

CALIFORNIA COASTAL COMMISSION

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Filed:	April 15, 1999
49th Day:	Waived
Staff:	Jack Liebster
Staff Report:	July 7, 1999
Hearing Date:	July 15, 1999
Commission Action:	

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

LOCAL GOVERNMENT:	County of San Mateo
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-SMC-99-024
APPLICANTS:	Gary and Cindy Giovannoni
PROJECT LOCATION:	1780 Higgins Canyon Rd. San Mateo County, APN 066-100-100
PROJECT DESCRIPTION:	(1) Legalization of an existing sealing and paving business as a use ancillary to agriculture, (2) the replacement of an existing residence and storage shed with a modular home, an attached 2-car garage and storage shed, and (3) conversion of an existing second living unit to affordable housing.
APPELLANT:	Oscar Braun, Exec. Director, Save Our Bay
SUBSTANTIVE FILE DOCUMENTS:	San Mateo County Local Coastal Program; San Mateo County Coastal Development Permit No. CDP 98-0030 and CDP 98-0050; Appeal A-3-SMC-91-66, (Rice).

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The alleged grounds include project inconsistency with the LCP's permitted uses on agricultural land, other agriculture policies and the Planned Agriculture District (PAD) ordinance, as well as sensitive habitat, riparian corridor and rare and endangered species policies. However, these allegations do not raise any substantial issue with the local government's action and its consistency with the certified LCP.

The appellants contend Half Moon Bay Sealing & Paving (HMBSP) unlawfully developed agricultural land on their property for a sealing and paving commercial equipment storage facility and business and operated this use since 1992. However, the County issued a notice of code violation in February 1998, and the applicants submitted applications to correct this violation shortly afterwards. The appellant contends the County's resulting approval of a CDP for this use as "ancillary to agriculture" is not consistent with the LCP. The LCP defines "Uses Ancillary to Agriculture" as "Agricultural grading equipment supplies, agricultural rental supplies, topsoil stockpiling, and other similar uses determined to be appropriate by the Planning Director." In this case, the County found the project to be a "similar use determined to be appropriate by the Planning Director," and thereby consistent with the LCP. This LCP policy language gives to the Planning Director broad authorization to determine the uses permitted by the LCP. The Coastal Act limits the grounds for an appeal to the narrow issue of whether an appealed project, as approved by the County, raises significant issues of conformity with the certified LCP. The project as approved by the County was specifically determined to be appropriate consistent with the certified LCP. Therefore, the project approved by the County does not raise a substantial issue of consistency with the certified LCP.

The appellants also contends the project is located in, and has impacts on, a sensitive habitat area and that it is required to submit a Notice of Intent to be covered by the State Water Resources Control Board stormwater program, Order 97-03. The development as approved is located between 60 and 75 feet from the edge of the riparian corridor, outside the buffer areas specified in the LCP. As conditioned by the County, it is sited and designed to prevent impacts that could significantly degrade the sensitive habitats, including a requirement to construct a grass swale or an alternative stormwater runoff control system designed to prevent stormwater runoff and transport of sediment into Arroyo Leon Creek. Finally, the contention regarding a stormwater permit is not a valid grounds for appeal.

The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 4.

STAFF NOTES:

1. Appeal Process.

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

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 certain 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.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments, which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

The subject development approved by the County is appealable to the Commission because it requires a use permit, and thus is a conditional use, rather than a principal permitted use.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the appeal, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellant filed an appeal (Exhibit 6) to the Commission in a timely manner on April 15, 1999, within 10 working days of receipt by the Commission of the County's issuance of the Notice of Final Action, which was received in the Commission's offices on April 1, 1999.

Pursuant to Section 30261 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. In accordance with the California Code of Regulations, on April 16, 1999, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. These materials were received on April 20, 1999. A waiver of the 49-day hearing requirement was received from the applicant on April 20, 1999.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION:

I move that the Commission determine that Appeal No. A-1-SMC-98-122 raises NO substantial issue with respect to the grounds on which the appeal has been filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a YES vote. To pass the motion, a majority vote of Commissioners present is required. Approval of the motion means that the County permit action is final and effective.

II. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received an appeal of the San Mateo County decision to approve the project from Oscar Braun, Executive Director of Save Our Bay. The project as approved by the County coastal development permit CDP # 98-0030 and Planned Agriculture District (PAD) permit # 98-0006 is to legalize an existing grading and paving business as a use ancillary to agriculture and to demolish an existing residence and storage shed to be replaced with a new modular home, attached garage and storage shed in the same location. In addition, an existing storage building with a living unit will be designated as affordable housing.

The appellant's contention primarily addresses the County's approval of uses ancillary to agriculture, and the inconsistency of that use with specified LCP policies. The full text of the

appellants' contentions as submitted to the Commission is included in Exhibit 6. The appellant's nine contentions are summarized as follows:

Contention 1: Unpermitted Development

The appellant contends that Half Moon Bay Sealing & Paving (HMBSP) has operated their paving business and commercial equipment storage facility at 1780 Higgins Canyon Road without any permits or environmental review since 1992.

Contention 2: Use is Not Ancillary to Agriculture

The appellant contends that a paving and sealing business and the "storage" of paving equipment is neither an agricultural activity or a use ancillary to agriculture:

"This 20.23 acre site is located in the County Scenic Corridor. [Negative Declaration 7(a)]; This agricultural land is on a parcel zoned for one (1) single family farm residence. The rationale for stating that "Storing" paving and sealing equipment is ancillary to agriculture is that applicant contends that forty percent (40%) of its business revenues is with farmers....See client list and please note that applicant identifies "Skylawn Memorial Park" cemetery as a agricultural client. [Negative Declaration 6(b)]. This justification is specious. It is not the dollar amount of business with farmers or a cemetery that is the criterion; rather, it is the compatibility of use that is critical. There is evidence that HMBSP has developed and covered over 60,000 square feet prime agricultural soils and has not preserved and fostered existing and potential agricultural operations."

"LCP 6350-F. 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. Note: Commercial paving and sealing equipment or it's storage and parking facilities are not defined as a use ancillary to agriculture. See attached list of Paving & Sealing Equipment stored at 1780 Higgins Canyon Road. Not one single unit of farm equipment. Also note attached the Environmental Information & Hazardous Waste Site Disclosure Form. The applicant describes it as a "asphalt storage yard" for non-agricultural commercial paving equipment. Neither San Mateo County Public Works or Cal Trans have equipment storage facilities adjoining a sensitive habitat or stream or on PAD zoned parcels. No other Paving Contractors in San Mateo County have been allowed to develop commercial equipment storage yards on PAD zoned parcels or sensitive habitats."

Contention 3: The Development will adversely Affect Sensitive Habitat Area, and Related Issues

Contention 3: The Development will adversely Affect Sensitive Habitat Area, and Related Issues

The appellant contends "APN# 066-100-100 is located in a... sensitive habitat area," as defined in LCP policy 7.1. The appellant contends that the applicants provided false and misleading information regarding parcel 066-100-100 within their application by not noting that "creeks, streams, lakes or ponds" were present in the immediate vicinity. He alleges the project approved by the County is inconsistent with LCP policy 7.3, which prohibits any land use or development which would have significant adverse impacts on sensitive habitat areas and requires that development in areas adjacent to sensitive habitats be sited and designed to prevent impacts that could significantly degrade the sensitive habitats, and be compatible with the maintenance of biologic productivity of the habitats.

Contention 4: Filling of Arroyo Leon Creek

The appellant contends the project has adversely affected water, air quality and increased noise levels substantially and has had an adverse affect on the flora and fauna of the area with illegal fill placed into the riparian corridor. He further contends that the private bridge over Arroyo Leon collapsed in 1995 from the weight of over sized paving and sealing equipment and trucks belonging to Half Moon Bay Sealing & Paving and that the destruction of the bridge culvert has adversely affected the fish passage by blocking the steelhead from getting up stream since the winter of 1995.

Contention 5: Degradation of Aesthetic Quality

The appellant contends the approved project has degraded the aesthetic quality of the area. Higgins Canyon Road is San Mateo County Scenic Road.

Contention 6: Traffic

The appellant contends the approved project has had an adverse impact on traffic and land use. Prior to 1992 the single family farm at 1780 Higgins Canyon Road had a total of 3 vehicles. Since 1992, the applicant's paving business and three residential tenants total over 42 vehicles.

Contention 7: General Effect on the Environment

The appellant contends the approved project has and will :

- (1) Create impacts which have the potential to degrade the quality of the environment.
- (2) Create impacts which achieve the disadvantage of long-term environmental goals.

- (3) Create impacts for a project which are individually limited, but cumulatively alot.
- (4) Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Contention 8: Alternative Sites

The appellant contends "Half Moon Bay Sealing & Paving has NOT demonstrated that NO feasible "alternative" sites exist in the RM, RM/CZ, TPZ, OR TPZ/CZ zones for their "STORAGE" facility."

Contention 9: Stormwater Permit

The appellant contends "HMBSP is in non-compliance with industrial activities Stormwater General Permit Order 97-03."

"HMBSP is required to submit a Notice of Intent to be covered by the State Water Resources Control Board stormwater program, Order 97-03. As part of this program, HMBSP is required to prepare a Stormwater Pollution Plan to minimize the downhill runoff of diesel, hydraulic fluids, gasoline, radiator coolants, asphalt tars, sealing materials and oils in the Arroyo Leon. The Arroyo Leon has been identified as a Steelhead trout passage, spawning and rearing habitat. Negative Declaration 2(c) Steelhead trout is a threaten species. This Clean Water Act requirement to utilize Best Management Practices at the site cannot be circumvented by the County requiring a lesser form of stormwater control as a condition of the permit."

B. LOCAL GOVERNMENT ACTION

On February 24, 1999, the San Mateo County Planning Commission approved a Coastal Development Permit for the project. Among other measures, the conditions of approval imposed by the County include requirements that the applicants: (1) remove approximately 5,025 sq. ft. of the asphalt covering prime agricultural land between the currently cultivated area and the existing workshop, and use that land for crops or plant it with native vegetation; (2) construct a permanent grass swale or an alternative stormwater runoff prevention system to prevent stormwater runoff and transport of sediment into Arroyo Leon Creek; (3) consistent with an approved landscape plan, plant native evergreen shrubs and trees to screen the new structures from Higgins Canyon Road; (4) submit a stormwater control and erosion control plan consistent with the California Stormwater Best Management Practices Handbook to minimize the transport and discharge of pollutants into Arroyo Leon Creek.

The County's approval was appealed to the San Mateo County Board of Supervisors, by the appellant, Oscar Braun, Executive Director of Save Our Bay. On March 30, 1999, the Board of

Supervisors heard the appeal and, on a 5-0 vote, upheld the decision of the Planning Commission to approve the project with conditions.

The County then issued a Notice of Final Action on the Coastal Development Permit, which was received by Commission staff on April 1, 1999 (Exhibit 5). The project was then appealed to the Coastal Commission by Mr. Braun in a timely manner on April 15, 1999, within the 10-working day appeal period.

C. PROJECT SETTING AND DESCRIPTION, AND HISTORY.

The subject property is located at 1780 Higgins Canyon Road, approximately 1.5 miles east of Highway 1. It is bordered by Arroyo Leon Creek to the north and east, and surrounded by agricultural uses. The 20.23-acre site, located in the Planned Agricultural District, occupies part of a small valley and includes level terrain along the creek with a steep slope in the southern portion, restricting development and agriculture to less than half the parcel. On the northwest side of the property, approximately 4.5 acres are dedicated to the cultivation of Chinese chives, garlic, fava beans, snap peas and artichokes. Adjacent to the fields, ten structures are clustered around a 25,000-sq.-ft. asphalt surfaced storage yard used for the purpose of supporting an existing business, Half Moon Bay Sealing & Paving. The business provides off-site grading, paving and delivery services for organizations and private property owners throughout the County. All work is conducted off-site, while equipment, including 31 vehicles, is stored and maintained on-site. Prior to the County's action, the business had been operating without permits.

Existing development on the site includes the following: a 1,100-sq.-ft. residence and 400-sq.-ft. shed, both to be replaced as part of this project with a modular home; a swimming pool and patio area; a water pump; a domestic well; a 48-sq.-ft. shed; a 2,400-sq.-ft. workshop; a 190-sq.-ft. storage shed; 740 sq. ft. barn; a 1,740-sq.-ft. storage building with a living unit; a single-wide trailer; two water tanks (10,000 gallons and 2,500 gallons) and a pump equipment shed; a 65-sq.-ft. shed; a 600-sq.-ft. utility shed; an asphalt driveway and a 25,000-sq.-ft. paved storage yard. The site includes 4.5 acres of cultivated land.

The project as approved by the County consists of demolishing the existing 1,100-sq.-ft. residence and 400-sq.-ft. storage shed, and replacing them with a 2,500-sq.-ft. modular home and an attached 2-car garage and a 400-sq.-ft. storage shed in the same location. In addition, the existing 1,740-sq.-ft. storage building with a living unit would be converted to affordable housing. The County determined the existing business, Half Moon Bay Sealing & Paving, qualified for designation as a use ancillary to agriculture, and legalized this use through the permits issued.

D. SUBSTANTIAL ISSUE ANALYSIS.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division. (emphasis added)

As discussed below several of the contentions raised in the appeal do not present potentially valid grounds for appeal in that they do not allege the project's inconsistency with policies and standards of the certified LCP.

1. Appellants Contentions That Are Not Valid Grounds for Appeal

a. Contention 4: Filling of Arroyo Leon Creek: The appellant contends

“this project has adversely affected water, air quality and increased noise levels substantially.... This project has had an adverse affect on the flora and fauna of the area with illegal fill placed into the riparian corridor...”

The private bridge over Arroyo Leon collapsed in 1995 from the weight of over sized paving and sealing equipment and trucks belonging to Half Moon Bay Sealing & Paving. Their destruction of the bridge culvert has adversely affected the stream and has blocked the steelhead from getting up stream since the winter of 1995.”

The appellant alleges that the owners of Half Moon Bay Sealing and Paving are responsible for the “destruction of the bridge culvert” which has affected the stream and blocked steelhead trout passage. Presumably the appellant is contending that the project involves unpermitted fill and is otherwise inconsistent with the sensitive habitat policies of the LCP. These contentions, however, are not supported by the record and do not relate to either the project as proposed or approved by the County, but rather to a separate development approved under an entirely different permit.

The County recently approved CDP 98-0050 for which the San Mateo County Resource Conservation District (RCD) and the Giovannonis were joint applicants. This permit is for a stream restoration project to eliminate the instream fish passage barrier described by the appellant. This problem was first identified in 1992 by the California Department of Fish and Game. According to the county staff report, Clearwater Hydrology, a hydrologic engineering firm involved in the restoration project, states that the cause of the blockage is solely the hydraulic behavior of flood flows conveyed through the culvert, and not truck traffic over the

railroad car bridge. An existing 6-foot diameter reinforced concrete pipe culvert channels the creek through an earthen roadway embankment that predates the Giovannoni's ownership. The funneling effect of the culvert has created a scour hole below the culvert with a drop in elevation of approximately 6 feet, and channel erosion downstream. The RCD/Giovannoni project will correct this problem by replacing the culvert with a clear span bridge to eliminate the erosive "funneling" action, and by restoring the stream gradient with a boulder cascade to promote fish passage.

The contentions of illegal fill and alleged impacts on the riparian corridor have been addressed and resolved through CDP 98-0050 which has been approved by the County and not appealed to the Commission. Moreover, the issues raised do not involve the project currently before the Commission. Therefore, the Commission finds that the contentions do not make any allegation concerning consistency of the project approved by the County with the LCP.

b. Contention 6: Traffic

In Contention 6 the appellant alleges there are an increased number of vehicles using the property then when the previous owner owned the site, and contends the project as approved by the County thus "has had an adverse impact on traffic and land use..." This contention does not allege the project's inconsistency with policies and standards of the certified LCP. Therefore, the Commission finds that the contention is not a valid grounds for appeal. Furthermore, the Commission finds that as noted by the County "Higgins Canyon Road is a public road for use by anyone traveling in a vehicle determined by the California Highway Patrol to be a legal load. The Giovannonis and all other residents contribute road mitigation fees to the County at the time of construction for maintenance of the roadway. Road users also pay gas taxes for this purpose."

c. Contention 7: General Effects on the Environment

In Contention 7, the appellant makes a series of general statements about the project's effects on the environment. However, these statements do not allege the project's inconsistency with any particular policy or standard of the certified LCP. Therefore, the Commission finds that the contention is not a valid grounds for appeal.

d. Contention 9: Stormwater Permit

In Contention 7, the appellant contends "HMBSP is in non-compliance with industrial activities Stormwater General Permit Order 97-03."

This contention does not allege the project's inconsistency with policies and standards of the certified LCP. Therefore, the Commission finds that the contention is not a valid grounds for appeal.

The Commission notes, furthermore, that the County determined that while this project would not be subject to Stormwater General Permit Order 97-03 in any case, as approved, it has been designed to control stormwater runoff, finding:

"The General Construction Activity Stormwater Permit is required for all stormwater discharges associated with a construction activity where clearing, grading and excavation results in a land disturbance of five or more acres. The work at 1780 Higgins Canyon Road involves construction activity in an area less than one acre in size and is exempt from this State requirement. However, because stormwater runoff control is necessary on this property, the Planning Division has conditioned the applicants to install stormwater and erosion control measures during demolition of the existing residence and construction of the new home as well as the placement of a permanent grass swale in compliance with State Best Management Practices to prevent stormwater runoff associated with the paved storage yard from entering Arroyo Leon Creek."

2. Appellants Contentions That Are Valid Grounds for Appeal

The contentions discussed below present potentially valid grounds for appeal in that they allege the project's inconsistency with policies and standards of the certified LCP. These contentions allege that the approval of the project by the County raises issues related to LCP provisions on permitted uses and the protection of sensitive habitats

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question. (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County raises no substantial issue with regard to the appellants' contentions regarding permitted uses, development standards on agricultural land, and the protection of sensitive habitats.

a. Contention 1: Unpermitted Development

The appellants contend Half Moon Bay Sealing & Paving (HMBSP) unlawfully developed agricultural land on their property for a sealing and paving commercial equipment storage facility and business and operated this use since 1992. Development without a Coastal Development Permit (CDP) is inconsistent with LCP Section 6328.4 et. seq.. However, this issue was resolved after the County issued a notice of code violation in February 1998, and the applicants shortly thereafter submitted applications for a CDP and other required permits to correct this violation.

The Commission therefore finds that the appeal of the project as approved by the County does not raise a substantial issue with regard to conformance of the approved project with the requirements of the LCP for obtaining a Coastal Development Permit (CDP), consistent with Section 6328.4 et. seq. of the Zoning Code.

b. Contention 2: Use is Not Ancillary to Agriculture

The appellant contends that a paving and sealing business and the "storage" of paving equipment is neither an agricultural activity or ancillary to agriculture, that over 60,000 square feet of prime agricultural soils have been covered by the project, and that "no other paving contractors in San Mateo County have been allowed to develop commercial equipment storage yards on PAD zoned parcels or sensitive habitats." (Similar allegations are included in Contention 3, item b.)

Discussion

The project was approved by the County as a "use ancillary to agriculture." San Mateo County LUP policy 5.5.b lists "uses ancillary to agriculture" as a conditionally permitted use on prime agricultural lands. Policy 5.6.b does the same on other lands suitable for agriculture. The LUP does not specifically define "uses ancillary to agriculture," but the implementing ordinance for the agricultural policies, the Planned Agricultural District (PAD) does, in Section 6351.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.** (emphasis added)

Based on the last phrase of this definition, the County has approved the existing Half Moon Bay Paving and Sealing operation as one of the "similar uses determined to be appropriate by the Planning Director." The County made the determination that Half Moon Bay Sealing and Paving is an agriculturally-related business in part because it found that approximately 40% of the services provided by the operation are related to agriculture, including grading and paving of parking lots and secondary roads, dirt removal and grading for installation of greenhouses, delivery of water, dirt, sand, mulch and gravel, and installation of storm drains and water lines necessary for crop production. The County further found that by providing these services, the business supports and fosters existing and potential agricultural operations in the County.

Consistent with the above-referenced provision, the County found the applicant's grading equipment and rental supplies were "similar uses" and determined them to "be appropriate" in this location. The Commission therefore finds that the appeal of the project as approved by the County does not raise a substantial issue with regard to conformance of the approved project with the determination of uses ancillary to agriculture as provided in Section 6351.E of the LCP's Zoning Code.

Additionally, the Commission notes that in contesting the County's determination that the subject use is ancillary to agriculture, the appellant states: "[i]t is not the dollar amount of business ...that is the criterion; rather, it is the compatibility of use that is critical." In this regard, the project as approved by the County has been designed to foster and be compatible with agriculture as required by the substantive criteria for issuance of a Planned Agricultural Permit under Section 6355 of the LCP.

The project as approved includes an Agricultural Land Management Plan consistent with LCP Section 6361.C describing how the project will be compatible with, foster, and preserve agricultural productivity of the land. The Plan provides in part:

- The developed portion of the property, which includes the existing structures on site, the asphalt storage yard, and the proposed residence, is clustered in an area approximately one acre in size on the northeastern side of the parcel.
- This area of clustered development is adjacent to 4.5 acres of active farmland. The existing buffer area between the edge of the asphalt-covered storage yard and the cultivated fields is an area approximately 10 feet in width with a row of recently planted pine trees. The project is conditioned in this report to remove approximately 5,025 sq. ft of the asphalt in this area in order to reduce coverage of prime soils and provide an increased buffer between the two uses on the property.
- As approved, the project's residential development and use ancillary to agriculture do not encroach on any sensitive habitats.
- The approved new residence, a modular home, would be placed in the same location as the existing residence that has occupied this location for several generations. There is no land on this parcel which is considered agriculturally unsuitable. The proposed house site is the most feasible on the parcel since it will replace an existing residence and development elsewhere on the parcel is restricted by slope, prime soils and the buffer along Arroyo Leon Creek. Because the new home is larger than the existing residence, placing the new home in this location would result in the conversion of approximately 768 sq. ft. of additional prime soil. To offset the additional coverage of prime agricultural land associated with the construction of the new home, the project has been conditioned for removal of 5,025 sq. ft. of asphalt currently covering prime soils.

The appellant also states "there is evidence that HMBSP has developed and covered over 60,000 square feet prime agricultural soils and has not preserved and fostered existing and potential agricultural operations." However, the appellant provides no specific evidence for this contention. On the contrary, the County required the applicant to have a parcel survey completed (Exhibits 3, 4). The County found that according to that survey

"The total existing area of converted prime agricultural land is 15,500 sq. ft., 10% of the total designated prime agricultural land on the property, and approximately 24,500 sq. ft. of lands suitable for agriculture. Given that use of the parcel is restricted by natural conditions, and the prime soil converted by development is located in a narrow band adjacent to Arroyo Leon Creek, the location of development on site is an area where it places the least impact on prime agricultural land. The larger portion of usable land on the property containing prime agricultural soils is reserved for agricultural production. Proposed conversion of an additional 768 sq. ft. of prime soil for the construction of the new home will be offset by a condition requiring the restoration of 5,025 sq. ft. of prime soils, resulting in total conversion of 11,243 sq. ft. of prime agricultural land.

As noted by the County, and in the letter from the applicants' agent (Exhibit 7), the applicants reintroduced active agriculture to the site in 1993, and currently cultivate 4.5 acres. The applicants claim the supplemental income from the ancillary use as approved is critical to the economic viability of their overall agricultural operation.

Finally, the appellant contends "no other paving contractors in San Mateo County have been allowed to develop commercial equipment storage yards on PAD zoned parcels or sensitive habitats." However, in appeal A-3-SMC-91-66, James and Katherine Rice permitted the following: parking area, entrance road, farm equipment storage, and other paving or baserock coverage of (prime) native soils, limited to not more than 50% of the total area of prime soils on the site (3.9 acres).

The record of the County's action on the project described in this section provides strong support for the County's decision that the development as approved conforms to the specific requirements of the LCP's agriculture policies and Planned Agricultural District provisions. . Therefore, the Commission finds that the project as approved does not raise a substantial issue with regard to provisions of the LCP for agricultural land contained in LUP Policies 5.1- 5.33 and Section 6350 et. seq. of the Zoning Code.

c. Contention 3: The Site is Located in a Sensitive Habitat Area, and Related Issues

The appellant contends "APN# 066-100-100 is located in a... sensitive habitat area," as defined in LCP policy 7.1. He alleges the project is inconsistent with LCP policy 7.3, which prohibits any land use or development which would have significant adverse impact on sensitive habitat areas and requires development in areas adjacent to sensitive habitats be sited and designed to prevent impacts that could significantly degrade the sensitive habitats, and be compatible with the maintenance of biologic productivity of the habitats.

Discussion

Local Coastal Program Policy 7.1 (*Definition of Sensitive Habitats*) defines sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable as well as all perennial and intermittent streams and their tributaries. Local Coastal Program Policy 7.3 (*Protection of Sensitive Habitats*) requires that development in areas adjacent to sensitive habitats be sited and designed to prevent impacts that could significantly degrade the sensitive habitats.

As a requirement of the County's coastal development permit review process, the applicants were required to conduct a survey of their property and provide a scaled site plan that identified the size of the structures, the extent of the paving on the property (please see Exhibits 3, 4) and the location of natural factors on the property including such factors as creeks, streets alkes or ponds. County staff visited the site to confirm the information about the property and the

surrounding area. The only identified sensitive habitat area is the riparian zone along Arroyo Leon. The County's review of the project was based upon this surveyed information rather than the estimates included in the initial application, providing the County the necessary factual basis to determine that the project is consistent with the certified LCP.

Arroyo Leon Creek, identified on U.S. Geological Survey maps and the San Mateo County Local Coastal Program Sensitive Habitats Map as a perennial stream, is a steelhead trout passage, spawning and rearing habitat. The creek borders the project site on the northern and eastern sides. The developed portion of the parcel is located adjacent to Arroyo Leon Creek and consists of a residence, a paved storage yard and existing structures for the purposes of supporting agricultural production and the paving and sealing business. As approved by the County, the project includes the construction of a grass swale or an alternative stormwater runoff control system designed to prevent stormwater runoff and transport of sediment into Arroyo Leon Creek.

Local Coastal Program Policy 7.7 (*Definition of Riparian Corridors*) defines riparian corridors by the "limits of riparian vegetation" (i.e., a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of freshwater). According to the County record, studies conducted by the San Mateo County Resource Conservation District in this area have determined that the edge of the Arroyo Leon riparian corridor is formed by the top of the streambank and lies between 60 and 75 feet from the developed portion of this parcel. For perennial streams such as the Arroyo Leon, Local Coastal Program Policy 7.11 (*Establishment of Buffer Zones*) requires buffer zones 50 feet outward from the "limits of riparian vegetation." As approved by the County, existing and proposed development on the property is located between 60 and 75 feet from the edge of the riparian corridor, consistent with the Local Coastal Program buffer requirement.

Therefore, the Commission finds that the project as approved does not raise a substantial issue with regard to provisions of the LCP for sensitive habitats contained in LUP Policies 7.1 through 7.54.

d. Contention 4: Degradation of Aesthetic Quality:

The appellant contends "this project has degraded the aesthetic quality of the area. Higgins Canyon Road is San Mateo County Scenic Road."

Discussion

Local Coastal Program Policy 8.5 (*Location of Development*) requires that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) consistent with all other LCP requirements, best preserves the visual and open space

qualities of the parcel overall. As approved by the County, the proposed new home would be located in the same location as the existing residence on the property. The County found this site is almost entirely screened from Higgins Canyon Road by vegetation adjacent to Arroyo Leon Creek, although the site is partially visible from the entrance to the property. The County further found that the approved site would least likely impact views from the scenic corridor, and has conditioned the construction of the home to require landscaping to screen the structure from the scenic corridor. An alternative site for the proposed residence against the hill in an area without vegetation would be more visible from the roadway. The proposed location of the new home is also within the cluster of existing development on site. Five of the existing structures related to the operation of the use ancillary to agriculture date back to the early 1900's. The location of the workshop was approved under a separate permit in 1994. Two utility sheds related to the existing business on site have been constructed against the hill within the clustered area of development.

As almost the entire site is screened from view from Higgins Canyon Road, the extent of the visual resource affected by the decision is insignificant. The Commission therefore finds that the appeal does not raise a substantial issue with regard to conformance of the project as approved by the County with the requirements of the LCP for protection of visual resources.

d. Contention 8: Alternative Sites

The appellant contends "Half Moon Bay Sealing & Paving has NOT demonstrated that NO feasible "alternative" sites exist in the RM, RM/CZ, TPZ, OR TPZ/CZ zones for their "STORAGE" facility."

Discussion

The appellant appears to be referring to the requirements of Section 6353(b), Subsection (15)(h) of the Planned Agricultural District Regulations that require "scientific/technical research and test facilities" to "demonstrate that no feasible sites exists in the RM, RM/CZ, TPZ, OR TPZ/CZ zones for the proposed facility."

The approved project was not approved in this class of use. It was approved by the County as a "use ancillary to agriculture." LCP Sections 6353.A.6 and 6353.B.13 state:

SECTION 6353. USES PERMITTED SUBJECT TO THE ISSUANCE OF A
PLANNED AGRICULTURAL PERMIT.

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...

A. On Prime Agricultural Lands...

6. Uses ancillary to agriculture...

B. On Lands Suitable for Agriculture and Other Lands...

13. Uses ancillary to agriculture.

As provided in these sections, uses ancillary to agriculture are allowed on prime agricultural lands and lands suitable for agriculture with the issuance of a PAD permit and do not require alternative site searches.

The Commission therefore finds that the appeal does not raise a substantial issue with regard to conformance of the approved project with the requirements of the LCP for uses within the Planned Agricultural District, consistent with Section 6350 et. seq. of the Zoning Code.

3. Conclusion

The Commission finds that, for the reasons stated above, the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP

EXHIBITS:

1. Regional Location Map
2. Site Location and Parcel Map
3. Site Plan as Approved by County CDP
4. Agricultural Soils
5. Notice of Final Action and Findings and Conditions of Approval
6. Appeal of Oscar Braun, April 15, 1999
7. Applicant's Response to Contentions

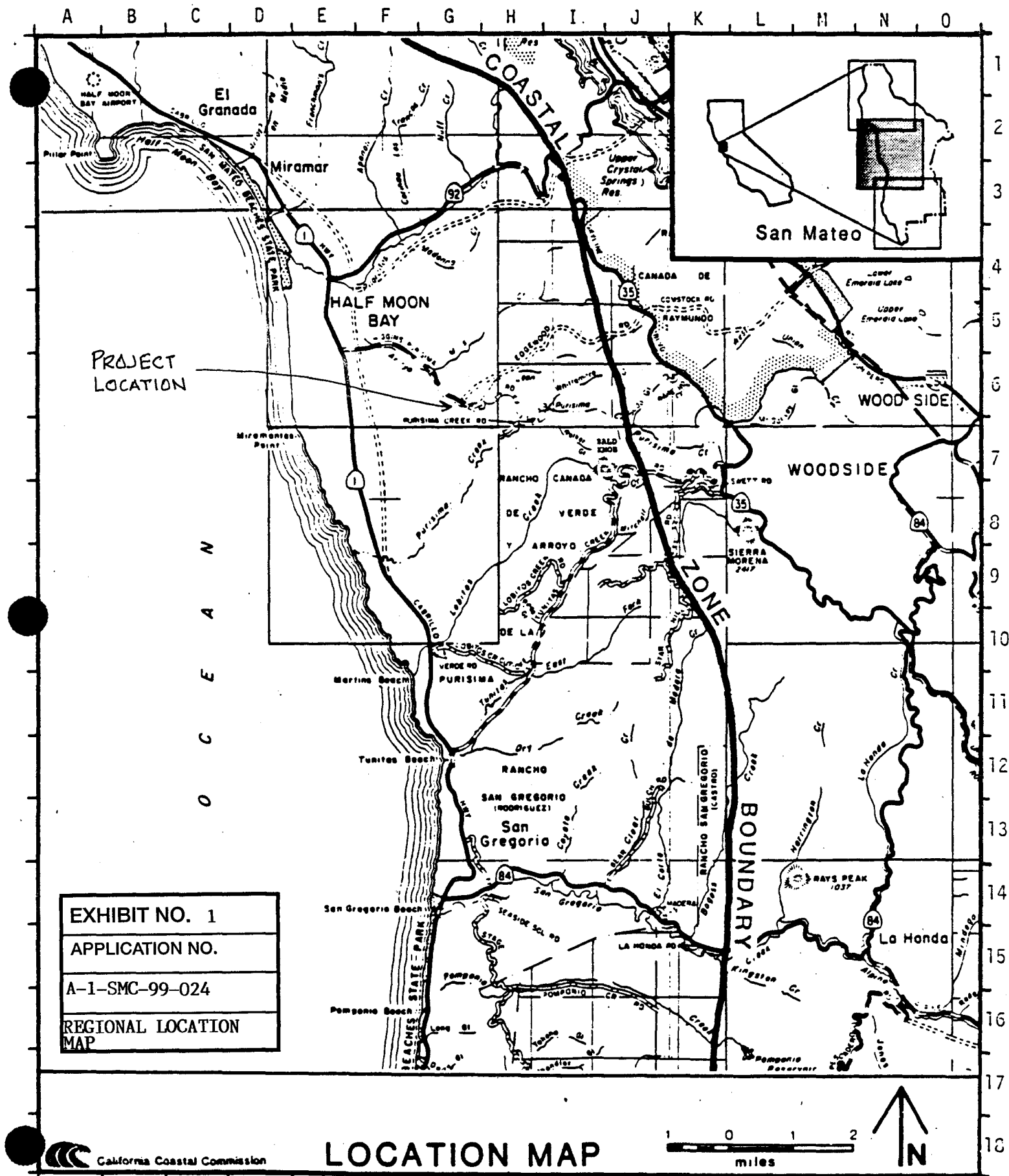


EXHIBIT NO. 1

APPLICATION NO.

A-1-SMC-99-024

REGIONAL LOCATION
MAP

LOCATION MAP

0 1 2
miles



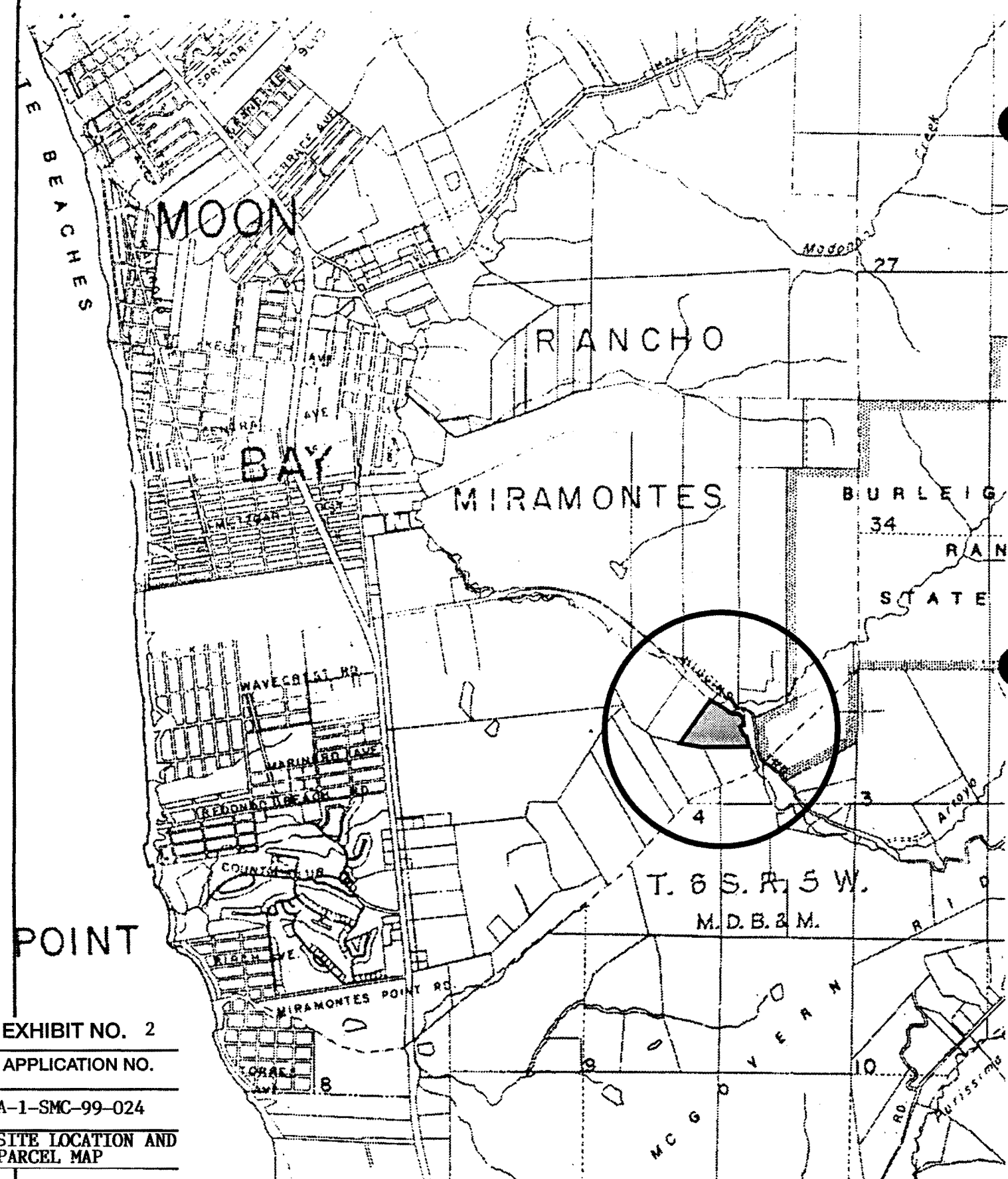


EXHIBIT NO. 2
APPLICATION NO.
A-1-SMC-99-024
SITE LOCATION AND
PARCEL MAP

San Mateo County Board of Supervisors Meeting

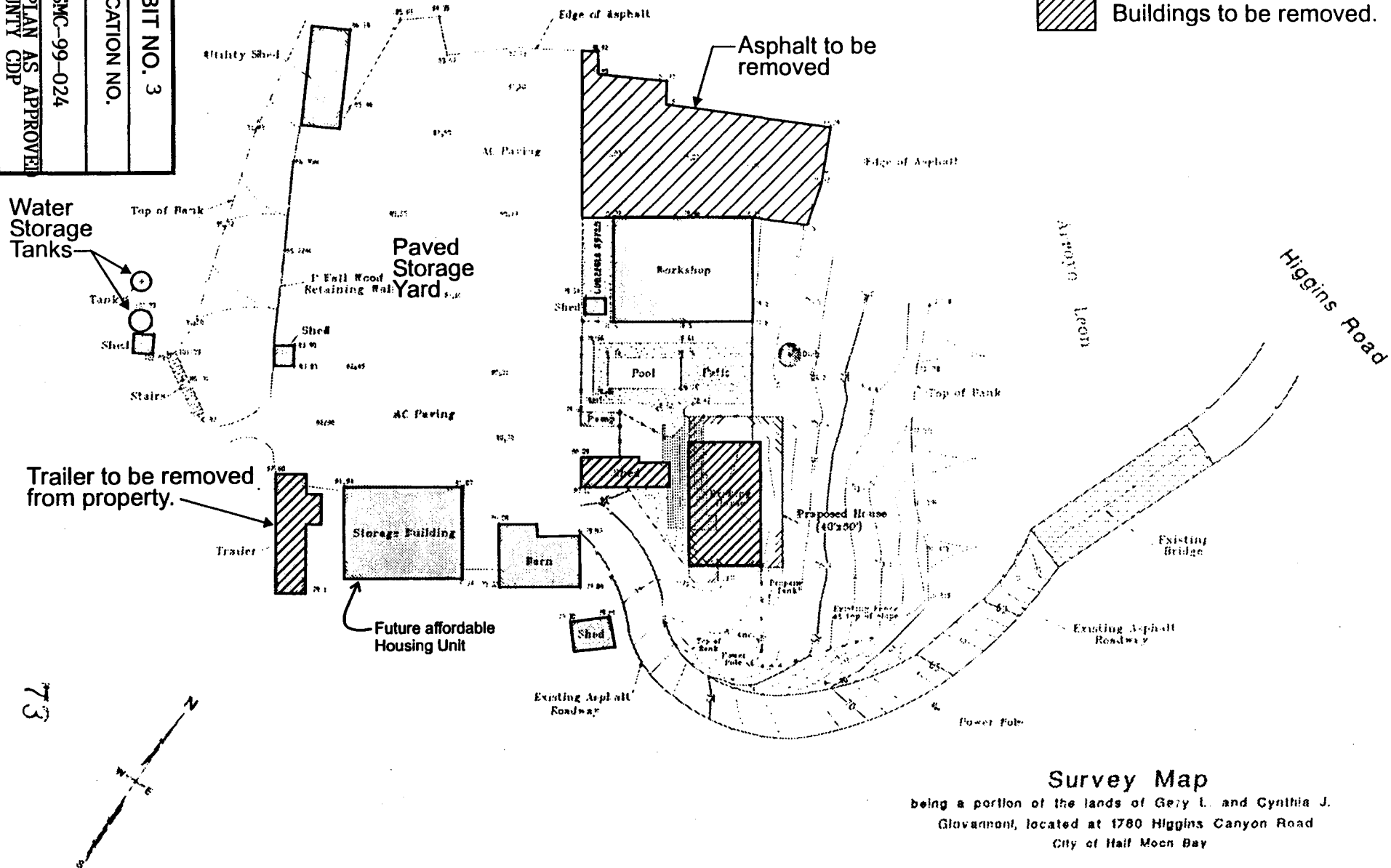
Applicant: Giovannoni
Attachment: C
File Numbers: PAD 98-0006, CDP 98-0030



EXHIBIT NO. 3
 APPLICATION NO.
 A-1-SMC-99-024
 SITE PLAN AS APPROVED
 BY COUNTY CDP

Area Under Cultivation (1.5 Acres)

 Buildings to be removed.



Survey Map

being a portion of the lands of Gery L. and Cynthia J. Giovannoni, located at 1780 Higgins Canyon Road City of Half Moon Bay

San Mateo County

California

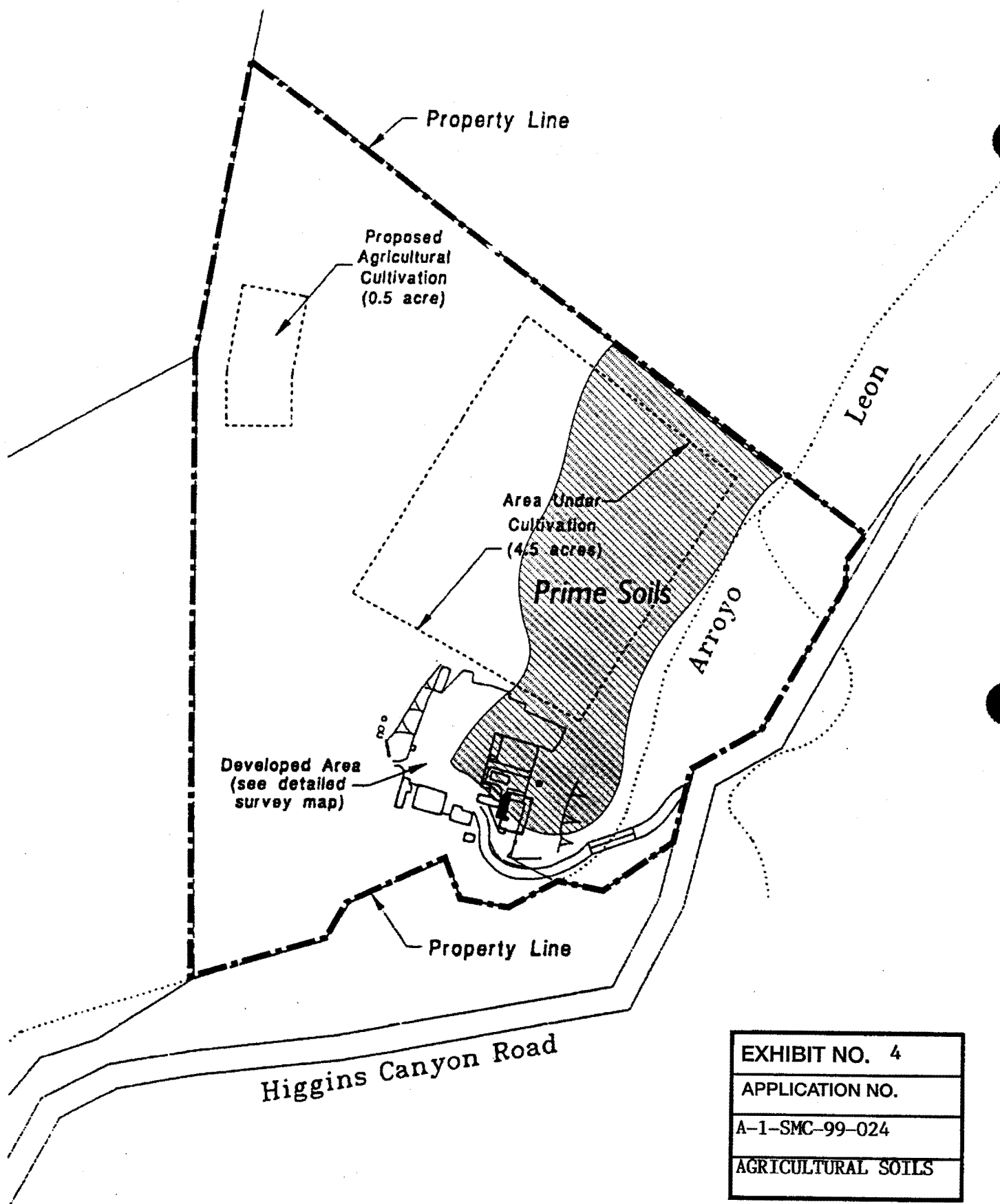
San Mateo County Board of Supervisors Meeting

Applicant: Giovannoni

Attachment: E

File Numbers: PAD 98-0006, CDP 98-0030





San Mateo County Board of Supervisors Meeting

Applicant: Giovannoni

Attachment:

D

File Numbers: PAD 98-0006, CDP 98-0030

72



San Mateo 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

03/30/1999

1-SMC-98-122

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

CERTIFIED MAIL

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

APR 01 1999

CALIFORNIA
COASTAL COMMISSION

Attn: Jack Liebster

File No. : PLN1999-00083

CDP 98-0030

Applicant/Owner Name: CINDY GIOVANNONI /

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on 03/30/1999. The County appeal period ended on 03/30/1999. Local review is now complete.

☒ This permit 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 LAURA THOMPSON at (650) 363-4161.

Laura Thompson
LAURA THOMPSON
Project Planner

EXHIBIT NO. 5

APPLICATION NO.

A-1-SMC-99-024

NOTICE OF FINAL ACTION &
FINDINGS & CONDITIONS OF

APPROVAL.
(Page 1 of 8)

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

Please Reply To: Laura Thompson, 650/363-1828

March 31, 1999

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

Dear Mr. Braun:

**SUBJECT: Planned Agricultural District Permit, File No. PAD 98-0006;
Coastal Development Permit, File No. CDP 98-0030
1780 Higgins Canyon Road, East of Half Moon Bay
APN 066-100-100**

RECEIVED
APR 01 1999
COUNTY OF SAN MATEO
PLANNING AND BUILDING DIVISION

On March 30, 1999, the Board of Supervisors considered an appeal of the Planning Commission's approval of a Coastal Development Permit and Planned Agricultural District Permit, pursuant to Sections 6328.4 and 6353 of the County Zoning Regulations, and certification of a Negative Declaration pursuant to the California Environmental Quality Act, to allow: (1) the replacement of an existing 1,100 sq. ft. residence and storage shed with a 2,500 sq. ft. modular home and an attached 2-car garage and storage shed, (2) conversion of an existing living unit to affordable housing, and (3) legalization of an existing business, Half Moon Bay Sealing and Paving, as a use ancillary to agriculture on a 20.23-acre parcel in the Planned Agricultural District at 1780 Higgins Canyon Road. This project is appealable to the California Coastal Commission.

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

FINDINGS

Regarding the Negative Declaration, Found:

1. 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.
2. That, on the basis of the Initial Study and comments received thereto, there is no evidence that the project, subject to the mitigation measures contained in the Negative Declaration, will have a significant effect on the environment.
3. That the Negative Declaration reflects the independent judgment of San Mateo County.

Regarding the Coastal Development Permit, Found:

4. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
5. That the project conforms to the specific findings required by the policies of the San Mateo County Local Coastal Program.
6. That the number of building permits for construction of single-family residences other than for affordable housing issued in the calendar year does not exceed the limitations of Policies 1.22 and 1.23 as stated in Section 6328.19.

Regarding the Planned Agricultural District Permit, Found:

General Findings:

7. That the encroachment of all development upon land which is suitable for agricultural use is minimized.
8. That all development permitted on site is clustered.
9. That the project conforms to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Zoning Regulations.
10. That the proposed project meets the substantive criteria for the issuance of a Planned Agricultural District Permit.

Water Supply Criteria:

11. That the existing availability of an adequate and potable on-site well water source for all non-agricultural uses is demonstrated.
12. That adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.

Criteria for the Conversion of Prime Agricultural Lands:

13. That no alternative site exists on the parcel for the use.
14. That clearly defined buffer areas are provided between agricultural and non-agricultural uses.
15. That the productivity of adjacent agricultural land will not be diminished.
16. That public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

Agriculturally Related Uses Criteria:

17. That the area of prime agricultural land converted shall be as small as possible.
18. That in all cases, the area of prime agricultural land converted shall not exceed 3 acres.

Conversion of Lands Suitable for Agriculture and Other Lands:

19. That all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable.
20. That continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.
21. That clearly defined buffer areas are developed between agricultural and non-agricultural uses.
22. That the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing.
23. That public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

CONDITIONS OF APPROVAL

Planning Division

1. This approval is for the project as described on the plans and documents received by the Planning Division on March 20, 1998, and additional materials submitted. 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. Prior to a final approval for a building permit to install the new main residence, the applicants shall remove approximately 5,025 sq. ft. of the asphalt covering prime agricultural land between the area of cultivation and the existing workshop. The asphalt shall be disposed of at an approved concrete and asphalt recycling facility, i.e., Pilarcitos Quarry. After removal, the site shall be used for the cultivation of crops or planted with native vegetation.
4. The applicants shall construct a permanent grass swale or an alternative stormwater runoff prevention system designed by a professional engineer along the northern edge of the developed area to prevent stormwater runoff and transport of sediment into Arroyo Leon Creek.
5. The applicants shall notify the adjacent neighbors prior to operation of trucks before 7:00 a.m. and after 8:00 p.m.
6. The applicants shall coordinate with the County Environmental Health Division for review and approval of the existing site or an alternative location for the septic drainfield and expansion area.
7. The applicants shall plant native evergreen shrubs and trees behind the northeast corner of the proposed residence sufficient to screen the structure from Higgins Canyon Road.
8. The applicants shall submit a landscape plan in accordance with the "Landscape Plan Guidelines - Minimum Standards" for review and approval by the Planning Director. The goal of the required landscape plan is to soften the impact of the new residence from Higgins Canyon Road and identify the location of the evergreen vegetation required in the above condition. Upon submittal of the landscape plan, the applicants shall pay a review

fee based on the fee schedule in effect at that time. The approved plan shall be installed and verified by the Planning Division before a final inspection is granted by the Building Inspection Section.

9. Prior to final approval for a building permit to install the new residence, a maintenance surety in the amount of \$500 shall be posted by the applicants with the Planning and Building Division for a period of two years. The maintenance agreement will ensure the growth and upkeep of the vegetation required for screening the new residence. The surety will be released upon inspection of the landscaping to the satisfaction of the Planning Director.
10. The applicants shall ensure that if during construction or grading, archaeological traces (human remains, concentrations of shell, bone, rock or ash) are uncovered, all excavations within a 30-foot radius shall be halted, the Planning Division shall be notified, and a qualified archaeologist shall assess the situation and propose appropriate measures.
11. Prior to issuance of the building permit, the applicants shall submit a stormwater control and erosion control plan pursuant to Section 5022 of the San Mateo County Ordinance Code, to the Planning Director for review and approval. The plan shall illustrate and describe appropriate methods chosen by the applicants from the California Stormwater Best Management Practices Handbook. The plan shall show how to minimize the transport and discharge of pollutants from the construction site into Arroyo Leon Creek by:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and May 1.
 - b. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - d. Using filtration or other measures to remove sediment from dewatering effluent.
 - e. Avoiding cleaning, fueling or maintaining vehicles on site, except in an area designated to contain and treat runoff.
 - f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.
12. All new utilities serving the property and residence shall be installed underground from the nearest source.

13. Prior to the issuance of a building permit, the applicants shall submit color and material samples of the proposed residence, for approval by the Planning Director. The colors and materials shall blend in with the surrounding soil and vegetative cover of the site. Prior to a final inspection for the building permit, the Building Inspection Section shall verify that the building has been finished with the approved colors and materials.
14. Noise levels produced by the proposed construction activity shall not exceed the 80 dbh level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and on any national holiday.
15. Prior to the issuance of a building permit and in accordance with the Local Coastal Program, the applicants shall execute an agreement and/or appropriate instrument with the County Board of Supervisors, and record a deed restriction to the satisfaction of the Planning Division, binding current and future owners to comply with income and rent controls for affordable housing units in the Coastal Zone.
16. Income verifications of the tenant shall be made available to the County upon demand.
17. Prior to final approval of a building permit, the mobilehome existing on the site shall be removed from the property.
18. Prior to the issuance of a building permit, the applicants shall pay the required investigation fee of \$380.00.

Building Inspection Section

19. A demolition permit is required for the removal of the existing residence and storage shed.
20. A building permit will be required for the construction of the new residence.

Half Moon Bay Fire Protection District

21. The applicants shall comply with all applicable requirements of the Half Moon Bay Fire Protection District.

Environmental Health Division

22. Prior to the building application stage, the applicants must update the existing septic system to meet current standards via a soil percolation test.
23. At the building application stage, the applicants shall submit a plot plan showing topography (5-foot contours) and location of the proposed house, driveway, percolation test

sites, and the proposed drainfield and expansion area, and any accessory structures at a scale of 1 inch to 40 feet or larger.

The Board of Supervisors' approval of the Coastal Development Permit for this project may be appealed to the Coastal Commission by any aggrieved party. The appeal period for this project will begin after the Coastal Commission receives County Notice of Final Local Decision.

Information on Coastal Commission appeal procedures can be obtained by contacting Jack Liebster at 415/904-5267.

Very truly yours,



TIARE PEÑA
Planning Commission Secretary

TP:LT:fc - LATJ0397.6FN

cc: Department of Public Works
Assessor, Chief Deputy
Bill Cameron, Building Inspection
Half Moon Bay Fire Protection District
Stan Low, Environmental Services
Gary and Cindy Giovannoni
California Coastal Commission
Cabrillo Unified School District
Jack Olsen
Charles Shafae, Higgins Canyon Homeowners Association
Bill Herndon
Lennie Roberts
J. R. Rodine
Kerry Burke
Rick Mello
Jodi Isenberg
Sylvia Prewett
Mike Napolitano
B. J. Burns
Steve Karlin

CALIFORNIA COASTAL COMMISSION

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



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 - EXECUTIVE DIRECTOR - SAVE OUR BAY
1589 HIGGINS CANYON ROAD
HALE MOON BAY, CA 94019 (650) 726-3307
 Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: SAN MATEO COUNTY BOARD OF SUPERVISORS

2. Brief description of development being
 appealed: COMMERCIAL PAVING & SEALING STORAGE YARD & PARKING
FACILITY - APPROXIMATELY COVERING OVER 60,000
SQUARE FEET OF SOIL ON A PAD ZONED PARCEL ADJOINING SENSITIVE HABITAT.

3. Development's location (street address, assessor's parcel
 no., cross street, etc.): 1780 HIGGINS CANYON ROAD, EAST OF HALE
MOON BAY 1.5 MILES. APN 066-100-100 ON BANKS OF ARROYO LOMA.

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: PURSUANT TO SECTION 6328.11 (F)
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-SMC-99-024

DATE FILED: 4/15/99

DISTRICT: North Coast

H5: 4/88

RECEIVED
 APR 15 1999

CALIFORNIA
 COASTAL COMMISSION

EXHIBIT NO. 6

APPLICATION NO.
 (Page 1 of 8)

A-1-SMC-99-024

APPEAL OF OSCAR BRAUN
 APRIL 15, 1999

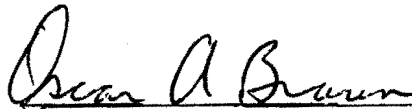
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

This project is inconsistent with LCP policies: SENSITIVE HABITAT COMPONENT 7.1, 7.2, 7.3, 7.4, 7.5 RIPARIAN CORRIDORS 7.7, 7.8, 7.9, 7.10, 7.13, RARE & ENDANGERED SPECIES 7.32, 7.33 7.34, 7.35, 7.36 - AGRICULTURE COMPONENT 5.3, 5.4, 5.5 5.6, 5.8, 5.10, 5.11 PAD SECTION 6350, 6351, USES PERMITTED 6352, 6353, SECTION 6355, 6356 - STORAGE/PARKING YARDS FOR COMMERCIAL PAVING & SEALING IS NOT A "USE" ANCILLARY TO AGRICULTURE.

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date 4-12-99

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 _____

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

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

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

6. Date of local government's decision: MARCH 30, 1999

7. Local government's file number (if any): PLN 999-00083

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:

GARY & CINDY GIOVANNONI
1780 HIGGINS CANYON ROAD
HALF MOON BAY, CA 94019

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) PLEASE find enclosed LETTER from THE HIGGINS
CANYON HOMEOWNER ASSOCIATION with 17 signatures.

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

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

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



Certified Mail

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

Attention: Jack Liebster,

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

Application No. 1-SMC-98-122

Application/Owner: Gary & Cindy Giovannoni

Local Permit #: CDP 98-0030/ PAD 98-0006, PLN 1999-00083

Location: 1780 Higgins Canyon Road, Half Moon Bay (San Mateo County) APN: 066-100-100

BACKGROUND:

HALF MOON BAY SEALING & PAVING (HMBSP) HAS UNLAWFULLY OPERATED THEIR PAVING BUSINESS AND COMMERCIAL EQUIPMENT STORAGE FACILITY FROM 1780 HIGGINS CANYON ROAD SINCE 1992.

Without any permits or environmental review, HMBSP have "developed" this agricultural land as a sealing and paving commercial equipment storage facility and business. See, California Coastal Act 30106 definition of development. In a memorandum dated October 19, 1998, the County Planner reported that HMBSP was operating from a 40,000 sq. ft. paved storage area with thirty-one (31) pieces of paving equipment and twelve (12) additional tenant and employee vehicles. By this application HMBSP is attempting to legitimize development of the site which it knows, and has known for seven (7) years, to be unlawful and not in accordance with the LCP Section 6353 PAD prescribed uses. The catalyst for this permit application was the threat of enforcement by the County. The prior unlawful use is not a factor favoring approval of this belated application.

February 23, 1998: County of San Mateo Planning and Building Division Notice of Code Violation File No. V 98-23; APN 066-100-100 issued to the Giovannoni's stated: "This Department inspected your property on February 9, 1998, and has determined that you are in violation of Section 6350. Specifically, conducting a non-agricultural business (Half Moon Bay Paving) from a PAD zoned property."

March 2, 1998 : William R. Rozar, Development Review Manager, wrote "I am writing you in response to your fax of February 12, 1998, in which you list several concerns regarding the above address. It is our understanding that your complaints consist of the

following activities occurring on the property: (1) the property is zoned Plan Agricultural District (PAD) is being used as a commercial equipment yard, and (2) the owners of the property do not live on the property. You have inquired whether the owners have ever applied for permits to legalize the operation.

"In response to your complaint, File No. VIO 98-0023, the Code Compliance Section conducted a site inspection of the property. Below, I have addressed the relevant findings of the inspection in regard to each of your concerns."

"A site inspection was conducted by Gary Warren, Code Compliance Officer II, on February 9, 1998. The inspection found that: (1) the property is being used to store commercial equipment for Half Moon Bay Sealing & Paving, (2) that part of the property is being farmed, and (3) a residence is located on the property."

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.**

A PAVING & SEALING BUSINESS AND THE "STORAGE" OF PAVING EQUIPMENT IS NEITHER AN AGRICULTURAL ACTIVITY OR ANCILLARY TO AGRICULTURE.

This 20.23 acre site is located in the County Scenic Corridor. [Negative Declaration 7(a)]; This agricultural land is on a parcel zoned for one (1) single family farm residence. The rationale for stating that "Storing" paving and sealing equipment is ancillary to agriculture is that applicant contends that forty percent (40%) of its business revenues is with farmers....See client list and please note that applicant identifies "Skylawn Memorial Park" cemetery as a agricultural client. [Negative Declaration 6(b)]. This justification is specious. It is not the dollar amount of business with farmers or a cemetery that is the criterion; rather, it is the **compatibility of use** that is critical. There is evidence that HMBSP has developed and covered over 60,000 square feet prime agricultural soils and has not preserved and fostered existing and potential agricultural operations

LCP 6350-F. 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. **Note:** Commercial paving and sealing equipment or it's storage and parking facilities are not defined as a use ancillary to agriculture. See attached list of Paving & Sealing Equipment stored at 1780 Higgins Canyon Road. Not one single unit of farm equipment. Also note attached the Environmental Information &

Hazardous Waste Site Disclosure Form. The applicant describes it as a "asphalt storage yard" for non-agricultural commercial paving equipment. Neither San Mateo County Public Works or Cal Trans have equipment storage facilities adjoining a sensitive habitat or stream or on PAD zoned parcels. No other Paving Contractors in San Mateo County have been allowed to develop commercial equipment storage yards on PAD zoned parcels or sensitive habitats.

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

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.

In 1992 California Department of Fish and Game filed a public trust protest regarding the down stream 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.

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."

October 13, 1997: Thomas Reid Associates conducted a preliminary biological assessment of Yoshi Kawa Properties(Gusti family farm next door neighbor of HMBS&P) for sensitive animal species and other sensitive biological resources. The report recommended a "project avoidance strategy".

1. The applicants have knowingly provided false and misleading information regarding parcel 066-100-100 within their application and into the public record. See Environmental Information & Hazardous Waste Site Disclosure form. Applicant

denies that the parcel on which it is located or the immediate vicinity involve or include "creeks, streams, lakes or ponds".

2. 9.27 Definition of Agricultural Activities: The "STORAGE" of road construction, paving and sealing equipment is not a listed "activity" ancillary to agriculture and does not "preserve and foster existing and potential agriculture" in a PAD area.
3. This project has adversely affected water, air quality and increased noise levels substantially. According to the Pilarcitos Restoration Plan prepared for the Regional Water Quality Control Board and the Department of Fish and Game page 110, 7.1 "Modify fish barrier downstream of culvert under private culvert on Arroyo Leon. A private culvert crossing that failed during the winter of 1995 offers the opportunity to modify the existing fish migration barrier at the culvert outfall below the bridge. A boulder step-pool sequence or fish ladder could be built" The private bridge collapsed in 1995 from the weight of over sized paving and sealing equipment and trucks belonging to Half Moon Bay Sealing & Paving who have been operating without benefit of CDP or use permits since 1992 on 1780 Higgins Canyon Road. Their destruction of the bridge culvert has adversely affected the in stream and has block the steelhead from getting up stream since the winter of 1995.
4. This project has had an adverse affect on the flora and fauna of the area with illegal fill placed into the riparian corridor.
5. This project has degraded the aesthetic quality of the area. Higgins Canyon Road is San Mateo County Scenic Road.
6. This project has had an adverse impact on traffic and land use. Prior to 1992 the single family farm at 1780 Higgins Canyon Road had a total of 3 vehicles. Since 1992, applicant's paving business and three residential tenants total over 42 vehicles.
7. In addition, the project has and will :
 - a. Create impacts which have the potential to degrade the quality of the environment.
 - b. Create impacts which achieve the disadvantage of long-term environmental goals.
 - c. Create impacts for a project which are individually limited, but cumulatively alot.
 - d. Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

NOTE: Half Moon Bay Sealing & Paving has NOT demonstrated that NO feasible "alternative" sites exist in the RM, RM/CZ, TPZ, OR TPZ/CZ zones for their "STORAGE" facility.

HMBSP IS IN NON-COMPLIANCE WITH INDUSTRIAL ACTIVITIES STORMWATER GENERAL PERMIT ORDER 97-03

HMBSP is required to submit a Notice of Intent to be covered by the State Water Resources Control Board stormwater program, Order 97-03. As part of this program, HMBSP is required to prepare a Stormwater Pollution Plan to minimize the downhill runoff of diesel, hydraulic fluids, gasoline, radiator coolants, asphalt tars, sealing materials and oils in the Arroyo Leon. The Arroyo Leon has been identified as a Steelhead trout passage, spawning and rearing habitat. Negative Declaration 2(c) Steelhead trout is a threaten species. This Clean Water Act requirement to utilize Best

Management Practices at the site cannot be circumvented by the County requiring a lesser form of stormwater control as a condition of the permit.

CONCLUSION: On behalf of the Higgins Canyon Homeowners Association and Save Our Bay, we ask that the California Coastal Commission "DENY" all of the applicants requests for permits and that parcel 066-100-100 be restored to it's original condition as it was at the time of purchase in 1992 by Gary & Cindy Giovannoni for their Half Moon Bay Sealing and Paving construction business. We further request that the County of San Mateo require the owners of HMBSP to relocate their business and remove "all" construction, sealing and paving equipment and all the asphalt paved storage area from the PAD zoned parcel.

Thank You For Your Consideration,



Oscar Braun

Executive Director, Save Our Bay

Secretary, Higgins Canyon Homeowner Association

Enclosures:

1. Letter To Terry L. Burn from Homeowners Association
2. San Mateo Time, Businesses threaten canyon life.
3. San Mateo County Yellow Pages
4. Half Moon Bay Sealing & Paving Invoice showing business address
5. Letter to Edward Ueber, GFNMS ...Water Quality Protection Program update.
6. Equipment List owned by Half Moon Bay Sealing and Paving
7. Half Moon Bay Sealing & Paving Sales by Customer Summary
8. Environmental Information & Hazardous Waste Site Disclosure Form
9. Locator Site map 1780 Higgins Canyon Road/Arroyo Leon sensitive habitat.

Land Use Permit Streamlining
Development Team Management

June 17, 1999

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

VIA FACSIMILE AND REGULAR MAIL:

**RE: Commission Appeal - A-1-SMC-99-024, Gary & Cindy Giovannoni
CDP # 98-0030/PAD 98-0006, PLN 1999-00083**

Dear Mr. Liebster:

This letter and attachments are intended to assist you in addressing issues raised by the appellant, Oscar Braun in connection with the above referenced local permits. Lennie Roberts representing the Committee for Green Foothills, and Farm Bureau Executive Director Jack Olsen, and I have held numerous consultations to craft a team response to the appeal and may submit materials in support of the Giovannoni's under separate cover for the sake of time.

You have acknowledged receipt of the local government record, and additional file materials requested in our field consultation with San Mateo County project planner Laura Thompson. Therefore, I will reference relevant points and items contained therein without attaching such documents.

We believe the Braun appeal to the Coastal Commission is entirely without substance or merit. Braun cites a number of LCP policies, and the PAD Zoning Ordinance that is incorporated to implement policy. Braun either incorrectly interprets policy, or simply fails to address his citations. Further, he has reiterated numerous claims not supported by any evidence. The county staff carefully weighed and analyzed Braun's representations in its reports, and in oral testimony to both the planning Commission and the Board of Supervisors. After careful consideration of facts and evidence the commission and the board both unanimously approved the Giovannoni's applications. The county's thorough consideration and action supports my earlier point that Braun's position lacks substance and merit.

The Braun appeal to the Coastal Commission does not appear to differ or offer any new evidence not previously considered by the county. The county's staff's report to the board dated March 16, 1999 incorporated herein by reference fully and adequately addresses Braun's Coastal Commission appeal points in the seven responses contained in the executive summary, its accompanying analysis, and recommended findings of fact.

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JUN 21 1999

CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 7
APPLICATION NO. A-1-SMC-99-024
Applicants Response to Contentions
(Page 1 of 8)

In actual fact, and in the Giovannoni's favor, it has come to my attention through both Ms. Roberts and Mr. Olsen that the Coastal Commission has a precedent to rely upon by its previous approval of Jim Rice's soil farm and trucking operation in the PAD Zone District.

(1) The governing "Agricultural Component" of Local Coastal Program (LCP) was adopted and certified by both the County of San Mateo, and the California Coastal Commission. This component contains definitions and policies. (2) To implement the LCP policies the Coastal Commission also adopted by incorporation the County's Planned Agricultural District (PAD) zoning ordinance. Both regulatory documents (LCP and PAD Ordinance) conditionally permit "uses ancillary to agriculture" on prime agricultural lands, and lands suitable for agriculture. (3) PAD Section 6351 (E) - Uses Ancillary to Agriculture, identifies "Agricultural equipment supplies, agricultural rental supplies, top soil stockpiling, and other similar uses determined to be appropriate by the Planning Director" as those that may be approved by the "Planned Agricultural Permit" process.

To prove that the Giovannoni's business is ancillary to agriculture, they willingly furnished the county full financial records identifying client names and specific revenues derived from their service to the agricultural community. The county correctly concluded from those records that a business which derives a substantial forty percent (40%) of its verifiable income from the agricultural industry is "ancillary to agriculture".

Gary and Cindy Giovannoni purchased their 20.23 acres of land in 1992. Approximately 4.5 acres is either classified as prime land or land suitable for agriculture. The remaining soils are not regarded as suitable for agriculture because of their steepness and highly erodible nature. Please refer to county reports and the attached letter from the USDA Natural Resources Conservation Service dated May 30, 1999. Prior to Gary and Cindy's purchase, the approximate 4.5 acres of prime and suitable agricultural soils had not been used for crop production since 1977. The Farm Bureau will furnish letters from growers under separate cover which address problems encountered during previous efforts to produce cash crops on the property. However, in 1993 they reintroduced 4.5 acres to agricultural production. They have produced and sold pumpkins, Chinese chives, fava beans, garlic, and artichokes with marginal success. The farming income has been extremely modest to the extent that it would not come close to sustaining the mortgage or overhead associated with crop production. Therefore, it is essential to recognize that were it not for the income derived from the "ancillary" grading and paving business, the Giovannoni's could not pay the mortgage. Thus the ancillary income affords the only opportunity to utilize the limited portion for the site capable of sustaining crops for that purpose.

Page 12 and 13 (also numbered 91 & 92) of the county staff report in Section d. - Agriculturally Related Uses Criteria, and Section e. - Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands, correctly evaluates the specific acreage dedicated to the ancillary use and for crop production. *The total area of converted prime agricultural land on the subject property is 15,500 square feet, which is only 10% of the total of prime soils. Upon removal of a small older building, the Giovannoni's propose to convert an additional 768 square feet of prime soils for the construction of a new 2,500 sq. ft. modular home. To offset this allowable conversion, the Giovannoni's proposed and the county conditioned the restoration of 5,025 square feet of prime soils. This will result in the net conversion of a lesser 11,243 square feet (1/4 acre) of prime soils.*

All structures on the property are located on both prime and lands suitable for agriculture. With the exception of a 42' X 58' (2,436 sq. ft.) barn that Gary and Cindy constructed under a permit issued by the county in 1993, all other improvements existed prior to their ownership. The barn is used for storing and maintaining tractors for both on and off site operations. Another essential point to highlight is the recognition that the configuration of existing buildings and the proposed residence are clustered. LCP Section of 5.15 b. - Mitigation of Land Use Conflicts, requires clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses.

To create a protective buffer between agricultural operations and the ancillary use, the Giovannoni's have planted Monterey cypress and pines, as well as apple and plum trees. The May 30th letter from the NRCS supports this effort.

I hope this letter is of assistance in your analysis of the various policies and considerations. You are welcome to contact me should you need further assistance.

Very truly yours,



J. R. Rodine

cc: Lennie Roberts, Committee for Green Foothills
Jack Olsen, San Mateo County Farm Bureau
Paul Koenig, Dir. Environmental Management

USDA NATURAL RESOURCES CONSERVATION SERVICE

5161 SOQUEL DRIVE, SUITE F ♦ SOQUEL, CALIFORNIA 95073
Phone (831) 475-1967 ♦ Fax (831) 475-3215

May 30, 1999

Gary and Cindy Giovannoni
1780 Higgins Canyon Road
Half Moon Bay, California 94019-2522

RECEIVED
JUN 21 1999
CALIFORNIA
COASTAL COMMISSION

Dear Gary and Cindy:

As a follow-up to my May 20, 1999, on-site visit to the property you own at 1780 Higgins Canyon Road near Half Moon Bay, I am happy to provide you with the following report. Note: Jack Olsen, Executive Administrator for the San Mateo County Farm Bureau was also present during this on-site visit.

NATURE OF REQUEST

The property owners requested Natural Resources Conservation Service (NRCS) assistance to evaluate soil conditions, agricultural suitability and land use related issues on their property. They are also concerned about a paved area approximately 5000 square feet in size between a new farm building and an agricultural field that has been determined to be "prime" soil under the County Local Coastal Plan (LCP). Note: It was my understanding from talking to the property owners that the area was paved in order to provide all weather access around the new farm building and to an adjacent agricultural field. It is also to be used to park and store farm related equipment.

IMPORTANT FARMLAND INFORMATION

According to the current criteria used by the United States Department of Agriculture (USDA) to classify Important Farmland, and the 1998 California Department of Conservation (DOC) Important Farmland Inventory (that used the USDA criteria), the Giovannoni property was designated as "Other Lands" (lands which did not meet the criteria of any other category), "Grazing Lands" and "Prime Farmland". Refer to the enclosed farmland descriptions and Important Farmland Map for location and details.

not reproduced

The Important Farmland Inventory Map was never intended to be used to make important land use decisions. Although much of the area designated as Important Farmland in San Mateo County was field verified by DOC and/or local agricultural agencies including NRCS a good portion of the area was never field verified. Unverified areas were mapped according to the mapped soil information, present or historic use and from aerial photographs. You may want to contact the DOC, Farmland Mapping and Monitoring Program in Sacramento (916-324-0850) to find out if any specific field work was ever done on your property or if you just want to know more about the Farmland Inventory Program. The maps are updated every two years by DOC with local input from agricultural specialists.

Many counties use NRCS's Land Capability Classification in combination with the Storie Index Rating in determining lands that should be protected from development or other non agricultural uses. Typically, Class I and II soils are considered to be "prime" farmland soils, and/or when Storie Index Ratings are 80 and above. It is important to note that NRCS no longer uses the Storie Index Rating or the Land Capability Classification system exclusively when determining Important Farmland designations. Under the current system used by USDA to determine Important Farmland categories Class III soils can actually be considered "prime" farmland if all "prime" farmland criteria is met regardless of the Storie Index Rating (refer to enclosed prime farmland criteria for details). Similarly, Class III soil that does not meet all the "prime" criteria can be considered a soil of statewide importance if certain crops are grown and it meets statewide importance soil criteria (see enclosed list of crops and statewide criteria for details).

SOILS INFORMATION

The following soils are mapped on or in the near vicinity of the property: Botella loam (BeC2) Class III; Lobitos loam (LIE2) Class VI; Tunitas clay loam, imperfectly drained (TwB) Class II; Tunitas clay loam (TuC2) Class III; Tunitas clay loam (TuD2) Class IV; Gazos loam (GbF2) Class VII; and Mixed alluvial land (Ma), according to the San Mateo Area Soil Survey, published by the USDA Natural Resources Conservation Service (formally the Soil Conservation Service), 1961. Refer to the enclosed soil map for location and details. Note: One soil sample was taken to a depth of thirty inches in the agricultural field adjacent to the headquarter area to verify the mapped soil type.

The Botella loam is Class III soil mapped on 7-16% slopes and has a moderate erosion hazard when native vegetation is removed or when used for the cultivation of agricultural crops. When Botella soils are used for the cultivation of crops strict attention must be paid to the prevention and control of soil erosion. The area identified as Botella loam on this property was mapped as "Prime Farmland" on the Important Farmland Map prepared by DOC.

Tunitas clay loam (TwB) is Class II soil mapped on 2-5% slopes and is poorly drained. The drainage limitation often precludes farmers from growing crops because the soil remains too wet for cultivation. However, when this soil is used for growing crops, yields are usually affected by imperfect drainage. The installation of surface and subsurface drainage control systems combined with careful irrigation water management is often necessary on these soils to make them more viable for agricultural production. This area was mapped as "Other Lands" on the DOC Important Farmland Map.

Tunitas clay loam (TuC2), Class III soil is similar to TwB soils but are found on 5-11% slopes and usually have additional drainage related problems. They are also more difficult to work when used for growing cultivated crops. Where seeps and wet areas occur on these soils they are not cultivated. This area was mapped as "Other Lands" on the DOC Important Farmland Map.

Tunitas clay loam (TuD2), Class IV soil is similar to TuC2 soil only it exists on steeper 11 to 21% slopes and should not be cultivated. This soil is usually used for pasture, range or watershed and wildlife lands in other areas of the County. This area was mapped as "Other Lands" on the DOC Important Farmland Map.

A small area of Lobitos loam (LIE2) soil is mapped on the property on the steep hillside above the headquarter area. Lobitos loam (LIE2) soil has a slope range of 30 to 41% with a depth to bedrock of less than 36". The hazard of erosion is high. The optimum use of this soil is for watershed and wildlife and in some instances range. This soil has absolutely no capability to be used for cultivated crops. This area was mapped as "Other Lands" on the Important Farmland Map prepared by DOC.

Gazos loam (GbF2) is mapped on the steepest portions of the property and have very limited or no use for agriculture, however, these soils have been used to graze cattle in other areas of the County. The erosion hazard is very high, fertility is low, and runoff is rapid with somewhat excessive drainage on this mapping unit. Slope ranges are in excess of 30%. This area was mapped as "Grazing Land" or "Other Lands" on the Important Farmland Map prepared by DOC.

Mixed Alluvial land (Ma) soil exists in the riparian area along Arroyo Leon Creek on the property and should not be cultivated or used for any other form of agriculture. This area should be managed to protect soil, streambanks, riparian vegetation and to improve fishery and wildlife habitat.

NOTE: Soil Mapping done in San Mateo County was done utilizing a combination of field observations and aerial/topographic surveys. Although thousands of soil samples were taken and analyzed to determine exact soil types in the survey area, samples were not taken in every soil map delineation. Soils mapped in agricultural areas are likely to be more accurate than ones mapped in mountainous or developed areas. Areas less than about ten acres in size were mapped as the predominant soil type found in that ten acre area. The Soil Survey narrative does list other associated soils that might also be found in the mapping area and it is also possible that other unlisted soils may be present as well. It is also important to keep in mind that slope ranges for each soil mapping unit do not consider nearly level areas two or three acres in size. In addition, soil boundary lines on the small scale soil maps can be as much as 50 ft wide in the field and therefore, should be considered a zone rather than a line on the land.

EVALUATION

Although the soil type (Botella loam-BeC2) found along side the farm headquarter area and building closest to agricultural fields was mapped as Prime Farmland by DOC and considered "prime" soils as defined by the Local Coastal Plan (LCP), the practicality of farming soils right up against farm buildings, residences and heavy use areas is generally not advisable. In addition, consider the following:

1. There should be an all season road way around the side of the building for fire truck access.
2. An access road should also be provided for farm equipment access to agricultural fields.
3. It is desirable to designate an additional 20 feet or more on field edges for vegetative screens, shelter belts and or buffers of open space, especially in the interface between cropland and buildings, public roads, heavy use areas, homes, etc., for wildlife, beneficial insects, erosion and sediment control, beautification and human health reasons.
4. The small amount of land taken out of production had drainage problems associated with clayey soils and surface runoff conditions. Crops that had been tried in this area in the past did very poorly, according to the landowner.
5. The area that was paved is contiguous with adjacent paved areas in the farm headquarters and provides additional area needed for farm operations and expansion without encroaching riparian areas or cutting into steep, potentially unstable slopes.
6. The small area of prime soils affected by the pavement should not be considered to be either a significant loss or an irreparable loss. Note: Farmland parking areas and access roads, even ones that have been paved, can be used on a temporary basis, even for several years, then returned to cultivation without serious damage. This is possible as long as the top soil was adequately protected and not severely graded or damaged during the construction process.
7. The prime soil area paved is not large enough to be considered economically significant by itself. Therefore, the area taken out of potential future production will not likely have any adverse effect on farm profits, productivity or the ability of the property to continue to be farmed.

RECOMMENDATIONS

1. The small prime soil area that was paved between the agricultural field and new farm building should be used and maintained for the intended farm related purpose. If the purpose should ever change a portion of this area could be reclaimed and used for the cultivation of crops, as long as the appropriate conservation measures are also installed.

NOTE: If you are required by the County to remove any or all of the asphalt pavement in the area of question, then restore the area to native vegetative cover and provide an all season access road along side the building. The access road should be a minimum of 20-feet wide for fire truck emergency access and for use by farm equipment to access the adjacent agricultural field. This work should be done in accordance with any and all applicable County ordinances and fire codes.

2. Maintain the existing vegetative buffer (new tree plantings) along the edge of the field. In time this vegetation will provide an excellent screen between cropland and farm buildings; shelter wind and wind blown particles and provide homes for wildlife.
3. All bare or disturbed soil areas, especially on steeper slopes should be protected with vegetative cover or mulch before the rainy season begins each year to protect soil

against erosion. Consult NRCS for appropriate plant species to plant, seeding and mulching rates when the need arises.

4. Maintain a buffer of vegetation between pavement areas and riparian area to help slow increased runoff from impervious surfaces and filter any pollutants such as sediment, oil, grease, etc. that might be carried in runoff water. Consult NRCS for information and recommendations related to additional vegetative plantings when the need arises.
5. Monitor and maintain existing conservation systems, including drainage control measures and vegetative plantings throughout future rainy seasons. Correct deficiencies when detected.
6. Do not disturb deep rooted vegetation or make deep cuts into steep hillside slopes that exist on the property without first consulting a registered geologist, geotechnical expert or certified erosion control specialist. These areas have a high hazard of erosion and an increased likelihood of failure when surface runoff is altered, vegetation removed and/or undermined as a result of grading operations. If you should have questions or additional concerns related to geological instability of steep slopes then consult with a registered geologist and/or geotechnical expert.
7. Soil Mapping units identified as LIE2, GbF2, TuD2 and Ma on the property should not be used for the production of dry land or irrigated crops. Grazing should only be considered on the LIE2 and GbF2 soils after first consulting with a certified rangeland specialist or NRCS.
8. The only areas on the property suitable for the production of cultivated crops are on slopes less than 9% and designated as Botella Loam (BeC2), Tunitas clay loam (TwB) or Tunitas clay loam (TuC2) soil. Note: All three of these soil mapping units should be managed within their capability for agricultural use. Tunitas clay loam soil in particular will require careful irrigation management and drainage control to keep productive.


It is the landowner's responsibility to acquire additional technical assistance, if necessary, and to abide by all laws and ordinances pertaining to the implementation of any of the above recommendations.

The Natural Resources Conservation Service is a federal, non-regulatory agency under the United States Department of Agriculture. Technical assistance is provided, free of charge, through a mutual agreement with the San Mateo County Resource Conservation District (RCD) which you support with your property taxes. NRCS and RCD services are provided without discrimination. NRCS is an equal opportunity employer.

If you should have any questions regarding my field visit, any information contained in this report or enclosures please do not hesitate to contact me. I have included an additional copy of the report for your use. I wish you success with your efforts to enhance your property. If you should ever need the soil and water conservation services of our agency in the future please call on us.

Sincerely,

USDA NATURAL RESOURCES
CONSERVATION SERVICE



Richard Casale, CPESC #3
District Conservationist

cc: San Mateo County RCD, Half Moon Bay
Jack Olsen, San Mateo County Farm Bureau, Half Moon Bay

