# CALIFORNIA COASTAL COMMISSION

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May 17,1999 Waived Jack Liebster June 25, 1999 July 15, 1999

#### STAFF REPORT:

# DETERMINATION OF APPEALABILITY

LOCAL GOVERNMENT:	County of San Mateo
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-SMC-99-34
APPLICANT:	Wildlife Associates and J. T. Burns
PROJECT LOCATION:	1794 Higgins Canyon Road, Half Moon Bay, San Mateo County; APNs 066-160-100
PROJECT DESCRIPTION:	Construction of a 10-foot-high perimeter open air fence and fenced animal enclosures for non- releasable, rehabilitated animals used for off-site training and educational programs, training & educational center, and private stable for 6 horses, on 120-acre site.
INTERESTED PERSON:	Oscar Braun for Save Our Bay and Higgins Canyon Homeowners Association
SUBSTANTIVE FILE DOCUMENTS:	San Mateo Co. CDP #98-0024, PAD 98-0005; San Mateo County Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION

#### 1. Summary Of Staff Recommendation: Determination Of Appealability

Staff recommends the Commission find that the project approved by the County of San Mateo is not appealable to the Commission.

The project approved by the County of San Mateo provides for caring for animals in a fenced area of an agricultural parcel. Staff agrees with the County's determination that this use constitutes an accessory use to agriculture under the County's certified LCP. As such, the project approved by the County of San Mateo qualifies as a principally permitted use, and consistent with Section 30603 of the Coastal Act, is not subject to the Commission's review on appeal.

The Motion to adopt the Staff Recommendation that the project is not appealable is found on Page 5.

#### **STAFF NOTES:**

#### 1. Procedure for Determination of Appealability

The County of San Mateo has determined that the subject permit, CDP #98-0024, is not appealable to the Commission. Oscar Braun, on behalf of Save Our Bay and the Higgins Canyon Homeowners Association has challenged that determination. Section 13569 of the Commission's Administrative Regulations addresses the situation where the local government's determination of appealability is challenged by an interested person in pertinent part as follows:

§13569. Determination of Applicable Notice and Hearing Procedures.

The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the local government at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

(a) **The local government shall make its determination** as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall

inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.

(b) If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a Commission determination as to the appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;

(c) The executive director shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable:

(d) Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government request.

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within specified geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Developments approved by counties may also be appealed if they are not designated the "principal permitted use" under the certified LCP. (Major public works or major energy facilities may also be appealed, but that situation is not relevant here).

The San Mateo County LCP mirrors these criteria for determining when a project is appealable to the Coastal Commission.

The question of whether the approved project is appealable has come to the Commission essentially as a dispute between the findings made by the County and the contentions advanced by an "interested person," Mr. Braun. The staff report addresses Mr. Braun's contentions that are relevant to the question of appealability.

The staff recommends that the Commission hold a hearing for purposes of determining the appropriate designation for the project. The Executive Director determined the project to be potentially appealable as a means of bringing this question before the Commission

for decision. Therefore, a Commission hearing on the determination of appealability pursuant to Section 13569(d) was scheduled for "the next Commission meeting in the appropriate geographic region of the state" (the current meeting in San Rafael). After review of all of the records associated with the County's decision, staff concurs with the decision of the County that the project is not appealable. The reasons for staff's recommendation are presented in this report.

If, and only if, the Commission determines the project is appealable, a hearing on the question of substantial issue will be scheduled for a future meeting to allow a staff recommendation on the question of substantial issue to be prepared.

#### 2. Request for Determination, Filing of Appeal.

On May 5, 1999, Mr. Braun sent the Commission a letter requesting an appeal of San Mateo County CDP No. 98-0024, the subject project (Exhibit 7). The County's Notice of Final Action was received in the Commission's offices on May 6, 1999. Pursuant to a contact by Mr. Braun, County Planning Administrator Terry Burnes sent a letter to the Commission that same day outlining the County's determination that CDP No. 98-0024 was not appealable to the Commission. Deputy Director Scholl replied to Mr. Burnes on May 10, 1999, stating that he did not disagree with the County's conclusion (Exhibit 9). On May 17, 1999, the Commission received a complete copy of the appeal in a timely manner, based upon the May 6 date of the County's issuance of the Notice of Final Action (Exhibit 10). On May 19, the Executive Director determined that CDP No. 98-0024 should come to the Commission for a hearing on the determination of appealability.

Pursuant to Section 30261 of the Coastal Act, if the project approved by the County is appealable, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. In case the Commission determines that the project approved by the County is appealable, on May 20, 1999, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the County's action and prepare a recommendation as to whether its approval of the project is appealable. These materials were received on June 10, 1999. Subsequent to staff's request for all relevant materials, the applicant's representative waived the 49 day hearing requirement on May 26, 1999.

#### 3. Emphasis Added

In various locations in the staff report, **bold type** indicates emphasis added to quoted text.

# I. STAFF RECOMMENDATION ON DETERMINATION OF APPEALABILITY

Pursuant to Section 30603(a) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission hold a public hearing, and determine that the development approved by the County is not appealable. The proper motion is:

#### **MOTION**:

I move that the Commission determine that San Mateo County CDP No. 98-0024 (Wildlife Associates) is appealable consistent with Section 30603(a) of the Coastal Act.

Staff recommends a NO vote. To pass the motion, a majority vote of Commissioners present is required. Approval of the motion means that the County permit is final and is not subject to the Commission's review on appeal.

# II. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

# A. INTERESTED PERSON'S CONTENTIONS REGARDING APPEALABILITY

County of San Mateo CDP No. 98-0024 (Wildlife Associates), henceforth called "the project," as approved by the County would permit construction of a 10-foot-high perimeter open air fence and fenced animal enclosures for non-releasable, rehabilitated animals used for off-site training and educational programs, a training & educational center, and a private stable for 6 horses, on 120-acre site.

The Commission received communications from Oscar Braun on May 5, 10 and 11 regarding the determination of whether the project, as approved, is appealable (Exhibit 7). These communications contended that:

- (a) The project was submitted to the County March 9, 1998. It was initially declared "appealable" by the County, but changed to non-appealable on April 19, 1999. Commission Administrative Regulation Section 13569 provides that the "determination of whether a development ... is appealable ...shall be made by the local government at the time the application ... is submitted." The County cannot change their determination at the end of the process. (Ex. 7, pgs. 1 and 2)
- (b) "The Arroyo Leon is a stream located at [the project site] and this application is therefore appealable..." (Ex. 7, pg. 4)

On May 7 and 17, 1999 the Commission received additional appeal submissions from Mr. Braun contending that the project is appealable, raises a substantial issue, and should be denied. The full text of Mr. Braun's contentions as submitted to the Commission is included in Exhibit 10.<sup>1</sup> Most of these contentions concern whether the project is consistent with applicable LCP provisions rather than whether the approved project is appealable. In this case, whether the project is appealable is defined by Section 30603(a) of the Coastal Act and the parallel sections of the certified LCP. The following contentions of Mr. Braun do not specifically address this standard. However, to assure a full and fair hearing of the issues, staff has reviewed these contentions for those which might be considered applicable to the determination of whether or not the project is appealable. **Only a portion of Item 5 and a portion of item 2 are relevant to the question of appealability** because they allege the approved use is appealable because it is not "accessory to agriculture" pursuant to LCP [Zoning Ordinance Section] 6351.F, and thus is not the principally permitted use.

- 1. LCP Section 6350, Purpose of the Planned Agricultural District: the project does not develop available lands not suitable for agriculture before converting agricultural lands and does not preserve and foster existing and potential agricultural operations (Ex. 10, pgs. 3, 4 and 5).
- LCP Section 6350-E (sic) [actually 6351.E], Uses Ancillary to Agriculture: a project to house wild animals classified as detrimental to agriculture is not "ancillary to agriculture," can not be defined as "accessory to agriculture," and does not preserve and foster existing and potential agricultural operations. (Ex. 10, pg. 3, 5)
- LCP 5363 15f. (sic) [actually 6353.B.15.f], Uses on Prime Agricultural Lands: the project is not permitted because it creates a potential for health or safety hazards in that the Department of Fish and Game classifies animals to be housed as "detrimental wild animals [that] pose a threat to native wildlife, agriculture and the public health and safety." (Ex. 10, pg. 3)
- 4. LCP 5363-15h. (sic) [actually 6353.B.15.h]: the applicant has not demonstrated that no feasible sites exist in the RM, RM/CZ, TPZ, or TPZ/CZ zones for the proposed facility, and that the current location offers a reasonable alternative site that meets the basic needs and goals of the Wildlife Associates facility. (Ex. 10, pg. 3)

<sup>&</sup>lt;sup>1</sup> The appeal appears to reference some of the LCP sections in error. These references are included as submitted here. However, since the issues were stated clearly enough to identify the correct reference [shown in brackets], these corrected references were used for purposes of the staff analysis. Mr. Braun has agreed with these corrections

- 5. Section 6351.F, Non-Residential Development Customarily Considered Accessory to Agricultural Uses: the development is not consistent with the LCP because it "does not preserve and foster existing and potential agricultural operations;" because "these are Detrimental Wild Animals and not domesticated farm animals," and because the County's contention that these are farm animals considered "accessory to agriculture" is not consistent with state law or LCP Section 6352f. (sic) (Ex. 10, pg. 3-5)
- 6. LUP Policies 7.1 (Definition of Sensitive Habitats) and 7.3 (Protection of Sensitive Habitats): the "housing of "Detrimental animals" is in conflict with these policies. (Ex. 10, pg. 5,6)
- 7. A "commercial access road" at least 18 feet wide with 1 foot shoulders will be required to serve the project, would be located in an unstable area, and would affect a sensitive habitat area including listed rare or endangered species. (Ex. 10, pg. 8)
- 8. An Environmental Impact Report is required; the certification of the Negative Declaration should be denied. (Ex. 10, pg. 9, 10)

#### B. Local Government Action

The project was initially reviewed by the San Mateo County Planning Commission at its March 24, 1999 hearing. At that time, the Planning Commission made the following finding:

"That this project is a non-residential use accessory to agriculture according to Section 6351(f) of Chapter 21A of the Planned Agricultural District Regulations and is allowed in its proposed location according to Section 6352.A.2 of the Planned Agricultural District Regulations."

The Planning Commission reached its conclusion based on the following factors, among others: the project was endorsed by the County Agricultural Advisory Committee as an appropriate use in the Planned Agricultural District; the project involves the keeping, raising and care of animals; the operation will be expanded to include domestic farm animals; less than 5% of the site will be devoted to the keeping and care of non-domesticated wild animals; the great majority of the site will continue to be used for traditional agriculture; and the project would have no adverse effects on agriculture on this site or in the vicinity.

According to County staff, the Planning Commission felt strongly that this project was a positive use, of great value to the County, and clearly could be accommodated in the rural area. The Planning Commission also found that while there was opposition from some neighbors, those closest to the facility strongly supported it.

The Planning Commission further found that as a use accessory to agriculture, this use is allowed by right at any location in the Planned Agricultural District which does not adversely impact coastal resources, and no Planned Agricultural Permit is required.

Finally, the Planning Commission supported the conclusion of its staff and the County Counsel that, as a use by right, this project is not appealable to the Coastal Commission.

On May 4, 1999, the Board of Supervisors upheld the decision of the Planning Commission after a local appeal by Mr. Braun, finding with regard to conformance with the Planned Agricultural District Regulations:

That the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs and a limited training/educational center for wildlife professionals has been determined to qualify as a non-residential use accessory to agriculture according to Section 6351(f) of Chapter 21A of the Planned Agricultural District Regulations and is allowed in its proposed location according to Section 6352.A.2 of the Planned Agricultural District Regulations. Thus, a Planned Agricultural Permit is not required since this is a use permitted on Prime Agricultural Lands.

#### C. PROJECT SETTING AND DESCRIPTION, AND HISTORY.

The 120-acre site is located across a shared bridge off of Higgins Canyon Road near Half Moon Bay in an unincorporated part of San Mateo County. The site contains a flat grassy area surrounded by a perimeter driveway, with the existing 3,960-sq.-ft. single family residence at one end and a barn at the other (Exhibit 4). To the southwest is a large, flat pasture area covered with seasonal grasses. Steep slopes with denser vegetation and trees rise on three sides of this area, with a small valley opening up to the southwest beyond. The Soil Conservation Service Soil Survey of 1954 indicates there are 25 acres of Class II (prime) soils in the level area of the parcel (Ex. 5). The LCP Land Use map designates the property "Agriculture," with a zoning of "Planned Agricultural" District (PAD).

Wildlife Associates and J. T. Burns have been issued a Coastal Development Permit (CDP) for construction of a 10-foot-high perimeter open air fence and fenced animal

enclosures occupying about 2 acres of the 120-acre site, to be used for housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs. The open air animal enclosures would occupy 17,332 sq.ft. of the open space within the 91,300-sq.ft. sanctuary facility, for a total of about 19% of the fenced area. The animal enclosure area would be constructed on the site of a 12,000-sq.ft. barn that was previously approved but not constructed (Exhibit 3). The remainder of the project area would contain a perimeter road, landscaping, animal recreation areas, and a small pond for animal exercise.

The applicant's materials describe the purpose of the project as follows:

"Wildlife Associates would like to establish a permanent facility for nonreleasable animals and associated administrative functions....Wildlife Associates has been located near Pacifica. They wish to enhance their programs and provide needed space for replacement animals. The Wildlife Associates program is unique because all the animals receive lifetime care. The new site will provide adequate space for their aging animals to live out their remaining years with dignity. Wildlife Associates lease their current location, however they have purchased the Higgins Canyon property as a permanent sanctuary for their animals..."

"Wildlife Associates has only non-releasable wildlife which are animals that have been left homeless, injured or for other reasons can never survive in the wild. These animals require specialized care. The U.S. Fish and Wildlife Service, California Department of Fish and Game, wildlife rehabilitation centers and humane societies place these animals with Wildlife Associates. Wildlife Associates provides life long care and maintenance for their animals..."

"The animals act as wildlife ambassadors by providing unique and highly effective learning experiences for the students that participate in Wildlife Associates programs. These programs are nationally recognized for providing a needed component in the public and private schools science curriculum..."

In describing the design and operation of the approved project, the applicant states:

"Native and indigenous plantings will be installed throughout the facility as well as on the outer perimeter to provide screening, privacy and shelter form prevailing winds. A transition in the planting intensity will visually blend the facility with its natural surroundings, minimizing the visual definition of the perimeter fencing. The existing lawn area will be converted to a low water landscaped area that will dramatically reduce the water demand for the maintenance of this area. The

native plants will create a more natural environment that will provide screening of the facility..."

"The animals exercise and interact with Wildlife Specialists in the recreational areas within the fenced compound area. The animals are always leashed and under supervision while in the recreational areas. The animals will also have a double shift door within their enclosure that provides additional security..."

The open air fence enclosures and perimeter would consist of concrete footings buried to a depth of five feet, a below grade wire mesh extension and a decomposed granite floor three inches in depth. The applicant points out that this type of construction would not preclude the project site from being converted to another agricultural use upon removal of the fencing facilities. Currently, there are no agricultural cultivation operations taking place at the project location. The majority (96.8%) of the acreage is used for cattle grazing under an agreement with neighboring properties.

The facility would also be used as a training/educational center for wildlife professionals on a limited basis. The existing house would be used to house three staff members. The approved project also includes a stable permit to allow private stabling for up to 6 horses, using the existing stable and barn buildings.

The staff report to the Board of Supervisors further describes the approved project as follows:

"The applicant is proposing a combination of the following uses on the property.

# Housing and caring of non-releasable, rehabilitated animals used for off-site training and educational programs.

The applicant is proposing to create a state of the art housing and care facility for non-releasable animals. The animals are primarily native to North America with a few exceptions. Attachment E [Ex. 12] is a list of animals which are currently being housed at the Wildlife Associates' current facility. The total number of mammals will not exceed 60. Animals are housed in an individual living enclosure designed for their specific needs. The animals require privacy, open space, security, quiet, and highly supervised care.

#### **Agricultural Production**

The applicant has established an agreement with a contiguous property owner to manage a large portion (115 acres) of the project site for grazing. The contiguous

property owner rotates the grazing areas between their property and the project site to allow enhanced grazing opportunities. A small portion of the 115-acrearea is being considered for crops such as pumpkins, oat hay, pasture grass, or organic produce.

#### Residential

Wildlife Associates intends to utilize the existing 3,960-sq.-ft. residence for the housing of three staff members. The resident staff will provide supervision and security for the animals at all times.

#### School/Training Facility

Wildlife Associates will provide limited wildlife management training specialized for professionals and college students. These classes are designed and limited to one to four students at a time.

Topics include animal husbandry, veterinary procedures, training, handling, animal keeping, wildlife education, environmental education, teaching methodologies, as well as other related classes. The majority of the instruction occurs within the animal sanctuary area.

Stable

Wildlife Associates intends to maintain the existing stable with six horses. No additional stable structures will be required for this use. This will be a private stable...

#### D. APPEALABILITY ANALYSIS

The County of San Mateo has determined that the project is not appealable (Ex. 6). Mr. Braun's contentions that the project is appealable are threefold:

- (a) The County changed its designation of the project from "appealable" to nonappealable in a manner inconsistent with Commission Administrative Regulation Section 13569. (Ex. 7, pgs. 1 and 2)
- (b) The Arroyo Leon stream located at the project site puts it in the geographical appeal area. (Ex. 7, pg. 4)

(c) The development is not a "Non-Residential Development Customarily Considered Accessory to Agricultural Uses," a principally permitted use under Section 6351.F as found by the County, and is therefore appealable. (Ex. 10, pg. 3)

Section 30603 specifies when an action taken by a local government on a coastal development permit application may be appealed to the Commission:

Section 30603.

(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

With regard to Coastal Act Section 30603(a)(4) concerning principal permitted uses, LCP Section 6328.3(s)(3) lists as appealable:

Any project involving development which is not a principal permitted use in the underlying zone, as defined in Section 6328.3(q)."

The Coastal Act does not specifically define the term "principal permitted use," but LCP Section 6328.3(q) defines this term as follows:

"Principal permitted use" means any use representative of the basic zone district allowed without a use permit in that underlying district."

# (a) Was the County's change to a non-appealable designation improper?

Mr. Braun contends the project was initially declared "appealable" by the County, but changed to non-appealable on April 19, 1999. Mr. Braun sets out the history of the project's designation in detail in Exhibit 7, pgs. 2 and 3. He cites Commission Administrative Regulation Section 13569, which provides that the "determination of whether a development ... is appealable ...shall be made by the local government at the time the application ... is submitted," and contends that the County "cannot change their determination on appealability at the end of the process." (Exhibit 7, pg. 1)

Coastal Act Section 30603(a) and LCP Section 6328.3 define the types of developments that are appealable to the Commission. (Section 30603(a) makes this limitation explicit be stating that an "*application may be appealed to the commission for only*" the listed developments. These sections make no provision for the Commission accepting an appeal based upon an inconsistency with procedures discussed in Commission Administrative Regulation Section 13569, even if the County failed to follow these procedures. The Commission therefore does not find the approved project appealable based on this contention.

# (b) Is the project site in the geographic appeal area?

Mr. Braun contends, as further elaborated in Exhibit 7, pg. 4, that the "Arroyo Leon is a stream located at 1794 Higgins Canyon Road [the project site] and this application is therefore appealable...,".

Indeed, the stream does exist on the subject parcel. However, Coastal Act Section 30603(a)(2) and LCP Section 6328.3(s)(2), in pertinent part, limit appeal of coastal development permit applications to developments "within 100 feet of any wetland, estuary, or stream,..." The project does not fall within this area. While the Arroyo Leon stream does pass through the subject property, the development subject to the CDP is not within 100 feet of the stream. According to the County's certified Negative Declaration (pg. 2): "Arroyo Leon Creek...is located 390 feet from the proposed project site...."

The Commission therefore does not find the approved project appealable based on this contention.

The Commission further notes that the project also does not lie within the geographic appeal area defined by other parts of Coastal Act Section 30603(a) and LCP Section 6328.3(s).

#### (c) Is the development a principally permitted use?

#### **Coastal Act and LCP Provisions**

Coastal Act Section 30603(a)(4) and LCP Section 6328.3(s) provide that developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. The determination of whether this project is appealable to the Commission thus depends upon whether or not it is a principal permitted use.

The project is of a unique nature that is not specifically categorized in the Planned Agricultural District in which it is located. As a refuge facility for non-releasable, rehabilitated animals used for off-site training and educational programs and kept in openair fenced areas, it represents a use that will not likely be replicated many times in the coastal zone. After deliberating whether the project might best be categorized as agriculture, accessory to agriculture, or a school, (Exhibit 12, pg. 1-2, 4-9), the Planning Commission determined that the proper designation is non- residential development customarily considered accessory to agricultural uses.

San Mateo County LUP addresses permitted uses on agricultural lands in Policies 5.5 and 5.6 (Ex. 11). Both of these policies distinguish between (a) (principally) permitted uses, and (b) conditionally permitted (appealable) uses, in pertinent part, as follows:

**a.** Permit agricultural and agriculturally related development on ... [agricultural lands]. Specifically, allow only the following uses: ...(2) nonresidential 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...

b. Conditionally permit the following uses: ... (6) uses ancillary to agriculture, ....

"Non- residential development customarily considered accessory to agricultural uses" is listed among the principally permitted uses (i.e. uses representative of the basic zone district that allowed without a use ("conditional") permit as defined in LCP Section 6328.3(q)).

LUP policies 5.5.a and 5.6a clearly keep open the possibility of allowing other uses by defining non-residential development customarily considered accessory to agricultural uses as "*including*," rather than "only" those uses listed.

The implementation for these policies is contained within the Planned Agricultural District (PAD) portion of the certified LCP. In Sections 6352 A.2. and 6352 B.2. (Ex. 11), the PAD ordinance also lists as "uses permitted":

"Non-residential development customarily considered accessory to agricultural uses."

PAD Section 6351.F defines "Non-Residential Development Customarily Considered Accessory to Agricultural Uses" as follows:

"Barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, **and other similar uses** determined to be appropriate by the Planning Director."

The phrase "and other similar uses determined to be appropriate by the Planning Director" contained within Section 6351.F of the PAD ordinance allows other similar uses to be determined to be non-residential development customarily considered accessory to agricultural uses consistent with LUP policies 5.5 and 5.6.

In this case, consistent with the plain language of LCP Section 6351.F, the County determined that the project as approved was a similar, appropriate accessory use.

As noted in the "Local Government Action" section, the Planning Commission found, among other things:

- the project was endorsed by the County Agricultural Advisory Committee as an appropriate use in the Planned Agricultural District;
- the project involves the keeping, raising and care of animals;
- the operation will be expanded to include domestic farm animals;
- less than 5% of the site will be devoted to the keeping and care of non-domesticated wild animals; and

• the great majority of the site will continue to be used for traditional agriculture; and the project would have no adverse effects on agriculture on this site or in the vicinity.

Mr. Braun contends that a project to house wild animals classified as detrimental to agriculture can not be considered "accessory to agriculture;" the project does not preserve and foster existing and potential agricultural operations and is not compatible with agriculture; and it is not consistent with Section 6352f. (sic); (Ex.10, pg.3-5)

Mr. Braun specifically contents:

#### **Contention 2:**

"LCP Sect. 6350-E Uses Ancillary to Agriculture. Agricultural grading equipment supplies, agricultural rental supplies, topsoil stockpiling, and other similar uses determined to be appropriate by the Planning Director. Housing Detrimental Animals is NOT ancillary to agriculture in this State. State Fish & Game has determined that these Wild animals pose a threat to the agriculture of California. A determined threat to agriculture cannot be defined as accessory to agriculture in this state. Webster defined "Accessory" as aiding or contributing in a secondary or subordinate way. The development of the Wildlife Associates Detrimental Animal facility is NOT consistent with the LCP of this County and does not preserve and foster existing and potential agricultural operations. (LCP 6350)" (Ex. 10, pg. 3)

#### **Contention 5:**

"Section 6351.F, Non-Residential Development Customarily Considered Accessory to Agricultural Uses. Barns, storage/equipment sheds, stables for <u>farm animals</u> ...On page 6, enclosure number 48, "The applicant requests that the appropriate determination of consistency with Section 6351.F be made for this project due to the following factors. The proposed facility will utilize materials customarily associated with agricultural including fencing, landscaping, food storage and water delivery system." This definition would be quite humorous if it were not for the nature of these beasts. It is NOT the materials customarily associated with agriculture that defines the consistency with the LCP, it is "does the facility preserve and foster existing and potential agriculture." The development of the Wildlife Associates Detrimental Animal facility is NOT consistent with the LCP of this County and does not preserve and foster existing and potential agricultural operations. These are Detrimental Wild Animals and not domesticated farm animals. (LCP 6350)..."(Ex. 10, pg. 3-4)

"The County of San Mateo contention that "Detrimental Species" are farm animals that are considered non-residential development customarily considered accessory to agricultural is NOT CONSISTENT with either the state law or the LCP section 6352f." (Ex. 10, pg. 4-5)

#### Discussion

The contentions that the development is not "accessory to agriculture," (and thus is appealable) have three parts: (1) the animals served are detrimental to agriculture; (2) a project serving them cannot be considered consistent with the common definition of "accessory," in this case "aiding or contributing in a secondary or subordinate way" to agriculture; (3) the project does not preserve and foster existing and potential agricultural operations (and similar claims of inconsistency with the LCP.

(1) Animals Detrimental to Agriculture

An essential part of Mr. Braun's contentions is that the animals to be cared for in the facility are designated "detrimental animals" listed by the state Department of Fish and Game "because they pose a threat to native wildlife, the agricultural interest of the state or to public health or safety" (Ex. 10, pg. 4). Many of Mr. Braun's contentions are summarized by his statement that "a determined threat to agriculture cannot be defined as accessory to agriculture." Ex. 10, pg. 3)

However, the Department of Fish and Game itself disputes this contention in a letter to the San Mateo County Board of Supervisors dated April 28, 1999 (Ex. 13) which states:

"...the "detrimental" classification is simply a means by which the California Fish and Game Commission has categorized many of the world's wildlife species. The designation does not mean these animals are illegal to possess with proper licensing...Mr. Karlin has been properly licensed ...To date, no reports have ever been received by the Department that any of Mr. Karlin's wildlife have escaped...

"In summary, the...section Mr. Braun cited...relate[s] to licensing requirements ... not complete prohibition."

The applicant further states:

"Facilities for wildlife care and housing require a permit from the Department of Fish and Game. The U.S. Fish and Wildlife Service also regulate certain wildlife species. This ensures that the facility, management, safety measures and security techniques of wildlife facilities meet federal and state guidelines. Both agencies have requirements for the type, size and strength of animal enclosures. The enclosure design also ensures that there is no potential for conflict with wild animals in the vicinity of the facilities. The compound and enclosures have been designed to ensure the safety of the animals and the surrounding area. The design ensures that the animals can not escape and can not be harassed by the intrusion of other animals.

"... The proposed facility at Higgins Canyon Road will meet and exceed all state and federal security requirements and health and safety requirements.

"The proposed state of the art wildlife facility has been designed with the assistance of zoological experts to provide security for the animals and the surrounding area. The zoological designed perimeter fence curves inward towards the top to provide ideal site security....Individual animal needs are addressed with specific living enclosure requirements. There is a double gated loading area to ensure that the leashed animals enter the transportation carriers under complete control of the trained Wildlife Associates staff. In addition, each animal will have double shift doors on their living area cage." (see Ex. 14).

Essentially the information in the record indicates that a properly designed and licensed facility would keep the animals served safe and secure within it, and the surrounding area safe and secure from them. Mr. Braun has not provided any evidence that the licensing or design of the facility would be deficient in this regard. Even in the unlikely event that an animal were to escape, Mr. Braun has not shown how this would be detrimental to agriculture. On the contrary, the evidence shows that the design has been developed by qualified experts, and has been reviewed by the agencies responsible for the care and safety of the animals served, their human neighbors and surrounding agriculture. Further, condition 12 of the project as approved requires that the facility be properly licensed for this use (Ex. 6).

With such proper design, licensing, security and operation the animals that would be contained in the project as approved do not pose a threat to agriculture. The Commission therefore finds that the contention that the project is detrimental to agriculture and cannot be considered a use accessory to agriculture because of the animals cared for within it is not supported by the record and does not provide a basis for determining that the project is appealable.

# (2) Is the Project Not Consistent with the LCP Definition of "Accessory"?

Mr. Braun contends that the project cannot be considered "accessory to agriculture" under Webster's definiton:

"Webster defined "Accessory" <u>as aiding or contributing in a secondary or</u> subordinate way."

However, before employing Webster's definition, the Commission must look to the certified LCP for the standard for defining an accessory use. The LCP's PAD Section 6351.F defines "Non-Residential Development Customarily Considered Accessory to Agricultural Uses" as follows:

"Barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, **and other similar uses** determined to be appropriate by the Planning Director."

As detailed in the Local Government Action section above, (and incorporated here) the County found the project to be an accessory use under this definition, and thus not appealable.

In response to the challenge on appealablity, it is appropriate that the Commission independently review the classification of the project under the LCP definitions. In the case of "accessory" uses to agriculture, the critical phrase of Section 6351.F is "other similar uses."

In contention 5, Mr. Braun suggests the project was approved by the County based upon the applicant's statement that the "proposed facility will utilize materials customarily associated with agriculture including fencing, landscaping, food storage and water delivery system." Mr. Braun's contention goes on to state: "This definition would be quite humorous if it were not for the nature of these beasts."

The Commission found above that with the proper design, licensing and operation as provided in the project as approved, the nature of the animals served in this case does not provide a basis for determining that the project is appealable.

Contention 5 further states it "is NOT the materials *customarily associated with agriculture* that defines the consistency with the LCP." In this case, however, the materials associated with the project are indeed one (though not the only) measure of whether the use is similar to those listed as accessory uses. Contention 5 highlights

"stables for farm animals," but expunges the specific reference in PAD Section 6351.F to "fences." Fences form both the outside security perimeter and the individual enclosures for the animals. Fences are indeed the development's major physical component, and thus a use similar to the "fences" specifically listed in Section 6351.F

The record contains additional evidence that the project is similar to other accessory uses. Since the project provides for the care of animals in open air, fenced areas, its physical characteristics are essentially similar to the keeping of livestock or farm fowl in pens. The density of animals (and the associated amount of manure and other agricultural concerns to be managed) will be lower than a typical farm operation, but the facilities would be similar to those provided for especially valuable or prized farm animals (such as breeding stock or animals in 4-H projects).

The Commission therefore finds that the project as approved is a principally permitted accessory use similar to those specifically listed in LCP Section 6351.F, and therefore is not appealable.

#### (3) Consistency with LCP criteria and Alternate Definitions of "Accessory Use"

As the Commission found above, the applicable definition of "accessory use" is specified in LCP Section 6351.F, and the project is consistent with this definition. Nevertheless, even using other definitions of "accessory" advanced by Mr. Braun's contentions, the project still qualifies as accessory to agriculture.

Contention 5 asserts that what "defines the consistency with the LCP ... is 'does the facility preserve and foster existing and potential agriculture operations in San Mateo County and is the use compatible with agriculture."

The question currently before the Commission, however, is not whether the project is consistent with the LCP, but the narrow question of whether the project is subject to appeal under Coastal Act Section 30603 and LCP Section 6328.3(s), specifically in this instance: is the project an accessory use? In a strict sense, the part of contention 5 alleging inconsistency with the cited provisions of the LCP is thus not relevant to the issue at hand. Nevertheless, it is included here because they might be considered to relate to Webster's definition of "Accessory". In other words, preserving, fostering, and being compatible with agriculture might be considered a way of "aiding or contributing in a secondary or subordinate way." The Commission finds that the project approved by the County may be considered accessory to agriculture for all of the reasons identified below.

Small Area Involved is Subordinate to Agricultural Parcel Affected: As part of the project description, the applicant included a comprehensive Agricultural Land Management Plan which details aspects of the project. As noted in the plan, "The only change on-site will be the establishment of the perimeter fence and additional fences for the animal enclosures within the wildlife sanctuary. No building foundations or additional buildings will be required for this project. The horses would be housed in the existing fenced corral and could be placed in the existing barn when needed." The open air animal enclosures would occupy less than 19% of the open space within the 2-acre sanctuary facility, for a total of 17,332 sq.ft. The project would occupy an existing flat, yard area to the south of a gravel circular driveway area. The west end of the driveway contains an existing barn and the east end contains the existing residence. The home and barn were both approved in 1989. The house was constructed in 1994. The proposed animal enclosure area would be located on the site of the previously approved 12,000-sq.-ft. barn that was never constructed but was part of the 1989 project approval. (See Exhibit 3).

<u>No Permanent Conversion of Soils Preserves Agricultural Options</u>: The open air fence enclosures and perimeter fencing would not permanently convert prime soils. They would consist of concrete footings buried to a depth of five feet, a below grade wire mesh extension and a decomposed granite floor three inches in depth. This type of construction would not preclude the project site from being put to other agricultural uses upon removal of the fencing facilities.

<u>Project Design Preserves And Is Compatible With Agriculture</u>: The proposed wildlife sanctuary would utilize a minimal area of the total site and would not significantly disturb other parts of the site, thereby preserving the long-term productive agricultural capability of the property.

The wildlife facility has been designed to cluster next to and utilize existing facilities to limit its footprint to preserve and be compatible with other agriculture on the property.

Alternative locations on the site were considered in the design, but it was determined that developing the steeper slopes elsewhere on the property would cause environmental impacts associated with additional road construction and grading that would be needed. Clustering the facilities in the proposed location minimizes site disturbance and maximizes the area available for additional agricultural use.

<u>Proposed Use Would Expand Agricultural Operations</u>: Wildlife Associates have expanded the established cattle grazing operation on the property from 2 to 24 cows. Currently, there are no agricultural cultivation operations taking place at the project

location. The majority (96.8%) of the acreage is used for cattle grazing under an agreement with neighboring properties.

Wildlife Associates is evaluating the potential for a portion of the property to be utilized for organic farming. This use would foster expanded agricultural use of the property's soil resources. Such farming use could exist in harmony with the other established and proposed uses due to the large size of this parcel.

<u>Development of Agricultural Curriculum Aids and Contributes to Agriculture</u>: Wildlife Associates offers a bona fide successful education program with long track record of effective education in the schools. Building upon its skills and established program, Wildlife Associates will develop agricultural curriculum with the Farm Bureau and the local agricultural community to foster agriculture by broadening public understanding of its importance and needs.

#### Conclusion

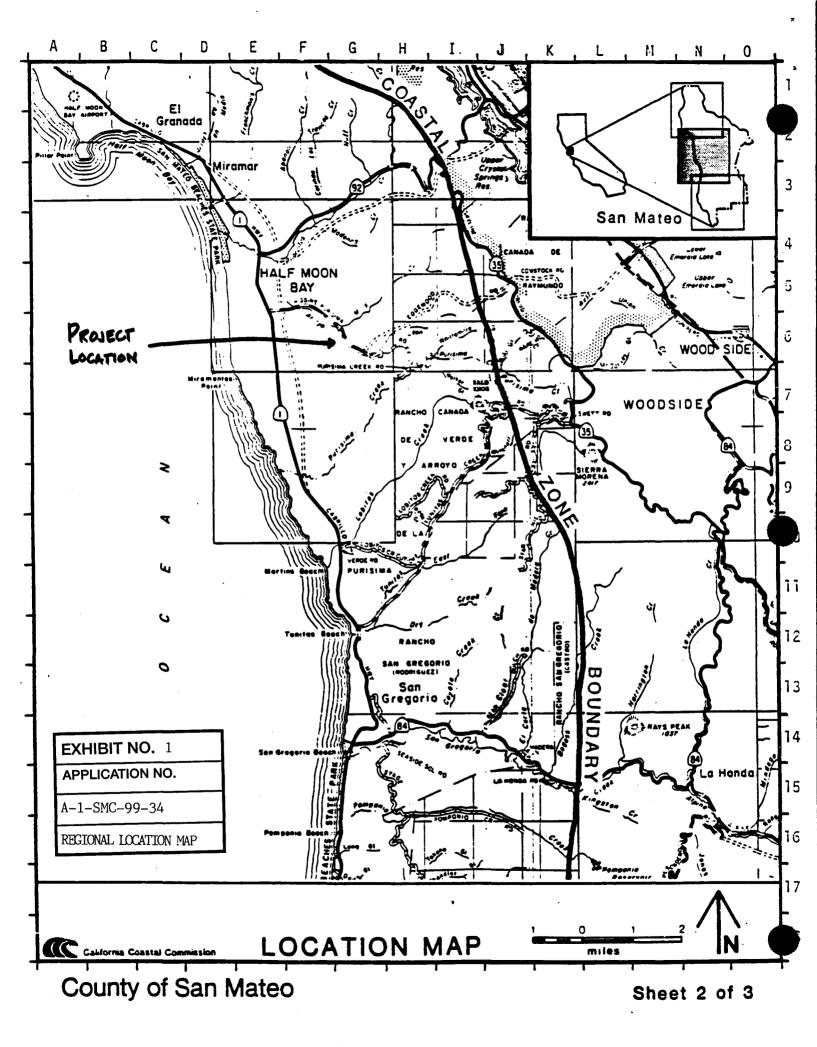
The Commission therefore finds that even if "accessory use" were defined as suggested by the contentions, the project as approved would preserve, foster, aid, contribute and be compatible with agriculture, therefore constituting an accessory use to agriculture.

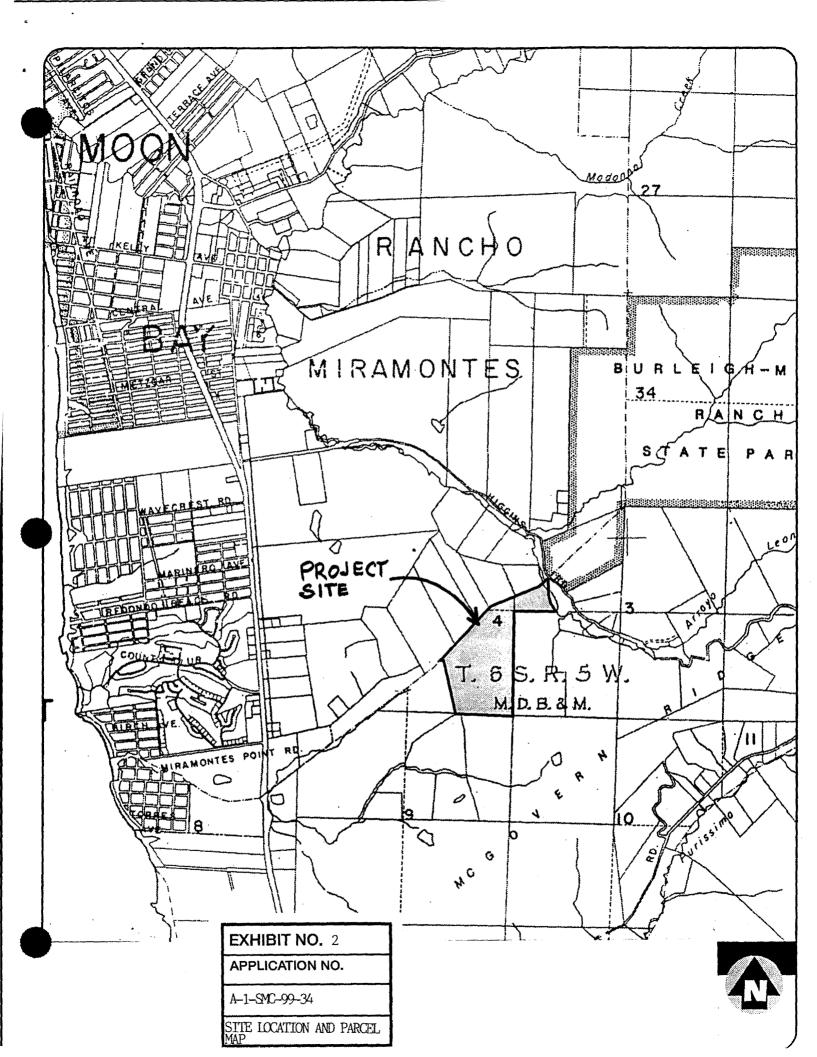
#### 3. Conclusion

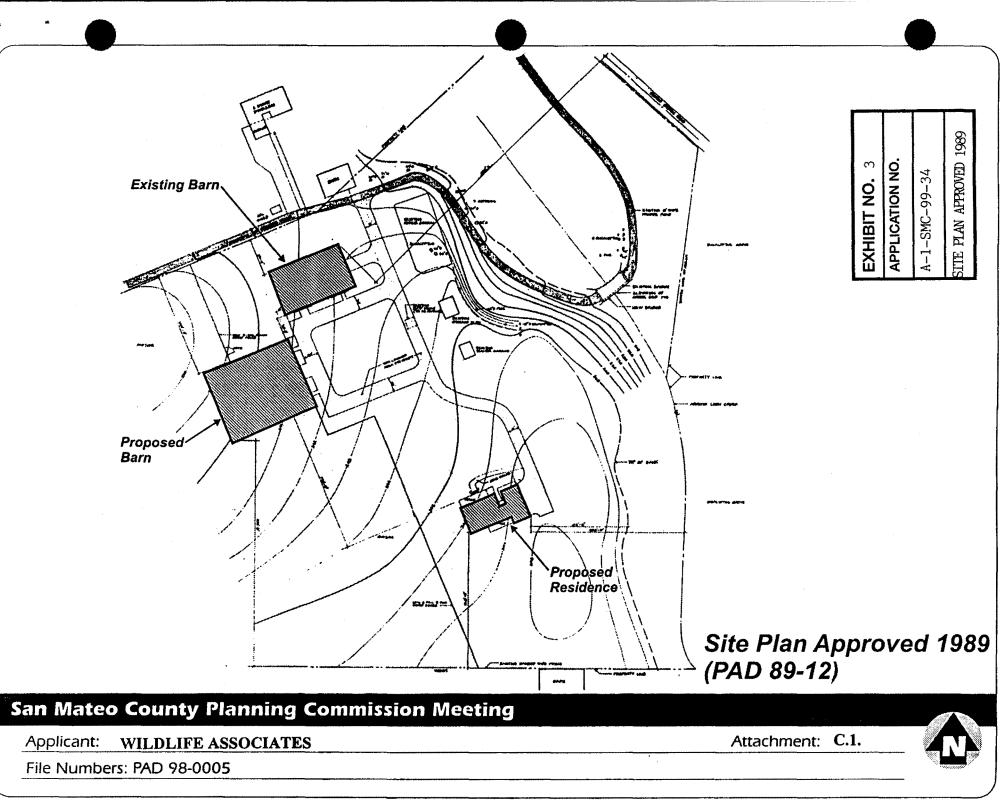
For the reasons discussed above, the Commission find that the project approved by the County of San Mateo is not appealable to the Commission.

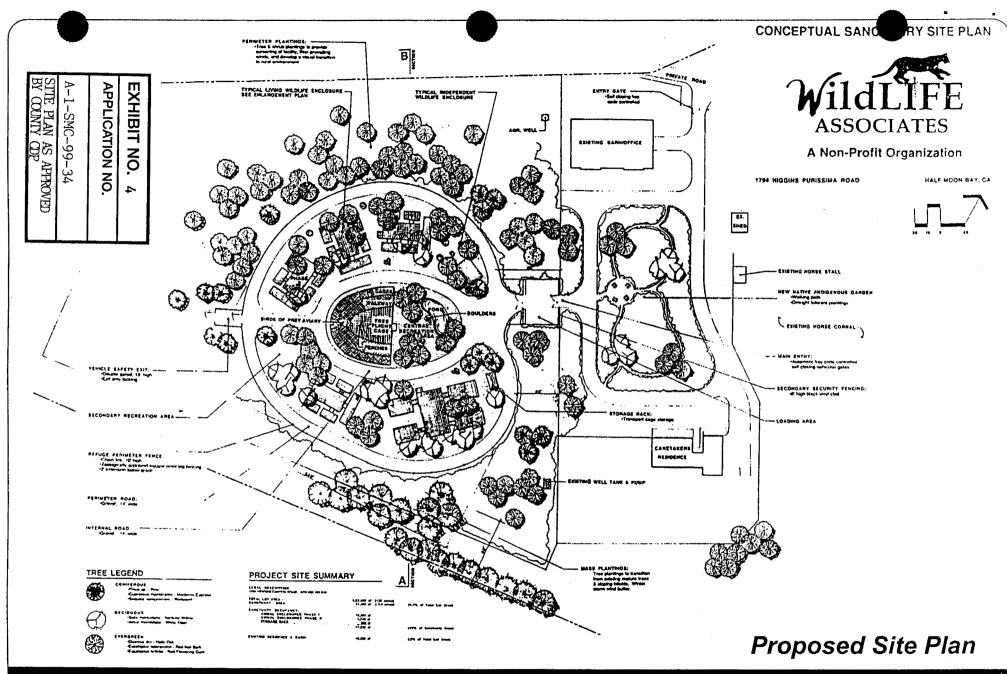
# EXHIBITS:

- 1. Regional Location Map
- 2. Site Location and Parcel Map
- 3. Site Plan Approved 1989
- 4. Site Plan as Approved by County CDP
- 5. Agricultural Soils
- 6. Notice of Final Action and Findings and Conditions of Approval
- 7. Letters of Oscar Braun Re: Appealability, May 5, 10, and 11, 1999
- 8. Letter of Terry Burnes, May 6, 1999
- 9. Letter of Steve Scholl, Deputy Director, May 10, 1999
- 10. Appeal to Commission and Supplement, received May 17, 1999
- 11. Referenced LCP sections
- 12. County Staff Report to the Planning Commission (excerpt)
- 13. List of Animals Currently Maintained
- 14. Department of Fish and Game letter April 28, 1999
- 15. Applicant's Response to Contentions
- 16. Correspondence







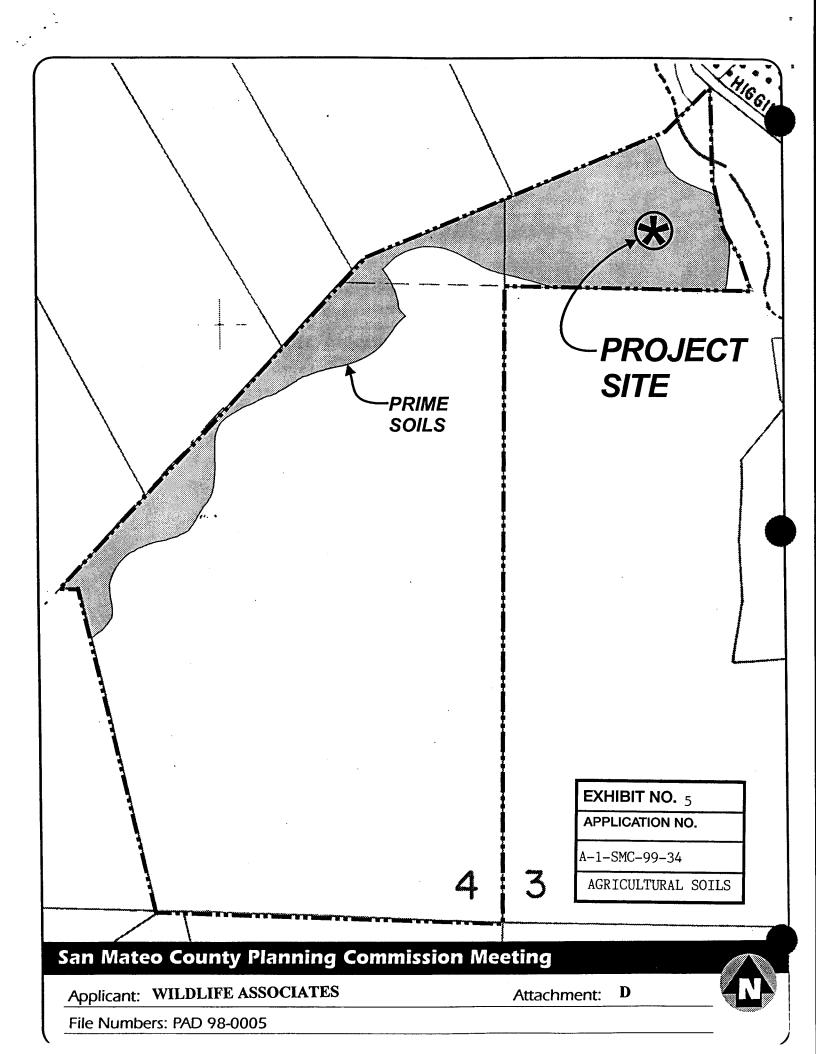


# San Mateo County Planning Commission Meeting

# Applicant: WILDLIFE ASSOCIATES

File Numbers: PAD 98-0005

Attachment: C.2.



# **Environmental Services Agency**



# Planning and Building Division

# **County of San Mateo**

Mail Drop PLN122 · 455 County Center · 2nd Floor · Redwood City California 94063 · Telephone 650/363-4161 · Fax 650/363-4849

Please reply to:

Jim Eggemeyer (650) 363-1930

> EXHIBIT NO. 6 APPLICATION NO. (Page 1 of 7) A-1-SMC-99-34 NOTICE OF FINAL ACTION AND FINDINGS AND CONDITIONS OF APPROVAL

May 6, 1999

Mr. Oscar Braun 1589 Higgins Canyon Road Half Moon Bay, CA 94019

Dear Mr. Braun

Subject:

Coastal Development Permit, File No. CDP 98-0024; Stable Permit, File No. STP 98-0003 1794 Higgins Canyon Rd., Half Moon Bay APN: 066-160-100

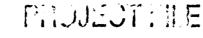
On May 4, 1999, the Board of Supervisors considered an appeal of the Planning Commission's approval of a Coastal Development Permit and Stable Permit pursuant to Section 6328.4 of the County Zoning Regulations and Section 7700.2 of the County Ordinance Code for the construction of a 10-foot perimeter open air fence and fenced animal enclosures occupying 91,300 sq. ft. of a 120-acre site for the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs. This facility would also be utilized as a training/educational center for wildlife professionals on a limited basis. This proposal also includes the request for a stable permit to allow private stabling of six horses. These horses would be housed in the existing stable and barn buildings. The site is located at 1794 Higgins Canyon road east of Half Moon Bay.

The Board of Supervisors on a vote of 5-0 denied the appeal and upheld the decision of the Planning Commission and made the following findings for this project and approved this project subject to the conditions of approval listed below.

#### **FINDINGS**

# **Regarding the Negative Declaration, Found:**

1. That the Negative Declaration reflects the independent judgment of San Mateo County.



Board of Supervisors Rose Jacobs Gibson Richard S. Gordon Mary Griffin Jerry Hill Michael D. Nevin

Director of Environmental Services Paul M. Koenig

Planning Administrator Terry L. Burnes

- 2. That the Negative Declaration is complete, correct and adequate and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines.
- 3. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project will have a significant effect on the environment.
- 4. That the mitigation measures identified in the Negative Declaration, agreed to by the applicant, placed as conditions on the project, and identified as part of this public hearing, have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with California Public Resources Code Section 21081.6.

#### Regarding Conformance with the Planned Agricultural District Regulations, Found:

5. That the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs and a limited training/educational center for wildlife professionals has been determined to qualify as a non-residential use accessory to agriculture according to Section 6351(f) of Chapter 21A of the Planned Agricultural District Regulations and is allowed in its proposed location according to Section 6352.A.2 of the Planned Agricultural District Regulations. Thus, a Planned Agricultural Permit is not required since this is a use permitted on Prime Agricultural Lands.

#### **Regarding the Coastal Development Permit, Found:**

- 6. 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.
- 7. That the project conforms to the specific findings required by the policies of the San Mateo County Local Coastal Program as discussed in the staff report dated April 14, 1999.

#### **Regarding the Stable Permit, Found:**

8. That the private stable, as conditioned, is in compliance with the standards and requirements of the Stable Ordinance.

#### **Regarding the Williams Act Contract Requirements, Found:**

- 9. That the housing and care of non-releasable, rehabilitated animals used for off-site training, educational programs and a limited training/educational center for wildlife professionals, cultivation and grazing, and horse stabling are compatible with the Williamson Act agricultural preserve on the property:
  - 1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel, or of other contracted lands in agricultural preserves. The State interprets this principle to address the impacts of proposed uses on the soil, water, and other physical features of the parcel important for agricultural production. The structurally temporary nature of the proposed facility will allow the conversion of this site to cultivated use in the future. In addition, the applicant has submitted an agricultural land management plan which demonstrates how the agricultural productivity of the land will be fostered and preserved.
  - 2. The use will not significantly displace or impair the current or reasonably foreseeable agricultural operation on the subject contracted parcel, or on other contracted lands in agricultural preserves. The State interprets this principle to address the impacts of proposed uses on agricultural activities on-site, as well as on neighboring contracted lands. The contiguous properties to the east and south of the project site are under agricultural preserve contracts. The location of the proposed facility, clustered near the existing buildings, will prevent conflicts with any potential agricultural use and any impact on neighboring contracted lands.
  - 3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use. The State interprets this principle to address the growth-inducing impacts of proposed uses on neighboring contracted lands. The proposed use is located within a valley and would not be able to expand to the adjacent contracted land to the east due to the steep slope along the east side of the facility. The adjacent contracted land located to the south of the project site is approximately 0.5 miles from the proposed facility. The distance and natural topography of the parcel would limit the significant removal of adjacent contracted land from agricultural or open-space use.

#### **CONDITIONS OF APPROVAL**

#### **Planning Division**

1. This approval is for the construction of a 10-foot perimeter open air fence and fenced animal enclosures occupying 91,300 sq. ft. of a 120-acre site, for the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs, a training/educational center for wildlife professionals on a limited basis, a private horse stable for six horses, and to allow three staff members to reside within the existing

> residence. Any revisions to these plans must be submitted to the Planning Division for review and approval prior to implementation. 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. Any other developments on the property will be subject to a separate permitting process.

- 2. These permits shall be valid for one year. Any extension of these permits shall require submittal of an application for permit extension, and payment of any applicable extension fees thirty days prior to expiration.
- 3. The applicant shall apply for and be issued a building permit prior to any construction or commencement of tree removal.
- 4. The applicant shall ensure that a qualified archaeologist be present during grading and trenching. If archaeological traces (human remains, artifacts, concentrations of shell, bone, rock, ash) are uncovered, all construction or grading within a 100-foot radius of the find shall be stopped, the Planning Division shall be notified, and the archaeologist shall examine the find and make appropriate recommendation. Upon review of the archaeologist's report, the Planning Director, in consultation with the applicant and the archaeologist, will determine the steps to be taken before construction or grading may continue.
- 5. During the entire construction process, the applicant shall implement best management practices to prevent and protect against erosion and sedimentation from occurring on the site. If any construction is proposed during the rainy season (between October 15 April 15), the applicant shall submit a 'winterization plan' to be reviewed and approved by the Planning Director prior to the commencement of the rainy season.
- 6. Construction days and hours are limited by County Ordinance identified by Division IV, Chapter 10, Article 6, Section 4956, which permits construction from the hours of 7:00 a.m. until 6:00 p.m., Monday through Friday, and Saturdays from 9:00 a.m. until 5:00 p.m. Construction is not permitted on Sundays, Thanksgiving, or Christmas. To ensure the applicant complies with these construction limitations, the applicant shall submit a schedule to complete the proposed work on the site which adheres to these time limitations. If construction is reported during the hours when construction is not permitted, staff will issue a Stop Work Notice for the site and the applicant will be required to submit a revised time schedule and pay the required reinstatement fees before construction is permitted to resume.
- 7. The animal enclosures will be required to be designed and constructed to comply with the Uniform Building Code and local requirements for seismic safety.

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8. The applicant is required to submit, for review and approval by the Planning Division and the Environmental Health Division, a comprehensive waste management plan detailing

(1) the frequency of collection, (2) type of disposal, and (3) anticipated quantities. This County-approved waste management plan shall apply to all animals on the site including the horses. This plan shall be approved by the Planning Division and the Environmental Health Division prior to issuance of a building permit.

- 9. The applicant is required to comply with all federal, State and local regulations related to the maintenance of these animals. In addition, the applicant is required to maintain current licenses/permits from the aforementioned agencies. These licenses/permits shall be available for review by County Planning staff upon request, during regular business hours.
- 10. The applicant shall adhere to the Stable Ordinance, Section 7700.
- 11. This private stable permit is for a maximum of six horses kept on the property at any one time. The applicant shall apply for an amendment to this stable permit if more than six horses are kept on the site.
- 12. This stable permit shall be issued for a period of 12 months. The applicant shall apply annually before April each year for an administrative review and inspection subsequent to this approval, and pay the required stable permit inspection fee. Any increase in the number of horses, beyond six, kept on the site or modification of the boundaries of the stable, corral or pasture shall be subject to an amendment to this Coastal Development Permit and stable permit.
- 13. The applicant is required to maintain any corral for the horses so that fencing is no closer than 50 feet to the riparian corridor of the perennial creek of Arroyo Leon. No horses or other animals shall be permitted within 50 feet of the creek. In addition, all corral drainage shall be directed away from the creek. This shall be achieved by slope alteration or creation and the planting of native shrubbery along the corral fence perimeter to prevent erosion, minimize corral dust, and to filter and slow any drainage to the creek. The applicant shall comply with all other provisions of the Stable Ordinance.
- 14. The keeping of any horses on the premises in an offensive, obnoxious or unsanitary condition shall be declared to be a nuisance and shall be unlawful.
- 15. The applicant shall establish an agricultural educational component to its existing program.

#### Department of Public Works

16. Prior to building permit issuance, plans showing contours, elevations, grading, drainage, path/driveway profiles, cross-sections, and structural sections shall be submitted for review and approval.

**Building Inspection Section** 

17. Submit plans for all proposed shelters for the issuance of building permits.

This project is not appealable to the California Coastal Commission and the local decision is final.

Very truly yours,

lina Tiare Pena

Planning Commission Secretary BOS0504j.tp

**Public Works** cc: **Building Inspection** California Coastal Commission Environmental Health Assessor MCCC Planning Director/HMB Half Moon Bay Fire Cabrillo Unified School District Mr. Robert Burns Higgins Canyon Homeowner's Association David Byers Jack Olsen Michele Noell Cindy Giovanonni

# San Mareo County Environmental Services Agency

Planning and Building Division = 455 County Center = Redwood City California 94063 = Planning: 650/363-4161 = Building: 650/599-7311 = Fax: 650/363-4849

05/04/1999

NOTICE OF FINAL LOCAL DECISION Pursuant to Section 6328.11.1(f) of the San Mateo County Zoning Regulations

**CERTIFIED MAIL** 

MAY 0 6 1999

CALIFCIENIA

· COASTAL COMMIST OF

California Regional Coastal Commission 45 Fremont Street Suite 2000 San Francisco, CA 94105

Attn: Jack Liebster

File No. : PLN1999-00101

Applicant/Owner Name: WILDLIFE ASSOCIATES

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on 05/04/1999. Local review is now complete.



This pemit IS appealable to the California Coastal Commission; please initiate the California Coastal Commission appeal period.

This permit IS NOT appealable to the California Coastal Commission.

If you have any questions about this project, please contact LILY TOY at (650) 363-4161.

FOR LIL TOY Project Planner

#### Jack Liebster

From: Oscar Braun [oscar@oscarknows.com]

Sent: Wednesday, May 05, 1999 12:26 PM

To: jliebster@coastal.ca.gov

Subject: 13569 Determination of Applicable Notice and Hearing Procedure

Hi Jack,

Thanks for the fax of the captioned CCC code. It clearly states that, "The determination of whether a development is catergorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals precedures shall be made by the local government at the time the application for development within the coastal zone is submitted." The Wildlife Associates application was submitted on March 9, 1998 and was declared "appealable" to the California Coastal Commission and changed to Non-Appealable on April 19,1999. That is after the decision of the Planning Commission . The County of San Mateo cannot change their determination on appealablity at the end of the process. Their determination on appealablity is NOT consistant with the CCC Section 13569. Please acknowledge the appealablity of the Wildlife Associates development project is appealable.

Please find enclosed the appeal from the Higgins Canyon Homeowners Association and Save Our Bay. I am requesting that the Commission review this appeal alone with the Half Moon Bay Sealing & Paving appeal since they are neighboring commercial business operating with out the benefit of permits on PAD zoned parcels. Every kind of commercial operation in San Mateo County seems to be Accessory to Agriculture. I'm sending you an overnight letter with a hard copy with enclosures Jack that encludes the application and declaration of appealablity. Regards, Oscar PS; Please advise me as soon as possible as to the progress of this appeal.

EXHIBIT NO. 7	
APPLICATION NO. (Page 1 of 4)	
A-1-SMC-99-34	
LETTERS OF OSCAR BRAUN	
RE: APPEALABILITY, MAY 5 10, and 11, 1999	

P.01

"Change is inevitable... Survival is not."

# FAX TRANSMISSION; TOTAL 13 PAGES

May 10,1999

California Regional Coastal Commission 45 Fremont Street Suite 2000 San Francisco, California 94105

CALIFORNIA COASTAL COMMISSION

MAY 1 0 1993

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Attention: Jack Liebster

Re: 13569. "Determination of whether a development is categorically excluded, nonappealable or for purpose of notice, hearing and appeal's procedure <u>shall be made by the</u> <u>local government at the time the application for development within the coastal zone is</u> <u>submitted.</u>"

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- The question that determines whether a development is categorically excluded from appeal is based entirely on "timing". The County has the right to declare their determination "at the time the application for development within the coastal zone is submitted". The applicant or other interested parties have the right to protest the County's determination "at the time of application submission " and request a ruling from the Executive Director of the California Coastal Commission. There are no provisions for the County to change their "appeal procedures" after the application process has been started or completed.
- The application for the Wildlife project was filed on March 9,1998. The project is in the Coastal Zone and was <u>declared to be app. Jable to the California Coastal Commission</u>.
- The application for the Wildlife project was taken before the Agriculture Advisory Committee on May 11,1998 and the agenda declared "this project is appealable to the California Coastal Commission".
- On March 24, 1999 the Wildlife Associate project went before the County of San Mateo Planning Commission and the Commission determined that "this project is appealable to the Coastal Commission.
- On April 13, 1999, Oscar Braun received a fax from the County of San Mateo stating that "this project was not appealable to the CCC" and that Jack Liebster of the CCC staff confirms that ruling by phone on 4-6-99. So the staff of the CCC is now reviewing and coming to determinations *before* the Planning Commission has finish considering the Wildlife Associates application.
- On April 14, 1999 the Planning Commission finishes it's consideration of the Wildlife Associates application and approves the applicants request for development. The Commission finds that "this project is appealable to the California Coastal Commission.
- On April 19, 1999 Jim Eggemcyer gives public notice that the Wildlife Project will go before the Board of Supervisors to consider an appeal of the Planning Commissions

EXCERPT

decision. The appeal to the Board of Supervisors preempted an appeal by any other parties and was sponsored by the County Planning Department. It was on this day that the County of San Mateo declared that the "project was not appealable to the CCC". <u>Their May 19,1999 determination is not consistent with the Coastal Act section 13569</u> and is conflict with the County of San Mateo Planning Commission determinations of <u>March 24, 1999 and April 14, 1999</u>.

• On March 30, 1999 the San Mateo County Board of Supervisors considered an appeal of the Half Moon Bay Sealing & Paving legalization of an existing business as a <u>use</u> <u>ancillary to agriculture</u>. The very same kind of legalization process for up stream neighbor Wildlife Associates. The project 'as "appealable to the CCC" and Terry Burns initialed the Interdepartmental Correspondence approving the declaration. The Wildlife Associates application being appealable is consistent with the County's determination of the HMBS&P. The Local Coastal Program of San Mateo County does not provide for new determinations of appealability after an application has received approval by the Planning Commission. The County's actions are NOT CONSISTENT with the Coastal Act or their LCP.

Re: Requesting an appeal of the local action on the coastal development permit described below.

From: Oscar Braun <oscar@oscarknows.com> To: jliebster@coast.ca.gov <jliebster@coast.ca.gov> Date: Tuesday, May 11, 1999 8:51 AM Subject: Streams.....irrelevant to this case?

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COASTAL COMMISSION

#### Good Morning Jack,

Late yesterday afternoon I received a copy of Terry Burrs May 6,1999 letter to you regarding the Wildlife Associates (CDP98-0024). Mr. Burns and staff withheld the truth from the Ag Advisory Board, Planning Commission, Board of Supervisors and the Coastal Commission staff. On page 2 of his letter to you he states: "Our certified Coastal Development (CD) District regulations, which we rely upon in making these determinations, specify three situations in which a project is appealable to the Coastal Commission: (1) projects between the sea and the through public road: (2) projects located on or near tidelands, wetlands. streams, etc and (3) projects involving development which is not a principle permitted use in the underlying zone. The first two are irrelevant to this case." It appears the Planning Administrator believes that the Arroyo Leon stream doesn't exist on this parcel. It appears that he doesn't understand that listed species steel head trout spawn in his irrelevant stream. He doesn't seem to care that the Wildlife Associates denied on their application the question: Does this project, the parcel on which it is located or the immediate vicinity involve or include creeks, streams, lakes ord ponds?" Or perhaps the Administrator forgot that this very stream was identified as a sensitive habitat by State Fish & Game and Lenny Roberts of the Committee for Green Foothills in 1992. Maybe the Administrator couldn't understand the documents presented to the Planning Commission on April 14, 1999 regarding the stream and sensitive habitat. Regardless of these facts, the Planning Administrator does say ": "Our certified Coastal Development (CD) District regulations, which we rely upon in making "less determinations, specify three situations in which a project is appealable to the Coastal Commission; The Arroyo Leon is a stream located at 1794 Higgins Canyon Road and this application is therefore appealable to the Coastal Commission.

. . . . . . . . . . . .

Ex. pg.4

#### **Environmental Services Agency**



Planning and Building Division

**County of San Mateo** 

Mail Drop PLN122 · 455 County Center · 2nd Floor · Redwood City California 94063 · Telephone 650/363-4161 · Fax 650/363-4849 Board of Supervisors Rose Jacobs Gibson Richard S. Gordon Mary Griffin Jerry Hill Michael D. Nevin

Director of Environmental Services Paul M. Koenig

Planning Administrator Terry L. Burnes

May 6, 1999

Jack Liebster California Coastal Commission 45 Fremont Street, Suite 2000 San Francisco, CA 94105 EXHIBIT NO. 8 APPLICATION NO. (Page 1 of 2) A-1-SMC-99-34 LETTER OF TERRY BURNES, MAY 6, 1999

Dear Jack:

SUBJECT: Wildlife Associates (our file CDP98-0024)

I have been contacted by Oscar Braun with regard to the issue of whether the Coastal Development Permit for Wildlife Associates is appealable to the California Coastal Commission. We have concluded it is not and have addressed this issue in our staff reports and letters of decision. We have indicated to Mr. Braun that it is now for the Coastal Commission to decide whether to accept an appeal on this matter. I am writing to clarify our determination that this project is not appealable to the Coastal Commission.

The proper use classification for this project was an issue from the beginning. Because it was unclear how the use classification issue would eventually be resolved, and because some options could require a Planned Agricultural Permit, we suggested that Wildlife Associates apply for a Planned Agricultural Permit along with its application for a Coastal Development Permit. Wildlife Associates agreed and did that. That seemed to be the conservative approach.

In reaching our determination at that point (the time of application) as to whether the project was appealable to the Coastal Commission, we again took the conservative approach, determined that it might be, depending on the outcome of the use classification evaluation, and so listed it and treated it as appealable to the Coastal Commission. The notification and other requirements applicable to an appealable project are more extensive than for projects which are not appealable, so this seemed most appropriate in terms of due process for all concerned.

Ultimately, when the project went before the Planning Commission, we first asked them to resolve the use classification issue, which they did on March 24. After considering the evidence, they concluded that this qualified as a non-residential use accessory to agriculture. That is a use permitted by right in the Planned Agricultural District on either prime or non-prime soils. A by-product of that decision was that a Planned Agricultural Permit was not required for this project. The Commission then continued its consideration of the matter to April 14. Our April 14 staff report clarified that a Planned Agricultural Permit was no longer required and stated that the project was, therefore, no longer appealable to the Coastal Commission.

Mr. Jack Liebster May 6, 1999 Page 2

Our certified Coastal Development (CD) District regulations, which we rely upon in making these determinations, specify three situations in which a project is appealable to the Coastal Commission: (1) projects between the sea and the first through public road; (2) projects located on or near tidelands, wetlands, streams, etc.; and (3) projects involving development which is not a principal permitted use in the underlying zone. The first two are irrelevant to this case. Number (3) was the determinant criterion. Section 6328.3(q) of the CD regulations defines principal permitted use as any use representative of the basic zone district (the PAD) allowed without a use permit in the underlying district (again, the PAD). A Planned Agricultural Permit is equivalent to a use permit. Thus, when a Planned Agricultural Permit was no longer required for this project, it was no longer appealable to the Coastal Commission.

I hope this helps to clarify our position and our decisions in this matter. We believe an early decision on this by your office would be in the best interests of all parties. Please call me at 363-1861 if you have questions. Thank you.

Sincerely.

Terry Burnes / Planning Administrator

TB:tb wildlfe4.tlb

cc: Oscar Braun, Appellant David Byers, Attorney for Wildlife Associates Lennie Roberts, Committee for Green Foothills Paul Koenig, Director of Environmental Services Bill Rozar, Manager of Development Services Jim Eggemeyer, Senior Planner Mary Raftery, Deputy County Counsel

#### CALIFORNIA COASTAL COMMISSION 45 FREMONT, SUITE 2000

45 FREMONT, SUITE 2000 SAN FRANCISCO, CA 94105-2219 VOICE AND TDD (415) 904-5200 FAX (415) 904-5400



May 10, 1999

Terry Burnes Planning Administrator Planning and Building Division Mail Drop PLN122 455 County Center Redwood City, CA 94063

Re: Wildlife Associates (CDP98-0024)

Dear Terry:

I am responding to your letter of May 6 to Jack Liebster. The written materials you have provided to our office indicate that the County determined that the proposed project qualifies as a non-residential use accessory to agriculture. Because that is a use permitted by right in the zoning district in which it is located and because it is located outside the geographic appeal area where locally approved coastal development permits may be appealed to the Coastal Commission, the project is not appealable to the Coastal Commission. (Although developments proposed within 100 feet of streams are appealable to the Commission, even if located inland of the first public road, this project is not proposed within an appealable stream corridor.)

I understand that the use classification issue was discussed by the Planning Commission, following a public hearing, and the issue was later part of the Board of Supervisors' discussion, when the project went before the Board. The Planning Commission interpreted the Zoning Ordinance to include the proposed use as one permitted by right, and the Board of Supervisors concurred in that judgement. It seems clear to me that there was an opportunity for public input on the use classification question and, indirectly, on the question of whether the project would be appealable to the Coastal Commission, followed by a judgement made by County decision-makers.

Given the factors described above, I do not disagree with the conclusion that the County has reached in this matter. I appreciate your writing to clarify how the County's decision was reached. Please let me know if I can be of further assistance.

Truly yours, - Acholl

Steven F. Scholl, AICP Deputy Director

Cc: Oscar Braun David Byers, Attorney for Wildlife Associates Lennie Roberts, Committee for Green Foothills Paul Koenig, Director of Environmental Services Bill Rozar, Manager of Development Services Jim Eggemeyer, Senior Planner Mary Raftery, Deputy County Counsel

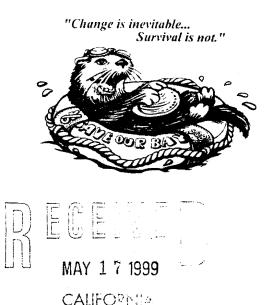
EXHIBIT NO.9	
APPLICATION NO.	
A-1-SMC-99-34 LETTER OF STEVE SCHOLL.	
DEPUTY DIRECTOR, MAY 10, 1999	

FAX TO: 415-904-5400 TOTAL PAGES: 9

Date: May 13,1999

To: California Coastal Commissioners Peter Douglas, Executive Director Jack Liebster, Coastal Program Analyst North Coast Area Office 45 Fremont, Suite 2000 San Francisco, CA 94105-2219

From: Oscar Braun, Executive Director, Save Our Bay Higgins Canyon Homeowners Association



COASTAL COMMISSION

RE: Notification of Appeal from coastal permit decision of local government, County of San Mateo, to the California Coastal Commission. Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal Pursuant to Public Resources Code Section 30623.

Local Permit #: PAD 98-0005, CDP 98-0024, STP 98-0003 (Wildlife Associates)

Applicants: Wildlife Associates, Steve Karlin

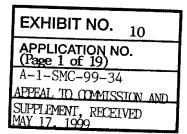
Description: Consideration of an appeal of the County of San Mateo Board of Supervisors decision to certify the Negative Declaration, Planned Agricultural Permit, a Coastal Development Permit, and a Stable Permit pursuant to Sections 6353, 6328.4 of the County Zoning Regulations and Section 7700.2 of the County Ordinance Code for the construction of a 10-foot perimeter open air fenced animal enclosures occupying 91,300 sq. ft. of a 120- acre site for a Breeding and Educational Center of "Detrimental Wild Animals that pose a threat to native wildlife, the agricultural interest of the state and to the publics health and safety." ...Section 671b Department of Fish & Game Code. This project may be appealed to the California Coastal Commission

Location: This site is located at 1794 Higgins Canyon Road east of Half Moon Bay APN 066-166-100 The Arroyo Leon steel head stream crosses this parcel.

Local Decision: Approved with Conditions, Board of Supervisors, May 4,1999

Appellant: Higgins Canyon Homeowners Association, President, Charles Shafae' Save Our Bay, Attn: Executive Director, Oscar A. Braun

Date Appeal Filed: May 13,1999



**BACKGROUND:** On March 9,1998, the applicant, Wildlife Associates, applied for permits to relocate and operate a breeding and educational center from urban Pacifica area to the rural lands area of the San Mateo County coastal zone. The Wildlife Associates have operated for over 19 years without the benefit of any Local Coastal Program land use permits or required regulatory permits from the Health Dept. or the Animal Safety and Control Dept. The parcel at 1794 Higgins Canyon road is zone Planned Agriculture District (PAD) and is traversed by the Arroyo Leon steel head spawning stream. The area has been defined as a sensitive habitat with Endangered Species and listed species of concern by the Dept. of Fish & Game. The applicant wants to development their 92,000 square foot breeding and housing facility for non-domesticated, wild animals that have been determined by the California Department of Fish & Game to be "Detrimental Wild Animals that pose a treat to native wildlife, the agriculture interest of the state and to the publics health and safety" The facility would be developed on prime agricultural soils within a defined sensitive habitat area.

The planning staff concluded that the ONLY possible way to develop this project on prime soils in a sensitive habitat area zoned PAD with endangered species was to convince the Planning Commission to define these "Detrimental Wild Animals" as domesticated farm animals that are accessory to agriculture. The staff withheld the fact that the General Plan 1.7 defines fish and wildlife resources as all non-domesticated animals. In San Mateo County, horses are not classified as farm animals and the stabling of horses is not considered accessory to agriculture and therefore not permitted by right on PAD zoned parcels. Thus, the reason that Wildlife Associates must apply for a stable permit, is that their domesticated horses are not accessory to agriculture. The Wildlife Associates hold a special highly regulated permit from the State Fish & Game. Permit # 1022 issued to the Wildlife Associates is for Exhibiting Resident Detrimental Species. The State has determined that there are two types of wild animals. Welfare animals. (W) These are usually mammals that need to be protected from abuse. The other type of wild animals have been determined to be Detrimental Species. These Detrimental Wild Animals "pose a treat to native wildlife, the agricultural interest of the state and to public health or safety" and are termed "detrimental animals" (D). The planning staff did not disclose to the Agricultural Advisory Committee and the Planning Commission that these animals are defined Detrimental Wild Animals. Detrimental wild animals that pose treats to agriculture are not considered "accessory to agriculture" in this State. Compatibility of agricultural use is the critical issue in determining what is accessory to agriculture. The concentrating detrimental wild species into a defined sensitive habitat area creates segnificant risks to the biological and ecological balance of the Arroyo Leon and surrounding wildlife habitat. Planning staff did not provide full disclosure of all the facts and findings to the Planning Commission and the Board of Supervisors about these defined "Detrimental Wild Animals.". The Commission and Board did not make a informed determination on the nature of these heasts.

# SAN MATEO COUNTY LOCAL COASTAL PROGRAM POLICIES

LCP Section 6350, Purpose of the Planned Agricultural District: The purpose of the PAD is to 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other suitable for agriculture and agricultural production, and 2) minimize conflicts between agriculture and non-agriculture production. 3) Establish stable boundaries separating urban and rural areas. 4) Limiting conversion of agricultural lands around the periphery of urban area to lands where the viability of existing agricultural use has already been severely limited by conflict with urban uses. 5) Develop available lands not suitable for agriculture before converting agricultural lands. Wildlife Associates have a current facility that they have operated for nearly 17 years without benefit of any permits from this County. It is in an Urban area that is neither zoned PAD or a sensitive habitat. The development of the Wildlife Associates Detrimental Animal facility is NOT consistent with the LCP of this County and does not preserve and foster existing and potential agricultural operations. (LCP 6350)

LCP 6350-E Uses Ancillary to Agriculture. Agricultural grading equipment supplies, Concertion Z agriculture rental supplies, topsoil stockpiling, and other similar uses determined to be appropriate by the Planning Director. Housing Detrimental Animals is NOT ancillary to agriculture in this state. State Fish & Game has determined that these Wild animals pose a treat to the agriculture of California. <u>A determined threat to agriculture cannot be defined as accessory to agriculture in this state</u>. Webster defined "Accessory" as <u>aiding or contributing in a secondary or subordinate way</u>. The development of the Wildlife Associates Detrimental Animal facility is NOT consistent with the LCP of this County and does not preserve and foster existing and potential agricultural operations. (LCP 6350)

LCP 5363 – 15f. Uses On Prime Agricultural Lands: That the proposed use or (onlemican 3 facility does not create a <u>potential for any health or safety hazards</u>. The DFG sec761b has determined that the Wildlife Associates detrimental wild animals "pose a treat to native wildlife, agriculture and the public health and safety.

LCP 5363-15h. That the applicant demonstrate that no feasible sites exist in the RM, Contention 4 RM/CZ, TPZ, OR TPZ/CZ zones for the proposed facility. The Wildlife Associates have been operating their facility in the urban zone just outside of Pacifica for over seventeen years without the benefit of a CDP and any kind of use permit required by the Local Coastal Program of San Mateo County. The current location offers a reasonable alternative project site that meets the basic needs and goals of the Wildlife Associates facility.

Section 6351-F: Non-Residential Development Customarily Considered Accessory to **Contention** 5 Agriculture. Barns, storage/equipment sheds, stables for <u>farm animals</u>, fences, water wells, well covers, pump houses, water storage tanks, water impoundment, water pollution control facilities for agricultural purposes, and other similar uses determined to be appropriate by the Planning Director. On page 6, enclosure number 48, "The applicant requests that the appropriate determination of consistency with Section 6351.F be made for this project due to the following factors. The proposed facility will utilize materials customarily associated with agricultural including fencing, landscaping, food storage and water delivery systems." This definition would be quit humorous if it were not for the nature of these beasts. It is NOT the *materials customarily associated with agriculture* that defines the consistency with the LCP, it is "does the facility preserve and foster existing and potential agriculture operations in San Mateo County and is the use compatible with agriculture." The development of the Wildlife Associates Detrimental Animal facility is NOT consistent with the LCP of this County and does not preserve and foster existing and not domesticated farm animals.(LCP 6350)

California Fish and Game Code 2116.5. Legislative Findings

The Legislative finds and declares that wild animals are being captured for importation and resale in California; that some populations of wild animals are being depleted; that many animals die in captivity or transit; that some keepers of wild life animals lack sufficient knowledge or facilities for proper care of wild animals; that some wild animals are a treat to the native wildlife or agriculture interest of the state; and that wild animals are a threat to public health and safety. It is the intention of the Legislature that the importation, transportation, and possession of wild animals shall be regulated to protect the health and welfare of wild animals captured, imported, transported, or possessed. To reduce the depletion of wildlife population, to protect the native wildlife and agricultural interested of this state against damage from existence at large of certain wild animals, and to protect the public health and safety in this state.

## California Department of Fish & Game Manual No 671: Importation, Transportation and Possession of Wild Animals

671 (b) In designating these prohibited species, the Commission has determined that they are not normally domesticated in this state and recognizes two specific classes of prohibited wild animals. Mammals listed to prevent the depletion of wild populations and to provide and for animal welfare are termed "welfare animals", and are designated by the letter "W". Those species listed because they pose a threat to native wildlife, the agriculture interest of the state or to public health or safety are termed "detrimental animals" and are designated with a "D".

Note: The County of San Mateo contention that "Detrimental Species" are farm animals that are considered non-residential development customarily considered

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accessory to agriculture in NOT CONSISTANT with either the state law or the LCP section 6352f. Prohibited wild animals are NOT domesticated farm animals in California.

(ont.2 LCP 6350-E Uses Ancillary to Agriculture. Agricultural grading equipment supplies, agriculture rental supplies, topsoil stockpiling, and other similar uses determined to be appropriate by the Planning Director. Housing Detrimental Animals in NOT ancillary to agriculture in this state.

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#### APN# 066-160-100 IS LOCATED IN A DEFINED SENSITIVE HABITAT AREA. Contention 7

LCP 7.1 Defined sensitive habitats as any area in which plants or animal life or their habitats are either rare or especially valuable and any which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries. LCP 7.3 Protection of Sensitive Habitats: (a) Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas. (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats. The housing of "Detrimental Animals" is in conflict with state law and this County's LCP 7.1, 7.3.

In 1992 California Department of Fish and Game filed a public trust protest regarding the down stream next door neighboring Gusti family farm. "Arroyo Leon and downstream Pilarcitos Creek support steelhead, rainbow trout, resident fishes, wildlife and their aquatic and riparian habitats. Steelhead trout, red-legged frog, and southwestern pond turtle are California Species of Special Concern and the red-legged frog and pond turtle are candidate species for Federal listing as threatened or endangered. Wildlife Associates operate an housing facility for Detrimental Animals "that pose a threat to native wildlife, the agriculture interest of the state or to the publics health and

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safety."..Section 671b State Fish and Game Code and is not consistent with LCP section 7.1 & 7.3 Sensitive Habitats.

In their October 8, 1992 public trust protest, Committee for Green Foothills, Lennie Roberts declared: "The petitioner must be required by the State Water Board to prepare a basin-wide cumulative impact analysis which evaluates the cumulative impacts on Arroyo Leon and Pilarcitos Creek to (a) steelhead trout populations and their habitat, (b) other fish species and their habitat, (c) aquatic populations and habitat, (d) riparian habitat, (e) sensitive, threatened and endangered wildlife species and their habitat, (f) sensitive, threatened and endangered plant species, and (g) water temperatures impacts affecting cold water species and their habitat. The cumulative analysis must be included in the environmental impact report. Upon review of the final EIR the project will be strictly in conformance with the Local Coastal Program. Sections 7.1 & 7.3.

October 13, 1997: Thomas Reid Associates conducted a preliminary biological assessment of Gusti family farm, the next door neighbor of Wildlife Associates for sensitive animal species and other sensitive biological resources. The report recommended a "project avoidance strategy" LCP 7.1 & 7.3

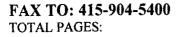
Conclusion: The State Fish & Game's Outdoor California magazine, June 1998, Critter pollution in California stated: Most introductions of exotic organisms to California have been either authorized and legal, accidental, or deliberate and illegal. Regardless of the manner of introduction, bringing new species to California presents <u>potentially significant concerns</u>. The Nature Conservancy in a recent report, "America's Least Wanted", details how approximately 4,000 exotic plants and 2,300 exotic animals species have threatened native species. Some of these exotic species have cost the U.S. economy \$97 billion, according to the Nature Conservancy.

On behalf of the Higgins Canyon Homeowners Association and Save Our Bay, we respectfully request the Coastal Commission review the Wildlife application and find that is not consistent with the Local Coastal Program of San Mateo County because the Commission finds that the Wildlife Associates Resident Detrimental Species pose a treat to the natural wildlife, agriculture and the public health and safety. The Wildlife Associates application to relocate their Detrimental Wild Animal Breeding & Educational Center to Higgins Canyon is DENIED.

Sincerely, brand Drawn

Oscar Braun Executive Director of Save Our Bay, Secretary, Higgins Canyon Homeowners Association ENCLOSURES: Presentation Booklet for Board of Supervisors May 4,1999

"Change is inevitable... Survival is not."



Date: May 14,1999

Survival is not."

To: California Coastal Commissioners Peter Douglas, Executive Director Jack Liebster, Coastal Program Analyst North Coast Area Office 45 Fremont, Suite 2000 San Francisco, CA 94105-2219

From: Oscar Braun, Executive Director, Save Our Bay Higgins Canyon Homeowners Association

RE: Notification of Appeal from coastal permit decision of local government, County of San Mateo, to the California Coastal Commission. Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal Pursuant to Public Resources Code Section 30623.

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Applicants: Wildlife Associates, Steve Karlin

Description: Consideration of an appeal of the County of San Mateo Board of Supervisors decision to certify the Negative Declaration, Planned Agricultural Permit, a Coastal Development Permit, and a Stable Permit pursuant to Sections 6353, 6328.4 of the County Zoning Regulations and Section 7700.2 of the County Ordinance Code for the construction of a 10-foot perimeter open air fenced animal enclosures occupying 91,300 sq. ft. of a 120- acre site for a Breeding and Educational Center of "Detrimental Wild Animals that pose a threat to native wildlife, the agricultural interest of the state and to the publics health and safety." ...Section 671b Department of Fish & Game Code. This project may be appealed to the California Coastal Commission

Location: This site is located at 1794 Higgins Canyon Road east of Half Moon Bay APN 066-166-100 The Arroyo Leon steel head stream crosses this parcel.

Local Decision: Approved with Conditions, Board of Supervisors, May 4,1999

Appellant: Higgins Canyon Homeowners Association, President, Charles Shafae' Save Our Bay, Attn: Executive Director, Oscar A. Braun

Date Appeal Filed: 1<sup>st</sup>.Supplemental Appeal May 141999

# FACTUAL BACKGROUND

The Wildlife Associates project development, as defined in Section 30106 of the Coastal Act, will affect the natural drainage and streambed of the endangered species inhabited Arroyo Leon. The substandard and narrow residence driveway (8 to 10 ft wide) at 1794 Higgins Canyon Road is built within the Arroyo Leon riparian corridor along the edge of this steel head stream. (see enclosed pictures) The road's entrance is built on a active slide plane and is falling away into the Arroyo Leon.. There is currently three separate residents using this sub-standard road which doesn't provide enough width for vehicles to pass from opposing directions. Expanding this "access road" for heavy commercial trucks and trailers transporting Detrimental Wild Animals and domesticated horses will require the widening of the road to at least 18 feet with 1 foot shoulders so that the non-residential development can safety be accessed.

The Wildlife Associates required commercial access road development will:

- Be located in an area of soil instability with landslide or severe erosion.
- Be located on or adjacent to a known slide plane.
- Cause erosion and siltation.
- Affect a natural drainage channel the Arroyo Leon streambed and watercourse.
- Affect Federal and state listed rare or endangered species of plant life in the area.
- Be adjacent to or include a habitat food source, water source, nesting place or breeding place for a federal or state listed rare or endangered wildlife species.
- Significantly affect fish, wildlife, reptiles, and plant life.
- Be located inside or within 200 feet of a wildlife reserve or State Park.
- Infringe on sensitive habitat.

# **Mandatory Findings of Significance**

- The Wildlife Associates project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal.
- The Wildlife Associates commercial access road development will have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- This project has possible environmental effects which are individually limited, but cumulatively considerable.
- This Wildlife Associates project with their Detrimental Wild Animals that pose a treat to the natural environment, agriculture and the public health and safety will cause substantial adverse effects on human beings, either directly or indirectly.

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# **CONCLUSION:**

"Pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et seg) that the following project: File Number PAD 98-0005 and CDP 98-0024, Wildlife Associates, Animal Enclosure Facility/Education Center/Training Facility may have a "significant effect on the environment" and on the basis of the review of Staff's initial evaluation." Save Our Bay filed their comments on March 19,1999 with the San Mateo County Planning Commission, prior to the close of the public review period. Terry Burns, Planning Administrator has denied "any comments were received. (Find enclosed March 19,1999 comments).

Project Alternatives: "The purpose of the environmental impact report (ontention 8 is to identify the significant effects of the project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." These statutory and judicial concepts are carried forward in the Guidelines, which state that EIR must describe a range of reasonable alternatives to a project, or to the location of a project, which could feasibly attain the basic objectives of the project, and evaluate the comparative merits of the alternatives. As the underscored language suggests, project alternatives typically fall into one of two categories: on-site alternatives, which generally consist of different uses of the land under consideration; and off-site alternatives, which usually involve similar uses at different locations. CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts, which in turn must be reviewed in light of statutory purpose. Informed by that purpose we here affirm the principle that an EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project or to the location of the project, which (1) offer substantial environmental advantage over the project proposal, and (2) may be "feasibly accomplished in a successful manner" considering the economic, environmental, social and technological factors involved. (Pub. Resources Code, #21061.1; Guidelines #15364; Golita I, supra, 197 Cal.App.3<sup>rd</sup>1167). Currently, Wildlife Associates has a facility in the County near the City of Pacifica. This facility has operated for over twelve years without the benefit of ANY permits issued through the County of San

Mateo. The current Wildlife Associates facility is clearly an "alternative" location for this project.

• LCP Section 6350, Purpose of the Planned Agricultural District: The purpose of the PAD is to 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other suitable for agriculture and agricultural production, and 2) minimize conflicts between agriculture and non-agriculture production. 3) Establish stable boundaries separating urban and rural areas. 4) Limiting conversion of agricultural lands around the periphery of urban area to lands where the viability of existing agricultural use has already been severely limited by conflict with urban uses. 5) Develop available lands not suitable for agricultural before converting agricultural lands. Wildlife Associates have NOT demonstrated that NO feasible sites exist in the RM, RM/CZ, TPZ, OR TPZ/CZ zones for the proposed facility. WHY? Save Our Bay believes that public testimony will not change either the PAD zoning or the nature of the prime agricultural lands. CEQA requires additional alternative locations for this non-agricultural project.

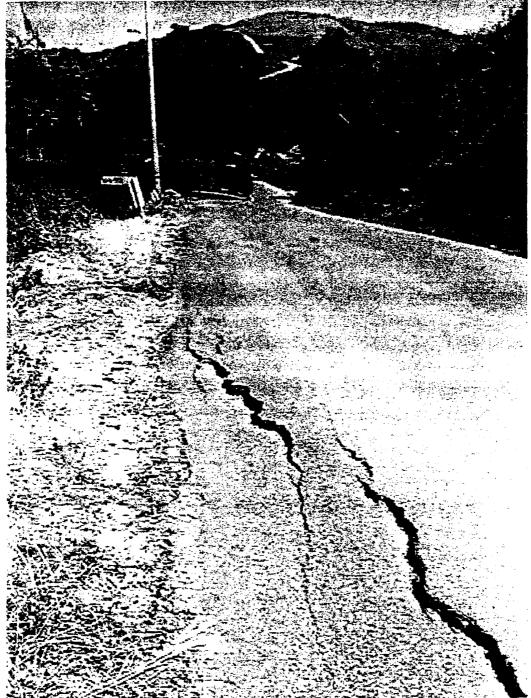
On the bases of these findings, Save Our Bay has determined that the proposed project MAY have a significant effect on the environment, and an Environmental Impact Report is required. We request that the certification of this "Negative Declaration" be denied and that the Coastal Commission deny All the Wildlife Associates permits for the relocation of their Detrimental Species Breeding & Education facility.

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Sincerely,

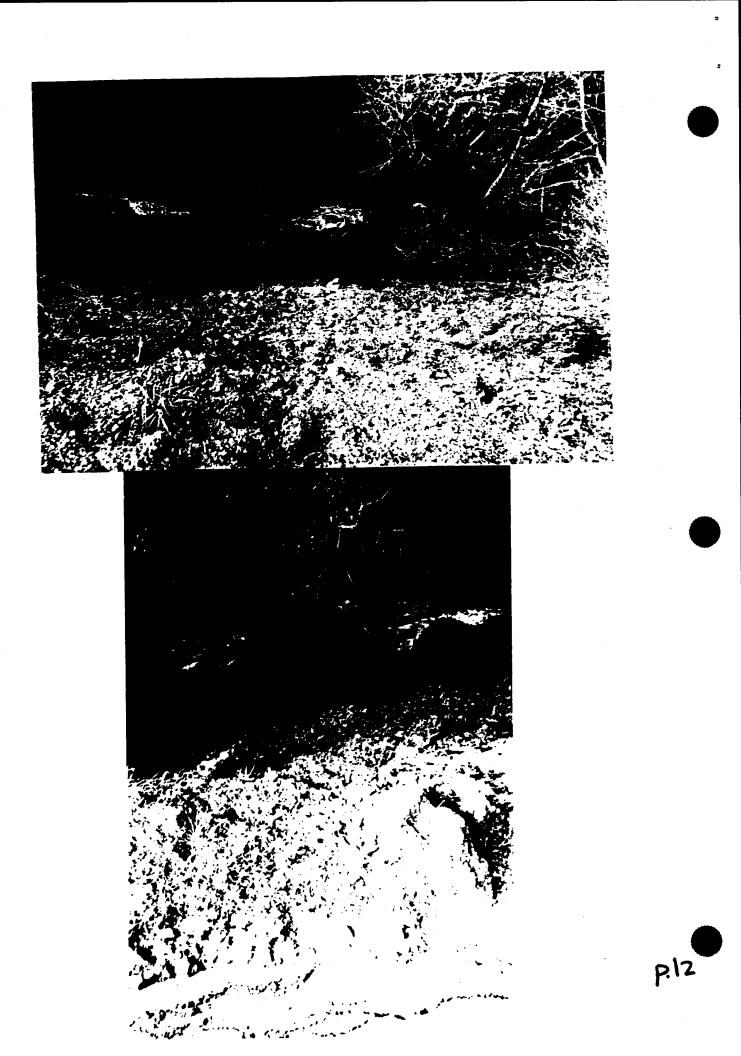
Oscar Braun, Executive Director

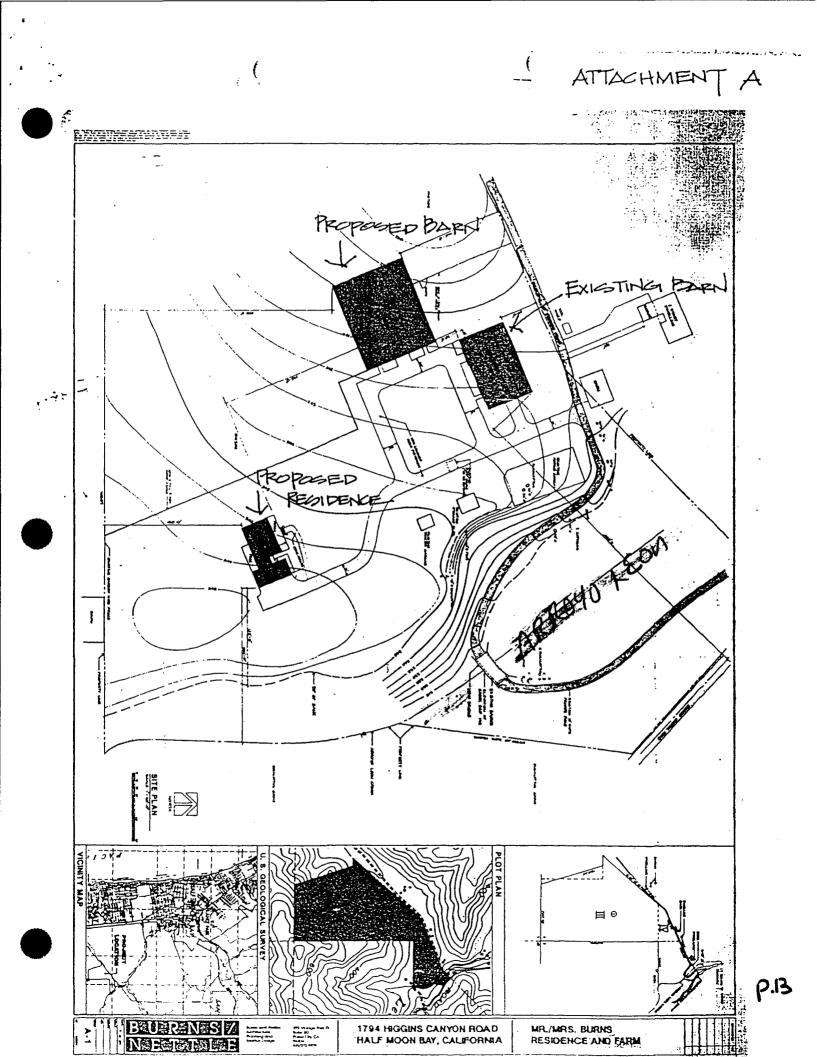
Location: Higgins Canyon Road and Arroyo Leon just above the Burleigh Murray Ranch State Park entrance. Dumping site used by the County of San Mateo Public Works in violation of Federal Clean Water & Endangered Species Act.

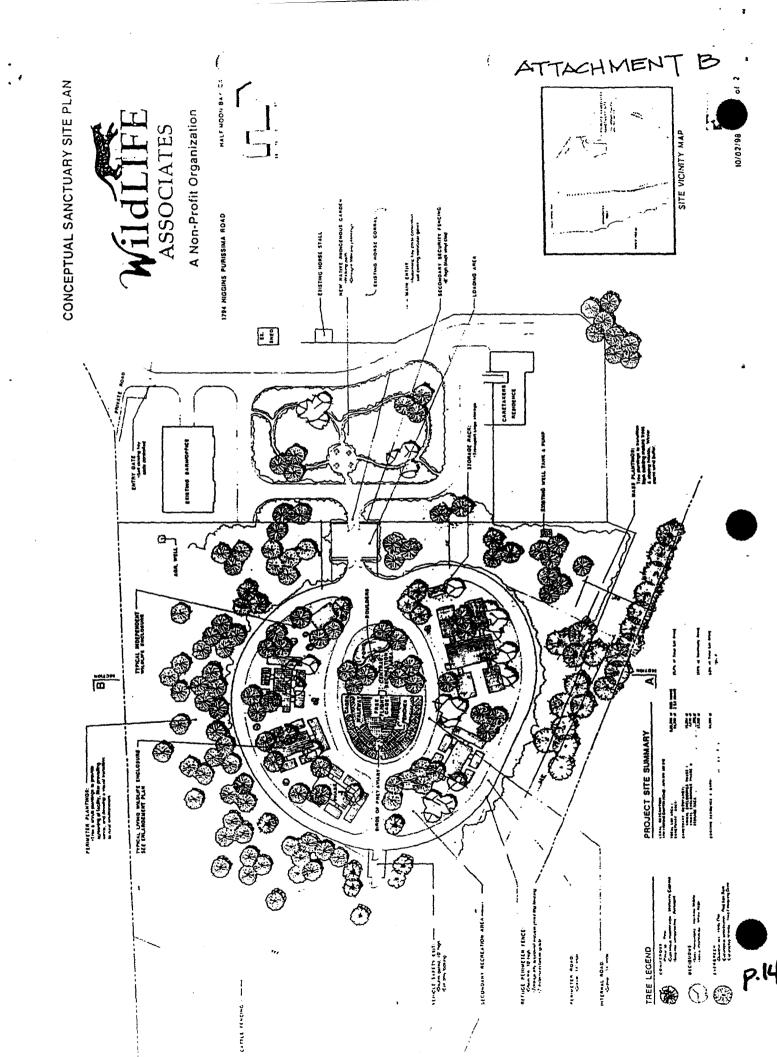


These photographs were taken on February 9, 1998 at the junction of the Wildlife Associates proposed "Access Road" for 1794 Higgins Canyon Road and Arroyo Leon looking west down Higgins Canyon Rd. just above Burleigh Murray Ranch State Park entrance. Photos taken by Oscar Braun

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March 19, 1999

To: San Mateo County Planning Commission From: Oscar Braun, Executive Director, Save Our Bay Subject: Correctness, completeness & adequacy of the Environmental Evaluation

Pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et seg) that the following project: File Number PAD 98-0005 and CDP 98-0024, Wildlife Associates, Animal Enclosure Facility/Education Center/Training Facility may have a "significant effect on the environment" and on the basis of the review of Staff's initial evaluation, Save Our Bay finds that an ENVIROMENTAL IMPACT **REPORT IS required**. The bases for this determination are as follows:

- Sensitive Habitats 1.27- The San Mateo County's General Plan states: "Regulate land uses and development activities within and adjacent to sensitive habitats in order to protect critical vegetative, water, fish and wildlife resources: protect rare, endangered, and unique plants and animals from reduction in their range or degradation of their environment; and protect and maintain the biological productivity of important plant and animal habitats."
- 1.17 Definition of Incompatible Vegetation, Fish and Wildlife : concentration of ٠ plants or animals which are found to be harmful to the surrounding environment or pose a threat to the public health, safety and welfare.
- In 1992 California Department of Fish and Game filed a public trust protest • regarding the down stream neighbor of Wildlife Associates. "Arroyo Leon and downstream Pilarcitos Creek support steelhead, rainbow trout, resident fishes, wildlife and their aquatic and riparian habitats. Steelhead trout, red-legged frog, and southwestern pond turtle are California Species of Special Concern and the red-legged frog and pond turtle are candidate species for Federal listing as threatened or endangered.

In their October 8, 1992 public trust protest, Committee for Green Foothills, Lennie Roberts declared: "The petitioner must be required by the State Water Board to prepare a basin-wide cumulative impact analysis which evaluates the cumulative impacts on Arroyo Leon and Pilarcitos Creek to (a) steelhead trout populations and their habitat, (b) other fish species and their habitat, (c) aquatic populations and habitat, (d) riparian habitat, (e) sensitive, threatened and endangered wildlife species and their habitat, (f) sensitive, threatened and endangered plant species, and (g) water temperatures impacts affecting cold water species and their habitat. The cumulative analysis must be included in the environmental impact report. Upon review of the final EIR the project will be strictly in conformance with the Local Coastal Program.

Project Alternatives: "The purpose of the environmental impact report is to identify the significant effects of the project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." These statutory and judicial concepts are carried forward in the Guidelines, which state that EIR must describe a range of reasonable alternatives to a

project, or to the location of a project, which could feasibly attain the basic objectives of the project, and evaluate the comparative merits of the alternatives. As the underscored language suggests, project alternatives typically fall into one of two categories: on-site alternatives, which generally consist of different uses of the land under consideration; and off-site alternatives, which usually involve similar uses at different locations. CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts, which in turn must be reviewed in light of statutory purpose. Informed by that purpose we here affirm the principle that an EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project or to the location of the project, which (1) offer substantial environmental advantage over the project proposal, and (2) may be "feasibly accomplished in a successful manner" considering the economic, environmental, social and technological factors involved. (Pub. Resources Code, #21061.1; Guidelines #15364; Golita I, supra, 197 Cal.App.3rd1167). Currently, Wildlife Associates has a facility in the County near the City of Pacifica. This facility has operated for over twelve years without the benefit of ANY permits issued through the County of San Mateo. The current Wildlife Associates facility is clearly an "alternative" location for this project.

• LCP Section 6350, Purpose of the Planned Agricultural District: The purpose of the PAD is to 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other suitable for agriculture and agricultural production, and 2) minimize conflicts between agriculture and non-agriculture production. 3) Establish stable boundaries separating urban and rural areas. 4) Limiting conversion of agricultural lands around the periphery of urban area to lands where the viability of existing agricultural use has already been severely limited by conflict with urban uses. 5) Develop available lands not suitable for agricultural before converting agricultural lands. Wildlife Associates have NOT demonstrated that NO feasible sites exist in the RM, RM/CZ,TPZ,OR TPZ/CZ zones for the proposed facility. WHY? Save Our Bay believes that public testimony will not change either the PAD zoning or the nature of the prime agricultural lands. CEQA requires additional alternative locations for this non-agricultural project.

On the bases of these findings, Save Our Bay has determined that the proposed project MAY have a significant effect on the environment, and an Environmental Impact Report is required. We request that the certification of this "Negative Declaration" be denied.

Sincerely, Oscar Braun, Executive Director

cc. Holly J. Price, NOAA, Water Quality Protection Program Director & Edward Ueber, Gulf of the Farallones & North Monterey Bay National Marine Sanctuary; Roger Chin, Chairman San Mateo County Civil Grand Jury MAY 13 '99 12:16PM CA COASTAL COMM STATE OF CALIFORNIA-THE RESOURCES AGENCY

FAX ( 415) 904- 5400

#### CALIFORNIA COASTAL COMMISSION 45 FREMONT. BUITE 2000 BAN FRANCISCO, CA 94105-2219 VOICE AND TOD (415) 904-6200

P. 1/3 GRAY DAVIS. GOVERNOR

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

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

## SECTION I. Appellant(s)

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

OSCAR A. BRAUN 1589 Hickors CANYON ROAD HALF MOON RAY KA. 94019 SAUE OUN BAY L'IFIGUINS CANYON HOME OWNER ASSOCIATion - 650-726-3307 ZÍD Phone No. Area Code

# SECTION II. Decision Being Appealed

1. Name of local/port government: <u>COUNTY</u> OF SAU MATEO

2. Brief description of development being appealed: Wildlife ASSOCIATES? BRZEdin's & Education of CENTER OF DETRIMENT. WILD ANIMALS THAT POSE A TREAT TO NATIVE WILDLIFE, THE AGRICUITURE OF CALIFORNIA AND TO THE Publics HEATH & SAFETYON DEG SEC. 6716

3. Development's location (street address, assessor's parcel no., cross street, etc.): <u>1794 Hildeins</u> canyon ROAD, <u>HAIF</u> MOON RAY, CA. 94019

4. Description of decision being appealed:

a. Approval; no special conditions:\_\_\_\_\_

b. Approval with special conditions:

c. Denial:\_\_\_

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

TO BE COMPLETED BY COMMISSION:

A	P	PE	A	L	NC	):	

DATE FILED:\_\_\_\_\_

DISTR	ICT	:	
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H5: 4/88

-MAY 13 '99 12:16PM CA COAS	TAL	COMM
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APPEAL F	ROM	COASTAL	PERMIT	DECISION	OF	LOCAL	GOVERNMENT	(Page 2)

- 5. Decision being appealed was made by (check one):
- a. \_\_Planning Director/Zoning c. \_\_Planning Commission Administrator
- b. <u>City Council/Board of</u> d. <u>Other</u> Supervisors

Date of local government's decision: \_\_\_\_\_\_

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

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant: SEE ATTACHED MAMES OF Hissin's CANYON HOMEOWNER ASSOCIATION,

......

P. 18

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

(1)	522	ATTAC	hed	Lette	CIL É	Τυ	1211	<u> </u>	Bur	<u>115</u>
(2)										
(3)										
(4)										

SECTION IV. <u>Reasons Supporting This Appeal</u>

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

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

State briefly <u>your reasons for this appeal</u>. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

This project is inconsistent with LCP policies: SENSITIVE HabiTAT Composer 7.1.7.2, 7.3, 7.5 7.4 - RipARIAN CORRIDORS RARE & ENDANGREd SPECIES 7.32, 7.33 7-10 7-13 Ag Component 5.3, 5-4, 5-5, 5-6, 5-8 5-9, 5-10,5. 55 6356 - Breeding É 1AD SECTIONS 63506 6353 POSC A TREAT TO THE NATURAL Amists Housing The AGRICUltural interest of the STATE AND TO WIDTIFES INVIRONMENT A USE AncillARY To t SAK The Publics health is Nol 14

A GRICUITURE.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

#### SECTION V. <u>Certification</u>

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

Signature of Appellant(s) or

Authorized Agent

Date 5-13-99

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

#### Section VI. Agent Authorization

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

Signature of Appellant(s)

Date \_

# CHAPTER 20B. "CD" DISTRICT (COASTAL DEVELOPMENT DISTRICT)

<u>SECTION 6328.</u> ESTABLISHMENT AND PURPOSE OF COASTAL DEVELOPMENT DISTRICT. There is hereby established a Coastal Development ("CD") District for the purpose of implementing the Coastal Act of 1976 (Division 20 of the Public Resources Code) in accordance with the Local Coastal Program of the County of San Mateo.

<u>SECTION 6328.1.</u> <u>REGULATIONS FOR "CD" DISTRICT</u>. The regulations of this Chapter shall apply in the "CD" District. The "CD" District is an "overlay" District which may be combined with any of the Districts specified in Chapters 5 through 20A of this Part, or other Districts which may from time to time be added by amendment to this Part. The regulations of this Chapter shall apply in addition to the regulations of any District with which the "CD" District is combined.

<u>SECTION 6328.2. LOCATION OF "CD" DISTRICT</u>. The "CD" District is and shall be coterminous with that portion of the Coastal Zone, as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the unincorporated area of San Mateo County.

<u>SECTION 6328.3. DEFINITIONS</u>. For the purpose of this Chapter, certain terms used herein are defined as follows:

- (a) "Aggrieved person" means any person who, in person or through a representative, appeared at a public hearing or by other appropriate means prior to action on a Coastal Development Permit informed the County of his concerns about an application for such permit, or who for good cause was unable to do either, and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.
- (b) "Applicant" means the person, partnership, corporation or State or local government agency applying for a Coastal Development Permit.

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**EXHIBIT NO.11** 

APPLICATION NO. (Page 1 of 12)

REFERENCED LCP SECTIONS

A-1-SMC-99-34

ments of one or more underlying districts. Development in such districts must comply with the requirements of both the overlay district and the underlying district(s). The "CD" District is an overlay district.

- (p) "Permittee" means the person, partnership, corporation or agency issued a Coastal Development Permit.
- (q) "Principal permitted use" means any use representative of the basic zone district allowed without a use permit in that underlying district.
- (r) "Project" means any development (as defined in Section 6328.3(h)) as well as any other permits or approvals required before a development may proceed. Project includes any amendment to this Part, any amendment to the County General Plan, and any land division requiring County approval.
- (s) "Project appealable to the Coastal Commission" if approved by the Board of Supervisors means:
  - 1. Projects between the sea and the first through public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
  - 2. Projects in County jurisdiction located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary,

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- 3. Any project involving development which is not a principal permitted use in the underlying zone, as defined in Section 6328.3(p).
- (t) "Project appealable to the Coastal Commission" if approved, conditioned, or denied by the Board of Supervisors means any project involving development which constitutes a major public works project or a major energy facility (as defined in Section 6328.3).
- (u) "Scenic Road Corridor" means any scenic road corridor as defined and mapped in the Visual Resources Component of the Local Coastal Program.

(v) "Underlying district" means any district with which the "CD" District is

# CHAPTER 21A. "PAD" (PLANNED AGRICULTURAL DISTRICT)

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<u>SECTION 6350.</u> PURPOSE OF THE PLANNED AGRICULTURAL DISTRICT. The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,
- (c) developing available lands not suitable for agriculture before converting agricultural lands,
- (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and
- (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

<u>SECTION 6351. DEFINITIONS</u>. For the purposes of this Chapter, certain terms used herein are defined as follows:

#### A. Prime Agricultural Land

- All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Compatibility Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.
- 2. All land which qualifies for rating 80-100 in the Storie Index Rating.
- 3. Land which supports livestock use 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 five 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 on an annual value that is not less than \$200 per acre within three of the five 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.

#### B. Lands Suitable for Agriculture

Land other than Prime Agricultural Land on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

#### C. Other Lands

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Any portion of a parcel in the Planned Agricultural District which does not meet the definition of Prime Agricultural Land or Lands Suitable for Agriculture.

#### D. <u>Agriculture</u>

Activities including, but not limited to, the cultivation of food, fiber, or flowers, and the grazing, growing or pasturing of livestock.

#### E. Uses Ancillary to Agriculture

Agricultural grading equipment supplies, agricultural rental supplies, topsoil stockpiling, and other similar uses determined to be appropriate by the Planning Director.

# F. <u>Non-Residential Development Customarily Considered Accessory to</u> <u>Agricultural Uses</u>

Barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and other similar uses determined to be appropriate by the Planning Director.

#### G. <u>Commercial Recreation</u>

Country inns, commercial stables, riding academies, campgrounds, rod and gun clubs, private beaches, food/gasoline/telephone services, hostels, and other similar uses determined to be appropriate by the Planning Commission.

#### H. Public Recreation

Lands and facilities serving primarily a recreation function which are operated by public agencies or other non-profit organizations. Public recreation facilities include, but are not limited to, public beaches, parks, recreation areas, natural preserves, wild areas and trails.

#### I. Land Division

The creation of any new property line whether by subdivision or other means.

#### J. Density Credits

The maximum number of land divisions permitted for a parcel computed in accordance with Section 6356. For Public and Commercial Recreation uses, each density credit equals 630 gallons per day of water. For all other uses, each density credit equals 315 gallons per day of water. Credits may be combined for uses on a single parcel if the number of land divisions permitted is reduced accordingly; however, only one credit shall be assigned to an agricultural parcel. Only one dwelling unit or nonagricultural use shall be permitted per parcel.

#### K. <u>Feasible</u>

Capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social, and technological factors.

#### L. Non-Agricultural Parcel

After a Master Land Division Plan has been approved, the parcels which may be used for non-agricultural purposes.

#### M. Agricultural Parcel

After a Master Land Division has been approved, the remaining, large residual parcel restricted to agricultural uses by an easement as specified in Section 6361B.

SECTION 6352. USES PERMITTED. The following uses are permitted in the PAD:

#### A. On Prime Agricultural Lands

- 1. Agriculture.
- 2. Non-residential development customarily considered accessory to agricultural uses.
- 3. Soil dependent greenhouses and nurseries provided that a soil management plan is prepared showing how open prime soils on the site will be preserved and how soils will be returned to their original condition when operations cease.
- 4. Temporary roadstands for seasonal sale of produce grown in San Mateo County providing that (1) sales activities are limited to less than a nine-month operating period per year, (2) all structures are of portable construction and shall be removed from the site within 10 days of the seasonal closure of the stand, (3) roadstand size shall be limited to 200 square feet and appearance, including signs, color and materials, is consistent with the policies of the certified LCP and meets the satisfaction of the Planning Director, and (4) access and parking requirements meet the satisfaction of the Director of Public Works, however, no impervious paving shall be required.
- 5. Repairs, alterations, and additions to existing single-family residences.

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- 5. Keeping of pets in association with a one-family dwelling.
- 6. Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit.
- 7. Animal fanciers.

B. On Land Suitable for Agriculture and Other Lands

1. Agriculture.

- 2. Non-residential development customarily considered accessory to agricultural uses.
- 3. Dairies.
  - 4. Greenhouses and nurseries.
- 5. Temporary roadstands for seasonal sale of produce grown in San Mateo County providing that (1) sales activities are limited to less than a nine-month operating period per year, (2) all structures are of portable construction and shall be removed from the site within 10 days of the seasonal closure of the stand, (3) roadstand size shall be limited to 200 square feet and appearance, including signs, color and materials, is consistent with the policies of the certified LCP and meets the satisfaction of the Planning Director, and (4) access and parking requirements meet the satisfaction of the Director of Public Works, however, no impervious paving shall be required.
- 6. Repairs, alterations, and additions to existing single-family residences.
- 6. Keeping of pets in association with a one-family dwelling.

- 7. Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit.
- 8. Animal fanciers.

#### SECTION 6353. USES PERMITTED SUBJECT TO THE ISSUANCE OF A PLANNED AGRI-

<u>CULTURAL PERMIT</u>. The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this Ordinance.

Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore.

#### A. On Prime Agricultural Lands

- 1. Single-family residences.
- 2. Farm labor housing
- 3. Public recreation/shoreline access trail (see Section 6355D.2).
- 4. Non-soil dependent greenhouses and nurseries if no alternative building site on the parcel exists.
- 5. Onshore oil and gas exploration, production, and minimum necessary related storage subject to the issuance of an oil well permit, except that no wells shall be located on prime soils.
- 6. Uses ancillary to agriculture.
- 7. Permanent roadstands for the sale of produce, providing that the amount of prime agricultural land converted does not exceed

one-quarter (1/4) acre, and subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.

- 8. Facilities for the processing, storing, packaging, and shipping of agricultural products.
- 9. Commercial woodlots and temporary storage of logs.

# B. On Lands Suitable for Agriculture and Other Lands

- 1. Single-family residences.
- 2. Farm labor housing.
- 3. Multi-family residences if for affordable housing.
- 4. Public recreation/shoreline access trail (see Section 6355D.3 and 4).
- 5. Schools.
- 6. Fire stations.
- 7. Commercial recreation.
- 8. Aquacultural activities.
- 9. Wineries, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.
- 10. Timber harvesting, commercial woodlots subject to the issuance of a timber harvesting permit, and storage of logs.

- 11. Onshore oil and gas exploration, production, and storage subject to the issuance of an oil well permit.
- 12. Facilities for the processing, storing, packaging, and shipping of agricultural products.
- 13. Uses ancillary to agriculture.
- 14. Kennels or catteries, subject to a kennel/cattery permit.
- 15. Scientific/technical research and test facilities, provided a Planned Agricultural Permit shall only be issued for this use upon the following findings:
  - a. That the use is of a low-intensity nature with minimum of permanent construction required, no permanent on-site personnel or permanent on-site vehicles.
  - b. That the nature of the operation requires an open, isolated, and radio frequency interference-free environment.
  - c. That no manufacturing or industrial activities are involved.
  - d. That the size, location and design of any proposed facility as well as level of activity on the site are compatible with the policies of the Local Coastal Plan.
  - e. That the proposed use does not impair existing or potential agricultural uses on the site or on surrounding properties. The applicant shall demonstrate how agriculture will not be impaired, including provisions for leasing portions of the site for agricultural uses.

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- f. That the proposed use or facility does not create a potential for any health or safety hazard.
- g. That the applicant for such a facility shall describe the manner in which other users might be accommodated in sharing the proposed facility so as to avoid the duplication of such facilities in the future.
- h. That the applicant demonstrate that no feasible sites exist in the RM, RM/CZ, TPZ, or TPZ/CZ zones for the proposed facility.
- 16. Permanent roadstands for the sale of produce, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.

<u>SECTION 6354. LAND DIVISIONS</u>. All land divisions permitted in the PAD are subject to the issuance of a Planned Agricultural Permit.

<u>SECTION 6355.</u> SUBSTANTIVE CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL <u>PERMIT</u>. It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

## A. <u>General Criteria</u>

- 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.
- 2. All development permitted on a site shall be clustered.

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# AGRICULTURE COMPONENT

The County will:

# **OPEN FIELD AGRICULTURE**

## \*5.1 Definition of Prime Agricultural Lands

Define prime agricultural lands as:

- a. 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.
- b. All land which qualifies for rating 80-100 in the Storie Index Rating.
- c. 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.
- d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five 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.
- e. 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 three of the five previous years.

The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

# \*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.

# \*5.4 Designation of Lands Suitable for Agriculture

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

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

- 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, (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 on 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 and gun clubs, and private beaches, (8) aquacultural activities, (9) 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, and (16) permanent roadstands for the sale of produce.

## \*5.7 Division of Prime Agricultural Land Designated as Agriculture

- a. Prohibit the division of parcels consisting entirely of prime agricultural land.
- b. Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity would not be reduced.
- c. Prohibit the creation of new parcels whose only building site would be on prime agricultural land.

## \*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.
- b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency:
  - (1) To execute a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture, and
  - (2) Whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

# \*5.9 Division of Land Suitable for Agriculture Designated as Agriculture

Prohibit the division of lands suitable for agriculture unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be reduced.

# \*5.10 Conversion of Land Suitable for Agriculture 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.

#### \*5.11 Maximum Density of Development Per Parcel

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- a. Limit non-agricultural development densities to those permitted in rural areas of the Coastal Zone under the Locating and Planning New Development Component.
- b. Further, limit non-agricultural development densities to that amount which can be accommodated without adversely affecting the viability of agriculture.
- c. In any event, allow the use of one density credit on each legal parcel.
- d. A density credit bonus may only be allowed for the merger of contiguous parcels provided that (1) the density bonus is granted as part of a Coastal Development Permit, (2) a deed restriction is required as a condition of approval of that Coastal Development Permit, (3) the deed restriction requires that any subsequent land division of the merged property shall be consistent with all other applicable LCP policies, including Agriculture Component Policies, and shall result in at least one agricultural parcel whose area is greater than the largest parcel before consolidation, and (4) the Coastal Development Permit is not in effect until the deed restriction is recorded by the owner of the land. The maximum bonus shall be calculated by:
  - (1) Determining the total number of density credits on all parcels included in a master development plan; and
  - (2) Multiplying that total by 25% if the merger is entirely of parcels of 40 acres or less, or by 10% if some or all of the parcels combined are larger than 40 acres.

The merged parcel shall be entitled to the number of density credits on the separate parcels prior to merger plus the bonus calculated under this subsection. The total number of density credits may be used on the merged parcel. Once a parcel or portion of a parcel has been part of a merger for which bonus density credit has been given under this subsection, no bonus credit may be allowed for any subsequent merger involving that parcel or portion of a parcel.

e. Density credits on parcels consisting entirely of prime agricultural land, or of prime agricultural land and land which is not developable under the Local Coastal Program, may be transferred to other parcels in the Coastal Zone, provided that the entire parcel from which credits are transferred is restricted permanently to agricultural use by an easement granted to the County or other governmental agency. Credits transferred may not be used in scenic corridors or on prime agricultural lands; they may be used only in accordance with the policies and standards of the Local Coastal Program.

## \*5.12 Minimum Parcel Size for Agricultural Parcels

Determine minimum parcel sizes on a case-by-case basis to ensure maximum existing or potential agricultural productivity.

#### \*5.13 Minimum Parcel Size for Non-Agricultural Parcels

- a. Determine minimum parcel size on a case-by-case basis to ensure that domestic well water and on-site sewage disposal requirements are met.
- b. Make all non-agricultural parcels as small as practicable (residential parcels may not exceed 5 acres) and cluster them in one or as few clusters as possible.

#### \*5.14 Master Land Division Plan

- a. In rural areas designated as Agriculture on the Local Coastal Program Land Use Plan Maps on March 25, 1986, require the filing of a Master Land Division Plan before the division of any parcel. The plan must demonstrate: (1) how the parcel will be ultimately divided, in accordance with permitted maximum density of development, and (2) which parcels will be used for agricultural and non-agricultural uses, if conversions to those uses are permitted. Division may occur in phases. All phased divisions must conform to the Master Land Division Plan.
- b. Exempt land divisions which solely provide affordable housing, as defined in Policy 3.7 on March 25, 1986, from the requirements in a.
- c. Limit the number of parcels created by a division to the number of density credits to which the parcel divided is entitled, prior to division, under Table 1.3 and Policy 5.11d. and e., except as authorized by Policy 3.27 on March 25, 1986.

# \*5.15 Mitigation of Land Use Conflicts

a. When a parcel on or adjacent to prime agricultural land or other land suitable for agriculture is subdivided for non-agricultural uses, require that the following statement be included, as a condition of approval, on all parcel and final maps and in each parcel deed: "This subdivision is adjacent to property utilized for agricultural purposes. Residents of the subdivision 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."

- 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.
- d. Require public agencies owning land next to agricultural operations to mitigate rodent, weed, insect, and disease infestation, if these problems have been identified by the County's Agricultural Commissioner.

# \*5.16 Easements on Agricultural Parcels

As a condition of approval of a Master Land Division Plan, require the applicant to grant to the County (and the County to accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture, and farm labor housing. The easement shall specify that, anytime after three (3) years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to Open Space.

Uses consistent with the definition of open space shall mean those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site's natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to natural landforms.

# FLORICULTURE

# 5.17 Definition of Floricultural Uses

- a. Define "soil-dependent" floricultural uses as those which require relocation on prime soil areas in order to obtain a growing medium.
- b. Define "non-soil-dependent" floricultural uses as floricultural uses, including greenhouses, which can be established on flat or gently sloping land and do not require locations on prime soils.

# 5.18 Location of Floricultural Uses

- a. Allow soil-dependent floriculture to locate on prime soils provided that a soil management plan is prepared showing how prime soils will be preserved and how they will be returned to their original condition when operations cease.
- b. Restrict non-soil-dependent floriculture greenhouses to non-prime soil areas on parcels with level to gentle sloping ground (less than 20% slope).

# 5.19 Development Standards of Floricultural Uses

a. Allow existing floricultural operations and greenhouses, whether soildependent or independent, to expand on their existing sites or on adjacent sites in order to minimize capital expenditures, according to basic setback requirements of 30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located.

Parcel Size	Basic Setback Requirements
Less than 5 acres	30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located.
5 acres or more	30 feet from the right-of-way of any street and from the lot lines of the parcel on which the greenhouse is located.

- b. Prohibit greenhouse, hothouse, or accessory structures from locating closer than 50 feet from the boundary line of a lot in a residential zoning district.
- c. Require runoff impoundments so that total runoff shall not be greater than if the site were uncovered, unless the applicant can demonstrate that

ITEM #2/ WILDLIFE ASSOCIATES REGULAR AGENDA

EXHIBIT NO. 12
APPLICATION NO. (Page 1 of 15)
A-1-SMC-99-34 COUNTY STAFF REPORT TO
THE PLANNING COMMISSION (excerpt)

To:

# COUNTY OF SAN MATEO

## PLANNING AND BUILDING DIVISION



COASTAL COMMISSION

From: Planning Staff

Subject: <u>EXECUTIVE SUMMARY</u>: Consideration of a Planned Agricultural Permit, Coastal Development Permit, Stable Permit and certification of a Negative Declaration to allow: (1) the construction of a 10-foot perimeter open air fence and fenced animal enclosures for the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs, (2) a training/educational center, and (3) a private stable for six horses on a 120-acre site located at 1794 Higgins Canyon Road east of Half Moon Bay. This project is appealable to the Coastal Commission.

#### **PROPOSAL**

The applicant seeks to construct a 10-foot perimeter open air fence and fenced animal enclosures occupying 91,300 sq. ft. (1.7%) of a 120-acre site, for the housing and care of nonreleasable, rehabilitated animals used for off-site training and educational programs. This facility would also be utilized as a training/educational center for wildlife professionals. This proposal also includes the request for a stable permit to allow private stabling of six horses. These horses would be housed in the existing stable and barn buildings. Three staff members would live in the existing home. This project has met with the concurrence of the California Department of Fish and Game. Wildlife Associates would occupy a total of 5 acres of the 120 acres for the proposed facilities and activities on the project site.

#### **RECOMMENDATION**

Open the public hearing, receive public testimony to obtain a better understanding of the project and deliberate whether the proposed use qualifies as agriculture or accessory to agriculture. If it is concluded that it does, then we recommend you adopt the findings and conditions of approval in Attachment A.

#### **SUMMARY**

Staff has completed its analysis of this proposal based upon information submitted to date and finds that it presents a fundamental issue which we believe should be resolved by the Planning Commission following a public hearing. That is the issue of whether this project qualifies as a use accessory to agriculture and is therefore allowed in the Planned Agricultural District. We

recommend that the Commission hold a hearing to obtain input from the project's sponsors, supporters and opponents and then make that determination.

The aspect of the project which is at issue in this regard is the housing and care of nonreleasable, rehabilitated animals used for training and education programs both on and off site. That part of the project is proposed on prime agricultural soils. If classified as agriculture or accessory to agriculture, that use would be allowed on prime soils and would not consume density credits. The site has one credit, which is consumed by the existing residence on the property which will continue to be used in that capacity.

The applicant believes that the use should be classified as accessory to agriculture, as it involves the keeping and care of animals, both for the animals' benefit and to serve as an educational resource for humans. Classification as agriculture or accessory to agriculture would have the advantages of allowing the use at its proposed location on prime soils and not requiring a density credit, but the animals kept here are not domestic and the project has a distinctly "wildlife" orientation.

Staff has identified another option for the classification of this use and that is as a school. We believe the project could qualify as a school. The applicant's program includes the utilization of their animals for off-site training and educational programs and they also utilize the facilities as a training and educational center for wildlife professionals. This approach presents two problems, however. First, schools are not allowed on prime soils, which is where the proposed project would be located. Second, schools consume density credits and the single credit on this site is already consumed by the residence.

If the project is defined as a school, then at least one additional credit would be required. This could be resolved by: (1) transferring a credit from another location, although transferred credits may not be used on prime soils; (2) earning a credit through construction of an agricultural water impoundment, not necessarily practical at this location; or (3) reclassifying and qualifying the residence as affordable housing (which is limited to qualified low to moderate income occupants and is subject to cost controls) or farm labor housing (which is limited to farm employees and their families).

There is, of course, a third alternative and that is to deny the project as not an allowed use at this location. However, staff sees clear merit in the applicant's proposal and agrees it is best located in the rural area, so we believe we should attempt to accommodate it if the issues presented by the proposed location (on prime soils in the PAD) can be resolved. Thus, our recommendation that the Commission hold a hearing to obtain a better understanding of the project and public input on its merits and then deliberate whether it qualifies as agriculture or accessory to agriculture. If you conclude that it does, then we recommend you adopt the findings and conditions of approval in Attachment A.

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# COUNTY OF SAN MATEO

#### PLANNING AND BUILDING DIVISION

#### Date: March 24, 1999

#### To: Planning Commission

#### From: Planning Staff

Subject: Consideration of a Planned Agricultural Permit, a Coastal Development Permit, and a Stable Permit pursuant to Sections 6353, and 6328.4 of the County Zoning Regulations and Section 7700.2 of the County Ordinance Code for the construction of a 10-foot perimeter open air fence and fenced animal enclosures occupying 91,300 sq. ft. of a 120-acre site, for the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs. This facility would also be utilized as a training/educational center for wildlife professionals on a limited basis. This proposal also includes the request for a stable permit to allow private stabling of six horses. These horses would be housed in the existing stable and barn buildings. This site is located at 1794 Higgins Canyon Road east of Half Moon Bay. This project is appealable to the California Coastal Commission.

File Numbers: PAD 98-0005, CDP 98-0024, STP 98-0003 (Wildlife Associates)

#### PROPOSAL

The applicant seeks to construct a 10-foot perimeter open air fence and fenced animal enclosures occupying 91,300 sq. ft. of a 120-acre site, for the housing and care of nonreleasable, rehabilitated animals used for off-site training and educational programs. This facility would also be utilized as a training/educational center for wildlife professionals. This proposal also includes the request for a stable permit to allow private stabling of six horses. These horses would be housed in the existing stable and barn buildings. Three staff members would live in the existing home. This project has met with the concurrence of the California Department of Fish and Game. Wildlife Associates would occupy a total of 5 acres of the 120 acres for the existing and proposed facilities, and activities on the project site.

#### **RECOMMENDATION**

Open the public hearing, receive public testimony to obtain a better understanding of the project and deliberate whether the proposed use qualifies as agriculture or accessory to agriculture. If it is concluded that it does, then we recommend you adopt the findings and conditions of approval in Attachment A.

# **BACKGROUND**

Report Prepared By: Lily Toy, Project Planner, Telephone 650/363-1841

Applicant: Wildlife Associates

Owner: R. T. Burns/Wildlife Associates

Location: 1794 Higgins Canyon Road, Half Moon Bay

APN: 066-160-100

Size: 120 acres

Existing Zoning: PAD (Planned Agricultural Zoning)

General Plan Designation: Agriculture

Existing Land Use: One single-family residence

Environmental Evaluation: Initial Study and Negative Declaration issued with a public review period between March 2, 1999 and March 22, 1999.

Setting: This site is located across a shared bridge off Higgins Canyon Road. The site contains a large, flat grassy area surrounded by a circular drive with the main dwelling at one end and a barn at the other. To the south is a large pasture area, surrounded by steep slopes on three sides. The pasture contains seasonal grasses while the slopes contain more trees and denser vegetation.

Chronology:

Date	Action
December 7, 1989 -	The previous owner (Burns) received approval from the Zoning Hearing Officer for PAD 89-12, CDP 89-31, and STP 89-3 allowing the construction of a 3,960 sq. ft. residence, a 12,000 sq. ft. barn, a 6,000 sq. ft. equipment building, two water storage tanks, drilling a replacement domestic well, constructing a 16-foot wide, 40-foot long bridge to replace a substandard and unsafe bridge across Arroyo Leon Creek and keeping of 10 horses. The barn was never built (see Attachment C.1).
August 21, 1992 -	Final approval for construction of the 6,000 sq. ft. equipment

# August 21, 1992 - Final approval for construction of the 6,000 sq. ft. equipment building.

December 19, 1996 -	Final approval for construction of the 3,960 sq. ft. residence.
March 9, 1998 -	Wildlife Associates submitted an application to construct a 10-foot perimeter open air fence and fenced animal enclosures for the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs. This facility would also be utilized as a training/educational center for wildlife professionals. This proposal also included the request for a stable permit to allow private stabling of six horses.
May 11, 1998 -	County Agricultural Advisory Committee recommended approval of the Wildlife Associates' proposal.
March 2, 1999 -	Negative Declaration circulated for the 21-day public review period.
March 24, 1999 -	Planning Commission public hearing.

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## DISCUSSION

## A. KEY ISSUES

- 1. Compliance with Zoning Regulations
  - a. <u>Proposed Uses</u>

The applicant is proposing a combination of the following uses on the property.

(1) Housing and caring of non-releasable, rehabilitated animals used for offsite training and educational programs

The applicant is proposing to create a state of the art housing and care facility for non-releasable animals. The animals are primarily native to North America with a few exceptions. Attachment E is a list of animals which are currently being housed at the Wildlife Associates' current facility. The total number of mammals will not exceed 60. Animals are housed in an individual living enclosure designed for their specific needs. The animals require privacy, open space, security, quiet, and highly supervised care.

#### (2) Agriculture

The applicant has established an agreement with a contiguous property owner to manage a large portion (115 acres) of the project site for grazing. The contiguous property owner rotates the grazing areas between their property and the project site to allow enhanced grazing opportunities. A small portion of the 115 acres is being considered for crops such as pumpkins, oat hay, pasture grass, or organic produce.

(3) <u>Residential</u>

Wildlife Associates intends to utilize the existing 3,960 sq. ft. residence for the housing of three staff members. The resident staff will provide supervision and security for the animals at all times.

(4) <u>School/Training Facility</u>

Wildlife Associates will provide limited wildlife management training specialized for professionals and college students. These classes are designed and limited to one to four students at a time.

Topics include animal husbandry, veterinary procedures, training, handling, animal keeping, wildlife education, environmental education, teaching methodologies, as well as other related classes. The majority of the instruction occurs within the animal sanctuary area.

(5) Stable

Wildlife Associates intends to maintain the existing stable with six horses. No additional stable structures will be required for this use. This will be a private stable for the exclusive use of Wildlife Associates. This use is further discussed in Section 4 of this report.

#### b. Compliance with the Planned Agricultural District (PAD) Regulations

Indicated below is Planning staff's discussion of the five proposed uses and how each use complies with the PAD regulations.

(1) Housing and caring of non-releasable, rehabilitated animals used for offsite training and educational programs

Wildlife Associates is proposing to enclose 91,300 sq. ft. of the 120-acre site with a 10-foot fence for the housing and care of their animals. The animal enclosures will be located within this proposed fenced area and will occupy 17,332 sq. ft. of land, which is 19%. The remainder, 73,968 sq. ft., of the fenced area will contain a perimeter road, land-scaping, animal recreation areas, and a small pond for animal exercise. The fenced area will be located on soils defined as "prime." The parcel

consists of approximately 25 acres of prime soils and approximately 95 acres of soils designated as Class IV and VII soils. The fenced area would occupy approximately 8.4% of the prime soils on the 120-acre parcel.

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The PAD zone allows the following animal associated uses by right on both prime agricultural lands and land suitable for agriculture and other lands:

- (a) Growing and pasturing of livestock;
- (b) Keeping of pets in association with a one-family dwelling;
- (c) Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit; and
- (d) Animal fanciers.

In addition, the PAD zone allows kennels or catteries on lands suitable for agriculture and other lands, subject to a kennel/cattery permit and to the issuance of a Planned Agricultural Permit.

The Zoning regulations provide the following definitions of these type of uses:

Livestock: Domestic animals, excluding dogs and cats, that are customarily kept for productive home use or for profit, including, but not limited to, cows, sheep, pigs, or goats.

<u>Keeping of Pets</u>: The raising and maintaining of domestic animals, including birds, that are customarily kept as pets for amusement or companionship, excluding exotic animals, horses, livestock and poultry.

Limited Keeping of Pets: The raising or maintaining of domestic birds or animals, excluding exotic animals, horses, livestock and poultry.

Animal Fanciers: A person, business or entity who keeps at least five (5) dogs, or five (5) cats, or any combination of dogs and cats which totals five (5), not to exceed ten (10) dogs, or ten (10) cats, or any combination of dogs and cats which totals ten (10) per one-family dwelling unit.

<u>Kennels and Catteries</u>: A place for the breeding, raising, keeping, boarding or other handling of more than ten (10) cats per dwelling unit or per business establishment. Ancillary activities that may be conducted in association with the keeping of animals at catteries include, but are not limited to, grooming, training, and sales of animals and supplies.

As per the County's Exotic Animals Ordinance, Section 3331, the Wildlife Associates animal roster includes exotic animals. The PAD regulations do not address the housing and care of exotic animals either as a permitted use or a use permitted subject to the issuance of a Planned Agricultural Permit. However, this type of use is permitted in the Resource Management Zoning District as "Exotic Animals" and is subject to a Use Permit in accordance with the Exotic Animals Ordinance.

The applicant has indicated that several factors indicate that the care and housing of non-farm animals in this specific proposal are consistent with Section 6351.F, Non-Residential Development Customarily Considered Accessory to Agricultural Uses. The definition under the aforementioned section is as follows:

"Barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and other similar uses determined to be appropriate by the Planning Director."

The applicant requests that the appropriate determination of consistency with Section 6351.F be made for this project due to the following factors. The proposed facility will utilize materials customarily associated with agricultural including fencing, landscaping, food storage and water delivery systems. There will be no permanent foundations within the animal facility and, therefore, the soil will not be converted to a nonagricultural use. Planning staff believes there should be a hearing before and discussion of this issue by the Planning Commission before determining that the housing and care of non-releasable, rehabilitated animals used for off-site training and educational programs is considered to be accessory to agricultural uses.

#### (2) <u>Agriculture</u>

The majority of the site (115 acres or 96% of the site), beyond the proposed Wildlife facility (4% of the project site) is currently being managed for grazing use and is utilized seasonally. This portion of the site is currently being leased to a contiguous property owner who rotates grazing areas amongst the two properties to allow enhanced grazing opportunities. The majority of the land has marginal agricultural

capacity, however, it provides watershed and natural habitat areas in addition to the grazing capability. A small portion of the 115 acres is being considered for crops such as pumpkins, oat hay, pasture grass, or organic produce, however, has yet to be implemented. ā

The existing agricultural well delivers 11 gallons of water per minute. Wildlife Associates indicates the maximum water requirements for the animals do not exceed 1,500 gallons per week (approximately 220 gallons a day). The agricultural well delivers substantially more water than required for the proposed use and may be used for any future agricultural uses on site. No water from Arroyo Leon Creek will be used for the wildlife project.

The Planned Agricultural District regulations provide the following definitions:

Agriculture: Activities including, but not limited to, the cultivation of food, fiber, or flowers, and the grazing, growing or pasturing of livestock. This use is permitted by right in the Planned Agricultural District on Prime Agricultural Soils, Lands Suitable for Agriculture and Other Lands.

The applicant's proposal for the agricultural use complies with this definition and thus is permitted by right.

(3) <u>Residential</u>

The applicant is proposing to house three staff members within the existing 3,960 sq. ft. single-family residence. The house is located on prime soils. The residence was approved under previous permits (File Nos. PAD 89-12, and CDP 89-31). The residence received a final building inspection on December 19, 1996, and was released for occupancy. An existing domestic well serves the existing residence. As per the Planned Agricultural District, a single-family residence is a use permitted subject to the issuance of a Planned Agricultural Permit on Prime Agricultural Lands, Lands Suitable for Agriculture and Other Lands.

(4) <u>School/Training Facility</u>

In the PAD zone, a school is a use permitted subject to the issuance of a Planned Agricultural Permit on Lands Suitable for Agriculture and Other Lands. Due to the fact that the majority of the instruction occurs within the animal sanctuary area, the school would be located on prime soils.

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Wildlife Associates is proposing to locate the facility within prime soils because the proposed area is adjacent to the existing residence and barn. In addition, the proposed location is flat and will accommodate the wildlife facility without significant grading or site disturbance. The remainder of the site varies in topography with slopes that range from 3 -40+%. Staff believes the steeper slopes would not be appropriate for the proposed facility since it would require road construction, grading, additional water source, and development of additional security facilities. It is preferable to cluster the facilities in the proposed location to minimize site disturbance and maximize the area available for additional agricultural use.

Staff recognizes some positive aspects of the proposal as follows: (1) the limited improvements and temporary nature of this facility will allow the conversion of this site to a cultivated use in the future, if desired, (2) the installation will not substantially disturb the soils thereby not significantly compromising the long-term productive agricultural capability of the property, (3) the clustered arrangement of the project will ensure that current or reasonably foreseeable agricultural operations on this parcel or surrounding parcels will not be significantly displaced or impaired and will prevent conflicts with any potential agricultural use, and (4) the entire operation will utilize only 5 acres of the 120 acres. However, a conflict exists in that a school is a permitted use only on Lands Suitable for Agriculture and Other Lands and not on Prime Soils.

- (5) Stable
  - The applicant's proposal complies with the County's Stable Ordinance. This is further discussed in Section A of this report.
- c. <u>Alternatives</u>

Staff has identified the following alternatives that the Planning Commission may consider to formulate a decision.

(1) Housing and care of non-releasable, rehabilitated animals used for offsite training and educational programs

If the proposed use of housing and care of non-releasable, rehabilitated animals is determined to be an agricultural use or a use accessory to agriculture and if determined that no conversion of soils for development (installation of fencing, animal enclosures, access roads, landscaping, etc.) is being proposed then a PAD permit is not required. (Nonresidential development customarily considered accessory to agricultural uses are a permitted use on prime agricultural lands.) Only a Coastal Development Permit would be required for the approval of this use.

If any additional non-agricultural development is proposed in the future on any portion of this parcel, that development will be reviewed for compliance with the PAD regulations as noted in Section 6355 of the Zoning Regulations at that time.

#### (2) <u>School/Training Facility</u>

Based on the previous density analysis which yielded one density credit, the applicant would be required to obtain one additional density credit if the wildlife facility is determined to be a "school." The existing residence consumes the one density credit for this parcel. The agricultural and stable use, being agriculturally related land uses are not subject to the PAD density provisions.

(a) Farm Labor Housing or Affordable Housing

As per Section 6356, *Maximum Density of Development*, the applicant will not need to acquire an additional density credit if the single-family residence is converted into either farm labor housing or affordable housing. This would release a density credit which could be applied to the proposed use as a school.

This could be resolved by: (1) transferring a credit from another location, although transferred credits may not be used on prime soils; (2) earning a credit through construction of an agricultural water impoundment, not necessarily practical at this location; or (3) reclassifying and qualifying the residence as affordable housing (which is limited to qualified low to moderate income occupants and is subject to cost controls) or farm labor housing (which is limited to farm employees and their families).

#### (3) Deny Applicant's Proposal

A third alternative would be to deny the project as not an allowed use at this location. However, staff sees clear merit in the applicant's proposal and agrees it is best located in the rural area, so we believe we should attempt to accommodate it if the issues presented by the proposed location (on prime soils in the PAD) can be resolved.

#### 2. Compliance with General Plan

The proposed project has been reviewed for conformance with the General Plan. The following discussion reviews applicable policies:

a. Soil Resources

Policies 2.17 (Regulate Development to Minimize Soil Erosion and Sedimentation) and 2.23 (Regulate Excavation, Grading, Filling, and Land Clearing Activities Against Accelerated Soil Erosion) require the minimization and regulation of soil erosion, sedimentation, grading and filling. The animal enclosures are being proposed to be constructed on the relatively flat portion of the property, thus requiring minimal grading.

Policy 2.19 (Preferred Uses in Areas With Productive Soil Resources) regulates the preference to soil protective land uses in areas with productive soil resources. This policy also allows for other land uses which are compatible with soil protective uses and which minimally impact the continued availability and productivity of productive soil resources. The applicant contends that the proposed use will utilize a minimal area for the facility will not substantially disturb the soils thereby not significantly compromising the long-term productive agricultural capability of the property. The cluster design ensures that the character of the area will not change nor will the agricultural use of adjacent properties be impacted by the proposed use.

Policy 2.20 (Regulate Location and Design of Development in Areas With Productive Soil Resources) regulates the location and design of development in areas with productive soil resources. The proposed animal enclosures are being proposed on prime soils. However, this facility is proposed to be clustered with the existing residence, barn, and equipment building to minimize site disturbance and maximize area available for additional agricultural use. The greater portion of the remaining area of designated prime soils will remain in agricultural use.

#### b. Visual Quality

Policy 4.24 requires careful siting of proposed development for compatibility with the character of the site and minimal impacts of f site.

Not viewable from Higgins Canyon Road (a County Scenic Corridor) or any other public road, the proposed development would be compatible with the pre-existing character of the site. As previously stated, the proposed facility is in the approximate location of the other existing structures.

#### c. <u>Historical and Archaeological Resources</u>

Policies 5.20 and 5.21 require that the development site be investigated for the possible presence of archaeological/paleontological resources and, if found, that they be protected.

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Based on a previous archaeological report submitted for this site, the mitigation plan to protect any further possible resources unearthed during construction would be incorporated into the recommended Conditions of Approval if the Planning Commission finds this proposal to be in conformance with all applicable regulations.

#### d. Rural Land Use

Policy 9.23 (Land Use Compatibility in Rural Lands) encourages compatibility of land uses. The policy is designed to ". . . cluster new residential or commercial development so that large parcels can be retained for the protection and use of vegetative, visual, agricultural, timber and other resources." This proposed use will utilize the space between the existing barn and home, as the care facility for the animals. The proposed facility will be located adjacent to the existing structures (residence, barn, equipment building, corral and sheds) and thus clustered, so that the remaining portion of the parcel's vegetation, agricultural and visual resources are protected.

Policy 9.30 (Development Standards to Minimize Land Use Conflicts with Agriculture) sets development standards to minimize land use conflicts with agriculture, while the proposed development would be located on prime soils, alternative options for location would place the development on a hill to the west, increasing greatly the project's overall visibility, particularly from Cabrillo Highway.

The County's General Plan designates this area for rural land use. General Plan Policy 9.4 states, "Protect and enhance the resources of the Rural Lands in order to: (1) protect and conserve vegetation, water, fish and wildlife resources, protective soil resources for agriculture and forestry, and other resources vital to the sustenance of the local economy; . . . (5) protect the public health and safety by minimizing the location of new development in potentially hazardous areas and . . . (6) minimize the amount of environmental damage caused by construction of major and minor roads and other infrastructure improvements". . .

As shown on the County General Plan and Soil Conservation Maps, approximately 21% of the 120-acre parcel contains Class II soils or better. Class II soils (or better) are defined as the most production soils for the widest range of agricultural products. Class I and Class II soils are included in the definition of prime soils for County land use purposes. These soils occupy the nearly level "valley" area of the site. The remainder of the site contains steeply sloping Class IV and VII soils. The proposed development would be located within the flat prime soil area encompassing portions of a 91,300 sq. ft. area. The enclosure would occupy approximately 8.4% of the prime soils on the subject property.

#### 3. Compliance with the Local Coastal Program

The proposed project has been reviewed for conformance with the County's Local Coastal Program policies pertaining to Location of New Development, Housing, Agriculture, and Visual Resources. A Coastal Development Policy checklist has been completed for this project. The applicable policies are discussed as follows:

## a. Locating and Planning New Development

The project is located in a rural area designated on the Local Coastal Program Land Use Maps and defined in Local Coastal Program Policy 1.6 (Definition of Rural Areas) as lands suitable for a variety of residential, commercial, agricultural, and recreational land uses which are consistent with maintaining open space in order to (1) preserve natural resources, (2) manage the production of resources, (3) provide outdoor recreation, and (4) protect public health and safety. Local Coastal Program Policy 1.8 (Land Uses and Development Densities in Rural Areas) 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 operation. Staff believes the proposed project will not have any significant adverse impact on coastal resources nor will it significantly diminish the ability to keep prime agricultural land in agricultural production (see previous discussion on General Plan Conformity, Section 2 of this report). As per Policy 1.8(c), a density analysis has previously been done on this parcel, yielding one density credit, adequate to support the residence, the only proposed non-agricultural land use if the proposed wildlife facility is determined to be an agricultural use. As discussed previously on Alternatives, Section 1.c of this report, an additional density credit would be required to be obtained if the use is determined to be a "school."

If the Planning Commission determines the proposed use to be a school, a conflict exists in that a school is only a permitted use on Lands Suitable for Agriculture and Other Lands and not on Prime Soils.

The proposed project complies with policy 1.24 which stipulates protection of archaeological/paleontological resources. This was previously discussed in greater detail in Section 2.c of this staff report.

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## b. Compliance with Local Coastal Program Housing Policies

If the single-family residence is converted into affordable housing as discussed previously in Section 1.c(2) of this report, Local Coastal Program Policy 3.1 (Sufficient Housing Opportunities) would be applicable. This policy promotes, through both public and private efforts, the protection and, where feasible, the provision of housing opportunities for persons of low and moderate income who reside, work or can be expected to work in the Coastal Zone. Approval for this permit, if the single-family residence is converted, will be conditioned to maintain required rent and tenant income levels for the residence.

#### c. Compliance with Local Coastal Program Agricultural Policies

Policy 5.5 specifies permitted uses on prime agricultural lands designated as agriculture. If the proposed wildlife facility is determined to be an agricultural use, as per Policy 5.5(a), the wildlife facility, barn, and stable, being agriculturally related development, are permitted on prime lands. If the proposed wildlife facility is determined to be a "school," as per Policy 5.5(b), the "school," is conditionally permitted (previously discussed in Section 2.d of this report) only on Lands Suitable for Agriculture and Other Lands.

#### d. Conformance with Local Coastal Program Visual Resources Component

Although the project site is located in a County Scenic Corridor, the proposed project (all elements) cannot be seen from any public road, thus is in compliance with Policy 8.31 (*Regulation of Scenic Corridors in Rural Areas*).

#### 4. Compliance with the Stable Ordinance

In order to maintain horses in unincorporated San Mateo County, Section 7700 of the County Ordinance Code requires that a stable permit be obtained. The stable regulations in Section 7700.7 establish certain standards which must be met in order to approve the permit. The following summarizes the requirements of the ordinance and how the proposed project complies with them:

# ATTACHMENT E

# **ANIMAL ROSTER**

# MAMMALS

- 1. Binturong Benny
- 2. Bobcat Phoenix
- 3. Bobcat Merlin
- 4. Coatimundi Squeakers
- 5. Cougar Aztec
- 6. Coyote Mingo
- 7. Coyote Apache
- 8. Fox: Red Scout
- 9. Fox: Artic Indigo
- 10. Lynx: Canadian Takoma
- 11. Monkey: Squirrel Tika
- 12. Opossum Oh No
- 13. Porcupine: African Crested Mo
- 14. Porcupine: N. American Cactus
- 15. Raccoon Junior
- 16. Squirrel: Flying Rocky
- 17. Wolf: Timber Cheyenne

# **REPTILES**

- 1. Anaconda Olive
- 2. Boa Constrictor Arnold
- 3. Monitor: Water Humongus
- 4. Python: Burmese Cupcake
- 5. Python: Burmese Huey
- 6. Python: Burmese Ceasar
- 7. Salamander: Tiger Spot
- 8. Skink: Prehensile Tailed Uncle Fester
- 9. Tarantula: Curly Haired Jason
- 10. Tarantula: Mexican Painted Freddy
- 11. Tortoise: Red Footed Grandma
- 12. Tortoise:Desert Mr. Tank
- 13. Turtle: Soft Shelled E.T.

# **BIRDS**

- 1. Eagle: Bald America
- 2. Eagle: Golden Cherokee
- 3. Falcon: Prairie Paiute
- 4. Hawk: Harris' Shawnee
- 5. Hawk: Red Tailed Comanche
- 6. Kookaburra Foster
- 7. Owl: Barn Fozzie Bear
- 8. Owl: Great Horned Alexander
- 9. Owl: Snowy Tundra
- 10. Parrot: Amazon Ralph
- 11. Vulture: Turkey Lurch

EXHIBIT NO. 13	
APPLICATION NO.	
A-1-SMC-99-34	
LIST OF ANIMALS CURRENILY MAINTAINED	

WILDLIFE



State of California - The Resources Agency DEPARTMENT OF FISH AND CAME http://www.dfg.ca.gov POST OFFICE BOX 47 YOUNTVILLE CALIFORNIA 94598 (707) 944-6500

VIA FACSIMILE AT (650) 363-4849

April 28, 1999

Ms. Mary Griffin, President San Mateo County Board of Supervisors 400 County Center Redwood City, California 94063

EXHIBIT NO. 14
APPLICATION NO. (Page 1 of 2)
A-1-SMC-99-34 DEPARIMENT OF FISH AND
GAME LETTER APRIL 28, 1999

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CRAY DAVIS, Co

Dear Ms. Griffin:

#### Wildlife Associates

On April 26, 1999, Mr. Jack Olsen of Half Moon Bay and Mr. Steve Karlin of Pacifica came to the Central Coast Region's office of the California Department of Fish and Game for the purpose of seeking assistance in interpreting a letter written by Mr. Oscar Braun of Half Moon Bay. In his April 14, 1999 letter to the San Mateo County Planning Commission, Mr. Braun asked the Commission to deny Wildlife Associates' application to build a new facility off Higgins Purissima Road. Mr. Braun's request for denial stems in part from his concern over the California Department of Fish and Game's classification of some wildlife as "detrimental."

In making its decision to approve or deny Mr. Karlin's request to build a new wildlife facility in Half Moon Bay, the San Mateo County Board of Supervisors should know that some of Mr. Karlin's animals are in fact classified as "D" detrimental. However, the "detrimental" classification is simply a means by which the California Fish and Game Commission has categorized many of the world's wildlife species. The designation does not mean these animals are illegal to possess with proper licensing from the Department of Fish and Geme. In fact, Mr. Karlin has been properly licensed as a resident exhibitor in California for several years. Seing a licensed exhibitor means Mr. Karlin maintains his animals in strict compliance with rigorous standards relating to caging, transportation, and care. These seme standards are established by the California Fish and Game Consission and enforced by the California Department of Figh and Game. Recent inspections of Mr. Karlin's wildlife facility in

Conserving California's Wildliff Since 1870

Ms. Mary Griffin April 28, 1999 Page Two

Pacifica have demonstrated that he is in full compliance with the regulations that authorize him to possess his wildlife. To date, no reports have ever been received by the Department that any of Mr. Karlin's wildlife have escaped.

In summary, the Fish and Game Code and the California Code of Regulations section that Mr. Braun cited in his latter relate to licensing requirements for "welfare" and "detrimental" animals, not complete prohibition. The Department has every reason to believe Mr. Karlin will continue to responsibly care for and house his animals in Half Moon Bay in the same manner that he has been conducting these activities in Pacifica during the last several years. Fish and Game laws should not be used to deny Mr. Karlin's permit.

If you have any questions regarding our comments, please contact Capt. Tom Belt at (707) 944-5544.

Sincerely,

Brian Hunter Regional Manager Central Coast Region

Enclosure

cc: Jack Olsen Executive Administrator San Mateo County Farm Bureau Half Moon Bay, California

> Steve Karlin Executive Director Wildlife Associates Pacifica, California

bc: Yom Belt

TPB/ar



June 10, 1999

To:Jack Liebster, California Coastal CommissionFrom:Steve Karlin, Executive Director Wildlife AssociatesSubject:Response to Appeal No. A-1-SMC-99-034

EXHIBIT NO. 15
APPLICATION NO. (Page 1 of 2)
A-1-SMC-99-34
APPLICANT'S RESPONSE TO

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#### Background

- Wildlife Associates is a non-profit educational organization that has been in existence since 1980. Expert professional staff have been issued state and federal permits to provide care and permanent housing for non-releasable wildlife. Wildlife Associates created unique natural science programs that bring living wildlife to school assemblies throughout the Bay Area. The trained staff and animals travel to schools in the greater Bay Area presenting nationally recognized one-of-a-kind educational experiences for over 500,000 students annually.

In March, 1998 Wildlife Associates applied for the necessary permits to build a state of the art facility to house and care for their animals. The site is located on Higgins Purissima Canyon Road, approximately 1.7 miles from Main Street, Half Moon Bay. The facility will utilize existing house and barn that were approved under a Planned Agricultural Permit ten years ago. The only changes to the 120 acre parcel will be a fenced area two acres in size. Within the fenced area there will be individual enclosures and fenced animal recreation areas. The animals receive daily care and supervision. Wildlife Associate staff transports animals to schools for off site programs. The Planned Agricultural District permit also allows Wildlife Associates to conduct small custom classes for wildlife specialists, educators, naturalists and other professionals in the field on wildlife care and handling and facility operations.

#### Key Issues:

#### A. Allowed Use

This project has been reviewed and approved unanimously by the San Mateo County Agricultural Advisory Committee, the San Mateo County Planning Commission and the San Mateo County Board of Supervisors. It has been determined that the proposed use is similar to other uses allowed in the Planned Agricultural District and that the care and housing of animals is consistent and compatible with agriculture. Adjacent grazing and farm operations support this project.

The proposed use will utilize only 18,000 square feet of a 120 acre site that retains and enhances 115 acres in agricultural use. The 18,000 square feet utilized for animal enclosures will have wire floors and will not convert soils. A soil scientist has reviewed the project and determined no adverse impacts to soils. The enclosures will be constructed with fencing material, all typical to rural coastside. WILDLIFE

## **B.** Fish and Game Permit

Wildlife Associates has all the necessary California Department of Fish and Game and United States Fish and Wildlife Service permits for the species under their care. In addition, Wildlife Associates have an attending Veterinarian that oversees the care and welfare of the animals. The rehabilitated animals under Wildlife Associates care are treated, under constant care and supervision and are housed within enclosures that exceed state and federal requirements. In the nearly 20 years of operating, not one animal has escaped. Since the animals are housed in accordance with Department of Fish & Game, the United States Fish and Wildlife Service, the attending Veterinarian and the requirements of Wildlife Associates there is no reasonable treat to native wildlife or agriculture.

#### <u>C</u> Sensitive Habitat

The site plan of the proposed facility clearly indicates that the animal enclosures are not within or adjacent to any sensitive habitat. The animal enclosure range from 400 to 600 feet away from the creek. The enclosure area drains away from the creek to the west. Wildlife Associates have submitted a waste management plan to the San Mateo County Planning Department and the Environmental Health Department describing the removal and treatment of solid waste. The existing barn and house are approximately 200 to 300 feet from Arroyo Leon Creek.

#### D. Access

Wildlife Associates will utilize the existing private driveway that was approved under Planned Agricultural District Permit #89-12. Wildlife Associates and the two other neighbors maintain the private driveway. San Mateo County did not require any additional road improvements for the proposed project. Wildlife Associates is a nonprofit organization and not a commercial entity.

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#### E. Environmental Impacts

San Mateo County Planning staff prepared and circulated a Negative Declaration for the proposed project. Wildlife Associates agreed to all mitigation measures included in that document. Only one letter of comments was received and the County staff responded to thos concerns. A Negative Declaration was certified for this project and there is no requirement fo project alternative.

#### <u>Conclusion</u>

As a non-profit organization, Wildlife Associates has every intention of being a responsible neighbor. Our 20 year safety record establishes this fact. We accept all the conditions of San Mateo County. We also appreciate the twenty neighbors, teachers and educators that have spoken on the public record in support of our project. Our facility will be landscaped and managed to ensure compatibility with the area. The local farmers support our project as do the majority of the neighbors. Wildlife Associates would appreciate your consideration of our unique and carefully designed project.

