CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
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M9a

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Appeal filed 4/3/2000
49th day (waived) 5/22/2000
Staff ..... D.Carl

Previous Coastal Commission Actions & Dates
Hearing opened and continued 5/11/2000
Substantial issue found 8/9/2000
Project approved with conditions 12/14/2000

Revised Findings
Revised findings staff report prepared .. 4/19/2001
Revised findings hearing date 5/7/2001
Revised findings hearing item number 9a

APPEAL STAFF REPORT - REVISED FINDINGS

Appeal number ..... **A-3-SCO-00-033, Hinman-Skees Residence**

Applicants ..... Brian Hinman & Suzanne Skees

Appellants ..... Commissioners Sara Wan and Christina Desser
Citizens For Responsible North Coast Planning
Friends of the North Coast
Sierra Club

Local government ..... Santa Cruz County

Local decision ..... Approved with conditions (March 14, 2000)

Project location ..... Approximately ¾ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border inland from Año Nuevo State Reserve, North Santa Cruz County (APN 054-061-16).

Project description ..... Construct an approximately 15,000 square foot, 3-story, 51 feet high residential dwelling with associated terraced grounds and hardscape, detached accessory structure, swimming pool, and 1,000 linear foot driveway, with over 5,500 cubic yards of grading for the building site, courtyard, driveway and access road.

File documents ..... Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County Coastal Development Permit Application File 98-0426.

Commissioners on prevailing side: Estolano, Hart, Susskind, McClain-Hill, Potter, Dettloff, & Wan

Staff note: The Coastal Commission approved this proposed project after public hearing at their December 2000 meeting in San Francisco by a vote of 7-3 with one abstention. In the course of that approval, the Commission modified several conditions and the final Commission vote was predicated on the understanding that the project would be brought back before the Commission for the adoption of revised findings that reflected the changes made by the Commission as well as the staff report addendum. All changes made to the December 2000 staff report (i.e., addendum and Commission modifications) are reflected herein and identified by footnotes as applicable.

Synopsis of the Coastal Commission December 14, 2000 action: The Applicant's proposed project raised concerns regarding protection of environmentally sensitive habitat area (ESHA), visual resources, and agriculture along the largely undeveloped stretch of wilderness coastline stretching from the City of Santa Cruz north to Half Moon Bay. The subject property is entirely occupied by either habitat for the endangered San Francisco garter snake and the threatened California red-legged frog, or native Monterey pine forest deemed ESHA by the LCP. After public hearing, the Coastal Commission approved a modified project, smaller in size and scale, that minimizes adverse ESHA impacts, that keeps development out of the public viewshed, and that protects and enhances endangered species habitat on the subject property.

Staff Recommendation on Revised Findings

Staff recommends that the Commission adopt the following revised findings in support of its approval with conditions of a coastal development permit for the proposed development on December 14, 2000.

Motion. I move that the Commission adopt the revised findings in support of the Commission's action on December 14, 2000 approving with conditions the development proposed under appeal number A-3-SCO-00-033 pursuant to the staff recommendation.

Staff Recommendation of Adoption. Staff recommends a **YES** vote. Passage of this motion will result in adoption of the following resolution, revised findings and conditions as set forth in this report. The motion requires a majority vote of the members from the prevailing side present at the December 14, 2000 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Estolano, Hart, Susskind, McClain-Hill, Potter, Dettloff, & Wan. If the motion fails, the revised findings are postponed to a later meeting.

Resolution. The Commission hereby adopts the findings and conditions set forth below for approval with conditions of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on December 14, 2000 and accurately reflect reasons for it.

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1. Project Procedural History

The proposed project (hereafter "the Project") in front of the Commission was approved by a 3-2 vote of the Santa Cruz County Board of Supervisors on March 14, 2000. This Board approval was separately appealed to the Coastal Commission by Commissioners Sara Wan and Christina Desser; Citizens For Responsible North Coast Planning; Friends of the North Coast; and the Sierra Club. On May 11, 2000, the Coastal Commission opened the substantial issue hearing, and continued the hearing until such time as a full staff report analysis of the Project would be possible. On August 9, 2000 in Huntington Beach, the Commission resumed the substantial issue hearing on the Project and found that the appeals raised substantial issues in terms of the Project's consistency with the Santa Cruz County LCP. As a result, the Commission took jurisdiction over the coastal development permit (CDP) for the Project.

In finding substantial issue, the Commission directed the Applicant to develop additional information regarding the habitats present on the subject site before the Project was brought back for a de novo analysis and review. The Applicant has since prepared additional biotic information for the site and Commission staff, including the Commission's Senior Biologist, together with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) staff have visited the site and reviewed the relevant information prepared. This staff report incorporates the information and analysis up to and including the substantial issue hearing, as well as the additional de novo process since August in Huntington Beach.

Additional information developed by the Applicant since the County acted on the CDP used in the preparation of this report includes: (1) a forester's report (by Stephen Staub and Stephen McGuirk, dated May 2000) analyzing the forest resources in the immediate vicinity for their habitat and screening values (see Exhibit K); (2) a cumulative impact analysis describing the proposed project in relation to possible future development in the surrounding area (dated received May 15, 2000) (see Exhibit L); (3) a composite analysis of site constraints (dated received September 12, 2000) (see Exhibit P); and (4) a San Francisco Garter Snake and red-legged frog Habitat Assessment (by Dr. Sam McGinnis, dated October 15, 2000 and updated November 2, 2000) (see Exhibit D).

2. Report Summary

The Project approved previously by Santa Cruz County, and the subject of this appeal, is a proposed large residential dwelling compound situated on an agriculturally-zoned property inland of State Highway One and Año Nuevo State Reserve at the Santa Cruz/San Mateo County border. This stretch of mostly undeveloped Central Coast represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP dictates maximum protection.

The project site presents a challenging planning conundrum for residential siting in that the roughly 50 acre parcel is zoned for high priority agriculture, is located in a critical public viewshed, and is completely occupied by ESHA. ESHA on the site includes native Monterey pine forest, wetland, native grassland, and habitat and migration corridors for both San Francisco garter snake (a Federal and State Endangered Species) and California red-legged frog (a Federal Threatened Species and a State Species of Special Concern). USFWS indicates that the area in and around Año Nuevo State Reserve, including the Applicant's site, is home to the most important San Francisco garter snake habitat in existence today. The habitat area on the Applicant's site should be understood as part of a larger habitat area in and around the Año Nuevo area connected by migratory corridors. The relatively steeper portions of the site are further constrained by areas of geologic instability.

In light of the significant resource constraints and associated habitat values, the best use for the subject property is probably as an open space habitat area managed to preserve environmentally sensitive habitat areas. However, if a residence must be entertained at this location in light of constitutional takings considerations, its siting and design are critical to the continuation of the habitat and other resource values at this location. Although agriculture is a high priority under the LCP (and the Coastal Act), avoidance and preservation of ESHA at this site, at the expense of agriculture, is more protective of coastal resources given both the absence of ongoing agriculture and the significant endangered species habitat present on the site as well as the site habitat's relation to the larger endangered species habitat of the greater Año Nuevo area.

Staff identified three potential areas for siting a residence at this location to have the least impact to ESHA: (1) the area at the northwest corner of the property; (2) the area at the southwest corner of the property nearest the existing adjacent residence; and (3) the forested area proposed by the Applicant. After consultation with USFWS and CDFG, Staff believes that if a residence must be considered in deference to constitutional rights of private property owners, the best location to pursue residential development on the subject site is within the forested site area proposed by the Applicant. All things considered, this area would have the least impact on habitat for the Federal and State listed frog and snake species. Although the site is located within the native pine forest also deemed ESHA by the LCP, placing a residence here will limit residential activities associated with the house to an area that is not frog or snake habitat. These two listed species taking precedence over native pine forest that is not (currently) so listed. The residence would not require any native pine removal as it would be tucked within a forest clearing at the edge of the larger pine-forested area inland. As such, its impact on the native Año Nuevo Monterey pine stand could be minimized.

Even with the forest site location, though, the proposed residence at this location would result in a host of adverse impacts that must be addressed, including the loss of forest habitat ESHA for the house placement, the loss of garter snake and frog habitat because of the driveway placement, the potential for increased mortality to frogs and snakes from increased use of the existing road and new use of the driveway, the potential for disturbance to frogs and snakes from typical residential activities on the site, impacts to sensitive species during construction, and development within the public viewshed.

To address these impacts, the Commission approved the proposed project with conditions that will: minimize site disturbance to that allowed by the LCP in the native forest (i.e., ¼ acre); lower the height of the proposed residence to ensure that it is not visible within the existing public viewshed; require additional dense tree planting to ensure that the residence is not visible in the event the existing eucalyptus screen is removed in the future; place the remainder of the site area (outside of the residence itself) under a permanent conservation easement; enhance garter snake and frog habitat within the conservation easement area; protect sensitive species during construction; and require roads that will least disrupt the threatened and endangered snake and frog species.

3. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **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.

5. **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.

B. Special Conditions

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be substantially in conformance with the plans submitted to the Commission (titled *Año Nuevo House* by Kirk E. Petersen and Associates Architects last dated revised December 28, 1999; dated received in the Commission's Central Coast District Office January 14, 2000) but shall show the following changes to the project:

   (a) **Residential Compound Footprint.** The footprint of the residential compound (i.e., the residence, all impermeable pathways, courtyards, garages, swimming pools, retaining walls, lawn and ornamental landscape areas, etc.) shall be confined within an area of no greater than ¼ acre (i.e., 10,890 square feet).

   (b) **Terrace Areas.** There shall be no ornamentally landscaped terrace areas surrounding the residential compound footprint. All areas surrounding the residential compound footprint shall be contoured to mimic the natural topography and revegetated with native grasses appropriate to the Año Nuevo region.

   (c) **Other Grading/and Septic Line Area.** All graded areas, including but not limited to the septic line area, shall be contoured to mimic the natural topography and revegetated with native grasses appropriate to the Año Nuevo region.

   (d) **Structural Height.** The height of the residential structure shall be reduced to the extent necessary to ensure that that the residence will not be visible from any public viewing location(s) within Año Nuevo State Reserve and/or from Highway One; the height reduction shall not be less than 10 feet at a minimum. The Revised Project Plans shall be submitted with evidence (e.g., photo simulations, representative staking, architectural renderings, etc.) that the reduced-height structure will not be visible from any public viewing location(s) within Año Nuevo State Reserve and/or from Highway One.

   (e) **Building Materials.** All exterior treatment shall be wood in shades of green and brown designed to match the mottled forest backdrop at this location. The roof shall be mottled copper substantially consistent with the 3 foot by 7 foot roof sample supplied to the Commission.

   (f) **Lighting.** There shall be no exterior night lighting, other than the minimum lighting necessary for pedestrian and vehicular safety purposes. In no case shall such lighting for safety purposes be located above the first floor of the residential structure.[1] All lighting shall be directed away from environmentally sensitive habitat areas. All interior lighting within the residence shall be directed away from windows which are visible from environmentally sensitive habitat areas. All lighting shall be downward directed and designed so that it does not produce any light or glares off-site.

[1] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on locating safety lighting above the first floor of the residential structure: adds entire second sentence to Special Condition 1(f).

(g) **Road Improvements (General).** The existing access road shall not be paved. Any road improvements shall be located within the existing roadway prism (i.e., no roadbed expansion is allowed). Any road improvements shall incorporate adequate measures to capture, direct, and treat road runoff to avoid sediment and pollutant loading.

(h) **Road Improvements (Near Pond).** The existing access road area at the pond shall be replaced with a bridge of adequate span to provide for sensitive habitat connectivity (i.e., San Francisco garter snake and California red-legged frog migration between the pond and the riparian corridor to the southwest) and flood protection (see also Exhibit G-1). The pond area roadbed fill shall be replaced with an engineered system designed to manage pond hydrology in favor of San Francisco garter snake and California red-legged frog habitat. The area of removed roadbed fill and surrounding disturbed areas shall be restored within the parameters of the Habitat Enhancement Plan (Special Condition 3). The bridge and adjacent roadway areas shall incorporate adequate measures to capture, direct, and treat road runoff to avoid sediment and pollutant loading. The bridge shall be constructed before construction of the driveway and/or residential compound can commence.

(i) **Driveway.** The driveway from the existing access road to the residence shall be placed as far away from the Applicant's pond as possible using the existing informal jeep trail adjacent to the southern property line to avoid the main pond habitat area as much as is feasible. The driveway shall not be paved. The driveway shall be minimized in length and width, and in no case shall the driveway be wider than 12 feet. All remaining jeep trail areas shall be scarified and revegetated with native grasses appropriate to the Año Nuevo region.

(j) **Tree Screen.** The 1,200 linear foot Monterey cypress row along the western property line shall be planted as an uneven stand (a minimum of two rows, 120 individual trees) using 15 gallon container size specimens for the first row nearest the existing road, and a mix of 5 gallon and 15 gallon container size specimens for the second row furthest from the existing road (to the east of the first row of trees). The Monterey cypress row shall be planted as close to the existing road as possible while not threatening tree viability. The 22 replacement trees in the general vicinity of the residence (a mix of Monterey cypress, Coast live oak, and coast redwood) shall be a mix of 24 inch box, 15 gallon, 5 gallon and 2 gallon container size specimens.[2]

(k) **Site Runoff.** All site runoff shall be captured and filtered to remove typical runoff pollutants. Runoff from all surfaces subject to vehicular traffic shall be filtered through an engineered filtration system specifically designed to remove vehicular contaminants. All filtered runoff that is suitable for groundwater recharge, irrigation, and/or pond restoration purposes shall be directed to groundwater basins, irrigation systems, and/or ponds in such a manner as to avoid erosion and/or sedimentation.

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[2] Special Condition 1(j) was modified by the staff report addendum dated December 12, 2000 to allow for a mix of smaller container size specimens.

(l) **Defensible Space.** The Residential Compound Footprint shall be configured to allow for a California Department of Forestry "defensible space" that does not require removal of any living Monterey pine. The defensible space and all vegetation proposed within the defensible space shall be clearly identified on the plans. The plans shall also identify all parameters for maintaining the defensible space, including but not limited to: identification of what types of vegetation must be removed; what types of vegetation can remain; and the specific parameters for any tree limb removal (e.g., when such limbs shall be removed, at what limb height is removal unnecessary, etc.).

(m)**Non-invasive vegetation.** All vegetation to be planted shall be non-invasive species.[3]

The Revised Project Plans shall be submitted with evidence of review and approval (or evidence that none is necessary) from the appropriate official(s) from: (1) Santa Cruz County; (2) United States Fish and Wildlife Service; (3) California Department of Fish and Game; and (4) California Department of Forestry.

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, provide for the following:

(a) **Biological Monitor.** A qualified biological monitor experienced with, at a minimum, San Francisco garter snake and California red-legged frog shall be present at the site during all construction activities. The biological monitor shall have the authority to halt all construction activities, and/or modify construction methods, as necessary to protect habitat and individual sensitive species. The biological monitor shall complete daily monitoring reports that indicate the date and time of work, weather conditions, the monitoring biologist's name, project activity/progress, and any listed species observed. These reports shall be compiled and submitted to the Executive Director upon completion of construction as part of a construction monitoring report.

(b) **Bridge Construction First.** The bridge to be installed along the existing road nearest the pond shall be constructed and operational before construction of the driveway and/or residential compound can commence.

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[3] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on invasive species: adds entire subsection 1(m). Note that this subsection would apply to plantings within the Residential Compound Footprint since subsection 1(b) requires native grasses to be planted in all areas surrounding the Residential Compound Footprint.

(c) **Construction Zone.** The perimeter of the area subject to construction activity shall be minimized to that absolutely necessary to construct the bridge, the driveway, and the residence, and shall be delineated by construction fencing adequate to repel San Francisco garter snake and California red-legged frog. All construction methods (including staging and stockpiling areas) expected to be used during construction shall be identified. To the extent feasible, previously disturbed off-site areas shall be used for storage and staging of equipment and materials.

(d) **Construction Timing.** No construction shall be allowed when San Francisco garter snake and/or California red-legged frog are expected to be present. At a minimum, all construction shall be limited to the dry season (i.e., from April 15th to October 15th) of the year. Construction shall not commence until the area within the construction zone has been field surveyed for the presence of San Francisco garter snake and California red-legged frog by a qualified biologist experienced with these two species; any specimens found during the field survey shall be relocated to protected areas outside of the construction zone. If the field survey is conducted before July 1st, a second survey shall be required to again check for the presence, and relocate to safety any individuals found, of San Francisco garter snake and California red-legged frog by a qualified biologist experienced with these two species

(e) **Work Schedule.** Timing for all activities (e.g., 8am to 5pm work day; 12 hours a day; 24 hours a day; Monday through Friday; just weekends; every day; etc. and indications if there is any flexibility in each activity) shall be identified.

(f) **Erosion Control Procedures.** The Construction Plan shall clearly identify all best management practices to be implemented during construction and their location. Such plans shall contain provisions for specifically identifying and protecting all natural drainage swales (with sand bag barriers, filter fabric fences, straw bale filters, etc.) to prevent construction-related runoff and sediment from entering into these natural drainage areas which ultimately deposit runoff into the onsite wetland/riparian system and/or ultimately into the Pacific Ocean. Silt fences, or equivalent apparatus, shall be installed at the perimeter of all construction areas. At a minimum, such plans shall also include provisions for stockpiling and covering of graded materials, temporary stormwater detention facilities, revegetation as necessary, restricting grading and earthmoving during the rainy weather.

The Erosion Control Procedures shall indicate that: (a) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff shall be collected to settle out sediments prior to discharge from the site; all de-watering operations shall include filtration mechanisms; (b) off-site equipment wash areas are preferred whenever possible; if equipment must be washed on-site, the use of soaps, solvents, degreasers, or steam cleaning equipment shall not be allowed; in any event, such wash water shall not be allowed to enter any natural drainage; (c) concrete rinsates shall be collected and they shall not be allowed to enter any natural drainage areas; (d) good construction housekeeping shall be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment off-site and/or in one designated location; keep materials covered and out of the rain (including covering exposed piles of soil and

wastes); all wastes shall be disposed of properly, trash receptacles shall be placed on site for that purpose, and open trash receptacles shall be covered during wet weather); and (e) all erosion and sediment controls shall be in place prior to the commencement of grading and/or construction as well as at the end of each day.

All Construction Plan requirements shall be shown as notes on the job copy of the Approved Revised Project Plans.

The Construction Plan shall be submitted with evidence of review and approval (or evidence that none is necessary) from the appropriate official(s) from: (1) Santa Cruz County; (2) United States Fish and Wildlife Service; (3) California Department of Fish and Game; and (4) California Department of Forestry.

The Permittee shall undertake development in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Habitat Enhancement and Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Habitat Enhancement and Management Plan (Plan) to the Executive Director for review and approval. The Plan shall be prepared under direction of qualified biologists experienced in the fields of: San Francisco garter snake and California red-legged frog habitat; native Monterey pine forest habitat; wetland biology and hydrology; and native grasslands. The Plan shall be developed in consultation with the California Department of Fish and Game and United States Fish and Wildlife Service.

   The Plan shall provide for habitat enhancement of the entire property excluding the Residential Compound Footprint (specified in Special Condition 1) and shall be designed primarily to enhance and manage habitat for San Francisco garter snake, California red-legged frog, and native Monterey pine forest. The Plan shall include a pond restoration component and a bridge/riparian area restoration component. The Plan shall at a minimum include:

   (a) A detailed site plan of the entire property on a topographic base map with distinct habitat areas identified;

   (b) A baseline ecological assessment of each habitat area, including but not limited to, assessment of the biological and physical criteria for the area;

   (c) The goals, objectives, performance standards, and success criteria for the property, including specific coverage and health standards for any areas to be planted. At a minimum, explicit performance standards for vegetation, hydrology, sedimentation, water quality, and wildlife, and a clear schedule and procedure for determining whether they are met shall be provided. Any such performance standards shall include identification of minimum goals for each herbaceous

species, by percentage of total plantings and by percentage of total cover when defined success criteria are met; and specification of the number of years active maintenance and monitoring will continue once success criteria are met. All performance standards shall state in quantifiable terms the level and extent of the attributes necessary to reach the goals and objectives. Sustainability of the attributes shall be part of every performance standard. Each performance standard shall identify: (1) the attribute to be achieved; (2) the condition or level that defines success; and (3) the period over which success must be sustained. The performance standards must be specific enough to provide for the assessment of habitat performance over time through the measurement of habitat attributes and functions including, but not limited to, wildlife abundance, vegetation abundance and type, and hydrology. Invasive plant species shall not be planted within the habitat enhancement area.[4]

(d) The final design, installation, and management methods that will be used to ensure the mitigation site achieves the defined goals, objectives, and performance standards;

(e) Provisions for the full restoration of any impacts that are identified as temporarily necessary to install the restoration or enhancement elements;

(f) Provisions for submittal, within 30 days of completion of initial (and subsequent phases, if any) restoration work, of "as built" plans demonstrating that the restoration and enhancement has been established in accordance with the approved design and installation methods;

(g) Provisions for a detailed monitoring program to include at a minimum provisions for assessing the initial biological and ecological status of the site. The assessment shall include an analysis of the attributes that will be monitored pursuant to the program, with a description of the methods for making that evaluation;

(h) Provisions to ensure that the site will be promptly remediated if monitoring results indicate that the site does not meet the goals, objectives, and performance standards identified in the approved mitigation program and provisions for such remediation. If the final report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the Property Owner shall submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the approved performance standards. The revised mitigation program, if necessary, shall be processed as an amendment to this coastal development permit.

(i) Provisions for submission of annual reports of monitoring results to the Executive Director for the first five years after all enhancement and maintenance activities have concluded (including but not limited to watering and weeding, unless weeding is part of an ongoing long-term maintenance plan) and periodic monitoring after that time, beginning the first year after

[4] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to implement a prohibition on invasive plant species: adds last sentence of subsection 3(c).

submission of the "as-built" assessment. Each report shall include copies of all previous reports as appendices. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the project in relation to the performance standards.

(j) Provisions for ongoing management of the habitat enhancement area to ensure the long-term maintenance of the goals, objectives, performance standards, and success criteria of the Plan.

The Plan shall be submitted with evidence of review and approval (or evidence that none is necessary) from the appropriate official(s) from the United States Fish and Wildlife Service and the California Department of Fish and Game.

The Permittee shall undertake enhancement activities in accordance with the approved Plan. It is the responsibility of the Permittee to implement all enhancement and restoration measures specified in the Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the approved Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

4. **Habitat Conservation Easement.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee 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 a Habitat Conservation Easement (Easement) for the purpose of habitat conservation. Such Easement shall cover all areas of the property with the exception of the Residential Compound Footprint (specified in Special Condition 1). The recorded document shall include legal descriptions and site plans of both the Permittee's entire parcel and the Easement area. The recorded document shall indicate that no development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Easement area except for habitat enhancement and restoration activities specified in the Approved Habitat Enhancement Plan for the site, and minor road maintenance activities within the existing roadway prism. The recorded document shall also indicate that agricultural plantings, use and/or activities shall be prohibited in the Easement area.[5]

   The offer to dedicate the Habitat Conservation Easement shall be recorded free of prior liens and 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.

5. **Habitat, Scenic, and Rural North Coast Character Protection.**

   (a) No development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the

[5] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on agricultural plantings, use and/or activities in the easement area: adds the sentence footnoted.

certified Santa Cruz County Local Coastal Program, shall occur in the Habitat Conservation Easement (Special Condition 4 of Coastal Development Permit Number A-3-SCO-00-033) area except for habitat enhancement and restoration activities specified in the Approved Habitat Enhancement and Management Plan (Special Condition 3 of Coastal Development Permit Number A-3-SCO-00-033) for the site, and minor road maintenance activities within the existing roadway prism.

(b) Helicopter use, including but not limited to landing or parking of helicopters on the property, associated with any development authorized by Coastal Development Permit A-3-SCO-00-033 is prohibited, except for emergency purposes.

(c) No trees of any size that are located between the Residential Compound Footprint (identified through Special Condition 1 of Coastal Development Permit Number A-3-SCO-00-033) and Highway One shall be removed from the subject property unless the Coastal Commission has determined that said tree(s) present a significant hazard to life, health, or property. Any such tree(s) removed, and/or any trees located between the Residential Compound Footprint and Highway One that die and fall over of their own accord, shall be replaced with a tree of the same species in the same general vicinity as the previous tree.

(d) The subject property includes a portion of the native Año Nuevo Monterey pine forest within which development and utilization of a prescribed burning program, or other means to mimic the effects of natural fires, is allowed and may be pursued.

(e) If any portion of any residential structure(s) located within the Residential Compound Footprint identified through Special Condition 1 of Coastal Development Permit Number A-3-SCO-00-033 becomes visible to the naked eye[6] in the future from any public viewing location(s) within Año Nuevo State Reserve and/or from Highway One, the visible portion(s) shall be screened with vegetation.[7] In such case, the property owner shall immediately submit a remediation plan to the Executive Director of the Coastal Commission specifying the range of measures to be undertaken to screen any such newly visible portion of the structure(s) from within the Año Nuevo State Reserve/Highway One public viewshed. Implementation of any such remediation plan shall not occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

(f) Agricultural plantings, use and/or activities shall be prohibited in the Habitat Conservation Easement (Special Condition 4 of Coastal Development Permit Number A-3-SCO-00-033) area.[8]

(g) Only native plant species appropriate to the Año Nuevo region shall be planted within the Habitat

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6 Modification to Staff recommendation as made by Staff at the December 14, 2000 hearing: adds "to the naked eye" to the first sentence.

7 Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to delete the previously recommended requirement that portions of said structure that become visible shall be removed.

8 Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on agricultural plantings, use and/or activities in the easement area: adds entire subsection 5(f).

Conservation Easement (Special Condition 4 of Coastal Development Permit Number A-3-SCO-00-033) area. Planting of invasive plant species shall be prohibited on the entire parcel.[9]

(h) Domestic animals (e.g., horses, cows, cats, dogs, etc.) shall be prohibited on the entire parcel.[10]

By acceptance of this permit, the Permittee acknowledges and agrees to 5a through 5h above.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition for the purpose of protecting habitat, scenic, and rural north coast character values. The Habitat, Scenic, and Rural North Coast Character Deed Restriction (Deed Restriction) shall affect the entire parcel (Deed Restricted Area) and shall include a legal description and site plan of: the Permittee's entire parcel; the Deed Restricted Area; the Residential Compound Footprint (specified in Special Condition 1); and the Habitat Conservation Easement area required by Special Condition 4. 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. The Deed Restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. **Agricultural Hold Harmless and Indemnity Agreement.** By acceptance of this permit, the Permittee acknowledges and agrees: (a) that the site is adjacent to land utilized for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittee and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural properties against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are related to the normal and necessary agricultural land use and its impact to users of the property.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition and all required notification requirements of

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[9] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on invasive species: adds entire subsection 5(g). Note that this subsection also reiterates the requirement for native plantings outside of the Residential Compound Footprint (as described in Special Condition 1(b)).

[10] Modification to address Commission-required prohibition on agricultural use and/or activities on the site consistent with the LUP Policy 5.1.3 requirement to prohibit domestic animals on parcels with sensitive habitats. Such a prohibition was discussed in the previous report findings, but inadvertently omitted from the previous report conditions.

current Santa Cruz County Code Section 16.50.090 (Agricultural Land Preservation and Protection, Public Notification Requirements; see Exhibit F). The deed restriction shall include a legal description of the Permittee's entire parcel. 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.

7. **Other Agency Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval evidence of all permits, permissions or approvals granted, or evidence that no permits, permissions or approvals are necessary, from: (1) United States Fish and Wildlife Service; (2) California Department of Fish and Game; and (3) California Department of Forestry. The Permittee shall inform the Executive Director of any changes to the project required by the any of the above-listed agencies. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is necessary.

8. **Santa Cruz County Conditions.** All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the California Coastal Act remain in effect (Santa Cruz County Application Number 98-0426; see Exhibit C). To the extent such Santa Cruz County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-3-SCO-00-033, such conflicts shall be resolved in favor of the conditions for Coastal Development Permit Number A-3-SCO-00-033.

Findings and Declarations

The Commission finds and declares as follows:

4. Project Description

A. Project Location

The proposed project is located in the coastal foothills on property approximately ½ mile inland of State Highway 1 near the Santa Cruz – San Mateo County border. The main portion of Año Nuevo State Reserve lies seaward and southwest of the site across Highway 1. The Reserve is a protected dune and beach area and a well-known attraction for coastal visitors; approximately 240,000 day-users annually visit the Reserve for docent-guided tours of the spectacular wild coastline and the elephant seals who make this area home. This area is part of the stretch of largely undeveloped coastal lands located between Half Moon Bay to the north and Santa Cruz City to the south. The Monterey Bay National Marine Sanctuary, the largest of twelve such federally protected sanctuaries nationwide, is directly offshore.

The undeveloped project site itself is approximately 50 acres in size and is designated for agriculture in the LUP and zoned CA (Commercial Agriculture) in the County Code. This site was originally part of the larger Steele Ranch that at one time encompassed roughly 7,000 acres dedicated primarily to dairy operations. The properties were subdivided in the 1950s creating the subject parcel and its neighboring properties. Existing single family residences are present on both the CA-zoned parcel immediately to the north (Pfluke) and the CA-zoned parcel immediately to the south (Boling). The heavily forested and steep site to the east is undeveloped and zoned TP (Timber Production). The property due west (between the subject site and Highway 1) is an 84 acre site for which the Commission is currently considering an appeal of a proposed single family dwelling (A-2-SMC-99-066, David Lee). The border between Santa Cruz and San Mateo County is coterminous with the western parcel line of the subject parcel.

The site slopes roughly from east to west with the highest elevations located at the northeast corner of the property where scattered Monterey pine, oak, madrone, and fir trees predominate. This tree canopy extends almost exclusively along the eastern property line of the site and is the outlying edge of a larger forested area extending along the steep arroyo of Año Nuevo Creek located east and north of the subject site. The proposed house-site lies roughly half way along the eastern property line within the scattered tree canopy there, about ¾ of a mile from Highway One. The majority of the parcel slopes more gently to the southwest portion of the property to a pond and riparian habitat area adjacent to the existing roadway providing access to the residence to the south. This pond area drains through culverts into a larger riparian arroyo steeply sloping towards Highway 1 approximately ½ mile to the southwest. The majority of the parcel is gently sloped mixed grassland, predominantly non-native with some intermixed native grasses and coyote brush scrub (see ESHA findings for more detail on site ecology). The land on the subject site has been fallow for some time.

See Exhibit H for general project location and site environs, and Exhibit Q for selected site photos.

B. Description of Proposed Project

The Applicant proposes to construct a 3 story, 51 foot tall, 15 room single-family dwelling, with a basement, 3-car connected garage (with a room above), swimming pool and assorted pathways, courtyards, and retaining walls. All told, approximately 15,000 gross square feet of interior residential space would be developed, and the overall residential compound (house, garage, pool, paths, and surrounding ornamentally landscaped grounds) would occupy roughly an acre. Another acre or so would be devoted to a driveway, septic system, and fill slopes below the residence and associated ornamental terrace areas. The proposed development would be in a Gothic Revival architectural style utilizing wood frame construction, steeply pitched metal roofs, tall narrow cross gables, multiple mullion windows, and board and batten siding. The roof would be constructed of mottled copper best described as a dark forest green hue, while the body of the structure would be a mix of muted brown and green colors. The residence is modeled after the historic Rose Hill Plantation located in South Carolina.

The Applicant also proposes to pave the existing approximately 15 foot wide unpaved access road serving the existing adjacent residences and to develop California Department of Forestry-required

turnouts (12 by 40 feet) at several locations. A new 12 to 14 foot wide driveway would also be graded and paved, extending approximately 1,000 feet (and approximately 150 feet in elevation) from the existing access road to the proposed home site. An estimated 5,560 cubic yards of balanced cut and fill grading would be required to accommodate the house and road improvements.

See Exhibit I for proposed site plans and elevations.

C. County Approval

The County approved the proposed project with multiple conditions designed to address the issues highlighted by the appeal, including requirements for: house colors in muted green and brown to blend with the surrounding landscape; low-reflective glazing in all upper gable windows; planting of 16 Douglas fir and/or Coast redwood trees (5 or more 48 inch box trees, 5 or more 15 gallon size, and 5 at 5 gallon size) located between the house and the line of sight of Año Nuevo State Reserve;[11] planting of a 1,200 foot row of Monterey cypress along the access road;[12] erosion control and tree protection BMPs during construction; deed restrictions acknowledging adjacent agriculture and timber production lands, and requiring retention of on-site trees; prohibition on road widening adjacent to the pond-riparian area.

5. Coastal Development Permit Determination

The standard of review for this CDP determination is the Santa Cruz County LCP.

A. Visual and North Coast Character Resources

1. Applicable Policies

The County's LCP is extremely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline. This is particularly true as it pertains to maintaining the rugged character of the rural north Santa Cruz coast. The LCP states:

> *LUP Policy 5.10.10 Designation of Scenic Roads. The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...*
>
> *LUP Policy 5.10.2 Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics and that the resources worthy of protection may include, but are not limited to, ocean views, agricultural fields, wooded forests, open meadows, and mountain hillside views. Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these*

[11] Note that the Applicant proposes to plant 22 trees (8 each redwood and oak, and 6 cypress) according to proposed plans.

[12] Note: identified as part of the proposed project on the project plans.

resources consistent with the objectives and policies of this section....

LUP Policy 5.10.3 Protection of Public Vistas. *Protect significant public vistas as described in policy 5.10.2 from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sited within these vistas.*

LUP Policy 5.10.5 Preserving Agricultural Vistas. *Continue to preserve the aesthetic value of agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas.*

LUP Policy 5.10.11 Development Visible From Rural Scenic Roads. *In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)*

LUP Policy 5.5.2 Least Disturbed Watershed Designations. *Designate the following watershed areas as Least Disturbed Watersheds: ...Green Oaks Creek, Año Nuevo Creek, ...*

LUP Policy 5.5.10 Retaining Undeveloped Lands in Watersheds. *Encourage property owners in designated watershed areas to sign Open Space Easement contracts or pursue other mechanisms to retain undeveloped lands within Water Supply Watersheds.*

IP Section 13.10.325. Large Dwelling Permit Requirements and Design Guidelines. *[see Exhibit O for text of 13.10.325]*

IP Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility. *The following Design Criteria shall apply to projects sited anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

IP Section 13.20.130(c)(2) Rural Scenic Resources, Site Planning. *The following Design Criteria shall apply to projects located in designated scenic resource areas: Development shall be sited and designed to fit the physical setting carefully so that its presence is subordinate to the natural character of the site, maintaining the natural features (streams, major drainage, mature trees, dominant vegetative communities). Screening and landscaping suitable to the site shall be used to soften the visual impact of development in the viewshed.*

2. County-Approved Project

The visual analysis required by the County indicates that the project would not be visible from Highway 1, and that it would be partially visible from the public viewshed at Año Nuevo Reserve. When built, its visibility would be somewhat tempered because the proposed project would be nestled into the hills and the outlying tree canopy on the subject site, approximately 2 miles from the portion of the Año Nuevo dune area where its visibility would be greatest, and mostly hidden by the intervening topography and vegetation from public views. The County did not analyze views from portions of the Reserve north of the main elephant seal tour area (towards Franklin Point) and portions inland of Highway One. The County also did not analyze views from Big Basin State Park directly inland. See page 2 of Exhibit H for applicable State Park and Reserve boundaries.

The County conditioned their approval for earth tone colors (muted green and brown) on the house to ensure that it would blend with the surrounding landscape. In terms of the portion of the proposed structure identified by the County as visible from the Reserve, the County required a forest green roof[13] and a low-reflection glazing on all upper gable windows. The Applicant has proposed to plant 22 trees (8 each redwood and oak, and 6 cypress), and the County has required planting of 16 Douglas fir and/or Coast redwood trees (5 or more 48 inch box trees, 5 or more 15 gallon size, and 5 at 5 gallon size) between the house and the line of sight of Año Nuevo. Furthermore, even though an existing mature eucalyptus grove extends on the adjacent Lee property along the western property line, the Applicant has proposed, and the County required, the planting of a duplicate stand of Monterey cypress (paralleling the eucalyptus grove) on the Applicant's property to further screen the proposed project and protect against a possible scenario whereby the eucalyptus grove disappears. See County conditions in Exhibit C and proposed landscape plan in Exhibit I.

3. Consistency with Applicable LCP Policies

A. Existing Screening

Existing vegetation provides full to partial screening between public viewing areas and the proposed project site, depending on the viewpoint. This screening includes a large stand of eucalyptus trees (located primarily on the Lee parcel to the west of the subject site) and an arroyo riparian area located between the site and Highway One. Concerns have been raised that this vegetative screen may be altered over time as trees die off, and that its screening qualities will therefore diminish. Part of the reason for this concern is that some of the intervening forest here is made up of Monterey pine; a species currently severely threatened by the pine pitch canker disease.[14] In light of this and other concerns, the Applicant's consulting forester, Stephen Staub, chair of the State's Pine Pitch Canker Task Force, evaluated the health and vitality of the intervening forest resource here (see *Analysis of Existing View Screen Forest including Monterey Pine Tree Status and Tree Screening Plan* by Stephen Staub and Stephen McGuirk dated May 2000; Exhibit K).

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[13] The roof coloring would be accomplished by acid treating the copper to be used on the roof. Commission staff has viewed the roof sample and the result is a flat, dark, mottled brown and green surface.

[14] See also ESHA finding for further discussion of the Monterey pine resource at this location and the toll of pine pitch canker disease.

According to the forester's report, the eucalyptus grove trees are over 100 feet tall, densely planted in several rows, and are regenerating from seed. The grove is composed of trees in good health that are likely to persist as an intact grove for many years, both spreading and replacing itself over time in the absence of management. These trees are generally healthy and have a good life expectancy. As discussed above, the Applicants has proposed, and the County has conditioned the project for, a parallel row of Monterey cypress along the Applicant's side of the existing roadway. The eucalyptus grove provides a dense visual screen of the subject site from Highway One and portions of Año Nuevo State Reserve seaward of the Highway. While there is little reason to believe that the health of the grove will change, eucalyptus is a highly flammable tree that would be very susceptible in the event of a forest fire in the area. Eucalyptus may also be removed at some time to enhance native habitat values. The proposed Monterey cypress row represents a sort of insurance for such potential loss of the eucalyptus grove.

The riparian arroyo, butting up on the southern end of the eucalyptus grove, is a mixed forest mostly made up of eucalyptus, Monterey pine, Douglas fir, and coast live oak. The consulting forester estimates that these trees are within roughly 10 to 15 feet from hiding the building site from view (from Point Año Nuevo), and that this would likely occur in the next 5 to 10 years based on a 1 to 3 foot per year growth rate. This area should likewise continue to screen the majority of the Applicant's site from view from Highway One and the Reserve in the future.

In any case, it should be noted that *existing* vegetative screening is not necessarily indicative of *future* vegetative screening. In addition to natural events like forest fire and disease, human intervention on the subject site, and/or on intervening sites between the proposed residence and public view, can radically alter vegetative screening that is present today. A prescient example of the Commission's experience in this area can be found just upcoast of this site at Cascade Ranch.

In terms of potential threat to the vitality of Monterey pine here, Mr. Staub's sampling indicated that approximately 40% of the Monterey pine here have moderate to worse symptoms of pitch canker and will in all likelihood die within the next 5 years. However, Mr. Staub estimated that many of the good-sized Monterey pine will survive for between 10 and 40 years. The pine that die will be replaced by Douglas fir, madrone, and coast live oak which will grow more quickly when the shading Monterey pine die. Pine regeneration with better resistance over time to pitch canker is also be expected. Mr. Staub indicates that the although its composition may change over time, the forested area providing screening of the site from Año Nuevo can be expected to remain about the same in height, density and screening ability over time. Mr. Staub concludes:

> *The Hinman/Año Nuevo House will have a continuing vegetative screen from critical view areas of Año Nuevo State Park, for the following reasons: Within the existing forest screening the proposed house site from Año Nuevo, sufficient numbers of Monterey pines which are tolerant or resistant to pitch canker will persist over a 10 to 40 year period in combination with other existing tree species Douglas Fir, Blue Gum Eucalyptus, tanoak, bay laurel and redwood to provide meaningful visual screening of the house site. Existing seedling to pole sized trees of the same species and madrone, together with future regeneration, will grow up into the viewshed and maintain visual screening over the medium- to long-term, and continue to block the view of*

the house from Año Nuevo State Reserve. ... Views from Highway I are and will remain unaffected by the project due to topography and the existing Eucalyptus grove that will be retained.

To the extent the eucalyptus grove on the neighboring property remains a long-term screening element, public views of the majority of the site will remain screened. If, for whatever reasons, the eucalyptus grove were to be removed or otherwise altered, the site would become starkly visible from public viewing areas – particularly from Highway One. The Applicant's proposed cypress grove (just inland of the eucalyptus) offers some insurance against such a scenario, but, as proposed, may not provide adequate screening in such an event. The Applicant proposes to plant the cypress in 15 gallon containers along a straight line. Commission experience has generally been that uneven stands (planting differing ages/sizes of tree) present a better chance for overall success than do mono-age/size stands. Likewise, younger cypress (say in 5 gallon containers) often outperform those transplanted from larger sizes as they are more fully able adapt to the soils and climate of the site. Also, staggered planting can also help to ensure adequate screening that is often not possible from a single line of trees.

Any approval here would need to ensure the long-term viability and effectiveness of the proposed tree plantings located between the site and Highway One in order to ensure continued screening of the majority of the overall site (including the proposed building pad location) from view from public vantage points along Highway One and Año Nuevo Reserve

B. View from Highway 1

Highway One seaward of the project site is designated by the LCP as a "Scenic Road." This section of Highway 1 is also an officially designated portion of the California Scenic Highway Program. Per LCP Policy 5.10.10, the public vista from Highway One "shall be afforded the highest level of protection." To the extent the long-term viability and effectiveness of existing and proposed tree screening can be ensured, this intervening forest resource, as well as general site topography, should ensure that development at this location is not visible from Highway One and thus consistent with LCP Policy 5.10.10.

C. View from Año Nuevo State Reserve

LCP Policy 5.10.3 protects the public vista from Año Nuevo State Reserve. Año Nuevo State Reserve covers approximately 4,000 acres, including roughly 3,000 acres inland of Highway One seaward and north of the subject site. Año Nuevo is a State Reserve as opposed to a State Park. The California Public Resources Code identifies State Reserves as "areas embracing outstanding natural and scenic characteristics of statewide significance." California Department of Parks and Recreation (DPR) describes the Reserve as follows:[15]

Fifty-five miles south of San Francisco and the Golden Gate, a low, rocky, windswept point juts out into the Pacific Ocean. The Spanish maritime explorer Sebastian Vizcaino sailed by the point

[15] From the California Department of Parks and Recreation web page for Año Nuevo State Reserve (http://parks.ca.gov/).

on January 3, 1603. His diarist and chaplain of the expedition, Father Antonio de la Ascension, named it Punta de Año Nuevo for the day on which they sighted it in 1603. New Year's Point. Today, the point remains much as Vizcaino saw it from his passing ship. Lonely, undeveloped, wild. Elephant seals, sea lions, and other marine mammals come ashore to rest, mate, and give birth in the sand dunes or on the beaches and offshore islands. It is a unique and unforgettable natural spectacle that hundreds of thousands of people come to witness each year.

Año Nuevo State Reserve is the site of the largest mainland breeding colony in the world for the northern elephant seal, and the interpretive program has attracted increasing interest every winter for the past 19 years. People who hope to see the seals during the winter breeding season are urged to get their reservations early. The males battle for mates on the beaches and the females give birth to their pups on the dunes. During the breeding season, December through March, daily access to the reserve is available via guided walks only. Most of the adult seals are gone by early March, leaving behind the weaned pups who remain through April. The elephant seals return to Año Nuevo's beaches during the spring and summer months to molt and can be observed during this time through a permit system.

According to DPR, Reserves require the highest level of protection within the California State Park System. The U.S. Department of Interior has similarly designated Año Nuevo State Reserve as one of the 86 'National Natural Landmarks' in the United States. According to the Department of Interior:

National Natural Landmarks are management areas having national significance as sites that exemplify one of a natural region's characteristic biotic or geologic features. The site must have been evaluated as one of the best known examples of that feature. These areas must be located within the boundaries of the United States or on the Continental Shelf and are designated by the Secretary of the Interior. To qualify as a National Natural Landmark, an area must contain an outstanding representative example(s) of the Nation's natural heritage, including terrestrial communities, aquatic communities, landforms, geological features, habitats of native plant and animal species, or fossil evidence of the development of life on earth.

Accordingly, Año Nuevo State Reserve is a resource of tremendous local, regional, statewide, and national significance.

There are several structures currently visible within the Año Nuevo viewshed. These include the Big Creek Lumber operation immediately downcoast of Waddell Creek, the RMC Lonestar cement plant in Davenport in the downcoast distance, and the Boling residence (APN 057-061-17) due south of the Hinman project site. For the most part, these structures are visible from the Park, but are sufficiently far away as to make them blend somewhat into the landscape. The Boling residence is more visible than the others since it is closer, is not screened by intervening vegetation, and has white-painted trim on the windows. The presence of this building provides a benchmark for understanding how the construction of buildings in Año Nuevo's wild viewscape can change the experience of the Reserve, especially if unnatural building colors, such as white painted windows are used. The most prominent structure visible from within the Park is the Año Nuevo visitors center itself. However, the visitors center approximates a

large agricultural barn and is compatible with the overall Park aesthetic.

Commission staff field verification[16] (as seen from the main Reserve path extending from the parking lot to the dunes) found the story-poles and netting (erected to simulate the mass of the proposed structures here) to be barely visible to the unaided eye from the main Reserve trail to the dunes. For a variety of reasons, however, it is difficult to conclude whether the narrow story poles and netting truly approximate the proposed project given that the overall mass cannot easily be duplicated by netting. Likewise, it is not clear that field verification on one semi-sunny afternoon in June can adequately suffice for what will eventually be a year round view (i.e., subject to different weather, angles of sun, elevations of the Año Nuevo Dunes, etc.). In addition, as described above, the Reserve stretches far to the north around Franklin Point and on to Gazos Creek. There are any number of less traveled, though publicly important, viewing areas present within the reserve that this one view angle cannot account for. As such, it can be concluded that, at a minimum, a portion of the proposed project would be visible from the Reserve.

Moreover, nighttime views (where one would expect light to be coming from the proposed residence) cannot be approximated by story poles viewed during the day. Such nighttime lights in the middle of an otherwise darkened wilderness area particularly impact the viewshed.

DPR's position is that Año Nuevo is a special wilderness area, and a State and national treasure, from which the viewshed should remain unspoiled to the maximum degree possible. The largely undeveloped stretch of coast surrounding the Reserve is a critical element of the overall grandeur of the Reserve that deserves the highest level of protection. DPR concludes (see DPR's letter to the County Board of Supervisors in Exhibit N):

> *The California Department of Parks and Recreation believes that the proposed development project, as currently sited and designed, will have a negative impact on the scenic characteristics and quality of Año Nuevo State Reserve.*

Applicable LCP policies dictate protection of public views through "minimizing disruption" (LCP Policy 5.10.3) so as to "have minimal to no adverse impact upon identified visual resources" (LCP Objective 5.10.b). LCP Policy 5.10.11 requires development visible from rural scenic roads, such as Highway One in this rural stretch of the County, to be sited outside of public view. LCP Policy 5.5.2 designates this site as within a Least Disturbed Watershed within which undeveloped natural areas are encouraged to be retained to protect the resource values within. LCP Policy 5.10.3 concludes that screening shall be provided where development is "unavoidably sited" within visual resource areas. In this case, the proposed residence is not "unavoidably sited" in the viewshed. In fact, much of the remainder of the 50 acre property at lower elevations is completely hidden from view and even a large agricultural residence could easily be placed outside of the public viewshed here.

Because Año Nuevo State Reserve is such an important public resource, and because the surrounding North Coast area appears as substantially undeveloped natural open space, any development in this area

[16] On the afternoon of June 7, 2000.

raises concerns in terms of protecting this critical public viewshed. In this case, the proposed project would introduce at least a portion of a large residential structure into a critical public viewshed when other feasible siting options are available that would remove this development from view. Moreover, the cumulative effect of allowing manmade structures on all legal parcels in the Reserve's viewshed would quickly undermine its unique "lonely, undeveloped, wild" character for which it has received State and national acclaim.[17] As such, the Commission finds that the project, as proposed, is not consistent with LCP Policies 5.10 et seq protecting the visual resource here. Specifically, the project is inconsistent with the policy to site development outside of important public vistas when it is feasible to do so.

D. View from offshore

LCP Policies 5.10 et seq also protect views from offshore locations of the coast. In other words, the views of boaters, kayakers, swimmers, surfers, et cetera who may be present at different times in the water. Because of the above-described intervening topography and vegetation, most of the proposed residence would be screened from ocean oriented views. However, as described above, at least a portion of the subject residence would be in the Año Nuevo viewshed; this portion of the residence would likewise be in the ocean viewshed. In fact, as one moved further out to sea, more of the residence might be present in this viewshed as the viewing angle flattened out; although this effect would likely be tempered somewhat by the increase in distance.[18]

The offshore waters are part of the Monterey Bay National Marine Sanctuary. Public views from this offshore area of the largely undisturbed north coast represent an important public resource. Although these views are not unfettered by existing development,[19] structural additions within this critical public viewshed need to be analyzed carefully and applicable LCP policies construed broadly to protect this resource accordingly. In this case, as discussed above, there are other siting options available that would not add development to this public vista. As such, the Commission finds that the proposed project does not conform with LCP Policies 5.10 et seq protecting the viewshed from offshore. Again, the project is inconsistent with the policy to site development outside of important public vistas when it is feasible to do so.

E. View from onshore trails

Although difficult to say with certainty, it is possible that proposed site might be partially visible from some nearby vantage points along the ridgeline of the coastal range. DPR indicates that the site may be visible from the West Ridge Trail within adjacent Big Basin State Park. There may be other locations as well. It is possible that some hikers along existing trails, and/or along future trails that may be developed should adjacent private lands come into the public domain, may be able to catch glimpses of the proposed subject residence were it to be constructed at this location. Views of such residential development when hiking along rural mountain trails can be extremely disruptive to the hiking experience.

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[17] See also cumulative impact findings.

[18] The site is approximately 2 miles inland from Año Nuevo Point.

[19] All of the structures visible from Año Nuevo Point would likewise be visible from offshore.

In this case, such glimpses (if any would exist) of the proposed project would be similar to existing glimpses of the neighboring residential structures already developed at this inland foothill location. As far as staff knows, the site is not immediately adjacent to any existing public trails. Any approval would need to ensure that public trail views are not unduly impacted.

F. Visual Compatibility

LCP Sections 5.10.5, 13.10.313, 13.10.323, 13.10.325, and 13.20.130(b)(1) generally address the need for the proposed large residential development to be sited, designed and landscaped to be visually compatible and integrated with the character of the surrounding area. Such policies generally dictate the parameters of size, mass, scale, and overall design in relation to the surrounding area. Review of consistency with such policies is more often than not based upon qualitative, discretionary judgement as opposed to more specific requirements. As such, it can be difficult to measure consistency with such objectives.

Nonetheless, there are at least two general themes to test for consistency in this case: 1) compatibility with the surrounding built environment, namely the immediately surrounding "neighborhood" community made up of adjacent large agricultural parcels with individual residences; and 2) compatibility with the overall open space environs of the larger north coast area.

In terms of compatibility with the local "neighborhood" community, the neighboring parcels are currently developed with large (approximately 3,500 and 6,000 square foot) single family dwellings and miscellaneous outbuildings on relatively large (63 and 13 acre) agriculturally zoned parcels. The residence to the north is built in old farm house style while the residence to the south is in a modern log cabin style. The proposed Lee residence (under separate appeal to the Commission) to the west (though not visible from the subject site or the existing adjacent residences due to the intervening eucalyptus grove), would be more modern "Sea Ranch" angular style on roughly 84 acres.

Consistency with the local "neighborhood" can be evaluated primarily on architectural style and overall mass/scale. In terms of architectural style, although it might be argued that the proposed gothic revival residential style of the Hinman project is quite architecturally interesting, it could not be said to be similar to the existing character of development in the area. In fact, the Hinman project is modeled after a plantation home in South Carolina and would be unlike any other style of building in the immediate area. The proposed house style is significantly more formal and ornate than that generally found on other agricultural parcels on the Santa Cruz County north coast. Moreover, although the general pattern of development in the area might be characterized as larger residences on large agricultural parcels, the proposed Hinman house would be substantially larger; almost three times the square footage of the largest neighboring home. As such, its large overall square footage and height raise an issue in terms of compatibility with the surrounding local "neighborhood" community. Even were the "neighborhood" sample widened to other residential dwellings on agricultural parcels in the region, the proposed structure would be one of the largest, if not the largest, residence on the north coast.

In terms of compatibility with the larger open space agricultural north coast, such large residential

development within the public viewshed is distinctly counter to the character of this larger area. Furthermore, although the majority of north coast Santa Cruz is largely undeveloped with a smattering of scattered agricultural and residential structures, this particular stretch surrounding Año Nuevo is even less developed than others and is even more so characterized by a wilderness feel and scale. In addition, as described earlier, the subject site is located within a Least Disturbed Watershed within which open retention of the undeveloped lands here is encouraged (LCP Policy 5.5.10).

To be consistent with the north coast's undeveloped character, the subject development would need to be placed outside of the public viewshed. Because it is not, it raises substantial visual compatibility issues in terms of the proposed project's conformance with the LCP.

G. Compatibility of Helicopter Use

Though not a part of the application in front of the Commission, the Applicant indicates that he intends to commute via helicopter from the subject site.[20] Although some amount of sporadic helicopter use along this stretch of the coast is expected (e.g., for site-seeing), any such commuter helicopter use on a regular basis raises questions as to whether this noisy, urban activity would be compatible with the character of surrounding open space wilderness area – specifically with the ongoing wildlife and recreational program at Año Nuevo State Reserve and Big Basin State Park. Multiple helicopter landings and takeoffs, such as that associated with a commuter helicopter use, are not consistent with the sense of serenity and open space that is evoked by the surrounding public wilderness areas, and would be detrimental to the public programs there. In particular, as described above, Año Nuevo State Reserve is a resource of tremendous local, regional, statewide, and national significance. Such private commuter helicopter use would have a profound effect on this national treasure used by hundreds of thousands of coastal visitors and is inconsistent with the north coast's undeveloped character. As such, it is not "integrated with the character of the surrounding neighborhood or areas" (IP Section 13.20.130(b)(1)) and it is not "subordinate to the natural character of the site" (IP Section 13.20.130(c)(2)), and is inconsistent with the LCP compatibility policies cited in these findings.

3. Visual and North Coast Character Conclusion and Parameters for Project Modification

The proposed project is located within the particularly critical public viewshed surrounding the Año Nuevo State Reserve along a stretch of mostly undeveloped San Mateo County – Santa Cruz County coastline. LCP visual policies require development here to be sited outside of this viewshed when it is feasible to do so, and require development to be visually compatible and integrated with the character of the surrounding area. Though the proposed development is mostly hidden by topography and intervening vegetation from public viewing areas, portions of the proposed project would be visible from Año Nuevo State Reserve, the Monterey Bay National Marine Sanctuary, and possibly other inland State Park and other public lands. Existing screening located on neighboring properties may not be indicative of

[20] The use of a commuter helicopter at this location raises a host of coastal resource issues. See also ESHA finding and see also separate helicopter finding.

future vegetation (i.e., eucalyptus grove). The subject structure is distinctly different than the existing size, scale, and design of surrounding residential development, and much different than that of typical residential development on agricultural north coast properties. The potential commuter helicopter use would be contrary to the wilderness character evoked by the area within which this proposal is located, and would detract from the overall experience for coastal visitors to Año Nuevo State Reserve. As such, the Commission finds that the project, as proposed, is not consistent with the LCP's visual resource policies cited in this finding.

In order to find the project consistent with the LCP's visual and character resource policies, the project must be modified (see also "Project Modifications to Result in an Approvable Project" on page 60). Any such modifications must ensure that the project is permanently kept out of the public viewshed and commuter helicopter use curtailed. To the extent that a modified project can be kept completely outside of the public viewshed, questions of design and immediate neighborhood compatibility are lesser concerns here; the public would not be viewing this structure located on inland private roads. Rather, the immediate handful of neighbors would be those for which this compatibility question would mostly be reserved. In this case, each of the surrounding neighbors have submitted letters of support for the design proposed by the Applicant (see Exhibit M).

B. Environmentally Sensitive Habitat Areas

1. Applicable Policies

The LCP is very protective of environmentally sensitive habitat areas. LCP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors and Wetlands), and Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection). In general, these LCP policies define and protect ESHAs, allowing only a very limited amount of development at or near these areas. Relevant LCP policies include:

> ***LUP Objective 5.1 Biological Diversity.*** *To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*
>
> ***LUP Policy 5.1.2 Definition of Sensitive Habitat.*** *An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e)*

and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.

LUP Policy 5.1.3 Environmentally Sensitive Habitats. *Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*

LUP Policy 5.1.6 Development Within Sensitive Habitats. *Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no other alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats unless approval of a project is legally necessary to allow a reasonable use of the land.*

LUP Policy 5.1.7 Site Design and Use Regulations. *Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations: (a) Structures shall be placed as far from the habitat as feasible. (b) Delineate development envelopes to specify location of development in minor land divisions and subdivisions. (c) Require easements, deed restrictions, or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitats on adjacent parcels. (d) Prohibit domestic animals where they threaten sensitive habitats. (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens; (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.*

LUP Objective 5.2 Riparian Corridors and Wetlands. *To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage*

of flood waters.

LUP Policy 5.2.1 Designation of Riparian Corridors and Wetlands. *Designate and define the following areas as Riparian Corridors: (a) 50' from the top of a distinct channel or physical evidence of high water mark of perennial stream; (b) 30' from the top of a distinct channel or physical evidence of high water mark of an intermittent stream as designated on the General Plan maps and through field inspection of undesignated intermittent and ephemeral streams; (c) 100' of the high water mark of a lake, wetland, estuary, lagoon, or natural body of standing water; (d) The landward limit of a riparian woodland plant community; (e) Wooded arroyos within urban areas.*

Designate and define the following areas as Wetlands: Transitional areas between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water periodically or permanently. Examples of wetlands are saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens....

LUP Policy 5.2.3 Activities Within Riparian Corridors and Wetlands. *Development activities, land alteration and vegetation disturbance within riparian corridors and wetlands and required buffers shall be prohibited unless an exception is granted per the Riparian Corridor and Wetlands Protection ordinance. As a condition of riparian exception, require evidence of approval for development from the U.S. Army Corps of Engineers, California Department of Fish and Game, and other federal or state agencies that may have regulatory authority over activities within riparian corridors and wetlands.*

LUP Policy 5.2.5 Setbacks From Wetlands. *Prohibit development within the 100 foot riparian corridor of all wetlands. Allow exceptions to this setback only where consistent with the Riparian Corridor and Wetlands Protection ordinance, and in all cases, maximize distance between proposed structures and wetlands. Require measures to prevent water quality degradation from adjacent land uses, as outlined in the Water Resources section.*

LUP Policy 5.2.7 Compatible Uses With Riparian Corridors. *Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.*

LCP Section 16.32.090(c) Approval Conditions. *All development activities in or adjacent to a sensitive habitat area shall conform to the following types of permitted uses, and the following conditions for specific habitats shall become minimum permit conditions unless the approving body pursuant to Chapter 18.10 finds that the development will not affect the habitat based on a recommendation of the Environmental Coordinator following a biotic review pursuant to Section 16.32.070.*

(A) Environmentally Sensitive Habitat Areas		
Type of Sensitive Area	*Permitted or Discretionary Uses*	*Conditions*
1. All Essential Habitats	*Nature study & research, hunting, fishing and equestrian trails that have no adverse impacts on the species or the habitat; timber harvest as a conditional use*	*Preservation of essential habitats shall be required*

...

(C) Habitats of Locally Unique Species		
Type of Habitat	*Permitted or Discretionary Uses*	*Conditions*
1. Special Forests (San Andreas, Live Oak, Woodland/Maritime Chaparral, Indigenous Ponderosa Pine Forest, and Indigenous Monterey Pine Forest)	*forest preserve, natural observation, educational instruction, residential uses, meeting performance criteria*	*Structures shall be clustered, and/or located near to any existing structure.* *Landscaping plans shall include characteristic native species.* *Applicants shall enter into a "declaration of restriction" allowing the development and utilization of a prescribed burning program or other means to mimic the effects of natural fires.* *For residential development, site disturbance shall not exceed ¼ acre per unit or 25% of the parcel, whichever is less.*

2. County-Approved Project

According to the project biotic assessment[21] the subject site has a number of individual sensitive habitat areas including Monterey pine forest along the eastern property line, an unnamed wetland/riparian system along the southwest portion of the site to which much of the site drains, and patches of native grasslands. More importantly, USFWS and CDFG have concluded, and the Applicant's biotic reports concur concurs, that the entire lower portion of the site (below the pine forested area at the higher elevations) is habitat for both San Francisco garter snake (a Federal and State listed Endangered Species) and California red-legged frog (a Federal listed Threatened Species and a State listed Species of Special Concern). red-legged frog have been positively identified in both the Applicant's pond as well as the pond on the immediately adjacent farm property to the north. The elusive San Francisco garter snake, a species near extinction, has not been positively identified on the site, but is expected to be present by both USFWS and CDFG.

In addition, although individual specimens have not been identified on the site, suitable habitat exists in and around the wetland/riparian system for Southwestern pond turtle, California tiger salamander, Yellow warbler. One Cooper's hawk was identified on the site. The Federal and State status of these species is as follows:

Species	Federal Status	State Status
San Francisco garter snake	Endangered Species	Endangered Species
California red-legged frog	Threatened Species	Special Concern Species
Southwestern pond turtle	Special Concern Species	Special Concern Species
California tiger salamander	Candidate Species	Special Concern Species
Yellow warbler	None	Special Concern Species
Cooper's hawk	None	Special Concern Species

By virtue of the State and Federal Endangered Species Act listings, the San Francisco garter snake and red-legged frog habitat area is ESHA per the LCP (LUP Policies 5.1.2(f) and 5.1.3, IP Section 16.32.040). This garter snake and frog habitat area encompasses the wetland/riparian system. In any case, wetlands and riparian corridors are themselves categorically defined in the LCP as Sensitive Habitats (LUP Policy 5.1.2(i) and (j)) and designated as ESHA (LUP Policy 5.1.3) and further as Essential Habitats (IP Section 16.32.040).

Native Monterey pine (*Pinus radiata*) and native Monterey pine forest are explicitly defined by the LCP as Sensitive Habitat (LUP Policy 5.1.2(b) and IP Section 16.32.040); by virtue of this and by virtue of its California Native Plant Society List 1B status (i.e., "Plants Rare, Threatened, or Endangered in

[21] The project site has been well-reviewed biologically during both the course of the County's review as well as the materials developed since the project was appealed to the Commission. Important studies include: (1) *Hinman Property (Año Nuevo House) Biotic Assessment* by The Habitat Restoration Group (dated May 20, 1997) as reviewed and accepted by the County's consulting biologist, Bill Davilla on November 5, 1998; (2) *Hinman Site Constraint Analysis & Maps*, summary constraints analysis prepared by the Applicant, dated September 12, 2000 (see Exhibit P); and (3) *An Assessment of Habitat for the San Francisco Garter Snake and the California Red-legged Frog on the Brian Hinman Property, Santa Cruz County, California* by Dr. Sam McGinnis dated October 15, 2000 and amended November 2, 2000 (see Exhibit D).

California and elsewhere"), native Monterey pine is defined by the LCP as ESHA within the meaning of the Coastal Act (LUP Policy 5.1.3 and IP Section 16.32.040) and further defined as an Essential Habitat (IP Section 16.32.040).

The County found that the proposed residence was sited approximately 750 feet from the wetland/riparian system and potential habitat for listed species. The County conditioned the project for erosion control and grading best management practices to avoid any disruption of this area. The County prohibited widening of the access road in the vicinity of the wetland/riparian system. The County found that although the project was located within the Monterey pine forest resource, the only living pines that would be removed would be a few small saplings. The County conditioned the project to protect trees during construction and to limit any future tree removal.

See Exhibit C for County conditions.

3. Consistency with Applicable LCP Policies

A. San Francisco Garter Snake/California red-legged frog Habitat

Background on Frog and Snake Habitat

The pond area on the subject site is known habitat for California red-legged frog, at least four adults having been identified there as recently as July of this year). As detailed above, California red-legged frog is a federally-listed threatened species and a state-listed species of concern. In addition to the subject site, the frog has also been identified in the farm pond on the adjacent northern parcel (about 1,000 feet north of the Applicant's pond). In addition, there is an in-stream pond to the southwest of the Applicant's pond in Año Nuevo Creek (roughly 1,500 feet from the Applicant's pond); no red-legged frog have been identified there, but this may provide habitat as well. See page 8 of Exhibit H for pond locations. Studies previously conducted for CDFG by the Applicant's consulting biologist, Dr. Sam McGinnis, a well-known expert on the frog and garter snake, documented the presence of the frog in every ranch pond studied in and around the Año Nuevo area. More recent surveys for projects also currently appealed to the Commission (e.g., the Blank and Lee residences in San Mateo County) have provided corroborating evidence of such sightings; notably the adjacent Lee pond due west of the Applicant's pond providing long-standing habitat for the frog. The frogs are known to migrate between such ponds regularly, creating a web of such habitat corridors in the Año Nuevo area. USFWS recently proposed to designate much of the Año Nuevo area, including the subject site, as Critical Habitat for the red-legged frog.

The San Francisco garter snake has not been positively identified on this site, but USFWS, CDFG, and the Applicant's consulting frog and snake expert concur that its presence is likely at the subject site. As detailed above, San Francisco garter snake is a federally-listed and state-listed endangered species – a species that is nearly extinct. The aforementioned CDFG studies documented the presence of this elusive species at all but one of the Año Nuevo ranch pond sites that supported the red-legged frog.[22] As stated

[22] The one pond that did not was an irrigation pond whose barren shoreline was not conducive to snake foraging.

by Dr. Sam McGinnis:

> *In order to establish the presence or absence of this scarce and usually elusive snake, a minimum of three month of spring trapping in and around a potential pond feeding habitat is needed. The [San Francisco Garter Snake] SFGS is a feeding specialist and relies almost exclusively on the [California Red-legged Frog] CRF, small Bullfrogs, and the abundant Pacific chorus Frog for food. Thus trapping, especially at a pond with very dense surrounding vegetation such as that on the project site, is usually necessary to get a specimen in hand.*
>
> *However, my 1987 survey and subsequent studies of the SFGS in coastal San Mateo County has demonstrated that when several ranch ponds occur within a mile to two of each other and especially when these are connected by a riparian drainage system, all such pond with suitable shoreline vegetation and a compliment of frog prey species have been colonized by the SFGS. It is my professional opinion that this has been the case at the project site pond, and therefore all future proposed land use changes for this acreage should be made with the presence of these two special status species in mind. In this circumstance, it would mean preservation of not only the pond habitat but also the surrounding upland annual grassland-coyote brush community. Although the CRF required only a permanent pond habitat, the SFGS must have a combination of both a foraging pond habitat and an upland retreat habitat adjacent to the pond.*
>
> *Upland retreat sites are necessary for the endangered snake because they provide both winter hibernation and birthing retreats in the form of rodent burrow systems which do not flood during the winter rain periods. The burrows of the California Meadow Vole provide the majority of such retreats. ...The upland-brush community which occupies most of the project site presents an ideal retreat site for the SFGS...[and]...the CRF would also use these burrows as estivation sites. Thus the preservation of both the pond and its riparian community plus the upland annual grassland-coyote brush habitat is essential for the conservation of both special status species at this site.*

As such, and as corroborated by USFWS and CDFG, the majority of the subject site is critical habitat for both San Francisco garter snake and California red-legged frog. In fact, USFWS indicates that although San Francisco garter snake habitats are located in various disjoint locations between Año Nuevo and Pacifica to the north, the area in and around Año Nuevo State Reserve, including the Applicant's site, is home to the most important San Francisco garter snake habitat remaining today. The habitat area on the Applicant's site should be understood as part of a larger habitat area in and around the Año Nuevo area connected by migratory corridors. The riparian corridor extending to the northwest of the subject site along the adjacent Lee property in San Mateo County providing a particularly suitable migratory passageway for the garter snake (i.e., because the snake prefers using such drainage features as corridors for movement).

Impacts to Frog and Snake Habitat

LCP Policy 5.1.2 defines the San Francisco garter snake/California red-legged frog habitat as ESHA.

LCP Policies 5.1.3, 5.1.6 and 5.1.7 dictate that development is strictly limited within this area, and that development that does occur shall not significantly disrupt habitat values (5.1.6), shall be placed as far from the habitat as feasible (5.1.7), and shall require deed restrictions, easements, or other such measures to protect such habitats (5.1.7).

In this case, the Applicant proposes residential development that, itself, would be outside of the area deemed snake and frog habitat.by USFWS and CDFG.[23] However, there remain several concerns with this proposed site location and associated development.

First, an access driveway from the existing private road would be necessary to reach the subject site (see Exhibits H and I). The Applicant proposes this as a 12 foot wide paved road with 2 foot shoulders on either side (16 feet total width), approximately 1,400 linear feet. The road itself would be placed within an area of upland habitat for the garter snake and would bisect a potential migration corridor for the red-legged frog (i.e., the corridor extending from the Applicant's pond to the Año Nuevo creek in-stream pond to the southeast). This driveway would create an area of disturbance in this habitat of roughly 18,000 square feet. Such development within ESHA is not consistent with the LCP's ESHA policies.

Second, the existing unpaved access road (used now exclusively by the existing Boling residence to the south) would be paved, but not widened, along the western edge of property adjacent to the frog and snake habitat area. The pavement would, at times, be expected to attract snakes seeking warmth retained in the asphalt. The residential use would not only be expected to generate traffic associated with a typical residence (the County estimated 10 vehicle trips per day based on Institute of Traffic Engineers standards), but it has been the Commission's experience that such large residential development (approximately 15,000 square feet/15 rooms, roughly 25,000 square feet of manicured ornamental landscaping and courtyard) generates additional vehicular trips for support services (such as maids, gardeners, etc.). The combination of the attractive nuisance presented by the warmth of the asphalt, and the increase in vehicular traffic along both the access road and driveway, would be expected to lead to frog and snake mortality. Although it is difficult to pinpoint with accuracy the extent of expected frog and snake death, such adverse impacts to endangered and threatened species are not consistent with the LCP's ESHA policies.

Third, any residential development brings with it noise, lights, pets, and general activity that may scare off frogs and snakes and/or lead directly to injury and death mortality (e.g., predation from domestic cats), and is not generally conducive to fostering habitat values. The lights that would be visible from the proposed residence at night might also have some impact on nighttime foraging and movement. Such impacts are tempered somewhat because the residence is proposed approximately 750 feet from the pond itself and the pond is enclosed by dense vegetation, however, the critical upland and migratory habitat extends to within 150 feet or so of the residence. Given the extent of frog and snake habitat, however, such would be the case with any site on the subject property. It is difficult to measure the extent of habitat disruption from such activities. However, given that the habitat here is for a nearly extinct endangered species, the most extreme caution is warranted. As such, the disruption from such typical

[23] The site area proposed is, however, within the native Monterey pine forest that is also ESHA; see findings that follow this section.

residential activities is not consistent with the LCP's ESHA policies.

Fourth, paving the road is expected to slightly increase runoff (from increased impervious surface) while at the same time reducing sediment transfer into the resource. However, the existing roadway is fairly hardened oil and gravel that currently drains into the pond/riparian system here, so there is not likely to be a tremendous amount of increased runoff. The limited additional runoff and reduced sediment loading is not likely to lead to a significant disruption of pond/riparian resource.

Finally, though not a part of the application in front of the Commission, the Applicant indicates the he intends to commute via helicopter from the subject site.[24] It is not clear where the Applicant intends to land his helicopter on the site, but it is clear that any of the relatively flatter portions of the property that may be pressed into such service are ESHA. Such helicopter landings and takeoffs would be expected to significantly disrupt the listed species habitats, frightening away individual specimens as well as potentially crushing those unfortunate enough to be caught under the helicopter landing gear. Raptors and other types of birds would be expected to be frightened away as well.

Frog and Snake Conclusion

The proposed development will adversely affect endangered and threatened species habitat inconsistent with the protection afforded this resource by the LCP. Similar to Coastal Act section 30240, the Santa Cruz County LCP does not allow non-resource dependent development within ESHA. The proposed access driveway within ESHA is not dependent on the resource and does not meet any of the other LCP Policy 5.1.3 tests. Moreover, introduction of the residential use in close proximity to the upland frog and snake habitat here, as well as the increase in activity on both the existing road and the new driveway, will significantly and adversely impact listed species habitat values as described above in this finding inconsistent with LCP Policies 5.1.6, 5.1.7, and LCP Section 16.32.090(c)(A)(1). Commuter helicopter use would likewise significantly disrupt listed species habitat contrary to the LCP. Moreover, this on-site sensitive frog and snake habitat is not proposed to be protected by deed restriction or easement as required by LCP Policy 5.1.7. As such, the Commission finds that the project, as proposed, is not consistent with LCP ESHA policies protecting the significant San Francisco garter snake and California red-legged frog habitat at this site.

B. Monterey Pine Forest

Status of the Pine Resource[25]

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[24] The use of a commuter helicopter at this location raises a host of coastal resource issues. See also visual compatibility finding and see also separate helicopter finding.

[25] Sources for some of the information in this section include: *Monterey Pine Forest Conservation Strategy Report*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, December 1996; *Monterey Pine Forest Ecological Assessment: Historical Distribution, Ecology, and Current Status of Monterey Pine*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, September 12, 1994; *Pitch Canker in California*, Andrew J. Storer, Thomas R. Gordon, David L. Wood, and Paul L. Dallara (from the Pitch Canker Task Force Web Site April 1999); *Current Status of Pitch Canker Disease in California*, CDF Tree Notes #20, July 1995; *California Forestry Note #110*, CDF, November 1995; *Pitch Canker Action Plan, Appendix D to SLO County North Coast Area Plan public hearing document*, December 1996; *Pine Pitch Canker Task Force Position*

Along the Pacific Coast, isolated groves of several different pine species (Monterey pine, Bishop pine, Santa Rosa Island pine, Torrey pine) provide some of the most interesting and scenic landscapes in the coastal zone. These isolated endemic occurrences are termed maritime closed-cone forests. The closed-cone characteristic is typical for fire-influenced forest habitats. On a very hot day (rare in these foggy locales) or in response to fire, the cones open and release their seed. Following a light ground fire, a virtual carpet of seedlings can be found beneath the old tree, after winter rains. Reproduction is most vigorous in recently burned areas, and weakest in the areas that receive the greatest fire-suppression efforts (i.e., the areas that have been divided and developed with residential estates). In a well-manicured yard, pine reproduction is essentially absent.

Within its native range, Monterey pine is found in just four places in the world: the main native stand mantling the Monterey Peninsula; the small stand here near Año Nuevo; the Cambria and Hearst Ranch stands in North San Luis Obispo County, parts of which are the least disrupted of the remaining groves; and a remote and little-known pine forest habitat on the Guadalupe and Cedros Islands located off the Pacific coast of Mexico. The Guadalupe Island grove's survival is uncertain, with fuelwood collecting, overgrazing by goats and severe soil erosion as primary threats. The U.S. groves, in contrast, are generally threatened primarily by habitat conversion (e.g., housing and resort development, golf course development, urbanization), soil erosion (road grading, recreational overuse), and invasive exotic plants (genista or "broom", pampas grass, acacia, eucalyptus, etc.). Commercial logging was an issue in the past, but today is largely confined to small salvage operations.

A more recent concern for the health and viability of the native Monterey pine forest comes from the threat of the pine pitch canker epidemic. According to the California Department of Forestry (CDF), pine pitch canker is a rapidly spreading fungal disease which infects trees primarily through insect wounds in the bark; Monterey and Bishop pines are especially susceptible. CDF also believes that the fungal spores are unintentionally carried over long distances by conveyance of contaminated materials. In addition to transport of contaminated materials by humans, typical vectors for the pathogen include bark beetles and other insects. All three of California's native stands of Monterey pines have now become infected; the status of the island stands in Mexico is less certain.

Pitch canker was confirmed on the Monterey Peninsula at the Pebble Beach fire house in April 1992, then at the Año Nuevo stand in December 1992, followed by the Cambrian stand in November 1994. CDF characterizes the threat to all native Monterey pine stands in California as "severe." On June 4, 1997 the State Board of Forestry defined a Pitch Canker Zone of Infestation which includes all of the coastal counties extending from Mendocino to the Mexico border. While one goal for the Zone is to slow disease spread, neither the State Board of Forestry nor CDF has the authority to impose and enforce a quarantine on the movement of infected material.

CDF, the Forest Service, and Forest Genetics Institute have expressed concern that not only other

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Paper, California Forest Pest Council, January 23, 1997; *RFP for "Developing Programs for Handling...Infected Pine Material within the Coastal Pitch Canker Zone..."*, CDF, December 1997; *The Cambria Forest*, Taylor Coffman, Coastal Heritage Press, 1995; *Pebble Beach Lot Program Final Environmental Impact Report*, EIP Associates, June 1997.

maritime pines, but also other native pines in the Coast Range, Cascade Range, and the Sierra Nevada may become diseased. The fungus was confirmed on a Bishop pine in Mendocino County in November of 1992 and has since been confirmed on Monterey pine in Ukiah (in Mendocino County) and Santa Rosa (Sonoma County). While redwoods have shown resistance in greenhouse tests, Torrey pine (from San Diego County), Ponderosa pine and even Douglas fir alarmingly demonstrated susceptibility in these tests. Certain genotypes of other more widely distributed tree species are also threatened by the pitch canker pathogen. For example the limited coastal populations of ponderosa pine, knobcone pine and Douglas-fir in Santa Cruz County are at risk due to their close proximity to infected off-site plantings of Monterey pine.

Although Monterey pine is by far the most commonly infected species, the pathogen has also been isolated from Aleppo pine, Bishop pine, Italian stone pine, Canary Island pine, Coulter pine, ponderosa pine, Digger pine, knobcone pine, shore pine, Torrey pine and Douglas-fir. The most recent new host records of the pathogen are all from planted trees in Santa Cruz County: shore pine at Sunset State Beach, Torrey pine at Seacliff State Beach, Digger pine in central Santa Cruz County, and knobcone pine and Douglas-fir in southern Santa Cruz County. Pitch canker has also been isolated from Aleppo pine Christmas trees in San Diego County, which was the first record of pitch canker in southern California on a tree species other than Monterey pine.

No cure for infected trees is currently available. Most estimates describe a mortality rate of up to 85%. Many thousands of trees are already dead. It is important to limit the spread of the fungus until an effective means to deal with it is discovered and disease-resistant stock can be made available. A small percentage of Monterey pine appears immune to the disease. However, of the causative species fungus (*Fusarium subglutinans f. ssp. pini*), only 5 strains are currently present in California; one of these makes up 70% of the California population of the fungus and an even higher proportion of the population present in the native Monterey pine stands in central California. Individual specimens which exhibit resistance to the one overwhelmingly prevalent strain might prove vulnerable to yet other strains that may become more widespread someday. As a result, the development of a one or only a few lineages of disease resistant stock is not likely to be sufficient to ward off the pitch canker threat.

Because the native range for Monterey pine is limited only to the Año Nuevo stand and three other isolated places on the globe, the main hope for the survival of the Monterey pine worldwide is that there will be enough natural diversity within the native stands so that at least some trees will have genetic disease resistance or tolerance, that these trees can be used to propagate new trees for urban repopulation, and that larger tracts of native pine forest can be preserved and managed so that natural regeneration can take place to repopulate native pine forest habitat. As such, the native pine stands in Año Nuevo area represent both a global resource for forest management and breeding programs to develop disease-resistant stock and forest, and a natural preserve of this sensitive species.

Indeed, until the nature of existing native pine forest immunity is understood, it is critical that the maximum genetic diversity within the native stands of Monterey pine be protected. CDF concludes:

The restricted native ranges of Monterey pine, Torrey pine, and Bishop pine heightens concern

for the effect of pitch canker on these populations. Monterey pine is the most widely planted timber species in the world, and California's native populations represent a global resource for breeding programs. Pitch canker has the potential to reduce the genetic diversity of these species and the integrity of their native stands.

Finally, because of the various threats to the species, native Monterey pine has been listed as a Federal Species of Concern and a California Native Plant Society List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"); List 1B species are specifically eligible for state listing. Although temporarily withdrawn in December 1999 to allow CDFG to respond to the volume of information submitted, the California Native Plant Society submitted a petition in August 1999 to list Monterey pine as a Threatened Species under the California Endangered Species Act. As described above, native Monterey pine forest is defined as ESHA in the certified LCP.

Impacts to the Pine Resource

The subject parcel is located within and at the perimeter of a much larger contiguous indigenous Monterey pine forest immediately to the east of the property. This tree canopy extends exclusively along the eastern property line of the site and is the outlying edge of a larger forested area extending along the steep arroyo of Año Nuevo Creek located east and north of the subject site. This Año Nuevo forest area, extending from the coast to approximately 1000 feet inland of the subject site, is one of four places on the globe where native pine remain. Just north of the Applicant's property is the northernmost extent of the native Año Nuevo stand. The native pine forest here is differentiated from the other 3 native pine forests by the fact that it is part of a much more mixed forest (including specimens of douglas fir, redwood, madrone, etc.). In contrast, the main Monterey Peninsula stand is almost entirely made up of pine. In contrast again to the main Monterey Peninsula stand, and to a lesser degree the Cambrian stand, that have been severely reduced in size due to development, the indigenous Monterey pine forest here at Año Nuevo has remained virtually intact in recent years. As such, any development proposal that may impact this resource demands careful scrutiny. Please see Exhibit J for the most recent mapping, including past historic estimates, of the Año Nuevo Monterey pine stand done for CDFG in 1994.[26]

The proposed residence would be sited along the edge of the existing forest within a scattered outlying grove of Monterey pine – some living, some infected with pitch canker – and other trees. Although the County indicated that the only pine that would be removed for the proposed project would be several small pine saplings, the Applicant's plans indicate that no living pine would be removed. This is verified by the Applicant's consulting forester. The consulting forester also indicates that there are only a few dead and/or infected pine in the immediate area where the residence would be constructed. The Applicant's consulting forester opines that the proposed residential site should not be considered part of the pine forest.

The LCP recognizes the indigenous Monterey pine forest here as ESHA (LCP Policies 5.1.2, 5.1.3, IP

[26] *Monterey Pine Forest Ecological Assessment: Historical Distribution, Ecology, and Current Status of the Monterey Pine* by Jones and Stokes for CDFG, dated September 12, 1994.

Section 16.32.040). The Applicant's proposal, though, has interpreted this to mean individual pine tree specimens, rather than the larger forest resource that constitutes the sensitive habitat resource. Although individual native pine are important to protect, individual specimens need to be understood within the ecological context that makes up their habitat. Thus, Monterey pine forest needs to be understood as a complete and dynamic habitat – understory and overstory, animals and interactions, soils and climates. A forest is in fact a complex, interdependent web of living organisms rather than just a collective noun for a group of trees in the landscaping sense. At issue is preservation of habitat, not simply mitigation of individual tree impacts. It is to the *forest* that the LCP refers (LCP Policy 5.1.2).

The eastern portion of the subject site that is characterized by Monterey pine forest, and the land within this outlying boundary – including the proposed building pad – constitutes Monterey pine forest habitat. CDFG concurs and indicates that this area should be considered part of the native Año Nuevo Monterey pine stand. The County's staff report on this project likewise agrees stating that "the proposed building site is located within the Monterey pine forest area." In the absence of development on this more steeply sloping portion of the subject site, Monterey pine would be expected to expand and grow in this current clearing in this forest area. In fact, the forester's report indicates that such regeneration is occurring currently nearby with approximately 20 healthy pine saplings growing just west of the proposed house site. In other words, the sensitive species is using the sensitive species habitat here.

In fact, it is likely that historically, before the site was cleared for agricultural purposes in the last century, that the entire site was part of the larger Año Nuevo pine forest. This larger native forest currently occupies approximately 1,500 acres, and recent published mapping of its current and historic extent bear this out.[27] The site is located within the appropriate climatic range, and is bracketed both inland and seaward by existing pine forested areas.[28] In the absence of human intervention, the entire site would likely convert to indigenous pine forest indicative of the Año Nuevo stand. At the least, the southeastern half of the property appears to provide habitat for native pine as evidenced by the healthy pine saplings growing between the northeastern and southwestern property lines and the associated forested areas at those property lines. In other words, the forest appears to be regenerating across the subject site as of today. See Exhibit J for the most recent mapping of the Año Nuevo pine forest.

Similar to Coastal Act Section 30240, the Santa Cruz County LCP does not allow non-resource dependent development within ESHA. Residential development within the proposed location would not be dependent on the resource and does not meet any of the other LCP Policy 5.1.3 tests. Moreover, residential development here would not "maintain or enhance the functional capacity of the habitat" as required by LCP Policy 5.1.6. In fact, such development would remove habitat from its primary function. LCP Section 16.32.090(c)(A)(1) does not include residential uses as either a permitted or discretionary use within essential habitats. In addition, residential development brings with it fire suppression concerns and requirements (such as defensible clear space around the house). In fact, the Applicant proposes a 30 foot uphill and 60 foot downhill "defensible" space within which it is not entirely clear

[27] Ibid; Jones and Stokes for CDFG (December 1996 and September 1994).

[28] There are also interspersed agricultural clearings seaward of the site that were likely part of the historical Monterey pine range here.

what trees and/or understory vegetation may need to be removed. It seems likely that these fire suppression concerns and/or requirements would lead to future removal of indigenous Monterey pine forest at this site. This is all the more possible since the County did not otherwise protect these resources through a legal instrument as required by LCP Policy 5.1.7(c) and Zoning Section 136.32.090(b)(2).

Furthermore, as described above, prescribed and natural burns within such Monterey pine forests can be extremely important for the continued vitality of the forest resource. Residential development within and adjacent to the forest resource presents a conflict with pursuing such management techniques due to concerns for residential structures. The LCP requires that development within or adjacent to indigenous Monterey pine forest be accompanied by a property restriction allowing for the development and implementation of prescribed burn programs; this property restriction was not a part of the approved project as required by LCP Section 16.32.090(c)(C)(1).

Finally, LCP Section 16.32.090(c)(C)(1) requires that residential development within or adjacent to indigenous Monterey pine forest shall not exceed ¼ acre or 25% of the parcel, whichever is less. The proposed residential compound and the proposed access driveway are proposed both adjacent to and within Monterey pine habitat. Since the subject parcel is approximately 50 acres, the LCP limits site disturbance in this case to ¼ acre (or 10, 890 square feet). The proposed residential compound (house, garage, pool, paths, and courtyard) would occupy roughly 16,000 square feet, the surrounding ornamentally landscaped terraces another roughly 25,000 square feet, associated grading areas below the terraces another roughly 35,000 square feet, the septic system area over 3,000 square feet, and the driveway over 18,000 square feet. All told, approximately 100,000 square feet of site disturbance (see table below). This is nearly ten times the LCP's maximum allowable area of disturbance at this location.

Proposed Site Disturbance[29]	
House structures (house, garage, pool, paths, and courtyard)	15,580 square feet
Terraced areas (landscaped terraces surrounding house)	25,411 square feet
Graded areas (fill slopes below terraces)	35,459 square feet
Septic Field	3,192 square feet
Driveway[30]	18,240 square feet
Total Site Disturbance Proposed	**97,882 square feet**

Monterey Pine Conclusion

Native Monterey pine forest is found in just four places in the world, including the larger forest area of which a portion is located on the subject site. The subject indigenous pine stand is the least disturbed of

[29] As calculated from proposed project plans titled *Año Nuevo House* by Kirk E. Petersen and Associates Architects last dated revised December 28, 1999; dated received in the Commission's Central Coast District Office January 14, 2000).

[30] For that portion of the proposed driveway not already counted in either the house structures, terraced areas, or graded areas. Such subset of the proposed driveway is roughly 1,100 linear feet with one 40' turnout. Note that the proposed driveway runs approximately 1,350 total linear feet with a 12' wide paved roadway and 2' shoulders on either side.

the 3 California locales; and though less is know about the Mexican island stands, probably the least disturbed of all the indigenous pine stands in the world. The very existence of pine is threatened by pitch canker. The survival of the genetic diversity of the species is dependent in part on maintaining the four native groves. The subject development is sited within indigenous Monterey pine forest habitat that is defined as ESHA by the LCP. The proposed residence is not dependent on siting within the ESHA and does not meet any of the other LCP tests for allowing development within ESHA. The proposed project would significantly disrupt the continuation of the habitat values within the ESHA contrary to the LCP. The proposed site disturbance is almost ten times that maximum allowed by the LCP. The project does not include a property restriction allowing for prescribed burns as required by the LCP, nor does it include any binding legal instrument to protect the Monterey pine ESHA as required by LCP. As such, the Commission finds that the project, as proposed, is not consistent with LCP ESHA policies protecting the native Monterey pine forest habitat at this site.

4. ESHA Conclusion and Parameters for Project Modification

LCP ESHA policies generally mimic Coastal Act Section 30240 and require that ESHA be avoided and that development not significantly disrupt ongoing ESHA resources. In this case, the proposed project site is entirely occupied by ESHA: native Monterey pine forest at the higher elevations on the northeast of the property and San Francisco garter snake and California red-legged frog on the remainder of the property. The project as proposed would be placed within Monterey pine forest ESHA (for the residential compound), within San Francisco garter snake and California red-legged frog ESHA (for the access driveway), and would bring increased traffic, noise, lights, and residential activities into garter snake and frog habitat to the further detriment of habitat and migratory corridors for these listed species. The proposed site disturbance is nearly ten times that maximum allowed by the LCP. The project, as proposed, does not include the requisite deed restrictions or easements over ESHA resources, does not include a property restriction allowing for prescribed burns, and does not meet any of the other LCP tests for allowing development within ESHA. Under the LCP, the ESHA resources on this site are "essential habitats" by definition (LCP Section 16.32.040) within which the residential use is not a permitted or discretionary use per LCP Section 16.32.090(c)(A)(1). As such, the Commission finds that the project, as proposed, is not consistent with the LCP's ESHA policies cited in this finding.

In order to find the project consistent with the ESHA policies, the project must be modified (see also "Project Modifications to Result in an Approvable Project" on page 60). Because the site is all ESHA, the best use for the subject property is probably as an open space habitat area managed to preserve environmentally sensitive habitat areas. This would be the most consistent use for development within LCP-defined essential habitat. If, however, a residence must be entertained at this location in light of constitutional takings considerations, the LCP provides guidance. In such cases, LCP Policy 5.1.3 allows development within ESHA provided it is otherwise consistent with the sensitive habitat policies, it is the least environmentally damaging alternative, all adverse impacts are completely mitigated, and it serves a purpose beneficial to the public. LPC Policy 5.1.6 dictates that redesign and reduction in scale is necessary if development within sensitive habitat must be entertained to allow for a "reasonable use of the land;" for development within or adjacent to the forest, the LCP site disturbance maximum is ¼ acre.

LCP Policy 5.1.7 requires structures be placed as far away from habitat as possible, prohibits domestic animals, limits removal of native materials, prohibits landscaping with exotics, and requires deed restrictions or easements over the undisturbed habitat portions of the site. Special construction timing measures to avoid San Francisco garter snake and California red-legged frog will be necessary. Finally, because the residence would have to be located within ESHA deemed by the LCP essential habitat, a variance would be required to allow for a residence here.

The County LCP however recognizes that there may be situations where some non resource-dependent use must be allowed within an ESHA because it is "legally necessary to allow a reasonable economic use of the land and there is no feasible, less damaging alternative" (LUP Policy 5.1.3(c)).[31] In order to ensure that permitted development falls under this provision of the LUP, a "takings" analysis must be performed. The following paragraphs provide this analysis and conclude that the development of a single family home, if adequately mitigated, can be found to be a reasonable use of this site.[32]

Once an applicant has obtained a final and authoritative decision from a public agency, and a taking claim is "ripe" for review, a court is in a position to determine whether the permit decision constitutes a taking. The court first must determine whether the permit decision constitutes a categorical or "per se" taking under *Lucas v. South Carolina Coastal Council* (1992) 505 U. S. 1005. According to *Lucas*, if a permit decision denies all economically viable use of property by rendering it "valueless," the decision constitutes a taking unless the denial of all economic use was permitted by a "background principle" of state real property law. Background principles are those state law rules that inhere in the title to the property sought to be developed and that would preclude the proposed use, such as the common law nuisance doctrine.

If the permit decision does not constitute a taking under *Lucas*, a court may consider whether the permit decision would constitute a taking under the ad hoc inquiry stated in cases such as *Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 123-125. This inquiry generally requires an examination into factors such as the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations. The absence of reasonable, investment-backed expectations is a complete defense to a taking claim under the ad hoc inquiry (e.g., *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005, 1008-1009), in addition to any background principles of property law identified in *Lucas* that would allow prohibition of the proposed use.

Because permit decisions rarely render property "valueless," courts seldom find that permit decisions constitute takings under the *Lucas* criteria. In this case, there is insufficient evidence to evaluate whether

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[31] The text beginning with "The County LCP..." (on page 43) up to the paragraph beginning with "In sum..." (on page 46) represents modifications to the report based on the staff report addendum dated December 12, 2000 as edited to address current takings law.

[32] The requirements of the Federal and State Endangered Species Act are not suspended by these findings in general, nor by this LCP takings analysis specifically. Due to the extent of listed species habitat on the subject site, it is likely that an incidental take permit or similar authorization would be required by USFWS and/or CDFG to satisfy Endangered Species Act requirements before construction could commence at this site. As such, the impact of the Federal and State Endangered Species Act on the Applicant's property rights would be analyzed through the course of the USFWS and CDFG reviews. Both San Francisco garter snake and California red-legged frog were listed under the Endangered Species Act prior to the date the Applicant acquired the subject property.

the denial of non-resource dependent uses would constitute a taking under *Lucas* because there is no evidence regarding whether such a decision would render the property "valueless" or whether the use being proposed by the Applicant would constitute a nuisance or otherwise be precluded by some background principle of California property law.[33] For the reasons that follow, however, the Commission finds that there is sufficient evidence that a court might find that the denial of a non-resource dependent use on this property would constitute a taking under the ad hoc takings analysis, and that therefore the LCP allows the approval of a non-resource dependent use.

In this case, the Applicant purchased the roughly fifty acre site in 1996 for $450,000. Numerous offers on the property for this price and comparable sales indicate that this was a fair market price for the 50 acre parcel at the time. Since that time, the Applicant has paid $5400 per year in property tax for a total of $21,600. The property has been taxed as unimproved land. In addition to these costs of ownership, the Applicant has spent an additional approximately $30,000 on site and road maintenance, surveying and archeologic investigations prior to purchase, and well tests. A more detailed description of all of the expenditures to date associated with the parcel is available in the Commission file for this project.

At the time the parcel was purchased it was unimproved land, some of it fairly level, some supporting a wetland/riparian system, some semi-steep slopes, and some steeper and forested areas. Though previously used for some grazing, the land had not been so used for some time. The site has not been leased out or otherwise used for agriculture or any other economic use since the Applicant bought it.

The Local Coastal Program for the County has been in place for many years and designates this site for Agriculture.[34] When the land was purchased in 1996, it was zoned Commercial Agriculture (CA). The zoning has not changed in the 4 years that the Applicant has owned the property. Principal Permitted Uses in the CA Zone District are "agricultural pursuits for the commercial cultivation of plant crops, including food, fiber, flower or other ornamental crops and the commercial raising of animals, including grazing and livestock production, and agriculture and accessory uses and structures" (LCP Section 13.10.312(a)). Single family homes are allowed in this zone district as discretionary, conditionally permitted uses for which certain specific findings must be made (see agriculture finding). Most of the privately-owned land in the vicinity of the subject parcel is divided into similar, large parcels and is also zoned CA or TP (Timber Production) for those sites in Santa Cruz County, and Planned Agriculture District (PAD), a similar zone district to CA, for those nearby lands in San Mateo County. Large public land holdings (Año Nuevo State Reserve to the west and northwest, and Big Basin State Park to the north, east and south) surround these privately-owned lands including the subject parcel (see Exhibit H-2).

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[33] Because the LCP was in effect at the time that the Applicant acquired the property, the LCP provisions also may have formed part of the background principles affecting the Applicant's use of the property. (See *Palazzolo v. Rhode Island* (R.I. 2000) 746 A.2d 707 , *cert. granted*, U.S.Sup.Ct. No. 99-2047.) It is uncertain how these preexisting regulations might affect a court's analysis of a taking claim. Unlike *Palazzolo*, where the preexisting regulations prohibited the applicant's proposed use, the LCP provisions in questions permit some economic development to occur when it is necessary to provide some economic use of property.

[34] The LCP Land Use Plan was first approved by the Coastal Commission with suggested modifications on October 5, 1981 and was certified on February 3, 1982. The LCP zoning was first approved with suggested modifications on October 27, 1982 and certified on January 13, 1983. The LCP as a whole was effectively certified on January 13, 1983.

The LCP zoning and Land Use Plan designations in both San Mateo and Santa Cruz County have been stable for at least the past 15-20 years. There were no obvious physical anomalies associated with the Applicant's parcel that posed particular constraints or distinguished it from other vacant and developed lots in the area. Adjacent CA-zoned parcels to the north and south include single family homes of roughly 3,500 and 6,000 square feet on 63 and 13 acre parcels respectively. Agricultural uses in the general area includes grazing, row crop and dry farming. Thus, when the parcel was purchased in 1996, an applicant, upon determining the zoning and observing both the site's specific characteristics and the partially developed nature of the area could have legitimately assumed that development of an agriculturally-oriented single family home on the site, accessory to agricultural use of the property, might be permitted.

In addition to the LCP Land Use Plan and zoning designations for this property, an applicant also would have reasonably taken into account the impact of the LCP as a whole as it relates to development within the coastal zone, including the LCP requirements for site-specific assessment of potential ESHA and other site constraints. An applicant would have been aware of the restrictions on the uses in an ESHA, but also would have been aware that LCP policy 5.1.3(c) allows non resource dependent uses in an ESHA where needed to allow an economic use of land.

The certified LCP states that only resource dependent uses may be located within ESHA unless approval of a non-resource dependent project is necessary to allow a reasonable use of the land. Resource dependent uses include habitat preservation, nature study, observation and research. Although it may be possible in other circumstances, in this case these uses could not be expected to provide a reasonable economic return on the investment in the property. Agriculture is also an alternative use to development of a single family home on the site, and one that could potentially produce an economic return; however, the disruption to the habitat would be greater if the arable portions of the parcel were returned to any of the agricultural uses typically practiced in this area than would be the construction of a single family home if properly mitigated.

In view of the evidence that: (1) permanently restricting use of the property to resource dependent uses likely would have a drastic impact on the economic value of the property; (2) residential use of a small portion of the property would provide an economic use; and (3) an applicant would have had a reasonable investment-backed expectation that a properly mitigated residential use would be allowed on the property, there is a reasonable possibility that a court might determine that the final denial of a residential use, based on the inconsistency of this use with LCP Policies 5.1.3, 5.1.6, and 5.1.7, and LCP Zoning Chapter 16.32 would constitute a taking. Therefore, pursuant to LUP Policy 5.1.3(c), the Commission determines that the County LCP in this case does not preclude non resource-dependent development within an ESHA.

Having reached this conclusion, however, the Commission also finds that the LCP only instructs the Commission to construe the resource protection policies of the Santa Cruz County LCP in a manner that will avoid a taking of property. It does not authorize the Commission to otherwise suspend the operation of or ignore these policies in acting on this appeal. Thus, the Commission must still comply with the requirements of the LCP by protecting against the significant disruption of habitat values at the site, and

avoiding impacts that would degrade these values, to the extent that this can be done consistent with the direction to avoid a taking of property. Mitigations must also be generally proportionate to the adverse impacts caused by development of the house and associated infrastructure.

In situations such as these, there are several conditions that the Commission can adopt that implement the LCP policies to protect ESHA without taking the Applicant's property and other activities associated with adjacent residential use. These conditions provide for a reduced scale project that will: minimize site disturbance to that allowed by the LCP in the native forest (i.e., ¼ acre); will lower the height of the proposed residence to ensure that it is not visible within the existing public viewshed; will require additional dense tree planting to ensure that the residence is not visible in the event the existing vegetative screen is removed in the future; will place the remainder of the site area (outside of the residence itself) under a permanent conservation easement; will enhance garter snake and frog habitat within the conservation easement area; will protect sensitive species during construction; and will require snake- and frog-friendly roads and bridges so as to least disrupt the natural movements of these species (see Section F, "Project Modifications to Result in an Approvable Project" and Special Conditions for more detail).

In sum, to achieve consistency with the LCP's ESHA policies in light of constitutional takings issues, the project must be reduced in scope from that proposed, and redesigned as necessary to best avoid the significant disruption to sensitive habitat that would accompany any development of this property.

If, during the course of such a planning exercise, there is a conflict between protecting native pine forest versus protecting San Francisco garter snake and California red-legged frog habitat, the snake and frog habitat should take precedence given the rarity, importance and formal listing status of these species. This is consistent with the LCP's direction to look to Coastal Act policies, policies that absolutely protect ESHA, when there is a question of interpretation.[35] Likewise, this snake and frog habitat takes precedence over anything above "a reasonable economic use of the land." Because of the formal Federal and State list status for these species, USFWS and CDFG will need to be consulted. Since it is unlikely that a 'take' of listed species can be altogether avoided should residential development occur here, it is likely that an incidental take permit or similar authorization will be required by USFWS and/or CDFG to satisfy Federal and State Endangered Species Act requirements before construction could commence at this site.

C. Land Use – Agriculture

1. Applicable Policies

LCP agricultural land use policies specifically applicable to the subject site include:

> ***LUP Policy 2.22.1 Priority of Uses within the Coastal Zone.*** *Maintain a hierarchy of land use priorities within the Coastal Zone:*

[35] LUP Chapter 1, Interpretation.

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses. *Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.*

LUP Objective 5.13 Commercial Agricultural Land. *To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the commercial production of food, fiber, and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.*

LUP 5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land. *Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production.*

LUP 5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands. *All conditional uses shall be subject to standards which specify siting and development criteria; including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions: (a) The use constitutes the principal agricultural use of the parcel; or (b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or (c) The use consists of an interim public use which does not impair long term agricultural viability; and (d) The use is sited to avoid conflicts with principal agricultural activities in the area; and (e) The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production.*

LUP 5.13.7 Agriculturally Oriented Structures. *Allow only agriculturally oriented structures or dwellings on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of preserving agriculture.*

LUP 5.13.28 Residential Uses on Commercial Agricultural Land. *Issue residential building permits pursuant to policy 5.13.32 in areas designated as commercial agricultural land, only upon documentation that: (a) The residential use will be ancillary to commercial agricultural use of the parcel (See criteria in policy 5.13.29); or (b) The parcel is less than one net acre in size or has physical constraints other than size which preclude commercial agricultural use. In either case, residential development shall be allowed only if the residential use does not conflict with on-site or adjacent agricultural activities and the building site has approved agricultural*

buffer setbacks.

LUP 5.13.29 Residential Use Ancillary to Commercial Agriculture. *Utilize the following criteria for determining when a residential use would be ancillary to commercial agriculture:*

(a) Documentation that the farmable portion of the subject parcel, exclusive of the building site, is large enough in itself to constitute a minimum economic farm unit for three crops other than greenhouses suited to the soils, topography, and climate of the area; or

(b) Documentation that the owners have a long-term binding arrangement for commercial agricultural use of the remainder of the parcel by another party; and

(c) Documentation that, concurrent with each of the above, the structure is sited in such a manner so as to minimize possible conflicts with commercial agriculture in the area, and to remove no land from production (or potential production) if any unfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

IP Section 13.10.311(a) Purposes of Agricultural Districts, "CA" Commercial Agriculture. *The purposes of the "CA" Commercial Agriculture Zone District are to preserve the commercial agricultural lands within Santa Cruz County which are a limited and irreplaceable natural resource, to maintain the economic integrity of the economic farm units comprising the commercial agricultural areas of the County, to implement the agricultural preservation policy of Section 16.50.010 of the Santa Cruz County Code, and to maintain and enhance the general welfare of the county as a whole by preserving and protecting agriculture, one of the County's major industries. Within the "CA" Commercial Agriculture Zone District, commercial agriculture shall be encouraged to the exclusion of other land uses which may conflict with it.*

IP Section 13.10.314 (Required Special Findings for "CA" and "AP" Uses.

(a) <u>All Uses.</u> For parcels within the "CA" Commercial Agriculture and "AP" Agricultural Preserve Zone Districts, the following special findings must be made in addition to the findings required by Chapter 18.10 in order to approve any discretionary use listed under Section 13.10.312 which requires a Level V or higher Approval except Agricultural Buffer Determinations:

1. *That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial operations, of the area.*
2. *That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or that no other agricultural use is feasible for the parcel.*
3. *That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.*

4. *That the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.*

(b) *Residential Uses in the Coastal Zone. For parcels within the "CA" Commercial Agricultural and "AP" Agricultural Preserve Zone Districts in the Coastal Zone, the following special findings shall be made in addition to those required by Chapter 18.10 and paragraph (a) above in order to approve any discretionary residential use including a single family residence, a permanent caretaker's residence, or habitable accessory structure. These findings shall be based upon a review and determination by the Agricultural Policy Advisory Commission.*

1. *That the parcel is less than one acre in size; or that the parcel has physical constraints (such adverse topographic, geologic, hydrologic or vegetative conditions) other than size which preclude commercial agricultural use; or that the residential use will be ancillary to commercial agricultural use of the parcel based upon the fact that either:*

   (i) *The farmable portion of the parcel, exclusive of the building site, is large enough in itself to constitute a minimum economic farm unit for three crops, other than greenhouses, suited to the soils, topography and climate of the area; or*

   (ii) *The owners of the subject parcel have a long-term binding agreement for commercial agricultural use of the remainder of the parcel, such as an agricultural easement.*

2. *That the residential use will meet all the requirements of Section 16.50.095 pertaining to agricultural buffer setbacks.*

3. *That the owners of the parcel have executed binding hold-harmless covenants with the owners and agricultural operators of adjacent agricultural parcels. Such covenants shall run with the land and shall be recorded prior to issuance of the Development permit.*

2. County-Approved Project

As described earlier, the subject site was originally part of the larger Steele Ranch that at one time encompassed roughly 7,000 acres dedicated primarily to dairy operations. The properties were subdivided in the 1950s creating the subject parcel and its neighboring properties. Historic grazing on this parcel has long since ceased and the land has been fallow for some time. As seen in the ESHA finding above, the entire site is now habitat for native Monterey pine, San Francisco garter snake, and California red-legged frog. So while consistency with the LCP's agricultural policies is analyzed below, it should be understood as basic background for this site, and it should be further understood that these agricultural policies may be superceded by ESHA considerations consistent with the LCP's direction to look to Coastal Act policies, policies that absolutely protect ESHA, when there is a question of

interpretation.[36]

Residential development is a conditional, discretionary use in the subject CA zone district applicable to the parcel. Specific findings to allow such a use must be made pursuant to LCP Section 13.10.314. In this case, the County found that: siting the proposed residence within the Monterey pine forest would keep the residence away from farmable portions of the property; that the residence would not preclude the potential for renewed agricultural use at the property; and that the residence would lie a sufficient distance (300 feet) from adjacent agriculturally designated lands to adequately protect from potential land use conflicts. The project exceeds the agricultural buffer setback requirements of LCP Section 16.50.095 (200 feet) and the local permit has been conditioned to require the property owner to sign and record an acknowledgment of adjacent agricultural land uses and a hold harmless agreement to be recorded on the property deed. The County found the proposed residence to be ancillary to any agricultural use since the farmable portion of the parcel (20 to 40 acres) would still be large enough to constitute a minimum economic farm unit capable of supporting livestock grazing. The County found that the dwelling would cover approximately one acre, or about 2% of the gross parcel area.

The County found that the property has value for renewed agricultural production. Specifically, the property could support a small herd of dairy cattle or goats or other livestock in the large meadow area, or, in the alternative, crops such as cut flowers, ollalie berries, kiwi fruit, pumpkins, squash, or Christmas trees could be cultivated. Overall, the parcel is large enough to constitute an economic farm unit for several crops and the County has found the presence of prime agricultural soils here.

3. Consistency with Applicable LCP Policies

The LCP is extremely protective of agricultural lands and is reflective of the policies of the Coastal Act by its encouragement of agricultural uses to the exclusion of other land uses that may conflict with them. In short, the policies of the LCP acknowledge that coastal agricultural lands are an irreplaceable natural resource and the protection of their economic integrity as economic farm units is vital. In order to accomplish this, the LCP sets forth a number of requirements. These include, but are not limited to, defining allowable agricultural uses (including allowed support and related facilities), principal and conditional uses, development standards, and easement requirements. In addition to the general requirements of the CA Commercial Agriculture District, the LCP requires that special findings be made to allow a conditional, discretionary residential use on a CA-zoned property.

LCP Section 13.10.314 sets forth four general tests that must be met before a use can be allowed in the CA district. In sum, these are: (1) that maintenance of the use will enhance or support agriculture, and will not reduce, restrict or adversely affect agricultural operations in the area, (2) that the use is ancillary, incidental or accessory to agricultural use of the parcel or no other agricultural use is feasible, (3) that single family residential uses will be sited to minimize conflicts, and (4) that the use will not remove land from production (or potential production) or will remove as little land as possible from production.

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[36] LUP Chapter 1, Interpretation.

LCP Section 13.10.314 also requires that special findings be made to allow a residential use here. These requirements are in light of the conditional, discretionary nature of the residential use on these CA lands. These requirements restrict residential uses upon CA parcels to parcels: (1) that are less than one acre in size, (2) that are so physically constrained (other than overall size) that they preclude commercial agricultural use, or (3) where the residential use would be ancillary to commercial agricultural use of the parcel because either (a) the farmable portion of the property constitutes a minimum economic farm unit without the building site or (b) there is a binding agreement for continued commercial agricultural use of the remainder of the site. In any case, the residential use must, in addition to other requirements of the LCP, adhere to the agricultural buffer setbacks of LCP Section 16.50.095 and execute a hold harmless covenant with the owners and agricultural operators of adjacent agricultural parcels.

The general incompatibility of residential and agricultural land uses is highlighted by the fact that the proposed project is a conditional, discretionary use at this site. As such, the allowance of the proposed use is not a right under the LCP and is subject to discretionary review for consideration. Reasons for this conditional use designation are rooted in the inherent incompatibility of these two land uses. Typical incompatibility issues raised at urban-agricultural land use interface include: noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands to name a few. Such incompatibilities can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns that standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al) are a threat to the non-agricultural uses.

In sum, the LCP requires that the proposed residential use be incidental to the agricultural use of the site, and that it not restrict, reduce, or otherwise adversely affect continued or renewed agricultural production.

The County findings pursuant to LCP Section 13.10.314 were based primarily upon the proposed residence's location outside of the most agriculturally viable portions of the property. In other words, because the residence would be placed on the higher elevations within the Monterey pine forest, the residence would not adversely impact the prime agricultural area running north to south along the western portion of the property.

Although such siting raises other forest resource concerns as detailed in the findings above, the Commission can concur that the proposed building site would stay out of the most agriculturally viable portion of the site as indicated by the County, and as required by LCP Section 13.10.214.[37] As such, the project generally satisfies the first portion of the Section 13.10.314 test (namely that agricultural use, in this case future agricultural use of the property, not be adversely affected). However, the project raises fundamental questions whether such an enormous residential structure can be considered "ancillary,

[37] The most agriculturally viable portion of the site is also the portion of the site that is listed species habitat (for San Francisco garter snakes and California red-legged frog); see agricultural finding conclusion.

incidental, or accessory" to commercial agricultural use of the property as also required by LCP Section 13.10.214. As mentioned, the proposed residential compound and related structures would occupy over two acres of the parcel. The applicant proposes to construct a 3 story, 51 foot tall, 15 room single-family dwelling, with a basement, 3-car connected garage (with a room above), swimming pool and assorted pathways, courtyards, and retaining walls. In total, approximately 15,000 gross square feet of structures would be developed. In this case, it is doubtful that the proposed 15,000 square foot house and pool are ancillary, incidental, or accessory (Section 13.10.314(a)(2) and (b)(1)) to agriculture. Though a somewhat subjective test, the proposed dwelling stretches the limit of interpretation to find that it is a "agriculturally oriented dwelling" as required by LCP Policy 5.13.7. The proposed house would be considered a very large farm house if it were even one-third the proposed size. When compared with other Santa Cruz agricultural properties, the proposed structural development is far larger than other residences constructed as ancillary facilities on agricultural lands. Although a survey would be necessary to confirm, anecdotal evidence suggests that it would be the largest such agricultural residence in Santa Cruz County, and one of the largest residences in the County overall.

The applicable LCP test for "ancillary" in this case is that the farmable portion of the property, exclusive of the building site, would constitute a minimum economic farm unit for three crops, other than greenhouses (LCP Section 13.10.314(b)(1)(i)). The LCP defines "minimum economic farm unit" as follows:

> *An area of farmland of sufficient size to provide a return to land and capital investment or a return to cover costs of a new investment*

In this case, the County has indicated that even with the residential development, the large meadow area portion of the property could support a small grazing herd, or that it could support commercial agricultural crops such as cut flowers, ollalie berries, kiwi fruit, pumpkins, squash, or even Christmas trees. Although the soils are not ideal, irrigation and good management practices would make such operations economically feasible. In terms of agricultural issues alone (i.e., suspending discussion of ESHA ramifications), the Commission can concur that this is the case. Since the proposed project meets this test, LCP Section 13.10.314(b)(1)(i) specifies that the subject residential use is in fact ancillary to agricultural use of the parcel's remainder. So while the Commission must observe that such a finding that this enormous residential development is "ancillary" to agricultural use stretches the limit of LCP intent and interpretation, it is within the parameters of the applicable LCP policies to find it so. As is the "agriculturally oriented dwelling" requirement of LCP Policy 5.13.7. It is still, however, a discretionary use for which some discretion is allowed.

In addition, although the County findings state that the, "permit has been conditioned to require that the property owners sign and record an Acknowledgement of adjacent agricultural land and a hold harmless agreement on the subject parcel's property deed restriction," the County's condition only requires "a statement acknowledging the adjacent agricultural land use and the agricultural buffer setbacks." The Commission's experience has been that the precise wording of such an acknowledgment is critical to ensuring that future issues do not arise that would threaten ongoing normal agricultural operations on adjacent properties. It may be that the County's condition is sufficient in this regard. This would be the

case if it invoked all of the parameters of LCP Section 16.50.090 detailing applicable deed restriction language for development adjacent to agricultural lands. While it can be assumed that the County would use Section 16.50.090 deed restriction language, this is not explicitly stated. Without knowing what the deed restriction would contain, it is difficult to say with certainty whether this LCP requirement is met in this case.

4. Land Use – Agriculture conclusion & Parameters for Project Modification

North coast agricultural lands are a finite resource for which the LCP demands the highest level of protection. Although construed narrowly, the LCP would allow for such a huge residential compound in the site proposed (were there not otherwise visual and ESHA issues as previously described), the enormity of the proposed development stretches the limits of the LCP for such a discretionary, conditional use at this location. It may be that the remainder of the site would constitute a "minimum economic farm unit," but it is more difficult to make the case that such a huge residential development is "ancillary, incidental, or accessory" to commercial agricultural use of the property. And while the Commission is in no way suggesting the types of residences that are appropriate for individuals engaged in agricultural activities, it is clear that the subject residence would be one of the largest, if not the largest, such residences on agricultural lands in Santa Cruz County. It raises a question as to whether the proposed residential compound qualifies as an "agriculturally oriented dwelling" as required by the LCP. Further, although the huge size of the development may be *allowed* based upon setback versus height tradeoffs prescribed in the LCP,[38] it remains a discretionary decision as to the scale and character of such an ancillary use on agricultural land.

Although the agricultural findings can be made, the large overall mass and scale of the proposed estate compound, particularly its enormous mass and scale as compared to ancillary residential uses on other agriculturally zoned properties, raises issues in terms of the proposed project's conformance with the LCP's agricultural land use policies. Moreover, LCP agriculture issues are additionally raised because the huge residential compound is proposed absent any agricultural operation on the site; because it is the lowest priority use within the LCP's use hierarchy; and because of the potential for cumulative impacts on north coast agriculture from the development of such large estates on CA-zoned lands. As such, the Commission finds that the project, as proposed, is not entirely consistent with the LCP's agricultural policies cited in this finding.

In order to find the project consistent strictly with the LCP's agricultural policies, the project must be modified (see also "Project Modifications to Result in an Approvable Project" on page 60). The residential compound proposed should be reduced in scale to more closely approximate the range of size and scale for north coast agricultural dwellings. The LCP-required "hold-harmless" language (LCP

[38] The LCP does not contain an outright cap on the size of residential development in the CA district. In fact, although the maximum height for residential structures in the CA zoning district is 28 feet, LCP Section 13.10.323(e)(5) allows the height to be increased by one foot for every 5 feet of increased yard setback. Using the large size of the lot to increase the required yard setbacks, the Applicant was able to use this formula to pursue a 51 foot residence at this location without a variance. On very large lots, it is conceivable that the LCP might allow even taller residential structures.

Section 16.50.090) must be accounted for because the site is surrounded on three sides by agriculturally-zoned properties. Were there not to be ESHA constraints, the subject agricultural use of the property, and the way in which the residence would support that use, would need to be more clearly defined. In this case, however, although agriculture is a high priority under the LCP (and the Coastal Act), given the sensitive ESHA resources at this location, avoidance and preservation of ESHA at this site, at the expense of agriculture, is more protective of coastal resources given both the absence of ongoing agriculture and the significant endangered species habitat present on the site as well as the site habitat's relation to the larger endangered species habitat of the greater Año Nuevo area.

D. Helicopter Use

Although it not technically a part of the application in front of the Commission, the Applicant has stated that he intends to commute via helicopter from the subject site. This possible use constitutes a potential future impact of the project. The use of a private helicopter in this manner also meets the definition of "development" found in the Coastal Act and the certified LCP because it would change the intensity of the use of the land and physically require the use of a portion of the site for landings, departures and parking of the helicopter. The site preparation for this area may include grading, the placement of lights and removal of vegetation. The use of helicopters for commuting also represents a change in the intensity of use because of the significant impacts on coastal resources that will occur individually and cumulatively with this use. These impacts on ESHAs and the scenic character of the north Santa Cruz and San Mateo coastline have been discussed in the preceding findings and are further detailed below.

The Commission notes that the State, and thus the Coastal Commission, is precluded from regulating certain aspects of helicopter operation. The Federal Aeronautics Administration (FAA) indicates that states may not make rules regarding in-flight operations of helicopters; the FAA is the sole regulatory authority in these operational and safety areas.[39] FAA counsel noted that the state does have authority to regulate outside the areas of federal preemption and suggested contacting the Cal Trans Aeronautic Division. Counsel for Cal Trans agreed that the state was preempted from regulating flight operations as described in Public Utility Code (PUC) Section 21240 as follows:

> *PUC Section 21240. This state recognizes the authority of the federal government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the department the power to so regulate and control safety factors in the operation of aircraft or to control the use of the airways.*

The statute goes on to provide for the regulation of aspects of aeronautics and land use that are not pre-empted by the FAA. For example, PUC Section 21662.4(a) clearly implies that local government can regulate flight departures and landings for all aircraft other than that used for medical emergencies, law enforcement, fire fighting and the military. PUC Section 21662.4(a) states:

> *PUC Section 21662.4(a). Emergency aircraft flights for medical purposes by law enforcement,*

[39] Phone conversation between Commission counsel and FAA counsel.

fire fighting, military and other persons who provide emergency flights for medical purposes are exempt from local ordinances adopted by a city or county or city and county, whether general law or chartered, that restrict flight departures and arrivals to particular hours of the day or night, that restrict the departure or arrival of aircraft based on the aircraft's noise level, or that restrict the operation of certain types of aircraft.

As will be discussed in following paragraphs, Santa Cruz County has a provision in the County General Plan that limits helicopter use to the emergency medical transport, law enforcement and commercial agricultural uses.

Finally, PUC Section 21401 states that the operation of aircraft is a privilege subject to the laws of the state:

Section 21401. Sovereignty in the space above the land and the waters of this state rests with the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of the state.

The operation of aircraft in such space is a privilege subject to the laws of this state.

Overall, while certain aspects of helicopter operation are governed by federal regulation, private helicopter commuting would qualify as development under the Coastal Act and the certified LCP, inasmuch as such use would constitute a change in intensity and use of land. The establishment of such a use would require a coastal development permit. Inasmuch as such a use may be an associated potential impact of the project, it is necessary to evaluate such use for consistency with the LCP.

1. Applicable Policies

Many of the LCP policies previously referenced in the findings above do not explicitly discuss commuter helicopter use, but apply to such uses in the sense that the LCP requires protection of the critical public viewshed here, requires protection of the unkempt open space/wilderness character of the north coast, and requires protection of sensitive species and sensitive habitats. To the extent that the comings and goings of a helicopter conflict with these policies, these policies apply to the potential commuter helicopter use that the Applicant has detailed to Commission staff. In addition, the County General Plan states as follows:

General Plan Policy 3.19.1 Heliports. *Restrict heliport construction and helicopter use, and permit these only in conjunction with emergency medical treatment, emergency law enforcement, and commercial agricultural purposes.*

General Plan Policy 3.19.1 is not an LCP Policy. However, Policy 3.19.1 applies to LCP consistency inasmuch as General Plan compliance is required in permit findings (Zoning Section 18.10.230(a)(3)) and for discretionary approvals in general (Zoning Section 13.01.130(a)); Chapters 18.10 and 13.01 of the Zoning Code are included in the LCP's Implementation Plan per Zoning Section 13.03.050(b)(2).

2. Consistency with Applicable LCP Policies

The commuter helicopter use proposed by the Applicant is in conflict with LCP policies protecting the unkempt wild character of this stretch of wilderness coastline. Although some amount of sporadic helicopter use along this stretch of the coast is expected (e.g., for emergency transport, law enforcement), any such noisy commuter helicopter use on a regular basis would not be compatible with the character of surrounding open space wilderness area – specifically with the ongoing wildlife and recreational programs at adjacent Año Nuevo State Reserve and Big Basin State Park. Multiple helicopter landings and takeoffs, such as that associated with a commuter helicopter use, are not consistent with the sense of serenity and open space that is evoked by the surrounding public wilderness areas, and would be detrimental to the public programs there. In particular, as described in findings above, Año Nuevo State Reserve is a resource of tremendous local, regional, statewide, and national significance. Such private commuter helicopter use would have a profound effect on this national treasure used by hundreds of thousands of coastal visitors and is inconsistent with the north coast's undeveloped character. As such, it is not "integrated with the character of the surrounding neighborhood or areas" (IP Section 13.20.130(b)(1)) and it is not "subordinate to the natural character of the site" (IP Section 13.20.130(c)(2)).

In addition, it is not clear where the Applicant intends to land and park his helicopter on the site, but since the entire site is ESHA, such landing and parking would be within ESHA; the relatively flatter portions of the property that may be pressed into such service are particularly important San Francisco garter snake and California Red-legged frog habitat areas. Such helicopter landings and takeoffs would be expected to significantly disrupt the listed species habitats, frightening away individual specimens as well as potentially crushing those unfortunate enough to be caught under the helicopter landing gear. Raptors and other types of birds would be expected to be frightened away as well. Such helicopter use meets none of the LCP tests for allowing such a use within ESHA (LCP Policy 5.1.3), is not an allowed permitted or discretionary use with ESHA (IP Section 16.32.090(c)(A)(1)), and does not protect against significant disruption to these habitat areas as required by the LCP (LCP Policy 5.1.6 and 5.1.7).

Finally, General Plan Policy 3.19.1 clearly indicates helicopter use is to be restricted to that associated with "emergency medical treatment, emergency law enforcement, and commercial agricultural purposes."[40] The envisioned commuter use is not a category of helicopter use that is allowed in the County since it falls within none of the 3.19.1 use types.

3. Helicopter Conclusion and Parameters for Project Modification

Commuter helicopter use is not consistent with LCP policies protecting the character of the surrounding Año Nuevo area, is not consistent with LCP policies protecting San Francisco garter snake and California red-legged frog habitat, and is not an allowed category of helicopter use in the County. In addition, as properties along this critical stretch of mostly undeveloped San Mateo/Santa Cruz County coastline are pursued for large estate development (such as that proposed here), the cumulative impact should other large estate owners pursue commuter helicopter uses of their own would be substantial and

[40] As indicated above, the LCP requires General Plan conformance for project proposals.

ruinous to the ambiance of this special stretch of the Central Coast.[41] As such, the Commission finds that the commuter helicopter use envisioned by the Applicant is not consistent with the LCP policies cited in this finding. Therefore, Special Condition 5 prohibits any helicopter use associated with the project except for emergency purposes (see also "Project Modifications to Result in an Approvable Project" on page 60).

E. Cumulative and Growth Inducing Impacts

1. Applicable Policies

The LCP protects against impacts associated with individual projects such as this, as well as the cumulative impact from such projects in relation to current and potentially planned development. The LCP states:

> *LUP Policy 2.1.4 Siting of New Development. Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

2. County-Approved Project

The County found that the project itself, as conditioned, would not induce future growth by virtue of its CA zoning, location within a Least Disturbed Watershed, and location adjacent to larger TP zoned lands.

3. Consistency with Applicable LCP Policies

The LCP requires that development not individually, or cumulatively when considered in the context of other existing and reasonably foreseeable future development, significantly adversely affect coastal resources. As discussed in the findings above, the proposed project by itself results in adverse ESHA, visual, and agricultural land use impacts. Any such impacts would be exacerbated by similar projects that may take place in the foreseeable future both in the general Año Nuevo area as well as the larger north Santa Cruz County – south San Mateo County region that is largely undeveloped at present time.

The concern is that these large, mostly undeveloped and agricultural parcels, will be used in the future for a plethora of "monster" trophy homes. These large trophy homes, where visible, would redefine the character of the agrarian and wilderness landscape here. There is also the question of whether such large homes have relatively more resource impacts than smaller homes due to increased water consumption, increased waste water production, larger impervious surfaces, more traffic, et cetera generated by the increased level of upkeep necessary to maintain larger homes and grounds. Part of this is because larger estate homes and grounds can include more persons involved in day to day maintenance (such as maids, gardeners, pool persons, etc.); such has been the Commission's experience in such large home enclaves

[41] See also cumulative impact findings that follow.

as Pebble Beach.

A. Other similar projects in the same general area

In fact, in addition to this subject application, there are currently two other such large residential projects on appeal to the Commission at this time in this general area: the appeal of the proposed Lee residence immediately to the west of the subject site (between the subject site and Highway One to the west) in San Mateo County (A-2-SMC-99-066), and the appeal of the proposed Blank residential compound at a portion of the former Cascade Ranch approximately ½ mile upcoast of the subject application (A-2-SMC-00-028). The proposed Lee residence includes a 6,500 square foot residence, approximately 8,000 square feet of outside hardscape living space, a driveway of roughly 9,600 square feet, and a pond and ornamental garden comprising an additional 18,500 square feet of area. The total site disturbance proposed is roughly 33,000 square feet. According to recent reports, the Lee site appears to be all or nearly all ESHA for San Francisco garter snake, California red-legged frog, and native Monterey pine forest.[42] The large pond on the subject site may be one of the oldest and most important red-legged frog habitats in the entire area.[43] The Lee site is also visible from Año Nuevo State Reserve and Highway One.

The proposed Blank residence is likewise a large compound that includes a 3-story, nearly 16,000 square foot residence connected by underground tunnels to outlying bedroom units, a 2,500 square foot equipment barn, a 3,200 square foot stable, a 1,250 square foot farm labor housing unit, a swimming pool occupying approximately 1,100 square feet, and driveway, parking and other hardscape covering another 8,000 square feet or so. A total of roughly an acre of such disturbance is proposed. Again, similar to the subject application, the Blank site is likewise occupied by significant areas of habitat for San Francisco garter snake and California red-legged frog, as well as other resources. This site, too, is visible from public viewing areas.

The Applicant has submitted a cumulative impact analysis for the immediately surrounding 19 private parcels[44] (see letter report from the Applicant dated received May 15, 2000, Exhibit L). This analysis concludes that, with the exception of the proposed Lee house, any future development on the remaining large privately held parcels would be limited by the zoning (CA and TP) and could be hidden from public view utilizing the topography and intervening vegetation here. Part of this analysis is supported by the following: (1) CA zoned land is limited to a maximum density of 40 acres per dwelling unit; (2) TP zoned land is limited to a maximum density of 40 acres per dwelling unit; (3) allowable land division for CA and TP zoned lands is limited; (4) properties located within Least Disturbed Watersheds (such as the subject site) require a minimum 40 acre parcel; and (5) residential development is a discretionary conditional use as opposed to a principal permitted use in these areas. However, the only current

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[42] *A Determination of Habitat for the San Francisco Garter Snake and the California Red-legged Frog on the David Lee Property*, by Dr. Sam McGinnis, dated November 6, 2000.

[43] Dr. Sam McGinnis, Ibid.

[44] The vast majority of lands surrounding the subject site are in public ownership including Año Nuevo State Reserve and Big Basin Redwoods State Park; see page 2 of Exhibit H.

applications in front of the Commission (i.e., Hinman, Blank and Lee) suggest more of a concern for cumulative impacts than does the Applicant's analysis. Each project, as proposed, is located within a critical public viewshed to varying degrees. Moreover, the Commission is aware of at least two residential applications involving similar north coast properties moving through County permitting processes: one located immediately upcoast of the Lee site (in San Mateo County) and a second further downcoast toward Santa Cruz involving another sprawling residential compound (roughly 11,000 square feet of structures) on agriculturally zoned land in the critical public viewshed west of Highway One (near Sand Hill bluff).

B. Potential for growth inducement

With regards to growth inducement, it is not likely that the subject residence would induce future growth in the immediately surrounding parcels. The project does not propose a new road, rather it relies on an existing road providing access to other residential structure tucked away at this location. There are not additional undeveloped properties that could be reached by the road here. The zoning and least disturbed watershed designation here precludes additional dwelling units and/or land division. The same can generally be said for the immediate surrounding area. In any case, any such future development proposals would be subject to the same policies as this proposal, dictating avoidance of sensitive habitats and public viewsheds, and preservation of agricultural lands.

It is possible that the Commission's approval of a large dwelling here could induce similar future development proposals by virtue of the perception that such development was deemed appropriate by the Commission, but this growth inducing "impact" would be very difficult to distinguish with any certainty. Notwithstanding this, as described above, very similar projects are already on appeal to the Commission and/or moving through the County process from which additional appeals are likely.

4. Cumulative Impact Conclusion and Parameters for Project Modification

The largely undeveloped north Santa Cruz County – south San Mateo County region is a critical coastal resource area. Maintaining the agrarian and wooded rural countryside between Half Moon Bay and the City of Santa Cruz is of utmost County and State importance. The LCP protects this resource through the ESHA, visual, and land use policies described in the previous findings; it also protects against potential cumulative, growth-inducing types of effects pursuant to LCP Policy 2.1.4. The proposed project as approved by the County may induce a similar type of future growth in this area to the extent such an approval sets precedence for the LCP policy interpretation that residential structures may be visible within the critical viewshed when other hidden siting options exist; that such huge mansions are "accessory" and "agriculturally oriented" residential units on agriculturally zoned lands; and that houses can be placed in ESHA. Such potential future development would have similar impacts as those attributable to the proposed project as discussed in these findings; these impacts would be significant both on an individual and cumulative basis. In addition, while not a part of the project before the Commission, the Applicant indicates that he plans on commuting to and from the subject site via helicopter. Such commuter helicopter use, particularly if emulated in other similar projects, would have a significant negative cumulative effect on the wilderness character of the largely undeveloped coastline

here.[45] For all these reasons, the proposed project raises questions of consistency with the LCP's cumulative and growth inducing impacts policies cited in this finding.

In order to find the project consistent with the LCP's cumulative impact policies, the project must be modified (see also "Project Modifications to Result in an Approvable Project" directly below). In this case, there are complementary LCP policies which combine to direct project modifications that reduce the scale of the proposed project, avoid and preserve ESHA, and keep such development outside of the critical public viewshed. Commuter helicopter use needs to be avoided. Such modifications for this project, and to the extent they are similarly applied to other similar proposed projects along this sensitive stretch of coastline, will ensure that the cumulative effect of individual developments along the largely undeveloped north Santa Cruz County – south San Mateo County coast will not alter the existing open-space agrarian wilderness character of this critical coastal resource region.

F. Project Modifications to Result in an Approvable Project

The proposed project would place an enormous residential estate on a agriculturally zoned property in the critical public viewshed surrounding the Año Nuevo State Reserve along a stretch of mostly undeveloped San Mateo County – Santa Cruz County coastline to the detriment of ESHA, visual, and agricultural resources protected by the LCP. The project raises significant issues with respect to the proposed project's conformance with the LCP's visual, ESHA, and agricultural land use policies; all of these issues are exacerbated by their potential for cumulative impacts in the future. Project modifications are necessary if a project is to be approved at this location

1. Parameters for Project Modification

The subject site presents a challenging planning conundrum for residential siting in that the roughly 50 acre parcel is zoned for high priority agriculture, is located in a critical public viewshed, and is completely occupied by ESHA. ESHA on the site includes native Monterey pine forest, wetland, native grassland, and habitat and migration corridors for both San Francisco garter snake (a Federal and State Endangered Species) and California red-legged frog (a Federal Threatened Species and a State Species of Special Concern). The relatively steeper portions of the site are further constrained by areas of geologic instability.

As described in each of the preceding findings, there are certain project modifications necessary within each issue area for the project to be found consistent with the LCP. First and foremost, because the site is all ESHA, the best use for the subject property is probably as an open space habitat area managed to preserve environmentally sensitive habitat areas. This would be the most consistent use for development within LCP-defined essential habitat. If, however, a residence must be entertained at this location in light of constitutional takings considerations, the LCP provides guidance. Paramount to LCP compliance in the face of such an ESHA-constrained property is to avoid the most sensitive ESHA on the site, and to

[45] The use of a commuter helicopter at this location raises a host of coastal resource issues. See also visual compatibility and ESHA findings, and see also separate helicopter finding.

redesign and reduce in scale the development in such a manner as to limit ESHA impacts as much as possible. If, during the course of such a planning exercise, there is a conflict between protecting native pine forest versus protecting San Francisco garter snake and California red-legged frog habitat, the snake and frog habitat should take precedence given the rarity, importance and formal listing status of these species. Likewise, this snake and frog habitat takes precedence over anything above "a reasonable economic use of the land." Such an ESHA approach can be complementary to the need to keep the residential development outside of the public viewshed. Finally, although coastal agriculture is a high priority under the LCP (and the Coastal Act), avoidance and preservation of ESHA at this site, at the expense of agriculture, is more protective of coastal resources given both the absence of ongoing agriculture and the significant endangered species habitat present on the site as well as the site habitat's relation to the larger endangered species habitat of the greater Año Nuevo area. This is consistent with the LCP's direction to look to Coastal Act policies, policies that absolutely protect ESHA, when there is a question of interpretation.[46]

A. LCP ESHA parameters

Since the whole site is ESHA, an LCP-approvable project (in light of constitutional takings issues) and consistent with LCP policies in place an applicable to this property since 1982 (LUP certification) need only be for a "reasonable economic use of the land" (LCP Policy 5.1.3 and 5.1.6). This term is not defined in the LCP, but a reasonable use of the land would be something akin to other agricultural residences on similarly sized agricultural north coast properties. Absent a comprehensive survey of same, it is not clear what the range of size and scale for such a residence would be. It is clear, however, that the house proposed here is much, much larger than that generally found on the north coast and that redesign and reduction in scale (LCP Policy 5.1.6) is warranted. The LCP provides some guidance in this respect, at least in terms of the area of site disturbance, dictating that development within or adjacent to the native Monterey pine forest be limited to a maximum of ¼ acre, or 10,890 square feet, of site disturbance (LCP Section 16.32.090(c)(C)(1)). This amount of site disturbance may be more than what is "reasonable." For comparison, it should be noted that within the noted large home enclave of Pebble Beach, residential structures are limited to a 5,000 square foot footprint and are allowed a maximum additional hardscape of 4,000 square feet: a total of 9,000 square feet of impervious surface coverage. Here the entire site is ESHA and roughly 11,000 square feet is allowed. In Pebble Beach, applicants start with 9,000 square feet; that amount may be reduced to address on-site ESHA concerns.

In any case, an approvable project must also be otherwise consistent with the sensitive habitat policies, must completely mitigate all adverse habitat impacts, and must be deemed the least environmentally damaging alternative (LCP Policies 5.1.3, 5.1.6, 5.1.7 and Zoning Section 16.32.090(b)(1)). The Project must be placed as far away from habitat as possible, must prohibit domestic animals, must limit removal of native materials, and must prohibit landscaping with exotics (LCP Policy 5.1.7). An approvable project must also provide for a deed restriction and/or an open space or conservation easement over the portion of the site left undisturbed by the approvable project (LCP Policy 5.1.7 and Zoning Section

[46] LUP Chapter 1, Interpretation.

16.32.090(b)(2)).

Future agricultural plantings, use, and/or activities would result in the conversion and destruction of ESHA contrary to LCP resource directives. In order to protect against this potential occurrence, such future agricultural uses of the property must be prohibited.[47]

Because Zoning Section 16.32.090(c)(A)(1) does not allow for a residential use within essential habitat; and because any residence at this location would have to be located within ESHA deemed by the LCP essential habitat, a variance would be required to allow for a residence here. Because of takings considerations, the Commission finds that a variance is appropriate in this instance to allow a residential use in essential habitat because: (1) the underlying CA zone district allows conditional residential use; (2) because the entire property is essential habitat, strict application of 16.32.090(c)(A)(1) would deprive the property of the same type of residential use enjoyed by other similarly CA-zoned property in the vicinity; (3) as conditioned herein, the variance would be otherwise compatible with the intent and purpose of the ESHA policies and would not be detrimental to the public or adjacent properties; and (4) would not be a special privilege inconsistent with the current limitations placed on property in the CA zone and the immediate vicinity in which residential uses are a conditional use.[48]

All ESHA impacts (i.e., loss of Monterey pine forest habitat to be occupied by a house, the loss of garter snake and frog habitat to be occupied by a driveway, and the significant disruption to said habitats from the project's additional traffic and the range of typical residential activities on the subject priority) must be mitigated for LCP consistency. An appropriate means to mitigate for project impacts is to enhance the affected habitats, particularly the road crossing directly adjacent to the pond where the most sensitive of snake and frog habitat is located and, thus, where the largest potential for negative impacts to these listed species could occur.

Another critical finding for allowing development within ESHA is the LCP Policy 5.1.3 requirement that the project must "serve a specific purpose beneficial to the public." There are several ways in which this can be accomplished with this property. The most apparent is to read 5.1.3 in tandem both with the necessary mitigations and with the deed restriction and/or an open space or conservation easement requirement, and ensure that the remainder of the site is protected in the favor of the people of the State of California for its habitat values to promote the public's interest in preserving sensitive species habitat.

And finally, because of the formal Federal and State list status for San Francisco garter snake and California red-legged frog, USFWS and CDFG will need to be consulted. Since it is unlikely that 'take'

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[47] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on agricultural plantings, use and/or activities.

[48] As such, the Commission finds that, as conditioned: (1) that because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; (2) that the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity; and (3) that the granting of such variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated. (Reference: LCP Section 13.10.230(c), findings required for a variance approval.)

of listed species can be altogether avoided should any residential development occur here, it is likely that a Habitat Conservation Plan will be required by USFWS before construction could commence at this site.[49] CDFG indicates that the Department would either input directly into a HCP process or, if a HCP was not required for any reason, would require their own permit through a formal Biological Opinion to address appropriate mitigations and measures to ensure long term habitat protection in this case.[50] In other words, whether or not an HCP is required, an approvable project in any case must include verification of USFWS and CDFG review and approval.

B. LCP Visual parameters

The project must be kept permanently outside of the public viewshed. To the extent that a modified project can be kept completely outside of the public viewshed, questions of design and immediate neighborhood compatibility are lesser concerns here; the public would not be viewing this structure located on inland private roads. Rather, the immediate handful of neighbors would be those for which this compatibility question would mostly be reserved. In this case, each of the surrounding neighbors have submitted letters of support for the design proposed by the Applicant (see Exhibit M).

C. LCP Agriculture parameters

The residential compound proposed must be reduced in scale to more closely approximate the range of size and scale for north coast agricultural dwellings. The LCP-required "hold-harmless" language (LCP Section 16.50.090) must be accounted for because the site is surrounded on three sides by agriculturally-zoned properties. Were there not to be ESHA constraints, the subject agricultural use of the property, and the way in which the residence would support that use, would need to be more clearly defined. In this case, however, although agriculture is a high priority under the LCP (and the Coastal Act), given the sensitive ESHA resources at this location, avoidance and preservation of ESHA at this site, at the expense of agriculture, is more protective of coastal resources given both the absence of ongoing agriculture and the significant endangered species habitat present on the site as well as the site habitat's relation to the larger endangered species habitat of the greater Año Nuevo area. Because future agricultural plantings, use, and/or activities would result in the conversion and destruction of ESHA contrary to LCP resource directives. In order to protect against this potential occurrence, such future agricultural uses of the property must be prohibited.[51]

D. LCP Helicopter Use parameters

Commuter helicopter use must be prohibited to protect ESHA from disruption both from noise and

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[49] USFWS could not conclude with certainty whether a HCP would be necessary for this project before the parameters of the project are established by a Commission action. Absent a firm description of the project based on a Commission approval, USFWS was hesitant to make a prediction on the HCP requirement here. However, based on the extent of resources at the subject site, and the importance of the larger Año Nuevo habitat area to the survival, ultimately, of the San Francisco garter snake, Commission staff conversations with USFWS staff indicate that an HCP requirement is highly likely.

[50] Pursuant to Section 2080 and Section 2081 of the Fish and Game Code.

[51] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on agricultural plantings, use and/or activities.

vibration as well as direct mortality from landing and parking within sensitive habitat (LCP Policies 5.1.3, 5.1.6 and 5.1.7, IP Section 16.32.090(c)(A)(1)). Commuter helicopter use must also be prohibited because it is inconsistent with maintaining the character of the surrounding north coast area – particularly as it affects ongoing programs at Año Nuevo State Reserve and Big Basin Redwoods State Park (IP Sections 13.20.130(b)(1) and 13.20.130(c)(2)). Finally, the helicopter use must be prohibited because the envisioned commuter use is not a category of helicopter use (i.e., emergency services or agricultural) that is allowed in the County (Policy 3.19.1).

2. Potential Residential Siting Options

Unfortunately, in light of the significant constraints present to varying degrees over the subject property, the best choice for siting a residential is not obvious. Each potential location has environmental costs and benefits that must be weighed. For residential siting in light of agricultural issues, the best place for a residence would be located outside of the most agriculturally viable portions of the currently fallow property. The most viable agricultural lands are located in the less steep portions of the site, thus dictating a residential site on the relatively steeper portions of the site. These steeper portions of the site are almost entirely occupied by native Monterey pine forest deemed ESHA by the LCP. To avoid Monterey pine forest and forest management issues, a site outside of the forest is preferred. All such non-forested potential sites are the most agriculturally viable and provide habitat and migration corridors for San Francisco garter snake and red-legged frog. If endangered species habitat is given a greater relative priority than either agriculture or the native pine forest habitat here, then a location outside of this endangered species habitat is preferred. Such a distinction then redirects siting back to the steeper portions of the site (i.e., in the ESHA-designated forest). The steeper forested portions of the site require an access driveway that must traverse frog and snake habitat and migration corridors. The steeper portions of the site are also those that are the most visible in the critical viewshed.

Because of the competing resource constraints, the siting challenge is to find the portion of the site that will best avoid ESHA. Staff has identified three basic siting areas that meet this criteria in different ways:

(1) The northwest corner of the site adjacent to the existing road. This area would avoid the forested portions of the site, would avoid any roadwork within the wetland/riparian area, would avoid additional traffic on the existing road through the wetland/riparian area, would avoid an interior driveway on habitat and avoid bisecting any habitat corridors, and would be hidden from view from public viewing areas to the west by the existing eucalyptus grove on the adjacent property. This portion of the site would be approximately 900 feet from the wetland/riparian system that is the most critical frog and snake habitat area on the property. This site, however, would be located within an upland area considered San Francisco garter snake habitat.

(2) The southwest corner of the site next to the existing residence on the adjacent property. This area would avoid the forested portions of the site, would avoid an interior driveway on habitat and avoid bisecting any habitat corridors, would be hidden from view from public viewing areas to the west by the woody riparian corridor, and would cluster residential development nearest to that which exists

on the adjacent property so as to limit residential activities and issues (for example, fire safety and management) to one portion of the overall area. However, this site would involve roadwork within the wetland/riparian area, would increase traffic on the existing road through the wetland/riparian area, would bring the residential use within approximately 300 feet of the wetland/riparian system, and would bring the residential use closer to the riparian corridor that serves as a migration corridor for San Francisco garter snake.

(3) The Monterey pine forest area as proposed by the Applicant. This area would avoid the garter snake and frog habitat present at lower elevations. However, this area would place the residential use within the native pine forest, would involve roadwork within the wetland/riparian area, would increase traffic on the existing road through the wetland/riparian area, would include an interior driveway on habitat and would bisect a potential red-legged frog migration corridor, and would be partially visible from public viewing areas to the west.

See page 8 of Exhibit H for alternative site locations.

After consultation with USFWS and CDFG, Commission staff believes that if a residence must be considered in deference to constitutional rights of private property owners, the best location to pursue residential development on the subject site is within the forested site area proposed by the Applicant. All things considered, this area would have the least impact on the listed Threatened and Endangered species frog and snake habitat. Although the site is located within the native pine forest, placing a residence here will limit residential activities associated with the house to an area that is not frog or snake habitat. The residence would not require any native pine removal as it would be tucked within a forest clearing at the edge of the larger pine-forested area inland. As such, its impact on the native Año Nuevo Monterey pine stand could be minimized.

3. Project Modifications

Even with the forest site location, the proposed residence at this location would result in a slew of adverse impacts that must be avoided and/or mitigated including the loss of forest habitat for the house placement, the loss of garter snake and frog habitat because of the driveway placement, the potential for increased mortality to frogs and snakes from increased use of the existing road and new use of the driveway, the potential for disturbance to frogs and snakes from typical residential activities on the site, impacts to sensitive species during construction, and development within the public viewshed.

To address these impacts, the following project modifications are necessary (note: see also Exhibit G for additional project approval notes on the site plan):

A. Residential Structure

The area of site disturbance must be reduced to the ¼ acre maximum allowed by the LCP (see Special Condition 1). This will help address multiple issues simultaneously because it will reduce area of pine forest habitat removed for the residence by approximately ¾ of an acre, it will reduce the scale of the residential compound to that more nearly approximating an agricultural residence, and it will reduce the

potential for native pine forest habitat conversion in the future in the event of fire suppression requirements. In fact, in terms of fire safety requirements for the site, CDF required a defensible space of 60 feet to the uphill side of the residence and 30 feet to the downhill side. Within this area, trees could remain, but fire ladders, including lower lying limbs, would need to be removed. From the Applicant's plans, it is not clear to what extent such a requirement would have necessitated native pine removal. The ¼ acre limitation will avoid this issue in that the forest area clearing is large enough to allow for a ¼ acre site disturbance and a CDF-required defensible space. This approval is conditioned for CDF review (see Special Conditions 1 and 7).

The height of the structure must be reduced by a minimum of 10 feet to ensure that it is not visible from public viewing locations within Año Nuevo State Reserve. Commission staff estimates that this is the amount of the structure that would be visible within the critical public viewshed. The Applicant will need to provide evidence that the residence would be invisible from all public viewing locations within Año Nuevo State Reserve and/or Highway One. In the event the residence would be visible from the public viewshed in its new location as determined by the Executive Director (upon review of the Applicant's revised plans and/or any necessary and appropriate visual simulations prior to the issuance of the CDP), that visible portion of the structure shall be removed from the proposal. In other words, the Applicant will need to make whatever additional adjustments necessary to the proposed house design (such as reduced square footage, etc,) to ensure that it will not be publicly visible. See Special Conditions 1 and 5. In the event that the subject residence ever becomes visible from Año Nuevo State Reserve and/or Highway One, the Applicant shall screen that portion of the structure visible.[52] See Special Conditions 1 and 5.

Runoff from the area of site disturbance, particularly from those areas subject to vehicular use, must be appropriately filtered prior to discharge. See Special Condition 1.

B. Driveway and Road Improvements

The new driveway from the existing roadway to the house site must be placed as far away from the Applicant's pond as possible using the existing informal jeep trail adjacent to the southern property line (see Exhibit G) to avoid the main pond habitat area as much as is feasible. The driveway must not be paved as such pavement will attract California red-legged frog and San Francisco garter snake to the driveway area. The driveway shall be minimized in length and width to avoid unnecessary habitat conversion; the driveway shall be no wider than 12 feet. See Special Condition 1.

Such a driveway would still be placed in an area deemed ESHA. Staff considered the requirement of a bridge style, or causeway, driveway. However, after consultation with USFWS and CDFG, Staff believe that that a driveway causeway would not be the most prudent mitigation for impacts to the listed species. Instead, again after consultation with USFWS and CDFG, Staff believes that the listed species are better served by installing a bridge at the pond area; the most sensitive of the habitat areas on site. Thus, the

[52] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to delete the previously recommended requirement that portions of said structure that become visible shall be removed.

road area at the pond shall be replaced with a bridge of adequate span to provide for sensitive habitat connectivity (i.e., San Francisco garter snake and California red-legged frog migration between the pond and the riparian corridor to the southwest) and flood protection (see also below). The pond area roadbed fill shall be replaced with an engineered system designed to manage pond hydrology in favor of San Francisco garter snake and California red-legged frog. The area of removed roadbed fill and surrounding disturbed areas must be restored, and the bridge and adjacent roadway areas shall incorporate adequate measures to capture, direct, and treat road runoff to avoid sediment and pollutant loading. The bridge must be the first element of the project constructed so that construction vehicles travelling through this area do not adversely and disproportionately affect wildlife migration. See Special Conditions 1, 2 and 3.

The bridge at the pond seems the most reasonable mitigation for the site. On balance, frogs and snakes would be the least disrupted because they would be able to migrate over the driveway, while not being attracted to it, and would be able to migrate in the primary migratory corridor under the bridge and thus, be the least disrupted by the additional traffic in this area. Because of this, it seems reasonable to not count the unpaved driveway area against the ¼ acre site disturbance maximum.

In any case, the existing access road shall not be expanded outside of its existing roadbed prism to avoid any additional habitat loss. To avoid killing snakes and frogs drawn to the retained heat of pavement, no paving of the access road is allowed. See Special Condition 1.

C. Habitat Preservation and Enhancement

All areas outside of the ¼ acre site disturbance area, the driveway, and the existing road, shall be placed under a conservation easement in favor of the people of the State of California.[53] The property shall be deed restricted to disallow non-restoration/enhancement development activities of any kind in the easement area. The easement area shall be for the purpose of preserving Monterey pine forest habitat, San Francisco garter snake habitat, and California red-legged frog habitat. The restrictions must make it clear that prescribed burns within the larger Monterey pine forest (i.e., extending off-site) may be undertaken at some point in the future. See Special Condition 5.

To mitigate for the loss of Monterey pine forest habitat to be occupied by a house, the loss of garter snake and frog habitat to be occupied by a driveway, and the significant disruption to said habitats from the project's additional traffic and the range of typical residential activities on the subject priority, the Applicant will be required to enhance the easement area habitats and replace the road at the pond with a bridge. Any areas of road disturbance nearest the pond (to install the bridge in this area) shall be restored for habitat purposes. See Special Condition 3.

All site landscaping must be with appropriate native species, planting of invasive species shall be

[53] Technically, an offer to dedicate a conservation easement given that there is not currently an appropriate preservation organization that has been identified to hold any such easement here.

prohibited,[54] and domestic animals are not allowed.[55] See Special Conditions 1 and 5.

To protect San Francisco garter snake and California red-legged frog during construction, construction shall be limited to the time when frogs and snakes are expected to be the least active and/or not present. For California red-legged frog this is roughly the dry season (from April 15th to October 15th). San Francisco garter snake are not expected to have any significant upland movements between April 15th and July 1st. Special precautions will be necessary to survey for frog and snake presence and to relocate any individuals found. In any case, a qualified biological monitor experienced with these species shall be present at the site during all construction activities; the biological monitor shall have the authority to halt all construction activities, and/or modify construction methods, as necessary to protect habitat and individual sensitive species. All construction areas shall be delineated with fencing and kept to the absolute minimum necessary (i.e., to construct the bridge, the driveway, and the residence) to minimize disturbance of habitat for frog and snake. To the extent feasible, previously disturbed off-site areas shall be used for storage and staging of equipment and materials to minimize the habitat area disruption on the subject site. See Special Condition 2.

Future agricultural plantings, use, and/or activities would result in the conversion and destruction of ESHA contrary to LCP resource directives. In order to protect against this potential occurrence, such future agricultural uses of the property must be prohibited.[56] See Special Conditions 4 and 5.

Finally, it is only because of this habitat preservation and enhancement, and the conservation easement, that it can be found that the project, as conditioned, includes a "purpose beneficial to the public" as required by the LCP (LCP Policy 5.1.3) to allow development within ESHA when there are constitutional takings considerations.

D. Tree Screening[57]

The existing eucalyptus grove provides a dense visual screen of the subject site from Highway One and portions of Año Nuevo State Reserve seaward of the Highway. However, eucalyptus is a highly flammable tree that would be very susceptible in the event of a forest fire in the area. Eucalyptus may also be removed at some time to enhance native habitat values. The proposed Monterey cypress row represents a sort of insurance for such potential loss of the eucalyptus grove. However, the Applicant proposes to plant the cypress in 15 gallon containers along a straight line. If portions of the row were

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[54] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on invasive plant species.

[55] Note Special Condition 5 in this report includes the LUP Policy 5.1.3 requirement to prohibit domestic animals on parcels with sensitive habitats. The previous report findings included this requirement, but the prohibition was inadvertently omitted from the previous report conditions. The condition modification is to address the Commission-required prohibition on agricultural use and/or activities on the site consistent with the LUP Policy 5.1.3 requirement to prohibit domestic animals on parcels with sensitive habitats.

[56] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on agricultural plantings, use and/or activities.

[57] The "Tree Screening" section was modified by the staff report addendum dated December 12, 2000 to allow for a mix of smaller container size specimens as opposed to the 48-inch box size specimens.

planted instead in the 48 inch box size, better immediate screening would be provided (16' to 18' at planting), and these trees would be expected to reach mature heights faster than the 15 gallon size. However, such immediate screening is provided at the expense of long-term screening as these larger container sized specimens reared in a nursery are oftentimes less successful than their smaller-container brethren that more readily adapt and thrive within the environment in which they are planted. In any case, Commission experience has been that uneven stands (planting differing ages/sizes of tree) present a better chance for overall success than do mono-age/size stands. Likewise, younger cypress (say in 5 gallon containers) often outperform those transplanted from larger sizes as they are able adapt to the surrounding conditions easier. The best chance for a dense row of Monterey cypress to be successful at this location would be to plant two rows of trees to approximate an uneven stand. The larger trees (15 gallon container) would be planted nearest the road, and the smaller trees would be planted inland of the larger trees so as to avoid being shaded out by the larger row. See Special Condition 1.

The Applicant's forester/landscaper originally recommended using 48 inch box specimens for the 22 Monterey cypress, Coast live oak, and Coast redwood to be planted nearest the residence to better achieve immediate screening of the residential compound. However, due to the recommended conditions that limit the size of the development to be invisible from public viewing areas, the Applicant's landscape architect has revised this earlier recommendation to specify that a mix of container sizes be used in this area.[58] Since the additional tree planting is meant as insurance of sorts in the event of the loss and/or screening degradation of the existing tree screen (both the existing eucalyptus grove and the existing riparian woodland), the immediate screening capabilities of the larger-sized specimens is not entirely necessary to achieve viewshed consistency. As such, a mix of smaller container size specimens would be appropriate in this case for successful long-term screening. Accordingly, the 22 tree specimens in the vicinity of the residential compound shall be a mix of 24 inch box, 15 gallon, 5 gallon and 2 gallon container sizes. See Special Condition 1.

All trees on the site, both existing and those to be planted, shall be retained in perpetuity to ensure adequate screening between approved structures and public viewing areas, and to retain the forested backdrop here. See Special Condition 5.

E. Agriculture

The Applicant must record an agricultural hold-harmless deed restriction to help avoid conflicts between the subject residential use and any adjacent agricultural activities. See Special Condition 6.

As stated above, future agricultural plantings, use, and/or activities would result in the conversion and destruction of ESHA contrary to LCP resource directives. In order to protect against this potential occurrence, such future agricultural uses of the property must be prohibited.[59] See Special Conditions 4 and 5.

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[58] Ibid. Staub and McGuirk, May 2000. As modified by November 30, 2000 letter report by Steve McGuirk.

[59] Modification to Staff recommendation as made by the Commission at the December 14, 2000 hearing to include a prohibition on agricultural plantings, use and/or activities.

F. Helicopter Use

No helicopter use will be allowed at this location. See Special Condition 5.

G. Construction

Construction on the site shall take place between April 15th and October 15th only to best avoid impacts to listed species. All trees to be retained on the site shall be protected during construction. Erosion control BMPs are required. See Special Condition 2.

H. Other Agencies Review and Approval

All required project modifications and plans must be submitted with evidence of the review and approval by USFWS, CDFG, CDF, and Santa Cruz County. See Special Condition 7. All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the Coastal Act would remain in effect, except for those that would conflict with the Coastal Commission's conditions for this approval. See Special Condition 8.

4. Approvable Project Conclusion

By modifying the project in these ways, the Commission can find that the project is the least environmentally damaging alternative in light of the legal requirement to ensure a reasonable economic use consistent with constitutional takings law, that adverse habitat impacts are appropriately mitigated, and that the approved project serves a specific purpose beneficial to the public; all findings required under the LCP. The approved project will allow a smaller residential use more in scale with the surrounding north coast agricultural landscape of which it is a part, and outside of the critical public viewshed.

As such, and only as conditioned in this approval, the Commission can approve the modified project and finds it consistent to the greatest extent feasible with the certified Santa Cruz County LCP.

G. California Environmental Quality Act (CEQA)

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 any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The County certified a negative declaration for the proposed project when it was approved by the Board of Supervisors on March 14, 2000.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The

Commission's findings above (incorporated herein by reference) have documented that the proposed project would lead to significant adverse effects to ESHA, visual resources, and agriculture; all of these effects are exacerbated by their potential for cumulative impacts in the reasonably foreseeable future. In light of these significant adverse effects, many of which were not adequately identified nor mitigated by the County's CEQA document, the "no project" alternative would be the environmentally superior alternative within the meaning of CEQA. Such an alternative would avoid adverse ESHA, visual, agricultural, and cumulative effects to the greatest degree feasible.

However, in light of constitutional takings considerations, a "reasonable economic use" must be allowed for this site. In this case, the Commission recognizes the fact that the Applicant is proposing a residential use for purposes of living on the property. Although limiting use of the property to habitat enhancement and protection would be an environmentally superior alternative, such use is contrary to the basic project objective and would not likely allow for a reasonable economic use.[60] As such, in this case, and only as conditioned herein, the second environmentally superior alternative within the meaning of CEQA is to allow for a reduced scale project that will: minimize site disturbance to that allowed by the LCP in the native forest (i.e., ¼ acre); will lower the height of the proposed residence to ensure that it is not visible within the existing public viewshed; will require additional dense tree planting to ensure that the residence is not visible in the event the existing vegetative screen is removed in the future; will place the remainder of the site area (outside of the residence itself) under a permanent conservation easement; will enhance garter snake and frog habitat within the conservation easement area; will protect sensitive species during construction; and will require snake- and frog-friendly roads so as to least disrupt the natural movements of these species.

Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as so modified by this conditioned approval does the approved project incorporate all of feasible design alternatives and feasible mitigation measures available in this case to substantially lessen its significant adverse effects on the environment. Therefore, the project, as conditioned, is approvable under CEQA.

[60] In certain circumstances habitat protection and enhancement may be a reasonable economic use of a sensitive property if conducted in such a way as to produce income from public or private visitation or otherwise provide a reasonable economic return to a property owner.

County of Santa Cruz

PLANNING DEPARTMENT
701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
ALVIN D. JAMES, DIRECTOR

Agenda Date: March 14, 2000

February 25, 2000

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Subject: Public hearing to consider a proposal to construct a three-story single family dwelling with basement, an attached garage and two attached habitable accessory structures for pool use comprised of two bathroom/changing rooms of less than 100 square feet each located above the garage totaling approximately 14,766 square feet, and a detached, 277 square foot non-habitable accessory structure (generator house), and to grade about 5,560 cubic yards for the building site, courtyard, pool, driveway and access road. Requires a Coastal Development Permit, a Large Dwelling Review, a Residential Development Permit to increase the 28 foot height limit to about 51 feet by increasing the required 20 foot setbacks by 5 feet for every foot over 28 feet in height to 135 feet, and to construct two habitable accessory structures greater than 17 feet in height with bathrooms, and Preliminary Grading Approval.

APPLICATION NUMBER: 98-0426
APN: 057-061-16
APPLICANT: Betty Cost, Rich Beale Land Use Consultants
OWNER: Brian Hinman and Suzanne Skees
LOCATION: Property is located on the east side of a 50 foot right-of-way approximately 0.75 miles northeast from its intersection with Highway 1 (at sign for 2074), then about 600 feet southeast. The right-of-way intersects the east side of Highway 1 about one mile north of the intersection of the entrance to Ano Nuevo State Park.

Members of the Board:

BACKGROUND

On January 21, 2000, at a noticed public hearing, the Zoning Administrator considered Application 98-0426, a request to construct an approximately 14,766 square foot single family dwelling, with two attached habitable accessory structures (pool changing rooms) and a detached, 277 square foot non-habitable accessory structure. At the public hearing, staff recommended a plan revision to the south wing of the house proposed by the applicant to address design review issues and additional conditions

of approval relating to building height verification. After the staff presentation, public testimony was accepted relating to the proposed project. Over 1 ½ hours of testimony was received at the public hearing, both in favor and in opposition to the project. A list of speakers and a general description of issues addressed at the hearing is included as Attachment 3, and copies of correspondence received are included as Attachment 4. After the public hearing was closed, the Zoning Administrator directed that conditions relating to the replacement tree sizes and monitoring be amended. The applicant's permit was approved subject to the revised Conditions of Approval, and a copy of the permit was forwarded to the Coastal Commission. A copy of Permit 98-0426 and a copy of the Conditions of Approval for the project are included as Attachment 2.

On February 8, 2000, the Board of Supervisors acted to set Application 98-0426 for Special Consideration, pursuant to the procedures set forth in County Code Section 18.10.350. Copies of correspondence from your consent agenda of February 8, 2000, relating to the request for Special Consideration are included as Attachment 1. This matter is now before your Board for your consideration.

DISCUSSION

The letter dated January 28, 2000 by Supervisor Mardi Wormhoudt, requesting Special Consideration by the Board of Supervisors, raised the issues of visual impacts to the Ano Nuevo State Reserve and other issues identified, primarily concerns regarding the size and height of the structure. The visual issue was identified during the processing of this application, during the preparation of the Environmental Review Initial Study and during the public review period for the Negative Declaration and Notice of Determination. This issue is addressed in the following discussion, in the staff report to the Zoning Administrator included as Attachment 5, and in the Mitigated Negative Declaration and Initial Study included as Exhibit C to the Zoning Administrator staff report (Attachment 5). Additional issues raised by the public in opposition to the project included the size and height of the proposed dwelling.

Visual Issues

Due to the height and mass of the proposed structure, staff required a visual analysis to determine if the project would be visible from Highway 1, a General Plan designated scenic road, and from Ano Nuevo State Reserve, to assess the potential visual impacts. Ano Nuevo State Reserve is located approximately two miles from the proposed building site, and Highway One is located over 0.5 miles from the project. At the direction of Planning staff, the applicant erected scaffolding to simulate the height (51 feet above existing grade at the roofline) and mass of the proposed structure, covered with highly visible "Safety Orange" construction fencing to ensure maximum visibility of the structure. During the permit process, three proposed building sites were considered. The originally proposed building site was located near the northeast corner of the property near the 560 foot elevation contour (See Attachment 14 to Exhibit C, in Attachment 5). Due to the higher topography and the lack of natural screening, the majority of the residence at this originally proposed site would have been visible from Ano Nuevo State Reserve. A second site at a lower elevation was evaluated, but this site required a Variance. Consequently, after significant geologic investigation, the project was relocated to a third site at a lower elevation, below the 520 foot contour, with a gentler topography in order to minimize potential visual impacts by taking advantage of existing screening from on-site trees, an adjacent eucalyptus grove and extensive riparian

vegetation. In addition, this third site would require significantly reduced site grading, and is located outside of the prime agricultural lands. This third location is the one which was considered by the Zoning Administrator.

The County's 1994 General Plan policies for Visual Resources (5.10.10 and 5.10.11) state that public vistas from designated scenic roads shall be afforded the highest level of protection. Highway 1 is designated as a Scenic Road. The proposed house will not be visible from Highway 1. This is primarily due to the topography between Highway 1 and the proposed dwelling. In addition, there is substantial vegetative screening provided by a eucalyptus grove located along the western edge of the right-of-way on the west property line of the subject parcel, and the riparian vegetation downstream of a manmade pond. The grove of eucalyptus trees is located on an adjacent parcel in San Mateo County. A condition of the San Mateo County Development permit (PLN 1999-00296) for the property prohibits the removal of this Eucalyptus grove. To ensure that the subject dwelling will not be visible from Highway 1 in the future, the applicant will be required to plant a row of trees along the right-of-way using Monterey Cypress (which have also been used in the Ano Nuevo area for wind breaks), to function as a back-up visual barrier to the existing Eucalyptus grove.

The purpose of General Plan Objective 5.10b New Development within Visual Resource Areas is to "ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources". Policy 5.10.1 designates visual resource areas: vistas from designated scenic roads, Coastal Special Scenic Areas and unique hydrologic, geologic and paleontologic features identified in Section 5.9 of the General Plan. Policy 5.10.2 Development Within Visual Resource Areas, recognizes the diversity of Santa Cruz County's visual resources and requires that projects be evaluated against the context of their environment and regulate height, setbacks and design to protect these resources within the objectives and policies of the visual resources section. The project site is not visible from a designated scenic road, is not located within a designated Scenic Resource area nor a Coastal Special Scenic Area and is not an area identified in Section 5.9. Section 13.20.130(b)1. of the County Code which provides the visual compatibility design criteria for development in the coastal zone, states that all new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas. Section 13.20.130(c) provides the design criteria for projects within designated scenic resource areas, which is technically not applicable to this project as it is not located within a designated scenic resource area. Nonetheless, this section of the Coastal Zone Regulations states that development shall be located, if possible, on parts of the site not visible or least visible from the public view. The required Large Dwelling Findings set forth in 13.10.325(b)(ii) states "The proposed structure, due to site conditions, or mitigation measures approved as part of the application, will be adequately screened from public view and will not adversely impact public viewsheds...". While the project is not located within a mapped Scenic Resource area, portions of the subject parcel and proposed residence are within the viewshed of Ano Nuevo State Reserve. Recognizing the importance of the public vistas from the Reserve, the project has been evaluated for compliance with General Plan visual policies for public vistas.

The majority of the dwelling is screened from Ano Nuevo State Reserve by the grove of Eucalyptus trees discussed above, by the trees located along the arroyo downstream of the pond and to a lesser extent from the Monterey pines on the site. Based on the location of the orange scaffolding, the chimneys, portions of the roof and highest gables can be discerned from three locations in Ano Nuevo State

Reserve, along portions of the path by the pond, near the staging area kiosk and on the highest sand dune on the Ano Nuevo Point path. The orange scaffolding, however, was not readily detectable with the naked eye. The scaffolding could be located after using binoculars and the neighbor's residence (APN 057-061-17) as a reference point. Once the orange scaffolding was sighted using magnification, it could then be observed by the naked eye using the knowledge of where to focus attention combined with the strong contrast of the orange tape viewed against a backdrop of tree canopies. The proposed colors of the new dwelling, a dull grayish, tannish green body, dark forest green trim and an acid-aged copper (non-reflective) roof, which will appear to be a dark, mottled, forest green, will be much less conspicuous within the context of the landscape than the orange fence material.

The scaffolding representing the roof and chimneys is most visible from one sand dune near Ano Nuevo Point which is along the trail in the area frequented by visitors. On the site visit to the dune in November 1998, the proposed building location was not visible to the naked eye. During the winter, the sand dune shifted and increased in elevation. As a result, much of the roof and chimneys could be observed, as verified during a subsequent site visit in August 1999. Again, the story poles were identifiable due to the contrast of the orange mesh against the dark forest background.

In order to determine how much the orange color contributed to the visibility, a light green mesh was placed over the orange tape to partially conceal it. With the green mesh in place, it is more difficult to see the story poles with the naked eye. A photo montage was prepared by the applicant to represent the naked eye view from the Ano Nuevo sand dune. The proposed dwelling was digitally inserted into the photograph. A color copy of this Visual Analysis is provided as Attachment 6 (a copy is on file with the Clerk of the Board). As shown in the photo montage, the dwelling cannot be distinguished by the naked eye, unless the house location is indicated. Under magnification, the roof and the peak of the main gable can be observed.

According to State Parks staff, the window glare from the existing house on an adjacent parcel can be very intrusive from Ano Nuevo Point in the late afternoons. It is useful to compare the proposed residence with the existing neighboring residence (located on APN 057-061-17). The existing residence can be observed from Ano Nuevo Reserve, because there is a large meadow between the structure and the Reserve with little vegetative screening. In addition, the window trim has been painted a white or nearly white color which causes the dwelling to stand out from the background. This structure, which is more visible than the proposed dwelling due to the trim color and lack of tree screening, is still not readily apparent to the casual observer. With respect to potential glare issues, Planning staff cannot definitively determine if portions of the transom windows in the highest gables are located above the foreground tree line, due to the distances and scales involved. Consequently, low-reflective glass is required for these transom windows to minimize potential glare problems.

As stated above and in the letter from the State Department of Parks and Recreation, portions of the proposed project are visible from Ano Nuevo State Reserve. State Parks staff has asserted that the project is visible from all points within the Reserve and that it will be visually intrusive. This was generally true of the original building site, due to the higher elevation and lack of screening. However, based on the scaffolding and careful evaluation of same for the current building site, Planning staff reached a different conclusion. Planning staff noted that a small portion of the scaffolding could be observed from the "Staging Area" within the Reserve, from the path to Ano Nuevo Point,and at the

highest point within the Reserve, the top of the sand dune, more of the scaffolding was discernible. However, the scaffolding was observed with difficulty, requiring knowledge of where to look for the scaffolding and active searching in order to observe it. When the green netting was placed over the orange mesh, the scaffolding was difficult to distinguish even at the sand dune. State Parks staff voiced concerns regarding the loss of screening due to the loss of the dying Monterey pines over time. To provide for additional future screening, sixteen replacement trees are required to be planted between the proposed dwelling and the line of sight to Ano Nuevo Reserve. These trees shall be Douglas fir or Coast redwood which will reach similar or greater heights than the Monterey pines, and are less susceptible to disease.

In summary, the physical distance between the project site and the areas of the Reserve where the scaffolding may be observed is over 2 miles (see location map which is Attachment 1 to Exhibit C in Attachment 5 of this report) which serves to lessen some of the visual impact of the proposed dwelling. In addition, the proposed tannish green and deep forest green colors for the structure and the natural screening, all serve to minimize the visibility of the proposed development. To mitigate any potential window glare, the highest windows (transom windows) in the gables are required to utilize low-reflective glass. As a result, the dwelling will not be noticeable to the uninformed visitor to the Reserve. As stated previously, portions of the dwelling are visible from Ano Nuevo State Reserve as evinced by the orange scaffolding. As the intent of the General Plan is to protect scenic resources and public viewsheds, the project has been redesigned and conditioned to minimize adverse impacts to the Ano Nuevo Reserve viewshed. The project conforms with the General Plan Visual Policies in that the proposed project will not be apparent to the casual observer due conditions including the sight distance (2 + miles), the required coloration which blends the structure into the fore- and background trees and the natural vegetative screening. Therefore, in staff's judgement, the corresponding visual impact will be insignificant.

Dwelling Size Issues

Several members of the public voiced concerns regrading the dwelling's proposed size. The proposed house is approximately 12,532 square feet of habitable, conditioned space and 15 bedrooms, as defined by Santa Cruz County Zoning Code, with an additional 1,700+ square feet of non-habitable space including the garage and a portion of the underground basement and about 850 square feet of covered porches and outdoor stairways. The habitable and non-habitable square footage for the proposed dwelling as measured using current methods for calculating Gross Building Area is 14,765.5. The calculations for Gross Building Area are included as Exhibit H to Attachment 5. The height of the proposed three story dwelling, as measured under current zoning regulations, is 51 feet from the highest point of the structure to the lowest grade (existing or proposed) immediately below. The highest point of the structure sits over both cut and fill portions of the graded building pad. The height of the dwelling from the final grade is about 47 feet. Three story dwellings are allowed on parcels larger than one acre outside of the Urban Services Line, and Section 13.10.323(e)5 provides site standard exceptions for structures exceeding 28 feet. This section states that building heights which exceed 28 feet are allowable if all required yards are increased by five feet for each foot over the permitted building height. In general, for buildings over 35 feet in height on a parcel of 2.5 acres or larger, a level IV approval is required. There is no upper height limit for a Residential Site Exception, except for the three story limit. The applicant is proposing increasing the required 20 foot setbacks to a minimum of 135 feet to accommodate the additional building height, in accordance with section 13.10.323(e)5.

Regulations regarding maximum lot coverage or floor area ratio are not applicable to the CA zone

district. County Code does not set forth dwelling size maximums beyond lot coverage and floor area ratio maximums set forth in the residential zone districts. The closest residential zone district would be Residential Agriculture (RA) which allows up to a maximum of 10% lot coverage. Floor area ratio restrictions are not applicable to parcels greater than 16,000 square feet. The proposed development's lot coverage is substantially less than 10%. Nonetheless, residential development exceeding 7,000 square feet, is subject to level 5 review under the provisions of County Code sections 13.10.314 (Agricultural Zone), 13.10.325 (Large Dwelling Permit Requirements and Design Guidelines) and Chapter 13.11 (Site, Architectural and Landscape Design Review). The project has been reviewed for conformance with the design guidelines set forth in the County General Plan and Zoning ordinances. County Code section 13.10.325 Large Dwelling Design Guidelines sets forth design recommendations for large dwellings to minimize potential impacts to the surrounding neighborhood. These design guidelines include minimizing the changes in the natural topography of the building site, minimizing and balancing graded cuts and fills, utilizing colors and materials to reduce the appearance of building bulk, maintaining ridge line silhouettes unbroken by building elements, maintaining compatibility with homes in the surrounding neighborhood and use of architectural features to break up massing.

The County's Large Dwelling findings require that the proposed structure be compatible with its surroundings, adequately screened, and that the structure not adversely affect neighboring properties' privacy or solar access. The properties within the vicinity of the subject parcel range in size from 13 acres to over 100 acres. Two adjacent parcels are developed with single family dwellings and appurtenant structures. Parcel 057-061-11 is a 63 acre CA zoned parcel with a roughly 3,500 square foot main dwelling, a second dwelling and miscellaneous outbuildings. The main dwelling is built in an old farm house style. Parcel 057-061-17 is a 13 acre CA zoned parcel developed with a single family dwelling and appurtenant structures totaling 6,017 square feet. This dwelling is built in a modern, log cabin style. A single family dwelling, guest house and garage are proposed for the adjacent 84 acre San Mateo County property. This dwelling and guest house utilizes a modern, "Sea Ranch" style of architecture, and the proposed structures on this site total about 7,600 square feet. The architectural styles vary in this area, but all may be broadly characterized as larger than average sizes on large properties. The proposed structure before your Board is compatible with the surrounding development, and the subject parcel is adequately screened and will not adversely affect privacy or solar access.

RECOMMENDATION

It is, therefore, RECOMMENDED that your Board take the following actions:

1. Certify the Negative Declaration for application 98-0426 (Exhibit C to Attachment 5); and

2. Approve Application 98-0426 based on the findings (Exhibit A to Attachment 5) and conditions (Attachment 2).

Sincerely,

Alvin D. James
Planning Director

RECOMMENDED:

SUSAN A. MAURIELLO
County Administrative Officer

cc: Richard Beale Land Use Planning 100 Doyle Street, Suite E Santa Cruz, CA 95062
Brian Hinman 27 Broadway Los Gatos, CA 95030

Attachments:

1. Letter from Supervisor Mardi Wormhoudt to the Board of Supervisors, dated January 28, 2000.
2. Permit 98-0426 and Conditions of Approval
3. List of Speakers - Public hearing of January 21, 2000
4. Written Materials submitted to the Zoning Administrator, Agenda date January 21, 2000
5. Zoning Administrator Staff Report of January 21, 2000
6. Visual Analysis (Exhibit Q of 1/21/00 ZA Staff Report) (On file with Clerk of the Board)
7. 3-Dimensional Representation of Dwelling (On file with Clerk of the Board)
8. Project Plans (On file with Clerk of the Board)

SAM/ADJ/CLC 98-0426 bdreport.wpd

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: January 21, 2000
Agenda Item: No. 9
Time: After 10:00 a.m.

STAFF REPORT TO THE ZONING ADMINISTRATOR

APPLICATION NO.: 98-0426 APN: 057-061-16

APPLICANT: Betty Cost, Rich Beale Land Use Consultants

OWNER: Brian Hinman and Suzanne Skees

PROJECT DESCRIPTION: Proposal to construct a three-story single family dwelling with basement, an attached garage and two attached habitable accessory structures for pool use comprised of two bathroom/changing rooms of less than 100 square feet each located above the garage totaling approximately 14,766 square feet, and a detached, 277 square foot non-habitable accessory structure (generator house), and to grade about 5,560 cubic yards for the building site, courtyard, pool, driveway and access road. Requires a Coastal Development Permit, a Large Dwelling Review, a Residential Development Permit to increase the 28 foot height limit to about 51 feet by increasing the required 20 foot setbacks by 5 feet for every foot over 28 feet in height to 135 feet, and to construct two habitable accessory structures greater than 17 feet in height with bathrooms, and Preliminary Grading Approval.

LOCATION: Property is located on the east side of a 50 foot right-of-way approximately 0.75 miles northeast from its intersection with Highway 1 (at sign for 2074), then about 600 feet southeast. The right-of-way intersects the east side of Highway 1 about one mile north of the intersection of the entrance to Ano Nuevo State Park.

FINAL ACTION DATE: February 24, 2000 (per one time 90 day extension to the Permit Streamlining Act)

PERMITS REQUIRED: Coastal Zone, Residential Development Permits and Large Dwelling Review

ENVIRONMENTAL DETERMINATION: Negative Declaration with Mitigations
COASTAL ZONE: _X_ yes ___ no APPEALABLE TO CCC: _X_ yes ___ no

PARCEL INFORMATION
PARCEL SIZE: 49.7 acres
EXISTING LAND USE: PARCEL: Vacant rural parcel
SURROUNDING: Rural residential, agriculture and timber production
PROJECT ACCESS: An unnamed 50 foot right-of-way off of Highway 1
PLANNING AREA: North Coast
LAND USE DESIGNATION: Agriculture (AG)
ZONING DISTRICT: Commercial Agriculture (CA)
SUPERVISORIAL DISTRICT: Third District

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COASTAL COMMISSION
CENTRAL COAST AREA

ENVIRONMENTAL INFORMATION

Item	Comments
a. Geologic Hazards	a. Active landslide on property - engineering geologic and soils reports and report review completed.**
b. Soils	b. USDA type 101, 167, 173, 174, Aptos loam, Santa Lucia shaly

	clay loam, Sur Catelli Complex and Tierra-Watsonville complex; preliminary soils report and review completed **
c. Fire Hazard	c. None mapped
d. Slopes	d. 5 to 50+% Building Site approximately 20%
e. Env. Sen. Habitat	e. Mapped biotic - Native Monterey Pine Forest and riparian habitat at man made pond. Biotic Assessment Report and review completed **
f. Grading	f. About 5,560 cubic yards proposed for road improvements, driveway and building pad
g. Tree Removal	g. 8 trees over 20 inch diameter proposed. Biotic Assessment Report, Biotic Report review and Arborist Report **
h. Scenic	h. None mapped and not visible from Highway 1 (designated Scenic road). Portions of the roof line may be visible from Ano Nuevo State Reserve.
i. Drainage	i. To manmade pond
j. Traffic	j. Minimal increase
k. Roads	k. Existing, improvements required to meet current Fire standards including some widening and four turnouts
l. Parks	l. Adequate, The project will be conditioned to pay the park impact fees for one new single family dwelling with 15 bedrooms, where the Zoning Ordinance definition of "bedroom" is used.
m. Sewer Availability	m. Septic, preliminary clearance approved
n. Water Availability	n. Mapped adequate quantity/good quality, minimal increase in water usage
o. Archaeology	o. Mapped sensitive site - archaeologic report was negative**

** Report was required. Reports are on file with the Planning Department.

SERVICES INFORMATION

W/in Urban Services Line: __yes _X_no
Water Supply: Private well
Sewage Disposal: Private septic system
Fire District: California Department of Forestry Fire Protection District
Drainage District: None

PROJECT DESCRIPTION AND BACKGROUND

This application seeks approval to construct a new single family dwelling with two habitable accessory structures of less than 100 square feet each (pool bath/changing rooms), a pool and a 277 square foot non-habitable accessory structure (generator house). The proposed dwelling utilizes the rural Gothic Revival architectural style. The proposed dwelling is approximately 12,532 square feet of habitable, conditioned space and 15 bedrooms, with an additional 1,700+ square feet of non-habitable space including the garage and a portion of the underground basement and about 850 square feet of covered porches and outdoor stairways. Typical of

Gothic architecture, the proposed dwelling is tall with a steeply pitched roof. The pitch of the roof results in habitable areas within the attic which function as a third story.

The subject parcel is 49.7 acres in size and is bounded on the west by the San Mateo County line (see location map, Exhibit D). This property was formerly part of the historic Steele Ranch, which was founded by two brothers in 1869. The Steele Ranch holdings encompassed 7,000 acres and were divided into two of the largest dairies of the time, the Cascade Ranch and the Green Oak Ranch. These properties were subdivided by the Steele family in 1955, creating the subject parcel and its neighboring properties. Most of the Steele Ranch properties have now passed out of the family's hands. There is no record of any agricultural use on the subject parcel, after the dairy operations ceased.

The property slopes down roughly east to west. The highest elevations are located at the northeast corner of the property. The ridge top is located on the adjacent property near the property line. The northeast corner has slopes of 47% to 29%. This area is comprised of open Monterey pine forest with scattered oaks, madrones, fir and ceanothus. The mixed Monterey pine forest continues along the northern half of the east end of the property. The proposed building site is located within the Monterey pine forest on a slope of 12 to 25%. Immediately east of the subject parcel is Ano Nuevo Creek. The creek is characterized by a wide, steep sided and heavily forested arroyo which runs roughly parallel to the subject parcel's eastern property line. The majority of the parcel has slopes between 16% and 30% and drains towards a manmade pond. This pond was used for livestock during the operation of the Steele Ranch. The pond is surrounded by a well developed riparian community. The northwest corner of the property is more gently sloped (12-18%) and is predominantly grassland interspersed with coyote bush scrub. The far southeastern corner is the most steeply sloped portion of the property (>60%). This area drains into the arroyo formed downstream of the pond. This area is dominated by scrub, oaks and eucalyptus groves. The majority of the parcel is mixed grasslands which is predominantly non-native grass species with interspersed native coastal prairie species. Among the grasslands are scattered areas of scrub comprised mainly of coyote bush, poison oak and native blackberry. Several small, marshy seeps containing hydrophilic plant species are located on the slopes above the pond.

The project proposes approximately 5,560 cubic yards of grading. An estimated 1,010 cubic yards will be required to upgrade the existing access road to the Fire Department's current standards and to construct the driveway in conformance with the California Department of Forestry (CDF) and County Environmental Planning standards. The remainder of the grading is for construction of a level building pad under the building footprint, terraces, swimming pool and parking. The basement will generate an additional 1,000 cubic yards of excavated material which will be incorporated into landscaping berms and the remainder dispersed around the building site. Under current regulations, basement excavations are exempt from the County's Grading ordinance. The project grading is balanced and no fill materials will leave the site. This project is subject to Environmental Review due to grading volumes in excess of 1,000 cubic yards. This project has completed Environmental Review and a mitigated negative declaration has been issued (Exhibit C).

Characteristic of Gothic structures, the proposed dwelling will be about 46 feet high. However,

for zoning purposes the building height is measured from the original or final grade, whichever is greater. Thus, due to the slope of the site and that the structure will be partially constructed on fill, the structure will actually exceed the 28 foot height limit by 23 feet. In accordance with site development standards, the applicant proposes increasing the required setbacks by five feet for every foot over 28 feet. A Coastal Development Permit, a Large House Review and Residential Development Permits are required for this proposal.

DISCUSSION AND ANALYSIS

Zoning and Agricultural Issues

The parcel is zoned Commercial Agriculture (CA) and has a General Plan designation of Agriculture (AG). The Commercial Agriculture (CA) is an implementing zone district for the Agriculture General Plan designation. A single family dwelling is a conditionally allowed use in this zone district within the Coastal zone, provided the findings set forth in County Code section 13.10.314(a) and (b) can be met. Primarily, the dwelling must be found to not reduce, restrict or adversely affect agriculture in the area, be incidental to agricultural use and be located to minimize potential land use conflicts and to remove little or no land from agricultural production or potential production. The primary agricultural use in this area is livestock grazing, although there are some similar agricultural properties producing cut flowers, ollalie berries, kiwi fruit, pumpkins and Christmas trees in the area. The owner is investigating the feasibility of viticulture on a portion of the property. As stated previously, there has not been any recent agricultural uses on the subject property. The proposed residential development has been designed to avoid adverse impacts to the potential agricultural uses on the subject property or to agricultural uses of the adjacent agricultural parcels. First, the proposed building site is located within the Monterey pine forest area which is unsuitable for any prime agricultural use. Second, about one acre will be occupied by the dwelling, appurtenances and the defensible space required by the fire agency, this constitutes about 2% of the total parcel area. Thus, the residential use would still be ancillary to any commercial agricultural use of the parcel based on the fact that the farmable portion of the parcel is large enough (20 to 40 acres) to constitute a minimum economic farm unit capable of supporting livestock grazing (for which it is most suited), kiwi fruit, cut flowers or Christmas trees and that neither arable nor grazing land has been utilized for the building site. The required agricultural findings are provided in Exhibit A.

The required setbacks for the CA zone district are 20 feet for front, sides and rear yards. The subject parcel is bordered by lands zoned Commercial Agriculture to the north and south (see Exhibit F). County Code section 16.50.095 requires a minimum 200 feet agricultural buffer setback between type 1, 2 or 3 commercial agricultural properties and adjacent residential development in order to avoid land use conflicts between residential and agricultural land uses. The proposed residence will be located over 600 feet from the agricultural land to the north. At its closest proximity, the proposed dwelling will be 300 feet from the adjacent (southern) CA property. The property owners of the northern parcel are in the process of establishing a commercial organic farm. The southern CA parcel is not currently in commercial cultivation. Nevertheless, the proposed residential use has been sited to avoid conflicts with proposed or possible future commercial agricultural activities and to remove as little land as possible from potential agricultural production and will thereby not reduce, restrict or adversely affect agricultural operations in the area. Thus, the proposed project is consistent with the Agriculture

policies set forth in Section 5.13 of the County's 1994 General Plan.

The subject parcel is bordered on the northeast, east and southeast by properties zoned for Timber Production (TP) (see zoning map, Exhibit F). In accordance with Timber Production regulations, the property owner will be required to record an acknowledgment for development located adjacent to timber production lands as a condition of approval.

Residential Development Issues

The height of the proposed three story dwelling as measured under current zoning regulations measures 51 feet from the highest point of the structure to the lowest grade (existing or proposed). The highest point of the structure sits over the both cut and fill on the graded building pad. The height of the dwelling from the final grade is about 47 feet. Three story dwellings are allowed on parcels larger than one acre outside of the Urban Services Line, and Section 13.10.323(e)5 provides site standard exceptions for structures exceeding 28 feet. This section states that building heights which exceed 28 feet are allowable if all required yards are increased by five feet for each foot over the permitted building height. In general, for buildings over 35 feet in height on a parcel of 2.5 acres or larger, a level IV approval is required. The applicant is proposing increasing the required 20 foot setbacks to a minimum of 135 feet to accommodate the additional building height, in accordance with section 13.10.323(e)5. As shown in Exhibit K, the required setbacks are 135 feet and the proposed setbacks are 600 feet to the north property line, over 900 feet to the right-of-way in the front yard (west property line), over 500 feet to the south property line and 300 feet to the southeast property line. As this project is subject to a higher level approval, this Residential Development approval is subject to the same level of review. The findings for this site standard exception are provided under the Residential Development Findings (Exhibit A).

Regulations regarding maximum lot coverage or floor area ratio are not applicable to the CA zone district. Nevertheless, residential development exceeding 7,000 square feet is subject to the provisions of County Code sections 13.10.314 (Agricultural Zone), 13.10.325 (Large Dwelling Permit Requirements and Design Guidelines) and Chapter 13.11 (Site, Architectural and Landscape Design Review). The habitable and non-habitable square footage for the proposed dwelling as measured using current methods for calculating Gross Building Area is 14,765.5. The calculations for Gross Building Area are included as Exhibit H. Because of the proposed dwelling's large size, the project has been reviewed for conformance with the design guideline set for in the County General Plan and Zoning ordinances. County Code section 13.10.325 Large Dwelling Design Guidelines sets forth design recommendations for large dwellings to minimize potential impacts to the surrounding neighborhood. These design guidelines include minimizing the changes in the natural topography of the building site, minimizing and balancing graded cuts and fills, utilizing colors and materials to reduce the appearance of building bulk, maintaining ridge line silhouettes unbroken by building elements, maintaining compatibility with homes in the surrounding neighborhood and use of architectural features to break up massing.

Grading and Geologic Issues

About 4,400 cubic yards of grading is for the building pad, hardscape, parking and the swimming

pool. The building site is not located on a ridge line or other prominent topographic feature, but on a moderate slope. The Gothic Revival design requires a level building site, therefore, the dwelling will be placed on a graded pad. There are more level areas on the subject parcel than the proposed building site which would require significantly less grading, however, those areas are also the prime agricultural portions of the property. Hence, the more sloping site outside of the meadow was chosen. A cut/fill pad is proposed in order to minimize the site grading. In addition, retaining walls are proposed where feasible to further reduce the site grading. Landscaping mounds will be placed adjacent to the driveway in order to balance the cut and fill. Given these design considerations, the overall grading is not excessive for the scope of the proposed development. The majority of the grading will occur behind the dwelling. The area on the adjacent property, behind the proposed development, is heavily forested with a large arroyo formed by Ano Nuevo Creek. The forest, riparian trees and the arroyo itself form a natural visual barrier between the future development at the rear of the property and the adjacent (currently undeveloped) parcels. The overall visual appearance of the property's topography will not be significantly altered by the proposed grading. Full geologic and geotechnical studies have been completed and accepted by the Planning Department, addressing the building and septic site and proposed grading. The project geologist has delineated a geologically safe building envelope and has verified that the project plans are in conformance with his report recommendations.

Visual Issues

Due to the height and mass of the proposed structure, visual analysis was required to determine if the project would be visible from Highway 1, a General Plan designated scenic road, and from Ano Nuevo State Reserve and to assess the potential impacts. Ano Nuevo State Park is located approximately two miles from the proposed building site, and Highway One is located over 0.5 miles from the project. Scaffolding was erected to simulate the height (51 feet above existing grade at the roofline) and mass of the proposed structure. This scaffolding was covered with highly visible "Safety Orange" construction fencing. County staff then made observations from Highway 1 and from Ano Nuevo State Park.

The originally proposed building site was located near the northeast corner of the property near the 560 foot elevation contour (Attachment 14 of Exhibit C). An active landslide is located at this site and the applicant proposed excavating and recompacting the landslide mass into an engineered fill slope. The volume of this earthwork was estimated at 73,000 cubic yards. Most of the residence and possibly some of the earthwork at the originally proposed location would have been readily visible from Ano Nuevo State Park (Attachment 13 of Exhibit C). Consequently, the project was relocated to a lower elevation, below the 520 foot contour, with a gentler topography (average 18% versus an average slope of 28%) in order to minimize potential visual impacts, reduce the site grading, and to build on a stable site outside of the prime agricultural lands (Attachment 15 of Exhibit C). Full engineering geologic and geotechnical reports have been prepared and accepted by the Planning Department. The reports confirm the building and septic sites are stable, address site grading, drainage, driveway construction and erosion control. Subject to the conditions, the project conforms with the County's 1994 General Plan policies for Geologic Hazards (section 6.2) and Erosion (section 6.3).

The County's 1994 General Plan policy for Visual Resources (Section 5.10.10) states that public

vistas from designated scenic roads shall be afforded the highest level of protection, and Highway 1 is designated as a Scenic Road. The proposed house is not visible from Highway 1 at the original nor the current proposed building sites. This is largely due to site topography and a eucalyptus grove located along the western edge of the right-of-way on the west property line of the subject parcel. This grove of trees is located on an adjacent parcel in San Mateo County. A condition of the San Mateo County Development permit (PLN 1999-00296) for the property prohibits the removal of this Eucalyptus grove. To ensure that the subject dwelling will not be visible from Highway 1 in the future, the applicant will be required to plant a row of trees along the right-of-way using Monterey Cypress (which have also been used in Ano Nuevo area for wind breaks), to function as a back-up visual barrier to the existing Eucalyptus grove.

The majority of the dwelling is screened from Ano Nuevo State Reserve by the grove of Eucalyptus trees discussed above. Additional screening is provided by the trees located along the arroyo downstream of the pond and to a lesser extent from the Monterey pines on the site. Based on the location of the fluorescent orange scaffolding, the chimneys, portions of the roof and highest gables can be discerned from three locations in Ano Nuevo State Park, along portions of the path by the pond, near the staging area kiosk and on the highest sand dune on the Ano Nuevo Point path (see Attachment 17 of Exhibit C). Along the path and near the staging area, small portions of the chimney and roof can be detected by the naked eye, but only after the project site has been visually located using magnification (binoculars) and the neighbor's residence (APN 057-061-17) as a reference point. The visible portions of the structure were evident because of the strong contrast of the orange tape viewed through trees and against a backdrop of tree canopies. The proposed colors of the new dwelling, a dull grayish, tannish green body, dark forest green trim and an acid-aged copper (non-shiny) roof, which will appear to be a dark, mottled, forest green, will be much less conspicuous within the context of the landscape than the fluorescent orange fence material.

The scaffolding representing the roof and chimneys is most visible from one sand dune near Ano Nuevo Point which is along the trail in the area frequented by visitors. On the site visit to the dune in November 1998, the proposed building location was not visible to the naked eye. During the winter, the sand dune shifted and increased in elevation. As a result, much of the roof and chimneys could be observed, as verified during a subsequent site visit in August 1999. Again, the story poles were identifiable due to the contrast of the fluorescent orange mesh against the dark forest background.

In order to determine how much the orange color contributed to the visibility, a light green mesh was placed over the orange tape to partially conceal it. With the green mesh in place, it is more difficult to see the story poles with the naked eye. A photo montage was prepared to represent the naked eye view from the Ano Nuevo sand dune. The proposed dwelling was digitally inserted into the photograph. As shown in the photo montage, the dwelling cannot be distinguished by the naked eye. However, under magnification the roof and the peak of the main gable can be discerned. According to State Parks staff, the window glare from the existing house can be very intrusive from Ano Nuevo Point in the late afternoons. It is useful to compare the proposed residence with the existing neighboring residence (located on APN 057-061-17). The existing residence can be observed from Ano Nuevo Park, because there is a large meadow in front and some of the brush and dead Monterey pines interspersed in the meadow area have

been removed over time. In addition, the window trim has been painted a white or nearly white color which causes the dwelling to stand out from the background. This structure, which is more visible than the proposed dwelling due to the trim color and lack of tree screening, is still not readily apparent to the casual observer. With respect to potential glare issues, staff cannot definitively determine if portions of the transom windows in the highest gables are located above the foreground tree line, due to the distances and scales involved. Therefore, in order to avoid the possibility of intrusive glare, the glazing in these windows are required to utilize low-reflective glass. In addition, the sixteen required replacement trees will be placed between the proposed dwelling and the line of sight to Ano Nuevo Reserve. These trees shall be Douglas fir or Coast redwood which will reach similar or greater heights than the Monterey pines and will eventually provide additional screening. Thus, the proposed project will not exacerbate the glare situation.

As stated above and in the letter from the State Department of Parks and Recreation, Attachment 7 of Exhibit C, portions of the proposed project are visible from Ano Nuevo State Park. However, based on the scaffolding and careful evaluation of same, staff respectfully disagrees with State Parks staff's assertion that the project is visible from all points within the park and that it will be visually intrusive. Staff noted that a small portion of the scaffolding could be observed from the "Staging Area" within the park and from the path to Ano Nuevo Point. However, the scaffolding was observed with difficulty, requiring knowledge of where to look for the scaffolding and active searching in order to discern it. At the highest point within the park, the top of the sand dune, more of the scaffolding was discernible than at the staging area. Staff and the project applicants met separately with State Parks staff at Ano Nuevo Park to view the scaffolding and discuss the visual issues. At the August 4, 1999 site visit, Planning and State Parks staff reviewed the plans and orange mesh story poles. Staff discussed color choices (greens and deep forest green) which, it was agreed, would camouflage the structure and minimize its visibility. State Parks staff voiced concerns regarding the loss of screening due to the loss of the dying Monterey pines over time and the possible effect of window glare. Later, when the green netting was placed over the fluorescent orange mesh to verify this assertion, the scaffolding was difficult to distinguish even at the sand dune. In summary, the physical distance between the project site and the park (over 2 miles, also see location map, Attachment 1 of Exhibit C), the proposed tannish green and deep forest green colors for the structure and the natural screening, all serve to diminish the visibility of the proposed development. To mitigate any potential window glare, the highest windows (transom windows) in the gables will be required to utilize low-reflective glass. Consequently, the project will have negligible, if any, visual impacts on the visitors in Ano Nuevo Park.

The purpose of General Plan Objective 5.10b New Development within Visual Resource Areas is to "ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources". Policy 5.10.1 designates visual resource areas: vistas from designated scenic roads, Coastal Special Scenic Areas and unique hydrologic, geologic and paleontologic features identified in Section 5.9 of the General Plan. The project site is not visible from a designated scenic road, is not located within a mapped Scenic Resource area nor a Coastal Special Scenic Area and is not an area identified in Section 5.9. Nevertheless, portions of the dwelling could be visible from Ano Nuevo State Reserve as evinced by the orange scaffolding. As the intent of the General Plan is to protect scenic resources and public

viewsheds, the project has been redesigned and conditioned to minimize adverse impacts to the Ano Nuevo Park viewshed. The project conforms with the General Plan Visual Policies in that the proposed project will not be apparent to the casual observer and the corresponding visual impact will be insignificant.

Large Dwelling and Design Review

The County's Large Dwelling policies require that the proposed structure is compatible with its surroundings and will be adequately screened and that the structure will not adversely affect neighboring properties' privacy or solar access. The properties within the vicinity of the subject parcel range in size from 13 acres to over 100 acres. Two adjacent parcels are developed with single family dwellings and appurtenant structures. Parcel 057-061-11 is a 63 acre CA zoned parcel with a roughly 3,500 square foot dwelling and miscellaneous outbuildings. This dwelling is built in an old farm house style. Parcel 057-061-17 is a 13 acre CA zoned parcel developed with a single family dwelling and appurtenant structures totaling 6,017 square feet. This dwelling is built in a modern, log cabin style. A single family dwelling, guest house and garage are proposed for the adjacent 84 acre San Mateo County property. This dwelling and guest house utilizes a modern, "Sea Ranch" style of architecture, and the proposed structures on this site total about 7,600 square feet. The architectural styles vary in this area, but all may be broadly characterized as larger than average sizes on large properties.

The Gothic Revival architectural style became popular in America during 1830-1875. During that period, the predominant architectural styles were Greek Revival followed in popularity by the Gothic Revival and Italianate styles. The project design is based upon an existing Gothic Revival house referred to as the "Rose Hill Plantation" located in Bluffton, South Carolina and constructed around 1858 (Exhibit I). The proposed Gothic Revival mansion would be out of place within the context of an urbanized neighborhood given its size. The proposed structure is compatible with the area and site within the context of its proposed setting, located the edge of a large open, undeveloped rural property with a forested backdrop. The dwelling cannot be viewed from any public road, and is screened by trees and/or topography from the two existing and one proposed residences. The west (front), north and south building facades are typical Carpenter Gothic Revival architecture, echoing the historic Rose Hill Plantation (Exhibit I) which utilizes wood frame construction, a steeply pitched metal roof and tall narrow cross gables. The rear (east) portion of the structure incorporates some elements of "Castellated" Gothic Revival architecture with the use of two tower features. The south and north ends of the proposed dwelling echos later additions to the sides of the Rose Hill Plantation. On the proposed dwelling, these are two story as opposed to the original's single story additions. The articulation of the larger wing as viewed from the south and southwest in Exhibit I does not harmonize well with the overall architecture of the structure. Staff would recommend the continuation of the roof and eave length as with the other areas of the house and the utilization of additional gables to alleviate this awkwardness. Because of its considerably smaller size, the similar projection at the north end does not detract from the overall design. The structure is screened from the neighboring residences and this southern portion of the structure cannot be seen from any public venue. The closest proximity of the proposed structure to any property line is 135 feet, and there are additional physical barriers which screen the project from this undeveloped property. The proposed dwelling is about 300 feet away from the property line of the closest developed

property. In addition, the neighboring residents have sent letters of support for the project as designed. Thus, this design issue becomes more a matter of taste and personal preference.

The roof top deck shown in the northwest view in Exhibit I has been deleted from the project plans and replaced with a roof (see project plans, Exhibit K) in conformance with zoning regulations which prohibit second story rooftop decks. The railing shown on the southern wing is for decorative purposes only as this portion of the rooftop cannot be accessed via the attic or second floor. In accordance with design review and coastal regulations, the project landscaping will utilize predominantly drought tolerant and native species with restricted turf areas. Future screening trees are provided as part of the preliminary landscape plans. The project, subject to the attached conditions (Exhibit B), will be adequately camouflaged and screened from public view and will not adversely impact public view sheds, neighboring property privacy or solar access. Findings for the Large Dwelling and for Design and Coastal Review can be made (Exhibit A).

Accessory Structures

The regulations for accessory structures and uses are provided in Section 13.10.611 of the County Code. These regulations are to ensure that the accessory structures are incidental to the main structure and to provide notice to future and current property owners that conversion of any accessory structure is subject to civil penalties. The 277 square foot, non-habitable accessory structure is clearly appurtenant to the main structure and will serve to house a generator for emergency use. The two habitable accessory structures are approximately 90 square feet each and will serve as changing and bathrooms to the swimming pool. These structures are attached to the main dwelling but can only be accessed from the pool terrace, thus they are considered separate structures. Section 13.10.611(c)3.(ii) states that no accessory structure shall have a toilet installed, but allows for granting exceptions, subject to a level IV use permit, for structures less than 70 square feet or where required under particular circumstances. The proposed pool bathrooms are slightly larger than 70 square feet, but are of insufficient size to convert to any other use. Exceptions have been granted for bathrooms in pool houses for sanitary reasons. These structures are single story and on the pool terrace level, however, due to site grading a portion of these structures may exceed 17 feet in height when measuring to the excavated grade for the garage below. The findings can be made for the increased height as the appearance of the structures will actually be a single story.

Biotic Issues

The proposed building site is located within a mapped Biotic Resource area, representing the native Monterey pine forest. In addition, there is a riparian habitat in and around the artificial pond. A Biotic Assessment report prepared by The Habitat Restoration Group, dated May 20, 1997 has been reviewed and accepted by the Planning Department (Attachments 10 and 11 of Exhibit C). In addition, an Arborist's Report (Attachment 16 of Exhibit C) has been submitted in conformance with the Biotic Report Review addressing the trees within the building envelope. See the Environmental Review document (Exhibit C), section C., Biotic Factors, for detailed discussion of the biotic resources and issues. The project is consistent with the County General Plan policies for Sensitive Habitats. This has been accomplished through building site location,

reduced and balanced grading and through landscaping and revegetation. As a result, only one living significant tree and a few Monterey pine saplings will be removed, the remaining seven trees to be removed are already dead. The project will be conditioned to conform with the Arborist's report recommendations to minimize impacts to the remaining trees. The project conforms with the riparian and wetlands policies in that the residential development will be significantly further that the minimum 110 foot distance from any wetland or natural body of standing water (pond), and no earthwork shall be authorized for the access road within 100 feet of the pond. The existing access road within 100 feet of the pond will be paved which is exempt from the riparian ordinance and further will reduce dust and silt impacts to the riparian area. Intensified runoff due to new impervious surfaces and erosion will be controlled through the implementation of an engineered drainage and erosion control plan.

CONCLUSION AND RECOMMENDATION

In conclusion, the project, subject to the attached conditions (Exhibit B), conforms with the County's 1994 General Plan policies and ordinances. Please see Exhibit "A" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff recommends the following actions:

1. Certification of the Negative Declaration in accordance with the California Environmental Quality Act; and;
2. Approval of Application No. 98-0426 based on the findings and subject to the attached conditions.

EXHIBITS

A. Findings
B. Conditions
C. Negative Declaration
D. Location Map
E. Assessor's Map
F. Zoning Map
G. General Plan Maps
H. Gross Building Area Calculations
I. 3-D Perspectives
J. Correspondence
K. Project Plans by Kirk Petersen (on file with the Planning Department)
L. Engineering Geologic Report and Addenda by Rogers Johnson and Associates (on file)
M. Geotechnical Reports by Reynolds & Associates and by Steven Raas & Associates (on file)
N. Biotic Assessment Report by The Habitat Restoration Group (on file)
O. Arborist Report by Ellen Cooper (on file)
P. Cultural Resource Evaluation was completed by Robert Cartier of Archaeological Resource Management (on file)
Q. Visual Analysis Photo Montage (on file)

SUPPLEMENTARY REPORTS AND INFORMATION REFERRED TO IN THIS REPORT ARE ON FILE AND AVAILABLE FOR VIEWING AT THE SANTA CRUZ COUNTY PLANNING DEPARTMENT, AND ARE HEREBY MADE A PART OF THE ADMINISTRATIVE RECORD FOR THE PROPOSED PROJECT.

Report Prepared By: Cathleen Carr

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AGRICULTURAL FINDINGS

Required Special Findings for Level 5 (or Higher) Development on "CA" and "AP" Zoned Properties County Code Section 13.10.314 (a)

1. THAT THE ESTABLISHMENT OR MAINTENANCE OF THIS USE WILL ENHANCE OR SUPPORT THE CONTINUED OPERATION OF COMMERCIAL AGRICULTURE ON THE PARCEL AND WILL NOT REDUCE, RESTRICT OR ADVERSELY AFFECT AGRICULTURAL OPERATIONS IN THE AREA.

The historic agricultural use on this parcel was livestock grazing, although there has not been any recent agricultural use. The property is isolated, undeveloped, with some livestock fencing which is in extreme disrepair. The prime location for agriculture on this parcel is the large meadow running north to south along the western side of the property. The proposed residential development has been designed to avoid adverse impacts to the potential agricultural uses on the subject property or to agricultural uses of the adjacent agricultural parcels. The proposed building site is located within the Monterey pine forest area along the eastern margin of the parcel which is unsuitable for any prime agricultural use. The meadow area remains open and available for agriculture and the dwelling is located a sufficient distance away to prevent on site conflicts between agricultural and residential uses. The owner is investigating the feasibility of viticulture on a portion of the property, and the residential development would encourage re-establishment of an agricultural use.

2. THAT THE USE OR STRUCTURE IS ANCILLARY, INCIDENTAL OR ACCESSORY TO THE PRINCIPAL AGRICULTURAL USE OF THE PARCEL,
OR
NO OTHER AGRICULTURAL USE IS FEASIBLE FOR THE PARCEL.

Although there currently is no agricultural use on the parcel, the proposed residential use would still be ancillary to any commercial agricultural use of the parcel based on the fact that the farmable portion of the parcel is large enough (20 to 40 acres) to constitute a minimum economic farm unit capable of supporting livestock grazing (for which it is most suited). The potentially arable portion of the property is located north of the building site and pond. Similar agricultural properties (in location, topography and size) in the area produce cut flowers, ollalie berries, kiwi fruit, pumpkins, squash and Christmas trees. About one acre will be occupied by the dwelling, appurtenances and the defensible space required by the fire agency, which comprises about 2% of the gross parcel area. This one acre site is located away from the prime agricultural area and in the pine forest. Since neither arable nor prime grazing land has been utilized for the building site, all of the potential agricultural lands are available to use.

3. THAT SINGLE-FAMILY RESIDENTIAL USES WILL BE SITED TO MINIMIZE CONFLICTS, AND THAT ALL OTHER USES WILL NOT CONFLICT WITH COMMERCIAL AGRICULTURAL ACTIVITIES ON SITE, WHERE APPLICABLE, OR IN THE AREA.

As discussed above, the residential use has been sited outside of prime agricultural lands on the parcel. In addition, the site is located at a higher topographic level than the majority of the prime agricultural areas, which further reduces potential conflicts with future on-site agriculture. Moreover, the proposed residential use at its closest proximity is still 300 feet or more away from any adjacent agriculturally designated lands which will adequately protect the adjacent agricultural lands from potential land use conflicts.

4. THAT THE USE WILL BE SITE TO REMOVE NO LAND FROM PRODUCTION (OR POTENTIAL PRODUCTION) IF ANY NON-FARMABLE POTENTIAL BUILDING SITE IS AVAILABLE,

   OR

   IF THIS IS NOT POSSIBLE, TO REMOVE AS LITTLE LAND AS POSSIBLE FROM PRODUCTION.

The proposed development site removes no land from production or potential production as it is sited within the Monterey pine forest on a slope and adjacent to a densely forested area.

Required Special Findings for Residential Uses on "CA" and "AP" Zoned Properties within the Coastal Zone County Code Section 13.10.314 (b)

1. THAT THE PARCEL IS LESS THAN ONE ACRE IN SIZE;

   OR

   THAT THE PARCEL HAS PHYSICAL CONSTRAINTS (SUCH AS ADVERSE TOPOGRAPHIC, GEOLOGIC, HYDROLOGIC OR VEGETATIVE CONDITIONS) OTHER THAN SIZE WHICH PRECLUDE COMMERCIAL AGRICULTURAL USE;

   OR

   THAT THE RESIDENTIAL USE WILL BE ANCILLARY TO COMMERCIAL AGRICULTURAL USE OF THE PARCEL BASED ON THE FACT THAT EITHER:

   (a) THE FARMABLE PORTION OF THE PARCEL, EXCLUSIVE OF THE BUILDING SITE, IS LARGE ENOUGH IN ITSELF TO CONSTITUTE A MINIMUM ECONOMIC FARM UNIT FOR 3 CROPS, OTHER THAN GREENHOUSES, SUITED TO THE SOILS, TOPOGRAPHY AND CLIMATE OF THE AREA

   OR

   (b) THE OWNERS OF THE SUBJECT PARCEL HAVE A LONG-TERM BINDING ARRANGEMENT FOR COMMERCIAL AGRICULTURAL USE OF THE REMAINDER OF THE PARCEL, SUCH AS AN AGRICULTURAL EASEMENT.

This nearly 50 acre parcel is large enough to constitute an economic farm unit for several crops, exclusive of the building site. The historic agricultural use on the parcel has been grazing lands for dairy cattle. The property could still support a small herd of dairy cattle or goats or other

livestock on the large meadow area. Similar agricultural properties (in location, topography and size) in the area produce cut flowers, ollalie berries, kiwi fruit, pumpkins, squash and Christmas trees. While the site's soils are not ideal for cultivated flower, berry, kiwi and squash type vegetables, with irrigation and good management practices there is sufficient area available to be economically feasible.

2. THAT THE RESIDENTIAL USE WILL MEET ALL THE REQUIREMENTS OF SECTION 16.50.095 PERTAINING TO AGRICULTURAL BUFFER SETBACKS.

The closest proximity of the proposed residence to any adjacent agricultural land is 300 feet which exceeds the 200 foot agricultural buffer setback required by Section 16.50.095.

3. THAT THE OWNERS OF THE PARCEL HAVE EXECUTED BINDING HOLD HARMLESS COVENANTS WITH THE OWNERS AND AGRICULTURAL OPERATORS OF ADJACENT AGRICULTURAL PARCELS. SUCH COVENTANTS SHALL RUN WITH THE LAND AND SHALL BE RECORDED PRIOR TO ISSUANCE OF THE DEVELOPMENT PERMIT.

The permit has been conditioned to require that the property owners sign and record an Acknowledgment of adjacent agricultural land and a hold harmless agreement on the subject parcel's property deed prior to approval of any building permit for the dwelling.

COASTAL DEVELOPMENT PERMIT FINDINGS

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LUP DESIGNATION.

The construction of a new single-family dwelling is conditionally permitted in the "CA" zone district according to a density of one dwelling per parcel and one dwelling is proposed. The "CA" zone district is consistent with the General Plan and Local Coastal Program land use designation of Agriculture (AG).

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

The parcel is not governed by an open space easement or similar land use contract. The private right-of-way on the parcel provides access to other property owners with legal access to parcels they own. The project will not conflict with any existing easement or development restriction such as public access, utility as none exist, nor will it interfere with the legal access rights of other users of the private right-of-way.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 et seq.

The proposed single-family dwelling has been located on the site to minimize visibility within the Ano Nuevo State Reserve viewshed and is not visible from Highway 1 - a General Plan designated Scenic Road. The dwelling is screened from sight along Highway 1 by the topography and by several groves of trees. The structure is mostly screened from the Ano Nuevo Park viewshed by a grove of eucalyptus and other trees. The dwelling has been conditioned to utilize a green color scheme which will blend any unscreened portions into the forested backdrop and to utilize low- reflective glazing on the transom windows which may be unscreened thereby minimizing potential glare. The planting of additional trees is required between the dwelling and the line of sight to the Park to provide additional screening in the future. An existing neighboring residence (located on APN 057-061-17) can be observed from Ano Nuevo Park, because there is a large meadow in front and some of the brush and dead Monterey pines interspersed in the meadow area have been removed over time. In addition, the window trim has been painted a white or nearly white color which causes the dwelling to stand out from the background. This structure, which is more visible than the proposed dwelling due to the trim color and lack of tree screening, is still not readily apparent to the casual observer. Furthermore, the existing dwelling is at least 1/4 mile closer to Ano Nuevo State Reserve than the proposed dwelling. Thus, due to the distance of 2 to 2.5 miles between the project and Ano Nuevo State Reserve and the use of camouflaging coloration and low reflective glazing, the dwelling will not be noticeable to the casual visitor to Ano Nuevo State Reserve. The grading of about 5,560 cubic yards for the dwelling and access improvements has been balanced so no material will be exported. The building site grading has been designed to maintain the overall appearance of the natural topography and has been minimized through project redesign to a new location and through use of retaining walls. The project is not on a ridge line, and does not obstruct any public views. The design and siting of the proposed residence will minimize impacts on the site and the dwelling is screened from the adjacent homes and all public roads. The project has been designed to minimize tree removal while maintaining potentially useable agricultural lands within a geologically safe building envelope. A preliminary landscape plan has been submitted which utilizes predominantly native, drought tolerant species. All trees removed (living and dead) are required to be replaced at a ratio of 2:1 utilizing native species recommended by the project arborist. Thus, the project is consistent with the design criteria, special use standards and conditions of County Code Section 13.20.130 et seq., in that the project has minimized grading, is not on a prominent ridge, and is visually compatible with the character of the surrounding area.

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY CHAPTER 2: FIGURE 2.5 AND CHAPTER 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The project site is not located in the appealable area between the shoreline and the first through public road. Consequently, the proposed dwelling will not interfere with public access to the beach, ocean, or any nearby body of water. In addition, the project site is not identified as a priority acquisition site in the County Local Coastal Program, and is not designated for public recreation or visitor serving facilities. The subject parcel is not contiguous with any publicly owned land and has not been identified as a priority land for acquisition for the State Parks system.

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The proposed single-family dwelling is consistent with the County's certified Local Coastal Program in that a single family dwelling is a conditionally permitted use in the Commercial Agricultural zone district in the Coastal Zone, and the development permit has been conditioned to maintain a density of one dwelling per parcel and to maintain the prime agricultural portions of the property. The structure is sited, designed and landscaped to be visually compatible and integrated with the character of the surrounding neighborhood. In addition, the proposed dwelling will not generate significant visual impacts to scenic resource areas (Highway 1 and Ano Nuevo State Reserve) in the vicinity. This has been verified by a visual analysis that was conducted during the Environmental Review process for this project. Project impacts have been mitigated through project redesign and required conditions that meet the requirements of Section 13.20.130. Project impacts have been evaluated through CEQA required Environmental Review and mitigation measures have been designed to address all identified impacts and potential impacts of the project. These mitigation measures have all been incorporated into the project design or the permit conditions. Therefore, the location of the building will harmonize with the scenic rural environment of the area.

DEVELOPMENT PERMIT FINDINGS

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the single family dwelling, habitable and non-habitable accessory structures and the conditions under which they would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not be materially injurious to properties or improvement in the vicinity, as the proposed project complies with all development regulation applicable to the site with the exception of the 28 foot maximum height and the bathrooms in the accessory structures (pool

changing rooms). County Code Section 13.10.323(e)5 permits this additional height provided the required setbacks are increased by 5 foot increments for each foot over 28 feet, which this project proposes. Solar access and privacy to existing or future residences will not be affected due to natural vegetative and topographic screening and the physical separation between the structure and adjacent property lines (a minimum of 135 feet). As discussed in the accompanying findings regarding the preservation of agricultural land, the structure will not remove agricultural land from production or future production and will not affect any adjacent agricultural lands. The project is located in an geologically stable area as determined by the project geologist and soils engineer. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. In order to ensure structural and site stability, specific soils engineering is required in the Conditions of Approval for specific foundation, grading and drainage design criteria prior to grading and building permit issuance. Environmental Review conducted for the project did not identify potentially significant environmental issues except for visual issues, which are discussed in Coastal Development Findings #3 and #5 and biotic issues which are discussed in Finding #3 below.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

The project site is located in the CA zone district. As discussed in Finding #1 and the Agricultural Findings, the dwelling and appurtenant structures will be located on the 49.7 acre parcel so to preserve prime agricultural lands. The dwelling and accessory structures, subject to the concurrent proposed residential development exception, and the conditions under which they would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the CA zone district. As discussed above the project meets the requirements for exceeding the 28 foot height limit. The dwelling exceeds 7,000 square feet and has been reviewed with respect to the large dwelling and design review regulations. The large dwelling and design review findings can be made for the proposed large dwelling. The dwelling meets the County's Geologic Hazards ordinance in that engineering geologic and soils engineering reports have been completed and reviewed which delineate appropriate building and septic sites for the project. The design of the proposed single-family dwelling is consistent with that of the surrounding neighborhood, and is sited, designed and landscaped to be visually compatible and integrated with the character of surrounding area, and by that meets the intent of County Code Section 13.10.130, "Design Criteria for Coastal Zone Developments" and Chapter 13.11 "Site, Architectural and Landscape Design Review." Homes in the area are in general larger than average on large parcels, with a variety of architectural styles and finish materials. The proposed Gothic Revival single-family dwelling will utilize a dark forest green colored roof, with an acid-aged copper material, with dark forest green trim and chimneys with a complementary green color on the body of the home. The exterior surface of the residence is proposed to be wood. The exterior will be painted with neutral, green tone colors. The proposed colors and materials harmonize with those of the natural surrounding.

3. THAT THE PROPOSED USE IS CONSISTENT WITH ALL ELEMENTS OF THE

COUNTY GENERAL PLAN AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The project is located in the Agricultural land use designation. As discussed in the Agriculture Findings, the proposed single-family dwelling has been located to be consistent with the General Plan policies and zoning regulations for the protection of agriculture and residential development on CA zoned property in the coastal zone. As discussed in the Coastal Zone Findings for this project, all LCP policies have been met in the proposed locations of the project and with the required conditions of this permit. Grading has been minimized through relocation, and the use of retaining walls and a balanced cut/fill design. A Biotic Assessment Report has been prepared for this project and reviewed by the Planning Department. The report has identified sensitive species and habitats with recommendations for mitigating potential impacts. The sensitive habitat issues have been assessed as part of the Environmental Review process and the mitigation measures have been incorporated into the conditions of approval. The project conforms with all Riparian protection policies in that the structures are located over 110 feet from any water body and no grading is authorized under this approval within 100 feet of any water body. The visual issues have been minimized through coloration and use of low-reflective glazing on the transom windows which may not be screened by the existing trees. The visual issues are discussed in detail in Coastal Zone Findings #3 and #5.

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

The use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity as there will be no significant increase in traffic and minimal increase in the intensity of use, as a result of the proposed single family dwelling and appurtenant structures. Adequate off-street parking will be provided for the proposed use.

5. THAT THE PROPOSED PROJECT WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed single-family dwelling will complement and harmonize with the existing and proposed land uses in the vicinity (agricultural, rural residential, timber production and recreation) and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood. The proposed dwelling is located in an area of sparse development with larger than average dwellings on large parcels. While the dwelling is substantially larger than existing development, it is located on a nearly 50 acre parcel such that the openness of the property is maintained for future agricultural use or for open space and wildlife habitat. The structure is naturally screened from existing residences in the area by vegetation and topography. Moreover, the dwelling will utilize green tone coloration which blends with the surrounding vegetation. Thus, the project is compatible and integrated with the character of the surrounding neighborhood and the natural setting.

LARGE DWELLING REVIEW FINDINGS:

1. THE PROPOSED STRUCTURE IS COMPATIBLE WITH ITS SURROUNDINGS GIVEN THE NEIGHBORHOOD, LOCATIONAL AND ENVIRONMENTAL CONTEXT AND ITS DESIGN IS CONSISTENT WITH THE LARGE DWELLING DESIGN GUIDELINES IN COUNTY CODE SECTION 13.10.325(d); OR

2. THE PROPOSED STRUCTURE, DUE TO SITE CONDITIONS, OR MITIGATION MEASURES APPROVED AS PART OF THIS APPLICATION, WILL BE ADEQUATELY SCREENED FROM PUBLIC VIEW AND WILL NOT ADVERSELY IMPACT PUBLIC VIEWSHEDS, NEIGHBORING PROPERTY PRIVACY OR SOLAR ACCESS, AND ITS DESIGN IS CONSISTENT WITH THE LARGE DWELLING DESIGN GUIDELINES SET FORTH IN COUNTY CODE SECTION 13.10.325(d).

The project proposes a 14,766 square foot dwelling. The proposed structure, due to both site conditions and mitigation measures for coloration and low-reflective glazing on the transoms, will be adequately screened from public view and will not adversely affect public viewsheds. The increased setbacks to accommodate the building height and for buffering from adjacent agricultural lands, create sufficient distances between the proposed dwelling and the adjacent parcels. This, in conjunction with natural vegetative and topographic screening, will prevent visual, privacy and solar access conflicts with the neighboring parcels. The dwelling is consistent with the design guidelines of 13.10.325(d) in that the changes in the natural topography are minimized, the grading has been minimized through building site relocation and the use of retaining walls and balancing cut and fill. Materials, such as a non-reflective roof and low-reflective glazing on transoms in conjunction with green coloration, particularly dark forest greens on the roof and chimneys will be utilized to blend the structure into the surrounding landscape and minimize its visibility. The project will not be constructed on any prominent ridge and has been relocated, from the building site originally proposed, to reduce visibility. The structure is compatible with the surrounding development and with the size of the isolated, rural parcel. Structure mass is broken through the use of cross gables and windows. The project will not block any public viewsheds

3. THE PROPOSED DEVELOPMENT PROJECT IS CONSISTENT WITH THE DESIGN STANDARDS AND GUIDELINES (SECTIONS 13.11.070 THROUGH 13.11.076), AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER.

The proposed development is consistent with the Design Standards and Guidelines of the County Code in that the single family dwelling complies with the required development standards with the exception of height. County Code Section 13.10.323(e)5 permits this additional height provided the required setbacks are increased by 5 foot increments for each foot over 28 feet,

which this project proposes. Solar access and privacy to existing or future residences will not be affected due to natural vegetative and topographic screening and the physical separation between the structure and adjacent property lines (a minimum of 135 feet). The project has been located to minimize potential visual impacts to public viewsheds and to preserve potential agricultural lands and open space on the property. The project location and design preserves nearly all of the property in an undeveloped, natural state. The primary elements of the site design are appropriate to the project site and surrounding development, resulting in compatible development due to natural screening and the large size of the rural parcel. The site grading is moderate given the steepness of the slope, however, developing on a less sloping site would conflict with the preservation of agricultural land and open space. The appearance of the site grading will be limited and the appearance of the natural landforms will be maintained. The landscaping shall be designed to relate to both the building and site design, using drought tolerant predominantly native species. Replacement trees will be planted between the dwelling and the line of site for Ano Nuevo State Reserve to ensure tree screening in the future. The architectural design is Gothic Revival which was popular between 1830-1875 and is based on an existing historic structure. The proposed Gothic Revival mansion would be out of place within the context of an urbanized neighborhood given the inherent size and height. The proposed structure is compatible with the area and site within the context of its proposed setting, located the edge of a large open, undeveloped rural property with a forested backdrop. The dwelling cannot be viewed from any public road, and is screened by trees and/or topography from the two existing and one proposed residences. The west (front), north and south building facades are typical Carpenter Gothic Revival architecture, utilizing wood frame construction, a steeply pitched metal roof and tall narrow cross gables. The rear (east) portion of the structure incorporates some elements of "Castellated" Gothic Revival architecture with the use of two tower features. The articulation of the larger wing as viewed from the south and southwest does not harmonize well with the overall architecture of the structure. Staff would recommend the continuation of the roof and eave length as with the other areas of the house and the utilization of additional gables to alleviate this awkwardness. Nevertheless, the structure is screened from the neighboring residences and this southern portion of the structure cannot be seen from any public venue. In addition, the setback distances (minimum 135 feet), physical barriers which screen the project from nearby properties and the separation between development, about 300 feet to the property line of the closest developed property and the support of the neighboring residents cause this design issue to become a matter of taste and personal preference. While the design is based on a historic structure, it is unique in light of current architectural trends.

CONDITIONS OF APPROVAL

Coastal Development, Residential Development and Large Dwelling Review Permit 98-0426

Applicant: Rich Beale Land Use Consultants

Property Owners: Brian Hinman and Suzanne Skees

Assessor's Parcel No. 057-061-16

Property location and address: Located on the east side of a 50 foot right-of-way approximately 0.75 miles northeast from its intersection with Highway 1 (at sign for 2074), then about 600 feet southeast. The right-of-way intersects the east side of Highway 1 about one mile north of the intersection of the entrance to Ano Nuevo State Park. No situs.

North Coast Planning Area

Exhibits: K. Architectural, Site and Preliminary Grading Plans:

Sheets P1, P3-P6	Preliminary Grading Plans by Robert DeWitt, RCE, revision date 5/27/99
Sheets P2	Preliminary Grading Plan by Robert DeWitt, RCE, revision date 12/28/99
Sheets T1, L1, L2	Site and Landscape Plans by Kirk Peterson, Architect, revision date 12/28/99
Sheets A-1.1-1.3,	Roof and hardscape plan and architectural cross sections by Kirk Peterson, Architect, revision date 12/28/99
Sheets A-2.1-2.6	Floor plans by Kirk Peterson, Architect revision date 12/28/99
Sheets A- 4.1-4.2	Architectural Elevations by Kirk Peterson, Architect, revision date 01/19/00
Sheets A- 4.3-4.4	Architectural Elevations by Kirk Peterson, Architect, revision date 12/28/99
Sheets A-5.4	Structural Cross section and Generator Bldg floor plan and elevation by Kirk Peterson, Architect, revision date 12/28/99
Sheet P2 of P6	Tree Location Plan superimposed on Preliminary Grading Plan, revision date 12/28/99

I. 3-Dimensional Renderings by Kirk Peterson, Architect

Q. Photo Montage for Visual Analysis, undated

I. This permit authorizes the construction of a 14,766 square foot three-story single family

dwelling with attached garage and two habitable accessory structures less than 100 square feet each (pool changing and bathrooms), a detached 277 square foot non-habitable accessory structure and approximately 5,560 cubic yards of grading. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/ owner shall:

A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.

B. Obtain a Building Permit from the Santa Cruz County Building Official.

C. Obtain a Grading Permit from the Santa Cruz County Planning Department.

D. Pay a negative Declaration filing fee of $25.00 to the Clerk of the Board of the County of Santa Cruz as required by the California Department of Fish and Game mitigation fees program.

E. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).

II. Prior to issuance of a Building Permit the applicant/owner shall:

A. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "K" on file with the Planning Department. Any changes between the approved Exhibit "K," including, but not limited to the attached exhibits for site, architectural and landscaping plans, and the final Architectural Plans must be submitted for review and approval by the decision-making body. Such proposed changes will be included in a report to the decision-making body to consider if they are sufficiently material to warrant consideration at a public hearing noticed in accordance with Section 18.10.223 of the County Code. Any changes that are on the final plans that do not conform to the project conditions of approval shall be specifically illustrated on a separate sheet and highlighted in yellow on any set of plans submitted to the County for review. The final plans shall include, but not be limited to, the following:

1. Exterior elevations identifying finish materials and colors. Colors shall be dark forest green for the roof, trim and chimneys and muted tones in the green and brown color family for the body of the structure.

2. Floor plans identifying each room and its dimensions.

a. Final plans shall delete the door and railing shown above the roof on the north side of the third (attic) floor in the room labeled "North Garret" of Sheet A-2.4 of Exhibit K.

3. A site plan showing the location of all site improvements, including, but not limited to, points of ingress and egress, parking areas, accessory structures, septic

location and retaining walls. A standard driveway and conform is required.

4. Window schedule. All transoms above the windows in the upper gables shall utilize low-reflective glazing materials.

5. A final landscape plan. This plan shall include the location, size, and species of all existing and proposed trees and plants within the front yard setback and shall meet the following criteria:

   a. Sixteen replacement trees of native Douglas Fir and/or Coast Redwood shall be installed between the dwelling and the line of sight to Ano Nuevo State Reserve. No trees shall be planted within the driplines of existing trees.

      Replacement trees shall be the following sizes:

      Five (5) trees of a minimum 5 gallon size
      Five or more trees of a minimum 15 gallon size
      Five or more trees of a minimum 48 inch box trees

   b. Turf Limitation. Turf area shall not exceed 25 percent of the total landscaped area. Turf area shall be of low to moderate water-using varieties, such as tall fescue. Turf areas should not be used in areas less than 8 feet in width.

   c. Plant Selection. At least 80 percent of the plant materials selected for non-turf areas (equivalent to 60 percent of the total landscaped area) shall be drought tolerant. Native plants are encouraged. Up to 20 percent of the plant materials in non-turf areas (equivalent to 15 percent of the total landscaped area), need not be drought tolerant, provided they are grouped together and can be irrigated separately.

   d. Soil Conditioning. In new planting areas, soil shall be tilled to a depth of 6 inches and amended with six cubic yards of organic material per 1,000 square feet to promote infiltration and water retention. After planting, a minimum of 2 inches of mulch shall be applied to all non-turf areas to retain moisture, reduce evaporation and inhibit weed growth.

   e. Irrigation Management. All required landscaping shall be provided with an adequate, permanent and nearby source of water which shall be applied by an installed irrigation, or where feasible, a drip irrigation

system. Irrigation systems shall be designed to avoid runoff, overspray, low head drainage, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways or structures.

Appropriate irrigation equipment, including the use of a separate landscape water meter, pressure regulators, automated controllers, low volume sprinkler heads, drip or bubbler irrigation systems, rain shutoff devices, and other equipment shall be utilized to maximize the efficiency of water applied to the landscape.

Plants having similar water requirements shall be grouped together in distinct hydrozones and shall be irrigated separately.

Summer watering of established trees, except as recommended by the project Arborist is prohibited.

The irrigation plan and an irrigation schedule for the established landscape shall be submitted with the building permit application. The irrigation plan shall show the location, size and type of components of the irrigation system, the point of connection to the public water supply and designation of hydrozones. The irrigation schedule shall designate the timing and frequency of irrigation for each station and list the amount of water, in gallons or hundred cubic feet, recommended on a monthly and annual basis.

Landscape irrigation should be scheduled between 6:00 p.m. and 11:00 a.m. to reduce evaporative water loss.

f. The final landscape plan shall show plantings of Monterey Cypress (*Cupressus macrocarpa*) for a distance of 1200 feet along the right of way that begins at the northwest corner of the parcel and trends southeast. The plantings shall be 15 gallon, spaced 20 to 25 feet on center.

g. The landscape plan shall specify all mitigations and treatment recommended in the Arborist Report for maintaining the existing trees within the project area.

6. Follow all recommendations of the geotechnical and geologic reports in the construction drawings submitted to the County for Building and Grading Permits. All recommendations contained in the County acceptance letter

dated March 25, 1999, shall be incorporated into the final design. A plan review letter from the geotechnical engineer and project geologist shall be submitted with the plans stating that the grading, drainage, erosion control and building plans have been reviewed and found to be in compliance with the recommendations of the geotechnical and geologic reports. Submit two copies of all technical reports, addenda and plan review letters with the building application.

7. An engineered drainage plan which shows how and where buildings, paved driveways, and other impervious areas will drain without adverse effects on adjoining properties. Show on the plans submitted, all proposed impervious areas within the parcel.

8. Comply with all regulations for septic system placement by Environmental Health Services. The septic system shall be located in an area approved, in writing, by the project geologist.

9. Meet all requirements and pay the appropriate plan check fee of the County Fire District. If the access road where it crosses the dam for the pond it is narrower than the standard twelve feet, the owner/applicant shall provide a written statement from the fire agency that the access is adequate without widening.

10. Any new electrical power, telephone, and cable television service connections shall be installed underground.

11. All improvements shall comply with applicable provisions of the Americans With Disabilities Act and/or Title 24 of the State Building Regulations.

B. Submit two copies of a geotechnical report addressing specific foundation, retaining wall, grading and drainage design to the Zoning Counter of the Planning Department for review and acceptance. The permit fee in effect at the time of submittal shall be paid.

C. Obtain a Grading Permit. This requires submittal of a grading permit application to the Zoning Counter, including four copies of complete grading, drainage, and erosion control plans in conformance with County standards. The permit fee in effect at the time of submittal shall be paid. The Grading Permit shall be approved prior to building permit issuance.. All requirements of the approved Grading Permit are, by reference, hereby incorporated into the conditions of this permit.

No land clearing, grading or excavating shall take place between October 15 and April

15 unless a separate winter erosion-control plan is approved by the Planning Director.

Final Grading Plans shall include:

1. Final Grading Plans shall incorporate all recommendations for tree protection including revisions to site grading and protective barriers. These measures shall be shown and specified on the plans. Six foot high protective barriers shall be placed around all trees within 30 feet of ground disturbance and must be shown around each applicable tree on the plan.

2. Final plans shall specify that no earthwork of any volume shall take place on the access road where is crosses the dam for the pond. The plan shall indicate the existing width of the road at the crossing and if it is narrower than the standard twelve feet, the owner/applicant shall provide a written statement from the fire agency that the access is adequate without widening.

3. Detailed Erosion Control plans are required. The Erosion Control Plan shall include, but is not limited to:

   a. Silt fence, or other effective barrier, on both side of the access road where it crosses the dam, while surfacing is underway. Baserock and fines must be prevented from reaching the pond and drainage;

   b. Silt fence on the downslope side of the driveway and on the perimeter of the disturbance area at the building site.

   c. Interim erosion control measures to be implemented during site grading and construction, including contingency measures for inclement weather.

   d. Erosion control measures to be implemented upon completion of site grading and construction.

4. Grading plans shall be prepared by a licensed Civil Engineer and shall conform with all soils engineering and geologic report recommendations and shall reference these reports.

5. Letters of review and approval by the project soils engineer and geologist for conformance with all report recommendations.

D. Pay the Santa Cruz County Park Dedication fee in effect at the time of building permit issuance. On January 21, 2000, this fee would total $8,670.00 based on the formula

of $578 per bedroom X 15 bedrooms (where 15 rooms in the proposed dwelling meet the definition of "bedroom" in the Santa Cruz County Zoning ordinance). These fees are subject to change without notice.

E. Pay the Santa Cruz County Child Care fee in effect at the time of building permit issuance. On January 21, 2000, this fee would total $1,635.00 based on the formula of $109 per bedroom X 15 bedrooms (where 15 rooms in the proposed dwelling meet the definition of "bedroom" in the Santa Cruz County Zoning ordinance). These fees are subject to change without notice.

F. Pay the applicable Department of Public Works Drainage fees. On January 21, 2000, this fee would total $250, but is subject to change without notice.

G. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.

H. Record the following Declarations of Acknowledgment, on forms provided by the Planning Department, in the Office of the County Recorder on the subject property deed:

1. A declaration providing notice of potential Geologic Hazards relating to landsliding, slope instability and seismic shaking hazards to the parcel prior to building permit issuance. This document will be prepared by the County Geologist.

2. A Statement acknowledging the adjacent agricultural land use and the agricultural buffer setbacks.

3. A Statement acknowledging the adjacent Timber Production land use and timber harvesting activities.

4. A declaration of restriction to maintain a detached non-habitable accessory structure

5. A declaration of restriction to maintain two habitable accessory structures.

6. A declaration of restriction to maintain a structure as a single family dwelling.

7. A declaration of restriction to retain the dead tree snags to the north of the building site, any relocated Ano Nuevo pine trees, the 16 replacement trees in perpetuity, and limiting tree removal in areas which provide screening or

the forested backdrop to the project per Condition VI.B. In addition, the Declaration shall also specify that other vegetation will be managed such that a "fire ladder" configuration does not develop in the area surrounding the structure(s).

Any or all of these declarations may be combined in form at the Planning Director's discretion.

III. Prior to site disturbance and during construction:

A. Prior to any disturbance on the property, the owner/applicant shall stake the perimeter of the structure(s), septic field, driveway, and the discharge point of drainage pipes. The project geologist shall inspect the staking in the field in order to verify that the structure(s) and the grading are correctly located on the ground relative to the building areas that were agreed upon during the geologic review process, and to verify that discharge of drainage will not adversely affect slope stability. A letter approving the staking shall be submitted to Planning staff for review and approval.

B. Prior to site disturbance, the project arborist shall provide all necessary pre-construction care to existing trees as outlined in the approved tree mitigation plan and shall inspect the temporary protective fencing. The arborist shall provide a letter to the Planning Department approving the fencing and indicating that all pruning and other pre-treatment has been accomplished.

C. Prior to site disturbance or surfacing of the existing road for construction access the owner/applicant shall arrange for inspection of the silt fence and other erosion control measures.

While road surfacing is underway, baserock and fines must be prevented from reaching the pond and drainage.

D. Erosion shall be controlled at all times. Erosion control measures shall be monitored, maintained and replaced as needed. No turbid runoff shall be allowed to leave the immediate construction site.

E. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections

16.40.040 and 16.42.100, shall be observed.

F. Dust suppression techniques shall be included as part of the construction plans and implemented during construction.

G. Prior to site disturbance, a licensed surveyor must establish the location of the original grade under the building footprint.

H. After the foundation is formed and prior to foundation pour, the project licensed surveyor shall certify in writing that if the dwelling is built to plan, that the structure shall not exceed the 51 foot maximum height as measured under Santa Cruz County Code Section 13.10.323. The letter shall be submitted to the Santa Cruz County Building Inspector and the Planning Department Project Planner prior to foundation pour.

I. Prior to the framing inspection, the project licensed surveyor shall certify that the structure meets the 51 foot height maximum as measured under Santa Cruz County Code Section 13.10.323.

J. Prior to leveling, grading, paving or other road improvements to the San Mateo County portion of the access road, the owner/applicant shall obtain all applicable permits from the San Mateo County Department of Public Works.

K. Work hours shall be confined to 7 a.m. to 6 p.m. weekdays. Construction activities which create irritating, penetrating or unusual noise which is likely to disturb people of ordinary sensitivities are prohibited prior to 8 a.m.

IV. All construction shall be performed according to the approved plans for the building permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

A. All site improvements shown on the final approved Building and Grading Permits plans shall be installed.

B. All disturbed areas shall be landscaped or seeded and mulched with an appropriate plant species.

C. All inspections required by the building and grading permits shall be completed to the satisfaction of the County Building Official and the County Senior Civil Engineer.

D. The soils engineer and geologist shall submit letters to the Planning Department verifying that all construction has been performed according to the recommendations of the accepted geotechnical and geologic reports and addenda. Copy of these letters

shall be kept in the project file for future reference.

E. Prior to final inspection, provide a letter of inspection from the project arborist evaluating tree health (existing and replacement plantings) and providing follow up recommendations.

F. The applicant/owner shall call the Project Planner at 454-3225, a minimum of three working days in advance to schedule an inspection to verify the required development permit conditions has been met. The inspection shall include a site visit to Ano Nuevo State Reserve to verify that the structure is adequately camouflaged and window glare has been minimized. Modifications to the structure's color scheme and window schedule shall be required if determined necessary.

G. Prior to final inspection, the project licensed surveyor shall certify in writing that the structure meets the maximum 51 foot as measured under Santa Cruz County Code Section 13.10.323. Certification shall be submitted to the Building Inspector and Project Planner.

V. Operational Conditions

A. The structure shall be maintained in a neutral coloration in the green and brown family which blends with the surrounding landscape. All light coloration is strictly prohibited.

B. All landscaping shall be permanently maintained.

1. The sixteen replacement trees shall be permanently maintained. Any replacement tree which dies shall be immediately replaced. The replacement tree shall be located between the dwelling and the line of sight to Ano Nuevo State Reserve.

2. The project arborist shall inspect and evaluate the health of all trees within 30 feet of the project's grading and the replacement trees for a period of five (5) years. The owner/applicant shall provide the Planning Department with an annual inspection report by the project arborist. The report shall detail any actions that must be taken to ensure the continued success of the mitigation plantings and the health of the existing Ano Nuevo pines and oaks. Treatment for pitch canker in all new, replanted, and remaining trees shall be a part of the annual inspection.

3. All screening and backdrop trees (the arroyo adjacent to the pond, adjacent to the access right-of-way, within the designated area of "defensible space"

and behind the dwelling) for the dwelling, designated in the exhibit map for the declaration of restriction, shall be maintained. No tree over 12 inches dbh (diameter at breast height) within these areas shall be removed unless the tree is evaluated in a report prepared by a certified Arborist and a Significant Tree Removal permit is obtained.

Over the counter tree removal permits shall not be issued for this site.

C. All transoms above the windows in the highest windows shall use low-reflective glazing.

D. All exterior lighting shall be shielded so as to direct light toward the ground or to illuminate the first and second story of the structure. Light shall be shielded from adjacent properties. All lights on the structure or in adjacent trees shall be located no higher than the second story. Illumination of the third story and third story roof eave lights is prohibited.

E. Modifications to the architectural elements including but not limited to exterior finishes, window placement, roof pitch and exterior elevations are prohibited, unless an amendment to this permit is obtained.

F. The accessory structure (habitable and non-habitable) shall not to be converted into a dwelling unit or into any other independent habitable structure in violation of County Code Section 13.10.611.

1. The accessory structures shall not have a kitchen or food preparation facilities and shall not be rented, let or leased as an independent dwelling unit. Under County Code Section 13.20.700-K, kitchen or food preparation facilities shall be defined as any room or portion of a room used or intended or designed to be used for cooking and/or the preparation of food and containing one or more of the following appliances: any sink having a drain outlet larger than 1 1/2 inches in diameter, any refrigerator larger than 2 1/2 cubic feet, any hot plate, burner, stove or oven.

2. The structure(s) may be inspected for condition compliance twelve months after approval, and at any time thereafter at the discretion of the Planning Director. Construction of or conversion to an accessory structure pursuant to an approved permit shall entitle County employees or agents to enter and inspect the property for such compliance without warrant or other requirement for permission.

G. In the event that future County inspections of the subject property disclose

noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

VI. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, it officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and

2. COUNTY defends the action in good faith.

C. Settlement: The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

E. Within 30 days of the issuance of this development approval, the Development Approval Holder shall record in the office of the Santa Cruz County Recorder an agreement which incorporates the provisions of this condition, or this development approval shall become null and void.

VII. Mitigation Monitoring Program

The mitigation measures listed under this heading have been incorporated into the conditions of approval for this project in order to mitigate or avoid significant effects on the environment. As required by Section 21081.6 of the California Public Resources Code, a monitoring and reporting program for the above mitigations is hereby adopted as a condition of approval for this project. This monitoring program is specifically described following each mitigation measure listed below. The purpose of this monitoring is to ensure compliance with the environmental mitigations during project implementation and operation. Failure to comply with the conditions of approval, including the terms of the adopted monitoring program, may result in permit revocation pursuant to Section 18.10.462 of the Santa Cruz County Code.

A. Mitigation Measure: Conditions II.A.6. and III.A. (Geologic and geotechnical hazards)

Monitoring Program: Prior to approval of the applications for Building and Grading Permits, the building and grading plans submitted by the owner/applicant must have attached review letters from the project geologist and soils engineer verifying that all recommendations of the geologic and soils reports and addenda have been met. Inspection letters from the project geologist will be required to verify development locations conform to the report recommendations based on site staking prior to construction and verifying that the completed project also conforms with the report recommendations. The project soils engineer must submit letters of inspection for keys and compaction testing during grading operations and for foundation excavations prior to pour and inspection by the County Building Inspectors. In addition, the soils engineer must prepare a final letter verifying that the completed project also conforms with the report recommendations. A copy of all review and inspection letters shall be retained in the project file. The County Geologist and Senior Civil Engineer shall be responsible for verifying receipt of all required geologic and geotechnical documentation.

B. Mitigation Measure: Conditions II.A.1., II.A.4., II.A.5.f., IV.F., V.A through C. (Minimize visual impacts)

Monitoring Program: The owner/applicant shall submit construction and landscaping drawings for Building permits based on Exhibit K of this permit. Planning staff will verify that final landscape plans incorporate the required screening trees, that the final colors and materials samples meet the coloration requirements and the window schedule requires low-reflective glazing on the upper transoms for the highest gables. Final colors and installation of landscaping will be inspected and verified by Planning staff prior to Building Permit final.

C. Mitigation Measure: Conditions II.A.5.a, e, g and II.H.7, (Avoid tree removal impacts)

Monitoring Program: An arborist (Ellen Cooper) has prepared report in conjunction with the biotic consultant (Habitat Restoration Group) which addressed tree removal mitigation, recommendations for replacement trees and actions to be taken to preserve the trees within or adjacent to the site grading and disturbance areas. This report was submitted prior to public hearing and has been accepted by the Planning Department. Final landscape plans will be reviewed by Planning staff to verify compliance with these conditions. Planning staff will prepare a declaration of restriction restricting tree removal and designating preservation areas, as well as vegetation management to prevent "fire ladders", which must be recorded on the property deed prior to building permit approval.

D. Mitigation Measure: Conditions II.C.1., III.B., IV.E., V.B.2. (Maintain long term health of the mature trees)

Monitoring Program: The applicant/owner shall submit revised grading plans showing the temporary fencing at the dripline of each tree within thirty feet of ground disturbance, prior to approval of grading or building permits. The project arborist must submit a letter verifying that all pre-site disturbance tree treatment has been performed and that the protective fencing is in place. Environmental Planning Grading Inspectors shall not authorize grading prior to receipt of this letter. The building and grading permits will not be finaled by Planning staff if a letter of inspection from the project arborist evaluating tree health (existing and replacement plantings) and providing follow up recommendations has not been received. The conditions require an annual inspection by the project arborist to evaluate the health of all trees within 30 feet of the project's grading and the replacement trees after project final. This report must include any actions necessary to ensure the continued success of the mitigation plantings and the health of the existing Ano Nuevo pines and oaks. The implementation of these measures must be a part of the annual inspection. As a condition of approval, this inspection report must be submitted to the Planning Department annually for a five year period after the building permit is finaled. Noncompliance with this Condition of approval may result in the owner paying to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

E. Mitigation Measure: Conditions II.A.9, II.C.2., III.C. and III.C.3.a.,b. (Protect species from sedimentation)

Monitoring Program: The final grading plans will be rechecked to verify that there will no widening of the access road where it crosses the pond on the dam. The final plans shall

indicate the existing width of the access at the crossing, and if it is narrower than the standard twelve feet, the owner/applicant shall provide a written comment from the fire agency that the access is adequate without widening. This will be verified by Planning staff.

F. Mitigation Measure: All of Condition II.C.3.a and b, III.C. and III.D. (Prevent erosion, off site sedimentation, and pollution of creeks)

Monitoring Program: Planning staff will verify that all required erosion control measures are specified on the final grading plans prior to grading permit approval and issuance. The Grading Inspector shall verify that all required silt fences or equivalent barriers are in place during the preconstruction meeting prior to commencing grading.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

PLEASE NOTE: THIS PERMIT EXPIRES TWO YEARS FROM DATE OF APPROVAL UNLESS YOU OBTAIN YOUR BUILDING PERMIT AND COMMENCE CONSTRUCTION.

Approval Date: ~~1-21-00~~ March 14, 2000 by Board of Supervisors

Effective Date: ~~2-4-00~~ March 14, 2000

Expiration Date: ~~2-4-02~~ March 14, 2002

Don Bussey

Don Bussey
Deputy Zoning Administrator

Cathleen Carr

Cathleen Carr
Project Planner

AN ASSESSMENT OF HABITAT FOR THE SAN FRANCISCO GARTER SNAKE AND THE CALIFORNIA RED-LEGGED FROG ON THE BRIAN HINMAN PROPERTY, SANTA CRUZ COUNTY, CALIFORNIA

Prepared For

Mr. Brian Hinman
37 Broadway
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By

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Biological Consultant
9699 Melton Road
Manteca, CA 95337
(209) 599-2726

October 15, 2000

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ENVIRONMENTAL SETTING

The 50 acre Brian Hinman property, referred to hereafter as the project site, is situated on the northwest border of Santa Cruz County, approximately one mile northeast of the Route 1 border of Año Nuevo State Reserve. Most of the project site supports an un-grazed upland annual grassland-coyote brush community. However, a riparian drainage passes from east to west through the center of the property. It is fed by an upland seepage at its eastern extent and terminates in a ranch pond near the project site's western border (Figure 1). The pond was created approximately 50 years ago by damming the drainage at this point. It is currently encircled with a dense growth of blackberry and willow, and a wide fringe of cattail occupies the entire inshore area of the pond. It is a permanent aquatic habitat, and during heavy winter rain periods overflow from surface runoff passes through two culverts beneath the project site entrance road. These shunt excess water into the continuation of the riparian drainage which passes westward to the large Ano Nuevo Ranch pond complex.

The northeast corner of the project site supports a mixed conifer stand in which a number of old trees are dead or dying. This has created a opening just within the border of the stand, and this is the site proposed for a single family house (Figure 2).

SPECIAL STATUS ANIMAL SPECIES

Earlier this year, Dana Bland, a biological consultant for Richard Beal - Land Use Planning, observed four adult California Red-legged Frogs (CRF) at the project site pond. She also saw several specimens of the introduced Bullfrog. In my own past surveys of a number of ranch ponds in the greater Año Nuevo Reserve area, I found the CRF every one (McGinnis, 1987). In June, 1996, this species was listed as Threatened by the United States Fish and Wildlife Service (USFWS), and a rigorous new protection and recovery plan for the CRF by that agency has just been finalized.

During my 1987 survey of this area I also documented the presence of the federal and state listed Endangered San Francisco Garter Snake (SFGS) at all but one of the ranch pond sites which supported the CRF. The one which did not have this snake was an irrigation pond with a barren shoreline which is not conducive to SFGS foraging. In order to establish the presence or absence of this scarce and usually elusive snake, a minimum of three month of spring trapping in and around a potential pond feeding habitat is needed. The SFGS is a feeding specialist and relies almost exclusively on the CRF, small Bullfrogs, and the abundant Pacific chorus Frog for food. Thus trapping, especially at a pond with very dense surrounding vegetation such as that on the project site, is usually necessary to get a specimen in hand.

However, my 1987 survey and subsequent studies of the SFGS in coastal San Mateo County has demonstrated that when several ranch ponds occur within a mile to two of each other and especially when these are connected by a riparian drainage system, all such pond with suitable shoreline vegetation and a compliment of frog

prey species have been colonized by the SFGS. It is my professional opinion that this has been the case at the project site pond, and therefore all future proposed land use changes for this acreage should be made with the presence of these two special status species in mind. In this circumstance, it would mean preservation of not only the pond habitat but also the surrounding upland annual grassland-coyote brush community. Although the CRF required only a permanent pond habitat, the SFGS must have a combination of both a foraging pond habitat and an upland retreat habitat adjacent to the pond.

Upland retreat sites are necessary for the endangered snake because they provide both winter hibernation and birthing retreats in the form of rodent burrow systems which do not flood during the winter rain periods. The burrows of the California Meadow Vole provide the majority of such retreats. During a radio tracking study of the distribution of the SFGS on Ano Nuevo State Reserve, I and two park ranger assistants followed SFGSs which had ingested a miniature radio transmitter to such upland rodent burrows in un-grazed annual grassland-coyote brush habitat (McGinnis, 1988). One of these was a pregnant female which soon gave birth, presumably within her summer retreat burrow. The other was a male which traveled over a quarter mile upland from the Headquarters Pond feeding habitat to a communal retreat burrow system within an upland annual grassland-coyote brush community.

The upland grassland-brush community which occupies most of the project site presents an ideal retreat site for the SFGS. This is because it supports a large population of the California Meadow Vole which creates the deep, well-drained retreat burrow systems which this snake needs (Figure 3). In addition, if during a future drought period the seepage which supplies the pond should temporarily cease in late summer and the pond would then dry until the rains return in fall, the CRF would also use these burrows as estivation sites. Thus the preservation of both the pond and its riparian community plus the upland annual grassland-coyote brush habitat is essential for the conservation of both special status species at this site.

POTENTIAL ADVERSE IMPACTS AND SUGGESTED MITIGATION MEASURES

<u>Potential Impact 1: Loss of a portion of the upland retreat habitat for the SFGS due to house construction.</u>

It is my understanding that an alternate site has been proposed for the proposed house location, and that this is within the upland grassland-brush community. Given the preceding discussion on the dual habitat needs of the endangered SFGS, it is my professional opinion that the original house location proposed for this project is the only workable one for this site. This location is within a small clearing just within the conifer stand/grassland border near the east-central border of the site (Figure 4). It is occupied by several dead trees and an expanding stand of introduced blackberry. A close inspection of the small patches of annual grass within this area revealed no California Meadow Vole burrows. This absence here along with the great abundance of burrow systems in the grassland area between

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the proposed house site and the pond strongly suggests that this small clearing area would not be used by either special status species for hibernation or estivation. Given this analysis, the choice of an upland grassland site for house location rather than a site outside of this habitat must be viewed as a potential adverse impact.

Suggested Mitigation Measure 1: Use of the small clearing as the future house site on the property.

Given the presumed presence of both special status species on the project site, the only habitat therein which is not crucial for their existence here is the forested area along the northeast site border. Within this area, the small clearing provides the only site where the construction of a single family house would not impact mature trees. Therefore the choice of this clearing site for house construction would reduce any potential habitat loss for both the SFGS and the CRF to an insignificant level.

Potential Impact 2: Possible loss of CRF and SFGS specimens due to increased vehicle use of the project site access road.

The access road to this site and the proposed future house site passes along the western border of the property between the pond edge and the border fence. As already mentioned, two one foot diameter culverts pass under this dirt road and carry pond overflow water to the riparian drainage beyond. The bed of this road will be elevated by approximately six inches to protect these culverts from heavy vehicles during the house construction process. Because both the CRF and the SFGS frequently wander to and from pond edges to forage, loss via vehicle crushing both during house construction and future home occupancy must be viewed as a potential adverse impact.

Suggested Mitigation Measure 2: Construction of a small vertebrate barrier wall along the pond edge portion of the project site access road.

During the road bed elevation work in the pond area, a permanent barrier wall, three feet above grade and buried one foot below grade, should be installed on both sides of the road for a distance of 100 feet measured in both directions from the culvert passage area. The barrier should be composed of smooth material such as aluminum or galvanized metal sheeting and could be attached to and supported by an attractive wooden fence. It should be installed before any construction traffic to the house site begins and remain in place as a permanent part of the finished project. Each year the smooth outer face of the panels should be cleared of any annual weed growth which would act as "snake ladders". A biological consultant familiar with the use of such protective measures should be available during installation to advise on positioning and possible modification of culvert openings. When completed, this structure will serve to shunt wandering CRF and SFGSs either away from the road or to the culvert openings for safe road under-passage. Implementation of these procedures will reduce the potential for special status species death due to vehicles to an insignificant level.

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Potential Impact 3: Possible loss of the resident CRF population on the project site due to the persistence of the introduced Bullfrog.

The introduction of the Bullfrog from the Eastern United States during the past century has dealt a major blow to the survival of the CRF. It is a voracious competitor which invades a CRF pond habitat through random wandering during the wet season. Once there, it feeds on both the larva and young CRFs, leaving only the fully grown adults. These eventually die, and the Bullfrog remains as the sole large frog occupant of the pond.

The observations of both the CRF and the Bullfrog at the project site pond indicated that this process is now underway here, and with no management efforts for this habitat, the CRF population will most likely be lost. Although this occurrence of the Bullfrog is not a result of any future land use plans for this property, the lack of any management program which could save the CRF population must be viewed as a future potential adverse impact.

Suggested Mitigation Measure 3: Adaptation and enactment of a Pond Enhancement - Bullfrog Eradication Plan

A biological consultant with experience in CRF pond enhancement and management techniques should be retained to design and supervise a habitat enhancement and Bullfrog eradication plan for the project site pond. Enhancement efforts should center of cattail control and the opening of the inshore and shoreline areas to provide better foraging and basking sites for the CRF and SFGS within a low growth vegetative complex. The Bullfrog control portion of this work should explore draining the pond in late summer after CRF metamorphosis. Adult and young of this species have an innate estivation response to such seasonal drying and will retreat to adjacent rodent burrow systems until the pond is refilled. The Bullfrog has no such response and its larva normally remain in a pond for two years before metamorphosis. Thus both adults and larva of this introduced competitor species will perish. Successful implementation of these techniques will reduce the potential adverse results of no management for the CRF to an insignificant level.

LITERATURE USED IN REPORT PREPARATION

McGinnis, S.M. 1987. Distribution and feeding habitat of the San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*). California Department of Fish and Game, Rancho Cordova, CA.

McGinnis, S.M. 1989. The life history of the San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*). California Department of Fish and Game, Rancho Cordova, CA.

Stebbins, R.C. and N.W. Cohen 1995. A Natural History of Amphibians. Princeton University Press, Princeton, New Jersey.

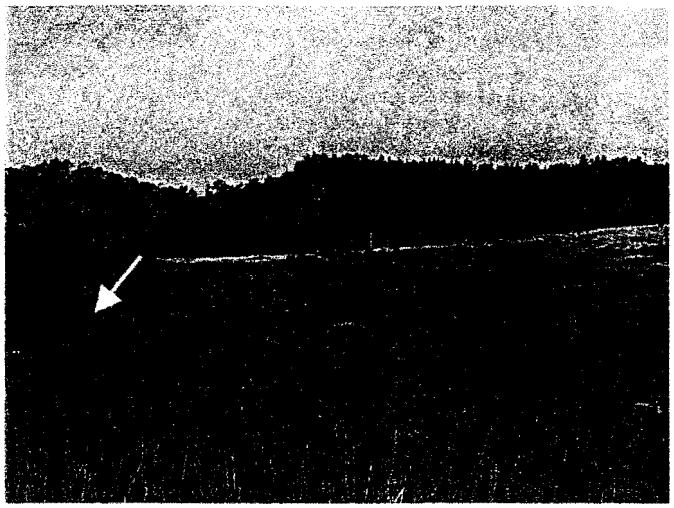

Figure 1.

A view looking northward across the western part of the Hinman property. The heavily vegetated pond site (arrow) is in the left-center portion of the picture. An annual grassland – coyote brush community occupies most of the surrounding upland area.

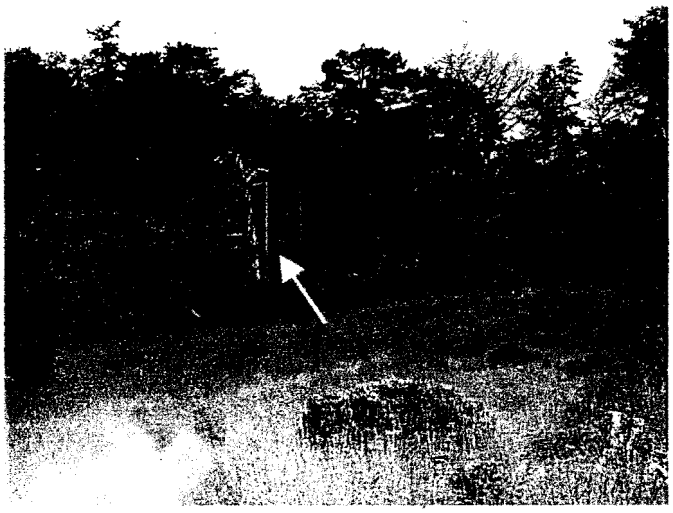

Figure 2.

View looking northeast across the eastern portion of the Hinman property. The annual grassland – coyote brush community in the foreground extends from the pond to the tree line. The proposed house site is located in a clearing just beyond this line (arrow).

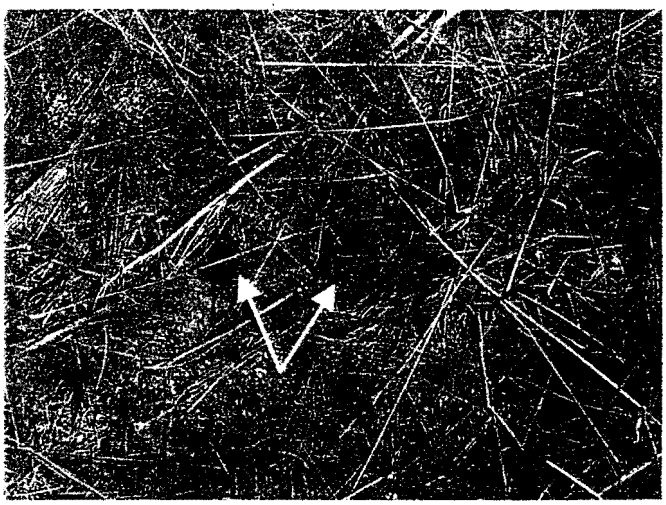

Figure 3.

Two of the many California Meadow Vole burrow openings (arrows) which dot the annual grassland – coyote brush area. A radio tracking study at Año Nuevo State Reserve has shown such upland burrow systems to be prime retreeat sites for the San Francisco Garter Snake.

Figure 4.

The proposed Hinman home site near the east-central border of the property. It is situated in an area of mostly dead trees and non-native blackberries east of the annual grassland – coyote brush community.

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APPENDIX to the report: *An Assessment of Habitat for the San Francisco Garter Snake and California Red-legged Frog on the Brian Hinman Property, Santa Cruz County, California.* - 10/15/00

Since my survey of potential habitat for the San Francisco Garter Snake (SFGS) and California Red-legged Frog (CRF) for the above October 15, 2000 report, a third site has been proposed for the house location on the Hinman property. This site is situated a short distance east of the current entrance road approximately half way between the the Hinman pond and a similar size pond on the adjacent ranch to the north. Specimens of the CRF were observed at both ponds in summer, 2000. This site currently supports an annual upland grassland stand with scattered Coyote Brush throughout. Like most of the annual grassland on the property, this area also contains burrow systems of the California Meadow Vole which provide the primary and often only retreat site for both the SFGS and the CRF. This site is also situated near the upper reach of an intermittent creek drainage which drains to Green Oaks Creek. The configuration of the two ponds and creek headwaters is such that the third proposed house site in the center of an imaginary triangle, the sides of which connect these three wetland points.

Given the above, it is my professional opinion that this third proposed house site is located in a potential SFGS/CRF movement pathway between the two ranch ponds. It also would lie in or near the movement pathway of CRFs and SFGSs which may occasionally travel between the two ponds and the intermittent creek drainage. There is also an ever increasing amount of evidence that both species utilize meadow vole burrows in well drained grassland/scrub areas for daily retreat and/or hibernation. Radio tracking studies which I conducted with the SFGS at both Ano Nuevo State Reserve and the Pearson Ranch near La Honda clearly illustrated such use of uplands by this snake.

The same findings have been made for the CRF. Indeed, just this past week I and biologists from the Caltrans Region 4 headquarters located and then removed (I did the handling) 17 newly metamorphosed CRFs from a one half acre plot of an annual grassland hillside riddled with meadow vole burrows which is situated between two CRF ponds. This site had just been enclosed with a solid fence prior to construction work within. It took three mornings of collecting after misty or rainy nights to arrive at this final total because each morning we would find additional young frog emerging from the rodent burrow openings. As more such observations continue to be made, it is becoming very apparent that CRFs forage some distance away from the "home pond" when upland habitat such as this is available. It may well be that upland/scrub habitat with numerous rodent burrow systems is as important to the overall well being of a CRF population as the home pond itself.

Given all of the above and my analysis of the other segments of the Hinman property, I sustain my original conclusion that the proposed house site in the dead tree area on the east-central border of this property would have the least (if any) adverse impact on both special status species on not only this site but adjacent properties as well.

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Samuel McGinnis
Nov. 2, 2000

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November 20, 2000

VIA FACSIMILE AND U.S. MAIL

Dan Carl
Coastal Planner
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Appeal No. A-3-SCO-00-003; Hinman/Skee's Single Family Home

Dear Dan:

This letter is to confirm various discussions dating to June, 2000 with the California Coastal Commission staff concerning various enhancements to environmentally sensitive areas Brian Hinman has offered to ensure that various threatened and endangered species can thrive on his property. As we discussed, Brian and Suzanne desire the placement of the proposed house in a clearing within a scattering of Monterey Pines and other tree species in the southeast corner of the property. While this site is not habitat for any rare or endangered (or even listed special concern) species, some may consider the clearing – despite the absence of trees - as within the "forest" of mixed tree species including Monterey Pine. Accordingly, there exists the argument that one-quarter acre disturbance area is all that is available for a house at this site. While the house, garage, and paved courtyard are only about 8,500 square feet according to Rich Beale, the proposed house needs a little in excess of one acre of disturbance area to accommodate the terrace areas. As we discussed at various meetings this summer, the terraces allow balanced cut and fill to occur within the project.

However, in order to avoid any problem and in return for allowing approximately two acres of disturbance area, Brian and Suzanne offer the following enhancements and protections for environmentally sensitive habitat and other areas on their property:

1. Enhancement (at Mr. Hinman's expense) of the pond area for California Red-legged Frog Habitat, and concomitant San Francisco Garter Snake habitat. This requires removal of the bullfrogs, partial clearing of the pong vegetation, and installation of wing-walls along the access road to keep the frogs and snakes off the road. The pond area enhancement would be done under permit from State

Fish and Game, Federal Fish and Wildlife, and the supervision of Dr. Sam McGuiness.

2. Provision at Mr. Hinman's expense of culverts along the driveway access for San Francisco Garter Snake use, under the direction of Dr. Sam McGuiness, State Fish and Game, and Federal Fish and Wildlife.

3. The provision of a Conservation Easement over 48 acres of the property, covering the pond area, riparian areas, native grasses areas, frog and snake habitat areas, and young Monterey Pine tree areas.

4. The proposed terrace areas would be planted in upland habitat species.

5. Mr. Hinman and family are offering to be conscientious and continuing stewards of the land into the future for the protection of the Environmentally Sensitive Habitat Areas on the property.

6. All protections will be assigned to the land in pertetuity.

As we have discussed through several meetings in the spring and summer, the proposed site in the clearing is not the habitat of any rare or endangered species. In addition, the site is as far as possible from the pond and surrounding riparian area where the California Red-legged Frog habitat is located, and as far as possible from the pond area and uplands grass areas where the San Francisco Garter Snake habitat is located. The chosen house site is also not directly special forest habitat, as no living Monterey Pines will be removed to build the home. Further, the young Monterey Pines now growing in the meadow area (probably resistant to Pitch canker) will be protected by siting the house outside of these meadow areas with young Monterey Pines. Finally, the native grasses are also located in the meadow areas below the house which will be avoided with the proposed site in the clearing.

For these and other reasons, we request that Coastal Staff consider the offer that Brian and Suzanne have made to allow a disturbance area of approximately two acres at their proposed house site. Thank you, as always, in your consideration through these many months of study on this property.

Sincerely,

Paul A. Bruno

PAB/ntb

3. There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and

4. The "removed" property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas. (Ord. 3845, 6/23/87; 4406, 2/27/96; 4416, 6/11/96)

16.50.090 PUBLIC NOTIFICATION REQUIREMENTS.

(a) A person who is acting as an agent for a seller of real property which is located adjacent to agricultural land, as designated on the Agricultural Resources Map of the County, or the seller if he or she is acting without an agent, shall disclose to the prospective purchaser that:

"The property is located adjacent to agricultural land as designated on the Agricultural Resources Map of the County, and residents of the property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. The County has established a 200 foot agricultural buffer setback on the herein described property to separate agriculutural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

(b) The following statement shall be included in any deposit receipt for the purchase of real property adjacent to agricultural land, as designated on the Agricultural Resources Map of the County, and shall be included in any deed conveying the property:

"The property described herein is adjacent to land utilized for agricultural purposes and residents of said property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. The County has

established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agriculture lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

(c) The County Building Official shall require, prior to issuance of building permits for parcels adjacent to commercial agricultural lands, as designated on the Agricultural Resources Map, either:

1. Recordation of the following statement of acknowledgement by the owners of the property on a form approved by the Building Official:

"The undersigned ... do hereby certify to be the owner(s) of the hereinafter legally described real property located in the County of Santa Cruz, State of California: ... and do hereby acknowledge that the property described herein is adjacent to land utilized for agricultural purposes, and that residents or users of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. It is understood that the County has established a 200 foot agricultural setback on the herein described property to separate agriculutural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code."

"And further acknowledge that Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and that residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations.

"This statement of acknowledgement shall be recorded and shall be binding upon the undersigned, any future owners, encumbrances, their successors, heirs or assignees. The statements contained in this statement of acknowledgement are required to be disclosed to prospective purchasers of the property described herein, and required to be included in any deposit receipt for the purchase of the property, and in any deed conveying the property."; or

F-2

2. Evidence that the above statement has been made part of the parcel deed. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83; 3750, 4/22/86)

16.50.095 AGRICULTURAL BUFFER SETBACKS.

(a) The purpose of the agricultural buffer setback requirements is to prevent or minimize potential conflicts between either existing or future commercial agricultural and habitable land uses (i.e., residential, recreational, institutional, commercial or industrial). This buffer is designed to provide a physical barrier to noise, dust, odor, and other effects which may be a result of normal commercial agricultural operations such as: plowing, discing, harvesting, spraying or the application of agricultural chemicals and animal rearing.

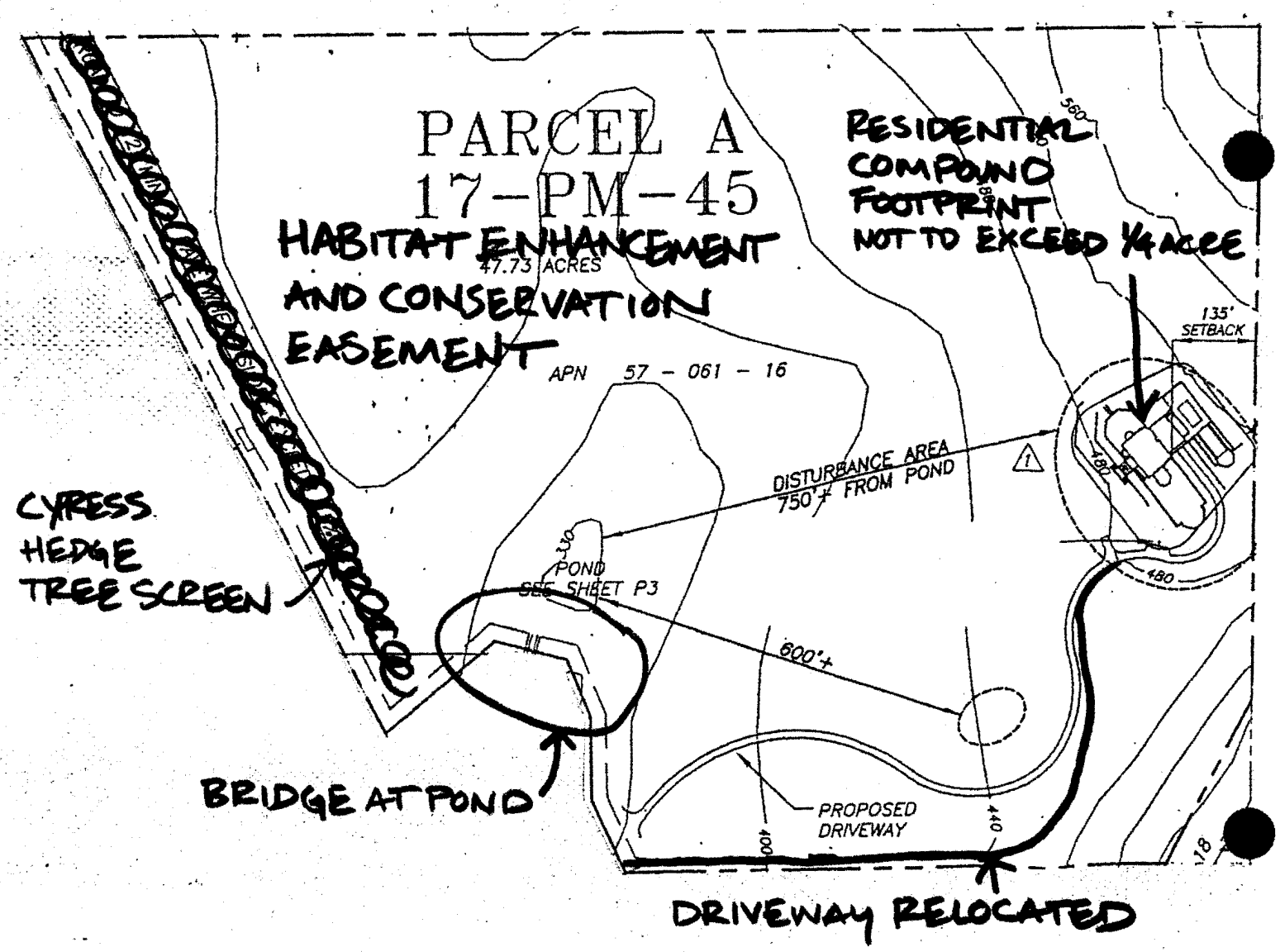
(b) All development for habitable uses within 200 feet of the property line of any parcel containing Type 1, Type 2, or Type 3 Commercial Agricultural land shall:

1. Provide and maintain a 200 foot buffer setback between Type 1, Type 2 or Type 3 commercial agricultural land and non-agricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto; and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use. For the purposes of this Section, outdoor areas designed for intensive human use shall be defined as surfaced ground areas or uncovered structures designed for a level of human use similar to that of a habitable structure. Examples are dining patios adjacent to restaurant buildings and private swimming pools. The 200 foot agricultural buffer setback shall incorporate vegetative or other physical barriers as determined necessary to minimize potential land use conflicts.

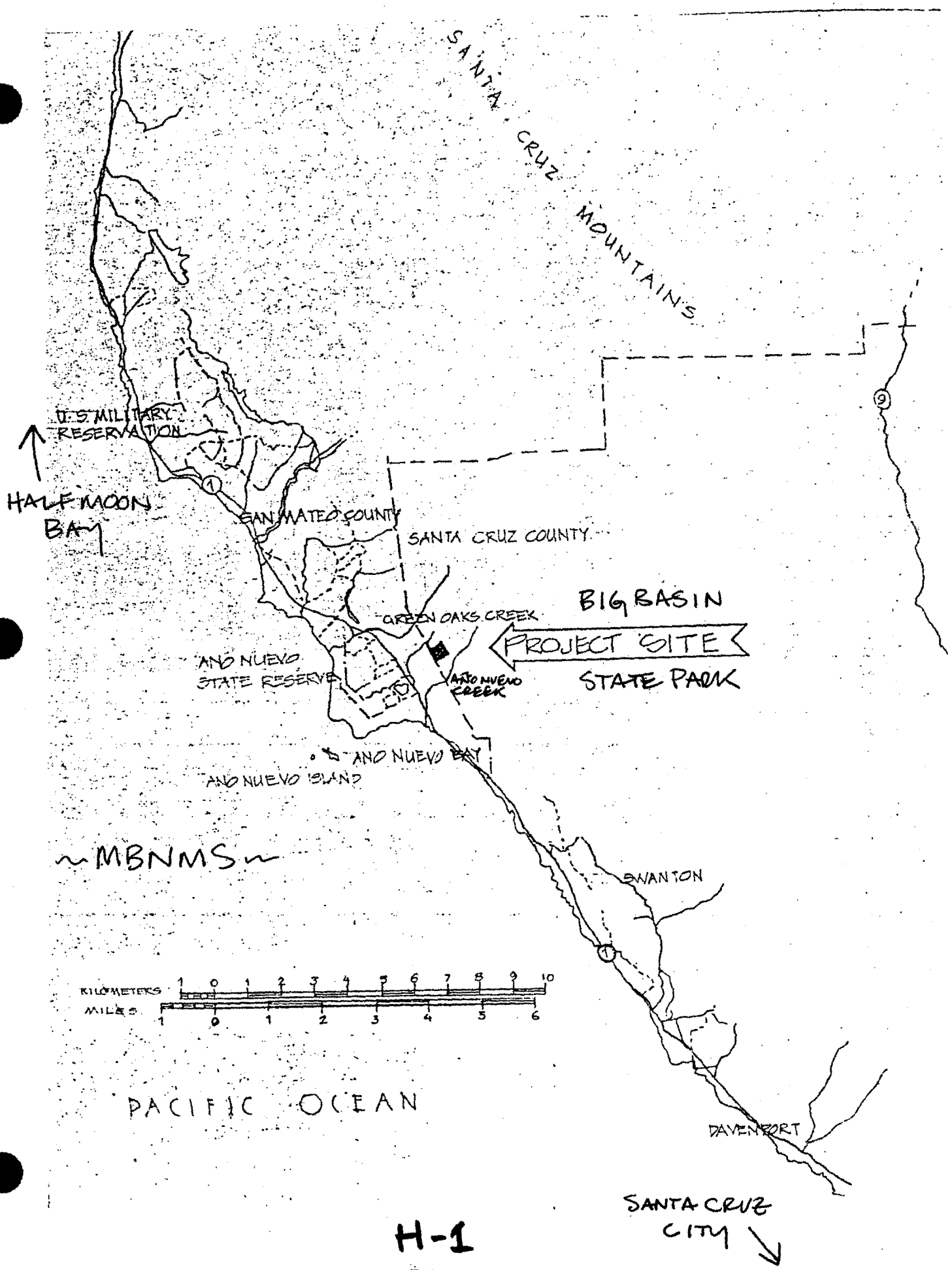
2. Provide and maintain a buffer setback distance of at least 200 feet where the subdivision of land results in residential development at net densities of one or more dwelling units per acre adjacent to Type 1, Type 2, Type 3 Commercial Agricultural land, with vegetative screening or other physical barriers as appropriate.

3. Comply with Sections 16.50.090(c) and/or 14.01.407.5 of the Santa Cruz County Code pertaining to recording deed notices of adjacent agricultural use. Such deed notice shall contain a statement acknowledging the required permanent provision and maintenance of the agricultural buffer setbacks and any required barriers (e.g., fencing or vegetative screening).

F-3

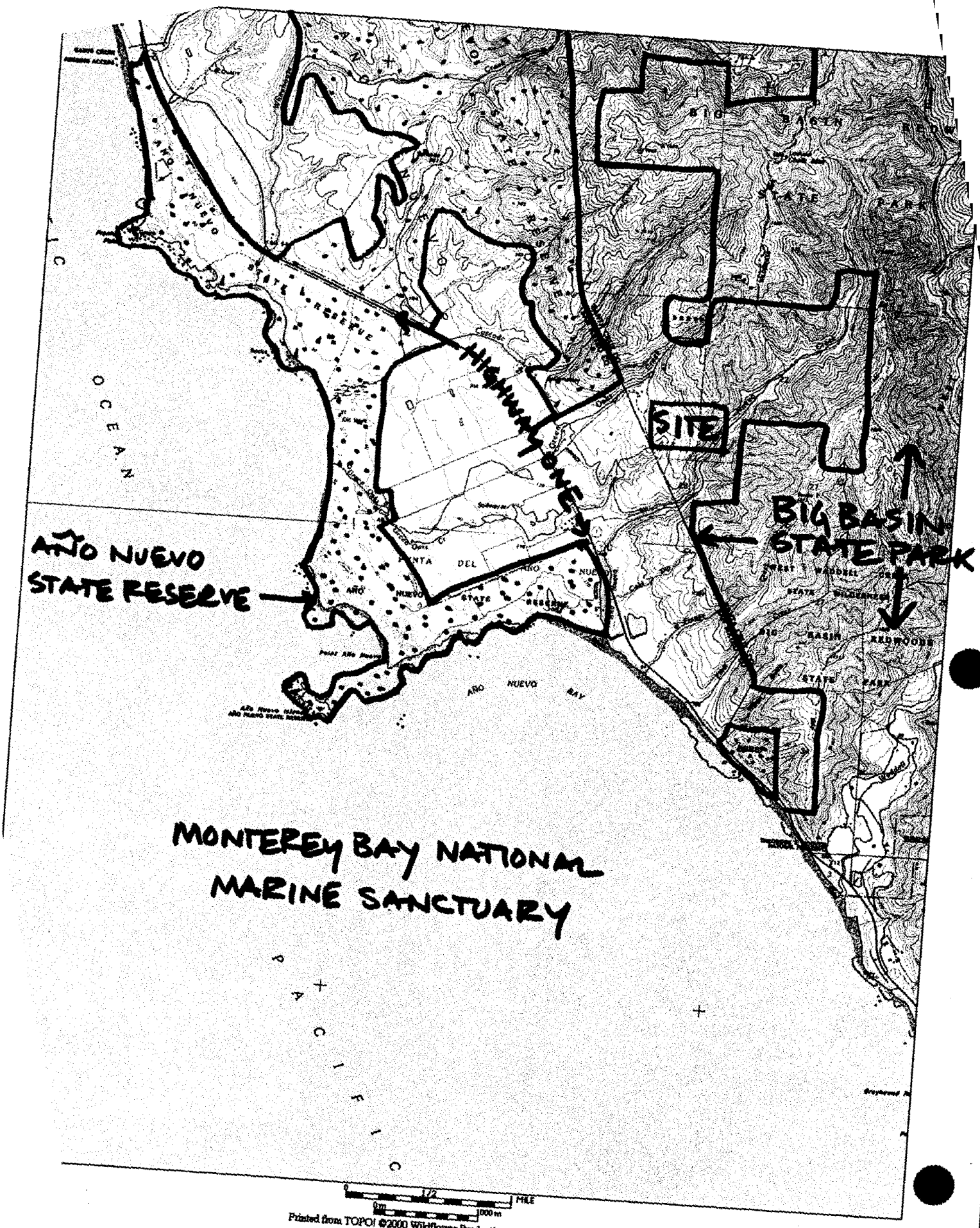


ADDITIONAL APPROVAL NOTES



H-1

LOCATION MAP



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H-2

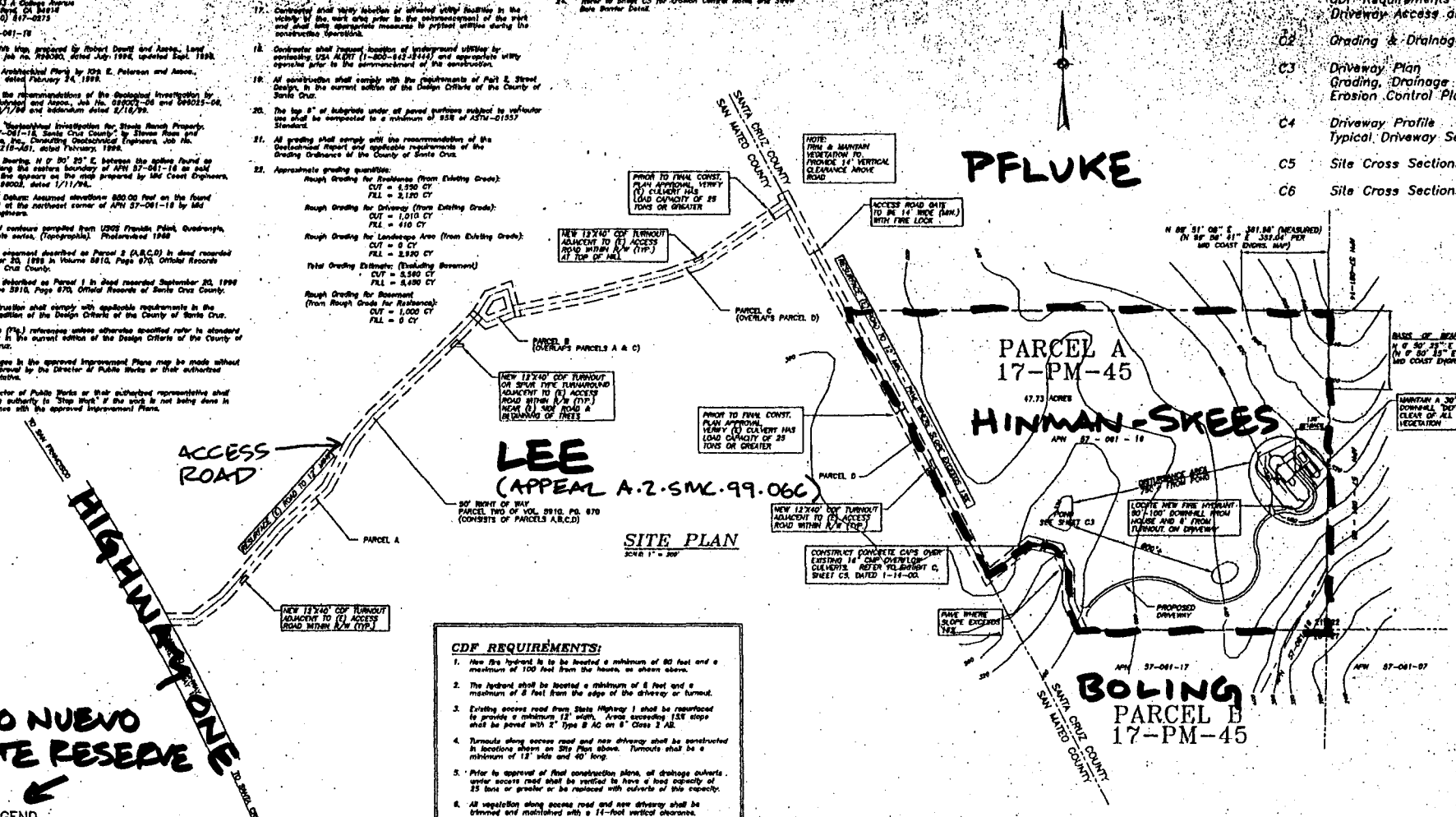
H-3

GENERAL NOTES

1. Prepared at the request of:
   Brian Hinman
   c/o Kirk E. Peterson and Assoc.
   5001 A Capitola Avenue
   Capitola, CA 95010
   (510) 867-0275
2. APN 57-061-16
3. Topographic Map prepared by Robert Dewitt and Assoc., Land Surveyor, Job No. R98300, dated July 1998, updated Sept. 1998.
4. Refer to Architectural Plans by Kirk E. Peterson and Assoc., Architect, dated February 24, 1999.
5. Refer to the recommendations of the Geological Investigation by Rogers Johnson and Assoc., Job No. 98025-06 and 98025-08, dated 10/1/98 and addendum dated 2/10/99.
6. Refer to "Geotechnical Investigation for Steve Rosa Property, APN: 057-061-16, Santa Cruz County" by Steven Rosa and Associates, Inc., Consulting Geotechnical Engineers, Job No. 98142-3218-A01, dated February, 1998.
7. Basis of Bearing: N 0° 50' 33" E, between the spikes found as shown along the eastern boundary of APN 57-061-16 as said property line appears on the map prepared by Mid Coast Engineers, Job No. 94002, dated 1/11/94.
8. Elevation Datum: Assumed elevations 800.00 feet on the found spike set at the northeast corner of APN 57-061-16 by Mid Coast Engineers.
9. Additional contours compiled from USGS Franklin Point, Quadrangle, 7.5 minute series, (Topographic). Photorevised 1968
10. Driveway easement described as Parcel 2 (A,B,C,D) in deed recorded September 30, 1998 in Volume 5910, Page 670, Official Records of Santa Cruz County.
11. Property described as Parcel 1 in deed recorded September 30, 1998 in Volume 5910, Page 670, Official Records of Santa Cruz County.
12. All construction shall comply with applicable requirements in the current edition of the Design Criteria of the County of Santa Cruz.
13. All figure (fig.) references unless otherwise specified refer to standard Drawings in the current edition of the Design Criteria of the County of Santa Cruz.
14. No changes in the approved Improvement Plans may be made without prior approval by the Director of Public Works or their authorized representative.
15. The Director of Public Works or their authorized representative shall have the authority to "Stop Work" if the work is not being done in accordance with the approved Improvement Plans.
16. The Contractor shall notify the County Construction Engineer at least 51 hours prior to the commencement of the work. (Ph. (831) 454-2160)
17. Contractor shall verify location of affected utility facilities in the vicinity of the work area prior to the commencement of the work and shall take appropriate measures to protect utilities during the construction operations.
18. Contractor shall request location of underground utilities by contacting USA ALERT (1-800-642-2444) and appropriate utility agencies prior to the commencement of the construction.
19. All construction shall comply with the requirements of Part 2, Street Design, in the current edition of the Design Criteria of the County of Santa Cruz.
20. The top 6" of subgrade under all paved surfaces subject to vehicular use shall be compacted to a minimum of 95% of ASTM-D1557 Standard.
21. All grading shall comply with the recommendation of the Geotechnical Report and applicable requirements of the Grading Ordinance of the County of Santa Cruz.
22. Approximate grading quantities:
    Rough Grading for Roadway (from Existing Grade):
    CUT = 1,290 CY
    FILL = 2,120 CY
    Rough Grading for Driveway (from Existing Grade):
    CUT = 1,010 CY
    FILL = 410 CY
    Rough Grading for Landscape Area (from Existing Grade):
    CUT = 0 CY
    FILL = 2,920 CY
    Total Grading Estimate: (Excluding Basement)
    CUT = 2,300 CY
    FILL = 5,450 CY
    Rough Grading for Basement
    (from Rough Grade for Roadway):
    CUT = 1,000 CY
    FILL = 0 CY
23. Contractor shall independently verify grading quantities for construction bid to the owner.
24. Refer to Sheet C5 for Erosion Control Notes and Storm Water Detail.

SHEET INDEX

C1	General Notes CDF Requirements Driveway Access and Site Plan
C2	Grading & Drainage Plan
C3	Driveway Plan Grading, Drainage & Erosion Control Plan
C4	Driveway Profile Typical Driveway Section
C5	Site Cross Sections 1-3
C6	Site Cross Sections 4-7



CDF REQUIREMENTS:

1. New fire hydrant is to be located a minimum of 60 feet and a maximum of 100 feet from the house, as shown above.
2. The hydrant shall be located a minimum of 6 feet and a maximum of 8 feet from the edge of the driveway or turnout.
3. Existing access road from State Highway 1 shall be resurfaced to provide a minimum 12' width. Areas exceeding 15% slope shall be paved with 2" Type B AC on 6" Class 2 AB.
4. Turnouts along access road and new driveway shall be constructed in locations shown on Site Plan above. Turnouts shall be a minimum of 12' wide and 40' long.
5. Prior to approval of final construction plans, all drainage culverts under access road shall be verified to have a load capacity of 25 tons or greater or be replaced with culverts of this capacity.
6. All vegetation along access road and new driveway shall be trimmed and maintained with a 14-foot vertical clearance.
7. The existing access road gate shall be verified to be 14' wide (min.) or be replaced with a 14' gate. A Fire Lock shall be installed on the gate.
8. The new house will include two water tanks with capacities of 5,000 gallons and 10,000 gallons, which will be located in the basement. A 28,000 gallon swimming pool, located behind the house will also be available for fire use.
9. A "defensible" space, cleared of all flammable vegetation, shall be maintained around the new building site. This defensible space shall be a minimum of 30 feet uphill and 60 feet downhill from the new structure.
10. A Fire Turnaround, constructed to CDF requirements, shall be located as shown on Sheet C2.

Submitted By:

Signature

Date

LEGEND

●	INDICATES LOCATION OF BORING/TEST HOLE.
•	INDICATES FOUND SPIKE SET BY MID COAST ENGRS. (TYP.).
APN	ASSESSOR'S PARCEL NUMBER
PM	PARCEL MAP
(E)	EXISTING
(N)	NEW
VC	VERTICAL CURVE
R	RADIUS (HORIZONTAL CURVE)
Δ	CURVE DELTA
L	CURVE LENGTH
H:V	RATIO OF HORIZONTAL TO VERTICAL
VC	VERTICAL CURVE
△	GRADE BREAK

CDF REQUIREMENTS & DRIVEWAY ACCESS AND SITE PLAN

PREPARED AT THE REQUEST OF
KIRK E. PETERSON & ASSOCIATES
FOR
BRIAN HINMAN
LOCATED AT
APN 57-061-16
SANTA CRUZ COUNTY, CALIFORNIA
SITE PLAN

Robert L. DeWitt & Associates, Inc.
Civil Engineers & Land Surveyors

C1-06

H4

PFLUKE

LEE
(A.2.SMC.99
.066)

SCALE 1"=100'

LEGEND

ELEVATION DATUM

BASIS OF BEARINGS

NOTE

TOPOGRAPHIC MAP
prepared at the request of
KIRK PETERSON & ASSOCIATES
for
BRIAN HINMAN AND SUZANNE SKEES
located at
APN 57-061-16
T.9S., R.4W., M.D.B.&M.
COUNTY OF SANTA CRUZ

PARCEL A
17 PM 45

PARCEL B
17 PM 45

SANTA CRUZ COUNTY
SAN MATEO COUNTY

PROPOSED HOUSE SITE

PROPOSED DRIVEWAY

EXISTING BOLINAS HOUSE

Monterey Cypress (Cupressus macrocarpa) for a distance of 1500 feet along the right of way that begins at the Northwest corner of the parcel and trends Southeast. The plantings shall be 15 gallon, spaced . . . 25 feet on center, in order to provide visual screening from viewpoints in Año Nuevo State Park when the trees are mature. This grove will function as secondary screening in case the eucalyptus grove on the adjacent parcel is thinned or cleared in the future.

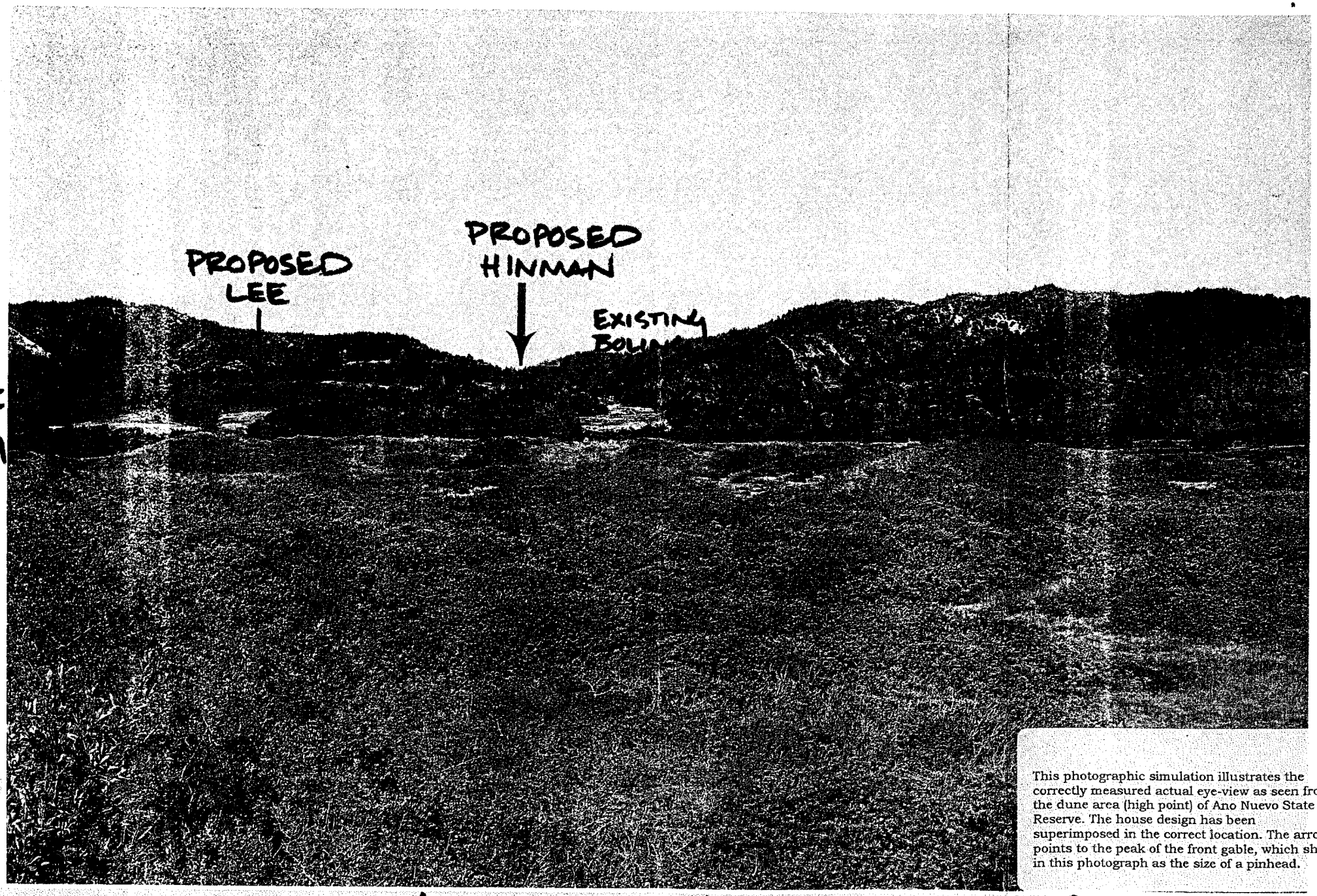
REVISIONS	BY
1 8-12-99	K.E.
12-28-99	K.E.
2-16-00	K.P.
4-1-00	K.P.

KIRK E. PETERSON & ASSOCIATES
ARCHITECTS
5253A College Avenue, Oakland, CA 94618
510.547.8275 Fax 510.547.3173 arch@peterson.net

AÑO NUEVO HOUSE
Brian Hinman & Suzanne Skees Residence
Año Nuevo, California

LANDSCAPE PLAN

L2

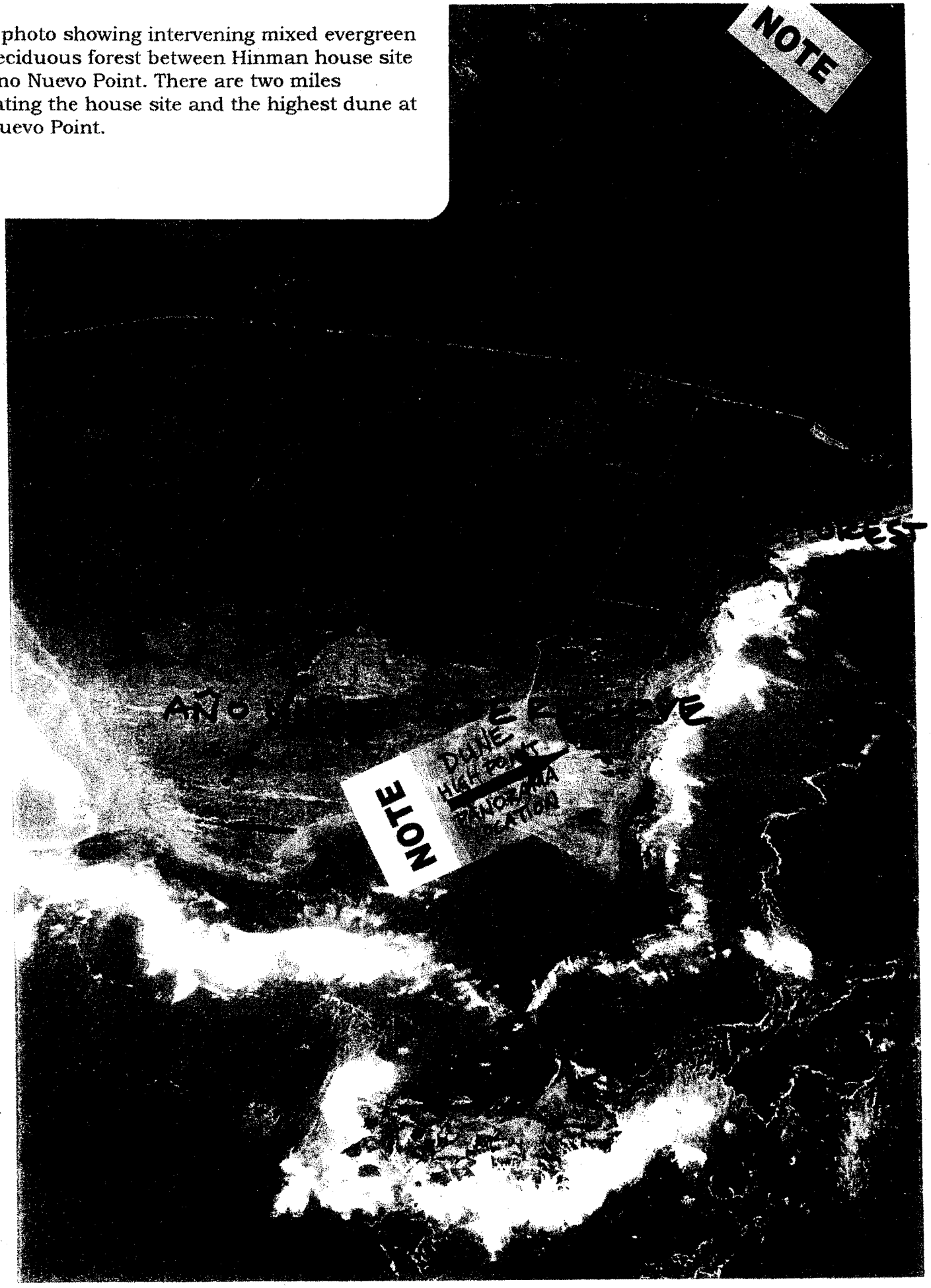


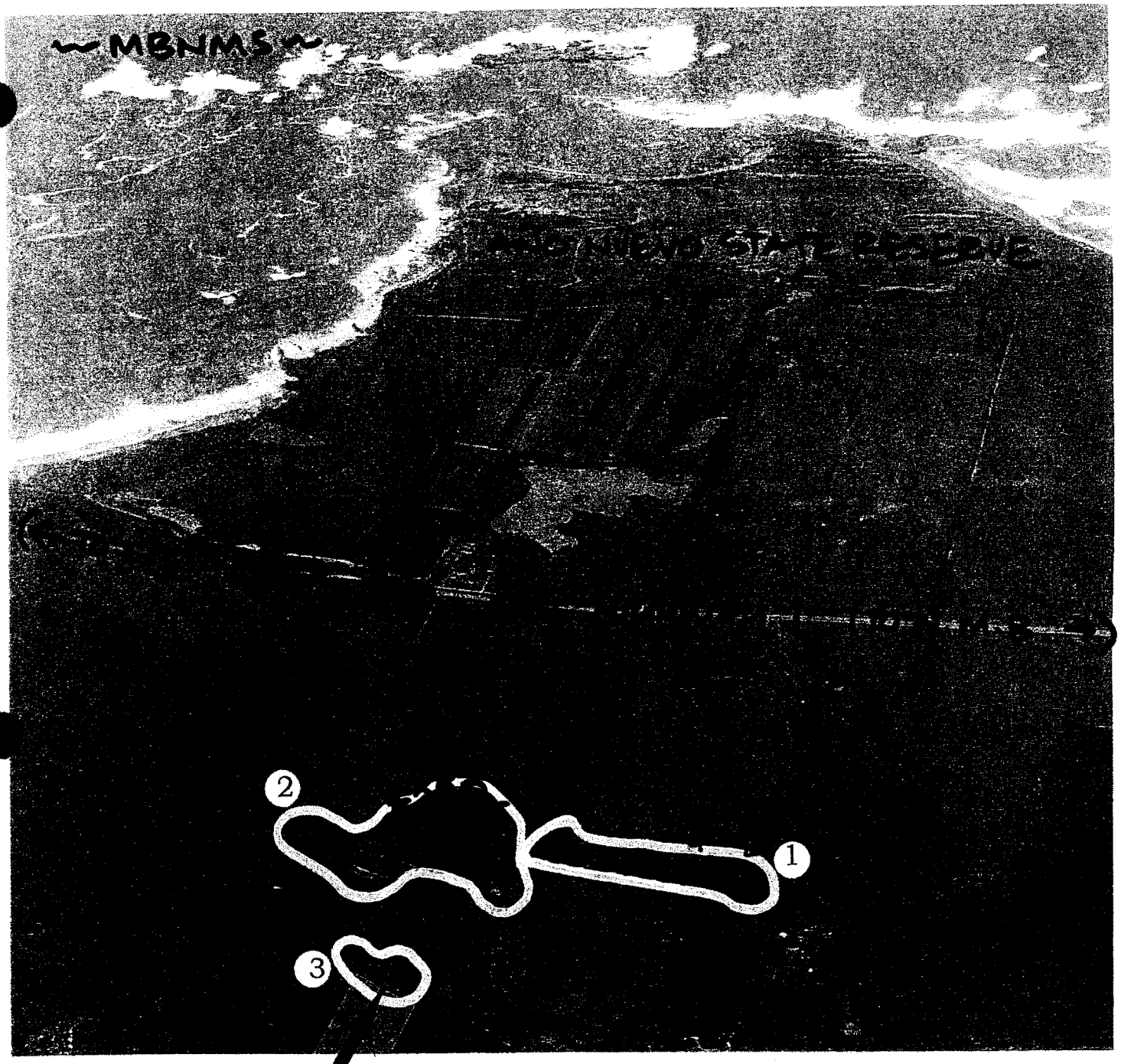
This photographic simulation illustrates the correctly measured actual eye-view as seen from the dune area (high point) of Ano Nuevo State Reserve. The house design has been superimposed in the correct location. The arrow points to the peak of the front gable, which shows in this photograph as the size of a pinhead.

PHOTO (FROM APPLICANT) AS VIEWED FROM AÑO NUEVO SR

H-5

Aerial photo showing intervening mixed evergreen and deciduous forest between Hinman house site and Ano Nuevo Point. There are two miles separating the house site and the highest dune at Ano Nuevo Point.



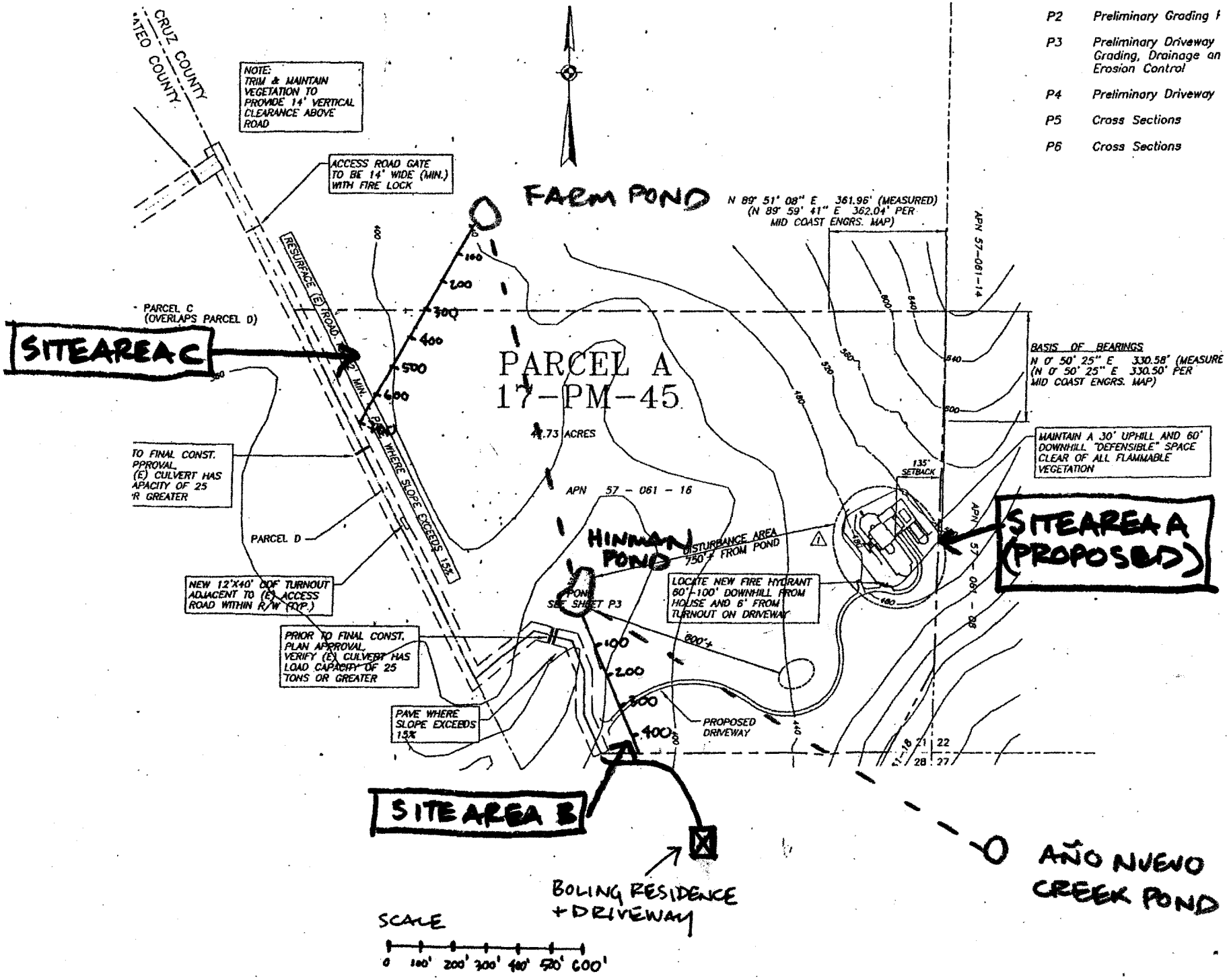


PROPOSED HOUSE SITE

NATIVE MONTEREY PINE FOREST (DARKER AREAS)

FIGURE 1

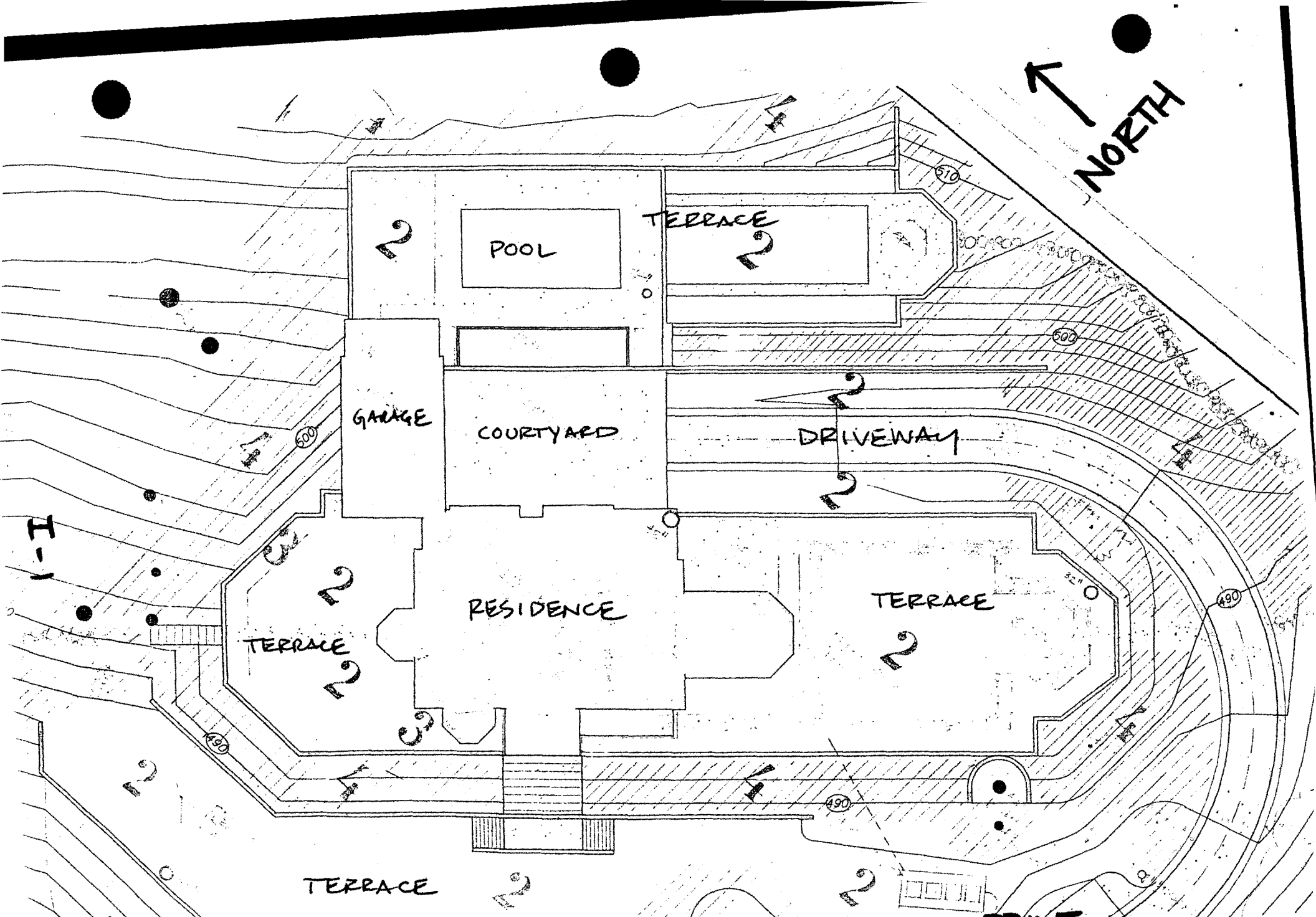
Hinman Residence
APN: 057-061-16
County of Santa Cruz
Application #98-0426



SITE PLAN FOR CURRENT PROPOSED BUILDING SITE

H-8

ALTERNATIVE SITES CONSIDERED

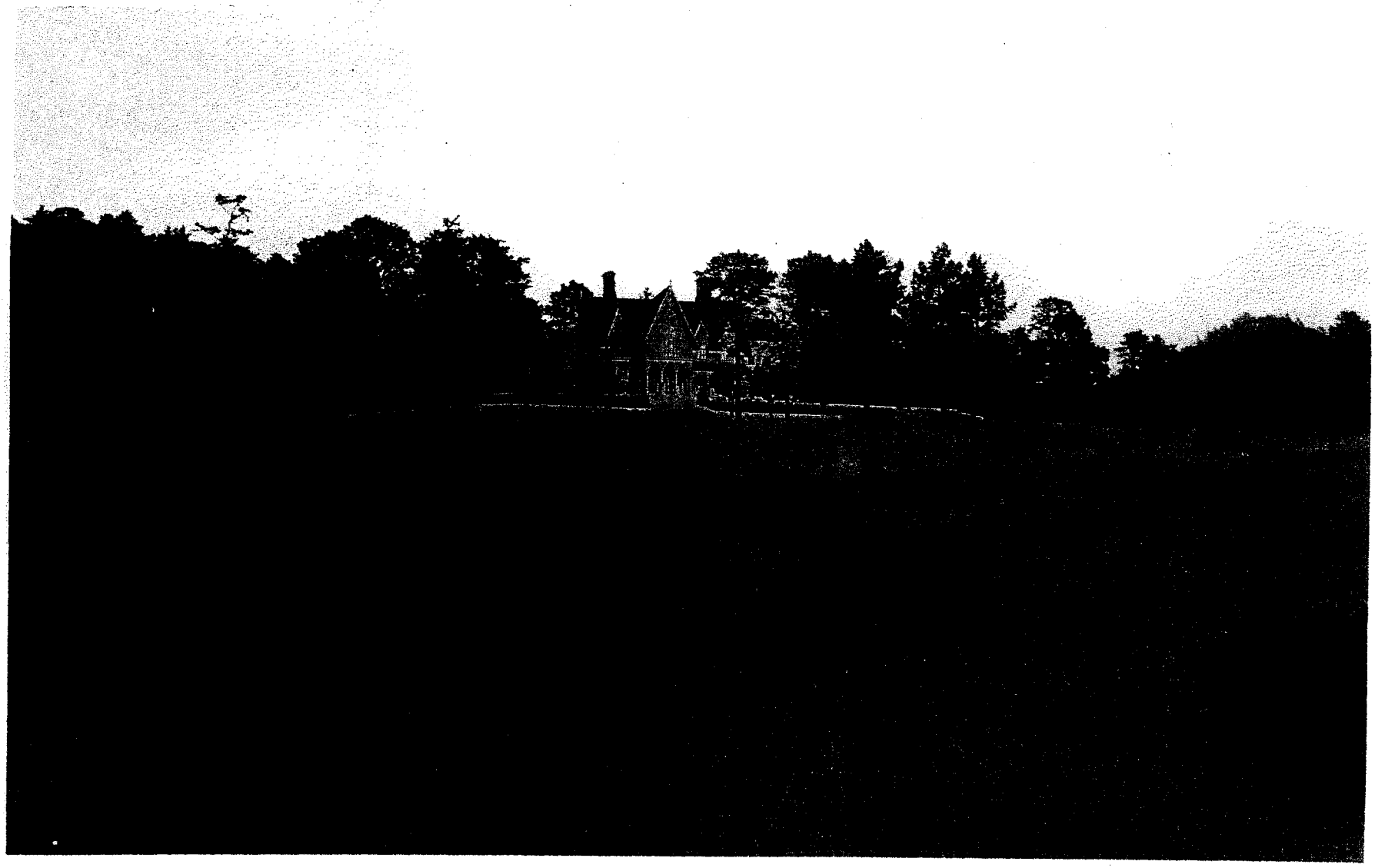


RESIDENTIAL COMPOUND FOOTPRINT
GENERAL SITE PLAN [redacted]

Photosimulation showing house on site as viewed from meadow from Northwest corner of site. Note colors of roof and gable blend into background.

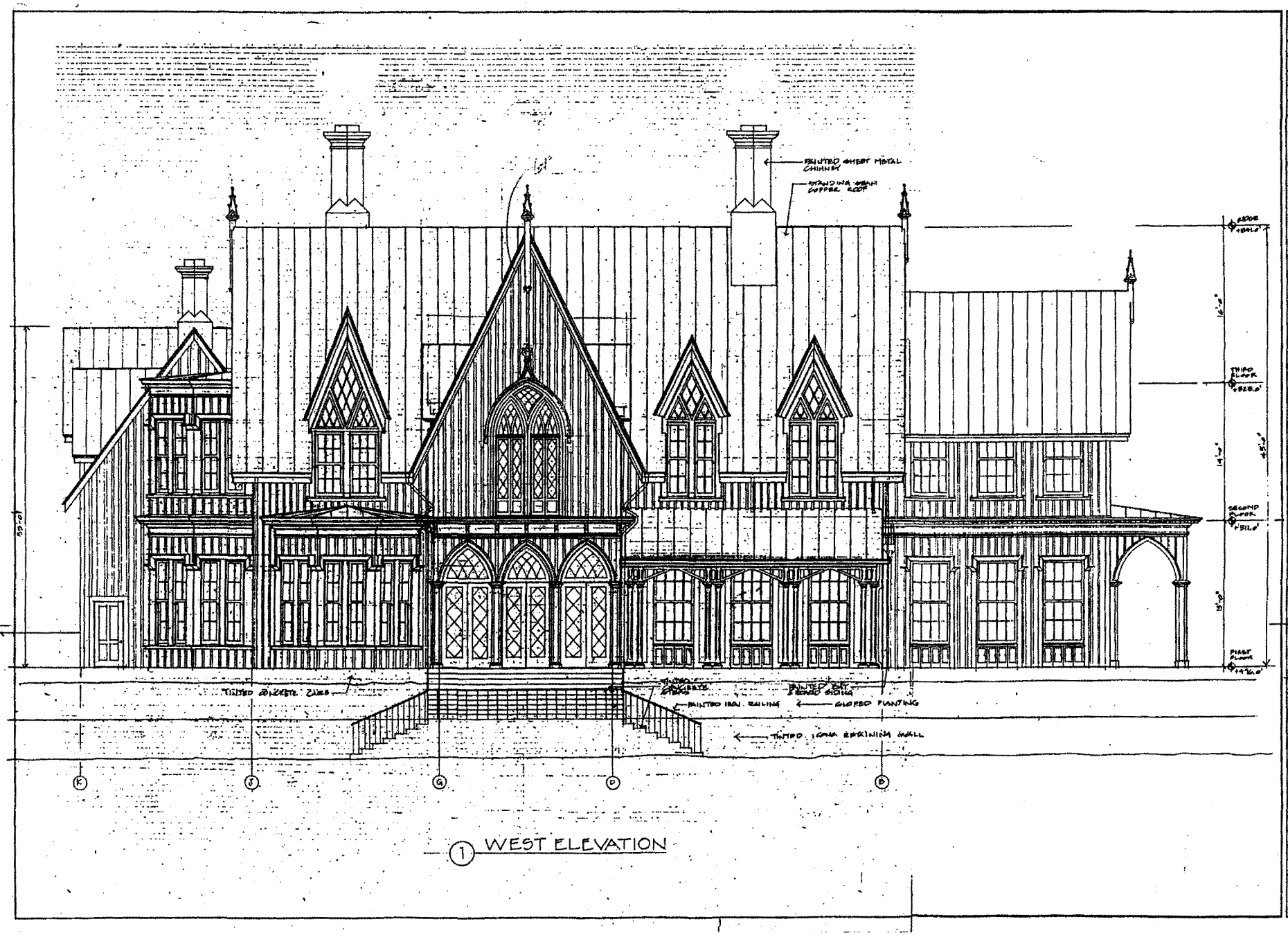
KIRK E. PETERSON & ASSOCIATES ARCHITECTS
5253A College Avenue, Oakland, CA 94618

I-2



Año Nuevo House

Brian Hinman & Suzanne Skees Residence
Ano Nuevo, California



1 WEST ELEVATION

I-3

REVISIONS	BY
2-14-00 A	KP

KIRK E. PETERSON & ASSOCIATES
ARCHITECTS
52531 College Avenue, Oakland, CA 94618
510.547.0275 Fax 510.547.4173 arch@pacbell.net

AÑO NUEVO HOUSE

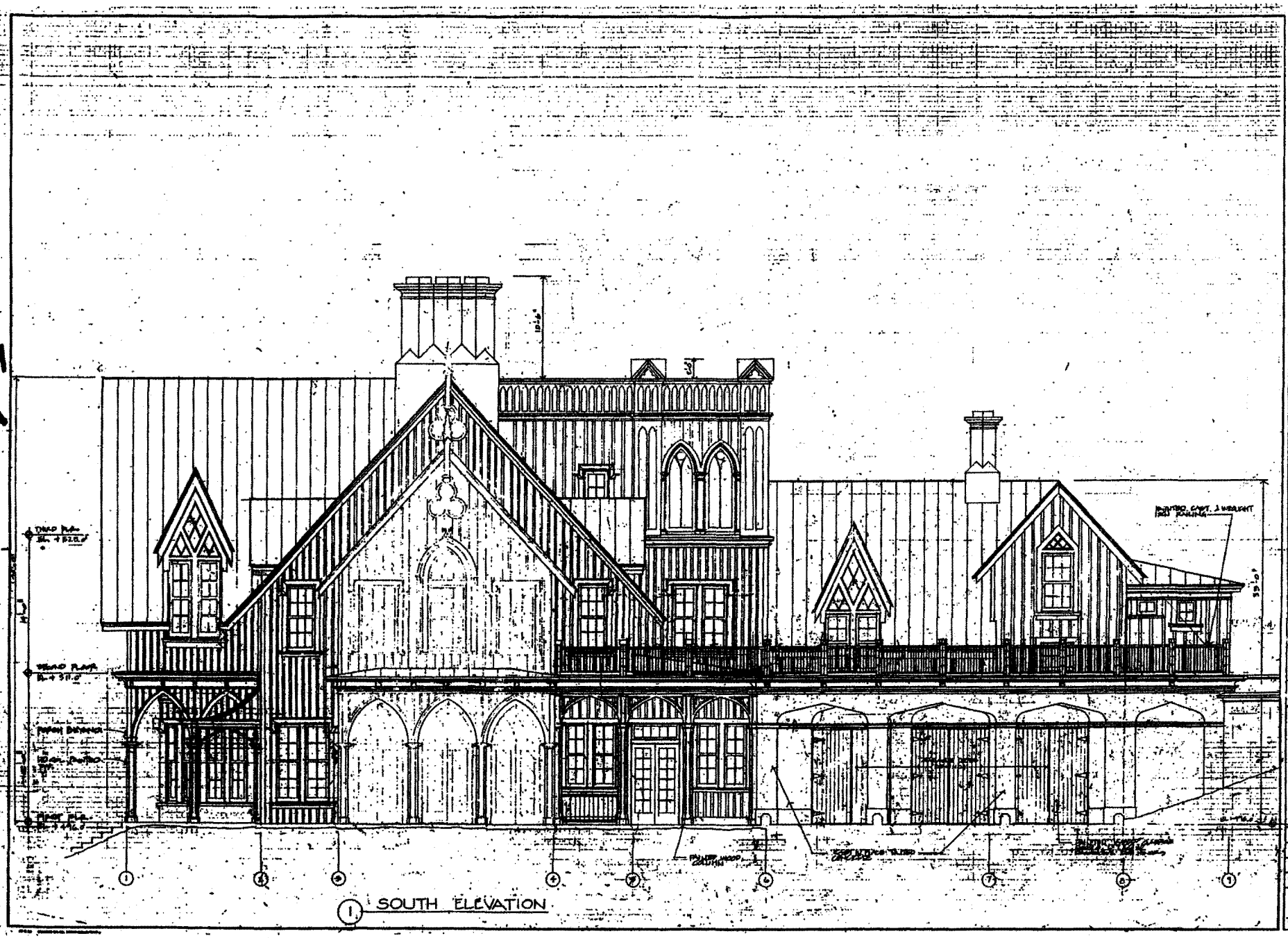
Brian Hinman & Suzanne Skees Residence

Año Nuevo, California

WEST ELEVATION

Date 2-28-98
Scale 1/8"=1'-0"
Drawn K.P.
Job AÑO NUEVO

A-4.1



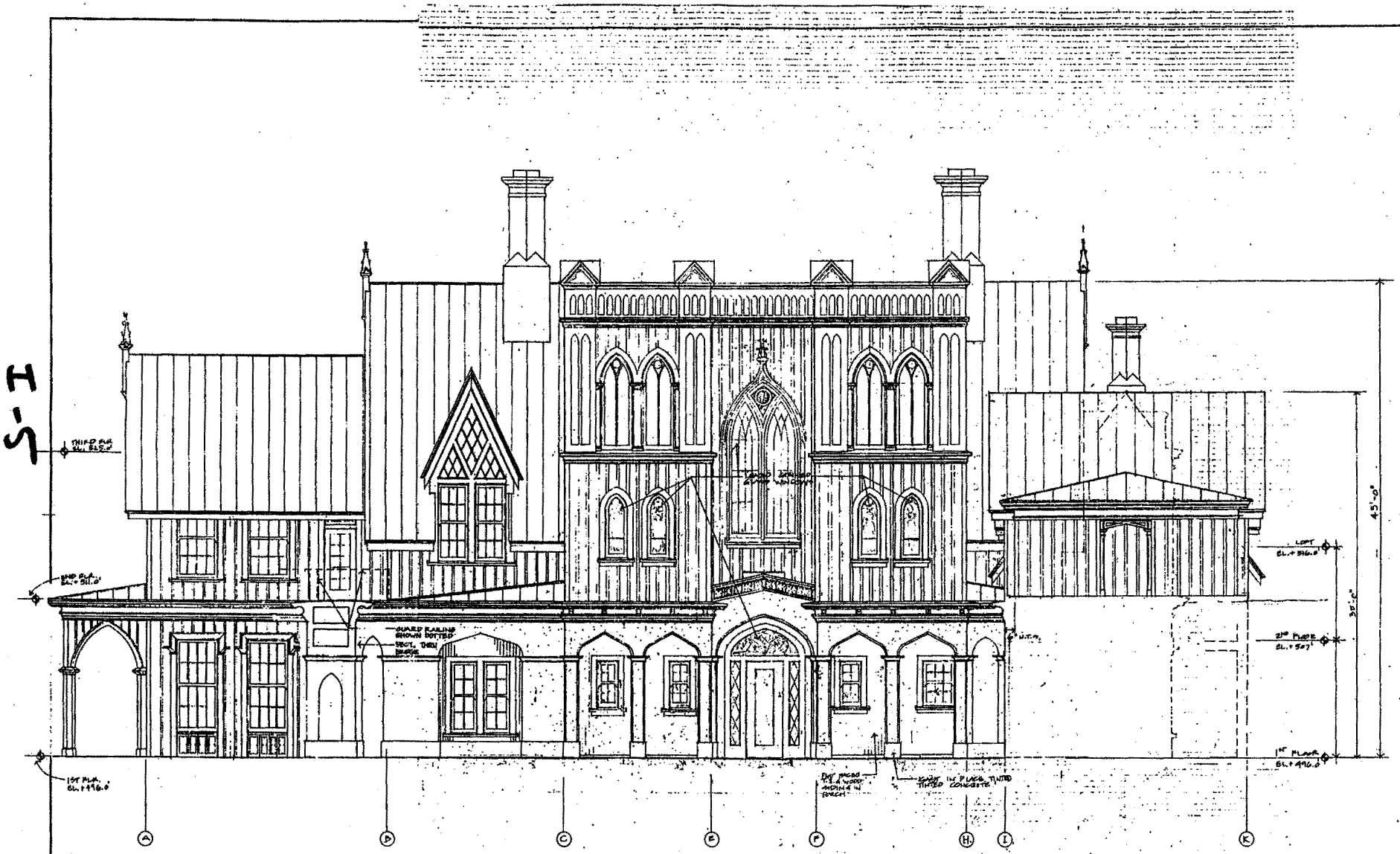
KIRK E. PETERSON & ASSOCIATES
ARCHITECTS
5253A College Avenue, Oakland, CA 94618
510.547.0275 Fax 510.547.4173 arkarch@pacbell.net

SOUTH ELEVATION

A-4.2

T-4

I-5



1 EAST ELEVATION

7-26-99	KP
12-28-99	KP
2-7-00	KP
2-16-00	KP

KIRK E. PETERSON & ASSOCIATES
ARCHITECTS
5253A College Avenue, Oakland, CA 94618
510-547-0275 Fax 510-547-4173 arcarch@pacbell.net

AÑO NUEVO HOUSE

Brian Hinman & Suzan de Sizes Residence

Año Nuevo, California

EAST ELEVATION

SCALE 1/4"=1'-0"

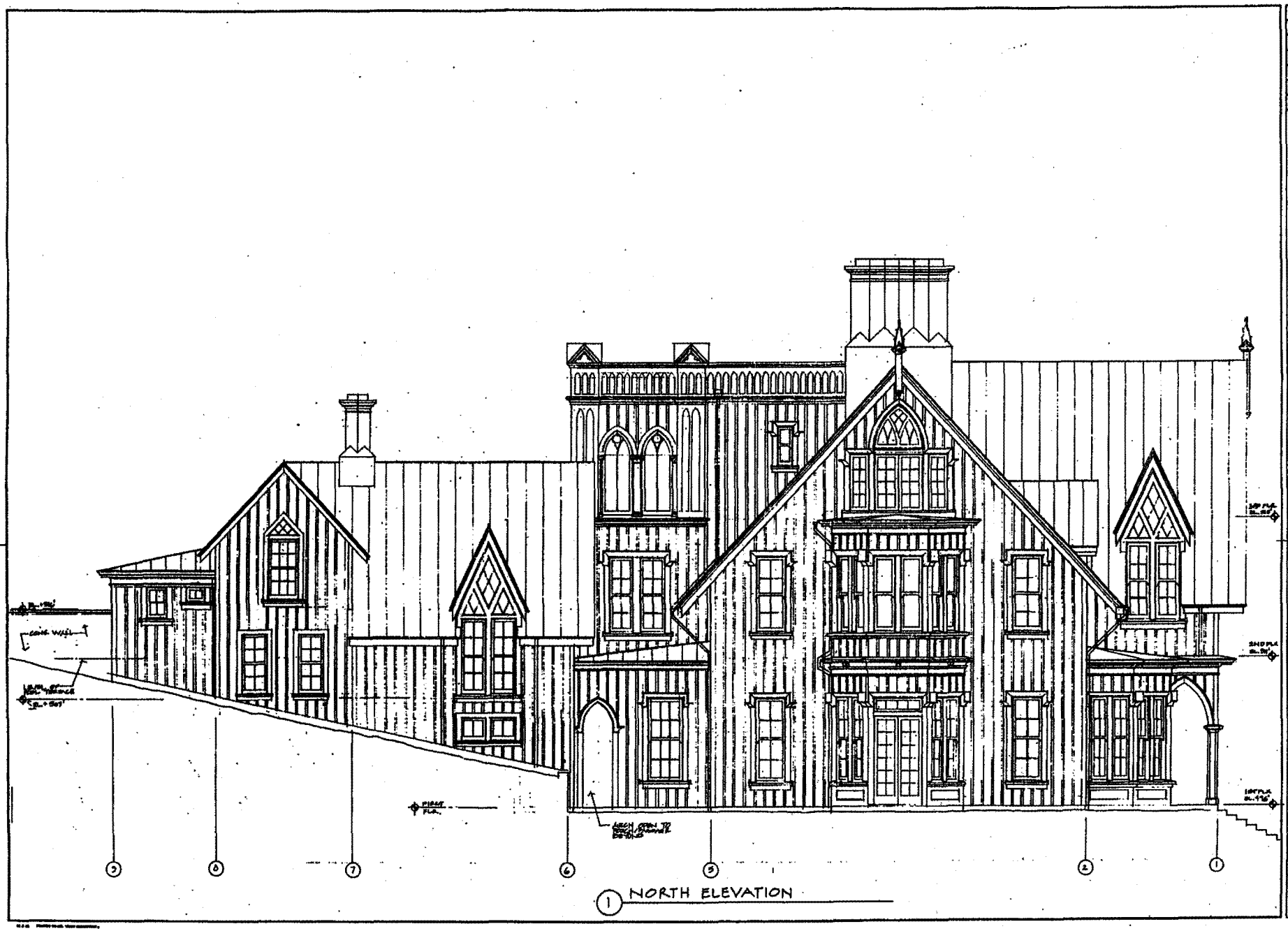
DRAWN K.P.

JOB NO. 9-0 NEW

SHEET A-4.3

OF SHEETS

(9-12)



REVISIONS	BY
12-28-99	K.P.
2-16-00	K.P.

KIRK E. PETERSON & ASSOCIATES
ARCHITECTS
5353A College Avenue, Oakland, CA 94618
510/547-0275 fax 510/547-4173 arc2arch@pacbell.net

AÑO NUEVO HOUSE

Brian Hinman & Suzanne Skees Residence

Año Nuevo, California

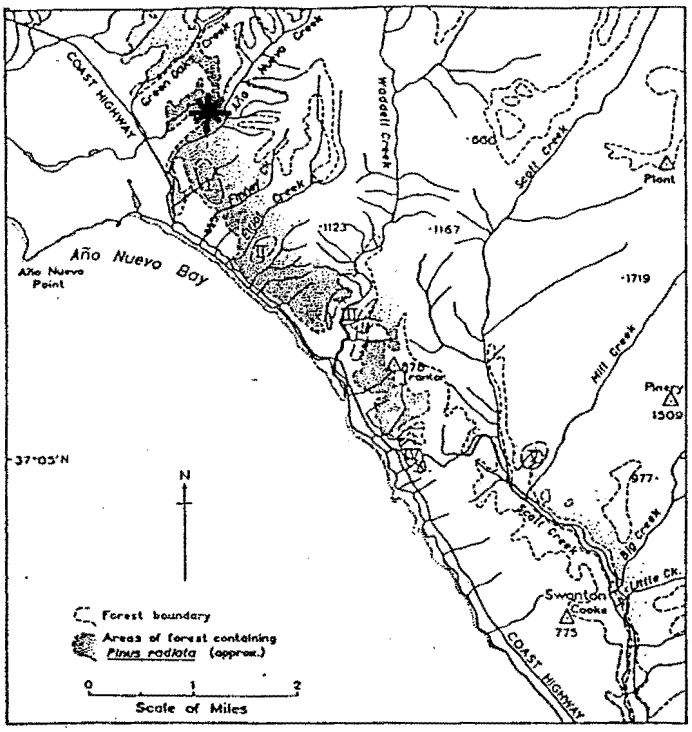
NORTH ELEVATION

Date 2-24-99
Scale 1/8"=1'-0"
Drawn K.P.
Job No. AÑO NUEVO

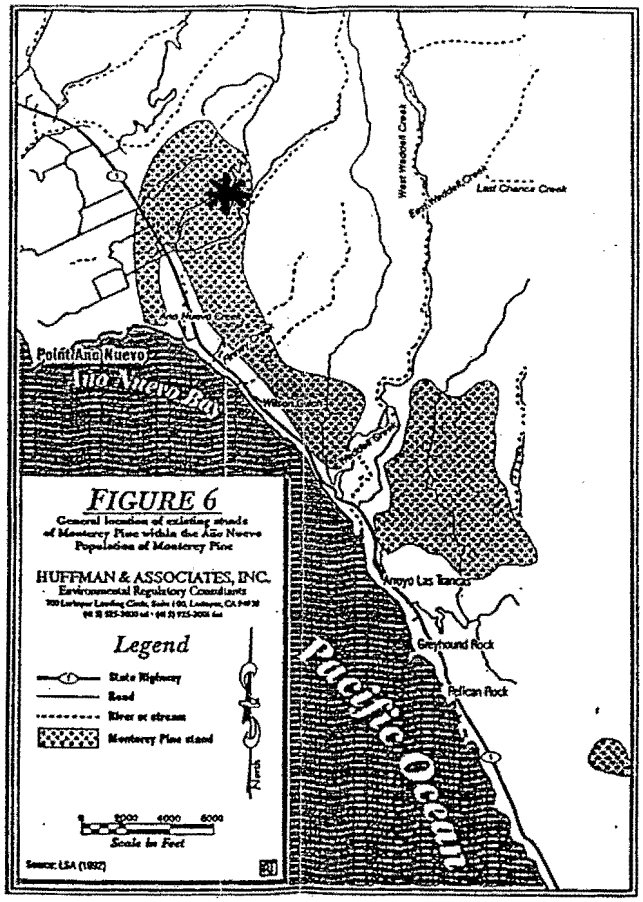
Sheet A-4.4

T-6

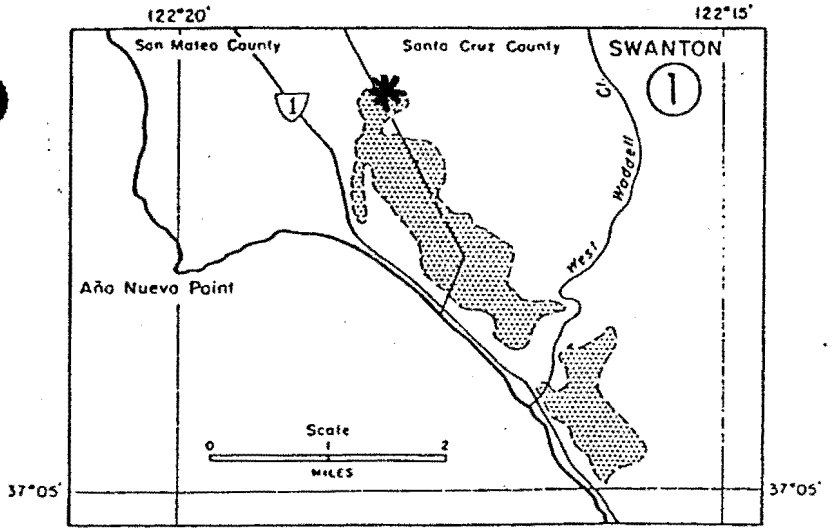
* = HINMAN (APPROX) SITE LOCATION



Areas Containing Monterey Pine Forest at Año Nuevo
Source: Forde 1964.



Present Distribution of Monterey Pine Forest at Año Nuevo
Source: Huffman and Associates 1994.



Natural Range of Monterey Pine at Año Nuevo
Source: Roy 1966.

J-1

Analysis of Existing View Screen Forest Including Monterey Pine Tree Status And Tree Screening Plan

for

Hinman Residence
Santa Cruz County, California

RECEIVED
MAY 1 5 2000
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Prepared for:

Brian Hinman
APN 57-061-16
County of Santa Cruz
Application #98-0426

Prepared by:

Stephen F. McGuirk, ASLA CPESC
Madrone Landscape Group
P.O. Box 1210
Soquel, California 95073

and

Stephen R. Staub, RPF#1911
Staub Forestry and Environmental Consulting
6010 Highway 9, Suite 6
Felton, CA 95018

May 2000

K-1

Executive Summary

Both of the authors of this report have extensive knowledge and experience in their respective fields. Stephen Staub, who overviews the screening potential of the adjacent forest trees, is a Registered Professional Forester (License #1911) serving on the Pitch Canker Task Force, and has more than twenty-three years experience working with these forest types. Steve McGuirk is a licensed landscape architect (#2804) and Certified Professional in Erosion and Sediment Control (#667) who has more than thirty years experience in the Monterey and San Francisco Bay regions, and is currently working on three other visual screening projects on the coast of Santa Cruz County.

It is the authors' mutual finding that the Hinman / Año Nuevo House will have a continuing vegetative screen from critical view areas of Año Nuevo State Park, for the following reasons:

- Within the existing forest screening the proposed house site from Año Nuevo, sufficient numbers of Monterey pines which are tolerant or resistant to pitch canker will persist over a 10 to 40 year period in combination with other existing tree species Douglas Fir, Blue Gum Eucalyptus, tanoak, bay laurel and redwood to provide meaningful visual screening of the house site. Existing seedling to pole sized trees of the same species and madrone, together with future regeneration, will grow up into the viewshed and maintain visual screening over the medium- to long-term, and continue to block the view of the house from Año Nuevo State Reserve.

- The approved landscape trees, and specifically the Redwoods (*Sequoia sempervirens* 'Soquel'), planted in the 48" box size nursery containers, will add an additional screen to the house within 10-20 years. Support from approved earth berms and proposed automatic irrigation, with fertilizer injection systems, will enhance and optimize the growth rate of all approved, recommended landscape replacement trees.

Views from Highway 1 are and will remain unaffected by the project due to topography and the existing Eucalyptus grove that will be retained.

Along with extensive field review of the site and forest, the following documents have been reviewed as part of the preparation of this Plan:

- Hinman Property (Año Nuevo House) Biotic Assessment, Kathleen Lyons, Biologist, Habitat Restoration Group (5/20/97)
- Hinman Property (Año Nuevo House) Arborist Report, Ellen Cooper, Consulting Arborist (7/17/99)
- Approved Project Plan Set, Kirk E. Peterson & Associates, Architects (revised 2/16/00)
- Conditions of Approval, County of Santa Cruz Permit 98-0426 approved 1/21/2000

INTRODUCTION

The purpose of this Report is to evaluate the efficacy of the existing forest and the proposed Landscape Plan to effectively, visually mitigate the construction of the proposed residence as approved by permit issued by the County of Santa Cruz, and as per the Landscape Plan prepared by Kirk E. Peterson & Associates, Architects. Because of current and expected mortality of Monterey Pine trees from pitch canker *(Fusarium circinatum)*, this Report reviews current research and monitoring observations to project trends in growth and demise of the native Monterey Pines as well as the other existing, principal screening trees, primarily Douglas Fir *(Pseudotsusa menziesii)* and Blue Gum Eucalyptus *(Eucalyptus globulus).*

This Report will then evaluate the projected abilities of the trees recommended on the approved Landscape Plan to effectively back up the existing forest trees in effectively screening this residence.

METHODOLOGY

Prior to the related site visit as part of the scope of services, a review of current plans, aerial photographs, related documents, etc., was held in the office of Richard Beale, Land Planner; related project information and goals were reviewed prior to the initial site visit.

The initial site visit was performed on Friday, March 31, and present were Steve McGuirk, Steve Staub and Ron Powers. The weather was clear and warm, with a slight northeasterly breeze.

Prior to visiting the actual site proposed for construction, we visited the area around the Docent's Roost in Año Nuevo State Reserve, and, using binoculars, visually located the two marked chimney locations on the site itself. We additionally noted existing tree areas between Año Nuevo and the site itself, prior to visiting the site.

On the road that accesses the site, we stopped to evaluate the existing grove of Blue Gum Eucalyptus *(Eucalyptus globulus)*. We checked the trees for size and diameter, density of species and relative stand age. We next proceeded to the actual building site to evaluate the landscape plan in relationship to the existing trees. The site plans were reviewed in place and a further evaluation done on the effectiveness in proposed tree species for screening.

During the evaluation of proposed landscape trees on the actual site, a visual analysis was done on the existing native forest downslope from the site and between the site and Año Nuevo. This area constitutes the primary view corridor from Año Nuevo towards the site. Once the consulting forester Steve Staub had familiarized himself with the relationship between the trees below the site and the visual corridor, we then drove to the native forest to evaluate the existing stand and the related trees in the existing stand that were not Monterey Pines, but that were species that held

the most promise for future visual screening. The results of Steve Staub's evaluation site.

ANALYSIS OF EXISTING FOREST TREE SPECIES IN CRITICAL VIEW CORRIDOR

At your request an analysis of the existing forest was performed on the Hinman property (Santa Cruz APN # 057-061-16) on Friday March 31st to evaluate the current and likely future condition of the trees and forest near and to the west of the proposed building site. Forest composition, health and longevity were the principal focus of this review because the predominant tree species near the site is Monterey pine (*Pinus radiata*), which is suffering from infestation by the non-native pest pitch canker (*Fusarium circinatum*). With project maps and site staking, trees in the immediate vicinity of the building site itself were reviewed, as well as trees to the west of the parcel boundary which visually screen the site. Tree foliage health and species composition were viewed directly and with binoculars. Spot samples and walking tallies were made of tree numbers by size class and species and rated for presence and severity of pitch canker infections.

Forest Composition:

The western portion of the Hinman parcel is largely an open field in which both eucalyptus and pine seedlings have become established in the last few years. Native forest on the Hinman parcel is located primarily near the eastern property boundary where the Hinman residence is proposed. Native forest exists to the west and south of the Hinman parcel and was looked at extensively as it screens the parcel when viewed from the west. For purposes of this report, relevant stands of trees have been described and numbered as three distinct forest areas, the first two of which occur on adjacent ownerships to the west and south. *See Figure 1.*

Area 1 - An old windbreak planting of blue gum eucalyptus trees (*Eucalyptus globulus)* extends just west of the northern portion of the western boundary of the property. The trees are more than 100 feet tall, densely planted in several rows, and are regenerating from seed in nearby areas, notably east of the access road in the open field. The grove is composed of largely mature trees in generally good health considering their density. It is likely to persist as an intact grove for many more years and will both spread and replace itself over time in the absence of management.

Area 2 – South of the eucalyptus windbreak the western property line crosses a small creek drainage, and tree cover becomes a mixed forest whose composition changes from north to south. In the vicinity of the drainage and onto the adjoining plateau, the forest is a mixture of eucalyptus, Monterey pine, Douglas-fir (*Pseudotsuga menziesii*), and coast live oak (*Quercus agrifolia*). The tops of the eucalyptus and Douglas-fir trees growing in the immediate creek area are visually within roughly 10 to 15 feet of hiding the coast as viewed from the building site. With expected height growth rates of 1 to 3 feet per year for these trees, it appears likely that they will completely obscure the creek drainage view of the building site from

land within five to ten years. A line of some 20 naturalized eucalyptus seedlings have become established along the western side of the access road near the southwestern property corner. These trees are currently 10 to 15 feet tall and capable of growing at a rate of 2 to 5 five feet per year.

Trees in the forest further south on the gently sloping plateau are of mixed ages and species, ending at an open area apparently originally cleared for agricultural or ranching purposes. Monterey pine forms most of the overstory tree canopy with some Douglas-fir, a few eucalyptus and even a few tan oak (*Lithocarpus densiflorus*) and bay laurel (*Umbellularia californica*). This forest obscures the building site and extends in a west, southwesterly direction all the way to Highway 1. Understory tree species include Monterey pine, coast live oak, and quite a number of Douglas-fir and madrone *(Arbutus menziesii)* trees. Understory Monterey pines are generally pole sized with few saplings while Douglas-fir and madrones are of sapling to small pole size. Density of understory trees is quite variable, but is generally moderate to very dense with only a few sparse areas. Monterey pines of seedling to small pole size were noted to the south of this stand in the open area formerly cleared for agricultural use. Although not reviewed directly, a similar mixed forest, but with an increasing redwood component, extends from this open area down to Año Nuevo Creek.

Area 3 – The immediate vicinity of the proposed building site is dominated by a number of very large Monterey pine trees as shown on the site plan. It also contains several coast live oaks, a few Douglas-fir, and just to the east and south, madrones and some redwood *(Sequoia sempervirens)*. A 36" Monterey pine tree blew down this winter, knocking over a second Douglas-fir tree. Both are partially still alive, but are likely to die shortly. West of the proposed site is an open field into which more than 20 volunteer Monterey pine trees have seeded that are from 2 to more than 10 feet in height.

Forest Health and Condition:

As noted above, eucalyptus trees in Areas 1 and 2 appear to be generally healthy and have good life expectancy. Pitch canker, first documented in Año Nuevo Monterey pines in 1992 by the leading pitch canker researchers (Storer et al., 1995), is affecting many trees and symptoms are currently widespread, especially with decreasing elevation. Accelerated tree mortality has been occurring, although bark beetles have also been a contributing factor, and in some cases, probably the only factor. Sampling on site indicates that up to 40% of the Monterey pines have moderate or worse symptoms (including those that have recently died). This number is consistent with findings from research being conducted at Cal Poly's Swanton Pacific Ranch at the southern end of the Año Nuevo pine population (Professor Doug Piirto, oral presentation on research to the Pitch Canker Task Force, January 19, 2000). Although there is still insufficient quantitative research to make a numeric projection, it is reasonable to suppose that the great majority of this 40% fraction of forest will die within the next five years.

The longevity of the remaining 60% of Monterey Pine trees (with few or no symptoms) is much harder to predict. First, it is likely that the most susceptible trees are the ones already showing these advanced symptoms while trees with few or no symptoms are more likely to be able to tolerate or even fully resist the disease. Second, several modestly encouraging factors emerging from research in progress suggest that tree mortality due to pitch canker may be somewhat lower and the rate at which mortality is likely to occur will be relatively slower than initially had been feared. Long term monitoring plots in the Monterey native pine population indicate that the disease is quite variable in its incidence with near sea level sites on dune soils being by far the worst hit. Somewhat higher sites on soils derived from shale and mudstone (such as at the Hinman site) are showing far lower initial infection rates and far less severity. Also, both lab tests at the UC Davis Plant Pathology Department and follow-up field reviews have discovered that some trees, perhaps as many as 15% to 25%, may have an increased ability to resist the disease after its initial infections (Professor David Wood, oral remarks to the Pitch Canker Task Force, March 15, 2000). This is a phenomenon observed in other plants called systemic acquired resistance (SAR) (UC Davis researcher David Schmale, presentation to Pitch Canker Task Force, November 17, 1999). In addition, resistance to pitch canker appears to be significantly more widespread in pine regeneration that has been exposed to pitch canker from the beginning, probably because pitch canker has already killed the highly susceptible ones at the seed and seedling stage (Professor Tom Gordon, oral remarks to the Pitch Canker Task Force, January 19, 2000).

At the proposed house site itself, the broad crown of the 45" pine directly in front of the proposed house currently has no symptoms of pitch canker even though several large pines near it have died recently. In fact, only two or three of the other large pines near the site have noticeable pitch canker symptoms. There are only 3 or 4 dead sapling pines and more than 20 healthy sapling pines in the field west of the house, potentially confirming the viability of pine reproduction in the presence of pitch canker. Portions of two oak tree crowns were damaged by the fallen pine and Douglas-fir at the site.

Conclusions:

Area 1:
The eucalyptus trees in the windbreak are healthy, will replace themselves, and have spread regeneration into other areas, which will continue to occur unless controlled.

Area 2:
The mixed forest of Area 2 becomes increasingly dominated by Monterey pine as it moves south from the creek drainage. On-site observations and current pitch canker research suggest that some of the existing, good-sized Monterey pines on and near the site will survive for between 10 and 40 or more years (depending on their current age). The general pattern in the existing forest is likely to be the

following: Overall stand density will decrease, creating sporadic openings and highlighting the presence of other species in the existing mix of mature trees. The Douglas-fir, madrone and coast live oak understory trees will grow more quickly once shading Monterey pines die and these other species of trees will become a noticeably larger percentage of the stand over that 10 to 40 year period. Some pine regeneration with better resistance to pitch canker will become established to replace trees that have died. The forest will not disappear, but will be in a state of change with respect to species composition and regeneration patterns. The height of the dominant trees in the forest should remain about the same as the present forest over time.

Area 3:

The 16 replacement trees required in the approved County permit for the property should grow at a rate which will cover gaps which may temporarily be created in the Area 2 forest. The existing oaks and firs and some Monterey pines on site that are likely able to tolerate or resist pitch canker also provide some screening subject to normal hazards and life expectancies.

Recommendations:

1. Remove the fallen 36" Monterey pine and 18" Douglas-fir from the proposed building site as soon as possible to minimize bark beetle brood material. Trim up damaged oak limbs when spring growth spurt is past (July or August).

2. Retain all pines regenerating in the field west of the house for at least another ten years so their resistance to pitch canker can be evaluated.

3. Protect all trees, especially the oaks, 45" pine and 18" Douglas-fir in front of the proposed house, adjacent to the building site during construction by creating an equipment exclusion zone marked by perimeter high-visibility plastic fencing erected along the approximate tree driplines.

4. The volunteer eucalyptus seedlings near the southern end of the access road should be thinned to at least six foot spacing to promote more healthy and stable growth.

5. The owner should approach neighbors to the south and west to encourage a cooperative forest maintenance program that would remove dead and dying trees that pose a disease and pest vectoring hazard, protect advance regeneration, and promote regeneration of appropriate native trees.

ANALYSIS OF PROPOSED LANDSCAPE TREE PLANTINGS

The native trees approved by the County of Santa Cruz for planting at this site include the following:

Common Name	Botanical Name	Foliage Habit
Coast Redwood	*Sequoia sempervirens*	Evergreen
Coast Live Oak	*Quercus agrifolia*	Evergreen
Madrone	*Arbutus menziesii*	Evergreen
Monterey Cypress	*Cupressus macrocarpa*	Evergreen
Buckeye	*Aesculus californica*	Deciduous

Of all of these trees, the two with the greatest screening potential (fastest growth rates and ultimate size) are the Coast Redwood (preferably the cultivar 'Soquel') and the Monterey Cypress. According to the Sunset Western Book, Coast Redwoods can grow as much as 3'-5' a year, and Monterey Cypress is noted as a "fast growing windbreak tree in coastal conditions".

The County of Santa Cruz's Conditions of Approval specify that the sixteen (16) landscape replacement trees must be in the following nursery container sizes:

Five (5) trees of a minimum 5-gallon size
Five or more trees of a minimum 15-gallon size
Five or more trees of a minimum 48-inch box size

If the most critical screening Redwood and Monterey trees were planted in 48" box sizes, their initial height would be 16-18'. Based upon standard growth projections these trees could achieve heights of 31-43' in 5 years, 61-93' in fifteen years, and 76-118' in twenty years.

Also, the Landscape Plan includes a proposed row of Monterey Cypress trees along the Hinman side of the access road which could easily replace the eucalyptus trees as viewshed protection within 15-20 years.

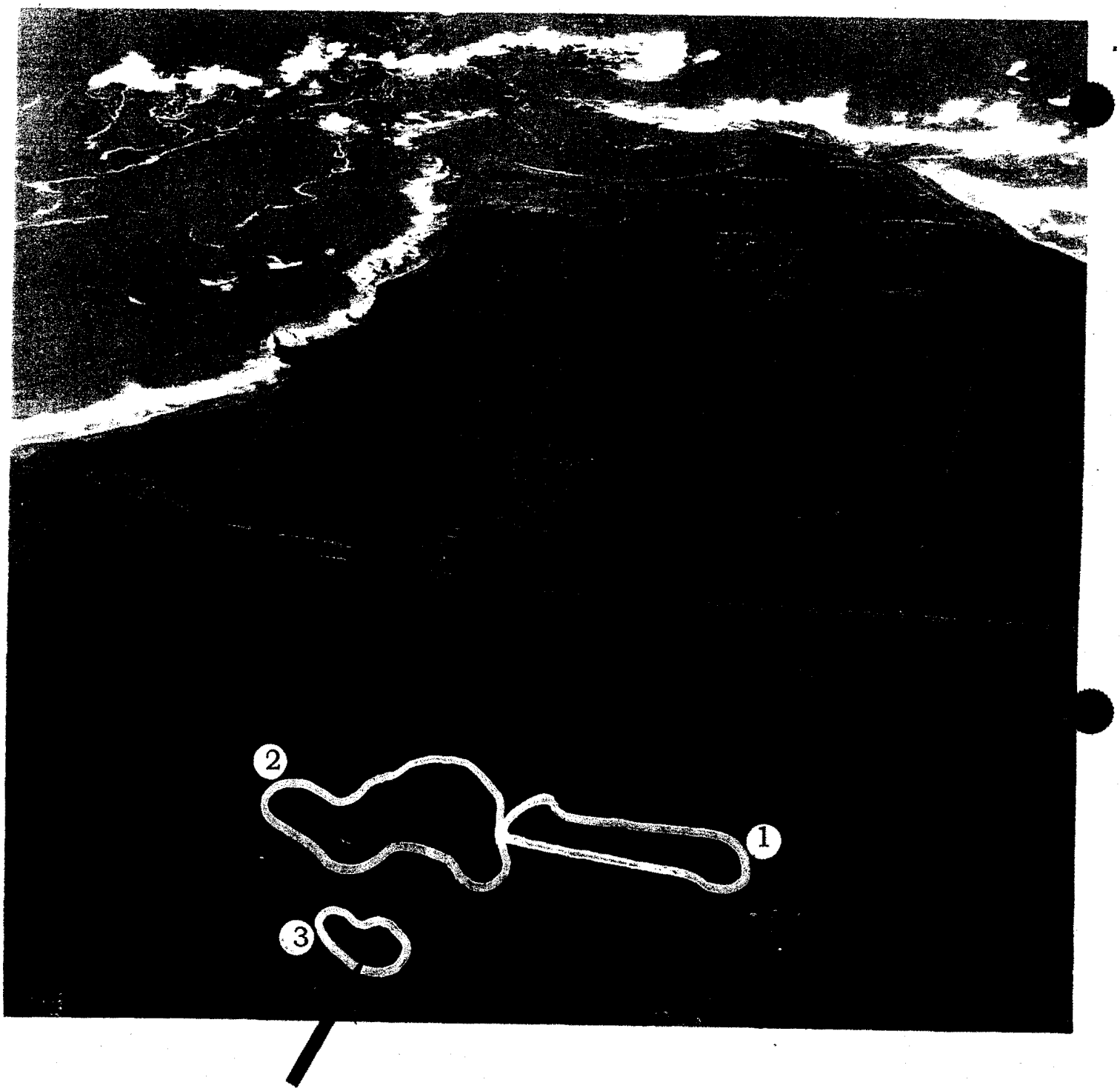


FIGURE 1

Hinman Residence
APN: 057-061-16
County of Santa Cruz
Application #98-0426

Statement of Professional Qualifications

Staub Forestry and Environmental Consulting
6010 Highway 9, Suite 6
Felton, CA 95018

Phone: (831) 335-1452
FAX: (831) 335-1462
Email: staubtre@pacbell.net

Stephen R. Staub, Principal and Registered Professional Forester, License #1911

Summary

Mr. Staub has been a Registered Professional Forester (RPF #1911) licensed by the State of California since 1979 with a broad background in forest management and environmental analysis. He has prepared management plans and supervised projects for a variety of private, corporate, and non-profit clients. He has worked in Monterey County since 1990 and is recognized on the County's list of Registered Professional Foresters. He has been Forestry Consultant for the Del Monte Forest Foundation (DMFF), the non-profit open space agency for the Del Monte Forest area in Pebble Beach since 1993. Principal responsibilities for DMFF have been fuels reduction, control and eradication of non-native plant species, and conservation of sensitive and endangered plant species and habitats. He has worked with the Land Trust of Santa Cruz County on a variety of projects since 1986. His firm is currently providing professional forestry services to the County of Santa Cruz for its Graham Hill Road Improvement Project. In 1995 with William Ruskin, he completed a Land Management Study for Fire Prevention covering the central and lower campus of UC Santa Cruz. Other clients have included the Bureau of Indian Affairs, the San Mateo County Office of Education, and Community Hospital of the Monterey Peninsula. He has prepared forest management and timber harvest plans in the Santa Cruz Mountains for over twenty years and managed timber sales and vegetation management projects of all sizes. Much of his work has entailed extensive interaction with land use and regulatory agencies, analyzing and describing impacts and information in required formats.

Education

B.A., English, Stanford University, 1972.
B.S., Forestry, University of California, Berkeley, 1976.
Member, Forestry Honor Society Xi Sigma Pi.

Professional Experience

Principal, Staub Forestry and Environmental Consulting, Felton, CA, 95018, 1989 to present.

Staff Forester, Big Creek Lumber Company, Davenport, CA, 1976-1989.

Registered Professional Forester, License Number 1911, 1979 to present.

Professional Affiliations

Society of American Foresters (SAF)
- Past Chair, Monterey Bay Chapter.
- Monterey Bay Representative, Northern California Section Policy and Education Committees.

California Forest Soils Council
- Member since its founding in 1981. Chairman, 1989-90.

Pine Pitch Canker Task Force
- Member since its formation in early 1994 and current Chairman.

Open Space Advisory Committee for the Del Monte Forest (OSAC)
Naturalist member since June, 1994.

Soquel Demonstration State Forest Advisory Committee.
Chairman, 1993 to present.

California Licensed Foresters Association (CLFA)
Member of the Board of Directors, 1988-1994. President, 1992.

References: Available upon request.

Sample Project Description List - Staub Forestry and Environmental Consulting

1. **Forestry Consultant and Open Space Manager for the Del Monte Forest Foundation Permanent Assignment, 1993 – Present.**
   The Del Monte Forest Foundation (DMFF) is the non-profit open space agency for the Pebble Beach area of the Monterey peninsula with fee ownership and conservation easements covering more than 600 acres. Conservation of this forested open space requires annual maintenance operations in accordance with guidelines established by the Open Space Advisory Committee for the Del Monte Forest, a body created by the Monterey County Board of Supervisors. Principal planning and maintenance activities for DMFF have focused on fuels reduction, control and eradication of non-native plant species, and conservation of sensitive and endangered plant species and habitats, including Monterey pine.

2. **Forestry Consultant for the Graham Hill Road Improvement Project of County of Santa Cruz. November 1999 – Present.**
   Staub Forestry has prepared a Tree Removal Report for the proposed project describing the affected forest and evaluating feasible tree removal methods. Evaluations include working with project engineers to revise designs and/or recommend appropriate protection measures to permit extra tree retention. Project responsibilities will include oversight and monitoring of active tree removal operations.

3. **Forestry Consultant for the Land Trust of Santa Cruz County. Conceptual Forest Management Plan for the Byrne Forest, 1994. Eucalyptus Eradication and Revegetation, 1999.**
   Staub Forestry worked under the direction of the Board of the Land Trust of Santa Cruz County to prepare a Conceptual Forest Management Plan for its Byrne Forest property in Corralitos. The purpose of the Plan was to develop guidelines for management that conserve the property's unique mix of soil, vegetation and water resources for public use and benefit. The Plan incorporated information from UCSC student studies, reports from botanic and wildlife consultants, and previous selective harvests. Specific land uses and management recommendations were made to support the Land Trust's conservation and educational mission. In 1999, Staub Forestry planned and supervised operations to eradicate an invasive grove of eucalyptus as recommended in the Plan.

RESUME

STEPHEN F. McGUIRK
P.O. Box 1210
Soquel, CA 95073
business (831) 462-9981
fax (831) 462-9983
e-mail madrone@earthlink.net

OBJECTIVES: To apply my extensive experience in the fields of landscape architecture and horticulture towards the reordering of land systems to suit the owner's own design program and project needs.

EXPERIENCE: Thirty years of related land experience related to landscape design, land restoration, grading, drainage, planting and irrigation through ownership of landscape design, construction, and maintenance consultation firms.

Extensive technical writing in landscape- and horticulture-related fields, including two books.

Creation of curriculum and teaching landscape- and horticulture-related classes at Cabrillo College and the University of California at Santa Cruz Extension from 1979 to 1997.

Long-term involvement with Life Lab, an elementary education program teaching science through school gardens.

EXPERTISE:

- Landscape architectural design and project management.
- Erosion and sediment control.
- Land restoration and reclamation, including open-pit mines.
- Landscape maintenance management consultation and specification writing.
- Peer design review and value engineering.
- Excellent technical writing and public speaking skills.
- Salesmanship and congeniality with clients and public.
- Keen interest and experience in team participation.
- Ability to speak and write in Spanish.
- Familiarity with Macintosh computer systems and software.
- Overall knowledge of horticultural systems and business.

LICENSES / CREDENTIALS:

- Certified Arbitrator and Mediator - Institute of Construction Management (ICM)
- Registered California Landscape Architect, #2804.
- Certified Professional in Erosion and Sediment Control - License #677.
- 'Life' Teaching Credential in Ornamental Horticulture, California Community Colleges.
- Pilot's License (single engine land).
- Honorable Discharge, U.S. Marine Corps, 1968.

EDUCATION: University of California, Berkeley; College of Environmental Design; Bachelor of Arts, Landscape Architecture, 1975.

Academia Hispano-Americana, San Miguel de Allende, Mexico; Intensive Spanish Language study, 1975-76.

U.S. Naval School of Photography, Pensacola, Florida

CREDENTIALS: MADRONE LANDSCAPE GROUP

The Rationale for Land Restoration and Reclamation

As California loses more of its many natural landscapes, and as petro-chemicals and maintenance costs increase for exotic landscapes, land restoration and reclamation become viable ways to restore and increase native landscapes, as well as diminished related maintenance costs.

Native perennial landscapes also make sense for a number of reasons:

- Installation costs are less money per square foot than exotic landscapes.
- Native landscapes rely on solar energy input, rather than costly petro-chemical input.
- When plantings coincide with seasonal rain cycles, the need for irrigation systems is diminished or not necessary at all.
- Overall maintenance is greatly diminished in a native perennial landscape, as opposed to an exotic landscape. Generally a native perennial landscape can be maintained effectively with minimal irrigation and two to three mowings per year. No other petro-chemical input is required.
- They are environmentally sensible and provide habitat for wildlife species.

Services Offered:

Our company offers a complete range of land restoration and reclamation services including the following:

- Botanic surveys and vegetation inventories.
- Planning and design services.
- Preparation of complete plan and specification packages for governmental review and subsequent implementation.
- Project implementation management consulting services.

Complete Implementation Services Include:

- Site specific seed and cutting collection for propagation and replanting.
- Direct site seeding of native grasses and wildflowers.
- Planting of tree, shrub, perennial, and grass containers.
- Range land seed drilling of grass and wildflower seed.
- Hydroseeding of grass and wildflower seed. (This procedure is recommended for only steep slope areas and areas that are permanently irrigated and not dependent on seasonal rainfall alone).

Related Project Experience:

- **Visual Mitigation / Land Restoration**

  RMC PACIFIC MATERIALS: Raw Materials Storage and Blending Project
  Davenport, California
  Visual mitigation of proposed 200,000 cubic yard fill placement and two large industrial buildings within Highway 1 scenic corridor, using screening trees and habitat restoration.

Filizetti Residence
Santa Cruz, California
Visual mitigation of rip-rap revetment at the mouth of Corcoran Lagoon. Use of primarily native plant species of the Coastal Scrub habitat type to restore native habitat while mitigating views from East Cliff Drive.

Seascape Resort and Conference Center
Aptos, California
Visual mitigation of 30-acre resort hotel and conference center on the bluffs above the Pacific Ocean, using native forest, perennial grassland and riparian habitat restoration technologies.

- **Land Restoration/Reclamation Planning**

RMC PACIFIC MATERIALS, Reclamation Plan, Bonny Doon Quarries (1999)
Davenport, California
Preparation of 200 page Reclamation Plan includingbotanical inventory, native seed collection and increase program, creation of wetlands mitigation basins for the endangered California Red-legged frog, habitat restoration and erosion control and drainage specifications for 300 acres of open-pit mining land and related infrastructure.

RMC PACIFIC MATERIALS, Conveyor Line Decommissioning Model
Davenport, California
Botanical inventory, reclamation, erosion control and drainage recommendations for 3.5 mile conveyor line corridor.

Robert M. Bass Property
Portola Valley, California
Grassland and wildflower reclamation plans, maintenance program development for 13-acre site.

Miners Creek Housing Project
Auburn, California
Grassland and wildflower reclamation plans, maintenance program for 15-acre site.

Huckleberry Drive Entry Road
Monterey, California
Development of reclamation plans using native grasses, wildflowers, perennials, shrubs, and trees on non-irrigated sites.

Huckleberry Fire Access Road
Monterey, California
Development of reclamation plans using native grasses, wildflowers, perennials, shrubs, and trees on non-irrigated sites.

Foothill School Entrance
Monterey, California
Development of reclamation plans using native grasses, wildflowers, perennials, shrubs, and trees on non-irrigated sites.

Tunnel Landscape Median
Monterey, California
Development of reclamation plans using native grasses, wildflowers, perennials, shrubs, and trees on non-irrigated sites.

Monterey Sewer System Pumping Station
Monterey, California
Development of reclamation plans using native grasses, wildflowers, perennials, shrubs, and trees on non-irrigated sites.

The Fremont Street Landscape Median
Monterey, California
Development of reclamation plans using native grasses, wildflowers, perennials, shrubs, and trees on non-irrigated sites.

Fire Station #3 Demonstration Garden
Monterey, California
Development of plans for a fire resistant plant demonstration garden.

Meyers Property / Grading Violation
Bonny Doon, California
Preparation of reclamation and erosion control plans, and subsequent revegetation / reforestation implementation management and 3 year monitoring program for 20-acre land clearing violation area.

- **Land Restoration/Reclamation Implementation**

- Seascape Park
  Aptos, CA
  Implementation of 9-acre coastal prairie reclamation project, related irrigation systems, and built amenities for County Park.

- Seascape Resort and Conference Center
  Aptos, California
  Implementation of native perennial grassland and riparian reclamation projects related irrigation systems, and temporary and permanent erosion control systems for 30-acre resort, conference center, and beach trail.

Stephen R. Staub
Forester & Environmental Consultant
STAUB

June 14, 2000

Ms. Betty Cost
Richard Beale Land Use Planning, Inc.
100 Doyle Street, Suite E
Santa Cruz, CA 95062

RE: Whether the Monterey Pine Forest Associated with the Hinman Project should be considered Environmentally Sensitive Habitat

Dear Ms. Cost:

Although Monterey pine is a species of limited extent and is currently suffering from attack by the non-native pest pitch canker, it has a much greater range and number of individuals than any listed species I can think of. There are also a number of reasons based on current research to be optimistic about the species' ability to maintain itself and reproduce in the presence of pitch canker, as I noted in my detailed report on the project. That may be part of the reason that the petition to list the species as threatened was withdrawn last December and has not been resubmitted. The Ano Nuevo population has numerous other examples of similar Monterey pine habitat along Last Chance Road, on Big Creek Lumber Company property and on Cal Poly's Swanton Pacific property. Elevations, aspect, parent material, and soils are comparable in these areas so the Hinman parcel is not ecologically unusual. In addition, the Hinman project does not propose to remove any live Monterey pines and my recommendation was made to protect Monterey pine regeneration on the property that has expanded into former pasture areas. In view of the above factors, it is my professional opinion that the Hinman project area does not occur on Environmentally Sensitive Habitat for Monterey pine.

Sincerely,

Stephen R. Staub

Stephen R. Staub
Registered Professional Forester
License Number 1911

6010 Highway 9, # 6, Felton CA 95018 Phone: (831) 335-1452 Fax: (831) 335-1462 Registered Professional Forester, License No. 1911

K-16

RECEIVED
MAY 1 5 2000
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CUMULATIVE IMPACT ANALYSIS
HINMAN COASTAL PERMIT APPEAL A-3-SCO-00-033

There is an extensive discussion for cumulative impact analysis within the Guide to California Environmental Quality Act, tenth addition, 1999. This project clearly does not fit any of the examples or potential thresholds as described in the guide.[1]

First, the project itself has been determined by the lead agency (County of Santa Cruz) to not present a significant impact by itself. Second, per the following analysis of all private properties in the vicinity of the Hinman site, the site will not contribute to a cumulatively considerable impact. There are a total of four (4) sites, including the Hinman site, with the possibility of having homesites visible from Highway 1 or Ano Nuevo State Reserve. Two (2) of the four (4) sites are currently under review by the Coastal Commission. The other two (2) sites have no proposals pending and assuming visible homes on these sites is speculative. CEQA requires analysis only for "probable future projects" or projects which are reasonably foreseeable development projects. To assume this project will contribute to cumulatively considerable impacts is complete speculation.

The mere possibility of a maximum of four (4) total homes on legally existing lots of record with the possibility of being partially visible from any portion of Highway 1 or Ano Nuevo State Reserve does not constitute a cumulatively considerable impact. Each homesite will require a discretionary permit and will be evaluated to determine if the project minimizes visual impact, consistent with San Mateo County or Santa Cruz County General Plan and certified Local Coastal Program (LCP) policies. The Hinman project was found to be consistent with the adopted visual resource protection policies of Santa Cruz County.

Analysis of Nearby Private Properties

The attached map indicates the privately owned properties east of Highway 1 within San Mateo and Santa Cruz Counties. The following description summarizes each nearby private property.

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[1] Under CEQA guidelines, cumulative impact analysis is performed to determine whether a project will require an EIR. "(w)hen assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means the incremental effects of an individual project, the effects of other current projects, and the effects of probable future projects." (CEQA Guidelines, 15064, subd. (i)(1); see also CEQA Guidelines, 15065, subd. (c) (mandatory finding of significance for "environmental effects which are individually limited but cumulatively considerable"); Pub. Resources Code, 21083, subd. (b) (same).)

Nearby Private Properties within Santa Cruz County

1. Holmes (057-051-06) 545 acres. This property has been targeted for acquisition by State Parks and has been specifically mentioned as a possible acquisition site under Proposition 12, state park bond approved by voters in March 2000. If the site is not acquired, the large site allows many options for siting a home outside of the public view. The site is zoned Timber Production and any homesite will need to be consistent with an approved timber management plan by the County of Santa Cruz. A single-family home will also require a discretionary coastal permit and must meet standards for minimizing public views from Highway 1 and public vista points.
2. Holmes (057-051-05) 116 acres. This property may also be slated for state acquisition. The property receives access via two existing roads adjacent to Cascade Creek or Green Oaks Creek. The site is zoned Timber Production and would require approval of a timber management plan with any house approval. Due to the existing access roads adjacent to the two creeks, the best home sites are lower on the property on flatter portions of the site. Opportunities appear to exist for constructing a house not visible from Highway 1 and Ano Nuevo. A single-family home will also require a discretionary coastal permit and must meet standards for minimizing public views from Highway 1 and public vista points.
3. Kosek (057-061-15) 54 acres. This property is already developed with two or more dwellings.
4. Pfluke (057-061-11) 63 acres. This property is already developed with a single-family dwelling.
5. Hinman (057-061-16) 50 acres. Project site. The homesite is not visible from Highway 1, but may be partially visible as the size of a pin head from the highpoint of Ano Nuevo Reserve 2 miles from the site until existing trees completely obscure the home.
6. Boling (057-061-17) 14 acres. This property is already developed with a single-family dwelling.
7. Imwalle/Reiter, M. (057-061-18) 20 acres. This property does not have any open meadows visible from Highway 1 or Ano Nuevo. A dwelling can be developed without impact to scenic resources.
8. Imwalle/Reiter, M. (057-061-14) – 150 acres estimated. A ridgetop of this property is visible from Highway 1 and Ano Nuevo State Reserve, but is inaccessible. Several other dwelling locations exist for development. The site is zoned Timber Production and any homesite will need to be consistent with an approved timber management plan by the County of Santa Cruz. A single-family home will also require a discretionary coastal permit. Many options exist for homesites without visibility from public areas.
9. Imwalle/Reiter, M. (057-061-08) 40 acres estimated. This site is not visible from Highway 1 or Ano Nuevo State Reserve.
10. Imwalle/Reiter, M. (057-061-07) 40 acres estimated. This site is not visible from Highway 1 or Ano Nuevo State Reserve.

11. Imwalle/Reiter, M. (057-061-02) 240 acres estimated. This site is not visible from Highway 1 or Ano Nuevo State Reserve.
12. Imwalle/Reiter, M. (057-061-01) 40 acres estimated. This site is not visible from Highway 1 or Ano Nuevo State Reserve.
13. Imwalle/Reiter, M. (057-061-03) 120 acres estimated. This site is not visible from Highway 1 or Ano Nuevo State Reserve.

Nearby Private Properties within San Mateo County

14. Reiter, G. (089-230-350) 144 acres. This site has some meadow areas visible from Highway 1 and forested areas outside of public view. It is doubtful whether a home would be visible from any portion of Ano Nuevo due to the relatively low flatter topography of the site, even without mitigation. The size of the property allows alternatives for siting a home outside of public view, as would be required by San Mateo County. No proposal is pending for this site.
15. Lee (089-230-220) 84 acres. A home is proposed for this site and is under review by the San Mateo County Planning Department and the Coastal Commission. Mitigation measures for additional landscape visual screening are being considered for this site, which lacks the tree cover of all other sites listed.
16. Griffin (089-230-210) 13 acres. This property is already developed with a single-family dwelling.
17. Pfluke (089-230-280) 15 acres. This site is not visible from Highway 1 or Ano Nuevo State Reserve.
18. Kosek (089-230-200) 42 acres. This property is already developed with a single-family dwelling.
19. K&S Ranch (Blanke, S.) (089-221-080) ? acres. This property was acquired by the Coastal Conservancy and required to be sold back to private ownership as part of the Coastal Conservancy agreement to continue agricultural use. The site currently has an application pending with San Mateo County Planning Department for development of a single-family home and other equestrian structures. The San Mateo County Planner for this project indicates the home can be constructed out of the public view on this site.

Summary

Nineteen (19) private properties are described above. The vast majority of these private properties cannot be seen from Highway 1 or Ano Nuevo State Reserve. The cumulative impact analysis should focus on sites 1, 2, 5, 14, 15 and 19. These are the sites with any physical possibility of having homesites visible to the public.

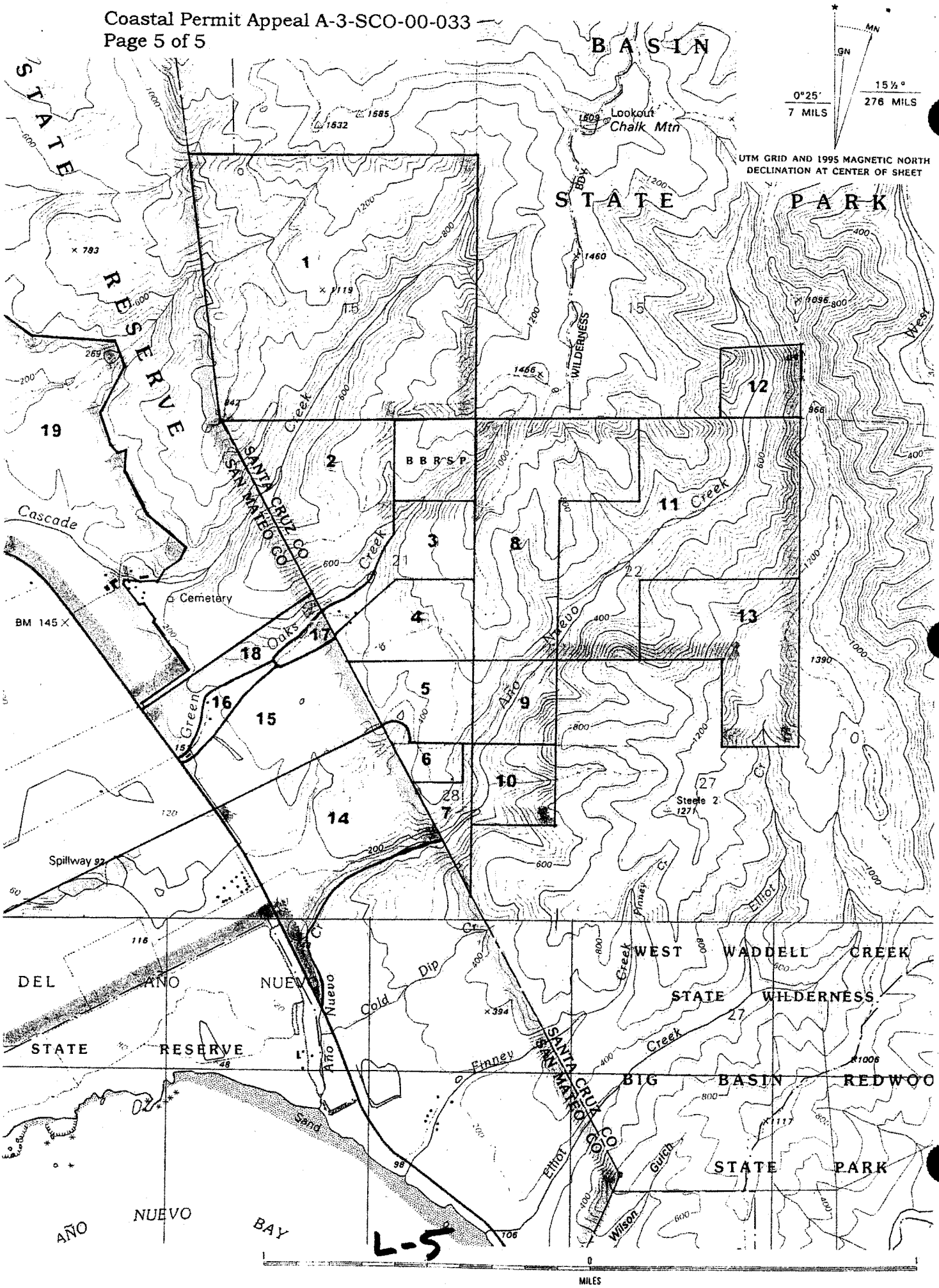
Evaluating each of these sites for public view impact reveals there is no potential cumulative impact.

- Sites 1 and 2 may be purchased by the state and even if these sites are not purchased, there are multiple building site options allowing construction not within public view.
- Site 5 is the Hinman site under review with minimal temporary visibility.
- Site 14 is a 144 acre site with many options for siting a home not within the public view, as required by San Mateo County Planning policies.
- Site 15 is under review by the Coastal Commission to evaluate screening options. This site has fewer trees than any of the other sites listed.
- Site 19 has an application under review by the San Mateo County Planning Department and the project planner indicates the proposed home is not visible from Highway 1 or Ano Nuevo.

These sites represent the probable or foreseeable future development. If Santa Cruz and San Mateo County Planning Departments continue their efforts to analyze public view issues with each of these sites, there will be no significant cumulative visual impact to Highway 1 or to Ano Nuevo State Reserve.

There is also no growth inducing aspect to a single-family residence on an existing lot of record. No land division is proposed. If properties were proposed for land divisions, such divisions could be viewed as encouraging other properties to divide properties, thereby inducing growth. Developing single-family dwellings on existing parcels of records is not growth inducing.

5/12/00


BASIN
STATE PARK
STATE RESERVE
Lookout
Chalk Mtn
WILDERNESS
BBRSP
SANTA CRUZ CO
SAN MATEO CO
Cascade
Creek
Cemetery
BM 145
Oaks
Green
Año Nuevo
Steele 2
Spillway
DEL AÑO NUEVO
STATE RESERVE
Cold Dip
Finney
Sand
AÑO NUEVO BAY
WEST WADDELL CREEK
STATE WILDERNESS
BIG BASIN REDWOO
STATE PARK
Elliot
Wilson Gulch
West
0°25'
7 MILS
15½°
276 MILS
UTM GRID AND 1995 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET
MILES

L-5

RICHARD BEALE
Land Use Planning
Incorporated

100 Doyle Street • Suite E
Santa Cruz, CA 95062
(831) 425-5999
FAX (831) 425-1565

Masters of Architecture
Univ. of CA, Berkeley

memorandum

DATE: June 15, 2000

TO: CALIFORNIA COASTAL COMMISSION

FROM: Betty Cost

SUBJECT: **HINMAN HOUSE/SANTA CRUZ COUNTY NORTH COAST/A-3-SCO-00-033**

The attached five letters are from the immediate neighbors of the proposed Hinman house: Lee/Moser, the Pflukes, Jennings/Pfluke, George Griffin, and the Bolings. These letters were submitted to the County of Santa Cruz during the County public hearings and can be found in the County's administrative record. However, we wanted to bring them to your attention for your own deliberations because **ALL 5 IMMEDIATE NEIGHBORS ARE IN SUPPORT OF THE HINMAN PROPOSAL**.

M-1

ATTACHMENT 5

David R. Lee and Cheryl L. Moser
P.O. Box 2232
El Granada, CA 94018

0437

August 9, 1999

Ms. Kathleen Carr
County of Santa Cruz
Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Re: Hinman/Skees Project

Dear Ms. Carr:

We have been coastside residents for many years and currently own the approximately 84 acre parcel of land in San Mateo County, directly west of and abutting the Hinman's property. We are writing this letter in strong support of their project.

We have had an opportunity to review their building site, including the currently installed "story poles" and netting. We have also had a chance to review in detail their building and grading plans, sketches and conceptual photos of the planned project. We have also had extensive conversations with the Hinman's to discuss their planned use of materials, landscaping plans and the integration of their project into the natural coastal ecosystem.

In summary, we are delighted to have such a unique architectural project in proximity to our property with neighbors that share our sensitivity to the coastside environment. While it is not possible to see their proposed building site through the dense treeline surrounding the eastern boundary of our property, if we had no such treeline we would still be delighted to see a magnificent example of Gothic revival architecture in such a beautiful area of the Northern California coast.

From what we can tell from our review of the Hinman's proposed building site from the Cabrillo Highway, it is not visible from view. Even if it were visible, the substantial distance from the highway and the "footprint" of their proposed home would make such impact barely perceptible.

ATTACHMENT 5

Ms. Kathleen Carr
Page 2

0438

While our love of the beauty of the coast might otherwise cause us to want to prevent any further development of any kind, having neighbors that share the same appreciation of the coastal beauty and who seem deeply committed to building a home in an environmentally conscious manner is a significant benefit to those of us who live on the coast as well as for others who will share the coast for many years to come. We would be happy to elaborate on the content of this letter or our views regarding the Hinman's project. Please feel free to contact us at (650) 726-4528.

Yours truly,

David R. Lee

Cheryl L. Moser

ATTACHMENT 5

0459

John H. & Sybil Pfluke
221 Kingsley Avenue
Palo Alto, CA 94301

County of Santa Cruz Planning Dept.
701 Ocean Street
Santa Cruz, CA 95060

Dear Ms. Carr,

We are writing in regard to Mr. Brian Hinman's proposed plans for construction of a 14,500 square foot home in Santa Cruz County near Año Nuevo State Reserve. We are the current owners of ap# 057-061-11, which is adjacent to Mr. Hinman's parcel and proposed building site. We are not opposed to his building plan. We feel that his plan would blend in with the surrounding landscape and not detract from the beauty of the area. Our son and his wife live on our property and they too believe that the proposed development would in no way be detrimental to our planned use of our property.

Sincerely,

John H. Pfluke

Sybil A. Pfluke

M-4

ATTACHMENT 5

0440

2060 Cabrillo Hwy.
Pescadero, CA 94060
(650) 879-1009

July 29, 1999

County of Santa Cruz Planning Dept.
701 Ocean St.
Santa Cruz, CA 95060

To Whom It May Concern:

We are writing in regard to Mr. Brian Hinman's proposed plans for construction of a 14,500 square foot home in Santa Cruz County, near Ano Nuevo State Reserve. We are live-in caretakers and future inheritors of ap# 057-061-11, which is adjacent to Mr. Hinman's parcel with the proposed building site. We heartily approve of his plans, both in terms of his chosen building site and the details of his architectural plans for the home and accessory structures. We feel that his proposed building site, being nestled into the hills and existing trees, would sufficiently blend his proposed home into the landscape and would in no way infringe upon the beauty of the surrounding rural coast side. Furthermore, the architectural plans for the home and structures are of sound and pleasing design.

We look forward to being neighbors with Mr. Hinman and his family and are in full support of his proposed plans. If you have any questions, do not hesitate to contact us at the above address and phone number.

Sincerely,

Stephanie Jennings Paul Pfluke

Stephanie Jennings and Paul Pfluke

ATTACHMENT 5

Pat Boling 2074 Highway One ♦ Pescadero, CA 94060

0447

May 3, 1999

Cathleen Carr
701 Ocean Avenue, 4th Floor
Santa Cruz, CA 95060

Dear Ms. Carr:

This letter is about the granting of a building license to Mr. Brian Hinman. We have known the Hinmans since they first ventured up our road in search of a home site several years ago. They bought the acreage just north of ours, and we have found them to be a very endearing and hospitable family in our dealings with them ever since. Consequently, we have no doubts that they are straightforward in their plans and would welcome them as neighbors.

Sincerely,

Marion S. Boling

Pat Boling

George D. Griffin, M.D.
1431 Webster St.
Palo Alto, CA. 94301
415-326-6743

3-10-00

Supervisors, County of Santa Cruz
Santa Cruz County Government
701 Ocean Street
Santa Cruz, CA

Re: Hinman House Hearing, 3-14-00

Dear Supervisors:

I am owner of house and property adjacent to the proposed Hinman House. I am at 2080 Cabrillo Hwy, "Green Oaks Ranch or the Mr. Steele Ranch"

I have seen the plans and I am not objecting to their house plans. I had an affectionate respect for Mr & Mrs Stanley Steele who were my next door neighbors at that site, and I welcome the Hinmans arrival as neighbors and their planned home.

Respectfully
George D. Griffin

Mailed 3-10 00 GDG

M-7

STATE OF CALIFORNIA - RESOURCES AGENCY
Gray Davis, Governor
DEPARTMENT OF PARKS AND RECREATION

Bay Area District
250 Executive Park Blvd.
Suite 4900
San Francisco, CA 94134-3306

March 14, 2000

Santa Cruz County Board of Supervisors
Governmental Center
Suite 500
701 Ocean Street
Santa Cruz, CA 95060-4069

Members of the Board:

Re: Application # 98-0426
Hinman Residence
Santa Cruz County

The California Department of Parks and Recreation wishes to express its concern over the adverse visual impact of the proposed 14, 494 sq.ft. Hinman residence on the scenic and visual resources of the Año Nuevo State Reserve.

Año Nuevo State Reserve is an internationally renowned unit of the California State Park System. It is a "State Reserve" not a "State Park". California Public Resources Code identifies State Reserves as "areas embracing outstanding natural and scenic characteristics of statewide significance". State Reserves require the highest level of protection within the California State Park System. The unique and outstanding characteristics of Año Nuevo have also received official recognition by the Federal government. The U.S. Department of Interior has designated Ano Nuevo State Reserve as a "National Natural Landmark"

Each year approximately 240,000 people visit the Año Nuevo State Reserve. Visitors to the Reserve enjoy both the elephant seal wildlife and some of the most spectacular and extraordinary panoramic vistas found anywhere along the coast of California. This spectacular sense of remoteness and wildness so near to a major metropolitan area is found no where else in the state.

The California Department of Parks and Recreation believes that the proposed development project, as currently sited and designed, will have a negative impact on the scenic characteristics and quality of Año Nuevo State Reserve. The Department believes

N-1

that this visual intrusion will be significantly magnified over time if the numerous Monterey Pine trees surrounding the project site die off from the effects of pitch canker. Currently, approximately 30 percent of the Monterey Pines in the vicinity of the proposed development are dying. If observed rates of mortality continue, substantial loss of the tree cover at the project site would significantly alter the character of the surrounding landscape. The project would be openly and dramatically visible from the Reserve and numerous other locations seaward of Highway One.

In the Department's judgement, the visual assessment and analysis undertaken for this development proposal and presented within the Negative Declaration and staff report to the Zoning Administrator is inadequate. The analysis and mitigation measures are directed at reducing acknowledged visual impact; not at ensuring that the project be sited and designed in such a fashion as to have no adverse visual impact.

As a means to address the issue of visual impact more accurately and completely, the California Department of Parks and Recreation suggests that the Santa Cruz County Board of Supervisors consider requiring an Environment Impact Report for this development request. Given the significance of the Año Nuevo State Reserve as a recognized state and national treasure, the Department hopes that the Santa Cruz County Board of Supervisors will obtain a more complete and thorough visual assessment of this project and carefully consider the cumulative impacts such a project will have upon this section of California's scenic coastline.

Should you have any questions please contact me at (415) 330-6300.

Sincerely,

Ronald P. Schafer
District Superintendent
Bay Area District

cc: California Coastal Commission

N-2

Service Area 9 - Highway Safety Lighting, and/or County Service Area 9, (Zone A), Residential Street Lighting standards, before being approved by the County.

(2) The developer shall install appropriate lights according to the approved street lighting plan at the developer's expense. The developer shall enter into a private agreement with Pacific Gas and Electric for power costs when lights are not taken into the County Service Area 9, Highway Safety Lighting, or County Service Area 9, (Zone A), Residential Street Lighting, at the time of acceptance of development improvements.

(3) All maintenance and liability for the street lighting shall remain with the property owner until such time as the County may exercise its discretion to accept the street lighting into County Service Area for Highway Safety Lighting, or the County Residential Street Lighting Service Area, Zone A.

(4) The developer of property, within an area which does not currently have residential street lighting because of the historical opposition of the residents of the area to the installation of residential street lighting, may seek an exception from the residential street lighting requirements. An exception in these areas shall be granted only if the applicants' engineer can satisfactorily document to the Planning Department that the failure to install residential street lighting will not create a dangerous condition of public property that could have been avoided by the installation of residential street lighting. (Ord. 4346, 12/13/94)

13.10.325 LARGE DWELLING PERMIT REQUIREMENTS AND DESIGN GUIDELINES

(a) Approvals. No residential structure shall be constructed which will result in 7,000 square feet of floor area or larger, exclusive of accessory structures associated with the residential use, unless a Level V approval is obtained pursuant to the provisions of this Section.(Ord. 4286, 12/14/93)

(b) Findings. All applications subject to this subsection shall be approved only if one or more of the following findings can be made:

(i) The proposed structure is compatible with its surroundings given the neighborhood, locational or environmental context and its design is consistent with the Large Dwelling Design Guidelines in subsection (d) below; or

(ii) The proposed structure, due to site conditions, or mitigation measures approved as part of the application, will be adequately screened from public view and will not adversely impact public viewsheds, neighboring property privacy or solar access, and its design is consistent with the Large Dwelling Design Guidelines set forth in subsection (d) be-

O-1

low. (For structures within the Coastal Zone requiring a Coastal permit approval, additional findings shall be made pursuant to Section 13.20.110).

(c) Conditions. Conditions of project approvals made pursuant to this subsection may include mitigation measures necessary to preserve the neighborhood character in which the proposed structure(s) will be located, to preserve neighboring property privacy or solar access, and/or to screen the structure(s) from the road. Such measures may include, but are not limited to: house and accessory structure resiting, additional landscape screening and house redesign, including possible reduction in floor area.

(d) Large Dwelling Design Guidelines. New large dwellings and related accessory structures regulated by this Section are subject to the following design guidelines. The intent of these guidelines is to assist the applicant in meeting the requirements of the large dwelling regulations, and to assist the Urban Designer and Zoning Administrator in reviewing applications.

Large dwellings and their related accessory structure should be designed so that:

1. Changes in the natural topography of the building site are minimized.

2. Grading cuts and fills are minimized, and when allowed, are balanced.

3. House design and accessory structure horizontal elements follow hillside contours, where applicable.

4. Colors and material are used to reduce the appearance of building bulk. Use of earthtone colors is encouraged.

5. Building height appearance is minimized by varying the height of roof elements and setting back higher portions of the structure from prominent viewpoints.

6. Ridgeline silhouettes remain unbroken by building elements. Building envelopes should be allocated to the lower portions of hillside lots, where feasible.

7. The structure(s) is compatible in terms of proportion, size, mass and height with homes within the surrounding neighborhood.

8. Architectural features break up massing. This can be accomplished by varying roof lines, puncturing large wall expanses with bay windows or recessed wall planes, or using a combination of vertical and horizontal architectural elements.

O-2

9. Landscaping helps blend the structure(s) with the natural environmental setting of the site. This can be done by preserving existing vegetation as much as possible, siting the structure(s) to take advangage of existing trees and land forms, and by planting fast-growing, native landscaping to screen elements visible from viewpoints located off the parcel on which the structure is located.

10. The view to adjacent properties is controlled. This can be done by minimizing second-story windows facing close neighboring properties, orienting upper floor balconies and decks toward large yard areas, locating the structure on the site as far from property lines as possible, and using landscaping to enhance privacy.

11. The location of the structure(s) on the site minimizes view blockage within public viewsheds.

(Ord. 4097, 12/11/90; 4119, 3/5/91; 4122, 4/9/91)
(Ord. 4133, 6/4/91)

13.10.330 COMMERCIAL DISTRICTS

Sections:

13.10.331 Purposes of Commercial Districts
13.10.332 Uses in Commercial Districts
13.10.333 Development Standards for Commercial Districts
13.10.334 Design Criteria for Commercial Districts
13.10.335 Special Standards and Conditions for Commercial Districts

13.10.331 PURPOSES OF COMMERCIAL DISTRICTS

In addition to the general objectives of this Chapter (13.10) the Commercial Districts are included in the Zoning Ordinance in order to achieve the following purposes:

(a) General Purposes.

(1) To provide for retail stores, offices, service establishments, recreational establishments, and wholesale businesses offering a range of commodities and services adequate to meet the needs of County residents and visitors, of different geographical areas in the county and of their various categories of patrons.

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HINMAN SITE CONSTRAINT ANALYSIS & MAPS

TABLE OF CONTENTS:

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MAP #2: BUILDING SITE MUST NOT PRECLUDE AGRICULTURAL USE

GEOLOGIC ISSUES
MAP#3: LANDSLIDES
FAULT TRACES (NONE)

SLOPES
MAP #4: OVER 30% SLOPES

BIOTIC ISSUES
MAP #5: WETLANDS AND RIPARIAN VEGETATION AREAS AND 100 FOOT BUFFER AREAS
MAP #6: RED-LEGGED FROG AND SAN FRANCISCO GARTER SNAKE HABITAT AND BUFFER AREAS
MAP #7: CURRENT RIPARIAN AND MONTEREY PINE FORESTS AND MONTEREY PINE REGENERATION AREAS
MAP #8: NATIVE GRASSES AREAS

MAP #9: COMPOSITE MAPPING OF ALL CONSTRAINTS

RECEIVED
SEP 12 2000
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

MAP #1: 200 FT AGRICULTURAL BUFFER

The County of Santa Cruz LCP requires a 200 foot buffer for habitable buildings from adjacent commercial agricultural lands. The properties to the north and the south are zoned CA, Commercial Agriculture, and so the 200 foot buffer applies along these two property lines. This is a 200 foot wide strip of land in which no habitable buildings may be located. Since the San Mateo County property to the west of the Hinman property is also zoned for agricultural uses, we have shown an agricultural buffer along the west property line.

SUPPORTING DOCUMENTATION:

LCP POLICY 5.13.23 AGRICULTURAL BUFFERS REQUIRED

AG PRESERVATION ORD. 16.50.095(B)1: 200 FOOT BUFFER REQUIRED

AGRICULTURAL BUFFER CONSTRAINT

MAP #1

Monterey Cypress Expressions are required for a distance of 1200 feet along the right of way that begins at the Northwest corner of the parcel and trends Southeast. The plantings shall be 25 gallon, spaced [illegible] 25 feet on center, in order to provide visual screening from viewpoints in [illegible] Ano Nuevo State Park when the trees are mature. This grove will function as secondary screening in case the eucalyptus grove on the adjacent parcel is thinned or cleared in the future.

200 ft. Agricultural Setback

PARCEL A
17-PM-45

PARCEL B
17-PM-45

SANTA CRUZ COUNTY
SAN MATEO COUNTY

PHIC MAP
e request of
S ASSOCIATES
SUZANNE SKEES
d al
061-16
M.D.B.&M.
ANTA CRUZ

R-3

KIRK BIRDSEYE PERSON & ASSOCIATES
ARCHITECTS

ANO NUEVO HOUSE

Robert L. DeWitt & Associates, Inc.

MAP #2: BUILDING SITE MUST NOT PRECLUDE AGRICULTURAL USE

The Santa Cruz County LCP requires that any single-family dwelling located on CA, Commercial Agricultural zoned lands in the Coastal Zone must provide space for an agricultural use of the property. This property has been used for grazing in the past. With the house located outside of the meadow area, the approximately 30-40 acres of meadow could still be used for grazing in the future. The constraint map shows the meadow area minus the riparian area, which should probably be fenced for its protection in the event that grazing takes place on the parcel.

In order to determine if there may be other agricultural uses which could occur on the property, the owner had a study done regarding viticulture. Most of the property was too sloping, too wet or too shaded to allow viticulture. However, the area above the 400 foot elevation and encompassing the coyote brush area on the south side of the property and the area directly below and to the west of the house could support viticulture.

DISCUSSION: Agricultural uses which may involve plowing would appear to preclude the use of the property for endangered species habitat, specifically for red-legged frogs or San Francisco garter snakes, both of which could be on the property although the snakes have not been observed on the property. Even grazing may be incompatible with the protection of seedling Monterey Pines. Although the LCP protects agriculture as a coastal priority use, this property may be better utilized as an endangered species habitat with a conservation easement over the meadow and riparian areas to protect frogs, snakes, and regeneration of Monterey Pines.

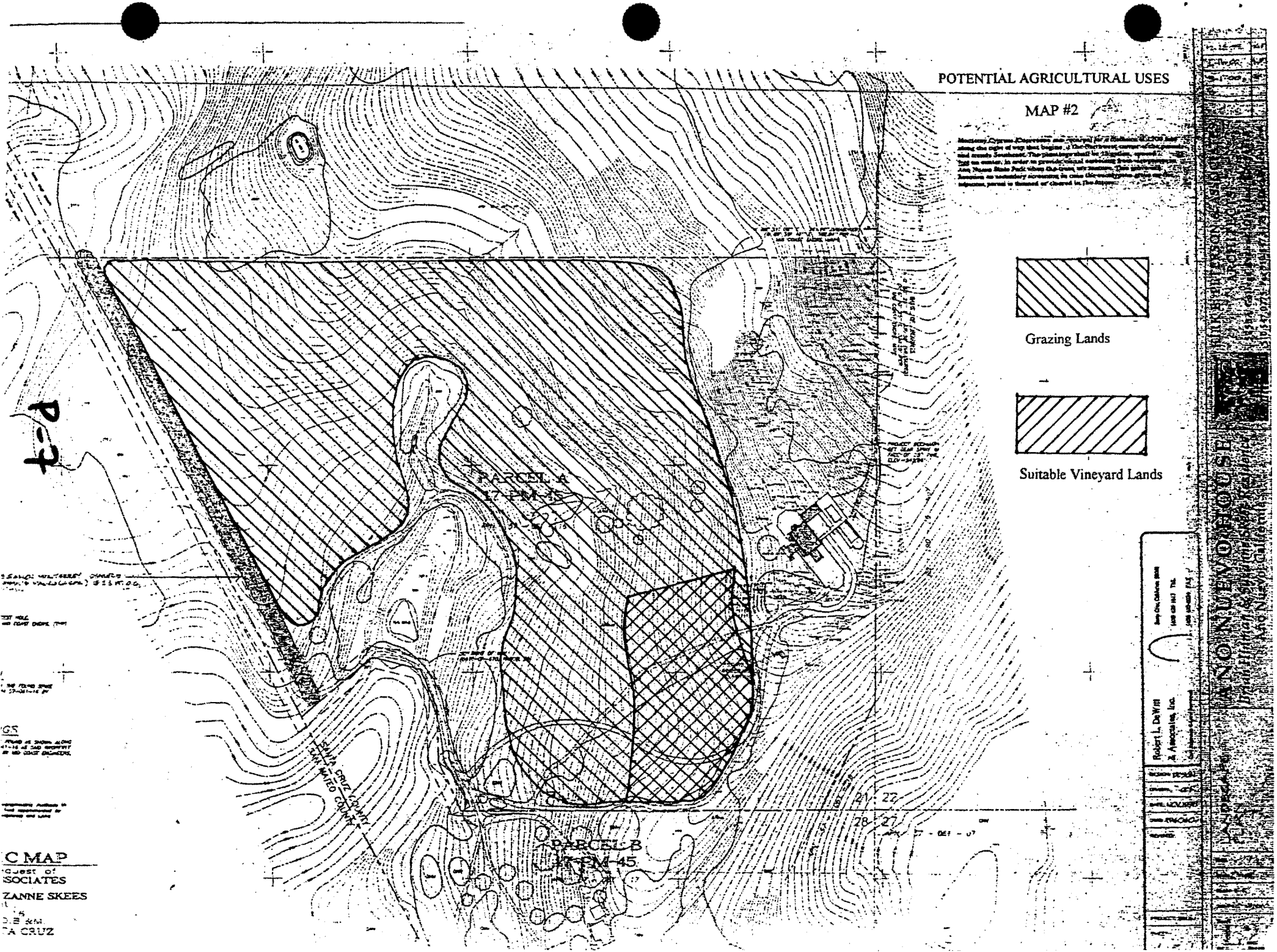
Location of the house outside of the meadow area would accomplish two things. It would accomplish the LCP requirement of not precluding future agricultural use of the meadow area for grazing. It would accomplish the endangered species habitat protection goal by locating the house as far away as possible from the pond and riparian areas, the habitat and buffer areas of the snakes and frogs, and the current regeneration areas for the Monterey Pines.

<u>SUPPORTING DOCUMENTATION:</u>

LCP POLICY 5.13.6: AVOID REMOVAL OF LAND FROM AGRICULTURAL PRODUCTION

LCP ORD. 13.10.314(b) RESIDENTIAL USES IN THE CA ZONE DISTRICT

"VINEYARD DEVELOPMENT PROFILE" BY PRUDY FOXX


POTENTIAL AGRICULTURAL USES
MAP #2
Grazing Lands
Suitable Vineyard Lands
PARCEL A
17 PM 15
PARCEL B
17 PM 45
SANTA CRUZ COUNTY
SAN MATEO COUNTY
C MAP
SOCIATES
ZANNE SKEES
CA CRUZ

P-7

5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands

(LCP) All conditional uses shall be subject to standards which specify siting and development criteria; including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions:

(a) The use constitutes the principal agricultural use of the parcel; or
(b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or
(c) The use consists of an interim public use which does not impair long term agricultural viability; and
(d) The use is sited to avoid conflicts with principal agricultural activities in the area; and
(e) The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production.

5.13.7 Agriculturally Oriented Structures

Allow only agriculturally oriented structures or dwellings on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of preserving agriculture.

5.13.8 Location of Agricultural Support Facilities

Require agricultural support facilities, where permitted on designated Agricultural lands, to locate either off good agricultural soils, or when this is not feasible, on the perimeter of good agricultural soils.

5.13.9 Utility District Expansion

(LCP) Prohibit the expansion of County-controlled sewer district boundaries, and oppose the expansion (through annexation) of special district, or municipal, sewer or water boundaries, onto Types 1 and 3 Commercial Agricultural Land.

5.13.10 Water and Sewer Lines in the Coastal Zone

(LCP) Prohibit the placement of water or sewer lines on commercial agricultural lands in the Coastal Zone. Allow exceptions to this policy only under the following circumstances and require safeguards (See 5.13.11) to be adopted which ensure that such facilities will not result in the conversion of commercial agricultural lands to non-agricultural uses:

(a) Allow water transmission lines from the North Coast to the City of Santa Cruz and allow service lines to be placed on commercial agricultural lands for the purpose of irrigation and related agricultural uses.
(b) Allow sewer transmission lines to and from the City of Watsonville sewage treatment plant to cross commercial agricultural lands without service to the affected parcels.
(c) Allow water and sewer lines to be placed on commercial agricultural lands to serve existing development which has failing wells and/or sewage disposal systems.

5.13.11 Protection for Water and Sewer Lines

(LCP) For the purposes of policy 5.13.10, safeguards shall include, but not be limited to:

(a) Prohibiting hookups to trunk lines through commercial agricultural lands, and
(b) Prohibiting the levying of assessment fees against commercial agricultural land for the construction of sewage transmission lines running through them.

(See Wastewater policies, section 7.21)

5.13.12 Energy Efficiency and Resource Protection

Encourage energy-efficient and resource protection agricultural practices such as organic farming, integrated pest management, biodynamic cultivation and utilization of agricultural wastes for on-site energy production. (See program e.)

5.13.13 Composting Agricultural Wastes

(LCP) Encourage the composting of agricultural wastes and the use of composts in agriculture production, as a means of reducing irrigation water demand and reducing solid waste disposal requirements. Allow the commercial composting of source separated organic material such as yard waste on agricultural land with an approved development permit, including coastal development permits, subject to health and water quality requirements.

SECTIONS	
General site standards	13.10.510, et seq.
Signs	13.10.580, et seq.
Parking	13.10.550, et seq.
Fences	13.10.525
Minimum parcel sizes	13.10.510(g)
Use of non-developable land	13.10.671
Trip reduction requirements (development projects for 50 or more employees)	13.10.591
Design review	13.11.010, et seq.
Agricultural buffers/setbacks	16.50.095

(Ord. 4314, 5/24/94; 4346, 12/13/94; 4406, 2/27/96)

13.10.314 REQUIRED SPECIAL FINDINGS FOR "CA" AND "AP" USES.

(a) All Uses. For parcels within the "CA" Commercial Agriculture and "AP" Agricultural Preserve Zone Districts, the following special findings must be made in addition to the findings required by Chapter 18.10 in order to approve any discretionary use listed under Section 13.10.312 which requires a Level V or higher Approval except Agricultural Buffer Determinations:

1. That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

2. That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or that no other agricultural use is feasible for the parcel or

3. That the use consists of an interim public use which does not impair long-term agricultural viability; and

4. That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.

→ 5. That the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production. (Ord. 4094, 12/11/90)

(b) Residential Uses in the Coastal Zone. For parcels within the "CA" Commercial Agricultural and "AP" Agricultural Preserve Zone Districts in the Coastal Zone, the following special findings shall be made in addition to those required by Chapter 18.10 and paragraph (a)

Map No. 2
Vineyard
Development
Profile

Hinman Vineyard Development Profile

INTRODUCTION

This is a site evaluation report summarizing the viticultural potential of the APN 57-061-16 Santa Cruz County property. The evaluation is based on a site visit, on site observations, on conversation with the land use planner, and on the topographic map prepared by Robert L. DeWitt & Associates.

SITE PROFILE

The proposed vineyard site is located off of Hwy 1 in North Santa Cruz County. The parts of the property recommended for vineyard development are above 400 ft. in elevation. This is within the boundaries of the Santa Cruz Mountain viticultural appellation. The appellation boundary starts at 400 ft. on the coastal side of the area. The soils are loamy with some pockets of clay and mudstone. The site is primarily south facing and the slopes vary from 10 to 30%. Existing vegetation indicate soils of low fertility. Soil samples must be taken and analyze at a lab for a more complete evaluation. Total potential land available for planting above the 400 ft. elevation boundary is approximately 5 acres. There is an additional 6 acres just below the 400 ft. boundary that is gently sloped and has the potential to produce wine grapes. However, this area is outside of the appellation boundary and could not be marketed as Santa Cruz Mountain grapes. For purposes of this initial evaluation I have divided the potential planting areas into two sites.

Site One is located on the southeast side of the property. It is on a 10-20% slope and encompasses about 3.25acres. There is some indication of spots where there may be some drainage issues that will need to be addressed prior to planting. This site has good light exposure and there are no existing trees to cause shading problems. Soil samples must be taken and analyzed at a lab for further evaluation.

Site Two is located on the southwest side of the property. The upper 1.5 acres is above the 400ft. appellation boundary. The remaining 6 acres is below 400 ft. and is very gently sloped. This site experiences early afternoon shade from the existing Eucalyptus trees along the entrance road. Shading from the trees would impact the maturation of the grapes.

Other areas on the property are on slopes above 30% or have accessibility problems. Plantings on steep slopes require specialized equipment and elaborate erosion control techniques that must be maintained. Generally it is not advisable to plant these areas. There is a small knoll of about an acre that could be planted with grapes within this area. The slope is about 20 – 29% so it would be challenging but could be done. However accessibility to this site might make the planting of such a small area undesirable.

Although total plantable grape acreage is relatively small there are some very positive aspects to the project. The neighbors to the east of the property have lived there for about 5 years. They have described the area as a "banana belt" meaning that the area experiences many days of sunshine when the rest of the coast is shrouded in fog. There is also on their property an existing small test vineyard that was planted about ten years ago and has not been maintained for at least 5 years. Despite this neglect, many of the vines are still alive and show signs of fruit production. This is a very good indicator of the potential for successful wine grape growing in this area. It shows that the soil has good water holding capacity, that there is adequate heat to grow grapes, and that there does not appear to be any significant soil pest problems in the immediate area. Further investigation is required to confirm these observations.

RECOMMENDATIONS

FURTHER INVESTIGATION

1) Climate determines if wine grapes can be adequately ripened to produce a premium crop. Therefore, it would be in the owner's best interest to install a weather monitoring system to determine how many heat units this site actually experiences during the growing season (late March to November). The Hobo temperature data logger is an electronic instrument that records temperatures and other weather variables over time and stores the data in memory. This information can be downloaded onto a personal computer to view temperature variations over time. The total system, including software, costs about $250.00.

   I recommend that the prospective grower install such a system immediately to monitor this site during the year 2000 growing season. Although it would be great to have many years data to evaluate the site's potential, even one year's data will help to determine what variety of grape will thrive in this environment.

   If you need more immediate information, there may be a local weather station already in place on a neighboring property or site. It may not be completely representative of your microclimate, but it may provide statistical data that is useful.

2) It would be advantageous to observe the neighbor's small test plot during this season to observe how the grapes are doing there. You may need to offer some maintenance assistance (pruning, etc.) to ensure that a crop is produced this year.

3) Soil samples should be taken from the prospective vineyard sites and sent to a lab for analysis. Separate samples should be collected for nutrient content and for the presence of nematodes and other soil pathogens.

4) The water source must be evaluated for mineral content and pH as well as quantity available.

VINE SELECTION

1) Determine the best variety for the site based on climate data and local observation. The Santa Cruz Mountain Appellation is known for the production of premium Chardonnay and Pinot Noir. There is a good chance that either of these varieties will do well here. There are several new Italian and Rhone varieties emerging in the market that may be a consideration as well.

   The Pinot Noir grape makes the finest wine in Burgundy. It is a very old variety that has mutated into at least 46 different clones. The premium Pinot Noir clones tend to be lower yielding. Ideally this should lead to higher per ton prices. Currently Santa Cruz Mountain Pinot Noir is selling for $1800 - $2200/ton. There is talk of higher prices but these are unconfirmed or require specific maintenance contracts or limit the tonnage a vineyard can produce. Pinot Noir on this site will probably produce 3-4 tons per acre of fruit.

   The Chardonnay grape is also an old variety from Burgundy. It produces a fine white wine that is popular all over the world. It is widely planted so the price per ton may not be as competitive as the Pinot Noir. This vineyard should produce around 4 tons per acre of Chardonnay. Prices per ton in the Appellation vary and are similar to though more volatile than the Pinot Noir.

FOXX VITICULTURE 1400 SUN MNTN RD. FELTON CA 95018 831-332-6677

2) Determine the Clone. Clones are a subcategory of the variety. They are a population of vines derived from the cuttings from a single vine of a specific variety. Clones have become a very important aspect of varietal selection. In the past most clones available through the nurseries were selected for their production potential and pathogen resistance. Now clones are available that have been selected for quality.

3) Determine the rootstock most appropriate for this site and soil type. Since the vinifera wine grapes are so susceptible to phylloxera and other pest and soil problems, most vineyards today are planted on rootstocks that are suited to the site. Selection of appropriate rootstock material is based upon the following factors: presence of a pathogen (phylloxera or nematodes are a common threat. Phylloxera is a root aphid that tends to prefer heavier soils, nematodes thrive in lighter, sandy soils); texture and structure of soil; drainage, irrigation, potential vigor, and wine quality.

ORDERING VINES

Grapevine planting material is ordered from a reputable grapevine nursery. There are many such nurseries in California and all over the world. I have worked with several of the California nurseries and can make specific recommendations about where to go when the time is appropriate.

When purchasing grapevines from a reputable nursery you can choose two types of plants.

1) 1 year old (or 2nd year) dormant rooted benchgrafts. Benchgrafts are created from the union of a varietal clone and rootstock that are selected and grafted at least 2 winters prior to planting. Vines scheduled for planting in Spring 2001 should be ordered by Winter 2000. Following this schedule allows the winegrower to be very selective about the specific variety, clone, and rootstock best suited to the vineyard vision. Nurseries prefer to custom graft orders. Availability of planting material is constantly changing. Dormant benchgrafts are available as potted or field grown. Field grown is generally more vigorous and better rooted. When available, always ask for number one grade.

   Benchgrafts should be ordered at least 14 months prior to planting.

2) "Green growers" are grafted vines that are created and planted in the same year. They are more delicate in the beginning then dormant benchgrafts and require much more attention the first year. Consistent watering and weed management are essential to a successful planting. Green growers are grafted throughout the spring and are potted in either four-inch pots or sleeves. I prefer the sleeves because I think you get better root growth. Quality in green growers varies widely.

   Green growers should be ordered at least 5 months prior to planting.

OTHER CONSIDERATIONS

There are many aspects to establishing and maintaining a premium wine grape vineyard. It is ideal to establish a relationship with a winery prior to planting so that a market is assured for your grapes and the winemaker is getting exactly what he or she wants. Prior to designing the vineyard layout it is important to determine what type of maintenance equipment you plan to use. Often the size of the tractor or maintenance machine will determine the aisle spacing in the vineyard. New technology has produced high-powered low profile machines that are capable of fitting down very narrow rows.

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Some of the biggest pests in a vineyard, especially a new planting, are deer. When considering which sites to plant, plan on erecting a 7 to 10 foot deer fence around the vineyard area. Deer can severely and permanently stunt young vines. A physical barrier to the animals is your best protection.

Vineyard establishment is costly and time consuming. It is not uncommon for costs to run from $20,000 to $30,000 per acre to prepare the site, plant the vineyard, and grow the vines to their first crop. It usually takes three years to get your first crop after planting and that year is limited to 50% of the total potential production.

CONCLUSION

This site does not have any obvious barriers to the establishment of a small premium production wine grape vineyard. Soil and water tests and additional climate data are needed to confirm this. The presence of a test vineyard in your neighbors yard is a very good indicator of the potential for success with this endeavor.

Please contact me if you have any additional questions or would like to discuss this project further.

Sincerely,

Prudy Foxx
Foxx Viticulture

FOXX VITICULTURE 1400 SUN MNTN RD. FELTON CA 95018 831-332-6677

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SCALE 1"=100'

LEGEND

ELEVATION DATUM

BASIS OF BEARINGS

NOTE

TOPOGRAPHIC MAP
prepared at the request of
KIRK PETERSON & ASSOCIATES
for
BRIAN HINMAN AND SUZANNE SKEES
located at
APN 57-051-15
COUNTY OF SANTA CRUZ

PARCEL A
17-PM-45

PARCEL B
17-PM-45

(E) TREE

(N) TREE

KIRK E. PETERSON & ASSOCIATES
ARCHITECTS
5353A College Avenue, Oakland, CA 94618
510.547.0375 fax 510.547.4173

AÑO NUEVO HOUSE
Brian Hinman & Suzanne Skees Residence
Año Nuevo, California

LANDSCAPE PLAN

POTENTIAL VINEYARD SITE

MAP #3: LANDSLIDES

The landslides which have been mapped on the property are shown on this constraint map. Landslides have been investigated on the site by Rogers Johnson and Associates geologists. Their landslide mapping, dated 1/99, has been used for this constraint map. No fault traces have been encountered in any of the geologic testing.

The house site was originally located in two different locations to the northeast of the current site. The site has been moved twice to accommodate landslide hazards. Its current location is outside of any landslide hazard area.

SUPPORTING DOCUMENTATION:

ROGERS E. JOHNSON & ASSOCIATES MAP DATED 1/99
Landslides are labeled Qls and Qols on this map.

MAP #4: OVER 30% SLOPES

The Santa Cruz County LCP does not allow building on slopes over 30%. These areas have been calculated by computer by DeWitt Engineers based on the topography map. The areas of over 30% slopes are shown on the constraints map.

SUPPORTING DOCUMENTATION:

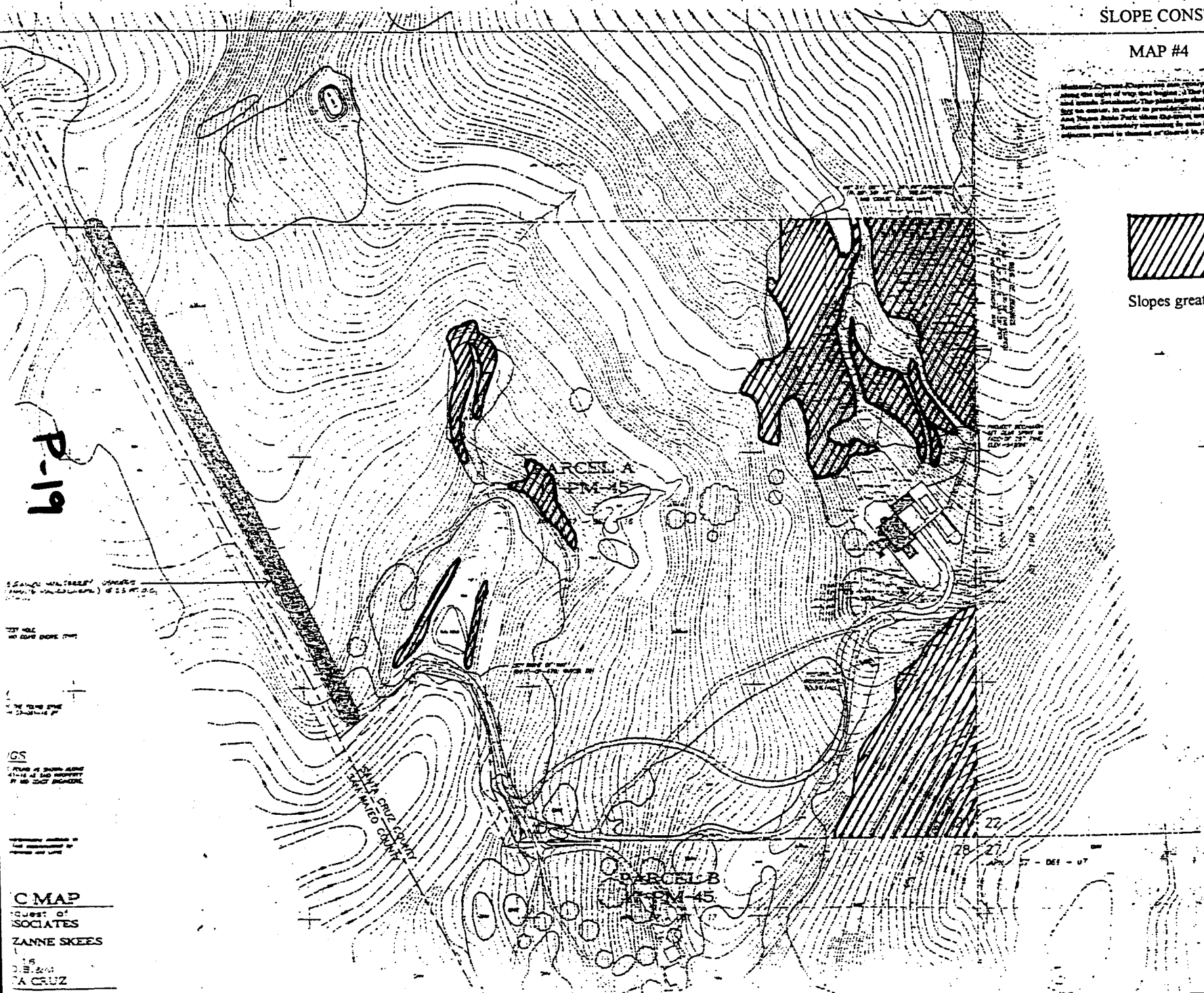
30% SLOPE MAPPING WAS DONE BY DEWITT ENGINEERS.

LCP POLICY 6.3.1 REGARDING NO DEVELOPMENT ON OVER 30% SLOPES.

SLOPE CONSTRAINTS

MAP #4

Slopes greater than 30%



P-19

C MAP
quest of
SOCIATES
ZANNE SKEES
D.B.&M
TA CRUZ

Map No. 4
30% slopes

(LCP) e. Support, encourage, and seek funding from FEMA and other appropriate agencies for the initiation of a review of all shoreline protective structures to evaluate their effectiveness and potential for becoming public hazards. Shoreline protective structures can become public hazards, for example, if they are in such a state of disrepair that portions haven fallen or are in iminent danger of falling onto beaches. Where it is determined that such structures are public hazards or where they provide ineffective protection due to inadequate maintenance, consider notifying the property owner and requiring the property owner to either maintain the structure to a reasonable level or remove and replace the structure within one year of the notice. Consider County action to maintain or remove and replace the structure and recover costs by a lien against the property if the property owner does not act within one year of such notice. (Responsibility: Planning Department, Board of Supervisors)

(LCP) f. Support, encourage, seek funding, and cooperate with the Coastal Conservancy, Coastal Commission, State Lands Commission, and the Corps of Engineers for the establishment and maintenance of a permanent survey monument monitoring network along the coast. Utilize existing monuments set by Caltrans, other public agencies, geologic consultants, and others to the greatest degree possible. Incorporate the use of these monuments into all future planning for shoreline protective structures. Provide geo-reference (latitude and longtitude) for each monument and structure. (Responsibility: Planning Department, Public Works)

Objective 6.3 Erosion

(LCP) To control erosion and siltation originating from existing conditions, current land-use activities, and from new developments, to reduce damage to soil, water, and biotic resources.

Policies

6.3.1 Slope Restrictions

(LCP) Prohibit structures in discretionary projects on slopes in excess of 30 percent. A single family dwelling on an existing lot of record may be excepted from the prohibition where siting on greater slopes would result in less land disturbance, or siting on lesser slopes is infeasible.

6.3.2 Grading Projects to Address Mitigation Measures

(LCP) Deny any grading project where a potential danger to soil or water resources has been identified and adequate mitigation measures cannot be undertaken.

6.3.3 Abatement of Grading and Drainage Problems

(LCP) Require, as a condition of development approval, abatement of any grading or drainage condition on the property which gives rise to existing or potential erosion problems.

6.3.4 Erosion Control Plan Approval Required for Development

(LCP) Require approval of an erosion control plan for all development, as specified in the Erosion Control ordinance. Vegetation removal shall be minimized and limited to that amount indicated on the approved development plans, but shall be consistent with fire safety requirements.

MAP #5: WETLANDS, RIPARIAN VEGETATION AREAS AND 100 FOOT BUFFER AREAS

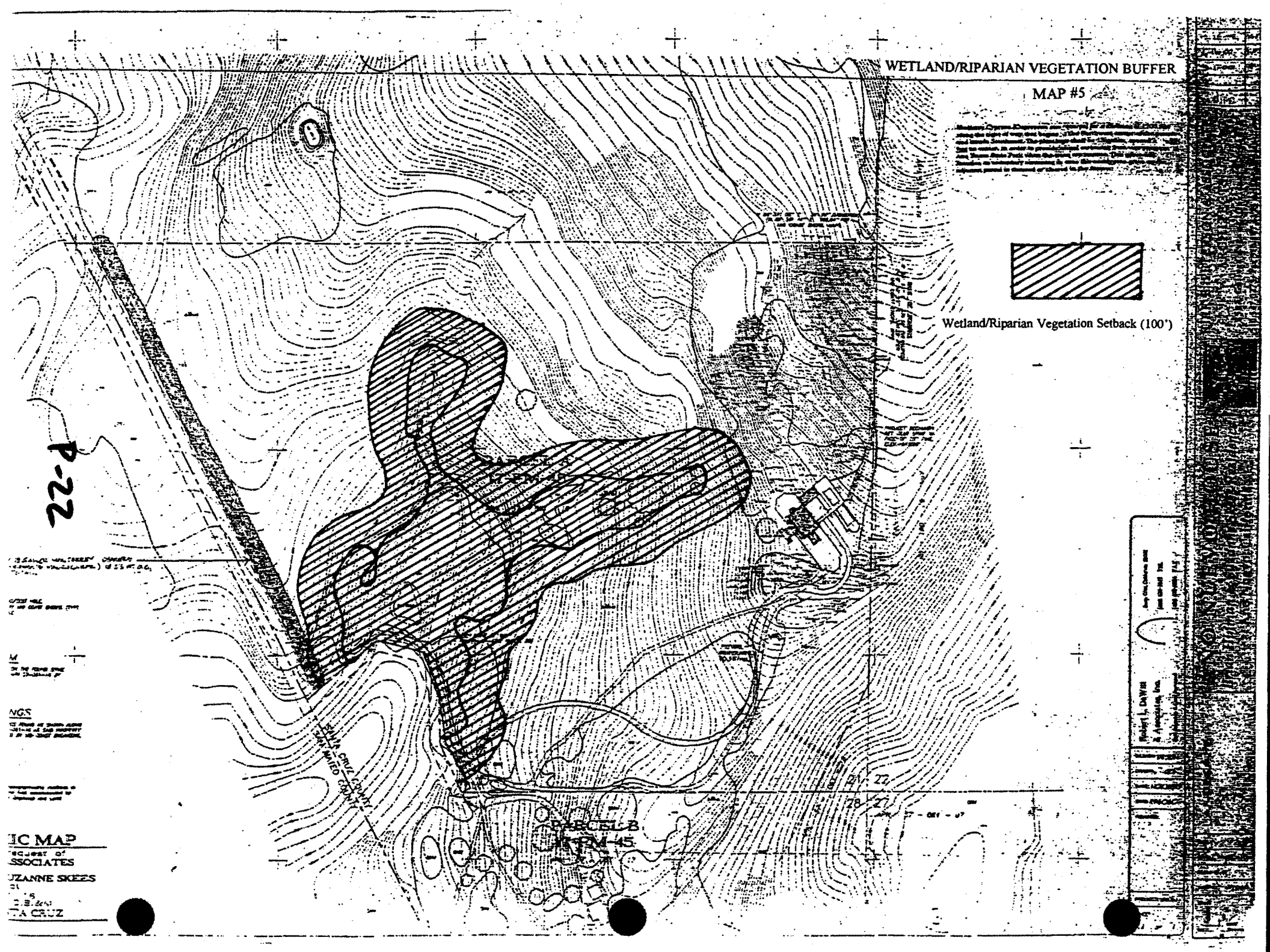
There is an existing man-made pond on the site, with a substantial amount of accompanying riparian vegetation surrounding it. There is an intermittent streamlet which feeds the pond which also has some riparian vegetation along it. There are also some seeps in the hillside to the east of the pond below the house with a small amount of riparian vegetation on this hillside.

The normal wetlands setback is 100 feet. The pond, seeps, intermittent stream, and accompanying riparian vegetation are shown on the constraints map. The wetlands setback of 100 feet is shown on the constraints map from the edge of the riparian vegetation, since we are not certain of the extent of the wetlands themselves.

SUPPORTING DOCUMENTATION:

WETLAND AND RIPARIAN VEGETATION MAPPING WAS DONE BY KATHLEEN LYONS

LCP POLICIES 5.2.1 AND 5.2 5 REGARDING 100 FOOT RIPARIAN SETBACKS


WETLAND/RIPARIAN VEGETATION BUFFER
MAP #5
Wetland/Riparian Vegetation Setback (100')
PARCEL B
LR RM 45
SANTA CRUZ COUNTY
SAN MATEO COUNTY
IC MAP
SSOCIATES
UZANNE SKEES
TA CRUZ
NGS
P-22

Objective 5.2 Riparian Corridors and Wetlands

(LCP) To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.

Policies

5.2.1 Designation of Riparian Corridors and Wetlands

(LCP) Designate and define the following areas as Riparian Corridors:

(a) 50' from the top of a distinct channel or physical evidence of high water mark of a perennial stream;
(b) 30' from the top of a distinct channel or physical evidence of high water mark of an intermittent stream as designated on the General Plan maps and through field inspection of undesignated intermittent and ephemeral streams;
(c) 100' of the high water mark of a lake, wetland, estuary, lagoon, or natural body of standing water;
(d) The landward limit of a riparian woodland plant community;
(e) Wooded arroyos within urban areas.

Designate and define the following areas as Wetlands:
Transitional areas between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water periodically or permanently. Examples of wetlands are saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

The US Army Corps of Engineers, and other federal agencies utilize a "unified methodology" which defines wetlands as "those areas meeting certain criteria for hydrology, vegetation, and soils."

5.2.2 Riparian Corridor and Wetland Protection Ordinance

(LCP) Implement the protection of Riparian Corridors and Wetlands through the Riparian Corridor and Wetland Protection ordinance to ensure no net loss of riparian corridors and riparian wetlands. The ordinance identifies and defines riparian corridors and wetlands, determines the uses which are allowed in and adjacent to these habitats, and specifies required buffer setbacks and performance standards for land in and adjacent to these areas. Any amendments to this ordinance shall require a finding that riparian corridors and wetlands shall be afforded equal or greater protection by the amended language.

5.2.3 Activities Within Riparian Corridors and Wetlands

(LCP) Development activities, land alteration and vegetation disturbance within riparian corridors and wetlands and required buffers shall be prohibited unless an exception is granted per the Riparian Corridor and Wetlands Protection ordinance. As a condition of riparian exception, require evidence of approval for development from the US Army Corps of Engineers, California Department of Fish and Game, and other federal or state agencies that may have regulatory authority over activities within riparian corridors and wetlands.

5.2.4 Riparian Corridor Buffer Setback

(LCP) Require a buffer setback from riparian corridors in addition to the specified distances found in the definition of riparian corridor. This setback shall be identified in the Riparian Corridor and Wetland Protection ordinance and established based on stream characteristics, vegetation and slope. Allow reductions to the buffer setback only upon approval of a riparian exception. Require a 10 foot separation from the edge of the riparian corridor buffer to any structure.

5.2.5 Setbacks From Wetlands

(LCP) Prohibit development within the 100 foot riparian corridor of all wetlands. Allow exceptions to this setback only where consistent with the Riparian Corridor and Wetlands Protection ordinance, and in all cases, maximize distance between proposed structures and wetlands. Require measures to prevent water quality degradation from adjacent land uses, as outlined in the Water Resources section.

5.2.6 Riparian Corridors and Development Density

(LCP) Exclude land within riparian corridors in the calculation of development density or net parcel size. Grant full density credit for the portion of the property outside the riparian corridor which is within the required buffer setback, excluding areas over 30% slope, up to a maximum of 50% of the total area of the property which is outside the riparian corridor. (See policy 5.11.2.)

5.2.7 Compatible Uses With Riparian Corridors

(LCP) Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.

5.2.8 Environmental Review for Riparian Corridor and Wetland Protection

(LCP) Require environmental review of all proposed development projects affecting riparian corridors or wetlands and preparation of an Environmental Impact Report or Biotic Report for projects which may have a significant effect on the corridors or wetlands.

5.2.9 Management Plans for Wetland Protection

(LCP) Require development in or adjacent to wetlands to incorporate the recommendations of a management plan which evaluates: migratory waterfowl use December 1 to April 30; compatibility of agricultural use and biotic and water quality protection; maintenance of biologic productivity and diversity; and the permanent protection of adjoining uplands.

5.2.10 Development in Wetland Drainage Basins

(LCP) Require development projects in wetland drainage basins to include drainage facilities or Best Management Practices (BMPs) which will maintain surface runoff patterns and water quality, unless a wetland management plan specifies otherwise, and minimize erosion, sedimentation, and introduction of pollutants.

5.2.11 Breaching of Lagoon, River, Stream or Creek Sandbars

(LCP) Do not permit breaching of lagoon sandbars unless the breaching is consistent with an approved management plan for that wetland, river, stream, or creek system.

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MAP #6: RED-LEGGED FROG AND SAN FRANCISCO GARTER SNAKE HABITAT AND BUFFER AREAS

The pond is habitat for red-legged frogs. Four Red-legged frogs have been found in the farm pond on the adjacent property to the north, and appear also to have migrated to the pond on this property at the end of the summer. While night-time studies in June found no red-legged frogs in the Hinman pond, a night-time study on July 24th identified 4 adult red-legged frogs at the Hinman pond and none in the adjacent farm pond which was almost dry. The normal habitat area for frogs is 200 feet from the pond, with a buffer setback of 100 feet, for a total of 300 feet from the pond. The 300 foot Red Legged Frog setbacks are shown on the constraints map.

San Francisco garter snakes are known to be in the region, although none have been observed on the property. The snakes inhabit essentially the same general area as the frogs, which are their main food. However, during winter, the snakes also use grassland habitat above the ponds for burrowing. A combined habitat and buffer setback from the pond of a total of 750 feet are being provided to accommodate the San Francisco Garter Snake.

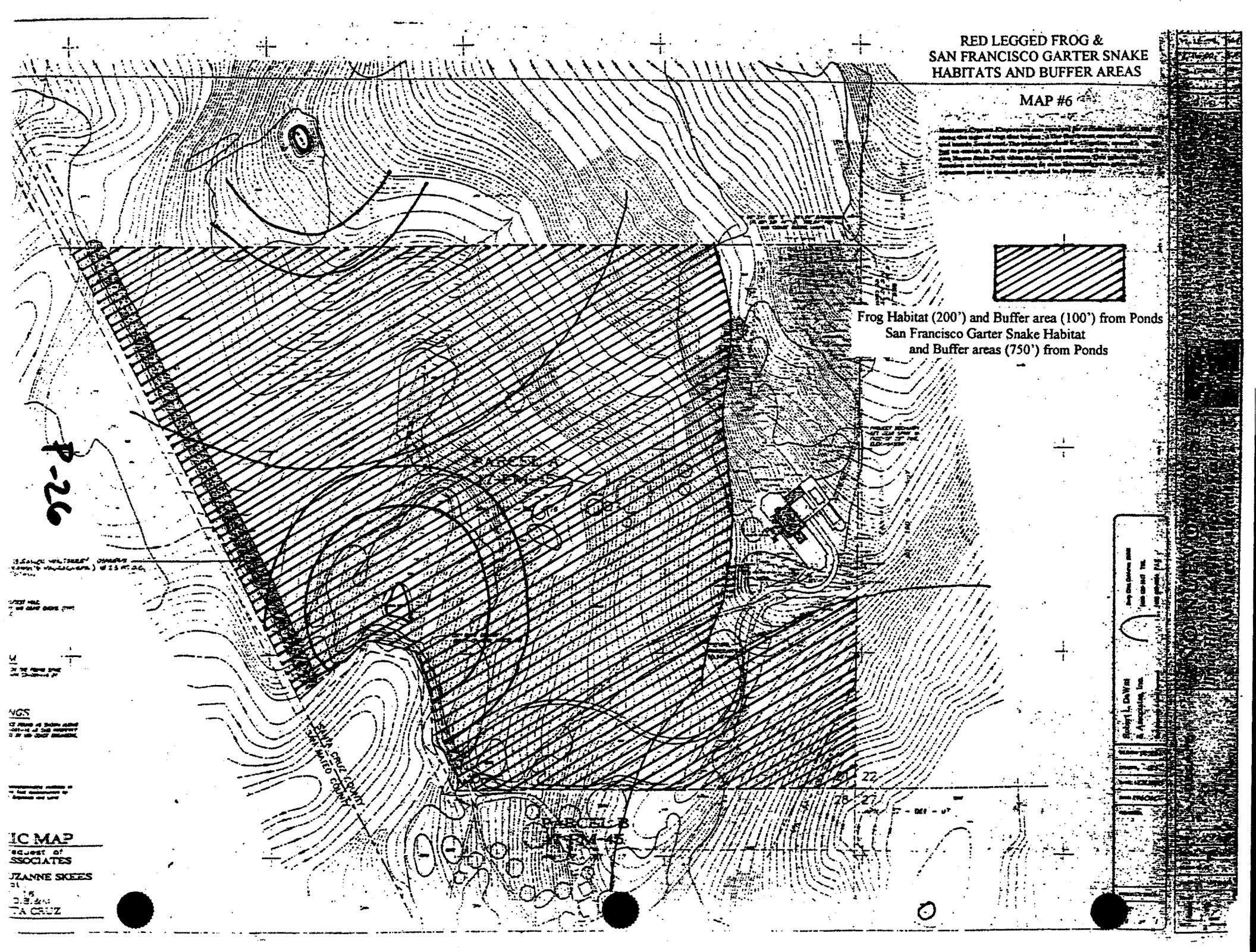
These setbacks have been verified with both State Fish and Game and Federal Fish and Wildlife staff in field meetings on the property. The State and Federal staff persons who visited the property said that, with respect to the snakes, in general the house should be kept as far from the pond as possible, with 750 feet being an adequate setback.

The constraints map shows 750 foot setbacks from the adjacent farm pond on the property to the north and a pond in Ano Nuevo Creek to the south as well as the pond on this property. Both frogs and snakes are known to migrate between ponds on adjacent properties. This has been documented for the frogs on this property which appear to have migrated from the farm pond on the adjacent property.

SUPPORTING DOCUMENTATION:

"SURVEYS FOR SPECIAL STATUS AMPHIBIANS AND REPTILES" BY DANA BLAND, WILDLIFE BIOLOGIST, DATED JULY 28, 2000

FIELD MEETINGS ON SITE WITH DANA BLAND AND U.S. FISH AND WILDLIFE SERVICE: COLLEEN SCULLEY, CONNIE RUTHERFORD, AND SHEILA LARSEN; STATE FISH AND GAME: PATRICIA ANDERSON.


RED LEGGED FROG &
SAN FRANCISCO GARTER SNAKE
HABITATS AND BUFFER AREAS
MAP #6
Frog Habitat (200') and Buffer area (100') from Ponds
San Francisco Garter Snake Habitat
and Buffer areas (750') from Ponds
PARCEL A
PARCEL B
SANTA CRUZ COUNTY
SAN MATEO COUNTY
IC MAP
SSOCIATES
UZANNE SKEES
TA CRUZ

P-26

Map No. 6
Frog and Snake
Surveys

SURVEYS FOR SPECIAL STATUS AMPHIBIANS AND REPTILES

AT

HINMAN PROPERTY, SANTA CRUZ COUNTY, CALIFORNIA

Report Prepared For:

Thelan, Reid & Priest
333 West San Carlos Street, Suite 1700
San Jose, CA 95110-2701
Attn: Paul Bruno

Report Prepared By:

Dana Bland, Wildlife Biologist
Dana Bland & Associates
P.O. Box 636
Aptos, CA 95001

July 28, 2000

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INTRODUCTION

A site visit was made in February 2000 to assess the Hinman property for potential habitat for special status wildlife species. The property is located near Ano Nuevo State Park in Santa Cruz County, on the USGS Pt. Franklin 7.5' quadrangle (see Figure 1). The site assessment identified a pond on the property as potential habitat for California red-legged frog (*Rana aurora draytonii*), federally listed as threatened and a State Species of Special Concern, San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), listed as endangered by both federal and state resource agencies, and southwestern pond turtle (*Clemmys marmorata pallida*), a California Species of Special Concern.

The property owners propose to construct a single family residence at the site, and to preserve a 500-foot buffer zone around the pond. The construction would also include a new driveway alignment off the main entry road (see Figure 2).

Because the pond was identified as potential habitat for special status wildlife species, the owners requested that a presence/absence survey be conducted to determine if these species are currently present on the site. This report documents the results of those surveys.

METHODS

The surveys for California red-legged frogs were conducted in accordance with the published standard protocol for determining presence/absence of this species (USFWS 1997). Three daytime and one nighttime survey for this frog were conducted in June and July, 2000. There is no standard protocol published by the resource agencies for surveys for the San Francisco garter snake and southwestern pond turtle. However, the pond areas were visually searched for both reptile species during the surveys for red-legged frogs. Surveys consisted of walking all riparian and pond areas on the site as well as nearby areas such as the farm pond just north of the property line. The banks and shorelines were viewed with binoculars as necessary. During the night surveys, flashlights were employed to locate frogs by eyeshine. The Hinman Pond is densely vegetated with cattails, and thus the best method was to survey the pond using a float tube. Dana Bland surveyed the pond by float tube, while another biologist surveyed the visible areas from the banks. Data collected included date and time of surveys, weather conditions, areas surveyed, and animals observed.

RESULTS

The first search of the willow riparian area in May, 2000 north of the Hinman Pond found no standing water, and no running water. The area has deeply scoured potholes (up to 5 feet deep), but no spring/summer water source. Therefore, this area was not surveyed again.

Four California red-legged frogs were identified during the nighttime survey at the Hinman Pond on July 24, 2000. The three daytime surveys did not find any red-legged frogs at the Hinman Pond, but they were observed at the nearby Farm Pond. The

drainage upstream of the Hinman Pond (see Figure 2) was completely dry during the first May 19, 2000 survey, and thus was not surveyed again. The results are summarized below in Table 1. No San Francisco garter snake or pond turtles were observed during these surveys.

Table 1. Results of focused surveys for special status reptiles and amphibians at Hinman Property, Santa Cruz County, California, May-July, 2000.

Date	Time	Weather	Results
05-19-00	1015-1305	Clear, wind 0-2mph, 62°F	*Hinman Pond:* Bullfrogs calling, 12 adult bullfrogs observed, 1 adult treefrog calling, 1 western aquatic garter snake, mosquitofish *Farm Pond:* Treefrog tadpoles and metamorphs, possible red-legged frog tadpoles, 2 adult red-legged frogs, 2 unid frogs (jumped into water)
06-06-00	1310-1600	Clear, wind 15-20mph, 64°F	*Hinman Pond:* At least 25 adult bullfrogs observed, 1 adult bullfrog calling, bullfrog tadpoles, mosquitofish *Farm Pond:* 2 adult red-legged frogs, treefrog tadpoles
06-13-00	1215-1415	Clear, wind calm, 84°F	*Hinman Pond:* 13 adult bullfrogs observed, 2-3 bullfrogs calling, bullfrog tadpoles, mosquitofish *Farm Pond:* 2 adult red-legged frogs, treefrog tadpoles, possible red-legged frog tadpoles
07-24-00	2030-2215	Clear, wind calm, 63°F	*Hinman Pond:* 4 adult red-legged frogs, 9 adult bullfrogs, 2 unidentified frogs jumped into water, mosquitofish *Farm Pond:* Not surveyed.

DISCUSSION

The Hinman Pond is currently densely populated by bullfrogs, a known predator of California red-legged frogs and young pond turtles. Bullfrogs require permanent water to

breed, because the eggs hatch in the summer and the tadpoles develop over the first winter and spring before transforming into juveniles the following summer. Red-legged frogs, however, hatch from eggs in early spring and develop and transform into juvenile frogs during the first summer, therefore they do not require permanent ponds. California red-legged frogs were observed at the nearby Farm Pond, but no bullfrogs or fish were observed at the Farm Pond, perhaps because the water depth is much lower than the Hinman Pond and the Farm Pond may completely dry up during the late summer, thus precluding successful breeding by bullfrogs. Once red-legged frogs were observed at the Farm Pond on the property adjacent to the Hinman property, the following surveys were only brief, as the biologists did not have written permission to enter the property, and surveys were only conducted to ascertain pertinent data on the distribution of special status wildlife in the general vicinity of the Hinman property and we did not want to disturb or intrude on other nearby private landowners.

Because the Hinman Pond is densely populated with bullfrogs, that were observed to be reproducing (tadpoles observed), which are known predators of red-legged frogs, it may at this time, only provide seasonal summer habitat for red-legged frogs when other nearby ponds dry up. Red-legged frogs were only observed at the Hinman Pond at the end of July, 2000, but were observed as early as May, 2000 in the Farm Pond.

No San Francisco garter snakes were observed during these visual surveys of the ponds. However, it should be noted that the U. S. Fish and Wildlife Service would require pitfall trapping studies to definitively determine absence of this snake prior to construction (Sheila Larsen, pers. comm.).

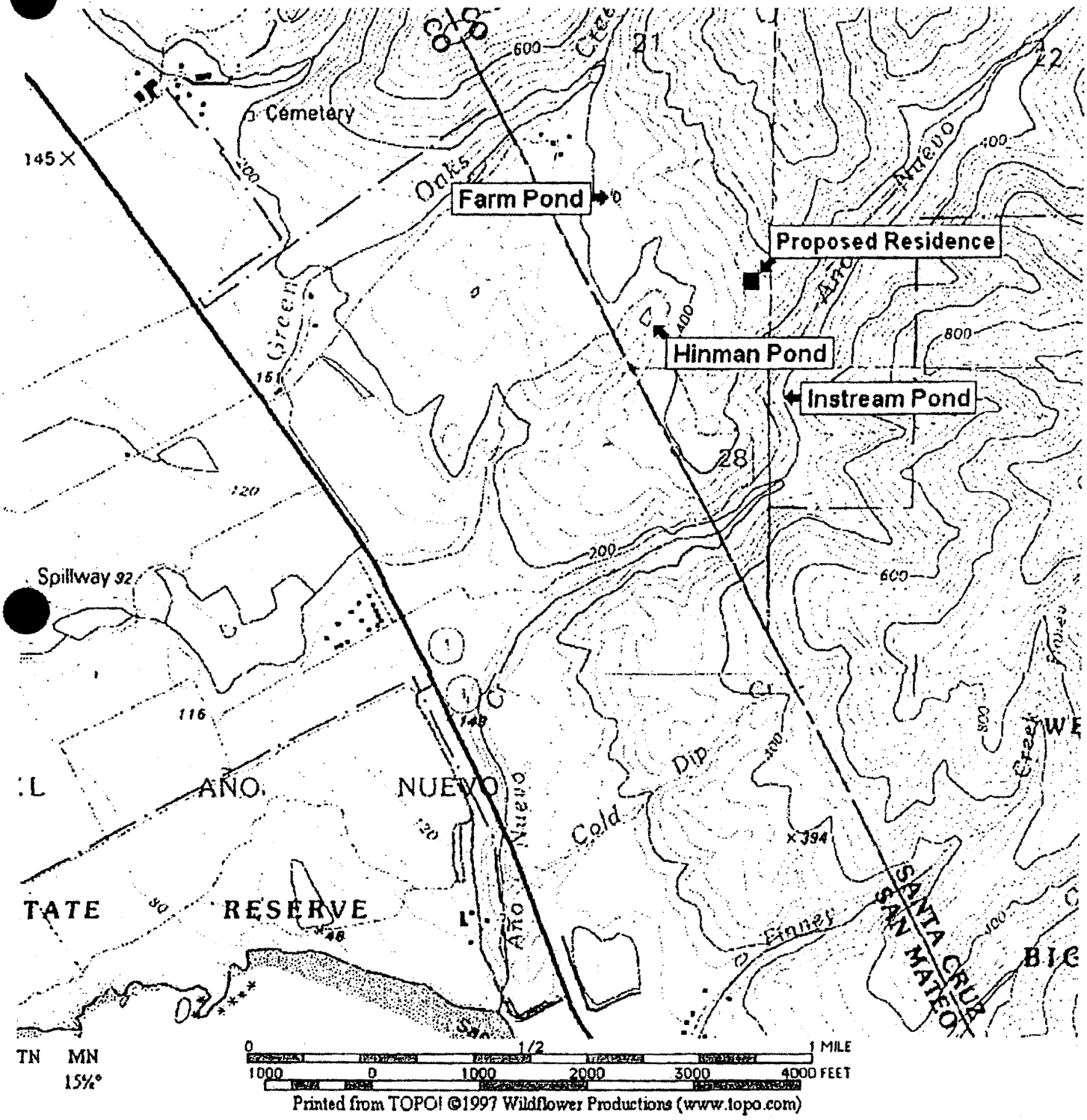
No pond turtles were observed at either the Hinman Pond or the Farm Pond. This turtle requires areas of permanent water, either creeks or ponds, with adequate basking areas along their aquatic habitat, as well as upland (grassland) nesting habitat. Although pond turtles may occasionally use the Hinman Pond, the presence of a large population of bullfrogs, a known predator of young turtles, reduces its overall value to pond turtles.

CONCLUSIONS

The Hinman Pond provides, at a minimum, summer seasonal habitat for the California red-legged frog. Its current value as a breeding pond for red-legged frogs is greatly reduced by the dense population of bullfrogs and mosquitofish, known predators and/or competitors of the native red-legged frog. The Hinman Pond may also provide foraging habitat for San Francisco garter snake, which forages primarily on red-legged frogs, although no San Francisco garter snakes were observed during these surveys. The pond is of limited value to pond turtles, because of the large population of bullfrog predators, and the pond's small size would not be expected to support more than a couple of mature pond turtles.

LITERATURE CITED

U. S. Fish and Wildlife Service. 1997. Guidance on site assessment and field surveys for California red-legged frogs. Unpublished report, Feb. 18, 1997, USFWS, Portland, OR.



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MAP #7: CURRENT RIPARIAN AND MONTEREY PINE FORESTS AND MONTEREY PINE REGENERATION AREAS

Monterey Pines are currently growing in the mixed forests along the east, south and west boundaries of this property, with some Monterey Pine trees (and other types of trees, such at fir, oak and madrone) scattered in the meadow areas of this property. The house is located in a small meadow area surrounded on three sides with some of the scattered trees, including some Monterey Pines. In the large meadow area in front of the house location, on the west side, seedling Monterey Pines have begun growing during the 5 years the property has been owned by the Hinmans and has not been either grazed on mowed. Some of these seedling pines have now reached heights of 5 to 15 feet.

The property has been analyzed by Steve Staub, registered forester and expert in Monterey Pines, for current success in regenerating Monterey Pine seedlings. The large meadow area directly below and to the west of the house site appears to be supporting the most number of new seedlings. The area to the south of the existing access road also has some seedlings growing among the coyote brush habitat. This area appears to be regenerating slower than the area directly below the house. There are no new seedlings growing in the house site meadow currently, and therefor this area and other meadow areas with the least amount of regeneration appear to be the least desirable for regeneration as shown by current number of Monterey Pine seedlings and saplings. The current forest areas and Monterey Pine regeneration areas are shown on the constraints map.

The edge of the forest has been defined as the edge of the currently existing trees, and includes the riparian and wells as mixed forests. This edge is shown on the constraints map and has been verified in the field by Steve Staub. None of the forest areas on site are predominately Monterey Pine. The existing riparian forest around the pond and to the west of the property has willow, oak, madrone, fir, eucalyptus and Monterey Pine. The drier forests to the north, east, and south of the building site are also of a mixed nature, with oak, fir, madrone, and Monterey Pine.

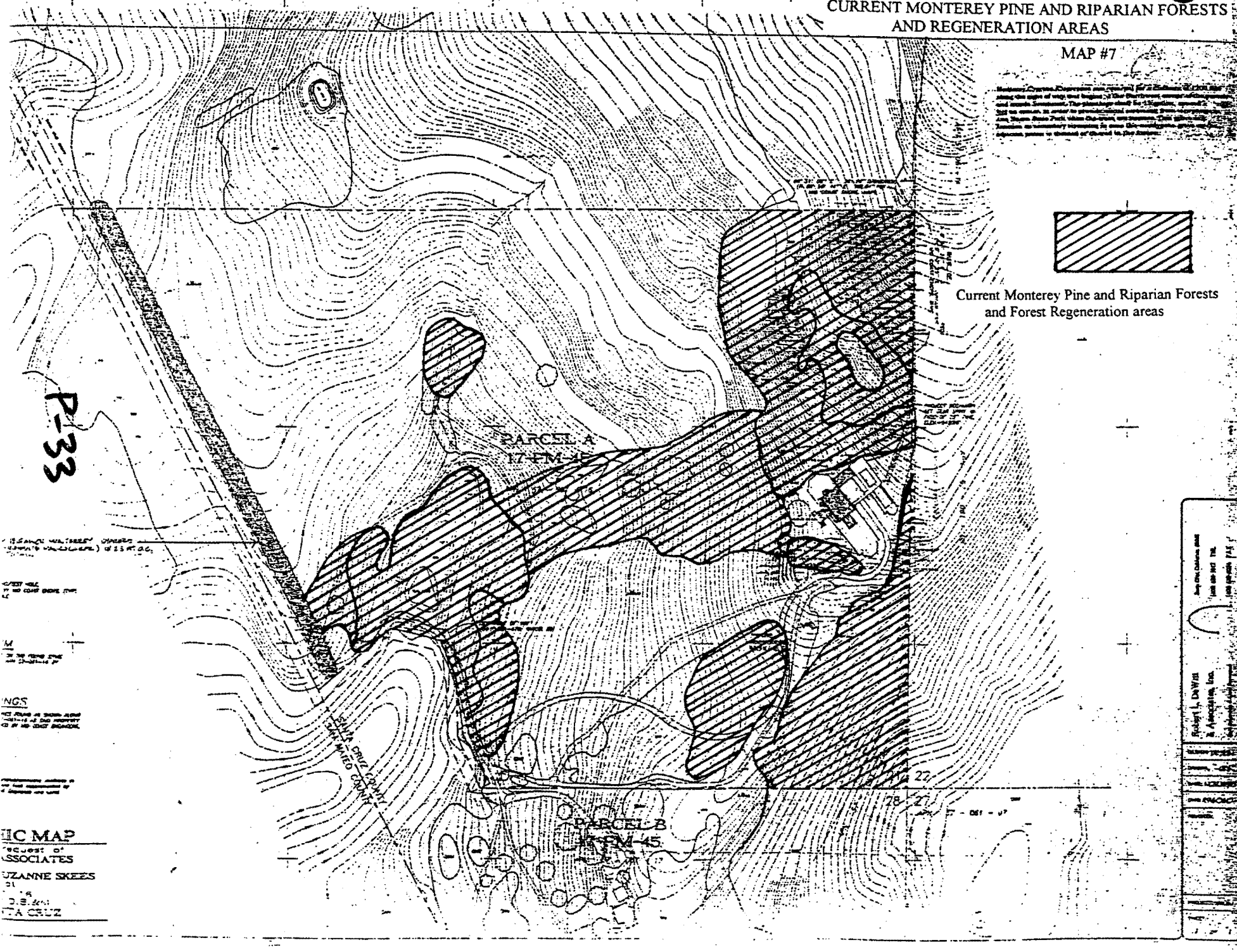
SUPPORTING DOCUMENTATION:

REPORT WITH MAPPING BY STEVE STAUB DATED 9/12/00.

LETTER BY STEVE STAUB DATED 6/14/00.

CURRENT MONTEREY PINE AND RIPARIAN FORESTS AND REGENERATION AREAS

MAP #7



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Map No. 7
Current Monterey Pine
Forest and
Regeneration Areas

Stephen R. Staub
Forester & Environmental Consultant
STAUB

September 11, 2000

Ms Betty Cost
Richard Beale Land Use Planning Inc
100 Doyle Street, Suite E
Santa Cruz, CA 95062

Dear Ms. Cost:

At your direction, I visited the Hinman property on Friday August 25th with botanist Kathy Lyons and again on September 10th to evaluate the relative functionality of the various areas on the Hinman property for new establishment and growth of Monterey pine. Areas significantly north and west of the proposed homesite are subject to geologic and wildlife habitat constraints precluding residential use but were given reconnaissance level review for pine occupancy. Although the predominant cover on the property is a variable mix of grasses and shrubs, stumps indicating historic forest and recently established pine and Douglas-fir seedlings and saplings suggesting current suitability were noted. Variations in vegetative cover were discussed with Kathy Lyons to evaluate whether they suggested significant differences in underlying soil and microsite conditions.

Recently established young Monterey pines are the best current indicators of desirable Monterey pine growing sites to maintain and expand existing forest cover. Most pine regeneration occurs adjacent to existing mature trees, and tends to be more abundant in grass understory or adjoining grass cover type conditions. However, regeneration in larger blocks of mature Monterey pine forest where the understory has more herbs, vines and shrubs is composed predominantly of species other than Monterey pine (madrone, coast live oak, and Douglas-fir). This pattern suggests a successional sequence in which Monterey pine is a decreasing component in a mixed forest cover over time. Abundance and health of pine regeneration are extremely variable and difficult to map beyond presence or absence.

A preliminary mapping of regeneration for purposes of discussion recognizes three types:

#1) Existing forest. Effectively continuous dripline cover of existing trees, including seedling and sapling regeneration at mature tree margins, plus riparian/wetland areas.

#2) Existing regeneration area in non-forest. Seedlings and saplings scattered to locally abundant, usually more abundant in grass and less abundant in shrubs.

#3) Non-forest. A mix of grasses and/or shrubs with no conifer regeneration except for substantially isolated saplings within non-forest shown as the letter S.

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Type 1 Existing mature Monterey pines occur near the pond along the western boundary and near the eastern property line. Numerous Monterey pine seedlings and saplings have become established north of the homesite area along both the western and northern margins of a group of large, mature to overmature Monterey pines and a couple Douglas-firs. Establishment of young pines at the forest edge continues northward from that group, although increasing proportions of Douglas-fir, oak and madrone regeneration were noted within established forest.

Type 2 Type 2 regeneration in non-forest cover is generally scattered saplings (occasionally a cluster of several seedlings and saplings) occurring in grass and shrubs, and is somewhat more continuous than the isolated saplings mapped within non-forest (type 3). Pine regeneration expanding into non-forest grass and shrub cover (type 2) is most abundant nearer existing forest, particularly near existing forest by the road and pond along the western property boundary and the opening north of the proposed homesite.

Type 2 regeneration south of the proposed homesite and existing ranch road is sparse as expected, occuring as it does in an area dominated by coyote brush, blackberry and poison oak. More than 10 Monterey pine saplings five to fifteen feet in height have become established in this area as have a number of coast live oaks ranging from seedlings to young trees up to 8" in diameter. This area clearly supported a mature and moderately dense Monterey pine forest in the past as indicated by the presence of stumps tallied in the following size classes: 2 stumps greater than 30" dbh (estimated diameter at breast height), 9 stumps 20" to 30" dbh, and 4 stumps 10" to 20" dbh. Stump condition and 1960s aerial photos suggest that the area was cleared within the last thirty-five to forty years.

Other areas of type 2, such as east above the pond and west of the proposed homesite, have pine and some Douglas-fir regeneration in an area of grasses and shrubs with no stumps. More than 20 saplings from five to roughly fifteen feet in height occur in this grassy area, all of which appear to have become established since pitch canker has been present locally, significantly increasing their chances of having resistance to the disease.

Type 3 Type 3 is a highly variable mix of grasses and coyote brush, has no live tree cover nor conifer regeneration other than the isolated trees indicated by the letter S. The presence of a few isolated young trees with the grass/shrub type indicates that the soils are at least capable of growing trees, perhaps similar to the soils of the tall grass prairie, which only grows trees in the absence of fire.

The proposed homesite is notable for its absence of conifer regeneration even though it adjoins mature trees. It is an open area of grasses and weedy vegetation, and includes openings where several trees died recently. The relative lack of pine regeneration appears to extend beyond the homesite to the west, more or less following the southwest-facing center of the gentle hogback terrain on which the existing ranch road to the proposed homesite is located. Soil moisture conditions associated with hydrologic impacts of the slide area located immediately north of the homesite may be affecting regeneration success in those areas.

With respect to rating the relative desirability for conserving Monterey pine over the long term, the presence of existing mature trees and abundance of regeneration should be factored together. Following this logic, type 1 is the most desirable, type 2 is intermediate, and type 3 the least desirable. Areas where native Monterey pine understory plants predominate should also be considered more desirable than areas where non-natives predominate. In that respect, the type 2 area south of the ranch road has greater value than the non-native grasses and weeds in the vicinity of the proposed homesite.

It is worth reiterating that none of these small sites is particularly unique or environmentally sensitive with respect to Monterey pines of the Ano Nuevo population. Previous estimates of Monterey pine forest coverage for the Ano Nuevo population, drawn from the 1994 Jones and Stokes report to the California Department of Fish and Game, have ranged from a few hundred acres (Scott, 1960) and less than 1000 acres (Roy, 1966) up to 1500 acres (Huffman and Associates, 1994). The last cited and most recent mapping, however, contains a number of errors with respect to site-specific coverage of native forest, particularly north of Ano Nuevo Creek, where the Forde map (1964) is significantly more accurate.

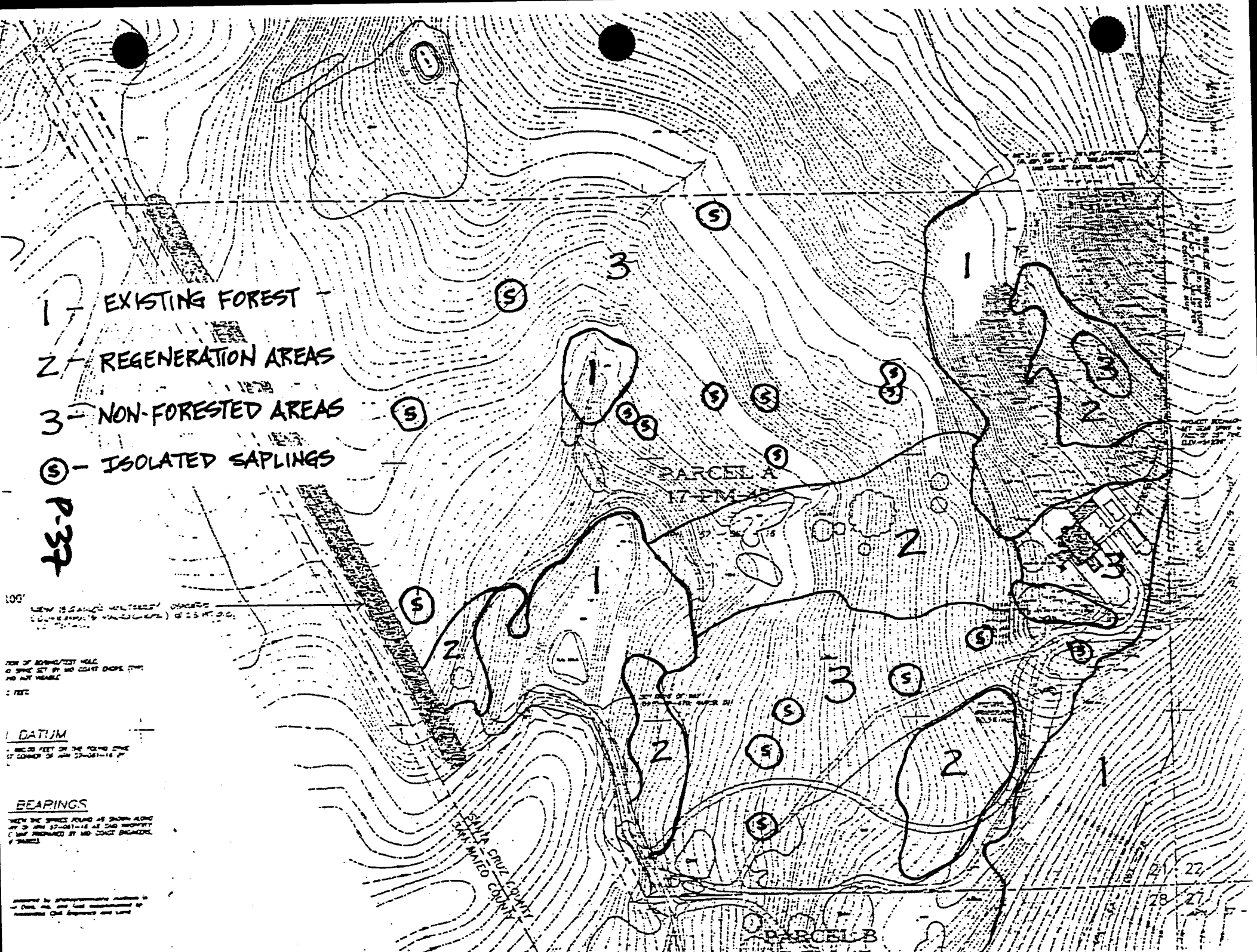
However, there is no question that Ano Nuevo Monterey pine forest coverage has increased over the last thirty years based on photos at Big Creek Lumber Company, personal communication with its owners the McCrary family, and my personal observations over the last 24 years relative to existing mapping of native Monterey pines. Expansion along portions of Swanton Road is particularly well documented, substantially increasing acreage shown on both the Forde (1964) and Huffman (1994) maps. Recent establishment of young Monterey pines in the presence of pitch canker suggests that the native forest will be able to reproduce over the long term. Site preparation measures such as mowing and burning or removal of excessive accumulations of fuels and understory vegetation are likely to enhance regeneration success in mature forest.

Please let me know if you have any questions.

Sincerely,

Stephen R. Staub

Stephen R. Staub
Registered Professional Forester
License Number 1911


1 - EXISTING FOREST
2 - REGENERATION AREAS
3 - NON-FORESTED AREAS
S - ISOLATED SAPLINGS
PARCEL A
17 + M 45
PARCEL B
SANTA CRUZ COUNTY
SAN MATEO COUNTY
DATUM
BEARINGS

P-34

Map. No. 7
Current Monterey Pine
Forest and
Regeneration Areas

Stephen R. Staub
Forester & Environmental Consultant
STAUB

June 14, 2000

Ms. Betty Cost
Richard Beale Land Use Planning, Inc.
100 Doyle Street, Suite E
Santa Cruz, CA 95062

RE: Whether the Monterey Pine Forest Associated with the Hinman Project should be considered Environmentally Sensitive Habitat

Dear Ms. Cost:

Although Monterey pine is a species of limited extent and is currently suffering from attack by the non-native pest pitch canker, it has a much greater range and number of individuals than any listed species I can think of. There are also a number of reasons based on current research to be optimistic about the species' ability to maintain itself and reproduce in the presence of pitch canker, as I noted in my detailed report on the project. That may be part of the reason that the petition to list the species as threatened was withdrawn last December and has not been resubmitted. The Ano Nuevo population has numerous other examples of similar Monterey pine habitat along Last Chance Road, on Big Creek Lumber Company property and on Cal Poly's Swanton Pacific property. Elevations, aspect, parent material, and soils are comparable in these areas so the Hinman parcel is not ecologically unusual. In addition, the Hinman project does not propose to remove any live Monterey pines and my recommendation was made to protect Monterey pine regeneration on the property that has expanded into former pasture areas. In view of the above factors, it is my professional opinion that the Hinman project area does not occur on Environmentally Sensitive Habitat for Monterey pine.

Sincerely,

Stephen R. Staub
Registered Professional Forester
License Number 1911

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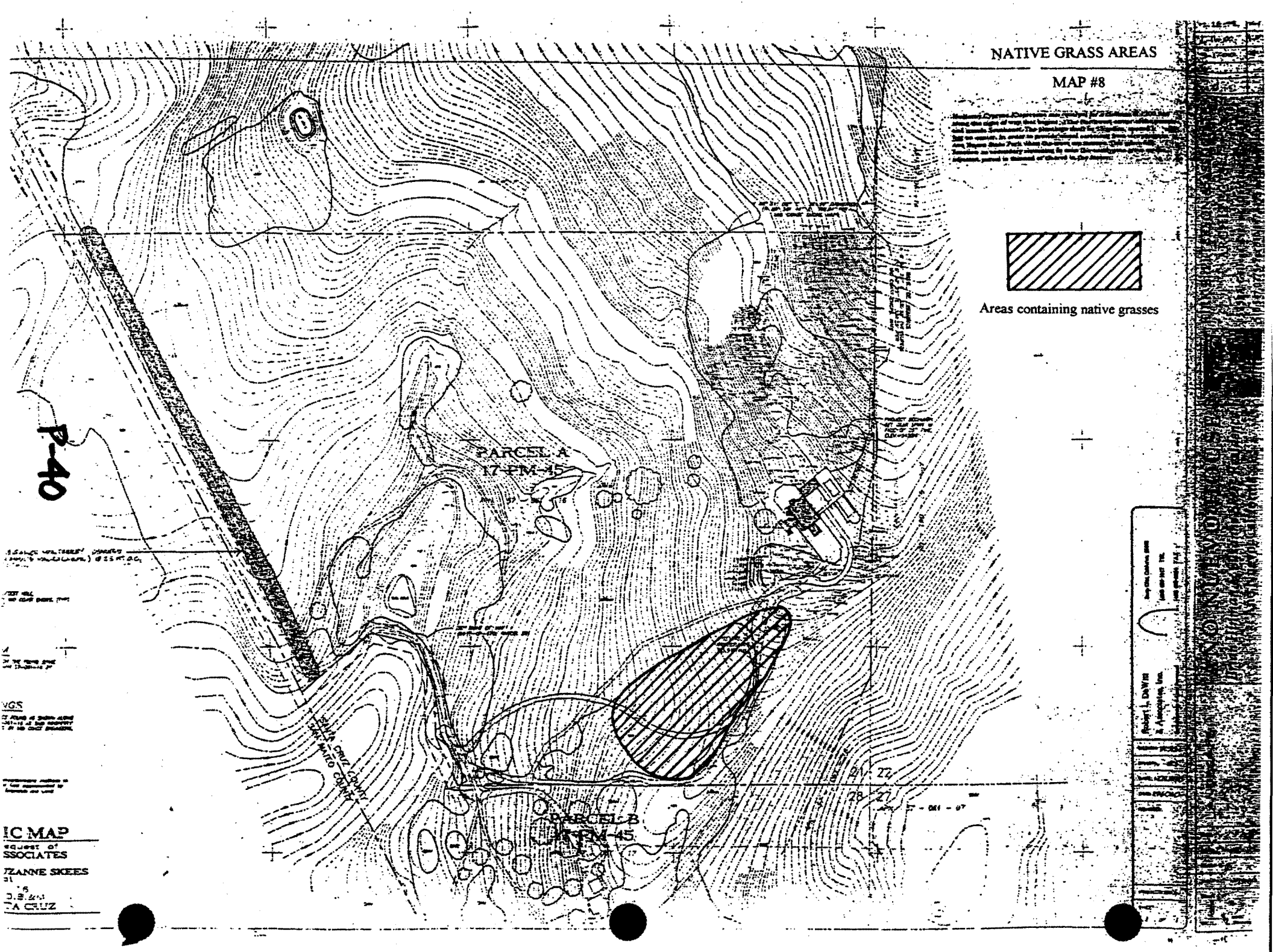
MAP #8: NATIVE GRASSES

The site and the areas directly downslope of the site have also been analyzed as to other plant species. These are described in the letter by Kathy Lyons, Plant Ecologist, Biotic Resources Group. No native grasses were found in the proposed building site. Some native grasses, however, have been found on the south side of the existing access road, and amongst the coyote brush habitat also on the south side of the road. This area is shown on the constraints map for native grasses.

SUPORTING DOCUMENTATION:

LETTER WITH MAPPING FROM KATHLEEN LYONS, DATED 9/12/00


NATIVE GRASS AREAS
MAP #8
Areas containing native grasses
PARCEL A
17 PM 45
PARCEL B
17 PM 45
SANTA CRUZ COUNTY
SAN MATEO COUNTY
IC MAP
SSOCIATES
ZANNE SKEES
TA CRUZ

P-40

Map No. 8
Native Grasses

Biotic Resources Group

Biotic Assessments • Resource Management • Permitting

September 12, 2000

Ms. Betty Cost
Richard Beale Land Use Planning, Inc.
100 Doyle Street, Suite E
Santa Cruz, CA 95062

RE: Hinman Property: Review of Potential Residential Development Areas

Dear Ms. Cost,

The Biotic Resources Group has conducted a field review of areas potentially suitable for the residential development at the Hinman property, as per your request. Four areas were reviewed in the field as to the presence of special status, or sensitive, plant species. These areas are a) area downslope of the existing house site, b) area to the southwest of the existing house site, c) area along the central ridge downslope of the existing house site, and d) the existing proposed house site. The results of this field survey are described herein.

Methodology

A field visit was conducted on the Hinman property on August 25, 2000. This visit was in addition to several site visits conducted on the site since 1997.The four potential house areas (areas a, b, c and d, as stated above) were walked. The principal and associated plant species within each area were recorded. The field survey focused on identifying any special status plant species, or other sensitive or locally unique species, within the four areas which may be a constraint to site development.

Results

Area A – Area Immediately Downslope of Existing House Site. This area is located approximately 50 feet downslope of the existing (proposed) house site. Non-native grasses dominate the area; canary grass (*Phalaris* sp.) and Italian ryegrass (*Lolium multiflorum*) were the most obvious during the August survey. The area also supports several young Monterey pine (*Pinus radiata*) saplings. These trees range from 6-15 feet in height and appear to be naturally colonizing the slope and central swale area on the property.

The Monterey pine saplings in this area are considered to be a sensitive plant resource as they appear to be established from the native trees located just west and upslope of the house site. grove.

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Area B – Area to the Southwest of the Existing House Site. This area is located approximately 100 to 1125 feet to the southwest of the existing (proposed) house site. The area is characterized by the presence of shrubs. The dominate shrub is coyote brush (*Baccharis pilularis*), with occurrences of poison oak (*Toxicodendron diversilobum*), coffee berry (*Rhamnus californica*), patches of slender-tubed iris (*Iris microsiphon*), young coast live oak (*Quercus agrifolia*) trees and young Monterey pine trees. Patches of native grasses were also observed amid the shrubs, most notably wild rye (*Elymus glaucus*). The area appears to have historically supported a Monterey pine forest, as evidenced by the occurrence of old pine tree stumps.

The young Monterey pine saplings in this area are considered to be a sensitive plant resource as they appear to be established from the adjacent native tree grove. Additionally, the stands of native grasses are considered sensitive in the coastal zone, due to their limited distribution.

Area C – Central Ridge Downslope and South of Existing House Site. This area is located approximately 100-150 feet downslope of the existing (proposed) house site along the central ridge. The existing dirt road bisects this ridge area. Non-native grasses dominate the area; canary grass (*Phalaris* sp.) and Italian ryegrass (*Lolium multiflorum*) were the most obvious during the August survey. The area also supports patches of wild rye, a native, perennial grass on the south side of the existing road. No trees or shrubs occur in this area. No Monterey pine seedlings or saplings were observed to be colonizing this area.

The stands of native grasses are considered sensitive in the coastal zone due to their relatively limited distribution in the County.

Area D – Existing Proposed House Site. This area is located upslope of areas a, b, and c, above. The site is dominated by herbaceous and semi-woody plant species. The dominant species observed during the site visit are non-native, such as canary grass, soft chess (*Bromus hordeaceus*), thistle (*Cirsium* sp.), and Italian ryegrass. Native plants are intermixed amid the non-native forbs and include sanicle (*Sanicula* sp.), tarweed (*Madia* sp.) and California blackberry (*Rubus ursinus*). No Monterey pine seedlings or saplings were observed to be colonizing this area.

I hope this information is useful for your site planning needs. Please give me a call if you have any questions on the results of this work.

Sincerely,

Kathleen Lyons

Kathleen Lyons
Principal/Plant Ecologist

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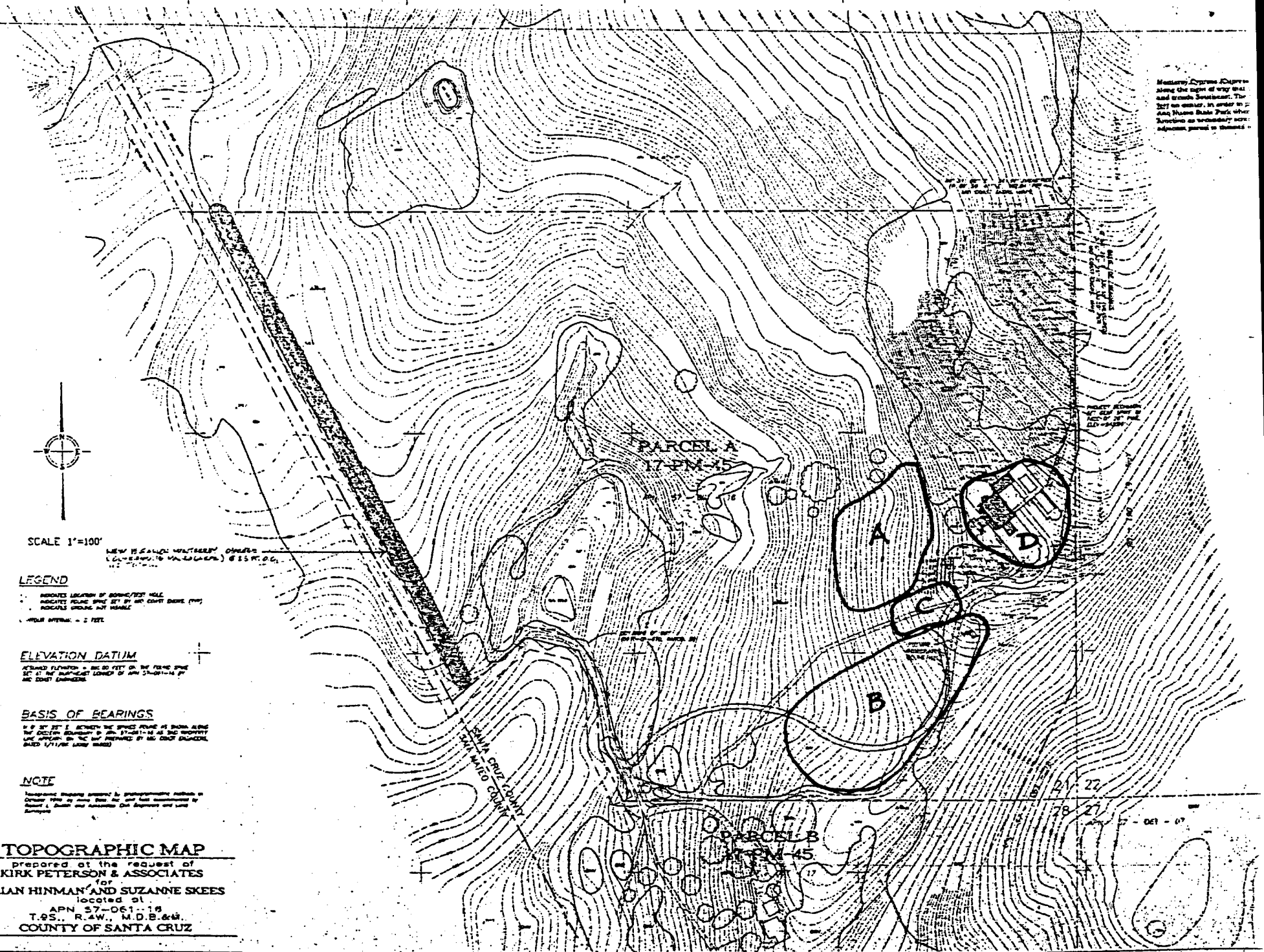


LEGEND

ELEVATION DATUM

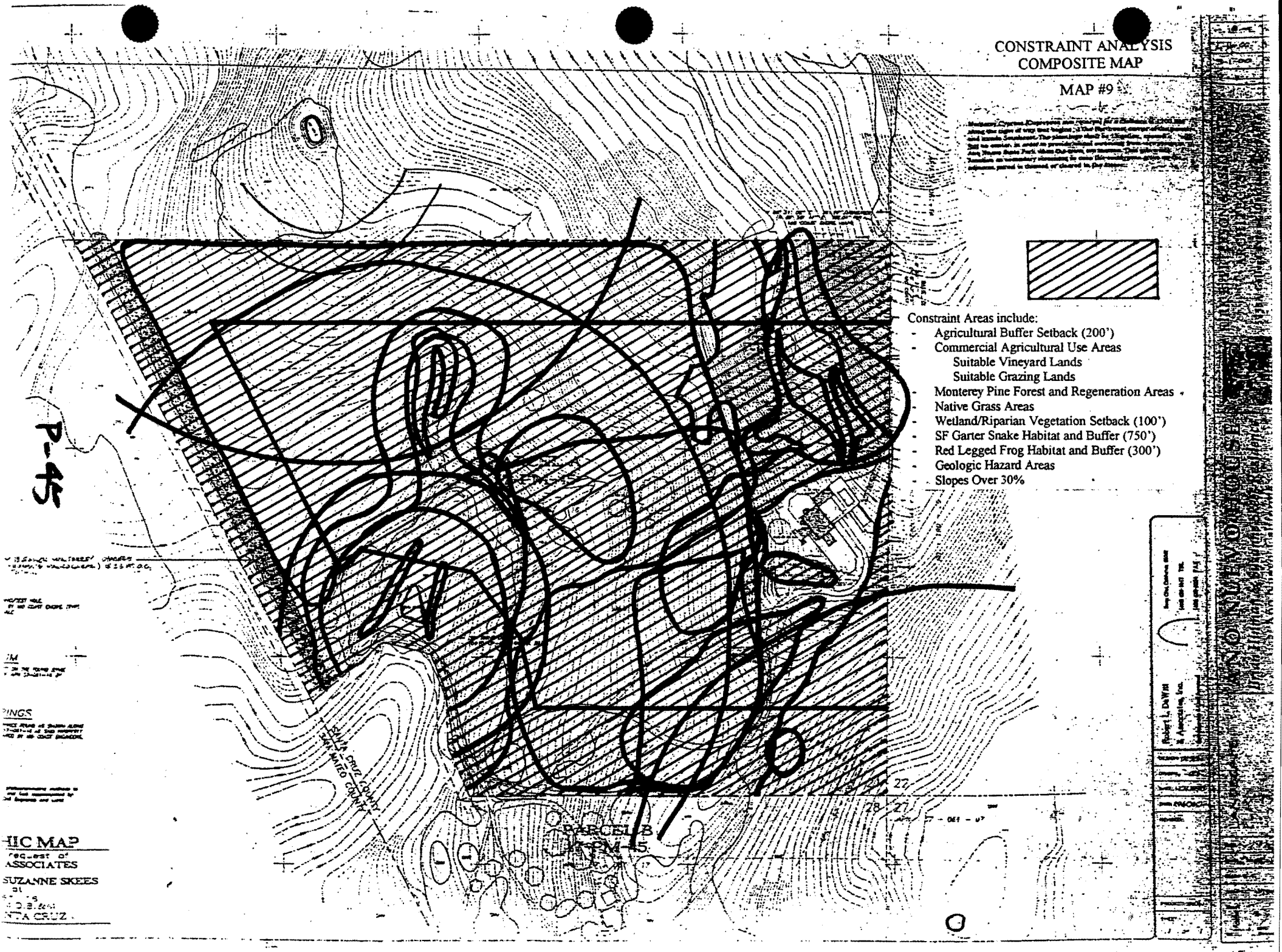
BASIS OF BEARINGS

NOTE

TOPOGRAPHIC MAP

prepared at the request of
KIRK PETERSON & ASSOCIATES
for
BRIAN HINMAN AND SUZANNE SKEES
located at
APN 37-061-18
T.9S., R.4W., M.D.B.&M.
COUNTY OF SANTA CRUZ

MAP #9: COMPOSITE MAPPING OF ALL CONSTRAINTS


CONSTRAINT ANALYSIS
COMPOSITE MAP
MAP #9
Constraint Areas include:
- Agricultural Buffer Setback (200')
- Commercial Agricultural Use Areas
Suitable Vineyard Lands
Suitable Grazing Lands
- Monterey Pine Forest and Regeneration Areas
- Native Grass Areas
- Wetland/Riparian Vegetation Setback (100')
- SF Garter Snake Habitat and Buffer (750')
- Red Legged Frog Habitat and Buffer (300')
- Geologic Hazard Areas
- Slopes Over 30%
SANTA CRUZ COUNTY
SAN MATEO COUNTY
PARCEL B
APN 1-5
27
28
27
HIC MAP
request of
ASSOCIATES
SUZANNE SKEES
ANTA CRUZ
P-45

ADJACENT BOLING RESIDENCE AS SEEN FROM ACCESS ROAD ON HINMAN PROPERTY

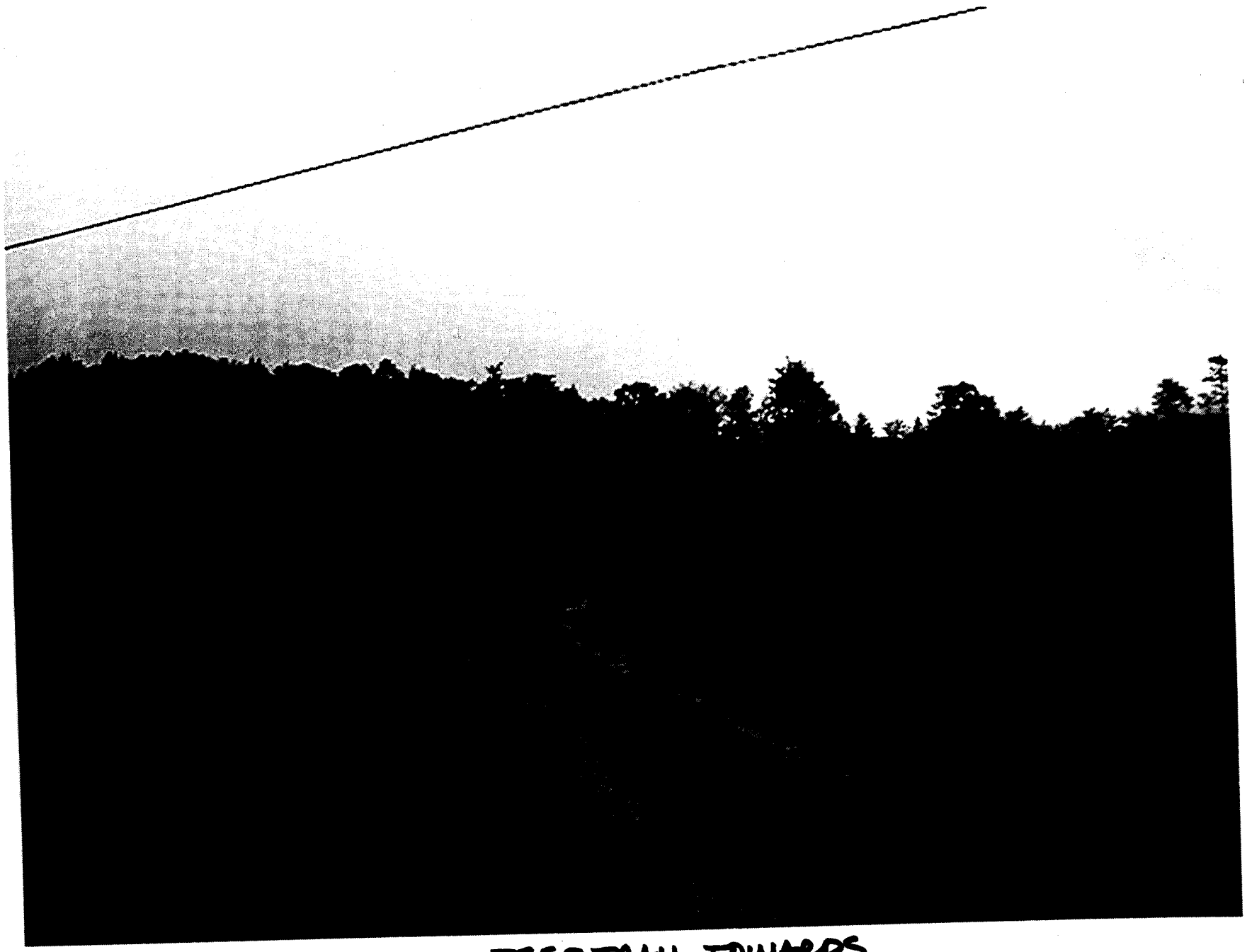
1-D

HINNAH POND

APPLICANT PROPOSED HOUSE SITE
—VIEW TOWARDS AÑO NUEVO

Q-3

Q-4



JEEP TRAIL TOWARDS
APPLICANT PROPOSED