

CALIFORNIA COASTAL COMMISSION  
 NORTH COAST AREA  
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# Th 10a



Request Filed: May 8, 1998  
 Staff: Jack Liebster-NC  
 Staff Report: May 27, 1998  
 Hearing Date: June 11, 1998  
 Commission Action

## STAFF REPORT: REQUEST FOR RECONSIDERATION

APPLICATION NUMBER: **A-1-SMC-97-013-R**

APPLICANT: **MARYANNE and JOE LUCHINI**

AGENTS: AARONSON, DICKERSON, COHN & LANZONE; BOB CAMPBELL; J. R. RODINE; PAUL GUMBINGER

PROJECT LOCATION: Along the west side of Highway 1, 800 feet south of the Half Moon Bay City limits, San Mateo County, APN 066-081-080

PROJECT DESCRIPTION: Construct a new 3,490-square-foot, two-story, single family residence and 2,000+ foot-long driveway.

COMMISSION ACTION AND DATE: Approved with conditions (on appeal from decision of San Mateo County to approve permit with conditions) on April 8, 1998. On May 12, 1998, the Commission approved Revised Findings to support its action.

### STAFF NOTES:

#### 1. Procedure

Consistent with Section 30627 of the Coastal Act, the Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the commission grant a reconsideration of the denial of an application, or of any term or condition of a coastal development permit which has been granted. Cal. Code of Regs., Title 14, Section 13109.2

The regulations provide that the grounds for reconsideration of a permit action shall be as stated in Coastal Act Section 30627:

"The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision."

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Section 30627(b)(4) of the Coastal Act also states that the Commission "shall have the discretion to grant or deny requests for reconsideration." Section 30627 (c) provides that a decision to deny a reconsideration request is not subject to appeal.

On May 8, 1998, Joe and Maryanne Luchini submitted a request for reconsideration of the Commission's decision to approve their proposed residence with conditions. This request was made within the 30 day period following the final decision on the application as required by Section 30627 of the Coastal Act and Section 13109 of the Commission's regulations. As summarized below, the Applicants contend the Commission made an error of fact or law that has the potential to alter the Commission's decision. If a majority of the Commission votes to grant reconsideration, the permit application will be scheduled for the July 1998 meeting at which the Commission will consider it as a new application (Cal. Code of Regs., Title 14, Section 13109.5(d)). If the Commission does not grant reconsideration, the April 8, 1998 decision to approve the project with conditions, and the Revised Findings reflecting that decision, will stand.

2. Amendment

The Applicants' representatives have informally expressed the desire that the Commission consider allowing the house to be located a few hundred feet west of the conditioned site, to be constructed in the previously-proposed Mediterranean design style, and to be built at the size originally proposed: 3042 square feet plus a 448 square foot garage. However, each of these issues was thoroughly addressed by the Commission in its original action.

Since Reconsideration is, as discussed in the staff recommendation below, not warranted in this case, the means for requesting such a change in the permitted size of the house would be to propose an amendment to the permit. Commission Regulation 13166(a) provides in part:

(a) Applications for amendments to previously approved developments shall be filed with the Commission.

(1) An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted ...(emphasis added)

If such a proposed amendment were submitted without "newly discovered material information," sect. 13166(a)(1) would require the Executive Director to reject the application. However, if a proposed amendment was submitted consistent with Section 13166, staff could bring forward a recommendation to the Commission on the proposed amendment at a future date.

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SUMMARY OF APPLICANT'S CONTENTIONS:

The request for reconsideration is based on an assertion consistent with the grounds stated in Section 30627(b)(3) of the Coastal Act that the Commission's decision is based upon an error of fact or law which has the potential of altering the Commission's initial decision in that: (1) the evidence does not establish that the property is prime agricultural land; (2) the Commission created an error of law in the balancing of the competing policies relative to visual resources; and (3) the Commission has violated Section 30010 of the Coastal Act by exercising its powers to take property for public use without compensation.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission deny the request for reconsideration.

I. STAFF RECOMMENDATION

Motion I

"I move that the Commission reconsider CDP No. A-1-SMC-97-013.

Staff Recommendation

Staff recommends a NO vote which will result in the adoption of the following resolution and findings to deny reconsideration and uphold the Commission's initial action on the project. A majority of the Commissioners present is required to pass the motion.

Resolution for Denial of Request for Reconsideration of A-1-SMC-97-013

"The Commission hereby denies the request for reconsideration of the proposed project on the grounds that no new relevant information has been presented which, in the exercise of reasonable diligence, could not have been presented at the hearing on A-1-SMC-97-013-R and that no error of fact or law has occurred which has the potential for altering the Commission's initial decision."

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and History:

The Applicants request reconsideration of the Commission's approval with conditions for a house on the subject parcel at its April 8, 1998 meeting. The Revised Findings for that action, adopted by the Commission May 12, 1998, are hereby incorporated into these current findings.

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The subject parcel is a narrow 4.88-acre strip of land on the blufftop extending west from Highway 1 to the ocean. This property is approximately 800 feet south of the Half Moon Bay city limits, on the rural side of the urban-rural boundary defined by the LCP. The parcel is immediately adjacent to the Cowell State Beach accessway and trail which runs along it to the south. The lands south of the accessway are in active, productive agricultural operations.

Applications for this project were submitted to the County of San Mateo on or about June 6, 1996. The applications included a Planned Agricultural Permit (PAD), a Coastal Development Permit (CDP), and an Architectural Review (ARC) approval.

The project as proposed was for construction of a two-story, 3,490-square-foot single-family residence, including a 448-square-foot, two car garage. The proposed residence was a Mediterranean-style structure, 28 feet high, 25 feet wide, and 77 feet long, located on the eastern portion of the parcel near the ocean. A driveway would have run more than 2,000 feet from Highway 1 to the residence.

The San Mateo County Board of Supervisors held a public hearing to review a local appeal of the Planning Commission approval on February 11, 1997 and voted 3 to 0 to approve the project with conditions.

The County's approval of the project was appealed to the Coastal Commission by the Committee for Green Foothills (CGF), and by Commissioners Areias and Calcagno on March 3, 1997. After a public hearing on April 10, 1997, the Commission determined that the appeal raised a substantial issue regarding project's conformance with policies of the San Mateo County certified Local Coastal Program (LCP) because the project as approved by the County (1) failed to evaluate the project for its consistency with the LCP policies that limit conversion of prime agricultural lands; (2) would allow a water connection for a non-agricultural residential use in the rural area of the County where water connections are limited to agricultural uses; (3) did not cluster non-agricultural development in locations most protective of the agriculture on the site; and (4) was not clustered near existing development but would instead block views from the Scenic Highway and the adjacent Cowell State Beach access trail.

On April 8, 1998, the Commission held a de novo hearing on the project, and approved the project with conditions. The conditions include relocating the residence to the eastern part of the parcel, adjacent to the existing neighboring development; protecting the agricultural soils on the balance of the property through an agricultural deed restriction; redesigning the residence to a style more in keeping with the traditional rural architecture; and reducing the size of the house to 2,700 square feet, plus a 448 sq. ft. garage.

**B. Grounds for Reconsideration**

Pursuant to Section 30627(b)(4) of the Coastal Act, the Commission has the discretion to grant or deny requests for reconsideration. Section 30627(a)(1) states that the Commission shall decide whether to grant reconsideration of any decision to deny an application for a coastal development permit or any term or condition of a coastal development permit which has been granted. The applicant requests that the Commission's conditional approval of the permit be reconsidered. (Please see Exhibit 1)

Section 30627 (b)(3) states in relevant part that a basis for a request for reconsideration shall be that an error of fact or law has occurred which has the potential of altering the initial decision or that new information has come to light that could not have been produced at the hearing. If the Commission votes to grant reconsideration, it will consider the permit application as a new application at a subsequent hearing.

**C. Issues Raised By The Applicant**

The Applicants' request for reconsideration asserts that the Commission's decision is based upon an error of fact or law in that: "(1) the evidence does not establish that the property is prime agricultural land; (2) the Commission created an error of law in the balancing of the competing policies relative to visual resources; and (3) the Commission has violated Section 30010 of the Coastal Act by exercising its powers to take property for public use without compensation."

**1. Prime Agricultural Land**

The Applicants assert that the Commission committed an error of fact or law because, as argued in their initial submissions made to the Commission, it is the Applicants' contention that this property is not made up of prime agricultural land. "Exhibit A" attached to Exhibit 1 consists of sections of materials submitted by the Applicants prior to staff preparation of its recommendation on the De Novo portion of the Commission's action on the appeal. These materials discuss in detail the Applicants's position that the land is not capable of agricultural production because of its configuration, soil, and lack of water.

However, this contention, and the applicant's evidence in support of the contention, have already been considered by the Commission. As the Commission discussed during its hearing on the project, the relevant questions under the certified LCP relate to the definitions of agricultural land and the policies applicable to such land currently contained in the LCP. These issues are discussed in detail on pages 9 through 17 of the Revised Findings adopted for the project. In part the Commission found (page 13):

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...The Applicants imply that the Commission need not impose conditions designed to protect agricultural resources in conformance with the certified LCP agricultural policies as, in their view, agricultural use of the property is not feasible. This argument misses the point because the project must be evaluated under the currently certified LCP policies. As discussed in detail below, these policies designate this property for agricultural use. Whether or not the property should continue to be designated and zoned under the certified LCP for agricultural use and whether or not the LCP agricultural policies should be changed are issues that may be appropriate to consider in the context of a future LCP amendment. For purposes of reviewing the current permit application, however, the question is whether the proposed project is consistent with the existing certified LCP policies and the public access policies of the Coastal Act.

The parcel is Prime Agricultural Land, as that term is defined in Policy 5.1 of the certified LCP. According to the U.S. Department of Agriculture Soil Survey, San Mateo Area the parcel consists of the two soil types WmB2 and WmC2, which the Survey lists as Class III soils. These same soil types make up large parts of the Giusti Farms agricultural lands immediately to the south, usually farmed with artichokes and brussels sprouts (Jack Olsen, Farm Bureau Executive Administrator, oral communication, Mar. 12, 1997). This evidence establishes that the land of the Luchini parcel meets the definition of prime agricultural lands under Policy 5.1, as "Class III lands capable of growing artichokes or Brussels sprouts."

...It must be understood that ... an agricultural evaluation is not necessary for lands to be considered prime agricultural land. Crop values, cultivation costs and other cost data used in ...[such] analyses all change over time. Recognizing the changing nature of these factors, the LCP, as does the Coastal Act itself, focuses on the long-term value of the resource itself - the agricultural land and soils, and their intrinsic capability to raise food and fiber. As noted above, the subject parcel's soils meet the test for prime agricultural land.

It is clear that the Commission understood at the time of their decision on the application that whether the parcel was or was not prime agricultural land was a significant issue. Based on evidence in the record the Commission concluded that since the land is capable of growing artichokes or brussels sprouts, even though the site may not be currently used for that purpose for various reasons, the land on the subject property meets the definition of prime agricultural land contained in Policy 5.1 of the LUP. Therefore, the Commission finds that an error of fact or law with respect to the Commission's interpretation of whether the property is prime agricultural land has not occurred.

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The Commission further finds that even if an error of fact or law with respect to the Commission's interpretation of whether the property is prime agricultural land had occurred, the error does not have the potential of altering the initial decision. The provisions of Conditions 1 and 2 to cluster the development at the eastern portion of the property were necessary not only to protect prime agricultural lands consistent with LCP Policies 5.5 and 5.8, but also to be consistent with Policy 5.15, which requires such clustering to protect any "existing or potential agricultural uses" irrespective of the question of prime agricultural land (Revised Findings, page 17). The Commission found that clustering the proposed home next to the existing residential buildings on the adjacent parcels to the north would be most protective of the potential agricultural use of the parcel. In that location the house would occupy area that largely could not be used for growing crops because of the need to maintain a buffer between cultivated lands and existing residences. As the Commission found, "clustering the residence adjacent to the neighboring house allows it to largely fit within the pesticide buffer already delineated around the existing house." Therefore, the Commission would have imposed the conditions limiting the siting of the house to a certain area and protecting the balance of the property for potential agricultural use even if the Commission had determined that the subject property did not consist of prime agricultural lands.

Finally, as discussed below, the Commission's decision to require relocating the house was also substantially grounded in reducing the impacts on visual resources, not just agricultural land.

Therefore, there is no error of fact or law which has the potential of altering the Commission's initial decision. Therefore, the reconsideration request must be denied.

## 2. Visual Resources

The Applicants contend that:

"the Commission's decision to cluster the house at the highway constitutes a violation of Coastal Act Section 30007.5 regarding resolution of policy conflicts. The Coastal Act provides that conflicts between competing policies be resolved in a manner which, on balance, is most protection of coastal resources. The Commission applied the policy regarding clustering although it clearly violated the requirement in Section 30251 of the Act regarding protection of views from scenic highways and the requirements in the San Mateo County General Plan and the policy of the State of California to protect views from designated scenic highways."

Their submittal states"

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"In making its decision in April, the Commission determined that the Luchini house should be located adjacent to existing development directly to the north and adjacent to the coast highway. Ms. Luchini had proposed that the development instead be located 2,260 feet from the highway. It is the Appellant's (sic)... position that locating the house at the proposed location would best serve the competing policies of the Coastal Act. It would be located farther from the highway and, therefore, not interfere with the views from the passing motorists and it would be located further from the trail and screened by landscaping so as to allow those persons walking on the trail some physical separation from the structure."

As extensively discussed in the adopted Findings incorporated herein (especially pages 17 through 26), the Commission appropriately applied the policies of the LCP Visual Resources Component. The house location required by the Commission is in fact the location most protective of visual resources overall. As noted in the Findings, the house as proposed by the Applicants would have disrupted the open visual character of the coastal terrace, block a portion of the shoreline view from the Scenic Highway, and visually dominate the adjacent public recreational trail and accessway. In contrast, as noted on page 24 of the adopted Findings:

As conditioned, the project is consistent with Policies 8.15 and 8.31 and the General Plan policies cited in 8.31 because the house would be set back up to 400 feet from the highway so that, when seen from the scenic highway to the south, it would be silhouetted against existing development rather than the important views on the property. From the north the house would be completely screened from view by the terrain and existing neighboring structures. Looking west from the Scenic Highway immediately adjacent to the property, no coastline or other important views are visible because Highway 1 is recessed into the topography at this location.

The Applicant contends that the Commission created an error of law by not balancing the LCP policies that the Commission relied upon against other competing policies that the applicant believes would have called for siting the house close to the bluff. The other policies the applicant refers to include Section 30251 of the Coastal Act, unspecified "requirements in the San Mateo County General Plan," and an unspecified "policy of the State of California."

The Applicant also cites Coastal Act Section 30007.5 which requires that conflicts between competing policies of the Act be resolved in a manner on balance most protective of coastal resources. The argument advanced by the Applicant fails to recognize that it is the LCP, not the Coastal Act which is the standard of review in this case. As of the time the project was acted upon, the LCP had no provisions comparable to Section 30007.5. Furthermore, Section 30251 of the Coastal Act, the San Mateo County General Plan in its entirety, and an unspecified "policy of the State of California" are also not



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part of the certified LCP. Therefore, the Commission did not create an error of law by not balancing its interpretation of the certified LCP policies against these other policies as neither the balancing procedure nor the "competing policies" referred to by the applicant are part of the standard of review for the project.

Moreover, even if Sections 30007.5 and 30251 of the Coastal Act and the General Plan were to have been part of the certified LCP and thus part of the standard of review for the project, the Commission finds that there is no error of fact or law which has the potential of altering the initial decision. Section 30251 of the Coastal Act states in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas; that the development minimize the alteration of natural land forms; that the development be visually compatible with the character of the surrounding area, and that new development in highly scenic areas be subordinate to the character of its setting. The Commission found that as conditioned to require the house to be clustered next to the adjacent residence, the house "will be subordinate to the distinct rural character of the site," The Commission also found that the project as conditioned would be consistent with the provision of Policy 8.15 that prevents development from substantially blocking views to and along the shoreline because the house would be silhouetted against existing development, completely screened from view by the terrain and neighboring structures (See pages 23 and 24 of the Revised Findings). These findings are similar to those that would be required to find consistency with Section 30251 of the Coastal Act. Thus, the project as approved by the Commission is consistent with both the LCP visual policies cited by the Commission in its revised findings and Section 30251 of the Coastal Act, and applying 30251 would not have created a different result. Finally, the alleged policy conflicts with the County General Plan simply do not exist, as discussed on page 24, paragraph 2 of the adopted Findings. Also, even if there were a conflict with the General Plan or the unspecified "policy of the State of California," LCP implementation Section 6328.13 clearly states that in such a case "the plans, policies, requirements or standards of the Local Coastal Program shall take precedence."

Therefore, there is no error of fact or law which has the potential of altering the Commission's decision. Therefore, the reconsideration request must be denied.

**3. "Damage to Property Without Compensation"**

The Applicants contend the Commission committed an error of fact or law in that it "exercised its power to grant a permit in a manner which takes or damages private property for public use without the payment of compensation therefore" (sic).

It is rather difficult to respond to this assertion, because the Applicant gives no indication of what taking or damage allegedly occurred. In the attachments submitted (pages numbered 14-15), the Applicants' representatives

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claim that "denying the residential use would result in a taking of the Property." But, in fact, the Commission approved the residential use. Moreover, the Commission's approval contained no provision for public use of the Applicant's property. In approving the residence with conditions that would make it consistent with the requirements of the applicable land use plans and zoning (in this case the LCP), the Commission simply exercised its authority under the Coastal Act in a manner consistent with Section 30010.

The text cited by the applicant appears in Section 30010 of the Coastal Act, which states:

The legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

The courts have observed that there are no brightline rules that either courts or government entities can use to determine when a regulatory action constitutes a taking. Instead, whether the application of a regulation will cause a taking requires an ad hoc factual inquiry into several factors. These factors include the economic impact of the regulation on the property, particularly "the extent to which the regulation has interfered with distinct investment-backed expectations." (Penn Central Transp. Co. v. New York City (1977) 438 U.S. 104, 124). These investment-backed expectations must be "reasonable." (Keystone Bituminous Coal Assn. v. DeBenedictis (1987) 480 U.S. 470, 495.) Further, a land use regulation or decision may cause a taking if it denies an owner all economically viable use of his or her land unless there are well-established principles in state property or nuisance law that justify a restriction on all use. (Lucas v. South Carolina Coastal Council (1992) 505 U.S. 1003.) Another factor that must be considered is whether the land use regulations at issue substantially advance a legitimate state interest. (Nollan v. California Coastal Commission (1987) 483 U.S. 825.). Finally, the courts have ruled that any exactions imposed by an agency's land use decision must be reasonably related in extent and nature to the impacts of the development.

With regard to "reasonable investment-backed" expectations, in the ordinary course of the planning process, the applicant generally has the burden of coming forward and demonstrating that a use provided for by government is not economically viable. The Applicants have made no such demonstration. In fact, in previously submitted materials they indicated that the property was inherited, and was thus not an "investment" per se. At that time, and continuing to this date, the property was zoned for Agriculture (PAD). In this zone, residences are only a conditionally-allowed use. Thus, the "reasonable expectation" of use is agriculture, or a residence with conditions, which is precisely the use authorized by the Commission.

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While section 30010 instructs the Commission to construe the policies of the Coastal Act in a manner that will avoid a taking of property, it does not authorize the Commission to otherwise suspend the operation of or ignore these policies in approving a permit application. In relation to the other tests applied by the courts, the conditions required on this project as approved substantially advance legitimate state interests for coastal resource protection as expressed in the Coastal Act and the Local Coastal Program and are reasonably related in extent and nature to the impacts of the development. The potential impacts of the project on these resources are extensively discussed in the Revised Findings incorporated herein. In summary, the project as proposed was inconsistent with the LCP policies that (1) require development to protect visual resources by appropriate siting and design, (2) limit water connections for non-agricultural residential uses in the rural area; (3) limit conversion of prime agricultural lands; and (4) require non-agricultural development to be clustered in locations most protective of agriculture.

The special conditions attached to the permit generally relocated the proposed development and required design changes that are necessary to protect state coastal resources consistent with the County's certified LCP. As conditioned, the residence would be relocated to the eastern part of the parcel, adjacent to the existing neighboring development. The agricultural soils on the balance of the property would be protected for future use by an agricultural deed restriction. These conditions will carry out the state interest in reducing impacts on agricultural soils as codified in both the Coastal Act and the LCP and are reasonably related in extent and nature to the impacts of the project as proposed since they will keep the project from precluding potential agricultural use of the property while still allowing for a house to be built. Similarly, the conditions for redesign of the residence to a smaller scale and a style more in keeping with the traditional rural architecture, and clustering the residence with adjacent development, are directly related to and necessary for advancing the well-established state interest in protecting the scenic value of its coastline. Requiring these special conditions, is not an error of law, but, quite the contrary, required by law to mitigate the adverse impacts of the project, and allow the Commission to approve a residence at all. There has been in this case, therefore, no error of fact or law with the potential of altering the Commission's initial decision. Therefore, the reconsideration request must be denied.

**D. Summary**

As discussed above, the issues presented in the Applicant's request for reconsideration do not comprise errors of fact or law. Even if the alleged errors had been made, the Commission would have acted to approve the project with the same conditions. The Applicant did not assert that new evidence had arisen. Therefore, neither of the requirements for reconsideration have been met, and the reconsideration request must be denied.

Exhibit 1: Applicants' Request for Reconsideration

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May 7, 1998

Mr. Peter Douglas  
Executive Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

RECEIVED  
MAY 08 1998  
CALIFORNIA  
COASTAL COMMISSION

Re: **Appeal No. A-1-SMC-97-013**

Dear Mr. Douglas:

This submittal shall constitute a Request for Reconsideration pursuant to the California Coastal Act, Section 30627. This Request for Reconsideration is filed subsequent to the Commission's action on April 8, 1998, wherein they issued a Notice of Intent To Issue Permit to Mary Anne Luchini for development of her property located in San Mateo County.

The Commission has scheduled a further hearing on this matter for May 12, 1998 so as to adopt revised findings. Appellant reserves the right to submit additional information based upon the revised findings which are recommended to the Commission for its May 12, 1998 hearing. This application for reconsideration is submitted at this time prior to the May 12, 1998 hearing so as to comply with the time limits found in Section 30627 of the Coastal Act and to preserve the right to request said consideration.

Pursuant to California Coastal Act, Section 30627(a)(3), "The basis of a Request for Consideration shall be either that there is relevant new evidence which in the exercise of reasonable diligence could not have been presented at the hearing on the matter, or that an error of fact or law has occurred which has the potential of altering the initial decision." In this instance, it is Appellant's contention that the Commission's decision is based upon an error of fact or law in that: (1) the evidence does not establish that the property is prime agricultural land; (2) the Commission created an error of law in the balancing of the competing policies relative to visual resources; and (3) the Commission has violated Section 30010 of the Coastal Act by exercising its powers to take property for public use without compensation.

EXHIBIT NO.	1
APPLICATION NO.	A-1-SMC-97-013-R
Request for Reconsideration	

### **Decision Regarding the Prime Agricultural Land**

In reaching its decision, the Coastal Commission indicated that the project would "impermissibly convert agricultural land and fail to cluster non-agricultural development in a location most protective of agriculture. As argued in the initial submissions made to the Commission, it is Appellant's contention that this property is not made up of prime agricultural land. Attached hereto as Exhibit "A" are those sections of the earlier submitted applications which discuss in detail the Appellant's position relative to the characterization of this land. Contrary to the Commission's findings, the land is not capable of agricultural production because of its configuration, soil, and lack of water. The finding of the Commission on the agricultural character of the land is not supported by the evidence submitted to the Commission.

### **Visual Resources**

In making its decision in April, the Commission determined that the Luchini house should be located adjacent to existing development directly to the north and adjacent to the coast highway. Ms. Luchini had proposed that the development instead be located 2,260 feet from the highway. It is the Appellant's position that locating the house at the proposed location would best serve the competing policies of the Coastal Act. It would be located farther from the highway and, therefore, not interfere with the views from the passing motorists and it would be located further from the trail and screened by landscaping so as to allow those persons walking on the trail some physical separation from the structure.

The Commission's decision to cluster the house at the highway constitutes a violation of Coastal Act Section 30007.5 regarding resolution of policy conflicts. The Coastal Act provides that conflicts between competing policies be resolved in a manner which, on balance, is most protective of coastal resources. The Commission applied the policy regarding clustering although it clearly violated the requirement in Section 30251 of the Act regarding protection of views from scenic highways and the requirements in the San Mateo County General Plan and the policy of the State of California to protect views from designated scenic highways.

### **Damage Property Without Compensation**

The decision of the Commission violates the requirements of Section 30010 of the Coastal Act in that the Commission has exercised its power to grant a permit in a manner which takes or damages private property for public use without the payment of compensation therefore.

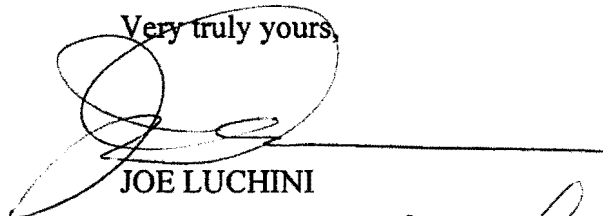
Based upon the above referenced errors, the Luchini's request reconsideration of the

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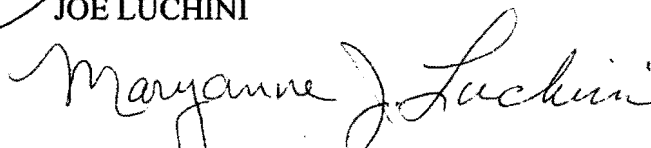
Commission's April decision. As indicated above, the Luchinis will submit additional information in support of this request once the Commission has acted on the proposed findings at its May 12, 1998 meeting.

Very truly yours,



A handwritten signature in cursive script, appearing to read 'Joe Luchini', is written over a horizontal line. The signature is fluid and somewhat stylized.

JOE LUCHINI



A handwritten signature in cursive script, appearing to read 'Maryanne J. Luchini', is written below the signature of Joe Luchini.

MARY ANNE LUCHINI

County was correct in its decision to allow residential development on the Property as provided for in the Local Coastal Program.

### ISSUE 1 - INCONSISTENCIES WITH AGRICULTURAL POLICIES

As indicated within the Commission Staff Report, the Appellants contend that the approval of the project would "impermissibly convert agricultural land and fail to cluster non-agricultural development in a location most protective of agriculture inconsistent with LCP policies 5.8, 5.10, 5.15 and 1.8."

A. The County's Approvals Would Not Impermissibly Covert Agricultural Land Because The Property Cannot Be Put Into Viable Agricultural Production Due to a Lack of Water Needed for Agricultural Usage, the Size of the Parcel and Poor On Site Soils

In granting approval for the project, the County determined that the parcel was land suitable for agriculture. The Coastal Commission Staff Report contends that the County was mistaken in this determination and the parcel is instead prime agricultural land.

Division 5 of the County's LCP is the agricultural component of the program. Section 5.1 defines prime agricultural land as follows:

1. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification as well as all Class III land capable of growing artichokes or brussel sprouts.
2. All land which qualifies for rating 80-100 Storie Index Rating.
3. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.
4. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than 5 years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre.
5. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within 3 of the 5 previous years.

The \$200 per acre amount in subsection 4 and 5 shall be adjusted regularly for inflation,

using 1965 as the base year, according to a recognized Consumer Price Index.

Section 5.3 of the LCP defines lands suitable for agriculture as follows: "lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting."

It is important to note that single family residences are allowed as conditional uses both on prime agricultural land pursuant to Section 5.5(b)(1) and on land designated as suitable for agriculture pursuant to 5.6(b)(1).

In order to convert prime agricultural land to a conditionally permitted residential use four factors must be analyzed pursuant to LCP Policy 5.8. They are as follows:

1. That no alternative site exists for the use.
2. Clearly defined buffer areas are provided between agricultural and non-agricultural uses.
3. The productivity of any adjacent agricultural land will not be diminished.
4. Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

Similar findings must be made to convert land suitable for agriculture to residential use pursuant to LCP Policy 5.10. The five factors that must be examined in converting land suitable for agriculture are as follows:

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

In acting on the Coastal Development Permit, the County found that the project conformed with the policies' requirements and standards of the Local Coastal Program. At finding #5 the



County specifically indicated "that the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program, particularly those findings relating to the conversion of land suitable for agriculture" (i.e., LCP Policy 5.10 referenced above). At finding #8 the County indicated:

"[T]hat denying the residential use would result in the taking of private property as it is:

(a) unlikely that a viable commercial agriculture operation could be maintained on the Property, even with the water connection, due to the size and irregular shape of the parcel;

(b) no other economic viable use other than agriculture could be made of the Property without a water connection;

(c) all the types of uses identified in the Planned Agricultural District (PAD) Zoning District, for the types of soil on this project site (lands suitable for agriculture), would require water to be a viable use; and

(d) the possibility of purchase of the subject parcel by the adjoining parcels to the north and south has been explored and no interest has been shown.

The County went on to state at finding #9:

"[T]hat the agricultural viability study for the project identifies artichokes and brussel sprouts as the only viable crops based on the soil conditions and climate of this location, that these types of crops are heavily water dependent, and that the probable net operating annual income would be approximately \$600."

In light of the evidence which was presented to the County Board of Supervisors, it is the Respondent's contention that the Board of Supervisors' findings of conformance with LCP Policy 5.10 was appropriate.

The County was correct in its conclusion that this Property falls under lands defined as "suitable for agriculture" pursuant to Section 5.3 of the LCP. Appellants contend that the Property is prime agricultural land because it is Class III land capable of growing artichokes and brussel sprouts. The information provided to the County and once again, to the Coastal Commission, will demonstrate that the land is not capable of growing artichokes and brussel sprouts due to the parcel's irregular shape, poor soils and lack of water necessary for an agricultural use.

Section 30241.5 of the Coastal Act provides that if the viability of existing agricultural use is an issue in a local coastal program the determination of viability shall include, but not be limited to, consideration of an economic feasibility evaluation containing the following elements:

1. An analysis of the gross revenue from the agricultural products grown in the area for 5 years immediately preceding the date of the filing of a proposed local program.

2. An analysis of the operational expenses excluding the cost of land associated with the production of agricultural products grown in the area for 5 years immediately preceding the date of filing of a proposed local coastal program.

The Staff Report of February 11, 1997 prepared for the San Mateo County Board of Supervisors at page 3, paragraph 2, references an agricultural viability study provided by the State Agricultural Bureau and University of California. As indicated in the Staff Report, artichokes and brussel sprouts were identified as the only viable crop for the land because of the soil conditions and climate. Both of these crops are heavily water dependent. The Report concludes that the probable net operating income per acre on this parcel is \$123.83 resulting in an annual profit of \$600. Attached as Exhibit "D" is a report prepared for the Board of Supervisors by the Applicant. This report is based upon data provided by the San Mateo County Farm Bureau. This data confirms the State Agricultural Bureau/University of California data to the effect that the parcel is not agriculturally viable.

The County Staff Report also indicates:

"b. All attempts to locate a source of on-site groundwater have failed. There is an existing 2-inch diameter water main line on-site that serves three customers (Vint, Navarro and Giusti). The water line marginally serves Giusti Farms (who has additional water sources) and thus lacks the capacity to deliver the quantity flow/time required to grow artichokes and Brussels sprouts.

d. The Giustis have no interest in leasing the subject Property due to the lack of water, its small acreage and the confining, narrow irregularity of the parcel."

Further evidence that the Property is not prime agricultural land is found in the report of Ken Oster, Area Soils Scientist for the United States Department of Agriculture. As indicated by Mr. Oster, the Luchini Property is not found on the prime farm land list or the farm lands of statewide importance list for San Mateo County because the map units found on the Property do not meet the criteria for these lists as described in the National Conservation Planning Manual. He further indicates that neither map unit would be on these lists even if they had a developed irrigation system. See Exhibit "A".

In a report prepared by Doyle Goins for Jack Olsen, Executive Administrator of the San Mateo County Farm Bureau, Mr. Goins concludes:

"because of the low levels of Calcium and Potassium, it would be very hard to farm these blocks. The Magnesium and Sodium being at very high levels, would replace the Calcium and Potassium making the soil very tight and not draining properly. The

PH levels are very low for movement of most elements including Calcium, Magnesium, Potassium and Phosphorous".

See Exhibit "C". Finally, as indicated by Mr. Oster in a June 3, 1997 report " neither soil would be Unique Farmland unless it had a developed irrigation system capable of irrigating artichokes, brussel sprouts or other local crops of high economic importance." See Exhibit "A". As was indicated above, there is no irrigation system because there is no water available on site and the adjacent property owners are unwilling to sell their water allocation so as to allow for adequate levels of water to irrigate the above referenced crops.

Other agricultural uses of the Property have been explored and rejected as well. The Property is not suited for greenhouses as shown by the letter from Silva Wholesale Florists attached hereto as Exhibit "E" and incorporated herein by reference. Also attached is a letter from Cabrillo Farms attesting that the small size of the parcel and the lack of water renders the Property infeasible for growing crops. See Exhibit "F" attached hereto and incorporated herein by reference. Also, attached is a letter from Ernie Alves, a retired dairy farmer, declaring that the parcel is not suitable for dairy farming. See Exhibit "G" attached hereto and incorporated herein by reference. Finally attached is a letter from the Peppered Paints indicating that the Property is also not suitable for a commercial or private stable. See Exhibit "H" attached hereto and incorporated herein by reference.

In order to be productive agricultural land, adequate water is required. As shown in the letters analyzing the Property for agricultural purposes by Ken Oster, Bert Silva and Bruno Santini, each indicate that the lack of water precludes this from being a viable agricultural site. As indicated by the Respondent in her application to the County of San Mateo, the land does not have water and attempts to find water by drilling have failed. The owner has attempted to purchase water from the adjacent property owner and that request was refused. Attached hereto and incorporated herein as Exhibit "I" is Mr. Gusti's letter of November, 1995, in which he expresses an unwillingness to allow Ms. Luchini to purchase his water allocation. As indicated in the water well driller's report and letter from Geotechnical Consultants, Inc., "the possibility of obtaining a potable and sustainable domestic supply on the parcel, in our opinion, is remote and not a practical or economic solution at this time. Therefore, we recommend that you pursue other water supply options that may be available to you." See Exhibit "J" attached hereto and incorporated herein by reference. In light of this information, it is the Respondent's contention that the County was correct in its determination that this Property did not constitute prime agricultural land.

LCP Policy 5.6(b) provides that a single family residence is a conditionally permitted use within lands suitable for agriculture. In order to place a conditionally permitted use upon agricultural land, five determinations must be made as provided in LCP Policy 5.10. It provides for the establishment of a conditionally permitted use if it is demonstrated that:

1. All agriculturally unsuitable land on the parcel has been developed or determined to be undevelopable.

2. Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act [i.e., "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors].

3. Clearly defined buffer areas are developed between agricultural and non-agricultural uses.

4. The productivity of any adjacent agricultural lands is not diminished.

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

Contrary to the allegation in the Staff Report, these factors were discussed by the County Board of Supervisors in granting its approval. Attached as Exhibit "K" and incorporated herein by reference, is a copy of the October 9, 1996 Planning Commission Staff Report. At page 4 of that Report, Staff indicated that the project complied with the planned agricultural district regulations of the County. The substantive criteria which was required to have been met prior to the issuance of a permit are found in Section 6355 of the County's zoning regulations. Those criteria require the provision of an adequate water supply, that the proposal would not detrimentally affect productivity of adjacent agricultural lands, that agricultural and non-agricultural uses would be clearly separated and that it would be determined that the agricultural use of the soil was not capable of being accomplished in a successful manner. Planning Commission Staff concluded that the site was roughly 90 feet wide and 2,616 feet long. As such, it was too narrow to be reasonably developed for productive agricultural uses. Additionally, the State access trail separated the parcel from the agricultural properties located directly to the south. Given these physical constraints, it was indicated by Staff that in their opinion the proposal would not diminish agricultural uses on adjacent properties or on the site itself. See Exhibit "K". Based on the above referenced information, Respondent contends that the County was correct in its conclusion that the Property was not prime agricultural land due to its inability to support a viable commercial crop. Evidence before the County established that the soil conditions limit the type of viable crops to brussel sprouts and artichokes, the size of the parcel makes this type of commercial production unfeasible and most importantly, there is no water to support this or any other type of agricultural use of the land.

In summary, it is Respondent's contention that the County acted appropriately in viewing this parcel as land suitable for agricultural. Likewise, the County was correct in its determination to allow conversion of this to the conditionally permitted residential use because the Property's soil, size and lack of water render it useless as agricultural land.

There was no evidence presented to the County which would have demonstrated that conversion to a residential use would result in diminished productivity of adjacent agricultural land. There was likewise no indication to the County that residential development would impair agricultural viability by increased assessment costs or degraded air and water quality. Finally, a

clearly defined buffer zone exists between the Property and adjacent agricultural uses. Not only is the Cowell Beach Access Trail located between the Property and the adjacent agricultural use, but the County conditioned the project on the owner recording a statement with the County acknowledging the agricultural usage on the adjacent property.

In reviewing the Coastal Commission Staff Report regarding the 300 foot buffer zone, Respondent again surveyed the Property and determined that the approved house is located approximately 150 feet past the end of the Giusti lands. The approved location is therefore within the 300 foot buffer zone. Respondents have no objection to moving the house westward so as to comply with the 300 foot buffer zone. This would not only satisfy the buffer zone requirement but would also move the house further from the highway and the trail. Attached as Exhibit "L" is a map of the Property. The green "X" demonstrates where the house would be located when shifted westward to comply with the 300 foot buffer zone. This relocation would place the house westward approximately 300' beyond the point at which the trail veers sharply south. The added distance from the trail and highway satisfies the concerns raised regarding visibility of the structure from the trail and highway and complies with the 300 foot buffer zone required due to adjacent agricultural use of the Giusti property.

B. Relocation of the House As Suggested by the Applicant Properly Serves the Goals of the LCP Regarding Viability And It Will Not Conflict With Agricultural Development on the Adjacent Parcel

This issue is raised twice by Appellants. A discussion of this issue is found in response to Issue 3, Inconsistency with Visual Resource Policies, page 11 of this response.

ISSUE 2 - INCONSISTENCY WITH PUBLIC WORKS POLICIES

The Appellants contend that the approved project would allow a connection to urban water services for a non-agricultural use outside the urban rural boundary contrary to LCP Policies 2.14 and 2.37.

A. Residential Development of this Property Would Not Conflict With LCP Policies 2.14 and 2.37 Because The Property Currently Has a Water Line Crossing It

When this project was evaluated by the County's Planning Staff on October 9, 1996, the Staff Report noted that the proposed connection to the Coastside County Water District would be consistent with LCP Policy 2.14(C) which allows exceptions to the requirement to confine urban level services to urban areas in cases where the District maintains some rural lands in order to maintain service to existing rural customers and where all other alternatives have been explored.

In this instance, the Applicant had obtained two well permits to test for water well locations

on the site. In 1990 as well as 1995, attempts were unsuccessful in locating sufficient potable water in quantity and quality to serve residential use of the site. See Exhibit "J". A public water line serving adjacent properties both north and south of the site is currently located on the Property along the Cabrillo Highway frontage. This water line was constructed in the 1940's by the Army Corps of Engineers. The line serves several properties whose water meters are located in an easement on the parcel. County Staff indicated that these circumstances were "fairly unique" and therefore approval of the water connection in this case would not set a precedent conflicting with the goals of the LCP. The Planning Staff noted that the only other location where the same situation occurs is along Miramontes Road. The connection of the public water facilities would not require the extension of public water service nor would it affect the level of service to existing users because the water line already crosses the Luchini property. Therefore the extension was consistent with the relevant local coastal program requirements.

The Staff recommendation relative to this question was the same when the matter was considered by the Board of Supervisors. In the Staff Report dated November 13, 1996 staff indicates that the proposal would qualify for an exception under Policy 2.14(C) because the Coastside County Water District water main which provides service to existing customers on either side of the subject Property actually crosses the Property thereby making unnecessary any extension of existing services. See Exhibit "M" attached hereto and incorporated herein by reference. As indicated above, this public water line has been located on the site since the mid-1940's when it was installed by the Army Corp of Engineers.

The Coastal Commission's strict interpretation of Policy 2.14(C) would allow water service in the rural area only if it were to continue a service which already existed at the time the local coastal program was adopted in 1981. This approach would disallow any new service connections in the rural area even in situations where a water main extension is not required.

Even though under this interpretation of Local Coastal Program Policy 2.14, a hookup would normally not be allowed solely for residential purposes, a residential use might be authorized if necessary to allow reasonable economic use of the Property. The Coastal Act specifically recognizes that the Act is not to be construed as authorizing a local government to exercise its power to deny a permit in a manner that takes private property (Public Resources Code Section 30010). Further, Section 8 of Measure A, the Coastal Protection Initiative, which adopted Policy 2.14(c), states that the provisions of Measure A are not applicable to the extent that they would violate State or Federal constitutional provisions, which include the prohibition against taking property.

The County Staff concluded that it was unlikely that a viable commercial agricultural operation could be maintained on the Property even with a water connection because of the size and irregular shape of the 4.88 acre parcel. The long and narrow shape of the parcel could not realistically support a viable commercial agricultural cooperation. Additionally, greenhouse development on the parcel would require side setbacks of twenty feet from the property line leaving only a very small area which could be devoted to agricultural use. Access to an agriculture or floraculture operation for maneuvering agricultural equipment would consume additional area on

site and limit the commercial agricultural viability of the Property. See Exhibit "M".

Staff concluded that it was unlikely that any viable economic use could be made of the Property without a water connection because all types of uses identified in the Planned Agricultural District (PAD) for the type of soil on this project site would require water to be a viable use. The following uses are allowed on land suitable for agriculture: agriculture; non-residential development customarily considered accessory to agricultural uses (barns, sheds, stables, fences, etc.); dairies; greenhouses; nurseries; animal fanciers; farm labor housing; single family residences; affordable multiple family residences; schools; fire stations; commercial recreation; aquaculture activities; wineries; timber harvesting; processing; storing; packaging of agricultural products; uses ancillary to agriculture (agricultural grading equipment, agricultural rental supplies, etc.); kennels or catteries and scientific/technical research and test facilities. All the allowable uses would require water in order to be sustainable. Considering the necessity for water and the numerous failed attempts to find water on site, the failure to allow the water connection would have, in the mind of County Staff, risen to the level of a taking of the Property.

Based upon the foregoing arguments, Respondents contend that the County was correct in its determination that the project was consistent with the LCP Policies concerning urban services outside the Urban Service Boundary.

### ISSUE 3 - INCONSISTENCY WITH VISUAL RESOURCE POLICIES

The Appellants contend that the project would substantially block important coastal views from the Cowell State Beach access trail, is not in scale with the rural character of the area, and would not be clustered near existing development so as to be inconsistent with LCP Policies 8.5 and 8.15. Appellants further contend that the project as sited and designed does not fit the physical setting, is not subordinate to the pre-existing character of the site and does not enhance the scenic and visual qualities of the area contrary to LCP Policy 8.18, does not relate in size and scale to the adjacent buildings contrary to LCP Policy 8.20 and does not meet standards that apply to development in scenic corridors in rural areas referenced by LCP Policy 8.31.

The Committee for the Green Foothills further contends that Condition 6 of the County's approval is unclear in that it requires a revised planting plan which would provide additional shrub and tree plantings to reduce or eliminate views of the proposed residence.

#### A. Coastal Views Would Not Be Impaired by This Residential Development

This portion of the Respondent's submission addresses the issues raised by Appellants regarding views vis a vis the approved house location. As indicated in the discussion of Issue 1, at pages 3-9, Respondent proposes shifting the house westward to comply with the 300 foot Telon buffer zone. This movement would moot these arguments because the house would not be adjacent to the trail. It would be located beyond the point at which the trail veers southward. The house

would also be moved further from the highway. This location is shown on Exhibit "L" with a green "X".

The County Planning Commission staff in its initial report indicated that the proposed house site would be located 2,000 feet from Highway 1 and would not exceed 28 feet in height. Due to a 10 foot berm along Cabrillo Highway and the general downward sloping terrain of the site, the house will not be visible from Highway 1 north and adjacent to the site. The roof and portions of the top floor of the house may be visible at one point exactly 9/10ths of a mile south of the site for a distance of 1/10 of a mile. Once the landscaping matures, no portion of the house will be visible from the scenic Coastal Highway. Therefore, placement of the house at the approved location would provide the least amount of visibility from the Highway. The Staff Report prepared for the County Board of Supervisors further discussed this issue by indicating that it would be impossible to locate a house on this site which did not impact either the view from Highway 1 or the view along Cowell State Beach access. Clustering the residence near the Scenic Highway will result in literally blocking the coastal view for the multitude of motorists who travel both north and south on the Cabrillo Highway. Placement of the house on the approved location would not negatively impact the view from Highway 1 and it would be screened from view on the access trail by landscaping.

Section 3251 of the Coastal Act provides that permitted development shall be cited and designed to protect views to and along the ocean and scenic coastal areas. LCP Policy 8.15 prohibits development from substantially blocking views to or along the shoreline from coastal roads, roadside rests and vista points, recreational areas and beaches. The Appellant's claim of view obstruction from the coastal walking trail should have no impact on this decision. A walking trail serving a limited patronage cannot be compared with the Coastal Scenic Highway, which affects the general populace. A "trail" cannot possibly be construed as a scenic highway. The Cowell State Beach Trail is not included in the category of views to be protected. This trail is not a coastal road, coastal rest area, vista point, recreation area, or beach. The trail, which is man made, by its existence actually impairs the previously natural vistas. The applicants are in compliance with LCP 8.15 since the proposed development does not block any views from the scenic coastal road.

LCP Policy 8.18(A) requires that new development be located, cited and designed so that its presence enhances the scenic and visual qualities of the area. LCP Policy 8.31 directs that the policies of the scenic element of the County's general plan be applied and that the special regulations for Cabrillo Highway Scenic Corridor be applied. Section 4.39 of the San Mateo County General Plan provides as to scenic roads that they be given special recognition and protection to travel routes in rural and unincorporated urban areas which provide outstanding views of scenic vistas. Table 4.6 of the San Mateo County General Plan lists Cabrillo Highway State Route #1 from the southern limits of the City of Half Moon Bay to the Santa Cruz County line as a state designated scenic route. Placement of the house in the approved location furthers these aims because it is removed from the area visible from the highway.

The Commission Staff asserts that the location of the approved house would result in blocking the views to and along the coast line from Cowell Beach Access trail located adjacent to



the Property. The planting of trees along the south side of the house will result, over a period of years, in a dense growth of foliage which will screen the house so as to make it less visible from the access trail. If the house were moved toward Highway 1 and clustered next to the existing development, there would be no way to screen this from public view. It would not only impact views along the beach trail but would also impact views along the scenic highway. In granting approval for the location of this house a choice was made by the County in regard to the house placement so as to least impact views. It is Respondent's contention that the County's determination was appropriate in light of the inability to satisfy all LCP policies in providing for development of this Property. As the California Legislature has indicated in the Coastal Act at Section 30007.5 "[T]he legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources." It is Respondent's contention that the location of the house as approved by the County of San Mateo grants the greatest protection to views because of its distance from Highway 1, on a downward sloping portion of the Property. This physical location in conjunction with the requirement of tree planting will result in the least visibility from Highway 1.

B. The Architectural Design of the Residence is Compatible With The Area Due to Its Informal Farmhouse Style

Appellants contend that the approved project does not relate in size and scale to the adjacent development. As a point of clarification the existing residences to the north are two stories high with wood stucco exterior finish and are painted white. Respondents contend that this in itself is entirely out of context with the visual character of the area.

The Luchini residence has been completely redesigned to reflect an informal farm house type of character with exterior walls covered with wood siding stained a natural earth tone color. This exterior treatment will blend the residence into the site. The garage has been turned 90 degrees to allow for additional Monterey Cypress tree planting to entirely screen the residence from the south when traveling northward along the State Scenic Corridor (Cabrillo Highway) and when walking westward along the Cowell State beach access trail. Refer to Gumbinger Associates Drawings No. A-1, A-2 & A-3 revised 4/9/97, attached hereto as Exhibit "1" and incorporated herein by reference. Respondents contend that this design and location is far more appropriate for the physical setting and enhances the scenic and visual quality of the area.

ISSUE 4 - INCONSISTENCY WITH LOCATING & PLANNING NEW DEVELOPMENT POLICIES

The Appellants contend that the project would have significant adverse impacts on coastal resources, including impacts on scenic and visual resources and agricultural inconsistent with LCP Policy 1.8.

A. There is No Evidence To Establish That Residential Development Will Adversely Impact Coastal Resources or Diminish the Ability of Others to Use Agricultural Land

LCP Section 1.8(a) allows for new development as defined in Section 30106 of the California Coastal Act of 1976 in rural areas only if it is demonstrated that it will not:

1. Have significant adverse impacts, either individually or cumulatively on coastal resources; and
2. Diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the agricultural component), in agricultural production.

The Staff Report prepared for the Coastal Commission indicates that Appellants contend that approval of this project is contrary to policy 1.8(a)(2) because the approved location of the house, landscaping and driveway would take up and convert more agricultural land than an alternative location closer to the road. Additionally, by locating the house in the middle of the lot, it limits the potential of combining portions of the lot with the agricultural land on adjacent parcels to facilitate renewed agricultural use of the soils.

As discussed in Section 1 above, while this land may be theoretically suitable for agriculture, in reality it cannot be put into agricultural production due to the size of the parcel, its irregular shape, and its lack of water. Additionally, no adjacent land owner with agricultural lands is interested in purchasing the Property so as to place it into agricultural production. As a result, the land is not useable as agricultural land. The location of the home in its approved location, as discussed in Section 3, represents the best location for protection of views. It will not be noticeable from any point on the Coastal Scenic Highway, and the landscaping will diminish its impact on the few patrons who chose to walk on the adjacent trail. In light of these factors, Respondents contend that the project is not inconsistent with LCP 1.8 because it will not have significant adverse impact on coastal resources or diminish the ability to keep agricultural land in agricultural production.

### CONCLUSION

In reviewing Ms. Luchini's application for permits, the County took a detailed and thoughtful look at this Property. Having done so, it came to the conclusion that agricultural development of this Property was impossible due to the lack of water. Due to this lack of water, it was the County's position that to require agricultural uses would result in a taking. This conclusion was supported by the fact that an agricultural use was first of all physically impossible due to the lack of water and secondly, economically impossible as well due to poor soils and the size of the parcel. If the application of the LCP Resource Protection Policies would result in a denial of all economically beneficial or productive use of the Property, the County was correct in its conclusion that it would result in a taking requiring the compensation of the property owner. Lucas v. South Carolina Coastal Council (1992) 112 S.Ct. 2886, 2893. A taking results if a public entity's refusal to issue a permit

leaves the owner with no viable economic use of the Property. Healing v. California Coastal Commission (1994) 22 Cal.App.4th 1158, 27 Cal.Rptr.2nd 758. In order to resolve the issue of whether a land owner has been denied economically viable use of property so as to constitute a taking, the fact finder must analyze the economic impact of the refusal on the claimant and the extent to which such refusal has interfered with investment backed expectations. Proper analysis should also address (a) the history of the property; (b) the history of development; (c) the history of zoning regulations; (d) how development changed when title passed; (e) the present nature and extent of the property; (f) what the reasonable expectations of the land owner and neighboring owners were under state common law; and (g) what the diminution in the investment based expectation of the land owners were. Reahard v. Lee County (11th Cir. 1992) 968 F.2d 1131, 1136.

An analysis of this Property will show that the Bello Family and Maryanne Bello Luchini have owned the Property since 1965. Since their acquisition of the Property it has remained as a vacant site. It has never been put into agricultural productivity nor can it be in the future due to its size, poor soils and the lack of water. The only development potential for this Property which is physically possible is a residential use. It is the Applicants' contention that the County acted reasonably in determining to issue the permits necessary for development as a residential site. As indicated in finding #8 of the approvals granted by the County, "denying the residential use would result in a taking of the Property as it is (a) unlikely that a viable commercial agricultural operation could be maintained on the Property, even with the water connection, due to the size and irregular shape of the parcel; (b) no other economic viable use other than agriculture could be made of the Property without a water connection; and (c) all the types of uses identified in the Planned Agricultural District (PAD) Zoning District for the types of soil on this project site, (land suitable for agriculture) would require water to be a viable use and (d) the possibility of purchase of the subject parcel by the adjoining parcels to the north and south has been explored and no interest has been shown".

In light of the evidence presented to the County and additional evidence submitted with this response to the Coastal Commission, it is the Applicants' position that development as a residential site is appropriate and constitutes the only development potential for this project. Applicants respectfully request that the Coastal Commission deny the appeal in its entirety therefore allowing them to proceed with development as contemplated and approved by the County of San Mateo.

At paragraph 4 of page 3 in your May 12 letter you request added information on why artichoke cultivation or the listed permitted/conditionally permitted uses would not be economically viable on the property.

The October 31 submittal at pages 3-9 and Exhibits A through J discuss this issue in depth. A copy of those pages and Exhibits are attached for your reference as Exhibit 4. We believe this information constitutes substantial evidence needed by the Commission to authorize the conditionally permitted residential use. This information clearly establishes that no viable agricultural use is possible due to the size of the parcel, the poor soils and the lack of adequate water.

Enclosed are aerial photographs dating back to 1943. These photographs were obtained by Joe R. Bennie, who is a licensed land surveyor. His transmittal letter for these photographs is also included for the Commission's review. As indicated in his transmittal letter, no agricultural production has ever been engaged on the property from 1943 to the present date. Mr. Bennie contacted Hank Sciaroni recently retired from the U.S. Department of Agriculture. As indicated in his letter, Mr. Sciaroni indicates that to the best of his knowledge no agricultural production has taken place on the property since 1948. He also points out that there is a lack of water for irrigation. These photographs and his letter are attached as part of Exhibit 5.

→ 4. **Alternatives**

(A) **Alternative Locations** - The site for the house was discussed in the October 31 submittal at pages 11-13. Those pages are attached as Exhibit 6 for your reference.

Ms. Luchini contends that placement of the house, in the approved location or alternate location as proposed in her October 31st submittal, provides a project which better serves the goals of the L.C.P. First, building the home along the northern property line as proposed by Staff, so as to cluster it with the Navarro property structures, poses a problem with the county's zoning regulations. The Luchini parcel is 90 feet wide and the county's zoning regulations require a 20 foot side yard setback. To move the house along the northern property line, a variance would be needed.

In earlier conversations with the county's planning staff, they expressed the opinion that findings for a variance from the side yard setback could not be made due to the topography of this property. In addition to the side yard set back issues the house in this location would be wedged between the Navarro building, the public parking lot and, most undesirably, a permanent latrine. As such it would afford little or no privacy or any benefit to the Luchinis, the Navarros and the public at large.

Second, moving the house to any of the three alternative locations suggested by the Coastal Commission Staff makes it far more visible not only from the highway but from the trail. In the approved location, the land elevation is 106' and the house would be 2,020' from the highway. In Ms. Luchini's proposed alternative location the land elevation is 107.5 feet and the house would be 2,260' from the highway. All three (3) locations identified by the Commission staff in the May 12, 1997 letter are at a significantly higher elevation and much closer to the highway. Alternative A(1)(i.e., 400' from the eastern property line) is at an elevation of 136.3 feet. Alternative A(2) (i.e., just west of the coastal crest of the rise in the property approximately 200 feet from the eastern property line) is at an elevation of 138-139'. The third alternative A(3) (aligned with the Cowell Beach Access Trail parking lot) is at an elevation of 138-139'. This demonstrates that each of the Commission Staff's proposed alternative sites would result in a structure closer to the highway and sited at a higher elevation. As a result, the structure would be far more visible both from the highway and along the trail. The approved location and alternative location suggested by Ms. Luchini are sited lower and further from the highway and trail. Because of this, either of these two locations would serve the greater public good. The locations proposed by Commission staff conflict with the scenic highway policies of the State and County. They place the house at a higher elevation adjacent to the scenic coastal highway. This in no way achieves the goals of the County LCP or the Coastal Act.

Finally, clustering the Luchini home near the Navarro property will interfere with agricultural production on the Gusti property. This interference will arise from the location of the house within the 300 foot Telon buffer zone. Ms. Luchini's proposed location falls outside the 300 feet Telon

buffer zone and therefore will not interfere with agricultural production currently engaged in by the Gustis' on their property.

In summary, Ms. Luchini contends that the placement of the house, in the approved location or the alternative location proposed by Ms. Luchini in the October 31 submittal, most appropriately achieves the goals of the LCP. To place the house in any of the three locations proposed in the May 12 letter will result in clustering of homes near existing structures, but such clustering will be prominently visible from the coast highway and from the adjacent trail. This is of no benefit to anyone. The policies relative to the scenic coastal highway are undermined. The Luchinis have no measure of privacy and the users of the trail have full view of the structure at the trail head. Clustering would also interfere with the adjacent agricultural lands because the houses would fall within a 300 foot Telon buffer zone. In light of these factors, it is Ms. Luchini's contention that the approved or alternative location that she suggests is a far more favorable location from all parties' perspectives. The home is away from the highway, away from the trail and built at a lower elevation on the property. As such it blends into the topography and is separated so as to allow continued agricultural usage on adjacent property.

**(B) Size and Design of the House** - The issues raised in this portion of your letter are fully discussed in pages 11-13 of the October 31st submittal. Those pages are attached to this Response as Exhibit 6.

**(C) Construction Standards** - Ms. Luchini does not object to constructing of a driveway with materials that are colored to blend in with the surrounding landscape as provided for in Policy 8.19 and Zoning Code Section 6325.1(c) and sufficiently porous so as to avoid offsite runoff.

5. **Adverse Effects on Visual Resources** - Some months ago Ms. Luchini advised that she would grant the Coastal Commission permission to enter and erect story poles if the Staff

**CALIFORNIA COASTAL COMMISSION**  
 NORTH COAST AREA  
 15 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 (415) 904-5260

**Tu 14.5a**



Staff: Jack Liebster-NC  
 Staff Report: April 29, 1998  
 Hearing on Revised Findings: May 12, 1998  
 Commission Action on Findings:

**STAFF REPORT: REVISED FINDINGS**

**APPEAL NUMBER:** A-1-SMC-97-013

**APPLICANT:** MARYANNE LUCHINI

**AGENTS:** Robert Campbell, J.R. Rodine, Paul Gumbinger

**LOCAL GOVERNMENT:** San Mateo County

**DECISION:** Approved with conditions

**PROJECT LOCATION:** Along the west side of Highway 1, 800 feet south of the Half Moon Bay City limits, San Mateo County, APN 066-081-080

**PROJECT DESCRIPTION:** Construct a new 3,490-square-foot, two-story, single family residence and 2,033-foot-long driveway.

**APPELLANTS:** California Coastal Commissioner Rusty Areias;  
 California Coastal Commissioner Louis Calcagno;  
 Lennie Roberts, Committee for Green Foothills.

**COMMISSION ACTIONS:** April 10, 1997: Found the Appeal Raised a Substantial Issue  
 April 8, 1998 Approved the Application with Conditions

**COMMISSIONERS ON THE PREVAILING SIDE (DE NOVO REVIEW)** Commissioners Allen, Armanasco, Dettloff, Fleming, Kehoe, Nava, Potter, Reilly, Staffel, Tuttle, Wan, and Chairman Areias

**SUBSTANTIVE FILE DOCUMENTS:** Commission Permit File No. A-1-HMB-7-60; San Mateo County Local Coastal Program

**REVISED FINDINGS:**

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**APPLICANT:**

**MARYANNE LUCHINI**

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STAFF NOTES

1. Need for Revised Findings:

At the Commission meeting of April 10, 1997, the Commission found the appeal raised a substantial issue with regard to the project's conformance with the County of San Mateo's certified LCP, and directed staff to come back with a recommendation on the project for a de novo hearing. At the meeting of April 8, 1998, the Commission held a de novo hearing on the project, and approved the project with conditions. The staff had prepared an addendum for the April 10, 1998 de novo hearing which contained some changes to conditions and findings recommended in the original staff report. In addition, the Commission's de novo action at the April 10, 1998 meeting differed in one respect from the written staff recommendation: the Commission changed the limitation on the size of the residence in Special Condition No. 2(b) from 1,500 to 2,700 square feet. Staff has therefore prepared the following set of revised findings for the Commission's consideration as the needed findings to support the action taken.

The purpose of the hearing is to consider whether the revised findings accurately reflect the Commission's previous actions rather than to reconsider whether the appeal raised a substantial issue or to reconsider the merits of the project or the appropriateness of the adopted conditions. Public testimony will be limited accordingly.

2. Emphasis Added:

Emphasis has been added to portions of policies throughout this report by **bolding**.

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STAFF RECOMMENDATION:

1. The staff recommends that the Commission adopt the revised findings below in support of the Commission's action on April 8, 1998, approving the project with conditions.

(NOTE: Only those Commissioners on the prevailing side on the Commission's action on the permit at the April 8, 1998 hearing are eligible to vote. See the list on Page 1.)

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Commission Action:

The adopted resolution and findings in support of the Commission's April 8 action are provided below.



REVISED FINDINGS:

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I. ADOPTED RESOLUTION OF APPROVAL

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, is in conformance with the certified San Mateo County LCP, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Deed Restriction.

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director stating the following:

a. Future Development

Development on the entire parcel shall be limited to that described in Coastal Permit No. A-1-SMC-97-13, and any future improvements or other development as defined in Public Resources Code section 30106 will require an amendment to this permit, a new coastal development permit from the California Coastal Commission or from its successor agency, or a determination that neither is necessary; and

b. Deed Restriction

No development, as defined in section 30106 of the Coastal Act shall occur in the portion of the parcel west of the permitted building envelope and as generally shown on the map attached as Exhibit 9 to the Commission's findings for coastal permit application no. A-1-SMC-97-013 (Agricultural Deed Restriction) except for development permitted consistent with Policy 5.5a of the San Mateo County Certified LCP, as reproduced below. All other development including the alteration of landforms, removal of vegetation, use of heavy machinery or equipment, or the erection of any structures is prohibited within the designated agricultural deed restriction area.

Allowed Uses:

- (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock;
- (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for

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farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

**c. Priority of Agricultural Use**

The entire parcel is partly comprised of, and is adjacent to, property that is or may be utilized for agricultural purposes. Residents of the parcel may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning, and harvesting, which occasionally generate dust, smoke noise, and odor. The San Mateo County certified Local Coastal Program establishes agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations.

The deed restriction document shall include a legal description and a map exhibit, drawn to scale, of both the entire parcel and the restricted areas. The deed restriction document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**2. Revised Site, Building, Septic and Drainage Plans.**

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicants shall submit, for the Executive Director's review and approval, revised site, building, septic system and drainage plans that incorporate the following specifications:

- a. A main residence and garage, septic system, and driveway are permitted. No other structures or improvements are permitted on the subject parcel.
- b. The main residence shall be one story, or one story with a partial second story, and have a gross structural area (excluding the garage) of no more than 2,700 square feet and the attached garage shall be no larger than 440 square feet.
- c. The residence and attached garage shall be located within the designated 4,000-square-foot building envelope generally shown in

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Exhibit No. 8. The septic system and leachfield shall be located outside the portion of the property to be restricted by the Deed Restriction required by Special Condition No. 1(b).

- d. The residence and garage shall be designed to reflect a farmhouse architectural style as typified by the Vint residence (17300 Cabrillo Highway, Assessor Parcel Number 066-081-180), with simple shapes, a symmetrical positioning of windows and doors, steep roof lines, a shingle roof wood construction, white colored siding, and a dark colored roof.
- e. The driveway shall be colored or made of materials selected to blend in with the surrounding landscape. At a minimum, the driveway shall abut the northern property line of the subject parcel, and shall be combined with the adjacent driveway to the north, to minimize intersections with scenic Route 1 and reduce the amount of grading and soil coverage required.
- f. Runoff from roof downspouts and other drainage from the site shall be dispersed and diffused on the ground rather than concentrated in one location.
- g. The septic system plan shall be accompanied by written evidence that the plan has been reviewed and approved by the San Mateo County Environmental Health Divisions meeting all of the Division's specifications.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Final Landscaping Plan.

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the Executive Director's review and approval, a final landscaping plan prepared by a qualified professional with expertise in the field of landscaping, such as a landscape architect, in accordance with the San Mateo County "Landscape Plan Guidelines -Minimum Standards." The plan shall provide for planting evergreen, drought-tolerant native or naturalized trees and/or shrubs, to screen the proposed development as seen from the State Highway One Scenic Corridor and the Cowell State Beach access trail. The trees shall be planted as a windrow along the southern part of the property line from a point 50 feet west of the edge of Highway One to a point parallel to the westernmost end of the new residence. The trees shall be a minimum of

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five feet high when planted, must be spaced no farther than 10 feet from each other, must be of a type which maintains their lower branch structure through maturity, and must reach a mature height of at least 20 feet. The plan shall specify the type and mature heights of the trees to be planted.

The plan shall further include a tree maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted trees and a tree replacement program on a one-to-one or greater ratio for the life of the project. The plan shall provide that any pruning or tree trimming will maintain the lower branch structure of the trees. The new trees and shrubs shall be planted within 60 days of completion of the project. The applicant shall notify the Executive Director in writing when the trees have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**4. Exterior Lighting.**

Use of exterior light fixtures shall be minimized. Any exterior lighting that is necessary shall employ warm colors and shall be down cast, shielded, and cast away from Highway 1 and nearby residences.

**5. Undergrounding of Utilities.**

All utility service lines shall be placed underground.

**6. Proof of Water Supply.**

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the Executive Director's review and approval, evidence of a water service connection from the Coastsides County Water District adequate to serve the development from the Coastsides County Water District.

**IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**1. PROJECT DESCRIPTION AND SETTING:**

Since the hearing on substantial issue, the applicant has amended her application to change the precise location and design of the proposed house. As described by the applicant's agent's letter of March 4, 1998 (see

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Exhibit 11), the project as currently proposed, consists of the construction of a two-story, 3,490-square-foot single-family residence, including a 448-square-foot, two car garage. The proposed residence is a Mediterranean-style structure, 28 feet high, 25 feet wide, and 77 feet long, excluding terraces and patios (see Exhibits 5 and 6, except that the garage as depicted there is now rotated 90 degrees to face east). The proposed house site is 155 feet west of the site approved by the County, as shown on Exhibit 12. The proposed driveway has been redesigned to undulate and runs approximately 2,385 feet from Highway 1 to the residence, with several emergency turnouts spaced along that distance, and an additional fire engine turnaround approximately 100 feet from the residence. The total area covered by the driveway surface would be approximately 47,700 sq.ft, or slightly more than one acre. The plans do not show landscaping along the driveway. Construction of the project would require approximately 350 cubic yards of grading. Finally, the project also includes the installation of a septic system and utility lines.

The parcel on which the project would be built is located on the west side of Highway 1 approximately 800 feet south of the Half Moon Bay city limits, on the rural side of the urban-rural boundary defined by the LCP. The approximately 4.88-acre blufftop parcel was created by deed in 1941. The parcel is a narrow 2,616-foot-long strip of the broad coastal terrace in the area. The parcel slopes up approximately 14 feet in elevation from Highway 1 for the first 300 feet before gently sloping down to the coastal bluff edge (Exhibit 4). There is a swale that drops approximately six feet directly east of the proposed house location (Exhibit 4). The parcel is 100 feet wide at Highway 1, and narrows to about 65 feet at a point approximately 1000 feet seaward of Highway 1. The parcel is immediately adjacent to the new Cowell State Beach accessway and trail which runs along its entire length to the south. The lands south of the accessway are in active, productive agricultural operations. The parcel itself consists of prime agricultural lands (please see section 4 below) covered with grass and brush. Two larger agricultural parcels lie to the north between the subject parcel and the Half Moon Bay urban-rural line. A new golf course has been constructed just over the rise across the City Limit line of Half Moon Bay.

2. LOCAL GOVERNMENT ACTION:

Applications for this project were submitted to the County of San Mateo on or about June 6, 1996. The applications included a Planned Agricultural Permit (PAD), a Coastal Development Permit (CDP), and an Architectural Review (ARC) approval.

The project was heard by the San Mateo County Planning Commission on October 9, 1996, at which time the Planning Commission continued the public hearing to November 13, 1996 to: (1) provide staff time to prepare a Negative Declaration, (2) review an alternate site location for the proposed residence, (3) provide a response to the Coastal Commission staff's letter of Oct. 3,

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1996, and (4) address the Planning Commission's concern regarding whether or not a connection to the existing water service line would set a precedent in other rural areas of the County.

At its second hearing on November 27, 1997, to comply with LCP Policy 8.5 (Structures), the Planning Commission required the proposed residence to be moved to an alternate site on the parcel approximately 400 feet west of Highway One (Alternate Location "C", Exhibit 4) and redesigned to be lower, less formal, and to blend in better with the area. The Planning Commission also considered "whether or not there was sufficient evidence to make a finding that not allowing a water connection for the proposed residence would constitute a taking of the applicant's property rights..." [but] "was not able to conclude...that 'denying the residential use would result in a taking of private property.'" (Exhibit 10, Staff Report to Board of Supervisors from Terry Burnes, Planning Administrator, February 11, 1997, pgs. 2-3.). On the question of approving the project, the Planning Commission "split two to two with one Commissioner recusing himself" (Exhibit 10).

The San Mateo County Board of Supervisors held a public hearing to review a local appeal of the Planning Commission approval on February 11, 1997 and voted 3 to 0 to approve the project with conditions (Exhibit 10). The principal substantive conditions did the following:

- (1) Reversed the Planning Commission's decision on the siting and design of the project, and required that (a) the residence be located to "Alternate Location A," approximately 2,000 feet from Cabrillo Highway (Highway 1), (b) the garage be rotated 90 degrees to face the garage door towards the east, and (c) the residence be redesigned to incorporate "a less formal design to blend in with the rural area including the use of earth tone colors (Exhibit 10, pg. 3, Condition 1);
- (2) Required a revised planting plan to provide additional plantings to "reduce or eliminate views of the proposed residence" as seen from Highway 1 and the Cowell State Beach access trail (Condition 6);
- (3) Required all utilities to be constructed underground (Condition 11);
- (4) Required recordation of a statement on the subject property acknowledging the priority of agricultural use on adjacent properties and that residents of the subject property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations; and
- (5) Required the applicant to pay in-lieu fees "based on the equivalent value of a viewing easement from the existing access trail to a viewing point on the coastal bluff,..." not to exceed \$5,000, and specifying that the applicant "agrees to grant a lateral easement...along the blufftop located in a manner that would provide for an eventual

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connection with trails to the North and South of the property."  
(Exhibit 10, pgs. 6-7, Condition 14).

### 3. COMMISSION DETERMINATION OF SUBSTANTIAL ISSUE

On February 14, 1997, the Commission received notice of the County's final local action. The County's approval of the project was then appealed to the Coastal Commission by the Committee for Green Foothills (CGF), and by Commissioners Areias and Calcagno on March 3, 1997, within 10 working days of the receipt of the notice of final local action.

After a public hearing on April 10, 1997, the Commission determined that the appeal raised a substantial issue regarding project's conformance with policies of the San Mateo County certified Local Coastal Program (LCP) because the project as approved by the County (1) failed to evaluate the project for its consistency with the LCP policies that limit conversion of prime agricultural lands; (2) would allow a water connection for a non-agricultural residential use in the rural area of the County where water connections are limited to agricultural uses; (3) did not cluster non-agricultural development in locations most protective of the agriculture on the site; and (4) was not clustered near existing development but would instead block views from the Scenic Highway and the adjacent Cowell State Beach access trail.

The Commission hereby incorporates by reference the Substantial Issue Findings adopted for Appeal A-1-SMC-97-013 on April 10, 1997.

### 4. CONSISTENCY WITH THE LCP

The standard of review for the application is whether the project is consistent with the policies and requirements of the certified San Mateo County LCP and the public access policies of the Coastal Act.

The project as proposed, is inconsistent with a number of different policies of the LCP, including certain agricultural protection policies and visual resource protection policies. Applying any one of these policies to the project requires changes to the project as proposed. Taken together, they reinforce one another, and in concert, compel the adoption of the Special Conditions attached to the permit. Each policy group is discussed in the following sections.

### 5. PROTECTION OF COASTAL AGRICULTURE

The proposed house, landscaping and nearly half-mile long driveway would impermissibly convert agricultural land, and fail to cluster non-agricultural development in a location most protective of agriculture, inconsistent with LCP policies, including 5.1, 5.2, 5.5, 5.8, 5.15 and 1.8. However, as discussed further below, the special conditions attached to the permit will cluster development, reduce agricultural soil conversion, and protect the

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productivity of the agricultural soils so that the project, as conditioned, will be consistent with the County's certified LCP.

Local Coastal Program Policies

The LCP Agriculture Policies state in part:

**5.1 Definition of Prime Agricultural Lands**

Define prime agricultural lands as:

- (1) All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts...

**5.2 Designation of Prime Agricultural Lands**

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

**5.3 Definition of Lands Suitable for Agriculture**

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

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

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



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

**5.6 Permitted uses on Lands Suitable for agriculture Designated as Agriculture**

- a. Permit agricultural and agriculturally related development in land suitable for agriculture. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.
- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, packaging and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

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

- a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated:
  - (1) That no alternative site exists for the use,...

- (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses,
- (3) The productivity of any adjacent agricultural land will not be diminished, and
- (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

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

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

**5.15 Mitigation of Land Use Conflicts...**

- b. Require the clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses.
- c. Require that clearly defined buffer areas be provided between agricultural and non-agricultural uses.

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**APPLICANT:**

**MARYANNE LUCHINI**

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Discussion

The applicant's representatives have stated that the property is not included in the list of Farmlands of Statewide Significance and, under present circumstances, could not be readily brought into active agricultural production. The applicants imply that the Commission need not impose conditions designed to protect agricultural resources in conformance with the certified LCP agricultural policies as, in their view, agricultural use of the property is not feasible. This argument misses the point because the project must be evaluated under the currently certified LCP policies. As discussed in detail below, these policies designate this property for agricultural use. Whether or not the property should continue to be designated and zoned under the certified LCP for agricultural use and whether or not the LCP agricultural policies should be changed are issues that may be appropriate to consider in the context of a future LCP amendment. For purposes of reviewing the current permit application, however, the question is whether the proposed project is consistent with the existing certified LCP policies and the public access policies of the Coastal Act.

The parcel is Prime Agricultural Land, as that term is defined in Policy 5.1 of the certified LCP. According to the U.S. Department of Agriculture Soil Survey, San Mateo Area the parcel consists of the two soil types WmB2 and WmC2, which the Survey lists as Class III soils. These same soil types make up large parts of the Giusti Farms agricultural lands immediately to the south, usually farmed with artichokes and brussels sprouts (Jack Olsen, Farm Bureau Executive Administrator, oral communication, Mar. 12, 1997). This evidence establishes that the land of the Luchini parcel meets the definition of prime agricultural lands under Policy 5.1, as "Class III lands capable of growing artichokes or Brussels sprouts."

Moreover, the applicants own "Agricultural Evaluation" of the project indicates that, based on the soil conditions and climate of this location, growing brussels sprouts would produce a gross revenue of \$3,290.00 per acre annually (Exhibit 15, note 1), and a probable net operating annual income of \$323.83 per acre (\$123.83 plus the land rental value of \$200/acre - Exhibit 15, notes 2 and 3).

It must be understood that such an agricultural evaluation is not necessary for lands to be considered prime agricultural land. Crop values, cultivation costs and other cost data used in this and similar analyses all change over time. Recognizing the changing nature of these factors, the LCP, as does the Coastal Act itself, focuses on the long-term value of the resource itself - the agricultural land and soils, and their intrinsic capability to raise food and fiber. As noted above, the subject parcel's soils meet the test for prime agricultural land. However, the applicant's agricultural evaluation confirms the agricultural potential of the land by calculating a positive probable annual net operating income of \$123.83 per acre. As noted, this figure includes a charge of \$200/ac. attributed to land rental cost. Thus, based on

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the applicants analysis, the land is worth \$200/acre/year in rental for agricultural use, in addition to the net agricultural profit of \$123.83 per acre for brussels sprouts production. To place these figures in context, the property is currently assessed at approximately \$15,000 for tax purposes. According to the applicant, property taxes are the only holding costs at \$172.70 per year, or about \$35.00 per acre.

The LCP designates and zones the parcel as agricultural land allowing related agricultural uses. The principally permitted and conditional uses allowed on prime agricultural lands are specified in Policy 5.5. The proposed development is consistent with Policy 5.5 as single-family residences are listed as a conditionally permitted use. Policy 5.8 establishes four criteria which must be met before prime agricultural land can be built upon ("converted"), for a conditionally permitted use. Failure to meet any one of these criteria requires that the proposed conversion be prohibited. The project as proposed is strictly for residential use, and would preclude virtually any agricultural use by displacing agricultural lands for the house, landscaping and the nearly half-mile long driveway. As discussed below, the project as proposed would convert agricultural land to a non-agricultural use, but fails to meet three of the criteria for permitting such a conversion. However, the Commission finds that a revised project which clusters the residential development next to existing houses at the east end of the property, and permanently protects the balance of the parcel for agriculture would be consistent with the LCP's Agriculture Policies.

Special Conditions 1 and 2 cluster the development and restrict the undeveloped portion of the parcel for agricultural uses permitted under Policy 5.5a of the certified LCP. Conserving the agricultural soils and reserving them only for permitted agricultural uses is the first and essential step in protecting the agricultural productivity of the site and nearby agricultural soils. It is much like the process that assured the re-invigoration of continued agriculture on the Giusti Farms/Cowell Ranch immediately to the south. When an agricultural conservation easement was placed on those lands, and they were made available for farming based on their agricultural potential, agriculture was able to continue and flourish. In a similar fashion, permanently protecting the resource of agricultural soils on the subject parcel, will keep open the option of operating this parcel, along with portions of the neighboring parcels (one of which is already in agricultural use) profitably for agriculture as market and agricultural water conditions evolve in the future. As discussed below, these special conditions make the project consistent with the specific policies of the LCP that require the protection of agricultural land and productivity.

The first of Policy 5.8's criteria to be evaluated is "That no alternative site exists for the use,..." There is no alternative site for the proposed use that does not convert prime agricultural land on the parcel as the entire parcel consists of prime agricultural land. The applicant has proposed to locate the residence as shown on Exhibit 12. However, this location would

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require a 2,385 foot driveway and the direct conversion of more than one acre of prime agricultural land. Instead, locating the house at a site closer to Highway 1 is an alternative that minimizes the conversion of prime agricultural land at a location nearer the eastern end of the parcel. The Commission attaches Special Conditions No. 1 and 2 which require a deed restriction and revised site plan locating the house at a site closer to Highway 1. This site requires a much shorter driveway, and much less coverage and conversion of agricultural soil.

Policy 5.8's second conversion criterion is that "Clearly defined buffer areas are provided between agricultural and non-agricultural uses." In this case, the Farm Bureau has recommended a 300-foot buffer zone be established between residences and fields to buffer residences from the effects of herbicide and pesticide spraying and other agricultural activities that can conflict with residential use. Specifically, San Mateo Farm Bureau Executive Director Jack Olsen has stated that cultivation of Brussel sprouts in the area relies on the application of the soil fumigant pesticide Telon II (the brand name for the chlorocarbon 1,3-dichloropropene) and that the state's Department of Pesticide Regulation does not permit the application of Telon II within a 300-foot buffer zone.

The applicant has revised the project (Exhibit 11) to move the proposed residence to a point 300 feet west of the nearest currently cultivated portion of the Cowell Ranch/Giusti Farms (Exhibit 12). However, the new location would do nothing to buffer potential future use of agricultural soils to the north, the buffer would not be clearly recognizable, and the additional length of the driveway would further convert agricultural soils on the subject property.

Because of the narrowness of the parcel and the size of the buffer that is needed (300-foot radius), it is difficult to locate the house in a manner that matches the boundary of the required buffer area with clearly defined landmarks at the site such as property lines, driveways, etc. For example, while the Cowell access path buffers to a certain extent the residence in its proposed location from the agricultural operation of the Giusti Farms operation on the adjoining property to the south, the narrow 20-foot-width of the Cowell access path is not nearly wide enough to provide a sufficient buffer. However, the necessary 300-foot buffer can be established at the site in the manner that most closely relates the buffer to features on the ground by clustering the residence close to the residential farm houses on the parcel to the north, as required by Special Conditions No. 1 and 2. The buffer will be clearly defined to the east by the parcel's eastern property line and Highway One and on the north by the northern property line and the neighbor's house. This location will also result in a 300-foot buffer area that largely overlaps the one already necessary for the existing house, as shown in Exhibit 7.

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Finally, as conditioned, this location will also significantly reduce the net amount of new area where potential future Brussel sprout production would be limited, as compared to the project as proposed. As such, this location will be "most protective of existing or potential agricultural uses" as required by Policy 5.15. It should be noted that this analysis of the impact of the Telon buffer area concerns only "potential agricultural uses" since none of the agricultural soils in the buffer areas surrounding either the proposed or conditioned site is currently in Brussel sprout production requiring application of Telon II. However, because of their similar soil requirements Brussel Sprouts are often grown as an alternative to artichokes, depending on market conditions.

Policy 5.8(a)(3), is the third conversion criterion. It requires that the productivity of any adjacent agricultural land will not be diminished. By locating a new residential use in the midst of what is now an open field of agricultural soils, the project as proposed by the applicant would diminish the productivity of adjacent agricultural land contrary to this Policy. As discussed above, the proposed location for the home would diminish the productivity of agricultural lands on adjacent parcels because of the need to separate the agricultural and residential uses. In addition, the proposed location would diminish the productivity of agricultural lands on the applicant's own parcel.

Special Conditions 1 and 2 limit the use of the bulk of the subject property to agriculture, greatly reduce the amount of agricultural land converted, and nestle the house largely within the agricultural buffers already present around existing homes. As conditioned, the project will protect the productivity of adjacent agricultural land consistent with the third conversion criterion specified in Policy 5.8(a)(3). In particular, the agricultural deed restriction required by Special Condition 1 precludes uses that could adversely affect the productivity of adjacent agricultural lands. Special Condition 1c. also carries out Policy 5.8(a)(3) by assuring that both the applicants and any future purchasers understand that agricultural uses have priority in the area and that agriculturists enjoy the "right to farm." without undue complaints from residents of adjacent property.

The fourth and final conversion criteria, Policy 5.8(a)(4), requires the Commission to find that public service and facility expansions and permitted uses will not impair agricultural viability. Although the proposed development would be connected to the public water supply system, serving the development with public water does not involve expanding public services and facilities as a water main already exists on the property. This water main, which serves other properties in the immediate vicinity, runs across the east end of the applicant's parcel through an easement adjacent to Highway One. The applicant will simply need to hook up to the existing line. In addition, as discussed above, the permitted residential use of the site has been conditioned so as to avoid any impairment of the agricultural use of the property. Therefore, as conditioned, the project will not involve expansion

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of a public service or facility and permitted uses will not impair agricultural productivity consistent with the fourth conversion criteria specified in Policy 5.8(a)(4).

The project as conditioned additionally meets the requirement of LCP Policy 5.15(b) to cluster "non-agricultural development in locations most protective of existing or potential agricultural uses," because it sites the proposed residence next to the existing residential farmhouses on the adjacent parcels to the north. Policy 5.15c requires that clearly defined buffer areas be established between agricultural and non-agricultural uses. By protecting the agricultural soils, Special Condition 1 ensures that the property is protected for agricultural uses with the residence being a conditionally permitted use of the agricultural parcel. Clustering the residence adjacent to the neighboring house allows it to largely fit within the pesticide buffer area already delineated around the existing house in a manner consistent with Policy 5.15c.

The Commission thus finds that the proposed development, as conditioned, will protect agricultural lands on both the subject and adjacent property consistent with the applicable Agriculture policies of the certified LCP.

## **6. PROTECTION OF VISUAL RESOURCES**

### **Local Coastal Program Policies**

San Mateo County LCP policies provide especially strong protection for the views and the existing character of the County's Rural Area. The LCP Visual Resources policies state in part:

#### **8.5 Structures**

**Minimize the number of structures located in open fields and grassland areas; require that structures be designed in scale with the rural character of the region, and that they be clustered near existing natural or man-made vertical features.**

#### **8.15 Coastal Views**

**Prevent development (including buildings, structures, fences, unnatural obstructions, signs, and landscaping) from substantially blocking views to or along the shoreline from coastal roads, roadside rests and vista points, recreation areas, and beaches.**

#### **8.18 Location of New Development**

**Require:**

- a. That new development be located, sited, and designed to fit the physical setting, so that its presence is subordinate to the**

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pre-existing character of the site, enhances the scenic and visual qualities of the area, or maintains the natural characteristics of existing major water courses, established and mature trees, or dominant vegetative communities...

- c. That private roads and driveways be shared, where feasible, to reduce the amount of grading, cutting and filling required to provide access.

**8.20 Scale**

Relate structures in size and scale to adjacent buildings and landforms.

**8.28 Definition of Scenic Corridors**

Define Scenic Corridors as the visual boundaries of the landscape abutting a scenic highway and which contain outstanding views, flora, and geology, and other unique natural or man-made attributes and historical and cultural resources affording pleasure and instruction to the highway traveler.

**8.29 Designation of Officially Adopted State Scenic Roads and Corridors**

Recognize officially adopted State Scenic Roads and Corridors as shown on the Scenic Roads and Corridors Map for the Coastal Zone. These are: Coast Highway south of Half Moon Bay city limits (State Route 1) and Skyline Boulevard (State Route 35).

**8.31 Regulation of Scenic Corridors in Rural Areas**

- a. Apply the policies of the Scenic Road Element of the County General Plan.
- b. Apply Section 6325.1 (Primary Scenic Resources Areas Criteria) of the Resource Management (RM) Zoning District as specific regulations protecting Scenic Corridors in the Coastal Zone.
- c. Apply the Rural Design Policies of the LCP.
- d. Apply the Policies for Landforms and Vegetative Forms of the LCP.
- e. Require a minimum setback of 100 feet from the right-of-way line, and greater where possible; however, permit a 50-foot setback when sufficient screening is provided to shield the structure from public view.
- f. Continue applying special regulations for the Skyline Boulevard and Cabrillo Highway State Scenic Corridors.



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**SECTION 6325. SUPPLEMENTARY REVIEW CRITERIA FOR PRIMARY RESOURCE AREAS.**

These supplementary review criteria shall apply to developments that fall within Primary Resource Areas as designated or defined in the Conservation and Open Space Element of the San Mateo County General Plan. These criteria are in addition to all other Development Permit Review Criteria.

**SECTION 6325.1 PRIMARY SCENIC RESOURCES AREAS CRITERIA.**

The following criteria shall apply within Scenic Corridors and other Primary Scenic Resource Areas as defined or designated in the Open Space and Conservation Element of the San Mateo County General Plan:

- (a) Public views within and from Scenic Corridors shall be protected and enhanced, and development shall not be allowed to significantly obscure, detract from, or negatively affect the quality of these views. Vegetative screening or setbacks may be used to mitigate such impacts...
- (c) Within a corridor, pathway pavements should be colored or selected to blend in with the surrounding landscape...
- (e) Curved approaches to Scenic Corridors shall be used in conjunction with native planting to screen access roads from view. Additional planting may be required where existing planting is considered insufficient. Planting shall be placed so that it does not constitute a safety hazard.
- (f) The number of access roads to a Scenic Corridor shall be minimized wherever possible. Development access roads shall be combined with the intent of minimizing intersections with scenic roads, prior to junction with a Scenic Corridor unless severely constrained by topography. Traffic loops shall be used to the maximum extent possible so that dead-end roads may be minimized...
- (g) Colors and plant materials shall be selected as necessary to minimize visual impact of development upon Scenic Corridors...
- (h) Selective clearing of vegetation which allows the display of important public views may be permitted.
- (i) Scenic Corridor development should include vista points and roadside rests which provide an opportunity to view scenic amenities and natural features...

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- (k) No development, with the exception of agricultural uses, shall be permitted on grass and/or brush land in Scenic Areas unless such development will be screened effectively from existing or proposed public viewing areas of Scenic Corridors...
- (m) No development shall be permitted to obstruct or significantly detract from views of any Scenic Area or Landscape Feature from a Scenic Corridor.
- (n) Screening as required under this section should not consist of solid fencing, rather it should be of natural materials of the area, preferably natural vegetation in conjunction with low earth berms.

**Discussion:**

The project site is within the LCP-designated Scenic Corridor shown on the LCP Scenic Roads and Corridors Map and specified in Policies 8.28 and 8.29. The general character of the project area is coastal rural and agricultural with occasional farm houses of modest size and scale sited close to the highway near the inland edge of the broad coastal terrace that supports agricultural fields. A few contemporary and older homes (one utilized as a Buddhist temple) on otherwise undeveloped large lots are located across the highway. Intermittent windrows and groves of trees, mainly cypress and eucalyptus, are located along both sides of the highway.

Development in the City of Half Moon Bay to the north of the project area on the other side of the city limit and urban/rural boundary line includes the new Ocean Colony golf course and associated development. The Commission recently conditionally approved a 5,800-square-foot manufactured "Butler" building at the southeast corner of the golf course area, with the provision that the building be fully screened from the Highway and the area to the north and south (including the area in the vicinity of the Cowell Ranch State Beach pedestrian access trail) with heavy plantings. (Permit A-1-HMB-7-60).

Existing development on the adjacent parcel to the north includes a cluster of farm buildings - a house and several outbuildings of various sizes - and a single small, white horse barn out in the field. A modestly-sized 2-story, 100-year old farmhouse sits on the parcel next to that. These structures are situated close to the Highway on the eastern portion of their lots, and are for the most part painted white. Several modestly-sized houses, including a twin of the 100-year old farmhouse, lie on the eastern side of the highway.

Immediately south of the project site is the Cowell State Beach parking lot and its pedestrian access trail from the highway to the beach. To the south of that lie the large, open agricultural fields of the Giusti Farms. The only other structures west of the Highway in the area are about a mile south of the project site in the Giusti farm compound, which includes a small house.

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The parcel itself is visible from Scenic Highway 1 predominantly from the south. The parcel makes up part of the grand sweep of open coastal terrace framed by the bluff-edge coastline and the ocean on the west and the hills and Montara Mountain on the north. The parcel and coastline are largely not visible from the Highway from the north or immediately adjacent to the property because Highway 1 is recessed into the terrain at this location.

The rural, scenic character of this part of the San Mateo coast is one of California's true treasures. The County LCP recognized this by crafting detailed policies to protect that character. To fully understand these policies it is helpful to review the LCP's Visual Resources Component Background discussion, excerpted in pertinent part below:

The San Mateo Coastside is a visual resource of great variety, grandeur, contrast, and beauty. It is characterized by the dramatic meeting of land and water on sandy beaches and rocky cliffs, broad coastal terraces on which grow fields of artichokes and Brussels sprouts ...

South of Half Moon Bay a rural character predominates. Along scenic Highway 1 stretch gently rolling grazing lands, productive agricultural benchlands ...

The individual qualities of its landscape features are woven to form the fabric which gives the San Mateo Coastside its distinctive character. Whether it is spectacular, like the view of the San Gregorio Valley from the Coast Highway as it winds its way down the hillside, or discrete, like an old Greek Revival style building in Pescadero, the combined mosaic of all its visual resources provide an enjoyable and enriching experience for all who partake of its scenic beauty.

Unfortunately, there has been a general trend of deterioration at work the last decade which has affected the visual quality of the Coastside. With the increase in population and associated development, many buildings have been erected which are not sensitive to their environmental setting and are not visually attractive. Views of the ocean have been blocked from public areas, such as roadways and vista points ...

When viewing the landscape of the Coastside, the basic image one sees is its landforms. For it is the topographic features such as mountains, hills, ridgelines, bluffs and cliffs, coastal terraces ..., that compose the structural system which is the viewscape. Any changes in landforms can therefore seriously affect the visual quality of the coastal scene. For this reason, the Coastal Act speaks directly to the issue by stating that alterations to landforms shall be minimized.

...

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The wide, level coastal terrace which spans the distance between the ocean's edge and the mountain's rise is a prominent feature of the San Mateo Coastside. It is the primary area for the raising of agricultural crops, the grazing of cattle, and is a dominant landform that contributes to the coast's open character.

To help preserve this coastal characteristic, new development should not be located in open fields but, instead, should be placed near existing structures or adjacent to vertical natural features to maximize open space and be built in scale with the rural character of the area.

... structures should be designed to be complementary to and conform with the physical features of the site. This design issue becomes even more crucial in open rural areas where a single structure may dominate the scene and have a strong impact on the visual quality of the landscape. Structures should be clustered adjacent to landscape forms, either natural or man-made, where they can more easily blend into the coastal zone.

These concerns were reflected in the interrelated Visual Resource policies of the LCP. The project as proposed, however, is inconsistent with a large number of these policies. Contrary to Policy 8.5, the proposed house would rise up in isolation in the middle of an open, grassland field; the size and urban style design of the house are not in scale with the rural character of the area, and the house would not be clustered near existing development. Contrary to Policy 8.15, the house would substantially block important coastal views from the Cowell State Beach access trail recreation area and vista point, and from Scenic Highway One. Contrary to Policy 8.18, the house does not fit the physical setting, is not subordinate to the pre-existing character of the site, and does not enhance the scenic and visual qualities of the area. Contrary to Policy 8.20, the proposed house does not relate in size and scale to adjacent buildings; and, contrary to Policy 8.31, the house does not meet standards that apply to development in Scenic Corridors in rural areas as referenced by that policy.

The Commission finds that the house could be found consistent with the LCP if certain changes were made to the project. To reduce the visual impacts of the proposed development, and bring it into consistency with the LCP's visual resources policies, the Commission attaches Special Condition No. 2, requiring the applicant to submit revised site and project plans that relocate the proposed house to a specified building envelope at the eastern portion of the property, thereby clustering the proposed structure with existing adjacent development and reducing its potential visual impact. Re-siting the project to this location will eliminate the blockage of available views from Highway to the coastline and ocean as seen from the south, and will substantially reduce blockage of those views from the Cowell Beach access trail.

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The project as conditioned is consistent with the requirement of Policy 8.5, for "minimizing structures in open fields and grassland areas." It also conforms to Policy 8.5's requirement for design in scale with the rural character and the closely related requirements of Policies 8.18 and 8.20. Policy 8.18 requires that "new development be located, sited, and designed to fit the physical setting, so that its presence is subordinate to the pre-existing character of the site, [and] enhances the scenic and visual qualities of the area." Policy 8.20 requires that structures relate in size and scale to adjacent buildings and landforms. These policies seek to protect the rural character of the area which is typified by the country farmhouse design of the houses and farm buildings on the two lots north of the subject parcel. The LCP Background document provides additional perspective on the intent of these policies. In discussing examples of the historic architectural style of the Coastside, the Background document (page 8.11) describes the early homes as built with "simple shapes, a symmetrical positioning of windows and doors, steep roof lines, wood construction and...painted white." This well describes the farmhouse architectural style of the key structures that define the character of the area, most notably the Vint residence one property to the north of the project site. On the other hand, the Background document has this to say about another architectural example that sounds remarkably like the subject project as proposed:

"...a Mediterranean style with stucco walls, arched windows, and a tile roof. Although distinctive in design, its style is more exotic than typical to the character of the surrounding landscape and should not be repeated in future construction."

To comply with Policies 8.5, 8.18 and 8.20, Special Condition No. 2 also reduces the size of the residence to 3140 square feet (2700 sq. ft. for the residence, 440 sq. ft for the garage), and requires redesign to a white, farmhouse style reflecting the design of nearby structures. These changes would reduce the project's visual impacts and bring it closer in scale to the rural character of the region and adjacent buildings. Most of the houses in the immediate vicinity of the project are of a modest scale. The 100 year old Vint farmhouse on a nine acre lot one property to the north is about 1475 sq. ft., as is its twin across Highway 1. The Navarro house next door, at 3000+ sq. ft., with additional buildings of several thousand square feet, is a larger development, but this larger size is commensurate with both its parcel size and frontage along Highway 1, which are five times that of the subject parcel. The size of the applicant's house as conditioned is intermediate between the older structures in the area and the Navarro house, and is appropriate given the narrow width of the parcel.

As required by Policy 8.18, the smaller house clustered next to existing development, will also be subordinate to the distinct rural character of the site, which is typified by small clusters of building near the Highway, and beyond them, a broad sweep of agricultural fields and grassland unbroken by significant man-made features. The project is also conditioned to bring it

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into conformity with Policies 8.15 and 8.31. Policy 8.15 prevents development from substantially blocking views to and along the shoreline from, among other locations, coastal roads, vista points and recreation areas. Policy 8.31 also addresses views within the LCP-designated State Scenic Highway Corridor and requires that proposed development also be consistent with the Scenic Road Element of the County's General Plan.

In this case, the policies, criteria and regulations incorporated by reference in Policy 8.31 which are relevant to this project include General Plan Policies 4.58, 4.55, and 4.56. General Plan policy 4.58, Views, (Exhibit 16) provides "to the extent practicable, locate development in scenic corridors so it does not obstruct views from scenic roads or disrupt the visual harmony of the natural landscape." Scenic Road Element policy 4.55, "Building Setbacks," seeks to prevent the obstruction of important views by setting buildings back from the road right-of-way. In this case, the important views are of the open coastal terrace and unobstructed shoreline and ocean. Finally scenic Road Element policy 4.56, "Cluster Development," provides "in scenic corridors, discourage high density clustering or grouping of residential uses which are highly visible from the road." In this case, however, this General Plan policy does not apply, as the clustering of the project as specified by Special Condition 2 is neither "high density," nor, as discussed above, "highly visible from the road."

As conditioned, the project is consistent with Policies 8.15 and 8.31 and the General Plan policies cited in 8.31 because the house would be set back up to 400 feet from the highway so that, when seen from the scenic highway to the south, it would be silhouetted against existing development rather than the important views on the property. From the north the house would be completely screened from view by the terrain and existing neighboring structures. Looking west from the Scenic Highway immediately adjacent to the property, no coastline or other important views are visible because Highway 1 is recessed into the topography at this location.

This result is in sharp contrast to the project as proposed, which would jut up to block a portion of the view of the shoreline from Highway One south of the site as roughly illustrated in Exhibit 13. The applicant's representatives have contended that due to the general downward sloping terrain of the site the house as proposed would be largely not visible from the Scenic Highway. The applicant's written submission of October 31, 1997 states that only the "roof and portions of the top floor of the house may be visible..." from part of the Scenic Highway south of the site. However, since the entire coastal terrace in this area slopes away from the Highway towards the ocean more or less on a plane, points on the parcel are visible from the portion of the Scenic Highway as generally indicated in Exhibit 3. The clear visibility of the horse barn on the parcel from points to the south (left part of Exhibit 13) gives a good indication of how visible the house as proposed might be. The horse barn is approximately 12 feet high by 50 feet long, where the proposed house would be 28 feet high by 77+ feet long, as roughly scaled in the exhibit.

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The house in the location proposed by the applicant would have an even greater impact on views to and along the shoreline from the adjacent Cowell State Beach access trail and its vista point. The proposed house would be in the direct line of sight of recreational trail users for almost the entire length of the trail, progressively looming up to block a greater part of their field of vision as they approach the shoreline. The proposed house would also be located about 300 feet from the trail at its closest point, and would have a dominating presence for trail users. The applicant's Topographic Survey (reproduced at a reduced scale in Exhibit 12) shows that the proposed house would sit atop the rise at the western end of the parcel at a base elevation of approximately 107 feet above sea level, an elevation itself higher than most of the southern leg of the trail. At the vista point area, the house would substantially block views along the shoreline bluffs to the north, in conflict with Policy 8.15. In addition to the visual impacts of the house, the driveway, covering a third of the width of the property for a half a mile, would significantly add to the project's visual intrusion, diminishing, rather than enhancing the area's important scenic and visual qualities, contrary to Policy 8.18.

Special Condition 2e requires the driveway to be colored so as to blend into the existing landscape, consistent with Section 6325.1 (c) and (g):

SECTION 6325.1

(c) Within a corridor, pathway pavements should be colored or selected to blend in with the surrounding landscape...

(g) Colors and plant materials shall be selected as necessary to minimize visual impact of development upon Scenic Corridors...

Special Condition No. 2e also requires that the driveway be located to abut the northern property line, and if possible combined with the neighbor's existing driveway at that location in order to comply with Policy 8.18(c) which requires that "driveways be shared, where feasible...", and Section 6325.1(f), which requires:

(f) The number of access roads to a Scenic Corridor shall be minimized wherever possible. Development access roads shall be combined...

The parcel survey submitted by the applicant shows that the existing driveway to the north actually encroaches on the applicant's property (Exhibit 12). A mutual agreement to combine driveways could simultaneously resolve this encroachment and achieve consistency with the LCP. Failing such an agreement, locating the new driveway to abut the property line would nevertheless have the practical effect of combining the access to the Highway 1 Scenic Corridor as required by the LCP.

Special Condition No. 3 requires a landscaping plan and maintenance program that provides for the planting evergreen vegetation to screen the project and

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mitigate the visual impacts to the Highway One Scenic Corridor and the Cowell State Beach access trail as required by Section 6325.1 (a) and (k). Screening of the project from critical viewpoints in such a fashion will create a new windrow of trees at the site, visually compatible with the intermittent tree windrows already present along the highway.

To further reduce the impacts of the proposed development on visual resources, the Commission attaches Special Condition No. 4, which limits the visual impact of any exterior lighting that is necessary, and Special Condition No. 5 which requires that all utilities be placed underground.

**Conclusion**

There are few places along the San Mateo coast that more strongly warrant careful planning of development to assure compliance with the LCP's visual resources policies. Within the past few years, public and private organizations have invested nearly \$6,000,000 in the acquisition, planning and management of the Cowell Ranch immediately adjacent to the project site precisely to protect the area as a showcase and enduring example of the beauty and special character of the working farms and open terraces of the San Mateo Coastside. These efforts have so far succeeded magnificently. Walking the Cowell Beach trail to the sea, enveloped in the wide open vistas along rich, productive farmlands, is a truly outstanding coastal access experience. These are precisely the values that the LCP policies seek to protect. The project as conditioned would protect these values; the project as proposed would not.

The Commission thus finds that the proposed development, as conditioned, is consistent with the LCP Visual Resources Policies.

**7. PROVISION OF WATER SERVICE**

The project as proposed would allow connection to urban water services for a non-agricultural use outside the urban-rural boundary contrary to the LCP's policies, including policies 2.14, and 2.37. However, as conditioned, the project qualifies as an agricultural use that can be served with public water in the rural area, consistent with the LCP.

**Local Coastal Program Policies**

The LCP Public Works Policies state in part:

**2.14 Establishing Service Area Boundaries**

- \*a. Confine urban level services provided by governmental agencies, special districts and public utilities to urban areas, rural service centers and rural residential areas as designated by the Local Coastal Program on March 25, 1986.**



- \*b. Redraft the boundaries of special districts or public utilities providing urban level services to correspond to the boundaries of urban areas, rural service centers and rural residential areas established by the Local Coastal Program.
- \*c. Allow exceptions to a. and b. when all alternatives have been fully explored and a special district or public utility is required to maintain some rural land within its boundaries in order to continue a service to its customers which is (1) otherwise consistent with the policies of the Local Coastal Program, (2) maintains the rural nature of undeveloped areas, particularly the use and productivity of agricultural land, (3) maintains the present level of service to existing users in undeveloped areas, and (4) where an illegal situation or great hardship would be created by detachment from a special district or public utility.
- d. Require, when a special district or public agencies maintains rural lands within their boundaries that the special district or public agency divide the districts into rural and urban zones. Make boundaries of the urban zone, where urban level services are provided, correspond to the boundaries of urban areas and rural service centers established by the Local Coastal Program. Include the rest of the district in the rural zone. Restrict the activities in rural zones to those which are consistent with the maintenance of the rural nature of the area and all other policies of the Local Coastal Program. Lower the user costs in the rural zone to reflect the lower level of service and minimize growth inducement.

2.37 Service Area Boundaries

**As a condition of expansion of water facilities, require water service providers to:**

- a. Revise district boundaries to include within those boundaries only those areas proposed for urban development by the LCP and rural areas within the existing Coastside County Water District Service Area which have existing water connections for floriculturists.
- b. Permit new connections to the water system only within district boundaries.
- c. Divide the district into rural and urban zones.
  - (1) Make the boundaries of the urban zone correspond to the urban boundary and the boundary of rural residential areas established by the LCP.

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**MARYANNE LUCHINI**

- (2) Allow water connections for all types of users within urban zone.
- (3) Designate the parts of the district outside the urban zone as the rural zone.
- (4) Permit new water connections to only floriculturist and agriculture within the rural zone...

Discussion

Policy 2.14(a.) confines urban level services provided by public utilities only to urban areas, designated rural service centers and designated rural residential areas, and does not allow extension of such service to rural areas. Policy 2.14(d) requires special districts or public agencies to restrict activities in rural zones to those which are consistent with the maintenance of the rural nature of the area and all other policies of the Local Coastal Program. As a condition of expansion of water facilities, Policy 2.37(b) permits new water connections "only within district boundaries," and Policy 2.37(c)(4) restricts new water connections to only floriculturist and agriculture and designated historical structures, not new residential development, within the rural zone.

The applicants have not succeeded in locating a well water supply on the parcel, and propose to connect to the Coastside County Water District (CCWD). An existing water main serving other properties in the immediate vicinity runs across the east end of the applicant's parcel through an easement adjacent to Highway One. However, the parcel is in the rural area outside both the urban boundary and the current boundary of the Coastside County Water District. Residential development of a parcel outside these boundaries as proposed can be found inconsistent with the policies 2.14(a), 2.14(d) and 2.37(c)(4) and the exceptions specified in 2.14(c)

The project as proposed could undermine the stability of the urban/rural boundary, which is essential to preserving coastal agriculture, sensitive habitats, and the rural character of the San Mateo County coastline. Policy 2.14 and 2.37 are key parts of how the certified LCP carries out the Coastal Act Section 30250 mandate that new residential, commercial, and industrial development be located in existing developed areas. Although the subject property is near the City of Half Moon Bay, it is separated from the City limits and the LCP designated urban/rural boundary line by parcels that are zoned and, to varying extents, used for agriculture. The Vint property, one lot north of the subject parcel, for example, has regularly been cultivated for hay, with portions producing peas and fava beans (Muriel Vint, personal communication, 1/28/98; see Exhibit 7 evidencing tilled soils). Allowing water connections outside of the urban boundary to serve residential development not related to agriculture could weaken the LCP's urban/rural boundary and increase urban development in rural coastal areas contrary to the Policies 2.14 and 2.37 of the LCP and Section 30250 of the Coastal Act.

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Policy 2.37(b), permits new connections to the water system only within district boundaries. The project parcel is outside the CCWD boundaries. However the CCWD is currently providing service to the adjacent properties which were connected to CCWD service prior to the certification of the LCP and its urban boundary. These include the Vint, Navarro and Giusti Farms/Cowell Ranch adjacent to the Luchini Property and the Theravada Buddhist Society parcel across Highway One. (The other parcel across the highway, a 340 acre agricultural parcel, is not served by the line). The District has provided water service to these specific properties as within the district's service area boundary in the rural zone (see Exhibit 18). Therefore, the Commission finds that in this instance, where the adjacent properties are traversed by the CCWD water line, the subject property, can be considered within the rural zone of the CCWD boundary within the meaning of Policy 2.14d. and 2.37b. To ensure consistency with these Policies, the Commission attaches Special Condition 6.

In addition, Policy 2.14(c) provides limited exceptions to policy 2.14(a) only when: [a] "all alternatives have been fully explored and" [b] "a special district or public utility is required to maintain some rural land within its boundaries in order to continue a service to its customers." As stated above in Section 4, the Coastside County Water District water main actually crosses the applicant's property, thereby making unnecessary any extension of existing service facility.

However, any new development to be served by the CCWD on the subject property must, as required by 2.14, "maintain rural land" and be "consistent with the maintenance of the rural nature of the area and all other policies of the Local Coastal Program," and, as required by Policy 2.37c.(4), must be for floriculture or agriculture uses. Policy 2.37(c), authorizes "new water connections" in the rural zone of the Coastside County Water District only for agricultural and floricultural uses, and designated historical structures, not for residential uses. To bring the proposed development into consistency with the LCP's Public Works and water supply policies, the Commission attaches Special Conditions No. 1, requiring the applicant to provide a new site plan reducing the conversion of agricultural land and to record a deed restriction protecting the agricultural soils of the property for agricultural use. By so providing for agricultural use of the property, potentially in conjunction with adjacent properties, the use of the property can be considered agriculture, for which a new water connection is permitted under Policy 2.37c.(4).

**Conclusion**

The project as conditioned to maintain agricultural resources, to provide for agricultural use, and to protect the rural nature of the area, is consistent with policies 2.14 and 2.37, and preserves the stability of the urban/rural boundary, a key component of the LCP's provisions to preserve coastal

**REVISED FINDINGS:**

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**APPLICANT:**

**MARYANNE LUCHINI**

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agriculture, sensitive habitats, and the rural character of the San Mateo County coastline.

Therefore, for each of the reasons described above, the Commission finds that the project as conditioned is consistent with the certified LCP.

**8. LOCATING AND PLANNING NEW DEVELOPMENT**

**Local Coastal Program Policies**

The LCP Locating and Planning New Development Policies state in part:

**\*1.8 Land Uses and Development Densities in Rural Areas**

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

**Discussion**

This parcel is designated as both Agriculture and rural land, and is outside the urban/rural boundary.

Policy \*1.8(a) allows new development in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture in agricultural production.

Contrary to Policy \*1.8(a)(2), the proposed location of the house, landscaping and extensive driveway would take up and convert much more agricultural land than an alternate location closer to the road, as described in Finding 4 above. Moreover, the proposed location of the house in the middle of the lot limits the potential of combining at least portions of the lot with the agricultural land on adjacent parcels to facilitate renewed agricultural use of the soils. As described above, the approved project would also have adverse impacts on coastal visual resources, contrary to Policy \*1.8(a)(1).

To reduce the impacts of the proposed development on agricultural land and visual resources, and thereby bring the project into consistency with Policy \*1.8 of the certified LCP, the Commission attaches Special Conditions 1 through 6. For each of the reasons described in the individual sections above, the Commission finds that the project as conditioned is consistent with the certified LCP.

9. PUBLIC ACCESS

Coastal Act Sections 30210, 30211, and 30212 address the provision of maximum public access. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

The San Mateo County LUP includes a number of policies regarding standards for providing and maintaining public access, including the following:

LOCATIONAL CRITERIA

10.11 Agricultural Areas

- a. For development of land whose primary use will be agriculture, require the establishment of vertical and/or lateral access to beaches only when: (1) Policy 10.30 requires it, and (2) no established vertical or lateral access exists...

DEVELOPMENT STANDARDS FOR PROTECTING ADJACENT LAND USES

10.27 Residential

- a. Provide separation between shoreline access and adjacent residential uses to protect the privacy and security of houses and the public nature and use of the shoreline. Specifically, keep the edge of lateral shoreline access trails 25 feet and vertical shoreline access trails ten feet from any occupied residential structure.
- b. Maximize the use of landscaping, fences, and grade separation.

ROLE OF SAN MATEO COUNTY IN ACQUIRING, DEVELOPING, MAINTAINING, AND REGULATING PUBLIC ACCESS

10.30 Requirement of Minimum Access as a Condition of Granting Development Permits

- a. Require the provision of shoreline access for any private or public development between the sea and the nearest public road.

**REVISED FINDINGS:**

**A-1-SMC-97-013**

**APPLICANT:**

**MARYANNE LUCHINI**

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- b. Base the level of improvement and development of access support facilities at a site on the Locational Criteria and Development Standards Policies and the Site Specific Recommendations contained in Table 10.6.
- c. Base the responsibility and requirements of the property owner for the provision of this access on: (1) the size and type of development, (2) the benefit to the developer, (3) the priority given to the type of development under the Coastal Act and (4) the impact of the development, particularly the burden the proposed development would place on the public right of access to and use of the shoreline. Determine the minimum requirements according to the following: ...
  - (2) For small to medium developments (i.e., single family residences, all minor land divisions, barns over 5,000 sq.ft., small greenhouses), not specifically exempted from shoreline access requirements by Policy 10.2, require the offering or granting of a vertical and/or lateral access consistent with the policies of this component, to either a public agency or private group acceptable to the County for improvement and maintenance.

**10.31 Requirement of Additional Access as a Condition of Granting Development Permits**

Require additional access areas, improvements or operation and maintenance beyond the minimum when a project decreases the existing or potential public access to the shoreline by: (1) removing or infringing upon an area which historically has been subject to public use without permission or effective interference by the owner and/or (2) decreasing the amount of sandy beach by building seawalls, etc., and/or (3) removing future recreation opportunities by committing lands suitable for recreational development to uses which are not assigned priority for use of oceanfront land by Section 30222 of the Coastal Act.

Policy 10.30c.(2) would normally require the provision of access. However, under Coastal Act Section 30212, and under LCP Policy 10.11 for land whose primary use will be agriculture, as would be the case for the project as conditioned by Special Condition 1, access is not required when access already exists nearby. As the adjacent Cowell State Beach Access Trail is already a major operating public accessway, the Commission finds that no requirement for additional public access is warranted.

However, Coastal Act Sections 30210, 30211, and 30212 and LCP Policy 10.31(1) require that development not interfere or infringe on existing access opportunities. As extensively discussed above in the Visual Resources

**REVISED FINDINGS:**

**A-1-SMC-97-013**

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section, the size and location of the house as proposed is so visible and so out of character with its surroundings, that it would severely degrade the public access experience that is currently afforded by the trail. The house with its landscaping and its extensive driveway would be in full view of users of the Cowell State Beach access trail virtually throughout the length of the trail. The Commission therefore attaches Special Conditions No. 2 and 3 requiring that the proposed house be relocated and redesigned to mitigate these conflicts with public access.

In materials submitted on December 17, 1997, the applicants contended that the house should not be relocated to the eastern end of the property because the house in this location would "require a variance from the side yard setback" and "would be wedged between the Navarro building, the [Cowell Beach] public parking lot and, most undesirably, a permanent latrine" [presumably referring to the portable toilet installed in the Cowell Beach parking lot].

Since these comments predated this staff recommendation, these concerns may have stemmed from an incomplete understanding of the Special Conditions. A full 20 foot setback (the applicable County standard) is provided between the Navarro property line and the building envelope as conditioned. The 40 foot wide building envelope itself can accommodate additional setback if the applicant desires to so design the house. This part of the parcel is 35 ft. (more than 50%) wider than the proposed location. Relocating the house here gives the applicant greater design flexibility for the house overall. The building envelope, as conditioned, is also well away from the parking lot and its facilities - far more than the 10 foot privacy standard specified in LUP Policy 10.27. In addition, the landscaping provided by Special Condition No. 3 will not only screen the house from the accessway, it will also screen the parking lot from the house.

Coastal Act Section 30211 and LCP Policy 10.31 address prescriptive rights. Although there is a faint pathway across the site at the blufftop edge, there is no evidence currently available of substantial public use that could give rise to prescriptive rights. Moreover, the project as conditioned does not interfere with any possible existing public use of the site, as development would not be located near the blufftop where the faint trail exists. Finally, Special Condition No. 1a., providing for Commission review of any future development of the site, assures that the Commission will have the opportunity to review any future development proposed near the blufftop for its potential impact on prescriptive rights.

The Commission thus finds that, as conditioned, the proposed development with the proposed amendment will not be located where it will result in conflicts with potential public access, consistent with the public access policies of the Coastal Act and the County's LCP. The Commission further finds that, as conditioned, the proposed development, which does not include any additional

**REVISED FINDINGS:**

**A-1-SMC-97-013**

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**MARYANNE LUCHINI**

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provisions for public access, is consistent with the public access policies of the Coastal Act and the County's LCP as there already exists a public access trail immediately adjacent to the subject parcel.

**10. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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

The proposed project has been conditioned to be found consistent with the policies of the San Mateo County LCP. Mitigation measures have been imposed to minimize all adverse environmental effects. These measures include: (1) recordation of a deed restriction to protect the agricultural lands on the site and require that any changes in the density or intensity of the project be reviewed and approved by the Commission; (2) submittal of final site plans relocating the house and driveway to a building area that protects agricultural lands, visual resources, and public access; (3) submittal of final landscaping plans to protect visual resources and public access facilities. Additional conditions protect visual resources by requiring that all exterior lighting be down cast, shielded, and directed away from Highway 1; and that all utilities be placed underground.

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

**EXHIBITS**

1. Regional Location Map
2. Site Location Map
3. Parcel Map
4. Site Plan
- 4A. Alternative Locations
5. Residence Plan
6. Residence Elevations
7. Aerial
8. Conditioned Building Envelope



**REVISED FINDINGS:**

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**APPLICANT:**

**MARYANNE LUCHINI**

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9. Agricultural Deed Restriction Map
10. Final Local Action/Conditions of Approval
11. Letter from Mr. Luchini Revising Project
12. Site Topography
13. Project View from Highway One
14. Project View from Vicinity of Vista Point
15. Agricultural Evaluation
16. Visual Quality Policies of the General Plan
17. Example of Farmhouse Architectural Style.
18. CCWD Service to Rural Zone

9929p

**ATTACHMENT A**

**Standard Conditions**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

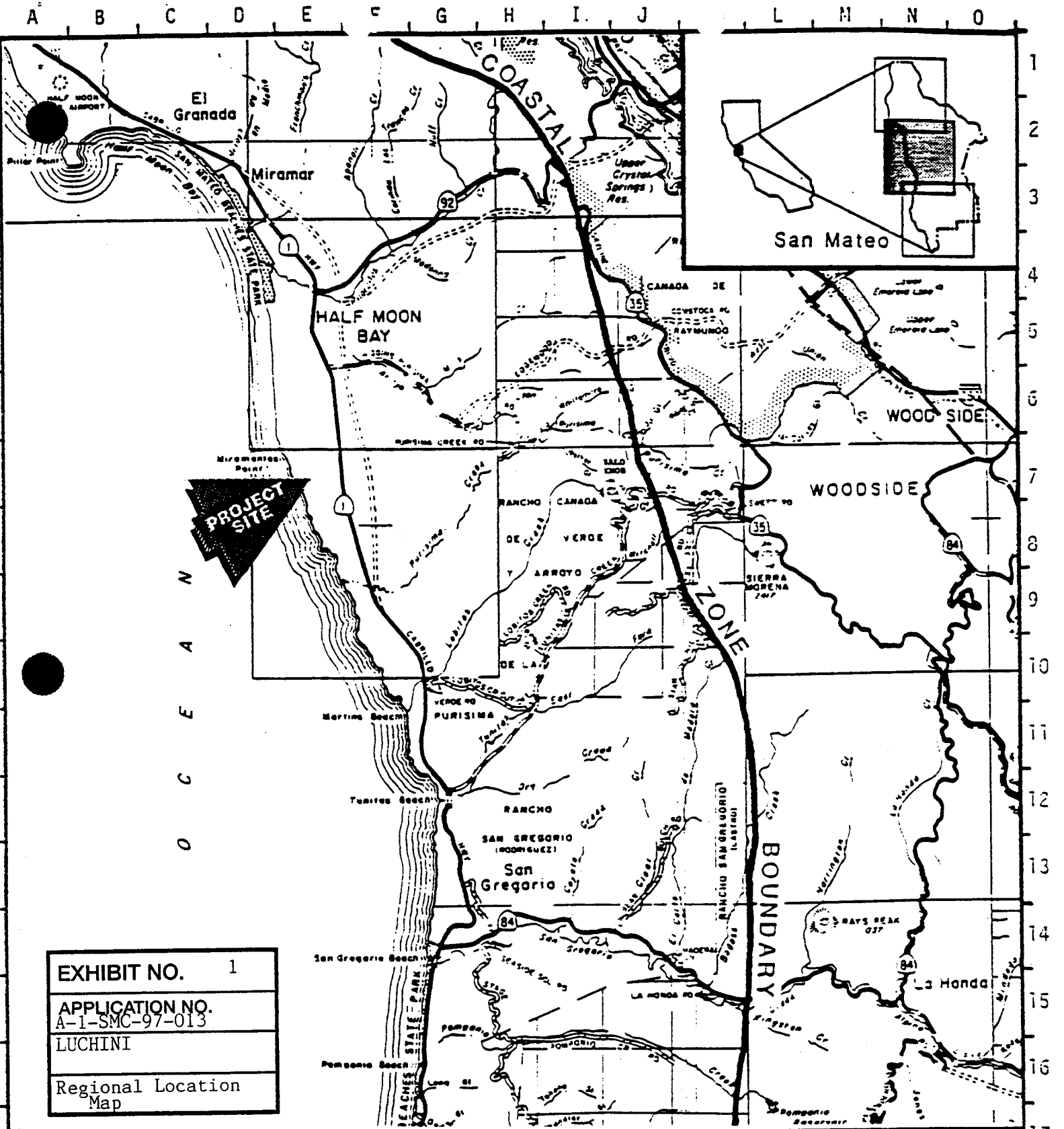


EXHIBIT NO.	1
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	
Regional Location Map	

# LOCATION MAP



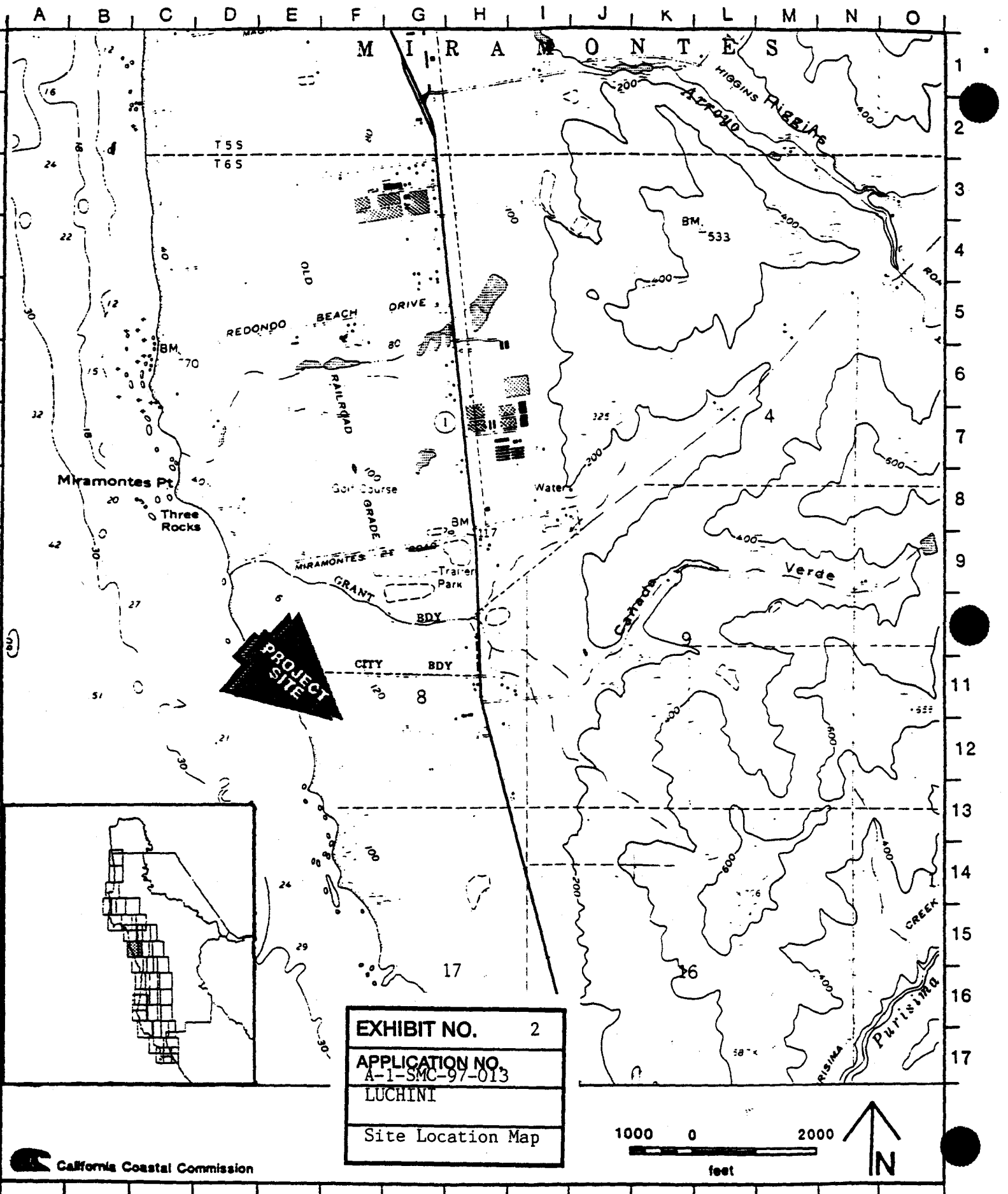
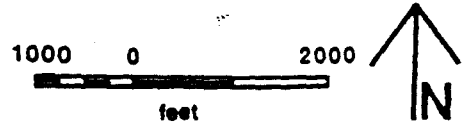


EXHIBIT NO.	2
APPLICATION NO.	A-1-SMC-97-013
	LUCHINI
Site Location Map	



 California Coastal Commission

MIRAMONTES  
POINT

340,000 N

EXHIBIT NO.	3
APPLICATION NO.	A-1-SMC-97-013
	LUCHINI
	Parcel Map



EEL ROCK



State Access Trail

Potential view shed



San Mateo County Zoning Hearing Officer Meeting

Applicant: Gombiner / Luchini

File Numbers: PAD 96-0010

Attachment: C



PROPOSED LUCHINI RESIDENCE  
 APR 088-08-080  
 COUNTY OF SAN MATEO, CA

DATE	08/7/97
BY	PLANNING
FOR	LUCHINI
PROJECT NO.	088-08-080
SCALE	AS SHOWN
PROJECT	PROPOSED LUCHINI RESIDENCE
APPLICANT	LUCHINI
APPROVED BY	
DATE	

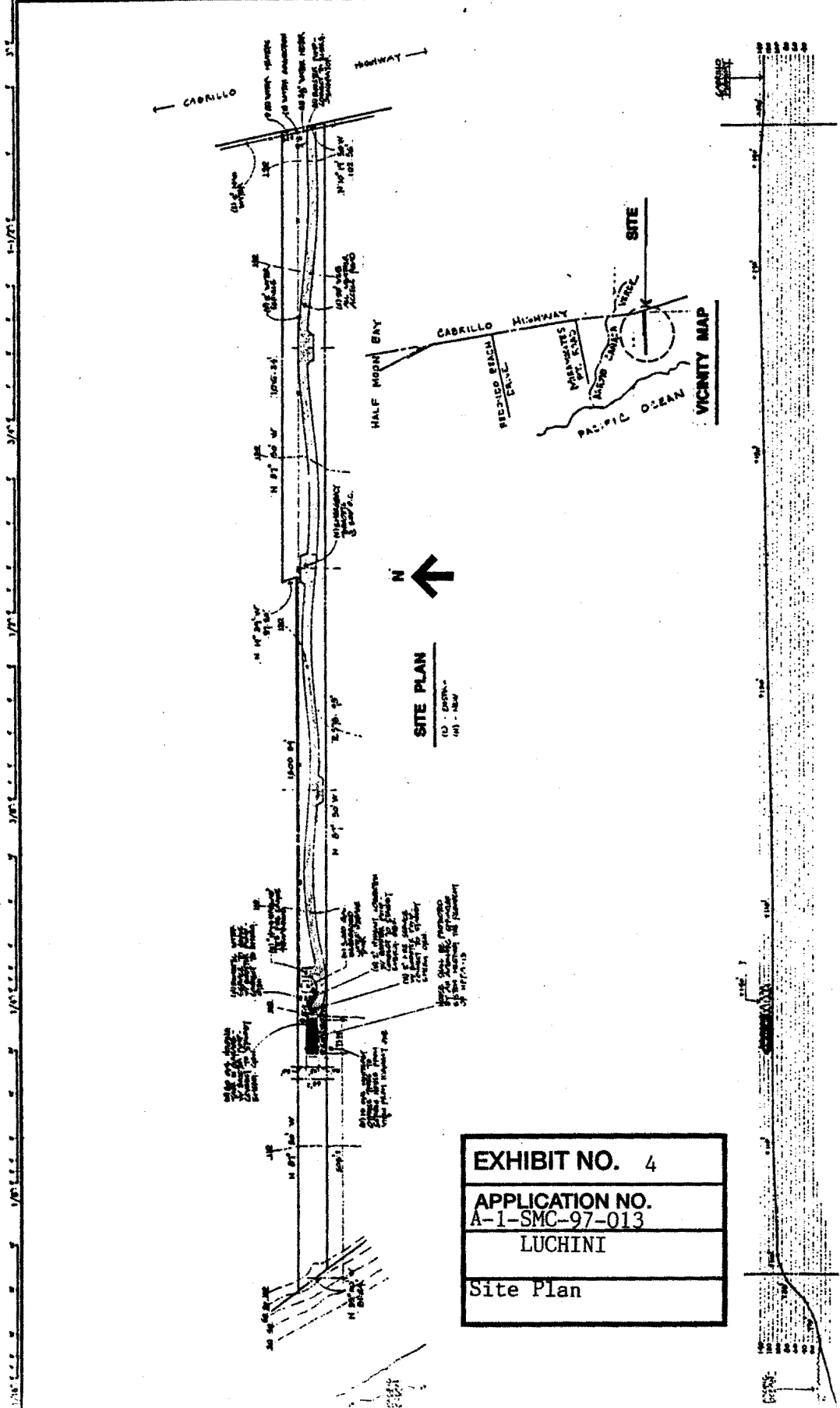


EXHIBIT NO. 4
APPLICATION NO. A-1-SMC-97-013
LUCHINI
Site Plan

# Alternative Site Plan Locations

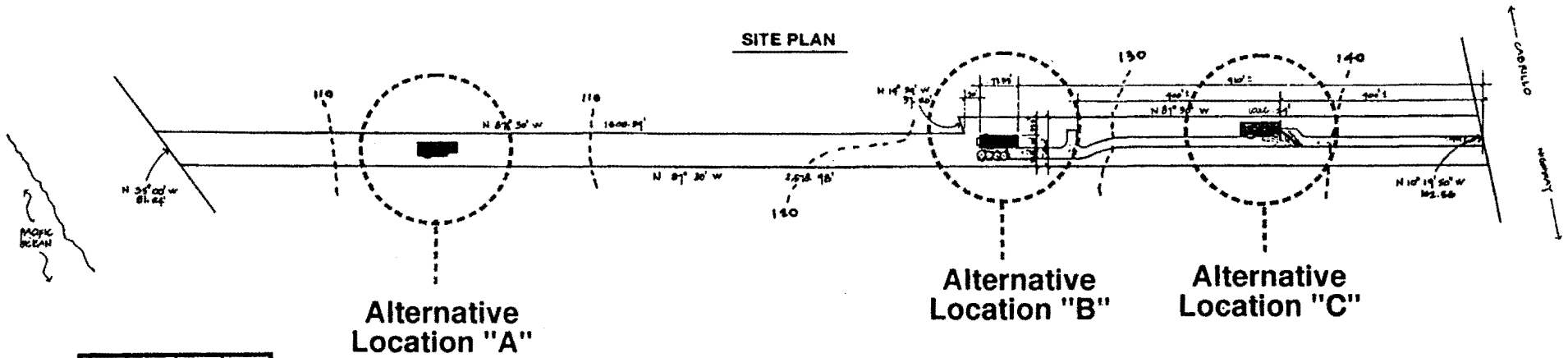
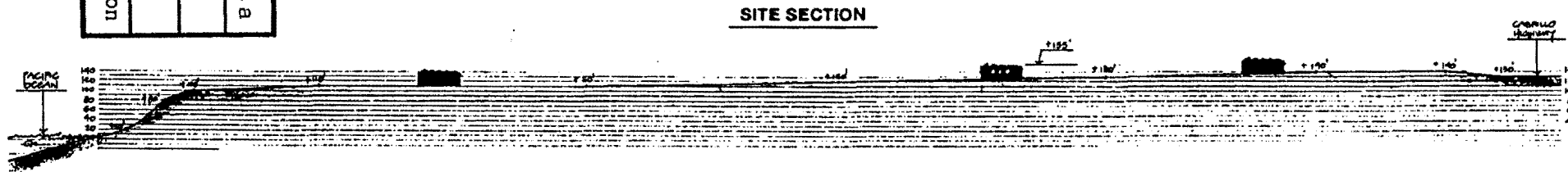


EXHIBIT NO.	4a
APPLICATION NO.	A-I-SMC-97-013
LUCCHINI	
Site Plan & Section	



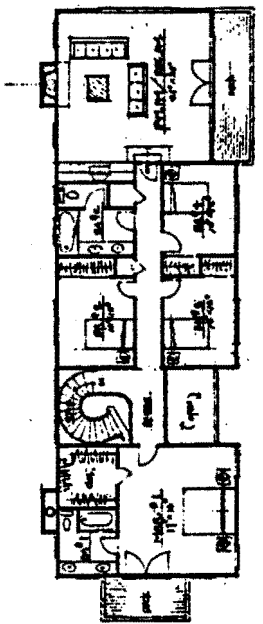
**GLANBER ASSOCIATES ARCHITECTS**  
 1000 S. Bascom Avenue, Suite 100  
 San Jose, CA 95128  
 Phone: (415) 924-1100  
 Fax: (415) 924-1101

PROPOSED LUCHINI RESIDENCE

APN 088-081-080  
 COUNTY OF SAN MATEO, CA

Scale: 1/8" = 1'-0"

DATE	07/17/97
SCALE	AS SHOWN
PROJECT	PROPOSED LUCHINI RESIDENCE
NO. OF SHEETS	1 OF 2
<b>A-2</b>	



1st FLOOR PLAN

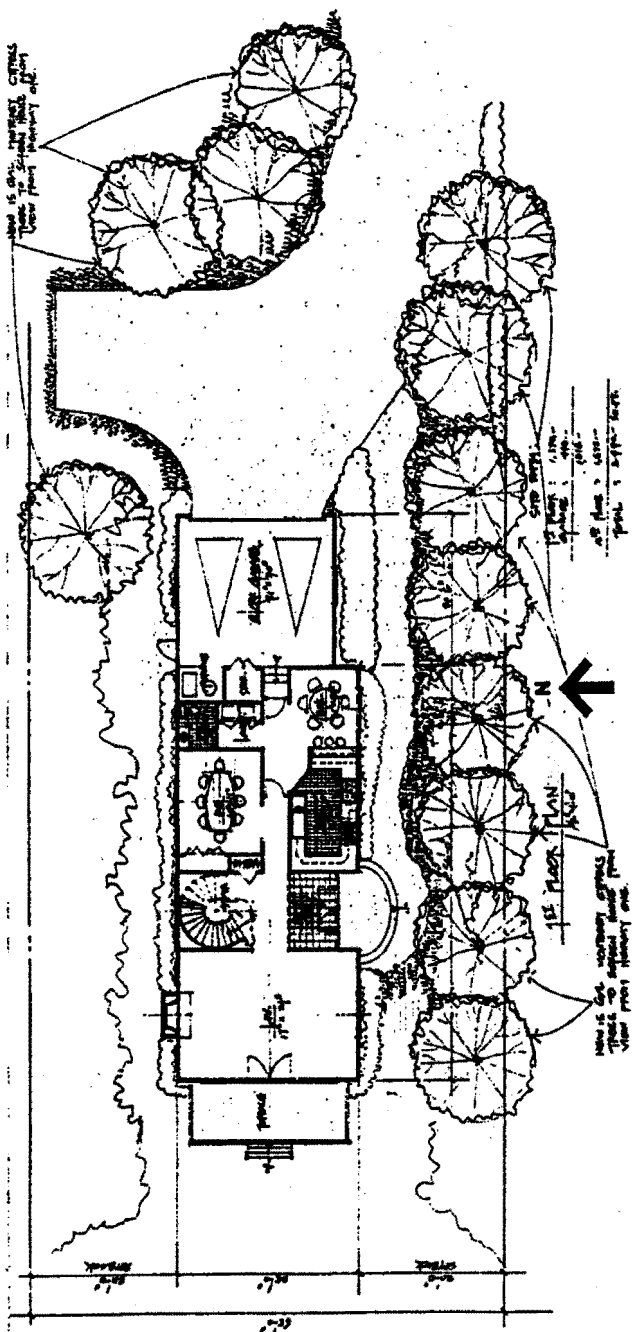


EXHIBIT NO.	5
APPLICATION NO.	A-1-SMC-97-013
	LUCHINI
	Residence Plan





PROPOSED LUCHINI RESIDENCE  
 APN 086-081-030  
 COUNTY OF SAN MATEO, CA

DATE	12/21/11
SCALE	AS SHOWN
PROJECT	LUCHINI RESIDENCE
ARCHITECT	GAVINER ASSOCIATES
NO. ON SHEET	A-3
TOTAL SHEETS	3 OF 3

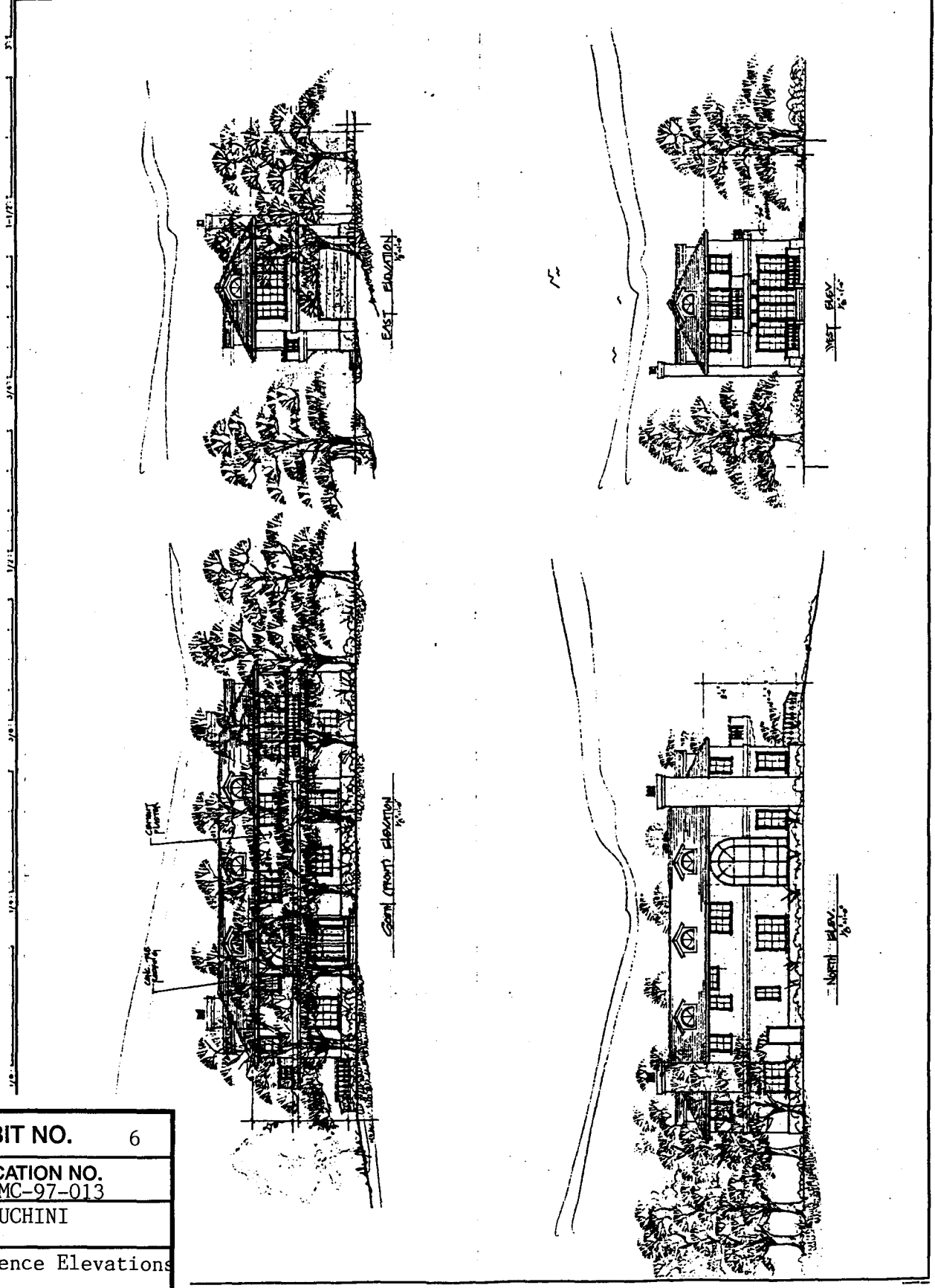
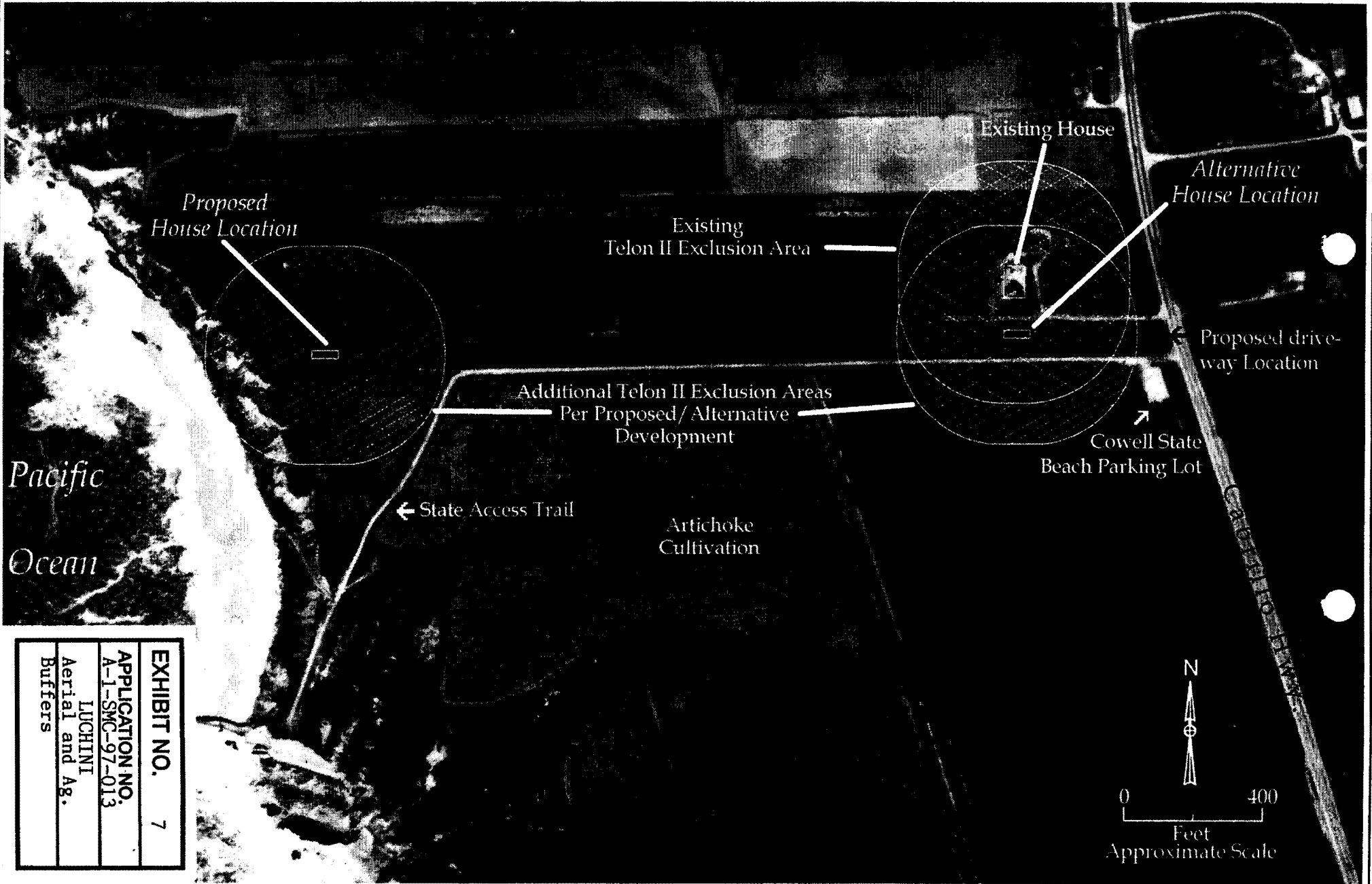


EXHIBIT NO.	6
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	
Residence Elevations	

# A-1-97-13 (Gumbinger and Luchini), San Mateo County

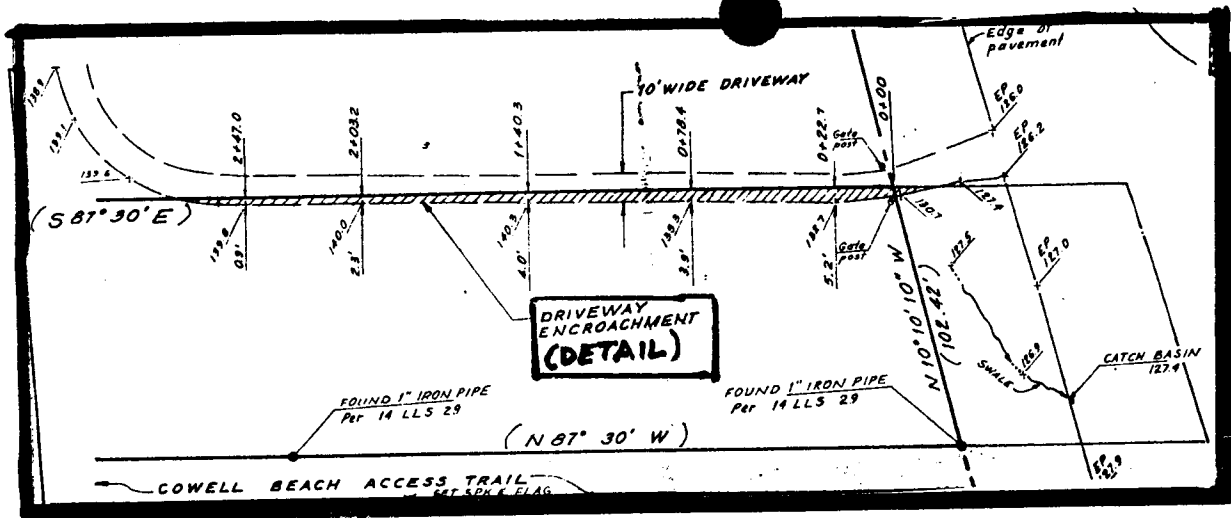


Pacific  
Ocean

EXHIBIT NO.	7
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	Aerial and Ag.
Buffers	

All Locations Approximate. For Illustrative Purposes Only.

Photo Source: 1993 California Department of Boating and Waterways,  
Flightline 128, Frame 10, 4/19/93.  
Original Scale: 1:12,000



35 OF NAVARRO

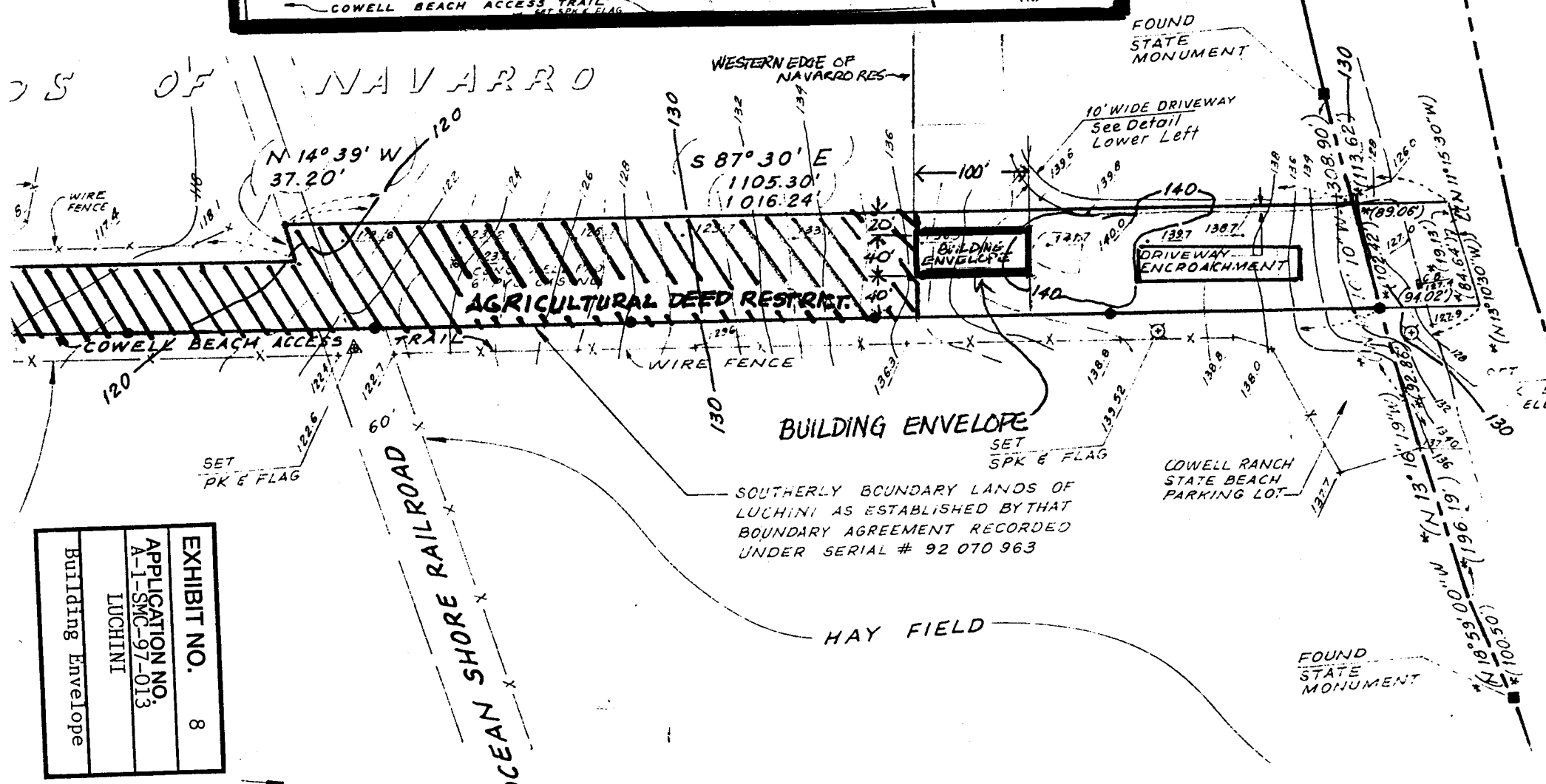


EXHIBIT NO.	8
APPLICATION NO.	A-1-SMC-97-013
Building Envelope	LUCHINI

SOUTHERLY BOUNDARY LANDS OF LUCHINI AS ESTABLISHED BY THAT BOUNDARY AGREEMENT RECORDED UNDER SERIAL # 92 070 963

FOUND STATE MONUMENT

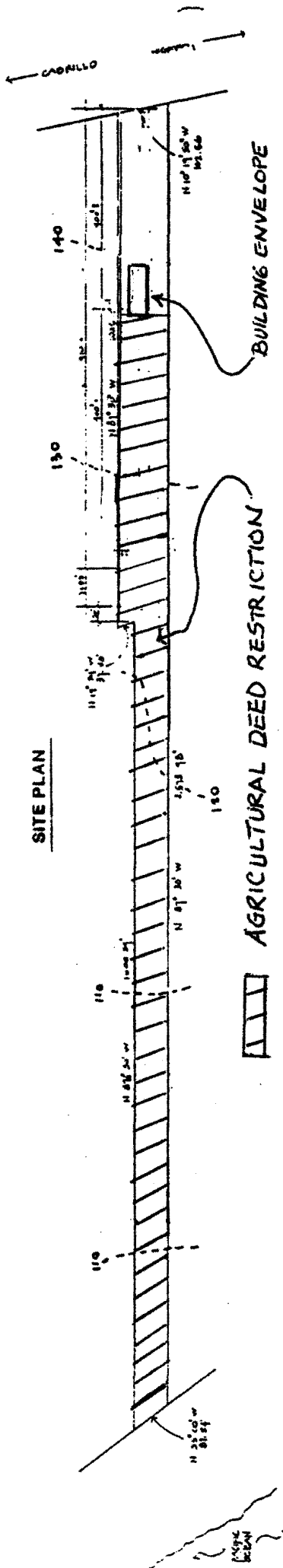


EXHIBIT NO.	9
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	
Agricultural Deed Restriction	



Planning and Building Division

County of San Mateo

Mail Drop PLN122 · 590 Hamilton Street · 2nd Floor · Redwood City  
California 94063 · Telephone 415/363-4161 · Fax 415/363-4849

Board of Supervisors  
Ruben Barrales  
Mary Griffin  
Tom Huening  
Ted Lempert  
Michael D. Nevin

Director of  
Environmental Services  
Paul M. Koenig

Planning Administrator  
Terry L. Bur...

Please reply to: **Jim Eggemeyer**  
**(415) 363-1930**

February 19, 1997

Joe and MaryAnne Luchini  
#1 Nob Hill Circle  
San Francisco, CA 94108

Subject: Request for: Planned Agricultural Permit, File #PAD 96-0010  
Coastal Development Permit, File #CDP 96-0027  
Architectural Review, File #ARC 96-0011  
Location: Half Moon Bay (Unincorporated)  
APN: 066-081-080

Dear Mr. and Mrs. Luchini:

On February 11, 1997, the San Mateo County Board of Supervisors considered your request of: (1) a Planned Agricultural Permit and a Coastal Development Permit, pursuant to Section 6353 and 6328.4 of the Zoning Regulations; and (2) Architectural Review pursuant to the State Streets and Highways code Section 261, to construct a single-family residence at a site west of Cabrillo Highway.

Based on the information provided by staff and evidence presented at this hearing, the Board of Supervisors approved your request, made the following findings, and adopted conditions of approval as follows:

**FINDINGS**

That the Board of Supervisors:

Regarding the Negative Declaration, Found:

1. That the Negative Declaration is complete, correct, adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County Guidelines.

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 30
To: Jack Luchini	From: Jim E	
Co. SMC	Co.	
Dept.	Phone # 363-1930	
Fax # 363-4849	Fax #	

<b>EXHIBIT NO.</b>	10
<b>APPLICATION NO.</b>	A-1-SMC-97-013
LUCHINI Board of Supervisors	
Findings (page 1 of 8 pages)	

Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

Page 2

2. That, on the basis of the Initial Study and comments received thereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project, if subject to the mitigation measures contained in this Negative Declaration, will have a significant effect on the environment.
3. That the Negative Declaration reflects the independent judgment of San Mateo County.

Regarding the Coastal Development Permit. Found:

4. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
5. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program, particularly those findings relating to the conversion of lands suitable for agriculture.
6. That the project is located between the sea and the first public road, and that the project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code).
7. That the number of building permits for construction of single-family residences issued this year does not exceed 125.
8. That denying the residential use would result in the taking of private property as it is (a) unlikely that a viable commercial agricultural operation could be maintained on the property, even with the water connection, due to the size and irregular shape of the parcel, (b) no other economic viable use other than agriculture could be made of the property without a water connection, (c) all the types of uses identified in the Planned Agricultural District (PAD) zoning district, for the types of soils on this project site (lands suitable for agriculture), would require water to be a viable use, and (d) the possibility of purchase of the subject parcel by the adjoining parcels to the north and south has been explored and no interest has been shown.

EXHIBIT NO.	10
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	
Board of Supervisors	
Findings	
(page 2 of 8 pages)	

PROPOSED HOUSE

EXHIBIT NO. 13

APPLICATION NO.  
A-1-SMC-97-013

LUCHINI  
Project View from  
Highway 1

Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

Page 3

9. That the agricultural viability study for the project identifies artichokes and Brussels sprouts as the only viable crops, based on the soil conditions and climate of this location, that these types of crops are heavily water dependent, and that the probable net operating annual income would be approximately \$600.00.
10. That the proposed structure, as conditioned, conforms to the specific San Mateo County Local Coastal Program Policy 8.5 requiring the structure to be designed in scale with the rural character of the region and clustered with the existing natural or manmade vertical features.

Regarding the Planned Agricultural District Permit. Found:

11. That, on the basis of information contained in the staff report and as conditioned, the project conforms with the plans, policies, requirements and substantive criteria for issuance of a Planned Agricultural Permit in Section 6355 of the Zoning Regulations.

Regarding Architectural Review. Found:

12. That the proposed structures are in compliance with the standards for Architectural and Site Control within the Cabrillo Highway Scenic Corridor.

CONDITIONS OF APPROVAL

Planning Division

1. The applicant shall relocate the proposed residence to a location referred to in this report as "~~Alternative Location A~~," located approximately ~~2,000 feet~~ (+/- 50 feet) from Cabrillo Highway. ~~The applicant shall redesign the proposed residence to: (a) rotate the proposed garage location 90 degrees to have the garage door facing East; and (b) provide a less formal design to blend in with the rural area; including the use of earth tone colors.~~ The applicant shall submit the revised site plan to the Planning Director for review and approval prior to issuance of the building permit.
2. This Coastal Development Permit shall be valid for one year from the date of final approval.

EXHIBIT NO.	10
APPLICATION NO.	A-1-SMC-97-013
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Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

Page 4

3. The applicant shall apply for and be issued a building permit prior to the start of construction.
4. This approval applies only to the proposal as described in this report and materials submitted for review on June 17, 1996, December 18, 1996, and as amended by Condition of Approval #1 above. Minor adjustments to the project may be approved by the Planning Director if they are consistent with the intent of and in substantial conformance with this approval.
5. The applicant shall paint the structure with colors which blend with the surrounding natural grasslands. Exterior color samples, including roof material samples (no larger than approximately 4 square inch samples for walls and trim), shall be submitted to the Planning Counter for review and approval by the Planning Director prior to the issuance of the building permit. The applicant shall include the file/case number with all color samples. Color verification by a building inspector shall occur in the field after the applicant has painted the structure an approved color but before the applicant schedules a final inspection.
6. The applicant shall submit a revised planting plan to provide additional shrub and tree plantings to reduce or eliminate views of the proposed residence as seen from the State Scenic Highway and as seen from the Cowell State Beach access trail. The applicant shall submit the landscape plan in accordance with the "Landscape Plan Guidelines - Minimum Standards" for review and approval by the Planning Director. The plan shall also address minimizing the disturbance of soil and vegetation during construction of the house and driveway and the restoration of all disturbed areas through revegetation with plant materials which are compatible with the surrounding vegetation. The plan shall include an irrigation plan. Plans for landscape areas equal to or greater than 5,000 sq. ft. must be in compliance with the "Landscape Documentation Guidelines." Upon submittal of the landscape plan, the applicant shall pay a review fee based on the fee schedule in effect at that time.
7. A performance surety deposit shall be required of the applicant to guarantee installation of the approved landscape plan. The amount of the surety will be determined as part of the landscape plan review. The surety shall be either a letter of assignment or a certificate of deposit. The surety will be released upon faithful completion of the landscaping installation to the satisfaction of the Planning Director. To release the surety, the applicant shall arrange with Planning staff for a site visit.

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APPLICATION NO.	A-1-SMC-97-013
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EXHIBIT NO.	10
APPLICATION NO.	A-1-SMC-97-013
LUCHINI Board of Supervisors	
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Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

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8. The applicant shall install the approved landscaping prior to requesting a final inspection for the building permit.
9. Upon release of the performance surety, a maintenance surety shall be posted by the applicant with the Planning and Building Division for a period of two (2) years. The amount of the surety will be determined as part of the landscape plan review. The surety will be released upon inspection of the landscaping to the satisfaction of the Planning Director. To release the surety, the applicant shall arrange with Planning staff for a site visit.
10. If the proposed structure is designed within 18 inches of the maximum allowable height, height verification shall be required as indicated below.

#### Height Verification

- a. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. The applicant shall maintain the datum point so that it will not be disturbed by the proposed construction activities until final approval of the building permit.
- b. This datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural grade or to the grade of the site (finished grade).
- c. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades.
- d. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof, and (4) garage slab elevation must be shown on the plan elevations and cross-section (if one is provided).

Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

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- e. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height, as constructed, is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
- f. If the actual floor height, garage slab, or roof height, as constructed, is different than the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved until a revised set of plans is submitted to and subsequently approved by both the Current Planning Section and the Building Inspection Section.

- 11. All utilities must be constructed underground.
- 12. The building plans shall show all proposed exterior light fixtures. The use of exterior light fixtures must be minimized. Where necessary, fixtures which shield glare and employ warm colors will be required.
- 13. The owner of the property shall record the following statement with the County Recorder's Office on the subject property prior to requesting a final inspection on the building permit:

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

EXHIBIT NO.	10
APPLICATION NO.	A-1-SMC-97-013
LUCHINI Board of Supervisors	
Findings (page 6 of 8 pages)	

- 14. That the applicant shall pay in-lieu fees for the provision of public access as allowed under LCP Policy 10.32(e), prior to the issuance of the Certificate of Occupancy. The fee amount shall be set by the Planning Director prior to the issuance of the building permit, shall be based on the equivalent value of a viewing easement from the existing access

Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

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trail to a viewing point on the coastal bluff, and shall not exceed \$5,000.00. In addition the applicant agrees to grant a lateral easement meeting the requirements of Local Coastal Program along the bluff top located in a manner that would provide for an eventual connection with trails to the North and South of the property.

Department of Public Works

15. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance #3277.
16. At the time of building permit submittal, the applicant shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for the driveways (at the property line) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for both the existing and the proposed drainage patterns and drainage facilities.
17. Any work performed within the State right-of-way (ROW) will require an encroachment permit from CalTrans. A completed application, a fee of \$420.00 more or less, environmental documentation, and five sets of plans should be submitted to the following address:

G. J. Battaglini, District Office Chief  
CalTrans District 4  
Maintenance Services and Permits  
P.O. Box 23660  
Oakland, CA 94623-0660

EXHIBIT NO.	10
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	
Board of Supervisors	
Findings (page 7 of 8 pages)	

Half Moon Bay Fire

18. The applicant shall comply with all posting, access, smoke detector, water storage, and other fire safety requirements imposed by the Half Moon Bay Fire Protection District.

Joe and MaryAnne Luchini

Subject: Request for Planned Agricultural Permit, File #PAD 96-0010, Coastal Development Permit, File #CDP 96-0027, Architectural Review, File #ARC 96-0011

February 19, 1997

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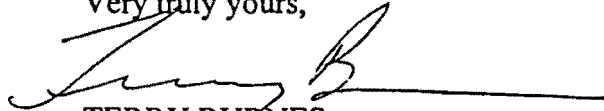
Any interested party may appeal the County's approval of this Coastal Development Permit to the California Coastal Commission North Coast District Office. They may be reached at 415/904-5267.

A project is considered approved when the appeal period has expired and no appeals have been filed.

If you have any questions on this matter, please contact the Project Planner, Jim Eggemeyer, at 415/363-1930.

Thank you for your courtesy and cooperation.

Very truly yours,



TERRY BURNES  
Planning Administrator

cc: Department of Public Works  
County Geotechnical Section  
Assessor, Chief Deputy  
Bill Cameron, Building Inspection  
CDF/Rex Buthman  
Stan Low, Environmental Services  
Planning Director, City of Half Moon Bay  
Half Moon Bay Fire Protection District  
Coastside County Water District  
Paul Gumbinger  
Lennie Roberts  
Carmel Navarro  
David Hayes, Coastal Conservancy  
Jack Liebster, North Coast Coastal Commission  
Jack Olsen  
Jim Rourke  
Mary Hobbs  
Kenneth Dickerson

EXHIBIT NO.	10
APPLICATION NO.	A-1-SMC-97-013
	LUCHINI
	Board of Supervisors
	Findings (page 8 of 8 pages)

# Luchini Investment Group

1 Nob Hill Circle  
San Francisco, California 94108

(415) 399-9556

March 4, 1998

Mr. Jack Liebster  
Coastal Planner  
California Coastal Commission  
North Coast Area  
45 Fremont, Suite 2000  
San Francisco, California 94105-2219

NOISSIWMOD PMSYCO  
COMMISSION

MAR 6 1998

RE: Appeal # A-1-SMC-97-013

Dear Mr. Liebster,

In response to your telephone inquiries issued through my representative, J.R. Rodine, we offer the following statements:

In an effort to establish water usage on the property, it is our intention to obtain a water meter (through normal market procedures) after the CCWD approves a water connection.

We would prefer to locate our home in one of two identified locations. The primary and most desirable building site is located 155 feet west of the location approved by the San Mateo Board of Supervisors. By approving this as the selected building site, the home should not be visible from the Scenic Coast Highway, ocean vistas should not be impeded and the home would be excluded from the 300 foot Tellon radius zone. The secondary site is that which has already been approved by the San Mateo Board of Supervisors and is identified on the topographical map provided by Mr. Joseph Bennie, Surveyor. This secondary site is also depicted by Paul Gumbinger's architectural plans dated April 9, 1997.

Since this is a de Novo hearing, we would like to formally express our desire to construct our home with a "Mediterranean Style" exterior as originally proposed. We believe that such construction is not only aesthetically pleasing, but also typical of California's Spanish influence.

Thank you for your efforts in this matter. We are hopeful of attaining an April hearing before the Coastal Commission.

Sincerely,

  
Joseph D. Luchini

cc: Dickerson  
Gumbinger  
Rodine

EXHIBIT NO.	11
APPLICATION NO.	A-1-SMC-97-013
	LUCHINI
	Revised Proposed
	Project

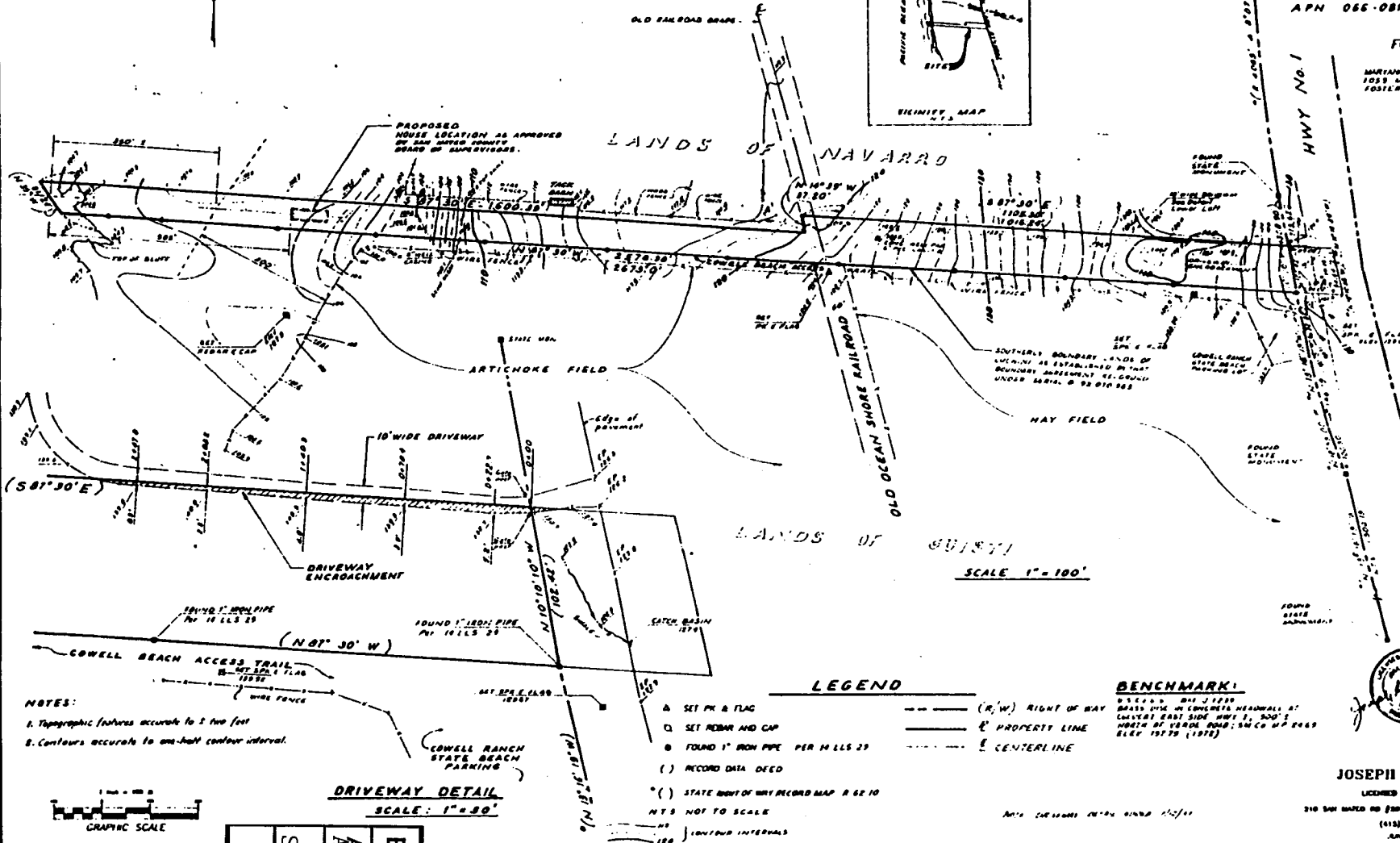
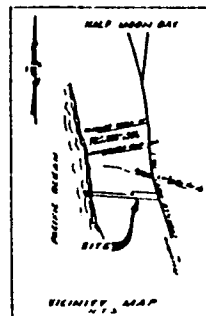
# TOPOGRAPHY AND BOUNDARY SURVEY

OF A PORTION OF THE SOUTH HALF OF FRACTIONAL SECTION 8, TOWNSHIP 8 SOUTH, RANGE 5 WEST, MOUNT Diablo BASE AND MERIDIAN IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA AS DESCRIBED IN FIRST AMERICAN TITLE CO. REPORT DATED JANUARY 21, 1997, ORDER #A04087-1D

APH 066-081-080

FOR:

MARIANNE J. LUCHINI  
1059 MONTEREY AVE  
FOSTER CITY, CA 94404 3111



**NOTES:**  
1. Topographic features accurate to 5 two feet  
2. Contours accurate to one-half contour interval.



**DRIVEWAY DETAIL**  
SCALE: 1" = 50'

- LEGEND**
- ▲ SET PK & FLAG
  - SET REBAR AND CAP
  - FOUND 1" IRON PIPE PER H LLS 25
  - ( ) RECORD DATA DEED
  - \* ( ) STATE MOUNTAIN RECORD MAP R 62 10
  - NTS NOT TO SCALE
  - CONTOUR INTERVALS
- (R,W) RIGHT OF WAY  
 ——— PROPERTY LINE  
 - - - - - CENTERLINE

**BENCHMARK:**  
 BENCH MARK SET J 1939  
 BRASS DISK IN CONCRETE HEADWALL AT  
 CORNER EAST SIDE HWY 1, 500' E  
 NORTH OF 1800' ROAD; SAN CO MAP 2465  
 ELEV 197.79 (1972)



**JOSEPH R. BENNIE**  
 LICENSED LAND SURVEYOR  
 210 SAN MATEO RD #200 HALF MOUNT DIABLO, CA 94015  
 (415) 726-8727  
 JUNE 1987  
 SD 223-87 23-074/23-074

EXHIBIT NO. 12  
 APPLICATION NO. A-I-SMC-97-013  
 LUCHINI  
 Site Topography

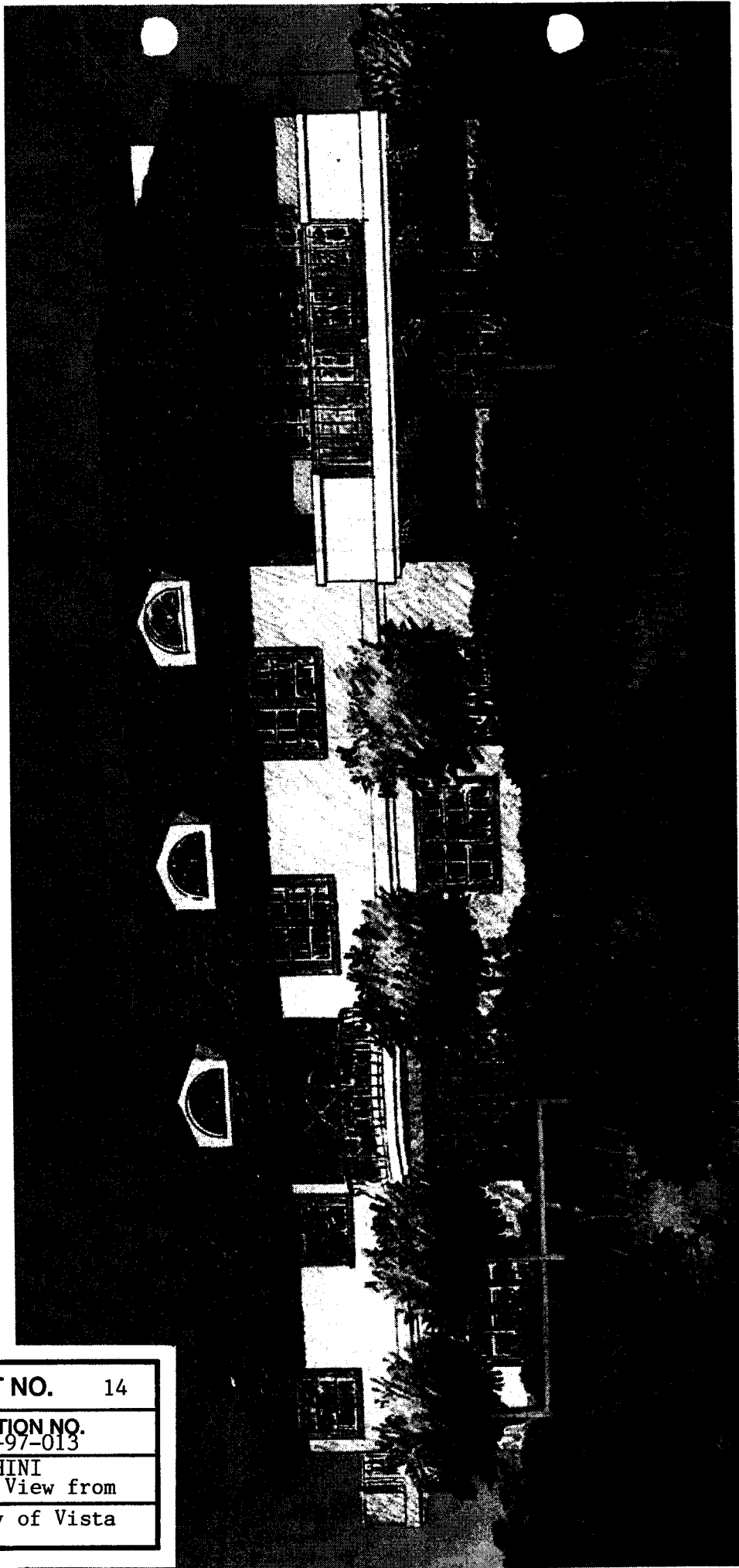


EXHIBIT NO. 14

APPLICATION NO.  
A-1-SMC-97-013

LUCHINI  
Project View from

Vicinity of Vista  
Point



AGRICULTURAL EVALUATION

Subject Parcel: Luchini

Geographic Information:

Parcel: A narrow, irregular strip containing 4.8 acres

Dimensions: 100 feet wide at easterly boundary (Hwy 1)  
65 feet wide at westerly boundary (cliffs overlooking ocean)

Terrain: Natural drainage slopping approximately 20 feet westerly (to ocean)

Boundaries: North - fence line separating Navarro property  
South - fence line adjacent to State Beach trail  
East - fence line parallel to Hwy 1 (100 feet wide)  
West - lands end, cliffs (65 feet wide)

Soils: Conducive to highest, best dollar producing product:  
brussels sprouts or artichokes

Economic analysis taken from data supplied by the State Agricultural Bureau and the University of California Agricultural Studies. Cost-specific data has been provided by the State of California Agricultural Bureau.

Bureau Study - Calculation to Plant & Harvest 1 Acre at 100% Capacity:

NOTE 1

Gross Revenue:	\$3,290.00
Less Allowance for farm equipt. Roads (10%)	( 329.00)
Allowance for Spoilage (2%)	( 65.00)

Adjusted Gross Revenue per acre brussels sprouts \$2,886.00

Expenditures:

Cultural	793.74
Materials	666.00
Overhead	497.73*
Depreciation	51.90
Harvest	<u>752.80</u>

Total Hard Cost/Acre (2,762.17)

NOTE 2

Probable Net Operating Income/Acre	\$ 123.83
------------------------------------	-----------

NOTE 3

\* Includes land rental of \$200  
Costs do not include such variables as boxing or transportation

NOTES ADDED

EXHIBIT NO.	15
APPLICATION NO.	A-1-SMC-97-013
LUCHINI Agricultural Evaluation	

SITE PLANNING FOR RURAL SCENIC CORRIDORS

4.55 Building Setbacks

- a. Prevent the obstruction of important views by setting buildings in rural scenic corridors back from the road right-of-way, unless topographic features or the size of the site makes it infeasible or unnecessary.
- b. Consider a variety of setbacks; however, establish minimum distance.

4.56 Cluster Development

In scenic corridors, discourage high density clustering or grouping of residential uses which are highly visible from the road.

4.57 Tree and Vegetation Removal

- a. Allow the removal of trees and natural vegetation when done in accordance with existing regulations.
- b. Prohibit the removal of more than 50% of the tree coverage except as allowed by permit.

4.58 Views

To the extent practicable, locate development in scenic corridors so it does not obstruct views from scenic roads or disrupt the visual harmony of the natural landscape.

4.59 Outdoor Lighting

Minimize exterior lighting in scenic corridors and, where used, employ warm colors rather than cool tones and shield the scenic corridor from glare.

4.60 Roads and Driveways

- a. Design and construct new roads, road improvements and driveways to be sensitive to the visual qualities and character of the scenic corridor, including such factors as width, alignment, grade, slope, grading and drainage facilities.

4.15P & 4.16P

EXHIBIT NO. 16
APPLICATION NO. A-1-SMC-97-013
LUCHINI - Visual Quality Policies of the General Plan (page 1 of 3 pages)

- b. Limit number of access roads connecting to a scenic road to the greatest extent possible.
- c. Share driveways where possible to reduce the number of entries onto scenic roads.

4.61 Parking and Paved Areas

Integrate paved areas with their site and landscape and/or screen them to reduce visual impact from the scenic corridor.

4.62 Storage Areas

Screen areas used for the storage of equipment, supplies or debris by fencing, landscaping or other means so they are not visible from scenic roadways, trails, parks, and neighborhoods.

4.63 Utilities in State Scenic Corridors

- a. Install new distribution lines underground.
- b. Install existing overhead distribution lines underground where they are required to be relocated in conjunction with street improvements, new utility construction, etc.
- c. Consider exceptions where it is not physically practical due to topographic features; however, utilities should not be substantially visible from any public road or developed public trail.

4.64 Utilities in County Scenic Corridors

- a. Install new distribution lines underground.
- b. Consider exceptions for certain circumstances including, but not limited to, financial hardship, topographic conditions or land use conflicts.

EXHIBIT NO.	16
APPLICATION NO.	A-1-SMC-97-013
LUCHINI - Visual Quality Policies of the General Plan (page 2 of 3 pages)	

4.65 Large Scale Power Transmission Lines

Encourage P.G. & E. to mitigate the adverse visual impact created by large scale power transmission lines.

4.66 Fences

Encourage fences which minimize visual impact.

4.67 Mobilehomes

Prohibit mobilehomes on permanent foundations in scenic corridors.

4.68 Rural Scenic Corridor District

Regulate the architectural and site design of structures within scenic corridors by using a consolidated set of design standards.

EXHIBIT NO.	16
APPLICATION NO.	A-1-SMC-97-013
LUCHINI - Visual Quality Policies of the General Plan (page 3 of 3 pages)	

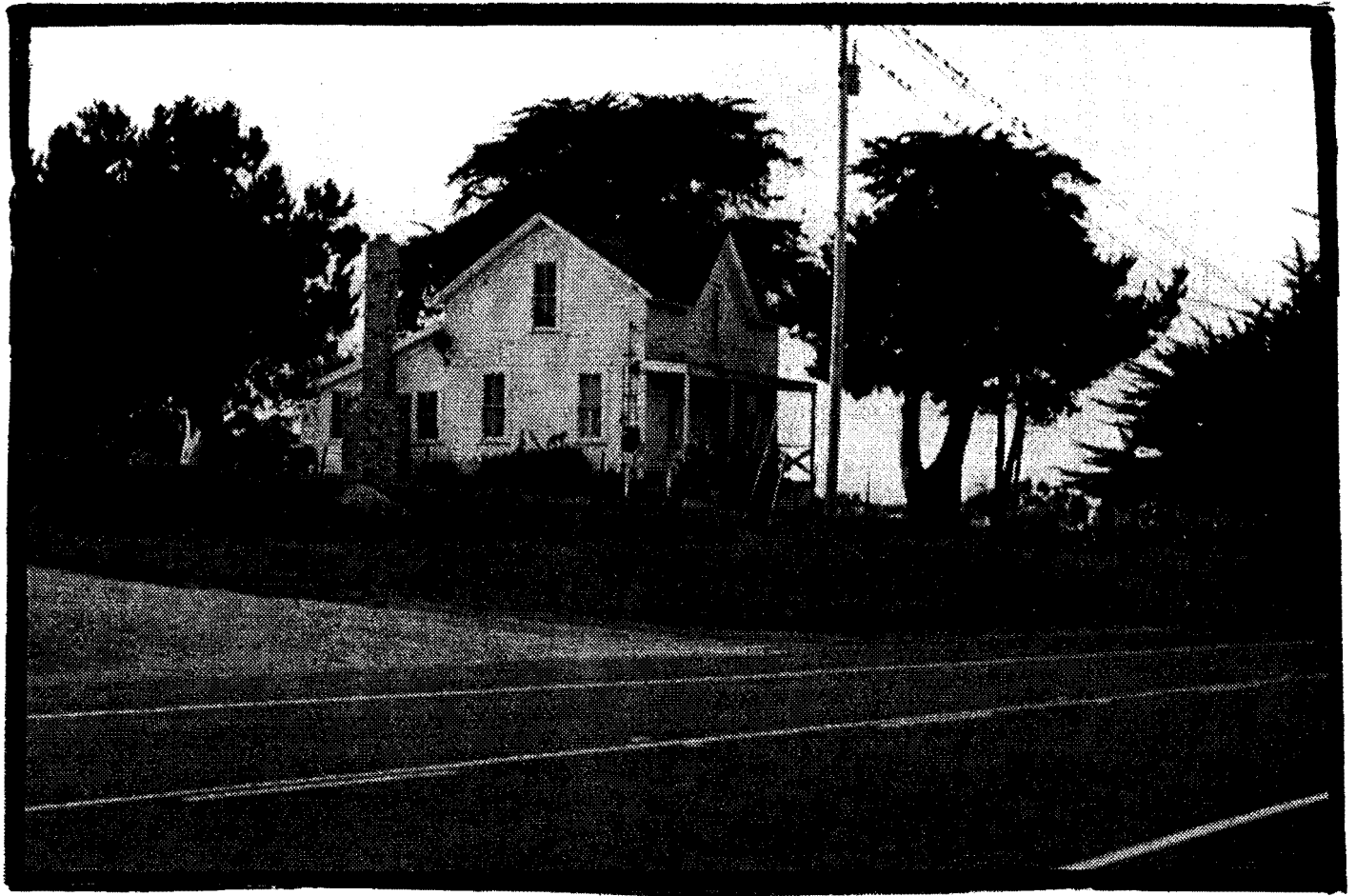


EXHIBIT NO.	17
APPLICATION NO.	A-1-SMC-97-013
LUCHINI	
Farm House	
Architectural Style	

MEMORANDUM

TO: BILL ROZAR  
S. M. COUNTY PLANNING DEPT.

FROM: ROBERT R. RATHBORNE  
GENERAL MANAGER, COASTSIDE CO. WATER DIST.

DATE: November 21, 1995

RE: CCWD SERVICE TO RURAL ZONE

---

This memo is to follow up a discussion that you had with Gitana Lombardi recently. I will attempt to answer your questions and have prepared a little map to help explain what the current situation is.

- 1) It is true that the CCWD provides water service to either side of Mr. Luchini's property.
- 2) The CCWD will provide service where the City or County authorizes that service can be provided in accordance with the LCPs.
- 3) For (new) service for priority land uses in the Rural Zone, the District has not historically been authorized by the County to provide either priority or non-priority water service. My recollection is that Mike Murphy provided guidelines about this issue several years ago. Where there is existing service to floraculture/agriculture customers in the Rural Zone, including residential use incidental to ag operations, the County has authorized additional service connections or capacity to be received from the District. An example the County's refusal to allow the CCWD to provide water service to a customer, for domestic use in the Rural Zone (along Hwy 92), is the request of Lance Kastle, approximately 4 years ago.
- 4) Existing customers in the Rural Zone had water service prior to adoption of the LCPs and did not have priority connections per se. They did not exist prior to LCP adoption. Where additional capacity has been sold (Ron Bongard's Nursery along Hwy 92 is one example that comes to mind), the County approved the CCWD request to provide a priority connection. The District does not make any determination with respect to specific water use once the approval to serve a customer is received from the County.
- 5) Kim Powleson's letter of April 6, 1994 was clear direction from the County to the applicant and the District regarding water service to Mr. Luchini's property.

Bill, please call me once you have had an opportunity to review this memo.

EXHIBIT NO.	18
APPLICATION NO.	A-1-SMC-97-013
LUCHINI - CCWD Service to Rural Zone	
(page 1 of 3 pages)	

W. W. W. V. W.

# CITY OF HALF MOON BAY

Pacific  
Ocean

CANADA  
COVE

Half Moon Bay City Limit

RURAL ZONE

Sindel  
Res.

CASTRO  
Res.

SINDEL  
Res.

HMB City Limit

NAVARRO - RES

LUCHINI 066-581-088

RURAL  
ZONE

Private Water Line

HIGHWAY #1 - NORTH

QUISTI  
Agriculture

EXHIBIT NO.	18
APPLICATION NO.	A-1-SMC-97-013
LUCHINI - CCWD Service to Rural Zone (page 2 of 3 pages)	

PPR  
11/21/95

**Environmental Services Agency**  
Planning and Building Division



**Planning Division** - 415/363-4161 • FAX 363-4849

**Building Inspection Section** - 415/363-4601 • FAX 363-4849

# County of San Mateo

Mail Drop 55RC1-00 • 580 Hamilton Street, 2nd Floor • Redwood City • California 94063

**BOARD OF SUPERVISORS**

RUBEN BARRALES  
MARY GRIFFIN  
TOM HUENING  
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MICHAEL D. NEVIN

Director of  
Environmental Services  
Paul M. Koenig

Planning Administrator  
Terry L. Burnes

April 6, 1994

David Cline  
Coldwell Banker  
40 North Cabrillo Highway  
Half Moon Bay, CA 94019

Dear Mr. Cline:

SUBJECT: Potential of Water Connection for APN 066-081-080

I am writing in response to your fax inquiry dated March 30, 1994. You have asked whether the owners of the above-listed parcel would be able to connect to a water line which runs past the property along Cabrillo Highway. While the property is currently vacant, a single-family residence is anticipated. I regret to inform you that the County's Local Coastal Program (LCP) does not permit such a water connection.

Our research indicates that the water line is a private water extension (dating from the 1940s) running south from the Coastside County Water District (CCWD) meters at the Half Moon Bay City limit. The Half Moon Bay City limit is coterminous with the County's urban/rural boundary and the CCWD boundary. The subject parcel is within the rural area of the unincorporated County and is outside of the water district.

The Public Works Component of the LCP in Policy 2.14 (General - Establishing Service Area Boundaries) and Policy 2.37 (Specific - Water Service Area Boundaries) permits new connections only within the district boundaries. A copy of this Component with highlighted policies is enclosed for your reference.

Feel free to contact me should you have any further questions.

Sincerely,

  
Kimberly A. Powleson  
Senior Planner

KAP:fc - KAPE0611.AFN

Enclosure

cc: David Meyer, CCWD  
Susan Heiser, Project Planner: COC 94-0001

EXHIBIT NO.	18
APPLICATION NO.	A-1-SMC-97-013
LUCHINI - CCWD Service to Rural	
Zone (page 3 of 3 pages)	