

**CALIFORNIA COASTAL COMMISSION**

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



# Th13b

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original staff report](#)

## **ADDENDUM**

DATE: November 10, 2014

TO: Coastal Commissioners and Interested Persons

FROM: Commission Staff

RE: **Addendum to Item Th13b:** Coastal Development Permit Appeal (No. A-4-STB-11-005), scheduled for public hearing and Commission action on November 13, 2014.

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The purpose of this addendum is to insert a special condition imposing the Hollister Ranch in-lieu fee, consistent with Coastal Act Section 30610.8, along with related findings. Nothing in this addendum changes staff's recommendation for approval of the proposed project with conditions.

Changes to the staff report for Agenda Item Th13b are shown below, as follows:

1. Insert Special Condition 14 on page 18 of the staff report (new text is shown in underline; deleted text shown in ~~strike through~~) and make related changes to the table of contents and resulting page number changes.

### 14. Hollister Ranch Public Access

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit a fee of \$5,000.00 to the California Coastal Conservancy in lieu of granting public coastal access. A cashier's check shall be submitted to: California Coastal Conservancy, 1330 Broadway Ave., Suite 1300, Oakland, CA 94612, Attn.: Terri Nevins (510) 286-4161. Proof of payment shall be submitted to the South Central District Office of the California Coastal Commission.

2. Insert the following findings on page 48 of the staff report, after the fourth full paragraph:

In order to mitigate for the potential impacts to public access from the development of Hollister Ranch, Public Resources Code Section 30610.8(b) of the California Coastal Act specifically requires a \$5,000 fee to be assessed with the development of each parcel in Hollister Ranch, in lieu of granting public access to/from each individual property [Public Resources Code Section 30610.8(b)]. The County required payment of this fee as Condition 19 of the approved local coastal development permit [Case No. 08CDH-00000-00018]. Therefore, in order to incorporate the County's requirement, pursuant to Section 30610.8(b) of the Coastal Act, the Commission imposes Special Condition Fourteen (14).

**CALIFORNIA COASTAL COMMISSION**

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**Th 13b**

Filed:	2/9/2011
49th day:	Waived
Staff:	N.Dreher-V
Staff Report:	10/30/2014
Hearing Date:	11/13/2014

**STAFF REPORT: SUBSTANTIAL ISSUE & DE NOVO REVIEW****Appeal Number:** **A-4-STB-11-005****Applicant:** **Agua Azul Partnership****Appellants:** Commissioners Sara Wan and Esther Sanchez**Local decision:** Approval with Conditions by the County of Santa Barbara Zoning Administrator on January 10, 2011 (Coastal Development Permit No. 08CDH-00000-00018).**Project Location:** Parcel 80, Hollister Ranch, unincorporated Santa Barbara County (Assessor Parcel No. 083-680-030).**Project Description:** Construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, 2 private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).**Staff Recommendation:** Substantial Issue; Approval with Conditions**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants' assertions that the project is not consistent with the environmentally sensitive habitat area (ESHA), riparian habitat and wetland policies of the certified Local Coastal Program (LCP) and that the Commission take jurisdiction over the coastal development permit (CDP) application for the project as a

de novo CDP application. Further, staff recommends that the Commission approve the de novo CDP application, pursuant to several proposed revisions to the project by the applicant and subject to 13 special conditions.

Staff notes that **unpermitted development has occurred on the subject site** including: 1) an unpermitted road/driveway originally proposed to grant access to the original primary residence site, 2) an unpermitted 120 sq. ft. shed near the original primary residence site, 3) 2 water tanks (5,000 gal. and buried 7,000 gal.) and related transmission lines, and 4) 2 private septic systems. The applicant now proposes to restore the unpermitted road/driveway, the unpermitted shed is proposed to be relocated to the clustered building site, the water tanks and septic systems are proposed to remain where they are, but will be incorporated into the use of the primary and guest house structures. In addition, an unpermitted trailer was constructed/positioned near the southernmost portion of the site on an existing dirt road, sometime between 1994 and 2005. The trailer has been removed, but the site plan now erroneously identifies a proposed barn in the same location. No barn is proposed and no structure currently exists at this site. The former trailer site is not near the subject residential development site. Approval of the de novo application pursuant to the staff recommendation and completion of the approved project will resolve the violation(s), as explained in this staff report.

Santa Barbara County approved a CDP for construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, 2 private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill). The project is located on Parcel 80 at Hollister Ranch (APN 083-680-030).

This appeal was originally scheduled for a substantial issue hearing on March 9, 2011. After the staff report was published, the applicant contacted staff prior to the hearing to discuss issues raised on appeal. The applicant waived the 49-day appeal hearing requirement and requested postponement of the hearing in order to resolve appeal issues. Additionally, the applicant decided, at that time, to revise the local CDP via an amendment by the County to incorporate several changes into the project description in order to address the issues raised by the appeal. However, in 2014, staff learned that the applicant was no longer pursuing an amendment to the CDP approved by the County and that the applicant wished instead to proceed with the Commission's appeal and de novo permit process to resolve the outstanding issues. With respect to the de novo CDP, the applicant has worked with Commission Staff to revise the proposed project in a manner that addresses the appellants' contentions and other issues raised by the development as originally approved by the County.

The Appellants contend that the project, as originally approved by the County, fails to provide an adequate buffer for new development from environmentally sensitive riparian habitat and wetlands, the development will result in avoidable impacts to native vegetation because the main house and guest house would be located on separate areas of the property and are not clustered, and that the County has not completed an analysis of feasible alternatives that would avoid or reduce impacts to the creek corridor and native vegetation.

In terms of the substantial issue question, the County's approval permitted the main residence and access driveway to have an inadequate buffer from Agua Creek and sensitive riparian habitat

inconsistent with LCP setback requirements. Specifically, the approved residence would be located only 45 ft. from the top of bank of the creek in non-compliance with the 100 ft. setback requirement from Agua Creek, an environmentally sensitive habitat area. Moreover, the approved residence would utilize an unpermitted, as-built driveway located as close as 2-3 feet from the top of bank of Agua Creek. Although not identified as part of the approved project, the main residence would be accessed via an unpermitted approximately 400 ft. long driveway located immediately adjacent to the riparian and wetland habitat on site. Thus, as approved by the County, this project also effectively includes the after-the-fact approval of the unpermitted driveway. Based on a review of historical aerial photographs by Commission staff, it appears the unpermitted driveway on site was constructed after 1986 without the required coastal development permit. The unpermitted driveway is also located within the 100 foot buffer from an identified wetland on site. Although the as-built driveway fails to comply with the required 100 ft. setback from either the sensitive riparian habitat or wetland on site, in its approval of the new residential development on site, the County incorrectly assumed that the unpermitted driveway on site had legally existed on site prior to the Coastal Act and; therefore, did include any analysis in their staff report regarding impacts to the adjacent riparian and wetland areas that would result from the construction and use of the driveway.

Moreover, Fire Department fuel modification requirements for the new residence will result in impacts to the oak woodland that exists along the creek corridor. Based on the findings of the County's Final Mitigated Negative Declaration, at least 4,658 sq. ft of riparian buffer will be directly disturbed as a result of the proposed development and fuel modification requirements.

Further, as approved, development on the subject site would not be clustered in a manner that would serve to minimize adverse impacts to environmentally sensitive habitat areas (ESHA) or minimize impacts to native plant communities, as required by LCP policies. The approved detached guest house and garage will be located on the top of a relatively distant ridge, more than approximately 500 feet from the approved main residence and garage. Since the guest house will not be located in the same area as the primary residence, development on site would not be clustered in a manner that would serve to minimize the loss of native plant communities. The substantial distance between the main residence and the guest house will result in the creation of two distinctly separate development areas on site, thus resulting in substantially greater adverse impacts to ESHA on site due to increased noise, lighting, additional grading/vegetation removal and fuel modification requirements for each development footprint. A total of approximately 16,135 sq. ft. of Venturan coastal sage scrub habitat, a native plant community, will need to be removed according to the biological report.

There are alternatives to the approved project that would serve to avoid significant adverse impacts to ESHA, riparian, and wetland habitat on site. However, in its staff report, the County failed to analyze any alternatives to the approved project. One feasible alternative is to locate new development in a clustered development envelope that would maintain a minimum 100 ft. buffer from ESHA, riparian habitat, and wetland areas on site in order to avoid adverse impacts to these areas, such as locating both residence and guest house in the proposed location for the guest house or eliminating the guest house and constructing the main residence in the identified guest house location.

Thus, the appeals raise substantial conformance issues regarding environmentally sensitive habitat area (ESHA), oak woodland habitat, riparian habitat and wetland policies of the certified Local Coastal Program (LCP).

With respect to the Commission's review of the de novo CDP, the Applicant worked with staff to address the appellants' contentions and other issues raised by the development as approved by the County. Accordingly, the Applicant is now proposing revisions to the originally approved project to cluster the main house and guest house together within a single, compact development envelope in the location where the guest house was originally proposed. The residence and guest house will be accessed from Agua Road; thus, the unpermitted, as-built access road on site adjacent to the creek will no longer be needed and the applicant is now proposing to restore and re-vegetate the unpermitted access road with native vegetation. This alternative will avoid all impacts to wetland and riparian ESHA raised in the appeal, as the development envelope will now be sited over 500 feet from the stream bed.

The project will still have some unavoidable direct and fuel modification-related impacts to sensitive native grassland and Oak woodland ESHA. However, the revised proposal greatly reduces impacts to sensitive native grassland and Oak woodland ESHA to the extent feasible while still allowing for residential use of the property.

Additionally, even the revised project has the potential for impacts to water quality and the effects of cumulative impacts. However, these remaining issues can be mitigated and/or avoided via conditions of approval. Therefore staff recommends the Commission find that the proposed development, as revised and conditioned, is consistent with the Santa Barbara County certified Local Coastal Program.

The motions and resolutions to act on this recommendation follow below on page 5.

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## **APPENDICES**

Appendix A – Substantive File Documents

## **EXHIBITS**

- Exhibit 1 - Vicinity Map
- Exhibit 2 - Post-LCP Certification Map
- Exhibit 3 - Parcel Map
- Exhibit 4 – County-Approved Project Plans (3 pages)
- Exhibit 5 - Final Local Action Notice
- Exhibit 6 - Commissioner Appeals
- Exhibit 7 - Aerial Photographs
- Exhibit 8 – Revised Plans (5 pages)

## I. STAFF RECOMMENDATIONS FOR SUBSTANTIAL ISSUE AND DE NOVO PERMIT

### A. Motion and Resolution for Substantial Issue Determination

**MOTION:** *I move that the Commission determine that Appeal No. A-4-STB-11-005 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

#### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-4-STB-11-005 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

### B. Motion and Resolution for De Novo Coastal Development Permit

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-4-STB-11-005 pursuant to the staff recommendation.*

#### **STAFF RECOMMENDATION OF APPROVAL:**

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

#### **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to

substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

## III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

### 1. Plans Conforming to Geologic Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the geologic, engineering, and grading reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

## **2. Final Revised Plans**

- A. Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised full size project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans, including, but not limited to, site plans, floor plans, and grading plans, shall remove reference to and/or depiction of a proposed barn at the southernmost portion of the parcel, but shall otherwise be consistent with the applicant's revised project description and the draft plans prepared by Kornreich Architects and dated March 10, 2014 (**Exhibit 8**).
- B. The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

## **3. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

## **4. Permanent Drainage and Polluted Runoff Control Plan**

- A. Prior to issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design of developments in the following order of priority:
  - a. Site Design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.
  - b. Source Control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.

- c. Treatment Control BMPs: Systems designed to remove pollutants from stormwater, by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

The qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.
- (2) Post-development runoff rates from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) Landscape plants shall have low water and chemical treatment demands and be consistent with Special Condition 5, Landscaping and Fuel Modification Plans. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.
- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed where needed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.

- (7) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to geologic instability, site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.
- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the affected area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## **5. Interim Erosion Control Plans and Construction Responsibilities**

A. Prior to the issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices Plan, prepared by a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan are in conformance with the following requirements:

1. Erosion Control Plan
  - (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
  - (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
  - (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
  - (d) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the

situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.

- (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
- (g) All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.

## 2. Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal

- can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
  - (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
  - (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
  - (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
  - (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
  - (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- B. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## **6. Landscaping and Fuel Modification Plans**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

### **A) Landscaping Plan**

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may

be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.

- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Ynez Mountains Area using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B) Fuel Modification Plans

Vegetation within 30 feet of the proposed house may be removed to mineral earth, vegetation within a 100-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. No Oak tree thinning or limbing is permitted within the Oak Woodland habitat areas, unless the subject tree is already dead. Fuel modification in riparian areas is limited to removal of exotics, and dead and downed wood. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Santa Barbara County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Ynez Mountains.

C) Conformance with Commission Approved Site/Development Plans

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

D) Monitoring

Three years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special

Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

## **7. Venturan Coastal Sage Scrub Habitat Restoration and Monitoring Program**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Venturan Coastal Sage Scrub Habitat Restoration and Monitoring Plan, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all areas of the project site disturbed by grading and construction activities. Within 60 days of completion of the project approved pursuant to this permit, the applicant shall commence implementation of the approved Venturan Coastal Sage Scrub Habitat Restoration and Monitoring Plan. The Executive Director may grant additional time for good cause. The plans shall identify the species, extent, and location of all plant materials to be removed or planted and shall incorporate the following components:

### **A. Restoration Plan**

The Restoration Plan shall provide for the following:

- 1) Survey of the proposed residential footprint, including all accessory structures, patios, driveways and the 100 ft. fuel modification area, to determine the amount of Venturan Coastal Sage Scrub Habitat and any other identified sensitive plant or animal species within these areas.
- 2) Restoration of disturbed Venturan coastal scrub habitat (at a ratio of 3:1 or greater) as mitigation for all areas disturbed by the approved development. The mitigation shall be implemented in a suitable location on-site, subject to the review and approval of the Executive Director. All invasive and non-native plant species shall be removed from the mitigation area.
- 2) The plan shall include detailed documentation of conditions prior to the approved construction activity (including photographs taken from pre-designated sites annotated to a copy of the site plans) and specify restoration goals and specific performance standards to judge the success of the restoration effort.

- 3) The plan shall also provide information on removal methods for exotic species, salvage of existing vegetation, revegetation methods and vegetation maintenance. The plan shall further include details regarding the types, sizes, and location of plants to be placed within the mitigation and revegetation areas. Only native plant species appropriate for Venturan coastal sage scrub habitat vegetation shall be used, as listed by the California Native Plant Society. All plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized or maintained within the property. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe the interim supplemental watering requirements that will be necessary.

## B. Monitoring Program

A monitoring program shall be implemented to monitor the project for compliance with the specified guidelines and performance standards and shall provide the following:

1. Initial Monitoring Report: The permittee shall submit, upon completion of the initial restoration/revegetation, a written report prepared by a qualified resource specialist, for the review and approval of the Executive Director, documenting the completion of the initial restoration/revegetation work. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) documenting the completion of the initial planting/revegetation work.
2. Interim Monitoring Reports: After initial revegetation is completed, the applicant shall submit, for the review and approval of the Executive Director, on an annual basis for a period of 5 years, a written monitoring report prepared by a monitoring resource specialist indicating the progress and relative success or failure of the restoration on the site. This report shall also include further recommendations and requirements for additional enhancement/restoration activities in order for the project to meet the criteria and performance standards. This report shall also include photographs taken from predesignated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. Each report shall be cumulative and shall summarize all previous results. Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the enhancement/restoration project in relation to the interim performance standards and final success criteria.
3. Final Report: A final detailed report on the restoration shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has, in part, or in whole, been unsuccessful, based on the performance standards specified

in the restoration plan, the applicant(s) shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved success criteria. The revised or supplemental program shall be processed as an amendment to this permit.

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

## **8. Lighting Restriction**

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
- (1) The minimum necessary to safely light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
  - (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
  - (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

## **9. Future Development Restriction**

This permit is only for the development described in this Coastal Development Permit. Pursuant to Title 14 California Code of Regulations section 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) and (b) shall not apply to the development governed by this Coastal Development Permit. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to Special Condition 5, Landscaping and Fuel Modification Plans, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **10. Deed Restriction**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction,

in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **11. Site Inspection**

By acceptance of this permit, the applicant irrevocably authorizes, on behalf of the applicant and all successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicant and his successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.

Prior to issuance of the Coastal Development Permit, the applicant shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission's notice of the site inspections allowed by this special condition. The applicant is responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

## **12. Condition Compliance**

WITHIN 180 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

### **13. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 30 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 30-100 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

## **IV. FINDINGS AND DECLARATIONS**

The Commission finds and declares as follows:

### **A. PROJECT SITE, DESCRIPTION AND BACKGROUND**

On January 10, 2011, the Zoning Administrator of the County of Santa Barbara undertook final discretionary action to approve a coastal development permit for the construction of a new single-family home, separate guest house, and related residential improvements.

The project includes the construction of a new 2,739 sq. ft., two-story 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, 2 private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill). Although not identified as existing development in the County's approval, the approved project includes after-the-fact authorization for existing unpermitted development on the site, including: two existing water tanks (5,000 gallon tank and 7,500 gallon tank), water well, shed, and access road. The main residence would be accessed via an existing, unpermitted approximately 400 ft. long driveway located immediately adjacent to the riparian and wetland habitat on site. (**Exhibit 7**) Thus, as approved by the County, this project also effectively includes the after-the-fact approval of the unpermitted driveway, water tanks, water well, and shed. (**Exhibits 4 & 7**).

As approved, the main residence would be located in a canyon near the western fork of Agua Creek, approximately 50 feet from the top of bank of the creek. An existing unpermitted ranch road (constructed after 1986 without the required coastal development permit) runs parallel to the creek for at least approximately 300 ft., at the top of the creek bank and directly adjacent to an existing wetland on site, and will serve as the accessway for the main residence. (**Exhibit 4**). The guest house is proposed to be located approximately 500 feet away from the main residence on a ridge and will utilize the adjacent Agua Road for access, an existing Hollister Ranch common road.

The subject 117.93 acre parcel (Assessor Parcel No. 083-680-030, **Exhibit 3**) is located in Hollister Ranch and zoned Agriculture, minimum 320 acres (AG-II-320). The County's staff report indicates that the project site is currently used for cattle grazing as part of the larger Hollister Ranch grazing cooperative. The parcel is located in the central portion of Hollister Ranch, approximately six miles west of Gaviota State Park and Highway 101 (**Exhibits 1 & 2**). The proposed residence and guest house would be located in the northern portion of the 117.93 acre parcel just below Agua Road (a Hollister Ranch common road) as it turns west. In addition to the unpermitted, private driveway the project site also contains an unpermitted small shed near the unpermitted private access road, two water tanks, and a water well (**Exhibit 4**). A majority of the parcel contains steep slopes. Slopes at the building sites are approximately 20-30% and some areas of the parcel contain slopes up to 50%.

The two separate approved development areas for the main residence and guest house are located between the western and eastern forks of Agua Creek, part of the Canada del Agua watershed. A spring is located along the western tributary of the western fork of Agua Creek, immediately north of Agua Road. The two forks join just south of the parcel where the creek flows in a southerly direction and joins Panochas Creek before ultimately discharging into the Pacific Ocean.

The parcel is located on the southern slopes of the Santa Ynez Mountains and contains a north-south trending ridge that separates the west and east fork of Agua Creek. The proposed building site for the main residence slopes gently to the southwest at approximately 650 feet above mean sea level (msl), steeper slopes rise up immediately to the east behind the main residence building site. The guest house would be located to the east upslope at the top of the ridge separating the two forks of Agua Creek at about 850 feet above msl. The highest elevation on the site is approximately 1,040 feet msl.

Geologically, the site is underlain by Cozy Dell shale, which is exposed in a long narrow strip on Hollister Ranch parallel to the coastline; portions of the site may support the Sacate formation. Soils on the site have been mapped as the Los Osos-Maymen complex. The soils consist of clay loams, fine sandy loams, and rock outcrops.

Plant communities on the subject parcel consist of coast live oak woodland, Venturan coastal sage scrub, California annual grassland, riparian forest, and freshwater marsh. At the site, coast live oak woodland occurs on the west-facing slope immediately below the proposed guest house and along Agua Creek, transitioning to coast live oak riparian forest. The coast live oak riparian forest, lining both banks of Agua Creek, contains western sycamore and arroyo willow. The understory consists of shrubs such as toyon, poison-oak, and California coffeeberry. California blackberry forms dense clumps in places along with mugwort. Agua Creek hosts some exotic species, including curly dock, wild celery, and marsh-parsley. A clump of Pacific wax-myrtle shrubs also occurs near the creek. A small wetland/freshwater marsh is located to the south of the proposed main residence development area. The existing marsh vegetation is characterized by common rush, iris-leaved rush, tall flat-sedge, water cress, and willow-herb. The biological survey prepared for the site indicates that Venturan sage scrub is present in the building envelope both of the proposed structures and indicates that at least two sensitive wetland communities are located adjacent to building area for the main residence. The main residence would be located within an area dominated by annual grassland with scattered patches of coastal sage scrub and would be located approximately 45 feet from the riparian canopy of Agua Creek and approximately 120 feet from the freshwater marsh. The access road for the main residence will be located as close as 2 to 3 feet from the top of bank of the creek and within 100 ft. of the existing wetland site (**Exhibit 4**) The guest house site contains coastal sage scrub, scattered oaks, and non-native grassland.

## **B. SANTA BARBARA COUNTY CDP APPROVAL**

On January 10, 2011, the Zoning Administrator of the County of Santa Barbara approved a coastal development permit (08CDH-00000-00018) for the project subject to 35 conditions of approval. The project as approved consists of the construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).

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

Commission staff received the Notice of Final Action for the Zoning Administrator's approval of the Coastal Development Permit (08CDH-00000-00018) on January 26, 2011. A 10 working day appeal period was set, extending to February 9, 2011. Appeals were received from Commissioners Sara Wan and Esther Sanchez on February 9, 2011.

## **C. APPEAL PROCEDURES**

The Coastal Act provides that after certification of Local Coastal Programs, a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of 10 working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

### **1. Appeal Areas**

Under Section 30603 of the Coastal Act, development approved by a local government may be appealed to the Commission if it is located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of any wetland, estuary, or stream. Further, any development approved by a local County government that is not designated as the principal permitted use within a zoning district may also be appealed to the Commission, irrespective of its geographic location within the coastal zone. Finally, development that constitutes major public works or major energy facilities may also be appealed to the Commission.

In this case, the project site is located between the first public road and the sea and, therefore, within the geographic appeals area of the County's jurisdiction as shown on the Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map (Santa Barbara County Coastal Zone Map Sheet 120, **Exhibit 2**) certified for the County of Santa Barbara. This project is also located within 100 ft. of Agua Creek. Thus, the project is appealable to the Commission.

### **2. Grounds for Appeal**

The grounds for appeal of development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act (Section 30603[b][1] of the Coastal Act).

### **3. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear

arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. Pursuant to Section 13117 of the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised by the appeal.

#### **4. De Novo Permit Review**

If a substantial issue is found to exist, the Commission will evaluate the project under a de novo permit review. The de novo permit may be considered by the Commission at the same time as the substantial issue hearing or at a later time. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

In this case, if the Commission finds substantial issue, the Commission may proceed to the de novo hearing on the merits of the project. The staff recommendation on de novo review of this project is on Page 6 of this report.

#### **D. SUMMARY OF APPEAL CONTENTIONS**

The appeals filed by Commissioners Wan and Sanchez are attached as **Exhibit 6**. The appeals contend that the approved project is not consistent with the provisions of the certified LCP that protect environmentally sensitive habitat areas, riparian habitat, oak woodland habitat, and wetlands. The appeals assert that the project fails to provide an adequate buffer for new development from sensitive riparian habitat and wetlands, the development will impact native vegetation because the main house and guest house are not clustered, and that the County has not completed an analysis of feasible alternatives that would avoid or reduce impacts to the creek corridor and native vegetation.

The appeals assert that the project is inconsistent with the following LCP provisions: Policy Sections 1-1, 1-2, 2-11, 3-14, 9-9, 9-14, 9-16(a), 9-35, 9-36, 9-37, 9-38; Coastal Act Sections 30107.5, 30121, 30240, 30231 as incorporated into the LCP pursuant to Policy 1-1; and Article II of the Zoning Code Sections 35-53, 35-58, 35-97.3, 35-97.7, 35-97.18, 35-97.19, and 35-97.9. The cited LCP provisions limit development in and around environmentally sensitive habitat areas, riparian corridors, wetlands, and oak woodland habitats. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

See **Exhibit 6** for the full text of the appeals.

#### **E. SUBSTANTIAL ISSUE DETERMINATION**

##### **Substantial Issue Background**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified County of Santa Barbara Local

Coastal Program (LCP) or the public access policies of the Coastal Act. The appellants contend that the project, as approved by the County, is inconsistent with the County of Santa Barbara's LCP policies regarding environmentally sensitive habitat areas, stream habitats, wetlands, and oak woodland habitats.

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (California Code of Regulations, Title 14, Section 13115(b).). In previous decisions on appeals, the Commission has been guided by the following factors in making such determinations:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, Appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5

In this case, for the reasons discussed further below, the Commission determines that the development as approved by the County presents a substantial issue.

### **Environmentally Sensitive Habitat Areas**

The appellants contend that the project, as approved by the County, does not conform to the policies of the LCP with regard to oak woodlands, environmentally sensitive habitat areas (ESHA), wetlands, and native plant communities. The appeals assert that the project does not comply with the LCP policies (outlined below) because: 1) the County failed to require an adequate buffer from sensitive riparian habitat, 2) the development will impact native plants because the main house and guest house are not clustered, and 3) the County has not completed an analysis of alternatives that would avoid or reduce impacts to the creek corridor environmentally sensitive habitat area, wetlands, and other native vegetation.

The appellants assert that the project, as approved by the County, raises issues with respect to consistency with the following provisions of the County of Santa Barbara LCP:

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

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

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

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

Section 30121 of the Coastal Act states:

**"Wetland"** means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Policy 1-2 Resource Protection:

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

Policy 2-11 (Development Policies):

*All development, including agriculture, adjacent to areas designated on the land use plan or resources maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.*

Policy 3-14 (Hillside and Watershed Protection):

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Policy 9-9 (Wetlands):

*A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences or structures necessary to support the uses in Policy 9-10.*

*The upland limit of a wetland shall be defined as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or 2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.*

*Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

Policy 9-14 (Wetlands):

*New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

Policy 9-16(a):

*No grazing or other agricultural uses shall be permitted in coastal wetlands.*

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

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

Policy 9-36 Native Plant Communities:

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

Policy 9-37 (Streams):

*The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams:*

- a. *soil type and stability of stream corridors;*

- b. how surface water filters into the ground;*
- c. slope of the land on either side of the stream; and*
- d. location of the 100-year flood plain boundary.*

*Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.*

Policy 9-38 (Streams):

*No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.*

Definitions within the LCP Habitat Type Section for Streams:

*Stream: watercourses, including major and minor streams, drainageways and small lakes, ponds and marshy areas through which streams pass. (Coastal wetlands are not included.)*

*Riparian Vegetation: vegetation normally found along the banks and beds of streams, creeks, and rivers.*

*Stream Corridor: a stream and its minimum prescribed buffer strip.*

*Buffer: a designated width of land adjacent to the stream which is necessary to protect biological productivity, water quality, and hydrological characteristics of the stream. A buffer strip is measured horizontally from the banks or high water mark of the stream landward.*

Section 35-58 Definitions:

*Major Stream: A stream with a drainage area in excess of 500 acres.*

*Wetland: Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.*

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

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

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

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

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

*A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.*

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

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

- 1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.*
- 2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Sec. 35-97.19 Development Standards for Stream Habitats:

*1. The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the California Department of Fish and Game and California Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:*

- a. Soil type and stability of stream corridors.*
- b. How surface water filters into the ground.*
- c. Slope of land on either side of the stream.*
- d. Location of the 100-year flood plain boundary.*

*Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.*

- 2. No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects; flood control projects where no other method for protecting existing structures in the flood*

*plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.*

*3. Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.*

*4. All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.*

*5. All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.*

*6. Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.*

Sec. 35-97.9 (4) and (9) Development Standards for Wetland Habitats:

*4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Paragraph 5 of this Section, below. The upland limit of a wetland shall be defined as:*

*a. The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or*

*b. The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*

*c. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

*9. New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

The County found the project consistent with the biological resources policies of the LCP and provided the following analysis with regard to the project's consistency with LCP policies 2-11, 9-35, 9-36, and 9-37 in its December 20, 2010 staff report:

*The subject property contains the upper reaches of two forks of Agua Creek. The forks and their associated onsite riparian vegetation are not mapped as environmentally sensitive habitat on the County habitat on the County biological resource maps. However, vegetation commonly associated with sensitive riparian areas including willows, sycamores, and oak trees is present within the banks of the creek and within some adjacent upland areas. The guest house will be located on top of a ridge between two tributaries where its construction is not anticipated to impact any sensitive resources.*

*A Sensitive Plan Species and Community Survey dated January, 2009 was prepared by biologist Mary Carroll and accepted by the County as adequate. The document acknowledges that the residence would be located wholly within the 100-foot buffer of the western fork prescribed by Policy 9-37 and approximately 50 feet east of its top of bank. This area of the creek contains no understory and has been substantially degraded due to consistent and heavy cattle grazing associated with the Hollister Ranch grazing cooperative. Additionally, a ranch road exists along the top of bank of the drainage in this area separating the creek tributary from the building site. The existing roadway would act as a buffer between the proposed development activities and the riparian vegetation associated with the creek. Additionally, Condition of Approval 9 would require the entire creek area adjacent to the driveway to be restored with native understory vegetation prior to occupancy of the residence. Because of these factors, impacts from development of the residence approximately 50 feet from the top of bank can be minimized and reduction of the prescribed buffer is acceptable.*

*In order to minimize impacts to riparian vegetation across the driveway from the residential building site, Negative Declaration 10NGD-00000-00018 includes several mitigation measures intended to protect riparian habitat during construction activities. Those mitigation measures have been incorporated into the project as conditions of approval and include sedimentation/erosion control measures, limitations on the use of heavy equipment, tree protection measures and the above-mentioned restoration plan.*

*No tree removal would be necessary to implement the project.*

Failure to provide adequate buffer for new development from Agua Creek and sensitive riparian habitat, inconsistent with LCP setback requirements.

The appellants assert that the development is inconsistent with the above cited policies because the County failed to require an adequate 100 ft. buffer from sensitive riparian habitat and a wetland even though alternative locations exist on site where such development may be accommodated while providing the required buffer. According to a biological report prepared by Mary Carroll, dated January 2009, five plant communities can be found on the site, including Venturan Coastal sage scrub, coast live oak woodland, annual grassland, and two wetland communities along Agua Creek, including coast live oak riparian forest (with patches of southern mixed riparian forest) and coastal and valley freshwater marsh. The approved 2,739 sq. ft. main residence, 770 sq. ft. attached garage, 1,149 sq. ft. of decks and patios, and driveway will be located within the normally required 100 ft. buffer for Agua Creek. The single-family residence would be located approximately 45 feet or less from the edge of the riparian canopy and oak woodland habitat and approximately 50 feet from the top of edge of stream bank. The driveway is located, at its closest point to the creek, approximately 2 to 3 feet from the top of bank of Agua Creek. The lack of an adequate buffer between the proposed residential development/access road

and the riparian canopy would negatively impact the riparian ESHA on the site, inconsistent with the provisions in the certified Local Coastal Plan (LCP).

Agua Creek and the associated riparian corridor constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP by Policy 1-1, requires that “environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.” Further, LCP Policies 1-2, 9-18, 9-35, 9-36, and Zoning Ordinance Sections 35-97.7, 35.97.10 and 35-97.18 necessitate measures including siting the project with setbacks and buffers to prevent impacts which would degrade these sensitive resources. Policy 9-35 requires that oak trees, because they are particularly sensitive to environmental conditions, shall be protected.

In addition, both Policy 9-37 and Section 35-97.19 of the certified LCP specifically require that new development in rural areas, such as the subject site, shall be sited in a manner that provides for a minimum buffer of 100 ft. buffer from streams and their associated riparian habitat areas. Policy 9-37 only allows for adjustments to the normally required 100 ft. buffer after (1) consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams and (2) based on an investigation of the following four factors:

1. *soil type and stability of stream corridors;*
2. *how surface water filters into the ground;*
3. *slope of the land on either side of the stream; and*
4. *location of the 100-year flood plain boundary.*

In this case, the approved main residence would be located only 50 ft. from the top of bank for the adjacent stream and only 45 ft. from the canopy of the riparian vegetation on site. The unpermitted access driveway is located approximately 2 to 3 feet from the top of bank of the creek, at the closest point. Therefore, the approved residence and driveway would not be setback at least 100 ft. from the stream and its associated riparian habitat as required by Policy 9-37 and Section 35-97.19.

The LCP provides that a reduced buffer may only be allowed after (1) consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams and (2) based on a site specific analysis of the above four factors relative to protection of riparian habitat.

However, although the County provided evidence of email communication with the Department of Fish and Game regarding the project, County staff informed Commission staff that consultation with the California Regional Water Quality Control Board did not take place in this case. In addition, in its approval of the permit, the County did not provide any analysis of the above four factors specifically required pursuant to either Policy 9-37 or Section 35-97.19 in order to justify a reduction of the normally required 100 ft. buffer to only 45 feet. Thus, the County’s staff report did not include any of

the necessary findings pursuant to Policy 9-37 and Section 35-97.19 in order to support the use of a reduced buffer for new development on site. Moreover, instead of applying the above referenced criteria of LCP Policy 9-37 to justify a reduced buffer, the County incorrectly found that, in this case, a reduced buffer could be allowed because the area of the creek has been previously disturbed and contains little understory vegetation (apparently due to cattle grazing operations) and that the existing ranch road would act as a “buffer” for the new development from the riparian habitat. However, there is no substantial evidentiary basis for the County’s rationale to allow for the reduced buffer for development on site pursuant to Policy 9-37, Section 35-97.19, or any other policy of the certified. Thus, the County’s approval of the project raises substantial issue with the resource protection policies of the LCP, including Policy 9-37 and Section 35-97.19.

Further inconsistent with Policy 9-37, the County found that the reduction in the required development setback should be allowed because restoration of the riparian habitat area adjacent to the road would be required as a condition of approval. However, Section 30240 of the Coastal Act, as incorporated in the LCP, requires that, when feasible, new development be designed and located in a manner that avoids adverse impacts to ESHA. Thus, the County must first analyze all feasible alternatives that would avoid adverse impacts to ESHA rather than simply requiring mitigation for impacts that could otherwise be avoided.

In addition, Policy 9-38 states that no structures shall be located within the stream corridor except for public trails, dams for necessary water supply projects, certain flood control projects, and other development where the primary function is for the improvement of fish and wildlife habitat. A stream corridor is defined by the LCP as a stream and its minimum prescribed buffer. In this case, both the unpermitted driveway and the new residence would be located within the normally required 100 ft. buffer from the stream and riparian habitat. Thus, as approved, the project would also be inconsistent with the provisions of Policy 9-38.

Further, based on a site visit by Commission staff, the creek, and its associated riparian habitat area, does contain a significantly developed understory despite some disturbance from cattle grazing. The biological report for the site explains that the site includes coast live oak riparian forest, dominated by coast live oak along both banks of Agua Creek, including patches of mixed riparian forest including western sycamore and arroyo willow. The biological report states that other native shrubs are growing beneath the canopy of sycamores, oaks, and willows, including toyon, poison-oak, California coffeeberry, California blackberry, and mugwort. Although cattle grazing may have impacted the riparian vegetation within the creek corridor, the policy suggests that this should weigh more heavily in favor of an increased buffer. A buffer of at least 100 ft. is necessary in this case to protect the riparian ESHA, prevent removal of ESHA for fire protection purposes, and allow for the previously disturbed riparian habitat area to be adequately restored.

Additionally, an unpermitted existing driveway for the main residence is located parallel (as close as 2-3 feet) and adjacent to the top of bank of Agua Creek for approximately 300 linear feet. The County’s staff report references the road as an “existing ranch road”, implying, without providing evidence, that the road was legally constructed. Moreover, the County’s analysis assumes that the road is existing and not part of the proposed development. However, based on a preliminary review of historic aerial photographs by Commission staff, it appears that the road was actually constructed after the effective date of the Coastal Act of 1976 without the required Coastal Development Permit. Thus, the

unpermitted road and its impacts to the riparian corridor should have been analyzed by the County as part of the proposed development. For example, although not analyzed in the County's staff report, the County has previously required a 10 foot clearance on both sides of access driveways for fire clearance. Here, clearance for the road would have significant impacts to the riparian vegetation and oak woodland. In this case, if the applicant had requested after-the-fact approval for the road, because the road is immediately adjacent to the riparian habitat on site, it could not meet the requirement that new development be set back at least 100 ft. from these habitat areas.

The appellants also assert that the proposed development is inconsistent with the LCP policies protecting wetlands. The biological report prepared for the site identifies a freshwater marsh located along the bank of Agua Creek, and identifies vegetation as being characterized by common rush, iris-leaved rush, tall flat-sedge, water cress, and willow-herb. The existence of this wetland was also confirmed by the Commission's staff biologist during a site visit. The apparently unpermitted driveway/road, described above, is located directly adjacent to the small wetland and would encroach into the 100 ft. buffer required by LCP Policy 9-9 and Sec. 35-97.9 (4) and (9) of the County's zoning code. The wetland was not addressed in the staff report; however, County staff have verbally indicated to Commission staff that the wetland is located approximately 120 ft. from the main residence. Thus, although the new residence may potentially be located more than 100 ft. from the wetland, the unpermitted driveway/road would be immediately adjacent to both wetland and Agua Creek and, thus, would not meet required setbacks from wetland or stream, as required by the County's LCP.

Development is not clustered to preserve ESHA and minimize impacts to native plant communities as required by LCP policies.

The appellants assert that the development is inconsistent with the above cited policies because the approved development is not sited in a manner that will minimize or avoid impacts to both ESHA and native plant communities to the extent feasible. Policy 9-36 requires that new development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. However, as approved, rather than clustering development within a single area on site in order to minimize vegetation clearance, landform alteration, and fuel modification requirements, the development will consist of two distinct development areas located more than 500 ft. apart from each other on the site. The guest house would be located approximately 500 ft. east of the main house, on a ridge adjacent to Agua Road, a Hollister Ranch common road. The 798 sq. ft. guest house will include a 340 sq. ft. attached garage, a 240 sq. ft. workshop, and 1,112 sq. ft. of decks and patios. The distance between the main residence and the guest house result in separate impacts from residential use of the site (e.g., noise, lighting, or other impacts associated with presence and use by residents) as well as separate grading/vegetation removal and fuel modification requirements for each development footprint. These separate impacts are significant in this case because of the proximity of riparian ESHA and native plant communities. Thus, as approved, the project does not comply with the requirements of Policy 9-36 which requires new development be sited and designed in a manner to minimize adverse impacts to native vegetation.

The Santa Barbara County Fire Department requires the following fuel clearance zones: 1) 0-30 feet: full clearance of flammable vegetation and 2) 30-100 feet: selective thinning of vegetation and the limbing of mature trees to a height of 6 feet to limit flammable materials and fuel ladders. Thus, a total

of 100 feet of vegetation clearing is typically required by the Fire Department to reduce flammable vegetation adjacent to structures. According to the biological report, construction of the residence and the adjacent driveway would permanently remove approximately 4,658 sq. ft. of vegetation within the 100 foot riparian buffer. Additionally, the easternmost wall of the main house will be located within approximately 15 ft. of Venturan coastal sage scrub and approximately 8,235 sq. ft. of Venturan coastal sage scrub would be removed for fire clearance for the main residence. The easternmost wall of the guest house will be located within 20 ft. of Venturan coastal sage scrub. Fire clearance of a 100 ft. area surrounding the guest house would require the removal and thinning of an additional approximately 7,900 sq. ft. of Venturan coastal sage scrub. Thus, according to the biological report, a total of approximately 16,135 sq. ft. of Venturan coastal sage scrub habitat will need to be removed. The biological report did not quantify the amount of oak woodland that will need to be thinned or removed for construction of the main residence. Given that the main residence is located 45 ft. from the top of bank, a significant amount of riparian vegetation may be impacted as a result of the project.

Section 35-97.18 of the LCP identifies coastal sage scrub as a native plant community. Policy 9-36 (Native Plant Communities) requires that, when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. Policy 9-36 further requires that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees, including oak trees. . Additionally, Policy 3-14 requires that all development shall be designed to minimize grading, landform alteration, and to preserve native vegetation to the maximum extent feasible.

As proposed, the main residence and guest house will not be clustered and will not utilize shared/overlapping fuel modification zones. If the main residence and guest house were to be clustered, fuel modification could be minimized, thus minimizing disturbance to native coastal sage scrub habitat required by LCP Policy 9-36 and 3-14. Further, two separate development areas, one for the main house and one for the guest house, will not minimize grading and landform alteration, but may actually increase potential for erosion on the steep slopes where fuel modification will occur in between the guest house and main residence. Thus, the proposed development of the main residence and guest house, approximately 500 feet apart, have the potential to result in significant impacts to native vegetation and natural landforms and raise substantial issue with the above referenced policies of the certified LCP.

Siting and design alternatives to minimize impacts to ESHA, sensitive riparian and wetland habitat areas, and native plant communities were not evaluated as required by LCP policies.

The LCP policies applied together require siting and design measures to protect native plant communities, oak woodland habitat, and individual oak trees. In its approval of the permit, the County did not analyze alternatives to reduce the impacts of residential development through alternative siting locations or designs.

Agua Creek and the associated riparian corridor constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP by Policy 1-1, requires that “environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.” Further, LCP Policies 1-2, 9-18, 9-35, 9-36, and Zoning Ordinance Sections 35-97.7, 35.97.10 and 35-97.18

necessitate measures including siting the project with setbacks and buffers to prevent impacts which would degrade these sensitive resources. Policy 9-35 requires that oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.

Native Plant Communities, including coastal sage scrub, chaparral, California native oak woodland, individual oak trees, endangered and rare plant species & other plants of special interest, are addressed under Policy 9-36. Policy 9-36 dictates that when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

Based on a site visit by Commission staff, there appear to be alternative locations on site to construct a residence (and potentially a clustered guest house) which would provide for the 100 foot buffer from the sensitive riparian area. One alternative would be to build the main residence in, or immediately adjacent to the proposed location of the guest house. Although scattered oak trees are located in that area, design and siting alternatives could avoid any encroachment into oak tree canopies and any potential impacts to oak tree habitat.

In addition, it appears that the development could be feasibly located at the base of the ridge near the area proposed for the main residence, provided the residence is redesigned to allow for the required 100 ft. setback from the adjacent riparian and wetland habitat. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative may also require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered within the same area as the relocated residence, provided that a 100 ft. setback from riparian and wetland habitat areas could be maintained.

Further, the subject site is 117.93 acres in size, there may be other feasible alternative building locations that would avoid or further minimize adverse impacts to environmentally sensitive habitat areas and allow for clustering of development to protect agriculture on site. However, the County's staff report did not provide an analysis of any alternative locations on the site or designs that would minimize encroachment into the buffer or that would minimize native vegetation removal. Further, the Mitigated Negative Declaration for the project (10NGD-00000-00018) states: “[a]s no potentially significant, adverse unmitigable impacts would result from the proposed development, project alternatives have not been evaluated.” (Section 8.0 Project Alternatives, p.34)

As previously discussed, the applicant is proposing a guest house in an area that would avoid impacts to the riparian ESHA. This demonstrates that an alternative is available to allow a residential use of the site without impacting ESHA to provide an economically viable use. However, the County did not address this alternative in its analysis in its findings for approval of this project as required by the LCP.

#### Five Factor Test

The first factor in evaluating the issue of whether the appeal raises a substantial issue, is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. In this case, the County has not provided an adequate policy basis for reducing the required 100 foot riparian buffer to 45 feet for the residence and as little as 2 to 3 feet for the driveway. In addition, the County's staff report does not include adequate findings to support approval of the unpermitted driveway within the 100 ft. wetland buffer and riparian corridor. Further, the County has not provided any analysis of alternatives that could provide for the appropriate buffer from the sensitive riparian habitat or the wetland, nor has it provided alternatives to reduce impacts to native vegetation. Therefore, the County has not provided a high degree of factual and legal support for the decision that the proposed development is consistent with the certified LCP policies related to biological resource protection, as explained in detail above.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development as approved. As described above, the subject project involves scattered residential and accessory structure development on an approximately 118 acre agricultural lot. Given how spread out the development would be, particularly given identified feasible alternatives, the extent and scope of the subject development on this particular lot is large.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decision. In this case, the site is located in an important biological transition zone and the Hollister Ranch area contains vast tracts of undeveloped lands, which allow for wildlife corridors and biotic exchange across communities and watersheds. These coastal resources, as described in the applicant's biological report prepared by Mary Carroll, are important to preserve, particularly in the coastal rural area of Hollister Ranch. Therefore, the development will impact environmentally sensitive habitat area, coastal sage scrub, and oak woodland and riparian habitat and will encroach into a wetland buffer.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the local government's decision for future interpretation of its LCP. In this case, the precedential value of the County's decision for future interpretation of its LCP is potentially important because many other undeveloped lots may be developed in the Hollister Ranch community that could have similar resource issues. Under the certified LCP, oak woodlands and riparian habitats are specifically identified as unique, rare, and fragile habitats and specific policies are included in the LCP to provide protection of these resources. The certified LCP includes policies that require development adjacent to ESHA to be designed and located in a manner that will avoid adverse impacts to habitat resources, including measures such as setbacks, buffers, grading and water quality controls. If residential development is not approved consistent with LCP policies, cumulative impacts of residential development in Hollister Ranch could result the degradation of coastal resources over time.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. The appeal not only raises local issues, but also has implications for resources of regional or statewide significance. The subject development raises issues associated with clustered residential development on agricultural land containing ESHA. This is a common issue throughout the Coastal Zone and therefore this appeal does have regional and statewide significance.

Therefore, for all of these reasons, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the project does not meet provisions of the certified Local Coastal Program regarding oak woodland, native plant communities, oak woodland habitat, and ESHA protection.

The purpose of the substantial issue determination is to review the administrative record and establish whether a substantial question is raised with respect to the appellants' assertions that the project does not conform to the certified LCP and public access policies of the Coastal Act. As described above, the Commission finds that the appellants' contentions do raise substantial issues with regard to the consistency of the approved project with oak woodland, native vegetation, wetland and environmentally sensitive habitat standards of the certified Local Coastal Program.

### **Substantial Issue Determination Conclusion**

In conclusion, the County-approved project raises substantial issues with respect to its conformance with applicable LCP provisions related to hazards and visual resources/community character. Therefore, the Commission finds that a substantial issue exists with respect to the approved project's conformance with the certified Santa Barbara County LCP, and takes jurisdiction over the CDP application for the proposed project.

## **F. DE NOVO COASTAL DEVELOPMENT PERMIT ANALYSIS**

The standards of review for this CDP application are the Santa Barbara County certified LCP and the public access and recreation policies of the Coastal Act. All Substantial Issue Determination findings above are incorporated herein by reference.

### **1. Revised Project Description**

In consultation with Commission staff, the Applicant has revised the project in a number of ways to address the Appellants' contentions and staff's concerns. One of the alternatives identified by Commission staff in Section E (Substantial Issue Determination) of this Report includes the clustering of the main house and guest house in one building envelope accessible by Agua Road to the east of the original main residence location. In consultation with Commission staff, the Applicant has revised the originally approved project consistent with this clustered alternative configuration (**Exhibit 8**). As now proposed, the primary residence will be relocated immediately adjacent to the proposed guest house and will be more than 500 feet to the east of the stream and wetlands on site in order to ensure that development on site is clustered to the maximum extent feasible with an adequate buffer from all riparian and wetland areas. As now proposed, the project includes the following:

#### **Revised Project Description:**

Construction of a new 799 sq. ft., 19 ft. tall single-family residence, attached 340 sq. ft. garage, and 1,112 sq. ft. of patios and decks, a detached approximately 797 sq. ft., 16 ft. tall guest house with 348 sq. ft. of patios and decks, attached 322 sq. ft. garage, and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, 2 private septic systems, 344 cu.yds. grading (174 cu. yds. cut and 174 cu. yds fill), and restoration and revegetation of the approximately 400 ft. long unpermitted access road adjacent to Agua Creek.

Additionally, the proposed project has been revised to substantially reduce the size of the main residence from 2,739 sq. ft. to only 799 sq. ft. The height of the residence has been reduced from 28 ft. to a maximum height of 19 ft. – 9 in. All proposed development will be clustered in the same general area as the originally approved guesthouse and will use the existing Agua Road for access although, in order to accommodate the new location for the residence, the proposed guesthouse will be relocated approximately 48 feet south of its originally approved location. The unpermitted 120 sq. ft. shed will also be relocated adjacent to the main residence, just within the cattle fence that will surround the clustered development envelope. The remainder of the property will continue to be used for cattle grazing. As a result of the proposed reconfiguration and reduction in the size of the main residence, the proposed grading will also be reduced from 1,360 cu. yds. to only 344 cu. yds. (174 cut, 174 fill). The Applicant proposes a new approximately 200 ft. long, 14-foot wide driveway covered with brown shale to access the main residence and guest house from Agua Road. Lastly, the Applicant proposes to restore/revegetate the 400 ft. unpermitted driveway/road with native plantings. The revised site plan includes the proposed barn at the southern end of the site. However, the applicant is not proposing the barn or any structure in this location. Although the applicant has submitted conceptual revised project plans, Special Condition Two (2) requires the applicant to submit final revised plans adequate to ensure the applicant's proposed revisions to the originally approved project are adequately implemented.

## **2. Environmentally Sensitive Habitat Area**

Plant communities and habitat on the subject parcel consist of coast live oak woodland, riparian, wetland, California sagebrush, central maritime chaparral, coyote brush, coastal sage scrub, native grasslands dominated by purple needlegrass, and native grassland and coastal sage scrub mix. In addition, the project site has been historically grazed by cattle as part of the Hollister Ranch Cooperative cattle ranching operation, and as such, some sensitive habitat areas on site have already been moderately disturbed.

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

Many raptors make use of grasslands for foraging because they provide essential habitat for small mammals and other prey. Grasslands adjacent to woodlands are particularly attractive to these birds of prey since they simultaneously offer perching and foraging habitat. Particularly noteworthy in this regard are the white-tailed kite, northern harrier, sharp-shinned hawk, Cooper's hawk, red-shouldered hawk, red-tailed hawk, golden eagle, American kestrel, merlin, and prairie falcon.<sup>3</sup>

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

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

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

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

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP, including Section 30240 protections of Environmentally Sensitive Habitat Areas. Section 35-97.18 of the LCP identifies coastal sage scrub as a native plant community. Policy 9-35 requires that Oak trees shall be protected from all land use activities. Policy 9-36 (Native Plant Communities) requires that, when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. Policy 9-36 further requires that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees, including oak trees. . Additionally, Policy 3-14 requires that all development shall be designed to minimize grading, landform alteration, and to preserve native vegetation to the maximum extent feasible.

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

Native Plant Communities, including coastal sage scrub, chaparral, California native oak woodland, individual oak trees, endangered and rare plant species & other plants of special interest, are addressed under Policy 9-36. Policy 9-36 dictates that when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

The Applicant submitted a 2009 Sensitive Plant Species and Community Survey, prepared by Mary Carroll, listed in the Substantive File Documents, which addresses the habitats present on the project site. Commission staff has also visited the site to confirm site conditions. According to the 2009 Sensitive Plant Species and Community Survey, Venturan coastal sage scrub accounts for approximately 70 acres of vegetation on the subject parcel.

In this case, no Oak trees are proposed for removal. However, the development site, including the residential structures and driveway, will cause the direct removal of 3,651 sq. ft. of Venturan coastal sage scrub. Moreover, the combined required fuel modification zones for both residential structures and related development will result in clearance impacts of approximately 13,035 sq. ft. of coastal sage scrub habitat, the majority of which involves thinning activities rather than complete removal.

All proposed development is at least 100 feet away and as far as feasible from the on-site stream riparian corridor. Any alternative location on the site would bring the development closer to the stream, on a steeper slope, or within a more dense area of the native plant communities on site.

### **ESHA Designation**

Pursuant to Section 30107.5 and LUP Section 35-58, in order to determine whether an area constitutes an ESHA, and is therefore subject to the protections of Coastal Act Section 30240 and LUP Policies 3-14, 9-35 and 9-36, the Commission must answer three questions:

- 1) Is there a rare species or habitat in the subject area?
- 2) Is there an especially valuable species or habitat in the area, which is determined based on:
  - a) whether any species or habitat that is present has a special nature, OR
  - b) whether any species or habitat that is present has a special role in the ecosystem;
- 3) Is any habitat or species that has met either test 1 or test 2 (i.e., that is rare or especially valuable) easily disturbed or degraded by human activities and developments?

If the answers to questions one or two and question three are “yes”, the area is ESHA.

The subject property is approximately 118 acres in size and contains a number of different sensitive habitat areas. Plant communities and habitat on the subject parcel consist of coast live oak woodland, riparian, wetland, California sagebrush, central maritime chaparral, coyote brush, coastal sage scrub, Ventura coastal sage scrub, native grasslands dominated by purple needlegrass, and native and non-native grasslands. In addition, the project site has been historically grazed by cattle as part of the Hollister Ranch Cooperative cattle ranching operation, and as such, some sensitive habitat areas on site have already been moderately disturbed.

In addition, according to the California Department of Fish and Game Natural Diversity Database (CDFG, 2008), Venturan coastal sage scrub is considered a sensitive plant community, due to its limited existence (10,000-50,000 acres) and “very threatened” status.<sup>4</sup> In addition, although it is not part of the County’s certified LCP, the Santa Barbara County Environmental Thresholds and Guidelines also indicates that Coastal sage scrub and Coast live oak woodland and forest are considered habitats of local concern. Approximately 24 acres of oak woodland are found on site. Oak woodland is considered to be sensitive habitat by Santa Barbara County through habitat-specific impact assessment guidelines. Woodlands that are native to the Santa Ynez Mountains area, such as oak woodlands and riparian woodlands, have many important and special roles in the ecosystem. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and

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<sup>4</sup> Approximately 70 acres of Venturan coastal sage scrub occur on site.

habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape.

Unfortunately, the native habitats of the Hollister Ranch/Santa Ynez Mountains, are easily disturbed by human activities. Environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, terrestrial invertebrates, birds and mammals. Thus, large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub and oak woodland are especially valuable because of their special roles in the Hollister Ranch area's ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications in the surrounding area.

In this case, the majority of the proposed development area on site (where the main residence and guest house will be located) primarily consists of non-native grassland which does not constitute ESHA. Based on the habitat map for the project, however, it appears a small portion of the residential development footprint (approximately 3,651 sq. ft. of disturbance area) would occur in areas of the site where Ventura coastal sage scrub habitat may be located. The relatively small area of Ventura coastal sage scrub located within the project area is part of a large contiguous Ventura coastal sage scrub habitat area and constitutes ESHA. Further, the County's Fire Department requires 100 ft of vegetation clearance/thinning for the purpose of fuel modification consisting of a 30-ft fire clearance zone and an additional 70-ft zone of selective vegetation thinning. As a result, vegetation clearance to comply with the Fire Department's Fuel Modification requirements will result in additional adverse impacts to approximately 10,035 sq. ft. of the site that may contain Ventura coastal sage scrub. Additionally, the Coast Live Oak woodland occurs on the west-facing slope immediately below the proposed house and guest house site to the west. Accordingly, the nearby oak woodland will be impacted during fuel modification activities. Thus, the Commission finds that the proposed project will result in adverse impacts to ESHA on the project site.

#### **Resource Dependent Use**

Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence and a guest house (an allowable use) on the parcel. The guest house and a portion of the related driveway and garage development will be located within native grassland ESHA. Additionally, required fuel modification to protect these structures from wildfire will require removal or modification of vegetation on the property that is ESHA. As single-family residences do not have to be located within ESHA to function, single-family residences are not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of the proposed residential development on the site will require removal of ESHA directly and the combined development footprint will require removal of ESHA from fuel modification for fire protection purposes around the proposed residence, the project would significantly disrupt the habitat value in those locations. Application of Section 30240, by itself, would therefore require denial of the

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

The Commission, however, must also consider Section 30010 of the Coastal Act, which prohibits the Commission from exercising its power to grant or deny a permit in a manner that will take or damage private property for public use without just compensation. Section 30010 is a statutory prohibition against unconstitutional takings, and does not provide additional property rights above and beyond the rights already afforded by the California and U.S. Constitutions. (Pub. Res. Code §30010.) The California Constitution prohibits taking or damaging of private property for public use without first paying just compensation. (Cal. Const. Art. I §19(a).) The federal Constitution prohibits a taking of private property for public use without just compensation. (U.S. Const. 5<sup>th</sup> Amend.) Despite the slightly different wordings, the two “takings clauses” are construed congruently, and California courts have analyzed takings claims under decisions of both state and federal courts. (*San Remo Hotel v City and County of San Francisco* (2002) 27 Cal. 4<sup>th</sup> 643, 664.) The “damaging private property” clause in the California Constitution is generally not implicated by takings cases, and is not relevant to the current analysis.

Because Section 30010 is a statutory bar against an unconstitutional action, compliance with state and federal constitutional requirements concerning takings necessarily ensures compliance with Section 30010. The Commission has considered the relevant federal and state judicial precedents, most importantly *Lucas v. South Carolina Coastal Council* 505 U.S. 1003 (1992) [land use regulations denying all economic use of a parcel take the parcel] and *Penn Central Transportation Co. v. City of New York* 438 US 104 (1978) [in the absence of a denial of all economic use, ad hoc balancing test used to determine if a take of the property has occurred. The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant’s property of all reasonable economic use, the Commission may be required to allow some development even if a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section 30240 of the Coastal Act and LUP Policies 3-14, 935 and 9-36 cannot be read to deny all economically beneficial or productive use of land because these policies cannot be interpreted to require the Commission to act in an unconstitutional manner.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. There is currently no offer to purchase the property from any public park agency. There is no evidence that construction of a residence on the project site would create a legal nuisance under California law. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the project site would result in denial of all economic use of the parcel, thereby effectuating a taking of the parcel under *Lucas* and violating Section 30010. Consistent with past practice, the Commission will therefore allow a level of development sufficient to avoid a *Lucas* claim.

*Penn Central Transportation Co. v. City of New York* 438 US 104 (1978) (“*Penn Central*”) applies when the government is proposing some restrictions on use of a property but is not denying all

economic use of that property. Since the Commission is placing significant restrictions on the use of the site, but is allowing a level of development sufficient to avoid a *Lucas* claim, the Commission next considers the ad hoc takings test found in *Penn Central*. *Penn Central* requires an assessment of the owner's distinct (i.e., reasonable) investment backed expectations for the property; the nature of the government action; and the economic impact of the action. For purposes of the *Penn Central* analysis, courts typically look to existing laws and regulations governing use of the parcel at the time it was acquired to help determine the owner's reasonable investment backed expectations, essentially treating all existing law at the time of acquisition as background principles for the purpose of the *Penn Central* analysis. (See *Palazzolo v. Rhode Island* 533 US 606, 633 (2001)(O'Connor, J., concurring); see also *Guggenheim v. City of Goleta* 638 F. 3d 1111 (9<sup>th</sup> Cir. 2010) [distinct, investment-backed expectation necessarily implies the expectation is a reasonable probability given the state of the law at the time of acquisition.]) In this case the first question is the most important.

The applicants purchased the property in 2003. At the time of purchase, the Coastal Act (including the strict provisions of Section 30240 incorporated into the LCP) had been in effect for decades. Thus, the applicants could not have a reasonable expectation to an intensive development of the site. All four surrounding parcels are developed with single-family residential development. As such, the applicant had a reasonable expectation to a residence on the subject parcel, subject to the strict limitations imposed by Section 30240. Here, the Commission is allowing a single family residence (and associated buildings) and is therefore not interfering with the reasonable expectations of the applicants.

In conclusion, the Commission finds that, notwithstanding Section 30240, a residential project on the subject property must be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

#### **Project Impacts and Alternatives to Minimize Significant Disruption of Habitat Values**

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to "take" the property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, and Land Use Plan policies, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Obviously, the construction of residential development, including grading, fuel modification, and the use of the development by residents will result in unavoidable loss of ESHA. The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. As originally approved by the County, would have resulted in significant adverse impacts to riparian habitat and wetlands on site due

to the failure to provide the required 100 ft. buffer from these areas. In addition, the originally approved project included development that would have been located on multiple areas of the site which would have resulted in substantial adverse impacts to coastal sage scrub and native grasslands habitat areas due the failure to cluster development to a single consolidated development envelope.

In this case, in consultation with Commission staff, the Applicant has revised the project in a number of ways to address the Appellants' contentions and staff's concerns. One of the alternatives identified by Commission staff in Section E (Substantial Issue Determination) of this Report includes the clustering of the main house and guest house in one building envelope accessible by Agua Road to the east of the original main residence location. In consultation with Commission staff, the Applicant has revised the originally approved project consistent with this clustered alternative configuration (**Exhibit 8**). As now proposed, the primary residence will be relocated immediately adjacent to the proposed guest house and will be more than 500 feet to the east of the stream and wetlands on site in order to ensure that development on site is clustered to the maximum extent feasible with an adequate buffer from all riparian and wetland areas. In addition, staff has worked with the applicant to evaluate other potential areas on site for the development to be located and staff concurs with the applicant's determination that the proposed revised location for the residence, adjacent to Agua Road, is the most appropriate location on site that would minimize adverse impacts to ESHA and coastal resources to the extent feasible. Given the size and configuration of the property, there are no alternative locations on-site that would provide a greater setback from the ESHA or avoid fuel modification requirements within the on-site ESHA.

All proposed structures are located within this development area. Any reduction in the size of the development area would not result in any significant reduction in fuel modification requirements within ESHA. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

Although the proposed project, as revised by the applicant, has been located and designed to avoid or minimize adverse impacts to ESHA to the maximum extent feasible, it will still result in some unavoidable adverse impacts to ESHA on site, which includes the potential removal of approximately 16,686 sq. ft. of Venturan Coastal Sage Scrub habitat due to construction of the proposed residential development and the required vegetation clearance for fuel modification purposes. In past permit actions, the Commission has found that in order to ensure that repair work is as consistent as possible with the above referenced resource protection policies of both the Coastal Act and LUP, all ESHA areas on site that will be displaced as a result of proposed development should be mitigated. Therefore, the Commission finds that Special Condition Seven (7) is necessary to ensure that adverse effects to the Ventura Coastal Sage Scrub habitat on site are adequately mitigated and that the revegetation plan is successful. Specifically, Special Condition Seven (7) requires the applicant to submit, prior to issuance of the CDP for the review and approval of the Executive Director, a Ventura Coastal Sage Scrub Habitat Restoration and Monitoring Program, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director. The survey will provide a current building site assessment, to determine the actual amount of Venturan Coastal Sage Scrub Habitat that will be impacted either by the building footprint or 100-ft. fuel modification activities. The corresponding plan shall provide for the restoration on site of Ventura Coastal Sage Scrub habitat (at a ratio of 3:1 or greater) as mitigation for all areas impacted by the proposed project. All invasive and non-native plant

species shall be removed from the restoration area. In addition, Special Condition Seven (7) also requires the applicant implement an annual monitoring program for a period of five years to ensure the success of the replanting. If the monitoring report indicates the vegetation and restoration is not in conformance with or has failed to meet the performance standards specified in the restoration plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director and shall implement the approved version of the plan. The revised restoration plan must be prepared by a qualified biologist or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

In addition, the Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Santa Ynez Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Santa Ynez Mountains area. This sort of impact was not addressed in the prior section. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Santa Ynez Mountains area that are not directly and immediately affected by the proposed development, Special Condition Six (6) requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used. There are several non-native invasive tree species (eucalyptus and pepper trees) scattered throughout the site. This is required to be shown on the landscaping plan.

In addition, the Commission has found that night lighting of ESHA may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, Special Condition Eight (8) limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Additionally, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, Special Condition Thirteen (13) provides that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. This limitation avoids loss of natural vegetation coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans. Additionally, fuel modification activities must be outside protected root zone area of surrounding trees and thinning/limbing activities proposed must not take place within the oak woodland habitat, except to the extent the trees are dead.

The Commission also finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act and certified Local Coastal Plan are significantly limited by the unique nature of the site and the

environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, Special Condition Nine (9) is required.

In addition, due to the remote location of the project site, in order to ensure that the other special conditions of this permit are adequately implemented, Special Condition Eleven (11) provides that the applicant irrevocably authorizes, on behalf of the applicant and all successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit. Further, the Special Condition Ten (10) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. Finally, in order to ensure that the terms and conditions of this permit are adequately implemented, the Commission conditions the applicant to allow staff to enter onto the property (subject to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with the habitat protection policies of the certified Local Coastal Plan and expressly incorporated Chapter 3 policies of the Coastal Act.

### **3. Visual Resources**

Section 30251 of the Coastal Act and Section 3.4.1 of the certified Land Use Plan states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The proposed project area is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. The LCP and incorporated Coastal Act Policy requires that the scenic and visual qualities be considered and protected as a resource of public importance. Development must be sited and designed to protect views to and along the ocean/scenic coastal areas, to minimize alteration of natural land forms, to be visually compatible with the character of the surrounding area, and, where feasible, to restore and enhance visual quality in degraded areas.

In this case, the project site is set within the Hollister Ranch area, which is dominated by a network of private roads. The 19'9" main house structure and 16" guest house structure will not be visible from any public areas, including public roads, beaches, or from the ocean. Accordingly, these structures, and the related proposed developments including the garages, relocated shed and water tanks, will not obstruct public views. The originally approved project included approximately 680 cu. yds. cut and 680 cu. yds fill.grading. However, the revised project, as now proposed by the applicant, will include only 172 cu. yds. of cut and 172 cu. yds. of fill grading. The building site is on a relatively flat pad adjacent to Agua Road and the proposal has been designed to make use of the natural slope and contouring of the site for the most part. Accordingly, the proposed project has been designed to minimize the alteration of natural landforms. The proposed structures will be built in a California mission style, with tiled roofs and natural earth tone exterior color schemes. This design is consistent with the typical style of home in the Hollister Ranch area. Accordingly, the proposed development will be visually compatible with the character of the surrounding area.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with the visual resource protection policies of the certified Local Coastal Plan and expressly incorporated Chapter 3 policies of the Coastal Act.

#### **4. Water Quality**

Section 30231 of the Coastal Act states that:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

Policy 3-14 (Hillside and Watershed Protection) states:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

The Commission recognizes that new development in the has the potential to adversely impact coastal water quality and aquatic resources because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation, reductions in groundwater recharge and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

In past permit actions in the Santa Ynez Mountains, the Commission has required development be located a minimum distance of 100 feet from streams, in addition to requiring the employment of best management practices to minimize runoff of pollutants, in order to protect water quality. The 100-foot setback is measured from the outer edge of the riparian canopy, or the top of bank where there is no riparian vegetation. This setback provides sufficient area for infiltration of runoff, prevention of erosion and sedimentation, minimization of the spread of invasive exotic plant and animal species, and to allow for an adequate and functional natural vegetation buffer consistent with the certified LCP and incorporated Coastal Act Section 30231. In this case, in consultation with Commission staff, the applicant has revised the project to relocate all proposed development more than 100 ft. from the stream on site consistent with the provisions of the LCP and the Coastal Act, as incorporated in the LCP.

As discussed previously, a project site is located between the east and west forks of Agua Creek, which drains south to the Pacific Ocean. The stream is lined with mature Southern Coast Live Oak riparian forest and Southern mixed riparian forest. The project, as revised, has been sited and designed to ensure that all proposed development and associated grading provides at least a few hundred feet in setbacks from the outer edge of the riparian canopy on-site. Given the configuration and constraints of the subject property, there are no alternative locations for siting the residential development that would serve to increase the setback from the on-site stream.

In order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from runoff both during construction and in the post-development stage, Special Conditions Four (4) and Five (5) require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site, including: 1) site design, source control and/or treatment control measures; 2) implementing erosion sediment control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

The Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to adversely water quality, including to Agua Creek located downslope from the project area. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, in order to minimize erosion and resultant sedimentation of downslope stream areas, Special Condition Five (5) also requires that all disturbed and graded areas shall be stabilized and vegetated with appropriate native plant species.

Additionally, the applicant's consultants have concluded that the site is suitable for the proposed septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The Santa Barbara County Public Health Department has given in-concept approval of

the county-approved septic system, which was for a much larger development. Subject to an update in information, the Department's approval is likely to be found consistent with their requirements.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the certified Local Coastal Program and incorporated Section 30231 of the Coastal Act.

## **5. New Development and Cumulative Impacts**

Section 30250(a) of the Coastal Act, as incorporated in certified LCP Section 3.2, states:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.*

Section 30252 of the Coastal Act, as incorporated in certified LCP Section 3.2, states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

*[T]he incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.*

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Hollister Ranch/Santa Ynez Mountains area, particularly those of subdivisions, multi-family residential development, and second residential units, all of which result in increased density. It is particularly critical to evaluate the potential cumulative impacts of increased density given the existence of thousands of undeveloped and poorly sited parcels in this area. Construction of a guest house unit or second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage,

electricity, and roads. Thus, guest houses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

The County's certified Implementation Plan/Coastal Zoning Ordinance allows as a permitted use one single family dwelling unit per legal lot (Division 4, Section 35-69.3 part 5) and one guest house per legal lot subject to Section 35-120 restrictions (Division 4, Section 35-69.3 part 6). Accessory structures erected as an integral part of the principal structure, in this case water tanks and a 120 sq. ft. shed, are permitted subject to height and size restrictions (Division 7, Section 35-119 parts 3-4). Guest houses cannot exceed 800 sq. ft. of living area nor 16 feet in height (Division 7, Section 35-120 parts 1-16). In this case, the proposal includes one primary single family dwelling unit, one 797 sq. ft. and 16 ft. high guest house, and development accessory to the principal development, including a new 5,000 gal. water tank 1,250 feet north of the building site with under ground pipes to a second buried 7,500 gal. water storage tank to the south of the building site. Therefore, the proposed development conforms to the County's certified Coastal Zoning Code sections for Ag-II zoning.

However, future improvements to the proposed unit such as additional square footage could raise issues with regard to individual or cumulative impacts to coastal resources. Such improvements and their potential impacts must be addressed by the Commission to ensure conformance with the certified Local Coastal Program and its incorporation in their entirety the Chapter 3 policies of the Coastal Act.

To ensure that any additions or improvements that could further intensify the use of the unit will be reviewed by the Commission and to ensure that the unit conforms with the maximum 800 sq. ft. requirement, Special Condition Nine (9) requires that any additions or improvements related to the primary residence or the guest unit, that may otherwise be exempt from coastal permit requirements, shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act.

Additionally, Special Condition Ten (10) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission finds that, as conditioned, the proposed development is consistent with the certified Local Coastal Program policies and Sections 30250 and 30252 of the Coastal Act as incorporated therein.

## **6. Hazards**

Section **30253** of the Coastal Act, as incorporated in the County's LCP, states in part that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Policy 3-13 (Hillside and Watershed Protection) states:

*Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

Policy 3-15 (Hillside and Watershed Protection) states:

*For necessary grading operations on hillsides, the smallest practical area of land shall be exposed at any one time during development, and the length of exposure shall be kept to the shortest practicable amount of time. The clearing of land should be avoided during the winter rainy season and all measures for removing sediments and stabilizing slopes should be in place before the beginning of the rainy season.*

The proposed development is located in an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the area include landslides, and erosion. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires may denude hillsides in the area of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The majority of the proposed residence and guest house will be located on a relatively level portion of the site and will require approximately 344 cu. yds .of grading. A soils and foundation exploration report prepared by Coast-Valley Testing, Inc. and dated October 15, 2008 found that the proposed project is feasible. The applicant's foundation exploration for the proposed building site included a series of foundation and grading recommendations, which the applicant has incorporated into the project, to ensure the location is both feasible and structurally sound. Special Condition One (1) requires that the applicant comply with the recommendations contained in the foundation/grading report referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

In addition, the Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to adversely water quality, including to Agua Creek located downslope from the project area and ensure geologic site stability. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, in order to minimize erosion and resultant sedimentation of downslope stream areas, Special Condition Five (5) also requires that all disturbed and graded areas shall be stabilized and vegetated with appropriate native plant species.

Further, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by Special Condition Four (4) to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Special Condition Four (4) also requires that the applicant implement Best Management Practices designed to

control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site during construction in order to minimize erosion and ensure geologic stability on site.

Lastly, to ensure the applicant is aware of the risks associated with constructing residential dwellings on the site, the Commission imposes Special Condition Three (3). This condition requires the applicant to acknowledge and agree that the site may be subject to hazards, to assume the risks associated with the subject development, to waive any claim of damage or liability against the Commission and to indemnify and hold harmless the Commission for any injury from such hazards.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with geologic and engineering provisions of the County's certified LCP and with Section 30253 of the Coastal Act, as incorporated in the LCP by reference.

## **7. Unpermitted Development**

Development has occurred on the subject site without the required coastal development permit. During the course of appeal review, Commission staff discovered: 1) an unpermitted road/driveway originally proposed to grant access to the original primary residence site, 2) an unpermitted 120 sq. ft. shed near the original primary residence site, 3) 2 water tanks (5,000 gal. and buried 7,000 gal.) and related transmission lines, and 4) 2 private septic systems. In addition, an unpermitted trailer (constructed or placed sometime between 1994 and 2005) existed at least until 2007, near the southernmost portion of the site on an existing dirt road. The former trailer site is not near the subject residential development site. The trailer has been removed, but is now erroneously identified as a proposed barn on the site plan. No barn is proposed and no structure currently exists where the trailer previously existed.

The applicant has revised the originally approved project and now proposes to restore the unpermitted road/driveway by revegetating with native plants consistent with the existing plant community on site. Additionally, the unpermitted shed is proposed to be relocated to the clustered building site as revised. The proposed water tanks and septic systems are proposed to remain where they are, but they will be incorporated into the use of the primary and guest house structures.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner Special Condition Twelve (12) requires that the applicant satisfy all conditions of this permit related to unpermitted development which are prerequisite to the issuance of this permit within 180 days of Commission action. This includes Special Condition Two (2), which requires removal from the revised plans any reference to a proposed barn at the southernmost portion of the site (as shown on **Exhibit 8**) previously occupied by an unpermitted trailer structure. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the certified LCP policies and incorporated Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

## 8. California Environmental Quality Act (CEQA)

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

The Commission incorporates its findings on consistency with the County's certified LCP at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the certified LCP. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

### Special Conditions 1 through 13

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the certified LCP to conform to CEQA.

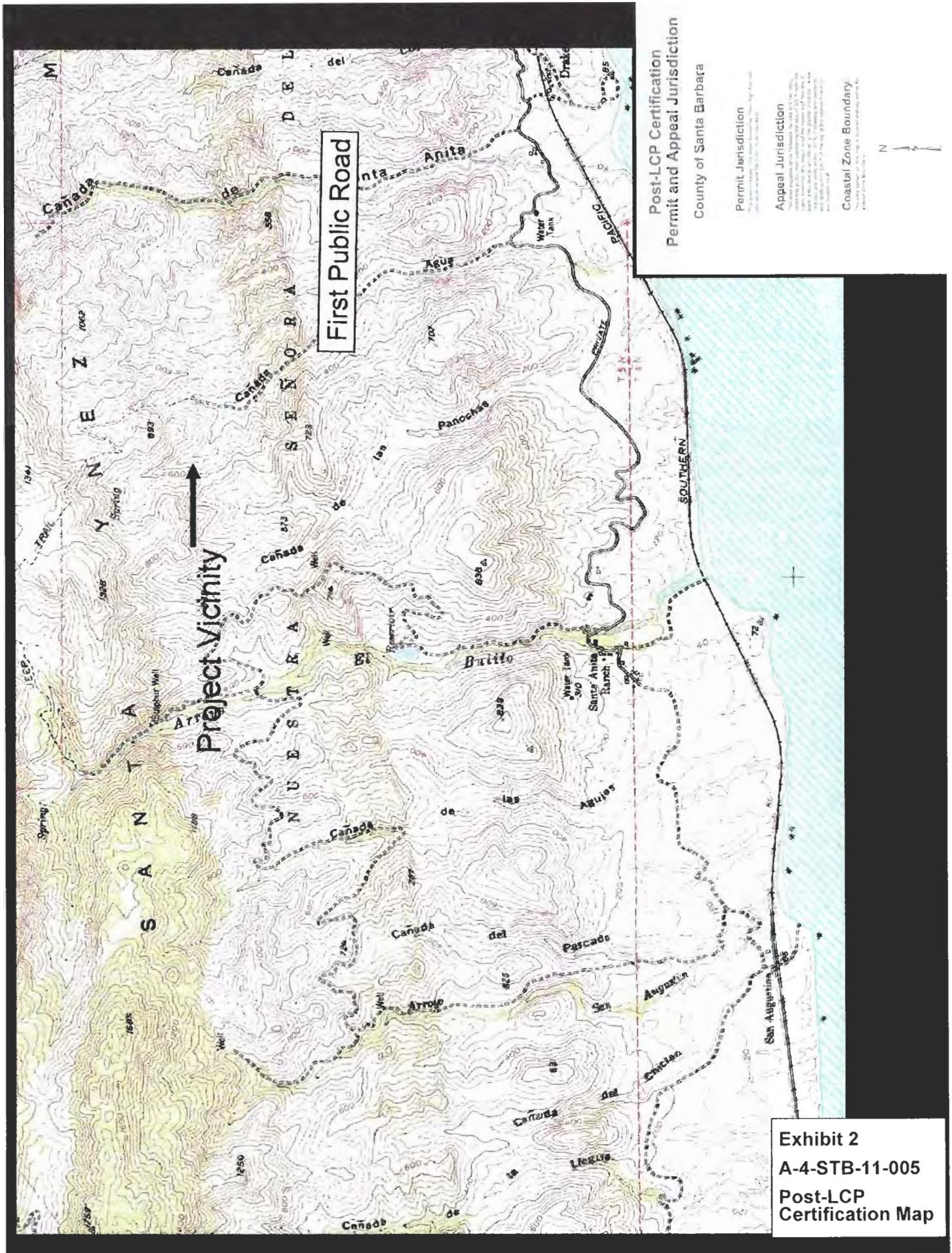
## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. County of Santa Barbara Local Coastal Program;
2. Proposed Final Mitigated Negative Declaration, 10NGD-00000-00018, (County of Santa Barbara, January 10, 2011);
3. *Sensitive Species and Community Survey*, prepared by Mary Carroll, dated January 2009;
4. *Addendum to Sensitive Species and Communities Report*, dated June 4, 2009, prepared by Mary Carroll.
5. *Foundation Exploration*, dated October 15, 2008, prepared by Coast-Valley Testing, Inc.



## Project Location

**Exhibit 1**  
**A-4-STB-11-005**  
**Vicinity Map**

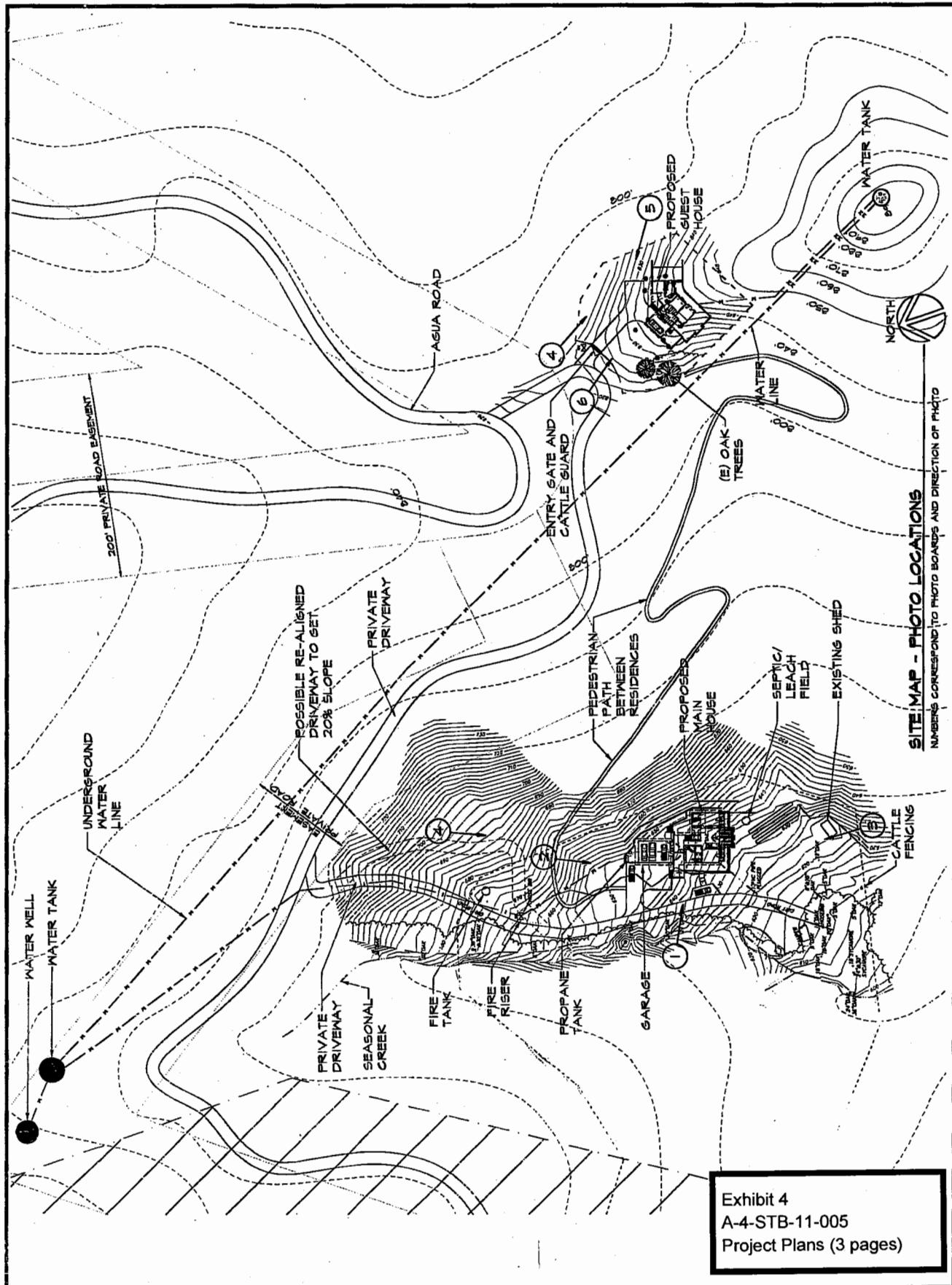






PLATMAN OF ST. PETERSBURG  
100 VIA DELAVERDE  
VICTOR AND PAULA RINGE  
PARCEL 80 MAIN HOUSE

SITE PLAN PHOTO KEY  
AGUA STREET, LOT 80, HOLLISTER RANGE & GAVOTA, FL  
DATE: 7-10-07  
TIME: 10:00 AM  
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KORNREICH  
ARCHITECTS



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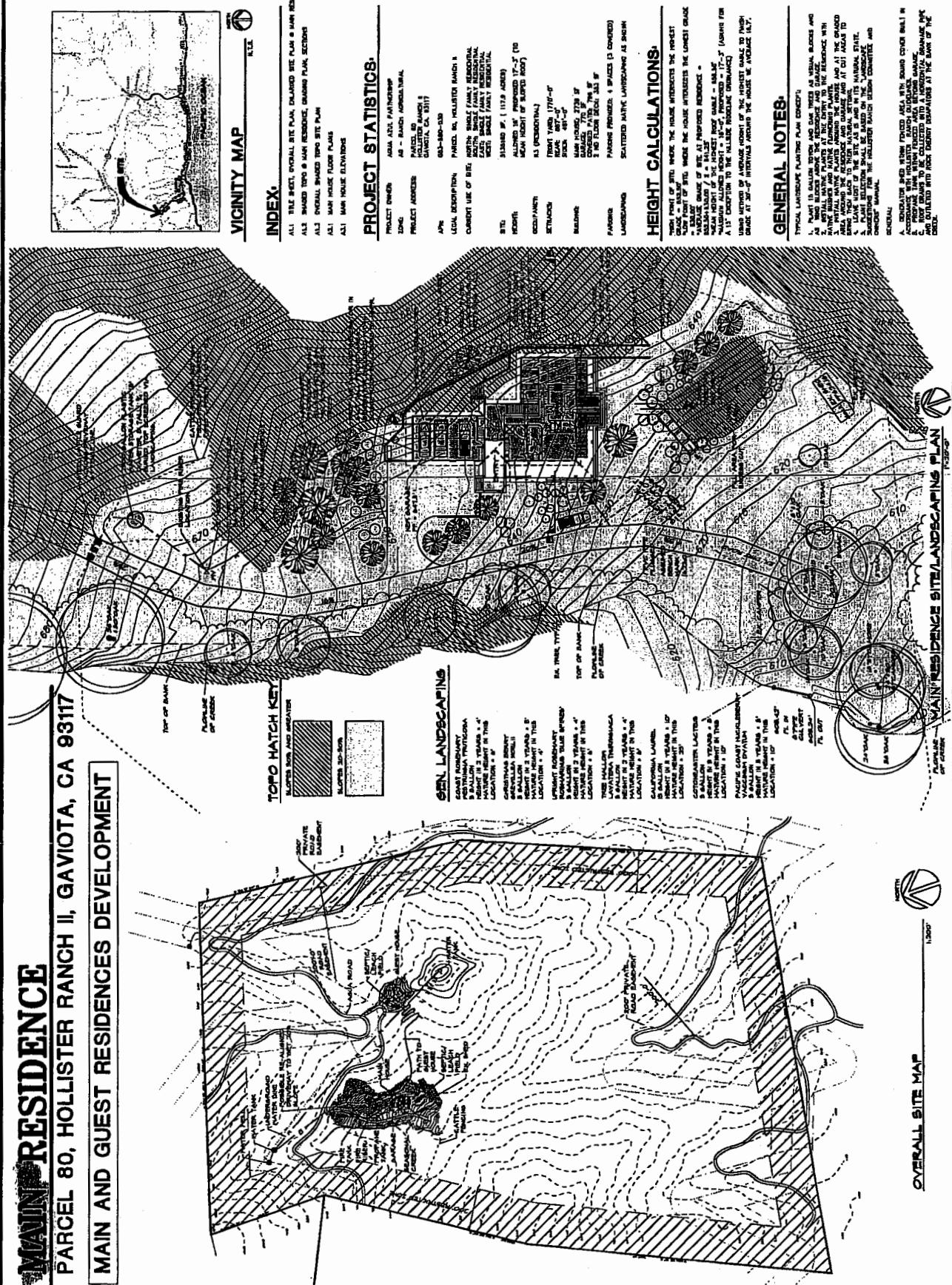
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HOUSING

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148

A1.1

**M**AIN RESIDENCE  
PARCEL 80, HOLLISTER RANCH II, GAVIOTA, CA 93117  
MAIN AND GUEST RESIDENCES DEVELOPMENT





4-STB-11-006



RECEIVED

County of Santa Barbara

JAN 26 2011 BY Planning and Development

CALIFORNIA

COASTAL COMMISSION

SOUTHERN CENTRAL COAST DISTRICT

Glenn S. Russell, Ph.D., Director

Liane Black, Director of Development Services

Jeffrey S. Hunt, Director of Long Range Planning

## NOTICE OF FINAL ACTION

January 24, 2011

On January 10, 2011, Santa Barbara County took final action on the appealable development described below:

- Appealable Coastal Development Permit 08CDH-00000-00018**  
 Appealable Coastal Development Permit [case number] following discretionary case [#]  
 Discretionary action on a [case type, case#]

**Project Applicant:**

Bill Swanson  
Hollister Ranch Parcel 69  
Goleta, CA 93117

**Property Owner:**

Agua Azul Partnership  
c/o Art McLean  
1551 Bishop Street  
San Luis Obispo, Ca 93401

**Project Description:** Hearing on the request of Bill Swanson, agent for the owner Agua Azul Partnership, to consider Case No. 08CDH-00000-00018, [application filed on May 14, 2008] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-320 to allow the development of a new residence and guest house; and to adopt the Mitigated Negative Declaration 10NGD-00000-00018 pursuant to the State Guidelines for Implementation of the California Environmental Quality Act.

**Location:** The application involves AP No. 083-680-030, located at Hollister Ranch Parcel 69, in the Gaviota area, Third Supervisorial District.

The receipt of this letter and the attached materials start the 10 working day appeal period during which the County's decision may be appealed to the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office. Please contact Errin Briggs, the case planner at 568-2047 if you have any questions regarding the County's action or this notice.

Errin Briggs, Project Planner

1/24/11

Date

**Attachments:**

- Coastal Development Permit 08CDH-00000-00018  
Final Action Letter dated January 13, 2011

cc: Bill Swanson, Hollister Ranch Parcel 69, Gaviota, CA 93117  
Owner: Agua Azul Partnership, c/o Art McLean, 1551 Bishop Street, San Luis Obispo, Ca 93401

Exhibit 5  
Final Local Action Notice  
A-4-STB-11-005



COUNTY OF SANTA BARBARA

## Planning and Development

### COASTAL DEVELOPMENT PERMIT

**Case No.:** 08CDH-00000-00018

**Project Name:** Agua Azul New Single Family Residence & Guest House

**Project Address:** Hollister Ranch Parcel 80

**Assessor's Parcel No.:** 083-680-030

**Applicant Name:** Agua Azul Partnership

The Zoning Administrator hereby approves this Coastal Development Permit for the development described below, based upon the required findings and subject to the attached terms and conditions.

**Associated Case Number(s):** 10NGD-00000-00018

**Project Description Summary:** See Attached Description

**Project Specific Conditions:** See Attached Conditions

**Permit Compliance Case:** X Yes       No

**Permit Compliance Case No.:** \_\_\_\_\_

**Appeals:** The approval of this Coastal Development Permit may be appealed to the Planning Commission by the applicant or an aggrieved person. The written appeal and accompanying fee must be filed with the Planning and Development Department at either 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, by 5:00 p.m. on or before January 20, 2011.

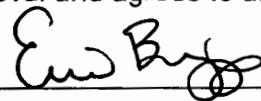
The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission after the appellant has exhausted all local appeals. Therefore a fee is not required to file an appeal of this Coastal Development Permit.

#### **Terms of Permit Issuance:**

- 1. Work Prohibited Prior to Permit Issuance.** No work, development, or use intended to be authorized pursuant to this approval shall commence prior to issuance of this Coastal Development Permit and/or any other required permit (e.g., Building Permit). **Warning! This is not a Building/Grading Permit.**
- 2. Date of Permit Issuance.** This Permit shall be deemed effective and issued on January 21, 2011 above, provided an appeal of this approval has not been filed.
- 3. Time Limit.** The approval of this Coastal Development Permit shall be valid for one year from the date of approval. Failure to obtain a required construction, demolition, or grading permit and to lawfully commence development within two years of permit issuance shall render this Coastal Development Permit null and void.

**NOTE:** Approval and issuance of a Coastal Development Permit for this project does not allow construction or use outside of the project description, terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any County Policy, Ordinance or other governmental regulation.

**Owner/Applicant Acknowledgement:** Undersigned permittee acknowledges receipt of this pending approval and agrees to abide by all terms and conditions thereof.



Print Name

For Agua Azul Partnership

Signature

1/10/11

Date

**Date of Zoning Administrator Approval:** January 10, 2011

**Planning and Development Department Issuance by:**

---

Print Name

Signature

Date

Santa Barbara County

**PUBLIC Health**

DEPARTMENT

**Environmental Health Services**

2125 S. Centerpointe Pkwy. #333 • Santa Maria, CA 93455-1340 805/346-8460 • FAX 805/346-8485

Takeshi M. Wada, MD, MPH Director/Health Officer

Anne M. Fenton Deputy Director

Suzanne Jacobson, CPA Chief Financial Officer

Michele Mickiewicz, MPH Deputy Director

Elizabeth Snyder, MHA Deputy Director

Jennifer Bernstein, Interim Director of Environmental Health

TO: Errin Briggs, Planner  
Planning & Development Department  
Development Review Division

FROM: Paul Jenzen  
Environmental Health Services

DATE: October 11, 2010

SUBJECT: Case No. 08CDH-00000-00018 Gaviota Area

Applicant: Agua Azul Partnership c/o Art McClean  
1551 Bishop Street  
San Luis Obispo, CA. 93401

Property Location: Assessor's Parcel No. 083-680-030, zoned AG-II-320, located at Parcel 80 of the Hollister Ranch.

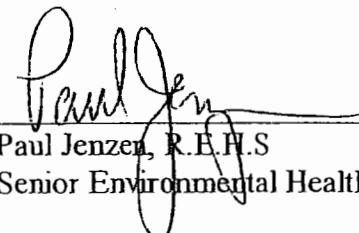
Case No. 08CDH-00000-00018 represents a request to construct an approximately 2,739 square foot main residence and an approximately 800 square foot guest house. Additionally garages and a workshop are proposed.

Domestic water supply is proposed to be provided by a private single-parcel water system. The applicant has provided to Environmental Health Services well information from tests completed circa 1993 that indicate adequate amounts of water are available from a horizontal well located onsite. This information will need to be updated and submitted to Environmental Health Services with a single parcel water system application.

Sewage disposal is proposed to be provided by an onsite wastewater treatment system. The applicant has provided to Environmental Health Services a passing percolation test for the Main Residence completed by Coast Valley Testing and dated May 29, 2009 that indicates that an onsite wastewater treatment system could be constructed. Additionally, drywell performance tests for the Guest House were also submitted which also show that an onsite wastewater treatment system is feasible. Applications for both onsite wastewater systems have been submitted but will need to be approved prior to Zoning Clearance.

Providing the Zoning Administrator grants approval of the applicant's request, Environmental Health Services recommends the following be included as Conditions of Approval:

1. **Prior to Issuance of Zoning Clearance**, an application for a **Single Parcel Water System** Permit shall be reviewed and approved by Environmental Health Services in accordance with Santa Barbara County Code Chapter 34B.
2. **Prior to Issuance of Zoning Clearance**, an application for both onsite wastewater treatment systems (OWTS) permit shall be reviewed and approved by Environmental Health Services.



---

Paul Jenzen, R.E.H.S.  
Senior Environmental Health Specialist

cc:     Applicant  
         Agent, Bill Swanson, Hollister Ranch Parcel 69 Gaviota, CA. 93117  
         Mike Zimmer, Planning & Development Dept, Building Div., Santa Barbara  
         Norman Fujimoto, Environmental Health Services

LU-5036

# Memorandum

**RECEIVED**

MAY 20 2008

S.B. COUNTY  
BUILDING DIVISION

Date: May 20, 2008

To: Petra Leyva /Seth Shank  
Planning & Development  
Santa Barbara

From: Martin Johnson, Captain  
Fire Department

*MJ*

Subject: APN: 083-680-030; Case #: 08CDH-00018

Site: Hollister Ranch, Lot 80

Project Description: New Single Family Dwelling; New Guest House



## DETERMINATION OF APPLICATION INCOMPLETENESS

I have reviewed your project and find that it will require some corrections before it can be approved by the Santa Barbara County Fire Department. The following information must be included with your revised plans:

### PRIOR TO COMPLETENESS DETERMINATION FOR ISSUANCE OF A COASTAL DEVELOPMENT PERMIT THE FOLLOWING CONDITIONS MUST BE MET

1. Revised plans must include a complete driveway/access plan showing the following:

- Width of driveway/access way
- Percent of slope (including a profile section view)
- Type of paving or surface material to be used
- Turnouts (if required)
- Turnaround (if required)
- Structural section view showing how the driveway/access will be constructed
- Driveway shall require civil engineering design and certification.

All plans must be drawn to scale and shall call out all dimensions and turning radii requirements. Please refer to the attached copies of the Santa Barbara County Fire Department Development Standard #1 and the Engineering Design Standards for Santa Barbara County, Page 8-4.

NOTE: Existing driveway as proposed, appears far outside of standard. Please submit fully engineered driveway plans in compliance with Santa Barbara County Fire Department Development Standard #1.

Portions of the Common Ranch Road (Agua) will also need improvement. Much work has recently been completed on this road; however, much more will need to be done to support additional development.

2. Show size and location of any on-site or proposed propane tanks on revised plans. Tanks must be installed per Article 82 of the California Fire Code. Location of tank(s) from structures and/or ignition sources is based on the size of the tank in water gallons.
  - Less than 500 gallons: Must be located no closer than 10 feet from any structure or ignition source.
  - From 501 to 2000 gallons: Must be located no closer than 25 feet from any structure or ignition source.
  - From 2001 to 30,000 gallons: Must be located no closer than 50 feet from any structure or ignition source.
3. Provide a complete Stored Water Fire Protection System Plan. This plan must show and note all of the elements of a Stored Water Fire Protection System Plan as outlined in Santa Barbara County Fire Department Development Standard #3 (attached).

**In addition, the following fire department conditions will be required for the Fire Protection Certificate:**

#### **GENERAL NOTICE**

4. Stop work immediately and contact the County Fire Department, Hazardous Materials Unit if visual contamination or chemical odors are detected while implementing the approved work at this site. Resumption of work requires approval of the HMU.

#### **PRIOR TO ERECTION OF COMBUSTIBLE BUILDING MATERIALS THE FOLLOWING CONDITIONS MUST BE MET**

5. All access ways (public or private) shall be installed and made serviceable. Roadway plans, acceptable to the fire department, shall be submitted for approval prior to any work being undertaken.

Driveway width shall be a minimum of 16 feet.

Driveways serving one residential dwelling are required to have a minimum width of 12 feet. Driveways serving two residential dwellings are required to have a minimum width of 16 feet. Driveways serving three to nine residential dwellings are required to have a minimum width of 20 feet. If any future development is planned for this parcel or will be served by this

driveway, the applicant is encouraged to coordinate these standards into their plans and with other interested parties.

6. Plans for a stored water fire protection system shall be submitted and approved by the fire department. Water storage shall be 2,500 gallons above the amount required for domestic usage and shall be reserved for fire protection purposes exclusively
7. Santa Barbara County Fire Department High Fire Hazard Area Requirements must be met.

**PRIOR TO OCCUPANCY CLEARANCE  
THE FOLLOWING CONDITIONS MUST BE MET**

8. Santa Barbara County Fire Department fire sprinkler system requirements shall be met. Fire sprinkler system plans shall be approved prior to installation. Location of any fire department connection shall be determined by the fire department.
9. Building address numbers shall be posted in conformance with fire department standards.
10. When access ways are gated a fire department approved locking system shall be installed.
11. Access way entrance gates shall conform to Development Standard #7.
12. Payment of development impact fees is required. The fees shall be computed on each new building, including non-habitable spaces.

Fees will be calculated as follows:

- Mitigation Fee at \$.10 per square foot for structures with fire sprinkler systems

These conditions apply to the project as currently described. Future changes, including but not limited to further division, change of occupancy, intensification of use, or increase in hazard classification, may require additional mitigation to comply with applicable development standards in effect at the time of change.

As always, if you have any questions or require further information please call 681-5500.

MJ:jmd

c: Art McLean/Agua Azul Partnership, 1551 Bishop St., San Luis Obispo, CA 93401  
Bill Swanson, 69 Hollister Ranch Rd, Gaviota, CA 93117  
Kornreich Architects, 1135 Marsh St, San Luis Obispo, CA 93401  
APN

**RECEIVED**

To: South County Planning &amp; Development Dept.

JUN 10 2008

Attn: Petra Leyva, Project Planner

**S.B. COUNTY  
BUILDING DIVISION**From: Vijaya L. Jammalamadaka *VJ*

Date: June 9, 2008

Case #: 08CDH-00000-00018; Agua Azul New SFD.Guesthouse

APN #('s): 083-680-030

The Air Pollution Control District has reviewed the referenced case and offers the following:

- The APCD has no comment on this project at this time.
- Applicant must be issued an APCD permit prior to construction or operation of this project.
- Applicant must apply for an APCD permit exemption prior to land use clearance.
- The applicant should determine whether the structure(s) proposed for demolition contains asbestos that is friable or has the potential to become friable during demolition or disposal. If the structure does contain friable asbestos, the asbestos should be removed by a contractor that is state certified for asbestos removal.
- Applicant is required to complete the "Notification for Renovation and Demolition" form (available on the APCD website). The completed form should be mailed to the Santa Barbara APCD no later than the date specified in Section 1.B.1 of the instructions.
- Standard dust mitigation are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.

Attachment

cc: Bill Swanson, Agent  
TEA Chron File



## STANDARD DUST CONTROL REQUIREMENTS

The first measure is required for all projects involving earthmoving activities regardless of the project size or duration; the other measures must be implemented as applicable to the project. Proper implementation of all of these measures, as necessary, is assumed to reduce fugitive dust emissions to a level of insignificance and is strongly recommended for all discretionary projects involving earthmoving.

- During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day.
- Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible, unless prohibited by law. Reclaimed water should not be used in or around crops grown for human consumption.
- Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
- Gravel pads must be installed at all access points to prevent tracking of mud on to public roads. A vacuum truck or suction sweeper should be used to collect soil on paved surfaces. The use of leaf blowers is prohibited.
- If importation, exportation, and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
- After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance.
- Prior to land use clearance for map recordation (as applicable), the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans. \*

## CONDITIONS OF APPROVAL

### 08CDH-00000-00018

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked A-F, dated January 10, 2011, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

**The project description is as follows:**

**The request is for a Coastal Development Permit with Hearing (CDPH) to allow the construction of a new single-family residence with attached garage and guest house with attached garage and associated access improvements on a currently vacant parcel.**

**The single-family residence would be approximately 2,739 square feet in size and a maximum of 28 feet in height above existing grade. The attached garage would be 770 square feet in size. The guest house would be approximately 800 square feet in size and a maximum of 19 feet in height above existing grade. Attached to the guest house would be a garage of 340 square feet in size and a 240 square foot workshop. A 120 square foot shed and 2 water tanks (5,000 and 7,500 gallon capacity) are also included with the project. The residence and guest house would be separated by approximately 500 feet.**

**Grading would include 680 cubic yards of cut and 680 cubic yards of fill. No trees are proposed for removal. The parcel would be served by an existing, private water well located on site, private septic systems, and the Santa Barbara County Fire Department. Access would be provided from Agua Road. The property is a 117.9-acre parcel zoned AG-II-320 and shown as Assessor's Parcel Number 083-680-030, located at 80 Hollister Ranch in Hollister Ranch, 3<sup>rd</sup> Supervisorial District.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

## MITIGATION MEASURES FROM 10NGD-00000-00018

2. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the CBAR. **MONITORING:** P&D and CBAR shall review a Lighting Plan for compliance with this measure prior to issuance of a Coastal Development Permit for structures. Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.
3. Natural building materials and colors compatible with the surrounding terrain (earths tones and

non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. **Plan Requirement:** Project plans including architectural and landscape, shall be reviewed and approved by the Central Board of Architectural Review. Materials shall be denoted on building plans. **Timing:** Structures shall be painted prior to occupancy clearance. **MONITORING:** P&D shall inspect prior to occupancy clearance.

4. If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:

- a. seeding and watering to re-vegetate graded areas; and/or
- b. spreading of soil binders; and/or
- c. any other methods deemed appropriate by Planning and Development.

**Plan Requirements:** These requirements shall be noted on all plans. **Timing:** Plans are required prior to issuance of Coastal Development Permits. **MONITORING:** Grading Inspector shall perform periodic site inspections.

5. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below.

- a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
- b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
- c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods. **MONITORING:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

#### 6. Air Pollution Control District (APCD) Measures:

- a. Standard APCD dust mitigations are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of the Coastal Development Permit.
- b. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The text of the rule can be viewed on the APCD website at <http://www.sbcapcd.org/rules/download/rule345.pdf>.
- c. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in APCD's "Diesel Particulate and NOx Emission Measures" document to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.

Attachment A, Page 3

- d. Prior to occupancy, APCD permits must be obtained for all equipment that requires an APCD permit. APCD Authority to Construct permits are required for diesel engines rated at 50 bhp and greater (e.g., firewater pumps and emergency standby generators) and boilers/large water heaters whose combined heat input rating exceeds 2.0 million BTUs per hour.
  - e. All portable diesel-fired construction engines rated at 50 brake-horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or APCD permits prior to operation. Construction engines with PERP certificates are exempt from APCD permit, provided they will be on-site for less than 12 months.
  - f. At a minimum, prior to occupancy each building should reduce emissions of greenhouse gases by:
    - Increasing energy efficiency beyond Title 24 requirements;
    - Encouraging the use of transit, bicycling and walking by the occupants;
    - Increasing recycling goals (e.g., separate waste and recycling receptacles); and
    - Increasing landscaping (shade trees decrease energy requirements and also provide carbon storage.)
  - g. Asphalt paving activities shall comply with APCD Rule 329, *Cutback and Emulsified Asphalt Paving Materials*.
7. The applicant shall retain and pay for a P&D approved biologist to inspect and monitor the project site for bird and raptor nesting activity. If construction is to take place during the nesting season (March to September), a P&D approved biologist shall conduct a pre-construction bird and raptor nesting inspection not more than one week prior to the proposed beginning of construction activity. If birds or raptors are determined to be nesting on or within the vicinity of the project site, no construction activities, including, but not limited to grading or heavy equipment operation, shall take place within 500 feet of the bird or raptor nest. Certain construction activities may be allowed on a case-by-case basis as reviewed and approved by P&D. **Plan Requirements and Timing:** At a minimum of two days prior to the proposed beginning of construction activity, the results of the survey shall be reviewed and approved by P&D. This condition shall be printed on all final construction, grading, and building plans. **Monitoring:** P&D staff shall perform site inspections throughout the construction phase and receive the report from the P&D approved biologist.
  8. The use of heavy equipment and vehicles shall be limited to existing roadways and defined staging areas/access points. The boundaries of each work area shall be clearly defined and marked in the field with visible flagging and/or orange protective fencing. The Agua Creek riparian vegetation shall be protected by the placement of orange protection fencing outside the dripline of oak trees or at the western edge of the access drive, whichever is further from the creek. **Plan Requirements/Timing:** The boundaries of the work area shall be clearly delineated on the plans prior to issuance of the grading and building permits. Protective fencing shall be in place prior to the commencement of grading activities and maintained throughout construction. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall inspect during construction to ensure staging areas and work boundaries are marked according to the approved plan.
  9. **Habitat Restoration.** The Owner/Applicant shall submit for P&D approval a Creek Restoration Plan prepared by a P&D-approved biologist and designed to restore the understory of the Agua Creek riparian corridor within the cattle-exclusion fenced area. The plan shall provide for a mitigation ratio of 5 to 1 (aerial extent) to the area of creek buffer impacted (4,658 square feet) and include the following components:

Attachment A, Page 4

1. Restoration plant materials shall be native riparian species found in the Agua Creek watershed including, but not limited to toyon, California coffeeberry, and poison-oak.
2. Species shall be from locally obtained plants and seed stock.
3. The new plantings shall be irrigated with drip irrigation on a timer, and shall be weaned off of irrigation over a period of two to three years.
4. Agua Creek adjacent to the work areas shall be fenced with 6-foot construction fencing, staked a minimum of every six feet or as necessary to keep fencing from collapsing.
5. All restoration plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
6. If appropriate, non-native species, shall be removed from the creek, however, removal of native species in the creek shall be prohibited.

**Plan Requirements/Timing:** The final restoration plans shall be submitted prior to issuance of the Coastal Development Permit for review and approval by P&D. The Owner/Applicant shall post a performance security to ensure installation prior to issuance of the CDP and maintenance for three years. **Monitoring:** The Owner/Applicant shall demonstrate to P&D compliance staff that all required components of the approved plan(s) are in place as required prior to Final Inspection Clearance and maintained throughout the maintenance period. P&D compliance staff signature is required to release the installation security upon satisfactory installation of all items in approved plans and maintenance security upon successful implementation of this plan.

**10. Tree Protection & Mitigation:** In order to protect existing trees and minimize adverse effects of grading and construction onsite, the applicant shall implement a tree protection and replacement plan. All grading, trenching, ground disturbance, construction activities and structural development shall occur outside the critical root zone of all onsite oak trees. No ground disturbance including grading for buildings, driveways, easements and subsurface grading shall occur within the critical root zone of any tree unless specifically authorized by the approved tree protection plan. The tree protection and replacement plan shall include the following:

- a. An exhibit showing the location, diameter and critical root zone of all trees located onsite and within the construction areas of the residence and the guest house and their associated driveways.
- b. Fencing of all trees to be protected at or outside of the critical root zone. Fencing shall be at least three feet in height of chain link or other material acceptable to P&D and shall be staked every 6 feet. The applicant shall place signs stating "tree protection area" at 15 foot intervals on the fence. Said fencing and signs shall be shown on the tree protection exhibit, shall be installed prior to commencement of grading activities and shall remain in place throughout all grading and construction activities.
- c. The tree protection plan shall clearly identify any areas where grading, trenching or construction activities would encroach within the critical root zone of any native or specimen tree. All encroachment is subject to review and approval by P&D.
- d. Construction equipment staging and storage areas shall be located outside of the protected area and shall be depicted on project plans submitted for land use clearance. No construction equipment shall be parked, stored or operated within the protected area. No fill soil, rocks or construction materials shall be stored or placed within the protected area.
- e. Any proposed tree wells or retaining walls shall be shown on the tree protection plan exhibit as well as grading and construction plans and shall be located outside of the critical root zone of all protected trees unless specifically authorized.
- f. No permanent irrigation shall occur within the critical root zone of any oak tree. Drainage plans shall be designed so that tree trunk areas are properly drained to avoid ponding.
- g. Only trees designated for removal on the approved tree protection plan shall be removed.
- h. Any protected trees which are removed, relocated and/or damaged (more than 20% encroachment into the critical root zone) shall be replaced on a 10:1 basis with 5-gallon size trees. A drip

irrigation system with a timer shall be installed. Trees shall be planted prior to occupancy clearance and irrigated and maintained until established (five years). The plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.

- i. Any unanticipated damage that occurs to native trees or sensitive habitats resulting from construction activities shall be mitigated in a manner approved by P&D. This mitigation may include but is not limited to posting of a performance security, tree replacement on a 10:1 ratio and hiring of an outside consultant biologist to assess the damage and recommend mitigation. The required mitigation shall be done immediately under the direction of P&D prior to any further work occurring on site.

**Plan Requirements:** Prior to issuance of a Coastal Development Permit, the applicant shall submit grading plans and the tree protection and replacement plan to P&D for review and approval. All aspects of the plan shall be implemented as approved. **Timing:** Timing on each measure shall be stated where applicable; where not otherwise stated, all measures must be in place throughout all grading and construction activities. **Monitoring:** Permit Compliance staff shall conduct site inspections throughout all phases of development to ensure compliance with and evaluate all tree protection and replacement measures.

11. Erosion control measures shall be implemented to prevent runoff into Agua Creek. This shall include installation of protective fencing along the boundary of the work area to prevent stockpiling and other activities adjacent to the creek. Silt fencing, in conjunction with other methods, shall be used to prevent erosion and siltation of the nearby stream channel and to prevent runoff and associated residual water from entering Agua Creek. **Plan Requirements/Timing:** The boundaries of the creek-bank and location of protective/silt fencing shall be clearly delineated on the plans prior to issuance of the grading permit. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall site inspect during construction to ensure erosion control and sedimentation measures are marked according to the approved plan.
12. **Equipment Washout-Construction.** The Owner/Applicant shall designate one or more washout areas for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to Agua Creek and the surrounding area. Note that polluted water and materials shall be contained in these areas and removed from the site as necessary. The areas shall be located at least 100 feet from Agua Creek or sensitive biological resources. **Plan Requirements:** The Owner/Applicant shall designate the P&D approved location on all building and grading permits. **Timing:** The Owner/Applicant shall install the area prior to commencement of construction. **Monitoring:** P&D compliance monitoring staff shall ensure compliance prior to and throughout construction.
13. In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D shall check plans prior to approval of Coastal Development Permits and shall spot check in the field.
14. To minimize fire hazards, a Fire Protection Plan shall be implemented. The plan shall include the following:
  - a. In order to reduce impacts to native vegetation relating to fire hazard reduction, all brushing shall be limited to a 30' radius from all proposed and existing structures. Live natural vegetation

having trunks of four inches or greater may remain within the 30' perimeter provided that specimens are maintained free of dead, decadent limbs and branches. Natural vegetation which is dead and/or decadent shall be removed or chipped within 100 feet from structures. Limbs larger than four inches in diameter, leaves, mulch and duff do not require abatement.

- b. Installation of shutters on all windows on the exposed side of the structure.
- c. Installation of class "A" or "B" roofs.
- d. Construction of all decks with heavy timber.

**Plan Requirements and Timing:** A Fire Protection Plan shall be submitted to Planning and Development and the Fire Department for review and approval prior to issuance of Coastal Development Permits. **MONITORING:** A site inspection shall be conducted by Fire and P&D personnel prior to occupancy clearance.

15. Individual landscaping plans shall utilize fire resistant native species within 100 feet of residences.

**Plan Requirements:** Prior to issuance of Coastal Development Permits, the applicant shall submit landscape plans to P&D and the Fire Department for review and approval. The landscape plan shall also be approved by the CBAR. This mitigation shall be incorporated into landscape plans for future development. **Timing:** The applicant shall install the landscaping consistent with the approved plan prior to occupancy clearance. **MONITORING:** Permit Compliance shall site inspect to verify landscape installation and once each year to monitor landscape maintenance during the maintenance period.

16. The following fire prevention methods shall be used for all future structures:

- a. Building materials for all structures including residences, fences and accessory structures shall be constructed of fire resistant materials.
- b. P&D Building & Safety Class A or B roofing (i.e., non-combustible tile or asphalt composite shales) shall be required for all future on-site structures.
- c. Spark arresters shall be required for wood burning fireplaces.
- d. Private decks and structural overhangs proposed for all new structures shall be constructed with fire retardant materials or heavy timber.

**Plan Requirements:** Where appropriate, the fire prevention measures shall be graphically depicted on grading and building plans. **Timing:** Measures shall be installed prior to occupancy clearance. **MONITORING:** P&D building inspectors shall site inspect during construction.

17. The applicant shall limit excavation and grading to the dry season of the year (i.e. April 15 to November 1) unless a Building & Safety approved erosion and sediment control plan is in place and all measures therein are in effect. All exposed graded surfaces shall be reseeded with ground cover vegetation to minimize erosion. **Plan Requirements:** This requirement shall be noted on all grading and building plans. **Timing:** Graded surfaces shall be reseeded within 4 weeks of grading completion, with the exception of surfaces graded for the placement of structures. These surfaces shall be reseeded if construction of structures does not commence within 4 weeks of grading completion. **MONITORING:** P&D shall site inspect during grading to monitor dust generation and 4 weeks after grading to verify reseeding and to verify the construction has commenced in areas graded for placement of structures.

18. Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:00 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Three signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout

grading and construction activities. Violations may result in suspension of permits. **MONITORING:** Building Inspectors and Permit Compliance shall spot check and respond to complaints.

19. Prior to issuance of the Coastal Development Permit, the standard State fee of \$5,000 shall be paid to the State of California Coastal Conservancy in lieu of granting public access to the beach. Proof of payment shall be submitted to P&D. A cashier's check shall be submitted to: California Coastal Conservancy, 1330 Broadway, Suite 1300, Oakland, CA 94612, Attn.: Terri Nevins (510) 286-4161. **Timing/Monitoring:** P&D shall verify payment of fees prior to issuance of the CDP.
20. **Storm Water Retention-Driveway Design.** To reduce potential erosion of the eastern bank of Agua Creek by stormwater runoff, allow for infiltration, reduce pollutants and minimize degradation of storm water quality from parking areas and other paved surfaces, the Owner/Applicant shall initially drain the private drive away from Agua Creek into a vegetated swale that will address pollutants, slow stormwater flows and ultimately drain into the creek. The project shall also implement one of the following parking area designs: paving only under wheels, flared driveway, or use of permeable surfaces for parking areas. **Plan Requirements:** The Owner/Applicant shall include the driveway design, including materials on all building plans and as needed on grading plans depicted graphically subject to review and approval by P&D. **Monitoring:** P&D compliance monitoring staff shall site inspect for installation prior to Final Building Inspection Clearance.

## PROJECT SPECIFIC CONDITIONS

21. All elements of the project (e.g., design, scale, character, colors, materials and landscaping) shall be compatible with vicinity development and shall conform in all respects to CBAR approval 08BAR-00000-00113. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and shall obtain final approval by the Board of Architectural Review prior to issuance of Coastal Development Permits. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.
22. A recorded Notice to Property Owner document is necessary to ensure that the proposed guest house is used only for its permitted uses. The property owner shall notarize and record the NTPO document prior to issuance of Coastal Development Permits.
23. **Compliance with Departmental letters required as follows:**
  - a. Air Pollution Control District dated June 9, 2008
  - b. County Fire Department dated May 20, 2008
  - c. Environmental Health Services dated October 11, 2010

## APPEALABLE COASTAL DEVELOPMENT PERMIT CONDITIONS

24. **Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.
25. **CDP Expiration.** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Zoning Administrator. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good

cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

- 26. Additional Permits Required.** The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

## COUNTY RULES & REGULATIONS/LEGAL REQUIREMENTS

- 27. Print & illustrate conditions on plans:** All applicable final conditions of approval (*Zoning Administrator*) shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.

- 28. Mitigation Monitoring Required.** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:

- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
- b. Pay a \$500 fee prior to issuance of the Coastal Development Permit as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;
- c. Note the following on each page of grading and building plans "This project is subject to Condition Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval."; and
- d. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.

- 29. DIMF Fees-Transportation.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total DIMF amount for Transportation is assessed at \$1,976. This is based on a project type of single-family residence. **Timing:** Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to Coastal Development Permit issuance.

- 30. DIMF Fees-Parks.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance

the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Parks DIMF amount is assessed at \$1,153. This is based on a project type of single-family residence. **Timing:** Parks DIMFs shall be paid to the County Parks Department prior to Final Building Inspection.

- 31. DIMF Fees-Fire.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Fire DIMF amount assessed is \$489 and is based upon a calculation of \$0.10 per square foot for buildings that are equipped with fire sprinklers. This is based on a project type of single-family residence. **Timing:** Fire DIMFs shall be paid to the County Fire Department prior to Final Building Inspection and shall be based on the fee schedules in effect when paid.
- 32. Plans Requirements.** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 33. Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.
- 34. Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 35. Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the review authority and no approval shall be issued unless substitute feasible conditions/measures are imposed.



A. Shank  
Our Vision Clean Air

Santa Barbara County  
Air Pollution Control District

**RECEIVED**

JUN 10 2008

**S.B. COUNTY  
BUILDING DIVISION**

To: South County Planning & Development Dept.  
Attn: Petra Leyva, Project Planner  
From: Vijaya L. Jammalamadaka *VJL*  
Date: June 9, 2008  
Case #: 08CDH-00000-00018; Agua Azul New SFD.Guesthouse  
APN #('s): 083-680-030

The Air Pollution Control District has reviewed the referenced case and offers the following:

- The APCD has no comment on this project at this time.
- Applicant must be issued an APCD permit prior to construction or operation of this project.
- Applicant must apply for an APCD permit exemption prior to land use clearance.
- The applicant should determine whether the structure(s) proposed for demolition contains asbestos that is friable or has the potential to become friable during demolition or disposal. If the structure does contain friable asbestos, the asbestos should be removed by a contractor that is state certified for asbestos removal.
- Applicant is required to complete the "Notification for Renovation and Demolition" form (available on the APCD website). The completed form should be mailed to the Santa Barbara APCD no later than the date specified in Section I.B.1 of the instructions.
- Standard dust mitigation are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.

Attachment

cc: Bill Swanson, Agent  
TEA Chron File

Terence E. Dressler • Air Pollution Control Officer

260 North San Antonio Road, Suite A • Santa Barbara, CA • 93110 • www.sbcapcd.org • 805.961.8800 • 805.961.8801 (fax)



COUNTY OF SANTA BARBARA

## Planning and Development

### COASTAL DEVELOPMENT PERMIT

**Case No.:** 08CDH-00000-00018

**Project Name:** Agua Azul New Single Family Residence & Guest House

**Project Address:** Hollister Ranch Parcel 80

**Assessor's Parcel No.:** 083-680-030

**Applicant Name:** Agua Azul Partnership

The Zoning Administrator hereby approves this Coastal Development Permit for the development described below, based upon the required findings and subject to the attached terms and conditions.

**Associated Case Number(s):** 10NGD-00000-00018

**Project Description Summary:** See Attached Description

**Project Specific Conditions:** See Attached Conditions

**Permit Compliance Case:**  Yes  No

**Permit Compliance Case No.:** \_\_\_\_\_

**Appeals:** The approval of this Coastal Development Permit may be appealed to the Planning Commission by the applicant or an aggrieved person. The written appeal and accompanying fee must be filed with the Planning and Development Department at either 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, by 5:00 p.m. on or before January 20, 2011.

The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission after the appellant has exhausted all local appeals. Therefore a fee is not required to file an appeal of this Coastal Development Permit.

#### **Terms of Permit Issuance:**

- 1. Work Prohibited Prior to Permit Issuance.** No work, development, or use intended to be authorized pursuant to this approval shall commence prior to issuance of this Coastal Development Permit and/or any other required permit (e.g., Building Permit). **Warning! This is not a Building/Grading Permit.**
- 2. Date of Permit Issuance.** This Permit shall be deemed effective and issued on January 21, 2011 above, provided an appeal of this approval has not been filed.
- 3. Time Limit.** The approval of this Coastal Development Permit shall be valid for one year from the date of approval. Failure to obtain a required construction, demolition, or grading permit and to lawfully commence development within two years of permit issuance shall render this Coastal Development Permit null and void.

**NOTE:** Approval and issuance of a Coastal Development Permit for this project does not allow construction or use outside of the project description, terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any County Policy, Ordinance or other governmental regulation.

**Owner/Applicant Acknowledgement:** Undersigned permittee acknowledges receipt of this pending approval and agrees to abide by all terms and conditions thereof.

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Print Name	Signature	Date
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**Date of Zoning Administrator Approval:** January 10, 2011

**Planning and Development Department Issuance by:**

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Print Name	Signature	Date
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## **ATTACHMENT A: FINDINGS**

### **1.0 CEQA FINDINGS**

#### **1.1 CONSIDERATION OF THE NEGATIVE DECLARATION AND FULL DISCLOSURE**

The Zoning Administrator has considered the Negative Declaration 10NGD-00000-00018 together with the comments received and considered during the public review process. The Negative Declaration reflects the independent judgment and analysis of the Zoning Administrator and has been completed in compliance with CEQA, and is adequate for this proposal.

#### **1.2 FINDING OF NO SIGNIFICANT EFFECT**

On the basis of the whole record, including the negative declaration and any comments received, the Zoning Administrator finds that through feasible conditions placed upon the project, the significant impacts on the environment have been eliminated or substantially mitigated and on the basis of the whole record there is no substantial evidence that the project will have a significant effect on the environment.

#### **1.3 LOCATION OF DOCUMENTS**

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Zoning Administrator of the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, CA 93101.

#### **1.4 ENVIRONMENTAL REPORTING AND MONITORING PROGRAM**

Public Resources Code Section 21081.6 and CEQA Guidelines Section 15074(d) require the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to avoid or substantially lessen significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the reporting and monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

### **2.0 ADMINISTRATIVE FINDINGS**

**Findings required for Coastal Development Permit applications subject to Section 35-169.4.2.** In compliance with Section 35-169.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.2 the review authority shall first make all of the following findings:

#### **2.1 *The proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article or the project falls within the limited exception allowed under Section 35-161.7. (Nonconforming use of Land, Buildings and Structures).***

As discussed in Sections 6.2 and 6.3 of the staff report dated January 10, 2011 and incorporated herein by reference, the proposed project would be consistent with all applicable policies of the Comprehensive Plan including the Coastal Land Use Plan and the applicable provisions of the Article II Zoning Ordinance. As conditioned, the proposed project would be consistent with all policies and provisions relating to agricultural resources, retention and protection of natural drainages, archeological resources, biological resources, geological processes, water resources and visual resources/aesthetics. Therefore, this finding can be made.

**2.2 *That the proposed development is located on a legally created lot.***

The proposed project would occur on a legal lot, identified as Lot No. 80 of the Hollister Ranch Tract, phase II, recorded in Book 9, pages 9-17 dated December 23, 1971. Therefore, this finding can be made.

**2.3 *The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).***

There are no existing structures or development located on the project site. Additionally, there are no current zoning violations associated with the property. Therefore, the project site is in compliance with all laws, rules and regulations pertaining to zoning uses and all other applicable provisions of Article II and this finding can be made.

**2.4 *The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.***

The project consists of the construction of a new residence of approximately 2,739 square feet and a guest house of approximately 800 square feet with associated garages and driveway improvements. These development activities would not result in the obstruction of views from any public road as the roads in Hollister Ranch are private. Additionally, the project site is located over one mile from the Pacific Ocean and no public views of the site are available. The project would not be visible from any public recreation area. Therefore, this finding can be made.

**2.5 *The development is compatible with the established physical scale of the area.***

The proposed project would be compatible with the established physical scale of the Hollister Ranch area. The proposed residence and guest house are each designed to be compatible with a rural, agricultural style. The guest house would have a maximum height of 19 feet, the residence would have a maximum height of 28 feet and each building would be developed in locations where they fit into the natural topography. The project has been conceptually reviewed by the Central Board of Architectural Review which found the project to be compatible with the site's surroundings and directed the applicant to return for preliminary/final approval after project approval by the decision-maker. Therefore, the project would be compatible with the established physical scale of the area and this finding can be made.

**2.6 *The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.***

The proposed project would not impact public access to the beaches along this area of the coast as the project site is located approximately 1 mile from the ocean in a private subdivision. Additionally, because the project site is located within the Hollister Ranch, the applicant is required to pay a \$5,000 fee to the Coastal Conservancy in lieu of the Hollister Ranch subdivision providing public access to the beach pursuant to Coastal Plan policy 2-15. Therefore, this finding can be made.



COURT HOUSE

# COUNTY OF SANTA BARBARA CALIFORNIA

## ZONING ADMINISTRATOR

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU STREET  
SANTA BARBARA, CALIFORNIA 93101-2058  
PHONE: (805) 568-2000

January 13, 2011

Bill Swanson  
Hollister Ranch Parcel 69  
Goleta, CA 93117

ZONING ADMINISTRATOR  
HEARING OF JANAUARY 10, 2011

### ***RE: Agua Azul New Single-Family Residence & Guesthouse, 08CDH-00000-00018***

Hearing on the request of Bill Swanson, agent for the owner Agua Azul Partnership, to consider Case No. 08CDH-00000-00018, [application filed on May 14, 2008] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-320 to allow the development of a new residence and guest house; and to adopt the Mitigated Negative Declaration 10NGD-00000-00018 pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. As a result of this project, significant but mitigable effects on the environment are anticipated in the following categories: Aesthetic/Visual Resources, Air Quality, Biological Resources, Cultural Resources, Fire Protection, Geologic Resources, Noise and Water Resources. The ND and all documents may be reviewed at the Planning and Development Department, 123 E. Anapamu St., Santa Barbara. The ND is also available for review at the Central Branch of the City of Santa Barbara Library, 40 E. Anapamu St., Santa Barbara. The application involves AP No. 083-680-030, located at Hollister Ranch Parcel 80, in the Gaviota area, Third Supervisorial District.

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Dear Mr. Swanson:

At the regular hearing of the Santa Barbara County Zoning Administrator on January 10, 2011, Case No. 08CDH-00000-00018 marked "Officially Accepted, County of Santa Barbara January 10, 2011, Zoning Administrator Exhibit #A-F" was conditionally approved, based upon the project's consistency with the Comprehensive Plan including the Coastal Land Use Plan and based on the ability to make the required findings. The Zoning Administrator also took the following action:

1. Made the required findings for approval of the project specified in Attachment A of this staff report dated December 20, 2010, including the California Environmental Quality Act (CEQA) findings;
2. Determined the Negative Declaration 10NGD-00000-00018, included as Attachment C of this staff report dated December 20, 2011, to be adequate environmental review for Case No. 08CDH-00000-00018, and adopt the mitigation monitoring program contained in the conditions of approval; and

3. Approved the project, Case No. 08CDH-00000-00018 subject to the conditions included as Attachment B of the staff report dated December 20, 2010.

***The Findings, Coastal Development Permit, and the Conditions of Approval reflect the action of the Zoning Administrator and are included in this letter as Attachment A and Attachment C.***

- The action of the Zoning Administrator to approve, conditionally approve, or deny the project may be appealed to the Planning Commission by the applicant, or an aggrieved person, as defined under Section 35-58 of the Coastal Zoning Ordinance, adversely affected by the decision within the 10 calendar days following the date of action by the Zoning Administrator.
- An appeal, which shall be in writing, shall be filed with the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, prior to expiration of the appeal period specified above.
- This project is defined as development that may be appealed to the Coastal Commission in compliance with Public Resources Code Section 30603(a), therefore a fee is not required to file the appeal.
- Please be advised that if a local appeal is filed, the final action on the appeal by the Board of Supervisors to approve or conditionally approve the project may be appealed to the California Coastal Commission.
- **Local appeal period expires on Thursday, January 20, 2011 at 5:00 P.M.**

Sincerely,



VICKI PARKER  
Zoning Administrator

xc:      Planner: Errin Briggs  
Case File: 08CDH-00000-00018  
Hearing Support Zoning Administrator File  
Owner: Agua Azul Partnership  
          c/o Art McLean, 1551 Bishop Street, San Luis Obispo, Ca 93401  
Address File: Hollister Ranch, Parcel 80, Goleta, CA 93117  
Shana Gray, California Coastal Commission, 89 South California St., Ste 200, Ventura, CA 93001  
Supervisor: Doreen Farr, Third District Supervisor

**Attachments:**      **Attachment A – Findings**  
                                **Attachment B – Coastal Development Permit & Conditions of Approval**

VP:sf

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Santa Barbara County

**PUBLIC Health**  
DEPARTMENT

**Environmental Health Services**

2125 S. Centerpointe Pkwy. #333 • Santa Maria, CA 93455-1340 805/346-8460 • FAX 805/346-8485

Takashi M. Wade, MD, MPH Director/Health Officer  
Anne M. Fearon Deputy Director  
Suzanne Jacobson, CPA Chief Financial Officer  
Michele Mickiewicz, MPH Deputy Director  
Elizabeth Snyder, MHA Deputy Director

Jennifer Bernstein, Interim Director of Environmental Health

TO: Errin Briggs, Planner  
Planning & Development Department  
Development Review Division

FROM: Paul Jenzen  
Environmental Health Services

DATE: October 11, 2010

SUBJECT: Case No. 08CDH-00000-00018 Gaviota Area

Applicant: Agua Azul Partnership c/o Art McClean  
1551 Bishop Street  
San Luis Obispo, CA. 93401

Property Location: Assessor's Parcel No. 083-680-030, zoned AG-II-320, located at Parcel 80 of the Hollister Ranch.

Case No. 08CDH-00000-00018 represents a request to construct an approximately 2,739 square foot main residence and an approximately 800 square foot guest house. Additionally garages and a workshop are proposed.

Domestic water supply is proposed to be provided by a private single-parcel water system. The applicant has provided to Environmental Health Services well information from tests completed circa 1993 that indicate adequate amounts of water are available from a horizontal well located onsite. This information will need to be updated and submitted to Environmental Health Services with a single parcel water system application.

Sewage disposal is proposed to be provided by an onsite wastewater treatment system. The applicant has provided to Environmental Health Services a passing percolation test for the Main Residence completed by Coast Valley Testing and dated May 29, 2009 that indicates that an onsite wastewater treatment system could be constructed. Additionally, drywell performance tests for the Guest House were also submitted which also show that an onsite wastewater treatment system is feasible. Applications for both onsite wastewater systems have been submitted but will need to be approved prior to Zoning Clearance.

Providing the Zoning Administrator grants approval of the applicant's request, Environmental Health Services recommends the following be included as Conditions of Approval:

NOTE: Existing driveway as proposed, appears far outside of standard. Please submit fully engineered driveway plans in compliance with Santa Barbara County Fire Department Development Standard #1.

Portions of the Common Ranch Road (Agua) will also need improvement. Much work has recently been completed on this road; however, much more will need to be done to support additional development.

2. Show size and location of any on-site or proposed propane tanks on revised plans. Tanks must be installed per Article 82 of the California Fire Code. Location of tank(s) from structures and/or ignition sources is based on the size of the tank in water gallons.
  - Less than 500 gallons: Must be located no closer than 10 feet from any structure or ignition source.
  - From 501 to 2000 gallons: Must be located no closer than 25 feet from any structure or ignition source.
  - From 2001 to 30,000 gallons: Must be located no closer than 50 feet from any structure or ignition source.
3. Provide a complete Stored Water Fire Protection System Plan. This plan must show and note all of the elements of a Stored Water Fire Protection System Plan as outlined in Santa Barbara County Fire Department Development Standard #3 (attached).

In addition, the following fire department conditions will be required for the Fire Protection Certificate:

#### **GENERAL NOTICE**

4. Stop work immediately and contact the County Fire Department, Hazardous Materials Unit if visual contamination or chemical odors are detected while implementing the approved work at this site. Resumption of work requires approval of the HMU.

#### **PRIOR TO ERECTION OF COMBUSTIBLE BUILDING MATERIALS THE FOLLOWING CONDITIONS MUST BE MET**

5. All access ways (public or private) shall be installed and made serviceable. Roadway plans, acceptable to the fire department, shall be submitted for approval prior to any work being undertaken.

Driveway width shall be a minimum of 16 feet.

Driveways serving one residential dwelling are required to have a minimum width of 12 feet. Driveways serving two residential dwellings are required to have a minimum width of 16 feet. Driveways serving three to nine residential dwellings are required to have a minimum width of 20 feet. If any future development is planned for this parcel or will be served by this

driveway, the applicant is encouraged to coordinate these standards into their plans and with other interested parties.

6. Plans for a stored water fire protection system shall be submitted and approved by the fire department. Water storage shall be 2,500 gallons above the amount required for domestic usage and shall be reserved for fire protection purposes exclusively
7. Santa Barbara County Fire Department High Fire Hazard Area Requirements must be met.

**PRIOR TO OCCUPANCY CLEARANCE  
THE FOLLOWING CONDITIONS MUST BE MET**

8. Santa Barbara County Fire Department fire sprinkler system requirements shall be met. Fire sprinkler system plans shall be approved prior to installation. Location of any fire department connection shall be determined by the fire department.
9. Building address numbers shall be posted in conformance with fire department standards.
10. When access ways are gated a fire department approved locking system shall be installed.
11. Access way entrance gates shall conform to Development Standard #7.
12. Payment of development impact fees is required. The fees shall be computed on each new building, including non-habitable spaces.

Fees will be calculated as follows:

- Mitigation Fee at \$.10 per square foot for structures with fire sprinkler systems

These conditions apply to the project as currently described. Future changes, including but not limited to further division, change of occupancy, intensification of use, or increase in hazard classification, may require additional mitigation to comply with applicable development standards in effect at the time of change.

As always, if you have any questions or require further information please call 681-5500.

MJ:jmd

c: Art McLean/Aqua Azul Partnership, 1551 Bishop St., San Luis Obispo, CA 93401  
Bill Swanson, 69 Hollister Ranch Rd, Gaviota, CA 93117  
Kornreich Architects, 1135 Marsh St, San Luis Obispo, CA 93401  
APN

## **CONDITIONS OF APPROVAL**

### **08CDH-00000-00018**

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked A-F, dated January 10, 2011, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

#### **The project description is as follows:**

**The request is for a Coastal Development Permit with Hearing (CDPH) to allow the construction of a new single-family residence with attached garage and guest house with attached garage and associated access improvements on a currently vacant parcel.**

**The single-family residence would be approximately 2,739 square feet in size and a maximum of 28 feet in height above existing grade. The attached garage would be 770 square feet in size. The guest house would be approximately 800 square feet in size and a maximum of 19 feet in height above existing grade. Attached to the guest house would be a garage of 340 square feet in size and a 240 square foot workshop. A 120 square foot shed and 2 water tanks (5,000 and 7,500 gallon capacity) are also included with the project. The residence and guest house would be separated by approximately 500 feet.**

**Grading would include 680 cubic yards of cut and 680 cubic yards of fill. No trees are proposed for removal. The parcel would be served by an existing, private water well located on site, private septic systems, and the Santa Barbara County Fire Department. Access would be provided from Agua Road. The property is a 117.9-acre parcel zoned AG-II-320 and shown as Assessor's Parcel Number 083-680-030, located at 80 Hollister Ranch in Hollister Ranch, 3<sup>rd</sup> Supervisorial District.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

## **MITIGATION MEASURES FROM 10NGD-00000-00018**

2. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the CBAR. **MONITORING:** P&D and CBAR shall review a Lighting Plan

for compliance with this measure prior to issuance of a Coastal Development Permit for structures. Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

3. Natural building materials and colors compatible with the surrounding terrain (earths tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. **Plan Requirement:** Project plans including architectural and landscape, shall be reviewed and approved by the Central Board of Architectural Review. Materials shall be denoted on building plans. **Timing:** Structures shall be painted prior to occupancy clearance. **MONITORING:** P&D shall inspect prior to occupancy clearance.
4. If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:
  - a. seeding and watering to re-vegetate graded areas; and/or
  - b. spreading of soil binders; and/or
  - c. any other methods deemed appropriate by Planning and Development.

**Plan Requirements:** These requirements shall be noted on all plans. **Timing:** Plans are required prior to issuance of Coastal Development Permits. **MONITORING:** Grading Inspector shall perform periodic site inspections.

5. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below.
  - a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
  - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
  - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods. **MONITORING:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

#### 6. Air Pollution Control District (APCD) Measures:

- a. Standard APCD dust mitigations are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of the Coastal Development Permit.
- b. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The

text of the rule can be viewed on the APCD website at <http://www.sbcapcd.org/rules/download/rule345.pdf>.

- c. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in APCD's "Diesel Particulate and NOx Emission Measures" document to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.
  - d. Prior to occupancy, APCD permits must be obtained for all equipment that requires an APCD permit. APCD Authority to Construct permits are required for diesel engines rated at 50 bhp and greater (e.g., firewater pumps and emergency standby generators) and boilers/large water heaters whose combined heat input rating exceeds 2.0 million BTUs per hour.
  - e. All portable diesel-fired construction engines rated at 50 brake-horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or APCD permits prior to operation. Construction engines with PERP certificates are exempt from APCD permit, provided they will be on-site for less than 12 months.
  - f. At a minimum, prior to occupancy each building should reduce emissions of greenhouse gases by:
    - Increasing energy efficiency beyond Title 24 requirements;
    - Encouraging the use of transit, bicycling and walking by the occupants;
    - Increasing recycling goals (e.g., separate waste and recycling receptacles); and
    - Increasing landscaping (shade trees decrease energy requirements and also provide carbon storage.)
  - g. Asphalt paving activities shall comply with APCD Rule 329, *Cutback and Emulsified Asphalt Paving Materials*.
7. The applicant shall retain and pay for a P&D approved biologist to inspect and monitor the project site for bird and raptor nesting activity. If construction is to take place during the nesting season (March to September), a P&D approved biologist shall conduct a pre-construction bird and raptor nesting inspection not more than one week prior to the proposed beginning of construction activity. If birds or raptors are determined to be nesting on or within the vicinity of the project site, no construction activities, including, but not limited to grading or heavy equipment operation, shall take place within 500 feet of the bird or raptor nest. Certain construction activities may be allowed on a case-by-case basis as reviewed and approved by P&D. **Plan Requirements and Timing:** At a minimum of two days prior to the proposed beginning of construction activity, the results of the survey shall be reviewed and approved by P&D. This condition shall be printed on all final construction, grading, and building plans. **Monitoring:** P&D staff shall perform site inspections throughout the construction phase and receive the report from the P&D approved biologist.
  8. The use of heavy equipment and vehicles shall be limited to existing roadways and defined staging areas/access points. The boundaries of each work area shall be clearly defined and marked in the field with visible flagging and/or orange protective fencing. The Agua Creek riparian vegetation shall be protected by the placement of orange protection fencing outside the dripline of oak trees or at the western edge of the access drive, whichever is further from the creek. **Plan Requirements/Timing:** The boundaries of the work area shall be clearly delineated on the plans prior to issuance of the grading and building permits. Protective fencing shall be in place prior to

the commencement of grading activities and maintained throughout construction. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall site inspect during construction to ensure staging areas and work boundaries are marked according to the approved plan.

**9. Habitat Restoration.** The Owner/Applicant shall submit for P&D approval a Creek Restoration Plan prepared by a P&D-approved biologist and designed to restore the understory of the Agua Creek riparian corridor within the cattle-exclusion fenced area. The plan shall provide for a mitigation ratio of 5 to 1 (aerial extent) to the area of creek buffer impacted (4,658 square feet) and include the following components:

1. Restoration plant materials shall be native riparian species found in the Agua Creek watershed including, but not limited to toyon, California coffeeberry, and poison-oak.
2. Species shall be from locally obtained plants and seed stock.
3. The new plantings shall be irrigated with drip irrigation on a timer, and shall be weaned off of irrigation over a period of two to three years.
4. Agua Creek adjacent to the work areas shall be fenced with 6-foot construction fencing, staked a minimum of every six feet or as necessary to keep fencing from collapsing.
5. All restoration plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
6. If appropriate, non-native species, shall be removed from the creek, however, removal of native species in the creek shall be prohibited.

**Plan Requirements/Timing:** The final restoration plans shall be submitted prior to issuance of the Coastal Development Permit for review and approval by P&D. The Owner/Applicant shall post a performance security to ensure installation prior to issuance of the CDP and maintenance for three years. **Monitoring:** The Owner/Applicant shall demonstrate to P&D compliance staff that all required components of the approved plan(s) are in place as required prior to Final Inspection Clearance and maintained throughout the maintenance period. P&D compliance staff signature is required to release the installation security upon satisfactory installation of all items in approved plans and maintenance security upon successful implementation of this plan.

**10. Tree Protection & Mitigation:** In order to protect existing trees and minimize adverse effects of grading and construction onsite, the applicant shall implement a tree protection and replacement plan. All grading, trenching, ground disturbance, construction activities and structural development shall occur outside the critical root zone of all onsite oak trees. No ground disturbance including grading for buildings, driveways, easements and subsurface grading shall occur within the critical root zone of any tree unless specifically authorized by the approved tree protection plan. The tree protection and replacement plan shall include the following:

- a. An exhibit showing the location, diameter and critical root zone of all trees located onsite and within the construction areas of the residence and the guest house and their associated driveways.
- b. Fencing of all trees to be protected at or outside of the critical root zone. Fencing shall be at least three feet in height of chain link or other material acceptable to P&D and shall be staked every 6 feet. The applicant shall place signs stating "tree protection area" at 15 foot intervals on the fence. Said fencing and signs shall be shown on the tree protection exhibit, shall be installed prior to commencement of grading activities and shall remain in place throughout all grading and construction activities.

- c. The tree protection plan shall clearly identify any areas where grading, trenching or construction activities would encroach within the critical root zone of any native or specimen tree. All encroachment is subject to review and approval by P&D.
- d. Construction equipment staging and storage areas shall be located outside of the protected area and shall be depicted on project plans submitted for land use clearance. No construction equipment shall be parked, stored or operated within the protected area. No fill soil, rocks or construction materials shall be stored or placed within the protected area.
- e. Any proposed tree wells or retaining walls shall be shown on the tree protection plan exhibit as well as grading and construction plans and shall be located outside of the critical root zone of all protected trees unless specifically authorized.
- f. No permanent irrigation shall occur within the critical root zone of any oak tree. Drainage plans shall be designed so that tree trunk areas are properly drained to avoid ponding.
- g. Only trees designated for removal on the approved tree protection plan shall be removed.
- h. Any protected trees which are removed, relocated and/or damaged (more than 20% encroachment into the critical root zone) shall be replaced on a 10:1 basis with 5-gallon size trees. A drip irrigation system with a timer shall be installed. Trees shall be planted prior to occupancy clearance and irrigated and maintained until established (five years). The plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
- i. Any unanticipated damage that occurs to native trees or sensitive habitats resulting from construction activities shall be mitigated in a manner approved by P&D. This mitigation may include but is not limited to posting of a performance security, tree replacement on a 10:1 ratio and hiring of an outside consultant biologist to assess the damage and recommend mitigation. The required mitigation shall be done immediately under the direction of P&D prior to any further work occurring on site.

**Plan Requirements:** Prior to issuance of a Coastal Development Permit, the applicant shall submit grading plans and the tree protection and replacement plan to P&D for review and approval. All aspects of the plan shall be implemented as approved. **Timing:** Timing on each measure shall be stated where applicable; where not otherwise stated, all measures must be in place throughout all grading and construction activities. **Monitoring:** Permit Compliance staff shall conduct site inspections throughout all phases of development to ensure compliance with and evaluate all tree protection and replacement measures.

11. Erosion control measures shall be implemented to prevent runoff into Agua Creek. This shall include installation of protective fencing along the boundary of the work area to prevent stockpiling and other activities adjacent to the creek. Silt fencing, in conjunction with other methods, shall be used to prevent erosion and siltation of the nearby stream channel and to prevent runoff and associated residual water from entering Agua Creek. **Plan Requirements/Timing:** The boundaries of the creek-bank and location of protective/silt fencing shall be clearly delineated on the plans prior to issuance of the grading permit. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall inspect during construction to ensure erosion control and sedimentation measures are marked according to the approved plan.
12. **Equipment Washout-Construction.** The Owner/Applicant shall designate one or more washout areas for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to Agua Creek and the surrounding area. Note that polluted water and materials shall be contained in these areas and removed from the site as necessary. The areas shall be located at least 100 feet from Agua Creek or sensitive biological resources. **Plan Requirements:** The Owner/Applicant shall designate the P&D approved location on all building

and grading permits. **Timing:** The Owner/Applicant shall install the area prior to commencement of construction. **Monitoring:** P&D compliance monitoring staff shall ensure compliance prior to and throughout construction.

13. In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D shall check plans prior to approval of Coastal Development Permits and shall spot check in the field.
14. To minimize fire hazards, a Fire Protection Plan shall be implemented. The plan shall include the following:
  - a. In order to reduce impacts to native vegetation relating to fire hazard reduction, all brushing shall be limited to a 30' radius from all proposed and existing structures. Live natural vegetation having trunks of four inches or greater may remain within the 30' perimeter provided that specimens are maintained free of dead, decadent limbs and branches. Natural vegetation which is dead and/or decadent shall be removed or chipped within 100 feet from structures. Limbs larger than four inches in diameter, leaves, mulch and duff do not require abatement.
  - b. Installation of shutters on all windows on the exposed side of the structure.
  - c. Installation of class "A" or "B" roofs.
  - d. Construction of all decks with heavy timber.
15. Individual landscaping plans shall utilize fire resistant native species within 100 feet of residences. **Plan Requirements:** Prior to issuance of Coastal Development Permits, the applicant shall submit landscape plans to P&D and the Fire Department for review and approval. The landscape plan shall also be approved by the CBAR. This mitigation shall be incorporated into landscape plans for future development. **Timing:** The applicant shall install the landscaping consistent with the approved plan prior to occupancy clearance. **MONITORING:** Permit Compliance shall site inspect to verify landscape installation and once each year to monitor landscape maintenance during the maintenance period.
16. The following fire prevention methods shall be used for all future structures:
  - a. Building materials for all structures including residences, fences and accessory structures shall be constructed of fire resistant materials.
  - b. P&D Building & Safety Class A or B roofing (i.e., non-combustible tile or asphalt composite shales) shall be required for all future on-site structures.
  - c. Spark arresters shall be required for wood burning fireplaces.
  - d. Private decks and structural overhangs proposed for all new structures shall be constructed with fire retardant materials or heavy timber.

**Plan Requirements:** Where appropriate, the fire prevention measures shall be graphically depicted on grading and building plans. **Timing:** Measures shall be installed prior to occupancy clearance. **MONITORING:** P&D building inspectors shall site inspect during construction.

17. The applicant shall limit excavation and grading to the dry season of the year (i.e. April 15 to November 1) unless a Building & Safety approved erosion and sediment control plan is in place and all measures therein are in effect. All exposed graded surfaces shall be reseeded with ground cover vegetation to minimize erosion. **Plan Requirements:** This requirement shall be noted on all grading and building plans. **Timing:** Graded surfaces shall be reseeded within 4 weeks of grading completion, with the exception of surfaces graded for the placement of structures. These surfaces shall be reseeded if construction of structures does not commence within 4 weeks of grading completion. **MONITORING:** P&D shall site inspect during grading to monitor dust generation and 4 weeks after grading to verify reseeding and to verify the construction has commenced in areas graded for placement of structures.
18. Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:00 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Three signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **MONITORING:** Building Inspectors and Permit Compliance shall spot check and respond to complaints.
19. Prior to issuance of the Coastal Development Permit, the standard State fee of \$5,000 shall be paid to the State of California Coastal Conservancy in lieu of granting public access to the beach. Proof of payment shall be submitted to P&D. A cashier's check shall be submitted to: California Coastal Conservancy, 1330 Broadway, Suite 1300, Oakland, CA 94612, Attn.: Terri Nevins (510) 286-4161. **Timing/Monitoring:** P&D shall verify payment of fees prior to issuance of the CDP.
20. **Storm Water Retention-Driveway Design.** To reduce potential erosion of the eastern bank of Agua Creek by stormwater runoff, allow for infiltration, reduce pollutants and minimize degradation of storm water quality from parking areas and other paved surfaces, the Owner/Applicant shall initially drain the private drive away from Agua Creek into a vegetated swale that will address pollutants, slow stormwater flows and ultimately drain into the creek. The project shall also implement one of the following parking area designs: paving only under wheels, flared driveway, or use of permeable surfaces for parking areas. **Plan Requirements:** The Owner/Applicant shall include the driveway design, including materials on all building plans and as needed on grading plans depicted graphically subject to review and approval by P&D. **Monitoring:** P&D compliance monitoring staff shall site inspect for installation prior to Final Building Inspection Clearance.

## PROJECT SPECIFIC CONDITIONS

21. All elements of the project (e.g., design, scale, character, colors, materials and landscaping) shall be compatible with vicinity development and shall conform in all respects to CBAR approval 08BAR-00000-00113. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and shall obtain final approval by the Board of Architectural Review prior to issuance of Coastal Development Permits. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.

22. A recorded Notice to Property Owner document is necessary to ensure that the proposed guest house is used only for its permitted uses. The property owner shall notarize and record the NTPO document prior to issuance of Coastal Development Permits.

**23. Compliance with Departmental letters required as follows:**

- a. Air Pollution Control District dated June 9, 2008
- b. County Fire Department dated May 20, 2008
- c. Environmental Health Services dated October 11, 2010

**APPEALABLE COASTAL DEVELOPMENT PERMIT CONDITIONS**

24. **Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.

25. **CDP Expiration.** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Zoning Administrator. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

26. **Additional Permits Required.** The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

**COUNTY RULES & REGULATIONS/LEGAL REQUIREMENTS**

27. **Print & illustrate conditions on plans:** All applicable final conditions of approval (*Zoning Administrator*) shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.

28. **Mitigation Monitoring Required.** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:

- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;

- b. Pay a \$500 fee prior to issuance of the Coastal Development Permit as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;
  - c. Note the following on each page of grading and building plans "This project is subject to Condition Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval."; and
  - d. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.
- 29. DIMF Fees-Transportation.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total DIMF amount for Transportation is assessed at \$1,976. This is based on a project type of single-family residence. **Timing:** Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to Coastal Development Permit issuance.
- 30. DIMF Fees-Parks.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Parks DIMF amount is assessed at \$1,153. This is based on a project type of single-family residence. **Timing:** Parks DIMFs shall be paid to the County Parks Department prior to Final Building Inspection.
- 31. DIMF Fees-Fire.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Fire DIMF amount assessed is \$489 and is based upon a calculation of \$0.10 per square foot for buildings that are equipped with fire sprinklers. This is based on a project type of single-family residence. **Timing:** Fire DIMFs shall be paid to the County Fire Department prior to Final Building Inspection and shall be based on the fee schedules in effect when paid.
- 32. Plans Requirements.** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 33. Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.

**34. Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

**35. Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the review authority and no approval shall be issued unless substitute feasible conditions/measures are imposed.

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
 89 SOUTH CALIFORNIA STREET, SUITE 200  
 VENTURA, CA 93001-4508  
 VOICE (805) 585-1801 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

*RECEIVED*  
**FEB 9 2011**

**CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT**

**SECTION I. Appellant(s)**

Name: Sara Wan

Mailing Address: 89 S. California Street

City: Ventura

Zip Code: 93001

Phone: 805-585-1800

**SECTION II. Decision BeingAppealed**

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).

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

80 Hollister Ranch, Gaviota Area, Unincorporated Santa Barbara County (Assessor Parcel No. 083-680-030)

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: A-4-STB-11-005

DATE FILED: 2/9/11

DISTRICT: So. Central Coast

Exhibit 6  
 A-4-STB-11-005  
 Commissioner Appeals

**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

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

6. Date of local government's decision: January 10, 2011

7. Local government's file number (if any): 08CDH-00000-00018

**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:

OWNER/APPLICANT

Agua Azul Partnership  
c/o Art McLean  
1551 Bishop Street  
San Luis Obispo, CA 93401

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) Agent:

Bill Swanson  
Hollister Ranch Parcel 69  
Gaviota, CA 93117

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 3

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.)

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**SEE ATTACHED**

Note: The above description 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.

SECTION V. Certification

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

Signed:

Appellant or Agent

Date:

Laura Allen  
2/9/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
 89 SOUTH CALIFORNIA STREET, SUITE 200  
 VENTURA, CA 93001-4508  
 VOICE (805) 585-1801 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

**SECTION I. Appellant(s)**

Name: Esther Sanchez

Mailing Address: 89 S. California Street

City: Ventura

Zip Code: 93001

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FEB 9 2011

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

Phone: 805-585-1800

**SECTION II. Decision BeingAppealed**

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).

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

80 Hollister Ranch, Gaviota Area, Unincorporated Santa Barbara County (Assessor Parcel No. 083-680-030)

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: A-4-ST B-11-005

DATE FILED: 2/9/11

DISTRICT: So. Central Coast

**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

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

6. Date of local government's decision: January 10, 2011

7. Local government's file number (if any): 08CDH-00000-00018

**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:

OWNER/APPLICANT

Agua Azul Partnership  
c/o Art McLean  
1551 Bishop Street  
San Luis Obispo, CA 93401

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FEB 9 2011

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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) Agent:

Bill Swanson  
Hollister Ranch Parcel 69  
Gaviota, CA 93117

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 3

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.)

*SEE ATTACHED*

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Note: The above description 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.

SECTION V. Certification

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

Signed: Zeth P. Sandy  
Appellant or Agent

Date: 2/9/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

Appeal of decision by Santa Barbara County granting a coastal development permit for the construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill) located at 80 Hollister Ranch (APN 083-680-030) in Hollister Ranch, Santa Barbara County, based on the following grounds:

The project is appealed on the grounds that it is inconsistent with the County of Santa Barbara's Local Coastal Program (LCP) policies regarding environmentally sensitive habitat areas, stream habitats, wetlands, and oak woodland habitats.

LCP Policies 1-1, 1-2, 2-11, 3-14, 9-9, 9-14, 9-16(a), 9-35, 9-36, 9-37, 9-38; Coastal Act Sections 30107.5, 30121, 30240, 30231 as incorporated into the LCP pursuant to Policy 1-1; and Article II of the Zoning Code Sections 35-53, 35-58, 35-97.3, 35-97.7, 35-97.18, 35-97.19, and 35-97.9 (see below) limit development in and around environmentally sensitive habitat areas, riparian corridors, wetlands, and oak woodland habitats. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

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

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

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

Section 30121 of the Coastal Act states:

***"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.***

Section 30240 of the Coastal Act states:

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

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

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FEB 9 2011

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

Policy 1-2 (Resource Protection):

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

Policy 2-11 (Development Policies):

*All development, including agriculture, adjacent to areas designated on the land use plan or resources maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.*

Policy 3-14 (Hillside and Watershed Protection):

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Policy 9-9 (Wetlands):

*A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences or structures necessary to support the uses in Policy 9-10.*

*The upland limit of a wetland shall be defined as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or 2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.*

*Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

**Policy 9-14 (Wetlands):**

*New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

**Policy 9-16(a):**

*No grazing or other agricultural uses shall be permitted in coastal wetlands.*

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

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

**Policy 9-36 (Native Plant Communities):**

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

**Policy 9-37 (Streams):**

*The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams:*

- a. *soil type and stability of stream corridors;*
- b. *how surface water filters into the ground;*
- c. *slope of the land on either side of the stream; and*
- d. *location of the 100-year flood plain boundary.*

*Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.*

## Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County) Grounds for Appeal

### Policy 9-38 (Streams):

***No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.***

### Definitions within the LCP Habitat Type Section for Streams:

***Stream: watercourses, including major and minor streams, drainageways and small lakes, ponds and marshy areas through which streams pass. (Coastal wetlands are not included.)***

***Riparian Vegetation: vegetation normally found along the banks and beds of streams, creeks, and rivers.***

***Stream Corridor: a stream and its minimum prescribed buffer strip.***

***Buffer: a designated width of land adjacent to the stream which is necessary to protect biological productivity, water quality, and hydrological characteristics of the stream. A buffer strip is measured horizontally from the banks or high water mark of the stream landward.***

### Section 35-58 Definitions:

***Major Stream: A stream with a drainage area in excess of 500 acres.***

***Wetland: Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.***

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

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

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

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

### Sec. 35-97.7. (Conditions on Coastal Development Permits in ESH):

***A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s).***

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

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

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

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

- 1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.*
- 2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

**Sec. 35-97.19 Development Standards for Stream Habitats:**

*1. The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the California Department of Fish and Game and California Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:*

- a. Soil type and stability of stream corridors.*
- b. How surface water filters into the ground.*
- c. Slope of land on either side of the stream.*
- d. Location of the 100-year flood plain boundary.*

*Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.*

*2. No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects; flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located*

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

*outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.*

*3. Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.*

*4. All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.*

*5. All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.*

*6. Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.*

**Sec. 35-97.9 (4) and (9) Development Standards for Wetland Habitats:**

*4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Paragraph 5 of this Section, below. The upland limit of a wetland shall be defined as:*

*a. The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or*

*b. The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*

*c. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

*9. New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
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**Failure to Require Adequate Buffer from a Sensitive Riparian Habitat:**

According to a biological report prepared by Mary Carroll, dated January 2009, five plant communities can be found on the site, including Venturan Coastal sage scrub, coast live oak woodland, annual grassland, and two wetland communities along Agua Creek, including coast live oak riparian forest (with patches of southern mixed riparian forest) and coastal and valley freshwater marsh. The proposed 2,739 sq. ft. main residence, 770 sq. ft. attached garage, 1,149 sq. ft. of decks and patios, and driveway will be located within the 100 ft. buffer of Agua Creek. The single-family residence and driveway would be located approximately 45 feet or less from the edge of the riparian canopy and oak woodland habitat and approximately 50 feet from the top of edge of stream bank. The lack of an adequate buffer between the proposed residential development/access road and the riparian canopy would negatively impact the riparian ESHA on the site, inconsistent with the provisions in the certified Local Coastal Plan (LCP).

The County's LCP specifically identifies oak trees and oak woodlands as sensitive habitats. The County's LCP requires that new development provide for a 100 ft. buffer from streams and riparian habitat in rural areas and a minimum 50 ft. buffer in urban areas. The LCP provides that a reduced buffer may be allowed based on an analysis of several factors listed in LCP Policy 9-37. To determine the appropriate buffer other than 100 ft. for rural areas or 50 ft. for urban areas, Policy 9-37 of the County's LCP requires consultation with both the California Department of Fish and Game and the California Regional Water Quality Control Board, as well as an analysis of: soil type and stability of stream corridors, how surface water filters into the ground, slope of land on either side of the stream, and the location of the 100-year flood plain boundary. Policy 9-37 also requires that, where riparian vegetation has been previously removed, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.

In its approval of the permit, the County did not provide the required analysis and findings to justify reducing the normally required 100 ft. buffer to only 45 feet. Specifically, the County's staff report failed to provide a basis for the reduced buffer consistent with the provisions of LCP Policy 9-37, but instead simply found that, in this case, a reduced buffer would be appropriate because the area of the creek contains little understory vegetation (apparently due to cattle grazing operations) and has been degraded and that the existing ranch road would act as a "buffer" for the new development from the riparian habitat. Further inconsistent with Policy 9-37, the County found that the reduction in the required development setback should be allowed because restoration of the riparian habitat area adjacent to the road would be required as a condition of approval. However, Section 30240 of the Coastal Act, as incorporated in the LCP, requires that, when feasible, new development be designed and located in a manner that avoids adverse impacts to ESHA. Thus, the County must first analyze all feasible alternatives that would avoid adverse impacts to ESHA rather than simply requiring mitigation for impacts that could otherwise be avoided. Moreover, the stated reasons do not justify a reduced buffer according to LCP Policy 9-37. Further, based on a site visit by Commission staff, the creek, and its associated riparian habitat area, does

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

contain a significantly developed understory despite some disturbance from cattle grazing. The biological report for the site explains that the site includes coast live oak riparian forest, dominated by coast live oak along both banks of Agua Creek, including patches of mixed riparian forest including western sycamore and arroyo willow. The biological report states that other native shrubs are growing beneath the canopy of sycamores, oaks, and willows, including toyon, poison-oak, California coffeeberry, California blackberry, and mugwort. Although cattle grazing may have impacted the riparian vegetation within the creek corridor, the policy suggests that this should weigh more heavily in favor of an increased buffer. Additionally, a buffer of at least 100 ft. is necessary to protect the riparian ESHA and to prevent removal of ESHA for fire protection purposes.

**Development Not Clustered:**

The approved development is not sited in a manner that clusters development on site in order to avoid impacts to both ESHA and native plant communities. The proposed 798 sq. ft. guest house is not located in the same area of the site where the main residence is proposed. In fact, the guest house would be located approximately 500 ft. east of the main house, on a ridge adjacent to Agua Road, a Hollister Ranch common road. The 798 sq. ft. guest house will include a 340 sq. ft. attached garage, a 240 sq. ft. workshop, and 1,112 sq. ft. of decks and patios. The distance between the main residence and the guest house result in separate impacts from residential use of the site (e.g., noise, lighting, or other impacts associated with presence and use by residents) as well as separate grading/vegetation removal and fuel modification requirements for each development footprint. These separate impacts are significant in this case because of the proximity of riparian ESHA and native plant communities.

The Biological Report, prepared by Mary Carroll, dated January 2009, indicates that 100 feet of vegetation clearing is typically required by the Fire Department to reduce flammable vegetation adjacent to structures. According to the biological report, development of the main residence will encroach into at least 4,658 sq. ft. of riparian buffer. Additionally, the easternmost wall of the main house will be located within approximately 15 ft. of Venturan coastal sage scrub and approximately 8,235 sq. ft. of Venturan coastal sage scrub may need to be removed for fire clearance for the main residence. The easternmost wall of the guest house will be located within 20 ft. of Venturan coastal sage scrub. Fire clearance of a 100 ft. area surrounding the guest house would require the removal and thinning of an additional approximately 7,900 sq. ft. of Venturan coastal sage scrub. Thus, a total of approximately 16,135 sq. ft. of Venturan coastal sage scrub habitat will need to be removed according to the biological report.

Section 35-97.18 of the LCP identifies coastal sage scrub as a native plant community. Policy 9-36 (Native Plant Communities) requires that, when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. Policy 9-36 further requires that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
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adversely affect root zone aeration and stability of native trees. Additionally, Policy 3-14 requires that all development shall be designed to minimize grading, landform alteration, and to preserve native vegetation to the maximum extent feasible.

As proposed, the main residence and guest house will not be clustered and will not utilize shared/overlapping fuel modification zones. If the main residence and guest house were to be clustered, fuel modification could be minimized, thus minimizing disturbance to native coastal sage scrub habitat. Further, two separate development areas, one for the main house and one for the guest house, will not minimize grading and landform alteration, but may actually increase potential for erosion on the steep slopes where fuel modification will occur in between the guest house and main residence. Thus, the proposed development of the main residence and guest house, approximately 500 feet apart, have the potential to result in significant impacts to native vegetation and natural landforms.

**Unpermitted Access Driveway within Buffer:**

A potentially unpermitted existing driveway for the main residence is located parallel and adjacent to the top of bank of Agua Creek for approximately 300 linear feet. The County's staff report references the road as an "existing ranch road", inferring that the road was legally constructed. Moreover, the County's analysis assumes that the road is existing and not part of the proposed development. However, based on a preliminary review of historic aerial photographs by Commission staff, it appears that the road was actually constructed after the effective date of the Coastal Act of 1976 without the required Coastal Development Permit. Thus, the unpermitted road should have been analyzed by the County as part of the proposed development. However, if the applicant had requested after-the-fact approval for the road, because the road is immediately adjacent to both the riparian and wetland habitat on site, it could not meet the requirement that new development be set back at least 100 ft. from these habitat areas.

The biological report prepared for the site identifies a freshwater marsh located along the bank of Agua Creek, and identifies vegetation as being characterized by common rush, iris-leaved rush, tall flat-sedge, water cress, and willow-herb. The existence of this wetland was also confirmed by the Commission's staff biologist during a site visit. The apparently unpermitted driveway/road is located directly adjacent to the small wetland and would encroach into the 100 ft. buffer required by the LCP. However, the wetland was not addressed in the staff report although County staff have verbally indicated to Commission staff that the wetland is located approximately 120 ft. from the main residence. Thus, although the new residence may potentially be located more than 100 ft. from the wetland, the unpermitted driveway/road would be immediately adjacent to both wetland and Agua Creek and, thus, would not meet required setbacks from wetland or stream, as required by the County's LCP.

**Inadequate Alternatives Analysis:**

In its approval of the permit, the County did not analyze alternatives to reduce the impacts of residential development through alternative siting locations. Based on a site

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

visit by Commission staff, there appear to be alternative locations on site to construct a residence (and potentially a clustered guest house) which would provide for the 100 foot buffer from the sensitive riparian area. One alternative would be to build the main residence in the proposed location of the guest house. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative would require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered in the location of the main residence. Given that a guest house is a non-essential accessory structure, the elimination of the guest house is a feasible alternative. Although scattered oak trees are located in that area, design and siting alternatives could avoid any encroachment into oak tree canopies and any potential impacts to oak tree habitat.

In addition, it appears that the development could be located at the base of the ridge near the area proposed for the main residence, provided the residence is redesigned to allow for the required 100 ft. setback from the adjacent riparian and wetland habitat. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative would require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered in the location of the main residence. Given that a guest house is a non-essential accessory structure, the elimination of the guest house is a feasible alternative.

Further, the subject site is 117.93 acres in size, there may be other feasible alternative building locations that would avoid or further minimize adverse impacts to environmentally sensitive habitat areas and allow for clustering of development to protect agriculture on site. However, the County's staff report did not provide an analysis of any alternative locations on the site or designs that would minimize encroachment into the buffer or that would minimize native vegetation removal.

Agua Creek and the associated riparian corridor constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP, requires that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Section 30240, as incorporated in the LCP, restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a new house, accessory structures, and driveway on the parcel, which could result in the loss of ESHA and native plant communities. In this situation, both the local government and the Commission must evaluate all feasible alternatives that would avoid or minimize impacts that would disrupt and/or degrade environmentally sensitive habitat.

However, as previously discussed, the applicant is proposing a guest house in an area that would avoid impacts to the riparian ESHA. This demonstrates that an alternative is available to allow a residential use of the site without impacting ESHA to provide an economically viable use. However, the County did not address this alternative in its analysis in its findings for approval of this project. Further, the Mitigated Negative Declaration for the project (10NGD-00000-00018) states: "[a]s no potentially significant,

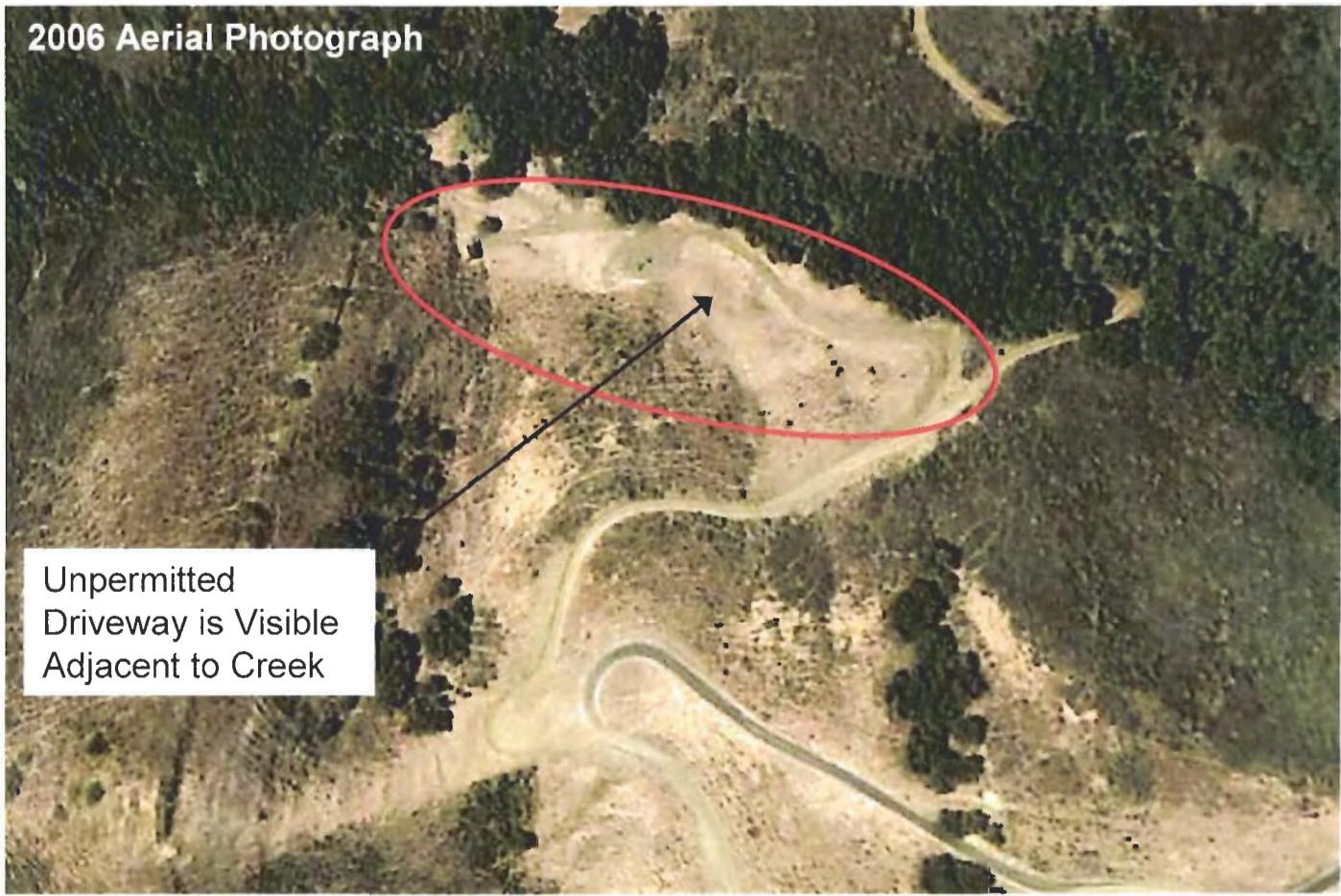
**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)  
Grounds for Appeal**

adverse unmitigable impacts would result from the proposed development, project alternatives have not been evaluated." (Section 8.0 Project Alternatives, p.34)

**Conclusion:**

Thus, for all the reasons discussed above, a substantial issue exists regarding the proposed project relative to its consistency with the LCP policies regarding environmentally sensitive habitat areas, riparian areas, wetlands, and oak woodland habitats.

**2006 Aerial Photograph**



**1986 Aerial Photograph**



Exhibit 7  
A-4-STB-11-005  
Aerial Photos

Received

APR 02 2014

California Coastal Commission  
South Central Coast District



Name :

**Costa Azul**

Address: **Parcel 80 Hollister Ranch , APN 083-680-030**

Property:

**117.9 acre , zoned Ag-II**

Request to build :

**Main and Guest house**

## PROJECT DISCRIPTION

**Main House:** New California mission styled main and guest house.

Living space: 799 sf

Attached Garage: 340 sf

Workshop: 240 sf

Covered patio: 209 sf

Concrete patio: 903 sf

Height: 19'-9" to top of roof, 16'-0" to median height of sloped roof.

**Guest House:**

Living space: 797 sf

Attached Garage: 322 sf

Concrete patio: 348 sf

Height: 16'-0" to top of roof, 14'-0" to median height of sloped roof.

**Septic system:**

On-site septic tank with existing shared dry well.

**Water and water tanks:**

Existing single parcel water system with a 5,000 gallon water tank located next to well 1,250' North of building site with underground pipes to a 7,500 buried storage tank above the main and guest homes. The water gravity feeds to the houses from storage tank.

**Shed:**

The existing 8'x15' shed will be relocated to the northwest corner of the building site inside the cattle fence.

**Access roads:**

The private road (Agua) is 12'-0" to 16'-0" wide is paved with asphalt and base.  
The 12'-0" wide driveway is paved with brown shale.

**Grading:**

Total grading: 115 cubic yards of cut and 115 cubic yards of fill.

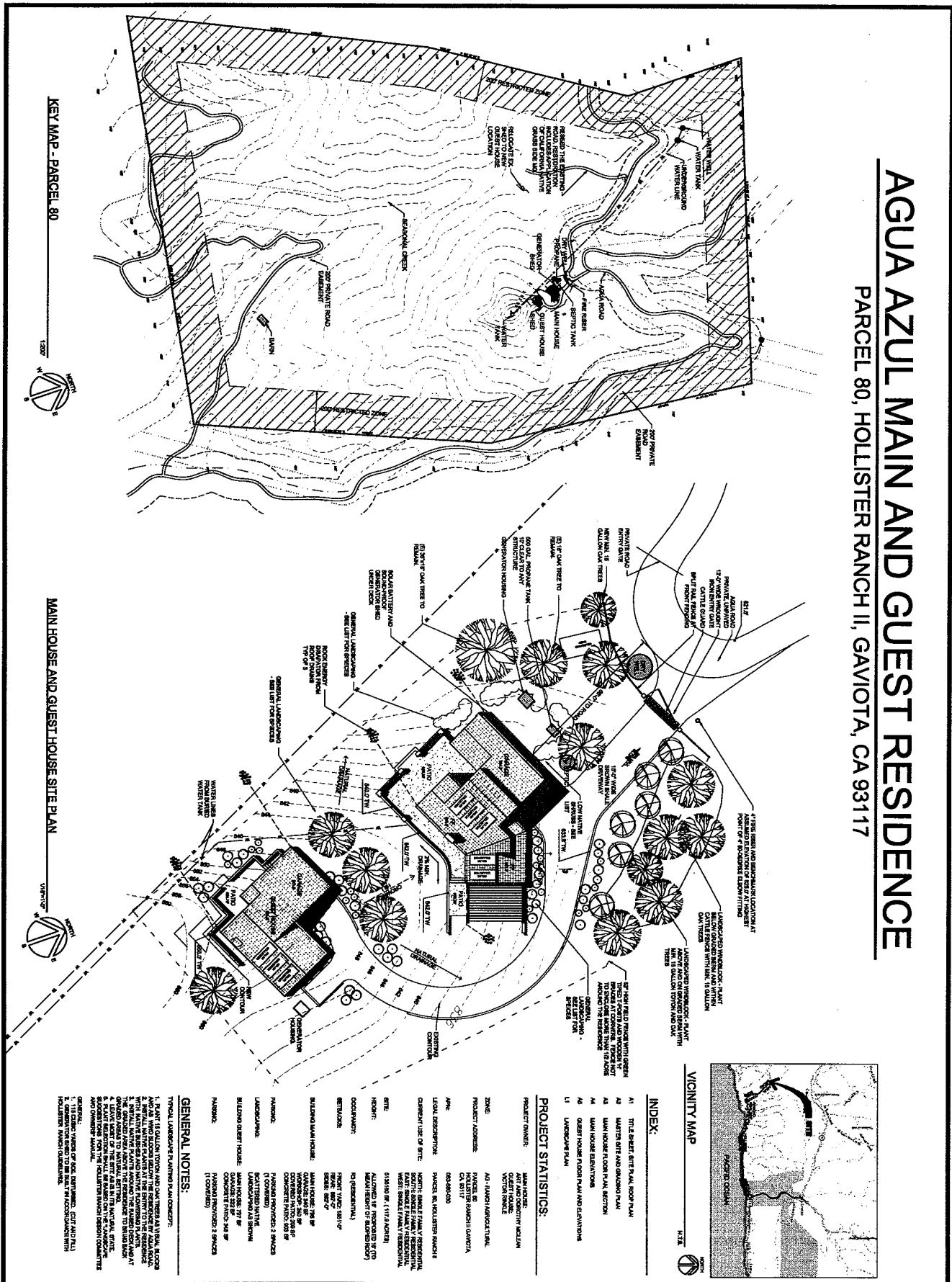
**Exhibit 8**

**A-4-STB-11-005**

**Revised Plans (7 pages)**

AGUA AZUL MAIN AND GUEST RESIDENCE

PARCEL 80, HOLLISTER RANCH II, GAVIOTA, CA 93117



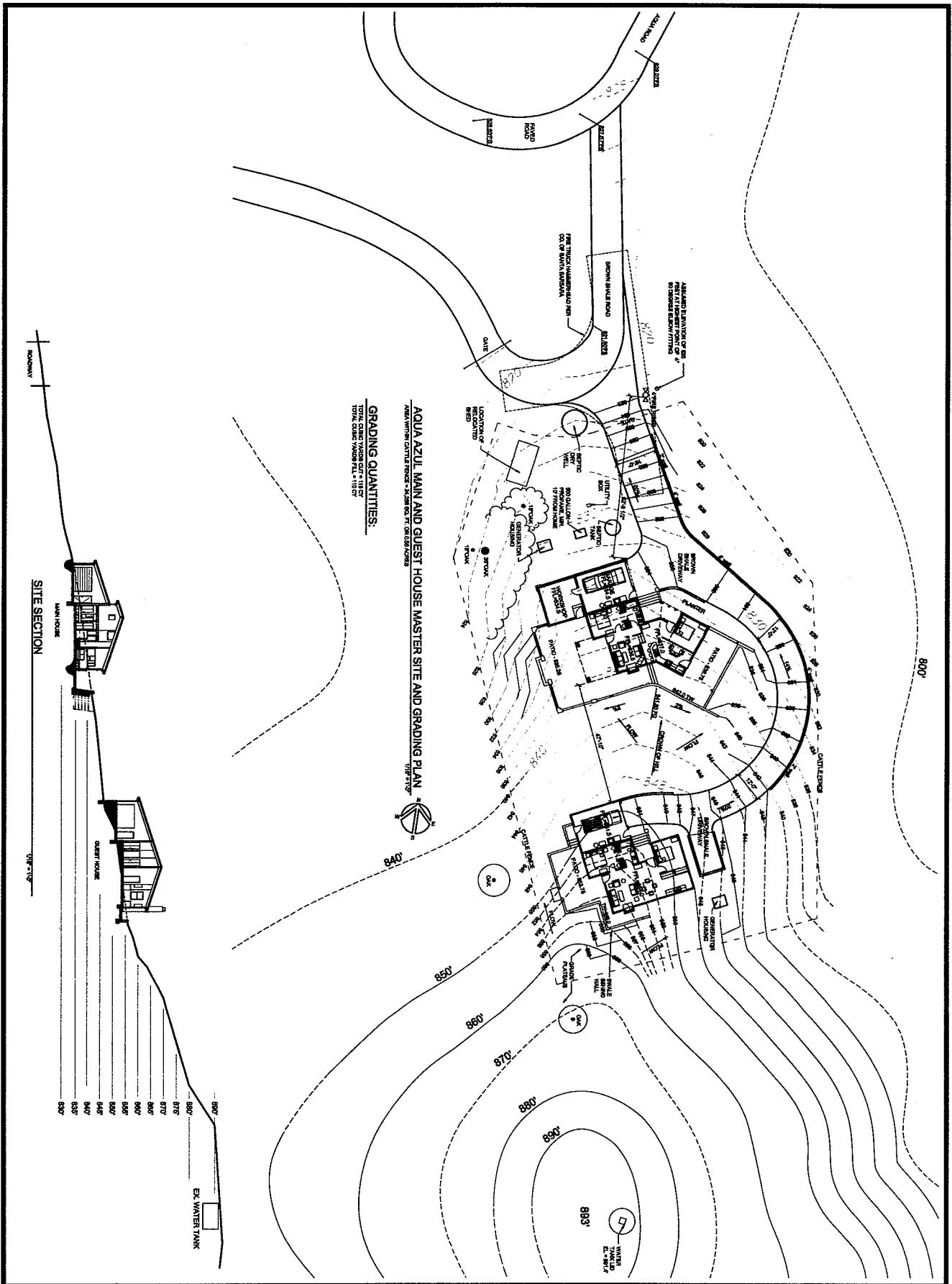
A1

DATE	REMARKS
14-02-00	APR-1
PRELIMINARY DRAWINGS SHEET NO. 1 OF 1 DRAWN BY DRAFTED BY CHECKED BY APPROVED BY	
1104	JOB NO.
VARIBEE	NAME
QOK	NAME
DRWNS	NAME

<b>PROJECT</b>	<b>AGUA AZUL</b>
AGUA ROAD, PARCEL 80, HOLLISTER RANCH II, GAVIOTA, CA	
<b>SHEET</b>	<b>TITLE PAGE, SITE PLANS</b>

**CLIENT**  
**AGUA AZUL**  
1551 BISHOP STREET  
SAN LUIS OBISPO, CA 93401



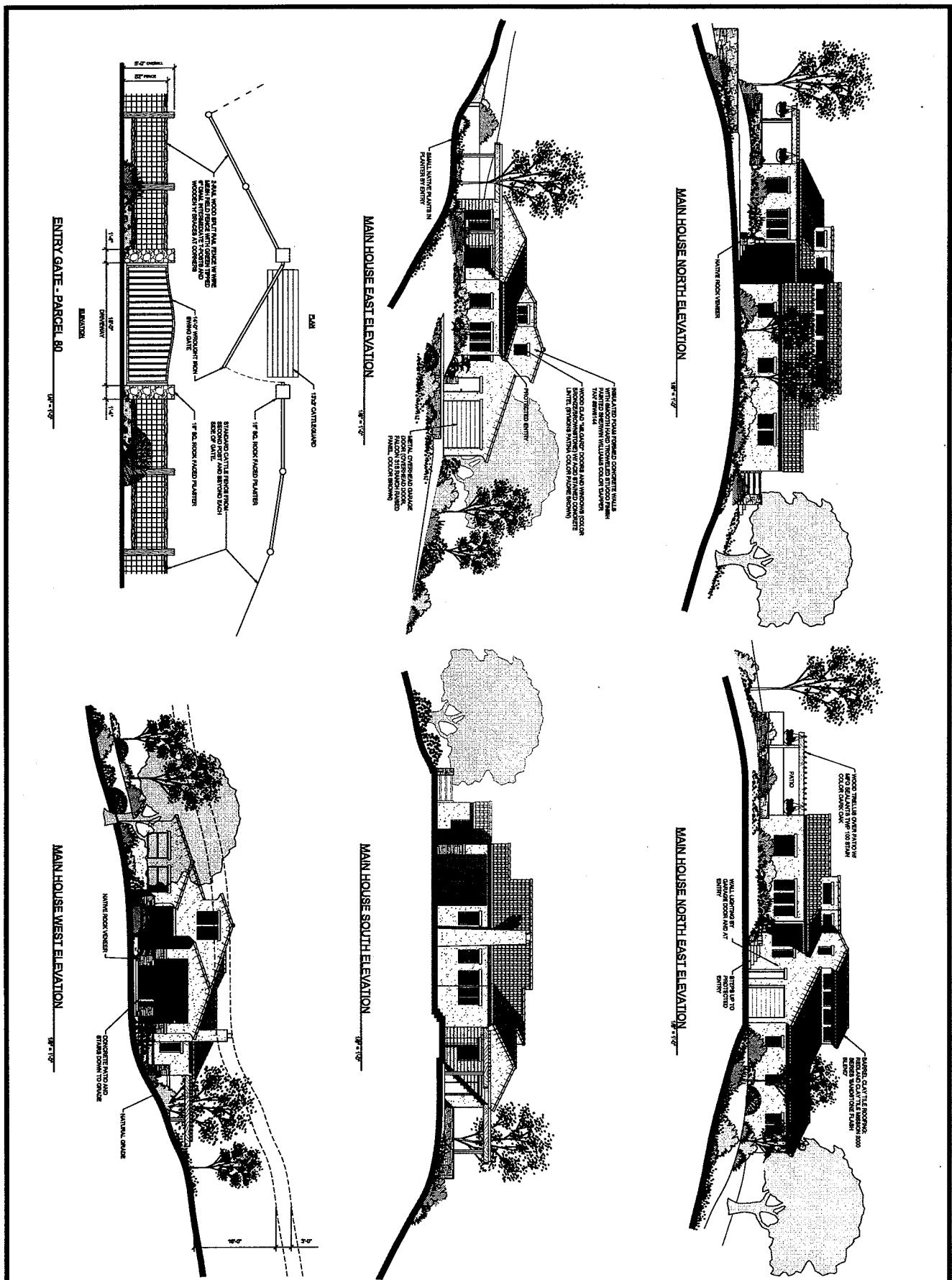


A2

**MASTER SITE AND GRADING PLAN**

**CLIENT**  
**AGUA AZUL**  
1551 BISHOP STREET  
SAN LUIS OBISPO, CA 93401





A4

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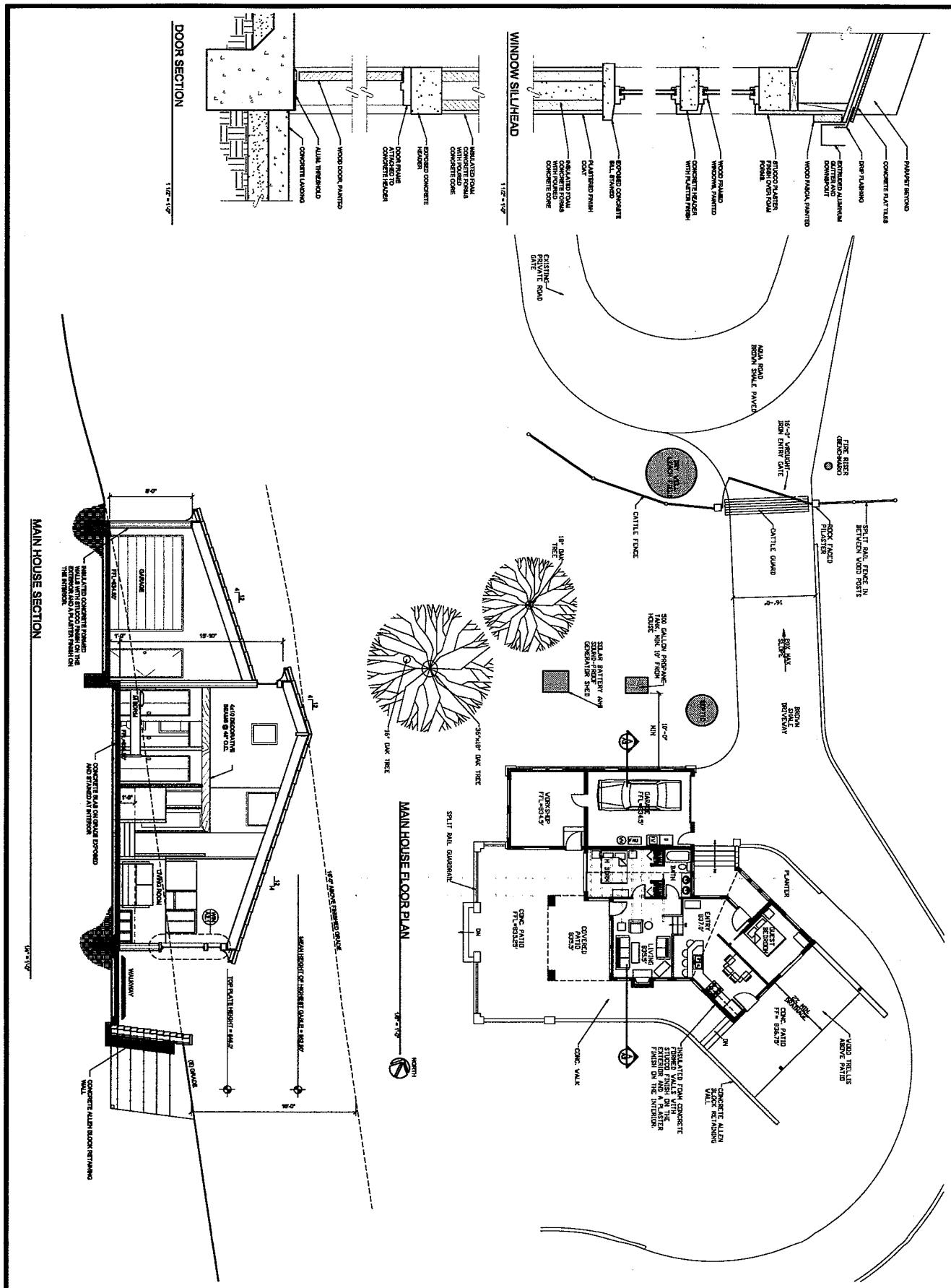
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004	DAVY	1970-01-01	1970-01-01	DAVY
005	DAVY	1970-01-01	1970-01-01	DAVY

**PROJECT** AGUA AZUL  
AGUA ROAD, PARCEL 80, HOLLISTER RANCH II, GAVIOTA, CA

**INSERT** MAIN HOUSE ELEVATIONS

**CLIENT**  
**AGUA AZUL**  
**1551 BISHOP STREET**  
**SAN JUAN, PUERTO RICO**





A3

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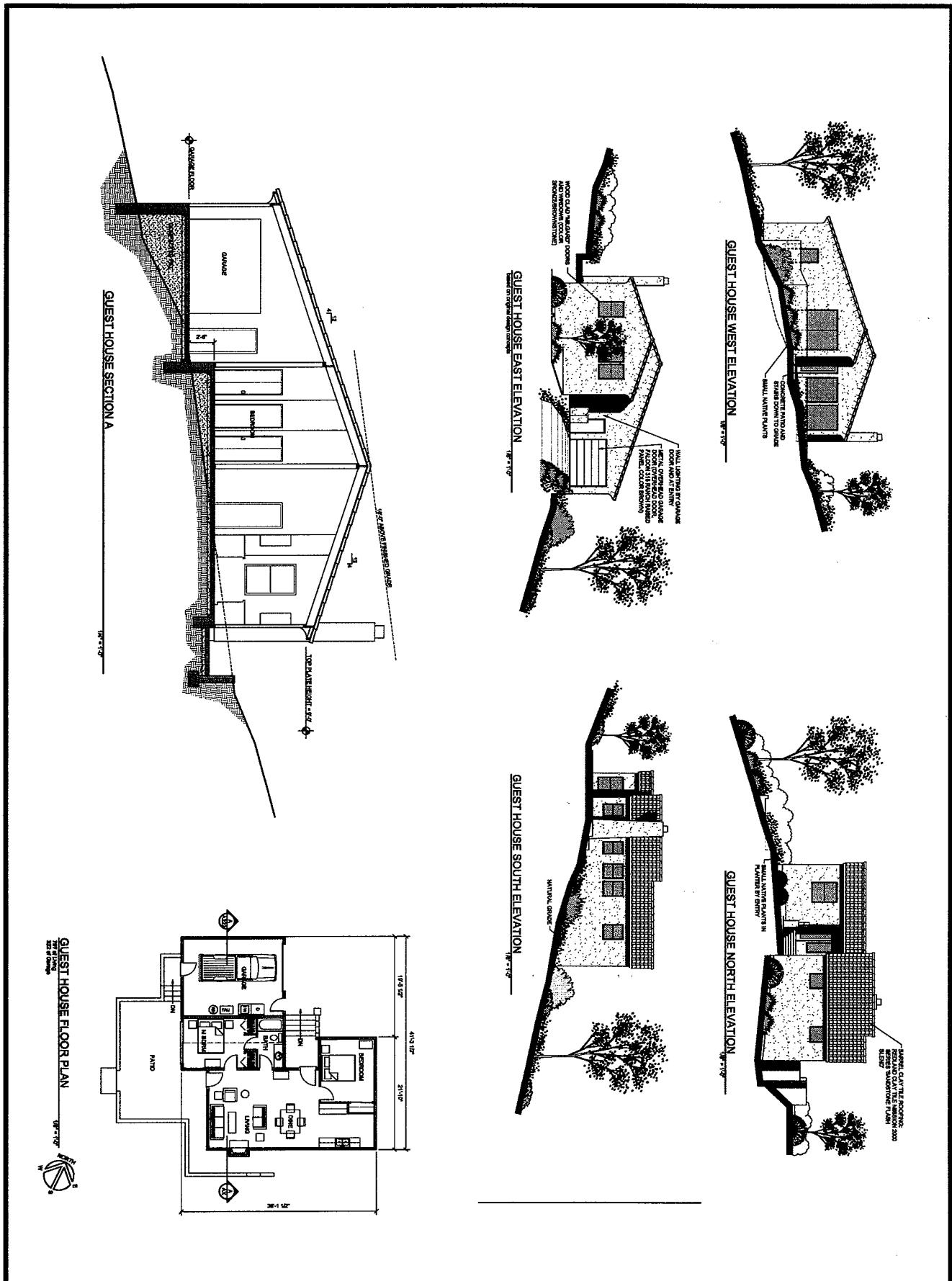
**PROJECT** AGUA AZUL  
AGUA ROAD, PARCEL 80, HOLLISTER RANCH II, GAVIOTA, CA

**SHEET** FLOOR PLAN, SECTION, DTLS

CLIENT:  
**AGUA AZUL**  
1551 BISHOP STREET  
SAN LUIS OBISPO, CA 93401



KORNREICH  
ARCHITECTS



DATE 12/20/00 REVISIONS 1	PROJECT <b>AGUA AZUL GUEST HOUSE</b> AGUA ROAD, PARCEL 80, HOLLISTER RANCH II, GAVIOTA, CA	CLIENT <b>AGUA AZUL</b> 1551 BISHOP STREET SAN LUIS OBISPO, CA 93401	STATE & LICENSE NUMBER 01550000000000000000
SHEET GUEST HOUSE FLR PLN, ELEV'S, SECT	KODAK SAFETY FILM		
NAME DAHNN TITLE CDK SCALE 10' = 1'-0" JOB NO. 1100	PRINTED IN U.S.A.		

**A5**

**Fwd: A-4-STB-11-005 HR #80**

Bill Swanson [bill.casaaguasvivas@gmail.com]

**Sent:**Saturday, October 18, 2014 4:51 PM

**To:** Dreher, Nicholas@Coastal

Nicholas

I just looking through my sent file and noticed the top portion of the email I sent you was cut off, attached below is complete !

I am available.

Bill

Nicholas

Confirming main house 799 sq. ft. of livable space.I would like to revise the 115 cu yd cut/fill that are on the plans are for both foundations to 172 cu yds. just to make sure.The grading reduction is a 75% form the original 680 cu yds.

County water system permit was included in the Coastal packet , history unavailable, current use drip oak trees.

The Survey was requested by the county as the main house was within 100' of the ESH.

There were no sensitive species observed in the survey.

The survey has more than adequate data for us to ensure facts for the new plan.

To assess the new configuration of Venturan Coastal Sage , INDIRECTLY as calculated in the survey : add 48 more feet to the development site ,South to include the guest house x 100 ft. of VCS to the East = 4,800 sq. ft. of potential thinning of dead plants ( not removal )

The survey estimates 8,235 sq. ft and adding the 4,800 sq. ft for the guest house the total = 13,035 sq. ft . of potential thinning.

The survey estimates 16,135 sq. ft indirect, that represents .05% of the V. C. S. on the parcel, .05% is less than significant potential impact of total V.C.S on the parcel.

The new plan of 13,035 is reducing the potential impact by approximately 3,000 sq. ft. Either way the potential impact is less than significant on the total VCS on the parcel.

With the new plan tightly clustered and minimal development we substantially reduced the overall development and potential impact, specifically not located adjacent to the creek which was the cause for the survey & mitigation.

To assess DIRECTLY the foot print add guest house construction of 1,467 sq. ft added to the 2,184 in the survey for a total of 3,651, which is approximately 50% less than the 6,842 in the survey.

In the county conditions of approval plan we had agreed to standard measures and to mitigate potential impacts for the main house.The goal of the new plan is to remove all mitigation and conditions related to riparian.

I am available for any further clarification.

Bill

805 567-1501

Begin forwarded message:

**From:** Bill Swanson <[bill.casaaguasvivas@gmail.com](mailto:bills.casaaguasvivas@gmail.com)>

**Subject: Re: A-4-STB-11-005 HR #80**