be allowed closer than 10 feet from a stream bank, and provided the following findings can first be made:

- (i) Alternative locations and routes are infeasible or more environmentally damaging; and
- (ii) Adverse environmental effects are mitigated to the maximum extent feasible; and
- (iii) The adjustment is necessary to allow a principal permitted use of the property and redesign of the proposed development would not allow the use with the standard setbacks; and
- (iv) The adjustment is the minimum that would allow for the establishment of a principal permitted use.

e. Alteration of riparian vegetation: Cutting or alteration of natural riparian vegetation that functions as a portion of, or protects, a riparian habitat shall not be permitted except:

- (1) For streambed alterations allowed by subsections a and b above;
- (2) Where an issue of public safety exists;
- (3) Where expanding vegetation is encroaching on established agricultural uses;
- (4) Minor public works projects, including but not limited to utility lines, pipelines, driveways and roads, where the Planning Director determines no feasible alternative exists;
- (5) To increase agricultural acreage provided that such vegetation clearance will:
 - (i) Not impair the functional capacity of the habitat;
 - (ii) Not cause significant streambank erosion;
 - (iii) Not have a detrimental effect on water quality or quantity;
 - (iv) Be in accordance with applicable permits required by the Department of Fish and Game.
- (6) To locate a principally permitted use on an existing lot of record where no feasible alternative exists and the findings of Section 23.07.174d(2) can be made.

Environmentally Sensitive Habitat Areas (ESHA)

Policy 21: Development in or Adjacent to a Coastal Stream

Development adjacent to or within the watershed (that portion within the coastal zone) shall be sited and designed to prevent impacts which would significantly degrade the coastal habitat and shall be compatible with the continuance of such habitat areas. This shall include evaluation of erosion and runoff concerns. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 28: Buffer Zone for Riparian Habitats

In rural areas (outside the USL) a buffer setback zone of 100 feet shall be established between any new development (including new agricultural development) and the upland edge of riparian habitats. In urban areas this minimum standard shall be 50 feet except where a lesser buffer is specifically permitted. The buffer zone shall be maintained in natural condition along the periphery of all streams. Permitted uses within the buffer strip shall be limited to passive recreational, educational or existing nonstructural agricultural developments in accordance with adopted best management practices. Other uses that may be found appropriate are limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that: 1) alternative routes are infeasible or more environmentally damaging and 2) adverse environmental effects are mitigated to the maximum extent feasible. Lesser setbacks on existing parcels may be permitted if application of the minimum setback standard would render the parcel physically unusable for the principal permitted use. In allowing a reduction in the minimum setbacks, they shall be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) can be accommodated. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Agriculture

Policy 1: Maintaining Agricultural Lands

Prime agricultural land shall be maintained, in or available for, agricultural production unless: 1) agricultural use is already severely limited by conflicts with urban uses; or 2) adequate public services are available to serve the expanded urban uses, and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, thus contributing

to the establishment of a stable urban/rural boundary; and 3) development on converted agricultural land will not diminish the productivity of adjacent prime agricultural land.

Other lands (non-prime) suitable for agriculture shall be maintained in or available for agricultural production unless: 1) continued or renewed agricultural use is not feasible; or 2) conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services to serve additional development; and 3) the permitted conversion will not adversely affect surrounding agricultural uses.

All prime agricultural lands and other (non-prime) lands suitable for agriculture are designated in the land use element as Agriculture unless agricultural use is already limited by conflicts with urban uses.

Permitted Uses on Prime Agricultural Lands. Principal permitted and allowable uses on prime agricultural lands are designated on Coastal Table O - Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on the prime agricultural soils, that the least amount of prime soil possible is converted and that the use will not conflict with surrounding agricultural lands and uses.

Permitted Uses on Non-Prime Agricultural Lands. Principal permitted and allowable uses on non-prime agricultural lands are designated on Coastal Table O - Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on non-agricultural soils, that the least amount on non-prime land possible is converted and that the use will not conflict with surrounding agricultural lands and uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Coastal Watersheds

Policy 7: Siting of New Development

Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent except:

Existing lots of record in the Residential Single-Family category and where a residence cannot be feasibly sited on a slope less than 20 percent;

When grading of an access road or driveway is necessary to provide access to an area of less than 20 percent slope where development is intended to occur, and where there is no less environmentally damaging alternative;

The county may approved grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance. Also in review of proposed land divisions, each new parcel shall locate the building envelope and access road on slopes of less than 20 percent. In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated

that there is no other feasible method of establishing an allowable use on the site without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. In urban areas as defined by the Urban Services Line, grading may encroach within the 100 foot setback when locating or siting a principally permitted development, if application of the 100 foot setback renders the parcel physically unusable for the principally permitted use. Secondly, the 100 foot setback shall only be reduced to a point at which the principally permitted use, as modified as much as practical from a design standpoint, can be accomplished to no point less than the setback allowed by the planning area standard or 50 feet whichever is the greater distance. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO COASTAL ZONE LAND USE ORDINANCE SECTIONS: 23.05.034 (GRADING) AND 23.04.021 (LAND DIVISIONS).]

Policy 8: Timing of Construction and Grading

Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Policy 10: Drainage Provisions

Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

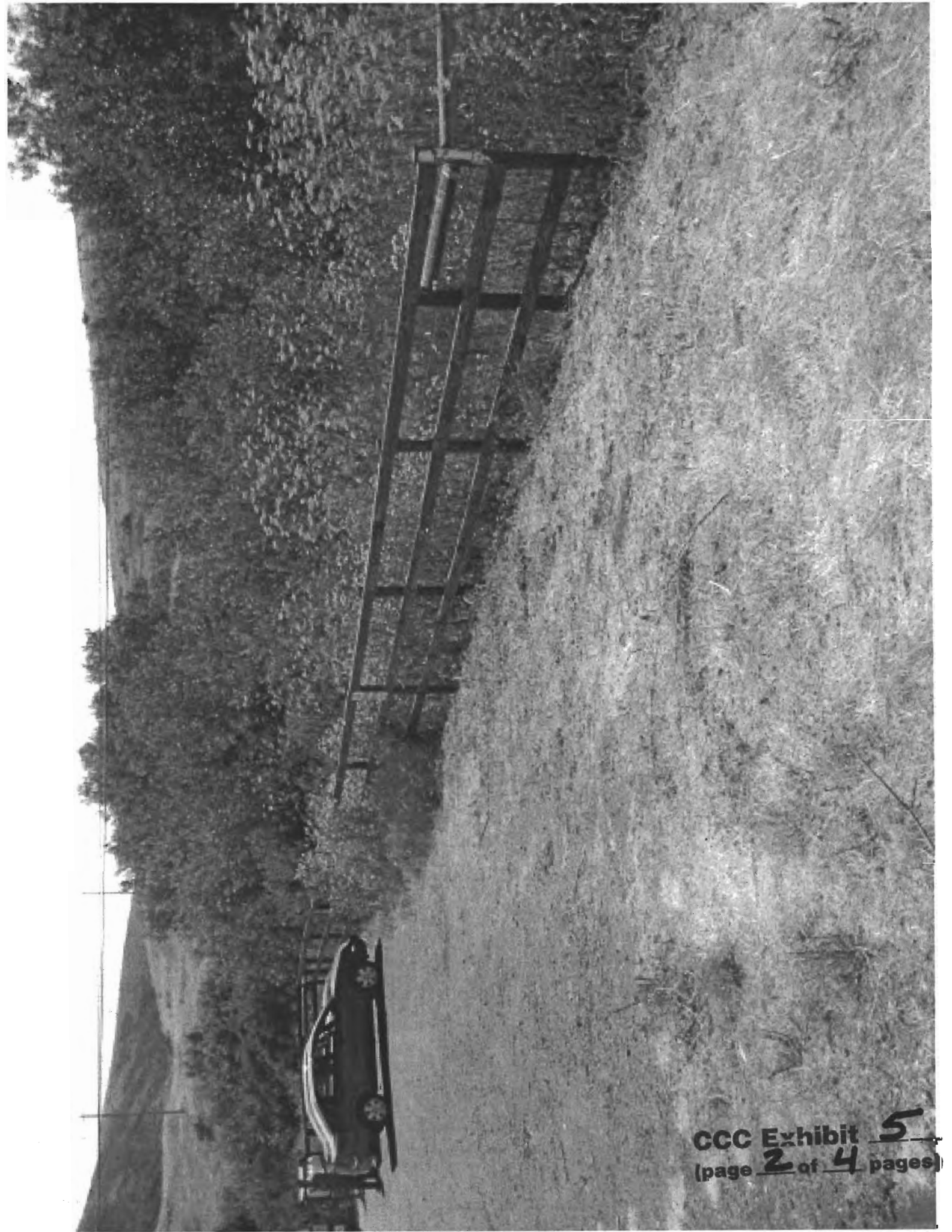
Visual and Scenic Resources

Policy 4: New Development in Rural Areas

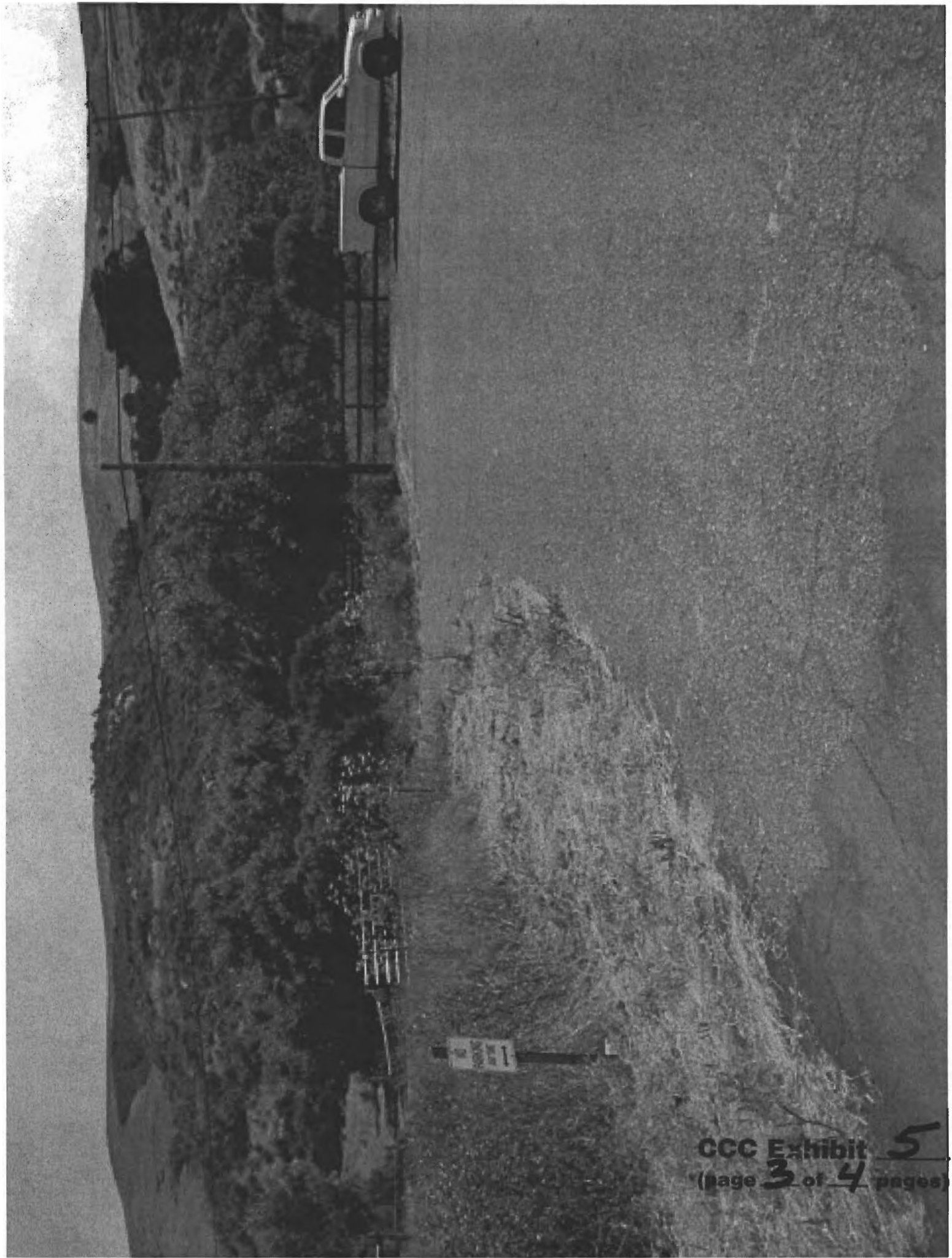
New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.021 OF THE CZLUO.]



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CCC Exhibit 5
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HIKERS ONLY
DAY USE ONLY

Primary Hike Routes Map

