

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SAN LUIS OBISPO, CA 95060

27-4863

**RECORD PACKET COPY****Prepared May 30, 2001****To:** Coastal Commissioners and Interested Parties**TU11a****From:** Peter Douglas, Executive Director
Tami Grove, Deputy Director
Diane Landry, Staff Counsel

Subject: Commission Determination of Applicable Hearing and Notice Provisions (pursuant to California Code of Regulations, Title 14, Section 13569) for the issuance of two Certificates of Compliance to Albert Schoenfield for one acre and 3.2 acre parcels located at 2731 Pecho Valley Road, Los Osos by the San Luis Obispo County Board of Supervisors. Commission determination of the applicable hearing and notice provisions for development authorized, on appeal from the decision of the Planning Director, by the San Luis Obispo County Board of Supervisors for the approval of two parcels through the issuance of two, unconditional Certificates of Compliance. The approved project creates an additional vacant parcel in an area designated as a Sensitive Resource Area in the LCP and causes one of the newly created parcels, which contains an existing single family home, to be below the minimum parcel size for the area.

Summary

The San Luis Obispo County Local Coastal Plan (LCP) was certified on July 8, 1987. The County assumed authority over the issuance of Coastal development Permits on March 31, 1988. After certification of a Local Coastal Program, the Coastal Commission is authorized under CCR Title 14, §13569 to resolve disputes concerning a local government's proposed processing of development proposals for purposes of Coastal Development Permit requirements (i.e., is the development categorically excluded, non-appealable, or appealable). In this case, the Planning Director's decision to approve only one Certificate of Compliance was appealed to the Board of Supervisors by the Applicant. The county staff prepared a recommendation to the Board that the Planning Directors decision should be upheld and suggested in a memo to Commission staff that if the decision was overturned, they expected the Board would grant two, Conditional Certificates of Compliance. Subsequent to the Board's action, a local resident, Janice Rohn, contended that the April 10, 2001 approval should be appealable to the Coastal Commission. She requested the county to ask for an Executive Directors Determination pursuant to CCR, Title 14, Section 13569 and Section 23.01.041 (g) (1) and (2) of Title 23 of the County Code. (Please see Exhibit 1)

Commission Staff had also received a copy of the request, and, in a letter dated May 7, 2001, advised the County and applicant to immediately request the determination. (Please see Exhibit 2). On May 17, 2001, the County notified Commission staff that it had chosen not to

**California Coastal Commission****June 2001 Meeting**Staff: Diane Landry Approved by: *P. J. L. 5/30/01*

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request a determination because "...the Schoenfield application was not an application for development, it was unnecessary for the County to make a determination under Section 13569 as to what type of development was being proposed....." (Please see Exhibit 3 for the full text of the County response) The Executive Director of the Coastal Commission replied to the County the next day stating that the dispute resolution process outlined in Section 13569 was appropriate and that his determination was that the County had effectively approved two Conditional Certificates of Compliance that, under the terms of the certified LCP, were appealable to the Coastal Commission. (Please See Exhibit 4) The County disputes the Executive Director's Determination.

Under §13569, when the local jurisdiction does not agree with the Executive Director's determination regarding the appropriate permitting status of a particular proposal, the Commission is required to hold a hearing and make the determination at the next meeting in the appropriate geographic region of the state following the Executive Director's determination, which in this case is the June 13, 2001 meeting in Los Angeles.

Executive Director's Recommendation

The Executive Director recommends that the Commission adopt the attached findings and resolution to determine that the project authorized by the San Luis Obispo County Board of Supervisors was effectively the approval of two Conditional Certificates of Compliance and as such, constitute appealable Coastal Development Permits.

Motion. *I move that the Commission determine that the development authorized by San Luis Obispo County Board of Supervisors on April 10, 2001 to create two parcels through the Certificate of Compliance process constitutes Coastal Development Permits that are appealable to the Coastal Commission.*

Staff Recommendation. *Staff recommends a YES vote. Passage of this motion will require that these Coastal Development Permits are processed as appealable items. A majority of the Commissioners present is necessary to pass the motion and adopt the following resolution and findings.*

Resolution. *The Commission, by adoption of the attached findings, determines, pursuant to Section 13569 of Title 14 of the California Code of Regulations, that the appropriate designation for the development approved by the San Luis Obispo County Board of Supervisors on April 10, 2001 is that it constitutes appealable Coastal Development Permits.*



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Recommended Findings and Declarations

The Commission finds and declares as follows:

1. Project History and Background

The gently rolling 4.2 acre site is located on the seaward side of Pecho Valley Road between the first public road and the sea on the edge of the developed portion of Los Osos. It is outside the defined "Urban Services Area" and just within the "Urban Reserve " line. Most of the nearby lots are developed with single family homes and range in size from over four acres to less than one half an acre. (Please see Exhibit 5). The LCP designation for the site is suburban residential with a minimum parcel size of two and one half acres. The site is identified as a "Sensitive Resource Area" for terrestrial habitat.

The current Applicant purchased the site in 1987 and in 1989, the County approved a Coastal Development Permit for the construction of a 3500 square foot home on the westerly portion of the parcel. The Staff Report prepared for the project identified existing and potential habitat on the site coastal scrub, Morro Bay Kangaroo Rat and Morro Manzanita). Various conditions were attached to the approval including requirements for an open space easement on a portion of the property and deed restrictions to protect habitat values and native vegetation. At the time the project was approved, it was anticipated that a Habitat Conservation Plan would be prepared in the near future. It has not been determined whether this HCP has been prepared to date. The project was not appealed to the Coastal Commission and has been constructed.

In 1995, Mr. Schoenfield applied for a land division to divide his parcel into two parcels of 1+ and 3+ acres configured exactly as the parcels recently authorized by the Board's action. The land division was denied by the County because the resulting lots did not meet the minimum parcel size for the area of two and one half acres. The Staff Report for this project included a letter from the United States Fish and Wildlife Service (USFWS) that stated there would be adverse impacts on habitat values if the land division was approved and an additional house built on the site.

In 2000, Mr. Schoenfield applied for two Unconditional Certificates of Compliance (C00-0166). In October of 2000, County staff prepared a report on the proposal and recommended that only one certificate for the entire site be approved . The report stated that the Applicant was not entitled to two Unconditional Certificates of Compliance as the lots had been created illegally in 1949 and were thus not eligible to receive *Unconditional* Certificates pursuant to Map Act and County requirements. (Please se Exhibit 6) On November 14, 2000, the Planning Director approved the issuance of **one**, unconditional Certificate of Compliance.

The Planning Director's decision was challenged by the Applicant and a hearing before the



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Board of Supervisors was set for March of 2001. A staff report recommending that the Planning Director's decision be upheld was prepared. In March, a copy of this report was sent to Commission staff with a cover memo indicating that if the Director's decision was overruled " *Staff fully expects that if the Board overturns the Director's decision and approves two certificates then both would be conditional certificates of compliance.*" The memo also notes that the " *project is in a coastal appeal zone*". (Please see Exhibit 7, County Staff Report., Memo and Board of Supervisor's action on the Appeal)

The Board continued the hearing on the item from the March 6 meeting to April 10. On April 10, the Board ruled that the Applicant's parcels had not been created illegally in 1949 and were therefore entitled to two, unconditional Certificates of Compliance. Since the Board had determined this was a ministerial act, no notice of their action was sent to the Commission, nonetheless, an appeal of the action was made by Janice Rohn and received at the Commission offices on April 30, 2001. Ms. Rohn was advised by Commission staff that no Notice of Final Local Action on this item had been received and an appeal period could not be initiated until such receipt. She then asked the County to request an Executive Director's Determination pursuant to CCR Title 14, Section 13569 of the Commission's regulations. Ten days later, the County indicated that such a request would not be forthcoming. In response, the Executive Director, stated that, in his opinion, the dispute resolution process outlined in Section 13569 was applicable in this case and determined that the County had effectively issued two Conditional Certificates of Compliance which were appealable to the Coastal Commission. The County disagrees with this determination and therefore the Commission must decide whether the Board's April 10 action to approve these certificates constitutes appealable development.

2. Authority for Determination

The authority for the Commission's determination stems from California Code of Regulations, Title 14, Section 13569 (Determination of Applicable Notice and Hearing Procedures) that states:

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

(a) The local government shall make its determination as to what type of development



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is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.

- (b) If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a Commission determination as to the appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;*
- (c) The executive director shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable:*
- (d) Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government request.*

San Luis Obispo County LCP implementation plan also includes a dispute resolution process. Section 23.01.041 (g) (1) and (2) of the County Code, a portion of the certified LCP states:

*(g) **Determination of applicable notice and hearing procedures.** The determination of whether a development is categorically excluded, non appealable or appealable for purposes of notice, hearing and appeal procedures shall be made by the County at the time the application for development within the Coastal Zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and provisions of this title which are adopted as part of the Local Coastal Program. Where an applicant. Interested person or the county has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non appealable or appealable :*

- (1) The Planning Director shall make his/her determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non appealable) and shall inform the applicant of the notice and hearing requirement for that particular development.*
- (2) If the determination of the Planning Director is challenged by the applicant or*



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interested person, or if the county wishes to have a determination by the Coastal Commission as to the appropriate designation, the Planning Director shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion.

After the certification of a LCP, the Commission is authorized to determine the appropriate status of a development proposal (i.e., categorically excluded, non-appealable, or appealable) when requested to do so. The purpose of the regulation and companion LCP provision is to provide for an administrative process for the resolution of disputes over the status of a particular project. Such a process is important when two agencies, here the County of San Luis Obispo and the Coastal Commission both have jurisdiction over a given project. The Coastal Act was set up to give certified local governments the primary permitting authority over projects proposed in the Coastal Zone but to allow the Commission oversight authority over specified projects through the appeal process. Thus, the regulations anticipated that, from time to time, there may be disagreements regarding the status of a particular project and an administrative dispute resolution process would be preferable (and quicker) than the immediate alternative of litigation. The local government may initiate the request or forward a request made by an applicant or other interested party. The first step in this process is to request a determination from the Commission's Executive Director. If the Executive Director and the local government are in disagreement over the appropriate processing status, as is the situation here, the Commission is charged with making the final determination.

In this case, the County received a request for an Executive Director's Determination on the Board approval of two Certificates of Compliance but chose not to ask for one. The applicable regulations and ordinance sections do not offer the County this option but rather state that "*the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion.*" (CCR, Title 14, Section 13569 (b)) and "*...the Planning Director shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion*" (San Luis Obispo County Code, Title 23 Section 23.01.041 (g) (2)). Likewise, the Executive Director is **required** to render a determination (CCR Title 14, Section 13569 (c)) and, in the event the local government disagrees with the opinion, "*the Commission shall hold a hearing for purposes of determining the appropriate designation for the area*" (CCR, Title 14, Section 13569 (d)). It is clear from a plain reading of the regulation, that, once a request is made, participation is not optional and that if a system for dispute resolution is to be effective, the requirements for implementation of the process must be observed by both the Coastal Commission **and** the local government. The Executive Director has, therefore made a determination, the County disagrees and the matter will be heard by the Commission.

3. Executive Directors Determination Disputed by the County

In response to the request by Ms. Rohn and the Commission's letter asking that the request be forwarded, the County replied, on May 17, that such a request was unnecessary because



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the application submitted to the county was for two **unconditional** Certificates of Compliance. The County asserts that since unconditional certificates are not considered development under the definition in the LCP, the project is outside the Commission's jurisdiction and therefore no determination regarding the appeal status is needed. Furthermore, the County response noted that *"disputes over what type of development is being proposed are to be resolved at the beginning of the process when the application is submitted so that the matter can be properly noticed and processed for hearing."*

The Commission finds that the fact that Mr. Schoenfield may have applied for unconditional certificates should not be determinative of the actual status of the proposed project. It is the County's responsibility to determine whether a particular proposal is either exempt from the Coastal Development Permit requirement, or is appealable or not appealable to the Coastal Commission. In this case, County staff, in response to the application for two certificates, determined that only **one** unconditional Certificate of Compliance could be granted to Mr. Schoenfield. Since one unconditional Certificate of Compliance for the entire 4.2 acre site had already been granted to a previous owner in 1976, prior to Coastal Commission authority over the area, the re-affirmation of a single certificate was appropriate. On November 14, 2000, the Planning Director approved the application, but for only **one** , unconditional certificate.

The Applicant appealed this discretionary decision of the Planning Director to the Board of Supervisors in November of 2000. In March, Commission staff was notified by the County that a hearing on the appeal was scheduled for March 6, 2001. The attached County Staff report recommended that the Planning Director's decision should be up held. A cover memo to Commission Staff stated that the project was in the Coastal Commission appeal area and County staff expected that if the Director's decision was overturned, two **Conditional** Certificates of Compliance would be awarded. The Commission believes this correspondence supports the contention that the County had determined that if two certificates were to be granted they must be conditional and would be appealable. Therefore, the County's observation suggesting disputes over the status of a particular development should be dealt with earlier in the process is, in this case, inapplicable because until the time of the Board hearing, the application was correctly identified as to it's appeal status and there was no need to request a determination under Section 13569. The Commission notes that when it became apparent that the Board action differed so significantly from the recommendation, a timely request for a determination was made by a county resident. The last minute discretionary Board decision to declare that a project, that would otherwise be subject to appeal, did not constitute "development" has a tremendous adverse effect on the public and other agencies ability to participate in the regulatory process. It is precisely this kind of situation that is properly addressed by the dispute resolution provisions in Section 13569 of the Commission's regulations. If the process for administratively resolving these disputes is not followed, the only alternative remaining is time consuming and expensive litigation.



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4. Commission's Determination of Applicable Hearing and Notice Requirements for the Board's Action on C00-0166

Background

Commission staff has reviewed the San Luis Obispo County Board of Supervisor's April 10, 2001 action to approve two Certificates of Compliance for two parcels of land (one acre and 3.2 acres respectively) on the west side of Pecho Road in Los Osos. Staff has traced the chain of title on this property and analyzed the Applicant's supporting documentation prepared by John Wallace and Associates, the current version of the Subdivision Map Act (Government Code Section 66410 et seq. and specifically Section 66499.35), the 1943 version of the Map Act (Business and Professions Code 11535), the County Staff Reports on the application for the certificates, for a denied land division (1996) and for the construction of a single family home on the site (1989), Section 21.02.020 of Title 21 of the County Code, and the "Subdivision Regulation Matrix" prepared by the County to assist in the analysis of applications for Certificates of Compliance. Based on a review of this information, the Commission finds that the Applicant was not entitled to two Certificates of Compliance and the County should have either denied the request or approved two Conditional Certificates if conditions could bring the proposed parcels into conformity with the requirements of the LCP.

Subdivision Map Act and Coastal Act / LCP Requirements: The Subdivision Map Act provides for the approval of Certificates of Compliance and Conditional Certificates of Compliance (Gov't. Code Section 66499.35) Certificates of Compliance are granted to confirm the legality of an existing parcel that was created consistent with the rules for land divisions in effect at the time the parcel was created. A Conditional Certificate of Compliance is granted to legalize a parcel that was *not* created pursuant to the rules in place at the time of its creation. From a land use standpoint, Certificates of Compliance do not create new parcels, they are simply a procedure for recognizing an existing, legal parcel. Conditional Certificates of Compliance do, however, create new parcels at the time they are awarded and may be conditioned to bring these parcels into conformity with current land use regulations regarding subdivisions (if the illegal subdivider is still the owner) or the rules that were in effect when the current owner (the successor to the illegal subdivider) purchased the property (Subdivision Map Act Section 66499.35 (b)). The newly created parcels constitute development under the Coastal Act (Public Resources Code Section 30106) and must also therefore be found consistent with the policies and implementing ordinances of the LCP by obtaining a Coastal Development Permit.

San Luis Obispo LCP: The certified LCP provides a procedure for considering Conditional Certificates of Compliance that includes notice, hearing and appeal provisions. Action on Conditional Certificates of Compliance for property located in the coastal zone appeal areas is



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appealable to the Coastal Commission (Title 21, Section 21.02.020). (Please see Exhibit 8) Section 21.01.010 (d) of Title 21 provides that action on a Conditional Certificate of Compliance constitutes action on the Coastal Development Permit as well. In order to approve a Coastal Development Permit, the decision making body must find that the project is consistent with the applicable policies and implementing ordinances of the LCP. The Board action to erroneously grant unconditional Certificates of Compliance circumvented this process to mitigate the impacts on coastal resources that occur by legitimizing illegal parcels and impermissibly restrains the rights of the public and the Commission to appeal the decision.

Analysis of the Schoenfield Proposal

The following analysis of the Applicant's proposal to obtain unconditional Certificates of Compliance demonstrates that the parcels he sought to have recognized were in fact illegally created in 1949 and were not entitled to unconditional Certificates.

History of the Property The Applicant's representative submitted a lengthy, detailed chain of title for this property tracing the conveyances from the original land grants in the late 1800's to the present time. Staff has reviewed all of this material and checked and mapped each conveyance. For each conveyance, staff consulted the County's "Subdivision Regulation Matrix" and other information to determine if the conveyance was consistent with the land division regulations in effect at the time. Up until the 1949 conveyance from Martin to Wilcox, which created six parcels, the conveyances were consistent with the rules for creating and conveying parcels. The critical conveyances that occurred in 1949 are discussed in the following sections of this determination.

Vermazen to Martin In February of 1949, Vermazen deeded two parcels of land to Martin. Parcel One was approximately 8 acres in size and Parcel Two was a little over 4 acres (See Exhibit 9). Parcel 1 was located entirely with the south west quarter of the northwest quarter of Section 24, T 30 S, R 10 E. Parcel Two was contiguous to Parcel One but located entirely within the South east quarter of the north east quarter of Section 23, T 30 S, R. 10 E. At that time, the Subdivision Map Act of 1943 as amended in 1949 provided the regulations for subdivisions. Land divisions not defined as subdivisions did not fall under these rules and could, in 1949, be accomplished by deed with a specific property description. Business And Professional Code Section 11535 (1943 Act) defined a subdivision as the division of a unit of land or contiguous units of land into five or more parcels within a one year period. The deed from Vermazen to Martin is specific and clearly describes each parcel according to Township, Range and Section coordinates. Staff followed the descriptions and they are accurate to the properties in question. Thus, in February of 1949, there were two, legal parcels west of Pecho Road owned by Martin.



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Martin to Wilcoxn In March of 1949, Martin deeded out a portion of the property described above to Wilcoxn. The property deeded to Wilcoxn totaled 6.6 acres and was made up of a 4+ acre portion of Martin's original Parcel One and a 2+ acre portion of Martin's Parcel Two (See Exhibit 10). The property was not described as separate parcels but was identified by Township, Range and Section coordinates.

The effect of conveyance of the property to Wilcox resulted in the division of Martin's Parcel One into three lots and Martin's Parcel Two into three lots for a total of six lots out of the original two, contiguous parcels. Martin retained two lots north of Wilcoxn and two lots south of the deeded out land. The north lots were sold to Andersen in 1955 and the south lots were ultimately sold and resubdivided. In their Staff Report, the County Staff correctly asserted that this conveyance to Wilcoxn was illegal because a Tract Map was required in 1949 for the creation of five or more lots within a year by the same person. The law in effect at the time was the Map Act of 1943 as amended up to 1949. The relevant regulation is found in the 1949 Act in the Business and Professions Code Section 11535 (a) as follows:

Section 11535 (a) " Subdivision" refers to any land or portion thereof, shown on the last preceding tax roll as a unit or as contiguous units (emphasis added), which is divided for the purposes of sale, whether immediate or future, by any subdivider into five or more parcels within any one year period.

The Map Act thus provides that if a person has a parcel or two or more contiguous parcels and divides the parcel, or group of parcels into five or more lots within any one year period, that division constitutes a subdivision and comes under the authority of the Map Act.. Section 11538 provides that *" It is unlawful for any person to offer to sell, to contract to sell or to sell any subdivision or any part thereof until a final map.....in full compliance with the provisions of this chapter and any local ordinance has been duly recorded."* Therefore in order to legally create five or more parcels in 1949, the subdivider would have had to comply with the procedure for processing a final map as laid out in the Map Act. In this case, no Final Map was ever applied for or filed.

In 1949, Martin owned two contiguous parcels, Parcel One and Parcel Two. As detailed in the previous paragraph, the Map Act of 1943 required that, if the division of these two contiguous parcels, for immediate or future sale, resulted in five or more parcels, then a Final Map was required. It can be presumed that Martin created the parcels for sale because within the next few years, he in fact sold the parcels. He sold two to Wilcoxn shortly after he acquired the original two parcels from Vermazen, sold two more to Andersen six years later and the last two sometime after that. Note also, that the language of the 1943 Map Act does not count only the *additional* parcels created by the division, it simply provides that if, after the division is done, there are more than five parcels, then the provisions for Tract Maps must be complied with.



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The question then becomes how many parcels were created when Martin, through his sale to Wilcoxn I 1949, described the new property lines that separated Wilcoxn's property from Martin's lots to the north and south. If we accept the Applicant's contention that this sale transferred *two* lots to his predecessor Wilcoxn, then the same rationale must apply to the creation of *two* lots on the north and *two* lots on the south. The fact that Martin didn't sell these other lots immediately has no effect on the fact that they were created by the property lines defining Wilcoxn's parcels. The County Findings in support of the Boards action argue that somehow the situation whereby Martin conveyed out two of the lots by deed to Wilcoxn did not have the immediate result of creating six lots because Martin didn't **sell** the other four lots within a year. This assertion is inconsistent with the plain language of the 1949 Map Act. The Map Act effective at the time simply says if five or more lots, "*divided for the purpose of sale, whether immediate or future*" **are created** within a year, **then the Map Act applies**. A review of Exhibit 11 clearly shows that six lots were created at the moment Wilcoxn's north and south property boundaries were defined. In conclusion, Martin created six lots in March of 1949 and did not comply with the regulations for land divisions of more than five lots in a single year as required by the 1943 Map Act. The lots were created illegally are, therefore not entitled to Certificates of Compliance under Section 66499.35 (a) of the current Subdivision Map Act.

The 1943 Map Act does include the following exemptions from it requirements in Section 11535 (b) (1) and (2) :

Business and Professions Code Section 11535 (b) " Subdivision " does not include either of the following;

(1)Any parcel or parcels of land in which all (emphasis added) of the following conditions are present: (I) which contain less than five acres (ii) which abut upon dedicated streets or highways, (iii) in which street opening or widening is not required by the governing body in dividing the land into lots or parcels, and (iv) the lot design meets the approval of the governing body.

(2) Any parcel or parcels of land divided into lots or parcels each of a net area of one acre or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design.

The lots created by Martin in March of 1949 do not meet these criteria for exemption found in Section 11535 (b) (1) because they do not all abut on a dedicated street, a street opening would be required to serve at least one of the lots, and there is no evidence that the lot design was approved by the governing authority (San Luis County Board of Supervisors).



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The lots created by Martin also do not meet any of the criteria for exemption found in Section 11535 (b) (2) because only four of the parcels created are greater than one acre in size with two of the lots being less than one acre each. There is also no evidence that Martin submitted a tentative map to the governing body and that the map was approved.

In conclusion, Martin divided two contiguous parcel into six lots in 1949 and did not comply with the subdivision requirements in place at that time nor were the lots exempt from the provisions of the Map Act. All of the resulting lots were therefore created illegally.

Wilcoxn to Thorbergsson In January of 1959, Wilcoxn conveyed a 2.2 acre portion of his 6.6 acre site to Thorbergsson. Overlooking the fact that the Wilcoxn parcel was created illegally, this conveyance was otherwise consistent with the land division rules at the time and resulted in the present configuration of the property.

Willfong Certificate of Compliance In 1976, a subsequent owner, Willfong obtained a single Certificate of Compliance for this site as presently configured. The legal description of the property included both of the lots, but did not describe them as different parcels. The parcel was identified by one APN. This Certificate predated Coastal Commission jurisdiction in this area.

Conclusion

The Applicant's lots were illegally created in 1949 and should not have been processed as unconditional Certificates of Compliance. The Commission therefore determines that the County's action effectively granted two Conditional Certificates of Compliance to Mr. Schoenfield. Because the affected property is located within a "Special Resource Area " and between the first public road and the sea, the County's action is appealable to the Coastal Commission pursuant to Coastal Act Section 30603 (a) (1) (3) (4) and the provisions of Title 21, Section 23.01.043 (c) (1) (3) and (4). The County is requested to forward a Notice of Final Local Action to the Santa Cruz District office that states that this item -- an effective grant of two Conditional Certificates of Compliance -- is appealable to the Coastal Commission. Until the corrected notice is received and the appeal period has run without an appeal being filed the County action to approve this project is suspended pursuant to CCR Title 14 Section 13572 .



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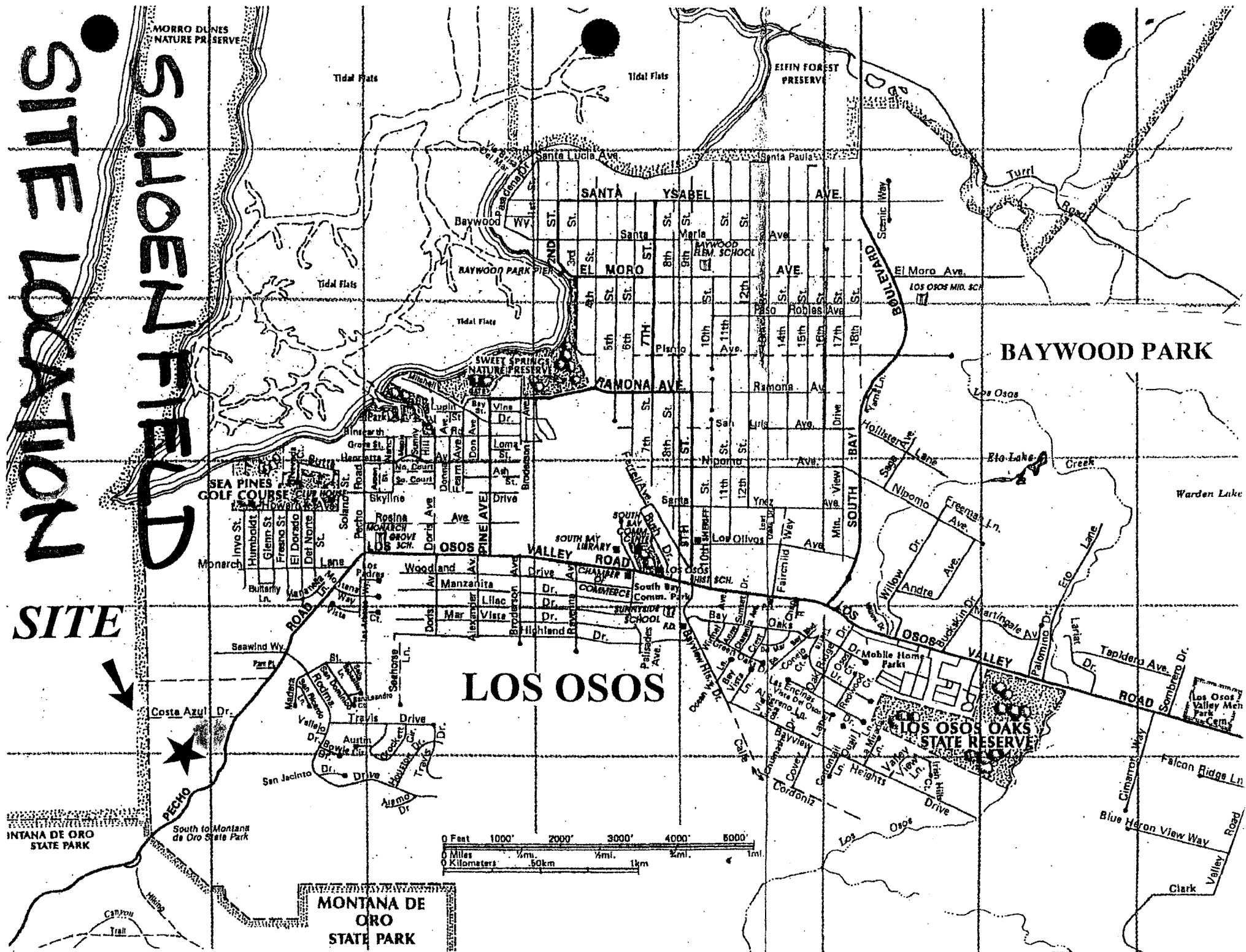
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SITE



Janice Rohn & Mike Monegan
2710 Pecho Valley Road
Los Osos, CA 93402
(805)528-0495

May 5, 2001

Pat Beck
Planning Supervisor
County Government Center
San Luis Obispo, CA 93408

Dear Pat,

We would like to ask SLO County to request the California Coastal Commission Executive Director to give his opinion on the appealability of the granting of a straight certificate of compliance to Albert Schoenfield/John L. Wallace & Associates (County File Number: C00-0166/S990330C), pursuant to Article 17, Section 13569 of the CA Coastal Commission Regulations. We are requesting this for the following reasons:


1. The lots were created inconsistent with the applicable law, and the request should have been processed as a conditional certificate of compliance.
2. Section 21.02.020C3 of the SLO County Coastal Zone Land Use Ordinance states that approval of a conditional certificate of compliance, which are appealable to the Coastal Commission, are not final until all the appeal periods have expired.
3. The parcels in question are within the appealable jurisdiction of the Coastal Commission because they are in a sensitive resource area and are between the first public road and the sea.

We expect the law to be upheld by the County, and therefore ask that the request be made to the California Coastal Commission Executive Director.

We are also including the appeal to the CA Coastal Commission dated April 25, 2001, along with our letter to you dated May 1, 2001.

Please let us know if we can help in any way.

Sincerely,



Janice Rohn and Mike Monegan

cc: Larry Kelly, Shirley Bianchi, Steve Monowitz

EXHIBIT I

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

CERTIFIED MAIL

May 7, 2001

K.H. Achadjian, Chair
San Luis Obispo County Board of Supervisors
County Government Center
San Luis Obispo, CA. 93408

Subject: *Determination of Appeal Status of the Schoenfield Certificates of Compliance (Local File C00-0166/S990330C)*

Dear Chair Achadjian,

I am writing concerning the County's determination on April 10, 2001, that certificates of compliance for the Schoenfield property in Los Osos are not conditional, and therefore not appealable to the Coastal Commission (Local File C00-0166/S990330C). Our office has received a copy of a challenge to the County, made by Janice Rohn, in which she disputes the Board's determination to issue unconditional certificates in this case, rather than conditional certificates, which would have been noticed to the Commission as appealable coastal development permits. Her challenge references CCR Title 14 Section 13569 of the Commission's regulations, which provides a process for interested parties to challenge a local government's determination of the appealability of development in the coastal zone (see attached). Upon its determination to issue unconditional certificates, the Board effectively determined that the Schoenfield certificates were not appealable coastal development permits. Ms. Rohn has now disputed this determination.

California Code of Regulations section 13569 requires that a local government notify the Commission by telephone of disputes of this nature, and request an Executive Director's opinion on the matter. We are not aware of having received telephone notice of this dispute. In the interest of reaching a speedy resolution of this matter, I am requesting that you notify the Executive Director of the Coastal Commission by telephone immediately of this dispute, and request his determination as to whether the locally issued certificates of compliance are appealable to the Coastal Commission. Pursuant to section 13569, if the Executive Director does not concur with the County's determination, the matter may be set for public Commission hearing for resolution. Thank you in advance for the County's prompt attention to this request.

Sincerely,

Tami Grove
Deputy Director
Central Coast District Office

Cc: Victor Holanda, Planning Director
Albert Schoenfield
Janice Rohn

EXHIBIT 2

§ 13569. Determination of Applicable Notice and Hearing Procedures.

The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the local government at the time the application for development within the coastal zone is submitted. This

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

(a) The local government shall make its determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.

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

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

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

NOTE: Authority cited: Sections 30333 and 30620, Public Resources Code. Reference: Section 30600, Public Resources Code.

EX. 2



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

May 16, 2001

Tami Grove
Deputy Director
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Certificates of Compliance C00-0166
(Albert Schoenfield)
County of San Luis Obispo, California

Dear Ms. Grove:

This letter is in response to your letter of May 7, 2001, which was addressed to Supervisor Achadjian as Chair of the Board of Supervisors. Your correspondence concerned the application of Albert Schoenfield for the issuance of two unconditional certificates of compliance under Government Code section 66499.35(a). This application was approved by the Board of Supervisors on April 10, 2001. A copy of the Board's action, Resolution No. 2001-148, has previously been forwarded to your office.

California Code of Regulations, title 14, section 13569 requires a local government to make a determination, at the time an application within the coastal zone is submitted, whether the development is categorically excluded, non-appealable, or appealable. The prerequisite for such a determination is an application for "development" within the coastal zone.

The County determined that the Schoenfield application was not an application for development within the coastal zone because it requested the issuance of unconditional certificates of compliance under Government Code section 66499.35(a). The definition of "subdivision development" is set forth in the County's Real Property Division Ordinance Sections 21.08.020

EXHIBIT 3

Tami Grove

Re: Certificates of Compliance C00-0166
(Albert Schoenfield)

May 16, 2001

and 21.01.010(d) and is defined to include the issuance of conditional certificates of compliance under Government Code section 66499.35(b). The definition does not include unconditional certificates under Government Code section 66499.35(a).

Since the Schoenfield application was not an application for "development," it was unnecessary for the County to make a determination under section 13569 as to what type of development was being proposed (i.e., whether it was categorically excluded, non-appealable, or appealable development). Furthermore, disputes over what type of development is being proposed are to be resolved at the beginning of the process when the application is submitted so that the matter can be properly noticed and processed for hearing. Neither the applicant nor any other interested person questioned the processing of this application or submitted any testimony concerning this issue to the Board of Supervisors.

Consequently, since the Schoenfield application for unconditional certificates of compliance was not an application for development within the coastal zone, the County will not be asking the Executive Director for a Commission determination under section 13569(b) as such a request is unnecessary.

Sincerely,



Patricia Beck
Principal Planner

PB:kt

cc: Janice Rohn and Mike Monegan
Kerry Margason, John L. Wallace & Associates

PLN
7905kltlr.wpd

EX. 3

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
720 FRONT STREET, SUITE 300
SAN LUIS OBISPO, CA 95060
(805) 427-4863



May 18, 2001

Pat Beck
San Luis Obispo County Planning
County Government Center
San Luis Obispo, California 93408

***Subject: Request for Executive Director's Determination on the County's Action
on C00-0166, Schoenfeld Certificates of Compliance***

Dear Ms. Beck,

I am writing in response to your letter of May 16, in which you state that the County has chosen not to respond to the request of Janice Rohn for an Executive Director's determination, pursuant to CCR Title 14 Section 13569, regarding the appealability of the County Board of Supervisors action of April 10, 2001 to approve two Certificates of Compliance for property owned by Mr. Albert Schoenfeld at 2731 Pecho Valley Road in Los Osos. In your letter you state that the Schoenfeld application was for unconditional Certificates of Compliance and, because an unconditional certificate is not development under the definition in the LCP, the project is outside the Commission's jurisdiction and thus any determination on the appeal status is unnecessary. As discussed below, I have determined that the dispute resolution provisions of CCR 13569 do apply to this case. Further, I determined that if any certificates were issued, they should have been Conditional Certificates and properly noticed to the Commission as appealable Coastal Development Permits.

First, the fact that Mr. Schoenfeld may have applied for unconditional certificates should not be determinative of the actual status of the proposed project. It is the County's responsibility to determine whether a particular proposal is either exempt from the Coastal Development Permit requirement, or is appealable or not appealable to the Coastal Commission. In this case, County staff, in response to the application for two certificates, determined that only **one** unconditional Certificate of Compliance could be granted to Mr. Schoenfeld. Since one unconditional Certificate of Compliance for the entire 4.2 acre site had already been granted to a previous owner in 1976, prior to Coastal Commission authority over the area, the re-affirmation of a single certificate was appropriate. On October 30, 2000, the Planning Director approved the application, but for only **one**, unconditional certificate.

The Applicant appealed this discretionary decision of the Planning Director to the Board of Supervisors in November of 2000. In February, Commission staff was notified by the County that a hearing on the appeal was scheduled for March 6, 2001. The attached County Staff report recommended that the Planning Director's decision should be up held. A cover memo to Commission Staff stated that the project was in the Coastal

EXHIBIT 4

Commission appeal area and County staff expected that if the Director's decision was overturned, two **Conditional** Certificates of Compliance would be awarded. Commission staff believes this correspondence supports the contention that the County had determined that if two certificates were to be granted they must be conditional and would be appealable to the Commission. Therefore, your observation suggesting disputes over the status of a particular development should be dealt with earlier in the process is, in this case, inapplicable because until the time of the Board hearing, the application was correctly identified as to its appeal status and there was no need to request a determination under Section 13569. I note that when it became apparent that the Board action differed so significantly from the recommendation, a timely request for a determination was made by a County resident. The last minute discretionary Board decision to declare that a project, that would otherwise be subject to appeal, did not constitute "development" has a tremendous adverse effect on the public and other agencies ability to participate in the regulatory process. It is precisely this kind of situation that is properly addressed by the dispute resolution provisions in Section 13569 of the Commission's regulations. If the process for administratively resolving these disputes is not followed, the only alternative remaining is time consuming and expensive litigation.

Second, in keeping with the intent of Section 13569, I am providing a response to Ms. Rohn's request for an Executive Director's determination regarding this project. For the reasons detailed in the following sections of my letter, I have determined that the Board action to approve two Certificates was inconsistent with the Local Coastal Program provisions for legalizing illegal parcels and, if any certificates were to be approved, Conditional Certificates would have been the proper procedure to carry out the requirements of both the Subdivision Map Act and the Coastal Act/LCP. Conditional Certificates of Compliance for Mr. Schoenfield's property are appealable to the Coastal Commission.

Background

Commission staff has reviewed the San Luis Obispo County Board of Supervisor's April 10, 2001 action to approve two Certificates of Compliance for two parcels of land (one acre and 3.2 acres respectively) on the west side of Pecho Road in Los Osos. Staff has traced the chain of title on this property and analyzed the Applicant's supporting documentation prepared by John Wallace and Associates, the current version of the Subdivision Map Act (Government Code Section 66410 et seq and specifically Section 66499.35), the 1943 version of the Map Act (Business and Professions Code 11535), the County Staff Reports on the application for the certificates, for a denied land division (1996) and for the construction of a single family home on the site (1989), Section 21.02.020 of Title 21 of the County Code, and the "Subdivision Regulation Matrix" prepared by the County to assist in the analysis of applications for Certificates of Compliance. Based on a review of this information, the Applicant was not entitled to two Certificates of Compliance and the County should have either denied the request or

EX. 4

approved two Conditional Certificates if conditions could bring the proposed parcels into conformity with the requirements of the LCP.

Subdivision Map Act and Coastal Act / LCP Requirements: The Subdivision Map Act provides for the approval of Certificates of Compliance and Conditional Certificates of Compliance (Gov't. Code Section 66499.35) Certificates of Compliance are granted to confirm the legality of an existing parcel that was created consistent with the rules for land divisions in effect at the time the parcel was created. A Conditional Certificate of Compliance is granted to legalize a parcel that was *not* created pursuant to the rules in place at the time of its creation. From a land use standpoint, Certificates of Compliance do not create new parcels, they are simply a procedure for recognizing an existing, legal parcel. Conditional Certificates of Compliance do, however, create new parcels at the time they are awarded and may be conditioned to bring these parcels into conformity with current land use regulations regarding subdivisions (if the illegal subdivider is still the owner) or the rules that were in effect when the current owner (the successor to the illegal subdivider) purchased the property (Subdivision Map Act Section 66499.35 (b)). The newly created parcels constitute development under the Coastal Act (Public Resources Code Section 30106) and must also therefore be found consistent with the policies and implementing ordinances of the LCP by obtaining a Coastal Development Permit.

San Luis Obispo LCP: The certified LCP provides a procedure for considering Conditional Certificates of Compliance that includes notice, hearing and appeal provisions. Action on Conditional Certificates of Compliance for property located in the coastal zone appeal areas is appealable to the Coastal Commission (Title 21, Section 21.02.020). Section 21.01.010 (d) of Title 21 provides that action on a Conditional Certificate of Compliance constitutes action on the Coastal development Permit as well. In order to approve a Coastal Development Permit, the decision making body must find that the project is consistent with the applicable policies and implementing ordinances of the LCP. The Board action to erroneously grant unconditional Certificates of Compliance circumvented this process to mitigate the impacts on coastal resources that occur by legitimizing illegal parcels and impermissibly cut off the rights of the public and the Commission to appeal the decision.

Analysis of the Schoenfield Proposal

The following analysis of the Applicant's proposal to obtain unconditional Certificates of Compliance demonstrates that the parcels he sought to have recognized were in fact illegally created in 1949 and were not entitled to unconditional Certificates.

History of the Property The Applicant's representative submitted a lengthy, detailed chain of title for this property tracing the conveyances from the original land grants in the late 1800's to the present time. Staff has reviewed all of this material and checked and mapped each conveyance. For each conveyance, staff consulted the County's

EX. 4

"Subdivision Regulation Matrix" and other information to determine if the conveyance was consistent with the land division regulations in effect at the time. Up until the 1949 conveyance from Martin to Wilcox, which created six parcels, the conveyances were consistent with the rules for creating and conveying parcels. The critical conveyances which occurred in 1949 are discussed in the following sections of this determination.

Vermazen to Martin In February of 1949, Vermazen deeded two parcels of land to Martin. Parcel One was approximately 8 acres in size and Parcel Two was a little over 4 acres (See Exhibit 1). Parcel 1 was located entirely with the south west quarter of the northwest quarter of Section 24, T 30 S, R 10 E. Parcel Two was contiguous to Parcel One but located entirely within the South east quarter of the north east quarter of Section 23, T 30 S, R. 10 E. At that time, the Subdivision Map Act of 1943 provided the regulations for subdivisions. Land divisions not defined as subdivisions did not fall under these rules and could, in 1949, be accomplished by deed with a specific property description. Business And Professional Code Section 11535 (1943 Act) defined a subdivision as the division of a unit of land or contiguous units of land into five or more parcels within a one year period. The deed from Vermazen to Martin is specific and clearly describes each parcel according to Township, Range and Section coordinates. Staff followed the descriptions and they are accurate to the properties in question. Thus, in February of 1949, there were two, legal parcels west of Pecho Road owned by Martin. (Exhibit 1)

Martin to Wilcox In March of 1949, Martin deeded out a portion of the property described above to Wilcox. The property deeded to Wilcox totaled 6.6 acres and was made up of a 4+ acre portion of Martin's original Parcel One and a 2+ acre portion of Martin's Parcel Two (See Exhibit 2). The property was not described as separate parcels but was identified by Township, Range and Section coordinates. The effect of conveyance of the property to Wilcox resulted in the division of Martin's Parcel One into three lots and Martin's Parcel Two into three lots for a total of six lots out of the original two, contiguous parcels. Martin retained two lots north of Wilcox and two lots south of the deeded out land. The north lots were sold to Andersen in 1955 and the south lots were ultimately sold and resubdivided. In their Staff Report, the County Staff correctly asserted that this conveyance to Wilcox was illegal because a Tract Map was required in 1949 for the creation of five or more lots within a year by the same person. The law in effect at the time was the Map Act of 1943 as amended up to 1949. The relevant regulation is found in the 1949 Act in the Business and Professions Code Section 11535 (a) as follows:

Section 11535 (a) " Subdivision" refers to any land or portion thereof, shown on the last preceding tax roll as a unit or as contiguous units (emphasis added), which is divided for the purposes of sale, whether immediate or future, by any subdivider into five or more parcels within any one year period.

EX. 4

The Map Act thus provides that if a person has a parcel or two or more contiguous parcels and divides the parcel, or group of parcels into five or more lots within any one year period, that division constitutes a subdivision and comes under the authority of the Map Act.. Section 11538 provides that *"It is unlawful for any person to offer to sell, to contract to sell or to sell any subdivision or any part thereof until a final map.....in full compliance with the provisions of this chapter and any local ordinance has been duly recorded."* Therefore in order to legally create five or more parcels in 1949, the subdivider would have had to comply with the procedure for processing a final map as laid out in the Map Act. In this case, no Final Map was ever applied for or filed.

In 1949, Martin owned two contiguous parcels, Parcel One and Parcel Two. As detailed in the previous paragraph, the Map Act of 1943 required that, if the division of these two contiguous parcels, for immediate or future sale, resulted in five or more parcels, then a Final Map was required. It can be presumed that Martin created the parcels for sale because within the next few years, he in fact sold the parcels. He sold two to Wilcoxn shortly after he acquired the original two parcels from Vermazen, sold two more to Andersen six years later and the last two sometime after that. Note also, that the language of the 1943 Map Act does not count only the *additional* parcels created by the division, it simply provides that if, after the division is done, there are more than five parcels, then the provisions for Tract Maps must be complied with.

The question then becomes how many parcels were created when Martin, through his sale to Wilcoxn I 1949, described the new property lines that separated Wilcoxn's property from Martin's lots to the north and south. If we accept the Applicant's contention that this sale transferred two lots to his predecessor Wilcoxn, then the same rationale must apply to the creation of two lots on the north and two lots on the south. The fact that Martin didn't sell these other lots immediately has no effect on the fact that they were created by the property lines defining Wilcoxn's parcels. The County Findings in support of the Boards action argue that somehow the situation whereby Martin conveyed out two of the lots by deed to Wilcoxn did not have the immediate result of creating six lots because Martin didn't **sell** the other four lots within a year. This assertion is inconsistent with the plain language of the 1949 Map Act. The Map Act effective at the time simply says if five or more lots, *"divided for the purpose of sale, whether immediate or future"* are **created** within a year, **then the Map Act applies**. A review of Exhibit 3 clearly shows that six lots were created at the moment Wilcoxn's north and south property boundaries were defined. In conclusion, Martin created six lots in March of 1949 and did not comply with the regulations for land divisions of more than five lots in a single year as required by the 1943 Map Act. The lots were created illegally are, therefore not entitled to Certificates of Compliance under Section 66499.35 (a) of the current Subdivision Map Act.

The 1943 Map Act does include the following exemptions from its requirements in Section 11535 (b) (1) and (2) :

EX 4

Business and Professions Code Section 11535 (b) " Subdivision " does not include either of the following;

(1)Any parcel or parcels of land in which all (emphasis added) of the following conditions are present: (I) which contain less than five acres (ii) which abut upon dedicated streets or highways, (iii) in which street opening or widening is not required by the governing body in dividing the land into lots or parcels, and (iv) the lot design meets the approval of the governing body.

(2) Any parcel or parcels of land divided into lots or parcels each of a net area of one acre or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design.

The lots created by Martin in March of 1949 do not meet these criteria for exemption found in Section 11535 (b) (1) because they do not all abut on a dedicated street, a street opening would be required to serve at least one of the lots, and there is no evidence that the lot design was approved by the governing authority (San Luis County Board of Supervisors).

The lots created by Martin also do not meet any of the criteria for exemption found in Section 11535 (b) (2) because only four of the parcels created are greater than one acre in size with two of the lots being less than one acre each. There is also no evidence that Martin submitted a tentative map to the governing body and that the map was approved.

In conclusion, Martin divided two contiguous parcel into six lots in 1949 and did not comply with the subdivision requirements in place at that time nor were the lots exempt from the provisions of the Map Act. All of the resulting lots were therefore created illegally.

Wilcoxn to Thorbergsson In January of 1959, Wilcoxn conveyed a 2.2 acre portion of his 6.6 acre site to Thorbergsson. Overlooking the fact that the Wilcoxn parcel was created illegally, this conveyance was otherwise consistent with the land division rules at the time and resulted in the present configuration of the property.

Willfong Certificate of Compliance In 1976, a subsequent owner, Willfong obtained a single Certificate of Compliance for this site as presently configured. The legal description of the property included both of the lots, but did not describe them as different parcels. The parcel was identified by one APN. This Certificate predated Coastal Commission jurisdiction in this area.

EX. 4

Conclusion

The Applicant's lots were illegally created in 1949 and are not, as a matter of law, eligible to be processed as unconditional Certificates of Compliance. I have determined therefore that the County's action effectively granted two Conditional Certificates of Compliance to Mr. Schoenfield. Because the affected property is located within a "Special Resource Area " and between the first public road and the sea, the County's action is appealable to the Coastal Commission pursuant to Coastal Act Section 30603 (a) (1) (3) (4) and the provisions of Title 21, Section 23.01.043 (c) (1) (3) and (4). By way of this letter, I am requesting the County to forward a Notice of Final Local Action to the Santa Cruz District office that states that this item -- an effective grant of two Conditional Certificates of Compliance -- is appealable to the Coastal Commission.

If the County does not agree with this determination, CCR Title 14, Section 13569 (d) provides that *"the Commission shall hold a hearing for purposes of determining the appropriate designation"* and *"shall schedule the hearing....for the next Commission meeting (in the appropriate geographic region of the state).."* Please advise me by May 24 of the County's position in this matter. If we do not hear from you by this date or if the County disagrees with this determination, we will schedule the determination for Commission hearing and action at the June meeting.

Sincerely,


for Peter Douglas
Executive Director
California Coastal Commission

c.c. Chair Achadjian
James Orton, Deputy County Counsel
Albert Schoenfield
Janice Rohn
Kerry Margason, John Wallace Associates
William Walter, Esq.
Ralph Faust, Chief Counsel

EX.4

EXHIBIT 1

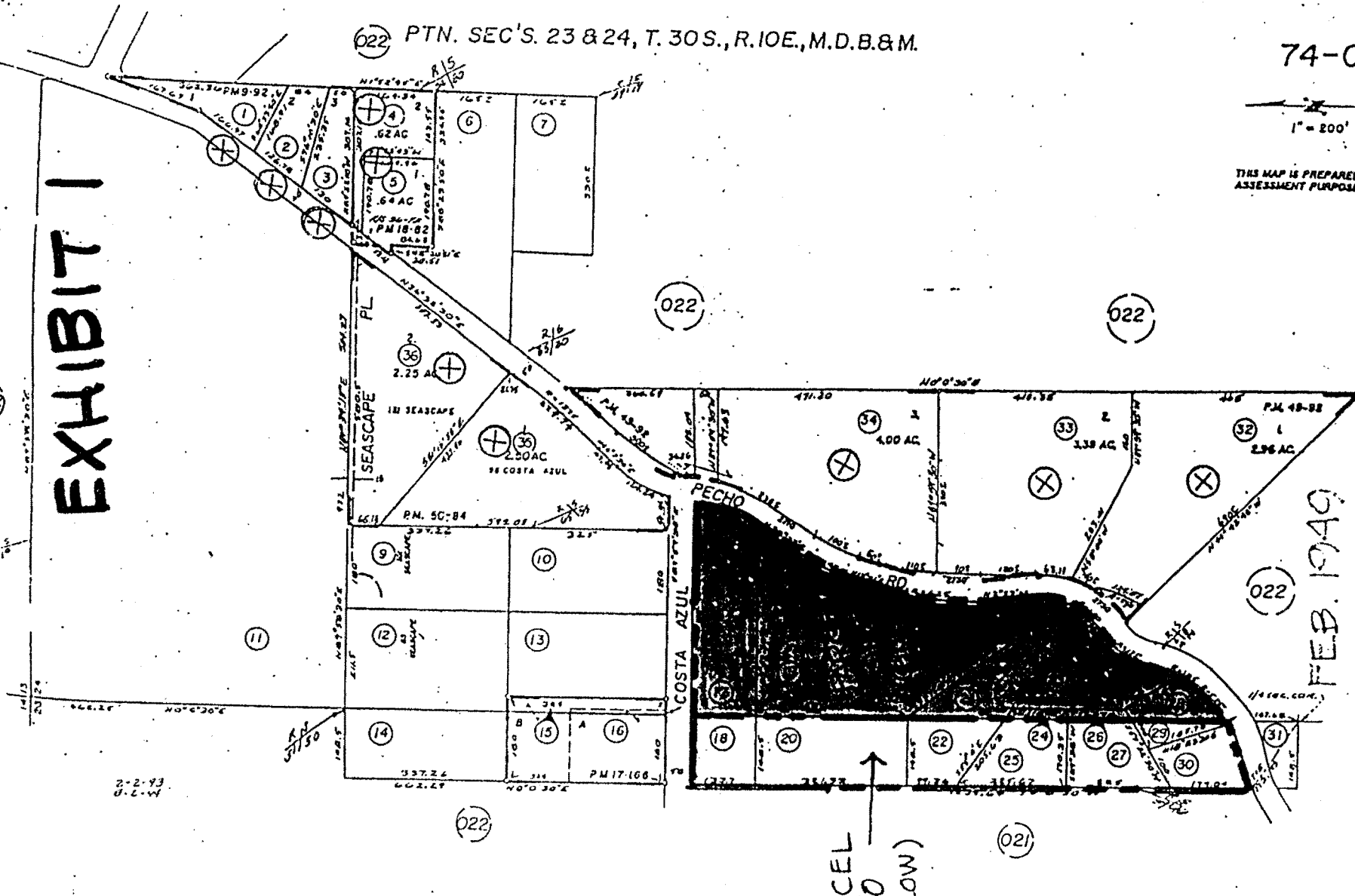
022 PTN. SEC'S. 23 & 24, T. 30S., R. 10E., M.D.B. & M.

74-024

1" = 200'

THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY

EX



FEB. 1949

VERMAZEN TO MARTIN BY DEED

PARCEL
TWO
(YELLOW)

Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.

SEP 12 1994

A. J. VERMAZEN, et ux. : 1387 \$1.10
TO : IN CONSIDERATION of TEN AND NO/100 Dollars-A. J. VERMAZEN U.S.I.R.
H. S. MARTIN, et ux. : and FRANCES L. VERMAZEN, husband and wife, DO HEREBY GRANT STAMPS
..... H. S. MARTIN and ROSE MARTIN, husband and wife, as joint AFFIXED
tenants, all that Real Property situate in the County of San Luis Obispo, State of California, TO CANCELED

described as follows:
PARCEL 1: All that part of the Southwest quarter of the Northwest quarter of Section 24, Township 30 South, Range 10 East, Mount Diablo Meridian, according to the official plat or plats of the survey of said lands returned to the General Land Office by the Surveyor General, which lies Westerly of County Road No. 123 as said road existed December 1, 1948.

PARCEL 2: That portion of the Southeast quarter of the Northeast quarter, Section 23, Township 30 South, Range 10 East, Mount Diablo Meridian, according to the official plat or plats of the survey of said lands returned to the General Land Office by the Surveyor General, described as follows:

Beginning at the Northeast corner of said Southeast quarter of the Northeast quarter, thence West along the North line thereof 148.5 feet; thence South and parallel with the East line of said Southeast quarter of the Northeast quarter 1235.64 feet to the Northwesterly line of County Road No. 123 as said road existed December 1, 1948, which point bears North 59° 09' 55" West 172.93 feet from the East quarter corner of said Section 23; thence North easterly along the Northwesterly line of said County Road No. 123 to the East line of said Section 23; thence North along said East line 1176.58 feet to the point of beginning.

SUBJECT TO: 1. Second installment of general and special taxes of the fiscal year 1948-49.
2. Conditions, restrictions, reservations and rights of way of record.

WITNESS our hands this 11th day of January, 1949.

A J Vermazen, being unable to write, made his mark in my presence and I signed his name at his request and in his presence. A. J. X Vermazen
J E Vermazen Subscribing Witness Frances L. X Vermazen
J E McClure Additional Witness

Frances L Vermazen, being unable to write, made his mark in my presence and I signed his name at his request and in his presence. J E. Vermazen Subscribing Witness
J E McClure Additional Witness

STATE OF CALIFORNIA, }
County of San Luis Obispo } SS.

On this 11th day of January, 1949, before me, J. E. McClure a Notary Public in and for said County and State, personally appeared A. J. Vermazen and Frances L. Vermazen, known to me to be the persons described in and whose names are subscribed to the within instrument, and acknowledged that they executed the same.

WITNESS my hand and official seal the day and year in certificate first above written.

SEAL J E McClure
Notary Public in and for said County and State.

1387 -- RECORDED AT REQUEST OF Security Title Ins. and Guarantee Co. at 1 min. past 9 A.M.
Vol. 502 Official Records p. 301 San Luis Obispo County, Calif. FEB 14 1949

W. L. Ramage. County Recorder
By Mary C. Sparman Deputy

Copyist:EH Indexed:EM Fee:\$1.90 Compared:MCS-MG

PARCEL 2 ± 197,600 SQ FT or 4.49 ac
Parcel 1

EX. 4

EXHIBIT 2

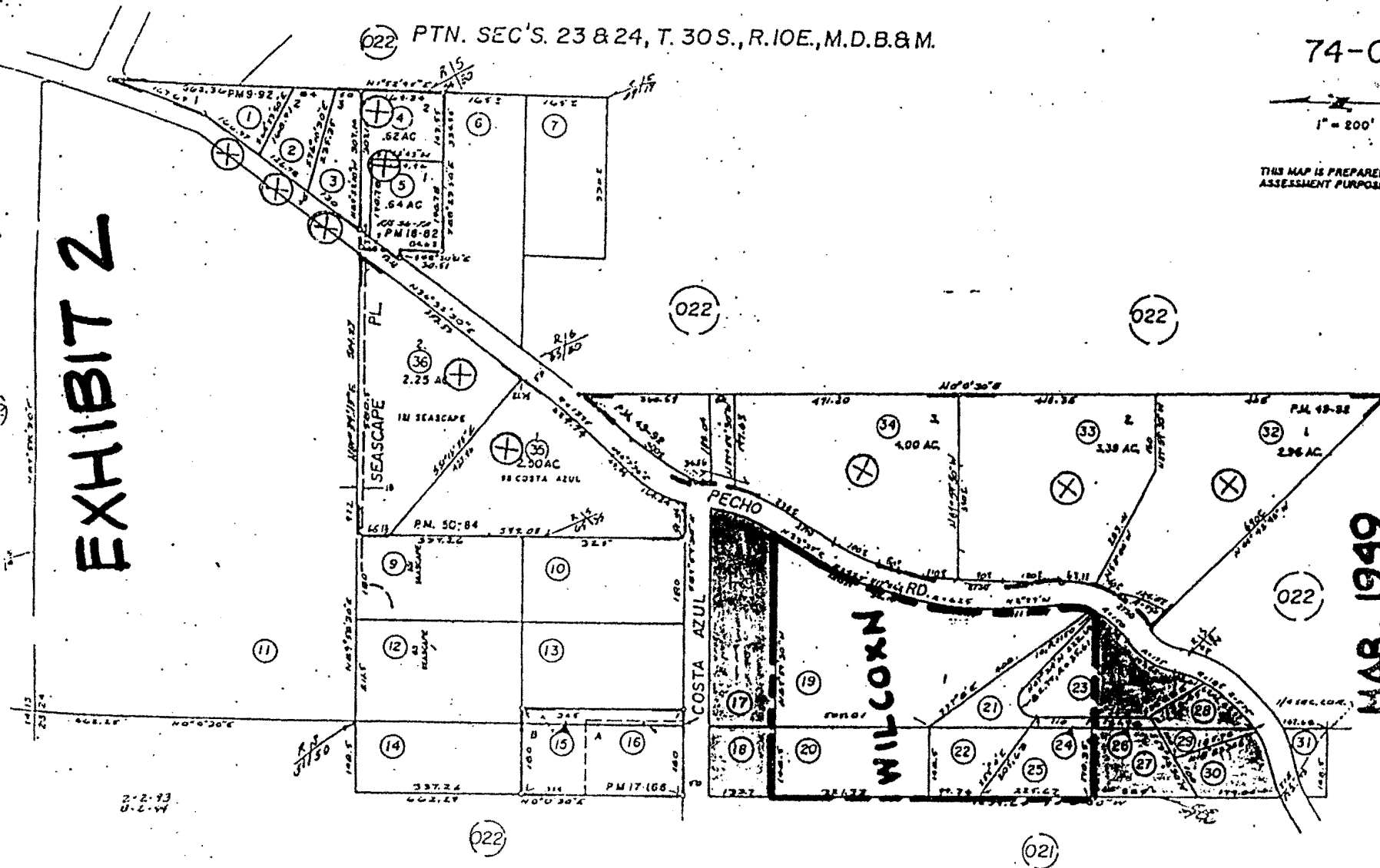
(022) PTN. SEC'S. 23 & 24, T. 30 S., R. 10 E., M. D. B. & M.

74-024

EX. 4

THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY

1" = 200'



MAR. 1949

MARTIN TO WILCOXN BY DEED

SEP 12 1994

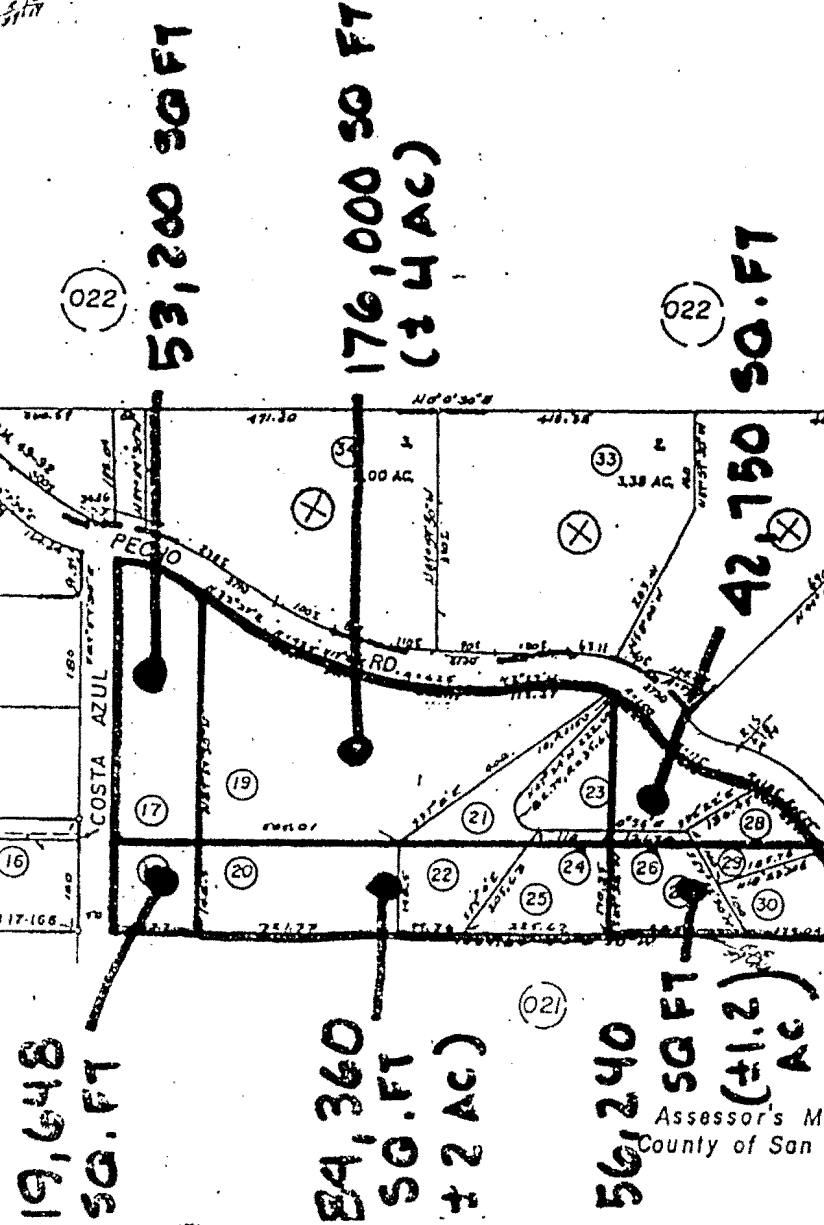
Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.

EXHIBIT 3

022 PTN. SEC'S. 23 & 24, T. 30S., R. 10E., M.D.B. & M.

74-024

1" = 200'
THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY



SEP 12 1994

Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.

1949

MARTIN TO WILCOXN, 6 LOTS, 2 LESS THAN

EX

EX. 2

Joint Tenancy Grant Deed

L.R.S. 1.65

This form furnished by Security Title Insurance and Guarantee Company

M. S. MARTIN and ROSE MARTIN,

husband and wife,

(GRANTORS - GRANTORS)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Do Hereby Grant To HENRY F. WILCOX and JOAN W. WILCOX,

husband and wife, As Joint Tenants

The real property in the

County of San Luis Obispo, State of California, described as follows:

That portion of the Southeast quarter of the Northeast quarter of Section 23, and the Southwest quarter of the Northwest quarter, Section 24, Township 30 South, Range 10 East, Mount Diablo Meridian, according to the official plat or plats of the survey of said lands returned to the General Land Office by the Surveyor General, described as follows:

Beginning at a point in the West line of the Northwest quarter of said Section 24 which is South 0° 00' 30" West 183.68 feet from the Northwest corner of the Southwest quarter of the Northwest quarter of said Section 24; thence North 89° 59' 30" West 118.5 feet; thence South and parallel with the West line of said Section 24, 648.07 feet; thence South 89° 59' 30" East to the West line of County Road No. 123 as said road existed December 1, 1948; thence Northeasterly along said West line 689 feet, more or less, to a point which bears South 89° 59' 30" East from the point of beginning; thence North 89° 59' 30" West 408.69 feet to the point of beginning, containing 6.6 acres, more or less.

Reserving unto the grantors, their heirs and assigns, a right of way for public utilities in, upon, over and along a strip of land 8 feet in width along the Easterly line of the property above described.

Also reserving unto the grantors, an undivided one-half interest in and to all oil, gas, other hydrocarbon substances and/or minerals in, under or upon said land for and during the term of their natural lives, and until the death of the last of said grantors.

Dated February 24, 1949

M. S. Martin
Rose Martin

STATE OF CALIFORNIA
COUNTY OF

SAN LUIS OBISPO

25.

On March 2nd, 1949,

before me, RALPH C. KENNEDY,

a Notary Public in and for said County and State, personally appeared

M. S. MARTIN &

ROSE MARTIN

known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

(Seal)

My Commission Expires 4-19-1952.

SPACE BELOW FOR RECORDER'S USE ONLY

1927

RECORDED AT REQUEST OF
Security Title Ins. Co.

AT 1 MIN. PAST 2 P.M.
VOL. 510 Official Records p. 372
SAN LUIS OBISPO COUNTY, CALIF.

MAR 3 - 1949

W. L. Ramage
County Recorder

Fee \$1.00 Inclosed

By *Mary Chapman*
Deputy

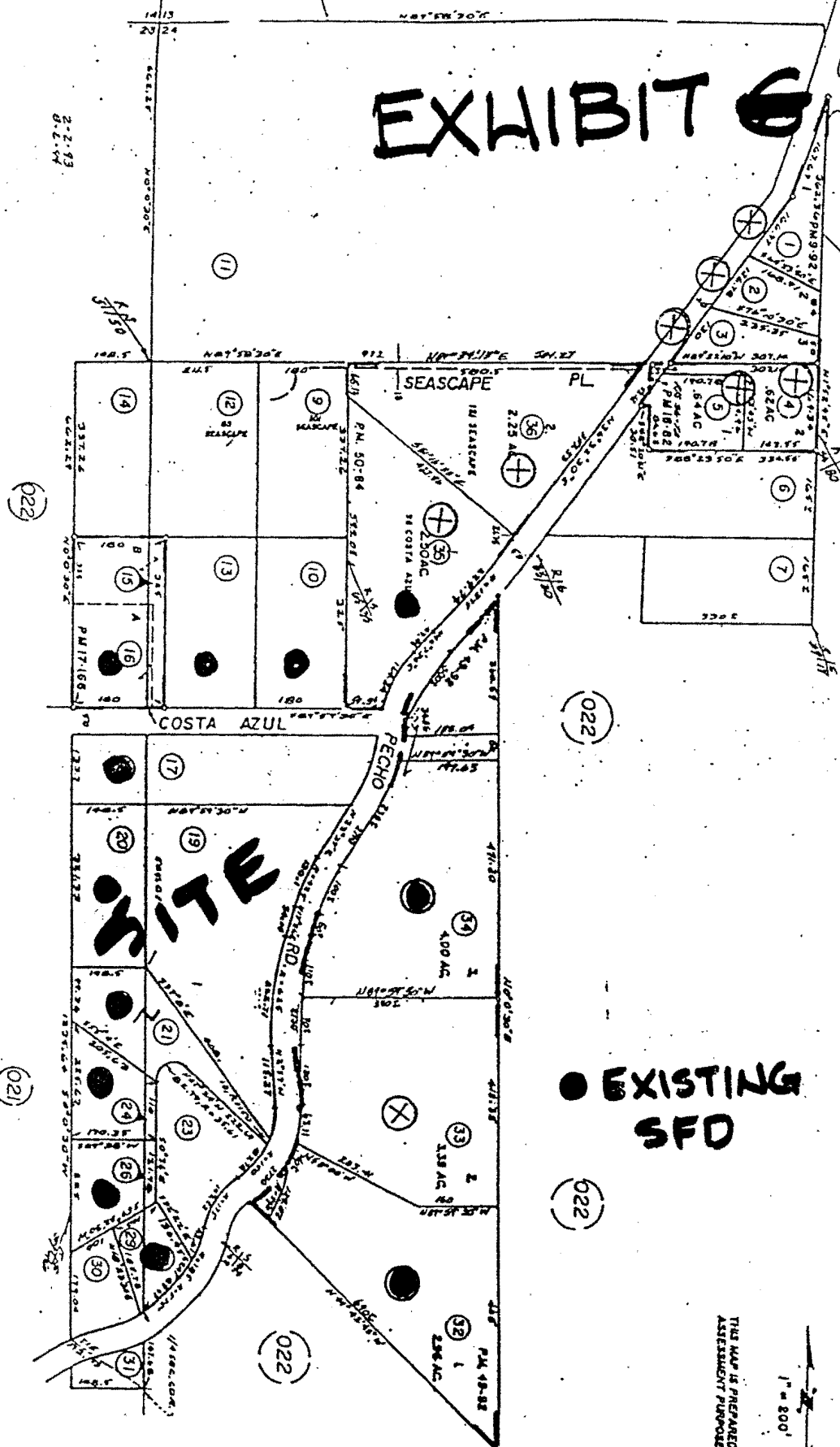
WHEN RECORDED, PLEASE MAIL THIS INSTRUMENT TO,

Henry F. Wilcox
11576 Van Nuys Blvd.
Los Angeles, Cal

EX 4

EXHIBIT 6

022 PTN. SEC'S 23 & 24, T. 30 S., R. 10 E., M. D. B. & M.



● EXISTING SFD

74-024

1" = 200'

THE MAP IS PREPARED FOR ASSESSMENT PURPOSES

SEP 12 1994

Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.

CURRENT LAND USE

EXHIBIT 6



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

October 30, 2000

John L. Wallace and Assoc.
4115 Broad Street, Suite B-5
San Luis Obispo, Ca. 93401
Attn: Kerry Margason

SUBJECT: Approval of Schoenfield
Certificate of Compliance C2000-166

Dear Mrs. Margason:

The Department of Planning and Building has reviewed all of the materials submitted in conjunction with the Schoenfield application for certificates of compliance. We will act to reissue and approve One (1) certificate of compliance for the entire property on November 14, 2000. That review and approval is based on the following **findings of facts** in this matter:

1. A grant deed from Wilcoxon to Thorbergsson dated December 11, 1958 (Deed: 977/OR/284) created the parcel as a remainder from the property conveyed. The parcel was thereafter separately conveyed in its current configuration in a grant deed from Wilcoxon to Willfong dated June 28, 1968 (Deed: 1487/OR/637). The purpose of these conveyances was to create parcels with access to Pecho Road.
2. On April 30, 1976, upon the request of Donald and Alice Willfong (the previous owners of the parcel) and based upon the grant deed from Henry and Joan Wilcoxon to Donald and Alice Willfong dated June 28, 1968 referred to above, the Planning Department issued, approved and recorded one certificate of compliance for the entire property based upon a determination that the parcel was determined to be one parcel in compliance with the applicable provisions of the Subdivision Map Act and the County's ordinances enacted pursuant thereto (Document No. 16678 recorded April 30, 1976). The County's decision was not appealed nor challenged by the property owners.
3. Thereafter, through intermediate conveyances, the parcel was separately conveyed by grant deed from Krongeld to Schoenfield dated April 15, 1987 (Deed: 2984/OR/881). The same legal description was used in this grant deed as was used in the 1968 deed when this property was first conveyed.

EX-6

4. The problem with the applicant's method of analysis of parcel creation is that the grant deed from Martin to Wilcoxon dated February 24, 1949 (Deed: 510/OR/395) would have been in violation of the Subdivision Map Act because it would have created five or more parcels within a one-year period without the required filing of a final map (1943 version of the Subdivision Map Act). Consequently, the 1949 grant deed did not create legal parcels which could be later divided.
5. The existence of two separate assessor parcel numbers created for assessment and taxation purposes does not create separate legal parcels for purposes of the Subdivision Map Act.
6. On June 9, 1989, at the request of the applicant Schoenfield, the Zoning Administrator of the County of San Luis Obispo (the Hearing Officer) conditionally approved Minor Use Permit/Coastal Development Permit D880127P authorizing the construction of a new single-family residence with attached garage and driveway on the property. Thereafter, on August 18, 1989, the County's Chief Building Inspector issued Building Permit No. B881755 to the applicant, Schoenfield, authorizing the construction of a single-family residence on the property in accordance with the approved minor use permit/coastal development permit.
7. Approval of the minor use permit/coastal development permit and issuance of the building permit for the property as described in Paragraph 6 above constitutes real property "approved for development" pursuant to the provisions of Government Code section 66499.34. As a result of being approved for development, the property is entitled to the issuance of one certificate of compliance, for the entire property as a single legal parcel, under the provisions of Government Code section 66499.35(c).
8. The property was first separately conveyed as a single legal parcel by grant deed dated June 28, 1968 (1487/OR/637). Based upon this conveyance, a single unconditional certificate of compliance was issued on April 30, 1976, recognizing the entire property as a single legal parcel (1894/OR/847). There has been no documentation submitted showing that the configuration of the property has been changed by merger or other means from the time of its creation to the present. As a result, the property is entitled to the re-issuance of one certificate of compliance, recognizing the property, as a whole, as a single legal parcel.

Attached for your review is the legal description for the re-issued certificate of compliance that will be recorded by the County to finalize your application. Review the legal description carefully and please contact our office if you have any concerns or questions regarding the description on the certificate.

EXHIBIT 6

Schoenfield Cert. of Comp.
October 30, 2000
Page 3.

The cost for recording the document is \$ 23.00, which includes a \$10.00 transfer fee. Please transmit a check made out to the **County of San Luis Obispo** to:

Barbara Spann, Accounting
Department of Planning and Building
County Government Center
San Luis Obispo, California 93408

Please also clearly mark that this payment is for C2000-166 to assure that it is credited to the appropriate project. A Statement of Fees has been enclosed with this letter for your use. You may submit the statement with your payment to further insure proper crediting.


If you do not agree with the decision made by the department, you may appeal this determination to the County Board of Supervisors. You must appeal the decision within 14 days from the action date, which is the date of this correspondence. If you wish to appeal, please submit the request to the Planning Commission Secretary with the appropriate appeal fee.

If you have any questions concerning your project or this notice please contact me at (805) 781-5600.

Sincerely,

Victor Holanda, AICP, Director Department of Planning and Building

By


Larry W. Kelly, Senior Planner
Supervisor, Information Services Group

Enclosures

Statement of Fees
Certificates of Compliance

cc: Albert Schoenfield

EX. 6

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
OFFICE MEMORANDUM

DATE: 2/26/01
TO: Steve Monowitz, California Coastal Commission,
FROM: Larry Kelly, Senior Planner, Information Services Group
SUBJECT: Appeal of Schoenfield Certificate of Compliance

Attached is a staff report prepared for the March 6, 2001 San Luis Obispo County Board of Supervisors meeting. This project is in a coastal appealable zone (between the 1st road and the ocean) and I wanted to forward you a copy of the report for your information.

The applicant applied for two certificates of compliance for an approximate 4.2 acre property. Approval of a certificate of compliance for Mr. Schoenfield is a ministerial matter and staff approved one certificate for the entire 4.2 acre property on behalf of the Planning Director back in November of 2000. However, the applicant has filed an appeal of the Planning Director's approval of only one certificate and will be asking the Board to overturn the Director's decision and approve two certificates for the property. Staff fully expects that if the Board overturns the Director's decision and approves two certificates then both would be conditional certificates of compliance.

Please give me a call at (805) 781-5799 if you have any questions.

RECEIVED

MAR 12 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

EXHIBIT 7

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE March 6, 2001		(3) CONTACT/PHONE Larry W. Kelly, Information Services Group (805) 781-5799	
(4) SUBJECT Hearing to consider an appeal by Albert Schoenfield of the Planning Director's approval of Certificate of Compliance, C00-0166, (S990330C) for an approximate 4.2 acre property in the Residential Suburban Land Use Category, located in the county at 2731 Pecho Valley Road, in the community of Los Osos; 2 nd District.					
(5) SUMMARY OF REQUEST The Applicant has filed an appeal of the Planning Director's decision regarding the Applicant's request for two certificates of compliance. The Planning Director's recommendation is for one certificate of compliance for the entire property of approximately 4.2 acres.					
(6) RECOMMENDED ACTION Adopt the attached resolution upholding the Planning Director's approval of Certificate of Compliance, C00-0166, (S990330C) as one certificate and deny Albert Schoenfield's appeal based on the findings in Exhibit A.					
(7) FUNDING SOURCE(S) N/A		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Not applicable.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1st, 2nd, 3rd, 4th, 5th, All			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 30 minutes) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		

RECEIVED

MAR 12 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

(19) ADMINISTRATIVE OFFICE REVIEW

EX 7



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

TO: BOARD OF SUPERVISORS

FROM: LARRY W. KELLY, INFORMATION SERVICES GROUP

VIA: BRYCE TINGLE, ASSISTANT DIRECTOR PLANNING AND BUILDING

DATE: MARCH 6, 2001

SUBJECT: HEARING TO CONSIDER AN APPEAL BY ALBERT SCHOENFIELD OF THE PLANNING DIRECTOR'S APPROVAL OF CERTIFICATE OF COMPLIANCE, C00-0166, (S990330C) FOR AN APPROXIMATE 4.2 ACRE PROPERTY IN THE RESIDENTIAL SUBURBAN LAND USE CATEGORY, LOCATED IN THE COUNTY AT 2731 PECHO VALLEY ROAD, IN THE COMMUNITY OF LOS OSOS; SUPERVISORIAL DISTRICT 2

RECOMMENDATION

Adopt the attached resolution upholding the Planning Director's approval of Certificate of Compliance, C00-0166, (S990330C) as one certificate and deny Albert Schoenfield's appeal based on the findings in Exhibit A.

DISCUSSION

A grant deed from Wilcoxon to Thorbergsson dated December 11, 1958 (Deed: 977/OR/284) created the parcel as a remainder from the property conveyed. The parcel was thereafter separately conveyed in its current configuration in a grant deed from Wilcoxon to Willfong dated June 28, 1968 (Deed: 1487/OR/637). The purpose of these conveyances was to create parcels with access to Pecho Road. Merger is not an issue because there were no legal lots previously created.

On April 30, 1976, upon the request of Donald and Alice Willfong (the previous owners of the parcel) and based upon the grant deed from Henry and Joan Wilcoxon to Donald and Alice Willfong dated June 28, 1968 referred to above, the Planning Department issued, approved and recorded one certificate of compliance for the entire property based upon a determination that the parcel was determined to be one parcel in compliance with the applicable provisions of the Subdivision Map Act and the County's ordinances enacted pursuant thereto (Document No. 16678 recorded April 30,

EX 7

1976). The County's decision was not appealed nor challenged by the property owners and the time to do so has run.

The County does not contend this certificate of compliance merged legal parcels. Instead, the certificate of compliance recognized the legal parcel that was created by remainder by the grant deed from Wilcoxon to Thorbergsson dated December 11, 1958.

Thereafter, through intermediate conveyances, the parcel was separately conveyed by grant deed from Krongeld to Schoenfield dated April 15, 1987 (Deed: 2984/OR/881). The same legal description was used in this grant deed as was used in the 1968 deed when this property was first conveyed.

The problem with the applicant's method of analysis of parcel creation is that the grant deed from Martin to Wilcoxon dated February 24, 1949 (Deed: 510/OR395) would have been in violation of the Subdivision Map Act because it would have created five or more parcels within a one-year period without the required filing of a final map (1943 version of the Subdivision Map Act - Business and Professions Code Section 11535). Consequently, the 1949 grant deed did not create legal parcels which could be later divided.

The existence of two separate assessor parcel numbers created for assessment and taxation purposes does not create separate legal parcels for purposes of the Subdivision Map Act.

On June 9, 1989, at the request of the applicant Schoenfield, the Zoning Administrator of the County of San Luis Obispo (the Hearing Officer) conditionally approved Minor Use Permit/Coastal Development Permit D880127P authorizing the construction of a new single-family residence with attached garage and driveway on the property. Thereafter, on August 18, 1989, the County's Chief Building Inspector issued Building Permit No. B881755 to the applicant, Schoenfield, authorizing the construction of a single-family residence on the property in accordance with the approved minor use permit/coastal development permit.

Approval of the minor use permit/coastal development permit and issuance of the building permit for the property as described in the previous paragraph above constitutes real property "approved for development" pursuant to the provisions of Government Code section 66499.34. As a result of being approved for development, the property is entitled to the issuance of one certificate of compliance, for the entire property as a single legal parcel, under the provisions of Government Code Section 66499.35(c).

Approval of the minor use permit and building permit did not merge parcels (as the applicant misconstrues the County's position). Instead, these approvals authorized "development" on a single legal parcel owned by the applicant. Multiple legal parcels were never created and, therefore, merger never took place.

EX 7

The property was first separately conveyed as a single legal parcel by grant deed dated June 28, 1968 (1487/OR/637). Based upon this conveyance, a single unconditional certificate of compliance was issued on April 30, 1976, recognizing the entire property as a single legal parcel (1894/OR/847). There has been no documentation submitted showing that the configuration of the property has been changed by merger or other means from the time of its creation to the present. As a result, the property is entitled to the re-issuance of one certificate of compliance, recognizing the property, as a whole, as a single legal parcel.

OTHER AGENCY INVOLVEMENT/IMPACT

None.

FINANCIAL CONSIDERATIONS

The Applicant submitted an appeal fee payment of \$474.00 to cover associated staff costs.

RESULTS

Should the Board of Supervisors approve the staff recommendation to deny the appeal by Albert Schoenfield and approve the issuance of one certificate of compliance for the approximate 4.2 acre property, Certificate of Compliance, C00-0166, would be issued in accordance with the Board's resolution recognizing the property, as a whole, as a single legal parcel.

EX 7



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

October 30, 2000

John L. Wallace and Assoc.
4115 Broad Street, Suite B-5
San Luis Obispo, Ca. 93401
Attn: Kerry Margason

SUBJECT: Approval of Schoenfield
Certificate of Compliance C2000-166

Dear Mrs. Margason:

The Department of Planning and Building has reviewed all of the materials submitted in conjunction with the Schoenfield application for certificates of compliance. We will act to reissue and approve One (1) certificate of compliance for the entire property on November 14, 2000. That review and approval is based on the following **findings of facts** in this matter:

1. A grant deed from Wilcoxon to Thorbergsson dated December 11, 1958 (Deed: 977/OR/284) created the parcel as a remainder from the property conveyed. The parcel was thereafter separately conveyed in its current configuration in a grant deed from Wilcoxon to Willfong dated June 28, 1968 (Deed: 1487/OR/637). The purpose of these conveyances was to create parcels with access to Pecho Road.
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EX 7

Schoenfield Cert. of Comp.
October 30, 2000
Page 3.

The cost for recording the document is \$ 23.00, which includes a \$10.00 transfer fee. Please transmit a check made out to the **County of San Luis Obispo** to:

Barbara Spann, Accounting
Department of Planning and Building
County Government Center
San Luis Obispo, California 93408

Please also clearly mark that this payment is for C2000-166 to assure that it is credited to the appropriate project. A Statement of Fees has been enclosed with this letter for your use. You may submit the statement with your payment to further insure proper crediting.


If you do not agree with the decision made by the department, you may appeal this determination to the County Board of Supervisors. You must appeal the decision within 14 days from the action date, which is the date of this correspondence. If you wish to appeal, please submit the request to the Planning Commission Secretary with the appropriate appeal fee.

If you have any questions concerning your project or this notice please contact me at (805) 781-5600.

Sincerely,

Victor Holanda, AICP, Director Department of Planning and Building

By


Larry W. Kelly, Senior Planner
Supervisor, Information Services Group

Enclosures

Statement of Fees
Certificates of Compliance

cc: Albert Schoenfield

EX 7

PERMITTEE: SCHOENFIELD ALBERT
 2731 PECCHO VALLEY RD
 LOS OSOS, CA 93402
 LOCATION: 2731 PECCHO VALLEY RD LSOS

PROJECT: S990330 C STRUCTURE: MAP: C00-0166 CHARGE CODE: PSC0506
 TYPE: CERT OF COMP COASTAL STATUS: INFORMATION HOLD 07/07/00

DESCRIPTION	CURRENT FEE	(+) PAYMENTS	(+) ADJUSTMTS	(+) RFND/TRAN	(=) BALANCE
MICROF	36.00	36.00-	.00	.00	.00
COASTA	62.00	62.00-	.00	.00	.00
CERTIF	300.00	300.00-	.00	.00	.00
RECORD	17.00	.00	.00	.00	17.00
RECORD	6.00	.00	.00	.00	6.00

THESE FEES ARE AN ESTIMATE ONLY AND MAY BE ADJUSTED PRIOR TO ISSUANCE.
 THIS STATEMENT DOES NOT REFLECT ALL FEES ASSESSED BY OTHER AGENCIES.

		(X)
+-----+ RECEIVED BY: _____ RECEIPT: _____ +-----+	BALANCES: INSTALLMENT P:	.00 _
	INSTALLMENT 1:	.00 _
	INSTALLMENT 2:	23.00 _
	INSTALLMENT S:	.00 _
	UNAPPLIED CREDITS:	.00 _
	UNPOSTED PAYMENTS:	.00 _
AMOUNT DUE:		<u>\$23.00</u>

EX 7

**RECORDING REQUESTED BY
SAN LUIS OBISPO COUNTY**

WHEN RECORDED, RETURN TO:

Director of Planning & Building
County Government Center
San Luis Obispo, California 93408
ATTN: Larry W. Kelly

APN(S): 074-024-019 and 020

PROJECT/PCL NO: C2000-166/1

FILE NO: S990330C

DRAFT



CERTIFICATE OF COMPLIANCE

California Government Code Section 66499.35 (a)

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The following described single parcel of real property has been determined to be in compliance with the applicable provisions of the Subdivision Map Act and local ordinance enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

Said parcel of real property is situated in the unincorporated area of the County of San Luis Obispo, State of California, being described as follows:

As described in Exhibit A attached to this certificate and incorporated herein as if set forth in full.

RECORD OWNER(S):

See Exhibit B for Ownership Vesting.

STATE OF CALIFORNIA)

COUNTY OF SAN LUIS OBISPO)

) SS

VICTOR HOLANDA

Director, Department of Planning and Building

By: _____

Larry W. Kelly, Senior Planner

On this _____ day of _____, in the year 2000,
before me, I. Hanley, Notary Public, personally

appeared _____,
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me
that, he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s) or the entity upon behalf of which the
person(s) acted, executed the instrument.

Witness my hand and official seal.

I. Hanley, Notary Public

(SEAL)

EX 7

APN(S): 074-024-019 and 020
PROJECT NO: C2000-168

FILE NO: S980330C
PARCEL NO: 1

EXHIBIT A
Legal Description

That portion of the Southeast Quarter of the Northeast Quarter of Section 23, and the Southwest Quarter of the Northwest Quarter of Section 24, Township 30 South, Range 10 East, Mount Diablo Base and Meridian, in the County of San Luis Obispo, State of California, according to the official plat of said land, described as follows:

Beginning at a point in the West line of the Northwest Quarter of said Section 24 which is South $0^{\circ} 00' 30''$ West, 183.68 feet from the Northwest corner of the Southwest Quarter of the Northwest Quarter of said Section 24; Thence North $89^{\circ} 59' 30''$ West, 148.5 feet; Thence South and parallel with the West line of said Section 24, 322.0 feet more or less, to the Northwest corner of the property conveyed to Jon Thorbergsson, et ux., in deed recorded January 16, 1959 in Book 977, Page 284 of Official Records: Thence South $89^{\circ} 59' 30''$ East, along the North line of said Parcel, a distance of 148.50 feet; Thence South $37^{\circ} 01' 30''$ East, a distance of 409.32 feet to the West line of County Road No. 123 (now known as Pecho Valley Road) as said road existed December 1, 1948: Thence Northeasterly along the West line 689 feet, more or less, to a point which bears South $89^{\circ} 59' 30''$ East from the point of beginning; Thence North $89^{\circ} 59' 30''$ West, 408.69 feet to the point of beginning.

DRAFT

EX 7

APN(S): 074-024-019 and 020
PROJECT NO: C2000-166

FILE NO: S990330C
PARCEL NO: 1

EXHIBIT B
Ownership Vesting

Albert Schoenfield, a widower as to that portion of said land lying within Section 24 of Township 30 South, Range 10 East, Mount Diablo Base and Meridian; and
Albert Schoenfield, Successor Trustee of the A. and F. Schoenfield Living Trust, dated May 13, 1974 as to that portion of said land lying within Section 23 of Township 30 South, Range 10 East, Mount Diablo Base and Meridian.

DRAFT

EX 7



COASTAL ZONE APPEAL APPLICATION

San Luis Obispo County Department of Planning and Building

177.00

NOTE: To appeal a Board of Supervisors decision you will need to obtain appeal forms from the California Coastal Commission - 725 Front Street, Suite 300 - Santa Cruz, Ca. 95060 - (408) 427-4863

PROJECT INFORMATION

Type of permit being appealed:

- ☐ Plot Plan ☐ Minor Use Permit ☐ Development Plan ☐ Variance ☐ Land Division
☐ Lot Line Adjustment ☒ Other Certificate of Compliance File Number: _____

The decision was made by:

- ☒ Planning Director ☐ Building Official ☐ Administrative Hearing Officer ☐ Subdivision Review Board ☐ Planning Commission
☐ Other _____ Date the application was acted on: Oct. 30, 2000

The decision is appealed to:

- ☐ Board of Construction Appeals ☐ Board for Handicapped Access ☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL Please Note: An appeal must be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

- ☐ **INCOMPATIBLE WITH THE LCP.** The development does not conform to the standards set forth in the certified Local Coastal Program of the county for the following reasons *(attach additional sheets if necessary)*.

Explain: _____

- ☐ **INCOMPATIBLE WITH PUBLIC ACCESS POLICIES.** The development does not conform to the public access policies of the California Coastal Act -Section 30210 et seq. of the Public Resources Code *(attach additional sheets if necessary)*.

Explain: _____

Specific Conditions. The specific conditions that I wish to appeal that relate to the above referenced grounds for appeal are:

Condition Number	Reason for appeal <i>(attach additional sheets if necessary)</i>

APPELLANT INFORMATION

Print name: Al Schoenfeld

Address: _____

Phone Number (daytime): _____

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the following grounds, as specified in the CZLUO and State Public Resources Code Section 30603 and have completed this form accurately and declare all statements made here are true:

Signature

Albert Schoenfeld

Date:

11-8-00

OFFICE USE ONLY

Date Received: _____

By: _____

EX 1

November 13, 2000

Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, California 93408

Subject: Appeal of Certificate of Compliance C2000-0166

Honorable Board Members:

Mr. Schoenfield wishes to appeal the decision made by the Planning Director regarding his application for certificates of compliance. Mr. Schoenfield believes that the denial of his application is unconstitutional and is inconsistent with the principles of law.

The specific reasons for denial of the application and our response are listed below:

1. A grant deed from Wilcoxon to Thorbergsson dated December 11, 1958 (977/OR/284) created a remainder parcel. The purpose of the conveyances was to create parcels with access to Pecho Road.

This transaction would not have resulted in a merger of the 2 remainder lots, regardless of the purpose.

2. Donald and Alice Willfong (the previous owners) requested a certificate of compliance which was issued and recorded in April 30, 1976 as Document No. 16678 of Official Records.

A certificate of compliance does not merge legal parcels. In addition, County staff has said a certificate of compliance may be subsequently reviewed in the light of new or additional evidence of a parcel's creation. A review of the file for the previously recorded certificate indicates a complete chain of title was never reviewed.

3. The parcel has consistently been conveyed according to the legal description in 977/OR/284.

This does not constitute a merger.

EX 7

4. Mr. Martin, through his conveyance to Mr. Wilcoxon, dated February 24, 1949 (510/OR/395) created five or more parcels, resulting in a violation of the Subdivision Map Act of 1949.

We believe this interpretation of the 1949 Map Act is in error.

5. Separate Assessor Parcel Numbers do not constitute legal parcels.
6. Approval of Minor Use Permit D880127P and Building Permit B881755 act as a merger of the lots.

We believe this interpretation of the minor use permit and building permit process is in error. Development permits/building permits do not act as mergers.

7. Approval of the minor use permit constitutes real property "approved for development" pursuant to the provisions of Government Code section 66499.34.

Section 66499.34 states "...The issuance of a permit or grant of approval for development of real property, ...or grant of approval for development, shall constitute real property which has been approved for development, for the purposes of subdivision (c) of 66499.35..." Section 66499.35 (c) states "A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Section 66499.34."

These sections are for determining when a certificate must be issued and do not state that that a development permit acts as a merger of underlying lots.

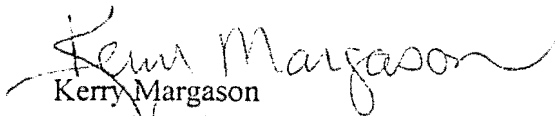
8. The separate conveyance of the parcel on June 28, 1968 (1487/OR/637) acted as a merger of the two parcels.

The conveyance of a parcel does not merge the underlying parcels.

The responses to the items listed above constitute the bulk of our appeal. However, please note, we reserve the right to raise any other legal issues that will substantiate our appeal position.


Sincerely,

JOHN L. WALLACE & ASSOCIATES


Kerry Margason
Associate Planner

cc: Albert Schoenfield

EX 7


John L. Wallace & Associates

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 2001

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION DENYING THE APPEAL AND UPHOLDING AND AFFIRMING
THE DECISION OF THE DIRECTOR OF PLANNING AND BUILDING
AND APPROVING THE ISSUANCE OF ONE (1)
UNCONDITIONAL CERTIFICATE OF COMPLIANCE PURSUANT
TO THE APPLICATION OF ALBERT SCHOENFIELD FOR
CERTIFICATE OF COMPLIANCE C00-0166

The following resolution is now offered and read:

WHEREAS, on November 14, 2000, the Director of Planning and Building of the County of San Luis Obispo (hereinafter referred to as the "Planning Director") duly considered and approved the issuance of one (1) unconditional certificate of compliance pursuant to the application of Albert Schoenfield for Certificate of Compliance C00-0166; and

WHEREAS, Albert Schöenfield has appealed the Planning Director's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 21 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on March 6, 2001, and determination and decision was made on March 6, 2001; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be denied and the decision of the Planning Director

EX 7

should be upheld and affirmed and that one (1) unconditional certificate of compliance should be issued based upon the findings set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the issuance of unconditional certificates of compliance is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(1), which provides that CEQA does not apply to ministerial projects.
4. That the appeal filed by Albert Schoenfield is hereby denied and the decision of the Planning Director is upheld and affirmed and that issuance of one (1) unconditional certificate of compliance is hereby approved pursuant to the application of Albert Schoenfield for Certificate of Compliance C00-0166 based upon the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairman of the Board of Supervisors of the
County of San Luis Obispo

ATTEST:

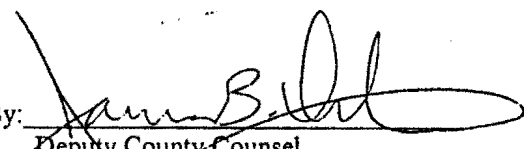
Clerk of the Board of Supervisors

SEAL

EX 7

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 
Deputy County Counsel

Dated: February 22, 2001

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, _____, County Clerk and ex-officio Clerk
of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do
hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of
Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____
day of _____, 2001.

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

(SEAL)

By _____
Deputy Clerk.

EX 7

EXHIBIT A
Findings - S990330C Appeal

1. A grant deed from Wilcoxon to Thorbergsson dated December 11, 1958 (Deed: 977/OR/284) created the parcel as a remainder from the property conveyed. The parcel was thereafter separately conveyed in its current configuration in a grant deed from Wilcoxon to Willfong dated June 28, 1968 (Deed: 1487/OR/637). The purpose of these conveyances was to create parcels with access to Pecho Road.
2. On April 30, 1976, upon the request of Donald and Alice Willfong (the previous owners of the parcel) and based upon the grant deed from Henry and Joan Wilcoxon to Donald and Alice Willfong dated June 28, 1968 referred to above, the Planning Department issued, approved and recorded one certificate of compliance for the entire property based upon a determination that the parcel was determined to be one parcel in compliance with the applicable provisions of the Subdivision Map Act and the County's ordinances enacted pursuant thereto (Document No. 16678 recorded April 30, 1976). The County's decision was not appealed nor challenged by the property owners.
3. Thereafter, through intermediate conveyances, the parcel was separately conveyed by grant deed from Krongeld to Schoenfield dated April 15, 1987 (Deed: 2984/OR/881). The same legal description was used in this grant deed as was used in the 1968 deed when this property was first conveyed.
4. The problem with the applicant's method of analysis of parcel creation is that the grant deed from Martin to Wilcoxon dated February 24, 1949 (Deed: 510/OR395) would have been in violation of the Subdivision Map Act because it would have created five or more parcels within a one-year period without the required filing of a final map (1943 version of the Subdivision Map Act). Consequently, the 1949 grant deed did not create legal parcels which could be later divided.
5. The existence of two separate assessor parcel numbers created for assessment and taxation purposes does not create separate legal parcels for purposes of the Subdivision Map Act.
6. On June 9, 1989, at the request of the applicant Schoenfield, the Zoning Administrator of the County of San Luis Obispo (the Hearing Officer) conditionally approved Minor Use Permit/Coastal Development Permit D880127P authorizing the construction of a new single-family residence with attached garage and driveway on the property. Thereafter, on August 18, 1989, the County's Chief Building Inspector issued Building Permit No. B881755 to the applicant, Schoenfield, authorizing the construction of a single-family residence on the property in accordance with the approved minor use permit/coastal development permit.

7. Approval of the minor use permit/coastal development permit and issuance of the building permit for the property as described in the previous paragraph above constitutes real property "approved for development" pursuant to the provisions of Government Code section 66499.34. As a result of being approved for development, the property is entitled to the issuance of one certificate of compliance, for the entire property as a single legal parcel, under the provisions of Government Code Section 66499.35(c).
8. The property was first separately conveyed as a single legal parcel by grant deed dated June 28, 1968 (1487/OR/637). Based upon this conveyance, a single unconditional certificate of compliance was issued on April 30, 1976, recognizing the entire property as a single legal parcel (1894/OR/847). There has been no documentation submitted showing that the configuration of the property has been changed by merger or other means from the time of its creation to the present. As a result, the property is entitled to the re-issuance of one certificate of compliance, recognizing the property, as a whole, as a single legal parcel.



JAMES B. LINDHOLM, JR.
COUNTY COUNSEL

OFFICE OF THE
COUNTY COUNSEL

COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER, ROOM 386
SAN LUIS OBISPO, CA 93408
TELEPHONE 781-5400, 781-5401
FAX 781-4221
(AREA CODE 805)

ASSISTANT
JAC A. CRAWFORD

CHIEF DEPUTY
R. WYATT CASH

DEPUTIES
JON M. JENKINS
JAMES B. ORTON
WARREN R. JENSEN
MARY A. TOEPKE
RAYMOND A. BIERING
A. EDWIN OLPIN
PATRICIA A. STEVENS
KATHY BOUCHARD
TIMOTHY MCNULTY
ANN CATHERINE DUGGAN
PATRICK J. FORAN
LESLIE H. KRAUT
RITA L. SCIARONI

April 23, 2001

RECEIVED

APR 25 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Via Facsimile

Diane Landry, Esq.
Staff Counsel
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Certificates of Compliance C00-0166
(Albert Schoenfield)

Dear Ms. Landry:

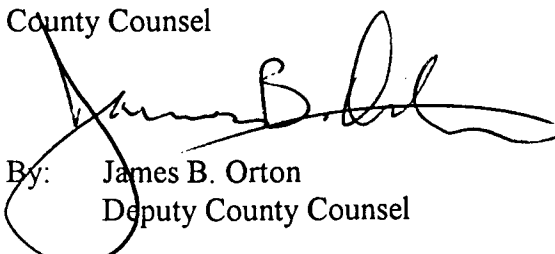
The Board of Supervisors held a continued hearing on the application of Albert Schoenfield for the issuance of two unconditional certificates of compliance under Government Code section 66499.35(a). At the conclusion of the hearing, the Board deliberated on the matter and then decided to uphold the appeal and issue two unconditional certificates of compliance as requested by the applicant. Enclosed is a copy of Resolution No. 2001-148 setting forth the Board's final action in this matter.

Also enclosed as you requested is a copy of Business and Professions Code section 11535 (Stats. 1943, chapter 128) that was effective in 1949 at the time of the grant deed from Martin to Wilcoxon.

Should you need anything further, please give me a call.

Very truly yours,

JAMES B. LINDHOLM, JR.
County Counsel

By: 
James B. Orton
Deputy County Counsel

JBO:kt
Enclosure
cc: Pat Beck (w/enclosure)
010706
7846klttr.wpd PLN

EXHIBIT 7

Tues day April 10, 2001

PRESENT: Supervisors Harry L. Ovitt, Shirley Bianchi, Peg Pinard,
Michael P. Ryan, Chairperson K.H. 'Katcho' Achadjian

ABSENT: None

RECEIVED

APR 25 2001

RESOLUTION NO. 2001-148

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RESOLUTION UPHOLDING THE APPEAL AND REVERSING
THE DECISION OF THE DIRECTOR OF PLANNING AND BUILDING
AND APPROVING THE ISSUANCE OF TWO (2)
UNCONDITIONAL CERTIFICATES OF COMPLIANCE PURSUANT
TO THE APPLICATION OF ALBERT SCHOENFIELD FOR
CERTIFICATE OF COMPLIANCE C00-0166

The following resolution is now offered and read:

WHEREAS, on November 14, 2000, the Director of Planning and Building of the County of San Luis Obispo (hereinafter referred to as the "Planning Director") duly considered and approved the issuance of one (1) unconditional certificate of compliance pursuant to the application of Albert Schoenfield for Certificate of Compliance C00-0166; and

WHEREAS, Albert Schoenfield has appealed the Planning Director's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 21 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on March 6, 2001, and the matter was continued to and determination and decision was made on April 10, 2001; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be upheld and the decision of the Planning Director should be reversed and that two (2) unconditional certificates of compliance should be issued based upon the findings set forth below.

EX 7

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the issuance of unconditional certificates of compliance is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(1), which provides that CEQA does not apply to ministerial projects.
4. That the appeal filed by Albert Schoenfeld is hereby upheld and the decision of the Planning Director is reversed and that issuance of two (2) unconditional certificates of compliance is hereby approved pursuant to the application of Albert Schoenfeld for Certificate of Compliance C00-0166 based upon the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Bianchi, seconded by Supervisor Ovitt, and on the following roll call vote, to wit:

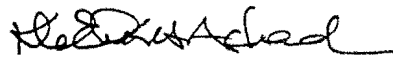
AYES: Supervisors Bianchi, Ovitt, Pinard, Ryan, Chairperson Achadjian

NOES: None

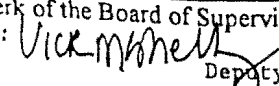
ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.


Chairman of the Board of Supervisors of the
County of San Luis Obispo

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors
BY: 
Deputy Clerk
[SEAL]

EX 7

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 

Deputy County Counsel

Dated: 

April 10, 2001

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk
of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do
hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of
Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 12th
day of April, 2001.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board
of Supervisors

By 

Deputy Clerk.

VED

2001

EXHIBIT A
Findings - C00-0166 (S99033C)

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. A conveyance of a patent from the U.S. Government to Tobias Kennan (D/Patents/277) dated September 25, 1890, created a separate legal parcel.
2. A conveyance of a patent of contiguous property from the U.S. Government to Charlotte Redecker (F/Patents/36) dated November 9, 1891, created a separate legal parcel.
3. The two patents described above share a common property line running between them from north to south.
4. Subsequently, legal parcels were conveyed out of each patent by the owners of the patent properties reducing the acreage (and size) of each patent property.
5. On January 11, 1949, a grant deed from Vermazen to Martin (502/OR/301) conveyed two contiguous legal parcels separated by the "patent line" described above.
6. On February 24, 1949, Martin conveyed to Wilcoxon (510/OR/395) the central part of Martin's property containing all property located east and west of the "patent line." This conveyance from Martin to Wilcoxon was the first conveyance out of the Martin property described in paragraph 5 above and created two separate legal parcels divided by the old "patent line."
7. There were no other conveyances of the remaining Martin property located north and south of the Wilcoxon property made within one year of the Martin deed to Wilcoxon. Consequently, the Martin conveyance of two parcels to Wilcoxon did not require the filing of a final map (i.e., less than five parcels were conveyed by Martin within one year).
8. On December 11, 1958, a grant deed from Wilcoxon to Thorbergson (977/OR/284) further divided the Wilcoxon properties creating the parcels by remainder which are the subject of this application. The remainder parcels were then subsequently conveyed by grant deed from Wilcoxon to Willfong (1487/OR/637) dated June 28, 1968.
9. Thereafter, through intermediate conveyances, the remainder parcels were conveyed by a grant deed from Krongeld to Schoenfield (2987/OR/881) dated April 15, 1987.
10. The remainder parcels now owned by the applicant are separate legal parcels and are entitled to the issuance of two unconditional certificates of compliance under the provisions of Government Code section 66499.35(a) and Real Property Division Ordinance Section 21.02.020 (Title 21 of the San Luis Obispo County Code).
11. Further development of the applicant's parcels will be subject to the permitting requirements and provisions of the Coastal Zone Land Use Ordinance (Title 23 of the San Luis Obispo County Code) and will be subject to the applicable provisions of the California Environmental Quality Act.

EX 7

COUNTY OF SAN LUIS OBISPO



REAL PROPERTY DIVISION ORDINANCE

TITLE 21
OF THE SAN LUIS OBISPO
COUNTY CODE

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

EXHIBIT 8

- (f) The procedures and requirements for waiver applications shall be the same as those set forth for the processing of tentative parcel maps for four or fewer parcels. (Ord. 1986 §2 (part), 1979).

➔ **21.02.020 - Certificates of compliance and conditional certificates of compliance.**

Certificates of compliance and conditional certificates of compliance are issued under the provisions of Government Code section 66499.35. A certificate of compliance application is filed to request the county to determine as a matter of record whether the real property which is the subject of the application is a legally created parcel which complies with the provisions of the Subdivision Map Act and this title. If the county determines that the parcel of real property is not legally created in compliance with the provisions of the Subdivision Map Act and this title, it shall issue a certificate of compliance or a conditional certificate of compliance in accordance with the provisions of Government Code section 66499.35(b). If the applicant is the original subdivider of the subdivision which was not in compliance with the law, conditions may be imposed which would be applicable to a current division of the property. If the applicant is a subsequent purchaser from the subdivider of the subdivision which was not in compliance with the law, conditions may be imposed which would have been applicable at the time the applicant acquired his or her interest in the property. When a certificate of compliance or a conditional certificate of compliance is requested, application preparation and processing shall include the following:

- (a) **Application.** Certificate of compliance and conditional certificate of compliance applications shall include four copies of a completed application form as required by the planning department in addition to the information listed in subsection (b) below.
- (b) **Content.** Except as otherwise provided, certificate of compliance and conditional certificate of compliance applications shall include all of the following:
- (1) **Chain of title.** Provide legible copies of all deeds affecting the property beginning with the deed that described the property prior to its current configuration from that time to the present, unless the parcels were created through a recorded tract map, parcel map, or official map or unless waived by the planning director. A typed copy of all handwritten deeds shall be prepared by the applicant along with all copies of handwritten deeds and copies of earlier deeds in the chain of title or deeds describing adjacent property shall be submitted by the applicant if requested by the planning director. [Amended 1993, Ord. 2602]

- (2) **Preliminary title report.** Two copies of a preliminary title report concerning the property, showing current property owners, and which is not more than six months old.
 - (3) **Other information.** Any maps or other supporting documents to support and clarify when and how the parcel in question was created.
 - (4) **Coastal zone.** For conditional certificates of compliance within the coastal zone, include two copies of a list of names and addresses of all residents and property owners within one hundred feet of the exterior boundaries of property. The names and addresses shall be typed on gummed labels, and submitted to the planning department. [Added 1992, Ord 2582]
- (c) **Review and approval.** The planning director is delegated the authority to approve and issue certificates of compliance. The subdivision review board is delegated the authority to approve and issue conditional certificates of compliance. The decision of the planning director or subdivision review board shall be final unless appealed to the board of supervisors pursuant to Section 21.04.020 of this title. [Amended 1993, Ord. 2602]
- (1) **Staff report.** The planning department shall prepare a staff report for each application that includes the following:
 - (i) A description of the history of the creation of the parcel;
 - (ii) A reference to applicable state law and county ordinances and regulations; and
 - (iii) In the case of a conditional certificate of compliance, recommend appropriate conditions to be imposed.
 - (2) **Notice and hearing.** Except for notice to the applicant prior to action by the planning director, notice of hearing is not required to be given for certificates of compliance under Government Code section 66499.35(a) because the issuance of such certificates of compliance is ministerial. The planning director shall schedule applications for conditional certificates of compliance under Government Code section 66499.35(b) on the public hearing portion of the subdivision review board agenda. Notice of hearing shall be given pursuant to Section 21.04.010 for all conditional certificates of compliance under Government Code section 66499.35(b); provided, however, for conditional certificates of compliance for properties located within the coastal zone, notice and hearing

EX 8

requirements shall be as set forth in Sections 21.04.010 and 21.08.020 of this title. [Added 1992, Ord. 2582; Amended 1993, Ord. 2602]

- (3) **Approvals within the coastal zone.** For conditional certificates of compliance applications located within the coastal zone that are appealable to the coastal commission, approval shall not be final until either all appeal periods have expired and no appeal has been filed, or the coastal commission has approved the application. [Added 1992, Ord. 2582]
- (d) **Recordation.** After a decision to issue a certificate of compliance or conditional certificate of compliance becomes final, such certificate or conditional certificate shall be recorded in the office of the county recorder upon payment by the applicant of the required recording fee.

[Added 1992, Ord. 2581]

EXHIBIT 9

022 PTN. SEC'S. 23 & 24, T. 30S., R. 10E., M.D. B & M.

EX. 9

74-024

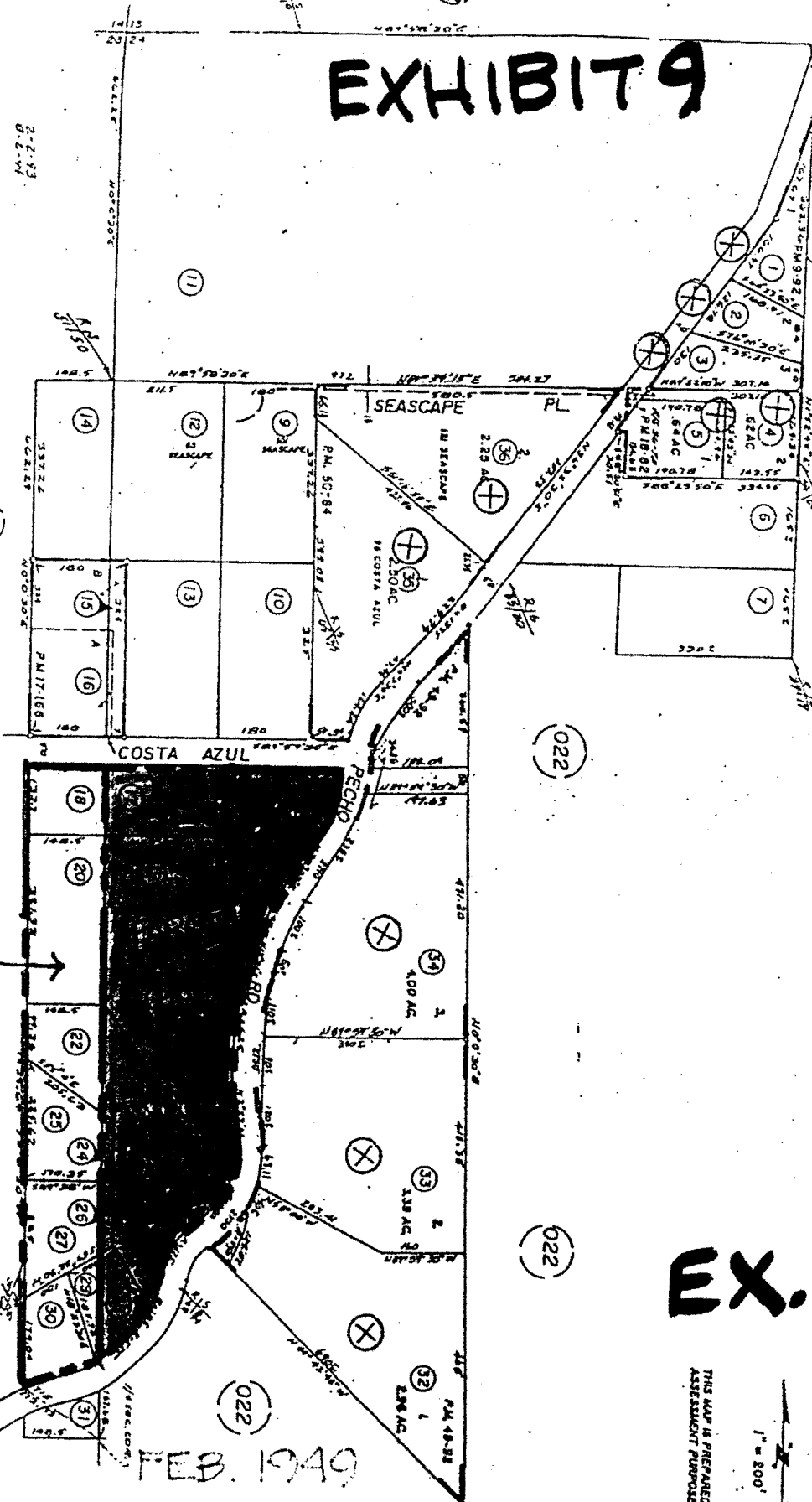
THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY

1" = 200'

FEB. 1949

VERMAZEN TO MARTIN BY DEED

PARCEL TWO
(YELLOW)

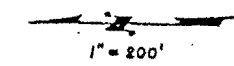


SEP 12 1994

Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.

EXHIBIT 10

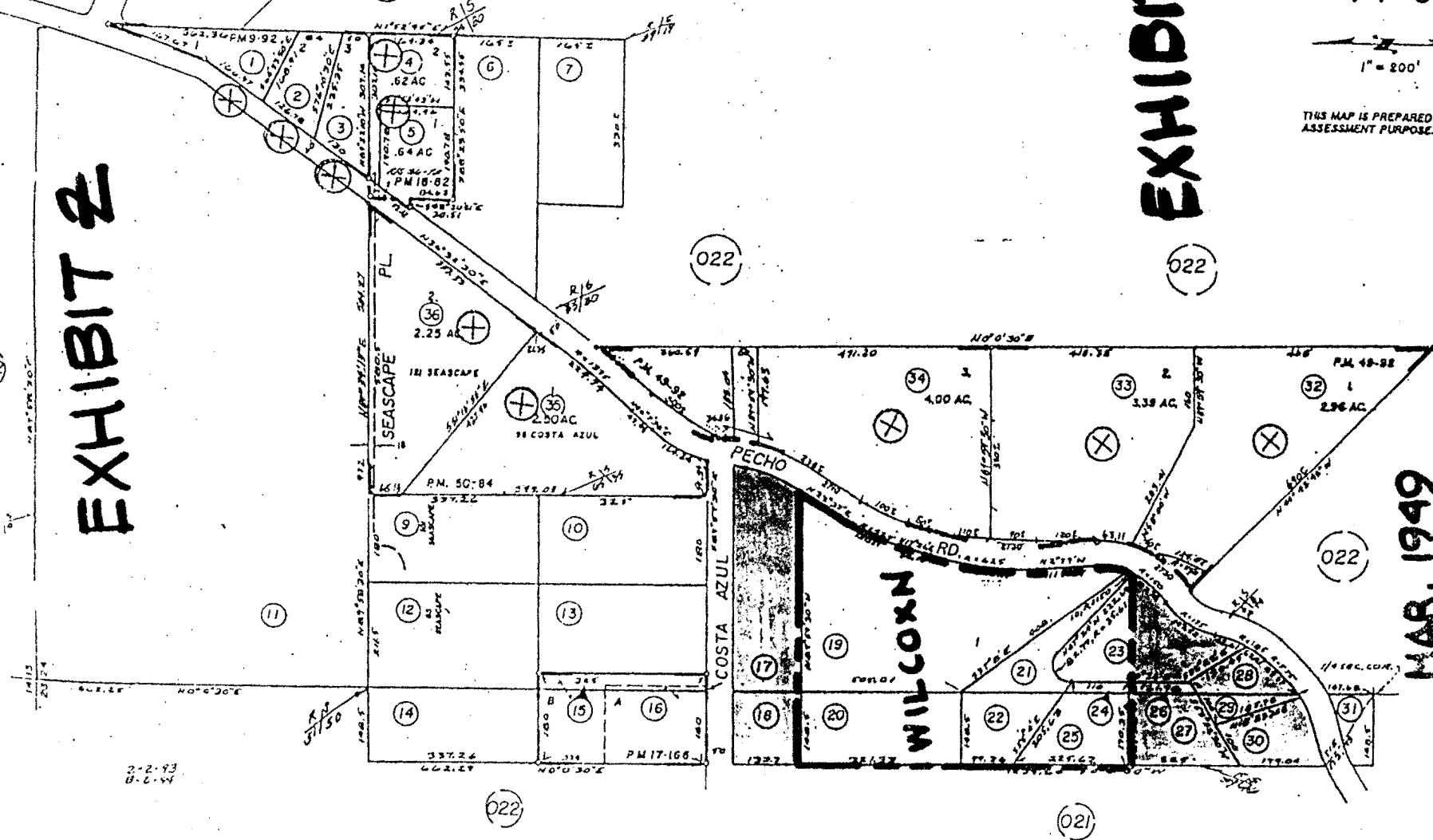
74-024



THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY

EXHIBIT 2

022 PTN. SEC'S. 23 & 24, T. 30S., R. 10E., M.D.B. & M.



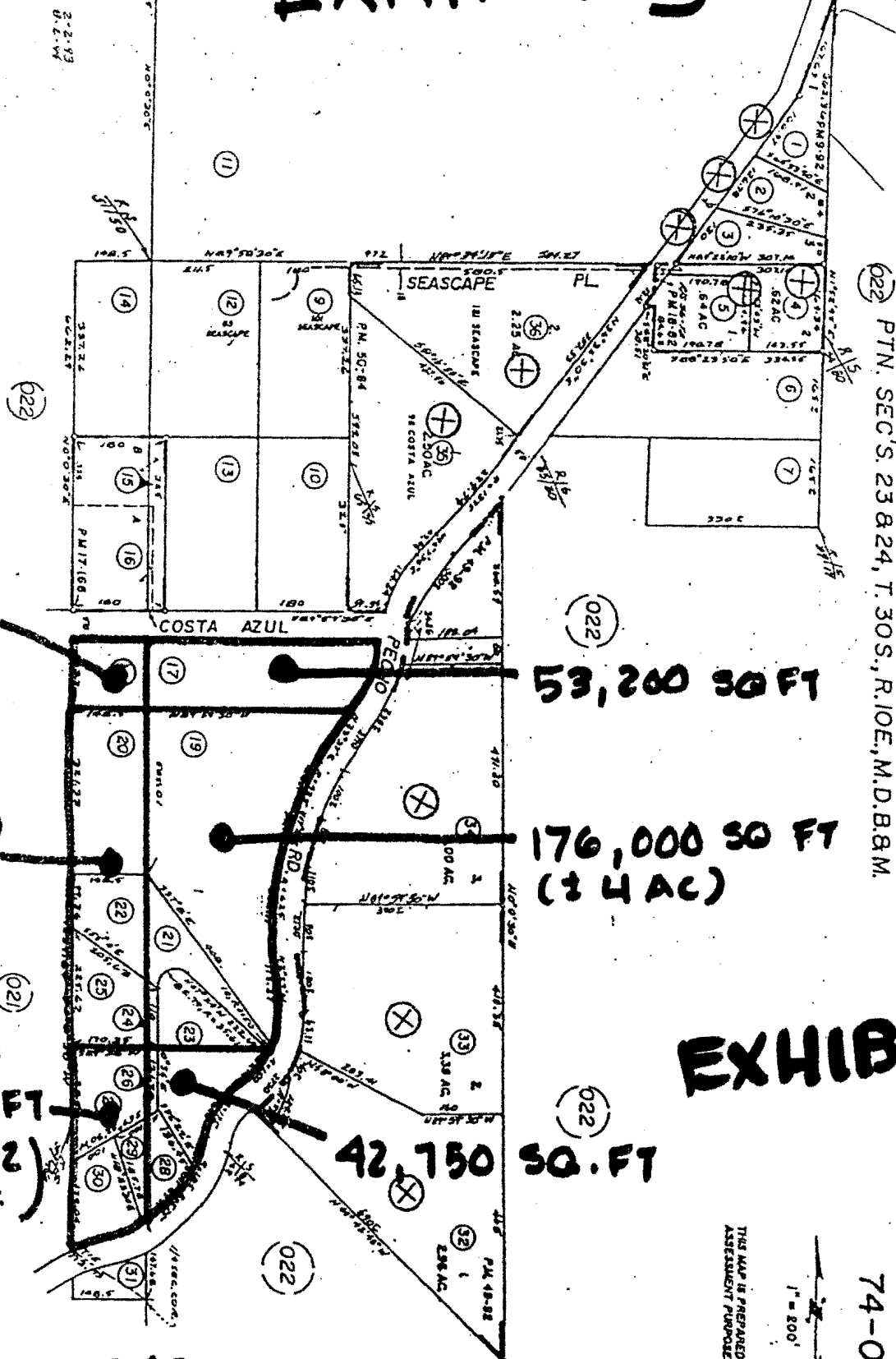
MAR. 1949

SEP 12 1994

Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.

SEP 12 1994

EXHIBIT 3



022 PTN. SEC'S 23 & 24, T. 30S., R. 10E., M.D.B. & M.

19,648
SQ. FT

53,200 SQ FT

84,360
SQ. FT
± 2 AC

176,000 SQ FT
(± 4 AC)

56,240
SQ FT
(± 1.2)
AC

42,750 SQ. FT

EXHIBIT II

1949

MARTIN TO WILCOXN, 6 LOTS, 2 LESS THAN
ONE ACRE

THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY

1" = 200'

74-024

Assessor's Map Bk. 74-Pg. 024
County of San Luis Obispo, Calif.