

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

(8) 427-4863

HEARING IMPAIRED: (415) 904-5200

RECORD PACKET COPY



W7a

Filed: 03/04/98
 49th day: 04/22/98
 180th day: 08/31/98
 Staff: SG
 Opened & Continued:
 04/08/98
 Staff Report: 04/22/98
 Hearing Date: 05/13/98

STAFF REPORT: APPEAL
 SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of San Luis Obispo
 LOCAL DECISION: Board of Supervisors: Approved with conditions, 01/27/98
 Planning Commission: Denied, 10/09/97
 APPEAL NUMBER: A-3-SLO-98-025
 APPLICANT: BRIAN AND MARILYN SCOGGINS
 APPELLANT: John J. Maino
 PROJECT LOCATION: 1540 San Bernardo Creek Road, approximately two miles east of
 the City of Morro Bay in the unincorporated area, San Luis Obispo
 County, APN: 073-151-003
 PROJECT DESCRIPTION: Establishment of a temporary event site for weddings and similar
 gatherings on lands zoned for agricultural land uses.
 SUBSTANTIVE FILE DOCUMENTS: San Luis Obispo County Certified Local Coastal
 Program, Administrative record for permit D950222P

SUMMARY OF STAFF RECOMMENDATION AND STAFF NOTE

On April 8, 1998, 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. After evaluation of the proposal and the appeal, staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed. Staff further recommends that the Commission then defer a de novo hearing on the merits of the project so that the applicant can gather and supply additional information which shows how the proposal meets the LCP requirements for a non-agricultural use on land designated for agriculture.

II. LOCAL GOVERNMENT ACTION

On October 9, 1997, the San Luis Obispo County Planning Commission denied a coastal development permit for the establishment of a temporary event site for weddings and similar gatherings on agricultural lands located at 1540 San Bernardo Creek Road two miles east of the City of Morro Bay. The Planning Commission's denial was based on the grounds that the project proposed ongoing commercial activity in an agriculture zone, that it was not a limited temporary event, that it would be incompatible with surrounding agricultural operations, that it would be partially located on prime agricultural soils, and that it would result in increased traffic volumes that could contribute to unsafe traffic conditions. The applicant appealed the Planning Commission's denial to the Board of Supervisors which, on January 27, 1998, reversed the Planning Commission's decision and approved the application. Exhibit 2 is the complete text of the Board resolution and the final findings and conditions. As discussed below, the Board conditioned the project to stay off of prime agricultural lands and limited the number of events that could take place in any given year.

III. APPEAL PROCEDURES AND STANDARD OF REVIEW

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)).

This proposal is appealable on two bases. In the Framework for Planning portion of the LCP is found Coastal Table 'O' which lists allowable uses in each land use category. The County-approved proposal is characterized as a temporary event. According to Coastal table 'O,' temporary events are not allowed on prime agricultural soils, but are allowed on non-prime agricultural soils, if certain requirements are met. Temporary events on non-prime agricultural soils are listed in Coastal Table 'O' as an "S-17" use. That means that the use is a "Special use, allowable subject to special standards and/or processing requirements. . . ." found in section 23.08.240 of the Coastal Zone Land Use Ordinance (CZLUO), which addresses temporary uses. Principal permitted uses are so designated in Coastal Table 'O' by a "P." Since the proposed use is not designated as a "P" use, but rather an "S-17" use, it is not a principal permitted use, and therefore is appealable. The proposal would occur on a site in a mapped appeal area (within 100 feet of a stream) and so is appealable on that basis also.

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. The standard of review for an appeal is the certified LCP.

control binder to the proposed gravel/crushed rock parking area, and directional signs. As approved by the County, "No temporary event related parking, ground disturbance or activities shall occur on prime agricultural soils."

B. Substantial Issue Analysis

The following analysis relates only to whether or not substantial issue concerning the County's approval is raised by the appellant's contentions. Staff is recommending that the Commission find that substantial issue exists. If the Commission so finds, then staff recommends the de novo review of the project under the LCP be deferred so that the applicant can provide staff with additional information which shows how the proposal meets the requirements of the LCP for a non-agricultural use on agricultural land. Therefore, this report does not include a de novo review and analysis of the merits of the proposal.

1. Maintaining Agricultural Lands

Appellant Maino claims that the proposed use is inconsistent with LCP Agriculture Policy 1, Maintaining Agricultural Lands, and Agriculture Policy 3, Non-Agricultural Uses. Maino also asserts that the County failed to apply the requirements of CZLUO section 23.04.050, Land Uses in the Agricultural Category to the proposed use.

Agriculture Policies 1 and 3 of the San Luis Obispo County LCP embody the Coastal Act requirement to maintain agricultural lands by limiting conversions of agricultural lands to those situations where agricultural use is no longer feasible or where such conversion would concentrate development or preserve prime agricultural lands. Accordingly, these policies set a high standard for converting agricultural lands to non-agricultural uses. First, Agriculture Policy 1 severely limits the conversion of prime agricultural lands (see exhibit 4 for full text). In this case, the County has required that no development take place on prime lands; therefore no substantial issue is raised with respect to the protection of prime lands. However, Ag Policy 1 also states, in part:

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

In this case, no showing has been made by the County that continued or renewed agricultural use is not feasible. Nor will this project concentrate urban development or preserve prime agricultural land. (Although the project is conditioned to stay off of prime lands, nothing about the project per se protects prime lands and there is no assurance that prime lands will be maintained -- e.g., no easement is provided; no showing has been made that this supplemental use is needed to support prime ag land production; etc.) Therefore, the project clearly raises a substantial issue with respect to Agriculture Policy 1.

Agriculture Policy 3 also requires a showing that continued agricultural use on a parcel is not economically feasible without a supplemental non-agricultural use before such non-agricultural use may be permitted. The policy states, in part:

<p>services is permitted and the permitted development shall provide water and sanitary facilities on-site.</p>	<p>service shall not be extended to support on-site agricultural or other uses.</p>	
<p>h. No land division is required and the remainder of the parcel is secured in agricultural use through an agricultural easement.</p>	<p>23.04.050b.(6)(vii). The project shall not require a land division.</p>	<p>Yes. No land division is proposed, but there is no condition requiring an agricultural easement.</p>

In addition to the above requirements, Policy 3 also requires that development proposals include a site plan showing subsequent phases of development, undevelopable non-agricultural land, and all land to be used for agricultural purposes. Total non-agricultural development area is limited to 2% of the gross acreage of the parcel. This policy is implemented by CZLUO section 23.04.050b.(6)(ii). The proposal also raises a substantial issue with this policy because the parking area alone would be about one-third of an acre or a little over 2% of the gross site area. With the existing lawn area, where the events are proposed to take place, the non-agricultural use would be about 5% of the gross site area.

Finally, CZLUO section 23.04.050b(5)(iii) requires that development proposals include a demonstration that the project siting and design would protect habitat values and be compatible with the scenic, rural character of the area. The proposal raises a substantial issue with this section of the CZLUO because the effect of the proposed use on habitat values is unknown and because there was no analysis of the effect of the proposed use on the scenic, rural character of the surrounding area.

Overall, the project as approved by the County raises a substantial issue with both the general policy requirements of Agriculture Policy 3, as well as many of the specific requirements of CZLUO section 23.04.050.

As mentioned, appellant Maino has also challenged the project under Agriculture Policy 7 and Coastal Watersheds Policy 6. These policies are similar and protect the priority status of Agricultural uses concerning water supply within the context of protecting habitat values. Agriculture Policy 7 requires that "Water extractions consistent with habitat protection requirements shall give highest priority to preserving available supplies for existing or expanded agricultural uses." Similarly, Coastal Watersheds Policy 6 states that "Agriculture shall be given priority over other land uses to ensure that existing and potential agricultural viability is preserved, consistent with protection of aquatic habitats." In this case there has been no showing as to how much water would be used by the proposal or how the use might affect habitats. Nor is there any information about currently available water supplies and allocations on which to base a finding that agriculture is being given the highest priority.

Although the proposed use will probably use a limited amount of water, it is, nonetheless, a non-agricultural use that must be analyzed with regard to its use of water. In particular, approval of the proposal would not be giving agriculture priority over other land uses in order to ensure agricultural viability. Therefore, a substantial issue exists with respect to Agriculture Policy 7 and Coastal Watersheds Policy 6.

2. Allowable Uses and Temporary Events

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

FEB 17 1998

APPEAL FROM COASTAL PERMIT CALIFORNIA
DECISION OF LOCAL GOVERNMENT COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION I. Appellant(s)

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

John J. Maino
1117 San Bernardo Creek Road, Morro Bay, CA
93442 (805) 772-3944
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: Minor Use Permit / Coastal Development Permit to allow temporary events such as weddings, anniversaries and fundraising in the Agriculture Land Use Category

3. Development's location (street address, assessor's parcel no., cross street, etc.): 1540 San Bernardo Creek Road, east of Highway 1 and east of the City of Morro Bay APN: 073-1512003

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: X
- 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-98-025

DATE FILED: 3/4/98

DISTRICT: Central Coast

EXHIBIT 1

A-3-SLO-98-025

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 Exhibit "R"

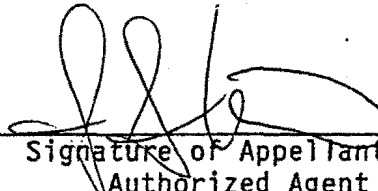
See Cover Letter (2/1/98)

0-10135

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 2/9/98

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 _____

EXHIBIT 1, p3

A-3-520-98-025

Exhibit "B"

Re: Scoggins/Phoenix Catering- Catering and fund-raising business, Ag Category
Approved by the County of San Luis Obispo on January 27, 1998

The following provides grounds for appeal of the County approval to the California Coastal Commission according to applicable State and County codes:

Facts: The proposed use is a commercial catering and events business. It was approved as the principal use of the property. The commercial business is proposed to be located in the Agricultural category (both prime and non-prime) soils. Productive grazing and farmland surround the event site.

Basis: The proposed use is not consistent with a number of the County of San Luis Obispo Local Coastal Program (LCP) sections, including:

- A. LCP Framework for Planning. Specifically 'Table 'O' – Allowable Use Chart', and applicable definitions of uses. Part of the site meets the LCP definition for prime agricultural soils. By basic definition, the use called 'Temporary Events' is not an allowable use. Temporary Events is not a principally permitted use, and therefore within the appealable category according to PRC 30603.
- B. LCP Policy Document, chapter on Agriculture (AG), including: Ag Policy 1- Maintaining Agricultural Lands (see SLOCO staff file, letter from John Maino 9/15/97, pgs. 6&7), Ag Policy 3- Non-Agricultural Uses (see SLOCO staff file, John Maino letter 9/15/97, pgs. 7&8, Ag Policy 7- Water Supplies (see SLOCO staff file, John Maino letter 9/15/97, pgs. 9,15&16). In addition, Coastal Watersheds chapter including: Policy 6- Priority for agricultural expansion.
- C. LCP Coastal Zone Land Use Ordinance. Specifically, the County's failure to disclose substantive regulations that apply to non-agricultural uses. Such as, Section 23.04.050 – Land Uses in the Agricultural Category (see SLOCO staff file, John Maino letter 9/15/97, pgs. 9,10&11). This section requires that if a non-ag use is approved in the AG category, that it cannot occupy more than 2% of the gross site area, and that the remainder be covered by an Agricultural or Open Space easement. The County did not address this requirement. This is precedent setting, and a significant violation of the certified LCP.
- D. Calling the use "temporary" does not make an illegal use consistent with the LCP. The use as described by both the applicant and County, is commercial, and proposed as the principal use of the parcel.

Substantial Issue: This appeal is necessary to prevent serious land use compatibility problems in the area, and to prevent this from becoming a precedent for other ag land conversions in our coastal zone. The Commission found substantial issue in the

EXHIBIT 1, p5

A-3-SLO-98-025

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FEB 17 1998

1117 San Bernardo Creek Road
Morro Bay, CA 93442

February 1, 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA
California Coastal Commission
Central Coast Area Office
725 Front Street, STE. 300
Santa Cruz, CA 95060

Re: SLO County approval of D950222D/Scoggins, Minor Use Permit

Dear Coastal Commission Staff,

Enclosed with this packet you will find the appeal form for the above referenced Minor Use Permit (MUP) approval. In addition, also enclosed are some letters (SLOCO staff file, letters from John Maino 9/15/97, 9/30/97 & 1/20/98) I have written to San Luis Obispo County in regard to same. Hopefully these letters will clarify my position and concerns more thoroughly than what was covered in the appeal form itself, as I tried to keep the appeal brief, as was requested.

The MUP approval has essentially given a commercial catering business the right to host events, for profit, at a permanent site (a 14 acre parcel which they own), 1 ¼ miles up a coastal canyon northeast of Morro Bay. The parcel itself is much smaller than adjacent agricultural land, most of which is under Williamson Act coverage. The original application requested 35 events, but County staff determined that was too many and decided upon 12 events, using the Temporary Events provision in Coastal Table 'O' as justification. The events can be held over a 6 month period and the permit is good for 5 years. Additionally, the applicant requested that they be given the right to hold fundraising events (outside of their permit) on the site as well. Although these events would be fundraisers, the property owner would profit by catering the event.

The San Luis Obispo County Agricultural Commissioner's Office, in review of this application stated "**the proposed project appears to be a precedent-setting Retail/Commercial endeavor proposed for a canyon within the Coastal Zone designated exclusively for Agriculture**". Additionally, the Planning Commission felt that this was absolutely the wrong place for such an endeavor and unanimously denied staff's reduced proposal to allow this use. The applicant appealed the Planning Commission decision and the Board of Supervisors, on a 3-2 vote, overturned the action and allowed the use as conditioned by staff.

The permit approval was also associated with the approval of a negative environmental declaration. I believe this document is greatly flawed. The neighbors and I presented evidence about road conditions, water use and agricultural compatibility problems, contradicting the analysis made in that study. Information regarding these issues is

EXHIBIT 1, p 7

A-3-SLO-98-025

Plan

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

-----Tues. day January 27-----, 19 98.

PRESENT: Supervisors Harry L. Ovitt, Laurence L. Laurent, Peg Pinard, Ruth E. Brackett
and Chairperson Michael P. Ryan

ABSENT: None

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FEB 20 1998

S.L.O. COUNTY
PLANNING DEPT.

RESOLUTION NO. 98-32

RESOLUTION REVERSING THE DECISION OF THE
PLANNING COMMISSION AND CONDITIONALLY
APPROVING THE APPLICATION OF MARILYN SCOGGINS FOR
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT D950222P

The following resolution is now offered and read:

WHEREAS, on October 9, 1997, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and disapproved the application of Marilyn Scoggins for Minor Use Permit/Coastal Development Permit D950222P; and

WHEREAS, Marilyn Scoggins has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on January 27, 1998, and determination and decision was made on January 27, 1997; and

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

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be upheld and the decision of the Planning Commission should be reversed and that the application should be approved subject to the findings and conditions set forth below.

EXHIBIT 2

A-3-SLO-98-025

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

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 
Deputy County Counsel

Dated: JANUARY 27, 1998

JBO/2291mja.res

STATE OF CALIFORNIA) ss
COUNTY OF SAN DIEGO)

I, JULIEL ROSEWALD, County Clerk of the above
entitled County, and Ex-Officio Clerk of the Board
of Supervisors thereof, do hereby certify the fore-
going to be a full, true and correct copy of an order
entered in the minutes of said Board of Super-
visors, and now remaining of record in my office.

Witness, my hand and seal of said Board of
Supervisors this 11 day of Feb
19 98.

JULIEL ROSEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors

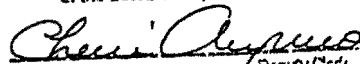
By 
Deputy Clerk

EXHIBIT 2, 3

A-3-SLO-98-025

G. That due to the unique characteristics of the site temporary events in this location will not be precedent setting.

PROTECTION OF AGRICULTURAL RESOURCES

H. The project will protect agricultural resources by limiting the area of all event related activities to areas of the site determined to be non-prime agricultural soils. No project activities or ground disturbance shall occur on any soils classified as Class I or Class II in the Soil Conservation Service and its category, "High Location", or on land which qualifies for rating 20 through 100 in the Soils Index Rating or on land which supports livestock used for the production of food and fiber which has an annual carrying capacity equivalent to at least one animal unit per acre, as defined by the U.S. Department of Agriculture, or on land planted with fruit or nut-bearing trees, nut bushes or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than 3200 lbs/acre.

PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS

I. The project will not adversely affect any environmentally sensitive habitat area or the adjacent coastal stream because no ground disturbing activities, events or related activities are allowed within such area, by prohibiting any event related activities within 100 feet of the stream, by not disturbing any riparian vegetation, and by locating the parking lot in excess of 100 feet from the coastal stream.

COMPLIANCE WITH THE LOCAL COASTAL PROGRAM

J. The project will comply with the Local Coastal Program by protecting coastal resources, because the project meets the requirements of the Temporary events section of the Coastal Zone Land Use Ordinance, and protects agricultural resources and environmentally sensitive habitat areas.

EXHIBIT 2, p 5

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2. All permits shall be consistent with the revised Site Plan to be submitted and approved by development review staff to show:

- reduction of residential units consistent with density provisions for agriculture
- sign location
- site modification to increase site distance consistent with the project's traffic study

Additional Plans and Information to be Submitted

3. Prior to establishment of the use and the first event the applicant shall submit a proposed attendee brochure (mailer) to the development review staff for review and approval to include at minimum the following:

- a) clear map showing the location of the site
- b) distances from highway one
- c) location of directional signs
- d) warnings regarding San Bernardo Creek Road
- e) speed limits
- f) road conditions (sharp corners, narrow roads)
- g) trespassing on neighboring properties is prohibited.
- h) interference with agricultural operations is prohibited, including interference with movement of farm equipment on the public roadway.

4. Prior to establishment of the use the applicant shall submit to the development review staff, a sign plan in accordance with the provisions of Coastal Zone Land Use Ordinance for on-site identification and for directing on-site traffic.

Site and Related Improvements

5. Prior to the establishment of the use the applicant shall make the following improvements:
- a) Improve the driveway ingress and egress to 18 feet as shown on the approved site plan.

EXHIBIT 2, p 7

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from the County Fire Department after making the improvements required in their letter of May 20, 1996.

Environmental Mitigation

Water Quality

10. During operation of the proposed project, the applicant agrees to maintain the existing 150-foot buffer between the proposed guest parking area and San Bernardo Creek.

Traffic

11. Prior to establishment of the temporary event use., the applicant shall submit evidence such as a letter from the California Department of Transportation stating that the southbound left-turn channel at the intersection of Highway 1 and San Bernardo Creek Road has been constructed and is in operable condition.

Air Quality

12. Prior to establishment of the temporary event use, the applicant shall apply a dust control product approved by APCD to all unpaved surfaces of the project site to be used for the circulation and parking.

Mitigation Monitoring

13. Prior to and during each temporary event season, the applicant shall either:
 - a) Retain a qualified environmental monitor, approved by the Environmental Coordinator; or,
 - b) Provide compensation for County Department of Planning and Building staff to observe temporary events for compliance with above conditions of approval.

The applicant shall ensure that an annual monitoring report be submitted to the Department of Planning and Building, Development Review Section.

EXHIBIT 2, p9

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C. ALLOWABLE LAND USES IN THE COASTAL ZONE

The following charts (Coastal Table O) list uses of land that may be established in the land use categories shown by the LUE area plans in the coastal zone. After determining what land use category and combining designation applies to a particular property, the chart can be used to find what uses are allowable. The chart will also show where to look in the Coastal Zone Land Use Ordinance to find the standards that apply to the planning and development of such land uses, as well as what permit is needed before a use can be established.

IMPORTANT: When determining the land use category and combining designation (if any) applicable to a particular property, also check the planning area standards and any policies from the Coastal Plan Policies Document that may apply to the property. (Planning area standards can be found in the LUE area plan that covers the part of the county containing the property in question. The LCP Policy Document may include additional requirements or standards affecting the type of development proposed.) Those standards may limit the uses allowed by the following charts, or set special permit requirements for a particular land use category, community or area of the county.

The column headings at the top of the charts are the land use categories, and the left column lists land uses, grouped under general headings. When the proposed land use is known, reading across the columns will show where the use is allowable. If a proposed use doesn't seem to fit the general land use headings, the definitions of uses in Section D of this chapter can help determine the proper group of uses to look for. A particular use of land need not be listed in the use definitions to be allowable. If a proposed use is not specifically mentioned, the planning director will, upon request, review a proposed use and identify the listed use it is equivalent to, as described in Chapter 2 of this document.

The letter "A" on the chart means that the corresponding use in the left column is "Allowed" in that land use category, if consistent with the LUE, LCP and other applicable regulations. Though some uses with an "A" in various categories (such as crop production) are identified in the Coastal Zone Land Use Ordinance as requiring no permit, in most cases the "A" means a use can be established with a plot plan approval as part of a building permit (or more intensive permit process if required by the CZLUO based on the size of the use), subject to the Coastal Zone Land Use Ordinance standards that must be considered in planning and developing a use.

→ The letter "S" means that a use is allowable in a particular land use category only when special standards or permit procedures are followed. The number after the "S" refers to the key following the charts, which explains where to look in the Coastal Zone Land Use Ordinance to find the special standards. A "P" means that the use is principally permitted and encouraged over non-principally permitted uses. A "PP" means the same as a "P" where found in the text.

→ A blank space in a land use category column means the corresponding use on the left side of the chart is not allowable in that land use category.

EXHIBIT 3

A-3-SL-98-025

- 14 Uses are allowable in the Open Space land use category on privately-owned land subject to Coastal Zone Land Use Ordinance Section 23.08.120a in addition to the special standards in Chapter 23.08, only when authorized by a recorded open space agreement executed between the property owner and the county. On public lands, uses designated are allowable subject to Coastal Zone Land Use Ordinance Section 23.08.120b, in addition to the special standards found in Chapter 23.08.
- 15 Listed processing activities are allowable in the Rural Lands and Agriculture land use categories only when they use materials extracted on-site pursuant to Coastal Zone Land Use Ordinance Section 23.08.120a, or when applicable, the Coastal Zone Land Use Ordinance Surface Mining Standards, Section 23.08.180 et. seq.
- 16 23.08.020 ACCESSORY USES
- 17 23.08.240 TEMPORARY USES ←
- 18 23.08.050 INTERIM AGRICULTURAL USES
- 19 23.08.400 WHOLESALE TRADE
- 20 23.08.300 ELECTRIC GENERATING PLANTS

EXHIBIT 3, p 3

A-3-SLO-98-025

Storage Yards and Sales Lots [H14]

Service establishments primarily engaged in the outdoor storage of motor vehicles, construction equipment, materials or supplies, farm machinery or industrial supplies on a lot or portion of a lot greater than 200 square feet in area. Sales lots consist of any outdoor sales area for permanent display of motor vehicles, recreational vehicles, mobilehomes, construction equipment, farm machinery or other heavy equipment; outdoor equipment rental yards (not including recreational equipment rental, which is included under "Outdoor Sports and Recreation"); large scale temporary or permanent outdoor sales activities such as swap meets and flea markets; or livestock auctions and sales. Also includes retail ready-mix concrete operations which are incidental to an outdoor equipment rental yard.

Structural Clay and Pottery-Related Products [D23]

Manufacturing establishments primarily producing brick and structural clay products, including pipe, china plumbing fixtures, and vitreous china articles, fine earthenware and porcelain electrical supplies and parts. Artist/craftsman uses are included in "Small Scale Manufacturing" or "Home Occupations." (SIC: Groups 325, 326)

Temporary Construction Trailer Park [I4]

A temporary recreational vehicle park provided by the developer of a major construction project to provide short-term construction employees the opportunity to use recreational vehicles for housing during project construction as authorized by Section 23.08.268 of the CZLUO.

Temporary Construction Yards [H15]

A storage yard for construction supplies, materials or equipment, located on a site other than the construction site itself or immediately adjacent to it, for use only during the actual construction of a project.

Temporary Dwelling [E13]

Includes the temporary use of a mobilehome or recreational vehicle as a dwelling unit, following the issuance of a building permit for a permanent residence while the permanent residence is under construction.

Temporary Events [C19]

Any use of a structure or land for an event for a limited period of time where the site is not to be permanently altered by grading or construction of accessory facilities. Events include but are not limited to art shows, rodeos, religious revivals, tent camps, outdoor festivals and concerts.

Textile Products [D24]

Manufacturing establishments engaged in performing any of the following operations: Preparation of fiber and subsequent manufacturing of yarn, threads, braids, twine cordage; manufacturing woven fabric and carpets and rugs from yarn; dyeing and finishing fiber, yarn, fabric, and knit apparel; coating, waterproofing, or otherwise treating fabric; the integrated manufacture of knit apparel and other finished products from yarn; and the manufacture of felt goods, lace goods, non-woven fabrics and miscellaneous textiles. (SIC: Group 22)

EXHIBIT 3, p 5

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

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

Policy 2: Divisions of Land

Land division in agricultural areas shall not limit existing or potential agricultural capability. Divisions shall adhere to the minimum parcel sizes set forth in the Coastal Zone Land Use Ordinance. Land divisions for prime agricultural soils shall be based on the following requirements:

- a. The division of prime agricultural soils within a parcel shall be prohibited unless it can be demonstrated that existing or potential agricultural production of at least three crops common to the agricultural economy would not be diminished.
- b. The creation of new parcels whose only building site would be on prime agricultural soils shall be prohibited.
- c. Adequate water supplies are available to maintain habitat values and to serve the proposed development and support existing agricultural viability.

Land divisions for non-prime agricultural soils shall be prohibited unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be diminished. Division of non-prime agricultural soils shall be reviewed on a case-by-case basis to ensure maintaining existing or potential agricultural capability.

(This may lead to a substantially larger minimum parcel size for non-prime lands than identified in the Coastal Zone Land Use Ordinance. Before the division of land, a development plan shall identify parcels used for agricultural and non-agriculture use if such uses are proposed. Prior to approval, the applicable approval body shall make a finding that the division will maintain or enhance agriculture viability.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

A-3-560-98-025

EXHIBIT 4, #2

Open Space Easement. The applicant shall grant an open space easement to the county over all lands shown on the site plans as land unsuitable for agriculture, not a part of the approved development or determined to be undevelopable. The open space easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land to non-structural, open space uses.

Development proposals shall include the following:

- a. A site plan for the ultimate development of the parcel(s) which indicates types, location, and if appropriate, phases of all non-agricultural development, all undevelopable, non-agricultural land and all land to be used for agricultural purposes. Total non-agricultural development area must not exceed 2% of the gross acreage of the parcel(s).
- b. A demonstration that revenues to local government shall be equal to the public costs of providing necessary roads, water, sewers, fire and police protection.
- c. A demonstration that the proposed development is sited and designed to protect habitat values and will be compatible with the scenic, rural character of the area.
- d. Proposed development between the first public road and the sea shall clearly indicate the provisions for public access to and along the shoreline consistent with LUP policies for access in agricultural areas.

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.050 OF THE CZLUO.]

Policy 4: Siting of Structures

A single-family residence and any accessory agricultural buildings necessary to agricultural use shall, where possible, be located on other than prime agricultural soils and shall incorporate whatever mitigation measures are necessary to reduce negative impacts on adjacent agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.050a. OF THE CZLUO.]

Policy 5: Urban-Rural Boundary

To minimize conflicts between agricultural and urban land uses, the urban service line shall be designated the urban-rural boundary. Land divisions or development requiring new service extensions beyond this boundary shall not be approved. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.432 AND 23.04.021 OF THE CZLUO.]

A-3-50-98-025

EXHIBIT 4, p 4

~~The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]~~

Policy 6: Priority for Agriculture Expansion

Agriculture shall be given priority over other land uses to ensure that existing and potential agricultural viability is preserved, consistent with protection of aquatic habitats. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 7: Siting of New Development

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

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

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

The county may approved grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance. Also in review of proposed land divisions, each new parcel shall locate the building envelope and access road on slopes of less than 20 percent. In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated that there is no other feasible method of establishing an allowable use on the site without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. In urban areas as defined by the Urban Services Line, grading may encroach within the 100 foot setback when locating or siting a principally permitted

A-3-560-98-025 EXHIBIT 4, p 6

b. Supplemental non-agricultural uses.

- (1) **Supplemental non-agricultural uses defined:** Uses allowed by Coastal Table "O" in the Agriculture category that are not directly related to the principal agricultural use on the site. (Example: where crop production or grazing are the principal agricultural use of a parcel, petroleum extraction, mining or rural sports and group facilities may be allowed as supplemental non-agricultural uses consistent with this section.)
- (2) **Priority supplemental non-agricultural uses.** When continued agricultural use is not feasible without some supplemental use, priority shall be given to commercial recreation and low intensity visitor-serving uses allowed by Coastal Table "O", Part I of the Land Use Element.
- (3) **Permit requirement:** Minor use permit approval, unless Development Plan approval is otherwise required by another provision of this title or planning area standard of the Land Use Element.
- (4) **Required findings:** Supplemental non-agricultural uses may be established only if the following findings are made by the applicable approval body:
 - (i) For prime soils, it has been demonstrated that no alternative project site exists except on prime soils; and
 - (ii) The least amount of prime soils possible will be converted; and
 - (iii) The proposed use will not conflict with surrounding agricultural lands and uses.
- (5) **Application content.** In addition to the information required for a land use permit application by Sections 23.02.033 et seq. of this title, the application for a supplemental non-agricultural use shall also include the following:
 - (i) The site layout plan shall identify all portions of the site that are undevelopable, that are not suitable for agriculture, or that are intended to be used for agricultural purposes.
 - (ii) Documentation which demonstrates that revenues to affected local governments as a result of the project will equal the public costs of providing and/or maintaining roads, water, sewer, fire and police protection to serve the project.

A-3-50-98-025

EXHIBIT 4, p 8

(7) **Guarantee of continuing agricultural or open space use.** As a condition of approval of a supplemental non-agricultural use, the applicant shall insure that the remainder of the parcel(s) be retained in agriculture, and if appropriate, open space use by the following methods:

(i) **Agricultural Easement.** The applicant shall grant an easement to the county over all agricultural land shown on the site plan. Such easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land covered by the easement to agriculture, non-residential use customarily accessory to agriculture, farm labor housing, and a single-family dwelling accessory to the agricultural use.

(ii) **Open space easement.** The applicant shall grant an open space easement to the county over all lands shown on the site plan as land unsuitable for agriculture, not a part of the approved development or determined to be undevelopable. The open space easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land to non-structural, open space uses.

(iii) **Procedures for agricultural or open space easements.** Any easement required by this section shall be reviewed as set forth in Section 23.04.420g(4) of this title.

EXHIBIT 4, p 10

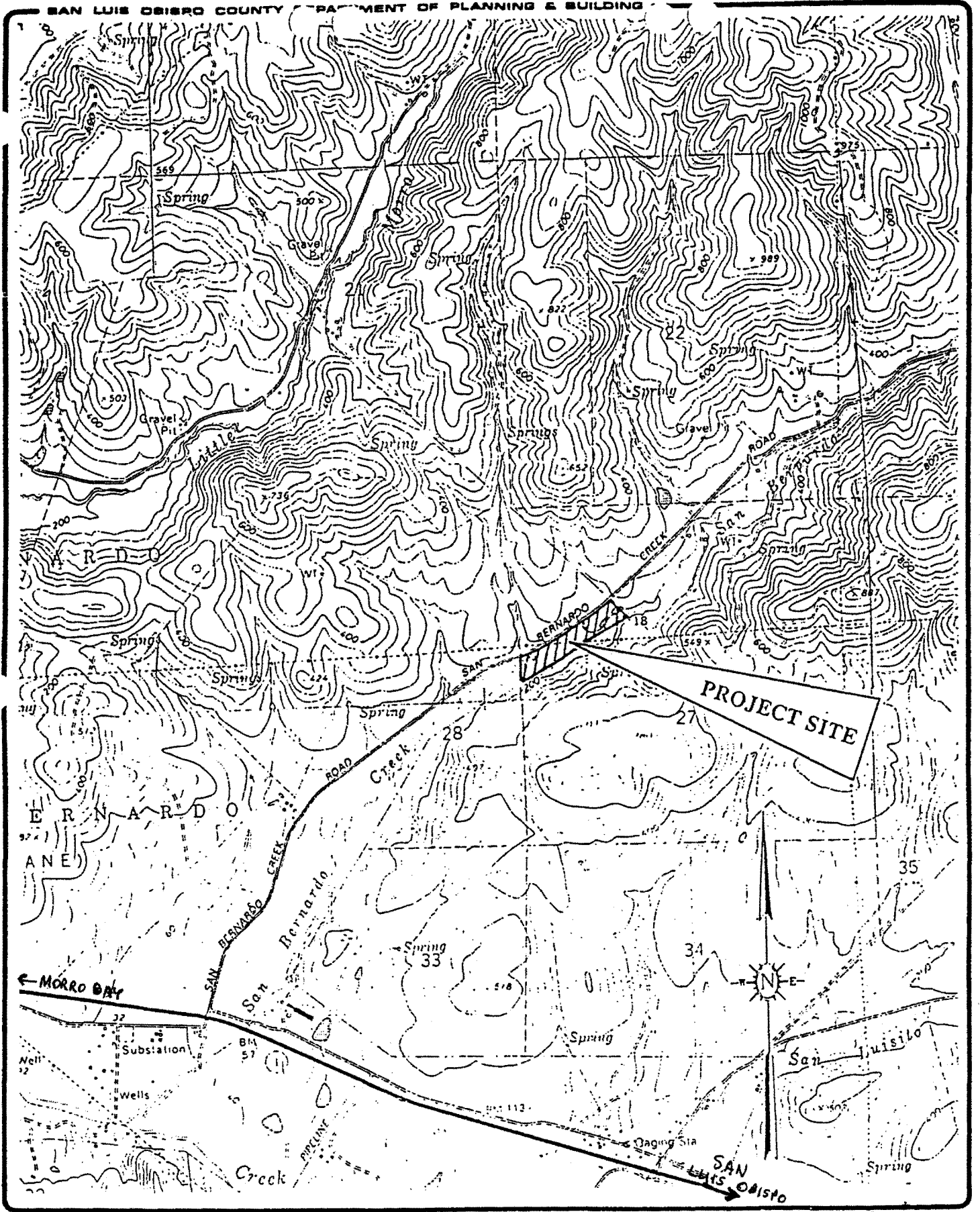
A-3-510-98-025

- (4) **Temporary camps.** Temporary camps as a principal use or accessory to another temporary event are subject to the permit requirements and other provisions of Chapter 8.64 of the County Code.
- b. **Time limit:** A temporary event is to be held in a single location for no longer than 12 consecutive days, or four successive weekends, except where a different time limit is established by other applicable provisions of the County Code or through Minor Use Permit approval.
- c. **Location.** The site of any temporary event other than public events and parades shall be located no closer than 1000 feet to any Residential Single Family land use category.
- d. **Site design standards.** All temporary events are subject to the following standards, regardless of whether a land use permit is required, except where alternate standards are established by Chapters 6.56 or 8.64 of the County Code:
- (1) **Access.** Outdoor temporary events are to be provided a minimum of two unobstructed access points, each a minimum of 18 feet wide, from the event site to a publicly maintained road.
 - (2) **Parking.** Off-street parking is to be provided private events as follows with such parking consisting at minimum, of an open area with a slope of 10 percent or less, at a ratio of 400 square feet per car, on a lot free of combustible material.
 - (i) **Seated spectator events.** One parking space for each 12 square feet of seating area.
 - (ii) **Exhibit event.** One parking space for each 75 square feet of exhibit area.
 - (3) **Fire protection.** Facilities to be provided as required by the County Fire Department.
 - (4) **Water supply and sanitation.** Facilities to be provided as required by the Health Department.
- e. **Guarantee of site restoration.** A bond or cash deposit may be required for approval of a temporary event to guarantee site restoration after use, and operation in accordance with the standards of this chapter. The guarantee shall cover both operation and restoration, and is subject to the provisions of Section 23.02.060 (Guarantees of Performance).

[Amended 1995, Ord. 2715]

A-3-SLO-98-025

EXHIBIT 4, p 12



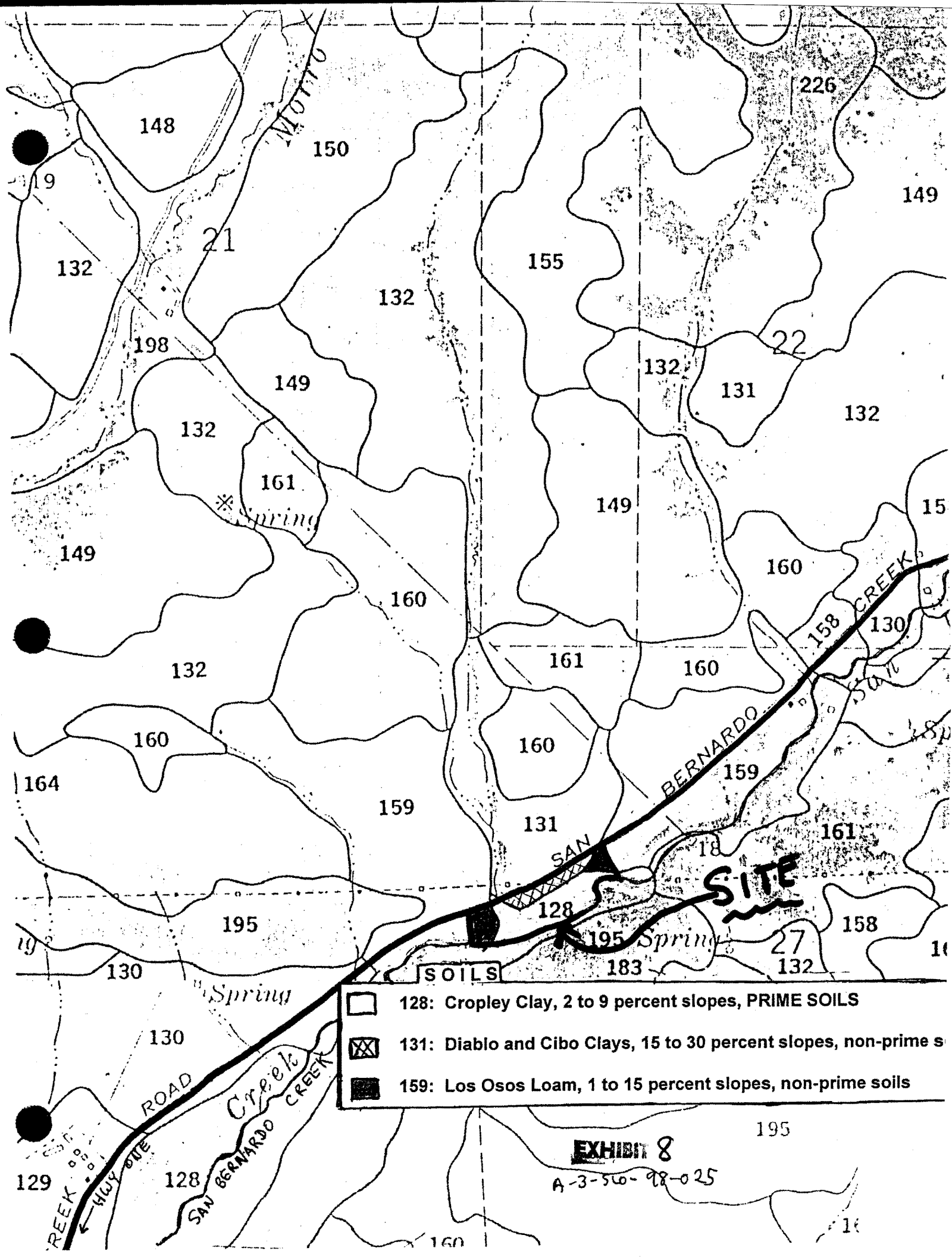
PROJECT
 D950222P
 SCOBGINS



EXHIBIT
 VICINITY MAP 46

EXHIBIT 6

A-3-50-98-025






- | | |
|---|--|
|  | 128: Cropley Clay, 2 to 9 percent slopes, PRIME SOILS |
|  | 131: Diablo and Cibo Clays, 15 to 30 percent slopes, non-prime soils |
|  | 159: Los Osos Loam, 1 to 15 percent slopes, non-prime soils |

EXHIBIT 8

A-3-56-98-025

1558 8th Street
Los Osos, CA 93402

March 11, 1998

RECEIVED

MAR 16 1998

California Coastal Commission
Central Coast Area Office
725 Front Street, #300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Appeal # A-3-SLO-98-025

To Whom It May Concern:

I write this letter on behalf of Brian and Phoenix Gardens. As a resident of the central coast since 1975, I'm very much in favor of this plan. I feel that it will benefit and enhance the central coast without harming or disturbing its residents or environment.

Sincerely,


Sharlot Sunshine

EXHIBIT 9

A-3-SLO-98-025

(3) One set of family lives in the LA area and the other lives in the Bay area so this becomes the central point

(4) They live somewhere else and have vacationed here and want to have their wedding here.

At any rate, they come. Parents, siblings, friends, and family all come for the wedding. In the article, it also suggested that we "Nurture and protect existing businesses and jobs." This would be accomplishing that as well by supporting all of the supporting businesses that are involved with a wedding. These guests need places to sleep, eat, get gas, buy presents, and do some sight seeing, and since this is "an event" to them, they have saved for this special time AND ... they spend money!! Lots of money!!

One of the biggest problems in San Luis Obispo is that we have a shortage of nice places to hold *nice* weddings and receptions. (I don't mean HUGE weddings either. Most of the weddings I do have between 75-150 guests.) I have many clients calling from out of state in desperation pleading with me for a place to get married. They are planning their wedding six to nine months away and they are just amazed that everything is already booked. WE NEED PHOENIX GARDENS!!

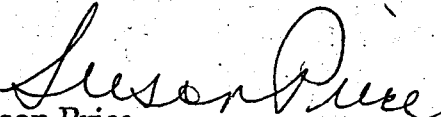
In your decision whether or not to grant Brian and Marilyn the OK to have weddings and receptions, please keep in mind that these are two intelligent people that have been catering events in San Luis Obispo for MANY YEARS. By now they know the potential problems of doing weddings and receptions and have learned what to look for prior to booking their clients. There are some clients you simply walk away from because you KNOW it would not be worth it.

Since Phoenix Gardens is not only a property that they want to have available for weddings and receptions, it is also their home where they are bringing up a precious little five year old girl. I can only support the opinion that they would be EXTREMELY careful to book ONLY those weddings that would NOT get out of hand, damage anyone's property whether it be theirs or their neighbors, or cause undue wear and tear on that beautiful small valley.

Another concern is that the property is zoned agricultural and a wedding is definately NOT agricultural use. However, one of the charming things about San Luis Obispo is the many combination businesses there are: A gas station/real estate office; car wash/automotive repair, etc. Since Brian and Marilyn DO use the property for its zoned purpose, the addition of the event site would only enable our county to ADD revenue by supporting existing businesses without having to do anything!!

I hope you will see it as an asset to the community to allow them to open up their home to San Luis Obispo.

Sincerely,


Susan Price

~~EXHIBIT~~ 9, p 3

A-3-SLO-98-025



FLYING DUTCHMAN ALPACAS

Breeders of Quality Huggable Investments

Vince & Amanda VandenBosch

820 Park Row #526, Salinas, CA 93901

Ph: (408) 679-0349/ 679-7222 (PACA)

Fax: (408) 679-7202



In our opinion, Ms Scoggins is a serious Breeder, having set up part of her property in Morro Bay to enable her to run this business efficiently. She has developed a business plan that should prove to be very successful. Ms Scoggins is intelligent, thorough with great integrity. It has been a pleasure working with her and her wish a prosperous future.

If you have any further questions, please do not hesitate to contact us.

Yours Sincerely,

A J Vanden Bosch *Vince Vanden Bosch*

Amanda J. VandenBosch & Vince A VandenBosch
Flying Dutchman Alpacas

EXHIBIT 9, P45

A-3-560-98-025

April 14, 1998

ENGINEERS

PLANNERS

SURVEYORS

California Coastal Commission
Central Coast Office
725 Front Street, Suite 300
Santa Cruz, CA 95060
Attention: Steve Guiney

RE: Minor Use Permit (D950222P): APPEAL NO. A-3-SLO-98-025

This letter states the applicant (Scoggins) response to the appeal filed by John Maino. The appellant makes five points which the Scoggins feel either do not apply to their project or which were answered in the San Luis Obispo County approval of the project. None raise a substantial issue.

The Scoggins' "project" is to have up to 12 weddings or similar events with a maximum of 100 persons on their existing property, without making any site modifications. Temporary events require a use permit. Existing County ordinances also allow an unrestricted number of not-for-profit events. The Scoggins have voluntarily committed to limit non-profit events to three per year.

The Scoggins respond to the appellant's claims on an issue by issue basis as follows:

- 1) Assertion: "Temporary events" is not an allowable use under Table "O" - Framework for Planning.

Response: Table "O" specifically allows "temporary events" on non-prime soils.

- 2) Assertion: Temporary events will be located on "prime agricultural soils".

Response: The project was modified so that it is entirely outside any "prime soils", as designated by the County Department of Agriculture. There is no authority to color an entire property with a "prime" ag label when only a part of it is "prime" ag. The project is not on prime ag land. The County Board of Supervisors made finding "A", which supports consistency of the use with the applicable agriculture definition under Table "O". (See also attached map accepted as a exhibit during the hearing process.)

- 3) Assertion: The Project is inconsistent with a series of LCP Policies regarding Agriculture:

- *Policy 1: Maintaining Agricultural Lands.*

This policy requires prime agricultural land to be maintained in or available for agriculture unless development on such land would not diminish the

364 PACIFIC STREET
SAN LUIS OBISPO, CA
93401

805 544-7407
FAX 805 544-3863

EXHIBIT 9, p. 67

A-3-SLO-98-025

PROVIDING SERVICE SINCE 1976

• *Policy 6: LCP Policy Document chapter on Coastal Watersheds Priority for Agriculture Expansion* (Agriculture must be given priority over other land uses to ensure continued agricultural viability and protection of aquatic habitats.)

Response: The proposed project does not convert any ag activity to non-ag use, nor remove any potentially ag property from development as ag. The existing property has maximized its agricultural potential.

Regarding aquatic habitats, according to the Environmental Determination No. 97-064, the riparian corridor is not proximate to the access drive or area approved for temporary events and there would be no removal or disturbance of native vegetation associated with the riparian corridor.

(The County Board of Supervisors made finding "B" on the basis that conditioning the project for use, location and intensity would provide consistency with applicable LCP policies.)

- 4) Assertion: County failed to disclose substantive regulations that apply to non-agricultural uses, specifically a 2% coverage rule for non-agricultural uses in an agricultural area per requirements of the LCP section 23.04.050 b. (6)(ii).

Response: Temporary Events Section 23.082.48 specifically addresses temporary events and this project meets those criteria. This section is controlling. The appellant is the one failing to disclose important details. He, himself, raised 23.04.050b(G), relating to supplemental non-agriculture uses, before the first public hearing at the Planning Commission in the Maino letter of September 15, 1997. His arguments were considered and rejected by the County. All the requirements of Section 23.04.050b are also met. In consultation with County planning staff, it is our opinion this sub-section only applies to permanent facilities. The temporary events proposed have no area exclusively "allocated". The gathering area is a residential lawn. Most of the parking area is used for emu corrals (during events, the animals are temporarily relocated on-site). Whether events are held or not, the use of this site would not change.

- 5) Assertion: A "temporary" use does not cover the fact that the use is commercial, and is the principal use of the parcel.

Response: The principal uses of the property are considered to be agricultural (orchard and animal raising) and residential according to the County's staff report dated 9/27/97, under Environmental Setting. The temporary events will take place on the existing residence grounds (also a principally permitted use per Table "O") with parking in the emu corral area. The approved temporary use is therefore "Supplemental non-agricultural", defined under 23.040.50 b.

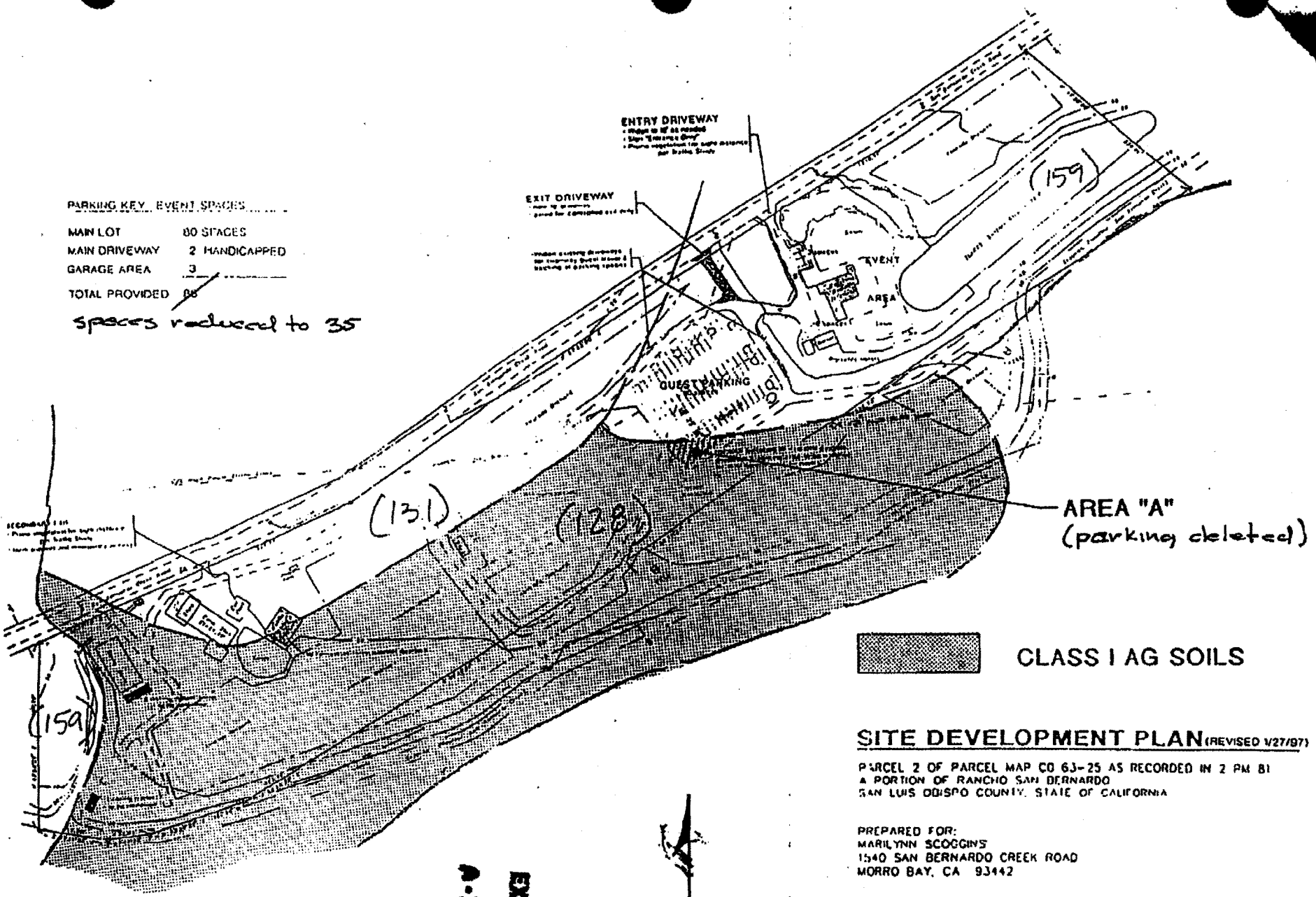
EXHIBIT 9, p89

A-3-510-98-025

PARKING KEY, EVENT SPACES

MAIN LOT	80 SPACES
MAIN DRIVEWAY	2 HANDICAPPED
GARAGE AREA	3
TOTAL PROVIDED	85

spaces reduced to 35



SITE DEVELOPMENT PLAN (REVISED 1/27/97)

PARCEL 2 OF PARCEL MAP CD 63-25 AS RECORDED IN 2 PM 81
A PORTION OF RANCHO SAN BERNARDO
SAN LUIS OBISPO COUNTY, STATE OF CALIFORNIA

PREPARED FOR:
MARILYNN SCOGGINS
1540 SAN BERNARDO CREEK ROAD
MORRO BAY, CA 93442



EXHIBIT 9, 11
A-3-66-972

FIGURE 1

Camron ASSOCIATES ENGINEERS PLANNERS ARCHITECTS

241 PACIFIC STREET SAN LUIS OBISPO, CA 93401 (805) 464-7707