

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

RECORD PACKET COPY

TH 79



Filed: 03/11/96
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Staff: SG-SC
Staff Report: 07/25/96
Hearing Date: 08/13-16/96

**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: San Luis Obispo County
LOCAL DECISION: Approved with conditions
APPEAL NUMBER: **A-3-SLO-96-021**
APPLICANT: **TED EADY**
APPELLANT: Adrian and Amy Taron, Gary Swauger
PROJECT LOCATION: Inland side of Moonstone Beach Drive about 1200 feet north of Weymouth St., Cambria, San Luis Obispo County. APN's 022-381-001 and 022-361-028
PROJECT DESCRIPTION: A 24-unit motel with manager's unit, pool, guests-only restaurant, parking lot, and driveway creek crossing.
SUBSTANTIVE FILE DOCUMENTS: San Luis Obispo County Development Permit file No. D930204D; San Luis Obispo County Certified Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION AND STAFF NOTE

On April 10, 1996, the Commission opened and continued this hearing due to the fact that the complete file had not been received in time for staff to fully evaluate the appeal and complete a report for the Commission. Now, after careful evaluation of the proposal and the issues raised by the appellants, staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the reasons discussed below.

An unusual aspect of this project is that even though it spans a seasonal stream supporting riparian habitat, the San Luis Obispo County Local Coastal Program's stream setback standards could not be applied. It was discovered that these standards apply only to those streams specifically identified by the LCP, which do not include this unnamed creek. Nonetheless, the County appropriately applied a more limited setback under its authority as CEQA lead agency.

Exhibits

- 1. Taron Appeal
- 2. Swauger Appeal
- 3. SLO County Findings and Conditions
- 4. SLO County ESH Policies
- 5. Location Map
- 6. Vicinity Map
- 7. Site Plan
- 8. 100 Year Flood Hazard Area
- 9. Riparian Habitat and 10 foot Setback
- 10. Elevations

Table of Contents

- I. Summary of Appellants' Contentions.....2
- II. Local Government Action.....3
- III. Appeal Procedures.....3
- IV. Staff Recommendation and Motion.....4
- V. Recommended Findings and Declarations.....4

I. SUMMARY OF APPELLANT'S CONTENTIONS (See Exhibits 1 and 2 for the full text)

A. Appellants Adrian and Amy Taron contend that the County has violated the following sections of the LCP:

Environmentally Sensitive Habitat Policies 1, 3, 5, 15, 16, 23, 24, and 26, because the project will encroach into the riparian corridor along a creek more than the policies allow, because the use is not one of the uses allowed in an environmentally sensitive habitat, and because the County has not required restoration of willows that were cut down.

Height Limitations. Appellants contend that the County incorrectly applied an exception to the height limitations to allow the height to be measured from fill on one portion of the property and from the 100 year flood level on another portion of the property, rather than measuring height from the average natural grade.

B. Appellant and Applicant Gary Swauger contends that the County's restriction on any development within the mapped flood hazard area is inconsistent with section 23.07.066(a)10 of the County's Coastal Zone Land Use Ordinance (zoning

ordinance) which allows development in flood hazard areas with habitable floors located at least one foot above the 100 year flood level.

II. LOCAL GOVERNMENT ACTION

On October 29, 1995, the San Luis Obispo County Planning Commission approved a 28 unit motel on the site with conditions that, among other things, required a minimum 10 foot setback from the riparian habitat along a creek that traverses the site, except for one footbridge and one driveway bridge/culvert crossing of the creek. That approval was appealed to the Board of Supervisors which heard the appeal on February 27, 1996. The Board of Supervisors' resolution states that ". . .the appeal filed by Adrian and Amy Taron is hereby upheld in part and the decision of the Planning Commission is affirmed and modified. . . ." Please see Exhibit 3 for the complete text of the resolution and the County's findings and conditions. The Board of Supervisors approval reduced the number of units from 28 to 24 and prohibited the encroachment of ". . .habitable buildings or occupied structures. . ." into the 100 year flood hazard area as mapped by the applicant's engineer.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county (Coastal Act Section 30603(a)).

For projects not located between the sea and the first public road paralleling the sea, the grounds for an appeal shall be limited to an allegation that the development does not conform to the certified LCP (Coastal Act Section 30603(b)(1)). Since this project does not lie between the sea and the first public road paralleling the sea, those are the appropriate grounds for appeal in this instance.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," and no Commissioner objects, the substantial issue question will be considered moot, and the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Staff recommends that the Commission, after public hearing, determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed, because the County has approved the proposal in a manner that is consistent with the certified Local Coastal Program.

- A. The issues raised by appellants Adrian and Amy Taron about 1) the Environmentally Sensitive Habitat policies do not raise a substantial issue because those policies are not applicable to the creek which traverses the site and because the County has protected the creek and associated riparian vegetation through the CEQA review and mitigation development process; and 2) the approved building height does not raise a substantial issue because the County has disallowed any habitable structures on that portion of the site within the mapped flood hazard area so that the flood level cannot be used as the basis for height calculation and because the exception for basing height on fill on another portion of the site was appropriately applied.
- B. The issues raised by appellant and applicant Gary Swauger relative to the restriction on any habitable structures in the flood hazard area do not raise a substantial issue because it is within the County's discretion to so limit development.

C. **MOTION** Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A-3-SLO-96-021 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

V. RECOMMENDED FINDINGS AND DECLARATIONS

1. **Project Description and Background.** This undeveloped, almost square site is composed of two lots totaling 43, 721 square feet (one acre + 161 square feet, or 1.004 acres) and fronts

on Moonstone Beach Drive about one-quarter mile north of Weymouth Street at the northern end of the community of Cambria in northern San Luis Obispo County. The site slopes gently from east to west. On the east the site abuts the Highway One right-of-way. The low, narrow coastal bluffs across Moonstone Beach Drive to the west are part of San Simeon State Park. A seasonal creek traverses the center portion of the site from east to west (please see Exhibit 7). Vegetation includes non-native grasses and other ruderal plants, with the exception of the creek area and a portion of the southeast corner of the site which contain scattered growth of willows. In the creek channel itself there are several hydrophytic species including various rushes (*Juncus* spp.).

The site is constrained by the presence of the creek through the middle. The design approved by the County consists of portions of the motel on both sides of the creek, with the two sides connected by a footbridge near the western boundary of the site and a driveway bridge crossing the creek near the eastern, or rear, part of the site. The Planning Commission approval was for a 28 unit motel; the Board of Supervisors approved 24 units and restricted the placement of habitable buildings to those areas outside of the mapped flood hazard area.

2. Environmentally Sensitive Habitats. Appellants Adrian and Amy Taron contend that the County has failed to properly apply several policies in the LCP designed to protect environmentally sensitive habitats (ESH). Those policies are attached as Exhibit 7. The certified San Luis Obispo County LCP is very tightly constructed respecting the applicability of the ESH policies. This does not mean that the County did not address the environmental aspects of the creek. The County prepared a negative declaration for the project, considering the information provided by a botanist and the recommendations of the Department of Fish and Game about restoration and setbacks from the creek. However, the LCP's ESH policies do not apply to the site for the reasons given below.

To begin with, the LCP Policies Document states, at page 1-5, Relationship of the Land Use Element, Local Coastal Plan Policy Document, and Coastal Zone Land Use Ordinance, that *"The LCP Policy Document is part of the Local Coastal Program and Land Use Element. Many of the policies include programs and standards. Some of the policies have been implemented in the Coastal Zone Land Use Ordinance (CZLUO) and planning areas standards. The following procedures shall be utilized in implementing the policies:*

1. *Only the numbered policies shall be used. Other text is for background purposes only.*
2. *Many policies have been implemented in applicable ordinances. Each individual numbered policy will state where it has been implemented. When a policy has been implemented in ordinance, the ordinance shall prevail in case of conflict with the policy*

This means that if the policy states that it is to be implemented by a certain section of the CZLUO, that ordinance section shall prevail over the policy if the two conflict. Therefore, if an implementing ordinance section states that it applies only in certain instances, such as only when something is mapped, but the policy does not state that, then the policy may not be applied independently without regard to the implementing ordinance.

The introduction to the Environmentally Sensitive Habitat policy section of the LCP states *"Designation of environmentally sensitive habitats include but are not limited to: 1) wetlands and marshes; 2) coastal streams and adjacent riparian areas; 3) habitats containing or supporting rare and endangered or threatened species; 4) marine habitats containing breeding*

and/or nesting sites and coastal areas used by migratory and permanent birds for resting and feeding. . . . Wetlands are defined in the LCP as *"Lands that may be covered periodically or permanently by shallow water, including saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens."* Marshes are not defined in the LCP. Conceivably, the creek could be considered a wetland, because its bed is sometimes covered with water, but there is nothing to indicate it could be a marsh. Coastal streams and adjacent riparian areas are defined as *"Streams and adjacent riparian vegetation appearing as dotted or dashed blue lines on the 7.5 minute USGS topographic quadrangle maps, and shown on the Combining Designation maps of the Land Use Element."* However, the creek does not appear on the 7.5 minute USGS Cambria topographic quadrangle map; neither is it shown on the Combining Designation maps of the Land Use Element. Therefore, so far as the ESH policy section is concerned, the creek and its associated vegetation is not a "coastal stream and adjacent riparian area." The site, according to the botanical survey and the negative declaration prepared by the County Environmental Coordinator's office, does not contain any habitats containing or supporting rare and endangered or threatened species. The site is not a marine habitat. Therefore, the only one of the listed types of ESH that could possibly be associated with this site is wetland.

The wetland section of the ESH policies lists the *"primary wetland areas"* of San Luis Obispo County. This site is not one of the areas listed. That section goes on to state *"Each of these wetlands is identified as a Sensitive Resource Area and specific recommendations are included in the Land Use Element by planning area. Other small isolated wetlands exist and would need to be addressed at the time of a specific development project."* The County did address wetland aspects of the creek through CEQA review in the negative declaration.

It is important to remember, as discussed above, that the ESH policies in question are implemented through Chapter 7 of the Coastal Zone Land Use Ordinance (CZLUO), the County's coastal zoning ordinance, and that if there is a conflict between a policy and its implementing ordinance, then the ordinance prevails. Please see Exhibit 4 which shows all of the ESH policies mentioned by the appellant. Every one of them concludes with a sentence that implementation is to occur pursuant to one or more of sections 23.07.170 - 178 of the CZLUO (note that there are no sections 23.07.171, 173, 175, nor 177).

CZLUO section 23.07.170 - Environmentally Sensitive Habitats states that *"The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined in Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps"* (emphasis added). Therefore, CZLUO section 23.07.170 does not apply to this site since it is not mapped.

Similarly, CZLUO section 23.07.172 - Wetlands, states *"Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section. . . ."* This section does not apply to the site since there is no wetland mapped there on the County's ESH maps.

CZLUO section 23.07.174 - Streams and Riparian Vegetation states *"Coastal streams and adjacent riparian areas are environmentally sensitive habitats. The provisions of this section are intended to preserve and protect the natural hydrological system and ecological functions of coastal streams."* Coastal streams and adjacent riparian areas are defined as *"Streams*

and adjacent riparian vegetation appearing as dotted or dashed blue lines on the 7.5 minute USGS topographic quadrangle maps, and shown on the Combining Designation maps of the Land Use Element.” As mentioned previously, the creek does not appear on the 7.5 minute USGS Cambria topographic quadrangle map; neither is it shown on the Combining Designation maps of the Land Use Element. Therefore, CZLUO section 23.07.174 does not apply to this site.

CZLUO section 23.07.176 - Terrestrial Habitat Protection states that *“The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats.”* No rare or endangered species were noted on the site, therefore this section does not apply to the site.

CZLUO section 23.07.178 - Marine Habitats is not applicable because the site is an upland area and has no marine habitat. Runoff from the proposed paved areas is to be directed to grease and silt traps before entering the creek and flowing to the sea.

Finally, CZLUO section 23.07.012 - Applicability of Standards states *“The standards of this chapter apply to all projects for which a land use permit is required, when a project is within a combining designation shown on the official maps (Part III of the Land Use Element)”* (emphasis added). The project site is not so mapped. Therefore the site is not subject to those standards.

Although at first glance it would appear that the County's LCP ESH policies apply to this site, for the reasons given above the Commission finds that the certified LCP ESH policies do not in fact apply to this site. This is the way the LCP was structured when certified by the Commission in 1988. However, this does not mean that development on a site such as this may ignore the existence of the creek. Even though the LCP ESH policies do not apply, the California Environmental Quality Act does apply, as do the streambed alteration provisions of the Public Resources Code, which is administered by the Department of Fish and Game (DFG). In consultation with DFG and utilizing a botanical survey of the site, the County developed setbacks and mitigations to protect and restore the patchy willow growth on the site. All development is to be setback at least 10 feet from the upland extent of riparian vegetation, with the exception of the two creek crossings (please see Exhibit 3 for the complete text of the County's conditions). DFG stated that *“The applicant's proposed modification of the drainage channel/waterway would be acceptable to the Department if additional conditions are imposed on the project.”* The additional conditions were to have a landscape plan developed by a professional familiar with native habitat development, no development within a 10 foot setback, and that no pets or human activity be allowed in the riparian zone.

Appellants Adrian and Amy Taron also contend that the applicant cut down some 3,000 square feet of willows in the southeastern corner of the site without obtaining a permit, that the County has not required restoration of that area, and that mention of the willows in that area was intentionally left out of the botanical report. According to the file obtained from the County, the botanical report describes the riparian growth as *“. . . variable and patchy along the small drainage that traverses the site. In the eastern portion of the drainage, there are dense thickets of Salix lasiolepis (arroyo willow) and Myrica californica (wax-myrtle). . . .”* and does not specifically mention the willows in the southeast corner. A subsequent letter from the botanist states that the owner discussed the possibility of trimming or cutting out some dead vegetation and was advised by the botanist to check with the County. The letter also states that during the botanist's site survey, he *“. . . defined the extent of the riparian area by the*

presence of healthy, living individuals of these species [willow and wax myrtle]. . . . This riparian area is far from pristine and many exotics dominate the surrounding areas and have invaded the riparian area. The small riparian area is isolated from other similar habitats. . . ."

According to that letter and County staff, the southeastern corner of the site contains a swale or depression representing most probably an old drainage channel from the east which was cut off from its upland water source with the relocation of Highway One from Moonstone Beach Drive to the east in the early 1960's. The area apparently still collects water from the highway itself and can support willows after heavy rainy seasons. County staff disagrees with the appellants' contention that 3,000 square feet of willows were cut and believe that the figure is approximately 600 square feet, which is shown on the plans as "removed willows." That amount is fully compensated for by the County's conditions of revegetation.

3. Height Limitation. Coastal Zone Land Use Ordinance (CZLUO) section 23.04.122 - Measurement of Height, governs the basis for measuring the height of structures. Typically, natural grade is the basis for measuring height. This section of the CZLUO allows exceptions, such that finished grade may be used instead of natural grade, for various reasons, including that *"The site was graded or filled pursuant to a grading permit approved before September 18, 1986"* (CZLUO section 23.04.122b.). Appellants Adrian and Amy Taron contend that the County's determination that the site is eligible for that exception is a deviation from the CZLUO. Appellants contend that *" . . . fill from an adjacent project would certainly not be in conformity with a grading permit on this particular site."* However, according to the County the fill came from the adjacent (to the south) Cambria Shores Motel development in 1959 when that property and the subject site were under the same ownership. Therefore it would be entirely likely that the excess material was simply graded from the Cambria Shores site and placed on the adjacent lot, both being under the same ownership at that time. Therefore the County's action allowing the height basis exception is consistent with the LCP.

Appellants Adrian and Amy Taron also question the County's approval of using the 100 year flood plain level as the basis for determining height on another portion of the property. However, the Board of Supervisors conditioned the project to not allow any habitable buildings or occupied structures in the 100 year flood plain, so the contention that it is inconsistent to utilize the 100 year flood level as the basis for measuring height is moot.

Appellant Gary Swauger contends that the Board of Supervisors action disallowing habitable development in the 100 year flood level is inconsistent with the Coastal Zone Land Use Ordinance (CZLUO) section 23.07.066(a)10 which states that *" . . . the ground floor of all structures is to be constructed at a minimum of one-foot above the 100-year storm flood profile level."* Appellant Swauger contends that the Board's action disallowing any habitable structures in the flood plain elevated according to CZLUO section 23.06.066(a)10 will reduce access to the coast by reducing the number of units available, perhaps down to only 16 - 20 units. Appellant Swauger also contends that this project is being held to a higher standard than similar development along Moonstone Beach Drive or development in the West Village area of Cambria, the latter being subject to the "lesser" standards of CZLUO section 23.07.066(a)11. That section states that *"Non-residential construction shall either be elevated in conformance with Section 23.07.066(a)10 above, or together with attendant utility and sanitary facilities, be elevated a minimum of two feet above the highest adjacent grade and be floodproofed to a minimum of one-foot above the 100-year storm flood profile level."* As to all of these contentions, the Board of Supervisors has the discretion to modify projects brought before it on appeal. The contention that this action will reduce access to the coast by reducing

the number of motel rooms is specious since there are now zero motel rooms on the site; even if only 16 rooms could be developed, that is 16 more than are there now, without a loss of any rooms. It is difficult to compare development of this site with that on other sites along Moonstone Beach Drive since the others do not have creeks traversing them. As to the "lesser" requirements applied in the West Village of Cambria, the County's action is not inconsistent with the LCP because, again, it is within the discretion of the decision making body to modify proposals. In this case, the Board found that *"The project will not be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to properties in the vicinity because the project will not have any building within the 100 year flood hazard area. . . ."* The Board exercised its discretion and approved a modified project that allows for significant development on the site. Therefore, the County's action is consistent with LCP sections 23.07.066(a)10 and 11.

4. Conclusion. None of the issues raised by the appellants are substantial issues in terms of consistency with the certified Local Coastal Program. While appellants Adrian and Amy Taron have raised numerous points and while the Commission agrees that the creek deserves protection, it is clear that the LCP policies cited by the appellants are not applicable. It is equally clear that the County did not disregard the creek, but developed protection measures and mitigations through CEQA review. Therefore, the Commission finds that no substantial issue is raised by their appeal.

The applicant has suggested that the Commission utilize flood hazard information from the adjoining property to the north and modify this project in accordance with that lower flood level. The Commission finds that this is an issue best resolved at the County. If the applicant wishes to return to the County with additional or new information concerning the flood hazard area there is nothing to prevent him from so doing and seeking to amend the approval given by the Board of Supervisors. The Commission finds that no substantial issue is raised by the applicant's appeal.

STATE OF CALIFORNIA—THE RESOURCE AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
720 FRONT STREET, STE. 308
SANTRA CREEK, CA 95060
(408) 637-4444
HEARING IMPAIRMENT (415) 964-5200



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

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

ADRIAN & AMY TARON
6276 Moonstone Beach Dr.
Cambria, Ca. 93428 (805) 927-8644
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of San Luis Obispo

2. Brief description of development being appealed: 24 Unit Motel on Moonstone Beach Dr. in Cambria

3. Development's location (street address, assessor's parcel no., cross street, etc.): On the eastside of Moonstone Beach Dr., Approx. 1200 ft. north of Weymouth Lane

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: xx
- c. 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-3-SLO-96-021

DATE FILED: 2/11/96

DISTRICT: Central Coast

MS: 4/88

EXHIBIT 1

A-3-SLO-96-021

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

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

- a. Planning Director/Zoning Administrator
- c. Planning Commission
- b. City Council/Board of Supervisors
- d. Other _____

6. Date of local government's decision: Feb. 27, 1996

7. Local government's file number (if any): D930204D

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:

Ted Eady

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) Moonstone Beach Association (Co-Appellant)
P.O. Box 1737
Cambria, Ca. 93428

(2) Greenspace (testified against)
6576 Moonstone Beach Dr.
Cambria, Ca. 93428

(3) North Coast Advisory Council (voted against)
P.O. Box 533
Cambria, Ca. 93428

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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.)

We are appealing this project because it
violates the following Coastal Plan Policies
from the Land Use Element-Local Coastal Program
San Luis Obispo County General Plan.
Please see attached sheets.

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.


Signature of Appellant(s) or
Authorized Agent

Date 3-7-96

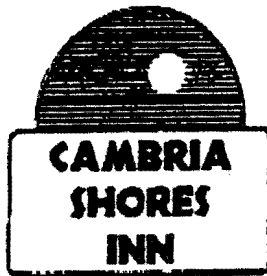
NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____



6276 Moonstone Beach Drive
Cambria • CA 93428
(805) 927-8644 • (800) 433-9179

This project violates Policy 1 regarding environmentally sensitive habitats, "within an existing resource, only those uses dependent on such resources shall be allowed within the areas:"

Policy 3. "The county or coastal commission should require the restoration of damaged habitats as a condition of approval when feasible". On this project chainsawed destruction of approx. 3,000 sq. ft. has been either abetted or overlooked by the county planning department.

Policy 5. "The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible restored." Once again, the county is ignoring the Coastal Plan Policies.

Policy 15. "At no point shall this (wetlands) buffer be less than 25'". This project not only shorten the minimum wetlands buffer to 10 ft., it disregards the majority of the setbacks, and then encroaches across the entire habitat with a filled in road and culverts.

Policy 16 is violated as it requires development to be consistent with policy 15.

Policy 23 allows streambed alterations for only specific purposes; none of these being development of motels.

Policy 24 protects riparian habitat. This policy has been flagrantly violated by the owner of the property.

Policy 26. Buffer Zone for Riparian Habitats. There is allowance for reduction to the minimum setback of 50 feet. However, it must be found that the "lesser setback" is the very least possible to allow a principal permitted use. This has never been established. It is quite conceivable that either parcel would be developed as a visitor-serving establishment without any violations of a 10 ft. minimum setback and definitely without encroachments into the riparian habitat itself.

The County Planning Department has ignored all these policies and has even gone so far as to say that the stream is not protected because it is not identified as a coastal stream in the LCP. This is completely inconsistent with the Coastal Plan,



6276 Moonstone Beach Drive
Cambria • CA 93428
(805) 927-8644 • (800) 433-9179

which states "other small isolated wetlands exist and would need to be addressed at the time of a specific development project." There is no basis for not protecting a sensitive resource. On the contrary, this significant island of habitat is all the more valuable because it is isolated.

The development process on this property has been flawed from the outset. First, the original survey somehow leaves out approximately 3,000 sq. feet of willows. Then, the botanical survey somehow missed the very same 3,000 sq. ft area. The botanical report makes no mention of chainsawed willow stumps but somehow they're ignored on the field survey.

Finally, the applicant chainsaws to the ground the same area and the County Planning Department and the botanist V.L. Holland find the destruction less than significant.

We are hoping that the Coastal Commission will find this illegal collusion to destroy and eradicate from the record a once thriving area of riparian habitat extremely significant.

We will be following with further information to support our appeal.

COMMISSION APPEAL # A-3-SLO-96-021



6276 Moonstone Beach Drive
Cambria - CA 93428
(805) 927-8644 • (800) 433-9179

March 15, 1996

California Coastal Commission
725 Front St., Ste. 300
Santa Cruz, Ca. 95060

Dear Members of the Coastal Commission,

As an addendum to our original appeal, we would like to make the following points.

I. The Riparian Area on Lot 9.

This development process got off to a bad start because of an error on the botanical field survey. Somehow, a sizeable area of riparian habitat was omitted from the survey though it was described in the field report. The planning staff was not aware that the applicants were planning parking areas directly on the riparian habitat and of course the 10 ft. riparian setback was not put in place. Unfortunately it apparently gave the applicant the notion that it would be better if the riparian area disappeared and it was chainsawed to within inches of the ground.

We are asking the Coastal Commission to investigate this matter and we hope that you will find that Policy 3 of Policies For Environmentally Habitats applies, and that the "Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible".

II. Stream or Swale?

In the negative declaration it states "Though the swale is identified as a "blue Line" stream on U.S.G.S. maps for the area, it was not identified as a "coastal stream" in the LCP and thus minimum mandatory setbacks are not provided." We take issue with this statement because it is completely illogical. First, the swale is defined as a stream, then the protections provided for streams are taken away because it is not listed in the LCP. Following that logic one would say "the indeterminate fauna in the swale is riparian habitat, but it's not identified as riparian in the LCP, so it's not protected. As a matter of fact, the swale meets the qualifications of a river according to the Environmentally Sensitive Habitat Area Definitions in the LCP. "Any well defined channel with distinguishable bed and bank that shows evidence of having contained flowing water." It is considered a perennial stream by the State of California Dept. of Park and Recreation (see letter Weldon Nov. 16, 1994) and by the Department of Fish and Game (see letter Lidberg 1/13/95). We would hope that the Coastal Commission will agree with us that designating this stream a swale is an obvious and blatant attempt to subvert the protections provided streams in the LCP.



6276 Moonstone Beach Drive
Cambria - CA 93428
(805) 927-8644 • (800) 433-9179

III. Height Limitations

Though the Coastal Commission may not be as interested in violations to height limitations as environmental violations, we would like to point out the following deviations from the CZLU ordinances to further demonstrate the special treatment this project has received from the Planning Department.

The ordinance is clear that the maximum building height is 15' above the ANG in all but exceptional cases. The Planning Department with regard to the building on Lot 9 insists on using existing topography though it is clear from the geological survey that the low point is fill and more than likely the high point is fill. (See letter G. Robert Mahrt AIA). The Planning Department justifies this exception on the grounds that the "site was filled pursuant to a grading permit approved before Sept. 18, 1986." (CZLUO 23.04.122b) then goes on to say the fill was from grading on the adjacent Cambria Shores property in 1959. This is quite a stretch as fill from an adjacent project would certainly not be in conformity with a grading permit on this particular site.

The building on Lot 10 is also given an exception without any real basis in the CZLUO Ordinances. The exception stated is meant to allow the building to be situated above the 100 year flood plane. In this case, the average of the actual ANG is 37½', well above the actual flood plane. The only purpose for both these exceptions is to push both buildings higher into the public viewshed. We would like to point out that this is a very important viewshed from both Hwy. 1, Moonstone Beach Drive, (a designated Scenic Area), and the adjacent State Park Property (see letter Weldon 11/16/94).

IV. Mitigations

The mitigations involving this project are another example of accommodation for the developer. The Planning Department gave it to the applicant to decide how much riparian habitat was being demolished rather than a qualified professional. The applicant used the initial North Coast Engineering survey and mitigated only where that survey showed willows or myrtles. The riparian corridor, and setback area, which should be the basis for the mitigations, was for the most part ignored. According to the applicants, there is no riparian vegetation in the entire front ¼ of the channel. One only has to read the botanists report to see that this is not true. For this project to be mitigated, there needs to be riparian area replaced, not just plantings in the area already designated riparian. Please see the attached letter from VL Holland offering to prepare a restoration enhancement, and monitoring



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plan. Instead of this we have a landscaping plan (see pg.5 applicants revised plans dated Feb.16,1996.) which completely ignores the botanists suggestions for replanting, (See pg. 4 VL Holland Vegetation study) and instead plants non-native and totally inappropriate landscape plants. We also draw your attention to this landscape plan because it is the only document that shows the applicants intention to culvert the stream from the footbridge to the existing culvert under Moonstone Beach Drive, thereby eliminating more riparian area that is not addressed in the mitigations.

V. We suggest that the Planning Department may have been a little overzealous in accommodating the applicants in this development. The building of a four diamond resort in a recreational zoned area is, of course, a desirable outcome. However, once the rules are bent, they soon become broken. For example, the applicants original intention was to build a small one-way bridge at the very top of the property, adjacent to the existing drainage swale from Hwy. 1. Once the basic environmental safeguards were removed, however, the one lane bridge became a 20' wide filled in road with a culvert dividing the riparian area in two. Then a footbridge was added dividing the riparian area in 3. Then the 10' riparian setback was eliminated on 50% of the riparian corridor.

It has come to our attention only during the last week that this project, being over one acre, has standard side property setbacks of 10 feet, rather than the 5 ft. shown on their plan. The Planning Department gave no notice and variance was not obtained. We cite this as another instance of special treatment for this project.

We are hoping that the Coastal Commission will agree with us that there are serious problems with this project and direct the County and developer to begin again; this time being consistent with all the CZLU Policies and Ordinances designed to protect the environment.

Yours Truly,

Adrian & Amy Taron

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4843
HEARING IMPAIRED: (415) 904-5200



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

~~AMRIT PATEL & GARY SWAUGER~~
PO BOX 1177 CAMBRIA, CA
93428 (805) 927-3987 & FAX 927-4165
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: COUNTY OF SAN LUIS OBISPO

2. Brief description of development being appealed: 24 UNITL MOTEL FACILITY WITH MANAGER'S UNIT, DINING & KITCHEN AREAS AND ENCLOSED POOL AREA

3. Development's location (street address, assessor's parcel no., cross street, etc.): MOONSTONE BEACH DRIVE - NORTH OF 6276 MOONSTONE, APN: 022-361-001 & 022-361-028

4. Description of decision being appealed:
- a. Approval; no special conditions: _____
 - b. Approval with special conditions: RESOLUTION # 96-106
 - c. 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-3-SLO-96-021

DATE FILED: 3/11/96

DISTRICT: Central Coast

H5: 4/88

EXHIBIT 2

A-3-SLO-96-021

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

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

- a. Planning Director/Zoning Administrator
- c. Planning Commission
- b. ~~City/County~~/Board of Supervisors
- d. Other _____

6. Date of local government's decision: FEBRUARY 27, 1996

7. Local government's file number (if any): 09302040

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:

TED EADY
PO BOX 8147
BLACK BUTTE RANCH, OR 97759

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) ADRIAN & AMY TARON
6276 MOONSTONE BEACH DR
CAMBRIA, CA 93428

(2) MOONSTONE BEACH ASSOCIATION
PO BOX 1737
CAMBRIA, CA 93428

(3) GREENSPACE-RICK HAWLEY
PO BOX 1505
CAMBRIA, CA 93428

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which contains...

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 SHEET

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.

[Signature]
Signature of Appellant(s) or
Authorized Agent

Date 3/21/96

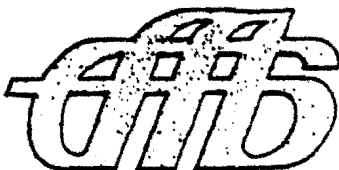
NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize GARY SWAUGER to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature]
Signature of Appellant(s)

Date MARCH 21, 1996



gary michael swauger architect

a.i.a.

March 21, 1996

Patel Appeal

The San Luis Obispo County (SLOCO) Planning Commission approved a 28 unit motel project in the Visitor-Serving Recreation land-use category, including development within the Flood Hazard Area, consistent with the requirements of Section 23.07.066(a)10 of the SLOCO Local Coastal Plan with floor levels set 1 foot above the 100 year flood elevation.

The Board of Supervisors, on appeal, approved a 24 unit motel and revised the conditions of approval to restrict development within the Flood Hazard Area, inconsistent with Section 23.07.066(a)10 of the SLOCO Local Coastal Plan Ordinance. The revised conditions of approval require all habitable buildings to be moved out of the 100 year flood area.

In comparison, the Board of Supervisors has held this project to a higher standard than any other development in a Flood Hazard Area, such as the entire West Village of Cambria. Buildings in the West Village have routinely been allowed to build within the Flood Hazard by meeting only the lesser standards of CZLUO Section 23.07.066(a)11, which allows development to be constructed with floor levels below the 100 year flood elevation.

The Board's restriction reduces access to the coast in an area designated as visitor-serving by reducing the number of visitors that can be lodged on the site, most likely only 16-20 units. By requiring relocation of habitable buildings outside the Flood Hazard Area, usable site area is reduced thus reducing the number of units. This is discrimination, since no other project on Moonstone Beach Drive has had to meet these constraints.

2450 main street suite c post office box 1177 cambria california 93428

805 927 3987

fax 805 927 4165



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

MAR. 7, 1996

Ted Eddy
Box 8147
Black Butte CR. 97759

ALEX HINDS
DIRECTOR

BRYCE TINGLE
ASSISTANT DIRECTOR

CALIFORNIA ENVIRONMENTAL COORDINATOR
COASTAL COMMISSION
CENTRAL COAST AREA
ELLEN CARROLL
BARNEY MCCAY
CHIEF BUILDING OFFICIAL

NORMA SALISBURY
ADMINISTRATIVE SERVICES OFFICER

NOTICE OF FINAL COUNTY ACTION

FINAL LOCAL ACTION NOTICE
3-510-96-14
ACCEPTED BY THE HEARING OFFICER
03/11/96

Subject: D930204D - Eddy

The Administrative Hearing Officer approved the above-referenced application. Two copies of a Land Use Permit are enclosed. The conditions of approval adopted by the hearing Officer are attached to the Land Use Permit. The conditions of approval must be as set forth in this document.

Please sign and return one copy of the Land Use Permit to this office. Your signature will acknowledge your acceptance of all the attached conditions and applicable Land Use Ordinance, Coastal Zone Land Use Ordinance and Building and Construction Ordinance standards.

If you are dissatisfied with any aspect of this approval, you have the right to appeal the decision to the Planning Commission. The appeal must be filed within 14 days of the date of the Administrative Hearing decision using the form provided by the Planning Department along with the appropriate fee. Appeals may not require a fee if the grounds for appeal are certain coastal related issues (pursuant to 23.01.043d).

This action is also appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. We strongly recommend that you contact the county Department of Planning and Building to obtain the appeal form and information handout explaining the rights of appeal.

Exhaustion of appeals at the county is required prior to appealing the matter to the California Coastal Commission. This appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (408) 427-4863 for further information on appeal procedures. If you have any questions regarding these procedures, please contact me at (805) 781-5600.

Sincerely,

Ted Bench
Development Review Section

EXHIBIT 3
c. Coastal Commission A-3-90-96-02
c. John Belsher A-3-90-96-021
c. Gary Swauger.

D-55 e:\wpdocs\forms\r9300651.frm

COUNTY OF SAN LUIS OBISPO

LAND USE AND COASTAL DEVELOPMENT PERMIT

PERMIT NO. D930204D



This Land Use/Coastal Development Permit allows the approved use described below to be established on the site referenced by the Assessor Parcel Number listed below. Any attached conditions of approval must be completed by the applicant as set forth by the condition. In addition to the conditions of approval, the approved use must also satisfy all applicable provisions of the Coastal Zone Land Use Ordinance and the Building and Construction Ordinance.

APPROVAL GRANTED Feb 27, 1996
APPROVED USE: Construct new motel.

ASSESSOR PARCEL NUMBER(S): 22-381-01
22-361-28

ISSUED TO: Ted Eady
Box 8147
Black Butte CR. 97759

CONDITIONS ATTACHED: YES NO Sent under separate cover
FINDINGS ATTACHED: YES NO " " " "

EFFECTIVE DATE
Unless an appeal is filed, this approval will become effective on March 21, 1996, and will be valid for two years. If an appeal is filed as provided by Section 23.01.042 and 23.01.043 of the Coastal Zone Land Use Ordinance, this approval may be affirmed, affirmed in part, or reversed. After two years the approval will expire and become void unless one of the following occurs:

a. The project has been completed.
b. Work has progressed beyond the completion of structural foundations.
c. A written extension request has been filed with the Planning Department prior to the date of expiration and has been granted.

NOTE: THIS IS NOT A BUILDING PERMIT

Applicant must sign and accept conditions or permit is void.

Signature _____ Date _____

DEPARTMENT OF PLANNING AND BUILDING VERIFICATION.
BY: Ted Bench DATE Mar. 6 '96

EXHIBIT D930204D:A
MODIFIED FINDINGS (FEBRUARY 27, 1996)

- A. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because a motel facility is an allowed use in the Recreation category with development plan permit approval.
- B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to properties in the vicinity because the project will be built in compliance with county issued development plan permit and also in compliance with county building and grading permits.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is a motel facility in a area designated by the county General Plan for tourist serving uses.
- E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the site has direct access onto Moonstone Beach Drive, which is capable of handling the increase in traffic that this project will generate.
- F. On the basis of the Negative Declaration and all comments received, there is no substantial evidence that the project will have a significant effect on the environment.

Coastal Access

- G. Approval of the proposed project will not significantly affect public coastal access because the project is located away from the shoreline, and because the proposed development would not block, impede or hinder any known public access to the coast. The site is not between the ocean and first public road and they have public access across the street all along the west side of Moonstone Beach Drive.

Parking Lot Design

- H. Compliance with all the provisions of Coastal Zone Land Use Ordinance Section 23.04.164(b)(4) - Parking Lot Design (Drop-off points) is not necessary because the characteristics of the site require that no site development be allowed to encroach into the riparian area setback, the proposed parking design and number of spaces will adequately accommodate all on-site parking needs, and no traffic safety problems will result from the lack of a designated drop-off point or space for the site.

Flood Hazard Area

- I. The project will not be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to properties in the vicinity because the project will not have any buildings within the 100 year flood hazard area, and because the site will be improved with drainage control features in compliance with county approved engineered plans.

EXHIBIT D930204D:B
MODIFIED CONDITIONS OF APPROVAL (FEBRUARY 27, 1996)

Approved Use

1. This approval authorizes the establishment of a motel facility with the following features:
 - a. A maximum of 24 rooms
 - b. A manager's unit attached to the office. The manager's unit shall be used exclusively for housing of the motel's on-site manager and shall not be used for transient occupancy.
 - c. A dining area for motel guests only, with access through the lobby only, and with kitchen.
 - d. An enclosed pool area with an open roof or single story rooms at the easterly end of the northern building.
 - e. 28 parking spaces (or minimum necessary to comply with county ordinance).
 - f. No habitable buildings or occupied structures may encroach into the 100 year flood hazard area (as per 100 Year Flood Analysis for Ted Eady, North Coast Engineering, March 17, 1994).

2. Applicant shall receive Planning Department approval of a revised site plan and building elevations that complies with Conditions No. 1 above.

Building & Grading Permit

3. Obtain county approval for, and comply with the following:
 - a. CCSD water permit before construction permits may be issued.
 - b. Building permits for all work. The plans and permits shall note that all building walls and roofs shall be neutral, earthtone, non-reflective colors. The front balconies shall not encroach into more than 1/3 of the required 10 foot front setback. There shall be no roof top equipment that is visible from public roads, except for typical chimneys, roof vents, and sky lights.
 - c. Grading permits & drainage plans for all work.
 - d. All building, grading & drainage plans & permits shall comply with CZLUO Section 23.05.060 et.seq. (Flood Hazard) and with the recommendations of the following reports:
 - 100 Year Flood Analysis for Ted Eady, Lots 9-11, Tract 27, Cambria (3/17/94 by North Coast Engineering) (plus any report amendments).

- Observations Regarding Geologic Conditions at Eady Property, Moonstone Beach Drive, Cambria (2/18/94 by Cleath & Associates) (plus any report amendments).

No habitable buildings or occupied structures may encroach into the 100 year flood hazard area that is shown in this report.

- e. All building & grading plans shall show a protective 6 foot high fence on top of the retaining wall along the south property line, where appropriate.
- f. Submit to and obtain approval for the two bridges. Both bridges shall minimize footing or foundation encroachment into the riparian area, and shall have minimal visual obstruction of the Highway 1 corridor.

Landscape Plans

- 4. Prior to the issuance of any building permits obtain Planning Department approval of landscape planting and irrigation plans that comply with LUO Section 22.04.180 et.seq. The plans shall provide complete landscape cover for the landscape areas not affected by the riparian revegetation plan. The landscape plans shall include:
 - a. Screening plants along the side & rear property lines, where practical, that will retain the required Highway 1 view corridor.
 - b. Plant material suitable for the Cambria coastal area.

Environmental Mitigation Measures

- 5. At the time of application for construction permits, the applicant shall submit erosion control/bank protection and drainage plans prepared by a qualified licensed professional, for the review and approval of the County Department of Planning & Building in consultation with County Engineering. The plans shall address the erosion and drainage issues as identified in the geologic analysis (Cleath; 2/18/94). The methods used for bank protection and stabilization shall allow for revegetation of the area with riparian vegetation, and shall be integrated into the revegetation plan.
- 6. Prior to application for construction permits, the applicant shall submit a survey prepared and stamped by a licensed surveyor or civil engineer that locates the upland extent of the riparian vegetation, or the top of bank of the drainage channel (whichever is wider). The edge of the riparian area shall be staked and verified in the field by a qualified botanist. A letter of verification or signature of the

botanist on the survey shall be included with the submittal. All future site plans and construction drawings shall reference the survey points identified on this plan. No alteration, cutting or removal of riparian vegetation shall occur in conflict with the *Revegetation and Enhancement Plan*.

7. No construction activities shall be allowed in the creek/drainage swale area except that activity necessary for the erosion control/bank stabilization, driveway bridge, footbridge and revegetation.
8. At the time of application for construction permits, the applicant shall indicate on the construction drawings:
 - a. the distances between construction activities or development and the edge of the riparian vegetation (or top of bank) as shown on the survey. No development except as shown on the site plan (February 1996) shall be closer than 10 feet from the upland extent of riparian vegetation except for minor exceptions as approved by the Environmental Coordinator. Any exceptions to the 10 foot limit shall be allowed only where it has been proven to the satisfaction of the Environmental Coordinator that no viable option or design solution exists that would allow the 10 foot limit to be maintained.
 - b. the type and location of construction fencing, to be reviewed and approved by the Environmental Coordinator that will adequately prohibit access and construction activity to areas of sensitive biological resources.
 - c. the type and location of all sedimentation and erosion control measures as well as pollutant (e.g. petroleum products, chemicals) control measures.
 - d. stockpile or storage areas.
9. Prior to issuance of construction permits, the applicant shall submit an "*Revegetation & Enhancement Plan*" for review and approval of the Planning & Building Department. The plan shall be prepared by a qualified landscape professional in conjunction with a qualified botanist and shall include:
 - a. only appropriate non-invasive native species from native on-site parent stock where possible;
 - b. type and amount of plant materials for the proposed replacement and enhancement of the riparian areas;
 - c. schedule for all planting activities;
 - d. maintenance and irrigation schedule for the revegetated areas;
 - e. the type and location of permanent fencing
 - f. performance criteria;
 - g. short term and long term erosion control planting measures;

10. Prior to final approval of construction permits, the applicant shall implement the approved "Revegetation & Enhancement Plan", or bond for the landscape installation (with the exception of erosion control revegetation which must be implemented immediately). In conjunction with the implementation of the landscaping plan, the applicant shall submit a letter, prepared by a qualified individual (e.g., arborist, landscape architect/contractor, nurseryman), to the Department of Planning and Building stating that the planting has been completed.
11. Prior to final approval of construction permits, the applicant shall Offer to Dedicate a perpetual open space easement or scenic preservation easement that achieves the goal of protecting the creek, riparian and buffer areas by legally restricting activities, uses and development of these areas. The riparian, creek and buffer areas shall be defined by the survey required in Condition No. 6 above. The Offer to Dedicate shall be to the County of San Luis Obispo, or to a non-profit group or corporation approved by the County and shall be in a form approved by County Counsel and the Department of Planning & Building. If other form of legal instrument is employed, it shall be in a form approved by County Counsel and the Department of Planning & Building.

Construction Activities

12. Prior to start of construction, a surveyor or civil engineer shall install benchmarks to the satisfaction of the building inspector that will enable the building inspector to verify compliance with building height limits.
13. Noise related to any construction activities shall occur only between the hours of 8:00 a.m. and 6:00 p.m.

Final Inspection

14. Prior to final inspection the applicant shall:
 - a. Obtain approval from the Cambria Fire Department of the installation of all required fire safety features.
 - b. Install all landscape planting and irrigation.
 - c. The walls and roofs of all buildings shall be neutral, non-reflective colors.

Operational Conditions

15. Upon establishment of the use, the following operational conditions shall be complied with:
 - a. Only the approved monument sign along Moonstone Beach Drive is authorized. No project signs shall be visible

from Highway 1 (i.e., temporary banners, permanent signs, flags).

- b. All project lights (security, etc.) shall be low wattage, shielded fixtures, and shall not be visible from off-site.
- c. All landscaping and south side fencing shall be maintained.

Erosion Control. Uncontrolled erosion through natural or development activities can threaten the stability of an environmentally sensitive area. Specific recommendations for erosion control are discussed in the Watershed chapter.

Other habitat types pose individualized needs and demand special management strategies. Coastal streams that serve as anadromous fish habitats are susceptible to impacts from surrounding properties. In-stream alterations, riparian vegetation removal, water diversions and pollution contribute to the need to protect streams that provide fish and other habitat values.

A second unique concern is the impact of off-road vehicles on habitat areas. Uncontrolled ORV use of bayfront areas and the coastal dunes can damage the habitat of a variety of species. Where this access is appropriate, it must be provided at a level which is consistent with the carrying-capacity of the area.

The recommendations of the Local Coastal Program address these concerns by ensuring protection of environmentally sensitive habitat areas, by establishing programs, policies, standards and ordinances.

POLICIES FOR ENVIRONMENTALLY SENSITIVE HABITATS

A. SENSITIVE HABITATS

Environmentally sensitive habitat areas are settings in which plant or animal life (or their habitats) are rare or especially valuable due to their special role in an ecosystem. Designation of environmentally sensitive habitats include but are not limited to: 1) wetlands and marshes; 2) coastal streams and adjacent riparian areas; 3) habitats containing or supporting rare and endangered or threatened species; 4) marine habitats containing breeding and/or nesting sites and coastal areas used by migratory and permanent birds for resting and feeding. The Coastal Act provides protection for these areas and permits only resource-dependent uses within the habitat area. Development adjacent must be sited to avoid impacts. While each of these habitat types is discussed in greater detail, general policies for protection of habitats are as follows:

*** Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats**

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]

Policy 2: Permit Requirement

As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]

***Policy 3: Habitat Restoration**

The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. Detailed wetlands restoration criteria are discussed in Policy 11. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]

Policy 4: No Land Divisions in Association with Environmentally Sensitive Habitats

No divisions of parcels having environmentally sensitive habitats within them shall be permitted unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat (100 feet for wetlands, 50 feet for urban streams, 100 feet for rural streams). These building areas (building envelopes) shall be recorded on the subdivision or parcel map. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]

B. WETLANDS

Coastal wetlands, tidal marshes, mudflats, freshwater marshes and related bodies of water are a dynamic, fragile link between oceanic and terrestrial ecosystems. Wetlands help improve the quality and quantity of water, as well as providing important wildlife habitats. By slowing run-off water, wetland vegetation causes silt to settle out, improving water quality. By retaining water during dry periods and holding it back during floods, wetlands will keep the water table high and relatively stable. By providing nesting, breeding and feeding grounds, wetlands support the diversity as well as health of wildlife. Several rare and/or endangered species are found within local coastal wetlands, including the California Brown Pelican and the California Least Tern.

The Coastal Act identifies wetlands and estuaries as environmentally sensitive habitats and requires that the biological productivity and the quality of such areas be maintained and, where feasible, restored. The special value of wetlands and estuaries is further recognized in Section

*** Policy 5: Protection of Environmentally Sensitive Habitats**

Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]

Policy 6: Principally Permitted Use

Principally permitted uses in wetlands are as follows: hunting, fishing and wildlife management; education and research projects. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-172 OF THE CZLUO.]

Policy 7: Public Acquisition

The California Department of Parks and Recreation, the California Department of Fish and Game and other public and private sources should be encouraged to acquire or accept offers-to-dedicate coastal wetlands wherever possible.

Priorities for acquisition should be:

- . Sweet Springs Marsh
- . Santa Maria River mouth
- . Villa Creek Lagoon
- . Properties surrounding Morro Bay which include wetland habitat.

[THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

Policy 8: Open Space Easements and Williamson Act Contracts

San Luis Obispo County shall continue to encourage the use of open space easements or Williamson Act contracts to ensure preservation of coastal wetlands. The county will develop guidelines to facilitate use of open space easements to include requirements for length of dedication (i.e., perpetuity or 10 years), appropriate management responsibility, etc. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

Policy 9: Regional Water Quality Control Board "208" Program

California Regional Water Quality Control Board shall administer programs identified through the "208" nonpoint source studies to ensure protection of coastal wetlands and water quality. (The county has incorporated the Basin Plan Amendment requirements into the COASTAL

productivity or opening up equivalent areas to tidal action; provided however, that if no appropriate restoration site is available an in-lieu fee sufficient to provide an area of equivalent productive value or surface area shall be dedicated to an appropriate public agency or such replacement site shall be purchased before the dike or fill development may proceed. Such mitigation measures shall not be required for temporary or short-term fill or diking; provided that a bond or other evidence of financial responsibility is provided to assure that restoration will be accomplished in the shortest feasible time. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

Policy 12: Mosquito Abatement Practices

Mosquito abatement practices shall be limited to the minimum necessary to protect health and prevent damage to natural resources. Biological control measures are encouraged. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 13: Vehicle Traffic in Wetlands

No vehicle traffic shall be permitted in wetlands. This shall not restrict local and state agencies or the property owner from completing the actions necessary to accomplish a permitted use within the wetland. Pedestrian traffic shall be regulated and incidental to the permitted uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 14: Adjacent Development

Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat values on the site. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

*** Policy 15: Wetland Buffer**

In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are

infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.

The minimum buffer strip may be adjusted by the county if the minimum setback standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard set-back, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principal permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

Policy 16: Wetland Buffers Less than 100 Feet

For buffers less than 100 feet as established consistent with Policy 15 (above) mitigation measures to ensure wetland protection shall be required, and shall include (where applicable) vegetative screening, landscaping with native vegetation, drainage controls and other such measures.

When the minimum buffer strip is adjusted by the county, it shall be done on a case-by-case basis only after the investigation of the following factors:

- a. Soil type and stability of development site, including susceptibility to erosion.
- b. Slope of land adjacent to the wetland and the ability to use natural topographic features to locate development.
- c. Types and amount of vegetation and its value as wildlife habitat including: 1) the biological significance of the adjacent lands in maintaining the functional capacity of the wetland, and 2) the sensitivity of the species to disturbance.
- d. Type and intensity of proposed uses.
- e. Lot size and configuration, and the location of existing development.

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

Policy 20: Fish and Game Review of Streambed Alterations

Significant streambed alterations require the issuance of a California Department of Fish and Game 1601-1603 agreement. The Department should provide guidelines on what constitutes significant streambed alterations so that the county and applicants are aware of what is considered a "significant" streambed alteration. In addition, streambed alterations may also require a permit from the U.S. Army Corp of Engineers. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 21: County and State Review of Coastal Stream Projects

The State Water Resources Control Board and the county shall ensure that the beneficial use of coastal stream waters is protected, for projects over which it has jurisdiction. For projects which do not fall under the review of the State Water Resources Control Board, the county (in its review of public works and stream alterations) shall ensure that the quantity and quality surface water discharge from streams and rivers shall be maintained at levels necessary to sustain the functional capacity of streams, wetland, estuaries and lakes. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 22: Program to Control Grazing Impacts

As recommended in the conclusions of the stream survey study, the California Department of Fish and Game may institute a pilot program on publicly owned land utilizing fencing and sediment basins to control grazing impacts on riparian vegetation and coastal streams. If the project is successful, the Department of Fish and Game shall institute a voluntary program providing funds to interested local ranchers who wish to utilize this program. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

*** Policy 23: Streambed Alterations**

Channelizations, dams or other substantial alterations of rivers and streams shall be limited to: a) necessary water supply projects, b) flood control projects when there are no other feasible methods for protecting existing structures in the flood plain and where such protection is necessary for public safety or to protect existing development, and c) development where the purpose is to improve fish and wildlife habitat. All projects must employ the best feasible mitigation measures. Maintenance and flood control facilities shall require a coastal development permit. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

***Policy 24: Riparian Vegetation**

Cutting or alteration of naturally occurring vegetation that protects riparian habitat is not permitted except for permitted streambed alterations (defined in Policy 23) and where no feasible alternative exists or an issue of public safety exists. This policy does not apply to agricultural use of land where expanding vegetation is encroaching on established agricultural uses. Minor incidental public works project may also be permitted where no feasible alternative exists including but not limited to utility lines, pipelines, driveways and roads. Riparian vegetation shall not be removed to increase agricultural acreage unless it is demonstrated that no impairment of the functional capacity of the habitat will occur. Where permitted, such actions must not cause significant stream bank erosion, have a detrimental effect on water quality or quantity, or impair the wildlife habitat values of the area. This must be in accordance with the necessary permits required by Sections 1601 and 1603 of the California Fish and Game Code. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 25: Stream Diversion Structures

Stream diversion structures on streams appearing as dotted or dash lines on the largest scale U.S.G.S. quadrangle maps shall be sited and designed to not impede up and downstream movement of native fish or to reduce stream flows to a level which would significantly affect the biological productivity of the fish and other stream organisms. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

***Policy 26: Buffer Zone for Riparian Habitats**

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

a design standpoint) can be accommodated. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

D. TERRESTRIAL ENVIRONMENTS

Terrestrial environments within San Luis Obispo County's coastal zone include unique plant habitats and rare and endangered animal habitats. Unique plant habitats include endemics (only found in one place) plant species, endangered plant species and representative natural plant communities. Those species that have been identified as rare or endangered, or their habitats, are discussed.

The high ecological value of these areas is reflected by the fact that most are within public holdings. All these areas (whether in public or private holdings) are also sensitive to disturbance by man's activities. Management techniques available are:

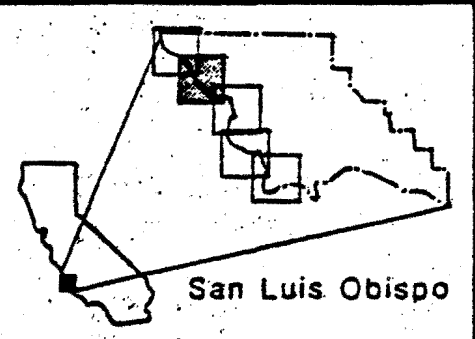
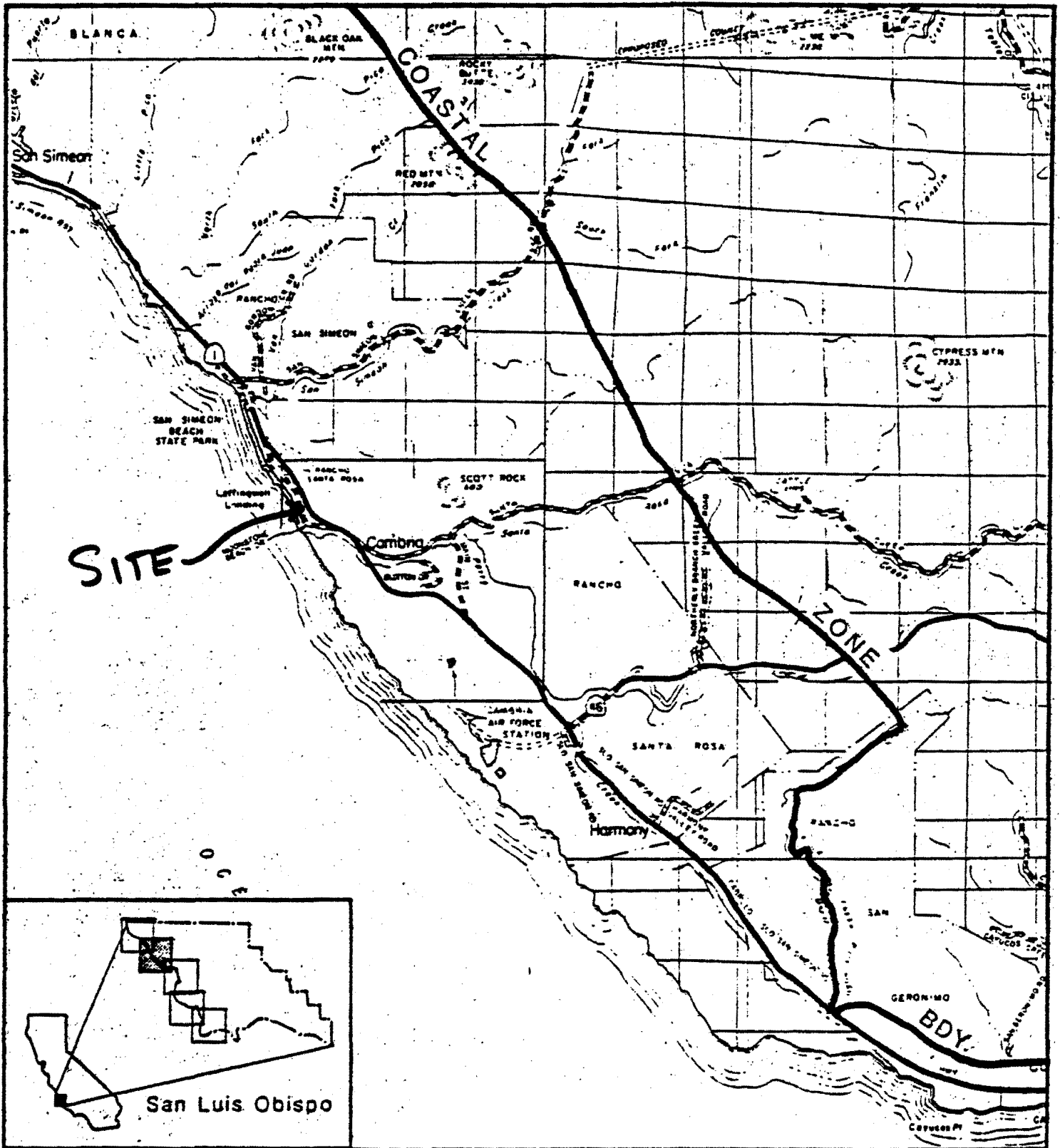
1. **Fee Simple Acquisition.** Many designated areas have been acquired through this method and it is still the most desired resource management technique available.
2. **Easements.** As described under wetlands, there are open space easements or Williamson Act contracts available for preservation of habitat areas within this county.
3. **Development Permits.** The county has established a review process for impacts to designated wildlife or vegetation habitat areas in the CZLUO. They are mapped as terrestrial habitats on the LUE combining designation maps.

Under the 1973 Endangered Species Act, the federal government will not allow federal funding for any project that will adversely impact designated species. Within the coastal zone this would specifically relate to the designated Morro Bay Kangaroo Rat habitat area located west of Pecho Road in South Bay, though it would also relate to several bird species with extensive habitat areas within the county.

The California Department of Fish and Game currently exercises control over designated critical habitat areas for rare or endangered wildlife species.

This applies to the designated Morro Bay Kangaroo Rat habitat in South Bay. The Department of Fish and Game also designates rare or endangered plant species. Since the program has just begun, there are currently no designated plant species within this county. For designated plant species, the Department of Fish and Game must be contacted concerning development that would adversely impact the plant species for development of mitigation measures. As plant species and habitat areas are recognized through this program, protection should be extended.

4. **Resource Protection Zones.** The Coastal Act required state agencies with property within the coastal zone to develop and recommend Resource Protection Zones (RPZs)



San Luis Obispo

EXHIBIT 5
A-3-SLO-96-021

LOCATION MAP



SITE

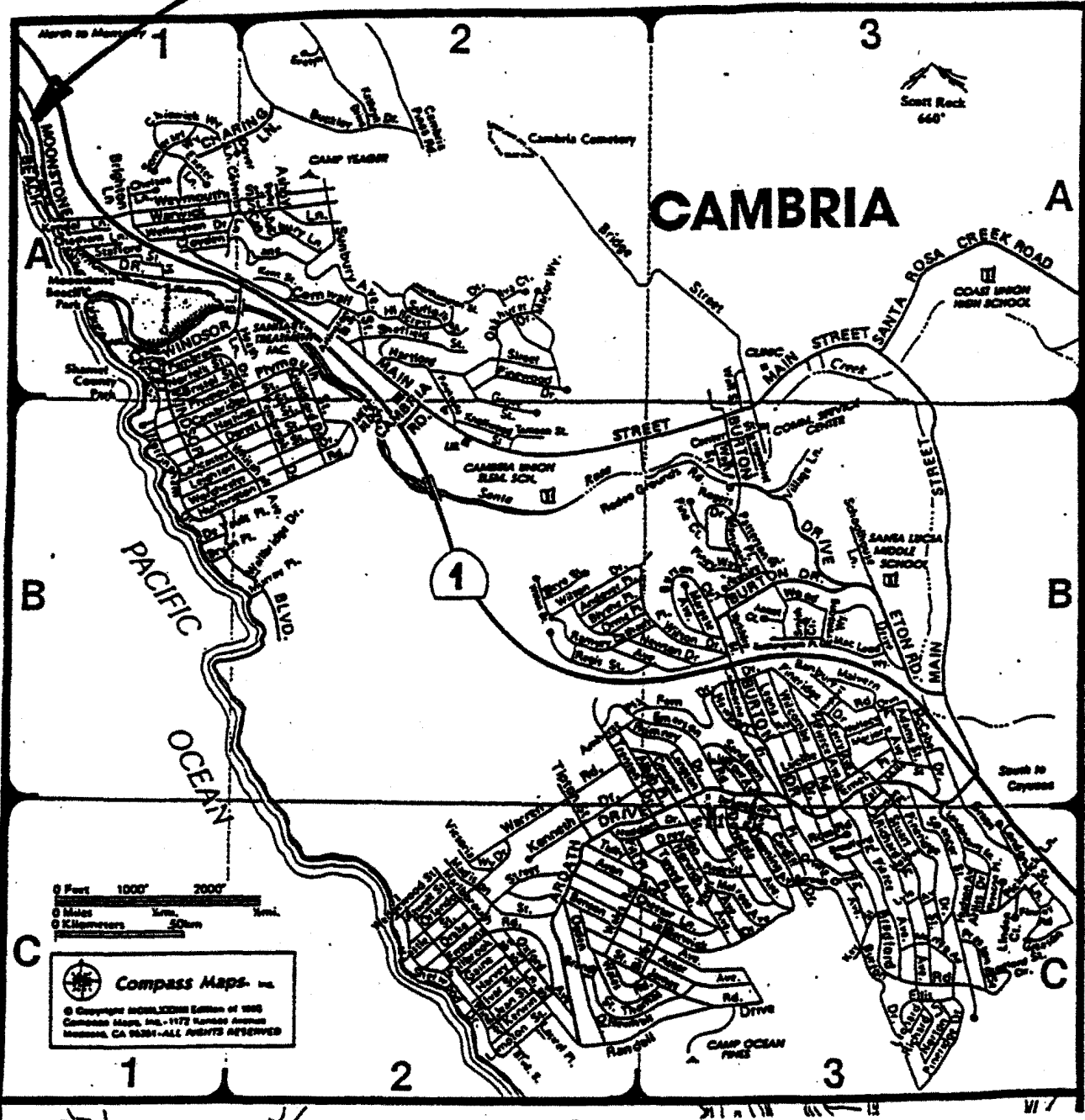


EXHIBIT 6

A-3-SLO-96-021

PROJECT

D930204D
EADY

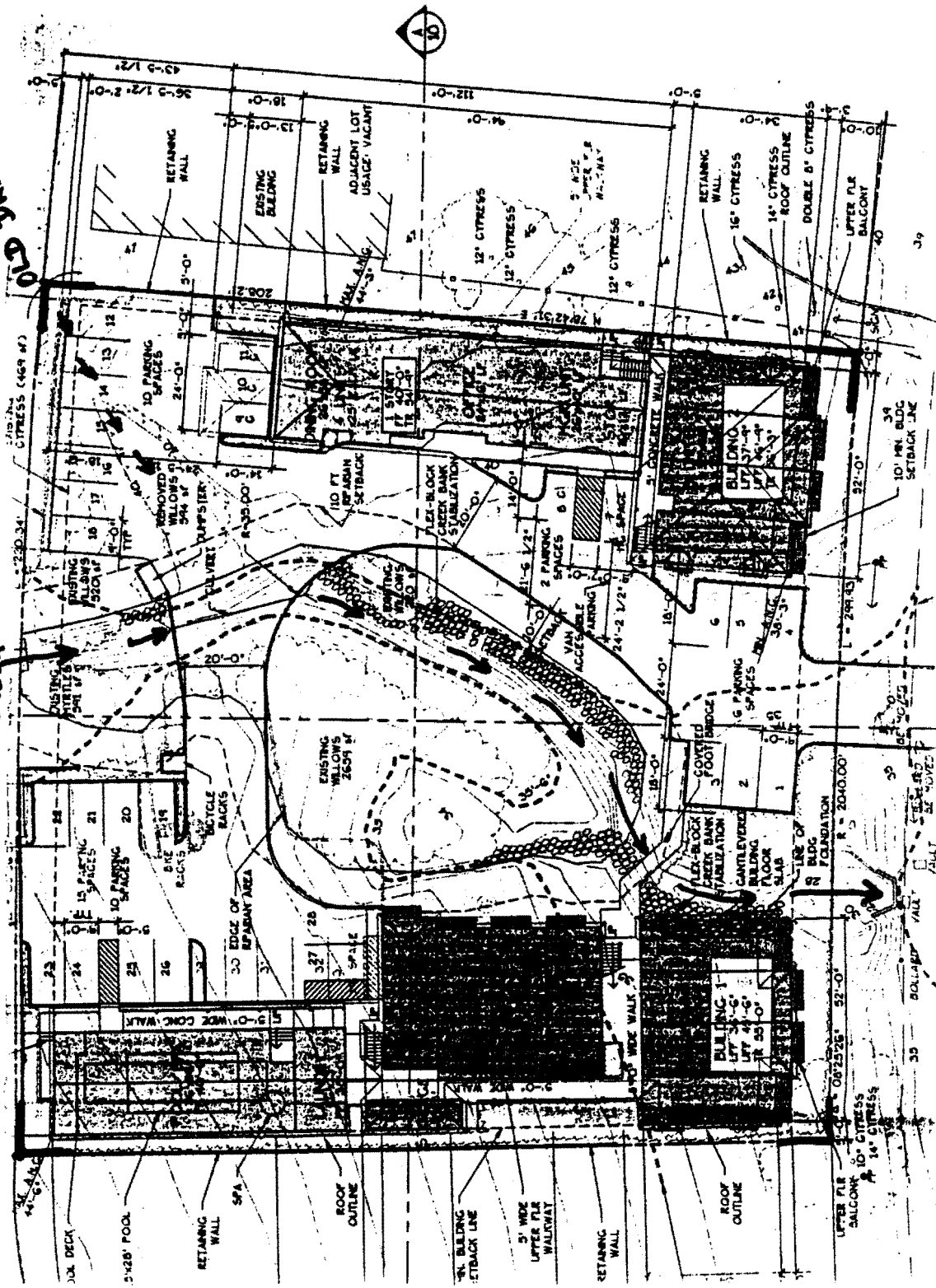


EXHIBIT

VICINITY MAP

HIGHWAY ONE

CAEK



MOONSTONE BEACH DRIVE

← 21

EXHIBIT 7
A-3-SLO-96-021
SITE PLAN

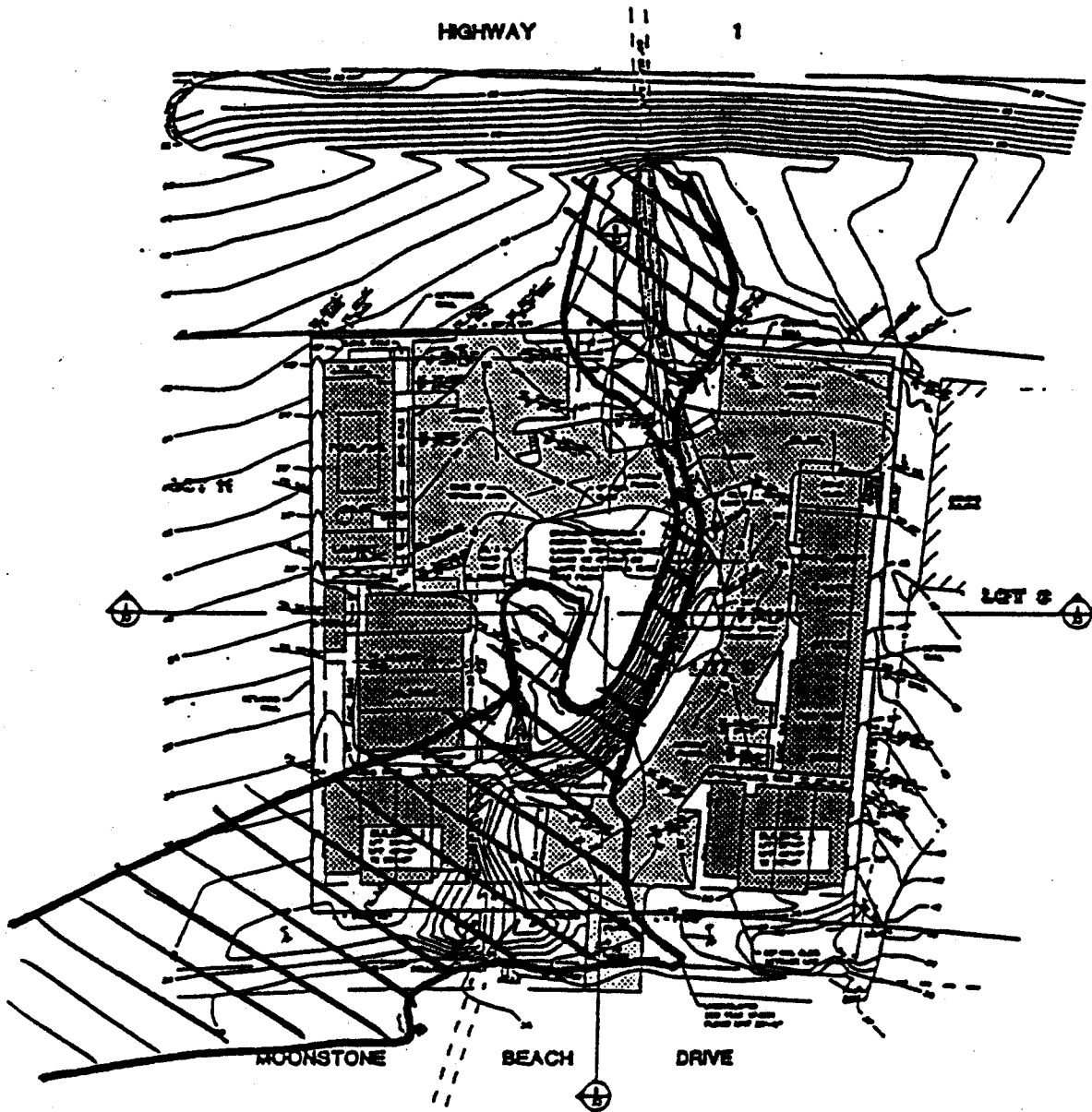


EXHIBIT 8

A-3-SLO-96-021

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PROJECT

D930204D
EADY



EXHIBIT

100 YEAR
FLOOD HAZARD AREA

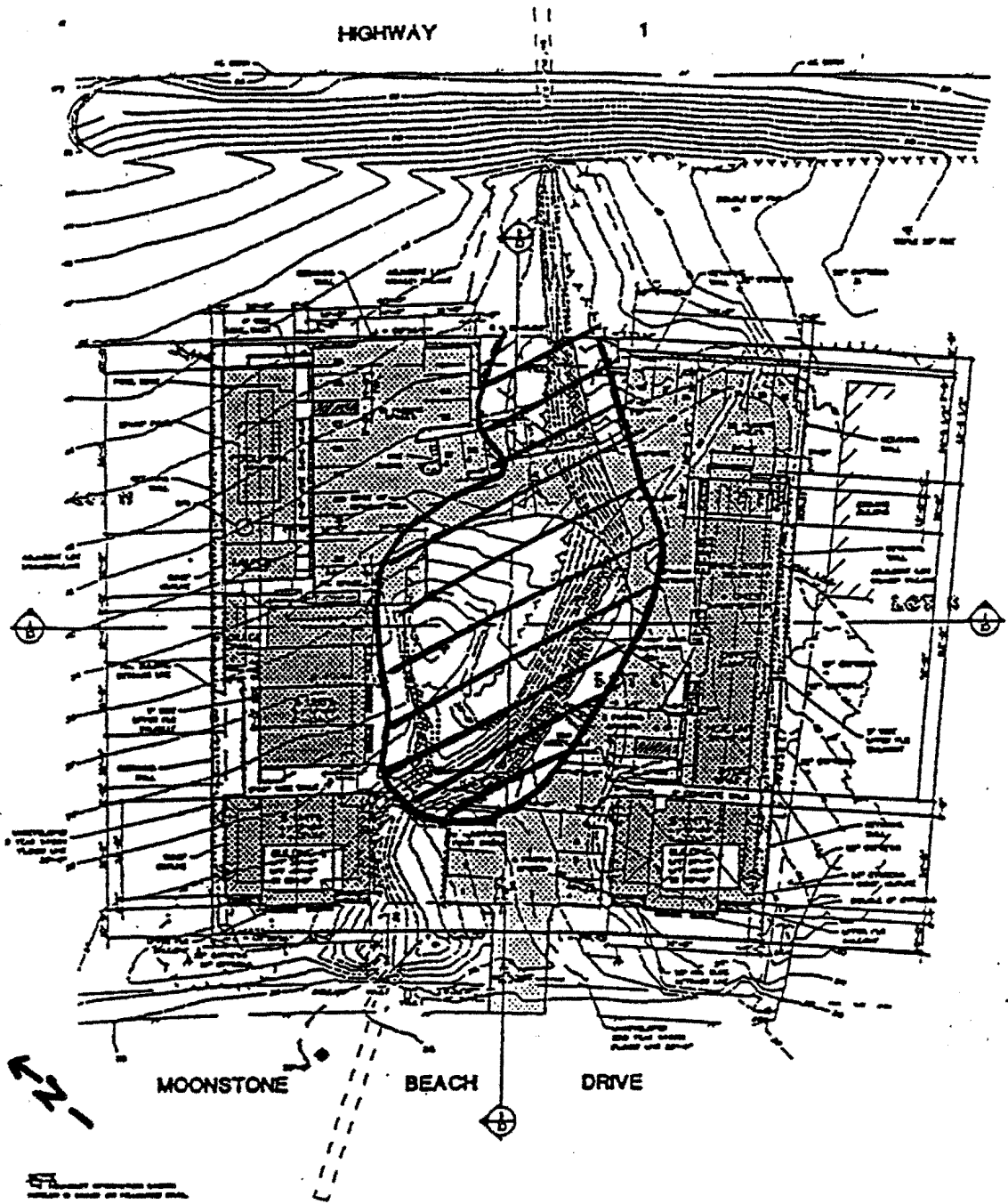


EXHIBIT 9
A-3-SL-96-021

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PROJECT

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EXHIBIT

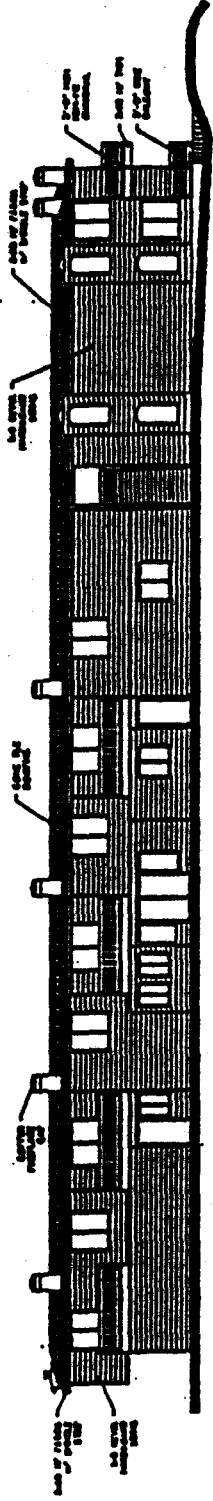
RIPARIAN HABITAT
 ± 10' SETBACK AREA

2
SAN LUIS C



REAR

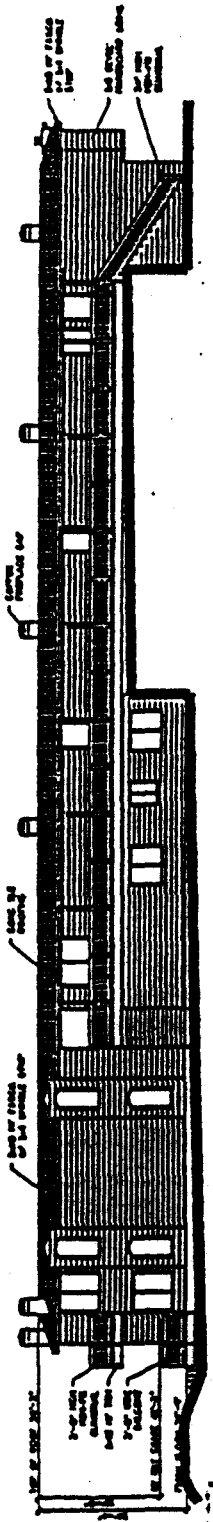
FRONT



LEFT

BUILDING 2 ELEVATIONS

1"=35'-0"



RIGHT

EXHIBIT 10

A-3-SLO-96-021

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PROJECT

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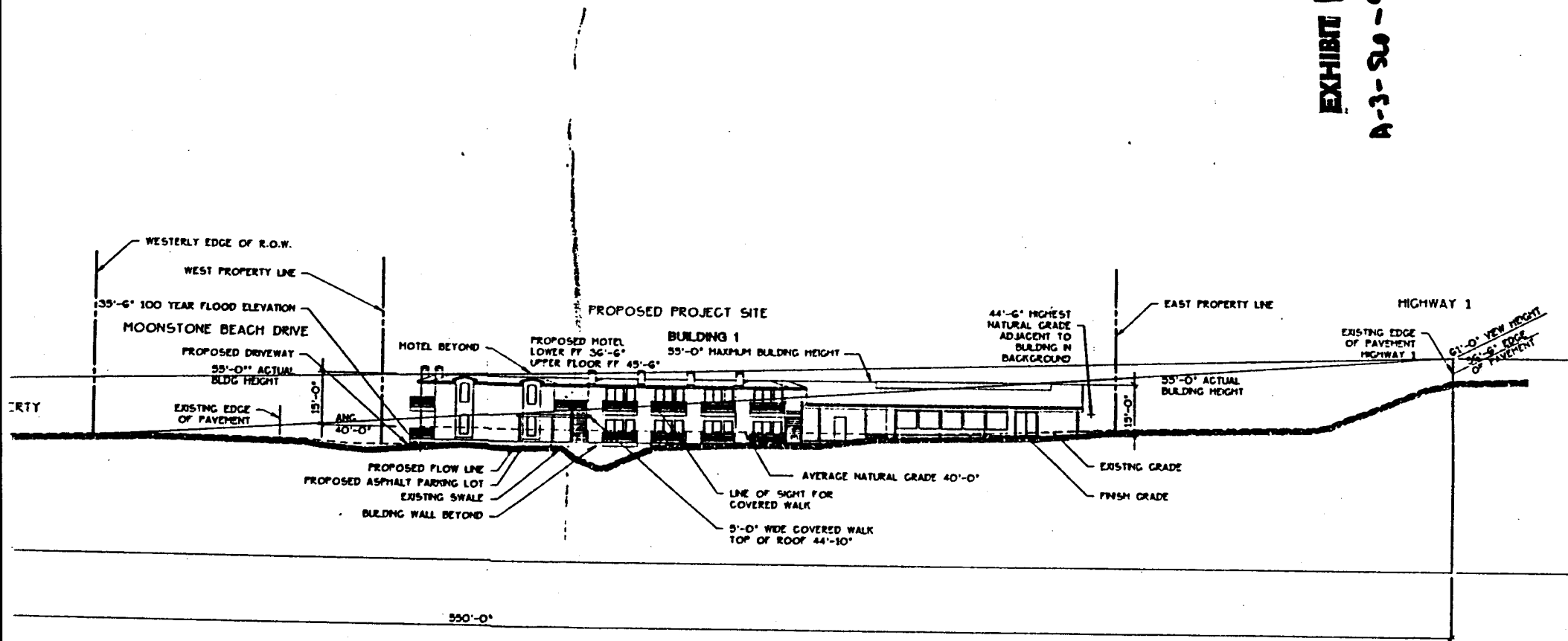


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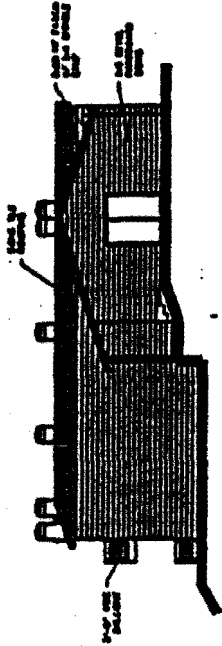
BLDG 2 - ELEVATION

EXHIBIT 10

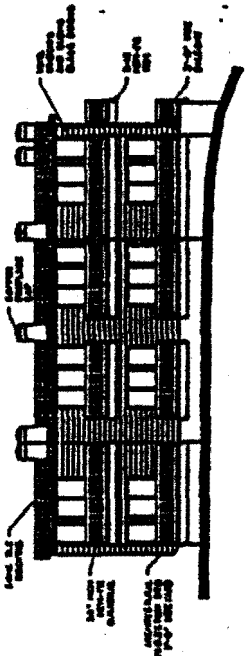
A-3-SU-96-021



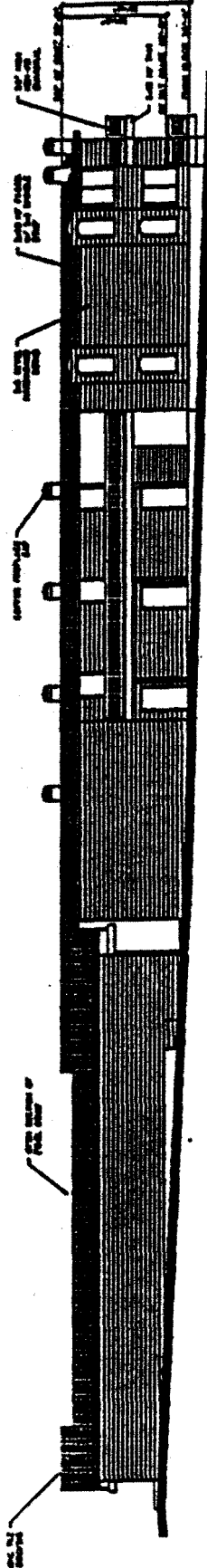
SECTION B
1"=20'-0"



REAR



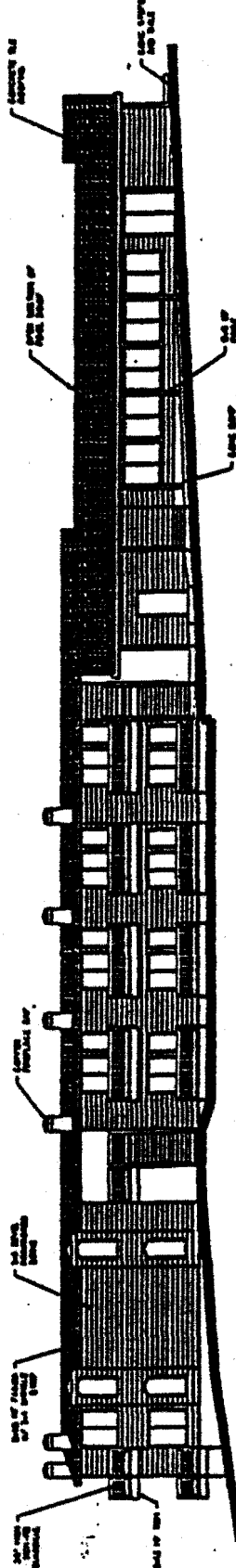
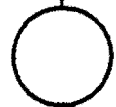
FRONT



LEFT

BUILDING 1 ELEVATIONS

1"=25'-0"



RIGHT

EXHIBIT 10

A-3-510-46-021

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PROJECT

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EADY



EXHIBIT

BLDG 1 - ELEVATION