

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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427-4863



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Commission Action:	
A-3-SLO-99-014 Opened and Continued	
	04/14/99
Substantial Issue (both appeals) 06/08/99	

COMBINED STAFF REPORT: REGULAR CALENDAR COASTAL DEVELOPMENT PERMITS

APPLICATION NO.S: **A-3-SLO-99-014 and A-3-SLO-99-032**

APPLICANT: **Morro Bay Limited**
AGENT: **Dan Lloyd, Engineering Development Associates**

PROJECT LOCATION: **West of Highway One, approximately ¾ of a mile north of Villa Creek Road and 3 miles south of Harmony, in the Agriculture land use category of the San Luis Obispo County North Coast Planning Area (APNs 046-082-013 thru 046-082-022)**

DESCRIPTIONS: **As approved by San Luis Obispo County, A-3-SLO-99-032 involves the adjustment of 10 lots ranging in size from 1.39 acres to 318.42 acres into 8 residential lots ranging in size from 20.9 acres to 54.9 acres, and two agricultural lots of 243.8 and 226.4 acres. As approved by the County, A-3-SLO-99-014 involves the grading and construction of approximately 18 miles of access roads to serve the adjusted lots, and relocation of two designated building sites identified as part of the lot line adjustment. As recently revised by the applicant, the lot line adjustment will result in 8 residential parcels ranging in size from 20 acres to 39.06 acres, and one agricultural lot of 542.08 acres. As revised, use of the 8 residential parcels is limited to building envelopes and use areas that range in size from 4.87 acres to 15.18 acres; the remainder of the residential lots (approximately 61 acres) will be placed in agricultural easements. The applicant has also recently incorporated into the project an offer to dedicate a lateral**

coastal access easement across all 9 lots. The associated roadway project has also recently been revised in a manner that eliminates approximately 5,350 feet of road.

FILE DOCUMENTS: San Luis Obispo County Certified Local Coastal Program; San Luis Obispo County Final Local Action Notices 3-SLO-99-011 and 3-SLO-99-046; July 20, 1999 letter from Sheppard, Mullin, Richter & Hampton (Exhibit 3) describing project revisions, and accompanying maps, documents, and data submitted by Engineering Development Associates.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission conditionally approve Coastal Development Permits for the revised lot line adjustment and roadway projects. The proposed lot line adjustment, as recently revised, complies with the standards of the San Luis Obispo County certified Local Coastal Program (LCP) protecting agricultural resources because the extent of non-agricultural development has been reduced to a degree that protects the agricultural viability of the site and surrounding area. In addition, the applicant has submitted additional information establishing that the on-site water supply and wastewater disposal capacities of the site should be adequate to support future residential development; and that the residential building envelopes will not result in development that is silhouetted against the skyline as viewed from a public road. The applicant has also incorporated an offer to dedicate a 200-foot wide lateral access easement along the shoreline areas of the project site, consistent with LCP and Coastal Act lateral access policies.

With respect to the roadway project, the extent of roadway construction has been reduced to the minimum necessary to adequately serve the proposed residential use. While a small portion of the roadway still encroaches within the 100 foot wetland setback required by the LCP, compliance with this setback requirement would result in greater environmental damage due to increased grading on steep hillsides. Thus, the allowance of a limited section of the roadway to be located within the 100 foot setback is consistent with Section 23.07.172d(1) of the San Luis Obispo County Coastal Zone Land Use Ordinance (CZLUO).

The conditions of approval recommended by staff are intended to ensure the appropriate recordation of the revised lot line adjustment and the offer to dedicate a lateral access easement proposed by the applicant. The conditions also require the applicant to submit a Storm Water Pollution Prevention Program for Executive Director review and approval prior to the commencement of roadway construction. Finally, the conditions limit the type of materials that can be used in future residential construction within designated building

envelopes, and specify that buildings must incorporate extended eaves into their design, to reduce the visibility of future development from Highway 46 and minimize the potential for window glare.

I. STAFF RECOMMENDATION

Staff recommends that the Commission, after the public hearing, approve the Morro Bay Limited permits with conditions.

MOTION. Staff recommends a "YES" vote of the following motion:

I move that the Commission **APPROVE** Coastal Development Permits A-3-SLO-99-014 and A-3-SLO-032 subject to the conditions below.

RESOLUTION.

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Scope of Permits.** These permits authorize, subject to the standard conditions above and the Special Conditions below, the lot line adjustment and roadway construction illustrated by the Revised Lot Configuration Plan prepared by Engineering Development Associates dated July 12, 1999 (attached as Exhibit 4). Grading, drainage, and roadway details approved by Permit A-3-SLO-99-014 are illustrated by the roadway plans prepared by Garing Taylor and Associates dated November and December 1997, subject to the revised configuration and roadway reductions identified by Exhibit 4. Except where in conflict with the revised project approved by these permits, and these conditions of approval, all conditions of San Luis Obispo County's approval of these projects (attached as Exhibit 14) continue to apply.
2. **Amended Certificates of Compliance.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the landowner shall submit, for Executive Director review and approval, amended Certificates of Compliance which reflect the revised lot line adjustment approved by Permit A-3-SLO-99-032.
3. **Agricultural Deed Restriction.** No development, as defined in section 30106 of the Coastal Act, shall occur in any area outside of the agricultural setback areas shown by the Revised Lot Configuration Plan prepared by Engineering Development Associates dated July 12, 1999 (attached as Exhibit 4), except for the following types of development, which, other than the roadway construction authorized by Coastal Development Permit A-3-SLO-99-014, must receive subsequent Coastal Development Permit review and approval prior to being constructed:
 - a. roadway construction authorized by Permit A-3-SLO-99-014, and any repairs or maintenance activities to these road approved by San Luis Obispo County and/or the Coastal Commission;

- b. development of agricultural support facilities, including but not limited to, a joint corral use facility in the area shown by Exhibit 4;
- c. water and wastewater treatment facilities (i.e., water wells and septic systems) necessary to serve residential development in the building envelopes designated by Exhibit 4, provided that such infrastructure facilities are located underground to the greatest degree feasible and located outside of the prime farmland areas indicated by Exhibit 8;
- d. residential development within the building envelope identified for Lot 9 designated by Exhibit 4;
- e. restoration and enhancement of native habitat and/or sensitive resources (e.g. wetlands); and
- f. public access improvements.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated agricultural area. The deed restriction shall include legal descriptions of all of the affected parcels and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. Lateral Access Easement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director the easement for lateral public access and passive recreational use along the shoreline proposed as part of the project and conceptually illustrated by the Environmental Constraints Map prepared by Engineering Development Associates (undated), attached as Exhibit 5. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The area of dedication shall consist of the entire width of the property from the mean high tide line to a line 200 feet inland of the daily high water line, which is understood to be ambulatory from day to day. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

Any future development that is proposed to be located either in whole or in part within the area described in the recorded offer of dedication shall require a Commission amendment, approved pursuant to the provisions of 14 CCR § 13166, to these coastal development permits. This requirement shall be reflected in the provisions of the offer.

5. Storm Water Pollution Prevention Plan. PRIOR TO COMMENCEMENT OF ROADWAY CONSTRUCTION, the applicant shall submit, for Executive Director review and approval, a detailed Storm Water Pollution Prevention Plan that identifies specific construction practices and controls that will be implemented in order to minimize erosion during and after roadway construction. Such measures shall include, but may not be limited to:

- a. timing construction to avoid or minimize grading during the rainy season (November 1 – April 30)
- b. staging construction to minimize the area of bare soil exposed at one time
- c. installing temporary boundary fencing to define grading limits
- d. seeding and/or mulching of exposed soils
- e. maintaining construction access roads free of dirt and sediments
- f. implementing dust control measures
- g. use of filter fabric fences, straw bale barriers, sand bag barriers, and/or sediment traps to intercept and detain sediment contained in storm water runoff
- h. providing temporary waterway crossings for construction equipment where applicable;
- i. covering excavated materials and construction debris stockpiles on a daily basis;
- j. appropriately disposing of, at a licensed landfill, any excess construction or fill material.

6. Visual Resource Protection for Future Development. The use of reflective roofing and exterior siding materials is prohibited for any future development within the designated building envelopes. Buildings or other development must use only earth tone and non-reflective exterior materials. Buildings must also incorporate extended eaves into their design, to minimize the potential for window glare. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on future development in the designated building envelopes. The deed restriction shall include legal descriptions of all of the affected parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. RECOMMENDED FINDINGS AND DECLARATIONS

A. Background

On September 10, 1998, the San Luis Obispo County Planning Commission conditionally approved Development Plan/Coastal Development Permit D970195D for the grading and construction of roadways, and for the adjustment of two building sites designated by a previous lot line adjustment. This decision was appealed to the Board of Supervisors, where on January 26, 1999, the appeal was denied and the Planning Commission's conditional approval was upheld.

Upon receiving notice of this action, Commission staff investigated the history of the project, and determined that lot line adjustment associated with D970195D (COAL 94-130, approved by the San Luis Obispo County Subdivision Review Board on September 11, 1995) had not been properly noticed. According to both the Commission's and County's records, the County did not provide the Notice of Final Local Action required by Section 23.02.039 of the CZLUO and Section 13110 of the Commission's Administrative Regulations before a coastal development permit can become effective. Similarly, the Commission had not been noticed of the two Conditional Certificates of Compliance for two of the lots affected by the adjustment, granted by the County prior to its approval of the lot line adjustment. As requested by Commission staff, the County provided the required Final Local Action Notices for the lot line adjustment and the Conditional Certificates of Compliance; Commission staff received these notices on April 23, 1999.

Both the roadway project and the lot line adjustment were appealed by the Commission (the roadway project also had another appellant). The Conditional Certificates of Compliance were not appealed, based upon staff's review and conclusion that they were appropriately granted, consistent with LCP requirements. During staff's review of the Conditional Certificates of Compliance, the other certificates of compliance for the properties affected by the lot line adjustment were also reviewed, and staff concluded that the parcels being adjusted were valid.

On June 8, 1999, the Commission determined that the appeals of the roadway project and lot line adjustment raised a substantial issue, then continued the De Novo hearing on these applications in order to allow additional time to pursue project alternatives that achieved consistency with LCP requirements.

B. Project Descriptions

The two projects involve a lot line adjustment and roadway construction intended to serve future residential development on a 746-acre agricultural site. As originally approved by San Luis Obispo County, A-3-SLO-99-032 involved the adjustment of 10 lots ranging in size from 1.39 acres to 318.42 acres into 8 residential lots ranging in size from 20.9 acres to 54.9 acres, and two agricultural lots of 243.8 and 226.4 acres. The grading/roadway

project (A-3-SLO-99-014) involved the grading and construction of approximately 18 miles of access roads to serve the adjusted lots, and relocation of two designated building sites identified as part of the lot line adjustment.

In response to the issues identified in the appeals of this project, the applicant has recently revised the project (please see Exhibits 3, 4, and 5). As revised, the lot line adjustment will result in 8 residential parcels ranging in size from 20 acres to 39.06 acres, and one agricultural lot of 542.08 acres. Use of the 8 residential parcels is limited to building envelopes and use areas that range in size from 4.87 acres to 15.18 acres; the remainder of the residential lots (approximately 61 acres) will be placed in agricultural easements. The applicant has also reduced roadway construction by approximately 5,350 feet, and has incorporated into the project an offer to dedicate a 200 foot wide lateral coastal access easement along the shoreline across all 9 lots.

Existing lot configurations are shown by Exhibit 6. The originally proposed lot line adjustment approved by San Luis Obispo County is shown by Exhibit 7, and the currently proposed lot line adjustment is illustrated by Exhibit 4. Table 1, on the following page of this report, compares the existing and proposed sizes of each lot.

As noted above, in addition to a reduction in the size of the lots 8 lots intended for residential use, the recent project revisions incorporate restrictions to the extent of non-residential development that can occur on these lots. This is achieved by identifying specific building envelopes in which the development of residential and accessory structures must occur (the location of these envelopes have been determined based on the site's visual and resource constraints, as discussed in subsequent findings of this report); and, by establishing an agricultural easement area, which allows agricultural activities (i.e., grazing) to extend onto the 8 residential lots. These provisions are illustrated by Exhibit 4, and quantified by Table 2. As shown by Table 2, 684.55 of the entire 746 acre site, or 91.8%, will be reserved for agricultural use¹. Residential uses are limited to 61.45 acres, or 8.2% of the site, with residential buildings being further limited to building envelopes totaling 10.69 acres or 1.4% of the entire site.

¹ This agricultural use area includes 5 acres which may be developed in the future as a corral area for the joint use of the owners of lots 1 -9, subject to future coastal development permit review and approval. Water and wastewater systems associated with future residential development may also be located in the agricultural easement area, but must be outside of the portion of the site containing prime agricultural soils and must be located underground to the greatest degree feasible.

Table 1: Comparison of original and currently proposed lot line adjustments.

Parcel #	Existing Acreage	Previously Proposed Acreage²	Currently Proposed Acreage
Parcel #1	318.42	37.4	20.0
Parcel #2	8.76	29.7	20.65
Parcel #3	67.72	27.1	23.44
Parcel #4	168.02	22.8	32.87
Parcel #5	61.02	20.9	25.91
Parcel #6	59.80	29.7	21.21
Parcel #7	19.59	47.6	20.70
Parcel #8	7.76	54.9	39.06
Parcel #9	1.39	243.8	542.08
Parcel #10	2.80	226.4	0

C. Project Location

The projects are located west of Highway One, on an agricultural site of 746 acres, approximately $\frac{3}{4}$ of a mile north of Villa Creek Road and 3 miles south of Harmony, in the North Coast Planning Area of San Luis Obispo County (please see Exhibit 3). This site, also known as "Middle Ranch", is used for cattle grazing, and is adjacent to "North Ranch" and "South Ranch", which are also used for grazing. A large stock pond, which is also considered a wetland, exists on the site, as does an old farm house and unpaved road. As observed by Commission staff on a recent site visit, other wetland areas, in addition to the stock pond, exist on the site. The applicant's representative has mapped these areas in updated Environmental Constraints Map, attached to this report as Exhibit 5. Ellysly Creek runs through the site at its eastern boundary with Highway One.

² The figures in the "Previously Proposed Acreage" Column (as well as the Existing Acreage Column) represent the parcel acreages identified by the San Luis Obispo County Notice of Final Local Action for the original lot line adjustment approved by the County. These figures are different from the acreages for the original lot line adjustment submitted by the applicant's representative. These discrepancies do not, however, have a substantive affect upon the revised lot line adjustment being considered by the Commission.

Table 2: Quantities of land dedicated for agricultural and residential uses.

Parcel #	Total Acreage	Acreage within Agricultural Easement	Acreage within Agricultural Setback³	Building Envelope Acreage
1	20.00	4.82	15.18	1.43
2	20.65	13.35	7.30	0.23
3	23.44	16.14	7.30	0.98
4	32.87	28.94	3.93	1.48
5	25.91	17.14	8.77	0.84
6	21.29	15.09	6.20	1.59
7	20.70	14.23	6.47	0.79
8	39.06	34.19	4.87	1.92
9	542.08	540.65	1.43	1.43
Totals	746.00	684.55	61.45	10.69

Site topography is bowl like, with hills and the coastal ridge surrounding the valley in the center of the property where the stock pond is located. Spectacular views of the coastline and inland areas are available from the top of these hills, as shown in the photographs attached as Exhibit 13. In recognition of the natural and scenic values of this section of coastline, the LCP designates the western portion of the site as a Sensitive Resource Area (please see Exhibit 2).

D. Agricultural Resources

1. Applicable Policies:

LCP Policy 1 for Agriculture states:

Policy 1: Maintaining Agricultural Lands

Prime agricultural land shall be maintained, in or available for, agricultural production unless: 1) agricultural use is already severely limited by conflicts with urban uses; or 2) adequate public services are available to

³ This figure equates to the total area reserved for non-agricultural use on each parcel, including the building envelope.

serve the expanded urban uses, and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, thus contributing to the establishment of a stable urban/rural boundary; and 3) development on converted agricultural land will not diminish the productivity of adjacent prime agricultural land.

Other lands (non-prime) suitable for agriculture shall be maintained in or available for agricultural production unless: 1) continued or renewed agricultural use is not feasible; or 2) conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services to serve additional development; and 3) the permitted conversion will not adversely affect surrounding agricultural uses.

LCP Policy 2 for Agriculture provides:

Policy 2: Divisions of Land

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

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

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

CZLUO Section 23.04.024b states:

- b. Size based upon existing use.** Where a legal lot of record is developed with agricultural uses at the time of application for land division, the minimum size for a new parcel shall be based on the type of existing agricultural use, with the required minimum being the largest area determined by the following tests. Where a site contains more than one agricultural use, each new parcel shall satisfy the minimum size for its respective use:

(1) Crop production: ...

...Grazing

320 acres

CZLUO Section 23.04.024e(f) provides:

- f. Overriding requirements for division of non-prime agricultural soils.** Land divisions on non-prime agricultural soils as defined by this title shall be subject to the following requirements:

(1) Mandatory findings. A proposed land division shall not be approved unless the approval body first finds that the division will maintain or enhance the agricultural viability of the site.

(2) Application content. The land division application shall identify the proposed uses for each parcel.

Section 23.04.050 of the CZLUO states, in relevant part:

23.04.050 – Non-Agricultural uses in the Agriculture Land Use Category:

- a. Sighting of structures.** A single-family dwelling and any agricultural accessory buildings supporting the agricultural use shall, where feasible, be located on other than prime soils and shall incorporate mitigation measures necessary to reduce negative impacts on adjacent agricultural uses.

2. Analysis:

LCP Policy 1 for Agriculture requires that lands suitable for agriculture be maintained in, or available for, agricultural production unless, among other reasons, the permitted conversion will not adversely affect surrounding agricultural uses. Similarly, Section

23.04.050(a) requires that single family dwellings and accessory buildings be sited to avoid prime soils and reduce negative impacts on agricultural uses.

In the substantial issue hearing for this project, the Commission previously found that the original lot line adjustment approved by the County was inconsistent with these requirements because it converted more agricultural land than what was necessary to accommodate residential development. As approved by the County, residential lots ranged in size from 21 to 55 acres each, which is clearly more than what is required to accommodate residential development. The minimum lot size for a parcel within an agricultural designation is 20 acres, as established by Section 23.04.024 of the CZLUO.

The applicant has appropriately responded to this concern by reducing the size of each residential parcel, and clustering them in the southwestern portion of the parcel to the degree that the 20-acre lot minimum and natural topography will allow. Moreover, the applicant has incorporated an agricultural easement into the project that limits the extent of residential use on these parcels and allows agricultural activities (i.e. grazing) associated with the large agricultural parcel to extend onto more than 60 acres of the residential parcels. Special Condition 3 requires this easement to be recorded to the satisfaction of the Executive Director before the permits are issued.

The applicant has also reduced the conversion of agricultural land associated with roadway construction by eliminating a significant stretch of road, and reconfiguring the approach to lots 4-9, for an overall reduction of approximately 5,350 linear feet of roadway. With a typical roadway width of 20 feet, this reduction will avoid the conversion of almost 2.5 acres of agricultural land.

In terms of prime agricultural soils, which are present on the site in limited quantities (please see Exhibit 8), these areas will be completely retained within the agricultural easement area. Condition 3c requires any water or wastewater treatment infrastructure associated with future residential development that may need to be located within the agricultural easement area to avoid areas of prime soils. Thus, as conditioned, the revised project meets the Policy 1 and Section 23.04.050(a) requirements of avoiding the conversion of prime agricultural land and preventing significant impacts to adjacent agricultural lands.

Similarly, by significantly reducing the amount of agricultural land that will be converted to residential use, the revised lot line adjustment complies with LCP Policy 2, which prohibits land divisions in agricultural areas that would limit existing or potential agricultural capability.

Section 23.04.024b of the Coastal Zone Land Use Ordinance (CZLUO) establishes a minimum parcel size of 320 acres for land divisions on parcels where there is an existing agricultural use of grazing. Given the existence of at least 9 lots of record (the original

adjustment involved 10 lots), over a total area of approximately 746 acres, it is impossible to achieve compliance with this LCP standard. Instead, the lot line adjustment strives to maximize the amount of acreage to be retained in agricultural production, while minimizing the amount of residential development allowed on existing lots of record and complying with the LCP's 20 acre lot size minimum for Agricultural districts. This is consistent with CZLUO Section 23.04.024e(f), which requires that approval of land divisions on non-prime agricultural soils include a finding that the division will maintain or enhance the agricultural viability of the site. The revised lot configuration, when compared to the potential for residential development to occur in an unconsolidated fashion on each of the lots as currently configured, is clearly a betterment towards preserving the agricultural viability of the site, especially in light of the agricultural easement that accompanies the adjustment.

3. Conclusion:

The lot line adjustment and roadway projects, as revised by the applicant and conditioned by the Commission, are consistent with LCP standards protecting agricultural lands because the conversion of prime agricultural soils have been avoided, and the conversion of non-prime agricultural land has been minimized to the degree that the agricultural viability of the site and surrounding area will be maintained.

E. Sensitive Resources

1. Applicable Policies:

CZLUO Section 23.07.172 provides, in relevant part:

23.07.172 – Wetlands.

Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.

- a. **Location of development:** Development shall be located as far away from the wetland as feasible, provided that other habitat values on the site are not thereby more adversely affected.

...

d. Wetland setbacks: New development shall be located a minimum of 100 feet from the upland extent of all wetlands, except as provided by subsection d(2). If the biological report required by Section 23.07.170 (Application Content) determines that such setback will provide an insufficient buffer from the wetland area, and the applicable approval body cannot make the finding required by Section 23.07.170b, then a greater setback may be required.

(1) Permitted uses with wetland setback: Within the required setback buffer, permitted uses are limited to . . . roads when it can be demonstrated that:

- (i) Alternative routes are infeasible or more environmentally damaging.
- (ii) Adverse environmental effects are mitigated to the maximum extent feasible.

2. Analysis:

Section 23.07.172a of the CZLUO requires that development be located as far away from wetlands as feasible, provided that other habitat values on the site are not thereby more adversely affected. Part d of the same ordinance requires that new development shall be located a minimum of 100 feet from the upland extent of all wetlands, except where a setback adjustment is necessary to accommodate a principal permitted use. Roads may be allowed within the required setback if it is demonstrated that alternative routes are infeasible or more environmentally damaging and that adverse environmental effects are mitigated to the maximum extent feasible.

Initially, portions of the proposed roadways to serve the residential sites were located within 100 feet of an existing wetland. The revised project has redesigned the roadway pattern, including eliminating approximately one mile of road. In addition, all proposed roads now observe the required 100 foot wetland setback except in one location adjacent to the stock pond. On the southern side of the pond, a proposed road would run within approximately 30 feet of the wetland. However, this is approvable under the LCP because the applicant has demonstrated that the required exception findings of section 23.07.172(d)(i) can be made.

First, alternative routes further south or to the north of the stock pond that would observe the 100 foot buffer would be more environmentally damaging because they would involve either significantly more grading and disturbance or construction and grading on steep slopes. This would create more significant impacts to the wetland due to slope instabilities and sedimentation problems related to roadway design. Second, the primary adverse environmental effects of the proposed road construction within the buffer are mitigated to

the maximum extent feasible through condition 5, which requires the implementation of a storm water pollution prevention plan. This includes standards to control runoff and erosion both during and after construction. As conditioned, therefore, the revised proposed road construction is consistent with the certified LCP.

F. Visual Resources

The appeals contend that the projects are inconsistent with the following LCP Policy protecting visual resources.

1. Applicable Policies:

CZLUO Section 23.04.021c states:

23.04.021(c) – Overriding Land Division Requirements

Highly-visible sites. New land divisions where the only feasible building site would be on slope or ridgetop where a building would be silhouetted against the skyline as viewed from a public road shall be prohibited as required by Visual and Scenic Resources Policy 4 of the Local Coastal Plan.

2. Analysis:

Section 23.04.021c of the CZLUO establishes overriding land division requirements. Among these requirements, part 6 of this section prohibits new land divisions where the only feasible building site would be on slope or ridgetop where a building would be silhouetted against the skyline as viewed from a public road.

While the building envelopes designated by the original lot line adjustment had been designed to minimize visibility from Highway One, their ridgetop locations might have been visible from Highway 46, especially in the morning hours when the sun would be reflected off of the future residences. Based on this concern, the Commission found that a substantial issue existed concerning consistency with CZLUO Section 23.04.021c.

The Applicant has submitted additional information analyzing the potential visual impact of the project. The revised building envelopes are still designed to minimize visibility from Highway One. In addition, the consultant's analysis estimates that any visibility of the structures from Highway 46 will be insignificant, given the brief viewing window available to westbound drivers at the very top of Highway 46; and in light of the angle of direct sunlight necessary to reflect back into the drivers view.

Nonetheless, this does not necessary account for visual impacts that may be perceived by the public at public viewpoints along Highway 46 (there is a significant pullout at the top of 46 that affords spetacular views of the Harmony coast south to Morro Bay. In order to assure that visual impacts are minimized, condition 6 incorporates the consultant's recommended conditions prohibiting the use of reflective roofing and exterior siding materials and requiring the use of only earth-tone and non-reflective materials, and extended eaves to minimize glare from windows, for any future building construction. In addition, Special Condition 3c requires that water and wastewater treatment facilities (i.e., water wells and septic systems) necessary to serve future residential development be located underground to the greatest degree feasible. In combination with the overall restrictions regarding new development within the agricultural easement established by Special Condition 3, the project is consistent with the visual resource protection standards of the certified LCP.

G. Infrastructure

1. Applicable Policies:

CZLUO Section 23.04.430b

23.04.430 – Availability of Water Supply and Sewage Disposal Services.

- b.** Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.

2. Analysis:

CZLUO Section 23.04.430b states that development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems. Water to serve future residential development will be obtained from on-site well(s), and wastewater treatment will be provided by on-site septic systems. The applicant has submitted information from the County Environmental Health Department and water consultants (Exhibit 10) that supports a finding of adequate water and wastewater treatment to support future residential development.

First, well and pump tests show that there is adequate water supply, and that water quality would be adequate, although treatment may be necessary based on further analysis. Second, an analysis of onsite wastewater disposal requirements supports a finding that

adequate areas for disposal will be available for future residential development, again, with the understanding that further technical analysis of appropriate system locations will be necessary when any future residential development is proposed. This, in combination with the understanding that future residential development proposals will be subject to coastal development permit review and approval, during which further detailed analyses to document the necessary water treatment and septic siting options must be conducted, the Commission finds that the proposed lot line adjustment is consistent with the LCP.

H. Public Access and Recreation

1. Applicable Policies:

CZLUO Section 23.04.420 states, in relevant part:

23.04.420 – Coastal Access Required.

c. When new access is required. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or
- (2) The site already satisfies the provisions of subsection d of this section; or
- (3) Agriculture would be adversely affected; ...

d. Type of access required:

(1) Vertical Access:

(ii) In rural areas: In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage

(3) Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff.

Coastal Act Section 30210 requires:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30212 states in part::

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
 - (2) adequate access exists nearby, or,
 - (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

2. Analysis:

With the revised project, the applicant has provided an offer to dedicate a 200 foot wide lateral coastal access dedication the length of the property landward of the mean high tide land (Exhibit 5). This is a significant public access offer, and will provide an important future link in the California Coastal Trail. In order to incorporate the applicant's offer into the project, Condition 4 requires the recordation of this offer that reflects this aspect of the project. As conditioned, the project is consistent with the public access policies of the LCP and the Coastal Act.

I. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures that would substantially lessen any significant adverse effect that the project may have on the environment.

San Luis Obispo County certified a Negative Declaration for the Lot Line Adjustment on September 11, 1995, and a Negative Declaration roadway project and January 26, 1999.

Both of these Negative Declarations include mitigation measures that have been incorporated into the terms of the County's approvals, and are intended to prevent the project from having a significant impact on the environment. These mitigation measures continue to apply to the project, except where they may conflict with the project revisions and conditions of approval adopted by the Commission (please refer to Special Condition 1).

As detailed in the findings of this staff report, and the findings previously adopted by the Commission with respect to the Substantial Issue Determination, the Commission has identified environmental impacts of the project that were not effectively addressed by the certified Negative Declarations. In order to address these issue, the applicant has revised the projects, and the Commission has adopted Special Conditions of approval, which will prevent the Lot Line Adjustment and roadway projects from having a significant adverse impact on the environment within the meaning of CEQA.

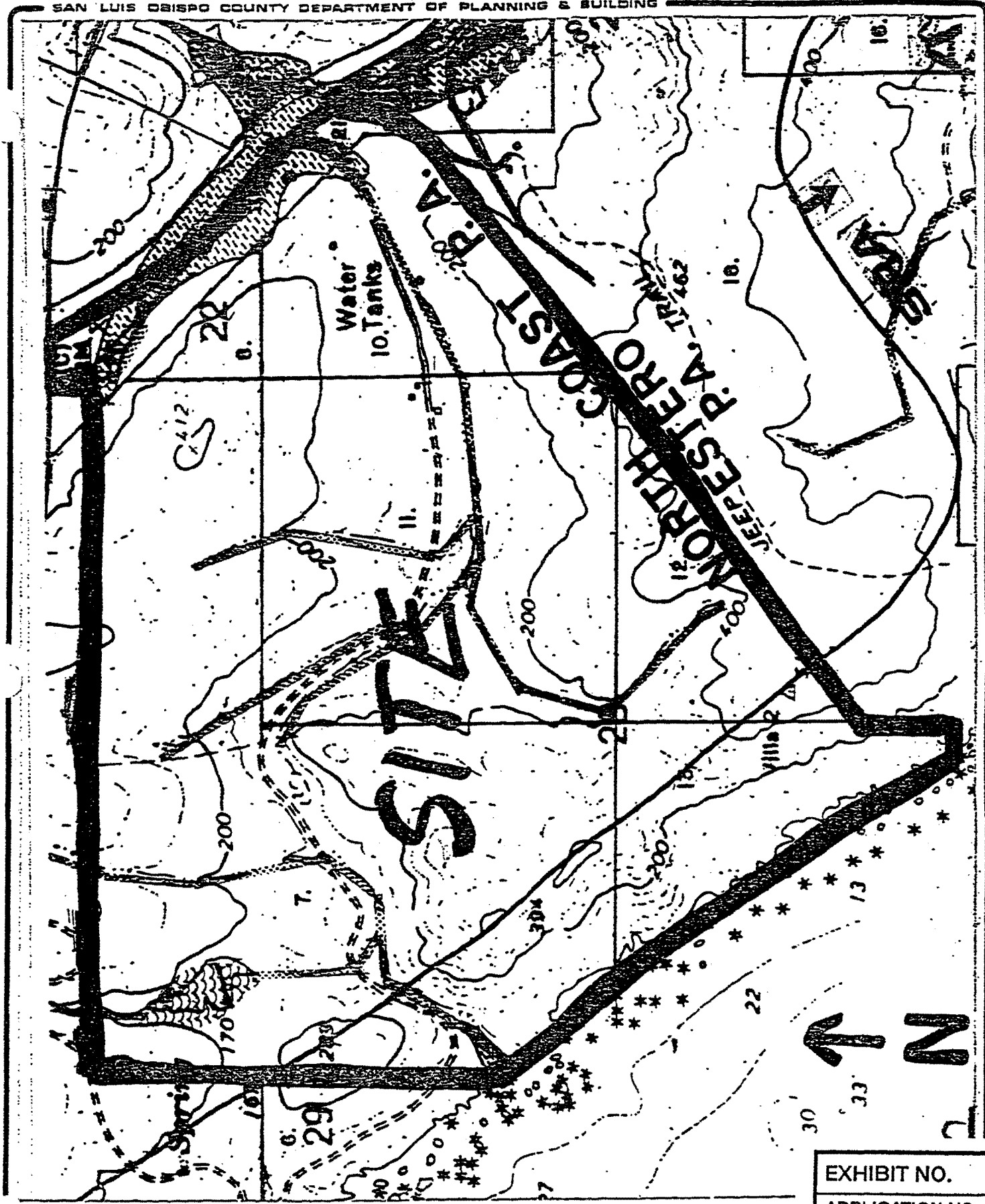


EXHIBIT NO. 1

APPLICATION NO.
A-3-SLO-99-14 + A-3-SLO-99-32

Project Location

SAN LUIS
OBISPO COUNTY



PROJECT
MORRO BAY LTD
D970195D



EXHIBIT
LAND USE CPT

EXHIBIT NO. 2
APPLICATION NO.
A-3-SLO-99-14 + A-3-SLO-99-32
LUP Map

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

A UNITED STATES PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

SEVENTEENTH FLOOR

FOUR EMBARCADERO CENTER

SAN FRANCISCO, CALIFORNIA 94111-4106

WRITER'S DIRECT LINE

TELEPHONE (415) 434-9100

OUR FILE NUMBER

(415) 774-3215

FACSIMILE (415) 434-3947

XMK-68736

probin@smrhl.com

July 20, 1999

VIA FACSIMILE AND U.S. MAIL

Mr. Steve Monowitz
California Coastal Commission
725 Front Street
Santa Cruz, CA 95060

Re: Coastal Commission Appeal No. SLO-99-032

Dear Steve:

On behalf of Morro Bay Limited, this letter to is to provide you with formal notification of recent revisions to the Morro Bay Ltd. permit application before the Commission on appeal, No. A-3-SLO-99-032. These revisions to the application are based on our extensive collaboration with you, Lee Otter and Dianne Landry of the Coastal Commission Central Coast Area office, to ensure that the application fully and completely responds to the concerns raised in the recent notice of appeal.

On the basis of these changes, combined with mutually agreeable conditions to be included with the permit, we believe the application is fully consistent with Coastal Act policies and warrants approved by the Commission.

As per your request, and to facilitate an understanding of the substance of our project modifications, the following is a description of the revised project. While key tables and support material are attached to this letter, additional detailed maps and technical materials you requested have been dispatched to your office directly by Mr. Dan Lloyd of Engineering Development Associates under separate cover. These materials correspond to your previous meetings with Mr. Lloyd and

EXHIBIT NO. 3, p. 1

APPLICATION NO.
A-3-SLO-99-14 + A-3-SLO-99-32

Revised Project Description

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Steve Monowitz

July 20, 1999

Page 2

myself, and should demonstrate that all issues raised in the appeal have been addressed.

1. Parcel Map Modification and Agricultural Land Use Policies 1 and 2

The parcel map for the Property has been revised to further reduce and cluster each of the parcels to the maximum extent feasible, and has significantly increased the primary agricultural parcel (from 460.94 acres to 511.94 acres) In addition, the applicant agrees to place an agricultural easement on each of the 8 remaining parcels, this adds 149.9 acres for a total agricultural use of 654.41 acres outside the buildable area, continuous with the larger grazing parcel. This lot division is designed to maximize and enhance the agricultural viability of all parcels and will ensure maximum utilization of prime agricultural soils. Additionally, building areas on the site have been carefully selected in collaboration with Commission and County staff to completely avoid impacts on prime soils, views, wetlands or other natural resources such as marine mammal haul-out areas.

By virtue of these adjustments the application satisfies LCP Policies 1 and 2 to maximize preservation of agricultural lands, and to minimize non- agricultural uses, and to avoid land divisions which would limit potential agricultural capacity.

2. Minimized Parcel Size and Enhanced Agricultural Viability as per Coastal Land Use Ordinances (CZLUO) 23.04.024(b) and (f)

While the Notice of Appeal raised some concern that the grazing parcels on site were less than the 320 acre minimum parcel size, this is not correct. The grazing parcel (Parcel 9) approved by the County was over 460.94 acres. The viability of the potential agricultural land has been further increased in the revised plan to exceed 511 acres, by further reducing the residential parcels sizes. When combined with the adjacent agricultural easements on the residential parcels, the agricultural area will exceed 650 acres. It is notable that the agricultural easements and building sites have been designated to maximize the connectivity of the agricultural lands. Detailed figures are included on the EDA maps and tables already provided to staff and attached hereto. This directly responds to staff's request for additional cluster and residential parcel size reduction.

A-3-SLO-99-14 + A-3-SLO-99-32
Exhibit 3, p. 2

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Steve Monowitz
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Page 3

3. Siting of Non- Agricultural Structures (CZLUO 23.04.050) and Viewshed Protection as per CZLUO 23.04.021(c)

The buildable or developable areas on each site has been selected with several key environmental factors in mind. First, to avoid location on ridgetops or other public viewsheds. Secondly, to avoid silhouettes against the skyline from public roads, including Highway One and Highway 46. We believe all sites achieve these criteria. In addition, we have selected sites which are clustered below the western ridge and set back over 1000 feet from the shoreline to avoid impacts on marine mammal habitat. Visual studies submitted with this application, and supplemental analysis for this appeal verify that no protected viewsheds are impacted by this project. Visibility from Highway 46, while remote (over 6 miles) can be completely mitigated by use of appropriate building materials and vegetation. To further reduce visual impacts, the applicant agrees to use non-reflective building materials and to downlight where feasible. The original buildable areas on Parcels 8 and 9 have been eliminated, further clustering all development on the inside of the western ridge of the property. This was done as per staff request and is reflected on the maps submitted by EDA.

4. Water and Sewer Capacity

In addition to the water and sewer capacity materials provided to the County and the Commission to date, we have conducted additional analysis which demonstrates these sites have more than adequate water and sewer disposal capacity than required by the County for these services. Written verification of this capacity from Creek Laboratories is attached. As you have asked for review of these materials by from the County Environmental Health Department, we have made such a request, and we anticipate a response from their office today. We will forward a copy of their written response upon receipt. In any event, we believe this new information more than satisfies any concerns raised in the appeal.

5. Roadway and Grading Reductions: Avoidance and Setback from Wetland Areas

As a result of the revised parcel layout, we have been able to extensively reduce proposed road alignments and grading on the site. The reductions in the amount of roadway is more than 4000 linear feet and grading has been reduced by

A-3-SLO-99-14 + A-3-SLO-99-32
Exhibit 3, p. 3

Steve Monowitz
July 20, 1999
Page 4

approximately 30%. (see materials supplied by EDA). All roadways and development will be setback at least 100 feet from wetlands where feasible. Development closer than 100 feet will be subject to review and approval by Commission staff, in order to ensure that inappropriate grading impacts would not result from a 100 foot setback.

6. Coastal Access Opportunities

As per our discussion with staff, we do not believe that vertical access through these parcels is appropriate due to key factors included in CZLUO 23.04.420, nor do we believe such access is warranted by any impacts which may be caused by the project. As noted by the County, the coastal bluff is over 1.4 miles from the entrance to the site, and is too high for safe public access without substantial improvements discouraged by other coastal policies. In addition, the active agricultural use of the property would be inconsistent with vertical access. The applicant, however, is willing to consider lateral access 50 feet from the mean high tide in the future if a qualified public or private entity were prepared to take responsibility for improvement, management and liability for such access. We are prepared to make a limited offer of dedication to the Commission for such access under these conditions.

7. Conditions to Approval

The applicant has agreed to additional amendments to the permit in the form of conditions which will need to be reviewed and approved by staff before construction. We also are willing to include certain conditions, such as setbacks, building material restrictions, and agricultural restrictions in the form of CC& R's as appropriate.

A-3-SLO-99-14 + A-3-SLO-99-37
Exhibit 3, p. 4

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Steve Monowitz
July 20, 1999
Page 5

We hope this information is helpful to your evaluation of this matter, and that you will agree the applicant has taken every possible measure to satisfy Coastal Act policies. Please contact me or Dan Lloyd if you have any questions or need any additional materials.

Very truly yours,

Renee L. Robin

Renee L. Robin

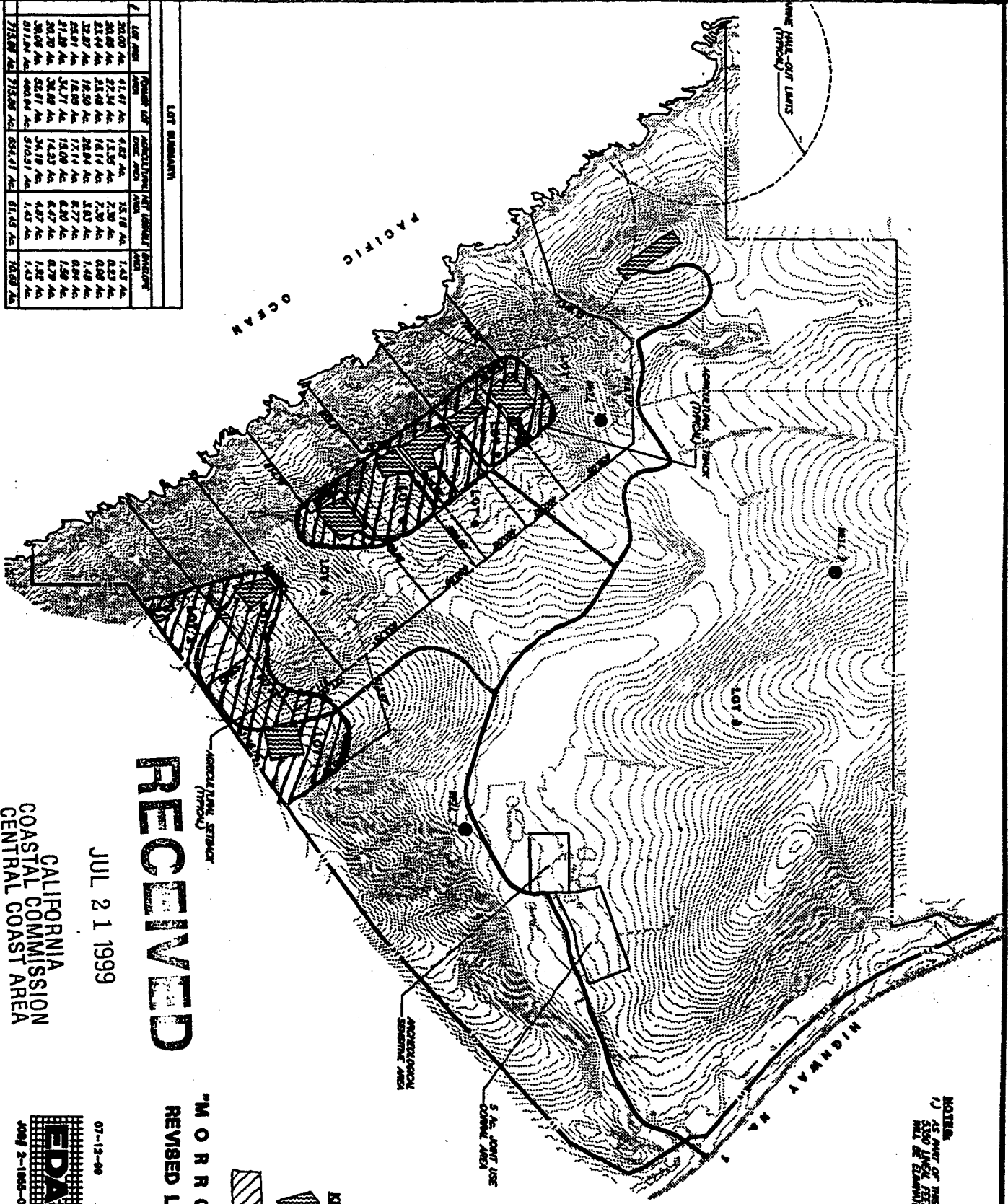
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SF-FLRLETXMK61136320.1

cc: Ms. Dianne Landry
Mr. Lee Otter
Mr. Dan Lloyd
Mr. Monty Ormsby
Mr. Robert Philibosian

A-3-SLO-99-14 + A-3-SLO-99-32
Exhibit 3, p. 5

LOT SUMMARY				
LOT	AREA (AC)	PERCENT TOTAL	PERCENT TOTAL	PERCENT TOTAL
1	1.41	1.41	1.41	1.41
2	1.41	1.41	1.41	1.41
3	1.41	1.41	1.41	1.41
4	1.41	1.41	1.41	1.41
5	1.41	1.41	1.41	1.41
6	1.41	1.41	1.41	1.41
7	1.41	1.41	1.41	1.41
8	1.41	1.41	1.41	1.41
9	1.41	1.41	1.41	1.41
10	1.41	1.41	1.41	1.41
11	1.41	1.41	1.41	1.41
12	1.41	1.41	1.41	1.41
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96	1.41	1.41	1.41	1.41
97	1.41	1.41	1.41	1.41
98	1.41	1.41	1.41	1.41
99	1.41	1.41	1.41	1.41
100	1.41	1.41	1.41	1.41



RECEIVED

JUL 21 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

"MORRO BAY LTD."
REVISED LOT CONFIGURATION
FOUR
COAL 04-00

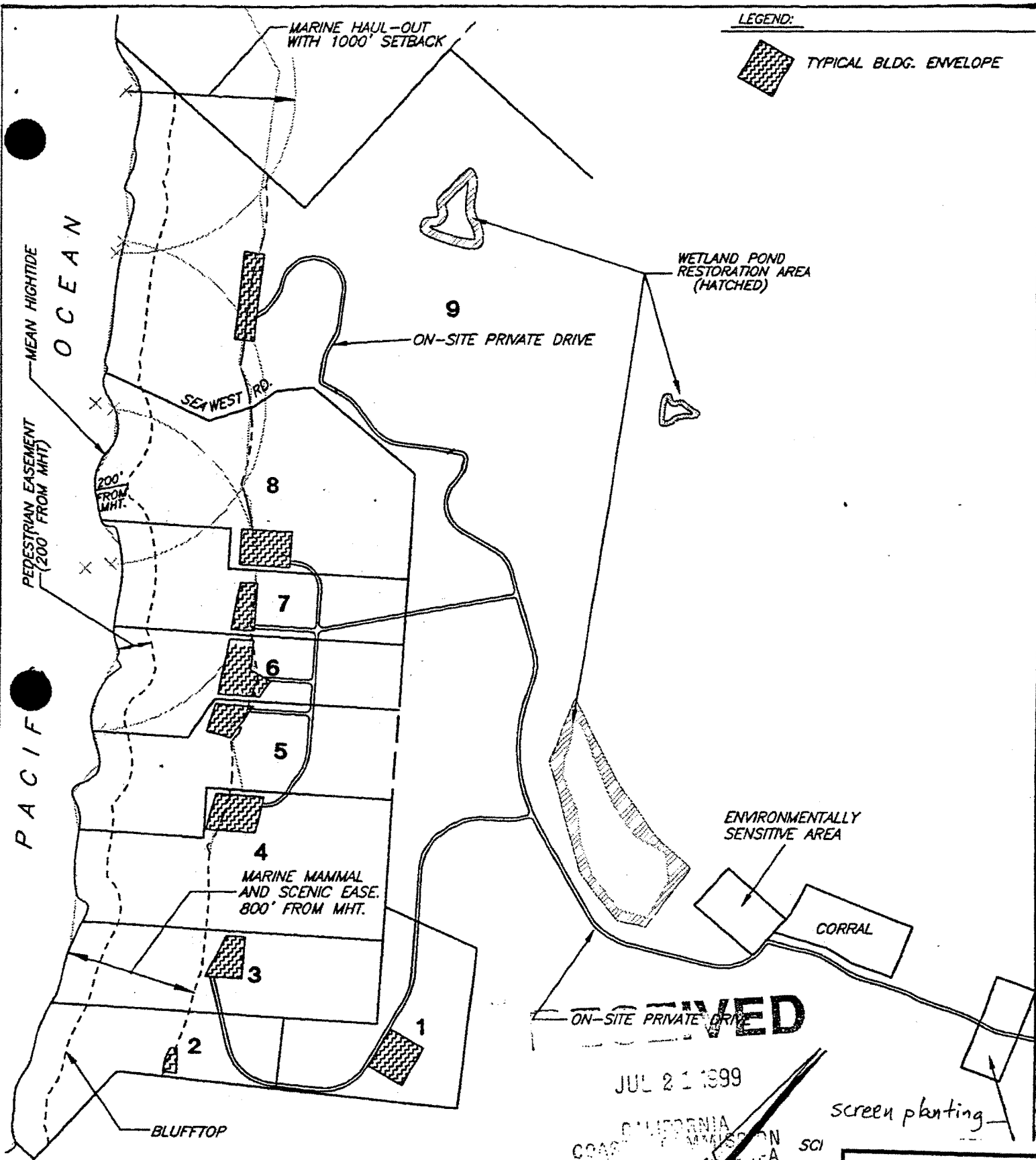
KEY
PROPOSED BUILDING ENVELOPE
Agricultural
Setback

07-12-98
SCALE 1" = 1'-00"
DRAWN BY: NLM

CONTOUR INTERVAL: 10 FT.

EXHIBIT NO. 4
APPLICATION NO.
A-3-SLO-99-14 + A-3-SLO-99-32
Revised Project
Plans

NOTES
1) AS PART OF THIS LOT RE-CONFIGURATION, APPROXIMATELY
5,500 LINEAL FEET OF PREVIOUSLY APPOINTED ADJUT. USE
WILL BE ELIMINATED.



PORTIONS OF SECTIONS 21, 22, 27, 28, 29, AND 33 OF TOWNSHIP 28 SOUTH, RANGE 9 EAST, MOUNT DIABLO MERIDIAN, AND A PORTION OF SECTION NO. 38 OF THE RANCHO SAN GERONIMO AS SHOWN IN BOOK B PATENT MAPS AT PAGE 85
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

EDA ENGINEERING
DEVELOPMENT
ASSOCIATES
ENGINEERING - LAND SURVEYING - PLANNING
320 NIPOMO STREET, SAN LUIS OBISPO, CA 93401

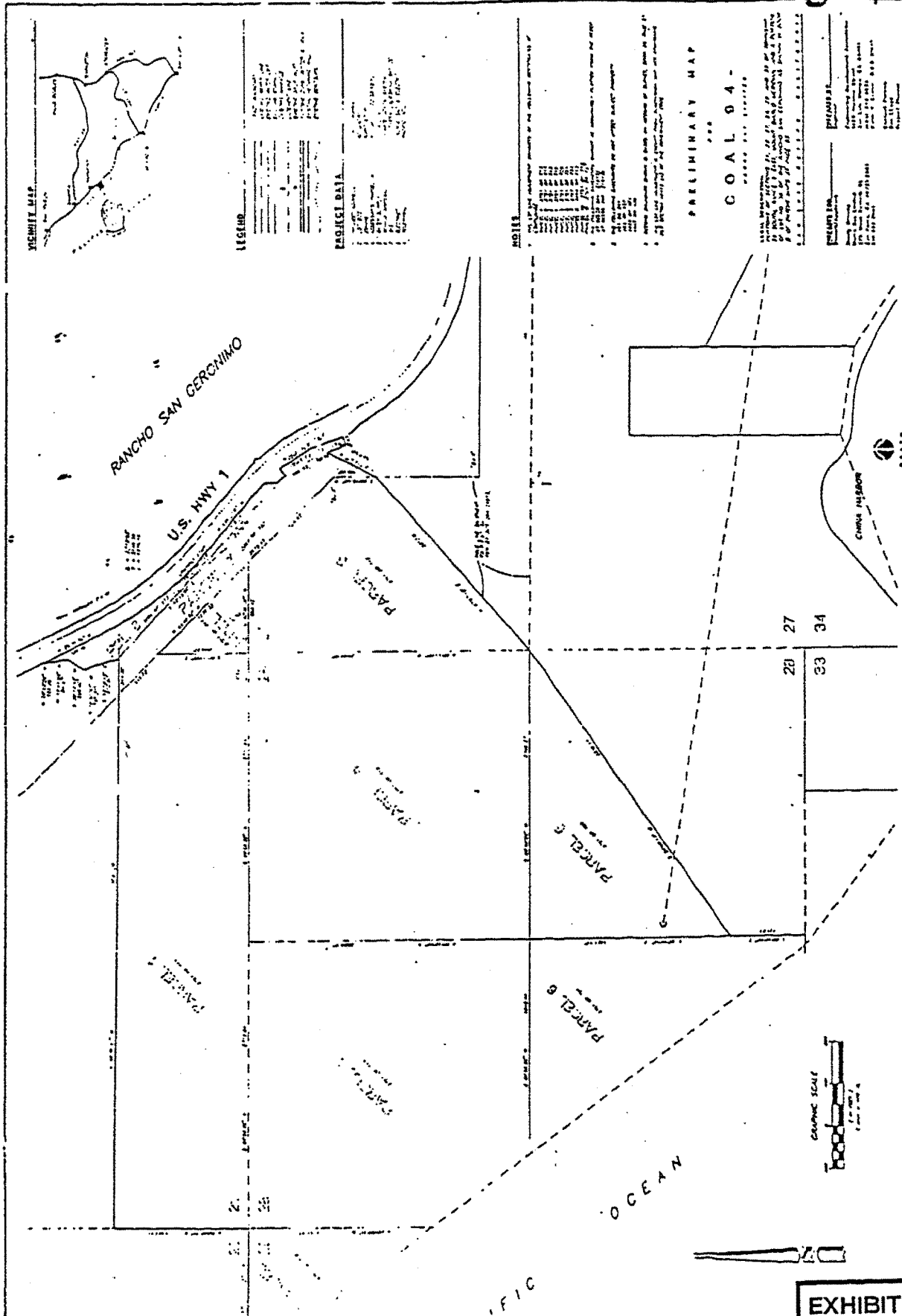
JOB NO. 2-1855-000

ENVIRONMENTAL CONSTRAINTS MAP

SHEET 1 OF 1

EXHIBIT NO. 5
APPLICATION NO.
A-3-SLO-99-14+A-3-SLO-99-32
Revised Environmental
Constraints Map and
Proposed Lateral
Access Easement

8-7-19



PROJECT
MORRO BAY LIMITED/EDA
LOT LINE ADJUSTMENT
COAL 94-130



EXHIBIT
EXISTING &
CONFIGUR

EXHIBIT NO.
APPLICATION NO.
A-3560-99-14 + A-3560-99-32
Existing Parcel
Configuration

B-7-21

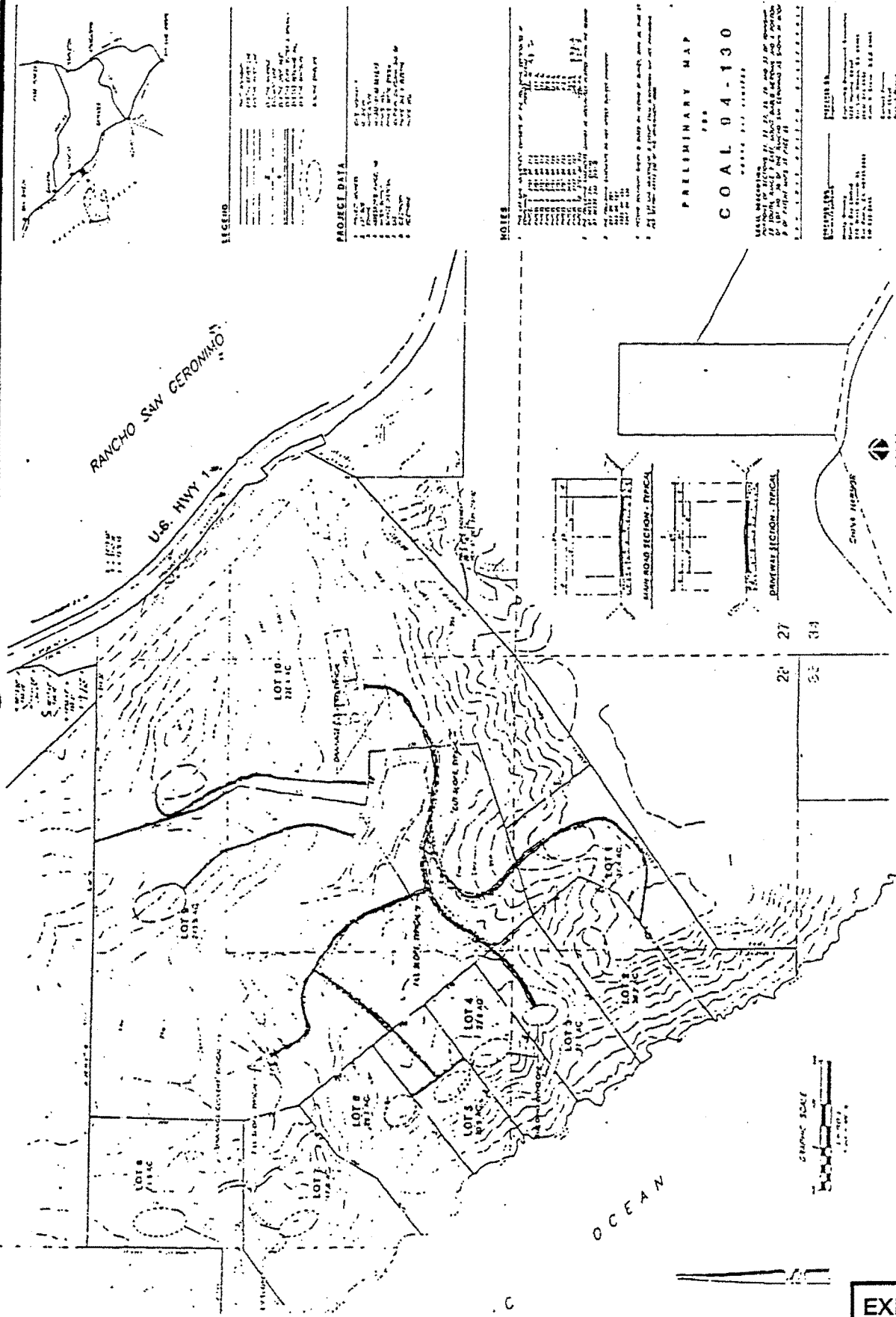


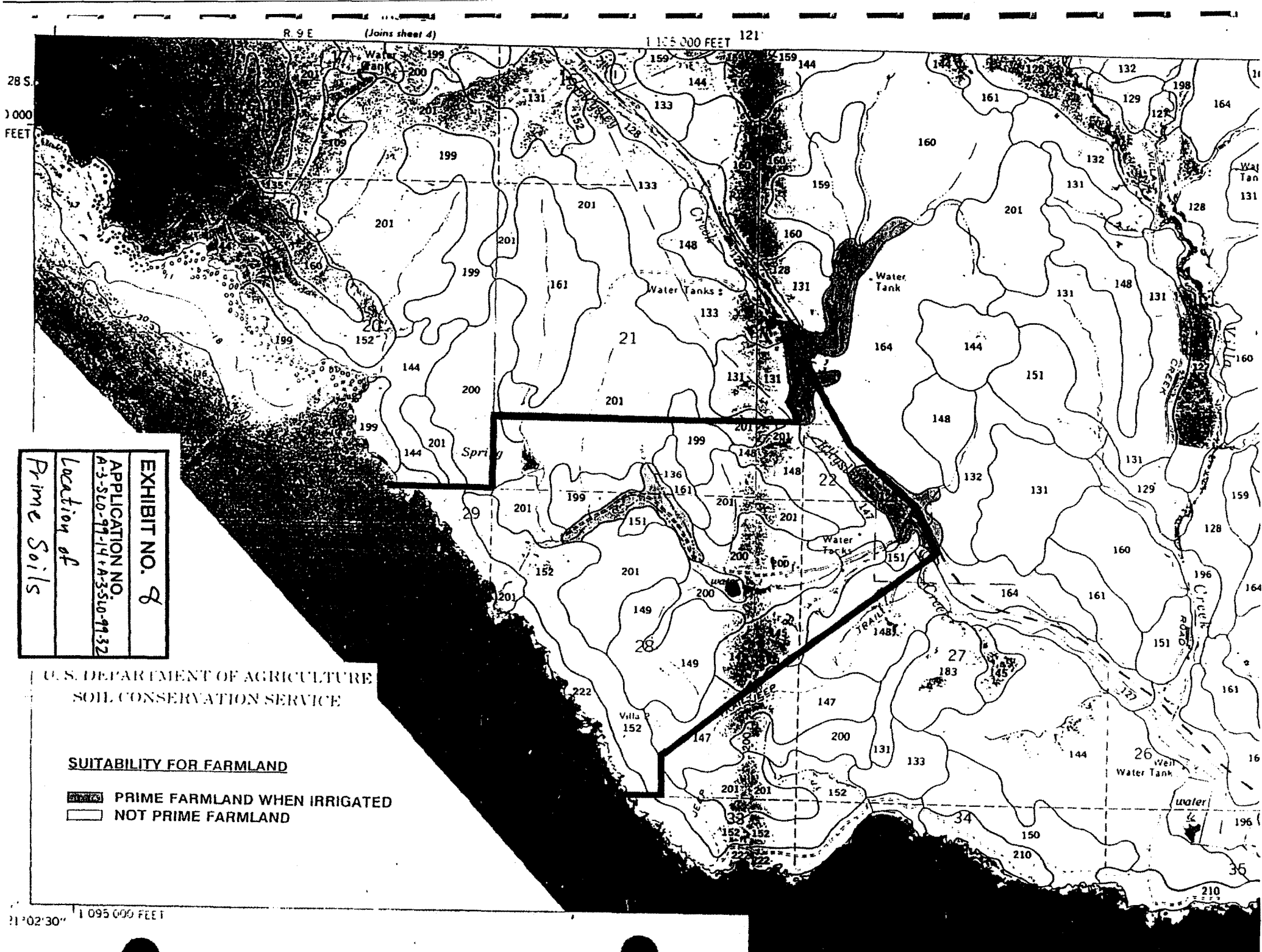
Figure 4
Proposed Lot Line Adjustment
Morro Bay, LTD

PROJECT
MORRO BAY LIMITED/EDA
LOT LINE ADJUSTMENT
COAL 94-130



EXHIBIT
PROPOSED
ADJUSTMENT

EXHIBIT NO. **7**
APPLICATION NO.
A-3-560-99-14 + A-3-560-99-32
Original lot line
Adjustment



INSET B

R 9 E

(Joins sheet 4)




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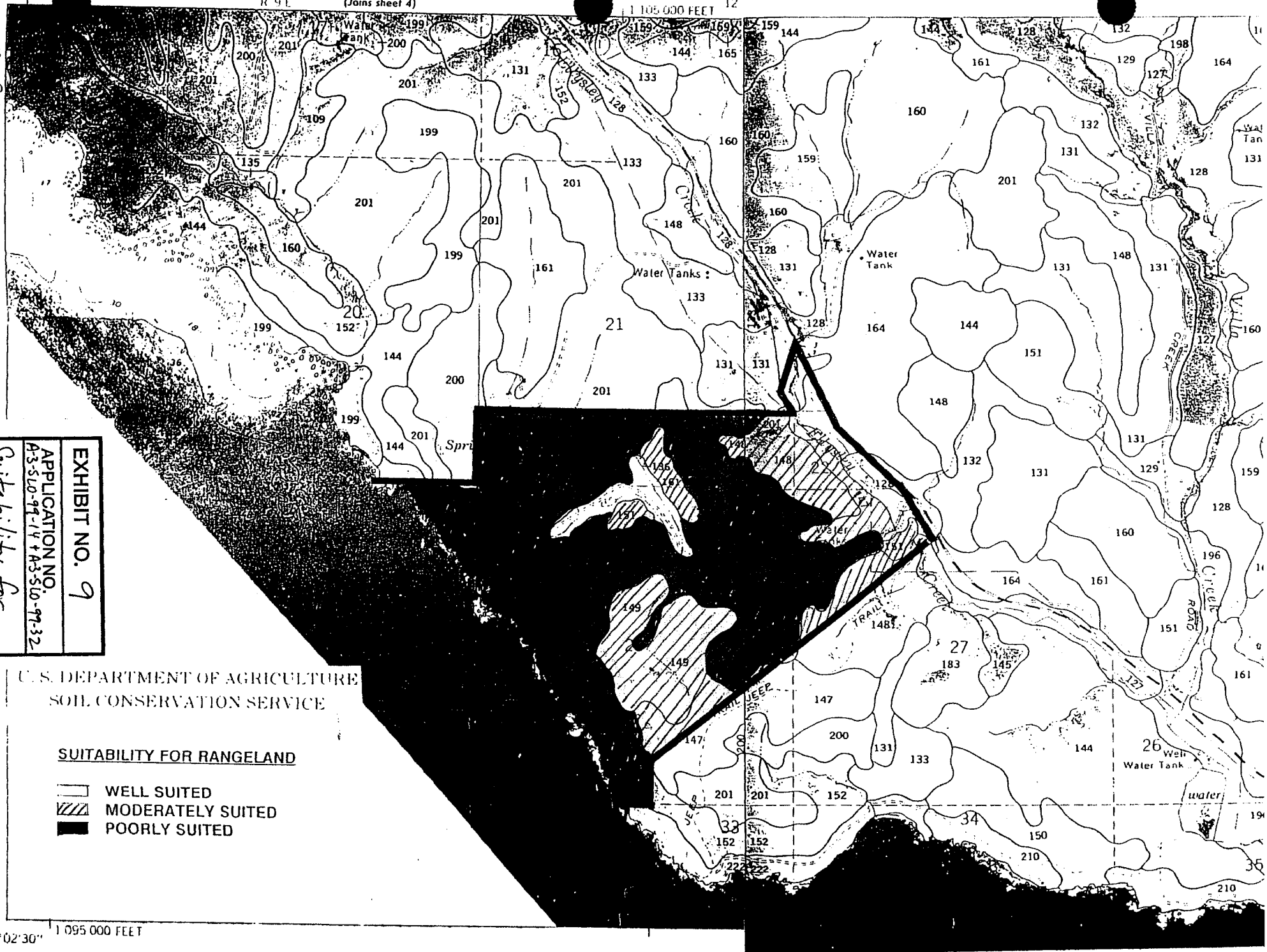
EXHIBIT NO. 9
APPLICATION NO.
A-3-510-99-14 + A-3-510-99-32
Suitability for
Rangeland

U.S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SUITABILITY FOR RANGELAND

-  WELL SUITED
-  MODERATELY SUITED
-  POORLY SUITED

21°02'30" 1 095 000 FEET





COUNTY OF SAN LUIS OBISPO
HEALTH AGENCY
 PUBLIC HEALTH DEPARTMENT
 Environmental Health Division
 2156 Sierra Way • P.O. Box 1489
 San Luis Obispo, California 93405-1489
 Phone: (805) 781-5544 FAX: (805) 781-4211

KM DUK
 Susan G. Zapada, Ph.D.
 Health Agency Director

Gregory Thomas, M.D., M.P.H.
 Health Officer

Curds A. Benson, R.E.H.S.
 Director

JUL 20 1999

RECEIVED

JUL 21 1999

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

Engineering Development Associates, Inc.
 1320 Nipomo Street
 San Luis Obispo CA 93401

ATTN: DAN LLOYD

RE: MORRO BAY LTD. (ORMSBY)/WATER SUPPLY AND WASTEWATER
 DISPOSAL AVAILABILITY

Water Supply

This office has reviewed onsite water supply information for the above noted property. Twenty-four (24) hour water well production tests conducted by Smith & Smith in June of 1997, show three water wells capable of producing 10, 10 and 30 gallons per minute respectively. Be advised that State Health Department Standards would require a minimum of 12 gallons per minute be made available to meet maximum day demand for a small community water system. Even though water quality testing shows iron, manganese and total dissolved solids requiring treatment, the Division would expect an adequate water supply to be available to the nine parcels.

Wastewater Disposal

Reviewed soil testing information included submitted percolation test results from 1984, and existing Health Department file data. Be advised that soil testing analyzes conducted in 1984 should be considered to be baseline only information at this point in time. The test results do offer a preliminary look at site conditions for proposed onsite systems. Although said testing results indicate soils to be generally satisfactory for onsite systems, it is important to note that Cleath & Associates and Medall Geotechnical Associates, Inc. have also analyzed site soils in a 1995 geological hazards study. The study characterized site soils as generally providing poor drainage, moderate to high erodibility, low to moderate shrink-swell potential and within the approved building envelopes, concerns regarding slope severity and depth to bedrock. Based on this information, the County Planning staff report for COAL 94-130 indicated that due to the severity of slopes and shallow bedrock, onsite systems may be required to locate outside respective building envelopes.

H:\COMMON\WPDOCUMENT\TRICH\ORMSBY.DOC


EXHIBIT NO. 10, P. 1
APPLICATION NO. A-3-SLO-99-14 + A-3-SLO-99-32
Water + Septic
Information

Dan Lloyd
Ormsby

July 20, 1999
Page 2

Pursuant to our review of the information, this office recommends that careful consideration be given to the placement of onsite individual wastewater disposal systems. The Division further recommends that each system be designed and installation certified by a registered civil engineer, experienced in sanitary engineering.

Feel free to contact me should you have any questions regarding this matter.



RICHARD J. LICHTENFELS, R.E.H.S., M.P.H.
Supervising Environmental Health Specialist

c: Pat Beck, Co. Planning
Steve McMasters, Co. Planning

A-3-SLO-99-14 + A-3-SLO-99-32
Exhibit 10, p. 2

Smith & Smith
934 Paso Robles Street
Paso Robles, Calif. 93446

Smith & Smith

Monty Ormsby
346 Tejon Place
Palos Verdes Estates
California 90274

Dear Mr. Ormsby

Our company performed a continuous 24 hour pump test on your Coastal property in June of 1997. The attached Log will show a total 39 gallons per minute between the three wells. Which is nearly two times the amount required for your nine lots by the County of San Luis Obispo. The requirements has been 2.5 gallons per minute per lot; however things change but to date we have not been notified.

We have been in the water development business in San Luis Obispo County, Since the latter part of 49.

If need be, we would be willing to testify as to your job and the accuracy of your report. Feel free to call us any time.

Sincerely Yours,

E. F. Smith & P. G. Smith
E. F. Smith & P. G. Smith

Changing the Way the World Communicates

A-3-SLO-99-14 + A-3-SLO-99-32
Exhibit 10, p. 3

Cleath & Associates

Engineering Geologists
Ground Water
(805) 543-1413
1390 Oceanaire Drive
San Luis Obispo
California 93405

July 12, 1999

Monty Ormsby
346 Tejon Place
Palos Verdes Estates, CA 90274

Subject: Water Availability for 9 proposed lots on the Sea West Ranch, Rancho Estero,
Between Highway 1 and the Coast near Harmony

Dear Mr. Ormsby:

Per your request, Cleath & Associates summarizes information on the water wells at the Sea West Ranch property which could serve as sources for a mutual water supply system for the proposed nine lots. A map showing the locations of the wells is attached along with the available well logs, pump test records, water quality information. Each of these wells, with the exception of the two Ellesley Creek wells, produce from totally different ground water sources.

The two old wells in the Ellesley Creek valley are shallow but have served the old farmhouse in the past. These produced 3.5 gallons per minute and 1.5 gallons per minute during a 4 hour test. These shallow wells are located such that they have a potential for bacterial contamination.

The Rauch Drilling Company well #1 was tested at 10 gpm for 24 hours and was found to have a high salt content (2 grams per litre).

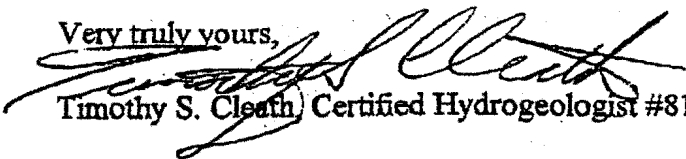
The Rauch Drilling Company well #2 was tested at 10 gpm for 24 hours and had acceptable water quality for primary drinking water constituents. The concentration of manganese was greater than the secondary drinking water standard, however.

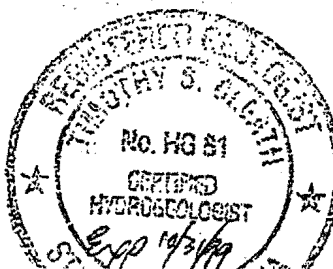
The Rauch Drilling Company well #3 was tested at 30 gpm for 24 hours and had acceptable water quality for primary drinking water constituents. The concentrations of iron and manganese were greater than the secondary drinking water standards.

In addition to these existing wells, there are other locations on the ranch where ground water could be encountered which have yet to be explored.

The existing facilities have the capacity to supply the proposed 9 lots with some treatment to remove iron and manganese.

Very truly yours,


Timothy S. Cleath Certified Hydrogeologist #81



A-3-SLO-99-14 +
A-3-SLO-99-32
Exhibit 10,
p. 4

California Coastal Commission Visual Resources Appeal Issues

The only visual resources issue discussed in the Coastal Commission's appeal is found under the heading "Reasons Supporting this Appeal", item no. 4. In this paragraph the following is stated:

..... *"While the building envelopes designated by the lot line adjustment have been designed to minimize visibility from Highway One, their ridgetop locations may be visible from Highway 46, especially in the morning hours when the sun would be reflected off of the future residences."*

Upon review of the proposed project site from Highway 46, I have the following comments:

1. The most favorable line of site to view the proposed project is at the highest points of Highway 46 as it traverses the pass and the Pacific comes into view. This is a direct line of site of approximately 6 to 7 miles, depending on the viewer's location along Highway 46. At lower elevations along Highway 46, topography associated with interceding mountain ranges screens the project site.
2. The areas along Highway 46 where the project site is potentially visible would include those areas of the Highway near the summit and from westbound travel lanes only. Viewing the site from the westbound travel lanes and at a distance of 6 to 7 miles would require prolonged periods of focus away from the primary cone of vision for travelers (i.e., beyond 45 degrees from the roadway centerline).
3. It was possible to view one ridgetop residence on an adjacent property from Highway 46, but only from a stationary vantage point and not facing in the direction of a westbound traveler (i.e., getting out of the vehicle at an established viewing point and carefully scanning the horizon). For location reference only, the residence is located approximately 1 to 2 miles to the north of the proposed residences and is that of the above referenced project appellant (refer to attached photo #1). It is my opinion that there are two reasons why this residence was visible. One is that I was not in a vehicle concentrating on the roadway or vistas within my primary cone of vision and the other is because the roof of the residence is comprised of a silver, corrugated metal material with considerably high reflection capacity (refer to attached photo #2).

It is my opinion that under optimum viewing conditions (e.g., on very clear days, when the sun is at the right angle), glare may be noticed by those traveling westbound on Highway 46 for a matter of only a few seconds (and only if reflective roofing materials are permitted to be used on the proposed residences). Glare from reflective roofing materials would be more noticeable for those who park along portions of Highway 46 to view the coastline from that vantage point.

It is also my opinion that glare from windows of proposed residences will not be an issue due to the fact that residences potentially visible from points along Highway 46 would be located at elevations substantially less than the elevations of Highway 46 vantage points. This is an important physical characteristic of the situation due to the "law of reflection" being an applicable consideration. The law of reflection basically states that the angle of incidence equals

the angle of reflection (refer to attachment for further detail). In other words, for there to be reflective glare from windows of the proposed residences as seen from the higher elevations of Highway 46, the sun would probably need to rise at an elevation comparable to sea level and be completely unimpeded by mountains and other intervening topography. Therefore, I feel that it is physically impossible for there to be a window glare issue as seen from Highway 46.

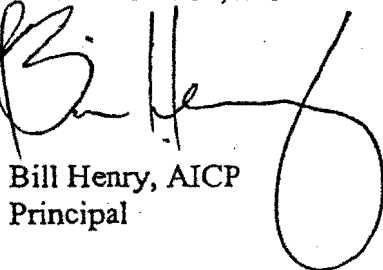
Instead of belaboring this point further, I think that a more proactive approach should be taken which would include adopting measures to eliminate the potential for glare as seen from Highway 46. In order to accomplish this I would propose the following measures:

1. Prohibit the use of reflective roofing and exterior siding materials and recommend the use of only earth tone and non-reflective materials; and,
2. Propose the use of extended eaves to minimize glare from windows closest to the roofline.

If you have any questions regarding my comments and opinions expressed above or if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

MORRO GROUP, INC.



Bill Henry, AICP
Principal

Attachments:

- 1) Appeal Letters and Reports
- 2) Color Photo Exhibits
- 3) Law of Reflection Exhibit

c: Dan Lloyd
EDA, Inc.

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Exhibit 11, p. 2



Photo #1:
Viewing in a northerly direction (at a distance of approximately 0.5 to 1.0 mile). Residence located mid-photo shows metallic roofing material which is an example of a roofing material that should be avoided in construction of proposed residences.

A-3-SLO-99-14 +
A-3-SLO-99-32
Exhibit 11, p. 3

Morro Bay Ltd.
Visual Resources

Figure 1

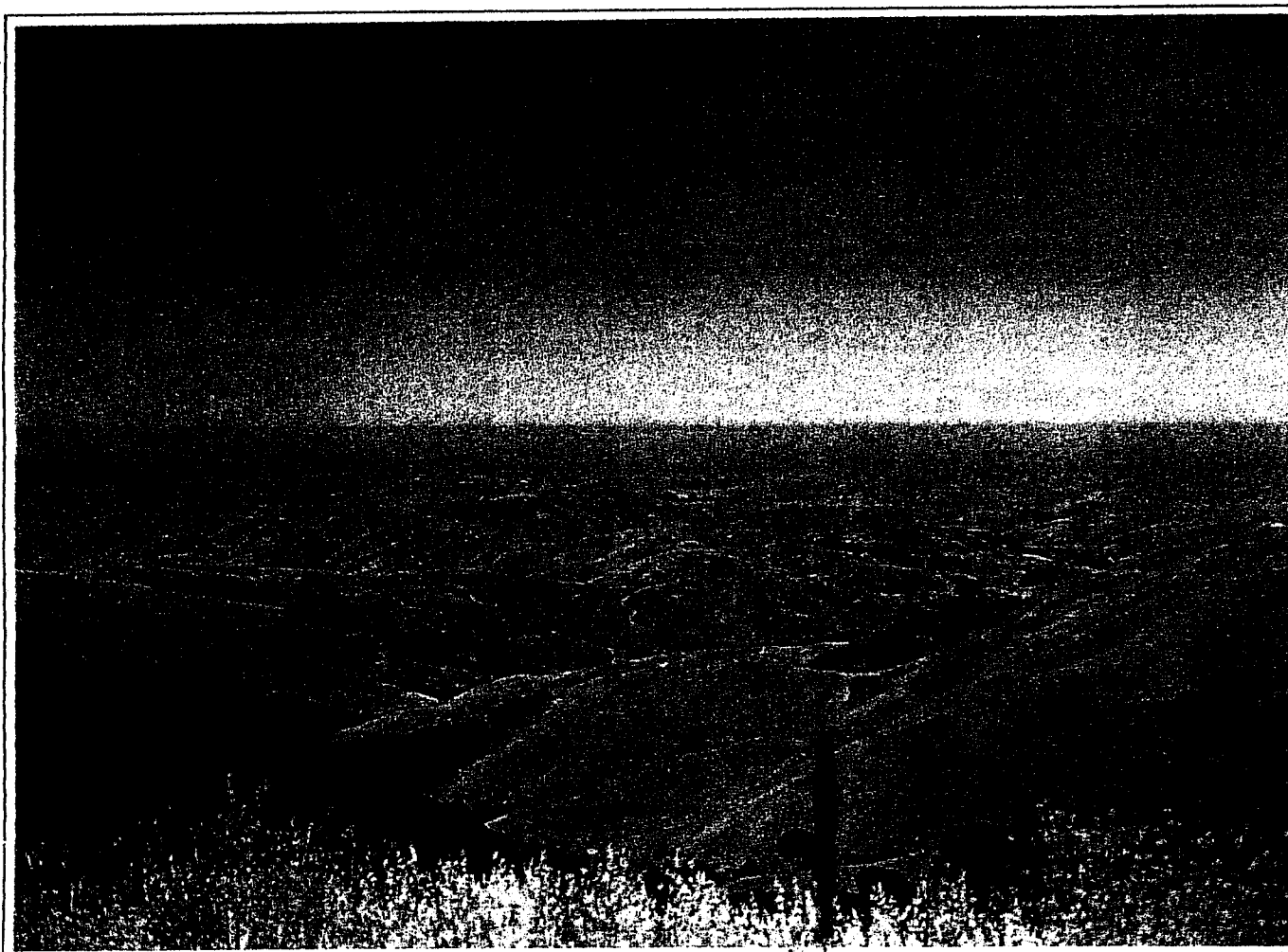


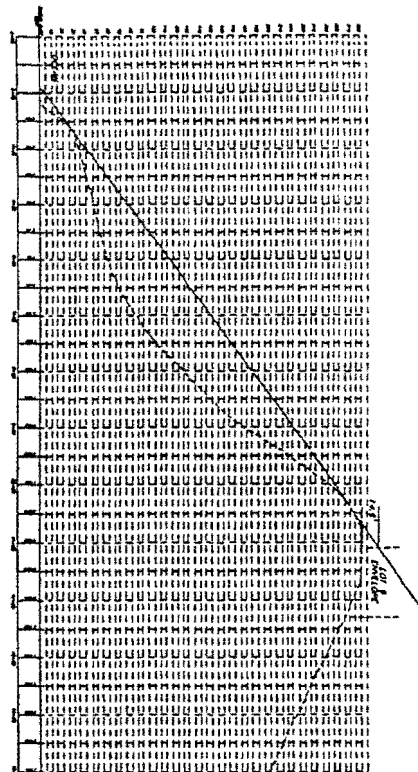
Photo #2:

Viewing in a westerly direction from a Highway 46 pull-out area near the summit. This photo taken using 50mm lens (comparable to human eye) approximately 6 to 7 miles from the project site. Location of project site (Lots 1 through 7) can be seen along the most distant ridge line which is backed by the Pacific Ocean (approximately 1.75 - 2.0 inches from left edge of photo). The reflective roofing material of the residence shown in Photo #1 can be seen as a small white dot approximately 4.0 inches from left edge of photo.

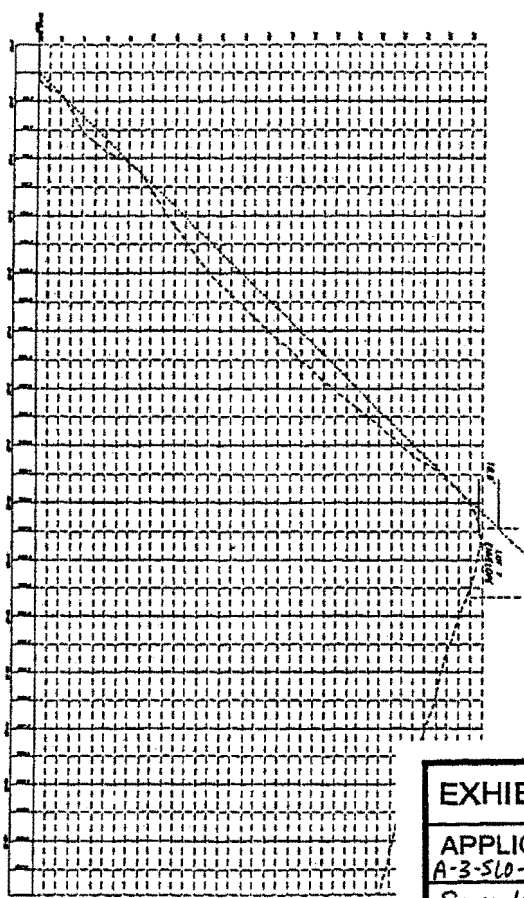
A-3-SW-99-14 +
A-3-SW-99-32
Exhibit 11, p. 4

Morro Bay Ltd.
Visual Resources

Figure 2



THE



Sample Visual Analysis
Used to determine
building envelopes and
avoid visibility from shoreline

EXHIBIT NO. 13

APPLICATION NO.
A-3-SLO-99-14 + A-3-SLO-99-32

Views of and from
Project Site

EXHIBIT B

CONDITIONS OF APPROVAL - COAL 94-130

MORRO BAY LIMITED/EDA

Lot Line Adjustment

ENVIRONMENTAL MITIGATION

Implementation

EXHIBIT NO. 14, p. 1
APPLICATION NO. A-350-99-14, A-350-99-3
Local Conditions of Approval

1. Prior to finaling the lot line adjustment, the applicant shall do the following:

Agreements

- a. Enter into an agreement for environmental mitigations to include the provisions noted below.
- b. Enter into a scenic preservation agreement to establish perpetual agricultural land use areas, open space and preservation areas and delineate building restriction areas.

CC&Rs

- c. Obtain approval from the county for CC&Rs for disclosure purposes, land use restrictions, building limitations, and architectural limitations; and assignment of road maintenance responsibilities, road and related access responsibilities.

Fencing

- d. Fence (or bond for fence) backside of coastal parcels #1 through 8 from agricultural parcels #9 and 10.
- e. Fence (or bond for fence) all wetlands areas (as shown on Environmental Constraints Map) to prevent destruction by cattle. Fencing to be of a type that allows for wildlife entry and exit, to be approved by the Environmental Coordinator.

Landscaping

- f. Submit a landscape plan for visual screening to the Department of Planning and Building for review and approval. Install (or bond for installation) landscaping prior to finaling the adjustment.

Wetlands

- g. Submit wetlands revegetation plan to the Department of Planning and Building for review and approval. Complete (or bond for) initial seeding for wetlands enhancement prior to finaling the adjustment.

Scenic Preservation Agreement

2. Prior to finaling the lot line adjustment, the applicant shall enter into a scenic preservation agreement with the county in a form prepared by County Counsel for the following purposes:

- a. To establish a building restriction area along the bluff face, for Parcels #1 though 8 for protection of marine mammals and open space preservation.
- b. To establish and protect the wetlands revegetation areas throughout the site.

Exhibit 14, p. 1

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL -- COAL 94-130 MORRO BAY LIMITED/EDA

- c. To establish and protect in perpetuity the agricultural land use areas on parcels # 9 and 10 (minus the designated building areas, wetlands and allowing for siting of agricultural accessory structures subject to minor use permit approval).

Environmental Mitigations Agreement

3. Prior to finaling the lot line adjustment, the applicant shall enter into an agreement with the county, in a form acceptable to the County Counsel, whereby the applicant agrees, on behalf of himself and his successors in interest, that the following shall be done:

- a. Environmental Constraints Map. The applicant shall prepare an Environmental Constraints Map (ECM) which shall be attached to the environmental agreement. The ECM shall show all areas within each parcel to be protected or avoided due to identified constraints or environmentally sensitive areas. Development envelopes, utility easements or other easements, and the internal road system shall also be shown on the ECM and shall conform to the approved lot configuration map. The ECM shall be prepared by the applicant and submitted to the Department of Planning and Building for review and approval.
- b. Building Envelopes. The ECM shall include development restriction areas (bluff top, wetlands, visually sensitive areas, archaeological sites, other environmentally sensitive areas) and designated building envelopes. Designated building envelopes and areas have been located on each of the ten parcels by the applicant. Each development envelope shall contain a limited building site area (building envelope) as specified in the applicant's project description and shall comprise no more than 2 acres. All residential structures requiring a building permit shall be located within the designated building envelopes (except as provided for accessory structures). The ECM shall reflect recommended adjustments in the designated building sites included in the expanded initial study.

The designated building envelopes and building restriction areas shown on the ECM respond to presently identified environmental conditions, including slope stability, landslide potential, septic system siting, etc. The designated building envelopes have been designated to avoid archaeological sites, reduce biological impacts, avoid wetlands to the greatest extent possible, reduce visual impacts from State Highway 1, and reduce any potential geologic hazards.

A land use permit (minor use permit or development plan if otherwise required) shall be required for each residence and residential accessory structure. The designated 2 acre building envelopes shall be shown more precisely on the ECM, but must be in the general vicinity of the sites shown on the lot configuration map.

The applicant shall survey and stake the designated building envelope and the proposed revised location shown on the ECM, and clearly indicate on a site or plot plan the staked locations. The staked building site shall be available for inspection by the Department of Planning and Building.

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Exhibit 14 p. 2

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL -- COAL 94-130 MORRO BAY LIMITED/EDA

If the applicant wishes to relocate the building envelope, he shall have to demonstrate that the location has less or no greater potential to impact sensitive resources than areas within the development envelope, is not a geological hazard, and is not visible from the marine mammal haul out sites or State Highway 1.

-
- Agricultural accessory structures (barns) may be located outside the designated residential building sites but shall require siting through the minor use permit approval process and shall address the same concerns and constraints noted for residential structures.
- c. Bluff Erosion. No development shall occur within 800 feet of the edge of the bluff or within 1000 feet of a marine mammal haul-out area if the activity areas are visible from the haul-out area. No land disturbance or structures shall occur within this area, and the area shall remain unimproved open space with pedestrian access only. Any CC&Rs prepared for the property shall identify the reasons for no development within this area, including geologic hazards, landslides, bluff erosion, sensitive plant and animal species, marine haul-out areas, etc.
- d. Geologic Hazards. Any geologic hazards that exist on the property and that have been identified in the Cleath & Associates Report (Cleath & Associates and Medall Geotechnical Associates, Inc., May 1995) shall be identified on the ECM.
- e. Drainage/Erosion. A sedimentation and erosion control plan shall be submitted for all construction activities (e.g. road improvements, residence construction, grading). The plan shall address both temporary measures during construction as well as long term drainage solutions. The drainage plan shall consider sensitive resources including archaeological areas, sensitive marine resources, botanical resources, coastal bluffs, wetlands areas, and other areas prone to erosion activities. All drainage plans shall be approved by County Engineering in consultation with the Department of Planning and Building.
- f. Wetlands Protection. All wetlands areas on the subject property shall be indicated on the ECM. Where there are any improvements (e.g., structures, road improvements, stone or other fencing requiring the use of motorized equipment) that will be within 100 feet of a wetlands area, these shall be noted on the ECM. The applicant shall include all measures to be used to avoid siltation, pollution, and removal of wetlands vegetation on the ECM. In addition, any construction that will occur within wetlands habitat shall be under the supervision of a qualified botanist with expertise in wetlands restoration. Any wetlands areas that are disturbed by construction shall be revegetated with appropriate wetlands plant species. The applicant shall retain at his expense a qualified botanist or landscape horticulturist approved by the Department of Planning and Building for monitoring of wetlands disturbance and for supervision of restoration of any wetlands areas.

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A-3-SLO-99-32 Ex. 14, p. 3
- 1 - 111 - 7

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL -- COAL 94-130
MORRO BAY LIMITED/EDA

- g. Ponds. The applicant shall retain at his expense a qualified botanist or landscape horticulturist with expertise in wetlands restoration to: 1) prepare a revegetation plan for the pond areas and who shall be responsible for overseeing the revegetation efforts. The applicant shall show verification (in the form of a contract) of the retention of the botanist and shall submit a draft revegetation plan for review and approval by the Department of Planning and Building.
- h. Visibility from Marine Mammal Haul Out Points. The applicant shall be required to demonstrate that the homes and any outdoor activity areas on Parcels #2 through 8 will not be visible from marine mammal haul out points along the coast. A diagram showing a line of sight from the nearest haul-out site showing the relationship between the proposed development and the location of the haul out sites would be acceptable proof. Non activity portions of proposed structures (e.g., roof, chimney, etc.) may be visible but these shall be shown on the line of sight drawings. Future development shall consider any known or identified haul out areas, and efforts or features that reduce or minimize long and short term impacts to these sites shall be considered and incorporated into the design, including design features that buffer or block potential sources of noise disturbance (e.g., garages and parking areas).
- i. Marine Mammal Haul Out Points. The applicant shall note the location of the known marine mammal haul-out points on the ECM. Prior to the development of roads or residences, the applicant shall incorporate language into the CC&Rs that informs all future property owners of the presence of marine mammals that are sensitive to human intrusion and/or disturbance. Included shall be an explanation of the sensitivity of the animals, examples of possible disturbance, and a disclosure that disturbance of the animals may be considered harassment and is illegal under the Marine Protection Act. The applicant shall consult with the National Marine Fisheries Service prior to the CC&Rs being reviewed and approved by the Department of Planning and Building.
- j. Construction of the Main Access Road. The applicant shall include a note on the construction plans that construction work on the main access road from the entrance to the corral area noted on the lot configuration map on Parcel #10 shall not occur during breeding and fledgling periods of the bald eagle and golden eagle. Construction for this portion of the road shall not occur during the months of April through July.
- k. Wetlands Protection Adjacent to Main Access Road. The applicant shall demonstrate that construction adjacent to wetland areas shall be under the supervision of a botanist or ornamental horticulturist acceptable to the Department of Planning and Building. The road shall be widened north of the existing road alignment to reduce any taking of wetlands areas. Appropriate silt fencing and/or other measures shall be noted on the grading plans for the road.

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A-3-SLO-99-32 Ex. 14, p. 4
- 11 - 4

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL – COAL 94-130 MORRO BAY LIMITED/EDA

1. Ellyslly Creek Entrance Crossing. The applicant shall retain a qualified expert acceptable to the Department of Planning and Building to determine any impacts on the tidewater goby and recommend mitigation measures, if necessary. A copy of the report shall be submitted to the Department of Planning and Building for review and approval.
- m. Revegetation of Cuts and Fills. A landscape plan shall be submitted in conformity with County requirements for all road cuts and fills. The applicant shall insure that the proposed planting will mature in two to three years and that the planting will be maintained until established (a minimum of three years).
- n. Alternative Building Envelopes and Exclusion Areas. The applicant shall show on the ECM the location of the building envelopes outside the exclusion line shown on Exhibit #1 attached to the developer's statement.
- o. Architectural Requirements for Parcels #1 and 2. For Parcels #1 and 2, the applicant shall demonstrate the following:
 - 1) The roofline shall not exceed 10 feet above the grade of the saddle.
 - 2) Architecture roof form be shaped similarly to that of the hill.
 - 3) Colors shall be limited to earthen tones--that blend with the natural landscape.
 - 4) Landscaping shall be planted to obscure the roof form but be kept low.
 - 5) Final design for the structures shall be prepared by a design professional and a follow up visual analysis shall be done to insure that the design does not intrude on the view.
 - 6) All development shall be consistent with North Coast Planning Area standard #6. Site Selection (visual mitigation).
- p. Landscaping Requirements for Parcel #10. A screen of low trees and native shrubs shall be planted parallel to Highway 1 on Parcel #10, as shown on Exhibit #1. The planting scheme shall be reviewed by a landscape architect, horticulturist or landscape planner to ensure that the grouping of the vegetation is arranged in a natural fashion and blends in with existing vegetation along Highway 1. The planting shall occur prior to development of roads or residences if not previously established.
- q. Architectural Requirements for Parcels #9 and 10. For Parcels #9 and 10, the applicant shall demonstrate the following:
 - 1) The roofline shall not exceed 10 feet above the grade of the saddle.
 - 2) Architectural roof form be shaped similarly to that of the hill.
 - 3) Colors shall be limited to earthen tones--that blend with the natural landscape.
 - 4) Landscaping shall be planted to obscure the roof form but be kept low.
 - 5) Final design for the structures shall be prepared by a design professional.
 - 6) A visual analysis shall be done to insure that the structures are not visible from Highway 1.

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A-3-SLO-99-32 Ex. 14, p. 5
11-11-14 p. 5

EXHIBIT B (Continued)

**CONDITIONS OF APPROVAL – COAL 94-130
MORRO BAY LIMITED/EDA**

- 7) All development shall be consistent with North Coast Planning Area standard #6. Site Selection (visual mitigation).
- r. Architectural Requirements. For all parcels, the applicant shall demonstrate the following:
- 1) All units shall be limited to a height of 22 feet above natural grade except where noted at 10 feet (Parcels #1, 2, 9 and 10).
 - 2) The architectural design shall provide for articulated roof forms which follow the general shapes of the hills and avoid flat planes which project against the sky in long straight lines or acute angles which may be considered intrusive to the existing natural character of the hills and vegetation.
 - 3) Areas adjacent to structures shall be landscaped with material to cover exposed ground surfaces, cut faces and retaining walls. Such landscaping, while meeting County Fire/CDF requirements shall be selected to be compatible with the existing native materials both in color and texture.
- s. Lighting. The applicant shall submit an exterior lighting plan indicating that all exterior lighting shall be low-level and shielded so that no exposed light element is visible to a public road or the ocean (marine mammal haul out points). All exterior fixtures shall be shielded in such a manner that the bare bulb or luminare is not directly visible beyond the residential property.
- t. Ancillary Structures. No ancillary structures for agricultural operations or residential use (such as corrals, water tanks, out buildings, gazebos, horse stalls) shall be visible from Highway 1, or the coastline, unless a visual study is undertaken to locate the facilities such that they do not silhouette and are screened from view. Any ancillary structures located outside the building envelope shall require a visual analysis to determine the potential visual impacts to Highway 1, and this study shall be submitted at the time of future application for land use or construction permits. (Visual analysis shall also satisfy the planning area standards of the North Coast Area Plan)
- u. Abandoned Water Tank. The water tank located on Parcel #10 on the crest of the hill that is visible from Highway 1 shall be relocated or removed if it is no longer needed. If it cannot be relocated, then it should be painted a color that matches the surrounding vegetation during the summer months.
- v. Archaeologist. The applicant shall retain at his expense a qualified archaeologist, approved by the Environmental Coordinator, to monitor all earth disturbing activities within the archaeologically sensitive area as delineated on the ECM until such time as all earth disturbing activities are completed. If any archaeological resources are found at that time, work shall stop within 150 feet of the resources until such time as the resource can be evaluated by an archeologist. The applicant shall implement the recommendations of the archaeologist, as required by the Environmental Coordinator.

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL -- COAL 94-130 MORRO BAY LIMITED/EDA

- w. Access Road Construction. Prior to any ground disturbance activities related to construction of the road in the area of the farmhouse, in an area at least four hundred feet in each direction, as designated on the ECM, the applicant shall:
- 1) Stake the route.
 - 2) The staked route shall be inspected by a qualified archaeologist.
 - 3) Agree to any mitigation proposed by the archaeologist including minor route adjustments, placement of fill where feasible, and/or monitoring.
 - 4) Indicate on construction plans, the mitigations recommended by the consulting archaeologist.
 - 5) The road in the vicinity of the farmhouse, approximately 400 feet on each side of the farmhouse, shall be constructed on fill, as specified by the consulting archaeologist.
- x. Archaeological Monitoring Report. Upon completion of all monitoring/mitigation activities, but prior to final inspection, the consulting archaeologist shall submit a letter summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.
- y. Parcels # 9 and 10 Development Envelope Restrictions. The ECM shall indicate that the building envelopes for Parcels #9 and 10 leave the lower elevations of the parcel available for agricultural use. Barns and ancillary structures needed for agricultural uses can be located in the lower elevations, provided that they meet other criteria related to visibility from Highway 1, geologic hazards and wetlands protection. The Environmental Coordinator shall review the building envelopes at the time of submittal of the ECM for consistency with this objective.
- z. Fencing. The applicant shall submit CC&Rs to the satisfaction of the County that include the requirement of mandatory fencing along property lines adjacent to Parcels #9 and 10 of sufficient design and materials to restrict pets (e.g., dogs) from trespassing into open rangeland areas. In addition, the applicant shall disclose to all prospective buyers of all lots created by this proposal, the importance of controlling all pets in order to eliminate the potential for conflicts with livestock or other agricultural activities on the Morro Bay LTD property or on adjacent ranchlands.

Disclosure

4. The applicant shall disclose to all prospective buyers of all of the parcels created by this proposal that agricultural operations on Parcels #9 and 10 and nearby ranchlands may generate dust, noise, odors and agricultural chemicals. Further, there shall be a recordation on the deeds of the County's Right to farm Ordinance currently in effect.

A-3-SLO-99-14
A-3-SLO-99-32
Exhibit 14, p. 7

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL – COAL 94-130 MORRO BAY LIMITED/EDA

CONDITIONS FOR RECORDATION

5. If a map is filed:
 - a. public utility easements be shown on the map, and
 - b. approved street names be shown on the map, and
 - c. a tax certificate/bonding shall be provided.
6. The applicant shall submit a preliminary title report to the County Engineer for review when the map is submitted for checking, or when the Certificate of Compliance application is filed.
7. Any private easement, as shown on the title report, must be shown on the map with recording data.
8. All conditions of approval herein specified are to be complied with prior to recordation of the Certificates of Compliance or Parcel Map which effectuates the adjustment. The Parcel Map is at the option of the applicant. However, if a Parcel Map is not filed, an application for Certificates of Compliance is mandatory.
9. The Certificates of Compliance or Parcel Map shall be filed with the County Recorder prior to transfer of the adjusted portions of the property or the conveyance of the new parcels.
10. In order to consummate the adjustment of the lot lines to the new configuration when there are multiple ownerships involved, it is required that the parties involved quitclaim their interest in one another's new parcels. Any deeds of trust involving the parcel or parcels must also be adjusted by recording new trust deeds concurrently with the map or Certificates of Compliance. The adjustment is not complete until the applicant completes the necessary transfers.
11. After approval by the Subdivision Review Board, compliance with the preceding conditions will bring the proposed adjustment in conformance with the Subdivision Map Act and Section 21.02.030 of the Real Property Division ordinance.
12. The lot line adjustment will expire two year (24 months) from the date of the Subdivision Review Board approval unless the Certificates of Compliance or Parcel Map effectuating the adjustment is recorded. Lot line adjustments may be extended by the Subdivision Review Board for a period not to exceed one year. Written requires with appropriate fees must be submitted to the Planning Department prior to the expiration date.

Covenants, Conditions, and Restrictions

13. The developer's statement for the project's CEQA review included the applicant's proposal for CC&Rs to address ongoing use of the property, environmental mitigation, road maintenance and other aspects of the project that need to be addressed post recordation.

A-3-SLO-99-14
A-3-SLO-99-32
-11-14-14-8 Ex. 14, p. 8

EXHIBIT B (Continued)

CONDITIONS OF APPROVAL -- COAL 94-130 MORRO BAY LIMITED/EDA

Therefore, prior to finaling the adjustment the applicant shall establish covenants, conditions and restrictions for the project. The applicant shall submit CC&Rs to the county Department of Planning and building for review and approval. The CC&Rs shall reflect all measures identified in the developers statement conditions 1 through 4 above as well as the following items:

- a. Road Maintenance - Assignment of maintenance responsibilities for all common roads and related drainage facilities.
- b. The Agreement for Environmental Mitigations, with the Environmental Constraints Map, shall be attached to the CC&Rs as a separate exhibit.
- c. All structures within parcels 1 though 8 shall be confined to one designated building site of 2 acres subject to minor adjustment or relocation through minor use permit or development plan review at the time development is proposed. Parcels 9 and 10 may locate agricultural support buildings out side the two acre building site subject to the provisions of the environmental mitigation agreement. (See Environmental Constraints Map).
- d. Fencing plan for agricultural use areas and openspace and habitat protection pursuant to environmental agreement and fencing plan.
- e. Disclosure Statement: "The applicant shall disclose to all prospective buyers of all of the parcels created by this proposal that agricultural operations on Parcels #9 and 10 and nearby ranchlands may generate dust, noise, odors and agricultural chemicals. Further, there shall be a recordation on the deeds of the County's Right to farm Ordinance currently in effect."
- f. Architectural provisions contained in the environmental mitigation agreement shall be included the CC&Rs.
- g. Marine mammal mitigation measures from the environmental mitigation agreement shall be listed in the CC&Rs.

Landscaping Plan

14. Prior to finaling the lot line adjustment the applicant shall submit landscape, irrigation and landscape maintenance plans as required by Section 23.04.180 of the Coastal Zone Land Use Ordinance to the Development Review Section of the Department of Planning and Building for review and approval. Plan to include:

- a) All landscaping provisions referenced in the environmental mitigation agreement.

Landscaping shall be installed or bonded for prior to finaling the lot line adjustment.

A-3-560-99-14
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EXHIBIT B (Continued)

CONDITIONS OF APPROVAL -- COAL 94-130
MORRO BAY LIMITED/EDA

Revegetation Plan

15. Prior to finaling the lot line adjustment the applicant shall submit a revegetation plan for wetland/riparian enhancement. Revegetation shall be installed or bonded for prior to finaling the lot line adjustment.

Fencing Plan

16. Prior to finaling the lot line adjustment the applicant shall submit a fencing plan for wetland/riparian zone and agricultural use areas. Fencing shall be installed or bonded for prior to finaling the lot line adjustment.

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Roadway Project

EXHIBIT B: PLANNING COMMISSION CONDITIONS OF APPROVAL FOR DEVELOPMENT PLAN - D97O195D

Approved Use/Project Description

1. This approval authorizes the following:

- grading for construction of access roads, related drainage improvements, and
- modification of the existing agreement for environmental mitigations including the exhibit showing building envelope locations, subject to approval of the modified agreement by the Board of Supervisors. The project and future residential development is subject to the existing provisions of the agreement for environmental mitigations currently in effect which will be included in the amended agreement.

Effective Time Period

2. The approval period for this development plan shall be 24 months unless time extensions are granted as allowed by Section 23.02.050. Time extensions must be submitted in writing by the applicant and are subject to evaluation and action based on the circumstances prevailing at the time of the request.

Grading

3. Prior to any site disturbance, grading or issuance of any construction permits, submit grading, sedimentation and erosion control, and drainage plans prepared in accordance with the requirements of Section 23.05.028, 23.05.036, and 23.05.044 of the County Coastal Zone Land Use Ordinance to the Department of Planning and Building for review and approval. The plans shall be designed by a registered civil engineer, or other qualified professional. Review of the plans shall be subject to an inspection and checking agreement with the Engineering Department. Prior to issuance, the grading permit shall also require approval by California Department of Forestry for finish road grades and surfacing requirements. The term "grading" as used within the conditions of approval shall be as defined by the CZLUO and established Department of Planning and Building interpretation and practice, not by any notes that may occur on plans. Grading permit to cover and include all project improvements plans for road grading/improvements, drainage facilities, utilities, and related improvements.

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4. Grading activities shall not occur between October 15 and April 15 unless a phased grading plan, mitigation monitoring plan, and the plan shall allow for unseasonal or excessive rainfall (including provisions for a mitigation monitor and applicant funded review by an erosion and sediment control specialist such as RCD or RWQCB staff) submitted by the applicant and approved by the Planning Director. All erosion sedimentation control measures shall be installed, inspected and be in operating condition by October 1.

Agency Review

5. Prior to issuance of any permits, a letter of clearance from the CDF/ County Fire Department shall be required indicating compliance with their standards and requirements.

Amended Agreement for Environmental Mitigations

6. Prior to finaling the grading permit, the applicant shall enter into an amended agreement with the county to address the revised building envelope locations, in a form acceptable to the County Counsel, whereby the applicant agrees, on behalf of himself and his successors in interest, to modify designated building envelopes as modified in this Development Plan.
7. The applicant shall ensure all the following are done:

Archaeological Resources

- a. Prior to issuance of a grading permit for any ground disturbing activities related to construction of the road in the area of the farmhouse, in an area at least four hundred feet in each direction as designated on the Environmental Constraints Map, the applicant shall:
 - 1) stake the route;
 - 2) have the staked route inspected by a qualified archaeologist;
 - 3) agree to implement and complete all mitigations proposed by the archaeologist and required by the Environmental Coordinator including minor route adjustments, placement of fill where feasible, and/or monitoring;

Upon completion of all monitoring/mitigation activities, but prior to final inspection, the consulting archaeologist shall submit a letter to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

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- b. **During construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, to monitor all earth disturbing activities within the designated Environmentally Sensitive Area. If any archaeological resources are found during monitoring work shall stop within 150 feet of the resource until such time as the resource can be evaluated by an archaeologist. The applicant shall implement the recommendations of the archaeologist, as required by the Environmental Coordinator. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection, whichever occurs first**, the consulting archaeologist shall submit a letter to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

Drainage, Erosion and Sedimentation

- c. **At the time of application for a grading permit**, the applicant shall submit to the County Engineer for review and approval a drainage, sedimentation and erosion control plan. The plan shall address both temporary measures during construction as well as long term drainage solutions. The plan shall consider sensitive resources including archaeological areas, sensitive marine resources, coastal bluffs, wetland areas, and other areas prone to erosion effects.

Biological Resources

- d. **At the time of application for a grading permit**, the applicant shall include a note on the construction plans that construction work on the main access road from the entrance to the corral area noted on the Environmental Constraints Map on Parcel 9 shall not occur during breeding and fledging periods of the bald and golden eagle. Construction for this portion of the road shall not occur during the months of April through July.
- e. **Prior to issuance of a grading permit for road construction**, the applicant shall provide evidence that a qualified botanist or horticulturist acceptable to the Department of Planning and Building has reviewed and approved the alignment of the main access road to reduce any taking of the wetlands areas. Appropriate silt fencing and/or other measures shall be noted on the road grading plans.

Visual Resources

- f. If the applicant elects to pursue the westerly building envelope on Parcel

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1, the following requirements apply:

- 1) Construction is limited to those areas below the 492 foot contour elevation;
- 2) Construction at the 492 foot contour elevation is limited to a maximum height of ten (10) feet above natural grade. Construction on areas at elevations below the 492 foot contour should not exceed an elevation above 502 feet above mean sea level. If grading (cut) of the building pad is permitted, the maximum height of a unit could be adjusted upward accordingly, allowing for a maximum ridge height of 502 feet above mean sea level.
- 3) A second tier visual analysis shall be prepared by a qualified individual which incorporates the specific details of construction of a unit within the non-restricted area of the building envelope (i.e. grading, staking of building corners, use of pylons for scale, and preparation of photo simulations incorporating unit elevations, roof forms, etc.).

g. If the applicant elects to pursue construction of a unit on the easterly building envelope of Parcel 1, the following requirement applies:

A building envelope in this location must be carefully selected to avoid visibility from Key Viewing Area 1 and from Highway 1 near the project site's entrance – viewing in a westerly direction. A first tier visual analysis must be prepared prior to finalizing building envelope location.

h. The following requirements apply to development within "revised building envelope (5/98) for Parcel 2:

- 1) The 484 foot contour elevation is a control point at which development greater than 18 feet in height above natural grade shall not be located. If grading (cut) of the building envelope is permitted or reduction of unit height is considered, the 484 foot contour elevation control point could be adjusted upward accordingly.
- 2) A second tier visual analysis shall be prepared by a qualified individual which incorporates the specific details of construction of a unit in relation to the 484 foot contour elevation control point (i.e. grading, staking of building corners, use of pylons for scale, and preparation of photo simulations incorporating unit elevations, roof

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forms, etc.).

- i. The following requirements apply to development within "revised building envelope (5/98) for Parcel 9:

- 1) The 337 foot contour elevation is a control point at which development greater than 18 feet in height above natural grade shall not be located. If grading (cut) of the building envelope is permitted or reduction of unit height is considered, the 337 foot contour elevation control point could be adjusted upward accordingly.
- 2) A second tier visual analysis shall be prepared by a qualified individual which incorporates the specific details of construction of a unit in relation to the 337 foot contour elevation control point (i.e. grading, staking of building corners, use of pylons for scale, and preparation of photo simulations incorporating unit elevations, roof forms, etc.).

- j. **At the time of application for construction permits**, the applicant shall clearly delineate the location and visual treatment of water tanks on the project plans. All water tanks shall be located in the least visually prominent location feasible when viewed from Highway 1. Screening with topographic features, existing vegetation or existing structures is encouraged. If the tank(s) cannot be screened, then the tank(s) shall be a neutral, non-contrasting color, and landscape screening shall be provided.

- k. **At the time of application for construction permits**, the applicant shall provide an exterior lighting proposal. The proposal shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from Highway 1. All lighting poles, fixtures, and hoods shall be dark colored.

All exterior light sources shall be low-level and adjusted so that light is directed away from Highway 1.

The height of free standing outdoor lighting fixtures shall be limited so that they are not visible from Highway 1.

Security lighting shall be shielded so as not to create glare when viewed from Highway 1.

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Wetlands

- I. **Prior to commencement of construction activities**, the applicant shall provide evidence to the Environmental Coordinator that the United States Army Corps of Engineers has been consulted as to the need for a permit under Section 404 of the Clean Water Act. If a permit is required, the applicant agrees to comply with all conditions of that permit.

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